



AGENDA | REGULAR TOWN COUNCIL MEETING

Tuesday, October 20, 2020 at 6:00 PM

Council Chamber at Apex Town Hall, 73 Hunter Street

Council and Administration

Mayor: Jacques K. Gilbert | Mayor Pro Tem: Nicole L. Dozier

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

Town Manager: Drew Havens | Assistant Town Managers: Shawn Purvis and Marty Stone

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

COMMENCEMENT

Call to Order | Invocation | Pledge of Allegiance

PRESENTATIONS

[PR1](#) Mayor Jacques K. Gilbert

Presentation of the Proclamation declaring October 22, 2020 as Arbor Day in the Town of Apex

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

Presentation of Breast Cancer Awareness Month Proclamation

CONSENT AGENDA

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

[CN1](#) Donna Hosch, Town Clerk

Motion to approve minutes of the September 15, 2020 Regular Council Meeting

[CN2](#) Amanda Bunce, Current Planning Manager

Motion to approve the Statement of the Apex Town Council pursuant to G.S. 160A-383 addressing action on the various Unified Development Ordinance (UDO) Amendments of October 6, 2020.

[CN3](#) Shelly Mayo, Planner II

Motion to approve the Statement of the Town Council for Rezoning Case #19CZ21 Heelan PUD, Jason Barron for Morningstar Law Group, petitioner, for the properties located at 8824 & 8829 New Hope Farm Road, 3108 & 3120 Olive Farm Road, and 0 Humie Olive Road.

[CN4](#) Liz Loftin, Senior Planner

Motion to approve Statement of the Town Council and Ordinance for Rezoning Case #20CZ04, Kobra Tracts PUD, WithersRavenel, petitioner, for the property located at 7500 Green Level Church Road & 7501 Jenks Road.

[CN5](#) Lauren Staudenmaier, Planner I

Motion to approve Statement of the Town Council and Ordinance for Rezoning Case #20CZ07, Jeff Roach, Peak Engineering/Rich Levert petitioners, for the property located on 2309 Old US 1 Highway.

[CN6](#) Shelly Mayo, Planner II

Motion to approve Statement of the Town Council and Ordinance for Rezoning Case #20CZ08 Apex Friendship Elementary School. Betty Parker for Wake County Public School System, petitioner, for the property located at 7901 Humie Olive Road.

[CN7](#) Amanda Bunce, Current Planning Manager

Motion to adopt a Resolution Directing the Town Clerk to Investigate Petition Received, to accept the Certificate of Sufficiency by the Town Clerk, and to adopt a Resolution Setting Date of Public Hearing for November 4, 2020 on the Question of Annexation – Apex Town Council's intent to annex Lecter Marie Atwater, Donna M. Atwater and Jerome Kenneth Atwater HEIRS (Kings Grant) property containing 11.275 acres located at 2504, 2508, 2512, 2516 and 2600 Mt. Zion Church Road, Annexation #693 into the Town's corporate limits.

[CN8](#) Colleen Merays

Motion to approve the Special Event Permit and Town Co-Sponsorship request for the 2020 Chanukah Festival on Sunday, December 13, 2020, from 5:00 PM to 7:00 PM in the Apex Depot Parking Lot and Patio.

[CN9](#) Colleen Merays

Motion to approve amending the Special Event Permit for the American Legion Fall Car Show originally scheduled for Saturday, November 3 to Saturday, November 7, 2020 from 8:00 AM to 2:00 PM in the Town Hall Parking Lot.

[CN10](#) Michael Deaton

Motion to approve an Amendment to the *Conservation Easement Ruth Holleman Property* and authorize the Town Manager to sign all related documents on behalf of the Town.

[CN11](#) Jose Martinez, Director

Motion to approve and authorize the Town Manager to execute the same for an Encroachment Agreement between the Town and property owners, Joshua R. Klatt and Elizabeth T. Klatt (Grantees), regarding Wake County, NC PIN#0732-70-6379, 104 Gullane Court, as recorded in Book of Maps 2003, Page 00812, Wake County Register of Deeds.

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

Motion to approve a three (3) year contract with CCS Medical to administer the "Living Connected" Diabetes Management Program for Town employees covered

under the Town's health insurance plan. At the end of the 3 year term, the contract will auto-renew for periods of one (1) year.

[CN13](#) John M. Brown, Director

Motion to approve an ordinance amendment to add Salem Pond Park to section (a) (1) of Section 15-6 of the Town of Apex Code of Ordinances and set its hours of operation.

[CN14](#) John M. Brown, Director

Motion to extend summer park operating hours through February 28, 2021

REGULAR MEETING AGENDA

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

PUBLIC FORUM

Public Forum allows the public an opportunity to address the Town Council. The speaker is requested not to address items that appear as Public Hearings scheduled on the Regular Agenda.

The Mayor will recognize those who would like to speak at the appropriate time. Large groups are asked to select a representative to speak for the entire group.

Comments must be limited to 3 minutes to allow others the opportunity to speak.

PUBLIC HEARINGS

[PH1](#) Lauren Staudenmaier, Planner I

Public hearing and possible motion to adopt an Ordinance on the Question of Annexation – Apex Town Council's intent to annex Powell Property Holdings, LLC (The Upchurch) property containing 5.5021 acres located at 7213 Roberts Road, Annexation #698 into the Town's corporate limits.

[PH2](#) Amanda Bunce, Current Planning Manager

Public Hearing and possible motion to approve Rezoning Application #20CZ10 109 Holleman Street. The applicants, Charles Duane Taylor, Jr and Sherry Bailey Taylor, seek to rezone approximately 0.24 acre located at 109 Holleman Street (PIN 0742305576) from Office and Institutional (O&I) to Mixed Office-Residential-Retail-Conditional Zoning (MORR-CZ).

OLD BUSINESS

[OB1](#) Colleen Merays, Downtown and Small Business Development Coordinator

Possible motion to extended current Parking-to-Dining Program layout adopted by Town Council on September 15, 2020 until November 1, 2020 to allow for extended outdoor dining and alcohol consumption as permitted by ABC Law or regulations, and to extend the ordinance temporarily modifying Town Code Sections 14-14 and 18-11 as they relate to sidewalk dining and alcohol consumption on public streets and sidewalks through November 1, 2020.

UNFINISHED BUSINESS

- [UB1](#) Mike Deaton, Water Resources Director
Possible motion to reduce the Civil Penalty that was assessed to the Center Street Pharmacy property owner on March 19, 2020, from \$4,700 to \$2,000.

NEW BUSINESS

- [NB1](#) Nicole Dozier, Mayor Pro Tem
Discussion and possible motion to adopt the Town of Apex Living Wage resolution and approve an amendment to the Personnel Policies Manual to include a Living Wage policy.
- [NB2](#) Shannon Cox, Long Range Planning Manager with Shawn Purvis, Assistant Town Manager
Possible motion to approve implementation of the proposed Apex Cares Housing Rehabilitation Program with an annual funding allocation from the Affordable Housing Fund.
- [NB3](#) Audra Killingsworth, Council Member
Discussion and possible motion to amend Section 4.3 of the Town of Apex Code of Ordinances to allow the keeping of dwarf/pygmy goats within the town limits.
- [NB4](#) Cheryl Stallings, Council Member
Discussion regarding recent amendments to the Transportation Plan Map and possible direction to staff to begin the process to re-examine two changes to allow for additional public input.

CLOSED SESSION

- [CS1](#) Jacques K. Gilbert, Mayor
Motion to go into Closed Session to discuss a personnel matter

WORK SESSION

- [WS1](#) Shannon Cox, Russell Dalton, Vance Holloman, Shawn Purvis
Receive information regarding cost and timing of transportation projects and existing debt capacity in order to consider possible financing options to fund transportation projects.

ADJOURNMENT

| Agenda Item | cover sheet

for consideration by the Apex Town Council

Item Type: PRESENTATION

Meeting Date: October 20, 2020

Item Details

Presenter(s): Mayor Jacques K. Gilbert

Department(s): Governing Body

Requested Motion

Presentation of the Proclamation declaring October 22, 2020 as Arbor Day in the Town of Apex

Approval Recommended?

N/A

Item Details

N/A

Attachments

- Proclamation



Town of Apex, North Carolina

Proclamation

from the Office of the Mayor

ARBOR DAY IN THE TOWN OF APEX

WHEREAS, in 1872, J. Sterling Morton proposed to the Nebraska Board of Agriculture that a special day be set aside for the planting of trees; and

WHEREAS, this holiday called Arbor Day was first observed with the planting of more than a million trees; and

WHEREAS, Arbor Day is now observed throughout the nation and the world; and

WHEREAS, trees can reduce the erosion of our precious topsoil by wind and water, cut heating and cooling costs, moderate the temperature, clean the air, produce life-giving oxygen, and provide habitat for wildlife; and

WHEREAS, trees in our town increase property values, enhance the economic vitality of business areas, and beautify our community; and

WHEREAS, the Apex Town Council and the Tree Citizen Advisory Panel (Tree CAP) will commemorate Arbor Day by planting five trees, one for each year designated as a Tree City USA, at Seagroves Farm Park on October 22, 2020;

NOW, THEREFORE, I, Jacques K. Gilbert, Mayor of the Town of Apex, do hereby proclaim October 22, 2020 as Arbor Day in the Town of Apex, and urge all citizens to celebrate our Arbor Day and to support efforts to protect our trees and woodlands.

IN WITNESS THEREOF, I have hereunto set my hand
and caused the Seal of the Town of Apex, North Carolina
to be affixed this the 20th day of October 2020

Jacques K. Gilbert, Mayor

| Agenda Item | cover sheet

for consideration by the Apex Town Council

Item Type: PRESENTATION

Meeting Date: October 20, 2020

Item Details

Presenter(s): Jacques K. Gilbert, Mayor

Department(s): Governing Body

Requested Motion

Presentation of Breast Cancer Awareness Month Proclamation

Approval Recommended?

N/A

Item Details

N/A

Attachments

- Proclamation



Town of Apex, North Carolina

Proclamation

from the Office of the Mayor

BREAST CANCER AWARENESS MONTH

WHEREAS, breast cancer is the most common cancer in American women except for skin cancers; and

WHEREAS, there is a 1 in 8 chance (a 13% chance) that a woman in the United States will develop breast cancer; and

WHEREAS, The American Cancer Society estimates that in 2020 there will be an estimated 276,480 cases of breast cancer detected and that an estimated 42,170 women will die from Breast Cancer; and

WHEREAS, regular screening tests and mammograms are the most effective methods of detecting breast changes that may detect physical symptoms before they can be seen or felt; and

WHEREAS, researchers, scientists, numerous nonprofit organizations, and breast cancer survivors are dedicated to discovering a cure for breast cancer. During the month of October, The Town of Apex acknowledges the extraordinary commitment and effort invested in this cause, and supports those who are working towards a cure; and

WHEREAS, the Town of Apex recognizes the breast cancer survivors among us and honor their faith and courage. The over three and a half million breast cancer survivors give us hope of a better future for those affected by breast cancer;

NOW, THEREFORE, I, Jacques K. Gilbert, Mayor of the Town of Apex, North Carolina, do hereby proclaim October 2020 as Breast Cancer Awareness Month.

IN WITNESS THEREOF, I have hereunto set my hand
and caused the Seal of the Town of Apex, North Carolina
to be affixed this the 20th day of October 2020

Jacques K. Gilbert, Mayor

| Agenda Item | cover sheet

for consideration by the Apex Town Council

Item Type: CONSENT AGENDA

Meeting Date: October 20, 2020

Item Details

Presenter(s): Donna Hosch, Town Clerk

Department(s): Office of the Town Clerk

Requested Motion

Motion to approve minutes of the September 15, 2020 Regular Council Meeting

Approval Recommended?

Yes

Item Details

N/A

Attachments

- Minutes of the September 15, 2020 Regular Council Meeting





AGENDA | REGULAR TOWN COUNCIL MEETING

Tuesday, September 15, 2020 at 6:00 PM

Council Chamber at Apex Town Hall, 73 Hunter Street

Council and Administration

Mayor: Jacques K. Gilbert | Mayor Pro Tem: Nicole L. Dozier

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

Town Manager: Drew Havens | Assistant Town Manager: Shawn Purvis |

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

In attendance were Mayor Jacques K. Gilbert, Mayor Pro Tem Nicole L. Dozier, and Council Members Brett D. Gantt, Audra M. Killingsworth (remotely), Cheryl F. Stallings, and Terry Mahaffey. Also in attendance were Town Manager Drew Havens, Assistant Town Manager Shawn Purvis, Town Clerk Donna B. Hosch (remotely), and Town Attorney Laurie L. Hohe.

COMMENCEMENT

Mayor Gilbert called the meeting to order and spoke about those who lost their lives during 911. He asked for a moment of silence to pay respect to these individuals. Mayor Gilbert then led the Pledge of Allegiance.

PRESENTATIONS

ADDED PR2 Beth Bordeaux, Executive Director, Western Wake Crisis Ministries

Ms. Bordeaux, speaking remotely, stated she wished to share with Council what they are seeing in the community during COVID. She stated their Vision Statement and explained how this Statement was being met. She also spoke about their core values. WWCM services have changed since COVID, and Ms. Bordeaux outlined those changes. She also outlined the programs they've recently started. Ms. Bordeaux presented figures on what they've been spending on housing assistance.

WWCM has spent the \$40,000 which the Town provided in grants a few weeks ago. Charts showing housing debt were presented, and Ms. Bordeaux explained how COVID has impacted the families.

Racial inequities are highlighted at this time, especially Hispanics and Latin-x's, and Ms. Bordeau explained how this is so. Predators are seeking these vulnerabilities and taking advantage, particularly in the areas of human trafficking and the homeless.

Ms. Bordeau was thankful to the Town for the extended moratorium on utility cutoffs and asked for these efforts to continue until people can stabilize. She also thanked the Town for its continued efforts on affordable housing and where it may lead for the community.

Responding to Council, Ms. Bordeau stated she can compile figures on the number of how many homes/families the agency has touched since COVID and forward to Council. The food insecurity number is not much higher than normal since a lot is being done in the community for this. She spoke about the Family Recovery Fund and what the response has been. Last month they met their spending goal, the funds being spent quicker than they originally thought. She commented the community has been amazing with its outreach and support.

Council encouraged Ms. Bordeau to keep in contact with staff and letting the Town know how we can support them. He expressed concern that people in Apex don't know about the utility program at the County. Council asked about the rental program from the County, how it has been going, and how Apex citizens could get assistance. Ms. Bordeau stated they did not have infrastructure in place to handle the COVID impact. Their shelters filled up pretty quickly. In the County programs, some vulnerable folks were sent to hotels. In reality there is a capacity issue, and there is not a lot of movement out of the shelters. She explained how folks are moved through their waiting list. Wake Prevent is working in the same way. Most services are going to the lowest income folks who have the least capacity to recover. WWCM has opened a new infrastructure program, but it will take time for this to be set in place.

Responding to Council, Ms. Bordeau spoke about uninsured people. Pretty regularly, there are requests from folks asking for help for medical bills, this not being something they've paid for in the past. WWCM has directed these individuals to social workers or other such individuals.

Council thanked Ms. Bordeau and her staff for their excellent work in the community. They are appreciated beyond words, and Ms. Bordeau was asked to keep the Town informed. People in the community would like to continue to support WWCM's efforts. These thoughts were echoed by the Mayor.

PR1 Shannon Cox, Long Range Planning Manager with HR&A Advisors, Inc.

Informational update to the Town Council regarding the ongoing development of the Town of Apex Affordable Housing Plan

Staff stated we have an expert consultant on board, HR&A, helping with this project. Sarah Kirk and Phillip Cash from HR&A were joining via Teams. They developed the affordable housing plan for Wake County, and they are working with Cary.

Staff stated they have been working to adopt our plan in an 8-month period. So far, focus has been on housing needs assessment. We are now turning our attention to developing recommendations and tools and a preliminary plan which will be presented for public comment before going to the Planning Board and to Council for consideration of adoption. We have a robust steering committee made up of a large and diverse group of individuals.

Staff stated affordable housing has a lot of complex issues. She explained what was found from the housing needs assessment. A public survey was done which reached 1,200 participants. HR&A additionally held interviews with developers, service providers, and realtors to get more details about what's going on in Apex. Individuals were interviewed regarding housing issues in Apex. Staff stated some of the resulting sentiments.

Staff stated the data shows the majority of new Apex residents are White, affluent, and highly educated. Apex is losing moderate income households while gaining higher income renters and homeowners. Staff shared public input – it's hard to live here as a single parent, people should be able to live and work in the same city, people should be able to live here as they approach retirement, be able to afford starter homes, and then there were those who stated there are no issues with housing and people don't want their property values to be impacted. Home values have been increasing. If this trend continues, there will be limited access to median income housing without homeowners being house burdened. Staff spoke about the gap in the supply of housing for lower income renters. This gap is expected to increase over the next 10 years.

Staff stated Apex's job growth is expected to be in the income of \$75,000 or less, so there is a need for affordable housing. Over the past 10 years, new apartments have been developed. But these are considered market rate or luxury apartments. The only affordable units were built prior to 2000. High land cost and the lack of qualifying sites contribute to this.

Staff stated we now need to think about going to the recommendation phase. She listed what needs to be thought about. The next step will be to work with the steering committee

to work on goals going forward. The focus will then be on recommendations and tools, after which a plan can be formulated.

Council stated affordable housing has been difficult nationally in high demand areas. He asked what are we looking at as far as the model plan. Phillip Cash stated no community is knocking this out of the park. However, we are looking at several communities. He spoke about the challenges, Minneapolis being one doing better than most.

Council asked about barriers to affordable housing in Wake County and Apex. Mr. Cash talked about these and what can be done. He reiterated there is a great need and COVID is accelerating this need.

Council stated she's attended presentations on affordable housing needs for several years, and the numbers keep getting worse and worse. There are more needs and less units being provided. She was looking forward to seeing the goals and tools so Council can start addressing these needs in a more meaningful way.

Council asked how it is going nationally that in the midst of COVID more people are wanting housing with more space and how this can hinder any type of affordable housing effort. Mr. Cash stated our plan will look at how the market is shifting because of COVID and the challenges of affordability.

Mayor Gilbert gave assurance that Council is supportive in continuing to move forward with this effort.

CONSENT AGENDA

- CN1 Donna Hosch, Town Clerk
Minutes of the August 18, 2020 Regular Council Meeting and the September 1, 2020 Regular Council Meeting
- CN2 Donna Hosch, Town Clerk
Apex Tax Report dated July 16, 2020
- CN3 Donna Hosch, Town Clerk
Ratification of the Town Clerk in making a refund of \$600 to the Willie Robinson Heirs for cemetery Lot 150 Plots A, B, C, and D which were sold back to the Town
- CN4 Amanda Bunce, Current Planning Manager
Set the Public Hearing for the October 6, 2020 Town Council meeting regarding various amendments to the Unified Development Ordinance
- CN5 Shelly Mayo, Planner II

Set the Public Hearing for the October 6, 2020 Town Council meeting regarding Rezoning Application #19CZ21 Heelan PUD and Ordinance. The applicant, Jason Barron for Morningstar Law Group, sought to rezone approximately 141.7 acres from Wake Co. R-40W to Planned Unit Development-Conditional Zoning (PUD-CZ). The proposed rezoning is located at 8824 & 8829 New Hope Farm Road, 3108 & 3120 Olive Farm Road, and 0 Humie Olive Road.

CN6 Shelly Mayo, Planner II

Set the Public Hearing for the October 6, 2020 Town Council meeting regarding Rezoning Application #20CZ08 Apex Friendship Elementary. The applicant, Betty Parker for Wake County Public School System, sought to rezone approximately 5.762 acres from Planned Unit Development-Conditional Zoning (PUD-CZ) to Rural Residential-Conditional Zoning (RR-CZ). The proposed rezoning is located at 7901 Humie Olive Road.

CN7 Liz Loftin, Senior Planner

Set Public Hearing for October 6, 2020 Town Council meeting regarding Rezoning application #20CZ04 Kobra Tract PUD. The applicant, WithersRavenel, sought to rezone approximately 24.63 acres for the properties located at 7500 Green Level Church Road & 7501 Jenks Road (PINs 0733102211 & 0732196422) from Rural Residential (RR) to Planned Unit Development Conditional Zoning (PUD-CZ).

CN8 Liz Loftin, Senior Planner

Statement of the Town Council and Ordinance for Rezoning Case #20CZ06, Trinity Henderson, petitioner, for the property located at 204 & 206 Lynch Street

CN9 Marty Stone, Assistant Town Manager

First amendment to the Utility Infrastructure Reimbursement Agreement with Pulte Home Company, LLC, Standard Pacific of the Carolinas, LLC, and Taylor Morrison of Carolinas, Inc. and authorization for the Town Manager to execute the same

CN10 Steve Adams

Contract between the Town and Halle Properties to trade a Town owned property at Old Mill Village for a Halle owned property on Hunter Street

CN11 Marty Stone, Assistant Town Manager and Vance Holloman, Finance Director

Budget Ordinance Amendment No. 2 appropriating funds for the purpose of reimbursing a developer for completion of the Hasse Avenue Extension connecting the Sweetwater and Linden Subdivisions

CN12 Marty Stone, Assistant Town Manager and Vance Holloman, Finance Director

Budget Ordinance Amendment No. 3 appropriating funds for the purpose of refunding a payment in lieu of streets made by a developer to the Town

CN13 Shelly Mayo, Planner II

Resolution Directing the Town Clerk to Investigate Petition Received, Certificate of Sufficiency by the Town Clerk, and Resolution Setting Date of Public Hearing for

October 6, 2020 on the Question of Annexation – Apex Town Council's intent to annex Henry Steven Kastelberg, Carol B. Heelan Irrevocable Trust c/o George Heelan, Edward and Deborah Peart and Jerfi and Lisa Cicin (Heelan PUD) property containing 141.732 acres located at 8824 & 8829 New Hope Farm Road, 0 Humie Olive Road and 3108 & 3120 Olive Farm Road, Annexation #676 into the Town's corporate limits

CN14 Mary Beth Manville, Human Resources Director

Reclassification of the Administration Department's Construction Manager position, Grade 25, to Senior Capital Projects Manager, Grade 29

Mayor Gilbert stated the Town Clerk requested modification to the Council Minutes of August 18, 2020 related to 540 eminent domain actions coming out of Closed Session.

Mayor Gilbert called for a motion to adopt the Consent Agenda with the requested modification. Council Member Mahaffey made the motion;

Council Member Dozier seconded the motion.

The motion carried by a 5-0 vote.

REGULAR MEETING AGENDA

Mayor Gilbert stated the Town Attorney requested an additional Closed Session related to the purchase of real property and to prevent disclosure of information that is privileged and confidential.

Mayor Gilbert called for a motion to adopt the Regular Meeting Agenda. Council Member Gantt made the motion with the requested addition;

Council Member Stallings seconded the motion.

The motion carried by a 5-0 vote.

PUBLIC FORUM

No one wished to speak during Public Forum.

PUBLIC HEARINGS

PH1 Dianne Khin, Director of Planning and Community Development

Ordinance on the Question of Annexation – Apex Town Council's intent to annex MFW Investments, LLC (Colby Crossing) property containing 7.578 acres located along a

portion of the future connection of Colby Chase Drive between Merion and Pemberley subdivisions, Annexation #651 into the Town's corporate limits
Staff stated the requestor asked for a continuance to the October 6, 2020 meeting due to contractual obligations of the purchase of the property.

Mayor Gilbert called for a motion. Council Member Dozier made the motion to continue the Public Hearing to the October 6, 2020 Regular Meeting;
Council Member Gantt seconded the motion.
The motion carried by a 5-0 vote.

PH2 Dianne Khin, Director of Planning and Community Development
Ordinance on the Question of Annexation – Apex Town Council's intent to annex Kimberly & Loomis Horton, III, Mary Elizabeth Horton, Dwight Marvin Wright, MFW Investments, LLC, and MFWIRA, LLC (Horton Park PUD) property containing 101.356 acres located at 8140, 8252, 8306 and 8308 Smith Road, 0 East Williams Street, 0,0,0,0 & 0 Dezola Street and 5220 Jessie Drive, Annexation #687 into the Town's corporate limits
Staff stated this was the same requestor as Public Hearing 1, and that he was asking for a continuance to the October 6, 2020 meeting.

Mayor Gilbert called for a motion. Council Member Gantt made the motion to continue the Public Hearing to the October 6, 2020 Regular Meeting;
Council Member Dozier seconded the motion.
The motion carried by a 5-0 vote.

Mayor Gilbert noted that with Council Member Killingsworth participating remotely, public comments would be held open for 24 hours following this meeting.

PH3 Shannon Cox, Long Range Planning Manager
Resolution regarding the Town-initiated proposed renaming of "Lynch Street" within the Town of Apex
Staff stated the Town has an address policy with a framework for potential street renamings. The Town initiated renaming Lynch Street by proposing a suitable replacement road name – Lynn Council Street. Staff explained the steps which involved informing citizens of the proposed change. From the responses received, one citizen preferred no road name change, 12 suggested Lynn Council Street, and 12 suggested other road names. Staff stated the approvable suggested names received and the meaning behind those names. There would be a public hearing, a resolution would be adopted, and the property owners would be informed of the new name. The new name would become effective January 2021.

Council stated youth talked to the Mayor and staff around the research they were doing on the historical context. She asked if the students were involved. Staff stated they were not involved in the potential renaming, but they did speak with staff and received substantial information which was used in the report they provided as to the history of the naming of Lynch Street.

Responding to Council about how many homes were on Lynch Street, staff stated 50 letters were sent and 24 responses were received.

Council felt this should be given more time. Staff explained the notification process to neighbors which included the suggested names.

Council stated this sounded like an affirmative for the name change, to which staff stated this was the case.

Council asked would there be ways to help support people in changing their address. Staff stated staff provided a summary of what occurs and what property owners would have to do. The Town would take care of the street signs, and we would notify the postal service. Property owners would need to update NC DMV records. Property owners would probably notice delays in deliveries from Amazon, FedEx, and UPS as they would need to update their databases.

Council stated a list of things could be done at the DMV and wanted to know if an address change was one of them, to which staff replied in the affirmative.

Council asked if we would be willing to assist individuals online to make changes, staff being unsure of this assistance.

Mayor Gilbert declared the Public Hearing open.

Randolph McMillan, owner and operator of Brookridge Assisted Living, asked for a change to occur. He receives calls daily, and it is difficult to explain the name to his business callers. He has been receiving these calls since 2009. He suggested Rosewater Place, something nature based and neutral. Mr. McMillan stated we need to look ahead and give value to the community. He did not want to get into pitting families against each other with the naming process. Mr. McMillan stated he has been asked by government officials why he didn't do something about the current name; it just doesn't look right. He does not even use the Lynch Street name for his business; he uses a PO box. It takes away everything

communication wise; it destroys the conversation immediately when talking with other people. Mr. McMillan asked Council to lift up the community with a nice name that can be used to eternity. He asked for assistance door to door in helping the property owners make the change.

Patricia Winkler stated she just moved in and had changed her address on everything. She had no issue with the name Lynch but understood those who do. She would have to change 35-40 things if the name were changed. This costs money and people are stressed financially with COVID. This would be another burden. Those who don't go online would need help changing their addresses. What Mr. Council went through was horrendous, but he would be better honored with a street in a new development right from very start.

Vanessa Thomas stated she has lived on Lynch Street for 40 years. She has never had a problem with the name. She understood the history of Mr. Council, but it would be an inconvenience for older neighbors who have been there longer than she has. There would be so much to change, and some don't know about the internet. This was a lot to take into consideration.

Mayor Gilbert declared the Public Hearing closed.

Council stated we were here to listen and to hear. She wanted to hear the Mayor's comments since he lived there at one point.

The Mayor stated he spent 21 years on First Street, having to look at the Lynch Street sign. There was always a question for him and other family members. No one knew the background of the name; they just had to accept it was a challenge. Many in the community share his concerns. The Mayor realized it would be an inconvenience, but he thought many people would say the name needs to be changed. He thanked staff for their work on this matter. There may be another opportunity to talk to the neighbors on Lynch Street and others in the community who may have issues. Maybe Peak Academy graduates and community youth could assist. The Mayor stated many came to him with this matter when he took office. He liked the idea of finding something neutral. He wanted to make sure we get this right even if that means going back and touching every door.

Council suggested having a non-binding sense of the resolution, stating what we intend to do. He would like to go on the record tonight to state that we will or will not make the change. We should continue the final vote until October 21; and in the meantime, send out a letter with three ideas and a space for a write in vote. He suggested Lynn Council, Clarice Atwater, and then something neutral suggested by staff. Then we should commit

to reimburse all real costs associated with changing the name as well as committing staff to offer assistance.

The Town Attorney stated it was fine for Council to give a preview of what the expectation will be next time Council takes this up. She cautioned that we would need to look at if the Town reimbursing citizens for the renaming is something that we would be legally authorized to spend money on.

Council stated she would be happy to move forward with changing the name, and that we should think about a name not tied to a person. When people have to rehearse their story, it causes them harm. She felt we could come up with a beautiful name for a beautiful community of people and then think of another way to honor people like Mrs. Atwater and Mr. Council. Council didn't want to create barriers on how to pay for the name change in light of what was currently going on.

Council agreed that the name needs to be changed because of the negative history. She wanted staff to work with residents on fitting possibilities, and she wanted historical names integrated into the community in other ways. Council supported finding how residents could be helped financially and with physical help.

Council agreed with the comments. Changing the name seemed to be the consensus. She didn't want to cause harm to people, and the current name brings negative connotations. She agreed with the Mayor that there needs to be more outreach to the community and maybe going out to the surrounding neighborhood to determine a name.

Council stated we are balancing a hurtful name vs. the inconvenience people feel. The name is bigger than the inconvenience, and he supported the idea of giving people names to choose from.

The Mayor stated the action would be to move forward with the recommendation of the intent to change the name, and for staff to get more feedback from the community.

Council asked about how the others felt about sending out a ballot of three names. Council stated she felt there would be a better response sending a person out rather than a piece of mail to be returned.

Council stated she was in agreement but wondered if more work needs to be done to come up with the three names. Would staff need to do more work with the residents for a consensus of the three names. She wanted one more effort from staff to get as much

consensus as possible. Conversation ensued along these lines in order to get this right and to take more time to do so if necessary.

The Town Manager stated there was a clear desire to change the name of the street. We have a policy, but we would depart from that in this case. If we are to go door to door, then we would need more than a month to do so. For future cases, it would be easiest to follow the policy. He asked for Council guidance on how to solicit for names.

Council asked for clarification on the policy, the Town Manager stating the policy has been followed up until this evening. This is a consequential decision. There was no problem departing a bit in this case, but we want to be careful for the future in going to each home. If we do that for this one renaming with 50 homes, then why not do it for larger street renamings?

Council conversation ensued about how to solicit for names and if more work needs to be done, how to narrow down the names to finalists, and who would do this. Should we ask for more names or use what we sent out. We don't know the reason some neighbors didn't return their ballots. This is a significant change for a specific reason. We need to do as much outreach as possible and get input from as many as we can who live there. There was hesitancy due to COVID of going door to door. Perhaps those who didn't respond were not able to mail back the letter or just didn't understand it. The community needs to be involved; we need more time for this.

Staff stated that if we want to get this done by January 1st, the more time that it takes to make a decision, the more the burden on people to make changes in time. The actual change can be moved out. The January deadline was suggested to not interfere with holiday packages, election mail, etc.

Council stated maybe there could be a neighborhood meeting with Council for input. Mr. McMillian stated this would be a good idea, and he thought it would take the scariness out of talking to Council. He stated it would be good to have a meet and greet with the neighbors for better communication.

Council stated he wanted to hear the practicality of helping financially. The existing policy wasn't written during something like this. Maybe we could change the policy to include neighborhood meetings, two rounds of public hearings, etc.

OLD BUSINESS

OB1 Colleen Merays, Downtown and Small Business Development Coordinator
Extend current Parking-to-Dining Program layout adopted by Town Council on August 18, 2020 until October 21, 2020 to allow for extended outdoor dining and alcohol consumption as permitted by ABC Law or regulations, and to extend the ordinance temporarily modifying Town Code Sections 14-14 and 18-11 as they relate to sidewalk dining and alcohol consumption on public streets and sidewalks through October 21, 2020

Staff stated we are now in Phase 2.5, and restaurants and retail are still limited. The ADBA Board voted to extend the Parking-to-Dining Program to October 21st. The last modification opened up half of the parking spaces. Normally, there are 30 spaces, and we have opened 14 of those. Staff talked about how beneficial the Program has been for the businesses.

Council asked had the business owners been contacted. Having an ADBA vote is different than knowing how the businesses feel. Responding to Council, staff stated she had spoken with the majority of the businesses and they are highly in favor. More than 12 of them are directly impacted. Those who did have objections to the Program previously, had been contacted personally and they understand the issues facing their neighbors. She has not had any negative feedback since the ADBA vote. Council stated she has had negative feedback and suggested talking to each owner to determine if the Program should be extended. Council understood that some business owners were told to be quiet about this issue. Therefore, she felt there are concerns out there which need to be addressed.

Council asked if heaters are allowed if it gets cold during this timeframe, staff stating she would check with the Fire Marshall. Staff stated there is a requirement for propane equipment to be spaced a certain distance from each other.

Council stated this Program has been a lifeline for merchants. When the weather changes, people will not want to sit outside. He stated he would like to see what can be done if we are still in this phase after October.

Council stated she was thinking about the holiday seasons for retail and what it will do for folks. Staff stated she has been working with the downtown community, and they have come up with promotions that they will have in conjunction with the Chamber of Commerce to help in getting people to shop and stroll downtown. Also, the ADBA has voted to put financial backing into promoting the retail aspect of downtown.

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

Council wanted to know what was behind people being told to be quiet, especially if this extension would hurt their business. Council stated this was why she wanted staff to speak with each individual business owner to find out their preference instead of just listening to the ADBA Board.

The motion carried by a 5-0 vote.

OB2 Vance Holloman, Finance Officer

Temporary Ordinance Modifications extending the current suspension of utility disconnections and application of penalties and fees for unpaid utility balances
Staff stated he prepared a memo to the Town Manager in response to questions received about the impact to our utility funds upon extending utility cutoffs. He explained the three funds. The most immediate impact would be to the Electric Fund and staff explained why. The Town prefers to cut off electric services vs. water and sewer, explaining that the electric balance is the last one to be paid. Staff prepared a stress test of the Electric Fund if we cannot collect delinquent funds of past due amounts. He stated what annual revenue we would lose.

Staff stated the absolute dollars are increasing even though percentages are down, and he explained the latter. Based on the results calculated, he saw no concerns as of June 30, 2020. However, projecting through to fiscal year 2021 in the Electric Fund, if we do not collect the delinquent billings, we would probably incur a lost off about \$1.5 million. He explained the specifics of this figure, which would not be a knock out punch but one we would feel. We would then probably need to increase rates to make up for loss revenue, and this process was explained. If the percentage of non-payments were to increase, this would change his analysis.

Staff stated he understood the challenges our citizens are facing. He asked Council to consider that there is an expectation among our customers, those who have bought our debt, and among State agencies that we will do all we can to collect our debt. The longer we go without suspending collections, the larger our debt will be which will increase the amount we will ultimately not collect. Staff stated that until collection procedures go back to normal, there are programs for assistance. 125 customers have asked for payment plans, which will be finalized at the discontinuance of no cutoffs. He stated there are currently 1,675 delinquent accounts.

Staff stated a member of his staff did research on the potential for establishing a customer assistance program and gave details on the background of this program which is in use in other municipalities. We have an outside agency looking at this and determining its feasibility. As of now, no agencies have contacted us about the delinquencies; but at some point, we are expected to return to business as normal while helping citizens as much as we can.

Council thanked staff for the report which was useful and helpful.

Council stated exploring the customer assistance program would be a good idea. She and another Council Member had been on a call about educational disparities in our area. The Town of Apex's utilities are not a barrier right now, and she wanted to keep it this way. A social worker would be a good opportunity to work with customers on a customer assistance program.

Council stated it is important to figure out how impacted people can tap into these resources, but this can be very hard. She thought there should be a team approach dealing with COVID and that we should have a community crisis liaison to push initiatives and help ensure people sign up for help.

Council stated he remained opposed to an extension. He believed an extension would effectively forfeit customers from collecting help from Wake Helps. Conversation ensued about the facts surrounding the Wake Helps program. The majority of the outreach has been from Raleigh who is pushing this, and we need to jump on it. The belief was that Raleigh is back to its regular billing practices.

Staff stated six folks from Apex have gotten Wake Helps assistance. We have posted on a number of websites, as well as our own, information about the program. Ms. Bordeau stated WWCM refers folks to the Wake Helps program. WWCM will provide limited assistance for those who have not applied. She stated people are getting Wake Helps, and this is a quicker moving system than some of the other programs.

Council stated this is the most pressing issue before us as a body right now. The money owed does not exist; customers simply don't have it. He did not believe people have not paid just because it's an option. Turning off services is not going to make money appear. The amount owed the Town is not our out-of-pocket amount. The actual cost to customers is significantly lower. Going forward, Council stated focus needs to be on Wake Help and getting these funds to our folks. We need to get as big a share of these funds as possible for our citizens.

He talked about a way to get the word out to customers and following up with those most in arrears. A customer assistance program would be good to set up next year after Wake resources are exhausted. He felt we needed to hire additional staff to figure out a way to move forward with collecting debt. Seeing as we will resume regular practices at some point, we need to find motivation to get people to pay.

Council stated maybe a person would be helpful to help customers. She spoke about the stresses people are going through and how this person might help.

Council stated she lost her job. If she was single and cutoff was reinstituted, she would probably be homeless and have her utilities cut off. As Council stated, the money is not there. Not having to worry about utilities is a God send. She preferred to continue and explore as many avenues as we can to help with case management services and to find sources to help people get through.

Council stated we should all encourage County Commissioners to make sure funds are properly allocated.

Council stated some businesses are unable to open and some can't open to full capacity. She spoke about the stress on families, children particularly, related to utilities being cut off. She was not going to tell people to do the best they could – she was going to do the best she could. Flyers need to be out everywhere telling people about programs.

Council Member Dozier made the motion to adopt the modified Ordinance including a full-court press on directing people to resources and a full-time person dedicated to this consistent with the Wake Helps money extending through the end of the year; Council Member Stallings seconded the motion.

Council stated we have other tools to help motivate people to pay, i.e., Wake Helps, which is free money. It expires and customers need to apply. There is a large pot of money that we can get with some effort.

Council Members Dozier, Stallings, Killingsworth, and Mahaffey voted in the affirmative; Council Member Gantt voted in the negative.

The motion carried by a 4-1 vote.

Mayor Gilbert called for a ten-minute recess.

UNFINISHED BUSINESS

There were no Unfinished Business items for consideration.

NEW BUSINESS

NB1 Audra Killingsworth, Council Member

Amending of section 14-18 of the Town Code of Ordinances to remove the age limit for Trick or Treating

Council stated this was talked about last year but the timing wasn't right. She wished to remove the age restriction but leave the time restriction as it is currently.

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

The motion carried by a 5-0 vote.

NB2 Vance Holloman, Finance Director

Resolution authorizing the filing of an application with the Local Government Commission to issue \$32 million of General Obligation Refunding Bonds

Staff stated it was a good thing that we can borrow money at a cheaper rate during these times. He asked for permission to retire the stated bonds. If the sales goes through, the bonds would be taxable. Staff spoke about taxable rates, why we want to do things this way, and the savings we would realize.

Responding to Council, staff gave figures on what we would be saving. A lot of municipalities doing this, and we were fortunate to get our sale date which is before the election. He explained more about taxable and tax-exempt rates.

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

The motion carried by a 5-0 vote.

Council Member Killingsworth was excused from the meeting at this point.

CLOSED SESSION

CS1 Laurie Hohe, Town Attorney

Closed session pursuant to NCGS 143-318.11(a)(3) to protect attorney-client privilege, and (a)(4) to discuss matters related to the location or expansion of businesses to the area, and pursuant to 143-318.11(a)(5) to instruct staff concerning

the purchase of real property, and pursuant to 143-318.11(a)(1) to prevent the disclosure of information that is privileged or confidential pursuant to GS 143-318.10(e)

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

The motion carried by a 5-0 vote.

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

Mayor Gilbert called for a motion to set a public hearing for the October 6, 2020 Council Meeting concerning the purchase of real property for Economic Development purposes. Council Member Mahaffey made the motion; Council Member Stallings seconded the motion.

The motion carried by a 4-0 vote.

Mayor Gilbert called for a motion to adopt the resolution authorizing eminent domain related to the apex transportation system. Council Member Mahaffey made the motion; Council Member Dozier seconded the motion.

The motion carried by a 4-0 vote.

WORK SESSION

There were no Work Session items for consideration.

ADJOURNMENT

With there being no further business and without objection from Council, Mayor Gilbert adjourned the Meeting.

Donna B. Hosch, MMC, NCCMC
Town Clerk

ATTEST:

Jacques K. Gilbert, Mayor

| Agenda Item | cover sheet

for consideration by the Apex Town Council

Item Type: CONSENT AGENDA

Meeting Date: October 20, 2020

Item Details

Presenter(s): Amanda Bunce, Current Planning Manager

Department(s): Planning and Community Development

Requested Motion

Motion to approve the Statement of the Apex Town Council pursuant to G.S. 160A-383 addressing action on the various Unified Development Ordinance (UDO) Amendments of October 6, 2020.

Approval Recommended?

The Planning and Community Development Department recommends approval.

Item Details

Attachments

- Statement of Town Council



STATEMENT OF THE APEX TOWN COUNCIL PURSUANT TO G.S. 160A-383 ADDRESSING ACTION ON UNIFIED DEVELOPMENT ORDINANCE (UDO) AMENDMENTS OF OCTOBER 6, 2020

Pursuant to G.S. §160A-384 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 18th day of August 2020.

The Apex Town Council held a public hearing on the 14th day of September 2020. Amanda Bunce, Current Planning Manager, 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 Amendments and who were residents of Apex or its extraterritorial jurisdiction 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 by a vote of 5 to 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 UDO Amendments of October 6, 2020 is consistent with the Advance Apex: The 2045 Plan and reasonable and in the public interest for the following reason(s):

1. The amendments to various sections of the UDO in order to replace pronouns with non-gender specific terminology and to make minor modifications to wording necessary to incorporate such changes ensures consistency with formatting used in the remainder of the UDO.
2. The amendments to UDO Sec. 6.1.11.I *Riparian Buffers, Notification on Site Plan and Subdivision Plan and Recording of Information* and 12.2 *Terms Defined* changes two references to "stream buffers" to "riparian buffers" in order to be consistent with terminology used throughout the UDO.

Jacques K. Gilbert
Mayor

ATTEST:

Donna B. Hosch, MMC, NCCMC
Town Clerk

Date

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for consideration by the Apex Town Council

Item Type: CONSENT AGENDA

Meeting Date: October 20, 2020

Item Details

Presenter(s): Shelly Mayo, Planner II

Department(s): Planning and Community Development

Requested Motion

Motion to approve the Statement of the Town Council for Rezoning Case #19CZ21 Heelan PUD, Jason Barron for Morningstar Law Group, petitioner, for the properties located at 8824 & 8829 New Hope Farm Road, 3108 & 3120 Olive Farm Road, and 0 Humie Olive Road.

Approval Recommended?

Planning and Community Development Department recommends approval.

Item Details

Rezoning Case #19CZ21 was approved at the October 6, 2020 Town Council meeting.

Attachments

- Statement of the Town Council



**STATEMENT OF THE APEX TOWN COUNCIL PURSUANT TO G.S. 160A-383
ADDRESSING ACTION ON ZONING PETITION #19CZ21**

Morning Star Law Group, applicant (the "Applicant"), submitted a completed application for a conditional zoning on the 1st day of October 2019 (the "Application"). The proposed conditional zoning is designated #19CZ21.

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 #19CZ21 before the Planning Board held on the 14th day of September 2020.

Pursuant to G.S. §160A-384 and Sec. 2.2.11(E) of the Unified Development Ordinance, the Planning Director caused proper notice to be given (by publication and posting), of a public hearing on #19CZ21 before the Town Council on the 6th day of October 2020.

The Apex Planning Board held a public hearing on the 14th day of September 2020, gathered facts, received public comments and, following a 24 hour public comment period, on the 16th day of September 2020 formulated a recommendation regarding the application for conditional zoning #19CZ21. A motion was made at the Apex Planning Board to recommend approval; the motion passed by a vote of 6-0 with 1 abstention due to technical difficulties for the application for #19CZ21.

The Apex Town Council held a public hearing on the 6th day of October 2020. Amanda Bunce, Current Planning Manager, presented the Planning Board's recommendation at the public hearing.

All persons who desired to present information relevant to the application for #19CZ21 and who were residents of Apex or its extraterritorial jurisdiction, or who owned property adjoining the property for which the conditional zoning is sought, were allowed to present evidence at the public hearing before the Apex Town Council. No one who wanted to speak was turned away.

The Town Council by a vote of 5 to 0 approved Application #19CZ21 rezoning the subject tracts located at 8824 & 8829 New Hope Farm Road; 3108 & 3120 Olive Farm Road; and 0 Humie Olive Road from Wake Co. Residential – 40W to Planned Unit Development – Conditional Zoning (PUD-CZ).

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 the site as Low Density Residential and Medium Density Residential. This designation on the 2045 Land Use Map includes the zoning district Planned Unit Development – Conditional Zoning (PUD-CZ). Density within the region designated as Low Density on the 2045 Land Use Map shall not exceed 3 units per acre, with a maximum of 96 residential units in this area. The overall gross density shall not exceed 3.7 units per acre. The proposed rezoning is consistent with the 2045 Land Use Map designations 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

**STATEMENT OF THE APEX TOWN COUNCIL PURSUANT TO G.S. 160A-383
ADDRESSING ACTION ON ZONING PETITION #19CZ21**

the flexibility to accommodate the growth in population, economy, and infrastructure consistent with that contemplated by the 2045 Land Use Map.

The Apex Town Council finds that the approval of the rezoning is reasonable and in the public interest in that: it will permit a variety of energy efficient housing types and offer an affordable housing option. The proposed development is consistent with the approved residential developments to the east, south, and west. It will also provide mitigation land needed to release the future Richardson Road corridor from the conservation easement. The IRT expressed appreciation for the proposed mitigation as it provides ecological value. The rezoning will encourage compatible development of the property and increase the tax base.

Jacques K. Gilbert
Mayor

ATTEST:

Donna B. Hosch, MMC, NCCMC
Town Clerk

Date

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for consideration by the Apex Town Council

Item Type: CONSENT AGENDA

Meeting Date: October 20, 2020

Item Details

Presenter(s): Liz Loftin, Senior Planner

Department(s): Planning and Community Development

Requested Motion

Motion to approve Statement of the Town Council and Ordinance for Rezoning Case #20CZ04, Kobra Tracts PUD, WithersRavenel, petitioner, for the property located at 7500 Green Level Church Road & 7501 Jenks Road.

Approval Recommended?

Planning and Community Development Department recommends approval.

Item Details

Rezoning Case #20CZ04 Kobra Tracts PUD was approved at the October 6, 2020 Town Council meeting.

Attachments

- Statement of the Town Council
- Ordinance to Amend the Official Zoning District Map



**STATEMENT OF THE APEX TOWN COUNCIL PURSUANT TO G.S. 160A-383
ADDRESSING ACTION ON ZONING PETITION #20CZ04**

KOBRA LLC/WithersRavenel, owner/applicant (the “Applicant”), submitted a completed application for a conditional zoning on the 2nd day of March 2020 (the “Application”). The proposed conditional zoning is designated #20CZ04.

The Planning & Community Development Director for the Town of Apex, Dianne Khin, caused proper notice to be given (by publication and posting) of a public hearing on #20CZ04 before the Planning Board held on the 14th day of September 2020.

Pursuant to G.S. §160A-384 and Sec. 2.2.11(E) of the Unified Development Ordinance, the Planning Director caused proper notice to be given (by publication and posting), of a public hearing on #20CZ04 before the Town Council on the 6th day of October 2020.

The Apex Planning Board held a public hearing on the 14th day of September 2020, gathered facts, received public comments and, following a 24 hour public comment period, on the 16th day of September 2020 formulated a recommendation regarding the application for conditional zoning #20CZ04. A motion was made at the Apex Planning Board to recommend approval; the motion passed by a 6-0 vote with 1 abstention due to technical difficulties for the application for #20CZ04.

The Apex Town Council held a public hearing on the 6th day of October 2020. Liz Loftin, Senior Planner, presented the Planning Board's recommendation at the public hearing.

All persons who desired to present information relevant to the application for #20CZ04 and who were residents of Apex or its extraterritorial jurisdiction, or who owned property adjoining the property for which the conditional zoning is sought, were allowed to present evidence at the public hearing before the Apex Town Council. No one who wanted to speak was turned away.

The Town Council by a vote of 5 to 0 approved Application #20CZ04 rezoning the subject tract located at 7500 Green Level Church Road & 7501 Jenks Road from Rural Residential (RR) to Planning Unit Development Conditional Zoning (PUD-CZ).

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 the northern property of the site as Medium Density Residential/Office Employment and the southern property as Mixed Use: High Density Residential/Office Employment/Commercial Services. This designation on the 2045 Land Use Map includes the zoning district Planning 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.

STATEMENT OF THE APEX TOWN COUNCIL ZONING PETITION #20CZ04
PAGE 2

The Apex Town Council finds that the approval of the rezoning is reasonable and in the public interest in that: the site is located between two (2) major commercial areas and along two (2) thoroughfares. The proposed rezoning to Planning Unit Development-Conditional Zoning will have a maximum residential density of 3 dwelling units per acre and designates approximately 5.46 acres or 100% of the southern property as non-residential. The rezoning will encourage compatible development of the property and increase the tax base.

Jacques K. Gilbert
Mayor

ATTEST:

Donna B. Hosch, MMC, NCCMC
Town Clerk

Date

**ORDINANCE AMENDING THE OFFICIAL ZONING DISTRICT MAP OF THE TOWN OF APEX TO
CHANGE THE ZONING OF APPROXIMATELY 24.63 ACRES LOCATED AT 7500 GREEN LEVEL
CHURCH ROAD & 7501 JENKS ROAD FROM RURAL RESIDENTIAL TO PLANNED UNIT
DEVELOPMENT-CONDITIONAL ZONING (PUD-CZ)
#20CZ04**

WHEREAS, the application of KOBRA LLC/WithersRavenel petitioner, for the rezoning of lands hereinafter described was duly filed with the office of the Planning Director and thereafter a public hearing was held hereon on the 14th day of September 2020 before the Planning Board and the 6th day of October 2020, before the Town Council, respectively, pursuant to due notice mailed and published pursuant to G.S. § 160A-384. Thereafter, the Planning Board submitted its final report to the Town Council recommending approval of said application for the rezoning of the lands hereinafter described, all in accordance with the requirements of the Town of Apex Unified Development Ordinance and the provisions of Chapter 160A, Article 19, of the North Carolina General Statutes; **NOW, THEREFORE,**

BE IT ORDAINED BY THE TOWN COUNCIL OF THE TOWN OF APEX

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

Section 2: The Town of Apex Unified Development Ordinance, including the Town of Apex North Carolina Official Zoning District Map which is a part of said Ordinance, is hereby amended by changing the zoning classification of the “Rezoned Lands” from Rural Residential (RR) to Planned Unit Development-Conditional Zoning (PUD-CZ) District, subject to the conditions stated herein.

Section 3: The “Rezoned Lands” are subject the conditions in Attachment “B” Kobra Tracts PUD which are imposed as part of this rezoning.

Section 4: 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 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.

Ordinance Amending the Official Zoning District Map #20CZ04
Page Two

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 _____ 2020.

TOWN OF APEX

Mayor

ATTEST:

Town Clerk

APPROVED AS TO FORM:

Town Attorney

Legal Description - Tract 2/Lot 2 BM 2014, Pg. 384-386

Beginning at an existing iron pipe on the eastern right of way of Green Level Church Road (SR 1600), a common corner with (now or formerly) Arthur H. Laford (DB 6295, Pg. 580), said iron pipe having NC grid, NAD 83 (2011) coordinates of Y(N): 730,468.49 and X(E): 2,030,626.73 and being the true point of beginning for the property herein described:

Thence N84°21'29"E, 369.96 feet along a common line with Laford to an existing iron pipe;

Thence N12°09'14"W, 62.39 feet along a common line with Laford to an existing iron pipe, a common corner with (now or formerly) Robert S. and Lynn S. Craycroft (DB 5018, Pg. 504);

Thence N47°52'48"E, 139.68 feet along a common line with Craycroft to an existing iron pipe;

Thence N47°57'19"E, 128.00 feet along a common line with Craycroft to an existing iron pipe, a common corner with (now or formerly) John and Kristel M. Weldon (DB 16653, Pg. 1598);

Thence N47°16'47"E, 55.55 feet along a common line with Weldon to an existing iron pipe;

Thence S56°40'28"E, 438.88 feet along a common line with Weldon to an existing iron pipe;

Thence S58°25'06"E, 122.64 feet along a common line with Weldon to an existing iron pipe at the base of an 8" gum in the line of (now or formerly) Jainix, LLC (DB 17341, Pg. 1696);

Thence S00°52'14"E, 700.93 feet along a common line with Jainix to an existing iron pipe on the northern right of way of Jenks Road (SR 1601), passing an existing iron pipe marking the boundary between adjoining Jainix properties (DB 17341, Pg. 1696 and DB 17239, Pg. 1509) at 539.35 feet;

Thence along the northern right of way of Jenks Road the following courses and distances:

1. Along the arc of a curve to the right having a radius of 1,920.00 feet, an arc length of 331.36 feet, and a chord bearing and distance of N86°36'58"W, 330.95 feet to an existing iron pipe;
2. N81°40'19"W, 119.30 feet to an existing iron pipe; and
3. S74°05'18"W, 122.94 feet to an existing iron pipe;

Thence S08°08'33"W, 30.00 feet to a new mag nail in the centerline of Jenks Road;

Thence N81°51'27"W, 303.85 along the centerline of Jenks Road to a new mag nail in the centerline intersection of Jenks and Green Level Church Roads;

Thence along the centerline of Green Level Church Road the following courses and distances:

1. Along the arc of a curve to the right, having a radius of 900.89 feet, an arc length of 111.75 feet, and a chord bearing and distance of N34°42'19"W, 111.68 feet to a new mag nail;
2. Along the arc of a curve to the right, having a radius of 880.73 feet, an arc length of 252.92 feet and a chord bearing and distance of N21°36'21"W, 252.05 feet to a new mag nail;
3. N13°18'37"W, 196.98 feet to a new mag nail; and
4. N12°02'38"W, 154.60 feet to a new mag nail;

Thence leaving the centerline of Green Level Church Road N77°57'22"E, 30.00 feet to the point and place of beginning, containing 823,040 square feet or 18.894 acres for the tract herein described.

Legal Description - Tract 2/Lot 3 BM 2014, Pg. 384-386

Beginning at an existing NCDOT right of way disc on the southern right of way of Jenks Road (SR 1601), said disc having NC grid, NAD 83 (2011) coordinates of Y(N): 729,622.35 and X(E): 2,031,811.59 and being the true point of beginning for the property herein described:

Thence S81°55'19"E, 131.38 feet along the southern right of way of Jenks Road to an existing NCDOT right of way disc on the western right of way of NC Highway 540;

Thence along the western right of way of NC Highway 540 the following courses and distances:

1. S09°16'13"W, 304.25 feet to an existing NCDOT right of way disc;
2. S05°39'21"W, 110.31 feet to an existing NCDOT right of way disc; and
3. S74°18'38"W, 168.88 feet to an existing NCDOT right of way disc on the northern right of way of Dominik court (formerly Green Level Church Road, SR 1600);

Thence S27°20'07"W, 30.00 feet to a new mag nail in the centerline of Dominik court;

Thence N62°39'53"W, 231.82 feet along the centerline of Dominik court to a new mag nail;

Thence N62°55'28"W, 176.19 feet along the centerline of Dominik court to a new mag nail;

Thence leaving the centerline of Dominik court N27°04'31"E, 29.72 feet to an existing iron pipe, a common corner with (now or formerly) the Town of Apex (DB 9991, Pg. 1308);

Thence N00°33'05"W, 49.68 feet along a common line with the Town of Apex to an existing iron pipe;

Thence N62°29'58"W, 69.96 feet along a common line with the Town of Apex to an existing iron pipe in the line of (now or formerly) Roy B. Miller (DB 2799, Pg. 154);

Thence N00°29'01"W, 235.19 feet along a common line with Miller to an existing iron pipe on the southern right of way of Jenks Road;

Thence S76°36'12"E, 59.39 feet along the southern right of way of Jenks Road to an existing NCDOT right of way disc;

Thence along the southern right of way of Jenks Road along the arc of a curve to the left having a radius of 2,080.00 feet, an arc length of 463.43 feet, and a chord bearing and distance of S88°03'21"E 462.48 feet to the point and place of beginning, containing 249,931 square feet or 5.738 acres for the tract herein described.

Planned Unit Development Plan

KOBRA TRACTS

Apex, North Carolina

Revision Date: 10-06-2020

Prepared for The Town of Apex

Applicant

Lennar Corporation – Raleigh Division
1100 Perimeter Park Drive, Suite 112
Morrisville, NC 27560

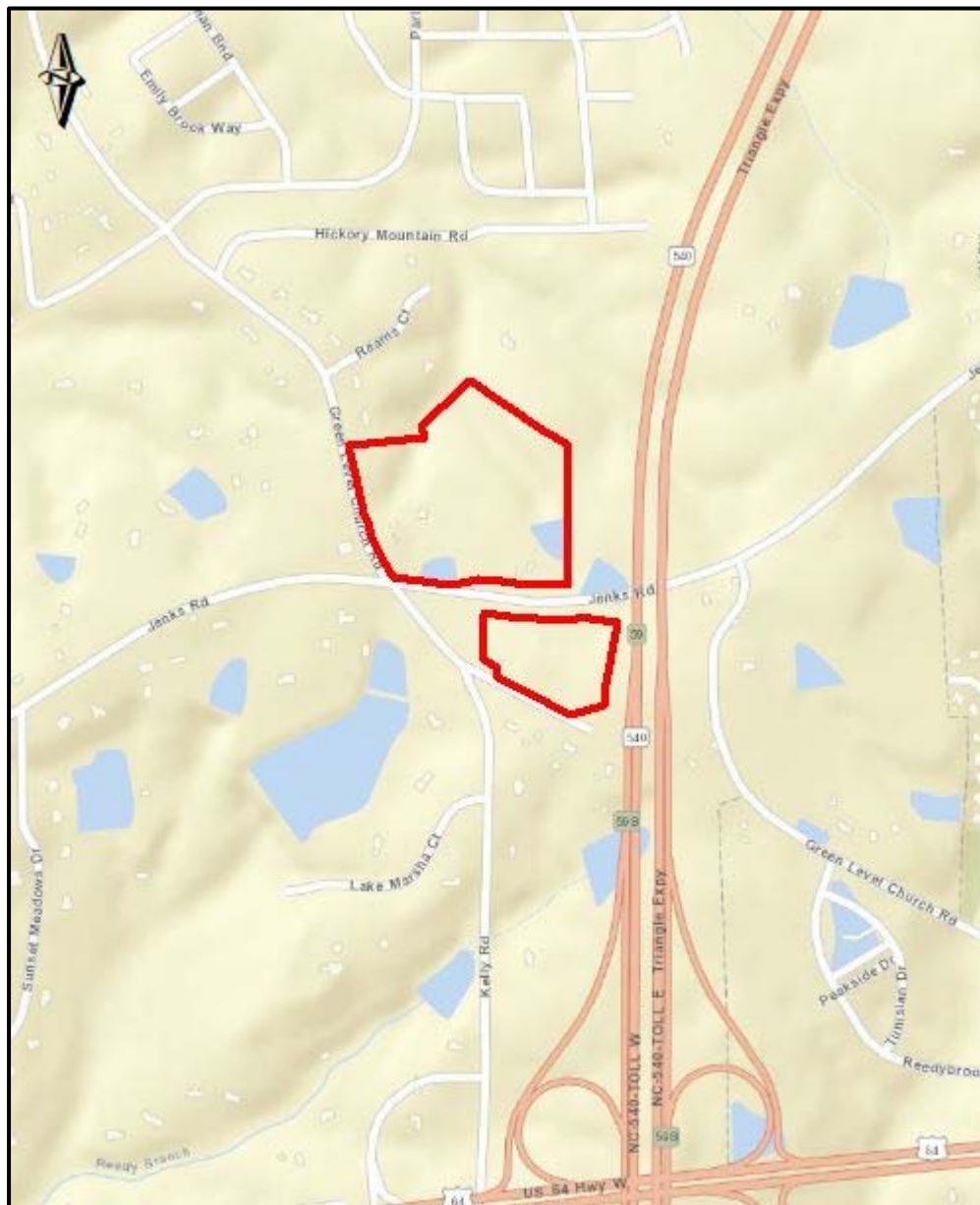
Property Owner

KOBRA LLC
117 Woodland Ridge Drive
Fuquay-Varina, NC 27526

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2.0 VICINITY MAP



Project Parcels: Not to Scale

3.0 PROJECT DATA

Name of Project	KOBRA Tracts	
PIN(s)	0733102211 0732196422	
Preparer/Owner Information	Prepared by	WithersRavenel 137 S. Wilmington Street, Suite 200 Raleigh, NC 27601 Phone: 919.469.3340 Fax: 919.467.6008 Email: bvega@withersravenel.com
	Owner	KOBRA LLC 117 Woodland Ridge Drive Fuquay-Varina, NC 27526
Current Zoning Designation	Rural Residential (RR)	
Proposed Zoning Designation	Planned Unit Development (PUD-CZ)	
Current 2045 Land Use Map Designation	Med. Density Residential/Office Employment & Mixed-Use: High Density Residential/Office Employment/Commercial Services	
Proposed 2045 Land Use Map Designation	No Proposed Change	
Area of Tracts	18.21 ac & 5.46 ac (Total 23.67 ac)	
Area designated as Mixed-Use on 2045 Land Use Map	5.46 ac	
Area of Mixed-Use Property Proposed as Non-Residential Development	5.46 ac	
Percent of Mixed-Use Areas Proposed as Non-Residential Development	100%	

4.0 PROPOSED LIST OF USES

The Rezoned Lands may be used for, and only for, the uses listed immediately below. The permitted uses are subject to the limitations and regulations stated in the UDO and any additional limitations or regulations stated below. For convenience, some relevant sections of the UDO may be referenced; such references do not imply that other sections of the UDO do not apply.

Residential

- Single-Family
- Accessory Dwelling Unit
- Townhouse
- Townhouse, Detached

Non-Residential

- Utility, Minor
- Greenway
- Park, Active
- Park, Passive
- Office, Business or Professional
- Restaurant, General
- Medical or Dental Office or Clinic
- Medical or Dental Laboratory
- Hotel or Motel
- Artisan Studio
- Barber and Beauty Shop
- Pet Services
- Studio for Art
- Tailor Shop
- Microbrewery
- Microdistillery
- Retail Sales, General
- Grocery, Specialty
- Book Store
- Financial Institution
- Floral Shop
- Funeral Home
- Kennel
- Newsstand or Gift Shop
- Personal Service
- Pharmacy
- Printing and Copying Service
- Real Estate Sales

5.0 PURPOSE STATEMENT-PLANNED UNIT DEVELOPMENT STANDARDS

The KOBRA Tracts Conceptual Layout has been carefully designed in order to help establish appropriately-sized residential and non-residential land uses strategically along major thoroughfares. With the Town of Apex expanding, intentional development along the 540 corridor will help the nearby areas grow in a purposeful manner according to the concepts laid out in the Advance Apex Future Land Use Plan. The site will provide a mixture of residential options and non-residential uses that will set the tone for corridor development in northwest Apex. This elegant mixture of uses will create a live/work environment that will promote walkability and serve as an anchor for strategic, intentional development.

6.0 PROPOSED DESIGN CONTROLS

Maximum Square Footage per Non-Residential Use	39,000 sq. ft.		
Maximum Densities per Residential Use (du/Acre)	3 du/acre (70 du total)		
Maximum Height of Buildings	Residential – 32 feet		
	Non-residential - 48 feet		
Minimum Residential Setbacks	Front: 5' from façade 19' from garage to lot line 20' from garage to back of sidewalk	Side: 5'	Rear: 10'
		Corner Side: 10'	
Non-Residential Setbacks	Front: 20'	Side: 10'	Rear: 20'
		Corner Side: 10'	
Amount and Percentage of Built Upon Area Allowed	70%		
Amount and Percentage of Proposed Built Upon Area (Max)	16.57 Acres, 70%		

Buffers shall be designated as such:

Northern Parcel (PIN #0733102211)	
North	10' Type B Buffer
East	10' Type B Buffer
South	30' Type B Buffer
West	30' Type B Buffer
Southern Parcel (PIN #0732196422)	
North	30' Type E Buffer
West	20' Type B Buffer
South	20' Type B Buffer
East	100' Type A Buffer**
**May be reduced to 50' Type A Buffer per UDO Section 8.2.6	

A 30 ft. wide minimum cross access easement will be provided from PIN# 0733102211 to PIN# 0732198808 in order to provide an access point for the parcel through a driveway at Jenks Road. In the event that the driveway extends to the main entrance of the subdivision on Jenks Road, the buffer will be reduced to no less than 15' to accommodate the access easement.

7.0 PROPOSED RESIDENTIAL ARCHITECTURAL CONTROLS

1. Vinyl siding is not permitted; however, vinyl windows, decorative elements and trim are permitted.
2. All townhomes shall have a raised foundation which at a minimum rises at least 12 inches from average grade across the front of the house to the finished floor level at the front door.
3. The roofline cannot be a single mass; it must be broken up horizontally and vertically between every unit.
4. Garage doors must have windows, decorative details or carriage-style adornments on them.
5. Entrances for units with front-facing single-car garages shall have a prominent covered porch/stoop area leading to the front door.
6. Building facades shall have horizontal relief achieved by the use of recesses and projections.

7. A varied color palette shall be utilized on homes throughout the subdivision to include a minimum of three color families for siding and shall include varied trim, shutter, and accent colors complementing the siding color.
8. The rear and side elevations of the units that can be seen from the right-of-way shall have trim around the windows.
9. The visible side of a townhome on a corner lot facing the public street shall contain at least 3 decorative elements such as, but not limited to, the following elements:
 - Windows
 - Bay window
 - Recessed window
 - Decorative window
 - Trim around the windows
 - Wrap-around porch or side porch
 - Two or more building materials
 - Decorative brick/stone
 - Decorative trim
 - Decorative shake
 - Decorative air vents on gables
 - Decorative gable
 - Decorative cornice
 - Column
 - Portico
 - Balcony
 - Dormer
10. The Residential dwelling units will be provided with solar conduit to accommodate the future installation of solar panels.

8.0 PROPOSED NON-RESIDENTIAL ARCHITECTURAL CONTROLS

1. The predominant exterior building materials shall be brick, wood, stone, and tinted/textured concrete masonry units.
2. The building exterior shall have more than one (1) material color.
3. No more than 20% of any building façade may consist of EIFS material.
4. EIFS or synthetic stucco shall not be used in the first 4 feet above grade.

9.0 PARKING AND LOADING

All parking provided on the Site will comply with the requirements outlined in Section 8.3 of the Town of Apex Unified Development Ordinance.

10.0 SIGNAGE

All signage on the Site will comply with the requirements outlined in Section 8.7 of the Town of Apex Unified Development Ordinance.

11.0 NATURAL RESOURCE AND ENVIRONMENTAL DATA

The KOBRA Tracts Site is located within the Primary Watershed Protection Overlay District and is therefore subject to the requirements outlined in Section 6.1 of the Town of Apex Unified Development Ordinance.

The parcels that make up the Site do not contain FEMA designated 100-year floodplains according to FEMA FIRM Panels 3720073300J and 3720073200J, effective 05/02/2006.

The Site is also subject to the Resource Conservation Area requirements outlined in Section 8.1 of the Town of Apex Unified Development Ordinance.

- 5.92 acres (25% of gross site acreage) required for the Resource Conservation Area
- 6.0 acres (25.35% of gross site acreage) of Resource Conservation Area provided.

Existing deciduous trees greater than 18" in diameter (DBH), as identified in the tree survey, that are removed by site development shall be replaced by planting a 1.5" caliper native tree from the Town of Apex Design and Development Manual.

According the North Carolina Historic Preservation Office's HPOWEB 2.0 Mapping application, there are no historic structure contained on the Site.

12.0 STORMWATER MANAGEMENT REQUIREMENTS

The parcels on which the development is proposed upon currently consist of a few existing structures, some cleared lands, and wooded lands. Two ponds exist on the northern parcel, and drain to Clark Branch Creek and Reedy Branch Creek, eventually feeding into Jordan Lake. The proposed development plan will require stormwater management measures in accordance with Sections 6.1 and 7.5.7 in the Town of Apex Unified Development Ordinance. Stormwater captured on the Site will be conveyed to proposed Stormwater Control Measures, which will be identified on plans during the master subdivision or site plan approval stage. Post-development peak runoff shall not

exceed pre-development peak runoff for the 24-hour, 1-year and 10-year storm events in accordance with the Unified Development Ordinance. Treatment for the first 1-inch of runoff will be provided such that the removal of 85% Total Suspended Solids is achieved. All stormwater devices will meet the design requirements of NCDENR and the Town of Apex.

13.0 PARKS, RECREATION AND CULTURAL ADVISORY COMMISSION REVIEW

At the June 24, 2020 meeting, the PRCAC recommended a fee-in-lieu of \$2,321.54 per unit to be paid at the time of the first final subdivision plat.

14.0 PUBLIC FACILITIES REQUIREMENTS

All utilities shall meet the Town of Apex Master Utility Maps.

Sanitary Sewer Service

All on-site sanitary sewer lines will be designed according to Town of Apex Engineering Standards and Specifications. Easements will be established for public sewer outside of Public R/W.

Sanitary Sewer will be established upon the site and will tie into an existing manhole at the southern end of the Greenmoor Subdivision via an offsite sewer outfall to be within a Town of Apex utility easement. Potable water will be established upon the site and tie to the existing lines along Green Level Church Road and Jenks Road.

Water Service

All on-site water lines will be designed according to Town of Apex Engineering Standards and Specifications.

Gas & Electric Service

The Public Service Company of North Carolina (PSNC) will require a revenue analysis based on the proposed development in order to determine the applicable costs to the developer for installation of infrastructure.

The Site is in the service area of both the Town of Apex Electric Utilities and Progress Energy.

Roadways

The Site will require an internal public roadway network and parking spaces. The onsite transportation circulation system shall be consistent with the Town of Apex Transportation Plan and the Town of Apex Standard Specifications and Standard Details. Frontage improvements along Jenks Road & Green Level Church Road have been identified during the pre-application correspondence and will be incorporated into the design, subject to approval by the Town of Apex & NCDOT.

Phase 1 roadway improvements are as follows:

- i. Developer shall dedicate public right-of-way along Green Level Church Road based on a minimum of half of a 4-lane, 110' right-of-way section and construct a 5' paved shoulder along the frontage within Phase 1.
- ii. Developer shall construct a southbound left turn lane on Green Level Church Road at Jenks Road with at least 150' of storage and adequate taper & deceleration lengths per NCDOT standards.
- iii. Developer shall construct a southbound left turn lane on Green Level Church Road at proposed site access with at least 50' of storage and adequate taper & deceleration lengths per NCDOT standards. This access shall be located a minimum of 500 feet from Jenks Road.
- iv. Developer shall dedicate public right-of-way along Jenks Road based on a minimum of half of a 3-lane, 80' right-of-way section and construct a 5' paved shoulder along the frontage within Phase 1. Jenks Road improvements shall include the extension of the existing two-way left turn lane from west of the NC 540 bridge to the intersection with Green Level Church Road. The access points for Phase 1 and Phase 2 shall align across from each other and be located a minimum of 500 feet from Green Level Church Road.
- v. Developer shall coordinate with traffic signal installation by others at the intersection of Green Level Church Road at Jenks Road if not already installed by the time this development plan moves forward. Developer is responsible for plan revisions and

- modifications to the traffic signal to accommodate roadway improvements associated with Phase 1 and Phase 2.
- vi. Developer shall dedicate additional right-of-way along the project frontage to accommodate a roundabout based on the preliminary layout on file with the Town (designed as part of the Westford development zoning conditions) if not removed from the Transportation Plan prior to subdivision plan approval.

Phase 2 roadway improvements are as follows:

- i. Developer shall not propose access to Dominik Court until either one of the following conditions is met:
 - a. Dominik Court is realigned southward to provide an approximate right-angle intersection with Kelly Road approximately 700-800' south of Jenks Road, and a southbound left turn lane is provided on Kelly Road at Dominik Court with a minimum of 100' of storage plus deceleration and taper according to NCDOT standards.
 - b. A public street connecting Dominik Court to Jenks Road is constructed and Dominik Court is converted to a right-in/right-out access at Kelly Road.

Transit

According to the Advance Apex 2045 Transportation Plan, there are no existing or proposed transit routes designated on or adjacent to the Site.

Pedestrian Facilities

According to the Advance Apex 2045 Plan, sidewalks are planned along both Green Level Church Road and Jenks Road. The development plan will incorporate sidewalk infrastructure along both streets as well as the internal street network, and thus is in compliance with the future land use plan.

Phase 1 pedestrian facility improvements are as follows:

- i. Developer shall construct a 10' side path on the east side of Green Level Church Road along the frontage within Phase 1.
- ii. Developer shall construct a 5' sidewalk on the north side of Jenks Road along the frontage within Phase 1.

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Phase 2 pedestrian facility improvements are as follows:

- i. Developer shall construct a 10' side path on the south side of Jenks Road along the frontage within Phase 2.
- ii. Developer shall construct an extension of the 10' side path located on the south side of Jenks Road from Phase 2 to the intersection of Jenks Road and Green Level Church Road and design and install a signalized crosswalk across Jenks Road at the traffic signal. Fee-in-lieu, in the amount of 125% of the estimated cost of construction plus fair market value of the property to be acquired, shall be assessed if easement or right-of-way cannot be secured prior to completion of the first CO within Phase 2. Any performance guarantee provided for this section of side-path shall be released upon acceptance of said fee-in-lieu by the Town.
- iii. Developer shall improve the north side of Dominik Court along the frontage of Phase 2 based on a minimum 27' b-b curb and gutter roadway with 5' sidewalk.

Education

Wake County Public Schools Long Range Planning has verified the following base schools for this future residential area:

Base School	Enrollment Cap	Student Overflow School
White Oak Elementary	Yes	Davis Drive Elementary
Mills Park Middle	Yes	West Cary Middle
Green Level High	No	

The Apex Friendship Elementary School on Humie Olive Road is expected to open in August 2022.

15.0 PHASING PLAN

KOBRA Tracts development will be constructed in phases according to economic considerations and infrastructure requirements. The residential section of the site

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will be developed as a standalone phase separate from the commercial section. Phase 1 and phase 2 improvements shall be constructed as described in the previous section.

Please note the following considerations for the phasing plan:

1. Access points are preliminary in nature and subject to Town of Apex and NCDOT review and approval.
2. Limits of land disturbance within each phase shall be determined at the master subdivision plan and site plan stages.
3. Public utilities shall be provided for each phase of development.

16.0 CONSISTENCY WITH 2045 LAND USE PLAN

The Advance Apex 2045 Future Land Use Map depicts the future land use of the northern parcel as a mixture of Medium Density Residential and Office Employment. Medium Density Residential lands are described in the Land Use Plan as consisting of single-family homes, duplexes, and townhomes with densities between three (3) and seven (7) dwelling units per acre. It is intended to act as a transition between higher and lower residential densities. The Office Employment land use is described as allowing for a wide range of businesses that provide professional, managerial, or administrative services. The plan also states that Office Employment lands should match the scale and character of their surroundings.

The southern parcel is made up of High Density Residential, Office Employment and Commercial Service designations, as well as being considered a Mixed-Use land classification. High Density Residential land is described as providing housing options located in close proximity to major commercial areas or corridors, and includes townhomes, triplexes, quadplexes and apartments at densities greater than 14 dwelling units per acre. Similar to Office Employment, Commercial Services land is described as match the scale and character of its surroundings. These lands are designated to supply commercial services and conveniences. Being within a Mixed-Use portion of land, the

site is required to have greater than or equal to 30 percent of its development be related to non-residential uses.

Overall, the KOBRA Tracts Site proposes medium density residential housing options appropriate to its proximity to major thoroughfares, as well as establishing a healthy mixture of non-residential space to nurture a live/work environment in northwestern Apex. Uses proposed for the site are directly in line with the uses declared in the Future Land Use Plan.

17.0 CONSISTENCY WITH UNIFIED DEVELOPMENT ORDINANCE

The proposed development is consistent with all applicable requirements of the Town of Apex Unified Development Ordinance. To this extent, it is worth noting that the development will not supply stub streets on the eastern termination of the residential section of the project per the text of the following section:

- 7.2.1.A.2.c.iii - Where severe topography or other physical features exist, the Planning Director in conjunction with the Stormwater and Utility Engineering Manager, may determine that a stub street is not required.

Due to the environmental impact of the potential connection to the eastern parcel, it is requested that no stub be required at this location.

18.0 ELEVATIONS

Please see the following pages for typical elevations illustrative of the proposed residential building.

19.0 AFFORDABLE HOUSING

If the Town of Apex has a fund or other mechanism in place to receive donations to construct, subsidize, or participate in the development of affordable housing units (the "Fund"), the developer will contribute \$15,000 to this Fund prior to the first residential Certificate of Occupancy. In the event the Fund has not been established by the Town of Apex, the money will be conveyed to a local non-profit working on affordable housing

initiatives. The developer will work with the Town of Apex to identify a mutually acceptable local non-profit organization to receive these funds.

PLANNED UNIT DEVELOPMENT KOBRA TRACTS

TOWN OF APEX, WAKE COUNTY, NORTH CAROLINA

1ST SUBMITTAL: MARCH 2, 2020 2ND SUBMITTAL: JULY 10, 2020 3RD SUBMITTAL: AUGUST 14, 2020

CASE #: 20CZ04

INDEX OF SHEETS

EXISTING CONDITIONS PLAN	1.0
CONCEPTUAL LAYOUT PLAN	2.0
PRELIMINARY PHASING PLAN	3.0
PRELIMINARY UTILITY PLAN	4.0
STORMWATER MANAGEMENT PLAN	5.0

ZONING CONDITIONS

PHASE 1 IMPROVEMENTS

1. DEVELOPER SHALL DEDICATE PUBLIC RIGHT-OF-WAY ALONG GREEN LEVEL CHURCH ROAD BASED ON A MINIMUM OF HALF OF A 4-LANE, 110' RIGHT-OF-WAY SECTION AND CONSTRUCT A 5' PAVED SHOULDER ALONG THE FRONTAGE WITHIN PHASE 1.
2. DEVELOPER SHALL CONSTRUCT A SOUTHBOUND LEFT TURN LANE ON GREEN LEVEL CHURCH ROAD AT JENKS ROAD WITH AT LEAST 150' OF STORAGE AND ADEQUATE TAPER & DECELERATION LENGTHS PER NCDOT STANDARDS.
3. DEVELOPER SHALL CONSTRUCT A SOUTHBOUND LEFT TURN LANE ON GREEN LEVEL CHURCH ROAD AT PROPOSED SITE ACCESS WITH AT LEAST 50' OF STORAGE AND ADEQUATE TAPER & DECELERATION LENGTHS PER NCDOT STANDARDS. THIS ACCESS SHALL BE LOCATED A MINIMUM OF 500 FEET FROM JENKS ROAD.
4. DEVELOPER SHALL CONSTRUCT A 10' SIDE PATH ON THE EAST SIDE OF GREEN LEVEL CHURCH ROAD ALONG THE FRONTAGE WITHIN PHASE 1.
5. DEVELOPER SHALL DEDICATE PUBLIC RIGHT-OF-WAY ALONG JENKS ROAD BASED ON A MINIMUM OF HALF OF A 3-LANE, 80' RIGHT-OF-WAY SECTION AND CONSTRUCT A 5' PAVED SHOULDER ALONG THE FRONTAGE WITHIN PHASE 1. JENKS ROAD IMPROVEMENTS SHALL INCLUDE THE EXTENSION OF THE EXISTING TWO-WAY LEFT TURN LANE FROM WEST OF THE NC 540 BRIDGE TO THE INTERSECTION WITH GREEN LEVEL CHURCH ROAD. THE ACCESS POINTS FOR PHASE 1 AND PHASE 2 SHALL ALIGN ACROSS FROM EACH OTHER AND BE LOCATED A MINIMUM OF 500 FEET FROM GREEN LEVEL CHURCH ROAD.
6. DEVELOPER SHALL CONSTRUCT A 5' SIDEWALK ON THE NORTH SIDE OF JENKS ROAD ALONG THE FRONTAGE WITHIN PHASE 1.
7. DEVELOPER SHALL COORDINATE WITH TRAFFIC SIGNAL INSTALLATION BY OTHERS AT THE INTERSECTION OF GREEN LEVEL CHURCH ROAD AT JENKS ROAD IF NOT ALREADY INSTALLED BY THE TIME THIS DEVELOPMENT PLAN MOVES FORWARD. DEVELOPER IS RESPONSIBLE FOR PLAN REVISIONS AND MODIFICATIONS TO THE TRAFFIC SIGNAL TO ACCOMMODATE ROADWAY IMPROVEMENTS ASSOCIATED WITH PHASE 1 AND PHASE 2.
8. DEVELOPER SHALL DEDICATE ADDITIONAL RIGHT-OF-WAY ALONG THE PROJECT FRONTAGE TO ACCOMMODATE A ROUNDABOUT BASED ON THE PRELIMINARY LAYOUT ON FILE WITH THE TOWN (DESIGNED AS PART OF THE WESTFORD DEVELOPMENT ZONING CONDITIONS) IF NOT REMOVED FROM THE TRANSPORTATION PLAN PRIOR TO SUBDIVISION PLAN APPROVAL.

PHASE 2 IMPROVEMENTS

9. DEVELOPER SHALL CONSTRUCT A 10' SIDE PATH ON THE SOUTH SIDE OF JENKS ROAD ALONG THE FRONTAGE WITHIN PHASE 2.
10. DEVELOPER SHALL CONSTRUCT AN EXTENSION OF THE 10' SIDE PATH LOCATED ON THE SOUTH SIDE OF JENKS ROAD FROM PHASE 2 TO THE INTERSECTION OF JENKS ROAD AND GREEN LEVEL CHURCH ROAD AND DESIGN AND INSTALL A SIGNALIZED CROSSWALK ACROSS JENKS ROAD AT THE TRAFFIC SIGNAL. FEE-IN-LIEU, IN THE AMOUNT OF 125% OF THE ESTIMATED COST OF CONSTRUCTION PLUS FAIR MARKET VALUE OF THE PROPERTY TO BE ACQUIRED, SHALL BE ASSESSED IF EASEMENT OR RIGHT-OF-WAY CANNOT BE SECURED PRIOR TO COMPLETION OF THE FIRST CO WITHIN PHASE 2. ANY PERFORMANCE GUARANTEE PROVIDED FOR THIS SECTION OF SIDE-PATH SHALL BE RELEASED UPON ACCEPTANCE OF SAID FEE-IN-LIEU BY THE TOWN.
11. DEVELOPER SHALL IMPROVE THE NORTH SIDE OF DOMINIK COURT ALONG THE FRONTAGE OF PHASE 2 BASED ON A MINIMUM 27' B-B CURB AND GUTTER ROADWAY WITH 5' SIDEWALK.
12. DEVELOPER SHALL NOT PROPOSE ACCESS TO DOMINIK COURT UNTIL EITHER ONE OF THE FOLLOWING CONDITIONS IS MET:
 - 12.1. A. DOMINIK COURT IS REALIGNED SOUTHWARD TO PROVIDE AN APPROXIMATE RIGHT-ANGLE INTERSECTION WITH KELLY ROAD APPROXIMATELY 700-800' SOUTH OF JENKS ROAD, AND A SOUTHBOUND LEFT TURN LANE IS PROVIDED ON KELLY ROAD AT DOMINIK COURT WITH A MINIMUM OF 100' OF STORAGE PLUS DECELERATION AND TAPER ACCORDING TO NCDOT STANDARDS.
 - 12.2. B. A PUBLIC STREET CONNECTING DOMINIK COURT TO JENKS ROAD IS CONSTRUCTED AND DOMINIK COURT IS CONVERTED TO A RIGHT-IN/RIGHT-OUT ACCESS AT KELLY ROAD.

SITE DATA

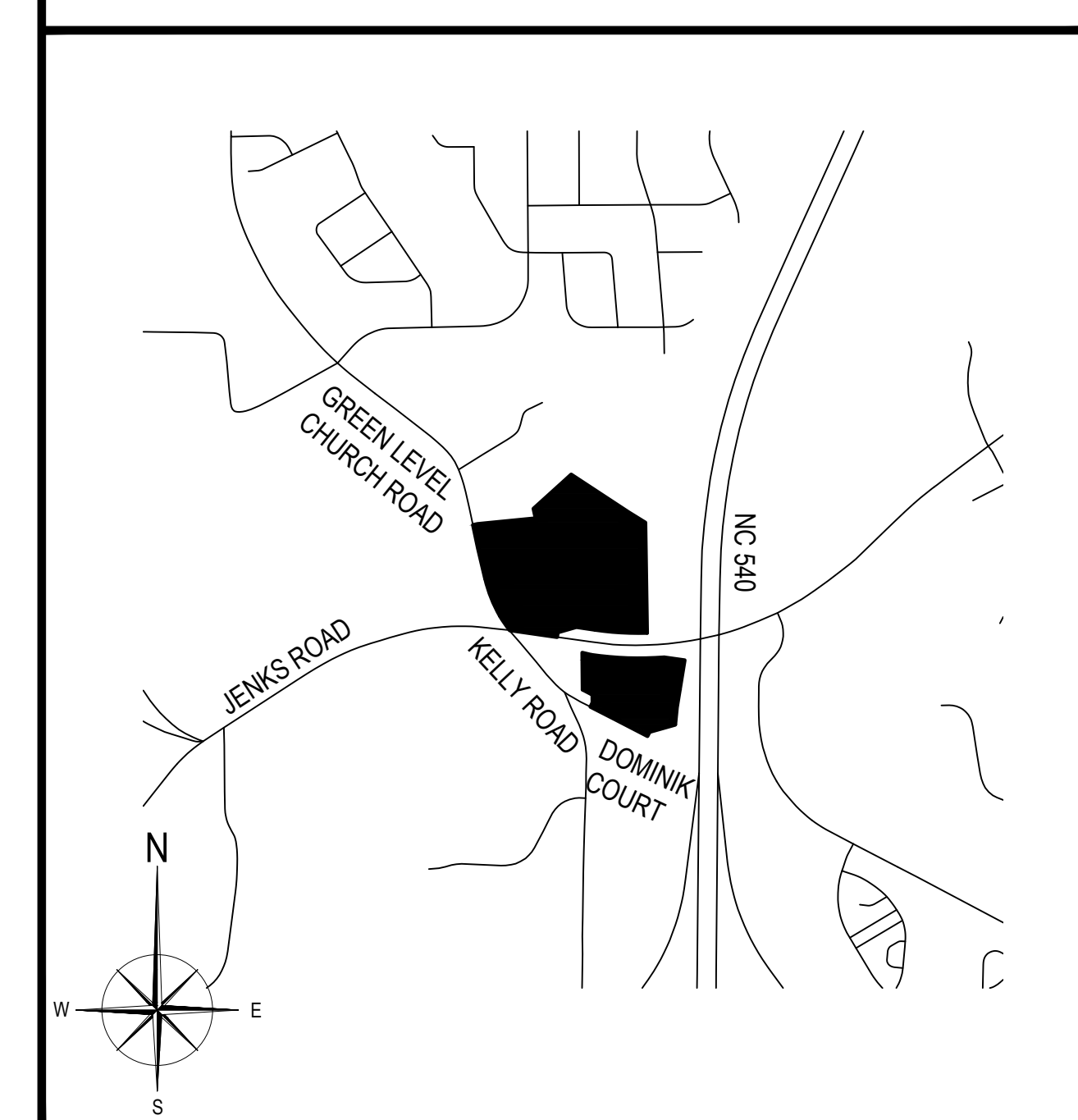
2045 LAND USE PLAN DESIGNATION	CURRENT	MEDIUM DENSITY RESIDENTIAL/OFFICE EMPLOYMENT & MIXED USE
	PROPOSED	NO CHANGE
ZONING	CURRENT	RURAL RESIDENTIAL (RR)
	PROPOSED	PLANNED UNIT DEVELOPMENT (PUD-CZ)
AREA OF TRACTS IN PROPOSED PUD	0733-10-2211	18.21 AC.
	0732-19-6422	5.46 AC.
	TOTAL =	23.67 AC.
AREA DESIGNATED AS MIXED-USE ON 2045 LAND USE MAP	5.46 AC.	
AREA OF MIXED-USE PROPERTY PROPOSED AS NON-RESIDENTIAL DEVELOPMENT	5.46 AC.	
PERCENT OF MIXED-USE PROPERTY PROPOSED AS NON-RESIDENTIAL DEVELOPMENT	100%	
REQUESTED SEWER CAPACITY	SOUTHERN TRACT: .09 GPD * 39,000 SF * 2.5 (PEAKING FACTOR) = 8,775 GPD NORTHERN TRACT: 120 GPD * 3 BEDROOMS/TOWNHOME * 71 TOWNHOMES = 25,560 GPD	
RESIDENTIAL DENSITY	MAXIMUM	3 DU/ACRE
SQUARE FOOTAGE PER NON-RESIDENTIAL USE	MAXIMUM	39,000 SF
BUILDING HEIGHT	MAXIMUM	45 FT
BUILDING SETBACKS	RESIDENTIAL	
	FRONT	19 FT*
	REAR	10 FT
	SIDE	5 FT
	CORNER	10 FT
	NON-RESIDENTIAL	
	FRONT	20 FT
	REAR	20 FT
	SIDE	10 FT
	CORNER	10 FT
WATERSHED	PROPERTY LOCATED WITHIN THE PRIMARY WATERSHED PROTECTION OVERLAY DISTRICT.	
HISTORIC STRUCTURES	NONE	
COMMUNITY AMENITIES	0.4 ACRE RECREATIONAL PLAY LAWN	
SITE BUFFERS		
NORTHERN PARCEL (PIN #0733102211)	NORTH	10' TYPE B BUFFER
	EAST	10' TYPE B BUFFER
	SOUTH	30' TYPE B BUFFER
	WEST	30' TYPE B BUFFER
SOUTHERN PARCEL (PIN #0732196422)	NORTH	30' TYPE E BUFFER
	EAST	20' TYPE B BUFFER
	SOUTH	20' TYPE B BUFFER
	WEST	100' TYPE A BUFFER**
*19' FROM GARAGE TO LOT LINE AND 20' FROM GARAGE TO BACK OF SIDEWALK		
**MAY BE REDUCED TO 50' TYPE A BUFFER PER UDO SECTION 8.2.6		

NOTE: THE PARKS AND RECREATION ADVISORY COMMISSION VOTED TO APPROVE FEE-IN-LIEU OF PARK LAND DEDICATION ON JUNE 24TH, 2020. FEE-IN-LIEU AMOUNT TO BE DETERMINED AT THE TIME OF MASTER SUBDIVISION PLANS ACCORDING TO THE TOWN OF APEX FEE SCHEDULE.



VICINITY MAP

1"=1000'

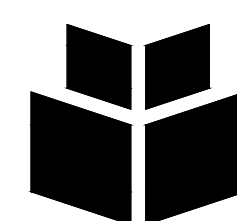


DEVELOPER

LENNAR CORPORATION - RALEIGH DIVISION
1100 PERIMETER PARK DRIVE, SUITE 112
MORRISVILLE, NC 27560
PHONE: 919.337.0235

ATTN: STEPHEN DORN
STEPHEN.DORN@LENNAR.COM

PREPARED BY:



WithersRavenel

Engineers | Planners | Surveyors

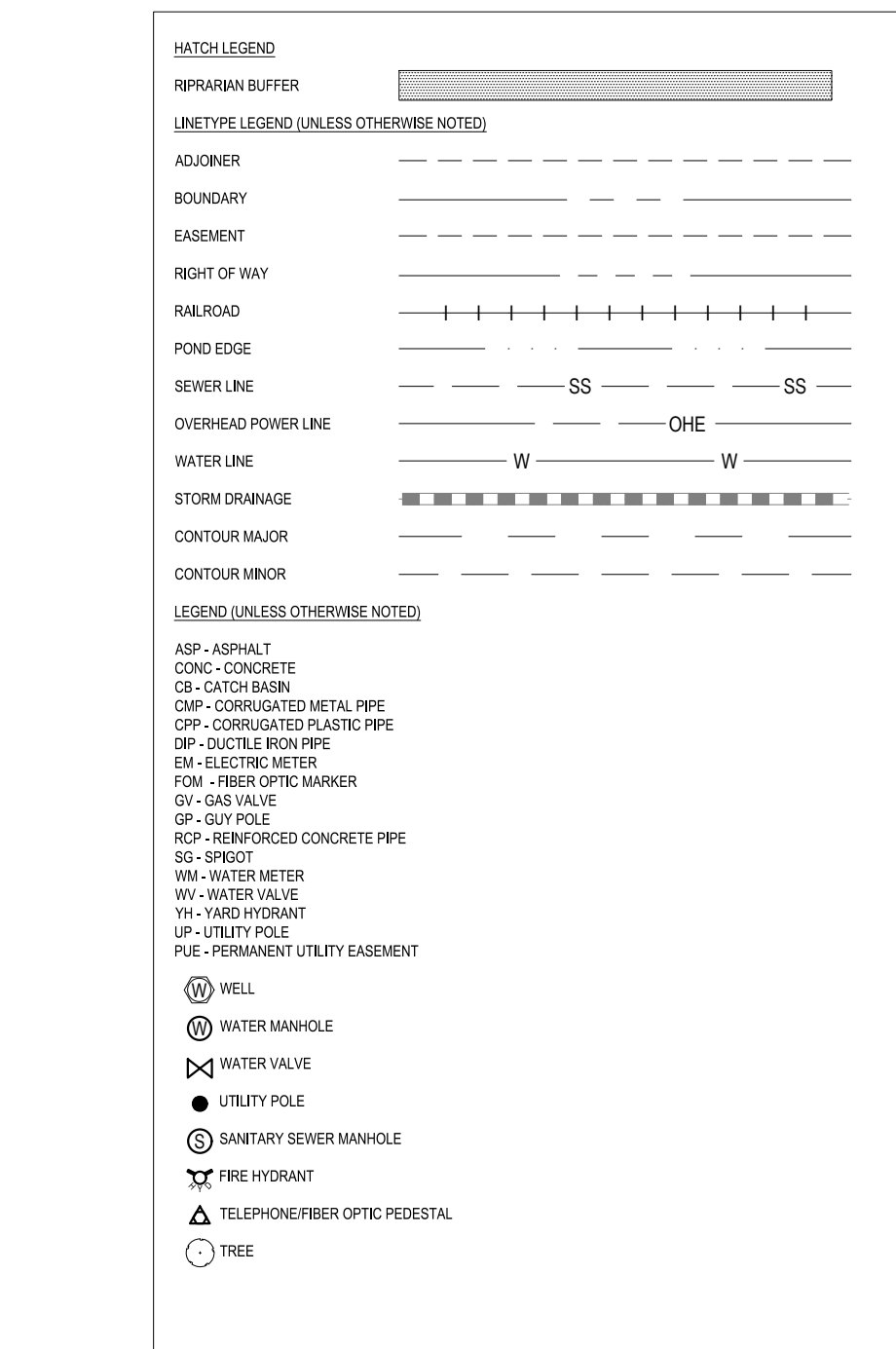
115 MacKenan Drive | Cary, NC 27511 | t: 919.469.3340 | license #: C-0832 | www.withersravenel.com

PLANNER: BRENDIE VEGA, AICP
BVEGA@WITHERSRAVENEL.COM

CIVIL ENGINEER: ARNALDO ECHEVARRIA, PE
AECHEVARRIA@WITHERSRAVENEL.COM

OWNER

KOBRA LLC
117 WOODLAND RIDGE DRIVE
FUQUAY-VARINA, NC 27526

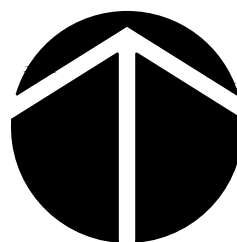
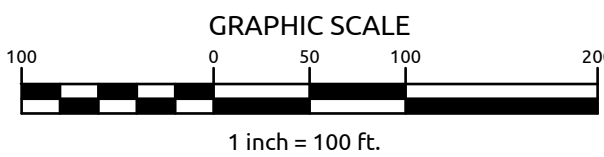


LINE TABLE		
LINE	BEARING	DISTANCE
L1	N12°09'14"W	62.39'
L2	N47°16'47"E	55.55'
L3	S08°08'33"W	30.00'
L4	N77°57'22"E	30.00'
L5	S81°55'19"E	131.38'
L6	S74°18'38"W	168.88'
L7	S27°20'07"W	30.00'
L8	N22°40'31"E	29.72'
L9	N00°33'05"W	49.68'
L10	N62°29'58"W	69.96'
L11	S76°36'12"E	59.39'

CURVE TABLE				
CURVE	LENGTH	RADIUS	BEARING	CHORD
C1	331.36	1920.00	N86°36'58"W	330.95'
C2	111.75	900.89	N34°42'19"W	111.68'
C3	252.92	880.73	N21°36'21"W	252.05'
C4	243.94	850.73	S21°35'41"E	243.11'
C5	95.77	870.89	S34°19'29"E	95.72'
C6	463.43	2080.00	S88°03'21"E	462.48'

- ### EXISTING CONDITION NOTES:
1. TOPOGRAPHIC AND UTILITY INFORMATION BASED ON AVAILABLE GIS MAPPING. PRELIMINARY BOUNDARY SURVEY PREPARED BY WITHERSRAVENEL DATED 02/18/20.
 2. WETLAND/STREAM INFORMATION BASED ON EVALUATION BY S&EC DATED 02/06/20. BUFFERS BASED ON TOWN OF APEX STREAM BUFFER DETERMINATION (APEX #19-006).
 3. REGULATORY FEMA MAPPED FLOODPLAINS DO NOT EXIST ON SITE PER FIRM MAPS #3720073300J (5/2/06) & #3720073200J (5/2/06).
 4. THE SUBJECT PROPERTY IS LOCATED WITHIN THE TOWN OF APEX PRIMARY WATERSHED PROTECTION OVERLAY DISTRICT.
 5. TREE INFORMATION BASED ON TREE SURVEY BY S&EC DATED 02/06/20.
 6. ALL EXISTING STRUCTURES ON THE SUBJECT PROPERTY SHALL BE REMOVED PER TOWN OF APEX STANDARDS AND REQUIREMENTS.

PRELIMINARY
NOT APPROVED FOR
CONSTRUCTION



No.	Revision	Date	By

Designer BDM	Scale 1" = 100'
Drawn By BDM	Date 08/14/20
Checked By AE	Job No. 02181110.1

APEX

KOBRA TRACT

WAKE COUNTY

NORTH CAROLINA

EXISTING CONDITIONS



WithersRavenel

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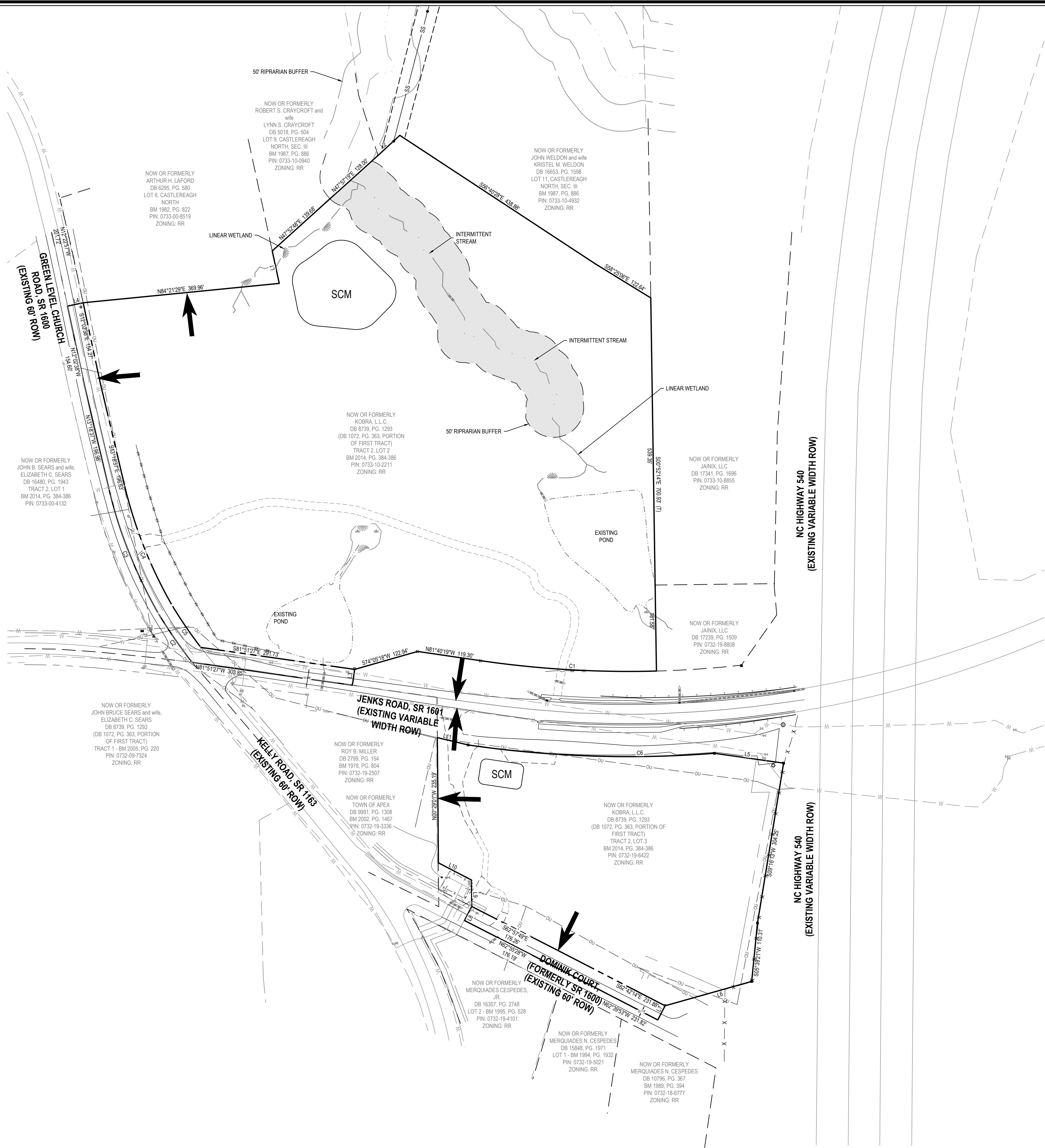
Sheet No.

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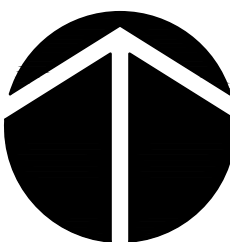
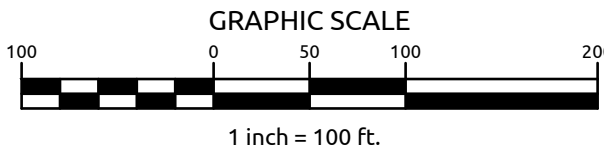
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C5	95.77	870.89	S34°19'29"E	95.72'
C6	463.43	2080.00	S88°03'21"E	462.48'

STORMWATER MANAGEMENT NOTES:

- TOPOGRAPHIC AND UTILITY INFORMATION BASED ON AVAILABLE GIS MAPPING. PRELIMINARY BOUNDARY SURVEY PREPARED BY WITHERSRAVENEL.
- WETLAND/STREAM INFORMATION BASED ON EVALUATION BY S&EC DATED 02/06/20. BUFFERS BASED ON TOWN OF APEX STREAM BUFFER DETERMINATION (APEX #19-006).
- REGULATORY FEMA MAPPED FLOODPLAINS DO NOT EXIST ON SITE PER FIRM MAP #3720073300J (5/2/06) & #3720073200J (5/2/06).
- THE SUBJECT PROPERTY IS LOCATED WITHIN THE TOWN OF APEX PRIMARY WATERSHED PROTECTION OVERLAY DISTRICT.
- STORMWATER MANAGEMENT FACILITIES SHALL BE DESIGNED PER THE TOWN OF APEX STANDARDS AND REGULATIONS FOR STORMWATER QUANTITY AND QUALITY (UDO SECTION 6.1.7.B).
- ALL APPLICABLE LOCAL AND STATE ENVIRONMENTAL PERMITS SHALL BE OBTAINED PRIOR TO START OF CONSTRUCTION.
- STORMWATER TREATMENT WILL BE HANDLED BY INDIVIDUAL OR REGIONAL FACILITIES WITHIN THE SUBJECT PROPERTY OR ADJACENT OFF-SITE DRAINAGE EASEMENT.

PRELIMINARY
NOT APPROVED FOR
CONSTRUCTION



No.	Revision	Date	By

Designer	BDM	Scale	1" = 100'
Drawn By	BDM	Date	08/14/20
Checked By	AE	Job No.	02181110.1

APEX

KOBRA TRACT

WAKE COUNTY

NORTH CAROLINA

STORMWATER MANAGEMENT PLAN



WithersRavenel
Engineers | Planners | Surveyors

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Sheet No.

5.0



| Agenda Item | cover sheet

for consideration by the Apex Town Council

Item Type: CONSENT AGENDA

Meeting Date: October 20, 2020

Item Details

Presenter(s): Lauren Staudenmaier, Planner I

Department(s): Planning and Community Development

Requested Motion

Motion to approve Statement of the Town Council and Ordinance for Rezoning Case #20CZ07, Jeff Roach, Peak Engineering/Rich Levert petitioners, for the property located on 2309 Old US 1 Highway.

Approval Recommended?

Planning and Community Development Department recommends approval.

Item Details

Rezoning Case #20CZ07 was approved at the October 6, 2020 Town Council meeting.

Attachments

- Statement of the Town Council
- Ordinance to Amend the Official Zoning District Map



**STATEMENT OF THE APEX TOWN COUNCIL PURSUANT TO G.S. 160A-383
ADDRESSING ACTION ON ZONING PETITION #20CZ07**

Jeff Roach, Peak Engineering/Rich Levert, owner/applicant (the "Applicant"), submitted a completed application for a conditional zoning on the 1st day of July 2020 (the "Application"). The proposed conditional zoning is designated #20CZ07.

The Planning and Community Development Director for the Town of Apex, Dianne Khin, caused proper notice to be given (by publication and posting) of a public hearing on #20CZ07 before the Planning Board held on the 14th day of September 2020.

Pursuant to G.S. §160A-384 and Sec. 2.2.11(E) of the Unified Development Ordinance, the Planning Director caused proper notice to be given (by publication and posting), of a public hearing on #20CZ07 before the Town Council on the 6th day of October 2020.

The Apex Planning Board held a public hearing on the 14th day of September 2020, gathered facts, received public comments and, following a 24 hour public comment period, on the 16th day of September 2020 formulated a recommendation regarding the application for conditional zoning #20CZ07. A motion was made at the Apex Planning Board to recommend approval; the motion passed by a 6-0 vote with 1 abstention due to technical difficulties for the application for #20CZ07.

The Apex Town Council held a public hearing on the 6th day of October 2020. Lauren Staudenmaier, Planner I, presented the Planning Board's recommendation at the public hearing.

All persons who desired to present information relevant to the application for #20CZ07 and who were residents of Apex or its extraterritorial jurisdiction, or who owned property adjoining the property for which the conditional zoning is sought, were allowed to present evidence at the public hearing before the Apex Town Council. No one who wanted to speak was turned away.

The Town Council by a vote of 5 to 0 approved Application #20CZ07 rezoning the subject tract located at 2309 Old US 1 Highway from Rural Residential (RR) & Tech/Flex-Conditional Zoning (TF-CZ #15CZ25) to Mixed Office-Residential-Retail-Conditional Zoning (MORR-CZ).

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 Office Employment & Commercial Services. This designation on the 2045 Land Use Map includes the zoning district Mixed Office-Residential-Retail (MORR-CZ) and the Apex Town Council has further considered that the proposed rezoning to Mixed Office-Residential-Retail (MORR-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. The Mixed Office-Residential-Retail (MORR) district outside of the Town's corporate limits is permitted for existing homes petitioning to come into the corporate limits in areas depicted as non-residential only; residential densities may be limited.

STATEMENT OF THE APEX TOWN COUNCIL ZONING PETITION #20CZ07
PAGE 2

The Apex Town Council finds that the approval of the rezoning is reasonable and in the public interest in that the proposed Mixed Office-Residential-Retail-Conditional Zoning (MORR-CZ) district is consistent with the 2045 Land Use Plan and other adopted plans. The 2045 Land Use Map classifies the subject property as Office Employment/Commercial services which includes the Mixed Office-Residential-Retail-Conditional Zoning (MORR-CZ) district. It will allow the property to maintain the existing single-family residential use while allowing for future non-residential redevelopment options to serve the surrounding area. The proposed rezoning also requires the correction of the nonconforming structure prior to redevelopment. The rezoning will encourage compatible development of the property and increase the tax base.

Jacques K. Gilbert
Mayor

ATTEST:

Donna B. Hosch, MMC, NCCMC
Town Clerk

Date

**ORDINANCE AMENDING THE OFFICIAL ZONING DISTRICT MAP OF THE TOWN OF APEX TO CHANGE THE ZONING OF APPROXIMATELY 1.60 ACRES LOCATED AT 2309 OLD US 1 HIGHWAY FROM RURAL RESIDENTIAL (RR) AND TECH/FLEX CONDITIONAL ZONING (TF-CZ #15CZ25) TO MIXED OFFICE-RESIDENTIAL-RETAIL-CONDITIONAL ZONING (MORR-CZ)
#20CZ07**

WHEREAS, the application of Jeff Roach, Peak Engineering/ Rich Levert, petitioners, for the rezoning of lands hereinafter described was duly filed with the office of the Planning Director and thereafter a public hearing was held hereon on the 14th day of September 2020 before the Planning Board and the 6th day of October 2020, before the Town Council, respectively, pursuant to due notice mailed and published pursuant to G.S. § 160A-384. Thereafter, the Planning Board submitted its final report to the Town Council recommending approval of said application for the rezoning of the lands hereinafter described, all in accordance with the requirements of the Town of Apex Unified Development Ordinance and the provisions of Chapter 160A, Article 19, of the North Carolina General Statutes; **NOW, THEREFORE,**

BE IT ORDAINED BY THE TOWN COUNCIL OF THE TOWN OF APEX

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

Section 2: The Town of Apex Unified Development Ordinance, including the Town of Apex North Carolina Official Zoning District Map which is a part of said Ordinance, is hereby amended by changing the zoning classification of the “Rezoned Lands” from Rural Residential (RR) and Tech/Flex Conditional Zoning (TF-CZ #15CZ25) to Mixed Office-Residential-Retail-Conditional Zoning (MORR-CZ) District, subject to the conditions stated herein.

Section 3: The “Rezoned Lands” are subject to all of the following conditions which are imposed as part of this rezoning:

Zoning Conditions:

The Rezoned Lands may be used for, and only for, the uses listed immediately below. The permitted uses are subject to the limitations and regulations stated in the UDO and any additional limitations or regulations stated below. For convenience, some relevant sections of the UDO may be referenced; such references do not imply that other sections of the UDO do not apply.

Permitted Uses and Limitations:

- | | |
|---|--------------------------------------|
| 1. Accessory apartment | 19. Bed and breakfast (S) |
| 2. Condominium | 20. Barber and beauty shop |
| 3. Family care home | 21. Book store |
| 4. Nursing or convalescent facility (S) | 22. Convenience store |
| 5. Single-family | 23. Dry cleaners and laundry service |
| 6. Day care facility | 24. Financial institution |
| 7. Government services | 25. Floral Shop |
| 8. Veterinary clinic or hospital | 26. Greenhouse or nursery, retail |
| 9. Utility, minor | 27. Grocery, specialty |
| 10. Wireless support structure | 28. Health/fitness center or spa |
| 11. Botanical garden | 29. Newsstand or gift shop |
| 12. Greenway | 30. Personal service |
| 13. Park, active | 31. Pharmacy |
| 14. Park, passive | 32. Real estate sales |
| 15. Restaurant, drive-through | 33. Studio for art |
| 16. Restaurant, general | 34. Tailor shop |
| 17. Medical or dental office or clinic | 35. Pet services |
| 18. Office, business or professional | |

Conditions:

1. For uses proposing new construction the following shall apply:
 - a. The exterior materials for nonresidential product include a combination of building materials. The primary (front) façade of the main buildings to be considered include:
 - i. Brick masonry.
 - ii. Decorative concrete block (either integrally colored or textured).
 - iii. Stone accents.
 - iv. Aluminum storefronts with anodized or pre-finished colors.
 - v. EIFS cornices and parapet trim. EIFS or synthetic stucco shall not be used in the first four feet above grade and shall be limited to only 25% of each building façade.
 - vi. Precast concrete.
 - b. The main entrance to the building shall be emphasized.
 - c. No more than one double-loaded bay of parking shall be provided in front of the building.
 - d. Buildings shall have vertical proportions. Expanses of blank wall shall not exceed sixty (60) feet in width without being interrupted with an architectural feature such as, but not limited to, a column, recess in or projection from the building façade. Windows and storefront glazing shall be divided to be either square or vertical in proportion so that each section is taller than it is wide. Permitted setbacks can be used to articulate bays of a building to break up its width. Architectural features such as, but not limited to, columns, piers, rooflines, and brick patterns can be used to divide and create vertical orientation on building facades.
 - e. The building façade shall have an identifiable base, body, and cap with horizontal elements separating these components. The body of the building shall constitute a minimum of fifty (50%) percent of the total building height. Buildings shall not have blank side walls creating a false front appearance. In addition, corner buildings shall have two façades which maintain a relationship to each other although they do not need to be identical.

Ordinance Amending the Official Zoning District Map #20CZ07
Page Three

- 2. For purposes of access, at time when the property is redeveloped, the following shall apply:
 - a. The residential driveway access shall be removed.
 - b. Access and cross-access for redevelopment shall be provided by the Humie Olive Road extension and the signal on Old US 1 Highway.
- 3. The existing nonconforming structure on the property shall be corrected prior to the first site plan submittal either by removing the structure from the property or by moving the structure or providing a recombination plat so that the structure is made conforming.
- 4. Residential density shall be limited to 0.69 units/acre.

Section 4: 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 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 _____ 2020.

TOWN OF APEX

Mayor

ATTEST:

Town Clerk

APPROVED AS TO FORM:

Town Attorney

AFFIDAVIT OF OWNERSHIP: EXHIBIT A – LEGAL DESCRIPTION

Application #: 20CZ07

Submittal Date: 7/1/2020

Insert legal description below.**Project Identification and Legal Description**

Richard and Richere Levert Property
Apex, Buckhorn Township
Wake County, North Carolina

The Richer and Richere Levert Property is identified by Wake County GIS PIN 0720-98-5958 located on the south side of N.C.S.R. 1011 (Old US 1 Highway).

The POINT OF BEGINNING is an existing point at the intersection of Vaudry Court centerline and the southern right-of-way for SR 1011, and at the northwest corner of N/F Richer Levert property (PIN 0720-98-5958);
thence N 71°01'04" E for 183.16' along the common line with southern right-of-way for SR 1011 to an existing point;
thence N 71°10'41" E for 74.81' along the common line with southern right-of-way for SR 1011 to an existing point with N/F Richer and Richere Levert (PIN 0720-98-8948);
thence S 13°53'21" E for 105.22' along the common line with N/F Richer and Richere Levert (PIN 0720-98-8948) to an existing point;
thence S 32°49'07" W for 238.60' along the common line with N/F Richer and Richere Levert (PIN 0720-98-8948) to an existing point;
thence S 28°07'41" E for 120.97' along the common line with N/F Richer and Richere Levert (PIN 0720-98-8948) to an existing point on the centerline of Vaudry Court
thence N 82°52'56" W along a curve at a radius of 150.00 for 117.36' (chord) along the centerline of Vaudry Court to an existing point;
thence N 30°50'28" W along a curve at a radius of 150.00 for 151.91' (length) along the centerline of Vaudry Court to an existing point;
thence N 01°49'43" W for 186.25' to an existing iron point at the intersection of Vaudry Court centerline and the southern right-of-way for SR 1011, said point being the POINT OF BEGINNING.

Said property includes approximately 69,842 square feet or 1.6033 acres.

The property hereinabove described was acquired by the Grantor by Deed Book 15723 Page 2185 and BM2019 Pg01041.

| Agenda Item | cover sheet

for consideration by the Apex Town Council

Item Type: CONSENT AGENDA

Meeting Date: October 20, 2020

Item Details

Presenter(s): Shelly Mayo, Planner II

Department(s): Planning and Community Development

Requested Motion

Motion to approve Statement of the Town Council and Ordinance for Rezoning Case #20CZ08 Apex Friendship Elementary School. Betty Parker for Wake County Public School System, petitioner, for the property located at 7901 Humie Olive Road.

Approval Recommended?

Planning and Community Development Department recommends approval.

Item Details

Rezoning Case #20CZ08 was approved at the October 6, 2020 Town Council meeting.

Attachments

- Statement of the Town Council
- Ordinance to Amend the Official Zoning District Map



**STATEMENT OF THE APEX TOWN COUNCIL PURSUANT TO G.S. 160A-383
ADDRESSING ACTION ON ZONING PETITION #20CZ08**

Wake County Public School System, owner/applicant (the “Applicant”), submitted a completed application for a conditional zoning on the 31st day of July 2020 (the “Application”). The proposed conditional zoning is designated #20CZ08.

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 #20CZ08 before the Planning Board held on the 14th day of September 2020.

Pursuant to G.S. §160A-384 and Sec. 2.2.11(E) of the Unified Development Ordinance, the Planning Director caused proper notice to be given (by publication and posting), of a public hearing on #20CZ08 before the Town Council on the 6th day of October 2020.

The Apex Planning Board held a public hearing on the 14th day of September 2020, gathered facts, received public comments and, following a 24 hour public comment period, on the 16th day of September 2020 formulated a recommendation regarding the application for conditional zoning #20CZ08. A motion was made at the Apex Planning Board to recommend approval; the motion passed by a vote of 6-0 with 1 abstention due to technical difficulties for the application for #20CZ08.

The Apex Town Council held a public hearing on the 6th day of October 2020. Amanda Bunce, Current Planning Manager, presented the Planning Board's recommendation at the public hearing.

All persons who desired to present information relevant to the application for #20CZ08 and who were residents of Apex or its extraterritorial jurisdiction, or who owned property adjoining the property for which the conditional zoning is sought, were allowed to present evidence at the public hearing before the Apex Town Council. No one who wanted to speak was turned away.

The Town Council by a vote of 5 to 0 approved Application #20CZ08 rezoning the subject tract located at 7901 Humie Olive Road from Planned Unit Development - Conditional Zoning (PUD-CZ) to Rural Residential - Conditional Zoning (RR-CZ).

The Apex Town Council finds that the approval of the rezoning is generally 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, and the proposed zoning district is generally consistent given the list of permitted uses. The Apex Town Council has further considered that the proposed rezoning to Rural Residential - Conditional Zoning (RR-CZ) will maintain the character and appearance of the area and provide the flexibility to accommodate the growth in population, economy, and infrastructure consistent with that contemplated by the 2045 Land Use Map.

STATEMENT OF THE APEX TOWN COUNCIL ZONING PETITION #20CZ08

The Apex Town Council finds that the approval of the rezoning is reasonable and in the public interest in that: it will permit greater flexibility in planning and building schools to support the new residential development in the area. The rezoning will encourage compatible development of the property and increase the tax base.

Jacques K. Gilbert
Mayor

ATTEST:

Donna B. Hosch, MMC, NCCMC
Town Clerk

Date

**ORDINANCE AMENDING THE OFFICIAL ZONING DISTRICT MAP OF THE TOWN OF APEX TO
CHANGE THE ZONING OF APPROXIMATELY 5.762 ACRES LOCATED AT 7901 HUMIE OLIVE ROAD
FROM PLANNED UNIT DEVELOPMENT – CONDITIONAL ZONING (PUD-CZ) TO RURAL RESIDENTIAL
– CONDITIONAL ZONING (RR-CZ)**

#20CZ08

WHEREAS, the application of Wake County Public School System, petitioner, for the rezoning of lands hereinafter described was duly filed with the office of the Planning Director and thereafter a public hearing was held hereon on the 14th day of September 2020 before the Planning Board and the 6th day of October 2020, before the Town Council, respectively, pursuant to due notice mailed and published pursuant to G.S. § 160A-384. Thereafter, the Planning Board submitted its final report to the Town Council recommending approval of said application for the rezoning of the lands hereinafter described, all in accordance with the requirements of the Town of Apex Unified Development Ordinance and the provisions of Chapter 160A, Article 19, of the North Carolina General Statutes; **NOW, THEREFORE**,

BE IT ORDAINED BY THE TOWN COUNCIL OF THE TOWN OF APEX

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

Section 2: The Town of Apex Unified Development Ordinance, including the Town of Apex North Carolina Official Zoning District Map which is a part of said Ordinance, is hereby amended by changing the zoning classification of the “Rezoned Lands” from Planned Unit Development - Conditional Zoning (PUD-CZ) to Rural Residential - Conditional Zoning (RR-CZ) District, subject to the conditions stated herein.

Section 3: The “Rezoned Lands” are subject to all of the following conditions which are imposed as part of this rezoning:

The Rezoned Lands may be used for, and only for, the uses listed immediately below. The permitted uses are subject to the limitations and regulations stated in the UDO and any additional limitations or regulations stated below. For convenience, some relevant sections of the UDO may be referenced; such references do not imply that other sections of the UDO do not apply.

- | | |
|---|-----------------------------------|
| 1. School, public or private | 7. Wireless support structure |
| 2. Day care facility | 8. Youth or day camps |
| 3. Communication tower, constructed stealth | 9. Church or place of worship |
| 4. Communication tower, camouflage stealth | 10. Assembly hall, for profit |
| 5. Communication tower, public safety | 11. Assembly hall, not for profit |
| 6. Wireless communication facility | 12. Government service |

Zoning Conditions:

1. The project shall preserve trees of equal to or larger than 18-inches in diameter at breast height to the maximum extent reasonably possible.
2. In compliance with UDO Section 8.2.2.E.1.b and to optimize landscaping survival, installing the landscaping may be delayed by up to 6 months after a Certificate of Occupancy would otherwise be required.
3. To support the re-establishment of forest, this project shall utilize a reforestation seed mix on any disturbed areas which have slopes of 3:1 or less and are not located with RCA or SCMs.

Ordinance Amending the Official Zoning District Map

#20CZ08

4. Provide a 20-foot Public Greenway Easement for future connection from the Apex Friendship Elementary School campus to the Little Beaver Creek greenway, consistent with a proposed amendment to the Town of Apex Bicycle and Pedestrian System Plan Map.

Section 4: 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 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 _____ 2020.

TOWN OF APEX

Mayor

ATTEST:

Town Clerk

APPROVED AS TO FORM:

Town Attorney

Attachment A:
Legal Description
Prepared for
The Wake County Board of Education
Apex Friendship Elementary School (E-41)
Assemblage Acquisition (5.762 acres)
Portion of PIN 0720-49-6990 (1071 Classic Road, LLC)
Portion of PIN 0720-49-3535 (DR Land, LLC)
Entirety of PIN 0720-59-0123 (GH Harris Heirs)
Western boundary of PIN 0720-69-5801 (Wake County Board of Education)

That certain tract or parcel of land lying and being situated in Buckhorn Township, Wake County, North Carolina, bounded on the east by The Wake County Board of Education; on the south by William Pridgen and Donna Pridgen; on the west by Charles E. Walden and Wade L. Walden and 3 Boys Capital, LLC; and on the north and northwest by 1071 Classic Road, LLC, and being more particularly described as follows: **BEGINNING** at an existing iron pipe, the southwest corner of The Wake County Board of Education, depicted on that map recorded at Book of Maps 2015 Page 1373 Wake County Register of Deeds, thence S 00°53'21" W a distance of 3.91 feet to an existing railroad iron; thence N 87°59'45" W 317.33 feet to an existing iron pipe; thence N 01°12'06" E a distance of 235.52 feet to an existing iron pipe; thence N 79°08'13" W a distance of 102.25 feet to a point in the center of an existing creek; thence along the center of the creek the following bearings and distances: N 17°07'41" E a distance of 4.62 feet to a point; thence N 29°16'58" E a distance of 11.19 feet to a point; thence N 08°32'00" E a distance of 10.62 feet to a point; thence N 11°34'02" E a distance of 5.07 feet to a point; thence N 12°47'43" E a distance of 14.80 feet to a point; thence N 22°16'08" E a distance of 6.07 feet to a point; thence N 52°24'38" E a distance of 15.08 feet to a point; thence N 16°55'26" E a distance of 11.94 feet to a point; N 34°02'30" E a distance of 14.31 feet to a point; thence N 40°34'04" E a distance of 19.62 feet to a point; thence N 23°45'14" E a distance of 11.69 feet to a point; thence N 23°47'46" E a distance of 9.09 feet to a point; thence N 26°34'45" E a distance of 17.37 feet to a point; thence N 20°16'03" E a distance of 14.33 feet to a point; thence N 23°33'31" E a distance of 17.65 feet to a point; thence N 36°32'21" E a distance of 31.17 feet to a point; thence N 32°36'19" E a distance of 15.85 feet to a point; thence N 05°37'15" E a distance of 8.67 feet to a point; thence N 29°25'42" E a distance of 9.53 feet to a point; thence N 58°31'16" E a distance of 21.81 feet to a point; thence N 25°27'55" E a distance of 3.64 feet to a point; thence N 25°36'08" E a distance of 2.42 feet to a point; thence N 06°29'14" E a distance of 6.20 feet to a point; thence N 11°56'28" E a distance of 7.45 feet to a point; thence N 20°17'10" E a distance of 11.07 feet to a point; thence N 46°06'26" E a distance of 10.68 feet to a point; thence N 36°20'11" E a distance of 14.01 feet to a point; thence N 34°59'54" E a distance of 12.50 feet to a point; thence N 36°15'25" E a distance of 17.26 feet to a point; thence N 34°30'08" E a distance of 36.39 feet to a point; thence N 28°35'25" E a distance of 36.68 feet to a point; thence N 35°20'05" E a distance of 28.77 feet to a point; thence N 35°35'23" E a distance of 9.80 feet to a point; thence N 28°06'21" E a distance of 4.04 feet to a point; thence N 17°35'05" W a distance of 18.87 feet to a point; thence N 22°36'19" E a distance of 12.92 feet to a point; thence N 22°36'19" E a distance of 3.80 feet to a point; thence N 13°33'11" E 38.21 feet to a point; thence N 15°40'01" E a distance of 10.30 feet to a point; thence N 35°02'47" E a distance of 12.12 feet to a point; thence N 39°57'47" E a distance of 9.48 feet to a point; thence N 68°30'26" E a distance of 9.89 feet to a point; thence N 42°49'00" E a distance of 23.94 feet to a point; thence N 49°06'48" E a distance of 19.46 feet to a point; thence N 24°13'49" E a distance of 22.03 feet to a point; thence N 49°42'09" E a distance

of 23.98 feet to a point; thence N 24°18'28" E a distance of 32.08 feet to a point; thence N 12°49'18" E a distance of 12.13 feet to a point; thence N 48°25'33" E a distance of 10.30 feet to a point; thence N 00°40'38" E a distance of 8.61 feet to a point; thence N 23°49'08" W a distance of 15.63 feet to a point; thence N 08°30'24" W a distance of 11.20 feet to a point; thence N 34°15'05" E a distance of 21.64 feet to a point; thence N 23°23'15" E a distance of 20.96 feet to a point; thence N 33°36'08" E a distance of 11.61 feet to a point; thence N 53°08'41" E a distance of 11.07 feet to a point; thence N 41°41'13" E a distance of 13.57 feet to a point; thence N 46°40'32" E a distance of 8.82 feet to a point; thence N 36°03'16" E a distance of 6.87 feet to a point; thence N 74°06'27" E a distance of 7.21 feet to a point; thence S 77°10'35" E a distance of 14.71 feet to a point; thence S 89°47'55" E a distance of 12.68 feet to a point; thence S 77°45'34" E a distance of 5.74 feet to a point; thence, leaving the center of the existing creek, S 01°19'53" W a distance of 338.96 feet to an existing bent iron pipe; thence S 01°15'41" W a distance of 232.92 feet to an existing iron pipe; thence S 03°27'44" W a distance of 11.61 feet to an existing railroad spike; thence S 01°46'25" W a distance of 397.82 feet to the **POINT OF BEGINNING**, containing 250,977 square feet or 5.762 acres more or less and being all of PIN# 0720-59-0123 and portions of PIN#'s 0720-49-3535 and 0720-49-6990 as shown per Wake County GIS.

| Agenda Item | cover sheet

for consideration by the Apex Town Council

Item Type: CONSENT AGENDA

Meeting Date: October 20, 2020

Item Details

Presenter: Amanda Bunce, Current Planning Manager

Department: Planning and Community Development

Requested Motion

Motion to adopt a Resolution Directing the Town Clerk to Investigate Petition Received, to accept the Certificate of Sufficiency by the Town Clerk, and to adopt a Resolution Setting Date of Public Hearing for November 4, 2020 on the Question of Annexation – Apex Town Council's intent to annex Lecter Marie Atwater, Donna M. Atwater and Jerome Kenneth Atwater HEIRS (Kings Grant) property containing 11.275 acres located at 2504, 2508, 2512, 2516 and 2600 Mt. Zion Church Road, Annexation #693 into the Town's corporate limits.

Approval Recommended?

Yes, by the Planning and Community Development Department.

Item Details

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

Attachments

- Annexation Petition
- Legal Description
- Vicinity Map
- Resolution Directing the Town Clerk to Investigate Petition
- Certificate of Sufficiency by the Town Clerk
- Resolution Setting Date of Public Hearing





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

Annexation Petition #693
Kings Grant

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

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

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

This the 20th day of October 2020.

Jacques K. Gilbert
Mayor

ATTEST:

Donna B. Hosch, MMC, NCCMC
Town Clerk



CERTIFICATE OF SUFFICIENCY BY THE TOWN CLERK

Annexation Petition #693
Kings Grant

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

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

IN WITNESS WHEREOF, I have hereunto set my hand and affixed the seal of the Town of Apex, North Carolina this 20th day of October 2020.

Donna B. Hosch, MMC, NCCMC
Town Clerk

(Seal)

PETITION FOR VOLUNTARY ANNEXATION

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

Application #: 693 Submittal Date: 6/22/2020
Fee Paid: \$ 200.00 Check #: 3056

TO THE TOWN COUNCIL APEX, NORTH CAROLINA

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

Owner Information

Atwater, Lector Marie	0721-43-2558 (DB1758 Pg00143)
Owner Name (Please Print)	Property PIN or Deed Book & Page #
Phone	E-mail Address
Atwater, Lector Marie	0721-42-4940 (DB3621 Pg855)
Owner Name (Please Print)	Property PIN or Deed Book & Page #
Phone	E-mail Address
Atwater, Jerome Kenneth HEIRS	0721-43-5444, 0721-43-5322, 0721-43-4156
Owner Name (Please Print)	Property PIN or Deed Book & Page #
Phone	E-mail Address

Surveyor Information

Surveyor: Robinson & Plante (attn: Kevin Wheeler)
Phone: (919) 859-6030 Fax: (919) 859-6032
E-mail Address: kevin@robinsonplante.com

Annexation Summary Chart

Property Information	Reason(s) for annexation (select all that apply)
Total Acreage to be annexed: <u>11.275 acres</u>	Need water service due to well failure <input type="checkbox"/>
Population of acreage to be annexed: <u>2</u>	Need sewer service due to septic system failure <input type="checkbox"/>
Existing # of housing units: <u>1</u>	Water service (new construction) <input checked="" type="checkbox"/>
Proposed # of housing units: <u>44 lots</u>	Sewer service (new construction) <input checked="" type="checkbox"/>
Zoning District*: <u>PUD-CZ</u>	Receive Town Services <input checked="" type="checkbox"/>

*If the property to be annexed is not within the Town of Apex's Extraterritorial Jurisdiction, the applicant must also submit a rezoning application with the petition for voluntary annexation to establish an Apex zoning designation. Please contact the Planning Department at 919-249-3426 for questions.

PETITION FOR VOLUNTARY ANNEXATION

Application #: 693

Submittal Date: 6/22/2020

COMPLETE IF SIGNED BY INDIVIDUALS:

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

Douglas Brown POA for
Lector Marie Atwater

Please Print

Douglas Brown, POA

Signature

*

*

Please Print

Signature

Please Print

Signature

Please Print

Signature

STATE OF NORTH CAROLINA
COUNTY OF WAKE

Sworn and subscribed before me, Walter J. McClamb Notary Public for the above State and County,
this the 10 day of September, 2020

Walter J. McClamb

Notary Public

SEAL

Walter J McClamb

NOTARY PUBLIC

WAKE COUNTY, NC

My Commission Expires 12-11-2023

My Commission Expires:

12-11-2023

COMPLETE IF A CORPORATION:

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

Corporate Name _____

SEAL

By: _____

Attest: _____

President (Signature)

Secretary (Signature)

STATE OF NORTH CAROLINA
COUNTY OF WAKE

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

Notary Public

SEAL

My Commission Expires: _____

PETITION FOR VOLUNTARY ANNEXATION

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 #: 693
Fee Paid: \$

Submittal Date: 6/22/2020
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, North Carolina.
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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

Atwater, Lector Marie Owner Name (Please Print)	0721-43-2558 (DB1758 Pg00143) Property PIN or Deed Book & Page #
Phone	E-mail Address
Atwater, Lector Marie Owner Name (Please Print)	0721-42-4940 (DB3621 Pg855) Property PIN or Deed Book & Page #
Phone	E-mail Address
Atwater, Jerome Kenneth HEIRS Owner Name (Please Print)	0721-43-5444, 0721-43-5322, 0721-43-4156 Property PIN or Deed Book & Page #
<u>DONNA M. ATWATER</u> Phone	<u>atwater52@yahoo.com</u> E-mail Address

Surveyor Information

Surveyor: Robinson & Plante (attn: Kevin Wheeler)
Phone: (919) 859-6030 Fax: (919) 859-6032
E-mail Address: kevin@robinsonplante.com

Annexation Summary Chart

Property Information	Reason(s) for annexation (select all that apply)
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Population of acreage to be annexed: <u>2</u>	Need sewer service due to septic system failure <input type="checkbox"/>
Existing # of housing units: <u>1</u>	Water service (new construction) <input checked="" type="checkbox"/>
Proposed # of housing units: <u>44 lots</u>	Sewer service (new construction) <input checked="" type="checkbox"/>
Zoning District*: <u>PUD-CZ</u>	Receive Town Services <input checked="" type="checkbox"/>

*If the property to be annexed is not within the Town of Apex's Extraterritorial Jurisdiction, the applicant must also submit a rezoning application with the petition for voluntary annexation to establish an Apex zoning designation. Please contact the Planning Department at 919-249-3426 for questions.

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 #: 693 Submittal Date: 6/22/2020
Fee Paid: \$ Check #:

TO THE TOWN COUNCIL APEX, NORTH CAROLINA

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Owner Information

<u>Atwater, Lector Marie</u> Owner Name (Please Print)	<u>0721-43-2558 (DB1758 Pg00143)</u> Property PIN or Deed Book & Page #
<u></u> Phone	<u></u> E-mail Address
<u>Atwater, Lector Marie</u> Owner Name (Please Print)	<u>0721-42-4940 (DB3621 Pg855)</u> Property PIN or Deed Book & Page #
<u></u> Phone	<u></u> E-mail Address
<u>Atwater, Jerome Kenneth HEIRS</u> Owner Name (Please Print)	<u>0721-43-3444, 0721-43-5322, 0721-43-4156</u> Property PIN or Deed Book & Page #
<u>DONNA M. ATWATER</u> Phone	<u>dlatwater52@yahoo.com</u> E-mail Address

Surveyor Information

Surveyor: Robinson & Plante (attn: Kevin Wheeler)
Phone: (919) 859-6030 Fax: (919) 859-6032
E-mail Address: kevin@robinsonplante.com

Annexation Summary Chart

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Zoning District*:	<u>PUD-CZ</u>	Receive Town Services	<input checked="" type="checkbox"/>

*If the property to be annexed is not within the Town of Apex's Extraterritorial Jurisdiction, the applicant must also submit a rezoning application with the petition for voluntary annexation to establish an Apex zoning designation. Please contact the Planning Department at 919-249-3426 for questions.

PETITION FOR VOLUNTARY ANNEXATION

Application #: 693

Submittal Date: 6/22/2020

COMPLETE IF SIGNED BY INDIVIDUALS:

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

DONNA M. ANWATER

Please Print

Donna M. Anwater

Signature

*

*

Please Print

Signature

Please Print

Signature

Please Print

Signature

STATE OF NORTH CAROLINA
COUNTY OF WAKE

Sworn and subscribed before me, JOHN M. LILLIS, a Notary Public for the above State and County,
this the 29 day of September, 2020.

SEAL

JOHN M. LILLIS
NOTARY PUBLIC OF NEW JERSEY
ID# 2108262

John M. Lillis

Notary Public

My Commission Expires March 11, 2023

3/11/23

COMPLETE IF A CORPORATION:

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

Corporate Name

SEAL

By:

Attest:

President (Signature)

Secretary (Signature)

STATE OF NORTH CAROLINA
COUNTY OF WAKE

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

Notary Public

SEAL

My Commission Expires: _____

POWER OF ATTORNEY

COUNTY OF WAKE

KNOW ALL MEN BY THESE PRESENTS, that I, LECTOR MARIE ATWATER, the undersigned, of 2504 Mt. Zion Church Road, Apex, County of Wake, State of North Carolina 27502, hereby make, constitute, and appoint DOUGLAS BROWN of the County of Wake, State of North Carolina, as my true and lawful attorney-in-fact for me and in my name, place, and stead, giving unto said attorney-in-fact full power to act in my name, place and stead in any way which I myself could do if I were personally present, with respect to the following matters as each of them is defined in Chapter 32A of the North Carolina General Statutes, to the extent that I am permitted by law to act through an agent. The powers granted are:

1. Real property transactions;
2. Personal property transactions;
3. Banking transactions;
4. Safe deposit;
5. Insurance transactions;
6. Estate transactions;
7. Personal relationships and affairs;
8. Tax, Social Security and unemployment;
9. Tax Matters;
10. Employment of Agents;
11. Medical care as defined below:

To make any and all decisions for me concerning my personal care, medical treatment, hospitalization and health care and to require, withhold or withdraw any type of medical treatment or procedure, even though my death may ensue, provided this does not authorize the withdrawal of nutrition, hydration or pain medication.

I also hereby grant my attorney-in-fact full power of substitution and revocation, hereby ratifying and affirming that which my attorney-in-fact or substitute attorney-in-fact shall lawfully do or cause to be done by said attorney-in-fact (or the substitute lawfully designated by virtue of the power herein conferred upon said attorney-in-fact). This power of attorney shall not be affected by my subsequent incapacity or mental incompetence. Should my first named attorney-in-fact be unable to perform all the matters and things herein set out to be done and performed and if I have appointed an alternate attorney-in-fact hereinabove, then and in that even the alternate attorney-in-fact hereinabove designated shall be my true and lawful attorney-in-fact to do and perform in my name and in my stead all matters and things herein authorized to be done and performed by my attorney-in-fact with all the powers and authority herein given.

My attorney-in-fact shall keep full and accurate records of all transactions for me as my agent, of all my property and the disposition thereof, and shall render to me, if competent, or to my nearest living relative if I shall be incompetent or incapacitated, at least annually, inventories and accounts of all transactions of my attorney-in-fact done in my behalf; and to the extent that I am able to do so, I hereby relieve my attorney-in-fact of the responsibility and duty of filing any reports with the court.

Dated: Sept 25, 2014.

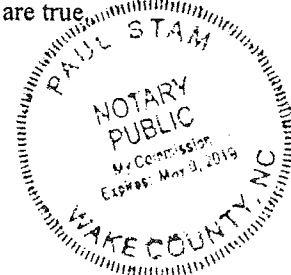
Lector Marie Atwater (SEAL)
LECTOR MARIE ATWATER

STATE OF NORTH CAROLINA
COUNTY OF WAKE

On this 25 day of September, 2014 personally appeared before me the said named LECTOR MARIE ATWATER, known to me to be the person subscribed hereinabove and who executed the foregoing instrument, and she acknowledged that she executed the same and being duly sworn by me, made oath that the statements in the foregoing instrument are true.

My Commission Expires: May 8, 2019

Glenn Stam
Notary Public



CONTIGUOUS ANNEXATION FOR THE TOWN OF APEX

Beginning at an Iron Pipe on the Eastern Right of Way of Mt. Zion Church Road (SR 1146) (Variable Width Public Right of Way), said Iron Pipe being the following two calls from N.C.G.S. Grid Monument "Staley", said Monument having N.C. Grid Coordinates (NAD83/2011) of N=727,821.36, E=2,043,644.97; South 52°56'03" West 23,560.45' (Grid Distance) to an Existing Iron Pipe on the Eastern Right of Way of Mt. Zion Church Road (SR 1146) (Variable Width Public Right of Way), thence with said Right of Way South 89°01'46" East 4.61' to the Point of Beginning, thence from said point of beginning along the Eastern Right of Way of Mt. Zion Church Road (SR 1146) (Variable Width Public Right of Way) South 16°18'37" West 380.93' to an Existing Iron Pipe, thence leaving said Eastern Right of Way North 88°52'48" West 32.69' to a Nail Found near the Centerline of Mt. Zion Church Road (SR 1146) (Variable Width Public Right of Way), thence continuing along the Eastern Property Line, running in the Right of Way and near the centerline of Mt. Zion Church Road (SR 1146) (Variable Width Public Right of Way) South 17°07'51" West 90.26' to a point, thence South 15°07'08" West 53.75' to a Nail Found, thence South 15°07'08" West 34.17' to a point, thence South 09°29'10" West 85.23' to a point, thence South 01°19'41" West 86.25' to a point, thence South 05°12'53" East 85.11' to a point, thence South 08°16'16" East 50.41' to an Existing Mag-Nail, thence South 08°16'16" East 233.68' to an Existing Mag-Nail near the centerline of Mt. Zion Church Road (SR 1146) (Variable Width Public Right of Way), thence North 89°01'53" West 35.85' to an Existing Rebar on the Western Right of Way of Mt. Zion Church Road (SR 1146) (Variable Width Public Right of Way), thence leaving said Right of Way North 89°01'53" West 214.59' to an Existing Iron Pipe with Cap, thence North 27°36'16" West 434.95' to an Existing Iron Pipe with Cap, thence North 01°10'51" East 187.96' to an Existing Iron Pipe with Cap, thence North 01°04'46" East 138.93' to an Existing Iron Pipe with Cap, thence South 88°48'49" East 125.06' to an Existing Iron Pipe with Cap, thence North 02°28'59" East 243.52' to an Existing Iron Pipe with Cap, thence North 88°56'15" West 625.10' to a point, thence North 02°27'05" East 122.00' to an Existing Rebar, thence South 89°01'46" East 1,024.21' to an Existing Rebar on the Western Right of Way of Mt. Zion Church Road (SR 1146) (Variable Width Public Right of Way), thence leaving said Right of Way South 89°01'46" East 62.21' to the point and place of Beginning containing 11.275 Acres more or less.

CONTIGUOUS ANNEXATION FOR THE TOWN OF APEX

Beginning at an Iron Pipe on the Eastern Right of Way of Mt. Zion Church Road (SR 1146) (Variable Width Public Right of Way), said Iron Pipe being the following two calls from N.C.G.S. Grid Monument "Staley", said Monument having N.C. Grid Coordinates (NAD83/2011) of N=727,821.36, E=2,043,644.97; South 52°56'03" West 23,560.45' (Grid Distance) to an Existing Iron Pipe on the Eastern Right of Way of Mt. Zion Church Road (SR 1146) (Variable Width Public Right of Way), thence with said Right of Way South 89°01'46" East 4.61' to the Point of Beginning, thence from said point of beginning along the Eastern Right of Way of Mt. Zion Church Road (SR 1146) (Variable Width Public Right of Way) South 16°18'37" West 380.93' to an Existing Iron Pipe, thence leaving said Eastern Right of Way North 88°52'48" West 32.69' to a Nail Found near the Centerline of Mt. Zion Church Road (SR 1146) (Variable Width Public Right of Way), thence continuing along the Eastern Property Line, running in the Right of Way and near the centerline of Mt. Zion Church Road (SR 1146) (Variable Width Public Right of Way) South 17°07'51" West 90.26' to a point, thence South 15°07'08" West 53.75' to a Nail Found, thence South 15°07'08" West 34.17' to a point, thence South 09°29'10" West 85.23' to a point, thence South 01°19'41" West 86.25' to a point, thence South 05°12'53" East 85.11' to a point, thence South 08°16'16" East 50.41' to an Existing Mag-Nail, thence South 08°16'16" East 233.68' to an Existing Mag-Nail near the centerline of Mt. Zion Church Road (SR 1146) (Variable Width Public Right of Way), thence North 89°01'53" West 35.85' to an Existing Rebar on the Western Right of Way of Mt. Zion Church Road (SR 1146) (Variable Width Public Right of Way), thence leaving said Right of Way North 89°01'53" West 214.59' to an Existing Iron Pipe with Cap, thence North 27°36'16" West 434.95' to an Existing Iron Pipe with Cap, thence North 01°10'51" East 187.96' to an Existing Iron Pipe with Cap, thence North 01°04'46" East 138.93' to an Existing Iron Pipe with Cap, thence South 88°48'49" East 125.06' to an Existing Iron Pipe with Cap, thence North 02°28'59" East 243.52' to an Existing Iron Pipe with Cap, thence North 88°56'15" West 625.10' to a point, thence North 02°27'05" East 122.00' to an Existing Rebar, thence South 89°01'46" East 1,024.21' to an Existing Rebar on the Western Right of Way of Mt. Zion Church Road (SR 1146) (Variable Width Public Right of Way), thence leaving said Right of Way South 89°01'46" East 62.21' to the point and place of Beginning containing 11.275 Acres more or less.


[Home](#)

Wake County Real Estate Data Account Summary

[iMaps](#)
[Tax Bills](#)
Real Estate ID **0002622**PIN # **0721432558**

Location Address

2504 MT ZION CHURCH RD

Property Description

JOHN R RICHARDSON SR LANDAccount
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Property Owner ATWATER, LECTOR MARIE R (Use the Deeds link to view any additional owners)		Owner's Mailing Address 2504 MOUNT ZION CHURCH RD APEX NC 27502-9636	Property Location Address 2504 MT ZION CHURCH RD APEX NC 27502-9636
Administrative Data Old Map # 669-- Map/Scale 0721 03 VCS 03AP900 City Fire District 23 Township BUCKHORN Land Class R-<10-HS ETJ AP Spec Dist(s) Zoning PUD-CZ History ID 1 History ID 2 Acreage 2.97 Permit Date Permit #		Transfer Information Deed Date 11/21/1966 Book & Page 01758 0143 Revenue Stamps Pkg Sale Date Pkg Sale Price Land Sale Date Land Sale Price Improvement Summary Total Units 1 Recycle Units 1 Apt/SC Sqft Heated Area 1,125	Assessed Value Land Value Assessed \$249,780 Bldg. Value Assessed \$99,201 Tax Relief \$101,001 Land Use Value Use Value Deferment Historic Deferment Total Deferred Value Use/Hist/Tax Relief Assessed \$247,980 Total Value Assessed* \$348,981

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

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

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

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Wake County Real Estate Data Account Summary

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Real Estate ID **0149560**PIN # **0721424940**

Location Address

2600 MT ZION CHURCH RD

Property Description

LO3 PROP J R RICHARDSON HRS BM1984-01690
 Account
 Search


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Property Owner ATWATER, LECTOR MARIE (Use the Deeds link to view any additional owners)		Owner's Mailing Address 2504 MOUNT ZION CHURCH RD APEX NC 27502-9636	Property Location Address 2600 MT ZION CHURCH RD APEX NC 27502-0000
Administrative Data Old Map # 669-00000-0124 Map/Scale 0721 03 VCS 03AP900 City Fire District 23 Township BUCKHORN Land Class VACANT ETJ AP Spec Dist(s) Zoning PUD-CZ History ID 1 History ID 2 Acreage 4.60 Permit Date Permit #		Transfer Information Deed Date 12/19/1985 Book & Page 03621 0855 Revenue Stamps Pkg Sale Date Pkg Sale Price Land Sale Date Land Sale Price Improvement Summary Total Units 0 Recycle Units 0 Apt/SC Sqft Heated Area	Assessed Value Land Value Assessed \$370,400 Bldg. Value Assessed Tax Relief Land Use Value Use Value Deferral Historic Deferral Total Deferred Value Use/Hist/Tax Relief Assessed Total Value Assessed* \$370,400

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Wake County Real Estate Data Account Summary

[iMaps](#)
[Tax Bills](#)
Real Estate ID **0150542**PIN # **0721435444**

Location Address

**2508 MT ZION CHURCH
RD**

Property Description

JOHN R RICHARDSON SR LD
 Account
 Search


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Property Owner ATWATER, JEROME KENNETH HEIRS (Use the Deeds link to view any additional owners)		Owner's Mailing Address DONNA ATWATER 179 ARLINGTON AVE JERSEY CITY NJ 07305-4438	Property Location Address 2508 MT ZION CHURCH RD APEX NC 27502-9636
Administrative Data Old Map # 669-- Map/Scale 0721 03 VCS 03AP900 City Fire District 23 Township BUCKHORN Land Class VACANT ETJ AP Spec Dist(s) Zoning PUD-CZ History ID 1 History ID 2 Acreage 1.16 Permit Date Permit #		Transfer Information Deed Date 6/28/2011 Book & Page -E- - Revenue Stamps Pkg Sale Date Pkg Sale Price Land Sale Date Land Sale Price Improvement Summary Total Units 0 Recycle Units 0 Apt/SC Sqft Heated Area	Assessed Value Land Value Assessed \$115,840 Bldg. Value Assessed Tax Relief Land Use Value Use Value Deferral Historic Deferral Total Deferred Value Use/Hist/Tax Relief Assessed Total Value Assessed* \$115,840

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

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

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Wake County Real Estate Data Account Summary

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Real Estate ID **0059759**PIN # **0721435322**Location Address
**2512 MT ZION CHURCH
RD**Property Description
BEAVER CRK LDAccount
Search

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[NORTH CAROLINA](#) [Account](#) | [Buildings](#) | [Land](#) | [Deeds](#) | [Notes](#) | [Sales](#) | [Photos](#) | [Tax Bill](#) | [Map](#)

Property Owner ATWATER, JEROME KENNETH HEIRS (Use the Deeds link to view any additional owners)		Owner's Mailing Address DONNA ATWATER 179 ARLINGTON AVE JERSEY CITY NJ 07305-4438	Property Location Address 2512 MT ZION CHURCH RD APEX NC 27502-9636
Administrative Data Old Map # 669-- Map/Scale 0721 03 VCS 03AP900 City Fire District 23 Township BUCKHORN Land Class VACANT ETJ AP Spec Dist(s) Zoning PUD-CZ History ID 1 History ID 2 Acreage 1.16 Permit Date Permit #		Transfer Information Deed Date 6/28/2011 Book & Page -E- - Revenue Stamps Pkg Sale Date Pkg Sale Price Land Sale Date Land Sale Price Improvement Summary Total Units 0 Recycle Units 0 Apt/SC Sqft Heated Area	Assessed Value Land Value Assessed \$115,840 Bldg. Value Assessed Tax Relief Land Use Value Use Value Deferral Historic Deferral Total Deferred Value Use/Hist/Tax Relief Assessed Total Value Assessed* \$115,840

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

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Wake County Real Estate Data Account Summary

[iMaps](#)
[Tax Bills](#)
Real Estate ID **0149562**PIN # **0721434156**Location Address
**2516 MT ZION CHURCH
RD**Property Description
LO4B PROP J R RICHARDSON HRS BM1984-1690Account
Search

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Property Owner ATWATER, JEROME KENNETH HEIRS (Use the Deeds link to view any additional owners)		Owner's Mailing Address DONNA ATWATER 179 ARLINGTON AVE JERSEY CITY NJ 07305-4438	Property Location Address 2516 MT ZION CHURCH RD APEX NC 27502-9636
Administrative Data Old Map # 669-00000-0126 Map/Scale 0721 03 VCS 03AP900 City Fire District 23 Township BUCKHORN Land Class VACANT ETJ AP Spec Dist(s) Zoning PUD-CZ History ID 1 History ID 2 Acreage 1.41 Permit Date Permit #		Transfer Information Deed Date 6/28/2011 Book & Page -E- - Revenue Stamps Pkg Sale Date Pkg Sale Price Land Sale Date Land Sale Price Improvement Summary Total Units 0 Recycle Units 0 Apt/SC Sqft Heated Area	Assessed Value Land Value Assessed \$182,008 Bldg. Value Assessed Tax Relief Land Use Value Use Value Deferral Historic Deferral Total Deferred Value Use/Hist/Tax Relief Assessed Total Value Assessed* \$182,008

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

Annexation Petition #693
Kings Grant

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 4th day of November 2020.

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

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

This the 20th day of October 2020.

Jacques K. Gilbert, Mayor

ATTEST:

Donna B. Hosch, MMC, NCCMC, Town Clerk

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 #: 693 Submittal Date: 6/22/2020
Fee Paid: \$ 200.00 Check #: 3056

TO THE TOWN COUNCIL APEX, NORTH CAROLINA

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

Owner Information

Atwater, Lector Marie	0721-43-2558 (DB1758 Pg00143)
Owner Name (Please Print)	Property PIN or Deed Book & Page #
Phone	E-mail Address
Atwater, Lector Marie	0721-42-4940 (DB3621 Pg855)
Owner Name (Please Print)	Property PIN or Deed Book & Page #
Phone	E-mail Address
Atwater, Jerome Kenneth HEIRS	0721-43-5444, 0721-43-5322, 0721-43-4156
Owner Name (Please Print)	Property PIN or Deed Book & Page #
Phone	E-mail Address

Surveyor Information

Surveyor: Robinson & Plante (attn: Kevin Wheeler)
Phone: (919) 859-6030 Fax: (919) 859-6032
E-mail Address: kevin@robinsonplante.com

Annexation Summary Chart

Property Information	Reason(s) for annexation (select all that apply)
Total Acreage to be annexed: <u>11.275 acres</u>	Need water service due to well failure <input type="checkbox"/>
Population of acreage to be annexed: <u>2</u>	Need sewer service due to septic system failure <input type="checkbox"/>
Existing # of housing units: <u>1</u>	Water service (new construction) <input checked="" type="checkbox"/>
Proposed # of housing units: <u>44 lots</u>	Sewer service (new construction) <input checked="" type="checkbox"/>
Zoning District*: <u>PUD-CZ</u>	Receive Town Services <input checked="" type="checkbox"/>

*If the property to be annexed is not within the Town of Apex's Extraterritorial Jurisdiction, the applicant must also submit a rezoning application with the petition for voluntary annexation to establish an Apex zoning designation. Please contact the Planning Department at 919-249-3426 for questions.

PETITION FOR VOLUNTARY ANNEXATION

Application #: 693

Submittal Date: 6/22/2020

COMPLETE IF SIGNED BY INDIVIDUALS:

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

Douglas Brown POA for
Lector Marie Atwater

Please Print

Douglas Brown, POA

Signature

*

*

Please Print

Signature

Please Print

Signature

Please Print

Signature

STATE OF NORTH CAROLINA
COUNTY OF WAKE

Sworn and subscribed before me, Walter J. McClamb Notary Public for the above State and County,
this the 10 day of September, 2020

Walter J. McClamb

Notary Public

SEAL

Walter J McClamb

NOTARY PUBLIC

WAKE COUNTY, NC

My Commission Expires 12-11-2023

My Commission Expires:

12-11-2023

COMPLETE IF A CORPORATION:

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

Corporate Name _____

SEAL

By: _____

Attest: _____

President (Signature)

Secretary (Signature)

STATE OF NORTH CAROLINA
COUNTY OF WAKE

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

Notary Public

SEAL

My Commission Expires: _____

PETITION FOR VOLUNTARY ANNEXATION

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Application #: 693
Fee Paid: \$

Submittal Date: 6/22/2020
Check #

TO THE TOWN COUNCIL APEX, NORTH CAROLINA

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Atwater, Lector Marie Owner Name (Please Print)	0721-43-2558 (DB1758 Pg00143) Property PIN or Deed Book & Page #
Phone	E-mail Address
Atwater, Lector Marie Owner Name (Please Print)	0721-42-4940 (DB3621 Pg855) Property PIN or Deed Book & Page #
Phone	E-mail Address
Atwater, Jerome Kenneth HEIRS Owner Name (Please Print)	0721-43-5444, 0721-43-5322, 0721-43-4156 Property PIN or Deed Book & Page #
<u>DONNA M. ATWATER</u> Phone	<u>atwater52@yahoo.com</u> E-mail Address

Surveyor Information

Surveyor: Robinson & Plante (attn: Kevin Wheeler)
Phone: (919) 859-6030 Fax: (919) 859-6032
E-mail Address: kevin@robinsonplante.com

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PETITION FOR VOLUNTARY ANNEXATION

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Application #: 693 Submittal Date: 6/22/2020
Fee Paid: \$ Check #:

TO THE TOWN COUNCIL APEX, NORTH CAROLINA

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Owner Information

<u>Atwater, Lector Marie</u> Owner Name (Please Print)	<u>0721-43-2558 (DB1758 Pg00143)</u> Property PIN or Deed Book & Page #
<u></u> Phone	<u></u> E-mail Address
<u>Atwater, Lector Marie</u> Owner Name (Please Print)	<u>0721-42-4940 (DB3621 Pg855)</u> Property PIN or Deed Book & Page #
<u></u> Phone	<u></u> E-mail Address
<u>Atwater, Jerome Kenneth HEIRS</u> Owner Name (Please Print)	<u>0721-43-3444, 0721-43-5322, 0721-43-4156</u> Property PIN or Deed Book & Page #
<u>DONNA M. ATWATER</u> Phone	<u>dlatwater52@yahoo.com</u> E-mail Address

Surveyor Information

Surveyor: Robinson & Plante (attn: Kevin Wheeler)
Phone: (919) 859-6030 Fax: (919) 859-6032
E-mail Address: kevin@robinsonplante.com

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Existing # of housing units:	<u>1</u>	Water service (new construction)	<input checked="" type="checkbox"/>
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Zoning District*:	<u>PUD-CZ</u>	Receive Town Services	<input checked="" type="checkbox"/>

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PETITION FOR VOLUNTARY ANNEXATION

Application #: 693

Submittal Date: 6/22/2020

COMPLETE IF SIGNED BY INDIVIDUALS:

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

DONNA M. ANWATER

Please Print

Donna M. Anwater

Signature

*

*

Please Print

Signature

Please Print

Signature

Please Print

Signature

STATE OF NORTH CAROLINA
COUNTY OF WAKE

Sworn and subscribed before me, JOHN M. LILLIS, a Notary Public for the above State and County,
this the 29 day of September, 2020.

SEAL

JOHN M. LILLIS
NOTARY PUBLIC OF NEW JERSEY
ID# 2108262

John M. Lillis

Notary Public

My Commission Expires March 11, 2023

3/11/23

COMPLETE IF A CORPORATION:

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

Corporate Name _____

SEAL

By: _____

Attest: _____

President (Signature)

Secretary (Signature)

STATE OF NORTH CAROLINA
COUNTY OF WAKE

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

Notary Public

SEAL

My Commission Expires: _____

POWER OF ATTORNEY

COUNTY OF WAKE

KNOW ALL MEN BY THESE PRESENTS, that I, LECTOR MARIE ATWATER, the undersigned, of 2504 Mt. Zion Church Road, Apex, County of Wake, State of North Carolina 27502, hereby make, constitute, and appoint DOUGLAS BROWN of the County of Wake, State of North Carolina, as my true and lawful attorney-in-fact for me and in my name, place, and stead, giving unto said attorney-in-fact full power to act in my name, place and stead in any way which I myself could do if I were personally present, with respect to the following matters as each of them is defined in Chapter 32A of the North Carolina General Statutes, to the extent that I am permitted by law to act through an agent. The powers granted are:

1. Real property transactions;
2. Personal property transactions;
3. Banking transactions;
4. Safe deposit;
5. Insurance transactions;
6. Estate transactions;
7. Personal relationships and affairs;
8. Tax, Social Security and unemployment;
9. Tax Matters;
10. Employment of Agents;
11. Medical care as defined below:

To make any and all decisions for me concerning my personal care, medical treatment, hospitalization and health care and to require, withhold or withdraw any type of medical treatment or procedure, even though my death may ensue, provided this does not authorize the withdrawal of nutrition, hydration or pain medication.

I also hereby grant my attorney-in-fact full power of substitution and revocation, hereby ratifying and affirming that which my attorney-in-fact or substitute attorney-in-fact shall lawfully do or cause to be done by said attorney-in-fact (or the substitute lawfully designated by virtue of the power herein conferred upon said attorney-in-fact). This power of attorney shall not be affected by my subsequent incapacity or mental incompetence. Should my first named attorney-in-fact be unable to perform all the matters and things herein set out to be done and performed and if I have appointed an alternate attorney-in-fact hereinabove, then and in that even the alternate attorney-in-fact hereinabove designated shall be my true and lawful attorney-in-fact to do and perform in my name and in my stead all matters and things herein authorized to be done and performed by my attorney-in-fact with all the powers and authority herein given.

My attorney-in-fact shall keep full and accurate records of all transactions for me as my agent, of all my property and the disposition thereof, and shall render to me, if competent, or to my nearest living relative if I shall be incompetent or incapacitated, at least annually, inventories and accounts of all transactions of my attorney-in-fact done in my behalf; and to the extent that I am able to do so, I hereby relieve my attorney-in-fact of the responsibility and duty of filing any reports with the court.

Dated: Sept 25, 2014.

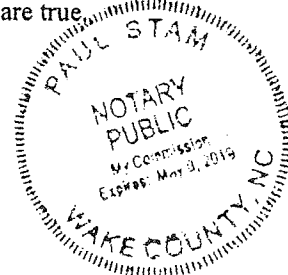
Lector Marie Atwater (SEAL)
LECTOR MARIE ATWATER

STATE OF NORTH CAROLINA
COUNTY OF WAKE

On this 25 day of September, 2014 personally appeared before me the said named LECTOR MARIE ATWATER, known to me to be the person subscribed hereinabove and who executed the foregoing instrument, and she acknowledged that she executed the same and being duly sworn by me, made oath that the statements in the foregoing instrument are true.

My Commission Expires: May 8, 2019

GLE Stam
Notary Public



CONTIGUOUS ANNEXATION FOR THE TOWN OF APEX

Beginning at an Iron Pipe on the Eastern Right of Way of Mt. Zion Church Road (SR 1146) (Variable Width Public Right of Way), said Iron Pipe being the following two calls from N.C.G.S. Grid Monument "Staley", said Monument having N.C. Grid Coordinates (NAD83/2011) of N=727,821.36, E=2,043,644.97; South 52°56'03" West 23,560.45' (Grid Distance) to an Existing Iron Pipe on the Eastern Right of Way of Mt. Zion Church Road (SR 1146) (Variable Width Public Right of Way), thence with said Right of Way South 89°01'46" East 4.61' to the Point of Beginning, thence from said point of beginning along the Eastern Right of Way of Mt. Zion Church Road (SR 1146) (Variable Width Public Right of Way) South 16°18'37" West 380.93' to an Existing Iron Pipe, thence leaving said Eastern Right of Way North 88°52'48" West 32.69' to a Nail Found near the Centerline of Mt. Zion Church Road (SR 1146) (Variable Width Public Right of Way), thence continuing along the Eastern Property Line, running in the Right of Way and near the centerline of Mt. Zion Church Road (SR 1146) (Variable Width Public Right of Way) South 17°07'51" West 90.26' to a point, thence South 15°07'08" West 53.75' to a Nail Found, thence South 15°07'08" West 34.17' to a point, thence South 09°29'10" West 85.23' to a point, thence South 01°19'41" West 86.25' to a point, thence South 05°12'53" East 85.11' to a point, thence South 08°16'16" East 50.41' to an Existing Mag-Nail, thence South 08°16'16" East 233.68' to an Existing Mag-Nail near the centerline of Mt. Zion Church Road (SR 1146) (Variable Width Public Right of Way), thence North 89°01'53" West 35.85' to an Existing Rebar on the Western Right of Way of Mt. Zion Church Road (SR 1146) (Variable Width Public Right of Way), thence leaving said Right of Way North 89°01'53" West 214.59' to an Existing Iron Pipe with Cap, thence North 27°36'16" West 434.95' to an Existing Iron Pipe with Cap, thence North 01°10'51" East 187.96' to an Existing Iron Pipe with Cap, thence North 01°04'46" East 138.93' to an Existing Iron Pipe with Cap, thence South 88°48'49" East 125.06' to an Existing Iron Pipe with Cap, thence North 02°28'59" East 243.52' to an Existing Iron Pipe with Cap, thence North 88°56'15" West 625.10' to a point, thence North 02°27'05" East 122.00' to an Existing Rebar, thence South 89°01'46" East 1,024.21' to an Existing Rebar on the Western Right of Way of Mt. Zion Church Road (SR 1146) (Variable Width Public Right of Way), thence leaving said Right of Way South 89°01'46" East 62.21' to the point and place of Beginning containing 11.275 Acres more or less.

CONTIGUOUS ANNEXATION FOR THE TOWN OF APEX

Beginning at an Iron Pipe on the Eastern Right of Way of Mt. Zion Church Road (SR 1146) (Variable Width Public Right of Way), said Iron Pipe being the following two calls from N.C.G.S. Grid Monument "Staley", said Monument having N.C. Grid Coordinates (NAD83/2011) of N=727,821.36, E=2,043,644.97; South 52°56'03" West 23,560.45' (Grid Distance) to an Existing Iron Pipe on the Eastern Right of Way of Mt. Zion Church Road (SR 1146) (Variable Width Public Right of Way), thence with said Right of Way South 89°01'46" East 4.61' to the Point of Beginning, thence from said point of beginning along the Eastern Right of Way of Mt. Zion Church Road (SR 1146) (Variable Width Public Right of Way) South 16°18'37" West 380.93' to an Existing Iron Pipe, thence leaving said Eastern Right of Way North 88°52'48" West 32.69' to a Nail Found near the Centerline of Mt. Zion Church Road (SR 1146) (Variable Width Public Right of Way), thence continuing along the Eastern Property Line, running in the Right of Way and near the centerline of Mt. Zion Church Road (SR 1146) (Variable Width Public Right of Way) South 17°07'51" West 90.26' to a point, thence South 15°07'08" West 53.75' to a Nail Found, thence South 15°07'08" West 34.17' to a point, thence South 09°29'10" West 85.23' to a point, thence South 01°19'41" West 86.25' to a point, thence South 05°12'53" East 85.11' to a point, thence South 08°16'16" East 50.41' to an Existing Mag-Nail, thence South 08°16'16" East 233.68' to an Existing Mag-Nail near the centerline of Mt. Zion Church Road (SR 1146) (Variable Width Public Right of Way), thence North 89°01'53" West 35.85' to an Existing Rebar on the Western Right of Way of Mt. Zion Church Road (SR 1146) (Variable Width Public Right of Way), thence leaving said Right of Way North 89°01'53" West 214.59' to an Existing Iron Pipe with Cap, thence North 27°36'16" West 434.95' to an Existing Iron Pipe with Cap, thence North 01°10'51" East 187.96' to an Existing Iron Pipe with Cap, thence North 01°04'46" East 138.93' to an Existing Iron Pipe with Cap, thence South 88°48'49" East 125.06' to an Existing Iron Pipe with Cap, thence North 02°28'59" East 243.52' to an Existing Iron Pipe with Cap, thence North 88°56'15" West 625.10' to a point, thence North 02°27'05" East 122.00' to an Existing Rebar, thence South 89°01'46" East 1,024.21' to an Existing Rebar on the Western Right of Way of Mt. Zion Church Road (SR 1146) (Variable Width Public Right of Way), thence leaving said Right of Way South 89°01'46" East 62.21' to the point and place of Beginning containing 11.275 Acres more or less.

ANNEXATION AREA

11.275 ACRES (TOTAL AREA TO BE ANNEXED INCLUDING AREA IN R/W)

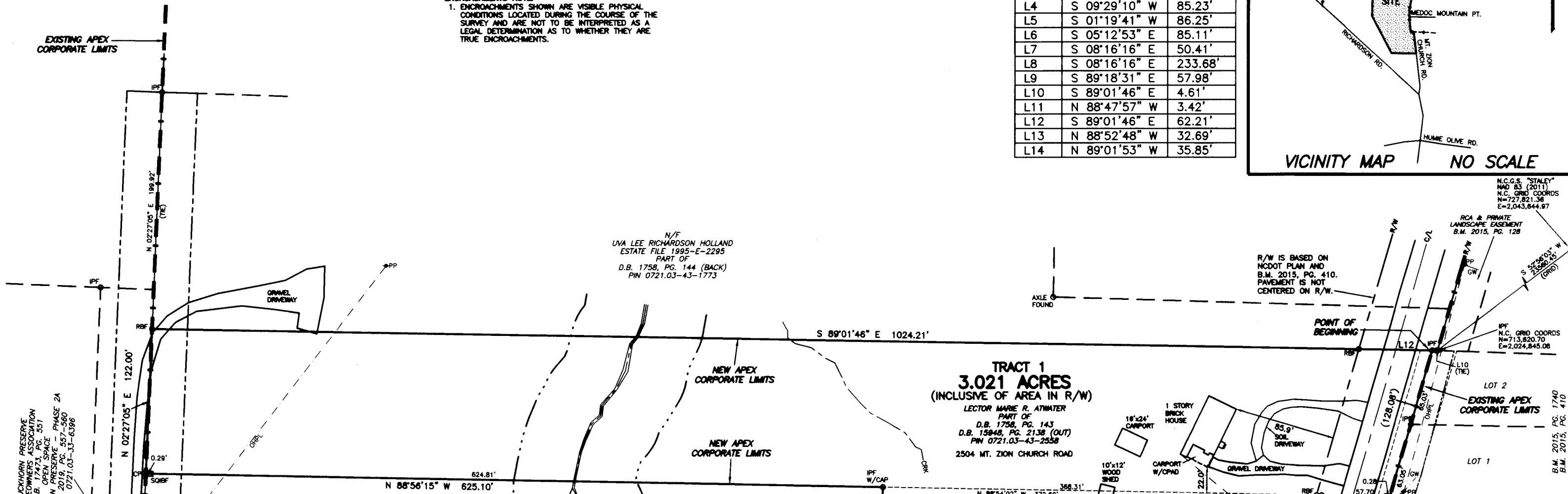
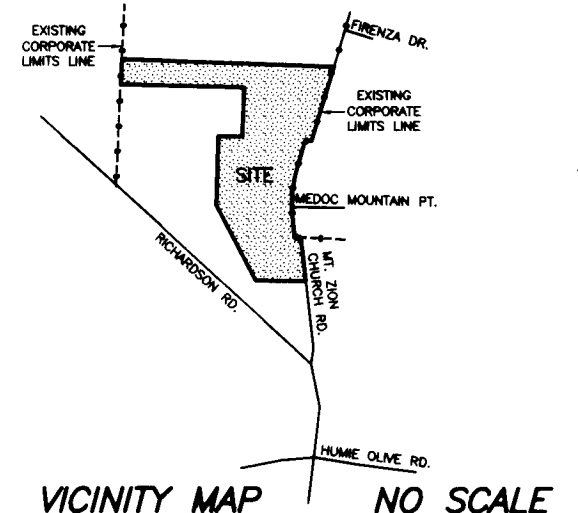
MT. ZION CHURCH ROAD RIGHT OF WAY NOTE:

- RIGHT OF WAY SETUP FROM EXISTING PAVEMENT AND NCDOT PLAN FOR WBS ELEMENT SC.082026 SECONDARY RD. 1146-MT. ZION CHURCH RD. AS SHOWN ON LISTED RIGHT OF WAY DEEDS, RIGHT OF WAY AS SHOWN IN B.M. 2015, PG. 410, AND RIGHT OF WAY IN B.M. 2015, PG. 1620-1621. DEED BOOKS LISTED IN REFERENCE 1 CALL FOR A 60' NCDOT R/W EASEMENT CENTERED ON ROAD AS BUILT. RIGHT OF WAY SHOWN AND SETUP BY OTHERS IN REFERENCES AS SHOWN IS NOT CENTERED OVER THE PAVEMENT IN PLACES.

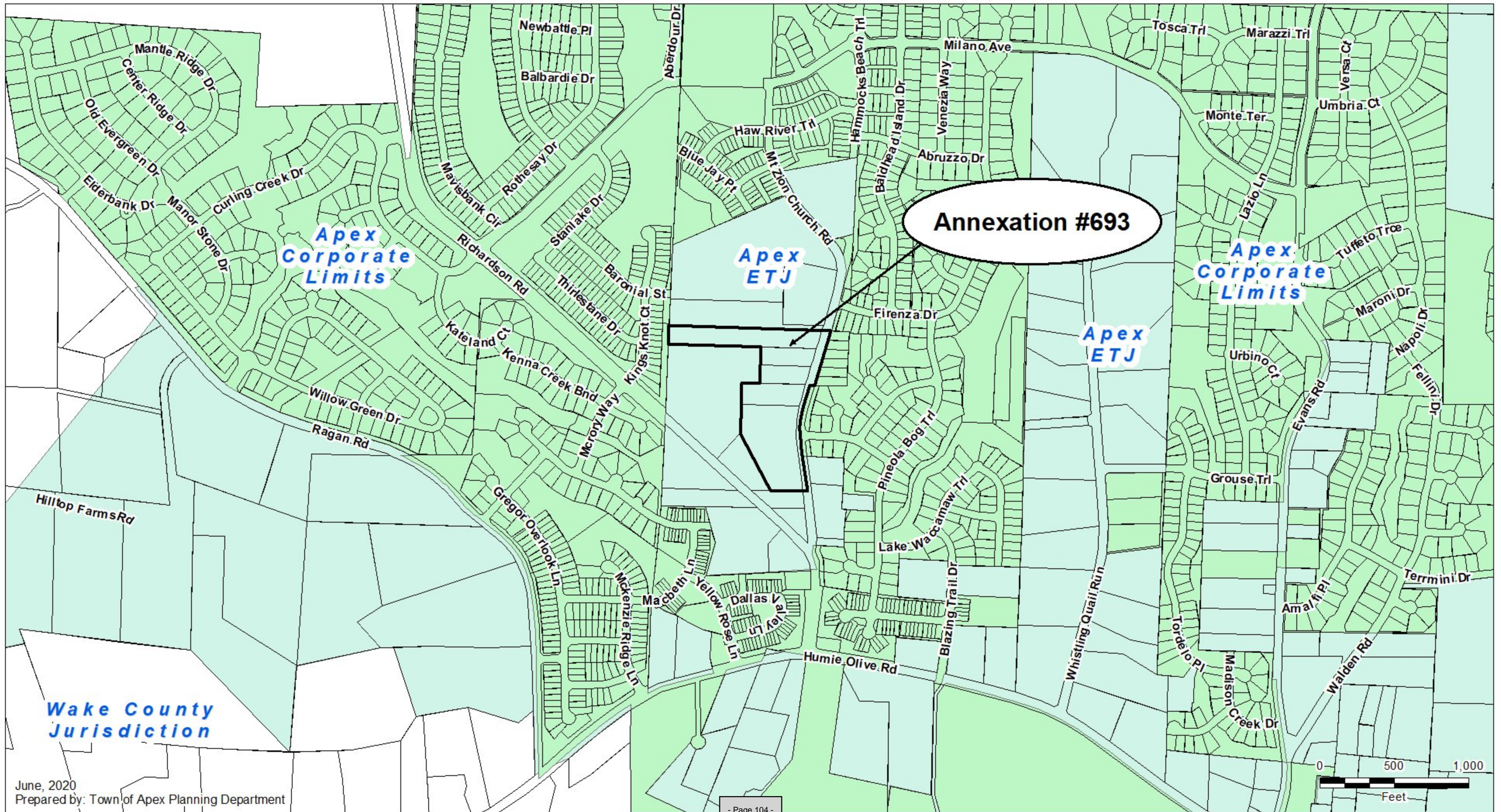
ENCROACHMENTS NOTE:

- ENCROACHMENTS SHOWN ARE VISIBLE PHYSICAL CONDITIONS LOCATED DURING THE COURSE OF THE SURVEY AND ARE NOT TO BE INTERPRETED AS A LEGAL DETERMINATION AS TO WHETHER THEY ARE TRUE ENCROACHMENTS.

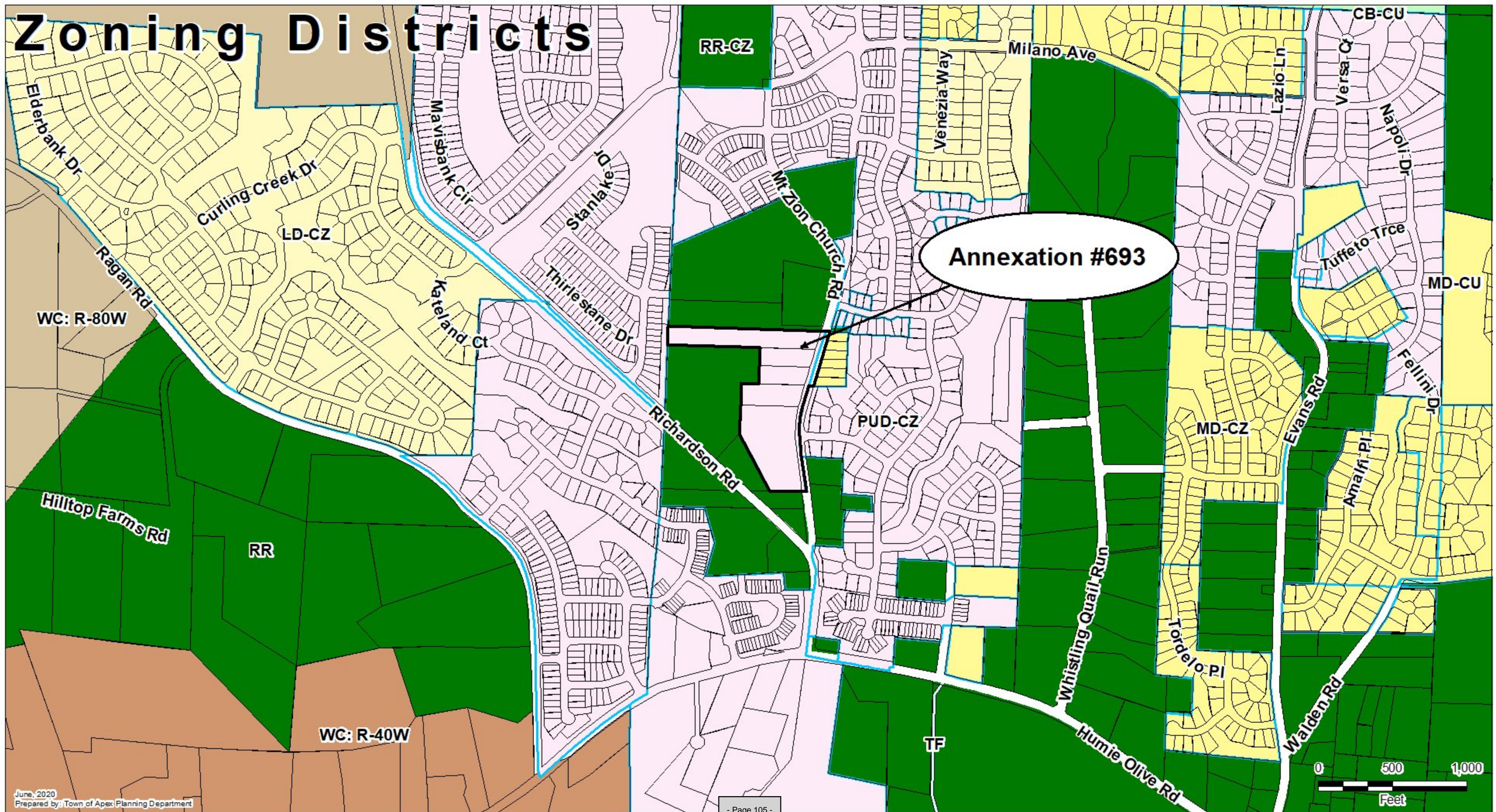
LINE TABLE		
LINE	BEARING	DISTANCE
L1	S 17°07'51" W	90.26'
L2	S 15°07'08" W	53.75'
L3	S 15°07'08" W	34.17'
L4	S 09°29'10" W	85.23'
L5	S 01°19'41" W	86.25'
L6	S 05°12'53" E	85.11'
L7	S 08°16'16" E	50.41'
L8	S 08°16'16" E	233.68'
L9	S 89°18'31" E	57.98'
L10	S 89°01'46" E	4.61'
L11	N 88°47'57" W	3.42'
L12	S 89°01'46" E	62.21'
L13	N 88°52'48" W	32.69'
L14	N 89°01'53" W	35.85'







Zoning Districts



| Agenda Item | cover sheet

for consideration by the Apex Town Council

Item Type: CONSENT AGENDA

Meeting Date: October 20, 2020

Item Details

Presenter(s): Colleen Merays

Department(s): Economic Development

Requested Motion

Motion to approve the Special Event Permit and Town Co-Sponsorship request for the 2020 Chanukah Festival on Sunday, December 13, 2020, from 5:00 PM to 7:00 PM in the Apex Depot Parking Lot and Patio.

Approval Recommended?

Yes

Item Details

Chabad of Cary's annual Apex Chanukah is a highlight of the year many in the Jewish Community. This year, their plans take into consideration the current challenging situation. This year they are not hosting the indoor Chanukah Wonderland at the Apex Community Center, as in most years, but will rather shift the entire event outdoors for safety purposes.

We/they will monitor the situation and adjust accordingly with size of crowd, and social distancing. Tentative plans call for an outdoor concert along with the Menorah Lighting. A musician will be situated at the middle area at the top of the stairs with the Menorah on the side platform as in previous years. They will use the Apex Depot Parking Lot for seating similar to outdoor concerts. They are anticipating about 150 people present; but will change this number and may require a sign-up sheet to control gathering size per NC requirements.

Attachments

- Special Event Application Event Detail Sheet - Chanukah Festival
- Chanukah Festival - Setup Map





Town of Apex 2020 Cosponsored Special Event Applications

Event Name: Chanukah Festival

Event Date & Time: Sunday, December 13, 2020 from 5:00 PM to 7:00 PM

Roads & Parking Closed Date & Time: Town Hall Parking Lot Closed from 7:00 AM to 5:00 PM

Rain Date: NA

Event Organizer: Chabad of Cary

2020 Co-Sponsorship Request: Blocking Apex Depot Parking Lot

2020 Estimated Town of Apex Cost: \$0.00

Event Description: Chabad of Cary's annual Apex Chanukah is a highlight of the year many in the Jewish Community. This year, their plans take into consideration the current challenging situation. This year they are not hosting the indoor Chanukah Wonderland at the Apex Community Center, as in most years, but will rather shift the entire event outdoors for safety purposes.

We/they will monitor the situation and adjust accordingly with size of crowd, and social distancing. Tentative plans call for an outdoor concert along with the Menorah Lighting. A musician will be situated at the middle area at the top of the stairs with the Menorah on the side platform as in previous years. They will use the Apex Depot Parking Lot for seating similar to outdoor concerts. They are anticipating about 150 people present; but will change this number and may require a sign-up sheet to control gathering size per NC requirements.

Questions to Consider: None

**Kids
activities**

BAND

Menora

CHAIRS THROUGHOUT PARKING LOT

| Agenda Item | cover sheet

for consideration by the Apex Town Council

Item Type: CONSENT AGENDA

Meeting Date: October 20, 2020

Item Details

Presenter(s): Colleen Merays

Department(s): Economic Development

Requested Motion

Motion to approve amending the Special Event Permit for the American Legion Fall Car Show originally scheduled for Saturday, November 3 to Saturday, November 7, 2020 from 8:00 AM to 2:00 PM in the Town Hall Parking Lot.

Approval Recommended?

Yes

Item Details

The updated American Legion Fall Cars & Coffee car show is only for "Show Car" owners. It is a drive in and park and drink coffee event for those car owners.

Attachments

- Special Event Application Event Detail Sheet - American Legion Fall 2020 Cars & Coffee Show
- American Legion Fall 2020 Cars & Coffee Show Flyer





Town of Apex 2020 Cosponsored Special Event Applications

Amended Event Name: 2020 Fall Cars & Coffee Apex American Legion Fall Car Show
Previous Event Name: Apex American Legion Fall Car Show

Event Organizer: Apex American Legion Post 124

Amended Event Date & Time: Saturday, November 7, 2020 from 8:00 AM to 2:00 PM
Previous Event Date & Time: Saturday, October 3, 2020 from 8:00 AM to 4:00 PM

Roads & Parking Closed Date & Time: Town Hall Parking Lot Closed from 6:30 AM to 2:30 PM

Rain Date: Saturday, November 14, 2020 from 8:00 AM to 4:00 PM

2020 Co-Sponsorship Request: Trash bins and liners, and water barricades to block Town Hall Parking Lot

2020 Estimated Town of Apex Cost: \$279.00

Event Description: Car show in town hall parking lot. This car show is only for those with "Show Cars" and is a drive-in and park event.

Questions to Consider: None

| Agenda Item | cover sheet

for consideration by the Apex Town Council

Item Type: CONSENT AGENDA

Meeting Date: October 20, 2020

Item Details

Presenter(s): Michael Deaton

Department(s): Water Resources

Requested Motion

Motion to approve an Amendment to the *Conservation Easement Ruth Holleman Property* and authorize the Town Manager to sign all related documents on behalf of the Town.

Approval Recommended?

Yes

Item Details

This Amendment is necessary to provide adequate sewer capacity and maintenance corridor for a new 18-inch parallel gravity sewer line being constructed through the Apex Nature Park in accordance with the Town's Master Sewer Plan. The new sewer line (constructed by the developer) will provide adequate sewer capacity for a variety of new development projects including West Village PUD, Depot 499 PUD, Apex Pleasant Park, and other properties within the basin. The additional sewer capacity provided by the new sewer line will also allow the decommissioning of the Scotts Ridge Elementary School Pump Station providing significant cost savings to the Town.

The Amendment removes 14,421 square feet (0.3310 acres) of Town property from the existing Conservation Easement and replaces it with 44,440 square feet (1.0202 acres) of Town property, all as shown on the attached survey sheet. A 3:1 mitigation ratio was required by the Clean Water Management Trust Fund (CWMTF). Staff reviewed the 1.0202-acres of Town property with CWMTF staff and agreed the land was suitable for mitigation as it was similar in nature (containing streams, riparian buffer, wetlands, and floodplain). Additionally, this mitigation land is generally undevelopable and is not identified for any future Parks & Recreation Department needs.

Attachments

- Amendment to Conservation Easement
- Apex Nature Park Conservation Easement Plat



After Recording Return To:

North Carolina Department of Administration
c/o State Property Office
1321 Mail Service Center
Raleigh, North Carolina 27699-1321
SPO File No. 92-235.25

STATE OF NORTH CAROLINA

COUNTY OF WAKE

**AMENDMENT TO CONSERVATION EASEMENT
RUTH HOLLEMAN PROPERTY**

THIS AMENDMENT TO CONSERVATION EASEMENT (herein this "Amendment") is made and executed on this the ____ day of _____, 2020, by and between the TOWN OF APEX, a municipal corporation, organized and doing business as authorized in Chapter 160A of the North Carolina General Statutes, with its principal office located at PO Box 250, Apex, North Carolina 27502 (herein "Grantor") and THE STATE OF NORTH CAROLINA, with its address: c/o State Property Office, 1321 Mail Service Center, Raleigh, NC 27699-1321 (herein "State" or "Grantee"), acting through the NORTH CAROLINA CLEAN WATER MANAGEMENT TRUST FUND, with its address at 51 Mail Service Center, Raleigh, NC 27699-1651 (herein the "Fund"). The Grantor, State, and Fund are collectively referred to herein as the "Parties."

RECITALS

Pursuant to a Deed recorded in Book 009874, Pages 02377-02379, Wake County Registry, the Grantor is the current owner of the portion of the Property subject to the Easement Agreement.

Grantor granted the State of North Carolina a conservation easement dated July 17, 2003, entitled "CONSERVATION EASEMENT RUTH HOLLEMAN PROPERTY" which is recorded at Deed Book 010583, Page 01989, Wake County Register of Deeds (herein Conservation Easement"). The Parties hereto desire to amend the Conservation Easement to release territory of 0.3311 acre, more or less, from a portion of the Easement Area to allow for the widening of the

existing 30-foot sanitary sewer to 40 feet, to accommodate a second sewer line that will provide additional capacity to the Town. In exchange, the Grantor releases and conveys new territory to the Conservation Easement of 1.0202 acres, more or less.

The execution of this Amendment for and on behalf of Grantee has been duly approved by the Governor and Council of State at a meeting held in the City of Raleigh, North Carolina, on the 6th day of August 2019.

The Grantor requested and received approval by the Clean Water Management Trust Fund Board for the amendment to the Easement Agreement set forth herein

NOW THEREFORE, in consideration of the agreements contained herein together with other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the Parties agree as follows:

1. The areas designated as "AREA TO BE REMOVED FROM CONSERVATION & GREENWAY EASEMENT," 11,205 sq. ft. (0.2572 ac.), and 3,216 sq. ft. (0.0738 ac.), for a total of 14,421 (0.3311 ac.), on the survey identified below, is hereby released from the Conservation Easement. The released area shall not be, and no longer is, subject to the terms and conditions of the Conservation Easement. The survey referred to above is entitled "CONSERVATION & GREENWAY EASEMENT PLAT", by Bass, Nixon & Kennedy, Inc. (herein the "Survey"). The areas to be removed are more particularly described as:

Commencing at an existing railroad iron being the southwest corner of the property of Susan T. Clark as referenced in Book of Maps 1986, Page 1557, said pipe having N.C. GRID NAD '83/2011 coordinates of N = 715760.3323' and E = 2028988.8906'; Thence with the common line of the said Clark property, N02°04'34"E a distance of 152.88 feet to a point; Thence leaving the common line of the said Clark property, N34°41'25"W a distance of 196.71 feet to a point; Thence N28°26'35"W a distance of 356.78 feet to a point; Thence N33°03'25"W a distance of 79.36 feet to a point in the southeastern Right-of-Way of Evans Road, a 60 FT. Public Right-of-Way; Thence N83°38'35"W a distance of 76.82 feet to a point of beginning and being in the northwestern Right-of-Way of said Evans Road; Thence leaving the said Right-of-Way, N43°42'37"W a distance of 34.39 feet to a point; Thence N04°49'42"E a distance of 33.72 feet to a point; Thence N33°03'25"W a distance of 109.32 feet to a point; Thence S77°00'54"E a distance of 21.61 feet to a point; Thence S33°03'25"E a distance of 148.62 feet to a point in the said northwestern Right-of-Way of Evans Road; Thence with the said Right-of-Way S46°12'54"W a distance of 29.87 feet to the point and place of beginning and containing 3,216 square feet.

and

Commencing at an existing railroad iron being the southwest corner of the property of Susan T. Clark as referenced in Book of Maps 1986, Page 1557, said pipe having N.C. GRID NAD '83/2011 coordinates of N = 715760.3323' and E =

2028988.8906'; Thence with the common line of the said Clark property, N02°04'34"E a distance of 152.88 feet to the point of beginning; Thence leaving the common line of the said Clark property, N34°41'25"W a distance of 196.71 feet to a point; Thence N28°26'35"W a distance of 356.78 feet to a point; Thence N33°03'25"W a distance of 79.36 feet to a point in the southeastern Right-of-Way of Evans Road, a 60 ft. Public Right-of-Way; Thence with the said Right-of-Way, N45°53'10"E a distance of 45.81 feet to a point; Thence leaving the said Right-of-Way, S43°52'38"E a distance of 39.54 feet to a point; Thence S15°08'39"W a distance of 50.15 feet to a point; Thence S32°53'38"E a distance of 17.09 feet to a point; Thence S28°26'35"E a distance of 355.96 feet to a point; Thence S34°41'25"E a distance of 175.82 feet to a point in the said common line of the Clark property; Thence with the said common line, S02°04'34"W a distance of 25.06 FEET to the point and place of beginning and containing 11,205 SQUARE FEET.

2. The area designated as "NEW CONSERVATION & GREENWAY EASEMENT HEREBY DEDICATED TO THE CLEAN WATER MANAGEMENT TRUST FUND," 44,440 sq. ft. (1.0202 ac.), on the Survey, and described with particularity thereon, is hereby added to the Conservation Easement. The added area shall be, and is, part of and subject to the terms and conditions of the Conservation Easement and is described as follows:

BEGINNING at a point in the southern boundary of the property of the Town of Apex (Wake County Tax PIN 0721-77-8068; prior deed references Deed Book 9874, Page 2377 and Deed Book 9874, Page 2380, Wake County Registry), said point being located N 87° 44' 40" W 93.55' from a Control Corner identified by N.C. Grid Coordinates N 715760.3323, E 2028988.8906 (NAD 83/2011), thence, from that point and place of beginning, N 87°44'40" W 9.77 feet to an existing iron pipe in the southern boundary of the Town of Apex, thence N 87°44'40" W 90.31 feet to a calculated point in the southern boundary of the Town of Apex, thence N 87°44'40" W 128.01 feet to a calculated point in the southern boundary of the Town of Apex, thence N 87°44'40" W 142.54 feet to a calculated point in the southern boundary of the Town of Apex cornering, thence N 17°52'43" E 230.34 feet to a point in the existing Conservation and Greenway Easement, cornering, thence the following courses and distances: S 56°51'30" E 26.89 feet; S 58°29'34" E 83.20 feet; S 56°36'47" E 27.32 feet; S 54°03'47" E 59.48 feet; S 47°12'46" E 185.05 feet to the point and place of BEGINNING, containing 44,440 square feet or 1.0202 acres, more or less.

3. This Amendment incorporates the Easement Agreement by reference. All capitalized terms appearing in this Amendment and not otherwise defined herein shall have the meanings ascribed to such terms in the Easement Agreement. Other than as amended hereby, the Conservation Easement continues in full force and effect.

4. Grantor covenants that Grantor is seized of the real property that is hereby added to and included in the Easement Area that is to be encumbered by the Easement Agreement and has the right to enter into this Amendment; and that, to Grantor's knowledge, such real property is free

from encumbrances, except for existing utilities that may be in place, that may affect the property, and except for such encumbrances Grantor will warrant and defend title to the same against the claims of all persons whomsoever claiming by, through or under Grantor.

TOWN OF APEX

(Corporate Seal)

Drew Havens, Town Manager

ATTEST:

Donna B. Hosch, Town Clerk, MMC, NCCMC

STATE OF NORTH CAROLINA
COUNTY OF _____

I, _____, a Notary Public of _____ County, North Carolina, certify that DONNA B. HOSCH personally came before this day and acknowledged that she is Town Clerk of the Town of Apex, a North Carolina Municipal Corporation, and that by authority duly given and as the act of the corporation, the foregoing instrument was signed in its name by its Town Manager, sealed with its corporate seal and attested by her as its Town Clerk. Witness my hand and official stamp or seal, this ____ day of _____, 2020.

Notary Public

(Printed Name of Notary)

My Commission expires: _____

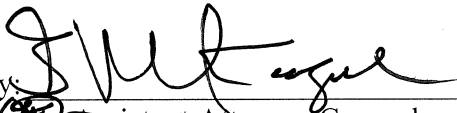

STATE OF NORTH CAROLINA

By: 
ROY COOPER, Governor

ATTEST:


ELAINE F. MARSHALL, Secretary of State

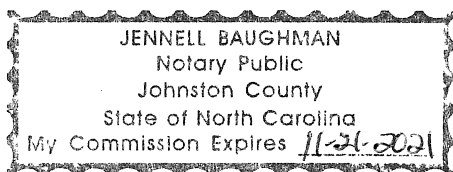
APPROVED AS TO FORM:
JOSH STEIN, Attorney General

By: 
 Assistant Attorney General
Special Deputy

STATE OF NORTH CAROLINA
COUNTY OF WAKE

I, Jennell Baughman, a Notary Public for Johnston County, North Carolina, do certify that ELAINE F. MARSHALL, Secretary of State of the State of North Carolina, personally came before me this day and acknowledged that she is Secretary of State of the State of North Carolina, and that by authority duly given and as the act of the State, the foregoing instrument was signed in its name by ROY COOPER, Governor of the State of North Carolina, sealed with the Great Seal of the State of North Carolina, and attested by herself as Secretary of State.

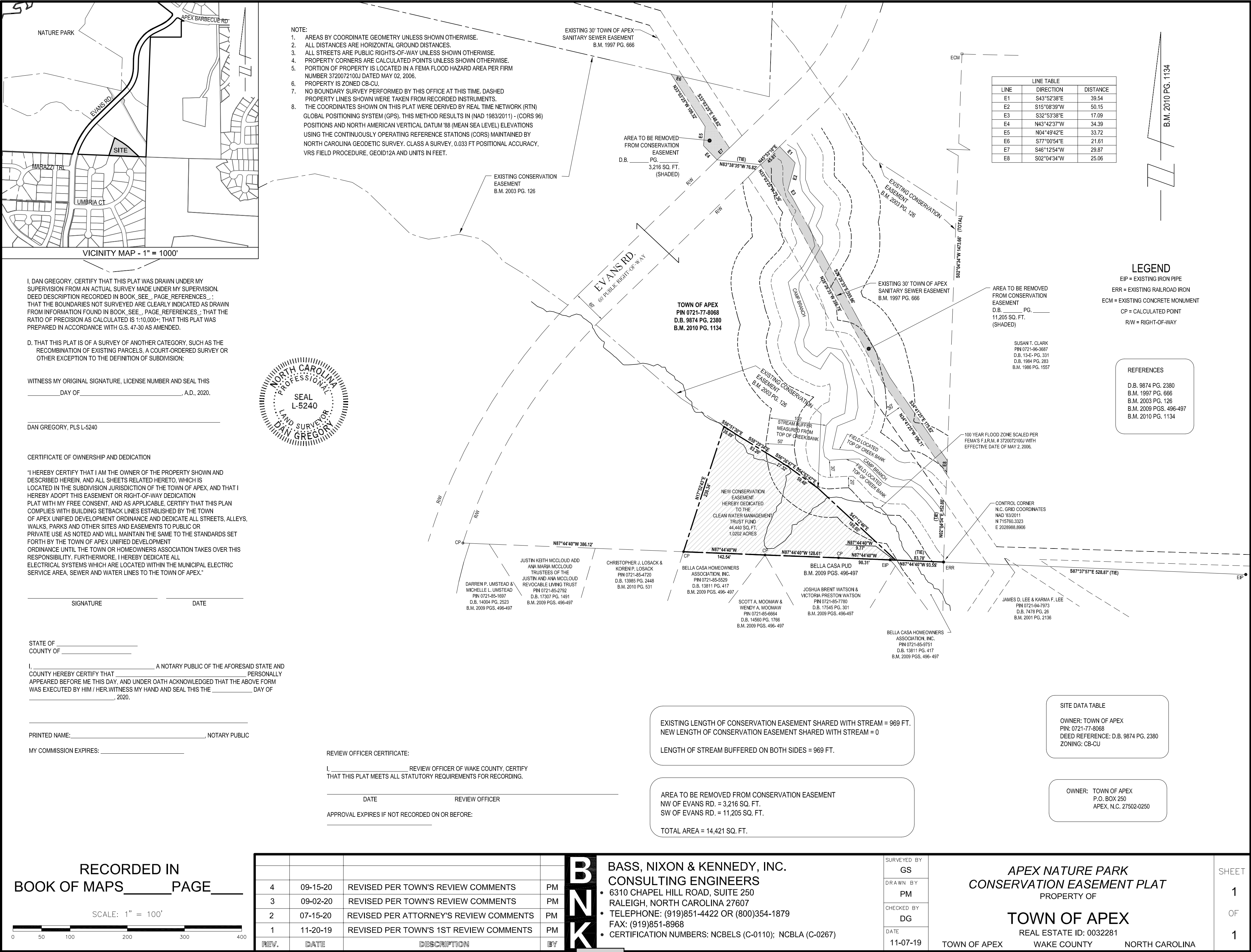
IN WITNESS WHEREOF, I have hereunto set my hand and Notarial Seal, this the 24th day of August, 2020.



Jennell Baughman
Notary Public

Jennell Baughman
(Printed Name of Notary)

My Commission expires: 11-24-2021



| Agenda Item | cover sheet

for consideration by the Apex Town Council

Item Type: CONSENT AGENDA

Meeting Date: October 20, 2020

Item Details

Presenter(s): Jose Martinez, Director

Department(s): Public Works & Transportation

Requested Motion

Motion to approve and authorize the Town Manager to execute the same for an Encroachment Agreement between the Town and property owners, Joshua R. Klatt and Elizabeth T. Klatt (Grantees), regarding Wake County, NC PIN#0732-70-6379, 104 Gullane Court, as recorded in Book of Maps 2003, Page 00812, Wake County Register of Deeds.

Approval Recommended?

Yes

Item Details

Approve Encroachment Agreement between the Town and property owners Joshua R. Klatt and Elizabeth T. Klatt (Grantees) for the property described as a residential lot known as Wake County PIN#0732-70-6379, Book of Maps 2003, Page 00812, Lot 129, 104 Gullane Court, Apex, NC 27502. Grantees wish to install 420 S.F. of fence, 53 S.F. of concrete pool pad and landscaping that will encroach into the Public Drainage Easement.

Attachments

- Encroachment Agreement
- Exhibit A



After Recording Mail To: Development Services
 Town of Apex
 PO Box 250
 Apex, NC 27502

**STATE OF NORTH CAROLINA
COUNTY OF WAKE**

ENCROACHMENT AGREEMENT

THIS ENCROACHMENT AGREEMENT, being made this _____ day of _____, 2020, by and between Joshua R. Klatt and wife, Elizabeth T. Klatt, 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 #0732-70-6379 and more particularly described as **Lot 129** of the subdivision known as **Cameron Park Ph. 5 Section 2**, which is shown on that certain plat recorded in **Book of Maps 2003, Page 00812**, Wake County Registry (hereinafter the "**Subdivision Plat**"). The residential lot is also known as **104 Gullane Court, 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' Drainage Easement as shown on the **Subdivision Plat** hereinafter referred to as the "**Public Drainage Easement**."

WHEREAS, Grantees wish to install certain improvements, more particularly described as **420 S.F. of fence, 53 S.F. of a concrete pool pad and landscaping that includes: three loropetalums, one dogwood tree, three purple verbenas, one fragrant tea olive bush, three boxwoods, and one gardenia bush that will encroach into the "Public Drainage 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 **Public Drainage 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 **Public Drainage Easement** of the Town as shown in the attached **Exhibit A**, and incorporated by reference as though fully set forth herein.

2. The Encroachment shall not be enlarged or increased beyond the Encroachment shown in **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 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 Grantees: Joshua R. and Elizabeth T. Klatt
104 Gullane Court
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 **Public Drainage 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 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 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 **Public Drainage Easement**, then no notice shall be required and the Town may remove the Encroachment from the **Public Drainage Easement** without cost, risk or liability to the Town.

11. 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 the 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 **Lot 129 Cameron Park Ph. 5 Section 2 (104 Gullane Court, Apex, NC 27502)**, or by assumption of said obligations by an incorporated property or condominium owners association for **Cameron Park Ph. 2, Section 2**. The Town's consent to such assumption and release shall be required but shall not be withheld, conditioned or delayed if, as reasonably determined by the Town, the party assuming 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 Grantees and said Town have here unto set their hands and seals, the day and year first above written.

GRANTEES

By: [Signature]
Joshua R. Klatt

By: [Signature]
Elizabeth T. Klatt

STATE OF NORTH CAROLINA

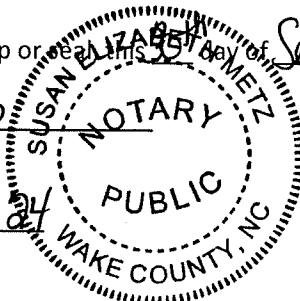
COUNTY OF Wake [county in which acknowledgement taken]

I, do hereby certify that Joshua R. Klatt, personally appeared before me this day and acknowledged the due execution of the foregoing instrument.

Witness my hand and official stamp or seal, this 25th day of September, 2020.

[Signature]
[Signature of Notary Public]

My Commission Expires: 08-04-24



STATE OF NORTH CAROLINA

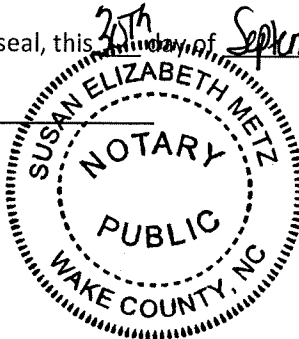
COUNTY OF Wake [county in which acknowledgement taken]

I, do hereby certify that Elizabeth T. Klatt, personally appeared before me this day and acknowledged the due execution of the foregoing instrument.

Witness my hand and official stamp or seal, this 25th day of September, 2020.

[Signature]
[Signature of Notary Public]

My Commission Expires: 08-04-24



TOWN OF APEX

Andrew L. Havens
Town Manager

(Corporate Seal)

ATTEST:

Donna B. Hosch, MMC, NCCMC
Town Clerk

STATE OF NORTH CAROLINA

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

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

Witness my hand and official stamp or seal, this _____ day of _____, 2020.

[Signature of Notary Public]

(Seal)

My Commission Expires: _____

Exhibit A

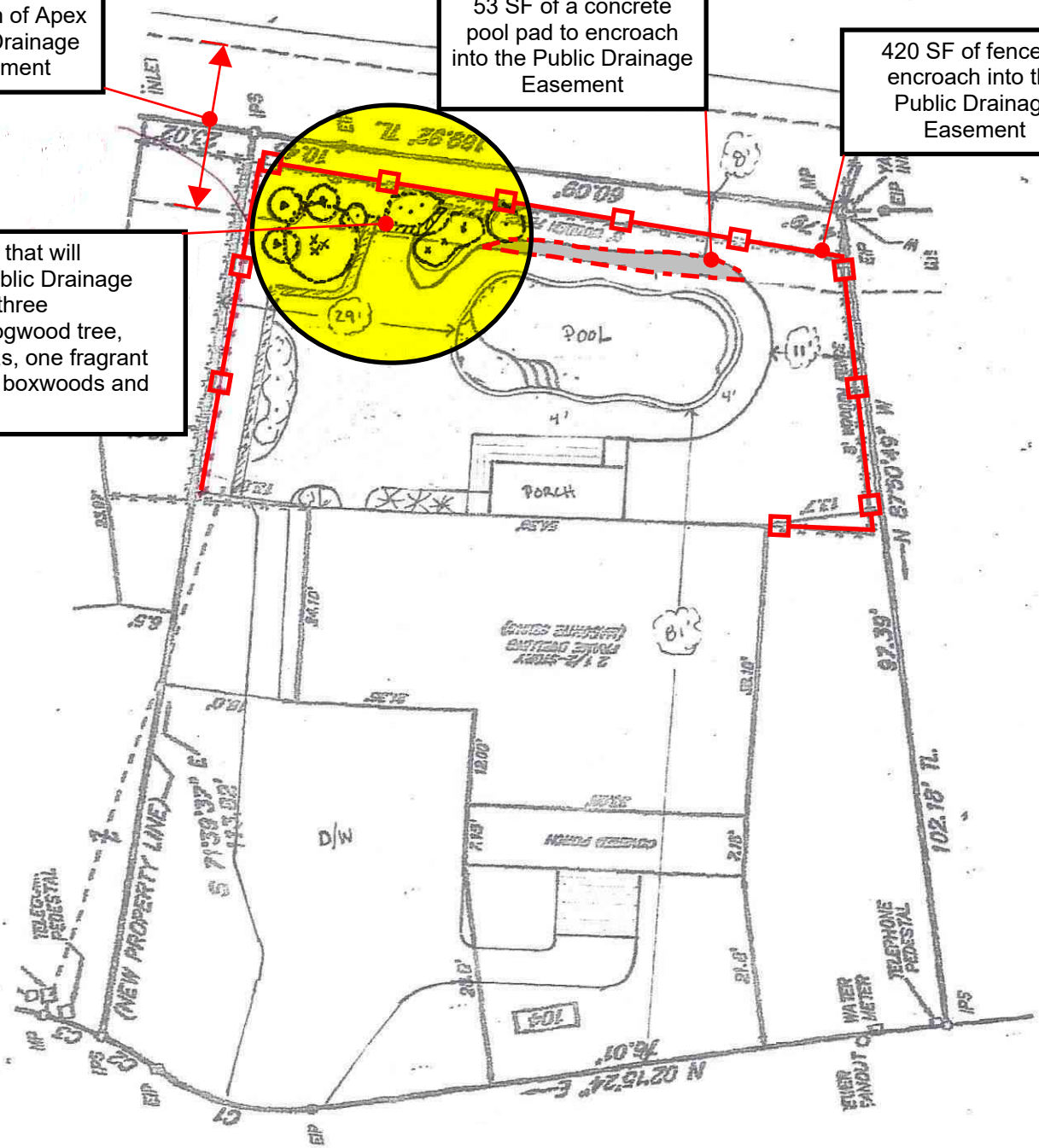
104 Gullane Court
Apex, North Carolina

20' Town of Apex
Public Drainage
Easement

53 SF of a concrete
pool pad to encroach
into the Public Drainage
Easement

420 SF of fence to
encroach into the
Public Drainage
Easement

Existing landscaping that will
encroach into the Public Drainage
Easement includes: three
loropetalums, one dogwood tree,
three purple verbenas, one fragrant
tea olive bush, three boxwoods and
one gardenia bush.



SCALE
1" = 20'

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

| Agenda Item | cover sheet

for consideration by the Apex Town Council

Item Type: CONSENT AGENDA

Meeting Date: October 20, 2020

Item Details

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

Department(s): Human Resources

Requested Motion

Motion to approve a three (3) year contract with CCS Medical to administer the "Living Connected" Diabetes Management Program for Town employees covered under the Town's health insurance plan. At the end of the 3 year term, the contract will auto-renew for periods of one (1) year.

Approval Recommended?

Yes

Item Details

The Town has partnered with CCS for several years to provide a Diabetes Management Program to employees who are on the Town's health insurance plan. In previous years, this was a sub-contract under the Town's pharmacy contract, but the Town is now entering into contract directly with CCS to enhance services and save on costs.

Attachments

- CCS_Town of Apex Contract





LIVINGCONNECTED

DIABETES MANAGEMENT PROGRAM AGREEMENT

This agreement ("Agreement") is entered into this ___1st___ day of ___July___ 2020 ("Effective Date"), by and between CCS Medical, Inc. ("CCS") and Town of Apex (hereinafter referred to as "Health Plan") (collectively referred to hereafter as the "Parties" or individually as a "Party").

RECITALS

Whereas, CCS is a provider of durable medical equipment and supplies to patients with chronic conditions (including, but not limited to diabetic testing supplies, insulin pumps and pump supplies, incontinence, urological, ostomy, wound care, and orthotic products and supplies);

Whereas, CCS has established or provides access to additional services related to the durable medical equipment and supplies it offers, including its LivingConnected Diabetes Management Program (the "Program") and other related services;

Whereas, Health Plan is a municipal corporation which has established a self-funded employee benefit plan, which provides for payment of certain health and welfare benefits to and for certain individuals pursuant to Health Plan's master plan document ("Plan Members"); and

Whereas, Health Plan seeks to provide Plan Members with enhanced quality durable medical equipment, supplies, and services through participation in the Program ("Participants").

TERMS

The Parties therefore agree as follows:

1. COMMENCEMENT DATE AND TERM

1.1 Term of Agreement. This Agreement shall commence on the Effective Date and shall run for a period of three (3) years (the "Term"), subject to earlier termination as provided in this Agreement. At the end of the Term, unless this Agreement has been terminated in accordance with the termination provisions contained herein, the Agreement shall renew automatically for periods of one (1) year.

2. SERVICES AND RESPONSIBILITIES

2.1 Diabetes Management Program. CCS agrees to provide the Program to Participants. In order for CCS to make the Program available, Health Plan shall provide CCS with a file containing at a minimum, a listing of all Plan Members eligible for the Program, claims data, and member target lists ("Participant File"). The Participant File shall contain all applicable and necessary information regarding all Participants, including phone numbers, and be in a format acceptable to CCS. Health Plan will be required to update the Participant File on a monthly basis and provide CCS with the updated Participant File by the fifteenth (15th) of every month during the term of this Agreement. CCS shall enroll all Plan Members listed in the Participant File in the Program and make its Program available to Participants, unless the Plan Member disenrolls from the Program.

2.2 Products and Services. CCS agrees to provide and make available those durable medical equipment, supplies, and services it offers, including those identified in Exhibit A (collectively, the "Products and Supplies"), to Participants in accordance with the terms and conditions of this Agreement.



LIVINGCONNECTED DIABETES MANAGEMENT PROGRAM AGREEMENT

2.3 Delivery. CCS will deliver Products and Supplies, as applicable, to Participants in a timely manner. Specifically, CCS, at its sole and reasonable discretion, will ship either a Starter Kit (as that term is defined in Exhibit A) or a resupply package to Participants after receipt of Participant files enrolling Plan Member in the Program and receipt of all necessary information and shall timely deliver subsequent orders of Products and Supplies. CCS will supply Products and Supplies reimbursed by Health Plan to Participants F.O.B. Shipping Point.

2.4 Program Implementation. Health Plan or third party administrator providing administrative services to, and authorized to act on behalf of, the plan sponsor ("Third Party Administrator") will participate in implementing the Program, including attending training sessions, performing file builds where applicable, creating data feeds, and other reasonable requests by CCS regarding the Program implementation.

2.5 Program Education and Outreach. Health Plan will inform Plan Members of CCS's services and in doing so shall have the right to use CCS's name, address, telephone number, and other information, with CCS's approval, for purposes of informing current and prospective Plan Members of CCS and the Program available to Plan Members. Except as provided herein, Health Plan and CCS each reserve the right to, and control of the use of, its name, symbols, trademarks, and service marks presently existing or later established. In addition, except as provided herein, neither Health Plan nor CCS shall use the other's name, symbols, trademarks or service marks in advertising or promotional material or otherwise, without the prior written consent of that party, and shall cease any such usage immediately upon written notice of the party or upon termination of this Agreement. Health Plan will provide relevant employees, agents, and contractors, including those in plan sponsor's human resources, with information and training related to the Program.

2.6 Communication with Participants. CCS may communicate directly with Participants and Plan Members regarding the Program and the Products and Supplies it offers. Prior to providing the Participant File or any other contact information, Health Plan shall have obtained any necessary consents and authorizations to permit CCS to communicate, by any means, including but not limited to, SMS messaging, prerecorded/artificial voice messages and/or automatic dialing devices, as applicable, with Participants and Plan Members using the information provided by Health Plan.

2.7 Compliance. In performing this Agreement, the Parties warrant they shall each comply with all applicable federal, state, and local laws. CCS and Health Plan agree that each are "Covered Entities" for purposes of HIPAA and other privacy laws. The Parties warrant they shall maintain Plan Member information and medical records in accordance with federal and state laws related to privacy and confidentiality of Plan Member information and medical records, including HIPAA, and shall use and disclose such information or records only in accordance with such laws and requirements. Further, the Parties shall comply with laws designed to prevent or ameliorate fraud, waste, and abuse, including applicable provisions of federal criminal law, the False Claims Act (31 U.S.C. § 3729 et. seq.), and the Anti-Kickback Statute (42 U.S.C. § 1320a-7b et. seq.).

3. COMPENSATION AND BILLING

3.1 Fees and Invoicing Process. CCS shall seek payment from Health Plan for the provision of Products and Services. CCS will bill and Health Plan shall pay through the Benefit Plan or as requested the fees provided for in Exhibit A or as amended. Health Plan is ultimately responsible for payment, irrespective of payment by any other party that may be responsible for covering the service such as a Benefit Plan, Insurer, Third Party Administrator, etc. and CCS shall be reimbursed at one-hundred percent (100%) of its billed charges within thirty (30) days of receipt of an invoice or claim from CCS, with no reduction of payment due to copays or deductibles, for all claims submitted pursuant to this Agreement.



LIVINGCONNECTED DIABETES MANAGEMENT PROGRAM AGREEMENT

3.2 Fair Market Value. To the extent applicable to the products and services to be provided by CCS pursuant to this Agreement, the Parties acknowledge that any amounts paid under this Agreement shall at all times be in compliance with all applicable laws, rules, regulations, policies and interpretations and shall not exceed the fair market value for the services provided and is not determined in a manner that takes into account the volume or value of any referrals or business that otherwise may be generated by either Party for which payment may be made, in whole or in part, under any Federal health care program, including Medicare or Medicaid. If either Party reasonably determines at any time or is reliably informed by governmental authorities that the compensation or other terms set forth herein violate or are likely to be determined by a governmental authority to violate such laws, rules, regulations, policies or interpretations, the Parties agree to meet immediately and in good faith to amend this Agreement so as to eliminate such concern or violation with respect to such government healthcare insurance programs and to bring this Agreement into compliance with the foregoing.

3.3 Health Plan acknowledges and understands that CCS and AOR (as defined in Section 8.2) have entered into a separate services agreement, under which AOR provides certain services to CCS with respect to the Program and Services, and that CCS compensates AOR for the provision of such services.

4. TERMINATION

4.1 Without Cause. Either Party may terminate this Agreement without cause upon ninety (90) days advance, written notice to the other Party.

4.2 With Cause. In addition to the other terms of this Agreement permitting immediate termination, if any Party commits a material breach of any of the terms of this Agreement and has not corrected such breach within thirty (30) days' of written notice from the non-breaching party, then the non-breaching party may terminate this Agreement upon written notice to the breaching party.

4.3 Effect of Termination. The termination of this Agreement shall not limit either Party from seeking other remedies available to it, including injunctive relief. Upon expiration or termination of this Agreement, the Program will no longer be available to Plan Members, and all amounts due and owing shall immediately become due and payable to CCS. Additionally, except as otherwise provided herein, the provisions of this Agreement which by their terms should survive expiration or termination of this Agreement shall survive the expiration or termination of this Agreement including but not limited to Sections 2.6, 3, 4, 5, 6, 7, and 8, which shall survive termination or expiration of this Agreement. CCS shall have no obligation to Health Plan or to Participants after such termination with respect to fulfillment of orders under the Program or the provision of Services, nor will CCS be required to maintain or transfer any data to Health Plan after such termination other than as specifically required herein.

5. INDEMNIFICATION

5.1 Intentionally Omitted

6. CONFIDENTIAL INFORMATION

6.1 General. Each Party recognizes and acknowledges that, by virtue of entering into this Agreement and performing their respective obligations hereunder, each Party may have access to certain information of the other Party that is confidential and constitutes proprietary, valuable, special and unique property of the other Party. For the purposes of this Agreement:



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6.1.1 “Confidential Information” means, without limitation, all information proprietary to either Party, whether or not marked “confidential,” that constitutes trade secrets and/or confidential information as construed by applicable law or information that is not already available to the public, all of which the parties hereto agree constitutes trade secrets under the Uniform Trade Secrets Act, including, but not limited to, all information relating directly or indirectly to the business of either Party, prospect lists, referral sources, customer lists and customer information, information concerning services and supplies, marketing programs, computer program and systems, business and supplier contracts, techniques, processes, methods, technologies, business information, financial data, financial plans, products, equipment, sales information, costs data, personnel, product tests, pricing policies, distributorship arrangements, business plans or business strategies, information regarding any acquisition or joint venture arrangements or other enterprises with whom either Party has business relationships.

6.1.2 Confidential Information does not include information that (a) is now, or hereafter becomes, through no act or failure to act on the part of the receiving Party, generally known or available; (b) is known by the receiving Party at the time of receiving such information as evidenced by its records; (c) is hereafter furnished to the receiving Party by a third party, as a matter of right and without restriction on disclosure; (d) is independently developed by the receiving Party without use of any Confidential Information; or (e) is required to be disclosed by judicial or administrative process or by law or regulation, provided that the Party so required to disclose the Confidential Information shall notify the other Party and shall provide reasonably cooperate with the other Party to enable the other Party to take action designed to protect such Party’s interests. Notwithstanding anything to the contrary in this Agreement the Parties recognize that public records as defined by Chapter 132 of the North Carolina General Statutes are not Confidential Information as defined in this Agreement and may be released in accordance with North Carolina law without notification to either Party.

6.2 Duty to Keep Confidential Information Confidential. Each Party hereby agrees and undertakes that with respect to Confidential Information each Party will:

6.2.1 treat and keep all Confidential Information of the other Party as secret and confidential;

6.2.2 not divulge, reveal, publish, communicate or disclose any Confidential Information, directly or indirectly, of the other Party to any other person except with the prior written consent of the disclosing Party, as may be required by law, in which case the receiving Party agrees to provide the disclosing Party with prior written notice and to cooperate with the disclosing Party in seeking such legal remedies as may be available to prevent such disclosure;

6.2.3 not use any Confidential Information of the other Party in any way or for any purpose other than for the purpose of fulfilling the terms and obligations of this Agreement;

6.2.4 not use any Confidential Information of the other Party for personal benefit or for the personal benefit of any other person or entity;

6.2.5 use commercially reasonable efforts to maintain the secrecy and confidentiality of Confidential Information of the other Party and ensure that Confidential Information is not disclosed by any person, in whole or in part, contrary to any of the terms of this Agreement; and

6.2.6 not disclose the terms of this Agreement to any person who is not a party or signatory, unless disclosure thereof is required by law or otherwise authorized by this Agreement or consented to in writing by the other Party, such that the unauthorized disclosure of the terms of this Agreement shall be a material breach of this Agreement and shall provide the other Party with the option of pursuing remedies for breach or termination of this Agreement.



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6.3 Misuse of Confidential Information. The receiving Party's failure to fulfill the obligations and conditions with respect to any use, disclosure, publication, release, or dissemination to any third party of the disclosing Party's Confidential Information constitutes a material breach of this Agreement. In that event the disclosing Party may, at its option and in addition to any other remedies that it may have, terminate this Agreement. In addition to any other remedies it may have, the disclosing Party has the right to demand the immediate return of all copies of Confidential Information provided to the receiving Party under this Agreement. The receiving Party recognizes that disclosure of Confidential Information in violation of this Agreement may result in irreparable harm to the disclosing Party. The disclosing Party shall have the right to seek injunctive relief in the event of a disclosure in violation of this Agreement.

6.4 Survival. The provisions of this Section 6 shall survive expiration or other termination of this Agreement, regardless of the cause of such termination. The obligations of confidentiality set forth in this Section 6 shall commence as of the Effective Date and shall continue (a) at all times thereafter with respect to trade secrets (so long as they qualify as trade secrets under applicable law) and (b) with respect to all other Confidential Information, for a period of three (3) years after the termination or expiration of this Agreement.

7. LIMITATIONS OF LIABILITY

7.1 Exclusive Warranties. THE EXPRESS WARRANTIES SET FORTH IN THIS AGREEMENT ARE EXCLUSIVE AND THE ONLY WARRANTIES MADE BY CCS TO HEALTH PLAN HEREUNDER. CCS MAKES AND HEALTH PLAN RECEIVES NO OTHER WARRANTY, EXPRESS OR IMPLIED, AND ANY AND ALL WARRANTIES OF NON-INFRINGEMENT, MERCHANTABILITY AND FITNESS FOR A PARTICULAR PURPOSE ARE EXPRESSLY EXCLUDED. CCS DOES NOT WARRANT THAT THE PROGRAM WILL MEET ANY PARTICIPANT'S REQUIREMENTS OR THAT THE OPERATION OF THE PROGRAM WILL BE UNINTERRUPTED OR ERROR FREE.

7.2 Limitation of Liability. EXCEPT AS OTHERWISE PROVIDED FOR IN THIS AGREEMENT, IN NO EVENT SHALL CCS BE LIABLE TO HEALTH PLAN, ANY PLAN MEMBER, OR OTHER THIRD PARTY IN ANY MANNER FOR ANY SPECIAL, NON-COMPENSATORY, CONSEQUENTIAL, INDIRECT, INCIDENTAL, STATUTORY, OR PUNITIVE DAMAGES OF ANY KIND, INCLUDING WITHOUT LIMITATION, FOR LOST PROFITS, LOST SALES, LOST REVENUE, OR LOSS OF USE, REGARDLESS OF THE FORM OF ACTION, WHETHER IN CONTRACT, TORT, NEGLIGENCE, STRICT PRODUCTS LIABILITY, OR OTHERWISE, EVEN IF CCS HAS BEEN INFORMED OF OR IS AWARE OF THE POSSIBILITY OF DAMAGES IN ADVANCE. HEALTH PLAN AGREES THAT CCS'S LIABILITY FOR ANY CLAIM OR COMBINATION OF CLAIMS, INCLUDING BUT NOT LIMITED TO, THOSE LISTED ABOVE IN THIS SECTION 7.2 AND AS COVERED UNDER SECTION 5.2, SHALL BE, IN THE TOTAL AMOUNT, LIMITED TO THE FEES PAID BY HEALTH PLAN TO CCS UNDER THIS AGREEMENT DURING THE TWELVE (12) MONTH PERIOD IMMEDIATELY PRECEDING THE EVENT GIVING RISE TO THE CLAIM. THESE LIMITATIONS SHALL APPLY NOTWITHSTANDING ANY FAILURE OF ESSENTIAL PURPOSE OF ANY LIMITED REMEDY PROVIDED HEREIN. HEALTH PLAN HAS ACCEPTED THIS LIMITATION OF LIABILITY AS PART OF A BARGAIN WITH RESPECT TO THE PRICING OF THE PRODUCTS AND SUPPLIES WITH THE UNDERSTANDING THAT THE PRICING WOULD BE HIGHER IF CCS WERE REQUIRED TO BEAR LIABILITY IN EXCESS OF THAT STATED HEREIN.

7.3 Information Tool Only. HEALTH PLAN UNDERSTANDS AND AGREES THAT CCS IS NOT ENGAGED IN THE PRACTICE OF MEDICINE AND THAT THE PROGRAM IS AN INFORMATION TOOL ONLY AND IS NOT A SUBSTITUTE FOR PROFESSIONAL JUDGMENT OF HEALTHCARE PROVIDERS IN DIAGNOSING AND TREATING PATIENTS. HEALTH PLAN



**LIVINGCONNECTED
DIABETES MANAGEMENT PROGRAM AGREEMENT**

ACKNOWLEDGES THAT PROVIDERS SHALL HAVE FULL AND SOLE RESPONSIBILITY FOR THE CARE AND WELL BEING OF THEIR PATIENTS, AND ANY RELIANCE UPON THE PROGRAM SHALL NOT DIMINISH OR ALTER SUCH RESPONSIBILITY.

8. MISCELLANEOUS

8.1 Notices. All notices or other communications required or permitted under this Agreement shall be in writing and shall be deemed given to a Party when (i) delivered to the appropriate address by hand or by a nationally recognized overnight courier service (costs prepaid) or (ii) received or rejected by the addressee, if sent by certified mail, postage prepaid, return receipt requested, and addressed to the recipient. Notices shall be delivered to the following addresses:

If to CCS:

CCS Medical, Inc.
1505 LBJ Freeway, Suite 550
Farmers Branch, TX 75234
ATTN: Michael Capone

If to Health Plan:

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

Either Party may change its address by written notice to the other Party given in accordance with this Section.

8.2 Agency of Record. Health Plan has engaged Marsh & McLennan Agency, LLC as its Agent of Record ("AOR") for the provision of services, as outlined in this Agreement, on Health Plan's behalf. Health Plan agrees to immediately notify CCS if Health Plan intends to change or makes any change in AOR and the parties agree to cooperate in facilitating any such change to ensure continuity of the Program.

8.3 Nature of Relationship. In the performance of their respective obligations under this Agreement, it is mutually understood and agreed that the nature of the Parties' relationship will be that of an independent contractor. Nothing herein will be interpreted or applied (or is intended to be interpreted or applied) to create a partnership, joint venture, principal and agent, employment or other relationship between CCS and Health Plan other than that of solely independent contractors.

8.4 Entire Agreement. This Agreement contains the entire agreement between the Parties and supersedes all prior negotiations or agreements, whether written or oral, between them with respect to the matters set forth herein.

8.5 Severability. If any provision or term of this Agreement is found to be unenforceable or void, in whole or in part, the offending term or provision will be construed as valid and enforceable to the maximum extent permitted and the balance of this Agreement will remain in full force and effect.

8.6 Non-Exclusive Arrangement. Nothing in this Agreement or otherwise will, or is intended by the Parties to, prevent either Party from utilizing, marketing and selling the Products and Services or products and services similar to or competitive with the Products and Services, either directly or via a contract or arrangement with a third party provider of such products and services or substitutes therefore.

8.7 No Exclusions. Neither party, nor any of its officers, directors or owners is subject to any disciplinary order, sanction or decree of any federal or state governmental agency having jurisdiction over the



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services it provides, including eligibility for participation in Medicare and Medicaid, and no such action is presently pending. Neither party has been sanctioned by the Department of Health and Human Services, Office of the Inspector General, Cumulative Sanctions Report, or excluded by the General Services Administration, List of Excluded Providers [see <http://exclusions.oig.hhs.gov/> and <https://www.epls.gov>]. Each party agrees to notify the other party of any such actions or proposed actions within five (5) days of occurrence.

8.8 Assignments. Neither party may assign any right or interest or delegate any obligation under this Agreement without the prior written approval of the other party, such approval not to be unreasonably withheld. Any assignment in violation of this Section 8.8 shall be invalid and will constitute a material breach of this Agreement.

8.9 Modifications and Amendments. Except as otherwise provided for in this Agreement, CCS retains the right to amend this Agreement or any attachments or addenda, by making a good faith effort to provide notice to Health Plan not less than thirty (30) days before the effective date of the amendment.

8.10 Waiver. The failure of either Party to insist upon strict performance of any of the provisions of this Agreement by the other Party will not be construed as a waiver of any subsequent fault by the other Party of the same or a similar nature. If one provision is deemed modified or waived by the mutual consent of the Parties, this Agreement will continue to be valid between the parties with a modification as agreed upon.

8.11 Force Majeure. CCS will not be liable for any failure or delay in its performance or in the delivery of services or shipment of products, or for any damages suffered by Health Plan by reason of such failure or delay, when such failure or delay is caused by, or arises in connection with, any fire, flood, accident, riot, earthquake, severe weather, war, governmental interference or embargo, strike, shortage of labor, fuel, power, materials or supplies, delay in delivery by CCS's suppliers, product manufacturers, or other contracted entity or any other cause or causes beyond CCS's reasonable control. CCS reserves the right to allocate in its sole discretion among customers or potential customers, or defer or delay the shipment of, any product which is in short supply.

8.12 Successors. Except as otherwise provided in the preceding section, all of the obligations, conditions, terms, covenants, and provisions of this Agreement will inure to the benefit of and be binding upon the parties hereto and their successors and assigns.

8.13 Governing Law. This Agreement as well as all rights and obligations of the parties hereunder shall be governed by the laws of the state of North Carolina without giving effect to the principles of conflicts of laws applied by any jurisdiction. Venue for any action brought hereunder shall be proper exclusively in Wake County, North Carolina.

8.14 Counterparts. This Agreement may be executed in any number of counterparts. All counterparts taken together shall constitute a single agreement. Signatures executed and delivered via electronic mail or facsimile transmission shall be deemed original signatures.

8.15 Headings and Titles. The headings and titles of the several paragraphs contained herein are for convenience only and shall not be considered in construing this Agreement.

8.16 Insurance. Each Party shall maintain general liability, professional liability, and employee dishonesty insurance policies or bonds in amounts and forms standard and adequate for each Party's business and acceptable to the other Party. Each Party shall provide proof of such insurance upon request and shall immediately give written notice to the other Party in the event the Party receives notice of any termination, cancellation or material modification to or change in such insurance or bonds.



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8.17 No Third-Party Beneficiaries. This Agreement is entered into by and between the Parties hereto solely for their benefit. The Parties have not created or established any third-party beneficiary status or rights in any person or entity not a party hereto including, but not limited to, any Participant, subcontractor, or other third-party, and no such third-party will have any right to enforce any right or enjoy any benefit created or established under this Agreement.

8.18 E-Verify Compliance. CCS shall comply with the requirements of Article 2 of Chapter 64 of the North Carolina General Statutes (E-Verify). CCS shall require all of its subcontractors to comply with the requirements of Article 2 of Chapter 64 of the North Carolina General Statutes (E-Verify).

8.19 Anti-Human Trafficking. CCS warrants and agrees that no labor supplied by CCS or its 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.

8.20 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.

[Signatures are on the following page.]



**LIVINGCONNECTED
DIABETES MANAGEMENT PROGRAM AGREEMENT**

SIGNATURES

This Agreement is entered into effective as of the Effective Date as evidenced by the signatures of the duly authorized officers of each Party below.

CCS MEDICAL, INC.

By: _____

Title: _____

Date: _____

HEALTH PLAN

By: Drew Havens

Title: Town Manager

Date: _____



**LIVINGCONNECTED
DIABETES MANAGEMENT PROGRAM AGREEMENT**

**EXHIBIT A
FEE SCHEDULE**

1. Reimbursement for Products and Supplies. CCS shall be entitled to reimbursement for the Products and Supplies, inclusive of related services explicitly covered under this Agreement, as follows:

<i>Products and Services</i>	<i>Reimbursement</i>
Starter Kits	\$304.00
Replacement Meter	\$100.00
Blood Glucose Test Strips (50 count vial)	\$65.00
Control Solutions High and Low	\$7.00 (each)
Lancing Device	\$15.00
Lancets 30G (100 count box)	\$7.50

1.1 As necessary CCS provides Participants with Starter Kits includes four (4) vials of Blood Glucose Test Strips and two (2) boxes of Lancets 30G and may also include the following items:

- a. One (1) Bluetooth/Cellular Blood Glucose Meter
- b. Ten (10) Blood Glucose Test Strips
- c. One (1) each of Control Solution High and Low
- d. One (1) Lancing Device
- e. Ten (10) Lancets
- f. One (1) Battery Charger
- g. One (1) Meter Case

1.2 Defective Starter Kit Meters, as determined to be defective by CCS, in its sole and reasonable discretion, will be replaced by CCS at no cost to the Participant.

1.3 Ninety (90) day supplies of additional Products and Supplies are provided to Participants following enrollment or receipt of Starter Kit based on utilization or need, which may include appropriate quantities of the following:

- a. Fifty (50) count vials of Blood Glucose Test Strips
- b. Control Solutions High and Low
- c. Lancing Devices
- d. One-hundred (100) count boxes of Lancets 30G

1.4 All products under provided for under this Agreement will be shipped FOB shipping point. Unused delivered products may only be returned in accordance with CCS's return policy.

1.5 The above charges shall not change unless mutually agreed to by the Parties in writing. However, CCS may adjust such charges in proportion to any increase in CCS's cost of acquiring such goods, upon providing Health Plan thirty (30) days advance notice of such adjustments, which shall be considered accepted by Health Plan unless Health Plan provides CCS with written notice within the thirty (30) days provided objecting to such changes, in which case, the Parties agree to enter into good-faith negotiations for the cost of goods adjustment to charges. Any adjustment to charges made pursuant to this Section shall be attached hereto as an amendment to this Exhibit A.



**LIVING CONNECTED
DIABETES MANAGEMENT PROGRAM AGREEMENT**

Accepted and Agreed to:

CCS MEDICAL, INC.

HEALTH PLAN

By: _____

By: Drew Havens

Title: _____

Title: Town Manager

Date: _____

Date: _____

| Agenda Item | cover sheet

for consideration by the Apex Town Council

Item Type: CONSENT AGENDA

Meeting Date: October 20, 2020

Item Details

Presenter(s): John M. Brown, Director

Department(s): Parks, Recreation, and Cultural Resources

Requested Motion

Motion to approve an ordinance amendment to add Salem Pond Park to section (a) (1) of Section 15-6 of the Town of Apex Code of Ordinances and set its hours of operation.

Approval Recommended?

Yes

Item Details

It was recently discovered Salem Pond Park was not included in Section 15-6 of the Town Code of Ordinances which sets the opening and closing times for parks and greenways. This would add Salem Pond Park to the Town Code and establish the normal hours of operation as follows similar to Apex Jaycee Park and Hunter Street Park.

March through October 7:00am until 10:00pm

November through February 7:00am until 8:00pm

Attachments

1) Proposed Ordinance



AN ORDINANCE TO AMEND TOWN CODE CHAPTER 15 RELATED TO PARK HOURS

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

Section 1. That Subsection (a)(1) of Section 15-6 of the Town of Apex Code of Ordinances is hereby amended as shown immediately below with additions being shown by underlined text:

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

- (a) Parks shall be open to the public daily during the times specified in this section. These times may be extended to accommodate programs offered by the town at the direction of the director of parks, recreation and cultural resources. Provided, however, the director of parks, recreation and cultural resources may close one or more parks or recreational facilities temporarily at any time if in the director's judgment a sufficient reason exists on account of severe weather or other emergency that would endanger persons using these facilities.

- (1) Salem Pond Park, Apex Jaycee Park and Hunter Street Park:

March through October—7:00 a.m. until 10:00 p.m.

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

Provided, however, the Rogers Family Skate Plaza located within the Hunter Street Park shall be open year round, 24 hours a day. These extended hours shall apply exclusively to the Rogers Family Skate Plaza and no other areas of Hunter Street Park.

Section 2. The Town Clerk and/or Town Manager are hereby authorized to renumber, revise formatting, correct typographic errors, to verify and correct cross references, indexes and diagrams as necessary to codify, publish, and/or accomplish the provisions of this ordinance or future amendments as long as doing so does not alter the terms of this Ordinance.

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

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

Introduced by Council Member: _____

Seconded by Council Member: _____

This the 20th day of October 2020.

Jacques K. Gilbert
Mayor

ATTEST:

Donna B. Hosch, MMC, NCCMC
Town Clerk

APPROVED AS TO FORM:

Laurie L. Hohe
Town Attorney

| Agenda Item | cover sheet

for consideration by the Apex Town Council

Item Type: CONSENT AGENDA

Meeting Date: October 20, 2020

Item Details

Presenter(s): John M. Brown, Director

Department(s): Parks, Recreation, and Cultural Resources

Requested Motion

Motion to extend summer park operating hours through February 28, 2021

Approval Recommended?

Yes

Item Details

A request has been made to extend the summer operating hours for all parks through February 28, 2021 to allow use by citizens. The anticipated costs for additional Limited Service hours would be as follows:

LSE labor

\$14.00 per hour x 2hrs a day x 7 days = \$196 per week

\$196 per week x 17 weeks = **\$3,332**

Attachments

- Temporary Ordinance amending Town Code Section 15-6



ORDINANCE NO. 2020-1020-27

AN ORDINANCE TO TEMPORARILY AMEND TOWN CODE
SECTION 15-6 RELATED TO PARK HOURS

WHEREAS, on March 10, 2020 the Governor of North Carolina declared a State of Emergency to coordinate protective actions to address the Coronavirus Disease 2019 (COVID-19) public health emergency; and

WHEREAS, to slow the community spread of COVID-19 certain recommendations have been made, including, but not limited to, wearing of a face covering, maintain at least 6 feet social distancing, and avoid large gatherings; and

WHEREAS, with the COVID-19 pandemic many people are trying to find safe outdoor activities to keep active and healthy; and

WHEREAS, the Town of Apex desires to extend its park operating hours to allow greater use of the Town parks while enabling visitors to maintain social distancing and avoid large gatherings.

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

Section 1. That Section 15-6 of the Town of Apex Code of Ordinances is hereby temporarily amended as shown immediately below with deletions being shown by struck-through text and additions being shown by underlined text:

- (a) Parks shall be open to the public daily during the times specified in this section. These times may be extended to accommodate programs offered by the town at the direction of the director of parks, recreation and cultural resources. Provided, however, the director of parks, recreation and cultural resources may close one or more parks or recreational facilities temporarily at any time if in the director's judgment a sufficient reason exists on account of severe weather or other emergency that would endanger persons using these facilities.

- (1) *Salem Pond Park, Apex Jaycee Park and Hunter Street Park:*

March through October—7:00 a.m. until 10:00 p.m.

November through February—7:00 a.m. until ~~8:00~~ 10:00 p.m.

Provided, however, the Rogers Family Skate Plaza located within the Hunter Street Park shall be open year round, 24 hours a day. These extended hours shall apply exclusively to the Rogers Family Skate Plaza and no other areas of Hunter Street Park.

- (2) *Kelly Road Park:*

March through October—7:00 a.m. until 10:00 p.m.

November through February—7:00 a.m. until ~~8:00~~ 10:00 p.m.

- (3) *Apex Community Park:*

March through October—6:30 a.m. until 10:00 p.m.

November through February—~~6:30~~ a.m. until ~~8:00~~ 10:00 p.m.

Provided, however, that Apex Community Park shall be open for purposes of public boating pursuant to subsection 15-7(l) and fishing pursuant to subsection 15-7(q) on the pond therein from 6:30 a.m. until sunset, as defined by the National Weather Service, unless otherwise ordered by the director of parks, recreation and cultural resources.

- (4) *West Street Park, Claremont Park, Sue Helton Park, Kelly Glen Park and Seagrove's Farm Park:*

March through October—7:00 a.m. until 8:00 p.m.

November through February—7:00 a.m. until ~~6:00~~ 8:00p.m.

- (5) *Nature Park and Seymour Athletic Fields:*

March through October—6:30 a.m. until 10:00 p.m.

November through February—6:30 a.m. until ~~8:00~~ 10:00 p.m.

Section 2. The Town Clerk and/or Town Manager are hereby authorized to renumber, revise formatting, correct typographic errors, to verify and correct cross references, indexes and diagrams as necessary to codify, publish, and/or accomplish the provisions of this ordinance or future amendments as long as doing so does not alter the terms of this Ordinance.

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

Section 4. Effective Date. This ordinance shall be effective upon adoption and expires on March 1, 2021.

Introduced by Council Member: _____

Seconded by Council Member: _____

This the 20th day of October 2020.

Jacques K. Gilbert
Mayor

ATTEST:

Donna B. Hosch, MMC, NCCMC
Town Clerk

APPROVED AS TO FORM:

Laurie L. Hohe
Town Attorney

| Agenda Item | cover sheet

for consideration by the Apex Town Council

Item Type: PUBLIC HEARING

Meeting Date: October 20, 2020

Item Details

Presenter: Lauren Staudenmaier, Planner I

Department: Planning and Community Development

Requested Motion

Public hearing and possible motion to adopt an Ordinance on the Question of Annexation – Apex Town Council's intent to annex Powell Property Holdings, LLC (The Upchurch) property containing 5.5021 acres located at 7213 Roberts Road, Annexation #698 into the Town's corporate limits.

Approval Recommended?

Yes, by the Planning and Community Development Department.

Item Details

The Town Clerk certifies to the investigation of said annexation.

Attachments

- Annexation Ordinance
- Annexation Petition
- Legal Description
- Preliminary Plat





TOWN OF APEX, NORTH CAROLINA
Municipality No. 333

After recording, please return to:
Donna Hosch, MMC, NCCMC, Town Clerk
Town of Apex
P.O. Box 250
Apex, NC 27502

ORDINANCE NO. 2020-1020-32
ANNEXATION PETITION NO. #698
Powell Property Holdings, LLC (The Upchurch)

AN ORDINANCE TO EXTEND THE CORPORATE LIMITS
OF THE TOWN OF APEX, NORTH CAROLINA
P.O. Box 250, Apex, North Carolina 27502

WHEREAS, the Apex Town Council has been petitioned under G.S.§160A-58.1, as amended, to annex the area described herein; and

WHEREAS, the Apex Town Council has by Resolution directed the Town Clerk to investigate the sufficiency of said petition; and

WHEREAS, the Town Clerk has certified the sufficiency of said petition and a public hearing on the question of this annexation was held at Apex Town Hall at 6:00 p.m. on October 20, 2020, after due notice by posting to the Town of Apex website, <http://www.apexnc.org/news/public-notice-legal-ads>; and

WHEREAS, the Apex Town Council does hereby find as a fact that said petition meets the requirements of G.S.§160A-58.1, as amended.

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

Section 1. By virtue of the authority granted by G.S.§160A-58.1, as amended, the territory described in the attached property description and also shown as "Annexation Area" on the below identified survey plat is hereby annexed and made part of the Town of Apex, North Carolina, as of the date of adoption of this Ordinance on October 20, 2020. The survey plat that describes the annexed territory is that certain survey plat entitled "Satellite Annexation Map for the Town of Apex, Smith & Smith Surveyors, P.A., dated August 12, 2015 " and recorded in Book of Maps book number 2020 and page number [REDACTED], Wake County Registry.

Section 2. Upon and after the adoption of this ordinance, the territory described herein and its citizens and property shall be subject to all debts, laws, ordinances and regulations in force in the Town of Apex, North Carolina, and shall be entitled to the same privileges and benefits as other parts of the Town of Apex. Said territory shall be subject to municipal taxes according to G.S.§160A-58.10, as amended.

Section 3. The Clerk of the Town of Apex, North Carolina shall cause to be recorded in the Office of the Register of Deeds of Wake County and in the Office of the Secretary of State at Raleigh, North Carolina and in the Office of the Wake County Board of Elections an accurate map of the annexed territory, described in Section 1 hereof, together with a duly certified copy of this Ordinance.

Adopted this the 20th day of October 2020.

Jacques K. Gilbert
Mayor

ATTEST:

Donna B. Hosch, MMC, NCCMC
Town Clerk

APPROVED AS TO FORM:

Laurie L. Hohe
Town Attorney

Legal Description

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

BEGINNING at an existing right of way disc at the southeastern intersection of Roberts Road (NCSR 1608) & NC 540 Highway rights of way bearing a NAD (83/2011) coordinate value of North 733,834.99 feet, East 2,033,673.48 feet; thence along and with Roberts Road right of way South 56° 04' 00" East, 202.47 feet to an existing right of way disc; thence along and with Roberts Road right of way South 38° 28' 13" East, 507.19 feet to an existing right of way disc; thence North 57° 53' 00" East, 14.08 feet to an existing right of way disc; thence South 31° 45' 04" East, 34.59 feet to a disturbed existing concrete monument; thence North 89° 45' 12" West, 854.21 feet to an existing iron pipe; thence North 32° 48' 14" East, 628.61 feet to the BEGINNING containing 5.5021 total acres - 239,670 total square feet more or less.

STATE OF NORTH CAROLINA

COUNTY OF WAKE

CLERK'S CERTIFICATION

I, Donna B. Hosch, MMC, NCCMC, Town Clerk, Town of Apex, North Carolina, do hereby certify the foregoing is a true and correct copy of Annexation Ordinance No. 2020-1020-32, adopted at a meeting of the Town Council, on the 20th day of October 2020, the original of which will be on file in the Office of the Town Clerk of Apex, North Carolina.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed the official Seal of the Town of Apex, North Carolina, this the 21st day of October 2020.

Donna B. Hosch, MMC, NCCMC
Town Clerk

(SEAL)

PETITION FOR VOLUNTARY ANNEXATION

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

Application #: 698
Fee Paid \$ 200.00

Submittal Date: 8/3/2020
Check # 1031

TO THE TOWN COUNCIL APEX, NORTH CAROLINA

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

Owner Information

Powell Property Holdings LLC

0733337439

Owner Name (Please Print)

Property PIN or Deed Book & Page #

919-387-5757

cara@f8photostudios.com

Phone

E-mail Address

Owner Name (Please Print)

Property PIN or Deed Book & Page #

Phone

E-mail Address

Owner Name (Please Print)

Property PIN or Deed Book & Page #

Phone

E-mail Address

Surveyor Information

Surveyor: _____

Phone: _____ Fax: _____

E-mail Address: _____

Annexation Summary Chart

Property Information

Reason(s) for annexation (select all that apply)

Total Acreage to be annexed: 5.5021
Population of acreage to be annexed: 0
Existing # of housing units: 1
Proposed # of housing units: 1
Zoning District*: O&I-CZ

Need water service due to well failure ☐
Need sewer service due to septic system failure ☐
Water service (new construction) ☐
Sewer service (new construction) ☐
Receive Town Services ☒

*If the property to be annexed is not within the Town of Apex's Extraterritorial Jurisdiction, the applicant must also submit a rezoning application with the petition for voluntary annexation to establish an Apex zoning designation. Please contact the Planning Department at 919-249-3426 for questions.

PETITION FOR VOLUNTARY ANNEXATION

Application #: 698

Submittal Date: 8/3/2020

COMPLETE IF IN A LIMITED LIABILITY COMPANY

In witness whereof, Powell Property Holdings, LLC a limited liability company, caused this instrument to be executed in its name by a member/manager pursuant to authority duly given, this the 3 day of August, 2020.

Name of Limited Liability Company

Powell Property Holdings, LLC

By:

Carla Powell

Signature of Member/Manager

STATE OF NORTH CAROLINA
COUNTY OF WAKE

Sworn and subscribed before me, Erin Marcum, a Notary Public for the above State and County, this the 3rd day of August, 2020.

[Signature]

Notary Public

SEAL

ERIN MARCUM
NOTARY PUBLIC
Wake County
North Carolina
My Commission Expires 11/19/2020

My Commission Expires: November 19, 2020

COMPLETE IF IN A PARTNERSHIP

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

Name of Partnership _____

By: _____

Signature of General Partner

STATE OF NORTH CAROLINA
COUNTY OF WAKE

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

Notary Public

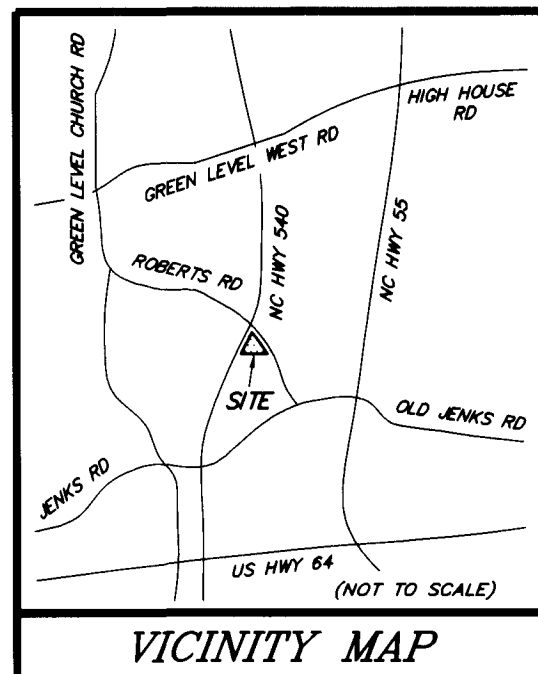
SEAL

My Commission Expires: _____

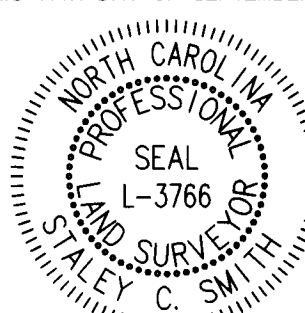
Lying and being in White Oak Township, Wake County, North Carolina and described more fully as follows to wit:

BEGINNING at an existing right of way disc at the southeastern intersection of Roberts Road (NCSR 1608) & NC 540 Highway rights of way bearing a NAD (83/2011) coordinate value of North 733,834.99 feet, East 2,033,673.48 feet; thence along and with Roberts Road right of way South 56° 04' 00" East, 202.47 feet to an existing right of way disc; thence along and with Roberts Road right of way South 38° 28' 13" East, 507.19 feet to an existing right of way disc; thence North 57° 53' 00" East, 14.08 feet to an existing right of way disc; thence South 31° 45' 04" East, 34.59 feet to a disturbed existing concrete monument; thence North 89° 45' 12" West, 854.21 feet to an existing iron pipe; thence North 32° 48' 14" East, 628.61 feet to the BEGINNING containing 5.5021 total acres ~ 239,670 total square feet more or less.

PRELIMINARY



I, STALEY C. SMITH, CERTIFY THAT THIS PLAT WAS PREPARED UNDER MY SUPERVISION FROM AN ACTUAL FIELD SURVEY OF DESCRIPTION(S) AS RECORDED IN:
 DEED BOOK 17725, PAGE 1797
 BOOK OF MAPS 2015, PAGE 1405
 THAT THE BOUNDARIES NOT SURVEYED ARE CLEARLY INDICATED AS SUCH AND WERE PLOTTED FROM INFORMATION AS REFERENCED HEREON; THAT THE RATIO OF PRECISION AS CALCULATED WAS 1: 10,000 + AND THAT THIS PLAT MEETS THE REQUIREMENTS OF THE STANDARDS OF PRACTICE FOR LAND SURVEYING IN NORTH CAROLINA (21 NCAC 56 .1600).
 WITNESS MY ORIGINAL SIGNATURE, LICENSE NUMBER, AND SEAL THIS 11TH DAY OF SEPTEMBER, 2020.



Staley C. Smith
 Professionally Land Surveyor
 L-3766
 License Number

CONTROL CORNER - R/W DISC (B.M. 2015, PG. 1405)
 N.C. GRID COORDINATES
 N= 733,834.99'
 E= 2,033,673.48'
 BASED ON NAD 83/2011 IN U.S. SURVEY FEET
 Combination Factor = 0.99989904

NORTH CAROLINA DEPARTMENT OF TRANSPORTATION TURNPIKE AUTHORITY
 H.M. 0004, PG. 240
 D.B. 13872, PG. 335
 FEE SIMPLE R/W
 WBS 35520.5 TA1
 ID# R-2635C-1

GERALD D. WOODS
 GAYLE M. WOODS
 D.B. 3704, PG. 44
 B.M. 1986, PG. 58 ~ LOT 2

- SURVEYOR NOTES:**
1. THE PROPERTY SHOWN HEREON IS SUBJECT TO ALL EASEMENTS OF RECORD AFFECTING SAME.
 2. NO TITLE SEARCH HAS BEEN PERFORMED BY THIS FIRM DURING THE COURSE OF THIS SURVEY.
 3. THIS SURVEYOR DOES NOT CERTIFY TO THE EXISTENCE OR NON-EXISTENCE OF ANY UNDERGROUND UTILITIES, BURIAL GROUNDS, OR ANY SUBSURFACE FEATURES THAT MAY OR MAY NOT BE PRESENT ON THIS SITE.
 4. ALL DISTANCES ARE HORIZONTAL U.S. SURVEY FOOT UNIT GROUND MEASUREMENTS.
 5. AREA DETERMINED BY COORDINATE METHOD.
 6. CURRENT PROPERTY ZONING RR
 7. SITE ADDRESSES: 7213 ROBERTS ROAD CARY, NC 27519
 8. THIS MAP IS PREPARED FOR THE SOLE PURPOSE TO ANNEX A MUNICIPAL BOUNDARY.
 9. THIS MAP OR PLAT IS EXEMPT FROM THE REQUIREMENTS OF G.S. 47-30 PURSUANT TO G.S. 47-30(j).
 10. IMPROVEMENTS NOT SHOWN HEREON.

NORTH CAROLINA DEPARTMENT OF TRANSPORTATION TURNPIKE AUTHORITY
 H.M. 0004, PG. 240
 D.B. 13872, PG. 335
 FEE SIMPLE R/W
 WBS 35520.5 TA1
 ID# R-2635C-1

- Legend**
- EIP - Existing Iron Pipe
 - R/W DISC - Right Of Way Monumentation
 - EMN - Existing Magnetic Nail
 - ECM - Existing Concrete Monument
 - R/W - Right Of Way
 - TOA - Town of Apex
 - DEP - Duke Energy Progress
 - PUE - Public Utility Easement
 - Control Of Access
 - XXXX - Street Address (Typical)
 - Surveyed Line
 - Other Surveyed Line
 - Line Not Surveyed
 - Right Of Way Line (not surveyed)
 - Easement Line (not surveyed)

5.5021 ACRES ANNEXED

ANNEXATION #
 I, Donna B. Hosch, MMC, NCCMC, Town Clerk, Apex, North Carolina certify this is a true and exact map of annexation adopted the _____ day of _____, 2020, by the Town Council. I set my hand and seal of the Town of Apex, _____, 2020.

Donna B. Hosch, MMC, NCCMC, Town Clerk

RYAN B. HAMPTON
 MEGHAAN D. HAMPTON
 D.B. 16828, PG. 1825
 B.M. 1986, PG. 58 ~ LOT 3

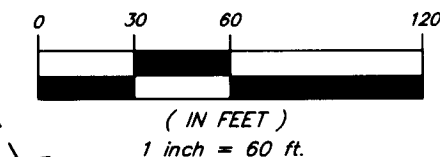
EVELYN J. MOSS
 D.B. 8439, PG. 2584
 B.M. 1999, PG. 1542

PAGE ROAD
 60' PRIVATE ROAD
 B.M. 1976, PG. 290
 B.M. 1994, PG. 1894

DON T. POITRAS
 D.B. 8152, PG. 884
 B.M. 1982, PG. 504 ~ LOT 3-A

MELANIE J. YELVINGTON
 BRIAN J. D. ENAMAN
 D.B. 6446, PG. 78
 B.M. 1982, PG. 504 ~ LOT 3-B

NC DEPARTMENT OF TRANSPORTATION
 D.B. 7188, PG. 214 B.M. 1982, PG. 504 ~ LOT 3-C



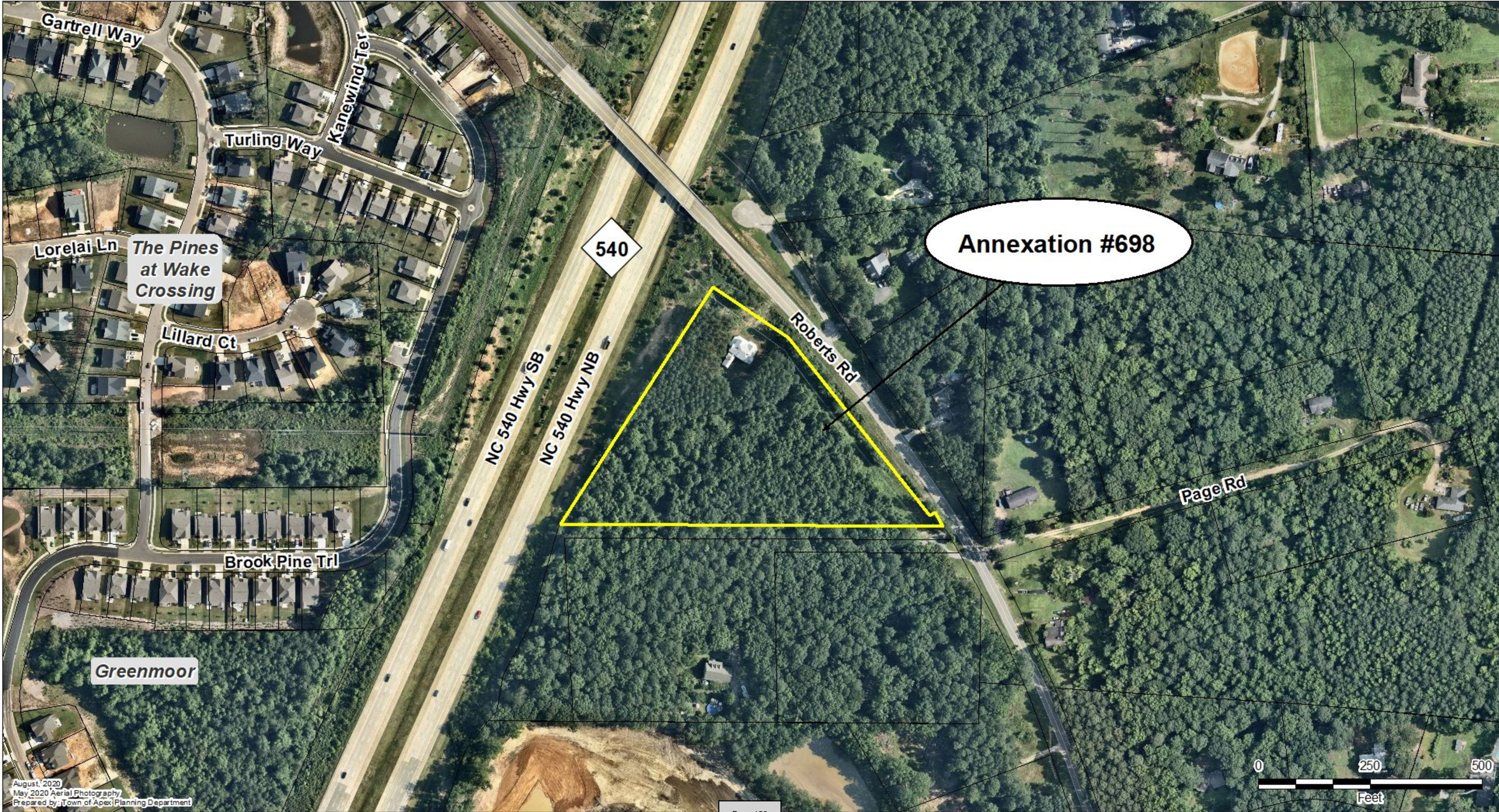
SATELLITE ANNEXATION MAP for the TOWN OF APEX
POWELL PROPERTY HOLDINGS, LLC
 WHITE OAK TOWNSHIP, WAKE COUNTY, NORTH CAROLINA

PIN 0733-33-7439
LISTED OWNER
 (NOT A TITLE VERIFICATION)
 POWELL PROPERTY HOLDINGS, LLC
 1931 NEW BERN AVENUE
 RALEIGH, N.C. 27610

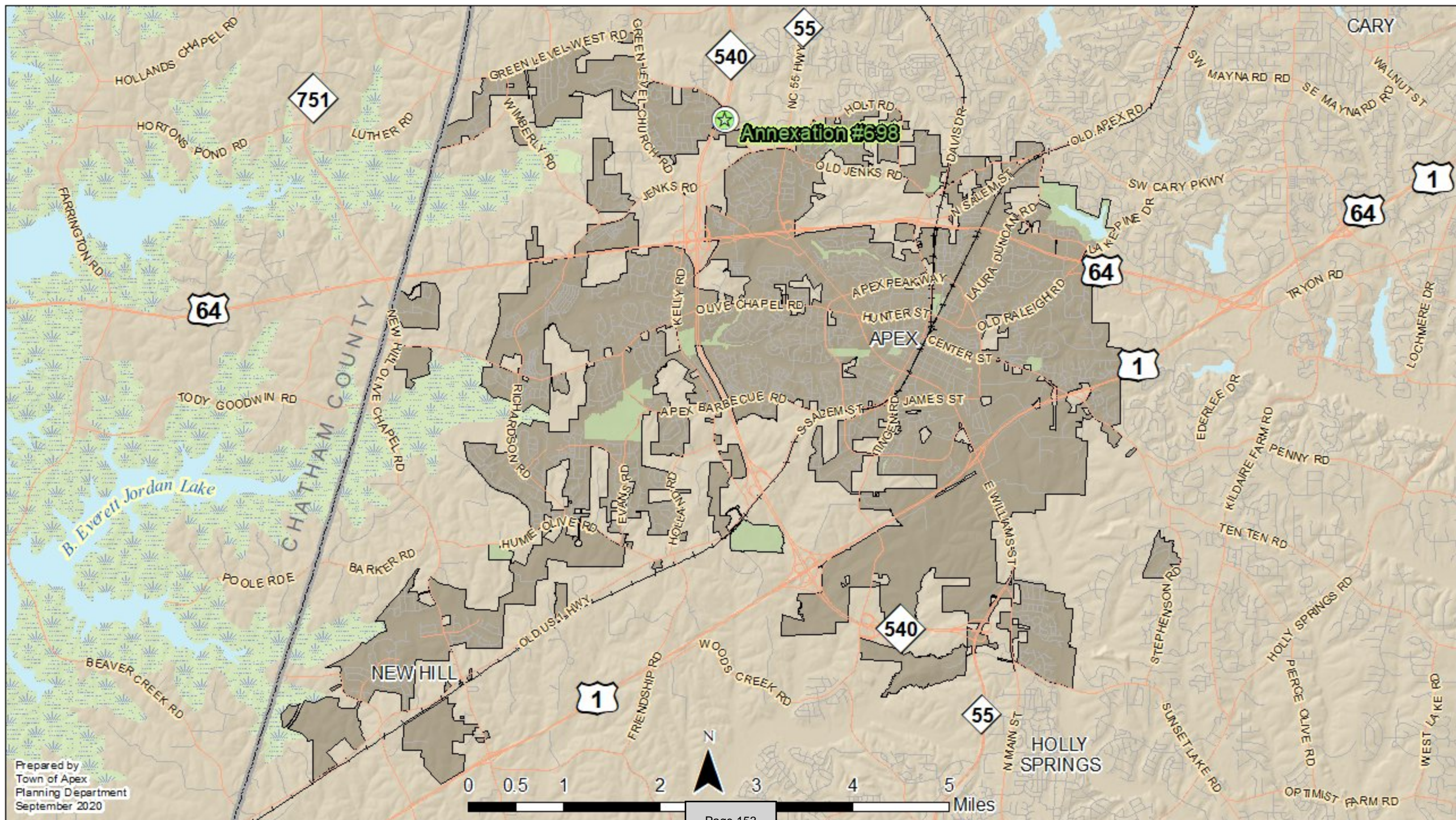
Smith & Smith, Surveyors, P.A.
 FIRM LICENSE No. C-0155
 P.O. BOX 457
 APEX, N.C. 27502
 (919) 362-7111
 PITTSBORO, N.C. 27312
 (919) 542-4321

DATE AUGUST 12, 2015
 SCALE 1" = 60'
 DRAWN BY WSH
 PROJECT NO. 2020-14

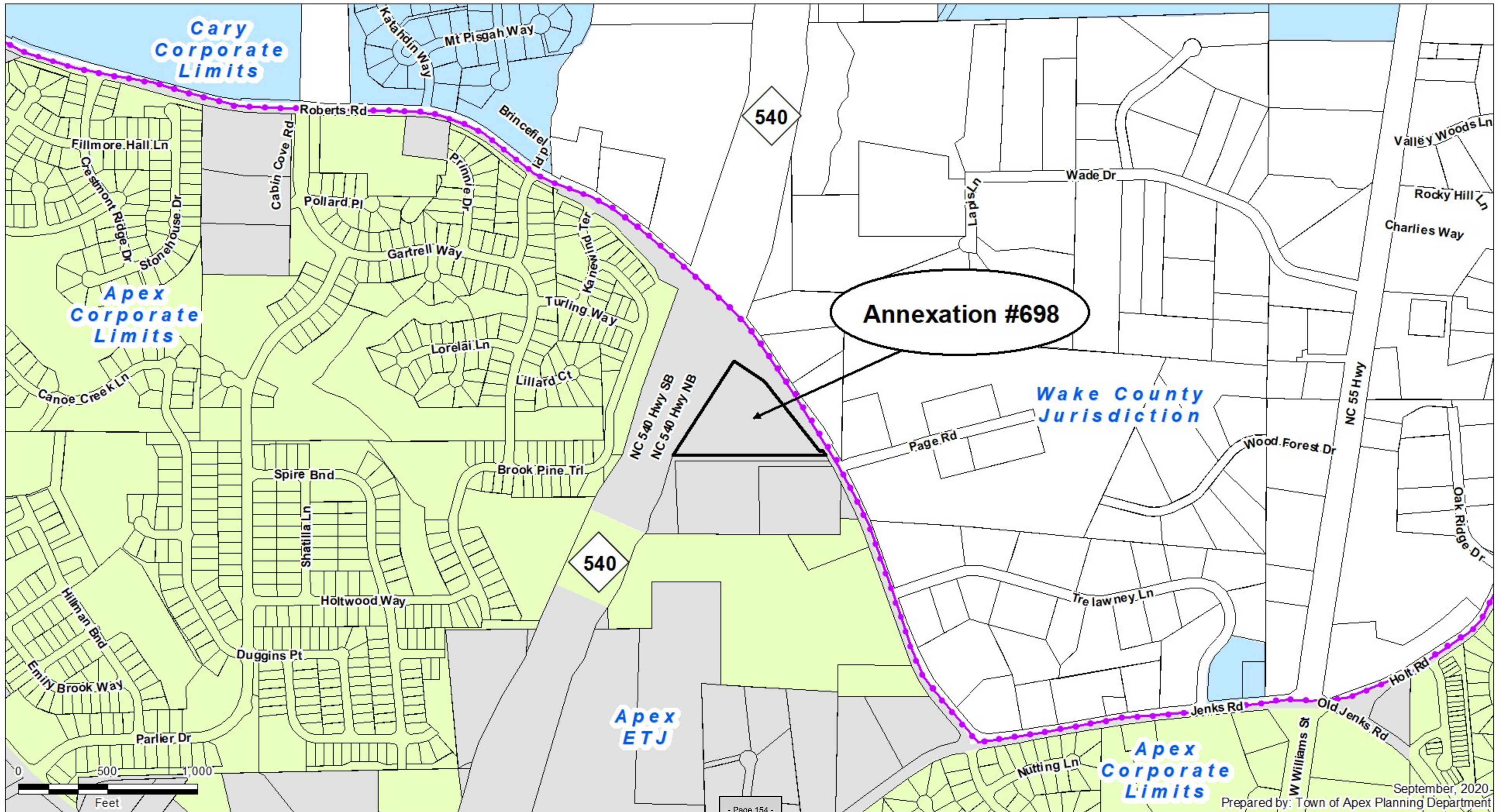
RECORDED IN BOOK OF MAPS **2020**, PAGE _____.



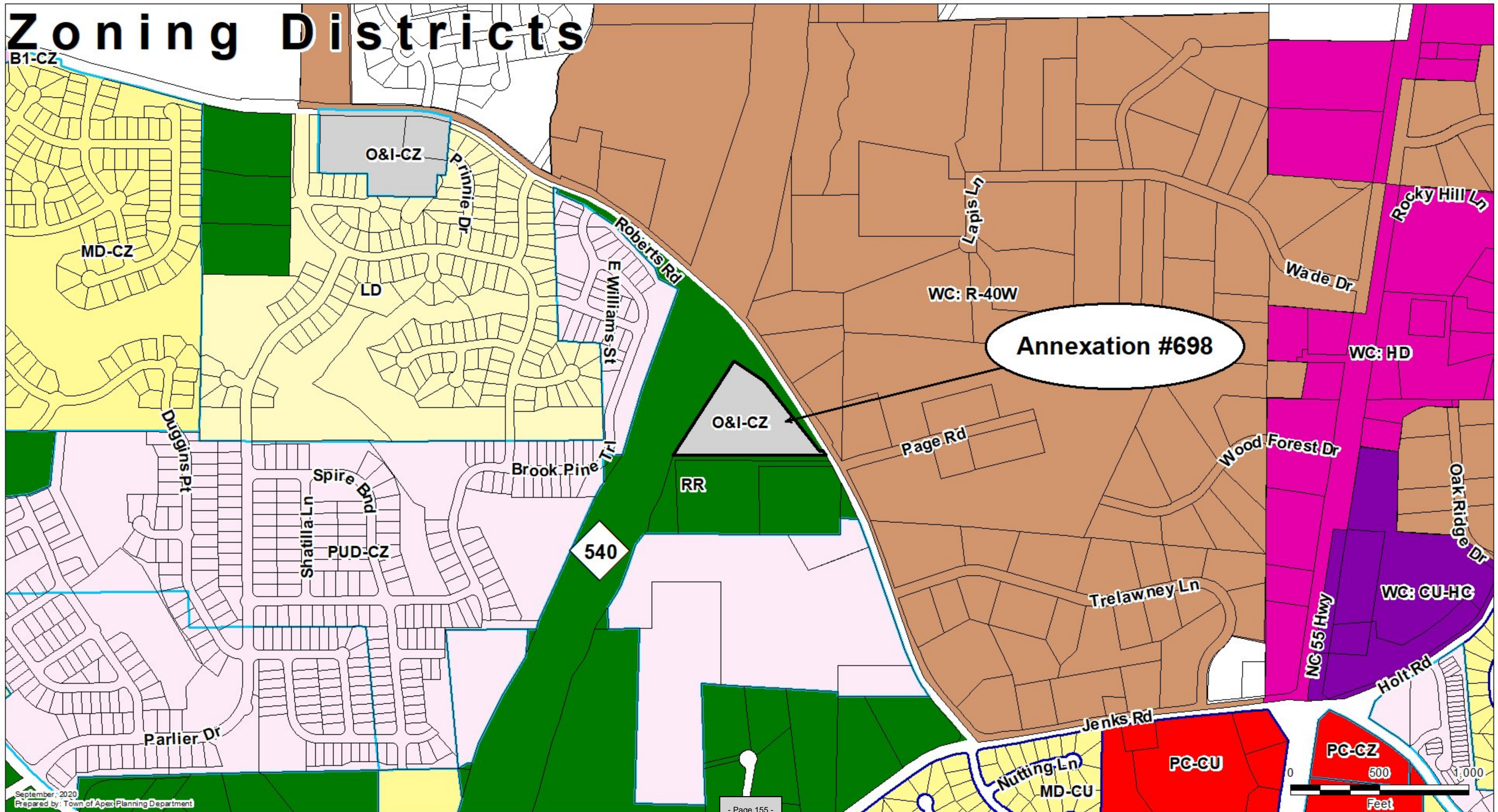
Annexation #698



Prepared by
Town of Apex
Planning Department
September 2020



Zoning Districts



| Agenda Item | cover sheet

for consideration by the Apex Town Council

Item Type: PUBLIC HEARING
Meeting Date: October 20, 2020

Item Details

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

Requested Motion

Public Hearing and possible motion to approve Rezoning Application #20CZ10 109 Holleman Street. The applicants, Charles Duane Taylor, Jr and Sherry Bailey Taylor, seek to rezone approximately 0.24 acre located at 109 Holleman Street (PIN 0742305576) from Office and Institutional (O&I) to Mixed Office-Residential-Retail-Conditional Zoning (MORR-CZ).

Approval Recommended?

The Planning and Community Development Department recommends approval of the rezoning as proposed by the applicant.

The Planning Board held a Public Hearing on October 12, 2020 and recommended approval of the rezoning by a vote of 7-0.

Item Details

Attachments

- Staff Report
- Vicinity Map
- Application



STAFF REPORT

Rezoning #20CZ10 109 Holleman Street

October 20, 2020 Town Council Meeting



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

BACKGROUND INFORMATION:

Location: 109 Holleman Street

Applicant/Owners: Charles Duane Taylor, Jr & Sherry Bailey Taylor

PROJECT DESCRIPTION:

Acreage: ± 0.24 acre

PIN: 0742305576

Current Zoning: Office and Institutional (O&I)/Small Town Character Overlay District

Proposed Zoning: Mixed Office-Residential-Retail-Conditional Zoning (MORR-CZ)/Small Town Character Overlay District

2045 Land Use Map: Medium Density Residential/Office Employment

Town Limits: Inside Town Limits

Adjacent Zoning & Land Uses:

	Zoning	Land Use
North:	Downtown Business (B2)	Holleman St; Apex Baptist Church
South:	Mixed Office-Residential-Retail-Conditional Zoning (MORR-CZ)	Vacant
East:	Office and Institutional (O&I)	Vacant building (former bank)
West:	High Density Single-Family (HDSF)	Hudson Ave; Single-Family

EXISTING CONDITIONS:

The property to be rezoned is located on the south side of Holleman Street, west of Hudson Ave. The property contains a historic single-family home with a detached garage. The home is a contributing structure in Apex's National Register Historic District.

BACKGROUND:

Planning staff was asked to analyze the zoning history of the subject property and found that since at least 1963, this property has not been in a residential zone. Prior to the adoption of the Town's Unified Development Ordinance (UDO) in 2000, Apex had pyramidal zoning which allowed for single-family residential uses in business zones, but the UDO does not allow for that same mix of single-family residential use with commercial use in most non-residential zoning districts. Therefore, the existing single-family use is nonconforming.

NEIGHBORHOOD MEETING:

The applicant conducted a neighborhood meeting on September 24, 2020. The neighborhood meeting report is attached.

STAFF REPORT

Rezoning #20CZ10 109 Holleman Street

October 20, 2020 Town Council Meeting



2045 LAND USE MAP:

The 2045 Land Use Map classifies the subject property as Medium Density Residential/Office Employment. The proposed rezoning to Mixed Office-Residential-Retail-Conditional Zoning (MORR-CZ) is consistent with that land use classification.

PROPOSED ZONING CONDITIONS:

Limitation of Uses:

The Rezoned Lands may be used for, and only for, the uses listed immediately below. The permitted uses are subject to the limitations and regulations stated in the UDO and any additional limitations or regulations stated below. For convenience, some relevant sections of the UDO may be referenced; such references do not imply that other sections of the UDO do not apply.

- | | |
|-------------------------------------|---------------------------------------|
| 1. Single-family | 6. Medical or dental office or clinic |
| 2. Accessory apartment | 7. Book store |
| 3. Bed and breakfast (S) | 8. Floral shop |
| 4. Office, business or professional | 9. Newsstand or gift shop |
| 5. Studio for art | 10. Retail sales, general |

Conditions:

1. All structures listed as “contributing” to the National Register Historic District shall follow the latest edition of the “Secretary of Interior Standards of Rehabilitation and Guidelines for Rehabilitating Historic Buildings”.
2. In addition to the standards found in UDO Sec. 6.3.1 *Small Town Character Overlay District*, the following architectural standards shall apply to any new construction, exterior renovations, or additions to the front façade, or renovations of 50% or more of the entire façade are subject to this section. New construction, additions, and significant exterior renovations of an existing residential structure must be compatible with the character of quality structures located in the Small Town Character Overlay District.
 - a. Architectural Features. Residential structures shall have three (3) or more of the following features:
 - i. Wraparound porch (entire front façade and part of one or both side façades)
 - ii. Predominant porch (over 75% of front façade)
 - iii. Awnings
 - iv. Columns
 - v. Porticos
 - vi. Balconies
 - vii. Broken roof lines
 - viii. Dormers
 - ix. Arched architectural features
 - x. Brick chimney
 - xi. All brick façade
 - xii. Other architectural features as approved by the Planning Director



- b. Decorative Features. Residential structures shall have four (4) or more of the following features:
 - i. Decorative shake
 - ii. Decorative porch railing/posts
 - iii. Shutters
 - iv. Decorative/functional air vents on roof or foundation
 - v. Trimmed Windows
 - vi. Recessed windows
 - vii. Decorative/period windows
 - viii. Decorative brick/stone
 - ix. Decorative gables
 - x. Decorative cornices
 - xi. Tin/metal roof
 - xii. Other decorative features as approved by the Planning Director
- c. Roofs
 - i. Roof lines shall be varied to reduce the scale of structures and add visual interest.
 - ii. Roof shape (for example: flat, hip, mansard, or gable) and material shall be architecturally compatible with façade elements and the rest of the structure.
- d. Facades
 - i. Recesses and projections

The principal structure's front façade must incorporate recesses and projections along at least 50% of the length of the façade. Windows, awnings, and porch area shall total at least 50% of the façade length abutting a public street.
 - ii. Repeating design patterns

Façades shall incorporate a repeating pattern of change in color, texture, and material modules.
 - iii. Renovations

Façade renovations shall incorporate original building details to the maximum extent practicable.
 - iv. Roof cornices

If roof cornices have been removed or damaged on an existing structure, renovations of that structure must include retaining, repairing, and replacing the roof cornices.
- e. Windows
 - i. Replacement of windows on the façade of an existing structure shall be accomplished by using windows of the same trim size and character as the original.
 - ii. Blank exterior walls are prohibited; windows shall be present on all sides of the home.

STAFF REPORT

Rezoning #20CZ10 109 Holleman Street

October 20, 2020 Town Council Meeting



- iii. Shutters on windows shall be one half the width of the window to which they are affixed.
- f. Sides Facing Abutting Street. All sides of a principal structure that face an abutting public street shall have architectural and decorative features as described in a. and b. above.
- g. Entryways
 - i. Required features
Doors shall have built-in windows; alternatively, a solid door is allowed provided side lights (side windows) are installed immediately adjacent to the solid door.
 - ii. Variation
Variations in color schemes and textures are encouraged in order to articulate entryways so as to give greater recognition to these features.
- h. Materials
 - i. Predominant exterior building materials
Predominant exterior building materials shall be high quality materials, including brick, wood, stone, fiber cement, and/or wood composite. Where an existing home has vinyl siding, the use of vinyl siding is allowed for new additions, exterior renovations, and accessory structures on the same property. Vacant property or newly subdivided lots shall only be allowed to utilize vinyl in the form of shake and trim elements and shall not have vinyl as the siding material on principal or accessory structures.
 - ii. Foundation materials
Front and side porches with open foundations shall have brick or stone piers and openings shall be fully screened with evergreen plantings.

PLANNING STAFF RECOMMENDATION:

Planning staff recommends approval of Rezoning #20CZ10 109 Holleman Street as proposed by the applicant.

PLANNING BOARD RECOMMENDATION:

The Planning Board heard this rezoning at their October 12, 2020 meeting and recommended approval by a vote of 7-0.

ANALYSIS STATEMENT OF THE REASONABLENESS OF THE PROPOSED REZONING:

This Statement will address consistency with the Town's comprehensive and other applicable plans, reasonableness, and effect on public interest:

Approval of the rezoning is reasonable because the proposed Mixed Office-Residential-Retail-Conditional Zoning (MORR-CZ) district is consistent with the Medium Density Residential/Office Employment land use classification on the 2045 Land Use Map.

The proposed rezoning is reasonable and in the public interest because it will allow the existing single-family home to once again be a conforming use while also allowing a limited number of nonresidential uses that could utilize the existing historic structure.

STAFF REPORT

Rezoning #20CZ10 109 Holleman Street

October 20, 2020 Town Council Meeting



CONDITIONAL ZONING STANDARDS:

The Town Council shall find the Mixed Office-Residential-Retail-Conditional Zoning (MORR-CZ) designation demonstrates compliance with the following standards. Sec. 2.3.3.F:

Legislative Considerations

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

- 1) *Consistency with 2045 Land Use Map.* The proposed Conditional Zoning (CZ) District use's appropriateness for its proposed location and consistency with the purposes, goals, objectives, and policies of the 2045 Land Use Map.
- 2) *Compatibility.* The proposed Conditional Zoning (CZ) District use's appropriateness for its proposed location and compatibility with the character of surrounding land uses.
- 3) *Zoning district supplemental standards.* The proposed Conditional Zoning (CZ) District use's compliance with Sec. 4.4 *Supplemental Standards*, if applicable.
- 4) *Design minimizes adverse impact.* The design of the proposed Conditional Zoning (CZ) District use's minimization of adverse effects, including visual impact of the proposed use on adjacent lands; and avoidance of significant adverse impacts on surrounding lands regarding trash, traffic, service delivery, parking and loading, odors, noise, glare, and vibration and not create a nuisance.
- 5) *Design minimizes environmental impact.* The proposed Conditional Zoning District use's minimization of environmental impacts and protection from significant deterioration of water and air resources, wildlife habitat, scenic resources, and other natural resources.
- 6) *Impact on public facilities.* The proposed Conditional Zoning (CZ) District use's avoidance of having adverse impacts on public facilities and services, including roads, potable water and wastewater facilities, parks, schools, police, fire and EMS facilities.
- 7) *Health, safety, and welfare.* The proposed Conditional Zoning (CZ) District use's effect on the health, safety, or welfare of the residents of the Town or its ETJ.
- 8) *Detrimental to adjacent properties.* Whether the proposed Conditional Zoning (CZ) District use is substantially detrimental to adjacent properties.
- 9) *Not constitute nuisance or hazard.* Whether the proposed Conditional Zoning (CZ) District use constitutes a nuisance or hazard due to traffic impact or noise, or because of the number of persons who will be using the Conditional Zoning (CZ) District use.
- 10) *Other relevant standards of this Ordinance.* Whether the proposed Conditional Zoning (CZ) District use complies with all standards imposed on it by all other applicable provisions of this Ordinance for use, layout, and general development characteristics.



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

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

Application #:

20CZ10

Submittal Date:

9-18-2020

2045 LUM Amendment:

Fee Paid:

\$900

Project Information

Project Name:

Address(es):

109 Holleman St. Apex N.C 27520

PIN(s):

0742305576

Acreage:

.24

Current Zoning:

ODI

Proposed Zoning:

MORR-CZ/STCO

Current 2045 LUM Designation:

Medium Density Residential / Office Employment

Proposed 2045 LUM Designation:

See next page for LUM Amendment.

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

Area classified as mixed use:

Acreage:

Area proposed as non-residential development:

Acreage:

Percent of mixed use area proposed as non-residential:

Percent:

Applicant Information

Name:

Charles Duane Taylor Sr

Sherry Bailey Taylor

Address:

6521 Whitfield Rd,

City:

Fuquay Varina

State:

N.C

Zip:

27526

Phone:

919-522-3186

E-mail:

CduaneTaylor@yahoo.com

Owner Information

Name:

Same as Above

Address:

City:

State:

Zip:

Phone:

E-mail:

Agent Information

Name:

Address:

City:

State:

Zip:

Phone:

E-mail:

Other contacts:

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

Application #: _____ Submittal Date: 9-18-2020

2045 LAND USE MAP AMENDMENT (IF APPLICABLE)

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

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

109 Holleman St
Apex NC 27502

Current 2045 Land Use Classification: O&I/STCOD

Proposed 2045 Land Use Classification: MORR/STCOD

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

Home has always been used as a Primary
Residence and we expect it to remain
that way.

PETITION INFORMATION

Application #:

20CZ10

Submittal Date:

9-18-2020

An application has been duly filed requesting that the property described in this application be rezoned from O+I to MORR. It is understood and acknowledged that if the property is rezoned as requested, the property described in this request will be perpetually bound to the use(s) authorized and subject to such conditions as imposed, unless subsequently changed or amended as provided for in the Unified Development Ordinance. It is further understood and acknowledged that final plans for any specific development to be made pursuant to any such Conditional Zoning shall be submitted for site or subdivision plan approval. Use additional pages as needed.

PROPOSED USES:

The Rezoned Lands may be used for, and only for, the uses listed immediately below. The permitted uses are subject to the limitations and regulations stated in the UDO and any additional limitations or regulations stated below. For convenience, some relevant sections of the UDO may be referenced; such references do not imply that other sections of the UDO do not apply.

1	See Attachment #1	21	
2		22	
3		23	
4		24	
5		25	
6		26	
7		27	
8		28	
9		29	
10		30	
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17		37	
18		38	
19		39	
20		40	

PETITION INFORMATION

Application #:

20CZ10

Submittal Date:

9-18-2020

PROPOSED CONDITIONS:

The applicant hereby requests that the Town Council of the Town of Apex, pursuant to the Unified Development Ordinance, approve the Conditional Zoning for the above listed use(s) subject to the following condition(s). Use additional pages as needed.

See attachment #1

LEGISLATIVE CONSIDERATIONS - CONDITIONAL ZONING

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

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

What we proposed is consistent for use's appropriateness for its proposed location & consistency with the purposes, goals, objectives, and policies of the 2045 Land use map

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

The proposed rezoning is compatible with the area.

PETITION INFORMATION

Application #:

20CZ10

Submittal Date:

9-18-2020

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

The proposed rezoning is in Compliance with Supplemental Standards.

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

The proposed Rezoning will not have any adverse impact or effect on surrounding land, trash, traffic, parking or any other nuisances.

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

The proposed Conditional Rezoning will not have any changes from current zoning. Will not impact water, air resources, wildlife habitat, scenic resources and other natural resources.

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

The proposed rezoning will not have an adverse effect on public facilities.

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

The proposed rezoning will not effect anyone's health, safety or welfare of the residents of the town or its ETJ

PETITION INFORMATION

Application #: 20CZ10 Submittal Date: 9-18-2020

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

The proposed rezoning is compatible with the area.

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

The proposed rezoning will not add any hazard or change traffic or noise.

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

rezoning complies with all standards imposed on it by all other applicable provisions of this ordinance for use, layout, and general development

20CZ10

Attachment #1

109 Holleman Street rezoning

Proposed Uses

1. Single-family
2. Accessory apartment
3. Bed and breakfast (S)
4. Office, business or professional
5. Studio for art
6. Medical or dental office or clinic
7. Book store
8. Floral shop
9. Newsstand or gift shop
10. Retail sales, general

Proposed Zoning Conditions:

1. All structures listed as “contributing” to the National Register Historic District shall follow the latest edition of the “Secretary of Interior Standards of Rehabilitation and Guidelines for Rehabilitating Historic Buildings”.
2. In addition to the standards found in UDO Sec. 6.3.1 *Small Town Character Overlay District*, the following architectural standards shall apply to any new construction, exterior renovations, or additions to the front façade, or renovations of 50% or more of the entire façade are subject to this section. New construction, additions, and significant exterior renovations of an existing residential structure must be compatible with the character of quality structures located in the Small Town Character Overlay District.
 - a. Architectural Features. Residential structures shall have three (3) or more of the following features:
 - i. Wraparound porch (entire front façade and part of one or both side façades)
 - ii. Predominant porch (over 75% of front façade)
 - iii. Awnings
 - iv. Columns
 - v. Porticos
 - vi. Balconies
 - vii. Broken roof lines
 - viii. Dormers
 - ix. Arched architectural features
 - x. Brick chimney
 - xi. All brick façade
 - xii. Other architectural features as approved by the Planning Director
 - b. Decorative Features. Residential structures shall have four (4) or more of the following features:
 - i. Decorative shake

- ii. Decorative porch railing/posts
 - iii. Shutters
 - iv. Decorative/functional air vents on roof or foundation
 - v. Trimmed Windows
 - vi. Recessed windows
 - vii. Decorative/period windows
 - viii. Decorative brick/stone
 - ix. Decorative gables
 - x. Decorative cornices
 - xi. Tin/metal roof
 - xii. Other decorative features as approved by the Planning Director
- c. Roofs
- i. Roof lines shall be varied to reduce the scale of structures and add visual interest.
 - ii. Roof shape (for example: flat, hip, mansard, or gable) and material shall be architecturally compatible with façade elements and the rest of the structure.
- d. Facades
- i. Recesses and projections
The principal structure's front façade must incorporate recesses and projections along at least 50% of the length of the façade. Windows, awnings, and porch area shall total at least 50% of the façade length abutting a public street.
 - ii. Repeating design patterns
Façades shall incorporate a repeating pattern of change in color, texture, and material modules.
 - iii. Renovations
Façade renovations shall incorporate original building details to the maximum extent practicable.
 - iv. Roof cornices
If roof cornices have been removed or damaged on an existing structure, renovations of that structure must include retaining, repairing, and replacing the roof cornices.
- e. Windows
- i. Replacement of windows on the façade of an existing structure shall be accomplished by using windows of the same trim size and character as the original.
 - ii. Blank exterior walls are prohibited; windows shall be present on all sides of the home.
 - iii. Shutters on windows shall be one half the width of the window to which they are affixed.
- f. Sides Facing Abutting Street. All sides of a principal structure that face an abutting public street shall have architectural and decorative features as described in a. and b. above.

g. Entryways

i. Required features

Doors shall have built-in windows; alternatively, a solid door is allowed provided side lights (side windows) are installed immediately adjacent to the solid door.

ii. Variation

Variations in color schemes and textures are encouraged in order to articulate entryways so as to give greater recognition to these features.

h. Materials

i. Predominant exterior building materials

Predominant exterior building materials shall be high quality materials, including brick, wood, stone, fiber cement, and/or wood composite. Where an existing home has vinyl siding, the use of vinyl siding is allowed for new additions, exterior renovations, and accessory structures on the same property. Vacant property or newly subdivided lots shall only be allowed to utilize vinyl in the form of shake and trim elements and shall not have vinyl as the siding material on principal or accessory structures.

ii. Foundation materials

Front and side porches with open foundations shall have brick or stone piers and openings shall be fully screened with evergreen plantings.

CERTIFIED LIST OF NEIGHBORING PROPERTY OWNERS

Application #: 20CZ10

Submittal Date: 9-18-2020

Provide a certified list of property owners subject to this application and all property owners within 300' of the subject property and HOA Contacts.

Owner's Name	PIN
1. <u>Please See Printed Sheet - Addendum "A"</u>	
2. _____	_____
3. _____	_____
4. _____	_____
5. _____	_____
6. _____	_____
7. _____	_____
8. _____	_____
9. _____	_____
10. _____	_____
11. _____	_____
12. _____	_____
13. _____	_____
14. _____	_____
15. _____	_____

I, Charles Duane Taylor Sr, certify that this is an accurate listing of all property owners and property owners within 300' of the subject property.

Date: 9-18-2020

By: Charles Duane Taylor Sr

COUNTY OF WAKE STATE OF NORTH CAROLINA

Sworn and subscribed before me, PATRICIA DELLIES, a Notary Public for the above State and County, on this the 18 day of SEPTEMBER, 2020.

Patricia Dellies
Notary Public
PATRICIA DELLIES
Print Name

SEAL



My Commission Expires: APRIL 17, 2023

Addendum "A"

PIN_NUM	OWNER	ADDR1	ADDR2	ADDR3
0742314084	209 W CHATHAM STREET LLC	408 GROVE ST	APEX NC 27502-1420	
0742306646	APEX BAPTIST CHURCH INC	110 S SALEM ST	APEX NC 27502-1823	
0742307650	APEX BAPTIST CHURCH INC	110 S SALEM ST	APEX NC 27502-1823	
0742306684	APEX BAPTIST CHURCH INC	110 S SALEM ST	APEX NC 27502-1823	
0742306712	APEX BAPTIST CHURCH INC	110 S SALEM ST	APEX NC 27502-1823	
0742302925	APEX BAPTIST CHURCH INC	110 S SALEM ST	APEX NC 27502-1823	
0742307837	APEX BAPTIST CHURCH INC	110 S SALEM ST	APEX NC 27502-1823	
0742304288	C & D INVESTMENT CO INC	THOMAS DIXON	2950 SANDY FORD RD	NEWTON NC 28658-9201
0742209702	CAREY C JONES MEMORIAL PARK INC	PO BOX 781	APEX NC 27502-0781	
0742309599	CASH, JEAN S STEPHENSON, REBECCA CASH	111 S SALEM ST	APEX NC 27502-1822	
0742304487	COX, PERRY COX, DEBRA	721 HILLSFORD LN	APEX NC 27502-6270	
0742302241	CRETA, ERIC D CRETA, PATRICIA POLLOCK	203 W MOORE ST	APEX NC 27502-1820	
0742304603	EVANS, WILLIAM J JR	PO BOX 1630	APEX NC 27502-3630	
0742303573	FOWLER, ANGELA JONES	4308 OAK HOLLOW DR	HIGH POINT NC 27265-9652	
0742308366	GARRITY, JOHN E GARRITY, LISA	203 S SALEM ST	APEX NC 27502-1824	
0742309552	GOODWIN, JOYCE HERNDON	412 RICHMOND RD	SALISBURY NC 28144-2854	
0742305373	GRIMES, DONALD W GRIMES, LAURA M	210 S SALEM ST	APEX NC 27502-1825	
0742301449	HIPEX PROPERTIES LLC	PO BOX 791	APEX NC 27502-0791	
0742315042	JEREMIAH 29 11 PROPERTIES LLC	207 W CHATHAM ST	APEX NC 27502-1895	
0742303431	JONES, GLENN T JONES, BRENDA R	200 W MOORE ST	APEX NC 27502-1821	
0742307155	LHS HOLDINGS LLC	8124 ROSIERE DR	APEX NC 27539-9319	
0742307292	MICHAEL WILMS TRUST	209 S SALEM ST	APEX NC 27502-1824	
0742309403	PEAK DEVELOPMENTAL SERVICES LLC	201 S SALEM ST	APEX NC 27502-1824	
0742308239	PROCTOR, JUDITH L PROCTOR, JAMES	207 S SALEM ST	APEX NC 27502-1824	
0742302439	RAGAN, CLYDE STONE JONES, BRENDA R	206 W MOORE ST	APEX NC 27502-1821	
0742304127	SEYMOUR, THOMAS E SEYMOUR, ROBIN J	PO BOX 177	APEX NC 27502-0177	
0742306421	SHIRLEY, AUGUSTUS GRAHAM II SHIRLEY, KIMBE	206 S SALEM ST	APEX NC 27502-1825	
0742304369	TALBERT, CYNTHIA D	211 HUDSON AVE	APEX NC 27502-1840	
0742305576	TAYLOR, CHARLES DUANE JR PREDDY, SHERRY E	109 HOLLEMAN ST	APEX NC 27502-1809	
0742306498	WILKINSON PROPERTIES OF NORTH CAROLINA L	104 DOWNING PL	APEX NC 27502-9342	

I Charles Duane Taylor SR, Certify that this is an accurate listing of all Property Owners and Property Owners within 300' of the Subject property.

Date: 9-18-2020

By: Charles Duane Taylor SR

Sworn and subscribed before me, PATRICIA DELLIES a Notary Public for the above State and County on this the 18 day of SEPTEMBER, 2020

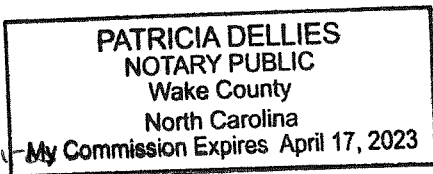
Patricia Dellies
Notary Public

PATRICIA DELLIES
Print Name

- Page 173 -

APRIL 17, 2023

my Commission expires



AGENT AUTHORIZATION FORM

Application #: 20CZ10

Submittal Date: 9-18-2020

Charles Duane Taylor Jr + Sherry Bailey Taylor

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

☐ Land Use Amendment

☒ Rezoning: For Conditional Zoning and Planned Development rezoning applications, this authorization includes express consent to zoning conditions that are agreed to by the Agent which will apply if the application is approved.

☐ Site Plan

☐ Subdivision

☐ Variance

☐ Other: _____

The property address is:

109 Holleman St Apex NC 27502

The agent for this project is:

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

Agent Name:

Charles Duane Taylor Jr + Sherry Bailey Taylor

Address:

6521 Whitted Road Fuquay Varina NC 27520

Telephone Number:

919 522-3180 / 919 703-5522

E-Mail Address:

cduanetaylor@yahoo.com

Signature(s) of Owner(s)*

Charles Duane Taylor Jr

Charles DUANE TAYLOR JR

Type or print name

9-18-2020

Date

Sherry Bailey Taylor

Sherry Bailey Taylor

Type or print name

9/14/20

Date

Attach additional sheets if there are additional owners.

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

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

AFFIDAVIT OF OWNERSHIPApplication #: 20CZ10Submittal Date: 9-18-2020

The undersigned, Charles Duane Taylor Jr (the "Affiant") first being duly sworn, hereby swears or affirms as follows:

- Affiant is over eighteen (18) years of age and authorized to make this Affidavit. The Affiant is the sole owner, or is the authorized agent of all owners, of the property located at 10914 Holman St Apex NC and legally described in **Exhibit "A"** attached hereto and incorporated herein (the "Property"). 27502
- This Affidavit of Ownership is made for the purpose of filing an application for development approval with the Town of Apex.
- If Affiant is the owner of the Property, Affiant acquired ownership by deed, dated 4-29-2005 and recorded in the Wake County Register of Deeds Office on 4-29-2005, in Book 011337 Page 011337.
- If Affiant is the authorized agent of the owner(s) of the Property, Affiant possesses documentation indicating the agency relationship granting the Affiant the authority to apply for development approval on behalf of the owner(s).
- If Affiant is the owner of the Property, from the time Affiant was deeded the Property on 4-29-2005, Affiant has claimed sole ownership of the Property. Affiant or Affiant's predecessors in interest have been in sole and undisturbed possession and use of the property during the period of ownership. Since taking possession of the Property on 4-29-2005, no one has questioned Affiant's ownership or right to possession nor demanded any rents or profits. To Affiant's knowledge, no claim or action has been brought against Affiant (if Affiant is the owner), or against owner(s) (if Affiant is acting as an authorized agent for owner(s)), which questions title or right to possession of the property, nor is any claim or action pending against Affiant or owner(s) in court regarding possession of the Property.

This the 18 day of Sept, 2020.

Charles Duane Taylor Jr (seal)

Charles Duane Taylor Jr
Type or print name

STATE OF NORTH CAROLINA

COUNTY OF WAKE

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

PATRICIA DELLIES
NOTARY PUBLIC
Wake County
North Carolina
My Commission Expires April 17, 2023

[NOTARY SEAL]

Patricia Dellies

Notary Public

State of North Carolina

My Commission Expires: APRIL 17, 2023

AFFIDAVIT OF OWNERSHIP: EXHIBIT A – LEGAL DESCRIPTION

Application #: 20CZ10

Submittal Date: 9-18-2020

Insert legal description below.

Addendum "B"


[Home](#)

Wake County Real Estate Data Account Summary

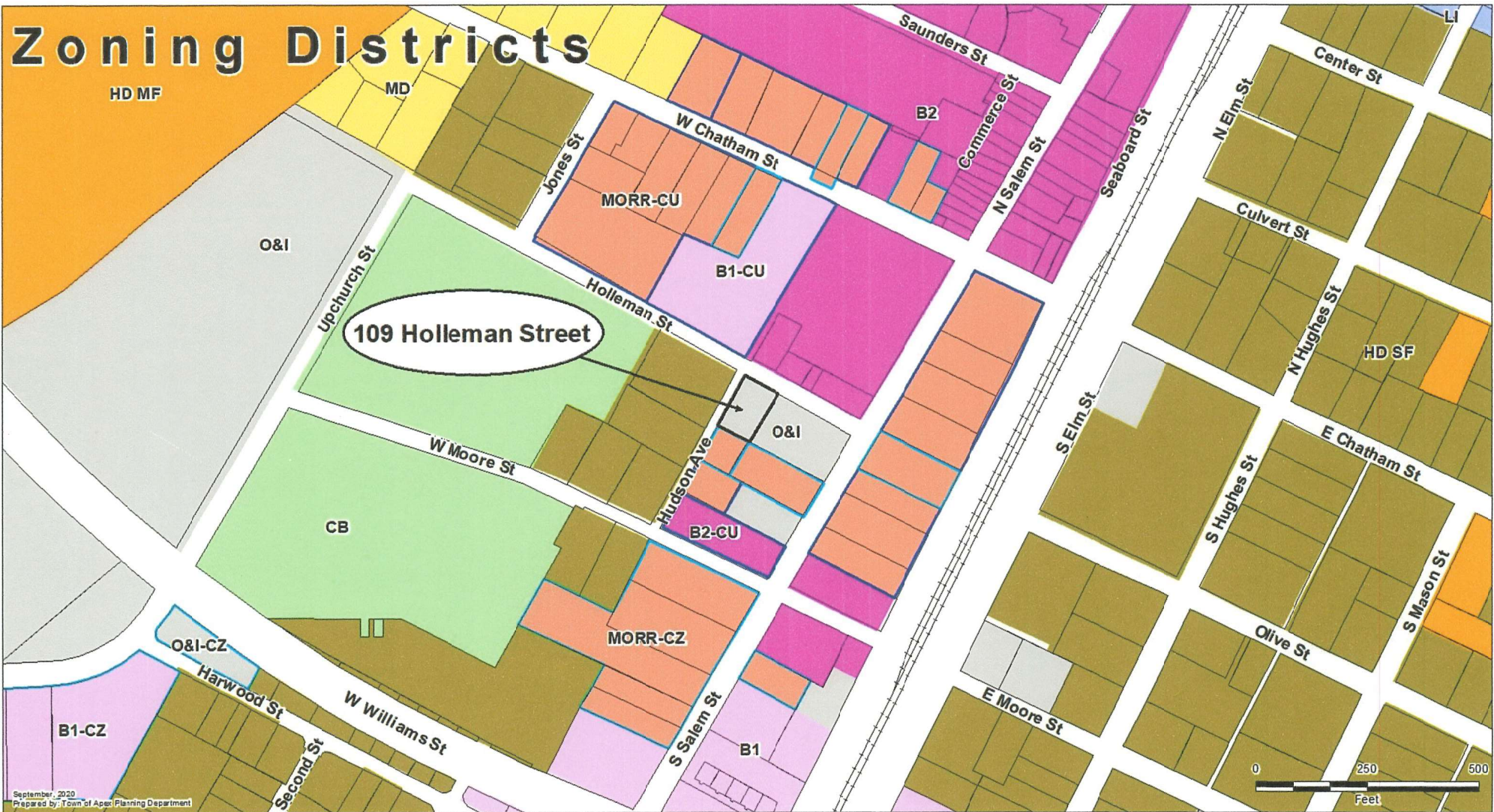
[iMaps](#)
[Tax Bills](#)
Real Estate ID **0037331**PIN # **0742305576**
[Account Search](#)
Location Address
109 HOLLEMAN STProperty Description
1A & 3 RCMB CCB & TRUST CO BM2002-01533
[Pin/Parcel History](#) [Search Results](#) [New Search](#)
[Account](#) | [Buildings](#) | [Land](#) | [Deeds](#) | [Notes](#) | [Sales](#) | [Photos](#) | [Tax Bill](#) | [Map](#)

Property Owner TAYLOR, CHARLES DUANE JR PREDDY, SHERRY BAILEY (Use the Deeds link to view any additional owners)		Owner's Mailing Address 109 HOLLEMAN ST APEX NC 27502-1809	Property Location Address 109 HOLLEMAN ST APEX NC 27502-1809
Administrative Data Old Map # 008-- Map/Scale 0742 18 VCS SWAP001 City APEX Fire District Township WHITE OAK Land Class R-<10-HS ETJ AP Spec Dist(s) Zoning O&I History ID 1 History ID 2 Acreage .24 Permit Date Permit #		Transfer Information Deed Date 4/29/2005 Book & Page 11337 1737 Revenue Stamps 428.00 Pkg Sale Date 4/29/2005 Pkg Sale Price \$214,000 Land Sale Date Land Sale Price Improvement Summary Total Units 1 Recycle Units 1 Apt/SC Sqft Heated Area 2,310	Assessed Value Land Value Assessed \$83,632 Bldg. Value Assessed \$224,737 Tax Relief Land Use Value Use Value Deferment Historic Deferment Total Deferred Value Use/Hist/Tax Relief Assessed Total Value Assessed* \$308,369

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

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

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



NOTICE OF NEIGHBORHOOD MEETING

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

9-14-2020

Date

Dear Neighbor:

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

109 Holleman St

Address(es)

0742305576

PIN(s)

in accordance with the Town of Apex Neighborhood Meeting procedures. This meeting is intended to be a way for the applicant to discuss the project and review the proposed plans with adjacent neighbors and neighborhood organizations before the submittal of an application to the Town. This provides neighbors an opportunity to raise questions and discuss any concerns about the impacts of the project before it is officially submitted. Once an application has been submitted to the Town, it may be tracked using the [Interactive Development Map](#) or the [Apex Development Report](#) located on the Town of Apex website at www.apexnc.org.

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

Application Type	Approving Authority
<input checked="" type="checkbox"/> Rezoning (including Planned Unit Development)	Town Council
<input type="checkbox"/> Major Site Plan	Town Council (QIPH*)
<input type="checkbox"/> Special Use Permit	Town Council (QIPH*)
<input type="checkbox"/> Residential Master Subdivision Plan (excludes exempt subdivisions)	Technical Review Committee (staff)

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

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

Rezoning from UO (Office + Industrial) to
MORR (Mixed Office Residential Retail) - C2 /
STCO

Estimated submittal date: Friday, September 25th

MEETING INFORMATION:

Property Owner(s) name(s):

Charles Dwayne Taylor Jr + Sherry Brooke Taylor

Applicant(s):

Contact information (email/phone):

919 522 3180

919 763 5522

Meeting Address:

Virtual Teams Meeting - Link Included

Date of meeting**:

Thursday, September 24th

Time of meeting**:

1:00 pm

MEETING AGENDA TIMES:

Welcome: 7:00

Project Presentation: 7:30

Question & Answer: 8:00

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

agenda

Rezoning of 109 Holleman Street, Apex, North Carolina 27502 from O&I/STCOD to MORR-CZ/STCOD

(Office & Industrial/Small Town Character Overlay District to Mixed Office Residential Retail/Small Town Character Overlay District)

Thursday, September 24th

7:00 PM – 9:00 PM

Meeting called by:

Attendees:

Time	Rezoning from O&I to MORR	Virtual Teams Meeting
7:00 PM	Explanation of all processes for meeting being held for rezoning	
7:30 PM	Explanation of future meetings and timelines	https://teams.microsoft.com/l/join/19%3ameeting_ZDE2MThkYjQtNGRlZC00ZDBmLWI3MDMtNTcwMmMxMTUzNzRI%40thre%20ad.v2/0?context=%7b%22Tid%22%3a%22c5689f2c-8d0b-42f6-8d80-0f9b83c06d0a%22%2c%22Oid%22%3a%22bb79f447-e7e9-4ffd-8698-8d32f3cddae8%22%7d

Time	Summary and Questions
8:00 PM	Questions or Concerns by attendees and responses

agenda

Additional Information:

Attached you will find vicinity and zoning map

Notice of Neighborhood Meeting

Contact Information

Rezoning will appear on the following meetings:

October 6th Town Council Consent agenda item to set the public hearing, attendance is not needed at this meeting as it is a formality

October 12th Planning Board meeting to hold public hearing (virtual). Homeowners will attend meeting

October 20th Town Council meeting to hold public hearing (in person). Homeowners will attend meeting.

NOTE: If you would want an email invite sent to you directly, please email us with your email address at: cduanetaylor@yahoo.com.

PROJECT CONTACT INFORMATION

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

Development Contacts:

Project Name: _____ Zoning: _____

Location: _____

Property PIN(s): _____ Acreage/Square Feet: _____

Property Owner: Charles Duane Taylor Jr + Sherry Bailey Taylor

Address: 109 Holleman St

City: Apex State: NC Zip: 27502

Phone: 919 522-3186 Email: cduanetaylor@yahoo.com

Developer: _____

Address: _____

City: _____ State: _____ Zip: _____

Phone: _____ Fax: _____ Email: _____

Engineer: _____

Address: _____

City: _____ State: _____ Zip: _____

Phone: _____ Fax: _____ Email: _____

Builder (if known): _____

Address: _____

City: _____ State: _____ Zip: _____

Phone: _____ Fax: _____ Email: _____

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

Town of Apex Department Contacts

Planning Department Main Number (Provide development name or location to be routed to correct planner)	(919) 249-3426
Parks, Recreation & Cultural Resources Department Angela Reincke, Parks Planner	(919) 249-7468
Public Works - Transportation Russell Dalton, Senior Transportation Engineer	(919) 249-3358
Water Resources Department Mike Deaton, Stormwater & Utility Engineering Manager Stan Fortier, Senior Engineer (Sedimentation & Erosion Control)	(919) 249-3413 (919) 249-1166
Electric Utilities Division Rodney Smith, Electric Technical Services Manager	(919) 249-3342

NEIGHBORHOOD MEETING SIGN-IN SHEET

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

Meeting Address: Virtual Meeting
 Date of meeting: 9/24/2020 Time of meeting: 7:00 - 9:00 pm
 Property Owner(s) name(s): Charles Duane Taylor Jr & Sherry Bailey Taylor
 Applicant(s): Same

Please print your name below, state your address and/or affiliation with a neighborhood group, and provide your phone number and email address. Providing your name below does not represent support or opposition to the project; it is for documentation purposes only.

	NAME/ORGANIZATION	ADDRESS	PHONE #	EMAIL	SEND PLANS & UPDATES
1.	NO ONE	Attended			
2.					
3.					
4.					
5.					
6.					
7.					
8.					
9.					
10.					
11.					
12.					
13.					
14.					

Use additional sheets, if necessary.

SUMMARY OF DISCUSSION FROM THE NEIGHBORHOOD MEETING

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

Property Owner(s) name(s): Charles Duane Taylor Jr + Sherry Bailey Taylor

Applicant(s): Same

Contact information (email/phone): ~~Same~~ cdunetaylor@yahoo.com/919522-3180

Meeting Address: Virtual

Date of meeting: 9/24/2020 Time of meeting: 7:00-9:00 pm EST

Please summarize the questions/comments and your response from the Neighborhood Meeting in the spaces below (attach additional sheets, if necessary). Please state if/how the project has been modified in response to any concerns. The response should not be "Noted" or "No Response". There has to be documentation of what consideration the neighbor's concern was given and justification for why no change was deemed warranted.

Question/Concern #1:

NO ONE Attended

Applicant's Response:

Question/Concern #2:

Applicant's Response:

Question/Concern #3:

Applicant's Response:

Question/Concern #4:

Applicant's Response:

AFFIDAVIT OF CONDUCTING A NEIGHBORHOOD MEETING, SIGN-IN SHEET AND ISSUES/RESPONSES SUBMITTAL

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

I, Charles Duane Taylor SR, do hereby declare as follows:
Print Name

1. I have conducted a Neighborhood Meeting for the proposed Rezoning, Major Site Plan, Master Subdivision Plan, or Special Use Permit in accordance with UDO Sec. 2.2.7 *Neighborhood Meeting*.
2. The meeting invitations were mailed to the Apex Planning Department, all property owners within 300 feet of the subject property and any neighborhood association that represents citizens in the area via first class mail a minimum of 10 days in advance of the Neighborhood Meeting.
3. The meeting was conducted at 6521 Whittell Rd, Fuquay Varina ^(Virtual meeting) (location/address) on 9-24-2020 (date) from 7:00 PM (start time) to 9:00 PM (end time).
4. I have included the mailing list, meeting invitation, sign-in sheet, issue/response summary, and zoning map/reduced plans with the application.
5. I have prepared these materials in good faith and to the best of my ability.

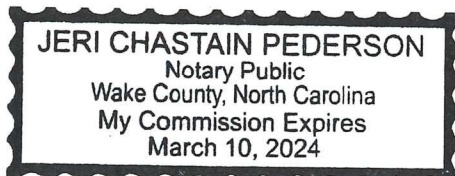
9-25-2020
Date

By: Charles Duane Taylor SR

STATE OF NORTH CAROLINA
COUNTY OF WAKE

Sworn and subscribed before me, Jeri Chastain Pederson, a Notary Public for the above State and County, on this the 25 day of September, 2020.

SEAL



Jeri Chastain Pederson
Notary Public
Jeri Chastain Pederson
Print Name

My Commission Expires: 3/10/2024

PLANNING BOARD REPORT TO TOWN COUNCIL

Rezoning Case: #20CZ10 109 Holleman Street

Planning Board Meeting Date: October 12, 2020



Report Requirements:

Per NCGS 160A-387, all proposed amendments to the zoning ordinance or zoning map shall have a written report provided from the Planning Board to the Town Council within 30 days of referral of the amendment to the Planning Board, or the Town Council may proceed in its consideration of the amendment without the Planning Board report. Furthermore, in no case is the Town Council bound by the recommendations, if any, of the Planning Board.

Per NCGS 160A-383, the Planning Board shall advise and comment on whether the proposed zoning amendment is consistent with all applicable officially adopted plans, and provide a written recommendation to the Town Council that addresses plan consistency and other matters as deemed appropriate by the Planning Board, but a comment by the Planning Board that a proposed amendment is inconsistent with the officially adopted plans shall not preclude consideration or approval of the proposed amendment by the Town Council.

PROJECT DESCRIPTION:

Acreage: ± 0.24 acre

PIN(s): 0742305576

Current Zoning: Office and Institutional (O&I)/ Small Town Character Overlay District

Proposed Zoning: Mixed Office-Residential-Retail-Conditional Zoning (MORR-CZ)/ Small Town Character Overlay Dist.

2045 Land Use Map: Medium Density Residential/Office Employment

Town Limits: Inside Town Limits

Applicable Officially Adopted Plans:

The Board must state whether the project is consistent or inconsistent with the following officially adopted plans, if applicable. Applicable plans have a check mark next to them.

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

☒ Apex Transportation Plan
☒ Consistent ☐ Inconsistent Reason: _____

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

PLANNING BOARD REPORT TO TOWN COUNCIL

Rezoning Case: #20CZ10 109 Holleman Street

Planning Board Meeting Date: October 12, 2020



Legislative Considerations:

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

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

☒ Consistent ☐ Inconsistent Reason: _____

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

☒ Consistent ☐ Inconsistent Reason: _____

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

☒ Consistent ☐ Inconsistent Reason: _____

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

☒ Consistent ☐ Inconsistent Reason: _____

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

☒ Consistent ☐ Inconsistent Reason: _____

PLANNING BOARD REPORT TO TOWN COUNCIL

Rezoning Case: #20CZ10 109 Holleman Street

Planning Board Meeting Date: October 12, 2020



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

☒ Consistent

☐ Inconsistent

Reason: _____

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

☒ Consistent

☐ Inconsistent

Reason: _____

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

☒ Consistent

☐ Inconsistent

Reason: _____

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

☒ Consistent

☐ Inconsistent

Reason: _____

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

☒ Consistent

☐ Inconsistent

Reason: _____

PLANNING BOARD REPORT TO TOWN COUNCIL

Rezoning Case: #20CZ10 109 Holleman Street

Planning Board Meeting Date: October 12, 2020



Planning Board Recommendation:

Motion: To recommend approval as proposed by applicant.

Introduced by Planning Board member: Tina Sherman

Seconded by Planning Board member: Ryan Akers

- ☐ *Approval:* the project is consistent with all applicable officially adopted plans and the applicable legislative considerations listed above.
- ☒ *Approval with conditions:* the project is not consistent with all applicable officially adopted plans and/or the applicable legislative considerations as noted above, so the following conditions are recommended to be included in the project in order to make it fully consistent:

As proposed by applicant.

- ☐ *Denial:* the project is not consistent with all applicable officially adopted plans and/or the applicable legislative considerations as noted above.

With 7 Planning Board Member(s) voting "aye"

With 0 Planning Board Member(s) voting "no"

Reasons for dissenting votes:

This report reflects the recommendation of the Planning Board, this the 12th day of October 2020.

Attest:

Michael Marks

Digitally signed by Michael Marks
Date: 2020.10.13 08:12:55 -04'00'

Michael Marks, Planning Board Chair

Dianne Khin

Digitally signed by Dianne Khin
Date: 2020.10.12 17:53:27
-04'00'

Dianne Khin, Planning Director



TOWN OF APEX

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

PUBLIC NOTIFICATION OF PUBLIC HEARINGS CONDITIONAL ZONING #20CZ10 109 Holleman Street

Pursuant to the provisions of North Carolina General Statutes §160A-364 and to the Town of Apex Unified Development Ordinance (UDO) Section 2.2.11, notice is hereby given of public hearings before the Planning Board and Town Council of the Town of Apex. The purpose of these hearings is to consider the following:

Applicants: Charles Duane Taylor, Jr and Sherry Bailey Taylor

Property Address: 109 Holleman Street

Acreage: ±0.24 acre

Property Identification Number (PIN): 0742305576

2045 Land Use Map Designation: Medium Density Residential/Office Employment

Existing Zoning of Properties: Office and Institutional (O&I)

Proposed Zoning of Properties: Mixed Office-Residential-Retail-Conditional Zoning (MORR-CZ)

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

Planning Board Public Hearing Date and Time: October 12, 2020 4:30 PM

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

If you are unable to attend, you may provide comments no later than noon on Friday, October 9, 2020 by email (public.hearing@apexnc.org, 350-word limit) or voicemail (919-362-7300, 3-minute limit) according to the Remote Participation Policy at: <http://www.apexnc.org/DocumentCenter/View/31397/>. You must provide your name and address for the record. These comments will be read during the Planning Board meeting.

Town Council Public Hearing Date and Time: October 20, 2020 6:00 PM

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

If you are unable to attend, you may provide comments no later than noon on Monday, October 19, 2020 by email (public.hearing@apexnc.org, 350-word limit) or voicemail (919-362-7300, 3-minute limit) according to the Remote Participation Policy at: <http://www.apexnc.org/DocumentCenter/View/31397/>. You must provide your name and address for the record. These comments will be read during the Town Council meeting.

If the Council meeting is held with at least one member attending virtually, written comments on the subject of the public hearing may be submitted between publication of any required notice and 24 hours after the public hearing and the Council's vote will occur at the Council's next regularly scheduled meeting.

Vicinity Map:



Property owners within 300 feet of the proposed conditional zoning have been sent this notice via first class mail. All interested parties may appear at the public hearing and be heard with respect to the application. Maps showing the location for the above site(s) to be considered in addition to a copy of the [2045 Land Use Map](#) can be inspected at the Apex Town Hall or call 919-249-3426, Department of Planning and Community Development, for further information. To view the petition and related documents on-line: <https://www.apexnc.org/DocumentCenter/View/33401>.

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



TOWN OF APEX

POST OFFICE BOX 290
 APEX, NORTH CAROLINA 27502
 PHONE 919-249-3426

PUBLIC NOTIFICATION OF PUBLIC HEARINGS CONDITIONAL ZONING #20CZ10 109 Holleman Street

Pursuant to the provisions of North Carolina General Statutes §180A-364 and to the Town of Apex Unified Development Ordinance (UDO) Section 2.2.1.1, notice is hereby given of public hearings before the Planning Board and Town Council of the Town of Apex. The purpose of these hearings is to consider the following:

Applicants: Charles Duane Taylor, Jr and Sherry Bailey Taylor

Property Address: 109 Holleman Street

Acreage: ±0.24 acre

Property Identification Number (PIN): 0742305576

2045 Land Use Map Designation: Medium Density Residential/Office Employment

Existing Zoning of Properties: Office and Institutional (OI&I)

Proposed Zoning of Properties: Mixed Office-Residential-Retail-Conditional Zoning (MORR-CZ)

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

Planning Board Public Hearing Date and Time: October 12, 2020 4:30 PM

If you would like to speak during the public hearing, you may sign-in ahead of time by emailing your name and address to publichearing@apexnc.org. You may attend the meeting in person or view the meeting through the Town's YouTube livestream at: <https://www.youtube.com/t/townofapexnc>.

If you are unable to attend, you may provide comments no later than noon on Friday, October 9, 2020 by email publichearing@apexnc.org. 350-word limit or voicemail (919-362-7300, 3-minute limit) according to the Remote Participation Policy at: <http://www.apexnc.org/DocumentCenter/View/31357/>. You must provide your name and address for the record. These comments will be read during the Planning Board meeting.

Town Council Public Hearing Date and Time: October 20, 2020 6:00 PM

You may attend the meeting in person or view the meeting through the Town's YouTube livestream at: <https://www.youtube.com/t/townofapexnc>.

If you are unable to attend, you may provide comments no later than noon on Monday, October 19, 2020 by email publichearing@apexnc.org. 350-word limit or voicemail (919-362-7300, 3-minute limit) according to the Remote Participation Policy at: <http://www.apexnc.org/DocumentCenter/View/31357/>. You must provide your name and address for the record. These comments will be read during the Town Council meeting.

If the Council meeting is held with at least one member attending virtually, written comments on the subject of the public hearing and the Council's vote will occur at the Council's next regularly scheduled meeting.

Vicinity Map:



Property owners within 300 feet of the proposed conditional zoning have been sent this notice via first class mail. All interested parties may appear at the public hearing and be heard with respect to the application. Maps showing the location for the above site(s) to be considered in addition to a copy of the [2045 Land Use Map](http://www.apexnc.org/DocumentCenter/View/31357/) can be inspected at the Apex Town Hall or call 919-249-3426, Department of Planning and Community Development, for further information. To view the petition and related documents on-line: <http://www.apexnc.org/DocumentCenter/View/31357/>.

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

Published Dates: September 28-October 20, 2020



TOWN OF APEX

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

AFFIDAVIT CERTIFYING Public Notification – Written (Mailed) Notice

Section 2.2.11
Town of Apex Unified Development Ordinance

Project Name: Rezoning #20CZ10 109 Holleman Street
Project Location: 109 Holleman Street
Applicant or Authorized Agent: Charles Duane Taylor, Jr and Sherry Bailey Taylor
Firm: N/A

This is to certify that I, as Planning Director, mailed or caused to have mailed by first class postage for the above mentioned project on **September 28, 2020** a notice containing the time and place, location, nature and scope of the application, where additional information may be obtained, and the opportunity for interested parties to be heard, to the property owners within 300' of the land subject to notification. I further certify that I relied on information provided to me by the above-mentioned person as to accuracy and mailing addresses of property owners within 300' of the land subject to notification.

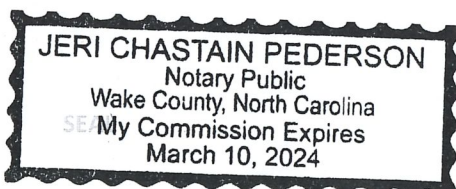
10/5/2020
Date

Shianne F. Khan
Director of Planning and Community Development

STATE OF NORTH CAROLINA
COUNTY OF WAKE

Sworn and subscribed before me, *Jeri Chastain Pederson* Notary Public for the above

State and County, this the 5 day of October, 2020.



Jeri Chastain Pederson
Notary Public

My Commission Expires: 03 / 10 / 2024



Rezoning #20CZ10

Apex Baptist Church

109

Public Hearing Sign Posted By

[Signature]
Signature

9/21/2020
Date

| Agenda Item | cover sheet

for consideration by the Apex Town Council

Item Type: OLD BUSINESS

Meeting Date: October 20, 2020

Item Details

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

Department(s): Economic Development

Requested Motion

Possible motion to extended current Parking-to-Dining Program layout adopted by Town Council on September 15, 2020 until November 1, 2020 to allow for extended outdoor dining and alcohol consumption as permitted by ABC Law or regulations, and to extend the ordinance temporarily modifying Town Code Sections 14-14 and 18-11 as they relate to sidewalk dining and alcohol consumption on public streets and sidewalks through November 1, 2020.

Approval Recommended?

Yes

Item Details

This possible motion is in connection to NC Executive Order 169 that extends indoor occupancy rates to 50% percent or 12 people per 1,000 sq. ft. through October 23, 2020.

Attachments

- Modification of Ordinances for sidewalk dining during COVID 19 – Amended
- New Parking-to-Dining Project Area Layout dated 8-10-2020



ORDINANCE NO. 2020-1020-33

AN ORDINANCE TEMPORARILY MODIFYING TOWN CODE SECTION 14-14 AND SECTION 18-11 AS TO A TEMPORARILY CLOSED PORTION OF SALEM STREET

BE IT ORDAINED by the Town Council of the Town of Apex as follows:

Section 1. Under the authority of N.C.G.S Section 18B-300(c), Section 18-11 of the Apex Town Code of Ordinances is temporarily modified beginning June 3, 2020 and continuing through November 1, 2020 as follows:

During the temporary closure of the parking portions of Salem Street in downtown Apex, Section 18-11(b) of the Apex Town code is amended as follows:

(b) Notwithstanding the provisions of Town Code subsection 18-11(a) and section 18-12, downtown sidewalk food service tables may be placed and used on the sidewalks and closed parking spaces in the Central Business District of the Town of Apex as provided in this subsection 18-11(b) except when the street is temporarily closed to regular traffic for special events. A "downtown sidewalk food service table" is a table used for food service by a food service provider and located on a public sidewalk or closed parking space directly in front of the food service provider's place of business in the Central Business District. Downtown sidewalk food service tables are subject to the following requirements:

(1) No downtown sidewalk food service table nor any chairs or other items used in connection with one shall reduce the clear accessible travel path of the sidewalk to a width of less than 36 inches. The width of the clear accessible travel path shall be measured from the street-side edge of the concrete sidewalk perpendicularly toward the building-side edge of the concrete sidewalk.

(2) Downtown sidewalk food service tables and all chairs and other items used in connection with them shall be situated, outfitted and used in a manner that does not constitute a hazard to persons using the sidewalks.

~~(3) — No person shall place, use or operate a downtown sidewalk food service table except as authorized by a site specific development plan approved by the Apex Planning Department.~~

Section 2. Under the authority of N.C.G.S Section 18B-300(c), Section 14-14(d) of the Apex Town Code of Ordinances is temporarily modified beginning June 3, 2020 and continuing through November 1, 2020 as follows:

(d) Exemption for downtown sidewalk food service tables. The consumption of malt beverage and unfortified wine and the possession of an open container of the same, at a "downtown sidewalk food service table," as defined in Town Code section 18-11, shall be exempt from subsections 14-14(b) and (c) if the service of such malt beverage or unfortified wine is pursuant to a valid ABC permit and in conformity with the ABC laws.

The Town of Apex grants control over the area of public sidewalk and closed parking space upon which a downtown sidewalk food service table is located to the adjacent food service provider to the least extent necessary for the area to qualify as part of the premises of the adjacent food service provider for the purposes of the applicable ABC permit.

The ordinance shall be effective upon enactment.

Introduced by Councilmember _____

Seconded by Councilmember _____

Attest:

TOWN OF APEX

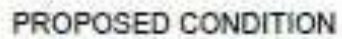
Donna B. Hosch, MMC, NCCMC
Town Clerk

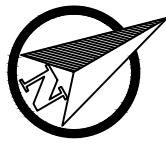
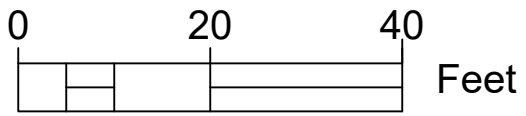
Jacques K. Gilbert
Mayor

Approved As To Form:

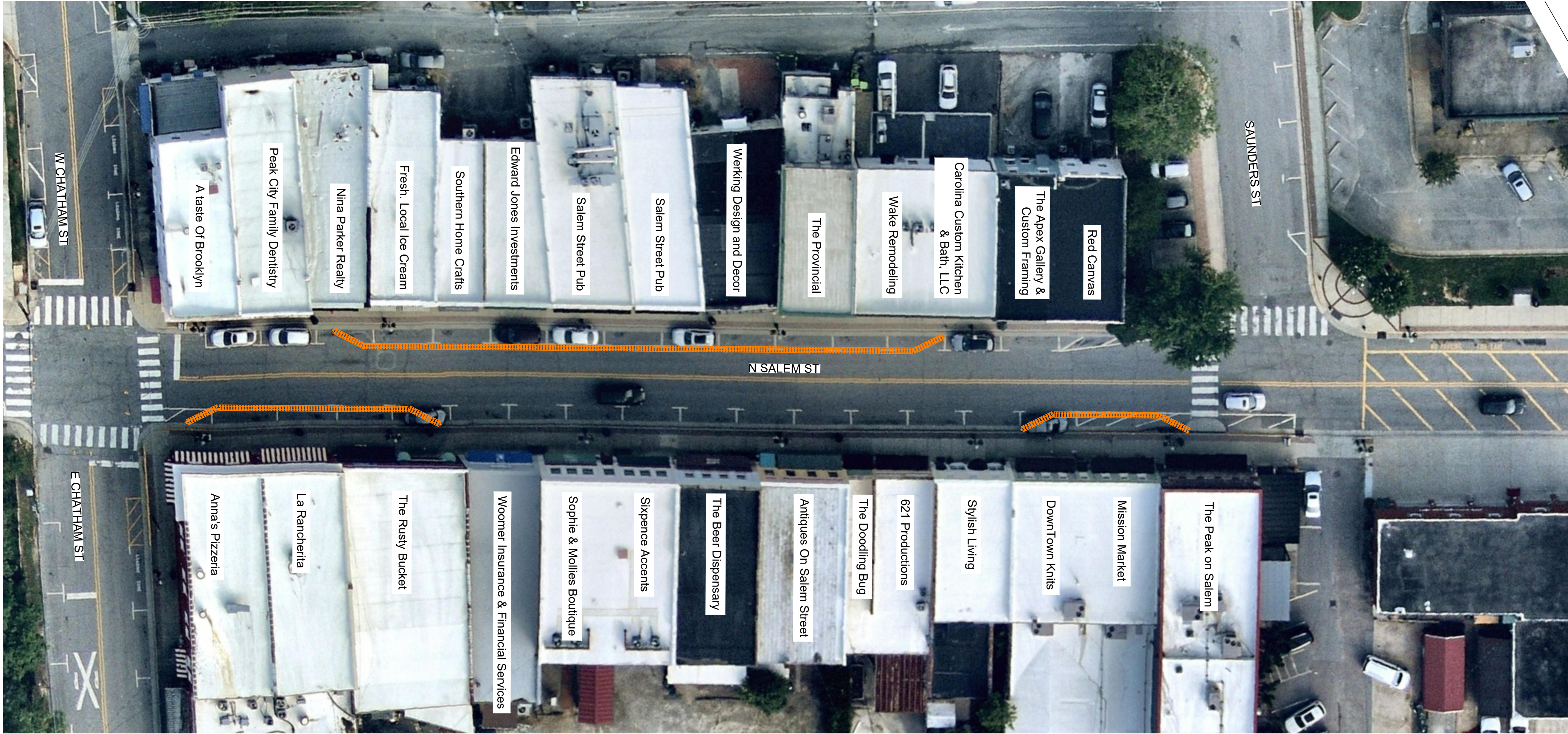
Laurie L. Hohe
Town Attorney

Apex Parking-to-Dining Layout





PROPOSED CONDITION



| Agenda Item | cover sheet

for consideration by the Apex Town Council

Item Type: UNFINISHED BUSINESS

Meeting Date: October 20, 2020

Item Details

Presenter(s): Mike Deaton, Water Resources Director

Department(s): Water Resources

Requested Motion

Possible motion to reduce the Civil Penalty that was assessed to the Center Street Pharmacy property owner on March 19, 2020, from \$4,700 to \$2,000.

Approval Recommended?

Yes

Item Details

As discussed at the September 1, 2020 meeting, the Town Council asked staff to evaluate the assessed civil penalty of \$4,700 and come back with criteria to consider in an effort to assist in reducing the amount.

The Town's Soil Erosion and Sedimentation Control Ordinance considers the following criteria when issuing civil penalties: the degree and extent of harm caused by the violation, the cost of rectifying the damage, the amount of money the violator saved by non-compliance, whether the violation was committed willfully, and the prior record of the violator in complying or failing to comply with requirements. Staff believes the above criteria is applicable to stormwater control measure compliance. No harm was caused by the violation. The Town has spent considerable time to rectify the problem. The violator did not save any money as compliance was eventually achieved. No willful action was committed. A long history of non-compliance has been documented at this property.

After considering the above criteria, Staff has determined that the amount of time and money spent to ensure compliance at the property is an essential criteria to consider. As such, an evaluation of staff time was completed which determined that stormwater staff spent approximately 40 to 50 hours of time over the past 11 years on this particular property. After taking into account staff average salary and benefits during that time, an approximate amount of \$2,000 can be calculated.

Town staff recommends reducing the current civil penalty assessment amount of \$4,700 to \$2,000.

To address this issue in the future, Water Resources staff will work with the Planning Department to develop UDO amendments that will be specific to Section 6.1 violations (such as failing to submit annual inspection reports) and use similar criteria as outlined above to develop new enforcement procedures that will substitute for the current \$100/day/violation criteria.

Attachments

- Notice of Civil Penalty Assessment_3-19-2020.pdf





March 19, 2020

Certified Mail
Return Receipt Requested

Raj Polavaram
RASI LLC GG GALLA LLC
2025 Giovanni Ct.
Cary, NC 27518

Re: NOTICE OF CIVIL PENALTY ASSESSMENT
Project Name: Center Street Pharmacy
Structural SCM(s): One (1) Bio Retention Cell

Dear Mr. Polavaram;

On January 9, 2020, the Town of Apex (Town) sent a Notice of Violation and Correction Order to you for violation of section 6.1.12(l)(1) of the Town Unified Development Ordinance (UDO). The Notice of Violation and Correction Order was delivered by the USPS on January 21, 2020 and specified a deadline for compliance of 10 calendar days after the date of receipt. Multiple attempts were made to contact you in reference to bringing the site into compliance to include: signature receipt with the USPS, site visit, speaking with your realtor (who is selling the facility) with North Carolina Medical & Commercial Realty on 2/26/2020 and I'm glad to hear that James Misciagno was able to speak with you over the phone on March 12, 2020. As of March 18, 2020, the items identified in the Notice of Violation and Correction Order have not been completed. Section 6.1.15(B) of the Town UDO provides authority to impose a civil penalty in accordance with UDO section 11.4.4. Civil penalties of up to \$100.00 per violation per day can accrue and can continue to accrue if the violation is not remedied.

You are hereby assessed a civil penalty in the amount of \$4700.00.

In order to comply with the Town UDO, you must and are hereby ordered to conduct the following:

- Pay assessed civil penalty.
- Take immediate action to complete the corrective actions specified in the January 9, 2020 Notice of Violation and Correction Order.

The civil penalty payment of \$4700.00 is due by 5:00pm on Friday, April 24, 2020. Please make payment payable to the Town of Apex, Attn: Lindley Paynter, P.O. Box 250, Apex, NC 27502. If you wish to contest this assessment, please provide written demand for a hearing within thirty (30) days after receipt of this notice to the Town Clerk at P.O. Box 250, Apex, NC 27502. A hearing on a civil penalty shall be conducted

by the Town Board of Adjustment after the date of the written demand for the hearing. The Town Board of Adjustment shall render its final decision on the civil penalty after the close of the hearing record.

Failure to comply with the listed measures will be considered a continuation of the January 9, 2020 Notice of Violation and Correction Order. No further notices of violation will be issued; violations will result in further accumulation of civil penalties.

Your assistance and cooperation in this matter is appreciated. If you have any questions, please feel free to contact me at (919) 249-3413 or Michael.Deaton@apexnc.org.

Sincerely,
TOWN OF APEX, NC



Michael Deaton, PE
Water Resources Director

cc: Brian Meyer, *Assistant Town Attorney*

| Agenda Item | cover sheet

for consideration by the Apex Town Council

Item Type: NEW BUSINESS

Meeting Date: October 20, 2020

Item Details

Presenter(s): Nicole Dozier, Mayor Pro Tem

Department(s): Town Council

Requested Motion

Discussion and possible motion to adopt the Town of Apex Living Wage resolution and approve an amendment to the Personnel Policies Manual to include a Living Wage policy.

Approval Recommended?

Yes

Item Details

During the FY2021 budget process, Town Council approved adjusting employee salary ranges to establish a Living Wage of \$15.00 per hour, effective October 5, 2020. Town staff asks that the attached Living Wage Resolution be adopted, and the Town Personnel Policies be amended to include the following:

Living Wage

Part-time and full-time employees who work a minimum of 1040 hours per year shall be paid no less than an established Living Wage. The Living Wage calculation shall be based upon the Universal Living Wage Calculation and reviewed annually for needed adjustments. The Living Wage shall be subject to Town Manager recommendation and Council approval as part of the annual budget approval process.

Attachments

- TOA Living Wage Resolution



RESOLUTION NO. 20-1020-09

RESOLUTION TO ESTABLISH A LIVING WAGE FOR TOWN EMPLOYEES

WHEREAS, many North Carolinians perform important, essential work within an economy where wages can be stagnant and public, community resources can be insufficient;

WHEREAS, market forces along with sound public policy, can ensure community members have what they need to care for themselves and their families;

WHEREAS, the cost of food, transportation, housing, health care, childcare and other living expenses make it increasingly difficult for workers who earn low wages to meet the most basic needs; and

WHEREAS, the cost of living may cause individual workers, if available, to take on second and third jobs in order to support themselves and their families; and

WHEREAS, a Living Wage is defined as the minimum amount of income a worker needs to meet their most basic needs including housing, clothing and food; and

WHEREAS, a Living Wage will assure social and economic benefits and for the community as a whole as well as increase consumer spending and help strengthen the local economy; and

WHEREAS, the Town of Apex is committed to providing compensation to employees resulting in excellent level of service to the community; and

WHEREAS, the Town of Apex desires to pay Town employees a Living Wage to promote well-being and ensure that workers are able to meet their basic needs; and

WHEREAS, a Living Wage will contribute to lower turnover rates that will reduce the costs of recruitment, hiring, and training and increase the quality and continuity of job performance and aid in retention; and

WHEREAS, Town Council approved salary range adjustments in the FY2021 budget to allow for the implementation of a Living Wage rate for Town employees;

NOW, THEREFORE, BE IT RESOLVED that the Town Council of the Town of Apex does hereby approve a Living Wage Pay Policy for Town of Apex employees, subject to the following:

1. Part-time and full-time employees who work a minimum of 1040 hours per year shall be paid no less than an established Living Wage.
2. The Living Wage calculation shall be based upon the Universal Living Wage Calculation, a widely used and nationally accepted method for determining the Living Wage in a specific area.

3. The Town shall annually review changes in Living Wage calculations and establish the Town's Living Wage. The Living Wage shall be subject to Town Manager recommendation and Council approval as part of the annual budget approval process.
4. A Living Wage of \$15.00 an hour is effective October 5, 2020 for eligible Town employees.

Adopted this the 20th day of October 2020.

By: _____
Jacques K. Gilbert
Mayor

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

| Agenda Item | cover sheet

for consideration by the Apex Town Council

Item Type: NEW BUSINESS

Meeting Date: October 20, 2020

Item Details

Presenter(s): Shannon Cox, Long Range Planning Manager with Shawn Purvis, Assistant Town Manager

Department(s): Planning and Community Development and Administration

Requested Motion

Possible motion to approve implementation of the proposed Apex Cares Housing Rehabilitation Program with an annual funding allocation from the Affordable Housing Fund.

Approval Recommended?

Yes

Item Details

The Town of Apex's adopted budget includes the creation of an Affordable Housing Fund, which will receive annual revenue equivalent to one-cent on the tax rate, approximately \$1 million in FY20-21. The purpose of this item is to discuss a proposal to allocate \$250,000 from that fund to begin the proposed Apex Cares Housing Rehabilitation Program ("Program"). The purpose of the Program is to assist resident homeowners of single-family, detached dwellings; condominiums; and townhomes with needed repairs to preserve safe and sanitary housing, correct hazardous structural conditions, help residents age in place, and improve accessibility for persons with disabilities. The Program will also help preserve naturally-occurring affordable housing in Apex. Through the Program, assistance to complete eligible housing repairs will be given to eligible, low-income, owner-occupied homeowners within Town of Apex corporate limits. The recommended guidelines for this new program are provided as an attachment. If Council approves the program and funding, staff has already identified a partner to carry out the program.

Attachments

- Apex Cares – Housing Rehabilitation Program Guidelines



TOWN OF APEX

APEX CARES – HOUSING REHABILITATION PROGRAM GUIDELINES

I. OVERVIEW OF PROGRAM

a. Purpose of the Program

The purpose of the Apex Cares - Housing Rehabilitation Program (“Program”) is to assist resident homeowners of single-family, detached dwellings; condominiums; and townhomes with needed repairs to preserve safe and sanitary housing, correct hazardous structural conditions, help residents age in place, and improve accessibility for persons with disabilities. This program will also help preserve naturally-occurring affordable housing in Apex. Through the Program, assistance to complete eligible housing repairs will be given to eligible, low-income, owner-occupied homeowners of single-family homes, condominiums, and townhomes within Town of Apex corporate limits. The Program’s eligibility criteria are further outlined under Section II of these Housing Rehabilitation Program Guidelines (“Guidelines”).

b. Source of Funds and Relationship with Non-Profit Agencies

Funding for Program is provided through the Town of Apex Affordable Housing Fund. Apex will contract with non-profit agencies (“Agencies”) to provide administrative services and to organize, oversee, and ensure performance of housing repair activities contemplated by these Guidelines. Apex shall market the Program, develop Program guidelines, and process funds to the Agencies. Apex shall not serve as a general contractor or otherwise oversee any housing repair activities provided through the Program.

c. Amount of Assistance Available

Funding per eligible household shall be based on household need, level of home repair need, and overall funding availability, but in no case shall exceed \$15,000 per household within a 5-year period.

II. PROGRAM SERVICES PROVIDED BY AGENCIES

a. Agencies participating in Program shall provide the following services in compliance with Guidelines:

- i. Screen applicants and properties for eligibility pursuant to the requirements set out in these Guidelines;
- ii. Enter into contracts with each applicant who will receive Program Funding;
- iii. Find licensed subcontractors to perform work, when applicable;
- iv. Require applicants and contractors working on their behalf to submit documentation as work progresses;
- v. Confirm improvements have been made in accordance with the contract with applicant and in compliance with applicable laws or regulations;
- vi. Collect and have the ability to provide all documentation set out in these Guidelines;
- vii. Comply with all other requirements set out in these Guidelines; and,

- viii. Prepare and submit semiannual reports to the Town regarding progress, including: applications received, homeowners assisted, requests denied or delayed, funds expended, and successes and issues of concern.

III. APPLICANT ELIGIBILITY REQUIREMENTS

a. Income Eligibility Standards Based on Total Persons in Household

Agencies shall ensure that participation in Program is limited to applicants whose annual household income does not exceed 65 percent of the area median income, adjusted for household size and reported for the Raleigh Metropolitan Statistical Area, as determined for each fiscal year by the Department of Housing and Urban Development. Agencies shall require applicants to submit documentation necessary to determine applicant eligibility.

b. Property Ownership

To be eligible to receive assistance through Program, applicant(s) shall be the current owner(s) of the property to be rehabilitated ("Property"), live on the Property as their principal place of residence and have owned and lived on the property for a minimum of three years. Property owner(s) are any person(s) or legal entity that holds title to the Property. In instances of multiple ownership, the signature of each owner is required on all appropriate documents. Agencies shall verify Property ownership and require all current owners to give written consent to all work proposed to be done on the Property prior to contracting for or initiating such work.

c. Required Documentation

Applicants shall submit an Apex Cares Housing Rehabilitation Program Inquiry Form to Agencies. Agencies shall require applicant(s) to submit the documents necessary to determine eligibility, which may include:

- i. Copy of Federal Income Tax forms for the previous year (2 years if applicant is self-employed);
- ii. Copy of the instrument by which the applicant(s) obtained title to the property and any uncanceled Deeds of Trust;
- iii. Proof of residency for three years prior to the date of application;
- iv. Copy of recent payroll check stubs, Social Security checks, Social Security SSI checks, AFDC checks or pension and retirement checks, bank statement (six months), or other appropriate and acceptable income and asset verifications;
- v. Copy of any insurance policies covering the property;
- vi. Proof of mortgage and utility payments;
- vii. Copy of identification with photograph, such as, but not limited to driver's license, passport, etc.; and,
- viii. Copy of covenants for any homeowner or condominium association, if applicable.

d. Re-Application Period

In order to give as many persons the opportunity to participate in the Program as possible, applicants may apply for a maximum of \$15,000 through the Program in any 5-year period.

Applicants may apply for funding multiple times within a 5-year period; however, no applicant(s) who has received \$15,000 in assistance within a 5-year period may receive additional funding, unless no other applicants are awaiting assistance under the Program.

IV. PROPERTY ELIGIBILITY REQUIREMENTS

a. Areas Eligible Under Program

Properties that are rehabilitated as part of Program must be zoned and used for residential purposes and located within the corporate limits of the Town of Apex.

b. Minimum Property Rehabilitation Standards

All work performed shall meet all applicable standards contained in Town ordinances, local building and safety codes, and the State Building Code, as well as any other applicable federal, state, or local laws or regulations.

c. Eligible Structures

Only owner-occupied, single-family detached dwellings, condominiums, or townhomes are eligible for rehabilitation through Program.

d. Rehabilitation Needs which Warrant Priority Repair

Applicants in need of the following health and safety items shall be given priority, in the order listed below, when Agencies select recipients of Program funds:

- i. Roof
- ii. Foundation;
- iii. Electrical wiring;
- iv. Plumbing;
- v. Heating/Cooling System;
- vi. The elimination of specific conditions detrimental to public health and safety, which have been identified by the Town.

e. Eligible Improvements and Repairs

Improvements and repairs that may be eligible through the Program are:

- i. Correction of code violations;
- ii. Correction of current or emerging violations of the applicable Building Code;
- iii. Testing and treatment/removal of lead-based paint/asbestos hazards;
- iv. Removal of barriers to persons with disabilities;
- v. Repair/replace roofing;
- vi. Repair/replace HVAC systems;
- vii. Repair/replace plumbing/sewer pipes/fixtures;
- viii. Repair/replace screens;
- ix. Install new smoke alarms;
- x. Install new insulation;
- xi. Repair/replace kitchen and bath flooring;
- xii. Repair/replace water heaters;

- xiii. Repair/replace bath fixtures;
- xiv. Repair/replace countertops;
- xv. Repair/replace electrical system;
- xvi. Installation of ground-fault circuit interrupters;
- xvii. Repair/replace windows;
- xxiii. Repair/replace plaster, siding and stucco;
- xix. Painting (inside and outside);
- xx. Install new deadbolt locks;
- xxi. Interior accessibility improvements for persons with disabilities;
- xxii. Repairs or improvements to allow residents to age in place, such as, but not limited to: installation of grab bars in hallways and showers, stair lifts, and walk-in tubs;
- xxiii. Repair/replace carpet;
- xxiv. Structural repairs/modifications (only to correct existing structural code deficiencies or to provide accessibility to persons with disabilities);
- xxv. Entry repairs;
- xxvi. Cost effective energy conservation measures, including solar heating, cooling, and water systems permanently affixed to dwelling;
- xxvii. Any items determined eligible by the Town; and
- xxviii. The elimination of specific conditions detrimental to public health and safety, which have been identified by the Town.

f. Ineligible Improvements and Repairs

The following repairs and improvements **are not** eligible for funding through the Program:

- i. All improvements covered by a homeowners' association or condominium-owners' association.
- ii. New construction;
- iii. Reimbursement for an owner's personal labor;
- iv. Appliances (except built-in stove, cook top, or garbage disposal);
- v. Purchase, installation, or repair of furniture;
- vi. Demolition that does not improve the existing structure;
- vii. Repairs that are interim in nature;
- viii. Wrought iron security devices;
- ix. Recreational equipment, facilities, or repairs;
- x. Kennels;
- xi. Bath houses, swimming pools, saunas, hot tubs, or Jacuzzis;
- xii. Photomurals, stands, television antennas, valances, or cornice boards;
- xiii. Burglar alarms or security systems;
- xiv. Greenhouses;
- xv. Drapes;
- xvi. Barbecue pits;
- xvii. Repair/replace fencing; and
- xviii. Luxury Items.

g. Other Improvements and Repairs

If a proposed improvement or repair is not present on the above lists, or is listed as an ineligible improvement or repair but would accomplish the goals of Program, Agencies may seek an eligibility determination from the Town. The Town, upon receiving such a request and at its sole discretion, shall determine whether the requested improvement or repair will be eligible to receive Program funds. Any appeals to the Town's determination of eligibility will be considered in a public hearing by the Town of Apex Board of Adjustment.

V. **PROGRAM FUNDS**

a. Contracts

Each Agency shall enter into a contract with the Town before administering Program services. The contract will specify a maximum amount of funding to be disbursed to the Agency to provide Program services.

b. Disbursements

A disbursement equal to 33.3% of the maximum contract amount shall be disbursed to an Agency within thirty (30) days of Town of execution of the contract. A second disbursement of an additional 33.3% shall be made to an Agency upon certification made by the Agency that 90% of the previously disbursed funds have been expended on eligible projects. A final disbursement of the remaining 33.3% shall be made to an Agency upon certifications made by the Agency that 90% of previously disbursed funds have been expended on eligible projects.

c. Accounts

Agencies shall cause disbursed funds to be held in interest-bearing accounts at financial institutions insured by an agency of the federal government.

d. Income

Interest accrued by Program funds shall be credited to the account that creates it. Any such interest shall be used solely for the administration of the account itself or be included in Program funds for expenditure on eligible projects.

e. Unspent Funds

Any funds that remain unspent by an Agency at the end of a contract term shall:

- i. be retained by the Agency and included in the Program funds available to Agency for the next Program year, if Town and Agency enter into a new contract for another Program year, or
- ii. be returned to the Town of Apex by the Agency

f. Accounting

- i. Agencies shall utilize an accounting system that complies with current generally accepted accounting principles and:
 1. Provides effective internal control over and accountability for all Program funds disbursed to Agency;

2. Ensures that accounting records are supported by source documentation (e.g., invoice, receipts or contracts); and
3. Accounts Program funds received by Agency separately from funds received from all other sources.

VI. OVERSIGHT

a. Record Retention

Agencies must maintain all records pertinent to their participation in Program, including all accounting records and records pertinent to each Property that receives Program funds, for five years from the termination date of the Agency's contract with Town of Apex or upon the completion date of any project undertaken under that contract, whichever is later. All records must be sufficient to determine compliance with the requirements and objectives of the Program.

b. Required Project Documentation

In addition to accounting documentation, Agencies shall collect and maintain, at a minimum, the following documentation related to each project undertaken with Program funds:

- i. Original application submitted by applicant;
- ii. Documentation used to determine applicant and household eligibility, including but not limited to:
 1. Proof of home ownership submitted by Applicant;
 2. Proof of current taxes, mortgage, and utility payments to the Town of Apex submitted by applicant; and
 3. Proof of income eligibility.
- iii. Original agreement between applicant and Agency;
- iv. Scope of work / work write up for the project;
- v. Documentation showing compliance with of all regulatory requirements applicable to a specific project, including but not limited to:
 1. Proof of inspections; and
 2. Evidence of adherence to lead-based paint regulations.

c. Production and Survival

Agencies shall, at any time within the five-year retention period described above, be able to produce any and all documentation detailed above upon request of the Town of Apex. This obligation shall extend beyond the termination date of any contract between the Agency and the Town of Apex.

d. Audits

During the contract term, the Town of Apex shall be permitted to conduct on-site audits of Agencies upon reasonable notice. The Town intends to conduct such audits on an annual basis, but may conduct an audit at any time upon the giving of reasonable notice.

VII. OTHER PROGRAM REQUIREMENTS

a. Bonus, Commission, or Fee

Applicants shall not be permitted to pay any bonus, commission, or fee for the purposes of obtaining approval related to Program, and Agencies, their employees, subcontractors, or other agents shall not accept any such bonus, commission, or fee should it be offered.

b. Conflict of Interest

No Program funding will be provided to any member of the governing body or employee of the Town of Apex who is involved in making or administering the Program or this Agreement. No member of Agencies shall have any interest, direct or indirect, in Program funding or in any contract entered into by an applicant for the performance of work, financed, in whole or in part, with Program funds.

c. Disclosure of Information

The Town of Apex is a public agency and information or records submitted, whether to the Town or to Agencies, by applicants are public records and subject to disclosure under Section § 132-6 of the North Carolina Public Records Law unless such information or records is protected from disclosure.

| Agenda Item | cover sheet

for consideration by the Apex Town Council

Item Type: NEW BUSINESS

Meeting Date: October 20, 2020

Item Details

Presenter(s): Audra Killingsworth, Council Member

Department(s): Governing Body

Requested Motion

Discussion and possible motion to amend Section 4.3 of the Town of Apex Code of Ordinances to allow the keeping of dwarf/pygmy goats within the town limits.

Approval Recommended?

N/A

Item Details

Council received a request, from a resident, to consider permitting the keeping of dwarf/pygmy goats, in a manner similar to the allowance to keep miniature pigs, within town limits.

Attachments

- Presentation from Resident
- Draft Ordinance Change



ORDINANCE NO. 2020-1020-34

AN ORDINANCE TO AMEND SECTION 4-3 OF APEX TOWN CODE

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

Section 1. Subsection (b) of 4-3 of the Town of Apex Code of Ordinances is hereby amended to read as follows with additions shown as bold underlined text and deletions shown as struck-through text:

Sec. 4-3. – Prohibition of certain animals.

(b) *[Exemptions.]* The following animals are exempt from this section:

- (1) Horses;
- (2) Ponies;
- (3) Rabbits; and
- (4) Fowl except male chickens.
- (5) Miniature pigs—provided that no more than two are kept per dwelling, that all pigs over the age of eight weeks are neutered, that they be no more than 20 inches in height at the shoulders when full grown, and that they are kept within the dwelling house of the owner or possessor unless outside in a fenced area for exercise or controlled by a leash in the same manner as required for dogs.
- (6) **Dwarf/Pygmy goats - provided that no more than two are kept per dwelling, that all dwarf/pygmy goats over the age of eight weeks are neutered, that they be no more than 24 inches in height at the shoulders when full grown, and that they are kept within the dwelling house of the owner or possessor, outside in a fenced area that is a minimum of 135 square feet per animal with a shelter that is a minimum of 20 square feet per animal, or controlled by a leash in the same manner as required for dogs.**

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

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

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

Introduced by Council Member: _____

Seconded by Council Member: _____

This the 20th day of October 2020.

Jacques K. Gilbert
Mayor

ATTEST:

Donna B. Hosch, MMC, NCCMC
Town Clerk

APPROVED AS TO FORM:

Laurie L. Hohe
Town Attorney

Goat Request

By Nadia Howard



Town of Apex Code of Ordinances

Sec. 4-3. Prohibition of Certain Animals

“The keeping of livestock and male chickens is prohibited within the corporate limits of the town. Livestock includes, but is not limited to, cows, **goats**, sheep, swine and other similar animals.

The following animals are exempt from this section:

- (1) Horses
- (2) Ponies
- (3) Rabbits; and
- (4) Fowl except male chickens.
- (5) Miniature pigs- provided that **no more than 2** are kept per dwelling, that all pigs over the age of eight weeks are neutered, that they be **no more than 20 inches in height** at the shoulders when full grown, and they are kept within the dwelling house of the owner or possessor unless outside in a fenced area for exercise or controlled by a leash in the same manner as required for dogs.”

Woodridge HOA Covenants

7. "No animals, livestock, or poultry of any kind shall be kept or maintained on any Lot or in any dwelling, except that dogs, cats, or other household pets may be kept or maintained, provided that they are not maintained for commercial purposes."

I would argue...

Goats are small, cuddly, relational animals, that would be a part of our household just like our dog and cat.

They will be housed in a well maintained, professionally built, enclosed shelter, to protect them from predators at night, which is more than our indoor/outdoor cat gets.

The Nigerian Dwarf goat breed is approximately the same height as the allowable pigs, per town ordinance, when they are full grown.

It seems as though they have more in common with the allowed animals than differences

What you Need to Know Nigerian Dwarf Goats



← Much
smaller
than your
average
goat
↙



Fully grown
they are an
average of
22.5 inches
tall

What our Neighbors Think

We had an overwhelming amount of positive feedback from the people on Starita ct. ...

"Of course!" -Jackie & Mark Coats (next door)

"We love idea of little tiny goats as pets!"
-Kirk & Lisa Krauza

"Yes! We want to visit them!" -John & Sandy Swick

"Sounds awesome!!" -Amy & Paul Levering

"Go for it!" -Jen Swick

"I would love it!!" -David McCall

"I have no issues with it!" -Kristy Isaacs

"We are 100% in support and would love to meet them!" -Rachel & Reese Miller

(We did have mixed results, however most of the feedback was positive. Additionally, it started a discussion on whether or not our 20 'year old' neighborhood covenants need to be updated)

Fun Facts

- Especially friendly and cuddly (more so than other goats)
- Most often used as therapy animals
- Makes them the ideal goat yoga goats
- Eat poison ivy and briars



“The entertaining nature of goats is among the qualities that make them excellent therapy animals. Their playfulness can bring people out of their shell, lift their spirits, and even lower blood pressure. ... They’re also funny and happy animals, so they make you laugh as well.”

<https://backyardgoats.iamcountryside.com/ownership/therapy-goats-from-hoof-to-the-heart/>

What They Need

- Two nigerian dwarf goats need a 4x5 shelter space
- We already have a space we could convert into a shelter that extends well beyond that limit (8x10)
- Snuggles and human interaction

Why Should Goats be Allowed now?

Its 2020 😊...

Traditional ideas about what makes a neighborhood desirable are changing. Smith Farms is a new neighborhood that has replaced a conventional neighborhood pool with garden plots for the people to grow their own food to make for a healthier environment.

Goats can do the same thing, they can bring joy and happiness to our homes and neighborhoods in these trying times, because they are such silly and loveable creatures.

Apex is an inclusive community. I would like to include Nigerian Dwarf goats as one of my household pets.

Thank you for Your Time!

Sec. 4-3. - Prohibition of certain animals.

- (a) *Livestock and male chickens.* The keeping of livestock or male chickens is prohibited within the corporate limits of the town. Livestock includes, but is not limited to, cows, goats, sheep, swine and other similar animals.
- (b) *[Exemptions.]* The following animals are exempt from this section:
- (1) Horses;
 - (2) Ponies;
 - (3) Rabbits; and
 - (4) Fowl except male chickens.
 - (5) Miniature pigs—provided that no more than two are kept per dwelling, that all pigs over the age of eight weeks are neutered, that they be no more than 20 inches in height at the shoulders when full grown, and that they are kept within the dwelling house of the owner or possessor unless outside in a fenced area for exercise or controlled by a leash in the same manner as required for dogs.
 - (6) **Dwarf/Pygmy goats - provided that no more than two are kept per dwelling, that all dwarf/pygmy goats over the age of eight weeks are neutered, that they be no more than 24 inches in height at the shoulders when full grown, and that they are kept within the dwelling house of the owner or possessor, outside in a fenced area that is a minimum of 135 square feet per animal with a shelter that is a minimum of 20 square feet per animal, or controlled by a leash in the same manner as required for dogs.**

(Ord. No. 2007-0403-05, § 1, 4-3-07; Ord. No. 2007-0515-07, § 1, 5-15-07; Ord. No. 2018-0417-18, § 1, 4-17-2018)

| Agenda Item | cover sheet

for consideration by the Apex Town Council

Item Type: NEW BUSINESS

Meeting Date: October 20, 2020

Item Details

Presenter(s): Cheryl Stallings, Council Member

Department(s): Town Council

Requested Motion

Discussion regarding recent amendments to the Transportation Plan Map and possible direction to staff to begin the process to re-examine two changes to allow for additional public input.

Approval Recommended?

N/A

Item Details

At the October 6, 2020 Town Council meeting, two amendments to the Transportation Plan Map were made absent staff recommendation and after approval, member(s) of Council are suggesting a new notice and hearing process be started to re-examine updates related to New Hill Olive Chapel Road (updating to a 4 lane road with a median), and North Salem between 64 and the Peakway (updating to a 4 lane road with a median). Owing to concerns about the potential impact of these amendments to businesses, faith communities, and homes (some historic) along these roads, there is a desire to have citizens to have more of an opportunity to provide comments.

Attachments

- [List attachments or N/A]



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for consideration by the Apex Town Council

Item Type: CLOSED SESSION
Meeting Date: October 20, 2020

Item Details

Presenter(s): Jacques K. Gilbert, Mayor
Department(s): Town Council

Requested Motion

Possible motion to go into Closed Session to discuss a personnel matter

Approval Recommended?

Yes

Item Details

N/A

Attachments

- N/A



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for consideration by the Apex Town Council

Item Type: WORK SESSION

Meeting Date: October 20, 2020

Item Details

Presenter(s): Shannon Cox, Russell Dalton, Vance Holloman, Shawn Purvis

Department(s): Planning, PW-Transportation, Finance, Budget

Requested Motion

Receive information regarding cost and timing of transportation projects and existing debt capacity in order to consider possible financing options to fund transportation projects.

Approval Recommended?

N/A

Item Details

The current CIP includes \$47.7M for transportation projects over the next four years and \$27.5M for projects beyond 2025. Staff is preparing updated CIP requests and has identified additional needs beyond the current plan. While some of the smaller projects are expected to be covered through annual revenue sources, the larger projects will require a financing mechanism in order to move forward. Planning and Transportation staff will provide an update on expected timelines and cost estimates for large transportation projects and Finance staff will provide an update on expected debt capacity and limits. Budget staff will assist Council in considering and prioritizing transportation projects within the limits of the expected debt models in order for Council to consider the feasibility of a bond referendum.

Attachments

- N/A

