



AGENDA | REGULAR TOWN COUNCIL MEETING

May 25, 2021 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: Nicole L. Dozier

Council Members: Brett D. Gantt; Audra M. Killingsworth; Cheryl F. Stallings; Terry Mahaffey

Interim Town Manager: Ralph Clark | Assistant Town Managers: Shawn Purvis and Marty Stone

Town Clerk: Donna B. Hosch, MMC | Town Attorney: Laurie L. Hohe

COMMENCEMENT

Call to Order | Invocation | Pledge of Allegiance

PRESENTATIONS

[PR1](#) Jacques K. Gilbert, Mayor

Presentation of Asian American and Pacific Islander Heritage Month Proclamation

[PR2](#) Jacques K. Gilbert, Mayor

Presentation of the National Gun Violence Awareness Wear Orange Day Proclamation

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](#) Donna B. Hosch, Town Clerk

Motion to approve Minutes of the April 22, 2021 Budget Workshop and the May 11, 2021 Regular Meeting

[CN2](#) Donna Hosch, Town Clerk

Motion to approve the Apex Tax Report dated 04/04/2021

[CN3](#) 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 June 8, 2021 on the Question of Annexation - Apex Town Council's intent to annex HARP-BARR, LLC, Memphis & Maddox, LLC, Sweet Willie, LLC, William Douglas and Jean S. Poe, and Lennar Carolinas, LLC properties containing 157.234 acres located at 6401

Apex Barbecue Road and 1216 & 1330 South Salem Street, Annexation #706 into the Town's corporate limits.

[CN4](#) Jacques K. Gilbert, Mayor

Motion to reappoint Michael Wilson as Chair and Lisa Carley as Vice Chair of the Board of Adjustment; to appoint Bryan Johnson as a Regular Member; to move up Tracy Taylor and Umesh Pai as Alternate Members; and to appoint William S. Lusk as Alternate Member

[CN5](#) Colleen Merays, Downtown & Small Business Development Coordinator

Motion to amend the approved location of Apex Farmers' Market & Apex Night to:
Roads & Parking Closed Date & Time: Portion of Saunders Street Public Parking Lot (Map Designated Area)

Apex Night Market * Portion of Saunders Parking Lot (8 AM - 10 PM)

Apex Farmers' Market (9-12pm): * Portion of Saunders Parking Lot (7:30 AM - 1 PM)

[CN6](#) Vance Holloman, Finance Director

Motion to approve Capital Project Ordinance Amendment No. 2021-9 to appropriate the proceeds from the issuance of the \$5 Million Street and Sidewalk Improvement General Obligation Bonds Series 2021 to fund capital improvements and pay issuance cost.

[CN7](#) Marty Stone, Assistant Town Manager

Motion to approve an encroachment agreement between the Town and property owner Tri Pointe Homes Holdings, Inc. to install 12 SF of private sidewalk and 6 SF of private driveway that will encroach onto portions of the Town's 20' Public Storm Drainage Easement and authorize the Interim Town Manager to execute the same.

[CN8](#) Jenna Shouse, Long Range Planner II

Motion to set the Public Hearing for the June 8, 2021 Town Council meeting regarding amendments to the Unified Development Ordinance to establish electric vehicle parking requirements.

[CN9](#) Shelly Mayo, Planner II

Motion to approve Findings of Fact, Conclusions of Law and Decision denying a Major Site Plan for Felton Grove High School located at 8550 Stephenson Road.

[CN10](#) Mary Beth Manville, Human Resources Director

Motion to approve revisions to the Town's Drug & Alcohol Testing Policy

[CN11](#) Mary Beth Manville, Human Resources Director

Motion to approve the revisions of the Town's Shared Leave policy.

[CN12](#) Mary Beth Manville, Human Resources Director

Motion to approve the adoption of the NC 457 Public Employees Deferred Compensation Plan for Town employees, effective July 1, 2021.

[CN13](#) Mary Beth Manville, Human Resources Director

Motion to approve the reclassification of the Police IT & Records Manager position, Grade 26, to Police Records Supervisor, Grade 19.

[CN14](#) Marty Stone, Assistant Town Manager

Motion to approve an encroachment agreement between the Town and property owner Western Wake Development, LLC to install a retaining wall that will encroach 25 LF onto the 20' Town of Apex Drainage Easement and a rip rap pad that will encroach 77 SF onto the 20' Town of Apex Sanitary Sewer Easement and authorize the Interim Town Manager to execute the same.

[CN15](#) Michael Deaton, Water Resources Director

Motion to set the Public Hearing concerning the proposed Stormwater Utility Fee for Tuesday, June 8, 2021 at 6:00 p.m. at the Apex Town Hall.

[CN16](#) Shawn Purvis, Assistant Town Manager

Motion to approve Capital Project Ordinance Amendment 2021-10 and Budget Amendment 21 for the construction of a portion of Burma Drive extension

[CN17](#) Craig Setzer, Interim Parks, Recreation, and Cultural Resources Director

Motion to approve an ordinance amendment changing closing hours at Clairmont Park (March - October) to 9 pm.

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 I

Public Hearing and possible motion to approve Rezoning Application #21CZ05 Friendship Storage. The applicant, Terco Properties, seek to rezone approximately 9.09 acres located at

0 Friendship Road and 2109 Old US 1 Highway (PINs 0730193547 & 0730197850) from Rural Residential (RR) to Tech/Flex- Conditional Zoning (TF-CZ).

[PH2](#) Liz Loftin, Senior Planner

Public Hearing and possible motion to approve Rezoning Application #21CZ06 Jenks Road Office & Veterinary Hospital. The applicant, Daniel Shultz, Peak 360, LLC, seeks to rezone approximately 6.69 acres located at 7825 and 7809 Jenks Road (PINs 0722886419 & 0722888770) from Rural Residential (RR) to Neighborhood Business-Conditional Zoning (B1-CZ).

[PH3](#) Amanda Bunce, Current Planning Manager

Public hearing and possible motion to approve a 2045 Land Use Map amendment and Rezoning Application #21RZ07 Herbert Street. The applicant, Lane Raw Land, LLC, seeks to amend the 2045 Land Use Map from Medium Density Residential to Office Employment/Commercial Services and rezone approximately 0.27 acres located at 0 Herbert Street (PIN 0741397109) from Medium Density Residential (MD) to Neighborhood Business (B1).

[PH4](#) Amanda Bunce, Current Planning Manager

Public Hearing and possible motion regarding various amendments to the Unified Development Ordinance (UDO).

[PH5](#) Shawn Purvis, Assistant Town Manager

Public Hearing to receive citizen input on the Fiscal Year 2021-2022 Annual Budget including proposed economic development expenditures

OLD BUSINESS

UNFINISHED BUSINESS

NEW BUSINESS

UPDATES BY TOWN MANAGER

[TM1](#) Ralph Clark, Interim Town Manager

Updates on Town operations by Interim Town Manager Ralph Clark

WORK SESSION

[WS1](#) Audra Killingsworth, Council Member
Discussion of the Town's Non-Discriminatory Ordinance

CLOSED SESSION

[CS1](#) Laurie Hohe, Town Attorney
Possible motion to go into closed session to consult with the Town Attorney pursuant to NCGS 143-318.11(a)(3) to discuss Town of Apex v. Rubin, 15CVS 5836 and Town of Apex V. Rubin, 19CVS6295.

[CS2](#) Mary Beth Manville, Human Resources Director
Possible motion to go into Closed Session to discuss a personnel matter pursuant to NCGS 143-318.11(a)(6).

ADJOURNMENT

| Agenda Item | cover sheet

for consideration by the Apex Town Council

Item Type: PRESENTATION

Meeting Date: May 25, 2021

Item Details

Presenter(s): Jacques K. Gilbert, Mayor

Department(s): Governing Body

Requested Motion

Presentation of Asian American and Pacific Islander Heritage Month Proclamation

Approval Recommended?

N/A

Item Details

N/A

Attachments

- Proclamation



Town of Apex, North Carolina

Proclamation

from the Office of the Mayor

ASIAN AMERICAN AND PACIFIC ISLANDER HERITAGE MONTH

WHEREAS, after decades of effort, in 1992, Congress designated the month of May as national "Asian Pacific American Heritage Month"; and

WHEREAS, the month of May was chosen to mark the arrival of the first known Japanese Immigrants to the United States and to mark the anniversary of the completion of the transcontinental railroad which was accomplished by the work of Chinese immigrants; and

WHEREAS, Asian Americans and Pacific Islanders represent vastly diverse ethnic groups, including all those who have immigrated to the United States themselves or whose ancestors originated from the continent of Asia and the numerous Pacific Islands known as Melanesia, Micronesia, and Polynesia; and

WHEREAS, today we stand in solidarity with the Asian American and Pacific Islander communities and assert that anti-Asian racism, intimidation, xenophobia, and hate crimes will not be tolerated and have no place in our society; and

WHEREAS, the triumphs, perseverance, and achievements of all Asian Americans and Pacific Islanders continue to inspire us with centuries-old traditions that reflect the multicultural customs and experiences of their diverse communities; and

WHEREAS, Asian Americans and Pacific Islanders have played a significant role in our history with enormous contributions to science, medicine, education, agriculture, government, commerce, the arts, and many other fields of endeavors.

NOW, THEREFORE, I, Jacques K. Gilbert, Mayor of the Town of Apex, do hereby proclaim May as "Asian American and Pacific Islander Heritage Month"; and I encourage our residents to learn about and celebrate the generations of Asian Americans and Pacific Islanders who continue to enrich our nation, state, and local community.

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 25th day of May 2021.

Jacques K. Gilbert, Mayor

| Agenda Item | cover sheet

for consideration by the Apex Town Council

Item Type: PRESENTATION

Meeting Date: May 25, 2021

Item Details

Presenter(s): Jacques K. Gilbert, Mayor

Department(s): Governing Body

Requested Motion

Presentation of the National Gun Violence Awareness Wear Orange Day Proclamation

Approval Recommended?

N/A

Item Details

N/A

Attachments

- Proclamation



Town of Apex, North Carolina

Proclamation

from the Office of the Mayor

NATIONAL GUN VIOLENCE AWARENESS WEAR ORANGE DAY

WHEREAS, every day, 100 Americans are killed by gun violence and on average there are nearly 19,000 gun homicides every year; and

WHEREAS, protecting public safety in the communities they serve is the Mayor's highest responsibility; and

WHEREAS, Mayors, residents, and law enforcement officers working together know their communities best, are the most familiar with local criminal activity and how to address public safety needs, and are the best positioned to understand how to keep their citizens safe; and

WHEREAS, in January 2013, Hadiya Pendleton, a teenager who marched in President Obama's second inaugural parade was tragically shot and killed just weeks later, who should be celebrating her 24th birthday. To honor Hadiya, the Americans whose lives are cut short, and the countless survivors who are injured by shootings every day, a national coalition of organizations has designated June 4, 2021, the first Friday in June, as the 7th National Gun Violence Awareness Day; and

WHEREAS, by wearing orange on June 4, 2021, Americans will raise awareness about gun violence and honor the lives of gun violence victims and survivors; and

WHEREAS, we renew our commitment to reduce gun violence and pledge to do all we can to keep firearms out of the wrong hands, and encourage responsible gun ownership to help keep our children safe.

NOW, THEREFORE, I, Jacques K. Gilbert, Mayor of the Town of Apex, do hereby proclaim the first Friday in June, June 4, 2021, to be national Gun Violence Awareness Day. I encourage all citizens to support their local communities' efforts to prevent the tragic effects of gun violence and to honor and value human lives.

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 25th of May 2021

Jacques K. Gilbert, Mayor

| Agenda Item | cover sheet

for consideration by the Apex Town Council

Item Type: CONSENT AGENDA

Meeting Date: May 25, 2021

Item Details

Presenter(s): Donna B. Hosch, Town Clerk

Department(s): Office of the Town Clerk

Requested Motion

Motion to approve Minutes of the April 22, 2021 Budget Workshop and the May 11, 2021 Regular Meeting

Approval Recommended?

Yes

Item Details

N/A

Attachments

- 2021.04.22 Budget Workshop
- 2021.05.11 Regular Meeting





| TOWN COUNCIL BUDGET WORKSHOP

April 22, 2021 at 3:00 PM
Training Room - Apex Town Hall, 73 Hunter Street

Town Council and Administration

Mayor: Jacques K. Gilbert | Mayor Pro Tem: Nicole L. Dozier
Council Members: Brett D. Gantt; Audra M. Killingsworth; Cheryl F. Stallings; Terry Mahaffey
Interim Town Manager: Ralph Clark | Assistant Town Managers: Shawn Purvis and Marty Stone
Town Clerk: Donna B. Hosch, MMC | Town Attorney: Laurie L. Hohe

In attendance were Mayor Jacques K. Gilbert, Mayor Pro Tem Nicole L. Dozier, and Council Members Audra M. Killingsworth, Brett D. Gantt, Terry Mahaffey, and Cheryl F. Stallings. Also in attendance were Assistant Town Managers Shawn Purvis and Marty Stone, Town Clerk Donna B. Hosch, Budget and Management Analyst Amanda Grogan, and Human Resources Director Mary Beth Manville. Also in attendance were various support staff.

COMMENCEMENT

Mayor Gilbert called the Workshop to order.

Staff explained the framework for the budget. The strategic focuses were presented along with the related strategy/action items.

The budget highlights were presented: the total budget was \$161,674, 500 for all Funds and Expenditures. General Fund Revenues were \$78,691,900, the tax rate was \$.39/\$100, and this Fund included \$1,149,000 from Fund Balance. Staff expounded on these figures.

General Fund

The General Fund Revenue Summary was presented with explanations. Responding to Council, staff explained the population component. There was the potential for an adjustment when the final population figures come in.

General Fund Rates were broken down for Solid Waste Collections and property tax. Presented was the development fee update. Council complimented staff for putting together the latter in a short period of time.

The General Fund Expenditure Summary was presented with explanations. Responding to Council, staff explained cost sharing for emergency vehicles. General Fund Revenues vs. Expenditures were presented and explained.

General Fund Expenditures for personnel were presented for the requested full-time and LSE positions. Responding to Council, staff explained the reason for the Police Crisis Counselor position and why it would be beneficial. Staff provided a brief description of the duties of the Support Services Manager. More information will be forthcoming. The Community Relations Specialist position was outlined. Staff explained the process for determining funded and non-funded positions this year compared to previous years. The Housing Program Manager position was explained, this position currently being out for hiring.

The significant proposed changes were presented for merit compensation, the living wage, retirement system contribution rate, and healthcare and dental. There was some discussion about merit compensation and its distribution. Staff explained the proposed change in classification grades to a non-grade system for director-level positions which will be off job market.

The OPEB Impact was presented and explained. With the changes made, we may be able to project better in the coming years.

Capital Equipment was presented and explained. There was some discussion about hybrid and electric vehicles, staff stating we are looking at two electric vehicles. Responding to Council, staff spoke about Council Chamber upgrades. This has been looked at, but there are challenges to match up with what is in place. Discussion ensued about streaming, screens, and microphones. Staff stated we seem to have gotten behind on this.

Capital Improvements were presented and explained for the CIP projects. Responding to Council, staff explained how capital improvements are equitably distributed around town. Staff briefly explained how this was determined. We are looking at creating a CIP dashboard. Responding to

Council, there was discussion about how the public can better participate in remote meetings. There was discussion about single-use bathrooms and signage boards, there being a plan in the works for finalization. Discussion ensued on the use of recovery funds when they are received. We will set up a special fund for these, and staff explained how this will work and how the monies could be used.

Capital Reserves and Projects were presented and explained for the transportation capital reserve fund, the recreation capital reserve fund, and the affordable housing fund. There was discussion about Parks & Recreation fees and how monies will be maintained in the affordable housing fund. Noted was that projects for the latter have been started.

Fund Balance figures were presented and explained. By June, there will be a better representation of this Fund.

Fund Expenditures related to Non-profit Support were presented and explained. This year the model has been shifted to a fixed amount which was asked for previously. Council presented his thoughts on variable amounts.

Wrapping up the General Fund, there was question from Council as to our having enough staff to carry out the strategic goals and funding for projects.

Water-Sewer Fund Revenues

Staff presented a summary of these revenues with explanation, noting there was a decrease on the revenue side. Revenue Trends were presented and explained as were Rates.

The Expenditure Summary was presented and explained. The Expenditure Overview for personnel, vehicles and equipment, and capital projects was presented and explained.

The current Fund Balance for Water-Sewer is \$22.2 million and Capital Reserves is \$7,127,300. Both were explained.

Stormwater Utility monthly and annual rates were presented and explained. Non-residential rates were detailed along with the Timeline.

Potential Revenue Projection rates were presented and explained by staff. Staff further clarified Council questions related to these rates. The Timeline for this was presented and explained.

The Expenditure Overview for Stormwater Expenses was presented as \$2.3 million, and this figure was explained.

Electric Fund

Electric Fund Revenues were overviewed, projected revenues being \$45,776,200. The Revenue Trends were presented and explained.

Rates were presented and explained, stating that we have a review underway to restructure some of the rates. Staff explained how we are looking at tiered rates, responding to Council.

Projected Expenditures of \$45,766,200 were presented and overviewed, including explanation for personnel, capital projects, and vehicles and equipment. The water tower and street light replacement were briefly discussed.

Reserves of \$11.7 million were presented and explained.

The Rate Change Cumulative Effect on residents was presented and explained, which included the property tax rate comparison.

The Strategic Goal Alignments were presented and explained.

Staff overviewed the upcoming budget dates which would incorporate small, minor tweaks to the budget. He spoke about the few public comments received, primarily about the greenways. We will see how this plays out at the public hearing.

Responding to Council, staff addressed questions about items which can be distributed to the public on behalf of the various initiatives. He explained how these items for initiatives such as Think Apex can be worked into the budget. Discussed was upcoming communication to the public about the Bond projects. Public Safety Station 6 was discussed regarding its financing and aesthetics.

Council spoke about moving up the Tunstall House in the CIP, especially with the Senior Center coming online this year. Council added pushing it back will most likely increase the costs to bring the house to a suitable state. Staff stated there is a report being done now to determine what it will cost for renovation. There was brief discussion about the transit area study and what uses could be tied to it. Council was comfortable with reaching out to the Tunstall family to propose uses for the property. Consensus was that we would start on the physical aspects of the property and then discuss possible uses. This initiative would be moved up one year in the CIP.

There was some clarifying discussion about a People's Choice award related to the artwork being showcased throughout the Town. Staff stated there would be presentation on this made at a later Council meeting.

Conversation ensued about a mural in the downtown area.

Council commended the hard work by staff on the FY 21-22 budget!

ADJOURNMENT

With no further business, Mayor Gilbert adjourned the meeting.

Donna B. Hosch, MMC, Town Clerk

ATTEST:

Jacques K. Gilbert, Mayor

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| REGULAR TOWN COUNCIL MEETING

May 11, 2021 at 6:00 PM
Council Chambers - Apex Town Hall, 73 Hunter Street

Town Council and Administration

Mayor: Jacques K. Gilbert | Mayor Pro Tem: Nicole L. Dozier
Council Members: Brett D. Gantt; Audra M. Killingsworth; Cheryl F. Stallings; Terry Mahaffey
Interim Town Manager: Ralph Clark | Assistant Town Managers: Shawn Purvis and Marty Stone
Town Clerk: Donna B. Hosch, MMC | Town Attorney: Laurie L. Hohe

In attendance were Mayor Jacques K. Gilbert, Mayor Pro Tem Nicole L. Dozier, and Council Members Audra M. Killingsworth, Brett D. Gantt, Terry Mahaffey, and Cheryl F. Stallings. Also in attendance were Interim Town Manager Ralph Clark, Assistant Town Managers Shawn Purvis and Marty Stone, Town Clerk Donna B. Hosch, and Town Attorney Laurie L. Hohe.

COMMENCEMENT

Mayor Gilbert called the meeting to order, offered Invocation, called for a moment of silence, and led the Pledge of Allegiance.

PRESENTATIONS

PR1 Nicole Dozier, Mayor Pro Tem

Mayor Pro Tem Dozier presented the 6th Annual "Think Apex Awards"

MPT Dozier welcomed everyone to the awards ceremony and stated the purpose of the Think Apex initiative. She spoke about engaging with those in the community. The selection process was explained.

The nominees were presented and those being honored were named:

Individual/Group Category

Honorable Mention: Conrad Hardy, Rukus

Top Thinker Award: Food Pantry, St. Mary's AME Church

Business Category

Honorable Mention: Whole Brain Escape

Top Thinker Award: Carolina Orthodontic and Children's Dentistry

Non-Profit Category

Honorable Mention: Apex Farmers Market

Top Thinker Award: I Shine Foundation

MPT stated she appreciated the support for this initiative which she started and which celebrates the Town. She thanked those who judged the competition, noting it was a hard process.

PR2 Jacques K. Gilbert, Mayor

Presentation of the Building Safety Proclamation

Council shared in the reading of the Proclamation before Mayor Gilbert presented it to Rudy Baker, Director of Building and Inspections.

PR3 Jacques K. Gilbert, Mayor

Presentation of National Police Week 2021 Proclamation

Mayor Gilbert expressed his appreciation for each of the officers and for Tony Godwin's leadership. Tony Godwin, Interim Chief of Police, stated he was honored to be in attendance representing the Town's officers and law enforcement in general. He spoke about Peace Officers Memorial Day and the Law Enforcement Memorial Wall in Washington DC which is engraved with the names of 24,872 police officers. In the past 130 days, 121 officers have lost their lives. ICP Godwin spoke about how the majority of officers serve with dignity and with honor. He asked all not to forget those who put on the uniform and run toward the face of danger to protect the citizens they serve. It is right that we not only honor the dead but the living while they can still hear the words.

Council shared in the reading of the Proclamation before Mayor Gilbert presented it to Interim Chief of Police Godwin. Mayor Gilbert also recognized the spouses of the officers as well as the civilians in our Police Department who contribute to the organization. He complimented the amazing job done by our police officers, to which they received a standing ovation.

CONSENT AGENDA

- CN1 Donna B. Hosch, Town Clerk
Minutes of the April 13, 2021 Regular Council Meeting
- CN2 Sarah Van Every, Senior Planner
Statement of the Town Council and Ordinance for Rezoning Case #21CZ08 Cash Corporate Center Amendment, Town of Apex and Jack 1, LLC, petitioners, for the properties located on 0 and 1201 Burma Drive (PINs 0751138504, 0751244221, 0751143089, and a portion of former PIN 0751136687)
- CN3 Lauren Staudenmaier, Planner I
Set Public Hearing for the May 25, 2021 Town Council meeting regarding Rezoning Application #21CZ05 Friendship Storage. The applicant, Terco Properties, sought to rezone approximately 9.09 acres located at 0 Friendship Road and 2109 Old US 1 Highway (PINs 0730196547 & 0730197850) from Rural Residential (RR) to Tech/Flex-Conditional Zoning (TF-CZ)
- CN4 Liz Loftin, Senior Planner
Set Public Hearing for the May 25, 2021 Town Council meeting regarding Rezoning Application #21CZ06 Jenks Road Office & Veterinary Hospital. The applicant, Daniel Shultz, Peak 360, LLC, sought to rezone approximately 6.69 acres located at 7825 and 7809 Jenks Road (PINs 0722886419 & 0722888770) from Rural Residential (RR) to Neighborhood Business-Conditional Zoning (B1-CZ).
- CN5 Amanda Bunce, Current Planning Manager
Set Public Hearing for the May 25, 2021 Town Council meeting regarding 2045 Land Use Map amendment and Rezoning Application #21RZ07 Herbert Street (PIN 0741397109). The applicant, Lane Raw Land, LLC, sought to amend the 2045 Land Use Map from Medium Density Residential to Office Employment/Commercial Services and rezone approximately 0.27 acre located at 0 Herbert Street from Medium Density Residential (MD) to Neighborhood Business (B-1).
- CN6 Amanda Bunce, Current Planning Manager
Set the Public Hearing for the May 25, 2021 Town Council meeting regarding various amendments to the Unified Development Ordinance

- CN7 Shannon Cox, Long Range Planning Manager
Amendments to the Town of Apex Address Policy, last amended on August 4, 2020, to update the street naming process
- CN8 Dianne Khin, Director of Planning and Community Development
Temporary waiver of Facade Grant Program provision #3 to allow downtown businesses and non-residential property owners to apply for grant funding retroactively during the pandemic, for work done from July 1, 2020 through September 6, 2021
- CN9 Mark Willing, Safety & Risk Manager
IT Data Services agreement between the Town and the North Carolina Division of Motor Vehicles and authorization for the Interim Town Manager to sign the same
- CN10 Russell Dalton, Senior Transportation Engineer
Ordinance amending Section 20-166 subsection (b) with the addition of part (5), designating the first three parking spaces on the west side of North Salem Street south of Saunders Street as loading zone spaces
- CN11 Michael Deaton, Water Resources Director
Salem Street Water Main Rehabilitation contract to Mainlining America, LLC, authorization for the [Interim] Town Manager to execute the contact and approve corresponding Capital Project Ordinance Amendment 2021-08
- CN12 Craig Setzer, Interim Parks, Recreation, and Cultural Resources Director
Ordinance amendment changing park hours at Clairmont Park to close at 8pm year-round
- CN13 Adam Stephenson, Engineering Supervisor
Construction contract upon NCDOT concurrence, authorization for the [Interim] Town Manager to execute same for C-5604AA Kelly & Apex Barbecue Pedestrian Improvements and Budget Ordinance Amendment 20 and Capital Project Ordinance Amendment 2021-06
- CN14 Adam Stephenson, Engineering Supervisor
Construction contract upon NCDOT concurrence, authorization for the [Interim] Town Manager to execute same, for EB-5895 NC 55 Sidewalk Connector and corresponding Capital Project Ordinance Amendment 2021-07
- CN15 Mitch McKinney, Deputy Chief of Police
Funding 2nd-year renewal portion of the Apex Police Department's NC Governor's Highway Traffic Safety Program grant for equipment and staff position.

CN16 Shawn Purvis, Assistant Town Manager

Set the Public Hearing concerning the proposed Fiscal Year 2021-2022 Budget including expenditures for Economic Development (pursuant to NCGS 158-7.1), for Tuesday, May 25, 2021 at 6:00 p.m. at the Apex Town Hall.

Mayor Gilbert requested pulling CN12 *Ordinance amendment changing park hours at Clairmont Park to close at 8pm year-round* to be discussed as New Business 03.

Mayor Gilbert called for a motion to adopt the Consent Agenda. Council Member Gantt made the motion with the requested modification; Council Member Dozier seconded the motion.
The motion carried by a 5-0 vote.

REGULAR MEETING AGENDA

Town Attorney Hohe requested the removal of Closed Session 02 *Closed session pursuant to NCGS 143-318.11(a)(3) to preserve attorney-client privilege* from the Agenda.

Mayor Gilbert called for a motion to adopt the Regular Agenda. Council Member Killingsworth made the motion with the requested modification; Council Member Mahaffey seconded the motion.
The motion carried by a 5-0 vote.

PUBLIC FORUM

No one wished to speak during Public Forum.

PUBLIC HEARINGS

PH1 Shannon Cox, Long Range Planning Manager

Amendments to the Thoroughfare and Collector Street Plan map in the vicinity of Jessie Drive

Staff oriented Council to the site. She addressed the connectivity questions previously asked by Council, stating the recommendations of Planning. There were no concerns from staff. Staff and the Planning Board recommended approval.

Staff answered Council questions related to connectivity and the homes in the area. Council expressed appreciation to staff for taking another look at this.

Mayor Gilbert declared the Public Hearing open. With no one wishing to speak, Mayor Gilbert declared the Public Hearing closed.

Mayor Gilbert called for a motion. Council Member Killingsworth made the motion to approve the Amendments; Council Member Gantt seconded the motion.

The motion carried by a 5-0 vote.

OLD BUSINESS

There were no Old Business items for consideration.

UNFINISHED BUSINESS

There were no Unfinished Business items for consideration.

NEW BUSINESS

NB1 Colleen Merays, Downtown & Small Business Development Coordinator

Special Event Permit requests and Town Co-Sponsorship requests for 2021

Staff detailed the four events. The Mayor thanked staff for taking care of the Apex Friendship High School request on short notice.

Mayor Gilbert called for a motion. Council Member Mahaffey made the motion to approve the requests; Council Member Dozier seconded the motion.

The motion carried by a 5-0 vote.

NB2 Dianne Khin, Director of Planning and Community Development

Tree Planting Grant Program. The Tree Planting Grant Program is designed to provide incentive funds to tenants and property owners to install trees on residential private properties within Apex's corporate limits. The grant can provide up to 100% of the cost of the tree purchase and installation, up to a maximum of \$750 per property.

Staff detailed the specifics of the Program. Responding to Council, she further detailed who would do the plantings and the reasons for the Program running as suggested. She spoke about some road areas not being able to have trees planted because of utilities. Responding to Council, staff answered questions about how we will handle reimbursements and the Town possibly hiring a contractor to do the plantings.

Mayor Gilbert called for a motion. Council Member Stallings made the motion to approve the Program; Council Member Killingsworth seconded the motion.

The motion carried by a 5-0 vote.

NB3 *Added as pulled from the Consent Agenda:*

Craig Setzer, Interim Parks, Recreation, and Cultural Resources Director

Ordinance amendment changing park hours at Clairmont Park to close at 8 p.m. year-round

The Mayor stated he requested for this item to be further discussed, because there was concern that others may want to extend activities at the park and that 8:00 p.m. is a little early.

Staff highlighted the activities and decisions leading up to the presented amendment. Questions from Council were responded to related to lighting and noise from the various sports. Council stated possibly more trees could be planted to shield neighbors from the lights from fields and courts.

Mayor Gilbert called for a motion. Council Member Mahaffey made the motion to adopt the Amendment as presented and to direct staff to further evaluate all park hours; Council Member Killingsworth seconded the motion.

The motion carried by a 5-0 vote.

UPDATES BY TOWN MANAGER

TM1 Ralph Clark, Interim Town Manager

Updates on Town operations by Interim Town Manager Ralph Clark

Staff presented the following:

- NCDOT resurfacing work - stated were those roads which would be done.
- Highline building downtown - there will be a sidewalk closure, and a safe way around the project will be made.
- Trains - emails have been received concerning idling, horns, and pollution. The Interim Manager and Interim Police Chief agreed they should have a discussion with CSX for some type of possible resolution.

Imad Faik with Moros FC entered the meeting. Mayor Gilbert recognized him as one of the nominees for a Think Apex award, thanking him for all that he is doing for the community.

CLOSED SESSION

CS1 Steve Adams, Easement Acquisition Specialist; Shawn Purvis, Assistant Town Manager
Pursuant to NCGS 143-318(a)(5) to give staff direction concerning the Town's negotiating position to acquire real property

CS2 Laurie Hohe, Town Attorney
Pursuant to NCGS 143-318.11(a)(3) to preserve attorney-client privilege
This item was pulled from the Agenda at the request of the Legal Department.

CS3 Mary Beth Manville, Human Resources Director
To discuss a personnel matter

Mayor Gilbert called for a motion to go into Closed Session. Council Member Mahaffey made the motion; Council Member Gantt seconded the motion.

The motion carried by a 5-0 vote.

Mayor Gilbert called for a motion to return to Open Session with no objection from Council.

WORK SESSION

There were no Work Session items for consideration.

ADJOURNMENT

With no further business, Mayor Gilbert adjourned the meeting.

Donna B. Hosch, MMC, Town Clerk

ATTEST:

Jacques K. Gilbert, Mayor

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| Agenda Item | cover sheet

for consideration by the Apex Town Council

Item Type: CONSENT AGENDA

Meeting Date: May 25, 2021

Item Details

Presenter(s): Donna Hosch, Town Clerk

Department(s): Office of the Town Clerk

Requested Motion

Motion to approve the Apex Tax Report dated 04/04/2021

Approval Recommended?

Yes

Item Details

At its regular meeting held on May 3, 2021, the Wake County Board of Commissioners approved the Apex Tax Report dated 04/04/2021.

Attachments

- Tax Report



**Wake County Tax Administration****Rebate Details**

03/01/2021 - 03/31/2021

APEXDATE
04/04/2021TIME
11:11:08 PMPAGE
1

REBATE NUMBER	PROPERTY	CITY TAG	LATE LIST	BILLED INTEREST	TOTAL REBATED	PROCESS DATE	ACCOUNT NUMBER	TAX YEAR	YEAR FOR	BILLING TYPE	OWNER
BUSINESS ACCOUNTS											
781611	115.20	0.00	23.04	0.00	138.24	03/22/2021	0006911956	2020	2019	000000	GILLIAM, PATRICK LYNN
781610	113.59	0.00	34.08	0.00	147.67	03/22/2021	0006911956	2020	2018	000000	GILLIAM, PATRICK LYNN
781612	106.80	0.00	10.68	0.00	117.48	03/22/2021	0006911956	2020	2020	000000	GILLIAM, PATRICK LYNN
780032	189.07	0.00	18.91	0.00	207.98	03/01/2021	0006645484	2020	2020	000000	ROBERTS PRECISION MACHINING INC
SUBTOTALS FOR BUSINESS ACCOUNTS											
	524.66	0.00	86.71	0.00	611.37	4	Properties Rebated				
BUSINESS REAL ESTATE ACCOUNTS											
781381	456.00	0.00	0.00	0.00	456.00	03/18/2021	0000438673	2020	2020	000000	CRESTMONT OWNERS ASSOCIATION INC
781382	456.00	0.00	0.00	0.00	456.00	03/18/2021	0000438674	2020	2020	000000	CRESTMONT OWNERS ASSOCIATION INC
781378	1.95	0.00	0.00	0.00	1.95	03/18/2021	0000412857	2015	2015	000000	THE GROVES TOWNHOME ASSOCIATION, INC
SUBTOTALS FOR BUSINESS REAL ESTATE ACCOUNTS											
	913.95	0.00	0.00	0.00	913.95	3	Properties Rebated				
INDIVIDUAL PROPERTY ACCOUNTS											
781490	153.72	30.00	0.00	0.00	183.72	03/19/2021	0006930810	2021	2020	000000	BRENTZEL, ABBY ELIZABETH



Wake County Tax Administration
Rebate Details
03/01/2021 - 03/31/2021
APEX

DATE
04/04/2021

TIME
11:11:13 PM

PAGE
2

REBATE NUMBER	PROPERTY	CITY TAG	LATE LIST	BILLED INTEREST	TOTAL REBATED	PROCESS DATE	ACCOUNT NUMBER	TAX YEAR	YEAR FOR	BILLING TYPE	OWNER
INDIVIDUAL PROPERTY ACCOUNTS											
781386	24.62	30.00	0.00	0.00	54.62	03/18/2021	0006931391	2021	2020	000000	OLEARCZYK, MATTHEW GERARD DORER, STEPHEN PETER HANSARIA, KARAN
782077	111.64	0.00	0.00	0.00	111.64	03/26/2021	0006920754	2021	2020	000000	
781962	183.69	30.00	0.00	0.00	213.69	03/25/2021	0006927339	2021	2020	000000	
SUBTOTALS FOR INDIVIDUAL PROPERTY ACCOUNTS	473.67	90.00	0.00	0.00	563.67	4	Properties Rebated				
TOTAL REBATED FOR APEX	1,912.28	90.00	86.71	0.00	2,088.99	11	Properties Rebated for City				

| Agenda Item | cover sheet

for consideration by the Apex Town Council

Item Type: CONSENT AGENDA

Meeting Date: May 25, 2021

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 June 8, 2021 on the Question of Annexation - Apex Town Council's intent to annex HARP-BARR, LLC, Memphis & Maddox, LLC, Sweet Willie, LLC, William Douglas and Jean S. Poe, and Lennar Carolinas, LLC properties containing 157.234 acres located at 6401 Apex Barbecue Road and 1216 & 1330 South Salem Street, Annexation #706 into the Town's corporate limits.

Approval Recommended?

Yes, by the Planning and Community Development Department.

Item Details

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

Attachments

- Annexation Petition
- Legal Description
- Vicinity Map
- 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# 706

HARP-BARR, LLC, Memphis & Maddox, LLC, Sweet Willie, LLC, William Douglas and Jean S. Poe, and Lennar Carolinas (6401 Apex Barbecue Road, 1216 South Salem Street, and 1330 South Salem Street)

WHEREAS, G.S. § 160-A 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 25th day of May 2021.

Jacques K. Gilbert
Mayor

ATTEST:

Donna B. Hosch, MMC, NCCMC
Town Clerk



CERTIFICATE OF SUFFICIENCY BY THE TOWN CLERK

Annexation Petition #706

HARP-BARR, LLC, Memphis & Maddox, LLC, Sweet Willie, LLC, William Douglas and Jean S. Poe, and Lennar Carolinas (6401 Apex Barbecue Road, 1216 South Salem Street, and 1330 South Salem Street)

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

I, Donna B. Hosch, 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 25th day of May 2021.

Donna B. Hosch, MMC, NCCMC
Town Clerk

(Seal)

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 #:	<u>706</u>	Submittal Date:	<u>3/26/2021</u>
Fee Paid	<u>\$ 200.00</u>	Check #	<u>119656</u>

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 ☒ contiguous, ☐ non-contiguous (satellite) to the Town of Apex, North Carolina and the boundaries are as contained in the metes and bounds description attached hereto.
3. If contiguous, this annexation will include all intervening rights-of-way for streets, railroads, and other areas as stated in G.S. 160A-31(f), unless otherwise stated in the annexation amendment.

OWNER INFORMATION

HARP-BARR, LLC, MEMPHIS & MADDOX, LLC, SWEET WILLIE, LLC

Owner Name (Please Print)

Phone

Williams Douglas Poe and Jean S. Poe

Owner Name (Please Print)

Phone

Lennar Carolinas, LLC

Owner Name (Please Print)

Phone

0731662438

Property PIN or Deed Book & Page #

dougpoe@bellsouth.net

E-mail Address

0731766588

Property PIN or Deed Book & Page #

dougpoe@bellsouth.net

E-mail Address

0731676714

Property PIN or Deed Book & Page #

stephen.dorn@lennar.com

E-mail Address

SURVEYOR INFORMATION

Surveyor: McAdams; Tim Mersinger

Phone: 919-361-5000

Fax: _____

E-mail Address: mersinger@mcadamsco.com

ANNEXATION SUMMARY CHART

Property Information		Reason(s) for annexation (select all that apply)	
Total Acreage to be annexed:	<u>157.234 ac</u>	Need water service due to well failure	<input type="checkbox"/>
Population of acreage to be annexed:	<u>New development</u>	Need sewer service due to septic system failure	<input type="checkbox"/>
Existing # of housing units:	<u>0</u>	Water service (new construction)	<input checked="" type="checkbox"/>
Proposed # of housing units:	<u>1,500</u>	Sewer service (new construction)	<input checked="" type="checkbox"/>
Zoning District*:	<u>PUD-CZ</u>	Receive Town Services	<input checked="" type="checkbox"/>

*If the property to be annexed is not within the Town of Apex's Extraterritorial Jurisdiction, the applicant must also submit a rezoning application with the petition for voluntary annexation to establish an Apex zoning designation. Please contact the Planning Department for questions.

PETITION FOR VOLUNTARY ANNEXATION

Application #:

706

Submittal Date:

3/26/21

COMPLETE IF IN A LIMITED LIABILITY COMPANY

In witness whereof, Sweet Willie, LLC a limited liability company, caused this instrument to be executed in its name by a member/manager pursuant to authority duly given, this the 23 day of Feb, 2021.

Name of Limited Liability Company Sweet Willie LLC

By:

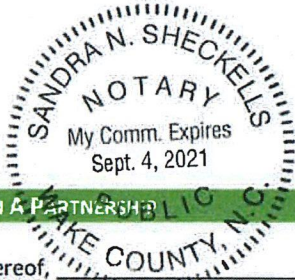
[Signature]
Signature of Member/Manager

STATE OF NORTH CAROLINA
COUNTY OF WAKE

Sworn and subscribed before me, William Poe, a Notary Public for the above State and County, this the 23 day of Feb, 2021.

[Signature]
Notary Public

SEAL



My Commission Expires:

9-4-2021

COMPLETE IF IN A PARTNERSHIP

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

Name of Partnership _____

By:

Signature of General Partner

STATE OF NORTH CAROLINA
COUNTY OF WAKE

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

Notary Public

SEAL

My Commission Expires: _____

PETITION FOR VOLUNTARY ANNEXATION

Application #:

706

Submittal Date:

3/24/21

COMPLETE IF IN A LIMITED LIABILITY COMPANY

In witness whereof, Harp-Barr, LLC a limited liability company, caused this instrument to be executed in its name by a member/manager pursuant to authority duly given, this the 23 day of Feb, 2021.

Name of Limited Liability Company HARP-BARR LLC

By:

Wm Douglas Poe

Signature of Member/Manager

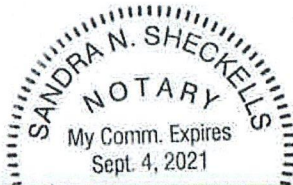
STATE OF NORTH CAROLINA
COUNTY OF WAKE

Sworn and subscribed before me, William Douglas Poe, a Notary Public for the above State and County, this the 23 day of Feb, 2021

[Signature]

Notary Public

SEAL



My Commission Expires:

9-4-2021

COMPLETE IF IN A PARTNERSHIP

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

Name of Partnership _____

By:

Signature of General Partner

STATE OF NORTH CAROLINA
COUNTY OF WAKE

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

Notary Public

SEAL

My Commission Expires:

PETITION FOR VOLUNTARY ANNEXATION

Application #:

706

Submittal Date:

3/26/21

COMPLETE IF SIGNED BY INDIVIDUALS:

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

William Douglas Poe

Please Print

William Douglas Poe

Signature

Jean S Poe

Please Print

Jean S. Poe

Signature

Please Print

Signature

Please Print

Signature

STATE OF NORTH CAROLINA
COUNTY OF WAKE

Sworn and subscribed before me, William Douglas Poe, a Notary Public for the above State and County,
this the 23 day of Feb, 2021.

Notary Public

SEAL

My Commission Expires:

9-4-2021

COMPLETE IF A CORPORATION:

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

Corporate Name

SEAL

By:

President (Signature)

Attest:

Secretary (Signature)

STATE OF NORTH CAROLINA
COUNTY OF WAKE

Sworn and subscribed before me, _____, a Notary Public for the above State and County,
this the ____ day of ____, 20__.

Notary Public

SEAL

My Commission Expires:

PETITION FOR VOLUNTARY ANNEXATION

Application #: 706

Submittal Date: 3/26/21

COMPLETE IF IN A LIMITED LIABILITY COMPANY

In witness whereof, Memphis & Maddox LLC, a limited liability company, caused this instrument to be executed in its name by a member/manager pursuant to authority duly given, this the 23 day of February, 2021.

Name of Limited Liability Company MEMPHIS & MADDOX LLC

By: [Signature]
Signature of Member/Manager

STATE OF NORTH CAROLINA
COUNTY OF WAKE

Sworn and subscribed before me, Susan Garrett, a Notary Public for the above State and County, this the 23 day of February, 2021.

[Signature]
Notary Public

My Commission Expires: 12/2/2024

COMPLETE IF IN A PARTNERSHIP

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

Name of Partnership _____

By: _____
Signature of General Partner

STATE OF NORTH CAROLINA
COUNTY OF WAKE

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

Notary Public

SEAL

My Commission Expires: _____

PETITION FOR VOLUNTARY ANNEXATION

Application #: 706

Submittal Date: 3/26/21

COMPLETE IF IN A LIMITED LIABILITY COMPANY

In witness whereof, LENNAR CAROLINA'S limited liability company, caused this instrument to be executed in its name by a member/manager pursuant to authority duly given, this the 3 day of May, 2021.

Name of Limited Liability Company LENNAR CAROLINA'S, LLC

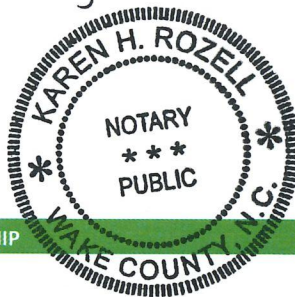
By: _____

Signature of Member/Manager

STATE OF NORTH CAROLINA
COUNTY OF WAKE

Sworn and subscribed before me, Karen H Rozell, a Notary Public for the above State and County, this the 3 day of May, 2021.

SEAL



Karen H Rozell

Notary Public

Karen H Rozell

My Commission Expires: 4-17-2025

COMPLETE IF IN A PARTNERSHIP

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

Name of Partnership _____

By: _____

Signature of General Partner

STATE OF NORTH CAROLINA
COUNTY OF WAKE

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

SEAL

Notary Public

My Commission Expires: _____

BEGINNING AT AN IRON PIPE IN THE NORTHERN PROPERTY LINE OF THE DARYL POE AND JEANNE POE TRACT; THENCE SOUTH 88°15'40" EAST 294.44 FEET TO A POINT; THENCE SOUTH 88°15'40" EAST 73.53 FEET TO AN IRON PIPE IN THE SOUTHERN RIGHT OF WAY OF APEX BARBEQUE ROAD (VARIABLE WIDTH PUBLIC RIGHT OF WAY); THENCE SOUTH 88°17'21" EAST 166.15 FEET TO A POINT; THENCE SOUTH 66°51'11" EAST 52.41 FEET TO A POINT; THENCE SOUTH 66°15'45" EAST 53.82 FEET TO A POINT; THENCE SOUTH 65°14'19" EAST 41.62 FEET TO A POINT; THENCE NORTH 25°36'46" EAST 2.86 FEET TO A POINT; THENCE SOUTH 63°01'58" EAST 36.23 FEET TO A POINT; THENCE SOUTH 62°43'11" EAST 52.42 FEET TO A POINT; THENCE SOUTH 62°34'50" EAST 52.21 FEET TO A POINT; THENCE SOUTH 62°33'45" EAST 50.32 FEET TO A POINT; THENCE SOUTH 62°31'05" EAST 52.09 FEET TO A POINT; THENCE SOUTH 62°41'02" EAST 38.46 FEET TO A POINT; THENCE NORTH 27°30'20" EAST 20.00 FEET TO A POINT IN THE NORTHERN RIGHT OF WAY OF APEX BARBEQUE ROAD (VARIABLE WITH PUBLIC RIGHT OF WAY); THENCE WITH SAID RIGHT OF WAY SOUTH 63°45'54" EAST 15.27 FEET TO A POINT; THENCE SOUTH 63°11'11" EAST 52.92 FEET TO A POINT; THENCE SOUTH 63°46'38" EAST 52.45 FEET TO A POINT; THENCE SOUTH 64°11'18" EAST 51.01 FEET TO A POINT; THENCE SOUTH 64°51'58" EAST 49.52 FEET TO A POINT; THENCE SOUTH 65°24'55" EAST 50.07 FEET TO A POINT; THENCE SOUTH 66°04'16" EAST 48.34 FEET TO A POINT; THENCE SOUTH 66°24'38" EAST 50.08 FEET TO A POINT; THENCE SOUTH 66°41'38" EAST 50.19 FEET TO A POINT; THENCE SOUTH 66°15'39" EAST 38.64 FEET TO AN IRON PIPE; THENCE LEAVING SAID RIGHT OF WAY SOUTH 45°09'49" WEST 21.52 FEET TO A POINT; THENCE SOUTH 66°29'41" EAST 17.50 FEET TO A POINT; THENCE SOUTH 66°51'15" EAST 51.02 FEET TO A POINT; THENCE SOUTH 67°29'37" EAST 46.49 FEET TO A POINT; THENCE SOUTH 69°10'44" EAST 47.69 FEET TO A POINT; THENCE SOUTH 70°48'55" EAST 47.97 FEET TO A POINT; THENCE SOUTH 72°26'29" EAST 49.98 FEET TO A POINT; THENCE SOUTH 73°56'45" EAST 48.27 FEET TO A POINT; THENCE SOUTH 74°36'34" EAST 49.46 FEET TO A POINT; THENCE SOUTH 74°35'50" EAST 50.79 FEET TO A POINT; THENCE SOUTH 74°07'44" EAST 48.03 FEET TO A POINT; THENCE SOUTH 73°53'30" EAST 1.43 FEET TO A POINT; THENCE SOUTH 00°46'03" WEST 62.04 FEET TO AN IRON PIPE; THENCE SOUTH 02°10'02" WEST 684.03 FEET TO A POINT; THENCE WITH A CURVE TO THE LEFT WITH AN ARC LENGTH OF 91.26 FEET, WITH A RADIUS OF 2927.20 FEET, WITH A CHORD BEARING OF SOUTH 49°51'06" WEST, WITH A CHORD LENGTH OF 91.25 FEET TO A POINT; THENCE WITH A COMPOUND CURVE TO THE LEFT WITH AN ARC LENGTH OF 156.33 FEET, WITH A RADIUS OF 2830.49 FEET, WITH A CHORD BEARING OF SOUTH 47°19'16" WEST, WITH A CHORD LENGTH OF 156.31 FEET TO A POINT; THENCE NORTH 01°41'10" EAST 71.72 FEET TO AN IRON PIPE; THENCE SOUTH 46°03'02" WEST 85.16 FEET TO A POINT; THENCE SOUTH 44°07'53" WEST 101.67 FEET TO A POINT; THENCE SOUTH 42°07'43" WEST 101.98 FEET TO A POINT; THENCE SOUTH 40°06'18" WEST 101.05 FEET TO A POINT; THENCE SOUTH 38°00'20" WEST 102.25 FEET TO AN IRON PIPE; THENCE SOUTH 36°10'22" WEST 101.61 FEET TO A POINT; THENCE SOUTH 34°13'40" WEST 101.88 FEET TO A POINT; THENCE SOUTH 32°20'31" WEST 101.40 FEET TO A POINT; THENCE SOUTH 30°52'45" WEST 101.44 FEET TO AN IRON PIPE; THENCE SOUTH 29°32'30" WEST 100.74 FEET TO A POINT; THENCE SOUTH 28°00'14" WEST 101.56 FEET TO A POINT; THENCE SOUTH 26°31'43" WEST 101.76 FEET TO A POINT; THENCE SOUTH 24°59'56" WEST 101.74 FEET TO A POINT; THENCE SOUTH 23°14'59" WEST 38.23 FEET TO AN IRON PIPE; THENCE SOUTH 23°13'26" WEST 63.12 FEET TO A POINT; THENCE SOUTH 21°18'46" WEST 102.56 FEET TO A POINT; THENCE SOUTH 19°14'15" WEST 102.34 FEET TO A POINT; THENCE SOUTH 17°17'15" WEST 101.06 FEET TO A POINT; THENCE SOUTH 16°16'37" WEST 100.94 FEET TO A POINT; THENCE SOUTH 16°30'48" WEST 99.68 FEET TO AN IRON PIPE; THENCE SOUTH 17°33'06" WEST 98.63 FEET TO A POINT; THENCE SOUTH 19°12'54" WEST 98.15 FEET TO A POINT; THENCE SOUTH 21°07'08" WEST 99.78 FEET TO A POINT; THENCE SOUTH 23°11'04" WEST 97.92 FEET TO A POINT; THENCE SOUTH 24°54'47" WEST 38.40 FEET TO A POINT; THENCE SOUTH 25°36'27" WEST 22.58 FEET TO AN IRON PIPE; THENCE NORTH 89°17'29" WEST 64.48 FEET TO AN IRON PIPE; THENCE WITH A CURVE TO THE LEFT WITH AN ARC LENGTH OF 66.11 FEET, WITH A RADIUS OF 2804.10 FEET, WITH A CHORD BEARING OF NORTH 25°32'13" EAST, WITH A CHORD LENGTH OF 66.11 FEET TO A

POINT; THENCE NORTH 89°17'29" WEST 353.78 FEET TO A CONCRETE MONUMENT; THENCE NORTH 00°17'39" EAST 911.20 FEET TO AN IRON PIPE; THENCE SOUTH 89°59'35" WEST 879.26 FEET TO AN IRON PIPE; THENCE NORTH 88°24'26" WEST 416.05 FEET TO AN IRON PIPE; THENCE NORTH 88°58'59" WEST 428.33 FEET TO AN IRON PIPE; THENCE NORTH 89°42'10" WEST 67.13 FEET TO AN IRON PIPE IN THE EASTERN RIGHT OF WAY OF N.C. HIGHWAY 540 (VARIABLE WIDTH PUBLIC RIGHT OF WAY); THENCE WITH SAID RIGHT OF WAY NORTH 14°10'11" WEST 25.98 FEET TO A CONCRETE MONUMENT; THENCE NORTH 29°27'03" WEST 279.28 FEET TO A CONCRETE MONUMENT; THENCE NORTH 10°30'20" WEST 258.11 FEET TO A CONCRETE MONUMENT; THENCE NORTH 31°49'46" WEST 302.09 FEET TO A CONCRETE MONUMENT; THENCE NORTH 19°25'27" WEST 348.05 FEET TO AN IRON PIPE; THENCE NORTH 01°06'22" EAST 289.07 FEET TO AN IRON PIPE IN THE CENTERLINE OF A CREEK; THENCE WITH SAID CENTERLINE SOUTH 62°05'16" EAST 8.68 FEET TO A POINT; THENCE SOUTH 75°58'33" EAST 23.59 FEET TO A POINT; THENCE SOUTH 54°32'13" EAST 16.14 FEET TO A POINT; THENCE SOUTH 28°27'52" EAST 21.06 FEET TO A POINT; THENCE SOUTH 52°11'00" EAST 19.37 FEET TO A POINT; THENCE NORTH 80°16'49" EAST 16.94 FEET TO A POINT; THENCE NORTH 27°19'34" EAST 14.43 FEET TO A POINT; THENCE NORTH 74°27'19" EAST 9.44 FEET TO A POINT; THENCE SOUTH 50°24'04" EAST 7.19 FEET TO A POINT; THENCE SOUTH 36°21'02" EAST 23.88 FEET TO A POINT; THENCE NORTH 39°19'42" EAST 12.17 FEET TO A POINT; THENCE NORTH 05°51'07" WEST 17.89 FEET TO A POINT; THENCE NORTH 50°03'59" EAST 8.76 FEET TO A POINT; THENCE SOUTH 73°12'41" EAST 16.32 FEET TO A POINT; THENCE SOUTH 21°18'53" EAST 18.47 FEET TO A POINT; THENCE SOUTH 72°13'16" EAST 13.54 FEET TO A POINT; THENCE NORTH 61°51'46" EAST 21.65 FEET TO A POINT; THENCE NORTH 74°00'24" EAST 50.54 FEET TO A POINT; THENCE NORTH 19°57'12" EAST 44.74 FEET TO A POINT; THENCE NORTH 06°03'59" WEST 20.11 FEET TO A POINT; THENCE NORTH 35°44'44" EAST 23.04 FEET TO A POINT; THENCE NORTH 69°35'37" EAST 22.30 FEET TO A POINT; THENCE SOUTH 84°36'00" EAST 31.56 FEET TO A POINT; THENCE NORTH 68°46'46" EAST 23.80 FEET TO A POINT; THENCE NORTH 88°42'18" EAST 17.10 FEET TO A POINT; THENCE SOUTH 54°50'03" EAST 18.40 FEET TO A POINT; THENCE NORTH 80°46'03" EAST 40.56 FEET TO A POINT; THENCE NORTH 58°20'09" EAST 25.29 FEET TO A POINT; THENCE NORTH 44°32'26" EAST 24.34 FEET TO A POINT; THENCE NORTH 71°02'31" EAST 19.10 FEET TO A POINT; THENCE NORTH 47°24'16" EAST 37.55 FEET TO A POINT; THENCE NORTH 81°51'36" EAST 25.80 FEET TO A POINT; THENCE NORTH 36°15'39" EAST 27.41 FEET TO A POINT; THENCE NORTH 20°21'02" WEST 17.38 FEET TO A POINT; THENCE NORTH 11°59'13" EAST 2.08 FEET TO A POINT; THENCE NORTH 58°12'58" EAST 29.12 FEET TO A POINT; THENCE NORTH 82°43'32" EAST 21.16 FEET TO A POINT; THENCE NORTH 05°01'51" WEST 12.48 FEET TO A POINT; THENCE NORTH 77°16'23" WEST 12.42 FEET TO A POINT; THENCE NORTH 37°17'58" EAST 22.50 FEET TO A POINT; THENCE NORTH 73°27'07" EAST 34.86 FEET TO A POINT; THENCE NORTH 03°15'44" EAST 13.46 FEET TO A POINT; THENCE NORTH 45°09'32" WEST 11.24 FEET TO A POINT; THENCE NORTH 53°48'21" EAST 6.23 FEET TO A POINT; THENCE SOUTH 68°53'55" EAST 13.88 FEET TO A POINT; THENCE NORTH 60°34'12" EAST 52.94 FEET TO A POINT; THENCE NORTH 78°46'01" EAST 46.77 FEET TO A POINT; THENCE NORTH 67°46'44" EAST 48.56 FEET TO A POINT; THENCE NORTH 74°58'45" EAST 43.00 FEET TO A POINT; THENCE SOUTH 89°36'23" EAST 38.18 FEET TO A POINT; THENCE SOUTH 79°42'51" EAST 22.68 FEET TO A POINT; THENCE SOUTH 29°26'17" EAST 17.84 FEET TO A POINT; THENCE NORTH 69°48'36" EAST 16.45 FEET TO A POINT; THENCE SOUTH 68°17'51" EAST 51.96 FEET TO A POINT; THENCE NORTH 73°12'05" EAST 27.64 FEET TO A POINT; THENCE SOUTH 79°24'02" EAST 15.42 FEET TO A POINT; THENCE SOUTH 74°12'31" EAST 45.28 FEET TO A POINT; THENCE SOUTH 39°16'28" EAST 36.13 FEET TO A POINT; THENCE SOUTH 08°43'30" WEST 18.30 FEET TO A POINT; THENCE SOUTH 50°53'39" EAST 18.00 FEET TO A POINT; THENCE NORTH 88°17'02" EAST 36.36 FEET TO A POINT; THENCE SOUTH 13°58'03" EAST 21.80 FEET TO A POINT; THENCE SOUTH 81°03'00" EAST 42.96 FEET TO A POINT; THENCE SOUTH 30°57'25" EAST 26.88 FEET TO A POINT; THENCE SOUTH 75°54'58" EAST 40.54 FEET TO A POINT; THENCE SOUTH 70°25'00" EAST 15.28 FEET TO A POINT; THENCE NORTH 84°19'40" EAST 27.52 FEET TO A POINT; THENCE SOUTH 80°36'18" EAST 37.25 FEET

TO A POINT; THENCE SOUTH 42°44'12" WEST 13.86 FEET TO A POINT; THENCE SOUTH 64°51'55" WEST 13.95 FEET TO A POINT; THENCE SOUTH 64°16'15" EAST 26.38 FEET TO A POINT; THENCE SOUTH 51°02'50" EAST 20.28 FEET TO A POINT; THENCE SOUTH 76°30'27" EAST 49.09 FEET TO A POINT; THENCE SOUTH 02°56'27" WEST 22.78 FEET TO A POINT; THENCE SOUTH 68°53'00" EAST 39.44 FEET TO A POINT; THENCE SOUTH 74°05'57" EAST 21.64 FEET TO A POINT; THENCE NORTH 54°46'33" EAST 12.67 FEET TO A POINT; THENCE SOUTH 78°44'03" EAST 50.69 FEET TO A POINT; THENCE SOUTH 17°24'42" EAST 10.77 FEET TO A POINT; THENCE NORTH 81°02'40" EAST 18.57 FEET TO A POINT; THENCE NORTH 57°30'16" EAST 25.96 FEET TO A POINT; THENCE SOUTH 49°12'49" EAST 22.49 FEET TO A POINT; THENCE SOUTH 75°13'50" EAST 36.68 FEET TO A POINT; THENCE NORTH 43°03'04" EAST 18.03 FEET TO A POINT; THENCE SOUTH 43°29'16" EAST 25.33 FEET TO A POINT; THENCE NORTH 84°54'55" EAST 33.14 FEET TO A POINT; THENCE SOUTH 49°52'36" EAST 29.02 FEET TO A POINT; THENCE NORTH 47°30'27" EAST 22.64 FEET TO A POINT; THENCE SOUTH 44°10'50" EAST 48.34 FEET TO A POINT; THENCE NORTH 77°35'58" EAST 27.83 FEET TO A POINT; THENCE SOUTH 44°55'44" EAST 20.62 FEET TO A POINT; THENCE NORTH 67°39'06" EAST 23.64 FEET TO A POINT; THENCE NORTH 09°17'48" WEST 14.71 FEET TO A POINT; THENCE NORTH 56°08'00" EAST 16.99 FEET TO A POINT; THENCE SOUTH 84°08'50" EAST 9.11 FEET TO A POINT; THENCE SOUTH 21°28'59" EAST 19.37 FEET TO A POINT; THENCE NORTH 77°01'03" EAST 25.20 FEET TO A POINT; THENCE NORTH 52°22'39" EAST 13.09 FEET TO A POINT; THENCE NORTH 34°19'37" EAST 31.41 FEET TO A POINT; THENCE SOUTH 83°30'24" EAST 9.86 FEET TO A POINT; THENCE SOUTH 73°18'34" EAST 60.44 FEET TO A POINT; THENCE NORTH 25°37'49" EAST 32.53 FEET TO A POINT; THENCE SOUTH 40°49'03" EAST 28.47 FEET TO A POINT; THENCE NORTH 36°58'17" EAST 21.69 FEET TO A POINT; THENCE SOUTH 76°44'46" EAST 21.44 FEET TO A POINT; THENCE SOUTH 14°26'49" WEST 27.21 FEET TO A POINT; THENCE SOUTH 86°41'52" EAST 6.78 FEET TO A POINT; THENCE NORTH 87°14'33" EAST 24.64 FEET TO A POINT; THENCE SOUTH 40°22'08" EAST 36.29 FEET TO A POINT; THENCE SOUTH 13°37'04" EAST 24.06 FEET TO A POINT; THENCE SOUTH 82°58'59" EAST 35.03 FEET TO A POINT; THENCE SOUTH 73°33'17" EAST 23.68 FEET TO A POINT; THENCE SOUTH 25°37'21" EAST 34.01 FEET TO A POINT; THENCE SOUTH 06°57'32" EAST 21.00 FEET TO A POINT; THENCE SOUTH 53°23'42" EAST 38.38 FEET TO A POINT; THENCE SOUTH 83°14'09" EAST 8.53 FEET TO A POINT; THENCE NORTH 33°23'35" EAST 11.26 FEET TO A POINT; THENCE SOUTH 68°50'30" EAST 18.96 FEET TO A POINT; THENCE NORTH 81°37'03" EAST 18.18 FEET TO A POINT; THENCE SOUTH 39°21'14" EAST 5.22 FEET TO A POINT; THENCE LEAVING THE CENTERLIN OF SAID CREEK NORTH 00°20'56" EAST 1168.68 FEET TO THE POINT AND PLACE OF BEGINNING CONTAINING 6,849,127 SQUARE FEET, 157.234 ACRES AND BEING THE SAME AREA AS SHOWN ON THE PLAT BY THE JOHN R MCADAMS COMPANY TITLED ANNEXATION MAP OF DEPOT 499 DATED NOVEMBER 19TH, 2020.



The John R. McAdams Company, Inc.
2905 Meridian Parkway
Durham, NC 27713
phone 919. 361. 5000
fax 919. 361. 2269
license number: C-0293, C-187
www.mcadamsco.com

CLIENT

JENNAR CAROLINAS, LLC

WHITE OAK TOWNSHIP, WAKE COUNTY, NC

DEPOT 499
ANNEXATION PLAT



REVISIONS

NO.	DATE
-----	------

PLAN INFORMATION

PROJECT NO.	LEN-19090
FILENAME	LEN19090-F1
CHECKED BY	JSA
DRAWN BY	TAM
SCALE	N/A
DATE	11-19-2020

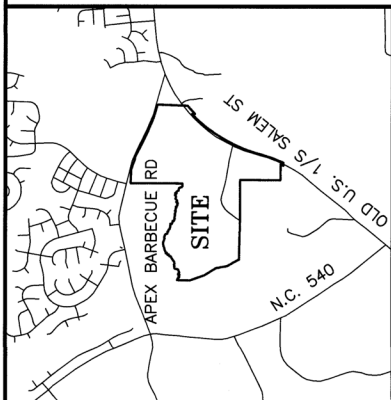
SHEET

SHEET TITLE

3-4

GENERAL NOTES

- THIS IS A SURVEY OF AN EXISTING PARCEL(S) OF LAND. THIS IS AN ANNEXATION SURVEY.
1. BEARINGS FOR THIS SURVEY ARE BASED ON NAD 83(2011).
2. ALL DISTANCES ARE HORIZONTAL GROUND DISTANCES.
3. ZONING: PUD-CR
FLOOD NOTE: THIS PROPERTY IS NOT LOCATED IN A SPECIAL FLOOD HAZARD ZONE. IT IS LOCATED IN ZONE "X" AS DEFINED BY FEMA FIRM COMMUNITY PANEL #3720073701 DATED MAY 2, 2006.

[illegible]

SURVEYOR'S CERTIFICATE

JAMES S. ARMSTRONG, CERTIFY THAT THIS PLAT WAS DRAWN UNDER MY SUPERVISION FROM AN ACTUAL SURVEY MADE UNDER MY SUPERVISION OF THE DESCRIPTION RECORDED IN BOOK 12121, PAGE 472; THAT THE BOUNDARIES NOT SURVEYED ARE CLEARLY INDICATED AS DRAWN FROM INFORMATION FOUND IN BOOK _____ PAGE _____; THAT THE RATIO OF PRECISION OR POSITIONAL ACCURACY AS CALCULATED IS 1:355,804; THAT THIS PLAT WAS PREPARED IN ACCORDANCE WITH G.S. 47-30 AS AMENDED. I, THE WITNESS MY ORIGINAL SIGNATURE, LICENSE NUMBER AND SEAL THIS _____ DAY OF APRIL, A.D., 2021.

James S. Armstrong
JAMES S. ARMSTRONG, PROFESSIONAL LAND SURVEYOR L-4411

TYPE OF PLAT

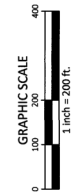
HEREBY CERTIFY THIS PLAT OF THE FOLLOWING TYPE:
47-30 (F)(11)(C)(1). THAT THE SURVEY IS OF AN EXISTING PARCEL
PARCELS OF LAND OR ONE OR MORE EXISTING EASEMENTS AND DOES
CREATE A NEW STREET OR CHANGE AN EXISTING STREET. FOR THE
POSES OF THIS SUBSECTION AN "EXISTING PARCEL" OR "EXISTING
EMENT" IS AN AREA OF LAND DESCRIBED IN A SINGLE, LEGAL
CRPTION OR LEGALLY RECORDED SUBDIVISION THAT HAS BEEN OR MAY
LEGALLY CONVEYED TO A NEW OWNER BY DEED IN ITS EXISTING
LEGISLATION.

James S. Amity
PROFESSIONAL LAND SURVEYOR

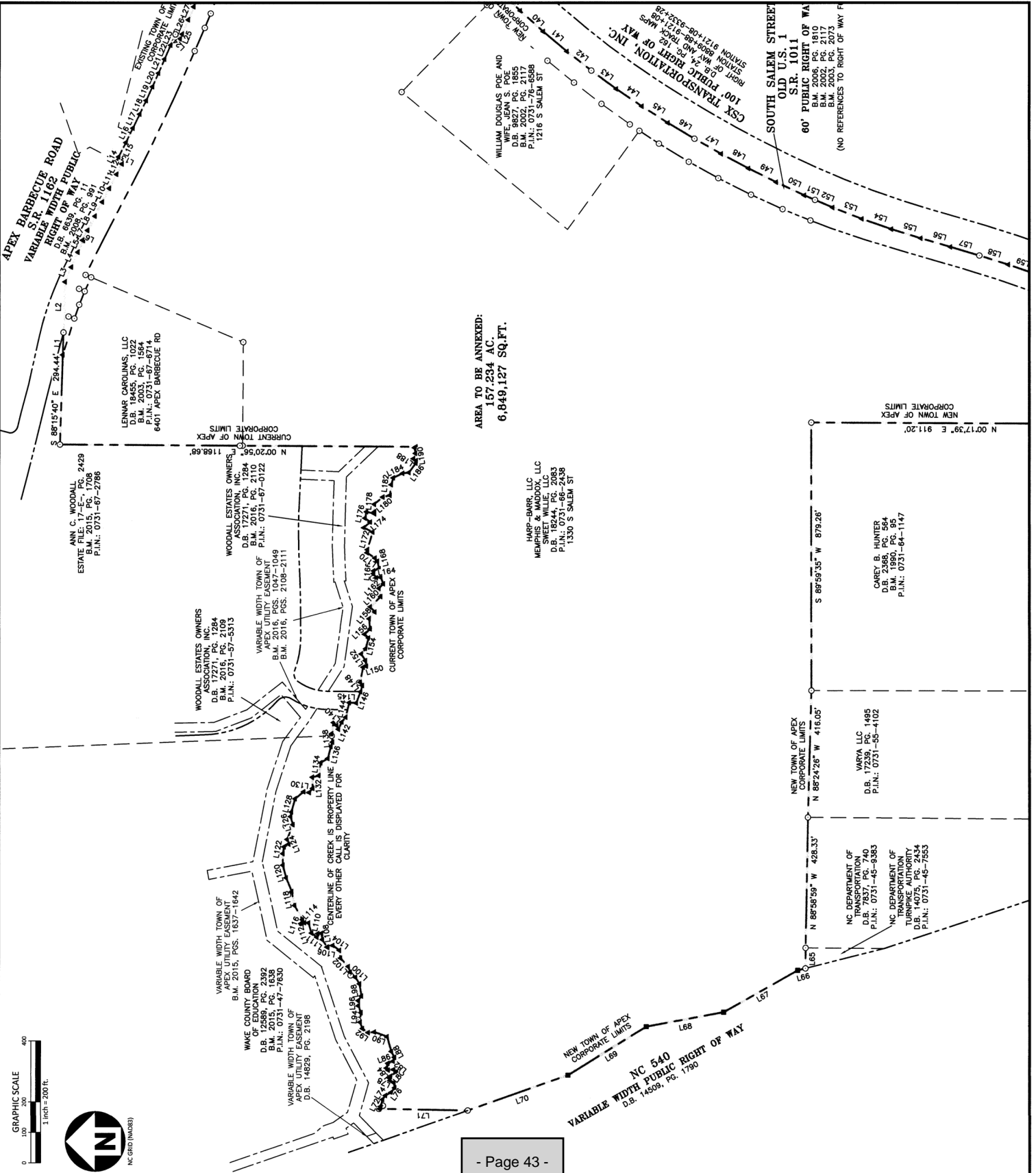
- Page 42 -

INCH TABLE			METRIC TABLE		
IN	FRAC	DISTANCE	MM	FRAC	DISTANCE
1	0	0	0	0	0
1	1/16	1.5875	0	1/16	1.5875
1	1/8	3.175	0	1/8	3.175
1	3/16	4.7625	0	3/16	4.7625
1	1/4	6.35	0	1/4	6.35
1	5/16	7.9375	0	5/16	7.9375
1	3/8	9.525	0	3/8	9.525
1	7/16	11.1125	0	7/16	11.1125
1	1/2	12.7	0	1/2	12.7
1	9/16	14.2875	0	9/16	14.2875
1	5/8	15.875	0	5/8	15.875
1	11/16	17.4625	0	11/16	17.4625
1	3/4	19.05	0	3/4	19.05
1	13/16	20.6375	0	13/16	20.6375
1	7/8	22.225	0	7/8	22.225
1	15/16	23.8125	0	15/16	23.8125
2	0	0	0	0	0
2	1/16	3.175	0	1/16	3.175
2	1/8	6.35	0	1/8	6.35
2	3/16	9.525	0	3/16	9.525
2	1/4	12.7	0	1/4	12.7
2	5/16	15.875	0	5/16	15.875
2	3/8	19.05	0	3/8	19.05
2	7/16	22.225	0	7/16	22.225
2	1/2	25.4	0	1/2	25.4
2	9/16	28.575	0	9/16	28.575
2	5/8	31.75	0	5/8	31.75
2	11/16	34.9375	0	11/16	34.9375
2	3/4	38.1	0	3/4	38.1
2	13/16	41.2875	0	13/16	41.2875
2	7/8	44.45	0	7/8	44.45
2	15/16	47.6375	0	15/16	47.6375
3	0	0	0	0	0
3	1/16	4.7625	0	1/16	4.7625
3	1/8	9.525	0	1/8	9.525
3	3/16	14.2875	0	3/16	14.2875
3	1/4	19.05	0	1/4	19.05
3	5/16	23.8125	0	5/16	23.8125
3	3/8	28.575	0	3/8	28.575
3	7/16	33.3375	0	7/16	33.3375
3	1/2	38.1	0	1/2	38.1
3	9/16	42.8625	0	9/16	42.8625
3	5/8	47.6375	0	5/8	47.6375
3	11/16	52.4125	0	11/16	52.4125
3	3/4	57.15	0	3/4	57.15
3	13/16	61.9375	0	13/16	61.9375
3	7/8	66.675	0	7/8	66.675
3	15/16	71.4625	0	15/16	71.4625
4	0	0	0	0	0
4	1/16	6.35	0	1/16	6.35
4	1/8	12.7	0	1/8	12.7
4	3/16	19.05	0	3/16	19.05
4	1/4	25.4	0	1/4	25.4
4	5/16	31.75	0	5/16	31.75
4	3/8	38.1	0	3/8	38.1
4	7/16	44.45	0	7/16	44.45
4	1/2	50.8	0	1/2	50.8
4	9/16	57.15	0	9/16	57.15
4	5/8	63.5	0	5/8	63.5
4	11/16	69.85	0	11/16	69.85
4	3/4	76.2	0	3/4	76.2
4	13/16	82.55	0	13/16	82.55
4	7/8	88.9	0	7/8	88.9
4	15/16	95.25	0	15/16	95.25
5	0	0	0	0	0
5	1/16	7.9375	0	1/16	7.9375
5	1/8	15.875	0	1/8	15.875
5	3/16	23.8125	0	3/16	23.8125
5	1/4	31.75	0	1/4	31.75
5	5/16	39.6875	0	5/16	39.6875
5	3/8	47.6375	0	3/8	47.6375
5	7/16	55.5875	0	7/16	55.5875
5	1/2	63.5	0	1/2	63.5
5	9/16	71.4625	0	9/16	71.4625
5	5/8	79.375	0	5/8	79.375
5	11/16	87.3125	0	11/16	87.3125
5	3/4	95.25	0	3/4	95.25
5	13/16	103.1875	0	13/16	103.1875
5	7/8	111.125	0	7/8	111.125
5	15/16	119.0625	0	15/16	119.0625
6	0	0	0	0	0
6	1/16	9.525	0	1/16	9.525
6	1/8	19.05	0	1/8	19.05
6	3/16	28.575	0	3/16	28.575
6	1/4	38.1	0	1/4	38.1
6	5/16	47.6375	0	5/16	47.6375
6	3/8	57.15	0	3/8	57.15
6	7/16	66.675	0	7/16	66.675
6	1/2	76.2	0	1/2	76.2
6	9/16	85.725	0	9/16	85.725
6	5/8	95.25	0	5/8	95.25
6	11/16	104.7875	0	11/16	104.7875
6	3/4	114.3	0	3/4	114.3
6	13/16	123.8375	0	13/16	123.8375
6	7/8	133.35	0	7/8	133.35
6	15/16	142.875	0	15/16	142.875
7	0	0	0	0	0
7	1/16	11.1125	0	1/16	11.1125
7	1/8	22.225	0	1/8	22.225
7	3/16	33.3375	0	3/16	33.3375
7	1/4	44.45	0	1/4	44.45
7	5/16	55.5875	0	5/16	55.5875
7	3/8	66.675	0	3/8	66.675
7	7/16	77.7875	0	7/16	77.7875
7	1/2	88.9	0	1/2	88.9
7	9/16	100	0	9/16	100
7	5/8	111.125	0	5/8	111.125
7	11/16	122.25	0	11/16	122.25
7	3/4	133.35	0	3/4	133.35
7	13/16	144.475	0	13/16	144.475
7	7/8	155.5875	0	7/8	155.5875
7	15/16	166.7125	0	15/16	166.7125
8	0	0	0	0	0
8	1/16	12.7	0	1/16	12.7
8	1/8	25.4	0	1/8	25.4
8	3/16	38.1	0	3/16	38.1
8	1/4	50.8	0	1/4	50.8
8	5/16	63.5	0	5/16	63.5
8	3/8	76.2	0	3/8	76.2
8	7/16	88.9	0	7/16	88.9
8	1/2	101.6	0	1/2	101.6
8	9/16	114.3	0	9/16	114.3
8	5/8	127	0	5/8	127
8	11/16	139.7	0	11/16	139.7
8	3/4	152.4	0	3/4	152.4
8	13/16	165.1	0	13/16	165.1
8	7/8	177.8	0	7/8	177.8
8	15/16	190.5	0	15/16	190.5
9	0	0	0	0	0
9	1/16	14.2875	0	1/16	14.2875
9	1/8	28.575	0	1/8	28.575
9	3/16	42.8625	0	3/16	42.8625
9	1/4	57.15	0	1/4	57.15
9	5/16	71.4625	0	5/16	71.4625
9	3/8	85.725	0	3/8	85.725
9	7/16	100	0	7/16	100
9	1/2	114.3	0	1/2	114.3
9	9/16	128.6	0	9/16	128.6
9	5/8	142.875	0	5/8	142.875
9	11/16	157.15	0	11/16	157.15
9	3/4	171.45	0	3/4	171.45
9	13/16	185.7375	0	13/16	185.7375
9	7/8	199.925	0	7/8	199.925
9	15/16	214.125	0	15/16	214.125
10	0	0	0	0	0
10	1/16	15.875	0	1/16	15.875
10	1/8	31.75	0	1/8	31.75
10	3/16	47.6375	0	3/16	47.6375
10	1/4	63.5	0	1/4	63.5
10	5/16	79.375	0	5/16	79.375
10	3/8	95.25	0	3/8	95.25
10	7/16	111.125	0	7/16	111.125
10	1/2	127	0	1/2	127
10	9/16	142.875	0	9/16	142.875
10	5/8	158.75	0	5/8	158.75
10	11/16	174.6375	0	11/16	174.6375
10	3/4	190.5	0	3/4	190.5
10	13/16	206.4125	0	13/16	206.4125
10	7/8	222.25	0	7/8	222.25
10	15/16	238.125	0	15/16	238.125
11	0	0	0	0	0
11	1/16	17.4625	0	1/16	17.4625
11	1/8	34.9375	0	1/8	34.9375
11	3/16	52.4125	0	3/16	52.4125
11	1/4	70	0	1/4	70
11	5/16	87.3125	0	5/16	87.3125
11	3/8	104.7875	0	3/8	104.7875
11	7/16	122.25	0	7/16	122.25
11	1/2	140	0	1/2	140
11	9/16	157.15	0	9/16	157.15
11	5/8	174.6375	0	5/8	174.6375
11	11/16	192.1125	0	11/16	192.1125
11	3/4	210	0	3/4	210
11	13/16	227.9875	0	13/16	227.9875
11	7/8	245.925	0	7/8	245.925
11	15/16	263.8625	0	15/16	263.8625
12	0	0	0	0	0
12	1/16	19.05	0	1/16	19.05
12	1/8	38.1	0	1/8	38.1
12	3/16	57.15	0	3/16	57.15
12	1/4	76.2	0	1/4	76.2
12	5/16	95.25	0	5/16	95.25
12	3/8	114.3	0	3/8	114.3
12	7/16	133.35	0	7/16	133.35
12	1/2	152.4	0	1/2	152.4
12	9/16	171.45	0	9/16	171.45
12	5/8	190.5	0	5/8	190.5
12	11/16	209.55	0	11/16	209.55
12	3/4	228.6	0	3/4	228.6
12	13/16	247.65	0	13/16	247.65
12	7/8	266.7	0	7/8	266.7
12	15/16	285.75	0	15/16	285.75
13	0	0	0	0	0
13	1/16	20.6375	0	1/16	20.6375
13	1/8	41.2875	0	1/8	41.2875
13	3/16	61.9375	0	3/16	61.9375
13	1/4	82.55	0	1/4	82.55
13	5/16	103.1875	0	5/16	103.1875
13	3/8	123.8375	0	3/8	123.8375
13	7/16	144.475	0	7/16	144.475
13	1/2	165.1	0	1/2	165.1
13	9/16	185.7375	0	9/16	185.7375
13	5/8	206.4125	0	5/8	206.4125
13	11/16	227.0125	0	11/16	227.0125
13	3/4	247.65	0	3/4	247.65
13	13/16	268.2875	0	13/16	268.2875
13	7/8	288.9	0	7/8	288.9
13	15/16	309.5375	0	15/16	309.5375
14	0	0	0	0	0
14	1/16	22.225	0	1/16	22.225
14	1/8	44.45	0	1/8	44.45
14	3/16	66.675	0	3/16	66.675
14	1/4	88.9	0	1/4	88.9
14	5/16	111.125	0	5/16	111.125
14	3/8	133.35	0	3/8	133.35
14	7/16	155.5875	0	7/16	155.5875
14	1/2	177.8	0	1/2	177.8
14	9/16	200	0	9/16	200
14	5/8	222.25	0	5/8	222.25
14	11/16	244.475	0	11/16	244.475
14	3/4	266.7	0	3/4	266.7
14	13/16	288.9375	0	13/16	288.9375
14	7/8	311.175	0	7/8	311.175
14	15/16	333.4125	0	15/16	333.4125
15	0	0	0	0	0
15	1/16	23.8125	0	1/16	23.8125

CURVE TABLE				
CURVE	RADIUS	ARC LENGTH	CHORD LENGTH	CHORD BEARING
C1	2927.20'	91.26'	91.25'	S 49°51'06" W
C2	2830.49'	156.33'	156.31'	S 47°19'16" W
C3	2804.10'	66.11'	66.11'	N 2°32'13" E



NC GRID (NAD83)






MCADAMS

The John R. McAdams Company, Inc.
2905 Meridian Parkway
Durham, NC 27713
phone 919.361.5000
fax 919.361.2269
license number: C-0293, C-187
www.mcadamsco.com

CLIENT
LENNAR CAROLINAS, LLC

WHITE OAK TOWNSHIP, WAKE COUNTY, NC
DEPOT 499
ANNEXATION PLAT



REVISIONS
NO. DATE

PLAN INFORMATION	
PROJECT NO.	LEN-19090
FILENAME	LEN19090-F1
CHECKED BY	JSA
DRAWN BY	TAM
SCALE	1"=200'
DATE	11-19-2020
SHEET	
SHEET TITLE	



MCADAMS

The John R. McAdams Company, Inc.
2905 Meridian Parkway
Durham, NC 27713

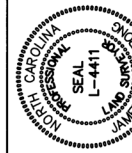
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DEPOT 499 ANNEXATION PLAT



REVISIONS

NO. DATE

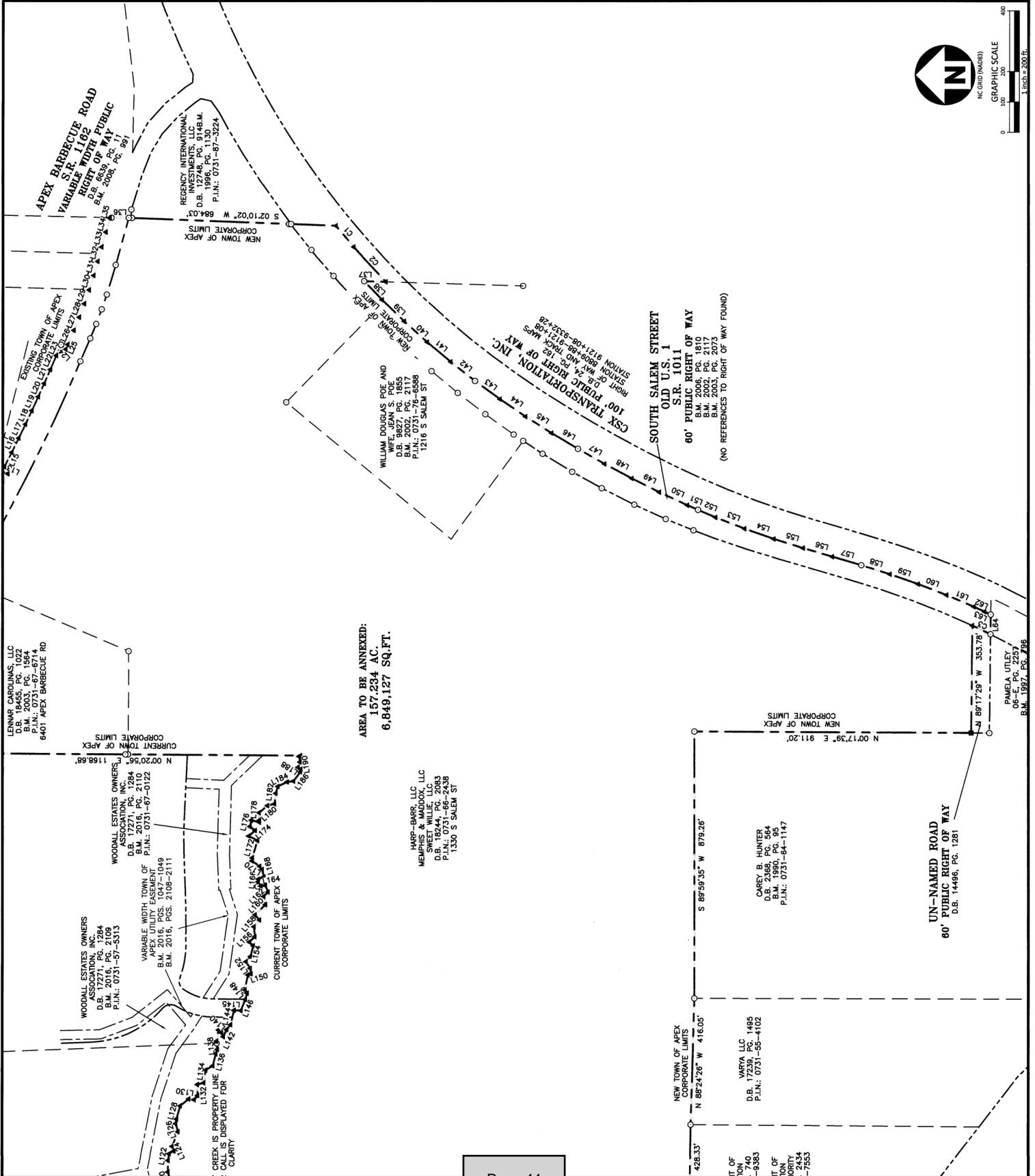
PLAN INFORMATION

PROJECT NO. LEN-19090
FILENAME LEN19090-F1
CHECKED BY JSA
DRAWN BY TAM
SCALE 1"=200'
DATE 11-19-2020

SHEET

SHEET TITLE

3-3



AREA TO BE ANNEXED:
157,234 AC.
6,849,127 SQ.FT.

HARP-BARR, LLC
MEMPHIS & MADDOX, LLC
SWEET WILLIE, LLC
D.B. 2386, PG. 96
P.L.N.: 0731-66-2438
1330 S SALEM ST

[Home](#)

Wake County Real Estate Data Account Summary

[iMaps](#)[Tax Bills](#)Real Estate ID **0055913**PIN # **0731662438**Account
SearchLocation Address
1330 S SALEM STProperty Description
POE ACRES FAMILY FARMS LLC PROP[Pin/Parcel History](#) [Search Results](#) [New Search](#)[NORTH CAROLINA](#) [Account](#) | [Buildings](#) | [Land](#) | [Deeds](#) | [Notes](#) | [Sales](#) | [Photos](#) | [Tax Bill](#) | [Map](#)

Property Owner HARP-BARR LLC MEMPHIS & MADDOX LLC (Use the Deeds link to view any additional owners)		Owner's Mailing Address 1216 S SALEM ST APEX NC 27502-7243	Property Location Address 1330 S SALEM ST APEX NC 27502-7245
Administrative Data Old Map # 646-- Map/Scale 0731 11 VCS 20AP900 City Fire District 23 Township WHITE OAK Land Class AGR-FARM ETJ AP Spec Dist(s) Zoning RA History ID 1 History ID 2 Acreage 138.64 Permit Date Permit #		Transfer Information Deed Date 12/17/2020 Book & Page 18244 2083 Revenue Stamps Pkg Sale Date Pkg Sale Price Land Sale Date Land Sale Price Improvement Summary Total Units 1 Recycle Units 1 Apt/SC Sqft Heated Area 1,834	Assessed Value Land Value Assessed \$9,245,313 Bldg. Value Assessed \$125,630 Tax Relief Land Use Value \$153,911 Use Value Deferment \$9,091,402 Historic Deferment Total Deferred Value \$9,091,402 Use/Hist/Tax Relief \$279,541 Assessed Total Value Assessed* \$9,370,943

*Wake County assessed building and land values reflect the market value as of January 1, 2020, which is the date of the last county-wide revaluation. Any inflation, deflation or other economic changes occurring after this date does not affect the assessed value of the property and cannot be lawfully considered when reviewing the value for adjustment.

The January 1, 2020 values will remain in effect until the next county-wide revaluation. Until that time, any real estate accounts created or new construction built is assessed according to the 2020 Schedule of Values.

For questions regarding the information displayed on this site, please contact the Department of Tax Administration at Taxhelp@wakegov.com or call 919-856-5400.



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

Annexation Petition #706

HARP-BARR, LLC, Memphis & Maddox, LLC, Sweet Willie, LLC, William Douglas and Jean S. Poe, and Lennar Carolinas (6401 Apex Barbecue Road, 1216 South Salem Street, and 1330 South 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 June 8, 2021.

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 25th day of May 2021.

Jacques K. Gilbert, Mayor

ATTEST:

Donna B. Hosch, MMC, NCCMC, Town Clerk

BEGINNING AT AN IRON PIPE IN THE NORTHERN PROPERTY LINE OF THE DARYL POE AND JEANNE POE TRACT; THENCE SOUTH 88°15'40" EAST 294.44 FEET TO A POINT; THENCE SOUTH 88°15'40" EAST 73.53 FEET TO AN IRON PIPE IN THE SOUTHERN RIGHT OF WAY OF APEX BARBEQUE ROAD (VARIABLE WIDTH PUBLIC RIGHT OF WAY); THENCE SOUTH 88°17'21" EAST 166.15 FEET TO A POINT; THENCE SOUTH 66°51'11" EAST 52.41 FEET TO A POINT; THENCE SOUTH 66°15'45" EAST 53.82 FEET TO A POINT; THENCE SOUTH 65°14'19" EAST 41.62 FEET TO A POINT; THENCE NORTH 25°36'46" EAST 2.86 FEET TO A POINT; THENCE SOUTH 63°01'58" EAST 36.23 FEET TO A POINT; THENCE SOUTH 62°43'11" EAST 52.42 FEET TO A POINT; THENCE SOUTH 62°34'50" EAST 52.21 FEET TO A POINT; THENCE SOUTH 62°33'45" EAST 50.32 FEET TO A POINT; THENCE SOUTH 62°31'05" EAST 52.09 FEET TO A POINT; THENCE SOUTH 62°41'02" EAST 38.46 FEET TO A POINT; THENCE NORTH 27°30'20" EAST 20.00 FEET TO A POINT IN THE NORTHERN RIGHT OF WAY OF APEX BARBEQUE ROAD (VARIABLE WITH PUBLIC RIGHT OF WAY); THENCE WITH SAID RIGHT OF WAY SOUTH 63°45'54" EAST 15.27 FEET TO A POINT; THENCE SOUTH 63°11'11" EAST 52.92 FEET TO A POINT; THENCE SOUTH 63°46'38" EAST 52.45 FEET TO A POINT; THENCE SOUTH 64°11'18" EAST 51.01 FEET TO A POINT; THENCE SOUTH 64°51'58" EAST 49.52 FEET TO A POINT; THENCE SOUTH 65°24'55" EAST 50.07 FEET TO A POINT; THENCE SOUTH 66°04'16" EAST 48.34 FEET TO A POINT; THENCE SOUTH 66°24'38" EAST 50.08 FEET TO A POINT; THENCE SOUTH 66°41'38" EAST 50.19 FEET TO A POINT; THENCE SOUTH 66°15'39" EAST 38.64 FEET TO AN IRON PIPE; THENCE LEAVING SAID RIGHT OF WAY SOUTH 45°09'49" WEST 21.52 FEET TO A POINT; THENCE SOUTH 66°29'41" EAST 17.50 FEET TO A POINT; THENCE SOUTH 66°51'15" EAST 51.02 FEET TO A POINT; THENCE SOUTH 67°29'37" EAST 46.49 FEET TO A POINT; THENCE SOUTH 69°10'44" EAST 47.69 FEET TO A POINT; THENCE SOUTH 70°48'55" EAST 47.97 FEET TO A POINT; THENCE SOUTH 72°26'29" EAST 49.98 FEET TO A POINT; THENCE SOUTH 73°56'45" EAST 48.27 FEET TO A POINT; THENCE SOUTH 74°36'34" EAST 49.46 FEET TO A POINT; THENCE SOUTH 74°35'50" EAST 50.79 FEET TO A POINT; THENCE SOUTH 74°07'44" EAST 48.03 FEET TO A POINT; THENCE SOUTH 73°53'30" EAST 1.43 FEET TO A POINT; THENCE SOUTH 00°46'03" WEST 62.04 FEET TO AN IRON PIPE; THENCE SOUTH 02°10'02" WEST 684.03 FEET TO A POINT; THENCE WITH A CURVE TO THE LEFT WITH AN ARC LENGTH OF 91.26 FEET, WITH A RADIUS OF 2927.20 FEET, WITH A CHORD BEARING OF SOUTH 49°51'06" WEST, WITH A CHORD LENGTH OF 91.25 FEET TO A POINT; THENCE WITH A COMPOUND CURVE TO THE LEFT WITH AN ARC LENGTH OF 156.33 FEET, WITH A RADIUS OF 2830.49 FEET, WITH A CHORD BEARING OF SOUTH 47°19'16" WEST, WITH A CHORD LENGTH OF 156.31 FEET TO A POINT; THENCE NORTH 01°41'10" EAST 71.72 FEET TO AN IRON PIPE; THENCE SOUTH 46°03'02" WEST 85.16 FEET TO A POINT; THENCE SOUTH 44°07'53" WEST 101.67 FEET TO A POINT; THENCE SOUTH 42°07'43" WEST 101.98 FEET TO A POINT; THENCE SOUTH 40°06'18" WEST 101.05 FEET TO A POINT; THENCE SOUTH 38°00'20" WEST 102.25 FEET TO AN IRON PIPE; THENCE SOUTH 36°10'22" WEST 101.61 FEET TO A POINT; THENCE SOUTH 34°13'40" WEST 101.88 FEET TO A POINT; THENCE SOUTH 32°20'31" WEST 101.40 FEET TO A POINT; THENCE SOUTH 30°52'45" WEST 101.44 FEET TO AN IRON PIPE; THENCE SOUTH 29°32'30" WEST 100.74 FEET TO A POINT; THENCE SOUTH 28°00'14" WEST 101.56 FEET TO A POINT; THENCE SOUTH 26°31'43" WEST 101.76 FEET TO A POINT; THENCE SOUTH 24°59'56" WEST 101.74 FEET TO A POINT; THENCE SOUTH 23°14'59" WEST 38.23 FEET TO AN IRON PIPE; THENCE SOUTH 23°13'26" WEST 63.12 FEET TO A POINT; THENCE SOUTH 21°18'46" WEST 102.56 FEET TO A POINT; THENCE SOUTH 19°14'15" WEST 102.34 FEET TO A POINT; THENCE SOUTH 17°17'15" WEST 101.06 FEET TO A POINT; THENCE SOUTH 16°16'37" WEST 100.94 FEET TO A POINT; THENCE SOUTH 16°30'48" WEST 99.68 FEET TO AN IRON PIPE; THENCE SOUTH 17°33'06" WEST 98.63 FEET TO A POINT; THENCE SOUTH 19°12'54" WEST 98.15 FEET TO A POINT; THENCE SOUTH 21°07'08" WEST 99.78 FEET TO A POINT; THENCE SOUTH 23°11'04" WEST 97.92 FEET TO A POINT; THENCE SOUTH 24°54'47" WEST 38.40 FEET TO A POINT; THENCE SOUTH 25°36'27" WEST 22.58 FEET TO AN IRON PIPE; THENCE NORTH 89°17'29" WEST 64.48 FEET TO AN IRON PIPE; THENCE WITH A CURVE TO THE LEFT WITH AN ARC LENGTH OF 66.11 FEET, WITH A RADIUS OF 2804.10 FEET, WITH A CHORD BEARING OF NORTH 25°32'13" EAST, WITH A CHORD LENGTH OF 66.11 FEET TO A

POINT; THENCE NORTH 89°17'29" WEST 353.78 FEET TO A CONCRETE MONUMENT; THENCE NORTH 00°17'39" EAST 911.20 FEET TO AN IRON PIPE; THENCE SOUTH 89°59'35" WEST 879.26 FEET TO AN IRON PIPE; THENCE NORTH 88°24'26" WEST 416.05 FEET TO AN IRON PIPE; THENCE NORTH 88°58'59" WEST 428.33 FEET TO AN IRON PIPE; THENCE NORTH 89°42'10" WEST 67.13 FEET TO AN IRON PIPE IN THE EASTERN RIGHT OF WAY OF N.C. HIGHWAY 540 (VARIABLE WIDTH PUBLIC RIGHT OF WAY); THENCE WITH SAID RIGHT OF WAY NORTH 14°10'11" WEST 25.98 FEET TO A CONCRETE MONUMENT; THENCE NORTH 29°27'03" WEST 279.28 FEET TO A CONCRETE MONUMENT; THENCE NORTH 10°30'20" WEST 258.11 FEET TO A CONCRETE MONUMENT; THENCE NORTH 31°49'46" WEST 302.09 FEET TO A CONCRETE MONUMENT; THENCE NORTH 19°25'27" WEST 348.05 FEET TO AN IRON PIPE; THENCE NORTH 01°06'22" EAST 289.07 FEET TO AN IRON PIPE IN THE CENTERLINE OF A CREEK; THENCE WITH SAID CENTERLINE SOUTH 62°05'16" EAST 8.68 FEET TO A POINT; THENCE SOUTH 75°58'33" EAST 23.59 FEET TO A POINT; THENCE SOUTH 54°32'13" EAST 16.14 FEET TO A POINT; THENCE SOUTH 28°27'52" EAST 21.06 FEET TO A POINT; THENCE SOUTH 52°11'00" EAST 19.37 FEET TO A POINT; THENCE NORTH 80°16'49" EAST 16.94 FEET TO A POINT; THENCE NORTH 27°19'34" EAST 14.43 FEET TO A POINT; THENCE NORTH 74°27'19" EAST 9.44 FEET TO A POINT; THENCE SOUTH 50°24'04" EAST 7.19 FEET TO A POINT; THENCE SOUTH 36°21'02" EAST 23.88 FEET TO A POINT; THENCE NORTH 39°19'42" EAST 12.17 FEET TO A POINT; THENCE NORTH 05°51'07" WEST 17.89 FEET TO A POINT; THENCE NORTH 50°03'59" EAST 8.76 FEET TO A POINT; THENCE SOUTH 73°12'41" EAST 16.32 FEET TO A POINT; THENCE SOUTH 21°18'53" EAST 18.47 FEET TO A POINT; THENCE SOUTH 72°13'16" EAST 13.54 FEET TO A POINT; THENCE NORTH 61°51'46" EAST 21.65 FEET TO A POINT; THENCE NORTH 74°00'24" EAST 50.54 FEET TO A POINT; THENCE NORTH 19°57'12" EAST 44.74 FEET TO A POINT; THENCE NORTH 06°03'59" WEST 20.11 FEET TO A POINT; THENCE NORTH 35°44'44" EAST 23.04 FEET TO A POINT; THENCE NORTH 69°35'37" EAST 22.30 FEET TO A POINT; THENCE SOUTH 84°36'00" EAST 31.56 FEET TO A POINT; THENCE NORTH 68°46'46" EAST 23.80 FEET TO A POINT; THENCE NORTH 88°42'18" EAST 17.10 FEET TO A POINT; THENCE SOUTH 54°50'03" EAST 18.40 FEET TO A POINT; THENCE NORTH 80°46'03" EAST 40.56 FEET TO A POINT; THENCE NORTH 58°20'09" EAST 25.29 FEET TO A POINT; THENCE NORTH 44°32'26" EAST 24.34 FEET TO A POINT; THENCE NORTH 71°02'31" EAST 19.10 FEET TO A POINT; THENCE NORTH 47°24'16" EAST 37.55 FEET TO A POINT; THENCE NORTH 81°51'36" EAST 25.80 FEET TO A POINT; THENCE NORTH 36°15'39" EAST 27.41 FEET TO A POINT; THENCE NORTH 20°21'02" WEST 17.38 FEET TO A POINT; THENCE NORTH 11°59'13" EAST 2.08 FEET TO A POINT; THENCE NORTH 58°12'58" EAST 29.12 FEET TO A POINT; THENCE NORTH 82°43'32" EAST 21.16 FEET TO A POINT; THENCE NORTH 05°01'51" WEST 12.48 FEET TO A POINT; THENCE NORTH 77°16'23" WEST 12.42 FEET TO A POINT; THENCE NORTH 37°17'58" EAST 22.50 FEET TO A POINT; THENCE NORTH 73°27'07" EAST 34.86 FEET TO A POINT; THENCE NORTH 03°15'44" EAST 13.46 FEET TO A POINT; THENCE NORTH 45°09'32" WEST 11.24 FEET TO A POINT; THENCE NORTH 53°48'21" EAST 6.23 FEET TO A POINT; THENCE SOUTH 68°53'55" EAST 13.88 FEET TO A POINT; THENCE NORTH 60°34'12" EAST 52.94 FEET TO A POINT; THENCE NORTH 78°46'01" EAST 46.77 FEET TO A POINT; THENCE NORTH 67°46'44" EAST 48.56 FEET TO A POINT; THENCE NORTH 74°58'45" EAST 43.00 FEET TO A POINT; THENCE SOUTH 89°36'23" EAST 38.18 FEET TO A POINT; THENCE SOUTH 79°42'51" EAST 22.68 FEET TO A POINT; THENCE SOUTH 29°26'17" EAST 17.84 FEET TO A POINT; THENCE NORTH 69°48'36" EAST 16.45 FEET TO A POINT; THENCE SOUTH 68°17'51" EAST 51.96 FEET TO A POINT; THENCE NORTH 73°12'05" EAST 27.64 FEET TO A POINT; THENCE SOUTH 79°24'02" EAST 15.42 FEET TO A POINT; THENCE SOUTH 74°12'31" EAST 45.28 FEET TO A POINT; THENCE SOUTH 39°16'28" EAST 36.13 FEET TO A POINT; THENCE SOUTH 08°43'30" WEST 18.30 FEET TO A POINT; THENCE SOUTH 50°53'39" EAST 18.00 FEET TO A POINT; THENCE NORTH 88°17'02" EAST 36.36 FEET TO A POINT; THENCE SOUTH 13°58'03" EAST 21.80 FEET TO A POINT; THENCE SOUTH 81°03'00" EAST 42.96 FEET TO A POINT; THENCE SOUTH 30°57'25" EAST 26.88 FEET TO A POINT; THENCE SOUTH 75°54'58" EAST 40.54 FEET TO A POINT; THENCE SOUTH 70°25'00" EAST 15.28 FEET TO A POINT; THENCE NORTH 84°19'40" EAST 27.52 FEET TO A POINT; THENCE SOUTH 80°36'18" EAST 37.25 FEET

TO A POINT; THENCE SOUTH 42°44'12" WEST 13.86 FEET TO A POINT; THENCE SOUTH 64°51'55" WEST 13.95 FEET TO A POINT; THENCE SOUTH 64°16'15" EAST 26.38 FEET TO A POINT; THENCE SOUTH 51°02'50" EAST 20.28 FEET TO A POINT; THENCE SOUTH 76°30'27" EAST 49.09 FEET TO A POINT; THENCE SOUTH 02°56'27" WEST 22.78 FEET TO A POINT; THENCE SOUTH 68°53'00" EAST 39.44 FEET TO A POINT; THENCE SOUTH 74°05'57" EAST 21.64 FEET TO A POINT; THENCE NORTH 54°46'33" EAST 12.67 FEET TO A POINT; THENCE SOUTH 78°44'03" EAST 50.69 FEET TO A POINT; THENCE SOUTH 17°24'42" EAST 10.77 FEET TO A POINT; THENCE NORTH 81°02'40" EAST 18.57 FEET TO A POINT; THENCE NORTH 57°30'16" EAST 25.96 FEET TO A POINT; THENCE SOUTH 49°12'49" EAST 22.49 FEET TO A POINT; THENCE SOUTH 75°13'50" EAST 36.68 FEET TO A POINT; THENCE NORTH 43°03'04" EAST 18.03 FEET TO A POINT; THENCE SOUTH 43°29'16" EAST 25.33 FEET TO A POINT; THENCE NORTH 84°54'55" EAST 33.14 FEET TO A POINT; THENCE SOUTH 49°52'36" EAST 29.02 FEET TO A POINT; THENCE NORTH 47°30'27" EAST 22.64 FEET TO A POINT; THENCE SOUTH 44°10'50" EAST 48.34 FEET TO A POINT; THENCE NORTH 77°35'58" EAST 27.83 FEET TO A POINT; THENCE SOUTH 44°55'44" EAST 20.62 FEET TO A POINT; THENCE NORTH 67°39'06" EAST 23.64 FEET TO A POINT; THENCE NORTH 09°17'48" WEST 14.71 FEET TO A POINT; THENCE NORTH 56°08'00" EAST 16.99 FEET TO A POINT; THENCE SOUTH 84°08'50" EAST 9.11 FEET TO A POINT; THENCE SOUTH 21°28'59" EAST 19.37 FEET TO A POINT; THENCE NORTH 77°01'03" EAST 25.20 FEET TO A POINT; THENCE NORTH 52°22'39" EAST 13.09 FEET TO A POINT; THENCE NORTH 34°19'37" EAST 31.41 FEET TO A POINT; THENCE SOUTH 83°30'24" EAST 9.86 FEET TO A POINT; THENCE SOUTH 73°18'34" EAST 60.44 FEET TO A POINT; THENCE NORTH 25°37'49" EAST 32.53 FEET TO A POINT; THENCE SOUTH 40°49'03" EAST 28.47 FEET TO A POINT; THENCE NORTH 36°58'17" EAST 21.69 FEET TO A POINT; THENCE SOUTH 76°44'46" EAST 21.44 FEET TO A POINT; THENCE SOUTH 14°26'49" WEST 27.21 FEET TO A POINT; THENCE SOUTH 86°41'52" EAST 6.78 FEET TO A POINT; THENCE NORTH 87°14'33" EAST 24.64 FEET TO A POINT; THENCE SOUTH 40°22'08" EAST 36.29 FEET TO A POINT; THENCE SOUTH 13°37'04" EAST 24.06 FEET TO A POINT; THENCE SOUTH 82°58'59" EAST 35.03 FEET TO A POINT; THENCE SOUTH 73°33'17" EAST 23.68 FEET TO A POINT; THENCE SOUTH 25°37'21" EAST 34.01 FEET TO A POINT; THENCE SOUTH 06°57'32" EAST 21.00 FEET TO A POINT; THENCE SOUTH 53°23'42" EAST 38.38 FEET TO A POINT; THENCE SOUTH 83°14'09" EAST 8.53 FEET TO A POINT; THENCE NORTH 33°23'35" EAST 11.26 FEET TO A POINT; THENCE SOUTH 68°50'30" EAST 18.96 FEET TO A POINT; THENCE NORTH 81°37'03" EAST 18.18 FEET TO A POINT; THENCE SOUTH 39°21'14" EAST 5.22 FEET TO A POINT; THENCE LEAVING THE CENTERLIN OF SAID CREEK NORTH 00°20'56" EAST 1168.68 FEET TO THE POINT AND PLACE OF BEGINNING CONTAINING 6,849,127 SQUARE FEET, 157.234 ACRES AND BEING THE SAME AREA AS SHOWN ON THE PLAT BY THE JOHN R MCADAMS COMPANY TITLED ANNEXATION MAP OF DEPOT 499 DATED NOVEMBER 19TH, 2020.

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 #:	<u>706</u>	Submittal Date:	<u>3/26/2021</u>
Fee Paid	<u>\$ 200.00</u>	Check #	<u>119656</u>

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 ☒ contiguous, ☐ non-contiguous (satellite) to the Town of Apex, North Carolina and the boundaries are as contained in the metes and bounds description attached hereto.
3. If contiguous, this annexation will include all intervening rights-of-way for streets, railroads, and other areas as stated in G.S. 160A-31(f), unless otherwise stated in the annexation amendment.

OWNER INFORMATION

HARP-BARR, LLC, MEMPHIS & MADDOX, LLC, SWEET WILLIE, LLC

Owner Name (Please Print)

Phone

Williams Douglas Poe and Jean S. Poe

Owner Name (Please Print)

Phone

Lennar Carolinas, LLC

Owner Name (Please Print)

Phone

0731662438

Property PIN or Deed Book & Page #

dougpoe@bellsouth.net

E-mail Address

0731766588

Property PIN or Deed Book & Page #

dougpoe@bellsouth.net

E-mail Address

0731676714

Property PIN or Deed Book & Page #

stephen.dorn@lennar.com

E-mail Address

SURVEYOR INFORMATION

Surveyor: McAdams; Tim Mersinger

Phone: 919-361-5000

Fax: _____

E-mail Address: mersinger@mcadamsco.com

ANNEXATION SUMMARY CHART

Property Information		Reason(s) for annexation (select all that apply)	
Total Acreage to be annexed:	<u>157.234 ac</u>	Need water service due to well failure	<input type="checkbox"/>
Population of acreage to be annexed:	<u>New development</u>	Need sewer service due to septic system failure	<input type="checkbox"/>
Existing # of housing units:	<u>0</u>	Water service (new construction)	<input checked="" type="checkbox"/>
Proposed # of housing units:	<u>1,500</u>	Sewer service (new construction)	<input checked="" type="checkbox"/>
Zoning District*:	<u>PUD-CZ</u>	Receive Town Services	<input checked="" type="checkbox"/>

*If the property to be annexed is not within the Town of Apex's Extraterritorial Jurisdiction, the applicant must also submit a rezoning application with the petition for voluntary annexation to establish an Apex zoning designation. Please contact the Planning Department for questions.

PETITION FOR VOLUNTARY ANNEXATION

Application #:

706

Submittal Date:

3/26/21

COMPLETE IF IN A LIMITED LIABILITY COMPANY

In witness whereof, Sweet Willie, LLC a limited liability company, caused this instrument to be executed in its name by a member/manager pursuant to authority duly given, this the 23 day of Feb, 2021.

Name of Limited Liability Company Sweet Willie LLC

By:

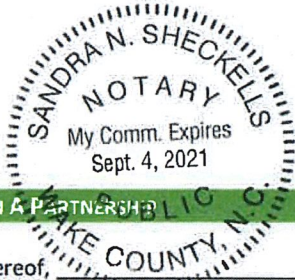
[Signature]
Signature of Member/Manager

STATE OF NORTH CAROLINA
COUNTY OF WAKE

Sworn and subscribed before me, William Poe, a Notary Public for the above State and County, this the 23 day of Feb, 2021.

[Signature]
Notary Public

SEAL



My Commission Expires:

9-4-2021

COMPLETE IF IN A PARTNERSHIP

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

Name of Partnership _____

By:

Signature of General Partner

STATE OF NORTH CAROLINA
COUNTY OF WAKE

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

Notary Public

SEAL

My Commission Expires: _____

PETITION FOR VOLUNTARY ANNEXATION

Application #:

706

Submittal Date:

3/24/21

COMPLETE IF IN A LIMITED LIABILITY COMPANY

In witness whereof, Harp-Barr, LLC a limited liability company, caused this instrument to be executed in its name by a member/manager pursuant to authority duly given, this the 23 day of Feb, 2021.

Name of Limited Liability Company HARP-BARR LLC

By:

Wm Douglas Poe

Signature of Member/Manager

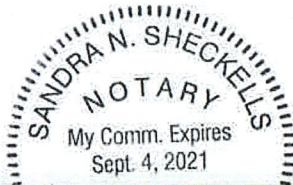
STATE OF NORTH CAROLINA
COUNTY OF WAKE

Sworn and subscribed before me, William Douglas Poe, a Notary Public for the above State and County, this the 23 day of Feb, 2021.

[Signature]

Notary Public

SEAL



My Commission Expires:

9-4-2021

COMPLETE IF IN A PARTNERSHIP

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

Name of Partnership _____

By:

Signature of General Partner

STATE OF NORTH CAROLINA
COUNTY OF WAKE

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

Notary Public

SEAL

My Commission Expires: _____

PETITION FOR VOLUNTARY ANNEXATION

Application #:

706

Submittal Date:

3/26/21

COMPLETE IF SIGNED BY INDIVIDUALS:

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

William Douglas Poe

Please Print

William Douglas Poe

Signature

Jean S Poe

Please Print

Jean S. Poe

Signature

Please Print

Signature

Please Print

Signature

STATE OF NORTH CAROLINA
COUNTY OF WAKE

Sworn and subscribed before me, William Douglas Poe, a Notary Public for the above State and County,
this the 23 day of Feb, 2021.

Notary Public

SEAL

My Commission Expires:

9-4-2021

COMPLETE IF A CORPORATION:

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

Corporate Name

SEAL

By:

President (Signature)

Attest:

Secretary (Signature)

STATE OF NORTH CAROLINA
COUNTY OF WAKE

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

Notary Public

SEAL

My Commission Expires:

PETITION FOR VOLUNTARY ANNEXATION

Application #: 706

Submittal Date: 3/26/21

COMPLETE IF IN A LIMITED LIABILITY COMPANY

In witness whereof, Memphis & Maddox LLC, a limited liability company, caused this instrument to be executed in its name by a member/manager pursuant to authority duly given, this the 23 day of February, 2021.

Name of Limited Liability Company MEMPHIS & MADDOX LLC

By: [Signature]
Signature of Member/Manager

STATE OF NORTH CAROLINA
COUNTY OF WAKE

Sworn and subscribed before me, Susan Garrett, a Notary Public for the above State and County, this the 23 day of February, 2021.

[Signature]
Notary Public

My Commission Expires: 12/2/2024

COMPLETE IF IN A PARTNERSHIP

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

Name of Partnership _____

By: _____
Signature of General Partner

STATE OF NORTH CAROLINA
COUNTY OF WAKE

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

Notary Public

SEAL

My Commission Expires: _____

PETITION FOR VOLUNTARY ANNEXATION

Application #: 706

Submittal Date: 3/26/21

COMPLETE IF IN A LIMITED LIABILITY COMPANY

In witness whereof, LENNAR CAROLINA, a limited liability company, caused this instrument to be executed in its name by a member/manager pursuant to authority duly given, this the 3 day of May, 2021.

Name of Limited Liability Company LENNAR CAROLINA'S, LLC

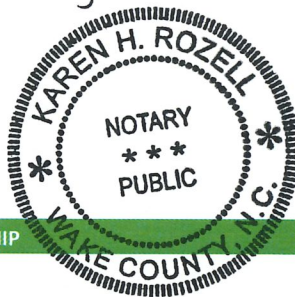
By: _____

Signature of Member/Manager

STATE OF NORTH CAROLINA
COUNTY OF WAKE

Sworn and subscribed before me, Karen H Rozell, a Notary Public for the above State and County, this the 3 day of May, 2021.

SEAL



Karen H Rozell

Notary Public

Karen H Rozell

My Commission Expires: 4-17-2025

COMPLETE IF IN A PARTNERSHIP

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

Name of Partnership _____

By: _____

Signature of General Partner

STATE OF NORTH CAROLINA
COUNTY OF WAKE

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

SEAL

Notary Public

My Commission Expires: _____

BEGINNING AT AN IRON PIPE IN THE NORTHERN PROPERTY LINE OF THE DARYL POE AND JEANNE POE TRACT; THENCE SOUTH 88°15'40" EAST 294.44 FEET TO A POINT; THENCE SOUTH 88°15'40" EAST 73.53 FEET TO AN IRON PIPE IN THE SOUTHERN RIGHT OF WAY OF APEX BARBEQUE ROAD (VARIABLE WIDTH PUBLIC RIGHT OF WAY); THENCE SOUTH 88°17'21" EAST 166.15 FEET TO A POINT; THENCE SOUTH 66°51'11" EAST 52.41 FEET TO A POINT; THENCE SOUTH 66°15'45" EAST 53.82 FEET TO A POINT; THENCE SOUTH 65°14'19" EAST 41.62 FEET TO A POINT; THENCE NORTH 25°36'46" EAST 2.86 FEET TO A POINT; THENCE SOUTH 63°01'58" EAST 36.23 FEET TO A POINT; THENCE SOUTH 62°43'11" EAST 52.42 FEET TO A POINT; THENCE SOUTH 62°34'50" EAST 52.21 FEET TO A POINT; THENCE SOUTH 62°33'45" EAST 50.32 FEET TO A POINT; THENCE SOUTH 62°31'05" EAST 52.09 FEET TO A POINT; THENCE SOUTH 62°41'02" EAST 38.46 FEET TO A POINT; THENCE NORTH 27°30'20" EAST 20.00 FEET TO A POINT IN THE NORTHERN RIGHT OF WAY OF APEX BARBEQUE ROAD (VARIABLE WITH PUBLIC RIGHT OF WAY); THENCE WITH SAID RIGHT OF WAY SOUTH 63°45'54" EAST 15.27 FEET TO A POINT; THENCE SOUTH 63°11'11" EAST 52.92 FEET TO A POINT; THENCE SOUTH 63°46'38" EAST 52.45 FEET TO A POINT; THENCE SOUTH 64°11'18" EAST 51.01 FEET TO A POINT; THENCE SOUTH 64°51'58" EAST 49.52 FEET TO A POINT; THENCE SOUTH 65°24'55" EAST 50.07 FEET TO A POINT; THENCE SOUTH 66°04'16" EAST 48.34 FEET TO A POINT; THENCE SOUTH 66°24'38" EAST 50.08 FEET TO A POINT; THENCE SOUTH 66°41'38" EAST 50.19 FEET TO A POINT; THENCE SOUTH 66°15'39" EAST 38.64 FEET TO AN IRON PIPE; THENCE LEAVING SAID RIGHT OF WAY SOUTH 45°09'49" WEST 21.52 FEET TO A POINT; THENCE SOUTH 66°29'41" EAST 17.50 FEET TO A POINT; THENCE SOUTH 66°51'15" EAST 51.02 FEET TO A POINT; THENCE SOUTH 67°29'37" EAST 46.49 FEET TO A POINT; THENCE SOUTH 69°10'44" EAST 47.69 FEET TO A POINT; THENCE SOUTH 70°48'55" EAST 47.97 FEET TO A POINT; THENCE SOUTH 72°26'29" EAST 49.98 FEET TO A POINT; THENCE SOUTH 73°56'45" EAST 48.27 FEET TO A POINT; THENCE SOUTH 74°36'34" EAST 49.46 FEET TO A POINT; THENCE SOUTH 74°35'50" EAST 50.79 FEET TO A POINT; THENCE SOUTH 74°07'44" EAST 48.03 FEET TO A POINT; THENCE SOUTH 73°53'30" EAST 1.43 FEET TO A POINT; THENCE SOUTH 00°46'03" WEST 62.04 FEET TO AN IRON PIPE; THENCE SOUTH 02°10'02" WEST 684.03 FEET TO A POINT; THENCE WITH A CURVE TO THE LEFT WITH AN ARC LENGTH OF 91.26 FEET, WITH A RADIUS OF 2927.20 FEET, WITH A CHORD BEARING OF SOUTH 49°51'06" WEST, WITH A CHORD LENGTH OF 91.25 FEET TO A POINT; THENCE WITH A COMPOUND CURVE TO THE LEFT WITH AN ARC LENGTH OF 156.33 FEET, WITH A RADIUS OF 2830.49 FEET, WITH A CHORD BEARING OF SOUTH 47°19'16" WEST, WITH A CHORD LENGTH OF 156.31 FEET TO A POINT; THENCE NORTH 01°41'10" EAST 71.72 FEET TO AN IRON PIPE; THENCE SOUTH 46°03'02" WEST 85.16 FEET TO A POINT; THENCE SOUTH 44°07'53" WEST 101.67 FEET TO A POINT; THENCE SOUTH 42°07'43" WEST 101.98 FEET TO A POINT; THENCE SOUTH 40°06'18" WEST 101.05 FEET TO A POINT; THENCE SOUTH 38°00'20" WEST 102.25 FEET TO AN IRON PIPE; THENCE SOUTH 36°10'22" WEST 101.61 FEET TO A POINT; THENCE SOUTH 34°13'40" WEST 101.88 FEET TO A POINT; THENCE SOUTH 32°20'31" WEST 101.40 FEET TO A POINT; THENCE SOUTH 30°52'45" WEST 101.44 FEET TO AN IRON PIPE; THENCE SOUTH 29°32'30" WEST 100.74 FEET TO A POINT; THENCE SOUTH 28°00'14" WEST 101.56 FEET TO A POINT; THENCE SOUTH 26°31'43" WEST 101.76 FEET TO A POINT; THENCE SOUTH 24°59'56" WEST 101.74 FEET TO A POINT; THENCE SOUTH 23°14'59" WEST 38.23 FEET TO AN IRON PIPE; THENCE SOUTH 23°13'26" WEST 63.12 FEET TO A POINT; THENCE SOUTH 21°18'46" WEST 102.56 FEET TO A POINT; THENCE SOUTH 19°14'15" WEST 102.34 FEET TO A POINT; THENCE SOUTH 17°17'15" WEST 101.06 FEET TO A POINT; THENCE SOUTH 16°16'37" WEST 100.94 FEET TO A POINT; THENCE SOUTH 16°30'48" WEST 99.68 FEET TO AN IRON PIPE; THENCE SOUTH 17°33'06" WEST 98.63 FEET TO A POINT; THENCE SOUTH 19°12'54" WEST 98.15 FEET TO A POINT; THENCE SOUTH 21°07'08" WEST 99.78 FEET TO A POINT; THENCE SOUTH 23°11'04" WEST 97.92 FEET TO A POINT; THENCE SOUTH 24°54'47" WEST 38.40 FEET TO A POINT; THENCE SOUTH 25°36'27" WEST 22.58 FEET TO AN IRON PIPE; THENCE NORTH 89°17'29" WEST 64.48 FEET TO AN IRON PIPE; THENCE WITH A CURVE TO THE LEFT WITH AN ARC LENGTH OF 66.11 FEET, WITH A RADIUS OF 2804.10 FEET, WITH A CHORD BEARING OF NORTH 25°32'13" EAST, WITH A CHORD LENGTH OF 66.11 FEET TO A

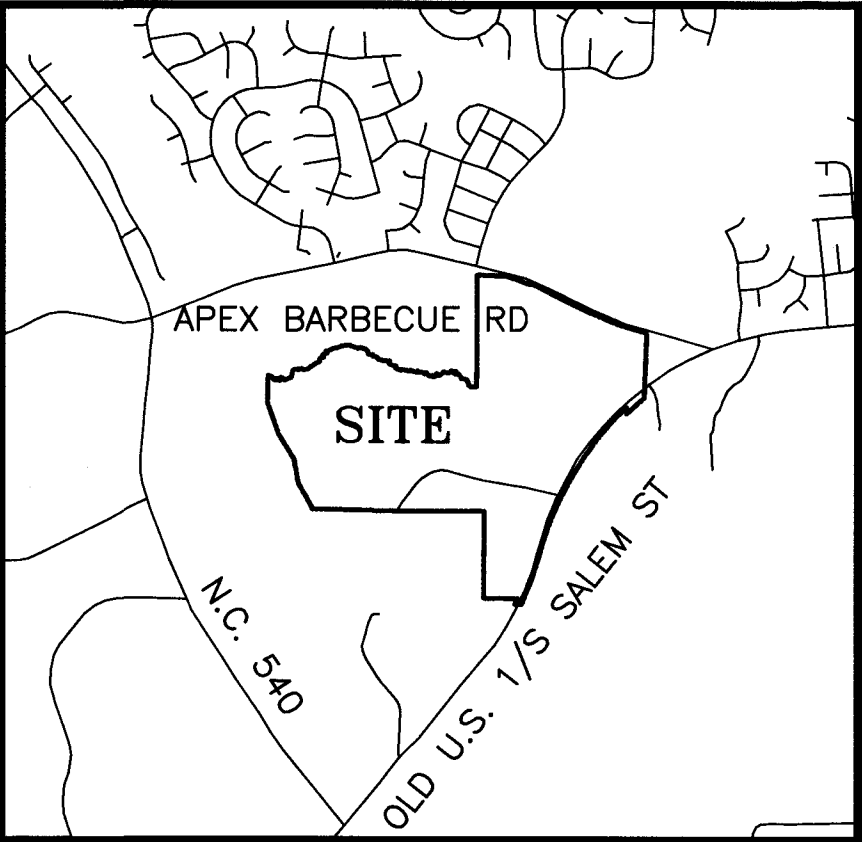
POINT; THENCE NORTH 89°17'29" WEST 353.78 FEET TO A CONCRETE MONUMENT; THENCE NORTH 00°17'39" EAST 911.20 FEET TO AN IRON PIPE; THENCE SOUTH 89°59'35" WEST 879.26 FEET TO AN IRON PIPE; THENCE NORTH 88°24'26" WEST 416.05 FEET TO AN IRON PIPE; THENCE NORTH 88°58'59" WEST 428.33 FEET TO AN IRON PIPE; THENCE NORTH 89°42'10" WEST 67.13 FEET TO AN IRON PIPE IN THE EASTERN RIGHT OF WAY OF N.C. HIGHWAY 540 (VARIABLE WIDTH PUBLIC RIGHT OF WAY); THENCE WITH SAID RIGHT OF WAY NORTH 14°10'11" WEST 25.98 FEET TO A CONCRETE MONUMENT; THENCE NORTH 29°27'03" WEST 279.28 FEET TO A CONCRETE MONUMENT; THENCE NORTH 10°30'20" WEST 258.11 FEET TO A CONCRETE MONUMENT; THENCE NORTH 31°49'46" WEST 302.09 FEET TO A CONCRETE MONUMENT; THENCE NORTH 19°25'27" WEST 348.05 FEET TO AN IRON PIPE; THENCE NORTH 01°06'22" EAST 289.07 FEET TO AN IRON PIPE IN THE CENTERLINE OF A CREEK; THENCE WITH SAID CENTERLINE SOUTH 62°05'16" EAST 8.68 FEET TO A POINT; THENCE SOUTH 75°58'33" EAST 23.59 FEET TO A POINT; THENCE SOUTH 54°32'13" EAST 16.14 FEET TO A POINT; THENCE SOUTH 28°27'52" EAST 21.06 FEET TO A POINT; THENCE SOUTH 52°11'00" EAST 19.37 FEET TO A POINT; THENCE NORTH 80°16'49" EAST 16.94 FEET TO A POINT; THENCE NORTH 27°19'34" EAST 14.43 FEET TO A POINT; THENCE NORTH 74°27'19" EAST 9.44 FEET TO A POINT; THENCE SOUTH 50°24'04" EAST 7.19 FEET TO A POINT; THENCE SOUTH 36°21'02" EAST 23.88 FEET TO A POINT; THENCE NORTH 39°19'42" EAST 12.17 FEET TO A POINT; THENCE NORTH 05°51'07" WEST 17.89 FEET TO A POINT; THENCE NORTH 50°03'59" EAST 8.76 FEET TO A POINT; THENCE SOUTH 73°12'41" EAST 16.32 FEET TO A POINT; THENCE SOUTH 21°18'53" EAST 18.47 FEET TO A POINT; THENCE SOUTH 72°13'16" EAST 13.54 FEET TO A POINT; THENCE NORTH 61°51'46" EAST 21.65 FEET TO A POINT; THENCE NORTH 74°00'24" EAST 50.54 FEET TO A POINT; THENCE NORTH 19°57'12" EAST 44.74 FEET TO A POINT; THENCE NORTH 06°03'59" WEST 20.11 FEET TO A POINT; THENCE NORTH 35°44'44" EAST 23.04 FEET TO A POINT; THENCE NORTH 69°35'37" EAST 22.30 FEET TO A POINT; THENCE SOUTH 84°36'00" EAST 31.56 FEET TO A POINT; THENCE NORTH 68°46'46" EAST 23.80 FEET TO A POINT; THENCE NORTH 88°42'18" EAST 17.10 FEET TO A POINT; THENCE SOUTH 54°50'03" EAST 18.40 FEET TO A POINT; THENCE NORTH 80°46'03" EAST 40.56 FEET TO A POINT; THENCE NORTH 58°20'09" EAST 25.29 FEET TO A POINT; THENCE NORTH 44°32'26" EAST 24.34 FEET TO A POINT; THENCE NORTH 71°02'31" EAST 19.10 FEET TO A POINT; THENCE NORTH 47°24'16" EAST 37.55 FEET TO A POINT; THENCE NORTH 81°51'36" EAST 25.80 FEET TO A POINT; THENCE NORTH 36°15'39" EAST 27.41 FEET TO A POINT; THENCE NORTH 20°21'02" WEST 17.38 FEET TO A POINT; THENCE NORTH 11°59'13" EAST 2.08 FEET TO A POINT; THENCE NORTH 58°12'58" EAST 29.12 FEET TO A POINT; THENCE NORTH 82°43'32" EAST 21.16 FEET TO A POINT; THENCE NORTH 05°01'51" WEST 12.48 FEET TO A POINT; THENCE NORTH 77°16'23" WEST 12.42 FEET TO A POINT; THENCE NORTH 37°17'58" EAST 22.50 FEET TO A POINT; THENCE NORTH 73°27'07" EAST 34.86 FEET TO A POINT; THENCE NORTH 03°15'44" EAST 13.46 FEET TO A POINT; THENCE NORTH 45°09'32" WEST 11.24 FEET TO A POINT; THENCE NORTH 53°48'21" EAST 6.23 FEET TO A POINT; THENCE SOUTH 68°53'55" EAST 13.88 FEET TO A POINT; THENCE NORTH 60°34'12" EAST 52.94 FEET TO A POINT; THENCE NORTH 78°46'01" EAST 46.77 FEET TO A POINT; THENCE NORTH 67°46'44" EAST 48.56 FEET TO A POINT; THENCE NORTH 74°58'45" EAST 43.00 FEET TO A POINT; THENCE SOUTH 89°36'23" EAST 38.18 FEET TO A POINT; THENCE SOUTH 79°42'51" EAST 22.68 FEET TO A POINT; THENCE SOUTH 29°26'17" EAST 17.84 FEET TO A POINT; THENCE NORTH 69°48'36" EAST 16.45 FEET TO A POINT; THENCE SOUTH 68°17'51" EAST 51.96 FEET TO A POINT; THENCE NORTH 73°12'05" EAST 27.64 FEET TO A POINT; THENCE SOUTH 79°24'02" EAST 15.42 FEET TO A POINT; THENCE SOUTH 74°12'31" EAST 45.28 FEET TO A POINT; THENCE SOUTH 39°16'28" EAST 36.13 FEET TO A POINT; THENCE SOUTH 08°43'30" WEST 18.30 FEET TO A POINT; THENCE SOUTH 50°53'39" EAST 18.00 FEET TO A POINT; THENCE NORTH 88°17'02" EAST 36.36 FEET TO A POINT; THENCE SOUTH 13°58'03" EAST 21.80 FEET TO A POINT; THENCE SOUTH 81°03'00" EAST 42.96 FEET TO A POINT; THENCE SOUTH 30°57'25" EAST 26.88 FEET TO A POINT; THENCE SOUTH 75°54'58" EAST 40.54 FEET TO A POINT; THENCE SOUTH 70°25'00" EAST 15.28 FEET TO A POINT; THENCE NORTH 84°19'40" EAST 27.52 FEET TO A POINT; THENCE SOUTH 80°36'18" EAST 37.25 FEET

TO A POINT; THENCE SOUTH 42°44'12" WEST 13.86 FEET TO A POINT; THENCE SOUTH 64°51'55" WEST 13.95 FEET TO A POINT; THENCE SOUTH 64°16'15" EAST 26.38 FEET TO A POINT; THENCE SOUTH 51°02'50" EAST 20.28 FEET TO A POINT; THENCE SOUTH 76°30'27" EAST 49.09 FEET TO A POINT; THENCE SOUTH 02°56'27" WEST 22.78 FEET TO A POINT; THENCE SOUTH 68°53'00" EAST 39.44 FEET TO A POINT; THENCE SOUTH 74°05'57" EAST 21.64 FEET TO A POINT; THENCE NORTH 54°46'33" EAST 12.67 FEET TO A POINT; THENCE SOUTH 78°44'03" EAST 50.69 FEET TO A POINT; THENCE SOUTH 17°24'42" EAST 10.77 FEET TO A POINT; THENCE NORTH 81°02'40" EAST 18.57 FEET TO A POINT; THENCE NORTH 57°30'16" EAST 25.96 FEET TO A POINT; THENCE SOUTH 49°12'49" EAST 22.49 FEET TO A POINT; THENCE SOUTH 75°13'50" EAST 36.68 FEET TO A POINT; THENCE NORTH 43°03'04" EAST 18.03 FEET TO A POINT; THENCE SOUTH 43°29'16" EAST 25.33 FEET TO A POINT; THENCE NORTH 84°54'55" EAST 33.14 FEET TO A POINT; THENCE SOUTH 49°52'36" EAST 29.02 FEET TO A POINT; THENCE NORTH 47°30'27" EAST 22.64 FEET TO A POINT; THENCE SOUTH 44°10'50" EAST 48.34 FEET TO A POINT; THENCE NORTH 77°35'58" EAST 27.83 FEET TO A POINT; THENCE SOUTH 44°55'44" EAST 20.62 FEET TO A POINT; THENCE NORTH 67°39'06" EAST 23.64 FEET TO A POINT; THENCE NORTH 09°17'48" WEST 14.71 FEET TO A POINT; THENCE NORTH 56°08'00" EAST 16.99 FEET TO A POINT; THENCE SOUTH 84°08'50" EAST 9.11 FEET TO A POINT; THENCE SOUTH 21°28'59" EAST 19.37 FEET TO A POINT; THENCE NORTH 77°01'03" EAST 25.20 FEET TO A POINT; THENCE NORTH 52°22'39" EAST 13.09 FEET TO A POINT; THENCE NORTH 34°19'37" EAST 31.41 FEET TO A POINT; THENCE SOUTH 83°30'24" EAST 9.86 FEET TO A POINT; THENCE SOUTH 73°18'34" EAST 60.44 FEET TO A POINT; THENCE NORTH 25°37'49" EAST 32.53 FEET TO A POINT; THENCE SOUTH 40°49'03" EAST 28.47 FEET TO A POINT; THENCE NORTH 36°58'17" EAST 21.69 FEET TO A POINT; THENCE SOUTH 76°44'46" EAST 21.44 FEET TO A POINT; THENCE SOUTH 14°26'49" WEST 27.21 FEET TO A POINT; THENCE SOUTH 86°41'52" EAST 6.78 FEET TO A POINT; THENCE NORTH 87°14'33" EAST 24.64 FEET TO A POINT; THENCE SOUTH 40°22'08" EAST 36.29 FEET TO A POINT; THENCE SOUTH 13°37'04" EAST 24.06 FEET TO A POINT; THENCE SOUTH 82°58'59" EAST 35.03 FEET TO A POINT; THENCE SOUTH 73°33'17" EAST 23.68 FEET TO A POINT; THENCE SOUTH 25°37'21" EAST 34.01 FEET TO A POINT; THENCE SOUTH 06°57'32" EAST 21.00 FEET TO A POINT; THENCE SOUTH 53°23'42" EAST 38.38 FEET TO A POINT; THENCE SOUTH 83°14'09" EAST 8.53 FEET TO A POINT; THENCE NORTH 33°23'35" EAST 11.26 FEET TO A POINT; THENCE SOUTH 68°50'30" EAST 18.96 FEET TO A POINT; THENCE NORTH 81°37'03" EAST 18.18 FEET TO A POINT; THENCE SOUTH 39°21'14" EAST 5.22 FEET TO A POINT; THENCE LEAVING THE CENTERLIN OF SAID CREEK NORTH 00°20'56" EAST 1168.68 FEET TO THE POINT AND PLACE OF BEGINNING CONTAINING 6,849,127 SQUARE FEET, 157.234 ACRES AND BEING THE SAME AREA AS SHOWN ON THE PLAT BY THE JOHN R MCADAMS COMPANY TITLED ANNEXATION MAP OF DEPOT 499 DATED NOVEMBER 19TH, 2020.

GENERAL NOTES

1. THIS IS A SURVEY OF AN EXISTING PARCEL(S) OF LAND. THIS IS AN ANNEXATION SURVEY.
2. BEARINGS FOR THIS SURVEY ARE BASED ON NAD 83(2001).
3. ALL DISTANCES ARE HORIZONTAL GROUND DISTANCES.
4. ZONING: PUD-CZ
5. AREA BY COORDINATE GEOMETRY.
6. FLOOD NOTE: THIS PROPERTY IS NOT LOCATED IN A SPECIAL FLOOD HAZARD ZONE. IT IS LOCATED IN ZONE "X" AS DEFINED BY F.E.M.A F.I.R.M COMMUNITY PANEL #3720073100J DATED MAY 2, 2006.
7. UTILITY STATEMENT

THE UNDERGROUND UTILITIES SHOWN HAVE BEEN LOCATED FROM FIELD SURVEY INFORMATION AND EXISTING DRAWINGS. THE SURVEYOR MAKES NO GUARANTEE THAT THE UNDERGROUND UTILITIES SHOWN COMPRISE ALL SUCH UTILITIES IN THE AREA, EITHER IN SERVICE OR ABANDONED. THE SURVEYOR FURTHER DOES NOT WARRANT THAT THE UNDERGROUND UTILITIES SHOWN ARE IN THE EXACT LOCATION INDICATED. ALTHOUGH HE DOES CERTIFY THAT THEY ARE LOCATED AS ACCURATELY AS POSSIBLE FROM INFORMATION AVAILABLE. THE SURVEYOR HAS NOT PHYSICALLY LOCATED THE UNDERGROUND UTILITIES.



SURVEYOR'S CERTIFICATE

I, JAMES S. ARMSTRONG, CERTIFY THAT THIS PLAT WAS DRAWN UNDER MY SUPERVISION FROM AN ACTUAL SURVEY MADE UNDER MY SUPERVISION (DEED DESCRIPTION RECORDED IN BOOK 12121, PAGE 472); THAT THE BOUNDARIES NOT SURVEYED ARE CLEARLY INDICATED AS DRAWN FROM INFORMATION FOUND IN BOOK _____, PAGE _____; THAT THE RATIO OF PRECISION OR POSITIONAL ACCURACY AS CALCULATED IS 1:55,804±; THAT THIS PLAT WAS PREPARED IN ACCORDANCE WITH G.S. 47-30 AS AMENDED. WITNESS MY ORIGINAL SIGNATURE, LICENSE NUMBER AND SEAL THIS 30TH DAY OF APRIL, A.D., 2021.

JAMES S. ARMSTRONG, PROFESSIONAL LAND SURVEYOR L-4411

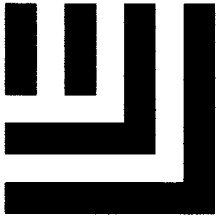
TYPE OF PLAT

I HEREBY CERTIFY THIS PLAT OF THE FOLLOWING TYPE: G.S. 47-30 (F)(11)(C)(i). THAT THE SURVEY IS OF AN EXISTING PARCEL OR PARCELS OF LAND OR ONE OR MORE EXISTING EASEMENTS AND DOES NOT CREATE A NEW STREET OR CHANGE AN EXISTING STREET. FOR THE PURPOSES OF THIS SUBSECTION AN "EXISTING PARCEL" OR "EXISTING EASEMENT" IS AN AREA OF LAND DESCRIBED IN A SINGLE, LEGAL DESCRIPTION OR LEGALLY RECORDED SUBDIVISION THAT HAS BEEN OR MAY BE LEGALLY CONVEYED TO A NEW OWNER BY DEED IN ITS EXISTING CONFIGURATION.

PROFESSIONAL LAND SURVEYOR

CURVE TABLE				
CURVE	RADIUS	ARC LENGTH	CHORD LENGTH	CHORD BEARING
C1	2927.20'	91.26'	91.25'	S 49°51'06" W
C2	2830.49'	156.33'	156.31'	S 47°19'16" W
C3	2804.10'	66.11'	66.11'	N 25°32'13" E

LINE TABLE			LINE TABLE		
LINE	BEARING	DISTANCE	LINE	BEARING	DISTANCE
L1	S 88°15'40"	E 73.53'	L122	S 79°42'51"	E 22.68'
L2	S 88°17'21"	E 166.15'	L123	S 29°26'17"	E 17.84'
L3	S 66°51'11"	E 52.41'	L124	N 69°48'36"	E 16.45'
L4	S 66°15'45"	E 53.82'	L125	S 68°17'51"	E 51.96'
L5	S 65°14'19"	E 41.62'	L126	N 73°12'05"	E 27.64'
L6	N 25°36'46"	E 2.86'	L127	S 79°24'02"	E 15.42'
L7	S 63°01'58"	E 36.23'	L128	S 74°12'31"	E 45.28'
L8	S 62°43'11"	E 52.42'	L129	S 39°16'28"	E 36.13'
L9	S 62°34'50"	E 52.21'	L130	S 08°43'30"	W 18.30'
L10	S 62°33'45"	E 50.32'	L131	S 50°53'39"	E 18.00'
L11	S 62°31'05"	E 52.09'	L132	N 88°17'02"	E 36.36'
L12	S 62°41'02"	E 38.46'	L133	S 13°58'03"	E 21.80'
L13	N 27°30'20"	E 20.00'	L134	S 81°03'00"	E 42.96'
L14	S 63°45'54"	E 15.27'	L135	S 30°57'25"	E 26.88'
L15	S 63°11'11"	E 52.92'	L136	S 75°54'58"	E 40.54'
L16	S 63°46'38"	E 52.45'	L137	S 70°25'00"	E 15.28'
L17	S 64°11'18"	E 51.01'	L138	S 84°19'40"	E 27.52'
L18	S 64°51'58"	E 49.52'	L139	S 80°36'18"	E 37.25'
L19	S 65°24'55"	E 50.07'	L140	S 42°44'12"	W 13.86'
L20	S 66°04'16"	E 48.34'	L141	S 64°51'55"	W 13.95'
L21	S 66°24'38"	E 50.08'	L142	S 64°16'15"	E 26.38'
L22	S 66°41'38"	E 50.19'	L143	S 51°02'50"	E 20.28'
L23	S 66°15'39"	E 38.64'	L144	S 76°30'27"	E 49.09'
L24	S 45°09'49"	W 21.52'	L145	S 02°56'27"	W 22.78'
L25	S 66°29'41"	E 17.50'	L146	S 68°53'00"	E 39.44'
L26	S 66°51'15"	E 51.02'	L147	S 74°05'57"	E 21.64'
L27	S 67°29'37"	E 46.49'	L148	N 54°46'33"	E 12.67'
L28	S 69°10'44"	E 47.69'	L149	S 78°44'03"	E 50.69'
L29	S 70°48'55"	E 47.97'	L150	S 17°24'42"	E 10.77'
L30	S 72°26'29"	E 49.98'	L151	N 81°02'40"	E 18.57'
L31	S 73°56'45"	E 48.27'	L152	N 57°30'16"	E 25.96'
L32	S 74°36'34"	E 49.46'	L153	S 49°12'49"	E 22.49'
L33	S 74°35'50"	E 50.79'	L154	S 75°13'50"	E 36.68'
L34	S 74°07'44"	E 48.03'	L155	N 43°03'04"	E 18.03'
L35	S 73°53'30"	E 1.43'	L156	S 43°29'16"	E 25.33'
L36	S 00°46'03"	W 62.04'	L157	N 84°54'55"	E 33.14'
L37	N 01°41'10"	E 71.72'	L158	S 49°52'36"	E 29.02'
L38	S 46°03'02"	W 85.16'	L159	N 47°30'27"	E 22.64'
L39	S 44°07'53"	W 101.67'	L160	S 44°10'50"	E 48.34'
L40	S 42°07'43"	W 101.98'	L161	N 77°35'58"	E 27.83'
L41	S 40°06'18"	W 101.05'	L162	S 44°55'44"	E 20.62'
L42	S 38°00'20"	W 102.25'	L163	N 67°39'06"	E 23.64'
L43	S 36°10'22"	W 101.61'	L164	N 09°17'48"	W 14.71'
L44	S 34°13'40"	W 101.88'	L165	N 56°08'00"	E 16.99'
L45	S 32°20'31"	W 101.40'	L166	S 84°08'50"	E 9.11'
L46	S 30°52'45"	W 101.44'	L167	S 21°28'59"	E 19.37'
L47	S 29°32'30"	W 100.74'	L168	N 77°01'03"	E 25.20'
L48	S 28°00'14"	W 101.56'	L169	S 52°22'39"	E 13.09'
L49	S 26°31'43"	W 101.76'	L170	N 34°19'37"	E 31.41'
L50	S 24°59'56"	W 101.74'	L171	S 83°30'24"	E 9.86'
L51	S 23°14'59"	W 38.23'	L172	S 73°18'34"	E 60.44'
L52	S 23°13'26"	W 63.12'	L173	N 25°37'49"	E 32.53'
L53	S 21°18'46"	W 102.56'	L174	S 40°49'03"	E 28.47'
L54	S 19°14'15"	W 102.34'	L175	N 36°58'17"	E 21.69'
L55	S 17°17'15"	W 101.06'	L176	S 76°44'46"	E 21.44'
L56	S 16°16'37"	W 100.94'	L177	S 14°26'49"	W 27.21'
L57	S 16°30'48"	W 99.68'	L178	S 86°41'52"	E 6.78'
L58	S 17°33'06"	W 98.63'	L179	N 87°14'33"	E 24.64'
L59	S 19°12'54"	W 98.15'	L180	S 40°22'08"	E 36.29'
L60	S 21°07'08"	W 99.78'	L181	S 13°37'04"	E 24.06'
L61	S 23°11'04"	W 97.92'	L182	S 82°58'59"	E 35.03'
L62	S 24°54'47"	W 38.40'	L183	S 73°33'17"	E 23.68'
L63	S 25°36'27"	W 22.58'	L184	S 25°37'21"	E 34.01'
L64	N 89°17'29"	W 64.48'	L185	S 06°57'32"	E 21.00'
L65	N 89°42'10"	W 67.13'	L186	S 53°23'42"	E 38.38'
L66	N 14°10'11"	W 25.98'	L187	S 83°14'09"	E 8.53'
L67	N 29°27'03"	W 279.28'	L188	N 33°23'35"	E 11.26'
L68	N 10°30'20"	W 258.11'	L189	S 68°50'30"	E 18.96'
L69	N 31°49'46"	W 302.09'	L190	N 81°37'03"	E 18.18'
L70	N 19°25'27"	W 348.05'	L191	S 39°21'14"	E 5.22'
L71	N 01°06'22"	W 289.07'			
L72	S 62°05'16"	E 8.68'			
L73	S 75°58'33"	E 23.59'			
L74	S 54°32'13"	E 16.14'			
L75	S 28°27'52"	E 21.06'			
L76	S 52°11'00"	E 19.37'			
L77	N 80°16'49"	E 16.94'			
L78	N 27°19'34"	E 14.43'			
L79	N 74°27'19"	E 9.44'			
L80	S 50°24'04"	E 7.19'			
L81	S 36°21'02"	E 23.88'			
L82	N 39°19'42"	E 12.17'			
L83	N 05°51'07"	W 17.89'			
L84	N 50°03'59"	E 8.76'			
L85	S 73°12'41"	E 16.32'			
L86	S 21°18'53"	E 18.47'			
L87	S 72°13'16"	E 13.54'			
L88	N 61°51'46"	E 21.65'			
L89	N 74°00'24"	E 50.54'			
L90	N 19°57'12"	E 44.74'			
L91	N 06°03'59"	W 20.11'			
L92	N 35°44'44"	E 23.04'			
L93	N 69°35'37"	E 22.30'			
L94	S 84°36'00"	E 31.56'			
L95	N 68°46'46"	E 23.80'			
L96	N 88°42'18"	E 17.10'			
L97	S 54°50'03"	E 18.40'			
L98	N 80°46'03"	E 40.56'			
L99	N 58°20'09"	E 25.29'			
L100	N 44°32'26"	E 24.34'			
L101	N 71°02'31"	E 19.10'			
L102	N 47°24'16"	E 37.55'			
L103	N 81°51'36"	E 25.80'			
L104	N 36°15'39"	E 27.41'			
L105	N 20°21'02"	W 17.38'			
L106	N 11°59'13"	E 2.08'			
L107	N 58°12'58"	E 29.12'			
L108	N 82°43'32"	E 21.16'			
L109	N 05°01'51"	W 12.48'			
L110	N 77°16'23"	W 12.42'			
L111	N 37°17'58"	E 22.50'			
L112	N 73°27'07"	E 34.86'			
L113	N 03°15'44"	E 13.46'			
L114	N 45°09'32"	W 11.24'			
L115	N 53°48'21"	E 6.23'			
L116	S 68°53'55"	E 13.88'			
L117	N 60°34'12"	E 52.94'			
L118	N 78°46'01"	E 46.77'			
L119	N 67°46'44"	E 48.56'			
L120	N 74°58'45"	E 43.00'			
L121	S 89°36'23"	E 38.18'			



McADAMS

The John R. McAdams Company, Inc.
2905 Meridian Parkway
Durham, NC 27713

phone 919. 361. 5000
fax 919. 361. 2269
license number: C-0293, C-187

www.mcadamsco.com

CLIENT

LENNAR CAROLINAS, LLC

DEPOT 499
ANNEXATION PLAT

WHITE OAK TOWNSHIP, WAKE COUNTY, NC



REVISIONS

NO. DATE

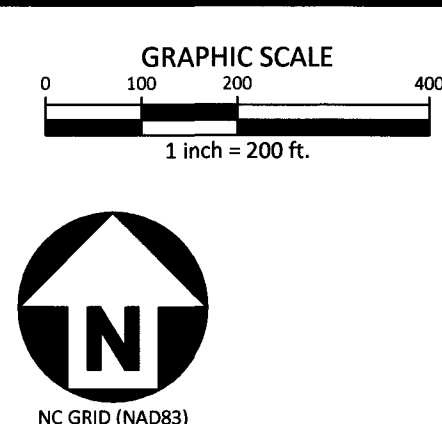
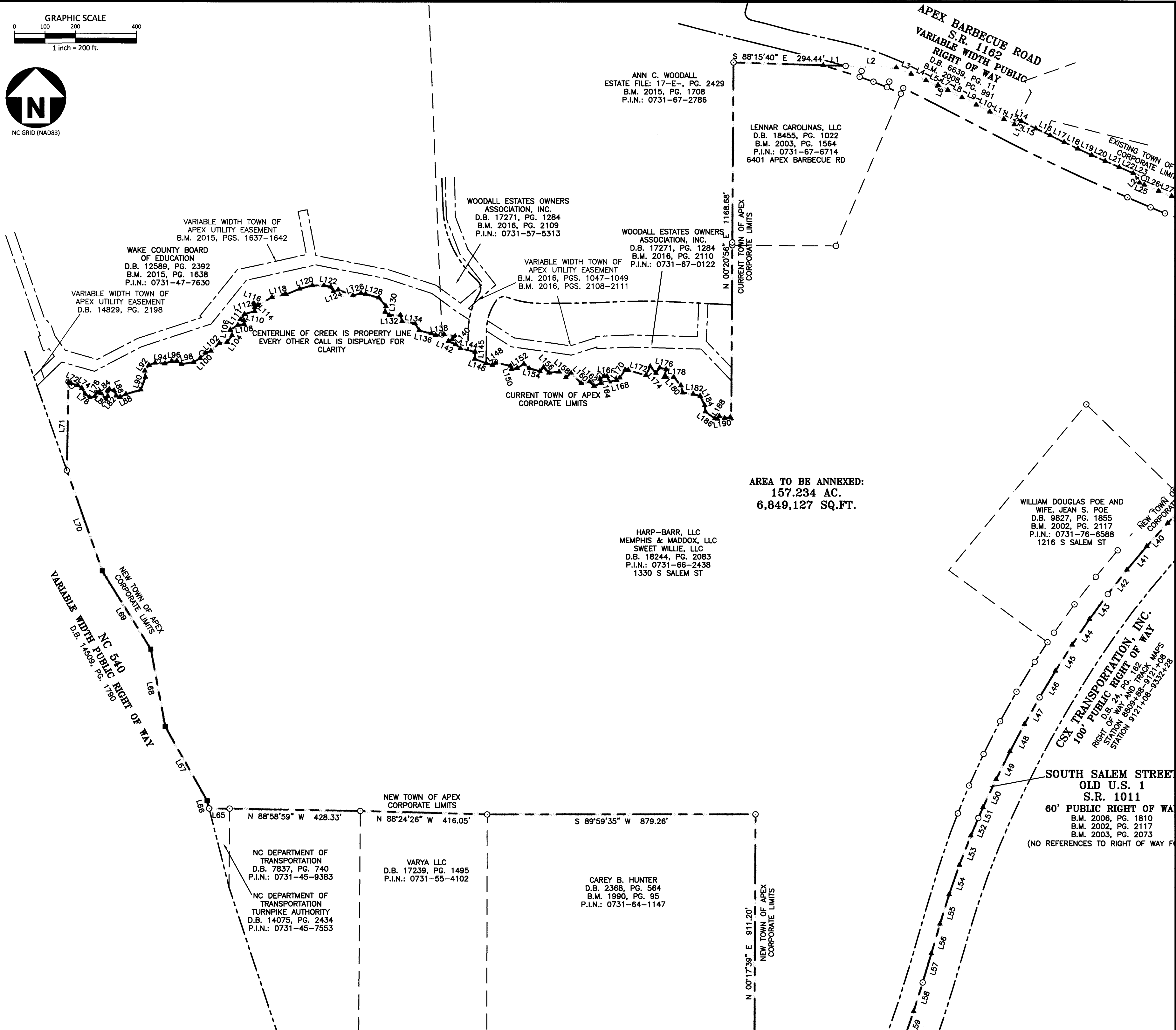
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CHECKED BY JSA
DRAWN BY TAM
SCALE N/A
DATE 11-19-2020

SHEET

SHEET TITLE

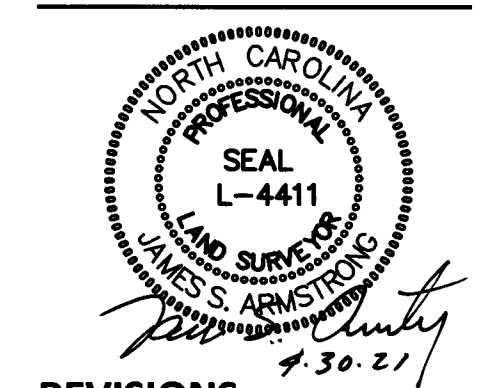
1-3



McADAMS
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license number: C-0293, C-187
www.mcadamsco.com

CLIENT
LENNAR CAROLINAS, LLC

DEPOT 499
ANNEXATION PLAT
WHITE OAK TOWNSHIP, WAKE COUNTY, NC



REVISIONS

NO.	DATE
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PLAN INFORMATION

PROJECT NO.	LEN-19090
FILENAME	LEN19090-F1
CHECKED BY	JSA
DRAWN BY	TAM
SCALE	1"=200'
DATE	11-19-2020

SHEET TITLE
2-3



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CLIENT

LENNAR CAROLINAS, LLC

DEPOT 499

ANNEXATION PLAT

WHITE OAK TOWNSHIP, WAKE COUNTY, NC



NO. DATE

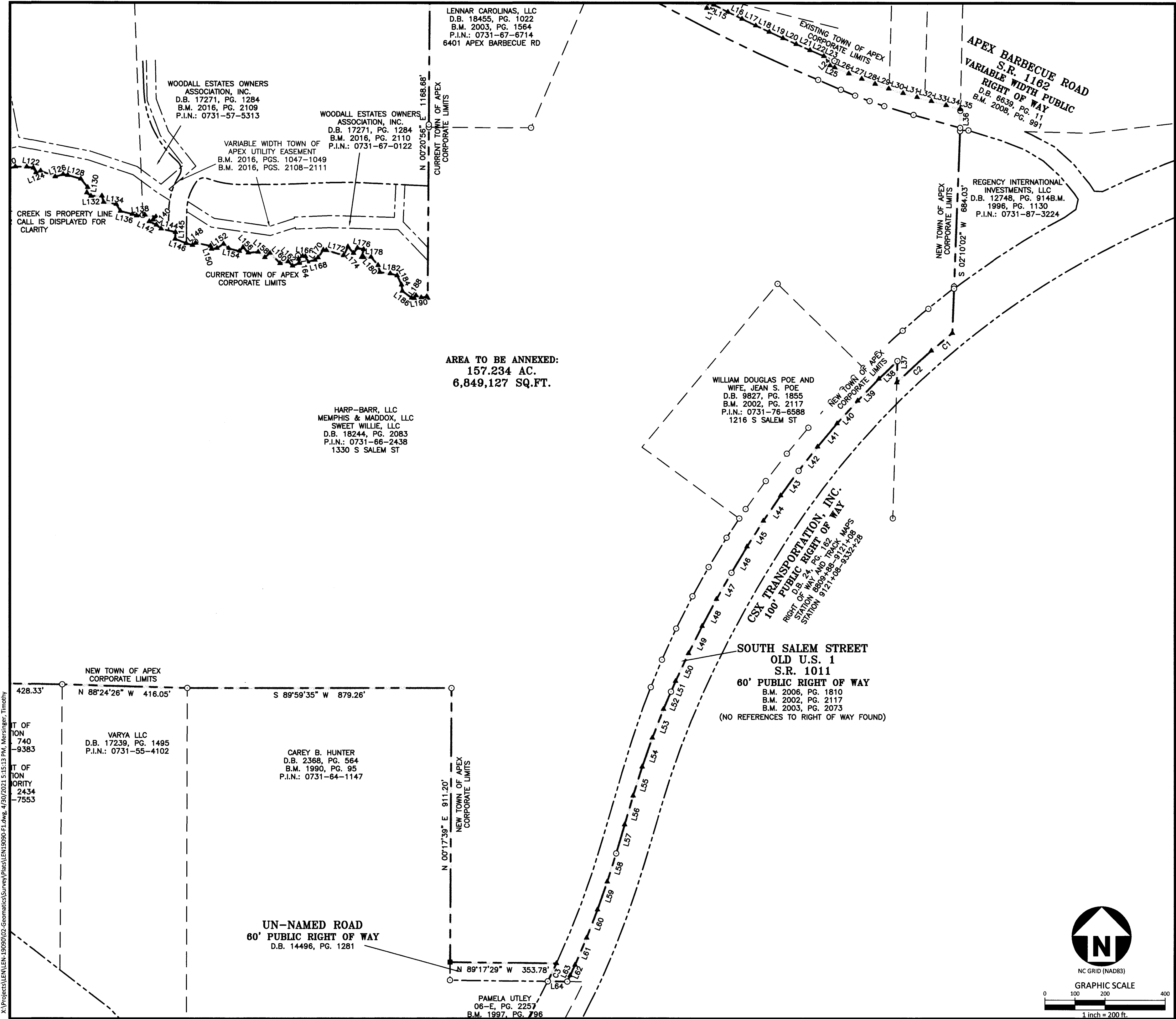
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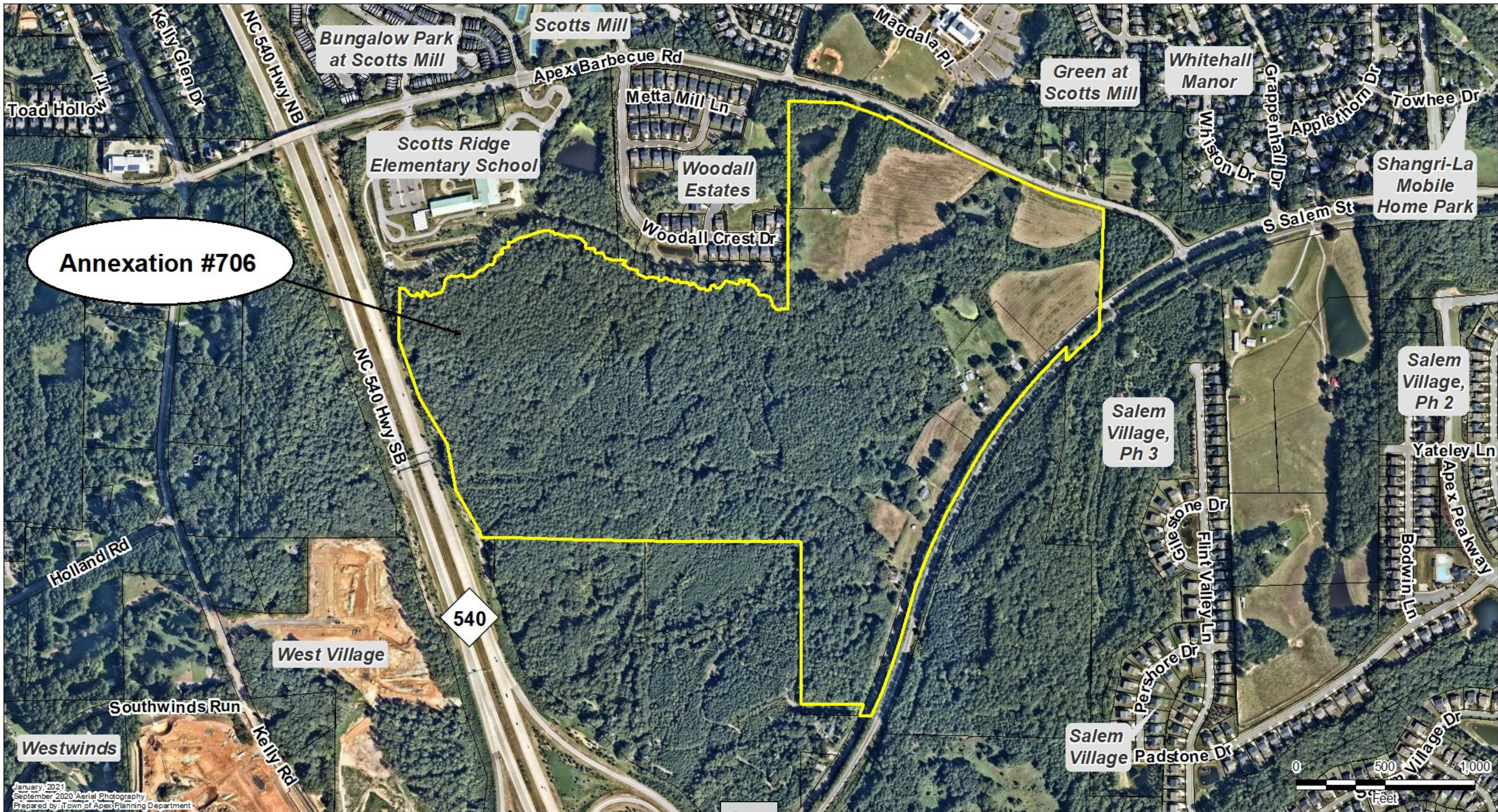
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DATE	11-19-2020

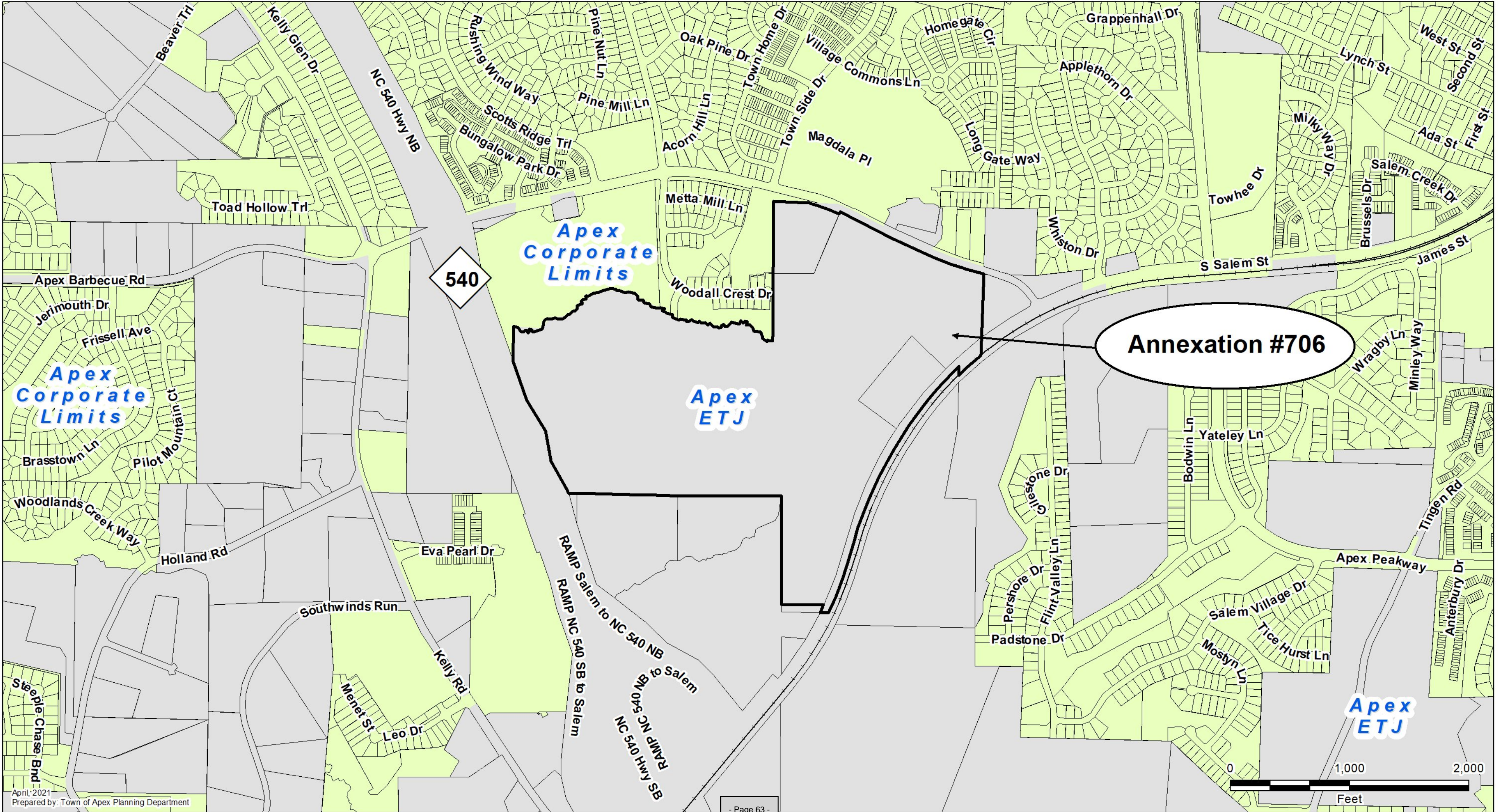
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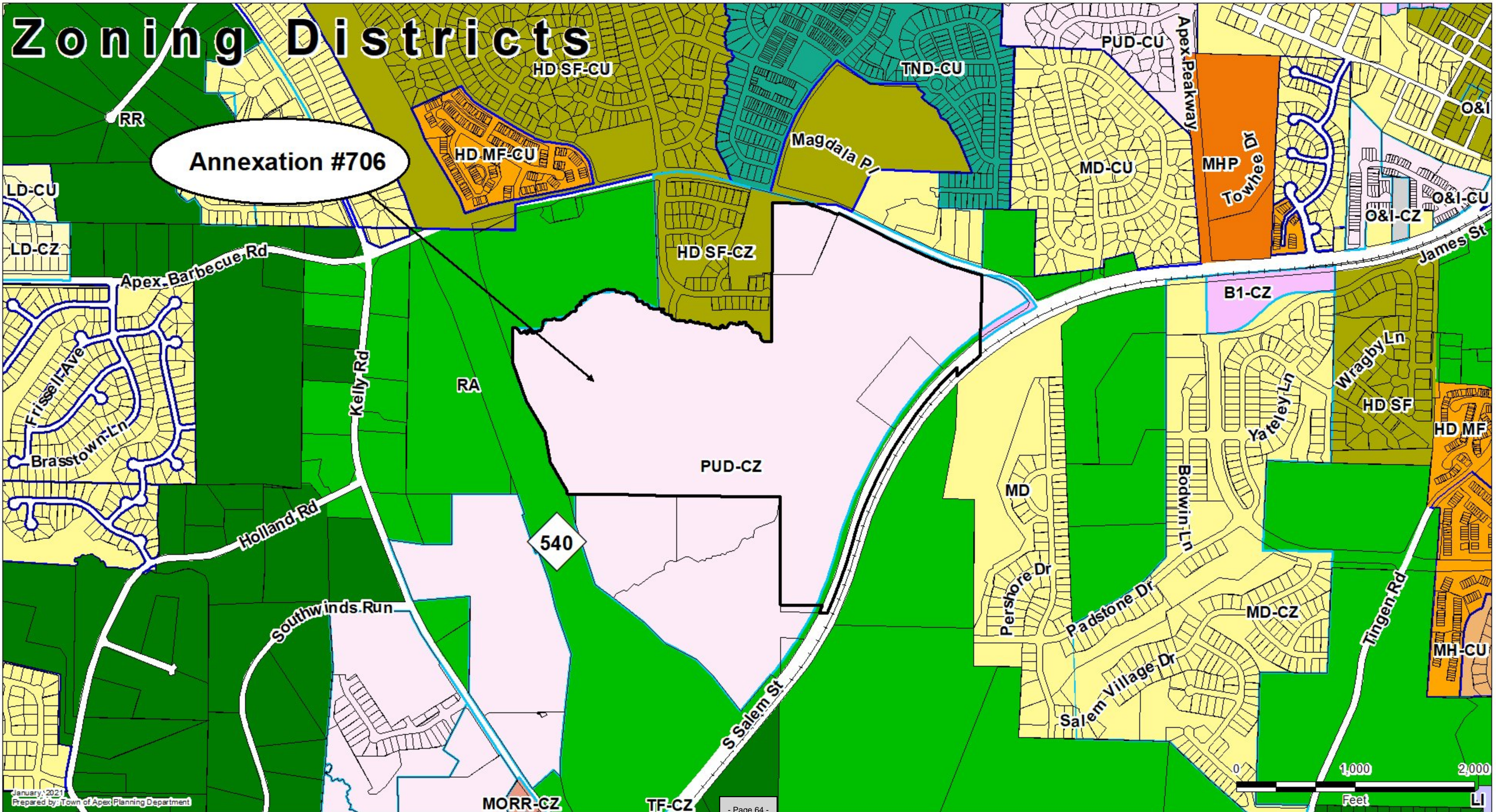
SHEET TITLE

3-3









BEGINNING AT AN IRON PIPE IN THE NORTHERN PROPERTY LINE OF THE DARYL POE AND JEANNE POE TRACT; THENCE SOUTH 88°15'40" EAST 294.44 FEET TO A POINT; THENCE SOUTH 88°15'40" EAST 73.53 FEET TO AN IRON PIPE IN THE SOUTHERN RIGHT OF WAY OF APEX BARBECUE ROAD (VARIABLE WIDTH PUBLIC RIGHT OF WAY); THENCE SOUTH 88°17'21" EAST 166.15 FEET TO A POINT; THENCE SOUTH 66°51'11" EAST 52.41 FEET TO A POINT; THENCE SOUTH 66°15'45" EAST 53.82 FEET TO A POINT; THENCE SOUTH 65°14'19" EAST 41.62 FEET TO A POINT; THENCE NORTH 25°36'46" EAST 2.86 FEET TO A POINT; THENCE SOUTH 63°01'58" EAST 36.23 FEET TO A POINT; THENCE SOUTH 62°43'11" EAST 52.42 FEET TO A POINT; THENCE SOUTH 62°34'50" EAST 52.21 FEET TO A POINT; THENCE SOUTH 62°33'45" EAST 50.32 FEET TO A POINT; THENCE SOUTH 62°31'05" EAST 52.09 FEET TO A POINT; THENCE SOUTH 62°41'02" EAST 38.46 FEET TO A POINT; THENCE NORTH 27°30'20" EAST 20.00 FEET TO A POINT IN THE NORTHERN RIGHT OF WAY OF APEX BARBECUE ROAD (VARIABLE WIDTH PUBLIC RIGHT OF WAY); THENCE WITH SAID RIGHT OF WAY SOUTH 63°45'54" EAST 15.27 FEET TO A POINT; THENCE SOUTH 63°11'11" EAST 52.92 FEET TO A POINT; THENCE SOUTH 63°46'38" EAST 52.45 FEET TO A POINT; THENCE SOUTH 64°11'18" EAST 51.01 FEET TO A POINT; THENCE SOUTH 64°51'58" EAST 49.52 FEET TO A POINT; THENCE SOUTH 65°24'55" EAST 50.07 FEET TO A POINT; THENCE SOUTH 66°04'16" EAST 48.34 FEET TO A POINT; THENCE SOUTH 66°24'38" EAST 50.08 FEET TO A POINT; THENCE SOUTH 66°41'38" EAST 50.19 FEET TO A POINT; THENCE SOUTH 66°15'39" EAST 38.64 FEET TO AN IRON PIPE; THENCE LEAVING SAID RIGHT OF WAY SOUTH 45°09'49" WEST 21.52 FEET TO A POINT; THENCE SOUTH 66°29'41" EAST 17.50 FEET TO A POINT; THENCE SOUTH 66°51'15" EAST 51.02 FEET TO A POINT; THENCE SOUTH 67°29'37" EAST 46.49 FEET TO A POINT; THENCE SOUTH 69°10'44" EAST 47.69 FEET TO A POINT; THENCE SOUTH 70°48'55" EAST 47.97 FEET TO A POINT; THENCE SOUTH 72°26'29" EAST 49.98 FEET TO A POINT; THENCE SOUTH 73°56'45" EAST 48.27 FEET TO A POINT; THENCE SOUTH 74°36'34" EAST 49.46 FEET TO A POINT; THENCE SOUTH 74°35'50" EAST 50.79 FEET TO A POINT; THENCE SOUTH 74°07'44" EAST 48.03 FEET TO A POINT; THENCE SOUTH 73°53'30" EAST 1.43 FEET TO A POINT; THENCE SOUTH 00°46'03" WEST 62.04 FEET TO AN IRON PIPE; THENCE SOUTH 02°10'02" WEST 684.03 FEET TO A POINT; THENCE WITH A CURVE TO THE LEFT WITH AN ARC LENGTH OF 91.26 FEET, WITH A RADIUS OF 2927.20 FEET, WITH A CHORD BEARING OF SOUTH 49°51'06" WEST, WITH A CHORD LENGTH OF 91.25 FEET TO A POINT; THENCE WITH A COMPOUND CURVE TO THE LEFT WITH AN ARC LENGTH OF 156.33 FEET, WITH A RADIUS OF 2830.49 FEET, WITH A CHORD BEARING OF SOUTH 47°19'16" WEST, WITH A CHORD LENGTH OF 156.31 FEET TO A POINT; THENCE NORTH 01°41'10" EAST 71.72 FEET TO AN IRON PIPE; THENCE SOUTH 46°03'02" WEST 85.16 FEET TO A POINT; THENCE SOUTH 44°07'53" WEST 101.67 FEET TO A POINT; THENCE SOUTH 42°07'43" WEST 101.98 FEET TO A POINT; THENCE SOUTH 40°06'18" WEST 101.05 FEET TO A POINT; THENCE SOUTH 38°00'20" WEST 102.25 FEET TO AN IRON PIPE; THENCE SOUTH 36°10'22" WEST 101.61 FEET TO A POINT; THENCE SOUTH 34°13'40" WEST 101.88 FEET TO A POINT; THENCE SOUTH 32°20'31" WEST 101.40 FEET TO A POINT; THENCE SOUTH 30°52'45" WEST 101.44 FEET TO AN IRON PIPE; THENCE SOUTH 29°32'30" WEST 100.74 FEET TO A POINT; THENCE SOUTH 28°00'14" WEST 101.56 FEET TO A POINT; THENCE SOUTH 26°31'43" WEST 101.76 FEET TO A POINT; THENCE SOUTH 24°59'56" WEST 101.74 FEET TO A POINT; THENCE SOUTH 23°14'59" WEST 38.23 FEET TO AN IRON PIPE; THENCE SOUTH 23°13'26" WEST 63.12 FEET TO A POINT; THENCE SOUTH 21°18'46" WEST 102.56 FEET TO A POINT; THENCE SOUTH 19°14'15" WEST 102.34 FEET TO A POINT; THENCE SOUTH 17°17'15" WEST 101.06 FEET TO A POINT; THENCE SOUTH 16°16'37" WEST 100.94 FEET TO A POINT; THENCE SOUTH 16°30'48" WEST 99.68 FEET TO AN IRON PIPE; THENCE SOUTH 17°33'06" WEST 98.63 FEET TO A POINT; THENCE SOUTH 19°12'54" WEST 98.15 FEET TO A POINT; THENCE SOUTH 21°07'08" WEST 99.78 FEET TO A POINT; THENCE SOUTH 23°11'04" WEST 97.92 FEET TO A POINT; THENCE SOUTH 24°54'47" WEST 38.40 FEET TO A POINT; THENCE SOUTH 25°36'27" WEST 22.58 FEET TO AN IRON PIPE; THENCE NORTH 89°17'29" WEST 64.48 FEET TO AN IRON PIPE; THENCE WITH A CURVE TO THE LEFT WITH AN ARC LENGTH OF 66.11 FEET, WITH A RADIUS OF 2804.10 FEET, WITH A CHORD BEARING OF NORTH 25°32'13" EAST, WITH A CHORD LENGTH OF 66.11 FEET TO A

POINT; THENCE NORTH 89°17'29" WEST 353.78 FEET TO A CONCRETE MONUMENT; THENCE NORTH 00°17'39" EAST 911.20 FEET TO AN IRON PIPE; THENCE SOUTH 89°59'35" WEST 879.26 FEET TO AN IRON PIPE; THENCE NORTH 88°24'26" WEST 416.05 FEET TO AN IRON PIPE; THENCE NORTH 88°58'59" WEST 428.33 FEET TO AN IRON PIPE; THENCE NORTH 89°42'10" WEST 67.13 FEET TO AN IRON PIPE IN THE EASTERN RIGHT OF WAY OF N.C. HIGHWAY 540 (VARIABLE WIDTH PUBLIC RIGHT OF WAY); THENCE WITH SAID RIGHT OF WAY NORTH 14°10'11" WEST 25.98 FEET TO A CONCRETE MONUMENT; THENCE NORTH 29°27'03" WEST 279.28 FEET TO A CONCRETE MONUMENT; THENCE NORTH 10°30'20" WEST 258.11 FEET TO A CONCRETE MONUMENT; THENCE NORTH 31°49'46" WEST 302.09 FEET TO A CONCRETE MONUMENT; THENCE NORTH 19°25'27" WEST 348.05 FEET TO AN IRON PIPE; THENCE NORTH 01°06'22" EAST 289.07 FEET TO AN IRON PIPE IN THE CENTERLINE OF A CREEK; THENCE WITH SAID CENTERLINE SOUTH 62°05'16" EAST 8.68 FEET TO A POINT; THENCE SOUTH 75°58'33" EAST 23.59 FEET TO A POINT; THENCE SOUTH 54°32'13" EAST 16.14 FEET TO A POINT; THENCE SOUTH 28°27'52" EAST 21.06 FEET TO A POINT; THENCE SOUTH 52°11'00" EAST 19.37 FEET TO A POINT; THENCE NORTH 80°16'49" EAST 16.94 FEET TO A POINT; THENCE NORTH 27°19'34" EAST 14.43 FEET TO A POINT; THENCE NORTH 74°27'19" EAST 9.44 FEET TO A POINT; THENCE SOUTH 50°24'04" EAST 7.19 FEET TO A POINT; THENCE SOUTH 36°21'02" EAST 23.88 FEET TO A POINT; THENCE NORTH 39°19'42" EAST 12.17 FEET TO A POINT; THENCE NORTH 05°51'07" WEST 17.89 FEET TO A POINT; THENCE NORTH 50°03'59" EAST 8.76 FEET TO A POINT; THENCE SOUTH 73°12'41" EAST 16.32 FEET TO A POINT; THENCE SOUTH 21°18'53" EAST 18.47 FEET TO A POINT; THENCE SOUTH 72°13'16" EAST 13.54 FEET TO A POINT; THENCE NORTH 61°51'46" EAST 21.65 FEET TO A POINT; THENCE NORTH 74°00'24" EAST 50.54 FEET TO A POINT; THENCE NORTH 19°57'12" EAST 44.74 FEET TO A POINT; THENCE NORTH 06°03'59" WEST 20.11 FEET TO A POINT; THENCE NORTH 35°44'44" EAST 23.04 FEET TO A POINT; THENCE NORTH 69°35'37" EAST 22.30 FEET TO A POINT; THENCE SOUTH 84°36'00" EAST 31.56 FEET TO A POINT; THENCE NORTH 68°46'46" EAST 23.80 FEET TO A POINT; THENCE NORTH 88°42'18" EAST 17.10 FEET TO A POINT; THENCE SOUTH 54°50'03" EAST 18.40 FEET TO A POINT; THENCE NORTH 80°46'03" EAST 40.56 FEET TO A POINT; THENCE NORTH 58°20'09" EAST 25.29 FEET TO A POINT; THENCE NORTH 44°32'26" EAST 24.34 FEET TO A POINT; THENCE NORTH 71°02'31" EAST 19.10 FEET TO A POINT; THENCE NORTH 47°24'16" EAST 37.55 FEET TO A POINT; THENCE NORTH 81°51'36" EAST 25.80 FEET TO A POINT; THENCE NORTH 36°15'39" EAST 27.41 FEET TO A POINT; THENCE NORTH 20°21'02" WEST 17.38 FEET TO A POINT; THENCE NORTH 11°59'13" EAST 2.08 FEET TO A POINT; THENCE NORTH 58°12'58" EAST 29.12 FEET TO A POINT; THENCE NORTH 82°43'32" EAST 21.16 FEET TO A POINT; THENCE NORTH 05°01'51" WEST 12.48 FEET TO A POINT; THENCE NORTH 77°16'23" WEST 12.42 FEET TO A POINT; THENCE NORTH 37°17'58" EAST 22.50 FEET TO A POINT; THENCE NORTH 73°27'07" EAST 34.86 FEET TO A POINT; THENCE NORTH 03°15'44" EAST 13.46 FEET TO A POINT; THENCE NORTH 45°09'32" WEST 11.24 FEET TO A POINT; THENCE NORTH 53°48'21" EAST 6.23 FEET TO A POINT; THENCE SOUTH 68°53'55" EAST 13.88 FEET TO A POINT; THENCE NORTH 60°34'12" EAST 52.94 FEET TO A POINT; THENCE NORTH 78°46'01" EAST 46.77 FEET TO A POINT; THENCE NORTH 67°46'44" EAST 48.56 FEET TO A POINT; THENCE NORTH 74°58'45" EAST 43.00 FEET TO A POINT; THENCE SOUTH 89°36'23" EAST 38.18 FEET TO A POINT; THENCE SOUTH 79°42'51" EAST 22.68 FEET TO A POINT; THENCE SOUTH 29°26'17" EAST 17.84 FEET TO A POINT; THENCE NORTH 69°48'36" EAST 16.45 FEET TO A POINT; THENCE SOUTH 68°17'51" EAST 51.96 FEET TO A POINT; THENCE NORTH 73°12'05" EAST 27.64 FEET TO A POINT; THENCE SOUTH 79°24'02" EAST 15.42 FEET TO A POINT; THENCE SOUTH 74°12'31" EAST 45.28 FEET TO A POINT; THENCE SOUTH 39°16'28" EAST 36.13 FEET TO A POINT; THENCE SOUTH 08°43'30" WEST 18.30 FEET TO A POINT; THENCE SOUTH 50°53'39" EAST 18.00 FEET TO A POINT; THENCE NORTH 88°17'02" EAST 36.36 FEET TO A POINT; THENCE SOUTH 13°58'03" EAST 21.80 FEET TO A POINT; THENCE SOUTH 81°03'00" EAST 42.96 FEET TO A POINT; THENCE SOUTH 30°57'25" EAST 26.88 FEET TO A POINT; THENCE SOUTH 75°54'58" EAST 40.54 FEET TO A POINT; THENCE SOUTH 70°25'00" EAST 15.28 FEET TO A POINT; THENCE NORTH 84°19'40" EAST 27.52 FEET TO A POINT; THENCE SOUTH 80°36'18" EAST 37.25 FEET

TO A POINT; THENCE SOUTH 42°44'12" WEST 13.86 FEET TO A POINT; THENCE SOUTH 64°51'55" WEST 13.95 FEET TO A POINT; THENCE SOUTH 64°16'15" EAST 26.38 FEET TO A POINT; THENCE SOUTH 51°02'50" EAST 20.28 FEET TO A POINT; THENCE SOUTH 76°30'27" EAST 49.09 FEET TO A POINT; THENCE SOUTH 02°56'27" WEST 22.78 FEET TO A POINT; THENCE SOUTH 68°53'00" EAST 39.44 FEET TO A POINT; THENCE SOUTH 74°05'57" EAST 21.64 FEET TO A POINT; THENCE NORTH 54°46'33" EAST 12.67 FEET TO A POINT; THENCE SOUTH 78°44'03" EAST 50.69 FEET TO A POINT; THENCE SOUTH 17°24'42" EAST 10.77 FEET TO A POINT; THENCE NORTH 81°02'40" EAST 18.57 FEET TO A POINT; THENCE NORTH 57°30'16" EAST 25.96 FEET TO A POINT; THENCE SOUTH 49°12'49" EAST 22.49 FEET TO A POINT; THENCE SOUTH 75°13'50" EAST 36.68 FEET TO A POINT; THENCE NORTH 43°03'04" EAST 18.03 FEET TO A POINT; THENCE SOUTH 43°29'16" EAST 25.33 FEET TO A POINT; THENCE NORTH 84°54'55" EAST 33.14 FEET TO A POINT; THENCE SOUTH 49°52'36" EAST 29.02 FEET TO A POINT; THENCE NORTH 47°30'27" EAST 22.64 FEET TO A POINT; THENCE SOUTH 44°10'50" EAST 48.34 FEET TO A POINT; THENCE NORTH 77°35'58" EAST 27.83 FEET TO A POINT; THENCE SOUTH 44°55'44" EAST 20.62 FEET TO A POINT; THENCE NORTH 67°39'06" EAST 23.64 FEET TO A POINT; THENCE NORTH 09°17'48" WEST 14.71 FEET TO A POINT; THENCE NORTH 56°08'00" EAST 16.99 FEET TO A POINT; THENCE SOUTH 84°08'50" EAST 9.11 FEET TO A POINT; THENCE SOUTH 21°28'59" EAST 19.37 FEET TO A POINT; THENCE NORTH 77°01'03" EAST 25.20 FEET TO A POINT; THENCE NORTH 52°22'39" EAST 13.09 FEET TO A POINT; THENCE NORTH 34°19'37" EAST 31.41 FEET TO A POINT; THENCE SOUTH 83°30'24" EAST 9.86 FEET TO A POINT; THENCE SOUTH 73°18'34" EAST 60.44 FEET TO A POINT; THENCE NORTH 25°37'49" EAST 32.53 FEET TO A POINT; THENCE SOUTH 40°49'03" EAST 28.47 FEET TO A POINT; THENCE NORTH 36°58'17" EAST 21.69 FEET TO A POINT; THENCE SOUTH 76°44'46" EAST 21.44 FEET TO A POINT; THENCE SOUTH 14°26'49" WEST 27.21 FEET TO A POINT; THENCE SOUTH 86°41'52" EAST 6.78 FEET TO A POINT; THENCE NORTH 87°14'33" EAST 24.64 FEET TO A POINT; THENCE SOUTH 40°22'08" EAST 36.29 FEET TO A POINT; THENCE SOUTH 13°37'04" EAST 24.06 FEET TO A POINT; THENCE SOUTH 82°58'59" EAST 35.03 FEET TO A POINT; THENCE SOUTH 73°33'17" EAST 23.68 FEET TO A POINT; THENCE SOUTH 25°37'21" EAST 34.01 FEET TO A POINT; THENCE SOUTH 06°57'32" EAST 21.00 FEET TO A POINT; THENCE SOUTH 53°23'42" EAST 38.38 FEET TO A POINT; THENCE SOUTH 83°14'09" EAST 8.53 FEET TO A POINT; THENCE NORTH 33°23'35" EAST 11.26 FEET TO A POINT; THENCE SOUTH 68°50'30" EAST 18.96 FEET TO A POINT; THENCE NORTH 81°37'03" EAST 18.18 FEET TO A POINT; THENCE SOUTH 39°21'14" EAST 5.22 FEET TO A POINT; THENCE LEAVING THE CENTERLINE OF SAID CREEK NORTH 00°20'56" EAST 1168.68 FEET TO THE POINT AND PLACE OF BEGINNING CONTAINING 6,849,127 SQUARE FEET, 157.234 ACRES AND BEING THE SAME AREA AS SHOWN ON THE PLAT BY THE JOHN R MCADAMS COMPANY TITLED ANNEXATION MAP OF DEPOT 499 DATED NOVEMBER 19TH, 2020.

| Agenda Item | cover sheet

for consideration by the Apex Town Council

Item Type: CONSENT AGENDA

Meeting Date: May 25, 2021

Item Details

Presenter(s): Jacques K. Gilbert, Mayor

Department(s): Governing Body

Requested Motion

Motion to reappoint Michael Wilson as Chair and Lisa Carley as Vice Chair of the Board of Adjustment; to appoint Bryan Johnson as a Regular Member; to move up Tracy Taylor and Umesh Pai as Alternate Members; and to appoint William S. Lusk as Alternate Member

Approval Recommended?

Yes

Item Details

Jack Clark left the Board. The new assignments would be as follows:

Michael Wilson	2 nd Term as Chair	1/1/2021 to 12/31/2021
Lisa Carley	2 nd Term as Vice Chair	1/1/2021 to 12/31/2021
Bryan Johnson	Alternate 1 to Regular Member	1/1/2021 to 12/31/2022
Tracy Taylor	Alternate 2 to Alternate 1	1/1/2020 to 12/31/2021
Umesh Pai	Alternate 3 to Alternate 2	1/1/2020 to 12/31/2022
William S. Lusk	New Alternate 3	5/25/2021 to 12/31/2022

Attachments

- Cognito Interest Form - William S. Lusk



Board of Adjustment

Advisory Board Interest Form

Candidate Contact Information

Legal Name

William S Lusk

Preferred First Name

Shelby

Address

3716 Shires Edge Drive, Apex, North Carolina 27562

Email

slusk@bellsouth.net

Mobile Phone

(919) 215-0606

Alternate Phone (work/home)**Do you live within the Apex town limits?**

Yes

Background Information

Current Employer

Smartlink

Current Job Title

Real Estate Project Manager

Tell us why you would like to serve?

I would like to serve on the Board of Adjustment because as a resident of 20 years I want to serve my community and be apart of the decision making process that helps continue making Apex one of the best places to live in the state. The board of adjustment plays a crucial role to each citizen as it's quasi judicial board and its decision are final and have lasting affects but also can be challenged in court. The responsibility to serve should be taken very seriously and requires the individual to invest the time to read each case application so they are familiar with each case prior to the meeting and be proactive in asking question of the town departments of possible impacts -familiarize yourself with the location and adjoining properties so that they can make an informed decision.

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

I have prior experience as form county planner-part my responsibility was to participate in board of adjustment meeting and present each case before the board along with the findings of facts and answer any questions from board members related to application and county ordinance.

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

N/A

| Agenda Item | cover sheet

for consideration by the Apex Town Council

Item Type: CONSENT AGENDA

Meeting Date: May 25, 2021

Item Details

Presenter(s): Colleen Merays, Downtown & Small Business Development Coordinator

Department(s): Economic Development

Requested Motion

Motion to amend the approved location of Apex Farmers' Market & Apex Night to:

Roads & Parking Closed Date & Time: Portion of Saunders Street Public Parking Lot (Map Designated Area)

- Apex Night Market * Portion of Saunders Parking Lot (8 AM - 10 PM)
- Apex Farmers' Market (9-12pm): * Portion of Saunders Parking Lot (7:30 AM - 1 PM)

Approval Recommended?

Yes

Item Details

Event Name(s): The Apex Farmers' Market & Apex Night Market

Event Date & Time:

- Apex Night Market (6 PM - 9 PM): Recurs the 2nd Thursday of the month - Event starts Thursday, March 11, 2021 - Thursday, October 14, 2021
- Apex Farmers' Market (9-12pm): Recurs weekly every Saturday - Event starts Saturday, March 20, 2021 - March 5, 2022

Event Description:

- Apex Night Market - Monthly Makers' Market with 50+ Artisan vendors, live music, and entertainment. Family-friendly event.
- Apex Farmers' Market - Weekly outdoor market with 10x10 tents. We really need the gravel lot to allow for proper distancing for safe operations, and for the growth of our market.

Attachments

- Map of Market Location



Apex Farmers' Market & Apex Night Market – Amended Event Location



| Agenda Item | cover sheet

for consideration by the Apex Town Council

Item Type: CONSENT AGENDA

Meeting Date: May 25, 2021

Item Details

Presenter(s): Vance Holloman, Finance Director

Department(s): Finance Department

Requested Motion

Motion to approve Capital Project Ordinance Amendment No. 2021-9 to appropriate the proceeds from the issuance of the \$5 Million Street and Sidewalk Improvement General Obligation Bonds Series 2021 to fund capital improvements and pay issuance cost.

Approval Recommended?

Yes

Item Details

The Town's Series 2021 Bonds closed on May 20. In order to expend the funds for capital improvements and to pay issuance cost the Town must amend the budget to appropriate the funds.

Attachments

- Capital Project Ordinance Amendment No. 2021-9





Town of Apex

CAPITAL PROJECT ORDINANCE AMENDMENT 2021-9

63-Street Improvements Capital Project Fund

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

Section 1. The revenues anticipated for the projects are:

Interest Income	31,725
Federal Grants	5,000,000
Total Revenues	\$ 5,031,725

Section 2. The expenditures anticipated are:

Bond Issuance Cost	31,725
Pavement Improvements	5,000,000
Total Expenditures	\$ 5,031,725

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

Adopted this the 25th day of May, 2021.

Attest:

Jacques K. Gilbert, Mayor

Donna B. Hosch, Town Clerk

| Agenda Item | cover sheet

for consideration by the Apex Town Council

Item Type: CONSENT AGENDA

Meeting Date: May 25, 2021

Item Details

Presenter(s): Marty Stone, Assistant Town Manager

Department(s): Administration

Requested Motion

Motion to approve an encroachment agreement between the Town and property owner Tri Pointe Homes Holdings, Inc. to install 12 SF of private sidewalk and 6 SF of private driveway that will encroach onto portions of the Town's 20' Public Storm Drainage Easement and authorize the Interim Town Manager to execute the same.

Approval Recommended?

Yes

Item Details

Approve Encroachment Agreement between the Town and property owner Tri Pointe Homes Holdings, Inc. (Grantee) for the property described as a residential lot know as Wake County PIN #0742-68-8290, Book of Maps 2019, Page 00419, Lot is also known as 1061 Danvers Loop, Apex, NC 27523. Grantee wishes to install certain improvements, more particularly described as 12 SF of private sidewalk and 6 SF of private driveway that will encroach onto portions of the Town's 20' Public Storm Drainage Easement.

Attachments

- 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 _____, 2021, by and between Tri Pointe Homes Holdings, Inc. 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 #0742-68-8290 by the Wake County Revenue Department and more particularly described as **Lot 121** of the subdivision known as **Townes at North Salem Phase 2A** as shown on that certain plat recorded in **Book of Maps 2019, Page 00419 (Sheet 4 of 5)**, Wake County Registry (hereinafter the "**Subdivision Plat**"). The residential lot is also known as **1061 Danvers Loop, 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 Storm Drainage Easement** as shown on the **Subdivision Plat** hereinafter referred to as the "**Public Storm Drainage Easement**."

WHEREAS, Grantee wishes to install certain improvements more particularly described as, **12 SF of private sidewalk and 6 SF of a private driveway that will encroach upon portions of the Public Storm Drainage Easement**, which serves the Residential Lot, hereinafter referred to as the "**Encroachment**", all as shown on the attached **Exhibit A**. Grantee desire to make certain agreements and covenants regarding the Encroachment.

WHEREAS, the Town, under the terms and conditions herein set forth, is willing to allow the above-described Encroachment upon the **Public Storm 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 Grantee sole risk and expense, to encroach into the **Public Storm 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 **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 and shall be allowed to maintain the Encroachment and to perform all necessary repairs, maintenance, and replacement of the Encroachment as may be necessary from time to time.

3. The Town shall not be held 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 does 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; provided that, Grantee shall not be obligated hereunder to indemnify the Town for any negligent acts or omissions of the Town, its contractor(s) (including sub-contractors) and their respective officers, agents and employees.

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 Grantee: Tri Pointe Homes Holdings, Inc.
Gray Shell
1400 Sunday Drive, Suite 105
Raleigh, NC 27607

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 agrees 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 Storm Drainage Easement**.

10. If the Town deems, within its sole discretion, that removal of all or apportion of the Encroachment is necessary in order to operate, protect, maintain, modify, replace, add-to or improve its facilities located within the **Public Storm Drainage Easement**, then Grantee shall cause such removal to be made at Grantee's sole expense within 30 days after receipt of notice from the Town and shall be completed in a manner that will allow the Town complete and safe access to the **Public Storm Drainage Easement**. In the event that the Grantee fails to timely remove the Encroachment or in the event of an emergency associated with the condition of the **Public Storm Drainage Easement**, the Town is authorized to remove all or such portion of the Encroachment as the Town determines in its sole discretion to be reasonably necessary, convenient or advisable to operate, protect, maintain, modify, replace, add-to or improve its facilities located within the **Public Storm Drainage Easement**. The Town shall have the sole discretion to determine the existence of an emergency associated with the condition of the **Public Storm Drainage Easement**.

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 the Paragraph 10 or if Grantee fails to remove the Encroachment within the time limit after receiving notice under Paragraph 9.

12. Grantee, during the life of this Encroachment Agreement, agree to procure or cause to be procured from a responsible insurance carrier or carriers authorized under the laws of the State of North Carolina, insurance in the minimum amounts of \$300,000/\$5000,000/\$300,000 covering full liability for any and all personal injury, property damage or wrongful death caused by the construction, maintenance, location, repair or visual obstruction of said Encroachment. Grantee shall furnish the Town, without demand, each July a certification from the insurance carrier or carriers with whom the insurance herein mentioned is carried, stating that such compensation is covered by such carrier or carriers and showing such insurance to be in full force and effect. Both Grantee and the Town shall be named as insured parties by endorsement of the policy. In the event of any change in the insurance policy, Grantee shall give the Town thirty (30) days notice of such change. Should Grantee fail to pay premiums upon said insurance or to perform any of the Encroachment Agreement, terms or conditions herein contained, the Town, at its option, by written notice may declare this Encroachment Agreement canceled and terminated and all rights acquired hereunder by Grantee shall thereupon terminate.

Future devisees, assignees or transferees taking ownership of the Residential lot, may, if applicable, satisfy the insurance requirements of this paragraph by showing proof of homeowner's insurance with personal liability coverage in a minimum amount of at least \$300,000. Notice of cancellation, non-renewal or material changes in coverage shall be provided 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 assumption of said obligations by an incorporated property or condominium owners association for **Townes At North Salem, Phase 2A**. 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 delegate 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 by 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.

In testimony whereof, said Grantee and said Town have here unto set their hands and seals, the day and year first above written.

GRANTEE

Tri Pointe Homes, Inc.

By: Leslie Graham Shell, IV (SEAL)
Leslie Graham Shell, IV
Division President - Carolinas

NORTH CAROLINA
COUNTY OF Mecklenburg County in which acknowledgement taken]

I, Amber M Egan, a Notary Public of Union County, North Carolina, certify that Leslie Graham Shell, IV, personally appeared before me this day and acknowledged that he is the Division President – Carolinas for TRI Pointe Homes, Inc., a corporation, and that he as Division President – Carolinas being authorized to do so, executed the foregoing on behalf of the corporation.

Witness my hand and official stamp or seal, this 11th day of May, 2021.

Amber M Egan
[Signature of Notary Public]

(Affix Notarial Stamp-Seal)

My Commission Expires: May 2, 2024

AMBER M EGAN NOTARY PUBLIC UNION COUNTY North Carolina My Commission Expires MAY 2, 2024
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TOWN OF APEX

Ralph Clark
Interim Town Manager

(Corporate Seal)

ATTEST:

Donna B. Hosch, MMC, NCCMC
Town Clerk

STATE OF NORTH CAROLINA

COUNTY OF _____ *[county in which acknowledgement taken]*

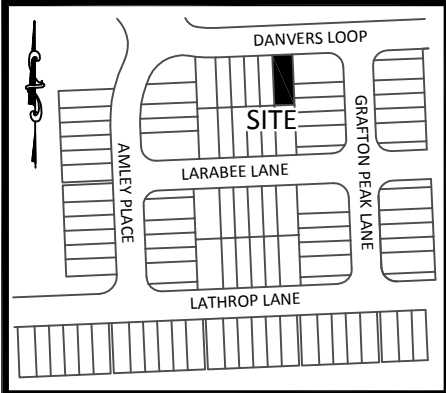
I, _____, a Notary Public of _____ County, North Carolina, certify that **Donna B. Hosch** personally came before me this day and acknowledged that she is **Town Clerk** of the **Town of Apex, a North Carolina Municipal Corporation**, and that by authority duly given and as the act of the corporation,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

Witness my hand and official stamp or seal, this _____ day of _____, 2021.

[Signature of Notary Public]

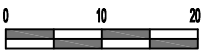
(Seal)

My Commission Expires: _____



VICINITY MAP

(Not to Scale)



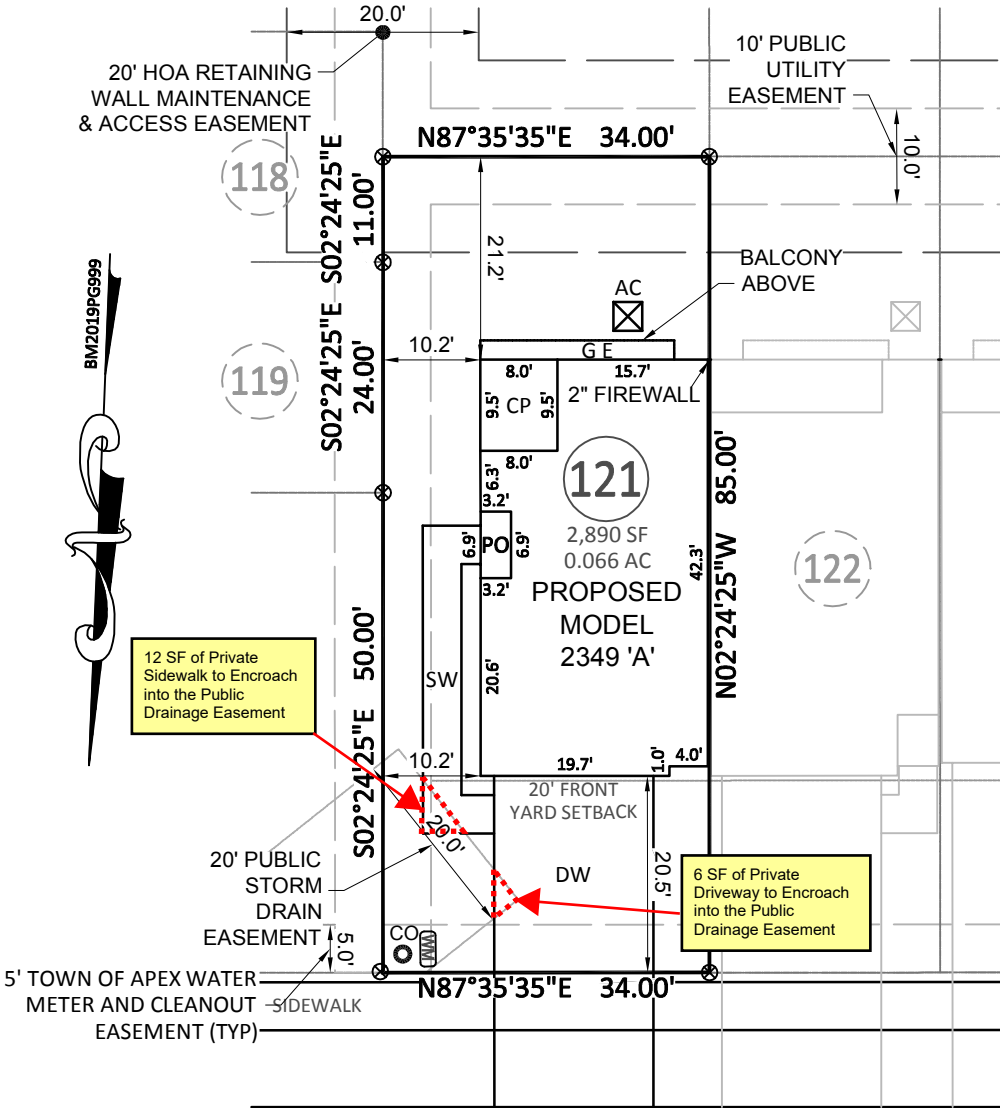
SCALE:
1" = 20 ft.

LOT INFORMATION:

PIN: 0742688290
TOTAL LOT AREA = 0.066 AC = 2,890 SF
HOUSE = 924 SF
PORCH = 22 SF
SIDEWALK = 150 SF
DRIVEWAY = 340 SF
COVERED PORCH = 76 SF
AC PAD = 9 SF
PROPOSED IMPERVIOUS = 1,521 SF
PERCENT IMPERVIOUS = 52.6 %

LEGEND

- PO = PORCH
- S = CONCRETE STOOP
- SW = SIDEWALK
- DW = CONC DRIVEWAY
- SP = SCREENED PORCH
- CP = COVERED PORCH
- P = CONCRETE PATIO
- ⊗ = COMPUTED POINT
- ⦿ = IRON PIPE FOUND(EIP)
- ⦿ = IRON PIPE SET(IPS)
- = DRILL HOLE FOUND
- WM = WATER METER
- CO = CLEAN OUT
- AC = AIR CONDITIONER
- Ⓢ = CABLE BOX
- Ⓢ = SEWER MANOLE
- Ⓢ = TS HANDHOLE
- TP = TELEPHONE PEDESTAL
- CB = CATCH BASIN
- ☼ = LIGHT POLE
- G = GAS METER
- E = ELECTRIC METER
- ⚡ = FIRE HYDRANT (FH)
- YI = YARD INLET
- ⚡ = WATER VALVE (WV)
- EB = ELECTRIC BOX
- Ⓢ = GAS VALVE
- FP = FIREPLACE
- ST = STORAGE
- Ⓢ = WATER VALVE



DANVERS LOOP
50' PUBLIC R/W

NOTE:
THIS MAP MAY NOT BE A CERTIFIED SURVEY AND HAS NOT BEEN REVIEWED BY A LOCAL GOVERNMENT AGENCY FOR COMPLIANCE WITH ANY APPLICABLE LAND DEVELOPMENT REGULATIONS AND HAS NOT BEEN REVIEWED FOR COMPLIANCE WITH RECORDING REQUIREMENTS FOR PLATS.

PRELIMINARY PLOT PLAN
EXCLUSIVELY FOR: TRI POINTE HOMES
TOWNES AT NORTH SALEM, PHASE 2A - LOT 121
1061 DANVERS LOOP, APEX, NC
WHITE OAK TOWNSHIP, WAKE COUNTY

DATE: 3/11/21 DRAWN BY: MJA CHECKED BY: SPC

REFERENCE: BOOK 2019, PG 999 BCS# 200201 SCALE: 1" = 20'

| Agenda Item | cover sheet

for consideration by the Apex Town Council

Item Type: CONSENT AGENDA
Meeting Date: May 25, 2021

Item Details

Presenter(s): Jenna Shouse, Long Range Planner II
Department(s): Planning and Community Development

Requested Motion

Motion to set the Public Hearing for the June 8, 2021 Town Council meeting regarding amendments to the Unified Development Ordinance to establish electric vehicle parking requirements.

Approval Recommended?

The Planning and Community Development Department recommends approval.

Item Details

Summary of UDO Amendments:

The proposed Unified Development Ordinance amendments are to Sec. 8.3 *Off-Street Parking and Loading*, Sec. 8.4.3 *Community Amenities*, and Sec. 12.2 *Terms Defined*. The goals of the proposed electric vehicle parking requirements are to: prepare for the trend of increased use of electric vehicles while avoiding unnecessary development of extra parking and to support the Town's sustainability initiatives.

Attachments

- N/A



| Agenda Item | cover sheet

for consideration by the Apex Town Council

Item Type: CONSENT AGENDA

Meeting Date: May 25, 2021

Item Details

Presenter(s): Shelly Mayo, Planner II

Department(s): Planning and Community Development

Requested Motion

Motion to approve Findings of Fact, Conclusions of Law and Decision denying a Major Site Plan for Felton Grove High School located at 8550 Stephenson Road.

Approval Recommended?

Yes, by the Planning and Community Development Department

Item Details

On April 27, 2021, Town Council denied a Major Site Plan for Felton Grove High School.

Attachments

- Findings of Fact, Conclusions of Law and Decision



**FINDINGS OF FACT AND CONCLUSIONS OF LAW FOR
FELTON GROVE HIGH SCHOOL MAJOR SITE PLAN**

FINDINGS OF FACT

Based on the competent and material evidence in the record, the Town Council makes the following findings of fact:

1. Wake County Board of Education/Renee Pfeifer, CLH Design, P.A., owner/applicant (the “Applicant”), submitted a completed application for a major site plan on the 30th day of November, 2020.
2. Pursuant to G.S. §160A-384, and Sec. 2.2.11.E of the Unified Development Ordinance, the Planning Director caused proper notice to be given (by publication and posting), of a public hearing on the major site plan for the Felton Grove High School before the Town Council on the 27th day of April, 2021.
3. The Apex Town Council held a public hearing, including an evidentiary hearing, on the 27th day of April 2021.
4. All persons who desired to present evidence relevant to the major site plan for the Felton Grove High School were allowed the opportunity to present evidence at the public hearing before the Apex Town Council.
5. The Applicant proposed building a 2 to 3 story high school totaling 392,760 square feet with sports fields, exercise fields, separate bus drop-off and carpool lanes, a parking deck, and surface parking.
6. The proposed Felton Grove High School would access Stephenson Road via Thriftwood Drive and Derry Down Lane, through the adjacent Briarwood Farms COSD mobile home park.
7. The proposed Felton Grove High School is projected to generate approximately 1,107 new trips entering and 253 new trips exiting the site during the school weekday A.M. peak hour and 139 new trips entering and 776 new trips exiting the site during the school weekday P.M. peak hour.
8. Town staff presented their recommendations for road improvements based on the UDO standards, but stated that G.S. §160A-307.1 only gives the Town authority to require improvements to municipal streets, as follows:

A city may only require street improvements related to schools that are required for safe ingress and egress to the municipal street system and that are physically connected to a driveway on the school site.

9. The site would be served with access through Thriftwood Drive and Derry Down Lane, located on property owned by Briartac Family, LLC, by way of Stephenson Road.
10. The Applicant, on or about December 23, 2020, filed a Complaint in Wake County Superior Court seeking a Declaratory Judgment declaring that Derry Down Land and Thriftwood Drive are public road rights-of-way
11. Since Thriftwood Drive, Derry Down Lane, and Stephenson Road are not municipal roads, according to G.S. §160A-307.1 Apex does not have the authority to require improvements on those roads or on any of the surrounding state-maintained roads. However, Apex staff did provide a summary of recommendations for offsite roadway improvements on state-maintained roads, both as recommended in the applicant’s traffic impact analysis and as recommended by Apex staff based on UDO Sec. 13.19.
12. The applicant provided a traffic impact analysis with recommended road improvements on state-maintained roads including turning lanes at intersections within the study area. However, in

**FINDINGS OF FACT AND CONCLUSIONS OF LAW FOR
FELTON GROVE HIGH SCHOOL MAJOR SITE PLAN**

accordance with NCDOT making no recommendations for turning lanes to be constructed on state-maintained roads as part of the proposed project, the applicant did not incorporate the recommended turning lanes in the Major Site Plan. However, the applicant did propose to upgrade both Derry Down Lane and Thriftwood Drive to Access Road standards, including resurfacing and shoulder/ditch improvement, to be eligible for NCDOT to accept into the state-maintained road system.

13. Mark Cumalander, the owner of Briarwood Farms COSD mobile home park, testified that the construction and operation of Felton Grove High School, as contemplated in the proposed site plan, would be incompatible with his neighboring property and its use as a mobile home park because the traffic impacts from the high school would unduly burden the residents of this neighborhood.

CONCLUSIONS OF LAW

In light of the findings of fact, the Town Council makes the following conclusions of law:

1. The Applicant submitted a completed application for the major site plan for the Felton Grove High School;
2. Competent, material, and substantial evidence establishing that the site plan meets all of the standards for major site plans provided in UDO Sec. 2.3.6.E.2 was not presented.
3. The development proposed in the site plan and its general location is not compatible with the character of surrounding land uses;
4. The development and uses in the site plan comply with Sec. 4.4 *Supplemental Standards*;
5. The development proposed in the site plan and its general layout and design comply with all appropriate standards in Article 8: *General Development Standards*;
6. The site plan does not propose anything that would be inconsistent with the requirements of Sec. 8.1.4 *Slope Protection Standards*;
7. The development proposed in the site plan conforms to the requirements of Sec. 7.4., *Dedication of ROW for Thoroughfare Streets and Highways*;
8. The development proposed in the site plan conforms to the requirements of Sec. 7.5 *Required Improvements*;
9. The development proposed in the site plan and its general layout and design comply with all other relevant standards of this Ordinance;
10. The development proposed in the site plan does not have a significant adverse impact on potable water and wastewater facilities, parks, police, fire, and EMS facilities. It does have a significant adverse impact on surrounding roads, including, but not limited to, Stephenson Road, Derry Down Lane, and Thriftwood Drive;
11. The application and site plan do not meet the standards for major site plans stated in Sec. 2.3.6.E.2;
12. The Applicant is not entitled in law and in fact to the approval of the major site plan for the Felton Grove High School.

**FINDINGS OF FACT AND CONCLUSIONS OF LAW FOR
FELTON GROVE HIGH SCHOOL MAJOR SITE PLAN**

DECISION

Based upon the above findings of fact and conclusions of law, the Apex Town Council hereby denies the major site plan for the Felton Grove High School.

These Findings of Fact, Conclusions of Law and Decision, shall constitute written documentation of Town Council's denial of the major site plan for the Felton Grove High School.

THE TOWN OF APEX

By: _____

Jacques K. Gilbert
Mayor

(Corporate Seal)
ATTEST:

Donna B. Hosch, MMC, NCCMC, Town Clerk

STATE OF NORTH CAROLINA
COUNTY OF WAKE

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

Witness my hand and official stamp or seal, this _____ day _____, 2021.

[Signature of Notary Public]

My Commission Expires: _____

| Agenda Item | cover sheet

for consideration by the Apex Town Council

Item Type: CONSENT AGENDA

Meeting Date: May, 25 2021

Item Details

Presenter(s): Mary Beth Manville, Human Resources Director

Department(s): Human Resources

Requested Motion

Motion to approve revisions to the Town's Drug & Alcohol Testing Policy

Approval Recommended?

Yes

Item Details

The Town's Drug & Alcohol Policy was last updated in 2015. Since that time, new policy language and training requirements have been released from the Federal Motor Carrier Safety Administration (FMCSA), resulting in the need to update the Town's existing policy. Additionally, discussions with the Town's leadership team supports expanding the policy's random testing program to include safety-sensitive positions and moving to a "zero-tolerance" policy, in regard to illegal drug use and alcohol use while on the job.

FMCSA Requirements

Many of the Town's positions require a Commercial Drivers License to operate equipment needed to perform the job. The Federal Motor Carrier Safety Administration requires employers to provide certain information to employees who are Commercial Drivers (CDL and CLP holders), and to obtain a signed acknowledgement from the Commercial Driver, stating that they have received the information. The required information and acknowledgement form have been added as an appendix to the revised policy.

Random Testing for Safety Sensitive Positions

Historically, the Town has only conducted random drug & alcohol testing for positions that require a Commercial Drivers License (CDL), in accordance with FMCSA regulations. The revised policy adds a new "Safety Sensitive" category of positions that will now be subject to random drug and alcohol testing, due to the nature of their duties and the elevated risk of harm to the public, should a mistake occur. Random drug testing for this safety sensitive category will be conducted at a rate of no less than 25% per year and

random alcohol testing at a rate of no less than 10% per year (ex: if a department has 100 employees who perform safety sensitive duties, a minimum of 25 will be randomly selected over the course of the year to submit to drug testing, and a minimum of 10 will be selected for alcohol testing).

The first two groups of positions that will be added to the random testing pool will be Fire Suppression and Sworn Police positions. These positions are included in the random testing pool in many neighboring municipalities, and on-site testing protocols have been put into place to reduce the disruption to the work day and increase the privacy of those being randomly tested.

The Town will continue to review other positions for safety-sensitive classification and may add additional positions to the random testing pool in the future. When new positions are determined to be safety sensitive, employees holding those positions will be given 30 days' advance notice, prior to being added to the random testing pool.

Zero-Tolerance Policy

The Town's Drug & Alcohol policy revision includes a "zero-tolerance" position toward illegal drug and alcohol abuse/misuse. This means that, if an employee tests positive for illegal drugs or tests positive for the presence of alcohol while on the job, the result would be termination of employment for the employee. While we understand the significance of taking this stance, we are committed to providing a safe working environment for our employees and the citizens they serve, and hope that communicating the zero-tolerance position to our employees will help reduce the likelihood of drug and/or alcohol misuse. The zero-tolerance position would only apply to drug tests resulting in a "positive" for illegal drugs or the presence of alcohol. Employees who come forward voluntarily seeking help for a drug or alcohol abuse problem - prior to be called for a drug test - will not be subject to the zero-tolerance policy and the Town would work with that employee to find resources to help them. It is also worth noting that employees who may be taking a drug that has been prescribed to them by a doctor would not be considered a "positive" drug test and would therefore not be subject to the zero-tolerance policy.

Other Updates & Next Steps

The policy revisions also include less significant updates, such as clarification of when an employee is required to notify their supervisor of prescription medication use, and a section of "policy prohibitions" that provides a list of specific actions that would violate the drug and alcohol policy.

If the Personnel Committee approves these changes, the updated policy would be presented to Town Council for approval, and made effective 30 days after all employees have been trained on the new revisions. The training would cover conditions on when an employee may be subject to drug testing, procedures when a drug test occurs, and the Town's zero-tolerance position against illegal drug and

alcohol use. We would also include information on how to seek help if an employee has a substance abuse problem, and resources available to them.

This item was originally presented to the Personnel Committee on January 28, 2021. Updates have been made to include language related to support for those who suffer from substance misuse or substance abuse disorders and the resources available to them. The updated policy was presented to the Personnel Committee on May 19, 2021 and unanimously approved.

Attachments

- Drug and Alcohol Policy Revisions 2021



Town of Apex Administrative Policy and Procedure Drug and Alcohol Policy		Administrative Policy Number: 100
		Effective: 11/1/2020
		Supersedes: 11/17/2015
		Prepared by: Mary Beth Manville, HR Director
		Approved by: Apex Town Council
Section	Title	Page Number
I.	Introduction	1
II.	Purpose	2
III.	Scope of Drug and Alcohol Testing	2
IV.	Conditions for Testing	2
V.	Positive Test Results	4
VI.	Use and Reporting of Prescription Medications	5
VII.	Voluntary Referrals for Assistance	6
VIII.	Mandatory Referrals for Assistance	6
IX.	Alcohol and Drug-Related Offense Convictions	7
X.	Training	7
XI.	Policy Prohibitions	7
Appendix A	Town of Apex Safety Sensitive Positions	9
Appendix B	Observed Behavior-Reasonable Suspicion	11
Appendix C	Commercial Driver Supplement-Additional Information, Questions and Answers	12
Appendix D	General Consent for Queries of the Federal Motor Carrier Safety Administration Drug and Alcohol Clearinghouse	18
Appendix E	Certification of Receipt of Policy	19

I. Introduction

The Town of Apex is committed to maintaining a safe and productive working environment for both its employees and citizens. In support of this commitment, the Town has developed this Drug and Alcohol Policy in compliance with North Carolina Drug Testing Acts, N.C. Gen. Stat. §§ 95-230 to 95-235; N.C. Admin Code tit.13, r. 20.0100 to 20.0602, and the Fourth Amendment to the United States Constitution as it covers employees of governmental entities. This policy applies to all Town of Apex employees is a condition of hire and continued employment.

For the safety of its employees and citizens, the Town will not allow the abuse of drugs or alcohol in the workplace and prohibits the use of illegal drugs by its employees both on and off the job. Drug or alcohol abuse affects work performance, workplace safety, and the public's safety. Town of Apex employees have the right to come to work without fear of interacting with someone under the influence of drugs or alcohol. For that reason, the Town of Apex has zero-tolerance* for drug or alcohol possession or use as described in this policy, and a verified violation of the policy will result in termination from employment by the Town of Apex. In these cases, the town will remain committed to helping the employee find resources for drug or alcohol misuse, should they request assistance.

****A note on substance use disorders***

The Town is committed to helping those who may struggle with substance misuse or have a substance abuse disorder, and can connect employees to resources for help. While it is necessary for the Town to implement policies such as this to maintain a safe working environment and ensure the safety of our employees, the zero-tolerance provision does not apply to those who come forward voluntarily for substance misuse help, prior to being called for a drug/alcohol test or determined to be under the influence of drugs or alcohol.

If you think you may have a substance abuse problem, we encourage you to voluntarily and confidentially contact HR for assistance in getting connected to resources, or call 1-800-662-HELP (4357) to reach the Substance Abuse and Mental Health Services Administration (SAMHSA) National Helpline.

More information on voluntarily requesting help can be found in section VII. Voluntary Referrals for Assistance.

II. Purpose

The purpose of the drug and alcohol policy is to:

1. Identify requirements and actions necessary to eliminate drug abuse and alcohol misuse in the Town of Apex.
2. Ensure full compliance with Federal requirements for establishing a drug-free workplace.
3. Identify when, and under what conditions, Town employees are subject to drug and alcohol testing.
4. Identify when employer notification is required for the use of legally prescribed medications.

Note: Exceptions to this policy apply for Police Officers acting in accordance with their official duties.

III. Scope of Drug and Alcohol Testing

All candidates who have been offered employment with the Town are subject to post-offer pre-employment drug testing. Additionally, all regular employees and limited service employees are subject to:

- reasonable suspicion testing
- return to duty testing
- follow-up testing
- post-accident testing

In addition to the above tests, employees with assignments considered Safety Sensitive are required to participate in random alcohol testing and/or random drug testing. Employees with Safety Sensitive assignments are those:

- who possess a Commercial Driver's License (CDL) or Commercial Learner's Permit (CLP), are assigned commercial vehicle driving responsibilities for the Town of Apex, and who are covered under Federal Motor Carrier Safety Administration (hereafter-- FMCSA) drug and alcohol testing regulations.
- whose duties have responsibilities considered by Town of Apex management to be Safety Sensitive. Refer to [Appendix A--Town of Apex Safety Sensitive Positions](#). . (Updates are maintained and available from the HR Department)

IV. Conditions for Testing

Pre-employment Testing

After an offer of employment has been made to the final candidate, the applicable Department directs the applicant to the drug testing collection site and receives notification of the test result. Applicants are not eligible to begin work until the Department receives the negative test result.

Additionally, for commercial drivers:

Under FMCSA regulations a DOT pre-employment drug test must be administered if there is a lapse of more than 30 days when the driver is not registered in a DOT random pool.

Reasonable Suspicion

The Town of Apex may require that an employee undergo drug and alcohol testing when, in the opinion of the Human Resources Director or Safety and Risk Manager and the Department Director and/or the supervisor of the affected employee, there is a reasonable suspicion that the employee

may be under the influence of alcohol or controlled substances. The determination to test for reasonable suspicion must be based on the following:

- first hand observations seen or heard by supervisors or Department Directors
- specific, clearly stated observations concerning the appearance, behavior, speech or body odor of the employee
- observations made just before, during, or just after the performance of job duties
- citation or arrest for a drug-related offense if the employee is in a safety-sensitive position, or when citation or arrest is in combination with other factors considered in reasonable suspicion testing

A reasonable suspicion alcohol test should be done within 2 hours of the observed behaviors. If a test cannot be done within 8 hours, it should not be done. A reasonable suspicion controlled substance test should be done no later than 32 hours from the observed behavior and appearance or as soon as possible if reasonable suspicion testing results from a drug-related citation or arrest. If a reasonable suspicion test cannot be conducted within the specified time frame, the reasons for the failure to test should be documented by the supervisor and given to the Safety and Risk Manager.

An employee who is required to submit to reasonable suspicion testing will be driven to the testing site and will be placed on a non-disciplinary suspension pending the test results. An employee who refuses to submit to reasonable suspicion testing or avoids meeting the specified time limits will be considered to have a positive result and their employment will be terminated.

Random Testing

Unannounced random tests for commercial drivers will follow requirements of FMCSA drug and alcohol testing regulations. For other Safety Sensitive employee categories, the annual number of unannounced random tests will total no less than 25% of the total number of Safety Sensitive employees in each Department.

The Town of Apex contracts with a third party administrator (TPA) to generate the random test lists and the Human Resources Department coordinates with the TPA to establish the locations and times for the tests.

Upon receipt of notice to appear for a random drug or alcohol test, employees must immediately proceed to the designated test site to complete the screening. Failure to report immediately to the test site will be considered a refusal to test and employment will be terminated.

Post-Accident Testing

Post-accident testing is conducted following any accident involving a Town employee if any one of the following conditions is met:

- A fatality occurs as the result of the accident.
- An individual involved in the accident requires transport or medical treatment at the hospital emergency department. (Exceptions: Non-motor vehicle related, line of duty injuries incurred during emergency responses by Police or Fire and judged by the Department Director and Safety and Risk Manager or HR Director to be the result of unforeseeable or uncontrollable circumstances.)
- The driver of a motor vehicle was cited for a moving traffic violation and a vehicle involved in the accident was disabled to the extent that it must be towed.

Post-accident alcohol testing should be done within 2 hours of the accident. If the test cannot be performed within 8 hours, it should not be done. Post-accident drug testing must be performed within 32 hours of the accident, or it should not be done. If the tests cannot be performed in the specified time frame, the reasons for the failure to test should be documented by the supervisor and reported to the Safety and Risk Manager

An employee who is required to submit to Post-Accident testing will be driven to the testing site and will be removed from performing safety sensitive functions pending the test results. An employee who refuses to be tested or avoids meeting the specified time limits will be considered as having a positive test result and employment will be terminated.

Return to Duty and Follow-Up Testing

Return to Duty and Follow-Up Testing may be authorized and required on a case by case basis. If approved by management, and upon recommendation of the substance abuse professional, an employee who has violated this policy may have an option to complete a substance abuse program to return to work.

Return to Duty drug and/or alcohol testing must be conducted prior to the employee returning to work.

Follow-Up drug and/or alcohol testing is required once the employee successfully completes the prescribed substance abuse or alcohol abuse requirements and returns to work. Follow-up tests will be conducted on an unannounced basis as prescribed by the substance abuse professional.

V. Positive Test Results

Alcohol Tests

A breath alcohol level of 0.04 or higher as measured by a breath alcohol test administered by a technician certified to operate the testing device, is considered a positive alcohol test. A positive breath alcohol test for any on-duty Town of Apex employee will result in the employee's immediate placement on unpaid administrative leave pending determination of disciplinary action up to and including termination from employment with the Town of Apex. If a breath alcohol concentration is .02 or greater but less than .04, the employee must be removed from the work place for a 24-hour period and is subject to disciplinary action up to and including dismissal. Any future incidence of a breath alcohol concentration of .02 or greater, within a three year period, will result in the employee's termination from employment with the Town of Apex.

For commercial drivers; additionally:

Under FMCSA regulations, a breath alcohol test level of 0.039 or greater requires a confirmation test. Confirmation tests are completed no sooner than 15 minutes after the initial screening test, but no later than 30 minutes after that test. If the screening and confirmation tests are not the same, the confirmation test is deemed to be the final result.

Positive alcohol tests from on-duty employees assigned as commercial drivers (CDL or CLP holders) must be reported to NCDOT and the FMCSA Clearinghouse, and results in the loss of the commercial driver's license.

Drug Tests

Drug tests are performed for at least the following types of drugs:

- Marijuana
- Cocaine
- Opiates
- Phencyclidine (PCP)
- Amphetamines

Drug testing for Law Enforcement Officers, Telecommunicators, Evidence Clerk, and Commercial Drivers must be by urinalysis. Drug tests for all other employees may be urinalysis or other screening method approved by management.

Drug tests requiring an employee to provide a urine specimen will be conducted at an approved collection facility or may be conducted onsite by a certified collector. The collection, analysis, and reporting processes are strictly controlled to ensure accuracy of test results and maximum confidentiality.

Every specimen undergoes an initial screening followed by a confirmation test for all positive screening results. Any confirmed positive test result is reviewed and interpreted by a Medical Review Officer (MRO). The MRO will contact the employee to ensure no factors exist that may have influenced the outcome of the testing process prior to transmission of the results to the Town. The MRO is responsible for confirming test results. A confirmed positive test result for any Town of Apex employee will result in the employee's termination from employment.

For commercial drivers and CDL or CLP applicants; additionally:

Confirmed positive drug tests from on duty employees assigned as commercial drivers (CDL or CLP holders), and from CDL or CLP applicants must be reported to NCDOT and the FMCSA Clearinghouse, and results in the loss of the commercial driver's license.

For Telecommunicators, Law Enforcement Officers, and Applicants for Telecommunications or Law Enforcement positions; additionally:

Confirmed positive drug tests must be reported to the North Carolina Sheriffs' Standards Commission or the North Carolina Criminal Justice Standards Division as applicable, and may result in the loss of certification as a criminal justice officers.

Refusal to test

An employee's refusal to consent to testing as directed under this policy is considered a positive test and will result in the employee's termination from employment.

Attempting to defraud a drug or alcohol test

The use or attempted use of an adulterant (anything added to a specimen to attempt to hide drug use), substitution of a specimen, or attempt to substitute a specimen is considered a refusal to test and a violation of this Policy. Any employee who is found to have violated this Policy by attempting to defraud a drug or alcohol test will be terminated for willful misconduct, or withdrawn from consideration for a job offer.

Defrauding drug and alcohol screening tests; penalty. N.C. Gen. Stat. § 14-401.20.

In NC it is unlawful for a person to:

- (1) sell, give away, distribute, market, or transport urine with the intent of using the urine to defraud a drug or alcohol screening test;
- (2) attempt to defraud a drug or alcohol test by substituting or adulterating a sample, or the advertising substitute samples or adulterants;
- (3) adulterate a test sample with the intent to defraud a drug or alcohol test; or
- (4) possess or sell adulterants which are intended to be used to adulterate a test sample for the purpose of defrauding a drug or alcohol screening test.

Individuals convicted under this law are guilty of a Class 1 misdemeanor for the first offense, and a Class 1 felony for a second or subsequent offence.

VI. Use and Reporting of Prescription Drugs, Medications, and other Chemical Substances

All employees are responsible for having a thorough understanding of the effects and potential side effects of medications or other chemical substances they are taking. Any employee taking prescription-medications that may impair their ability to safely perform their job duties, and who works in a safety sensitive position, or who has duties requiring them to operate a motor vehicle, power tools, machinery or equipment; or who participates in confined space entry operations, traffic control or work zone operations, or is exposed to electrical or fall hazards shall inform their supervisor of their medication usage and may be required to provide a doctor's note addressing specific limitations while taking the impairing medication. With regard to reporting medication usage to a supervisor, narcotic/opioid prescription usage is of primary concern and should always be reported, however other medication usage that causes the employee to be drowsy, inattentive, faint, or careless should also be reported to the supervisor. All medications should be taken at their prescribed dosage.

If such medication use is not disclosed pre-duty and the employee tests positive for the impairing effect medication, the employee will be immediately placed on unpaid administrative leave pending

determination of disciplinary action up to and including termination from employment with the Town of Apex.

Any documentation of an employee's notification to their supervisor of drug or substance use shall be maintained in a secured medical file separate from the employee's personnel file. With the approval of the Department Director, an employee may be temporarily reassigned to other duties if their use of a medication has potential to impair safe performance of their normal job duties.

No employee shall report for duty or remain on duty when using any illegal drug or substance including those identified in [21 CFR 1308.11 Schedule I](#). Schedule 1 substances are identified by the US Drug Enforcement Administration as having no currently accepted medical use and having a high potential for abuse. Possession or use of Schedule 1 substances is illegal under Federal law. Schedule 1 substances include, depressants, stimulants, hallucinogenics, and opiates.

Additionally, for Commercial Drivers employed by the Town of Apex to drive a commercial vehicle(s):

- No commercial driver shall report for duty or remain on duty requiring the performance of safety-sensitive functions when the driver uses any non-Schedule I drug or substance that is identified in the [other Schedules in 21 CFR part 1308](#) (other Schedules in 21 CFR 1308 also include, depressants, stimulants, hallucinogenics, and opiates), except when the use is pursuant to the instructions of a *licensed medical practitioner*, who is familiar with the driver's medical history and has advised the driver that the substance will not adversely affect the driver's ability to safely operate a commercial motor vehicle; and operation of the motor vehicle is approved by management. (As defined in § 382.107, a *licensed medical practitioner* means a person, who is licensed, certified, and/or registered, in accordance with applicable Federal, State, local, or foreign laws and regulations, to prescribe controlled substances and other drugs.)
- No employer having actual knowledge that a driver has used a controlled substance shall permit the employee or driver to perform or continue to perform a safety-sensitive function unless specifically authorized by a *licensed medical practitioner* and approved by management as listed above.

VII. Voluntary Referrals for Assistance

The Town is committed to helping those who may struggle with substance abuse or have a substance abuse disorder, and can connect employees to resources for help. If you think you may have a substance abuse problem, you can voluntarily and confidentially contact HR for assistance in getting connected to resources, or call 1-800-662-HELP (4357) to reach the Substance Abuse and Mental Health Services Administration (SAMHSA) National Helpline.

The Town's Employee Assistance Program is also a confidential resource that is available to employees who may need help. Counseling and rehabilitation for alcohol or substance abuse is available through the Town's EAP program. The Town's health plan may cover certain costs associated with counseling or rehabilitation, however, any additional costs are the employee's responsibility.

It is important to note that, although the Town encourages employees who may have a drug or alcohol problem to voluntarily seek help, coming forward after being notified to report for drug or alcohol testing is not considered a voluntary admission of needing help, and testing results will be subject to the zero-tolerance provisions of this policy.

VIII. Mandatory Referrals for Assistance

An employee who has voluntarily disclosed a drug or alcohol problem and who has not been dismissed shall be required as a condition of continued employment to undergo a drug and alcohol

assessment and participate in a treatment program as recommended by a Town of Apex approved assessing agency.

The Town of Apex respects the right of any employee to refuse assistance for a drug or alcohol problem. However, the Town maintains the right and responsibility for taking disciplinary action regarding alcohol and substance abuse and for protecting the public's safety.

IX. Alcohol and Drug-Related Offense Convictions

An employee who has been cited or convicted of a drug or alcohol-related offense must report the citation or conviction to the supervisor immediately. Any drug or alcohol-related conviction which could directly or indirectly affect the employee's credibility or ability to effectively carry out the duties and responsibilities of their position will be reviewed by the Town Manager and may result in disciplinary action up to and including termination.

X. Training

1. Supervisors of commercial drivers will be trained to recognize behaviors that may indicate drug and alcohol abuse and how to take appropriate referral action. In addition, employees will be provided with information regarding the effects of alcohol and controlled substances in the body including the impact on work performance and resources for assistance.
2. Commercial Drivers must receive training information contained in Appendix C of this policy, and must sign and return the certificate attesting to their receipt of the information to the Safety and Risk Manager.
3. FMCSA requires newly hired and re-activated commercial drivers, and current employees in the process of obtaining a commercial driver's license, to create an account on the FMCSA Clearinghouse website. It further requires the employer (TOA) to query the employee's account, prior to the employee driving a commercial vehicle, to verify the employee is not prohibited from driving a commercial vehicle due to unresolved drug or alcohol violations. Additionally, CDL (Commercial Driver's License) and CLP (Commercial Learner's Permit) holders must sign an authorization (Appendix D following) allowing the Town of Apex to query their driver's license annually on the Clearinghouse website. Refusal to sign the authorization will disqualify the driver from operating a commercial vehicle and result in termination of employment.

XI. Policy Prohibitions

1. With respect to illegal drug use, abuse, or possession whether on or off duty, employees are subject to disciplinary action up to and including termination or rejection of their application for employment. The following actions will result in termination or removal from employment consideration with the Town of Apex:
 - a. Testing positive on a confirmed drug or alcohol test, or refusing to be tested.
 - b. Bringing and/or storing illegal drugs or drug paraphernalia on Town premises or property, including in a desk, locker, personal or Town owned or leased motor vehicle, or other repository,
 - c. Having possession of, being under the influence of, testing positive for, or otherwise having in one's system, illegal drugs or medications for which the employee does not have a valid prescription.
 - d. Using, consuming, transporting, distributing or attempting to distribute, manufacturing, selling, or dispensing illegal drugs or medications.
 - e. Being convicted of, or entering a plea of guilty or no contest to any controlled substance offense. (The employee must notify their supervisor immediately of any controlled substance related arrest, conviction, charge, deferred adjudication, or deferred prosecution.)

- f. Abuse of prescription drugs which includes exceeding the recommended prescribed dosage or using other's prescribed medications. (Prescription medications brought to work should remain in the original labeled container and show both the prescribing doctor's name and the prescription's expiration date.)
 - g. Switching, tampering with, diluting, or adulterating any drug test specimen or sample collected under this Policy, or attempting to do so.
 - h. Refusing to cooperate with the terms of this Policy, including drug testing and submitting to questioning. (A refusal to test includes conduct obstructing testing such as failure to sign necessary paperwork or failing to report to the collection site at the appointed time.)
 - i. Failure to advise the supervisor or manager of the use of prescription or over-the-counter drugs which may alter the employee's ability to safely perform the essential functions of their job.
 - j. Failure to notify the supervisor before reporting to work if the employee believes they may be impaired by their use of drugs (prescription drugs or other).
 - k. Use of hemp products that result in a THC positive drug test, ex: CBD oil. (The Town will not consider the use of hemp products a valid medical explanation for a THC positive test result.)
2. With respect to alcohol use, abuse, or possession, employees are subject to disciplinary action up to and including termination or rejection of their application for employment. The following actions will result in termination or removal from employment consideration with the Town of Apex:
- a. Bringing and/or storing alcohol in an open or unsealed container on Town premises or property, including in a desk, locker, or Town owned or leased motor vehicle, or other repository. (Except beer, wine, or spirits in a sealed container intended as a gift to a coworker for off duty/off premises consumption may be temporarily stored in a secure location in office areas only, or may be lawfully stored in the employee's personal motor vehicle.)
 - b. Being under the influence, testing positive, or having alcohol in one's system while on duty. (Commercial Drivers--alcohol may not be consumed during the four (4) hours prior to your scheduled start time),
 - c. Using, consuming, distributing or attempting to distribute, selling, or dispensing alcohol while in the workplace or on Town property.
 - d. Switching, tampering with, or adulterating any test specimen or sample collected under this Policy, or attempting to do so.
 - e. Refusing to cooperate with the terms of this Policy including alcohol testing and submitting to questioning. (A refusal to test includes conduct obstructing testing such as failure to sign necessary paperwork or failing to report to the collection site at the appointed time.)
 - f. Consuming alcohol within 8 hours following an accident requiring a post-accident alcohol test, or prior to a post-accident test, whichever occurs first.
 - g. Receiving a conviction or pleading guilty to any criminal alcohol offense, or receiving a temporary or permanent suspension of a driver's license due to an alcohol-based arrest. (The employee must notify their supervisor immediately of any alcohol related arrest, conviction, charge, deferred adjudication, or deferred prosecution.
 - h. Failure of an employee to notify their supervisor before reporting to work if they believe they may be under the influence of alcohol.

APPENDIX A

Town of Apex Safety Sensitive Positions

Following is a list of safety sensitive positions. These positions were determined to be safety sensitive due to their specific job duties. The Town reserves the right to evaluate the list of safety sensitive positions and to modify, update or otherwise change the designations. Drivers of Town of Apex Commercial Vehicles are considered safety sensitive whether or not their position is specifically listed in Appendix A.

Safety Sensitive Job Classifications	
Fire Department Assistant Fire Chief Deputy Fire Marshall Fire Battalion Chief Fire Captain Fire Chief Fire Engineer Fire Inspector Fire Lieutenant Fire Marshall Fire Training Coordinator Firefighter Senior Firefighter	Police Department Telecommunicators of any position Police Officers of any rank Evidence Clerk
Commercial Drivers (CDL and CLP holders)	
Electric Utilities Department Electric Line Technician Apprentice Powerline Right Of Way Technician Powerline Arborist Powerline Arborist Trainee Electrical Operations Manager Journeyman Electric Line Technician I, II, III Electric Crew Field Supervisor Electric Technical Services Supervisor Electric Training and Safety Specialist	Public Works Operations Solid Waste Equipment Operator Field Crew Supervisor Supervisor Street Maintenance Field Crew Supervisor Heavy Equipment Operator Maintenance Technician Maintenance Technician, Senior Sign Technician Sign Worker Supervisor
Facility Services Grounds Crew Field Supervisor Grounds Maintenance Technician Fleet Services Fleet Services Mechanic Fleet Services Supervisor Senior Fleet Services Mechanic	Public Works Water Resources Sewer Maintenance Collection System Supervisor Pump Maintenance Supervisor Pump Maintenance Mechanic Water Maintenance Heavy Equipment Operator Senior Utility Maintenance Worker Utility Maintenance Worker Utility Crew Field Supervisor Utility Crew Field Supervisor Utility Technician

	Utility Maintenance Supervisor Water Quality Supervisor
Park Maintenance Parks Operations Supervisor (if CDL) Parks Operations Team Leader (if CDL)	Water Reclamation Facility Water Reclamation Facility Operator/Mechanic Water Reclamation Facility Team Leader

Appendix B

OBSERVED BEHAVIOR – REASONABLE SUSPICION

Employee: Name: _____

Department: _____

Observation: Date: _____ Time: (from _____ am/pm to _____ am/pm)

Location: _____

1. PRESENCE of Alcohol, Drugs, or related Paraphernalia
(Specify): _____

- 2. APPEARANCE:**
- | | | |
|---|--|---|
| <input type="checkbox"/> Normal | <input type="checkbox"/> Flushed | <input type="checkbox"/> Puncture marks |
| <input type="checkbox"/> Disheveled | <input type="checkbox"/> Bloodshot eyes | <input type="checkbox"/> Tremors |
| <input type="checkbox"/> Profuse sweating | <input type="checkbox"/> Runny nose | <input type="checkbox"/> Dry mouth symptoms |
| <input type="checkbox"/> Pupils dilated/constricted | <input type="checkbox"/> Inappropriate wearing of sunglasses | |
| <input type="checkbox"/> Other _____ | | |

3. BEHAVIOR:

- Speech:
- | | | | |
|--------------------------------------|-------------------------------------|-------------------------------------|---------------------------------|
| <input type="checkbox"/> Normal | <input type="checkbox"/> Incoherent | <input type="checkbox"/> Slurred | <input type="checkbox"/> Silent |
| <input type="checkbox"/> Confused | <input type="checkbox"/> Slowed | <input type="checkbox"/> Whispering | |
| <input type="checkbox"/> Other _____ | | | |

- Awareness:
- | | | | |
|--------------------------------------|-----------------------------------|--------------------------------------|---|
| <input type="checkbox"/> Normal | <input type="checkbox"/> Confused | <input type="checkbox"/> Mood swings | <input type="checkbox"/> Euphoria |
| <input type="checkbox"/> Lethargic | <input type="checkbox"/> Paranoid | <input type="checkbox"/> Disoriented | <input type="checkbox"/> Lack of coordination |
| <input type="checkbox"/> Other _____ | | | |

4. MOTOR SKILLS:

- Balance:
- | | | | |
|--------------------------------------|----------------------------------|----------------------------------|-------------------------------------|
| <input type="checkbox"/> Normal | <input type="checkbox"/> Swaying | <input type="checkbox"/> Falling | <input type="checkbox"/> Staggering |
| <input type="checkbox"/> Other _____ | | | |

- Walking and Turning:
- | | | |
|--------------------------------------|----------------------------------|--|
| <input type="checkbox"/> Normal | <input type="checkbox"/> Swaying | <input type="checkbox"/> Arms raised for balance |
| <input type="checkbox"/> Stumbling | <input type="checkbox"/> Falling | <input type="checkbox"/> Reaching for support |
| <input type="checkbox"/> Other _____ | | |

5. ODORS: ☐ Alcohol and/or ☐ Marijuana odor in the immediate vicinity of the person

OTHER OBSERVED ACTIONS OR BEHAVIOR (Specify): _____

Witnessed by:

(Signature) (Title) (Date) (Time) am/pm

[Appendix C](#)

Commercial Driver Supplement to the Town of Apex

Drug and Alcohol Policy Q and A

As required by Federal Motor Carrier Safety Administration regulations, this information is provided to Town of Apex (TOA) employees assigned to operate commercial motor vehicles.

- (1) Who is designated to answer questions about the TOA Drug and Alcohol Policy and supplemental information?

The HR Director, HR Manager, or the Safety and Risk Manager are designated to answer questions about the Policy and Supplement.

- (2) What categories of drivers are subject to the provisions of this FMCSA regulation part?

All CDL and all CLP holders whose job specifications or assignments require the operation of commercial vehicles for the TOA.

- (3) What period of the work day is the driver required to be in compliance with FMCSA drug and alcohol regulations?

Whenever a driver is on duty they are required to be free from drugs and alcohol. Within 4 hours of reporting for duty a driver must not consume any alcohol. "On Call" personnel may not report to duty within 4 hours of consuming alcohol.

- (4) What drug or alcohol related conduct is prohibited by FMCSA?

A. Alcohol concentration.

No driver shall report for duty or remain on duty requiring the performance of safety-sensitive functions while having an alcohol concentration of 0.02 or greater.

B. On-duty use.

No driver shall use alcohol while performing safety-sensitive functions.

C. Pre-duty use.

No driver shall perform safety-sensitive functions within four hours after using alcohol.

D. Use following an accident.

No driver required to take a post-accident alcohol test required by FMCSA rules shall use alcohol for eight hours following the accident, or until he/she undergoes a post-accident alcohol test, whichever occurs first.

E. Refusal to submit to a required alcohol or controlled substances test.

No driver shall refuse to submit to a controlled substance or alcohol test required under FMCSA regulations including pre-employment, post-accident, random, reasonable suspicion, or other test.

F. Controlled substance use (FMCSA §382.213).

(i) No driver shall report for duty or remain on duty requiring the performance of safety sensitive functions when using any drug or substance identified in 21 CFR 1308.11 Schedule I. ("Schedule 1 Controlled Substances" are those considered to have a high potential for abuse and have no currently accepted medical use in treatment in the United States.)

(ii) No driver shall report for duty or remain on duty requiring the performance of safety- sensitive functions when the driver uses any non-Schedule I drug or substance that is identified in the other Schedules in 21 CFR part 1308 except when the use is pursuant to the instructions of a licensed medical practitioner, as defined in §382.107, who is familiar with the driver's medical

history and has advised the driver that the substance will not adversely affect the driver's ability to safely operate a commercial motor vehicle. And operation of the motor vehicle is approved by management.

Note: Under FMCSA regulations §382.213 (d), "An employer may require a driver to inform the employer of any therapeutic drug use."

(5) What are the circumstances under which a commercial driver will be tested for alcohol and/or controlled substances?

Commercial drivers are subject to:

- A. Pre-employment drug testing—verification of negative drug test results are required prior to the operation of a commercial motor vehicle or if there is a lapse of more than 30 days when the driver is not registered in a DOT random pool.
- B. Random drug and alcohol testing—commercial drivers are subject to random testing throughout their employment as commercial drivers.
- C. Reasonable Suspicion drug or alcohol testing—commercial drivers are subject to drug and alcohol testing when in the opinion of the Human Resources Director or Safety and Risk Manager and the department head and/or the supervisor of the affected employee, there is a reasonable suspicion that the employee may be under the influence of alcohol or controlled substances. The determination to test for reasonable suspicion must be based on the following:
 - first hand observations seen or heard by supervisors or department heads
 - specific, clearly stated observations concerning the appearance, behavior, speech or body odor of the employee
 - observations made just before, during, or just after the performance of job duties
 - citation or arrest for a drug-related offense if the employee is in a safety-sensitive position, or when citation or arrest is in combination with other factors considered in reasonable suspicion testing
- D. Post Accident testing as defined in the TOA Drug and Alcohol Policy:
Post-accident testing is conducted following any accident involving a Town employee if any one of the following conditions is met:
 - A fatality occurs as the result of the accident.
 - An individual involved in the accident requires transport or medical treatment at the hospital emergency department.
 - The driver of a motor vehicle was cited for a moving traffic violation and a vehicle involved in the accident was disabled to the extent that it must be towed.

Note: Post-Accident and Reasonable Suspicion alcohol testing should be done within 2 hours of the accident or observed behavior. If the test cannot be performed within 8 hours, it should not be done.

Post-Accident and Reasonable Suspicion drug testing must be performed within 32 hours of the accident or observed behavior or it should not be done. If the tests cannot be performed in the specified time frame, the reasons for the failure to test should be documented by the supervisor and given to the Safety and Risk Manager. An employee who is asked to submit to Post-Accident or Reasonable Suspicion testing will be driven to the testing site and will be placed on a non-disciplinary suspension pending the test results. An employee who refuses to be tested or avoids meeting the specified time limits will be considered as having a positive test result and employment will be terminated.

- E. Return to Duty and Follow-Up Testing may be authorized and required on a case by case basis. If approved by management, and upon recommendation of the substance

abuse professional, an employee who has violated this policy may have an option to complete a substance abuse program to return to work.

Return to Duty drug/alcohol testing must be conducted prior to the employee returning to work.

Follow-Up drug/alcohol testing is required once the employee successfully completes the prescribed substance abuse or alcohol abuse requirements and returns to work. Follow-up tests will be conducted on an unannounced basis as prescribed by the substance abuse professional.

- (6) How does the TOA test for the presence of alcohol and controlled substances? What measures does the TOA take to protect the driver and the integrity of the testing processes, safeguard the validity of the test results, and ensure that those results are attributed to the correct driver?

The Town of Apex contracts with a Third Party Administrator who provides chain of custody forms and tamper seals for handling of specimens (urine and breath alcohol test results). Specimens are collected at approved collection locations (may be on site) and sent to DOT approved testing laboratories. All positive test results are reviewed by a DOT qualified Medical Review Officer.

- (7) What happens if a driver fails to submit to an alcohol or controlled substances test required by FMCSA?

Failure to provide a urine specimen necessary for a required drug test is considered a refusal to test and is considered a positive test. Failure to provide a required breath alcohol specimen is considered a refusal to test and is considered a positive test. In both instances, the refusal will result in termination of employment.

- (8) What constitutes a refusal to submit to an alcohol or controlled substances test and what are the consequences?

Failure to provide a sufficient quantity of urine or failure to provide a breath specimen when requested are considered refusals to test. Refusal to submit to an alcohol or controlled substance test will result in a report of the refusal being sent to NCDOT and FMCSA Clearinghouse, and termination of employment.

- (9) What are the consequences for drivers who test positive on a controlled substances or alcohol test administered in compliance with FMCSA regulations?

A driver who tests positive for controlled substances or alcohol will be immediately removed from safety sensitive functions and employment will be terminated.

- (10) What are the consequences for drivers found to have an alcohol concentration of 0.02 or greater but less than 0.04?

The employee must be removed from the work place for a 24-hour period (placed on unpaid leave) and is subject to disciplinary action up to and including dismissal. Refer also to TOA Drug and Alcohol Policy, Section V. Positive Test Results.

- (11) What additional information does FMCSA require to be communicated to commercial drivers concerning the effects of alcohol and controlled substances use on: a.) an individual's health, work, and personal life; b.) signs and symptoms of an alcohol problem; c.) signs and symptoms

of a controlled substances problem and d.) available methods of intervening when an alcohol or a controlled substances problem is suspected, including confrontation and referral to an employee assistance program and/or referral to management.

a.) Effects of Controlled Substance and Alcohol Misuse on an Individual's Health, Work, and Personal Life

1. Alcohol is a central nervous system depressant. Taken in large quantities, it causes not only the euphoria associated with "being drunk" but also adversely affects judgment, ability to think, and motor functions.
2. Long-term overuse of alcohol can cause liver damage, heart problems, sexual dysfunction, and other serious medical problems.
3. In some cases, alcohol use can lead to physical and psychological dependence on alcohol. Alcoholism is a serious chronic disease that left untreated can worsen.
4. Workers who use alcohol and other controlled substances affect others within the workplace and outside the workplace. According to the US Dept. of Health and Human Services, compared to alcohol and controlled substance-free workers, substance abusers are less productive, miss more workdays, and are more likely to injure themselves or someone else, resulting in increased medical injury claims.
5. The measurable dollar costs of workplace substance abuse from absenteeism, overtime pay, tardiness, sick leave, insurance claims, and workers' compensation can be substantial. Additional costs include those for diverted supervisory and managerial time, friction among coworkers, damage to equipment, and damage to the entity's public image.
6. Substance abuse can also destroy relationships, lead to serious problems with the law (e.g., drunk driving), and even cause harm to the people you love.
7. If substance abuse affects your work life it could lead to job loss and all of the financial problems that would follow.
8. Signs of illegal controlled substance use may include when a person is carrying controlled substances on their person or has them hidden around the house. Possession of controlled substance paraphernalia is also a likely sign of use.
9. Indications of prescription drug misuse vary according to the type of controlled substance or medication. Controlled substance misuse may lead to dependence, and withdrawal symptoms can be severe if controlled substance use is stopped suddenly.
10. Other signs may include: an abrupt change in mood or attitudes, sudden and continuing decline in attendance or performance at work or in school, impaired relationships with family members or friends, unusual temper flare-ups, increased borrowing of money from parents or friends, stealing from the home or in the workplace, heightened secrecy about actions and possessions, association with a new group of friends, especially with those who use controlled substances.

b.) Signs and Symptoms of Alcohol Misuse

Any one or more of the following signs may indicate a drinking problem:

1. Family or social problems caused by drinking.
2. Job or financial difficulties related to drinking.
3. Loss of a consistent ability to control drinking.
4. "Blackouts" or the inability to remember what happened while drinking.
5. Distressing physical and/or psychological reactions if you try to stop drinking.

6. A need to drink increasing amounts of alcohol to get the desired effect.
7. Marked changes in behavior or personality when drinking.
8. Getting drunk frequently.
9. Injuring yourself or someone else while intoxicated.
10. Breaking the law while intoxicated.
11. Starting the day with a drink.

c.) Signs and Symptoms of a Controlled Substance Problem

Controlled substances can show their effects in many different ways. Some of the most noticeable signs are: drowsiness, respiratory depression, constricted pupils, nausea slurred speech, excitement, loss of appetite, poor perception of time and distance, relaxed inhibitions, disoriented behavior, watery eyes, runny nose, chills and sweats, convulsions, apathy, depression, and the use of controlled substance paraphernalia.

d.) Intervening When a Controlled Substance or Alcohol Problem is Suspected, Including Confrontation, Referral Program, and/or Referral to Management

1. Reasons why you should be concerned if any of your coworkers are using a controlled substance or alcohol on the job:
 - (i) Your health and safety may be at risk.
 - (ii) Substance abuse can cost you, your coworkers, and your employer money.
 - (iii) Substance abuse can create a negative work environment.
2. According to the National Institute on Alcohol Abuse and Alcoholism, controlled substance and alcohol use on the job costs society billions of dollars annually. Since costs related to alcohol and substance abuse may be passed on in the form of higher health insurance rates or in the prices you pay for consumer goods, controlled substance and alcohol use on the job can increase those costs to you and your coworkers.
3. Absenteeism among problem drinkers or alcoholics means you may have to do their jobs in addition to your own.
4. Substance abusers may not function at their full potential. In addition to the absenteeism, at work these employees may have reduced capabilities and productivity.
5. No matter what your position in the organization, you can help ensure that controlled substance and alcohol use on the job never becomes a problem at work. Acceptance of any misuse puts you, the organization, and the public at risk.
6. Employees who request help from the Human Resources Department or the Town's EAP for a drug or alcohol addiction problem prior to receiving a notification to report for a random or reasonable suspicion test and prior to testing positive on employment related drug or alcohol tests will be referred to the Town's EAP provider. Costs associated with the rehab treatment must be paid by the employee.

(12) What information must be reported to the FMCSA Clearinghouse?

- (a) A verified positive, adulterated, or substituted drug test result;
- (b) An alcohol confirmation test with a concentration of 0.04 or higher;
- (c) A refusal to submit to any test required by FMCSA;
- (d) An employer's report of actual knowledge of:
 - (i) On duty alcohol use;

- (ii) Alcohol consumption within 4 hours of reporting for duty;
- (iii) Alcohol consumption within 8 hours following an accident requiring a post-accident alcohol test, or prior to a post-accident test, whichever occurs first.
- (iv) Controlled substance use pursuant to §382.213 [stated in (4)(F) (i) and (ii) above];
- (e) A substance abuse professional report of the successful completion of the return-to-duty process;
- (f) A negative return-to-duty test; and
- (g) An employer's report of completion of follow-up testing.

[Appendix D](#)

General Consent for Limited Queries of the Federal Motor Carrier Safety Administration (FMCSA) Drug and Alcohol Clearinghouse

I, (Driver Name) _____, hereby provide consent to the Town of Apex to conduct limited queries of the FMCSA Commercial Driver's License Drug and Alcohol Clearinghouse (Clearinghouse) to determine whether drug or alcohol violation information about me exists in the Clearinghouse.

This consent is in effect for all limited queries of my driver's license conducted by the Town of Apex for the duration of my employment with the Town.

I understand that if the limited query conducted by the Town of Apex indicates that drug or alcohol violation information about me exists in the Clearinghouse, FMCSA will not disclose that information to the Town of Apex without first obtaining additional specific consent from me. I further understand that if I refuse to provide consent for the Town of Apex to conduct a limited query of the Clearinghouse, the Town of Apex must prohibit me from performing safety-sensitive functions, including driving a commercial motor vehicle, and my refusal will disqualify me from operating a commercial vehicle, resulting in termination of my employment with the Town.

Employee Signature

Date

[Appendix E](#)



HUMAN RESOURCES DEPARTMENT

I certify that I received a copy of the Town of Apex Drug and Alcohol Policy including Appendix C, Commercial Driver Supplement to the Town of Apex Drug and Alcohol Policy which pertains to Federal Motor Carrier Safety Administration Safety Regulations, Part 382 Controlled Substances and Alcohol Use and Testing.

Name (printed): _____

Signature: _____

Date: _____

FMCSA 49 CFR Part 382.601(d) *Certificate of receipt*. Each employer shall ensure that each driver is required to sign a statement certifying that he or she has received a copy of these materials described in this section. Each employer shall maintain the signed certificate and may provide a copy of the certificate to the driver.

| Agenda Item | cover sheet

for consideration by the Apex Town Council

Item Type: CONSENT AGENDA

Meeting Date: May 25, 2021

Item Details

Presenter(s): Mary Beth Manville, Human Resources Director

Department(s): Human Resources

Requested Motion

Motion to approve the revisions of the Town's Shared Leave policy.

Approval Recommended?

Yes

Item Details

Under the Town's current shared leave policy, an employee must have worked for the Town for at least one year before becoming eligible for shared leave. While new hires with the Town begin accruing sick and vacation leave from day 1 of their employment, it doesn't always add up to enough to cover them if an unexpected medical emergency occurs within their first year of employment. To accommodate this specific situation, staff proposes that the policy be modified to allow an exception to the one-year requirement if an employee has an emergency medical issue that causes them to be out of work. If approved by Council, the policy would be modified as indicated in red, below.

Section 23. Shared Leave

An employee may donate vacation leave to another employee who meets the criteria to participate in the Town's shared leave program. An employee is eligible to receive shared leave when the employee:

- has been a full-time employee of the Town of Apex for one **year***;
- has a serious medical condition or has an immediate family member with a serious health condition, as qualified under FMLA, that requires the employee to miss 20 consecutive workdays, or experience excessive intermittent absences due to the same or another serious health condition;
- has exhausted all sick, vacation and compensatory leave time;
- produces medical documentation to support the need for leave beyond the available accumulated leave;
- applies for, or is nominated by a co-worker to receive shared leave.

** This requirement may be waived by the Town Manager if the full-time employee can provide medical documentation to support the need for leave in advance of meeting the one-year requirement. In most cases, this will be for very serious health conditions or medical procedures of an emergent nature.*

Employees out of work on workers' compensation leave or employees receiving short-term disability benefits are not eligible for shared leave.

All applications or nominations for shared leave should be made to the Human Resources Department who will administer the shared leave policy. Leave may be made available for use on a current basis and is not retroactive beyond the current pay period. All leave donations are strictly voluntary and are kept confidential. Leave donations must be a minimum of 4 hours and are credited to the sick leave account of the shared leave recipient. Any unused donated leave shall be returned to the donor(s) on a pro-rata basis and credited to the leave account from which it was donated.

It is the responsibility of the employee requesting leave to monitor their leave usage and notify Human Resources/Payroll of the amount of leave they need for each pay period. Once the donations have run out, the employee may request for HR to send another announcement requesting donations; however, HR announcements for shared leave requests will be made no more than every 4 weeks.

Requests for shared leave will be active for a period of 3 months from the date the leave is requested, assuming the leave is still needed for the same condition. After 3 months, the shared leave request is considered void and a new request must be made, documenting the reasons for need of continued shared leave.

Attachments

- N/A



| Agenda Item | cover sheet

for consideration by the Apex Town Council

Item Type: CONSENT AGENDA

Meeting Date: May 25 ,2021

Item Details

Presenter(s): Mary Beth Manville, Human Resources Director

Department(s): Human Resources Director

Requested Motion

Motion to approve the adoption of the NC 457 Public Employees Deferred Compensation Plan for Town employees, effective July 1, 2021.

Approval Recommended?

Yes

Item Details

The Town currently offers a 457 deferred compensation plan through AIG, in which employees can voluntarily choose to participate and contribute pre-tax dollars each pay period. The North Carolina retirement system that sponsors our NC 401k plan also offers a 457 plan (NC 457), and the Town would like to enroll in the NC 457 plan and let it be the voluntary deferred compensation plan that is offered to employees, moving forward. There are several reasons to support this change:

- Many of the Town's new hires come from other NC municipalities that offer the NC 457 plan. Since we do not participate in the NC 457, new hires that come from those municipalities can no longer contribute to their plan. Our HR team reports that there has been an increase in requests from new hires to implement the NC 457, so that they can continue contributing.
- The NC 457 has additional benefits related to the Local Government Employees Retirement System (LGERS) pension plan. Funds from the NC 457 can be used to purchase service credit with LGERS, or be transferred to the LGERS account for a monthly distribution of payments.
- Having both the 401k & 457 through the State allows for a more streamlined experience for employees, where they can access and manage their retirement information all in one place.

At this time, only 17 employees participate in the Town's 457 plan with AIG. We would allow these employees (and anyone else who enrolls prior to the effective date of the NC 457) to continue contributing

to AIG through payroll deduction; however, after the effective date of the NC 457, all new enrollments would be with the State's NC 457 plan.

Attachments

- NC 457 Plan Adoption Agreement
- Resolution for NC 457 Adoption
- NC 457 Employer Participation Form



OPERATIONAL REQUIREMENTS FOR EMPLOYERS

SUPPLEMENTAL RETIREMENT INCOME PLAN OF NORTH CAROLINA

(NC 401(k))

And

NC PUBLIC EMPLOYEE DEFERRED COMPENSATION PLAN (NC 457)

The State of North Carolina Supplemental Retirement Board (“Board”) and the North Carolina Retirement Systems Division of the Department of State Treasurer (“Treasurer”) selected Prudential Retirement Insurance and Annuity Company (PRIAC) as the Third-Party Administrator of the Supplemental Income Plan of the State of North Carolina and the NC Public Employee Deferred Compensation Plan (“Plans”). The Board and the Treasurer have entered into an agreement with Prudential under which Prudential has agreed to provide administration and communication services for the Plan (the “Contract”). To enable Prudential to provide such services on behalf of an employer which elects to implement one or both of the Plans for its employees (“Employer”), the Employer confirms that it will provide the information and support described below. The term “Plan” throughout these Requirements, shall mean each plan elected by the Employer, as indicated on the last page.

ARTICLE I

RESPONSIBILITIES OF THE EMPLOYER

A. Implementation of Plan(s)

1. The Employer confirms that it made the decision to implement the Plan via resolution. The employer agrees to provide a copy of such resolution, if available, to Prudential.

2. The Employer will designate a coordinator for each unit to work with Prudential to select enrollment dates, determine the number of meetings needed and what employee notification

of meetings will be required, and to make other decisions necessary to hold successful enrollment meetings.

3. The Employer will provide time for its employees to attend an enrollment meeting. The Employer agrees that employees representing all employee pay grades will be given the opportunity to attend the meetings. The Employer understands that the meetings are an important resource in making employees aware of their opportunity to participate in the Plan(s).

4. The Employer will provide a facility to conduct enrollment meetings for its employees.

5. The Employer will publicize the meetings to all its employees by internal publication, meeting notices provided by the Third-Party Administrator and through other media agreed to by its coordinator and the Third-Party Administrator.

B. Operation of Plan(s)

1. The Employer will have sole responsibility for determining which of its employees are eligible to participate in the Plan(s) in accordance with eligibility requirements established by the Plan or North Carolina General Statutes or the Employer, where applicable, both with respect to elective deferral contributions and with respect to sharing in the allocation of any Employer contributions made pursuant to Article VII. The Employer will advise the Third-Party Administrator each month of any “new enrolled” employee who is eligible to participate in the Plan(s). The Employer also will advise the Third-Party Administrator each month of any participant in the Plan(s) who has terminated their employment, the date of termination, and the reason for the separation from service.

2. The Employer will provide payroll deductions for all contributions to the Plan(s) and all loan repayments to the Plan. The Employer will modify its payroll application to comply with specifications required by the Third-Party Administrator of the Plan(s). This includes the

format of the deduction report for the delivery of contributions and loan repayments to the Third-Party Administrator. The Employer will notify the Third-Party Administrator of any changes in payroll frequency, the frequency of payroll deductions, or change in status.

3. The Employer will deliver the remittance files, loan payment files, and the funds for these reports to the location provided by the Third-Party Administrator.

4. The Employer agrees that employee voluntary contributions to the Plan and loan repayments will not be suspended, modified or terminated for a participant unless so instructed by the Third-Party Administrator based on the participant's actions with the Third-Party Administrator.

5. The Employer agrees to comply with all operating procedures established by the Third-Party Administrator of the Plan(s). It understands that the procedures may be modified or revised from time to time, and the Employer agrees to comply with revisions and modifications without delay upon receipt of adequate notice of such modifications.

6. The Employer will inform the Third-Party Administrator in advance of any changes in the Employer's benefit or compensation programs that affect the operation or administration of the Plan(s).

7. With respect to Sworn Law Enforcement Officers, the Employer agrees that if Employer contributions are not remitted in a timely manner and as a result, the Court Cost allocations are not made, the Employer will be solely responsible for remitting the funds necessary to make up the missing Court Costs (applies to Supplemental Income Plan of the State of North Carolina).

8. The Employer may request that the Third-Party Administrator refund a contribution made within the preceding 12 months on account of a mistake of fact, as defined by the Internal Revenue Service, and the Third-Party Administrator will grant such request.

9. The Employer will furnish the Third-Party Administrator all documents, data and other information necessary for the Third-Party Administrator to perform its duties under this Agreement. The Employer will be solely responsible for the accuracy of any documents, data, or other information provided to the Third-Party Administrator by the Employer or by any other person or entity having responsibilities with respect to the Plan(s). If the Employer fails to provide any such requested information, the Third-Party Administrator will be obligated to perform its duties under this Agreement only insofar as it is able to do so with the information available. All information required to be furnished by the Employer will be transmitted in the medium and form acceptable to the Third-Party Administrator. The Third-Party Administrator will be entitled to rely fully on the accuracy and completeness of information submitted by the Employer and will have no duty or responsibility to verify such information.

10. The Employer will comply with the Uniformed Service Employment and Re-employment Rights Act of 1994 regarding participation in the Plan by participants with military service. The Plan(s) allows an Employer to permit an employee who meets the criteria of the Uniformed Service Employment and Re-employment Rights Act of 1994 the opportunity to “catch-up” salary deferrals to the Plan that were not made during the time they were on active duty. Loan repayments are suspended during the period the Plan(s) participant is on active duty.

ARTICLE II

RESPONSIBILITIES OF THE THIRD-PARTY ADMINISTRATOR

A. Implementation of Plan(s)

1. The Third-Party Administrator will assist the Employer’s coordinator in scheduling enrollment meetings, provide the employer with meeting notification materials, including but not limited to posters, handbills, press release-type articles and payroll stuffers that are mutually acceptable to the Employer coordinator and the Third-Party Administrator.

2. The Third-Party Administrator will present the Plan(s) and its benefits to the employees and enroll them in the Plan(s).

3. The Third-Party Administrator will provide brochures, enrollment forms, payroll deduction authorization forms, withdrawal forms, loan applications and other forms relating to loans, as well as other forms needed to fulfill the duties as Third-Party Administrator. For purposes of this paragraph, “form” will also mean a facility for electronic processing of participant requests.

B. Operation of Plan(s)

The Third-Party Administrator will provide the services described below, as required under the Contract:

1. The Third-Party Administrator will maintain a record of each participant’s contributions and will invest his/her contribution in the fund(s) selected by the participant.

2. The Third-Party Administrator will provide the participant with a quarterly statement of his/her account, which shows the value of the participant’s account.

3. The Third-Party Administrator will allow the participant to borrow from his/her account when he/she has complied with the eligibility requirements established by the Third-Party Administrator and the Plan as permitted by federal regulations, the Plan and the Third-Party Administrator.

4. The Third-Party Administrator will provide the participants withdrawal options including lump sum distribution and periodic payments in accordance with the Plan(s) and the Code.

5. The Third-Party Administrator will provide participants in the Plan(s) who become entitled to receive a distribution from the Plan with all appropriate notices and election forms concerning such distribution. The Third-Party Administrator is responsible for proper reporting of all distributions from the Plan(s) and the withholding of income taxes as required by the Plan(s) and the Code.

6. The Third-Party Administrator will provide administrative and operating procedures for the Employer.

ARTICLE III

PLAN(S) PARTICIPATION

The Employer and the Third-Party Administrator jointly agree to promote the Plan(s) and encourage participation in the Plan(s) by all pay grades of the Employer. This will require that initial enrollment meetings be held with all eligible employees to ensure that they are aware of the benefit and value of participating in the Plan(s). The Employer agrees to promote the Plan(s) on an on-going basis by conducting periodic meetings with eligible employees, utilization of posters, newsletter articles, payroll stuffers, and other agreed upon communications.

ARTICLE IV

TERMINATION OF AGREEMENT

1. Either party may terminate this Agreement upon giving six months advanced written notice to the other party, provided that the non-terminating party may waive such notice requirement. The termination of this Agreement *does not* terminate the Plan(s) in which the Employers' employees are participating or require a distribution of accounts of the participating employees from the Plan(s). The termination of this Agreement relieves the Employer from taking deductions and loan repayments from the participating employee's pay and remitting them to the Third-Party Administrator.

2. The State may terminate the Plan(s) at any time through the enactment of laws.

3. This Agreement will terminate if the State terminates its Agreement with Prudential by which Prudential is obligated to serve as Third-Party Administrator.

4. This Agreement will terminate if the Trustees discontinue the Plan(s).

ARTICLE V
EMPLOYER PAID CONTRIBUTIONS

The Employer may, in its discretion, make contributions to the Plan(s) on behalf of its eligible employees upon approval by the Third-Party Administrator. If an Employer requests approval for applying Employer-paid contributions to the Plan(s) (other than those mandated by law), the exact nature and application of the proposed contribution allocation method will be described in writing and submitted to the Third-Party Administrator to review.

If a proposed Employer contribution is found to be within guidelines of the Code, and the Plan(s) document, and compatible with operational procedures as provided by the Third-Party Administrator of the Plan, the Employer contribution will be implemented on such date as agreed upon by the Employer and the Third-Party Administrator. The Employer agrees to comply with reporting procedures outlined by the Third-Party Administrator.

The Employer further agrees to remit payroll deductions for Plan(s) contributions, loan repayments and any employer contribution to the Plan(s) on behalf of the employee participating in the Plan(s), to the Third-Party Administrator on the same frequency of the payroll, but no less than once each month.

In the event an Employer proposes to implement an Employer contribution on a match basis or an Employer contribution that does not otherwise provide a proportionate benefit for all eligible employees regardless of length of service or job classification, review and approval by the Third-Party Administrator is required.

Once an Employer contribution to the Plan(s) has been established in accordance with the above, the Employer agrees to advise the Third-Party Administrator in advance of any proposed change in the Employer contribution. The Third-Party Administrator will inform the Employer whether the proposed change is acceptable based upon the Code, the Plan(s) document, and the Third-Party Administrator's operating procedures. If the Employer contribution is found to be

within the Code, and the Plan(s) document, and compatible with operational procedures as provided by the Third-Party Administrator of the Plan(s), the Employer is required to provide the Third-Party Administrator with a written description of the employer contribution to include the effective date of the change, the employee group covered, and the rate and method of allocation.

ARTICLE VI

MISCELLANEOUS

1. All times specified will be the current Eastern Time.
2. The Employer will make available to the Third-Party Administrator, the Department of the State Treasurer, and an auditor appointed by the Third-Party Administrator or the Board of Trustees its records of contributions and loan payments submitted to the Plan(s) for the purposes of an audit. The Employer will also make available its documents pertaining to its employees' deferral elections and other documents deemed necessary by the Third-Party Administrator to audit the Plan(s).

I agree to the terms set forth above with respect to the Plan indicated below:

_____ Supplemental Retirement Income Plan of North Carolina

_____ NC Public Employee Deferred Compensation Plan

AGREED TO BY:

Name of Employer (Please Type or Print)

By: _____
(Signature)

(Please Type or Print Name Signed Above)

Its: _____
(Please Type or Print Official Title)

Date: _____

PRUDENTIAL

By: _____

Date: _____

(Revised 5/2017)

RESOLUTION NO. 21-0525-11

RESOLUTION OF THE APEX TOWN COUNCIL TO ADOPT THE NORTH CAROLINA PUBLIC EMPLOYEE DEFERRED COMPENSATION PLAN (NC 457)

WHEREAS, the Apex Town Council wishes to provide a qualified defined contribution plan to the employees of the Town of Apex; and

WHEREAS, the State of North Carolina has established the North Carolina Public Employee Deferred Compensation Plan, a qualified governmental Deferred Compensation Plan under Internal Revenue Code § 457(b) for public employees of North Carolina;

NOW, THEREFORE, BE IT RESOLVED that the Town Council of the Town of Apex has adopted the North Carolina Public Employee Deferred Compensation Plan also known as “NC Deferred Comp” under the terms of the Plan Document and the Third-Party Administrator Agreement. All employees shall become eligible to defer compensation as of July 1, 2021.

Adopted this the 25th day of May 2021.

By: _____
Jacques K. Gilbert
Mayor

Attest: _____
Donna B. Hosch, MMC, NCCMC
Town Clerk

Motion made by Council Member _____

Motion Seconded by Council Member _____

Approved by a vote of ____ to ____

Employer Participation Form – NC 401(k) Plan and NC 457 Plan

Employer Name: Town of Apex

ORBIT Agency Number: 99217

Employer (Subplan) Number: _____

Type of form: ☒ New ☐ Revised

Type of Employer (SP600)

- ☐ State agency
- ☐ University
- ☐ County
- ☒ Municipality
- ☐ School system
- ☐ Charter school
- ☐ Community college
- ☐ Other

Mailing Address: 73 Hunter Street

City/State/Zip: Apex, NC 27502

County: Wake

The information in this form is provided for the following plan(s):

- ☐ NC 401(k) Plan (002003)
- ☒ NC 457 Plan (012003)

NC 401(k) Plan only: The waiting period before a new employee is eligible to participate in the NC 401(k) Plan is ____ days. The number of days cannot exceed 60. If the response is left blank, no waiting period applies. The employer is responsible for only sending employee deferrals or employer contributions for the employee once the employee is eligible to participate in the plan and no earlier.

Will you provide employer contributions for your employees?

- ☐ Yes **Note:** If you answer yes, then you must complete the Employer Contributions Program Form(s) in Attachment A (NC 401(k) Plan) and/or Attachment B (NC 457 Plan).
- ☐ No

Note: Employer contributions include optional contributions from an employer to employees' accounts as well as the contributions required by N.C.G.S. §§ 143-166.30(e) and 143-166.50(e) for law enforcement officers.

Payroll Frequency (SP905)

- ☐ Weekly
- ☒ Bi-weekly
- ☐ Semi-monthly
- ☐ Monthly
- ☐ Other: _____

Loan Repayment Frequency (SP904)

- ☐ Weekly
- ☒ Bi-weekly
- ☐ Semi-monthly
- ☐ Monthly
- ☐ Other: _____

Contribution Remittance Method

- ☒ System-generated file
- ☐ Internet Contribution Center on Plan Sponsor Website

Funding

- ☒ ACH debit (Prudential debits a pre-approved account upon receipt of file)
- ☐ Wire
- ☐ Check

Employee Contribution Format

- ☐ Percentage (%) of gross compensation* only
- ☐ Flat dollar (\$) amount only (whole dollars only)
- ☒ Both percentage (%) and flat dollar (\$)

*"Compensation" is defined in Section 1.08 of the plan document, available at myNCRetirement.com.

Contribution Accelerator

Contribution Accelerator provides your employees with the opportunity to increase their deferral rate automatically on an annual basis by one percentage point, until their deferral rate reaches eight percent of compensation. Enrollment in Contribution Accelerator is optional for employees and can be terminated at any time. If you offer both plans, your selection applies to both plans.

Do you want to provide Contribution Accelerator to your employees?

- ☒ Yes (Completion of a separate enrollment form is required)
- ☐ No

If the response is left blank, then Contribution Accelerator will not be available to your employees.

I certify that the information on this form is complete and accurate and that I am authorized by the employer to act on behalf of the employer and to provide such information.

Signature: _____

Name (print): _____

Title: _____

Date: _____

Authorized Representatives (Two Pages)

The following people are authorized to serve as contacts for the employer, to receive and provide information on behalf of the employer, and to act on behalf of the employer for purposes related to the NC 401(k) Plan, NC457 Plan and/or NC 403B Program. You must provide at least one primary human resources representative and one payroll representative; however, the same person can serve in both capacities. A human resources representative's duty includes answering questions related to a participant's employment status. A payroll representative's duties include assistance with the contributions and loan files.

Employer Name: _____

Name & Title	Role & Contact Type	Contact Information	Access Required*
<u>First Name:</u> <u>Last Name:</u> <u>Title:</u>	<u>Role:</u> Payroll <u>Contact Type:</u> Secondary	<u>Email:</u> <u>Phone #:</u> <u>Fax #:</u> <u>Mailing Address:</u>	None
<u>First Name:</u> <u>Last Name:</u> <u>Title:</u>	<u>Role:</u> Payroll <u>Contact Type:</u> Secondary	<u>Email:</u> <u>Phone #:</u> <u>Fax #:</u> <u>Mailing Address:</u>	None
<u>First Name:</u> <u>Last Name:</u> <u>Title:</u>	<u>Role:</u> Payroll <u>Contact Type:</u> Secondary	<u>Email:</u> <u>Phone #:</u> <u>Fax #:</u> <u>Mailing Address:</u>	None

***Sponsor Center Access** – log in to view loan starts/stops, contribution rate changes, action required reports and update employee information.

***Pru Messenger Access** – Prudential's secure email transmission site, used to send contribution files and sensitive information.

***Funding confirmations** – provides confirmation of the date a payroll file has been processed/invested.

IF ANY OF THE INFORMATION ON THIS FORM CHANGES OR CEASES TO BE COMPLETE AND ACCURATE THE EMPLOYER IS REQUIRED TO SUBMIT A REVISED FORM TO PRUDENTIAL VIA EMAIL AT NCPLANS@PRUDENTIAL.COM.

I certify that the information on this form is complete and accurate and that I am authorized by the employer to act on behalf of the employer and to provide such information.

Signature: _____

Name (print): _____

Title: _____

Date: _____

Employer Contribution Program Form – NC 401(k) Plan (3 Page Form)

Participating employers in the NC 401(k) Plan are permitted to make employer contributions to employees' accounts in accordance with applicable law and the plan document for the NC 401(k) Plan. In addition, N.C.G.S. §§ 143-166.30(e) and 143-166.50(e) require employers to make certain contributions for their law enforcement officers.

Name of Employer: _____

Employer (Subplan) Number: _____

Type of form: ☐ New ☐ Revised

Ceasing Employer Contributions (Fill in date if applicable)

By providing the date in the following sentence, the employer is electing to cease providing employer contributions as of specified date. The current employer contribution program shall cease on the following effective date: _____.

Matching Contributions

The employer match will be (you may choose a and/or b, if you choose both please complete the section "Important Restriction on Employer Contributions):

- a. _____% of each eligible employee's contributions per pay period, up to a maximum of _____% of the employee's compensation (not to exceed 80% of compensation); or
- b. A dollar for dollar match up to \$_____ of each eligible employee's contributions.

If the same calculation for matching contributions is not used for all eligible employees, complete the section below titled "Important Restriction on Employer Contributions."

Effective Date of Match: _____

Non-matching Contributions

The employer will contribute the following amount to each eligible employee per pay period:

- a. \$_____
- b. _____% of each employee's gross compensation*

If the same calculation for non-matching contributions is not used for all eligible employees, complete the section below titled "Important Restriction on Employer Contributions."

Effective Date of Non-Match Contribution: _____

*Please refer to the definitions of compensation for the NC 401(k) and NC 457 Plans at

<https://www.myncretirement.com/non-retirees/current-employees/nc-401k-plan-nc-457-plan-and-nc-403b-program-supplemental-retirement#what-is-considered-%E2%80%9Ccompensation%E2%80%9D-that-can-be-contributed-to-each-of-the-plans>

Waiting Period

If the employee must complete a service period (waiting period) with the employer prior to receiving employer contributions, the following service period (not to exceed one year) applies:

_____.

Important Restriction on Employer Contributions

An employer's matching and non-matching contributions must be provided to all of its employees on an equal basis as described above, unless the distinctions made among employees or groups of employees is permitted by Section 3.02(a) or 3.02(b) of the plan document NC 401(k) Plan, available at myNCRetirement.com. If such distinctions are made, describe them and how they comply with Section 3.02(a) or 3.02(b) of the plan document:

Law Enforcement Officers

Does the employer employ law enforcement officers for purposes of N.C.G.S. §§ 143-166.30(e) or 143-166.50(e)? ☐ Yes ☐ No

For each law enforcement officer employed by the employer, the employer shall remit five percent of the officer's salary as required by § 143-166.30(e) (state LEOs) and 143-166.50(e) (local LEOs).

In addition, law enforcement officers, except for Sheriffs, receive the court costs required by N.C.G.S. § 143-166.30(e) and 143-166.50(e). For county employers only, please provide the following:

Name of Sheriff: _____ Last four of SSN: _____

Will law enforcement officers receive the contributions described above in "Matching Contributions" and "Non-matching Contributions" *in addition to* the five percent of an officer's salary and the court costs required by N.C.G.S. §§ 143-166.30(e) or 143-166.50(e)? ☐ Yes ☐ No

The Employer Contributions Program was adopted by the following board, commission, council, or other governing body of the employer: _____.

Please indicate the date of adoption: _____.

IF ANY OF THE INFORMATION ON THIS FORM CHANGES OR CEASES TO BE COMPLETE AND ACCURATE THE EMPLOYER IS REQUIRED TO SUBMIT A REVISED FORM TO PRUDENTIAL VIA EMAIL AT NCPLANS@PRUDENTIAL.COM.

I certify that the information on this form is complete and accurate and that I am authorized by the employer to act on behalf of the employer and to provide such information.

Signature: _____

Name (print): _____

Title: _____

Date: _____

Employer Contributions Program Form – NC 457 Plan (2 Page Form)

Participating employers in the NC 457 Plan are permitted to make employer contributions to employees' accounts in accordance with applicable law and the plan document for the NC 457 Plan.

Name of Employer: _____

Employer (Subplan) Number: _____

Type of form: ☐ New ☐ Revised

Ceasing Employer Contributions (Fill in date if applicable)

By providing the date in the following sentence, the employer is electing to cease providing employer contributions as of such date. The current employer contribution program shall cease on the following date: _____.

Description of Employer Contributions Program

1. Describe the employee(s) or group(s) of employees who are eligible for employer contributions. Include the required employment period (waiting period) before an employee becomes eligible for employer contributions, if any, which may not exceed one year.

2. Describe the contributions that eligible employees will receive. The methods can vary across employees and/or groups of employees. For example, you may choose to allocate a fixed dollar contribution to one group while basing contributions on percentage for another group.

Effective Date of Employer Contribution: _____

The Employer Contributions Program was adopted by the following board, commission, council, or other governing body of the employer: _____.

Please indicate date of adoption: _____.

IF ANY OF THE INFORMATION ON THIS FORM CHANGES OR CEASES TO BE COMPLETE AND ACCURATE THE EMPLOYER IS REQUIRED TO SUBMIT A REVISED FORM TO PRUDENTIAL VIA EMAIL AT NCPLANS@PRUDENTIAL.COM.

I certify that the information on this form is complete and accurate and that I am authorized by the employer to act on behalf of the employer and to provide such information.

Signature: _____

Name (print): _____

Title: _____

Date: _____

| Agenda Item | cover sheet

for consideration by the Apex Town Council

Item Type: CONSENT AGENDA

Meeting Date: May 25, 2021

Item Details

Presenter(s): Mary Beth Manville, Human Resources Director

Department(s): Human Resources

Requested Motion

Motion to approve the reclassification of the Police IT & Records Manager position, Grade 26, to Police Records Supervisor, Grade 19.

Approval Recommended?

Yes

Item Details

The Police Department's "Police IT & Records Manager" position, salary grade 26, was vacated in December 2020. Through an agreement between the Police and IT Departments, the IT functions of the position were absorbed by the IT Department to maintain consistent IT practices across the organization. The need for the records and supervisory functions of the position remain; however, the position title and grade need to be changed to more accurately reflect the duties of the position.

Staff recommends the title and grade of the Police IT & Records Manager, salary grade 26, be changed to Police Records Supervisor, salary grade 19. This is a title and grade change only, with no impact to budget or position authorization count.

Attachments

- N/A



| Agenda Item | cover sheet

for consideration by the Apex Town Council

Item Type: CONSENT AGENDA

Meeting Date: May 25, 2021

Item Details

Presenter(s): Marty Stone, Assistant Town Manager

Department(s): Administration

Requested Motion

Motion to approve an encroachment agreement between the Town and property owner Western Wake Development, LLC to install a retaining wall that will encroach 25 LF onto the 20' Town of Apex Drainage Easement and a rip rap pad that will encroach 77 SF onto the 20' Town of Apex Sanitary Sewer Easement and authorize the Interim Town Manager to execute the same.

Approval Recommended?

Yes

Item Details

Approve Encroachment Agreement between the Town and property owner Western Wake Development, LLC (Grantee) for the property described as a RCA lot located in the subdivision known as Madison Phase 2 as shown on that certain plat recorded in Book of Maps 2016, Page 536, Wake County Registry (hereinafter the "Subdivision Plat"). Grantee wishes to install certain improvements, more particularly described as a retaining wall of which 25 LF will encroach onto the 20' Town of Apex Drainage Easement and a rip rap pad that will encroach 77 SF onto the 20' Town of Apex Public Sanitary Sewer Easement, both serve the RCA lot.

Attachments

- 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 _____, 2021, by and between Western Wake Development, LLC 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 lot of land designated as a Resource Conservation Area (hereinafter the "RCA Lot") in the County of Wake, State of North Carolina, which is designated as PIN #0721-71-2889 by the Wake County Revenue Department and more particularly described as a **RCA lot** located in the subdivision known as **Madison – Phase 2** as shown on that certain plat recorded in **Book of Maps 2016, Page 536**, Wake County Registry (hereinafter the "**Subdivision Plat**").

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

WHEREAS, Grantee wishes to install certain improvements, more particularly described as **25 LF of retaining wall that will encroach upon portions of the Public Drainage Easement and 77 SF of a rip-rap pad that will encroach upon portions of the Public Sanitary Sewer Easement, both serve the RCA**

Lot, hereinafter referred to as the “**Encroachment**”, all as shown on the attached **Exhibit A**. Grantee desire to make certain agreements and covenants regarding the Encroachment.

WHEREAS, the Town, under the terms and conditions herein set forth, is willing to allow the above-described Encroachment upon the **Public Drainage Easement and the Public Sanitary Sewer 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 Grantee sole risk and expense, to encroach into the **Public Drainage Easement and the Public Sanitary Sewer 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 **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 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 does 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 Grantee: Western Wake Development, LLC
Mr. Brant W. Chesson
7101 Creedmoor Road, Suite 115
Raleigh, NC 27613

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 agrees 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 Public Sanitary Sewer 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 its 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 the 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 and the Public Sanitary Sewer Easement**, then no notice shall be required and the Town may remove the Encroachment from the **Public Drainage Easement and the Public Sanitary Sewer 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 the Paragraph 10 or if Grantee fails to remove the Encroachment within the time limit after receiving notice under Paragraph 9.

12. Grantee, during the life of this Encroachment Agreement, agrees to procure or cause to be procured from a responsible insurance carrier or carriers authorized under the laws of the State of North Carolina, insurance in the minimum amounts of \$300,000/\$500,000/\$300,000 covering full liability for any and all personal injury, property damage or wrongful death caused by the construction, maintenance, location, repair or visual obstruction of said Encroachment. Grantee shall furnish the Town, without demand, each July a certification from the insurance carrier or carriers with whom the insurance herein mentioned is carried, stating that such compensation is covered by such carrier or carriers and showing such insurance to be in full force and effect. Both Grantee and the Town shall be named as insured parties by endorsement of the policy. In the event of any change in the insurance policy, Grantee shall give the Town thirty (30) days notice of such change. Should Grantee fail to pay premiums upon said insurance or to perform any of the agreement, terms or conditions herein contained, the Town, at its option, by written notice may declare this Encroachment Agreement canceled and terminated and all rights acquired hereunder by Grantee shall thereupon terminate.

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 **RCA Lot, Madison Phase 2 (Wake County PIN: 0721-71-2889)**, or by assumption of said obligations by an incorporated property or condominium owners association for **Madison Phase 2**. 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 delegate 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.

In testimony whereof, said Grantee and said Town have here unto set their hands and seals, the day and year first above written.

GRANTEE

Western Wake Development, LLC.

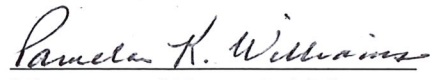
By:  (SEAL)
Brant W. Chesson
Member

STATE OF NORTH CAROLINA

COUNTY OF WAKE [county in which acknowledgement taken]

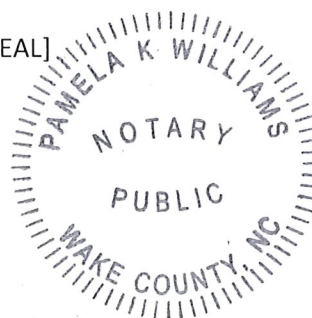
I, do hereby certify that **Brant W. Chesson** personally appeared before me this day and acknowledged that he is a **Member** for Western Wake Development, LLC Grantee herein, and that by authority duly given and as a **Member** for the company, the foregoing instrument was signed and sealed by him on behalf of the company and acknowledged said writing to be the act and deed of said company.

Witness my hand and official stamp or seal, this the 30 day of April, 2021.


[Signature of Notary Public]

My Commission Expires: 8-30-2021

[SEAL]



TOWN OF APEX

Ralph Clark
Interim Town Manager

(Corporate Seal)

ATTEST:

Donna B. Hosch, MMC, NCCMC
Town Clerk

STATE OF NORTH CAROLINA

COUNTY OF _____ [county in which acknowledgement taken]

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

Witness my hand and official stamp or seal, this _____ day of _____, 2021.

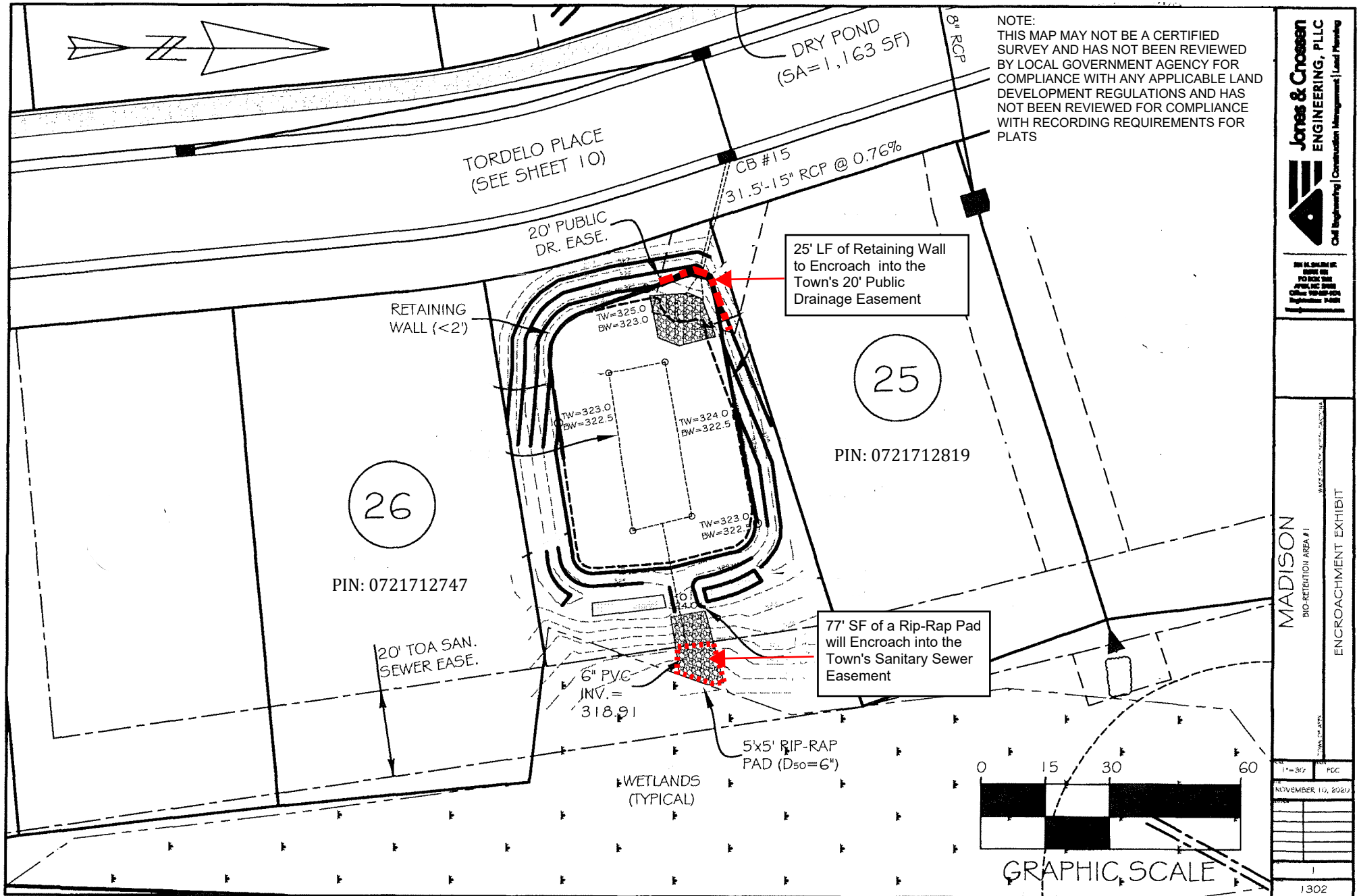
[Signature of Notary Public]

(Seal)

My Commission Expires: _____

EXHIBIT A

0 Toredelo Place



| Agenda Item | cover sheet

for consideration by the Apex Town Council

Item Type: CONSENT AGENDA

Meeting Date: May 25, 2021

Item Details

Presenter(s): Michael Deaton, Water Resources Director

Department(s): Water Resources

Requested Motion

Motion to set the Public Hearing concerning the proposed Stormwater Utility Fee for Tuesday, June 8, 2021 at 6:00 p.m. at the Apex Town Hall.

Approval Recommended?

Yes

Item Details

The Town is required to hold a public hearing to receive comments regarding the proposed stormwater utility fee, pursuant to NCGS 160A-314.

Attachments

- Stormwater Utility Fee Public Notice





**TOWN OF APEX
OFFICE OF THE TOWN CLERK**

PO Box 250, Apex, North Carolina 27502
Phone (919) 249-3303 Fax (919) 249-3305
E-mail: donna.hosch@apexnc.org

PUBLIC NOTICE

Town of Apex Stormwater Utility Fee

The public will take notice that the Apex Town Council will hold a Public Hearing concerning the proposed new Stormwater Utility Fee on Tuesday, June 8, 2021 at 6:00 p.m. in the Council Chambers at Apex Town Hall, 73 Hunter Street. The purpose of the Public Hearing is to consider a creation of the Stormwater Utility Fee effective January 1, 2022. The Town Council is seeking input from the public in regard to possible creation of the utility fee, operation of the utility fee, and the associated fee schedule. The proposed fees are as follows:

STORMWATER FEES	
Stormwater fees are effective January 1, 2022. The fees are based on the total amount of impervious surface on an individual lot or parcel.	
Residential - Detached single-family homes, a duplex, or a manufactured home located on an individual lot or parcel.	
Tier 1: Small (400-1,500ft ²)	\$1.50 per month
Tier 2: Medium (1,500-3,000ft ²)	\$5.00 per month
Tier 3: Large (3,000-4,000ft ²)	\$7.50 per month
Tier 4: Extra Large (>4,000ft ²)	\$10.00 per month
Non-Residential - Parcels that contain more than two residential units, public/private institutional buildings, commercial buildings, parking lots, churches, etc.	\$5.00 per ERU (Total Impervious Area/\$2,700ft ² * \$5) per month
<i>*ERU (Equivalent Residential Unit) is the GIS Analysis of average impervious surface (rooftops, driveways, sidewalks, parking lots) per property. Approximately 2,700 ft².</i>	
<i>*Properties with less than 400ft² of impervious surface are exempt.</i>	

Details regarding fees and expenses can be found in the proposed FY 2021-2022 Budget available for public inspection on the Town's website at www.apexnc.org/budget or in the Town Clerk's Office.

You may attend the meeting in person or view the meeting through the Town's YouTube livestream at: <https://www.youtube.com/c/townofapexgov>.

If you are unable to attend, you may provide comments no sooner than Friday, May 28, 2021 at noon but no later than noon on Monday, June 7, 2021 by email (public.hearing@apexnc.org, 350-word limit) or by voicemail (919-362-7300, 3-minute limit) according to the Remote Participation Policy at: <http://www.apexnc.org/DocumentCenter/View/31397/>. You must provide your name and address for the record. These comments will be read during the Public Hearing.

Donna B. Hosch, Town Clerk

| Agenda Item | cover sheet

for consideration by the Apex Town Council

Item Type: CONSENT AGENDA

Meeting Date: May 25, 2021

Item Details

Presenter(s): Shawn Purvis, Assistant Town Manager

Department(s): Administration

Requested Motion

Motion to approve Capital Project Ordinance Amendment 2021-10 and Budget Amendment 21 for the construction of a portion of Burma Drive extension

Approval Recommended?

Yes

Item Details

Favorable bids were received for the first phase of the Burma Drive extension. We have a reimbursement agreement with a developer to construct the road. The proposed capital project ordinance amendment and budget amendment provide funding for construction/reimbursement of \$855,000 for testing and construction. The funds to cover the construction will come from the sale of property at the Cash Corporate Center.

Attachments

- Capital Project Ordinance Amendment 2021-10
- Budget Amendment 21





Town of Apex

Budget Ordinance Amendment No. 21

BE IT ORDAINED, by the Council of the Town of Apex that the following Budget Amendment for the Fiscal Year 2020-2021 Budget Ordinance be adopted:

GENERAL FUND

Section 1. Revenues:

Sale of Capital Assets	\$855,000
Total Revenues	\$855,000

Section 2. Expenditures:

Transfer to Street Improvement Capital Projects Fund	\$855,000
Total Expenditures	\$855,000

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

Adopted this the 25th day of May, 2021

Attest:

Jacques K. Gilbert, Mayor

Donna B. Hosch, MMC, Town Clerk



Town of Apex

CAPITAL PROJECT ORDINANCE AMENDMENT 2021-10

63-Street Improvements Capital Project Fund

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

Section 1. Revenues:

Transfer from General Fund	\$855,000
Total Revenues	\$855,000

Section 2. Expenditures:

Capital Projects-Burma Drive	\$855,000
Total Expenditures	\$855,000

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

Adopted this the 25th day of May, 2021.

Attest:

Jacques K. Gilbert, Mayor

Donna B. Hosch, Town Clerk

| Agenda Item | cover sheet

for consideration by the Apex Town Council

Item Type: CONSENT AGENDA

Meeting Date: May 25, 2021

Item Details

Presenter(s): Craig Setzer, Interim Parks, Recreation, and Cultural Resources Director

Department(s): Parks, Recreation and Cultural Resources

Requested Motion

Motion to approve an ordinance amendment changing closing hours at Clairmont Park (March - October) to 9 pm.

Approval Recommended?

Yes

Item Details

At the May 11th Town Council meeting, a recommendation was presented to amend town ordinances changing the hours of operation for Clairmont Park to close at 8 pm year-round. While this was unanimously approved, discussion on this item, including extending park hours during longer summer evenings, identified the need to complete a study of park hours of operation which last received public input during the 2013-2014 Master Plan update. As a result of the discussion, staff has begun a study of park hours for all parks. This recommendation is a temporary extension of Clairmont Park hours until the study has been completed and a recommendation has been brought forward.

Attachments

- Ordinance Amendment



ORDINANCE NO. 2021-0525-13

AN ORDINANCE TO AMEND SECTION 15-6 OF APEX TOWN CODE

THEREFORE, BE IT ORDAINED BY THE TOWN COUNCIL OF THE TOWN OF APEX AS FOLLOWS:

Section 1. Subsection (a)(6) of Section 15-6 of the Town of Apex Code of Ordinances is hereby amended to read as follows with deletions shown as strikethrough text:

Sec. 15-6. Opening and closing town parks; remaining in parks after closing; forfeiture of right to use park.

(6) *Clairmont Park.*

March through October—7:00 a.m. until 9:00 p.m.

November through February—7:00 a.m. until 8:00 p.m.

Section 2. It is the intention of the governing body, and it is hereby ordained that the provisions of this ordinance shall become and be made a part of the Code of Ordinances and the sections of this ordinance may be renumbered to accomplish such intention.

Section 3. Severability, Conflict of Laws. If this ordinance or application thereof to any person or circumstances is held invalid, such invalidity shall not affect other provisions or applications of the ordinance which can be given separate effect and to the end the provisions of this ordinance are declared to be severable. All ordinances or parts of ordinances in conflict with this ordinance are hereby repealed.

Section 4. Effective Date. This ordinance shall be effective upon adoption.

Introduced by Council Member: _____

Seconded by Council Member: _____

This the 25th day of May 2021.

Jacques K. Gilbert, Mayor

ATTEST:

Donna B. Hosch, MMC, NCCMC
Town Clerk

APPROVED AS TO FORM:

Laurie L. Hohe, Town Attorney

| Agenda Item | cover sheet

for consideration by the Apex Town Council

Item Type: PUBLIC HEARING

Meeting Date: May 25, 2021

Item Details

Presenter(s): Lauren Staudenmaier, Planner I

Department(s): Planning & Community Development

Requested Motion

Public Hearing and possible motion to approve Rezoning Application #21CZ05 Friendship Storage. The applicant, Terco Properties, seek to rezone approximately 9.09 acres located at 0 Friendship Road and 2109 Old US 1 Highway (PINs 0730193547 & 0730197850) from Rural Residential (RR) to Tech/Flex- Conditional Zoning (TF-CZ).

Approval Recommended?

The Planning and Community Development Department recommends approval.

The Planning Board held a Public hearing on May 10, 2021 and recommended approval, with the conditions as offered by the applicant, by a vote of 7-1.

Item Details

Attachments

- Staff Report
- Vicinity Map
- Application



STAFF REPORT

Rezoning #21CZ05 Friendship Storage

May 25, 2021 Town Council Meeting



All property owners within 300 feet of this rezoning have been notified per UDO Sec. 2.2.11 *Public Notification*.

BACKGROUND INFORMATION:

Location: 0 Friendship Road & 2109 Old US 1 Highway

Applicant/Owner: Terco Properties/Cool Pools NC, LLC and Derek Neverosky

PROJECT DESCRIPTION:

Acreage: ± 9.09 acres

PINs: 0739196547 & 0730197850

Current Zoning: Rural Residential (RR)

Proposed Zoning: Tech/Flex-Conditional Zoning (TF-CZ)

2045 Land Use Map: Office Employment/Commercial Services and Office Employment

Town Limits: ETJ

Adjacent Zoning & Land Uses:

	Zoning	Land Use
North:	Rural Residential (RR)	Old US 1 Highway; Single-family detached
South:	Rural Residential (RR)	CSX Railroad tracks; Single-family detached; vacant
East:	Rural Residential (RR)	Single-family detached
West:	Rural Residential (RR)	Friendship Road; Single-family detached

Existing Conditions:

The subject properties are located south of Old US 1 Highway, east of Friendship Road, and north of the CSX Railroad tracks. The property located at 0 Friendship Drive has no structures and is heavily wooded. The property located at 2901 Old US 1 Highway contains residential structures and vegetation.

Neighborhood Meeting:

The applicant conducted a neighborhood meeting on February 25, 2021. The neighborhood meeting report is attached.

2045 LAND USE MAP:

The 2045 Land Use Map identifies the properties subject to this rezoning as Office Employment/Commercial Services and Office Employment. The proposed rezoning to Tech/Flex-Conditional Zoning is consistent with those land use classifications.

STAFF REPORT

Rezoning #21CZ05 Friendship Storage

May 25, 2021 Town Council Meeting



PERMITTED USES:

The applicant is proposing the following uses permitted uses:

1. Day care facility
2. Drop-in or short-term day care
3. Government service
4. Veterinary clinic or hospital
5. Vocational school
6. Recycling collection station (S)
7. Utility, minor
8. Wireless support structure
9. Wireless communication facility
10. Botanical garden
11. Entertainment, indoor
12. Greenway
13. Park, active
14. Park, passive
15. Youth or day camps
16. Commissary
17. Restaurant, general (S)
18. Dispatching office
19. Medical or dental office or clinic
20. Medical or dental laboratory
21. Office, business or professional
22. Research facility
23. Artisan studio
24. Convenience store
25. Convenience store with gas sales
26. Grocery, general
27. Grocery, specialty
28. Health/fitness center or spa
29. Personal service
30. Printing and copying service
31. Real estate sales
32. Repair services, limited
33. Retail sales, bulky goods
34. Retail sales, general %
35. Self-service storage
36. Studio for art
37. Tailor shop
38. Upholstery shop
39. Pet services
40. Automotive accessory sales and installation
41. Repair and maintenance, general
42. Vehicle inspection center
43. Laboratory, industrial research
44. Woodworking or cabinetmaking
45. Wholesaling, general
46. Manufacturing and processing (S)
47. Manufacturing and processing, minor
48. Microbrewery
49. Microdistillery

PROPOSED ZONING CONDITIONS:

1. Buffer widths shall not be reduced in exchange for additional RCA as permitted by UDO Sec. 8.1.2.C.7.
2. Developer shall employ shielded light options to reduce offsite light pollution.
3. Developer shall install 320 sf of rooftop solar (20 panels).
4. Notwithstanding Apex UDO Supplemental Standards Sections 4.4.5(G)(14)(j) and (n), building height shall be permitted to be up to three (3) stories and forty-eight feet (48') tall.
5. The buffer along the Old US 1 Highway frontage shall be planted to the Type A buffer standard where a nonresidential building is not located between Old US 1 Highway and the self-storage facility.
6. Predominant exterior building materials shall be high quality materials, including brick, wood, staked stone, or native stone, and tinted/textured concrete masonry units
7. EIFS or synthetic stucco shall not be used in the first four feet above grade and shall be limited to only 25% of each building façade.
8. The exterior materials for nonresidential buildings shall include a combination of building materials. The primary (front) façade of the main buildings to be considered include:
 - brick masonry
 - decorative concrete block (either integrally colored or textured)
 - stone accents
 - aluminum storefronts with anodized or pre-finished colors

STAFF REPORT

Rezoning #21CZ05 Friendship Storage

May 25, 2021 Town Council Meeting



- EIFS cornices, and parapet trim. EIFS or synthetic stucco shall not be used in the first four feet above grade and shall be limited to only 25% of each building facade.
 - precast concrete
9. Elevations of nonresidential building facing public roadways and public areas within the development will be constructed with similar materials. The rear elevations of nonresidential buildings facing opaque landscape buffers or that are not visible from parking lots or public streets may include decorative concrete masonry, metal coping, or EIFS trim.

ENVIRONMENTAL ADVISORY BOARD:

The Apex Environmental Advisory Board (EAB) held a pre-application meeting for this rezoning on February 18, 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
Maintain undisturbed vegetative buffers	Added
Add shielded light options to reduce light pollution	Added
Install rooftop solar on both buildings	Added

PLANNING BOARD RECOMMENDATION:

The Planning Board held a Public Hearing on May 10, 2021 and voted to recommend approval, with the conditions as offered by the applicant, by a vote of 7-1.

PLANNING STAFF RECOMMENDATION:

Planning staff recommends approval of #21CZ05 Friendship Storage 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:

Approval of the rezoning is reasonable because the proposed Tech/Flex-Conditional Zoning (TF-CZ) district is consistent with the Office Employment/Commercial Services and Office Employment land use classifications on the 2045 Land Use Map.

The proposed rezoning is reasonable and in the public interest because it will provide an opportunity for non-residential uses to serve the surrounding area, while providing flexibility for future development with the surrounding properties. It will also 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.

CONDITIONAL ZONING STANDARDS:

The Town Council shall find the Tech/Flex-Conditional Zoning (TF-CZ) designation demonstrates compliance with the following standards. Sec. 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

STAFF REPORT

Rezoning #21CZ05 Friendship Storage

May 25, 2021 Town Council Meeting



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.



Winding
Creek
Estates

Kirkwood

Red Cardinal Ln

Holland Rd

Old US 1 Hwy

Friendship Rd

Rezoning #21CZ05



PETITION TO AMEND THE OFFICIAL ZONING MAP & 2045 LAND USE MAP

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

Application #: 21CZ05

Submittal Date: March 1, 2021

2045 LUM Amendment: N/A

Fee Paid: \$900.00 Check #6869

Project Information

Project Name: Friendship Storage

Address(es): 0 Friendship Road & 2109 Old US Hwy 1

PIN(s): 0730.19.6547 & 0730.19.7850

Acreage: 9.09

Current Zoning: RR

Proposed Zoning: TF-CZ

Current 2045 LUM Designation: Office Employment / Commercial Services and Office Employment

Proposed 2045 LUM Designation: no change

See next page for LUM Amendment.

If any portion of the project is shown as mixed use (3 or more stripes on the 2045 Land Use Map) provide the following:

Area classified as mixed use:

N/A

Acreage: _____

Area proposed as non-residential development:

Acreage: _____

Percent of mixed use area proposed as non-residential:

Percent: _____

Applicant Information

Name: Terco Properties

Address: 6406 McCrimmon Parkway

City: Morrisville

State: NC

Zip: 27560

Phone: 919.608.7879

E-mail: tkugler5@aol.com

Owner Information

Name: Cool Pools NC LLC & Neverosky, Derek

Address: 0 Friendship Rd & 2109 Old US Hwy 1

City: Apex

State: NC

Zip: 27502

Phone: -

E-mail: -

Agent Information

Name: William G. Daniel & Associates, P.A.

Address: 1150 SE Maynard Rd Ste 260

City: Cary

State: NC

Zip: 27511

Phone: 919.467.9708

E-mail: bdaniel@wmgda.com

Other contacts: bnichols@wmgda.com

PETITION TO AMEND THE OFFICIAL ZONING MAP & 2045 LAND USE MAP

Application #: 21CZ05

Submittal Date: March 1, 2021

2045 LAND USE MAP AMENDMENT (IF APPLICABLE)

The applicant does hereby respectfully request the Town Council amend the 2045 Land Use Map. In support of this request, the following facts are shown:

The area sought to be amended on the 2045 Land Use Map is located at:

n/a - no change currently envisioned.

Current 2045 Land Use Classification: _____

Proposed 2045 Land Use Classification: _____

What condition(s) justifies the passage of the amendment to the 2045 Land Use Map? Discuss the existing use classifications of the subject area in addition to the adjacent land use classifications. Use additional pages as needed.

PETITION INFORMATION

Application #:

21CZ05

Submittal Date:

March 1, 2021

An application has been duly filed requesting that the property described in this application be rezoned from RR _____ to TF-CZ _____. It is understood and acknowledged that if the property is rezoned as requested, the property described in this request will be perpetually bound to the use(s) authorized and subject to such conditions as imposed, unless subsequently changed or amended as provided for in the Unified Development Ordinance. 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. 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	<u>Day care facility</u>	21	<u>Office, business or professional</u>
2	<u>Drop-in or short term day care</u>	22	<u>Research facility</u>
3	<u>Government service</u>	23	<u>Artisan Studio</u>
4	<u>Veterinary clinic or hospital</u>	24	<u>Convenience store</u>
5	<u>Vocational school</u>	25	<u>Convenience store with gas sales</u>
6	<u>Recycling collection station (s)</u>	26	<u>Grocery, general</u>
7	<u>Utility, minor</u>	27	<u>Grocery, specialty</u>
8	<u>Wireless support structure</u>	28	<u>Health/fitness center or spa</u>
9	<u>Wireless communication facility</u>	29	<u>Personal service</u>
10	<u>Botanical garden</u>	30	<u>Printing and copying service</u>
11	<u>Entertainment, indoor</u>	31	<u>Real estate sales</u>
12	<u>Greenway</u>	32	<u>Repair services, limited</u>
13	<u>Park, active</u>	33	<u>Retail sales, bulky goods</u>
14	<u>Park, passive</u>	34	<u>Retail sales, general %</u>
15	<u>Youth or day camps</u>	35	<u>Self-service storage</u>
16	<u>Commissary</u>	36	<u>Studio for art</u>
17	<u>Restaurant, general (s)</u>	37	<u>Tailor shop</u>
18	<u>Dispatching office</u>	38	<u>Upholstery shop</u>
19	<u>Medical or dental office or clinic</u>	39	<u>Pet services</u>
20	<u>Medical or dental laboratory</u>	40	<u>Automotive Accessory Sales and Installation</u>

(s) - refers to special use

PETITION INFORMATION

Application #: 21CZ05 Submittal Date: March 1, 2021

An application has been duly filed requesting that the property described in this application be rezoned from RR _____ to TF-CZ _____. It is understood and acknowledged that if the property is rezoned as requested, the property described in this request will be perpetually bound to the use(s) authorized and subject to such conditions as imposed, unless subsequently changed or amended as provided for in the Unified Development Ordinance. 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. 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	<u>Repair and maintenance, general</u>	21	_____
2	<u>Vehicle inspection center</u>	22	_____
3	<u>Laboratory, industrial research</u>	23	_____
4	<u>Woodworking or cabinet making</u>	24	_____
5	<u>Wholesaling, general</u>	25	_____
6	<u>Manufacturing and processing (s)</u>	26	_____
7	<u>Manufacturing and processing, minor</u>	27	_____
8	<u>Microbrewery</u>	28	_____
9	<u>Microdistillery</u>	29	_____
10	_____	30	_____
11	_____	31	_____
12	_____	32	_____
13	_____	33	_____
14	_____	34	_____
15	_____	35	_____
16	_____	36	_____
17	_____	37	_____
18	_____	38	_____
19	_____	39	_____
20	_____	40	_____

(s) - refers to special use

PETITION INFORMATION

Application #: 21CZ05 Submittal Date: March 1, 2021

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 following pages for conditions and legislative considerations.

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.

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

Friendship Storage Rezoning Petition

04.28.21

Conditions of Rezoning

1. Buffer widths shall not be reduced in exchange for additional RCA as permitted by UDO Sec. 8.1.2C.7.
2. Developer shall employ shielded light options to reduce offsite light pollution.
3. Developer shall install 320 sf of rooftop solar (20 panels).
4. Notwithstanding Apex UDO Supplemental Standards Sections 4.4.5(G)(14)(j) and (n), building height shall be permitted to be up to three (3) stories and forty-eight feet (48') tall.
5. The buffer along the Old US 1 Highway frontage shall be planted to the Type A buffer standard where a nonresidential building is not located between Old US 1 Highway and the self-storage facility.
6. Predominant exterior building materials shall be high quality materials, including brick, wood, stacked stone, or native stone, and tinted/textured concrete masonry units.
7. EIFS or synthetic stucco shall not be used in the first four feet above grade and shall be limited to only 25% of each building façade.
8. The exterior materials for nonresidential buildings shall include a combination of building materials. The primary (front) façade of the main buildings to be considered include:
 - brick masonry
 - decorative concrete block (either integrally colored or textured)
 - stone accents
 - aluminum storefronts with anodized or pre-finished colors
 - EIFS cornices, and parapet trim. EIFS or synthetic stucco shall not be used in the first four feet above grade and shall be limited to only 25% of each building façade.
 - precast concrete
9. Elevations of nonresidential buildings facing public roadways and public areas within the development will be constructed with similar materials. The rear elevations of nonresidential buildings facing opaque landscape buffers or that are not visible from parking lots or public streets may include decorative concrete masonry, metal coping, or EIFS trim.

Legislative Considerations – Condition Zoning

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 land use categories designated on the 2045 Land Use map for the properties comprising this petition include Commercial Service & Office Employment. The permitted uses within the LI zoning district are consistent with the purposes, goals, objectives, & policies of the 2045 Land Use Map. The restriction of uses imposed as a condition of the petition enhances the appropriateness of the range of permitted uses in recognition of the character of the abutting land uses. The proposed TF-CZ petition is appropriate for its location and consistent with the 2045 Land Use Map.

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

The conditions of the requested rezoning related to limitation of use, environmental, and supplement standards of the UDO will ensure the resultant development would be compatible with the abutting residential development and the character of the surrounding area.

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

The uses allowed pursuant to the requested CZ zoning shall, if applicable, fully comply with the Supplemental Zoning Conditions as listed within Section 4.4 of the UDO and/or applicable zoning conditions.

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.

This petition includes conditions that address visual perception of the site (i.e. building height, restrictions on site lighting, and restrictions of uses allowed on the property). Avoidance of potential adverse impacts on surrounding lands would be addressed in the course of site plan review and approval.

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.

Development of the properties pursuant to the proposed zoning petition would conform to the requirements of the Town's Design Standards & UDO, thereby ensuring the minimization of potential impacts and protection from significant deterioration of water and air resources, wildlife habitat, scenic resources, and other natural resources. Furthermore, the environmental advisory board has suggested conditions in this regard which have been incorporated into this rezoning petition. By adherence to these conditions, exceptional environmental practices that will exceed the Town's standards will be achieved.

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 uses allowed within the proposed zoning district do not include residential uses, thereby minimizing impacts upon schools, parks, and municipal services attributable to increase residential population. Other impacts, such as those related to traffic generation are effectively addressed through the restriction of permitted uses. Adequacy of water and wastewater facilities would be addressed during the Town's development review process once specific uses for the properties have been identified and a site plan for those uses have been prepared and submitted to the Town.

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 would accommodate commercial development rather than residential development. Commercial development would enhance the Town's tax base and result in a positive impact upon the overall welfare of the Town and its residents. Other uses related to health, safety, and welfare associated with specific uses would address through the Town's development review process once a site plan (with specific use) has been prepared and submitted to the Town.

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

The conditions of the requested rezoning related to limitation of uses, environmental, and supplemental standards of the UDO will ensure the resultant development would be compatible with the abutting residential development and character of the surrounding area. This would ensure that the proposed development would not be 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.

The range of permitted uses is restricted by conditions offered as part of the rezoning petition in order to eliminate those uses that would be regarded as a nuisance or hazard. Potential impacts due to traffic generation, noise, or congestion can be assessed only after a specific use or combination of specific uses has been determined. Such potential impacts would addressed through the Town's development review process.

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.

Notwithstanding Apex UDO Supplemental Standards Sections 4.4.5(G)(14)(j) and (n), building height shall be permitted to be up to three (3) stories and forty-eight feet (48') tall.

Any development pursuant to the requested petition would comply with all applicable regulations of the Town (and imposed conditions) related to use, layout, and general development characteristics.

CERTIFIED LIST OF NEIGHBORING PROPERTY OWNERSApplication #: 21CZ05Submittal Date: March 1, 2021

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.	MCCLAMB, WALTER J	0730098773
2.	STROUP, BILLY E STROUP, ANNIE	0730190468
3.	COOL POOLS NC LLC	0730196547
4.	NEVEROSKY, DEREK A	0730197850
5.	EVANS, CASWELL A JR TRUSTEE EVANS, ARLENE G TRUSTE	0730283851
6.	SEARS, STACEY WADE SEARS, GINNY HOLLAND	0730292828
7.	DALMASSO, JOSEPH P TRUSTEE DALMASSO, WILLIAM TIMO	0730298743
8.	LIN, VICKY KU LIN, JEN CHING	0731102019
9.	SEARS, ROBERT LARRY	0731107055
10.	SEARS, OSCAR FINCH	0731107868
11.	CAMP, BELINDA S	0731200492
12.	SEARS, OSCAR FINCH	0731201214
13.	SEARS, OSCAR FINCH	0731202357
14.	SEARS, ROBERT LARRY	0730083421
15.	KELLY, JOYCE	0730093122

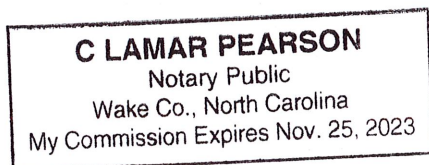
I, WILLIAM G. DANIEL, certify that this is an accurate listing of all property owners and property owners within 300' of the subject property.

Date: 2/26/2021By: William G. Daniel

COUNTY OF WAKE STATE OF NORTH CAROLINA

Sworn and subscribed before me, C Lamar Pearson, a Notary Public for the above State and County, on this the 26th day of February, 2021.

SEAL



C Lamar Pearson
Notary Public
C Lamar Pearson
Print Name

My Commission Expires: 11/25/2023

CERTIFIED LIST OF NEIGHBORING PROPERTY OWNERSApplication #: 21CZ05Submittal Date: March 1, 2021

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.	COOL POOLS NC, LLC	0730096271
2.	LAWRENCE, KEVIN LOUIS LAWRENCE, TAMMY DENTON	0730181939
3.		
4.		
5.		
6.		
7.		
8.		
9.		
10.		
11.		
12.		
13.		
14.		
15.		

I, WILLIAM G. DANIEL, certify that this is an accurate listing of all property owners and property owners within 300' of the subject property.

Date: 2/26/2021By: William G. Daniel

COUNTY OF WAKE STATE OF NORTH CAROLINA

Sworn and subscribed before me, Clamar Pearson, a Notary Public for the above State and County, on this the 26th day of February, 2021

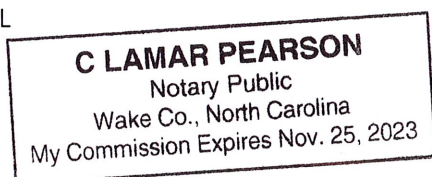
Clamar Pearson

Notary Public

Clamar Pearson

Print Name

SEAL

My Commission Expires: 11/25/2023

AGENT AUTHORIZATION FORM

Application #: 21CZ05

Submittal Date: March 1, 2021

Cool Pools NC LLC

is the owner* of the property for which the attached application is being submitted:

- ☒ Land Use Amendment
- ☒ Rezoning: For Conditional Zoning and Planned Development rezoning applications, this authorization includes express consent to zoning conditions that are agreed to by the Agent which will apply if the application is approved.
- ☐ Site Plan
- ☐ Subdivision
- ☐ Variance
- ☐ Other: _____

The property address is: 0 Friendship Road

The agent for this project is: William G. Daniel & Associates, P.A.

☐ I am the owner of the property and will be acting as my own agent

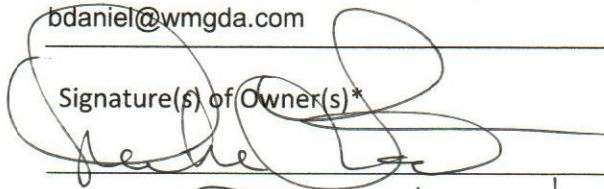
Agent Name: William Daniel

Address: 1150 SE Maynard Road Suite 260 Cary NC 27511

Telephone Number: 919.467.9708

E-Mail Address: bdaniel@wmgda.com

Signature(s) of Owner(s)*



Richene Levent

Type or print name

Feb. 19, 2021
Date

Type or print name

Date

Attach additional sheets if there are additional owners.

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

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

AFFIDAVIT OF OWNERSHIPApplication #: 21CZ05Submittal Date: March 1, 2021

The undersigned, Cool Pools NC LLC (the "Affiant") first being duly sworn, hereby swears or affirms as follows:

1. Affiant is over eighteen (18) years of age and authorized to make this Affidavit. The Affiant is the sole owner, or is the authorized agent of all owners, of the property located at 0 Friendship Road and legally described in **Exhibit "A"** attached hereto and incorporated herein (the "Property").
2. This Affidavit of Ownership is made for the purpose of filing an application for development approval with the Town of Apex.
3. If Affiant is the owner of the Property, Affiant acquired ownership by deed, dated 4/25/2018, and recorded in the Wake County Register of Deeds Office on 4/25/2018, in Book 17107 Page 821.
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 4/25/2018, 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 4/25/2018, 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 19 day of FEB, 2021.

(seal)

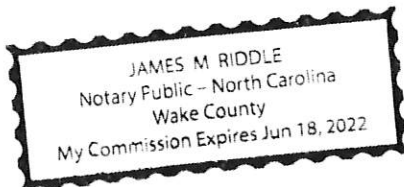
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STATE OF NORTH CAROLINA

COUNTY OF WAKE

I, the undersigned, a Notary Public in and for the County of WAKE, hereby certify that RICHIERE LEVERT, Affiant, personally known to me or known to me by said Affiant's presentation of said Affiant's KNOWN, personally appeared before me this day and acknowledged the due and voluntary execution of the foregoing Affidavit.



[NOTARY SEAL]

James M. Riddle

Notary Public

State of North Carolina

My Commission Expires: JUNE 18, 2022

AFFIDAVIT OF OWNERSHIP: EXHIBIT A – LEGAL DESCRIPTION

Application #: 21CZ05

Submittal Date: March 1, 2021

Insert legal description below.

PIN: 0730196547

BEGINNING at an iron pipe, the northeast corner of the tract described herein and the southeast corner of now or formerly Derek A. Neverosky, runs thence South 00 degrees 05 minutes 51 seconds East 116.26 feet to an iron pipe in the northern right of way of CSX Railroad (formerly Seaboard Coastline Railroad); runs thence with said right of way South 65 degrees 00 minutes 31 seconds West 882.00 feet to an iron pipe, the Grantee's "Old Lot 2" southeast corner; runs thence with the eastern lines of the Grantee's "Old Lot 2" and now or formerly Billy E. Stroup and Annie Stroup North 06 degrees 04 minutes 59 seconds East a total of 363.21 feet to an iron pipe, the southwest corner for now or formerly Derek A. Neverosky; runs thence with Neverosky's southern line North 80 degrees 28 minutes 10 seconds East 771.38 feet to the point of beginning, containing 4.16 acres as shown on "Recombination Plat, Lots 2-2A, Property of Cool Pools NC, Inc. & Property of Arlene G. And Caswell A. Evans Jr." recorded in Book of Maps 2018 page 134, Wake County Registry.

AGENT AUTHORIZATION FORM

Application #: 21CZ05

Submittal Date: March 1, 2021

Neverosky, Derek A is the owner* of the property for which the attached application is being submitted:

- ☒ Land Use Amendment
- ☒ Rezoning: For Conditional Zoning and Planned Development rezoning applications, this authorization includes express consent to zoning conditions that are agreed to by the Agent which will apply if the application is approved.
- ☐ Site Plan
- ☐ Subdivision
- ☐ Variance
- ☐ Other: _____

The property address is: 2109 Old US Hwy 1

The agent for this project is: William G. Daniel & Associates, P.A.

☐ I am the owner of the property and will be acting as my own agent

Agent Name: William Daniel

Address: 1150 SE Maynard Road Suite 260 Cary NC 27511

Telephone Number: 919.467.9708

E-Mail Address: bdaniel@wmgda.com

Signature(s) of Owner(s):*

Derek Anthony Neverosky
Derek Anthony Neverosky

Type or print name

2/10/2021
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 #: 21CZ05

Submittal Date: March 1, 2021

The undersigned, Neverosky, Derek A (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 2109 Old US Hwy 1 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 10/20/2010, and recorded in the Wake County Register of Deeds Office on 10/20/2010, in Book 14121 Page 955.
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 10/20/2010, 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 10/20/2010, 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 10 day of February, 2021.

(seal)

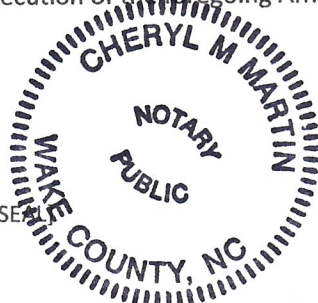
Derek Anthony Neverosky

Type or print name

STATE OF NORTH CAROLINA

COUNTY OF Wake

I, the undersigned, a Notary Public in and for the County of Wake, hereby certify that Derek Anthony Neverosky Affiant, personally known to me or known to me by said Affiant's presentation of said Affiant's Derek Anthony Neverosky, personally appeared before me this day and acknowledged the due and voluntary execution of the foregoing Affidavit.



[NOTARY SEAL]

Cheryl M. Martin

Notary Public

State of North Carolina

My Commission Expires: 11-14-2021

AFFIDAVIT OF OWNERSHIP: EXHIBIT A – LEGAL DESCRIPTION

Application #: 21CZ05

Submittal Date: March 1, 2021

Insert legal description below.

PIN: 0730197850

BEGINNING at an iron stake, the southeast corner for Charlie Morrison, bearing North Carolina Grid Coordinates of Y=709,571.758 and X=2,031,261.269 and runs thence North 06 degrees 04 minutes 59 seconds East 98.39 feet to an iron stake in the southern right of way of S. R. 1011 (Old U. S. Highway 1); thence North 71 degrees 06 minutes 45 seconds East with the southern right of way of S. R. 1011 (Old U. S. Highway 1) 719.43 feet to a stake; thence South 18 degrees 55 minutes 40 seconds East 214.60 feet to an iron stake; a corner for Mamie Evans and others; thence South 80 degrees 28 minutes 10 seconds West 771.38 feet to the point and place of BEGINNING, containing 2.611 acres and being all of Tract 6A, according to map entitled "Property of Annie M. Sears Heirs" by Smith and Smith Surveyors, dated January, 1974, and recorded in Book of Maps 1974, Page 89, Wake County Registry.

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.

02.10.2021

Date

Dear Neighbor:

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

0 Friendship Road & 2109 Old US Hwy 1

0730.19.6547 & 0730.19.7850

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 [Interactive Development Map](#) or the [Apex Development Report](#) located on the Town of Apex website at www.apexnc.org. 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):

Application Type	Approving Authority
<input checked="" type="radio"/> Rezoning (including Planned Unit Development)	Town Council
<input type="radio"/> Major Site Plan	Town Council (QJPH*)
<input type="radio"/> Special Use Permit	Town Council (QJPH*)
<input type="radio"/> 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)):

This meeting is to discuss the proposal to rezone properties

to Tech Flex (TF) from Rural Residential (RR)

Estimated submittal date: 03.01.2021

MEETING INFORMATION:

Property Owner(s) name(s): Cool Pools NC LLC & Neverosky, Derek A

Applicant(s): William G. Daniel & Associates, P.A.

Contact information (email/phone): bdaniel@wmgda.com / 919.467.9708

Electronic Meeting invitation/call in info: via Teams Meeting website link: bit.ly/friendshipmtg022521 call in: 1.469.998.7564 , id: 26013647#

Date of meeting**: February 25, 2021

Time of meeting**: 5:00 - 7:00

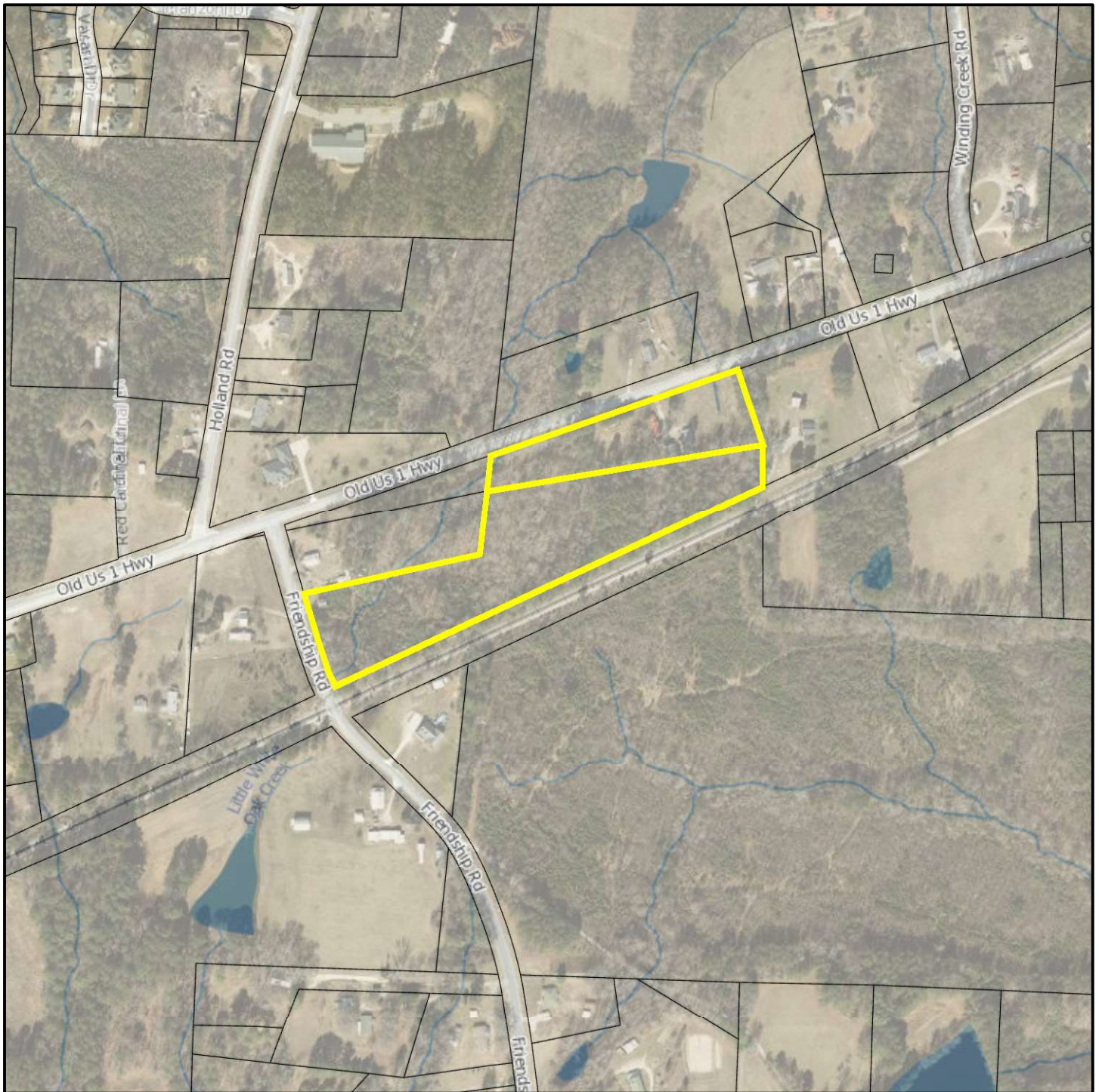
MEETING AGENDA TIMES:

Welcome: 5:00

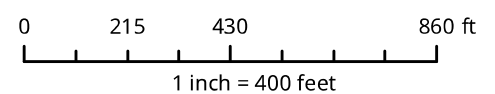
Project Presentation: 5:05

Question & Answer: 5:15

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



Vicinity Map



Disclaimer

*iMaps makes every effort to produce and publish the most current and accurate information possible. However, the maps are produced for information purposes, and are **NOT** surveys. No warranties, expressed or implied, are provided for the data therein, its use, or its interpretation.*



EXISTING ZONING

Zoning Districts

See UDO Article 3 for details

B1	Neighborhood Business
B2	Downtown Business
CB	Conservation Buffer
HDMF	High Density Multi-Family Residential
HDSF	High Density Single-Family Residential
MD	Medium Density Residential
LD	Low Density Residential
LI	Light Industrial
MEC	Major Employment Center
MH	Manufactured Housing Residential
MHP	Mobile Home Park
MORR	Mixed Office-Residential-Retail
O&I	Office and Institutional
PC	Planned Commercial
PUD	Planned Unit Development
SD	Sustainable Development
TF	Tech/Flex
RA	Residential Agricultural
RR	Rural Residential
TND	Traditional Neighborhood District
-CU	Conditional Use
-CZ	Conditional Zoning

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: Friendship Storage Zoning: RR

Location: 0 Friendship Road & 2109 Old US Hwy 1

Property PIN(s): 0730.19.6547 & 0730.19.7850 Acreage/Square Feet: ±9.09

Property Owner: Cool Pools NC LLC & Neverosky, Derek A

Address: 0 Friendship Road & 2109 Old US Hwy 1

City: Apex State: NC Zip: 27502

Phone: - Email: -

Developer: Terco Properties

Address: 6406 McCrimmon Parkway

City: Morrisville State: NC Zip: 27560

Phone: 919.608.7879 Fax: - Email: tkugler5@aol.com

Engineer: William G. Daniel & Associates, P.A.

Address: 1150 SE Maynard Rd Ste 260

City: Cary State: NC Zip: 27511

Phone: 919.467.9708 Fax: 919.460.7585 Email: bdaniel@wmgda.com

Builder (if known): not yet determined

Address: _____

City: _____ State: _____ Zip: _____

Phone: _____ Fax: _____ Email: _____

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

Town of Apex Department Contacts

Planning Department Main Number (Provide development name or location to be routed to correct planner)	(919) 249-3426
Parks, Recreation & Cultural Resources Department Angela Reincke, Parks 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) Stan Fortier, Senior Engineer (Stormwater, Sedimentation & Erosion Control) James Gregg, Utility Engineer (Water & Sewer)	(919) 249-3537 (919) 249-1166 (919) 249-3324
Electric Utilities Division Rodney Smith, Electric Technical Services Manager	(919) 249-3342

INVITATIONS SENT TO THE FOLLOW:

MCCLAMB, WALTER J
PO BOX 243
APEX NC 27502-0243

CAMP, BELINDA S
2008 OLD US 1 HWY
APEX NC 27502-7767

STROUP, BILLY E STROUP, ANNIE
1924 OLD US 1 HWY # 1S
APEX NC 27502-7765

SEARS, OSCAR FINCH
2008 OLD US 1 HWY
APEX NC 27502-7767

COOL POOLS NC LLC
2300 OLD US 1 HWY
APEX NC 27502-8409

KELLY, JOYCE
2217 OLD US 1 HWY
APEX NC 27502-8408

NEVEROSKY, DEREK A
2109 OLD US 1 HWY
APEX NC 27502-7770

LAWRENCE, KEVIN LOUIS
LAWRENCE, TAMMY DENTON
3021 FRIENDSHIP RD
APEX NC 27502-8717

EVANS, CASWELL A JR TRUSTEE
EVANS, ARLENE G TRUSTEE
15107 ANITA LN
LAKESIDE MI 49116-9720

TOWN OF APEX
PLANNING DEPARTMENT
PO BOX 250
APEX NC 27502

SEARS, STACEY WADE
SEARS, GINNY HOLLAND
301 S SALEM ST
APEX NC 27502-2531

DALMASSO, JOSEPH P TRUSTEE
DALMASSO, WILLIAM
TIMOTHY TRUSTEE
7141 MEADOW GATE DR
APEX NC 27502-8768

LIN, VICKY KU LIN, JEN CHING
3101 FOX SHADOW DR
APEX NC 27502-8770

SEARS, ROBERT LARRY
2108 OLD US 1 HWY
APEX NC 27502-7769

SEARS, OSCAR FINCH
2804 HOLLAND RD
APEX NC 27502-9150

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: Microsoft Teams

Date of meeting: February 25, 2021 Time of meeting: 5:00 - 7:00

Property Owner(s) name(s): Cool Pools NC LLC & Neverosky, Derek A

Applicant(s): Terco Properties

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
1.	Please see attached				
2.	sheet for list of attendees				
3.	of Microsoft Teams Meeting				
4.					
5.					
6.					
7.					
8.					
9.					
10.					
11.					
12.					
13.					
14.					

Use additional sheets, if necessary.

Attendee List from Microsoft Teams Neighborhood Meeting 02.25.21

Full Name		User Action	Timestamp
Brian Nichols		Joined	2/25/2021, 4:47:55 PM
William Daniel		Joined	2/25/2021, 4:55:16 PM
+1 919-335-2147	unknown	Joined	2/25/2021, 4:55:48 PM
+1 919-335-2147		Left	2/25/2021, 5:14:23 PM
+1 919-362-8048	Larry Sears rep	Joined	2/25/2021, 4:57:45 PM
+1 919-362-8048		Left	2/25/2021, 5:13:59 PM
+1 919-801-4066	Robert Sears	Joined	2/25/2021, 5:18:41 PM
+1 919-801-4066		Left	2/25/2021, 5:29:33 PM

Arlene Evan called in to inquire 02.26.21

We explained all that was covered in n'hood meeting. She requested plans and updates.

Arlene Evans / [REDACTED]

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): Cool Pools NC LLC & Neverosky, Derek A

Applicant(s): William G Daniel & Associates, P.A.

Contact information (email/phone): bdaniel@wmgda.com / 919.467.9708

Meeting Format: Microsoft Teams

Date of meeting: February 25, 2021 Time of meeting: 5:00 - 7:00

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:

it was pointed out that the back tract was wetlands and very wet all the time

Applicant's Response:

Acknowledged that it was wet and there were areas of wetlands that we would be working around
but the entire parcel is not consumed with wetlands.

Question/Concern #2:

Attendee has called Planning Board to voice opposition to the self storage use proposed with
this rezoning. Doesn't think self storage is proper coming into Apex

Applicant's Response:

Noted.

Question/Concern #3:

Will this rezoning change any zoning on my property?

Applicant's Response:

No. This rezoning petition is specific to the two subject parcels. If you wanted to change your
parcel's zoning you would need to submit a rezoning application and go through the process
just as we are.

Question/Concern #4:

Would we be able to see the storage facility?

Applicant's Response:

We anticipate a 30' buffer along US Hwy 1 that would offers some shielding of view. But, there to
say you wouldn't be able to see it isn't correct. There, at least, would be a break at the entrance drive.

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): Cool Pools NC LLC & Neverosky, Derek A

Applicant(s): William G Daniel & Associates, P.A.

Contact information (email/phone): bdaniel@wmgda.com / 919.467.9708

Meeting Format: Microsoft Teams

Date of meeting: February 25, 2021 Time of meeting: 5:00 - 7:00

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:

Called in to voice that he and others were not supportive of a self storage use. Doesn't think its the right image to give for a main road into Apex. Thought more of a store business was appropriate.

Applicant's Response:

Noted. We explained there would be some buffering along the road and that the stoage would be to the rear of the property. We envision retail being at the front of the site.

Question/Concern #2:

Traffic in the area is a concern. This bit of area is largely single family homes and it's already a busier street than ever before.

Applicant's Response:

Noted. We could better address that at time of site plan submittal. But, a self storage facility is one of the lowest generators of traffic. So, that use would be favorable to your point.
The retail component is not a lowest generator of traffic.

Question/Concern #3:

Reiterated that he and others property owners in the immediate area were not supportive.

Applicant's Response:

Noted.

Question/Concern #4:

Arlene Evans called in for a summary of the meeting she was unable to attend. She confirmed her parcel was not part of the rezoning and asked what the general support level was of the neighbors.

Applicant's Response:

Confirmed that her parcel was not included. Ran through the introduction of the proposal for her.
Also shared the attendees' comments/concerns.

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, William Daniel, 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 Microsoft Teams (indicate format of meeting) on February 25, 2021 (date) from 5:00 (start time) to 7:00 (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.

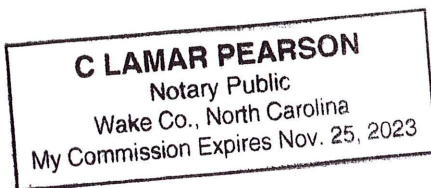
2/26/2021
Date

By: William Daniel

STATE OF NORTH CAROLINA
COUNTY OF WAKE

Sworn and subscribed before me, C Lamar Pearson, a Notary Public for the above State and County, on this the 26th day of February, 2021.

SEAL



C Lamar Pearson
Notary Public
C Lamar Pearson
Print Name

My Commission Expires: 11/25/2023

PLANNING BOARD REPORT TO TOWN COUNCIL

Rezoning Case: 21CZ05 Friendship Storage

Planning Board Meeting Date: May 10, 2021



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: ± 9.09 acres

PIN(s): 0739196547 & 0730197850

Current Zoning: Rural Residential (RR)

Proposed Zoning: Tech/Flex-Conditional Zoning (TF-CZ)

2045 Land Use Map: Office Employment/Commercial Services and Office Employment

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.

☒ 2045 Land Use Map
☒ Consistent ☐ Inconsistent Reason: _____

☒ Apex Transportation Plan
☒ Consistent ☐ Inconsistent Reason: _____

☐ Parks, Recreation, Open Space, and Greenways Plan
☐ Consistent ☐ Inconsistent Reason: _____

PLANNING BOARD REPORT TO TOWN COUNCIL

Rezoning Case: 21CZ05 Friendship Storage

Planning Board Meeting Date: May 10, 2021



Legislative Considerations:

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

1. *Consistency with 2045 Land Use Plan.* The proposed Conditional Zoning (CZ) District use's appropriateness for its proposed location and consistency with the purposes, goals, objectives, and policies of the 2045 Land Use Plan.

☒

Consistent

☐

Inconsistent

Reason: _____

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

☒

Consistent

☐

Inconsistent

Reason: _____

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

☒

Consistent

☐

Inconsistent

Reason: _____

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

☒

Consistent

☐

Inconsistent

Reason: _____

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

☒

Consistent

☐

Inconsistent

Reason: _____

PLANNING BOARD REPORT TO TOWN COUNCIL

Rezoning Case: 21CZ05 Friendship Storage

Planning Board Meeting Date: May 10, 2021



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

☒ Consistent ☐ Inconsistent Reason: _____

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

☒ Consistent ☐ Inconsistent Reason: _____

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

☒ Consistent ☐ Inconsistent Reason: _____

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

☒ Consistent ☐ Inconsistent Reason: _____

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

☒ Consistent ☐ Inconsistent Reason: _____

PLANNING BOARD REPORT TO TOWN COUNCIL

Rezoning Case: 21CZ05 Friendship Storage

Planning Board Meeting Date: May 10, 2021



Planning Board Recommendation:

Motion: Recommend approval as presented by staff and applicant.

Introduced by Planning Board member: Reginald Skinner

Seconded by Planning Board member: Ryan Akers

- ☐ *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 7 Planning Board Member(s) voting "aye"

With 1 Planning Board Member(s) voting "no"

Reasons for dissenting votes:

Tina Sherman:

Per neighbors' concerns that proposed land use map shows Office Employment/Commercial Service and Office Employment, the neighbors were likely expecting office vs. storage. The use may align but it doesn't follow the map per neighbors' expectations.

This report reflects the recommendation of the Planning Board, this the 10th day of May 2021.

Attest:

Michael Marks

Digitally signed by Michael Marks
Date: 2021.05.10 20:26:51 -04'00'

Michael Marks, Planning Board Chair

Dianne Khin

Digitally signed by Dianne Khin
Date: 2021.05.10 16:58:04 -04'00'

Dianne Khin, Director of Planning and
Community Development



TOWN OF APEX
POST OFFICE BOX 230
APEX, NORTH CAROLINA 27502
PHONE 919-249-3426

**PUBLIC NOTIFICATION
OF PUBLIC HEARINGS
CONDITIONAL ZONING #21CZ05
Friendship Storage**

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: Terco Properties
Authorized Agent: William Daniel, William G. Daniel & Associates, P.A.
Property Addresses: 0 Friendship Road & 2109 Old US 1 Highway
Acreage: 29.09 acres
Property Identification Numbers (PINs): 0730196547 & 0730197850
2045 Land Use Map Designation: Office Employment/Commercial Services and Office Employment
Existing Zoning of Properties: Rural Residential (RR)
Proposed Zoning of Properties: Tech/Flex-Conditional Zoning (TF-CZ)

Public Hearing Location: Apex Town Hall
Council Chamber, 2nd Floor
73 Hunter Street, Apex, North Carolina

Planning Board Public Hearing Date and Time: May 10, 2021 4:30 PM

If you would like to speak during the public hearing, you may sign-in ahead of time by emailing your name and address to bonnie.brock@apexnc.org. You may attend the meeting in person or view the meeting through the Town's YouTube livestream at: <https://www.youtube.com/c/townofapexgov>.

If you are unable to attend, you may provide comments no later than noon on Friday, May 7, 2021 by email (public.hearing@apexnc.org, 350-word limit) or voicemail (919-362-7300, 3-minute limit) according to the Remote Participation Policy at: <http://www.apexnc.org/DocumentCenter/View/31397/>. You must provide your name and address for the record. These comments will be read during the Planning Board meeting.

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 within 300 feet of the proposed conditional zoning have been sent this notice via first class mail. All interested parties may submit comments with respect to the application by the means specified above. In addition to the above map, the location of the property may be viewed online at <https://maps.raleighnc.gov/imaps>. The 2045 Land Use Map may be viewed online at www.apexnc.org/DocumentCenter/View/478. You may call 919-249-3426, Department of Planning and Community Development, with questions or for further information. To view the petition and related documents on-line: <https://www.apexnc.org/DocumentCenter/View/34741>.

Dianne F. Khin, AICP
Director of Planning and Community Development

Published Dates: April 23- May 10, 2021



TOWN OF APEX

POST OFFICE BOX 250
APEX, NORTH CAROLINA 27502
PHONE 919-249-3426

PUBLIC NOTIFICATION OF PUBLIC HEARINGS CONDITIONAL ZONING #21CZ05 Friendship Storage

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:

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Dianne F. Khin, AICP
Director of Planning and Community Development



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 #21CZ15
Friendship Storage

Project Location: 0 Friendship Road & 2109 Old US 1 Highway

Applicant or Authorized Agent: William Daniel

Firm: William G. Daniel & Associates, P.A.

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 30, 2021, 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 within 300' of the land subject to notification. I further certify that I relied on information provided to me by the above-mentioned person as to accuracy and mailing addresses of property owners within 300' of the land subject to notification.

4-30-2021
Date

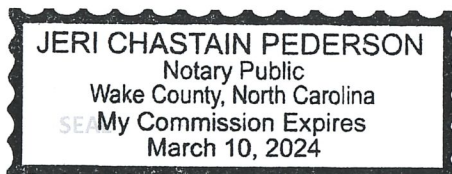
Lauren Stauplenmaier for Dianne Khin
Director of Planning and Community Development

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 30 day of April, 202 1.

Jeri Chastain Pederson
Notary Public



My Commission Expires: 03 / 10 / 2024



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 #21CZ15
Friendship Storage
Project Location: 0 Friendship Road & 2109 Old US 1 Highway
Applicant or Authorized Agent: William Daniel
Firm: William G. Daniel & Associates, P.A.

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 23, 2021, 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 within 300' of the land subject to notification. I further certify that I relied on information provided to me by the above-mentioned person as to accuracy and mailing addresses of property owners within 300' of the land subject to notification.

4-23-2021

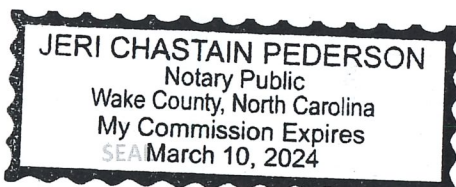
Date

Lauren Staufenmaier for Dianne Khin
Director 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 23 day of April, 2021.



Jeri Chastain Pederson
Notary Public

My Commission Expires: 03/10/2024



TOWN OF APEX
POST OFFICE BOX 230
APEX, NORTH CAROLINA 27502
PHONE 919-249-3426

**PUBLIC NOTIFICATION
OF PUBLIC HEARINGS
CONDITIONAL ZONING #21CZ05
Friendship Storage**

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:

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Existing Zoning of Properties: Rural Residential (RR)
Proposed Zoning of Properties: Tech/Flex-Conditional Zoning (TF-CZ)

Public Hearing Location: Apex Town Hall
Council Chamber, 2nd Floor
73 Hunter Street, Apex, North Carolina

Comments received prior to or during the Planning Board public hearing will not be read during the Town Council public hearing. Separate comments must be provided for the two public hearings in the time frames specified below.

Town Council Public Hearing Date and Time: May 25, 2021 6:00 PM

You may attend the meeting in person or view the meeting through the Town's YouTube livestream at:
<https://www.youtube.com/c/townofapexgov>.

If you are unable to attend, you may provide comments no sooner than Friday, May 7, 2021 at noon but no later than noon on Monday, May 24, 2021 by email (public.hearing@apexnc.org, 350-word limit) or voicemail (919-362-7300, 3-minute limit) according to the Remote Participation Policy at: <http://www.apexnc.org/DocumentCenter/View/31397>. You must provide your name and address for the record. These comments will be read during the Town Council meeting.

If the Council meeting is held with at least one member attending virtually, the vote on the subject of this public hearing will be delayed per State law to allow for comments to be submitted between publication of any required notice and 24 hours after the public hearing. Comments must be provided according to the means specified above. This item will then be scheduled for the next Town Council meeting. Please note that at this subsequent meeting, Town Council may choose to vote on the item, table the discussion to a later date, or take other action which would delay Council action to another time.

Vicinity Map:



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Dianne F. Khin, AICP
Director of Planning and Community Development

Published Dates: April 30- May 25, 2021



TOWN OF APEX

POST OFFICE BOX 250
APEX, NORTH CAROLINA 27502
PHONE 919-249-3426

PUBLIC NOTIFICATION OF PUBLIC HEARINGS CONDITIONAL ZONING #21CZ05 Friendship Storage

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Dianne F. Khin, AICP
Director of Planning and Community Development

Published Dates: April 30- May 25, 2021

Siena and Verona
at Bella Casa

Winding
Creek
Estates

Red Cardinal Ln

Holland Rd

Old US 1 Hwy

2001

2017

2109

Kirkwood

3001

Friendship Rd

Rezoning #21CZ05

Public Hearing Sign Posted By


Signature

3/8/2021
Date

March, 2021
January 2021 Aerial Photography
Prepared by: Town of Apex Planning Department

0

500

1,000

Feet

| Agenda Item | cover sheet

for consideration by the Apex Town Council

Item Type: PUBLIC HEARING

Meeting Date: May 25, 2021

Item Details

Presenter(s): Liz Loftin, Senior Planner

Department(s): Planning & Community Development

Requested Motion

Public Hearing and possible motion to approve Rezoning Application #21CZ06 Jenks Road Office & Veterinary Hospital. The applicant, Daniel Shultz, Peak 360, LLC, seeks to rezone approximately 6.69 acres located at 7825 and 7809 Jenks Road (PINs 0722886419 & 0722888770) from Rural Residential (RR) to Neighborhood Business-Conditional Zoning (B1-CZ).

Approval Recommended?

The Planning and Community Development Department recommends approval.

The Planning Board held a Public Hearing on May 10, 2021 and recommended approval, with the conditions as offered by the applicant, by a vote of 7-0. Keith Braswell was recused as he was the listing agent on the McMains and Hobbs properties. Planning Board recommended further discussion between applicant and neighboring residents on a mutually-agreeable fence solution.

Item Details

Attachments

- Staff Report
- Vicinity Map
- Application



STAFF REPORT

Rezoning #21CZ06 Jenks Road Office & Veterinary Hospital

May 25, 2021 Town Council Meeting



All property owners within 300 feet of this rezoning have been notified per UDO Sec. 2.2.11 *Public Notification*.

BACKGROUND INFORMATION:

Location: 7825 & 7809 Jenks Road
Applicant: Daniel Shultz, Peak 360, LLC
Owner: Ronald Hobbs & Worth McMains

PROJECT DESCRIPTION:

Acreage: ± 6.69 acres
PINs: 0722886419; 0722888770
Current Zoning: Rural Residential (RR)
Proposed Zoning: Neighborhood Business-Conditional Zoning (B1-CZ)
2045 Land Use Map: Mixed Use: High Density Residential/Office Employment/Commercial Services
Town Limits: ETJ

Adjacent Zoning & Land Uses:

	Zoning	Land Use
North:	Rural Residential (RR); Planned Unit Development-Conditional Zoning (PUD-CZ #16CZ30)	Jenks Road; Single-family detached; Preserve at White Oak Creek amenity center
South:	Planned Unit Development-Conditional Zoning (PUD-CZ #18CZ31); Rural Residential (RR)	Single-family detached
East:	Rural Residential (RR)	Sunset Meadows Drive; Single-family detached
West:	Planned Unit Development-Conditional Zoning (PUD-CZ #16CZ30 & 18CZ31)	Townhomes; Single-family detached

Existing Conditions:

The subject properties are located south of Jenks Road, west of Sunset Meadows Drive, and east of the Westford subdivision. The two properties contain two single family structures with several accessory structures. On the eastern property boundary there is an existing pond.

Neighborhood Meeting:

The applicant conducted a neighborhood meeting on February 25, 2021. The neighborhood meeting report is attached.

2045 LAND USE MAP:

The 2045 Land Use Map identifies the properties subject to this rezoning as Mixed Use: High Density Residential/Office Employment/Commercial Services. The proposed rezoning to Neighborhood Business-Conditional Zoning is consistent with those land use classifications.

STAFF REPORT

Rezoning #21CZ06 Jenks Road Office & Veterinary Hospital

May 25, 2021 Town Council Meeting



PERMITTED USES:

The applicant is proposing the following uses permitted uses:

1. Day care facility
2. Drop-in or short term day care
3. Veterinary clinic or hospital
4. Vocational school
5. Utility, minor
6. Botanical garden
7. Entertainment-indoor
8. Greenway
9. Park, active
10. Park, passive
11. Youth or day camps
12. Medical or dental office or clinic
13. Office, business or professional
14. Barber and beauty shop
15. Book Store
16. Financial institution
17. Floral shop
18. Greenhouse or nursery, retail
19. Health/fitness center or spa
20. Newsstand or gift shop
21. Personal services
22. Printing and copying services
23. Real estate sales
24. Retail sales, general
25. Studio for art
26. Tailor shop
27. Upholstery shop
28. Pet Services
29. Microbrewery

PROPOSED ZONING CONDITIONS:

1. Per the Environmental Advisory Board, the site shall meet the following conditions
 - a) Two pet waste stations shall be installed on the property (one near the existing pond and one near the proposed SCM).
 - b) Evaluation for possible landscaping installation around the existing pond.
2. EIFS or synthetic stucco shall not be used in the first forty inches (40") above grade.
3. The building exterior shall have more than one material color.
4. The main entrance to the building shall be emphasized.
5. Only full cut-off lighting fixtures and fixtures with external house-side shields shall be allowed where non-residential properties are adjacent to residential properties.
6. The existing pond onsite shall be retained if engineering studies confirm the dam is structurally sound and meets all regulatory requirements.
7. Developer shall provide public vehicular and pedestrian access between Haybeck Lane and Jenks Road, with construction of a public street extension and/or private driveway connection within a public access easement.
8. The parcels shall be served exclusively by a single full movement intersection at Jenks Road. The intersection shall aligned with White Oak Grove Way, and the developer shall provide a westbound left turn lane on Jenks Road subject to approval by the Town of Apex and NCDOT. The full movement intersection shall be the only point access added to Jenks Road.
9. A 30' Type B Landscape buffer shall be provided along the property frontage on Sunset Meadows Drive.
10. A 6' wood screen fence shall be installed along the N/F Reder property (225 LF) and N/F Meech property (125 LF) as shown on Exhibit A in addition to the 20' Type B buffer required by the UDO. Where a fence is not installed, a 30' Type B buffer shall be provided.
11. The developer will not construct sidewalk along the property frontage of Sunset Meadows Drive.

STAFF REPORT

Rezoning #21CZ06 Jenks Road Office & Veterinary Hospital

May 25, 2021 Town Council Meeting



12. All non-residential buildings shall provide a solar conduit for the future installation of rooftop solar panels.

ENVIROMENTAL ADVISORY BOARD:

The Apex Environmental Advisory Board (EAB) held a pre-application meeting for this rezoning on February 18, 2021. The zoning conditions suggested by the EAB are listed below along with the applicant's response to each condition.

EAB Suggested Conditions	Applicant's Response
Maximize the buffer around the pond to prevent pet waste runoff.	Added
Install a pet waste system near the proposed SCM and also near the natural pond (minimum of 2).	Added

PLANNING STAFF RECOMMENDATION:

Planning staff recommends approval of #21CZ06 Jenks Road Office & Veterinary Hospital with the conditions as offered by the applicant.

PLANNING BOARD RECOMMENDATION:

The Planning Board held a Public Hearing on May 10, 2021 and voted to recommend approval, with the conditions as offered by the applicant, by a vote of 7-0. Keith Braswell was recused as he was the listing agent on the McMains and Hobbs properties. Planning Board recommended further discussion between applicant and neighboring residents on a mutually-agreeable fence solution.

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 consistent with the High Density Residential/Office Employment/Commercial Services land use classifications on the 2045 Land Use Map.

The proposed rezoning is reasonable and in the public interest because it will provide an opportunity for non-residential uses to serve the surrounding area. It will also encourage compatible development of the property, increase the tax base and accommodate the growth in population, economy, and infrastructure consistent with that contemplated by the 2045 Land Use Map.

CONDITIONAL ZONING STANDARDS:

The Town Council shall find the Neighborhood Business -Conditional Zoning (B1-CZ) designation demonstrates compliance with the following standards. Sec. 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

STAFF REPORT

Rezoning #21CZ06 Jenks Road Office & Veterinary Hospital

May 25, 2021 Town Council Meeting



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 #21CZ06

Castlereagh North

Caitlin Pond

Lake Marsha



Sunnybrook Farms

Townes at Westford

The Preserve at White Oak Creek

(REZONING) PETITION TO AMEND THE OFFICIAL ZONING DISTRICT MAP & 2045 LAND USE MAP AMENDMENT



REZONING PETITION SUBMISSION:

Applications are due by 12:00 pm on the first business day of each month. See the [Rezoning Schedule](#) on the website for details.

REZONING PETITION FEES:

Conditional Zoning: \$900.00

Rezoning: \$600.00*

2045 Land Use Map Amendment: \$700.00

* No zoning conditions may be added to address concerns of staff, adjacent property owners, Planning Board, or Town Council

PRE-APPLICATION MEETING: Separate pre-application meetings with the Technical Review Committee (TRC) and the Environmental Advisory Board (EAB) are required to be scheduled prior to the submittal of a PD Plan for PUD-CZ.

Pre-application meetings with the TRC are typically scheduled during regular business hours on the 1st, 2nd, and 5th Thursdays of the month and pre-application meetings with the EAB are held at 6 p.m. on the 3rd Thursday of the month during the regularly scheduled EAB meeting.

To schedule a meeting, applicants must e-mail a pdf map of the parcel(s) to be rezoned and a completed [Rezoning Pre-Application Meeting Request](#) form to Planner Lauren Staudenmaier (lauren.staudenmaier@apexnc.org) no later than five (5) working days prior to the desired meeting day.

PURPOSE OF A CONDITIONAL ZONING: Conditional Zoning (CZ) Districts are zoning districts in which the development and use of property is subject to the ordinance standards applicable to the corresponding general use district as well as additional rules, regulations, and conditions that are imposed as part of the legislative decision creating the district. A Conditional Zoning (CZ) District allows particular uses to be established only in accordance with site specific standards and conditions pertaining to each individual development project. All site-specific standards and conditions must be consistent with the objectives of these regulations, the adopted 2045 Land Use Map, and adopted area plans. The review process established in this part provides for the accommodation of such uses by a reclassification of property into a CZ District, subject to site-specific standards and conditions.

NEIGHBORHOOD MEETING: Neighborhood meetings are required per UDO Section 2.2.7 prior to application submission. The applicant is required to notify property owners and any neighborhood association that represents citizens within that area within 300 feet of the subject property via first class mail a minimum of 10 days in advance of the neighborhood meeting. The applicant shall use their own return address on the envelopes as the meeting is a private meeting between the developer and the neighbors. The applicant shall submit the "Certified List of Neighboring Property Owners" and "Neighborhood Meeting Packet" forms included in this application packet with their initial submittal. The Neighborhood Meeting Packet is located at the very end of this document.

ANNEXATION REQUIREMENTS: If a property or portion thereof subject to this rezoning is outside the corporate limits and ETJ, an [annexation petition](#) is **required** to be submitted on the same day as this application.

Electronic Submittal Requirements (submit in IDT): [Click here to access IDT Plans Website](#)

- Upload one full copy of the application and other sheets listed below via IDT.

Hard Copy Submittal Requirements: Submit to Planning Department

- One (1) original Rezoning Petition Application
- Petition Fee
- Legal Description (metes and bounds)
- Certified List of Neighboring Property Owners within 300 feet of subject property
- Agent Authorization Form
- Neighborhood Meeting Packet
- If applicable: Annexation Petition, map, legal description and \$200.00 fee
- Two (2) sets of envelopes addressed to Certified List of Neighboring Property Owners and HOAs within 300 feet of subject property. An additional set of envelopes may be required based on the timing of the Planning Board and Town Council meetings.
 - Addresses must be from a current list obtained from the Wake County GIS Map Services. A buffer report service is offered for \$1 per page. Please contact them at 919-856-6360 or <http://www.wakegov.com/gis/services/Pages/gisservices.aspx>
 - Affixed with first class stamps & the following return address:
Town of Apex Planning Department
P.O. Box 250
Apex, NC 27502

NEIGHBORHOOD MEETING: Neighborhood meetings are required per UDO Section 2.2.7 prior to application submission. The applicant is required to notify property owners and any neighborhood association that represents citizens within that area within 300 feet of the subject property via first class mail a minimum of 10 days in advance of the neighborhood meeting. The applicant shall use their own return address on the envelopes as the meeting is a private meeting between the developer and the neighbors. In their initial submittal, the applicant shall submit the “Certified List of Neighboring Property Owners” and “Neighborhood Meeting Packet” forms included in this application packet. The Neighborhood Meeting Packet is located at the very end of this document.

REVIEW FOR SUFFICIENCY: Incomplete plans will be returned to the applicant and sufficiently complete applications are forwarded to the planning staff for review.

REVIEW BY STAFF: Planning staff reviews the application to determine compliance with the Unified Development Ordinance (UDO). If the application is determined not to be compliant with the UDO, comments will be sent to the applicant. The applicant must address all staff comments before any public hearings are scheduled.

PUBLIC HEARING NOTIFICATION: Notification of the public hearing will take place by three different methods. A written notice will be sent to nearby property owners not more than 25 days nor less than 14 days prior to the public hearings, as required by the UDO. The Planning Department will prepare these written notifications for all property owners of the land subject to the application and all property owners within 300 feet of the land subject to the application. A notice will be published on the Town of Apex website (www.apexnc.org) no less than 10 days, but not more than 25 days, prior to the public hearings, and a notice will be posted at the land subject to the application at least 14 days prior to the public hearings.

1ST PUBLIC HEARING/PLANNING BOARD MEETING: The Planning Board will consider the application, relevant support materials, the Staff Report and public testimony given at the public hearing. After the public hearing the Planning Board will make a recommendation to the Town Council. The Planning Board may recommend approval, approval with conditions or disapproval. The application is then forwarded to the Town Council. The Planning Board meets at 4:30 p.m. in the Town Hall Council Chambers on the date indicated on the Rezoning Schedule.

2ND PUBLIC HEARING/TOWN COUNCIL MEETING: The Town Council will consider the application, relevant support materials, the Staff Report, the Planning Board recommendation and public testimony given at the public hearing. After the public hearing the Town Council will vote to approve, approve with conditions or disapprove the rezoning. The Town Council meets at 6:00 p.m. in the Town Council Chambers on the date indicated on the Rezoning Schedule.

PETITION TO AMEND THE OFFICIAL ZONING MAP & 2045 LAND USE MAP

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

Application #: #21CZ06 Submittal Date: March 1, 2021
2045 LUM Amendment: n/a Fee Paid: paid \$900

Project Information

Project Name: Jenks Road Office and Veterinary Hospital
Address(es): 7825 & 7809 Jenks Rd, Apex, NC 27523
PIN(s): 0722-88-6419
0722-88-8770 Acreage: 6.69
Current Zoning: RR Proposed Zoning: B1-CZ
Current 2045 LUM Designation: Commercial Services, Office Employment, High Density Residential
Proposed 2045 LUM Designation: _____
See next page for LUM Amendment.

If any portion of the project is shown as mixed use (3 or more stripes on the 2045 Land Use Map) provide the following:

Area classified as mixed use: Acreage: _____
Area proposed as non-residential development: Acreage: _____
Percent of mixed use area proposed as non-residential: Percent: _____

Applicant Information

Name: Peak 360, LLC att: Daniel Shultz
Address: 7709 Green Level Church Road
City: Apex State: NC Zip: 27523
Phone: (919) 462-8989 x 107 E-mail: daniel@caryervet.com

Owner Information

Name: Ronald Hobbs & Worth McMains
Address: 201 Trewlawney Ln (Hobbs) & 7809 Jenks Rd (McMains)
City: Cary (Hobbs) & Apex (McMains) State: NC Zip: 27519 (H) & 27523 (M)
Phone: _____ E-mail: _____

Agent Information

Name: Peak Engineering & Design, att: Jeff Roach
Address: 1125 Apex Peakway
City: Apex State: NC Zip: 27502
Phone: (919) 439-0100 E-mail: jroach@peakengineering.com
Other contacts: jedwards@peakengineering.com
dwoods@peakengineering.com

PETITION TO AMEND THE OFFICIAL ZONING MAP & 2045 LAND USE MAP

Application #: #21CZ06 #21#

Submittal Date: March 1, 2021

2045 LAND USE MAP AMENDMENT (IF APPLICABLE)

The applicant does hereby respectfully request the Town Council amend the 2045 Land Use Map. In support of this request, the following facts are shown:

The area sought to be amended on the 2045 Land Use Map is located at:

N/A

Current 2045 Land Use Classification:

Proposed 2045 Land Use Classification:

N/A

What condition(s) justifies the passage of the amendment to the 2045 Land Use Map? Discuss the existing use classifications of the subject area in addition to the adjacent land use classifications. Use additional pages as needed.

N/a

PETITION INFORMATION

Application #: #21CZ06 Submittal Date: March 1, 2021

An application has been duly filed requesting that the property described in this application be rezoned from RR to B1-CZ. It is understood and acknowledged that if the property is rezoned as requested, the property described in this request will be perpetually bound to the use(s) authorized and subject to such conditions as imposed, unless subsequently changed or amended as provided for in the Unified Development Ordinance. 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. 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 | Day Care | 21 | Grocery Specialty |
| 2 | Drop in-Short Term Day Care | 22 | Health/Fitness Center or Spa |
| 3 | Veterinary Clinic or Hospital | 23 | Newsstand or Gift Shop |
| 4 | Vocational School | 24 | Personal Services |
| 5 | Utility Minor | 25 | Pharmacy |
| 6 | Botanical Garden | 26 | Printing and Copying Services |
| 7 | Entertainment-Indoor | 27 | Real Estate Sales |
| 8 | Greenway | 28 | Retail Sales, General |
| 9 | Park, Active | 29 | Studio for Art |
| 10 | Park, Passive | 30 | Tailor Shop |
| 11 | Youth or Day Camps | 31 | Upholstery Service |
| 12 | Medical or Dental Office or Clinic | 32 | Pet Services |
| 13 | Office, Business or Professional | 33 | Microbrewery |
| 14 | Barber and Beauty Shop | 34 | |
| 15 | Book Store | 35 | |
| 16 | | 36 | |
| 17 | | 37 | |
| 18 | Financial Institution | 38 | |
| 19 | Floral Shop | 39 | |
| 20 | Greenhouse or Nursery, Retail | 40 | |

PETITION INFORMATION

Application #:

#21CZ06

Submittal Date:

March 1, 2021

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 proposed residential development will not require a modification to the 2045 Land Use Map and is in keeping with the adopted plans from the Town of Apex.

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 use will have buffers and building standards which will be compatible with the surrounding uses and fit within the Town's long range plans

PETITION INFORMATION

Application #: #21CZ06 Submittal Date: March 1, 2021

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

The proposed use will meet the required Supplemental Standards for the proposed use(s).

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 design will provide perimeter buffers, architectural controls, and utility connections to avoid impacts on 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.

The site is proposed to meet UDO standards for design controls, including minimization of environmentally sensitive areas, limited site impacts and reduction of clearing of perimeter vegetation.

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 site is located close to existing public facilities, including water, sewer, gas, electric and telephone. The site is adjacent to public infrastructure, including streets with easy access for emergency vehicles and personnel.

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 use will not be detrimental to the health, safety, and welfare of Apex Residents.

The use will provide a service to Apex citizens

PETITION INFORMATION

Application #:

#21CZ06

Submittal Date:

March 1, 2021

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

The use is in keeping with the adopted plans and will not be detrimental to the adjacent property owners.

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 list of uses does not constitute a nuisance or hazard based upon the anticipated number of patrons that will utilize the service

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 proposed development will meet the standards within various sections of the Town of Apex UDO.

Jenks Road Office & Veterinary Hospital

Conditions of Zoning Town Council Conditions

1. Per the Environmental Advisory Board, the site shall meet the following conditions:
 - a. Two pet waste stations shall be installed on the property (one near the existing pond and one near the proposed SCM).
 - b. Evaluation for possible landscaping installation around the existing pond.
2. EIFS or synthetic stucco shall not be used in the first forty inches (40") above grade.
3. The building exterior shall have more than one material color.
4. The main entrance to the building shall be emphasized.
5. Only full cut-off lighting fixtures and fixtures with external house-side shields shall be allowed where non-residential properties are adjacent to residential properties.
6. The existing pond onsite shall be retained if engineering studies confirm the dam is structurally sound and meets all regulatory requirements.
7. Developer shall provide public vehicular and pedestrian access between Haybeck Lane and Jenks Road, with construction of a public street extension and/or private driveway connection within a public access easement.
8. The parcels shall be served exclusively by a single full movement intersection at Jenks Road. The intersection shall be aligned with White Oak Grove Way, and the developer shall provide a westbound left turn lane on Jenks Road subject to approval by the Town of Apex and NCDOT. The full movement intersection shall be the only point of access added to Jenks Road.
9. *A 30' Type 'B' landscape buffer shall be provided along the property frontage on Sunset Meadows Drive.*
10. *A 6' wood screen fence shall be installed along the N/F Reder property (~225 LF) and N/F Meech property (~125 LF) as shown on Exhibit A in addition to the 20' Type 'B' buffer required by the UDO. Where a fence is not installed, a 30' Type 'B' buffer shall be provided.*
11. *The developer will not construct sidewalk along the property frontage of Sunset Meadows Drive.*
12. *All non-residential buildings shall provide a solar conduit for the future installation of rooftop solar panels.*

CERTIFIED LIST OF NEIGHBORING PROPERTY OWNERSApplication #: #21CZ06Submittal Date: March 1, 2021

Provide a certified list of property owners subject to this application and all property owners within 300' of the subject property and HOA Contacts.

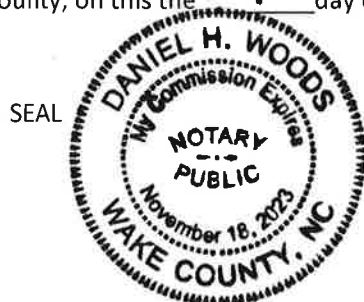
	Owner's Name	PIN
1.	See attached	
2.		
3.		
4.		
5.		
6.		
7.		
8.		
9.		
10.		
11.		
12.		
13.		
14.		
15.		

I, Jeff Roach, certify that this is an accurate listing of all property owners and property owners within 300' of the subject property.

Date: 3-1-2021By: 

COUNTY OF WAKE STATE OF NORTH CAROLINA

Sworn and subscribed before me, DANIEL WOODS, a Notary Public for the above State and County, on this the 1 day of MARCH, 2021.



Notary Public

DANIEL H. WOODS

Print Name

My Commission Expires: 11/18/2023

	Owner's Name	Pin
1.	Apex Properties & Rentals LLC	0722-95-5121
2.	Brad & Michele Buckingham	0722-92-2036
3.	Ryan Carfley	0722-83-3646
4.	Margaret Cascioli Trustee Cascioli Protection Trust	0722-80-0456
5.	Xue Mei Chen	0722-81-1561
6.	Michael & Alison Cleary	0722-88-8252
7.	Jeffrey & Gayle Dworkin	0722-81-1604
8.	Zhuoran Fan & Ran Qu	0722-80-0663
9.	Brittany Ford	0722-82-2526
10.	Dana & Robin Franklin	0722-81-1582
11.	Deepali & Nitin Gautam	0722-80-0487
12.	Ronald & Janet Hobbs	0722-86-6419
13.	George & Suzanne Kissel	0722-83-3122
14.	Ashok Kumar & Rome Verma	0722-82-2504
15.	Heyward & Donna Maynard	0722-93-3615
16.	Ira Henry & Linda Maynard	0722-90-0345
17.	Daniel & Susan McMains	0722-93-3526
18.	Worth & Carey McMains	0722-88-8770
19.	Mark & Deborah Meech	0722-87-7194
20.	Naresh Mudemala & Venkata Gangavaram	0722-80-0416
21.	Lijun Pang & Liwu Liu	0722-89-9476
22.	Jae Hyung & Alicia Park	0722-81-1459
23.	Sarah & Fred Penley	0722-81-1846
24.	Venkateshkumar Ramaiyan & Thamizharasi Poongavaname	0722-80-0436
25.	Christopher & Meghann Reder	0722-89-9451
26.	Konstantin & Anna Reverdatto	0722-83-3455
27.	Priyanka & Tarun Sharma	0722-81-1407
28.	Taylor Morrison of Carolinas Inc	0722-75-5660
29.	Taylor Morrison of Carolinas Inc	0722-82-2120
30.	Taylor Morrison of Carolinas Inc	0722-82-2127
31.	Taylor Morrison of Carolinas Inc	0722-82-2163
32.	Taylor Morrison of Carolinas Inc	0722-82-2196
33.	Taylor Morrison of Carolinas Inc	0722-83-3011
34.	Taylor Morrison of Carolinas Inc	0722-83-3230
35.	Taylor Morrison of Carolinas Inc	0722-83-3263
36.	Taylor Morrison of Carolinas Inc	0722-84-4037
37.	Taylor Morrison of Carolinas Inc	0722-84-4092
38.	Taylor Morrison of Carolinas Inc	0722-84-4171
39.	Taylor Morrison of Carolinas Inc	0722-84-4196
40.	Taylor Morrison of Carolinas Inc	0722-85-5211
41.	Taylor Morrison of Carolinas Inc	0722-85-5217
42.	The Preserve at White Oak Creek Homeowners Association	0722-85-5873
43.	The Preserve at White Oak Creek Homeowners Association	0722-89-9678
44.	The Preserve at White Oak Creek Homeowners Association	0722-82-2455
45.	The Preserve at White Oak Creek Homeowners Association	0722-83-3808
46.	Eura Tunstall	0722-97-7396

AGENT AUTHORIZATION FORM

Application #: #21CZ06

Submittal Date: March 1, 2021

Worth and Carey McMains

is the owner* of the property for which the attached

application is being submitted:

- ☐ Land Use Amendment
- ☒ Rezoning: For Conditional Zoning and Planned Development rezoning applications, this authorization includes express consent to zoning conditions that are agreed to by the Agent which will apply if the application is approved.
- ☒ Site Plan
- ☐ Subdivision
- ☐ Variance
- ☐ Other: _____

The property address is: 7809 Jenks Road

The agent for this project is: Peak Engineering & Design

☐ I am the owner of the property and will be acting as my own agent

Agent Name: Jeff Roach

Address: 1125 Apex Peakway, Apex, NC 27502

Telephone Number: 919-439-0100

E-Mail Address: jroach@peakengineering.com

Signature(s) of Owner(s)*

Worth McMains Worth McMains

Worth McMains Worth McMains

Type or print name

2-15-21

Date

Carey McMains Carey McMains

Carey McMains Carey McMains

Type or print name

2-15-21

Date

Attach additional sheets if there are additional owners.

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

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

AFFIDAVIT OF OWNERSHIPApplication #: #21CZ06Submittal Date: March 1, 2021

The undersigned, Worth McMains (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 7809 Jenks Road and legally described in **Exhibit "A"** attached hereto and incorporated herein (the "Property").
2. This Affidavit of Ownership is made for the purpose of filing an application for development approval with the Town of Apex.
3. If Affiant is the owner of the Property, Affiant acquired ownership by deed, dated 10/30/1978, and recorded in the Wake County Register of Deeds Office on 10/29/1978, in Book 2675 Page 532.
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 7809 Jenks Road, 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 7809 Jenks Road, 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 15th day of February, 2021.

Worth McMains

(seal)

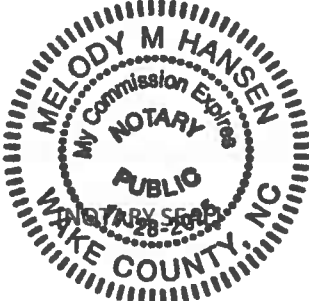
WORTH W MCMAINS

Type or print name

STATE OF NORTH CAROLINA

COUNTY OF Wake

I, the undersigned, a Notary Public in and for the County of Wake, hereby certify that Worth McMains, Affiant, personally known to me or known to me by said Affiant's presentation of said Affiant's Carey McMains, personally appeared before me this day and acknowledged the due and voluntary execution of the foregoing Affidavit.

Melody M. Hansen

Notary Public

State of North Carolina

My Commission Expires:

November 28, 2025

Exhibit A



USE 2675 USE 532

FILED

BOOK PAGE

OCT 30 3 22 PM '78

R. B. McKENZIE, JR.
REGISTER OF DEEDS
WAKE COUNTY, N. C.

1250

Rebate Tax

Recording Time, Book and Page

Taxpayer I. D. out of 72527 Parcel Identifier No. _____
 Verified by _____ County on the _____ day of _____, 1978
 by _____
 Mail after recording to Railley, Dixon, Wooten, McDonald & Fountain
P. O. Box 2246, Raleigh, NC 27602
 This instrument was prepared by Willis R. Casey, Jr.

NORTH CAROLINA GENERAL WARRANTY DEED

THIS DEED made this 30th day of October, 1978, by and between

GRANTOR

GRANTEE

Warren T. Tunstall and wife,
Doris C. Tunstall

Worth W. McMains and wife,
Carey M. McMains
7221 Beatty Creek
Raleigh, NC

Enter in appropriate block for each party's name, address, and, if appropriate, character of entity, e.g., corporation or partnership.

The designation Grantor and Grantee as used herein shall include said parties, their heirs, successors, and assigns, and shall include singular, plural, masculine, feminine or neuter as required by context.

WITNESSETH, that the Grantee, for a valuable consideration paid by the Grantee, the receipt of which is hereby acknowledged, has and by these presents does grant, bargain, sell and convey unto the Grantee in fee simple, all that certain lot or parcel of land situated in White Oak Township, Wake County, North Carolina and more particularly described as follows:

BEGINNING at a point on the south side of Jenks Road (S.R. #1601), said point being South 01°34'17" West 35.31 feet from the center line of said road, and being the northwest corner of O. S. Goodwin; thence continuing along Goodwin's line South 01°34'17" West 188.69 feet to a new iron pipe; thence along the same line 196.33 feet to a new iron pipe; thence along the same line 222.40 feet to a new iron pipe; thence North 88°25'43" West 193.00 feet to a Hickory; thence North 31°42'09" West 177.91 feet to an existing iron pipe; thence along the same line 150 feet to an existing iron pipe on the south side of Jenks Road; thence along the same line 31.46 feet to the center line of Jenks Road; thence along said center line of Jenks Road the following courses and distances: North 39°57'46" East 75.05 feet to a point; North 42°23'22" East 100 feet to a point; North 48°33'15" East 100.00 feet to a point; North 54°53'07" East 100.00 feet to a point; North 57°33'51" East 29.31 feet to a point; North 59°04'17" East 70.70 feet to a PK nail; North 59°45'17" East 48.21 feet to a new PK nail, the point and place of BEGINNING, containing 3.768 acres, including the right of way, according to a survey entitled "Property of Worth W. McMains and wife, Carey M. McMains", prepared by Darward W. Baker, RLS, dated October 5, 1978.

AGENT AUTHORIZATION FORM

Application #: #21CZ06

Submittal Date: March 1, 2021

Ronald and Janet Hobbs

is the owner* of the property for which the attached

application is being submitted:

- ☐ Land Use Amendment
- ☒ Rezoning: For Conditional Zoning and Planned Development rezoning applications, this authorization includes express consent to zoning conditions that are agreed to by the Agent which will apply if the application is approved.
- ☒ Site Plan
- ☐ Subdivision
- ☐ Variance
- ☐ Other: _____

The property address is: 7825 Jenks Road

The agent for this project is: Peak Engineering & Design

☐ I am the owner of the property and will be acting as my own agent

Agent Name: Jeff Roach

Address: 1125 Apex Peakway, Apex, NC 27502

Telephone Number: 919-439-0100

E-Mail Address: jroach@peakengineering.com

Signature(s) of Owner(s)*

Ronald S Hobbs

Ronald Hobbs

Ronald S Hobbs

Type or print name

2/16/21

Date

Janet H. Hobbs

Janet Hobbs

Janet H. Hobbs

Type or print name

2/16/21

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 #: #21CZ06

Submittal Date: March 1, 2021

The undersigned, Ronald Hobbs (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 7825 Jenks Road and legally described in **Exhibit "A"** attached hereto and incorporated herein (the "Property").
2. This Affidavit of Ownership is made for the purpose of filing an application for development approval with the Town of Apex.
3. If Affiant is the owner of the Property, Affiant acquired ownership by deed, dated 3/24/1980, and recorded in the Wake County Register of Deeds Office on 3/25/1980, in Book 2817 Page 359.
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 7825 Jenks Road, 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 7825 Jenks Road, 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.

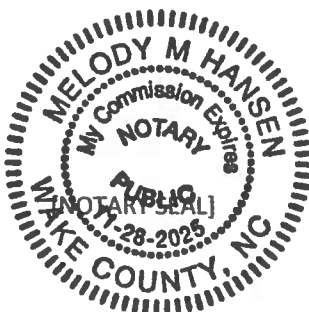
This the 16 day of February, 2021.

Janet A. Hobbs (seal)
Type or print name

STATE OF NORTH CAROLINA

COUNTY OF wake

I, the undersigned, a Notary Public in and for the County of wake, hereby certify that Ronald Hobbs, Affiant, personally known to me or known to me by said Affiant's presentation of said Affiant's Janet Hobbs, personally appeared before me this day and acknowledged the due and voluntary execution of the foregoing Affidavit.



Melody M. Hansen
Notary Public
State of North Carolina
My Commission Expires: November 28, 2025



BOOK 2817 PAGE 358
PRESENTED
FOR
REGISTRATION

MAY 25 10 29 AM '80

R.A. HICKMAN, JR.
REGISTER OF DEEDS
WAKE COUNTY, N.C.

State Tax \$17.00

Recording Time, Book and Page

Tax Lot No. _____ Parcel Identifier No. 104760
Verified by _____ County on the _____ day of _____, 19____
by _____

Mail after recording to Holloman and Stan, P.O. Drawer H
Apex, N.C.

This instrument was prepared by Holloman and Stan

Brief description for the Index 3.00 acres - Jenks Road

NORTH CAROLINA GENERAL WARRANTY DEED

THIS DEED made this 24th day of March, 1980, by and between

GRANTOR

GRANTEE

Richard Gordon Bunn and wife,
Zora Elizabeth Bunn

Ronald Scott Hobbs and wife,
Janet E. Hobbs
Rt. 2, 701 Trelawney Lane
Apex, N.C. 27502

Enter in appropriate block for each party: name, address, and, if appropriate, character of entity, e.g. corporation or partnership.

The designation Grantor and Grantee as used herein shall include said parties, their heirs, successors, and assigns, and shall include singular, plural, masculine, feminine or neuter as required by context.

WITNESSETH, that the Grantor, for a valuable consideration paid by the Grantee, the receipt of which is hereby acknowledged, has and by these presents does grant, bargain, sell and convey unto the Grantee in fee simple, all that certain lot or parcel of land situated in the City of _____, White Oak _____ Township,

Wake _____ County, North Carolina and more particularly described as follows:

BEGINNING at an iron pipe on the southside of State Road #1601 (Jenks Rd.) approximately 400 feet southwest of it's intersection with SR 1782 thence along Tunstall's line South 31 degrees 42 minutes 09 seconds East 150 feet to an iron pin, thence continuing along the same line 177.91 feet to a hickory, northwest corner of O. S. Goodwin, thence along Goodwin's line South 04 degrees 34 minutes 17 seconds West 167.01 feet to an iron pin, northeast corner of W. C. Mann, thence along Mann's line North 87 degrees 24 minutes 09 seconds West 226.55 feet to an iron pin, thence along the same line 204.97 feet to an iron pin, thence along the same line 91.47 feet to an iron pin on the south side of State Road #1601, thence along said road North 40 degrees 45 minutes 10 seconds East 536.75 feet to the point and place of beginning containing 3.00 acres according to a survey entitled "Property of Richard Gordon Bunn and wife, Zora Elizabeth Bunn," prepared by Derward W. Baker, Registered Land Surveyor, dated May 3, 1978., and recorded in Book of Maps 1980, Page 196., Wake County Registry.

AFFIDAVIT OF OWNERSHIP: EXHIBIT A – LEGAL DESCRIPTION

Application #: #21CZ06

Submittal Date: March 1, 2021

Insert legal description below.

For legal descriptions, please refer to the following deeds and/or plats:

Worth McMains 0722-88-8770

- Deed Book 02675, Deed Page 0532

- LESS AND EXCEPT the 0.074 acres recorded in DB 6613 Pg 569

Ronalds Hobbs 0722-88-6419

- Deed Book 02817, Deed Page 0358

NO RESIDENTIAL COMPONENT ON THE PROJECT

Wake County Residential Development Notification

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-gis-group@wcpss.net

Developer Company Information	
Company Name	
Company Phone Number	
Developer Representative Name	
Developer Representative Phone Number	
Developer Representative Email	

New Residential Subdivision Information	
Date of Application for Subdivision	
City, Town or Wake County Jurisdiction	
Name of Subdivision	
Address of Subdivision (if unknown enter nearest cross streets)	
REID(s)	
PIN(s)	

Projected Dates Information	
Subdivision Completion Date	
Subdivision Projected First Occupancy Date	

Lot by Lot Development Information																	
Unit Type	Total # of Units	Senior Living	Studio	1 Bedroom	2 Bedroom	3 Bedroom	4 Bedroom	Square Foot Range		Price Range		Anticipated Completion Units & Dates					
								Min	Max	Low	High	Year	# Units	Year	# Units	Year	# Units
Single Family																	
Townhomes																	
Condos																	
Apartments																	
Other																	



Instruction Packet and Affidavit for Neighborhood Meetings

Town of Apex
Planning Department
PO Box 250
Apex, NC 27502

T: 919-249-3426
F: 919-249-3338

This packet consists of instructions and templates for conducting a required Neighborhood Meeting. Planning Department staff are available to advise you in the preparation of these materials. Call the Planning Department at (919) 249-3426 for more information.

WHAT IS THE PURPOSE OF A NEIGHBORHOOD MEETING?

A neighborhood meeting is a required form of community outreach to receive initial feedback regarding certain project types prior to submittal to the Planning Department per the standards found in UDO Sec. 2.2.7. The intention of the meeting is to initiate neighbor communication and identify issues and concerns early on and provide the applicant an opportunity to address neighbor concerns about the potential impacts of the project prior to submitting an application. A neighborhood meeting is valid for six (6) months prior to the submission of an application; a delay in submission requires a new neighborhood meeting.

WHEN IS A NEIGHBORHOOD MEETING REQUIRED?

- Rezoning (including Planned Unit Developments);
- Major Site Plans;
- Residential Master Subdivision Plans (excluding exempt subdivisions); or
- Special Use Permits

INSTRUCTIONS

Prior to submitting an application for a Rezoning, Major Site Plan, residential Master Subdivision Plan (excluding exempt subdivisions), or Special Use Permit, the applicant must conduct at least one (1) Neighborhood Meeting. The applicant shall submit all forms included in this packet with the initial application submittal.

The Neighborhood Meeting must be held in accordance with the following rules:

These groups and individuals must be invited to the meeting:

- The applicant is required to notify the 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 neighborhood meeting, not including the day of mailing. The applicant shall use their own return address on the envelopes as the meeting is a private meeting between the applicant and the neighbors.
- The applicant shall include with the meeting notice a vicinity map in addition to either the existing zoning map of the area or preliminary plans of the proposed development (see Handout requirements below).

The meeting must be held within specific timeframes and meet certain requirements:

- The meeting must be held for a minimum of two (2) hours, Monday through Thursday, during the 5:00 p.m. - 9:00 p.m. time period. The meeting cannot be held on a Town recognized holiday (which coincide with the State of North Carolina recognized holidays).
- The meeting shall be held at a place that is generally accessible to neighbors that reside in close proximity to the land subject to the application.
- A sign-in sheet must be used in order to verify attendance. Ensure each attendee signs in. Please note if any person(s) refuses to sign in. Note if no one attended.
- Handout requirements:
 - For rezonings (excluding rezonings to PUD-CZ, TND-CZ and MEC-CZ), a vicinity map and existing zoning map of the area must be provided to help facilitate discussion.
 - For rezonings to PUD-CZ, TND-CZ and MEC-CZ; Major Site Plans; residential Master Subdivision Plans; and Special Use Permits, preliminary plans of the proposed development must be available at the meeting to help facilitate discussion. Neighbors may request emailed/mailed copies of the maps or plans from the applicant by checking the “send plans” box on the sign-in sheet; applicant shall provide reduced copies upon request.
 - Printed copies must equal the number of notices required to be sent.
 - Contact information for the applicant’s representative and Town Staff must be provided on the attached “Project Contact Information” form.
 - “Common Construction Issues & Who to Call” sheet (attached) must be included as part of the handout.
 - A copy of the handout must be included as part of the Neighborhood Meeting report.
- The agenda of the meeting shall include:
 - Explanation of all processes the meeting is being held for (rezoning, subdivision, etc.).
 - Explanation of future meetings (additional neighborhood meetings, Planning Board, Town Council, etc.).
 - Explanation of development proposal – uses and conditions for rezonings, layout for subdivision and site plans, and builder/end user if known/public knowledge.
- Questions or concerns by attendees, and responses by the applicant, if any, must be noted. Provide blank comment sheets or notecards for neighbors to submit written comments. The applicant shall also include any questions and concerns received via written correspondence (such as email) or phone call along with responses provided by the applicant.
- The applicant shall be responsible for notifying any neighbors who check the “Send Plans & Updates” box on the sign-in sheet of any additional neighborhood meetings and the actual submittal date to the Town with a link to the Town of Apex’s Interactive Development Map.

For accountability purposes, please submit the following with your application:

- A copy of the letter mailed to neighbors and neighborhood organizations (use attached invitation template);
- A list of those persons and neighborhood organizations invited to the meeting;
- A copy of the sign-in sheet (use attached sign-in sheet template);
- A summary of the meeting and a list of any changes made to the project as a result of the neighborhood comments (use attached meeting summary template);
- The affidavit, signed, dated, and notarized (use attached affidavit template); and
- One reduced copy of the maps and/or plans presented to the neighbors at the Neighborhood Meeting.

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.

2/12/2021

Date

This mailing is being sent out to ensure all surrounding land owners receive notification. Apologies if this is your second notice.

Dear Neighbor:

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

7809 & 7825 Jenks Road, Apex, NC 27523

0722-88-6409, 0722-88-8770

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. Once an application has been submitted to the Town, it may be tracked using the [Interactive Development Map](#) or the [Apex Development Report](#) located on the Town of Apex website at www.apexnc.org.

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

Application Type		Approving Authority
<input checked="" type="checkbox"/>	Rezoning (including Planned Unit Development)	Town Council
<input type="checkbox"/>	Major Site Plan	Town Council (QJPH*)
<input type="checkbox"/>	Special Use Permit	Town Council (QJPH*)
<input type="checkbox"/>	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)):

These properties will be rezoned to B1-CZ (or other nonresidential zoning according to the Town ordinance)

Due to COVID-19, the meeting will take place via Zoom. If you wish to join, you must register ahead of time

If you are unable to attend, direct any questions to Jeff Roach. Contact information below

Estimated submittal date: March 1, 2021

MEETING INFORMATION:

Property Owner(s) name(s): Worth McMains and Ronald Hobbs

Applicant(s): Danile Shultz (Peak 360, LLC)

Contact information (email/phone): Jeff Roach, jroach@peakengineering.com, 919-439-0100

Meeting Address: <https://us02web.zoom.us/join/9tZcq-d-yqrzIoHNYIulHDR82MkbuBwnkdrBZl>

Date of meeting**: February 25, 2021

Time of meeting**: 5:30-

MEETING AGENDA TIMES:

Welcome: 5:30 Project Presentation: 5:40-5:55 Question & Answer: 5:55-

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

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: Jenks Road Veterinary Hospital Zoning: RR

Location: _____

Property PIN(s): 0722-88-6409, 0722-88-8770 Acreage/Square Feet: 6.69

Property Owner: Worth McMains and Ronald Hobbs

Address: 7809 (McMains) & 7825 (Hobbs) Jenks Road

City: Apex State: NC Zip: 27523

Phone: N/A Email: N/A

Developer: Peak 360, LLC attn. Daniel Shultz

Address: 7709 Green Level Church Road

City: Apex State: NC Zip: 27523

Phone: 919-462-8989 Fax: _____ Email: daniel@caryervet.com

Engineer: Peak Engineering & Design, attn. Jeff Roach

Address: 1125 Apex Peakway

City: Apex State: NC Zip: 27502

Phone: 919-439-0100 Fax: _____ Email: jroach@peakengineering.com

Builder (if known): _____

Address: _____

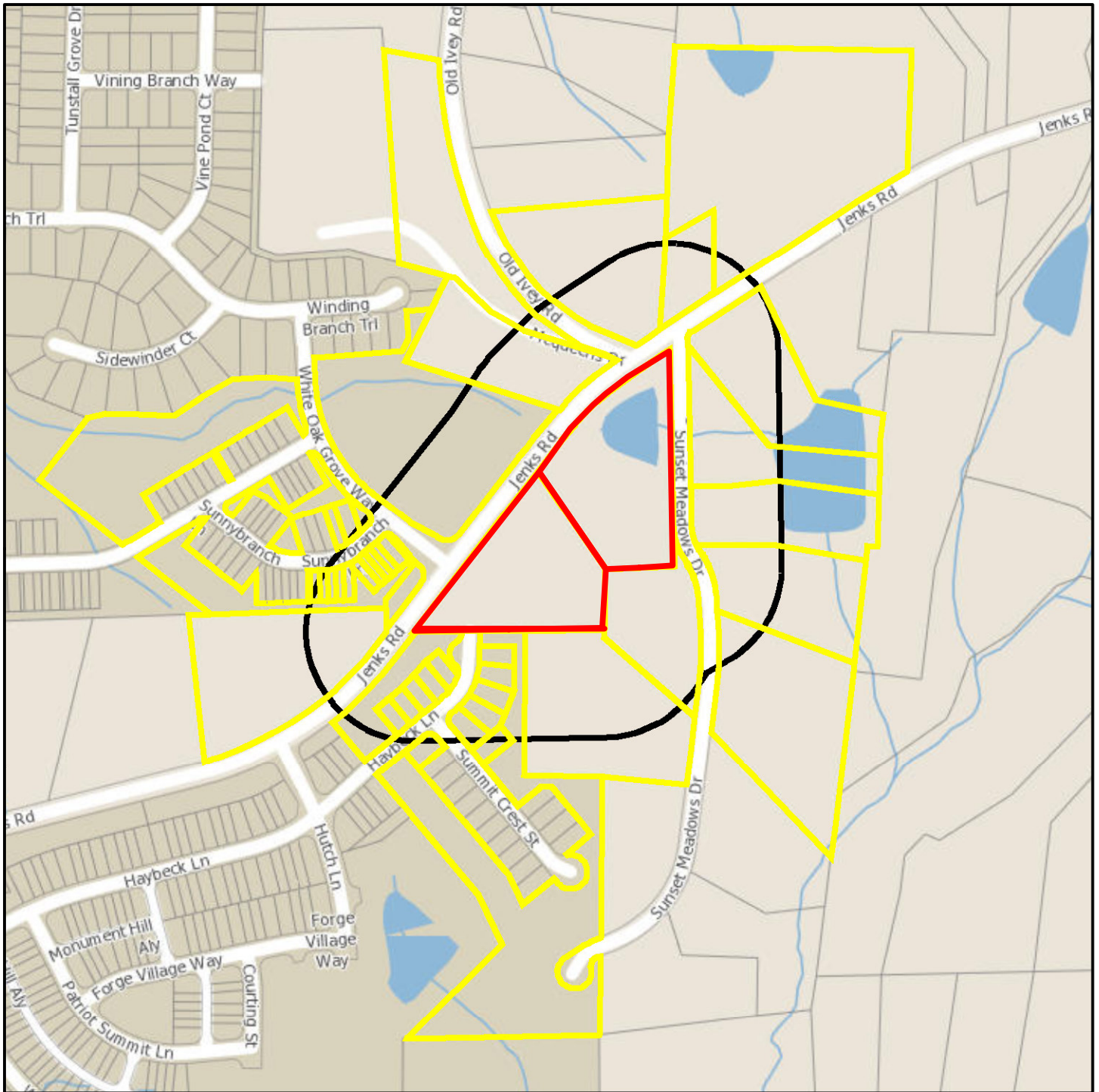
City: _____ State: _____ Zip: _____

Phone: _____ Fax: _____ Email: _____

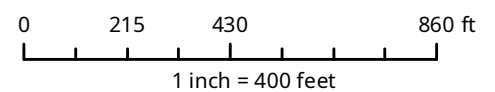
Please note that Town staff will not have complete information about a proposed development until the application is submitted for review. If you have a question about Town development standards and how they relate to the proposed development, please contact the appropriate staff person listed below.

Town of Apex Department Contacts

Planning Department Main Number (Provide development name or location to be routed to correct planner)	(919) 249-3426
Parks, Recreation & Cultural Resources Department Angela Reincke, Parks Planner	(919) 249-7468
Public Works - Transportation Russell Dalton, Senior Transportation Engineer	(919) 249-3358
Water Resources Department Mike Deaton, Stormwater & Utility Engineering Manager Stan Fortier, Senior Engineer (Sedimentation & Erosion Control)	(919) 249-3413 (919) 249-1166
Electric Utilities Division Rodney Smith, Electric Technical Services Manager	(919) 249-3342



Cary ER Vet



Disclaimer

iMaps makes every effort to produce and publish the most current and accurate information possible. However, the maps are produced for information purposes, and are **NOT** surveys. No warranties, expressed or implied, are provided for the data therein, its use, or its interpretation.

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 1st and 3rd Tuesdays of each month at 6:00 p.m. (except for holidays, see schedule of meetings at <http://www.apexnc.org/838/Agendas-Minutes>). You may also contact Town Council by e-mail at AllCouncil@apexnc.org.

Private Agreements and Easement Negotiation:

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

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

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

To request that any agreement with a developer is made a part of the conditional zoning at the time of approval, you may ask at the Town Council public hearing if the agreement is included in the conditions. If it is not, you may request that the Town Council not approve the rezoning without the agreement being included in the conditions (note that it is up to Town Council whether to approve or deny the rezoning but they cannot impose conditions that the applicant does not agree to add). The developer's proposed conditions can be viewed any time after a rezoning is submitted on the Interactive Development Map at: <http://apexnc.maps.arcgis.com/apps/OnePane/basicviewer/index.html?appid=fa9ba2017b784030b15ef4da27d9e795>

Documentation:

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

COMMON CONSTRUCTION ISSUES & WHO TO CALL

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

Noise & Hours of Construction:	Non-Emergency Police	919-362-8661
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Noise from tree removal, grading, excavating, paving, and building structures is a routine part of the construction process. The Town generally limits construction hours from 7:00 a.m. to 8:30 p.m. so that there are quiet times even during the construction process. Note that construction outside of these hours is allowed with special permission from the Town when it makes more sense to have the construction occur at night, often to avoid traffic issues. In addition, the Town limits hours of blasting rock to Monday through Friday from 8:00 a.m. to 5:00 p.m. Report violations of construction hours and other noise complaints to the Non-Emergency Police phone number at 919-362-8661.

Construction Traffic:	James Misciagno	919-372-7470
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Construction truck traffic will be heavy throughout the development process, including but not limited to removal of trees from site, loads of dirt coming in and/or out of the site, construction materials such as brick and wood brought to the site, asphalt and concrete trucks come in to pave, etc. The Town requires a construction entrance that is graveled to try to prevent as much dirt from leaving the site as possible. If dirt does get into the road, the Town can require they clean the street (see "Dirt in the Road" below).

Road Damage & Traffic Control:	Water Resources – Infrastructure Inspections	919-362-8166
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There can be issues with roadway damage, roadway improvements, and traffic control. Potholes, rutting, inadequate lanes/signing/stripping, poor traffic control, blocked sidewalks/paths are all common issues that should be reported to Water Resources – Infrastructure Inspections at 919-249-3427. The Town will get NCDOT involved if needed.

Parking Violations:	Non-Emergency Police	919-362-8661
----------------------------	-----------------------------	---------------------

Unless a neighbor gives permission, there should be no construction parking in neighbors' driveways or on their property. Note that parking in the right-of-way is allowed, but Town regulations prohibit parking within 15 feet of driveways so as not to block sight triangles. Trespassing and parking complaints should be reported to the Non-Emergency Police phone number at 919-362-8661.

Dirt in the Road:	James Misciagno	919-372-7470
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Sediment (dirt) and mud gets into the existing roads due to rain events and/or vehicle traffic. These incidents should be reported to James Misciagno. He will coordinate the cleaning of the roadways with the developer.

Dirt on Properties or in Streams:	James Misciagno Danny Smith	919-372-7470 Danny.Smith@ncdenr.gov
--	--	--

Sediment (dirt) can leave the site and get onto adjacent properties or into streams and stream buffers; it is typically transported off-site by rain events. These incidents should be reported to James Misciagno at 919-372-7470 so that he can coordinate the appropriate repairs with the developer. Impacts to the streams and stream buffers should also be reported to Danny Smith (danny.smith@ncdenr.gov) with the State.

Dust:	James Misciagno	919-372-7470
--------------	------------------------	---------------------

During dry weather dust often becomes a problem blowing into existing neighborhoods or roadways. These incidents should be reported to James Misciagno at 919-372-7470 so that he can coordinate the use of water trucks onsite with the grading contractor to help control the dust.

Trash:	James Misciagno	919-372-7470
---------------	------------------------	---------------------

Excessive garbage and construction debris can blow around on a site or even off of the site. These incidents should be reported to James Misciagno at 919-372-7470. He will coordinate the cleanup and trash collection with the developer/home builder.

Temporary Sediment Basins:	James Misciagno	919-372-7470
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Temporary sediment basins during construction (prior to the conversion to the final stormwater pond) are often quite unattractive. Concerns should be reported to James Misciagno at 919-372-7470 so that he can coordinate the cleaning and/or mowing of the slopes and bottom of the pond with the developer.

Stormwater Control Measures:	Mike Deaton	919-249-3413
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Post-construction concerns related to Stormwater Control Measures (typically a stormwater pond) such as conversion and long-term maintenance should be reported to Mike Deaton at 919-249-3413.

Electric Utility Installation:	Rodney Smith	919-249-3342
---------------------------------------	---------------------	---------------------

Concerns with electric utility installation can be addressed by the Apex Electric Utilities Department. Contact Rodney Smith at 919-249-3342.

AFFIDAVIT OF CONDUCTING A NEIGHBORHOOD MEETING, SIGN-IN SHEET AND ISSUES/RESPONSES SUBMITTAL

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

I, Jeff Roach, do hereby declare as follows:

Print Name

1. I have conducted a Neighborhood Meeting for the proposed Rezoning, Major Site Plan, 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 Neighborhood Meeting.
3. The meeting was conducted at Virtual (Zoom) (location/address) on Feb. 25, 2021 (date) from 5:30 pm (start time) to 7:30 pm (end time).
4. I have included the mailing list, meeting invitation, sign-in sheet, issue/response summary, and zoning map/reduced plans with the application.
5. I have prepared these materials in good faith and to the best of my ability.

2-26-2021

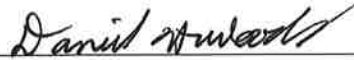
Date

By: 

STATE OF NORTH CAROLINA
COUNTY OF WAKE

Sworn and subscribed before me, DANIEL WOODS, a Notary Public for the above State and County, on this the 26 day of FEBRUARY, 2021.





Notary Public

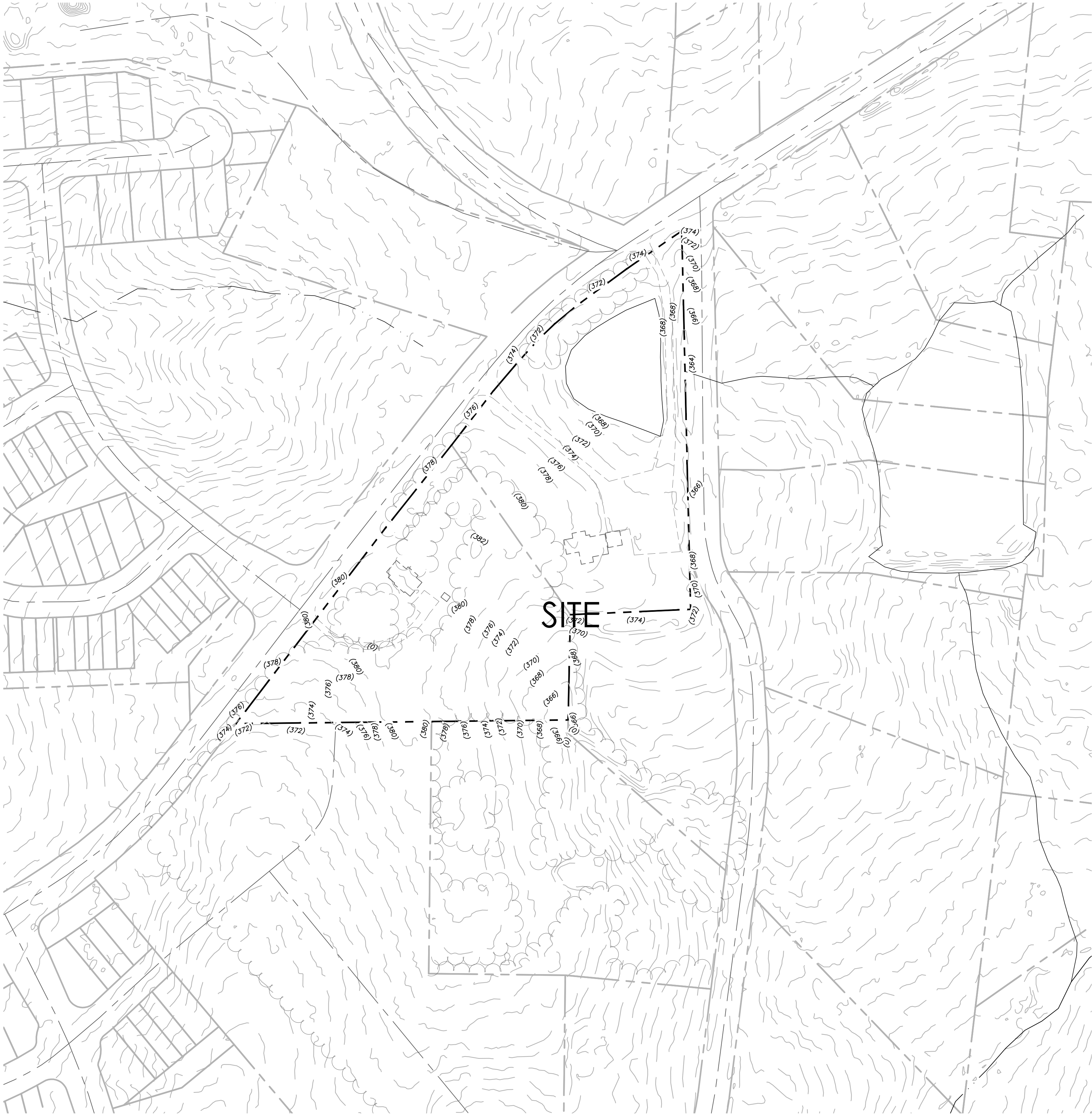
DANIEL H. WOODS

Print Name

My Commission Expires: 11/18/2023



AERIAL VIEW



EXISTING CONDITIONS

				Designer: DW	Scale: NTS
				Drawn By: DW	Date: 2/25/2021
				Checked By: JR	Job No.: 201205
No.	DATE	REVISION	BY		

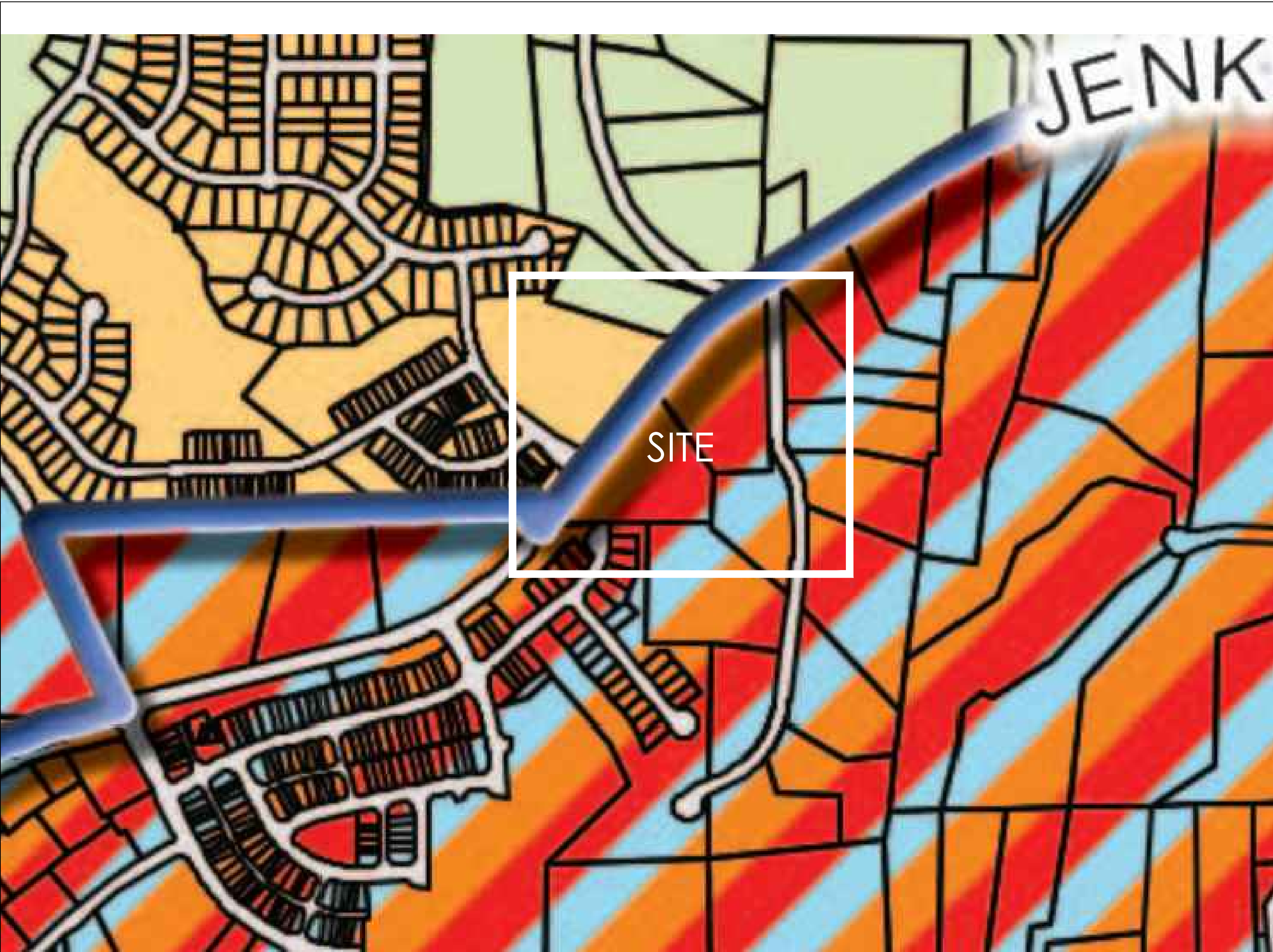
Jenks Rd Veterinary Hospital
APEX, NORTH CAROLINA

REZONING EXHIBIT



Engineering & Design
1125 Apex Peakway | Apex, NC 27502
ph: 919.439.0100
www.PeakEngineering.com

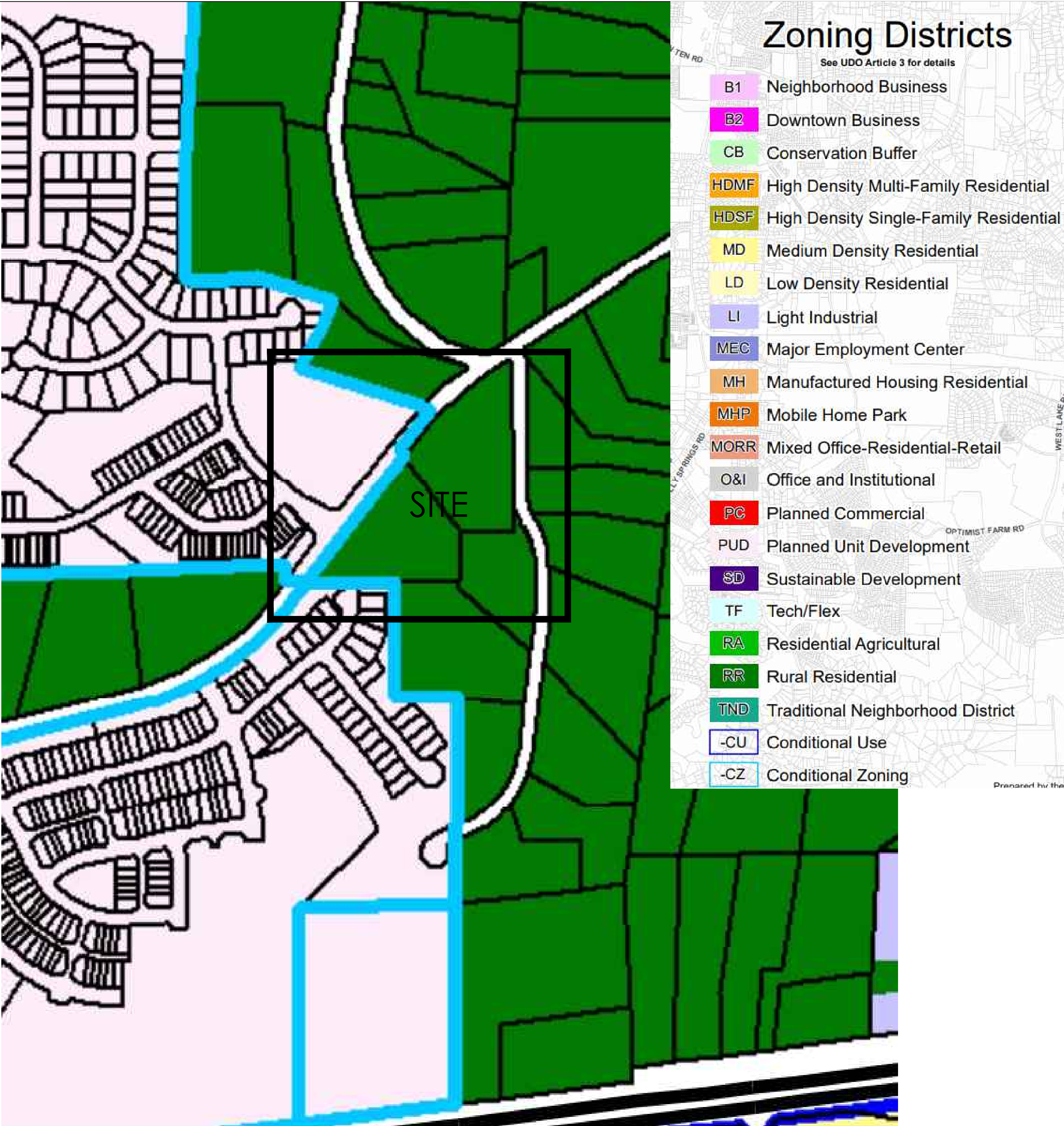
Sheet No.
RE-1



Future Land Classifications

- | | |
|---|--|
| Protected Open Space | Park—Public or Private |
| Rural Density Residential
<small>One dwelling unit per five acres</small> | School |
| Low Density Residential
<small>Single-family homes or a mix of single-family homes with duplexes, and/or townhomes</small> | Sanitary Landfill |
| Medium Density Residential
<small>Single-family homes, duplexes, and townhomes</small> | Right-of-Way |
| Medium/High Density Residential
<small>Single-family homes, duplexes, triplexes, quadplexes, and townhomes*</small> | Mixed Use
<small>≥30% Non-residential</small> |
| High Density Residential
<small>Townhomes, triplexes, quadplexes, and apartments</small> | Property Lines |
| Office Employment | Duke Energy Land |
| Commercial Services | Proposed Thoroughfares |
| Industrial Employment | |
- *Apartments allowed within the Town Center and Transit-Oriented Development context areas

2045 LAND USE MAP



Zoning Districts

See UDO Article 3 for details

- | | |
|------|--|
| B1 | Neighborhood Business |
| B2 | Downtown Business |
| CB | Conservation Buffer |
| HDMF | High Density Multi-Family Residential |
| HDSF | High Density Single-Family Residential |
| MD | Medium Density Residential |
| LD | Low Density Residential |
| LI | Light Industrial |
| MEC | Major Employment Center |
| MH | Manufactured Housing Residential |
| MHP | Mobile Home Park |
| MORR | Mixed Office-Residential-Retail |
| O&I | Office and Institutional |
| PC | Planned Commercial |
| PUD | Planned Unit Development |
| SD | Sustainable Development |
| TF | Tech/Flex |
| RA | Residential Agricultural |
| RR | Rural Residential |
| TND | Traditional Neighborhood District |
| -CU | Conditional Use |
| -CZ | Conditional Zoning |
- Prepared by the

EXISTING ZONING MAP

1				
No.	DATE	REVISION	BY	

Designer:	DW	Scale:	NTS
Drawn By:	DW	Date:	2/25/2021
Checked By:	JR	Job No.:	201205

Jenks Rd Veterinary Hospital
APEX, NORTH CAROLINA

REZONING EXHIBIT

Engineering & Design
1125 Apex Peakway | Apex, NC 27502
ph: 919.439.0100
www.PeakEngineering.com

Sheet No.
RE-2

PAGE OMITTED WITH THE FORMAL ZONING SUBMITAL. SKETCH PLAN WAS SHOWN TO THE ADJACENT PROPERTY OWNERS DURING THE NEIGHBORHOOD MEETING.

SR1782
PUBLIC R/W
JENKS RD

1			
No.	DATE	REVISION	BY

Designer:	DW	Scale:	1" = 50'
Drawn By:	DW	Date:	2/25/2021
Checked By:	JR	Job No.:	201205

Jenks Rd Veterinary Hospital
APEX, NORTH CAROLINA

REZONING EXHIBIT



PEAK Engineering & Design
1125 Apex Peakway | Apex, NC 27502
ph: 919.439.0100
www.PeakEngineering.com

Sheet No.
RE-3

Jenks Road Veterinary Hospital Zoning ZOOM Neighborhood Meeting 5:30 pm February 25, 2021

The ZOOM meeting for the Jenks Road Veterinary Hospital Zoning began at 5:32 pm by Jeff Roach with Peak Engineering & Design. A brief introduction was made for everyone on the call, the participants were directed to the CHAT BOX function in ZOOM to type questions and the virtual meeting protocol was discussed to try and keep the meeting moving along.

A project introduction was then provided, the location within Wake County GIS' website was shared for all to see. After the location of the property was identified for everyone on the call, we walked through the existing site conditions, the existing zoning, the purpose of the 2045 Land Use Plan, the current sketch plan showing a 20,000 SF non-residential building was shown, and an architectural rendering of the proposed building was shared on screen. Everyone was informed that the sketch plan is not a final design for the site and is used to show buffers, access points and other site-specific items for the property. Following a discussion related to the above items, the list of permitted uses was shown to all and discussed briefly. The discussion centered around the proposed use as a Veterinary Hospital although there are other uses which may occupy the property (see attached list of uses within the zoning application).

After showing the different items, the presentation switched to address the questions which had been entered in the CHAT BOX. Below are the questions as well as a summary of the answer that was provided with each question. Additional questions were voiced by the adjacent property owners and were answered to the best of our knowledge at this point.

After answering the CHAT BOX questions, the verbal questions, and reviewing the project timeline with everyone on the call, Peak's email address and phone number was again provided to assist with any follow up questions post-meeting. The adjacent property owners dropped off the call around 7:20 pm and the meeting ended at 7:30 pm.

Below is a summary of the questions and discussions which were had. There were a number of discussions which were had, many of them answering multiple questions or bringing up additional questions. This summary tries to highlight the presentation and discussions as accurately as possible. A copy of this meeting summary will be emailed to the participants once the zoning package is submitted.

Following are the questions which were provided through the ZOOM meeting CHAT BOX features.

Answers were provided verbally and summarized below.

From Christopher Reder to Everyone: 05:31 PM

Jeff, will you be able to send us the PPT after this meeting?

Yes

From Vincent Neumann

Did they already buy the property? It shows sold already.

The property has not been purchased at this time. It is under contract with the buyers.

From Suzanne Kissel

Under contract, I think....

That is correct – the two properties are currently under contract and will not close until after zoning or site plan approval

From F Winston Penley

will the pond stay? And has the property been rezoned from residential?

The current plan is to retain the existing pond on the McMains property. The property has not been rezoned for the non-residential use. It is currently zoned RR (Rural Residential) and this request is to change that zoning to B1-CZ. The 2045 LUM and Zoning request were discussed as part of the presentation.

From Christopher Reder

Winston, that's what this meeting is for. They are proposing this to apex to rezone it?

That is correct – went through what the zoning is, what we are asking Apex to rezone it to, discussed uses, the 2045 LUM and how we have met with Apex staff related to compliance with the adopted plans (2045 LUM, Transportation Plan, Greenways Plan, etc.).

From Meghann Reder

Capacity for animals and what species of animals?

The land use plan was made 20 years ago. Is it still relevant if residents do not want it rezoned?

The buyer is proposing to use the facility for a veterinary hospital but there are other uses which may also occupy the property in the future (see the list of uses within the zoning application). A copy of those uses was also shown during the meeting. Uses will be further evaluated during the zoning review from staff.

The capacity of the facility is unknown at this time. That is a follow up that Peak will provide to the adjacent property owners with a copy of the meeting package.

The 2045 LUM was adopted by the Town of Apex in February 2019. The 2030 LUM was adopted in August 2013. Both LUMs showed the area as a mix of high density residential, commercial services and office/employment. The proposed plan follows the adopted LUM designation.

From Vincent Neumann

Are they proposing a driveway on Sunset Meadows?

No. The project does not propose a driveway onto Sunset Meadows Drive.

From Meghann Reder

The street is mislabeled in the exhibit as "SUMMER Meadows Drive". It should be Sunset Meadows Drive
Apologized to staff for the typo. Will be cleaned up with any future documents.

From Vincent Neumann

will the pond stay?

The current plan is to retain the existing pond.

From Brad Buckingham

What is the green box below the pond that is near sunset meadows?

thx... hard to read/see the text on the image. The pond is a water source for Caitlin Pond. It [the pond] really needs to stay. Don't be sure... it MUST

The owner is proposing to retain the pond at this time.

From Meghann Reder

Ecologically important. Keep the pond.

Proposal is to retain the pond. Not a zoning condition as it would restrict any removal for safety or repair purposes.

From F Winston Penley

So the pond stays now, but is that a permanent decision? I would like it to be.

Again, the pond is staying with proposed development and sketch plan.

From Brad Buckingham

If the pond is removed, we could lose the wildlife in the pond at Caitlin Pond... which has been in existence for ~70 years and impacts multiple home wonders.

Proposal is to retain the pond on the McMains property.

From Suzanne Kissel t

Not to mention drainage issues. The pond is there for a reason.

What is the proposed lighting for the parking lot?

Again, the pond is staying.

We committed to the Environmental Advisory Board (EAB) to work with Apex staff on a lighting plan which reduces lighting spillover and uses fixture colors that are current Apex standards. Full cut-off/light shields will also be installed on the fixtures to reduce and backlighting onto residential properties.

From Merle Wolfgang

Agree Pond should stay

This is a theme.

From Meghann Reder

What kind of waste is generated and how is it stored and removed?

Standard office waste is served within the dumpster. Animal waste and other hazardous items are removed per industry standards for removal/trash services that do not include exterior dumpsters.

From F Winston Penley

What is the plan for storm water runoff? Please tell me not routing to it as is a live pond and so is Cailyn pond.

Pond to remain. Directing as much as possible of the new impervious area to the new stormwater control measure (SCM) per Town and State guidelines.

From Merle Wolfgang

What barrier is planned between the property going commercial and the surrounding residential properties?

There are proposed landscape buffers along Jenks Road, Sunset Meadows Drive and Westford. These landscape buffers will provide a visual barrier between developments.

From F Winston Penley

Sunset Not Summer

Type is being corrected in the documents.

From Meghann Reder

What type of buffer that borders homeowner properties? What kind of buffer along Sunset Meadows Drive?

Different buffers are proposed along the boundary of the site. 30' Type B along Sunset Meadows, 15 – 30' buffer along western boundary (Westford) depending upon the adjacent uses; and 30' buffer along Jenks Road. Final buffer will be confirmed within the UDO during Minor Site Plan design.

From Merle Wolfgang

Is there any option to keep the property residential, or is it past that point? I think we would all prefer a residential designation.

The designation on the 2045 LUM is for mixed use or commercial/employment. The buyer has a contract to purchase for the non-residential use. Sellers are asking too much for residential property. It is also my opinion that I would not be able to rezone the property for a residential use (single family or townhomes) without the incorporation of a non-residential component.

From Meghann Reder

Is it a 24 hour a day / 7 day a week business? Would prefer this not to happen and not to be rezoned. Doesn't fit into the area. More of a 64 or 55 corridor project. Jenks Rd is not a high visibility area.

The uses which are included are all "neighborhood commercial/office employment" uses which require residential properties to support the businesses. The 2045 LUM shows this area for this type of use.

From Ken Bruns

Worth has always let us fish in the pond, will the residents still have access?

Not likely. There may be a fence installed for insurance/safety reasons but that is to be determine by the future property owners.

From Konstantin Reverdatto

There's another veterinary facility approved at Jenks and 55. That intersection is better for business development. We have no other commercial properties in the area. If this is approved, it will spur additional rezoning and will completely change the nature of this area.

The 2045 LUM shows the area with the mixed-use designation. This site will not likely spur non-residential development- although Apex is always looking for non-residential opportunities for new neighborhood businesses. As for the 55/Jenks Road intersection, that is a good location but comes much larger improvements.

From Merle Wolfgang

Jenks Road is also becoming dangerous with the current increase in the level of traffic on the road.

The current traffic volumes in the area have not raised concerning with Apex Transportation staff.

In a follow up call with Town staff on February 26th (the day after the neighborhood meeting), the intersection from the property onto Jenks Road is not a candidate for a traffic signal and likely never will be based upon designation as a smaller residential connection. Traffic volumes are not currently a concern for Apex staff, that will be confirmed with NCDOT during the Minor Site Plan review as well.

From Meghann Reder

Just because a "Town vision" happened 20 years ago, is it relevant today if no one carries "the vision"?

The Town vision within the 2045 LUM is how properties are evaluated for purchase, development or redevelopment. The Town updated the LUM in 2019 and the current mixed-use designation has been in place since at least 2013.

From Suzanne Kissel

You stated that the animals would not be outside without supervision; however, the current facility boasts a “large outdoor area” for their patients.

There are a number of fenced in areas based upon the proposed vet hospital and rehabilitation areas. Assuming this is a vet hospital, different animals require different areas post-surgery or during rehabilitation services.

From Konstantin Reverdatto

Two of the greatest concerns are 1) noise and 2) light pollution.

Noise from the pets will be contained within the building. There will be pets outside with owners and/or staff so the noise should be limited.

Light pollution will be worked on with staff to minimize the impact lighting impacts around the area.

From Meghann Reder

No interest in slamming car doors at all hours of the day and night. Or animal noises.

Hazardous bend in the road on Jenks and more traffic increases the likelihood of issues safely entering and exiting our Sunset Meadows road.

Although all vet hospitals are required to be ‘available’ 24/7, this site is not proposed to be a 24/7 open to the public facility. This timing would reduce late night doors/noise.

The proposed improvements along Jenks Road – left turn lane, pavement addition, curb and gutter and sidewalk – will require additional clearing along the southern property line. This should provide additional sight distance opportunities heading east into the curve to improve safety.

From Suzanne Kissel

The image shows the curve of the road from Sunset Meadows.

The curve is west of Jenks Road. Sunset Meadows Drive flares out at the intersection.

From Meghann Reder

Changes to zoning increase likelihood of many other properties around Sunset Meadows changing to zoning that are not favorable to Sunset Meadows residents.

I am not sure this is the case. The zonings along Jenks Road are property owner driven. The two lots in questions are currently for sale – driving people to look at the properties.

From Suzanne Kissel

If we are talking about emergency use, then there could be rapidly moving vehicles during school hours.

Assuming the vet hospital - this is not an emergency center – see above response to the 24/7 operation.

The focus is everyday treatment and rehabilitation services. Vehicles along Jenks Road are not going to be emergency vehicles.

From Meghann Reder and Suzanne Kissel

Animal waste and hazardous waste – also surgical/medical waste.

I am not 100% sure how this is handled but feel there are industry standards for this service.

From Meghann Reder

Runoff of defecation. Are we talking large animal species waste?

If this is the vet hospital, the services will not be large animal based upon the information I have been provided. As for the runoff, there will be a number of pet waste stations along with someone being white the animals at all times they are in the walking or rehabilitation areas.

From Vincent Neumann

will there be a pet cemetery on the property? Will they sell plots for pets?

No pet cemetery on the property. Off-site services.

From Brad Buckingham

Is there any thought or discussion on the landscape? E.g. keeping of mature trees as well as plantings that might be done for beautification & screening

Our goal with any project is to retain healthy vegetation within the perimeter buffer and supplement with larger trees, small trees or shrubs as appropriate to close any view corridors. Landscaping is also required within the parking lot for shade trees, Vehicular Use Area (VUA) perimeter plantings and foundation plantings around the building.

From Meghann Reder

What kind of buffer? 50 foot fence?

Various buffer types and widths are proposed. A fence is not proposed around the perimeter of the site.

From Brad Buckingham

I'd hate for the pretty weeping willow to no longer be there :)

If this is in reference to the tree on the west side of the existing pond, we will evaluate the tree to avoidance.

No guarantee as we will look at the existing conditions more during the Minor Site Plan designs.

From Suzanne Kissel

I don't think that noise concerns have been addressed.

There will be pets at the facility but there will not be multiple pets outside unattended that will increase noise. Vehicle noise will be no worse than what residents are already dealing with on Jenks Road or Sunset Meadows Drive. The zoning is for a number of uses and a suburban office building, vet hospital, retail site or even a new home all have vehicles coming and going. Retention of perimeter vegetation help to mitigate the noise levels.

From Brad Buckingham

Any thoughts or plans for lighting additions on Jenks as well as extending sidewalk? (Or is that provided by city of Apex)

The Town of Apex or NCDOT would provide street lighting along Jenks Road – not the adjacent development. Sidewalk is being extended along the Jenks Road frontage as required by the Transportation Plan. This connection will extend from Sunset Meadows Drive west to Westford for access to additional non-residential amenities, future greenways, sidewalks and Town of Apex parks.

From Christopher Reder

For a B1 zone, it is spec'ed at a minimum of 30 feet opaque buffer. Two questions: 1. What is the definition of opaque and 2. Can this 30 feet be increased. The area by the stormwater has all 50 year old trees so how will 'shrubs' create an opaque buffer ?

The neighbor was referenced to the Unified Development Ordinance (UDO) Section 8.2.6 for buffer types and definition of the opaque and semi-opaque buffers.

The evaluation and site surveys will identify any large trees and their proximity to the boundary of the site. Any trees that can be saved are always evaluated for preservation/avoidance. The location of the SCM is also evaluate for impact on the existing site conditions as well as natural drainage patterns.

From Eura Tunstall

Please share any thoughts/concerns the owner of the two properties directly across Jenks Road on each corner of Old Ivey that utilize well water. Any concerns? Looking forward, what does this approved project mean to homeowners in means of property taxes and ability to negotiate rezoning for other neighboring properties? I don't know that I know the "right questions" to ask, so please educate of what I might need to know as a close neighbor to this project. PS. I have a long history with the pond. I am glad to hear it's staying.

The rezoning on the south side of Jenks Road may have an impact on property values but I am not an appraiser. The rezoning and development of a non-residential office will not be factored into the appraisal for a single-family residential property – but I suggest you speak with a real estate expert to confirm that. As for the impact on the well on the parcel north of Jenks Road, the natural topography directs water south away from the Tunstall lot. No impacts on the existing well or septic system should be noticed with this project.

From Christopher Reder

with parking lots right next to our property, how will this project guarantee no light enters my property? Will a fence be built surrounding the property on all sides that face residential housing?

The sketch plan was shown for the distance from the adjacent property to parking areas and access drives. There are perimeter buffers, VUA plantings, grading and other measures which are all use to reduce the likelihood that headlights shine onto adjunct properties. Site lighting designs are governed by the UDO and will be coordinated with Apex electric staff to verify compliance.

From Meghann Reder

I am concerned about our well water and runoff issues on our property.

The new project will be connection to Apex water and sewer. Only impact to the downstream wells/septic system will be with the removal of the wells/septic fields from the McMains and Hobbs properties.

From Merle Wolfgang

Traffic is a concern

Lot of discussion related to traffic. With a very low traffic generator, the project does not meet the threshold for a TIA.

AS A POST MEETING FOLLOW UP:

Apex staff would not require a TIA for the project. This indicates that the traffic generation is low and there is no crash history in the area that would dictate additional improvements to mitigate traffic.

From Christopher Reder

how will sound be controlled? You show a 'pen' for rehabilitation. If you have dogs out in the yard, will they all have a leash even in a pen? And what guarantees will be made that there won't be barking? (I see no way for them to not start barking and agitating other local dogs to the neighborhood)

There is a similar facility in Cary called pet palace. The barking is so loud from that facility that residents hear the barking non-stop in their houses, much further away than we are to this proposal.

How many stalls? How many operating tables? What is capacity?

If a vet, pets will be in the outdoor areas – typically 1 at a time – and they will be accompanied at all times. We cannot guarantee they pets won't bark. The Pet Palace is a "doggie daycare" where pets are permitted to roam unattended throughout the day. This facility is a NOT a doggie daycare.

Capacity is estimated at approximately 300 appointments per week or 60 per day or 5 per hour. The exact capacity will be determined based upon the operation of the building as a vet hospital vs an office building.

From Suzanne Kissel

Even if dogs are attended - they bark. A lot. Just saying that animals are attended in a large area, does not mean that they will not be barking at each other and neighborhood dogs.

By having one pet at a time in the yard, it reduces the noise from a pet hospital. If the site is an office, noise could be from the "garage rock band" that someone mentioned in the meeting (22)

From Konstantin Reverdatto

Noise pollution will directly negatively impact our property values and quality of life.

Noise addressed previously.

From Suzanne Kissel

This is what the current facility has and they boast of their large outdoor areas where their patients can play

The buyer is looking at a number of uses. If this is a vet hospital, the outdoor area is a requirement for rehabilitation services. Different pets require different size yards to run, jump and get back to normal.

From Meghann Reder

We do not want to see this from Sunset Meadows Drive.

Landscaping along with the placement of the building will push the project west – away from Sunset Meadows Drive – to reduce visibility into the project.

From Merle Wolfgang

Agree - We did not envision a commercial property being put on that lot when we purchased our home.

The property has been shown on the LUM as mixed use since 2013 (or earlier). When the neighbor purchased in 2014, the property was being planned or non-residential or mixed use.

From Suzanne Kissel

EXACTLY. I am still concerned about noise pollution and animal noises.

See previous comments above.

From Meghann Reder

Opaque fence

An opaque fence is not currently proposed along the eastern properties.

From Christopher Reder

How many parking spots are you showing in this picture?

The current plan shows 70-75 spaces. Final parking numbers will be based upon Architect's square footage for the office space and other uses. The UDO will control the number of spaces.

From Meghann Reder

We don't want to see it

Answered above.

From Eura Tunstall

A polite FYI...the "Jenks road direction" is a residential direction. Currently those homes across the street are residential. (reflecting on the light pollution being directed toward Jenks Road and away from residential homes".

In a follow up phone call on Friday, February 26th, we spoke with Ms. Tunstall concerning her property on the north side of Jenks Road. The building will act as a barricade for a lot of the parking lot/site lighting. We will not be directing light towards Jenks Road any more than we are directing light towards Sunset Meadows Drive.

From Suzanne Kissel

I would like to see an example of the opaque buffer and the sizes of the plants they want to put in. *The neighbors were directed to the Lake Pine Animal Hospital on the Apex Peakway. There are also other locations in Westford and the Preserve at White Oak Creek where perimeter buffers have been installed.*

From Eura Tunstall

Perhaps a silly question...if zoning for traffic is limited for the Jenks/Ivey intersection...does this mean that any future requests by the property owner of the properties also on Jenks Road but no current rezoning/development requests on the table. I'm trying to understand if approving your project then limits traffic the neighboring property owner could request during rezoning. Just trying to think ahead and how this project may impact neighboring owners, especially those with road frontage.

Each project is evaluated independently at this stage – but once a project is approved, they are looked at cumulatively. The need for improvements or a traffic evaluation is based upon the use of any new project, not the condition of the existing streets in the area.

From Merle Wolfgang

How do we get an opportunity to voice our opinion on the zoning decision?? Just to be clear. I don't think anyone in this development views this as a positive outcome.

The property owners were informed of the next steps in the process -submittal, reviews by staff, Planning Board and eventually Town Council. The list of neighbors within 300' is provided to staff with the zoning submittal. A letter will be sent by the Town with upcoming meeting dates. There will also be a "DEVELOPMENT" sign places on the property once the submittal is made. That sign will provide a contact number in Town Hall.

From Ryan Carfley

I would echo these sentiments, lights, animal barking - none of this seems positive as a resident here. *Comments answered above.*

From Meghann Reder

What types of animals?
See above.

From Suzanne Kissel

I work from home. Any outside noise would impact both my work and home life.
See above for the noise question.

From Meghann Reder

That is at a major intersection in Apex!

This is not a major intersection. These are residential streets feeding to a 3 lane thoroughfare providing 45 mph speeds between other major streets. Sunset Meadows, Old Ivey, White Oak Grove Way, future Haybeck Lane, and Hutch Lane are all residential connections.

From Brad Buckingham

We are at 7721 Jenks, it would be nice to see a bit more landscape/buffer on Sunset next to the pond.

That would provide a little more privacy for us. This is the area that currently has Crepe Myrtles that folks were discussing.

A buffer is proposed along the entire Sunset Meadows Drive frontage to provide additional screening. The semi-opaque buffer will be a mix of evergreen and deciduous trees and shrubs. The UDO specifies the buffer type and planting requirements.

From Merle Wolfgang

That's a lot of parking for a vet

Parking will be provided based upon the UDO standards.

From Ken Bruns

If the ordinance says 1 spot per 250 sq ft and the building is 20000 sq ft, that is 80 parking spots.

See above.

From Merle Wolfgang

Rezoning decision? How do we get involved? Yes, Thank you

Information was provided for the next steps in the process and how the neighbors can stay informed.

From Ken Bruns

I like the microbrewery, can we get it changed to that?

We too like the non-residential, micro-brewery concept at just about any location. ☺

From Brad Buckingham

I do see a lot of things on that list that I really would not be happy with. But I do like a cold beer in walking distance :)

Comment noted.

From Merle Wolfgang

I haven't heard anyone on the call say they feel like those uses are appropriate for this area.

Previously discussed related to the 2045 LUM.

From Meghann Reder

I realize on paper this makes sense. But it makes no sense to those who live here. We don't like it.

Understand the comment. 2045 LUM discussion.

From Suzanne Kissel

Why would it not? The current vet is right next to a fire station and a gas station.

That is another vet hospital in the area – not this location.

From Meghann Reder
Exactly, Ken The domino falls with this
No response to comment.

From F Winston Penley
completely agree about residential and keeping home value high
There is no information that a neighborhood commercial/office building reduces property values.

From Meghann Reder t
Great! Turn it into a greenway and park
Discussion ensued concerning the town's recent acquisition of property on Wimberly Road for a new park. This site would not be a public park nor would Apex purchase a \$1MM parcel(s) for a park this close to a future facility.

From Suzanne Kissel
They're looking for revenue
This is in reference to the Town of Apex looking for revenue. Apex – in my experience – is looking to balance the percentage of residential and non-residential to reduce the tax burden and impact on schools.

From Meghann Reder
I know. But do that on 55 and 64
This was previously addressed with the neighborhood commercial/office use.

From Suzanne Kissel
City looking for tax revenue - and yes, Meghann - have them do it somewhere else
This is a business – they will open in Apex near new and existing homes for clients.

From Meghann Reder
Yes, they are trying to make it fit this “plan” that no one agreed to
The plan follows the adopted 2045 LUM and provide significant protections with buffers pe UDO standards.

From Merle Wolfgang
Maybe they should reconsider the plan. This is already residential.
See above for the cost of the property making it unavailable for use within the RR zoning district.

From Ken Bruns
Merle, we are fighting a losing battle trying to get them to rezone this to anything that takes tax money out of their pocket.
No response.

From Suzanne Kissel
We may all use vet hospitals, but it does not mean that we want them next to us.
No response.

From Brad Buckingham
Nice! Thanks for the time Jeff and share the details of the projects so far

Following are questions asked after the presentation and/or during the review of the above “CHAT BOX” questions.

Waste removal – how is this handled?

Previously answered – by contract services/industry standards.

If the facility is operated as a Vet Hospital, will the operation 24/7?

Answered in the CHAT BOX responses.

Will there be sidewalk on the south side of Jenks Road?

That is correct.

A fence was mentioned around the pond. Is this the case? And what kind of fence – chain-link or aluminum type?

Note sure is a fence will be required by the insurance carrier or the owner. Type, location and requirement is TBD.

What type of fence is proposed for the rehabilitation and walking areas for the pets?

Likely a vinyl coated chain link fence. Height and standards controlled by the UDO.

What is the buffer along the Reder property?

30’ landscape buffer along the Sunset Meadows Drive properties.

What is a Type ‘B’ buffer? And what is the Town’s definition of “OPAQUE” buffer? How will it be achieved or is it required at this location?

See above for the reference to UDO Section 8.2.6 for type and definition.

What are the parking requirements for a Vet Hospital or Office Building at this location?

1 parking space / 250 SF or 1 parking space / 300 SF depending upon the proposed uses (vet hospital or office building)

Follow up – that seems like a lot of parking for a 15,000 – 20,000 SF building?

Again, parking will be evaluated and finalized during the Minor Site Plan review, not zoning.

If dogs are outside at any time, they will bark and make noise. How is this controlled?

See previous responses.

Traffic is too much on Jenks Road at this time so why is a TIA not being required?

In a follow up conversation with Apex Transportation staff, a TIA is not required based upon the proposed uses. Nor would a TIA be reviewed during the Zoning process for a B1-CZ request until the Minor Site Plan is submitted. Jenks Road does not have a high crash volume, safety concerns, or complaints from residents related to access to/from Jenks Road at this location.

Is a traffic signal proposed at the intersection of Jenks Road and White Oak Grove Way?

No. This a minor residential access and will likely never meet warrants for a traffic signal. There are other locations where a signal can be evaluated but current trips on Jenks Road does not justify signalized improvements.

Is there an option to reduce the speed limit from 45 mph to 35 mph?

We are committed to speaking with NCDOT related to a speed reduction but without crash history or a history of unsafe situations, NCDOT is not likely to recommend a speed reduction for this rural section of Jenks Road. An example was used – Holt Road near Montford Hall Court and the request for a speed reduction.

Property owner concerned about headlights shining onto adjacent properties. How will this be stopped from the cars in the parking lot to the cars entering the site?

Previously answered with landscaping, grading/berms, VUA plantings and the site configuration. Distance also plays into the headlight question.

Is this a courtesy call? Will anyone hear the concerns from the neighbors, and will anyone act on them?

The comments from the property owners are relayed to staff/Council so they understand what the concerns are. The engineers design to minimize the impact of the work on surrounding neighbors.

Why can the development not build homes on the property? That would be better than an office/vet hospital at this location.

Previous response concerning the cost of the land and Town's 2045 LUM.

A number of residents of Sunset Meadows Drive expressed that the pond should be kept on the property. What is the plan for the pond?

Current plan is to retain the existing pond.

What is the timing of construction and noise from said construction on the adjacent property owners?

Construction of this facility would likely be 12-15 months for the start of work to final Certificate of Occupancy. This is a one-time construction project unlike the Preserve at White Oak Creek where infrastructure and home construction could last more than 3 years.

Following is an email exchange with Suzanne Kissel prior to the neighborhood meeting (email addresses have been removed).

I am by no means a traffic engineer, but I will do my best to explain below in red.

Jeff Roach, P.E.
Peak Engineering & Design, PLLC
(919) 439-0100

From: Kissel, Suzanne
Sent: Wednesday, February 24, 2021 3:41 PM
To: Jeff Roach <jroach@peakengineering.com>
Subject: Re: [EXT]: RE: Questions for Veterinary Hospital

Hi, Jeff –

Thank you for your considerate answers.

Why is TIA determined by the size of the building rather than the number of people using it? ITE (Institute for Transportation Engineers) establishes traffic patterns based upon various uses. The size of the building and use together determine the number of trips per day or peak hour. So, let's assume that, all told, the hospital has 50 employees which would be coming into work at 8am (that is 50 am peak hour trips) and leaving at 5pm (that is 50 PM peak hour trips). Let's also assume that there will be about 50 or so animal "guests" in addition to specialists with surgery privileges, people who want to visit their animals, etc. We can easily meet the 100 trip threshold during peak hours. Patient trips are not typically 50 patient visits at 8:00 am – they spaced out throughout the day. Spacing out the trips throughout the day – to avoid the peak hours – a project can be less than 1,000 daily trips and it would not meet the Town's threshold for the study. If you could point me to this language, I would appreciate it. The TIA requirement is outline in the Unified Development Ordinance (UDO) section 13.19 – Traffic Impact Analysis Required.

Also, is the threshold appropriate for the road? Jenks Road – as a two lane facility – can handle around 20,000 vehicle trips per day (that is Jenks is narrow. Where will it be widened? A left turn lane from Jenks Road into the project will be required. The frontage of the property will also be widened to match the north side of Jenks Road along the Preserve at White Oak Creek frontage. How will Sunset Meadows be impacted by this? We do not anticipate any impacts to the intersection with Summer Meadow Drive but that could change as we go through the zoning, site plan and construction drawing design and review process.

You mention that "That will not remove the curve in Jenks Road but will provide some clearing that may improve sight distance for vehicles traveling east on Jenks Road." I think that that "may improve" is not enough when you are talking about child safety. I am also thinking of my own. I have low vision and have already faced dangerous conditions on the road. Apex may want more corporate development, but it also has an obligation to keep its children and disabled population safe. However, this is only my opinion. Safety is the number one tenet of every engineer. We continue to evaluate sites to make sure what we are proposing does not create any unsafe situations. And if there are ways to mitigate the situation, we do our best.

Thank you,
Suzanne

From: Jeff Roach <jroach@peakengineering.com>
Date: Wednesday, February 24, 2021 at 3:20 PM
To: "Kissel, Suzanne"
Subject: RE: [EXT]: RE: Questions for Veterinary Hospital

Great questions. See below.

Jeff Roach, P.E.
Peak Engineering & Design, PLLC
(919) 439-0100

From: Kissel, Suzanne
Sent: Wednesday, February 24, 2021 1:52 PM
To: Jeff Roach <jroach@peakengineering.com>
Subject: Re: [EXT]: RE: Questions for Veterinary Hospital

If the veterinary owners wish to place more than one building on the property, will there be any restraints to them doing so? The zoning is requesting a "single non-residential building" with 15,000 – 20,000 SF office/vet hospital space. If the zoning is approved and they go for a second building, it will not meet the zoning conditions and will be denied by staff.

- 1) What is the anticipated TIA? TIA stands for "Traffic Impact Analysis" (affectionately known as a "traffic study").
- 2) What is the town's threshold? 100 peak hour trips or 1,000 daily trips. This size building does not meet those thresholds so we work with transportation staff instead of relying upon a traffic study.

The "3 stripes" on the 2045 Land Use Map dictates that the property is required to have a minimum percentage of non-residential uses.

What is designated as the minimum percentage that it is required to have under current zoning laws? The "minimum" percentage for a mixed use project is typically: minimum 30% non-residential and a maximum of 70% residential. In our case, we are 100% non-residential. Town wants to see more non-residential development so this fits within the Town's concepts. Will need to confirm this with staff just to make sure I have worded this exactly like the Development Ordinance.

Thank you,
Suzanne

From: Jeff Roach <jroach@peakengineering.com>
Date: Wednesday, February 24, 2021 at 12:48 PM
To: "Kissel, Suzanne"
Subject: [EXT]: RE: Questions for Veterinary Hospital

Good afternoon Suzanne. I have tried to provide some feedback below in red.

Jeff Roach, P.E.
Peak Engineering & Design, PLLC
(919) 439-0100

From: Kissel, Suzanne
Sent: Wednesday, February 24, 2021 8:14 AM
To: Jeff Roach <jroach@peakengineering.com>
Subject: Questions for Veterinary Hospital

- 1) Has there been a traffic study conducted for Jenks Road? Does it take into account that Westford has not yet been built out? What does it show? I've been told that these are required for rezonings. A traffic study is not required for the building as the anticipated number of trips does not reach the Town's threshold for the TIA. The building users are low volume trip generators. Only larger volume trip generators are required to conduct TIAs. We still coordinate with transportation staff through the zoning and site plan reviews to make sure we mitigate traffic created by the new office.
- 2) The land in question is over 6 acres. What else is planned other than the Veterinary Hospital? How many buildings in total will be put on the site? The plan is for one building on the property with outdoor fenced area for patient (pet) recovery areas. No pets will be boarded (unless they just had surgery) and no pets will be left to roam the outdoor recovery area without direct supervision (it is not a pet day care, it is a hospital).
- 3) What measures will be taken to protect our children at the bus stop on the dangerous curve between Sunset Meadows and Jenks Road? If you are referring to the curve in Jenks Road, we are required to widen Jenks Road to the Town's ultimate section (providing more pavement) and construct a sidewalk on the project side of Jenks. That will not remove the curve in Jenks Road but will provide some clearing that may improve sight distance for vehicles traveling east on Jenks Road.
- 4) Why is this land being considered for business when it is bordered on all sides by residential developments and is not at the corner of an existing, significant intersection? The property is shown on the Town's 2045 Land Use Map (see the snip-it below) as either High Density Residential (apartments or townhomes), Commercial Services, or Office-Employment. The "3 stripes" on the 2045 Land Use Map dictates that the property is required to have a minimum percentage of non-residential uses. In this case, we are proposing 100% non-residential. This type of business relies upon residential developments to succeed so location on US 64 or other major thoroughfares is not always the best place for them.



JENKS ROAD VETERINARY HOSPITAL – REZONING NEIGHBORHOOD ATTENDANCE SHEET

Name	Email address/contact information (if provided)	Address (if known)	City (if known)
Ryan Carfley		1017 Sunset Meadows Dr	Apex, NC
Anna Reverdatto		1021 Sunset Meadows Dr	Apex, NC
Konstantin Reverdatto		1021 Sunset Meadows Dr	Apex, NC
Ken Bruns		1053 Sunset Meadows Dr	Apex, NC
Suzanne Kissel		1029 Sunset Meadows Dr	Apex, NC
Sarah Penley		1013 Sunset Meadows Dr	Apex, NC
F Winston Penley		1013 Sunset Meadows Dr	Apex, NC
Vincent Neumann		1057 Sunset Meadows Dr	Apex, NC
Merle Wolfgang		1049 Sunset Meadows Dr	Apex, NC
Christopher Reder		1028 Sunset Meadows Dr	Apex, NC
Meghann Reder		1028 Sunset Meadows Dr	Apex, NC
Brad Buckingham		7721 Jenks Road	Apex, NC
Carey McMains		7809 Jenks Road	Apex, NC
Ira Maynard		7728 Jenks Road	Apex, NC
Eura Tunstall		11725 Ranburne Rd 1533 Old Ivey Rd	Mint Hill, NC Apex, NC
J J		Unknown address	
Jeff Roach Peak Engineering & Design		1125 Apex Peakway	Apex, NC
Daniel Woods Peak Engineering & Design		1125 Apex Peakway	Apex, NC
Daniel Shults			
Jonathan Edwards		1125 Apex Peakway	Apex, NC

PLANNING BOARD REPORT TO TOWN COUNCIL

Rezoning Case: 21CZ06 Jenks Road Office & Veterinary Hospital

Planning Board Meeting Date: May 10, 2021



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: 6.69 acres

PIN(s): 0722886419; 0722888770

Current Zoning: Rural Residential (RR)

Proposed Zoning: Neighborhood Business-Conditional Zoning (B1-CZ)

2045 Land Use Map: Mixed Use: High Density Residential/Office Employment/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.

☒ 2045 Land Use Map
☒ Consistent ☐ Inconsistent Reason: _____

☒ Apex Transportation Plan
☒ Consistent ☐ Inconsistent Reason: _____

☐ Parks, Recreation, Open Space, and Greenways Plan
☐ Consistent ☐ Inconsistent Reason: _____

PLANNING BOARD REPORT TO TOWN COUNCIL

Rezoning Case: 21CZ06 Jenks Road Office & Veterinary Hospital

Planning Board Meeting Date: May 10, 2021



Legislative Considerations:

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

1. *Consistency with 2045 Land Use Plan.* The proposed Conditional Zoning (CZ) District use's appropriateness for its proposed location and consistency with the purposes, goals, objectives, and policies of the 2045 Land Use Plan.

☒ Consistent

☐ Inconsistent

Reason: _____

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

☒ Consistent

☐ Inconsistent

Reason: _____

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

☒ Consistent

☐ Inconsistent

Reason: _____

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

☒ Consistent

☐ Inconsistent

Reason: _____

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

☒ Consistent

☐ Inconsistent

Reason: _____

PLANNING BOARD REPORT TO TOWN COUNCIL

Rezoning Case: 21CZ06 Jenks Road Office & Veterinary Hospital

Planning Board Meeting Date: May 10, 2021



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

☒ Consistent

☐ Inconsistent

Reason: _____

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

☒ Consistent

☐ Inconsistent

Reason: _____

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

☒ Consistent

☐ Inconsistent

Reason: _____

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

☒ Consistent

☐ Inconsistent

Reason: _____

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

☒ Consistent

☐ Inconsistent

Reason: _____

PLANNING BOARD REPORT TO TOWN COUNCIL
Rezoning Case: 21CZ06 Jenks Road Office & Veterinary Hospital

Planning Board Meeting Date: May 10, 2021



Planning Board Recommendation:

Motion: Recommend approval with conditions noted below.

Introduced by Planning Board member: Ryan Akers

Seconded by Planning Board member: Tina Sherman

- ☐ *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; removal of "Grocery store, specialty" and "Pharmacy"
as permitted uses (applicant agreed to remove these two uses).

Added note to Town Council:

Recommend further discussion between applicant and neighboring residents on a mutually-agreeable
fence solution.

- ☐ *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:

* Keith Braswell was recused as he was the listing agent on the McMains and Hobbs properties.

This report reflects the recommendation of the Planning Board, this the 10th day of May 2021.

Attest:

Michael Marks Digitally signed by Michael Marks
Date: 2021.05.10 20:25:09 -04'00'

Michael Marks, Planning Board Chair

Dianne Khin Digitally signed by Dianne Khin
Date: 2021.05.10 17:49:30 -04'00'

Dianne Khin, Director of Planning and
Community Development



TOWN OF APEX
POST OFFICE BOX 250
APEX, NORTH CAROLINA 27502
PHONE 919-249-3426

**PUBLIC NOTIFICATION
OF PUBLIC HEARINGS
CONDITIONAL ZONING #21CZ06
Jenks Road Veterinary Hospital**

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: Daniel Shultz, Peak 360, LLC
Authorized Agent: Jeff Roach, Peak Engineering & Design
Property Addresses: 7825 & 7809 Jenks Road
Acreage: ±6.69 acres
Property Identification Numbers (PINs): 0722886419; 0722888770
2045 Land Use Map Designation: Mixed Use: High Density Residential/Office Employment/Commercial Services
Existing Zoning of Properties: Rural Residential (RR)
Proposed Zoning of Properties: Neighborhood Business-Conditional Zoning (B1-CZ)

Public Hearing Location: Apex Town Hall
Council Chamber, 2nd Floor
73 Hunter Street, Apex, North Carolina

Planning Board Public Hearing Date and Time: May 10, 2021 4:30 PM

If you would like to speak during the public hearing, you may sign-in ahead of time by emailing your name and address to bonnie.brock@apexnc.org. You may attend the meeting in person or view the meeting through the Town's YouTube livestream at: <https://www.youtube.com/c/townofapexgov>.

If you are unable to attend, you may provide comments no later than noon on Friday, May 7, 2021 by email (public.hearing@apexnc.org, 350-word limit) or voicemail (919-362-7300, 3-minute limit) according to the Remote Participation Policy at: <http://www.apexnc.org/DocumentCenter/View/31397>. You must provide your name and address for the record. These comments will be read during the Planning Board meeting.

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 within 300 feet of the proposed conditional zoning have been sent this notice via first class mail. All interested parties may submit comments with respect to the application by the means specified above. In addition to the above map, the location of the property may be viewed online at <https://maps.raleighnc.gov/imaps>. The 2045 Land Use Map may be viewed online at www.apexnc.org/DocumentCenter/View/478. You may call 919-249-3426, Department of Planning and Community Development, with questions or for further information. To view the petition and related documents on-line: <https://www.apexnc.org/DocumentCenter/View/34742>.

Dianne F. Khin, AICP
Director of Planning and Community Development

Published Dates: April 23- May 10, 2021



TOWN OF APEX
POST OFFICE BOX 230
APEX, NORTH CAROLINA 27502
PHONE 919-249-3426

**PUBLIC NOTIFICATION
OF PUBLIC HEARINGS
CONDITIONAL ZONING #21CZ06
Jenks Road Veterinary Hospital**

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Proposed Zoning of Properties: Neighborhood Business-Conditional Zoning (B1-CZ)

Public Hearing Location: Apex Town Hall
Council Chamber, 2nd Floor
73 Hunter Street, Apex, North Carolina

Comments received prior to or during the Planning Board public hearing will not be read during the Town Council public hearing. Separate comments must be provided for the two public hearings in the time frames specified below.

Town Council Public Hearing Date and Time: May 25, 2021 6:00PM

You may attend the meeting in person or view the meeting through the Town's YouTube livestream at:
<https://www.youtube.com/c/townofapexgov>.

If you are unable to attend, you may provide comments no sooner than Friday, May 7, 2021 at noon but no later than noon on Monday, May 24, 2021 by email (public.hearing@apexnc.org, 350-word limit) or voicemail (919-362-7300, 3-minute limit) according to the Remote Participation Policy at: <http://www.apexnc.org/DocumentCenter/View/31397/>. You must provide your name and address for the record. These comments will be read during the Town Council meeting.

If the Council meeting is held with at least one member attending virtually, the vote on the subject of this public hearing will be delayed per State law to allow for comments to be submitted between publication of any required notice and 24 hours after the public hearing. Comments must be provided according to the means specified above. This item will then be scheduled for the next Town Council meeting. Please note that at this subsequent meeting, Town Council may choose to vote on the item, table the discussion to a later date, or take other action which would delay Council action to another time.

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Published Dates: April 30- May 25, 2021



TOWN OF APEX

POST OFFICE BOX 250
APEX, NORTH CAROLINA 27502
PHONE 919-249-3426

PUBLIC NOTIFICATION OF PUBLIC HEARINGS CONDITIONAL ZONING #21CZ06 Jenks Road Veterinary Hospital

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: Daniel Shultz, Peak 360, LLC

Authorized Agent: Jeff Roach, Peak Engineering & Design

Property Addresses: 7825 & 7809 Jenks Road

Acreage: ±6.69 acres

Property Identification Numbers (PINs): 0722886419; 0722888770

2045 Land Use Map Designation: Mixed Use: High Density Residential/Office Employment/Commercial Services

Existing Zoning of Properties: Rural Residential (RR)

Proposed Zoning of Properties: Neighborhood Business-Conditional Zoning (B1-CZ)

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Council Chamber, 2nd Floor
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Dianne F. Khin, AICP
Director of Planning and Community Development



TOWN OF APEX

POST OFFICE BOX 250
APEX, NORTH CAROLINA 27502
PHONE 919-249-3426

PUBLIC NOTIFICATION OF PUBLIC HEARINGS CONDITIONAL ZONING #21CZ06 Jenks Road Veterinary Hospital

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Authorized Agent: Jeff Roach, Peak Engineering & Design

Property Addresses: 7825 & 7809 Jenks Road

Acreage: ±6.69 acres

Property Identification Numbers (PINs): 0722886419; 0722888770

2045 Land Use Map Designation: Mixed Use: High Density Residential/Office Employment/Commercial Services

Existing Zoning of Properties: Rural Residential (RR)

Proposed Zoning of Properties: Neighborhood Business-Conditional Zoning (B1-CZ)

Public Hearing Location: Apex Town Hall
Council Chamber, 2nd Floor
73 Hunter Street, Apex, North Carolina

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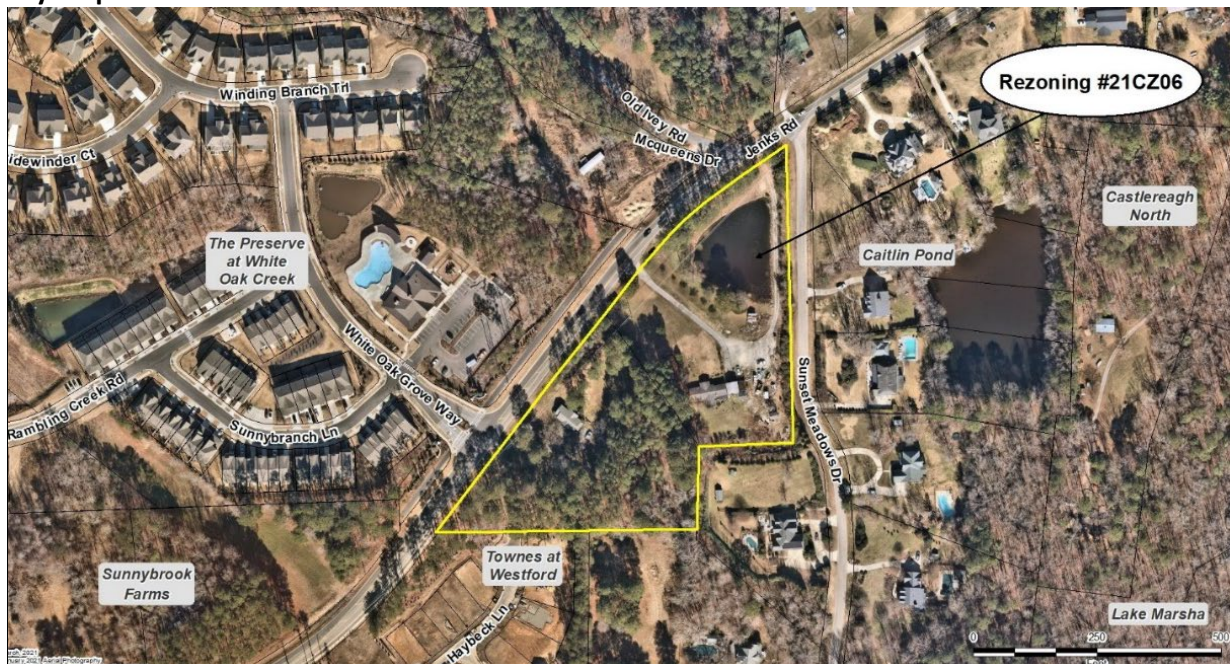
Town Council Public Hearing Date and Time: May 25, 2021 6:00PM

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Dianne F. Khin, AICP
Director of Planning and Community Development



Our Estate

Rezoning #21CZ06

Castlereagh North

Caitlin Pond

Sunnybrook Farms

Townes at Westford

The Preserve at White Oak Creek

Sunnybranch Ln

Old Ivey Rd

Jenks Rd

Vine Pond Ct

Sidewinder Ct

McQueens Dr

Sunset Meadows Dr

Haybeck Ln

Hurch Ln

0 250 500

Public Hearing Sign Posted By

Signature

Date 3/8/2021



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: Jenks Road Office & Veterinary Hospital

Project Location: 7825 & 7809 Jenks Road

Applicant or Authorized Agent: Daniel Shultz, Peak 360, LLC
Jeff Roach, Peak Engineering & Design

Firm: Peak Engineering & Design

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 23, 2021, 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 within 300' of the land subject to notification. I further certify that I relied on information provided to me by the above-mentioned person as to accuracy and mailing addresses of property owners within 300' of the land subject to notification.

4-23-21

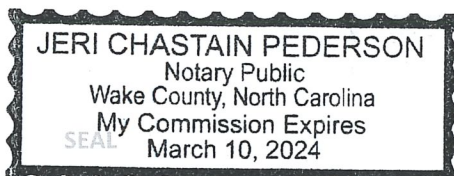
Date

Amad Bunce for Dianne Khin
Director 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 23 day of April, 2021.



Jeri Chastain Pederson
Notary Public

My Commission Expires: 03 / 10 / 2024



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: Jenks Road Office & Veterinary Hospital

Project Location: 7825 & 7809 Jenks Road

Applicant or Authorized Agent: Daniel Shultz, Peak 360, LLC
Jeff Roach, Peak Engineering & Design

Firm: Peak Engineering & Design

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4-30-21

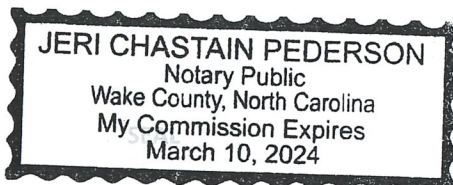
Date

Annalyn Bunch & Dianne Khin
Director 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 30 day of April, 202 1.



Jeri Chastain Pederson
Notary Public

My Commission Expires: 03 / 10 / 2024

| Agenda Item | cover sheet

for consideration by the Apex Town Council

Item Type: PUBLIC HEARING

Meeting Date: May 25, 2021

Item Details

Presenter(s): Amanda Bunce, Current Planning Manager

Department(s): Planning and Community Development

Requested Motion

Public hearing and possible motion to approve a 2045 Land Use Map amendment and Rezoning Application #21RZ07 Herbert Street. The applicant, Lane Raw Land, LLC, seeks to amend the 2045 Land Use Map from Medium Density Residential to Office Employment/Commercial Services and rezone approximately 0.27 acres located at 0 Herbert Street (PIN 0741397109) from Medium Density Residential (MD) to Neighborhood Business (B1).

Approval Recommended?

The Planning and Community Development Department recommends denial.

The Planning Board held a Public Hearing on May 10, 2021. The Planning Board recommended approval of the 2045 Land Use Map amendment by vote of 7-1. However, the Planning Board unanimously recommended denial of the rezoning as presented by the applicant.

Item Details

Attachments

- Staff Report
- Attachments



STAFF REPORT

2045 Land Use Map Amendment and Rezoning #21RZ07 Herbert Street

May 25, 2021 Town Council Meeting



All property owners and neighborhood associations within 300 feet of this rezoning have been notified per UDO Sec. 2.2.11 *Public Notification*.

BACKGROUND INFORMATION:

Location: 0 Herbert Street
Applicant/Owners: Don Lane, Lane Raw Land, LLC

PROJECT DESCRIPTION:

Acreage: ± 0.27 acre
PIN: 0741397109
Current Zoning: Medium Density Residential (MD)/Small Town Character Overlay District
Proposed Zoning: Neighborhood Business (B1)/Small Town Character Overlay District
Current 2045 Land Use Map: Medium Density Residential
Proposed 2045 Land Use Map: Office Employment/Commercial Services
Town Limits: Inside Town Limits

Adjacent Zoning & Land Uses:

All adjacent properties are located within the Small Town Character Overlay District.

	Zoning	Land Use
North:	Neighborhood Business (B1)	Vacant
South:	Medium Density Residential (MD)	Single-family detached
East:	Neighborhood Business (B1)	Vacant
West:	Neighborhood Business (B1)	Herbert St; Railroad; Single-family detached

EXISTING CONDITIONS:

The property to be rezoned is vacant and located on the east side of Herbert St, which has a paved width of approximately 10 feet and no curb or gutter.

NEIGHBORHOOD MEETING:

The applicant conducted a neighborhood meeting on February 25, 2021. The neighborhood meeting report is attached.

2045 LAND USE MAP:

The 2045 Land Use Map classifies the subject property as Medium Density Residential. The proposed rezoning to Neighborhood Business (B1) is not consistent with that land use classification. Therefore, the applicant is proposing to amend the 2045 Land Use Map to Office Employment/Commercial Services. While this classification is consistent with the land use classifications of the properties to the north, staff is not in support of the proposed amendment since a conditional rezoning with conditions that would mitigate the impact of nonresidential development on the adjacent residential properties was not submitted.

STAFF REPORT

2045 Land Use Map Amendment and Rezoning #21RZ07 Herbert Street

May 25, 2021 Town Council Meeting



Permitted Uses:

The proposed rezoning is not a conditional rezoning request. As such all uses allowed in the B1 and Small Town Character Overlay District (STCOD) would be allowed on this property as is the case for the properties to the north. In addition, the applicant is unable to add zoning conditions regarding any of the permitted uses or impacts of development on the adjacent properties.

Uses permitted by B1 and the STCOD are as follows (SUP=Special Use Permit):

- | | |
|--|--------------------------------------|
| a. Accessory apartment | aa. Artisan studio (SUP) |
| b. Church or place of worship (some accessory uses like daycare require SUP) | bb. Barber and beauty shop |
| c. Day care facility | cc. Book store |
| d. Drop in or short term daycare | dd. Convenience store |
| e. Government service | ee. Dry cleaners and laundry service |
| f. School, public or private | ff. Farmer's market |
| g. Veterinary clinic or hospital | gg. Financial institution |
| h. Vocational school | hh. Floral shop |
| i. Utility, minor | ii. Funeral home |
| j. Wireless support structure | jj. Greenhouse or nursery, retail |
| k. Wireless communication facility | kk. Grocery, general |
| l. Beach bingo (SUP) | ll. Grocery, specialty |
| m. Botanical garden | mm. Health/fitness center or spa |
| n. Entertainment, indoor | nn. Laundromat |
| o. Greenway | oo. Newsstand or gift shop |
| p. Park, active | pp. Personal service |
| q. Park, passive | qq. Pharmacy |
| r. Youth or day camps | rr. Printing and copying service |
| s. Bar, nightclub, wine bar, or taproom (SUP) | ss. Real estate sales |
| t. Restaurant, general | tt. Retail sales, general |
| u. Medical or dental office or clinic | uu. Studio for art |
| v. Medical or dental laboratory (SUP) | vv. Tailor shop |
| w. Office, business or professional | ww. Theater |
| x. Parking garage, commercial | xx. Pet services |
| y. Parking lot, commercial | yy. Automotive parts |
| z. Hotel or motel | zz. Microbrewery |

PLANNING STAFF RECOMMENDATION:

Planning staff recommends denial of the 2045 Land Use Map amendment from Medium Density Residential to Office Employment/Commercial Services and Rezoning #21RZ07 Herbert Street as proposed by the applicant. Since this is not a conditional rezoning, there is no guarantee that this parcel will develop as part of an assemblage as stated in the application for the rezoning. In addition, there are several uses allowed that staff believes could have a negative impact on the area, but that cannot be removed since a conditional rezoning application was not submitted.

STAFF REPORT

2045 Land Use Map Amendment and Rezoning #21RZ07 Herbert Street

May 25, 2021 Town Council Meeting



PLANNING BOARD RECOMMENDATION:

The Planning Board heard this rezoning at their May 10, 2021 meeting. The Planning Board recommended approval of the 2045 Land Use Map amendment by vote of 7-1. However, the Planning Board unanimously recommended denial of the rezoning as presented 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:

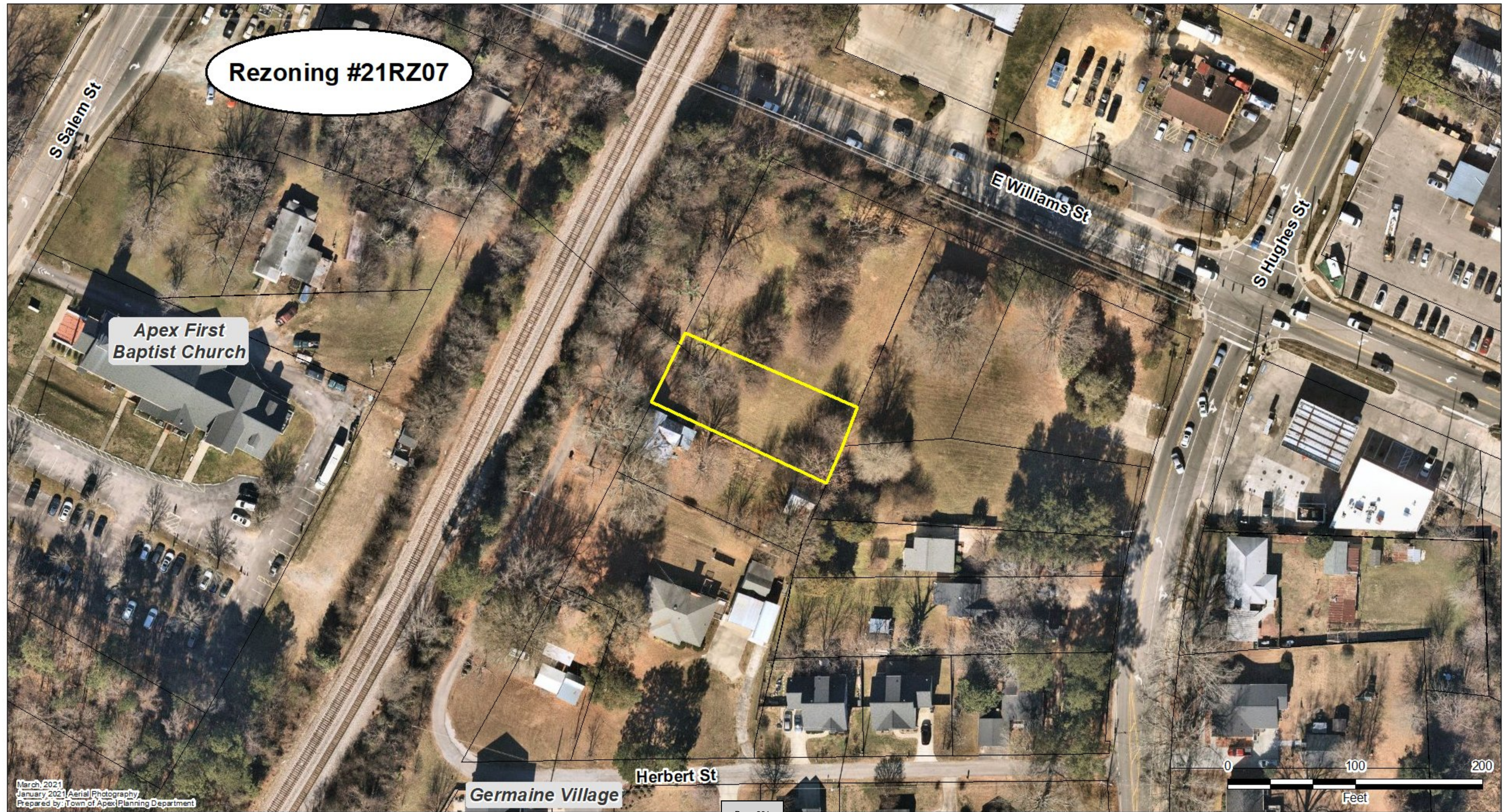
Denial of the rezoning is reasonable because the proposed Neighborhood Business (B1) district is not consistent with the current Medium Density Residential land use classification on the 2045 Land Use Map. Staff does not recommend approval of the requested amendment to the 2045 Land Use Map to Office Employment/Commercial Services since a conditional rezoning with conditions that would mitigate the impact of nonresidential development on the adjacent residential properties was not submitted.

The proposed rezoning is not reasonable and in the public interest because it would allow development of the subject parcel either independently or with other parcels to the north or east that could negatively impact the adjacent residential property to the south.

STANDARDS:

The Town Council shall consider the following when considering the requested rezoning to the Neighborhood Business (B1) district. Sec. 2.3.2.E:

- 1) *Compatible with surrounding uses.* Whether and the extent to which the proposed amendment is compatible with existing and proposed uses surrounding the subject land.
- 2) *Changed conditions.* Whether and the extent to which there are changed conditions that require an amendment.
- 3) *Effect on natural environment.* Whether and the extent to which the proposed amendment would result in significantly adverse impacts on the natural environment, including but not limited to water, air, noise, storm water management, wildlife, vegetation, wetlands, and the natural functioning of the environment.
- 4) *Community need.* Whether and the extent to which the proposed amendment addresses a demonstrated community need.
- 5) *Development patterns.* Whether and the extent to which the proposed amendment would result in a logical and orderly development pattern and not constitute spot zoning.
- 6) *Public facilities.* Whether and the extent to which the proposed amendment would result in development that is adequately served by public facilities (roads, potable water and sewage, schools, parks, police, and fire and emergency medical facilities).
- 7) *Consistency with 2045 Land Use Map.* Consistency with the 2045 Land Use Map.



Rezoning #21RZ07

Apex First Baptist Church

S Salem St

E Williams St

S Hughes St

Herbert St

Germaine Village



PETITION TO AMEND THE OFFICIAL ZONING MAP & 2045 LAND USE MAP

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

Application #: 21RZ07

Submittal Date: 3-1-21

2045 LUM Amendment: _____

Fee Paid: \$600

Project Information

Project Name: Herbert Street Commercial

Address(es): 0 Herbert Street

PIN(s): 0741-39-7109

Acreage: 0.27

Current Zoning: MD with Small Town Character Overlay Proposed Zoning: B1 with Small Town Character Overlay

Current 2045 LUM Designation: Medium Density Residential

Proposed 2045 LUM Designation: Office Employment/Commercial Services

See next page for LUM Amendment.

If any portion of the project is shown as mixed use (3 or more stripes on the 2045 Land Use Map) provide the following:

Area classified as mixed use:

Acreage: _____

Area proposed as non-residential development:

Acreage: _____

Percent of mixed use area proposed as non-residential:

Percent: _____

Applicant Information

Name: Lane Raw Land LLC

Address: PO Box 2230

City: Angier

State: NC

Zip: 27501

Phone: _____

E-mail: _____

Owner Information

Name: Same as Applicant

Address: _____

City: _____

State: _____

Zip: _____

Phone: _____

E-mail: _____

Agent Information

Name: _____

Address: _____

City: _____

State: _____

Zip: _____

Phone: _____

E-mail: _____

Other contacts: Jason Barron - Attorney for Applicant

425 Fayetteville St | Ste 530 | Raleigh, NC 27601

jbarron@morningstarlawgroup.com

919-590-0371

PETITION TO AMEND THE OFFICIAL ZONING MAP & 2045 LAND USE MAP

Application #: 21RZ07

Submittal Date: 3-1-21

2045 LAND USE MAP AMENDMENT (IF APPLICABLE)

The applicant does hereby respectfully request the Town Council amend the 2045 Land Use Map. In support of this request, the following facts are shown:

The area sought to be amended on the 2045 Land Use Map is located at:

0 Herbert Road

Current 2045 Land Use Classification: Medium Density Residential

Proposed 2045 Land Use Classification: Office Employment/Commercial Services

What condition(s) justifies the passage of the amendment to the 2045 Land Use Map? Discuss the existing use classifications of the subject area in addition to the adjacent land use classifications. Use additional pages as needed.

The property in question is part of a larger assemblage which fronts onto Highway 55. The properties along Highway 55 are designated on the 2045 Land Use Map for a combination of Commercial Services and Office Employment. The Land Use Map change is requested to bring one development assemblage into conformity.

The property in question backs up to a residential area, but the current owner hopes to develop it as part of a neighborhood commercial center which addresses Highway 55, rather than the residential area. Therefore, the proposed change is reasonable given that the parcel is proposed to be developed as part of a Highway 55 center.

CERTIFIED LIST OF NEIGHBORING PROPERTY OWNERS

Application #: 21RZ07

Submittal Date: 3-1-21

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.	See Attached	
2.		
3.		
4.		
5.		
6.		
7.		
8.		
9.		
10.		
11.		
12.		
13.		
14.		
15.		

I, Julie M Byrd, certify that this is an accurate listing of all property owners and property owners within 300' of the subject property.

Date: 2-25-2021

By: [Signature]

COUNTY OF WAKE STATE OF NORTH CAROLINA

Sworn and subscribed before me, Julie M Byrd, a Notary Public for the above State and County, on this the 25th day of February, 2021.

SEAL



[Signature]
Notary Public
Julie M Byrd
Print Name

My Commission Expires: 7/24/2023

212207

Owner	PIN
ADAMS, WILEY TIMOTHY ADAMS, PAMELA C	0741-39-8007
ANSARI, ASIF SAEED KHAN, TARANNUM	0741-38-7833
APEX FIRST BAPTIST CHURCH	0741-39-2120
BARNES, ALBERT ROGER BARNES, LUISE K	0741-38-6850
CHIRAYATH, SAJU P CHIRAYATH, MINI S	0741-49-1074
CURIO INVESTMENTS LLC YENNC LLC	0741-49-0424
DALTON, PAUL W DALTON, FAYE H	0741-39-4423
DIXON, SUSAN DIXON, BRENDA STONE	0741-38-8854
GREBING, RONALD E GREBING, ANN P	0741-38-9915
HANCOCK, SHARON S HANCOCK, RICKY W	0741-39-8520
HOLLAND, CHARLES LEE HOLLAND, GLORIA E	0741-39-8052
HORTON, MARY ELIZABETH	0741-39-3276 0741-39-3393
HUOVINEN, HEATH HUOVINEN, ANDREA	0741-38-7945
JANSON, KRISTINA M	0741-39-6174
KELLAN PROPERTIES LLC	0741-38-5947
LANE RAW LAND LLC	0741-39-7109 0741-39-7322 0741-39-8133 0741-39-8264 0741-39-9273
LMOC LEGACY LLC	0741-49-1134
MITCHELL, GARLAND LEE MITCHELL, ESTELLE	0741-39-6033
MORRISSEY, BRIAN CHRISTOPHER MORRISSEY, TATCHAYA	0741-38-8925
THEDIECK, JOY W	0741-39-4471

AGENT AUTHORIZATION FORMApplication #: 218207Submittal Date: 3-1-21

Lane Raw Land LLC is the owner* of the property for which the attached application is being submitted:

- ☒ Land Use Amendment
- ☒ Rezoning: For Conditional Zoning and Planned Development rezoning applications, this authorization includes express consent to zoning conditions that are agreed to by the Agent which will apply if the application is approved.
- ☒ Site Plan
- ☒ Subdivision
- ☐ Variance
- ☐ Other: _____

The property address is: 0 Herbert Road

The agent for this project is: _____

☒ I am the owner of the property and will be acting as my own agent

Agent Name: _____

Address: _____

Telephone Number: _____

E-Mail Address: _____

Signature(s) of Owner(s)*

Don Lane

Type or print name

2/25/2021

Date

Type or print name

Date

Attach additional sheets if there are additional owners.

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

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

AFFIDAVIT OF OWNERSHIPApplication #: 21 R207Submittal Date: 3-1-21

The undersigned, _____ (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 Herbert Street and legally described in Exhibit "A" attached hereto and incorporated herein (the "Property").
2. This Affidavit of Ownership is made for the purpose of filing an application for development approval with the Town of Apex.
3. If Affiant is the owner of the Property, Affiant acquired ownership by deed, dated 12/19/19, and recorded in the Wake County Register of Deeds Office on 5/27/2020, in Book 17885 Page 1204.
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 12/19/19, 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 12/19/19, 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 25 day of February, 20 21. [Signature] (seal)
Don Lane
Type or print name

STATE OF NORTH CAROLINA
COUNTY OF Wake

I, the undersigned, a Notary Public in and for the County of Wake, hereby certify that Don Lane, Affiant, personally known to me or known to me by said Affiant's presentation of said Affiant's Don Lane, personally appeared before me this day and acknowledged the due and voluntary execution of the foregoing Affidavit.

[Signature]
Notary Public
State of North Carolina
My Commission Expires: 7/24/2023

[NOTARY SEAL]

EXHIBIT A

BEGINNING at a p.k. nail at the southwestern corner of property now owned by Cor E. Bregman (Book 7008, Page 45, Wake County Registry ("WCR"); PIN # 0741.06-39-7322) (hereinafter "200 Williams"), said nail being located South 43 deg. 30' 28" East a distance of 516.63 feet from NCOS Mon. "Salem"; running thence along said with the southern line of said 200 Williams, South 64 deg. 01' 30" East a distance of 191.00 feet to an iron pipe at the southwestern corner of 200 Williams and in the western line of Lot 2 (Pin # 0741.06-39-3264) as shown on the map recorded in Book of Maps 1987, Page 85, WCR; running thence along and with the western line of said Lot 2, South 23 deg. 14' 34" West a distance of 32.49 feet to an iron pipe located at the northwestern corner of Lot 3 (Pin # 0741.06-39-8113) as shown on the plat recorded in Book of Maps 1994, Page 1102, WCR; running thence along and with the western line of said Lot 3, South 25 deg. 20' 45" West a distance of 31.37 feet to an iron pipe at the northeastern corner of property now or formerly owned by Sallie Bell Helt Smith Heltz (Deed Book 959, Page 122, WCR; Pin # 0741.06-39-6145); running thence along and with the northern line of the Sallie Heltz Property, North 62 deg. 44' 19" West a distance of 195.95 feet to a p.k. nail; running thence North 28 deg. 50' 39" East a distance of 59.50 feet to the **POINT AND PLACE OF BEGINNING**, containing 11,942 square feet (0.274 acres), more or less, and being all of the property shown and described on that certain survey entitled "Property Of COR E. BREGMAN, Herbert Street, Apex, Wake Co., N.C.", dated 02/06/97, and prepared by John Y. Phelps, Jr., R.L.S. (Field Book 7008), and also being the same property conveyed to Ernest R. Smith and Sallie B. Smith by deed recorded in Book 1320, Page 47, Wake County Registry, to which survey and deed reference is hereby made for a more particular description of same.

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.

2/15/2021

Date

Dear Neighbor:

You are invited to an electronic neighborhood meeting to review and discuss the development proposal at
0 Herbert Street 0741-39-7109

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 [Interactive Development Map](#) or the [Apex Development Report](#) located on the Town of Apex website at www.apexnc.org. 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):

Application Type	Approving Authority
<input checked="" type="checkbox"/> Rezoning (including Planned Unit Development)	Town Council
<input checked="" type="checkbox"/> Major Site Plan	Town Council (QJPH*)
<input type="checkbox"/> Special Use Permit	Town Council (QJPH*)
<input type="checkbox"/> 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)):

The owner seeks to rezone the property from Medium Density Residential (MD) to Neighborhood Business (B1) to facilitate the development of a neighborhood scale business along Highway 55.

Estimated submittal date: March 1, 2021

MEETING INFORMATION:

Property Owner(s) name(s):	Lane Raw Land LLC
Applicant(s):	Jason Barron - Attorney for Owner
Contact information (email/phone):	jbarron@morningstarlawgroup.com/919-590-0371
Electronic Meeting invitation/call in info:	bit.ly/mlg02252021mtg
Date of meeting**:	Thursday, February 25, 2021
Time of meeting**:	5:30 PM - 7:30 PM

MEETING AGENDA TIMES:

Welcome: 5:30 - 5:32 Project Presentation: 5:32 to 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 Department at 919-249-3426. You may also find information about the Apex Planning Department and on-going planning efforts at <http://www.apexnc.org/180/Planning>.

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: Highway 55 Neighborhood Commercial Zoning: Requesting B1

Location: 0 Herbert Street

Property PIN(s): 0741-39-7109 Acreage/Square Feet: 0.27/11,761

Property Owner: Lane Raw Land LLC

Address: PO Box 2230

City: Angier State: NC Zip: 27501

Phone: _____ Email: _____

Developer: Same as Property Owner

Address: _____

City: _____ State: _____ Zip: _____

Phone: _____ Fax: _____ Email: _____

Engineer: None at this time

Address: _____

City: _____ State: _____ Zip: _____

Phone: _____ Fax: _____ Email: _____

Builder (if known): None at this time

Address: _____

City: _____ State: _____ Zip: _____

Phone: _____ Fax: _____ Email: _____

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

Town of Apex Department Contacts

Planning Department Main Number (Provide development name or location to be routed to correct planner)	(919) 249-3426
Parks, Recreation & Cultural Resources Department Angela Reincke, Parks 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 1st and 3rd Tuesdays of each month at 6:00 p.m. (except for holidays, see schedule of meetings at <http://www.apexnc.org/838/Agendas-Minutes>). You may also contact Town Council by e-mail at AllCouncil@apexnc.org.

Private Agreements and Easement Negotiation:

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

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

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

To request that any agreement with a developer is made a part of the conditional zoning at the time of approval, you may ask at the Town Council public hearing if the agreement is included in the conditions. If it is not, you may request that the Town Council not approve the rezoning without the agreement being included in the conditions (note that it is up to Town Council whether to approve or deny the rezoning but they cannot impose conditions that the applicant does not agree to add). The developer's proposed conditions can be viewed any time after a rezoning is submitted on the Interactive Development Map at: <http://apexnc.maps.arcgis.com/apps/OnePane/basicviewer/index.html?appid=fa9ba2017b784030b15ef4da27d9e795>

Documentation:

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

COMMON CONSTRUCTION ISSUES & WHO TO CALL

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

Noise & Hours of Construction: Non-Emergency Police 919-362-8661

Noise from tree removal, grading, excavating, paving, and building structures is a routine part of the construction process. The Town generally limits construction hours from 7:00 a.m. to 8:30 p.m. so that there are quiet times even during the construction process. Note that construction outside of these hours is allowed with special permission from the Town when it makes more sense to have the construction occur at night, often to avoid traffic issues. In addition, the Town limits hours of blasting rock to Monday through Friday from 8:00 a.m. to 5:00 p.m. Report violations of construction hours and other noise complaints to the Non-Emergency Police phone number at 919-362-8661.

Construction Traffic: James Misciagno 919-372-7470

Construction truck traffic will be heavy throughout the development process, including but not limited to removal of trees from site, loads of dirt coming in and/or out of the site, construction materials such as brick and wood brought to the site, asphalt and concrete trucks come in to pave, etc. The Town requires a construction entrance that is graveled to try to prevent as much dirt from leaving the site as possible. If dirt does get into the road, the Town can require they clean the street (see "Dirt in the Road" below).

Road Damage & Traffic Control: Water Resources – Infrastructure Inspections 919-362-8166

There can be issues with roadway damage, roadway improvements, and traffic control. Potholes, rutting, inadequate lanes/signing/stripping, poor traffic control, blocked sidewalks/paths are all common issues that should be reported to Water Resources – Infrastructure Inspections at 919-249-3427. The Town will get NCDOT involved if needed.

Parking Violations: Non-Emergency Police 919-362-8661

Unless a neighbor gives permission, there should be no construction parking in neighbors' driveways or on their property. Note that parking in the right-of-way is allowed, but Town regulations prohibit parking within 15 feet of driveways so as not to block sight triangles. Trespassing and parking complaints should be reported to the Non-Emergency Police phone number at 919-362-8661.

Dirt in the Road: James Misciagno 919-372-7470

Sediment (dirt) and mud gets into the existing roads due to rain events and/or vehicle traffic. These incidents should be reported to James Misciagno. He will coordinate the cleaning of the roadways with the developer.

Dirt on Properties or in Streams: James Misciagno 919-372-7470 Danny Smith Danny.Smith@ncdenr.gov

Sediment (dirt) can leave the site and get onto adjacent properties or into streams and stream buffers; it is typically transported off-site by rain events. These incidents should be reported to James Misciagno at 919-372-7470 so that he can coordinate the appropriate repairs with the developer. Impacts to the streams and stream buffers should also be reported to Danny Smith (danny.smith@ncdenr.gov) with the State.

Dust: James Misciagno 919-372-7470

During dry weather dust often becomes a problem blowing into existing neighborhoods or roadways. These incidents should be reported to James Misciagno at 919-372-7470 so that he can coordinate the use of water trucks onsite with the grading contractor to help control the dust.

Trash: James Misciagno 919-372-7470

Excessive garbage and construction debris can blow around on a site or even off of the site. These incidents should be reported to James Misciagno at 919-372-7470. He will coordinate the cleanup and trash collection with the developer/home builder.

Temporary Sediment Basins: James Misciagno 919-372-7470

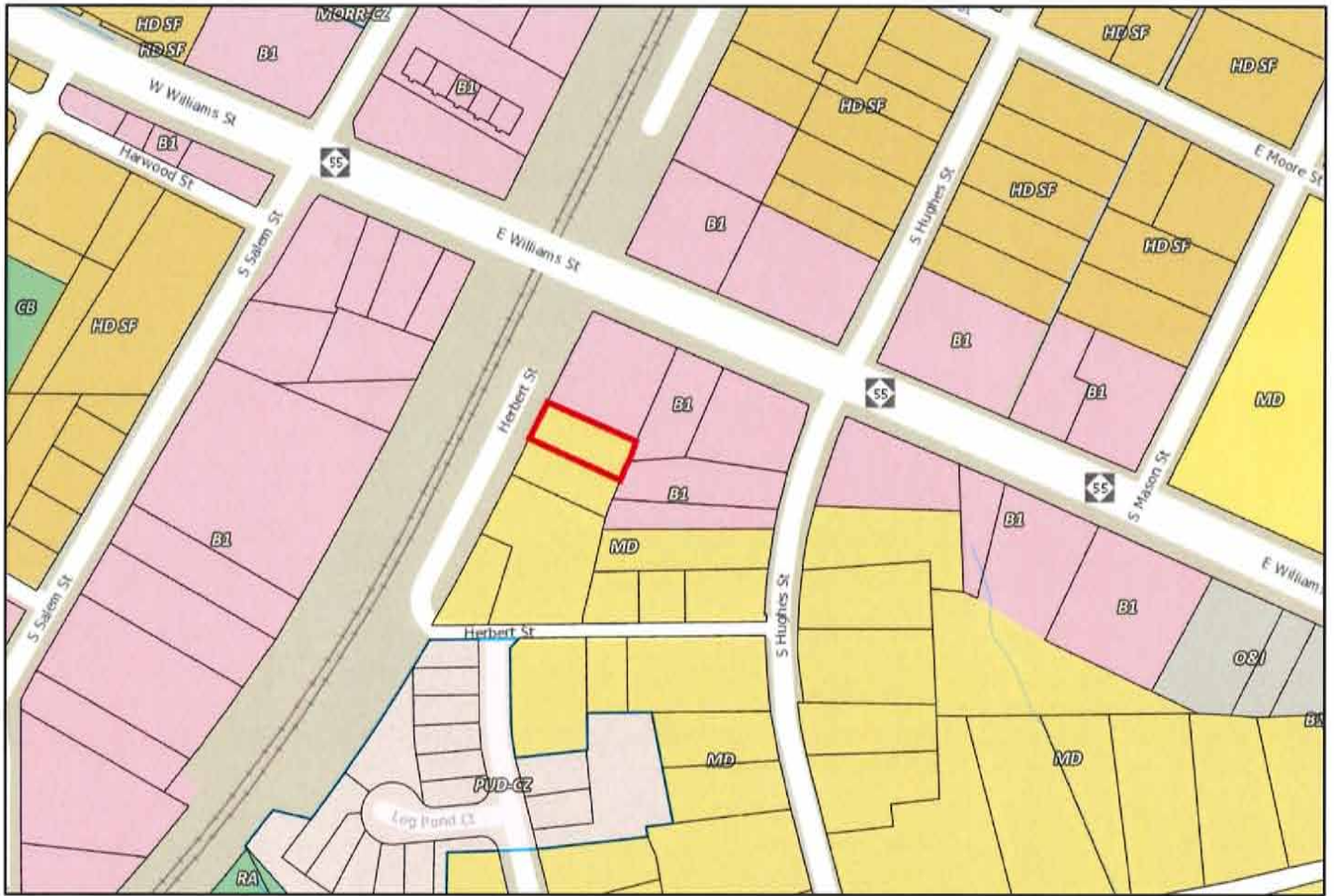
Temporary sediment basins during construction (prior to the conversion to the final stormwater pond) are often quite unattractive. Concerns should be reported to James Misciagno at 919-372-7470 so that he can coordinate the cleaning and/or mowing of the slopes and bottom of the pond with the developer.

Stormwater Control Measures: Jessica Bolin 919-249-3537

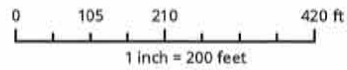
Post-construction concerns related to Stormwater Control Measures (typically a stormwater pond) such as conversion and long-term maintenance should be reported to Mike Deaton at 919-249-3413.

Electric Utility Installation: Rodney Smith 919-249-3342

Concerns with electric utility installation can be addressed by the Apex Electric Utilities Department. Contact Rodney Smith at 919-249-3342.



Vicinity Zoning Map



Disclaimer
IMaps makes every effort to produce and publish the most current and accurate information possible. However, the maps are produced for information purposes, and are NOT surveys. No warranties, expressed or implied, are provided for the data therein, its use, or its interpretation.

How to Participate in the February 25, 2021 Neighborhood Meeting
Re: East Williams Street

- To participate by PC, Mac, iPad, iPhone or Android device,
 - Go to bit.ly/mlg02252021mtg to register for the meeting. (*Registration is necessary as we are required to have a record of attendance.*)
 - Upon registration, you will receive a confirmation email with instructions on how to access the meeting.
- To participate by phone,
 - Dial one of the following numbers:
 - +1 929 436 2866
 - +1 301 715 8592
 - +1 312 626 6799
 - +1 669 900 9128
 - +1 253 215 8782
 - +1 346 248 7799
 - Enter Webinar ID: 952 3326 2084
 - Enter password: 456519
 - *For attendance purposes, individuals participating via telephone will be unmuted and asked to identify themselves including their name and address.*

If you have difficulty connecting or have technical difficulties during the meeting, you can email us at meetings@mstarlaw.com or call 919-590-0366.

You are encouraged to join the meeting via your computer or smartphone so that you will have access to Zoom Webinar's interactive features including Raise Hand and Chat.


During the meeting, participants will be muted by default. Also, participants' video will be off by default, i.e. only the presenters will be visible.

- If you are participating via your computer, iPhone or Android device, you can submit questions/comments by using the Raise Hand and/or Chat features. If you use Raise Hand, a panelist will either unmute you to allow you to speak or will chat with you to solicit your questions/comments.
- If you are participating via telephone, you can submit questions/comments prior to and during the meeting via email at meetings@mstarlaw.com. At the end of the Q&A period of the meeting, all callers will be unmuted to allow for questions/comments.

NEIGHBORHOOD MEETING SIGN-IN SHEET

Meeting Address: Zoom
 Date of meeting: 2/25/21 Time of meeting: 5:30 PM to 7:30 PM
 Property Owner(s) name(s): Lane Raw Land LLC
 Applicant(s): Lane Raw Land LLC

Please print your name below, state your address and/or affiliation with a neighborhood group, and provide your phone number and email address. Providing your name below does not represent support or opposition to the project; it is for documentation purposes only.

	NAME/ORGANIZATION	ADDRESS	PHONE #	EMAIL	SEND PLANS & UPDATES
1.	Nil Ghosh - Morningstar	112 W Main St - Durham	919-590-0362		
2.	Dick Davis - Applicant	-	-		
3.	Kristina Janson	-	-		
4.	Brian Morrissey	175 Herbert St	-		
5.	Lori Hall	2704 Bedford Ave	-		
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): Lane Raw Land LLC

Applicant(s): Property Owner

Contact information (email/phone): nghosh@morningstarlawgroup.com/919-590-0362

Meeting Address: Virtual

Date of meeting: 2/25/21

Time of meeting: 5:30 PM to 7:30 PM

Please summarize the questions/comments and your response from the 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:

Will there be a connection to Herbert

Applicant's Response:

We do not believe one even would be allowed because our frontage on Herbert is within the railroad right-of-way

At any rate, we are not planning on a connection to Herbert.

Question/Concern #2:

What would go on the property being rezoned?

Applicant's Response:

If you split the property in half, the half closest to Highway 55 would most likely be developed as a drive aisle or part of the circulation pattern. On the back half, there would be a vegetative buffer.

Question/Concern #3:

Applicant's Response:

Question/Concern #4:

Applicant's Response:

AFFIDAVIT OF CONDUCTING A NEIGHBORHOOD MEETING, SIGN-IN SHEET AND ISSUES/RESPONSES SUBMITTAL

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

I, Dick Davis, do hereby declare as follows:

Print Name

1. I have conducted a Neighborhood Meeting for the proposed Rezoning, Major Site Plan, 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 Neighborhood Meeting.
3. The meeting was conducted at Zoom (location/address) on 2/25/21 (date) from 5:30 PM (start time) to 7:30 PM (end time).
4. I have included the mailing list, meeting invitation, sign-in sheet, issue/response summary, and zoning map/reduced plans with the application.
5. I have prepared these materials in good faith and to the best of my ability.


3/1/21
Date

By: 

STATE OF NORTH CAROLINA
COUNTY OF WAKE

Sworn and subscribed before me, Jessica M. Brito, a Notary Public for the above State and County, on this the 1st day of March, 2021.




Notary Public
Jessica M. Brito
Print Name

My Commission Expires: 7/2/2024

PLANNING BOARD REPORT TO TOWN COUNCIL

Rezoning Case: 21RZ07 Herbert St

Planning Board Meeting Date: May 10, 2021



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: 0.27 acre

PIN(s): 0741397109

Current Zoning: Medium Density Residential (MD)/Small Town Character Overlay District

Proposed Zoning: Neighborhood Business (B1)/Small Town Character Overlay District

Current 2045 Land Use Map: Medium Density Residential

Proposed 2045 Land Use Map: Office Employment/Commercial Services

Town Limits: Inside

Standards:

The advisability of amending the Official Zoning District Map is a matter committed to the legislative discretion of the Town Council and is not controlled by any one factor. In determining whether to adopt or disapprove the proposed amendment to the text of this Ordinance or the Official Zoning District Map, the Town Council shall consider the following factors listed below:

1. *Compatible with surrounding uses.* Whether and the extent to which the proposed amendment is compatible with existing and proposed uses surrounding the subject land.

☐ Compatible

☒ Incompatible

Reason: Rezoning doesn't have

conditions to protect neighboring properties.

2. *Changed conditions.* Whether and the extent to which there are changed conditions that require an amendment.

☐ Yes

☒ No

Reason: _____

PLANNING BOARD REPORT TO TOWN COUNCIL

Rezoning Case: 21RZ07 Herbert St

Planning Board Meeting Date: May 10, 2021



3. *Effect on natural environment.* Whether and the extent to which the proposed amendment would result in significantly adverse impacts on the natural environment, including but not limited to water, air, noise, storm water management, wildlife, vegetation, wetlands, and the natural functioning of the environment.

☐ Yes

☒ No

Reason: _____

4. *Community need.* Whether and the extent to which the proposed amendment addresses a demonstrated community need.

☐ Yes

☒ No

Reason: _____

5. *Development patterns.* Whether and the extent to which the proposed amendment would result in a logical and orderly development pattern and not constitute spot zoning.

☒ Yes

☐ No

Reason: _____

6. *Public facilities.* Whether and the extent to which the proposed amendment would result in development that is adequately served by public facilities (roads, potable water and sewage, schools, parks, police, and fire and emergency medical facilities).

☐ Yes

☒ No

Reason: _____

7. *Consistency with 2045 Land Use Map.* Consistency with the 2045 Land Use Map.

☒ Consistent

☒

Reason: Planning Board recommended

amendment to the 2045 Land Use Map from Medium Density to Office Employment/Commercial

Services; with this recommended amendment ,the rezoning would be consistent with the LUM.

PLANNING BOARD REPORT TO TOWN COUNCIL

Rezoning Case: 21RZ07 Herbert St

Planning Board Meeting Date: May 10, 2021



Planning Board Recommendation:

Motion: Recommend denial of rezoning*

Introduced by Planning Board member: Tina Sherman

Seconded by Planning Board member: Elaine Boyle

☐ *Approval:* the project is consistent with the 2045 Land Use Map and the factors listed above.

☒ *Denial:* the project is not consistent with the 2045 Land Use Map or other factors listed above.

With 8 Planning Board Member(s) voting "aye"

With 0 Planning Board Member(s) voting "no"

Reasons for dissenting votes:

* 2045 LUM motion and vote were taken separately from the rezoning (motion Ryan Akers;
second Reginald Skinner). The Planning Board voted 7-1 in favor of amending the 2045 LUM from
Medium Density to Office Employment/Commercial Services.
Dissenting vote - Tina Sherman voted no because the Town just approved the 2045 LUM and if there
isn't an overwhelming reason to amend, she's not in favor of changing it.

This report reflects the recommendation of the Planning Board, this the 10th day of May 2021.

Attest:

Michael Marks Digitally signed by Michael Marks
Date: 2021.05.10 20:34:10 -04'00'

Michael Marks, Planning Board Chair

Dianne Khin Digitally signed by Dianne Khin
Date: 2021.05.10 18:53:30 -04'00'

Dianne Khin, Director of Planning and
Community Development



TOWN OF APEX

POST OFFICE BOX 250
APEX, NORTH CAROLINA 27502
PHONE 919-249-3426

**PUBLIC NOTIFICATION
OF PUBLIC HEARINGS**

REZONING #21RZ07
0 Herbert Street

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/Agent: Don Lane, Lane Raw Land, LLC
Property Address: 0 Herbert Street
Acreage: ±0.27 acre
Property Identification Number (PIN): 0741397109
Current 2045 Land Use Map Designation: Medium Density Residential
Proposed 2045 Land Use Map Designation: Office Employment/Commercial Services
Existing Zoning of Properties: Medium Density Residential (MD)/ Small Town Character Overlay District
Proposed Zoning of Properties: Neighborhood Business (B1)/Small Town Character Overlay District

Public Hearing Location: Apex Town Hall
Council Chamber, 2nd Floor
73 Hunter Street, Apex, North Carolina

Planning Board Public Hearing Date and Time: May 10, 2021 4:30 PM

If you would like to speak during the public hearing, you may sign-in ahead of time by emailing your name and address to bonnie.brock@apexnc.org. You may attend the meeting in person or view the meeting through the Town’s YouTube livestream at: <https://www.youtube.com/c/townofapexgov>.

If you are unable to attend, you may provide comments no later than noon on Friday, May 7, 2021 by email (public.hearing@apexnc.org, 350-word limit) or voicemail (919-362-7300, 3-minute limit) according to the Remote Participation Policy at: <http://www.apexnc.org/DocumentCenter/View/31397/>. You must provide your name and address for the record. These comments will be read during the Planning Board meeting.

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 within 300 feet of the proposed conditional zoning have been sent this notice via first class mail. All interested parties may submit comments with respect to the application by the means specified above. In addition to the above map, the location of the property may be viewed online at <https://maps.raleighnc.gov/imaps>. The 2045 Land Use Map may be viewed online at www.apexnc.org/DocumentCenter/View/478. You may call 919-249-3426, Department of Planning and Community Development, with questions or for further information. To view the petition and related documents on-line: <https://www.apexnc.org/DocumentCenter/View/34743/>.

Dianne F. Khin, AICP
Director of Planning and Community Development





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: Rezoning #21RZ07 Herbert Street
Project Location: 0 Herbert Street
Applicant or Authorized Agent: Don Lane
Firm: Lane Raw Land, LLC

This is to certify that I, as Planning Director, mailed or caused to have mailed by first class postage for the above-mentioned project on **April 23, 2021** 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 within 300' of the land subject to notification. I further certify that I relied on information provided to me by the above-mentioned person as to accuracy and mailing addresses of property owners within 300' of the land subject to notification.

4-23-21
Date

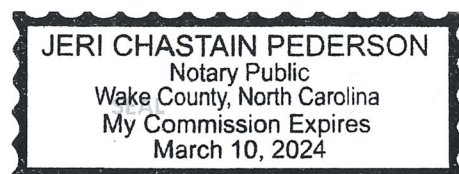
Amadee Bence for Diane Khin
Director of Planning and Community Development

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 23 day of April, 2021.

Jeri Chastain Pederson
Notary Public



My Commission Expires: 03 / 10 / 2024



TOWN OF APEX

POST OFFICE BOX 250
APEX, NORTH CAROLINA 27502
PHONE 919-249-3426

PUBLIC NOTIFICATION OF PUBLIC HEARINGS

REZONING #21RZ07

0 Herbert Street

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/Agent: Don Lane, Lane Raw Land, LLC

Property Address: 0 Herbert Street

Acreage: ±0.27 acre

Property Identification Number (PIN): 0741397109

Current 2045 Land Use Map Designation: Medium Density Residential

Proposed 2045 Land Use Map Designation: Office Employment/Commercial Services

Existing Zoning of Properties: Medium Density Residential (MD)/ Small Town Character Overlay District

Proposed Zoning of Properties: Neighborhood Business (B1)/Small Town Character Overlay District

Public Hearing Location: Apex Town Hall
Council Chamber, 2nd Floor
73 Hunter Street, Apex, North Carolina

Comments received prior to or during the Planning Board public hearing will not be read during the Town Council public hearing. Separate comments must be provided for the two public hearings in the time frames specified below.

Town Council Public Hearing Date and Time: May 25, 2021 6:00 PM

You may attend the meeting in person or view the meeting through the Town's YouTube livestream at:
<https://www.youtube.com/c/townofapexgov>.

If you are unable to attend, you may provide comments no sooner than Friday, May 7, 2021 at noon but no later than noon on Monday, May 24, 2021 by email (public.hearing@apexnc.org, 350-word limit) or voicemail (919-362-7300, 3-minute limit) according to the Remote Participation Policy at: <http://www.apexnc.org/DocumentCenter/View/31397/>. You must provide your name and address for the record. These comments will be read during the Town Council meeting.

If the Council meeting is held with at least one member attending virtually, the vote on the subject of this public hearing will be delayed per State law to allow for comments to be submitted between publication of any required notice and 24 hours after the public hearing. Comments must be provided according to the means specified above. This item will then be scheduled for the next Town Council meeting. Please note that at this subsequent meeting, Town Council may choose to vote on the item, table the discussion to a later date, or take other action which would delay Council action to another time.

Vicinity Map:



Property owners within 300 feet of the proposed conditional zoning have been sent this notice via first class mail. All interested parties may submit comments with respect to the application by the means specified above. In addition to the above map, the location of the property may be viewed online at <https://maps.raleighnc.gov/imaps>. The 2045 Land Use Map may be viewed online at www.apexnc.org/DocumentCenter/View/478. You may call 919-249-3426, Department of Planning and Community Development, with questions or for further information. To view the petition and related documents on-line: <https://www.apexnc.org/DocumentCenter/View/34743/>.

Dianne F. Khin, AICP
Director of Planning and Community Development



TOWN OF APEX
 POST OFFICE BOX 250
 APEX, NORTH CAROLINA 27502
 PHONE 919-349-3426

**PUBLIC NOTIFICATION
 OF PUBLIC HEARINGS**
 REZONING #21R207
 0 Herbert Street

Pursuant to the provisions of North Carolina General Statutes §160D-462 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/Agent:** Don Lane, Lane Raw Land, LLC
- Property Address:** 0 Herbert Street
- Acreage:** ±0.27 acre
- Property Identification Number (PIN):** 0741397109
- Current 2045 Land Use Map Designation:** Medium Density Residential
- Proposed 2045 Land Use Map Designation:** Office Employment/Commercial Services
- Existing Zoning of Properties:** Medium Density Residential (MD)/ Small Town Character Overlay District
- Proposed Zoning of Properties:** Neighborhood Business (B1)/Small Town Character Overlay District

Public Hearing Location: Apex Town Hall
 Council Chamber, 2nd Floor
 73 Hunter Street, Apex, North Carolina

Comments received prior to or during the Planning Board public hearing will not be read during the Town Council public hearing. Separate comments must be provided for the two public hearings in the time frames specified below.

Town Council Public Hearing Date and Time: May 25, 2021 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/howdoyouapex>

If you are unable to attend, you may provide comments no sooner than Friday, May 7, 2021 at noon but no later than noon on Monday, May 24, 2021 by email (public.hearing@apexnc.org, 350-word limit) or voicemail (919-362-7300, 3-minute limit) according to the Remote Participation Policy at: <http://www.apexnc.org/DocumentCenter/View/31397>. You must provide your name and address for the record. These comments will be read during the Town Council meeting.

If the Council meeting is held with at least one member attending virtually, the vote on the subject of this public hearing will be delayed per State law to allow for comments to be submitted between publication of any required notice and 24 hours after the public hearing. Comments must be provided according to the means specified above. This item will then be scheduled for the next Town Council meeting. Please note that at this subsequent meeting, Town Council may choose to vote on the item, table the discussion to a later date, or take other action which would delay Council action to another time.

Vicinity Map:



Property owners 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://www.apexnc.org/DocumentCenter/View/31397>. The 2045 Land Use Map may be viewed online at <http://www.apexnc.org/DocumentCenter/View/31397>. You may call 919-349-3426, Department of Planning and Community Development, with questions or for further information. To view the petition and related documents on-line: <https://www.apexnc.org/DocumentCenter/View/34743/>.

Dianne F. Khin, AICP
 Director of Planning and Community Development

Published Dates: April 30-May 25, 2021



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: Rezoning #21RZ07 Herbert Street
Project Location: 0 Herbert Street
Applicant or Authorized Agent: Don Lane
Firm: Lane Raw Land, LLC

This is to certify that I, as Planning Director, mailed or caused to have mailed by first class postage for the above-mentioned project on **April 30, 2021** 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 within 300' of the land subject to notification. I further certify that I relied on information provided to me by the above-mentioned person as to accuracy and mailing addresses of property owners within 300' of the land subject to notification.

4-30-2021

Date

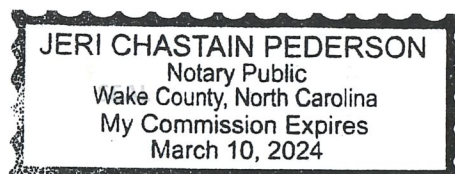
Lauren Stoudenmire for Dianne Khin
Director of Planning and Community Development

STATE OF NORTH CAROLINA
COUNTY OF WAKE

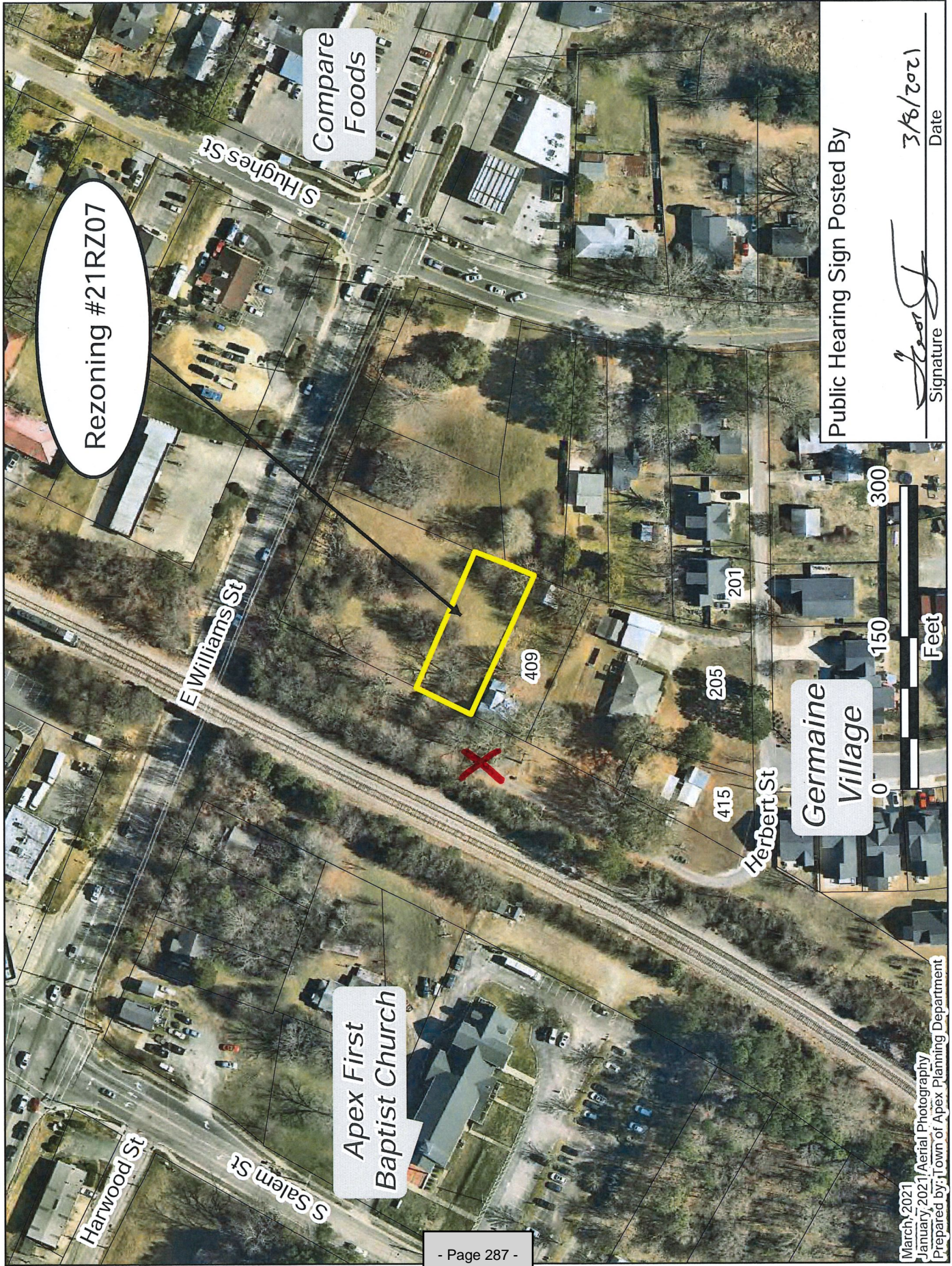
Sworn and subscribed before me, Jeri Chastain Pederson, a Notary Public for the above

State and County, this the 30 day of April, 2021.

Jeri Chastain Pederson
Notary Public



My Commission Expires: 03 / 10 / 2024



Re zoning #21RZ07

Compare
Foods

Apex First
Baptist Church

Germaine
Village

Public Hearing Sign Posted By

[Signature]
Signature
3/8/2021
Date



| Agenda Item | cover sheet

for consideration by the Apex Town Council

Item Type: PUBLIC HEARING

Meeting Date: May 25, 2021

Item Details

Presenter(s): Amanda Bunce, Current Planning Manager

Department(s): Planning and Community Development

Requested Motion

Public Hearing and possible motion regarding various amendments to the Unified Development Ordinance (UDO).

Approval Recommended?

The Planning and Community Development Department recommends approval.

The Planning Board heard these amendments at their May 10, 2021 meeting and unanimously recommended approval.

Item Details

Summary of UDO Amendments

Requested by Town Council and Planning Staff:

1. Amendments to Sec. 2.2.7 *Neighborhood Meeting* and 2.2.11 *Public Notification* in order to allow virtual neighborhood meetings as an option whether or not limitations on gathering are in place, to increase the minimum number of days for written notice of a neighborhood meeting from 10 days to 14 days, and to require that all required written notices be provided to tenants in accordance with the same standards applicable to property owners. The proposed effective date for these amendments is July 1, 2021.

Requested by Planning Committee of Town Council:

2. Amendments to Sec. 8.6.2 *Lighting Plan* and Sec. 8.6.3 *Illumination Standards* in order to specify the maximum correlated color temperature of exterior lights.

Requested by Planning Committee of Town Council and Planning Staff:

3. Amendment to Sec. 2.2.18 *Public Hearing Procedures* in order to remove subsection 2.2.18.E *Successive Applications*. This subsection currently requires a one year waiting period to resubmit an application that is denied unless the new application is materially different or the decision-making body determines that the prior disapproval was based on a material mistake of fact.

Attachments

- Staff Report
- Public Notice
- Ordinance



STAFF REPORT

Amendments to the Unified Development Ordinance

May 25, 2021 Town Council Meeting



Requested by Town Council and Planning Staff:

1. **Amendments to Sec. 2.2.7 *Neighborhood Meeting* and 2.2.11.E *Public Notification* in order to allow virtual neighborhood meetings as an option whether or not limitations on gathering are in place, to increase the minimum number of days for written notice of a neighborhood meeting from 10 days to 14 days, and to require that all required written notices be provided to tenants in accordance with the same standards applicable to property owners. The proposed effective date for these amendments is July 1, 2021.**

Purpose of the amendments:

The Town Council has requested that written notice of neighborhood meetings and public hearings be provided to tenants as is required for property owners since property owners do not always pass along this information to tenants.

Planning staff is proposing that virtual neighborhood meetings be allowed as an option even when limitations on gatherings are no longer in place. A virtual meeting reduces equity and accessibility concerns such as transportation, child care, and drive time to the meeting (for those who work out of town) by allowing participation by internet or phone. All handouts provided at an in-person meeting are required to be mailed for virtual meetings. Planning staff is also proposing to increase the notice period for neighborhood meetings from 10 days to 14 days to provide more time for interested parties to make arrangements to participate.

2.2.7 Neighborhood Meeting

Neighborhood meetings are required for all applications for Rezoning, Major Site Plans, residential subdivisions, excluding exempt subdivisions, and Special Use Permits. Upon submittal of an application for a Rezoning, residential Master Subdivision Plan, Major Site Plan, or Special Use Permit, the petitioner must file in the office of the Planning Director a written report of at least one **(1)** neighborhood meeting held by the petitioner. The neighborhood meeting shall comply with the following procedures.

...

B) Time and Place

The neighborhood meeting shall be held **either:**

- 1) At a place that is generally accessible to neighbors that reside in close proximity to the land subject to the application; or**

- 2) Virtually with both internet and dial-in options per the guidelines in the Neighborhood Meeting Packet.**

C) Notification

The applicant shall provide notification of the neighborhood meeting a minimum of ~~10~~**14** calendar days in advance of the meeting by mail, to all **property landowners and tenants abutting and located** within 300 feet of the land subject to the application, to any neighborhood association that represents citizens within ~~that~~ **notification** area, and to the Town of Apex Planning Department. When less than an entire parcel of land is subject to

the proposed zoning map amendment, the 300-foot notification area shall be measured from the property line of that entire parcel. **The applicant shall request this notification list from Town GIS staff per the guidelines in the Neighborhood Meeting Packet.**

...

2.2.11 Public Notification

...

B) Written (Mailed) Notice

When the provisions of this Ordinance require that written or mailed notice be provided, the Planning Director shall be responsible for preparing the written notice and mailing the written notice. Notice shall be mailed to all **property** owners of the land subject to the application, and all **property** owners of land **and tenants abutting and** located within 300 feet of the land subject to application, **and any neighborhood association that represents citizens within the notification area** unless otherwise specified in this Ordinance. However, as an alternate form of notification, NCGS ~~160A-384(b)~~ **160D-602(b)** may be used when a zoning map amendment directly affects **proposes to change the zoning designation of** more than 50 properties, owned by a total of at least 50 different property owners, **and the Town elects to use the expanded published notice provided for in that subsection.**

Written notice shall be provided at the last addresses listed for such **property** owners on the county tax abstracts **and all tenant and neighborhood association addresses on record with the Planning Department. Town GIS staff shall provide the applicant with a list of all property owners of land subject to the application, all property owners and tenants located within 300 feet of the land subject to application, and any neighborhood association that represents citizens within the notification area.** Notice shall be deemed mailed by its deposit in the United States mail, first class, properly addressed, postage paid. The applicant shall be responsible for providing the Planning Director with first class stamped envelopes (postage metering is not acceptable) addressed to all **property** owners of the land subject to the application, all **property** owners of land **and tenants abutting and** located within 300 feet of the land subject to application, and to any neighborhood association that represents citizens within the **notification** area. ~~The applicant shall also sign and provide to the Planning Director an affidavit with a certified list of all owners of the land subject to the application and all owners of land located within 300 feet of the land subject to application.~~

The Planning Director shall be responsible for preparing an affidavit affirming that the mailed notice met the requirements of Sec. 2.2.11.A *Content*. The affidavit shall be conclusive that notice has been given pursuant to the terms of the subsection. When less than an entire parcel of land is subject to the proposed zoning map amendment, the ~~300-foot notification area shall be measured from the property line of that entire parcel~~ **shall be used to determine abutting property owners and tenants and the 300-foot notification area. Properties are "abutting" even if separated by a street, railroad, or other transportation corridor.**

...

E) Timing of Notice

Unless otherwise expressly provided in the North Carolina General Statutes or this Ordinance, notice shall be provided as follows:

Application for Development Permit or Other Action	Notice Required (days before hearing/action)			
	Neighborhood Meeting (Sec. 2.2.7)	Written (Sec. 2.2.11.B)	Published (Sec. 2.2.11.C)	Posted (Sec. 2.2.11.D)
Rezoning, Conditional Rezoning, PUD-CZ, SD-CZ, TND-CZ, MEC-CZ, Major Site Plan, Special Use	Written notice no less than 10 14 days prior to meeting date	Not more than 25 days nor less than 10 days prior to public hearing	Once a week for two successive weeks prior to public hearing; first publication not less than 10 days nor more than 25 days before hearing	Not less than 10 days prior to public hearing
Residential Master Subdivision Plans	Written notice no less than 10 14 days prior to meeting	N/A	N/A	N/A
Unified Development Ordinance (limited instances require Published Notice)	N/A	N/A	Once a week for two successive weeks prior to public hearing; first publication not less than 10 days nor more than 25 days before hearing for 1) Changes that affect the permitted uses of land; or 2) Changes relating to telecommunications towers or windmills.	N/A
Variance permit	N/A	Not more than 25 days nor less than 10 days prior to public hearing	N/A	Not more than 25 days nor less than 10 days prior to public hearing
Appeals to Board of Adjustment (interpretations and decisions of Planning Director)	<u>N/A</u>	Not more than 25 days nor less than 10 days prior to public hearing	N/A	Not more than 25 days nor less than 10 days prior to public hearing

Requested by the Planning Committee of Town Council:

2. Amendment to Sec. 8.6.2 *Lighting Plan* and Sec. 8.6.3 *Illumination Standards* in order to specify the maximum color temperature of exterior lights.

Purpose of the amendments:

A lower color temperature lamp, measured in Kelvin, results in a warmer color of light and is often described as more yellow than white and typically perceived as less harsh than higher temperature lamps.

8.6.2 Lighting Plan

Any development that proposes exterior lighting shall include a detailed exterior lighting plan as part of the plan submission. This plan shall include:

- A) Specifications for the lighting fixtures such as: type of unit (cutoff, non-cutoff, glare shields, etc.), lamps (wattage, etc.), **correlated color temperature of lamps (Kelvin)**, electrical load requirements, utility company involved, method of wiring, routing/location of lines, location of lights, and mounting heights.

8.6.3 Illumination Standards

A) The tables below set forth standards for lighting intensity...

B) Color Temperature

The correlated color temperature (CCT) of lamps in exterior lighting shall not exceed 3,500 Kelvins. Athletic field lighting shall be exempt from this requirement.

Requested by the Planning Committee of Town Council and Planning Staff:

3. Amendment to Sec. 2.2.18 *Public Hearing Procedures* in order to remove subsection 2.2.18.E *Successive Applications*. This subsection currently requires a one year waiting period to resubmit an application that is denied unless the new application is materially different or the decision-making body determines that the prior disapproval was based on a material mistake of fact.

Purpose of the amendment:

State law does not require a waiting period for any application denied in a public hearing. Removing this requirement allows applicants to resubmit a new application when they are ready.

2.2.18 Public Hearing Procedures

...

~~E) — *Successive Applications*~~

~~Whenever any application is disapproved, an application for all or a part of the same land shall not be considered for a period of one (1) year after the date of disapproval unless either the subsequent application involves an application that is materially different from the prior application or a simple majority of the membership of the decision-making body that made the final decision on the application determines that the prior disapproval was based on a material mistake of fact. The decision-making body charged with conducting the public hearing under such successive application shall resolve any issue concerning the similarity of a successive application or other issues that may develop under this Section.~~

PLANNING STAFF RECOMMENDATION:

Planning staff recommends approval of the proposed UDO amendments.

PLANNING BOARD RECOMMENDATION:

The Planning Board heard this amendment at their May 10, 2021 meeting and unanimously recommended approval.

PLANNING BOARD REPORT TO TOWN COUNCIL

Unified Development Ordinance Amendments

Planning Board Meeting Date: May 10, 2021



Report Requirements:

Per NCGS §160D-604, all proposed amendments to the zoning ordinance or zoning map shall be submitted to the Planning Board for review and comment. If no written report is received from the Planning Board within 30 days of referral of the amendment to the Planning Board, the Town Council may act on the amendment without the Planning Board report. The Town Council is not bound by the recommendations, if any, of the Planning Board.

Planning Board Recommendation:

Motion: Recommend approval as presented.

Introduced by Planning Board member: Tim Royal

Seconded by Planning Board member: Tommy Pate

- ☒ Approval of the proposed UDO amendment(s)
☐ Approval of the proposed UDO amendment(s) with the following conditions:

☐ Denial of the proposed UDO amendment(s)

With 8 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 10th day of May 2021.

Attest:

Michael Marks Digitally signed by Michael Marks
Date: 2021.05.10 20:32:49 -04'00'

Michael Marks, Planning Board Chair

Dianne Khin Digitally signed by Dianne Khin
Date: 2021.05.10 18:53:56 -04'00'

Dianne Khin, Director of Planning and
Community Development



TOWN OF APEX

POST OFFICE BOX 250
APEX, NORTH CAROLINA 27502
PHONE 919-249-3426

PUBLIC NOTIFICATION OF PUBLIC HEARING

AMENDMENTS TO THE UNIFIED DEVELOPMENT ORDINANCE (UDO)

Notice is hereby given of a public hearing before the Town Council of the Town of Apex for the purpose of soliciting comments relative to the following amendment(s) to the Unified Development Ordinance:

Requested by Town Council and Planning Staff:

1. Amendments to Sec. 2.2.7 *Neighborhood Meeting* and 2.2.11 *Public Notification* in order to allow virtual neighborhood meetings as an option whether or not limitations on gathering are in place, to increase the minimum number of days for written notice of a neighborhood meeting from 10 days to 14 days, and to require that all required written notices be provided to tenants in accordance with the same standards applicable to property owners. The proposed effective date for these amendments is July 1, 2021.

Requested by the Planning Committee of Town Council:

2. Amendments to Sec. 8.6.2 *Lighting Plan* and Sec. 8.6.3 *Illumination Standards* in order to specify the maximum color temperature of exterior lights.

Requested by Planning Staff:

3. Amendment to Sec. 2.2.18 *Public Hearing Procedures* in order to remove subsection 2.2.18.E *Successive Applications*. This subsection currently requires a one year waiting period to resubmit an application that is denied unless the new application is materially different or the decision-making body determines that the prior disapproval was based on a material mistake of fact.

Public Hearing Location: Apex Town Hall
Council Chamber, 2nd Floor
73 Hunter Street, Apex, North Carolina

Town Council Public Hearing Date and Time: May 25, 2021 6:00 PM

You may attend the meeting in person or view the meeting through the Town's YouTube livestream at: <https://www.youtube.com/c/townofapexgov>.

If you are unable to attend, you may share comments by noon on Monday, May 24, 2021 by email (public.hearing@apexnc.org, 350-word limit) or voicemail (919-362-7300, 3-minute limit) according to the Remote Participation Policy at: <http://www.apexnc.org/DocumentCenter/View/31397>. You must provide your name and address for the record. These comments will be read during the Town Council meeting.

If the Council meeting is held with at least one member attending virtually, the vote on the subject of this public hearing will be delayed per State law to allow for comments to be submitted between publication of any required notice and 24 hours after the public hearing. Comments must be provided according to the means specified above. This item will then be scheduled for the next Town Council meeting. Please note that at this subsequent meeting, Town Council may choose to vote on the item, table the discussion to a later date, or take other action which would delay Council action to another time.

The UDO can be accessed online at: <http://www.apexnc.org/233>.

Dianne F. Khin, AICP
Director of Planning and Community Development



TOWN OF APEX

POST OFFICE BOX 250
APEX, NORTH CAROLINA 27502
PHONE 919-249-3426

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Dianne F. Khin, AICP

and Community Development

Published Dates: April 30-May 25, 2021

AN ORDINANCE TO AMEND CERTAIN SECTIONS OF THE UNIFIED DEVELOPMENT ORDINANCE

BE IT ORDAINED by the Town Council of the Town of Apex as follows:

Section 1. Sections 2.2.7 and 2.2.11 of the Unified Development Ordinance are amended to read as follows with additions shown as bold underlined text and deletions shown as struck-through text:

2.2.7 Neighborhood Meeting

Neighborhood meetings are required for all applications for Rezoning, Major Site Plans, residential subdivisions, excluding exempt subdivisions, and Special Use Permits. Upon submittal of an application for a Rezoning, residential Master Subdivision Plan, Major Site Plan, or Special Use Permit, the petitioner must file in the office of the Planning Director a written report of at least one **(1)** neighborhood meeting held by the petitioner. The neighborhood meeting shall comply with the following procedures.

...

B) Time and Place

The neighborhood meeting shall be held **either:**

1) ~~a~~At a place that is generally accessible to neighbors that reside in close proximity to the land subject to the application; **or**

2) **Virtually with both internet and dial-in options per the guidelines in the Neighborhood Meeting Packet.**

C) Notification

The applicant shall provide notification of the neighborhood meeting a minimum of ~~10~~**14** calendar days in advance of the meeting by mail, to all **property** ~~land~~ owners **and tenants abutting and located** within 300 feet of the land subject to the application, to any neighborhood association that represents citizens within ~~that~~ **notification** area, and to the Town of Apex Planning Department. When less than an entire parcel of land is subject to the proposed zoning map amendment, the 300-foot notification area shall be measured from the property line of that entire parcel. **The applicant shall request this notification list from Town GIS staff per the guidelines in the Neighborhood Meeting Packet.**

...

2.2.11 Public Notification

...

B) Written (Mailed) Notice

When the provisions of this Ordinance require that written or mailed notice be provided, the Planning Director shall be responsible for preparing the written notice and mailing the written notice. Notice shall be mailed to all **property** owners ~~of the land~~ subject to the application, and all **property** owners ~~of land~~ **and tenants abutting and** located within 300 feet of the land subject to application, **and any neighborhood association that represents citizens within the notification area** unless otherwise specified in this Ordinance.

However, as an alternate form of notification, NCGS ~~160A-384(b)~~ **160D-602(b)** may be used when a zoning map amendment ~~directly affects~~ **proposes to change the zoning designation of** more than 50 properties, owned by a ~~total of~~ at least 50 different property owners, **and the Town elects to use the expanded published notice provided for in that subsection.**

Written notice shall be provided at the last addresses listed for such **property** owners on the county tax abstracts **and all tenant and neighborhood association addresses on record with the Planning Department. Town GIS staff shall provide the applicant with a list of all property owners of land subject to the application, all property owners and tenants located within 300 feet of the land subject to application, and any neighborhood association that represents citizens within the notification area.** Notice shall be deemed mailed by its deposit in the United States mail, first class, properly addressed, postage paid. The applicant shall be responsible for providing the Planning Director with first class stamped envelopes (postage metering is not acceptable) addressed to all **property** owners of the land subject to the application, all **property** owners of land **and tenants abutting and** located within 300 feet of the land subject to application, and to any neighborhood association that represents citizens within the **notification** area. ~~The applicant shall also sign and provide to the Planning Director an affidavit with a certified list of all owners of the land subject to the application and all owners of land located within 300 feet of the land subject to application.~~

The Planning Director shall be responsible for preparing an affidavit affirming that the mailed notice met the requirements of Sec. 2.2.11.A *Content*. The affidavit shall be conclusive that notice has been given pursuant to the terms of the subsection. When less than an entire parcel of land is subject to the proposed zoning map amendment, the ~~300-foot notification area shall be measured from the property line of that entire parcel~~ **shall be used to determine abutting property owners and tenants and the 300-foot notification area. Properties are “abutting” even if separated by a street, railroad, or other transportation corridor.**

...

- E) Timing of Notice
Unless otherwise expressly provided in the North Carolina General Statutes or this Ordinance, notice shall be provided as follows:

Application for Development Permit or Other Action	Notice Required (days before hearing/action)			
	Neighborhood Meeting (Sec. 2.2.7)	Written (Sec. 2.2.11.B)	Published (Sec. 2.2.11.C)	Posted (Sec. 2.2.11.D)
Rezoning, Conditional Rezoning, PUD-CZ, SD-CZ, TND-CZ, MEC-CZ, Major Site Plan, Special Use	Written notice no less than 10 14 days prior to meeting date	Not more than 25 days nor less than 10 days prior to public hearing	Once a week for two successive weeks prior to public hearing; first publication not less than 10 days nor more than 25 days before hearing	Not less than 10 days prior to public hearing
Residential Master Subdivision Plans	Written notice no less than 10 14 days prior to meeting	N/A	N/A	N/A
Unified Development Ordinance (limited instances require Published Notice)	N/A	N/A	Once a week for two successive weeks prior to public hearing; first publication not less than 10 days nor more than 25 days before hearing for 1) Changes that affect the permitted uses of land; or 2) Changes relating to telecommunications towers or windmills.	N/A

Variance permit	N/A	Not more than 25 days nor less than 10 days prior to public hearing	N/A	Not more than 25 days nor less than 10 days prior to public hearing
Appeals to Board of Adjustment (interpretations and decisions of Planning Director)	<u>N/A</u>	Not more than 25 days nor less than 10 days prior to public hearing	N/A	Not more than 25 days nor less than 10 days prior to public hearing

Section 2. Sections 8.6.2 and 8.6.3 of the Unified Development Ordinance are amended to read as follows with additions shown as bold underlined text and deletions shown as struck-through text:

8.6.2 Lighting Plan

Any development that proposes exterior lighting shall include a detailed exterior lighting plan as part of the plan submission. This plan shall include:

- A) Specifications for the lighting fixtures such as: type of unit (cutoff, non-cutoff, glare shields, etc.), lamps (wattage, etc.), **correlated color temperature of lamps (Kelvin)**, electrical load requirements, utility company involved, method of wiring, routing/location of lines, location of lights, and mounting heights.

8.6.3 Illumination Standards

- A)** The tables below set forth standards for lighting intensity...

- B)** **Color Temperature**
The correlated color temperature (CCT) of lamps in exterior lighting shall not exceed 3,500 Kelvins. Athletic field lighting shall be exempt from this requirement.

Section 3. Section 2.2.18.E of the Unified Development Ordinance is deleted with and is shown as struck-through text:

2.2.18 Public Hearing Procedures

...

- ~~E) **Successive Applications**~~

~~Whenever any application is disapproved, an application for all or a part of the same land shall not be considered for a period of one (1) year after the date of disapproval unless either the subsequent application involves an application that is materially different from the prior application or a simple majority of the membership of the decision making body that made the final decision on the application determines that the prior disapproval was based on a material mistake of fact. The decision making body charged with conducting the public hearing under such successive application shall resolve any issue concerning the similarity of a successive application or other issues that may develop under this Section.~~

Section 4. Amendments in Sections 1 and 2 shall not apply to projects for which an application for development approval has been submitted before the effective date of this ordinance.

Section 5. The Director of Planning and Community Development 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 6. All ordinances or parts of ordinances in conflict with this ordinance are hereby repealed. If any section, paragraph, subdivision, clause or provision of this ordinance shall be adjudged invalid, such adjudication shall apply only to such section, paragraph, subdivision, clause or provision so adjudged and the remainder of the ordinance shall be deemed valid and effective.

Section 7. Section 1 of this ordinance is effective July 1, 2021. Any neighborhood meetings conducted in accordance with the Unified Development Ordinance before July 1, 2021 shall be valid and remain in effect after Section 1 becomes effective.

Section 8. Except as provided in Section 7, the ordinance is effective upon enactment on the _____ day of _____ 2021.

Introduced by Council Member _____

Seconded by Council Member _____

Attest:

TOWN OF APEX

Donna Hosch, MMC, NCCMC
Town Clerk

Jacques K. Gilbert
Mayor

Approved As To Form:

Laurie L. Hohe
Town Attorney

| Agenda Item | cover sheet

for consideration by the Apex Town Council

Item Type: PUBLIC HEARING

Meeting Date: May 25, 2021

Item Details

Presenter(s): Shawn Purvis, Assistant Town Manager

Department(s): Administration

Requested Motion

Public Hearing to receive citizen input on the Fiscal Year 2021-2022 Annual Budget including proposed economic development expenditures

Approval Recommended?

N/A

Item Details

The proposed Budget is summarized as follows:

General Fund	\$ 79,091,900
Electric Fund	\$ 45,776,200
Water/Sewer Fund	\$ 23,772,000
Other/Special Funds	\$ 13,484,400
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TOTAL	\$ 162,074,500

The proposed Budget as presented includes an increase of \$.01 in the ad valorem tax rate to \$0.39 per \$100 valuation. There are proposed changes to the sewer and solid waste rates.

Included in the Annual Budget will be information regarding the appropriation of funds for economic development purposes designed to increase employment opportunities and add value to the tax base for the Town of Apex through industry recruitment, retention, and other support activities. Pursuant to NCGS 158-7.1, notice is hereby given that said information will be a part of the Annual Budget Public Hearing of the Apex Town Council for the purpose of soliciting comments relative to the following monetary appropriations for economic development purposes:

Economic Development:

Personnel Salaries, Expenses and Benefits:	\$372,900
Operations, Training, Supplies and Equipment:	\$80,200
Professional Services - Potential site development:	\$35,000
Economic Incentives	\$146,000
Co-Working Space (lease and utility charges):	\$29,800
Think Apex - Initiative to promote local spending and awareness:	\$2,500
<hr/>	
TOTAL	\$666,400

Attachments

- None



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for consideration by the Apex Town Council

Item Type: UPDATES BY TOWN
MANAGER

Meeting Date: May 11, 2021

Item Details

Presenter(s): Ralph Clark, Interim Town Manager

Department(s): Administration

Requested Motion

Updates on Town operations by Interim Town Manager Ralph Clark

Approval Recommended?

N/A

Item Details

N/A

Attachments

- N/A



| Agenda Item | cover sheet

for consideration by the Apex Town Council

Item Type: WORK SESSION

Meeting Date: May 25, 2021

Item Details

Presenter(s): Audra Killingsworth, Council Member

Department(s): Governing Body

Requested Motion

Discussion of the Town's Non-Discriminatory Ordinance

Approval Recommended?

Yes

Item Details

N/A

Attachments

- N/A



| Agenda Item | cover sheet

for consideration by the Apex Town Council

Item Type: CLOSED SESSION

Meeting Date: May 25, 2021

Item Details

Presenter(s): Laurie Hohe, Town Attorney

Department(s): Legal Department

Requested Motion

Possible motion to go into closed session to consult with the Town Attorney pursuant to NCGS 143-318.11(a)(3) to discuss Town of Apex v. Rubin, 15CVS 5836 and Town of Apex V. Rubin, 19CVS6295.

Approval Recommended?

Yes

Item Details

Attachments

- N/A



| Agenda Item | cover sheet

for consideration by the Apex Town Council

Item Type: CLOSED SESSION

Meeting Date: May 25, 2021

Item Details

Presenter(s): Mary Beth Manville, Human Resources Director

Department(s): Human Resources

Requested Motion

Possible motion to go into Closed Session to discuss a personnel matter pursuant to NCGS 143-318.11(a)(6).

Approval Recommended?

Yes

Item Details

N/A

Attachments

- N/A

