



# **AGENDA | REGULAR TOWN COUNCIL MEETING**

April 11, 2023 at 6:00 PM

Council Chambers - Apex Town Hall, 73 Hunter Street

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

## Town Council and Administration

Mayor: Jacques K. Gilbert | Mayor Pro Tempore: Audra Killingsworth  
Councilmembers: Brett D. Gantt; Terry Mahaffey; Edward Gray; Arno Zegerman  
Town Manager: Catherine Crosby | Deputy Town Manager: Shawn Purvis  
Assistant Town Managers: Demetria John and Marty Stone  
Town Clerk: Allen Coleman | Town Attorney: Laurie L. Hohe

## **COMMENCEMENT**

Call to Order | Invocation | Pledge of Allegiance

## **CONSENT AGENDA**

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

### **CN1 2023 Revised Council Meeting Calendar**

*Allen Coleman, Town Clerk*

### **CN2 Agreement - Joint Re-Development Agreement w/Hurricanes Hockey LP - Use of a Town Facility at Apex Community Park**

*Craig Setzer, Director, Parks, Recreation, and Cultural Resources Department*

### **CN3 Annexation No. 754 - Prestwick (Morris Tracts) - 14.129 acres**

*Allen Coleman, Town Clerk*

### **CN4 Appointments - Board of Adjustment (BOA) - Various Amendments**

*Allen Coleman, Town Clerk*

### **CN5 Contract Multi-Year - Infrastructure Technology Services Inc - Electric Utility Installations - May 1, 2023 through April 30, 2026**

*Eric Neumann, Director, Electric Utilities Department*

### **CN6 Council Meeting Minutes**

*Allen Coleman, Town Clerk*

### **CN7 Encroachment Agreement - 1478 Wragby Lane Lot 366**

*Chris Johnson, PE, MPA, Director, Transportation & Infrastructure Development Department*

**CN8 Encroachment Agreement - 2609 Sunnybrook Farm Drive Lot 269**

*Chris Johnson, PE, MPA, Director, Transportation & Infrastructure Development Department*

**CN9 Resolution - Right-of-Way (ROW) Road Closure Request - Set Public Hearing**

*Allen Coleman, Town Clerk*

**CN10 Rezoning Case No. 22CZ22 Elevate 64 West PUD - Statement & Ordinance**

*Shelly Mayo, Planner II, Planning Department*

**CN11 Unified Development Ordinance (UDO) Amendments - March 2023 - Statement**

*Amanda Bunce, Current Planning Manager, Planning Department*

## **PRESENTATIONS**

**PR1 Commemorating Apex's 150th Anniversary - Representative Julie von Haefen**

*Jacques K. Gilbert, Mayor, and*

*Allen Coleman, Town Clerk*

**PR2 Proclamation - Celebrating Diversity Month - April 2023**

*Jacques K. Gilbert, Mayor, and*

*Linda Graham Jones, Director, Diversity, Equity, and Inclusion Department*

**PR3 Proclamation - National Telecommunicator Week - April XX through April XX, 2023**

*Jacques K. Gilbert, Mayor, and*

*Jason Armstrong, Police Chief, Apex Police Department (APD)*

**PR4 Think Apex Awards**

*Jacques K. Gilbert, Mayor, and*

*Barbara Belicic, Small Business Specialist, Economic Development Department*

## **REGULAR MEETING AGENDA**

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

## **PUBLIC FORUM**

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

## **PUBLIC HEARINGS - None**

## **NEW BUSINESS**

### **UPDATES BY TOWN MANAGER**

### **CLOSED SESSION**

Council will enter into closed session pursuant to:

**CS1 Laurie Hohe, Town Attorney**

**RE: Empire Contractors, LLC, v. Town of Apex**

#### **NCGS §143-318.11(a)(3):**

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

### **ADJOURNMENT**

# | Agenda Item | cover sheet

for consideration by the Apex Town Council

Item Type: CONSENT AGENDA

Meeting Date: April 11, 2023

## Item Details

Presenter(s): Allen Coleman, Town Clerk

Department(s): Town Clerk's Office

### Requested Motion

Motion to amend the 2023 Town Council Meeting Calendar.

### Approval Recommended?

Yes

### Item Details

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

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

- **ADD** - May 12<sup>th</sup>, 2023 - Personnel Committee Meeting
  - 2:30 PM - Apex Town Hall
- **CHANGE** - Joint Collaboration Meeting w/Town of Cary
  - FROM: Thursday, May 25<sup>th</sup>, 2023
  - TO: Thursday, June 1<sup>st</sup>, 2023
  - 5:30 PM - The Mayton (301 S Academy Street, Cary, NC 27511)
- **CHANGE** - Town Council Work Session in June
  - FROM: Thursday, June 22<sup>nd</sup>, 2023
  - TO: Tuesday, June 20<sup>th</sup>, 2023
  - 3:30 PM - Apex Town Hall

### Attachments

- CN1-A1: Revised - 2023 Council Meeting Calendar No. 4
- CN1-A2: Revised - 2023 Text Calendar No. 4



Town Council 2023 Meeting Calendar

DRAFT

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

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

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

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

May						
S	M	T	W	T	F	S
	1	2	3	4	T5	6
7	8	T9	10	T11	T12	13
14	15	T16	T17	18	19	20
21	22	T23	24	25	26	27
28	T29	30	31			
5th	Budget Work Session					
11th	Planning Committee					
12th	Personnel Committee					
16th	Work Session					
17th	Economic Development Committee					

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

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

August						
S	M	T	W	T	F	S
		1	2	3	4	5
6	7	T8	9	10	11	12
13	14	T15	16	17	18	19
20	21	T22	T23	T24	25	26
27	28	H29	30	T31		
15th	Work Session					
23rd	Economic Development Committee					
24th	Rules Committee					
29th	Joint Collaboration Meeting / Morrisville					
31st	Finance Committee					

September						
S	M	T	W	T	F	S
					1	2
3	4	5	6	T7	8	9
10	11	T12	13	14	15	16
17	18	T19	T20	21	22	23
24	25	T26	27	T28	29	30
7th	Planning Committee					
19th	Work Session					
20th	Closed Session - Evaluation (Appointed)					
28th	Personnel Committee					

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

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

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

Holidays	13
Regular Meetings	21
Work Sessions	11
Committee Meetings	20
Budget Hearings/Work Sessions	3
Joint Collaboration Meetings	4

CS - Evaluation (Appointed)	2
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Retreat/Strategic Planning	2
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Total Meetings 62

MEETING LOCATION(S)

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

62 Meeting days  
1 Two meetings same day  
62 Total Meetings

SPECIAL NOTE

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

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



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

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

**Special Accommodation Notice:** Anyone needing special accommodations to attend the meeting(s) below and/or if this information is needed in an alternative format, please contact the Town Clerk's Office. The Town Clerk is located at 73 Hunter Street in Apex Town Hall on the 2nd Floor, (email) [allen.coleman@apexnc.org](mailto:allen.coleman@apexnc.org) or (phone) 919-249-1260.

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

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

			Apex, NC 27502
Thursday, April 27	Rules Committee Meeting	3:00 PM	Apex Town Hall 73 Hunter Street Apex, NC 27502
Friday, May 5	Budget Work Session	2:00 PM	Apex Town Hall 73 Hunter Street Apex, NC 27502
Tuesday, May 9	Regular Town Council Meeting	6:00 PM	Apex Town Hall 73 Hunter Street Apex, NC 27502
Thursday, May 11	Planning Committee Meeting	9:00 AM	Apex Town Hall 73 Hunter Street Apex, NC 27502
Friday, May 12	Personnel Committee Meeting	2:30 PM	Apex Town Hall 73 Hunter Street Apex, NC 27502
Tuesday, May 16	Town Council Work Session	3:30 PM	Apex Town Hall 73 Hunter Street Apex, NC 27502
Wednesday, May 17	Economic Development Committee Meeting	4:00 PM	Apex Town Hall 73 Hunter Street Apex, NC 27502
Tuesday, May 23	Regular Town Council Meeting	6:00 PM	Apex Town Hall 73 Hunter Street Apex, NC 27502
Thursday, June 1	Joint Collaboration Meeting Town of Cary	5:30 PM	Halle Cultural Arts Center 237 North Salem Street Apex, NC 27502
Thursday, June 8	Budget Work Session	2:00 PM	Apex Town Hall 73 Hunter Street Apex, NC 27502
Tuesday, June 13	Regular Town Council Meeting	6:00 PM	Apex Town Hall 73 Hunter Street Apex, NC 27502
Tuesday, June 20	Town Council Work Session	3:30 PM	Apex Town Hall 73 Hunter Street Apex, NC 27502
Friday, June 23	Rules Committee Meeting	3:00 PM	Apex Town Hall 73 Hunter Street Apex, NC 27502

Tuesday, June 27	Regular Town Council Meeting	6:00 PM	Apex Town Hall 73 Hunter Street Apex, NC 27502
Tuesday, August 8	Regular Town Council Meeting	6:00 PM	Apex Town Hall 73 Hunter Street Apex, NC 27502
Tuesday, August 15	Town Council Work Session	3:30 PM	Apex Town Hall 73 Hunter Street Apex, NC 27502
Tuesday, August 22	Regular Town Council Meeting	6:00 PM	Apex Town Hall 73 Hunter Street Apex, NC 27502
Wednesday, August 23	Economic Development Committee Meeting	4:00 PM	Apex Town Hall 73 Hunter Street Apex, NC 27502
Thursday, August 24	Rules Committee Meeting	3:00 PM	Apex Town Hall 73 Hunter Street Apex, NC 27502
Tuesday, August 29	Joint Collaboration Meeting Town of Morrisville	5:30 PM	Halle Cultural Arts Center 237 North Salem Street Apex, NC 27502
Thursday, August 31	Finance Committee Meeting	9:00 AM	Apex Town Hall 73 Hunter Street Apex, NC 27502
Thursday, September 7	Planning Committee Meeting	9:00 AM	Apex Town Hall 73 Hunter Street Apex, NC 27502
Tuesday, September 12	Regular Town Council Meeting	6:00 PM	Apex Town Hall 73 Hunter Street Apex, NC 27502
Tuesday, September 19	Town Council Work Session	3:30 PM	Apex Town Hall 73 Hunter Street Apex, NC 27502
Wednesday, September 20	Closed Session Appointed Personnel Evaluation	5:00 PM	Apex Town Hall 73 Hunter Street Apex, NC 27502
Tuesday, September 26	Regular Town Council Meeting	6:00 PM	Apex Town Hall 73 Hunter Street Apex, NC 27502
Thursday, September 28	Personnel Committee	4:00 PM	Apex Town Hall

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

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

# | Agenda Item | cover sheet

for consideration by the Apex Town Council

Item Type: CONSENT AGENDA

Meeting Date: April 11, 2023

## Item Details

Presenter(s): Craig Setzer, Director

Department(s): Parks, Recreation and Cultural Resources

### Requested Motion

Motion to adopt an Agreement with Hurricanes Hockey, LP for the Joint Re-development and Use of a Town Facility (Apex Community Park) and to authorize the Town Manager to execute the agreement.

### Approval Recommended?

Yes

### Item Details

The proposed Re-development and Use Agreement with Hurricanes Hockey, LP sets forth the terms and conditions for the redevelopment of the front multi-purpose field of Apex Community Park for use as a multi-functional sports court which will provide area youth and adults new and expanded programming and open play opportunities including street hockey, futsal, and basketball.

On February 14, 2023, Council unanimously voted to approve a Memorandum of Understanding (MOU) between Hurricanes Hockey, LP and the Town of Apex which set forth terms and conditions related to the redevelopment of the front multi-purpose field of Apex Community Park for use as a multi-functional sports court. The executed MOU established the initial relationship. This agreement provides terms and conditions related to the construction partnership.

### Attachments

- CN2-A1: Re-Development and Use Agreement w-Hurricanes Hockey LP - Vendor Signed
- CN2-A2: Multi-Use Court Layout - Hurricanes Hockey Multi-Functional Sports Courts
- CN2-A3: CONT-2023-032 - Memorandum of Understanding - Joint Re-Development and Use of Town Facility



**JOINT DEVELOPMENT, USE, AND BRANDING AGREEMENT FOR THE  
NEW STREET HOCKEY FACILITY AT APEX COMMUNITY PARK**

This Agreement (“**Agreement**”) made and entered into this \_\_\_\_ day of \_\_\_\_\_, 2023, by and among the Town of Apex, a municipal corporation of the State of North Carolina (the “**Town**”) having its principal place of business located at 73 Hunter Street Apex, NC 27502 and Hurricanes Hockey, LP (“**Hurricanes**”), a Delaware limited partnership, having its principal place of business located at 1400 Edwards Mill Road Raleigh, NC 27607 (jointly, the “**Parties**”).

**WHEREAS**, the Town and Hurricanes have entered into a Memorandum of Understanding dated February 14, 2023, related to the joint redevelopment and use of a Town facility; and

**WHEREAS**, the Town and Hurricanes desire to establish a partnership to construct, operate, and maintain a new street hockey facility within the Town of Apex (“**Facility**”); and

**WHEREAS**, the Project will consist of construction of a new street hockey facility, which will be built on land owned by the Town. The Town will be responsible for design and construction of the foundation of the rink based on the Hurricanes’ specifications and Hurricanes shall purchase and install equipment; and

**WHEREAS**, upon completion of construction of the rink and the installation of equipment, the Town shall be responsible for the operation and maintenance of the Facility. The Parties desire to establish branding and sponsorship as deemed appropriate by the Parties and coordinate scheduling for use of the Facility; and

**WHEREAS**, the Town is authorized to enter into this Agreement pursuant to the provisions of N.C.G.S. 160A-20.1.

**NOW, THEREFORE**, the Parties agree as follows:

**1. Property Description.**

Apex Community Park (“**ACP**”) is a Town-owned property located at 2200 Laura Duncan Road, comprising of approximately 162.14 acres, more or less, designated as PIN # 0752-28-9038 by the Wake County Revenue Department, and as shown on a map recorded in Book of Maps 1991, Page 0912, in the Wake County Registry, for its use and for the general use of its citizens. The new street hockey facility (“**Facility**”) shall consist of the portion of ACP which is currently a multipurpose field located on the north side of Apex Community Park Drive, immediately to the east of Laura Duncan Road and shares a parking lot with Field 3.

**2. Term.**

The term of this Agreement shall be for a period of seven (7) years from the date of execution by the party signing the Agreement last, unless terminated earlier in accordance with Section 12 of this Agreement.

**3. Responsibilities of the Parties**

**A. Hurricanes' Contribution**

1. Equipment. The Hurricanes will contribute up to \$600,000.00 in the form of equipment, and installation of equipment, needed for the development of the Facility. Equipment to be provided by the Hurricanes includes, but is not limited to, the equipment and materials necessary to properly upfit one (1) court area for street hockey programming, and one (1) multi-functional court area for street hockey, basketball, and futsal programming. Hurricanes will procure the desired court surface, boards, goals, nets, scoreboards, penalty boxes, scoring boxes, team boxes benches, accessory equipment and materials as desired and appropriate for street hockey programming. Hurricanes and its contractors shall leave the Facility in a condition approved by the Town. Hurricanes shall provide equipment for participants in street hockey programs to use, including protective goalie gear, sticks, balls, and nets.
2. Specifications. The Hurricanes shall require its contractor or subcontractors to provide the required construction specifications for the Facility's foundation to the Town's selected vendors, contractors, and subcontractors to facilitate accurate designing, planning, and construction of the foundation of the Facility. Hurricanes shall transfer to the Town all titles, warranties, and guarantees acquired from its vendors, contractors, and subcontractors related to equipment, materials, and installation of the equipment and materials at the Facility. Hurricanes shall ensure there are no liens on the equipment prior to transfer of title to Town.

**B. Town Contribution**

The Town will contribute an estimated \$300,000.00 for the design, planning, permitting, and construction of two (2) asphalt base surface court areas, accessible concrete walkways and plazas between the existing parking area and the two new court areas. The Town may, in its sole discretion, install a roof above one or both of the court areas. The Town shall be responsible for soliciting, bidding, contracting for, and administering the site grading, site drainage, and installation and construction of the accessible concrete walkways, concrete plazas, the two (2) asphalt base surface court areas, and, if applicable, any roofs above the court areas. The Town shall also provide power to the Facility including the scoreboard and any scorer's table. The Town will prepare, advertise, and solicit bids to design the Facility in accordance with the specifications provided by vendors selected by Hurricanes. The Town's selection of architect, engineer, general contractor, or any other professionals, contractors, and subcontractors shall be awarded in compliance with North Carolina law.

**4. Ownership, Maintenance, and Repair of the Facility.**

The Town shall at all times own, operate, maintain, repair, and otherwise be responsible for the Facility. All improvements made to or upon the Facility, whether pursuant to this Agreement or otherwise, shall become the property of the Town. The Town shall maintain the parking lots adjacent to the Facility in a reasonable manner.

**5. Joint Use and Scheduling of the Facility.**

The Parties agree that use of the Facility shall be in accordance with the following conditions and provisions:

**A. Administrative Control.**

1. The Town of Apex Parks, Recreation and Cultural Resources Director or designee shall have administrative control of ACP and the Facility at all times.

**B. Scheduling and Use.**

1. The Parties shall designate at least one person as their point-of-contact for communications. Hurricanes designee and/or other responsible members shall:
  - a. Participate in the site coordination meeting (at least four times each year).
  - b. Communicate on a monthly basis to confirm or update the master calendar for the Facility.
  - c. Be responsible for making participants aware of any cancellations or rescheduling of Hurricanes events or activities at the Facility.
  - d. Be aware of special circumstances such as emergencies or severe weather conditions that may affect use of the Facility.
2. Use of the Facility shall be in accordance with the following conditions and provisions:
  - a. Hurricanes and Town designees shall:
    - (1) Coordinate and establish the times available for use.
    - (2) Make determinations for court accessibility and use based on court conditions and safety level.
  - b. Facility conditions may limit use.
3. Site Coordination Meeting. The Parties agree to meet a minimum of four times per year to coordinate use, develop and update the Town's master calendar, and evaluate the conditions of the Facility for necessary or desired repairs and maintenance.
  - a. The Parties shall work together to develop and maintain a master schedule.
  - b. The Parties shall maintain an on-going, open communication between one another while acting in good faith to build a positive reciprocal relationship.
4. Hurricanes or their designees shall have the right to schedule exclusive use of the Facility for a minimum of the following:
  - a. Two nights per week, for a minimum of two hours per night; and
  - b. One weekend every two months, for a minimum of eight hours and maximum of eighteen hours per weekend

For the purpose of this Agreement, a "night" shall be the time between 5 p.m. and the closing time of ACP.
5. During times which are not reserved for exclusive use by the Hurricanes or their designees, the Town reserves the right to schedule programming at the Facility. The Town may schedule programming and reserve time for unprogrammed use by the general public.

**C. Inclement Weather.**

The Town in its sole discretion will make decisions on when to close its parks, including ACP and the Facility, due to emergencies including inclement weather. Hurricanes agrees to comply with the Town's determinations and will not access the Facility on these days or times.

**D. Fees/Charges.**

The Parties agree that, except as expressly stated in this Agreement, there shall be no additional fees and/or charges associated with the Hurricanes' use of the Facility unless mutually agreed upon.

**E. Income from Hurricanes Programs.**

Town agrees that the income from Hurricanes programs and events operated at the Facility that are subject to this Agreement shall go to the Hurricanes.

**F. Income from Town Programs.**

Hurricanes agrees that the income from Town programs and events shall go to the Town.

**6. Branding and Sponsorship Placement**

For the term of this agreement, the Hurricanes shall have the exclusive right to the naming of the Facility ("Naming") and to advertisements on the goal posts, court tiles, dasher boards, scoreboards, and perimeter fencing ("Advertising"). Naming and Advertising shall, at all times, be in compliance with the Town's Naming Rights Policy, a copy of which shall be kept on file with the Town Clerk. If at any time during the term of this agreement and in the Town's sole discretion, the Naming or Advertising does not comply with the Town of Apex Naming Rights Policy, the Naming and Advertising shall be removed and Apex may, in its sole and absolute discretion, terminate the Agreement. The Town will exercise full editorial approval, which shall not be unreasonably withheld, over the placement, content, appearance, and wording of names, sponsorship acknowledgments, and related messages on Town Property and through Town communications media. Such messages are intended to be government speech.

**7. Revenues.**

Fifteen (15%) of Net Revenue ("Net Revenue" shall be defined as revenues collected by the Hurricanes in connection with the Advertising rights less any hard costs paid by the Hurricanes and less any sales commissions paid by the Hurricanes) received by the Hurricanes in connection with the Advertising rights granted in this Agreement shall be paid to the Town.

**8. Logos.**

The Parties shall collaborate on the placement of branding for both Party's logos and trademarks.

**9. Liability and Indemnification.**

Hurricanes agrees that the Town is authorizing the use of its property pursuant to this Agreement, and that the Town does not hereby incur any liability to the Town or any member of the public for permitting this use. No liability shall attach to the Town, individually or collectively, for any injury suffered by reason of Hurricanes use pursuant to this Agreement. To the extent permitted by law, Hurricanes shall indemnify the Town, its agents, and employees from and against claims or damages, including attorney's fees, caused by the negligence or intentional wrongdoing of Hurricanes, its agents, invitees, contractors, or employees in the performance of this Agreement.

No liability shall attach to the Hurricanes, individually or collectively, for any injury suffered by reason of Town's use pursuant to this Agreement. To the extent permitted by law, the Town shall indemnify the Hurricanes, its agents, and employees from and against claims or damages,

including attorney's fees, caused by the negligence or intentional wrongdoing of the Town, its agents, invitees, contractors, or employees in the performance of this Agreement.

**9. Insurance.**

**A. Commercial General Liability.**

Each party shall maintain at all times during the term of this Agreement and during any and every extension thereof commercial general liability insurance in the amount of \$1,000,000 / \$2,000,000, or the minimum amount required by North Carolina state law, covering personal injury for each accident or occurrence growing out of the Parties' development and use of the Facility and at least \$1,000,000 or the minimum amount required by North Carolina state law to cover property damage growing out of each accident or occurrence. Each contractor and subcontractor working on redevelopment of the Facility on behalf of either Party shall maintain commercial general liability insurance in the amount of \$1,000,000 / \$2,000,000, or the minimum amount required by North Carolina state law, covering personal injury and property damage for each accident or occurrence growing out of the redevelopment of the Facility. The Town shall be named as an additional insured on Hurricanes insurance policies and insurance policies held by the Hurricanes' contractors and subcontractors. The Parties are each responsible for insuring replacement value of their respective personal property.

**B. Commercial Automobile Liability.**

Each party shall maintain during the redevelopment of the Facility commercial automobile liability insurance in the minimum amount of \$1,000,000.

**C. Workers' Compensation and Employer's Liability.**

Each party, their contractors, and their subcontractors shall maintain workers' compensation insurance as mandated by state law for employees or contractors performing work at or around the Facility, and will maintain employer's liability insurance in an amount of at least \$1,000,000.

**D. Certificates of Insurance.**

Each party shall furnish the other party with evidence of such insurance and of its renewal as the premiums become due. Each party shall provide the other party with thirty days prior written notice of any reduction in coverage or cancellation of such insurance.

**10. Use of Care.**

The Parties acknowledge that any development, construction, repair, maintenance, and/or use pursuant to this Agreement will take place at a Town parks facility at which children and adult members of the public may be present. Town shall take reasonable care under the circumstances to protect and secure any construction and/or maintenance areas to minimize the possibility of injury to the public. No use of the Facility shall be inconsistent with the proper care and preservation of Town property used for recreational programming. The Parties agree to keep the Facility in a clean and safe condition at all times and to ensure that any equipment, materials, or supplies brought to the Facility are properly and safely stored when not in use.

**11. Nondiscrimination.**

Pursuant to Section 3-2 of the Town of Apex Code of Ordinances, neither Hurricanes nor the Town shall discriminate against any participant in a program at the Facility who is a member

of a protected class. For the purposes of this Agreement, "protected class" includes age, race, religious belief or non-belief, ethnicity, color, national origin, creed, sex, sexual orientation, gender identity, marital status, natural hairstyle, genetic information, pregnancy, familial status, disability, veteran or military status, or disabled veteran status.

**12. Termination.**

- A. This Agreement may be terminated by either party, in the event the breaching party should fail to keep, perform or abide by any term, condition or covenant of this Agreement for a period of thirty (30) days after written notice (email inclusive) of such failure by the non-breaching party. If the Hurricanes is the breaching party, the Town may suspend the Hurricanes' use and ability to schedule events until the Hurricanes demonstrates to the Town's satisfaction that the Hurricanes has corrected its breach and is fully performing its obligations under the terms, conditions, and covenants of this Agreement. If the Hurricanes fail to correct its breach and Town exercises this right of termination, Hurricanes shall relinquish any interest in any of the improvements made to the Facility under this Agreement and no reimbursement shall be due.

**13. Notices.**

All notices, requests, approvals, or consents required to be given hereunder shall be in writing and hand delivered or sent by certified mail, return receipt requested, postage prepaid, and addressed as follows:

Hurricanes:      General Manager: Don Waddell  
Carolina Hurricanes  
1400 Edwards Mill Rd  
Raleigh, NC 27607

With a copy to:

Youth & Amateur Hockey Specialist: Thomas Weathers  
Carolina Hurricanes  
1400 Edwards Mill Rd  
Raleigh, NC 27607

Town:              Town Manager  
Town of Apex  
P.O. Box 250  
Apex, NC 27502

With a copy to:

Town Attorney  
Town of Apex  
P.O. Box 250  
Apex, NC 27502

or to such other address as either party may specify in the manner hereinabove prescribed.

**14. Severability.**

In the event any term or provision of this Agreement shall be adjudged to be partially or completely invalid or unenforceable, then such term or provision shall be severed from this Agreement, and the remainder of this Agreement shall be valid and enforceable to the fullest extent permitted by law.

**15. Governing Law.**

This Agreement shall be governed by and construed in accordance with the laws of the State of North Carolina.

**16. Non-Assignment.**

Hurricanes may not assign this Agreement without written mutual agreement signed by the parties. Hurricanes may schedule and use the Facility only as provided in this Agreement.

**17. Entire Agreement.**

The Parties agree that this document constitutes the entire agreement between the parties and may only be modified by a written mutual agreement signed by the parties. To the extent that there is any conflict between the terms of this Agreement and any prior understanding or agreement between the parties, the terms of this Agreement shall control.

**18. Agreement in Counterparts.**

This Agreement may be executed in several counterparts, each of which shall be deemed an original, and all of which shall constitute one and the same instrument.

**19. Amendment:**

This Agreement may not be amended except in writing signed by both parties.

**[SIGNATURE PAGES FOLLOW]  
[REMAINDER OF PAGE INTENTIONALLY BLANK]**

IN WITNESS WHEREOF, Hurricanes Hockey, LP has caused this Agreement to be signed by its President, attested by its Secretary, and sealed with its seal, and the Town of Apex has caused this Agreement to be signed by its Manager, attested to by its Town Clerk, and sealed with its seal, by order of the respective governing boards duly given the day and year first written above.

HURRICANES HOCKEY, LP

By: *Donald Waddell* (SEAL)  
President

ATTEST

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

(Affix Seal)

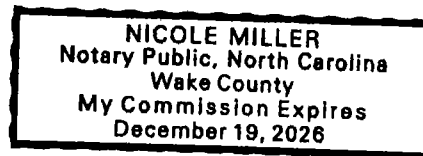
NORTH CAROLINA  
WAKE COUNTY

The undersigned, a Notary Public of the County and State aforesaid, hereby certified that Donald Waddell personally appeared before me this day, and being duly sworn by me, acknowledged that he/she is Secretary of the Hurricanes Hockey, LP, and that by authority duly given and as the act of the Hurricanes the forgoing instrument was signed by its President, sealed with its seal, and attested by him/her as its Secretary.

Witness my hand and notarial seal this 5 day of April, 2023.

Nicole Miller  
Type or Print Notary Name  
Commission expires: 12/19/2026

*Nicole Miller*  
Notary Signature



**TOWN OF APEX**

**ATTEST**

By: \_\_\_\_\_(SEAL)  
Town Manager

By: \_\_\_\_\_  
Town Clerk

(Affix Town Seal)

**NORTH CAROLINA  
WAKE COUNTY**

The undersigned, a Notary Public of the County and State aforesaid hereby certified that \_\_\_\_\_ personally appeared before me this day, and being duly sworn by me acknowledged that he/she is Town Clerk of the Town of Apex, and that by authority duly given and as the act of the Town, the forgoing instrument was signed by its Town Manager, sealed with its corporate seal, and attested by him/her as its Town Clerk.

Witness my hand and notarial seal this \_\_\_\_\_ day of \_\_\_\_\_, 2023.

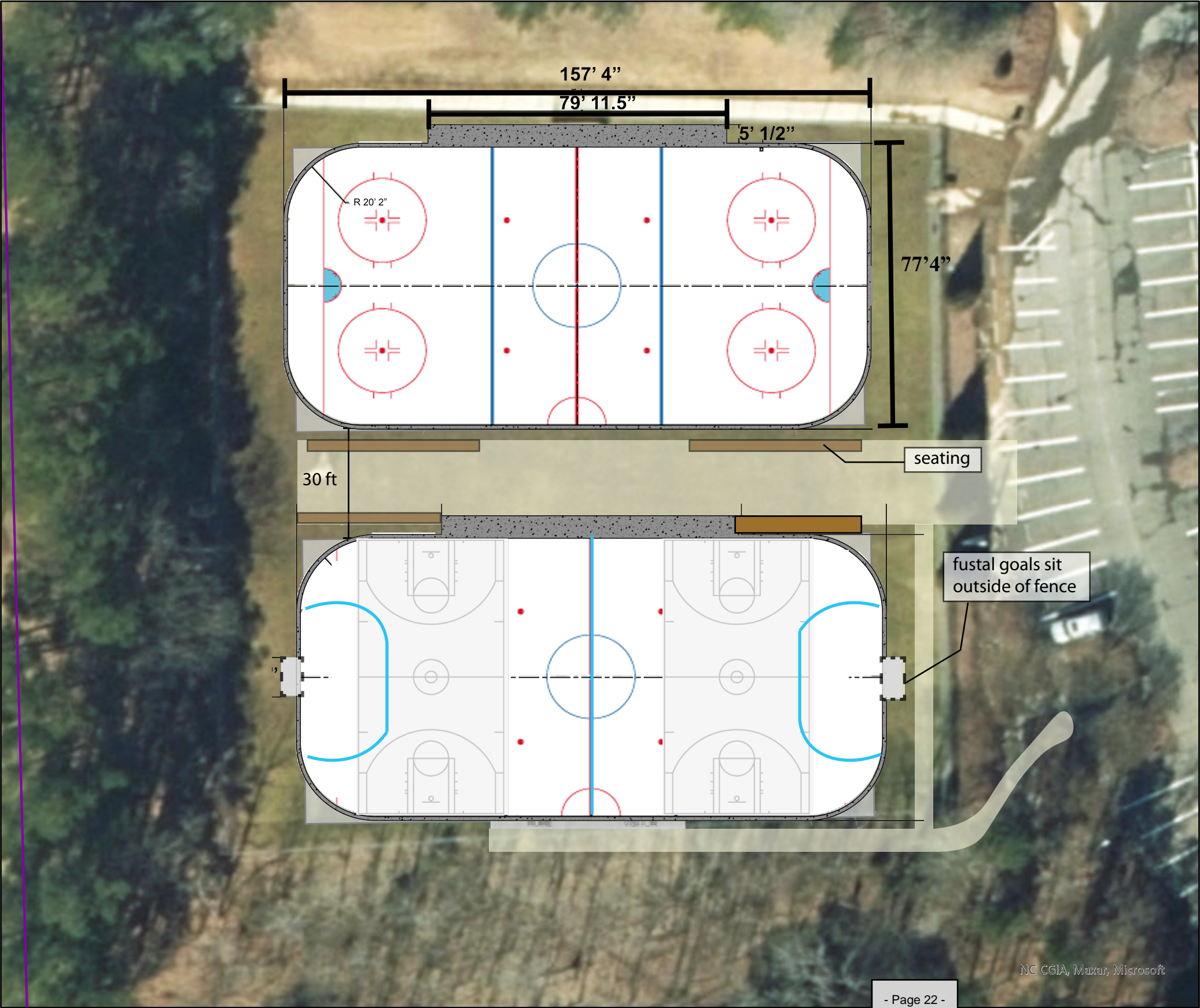
\_\_\_\_\_  
Type or Print Notary Name  
Commission expires: \_\_\_\_\_

\_\_\_\_\_  
Notary Signature

# Apex Community Park

## multi court

Street hocky field: 160 x 80'  
Fustal field: 125-138 x 66-82'  
Half court basketball 50 x 47'  
High school basketball court: 84 x 50'





*"The Peak of Good Living"*

## OFFICE OF THE TOWN CLERK

TOWN OF APEX  
NORTH CAROLINA

### CLERK'S CERTIFICATION

I, Allen L. Coleman, Town Clerk to the Apex Town Council, North Carolina, do hereby certify the following action:

**CONT-2023-032 – MEMORANDUM OF UNDERSTANDING (MOU)  
JOINT RE-DEVELOPMENT AND USE OF TOWN FACILITY  
BETWEEN THE TOWN OF APEX, A NORTH CAROLINA MUNICIPAL CORPORATION  
AND HURRICANES HOCKEY LP, A DELAWARE LIMITED PARTNERSHIP**

The Apex Town Council, at their Regular Meeting on February 14, 2023, voted in open session 4-0, with Councilmember Gray absent, to approve a Memorandum of Understanding for the Redevelopment of an existing Town Park Facility (Apex Community Park) for use as a multi-functional sports court.

Council authorized the Town Manager to executed the aforementioned MOU. Pending receipt of the signed agreement, please accept this certification letter acknowledging approval.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed the official Seal of the Town of Apex, North Carolina, this the 15<sup>th</sup> day of February, 2023.



SEAL

Allen L. Coleman, CMC, NCCCC  
Town Clerk to the Council

STATE OF NORTH CAROLINA

)

MEMORANDUM OF UNDERSTANDING

)

FOR JOINT RE-DEVELOPMENT AND

COUNTY OF WAKE

)

USE OF TOWN FACILITY

This Agreement, entered into the 14th February day of February, 2023, by and between the Town of Apex (the "**Town**"), a North Carolina municipal corporation, and Hurricanes Hockey, LP ("**Sponsor**"), a Delaware limited partnership, (together referred to as the "**Parties**") hereby sets forth the following terms and understandings of the Parties with respect to this memorandum of understanding for the redevelopment and joint use of a Town recreational facility, (the "**MOU**.")

WHEREAS, the Town operates a Parks, Recreation, and Cultural Resources Department pursuant to Article 18 of N.C.G.S. § 160A for the purpose of providing recreational opportunities both athletic and cultural to people of all ages, and to effectively accomplish these goals enters into contracts with private entities to provide a wide selection of opportunities for the citizens of Apex and the surrounding areas; and,

WHEREAS, pursuant to N.C.G.S. § 160A-20.1, the Town is authorized to contract with private entities in order to carry out any public purpose that the city is authorized by law to engage in; and,

WHEREAS, pursuant to the Town of Apex Naming Rights Policy, the Town may enter into agreements with third parties who will further the Town's mission in serving its citizens in an effort to generate funds or in-kind support for improving or expanding Town facilities, programs, or services; and,

WHEREAS, the Town owns, maintains, and utilizes property located at 2200 Laura Duncan Road, known as Apex Community Park, comprising of approximately 162.14 acres, more or less, designated as PIN # 0752-28-9038 by the Wake County Revenue Department, and as shown on a map recorded in Book of Maps 1991, Page 0912, in the Wake County Registry ("**Apex Community Park**"), for its use and for the general use of its citizens; and,

WHEREAS, the Town does not currently own or operate a street hockey facility or offer street hockey programming to its citizens, and the Town is willing and able to redevelop one multipurpose field located within Apex Community Park into a street hockey facility (the "**Facility**") to provide for the demand in street hockey programming; and,

WHEREAS, Sponsor is a local organization which, among other things, provides hockey recreational opportunities, including street hockey, to underserved and/or disadvantaged youths and adults in the Apex area to offer them an educational, friendly, competitive, and fun hockey experience centered on skill development, personal development, and physical fitness; and,

WHEREAS, Sponsor and Town are willing and able to contribute funds for the design and construction of a new street hockey facility located at Apex Community Park; and

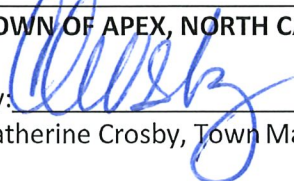
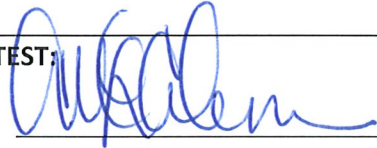

WHEREAS, Sponsor and Town agree to provide educational and competitive street hockey opportunities to children and adults of the Apex area each year for the term of this Agreement in a nondiscriminatory fashion and agrees to charge only those fees to its participants that are necessary for the operation of its athletic programs.

NOW THEREFORE, in consideration of the foregoing which forms the basis for the forthcoming Agreement, the Parties do hereby agree as follows:


1. **Capital Contribution by Sponsor.** Sponsor's contribution for redevelopment of the multipurpose athletic field located at Apex Community Park shall be up to \$600,000. These funds shall pay for the following portions of the redevelopment project, including but not limited to, upfitting of the court area with the desired court surface, boards, goals, nets, scoreboards, penalty boxes, scoring boxes, team boxes, benches, and other accessories as necessary for street hockey programming. In addition to the monetary capital contribution, Sponsor shall provide equipment, at Sponsor's sole discretion, including but not limited to, sticks, balls, and nets.
2. **Capital Contribution by Town for Redevelopment of Licensed Property.** Town's contribution for redevelopment of the facility shall be approximately \$300,000. It is estimated that \$50,000 shall be allocated for design, plans, and permitting of the redevelopment project. The remaining amount shall be used for the redevelopment project, including construction of concrete walkways and plazas and the asphalt surface court area.
3. **Redevelopment of Licensed Property.** Sponsor and Town shall collaborate in creating a request for bids for designers and contractors to bid for the redevelopment of the Licensed Property. The bidding and contracting shall comply with Article 8 of Chapter 143 of the North Carolina General Statutes. The Parties shall include in the bid parameters for two courts ready for street hockey, including one court ready for multi-functional programming use for street hockey, basketball, and futsal. Additionally, the Parties shall include technology for lighting controls, broadband internet access, cameras, a public address (PA) system, and other audio and visual equipment for live-streaming events.
4. **Agreement to Create a License for Limited Exclusive Use.** A subsequent formal License Agreement shall be drawn pursuant to this MOU, which shall not be binding until such Agreement is reduced to writing, signed by an authorized agent of Sponsor, and approved by majority vote of the Town Council of Apex in an open meeting. It is contemplated by the parties that the following terms shall be necessary to include in such forthcoming License Agreement:
  - a. Allocation of costs for redevelopment of the Licensed Property.
  - b. Shared Use Policy delineating times at which the Town and Sponsor will enjoy exclusive use of the Licensed Property.
  - c. The term of the relationship between Town and Sponsor, including provisions for renewal and termination of the agreement.
  - d. Policy for Naming Rights, Branding, Signage, and Advertising Rights for Sponsor in relation to the Licensed Property.
  - e. Proposed License Fee.
  - f. Any Maintenance and Repair Obligations of Town and Sponsor in relation to the Licensed Property.
  - g. Rights of Town and Sponsor to make improvements to the Licensed Property.
  - h. Any Other Obligations of Town and Sponsor as appropriate.

5. **Termination.** This MOU shall terminate either upon execution of the License Agreement between the Parties or one (1) year after its Effective Date if no License Agreement is entered into by the Parties.
6. **No Third-Party Beneficiaries.** There shall be no Third-Party Beneficiaries to any promise, restriction, covenant, duty, or otherwise contained in this MOU or License Agreement.
7. **Governing Law and Venue.** The law governing this MOU shall be that of the State of North Carolina and the proper venue and jurisdiction for any legal dispute with respect to this MOU or the License Agreement is proper in Wake County, North Carolina.

IN WITNESS OF, THIS THE 14<sup>th</sup> DAY OF February, 2023

<b>TOWN OF APEX, NORTH CAROLINA</b> By: <u></u> Catherine Crosby, Town Manager	
<b>ATTEST:</b> By: <u></u> Allen Coleman, Town Clerk	

**Sponsor**

By: 

Name: Don Waddell

Title: President

# | Agenda Item | cover sheet

for consideration by the Apex Town Council

Item Type: CONSENT AGENDA

Meeting Date: April 11, 2023

## Item Details

Presenter(s): Allen Coleman, Town Clerk

Department(s): Town Clerk's Office

### Requested Motion

Motion to adopt a Resolution Directing the Town Clerk to Investigate Petition Received, to accept the Certificate of Sufficiency by the Town Clerk, and to adopt a Resolution Setting the Date of a Public Hearing for April 25, 2023, on the Question of Annexation - Apex Town Council's intent to annex 14.129 acres, Prestwick (Morris Tracts) Annexation No. 754 into the Town Corporate limits.

### Approval Recommended?

Yes

### Item Details

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

### Attachments

- CN3-A1: Resolution Directing the Town Clerk to Investigate Petition
  - Certificate of Sufficiency by the Town Clerk
  - Resolution Setting Date of Public Hearing
- CN3-A2: Legal Description - Annexation No. 754
- CN3-A3: Aerial Map - Annexation No. 754
- CN3-A4: Plat Map - Annexation No. 754
- CN3-A5: Annexation Petition - Annexation No. 754





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

Annexation Petition #754  
Prestwick (Morris Tracts) – 14.129 acres

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

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

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

This the 11th day of April, 2023.

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Jacques K. Gilbert  
Mayor

ATTEST:

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Allen L. Coleman, CMC, NCCCC  
Town Clerk



CERTIFICATE OF SUFFICIENCY BY THE TOWN CLERK

Annexation Petition #754  
Prestwick (Morris Tracts) – 14.129 acres

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

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

IN WITNESS WHEREOF, I have hereunto set my hand and affixed the seal of the Town of Apex, North Carolina this 11th day of April, 2023.

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

(Seal)



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

Annexation Petition #754  
Prestwick (Morris Tracts) – 14.129 acres

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

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

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

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

Section 1. A public hearing on the question of annexation of the area described herein will be held at the Apex Town Hall at 6 o'clock p.m. on the 25<sup>th</sup> day of April, 2023.

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

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

This the 11<sup>th</sup> day of April, 2023.

---

Jacques K. Gilbert, Mayor

ATTEST:

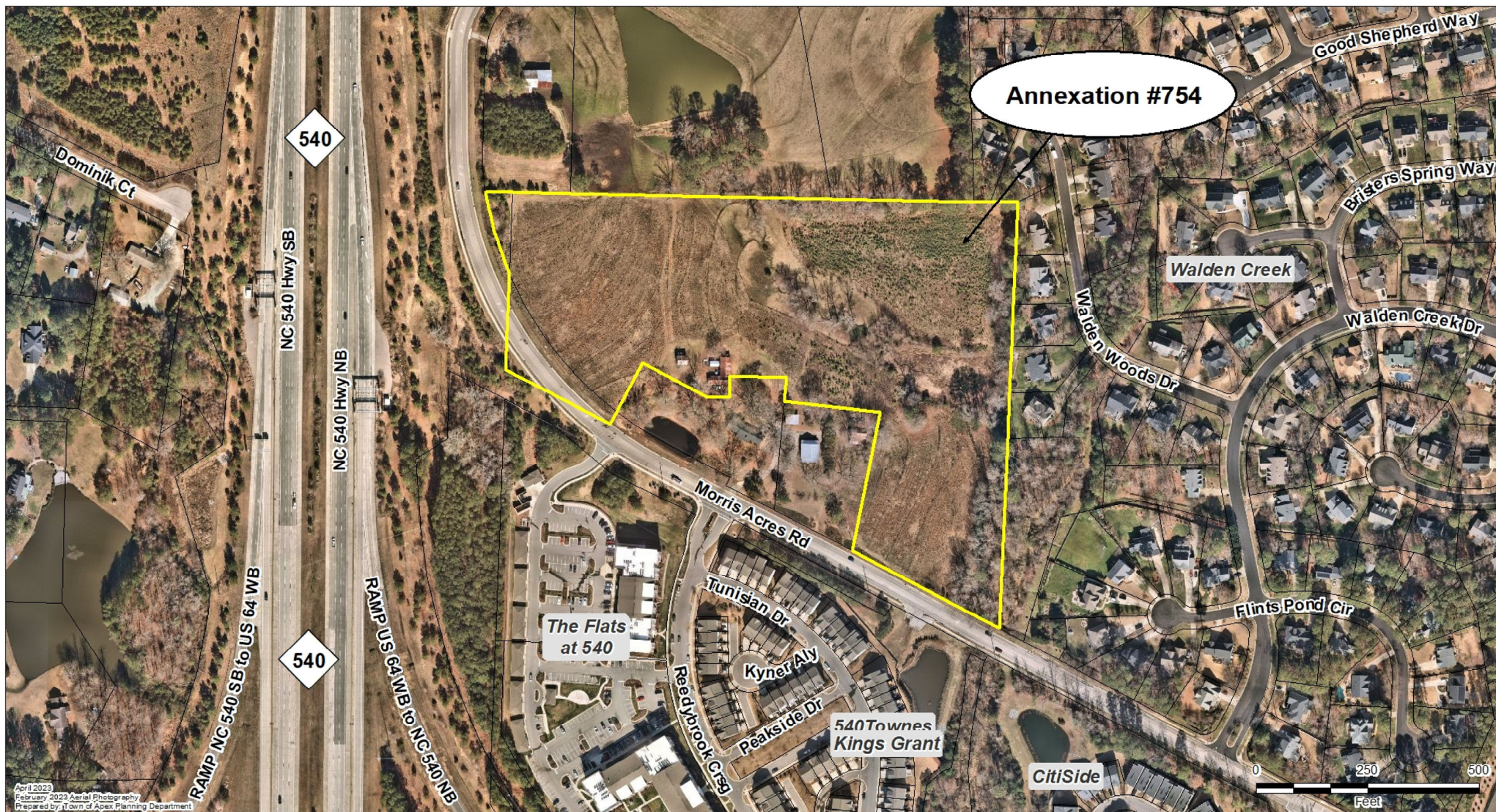
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Allen L. Coleman, Town Clerk

Attachment: Legal Description

## Morris Annexation Legal Description

**Beginning** at an Existing Axle Located on the southeast corner of that property owned by Wilma Lee Morris (PIN No. 0732295482), DB 16593, PG 1783, Wake County Registry and having North Carolina Grid Coordinates (NAD83, 2011), N: 729,123.48', E: 2,032,670.88'; Thence, Thence, South 88°52'12" East a distance of 904.77' to an Existing Iron Pipe; Thence, North 89°57'34" East a distance of 36.59' to an Existing Iron Rebar; Thence, North 89°44'31" East a distance of 62.17' to an Existing Iron Pipe; Thence, South 02°27'02" West a distance of 119.42' to an Existing Iron Rebar; Thence, South 02°22'53" West a distance of 111.43' to an Existing Iron Rebar; Thence, South 02°18'02" West a distance of 92.88' to an Existing Iron Rebar; Thence, South 02°21'36" West a distance of 208.96' to an Existing Iron Rebar; Thence, South 02°22'28" West a distance of 428.91' to an Existing Iron Pipe located on the northern margin of Morris Acres Road, a variable width Public Right of Way (SR#3129); Thence with said Public Right of Way, North 62°20'05" West a distance of 374.12' to a point; Thence, leaving said Public Right of Way, North 11°17'51" East a distance of 318.24' to a point; Thence, North 83°39'21" West a distance of 217.02' to a point; Thence, North 05°16'39" East a distance of 54.78' to a point; Thence, North 88°49'51" West a distance of 125.97' to a point; Thence, South 02°21'09" West a distance of 48.00' to a point; Thence, North 89°50'51" West a distance of 48.48' to a point; Thence, North 62°23'51" West a distance of 165.92' to a point; Thence, South 27°36'09" West a distance of 154.91', (crossing a point at 122.99') to a point located within the Public Right of Way of Morris Acres Road, a variable width Public Right of Way (SR#3129); Thence North 62°20'05" West a distance of 280.01' to a Point; Thence, North 05°46'15" East a distance of 211.66' to an Existing Iron Pipe located on the southern margin of Morris Acres Road, a variable width Public Right of Way (SR#3129); Thence, with a curve to the right having a radius of 783.00', an arc length of 190.70', a chord bearing of North 16°13'03" West, and distance of 190.22', to an Existing Iron Pipe; Thence, South 89°15'20" East a distance of 59.77' to an Existing Iron Pipe; Thence, South 88°46'47" East a distance of 131.45' to an Existing Axle; being the point and place of **Beginning**, and having an area of 14.880 Acres (648,179 SF), More or Less.





LEGEND

(EIP)-IRON PIPE FOUND  
(NIP)-IRON PIPE SET  
(EIR)-REBAR FOUND  
(PT)-COMPUTED POINT (NO MONUMENT FOUND OR SET)

GPS NOTE:  
CLASS OF SURVEY: A  
POSITIONAL ACCURACY: 0.05'  
DATE OF SURVEY: AUGUST 28, 2021  
GEOID MODEL 2018  
COMBINED SCALE FACTOR: 0.999896225  
UNITS: US SURVEY FEET

LINE TABLE		
LINE	BEARING	DISTANCE
L1	N 26°40'56" E	20.62'

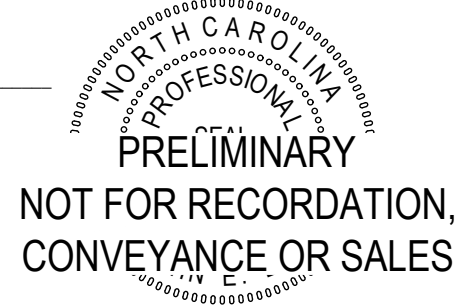
CURVE TABLE			
CURVE	ARC LENGTH	RADIUS	CHORD BRG.
C1	137.84'	783.00'	N 57°21'34" W
C2	399.10'	783.00'	N 37°42'52" W
C3	190.70'	783.00'	N 16°13'03" W

SURVEYOR'S CERTIFICATE

"I, BENJAMIN E. DAYTON, CERTIFY THAT THIS PLAT WAS DRAWN UNDER MY SUPERVISION FROM AN ACTUAL SURVEY MADE UNDER MY SUPERVISION (DEED DESCRIPTION RECORDED IN BOOK SEE MAP, PAGE \_\_\_\_\_, THAT THE BOUNDARIES NOT SURVEYED ARE CLEARLY INDICATED AS DRAWN FROM INFORMATION FOUND IN BOOK SEE MAP, PAGE \_\_\_\_\_, THAT THE RATIO OF PRECISION OR POSITIONAL ACCURACY AS CALCULATED IS 1:40,000+; THAT THIS PLAT WAS PREPARED IN ACCORDANCE WITH G.S. 47-30 AS AMENDED. WITNESS MY ORIGINAL SIGNATURE, LICENSE NUMBER AND SEAL THIS \_\_\_\_\_ DAY OF \_\_\_\_\_, A.D., 2022.

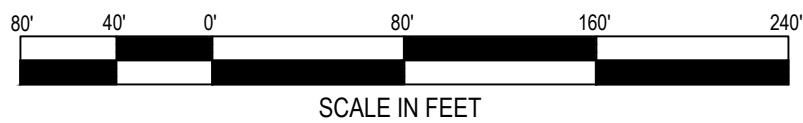
THIS SURVEY IS OF ANOTHER CATEGORY, SUCH AS THE RECOMBINATION OF EXISTING PARCELS, A COURT-ORDERED SURVEY, OR OTHER EXEMPTION OR EXCEPTION TO THE DEFINITION OF SUBDIVISION.

BENJAMIN E. DAYTON, PLS L-4390



GENERAL NOTES

1. BASIS OF BEARINGS: NC STATE PLANE GRID COORDINATES, NAD83(2011)
2. ALL DISTANCES ARE HORIZONTAL GROUND DISTANCES IN U.S. SURVEY FEET UNLESS OTHERWISE NOTED.
3. AREAS SHOWN HEREON WERE COMPUTED USING THE COORDINATE METHOD.
4. LINES NOT SURVEYED ARE SHOWN AS BROKEN LINES FROM INFORMATION REFERENCED ON THE FACE OF THIS PLAT.
5. SUBJECT PROPERTY IS NOT LOCATED WITHIN A FLOOD HAZARD AREA ACCORDING TO FLOOD INSURANCE RATE MAP 3720073200K DATED JULY 19, 2022.
6. IRON PIPES SET AT ALL CORNERS UNLESS OTHERWISE NOTED.



OWNERS:  
EDITH S. MORRIS  
7208 MORRIS ACRES ROAD  
APEX, NORTH CAROLINA 27523

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

"I, \_\_\_\_\_, TOWN CLERK, APEX, NORTH CAROLINA CERTIFY THIS A TRUE AND EXACT

MAP OF ANNEXATION ADOPTED THE \_\_\_\_\_ DAY OF \_\_\_\_\_, 20\_\_\_\_, BY THE TOWN COUNCIL. I

SET MY HAND AND SEAL OF THE TOWN OF APEX, \_\_\_\_\_ DAY/MONTH/YEAR

\_\_\_\_\_  
TOWN CLERK

-SEAL-

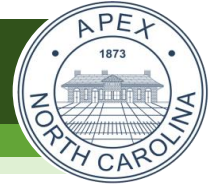
TOTAL ANNEXATION AREA: 16.412 ACRES

DATE: 12/27/2022		
SCALE: 1"=100'		
SURVEYED BY: WR		
DRAWN BY: BD		
CHECK & CLOSURE BY: BD		
CAD FILE: ANNEXATION PLAT.DWG		
PROJECT NO: 02210742.00		
ANNEXATION MAP for the TOWN OF APEX		
EDITH S. MORRIS		
TOWNSHIP: WHITE OAK	COUNTY: WAKE	STATE: NORTH CAROLINA
ZONE: DP (PER GIS)	PIN No. MULTI (SEE PLAT)	

**WithersRavenel**  
Engineers | Planners | Surveyors

115 MacKenan Drive | Cary, NC 27511  
t: 919.469.3340 | license #: F-1479 | www.withersravenel.com

## PETITION FOR VOLUNTARY ANNEXATION Town of Apex, North Carolina



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

**ANNEXATION FEE:** \$200.00

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

### HARD COPY SUBMITTAL REQUIREMENTS:

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

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

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

### REVIEW AND APPROVAL PROCESS:

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

### FOR WELL AND/OR SEPTIC FAILURES:

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

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

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

## PETITION FOR VOLUNTARY ANNEXATION

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

Application #: \_\_\_\_\_  
Fee Paid \$ \_\_\_\_\_

Submittal Date: \_\_\_\_\_  
Check # \_\_\_\_\_

### TO THE TOWN COUNCIL APEX, NORTH CAROLINA

1. We, the undersigned owners of real property, respectfully request that the area described in Part 4 below be annexed to the Town of Apex, ☐ Wake County, ☐ Chatham County, North Carolina.
2. The area to be annexed is ☒ contiguous, ☐ non-contiguous (satellite) to the Town of Apex, North Carolina and the boundaries are as contained in the metes and bounds description attached hereto.
3. If contiguous, this annexation will include all intervening rights-of-way for streets, railroads, and other areas as stated in G.S. 160A-31(f), unless otherwise stated in the annexation amendment.

### OWNER INFORMATION

Edith S. Morris	0732382709, 0732295017
Owner Name (Please Print)	Property PIN or Deed Book & Page #
Phone	E-mail Address
Owner Name (Please Print)	Property PIN or Deed Book & Page #
Phone	E-mail Address
Owner Name (Please Print)	Property PIN or Deed Book & Page #
Phone	E-mail Address

### SURVEYOR INFORMATION

Surveyor: Ben Dayton  
Phone: 919.469.3340 Fax: \_\_\_\_\_  
E-mail Address: bdayton@withersravenel.com

### ANNEXATION SUMMARY CHART

Property Information		Reason(s) for annexation (select all that apply)	
Total Acreage to be annexed:	<u>14.88</u>	Need water service due to well failure	<input type="checkbox"/>
Population of acreage to be annexed:	_____	Need sewer service due to septic system failure	<input type="checkbox"/>
Existing # of housing units:	<u>1</u>	Water service (new construction)	<input checked="" type="checkbox"/>
Proposed # of housing units:	<u>97</u>	Sewer service (new construction)	<input checked="" type="checkbox"/>
Zoning District*:	<u>RR &amp; PUD-CZ</u>	Receive Town Services	<input checked="" type="checkbox"/>

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

# PETITION FOR VOLUNTARY ANNEXATION

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

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

## COMPLETE IF SIGNED BY INDIVIDUALS:

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

Edith Seagroves Morris  
Please Print

Edith Seagroves Morris  
Signature

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

\_\_\_\_\_  
Signature

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

\_\_\_\_\_  
Signature

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

\_\_\_\_\_  
Signature

STATE OF NORTH CAROLINA

COUNTY OF WAKE



Sworn and subscribed before me, Edith Seagroves Morris, a Notary Public for the above State and County,  
this the 7 day of December, 2022

Melody M. Hand  
Notary Public

My Commission Expires: November 28, 2025

## COMPLETE IF A CORPORATION:

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

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

SEAL

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

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

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

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

STATE OF NORTH CAROLINA

COUNTY OF WAKE

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

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

SEAL

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

# | Agenda Item | cover sheet

for consideration by the Apex Town Council

Item Type: CONSENT AGENDA

Meeting Date: February 28, 2023

## Item Details

Presenter(s): Allen Coleman, Town Clerk

Department(s): Town Clerk's Office

### Requested Motion

1. Motion to amend the Board of Adjustment Appointment Term Dates previously approved at the February 28<sup>th</sup>, Town Council Meeting, as follows:

Member	Position	Approved on 2/28/2023	Corrected Action
Ross Stocks	Regular Member	Re-appointed 1/1/2022 - 12/31/2025	<b>Re-appointed 2/28/2023 - 12/31/2025</b>
Umesh Pai	Regular Member	Re-appointed 1/1/2022 - 12/31/2025	<b>Re appointed 2/28/2023 - 12/31/2025</b>
Tracy Taylor	Regular Member	Re-appointed 1/1/2022 - 12/31/2025	<b>Keep Original Term Expiring 12/31/2024</b>
Michael Sayers	2 <sup>nd</sup> Alternate	Appointed 2/28/2023 - 2/28/2025	<b>Appointed 2/28/2023 - 2/28/2026</b>

2. Motion to amend the Board of Adjustment Appointment Term Dates previously approved on 5/25/2021 and on 2/28/2023, as follows:

Member	Position	Approved on 5/25/2021	Approved on 2/28/2023	Corrected Action
Bryan Johnson	Regular Member	Re-appointed 5/25/2021 - 12/31/2022 (incorrectly listed 2-year term)	Re-appointed 1/1/2022 - 12/31/2025	<b>Re-appointed (2<sup>nd</sup> Term) 1/1/2021 - 12/31/2023</b>
William Shelby Lusk	Regular Member	Appointed	Re-appointed	<b>Appointed (1<sup>st</sup> Term)</b>

	(Promoted from Alternate)	5/25/2021 - 12/31/2022 (incorrectly listed 2-year term)	1/1/2022 - 12/31/2025	<b>5/25/2021 - 12/31/2023</b>
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Approval Recommended?

This amendment is administrative and technical in nature and is recommended for approval by the Town Clerk.

Item Details

Under 160D-302(a) appointments to the Board of Adjustment (BOA) shall be for 3-year terms.

Additionally, Joel LaMonica was appointed on February 28, 2023, however, he declined the appointment. Mayor Gilbert recommended and Council unanimously voted to appoint William Hollenbeck to the unexpired term of Mr. Joel LaMonica. The initial term dates for Mr. Joel LaMonica were incorrect, however, they were corrected on 3/28/2023 when Council appointed Mr. William Hollenbeck.

Attachments

None



# | Agenda Item | cover sheet

for consideration by the Apex Town Council

Item Type: CONSENT AGENDA

Meeting Date: April 11, 2023

## Item Details

Presenter(s): Eric Neumann, Director

Department(s): Electric Utilities

### Requested Motion

Motion to approve a Master Services Agreement with Infrastructure Technology Services (ITS) Inc. to provide electric utility installation services related to underground cables from May 1, 2023 through April 30, 2026.

### Approval Recommended?

Yes

### Item Details

The Electric Utilities Department has historically contracted with Infrastructure Technology Services (ITS) Inc. for: Electrical utility installations, testing, inspection, upgrades, maintenance and general electric utility services as designated by the Town. Upon request, Contractor may perform work involving underground construction or general repair work that does not exceed thirty thousand dollars (\$30,000.00) in cost. This request is a new contract.

### Attachments

- CN5-A1: Infrastructure Technology Services - Master Services Agreement



STATE OF NORTH CAROLINA

Contract Identification # \_\_\_\_\_

COUNTY OF WAKE

**MASTER SERVICES AGREEMENT**

THIS MASTER SERVICES AGREEMENT (hereinafter “Agreement”) is entered into this the \_\_\_\_\_ day of \_\_\_\_\_, 2023, by and between, Infrastructure Technology Services, Inc., a North Carolina Corporation with its principal business offices located at 360 Wolfpack Ln., Youngsville, NC 27596 (the “Contractor”), and the Town of Apex, a municipal corporation of the State of North Carolina, (the “Town”). Town and Contractor may collectively be referred to as “Parties” hereinafter.

**WITNESSETH:**

WHEREAS, Town, is engaged in the operation of an electric utility, which from time to time requires the installation, maintenance, repair, servicing, removal, testing, and inspection of underground and above ground electrical lines and poles, as well as other projects related to electric utilities; and

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

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

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

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

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

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

## **1. SCOPE OF SERVICES.**

The Contractor agrees to perform for the Town the following general services when requested by the Town: Electrical utility installations, testing, inspection, upgrades, maintenance and general electric utility services as designated by the Town. Upon request, Contractor may perform work involving underground construction or general repair work that does not exceed thirty thousand dollars (\$30,000.00) in cost.

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

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

## **2. SPECIFICATIONS.**

Upon request by the Town, Contractor will provide plans and specifications prior to engaging in any services under this Agreement. Contractor hereby acknowledges that it is fully licensed to perform the work contemplated by this Agreement. In the event of a conflict between the provided plans and specifications and this Agreement, this Agreement shall control.

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

This Agreement shall terminate on 5/1/2026 unless terminated sooner in accordance with the terms of this Agreement. Contractor shall commence and complete the work required by this Agreement in accordance with the dates provided in the specific Scope of Services as agreed upon by the Parties. Contractor shall immediately notify the Town of any event or circumstance that may, immediately or in the future, impede the proper and timely execution of any work so that remedial action may be taken. Contractor shall not begin any work pursuant to this Agreement or a Scope of Services until written confirmation has been provided by the Town. The Parties hereby agree that written confirmation may be provided through electronic communication from the Town's representative identified in Section 13 of this Agreement. If Contractor has not satisfactorily commenced or completed the work within the times specified, the Town may declare such delay a material breach of contract and may pursue all available legal and equitable remedies. Any changes to the schedule(s) provided in the Scope of Services must be agreed to in writing by the Town and the Contractor.

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

In consideration of the above services, the Town will pay the Contractor the amount authorized by the issued Purchase Order corresponding to the agreed upon Scope of Services and quote. After services are agreed upon pursuant to this Agreement and the associated Scopes of Service, Contractor will invoice the Town for work performed. Town has the right to require the Contractor to produce for inspection all of Contractor's records and charges to verify the accuracy of all invoices. Town shall pay Contractor's invoices within thirty (30) days of receipt unless a bona fide dispute exists between Town and Contractor concerning the accuracy of said invoice or the services covered thereby.

## **5. INDEMNIFICATION.**

To the extent permitted by law, the Contractor agrees to defend, pay on behalf of, indemnify, and hold-harmless the Town of Apex, its elected and appointed officials, employees, agents, and volunteers against any and all claims, demands, suits or losses, including all costs connected therewith, for any damages which may be asserted, claimed or recovered against or from the Town of Apex its elected or appointed officials, employees, agents, and volunteers by reason of personal injury, including bodily injury or death and/or property damage, including loss of use thereof resulting from the negligence of the Contractor.

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

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

This Agreement shall be governed by the laws of the State of North Carolina. Any and all suits or actions to enforce, interpret or seek damages with respect to any provision of, or the performance or nonperformance of, this Agreement shall be brought in the General Court of Justice of North Carolina sitting in Wake County, North Carolina, or the United States District Court sitting in Wake County, North Carolina, and it is agreed by the Parties that no other court shall have jurisdiction or venue with respect to such suits or actions.

## **7. E-VERIFY COMPLIANCE.**

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

## **8. QUALITY AND WORKMANSHIP.**

All work shall be performed to the satisfaction of the Town. The work shall not be considered complete nor applicable payments rendered until the Town is satisfied with the services

provided. Contractor shall provide services in accordance with all federal, state and local law and in accordance with all governing agency regulations and shall be held to the same standard and shall exercise the same degree of care, skill and judgment in the performance of services for the Town as is ordinarily provided by a similar professional under the same or similar circumstances at the time in North Carolina.

## **9. INSURANCE.**

The Contractor shall maintain valid general liability insurance in the minimum amount of \$1,000,000, commercial automobile liability insurance in the minimum amount of \$2,000,000, and provide certificates of such insurance naming the Town of Apex as an *additional insured* by endorsement to the policies. If the policy has a blanket additional insured provision, the contractor's insurance shall be primary and non-contributory to other insurance. Additionally, the contractor shall maintain and show proof of workers' compensation and employer's liability insurance in the minimum amount of \$1,000,000. The Contractor shall provide notice of cancellation, non-renewal or material change in coverage to the Town of Apex within 10 days of their receipt of notice from the insurance company.

All required certificates of insurance, endorsements, and blanket additional insured policy provisions are attached and considered part of this document. Notwithstanding the foregoing, neither the requirement of Contractor to have sufficient insurance nor the requirement that Town is named as an additional insured, shall constitute waiver of the Town's governmental immunity in any respect, under North Carolina law.

## **10. PRE-PROJECT SAFETY REVIEW MEETING.**

If requested by the Town, the Contractor shall attend a pre-project safety review meeting with the contacting Department Head and Supervisors and Safety and Risk Manager prior to the start of work.

## **11. DEFAULT.**

In the event of substantial failure by Contractor to perform in accordance with the terms of this Agreement, Town shall have the right to terminate Contractor upon seven (7) days written notice in which event Contractor shall have neither the obligation nor the right to perform further services under this Agreement.

## **12. TERMINATION FOR CONVENIENCE.**

Town shall have the right to terminate this Agreement for the Town's convenience upon thirty (30) days written notice to Contractor. Contractor shall terminate performance of services on a schedule acceptable to the Town. In the event of termination for convenience, the Town shall pay Contractor for all services satisfactorily performed.

### **13. NOTICE.**

Any formal notice, demand, or request required by or made in connection with this Agreement shall be deemed properly made if delivered in writing or deposited in the United States mail, postage prepaid, to the address specified below.

TO CONTRACTOR: Edward Keever  
Infrastructure Technology Services, Inc.  
360 Wolfpack Ln  
Youngsville, NC 27596  
[Edward Keever <ekeeper@its-nc.com>](mailto:ekeeper@its-nc.com)

TO TOWN: Town of Apex  
Electric Utilities Director, Eric Neumann  
PO Box 250  
Apex, NC 27502  
Eric Neumann <Eric.Neumann@apexnc.org>

### **14. DELAY BEYOND THE CONTROL OF THE PARTIES.**

Neither Contractor nor Town, having taken commercially reasonable precautions, shall be in default of the provisions of this Agreement for delays in performance due to forces beyond the control of the parties. "Forces beyond the control of the parties" shall mean, but is not limited to, delay caused by natural disaster, fire, flood, earthquakes, storms, lightning, epidemic, pandemic, war, riot, civil disobedience, or other event reasonably outside of the parties' control. Due to the ever-changing circumstances surrounding the COVID-19 pandemic, situations may arise during the performance of this Agreement that affect availability of resources and staff of Contractor or the Town. There could be changes in anticipated performance times and service costs. Contractor will exercise reasonable efforts to overcome the challenges presented by current circumstances. In the event of changes in performance times or service costs caused by the COVID-19 pandemic the Town reserves the right to terminate this Agreement in accordance with its terms. The Parties agree that they shall not be liable to each other for any delays, expenses, losses, or damages of any kind arising out of the impact of the COVID-19 pandemic.

### **15. NONWAIVER FOR BREACH.**

No breach or non-performance of any term of this Agreement shall be deemed to be waived by either party unless said breach or non-performance is waived in writing and signed by the parties. No waiver of any breach or non-performance under this Agreement shall be deemed to constitute

a waiver of any subsequent breach or non-performance and for any such breach or non-performance each party shall be relegated to such remedies as provided by law.

## **16. CONSTRUCTION.**

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

## **17. NO REPRESENTATIONS.**

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

## **18. SEVERABILITY.**

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

## **19. COUNTERPARTS.**

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

## **20. MODIFICATION.**

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

## **21. BINDING EFFECT.**

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

## **22. ASSIGNMENT.**

Contractor shall not assign, sublet, or transfer any rights under or interest in (including, but without limitation, monies that may become due or monies that are due) this Agreement without the written consent of the Town. Nothing contained in this paragraph shall prevent Contractor

from employing such independent consultants, associates, and sub-contractors as it may deem appropriate to assist Contractor in the performance of services rendered.

### **23. INDEPENDENT CONTRACTOR.**

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

### **24. NON-APPROPRIATION.**

Notwithstanding any other provisions of this Agreement, the parties agree that payments due hereunder from the Town are from appropriations and monies from the Town Council and any other governmental entities. In the event sufficient appropriations or monies are not made available to the Town to pay the terms of this Agreement for any fiscal year, this Agreement shall terminate immediately without further obligation of the Town.

### **25. IRAN DIVESTMENT ACT CERTIFICATION.**

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

### **26. ANTI-HUMAN TRAFFICKING.**

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

### **27. NONDISCRIMINATION.**

Pursuant to Chapter 3 of the Town of Apex Code of Ordinances, Contractor hereby warrants and agrees that Contractor will not discriminate against a protected class in employment, subcontracting practices, or the solicitation or hiring of vendors, suppliers, or commercial customers in connection with this Agreement. For the purposes of this Agreement "protected

class” includes age, race, religious belief or non-belief, ethnicity, color, national origin, creed, sex, sexual orientation, gender identity, marital status, natural hair style, genetic information, pregnancy, familial status, disability, veteran or military status, or disabled veteran status.

## 28. ELECTRONIC SIGNATURE.

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

In witness thereof, the contracting parties, by their authorized agents, affix their signatures and seals this \_\_\_\_\_ day of \_\_\_\_\_, 2023.

### Contractor

Name: Infrastructure Technology Services, Inc.

By: EB Keever

EB Keever  
(Signature)

Title: CEO

Attest:  
Diane Torrance  
(Secretary, if a corporation)

### Town of Apex

\_\_\_\_\_  
Catherine Crosby, Town Manager

Attest:  
\_\_\_\_\_  
Allen Coleman, Town Clerk

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

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

# | Agenda Item | cover sheet

for consideration by the Apex Town Council

Item Type: CONSENT AGENDA

Meeting Date: April 11, 2023

## Item Details

Presenter(s): Allen Coleman, Town Clerk

Department(s): Town Clerk's Office

### Requested Motion

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

- March 21, 2023 - Town Council Work Session Meeting Minutes
- March 28, 2023 - Regular Town Council Meeting Minutes

### Approval Recommended?

The Town Clerk recommends the Town Council approve the meeting minutes as presented or amended.

### Item Details

In accordance with 160A-72 of North Carolina General Statutes (NCGS), the Governing Board has the legal duty to approve all minutes that are entered into the official journal of the Board's proceedings.

### Attachments

- CN6-A1: **DRAFT** Minutes - March 21, 2023 Town Council Work Session Meeting
- CN6-A2: **DRAFT** Minutes - March 28, 2023 Regular Town Council Meeting



**MINUTES DRAFT**  
**TOWN OF APEX**  
**PUBLIC SAFETY WORK SESSION**  
**TUESDAY, MARCH 21, 2023**  
**3:30 PM**

The Apex Town Council met for a Public Safety Work Session on Tuesday, March 21, 2023 at 3:30 pm at the Apex Police Department located at 205 Saunders Street in Apex, North Carolina.

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

<https://www.youtube.com/live/xHpAfrDw-ss?feature=share>

**[ATTENDANCE]**

Elected Body

Mayor Jacques K. Gilbert (presiding)

Mayor Pro-Tempore Audra Killingsworth

Councilmember Brett Gantt

Councilmember Terry Mahaffey

Councilmember Arno Zegerman

Absent: Councilmember Ed Gray

Town Staff

Town Manager Catherine Crosby

Deputy Town Manager Shawn Purvis

Assistant Town Manager Demetria John

Assistant Town Manager Marty Stone

Town Attorney Laurie Hohe

Town Clerk Allen Coleman

Fire Chief Tim Herman

Chief of Police Jason Armstrong

All other staff members will be identified appropriately below

**[COMMENCEMENT]**

**Mayor Gilbert** called the meeting to order at 3:30 p.m. and led the Pledge of Allegiance. He said Mayor Pro Tempore Killingsworth and Councilmember Gray were on

## MINUTES DRAFT

the way, but there was a quorum present for them to get started. He thanked Allen Coleman and Nicole Garcia for setting up the meeting room at the Police Department.

### [AGENDA ITEM NO. 1 - PUBLIC SAFETY BI-ANNUAL UPDATES - APEX FIRE DEPARTMENT (AFD)]



[Fire Slide 1]

**Fire Chief Tim Herman** gave an overall review of the 2022 AFD Annual Report. (Reference OTHER-2023-028)

**Councilmember Mahaffey** asked if there are goals for the department based on the 90<sup>th</sup> percentile turnout, travel, and response times shown.

**Fire Chief Herman** said yes, the goal is a 90 second turnout time. He said a turnout report is created weekly and shown to staff, in which they are able to see when and where groups aren't meeting that 90 second goal. He said it often turns into a competition between shifts and stations to get the lowest turnout time. He also said this brings up questions about station design, and where bedrooms are in relation to engines. He said they are looking at working towards a 5-minute travel time, and they need to have a conversation on their "standard of coverage" regarding these goals moving forward.

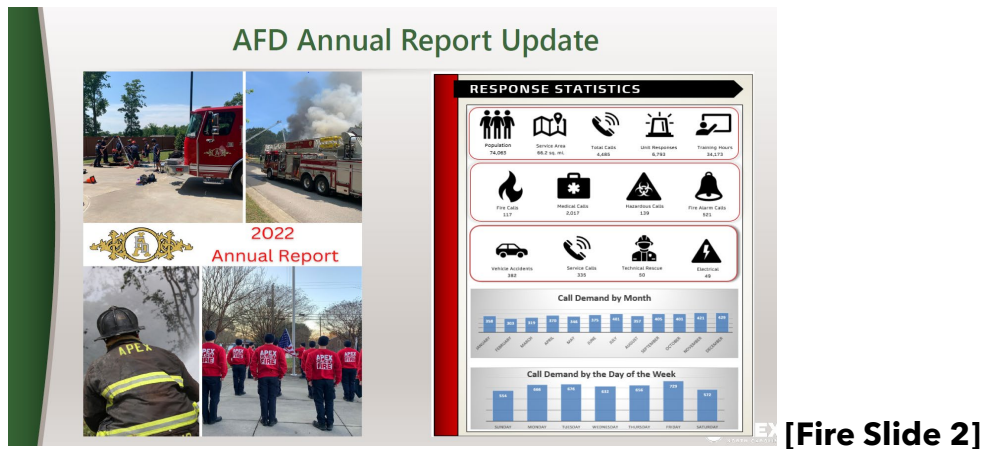
**Councilmember Mahaffey** said it seems travel time seems to be driven mostly where the stations are in relation to the calls, and that building more stations would help. He asked if there was a plan to drive the turnout time down to 90 seconds.

**Fire Chief Herman** said that before he arrived, staff did not know there was a 90-second turnout goal since it was presented less often than the current weekly report. He said staff gets a shared report that they can look back at to see how long turnout took them, and identify exact shifts and crews that may not be meeting their target. He said as this data builds over time, they will be able to look at trends and identify more broad ways to make improvements.

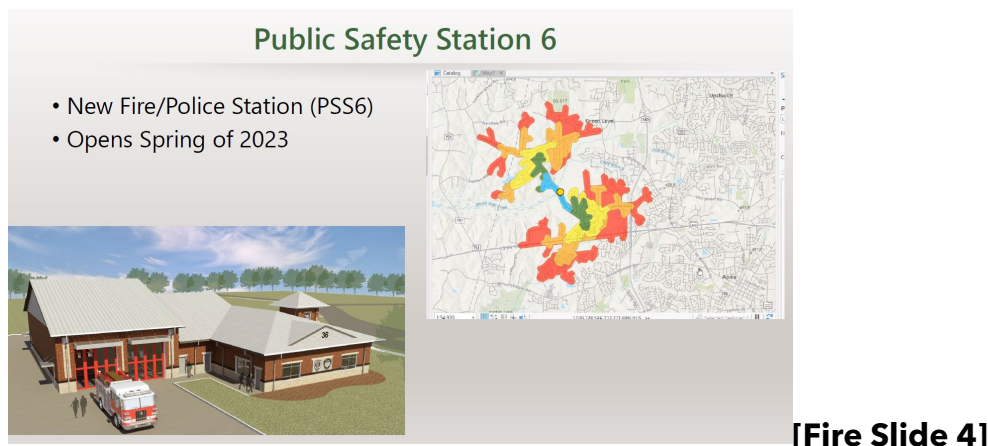
**Councilmember Mahaffey** asked about what the causes of the three most dense response zones on the heatmap were.

## MINUTES DRAFT

**Fire Chief Herman** said they are currently working with their new data analyst to get questions like that answered in a more objective sense, but he said it could be driven by high wreck area. He added a lot of the responses are to assisted living facilities as well.



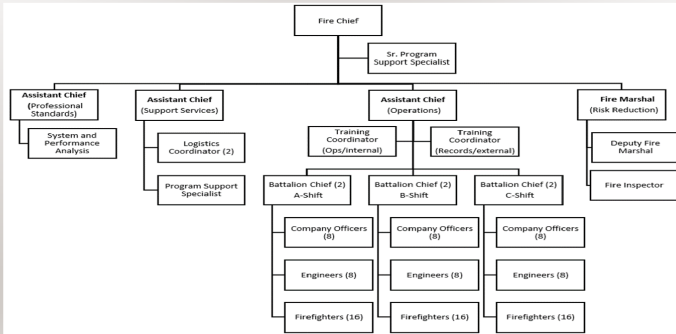
**Fire Chief Herman** said he will be getting sworn in on April 21<sup>st</sup>, at the same ceremony where the AFD Recruit Academy class will be graduating.



## MINUTES DRAFT

**Fire Chief Herman** said there are some delays opening up the new Fire Station. The back up plan is to staff Engine 36 which will operate out of station 5, and that will start April 24<sup>th</sup>. He said they will travel to the area during the day, and though they won't be able occupy the building yet, they will be serving the area as if they were.

### Personnel Updates



### Policy and Procedure Updates

Completed a total evaluation on all guidelines/procedures to ensure best practices are in place and the department is meeting all requirements.

- 12 new or revised Standard Operating Guidelines (SOG) put into place first 4 months.
  - Mayday, FF safety, fireground procedures, technical rescue procedures, fire alarm/fire watch, key secure, hazardous materials, etc.
  - Cancer benefits program, pre-incident planning program, training program, assigned vehicle program.

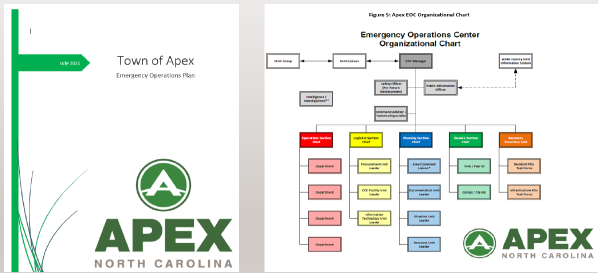


### Policy and Procedure Updates

- 29 new guidelines identified for implementation over the next 6 months
  - Administrative
  - Safety
  - Operational
  - Apparatus Operations
  - Professional Development Programs



## Policy and Procedure Updates



APEX

[Fire Slide 8]

**Fire Chief Tim Herman** said this organizational chart has been revised and updated with all current staff members.

## Emerging Topics

- Preparing for the growth of Apex (Station 7).
  - Identify (confirm) the fire department's standard of coverage.
  - Use response time data to determine our current baselines/benchmarks.
  - Need Station 6 data to help guide the needs.
  - Town-wide facility study
- Succession Planning
  - 5-6 chief officer positions eligible to retire in 2-3 years.
  - Build a firm foundation
  - Provide guidance, professional development, and opportunities for our staff
- Supply Chain Issues
  - 30-36 months to get fire apparatus

APEX

[Fire Slide 9]

**Councilmember Gantt** asked if towns in the US are going towards more of a standardized engine, such as the less customized and more widely produced ones in Europe.

**Fire Chief Tim Herman** said most fire departments are buying custom pumpers. They are auto electricals and are pretty common in the US. He said not all trucks fit the needs and specifications of what Apex looks for.

## MINUTES DRAFT

### Questions

Tim Herman, Fire Chief  
timothy.herman@apexnc.org

#### CONTACT INFORMATION

Emergency  
9-1-1  
Administration  
(919) 362-4001

#### SOCIAL MEDIA

 @apexfiredept  
Website  
<https://www.apexnc.org/262/Fire-Department>



[Fire Slide 10]

**Mayor Gilbert** asked what is being done with the mental health board for firefighters.

**Fire Chief Tim Herman** said there are programs being implemented within the department. One being the Chaplain Program which would be expanded on later in the presentation, mental health awareness, and an internal peer support program

### [AGENDA ITEM NO. 2 - PUBLIC SAFETY BI-ANNUAL UPDATES - APEX POLICE DEPARTMENT (APD)]



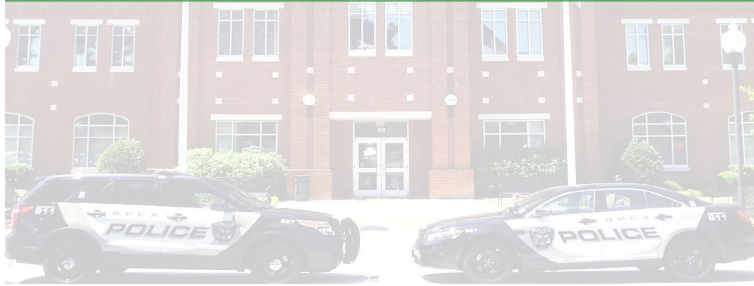
[Police Slide 1]



[Police Slide 2]

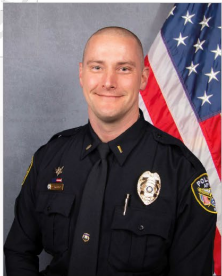
## MINUTES DRAFT

### Personnel



[Police Slide 3]

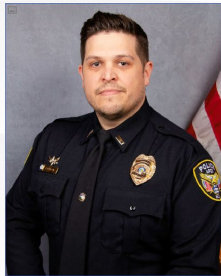
### Lieutenant Promotions



Lt. Chris Myers



Lt. Brian Optiz



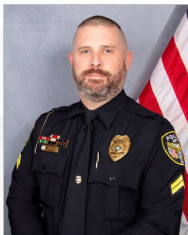
Lt. Greg Pawluk

[Police Slide 4]

### Sergeant Promotions



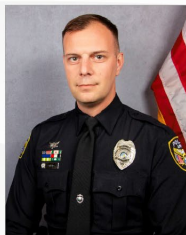
Sgt. Matt Hunter



Sgt. Ashley Boyd



Sgt. David Swope



Sgt. James Sites

[Police Slide 5]

**Police Chief Jason Armstrong** said the promotions to Sergeant will take place April 3<sup>rd</sup>, and the whole department now has updated pictures.

## MINUTES DRAFT

### Department Staffing

- Sworn positions filled – 89
- Sworn position conditional offers – 6
- Sworn positions vacant – 4
- Telecommunicator positions filled – 10
- Telecommunicator position conditional offers – 0
- Telecommunicator positions vacant – 3
- Non-sworn positions filled – 13
- Non-sworn position conditional offers – 1
- Non-sworn positions vacant – 1

[Police Slide 6]

**Police Chief Armstrong** said one thing being changed is the recruitment process. Previously, a position would be open and candidates applied and then it would close. After hire, several months go by for training and only a handful of individuals made it all the way through the Town's process. He said five months at a time the Town wasn't actively recruiting because the process was closed. Now, it's a constant open process with training and admin staff keeping a tracking schedule. He said he hopes to have all 99 of the current sworn positions filled by June.

**Councilmember Mahaffey** asked what the comparison is like to the neighboring municipalities regarding the vacancy rates.

**Police Chief Jason Armstrong** said our vacancy rates are a lot better than other municipalities. He said Raleigh has a lot more vacancies than the ten percent the Town has as far as sworn positions. He said the agency as a whole is around six to seven percent in vacancy rate, which he said is a really good number. He said all the agencies around the area are facing similar challenges.

**Councilmember Mahaffey** asked what the attrition stats are for turnovers compared to other areas.

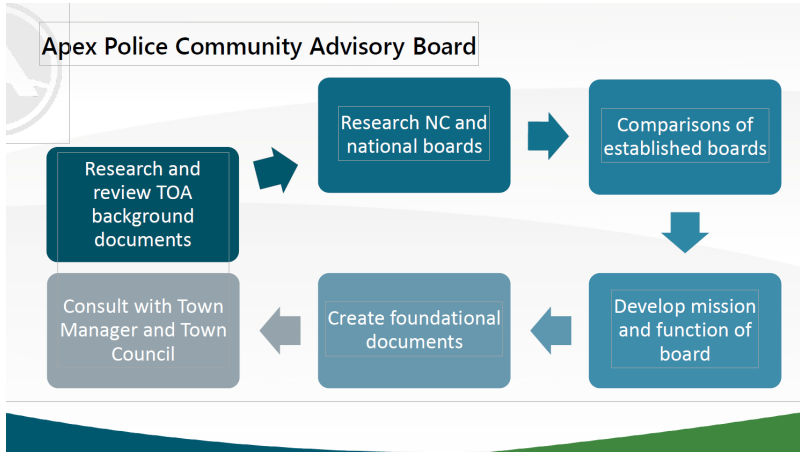
**Police Chief Armstrong** said HR handles more of that, but he said they keep track of attrition internally to determine why people leave.

**Councilmember Zegerman** asked if the 15 positions that's being filled are result of growth or if it's because people are leaving.

**Police Chief Armstrong** said it was a combination of both. He said some of the vacancies come from people retiring, leaving to move out of state, or even completely getting out of law enforcement and getting private sector jobs. He said one of the things he is focused on is seeing if they are losing officers to surrounding agencies, and he said he has not seen much of that here.



[Police Slide 7]



[Police Slide 8]

**Police Chief Armstrong** introduced Compliance Manager Megan Simpson who gave a review on the Apex Police Advisory Board.

**Councilmember Mahaffey** asked is there a timeline for next steps.

**Ms. Simpson** said it's a Council project and she said it's open for discussion. She said at this point they are receiving feedback on what they want to see, and that she can share research that she has done with them.

**Councilmember Mahaffey** clarified that next steps are Council gives feedback and then formal adoption

**Police Chief Armstrong** said yes.

**Town Clerk Allen Coleman** offered April 14<sup>th</sup> as a date to submit Councilmembers feedback on the Apex Community Police Advisory Board proposal documents in preparation for the May 16<sup>th</sup> Town Council Work Session. He said this would allow a month for staff to work through the comments and include the Town's legal department in the discussion.

Consensus was offered by Councilmembers.

## MINUTES DRAFT

### Crisis Response Program

- Update from Crisis Counselor, Khea Morton

[Police Slide 9]

**Ms. Morton** gave a run down on what her position entails. She has conducted follow-ups with community members for incident reports that are received and that involve mental health or substance abuse. She stated she receives walk-ins as well as referrals from church communities. She said she works with people over however long people need support and connects them to the necessary resources. She said her next phase is Community Partnerships in which she will be reaching out to local churches and building a network. She said in six months she has had 105 cases assigned to her. From October to December she had 65 cases assigned and had 40 cases assigned recently. Those numbers do not include walk-ins nor cat calls that don't perceive reports

**Councilmember Zegerman** asked Ms. Morton to describe the process of when she gets a call and how exactly her role fits into it. He asked if she is counseling in the process or do other officers have the right resources to take care of people's mental health.

**Ms. Morton** said she recently passed the board and is approved to be a Licensed Clinical Social Worker Administrator (LCSWA). She said that Crisis Intervention is considered somewhat clinical as well as psycho education, which means educating people about mental health and coping skills to manage on a day to day basis. She said having consistent counseling session and diagnosing is not currently part of this role. She stated another process she is involved in is referrals by officers who have responded to calls and have identified a role that she could play in assisting someone.

**Councilmember Zegerman** asked who manages the situation if someone is in distress when the officer gets to the scene.

**Police Chief Armstrong** said all of the officers are sent to Crisis Intervention training because they are initial responders. He said staff is still working on building the policies and what the program is going to be. He said they are looking at building the program to see if crisis responders could respond alongside officers, or if two of them (once it is expanded) could respond to certain calls without an officer presence. He said sending a single crisis responder out to a call by themselves is not good practice based on what he has seen

## MINUTES DRAFT

1 **Councilmember Zegerman** asked about scaling the program to be able to send out  
2 crisis counseling staff without armed officers in mental health cases. He said he understands  
3 not wanting to send out a single counselor on calls alone, but that he is wondering what  
4 needs to be done to grow the program to allow more responses to mental health cases  
5 without firearms present, and how they can determine when cases don't warrant officer  
6 response along with mental health response.

7 **Police Chief Armstrong** said a lot of times the information they are given from calls  
8 indicates that someone is scared or someone is out of control, and in these cases, officers  
9 are almost always going to be sent out on calls involving this. He said if there is any threat of  
10 violence or any situation is deemed unsafe, police will be sent out to assess the scene  
11 before any EMS or medical personnel is allowed to enter. He said they are looking at  
12 telecommunicator scripts to see if they can gather information pertaining to threats and  
13 mental health more fully, to see if the response can be mental health/crisis focused. He said  
14 it will take some time to fully flesh out the system of integrating crisis/victim advocate  
15 response fully into the police system, and to figure out best ways to determine who needs to  
16 be going on what calls.

17 **Ms. Morton** said one of the Community Partners that she worked with was kids'  
18 peace with The Hope Center. She said The Hope Center will be another asset to the "in the  
19 moment" crisis when a counselor onsite isn't available. Ms. Morton went on to say she does  
20 have some background in disaster resiliency from Tulane University. She said she sits in on  
21 the Task Force meetings, Wake County drug prevention overdose Coalition, The North  
22 Carolina community response networking meetings, so she's involved in a lot of meetings  
23 that way she can continue to build up those resources to be able to offer to the community.

24 **Councilmember Zegerman** commented on the opportunity to scale this kind of  
25 response through other organizations.

26 **Police Chief Armstrong** said that the police part of this response is meant to act as a  
27 bridge between their first response of situations, and getting people connected to outside  
28 resources to help them in the long-term. He said they will continue to build connections with  
29 other organizations and expand their network of support.

30 **Mayor Pro Tempore Killingsworth** said she realizes the program is still being built  
31 out and policies are still being made, but she would love to see a year from now what gaps  
32 still need to be filled and what gaps there are no resources for.

33 **Crisis Counselor Morton** said they will be collecting information like this, as well as  
34 information on call volume by day, month, and season. She said there is also a large gap for  
35 syringe exchange to help those facing addiction.

36 **Councilmember Mahaffey** said his interest lies the same as Mayor Pro Tempore  
37 Killingsworth. He said he thinks its fantastic connecting people to services and getting them  
38 the help they need. He also wants to point out it can work the other way too. He said the  
39 Town has a non-profit giving program and it has a budget to make donations, so giving

## MINUTES DRAFT

money to support organizations that are supporting our citizens that are struggling is something to consider for the crisis response program.

**Councilmember Zegerman** asked if Ms. Morton had any internal wellness training.

**Ms. Morton** said she recently went to an officer Wellness training with the FBI. She said it was eye-opening to learn more of the experiences that officers go through. She said she's in the process of scheduling a first responder meeting with outside agencies to help look at different ways to develop wellness opportunities for First Responders.

**Councilmember Gantt** asked how Ms. Morton navigates what outside agencies should be doing for the Town versus what she is doing for the Town.

**Ms. Morton** said she connected with different municipalities across North Carolina and outside of North Carolina which all gave input on what actions are working and what is not working. She brought all that information in to begin developing a plan based on what will work here with the agency. Then within a year or two she will have more of a structure and implantation. She said a lot of the calls in this area revolve around self-harm reduction and prevention, and that she is looking to get more involved within the schools in Apex in the future.

**Councilmember Zegerman** said back in Ohio there is a family-wide system where the court could order cases to be assigned to county-led teams to provide services to people with a dual diagnosis of mental health conditions and substance abuse. He asked if there is something in Wake County to this effect.

**Police Chief Armstrong** said he hasn't seen any institution in Wake County that provides that service. He said he has seen County Commissioners have gone out to look for entities in the community that can be supported with County funding. He said it is currently up to towns, cities, or other organizations to provide those kinds of services.

### Chaplain Program

- Update from Senior Chaplain, Pastor Kevin O'Brien

[Police Slide 10]

**Senior Chaplain, Pastor Kevin O'Brien** said his full-time job is at Apex Baptist Church. He said he's the congregational care Pastor and he also leads faith-based non-profits called One step Ministries, which is a faith-based addiction counseling program that

## MINUTES DRAFT

meets weekly at the church. He said he has worked with Ms. Morton on several cases already, and has started working with the Fire Department as well. He said the program is definitely in need of expansion.

**Pastor O'Brien** spoke on the Chaplain program, and how the community has gotten more diverse and the program is building more relationships. He said he wants people of any faith to be able to utilize this program, which means adding in more leaders from different faiths to reach out to connect with people in the community. He's in the process of working with officer Ragland and officer Carter to expand the team. He said he had a luncheon a couple weeks ago where a number of clergy leaders in the area had come to express interest in getting involved in the program, and officer Ragland and Pastor O'Brien are in the process of following up with those interests. He said everyone involved will have different commitment levels but at this time it's about building a team of resources and not necessarily having everyone available for emergencies at any time.

**Police Chief Jason Armstrong** said he built this program when he got to the Town and when he revamped the policy he wanted to add more substance. He said he has seen one big thing over his career with the success of these programs is the frequency of meetings with a chaplain and having someone to consistently be able to talk to, and he has seen that with Pastor O'Brien. He said he and Fire Chief Herman are both committed to the health and wellness of their staff, and that while the chaplain is available to help the community, the priority currently is offering a resource to the officers and firefighters.



[Police Slide 13]

## MINUTES DRAFT

Top 3 Offense Categories by Month												
2022	Jan	Feb	Mar	Apr	May	Jun	Jul	Aug	Sep	Oct	Nov	Dec
Fraud	36	32	31	29	20	32	31	24	64	35	17	31
Shoplifting	21	11	18	18	10	32	18	17	49	34	19	24
Larceny from Motor Vehicle	6	11	11	17	10	13	16	24	19	10	9	17
All Other Thefts	17	24	15	10	24	30	18	21	25	18	7	24
Drugs	23	26	30	24	20	25	30	18	21	18	19	19
Simple Assault	15	17	19	21	15	19	19	9	17	19	22	20

[Police Slide 14]

**Police Chief Jason Armstrong** outlined the top six ongoing crimes within the Town, shown above.

**Councilmember Mahaffey** asked if he could elaborate on the term "fraud". He said it's a very broad term.

**Police Chief Jason Armstrong** deferred to **Crime Analyst Jennifer Conley** to answer the question.

**Ms. Conley** gave examples of fraud crime. She said if someone steals your credit card and goes to Walmart and buy gift cards by using the stolen credit card, that's fraud. Any type of property obtained by false pretense, she said is usually a good definition to identify theft.

### Technology

#### Recently Acquired

- Financial Skimming software
- Crypto currency software
- Storage device repair and recovery
- Mobile Digital Forensic Technology

#### Pending approval

- Upgraded camera system

[Police Slide 15]

**Police Chief Jason Armstrong** said this program is obtained by the Secret Service. He said the secret service is the lead agency in the country that works against fraud, counterfeiting, forgery, and this was their primary mission when they were first formed and then they added dignitary protection. The Secret Service does not have enough people to

## MINUTES DRAFT

1 work all the cases so they developed a program where you can nominate officers to go to  
2 their training and they pay for all of it. He said it's in Alabama and the secret service paid for  
3 the officers that went. Then if they pass the test and the pass the training the secret service  
4 will give you this software and equipment for free that's worth tens of thousands of dollars.  
5 He said with the fraud problem, this is giving the agency some technology that helps the  
6 town do a better job at connecting those issues. He said software will give the ability to  
7 identify more of the crimes and hopefully identify the people that's doing it.

8 **Police Chief Jason Armstrong** talked about the upgraded camera system that's  
9 pending approval. This system is a license plate recognition camera and allows you to go  
10 back and look at the surrounding area. A couple surrounding municipalities have  
11 implemented the upgraded camera system: Raleigh and Garner. He said the benefit of the  
12 system is that it can tie into other municipalities that use it. He said vehicle crimes are  
13 happening so much more, this platform will help if the crime is being committed in Apex  
14 and travels to Raleigh or vise versa. He said this

15 **Mayor Pro Tempore Killingsworth** asked if the camera systems are being put on  
16 light poles or putting them in police vehicles.

17 **Police Chief Jason Armstrong** said there are specific places you can put them, but  
18 they will not be put on light poles. He said the Town is looking at putting the cameras at  
19 mainly problem issued locations. He said there will be some fixed installed locations and  
20 also mobile locations where the camera will see crimes in different locations. He said it will  
21 be a public-private partnership in a way, where businesses who are impacted by these  
22 crimes will help with their implementation. He said he has a gotten strong support for this  
23 kind of partnership from many of these businesses.

24 **Councilmember Mahaffey** asked if you can access the video itself or look at the tags.

25 **Police Chief Armstrong** said there is no video, just captures of the tag. It doesn't  
26 capture a picture of who's driving, this is a tag specific system that allows the tracking of the  
27 tag to see where it goes. He said the vehicle will be flagged on any system that utilizes this  
28 technology, including Raleigh and Garner. He said he recently spoke to Raleigh's Chief  
29 recently, and he said they have had tremendous success with it.

30 **Councilmember Zegerman** asked if this is a supplement to our camera system or a  
31 whole new infrastructure.

32 **Police Chief Armstrong** said it's an upgrade to what the Towns capabilities are  
33 within our existing CRM system right now. He said currently we have some cameras that  
34 were able to deploy in different areas for different crimes but the current system doesn't  
35 have the technology to do what the upgrade is needed for. He added Cary is looking into  
36 getting in on this system soon as well.

37 **Councilmember Zegerman** asked if there is only one specific vendor we're talking  
38 about.

39 **Police Chief Armstrong** said it would be ideal. Raleigh and Garner has the same  
40 vendor. The biggest impact is for our businesses within the Town and their partnership and

## MINUTES DRAFT

getting them to buy into the program and what the agency can do to provide support for them. He said there is one specific company that all agencies in North Carolina are looking into, as it will make it a lot easier for everyone to work together.

**Councilmember Zegerman** asked if this was something that was discussed on a county-wide level.

**Police Chief Armstrong** said this was something that could be explored, but in his experience most things won't usually rise to the level of a county-wide initiative. He said it's also meant to start as a relatively small number of cameras, and to use it as a way to expand their partnership with local businesses.

**Councilmember Mahaffey** asked if the business would get their own camera and would they have to pay their own subscription and then it would tie into the town's camera.

**Police Chief Armstrong** said yes, they would be able to have their own system that would tie in with the town system. He said this worked the same way with an HOA.



[Police Slide 16]

**Police Chief Jason Armstrong** said he has had discussions with the Chiefs of Town of Cary, Holly Springs, Morrisville, and Fuquay Varina about creating a special response regional team. This will create more exposure and more training for Apex and surrounding communities to work together, train together, and support each other. He said this would allow a response for an extreme situation, such as the hostage situation in Cary last month, to be much better across any of the municipalities in this program.

**Mayor Gilbert** asked who would be in charge of this program.

**Police Chief Jason Armstrong** said wherever the incident is located, that's who's in charge.

**Mayor Pro Tempore Killingsworth** asked what if it happens in Wake County jurisdiction.

**Police Chief Jason Armstrong** said Wake County has their own team and Raleigh has their own team. This team is only serviced to Cary, Holly Springs, Morrisville, Apex and

## MINUTES DRAFT

Fuquay-Varina. He said if Wake County needed additional resources, Wake County would dispatch and one of these teams would come in and assist them. He said the town or this special response group could be called in to aid the County if they need it, and the same goes if the county needs to come assist Apex. He said the police agencies in the area have a great relationship as far as assisting each other.

Exclusive World Premiere

<https://www.youtube.com/watch?v=QaY0z6QCbKI>

[Police Slide 17]

**Police Chief Jason Armstrong** played a new Police Department recruitment video.

Questions?

[Police Slide 18]

**Mayor Gilbert** offered his thanks to Police Chief Armstrong and Fire Chief Herman for the presentations and for all they do.

Mayor Gilbert called for a 10-minute recess and notified the audience that additional business needed to be addressed.

Council entered a recess at 5:04 p.m.

Council reconvened at 5:17 p.m.

## MINUTES DRAFT

1 **[CLOSED SESSION] - Added**

2  
3 **A motion** was made by **Mayor Pro-Tempore Killingsworth, seconded by**  
4 **Councilmember Zegerman,** to enter into closed session pursuant to:

5  
6 **NCGS §143-318.11 (3):**

7 "To consult with an attorney employed or retained by the public body in order  
8 to preserve the attorney-client privilege between the attorney and the public body."  
9

10 **VOTE: UNANIMOUS (4-0), with Councilmember Gray absent.**

11  
12 Council entered into closed session at 5:19 p.m.

13  
14 Council returned into open session at 5:57 p.m.

15  
16 **[ADJOURNMENT]**

17 Mayor Gilbert declared the meeting adjourned at 5:58 p.m.

18  
19  
20  
21 Jacques K. Gilbert  
22 Apex, Mayor  
23

24  
25 Allen Coleman, CMC, NCCCC  
26 Apex, Town Clerk

27  
28 Submitted for approval by Apex Town Clerk Allen Coleman.

29  
30 Minutes approved on \_\_\_\_\_ of \_\_\_\_\_, 2023.  
31  
32

**DRAFT MINUTES**  
**TOWN OF APEX**  
**REGULAR TOWN COUNCIL MEETING**  
**TUESDAY, MARCH 28, 2023**  
**6:00 PM**

The Apex Town Council met for a Regular Town Council Meeting on Tuesday, March 28, 2023 at 6:00 pm in the Council Chambers at Apex Town Hall, located at 73 Hunter Street in Apex, North Carolina.

This meeting was open to the public. Members of the public were able to attend this meeting in-person or watch online via the livestream on the Town's YouTube Channel. The recording of this meeting can be viewed here: <https://www.youtube.com/watch?v=b3Bm5N3Pjpg>

**[ATTENDANCE]**

Elected Body

Mayor Jacques K. Gilbert (presiding)  
Mayor Pro-Tempore Audra Killingsworth  
Councilmember Brett Gantt  
Councilmember Ed Gray  
Councilmember Terry Mahaffey  
Councilmember Arno Zegerman  
Absent: None

Town Staff

Town Manager Catherine Crosby  
Deputy Town Manager Shawn Purvis  
Assistant Town Manager Demetria John  
Assistant Town Manager Marty Stone  
Town Attorney Laurie Hohe  
Town Clerk Allen Coleman  
Deputy Town Clerk Ashley Gentry  
Planning Director Dianne Khin  
Planner II Shelly Mayo  
Long Range Planning Manager Shannon Cox  
Current Planning Manager Amanda Bunce  
All other staff members will be identified appropriately below

**[COMMENCEMENT]**

**Mayor Gilbert** opened the meeting by recognizing the diversity in the community. He then spoke on the tragedy of the school shooting in Tennessee recently, and said how important it was to take community safety seriously. He asked that everyone join him in a moment of silence to signify unity.

## DRAFT MINUTES

**Mayor Gilbert** then led Council and those in attendance in the reciting of the Pledge of Allegiance.

### [CONSENT AGENDA]

**Mayor Gilbert** noted that Councilmember Zegerman had requested to move Consent Item 3 to New Business, and that staff had requested the addition of Consent Item 8.

A **motion** was made by **Councilmember Brett Gantt**, seconded by **Councilmember Ed Gray**, to adopt the Consent Agenda, as amended, with Consent Item 3 moved to New Business and Consent Item 8 Added.

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

#### **CN1 Agreement - Interlocal Agreement with Town of Cary - 5925 Farmpond Rd - Water Service**

Council voted to approve an Interlocal Agreement (ILA) with the Town of Cary to provide water service to a single-family residence located at 5925 Farmpond Rd. (REF: CONT-2023-065)

#### **CN2 Appointment - Board of Adjustment (BOA)**

Council voted to appoint one (1) alternate member to the Apex Board of Adjustment (BOA) to an unexpired term effective the date of appointment (March 28, 2023) and expiring February 28, 2026: William Hollenbeck, 3rd Alternate Member of the Apex Board of Adjustment (BOA) - Corporate Limit.

#### ~~**CN3—Construction Contract Award/Budget Ordinance Amendment No. 15/Capital Project Ordinance Amendment No. 6 - Fred Smith Co. - Middle Creek Greenway PHI and PHII-B (including Spur B)**~~

This item was moved to New Business (NB1)

#### **CN4 Council Meeting Minutes - March 14, 2023**

Council voted to approve meeting minutes from the following meetings:

March 14, 2023 - Regular Town Council Meeting Minutes.

#### **CN5 Ordinance Amendment - Temporary Modification of Chapter 14: Offenses and Miscellaneous Provisions, Section 14**

Council voted to adopt an ordinance to temporarily modify Chapter 14: Section 14 of the Apex Town Code of Ordinance to accommodate alcohol on Town of Apex property on April 14 & 15, 2023 for the following special event: Bone Suckin' Peak City Pig Fest. (REF: ORD-2023-031)

#### **CN6 Resolution - Authorizing Execution of Opioid Settlements**

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Council voted to approve a Resolution authorizing execution of opioid settlements and approving the supplemental agreement for additional funds between the state of North Carolina and local governments on proceeds relating to the settlement of opioid litigation. (REF: CONT-2023-067 and RES-2023-023)

### **CN7 Veridea Environmental Enhancement Plan - Statement**

Council voted to approve a Statement of the Apex Town Council pursuant to G.S. 160D-605(a) addressing action on the Veridea Environmental Enhancement Plan approved on February 28, 2023. (REF: OTHER-2023-029)

### **CN8 ADDED - Agreement - Renewal of GoApex Agreement with Town of Cary and MV Transportation - July 1, 2023 through June 30, 2024**

Council voted to approve, and to authorize the Town Manager to sign and execute, an amendment to the GoApex Agreement with Town of Cary and MV Transportation. (REF: CONT-2023-076)

## PRESENTATIONS

### **PR1 Proclamation - Child Abuse Prevention Month - April 2023**

**Mayor Gilbert** welcomed employees from the Western Wake Human Service Center who were present to receive the proclamation: Karen Morant, Jocelyn Williams, Sandy Windham, Kelly McNeil Wilhelm, Julie Masterson, and Allison Thompson. He noted that that were all wearing blue in recognition of Child Abuse Prevention Month. He and Council then read the Child Abuse Prevention Month 2023 Proclamation in unity.

**Karen Morant, Director of the Western Wake Health and Human Services Center** gave a few comments:

"Indeed it is a privilege to greet you and to thank you, Mayor Gilbert, the Women and Men of the Council, Town Manager Crosby, and to the staff and the residents of the Town of Apex, to be here on behalf of County Manager David Ellis, Director Nannette Bowler the Director of Health and Human Services. I am Karen Morant, the Director of the Western Health and Human Services Center, it's at the service of Apex, Cary, and Morrisville. It is a privilege to stand here and publicly, in this public forum, acknowledge the partnership of over 5 years that we have had with the Town of Apex. Your stellar staff, I see Director Dianne back there, who has led the way in this partnership, made the connection as we are endeavored to increase access to equitable services to health and human services in this region. Your partnership continues to be one that is stellar, and leading the pathway as we address collectively the issues around affordable housing, food security, employment and transportation. Town Manager, I thank you for your leadership on your representation on our county community advisory committee. I cannot say enough about Danica who's here, who's navigated this time and this place and continued to be a champion for all things Public Services as well as Officer

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Ragland, who is the gateway to our work here in food security, so again we thank you and we're proud to be in partnership with you, as this is a great day and we celebrate next month as Child Abuse Prevention Month. Thank you."

**Mayor Gilbert** thanked Ms. Morant for her comments.

### [REGULAR MEETING AGENDA]

**Mayor Gilbert** asked Councilmembers had amendments to the proposed regular meeting agenda.

**Mayor Pro Tempore Killingsworth** said she would like to add a Close Session Item pursuant to NCGS §143-318.11.

**Mayor Gilbert** asked for any other changes for the meeting agenda.

A **motion** was made by **Councilmember Arno Zegerman**, seconded by **Councilmember Ed Gray**, to approve the Regular Meeting Agenda with the addition of a second Closed Session item.

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

### [PUBLIC FORUM]

First to speak was **Pamela Thomas**:

"Good evening, Pamela Thomas, almost 6-month resident of Apex, North Carolina, the Peak of Good Living. I relocated here from Holly Springs, was there, I don't know, 9 months, and had to remove myself from a situation. A place I shouldn't have been, but nonetheless, I became a female veteran in distress very quickly. I did I guess what you call hotel hopping for about 4 months. Then I had to ask for help, which was difficult, it was very challenging to ask for help. 57 years old, and was very active in the community, active in my church, member of the Marine Corps League, I have dual memberships, Member of the Marine Corps League Auxiliary, serving as the Department of North Carolina Senior Vice President, working with the ministry at my church, the women's ministry in particular, and trying to maintain the legacy of baby sister, she went home 9 years ago to be with the Lord, and I had to ask for help. So, I called Paul Berry, retired Sergeant Major, "hey Paul Berry it's Pamela, I got to report a female veteran in distress Paul and it's me. I got a lot of plastic bags in my Highlander and the second row and the third row, and I'm tired, I'm tired." He said can you get to I had served as volunteer for a veteran's VA Live, the VIAC when the VA comes into the community so I was familiar with that, I had already attended it for April in Cary, and I had been a Volunteer so he said can you get to the VIAC in Charlotte in August? I called Paul Berry August 15<sup>th</sup>, he said can you get there on the 20<sup>th</sup>, which is a Saturday by this time. God has said, you know what, daughter, this is what you're going to do, because you're not in a shelter, you had a little cushion financially, so you gonna go up in them hotels, you're going to tell them who you are, you're going to ask them if they got good breakfast, because the truth will set you free. So that's what you're going to do daughter, you're going to let all your pride and so I said okay yeah, if I can find a good hotel, if there's a hotel nearby. I was able to get into Charlotte VIAC was conducted a lot different than Cary. So, Cary is kind of like a mass, mass influx of veterans, they come from all over, all over. Charlotte was more

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1 managed and maintained at a church, the first 5 veterans went in, and then 5 more. I was one of the  
2 first 5, Paul Berry had just grabbed me, he just grabbed me, it helped me, and then Crystal Miller  
3 they said "you're not going to leave, until we get you 100%", and I'm free in 2023. I'm free to grow,  
4 free to love, and free to heal my disability rating, it's military sexual trauma - PTSD. MST-PTSD. So, I  
5 became a 100% service connected veteran, unemployable and I realized after I got all my stuff  
6 September 14<sup>th</sup>, and my Marine brothers helped me, and I got a resident apartment in Apex. I had to  
7 stay the course, I had to remain prayerful, I had to seek God's will, because the Bible is good enough  
8 for my ancestors and it is good enough to me. Especially perilous, terrible times we live in. I've got to  
9 keep my chin up, I've got to keep my eyes forward, my shoulders back, I've got to straighten my  
10 crown because I did win a pageant that honored women veterans in 2016 age 50 and older, and I've  
11 got to strut like I belong because God loves me, God rescued me, God saved me, God qualifies me.  
12 And I started a non-profit called Liberty Nest ppt Ministry. Liberty is God, and the spirit is the spirit of  
13 the Lord is there's liberty, that comes from God, God first. Nest is your home, your dwelling. Nest is  
14 people. So, Liberty is God, Nest is people, ppt is my initials PowerPoint he said put your initials  
15 lowercase because it ain't about you. Ministry is nothing but helping people, and I change my  
16 mission statement, and I was running to bring it to Mr. Gray, because it was supposed to about just  
17 empowering people. But I had to add a statement, because I met a couple in my neighborhood with  
18 a 4-year-old little boy who's deaf in his right ear, and she's here by herself, she's got 3 boys, he just  
19 had a tube removed, 4 years old. I got 7 grandchildren, I'm Gigi of the year, I got a 9-year-old,  
20 almost 13, 7, 5, my twins are 3, Serenity and Harmony, and Faith is the youngest, I said this kid he  
21 could be mine. So, he showed, he lifted his shirt up and he showed me where the tube was  
22 removed, the scar on his heart was he had heart surgery and he's just running around. His name is  
23 Johnny. And now Johnny calls me Gigi, and I spent 4 hours with Carrie and Johnny, and I went in her  
24 house and I said they shouldn't put you in here, this is unsafe. First, I said you know what I'll get the  
25 Marines, we're coming in, we're going to help you unpack. Husband is still up north, and she's got 4  
26 boys. Johnny is 4 with the disabilities, the challenges and she has a 13 and a 15-year-old, they're  
27 very helpful because they've got their brother with these issues, and I said "nah" I went into the  
28 neighborhood, I went into the new apartments they should have put her in, because it's unsafe,  
29 there's a section of the floor that is so fragile that I jumped. I said "oh, okay, alright, they threw a rock  
30 at the right warrior". Because I'm going to take some pictures of the new building they should have  
31 put you in and I'm going to send them some information to let them know. I keep this binder y'all, I  
32 started doing stickers, my grandchildren love it, especially my twins. "Gigi get those stickers off  
33 Gigi's window", and butterflies. I couldn't find matching for my name. The Lord said that's because  
34 you were so scrambled in hotels, you were scared, you were embarrassed, plastic bags in the  
35 second row, third row in my Highlander, I became a bag lady. He said but then I sent you to Apex.  
36 So, this is straight. I sent you to Apex September 29<sup>th</sup>, Ian came September 30<sup>th</sup>, so while he was  
37 sending a storm, because that's what he does, while he was sending a storm he brought me peace  
38 and Apex, oh fantily he said daughter I gave you a message, you've got to spread it, because liberty  
39 nest is something my ancestors didn't have. They stayed bound, I've got this postcard Alcatraz. But  
40 liberty nest, oh my goodness daughter, you tried, you tried to have a women veteran gathering, you  
41 just wanted a relaxed and informal pillow bring your blanket, your coloring book, your doll baby let's  
42 just try to be sisters okay. God told me I'm a sister keeper, I know you can't replace my sister but  
43 Liberty Nest ppt Ministry I added this today after I met. I said we have to advocate for orphans,  
44 widows, the elderly, the poor, and the oppressed to ensure their home, or their nest, is safe as well

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as suitable for any physical disabilities, adequate living space, and empower them to use their voice to address injustices and/or lack of corrective actions taken on their behalf. I don't know I'm like that came from me, Kymella must have just told me "sister this is what you write". The original mission was to provide conferences, gatherings, and workshops that inspire strength and provoke us to begin again with unwavering faith that Matthew 7:13-14 is the best road to travel, entering in at the straight gate, for wide is the gate and broad is the way that leads to destruction and many gold therein, straight is the gate, narrow is the way that leads to life, and few there be that find it. I'm telling you, I was one of the female Veterans I said you know what, I mean I'm just me. I grew up on a dirt road with the tobacco, I don't have no degree, I was a single mother, I just wanted to protect my baby girl."

**Mayor Gilbert** told Ms. Thomas that they loved her, and that she found the right place for her here in Apex. He said they are going to help take care of her. He said he would have staff get more information from her later, and that he wanted to speak with her personally soon.

Next to speak was Elizabeth Stitt of 3113 Friendship Road:

"Elizabeth Ray Stitt, 3113, Mayor, Town Council, good evening. On March 17<sup>th</sup>, my neighbors and I received letters from the town stating that more workers would be coming onto our property in regard to the big branch force main. So, the first thing I do is just shoot an email over, they know that's automatically what I'm going to do to say nobody comes on my property without emailing me first and scheduling time, just because my property is not set up for other people to come on. But that wasn't the case with some of my neighbors, and so when you read the letter it has two companies that are listed, CJS Conveyance and Hazen and Sawyer so the assumption was one of these two companies would show up at your door. Well that's not what happened. My neighbors reported to me in our email thread that we keep going and our every two-week phone call that random people showed up and as you all know, that's the oldest scam in the world. You don't have people show up at your door and say hey I'm here to do x, y, or z because if you didn't schedule the appointment, or you have no way of verifying that individual, we've all been taught for the last 30 years, you don't let that person on your property. So, my neighbors turned away these individuals from coming on their property to do work, and as the story was relayed to me one of my neighbors called in and complained and said, hey you know this is not okay, and instead of the reaction being okay hey let's figure out to work out better together, it was we're going to send out the Apex Sheriff with these people the next time. So, we have a little bit of a sense of humor where we are, first and foremost there's no such thing as the Apex Sheriff, it's Apex Police or Wake County Sheriff's Department, so we had a good little giggle over that. The next little giggle was in our community on one of our roads there's a 34-year retired Sheriff, and we know our rights and we know that Wake County Sheriff is just not going to come out and escort these people onto our properties. And so, part of my ask tonight is I shouldn't have to raise my hand every time to say, hey I got a letter let me email, please schedule an appointment, please pass my information along, I would like the Council to put some kind of process together for the town to follow. If someone is coming on my property, give me heads up, I need them to schedule it with me, it is not okay to send random men onto my property. Secondly, I have horses and animals that could hurt these people, and thirdly I know I'm running out of time seeing the button turn yellow here, is we have a really bad coyote problem. We talked with you guys about that before, made some comments about how I can't stand to shoot

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1 them they had to be trapped and removed and we have a neighbor that's a legal trapper and he  
2 traps and removes them, but you can you imagine one of these guys walking through our property  
3 and stepping in a trap? What it would do to their ankle. So, instead of us having to always react, if we  
4 could get some kind of process in place, we would appreciate your support. Thank you.

### [PUBLIC HEARINGS]

5  
6  
7  
8 **Mayor Gilbert** closed public forum with no more sign ups, and moved the meeting on to  
9 public hearings.

#### 10 11 **PH1 Annexation No. 748 - The Townes at Chapel Ridge - 18.613 acres**

12  
13 **Dianne Khin**, Planning Director, gave the following presentation and said staff  
14 recommended approval.

15 **Councilmember Zegerman** asked if this was in preparation for a future development.

16 **Ms. Khin** said that the development had already been approved, this was just for it to be able  
17 to get water and sewer.

18  
19 With no sign ups for public hearing, **Mayor Gilbert** brought it back to Council for discussion  
20 and a possible motion.

21  
22 A **motion** was made by **Mayor Pro Tempore Audra Killingsworth**, seconded by  
23 **Councilmember Terry Mahaffey**, to adopt Annexation Ordinance No. 748 - The Townes at Chapel  
24 Ridge. (REF: ORD-2023-027)

25  
26 **Councilmember Gantt** wanted to note that this was a senior only townhome development  
27 that was approved in 2022, for Councilmember Zegerman's awareness. He said the developers  
28 proposed a senior living arrangement in response to concerns over school capacity issues.

#### 29 30 **VOTE: 5-0 (UNANIMOUS)**

#### 31 32 **PH2 Annexation No. 747 - Apex Light Industrial - 21.246 acres**

33 **AND**

#### 34 **PH3 Rezoning Case No. 22CZ21 Apex Light Industrial - Ordinance**

35  
36 **Lauren Staudenmaier**, Planner II, gave the following presentation for Public Hearings 2 and  
37 3 combined. She offered to answer any questions.

38  
39 **Councilmember Gantt** asked how they would evaluate a site plan if Lowell Road was the  
40 main thoroughfare in the future, but not currently. He said currently he imagines the entrance will  
41 currently be off of 64, but not forever if the other road ends up getting a connection.

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1 **Shannon Cox** said they don't have a slide showing what future Lowell Road might be like,  
2 and that was a tough question to answer because they would actively be working with the developer  
3 on improving connectivity throughout the site.

4 **Councilmember Gantt** asked if the development would have buildings fronting Lowell when  
5 they are built, even it won't be the main entrance in the beginning. He said he's confused how this  
6 will change and be appropriate in the future.

7 **Ms. Staudenmaier** said her understanding was that the site plan would be providing  
8 buildings from the north to the south and the east to the west.

9 **Councilmember Gantt** said he hopes this looks good in 20 years and not just in 5 if it is  
10 passed. He said he had another question, which was if staff would have given a stronger approval if  
11 the plan involved more properties.

12 **Ms. Staudenmaier** said that establishing connectivity would have likely been easier if the  
13 applicant had kept the number of properties at the higher point they were at originally. She said she  
14 could get in touch with the applicant on if they have plans to expand to future areas and if they're  
15 had discussions with adjacent property owners. She said staff still does recommend approval.

16 **Jason Barron**, on behalf of the applicant, gave a presentation. He also wanted to touch on  
17 Councilmember Gantt's prior question. He said the east to west connection of Lowell Road would be  
18 a public street. He said the developers are viewing Lowell as the primary access point from day 1. He  
19 said they understand the role of that road, and that they pride themselves on the design of their  
20 projects. He said what it looks like in 20 years is a principle concern to the developers as well,  
21 considering they lease the buildings rather than sell them. He said regarding the properties to the  
22 east, there would have been a donut hole created if the project had expanded east at this time, as  
23 there was one property owner in the middle of that area who was not ready to sell or agree on a  
24 price with the developer. He said donut holes are much more difficult to work around in the future  
25 for uses like this.

26 **Councilmember Zegerman** asked if Mr. Barron had images of the full site plan with him.

27 **Mr. Barron** said he did not.

28 **Councilmember Zegerman** said in the site plan he saw earlier, there was a much larger  
29 building towards the back of the property. He wanted to know what the intended use for that  
30 building was.

31 **Mr. Barron** said the site plan at this stage is only committed to things as far as the right of  
32 way line. He said other than the things mentioned in the conditions, such as the Lowell Road  
33 connection, all of the site plans are ideas. He said currently they don't have a specific plan in mind  
34 for use of the back side of the property, but he says for phase 1 the general idea is what has been  
35 shown (REF: OTHER-2023-030). He said in an ideal world, they would have a similar use of the  
36 backside of the property as what is being observe in phase 1 with the tech flex buildings. He said  
37 there is room in the conditions for a larger footprint use, and that there were conversations about  
38 wholesale and distribution uses.

39 **Councilmember Gantt** was wondering if there was concern around road connections  
40 potentially getting blocked off because of other developments happening ahead of schedule.

41 **Mr. Barron** said the state would have to provide them access whether it was through Lowell  
42 Road or another way in that situation. He said he is not concerned that NCDOT would condemn  
43 right of way to 64 that exists today, without providing another access point to 64.

44 **Councilmember Gantt** asked if the list of uses was the same as they were on the application.

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1 **Mr. Barron** said yes. He said the condition allowing the use of gasoline sales that  
2 Councilmember Gantt was concerned about is not something that the developer typically does with  
3 their projects, but that they want to have the flexibility to do that considering the expectation that  
4 many trucks would be coming into the development to serve the properties.

5 **Councilmember Gray** asked what the expectation was regarding the impact to traffic of  
6 trucks coming to and from the development on that portion of 64.

7 **Mr. Barron** said they have done a traffic study, which was not a requirement of the rezoning  
8 case, and they would be working on how to design the site based on those results. He said the  
9 developers are just as invested in making sure that trucks can adequately access their site as  
10 anybody, since this is the backbone of what they do as a business. He said that is a big deal across all  
11 of their sites, including this one.

12  
13 **Mayor Gilbert** opened up public hearing for comment. The only person to sign up, Jeff  
14 Roach, declined to speak, so Mayor Gilbert brought it back to Council for discussion and a possible  
15 motion.

16 **Councilmember Zegerman** said he is principally in favor of having commercial use in this  
17 area. He said he did have concerns about some of the allowable uses, which included wholesale and  
18 distribution centers. He noted that Councilmember Gantt also had concerns about the potential for  
19 gas sales. He said lots of the areas around Apex are running out of ability to attract high-end office  
20 developments. He said Apex has several of these large parcels that can be used for those kinds of  
21 things. He said he would like to take some of the conditions off the allowable uses in the rezoning to  
22 encourage more of the higher-end commercial development. He said he asked the developer to  
23 strike conditions he had mentioned regarding wholesale and building supplies, and that those  
24 requests were politely declined.

25 **Councilmember Gray** said he felt this was the right location for this kind of project. He said  
26 he believes the uses are consistent with the land use map and what is consistent with what is needed  
27 along that particular corridor.

28 **Councilmember Zegerman** said he feels wholesale and distribution uses can be pushed  
29 further down into Chatham, since they do not require the same type of plumbing that an office  
30 building would need.

31 **Councilmember Gray** said he felt there was a limit to how much government should be  
32 getting into a private entities desire to do something consistent with what they have already said. He  
33 said it's consistent with the land use map. He said the land map could be changed, but he wouldn't  
34 like going to a developer and telling them not to do things that were consistent with the desires put  
35 in place by the government for that area already.

36 **Councilmember Zegerman** asked if that was the purpose of conditional zoning.

37 **Councilmember Gray** said he agreed, but he feels there is a limit to that if its consistent with  
38 the current zoning.

39 **Councilmember Gantt** said he also believed the needs of a wholesale facility would be more  
40 than simply septic, as there would be more people to support than something like RV sales.

41 **Councilmember Zegerman** said that was a fair point, but that Council had just approved a  
42 90,000 square foot limit for wholesale distribution centers as part of the Apex Gateway project  
43 conditions. He said he wants to reserve the land they have while it's still available for some higher  
44 paying jobs.

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**Councilmember Mahaffey** said he was wondering what land use would be most applicable to what Councilmember Zegerman was referring to. He said he envisions tech flex as something bridging to employment. He said these are the standard tech flex uses.

**Councilmember Gray** said EnviroFlight, the company that makes pet food out of bugs, is situated in a similar tech envisioned land use plan. He said he feels the government shouldn't be limiting the entrepreneurial opportunities that the developer wants to take.

A **motion** was made by **Councilmember Ed Gray**, seconded by **Councilmember Brett Gantt**, to adopt Annexation Ordinance No. 747 - Apex Light Industrial, and to approve Rezoning Case No. 22CZ21 - Apex Light Industrial, including revised condition number 5. (REF: ORD-2023-028)

**Councilmember Mahaffey** said he wanted to add that he would also love to have high-end biotech uses in Apex. He said Apex wasn't able to get some of the multi-billion-dollar projects that have landed in the surrounding area, but that the tech flex areas that have been popping up recently are looking to provide support and resources to these massive projects. He said this is the demand, and is good commercial zoning and a good commercial tax base. He said he would love to look at the land use map and see if there were ways to "catch those big fish". He said this project was filling a need and bringing it to Apex.

**Mayor Pro Tempore Killingsworth** said she agreed with Councilmember Zegerman that having higher paying jobs is important, but so is the need that this project would be filling to support other companies coming up in the area.

**Councilmember Zegerman** said there was no identified tenant for this project yet, and so the option is still being left open. He said his concern isn't about a 300,000 square foot building, but rather that wholesale and/or distribution centers would provide a lot of trucks, a lot of empty space, and not as many jobs, and that the jobs it does create are not well-paying jobs. He said he is for what has been proposed for phase one with the 5 tech flex buildings, but he wants to protect the town by removing some of these uses.

**Mayor Gilbert** said offered his thanks to the developers from his position as the economic development committee chair, saying that Apex needs this.

**VOTE: 4-1, Councilmember Zegerman dissenting.**

### **PH4 Transportation Plan Amendments - Elevate 64 West PUD**

**Shannon Cox**, Long Range Planning Manager, gave a presentation regarding the transportation amendments.

**Councilmember Gantt** asked about the category of street side greenway, and was wondering if what was proposed here was similar to that categorization or different in some way.

**Ms. Cox** said street side greenway is typically a designation reserved for the rural area. She said it's meant to give a fuller greenway feel in places where full greenways aren't being proposed. She said this will be more of a side path look and feel.

**Councilmember Gantt** asked if it would make more sense to just designate this as a side path from a financial perspective.

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1 **Ms. Cox** said she couldn't speak to financial components, but that designating it as a  
2 greenway allows it to more in line with the town's goals, and means it has different maintenance  
3 roles, and other amenities along the path that a typical side path wouldn't.

4  
5 **AND**

### 6 7 **PH5 Rezoning Case No. 22CZ22 Elevate 64 West PUD**

8  
9 **Amanda Bunce**, Current Planning Manager, gave a presentation regarding Rezoning No.  
10 22CZ22 Elevate 64 West PUD.

11 **Mayor Gilbert** asked a question regarding how emergency services would be able to access  
12 portions of the property, since some of it involves future road connections.

13 **Ms. Bunce** said the pavement width would be wider in this type of project versus a  
14 residential area, so emergency equipment would be able to access the property in an easier  
15 manner.

16 **Councilmember Gantt** mentioned the difficulty people had reported having when  
17 attempting to cross Richardson Road in this area, and asked if the greenway connection would be  
18 looked at to be not at grade, so pedestrians could avoid having to cross the road.

19 **Ms. Cox** came up and said it would be a 60-foot right of way, 2 lane road, major collector.  
20 She said they currently don't have any grade separated crossings for things other than thoroughfares  
21 and highways. She said Richardson was classified as a thoroughfare.

22 **Mayor Pro Tempore Killingsworth** asked if there would be signs put up or lines on the road  
23 in a crossing area such as this.

24 **Ms. Cox** said that would be evaluated at the site plan stage and typically after development.  
25 She said they do have a pedestrian crossing analysis process to help determine how they would  
26 need to mark the area. She said with a greenway, it typically means they would have an enhanced  
27 crossing.

28 **Councilmember Gantt** asked if Vision Zero suggested they had problems at pedestrian  
29 crosswalks on collectors and roads like that, and if tunnels or bridges would be beneficial in more  
30 places.

31 **Councilmember Mahaffey** said he didn't think that was a component of Vision Zero.

32 **Ms. Cox** said that yes, that was not a specific component of Vision Zero.

33 **Councilmember Mahaffey** noted the amount of times that there have been incidents of  
34 pedestrians getting hit or having close calls, and Council thinking that tunnels would be really nice in  
35 those locations. He said it always come back around to how expensive it would be to build a tunnel  
36 in locations where a road already exists. He said during the construction of new road, like this, would  
37 be the time to push for a tunnel to be constructed preemptively.

38 **Mayor Pro Tempore Killingsworth** said her preference would be overdoing the visibility of  
39 the crosswalk to be as safe as possible and avoid even close calls.

40 **Councilmember Mahaffey** asked about the decision on whether extra visibility would  
41 include a flashing beacon or extra striping, wanting to know if it was an Apex standard or as part  
42 traffic

## DRAFT MINUTES

**Senior Traffic Engineer** Russell Dalton said there was a process to determine how they handle crossings. He said in instances like this, they may find the need to go ahead and mark and sign a crossing before the road opens, and he said greenways are typically marked and signed. He said rapid flash beacons wouldn't typically be recommended from the beginning in locations like this one, but that it could be evaluated later. He said typically on this kind of street there would be good visibility, high visibility signs from both directions, and that the town follows the latest guidance on that. He added that he also likes grade separations for crosswalks, but those are typically used in cases like a thoroughfare or a railroad. He said it is very difficult to figure out grade separation even during the planning process. He said people will also cross at-grade even in situations where there is grade separated option.

**Councilmember Zegerman** asked if there were speed reduction measures that could be taken coming into the area of the crossing on a major collector.

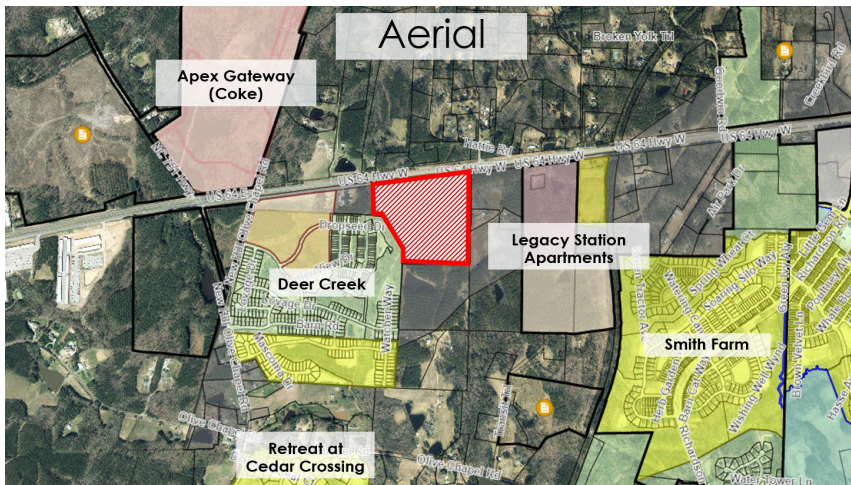
**Mr. Dalton** said the UDO recommends against traffic calming on major collector streets, since they are designed at 35 miles an hour, but that the warnings for the crosswalks do provide advanced notice.

**Matthew Carpenter** of Parker Poe, on behalf of the applicant, gave the following presentation, and offered to answer any questions.

*Signature*  
Property Group

### Rezoning Elevate 64 West PUD PUD-CZ

[SLIDE 1]

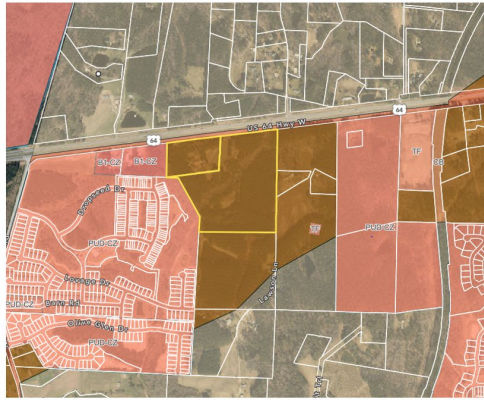


[SLIDE 2]

# DRAFT MINUTES

**Current Zoning = Rural Residential (RR)**

**Proposed Zoning = Planned Unit Development (PUD-CZ)**



**[SLIDE 3]**

**LUM = High Density Residential/Commercial  
Services/Office Employment**



**[SLIDE 4]**

# Concept Plan



**[SLIDE 5]**

## DRAFT MINUTES

### Affordable Housing

- 20 affordable housing units at 80% AMI
- 1 Person Household AMI = \$74,900
- 80% of 1 Person AMI = \$59,920
- 2 Person Household AMI = \$85,600
- 80% of 2 Person AMI = \$68,480

Job	Starting Salary	Average or Median Salary
Apex Police	\$58,911	\$60,100
Wake County Teacher	53,000	55,300
Apex Fire	51,500	59,333
Registered Nurse	51,500	102,398
Amazon Warehouse	27,000	35,000
School Librarian		55,930
Costco Retail Worker		52,000

[SLIDE 6]

### Site Access – UDO

#### UDO Section 7.5.4 – Streets

##### (E) Public Access Requirements

Any residential development exceeding 300 residential units shall provide at least 3 points of access to the public street system. **Construction of a Major Collector or Thoroughfare on the *Advance Apex: The 2045 Transportation Plan* can provide opportunities for additional points of access when the existing roadway frontage cannot provide those opportunities.**

[SLIDE 7]

### Site Access – Fire Code

#### D107.1 – One or two family dwelling residential developments

Developments of one or two-family dwellings where the number of dwelling units exceeds 30 shall be provided with ***two separate and approved fire apparatus access roads.***

Exceptions:

1. Where there are more than 30 dwelling units on a single public or private fire apparatus access road and ***all dwelling units are equipped throughout with an approved automatic sprinkler system*** in accordance with Section 903.3.1.1, 903.3.1.2 or 903.3.1.3 of the International Fire Code, ***access from two directions shall not be required.***

[SLIDE 8]

1

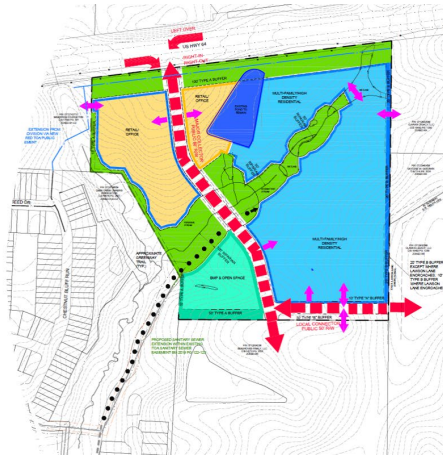
### Environmental Conditions

- A minimum 7.5-kilowatt solar PV system shall be installed to offset electric consumption of common area and pool. Over the system's 30-year life, will reduce or offset 446,000 pounds of CO2 emissions.
- 5% of parking spaces as EV charging spaces
- Existing pond will remain
- Minimum of 10 pet waste stations
- 75% of landscaping will be native species
- Stormwater infrastructure to accommodate 100-year storm

2

[SLIDE 9]

## Concept Plan



[SLIDE 10]

3

4

5

**Mayor Gilbert** opened up public hearing for comment, and with no sign ups brought it back to Council for discussion.

7

**Councilmember Mahaffey** asked about if there was any clarity on if Lawson Lane could be used in the case of an emergency.

9

**Mr. Carpenter** said currently it was a private gravel driveway, and that he doesn't think it could be called a public right of way, but that he would defer to staff regarding that. He said that trucks are going to use whatever road they need to in the case of an emergency.

12

**Councilmember Gantt** asked if there was going to be a median at the intersection onto 64, to where an accident wouldn't block both lanes.

14

**Ms. Bunce** said it would be a place where a left turn wasn't allowed, so there would be some kind of barrier put up there to prevent that from happening, creating a median.

16

**Councilmember Gantt** asked if a firetruck would just drive on the wrong side of the road for a bit if there was an accident blocking the right turn access in the case of a crash there.

18

**Ms. Bunce** said yes.

19

**Mayor Gilbert** asked if there was anything staff could do to try and work with a private driveway owner to come to an agreement with them regarding access for emergency purposes.

21

**Ms. Bunce** said she wasn't sure what staff could do in that situation, other than potentially sending them a letter asking them to work with the developer on that issue.

22

## DRAFT MINUTES

1 **Mr. Carpenter** said the developers they can make the first initial contact and start discussions  
2 with nearby property owners regarding potential access through their roads.

3 **Councilmember Mahaffey** said the only real issue here was the access and the way the road  
4 network works in this area. He said there are currently several developments coming up in this area  
5 that are currently disconnected. He said someone has to be the first one to build, even if the  
6 connections at that point are awkward. He said he had requested to look at access to a property  
7 from the west, but the property owner was not amenable to that at the time. He said it appears that  
8 this development seems to be the best candidate in the area to begin first, as 64 can take the influx  
9 of traffic the best before the internal connections are established.

10 **Mayor Pro Tempore Killingsworth** said this plan has a little bit of everything as far as  
11 residential and commercial needs, as well as addressing affordable housing and environmental  
12 concerns.

13 **Councilmember Mahaffey** said it was cool that the developer did 5% of the units at 80%  
14 AMI just from them asking.

15 **Councilmember Zegerman** said that didn't stop him from asking for more, but noted that  
16 the kinds of housing being built here are typically more affordable in general than other types  
17 anyway.

18 **Councilmember Mahaffey** also thanked the developers for hitting all of the EAB  
19 recommendations, he said usually developers try to opt out of at least one or two.

20  
21 A motion was made by **Councilmember Brett Gantt**, seconded by **Mayor Pro Tempore**  
22 **Audra Killingsworth**, to approve the Transportation Plan Amendments related to Elevate 64 West  
23 PUD, and to approve Rezoning No. 22CZ22 - Elevate 64 West PUD. (REF: ORD-2023-029)

24  
25 **VOTE: UNANIMOUS (5-0)**  
26

### 27 **PH6 Unified Development Ordinance (UDO) Amendments - March 2023**

28  
29 **Ms. Bunce**, gave the following presentation regarding the Amendments to the  
30 Unified Development Ordinance of March 2023

31 **Councilmember Zegerman** said it was a good thing for residents to have more  
32 communication regarding developments.

33 **Councilmember Mahaffey** asked if the change meant they didn't have to include setting the  
34 public hearing anymore on the consent agenda.

35 **Ms. Bunce** said that was correct.

36 **Councilmember Mahaffey** said he also wanted to note that meetings could be done  
37 virtually, and so weren't a big logistical hassle. He added that the change to the one-hour  
38 requirement was so developers didn't have to sit around for two hours if nobody was showing up to  
39 the meeting, but that he would fully expect that they wouldn't cut meetings short if people still  
40 wanted to stick around and discuss or ask questions.

41 **Mayor Pro Tempore Killingsworth** added that she was sure Council would hear about it if  
42 developers started doing that.

## DRAFT MINUTES

**Councilmember Zegerman** asked what problem was being solved with the second proposed amendment.

**Ms. Bunce** said that it was originally because of someone unique a developer had proposed a long time ago, and that it really doesn't serve much of a purpose anymore. She said this specific amendment applied to a unique situation that has only occurred once in Apex.

**Ms. Khin** added that transportation staff had asked for it to be removed.

**Mayor Gilbert** opened up public hearing for comment, with nobody signed up to speak he brought it back to Council for discussion to lead to a possible motion.

A **motion** was made by **Mayor Pro Tempore Audra Killingsworth**, seconded by **Councilmember Terry Mahaffey**, to adopt the proposed amendment to the Unified Development Ordinance. (REF: ORD-2023-030).

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

### [NEW BUSINESS]

**NB1 Construction Contract Award/Budget Ordinance Amendment No. 15/Capital Project Ordinance Amendment No. 6 - Fred Smith Co. - Middle Creek Greenway PHI and PHII-B (including Spur B) - Originally CN3 on the agenda.**

**Councilmember Zegerman** explained that his reasoning for wanting this item to be heard as new business was because the bid came back \$2.2 million higher than was originally budgeted, and he felt that was too high a cost to be passed on consent. He said he wanted there to be a bit of conversation about it. He said if the total project cost was going to come out to be \$3.7 million after money coming in from Wake County, was this the project that Council really wanted to spend that money here, or if another gap in the greenway system would be a better use of it.

**Mayor Gilbert** asked Craig Setzer, Director of Parks and Recreation, what would happen to the \$1.5 million in Wake County money they had committed to contribute to this if the Council decided to not do it.

**Mr. Setzer** said they would be able to do whatever they wanted to do with it. He said if Council decided to push this project's timeline down the road, the county would have the right to change the original agreement and potentially pull out their commitment. He said if the scope of the project changed, it would potentially have to be re-bid, and Wake County grant funding would also have to assess the changes and then decide what they wanted to do with their funding.

**Councilmember Gantt** said it was his understanding that the county typically funded greenway projects that offered connections between towns or to some of the larger trails such as the American Tobacco Trail.

**Mr. Setzer** said Wake County sees this greenway as a priority corridor. He said this is part of the "Great State Trails Plan", and serves as a large regional connection from a state perspective.

**Councilmember Zegerman** said there was still development that would need to be done, and this project was only connects to the south and doesn't connect to the north.

**Mr. Setzer** highlighted some of the key background points of the Middle Creek Greenway, at the request of Councilmember Gray.

## DRAFT MINUTES

**Councilmember Zegerman** asked if the town knew what the timeline was for the northern connection of the greenway to Ten-Ten Road.

**Mr. Setzer** said they are currently in the process of a feasibility study for that portion of the project, which the town got a grant for from NCDOT. He said there isn't a timeline for that portion of the project.

**Councilmember Gantt** asked about what are this study covered.

**Mr. Setzer** said this study covers the end of Phase IIB near Colby Chase Drive all the way up to Swift Creek near Ten Ten Road.

**Councilmember Gantt** wanted to clarify that the study wasn't to the point of studying the Ten-Ten to Regency connection.

**Mr. Setzer** said that was correct, but that ultimately that was the plan.

**Councilmember Gray** asked if it was true to say that if Council decided not to spend the money on this, then the Wake County money would go away.

**Mr. Setzer** said that was possible, but would be what he considered likely. He said any changes to the plan they would need to be notified of and then they would have a chance to respond.

**Councilmember Gray** asked if Mr. Setzer could speak to why the bid came back higher than expected.

**Mr. Setzer** said it was like everything else, where the construction costs have increased drastically over the past 2 years for essentially all materials. He said labor cost has also increased.

**Councilmember Gray** asked if delaying the project would be likely to increase the cost of the project in the future.

**Mr. Setzer** said he couldn't say for sure, but he would say that the project cost increasing was probable

**Councilmember Zegerman** wondered if a delay to the project would allow a chance for supply chain issues to be resolved a bit and for materials prices to stabilize.

**Councilmember Mahaffey** said he appreciated Councilmember Zegerman bringing this up as New Business to help highlight the challenges Council is facing on these projects and implementing the Capital Improvement Plan. He said he feels this situation will not be unique, where bids will come back higher than expected. He said considering this passed in the 2017 bond referendum, he feels an obligation to get this specific project over the finish line. He said delaying until next year risks losing the Wake County money, which he said offsets a good chunk of the increased bid. He added how difficult it was to get projects to the point this one was at, so he was ready to get this one done.

**Councilmember Gray** said he agreed, and that this project was a great example of one that the public has a desire to do and that there are identified funding source for. He said they always have to balance increasing costs with other goals of Council and the town. He said he agrees with Councilmember Mahaffey that the public desire for this project means they should do everything they can to get it done.

A **motion** was made by **Councilmember Brett Gantt**, seconded by **Councilmember Ed Gray**, to award a construction contract to Fred Smith Co., authorize the Town Manager to execute and approve corresponding, and to approve Budget Amendment No. 15 and Capital Project Ordinance Amendment 2023-6. (REF: ORD-2023-025, ORD-2023-026, and OTHER-2023-028).

## DRAFT MINUTES

**Councilmember Zegerman** said he wanted to offer his final thoughts. He said he understood why they wanted to not delay, seeing as this was a project voters strongly favored. He wanted to bring up that projects that had a substantial cost increase such as this one should at least have a conversation before Council approval.

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

### CLOSED SESSION

A **motion** was made by **Mayor Pro Tempore Audra Killingsworth**, seconded by **Councilmember Arno Zegerman**, to enter into closed session for the two scheduled items.

**VOTE: UNANIMOUS**

Council entered into closed session at 7:59 p.m.

#### **CS1 Allen Coleman, Town Clerk**

##### **NCGS §143-318.11(a)(1):**

*"To prevent the disclosure of information that is privileged or confidential pursuant to the law of this State or of the United States, or not considered a public record within the meaning of Chapter 132 of the General Statutes."*

#### **CS2 ADDED - Audra Killingsworth, Mayor Pro Tempore**

##### **NCGS § 143-318.11(a)(6):**

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

Council returned to open session at 9:54 p.m.

### **[ADJOURNMENT]**

Mayor Gilbert declared the meeting adjourned at 9:55 p.m.

Jacques K. Gilbert  
Mayor

Allen Coleman, CMC, NCCCC

Town Clerk to the Apex Town Council

Submitted for approval by Town Clerk Allen Coleman and approved on \_\_\_\_\_

# | Agenda Item | cover sheet

for consideration by the Apex Town Council

Item Type: CONSENT AGENDA

Meeting Date: April 11, 2023

## Item Details

Presenter(s): Chris Johnson, PE, MPA, Transportation & Infrastructure Development Director

Department(s): Transportation & Infrastructure Development

### Requested Motion

Motion to approve an encroachment agreement between the Town and property owners John Hayden Johnson White and spouse Carissa Beth Johnson White to install a chicken coop with gravel fill that will encroach 48 square feet onto the 20' TOA Public Utility Easement and authorize the Town Manager to execute the same.

### Approval Recommended?

Yes

### Item Details

The proposed Encroachment Agreement is between the Town and property owners John Hayden Johnson White and spouse Carissa Beth Johnson White (Grantees) for the property described as a residential lot known as Wake County PIN #0741-05-9982, Book of Maps 2015, Page 00647, lot is also known as 1478 Wragby Lane, Apex, NC 27502. Grantees wish to install certain improvements, more particularly described as a chicken coop with gravel fill that will encroach 48 square feet onto the 20' TOA Public Utility Easement.

### Attachments

- CN7-A1: Encroachment Agreement - 1478 Wragby Lane Lot 366
- CN7-A2: Exhibit A - Encroachment Agreement - 1478 Wragby Lane Lot 366



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 \_\_\_\_\_, 2023, by and between John Hayden Johnson White and spouse Carissa Beth Johnson White, hereinafter referred to as "Grantees," and the Town of Apex, hereinafter referred to as the "Town."

WHEREAS, the Grantees are the owners of a certain residential lot of land in the County of Wake, State of North Carolina, which is designated as **PIN #0741-05-9982** by the Wake County Revenue Department and more particularly described as **Lot 366** of the subdivision known as **Salem Village Phase 2C** as shown on that certain plat recorded in **Book of Maps 2015, Page 00647**, Wake County Registry (hereinafter the "**Subdivision Plat**"). The residential lot is also known as **1478 Wragby Lane, Apex, NC 27502**. 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 Utility Easement as shown on the **Subdivision Plat** hereinafter referred to as the "**TOA Public Utility Easement**".

WHEREAS, Grantees wish to install certain improvements, more particularly described as a chicken coop with gravel fill that will encroach **48 square feet onto the 20' TOA Public Utility Easement**, which serves the Residential Lot, hereinafter referred to as the "**Encroachment**," all as shown on the attached **Exhibit A**. Grantees desire to make certain agreements and covenants regarding the Encroachment.

WHEREAS, the Town, under the terms and conditions herein set forth, is willing to allow the above-described Encroachment upon the **TOA Public Utility Easement**.

NOW, THEREFORE, in consideration of these promises and other consideration, the receipt and sufficiency of which is hereby acknowledged, Grantees and the Town hereby covenant and agree:

1. Subject to the terms herein, the Town agrees to allow Grantees, and Grantees' successors and assigns at Grantees' sole risk and expense, to encroach into the **TOA Public Utility Easement** of the Town as shown in the attached **Exhibit A**, and incorporated by reference as though fully set forth herein.

2. The Encroachment shall not be enlarged or increased beyond the Encroachment shown in the **Exhibit A** and described in this Encroachment Agreement. Grantees are responsible for any and all expenditures of labor or materials required for the installation, erection, repair, removal, or maintenance of the above-referenced Encroachment.

3. Grantees are to be fully responsible for any and all property damage or injury or death of any person which results from any and all negligence, omission, defect in design, maintenance, or workmanship created by the Encroachment described herein, or any cause of action arising out of the installation, maintenance, removal, destruction, or location of said Encroachment.

4. Grantees agree to and do hereby hold the Town, its officers, council members and employees harmless from any and all liability arising out of such negligence, omission, defect or other cause of action; that it will defend the Town, its officers, council members and employees, and pay all attorney fees in any and all actions brought as a result of such; and that it will indemnify the Town, its officers, council members, and employees against any and all loss sustained by reason of such negligence, omission, defect, or other cause of action, claim, cost, or expense arising out of the installation, maintenance, removal, or location of said Encroachment.

5. Sections 3 and 4 shall survive the termination of this Encroachment Agreement for any reason.

6. All notices required herein shall be deemed given by depositing such in the United States mail, first class, and addressed to:

To Town: Town Manager  
Town of Apex  
PO Box 250  
Apex, NC 27502

To Grantees: John Hayden Johnson White & Spouse Carissa Beth Johnson White  
1478 Wragby Lane  
Apex, NC 27502

7. In the event there is a dispute between the parties concerning the interpretation of the terms of this Encroachment Agreement or their respective rights and obligations hereunder, such dispute or controversy shall be adjudged pursuant to the laws of the State of North Carolina.

8. Grantees agree to abide by all applicable laws, regulations, statutes and ordinances.

9. This Encroachment Agreement shall not divest the Town of any rights or interest in said **TOA Public Utility Easement** and the Town may terminate this Encroachment Agreement by giving Grantees ninety (90) days written notice of termination. Prior to the termination date, Grantees shall remove, at their own expense, all or part of the Encroachment as specified by the Town.

10. If the Town deems, within its sole discretion, that there is not time to give Grantees notice as provided in Paragraph 9 and that removal of the Encroachment is necessary in order to operate, protect, maintain, modify, replace, add-to or improve its facilities located within the **TOA Public Utility Easement**, then no notice shall be required and the Town may remove the Encroachment from the **TOA Public Utility Easement** without cost, risk or liability to the Town.

11. Grantees agree to pay and reimburse the Town the entire expense and cost of removal of the Encroachment in the event that the Town removes the Encroachment as provided in Paragraph 10 or if Grantees fail to remove the Encroachment within the time limit after receiving notice under Paragraph 9.

12. Grantees, if not self-performing the installations that are the subject of this Agreement, agree to purchase or cause to be procured from a responsible insurance carrier or carriers authorized under the laws of the State of North Carolina, valid general liability insurance in the minimum amount of \$500,000 and provide a certificate of such insurance naming the Town of Apex as additional insured by endorsement to the policy. Where the Grantees are self-performing the installations, Grantees shall show proof of homeowner's insurance with personal liability coverage in a minimum amount of at least \$300,000. Grantees shall provide notice of cancellation, non-renewal or material change in coverage to the Town of Apex within 10 days of their receipt of notice from the insurance company.

13. Notwithstanding Section 14 below, Grantees shall be released from its obligation under this Encroachment Agreement only upon the assumption of said obligations either by a successor in title to real property known as **Wake County PIN #0741-05-9982, 1470 Wragby Lane, Apex, NC, 27502**. The Town's consent to such assumption and release shall be required but shall not be withheld, conditioned or delayed if, as reasonably determined by the Town, the party assuming Grantees obligations possesses adequate financial resources and ownership interest, and Grantees delegate and proposed assignee assume and agree to fulfill, in writing, all of Grantees duties set forth in this Encroachment Agreement.

14. The right to encroach is appurtenant to and runs with the land hereinabove referred to and shall forever be subject to the conditions above agreed on between the parties. This Encroachment Agreement is binding upon the heirs, assigns, transferees, and successors in interest of the Grantees and shall, upon execution, be recorded in the Office of the Register of Deeds of Wake County, North Carolina.

[REMAINDER OF PAGE INTENTIONALLY LEFT BLANK]

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

GRANTEES

By: [Signature]  
John Hayden Johnson White

By: [Signature]  
Carissa Beth Johnson White

STATE OF NORTH CAROLINA

COUNTY OF Wake [county in which acknowledgement taken]

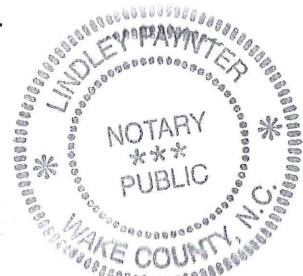
I, do hereby certify that John Hayden Johnson White, personally appeared before me this day and acknowledged the due execution of the foregoing instrument.

Witness my hand and official stamp or seal, this 20<sup>th</sup> day of March, 2023.

[Signature]  
[Signature of Notary Public]

My Commission Expires: \_\_\_\_\_ My Commission Expires August 27, 2025

\*\*\*\*\*



STATE OF NORTH CAROLINA

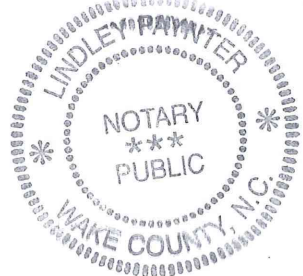
COUNTY OF Wake [county in which acknowledgement taken]

I, do hereby certify that Carissa Beth Johnson White, personally appeared before me this day and acknowledged the due execution of the foregoing instrument.

Witness my hand and official stamp or seal, this 20<sup>th</sup> day of March, 2023.

[Signature]  
[Signature of Notary Public]

My Commission Expires: \_\_\_\_\_ My Commission Expires August 27, 2025



TOWN OF APEX

\_\_\_\_\_  
Catherine Crosby  
Town Manager

(Corporate Seal)

ATTEST:

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

STATE OF NORTH CAROLINA

COUNTY OF \_\_\_\_\_ *[county in which acknowledgement taken]*

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

Witness my hand and official stamp or seal, this \_\_\_\_\_ day of \_\_\_\_\_, 2023.

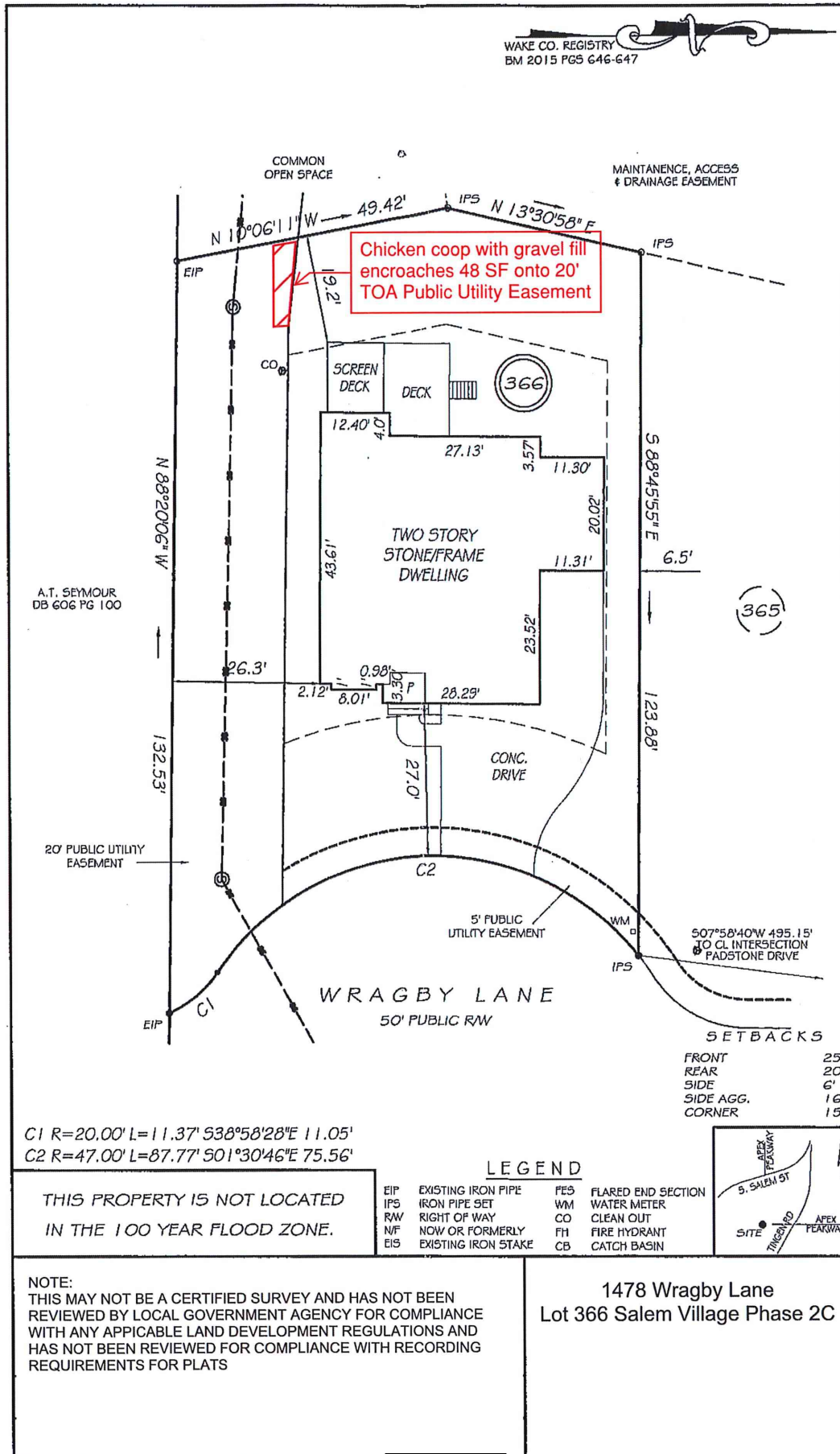
\_\_\_\_\_  
*[Signature of Notary Public]*

*(Seal)*

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

# EXHIBIT A

WAKE CO. REGISTRY  
BM 2015 PGS 646-647



# | Agenda Item | cover sheet

for consideration by the Apex Town Council

Item Type: CONSENT AGENDA

Meeting Date: April 11, 2023

## Item Details

Presenter(s): Chris Johnson, PE, MPA, Transportation & Infrastructure Development Director

Department(s): Transportation & Infrastructure Development

### Requested Motion

Motion to approve an encroachment agreement between the Town and property owner Jon English, Trustee of the Jon English Revocable Trust to install a 6" solid corrugated pipe that will encroach 40 linear feet and a wooden fence that will encroach 160 linear feet onto the Public Sanitary Sewer Easement.

### Approval Recommended?

Yes

### Item Details

The proposed Encroachment Agreement is between the Town and property owner Jon English, Trustee of the Jon English Revocable Trust (Grantee) for the property described as a residential lot known as Wake County PIN #0723-60-4570, Book of Maps 2018, Page 00962, lot is also known as 2609 Sunnybrook Farm Drive, Apex, NC 27523. Grantee wishes to install certain improvements, more particularly described as a 6" solid corrugated pipe that will encroach 40 linear feet and a wooden fence that will encroach 160 linear feet onto the Public Sanitary Sewer Easement.

### Attachments

- CN8-A1: Encroachment Agreement - 2609 Sunnybrook Farm Drive Lot 269
- CN8-A2: Exhibit A - Encroachment Agreement - 2609 Sunnybrook Farm Drive Lot 269



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 \_\_\_\_\_, 2023, by and between Jon English, Trustee of the Jon English Revocable Trust, dated January 6, 2016, as amended January 21, 2021, hereinafter referred to as "Grantee," and the Town of Apex, hereinafter referred to as the "Town."

WHEREAS, the Grantee is the owner of a certain residential lot of land in the County of Wake, State of North Carolina, which is designated as **PIN # 0723-60-4570** and more particularly described as **Lot 269** of the subdivision known as **The Preserve at White Oak Creek Phase 2C & 3C**, which is shown on that certain plat recorded in **Book of Maps 2018, Page 00962**, Wake County Registry (hereinafter the "**Subdivision Plat**"). The residential lot is also known as **2609 Sunnybrook Farm Drive, 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 variable width Town of Apex Public Sanitary Sewer Easement as shown on the **Subdivision Plat** hereinafter referred to as the "**Public Sanitary Sewer Easement**."

WHEREAS, Grantee wishes to install certain improvements, more particularly described as a **6" solid corrugated pipe that will encroach 40 linear feet and a wooden fence that will encroach 160**

**linear feet onto the Public Sanitary Sewer Easement** which serves the Residential Lot, hereinafter referred to as the “**Encroachment**,” all as shown on the attached **Exhibit A**. Grantee desires to make certain agreements and covenants regarding the Encroachment.

WHEREAS, the Town, under the terms and conditions herein set forth, is willing to allow the above-described Encroachment upon the **Public Sanitary Sewer Easement**.

NOW, THEREFORE, in consideration of these promises and other consideration, the receipt and sufficiency of which is hereby acknowledged, Grantee and the Town hereby covenant and agree:

1. Subject to the terms herein, the Town agrees to allow Grantee, and Grantees’ successors and assigns at Grantees’ sole risk and expense, to encroach into the **Public 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 to be fully responsible for any and all property damage or injury or death of any person which results from any and all negligence, omission, defect in design, maintenance, or workmanship created by the Encroachment described herein, or any cause of action arising out of the installation, maintenance, removal, destruction, or location of said Encroachment.

4. Grantee agrees to and 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: Jon English, Trustee of The Jon English Revocable Trust,  
dated January 6, 2016, as amended January 21, 2021  
2609 Sunnybrook Farm Drive  
Apex, NC 27523

7. In the event there is a dispute between the parties concerning the interpretation of the terms of this Encroachment Agreement or their respective rights and obligations hereunder, such dispute or controversy shall be adjudged pursuant to the laws of the State of North Carolina.

8. Grantee 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 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 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 Sanitary Sewer Easement**, then no notice shall be required and the Town may remove the Encroachment from the **Public Sanitary Sewer Easement** without cost, risk or liability to the Town.

11. 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, if not self-performing the installations that are the subject of this Agreement, agree to purchase or cause to be procured from a responsible insurance carrier or carriers authorized under the laws of the State of North Carolina, valid general liability insurance in the minimum amount of \$500,000 and provide a certificate of such insurance naming the Town of Apex as additional insured by endorsement to the policy. Where the Grantee is self-performing the installations, Grantee shall show proof of homeowner's insurance with personal liability coverage in a minimum amount of at least \$300,000. Grantee shall provide notice of cancellation, non-renewal or material change in coverage to the Town of Apex within 10 days of their receipt of notice from the insurance company.


13. Notwithstanding Section 14 below, Grantee shall be released from its obligation under this Encroachment Agreement only upon the assumption of said obligations either by a successor in title to real property known as **Lot 269 The Preserve at White Oak Creek Phase 2C & 3C (2609 Sunnybrook Farm Drive, Apex, NC 27523)**, or by assumption of said obligations by an incorporated property or condominium owners' association for **The Preserve at White Oak Creek**. The Town's consent to such assumption and release shall be required but shall not be withheld, conditioned or delayed if, as reasonably determined by the Town, the party assuming Grantee' obligations possesses adequate financial resources and ownership interest, and Grantee delegates and proposed assignee assume and agree to fulfill, in writing, all of Grantee duties set forth in this Encroachment Agreement.

14. The right to encroach is appurtenant to and runs with the land hereinabove referred to and shall forever 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.

[REMAINDER OF PAGE INTENTIONALLY LEFT BLANK]

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

**GRANTEE**

By:   
Jon English, Trustee of The Jon English Revocable Trust, dated January 6, 2016, as amended January 21, 2021

STATE OF NORTH CAROLINA

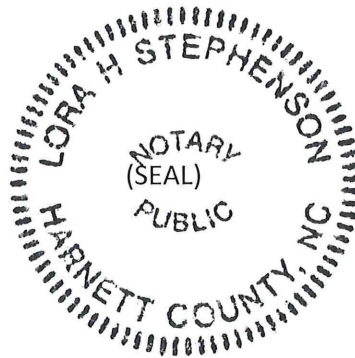
COUNTY OF Wake [county in which acknowledgement taken]

I, do hereby certify that Jon English, Trustee of the Jon English Revocable Trust, dated January 6, 2016, as amended January 21, 2021, personally appeared before me this day and acknowledged the due execution of the foregoing instrument.

Witness my hand and official stamp or seal, this 30<sup>th</sup> day of March, 2023.

  
[Signature of Notary Public]

My Commission Expires: 11-9-2025



TOWN OF APEX

\_\_\_\_\_  
Catherine Crosby  
Town Manager

(Corporate Seal)

ATTEST:

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

STATE OF NORTH CAROLINA

COUNTY OF \_\_\_\_\_ *[county in which acknowledgement taken]*

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

Witness my hand and official stamp or seal, this \_\_\_\_ day of \_\_\_\_\_, 2023.

\_\_\_\_\_  
*[Signature of Notary Public]*

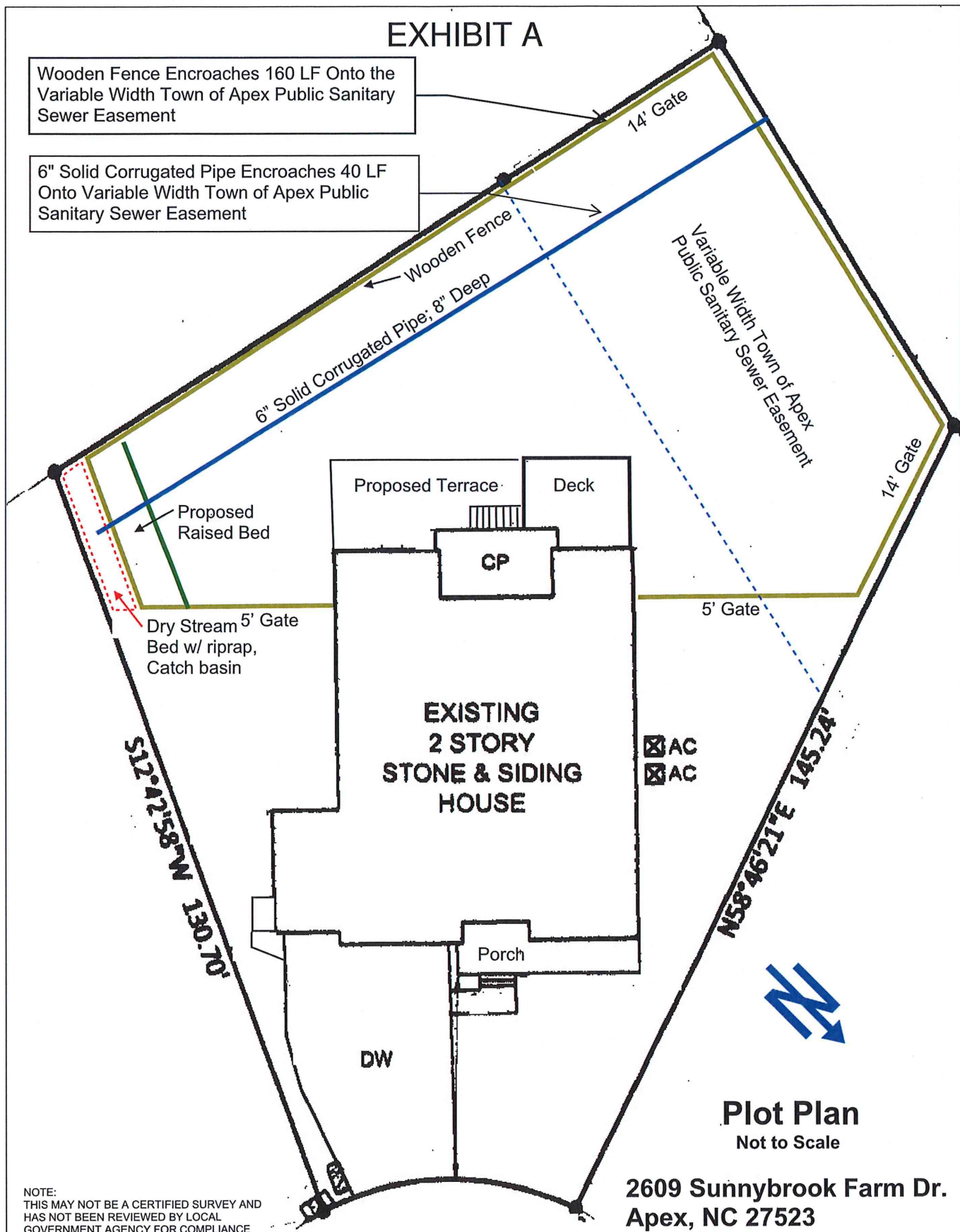
My Commission Expires: \_\_\_\_\_

(SEAL)

# EXHIBIT A

Wooden Fence Encroaches 160 LF Onto the Variable Width Town of Apex Public Sanitary Sewer Easement

6" Solid Corrugated Pipe Encroaches 40 LF Onto Variable Width Town of Apex Public Sanitary Sewer Easement



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

2609 Sunnybrook Farm Dr.  
Apex, NC 27523

# | Agenda Item | cover sheet

for consideration by the Apex Town Council

Item Type: CONSENT AGENDA

Meeting Date: April 11, 2023

## Item Details

Presenter(s): Allen Coleman, Town Clerk

Department(s): Town Clerk's Office

### Requested Motion

Motion to approve a Resolution of Intent for the closing of a right-of-way (ROW) on a portion of Old Raleigh Road, located at the intersection of Old Raleigh road and Laura Duncan Road, extending to Old Mill Village Drive (See Survey Map Included); and to set a Public Hearing for Tuesday, May 25, 2023, following the required 30-day public notice period.

### Approval Recommended?

The Town Clerk recommends the Town Council approve the resolution of intent and schedule the public hearing for Tuesday, May 25, 2023, pursuant to North Carolina General Statutes 160A-299 and the Town's adopted Policy on Closing Public Rights of Way for Streets, Roads, and Alleys.

### Item Details

In accordance with 160A-299, Andoria Enterprises, LLC, has submitted a request to permanently close all portions of the right of way of Old Raleigh Road (NCSR 1435, formerly Apex Macdeonia Road). The North Carolina Department of Transportation (NCDOT) was contacted since this location was marked as DOT's responsibility. Based on NCDOT's response, this subject area was abandoned under the TIP Project U-2301 in 1993, therefore, the request was returned to the Town.

The Town's Technical Review Committee (comprised of many departments including transportation and infrastructure, planning, and public safety) all reviewed the submitted request and recommends Council consider this request.

### Attachments

- CN9-A1: Request for Right-of-Way Closure
- CN9-A2: Plat Map and Aerial Map of Requested ROW Closure Area
- CN9-A3: Resolution of Intent to Consider the Requested ROW Closure Area
- CN9-A4: Policy on Closing Public Rights of Way for Streets, Roads, and Alleys



September 21, 2022

**Via U.S. Mail**

Town of Apex  
Attn: Mr. Allen Coleman, Town Clerk  
Apex Town Hall  
73 Hunter Street  
Apex, NC 27502

Town of Apex  
Attn: Mr. Allen Coleman, Town Clerk  
PO Box 250  
Apex, NC 27502

JESSICA B. VICKERS  
PHONE: 919.787.8880  
VICKERS@MANNINGFULTON.COM

Re: Right of Way Closure – Portion of Old Raleigh Road (NCSR 1435, Formerly Apex Macedonia Road) Abandoned by NCDOT within the Bounds of the Property (as Hereinafter Defined); *Our File No. 32609-T29929*

Dear Mr. Coleman:

This firm represents Andoria Enterprises, LLC, a North Carolina limited liability company (“Andoria”), in connection with its ownership of certain property located in Apex, Wake County, North Carolina, commonly known as 614 Old Mill Village Drive (and sometimes also known as 0 Laura Duncan Road), bearing Tax PIN 0742-61-2827 (REID 0206599), and more particularly described as Lot “1” on the plat of survey titled “Recombination Plat Old Mill Village ~ Lot 1” recorded in Book of Maps 2020, Page 36, Wake County Registry (the “Property”). As you are likely aware, I have been communicating with Mr. Brian Meyer, as attorney for the Town of Apex, regarding Andoria’s request to have the portions of the right of way of Old Raleigh Road (NCSR 1435, formerly Apex Macedonia Road) within the bounds of the Property permanently closed in accordance with N.C.G.S. § 160A-299. The portion of the right of way of Old Raleigh Road (NCSR 1435, formerly Apex Macedonia Road) that Andoria requests the Town of Apex to close is highlighted and shown on the survey plat enclosed with this letter, being the same survey plat recorded in Book of Maps 2020, Page 36, Wake County Registry.

In support of Andoria’s request, we have enclosed a letter dated August 18, 2022, from Jeremy Warren, P.E., District Engineer with the North Carolina Department of Transportation, to Russell Dalton, Traffic Engineering Manager with the Town of Apex, regarding the right of way closure. As you will note from the enclosed letter, the portion of the right of way that Andoria seeks to have permanently closed “was part of the old alignment of Old Raleigh Road (formerly Apex Macedonia Road) prior to Old Raleigh Road being relocated to align with Hunter Street Extension under TIP Project U-2301 (State Project #9.8050118) in 1993.” Similarly, the North Carolina Department of Transportation abandoned maintenance of the relevant portion of the right

of way under TIP Project U-2301 when the asphalt was removed, and the "North Carolina Department of Transportation consents to any right of way closure request that may be submitted to the Town of Apex as per NCGS 160A-299."

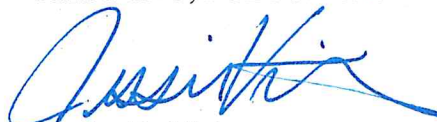
Accordingly, Andoria hereby respectfully requests that the Town of Apex proceed, under N.C.G.S. § 160A-299, with the permanent closure of all portions of the right of way of Old Raleigh Road (NCSR 1435, formerly Apex Macedonia Road) located within the bounds of the Property as shown on the enclosed map. In addition to the recorded plat, for ease of reference in identifying the Property, I have also enclosed the Wake County GIS map showing the Property, with and without the 2021 satellite imagery as the base map. As you will note from the satellite imagery, no evidence of pavement, asphalt, or other road infrastructure remains on the Property. Similarly, in accordance with the requirements for this request, as outlined by Mr. Meyer, enclosed please find (1) check No. 1102 in the amount of \$100.00 payable to the Town of Apex for the non-refundable deposit, and (2) check No. 1103 in the amount of \$600.00 payable to the Town of Apex for the deposit that is refundable up to the time of publication of notice.

As you are aware, N.C.G.S. § 160A-299 requires notice to all owners of property adjoining the to-be-closed street or alley as shown on the county tax records, and Mr. Meyer's instructions included a request for the list of adjacent owners. Based on our review of the maps and the tax records, the only owner adjoining the right of way for which Andoria requests closure is the following: George Calvin Atkins whose address is 7718 Lake View Street, Fayetteville, NC 28311-8846, and who owns PIN 0742-61-5846 (REID 0002547) commonly referred to as 0 Old Raleigh Road. Otherwise, the area of the right of way to be permanently closed is located wholly within the Property or adjoins existing public rights of way. We, of course, welcome additional review by the Town of Apex to ensure sufficient notice as required by the statute.

If you should have any questions or require anything else from our office in connection with this request, please do not hesitate to contact me at [vickers@manningfulton.com](mailto:vickers@manningfulton.com) or 919-510-9240. We appreciate your assistance with this matter, and we look forward to working with you to close this right of way permanently.

Sincerely,

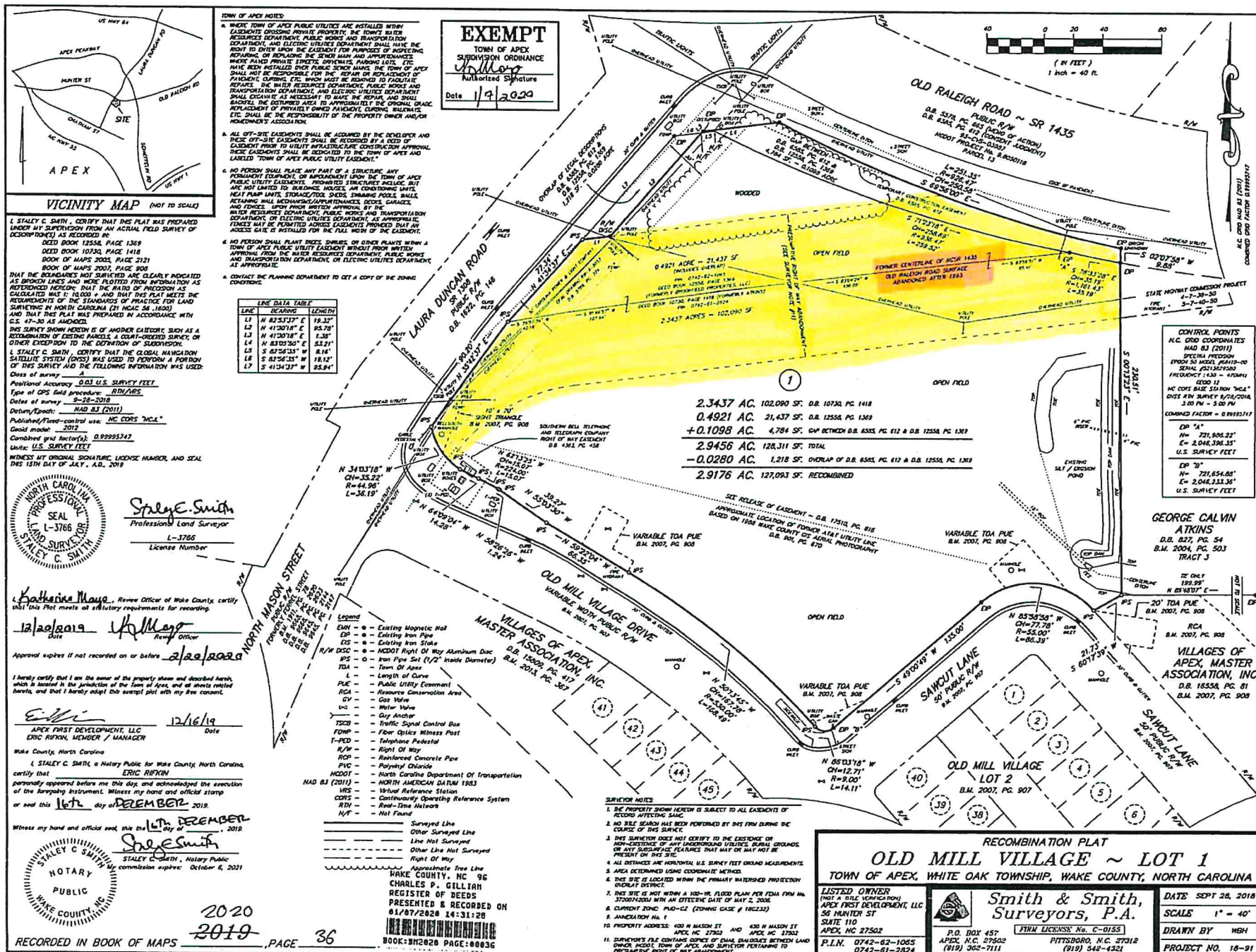
MANNING, FULTON & SKINNER, P.A.



Jessica B. Vickers

Enclosures

cc: Ms. Kerry Stockman of Andoria (via email)  
Mr. Brian Meyer, Town of Apex Attorney (via email)





STATE OF NORTH CAROLINA  
DEPARTMENT OF TRANSPORTATION

ROY COOPER  
GOVERNOR

J. ERIC BOYETTE  
SECRETARY

**Date: August 18, 2022**

**COUNTY: Wake**

**SUBJECT: Right of Way Closure - Old Raleigh Road - (SR 1435)  
(Formerly Apex Macedonia Road)**

Russell Dalton  
Traffic Engineering Manager  
105-B Upchurch Street  
Apex, NC 27502

Mr. Dalton,

This letter is in response to recent questions concerning a portion of right of way located on Wake County Parcel # 0742612827 at the intersection of Old Raleigh Road and Laura Duncan Road in Apex, North Carolina. The subject area of right of way is shown on the attached plat. The right of way shown was part of the old alignment of Old Raleigh Road (formerly Apex Macedonia Road) prior to Old Raleigh Road being relocated to align with Hunter Street Extension under TIP Project U-2301 (State Project #9.8050118) in 1993.

Be advised, maintenance of this portion of right of way was abandoned under TIP Project U-2301 with removal of the asphalt. The North Carolina Department of Transportation does not claim any right of way across Wake County Parcel #0742612827. The North Carolina Department of Transportation consents to any right of way closure request that may be submitted to the Town of Apex as per NCGS 160A-299.

Please contact my office at (919) 733-3213 if additional information is needed.

Sincerely,

Jeremy Warren/TRE

Digitally signed by Jeremy Warren/  
TRE  
Date: 2022.08.18 10:29:47 -04'00'

Jeremy Warren, P.E.  
District Engineer  
JLW/TRE  
attachments

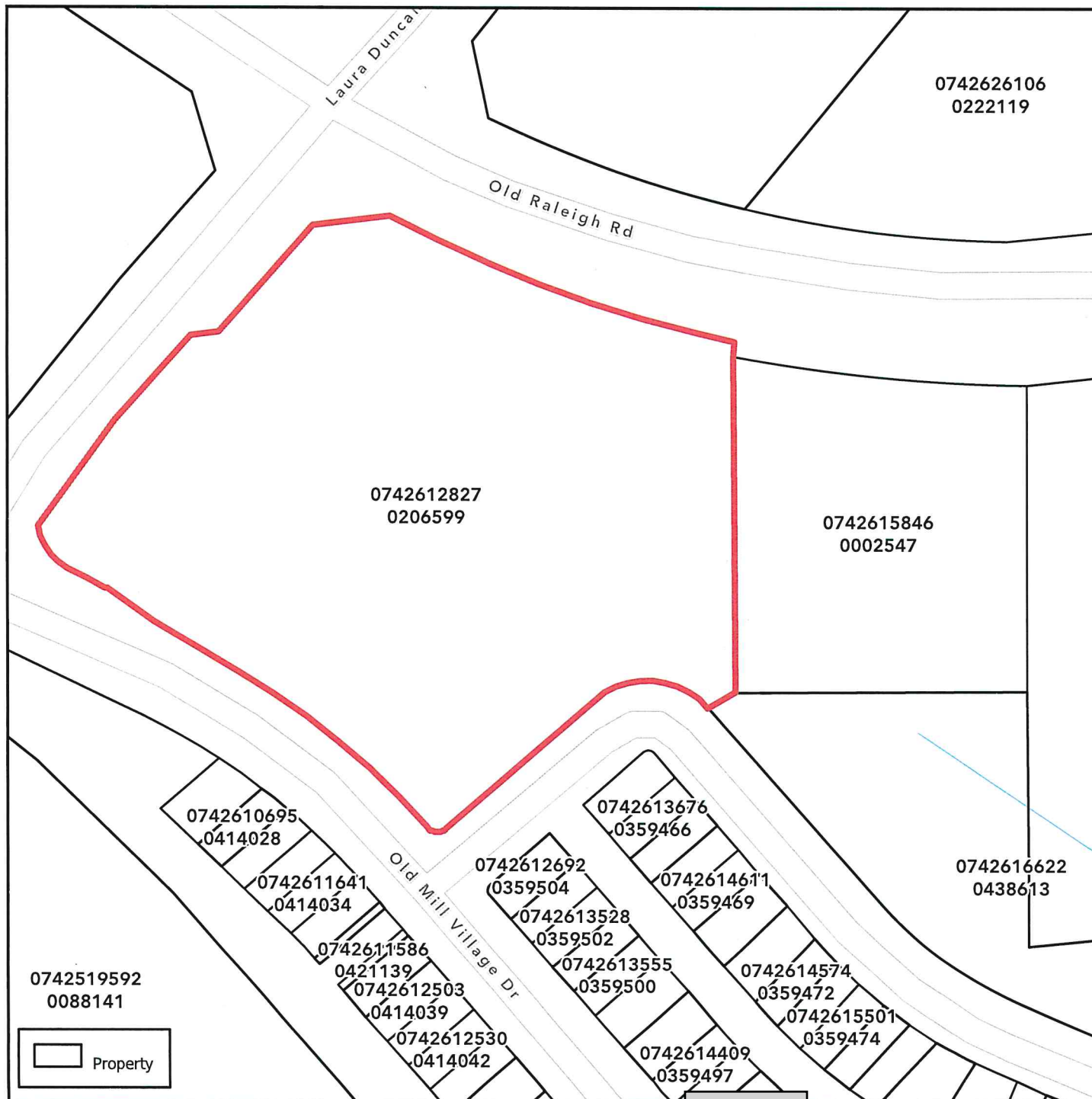
Mailing Address:  
NC DEPARTMENT OF TRANSPORTATION  
DOH DISTRICT 1  
1575 MAIL SERVICE CENTER  
RALEIGH, NC 27699-1575

Telephone: (919) 733-3213  
Fax: (919) 715-5778  
Customer Service: 1-877-368-4968

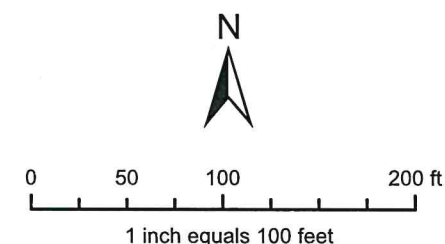
Location:  
4009 DISTRICT DRIVE  
RALEIGH, NC 27607

Website:





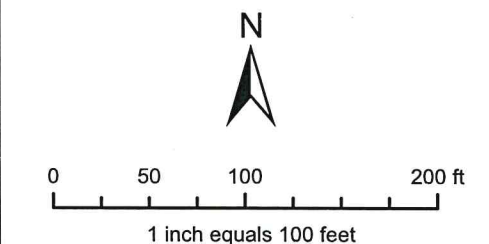
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 PIN\_EXT: 000  
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 CITY\_DECODE: APEX  
 PLANNING\_JURISDICTION: AP  
 TOWNSHIP: 20  
 TOWNSHIP\_DECODE: White Oak  
 OWNER: ANDORIA ENTERPRISES LLC  
 ADDR1: 1142 MARKER DR  
 ADDR2: APEX NC 27502-2434  
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 BM2020 -00036  
 STNAME: LAURA DUNCAN  
 STYPE: RD



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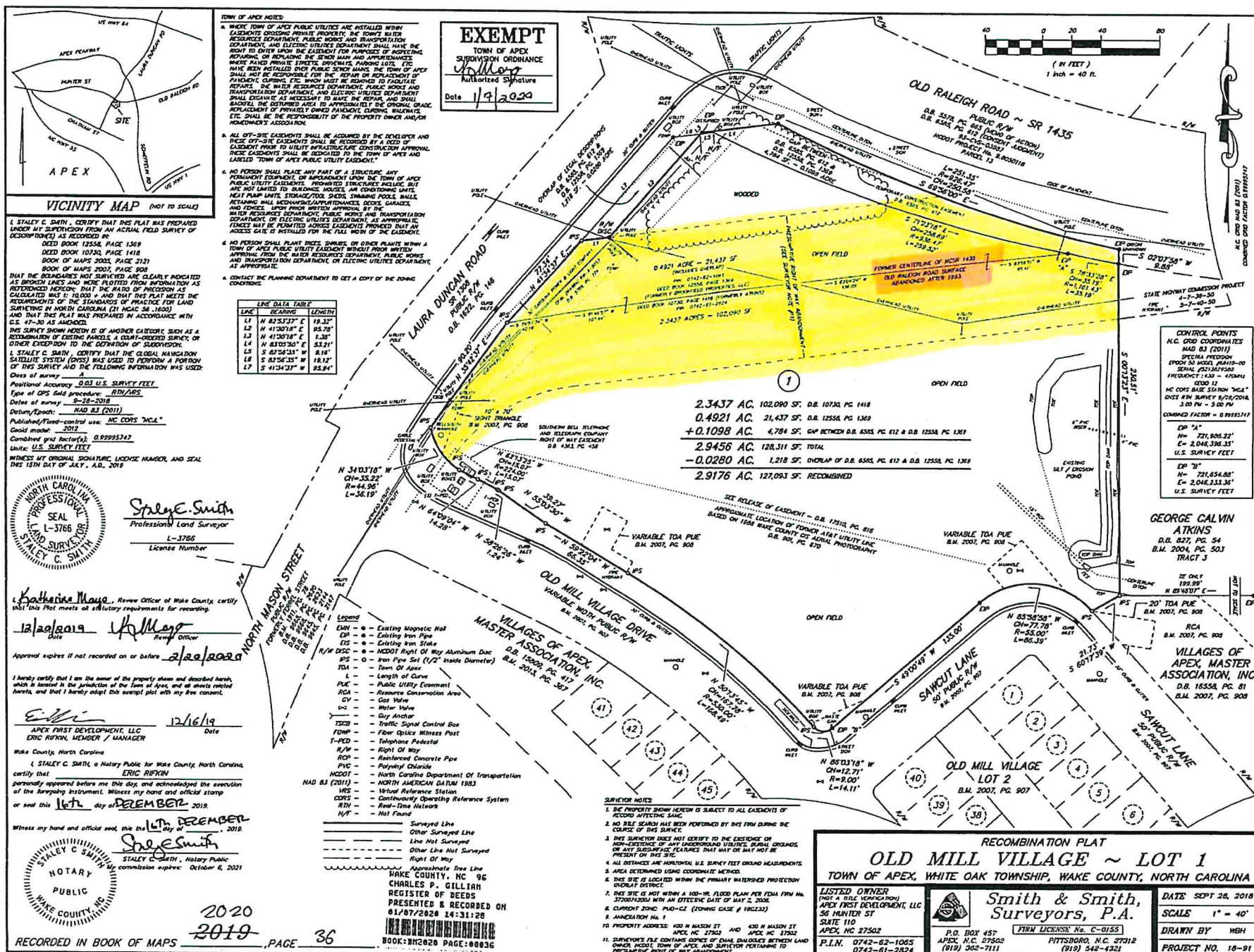


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 STNAME: LAURA DUNCAN  
 STYPE: RD



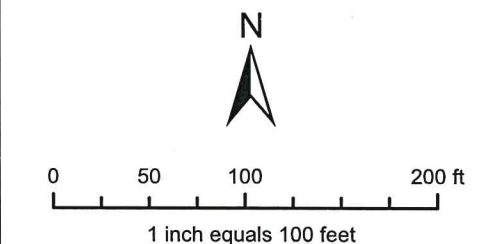
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 , are provided for the data therein, its use, or its interpretation.





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**RESOLUTION NO. 2023-\_\_\_\_\_**

**A RESOLUTION OF INTENT OF THE TOWN COUNCIL TO CONSIDER  
THE CLOSING OF A PORTION OF OLD RALEIGH ROAD, LOCATED  
AT THE INTERSECTION OF OLD RALEIGH ROAD AND LAURA  
DUNCAN ROAD, EXTENDING TO OLD MILL VILLAGE DRIVE**

WHEREAS, G.S. 160A-299 authorizes the Town Council to close public streets and alleys;  
and

WHEREAS, the Town Council considers it advisable to conduct a public hearing for the  
purpose of giving consideration to the closing of a portion of Old Raleigh Road;

NOW, THEREFORE, BE IT RESOLVED by the Town Council that:

- (1) A Public Hearing will held be at 6:00 p.m. on the 23rd day of May, 2023, in the Town of Apex Town Council Chambers at the Apex Town Hall to consider a resolution closing of that portion of Old Raleigh Road at the intersection of Laura Duncan Road, extending to Old Village Drive.
- (2) The Town Clerk is hereby directed to publish this Resolution of Intent once a week for four successive weeks in a newspaper of general circulation in the area.
- (3) The Town Clerk is further directed to transmit by registered or certified mail to each owner of property abutting upon that portion of said street a copy of this Resolution of Intent.
- (4) The Town Clerk is further directed to transmit by registered or certified mail to the Department of Transportation a copy of this Resolution of Intent.
- (5) The Town Clerk is further directed to cause adequate notices of this Resolution of Intent and the scheduled public hearing to be posted as required by G.S. 160A-299.

This the \_\_\_\_ day of \_\_\_\_\_, 2023.

Introduced by Councilmember: \_\_\_\_\_

Seconded by Councilmember: \_\_\_\_\_

**[signature page to follow]**

**RESOLUTION NO. 2023-\_\_\_\_\_**

**A RESOLUTION OF INTENT OF THE TOWN COUNCIL TO CONSIDER  
THE CLOSING OF A PORTION OF OLD RALEIGH ROAD, LOCATED  
AT THE INTERSECTION OF OLD RALEIGH ROAD AND LAURA  
DUNCAN ROAD, EXTENDING TO OLD MILL VILLAGE DRIVE**

Attest:

TOWN OF APEX

---

Allen L. Coleman, CMC, NCCCC

Town Clerk

---

Jacques K. Gilbert

Mayor

## **POLICY ON CLOSING PUBLIC RIGHTS OF WAY FOR STREETS, ROADS, AND ALLEYS**

1. Persons desiring to close a public right of way shall submit a letter (petition) to the Town Clerk describing the location of proposed closing, a list of adjacent property owners, a location map, and a non-refundable fee established in the Town's adopted fee schedule. The Assistant Town Manager shall review the petition and distribute to appropriate staff for review.
2. The petition and supporting documents shall be reviewed by the Town Attorney and staff in the Public Works and Utilities Department, Planning Department, and Construction Management and Engineering Department. Staff will review the infrastructure and make a recommendation on continuing the process or denial. The Assistant Town Manager shall inform the petitioner of the recommendation and the reasons for a denial recommendation if appropriate.

If the petitioner wishes to continue, the petitioner shall provide a survey of the proposed abandonment and other supporting documentation requested by staff. If any Town easement rights are required to be retained by the Town, the petitioner shall provide sufficient documentation to ensure survival of the easement rights. In addition, a refundable fee based on the approximate cost of completing the process shall be paid to the Town by the petitioner.

3. Once the fee is paid and documentation is supplied, the Town Attorney will prepare a resolution of intent to close the right of way. The Town Clerk shall incorporate the proposed resolution into the next available Town Council Agenda with the staff recommendation and set the public hearing date. The petitioner shall present their request to the Town Council.
4. Upon an approval of the resolution of intent by the Town Council, the Town Clerk shall provide notice of the resolution and public hearing as required by North Carolina General Statute 160A-299. The Planning Department will post required signs for the proposed abandonment.
5. If the Town Council denies the resolution of intent, no notice shall be published, the refundable fee shall be returned and the issue shall not be considered again for 180 days.
6. At the public hearing, the Town Council will consider the recommendation of the staff (which can change from original recommendation), the petitioner and the public and determine whether the closing is contrary to the public interest and any individual owning property in the vicinity of the street or alley would be deprived of reasonable means of ingress and egress to his property.
7. Upon affirmative vote, the Town Clerk shall record the necessary documents.
8. Upon a denial vote, the petition is closed and a new petition and fees shall be required for reconsideration. 180 days must pass from the date of denial prior to acceptance of a new petition.

# | Agenda Item | cover sheet

for consideration by the Apex Town Council

Item Type: CONSENT AGENDA

Meeting Date: April 11, 2023

## Item Details

Presenter(s): Shelly Mayo, Planner II

Department(s): Planning

### Requested Motion

Motion to approve Statement of the Town Council and Ordinance for Rezoning Case #22CZ22 Elevate 64 West PUD, FA Develop, LLC, for the properties located at 3805 & 3809 US Hwy 64 W (PINs 0712842430 & 0712749870).

### Approval Recommended?

The Planning Department recommends approval.

### Item Details

Rezoning Case #22CZ22 was approved at the March 28, 2023 Town Council meeting.

### Attachments

- CN10-A1: Statement of Town Council and Ordinance to Amend the Official Zoning District Map - Rezoning Case No. 22CZ22 - Elevate 64 West PUD
- CN10-A2: Attachment A - Legal Description - Rezoning Case No. 22CZ22 - Elevate 64 West PUD
- CN10-A3: Attachment B - Conditions - Rezoning Case No. 22CZ22 - Elevate 64 West PUD



**STATEMENT OF TOWN COUNCIL AND ORDINANCE AMENDING THE OFFICIAL ZONING DISTRICT MAP OF THE TOWN OF APEX TO CHANGE THE ZONING OF APPROXIMATELY 35.15 ACRES LOCATED AT 3805 & 3809 US HWY 64 WEST FROM RURAL RESIDENTIAL (RR) TO PLANNED UNIT DEVELOPMENT-CONDITIONAL ZONING (PUD-CZ)**

**#22CZ22**

**WHEREAS**, FA Develop, LLC, owner/applicant (the “Applicant”), submitted a completed application for a conditional zoning on the 3<sup>rd</sup> day of October 2022 (the “Application”). The proposed conditional zoning is designated #22CZ22;

**WHEREAS**, the Planning Director for the Town of Apex, Dianne Khin, caused proper notice to be given (by publication and posting) of a public hearing on #22CZ22 before the Planning Board on the 14<sup>th</sup> day of March 2023;

**WHEREAS**, the Apex Planning Board held a public hearing on the 14<sup>th</sup> day of March 2023, gathered facts, received public comments and formulated a recommendation regarding the application for conditional zoning #22CZ22. A motion was made by the Apex Planning Board to recommend approval; the motion passed by a vote of 4 to 3 for the application for #22CZ22;

**WHEREAS**, pursuant to N.C.G.S. §160D-601 and Sec. 2.2.11.E of the Unified Development Ordinance, the Planning Director caused proper notice to be given (by publication and posting), of a public hearing on #22CZ22 before the Apex Town Council on the 28<sup>th</sup> day of March 2023;

**WHEREAS**, the Apex Town Council held a public hearing on the 28<sup>th</sup> day of March 2023. Amanda Bunce, Current Planning Manager, presented the Planning Board's recommendation at the public hearing;

**WHEREAS**, all persons who desired to present information relevant to the application for #22CZ22 were allowed to present evidence at the public hearing before the Apex Town Council. No one who wanted to speak was turned away;

**WHEREAS**, the Apex Town Council finds that the approval of the rezoning is consistent with the 2045 Land Use Plan and other adopted plans in that: The 2045 Land Use Map designates this area as Mixed Use: High Density Residential/Office Employment/Commercial Services. This designation on the 2045 Land Use Map includes the zoning district Planned Unit Development-Conditional Zoning (PUD-CZ) and the Apex Town Council has further considered that the proposed rezoning to Planned Unit Development-Conditional Zoning (PUD-CZ) will maintain the character and appearance of the area and provide the flexibility to accommodate the growth in population, economy, and infrastructure consistent with that contemplated by the 2045 Land Use Map;

**WHEREAS**, the Apex Town Council finds that the approval of the rezoning is reasonable and in the public interest in that: The rezoning will construct portions of new Major Collector and Local Connector streets, build portions of the greenway network, add to the local housing stock, provide affordable housing units, and implement stricter environmental conditions than the UDO requires. The rezoning will encourage compatible development of the property and increase the tax base; and

**WHEREAS**, the Apex Town Council by a vote of 5-0 approved Application #22CZ22 rezoning the subject tract located at 3805 & 3809 US Hwy 64 West from Rural Residential (RR) to Planned Unit Development-Conditional Zoning (PUD-CZ).

**NOW, THEREFORE, BE IT ORDAINED BY THE TOWN COUNCIL OF THE TOWN OF APEX**

**Section 1:** The lands that are the subject of the Ordinance are those certain lands described in Attachment “A” – Legal Description which is incorporated herein by reference, and said lands are hereafter referred to as the “Rezoned Lands.”

**Section 2:** The Town of Apex Unified Development Ordinance, including the Town of Apex North Carolina Official Zoning District Map which is a part of said Ordinance, is hereby amended by changing the

**Ordinance Amending the Official Zoning District Map #22CZ22**

zoning classification of the "Rezoned Lands" from Rural Residential (RR) to Planned Unit Development-Conditional Zoning (PUD-CZ) District, subject to the conditions stated herein.

**Section 3:** The Planning Director is hereby authorized and directed to cause the said Official Zoning District Map for the Town of Apex, North Carolina, to be physically revised and amended to reflect the zoning changes ordained by this Ordinance.

**Section 4:** The "Rezoned Lands" are subject to the conditions in Attachment "B" Elevate 64 West PUD which are imposed as part of this rezoning.

**Section 5:** The "Rezoned Lands" shall be perpetually bound to the conditions imposed including the uses authorized, unless subsequently changed or amended as provided for in the Unified Development Ordinance. Site plans for any development to be made pursuant to this amendment to the Official Zoning District Map shall be submitted for site plan approval as provided for in the Unified Development Ordinance.

**Section 6:** This Ordinance shall be in full force and effect from and after its adoption.

Motion by Council Member \_\_\_\_\_

Seconded by Council Member \_\_\_\_\_

With \_\_\_\_ Council Member(s) voting "aye."

With \_\_\_\_ Council Member(s) voting "no."

This the \_\_\_\_ day of \_\_\_\_\_ 2023.

**TOWN OF APEX**

\_\_\_\_\_  
Mayor

**ATTEST:**

\_\_\_\_\_  
Town Clerk

**APPROVED AS TO FORM:**

\_\_\_\_\_  
Town Attorney

## Attachment A: Legal Description

Application #: 22CZ22 Elevate 64 West PUD

Submittal Date: 10/02/2022

**Insert legal description below.**

Being all of Wake County parcel number 0712749870 and 0712842430 as described in deed book (D.B.) 18884 page (Pg.) 1101 and book of maps (B.M.) 1987 Pg. 493, recorded in the Wake County Register of Deeds and being more particularly bounded and described as follows:

Beginning at a 1/2" iron pipe, said pipe being the Northwest corner of Mabopane Foundation as described in D.B. 17693 Pg. 551 and on the Southern right of way (R/W) of U.S. HWY 64, thence following the Southern R/W of U.S. HWY 64 for the following courses and distances N 82°56'01" E a distance of 583.30' to THE TRUE POINT OF BEGINNING, a 1/2" iron pipe, being the Northeast corner of said Mabopane Foundation; thence N 82°56'01" E a distance of 1432.12' to a 5/8" rebar, the Northwest corner of Clara's Legacy, LLC as described in D.B. 18483 Pg. 1288; thence with the Western lines of said Clara's Legacy, LLC and Gaylene W. Goodwin as described in D.B. 12-E Pg. 3228 S 00°38'48" W a distance of 1323.37' to a 1" iron pipe, the Northeast corner of Seagroves Family, LLC as described in D.B. 14213 Pg. 2028, passing a 1" iron pipe at a distance of 528.04' and a 1/2" iron pipe at a distance of 865.27'; thence with the Northern line of said Seagroves Family, LLC N 89°57'28" W a distance of 1002.06' to a 1/2" iron pipe, the Northwest corner of said Seagroves Family, LLC and on the Eastern line of Deer Creek Owners Association, as described in D.B. 19016 Pg. 2557, passing a 1/2" iron pipe at a distance of 687.31'; thence with the Eastern line of said Deer Creek Owners Association for the following courses and distances N 03°21'09" E a distance of 195.23' to a 1/2" iron pipe; thence N 29°30'01" W a distance of 573.36' to a 1/2" iron pipe; thence N 86°51'40" W a distance of 149.09' to a 1/2" iron pipe, on the Northern line of said Deer Creek Owners Association and the Southeast corner of said Mabopane Foundation; thence following the Eastern line of said Mabopane Foundation N 02°00'16" E a distance of 444.55' to the point of beginning, having an area of 35.15 acres, more or less.

Attachment B:

## **ELEVATE 64 WEST**

Planned Unit Development

Apex, North Carolina

November 4, 2022



APPLICANT:	FA Develop, LLC 530 Eugene Ct Greensboro, NC 27401
CONSULTANT:	CE Group, Inc. 301 Glenwood Ave. Suite 220 Raleigh, NC 27603

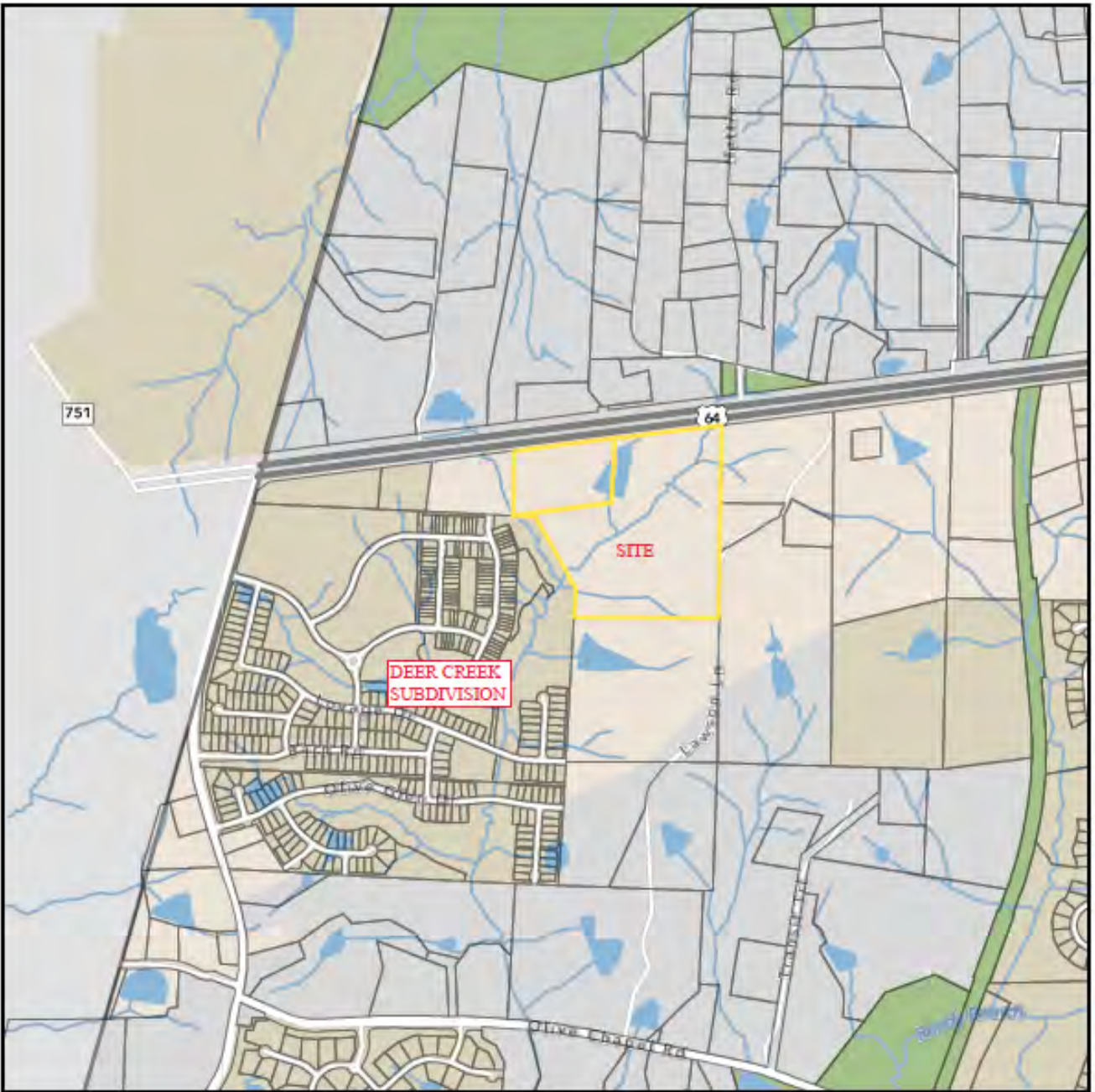
# ELEVATE 64 WEST

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# ELEVATE 64 WEST

## VICINITY MAP



# ELEVATE 64 WEST

## PROJECT DATA

<b>Name of Project:</b>	Elevate 64 West
<b>Property Owner:</b>	Louvenia Ann S Goodwin 3809 US 64 Hwy West Apex, NC 27523
<b>Developer:</b>	FA Develop, LLC 530 Eugene Ct Greensboro, NC 27401
<b>Prepared by:</b>	CE Group, Inc. 301 Glenwood Avenue Suite 220 Raleigh, NC 27603
<b>Current Zoning:</b>	Rural Residential (RR)
<b>Proposed Zoning:</b>	Planned Unit Development Conditional Zoning (PUD-CZ)
<b>Current 2045 Land Use Map Designation:</b>	Mixed Use: Office Employment/Commercial Services/High Density Residential
<b>Site Address:</b>	3805 & 3809 US Hwy 64 West Apex, NC
<b>Property Identification Number:</b>	0712749870 & 071282430
<b>Total Acreage:</b>	+/- 35.15 Acres
<b>Area Designated as Mixed Use on 2045 LUM:</b>	+/-35.15 Acres
<b>Area Proposed as Non-Residential:</b>	30% minimum - 10.545 Acres Minimum (including RCA, Buffers, etc)

# ELEVATE 64 WEST

## PURPOSE STATEMENT

Elevate 64 West is a proposed mixed-use development consisting of high density residential and non-residential uses. The property is located along the southern side of the US Hwy 64 West corridor and is adjacent to the existing Deer Creek Subdivision to the west and agricultural / residential use land to the south and east. All these surrounding properties are designated as mixed use on the 2045 Land Use Map, which promotes commercial, office, and high-density residential uses.

The proposed development will consist of high-density residential luxury apartments which will be highly amenitized. Amenities will include a pool, clubhouse with fitness area, outdoor grilling kitchen, dog park, and many others. In addition to the high density residential the development will also provide for complimentary non-residential uses in accordance with the 2045 Land Use Map. The total site area is 35.15 acres of which 30% minimum will be dedicated to these non-residential uses. The non-residential use will be located along the US 64 Highway corridor.

The development is compatible with the surrounding areas. This site is within a rapidly developing area of the Town's ETJ with Deer Creek subdivision and Triangle Math and Science Academy located to the west. Agriculture and a single-family residence are located to the east of the site. There is an existing Forestry use to the south which will be partially buffered by an open space/stormwater control measure area which will include a 50-foot buffer as required by UDO section 8.2.6. The remaining portion of the forestry use will be buffered via a new planned local connector roadway (50' right-of-way) which will also provide a 30-foot street front buffer along the property line.

There is also an amendment to the Town's Transportation Plan that will include a future north-south Major Collector that can potentially connect US Highway 64 to Olive Chapel Road. In addition, there is an east-west future local connector being proposed. This development will construct both roads within the boundaries of the project.

## **ELEVATE 64 WEST**

The proposed layout will preserve the existing non-jurisdictional pond in addition to protecting other environmentally sensitive areas on the property and required Resource Conservation Areas as required by the Town's UDO. There is an existing greenway located on the adjacent Deer Creek subdivision which will be extended 730-feet offsite through this development and connected to the internal roadway system. This connection provides further connectivity for the Town's greenway system plan, benefiting current and future residents. In addition, there will be internal sidewalks providing safe connectivity to the proposed uses and to the adjacent properties.

# ELEVATE 64 WEST

## PERMITTED USES

Below is a list of permitted uses for both the high-density residential use area and non-residential uses. All uses are subject to the limitations and regulations stated in the Town's UDO.

### **RESIDENTIAL:**

Condominium

Multi-family or Apartment

### **NON-RESIDENTIAL:**

Day care facility

Drop-in or short term day care

Government Service

Veterinary clinic or hospital

Botanical garden

Greenway

Park, active

Park, passive

Recreational facility, private

Restaurant, general

Medical or dental office or clinic

Medical or dental laboratory

Office, business or professional

Publishing office

Hotel or motel

Artisan studio

Barber and beauty shop

Book store

Convenience store

Dry cleaners and laundry service

Financial institution

Floral shop

Health/fitness center or spa

Personal Service

Pharmacy

Studio for art

Tailor shop

Pet services

Microbrewery

Microdistillery

Grocery, general

Grocery, specialty

Retail sales, general

Real estate sales

# ELEVATE 64 WEST

## DESIGN CONTROLS

### RESIDENTIAL

#### MULTI-FAMILY APARTMENT OR CONDOMINIUMS

Acreage: Approximately 24.585 acres

Total Number of Units: 392 units maximum (1- and 2-bedroom units)

Maximum Building Height: 60' 4-stories

Internal Building setbacks per UDO section 5.2.2.F

Building Setback along  
Southern Parent Property line  
(Forestry Use) 95'

### NONRESIDENTIAL

Acreage: Approximately 10.545 acres

Maximum Height: 40' 2-stories

Notwithstanding any contrary UDO provision or language in this PUD, there shall be no minimum setback or buffer requirement along the shared property line between the Residential and Non-residential uses.

### BUFFERS/STREETSCAPES/LANDSCAPING

#### Perimeter Buffers:

Western Buffer: 15-foot Type A

Southern Buffer: 50-foot (along non-roadway frontage section Forestry use) Type A  
30-foot Streetfront Type B along local collector south side of roadway  
10-foot Streetfront Type A along local collector north side of roadway

Eastern Buffer: 20-foot Type B, except where the Lawson Lane encroaches onto property.  
Where the encroachment occurs, there shall be a 10-foot Type B buffer.

#### Streetscape Buffers:

Along US 64 – 100-feet Type A  
Along New Major Collector - 10-feet Type A

## **ELEVATE 64 WEST**

Per UDO 8.2.6.B.5.f.ii.c.: Highway buffers along non-residential uses meeting all of the following criteria shall be reduced to a planted 50' Type A buffer.

- i. No more than 20% of the façades of non-residential buildings facing the highway can use EIFS or other synthetic stucco.
- ii. Pedestrian connections in the form of sidewalks and/or multi-use paths shall be made from non-residential buildings to adjacent residential development and properties with future residential land use. The form of the connection shall be determined by the Director of Planning and Community Development or designee.
- iii. Furthermore, properties that front a limited-controlled access highway with no other access or road frontage shall be allowed to reduce the opacity of no more than 50% of this buffer to a Type E buffer. The remainder of the buffer shall be planted to a Type A standard.

## **AFFORDABLE HOUSING**

At least twenty (20) residential units or, if greater, five percent (5%) of the total residential units (as shown on the first site plan submittal), shall be designated as restricted workforce affordable housing rental units (the "Affordable Units") for a minimum affordability period of ten (10) years starting from the date of issuance of the first residential Certificate of Occupancy (the "Affordable Restriction Period"). The Affordable Units shall be occupied by households earning no more than eighty percent (80%) of the Raleigh, NC Metropolitan Statistical Area (MSA) Area Median Income (AMI), adjusted for family size, as most recently published by the U.S. Department of Housing and Urban Development (HUD). The Affordable Units may be either one or two bedroom units and rented during the Affordable Restriction Period at maximum rent limits applicable to households earning eighty percent (80%) of the Raleigh, NC Area Median Income ("AMI"), adjusted for family size, as most recently published by HUD and stipulated by the most recently published North Carolina Housing Finance Agency (NCHFA) Low-Income Housing Tax Credit (LIHTC) Multifamily Tax Subsidy Program (MTSP) income and rent limits for the Wake County Metropolitan Area. Prior to issuance of the first residential Certificate of Occupancy, a restrictive covenant between the Town and property owner shall be executed and recorded in the Wake County Registry to memorialize the affordable housing terms and conditions. During the Affordable Restriction Period, the property owner shall be responsible for performing all property management and administration duties to ensure compliance with this affordable housing condition and shall submit annual compliance reports to the Town verifying compliance with this affordable housing condition. Following expiration of the Affordable Restriction Period, this affordable housing condition shall expire, and the property owner shall be relieved of all obligations set forth in this affordable housing condition, and the Affordable Units may freely be marketed and leased at market-rate rents.

## **ARCHITECTURAL STANDARDS**

The following architectural controls are offered to ensure a consistency of character throughout the development, while allowing for enough variety to create interest and avoid monotony.

# ELEVATE 64 WEST

## RESIDENTIAL REQUIREMENTS

1. Vinyl siding is not permitted; however, vinyl windows, decorative elements and trim are permitted.
2. Siding materials shall be varied in type and/or color on 30% of each façade on each building.
3. Windows must vary in size and/or type.
4. Windows that are not recessed must be trimmed.
5. Recesses and projections shall be provided for at least 50% of each façade on each building.
6. Rooflines cannot be a single mass; they must be varied with the use of gables or parapets.
7. Garage doors must have windows, decorative details or carriage-style adornments on them.
8. Four of the following decorative features shall be used on each building:

- Decorative shake
- Board and batten
- Decorative porch railing/posts
- Shutters
- Decorative/functional air vents on roof or foundation
- Recessed windows
- Decorative windows
- Decorative brick/stone
- Decorative gables
- Decorative cornices
- Tin/metal roof

## PHYSICAL ACCESSIBILITY

The project shall comply with all applicable accessibility regulations and guidelines issued by the Department of Housing and Urban Development (HUD), the American National Standards Institute (ANSI), and the International Code Council (ICC) including providing braille and approximately 15-20 (final count to be determined at Site Plan) Type A units (the “Accessible Units”) which provide reduced counter heights, door swing limitations, grab bar installation, and bathroom lavatory convertibility. Additionally, the Accessible Units shall include flashing strobe devices to aid in emergency notification for hearing impaired residents.

## NON-RESIDENTIAL REQUIREMENTS

1. The predominant exterior building materials shall be high quality materials, including:
  1. Brick masonry
  2. Decorative concrete block (either integrally colored or textured)
  3. Stone accents
  4. Aluminum storefronts with anodized or pre-finished colors.
  5. EIFS cornices, and parapet trim
  6. Precast concrete
2. EIFS or synthetic stucco shall not be used in the first forty inches above grade.
3. The building exterior shall have more than one material color.
4. The building shall have more than one parapet height.
5. The main entrance to the building shall be emphasized.

## ELEVATE 64 WEST

6. 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.

Additional building materials may be included with administrative staff approval. Substitute materials shall be allowed by staff as long as they are determined by the Planning Director to be substantially similar.

### REPRESENTATIVE RESIDENTIAL BUILDING ELEVATIONS



## ELEVATE 64 WEST



## REPRESENTATIVE NON-RESIDENTIAL BUILDING ELEVATIONS



## ELEVATE 64 WEST



## ELEVATE 64 WEST



# **ELEVATE 64 WEST**

## **PARKING AND LOADING**

Development in the Residential District shall comply with parking requirements in Section 8.3.2 of the Town of Apex UDO. Any garage units within the residential development will count towards parking requirement. Residential parking will provide a minimum of 5% of total parking with access to EV Charging.

Parking in the Non-Residential area shall comply with parking requirements in Section 8.3.2 of the Town of Apex UDO.

## **SIGNAGE**

Signage shall comply with UDO Section 8.7.

## **NATURAL RESOURCES AND ENVIRONMENTAL DATA**

### **RIVER BASINS AND WATERSHED PROTECTION OVERLAY DISTRICTS**

This project is located within the Beaver Creek Drainage Basin. Accordingly, the Property is within the Primary Watershed Protection Overlay District as shown on the Town of Apex Watershed Protection Map. This PUD will comply with all built upon area, vegetated conveyances, structural SCMs and riparian stream buffer requirements of UDO Section 6.1.7.

### **Resource Conservation Areas (RCA)**

The Development shall include a minimum of 25% RCA. RCA area shall comply with Section 8.1.2 of the UDO.

### **Floodplain**

The project site does not sit within a designated current or future 100 year floodplain as shown on the Town of Apex FEMA map and FIRM Panel 3720071200L, dated July 19, 2022.

### **Historic Structures**

The Property is currently vacant and there are no known historic structures present within the project boundary.

# ELEVATE 64 WEST

## Environmental Commitments Summary

The Applicant met with the Apex Environmental Advisory Board (EAB) on July 20, 2022. The EAB made seven recommendations. These recommendations, and Applicants plan to address them, are set forth below:

1. Existing pond will be retained and protected.
  - a. The existing pond shall be preserved and protected.
2. Install a minimum of 10 pet waste stations.
  - a. The project shall install at least ten (10) pet waste station throughout the community in locations that are publicly accessible, such as adjacent to amenity centers, SCMs, sidewalks, greenways or side paths.
3. Native flora will be incorporated into landscape plan.
  - a. The project shall increase biodiversity within perimeter buffers, common owned open space, and other landscape areas by providing a variety of native and adaptive species for the canopy, understory and shrub levels. A minimum of 75% of the species selected shall be native of North Carolina. No invasive species shall be permitted. No single species of tree or shrub shall constitute more than 20% of the plant material of its type within a single development site.
4. A minimum 7.5-kilowatt (kW) solar PV system for the generation of electricity to partially offset the electric consumption of the common area and pool.
  - a. A solar photovoltaic (PV) system of at least 7.5 KW shall be instated within the development. All solar installation required by this condition shall be completed or under construction prior to 90% of the building permits being issued for the development. The system may be spread across on or more of the buildings, as needed. Any buildings with the solar PV system shall be identified on the Site Plan which may be amended from time to time.
5. Five percent (5%) of the parking spaces have EV charging stations installed.
  - a. The developer shall provide 5% of all parking spaces as EV charging spaces.
6. For stormwater management, post-development peak runoff shall not exceed the pre-development peak runoff for the 25-year and 100-year 24-hour storm events.
  - a. Post-development peak runoff shall not exceed pre-development peak runoff for the 24-hour, 1-year, 10-year, 25-year and 100-year storm events in accordance with the Unified Development Ordinance.
7. SCM and infrastructure shall not be placed in the stream buffer area, with the exception of Apex utility and greenway easements.
  - a. No clearing or land disturbance shall be permitted within the riparian buffer, except the minimum necessary to install required sewer infrastructure, greenways, roadways, and SCM outlets. The SCM water storage and treatment area shall not be permitted within the riparian buffer. The sewer shall be designed to minimize impacts to the riparian buffer.

# **ELEVATE 64 WEST**

## **STORMWATER MANAGEMENT**

The Development shall meet all stormwater management requirements for quality and quantity treatment in accordance with Section 6.1.7 of the UDO such that:

- Post development peak runoff shall not exceed pre-development peak runoff conditions for the 1 year, 10 year, 25 year, 100 year and 24-hour storm events.
- Treatment for the first 1 inch of runoff will provide 85% removal of total suspended solids.

Acceptable stormwater structures shall include detention ponds, constructed wetlands, bioretention areas, or other approved devices consistent with the NC DEQ Stormwater Design Manual and the Town of Apex UDO.

No clearing or land disturbance shall be permitted within the riparian buffer, except the minimum necessary to install required sewer infrastructure, greenways, roadways, and SCM outlets. The SCM water storage and treatment area shall not be permitted within the riparian buffer. The sewer shall be designed to minimize the impacts to the riparian buffer.

Existing Pond on-site will have at a minimum 1,500 sf of submerged and/or partially submerged vegetative shelf planted with wetland plantings to aid with water quality and protect the shoreline from erosion. Density of plantings will consist of 50 plants per 200 sf of area. Plant material will be in accordance to the NCDENR BMP manual Chapter C-3.

## **PARKS AND RECREATION**

The Elevate 64 West project was reviewed at the November 30<sup>th</sup>, 2022 Parks, Recreation and Cultural Resources Advisory Commission meeting. The Advisory Commission unanimously recommended a fee-in-lieu of dedication with credit for the construction of greenway trail within the project boundary as well as off-site into the existing, adjacent Deer Creek Subdivision. The rate of the fees owed will be set at the time of rezoning approval by the Town Council and will run the life of the project for the number and type of units proposed.

## **GREENWAY TRAILS**

The Advisory Commission also recommended the proposal for Elevate 64 West to extend the public Reedy Creek Greenway from the existing Deer Creek subdivision to the western property line of Elevate 64 West. Greenway will also be extended within Elevate 64 West to proposed internal pedestrian network, exact route to be determined at the time of Site Plan approval. All approved greenway trails must be completed prior to the point of 50% of the Total number or residential units in the project being issued a building permit for the Site Plans.

# ELEVATE 64 WEST

## PUBLIC FACILITIES

The proposed PUD shall meet all Public Facilities requirements as set forth in Town of Apex UDO and shall be designed according to the Town of Apex and NCDOT engineering standards where applicable. Road and utility infrastructure shall be as follows:

### GENERAL ROADWAY INFRASTRUCTURE

Except as set forth herein, all proposed roadway infrastructure and right-of-way dedications will be consistent with the Town of Apex UDO and Transportation Plan in effect as of the submission date of this rezoning.

### TRANSPORTATION IMPROVEMENTS

The following conditions regarding transportation improvements apply and are consistent with the Town's recommendations regarding the Traffic Impact Analysis that has been performed for this rezoning, which is on file with the Town of Apex. All proposed access points to state-maintained roadways including improvements specified in the zoning conditions are ultimately subject to both Apex and NCDOT approval at the time of subdivision and site plan and are subject to change if required based on engineering evaluation at that time.

- US Highway 64 at Site Access 1
  - Construct the access as a left-in, right-in, right-out.
  - Provide a westbound turn lane on US 64 with 150 feet of storage and appropriate deceleration length and taper.
  - Provide an eastbound right turn lane on US 64 with 100 feet of storage and appropriate deceleration length and taper as applicable.
  - Provide a channelization northbound right-out free-flow lane with an eastbound 810-foot acceleration lane plus 240-foot taper on US 64.
  - The site access will be designed in accordance with NCDOT and Town of Apex standards as applicable and is the only access permitted to connect to US 64 as part of the PUD.
  - Site access will be provided via a north-south Major Collector Street to be constructed by the PUD from the US 64 to the southern boundary of the PUD.
- US 64 at Pinefield Road
  - Construct a concrete median diverter island between the westbound U-turn lane and the eastbound left-turn/U-turn lane on US 64 in conjunction with intersection

## **ELEVATE 64 WEST**

widening as needed to accommodate these changes, preventing southbound left turns from Pinefield Road.

- Construct an east-west Local Connector Street starting at the north-south Major Collector Street and stubbing to the eastern boundary of the PUD
- Cross access will be provided via public access easement to adjacent parcel to the east (PIN# 0712-74-2710).
- Cross access will be provided via public access easement to adjacent parcel to the west (PIN# 0712-93-2588).
- Cross Access will be provided via public access easement to adjacent parcel to the south (PIN # 0712-83-4236) off of east/west local connector.

### **PEDESTRIAN IMPROVEMENTS**

This project shall comply with the Town's Bicycle and Pedestrian System Plan Map. Sidewalk shall be provided along both sides of all public streets within this development. Where required, the project shall construct 10-foot wide asphalt side paths in lieu of sidewalk along the public streets.

### **WATER AND SANITARY SEWER**

All lots within the project will be served by Town of Apex for water and sanitary sewer. The utility design will be finalized at the time of master subdivision plan approval and be based on available facilities adjacent to the site at that time. The design will meet the current Town of Apex master plans for water and sewer.

### **OTHER UTILITIES**

Electricity will be provided by Apex Electric. Phone, cable, and gas will be provided by the Developer and shall meet UDO standards.

### **PHASING**

The Development will be completed in multiple phases. Final locations of phases will be determined at the time of Master Subdivision Review and Approval.

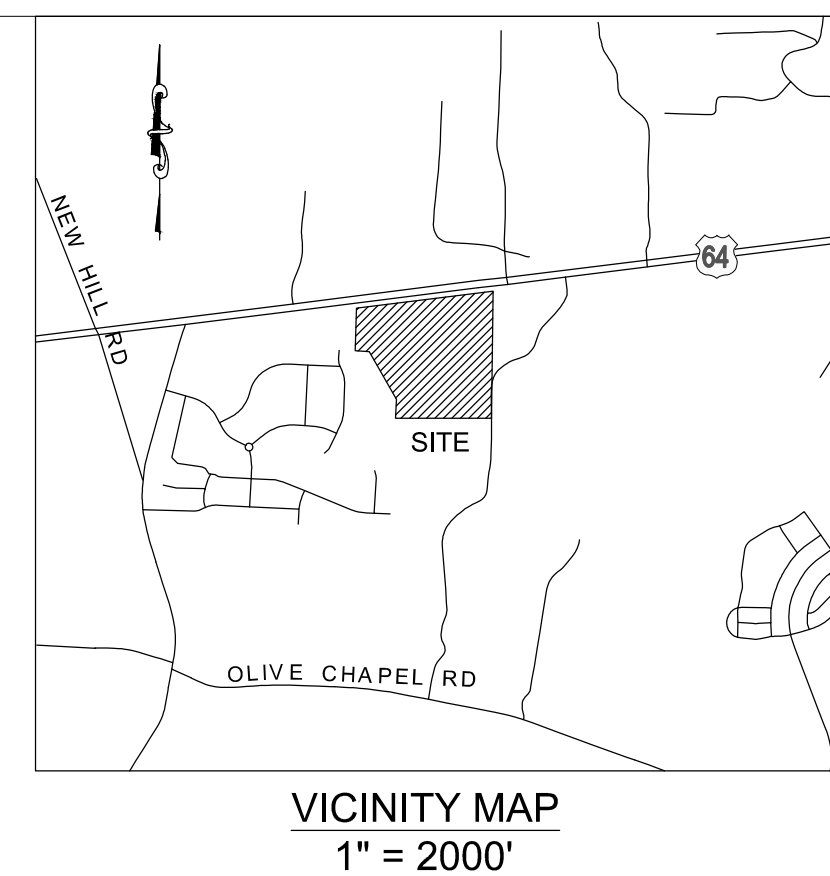
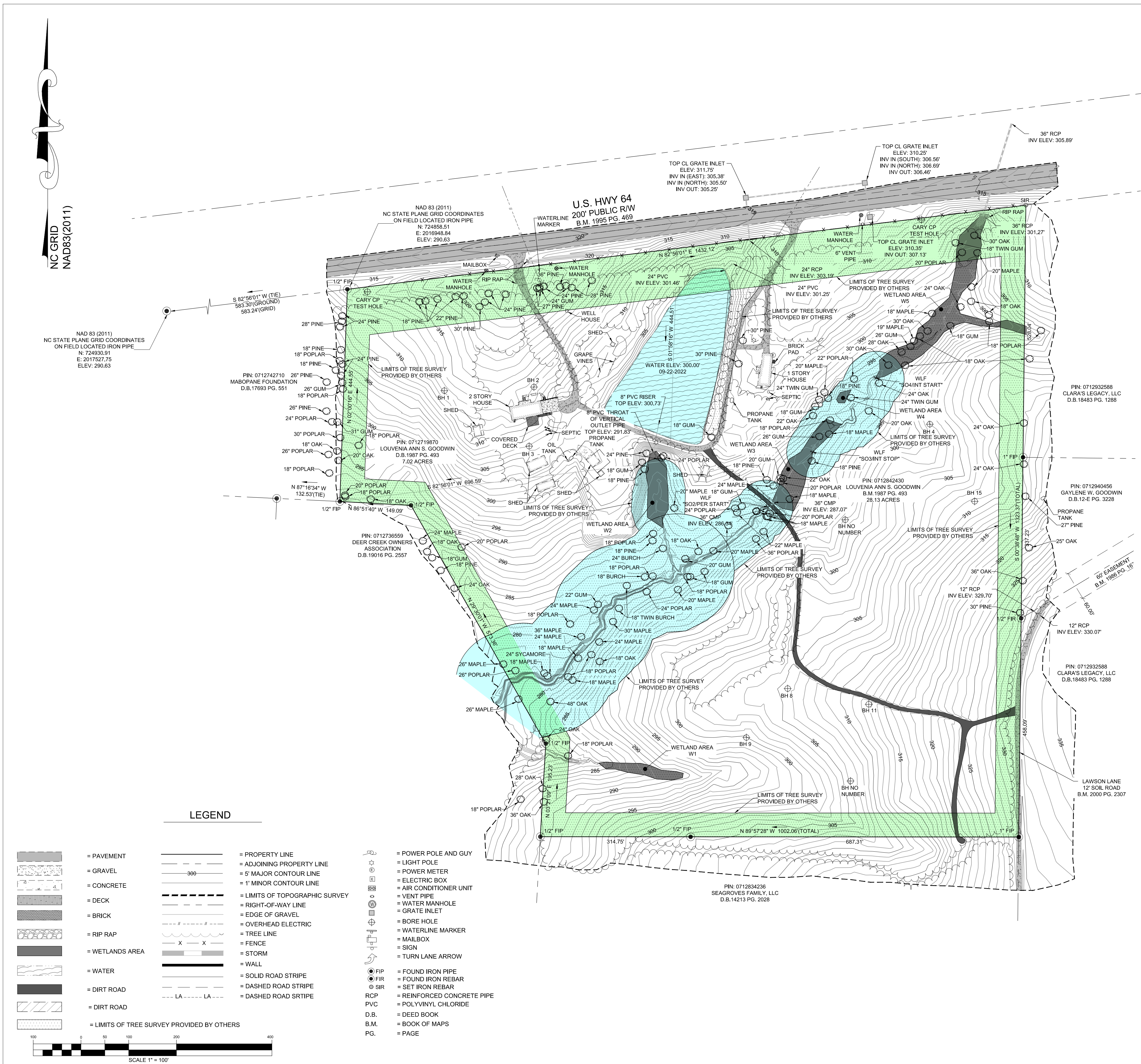
### **CONSISTENCY WITH LAND USE PLAN**

The proposed land use will be consistent with Advance Apex 2045: The Apex Comprehensive Plan, if the requested Land Use Map Amendment is approved. The Future Land Use Map designates the Property as High Density/Office Employment/Commercial Services.

# **ELEVATE 64 WEST**

## **COMPLIANCE WITH UDO**

The development standards adopted for this PUD comply with those set forth in the current version of the Town's Unified Development Ordinance (UDO). This PUD shall be the primary governing document for the development. All standards and regulations in this PUD shall control over general standards of the UDO. Provided, however, that if a specific regulation is not addressed in this PUD, UDO regulations shall control.



**SITE DATA:**

3809 US HWY 64 W  
LOUVENIA ANN S. GOODWIN  
PIN #: 0712719870  
D.B. 18884 PG. 1101  
B.M. 1987 PG. 493  
AREA: 7.02 ACRES

3905 US 64 HWY W  
LOUVENIA ANN S. GOODWIN  
PIN #: 0712842430  
D.B. 18884 PG. 1101  
B.M. 1987 PG. 493  
AREA: 28.13 ACRES

**TOTAL AREA: 35.15 ACRES**

**ZONING:**  
**EXISTING ZONING: RR (RURAL RESIDENTIAL)**

GENERAL NOTES:

AREA DETERMINED UTILIZING COMPUTER SOFTWARE.

DISTANCES ARE GROUND DISTANCES (US FEET) UNLESS OTHERWISE SHOWN.

NO SUBSURFACE INVESTIGATION PERFORMED BY FLEMING ENGINEERING, INC. UTILIZATION WORK SHOWN HEREIN WAS DERIVED BY ABOVE GROUND INDICATORS ONLY. UNDERGROUND UTILITIES SHOWN WERE FOUND MARKED AT THE TIME OF SURVEY.

THIS PROPERTY IS SUBJECT TO ANY EASEMENTS, AGREEMENTS OR RIGHTS OF WAY RECORDED PRIOR TO THE DATE OF THIS MAP WHICH WERE NOT VISIBLE AT THE TIME OF INSPECTION.

THE SURVEYOR HAS NOT PERFORMED A TITLE INVESTIGATION ON THIS PROPERTY. THEREFORE, THIS MAP IS SUBJECT TO ANY AND ALL FACTS AN ACCURATE TITLE INVESTIGATION MAY DISCLOSE.

THE CLASSIFICATION OF THIS SURVEY IS NORTH CAROLINA CLASS A.

HORIZONTAL DATUM: NAD83(2011)

VERTICAL DATUM: NAVD83(IGED 18)

THERE IS NO VISIBLE EVIDENCE OF RECENT EARTH MOVING WORK, BUILDING COLLAPSE, OR UNUSUAL CONDITIONS OBSERVED IN THE PROCESS OF CONDUCTING THE FIELDWORK.

THIS PROPERTY IS LOCATED WITHIN ZONE "X" AREA AS INDICATED ON THE FLOOD INSURANCE RATE MAPS. (FIRM) MAP NUMBERS 3720071200L, EFFECTIVE DATE JULY 19th, 2022.

THE WETLANDS FLAGS FOUND WERE OFTEN NOT SEQUENTIAL OR MISSING NUMBERS.

LIMITS OF TREE SURVEY WAS PROVIDED BY OTHERS

PURPOSE OF TREE SURVEY WAS TO LOCATE 1" DIAMETER AND LARGER TREES.

NO NGS MONUMENTS WERE RECOVERED WITHIN 2000' OF THE PROPERTY.

I, TOMMY W. WRIGHT CERTIFY THAT THE CONTROL FOR THIS SURVEY IS FROM AN ACTUAL GPS (OR GNSS) SURVEY MADE UNDER MY SUPERVISION AND THE FOLLOWING INFORMATION WAS USED TO PERFORM THE SURVEY

1. CLASS OF SURVEY: CLASS A
2. POSITIONAL ACCURACY: 0.05'
3. TYPE OF GPS FIELD PROCEDURE: STATIC
4. DATES OF SURVEY: 09-21-2022 THROUGH 09-21-2022 AND 11-21-2022
5. DATUM EPOCH: NAD83(2011)EPOCH(2010)
6. PUBLISHED/FIXED-CONTROL USE: DR4334 NCLL NCLL LILLINGTON  
CORS ARP, DL3891 NCLL JORDAN LAKE CORS ARP, DG9328 DURH  
DURHAM COOP CORS ARP GEOID MODEL: 2018
7. MEAN COMBINED GRID FACTOR: 0.99989882(GROUND TO GRID)
8. UNITS: US SURVEY FEET

HORIZONTAL POSITIONS ARE REFERENCED TO NAD83/NSRS (2011)  
VERTICAL POSITIONS ARE REFERENCED TO NAVD88 USING (GEOID18)

**SURVEYORS CERTIFICATION:**

I TOMMY W. WRIGHT CERTIFY THAT THIS MAP WAS DRAWN UNDER MY SUPERVISION FROM AN ACTUAL SURVEY MADE UNDER MY SUPERVISION (DEED DESCRIPTION RECORDED IN BOOK 18884, PAGE 1101; THAT THE BOUNDARIES NOT SURVEYED ARE INDICATED AS DRAWN FROM INFORMATION AS IS SHOWN, THAT THE RATIO OF PRECISION OR POSITIONAL ACCURACY IS 1 : 29,084 (CLASS A), AND THAT THIS MAP MEETS THE REQUIREMENTS OF THE STANDARDS OF PRACTICE FOR LAND SURVEYING IN NORTH CAROLINA (21 NCAC 56.1600).

THIS 29th DAY OF NOVEMBER, 2018.

Civil Engineers and Land Surveyors  
8518 Triad Drive, Colfax, NC 27235  
[www.feiconsulting.com](http://www.feiconsulting.com)  
(336) 852-9797  
License No. C-0950

**3809 US HWY 64 W**  
**EXISTING CONDITIONS**

PROJECT LOCATION:	PROPERTY ADDRESS:	CLIENT INFORMATION:
CITY: APEX	3809 US 64 HWY W	SIGNATURE DEVELOPMENT
TOWNSHIP: WHITE OAK	APEX, NC 27523	530 EUGENE CT
COUNTY: WAKE		GREENSBORO, NC 27401

NO.	DATE	REVISION NOTE
1		
2		
3		
4		
5		
6		

DRAWN BY: JDB/STW  
 CHECKED BY: TWW  
 DATE: 11-29-2022  
 PROJECT NO.: 19008.004  
 REF. NO.: -  
 SCALE: 1" = 100'









SHEET  
1 OF 1

# ELEVATE 64 WEST PD PLAN EXHIBIT

APEX, NORTH CAROLINA  
February 24, 2022

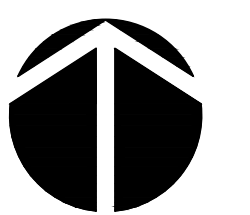
PROPOSED MULTI-FAMILY UNITS = ±392 UNITS  
MAIN TRACT AREA = ±35.83 AC  
RETAIL/OFFICE MIN. AREA = 10.548 ACRES  
WATERSHED: JORDAN LAKE / PRIMARY WATERSHED  
PROTECTION OVERLAY

## LEGEND

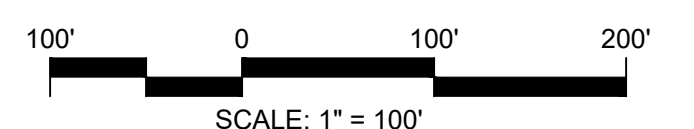
-  APPROXIMATE RCA AREA
-  APPROXIMATE GREENWAY TRAIL EXTENSION FROM EXISTING DEER CREEK SUBDIVISION
-  STORMWATER MANAGEMENT DEVICE/OPEN SPACE
-  APPROXIMATE MULTI-FAMILY (HIGH DENSITY RESIDENTIAL) AREA
-  APPROXIMATE RETAIL / OFFICE AREA
-  APPROXIMATE LOCATION OF PROPOSED ACCESS AND PUBLIC CROSS ACCESS EASEMENT
-  APPROXIMATE LOCATION OF MAJOR COLLECTOR AND LOCAL COLLECTOR ROADWAYS
-  APPROXIMATE PUBLIC ROAD ACCESS

## DEVELOPMENT NOTES:

- 1) PLAN SHEET IS INTENDED FOR ILLUSTRATIVE USE ONLY AND IS SUBJECT TO CHANGE.
- 2) PER 2.3.4(F)(1)(F)(I) OF THE UDO, THE PD PLAN FOR THE PUD-CZ SHALL DEMONSTRATE A SAFE AND ADEQUATE ON-SITE TRANSPORTATION CIRCULATION SYSTEM. THE ON-SITE TRANSPORTATION CIRCULATION SHALL BE INTEGRATED WITH THE OFF-SITE TRANSPORTATION CIRCULATION SYSTEM OF THE TOWN. THE PD PLAN FOR PUD-CZ SHALL BE CONSISTENT WITH THE APEX TRANSPORTATION PLAN AND THE TOWN OF APEX STANDARD SPECIFICATION AND STANDARD DETAILS AND SHOW REQUIRED RIGHT-OF-WAY WIDTHS AND ROAD SECTIONS.
- 3) MAJOR COLLECTOR AND LOCAL CONNECTOR ROAD ALIGNMENT LOCATION WILL BE DETERMINED AT THE MAJOR SUBDIVISION PLAN STAGE WITH TOWN STAFF APPROVAL. ANY SUBSTANTIAL CHANGES MAY REQUIRE TRANSPORTATION PLAN AMENDMENTS.
- 4) SITE MUST MEET CURRENT TOWN WATER SYSTEM MASTER PLAN. MUST COORDINATE WITH PROJECT NEXT DOOR AND VERIFY WATER MAIN CONNECTIONS ADJACENT TO US 64.

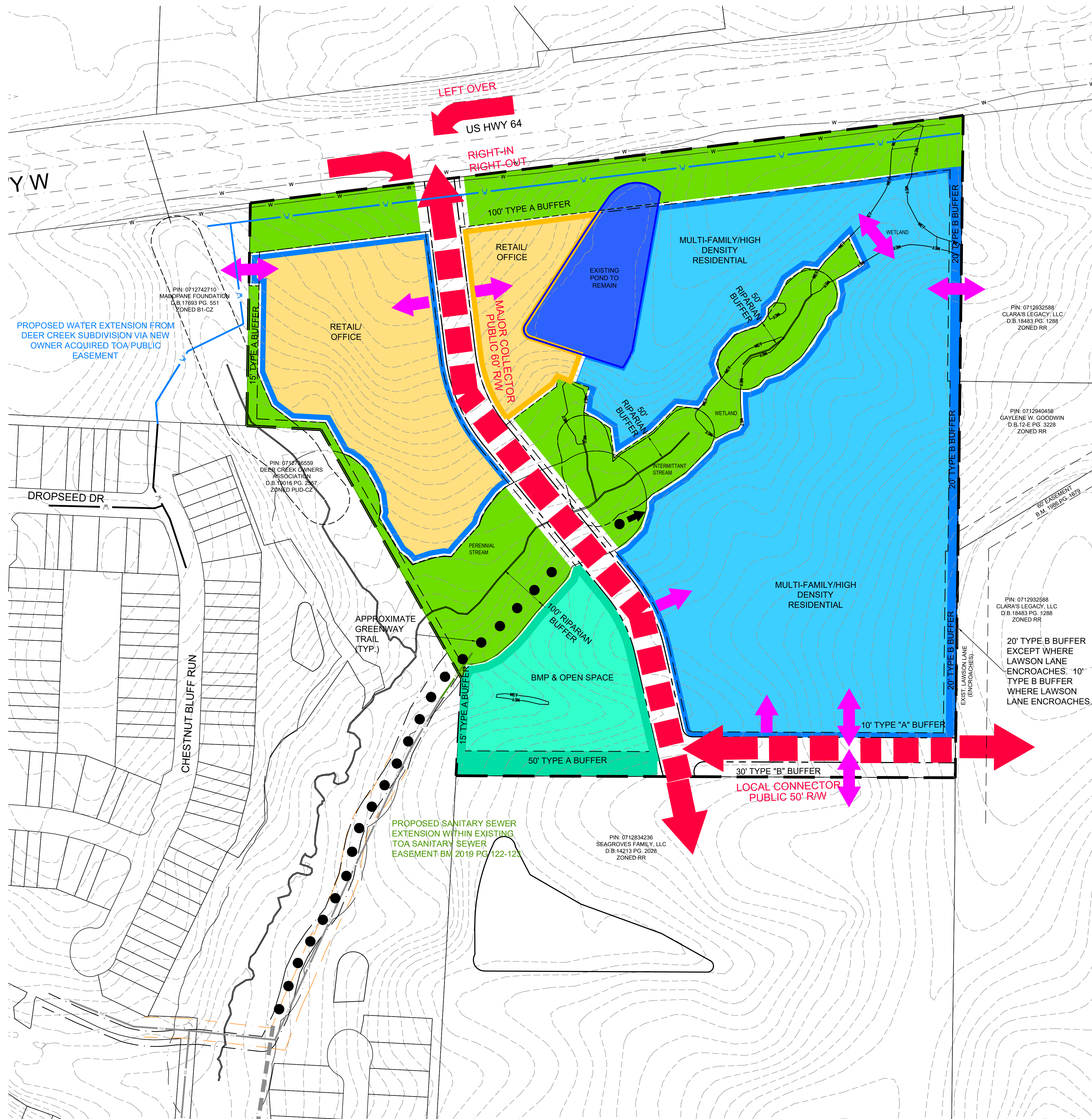


NORTH



**CE GROUP**  
301 GLENWOOD AVE, SUITE 220  
RALEIGH, NC 27603  
PHONE: 919-367-8790  
www.cegroupinc.com  
License # C-1739

**PRELIMINARY DESIGN**  
NOT RELEASED  
FOR CONSTRUCTION



NOT USED

ELEVATION MATERIAL KEY (CONTINUED):

- 17 6-0 x 6-8 WOOD FRAME FULL LITE GLASS JULIET BALCONY DOOR W/ 12" TRANSOM  
• 2" BRICK MOLD BOARD JAMBS & HEAD  
• SLOPED BRICK VENEER ROWLOCK SILL, SOLDIER COURSE HEAD
- 18 6-0 x 6-8 WOOD FRAME FULL LITE GLASS JULIET BALCONY DOOR W/ 12" TRANSOM  
• 5/4 5.5" FIBER CEMENT BOARD SILL, JAMBS, & HEAD
- 19 PRE-FINISHED 42" ALUMINUM GUARDRAIL
- 20 PRE-FINISHED 42" ALUMINUM JULIET BALCONY GUARDRAIL
- 22 CIRCULATION RAINSCREEN: COMPOSITE DECKING SLATS ON METAL FRAME (SEE STRUCTURAL)
- 23 ONE-LIGHT OUTDOOR CYLINDER ACCENT LIGHT
- 24 TWO-LIGHT OUTDOOR CYLINDER ACCENT LIGHT
- 25 HVAC WALL PLENUM W/ ARCHITECTURAL LOUVER & SLOPED BRICK VENEER ROWLOCK SILL, BRICK VENEER JAMBS, SOLDIER COURSE HEAD  
\*ONLY REQUIRED ON WALLS ADJACENT TO SUNOOM WITH MECHANICAL UNIT FACING\*
- 26 HVAC WALL PLENUM W/ ARCHITECTURAL LOUVER & 5/4 2.5" FIBER CEMENT TRIM  
\*ONLY REQUIRED ON WALLS ADJACENT TO SUNOOM WITH MECHANICAL UNIT FACING\*
- 27 30"x30" HARDIE BOARD ACCENT MEDALLION W/ 5/4 3.5" FIBER CEMENT BOARD TRIM & 4/4 2" FIBER CEMENT BOARD BATTENS
- 28 ALUMINUM FRAME SUNSHADE AWNINGS WITH 8:12 PITCH STANDING SEAM METAL ROOF TO MATCH CIRCULATION ENTRY ROOFS (DESIGN BY OTHERS)

ELEVATION MATERIAL KEY (CONTINUED):

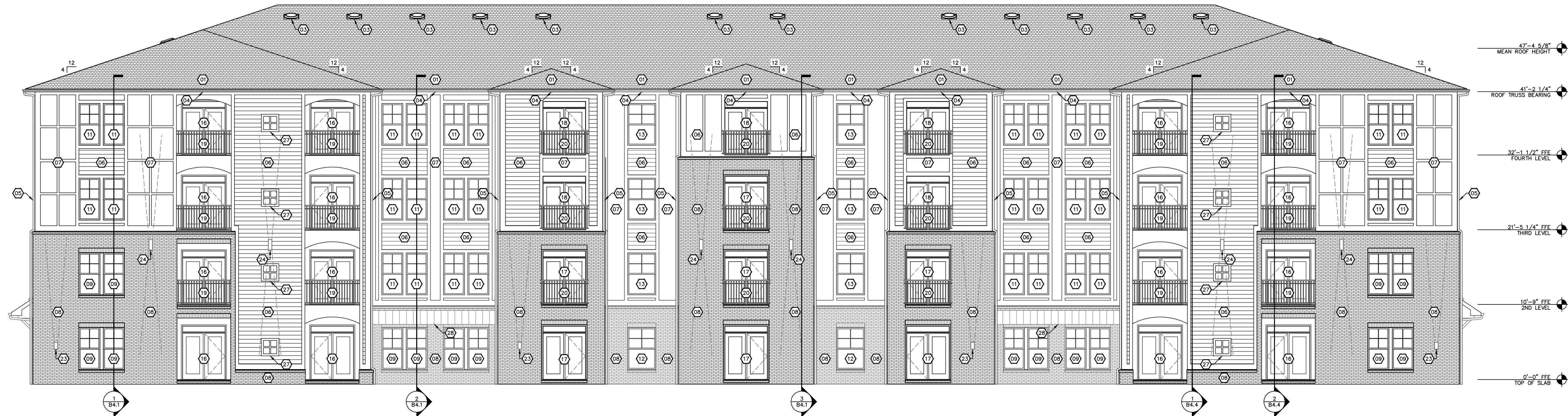
- 09 3-0 x 6-0 VINYL FRAME SINGLE HUNG WINDOW  
• 5/4 5.5" FIBER CEMENT BOARD CENTER MULLION  
• SLOPED BRICK VENEER ROWLOCK SILL, BRICK VENEER JAMBS, SOLDIER COURSE HEAD
- 10 NOT USED
- 11 3-0 x 6-0 VINYL FRAME SINGLE HUNG WINDOW  
• 5/4 5.5" FIBER CEMENT BOARD CENTER MULLION, SILL, JAMBS, & HEAD
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• SLOPED BRICK VENEER ROWLOCK SILL, BRICK VENEER JAMBS, SOLDIER COURSE HEAD
- 13 4-0 x 6-0 VINYL FRAME SINGLE HUNG WINDOW  
• 5/4 5.5" FIBER CEMENT BOARD SILL, JAMBS, & HEAD
- 14 2-0 x 2-0 VINYL FRAME PICTURE WINDOW  
• SLOPED BRICK VENEER ROWLOCK SILL, BRICK VENEER JAMBS, SOLDIER COURSE HEAD
- 15 2-0 x 2-0 VINYL FRAME PICTURE WINDOW  
• 5/4 5.5" FIBER CEMENT BOARD SILL, JAMBS, & HEAD
- 16 6-0 x 6-8 WOOD FRAME FULL LITE GLASS PORCH DOOR W/ 12" TRANSOM  
• 2" BRICK MOLD BOARD JAMBS & HEAD

ELEVATION MATERIAL KEY:

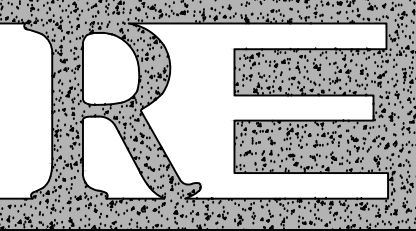
- 01 25 YEAR ARCHITECTURAL SHINGLES OVER #15 ROOFING FELT
- 02 METAL ROOF OVER #15 ROOFING FELT
- 03 METAL DOME ATTIC VENT - SEE BUILDING ROOF PLAN
- 04 PRE-FINISHED 5K ALUMINUM SEAMLESS GUTTER OVER ALUMINUM TRIM COIL FASCIA
- 05 PRE-FINISHED 4"x3" ALUMINUM DOWNSPOUT - CONNECT TO UNDERGROUND STORMWATER SYSTEM (SEE CIVIL DRAWINGS)
- 06 8.25" FIBER CEMENT LAP SIDING (7" EXPOSURE)  
• 5/4 5.5" FIBER CEMENT BOARD: FRIEZE BOARD & CLADDING TRANSITIONS  
• 5/4 9.25" FIBER CEMENT BOARD: SILL TRIM & WALL CORNER TRIM (RIP WALL CORNER TRIM ADJACENT TO BRICK VENEER AS REQUIRED TO ALIGN WITH TRIM ABOVE)
- 07 FIBER CEMENT PANELS  
• 5/4 5.5" FIBER CEMENT BOARD: FRIEZE BOARD & CLADDING TRANSITIONS  
• 4/4 3.5" FIBER CEMENT BOARD: VERTICAL & HORIZONTAL BATTEN STRIPS  
• 5/4 5.5" FIBER CEMENT BOARD: PORCH OPENING JAMBS  
• 5/4 9.25" FIBER CEMENT BOARD: SILL TRIM, WALL CORNER TRIM, CIRCULATION OPENING CORNERS
- 08 BRICK VENEER  
• SLOPED ROWLOCK SILL: CLADDING TRANSITIONS & PORCH OPENING SILLS  
• SOLDIER COURSE: PORCH OPENING HEAD



1 PARKING LOT ELEVATION  
1/8" = 1"



2 STREET ELEVATION  
1/8" = 1"



Rehab Engineering, P.C.  
401 East Fourth Street, Suite 201  
Winston Salem, North Carolina 27101-4171  
www.rehab-eng.com  
office 336 714 8935  
fax 336 722 9872



Version:	01				
Date:	2022-03-10				
Version Name:	Construction Documents				

ELEVATIONS - PARKING LOT & STREET

PROJECT NUMBER:  
20-15  
DRAWN BY:  
JAD  
SHEET:  
BLDG56-1  
B3.1

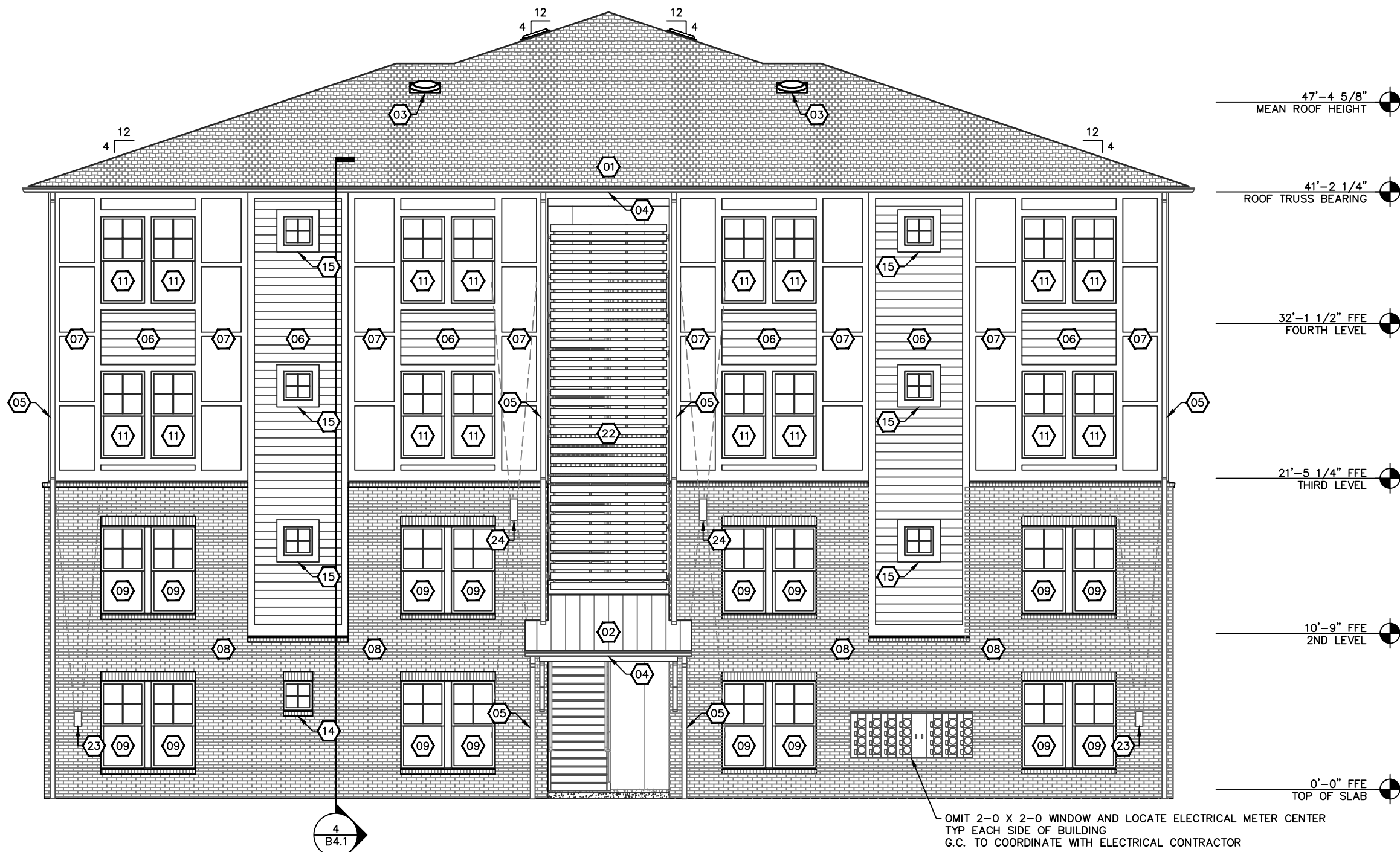
NOT USED

- ELEVATION MATERIAL KEY (CONTINUED):
- 17 6-0 x 6-8 WOOD FRAME FULL LITE GLASS JULIET BALCONY DOOR W/ 12" TRANSOM
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    - SOLDIER COURSE: PORCH OPENING HEAD

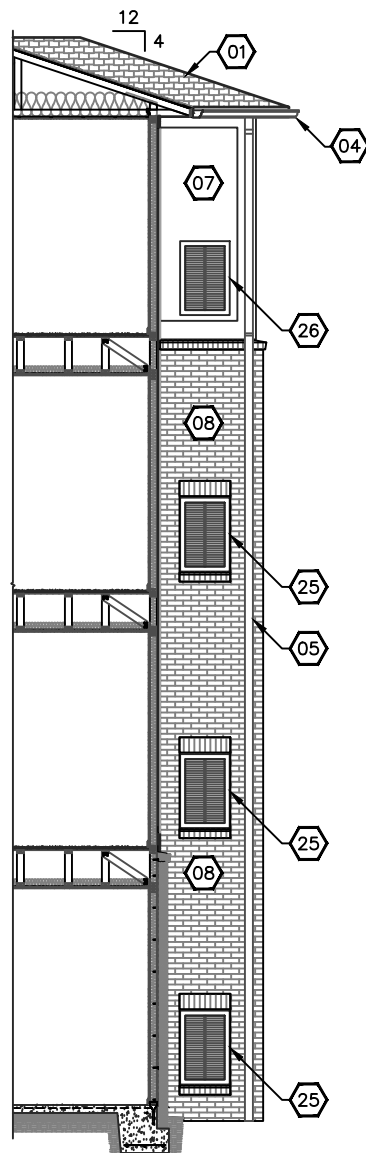
NOT USED



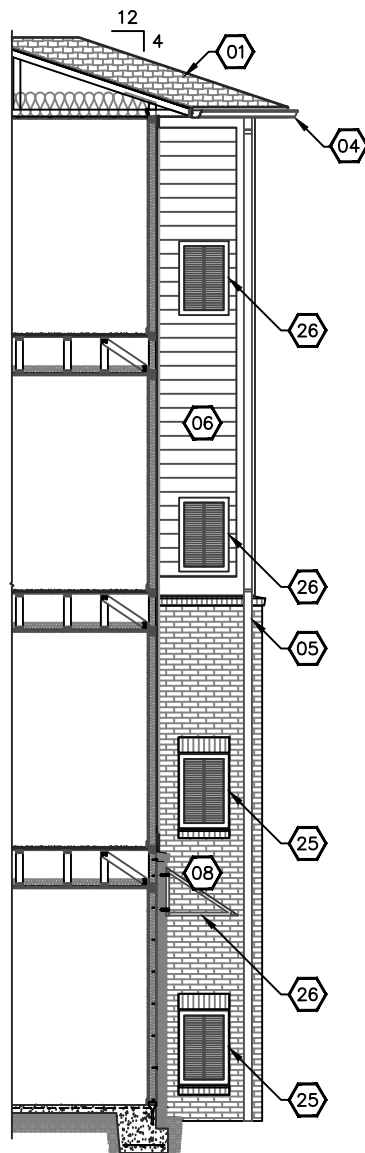
1 SIDE ELEVATION (BOTH SIDES SIMILAR)  
1/8" = 1'

NOT USED

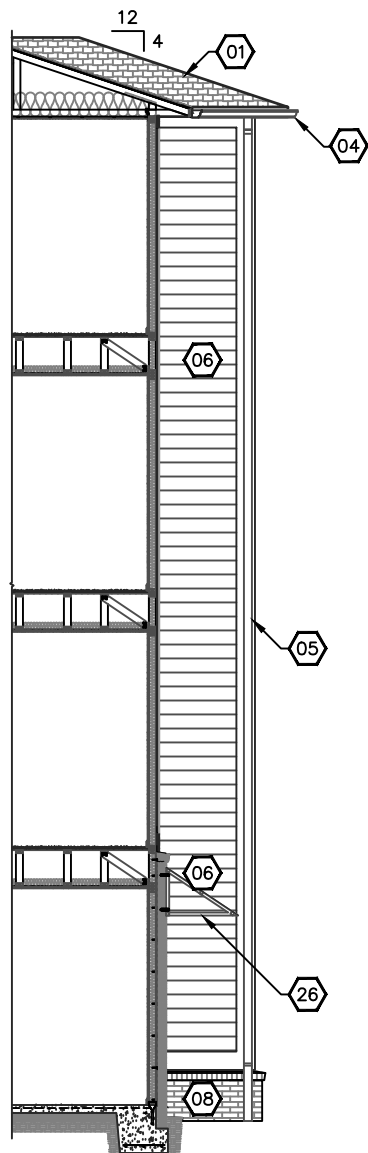
PORCH/SUNROOM  
EXTERIOR SIDE WALL  
(3 STORY BRICK MAIN  
BLDG FACE)



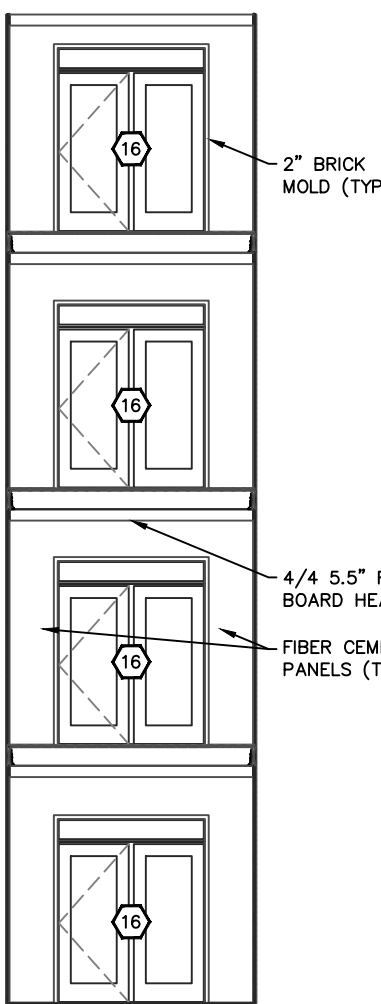
PORCH/SUNROOM  
EXTERIOR SIDE WALL  
(2 STORY BRICK  
MAIN BLDG FACE)



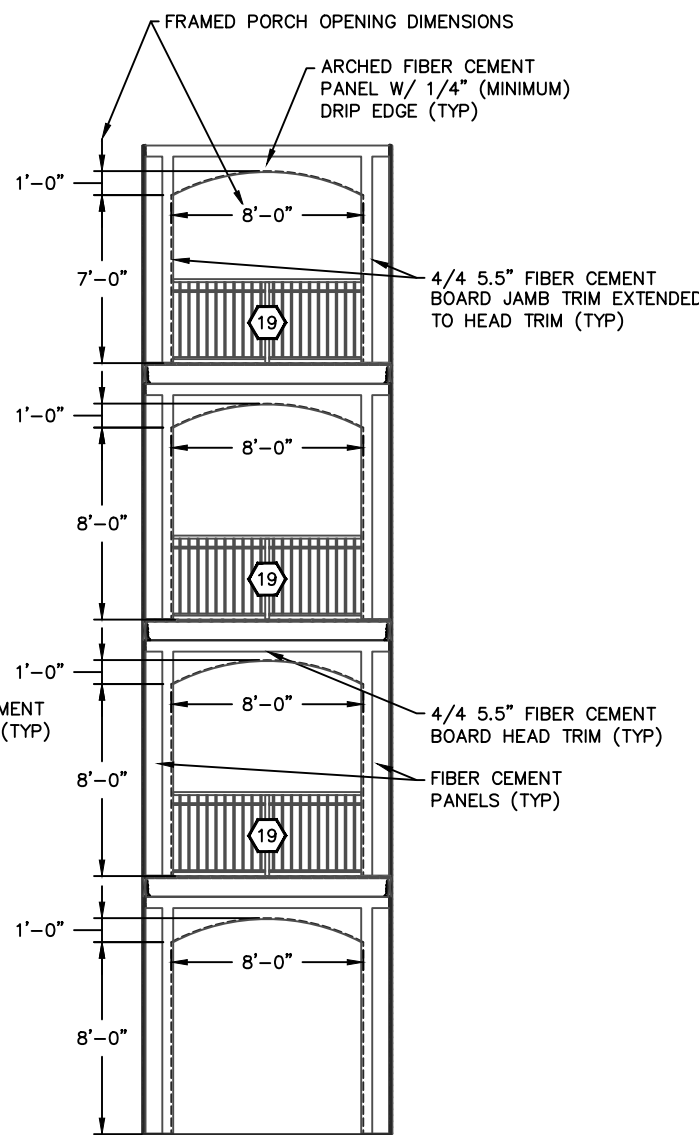
PORCH/SUNROOM  
EXTERIOR SIDE WALL  
(WINDOW SILL BRICK  
MAIN BLDG FACE)



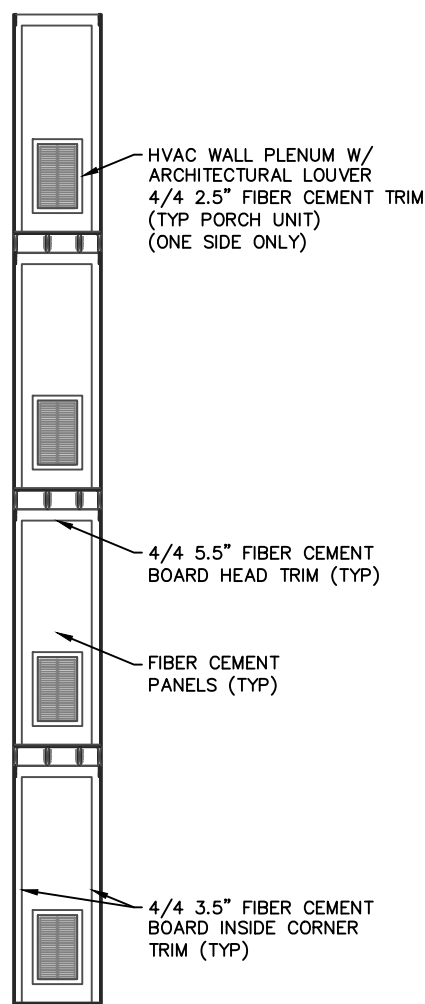
PORCH DOOR WALL  
(ALL UNIT SIMILAR)



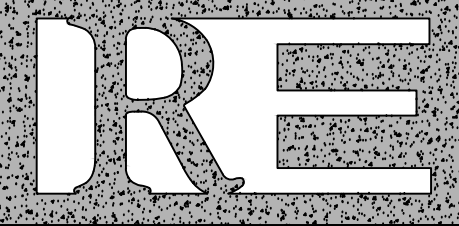
PORCH OPENING WALL  
(ALL UNIT SIMILAR)



PORCH SIDE WALL  
(ALL UNIT SIMILAR)  
(BOTH SIDES SIMILAR)



2 PORCH & SUNROOM SIDE ELEVATIONS  
1/8" = 1'



Rehab ENGINEERING, P.C.  
401 East Fourth Street, Suite 201  
Winston Salem, North Carolina 27101-4171  
www.rehab-eng.com  
office 336 714 8935  
fax 336 722 9872



Version Name:	Construction Documents
Date:	2022-03-10
Version:	01

PROJECT NUMBER:	20-15
DRAWN BY:	JAD
SHEET:	BLDG56-1 B3.2

ELEVATIONS - SIDE & PORCH & SUNROOM SIDES

# | Agenda Item | cover sheet

for consideration by the Apex Town Council

Item Type: CONSENT AGENDA

Meeting Date: April 11, 2023

## Item Details

Presenter(s): Amanda Bunce, Current Planning Manager

Department(s): Planning

### Requested Motion

Motion to approve the Statement of the Apex Town Council pursuant to G.S. 160D-605(a) addressing action on the Unified Development Ordinance (UDO) Amendments of March 28, 2023.

### Approval Recommended?

The Planning Department recommends approval.

### Item Details

### Attachments

- CN11-A1: Statement of Town Council - March UDO Amendments



**STATEMENT OF THE APEX TOWN COUNCIL PURSUANT TO G.S. 160D-605(a) ADDRESSING ACTION ON THE UNIFIED DEVELOPMENT ORDINANCE (UDO) AMENDMENTS OF MARCH 28, 2023**

Pursuant to G.S. §160D-601 and Sec. 2.2.11.E of the Unified Development Ordinance, the Planning Director for the Town of Apex, Dianne Khin, caused proper notice to be given (by publication and posting), of a public hearing on UDO Amendments before the Town Council on the 28<sup>th</sup> day of March 2023.

The Apex Town Council held a public hearing on the 13<sup>th</sup> day of March 2023. Dianne Khin, Planning Director, presented the Planning Board's vote to recommend approval by a vote of 7-0 at the public hearing.

All persons who desired to present information relevant to the UDO were allowed to present evidence at the public hearing before the Apex Town Council. No one who wanted to speak was turned away.

The Town Council on the 28<sup>th</sup> day of March 2023 by a vote of 5-0 approved the Ordinance for UDO Amendments.

The Apex Town Council finds from information and testimony provided at the public hearing that the approval of the various UDO Amendments of March 28, 2023 are consistent with the Advance Apex: The 2045 Plan and reasonable and in the public interest for the following reason(s):

1. The amendments to UDO Sec. 2.1.9.A *Apex Environmental Advisory Board* change the timing of Environmental Advisory Board review to after application submittal so that the Board can review the full rezoning application. The amendments to UDO Sec. 2.2.7.B *Neighborhood Meetings* adds an additional neighborhood meeting after application submittal in the month prior to the anticipated public hearing dates to provide more opportunity for adjacent property owners to provide input on the proposed rezoning.
2. The amendments to UDO Sec. 4.4.1.J.2 *Supplemental Standards; Residential Uses; Townhouse, detached; Alleys and Driveways* allow for alleys in developments with detached townhomes to meet the same standards as those for single-family detached and attached townhome developments.

---

Jacques K. Gilbert  
Mayor

ATTEST:

---

Allen Coleman, CMC, NCCCC  
Town Clerk

---

Date



## **A REPRESENTATIVE STATEMENT CONGRATULATING THE TOWN OF APEX ON ITS ONE HUNDRED FIFTIETH ANNIVERSARY**

**WHEREAS**, the Town of Apex, located in Wake County, grew from the establishment of the Christian Home Church, which was founded in 1866. After the completion of the Chatham Railroad in 1868, this 31-mile track from Raleigh to Haywood (now Moncure) positioned Apex's Depot as the cooling location for the trains at the "apex of the grade," giving the Town its name; and

**WHEREAS**, the Town of Apex was incorporated by an act of the General Assembly on February 28, 1873; and

**WHEREAS**, Apex's first Town Hall was constructed in 1912. The facility housed the mayor, public safety, a jail, a local court, an open market and trading center, and an opera house. The original town hall serves the Apex community as The Halle Cultural Arts Center; and

**WHEREAS**, at that time of incorporation, Apex was one-mile square. In 1960, the Town expanded its town limits for the first time with two annexations, adding 800 acres; and

**WHEREAS**, at the turn of the century, Apex had a population of approximately 349. By 1990, the population had grown to 5,000 and today that number is an estimated 75,000; and

**WHEREAS**, in 2015, Money Magazine named Apex as the "Best Place to Live" in its ranking of small towns; and

**WHEREAS**, this year marks the Town of Apex's 150th anniversary and its citizens have been actively preparing for a yearlong celebration to commemorate Apex's sesquicentennial anniversary;

**NOW, THEREFORE**, it is fitting to congratulate the citizens of the Town of Apex on the Town's 150th anniversary and to join its citizens in observing this historic occasion.

**IN WITNESS WHEREOF**, the undersigned certifies that the foregoing statement was read in the House and placed upon the Journal on the \_\_\_\_\_ day of \_\_\_\_\_, 2023.

---

Submitted by Representative Julie von Haefen

---

House Principal Clerk



*"The Peak of Good Living"*

TOWN OF APEX  
NORTH CAROLINA

## *Proclamation*

### **Celebrate Diversity Month 2023**

*from the Office of the Mayor*

WHEREAS, Celebrate Diversity Month was first recognized in 2004 to call attention to the diversity that surrounds us, and organizers encourage everyone to celebrate both differences and similarities to create meaningful interaction, opportunity, and inclusion for all people; and,

WHEREAS, Recognizing diversity in this manner enhances understanding, and celebration of diverse perspectives, backgrounds, and contributions makes The Town of Apex a more thoughtful and welcoming place; and,

WHEREAS, By celebrating and sharing our authentic selves, we gain a greater appreciation of each other and our diversity, but most importantly, it creates spaces of inclusion and fosters belonging where people feel valued; and,

WHEREAS, Ensuring true diversity compels us to develop a safe, positive world where we find value in each other's experiences, differences, and unique characteristics as it enables us to respond with relevance, empathy, and compassion; and,

WHEREAS, The residents, businesses, and government institutions of the Town of Apex, North Carolina are firmly committed to celebrating and promoting diversity, inclusion, and cultural traditions of our town's communities.

NOW, THEREFORE, I, Jacques K. Gilbert, Mayor of Apex, North Carolina, do hereby proclaim, the Month of April 2023, Celebrate Diversity Month in the Town of Apex, and urge all residents to join in celebrating the ways that recognizing our differences and diverse contributions make us a stronger and more compassionate community.

I hereby set my hand and have caused the Seal of the Town of Apex,  
North Carolina, to be affixed this the 11th day of April 2023

Jacques Gilbert, Mayor



*"The Peak of Good Living"*

TOWN OF APEX  
NORTH CAROLINA

## *Proclamation*

### **National Telecommunicator Week 2023**

*from the Office of the Mayor*

WHEREAS, Emergencies can occur at any time which require police, fire, or emergency medical services; and,

WHEREAS, When an emergency occurs, the prompt response of police officers, firefighters, and paramedics is critical to the protection of life and the preservation of property; and,

WHEREAS, Public safety communicators are the first and most critical contact our residents have with emergency services; and,

WHEREAS, The safety of our police officers and firefighters is dependent upon the quality and accuracy of information relayed from emergency calls by telecommunicators, and upon their monitoring of emergency response activities by radio; and,

WHEREAS, Public safety telecommunicators of the Apex Police Department have contributed substantially to the apprehension of criminals, suppression of fires, and treatment of patients; and,

WHEREAS, Each has exhibited compassion, understanding, and professionalism during the performance of their job in the past year.

NOW, THEREFORE, I, Jacques K. Gilbert, Mayor of Apex, North Carolina, do hereby proclaim, the week of April 9<sup>th</sup> through April 15<sup>th</sup>, NATIONAL TELECOMMUNICATOR WEEK in the Town of Apex, in honor of the personnel whose diligence and professionalism keep our town and residents safe.

I hereby set my hand and have caused the Seal of the Town of Apex,  
North Carolina, to be affixed this the 11th day of April 2023

Jacques Gilbert, Mayor

# | Agenda Item | cover sheet

for consideration by the Apex Town Council

Item Type: PRESENTATION

Meeting Date: April 11, 2023

## Item Details

Presenter(s): Barbara Belicic

Department(s): Economic Development

Requested Motion

N/A

Approval Recommended?

N/A

### Item Details

This will be the presentation of the 8<sup>th</sup> annual "Think Apex" Awards. Awards will be given to the "Top Thinker" and "Honorable Mention" in the categories of: Business, Individual or Group, Non-Profit and Youth.

The "Think Apex" initiative was created in 2014 to encourage a local mindset by all parts of the Apex community, including businesses, residents and visitors. Think Apex empowers the community to celebrate, engage, play, volunteer, shop, eat and work locally. The Think Apex Awards are intended to recognize local businesses, individuals, groups, non-profits and youth for their dedicated service to others and to the Apex community as a whole. Nominations were received through a public, on-line application process. The nominees must be physically located in Apex and were considered for their acts of service in 2022.

The Council will be asked to stand in front of the dias and form a line so that they may shake hands with each winner. Winners will come forward when their name is called. The Mayor and former Mayor Pro Tem Nicole Dozier will be located at the end of the line to present the award itself. Upon receiving their award, the winners will pose for a quick photo.

## Attachments

# | Agenda Item | cover sheet

for consideration by the Apex Town Council

Item Type: CLOSED SESSION

Meeting Date: April 11, 2023

## Item Details

Presenter(s): Laurie Hohe, Town Attorney

Department(s): [Legal Dept.]

### Requested Motion

Possible motion to go into closed session pursuant to NCGS 143-318.11(a)(3) to discuss the handling of Empire Contractors, LLC, v. Town of Apex.

### Approval Recommended?

### Item Details

### Attachments

- [N/A]

