

## REVISED AGENDA | REGULAR TOWN COUNCIL MEETING

September 13, 2022 at 6:00 PM

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

#### Town Council and Administration

Mayor: Jacques K. Gilbert | Mayor Pro Tem: Audra Killingworth Council Members: Brett D. Gantt; Cheryl F. Stallings; Terry Mahaffey; Edward Gray Town Manager: Catherine Crosby | Deputy Town Manager: Shawn Purvis | Assistant Town Manager: Marty Stone Town Clerk: Allen Coleman, CMC, NCCCC | Town Attorney: Laurie L. Hohe

## COMMENCEMENT

Call to Order | Invocation | Pledge of Allegiance

## **CONSENT AGENDA**

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

#### CN1 Appointments - Planning Board - REMOVED

Allen Coleman, Town Clerk

CN2 Appointment to North Carolina Eastern Municipal Power Agency (NCEMPA) Board of Commissioners - Eric Neumann

Shawn Purvis, Deputy Town Manager

CN3 Budget Ordinance Amendment No. 4 - Retiree Cost of Living (COL) Supplement

Amanda Grogan, Director of Budget and Performance Management

## **CN4 Budget Ordinance Amendment No. 5 - Property Acquisition** Shawn Purvis, Deputy Town Manager (as Interim Finance Director)

CN5 Council Meeting Minutes - May/June 2022

Allen Coleman, Town Clerk

- **CN6** Encroachment Agreement NCDOT American Tobacco Trail Michael S. Deaton, PE, Director of Water Resources
- **CN7** Grant Contract North Carolina Land and Water Fund Reimbursement Grant Jessica Bolin, P.E., Stormwater Engineering Manager
- **CN8** Jenks Road Veterinarian Fee-in-Lieu (FIL) Michael S. Deaton, PE, Director of Water Resources

CN9 Memorandum of Understanding (MOU) between Triangle J Council of Governments (TJCOG) and the Town of Apex - Clean Water Education Partnership (CWEP)

Jessica Bolin, P.E., Stormwater Engineering Manager

- CN10 Memorandum of Understanding (MOU) between Triangle J Council of Governments (TJ-COG) and Town of Apex - Solarize the Triangle Program Amanda Grogan, Director of Budget and Performance Management
- **CN11 Resolution Delegation of Authority to Accept Donations** Shawn Purvis, Deputy Town Manager
- CN12 Rezoning Case No. 22CZ10 Calyx Senior Living (KOBRA PUD Amendment) Statement and Ordinance

Liz Loftin, Senior Planner

- **CN13 Rezoning Case No. 22CZ15 CarSpace Apex Statement and Ordinance** Amanda Bunce, Current Planning Manager
- **CN14 Rezoning Case No. 22CZ16 1039 Irongate Drive- Set Public Hearing** Lauren Staudenmaier, Planner II
- **CN15 Rezoning Case No. 21CZ17 Ten Ten Business Park Set Public Hearing** Sarah Van Every, Senior Planner
- CN16 Tax Report July 2022

Allen Coleman, Town Clerk

- **CN17 Unified Development Ordinance (UDO) Amendments Statement August 2022** Dianne Khin, Director of Planning and Community Development
- **CN18 Unified Development Ordinance Amendments September 2022 Set Public Hearing** *Amanda Bunce, Current Planning Manager*

## PRESENTATIONS

## **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 Bicycle and Pedestrian System Plan Map Amendment - Proposed Bike Lanes - Laura Duncan Road

Jenna Shouse, Senior Long Range Planner

#### PH2 Ordinance Amendment for Article I of Chapter 10

Brian Meyer, Deputy Town Attorney, and Senior Zoning Compliance Officers Mark Siburt and Trevor Johnson

## **OLD BUSINESS**

#### **OB1** Town's Strategic Plan Framework - Adoption

Shawn Purvis, Deputy Town Manager

## **UNFINISHED BUSINESS**

#### UB1 Rezoning Case No. 22CZ06 Yellowbridge PUD

Lauren Staudenmaier, Planner II

**NOTE:** During the July 26, 2022 meeting, Council conducted a public hearing on the following items and continued the final vote until the September 13, 2022 meeting:

- Transportation Plan Amendments Chapel Ridge Road
- Rezoning Case No. 22CZ07 Chapel Ridge North PUD

Due to a change in the application, these items will not be heard on September 13, 2022. New public hearing notices will be advertised at a later date.

## **NEW BUSINESS**

## **UPDATES BY TOWN MANAGER**

## ADJOURNMENT

# |Agenda Item | cover sheet

for consideration by the Apex Town Council

Item Type: CONSENT AGENDA Meeting Date: September 13, 2022

## <u>Item Details</u>

Presenter(s): Shawn Purvis, Deputy Town Manager

Department(s): Administration

## Requested Motion

Motion to appoint Electric Utilities Director Eric Neumann as the second alternate for the Town of Apex on the North Carolina Eastern Municipal Power Agency (NCEMPA) Board of Commissioners.

Approval Recommended?

Yes

## <u>Item Details</u>

Former Finance Director, Vance Holloman, has served as the second alternate for Apex on the North Carolina Eastern Municipal Power Agency (NCEMPA) Board of Commissioners. His departure necessitates an appointment to the NCEMPA Board of Commissioners until a new Finance Director is hired. On February 9, 2021, Council voted to appoint Deputy Town Manager, Shawn Purvis, as Apex's Commissioner on the NCEMPA Board and Assistant Town Manager, Marty Stone, as the first alternate.

### <u>Attachments</u>

• Second Alternate Oath



#### OATH

I, \_\_\_\_\_\_, do solemnly swear that I will support and maintain the Constitution and laws of the United States, and the Constitution and laws of North Carolina, not inconsistent therewith, and that I will faithfully and impartially execute and discharge the duties of my office as Second Alternate Commissioner of North Carolina Eastern Municipal Power Agency, and that I will adhere to and abide by the ElectriCities' Ethical and Professional Code of Conduct, so help me God.

Second Alternate Commissioner

Sworn to and subscribed before me, this \_\_\_\_\_ day of \_\_\_\_\_, 2021.

Notary Public

My Commission Expires:

(NOTARY SEAL HERE)

# |Agenda Item | cover sheet

for consideration by the Apex Town Council

Item Type: CONSENT AGENDA Meeting Date: September 13, 2022

## <u>Item Details</u>

Presenter(s): Amanda Grogan, Director

Department(s): Budget and Performance Management

#### Requested Motion

Motion to approve Budget Amendment 4 to allocate funds for Cost of Living Supplement for Retirees.

#### Approval Recommended?

Yes

## <u>Item Details</u>

Budget Amendment 4 allocates funds for the 69 retired employees currently on the Town's health plan to receive a one-time cost of living supplement, approved by Town Council at the June 7, 2022 Budget Workshop. This one-time, lump sum payment will be made by check in the amount of \$960.60.

Total funding of \$66,300 will come from appropriated Fund Balance. <u>Attachments</u>

• Budget Amendment 4





# **Town of Apex**

**Budget Ordinance Amendment No. 4** 

BE IT ORDAINED, by the Council of the Town of Apex that the following Budget Amendment for the Fiscal Year 2022-2023 Budget Ordinance be adopted:

### **General Fund**

Section 1. Revenues:	
Appropriated Fund Balance	\$66,300
Total Revenues	\$66,300
Section 2. Expenditures:	
Human Resources - Group Insurance Retirees	\$66,300
Total Expenditures	\$66,300

**Section 7.** Within five (5) days after adoption, copies of this Amendment shall be filed with the Finance Officer and Town Clerk.

Adopted this the 13th day of September, 2022.

Attest:

Jacques K. Gilbert, Mayor

Allen L. Coleman, CMC, NCCCC Town Clerk

# |Agenda Item | cover sheet

for consideration by the Apex Town Council

Item Type:CONSENT AGENDAMeeting Date:September 13, 2022

## <u>Item Details</u>

Presenter(s):Shawn Purvis, Deputy Town Manager (as Interim Finance Director)Department(s):Finance

### Requested Motion

Motion to approve Budget Amendment 5 to allocate funds of \$1,123,652 for acquisition of properties located on Templeton Street and Saunders Street for the purposes of public parking

## Approval Recommended?

Yes

## <u>Item Details</u>

At a previous meeting, Town Council approved the acquisition of properties on Saunders Street and Templeton Street for the purposes of public parking. Appropriate filings and notices have been made. Budget Amendment 5 allocates \$1,123,652 from General Fund fund balance for acquisitions of these properties.

### <u>Attachments</u>

• Budget Amendment 5





# **Town of Apex**

**Budget Ordinance Amendment No. 5** 

BE IT ORDAINED, by the Council of the Town of Apex that the following Budget Amendment for the Fiscal Year 2022-2023 Budget Ordinance be adopted:

### **General Fund**

Section 1. Revenues:	
Appropriated Fund Balance	\$1,123,700
Total Revenues	\$1,123,700
Section 2. Expenditures:	
Facilities - Capital Outlay Land	\$1,123,700
Total Expenditures	\$1,123,700

**Section 7.** Within five (5) days after adoption, copies of this Amendment shall be filed with the Finance Officer and Town Clerk.

Adopted this the 13th day of September, 2022.

Attest:

Jacques K. Gilbert, Mayor

Allen L. Coleman, CMC, NCCCC Town Clerk

# |Agenda Item | cover sheet

for consideration by the Apex Town Council

Item Type:CONSENT AGENDAMeeting Date:September 13, 2022

## Item Details

Presenter(s): Allen Coleman, Town Clerk

Department(s): Town Clerk's Office

## Requested Motion

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

- May 24, 2022, Regular Town Council Meeting
- June 07, 2022, Budget Work Session Town Council Meeting
- June 14, 2022, Regular Town Council Meeting
- June 28, 2022, Regular Town Council Meeting

Approval Recommended?

Yes

## <u>Item Details</u>

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

### <u>Attachments</u>

- Minutes May 24, 2022, Regular Town Council Meeting (provided under a separate cover)
- Minutes June 07, 2022, Budget Work Session Town Council Meeting (provided under a separate cover)
- Minutes June 14, 2022, Regular Town Council Meeting (provided under a separate cover)
- Minutes June 28, 2022, Regular Town Council Meeting (provided under a separate cover)



# |Agenda Item | cover sheet

for consideration by the Apex Town Council

Item Type:CONSENT AGENDAMeeting Date:September 13, 2022

## <u>Item Details</u>

esenter(s):
esenter(s):

Department(s): Water Resources

### Requested Motion

Motion to approve an agreement with NCDOT and to authorize the Town Manager to execute the agreement on behalf of the Town.

#### Approval Recommended?

Yes

## <u>Item Details</u>

Town Council action is required to approve this Agreement due to the indemnity language, which requires Council approval.

In order to provide sewer to the Hatcher Site development, the developer will need to cross the American Tobacco Trail with a 16-inch steel casing and 8-inch sewer pipe. NCDOT has reviewed and approved the drawings and design.

<u>Attachments</u>

NCDOT Encroachment Agreement



DATE: AUGUST 18, 2022

NORTH CAROLINA DEPARTMENT	
OF TRANSPORTATION	LICENSE AGREEMENT FOR PROPERTY
	ENCROACHMENT
	D&SC RAILROAD CORRIDOR
AND	Milepost DD-16.45
	WBS: 42888
TOWN OF APEX	

AND

JVI BUILDING & DEVELOPMENT, INC.

THIS LICENSE AGREEMENT is made and entered into on the last date executed below, by and among the NORTH CAROLINA DEPARTMENT OF TRANSPORTATION, an agency of the State of North Carolina (hereinafter "Department" and/or "Licensor"), the TOWN OF APEX, a local government entity (hereinafter "Municipality" and/or "Assuming Party"), the JVI BUILDING & DEVELOPMENT, INC., a business corporation of the State of North Carolina (hereinafter referred to as the "Developer" and/or "Licensee"); each party will hereinafter be referred to individually as a "Party," and collectively as the "Parties."

#### WITNESSETH:

WHEREAS, the Licensor is the owner of the Rail Corridor right-of-way as described on Exhibit A ("Premises") in Wake County as attached hereto and incorporated by reference, and known as the D&SC Rail Corridor; and

WHEREAS, the Licensee desires to encroach on the Premises located in Wake County, North Carolina with the construction, maintenance, and use of an eight-point-fifty-five-inch (8.55") RJDIP sewer line inside a sixteen-inch (16") steel casing installed by jack and bore and buried a minimum of seven feet (7') beneath the D&SC Railroad Corridor, as shown on Exhibit B. This encroachment will be located north of Olive Chapel Road at D&SC Milepost (MP) DD-16.45 on the American Tobacco Trail. Specifications detailed in Exhibit C attached hereto. All installation shall be in accordance with the current American Railway Engineering and Maintenance of Way Association (AREMA) Manual for Railway Engineering, Section 5.3 "Specifications for Pipelines Conveying Non-Flammable Substances"; and WHEREAS, the Licensor is willing to grant the Licensee the privilege of making such encroachment upon the Premises subject to and in accordance with this Agreement (such privilege, the "License").

NOW, THEREFORE, IT IS AGREED that the Licensor hereby grants to the Licensee the privilege to make this encroachment as shown on the attached plan sheet(s), specifications, and special provisions which are incorporated by reference upon the following conditions:

#### 1. SCOPE OF WORK

This Agreement is for the construction, maintenance, and use of an eight-point-fiftyfive-inch (8.55") RJDIP sewer line inside a sixteen-inch (16") steel casing installed by jack and bore and buried a minimum of seven feet (7') beneath the D&SC Railroad Corridor, as shown on Exhibit B. This encroachment will be located north of Olive Chapel Road at D&SC MP DD-16.45 on the American Tobacco Trail. Specifications detailed in Exhibit C attached hereto. All installation shall be in accordance with the current American Railway Engineering and Maintenance of Way Association (AREMA) Manual for Railway Engineering, Section 5.3 "Specifications for Pipelines Conveying Non-Flammable Substances".

# Prior to beginning work, the Licensee is to contact Matthew Simmons with NCDOT Rail Division (E-mail: mbsimmons@ncdot.gov).

#### 2. **FEES/BILLING**

In consideration of the Licensor's granting of this privilege to encroach upon the Licensor's Premises, the Licensee agrees to make payment in the amount of NINE HUNDRED TWENTY-SIX AND 40/100 DOLLARS (\$926.40) to Licensor. The Licensee shall submit said payment to the Licensor upon execution and submittal of this License Agreement to the Licensor.

#### 3. **LICENSE LIMITATIONS**

The License is granted solely and exclusively for the improvement, maintenance, and use of the encroachment for the purposes expressly set forth herein. This grant shall not be construed to convey to or otherwise vest in the Licensee any other greater interest to, right to enter upon, or estate in the Premises.

#### 4. **TRANSFER OF RESPONSIBILITIES**

It is agreed between the Licensor, Licensee, and Assuming Party that this license is personal to the Licensee and/or Assuming Party and shall not inure to the successors or assigns of the Licensee and/or Assuming Party, except that Licensee may, with the written consent of the Licensor and Assuming Party which shall not be unreasonably withheld, assign its rights and obligations hereunder to any successor developer of the real property benefitted by the encroachment upon written notice to Licensor and Assuming Party and as expressly provided herein. The Parties understand and agree that any right or claim of Licensor created by this License Agreement shall inure to the benefit of, and be enforceable by, any successor or assignee of Licensor.

#### 5. CONDITION OF PREMISES

The Licensor makes no warranties or representations regarding the condition of the Premises, and this Agreement shall not be construed to make or imply any warranty. The Licensee and/or Assuming Party accept the use of the Premises "AS IS" and expressly waives any and all claims against the Licensor relating to or arising from the use or condition of the Premises and the property surrounding the Premises, including, without limitation, any claims and costs related to environmental contamination (such as, without limitation, those claims which might arise under CERCLA, RCRA, and the North Carolina Oil Pollution and Hazardous Substances Act).

#### 6. <u>COMPLIANCE WITH STANDARDS</u>

The installation of the eight-point-fifty-five-inch (8.55") RJDIP sewer line inside a sixteen-inch (16") steel casing by the Licensee (including the Licensee's employees, contractors, and agents) will comply with the North Carolina Department of Transportation's latest RAIL CORRIDOR PRESERVATION POLICY, POLICIES AND PROCEDURES FOR ACCOMMODATING UTILITIES ON HIGHWAY RIGHTS-OF-WAY, and THE AMERICAN RAILWAY ENGINEERING AND MAINTENANCE OF WAY ASSOCIATION MANUAL (AREMA), and such revisions and amendments thereto as may be in effect at the date of this Agreement, all of which are hereby incorporated as terms and conditions of this Agreement, and compliance with which may not be waived except by written agreement of all parties. Information as to these policies and procedures may be obtained from the North Carolina Department of Transportation. The Licensee shall be responsible for the installation of the improvements within the encroachment and maintenance of the encroachment until such time as the improvements in the encroachment have been dedicated by deed, plat, or other instrument to Assuming Party and accepted by Assuming Party for public maintenance (the date of such acceptance by Assuming Party, the "Acceptance Date"), whereupon the Assuming Party shall be responsible for the maintenance of the improvements in the encroachment.

Each of the Licensee and the Assuming Party shall be referred to hereinafter as the "Responsible Party," as applicable; prior to the Acceptance Date, "Responsible Party" shall be deemed to refer to the Licensee; on or after the Acceptance Date, "Responsible Party" shall be deemed to refer to the Assuming Party.

The Responsible Party shall be responsible for the operation and maintenance of the encroachment and will comply with the North Carolina Department of Transportation's latest <u>RAIL CORRIDOR PRESERVATION POLICY</u>, <u>POLICIES AND PROCEDURES</u> <u>FOR ACCOMMODATING UTILITIES ON HIGHWAY RIGHTS-OF-WAY</u>, and <u>THE AMERICAN RAILWAY ENGINEERING AND MAINTENANCE OF WAY</u> <u>ASSOCIATION MANUAL</u>, and such revisions and amendments thereto as may be in effect at the date of this Agreement, all of which are hereby incorporated as terms and conditions of this Agreement and may not be waived except by written agreement of all Parties. Information as to these policies and procedures may be obtained from the North Carolina Department of Transportation.

#### 7. SIGNAGE

The Responsible Party agrees to provide, during construction and any subsequent maintenance, proper signs, signal lights, flagperson, and other warning devices for the protection of traffic in conformance with the latest <u>Manual on Uniform Traffic Control</u> <u>Devices for Streets and Highways</u> (MUTCD) and amendments or supplements thereto.

#### 8. <u>IMPROVEMENT/MAINTENANCE COSTS</u>

The Responsible Party shall improve and/or maintain the encroachment at its own cost and expense. The Licensor shall be exempt from any costs, charges, or assessments of any kind or character on account of or incident to the License, location and improvement of the encroachment within the limits of the right-of-way, or on account of any action or omission by the Licensee and/or Assuming Party in connection therewith.

#### 9. MAINTENANCE OF FACILITIES

The Licensee agrees to install and each Responsible Party agrees to maintain the encroachment, in accordance with this Agreement, in such safe and proper condition that the exercise of the License and the encroachment shall (i) not interfere with or endanger existing or future uses by the Licensor of said right-of-way for railroad, trail, or any other transportation purposes and (ii) neither obstruct nor interfere with the proper operation and maintenance of said right-of-way or any tracks, structures, or appurtenances located thereon.

#### 10. **REIMBURSEMENT BY RESPONSIBLE PARTY**

The Responsible Party will reimburse the Licensor for any costs incurred by the Licensor including, but not limited to costs for repairs or maintenance to the Licensor's corridor, roadways, and structures resulting from the installation and existence of this encroachment, or the Responsible Party's exercise of the License granted pursuant to this Agreement. The Responsible Party shall take such measures as are required by applicable laws, rules, and regulations to identify improvements and encroachment facilities, including but not limited to those that are located beneath the surface of the ground.

#### 11. **DRAINAGE**

The Responsible Party agrees to install and maintain, in accordance with this Agreement, in good order the encroachment in such a manner as not to interfere with the proper drainage of the roadbed/track bed and right-of-way. The Responsible Party will not allow or permit the diversion of any additional drainage into existing drainage facilities or upon the right-of-way; moreover, the Responsible Party will arrange its drainage system so as to prevent the ponding of water upon the right-of-way.

#### 12. **PROPERTY OBSTRUCTIONS**

In the event the Responsible Party deems it necessary to remove, adjust, and relocate any structures or property of third persons or corporations, including, but not limited to, wire lines and poles or other supports, now located and constructed upon or near the Licensor's right-of-way, the Responsible Party shall obtain the consent of the Licensor prior to initiating any such removal, adjustment and/or relocation, and will remove, adjust and/or relocate or arrange for the removal, adjustment and/or relocation of same without cost or expense to the Licensor, and in all respects in accordance with the requirements of the Licensor. Any utility changes must conform to specifications promulgated by the American Railroad Engineering and Maintenance of Way Association (AREMA) and the North Carolina Department of Transportation.

#### 13. **INDEMNIFICATION**

To the extent permissible by law, the Responsible Party agrees to protect, indemnify, and save the Licensor wholly harmless from and against the consequences of any damages or loss of life, personal injury, or property which may be caused by or result from the improvement, maintenance or use of the encroachment, or the failure or neglect of the Responsible Party to maintain proper drainage in connection with the encroachment, or the failure of the Responsible Party to comply with applicable laws, rules, or regulations, or the terms of this Agreement. This provision shall survive the termination, lapse, or expiration of this Agreement or the abandonment of the encroachment by the Responsible Party.

#### 14. **CONDITION OF PROPERTY**

The Responsible Party agrees to restore all areas disturbed during installation or maintenance of the encroachment to the Licensor's reasonable satisfaction. The Responsible Party agrees to exercise every reasonable precaution during construction or maintenance to prevent eroding of soil; silting or pollution of rivers, streams, lakes, reservoirs, other water impoundments, ground surfaces, or other property; or pollution of the air. When any installation or maintenance operation disturbs the ground surface and existing ground cover, the Responsible Party agrees to remove and replace the sod or otherwise reestablish the grass cover to the reasonable satisfaction of the Licensor.

#### 15. ENVIROMENTAL REGULATIONS

The Responsible Party shall comply with applicable laws, rules, and regulations of the State of North Carolina, including but not limited to the rules and regulations of the Licensor and the North Carolina Department of Environmental Quality and ordinances and regulations of various counties, municipalities, and other agencies relating to pollution prevention and control. The Responsible Party agrees to comply with all federal, State, and local environmental laws, rules, and regulations. None of the terms of this paragraph, or of this Agreement elsewhere, shall be construed as a waiver of any environmental regulations. If hazardous or any other unauthorized material is discovered, and it is determined that such material is present as a result of action by Responsible Party, the Responsible Party shall be solely responsible and hold the Licensor harmless for all costs associated with the removal of the material and any damages caused by the existence of said material. This provision shall survive the termination, lapse, or expiration of this Agreement or the abandonment of the encroachment by the Licensee/Responsible Party.

#### 16. **PERIOD OF PERFORMANCE/TERMINATION OF AGREEMENT**

It is agreed by all Parties that this Agreement shall become void if actual construction of the work contemplated herein is not begun within one (1) year from the date of authorization by the Licensor unless written waiver is secured from the Licensor.

#### 17. **<u>NOTICES</u>**

All notices, requests, or other communications permitted or required to be given by one Party to the other and all questions about the contract from one Party to the other shall be addressed and delivered to the other Party's Contract Administrator. The name, post office address, street address, telephone number, fax number, and email address of the Parties' respective initial Contract Administrators are set out below. Either Party may change the name, post office address, street address, telephone number, fax number, fax number, or email address of its Contract Administrator by giving timely written notice to the other Party.

#### For the Department/Licensor:

IF DELIVERED BY US POSTAL	IF DELIVERED BY ANY OTHER
SERVICE:	MEANS:
Matthew Simmons, PE	Matthew Simmons, PE
Deputy Director	Deputy Director
NCDOT Rail Division	NCDOT Rail Division
1556 Mail Service Center	862 Capital Boulevard
Raleigh, NC 27699-1556	Raleigh, NC 27699
Telephone: 919-707-4728	Kaleigii, i (C 27033
Email: mbsimmons@ncdot.gov	

#### For the Municipality/Assuming Party:

IF DELIVERED BY US POSTAL	IF DELIVERED BY ANY OTHER
SERVICE:	MEANS:
Town of Apex	Town of Apex
Michael Deaton, Water Resources Director	Michael Deaton, Water Resources Director
105 Church Street	105 Church Street
Apex, NC 27502	Apex, NC 27502
Telephone: 919-249-3413 Email: Michael.Deaton@apexnc.org	

#### For the Developer/Licensee:

IF DELIVERED BY US POSTAL	IF DELIVERED BY ANY OTHER
SERVICE:	MEANS:
Jones & Cnossen Engineering, PLLC	Jones & Cnossen Engineering, PLLC
Patrick L. Kiernan, PE	Patrick L. Keirnan, PE
221 N Salem Street, Suite 001	221 N Salem Street, Suite 001
Apex, NC 27502	Apex, NC 27502
Telephone: 919-387-1174 Email: patrick@jonescnosssen.com	

#### 18. **NONCOMPLIANCE**

In the case of noncompliance with any of the terms of this Agreement by the Licensee and/or Assuming Party, the Licensor will give the Licensee and/or Assuming Party written notice of such noncompliance. If the Licensee and/or Assuming Party fail to comply to the reasonable satisfaction of the Licensor within sixty (60) days after receiving such written notice, unless written waiver is secured from the Licensor, the Licensor reserves the right to discontinue the use of the encroachment until it has been brought into compliance. Alternatively, at no cost to the Licensor, Licensor may remove the encroachment from the right-of-way and require the Licensee and/or Assuming Party to reimburse the Licensor for all expenses for said removal, or the Licensor, in its sole discretion, may require the Licensee and/or Assuming Party to remove the encroachment within ninety (90) days of written notice from the Licensor to the Licensor's satisfaction.

#### 19. NOTICE OF COMPLETION

The Licensee and/or Assuming Party agree to give written notice to the Licensor within thirty (30) days of completion of all work contained herein.

#### 20. CHANGES TO ENCROACHMENT

The Licensee and/or Assuming Party shall make all necessary changes to the reasonable satisfaction of the Licensor, at the Responsible Party's own cost and expense, within sixty (60) days after written notice from the Licensor, to address the safety concerns of the Licensor or to accommodate the Licensors' use of the right-of-way for railroad, trail, or other transportation purposes, unless written waiver is secured from the Licensor. Such changes include, but are not limited to, the construction of a grade-separated facility for railroad, trail, or other transportation purposes; the installation, maintenance, and upgrading of any safety devices, signs, or other facilities necessary for the Licensor's use of the corridor; and any changes of location, height, depth, or design of the encroachment; or consolidation of at-grade crossings.

#### 21. <u>REMOVAL OF THE ENCROACHMENT FROM LICENSOR PROPERTY</u>

In the event the Licensor requires the removal of the encroachment from the right-ofway, the Licensor shall have the right to demand such removal, and the Assuming Party, at its own cost and expense, within one hundred eighty (180) days after written notice from the Licensor, unless written waiver is secured from Licensor, shall discontinue the use of the same, remove the encroachment from the right-of-way, and restore the same to the condition existing prior to the location of the encroachment upon the right-of-way.

#### 22. UTILITY ENCROACHMENT

In the case of a utility encroachment, the Assuming Party agrees to periodically monitor and verify the depth or height of the utility in relation to the Licensor's tracks and facilities present on the Premises and to relocate the utility at Municipality's own cost and expense should such relocation or change be necessary to comply with the minimum clearance requirements as set forth in this Agreement or as required by any public authority.

#### 23. ENCROACHMENT INTERFERENCE

If the operation, existence, or maintenance of the encroachment causes interference, physical, magnetic, or otherwise, with train control systems or facilities, or interference in any manner with the operation, maintenance, or use of the right-of-way, tracks, structures, pole lines, devices, other property, or any appurtenances thereto for railroad, trail, or other transportation-related purposes, the Assuming Party shall, within sixty (60) days of written notice from the Licensor, at the Assuming Party's own cost and expense, promptly make such changes in its encroachment as may be required in the reasonable judgment of the Licensor to eliminate all such interference, unless written waiver is secured from the Licensor.

#### 24. CHANGE ORDERS

If the Responsible Party undertakes to revise, renew, relocate, or change in any manner whatsoever all or any part of the encroachment plans, such plans shall be submitted to the Licensor for approval before any such change is made. After approval, the terms and conditions of this Agreement shall apply thereto.

#### 25. **EXHIBIT**

Reference Exhibit A (Vicinity Map), Exhibit B (Profile Drawing), and Exhibit C (Pipe Specification Form), and Exhibit D (Railroad Encroachment Application Form) are incorporated herein by this reference.

#### 26. ASSUMPTION OF ENCROACHMENT

It is anticipated that, subsequent to the execution of this Agreement and the initiation and/or completion of the encroachment that is the subject matter of this Agreement, or pursuant to a separate transaction between the Licensee and Assuming Party, the Assuming Party shall assume the rights and obligations of the Licensee hereunder. Without limiting the rights of and remedies available to the Licensor, the Parties hereto agree that the Assuming Party shall assume the rights and obligations of the Licensee hereunder upon the earlier of (i) the effective date of such separate agreement between the Licensee and the Assuming Party or (ii) the Acceptance Date. In consideration of the Licensor's grant of the License and the benefits thereof, the Assuming Party expressly agrees to be bound by this Agreement to the same extent as the Licensee. Except as provided in this Agreement, any other purported transfer or assignment of this Agreement by the Licensee and/or Assuming Party shall be void.

#### 27. **<u>GOVERNING LAWS</u>**

This Agreement shall at all times be governed by the provisions of the law of North Carolina.

#### 28. **<u>RELATIONSHIP BETWEEN PARTIES</u>**

This Agreement shall not be construed to create any relationship of agency or employment between the Parties hereto.

#### 29. ETHICS PROVISION

By Executive Order 24, issued by Governor Perdue, and North Carolina General Statutes (N.C.G.S.) § 133-32, it is unlawful for any vendor or contractor (i.e. architect, bidder, contractor, construction manager, design professional, engineer, landlord, offeror, seller, subcontractor, supplier, or vendor), to make gifts or to give favors to any State employee of the Governor's Cabinet Agencies (i.e., Administration, Commerce, Cultural Resources, Environment and Natural Resources, Health and Human Services, Public Safety, Revenue, Transportation, and the Office of the Governor).

#### 30. <u>E-VERIFY</u>

E-Verify is the federal program operated by the United States Department of Homeland Security and other Federal agencies, or any successor or equivalent program, used to verify the work authorization of newly hired employees pursuant to federal law. The Parties warrant that they and any subcontractor performing work under this Agreement: (i) uses E-Verify if required to do so by North Carolina law and (ii) otherwise complies with the requirements of Article 2 of Chapter 64 of the North Carolina General Statutes. A breach of this warranty by any Party will be considered a breach of this Agreement, which entitles the other Parties to terminate this Agreement, without penalty, upon notice to the breaching Party.

IT IS UNDERSTOOD AND AGREED that the approval of this License Agreement by the Department is subject to the conditions of this Agreement, and the terms of this Agreement will be complied with on the part of the Licensee and Assuming Party.

IN WITNESS WHEREOF, this License Agreement for Property Encroachment has been executed, the last day and year heretofore set out below, on the part of the Department, the Municipality, and the Developer by authority duly given.

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

WITNESS	TOWN O	F APEX
BY:	 BY:	
NAME:	 NAME:	Michael Deaton
TITLE:	 TITLE:	Water Resources Director
DATE:	 DATE:	

MUNICIPAL SEAL

FEDERAL TAX IDENTIFICATION NUMBER

#### MAILING ADDRESS

Town of Apex 105 Church Street Apex, NC 27502 ATTN: Michael Deaton Water Resources Director Michael.Deaton@apexnc.org 919-249-3413 IN WITNESS WHEREOF, this License Agreement for Property Encroachment has been executed, the last day and year heretofore set out below, on the part of the Department, the Municipality, and the Developer by authority duly given.

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

WITNESS	JVI BUILDING & DEVELOPMENT, INC.	
BY:	BY:	
NAME:	NAME: Joseph Iannone	
TITLE:	TITLE: President	
DATE:	DATE:	
CORPORATE SEAL	FEDERAL TAX IDENTIFICATION NUMBER	2

#### MAILING ADDRESS

JVI Building & Development, Inc. 1600 Olive Chapel Road Suite 400 Apex, NC 27502 ATTN: Joseph Iannone President Joey@jviconstruction.com 919-387-8846 IN WITNESS WHEREOF, this License Agreement for Property Encroachment has been executed, the last day and year heretofore set out below, on the part of the Department, the Municipality, and the Developer by authority duly given.

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

	. –	CAROLINA DEPARTMENT OF PORTATION
	BY:	
	NAME:	Julie White
ing Agent	TITLE:	Deputy Secretary for Multi Modal Transportation
	DATE:	
	North Ca Rail Divi 1556 Ma	NG ADDRESS rolina Department of Transportation ision, Operations & Facilities Branch il Service Center NC 27699-1556 Matthew Simmons, PE Deputy Director
	ing Agent	TRANSI BY: BY: NAME: TITLE: DATE: MAILIN North Ca Rail Divi 1556 Ma Raleigh,

mbsimmons@ncdot.gov 919-707-4728

#### **EXHIBIT** A



#### **EXHIBIT B**



#### **EXHIBIT C**

#### PIPE SPECIFICATION FORM

#### NORTH CAROLINA DEPARTMENT Of TRANSPORTATION RAIL DIVISION

#### Operations & Facilities Branch <u>1553 Mail Service Center</u> Note: Rail Corridor & Property Manager to complete form and submit to applicant for approval/signature

PIPE SPECIFICATIONS	CA	RRIER	PIPE	C	ASING I	PIPE
Material	DIS	2			STEEL	L
Material Specifications and Grade	ASTM	A74	6		MIC POLICICA I	
Min. Yield Strength of Material PSI	42,000	the second se				
Mill Test Pressure PSI						
Inside Diameter	9.	55"				
Wall Thickness	0.1	25"				80
Outside Diameter	1.0	5"			16"	
Type of Seam	GAR	Ler		2		
Laying Lengths	2	0'				
Type of Joints	Autore	ANED				
Total Length within RR R/W	1 ~10	21'		114	~101'	
VENTS: NumberSize		Hg	gt. Above	ground		
SEALS: Both ends	One end	0.197				
BURY: Base of rail to top of casing	1	B		ft	0	_in.
BURY: (Not beneath tracks)	7		ft	4		in.
BURY: (Roadway ditches)	7		ft	3		_in.
CATHODIC PROTECTION: ( ) Y	es	(	) No			
PROTECTIVE COATING: () Y	es	(	) No		Kind_	
Type, Size and Spacing of Insulator	s or Suppo	orts				
Method of Installation Bore	JACK		_			

If application is approved, applicant agrees to reimburse the Rail Division for any cost incurred by the Rail Division incident to installation, maintenance, and/or supervision necessitated by this pipe line installation, and further agrees to assume all liability for accidents or injuries which arise as a result of this justallation.

Signature and Title of Officer Signing Application

PICK L. KIERJAN (Please Type or Print) Name

#### EXHIBIT D

#### NORTH CAROLINA DEPARTMENT OF TRANSPORTATION - RAIL DIVISION

# Railroad Encroachment Application Form

#### Operations & Facilities Branch, 1553 Mail Service Center, Raleigh, NC 27699-1553

Instructions: Complete all applicable information below and return this form with preliminary plans, sketches, specifications, calculations, etc. by E-mail to samiller@ncdot.gov, or by mail to NCDOT, Rail Division, Operations & Facilities Branch, 1553 Mail Service Center, Raleigh, NC 27699-1553. Include two copies of plans if applying by mail. Sketches and drawings should include north arrow, scale, vicinity map, landmarks and reference points. If you need additional information, please contact Andy Miller, Facilities & Properties Manager, by phone at (919) 707-4721 or by email at samiller@ncdot.gov.

Legal Name of Owner/Company: JVI BUI	LDING & DEVELOPMENT,	120.
Name/Title of Person Who Will Sign Agreemen	It: Joseph LANNONE	
Mailing address: 1600 OLIVE CHAPE		
city: Apex	State:	Zip: 27502
Phone: (919)387-8846 Fax:	E-mail: JOEYCJV	1 CONSTRUCTION, COM
Contact Name (e.gEngineer in charge, if different fro	XT above): PATRICK L. KIES	LALA
Company Name: Jales & Chosse		
Mailing address: 221 J. SALEM 5		
City: APEK	State: NC	Zip: 27502
Phone(919)387-1174 Fax:		
Specific Information Needed for Applica County: Rail Corrido Location description (attach map/sketch): //og Permanent or Temporary Installation? (check or	AMERICAN OTTOBACCO TEAL Nearest Railroad Milepi and of OLIVE GLAPEL P.D. WEST	
Type of encroachment:		
a) Driveway, Drain Pipe, etc.:		
b)If underground-Type: (fiber optic, electric,	water, gas, etc.) UNDERGROUND SE	EWER (BORE & JACK)
Dimension(s)/Size(s): B" PVC (H	16" STEEL CASING	
c) If aerial-Type: (overhead utility, conveyor l	belt, etc)	
Clearance above track:		
d)Other:	Dimensions:	

Note: From information furnished on application, NCDOT will complete a more detailed specification sheet which will specify how the installation is to be made. AREMA and NCDOT Standard Specifications will be part of the encroachment agreement, and NCDOT will require signature of applicant, agreeing to the terms set forth in the specifications.

#### Other Information:

1. An applicable annual fee may be included in the encroachment agreement executed with NCDOT.

2. Where appropriate, additional engineered plans (or other information) may be required of applicant.

# |Agenda Item | cover sheet

for consideration by the Apex Town Council

Item Type:CONSENT AGENDAMeeting Date:September 13, 2022

## <u>Item Details</u>

Presenter(s): Jessica Bolin, P.E., Stormwater Engineering Manager

Department(s): Water Resources

#### Requested Motion

Motion to approve the North Carolina Land and Water Fund (NCLWF) grant contract and to authorize the Town Manager to execute the contract on behalf of the Town and to further authorize the Town Manager to approve and execute additional conservation easement declarations required as part of the stream restoration in a form approved by the Town Attorney.

#### Approval Recommended?

Yes

### <u>Item Details</u>

The Town has been awarded a NCLWF grant to complete a stream restoration project on an incised and unstable stream within the Apex Nature Park. A public sanitary sewer line is located along the corridor and is directly adjacent to the channel at several points along the specific reach. The grant is in the amount of \$409,658 with a Town matching contribution of \$276,750 for a total project cost of \$686,408.

Additional conservation easement will be required to be dedicated over the new riparian buffer area. The NCLWF template for the declaration of covenants for the dedication of conservation is included as an attachment.

Once complete, the project will restore the stream to a healthy state and protect the sewer line from further erosion and potential exposure. Execution of the attached grant contract is required in order to proceed with the project.

<u>Attachments</u>

- Grant Contract Document
- Easement Declaration Template



#### STATE OF NORTH CAROLINA NORTH CAROLINA LAND AND WATER FUND GRANT CONTRACT (RESTORATION OF DEGRADED STREAMS)

NCLWF PROJECT NUMBER:	2021-401				
GRANTOR:	North Carolina Land and Water Fund ("NCLWF" or "Fund"), also known as the Clean Water Management Trust Fund, a division of the Department of Natural and Cultural Resources, acting through its Board of Trustees solely in its official capacity pursuant to Part 41, Article 2, Chapter 143B of the North Carolina General Statutes ("N.C.G.S.")				
CONTRACT ADMINISTRATOR:	Stephen Bevington North Carolina Land and Water Fund 1651 Mail Service Center Raleigh, NC 27699-1651 Phone: 919.707.9128 Email: steve.bevington@ncdcr.gov				
GRANT RECIPIENT:	Town of Apex, a North Carolina Local Government Unit, ("Grant Recipient")				
CONTRACT ADMINISTRATOR:	Michael Deaton, Water Resources Director Town of Apex PO Box 250 Apex, NC 27502-0250 Phone: (919) 249-3413 Email: <u>Michael.deaton@apexnc.org</u>				
GRANT AWARD DATE:	September 15, 2021 (the "Award Date")				
CONTRACT EFFECTIVE DATE:	(the "Effective Date")				
CONSTRUCTION CONTRACT DATE: September 15, 2022					
CONTRACT EXPIRATION DATE:	November 30, 2023 (the "Expiration Date")				
REIMBURSEMENT DATE:	December 14, 2023				

GRANT AMOUNT: up to \$409,658 (the "Grant")

1

**THIS GRANT CONTRACT** (the "Grant Contract") is made and entered into, as of the Effective Date by and between the NCLWF and the Grant Recipient, both sometimes hereinafter referred to individually as a "Party" or collectively as the "Parties."

#### <u>WITNESSETH</u>:

**WHEREAS,** the Grant Recipient has submitted to the NCLWF an application requesting a grant of funds (hereinafter the "Grant Application") to engage in a project for restoring degraded lands in order to protect the quality of surface waters.

**WHEREAS**, the NCLWF is authorized by N.C.G.S. Chapter 143B, Article 2, Part 41, to, among other actions and activities, restore previously degraded lands to reestablish their ability to protect water quality, and acquire conservation easements or other interests in real property for protecting and conserving surface waters and drinking water supplies.

WHEREAS, the Grant Recipient is a qualified applicant as defined in N.C.G.S. §143B-135.238(a).

**WHEREAS**, the NCLWF approved the Grant Recipient's application at its meeting on the Award Date and is willing to make the Grant to the Grant Recipient pursuant to the terms and conditions set forth in this Grant Contract.

WHEREAS, the Grant Recipient agrees to conduct the project approved by the NCLWF's Board of Trustees for the purposes and according to the scope of work, conditions, and schedule in Exhibit A (the "Project") and pursuant to the project budget in Exhibit B of this Grant Contract.

WHEREAS, the Parties desire to enter into this Grant Contract and intend to be bound by its terms.

**NOW, THEREFORE,** for and in consideration of the Grant, the mutual promises each to the other made, and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the Parties mutually agree as follows:

1. <u>**Grant Contract Documents.</u>** The Grant Contract consists of, and only of, the documents described below, which are hereinafter collectively referred to as the "Grant Contract." In the case of conflict, specific and special terms, conditions, and requirements shall control over general terms, conditions, and requirements. Upon execution and delivery of the Grant Contract, including the execution of all of the Exhibits that require execution, the Grant Contract shall constitute a valid and binding contract between the Parties, enforceable in accordance with the terms thereof. The Grant Contract constitutes the entire contract between the Parties, superseding all prior oral and written statements or contracts. Only changes deemed non-material in type by the NCLWF's Executive Director may be made to the Grant Contract without the consent of the NCLWF's Board of Trustees.</u>

The Grant Contract Documents consist of:

- (a) Cover page
- (b) The main body of the Grant Contract
- (c) Exhibit A Project Summary
- (d) Exhibit B Project Budget
- (e) Exhibit C NCLWF Pre-Disbursement Checklist
- (f) Exhibit D Additional Definitions
- (g) Exhibit E General Terms and Conditions
- (h) Exhibit F Conservation Easements [May not apply]

2. **Purpose.** The purpose of the Grant is for restoring degraded streams in order to protect the quality of surface

waters, more particularly described in **Exhibit A**. Grant funds may not be used for the purchase of improvements or for the removal of debris on any property, or for any other purpose not set forth herein. Further, Grant funds may not be used for any eminent domain litigation or any action or expenditure related to eminent domain, unless approved by the NCLWF's Board of Trustees in writing prior to the action. The Board of Trustees shall review requests to use Grant funds for eminent domain on a case-by-case basis. The Grant Recipient shall provide such requests in writing.

3. <u>NCLWF's Duties</u>. Subject to the appropriation, allocation, and availability to NCLWF of Grant funds for the Project, NCLWF hereby agrees to pay the Grant funds to the Grant Recipient in accordance with the payment procedures set forth herein. Neither of the Parties is obligated to perform and the Grant Contract is not a binding agreement on all Parties until all Parties have executed the main body of the Grant Contract and all exhibits that require execution, the Department of Natural and Cultural Resources has notified the NCLWF that funds for the Grant contemplated hereunder have been encumbered, and the Grant Recipient has received its counterpart original of the Grant Contract, fully executed and with all dates inserted where indicated on the cover page to the Grant Contract.

4. **<u>Grant Recipient's Duties</u>**. The Grant Recipient shall carry out the Project pursuant to the terms of this Contract.

5. <u>Contract Period</u>. The NCLWF's commitment to disburse Grant funds under this Grant Contract shall cease on the Reimbursement Date. It is the responsibility of the Grant Recipient to ensure that the Project is completed by the Expiration Date and that all costs to be reimbursed have been submitted to the NCLWF by the Reimbursement Date. After the Expiration Date, any Grant monies remaining under this Grant Contract will no longer be available to the Grant Recipient except to pay proper invoices for budgeted costs incurred by the Expiration Date and that are submitted to the NCLWF no later than the Reimbursement Date. The burden is on the Grant Recipient to request an extension of the Grant Contract if the Grant Recipient anticipates that the Project will not be completed by the Expiration Date. The request for an extension must be a formal one made in a writing addressed to the NCLWF's Executive Director, giving complete details of the reasons why an extension is needed, and proposing a new expiration date for the Grant Contract. This written request must be submitted to and received by the NCLWF's office at least 60 days prior to the Expiration Date. Approval of any requested extension is at the sole discretion of the NCLWF. The approval or denial of the requested extension will be based upon Project performance, among other factors. The NCLWF is not obligated to send reminders or other notification of an approaching Expiration Date.

#### 6. <u>Permanent Protections on Properties of the Project Site</u>.

(a) <u>Projects for Which Property Protections are Required</u>. Real property on which NCLWF funds are to be used for construction must be protected permanently by legal instruments conforming to N.C.G.S. Chapter 121, Article 4, and N.C.G.S. Chapter 143B, Article 2, Part 41. The Grant Recipient shall so restrict, or cause to be restricted, uses of and activities on such real property by way of one or more permanent conservation agreements or by other instruments of property interest approved in writing by the NCLWF. Such instruments of property interest must encumber real property essential to the Project, including necessary easements and rights of way. Real property efferred to as the "Project Site" and is the properties listed in the Schedule of Properties for Legal Protection of Riparian Buffers in **Exhibit A**.

(b) <u>Requirements for Instruments of Property Interest</u>. Property interests acquired for the Project shall provide or conform to the following:

i. property interests shall ensure undisturbed use and possession of the properties of the Project Site for the purpose of construction and operation of the Project and include other such restrictions as the NCLWF deems necessary and satisfactory, in its sole discretion;

- ii. property interests shall be permanent; and
- iii. instruments of property interests shall be approved as to form and content by the NCLWF in writing.

(c) <u>Requirements for Holding of Property Interest</u>. Property interests acquired for the Project shall be held by a party satisfactory to the NCLWF, such party being identified as holder (as defined in NCGS Chapter 121, Article 4) in **Exhibit A**. If a holder of property interests acquired for this Project is not named in **Exhibit A**, or if the Party named as holder in **Exhibit A** does not accept the role and responsibility of holder, the Grant Recipient shall name a party to serve as holder, subject to approval in writing by the NCLWF.

(d) <u>Recordation of Instruments of Property Interest</u>. The Grant Recipient shall provide to the NCLWF a copy of instruments creating property interest obtained and recorded in connection with the Project Site. (The NCLWF will disburse construction funds only after having received from the Grant Recipient a copy of each recorded instrument and associated documents set forth in **Exhibit F**.)

7. **<u>Pre-Disbursement Requirements</u>**. Prior to the disbursement of any Grant monies under this Grant Contract, the Grant Recipient shall deliver to the NCLWF all of the documentation described in **Exhibit C**.

#### 8. **Disbursement of Grant Funds.**

- (a) <u>Proportionate Spending of Matching Funds</u>. Grant monies are awarded based on a commitment of matching funds to the Project. The NCLWF's final, cumulative portion of the total Project cost will be no more than the percentage of funds originally committed to in the Grant Contract as given in **Exhibit B**. The Grant Recipient must demonstrate expenditure of matching funds as payments by the NCLWF are requested.
- (b) <u>Requests for Payment</u>. The NCLWF will not disburse Grant funds until receipt by the NCLWF's Contract Administrator of the Grant Recipient's requests for payment. Payment requests shall conform to the following.
  - i. Payment requests shall be accompanied by appropriate itemized documentation supporting all expenses claimed and clearly identifying each expenditure for which payment is requested. Supporting documentation must be organized in a manner that clearly relates expenditures in the supporting documentation to the line items on the payment request form. Any request for payment that does not clearly identify each expenditure or does not relate each expenditure to the line items on the payment request form will not be processed and will be returned to the Grant Recipient for correction and resubmittal.
  - ii. Payment requests shall identify all amounts of sales tax for which the Grant Recipient and/or its vendors have or will obtain payment from the North Carolina Department of Revenue. The NCLWF will not reimburse the Grant Recipient for such amounts.
  - iii. Each payment request shall include a completed claim form and progress report submitted using the online grants management software (GMS). The progress report shall describe work accomplished on the Project and progress toward completing the Project Scope of Work.
- (c) <u>Alternate Disbursement of Grant Funds</u>. The NCLWF may, upon request by the Grant Recipient, disburse Grant funds prior to the Grant Recipient's actual payment to its vendors if such expenditures are documented by vendors' third-party invoices. In order for the NCLWF to disburse Grant funds to the Grant Recipient based on unpaid third-party invoices, the Grant Recipient must submit the following documentation.

- i. The Grant Recipient shall acknowledge on the claim form that the claim contains unpaid expenses to third-party vendors. The Grant Recipient shall also acknowledge that it shall comply with all terms of this Grant Contract in incurring the expense, has reviewed and approved the unpaid third-party invoice, and shall certify to the NCLWF that the unpaid third-party invoice will be paid within three (3) working days of receipt of the disbursed Grant funds.
- ii. Payment requests shall be accompanied by appropriate itemized documentation supporting all expenses claimed and clearly identifying each expenditure for which payment is requested. Supporting documentation must be organized in a manner that clearly relates expenditures in the supporting documentation to the line items on the payment request form. Any request for payment that does not clearly identify each expenditure or does not relate each expenditure to the line items on the payment request form will not be processed and will be returned to the Grant Recipient for correction and resubmittal.
- iii. Payment requests shall identify all amounts of sales tax for which the Grant Recipient and/or its vendors have or will obtain payment from the North Carolina Department of Revenue. The NCLWF will not reimburse the Grant Recipient for such amounts.
- iv. Each payment request shall include a completed claim form and progress report submitted using the online grants management software (GMS). The progress report shall describe work accomplished as well as progress toward completing the Project Scope of Work.

The Grant Recipient will confirm in writing to the NCLWF that the required payment has been made within thirty (30) days of payment.

- (d) <u>Limited Grant Funds Disbursement in January, June, July, and December</u>. Funds will not be disbursed during the first week of January, the last three weeks of June, the first week of July, and the last two weeks of December.
- (e) <u>Certification by Licensed Professional</u>. At the option of the NCLWF, payments may be made only on the certificate and seal of an appropriately qualified licensed professional (e.g., licensed Professional Engineer) that the work for which the payment is requested has been completed in accordance with approved plans and specifications, to which certificate shall be attached an estimate by the construction contractor setting forth items to be paid out of the proceeds of each such payment. The NCLWF, at its option, may further require a certificate from such appropriately qualified licensed professional that the portion of the Project completed as of the date of the request for payment has been completed according to schedule and otherwise as approved by the NCLWF and according to applicable standards and requirements. However, the NCLWF may, at its discretion, make payments without requiring such certificates or construction contractor's estimate, in which event the Grant Recipient shall furnish the NCLWF a list of and the amounts of items to be paid out of the payment, or such other evidence as the NCLWF may require.
- (f) <u>Payment Based on Progress</u>. The Grant Recipient agrees to proceed with diligence to complete the Project according to the schedule set out in **Exhibit A** and shall show appropriate progress prior to each payment. Payment may be withheld or delayed if the Grant Recipient fails to make progress on the Project satisfactory to the NCLWF. Amounts withheld shall be reimbursed with subsequent payments in the event that the Grant Recipient is able to demonstrate an ability to resume satisfactory progress toward completion of the Project.
- (g) Proof of Payment. The Grant Recipient agrees to pay, as the work progresses, all bills for expenses

incurred on the Project and agrees to submit to the NCLWF all such receipts, affidavits, canceled checks, or other evidence of payment as may be requested from time to time and, when and if requested by the NCLWF, to furnish adequate proof of payment of all indebtedness incurred on the Project.

- (h) <u>The NCLWF Retaining Portion of Funds until Project Completion</u>. The NCLWF will withhold payment from the Grant Recipient in the amount of **\$25,000** of the Grant until the Grant Recipient has satisfactorily submitted its grant contract final report.
- (i) <u>No Excess Costs</u>. The NCLWF agrees to pay or reimburse the Grant Recipient only for reasonable costs actually incurred by the Grant Recipient that do not exceed the funds budgeted for the Project in **Exhibit B**.
- (j) <u>Period for Incurring Expenditures</u>. The NCLWF will reimburse the Grant Recipient for allowable Project expenditures that are incurred by the Grant Recipient or its vendors only during the period between the Award Date and the Expiration Date of the Grant Contract. The NCLWF will not reimburse the Grant Recipient for Project expenditures that are not incurred during this period.
- (k) <u>Costs of Project Administration</u>. The NCLWF agrees to reimburse the Grant Recipient for administrative costs consisting only of costs of labor for administrative work conducted exclusively on this Project. The Grant Recipient's requests for such payment shall be made under the Project Administration line item of **Exhibit B** and shall conform to the following.
  - i. Costs allowable under the Project Administration line item shall be only reasonable costs of labor needed to comply with the general conditions of the Grant Contract (e.g., progress reports, payment requests, preparing the grant contract final report, revisions to the Grant Contract). Allowable Project Administration labor costs may include any of the following:
    - (a) compensation to the Grant Recipient's employees, plus the Grant Recipient's cost of paying benefits on such compensation (i.e., employees' pay times an audited or auditable benefits multiplier);
    - (b) compensation to the Grant Recipient's independent contractors (e.g., temporary office support), payable at the Grant Recipient's actual cost, without application of a benefits multiplier; and/or
    - (c) cost of professional services contracted by the Grant Recipient (e.g., engineering firm or consultant), payable at the Grant Recipient's actual cost.
  - ii. Costs of any other work described in the Project Scope of Work in **Exhibit A** are not allowable under the Project Administration line item.

9. <u>Grant Withdrawal for Failure to Enter into a Construction Contract</u>. Pursuant to N.C.G.S. §143B-135.238(f), if the Project includes construction, this Grant award shall be withdrawn if the Grant Recipient fails to enter into a construction contract for the Project within one year after the Award Date, unless the NCLWF's Board of Trustees finds that the Grant Recipient has good cause for the failure. If the Trustees find good cause for the Grant Recipient's failure, the Trustees must set a date by which the Grant Recipient must take action or forfeit the Grant.

#### 10. <u>Refunds, Reversion of Unexpended Funds, and Reduction of the Grant based on Construction Cost</u> less than Budgeted Construction Cost.

(a) <u>Refunds</u>. The Grant Recipient shall repay to the NCLWF any compensation it has received that exceeds the payment to which it is entitled herein, including any interest earned on funds reimbursed pursuant to the Grant Contract.

- (b) <u>Reversion of Unexpended Funds</u>. Any unexpended Grant monies shall revert to the NCLWF upon termination of the Grant Contract.
- (c) <u>Reduction of the Grant based on Construction Cost less than Budgeted Construction Cost</u>. The NCLWF may reduce the Grant amount if the Grant Recipient expects actual construction costs to be less than budgeted construction costs, as follows:
  - i. the Grant Recipient shall provide to the NCLWF construction contract pricing information consisting of at least a statement of the scope of the construction work, agreed-upon constructor or vendor pricing for the construction work, and a total anticipated construction cost based on the pricing;
  - ii. the Grant Recipient shall deliver the construction contract pricing information to the NCLWF's Contract Administrator within thirty (30) days of executing a construction contract for the Project; and
  - iii. the NCLWF may, at its discretion after comparing the total anticipated construction cost with the Grant Contract project budget, choose to reduce the Grant. If the NCLWF chooses to reduce the Grant, the NCLWF's Contract Administrator will prepare an amendment to the Grant Contract for this purpose, and the NCLWF will approve requests for reimbursement of the Grant Recipient's construction costs only after the amendment has been signed by both the Grant Recipient and the NCLWF.
- 11. **<u>Reporting Requirements</u>**. Beginning three (3) months after the Effective Date, the Grant Recipient must submit to the NCLWF a quarterly report on the status of the Project, via the appropriate form provided on the Fund's online grant management system. In addition, N.C.G.S. Chapter §143C, Article 6, Part 3 and Title 09, Subchapter 3M of the North Carolina Administrative Code (N.C.A.C.) require each Grant Recipient of State funds to comply with certain reporting requirements, as applicable. The Grant Recipient must also provide the required documentation as set forth in **Exhibit C1**. The Grant Recipient shall submit to NCLWF's Contract Administrator a grant contract final report via the appropriate form available on NCLWF's website and on the NCLWF grant management system (GMS). If the grant contract final report is not acceptable to the NCLWF, the NCLWF shall return it to the Grant Recipient for revision. Final payment will not be made until the grant contract final report is acceptable to the NCLWF.

12. <u>Notice: Contract Administrators</u>. All notices, requests, or other communications permitted or required to be made under this Grant Contract shall be given to the respective Contract Administrator. Notice shall be in writing, signed by the Party giving such notice. Notice shall be deemed given three (3) business days next following the date when deposited in the mail, postage prepaid, registered, or certified mail, return receipt requested, unless another form is otherwise noted herein.

13. <u>Signature Warranty</u>. Each individual signing below warrants that he or she is duly authorized to sign this Contract for the respective party, and to bind said party to the terms and conditions of this Grant Contract.

(The remainder of this page is intentionally left blank)

**IN WITNESS WHEREOF,** the Grant Recipient and the Fund have executed this Grant Contract in one (1) original as of the Effective Date. One original shall be retained by the Fund and a copy of the original will be sent to the Grant Recipient. If there is any controversy among the documents, the document on file in the Fund's office shall control.

#### **GRANT RECIPIENT:**

By:			
2			

Title:		

#### **APPROVED AS TO FORM:**

Town Attorney

#### NCLWF:

#### NORTH CAROLINA LAND AND WATER FUND

By:

Name: John B. Wilson, Jr. Title: Chairman, Board of Trustees

By: Name: William B. Summer Title: Executive Director

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#### EXHIBIT A NCLWF PROJECT NO. 2021-401

Stream of the Project Site: UT to Beaver Creek

Water bodies downstream: Beaver Creek, Jordan Lake

River basin: Cape Fear

County: Wake

Amount requested from NCLWF: \$409,658

NCLWF approved grant amount up to: \$409,658

Total matching contributions: \$276,500

Total project budget: \$686,400

Percent match: 40%

Grant award date: September 15, 2021

**<u>Related NCLWF-funded projects</u>** The project site is in a Town of Apex park purchased with an NCLWF grant where the 57 acres Seymour tract was secured as project number 2004A-001

**<u>Project Site</u>**: The Project Site is approximately 2,400 linear of a unnamed tributary of Beaver Creek on Town of Apex property within Apex Nature Park.

**<u>Stream Condition</u>**: The stream in the project area is moderately unstable. Riparian vegetation at certain points along the reach show evidence of trampling as disc golf users have repeatedly accessed the waters' edge.

**Project Summary:** The Town of Apex is requesting \$409,658 from the NC Land and Water Fund to complete a stream restoration project of 2,400 linear feet on an incised and laterally unstable unnamed tributary (UT) to Beaver Creek. Much of the restoration work will be conducted in a Town park that had been purchased and placed under conservation easement in 2005.

#### Scope of Work, The Grant Recipient shall conduct and complete the activities given below:

- 1. Consult with relevant permitting and regulatory agencies
- 2. Draft and complete engineering designs and plans
- 3. Secure all required local, State, and Federal permits
- 4. Secure conservation agreements on riparian areas (much of this work completed under previous grant)
- 5. Construct project per engineering design and plans
- 6. Develop educational features
- 7. Manage the project in total and report to the Fund

#### **Special Grant Contract Conditions:**

- 1. The Grant Recipient shall provide or otherwise ensure that the matching funds identified in **Exhibit B** are provided to the project.
- 2. Stream restoration, enhancement, and stabilization designs and their implementation must provide for permanently vegetated riparian buffers and permanent legal protection of the riparian buffers in accordance with the following.
  - (a) <u>Riparian buffer widths, areas, and vegetation</u>. Except as otherwise provided in these Special Contract Conditions, riparian buffers must be vegetated with protected existing vegetation and/or new planted vegetation established to become permanent over the entire buffer area in accordance with the following.

i.Widths and areas of riparian buffers: The widths and areas of vegetated riparian buffers are given in the Schedule of Properties for Legal Protection of Riparian Buffers.

Schedule of Properties for Legal Protection of Riparian Buffers								
			Stream Right			Stream Left		
No.	Property Owner	PIN	Stream Frontage (LF)	Protected Buffer Width (feet)	Protected Buffer Area (acres)	Stream Frontage (LF)	Protected Buffer Width (feet)	Protected Buffer Area (acres)
1	Town of Apex 0	0721778068				800	76	1.4
2								
3								
4								
5								
6								
7								
8								
9								
Totals						800	76	1.4
Average protected buffer widths								

ii. Woody vegetation along stream banks. Along restored streambanks and protected existing streambanks, native woody vegetation must be protected or established at a density such that vegetation will reach a survival rate of at least 320 trees per acre. Native woody vegetation must be protected or established from the top of each protected or restored streambank outward to widths of at least 50 feet perpendicular to the streambank.

- (b) <u>Permanent legal protection of riparian buffers</u>. Real properties on which vegetated riparian buffers are to be provided must be protected permanently by legal instruments conforming to N.C.G.S. Chapter 121, Article 4, and N.C.G.S. Chapter 143B, Article 2, Part 41 (see Exhibit F and Section 5 of this Grant Contract). Real properties of the Project Site and corresponding land areas to be permanently protected are given in the Schedule of Properties for Legal Protection of Riparian Buffers.
- 3. The Grant Recipient shall permanently restrict uses on each property identified in the Schedule of Properties for Legal Protection of Riparian Buffers, as follows.
  - (a) <u>Properties owned by the Town of Apex</u>. Permanent property restrictions needed to implement the Project shall be in the form of recorded declarations of covenants of land-use restrictions that provide for the State of North Carolina to have rights of enforcement of the declarations of covenants. Declarations of covenants shall be substantially in a form of the document approved and signed as-to-form by the NCLWF. The Grant Recipient is responsible to accomplish and complete the following for these properties:
    - i. submit to the NCLWF a letter of intent from the Town of Apex indicating its intent to enter into permanent land-use restrictions on Town of Apex-owned properties identified in the Schedule of Properties for Legal Protection of Riparian Buffers to protect portions of properties needed to implement this Project. This letter shall describe the properties and the portions of the properties to be protected, shall state that the Town of Apex intends to enter into permanent land-use restriction to protect land that is part of the Project Site, and shall be signed by the Town of Apex. The NCLWF will approve the Grant Recipient's requests for payment of any costs only after receiving such a letter;

- ii. prepare and execute a declaration of covenants of land-use restrictions for each property and record each executed declaration with the Wake County Register of Deeds; and
- iii. provide a copy of each recorded declaration to the NCLWF. The NCLWF will approve the Grant Recipient's requests for payment of any costs for construction only after receiving all recorded declarations.
- 4. The Grant Recipient shall secure applicable Federal and State permits before the start of construction and submit copies of the permits to the NCLWF. The NCLWF shall approve requests for payment of the Grant Recipient's construction costs only after receiving copies of applicable Federal and State permits.
- 5. In accordance with Water Quality Certification No. 3885, before construction begins the Grant Recipient shall submit a Pre-Construction Notification (PCN) form and three (3) copies of the Project plans and specifications to the North Carolina Division of Water Resources (DWR) 401 Certification Program for review. The Grant Recipient shall follow the latest guidelines on DWR's website (<u>http://portal.ncdenr.org/web/wq/swp/ws/401</u>) for the types of information to submit to DWR for review. The Grant Recipient shall name the NCLWF as the "agent" on the PCN form and shall send a copy of the PCN form to the NCLWF at the same time the form is sent to DWR.
- 6. In conducting this Project, the Grant Recipient shall employ principles for restoring streams that have been established by the DWR 401 Certification Program. The Grant Recipient shall work with staff of the DWR 401 Certification Program to provide a Project design that, to the extent practicable, re-establishes the structure, function, and self-sustaining behavior of the Project reach of stream to those that existed before the stream reach was disturbed. NCLWF will release funds for reimbursing the Grant Recipient for construction only after receiving a letter from the DWR 401 Certification Program stating that either: (a) the Project design is capable of restoring the stream reach, or (b) if, in the opinion of the DWR 401 Certification Program, restoration of the full stream reach is not practicable but the Project design is capable of enhancing portions of the reach that cannot be restored. If DWR does not provide such a letter within 30 days from receiving the PCN and Project design (plans and specifications) from the Grant Recipient, then NCLWF will deem the design meets the requirements of the DWR 401 Water Quality Certification Program. Definitions used by the DWR 401 Certification Program are given in Exhibit D.
- 7. The following General Terms and Conditions in Exhibit E do not apply to this Grant Contract: none.
- 8. Other conditions special to this grant:
  - a. A plan describing Park activities such as frisbee golf be managed and planned so that riparian areas of the project area not be disturbed is to be provided to the Fund.

# **Project Schedule**

- Construction Contract Date: <u>September 15, 2022</u> (one year after the Contract Award Date). The Grant Recipient shall enter into a construction contract by this date for the work identified as construction in Exhibit A. Failure to enter into a construction contract by this date will result in withdrawal of the Grant, unless the NCLWF's Board of Trustees has found that the Grant Recipient had good cause for such failure and the Board of Trustees has set a date by which the Grant Recipient must take action.
- 2. Contract Expiration Date: <u>November 30, 2023</u>. The Grant Recipient shall complete the Project Scope of Work and submit the grant contract final report (Grant Contract Section 10 and as otherwise specified in Exhibit A) by

this date. The NCLWF will not reimburse the Grant Recipient for Project costs incurred after this date.

3. **Reimbursement Date:** <u>December 14, 2023</u>. The NCLWF must receive the Final Request for Payment for the Project by this date. The NCLWF will not accept or process for payment any request for payment received after this date. The NCLWF will not reimburse the Grant Recipient for costs incurred after the Contract Expiration Date.

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#### EXHIBIT B NCLWF PROJECT NO. 2021-401

	Item	NCLWF Grant Funds <sup>1</sup>	Matching Funds <sup>2</sup>	Total Item Budget
1.	Design and permitting	\$60,000	\$50,000	\$110,000
2.	Easement preparation and recordation	\$0	\$0	\$0
3.	Construction	\$338,250	\$169,148	\$507,398
4.	Construction administration/observation	\$0	\$17,500	\$17,500
5.	Construction contingency <sup>3</sup>	\$0	\$0	\$0
6.	Monitoring, data collection, data evaluation and analysis	\$0	\$0	\$0
7.	Value of easements to be donated <sup>4</sup>	\$0	\$22,602	22,602
8.	Project administration	\$0	\$17,500	\$17,500
9.	Monitoring	\$11,408	\$0	\$
	Total Project Budget	\$409,658	\$276,750	\$686,408
	% of Total Project Budget	60%	40%	100%

#### **PROJECT BUDGET**

Notes:

<sup>1</sup>To obtain payment, the Grant Recipient must submit itemized documentation substantiating direct costs incurred in implementing the project.

<sup>2</sup>Matching funds are contributed by: Town of Apex, \$276,500.

<sup>3</sup>Construction contingency funds allow the project to cover unanticipated construction costs, often resulting from unexpected conditions encountered during construction. Construction contingency funds shall not be used for work that is not construction (e.g., design or construction administration) nor for construction that is not part of the project scope of work (e.g., add-on work). Construction contingency funds may be disbursed only after the Grant Recipient has demonstrated to the NCLWF that it has expended 100 percent of funds in Construction line items, 100 percent of local matching funds, and at least 90 percent of all other matching funds, including matching grant and/or loan funds.

<sup>4</sup>The value of a conservation easement (or other legal instrument acceptable to the NCLWF) donated to the project by a property owner or acquired by the Grant Recipient may be claimed as matching funds contributed to the project only after the Grant Recipient has provided to the NCLWF all of the following information for that donated easement:

- (a) calculated area of the easement;
- (b) copy of the easement document as recorded by the county register of deeds; and
- (c) basis for the claimed value of the easement, which may be in the form of:
  - i. current property tax valuation assessed by the Wake County Tax Assessor's Office showing total value of land and/or improvements, if any, with indicated year of the actual assessment. This option is available for land acquisitions for which the total price for any given parcel does not exceed \$100,000. An appraisal is required if the total value of any given parcel exceeds \$100,000. See additional details on appraisal requirements below; or
  - ii. if a recent appraisal has been prepared, the appraisal summary may be used, instead of the

tax valuation.

**Appraisal Requirements.** Appraisals are required if the total value of any given parcel exceeds \$100,000 and must be satisfactory to the NCLWF, performed by an independent certified appraiser acceptable to the NCLWF, and consistent with regulations or policies of the State Property Office (SPO) and policies of the NCLWF, *specifically in the "complete summary appraisal" format in accordance with Uniform Standards of Professional Appraisal Practice (USPAP).* Two (2) appraisals are required if the value of the property is greater than \$500,000.00. All Appraisals should be forwarded to the NCLWF as soon as possible, but no later than 60 days prior to the anticipated closing date. The Appraisal should reflect the fair market value of the property. All Appraisals are subject to review by the SPO. At the discretion of the NCLWF, the Grant Recipient may be required to amend or update the Appraisal. The Grant Recipient specifically acknowledges that NCLWF's acceptance of the matching funds value for the land acquisition is contingent upon approval of the appraised value by the SPO. All Appraisals must be ordered in consultation with the NCLWF's Real Property Agent in the State Property Office. Provide two (2) originals of each Appraisal obtained. NCLWF must be included as an authorized user of the Appraisal.

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#### EXHIBIT C NCLWF PROJECT NO. 2021-401

#### <u>Pre-Disbursement</u> Checklist Documents to Be Submitted to NCLWF Before any Funds will be Disbursed under the Grant

	Requirement	Description/What to Submit				
Sub	Submit before first request for payment					
1	Authorization to obligate*	Does not apply to this contract.				
2	Matching funds**	Proof of availability of matching funds included in the project budget.				
3	Easements and/or declarations of covenants	Letters of intent from property owners. Letter from the holder of the easements stating that it accepts this role and its responsibilities.				
4	Documents in	Documents as identified in Exhibit A "Special Contract Conditions" (if any) as				
	Exhibit A	required prior to the release of NCLWF funds.				
		lest for construction payment				
5	Easements and/or declarations of covenants	Copies recorded easements and/or declarations of covenants for the properties in Schedule of Properties for Legal Protection of Riparian Buffers in <b>Exhibit A</b> . Each easement and each declaration of covenants is subject to review and acceptance by NCLWF.				
6	Construction permits	Provide a copy of each applicable Federal or State permit issued for construction, or written documentation from the appropriate State agency that construction of the Project does not require a Federal or State permit.				
7	Construction contract pricing information	Within 30 days of executing a construction contract for the Project, submit construction contract pricing information consisting minimally of a statement of the scope of the construction work, agreed-upon constructor or vendor pricing for the construction work, and a total anticipated construction cost based on the pricing. (Refer to Section 10 of the Grant Contract.)				
8	Documents in <b>Exhibit A</b>	Documents as identified in <b>Exhibit A</b> "Special Contract Conditions" (if any) as required prior to the release of NCLWF funds.				
Sub	Ibmit before or accompanying request for final payment					
9	Grant contract final report	Report per Grant Contract Section 10.				
10	Easements and/or declarations of covenants	Schedule of Properties for Legal Protection of Riparian Buffers in <b>Exhibit A</b> . Each easement and each declaration of covenants is subject to review and acceptance by NCLWF.				
11	Documents in <b>Exhibit A</b>	Documents as identified in <b>Exhibit A</b> "Special Contract Conditions" (if any) as required prior to the release of NCLWF funds.				

\* Examples of proof of authorization to obligate include:

- resolution of the governing board to obligate
- certified copy of board meeting minutes documenting giving of authority to obligate

\*\*Examples of proof of availability of matching funds include:

- grants from other sources:
  - copy of grant agreement
  - copy of grant award letter
- local agency matching funds:

- resolution of the governing board
- budget showing allocation of matching funds to the Project, accompanied by a certified copy of board meeting minutes approving the budget or by a certified copy of board meeting minutes authorizing use of local matching funds for the Project
- certified copy of board meeting minutes attesting to the use and amount of local funds for match
- letters from other sources of matching funds attesting to contribution of the funds
- value of conservation easements to be donated:
  - current properties' fair market tax valuations assessed by the county tax assessor's office, prorated to apply only to the areas of the permanent conservation easements to be recorded for this project; or
  - appraisals, prepared and signed by a North Carolina-licensed appraiser, of the diminution of properties' fair market values as a result of being encumbered by permanent conservation easements required for this project.

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#### <u>EXHIBIT C.1</u> ASSURANCES FOR NON-FEDERALLY FUNDED CONTRACTS

Exhibit C.1 applies only to grant recipients that are nonprofit corporations.

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#### <u>EXHIBIT D</u> ADDITIONAL DEFINITIONS

The definitions set forth in N.C.G.S. Chapter 143C shall apply to this Grant Contract except as otherwise provided herein below. The definitions provided by 09 N.C.A.C. 03M shall apply to this Grant Contract to the extent they are not in conflict with N.C.G.S. Chapter 143C or this Grant Contract. In the event of conflict, N.C.G.S. Chapter 143C shall control over 09 N.C.A.C. 03M, and this Grant Contract shall control over N.C.G.S. Chapter 143C.

- 1. "Grant Contract" means a legal instrument that is used to reflect a relationship between the Grantor and the Grant Recipient and is used interchangeably herein with the term "Contract."
- 2. "Construction contract" means a legally binding agreement between the Grant Recipient and another party for implementing construction work described in the project scope of work given in **Exhibit A**.
- 3. "Enter into a construction contract" means signature of a construction contract by both the Grant Recipient and another party for the construction work described in the project scope of work given in **Exhibit A**.
- 4. "Grant" and "grant funds" as defined in N.C.G.S. §143C-6-23 means State funds disbursed as a grant by a State agency; however, the terms do not include any payment made by the Medicaid program, the State Health Plan for Teachers' and State Employees, or other similar medical programs. For purposes of this Grant Contract, both "grant" and "grant funds" shall be referred to as the Grant that is provided to the Grant Recipient to carry out the objectives of the Grant Contract.
- 5. "Grantee" as defined in the N.C.G.S. § 143C-6-23 means a non-State entity that receives State funds as a grant from a State agency but does not include any non-State entity subject to the audit and other reporting requirements of the Local Government Commission. For purposes of this Grant Contract, however, a "grantee" as defined in N.C.G.S. §143C-6-23 shall be referred to as the Grant Recipient and the term "grantee" shall mean and refer to an entity that is the recipient of an interest in real property.
- 6. "Grantor" means an entity that provides resources, generally financial, to another entity in order to achieve a specified goal or objective. For purposes of this Grant Contract, the Grantor is the NC Land and Water Fund.
- 7. "Stream enhancement" means the process of implementing certain stream rehabilitation practices in order to improve water quality and/or ecological function. These practices typically are conducted on the stream bank or in the flood prone area. An enhancement procedure may include fencing cattle out of a stream and reestablishing vegetation in order to provide streambank stability. These types of practices should be conducted only on a stream reach that is not experiencing severe aggradation or erosion. Enhancement also may include placing in-stream habitat structures, provided that the in-stream structures do not affect the overall dimension, pattern, or profile of a stream that is in dynamic equilibrium.
- 8. "Stream restoration" means the process of converting an unstable, altered, or degraded stream corridor including adjacent riparian zone and flood prone areas, to its natural or referenced, stable conditions considering recent and future watershed conditions. This process also includes restoring the geomorphic dimension, pattern, and profile and biological and chemical integrity, including transport of water and sediment produced by the stream's watershed in order to achieve dynamic equilibrium.
- 9. "Stream stabilization" means the in-place stabilization of a severely eroding streambank. Stabilization techniques that include "soft" methods or natural materials (such as root wads, rock vanes, and vegetated crib walls) may be considered as part of a restoration design. However, stream stabilization techniques that rely heavily on "hard" engineering, such as concrete-lined channels, rip rap, or gabions, to stabilize streambanks will not be considered to be stream restoration or stream enhancement.
- 10. "State agency" shall mean a unit of the executive, legislative, or judicial branch of State government, such as a department, institution, division, commission, board, council, or The University of North Carolina. The

term does not include a unit of local government or a public authority. For purposes of this Grant Contract, both the North Carolina Department of Natural and Cultural Resources and the NC Land and Water Fund are State agencies.

11. For purposes of this Grant Contract, a "Subgrantee," as defined in N.C.G.S. §143C-6-23, and "Subrecipient," as defined in 09 NCAC 03M .0102 and applicable to 09 N.C.A.C. 03M, shall be referred to as a "Sub-grant Recipient."

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#### <u>EXHIBIT E</u> GENERAL TERMS AND CONDITIONS

#### A. Affirmative Covenants

1. <u>**Title.**</u> If the property right to be acquired is fee title, the Grant Recipient shall acquire good and marketable title to the Property free and clear of any liens, other charges, or encumbrances that would materially affect the use of the Property as intended under this Grant Contract.

2. <u>No Mitigation</u>. The Grant Recipient shall not use the Property or any portion thereof to satisfy compensatory mitigation requirements under 33 USC § 1344 or N.C.G.S. §143-214.11.

3. **<u>Right of Entry and Inspections</u>**. The Grant Recipient shall permit NCLWF's representatives to enter the Property for inspection of the Property and to enter any other premises of the Grant Recipient associated with the activities of the Grant Recipient pursuant to the Grant, including to review books and records in any way related to the Grant or the Property.

#### 4. <u>Retention, Operation, Maintenance and Use</u>.

(a) The Grant Recipient agrees to complete the Project as approved by the NCLWF. The descriptions, purpose, schedules, scope of work, and budgets set out in **Exhibits A and B**, and accompanying or related plans, specifications, estimates, procedures, and maps submitted to the NCLWF by the Grant Recipient are the foundation of this Grant Contract. Only changes deemed non-material in type by the Executive Director may be made without the consent of the NCLWF's Board of Trustees.

(b) For a period of ten (10) years after Project completion, the Grant Recipient agrees to maintain and manage, at maximum functional utility, the end product of the Project. The Grant Recipient shall inspect the Project on a routine basis and make routine repairs to restore the infrastructure to its full function within two (2) weeks of the need for the repairs. The Grant Recipient shall make additional inspections following major storm events and shall make all necessary repairs to return the infrastructure to its full function within the sooner of four (4) months after the major storm event or as soon as is commercially practicable after the major storm event.

(c) Property acquired, developed, or improved with grant assistance from the NCLWF shall be retained and used for the purposes identified in **Exhibit A**, and the Grant Recipient hereby agrees to file or record such restrictions as may be required to ensure such continued use and such restrictions shall be in form and substance satisfactory to the NCLWF.

(d) If at some future date, the NCLWF and the Grant Recipient agree in writing that the Project should no longer continue on as property(ies) of the Project Site, then Grant Recipient will abandon the Project and allow such property to return to its natural state.

5. <u>Signage</u>. If funds are available in the Grant Contract at the end of the Project, the Grant Recipient agrees to post signs, acknowledging NCLWF as the source of monies for conservation of the Property, on publicly visible areas of those Properties that have public access and/or where private property owners are amenable to signage.

6. **Publicity.** To the extent possible, the Grant Recipient will use its best efforts to appropriately publicize the Project's benefits to the general public and to local government and State representatives, including the role of the NCLWF in the funding and development of the project.

7. <u>**Conflicts of Interest.</u>** The Grant Recipient shall at all times comply with the Grant Recipient's conflict of interest policy.</u>

8. <u>**Compliance with Reporting Requirements.</u>** The Grant Recipient shall comply with the reporting requirements contained in Section 9 of the Grant Contract, and in N.C.G.S. Chapter 143C, Article 6, Part 3, and 09 N.C.A.C. Subchapter 03M-Uniform Administration of State Grants, including audit oversight by the Office of the State Auditor, the provision of access to the accounting records by both the funding entity and the Office of the State Auditor in accordance with N.C.G.S. §147-64.7, and availability of audit work papers in the possession of any auditor of any recipient of State funding. If a Grant Recipient has not met these reporting requirements and fails to submit revised reports in accordance with a grantor agency determination letter, the grantor agency shall suspend further payments to the Grant Recipient and report the Grant Recipient to the Office of the State Auditor and the Office of the State Controller.</u>

9. **Books and Records.** The Grant Recipient agrees to maintain and make available for inspection by the NCLWF, at all reasonable times, all documents, books, and records of all expenditures for costs applicable to this Grant Contract, and to submit properly certified billings for such costs on forms prescribed by the NCLWF and supported by detailed data sheets which will facilitate the audit of the Grant Recipient's records. Further, the Grant Recipient shall maintain all Grant records for a period of five (5) years or until all audit exceptions have been resolved, whichever is longer.

10. <u>Additional Requirements</u>. The Grant Recipient shall comply with all legal requirements applicable to the use of the Grant funds.

11. **Permits and Approvals.** All required regulatory approvals to use the Property and the Conservation Easement area in accordance with **Exhibit A** have or will be obtained.

12. <u>Compliance with Laws</u>. The Grant Recipient agrees to perform and maintain the Project in compliance with all Federal, State, and local laws and regulations, including, without limitation, environmental, zoning, and other land use laws and regulations. The Grant Recipient agrees to take reasonable steps to advise Project participants that they shall comply in the same manner.

13. **Insurance.** The Grant Recipient agrees to keep structures or improvements of any sort constituting the Project fully insured at all times during construction and to keep fully insured all building materials at any time located on the Project. The Grant Recipient will ensure that all contractors furnish adequate payment and performance bonds.

14. <u>No Pollution Credits</u>. If the Project enables the Grant Recipient to qualify for pollution credits by reducing the discharge of phosphorus, nitrogen, or any other nutrient or pollutant below, or further below, applicable regulatory limits, or otherwise ("Pollution Credits"), the Grant Recipient shall not sell, trade, or give to another person or entity that percentage of any resulting Pollution Credits achieved by the Project corresponding to the percentage of the Project costs provided by the NCLWF.

15. <u>Material Modifications</u>. Any proposed material modification of the Project shall be subject to approval by the NCLWF.

16. **Data Requests.** If the NCLWF so requests, the Grant Recipient shall provide data to the North Carolina Rural Economic Development Center's Water Resources Inventory and Data Management Project and/or to the North Carolina Geographic Information Coordinating Council's NC One Map Project.

17. <u>Conservation Easement or Other Land Use Restrictions</u>. The Grant Recipient shall obtain Conservation Easements or other land use restrictions for this Project satisfactory to the NCLWF in its sole discretion.

18. **Boundary Marking of Riparian Buffer Easement Areas.** The Grant Recipient shall mark the outside limits of riparian buffer conservation easement areas in a manner that is clearly visible and identifiable as the limit of the easement area.

#### B. Representations and Warranties

In order to induce the NCLWF to enter into this Grant Contract and to make the Grant as herein provided, the Grant Recipient after reasonable inquiry makes the following representations, warranties, and covenants, which shall remain in effect after the execution and delivery of this Grant Contract and any other documents required hereunder, any inspection or examinations at any time made by or on behalf of the NCLWF, and the completion of the Project by the Grant Recipient:

1. <u>No Actions</u>. There are no actions, suits, or proceedings pending, or to the knowledge of the Grant Recipient threatened against or affecting the Grant Recipient before any court, arbitrator, or governmental or administrative body or agency that might affect the Grant Recipient's ability to observe and perform its obligations under this Grant Contract.

2. <u>No Untrue Statements</u>. Neither this Grant Contract nor any information, certificate, statement, or other document furnished by the Grant Recipient in connection with the Grant contains any untrue statement of a material fact or omits disclosure of a material fact that affects a property(ies) of the Project Site, the Conservation Easement, or the ability of the Grant Recipient to perform this Grant Contract.

3. <u>Validity of Grant</u>. Upon execution and delivery of this Grant Contract, it will be a valid and binding agreement, enforceable in accordance with the terms thereof.

4. **<u>Zoning</u>**. The present and proposed use of the Property, including, without limitation, the purpose of the Conservation Easement, is in compliance with all applicable zoning ordinances, and all applicable municipal and other governmental and regulatory approvals have been or will be obtained for the use and for operation of the Property according to this Grant Contract.

5. <u>**Tax Exempt Status.**</u> As applicable, the Grant Recipient shall maintain tax-exempt status under Section 501(c) (3) of the Internal Revenue Code of 1986, as amended (or any successor section) and the regulations promulgated there under (the "Code") and shall notify the NCLWF within thirty (30) days upon any change in its status under the Code.

# C. Termination: Events of Default

1. **Termination by Mutual Consent.** The Parties may terminate this Grant Contract by mutual written consent with sixty (60) days prior notice, or as otherwise provided by law.

2. <u>**Termination for Cause.**</u> The happening of any of the following, after the expiration of any applicable cure period without the cure thereof, shall constitute an event of default ("Event(s) of Default") by the Grant Recipient of its obligations to the NCLWF, and shall entitle the NCLWF to exercise all rights and remedies under this Grant Contract and as otherwise available at law or equity.

- (a) <u>Property Unsuitable</u>. A determination by the NCLWF, prior to the disbursement of the Grant funds, that a property(ies) of the Project Site is unsuitable for the purposes of the Grant Contract.
- (b) <u>Unsuitable Use</u>. A property(ies) of the Project Site is used in a manner materially inconsistent with the purposes of this Grant Contract or the Project.
- (c) <u>Default in Performance</u>. The default by the Grant Recipient in the observance or performance of any of the terms, conditions, or covenants of this Grant Contract; provided, however, that no such default shall occur until the Grant Recipient has been given written notice of the default and 30 days to cure have elapsed.
- (d) <u>Misrepresentation</u>. If any representation or warranty made by the Grant Recipient in connection with the Grant or any information, certificate, statement, or report heretofore or hereafter made shall be untrue or misleading in any material respect at the time made.

- (e) <u>Eligibility of Grant Recipient</u>. If the Grant Recipient ceases to be qualified to receive Grant funds, is dissolved, or otherwise ceases to exist.
- (f) <u>Failure to Monitor Conservation Easement</u>. If the Grant Recipient fails to notify the NCLWF of any potential violation of the Conservation Easement reasonably known to the Grant Recipient within a reasonable period of time so as to avert or cure any potential violation.
- (g) <u>Abandonment of the Project</u>. If the Grant Recipient abandons or otherwise ceases to continue to make reasonable progress towards completion of the Project.

#### D. The NCLWF's Rights and Remedies

If an Event of Default shall occur, the NCLWF shall have the following rights and remedies, all of which are exercisable at the NCLWF's sole discretion, and are cumulative, concurrent, and independent rights.

1. <u>**Project Termination.**</u> If an Event of Default occurs, the NCLWF may, at its discretion, suspend and/or terminate all obligations of the NCLWF hereunder. If, in the judgment of the NCLWF, such failure was due to no fault of the Grant Recipient, amounts required to resolve at minimum costs any irrevocable obligations properly incurred by the Grant Recipient shall, in the discretion of the NCLWF, be eligible for assistance under this Grant Contract.

2. <u>Additional Remedies</u>. If an Event of Default occurs, the NCLWF shall have the power and authority, consistent with its statutory authority: (a) to prevent any impairment of the Project by any acts that may be unlawful or in violation of this Grant Contract or any other item or document required hereunder, (b) to obtain title to or otherwise preserve or protect its interest in the Project and any property acquired with Grant funds, (c) to compel specific performance of any of the Grant Recipient's obligations under this Grant Contract, (d) to obtain return of all Grant Funds, including equipment if applicable and/or (e) to seek damages from any appropriate person or entity. The NCLWF, or its designee, may also, at the NCLWF's sole discretion, continue to complete the Project, or any portion thereof deemed appropriate by the NCLWF, and the Grant Recipient shall cooperate in the completion of the Project. The NCLWF shall be under no obligation to complete the Project.

3. <u>Non-waiver</u>. No delay, forbearance, waiver, or omission of the NCLWF to exercise any right, power, or remedy accruing upon any Event of Default shall exhaust or impair any such right, power, or remedy or shall be construed to waive any such Event of Default or to constitute acquiescence therein. Every right, power, and remedy given to the NCLWF may be exercised at any time and as often as may be deemed expedient by the NCLWF.

# E. Miscellaneous

1. <u>Modification</u>. This Grant Contract may be rescinded, modified, or amended only by written agreement executed by all Parties hereto.

2. <u>Benefit</u>. This Grant Contract is made and entered into for the sole protection and benefit of the NCLWF, the State, and the Grant Recipient, and their respective successors and assigns, subject always to the provisions of Section E.8 of this **Exhibit E**. Except for the State, there shall be no third-party beneficiaries to this Grant Contract.

3. **Further Assurance.** In connection with and after the payment of Grant funds under this Grant Contract, upon the reasonable request of the NCLWF, the Grant Recipient shall execute, acknowledge, and deliver or cause to be delivered all such further documents and assurances, and comply with any other requests as may be reasonably required by the NCLWF or otherwise appropriate to carry out and effectuate the Grant as contemplated by this Grant Contract and the purposes of the Conservation Easement.

4. <u>**Compliance by Others.</u>** The Grant Recipient shall be responsible for compliance with the terms of this Grant Contract by any Sub-grant Recipient, including but not limited to, a political subdivision, public agency, or qualified non-profit organization to which funds or obligations are transferred, delegated, or assigned pursuant to this Grant Contract. Delegation by the Grant Recipient to a Sub-grant Recipient of any duty or obligation hereunder does not relieve the Grant Recipient of any duty or obligation created hereunder. Failure by such Sub-grant Recipient to comply with the terms of this Grant Contract. Any such delegation of duties or obligations shall be in writing, signed by the Grant Recipient and Sub-grant Recipient, shall be in accordance with Section E.8 of this **Exhibit E**, and shall contain an affirmative covenant by the Sub-grant Recipient that it shall abide by the rules set forth in Title 09, Subchapter 03M of the North Carolina Administrative Code.</u>

5. **Independent Status of the Parties.** The Parties are independent entities and this Grant Contract shall not create a partnership or joint venture between the Parties. Further, the Grant Contract shall not in any way be interpreted or construed as making the Grant Recipient, its agents, or employees, to be agents or representatives of the NCLWF. The Grant Recipient is and shall be an independent contractor in the performance of this Grant Contract and as such shall be wholly responsible for the work to be performed and for the supervision of its agents and employees. In no event shall the NCLWF be liable for debts or claims accruing or arising against the Grant Recipient. The Grant Recipient represents that it has, or shall secure at its own expense, all personnel required in the performance of this Grant Contract. Such employees shall not be employees of, nor have any individual contractual relationship with, the NCLWF.

6. **Indemnity.** The Grant Recipient agrees, to the fullest extent permitted by law, to release, protect, indemnify, and hold harmless the State, the NCLWF, its Trustees, employees, agents, and assigns against any and all claims, losses, liabilities, damages, and costs, including reasonable attorney fees, that result from or arise out of: (a) damages or injuries to persons or property caused by the negligent acts or omissions of the Grant Recipient, its employees, agents, or assigns in use or management of the Property; (b) use or presence of any hazardous substance, waste, or other regulated material in, under, or on the Property; or (c) the performance of the Grant Recipient's duties under this Grant Contract. The obligations under this Section are independent of all other rights or obligations set forth herein. This indemnity shall survive the disbursement of the Grant funds, as well as any termination of this Grant Contract.

7. **No Discrimination.** The Grant Recipient shall ensure that no person will be excluded from participation in, be denied the benefits of, or be subject to discrimination under any program or activity covered by this Grant Contract solely on the grounds of race, color, age, religion, sex, or national origin.

8. <u>Binding Effect, Contract Assignable</u>. The terms hereof shall be binding upon and inure to the benefit of the successors, assigns, and personal representatives of the Parties; provided, however, that the Grant Recipient may not assign this Grant Contract or any of its rights, interests, duties, or obligations hereunder or any Grant proceeds or other moneys to be advanced hereunder in whole or in part without the prior written consent of the NCLWF, which may be withheld for any reason and that any such assignment (whether voluntary or by operation of law) without said consent shall be void. In the event assignment is allowed, neither the Grant Recipient nor the Sub-grant Recipient shall be relieved of any of the duties and responsibilities of the Grant Contract. Further, the Sub-grant Recipient shall agree to abide by the all the requirements of this Grant Contract, and to provide all information needed in order for the Grant Recipient to comply with this Grant Contract.

9. <u>Governing Law, Construction and Jurisdiction</u>. This Grant Contract and all matters relating thereto shall be governed by and construed and interpreted in accordance with the laws of the State of North Carolina, notwithstanding the principles of conflicts of law. The headings and section numbers contained herein are for reference purposes only. The terms of this Grant Contract shall be construed according to their plain meaning, and not strictly construed for or against either Party hereto. The Grant Recipient hereby submits to the jurisdiction of the State and Federal courts located in North Carolina and agree that the NCLWF may, at its option, enforce its rights under the Grant Contract in such courts. The Parties intend this document to be an instrument executed under seal. The NCLWF and any Party that is an individual, partnership, or limited liability company hereby adopts the word "SEAL" following his/her signature and the name of the NCLWF or partnership or limited liability company as his/her/its legal seal.

10. <u>Savings Clause</u>. Invalidation of any one or more of the provisions of this Grant Contract, or portion thereof, shall in no way affect any of the other provisions hereof and portions thereof which shall remain in full force and effect.

11. <u>Additional Remedies</u>. Except as otherwise specifically set forth herein, the rights and remedies provided hereunder shall be in addition to, and not in lieu of, all other rights and remedies available in connection with this Grant Contract.

12. <u>Survival</u>. Where any representations, warranties, covenants, indemnities, or other provisions contained in this Grant Contract by its context or otherwise evidences the intent of the Parties that such provisions should survive the termination of this Grant Contract or any Closing, the provisions shall survive any termination or Closing. Without limiting the generality of the foregoing, the Parties specifically acknowledge and agree that the provisions of **Exhibit E**, **Exhibit F**, and the conditions shown in **Exhibit A** shall survive any termination of this Grant Contract as well as any Closing.

13. <u>Entire Grant Contract: Incorporation of Exhibits</u>. This Grant Contract constitutes the entire Grant Contract between the Parties with respect to the subject matter hereof. All recitals, exhibits, schedules, and other attachments hereto are incorporated herein by reference.

14. **Headings.** The headings of the various sections of this Grant Contract have been inserted for convenience only and shall not modify, define, limit, or expand the express provisions of this Grant Contract.

15. <u>**Time of the Essence.**</u> Time is of the essence in the performance of this Grant.

(The remainder of this page is intentionally left blank)

#### <u>EXHIBIT F</u> CONSERVATION EASEMENTS

1. As used in this Exhibit, "Conservation Easement" refers to the more general term "Conservation Agreement" as defined in NCGS Chapter 121, Article 4.

2. Conservation Easements obtained and recorded in connection with this Project shall be patterned after the NCLWF's template Deed of Conservation Easement for Restoration Purposes ("Restoration Easement").

3. Conservation Easements obtained and recorded in connection with this Project shall be held by a party satisfactory to the NCLWF.

4. Before disbursement of any construction funds under this Grant Contract, the NCLWF must review and approve the Conservation Easements, and said Conservation Easements must be recorded in the official land records of the appropriate county.

5. The acquisition of the Conservation Easements may herein also be referred to as the "Closing."

6. "Donated Conservation Easements" are Conservation Easements for which neither the NCLWF nor the Grant Recipient has expended or will expend any funds to obtain property interest.

7. Conservation easements for stream restoration riparian buffers may not be purchased using Grant funds. Conservation easements for stream restoration riparian buffers must be donated easements, be purchased with matching funds, and/or be purchased with funds not included in the project budget in **Exhibit B**.

8. The following requirements apply to all Conservation Easements obtained and recorded in connection with this Project:

- (a) Conservation Easements shall have good and marketable title;
- (b) the terms of Conservation Easements shall provide a third party right of enforcement to the State of North Carolina, such that in the event the easement holder satisfactory to the NCLWF fails to enforce any of the terms of Conservation Easements, the State shall have the independent right to enforce the terms of Conservation Easements through any and all authorities available under State law;
- (c) donated Conservation Easements shall be conveyed as an absolute gift to the easement holder satisfactory to the NCLWF subject to an executory interest in the State such that in the event that the easement holder satisfactory to the NCLWF attempts to terminate, transfer, or otherwise divest itself of any rights, title, or interests in a Conservation Easement without the prior written consent of the State, then all rights, title, or interest in the Conservation Easement shall automatically vest in the State;
- (d) Conservation Easements shall provide that, in the event the easement holder satisfactory to the NCLWF transfers or assigns the Conservation Easement to a third party, the organization receiving the interest will be a qualified organization as that term is defined in Section 170(h)(3) of the Internal Revenue Code, which is organized or operated primarily for one of the conservation purposes specified in Section 170 (h)(4)(A) of the Internal Revenue Code, and that the transferee or assignee will further covenant and agree that the terms of the transfer or assignment will require it to continue to carry out in perpetuity the conservation purposes that the contribution was originally intended to advance. Specifically, Conservation Easements shall provide that, in the event the easement holder satisfactory to the NCLWF transfers the Conservation Easement, the easement holder satisfactory to the NCLWF shall covenant and agree to continue to monitor and observe the Conservation Easement in perpetuity with the State for such purposes as are described in the Conservation Easement and this Grant Contract and to report to the State and the NCLWF any observed violations thereof. The easement holder satisfactory to the NCLWF may

be released from the obligation to monitor the Conservation Easement only with prior written approval of the State and the NCLWF; and

(e) any specific terms and conditions set forth in **Exhibit A**.

(The remainder of this page is intentionally left blank)

# INFORMATION FOR USERS OF THIS CWMTF TEMPLATE FOR DECLARATION OF COVENANTS, CONDITIONS, AND RESTRICTIONS FOR RESTORATION PURPOSES ("RESTORATION DECLARATION")

#### Purpose:

This template is intended to help CWMTF grant recipients prepare declarations of covenants associated with CWMTF-funded stream and wetlands restoration construction. It also sets forth CWMTF's minimum requirements for restoration declarations.

# Background:

CWMTF requires grant recipients to commit to certain restrictions on activities and land use in buffer areas along restored streams. These restrictions must be recorded in either a restoration easement or a restoration declaration. Restoration declarations provide local government units and municipal corporations the option of entering into a one-party commitment to restrictions instead of a two-party commitment via conservation easement. Restoration declarations may be used only by local governments and municipal corporations. CWMTF does not permit their use by private landowners.

All conditions in this template are mandatory for all restoration declarations associated with construction of restoration projects funded at least in part by CWMTF. Declarations need not conform to the exact format or wording of this template, but CWMTF expects all conditions given in this template to be addressed in recorded declarations. Exceptions must be approved in writing by CWMTF before a declaration is recorded. Also, CWMTF must sign for "Accepted as to Form" before a declaration is recorded. CWMTF encourages our grant recipients and their agents to confer with CWMTF staff before drafting a declaration.

# Possible alternatives to this restoration easement template:

- CWMTF grant recipients may choose from a number of documents for restricting activities on project sites. Refer to <u>Conservation Documents Applicable to CWMTF-</u> <u>funded projects</u> for a list of documents and how each might apply to a given project.
- If the riparian buffer to be protected is on private property (i.e., not on property owned by, the State of North Carolina, a local government unit, or a municipal corporation), a <u>Deed of Restoration Easement</u> or (similar) must be used instead of a restoration easement.

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If property-owner commitment to land-use restrictions is required by a CWMTF grant contract, and funding for stream restoration is not yet available, a limited-term <u>Option Agreement for Restoration Easement</u> may be used to fulfill the grant contract requirement pending funding for construction. By a recorded option, the property owner commits to executing and recording a restoration easement if and when construction is funded.

#### Process for recording a restoration declaration:

CWMTF grant recipients should proceed as follows when preparing a restoration declaration:

- 1) Verify that a restoration declaration is appropriate for the type of project, property ownership, and commitment to maintain the riparian buffer.
- 2) Prepare a draft restoration declaration using this template (delete this "Information for Users").
- 3) Review the draft restoration declaration with CWMTF's Restoration/Stormwater Project Manager.
- 4) Obtain the following signatures on the final restoration declaration, notarized where appropriate: declarant and CWMTF.
- 5) Record the fully executed restoration declaration with the county register of deeds.
- 6) Send a copy of the recorded restoration declaration to CWMTF.

This template is not intended to provide technical or legal advice. Users of this template should confer with their own attorneys and other appropriate professionals in preparing and recording easement documents.

Per requirements of most county registers of deeds, please provide a top margin of at least three inches on the first page of this document.

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# DECLARATION OF COVENANTS, CONDITIONS, AND RESTRICTIONS FOR RESTORATION PURPOSES ("RESTORATION DECLARATION") [project name] [property name]

Prepared by: \_\_\_\_\_\_After Recording Return to: \_\_\_\_\_\_ NORTH CAROLINA \_\_\_\_\_COUNTY CWMTF Project No.: \_\_\_\_\_ PIN: \_\_\_\_\_

THIS DECLARATION OF COVENANTS, CONDITIONS, AND RESTRICTIONS FOR RESTORATION PURPOSES ("Restoration Declaration") is made this day of \_\_\_\_\_\_, 20\_\_\_, by *NAME, ADDRESS AND CAPACITY* (the "Declarant").

#### **RECITALS AND CONSERVATION PURPOSES**

**A.** The Declarant is a unit of local government and accepts responsibility for enforcing the terms of this Restoration Declaration and for upholding its conservation purposes forever.

**B.** The Declarant is the sole owner in fee simple of certain real property containing acres more or less, located in \_\_\_\_\_\_ Township, \_\_\_\_\_\_ County, North Carolina, and more particularly described [by metes and bounds on the attached Exhibit A which is incorporated by reference as if fully set forth herein, by lot and block – preferred – if there is a recorded map, or by reference to prior recorded instruments] (hereinafter the "Property").

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**C.** The State of North Carolina ("State") enacted the Uniform North Carolina Conservation and Historic Preservation Agreements Act (the "Conservation Agreements Act"), Chapter 121, Article 4 of the North Carolina General Statutes ("NCGS"), which provides for enforceability of restrictions, easements, covenants, or conditions "appropriate for retaining in land or water areas predominantly in their natural, scenic, or open condition . . . .".

**D.** This Restoration Declaration is intended to be a "conservation agreement" and/or a "preservation agreement" as defined and contemplated in the Conservation Agreements Act.

**E.** The North Carolina Clean Water Management Trust Fund (the "Fund"), an independent agency of the State with its address at 1651 Mail Service Center, Raleigh, North Carolina 27699-1651, is authorized by NCGS Chapter 113A, Article 18, to provide funding for projects and to acquire land and interests in land for riparian buffers for the purposes of protecting surface waters and urban drinking water supplies.

**F.** The Declarant is party to an agreement with the Fund through which it has received a grant from the Fund, identified as Grant Contract no. \_\_\_\_\_ (the "Grant Contract"), entered into between the Declarant and the Fund effective \_\_\_\_\_\_, for improving water quality by restoring \_\_\_\_\_ Creek on or bordering the Property and restoring and/or protecting riparian buffers on the Property (the "Restoration Project").

**G.** The Declarant and the Fund have determined that water quality will benefit by implementation of the Restoration Project and subsequent protection and maintenance of riparian resources and other natural values on the Property (the "Conservation Values").

**H.** In order to protect and maintain the Conservation Values, the Declarant wishes to restrict and limit in perpetuity activities on and uses of the Property that could conflict with the Conservation Values, such restrictions and limitations applying only to that portion of the Property shown on the map of survey dated \_\_\_\_\_\_ entitled "\_\_\_\_\_\_" (the "Protection Area"), attached hereto as *[or, as described in]* Exhibit A and hereby made a part of this document, to the terms, conditions and purposes hereinafter set forth.

[If the Protection Area is less than the Property, the Protection Area must be described separately. Otherwise, the Property and the Protection Area are one and the same. If the Protection Area is less than the Property and has no road frontage, the restoration declaration must include a right of access across the Property: e.g., "The Protection Area is described in the attached Exhibit B, incorporated by reference as if fully set forth herein, and is conveyed together with the right of ingress, egress, and regress over, upon, and across the Property to and from the Protection Area."]

**NOW, THEREFORE,** the Declarant hereby unconditionally and irrevocably declares that the Protection Area will be held and subject to the following restrictions, covenants and conditions as set out herein, to run with the subject real property and be binding on all parties that have or may have any right, title, or interest in said property.

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#### ARTICLE I. DURATION OF RESTORATION DECLARATION

The covenants, conditions, and restrictions contained in this Restoration Declaration are permanent and perpetual, run with the land, and are be binding on the Declarant and its successors and assigns as owner of the Property and on all those claiming by, through, or under each such owner, in perpetuity.

#### ARTICLE II. ACTIVITIES AND USES EXPRESSLY RESTRICTED OR PROHIBITED AND EXCEPTIONS THERETO

**A. Prohibited Activities and Uses.** The Protection Area will be maintained in a manner and will not be developed or used in any manner that would impair or interfere with the purposes of this Restoration Declaration. Without limiting the generality of the foregoing, the following activities and uses are expressly prohibited, except as expressly identified herein as exceptions:

(1) <u>Industrial, Residential and Commercial Uses</u>. Industrial, residential and commercial activities and the rights of passage for such purposes.

(2) <u>Agricultural, Grazing and Horticultural Use</u>. Agriculture, grazing, horticultural and animal husbandry operations.

(3) <u>New Construction</u>. Buildings, facilities, mobile homes, antennas, utility poles, towers, and other structures.

(4) <u>Dumping or Storing</u>. Dumping or storage of soil, trash, ashes, garbage, waste, abandoned vehicles, appliances or machinery, or other material.

(5) <u>Mitigation</u>. Neither the Protection Area nor any portion thereof may be used to satisfy compensatory mitigation requirements under 33 USC Section 1344 or NCGS §143-214.11 or any successor or replacement provision of the foregoing.

(6) <u>Open Space Requirements</u>. The Protection Area may not be used to satisfy open space requirements of any cluster or other development scheme.

(7) <u>Development Rights</u>. All development rights are extinguished from the Protection Area and may not be transferred to any other lands pursuant to a transfer of development rights scheme or cluster development arrangement or otherwise.

**B.** Activities and Uses Restricted in the Easement Area. Without limiting the generality of the foregoing, the following activities and uses are expressly restricted, except as expressly identified herein as exceptions:

(1) <u>Cutting of Vegetation</u>. Except as related to removal of non-native plants, diseased or damaged trees, and vegetation that obstructs, destabilizes or renders unsafe the Protection Area to persons or natural habitat or as necessitated by the activities described in Article III, above, all cutting, removal, mowing, harming, or destruction of any trees and vegetation on the

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Protection Area is prohibited. [Subject to the prior written approval of the Fund, this section may contain additional language regarding vegetation management if a project is located in a setting where a more manicured look is warranted such as a golf course or public park.]

(2) <u>Stream Crossings and Roads</u>. New stream crossings for livestock and access to adjacent property are prohibited, with the understanding that any crossing may not impede flow of water or aquatic life. Existing roads, trails, or paths may be maintained with loose gravel or permanent vegetation to stabilize or cover the surfaces.

(3) <u>Signs</u>. Signs are prohibited, except interpretive signs describing activities and the purpose and function of the Protection Area, signs identifying the owner of the Property, signs giving directions, and signs prescribing rules and regulations for the use of the Protection Area.

(4) <u>Grading, Mineral Use, Excavation, Dredging</u>. Grading, filling, excavation, dredging, mining, drilling, and removal of topsoil, sand, gravel, rock, peat, minerals, and other materials are prohibited, except as necessitated by activities described in Article III.

(5) <u>Water Quality and Drainage Patterns</u>. Except as necessitated by activities described in Article III, diking, draining, dredging, channeling, filling, leveling, pumping, impounding or diverting, causing, allowing or permitting the diversion of surface or underground water; altering or tampering with water control structures or devices; disruption or alteration of the restored, enhanced, or created drainage patterns; and removal of wetlands, polluting or discharging into waters, springs, seeps, or wetlands, or use of pesticide or biocides are prohibited.

(6) <u>Subdivision and Conveyance</u>. The Protection Area may not be subdivided, partitioned nor conveyed, except in its current configuration as an entity or block of property.

# ARTICLE III. ACTIVITIES AND USES EXPRESSLY ALLOWED

Any activity on or use of the Protection Area not consistent with the purposes of this Restoration Declaration or that could interfere with maintenance of the Protection Area in its natural or restored condition is prohibited. Without limiting the generality of the foregoing, the following activities and uses are expressly allowed on the Protection Area:

**A. Passive Recreational Uses.** The Declarant may engage in undeveloped recreational uses, including hiking, bird watching, hunting and fishing, and access to the Protection Area for the purposes thereof. Motorized vehicles may be used on trails, paths, and roads existing on the date hereof and only for managing, maintaining, and stewarding the Protection Area.

**B.** Educational Uses. The Declarant may engage in and permit others to engage in educational uses on the Protection Area consistent with this Restoration Declaration and the right of access to the Protection Area for such purposes, including organized educational activities such as site visits and observations. Educational uses of the Protection Area may not alter vegetation, hydrology, or topography.

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**C. Restoration.** The Declarant and its representatives may engage in the Restoration Project. All activity associated with the Restoration Project will be conducted according to the requirements hereof and those incorporated herein from the Grant Contract and pursuant to all applicable laws, rules, regulations, and permits.

#### ARTICLE IV. RIGHT OF ENFORCEMENT IN STATE

In the event that the Declarant fails to comply with the terms of this Restoration Declaration, pursuant to the terms of the Grant Contract between the Declarant and the State acting by and through the Fund, the State has the independent right to enforce the terms of this Restoration Declaration through any and all authorities available under State law. Any forbearance by the State to exercise this right of enforcement may not be deemed or construed to be a waiver by the State of such right in general or with respect to a specific violation of any of the terms of this Restoration Declaration. The State and its agents and employees have such right of entry and access to the Protection Area as may be necessary to carry out the rights of enforcement set forth herein.

# ARTICLE V. DECLARANT'S WARRANTY OF TITLE

The Declarant covenants, represents, and warrants that (i) the Declarant is the sole owner and is seized of the Protection Area in fee simple and has good right to grant and convey the aforesaid Restoration Declaration; (ii) there is legal access to the Property and the Protection Area; (iii) the Protection Area is free and clear of any and all encumbrances, except those exceptions of record, none of which would nullify, impair or limit in any way the terms or effect of this Restoration Declaration; and (iv) the Declarant will defend its title against the claims of all persons whomsoever.

# ARTICLE VI. MISCELLANEOUS

**A.** Stewardship of the Protection Area. Pursuant to the terms of the Grant Contract, the Declarant hereby covenants and agrees that it will monitor and observe the Protection Area in perpetuity to assure compliance with the purposes and provisions of this Restoration Declaration and the provisions of the Grant Contract.

**B.** Subsequent Transfer of Fee. The Declarant may not convey the Property or any interest therein and may not incur, assume, or suffer to exist any lien upon or with respect to the Property without disclosing to the prospective buyer the Restoration Declaration, the obligations of an owner of the Property, and limitations on use of the Property hereunder. The Declarant further agrees to make any subsequent lease, deed, or other legal instrument by which any interest in the Property is conveyed subject to the Restoration Declaration herein created.

**C.** Transfer of the Restoration Declaration. The Declarant has have the right to transfer this Restoration Declaration to a "qualified conservation organization" under Section 170(h) of the Code, only if the agency or organization expressly agrees to assume the

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responsibility imposed on the Grantee by this declaration and if said transfer is approved by the State acting by and through the Fund or its successor agency.

**D. Amendments.** The Declarant or its successors in interest in the Protection Area is free to amend this Restoration Declaration to meet changing conditions, provided that no amendment will be allowed that is inconsistent with the purposes of this Restoration Declaration or affects the perpetual duration of this Restoration Declaration. Such amendment(s) require the written consent of both the Declarant and the Fund and will be effective upon recording in the public records of \_\_\_\_\_\_ County, North Carolina. The Declarant acknowledges that it has no right to agree to any activity that would result in the termination of this Restoration Declaration.

**E.** Interpretation. This Restoration Declaration will be construed and interpreted under the laws of the State, and any ambiguities herein will be resolved so as to give maximum effect to the purposes of this Restoration Declaration as stated herein. Further, this Restoration Declaration will be construed to promote the purposes of the Conservation Agreements Act, which authorizes the creation of conservation agreements for purposes including those set forth herein, such conservation purposes as are defined in Section 170(h) (4) (A) of the Code and set forth in NCGS Chapter 113A, Article 18. If any provision of this Restoration Declaration is found to be invalid, the remainder of the provisions of this Restoration Declaration, and the application of such provision to persons or circumstances other than those as to which it is found to be invalid, will not be affected thereby.

# [SEE FOLLOWING PAGES FOR SIGNATURES AND NOTARY]

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**IN WITNESS WHEREOF**, Declarant, by authority duly given, has hereunto caused these presents to be executed by its respective officers and its seal affixed, to be effective the day and year first above written.

#### **DECLARANT:** [name of organization]

By: \_\_\_\_\_(SEAL)

#### STATE OF NORTH CAROLINA COUNTY OF \_\_\_\_\_

I certify that the following person(s) personally appeared before me this day, each acknowledging to me that he or she signed the foregoing document:

Name of Signatory

Date \_\_\_\_\_

Official Signature of Notary

Notary's printed or typed name

(Official Seal) My commission expires:

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**APPROVED AS TO FORM:** 

# CITY/COUNTY/TOWN ATTORNEY

# ACCEPTED AS TO FORM: NORTH CAROLINA CLEAN WATER MANAGEMENT TRUST FUND

BY:

# RESTORATION/STORMWATER PROJECT MANAGER

# EXHIBIT A

# LEGAL DESCRIPTION OF THE PROPERTY

[Describe the Property by reference to a recorded map (preferred), by metes and bounds, or by reference to prior recorded instruments. Use an exhibit if the Property is not described in the body of the document.]

# EXHIBIT B

# LEGAL DESCRIPTION OF THE PROTECTION AREA

[If the Protection Area is less than the Property, refer to a recorded map that describes the Protection Area in relation to the Property, and provide a copy of this map to CWMTF with a copy of the recorded restoration declaration. Alternatively, describe the Protection Area by metes and bounds.]

[If the Protection Area is less than the Property and has no independent road frontage, add the following to its legal description: ", together with the right of ingress, egress and regress over, upon and across the Property to and from the Protection Area."]

CWMTF Restoration Declaration Template Revised July 24, 2012

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# |Agenda Item | cover sheet

for consideration by the Apex Town Council

Item Type: CONSENT AGENDA Meeting Date: September 13, 2022

# <u>Item Details</u>

Department(s): Water Resources

# Requested Motion

Motion to approve a Fee-in-Lieu (FIL) in the amount of \$44,947.75 for an 8-inch waterline located along the Sunset Meadows Drive frontage of the Jenks Road Veterinarian project site.

# Approval Recommended?

Yes

# <u>Item Details</u>

The FIL is being sought instead of actually installing the water main as part of the development project. At this time, the adjacent parcels to this development do not desire water service from the Town. If installed, this would be a 300 foot long dead end line that would create water quality issues in the Town's water system. If and when the residents along Sunset Meadows Drive express interest in water services from the Town, FIL funds can be utilized to assist in the construction of the waterline.

<u>Attachments</u>

• FIL estimate





Town of Apex Engineering Department P.O. Box 250 Apex, NC 27502

Re: Jenks Road Veterinary Hospital – Engineers Estimate for Fee-in-Lieu Apex, NC

The noted project is located at the intersection of Jenks Road and Sunset Meadows Drive. Per Town requirements, a waterline is required to be installed along Sunset Meadows Drive. This project request a fee-in-lieu payment in place of said improvements. Below is an estimate of the cost to install an 8" waterline along the project's frontage of Sunset Meadows Drive. Unit prices taken from the Town of Apex Infrastructure Bond Worksheet.

Unit Cost	Quantity	Total	
\$34/LF	290 LF	\$	9,860.00
\$250/LF	30 LF	\$	7,500.00
\$2,000/LS	1 LS	\$	1,500.00
\$5,500/EA	1 EA	\$	5,500.00
\$1,600/EA	1 EA	\$	1,600.00
\$3,500/EA	1 EA	\$	3,500.00
\$125/EA	1 EA	\$	125.00
\$3,500/EA	1 EA	\$	3,500.00
\$3,000/LS	1 LS	\$	3,000.00
\$1,000/LS	1 LS	\$	1,000.00
\$50/SY	40 SY	\$	2,000.00
		\$	39,085.00
		\$	5,862.75
		\$	44,947.75
	\$34/LF \$250/LF \$2,000/LS \$5,500/EA \$1,600/EA \$3,500/EA \$3,500/EA \$3,500/EA \$3,000/LS \$1,000/LS	\$34/LF290 LF\$250/LF30 LF\$2,000/LS1 LS\$5,500/EA1 EA\$1,600/EA1 EA\$3,500/EA1 EA\$125/EA1 EA\$3,500/EA1 EA\$3,500/EA1 EA\$3,500/EA1 EA\$3,000/LS1 LS\$1,000/LS1 LS	\$34/LF 290 LF \$ \$250/LF 30 LF \$ \$2,000/LS 1 LS \$ \$5,500/EA 1 EA \$ \$1,600/EA 1 EA \$ \$3,500/EA 1 EA \$ \$3,500/EA 1 EA \$ \$3,500/EA 1 EA \$ \$3,500/EA 1 EA \$ \$3,000/LS 1 LS \$ \$1,000/LS 1 LS \$ \$50/SY 40 SY \$

Sincerely,

Daniel H. Woods, P.E. Peak Engineering & Design, PLLC



919.439.0100 p 919.439.6411 f jroach@peakengineeringdesign.com 1125 Apex Peakway || Apex, NC 27502 www.PeakEngineering.com



# |Agenda Item | cover sheet

for consideration by the Apex Town Council

Item Type:CONSENT AGENDAMeeting Date:September 13, 2022

# <u>Item Details</u>

Presenter(s): Jessica Bolin, P.E., Stormwater Engineering Manager

Department(s): Water Resources

Requested Motion

Motion to approve the Memorandum of Understanding (MOU) between the Town and the Clean Water Education Partnership (CWEP) and to authorize the Town Manager to execute the MOU on behalf of the Town.

Approval Recommended?

Yes

# <u>Item Details</u>

CWEP is a cooperative effort between 42 local governments, state agencies, and nonprofit organizations to protect water quality in the Neuse and Cape Fear River basins. The aim of CWEP is to protect North Carolina's waterways from stormwater pollution through public education and outreach on a broad scale and the Town has been a member since 2004. Town membership helps achieve compliance with our NPDES Phase II permit including providing the Town with stormwater outreach materials and running local educational radio and television ads. The term of this MOU is three years and will run through June 30, 2025 when a new agreement will need to be executed. Membership dues are based on population and costs the Town approximately \$4,500/year. The Finance Director has pre-audited and signed this MOU.

<u>Attachments</u>

CWEP MOU



#### Membership Agreement for Clean Water Education Partnership (CWEP) Services Provided by the Triangle J Council of Governments

This Memorandum of Understanding by and between the undersigned local government (Local Government) and the Triangle J Council of Governments (TJCOG) pertains to the services provided by TJCOG under the Clean Water Education Partnership (CWEP) program.

#### WITNESSETH:

WHEREAS, CWEP and local government stormwater programs have the same basic mission of providing stormwater outreach and education; and

WHEREAS, CWEP is a program administered by TJCOG that has excelled in providing direct education and mass media to its wide variety of partner communities;

NOW, THEREFORE, TJCOG, via CWEP, will prepare and make available to the Local Government the following direct education and mass media items:

- 1. TJCOG's CWEP Program will assist the Local Government with the following education/ outreach tasks during the term of this MOU related to direct educational programming:
  - a. Provide physical and digital outreach materials for local governments and target audiences that describe target pollutants and their likely sources and impacts on water quality
  - b. Maintain an internet website conveying the CWEP program's messages about stormwater pollution
  - c. Make available for download via website outreach materials for target audiences, and distribute materials at in-person or digital community events
  - d. Post on social media channels to promote CWEP's key messages
  - e. Provide unlimited local use and access to original and compiled educational materials on CWEP program website, to include educational videos, printable and digital lessons, lesson plans, and other resources useful for educating a variety of ages and audiences in various settings
  - f. Coordinate annually with stormwater staff and/or relevant educational contacts (as requested by the Local Government) to schedule and conduct stormwater education activities that correlate with NC Essential Science Standards or provide opportunities for citizen participation which may include stream cleanups, citizen science activities, or similar efforts. CWEP will coordinate with the CWEP local government representative prior to contacting any formal educators in the member jurisdiction.
  - g. Provide mechanisms on CWEP program website for public input on stormwater issues

2. TJCOG's CWEP program will assist the Local Government with the following mass media programming:

a. Coordinate an annual outreach campaign in the form of Public Service Announcements (PSAs) administered by local service providers, which includes the following:

- i. Videos about common target pollutants, their likely sources, their negative impact on water quality, and best practices for target audiences likely to have significant stormwater impacts
- ii. Static and animated banner ads about stormwater quality that link to the program website
- iii. Approximately 12 weeks (as market costs allow) of digital pre-roll video PSAs, spread across popular stations with the aim of reaching a variety of target audiences.
- iv. Approximately 8 weeks (as market costs allow) of television, radio, social media and/or digital PSAs across popular stations with the aim of reaching a variety of target audiences. CWEP will make an effort to ensure that media reach adequately covers member jurisdictions. Additional stations/programs may be proposed by local media companies and approved collectively by members.
- v. Print and digital advertising in Spanish-language newspaper(s).

b. Provide unlimited local use and access to outreach materials created for CWEP Partners to inform target audiences about target pollutants, their likely sources and impacts on water quality

c. Provide unlimited local use and access of digital media materials for Partner jurisdictions' use in public buildings, parks, DMV locations, outdoor movies, etc

d. Promote regional education and engagement events such as the CWEP Regional Creek Week through CWEP website and social media platforms

Local Governments may use the tasks above to help comply with NPDES MS4 stormwater education requirements or nutrient strategy stormwater education requirements. The Local Government's signature on this MOU (and MS4 permit number if applicable) signifies an understanding that any one of the items listed above may only partially fulfill its education requirements during an audit from NC DEQ. Accordingly, the Local Government acknowledges that it is ultimately responsible for meeting all federal and state laws, rules and regulations related thereto. The Local Government and CWEP share responsibility for determining how specific objectives can be cooperatively achieved, with the understanding that CWEP supplements local efforts to comply with regulatory requirements. The Local Government is highly encouraged to send one or more representatives to CWEP's quarterly steering committee meetings to collaborate on strategies. CWEP will make every reasonable attempt, as permitted by available staffing and supplies, to independently and proactively address the objectives in the Local Government's community, and will update the CWEP Local Government representative each quarter to offer opportunities for discussion and collaboration.

The Local Government agrees to pay TJCOG for the services provided herein based on a fee schedule adopted by TJCOG, voted on by CWEP Local Governments, and incorporated herein by reference. The fee schedule and individual Local Governments' cost shares may change annually in the second and third year of the agreement if population estimates generated by the NC State Demographer's Office show population changes. The period of performance under, and the term of this MOU will begin on July 1,

#### **Exhibit A. CWEP FY23 Fee Schedule**

#### TJCOG Clean Water Education Partnership Program FY23 Fee Schedule

Example Only; will be updated annually as certified population estimates are updated.

	Base Cost	Population* for FY23 (based on July 2020 certified pop from NC State Demographics)	FY23 Cost Share (\$0.041 per cap)
Town of Apex <sup>2,5</sup>	\$2,000	59,368	\$4,434
Town of Benson <sup>2</sup>	\$2,000	3,998	\$2,164
Town of Butner <sup>2</sup>	\$2,000	8,401	\$2,344
Town of Carrboro <sup>2,5</sup>	\$2,000	21,344	\$2,875
Town of Cary <sup>1,2,5</sup>	\$2,000	175,635	\$9,201
Town of Chapel Hill <sup>2,5 *</sup>	\$2,000	54,236	\$4,224
Chatham County <sup>5,6</sup>	\$2,000	60,349	\$4,474
Town of Clayton <sup>2</sup>	\$2,000	26,517	\$3,087
City of Creedmoor <sup>2</sup>	\$2,000	4,869	\$2,200
City of Durham <sup>1,3,5</sup>	\$2,000	284,317	\$13,657
Durham County <sup>1,5</sup>	\$2,000	37,167	\$3,524
City of Fayetteville <sup>2,3*</sup>	\$2,000	188,230	\$9,717
Town of Fuquay-Varina <sup>2</sup>	\$2,000	34,604	\$3,419
Town of Garner <sup>1,2</sup>	\$2,000	31,306	\$3,284
City of Goldsboro <sup>1,2</sup>	\$2,000	34,156	\$3,400
City of Havelock <sup>1</sup>	\$2,000	17,759	\$2,728
Town of Hillsborough <sup>2</sup>	\$2,000	9,681	\$2,397
Town of Holly Springs <sup>2</sup>	\$2,000	41,711	\$3,710
Town of Hope Mills <sup>2</sup>	\$2,000	17,811	\$2,730
Johnston County <sup>1</sup>	\$2,000	154,728	\$8,344
City of Kinston <sup>1</sup>	\$2,000	19,873	\$2,815
Town of Knightdale <sup>2</sup>	\$2,000	19,656	\$2,806
Town of Leland <sup>2</sup>	\$2,000	23,049	\$2,945
Town of Morrisville <sup>2,5</sup>	\$2,000	29,925	\$3,227
Nash County <sup>4,6</sup>	\$2,000	41,284	\$3,693
Town of Nashville <sup>2,4</sup>	\$2,000	5,635	\$2,231
City of New Bern <sup>1,2</sup>	\$2,000	31,240	\$3,281
Orange County <sup>1,5,6</sup>	\$2,000	55,500	\$4,276
City of Oxford <sup>4</sup>	\$2,000	8,632	\$2,354
Town of Pittsboro <sup>5</sup>	\$2,000	4,556	\$2,187
City of Raleigh <sup>1,3</sup> *	\$2,000	468,977	\$21,228
City of Rocky Mount <sup>2,4</sup>	\$2,000	54,309	\$4,227
Town of Rolesville	\$2,000	19,278	\$2,790
City of Roxboro <sup>2</sup>	\$2,000	8,131	\$2,333
Town of Siler City	\$2,000	7,733	\$2,317
Town of Smithfield <sup>1</sup>	\$2,000	11,378	\$2,466
Town of Spring Lake <sup>2</sup>	\$2,000	11,662	\$2,478
Town of Tarboro <sup>4</sup>	\$2,000	10,685	\$2,438
Town of Wake Forest <sup>2</sup>	\$2,000	48,062	\$3,971
Wayne County <sup>1,6</sup>	\$2,000	75,399	\$5,091
Town of Wendell <sup>1,2</sup>	\$2,000	9,901	\$2,406
Town of Zebulon <sup>2</sup> ubject to Neuse River Basin Nutrient Mana	\$2,000	6,969	\$2,286

1. Subject to Neuse River Basin Nutrient Management Regulations.

2. Subject to NPDES Phase II Stormwater Regulations. 3. Subject to NPDES Phase I Stormwater Regulations.

4. Subject to Tar-Pamlico River Basin Nutrient Management Regulations.

5. Subject to Jordan Lake Nutrient Management Regulations.

6. MS4 Post-Construction "Tipped Counties"
\*Populations have been adjusted for group quarters covered by another state stormwater permit

2022 and will conclude on June 30, 2025. This agreement automatically renews for a total of 3 years unless either party gives 90-day notice prior to end of the term. The Local Government reserves the unilateral right to terminate this MOU for cause or convenience (in the case of cause, immediately, and in the case of convenience, upon 90 calendar days' written notice), whereupon CWEP and TJCOG will only be entitled to prorated compensation for services properly rendered up to the date of termination.

CWEP will provide an annual report by August 31 on the prior fiscal year's local and regional outreach and education, to include both description and numbers for both mass media and direct education efforts. Interim numbers can be provided as needed.

IN WITNESS WHEREOF, both the Local Government and TJCOG have caused this MOU to be executed by their chief executive officers, all as of the day and year first above written.

City/Town/County Name	MS4 Permit Number, if applicable
Signatory Print Name	Title
Signature	Date Signed
TRIANGLE J COUNCIL OF GOVERNMENTS	
Executive Director, TJCOG	Date
"this instrument has been preaudited in the manner required	

by the Local Government Budget

And Fiscal Control Act."
### |Agenda Item | cover sheet

for consideration by the Apex Town Council

Item Type: CONSENT AGENDA Meeting Date: September 13, 2022

### <u>Item Details</u>

Presenter(s):Amanda Grogan, DirectorDepartment(s):Budget & Performance Management

#### Requested Motion

Motion to approve the Memorandum of Understanding (MOU) between the Town and Triangle J Council of Governments (TJ COG) and to authorize the Town Manager to execute the MOU on behalf of the Town. Approval Recommended?

Yes

#### Item Details

Solarize the Triangle is a campaign developed by the Triangle Sustainability Partnership including 3 counties and 8 municipalities (Durham, Raleigh, Apex, Cary, Carrboro, Chapel Hill, Hillsborough, and Morrisville). The TJ COG and Solar CrowdSource are facilitating the launch and administer the program. The Town will provide appropriate representation to the Partnership and will actively participate in the Partnership's activities. The objectives of the regional program include:

- **Making solar energy more affordable**: lower the cost of solar energy through the power of grouppurchasing and reduced acquisition costs. Savings passed to residents of the Triangle region;
- **Making solar energy more accessible**: contractor(s), materials and pricing will be highly vetted for best practices using a competitive bid process;
- Education and community engagement: widespread community engagement, education and outreach activities;
- **Promoting solar-positive policies**: encourage local governments to adopt streamlined solar energy permitting policies and fair utility distributed generation policies; and
- Giving back: a portion of campaign proceeds will be used to donate a solar energy system to a
  deserving local nonprofit organization and/or help to underwrite solar-energy systems for qualified
  low- and moderate-Income families with high energy burdens.

<u>Attachments</u>

• Solarize the Triangle MOU

### **Memorandum of Agreement**

Triangle Sustainability Partnership Membership

THIS MEMORANDUM OF AGREEMENT ("MOA"), is made by and between Triangle J Council of Governments, hereinafter called the "Council", and the Town of Apex, hereinafter called the "Town." The Council and the Town shall collectively be referred to as the "Parties."

#### **WITNESSETH**

WHEREAS, the Council operates to provide planning and technical assistance to local governments and for region-wide projects in Region J as empowered by the North Carolina General Statutes and by its Charter Resolution, adopted by all member governments of the Council; and

WHEREAS, the Town requests that the Council provide such technical assistance, as detailed in the following Scope of Work; and

NOW, THEREFORE, the Council and the Town mutually agree to the following:

#### 1. Scope of Work

The Town hereby agrees to engage the Council and the Council agrees to perform in a satisfactory and proper manner the work below:

- a) Provide staff to convene the Triangle Sustainability Partnership ("Partnership") and to facilitate communication and meetings among the Partnership members.
- b) Provide staff to work with Partnership members to develop governance structure and appropriate governance documents.
- c) Provide staff to coordinate a Solarize the Triangle ("Solarize") program in cooperation with Solar CrowdSource and all Partnership members.
- d) Provide staff to develop regional outreach and education related to solar and related energy issues.
- e) Provide staff to coordinate regional Solarize work groups, to be populated with Town staff on a voluntary basis.
- f) Provide staff to communicate key decision points and implement priority needs.
- g) Provide staff to develop interlocal agreements and joint contracts, and, to maintain, administer, evaluate, and monitor agreements and contracts for the provision of services when any of these activities are deemed beneficial to the Partnership members.
- h) Prior to the end of this MOA, outline in a subsequent MOA, or in an amendment to this MOA, continued Triangle Sustainability Partnership work and membership fees.



#### 2. <u>Responsibility of the Town</u>

a. The Town will provide appropriate representation to the Partnership and will actively participate in the Partnership's activities.

#### 3. Length of MOA

The Council shall ensure that all services required herein shall be provided during the period beginning on Effective Date and ending October 31, 2023.

#### 4. Assignability

The Council shall not assign any interest in this MOA and shall not transfer any interest in the same, whether by assignment or substitution, without the prior written consent of the Town or unless specifically contained in the Scope of Work set forth in Section 1 above.

#### 5. Compensation and Method of Payment for Membership

The Town will pay the Council a membership fee hereunder as stipulated in the Scope of Work. The total cost of this MOA is \$1,665.00, as reflected in attachment A, which is attached hereto, and incorporated into this MOA by reference. An invoice will be sent to Town upon Effective Date. Membership fee shall be paid NET 30 days from the date of the receipt of invoice.

#### 6. Termination of MOA for Cause

If, for any cause, the Council shall fail to fulfil in a timely and proper manner its obligations under this MOA, or if the Council shall violate any of the covenants, agreements, or stipulations of this MOA, the Town shall have the right to terminate this MOA by giving written notice to the Council of its intent to terminate at least thirty (30) days before the termination is effective. During the thirty-day notification period, the Council shall have the opportunity to remedy any failure or violations to avoid termination of the MOA. If termination occurs, the Council shall be entitled to receive just and equitable compensation for all satisfactory work completed and the Town shall be entitled to reimbursement of a prorated portion of the Membership Cost paid, calculated based on the amount of time remaining in the term of the MOA at the time of termination.

#### 7. Changes

The Town may request changes in the Scope of Work to be performed by the Council hereunder. However, suggested changes must be agreed upon by a majority of the then-active Partnership members. The changes that are mutually agreed upon shall be incorporated as written amendments to this MOA.

#### 8. <u>Records</u>

The Council shall maintain financial records pertaining to this MOA until disposal of records is allowed by the State of North Carolina Records Retention Schedule for Councils of Governments.

#### 9. Interest of Council



The Council covenants that it presently has no interest and shall not acquire an interest, direct or indirect, that would conflict in any manner or degree with the performance of services performed under this MOA. The Council further covenants that in the performance of this MOA, no person having any such interest shall knowingly be employed by the Council.

#### 10. <u>E- Verify</u>

The Council shall comply with E-Verify, the federal E-Verify program operated by the United States Department of Homeland Security and other federal agencies, or any successor or equivalent program used to verify the work authorization of newly hired employees pursuant to federal law and as in accordance with N.C.G.S. §64-25 et seq. In addition, to the best of the Council's knowledge, any subcontractor employed by the Council as a part of this MOA shall be in compliance with the requirements of E-Verify and N.C.G.S. § 64-25 et seq.

#### 11. Incorporation of Documents/Complete Agreement

This MOA, and any documents incorporated below, contains the complete agreement of the Parties, and suspends all prior oral or written statements, agreements or contracts related to the content of this MOA.

Specifically incorporated into this MOA are the following attachments, or if not physically attached, are incorporated fully herein by reference:

• Attachment A: Proposed Budget & Partnership Members.

In cases of conflict between this MOA and any of the above incorporated attachments or references, the terms of this MOA shall prevail.

Further, this MOA shall not be modified in any respect except by written amendment hereto.

#### 12. Applicable Laws

The Parties agree that this MOA is to be governed, construed, and enforced in accordance with all of the laws of the State of North Carolina.

The remainder of this page remains blank intentionally.

IN WITNESS WHEREOF, the parties have executed this MOA, under seal, on the respective dates below, and this MOA shall be effective upon the date of the signature of the last party to sign.

#### COUNCIL:

Triangle J Council of Governments

By:

(SEAL)

Signature

Lee Worsley

Executive Director Title

8/17/2022

Date of Signature

ATTEST:

Emily Barrett

Signature

Emily Barrett

Name

Environment & Resilience Prog Manager, TJCOG

Title

TOWN:

TOWN OF APEX a North Carolina municipal corporation

By:

Signature

Catherine Crosby Name

<u>Town Manager</u> Title

Administration Department

Date of Signature

ATTEST:

(SEAL) City Clerk (or designee)

Fiscal Control Act.

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

Chief Financial Officer (or designee)



#### Attachment A: Proposed Budget & Partnership Members

Jurisdiction	Population from 2020	Membership Cost
	<b>Census or Jurisdiction-</b>	
	<b>Reported Population</b>	
City of Raleigh	447,500	\$11,785
City of Durham	335,000	\$8,823
County of Durham	See above	See above
Town of Apex	71,988	\$1,665 (reduced by \$231 due
		to TJCOG communication
		error on fee structure)
Town of Morrisville	29,630	\$780
Town of Chapel Hill	61,970	\$1,632
Town of Cary	179,000	\$4,714
Town of Hillsborough	9,660	\$254
Town of Carrboro	21,295	\$561
Orange County	41,239	\$1,469
Chatham County	76,000	\$1,887
	Total Population: 1,273,282	\$33,570

### |Agenda Item | cover sheet

for consideration by the Apex Town Council

Item Type: CONSENT AGENDA Meeting Date: September 13, 2022

### <u>Item Details</u>

Presenter(s): Shawn Purvis, Deputy Town Manager

Department(s): Administration

Requested Motion

Motion to approve resolution authorizing the Town Manager to accept donations of personal property

#### Approval Recommended?

Yes

#### <u>Item Details</u>

The town currently does not have a policy providing for the acceptance of personal property to the town such as small donations for programs. Without the policy, all donations, regardless of size, would technically need to come to Town Council for acceptance. This resolution would allow for the Town Manager or their delegate to accept donations on behalf of the Town.

#### <u>Attachments</u>

Resolution



#### RESOLUTION: 22-\_\_\_\_

#### RESOLUTION DELEGATING AUTHORITY TO THE TOWN MANAGER TO ACCEPT DONATIONS OF PERSONAL PROPERTY

WHEREAS, pursuant to Article 2 of Chapter 160A of the North Carolina General Statutes, the Town of Apex may acquire property by accepting donations to the Town; and

WHEREAS, the Town Council may delegate the authority to accept donations of property to one or more staff members; and

WHEREAS, the Town Council desires to delegate authority to accept certain donations of personal property to the Town Manager as outlined in this Resolution.

NOW THEREFORE, THE TOWN COUNCIL OF THE TOWN OF APEX RESOLVES THAT:

1. The Town Manager is authorized to accept donations of personal property, including cash and other forms of currency, up to a value of \$50,000.00 per donation. Donations of property exceeding this value shall be accepted by the Town Council.

2. The Town Council retains its authority to accept donations of real property.

Motion made by Council Member

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

With \_\_\_\_\_ Council Members voting aye.

With \_\_\_\_\_ Council Members voting no.

Adopted and effective this the \_\_\_\_\_ day of \_\_\_\_\_, 2022.

Jacques K. Gilbert Mayor

ATTEST:

Allen L. Coleman, CMC, NCCCC Town Clerk

### |Agenda Item | cover sheet

for consideration by the Apex Town Council

Item Type: CONSENT AGENDA Meeting Date: September 13, 2022

### <u>Item Details</u>

Presenter(s): Liz Loftin, Senior Planner

Department(s): Planning and Community Development

#### Requested Motion

Motion to approve the Statement of the Town Council and Ordinance for Rezoning Case #22CZ10 Calyx Senior Living Apex (KOBRA PUD Amendment), TMTLA Associates, petitioner, for the property located at 7501 Jenks Road (PIN 0732196422).

#### Approval Recommended?

The Planning and Community Development Department recommends approval.

#### <u>Item Details</u>

Rezoning Case #22CZ10 was approved at the August 23, 2022 Town Council meeting.

#### <u>Attachments</u>

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



STATEMENT OF TOWN COUNCIL AND ORDINANCE AMENDING THE OFFICIAL ZONING DISTRICT MAP OF THE TOWN OF APEX TO CHANGE THE ZONING OF APPROXIMATELY 5.738 ACRES LOCATED AT 7501 JENKS ROAD FROM PLANNED UNIT DEVELOPMENT- CONDITIONAL ZONING (PUD #20CZ04) TO PLANNED UNIT DEVELOPMENT-CONDITIONAL ZONING (PUD-CZ)

#### #22CZ10

**WHEREAS**, Kobra, LLC/ TMTLA Associates, owner/applicant (the "Applicant"), submitted a completed application for a conditional zoning on the 2<sup>nd</sup> day of May 2022 (the "Application"). The proposed conditional zoning is designated #22CZ10;

**WHEREAS**, the Director of Planning and Community Development for the Town of Apex, Dianne Khin, caused proper notice to be given (by publication and posting) of a public hearing on #22CZ10 before the Planning Board on the 8<sup>th</sup> day of August 2022;

**WHEREAS**, the Apex Planning Board held a public hearing on the 8<sup>th</sup> day of August 2022, gathered facts, received public comments and formulated a recommendation regarding the application for conditional zoning #22CZ10. A motion was made by the Apex Planning Board to recommend approval; the motion passed unanimously for the application for #22CZ10;

**WHEREAS**, pursuant to N.C.G.S. §160D-601 and Sec. 2.2.11.E of the Unified Development Ordinance, the Director of Planning and Community Development caused proper notice to be given (by publication and posting), of a public hearing on #22CZ10 before the Apex Town Council on the 23<sup>rd</sup> day of August 2022;

**WHEREAS**, the Apex Town Council held a public hearing on the 23<sup>rd</sup> day of August 2022. Liz Loftin, Senior Planner, presented the Planning Board's recommendation at the public hearing;

**WHEREAS**, all persons who desired to present information relevant to the application for #22CZ10 and who were residents of Apex or its extraterritorial jurisdiction, or who owned property adjoining the property for which the conditional zoning is sought, were allowed to present evidence at the public hearing before the Apex Town Council. No one who wanted to speak was turned away;

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

**WHEREAS**, the Apex Town Council finds that the approval of the rezoning is reasonable and in the public interest in that: The rezoning will provide an opportunity for a need use that will serve the surrounding areas. The rezoning will encourage compatible development of the property and increase the tax base; and

**WHEREAS**, the Apex Town Council by a vote of 4 to 0 approved Application #22CZ10 rezoning the subject tract located at 7501 Jenks Road from Planned Unit Development-Conditional Zoning (PUD #20CZ04) to Planned Unit Development-Conditional Zoning (PUD-CZ).

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

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

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#### Ordinance Amending the Official Zoning District Map #22CZ10

**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 #20CZ04) to Planned Unit Development-Conditional Zoning (PUD-CZ) District, subject to the conditions stated herein.

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

**Section 4:** The "Rezoned Lands" are subject to the conditions in Attachment "B" Calyx Senior Living Apex KOBRA PUD Amendment which are imposed as part of this rezoning.

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

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

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

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

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

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

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

TOWN OF APEX

Jacques K. Gilbert Mayor

#### ATTEST:

Allen Coleman, CMC, NCCCC Town Clerk

#### **APPROVED AS TO FORM:**

Town Attorney

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.

"Attachment B" Kobra PUD Amendment



To:Town of Apex Planning DepartmentFrom:Pamela Porter, TMTLA AssociatesDate:May 2, 2022, Revised August 12, 2022RE:KOBRA Tract PUD Amendment (Tract 2)

This memo is being submitted to note the changes being proposed to the previously approved KOBRA Tract PUD-CZ. Please note these changes only apply to Tract 2 (Wake County PIN 0732-19-6422) and all previously approved conditions still apply to Tract 1. This memo will reference sections from the approved KOBRA Tract PUD Text.

#### **Cover Sheet**

The following change to reflect PUD amendment for Tract 2 only.

Applicant: TMTLA Associates 5011 Southpark Drive, Ste. 200 Durham, NC 27713

#### 2.0 Vicinity Map

The following amendment is proposed to Section 2.0 Vicinity Map: Add a note indicating that the PUD amendment is focused on southern parcel of the KOBRA Tracts PUD-CZ.

#### 3.0 Project Data

Name of Project to include "Calyx Senior Living of Apex."

Preparer of PUD amendment:

TMTLA Associates 5011 Southpark Drive, Ste. 200 Durham, NC 27713 (919) 484-8880 pam@tmtla.com

Area of Mixed-Use Property proposed as Congregate Living Facility is 5.46 acres.

Percent of Mixed-Use areas proposed as non-residential development is 0%.

Percent of Mixed-Use Areas Proposed as Congregate Living Facility: 100%



#### 4.0 Proposed List Of Uses

The following amendment is requested in Section 4.0: Add "Congregate Living Facility" to the list of allowable uses.

#### 5.0 Purpose Statement PUD Standards

No amendment to Section 5.0.

#### 6.0 Proposed Design Controls

The following amendments are requested in Section 6.0:

We are requesting the maximum building square footage for Tract 2 to be 58,000 s.f.

We are requesting the residential density for Tract 2 be 11 resident rooms per acre.

We are requesting the setbacks listed as "Non-Residential Setbacks" be applicable to our proposed use (congregate living facility) on Tract 2.

We are requesting a reduction of the landscape buffer on the east, I-540 side of the site from 100' to 50'. While our use is residential by Town definition our use is institutional and commercial by nature. None of the residential components will fall within 100' of I-540, so we request to utilize the 50% buffer reduction noted in Sec. 8.2.6 of the UDO that non-residential uses adjacent to a limited access highway are able to use.

#### 7.0 Proposed Residential Architectural Controls

We propose that these would only apply to Tract 1 (Lennar Corporation).

#### 8.0 Proposed Non-Residential Architectural Controls

We request to amend this section to read "Proposed Congregate Living Facility Architectural Controls" and revise this list to the following items:

- 1. The predominant exterior building material shall be fiber cement siding.
- 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

We are requesting a 20% reduction in the required parking for a congregate living facility. Section 8.3 of the Town of Apex Unified Development Ordinance calls for 1 parking space per dwelling unit. We propose amending this to 0.8 parking spaces per resident room.

#### 11.0 Natural Resource and Environmental Data

We propose no amendment to Section 11.0 however, note the required RCA is accounted for on Tract 1 and there are no wetlands or streams located on Tract 2.

#### 12.0 Stormwater Management Requirements

No amendment to Section 12.0.

#### 13.0 Parks, Recreation and Cultural Advisory Commission Review

We propose a modified interpretation of UDO Article 14.1.1.B.2, which currently stipulates that a developer may be allowed to "pay to the Town a fee-in-lieu of dedication as provided herein." We recognize that a fee-in-lieu of land dedication would make the most sense for this project however, we support a fee-in-lieu that reflects the room count equal to the total licensed assisted living rooms in the Congregate Care Facility less the rooms designated as memory care. We request to have room count for memory care removed from the fee-in-lieu calculation.

#### **14.0 Public Facilities Requirements**

No amendment in Section 14.0.

#### 15.0 Phasing Plan

We request amending the language to note Phase 2 as the Congregate Living Facility parcel.

#### 16.0 Consistency With 2045 Land Use Plan

The parcel is designated as high density residential, office employment, and commercial services under the 2045 Land Use Map. The proposed use for a licensed assisted living facility is consistent with the Future Land Use Map because congregate living of this type is both high density residential by definition and commercial because it provides essential, professional care



services to the senior population. The proposed use is consistent with the intended goals and objectives of Apex' 2045 Land Use Map.

#### 17.0 Consistency with Unified Development Ordinance

The following amendment is requested in Section 17.0:

Note that the development in Tract 2 will not supply a connection to Dominik Court.

#### 18.0 Elevations

No amendment to Section 18.0.

#### 19.0 Affordable Housing

The following amendment is requested in Section 19.0:

The \$15,000 contribution noted is only applicable to Tract 1. No contributions applicable to Tract 2 (congregate living facility).

#### 20.0 Environmental Advisory Board (EAB) Zoning Conditions

The following conditions are being proffered as a result of the outcome of the meeting with the Environmental Advisory Board (EAB).

- 1. Building will include conduit to the roof to make it solar ready.
- 2. Site lighting will utilize full cut-off parking lot fixtures.
- 3. Site landscaping will exceed the minimum UDO landscape requirements.

# AMENDMENT TO THE KOBRA TRACT PLANNED UNIT DEVELOPMENT (PUD) **KOBRA PUD TRACT 2** Calyx Senior Living of Apex TOWN OF APEX, WAKE COUNTY, NORTH CAROLINA CASE #: 22CZ10

### SUBMITTALS

First Submittal	5/2/2022
Second Submittal	6/10/2022
Third Submittal	6/30/2022

### SHEET INDEX

Cover	
Existing Conditions Plan	L-1
Conceptual Layout Plan	L-2
Preliminary Utility Plan	L-3
Stormwater Management Plan	1L-4
Bldg. Elevation Renderings	L-5

# ZONING CONDITIONS

We are amending the zoning conditions on the originally approved KOBRA Tract PUD to include the following. These conditions shall only apply to Tract 2 of of the KOBRA Tract PUD:

- 1) Amend the current PUD to add Congregate Living Facility as a permitted use.
- 2) Amend the current PUD to allow for up to 58,000 sf of gross building
- 3) A 20% reduction of the required parking for a congregate living facility based on current requirements.
- 4) 100% of Tract 2 shall be congregate living. Maximum density for Tract 2 shall be 11 rooms/acre. 5)
- 6) A reduction in the landscape buffer along the east side of the site (adjacent to Hwy 540) from 100' to 50'.
- 7) Development shall utilize "non-residential setbacks" as outlined in Section 6.0 of the approved Kobra Tract PUD document. 8) Amend Section 7.0 of the approved Kobra Tract PUD document to
- note these architectual controls only apply to Tract 1.
- 9) Amend Section 8.0 of the approved Kobra Tract PUD document to read "Proposed Congregate Living Facility Architectural Controls" and list all architectural controls applicable to this project.
- 10) Amend Section 15.0 of the approved Kobra Tract PUD document to note Phase 2 as the Congregate Living Facility parcel. 11) Amend Section 17.0 of the approved Kobra Tract PUD document to
- eliminate stub connection to Dominik Court. 12) Amend Section 19.0 of the approved Kobra Tract PUD document to
- note the \$15,000 contribution is only applicable to Tract 1.
- 13) We propose a modified interpretation of UDO Article 14.1.1.B.2, which refers to a fee-in-lieu of land dedication. We recognize that a fee-in-lieu would make the most sense for this project however, we support a fee-in-lieu that reflects the room count equal to the total licensed assisted living rooms in the Congregate Care Facility less the rooms designated as memory care. We request to have room count for memory care deducted from the fee-in-lieu calculation.

All other zoning conditions approved as part of the original KOBRA Tract PUD shall remain.

# CONTACT INFORMATION

LANDSCAPE ARCHITECT/APPLICANT: TMTLA Associates 5011 Southpark Drive, Ste. 200 Durham, NC 27713 (919) 484-8880

CIVIL ENGINEERS/SURVEYOR: Summit Design and Engineering 1110 Navaho Drive, Ste. 609 Raleigh, NC 27609 (919) 322-0155

OWNER: Kobra, LLC 117 Woodland Ridge Drive Fuquay Varina, NC 27526

DEVELOPER/CONTRACT PURCHASER/ AGENT: Carillon Assisted Living 4901 Waters Edge Drive, Ste. 200 Raleigh, NC 27606 (919) 852-4000



AERIAL PHOTO (SITE OUTLINED IN RED)

NAME OF PROJECT CURRENT 2045 LUM DESIGNATION AREA OF TRACT AREA DESIGNATED AS MIXED USE ON 2045 LUM AREA OF MIXED USE PROPERTY PROPOSED	CALYX MIXED 5.46 A0 5.46 A0
AS NON-RESIDENTIAL DEVELOPMENT PERCENT OF MIXED USE AREAS PROPOSED AS NON-RESIDENTIAL DEVELOPMENT	0 ACRI 0%
EXISTING GROSS S.F. OF BUILDINGS PROPOSED GROSS S.F. OF BUILDING PROPOSED GROSS S.F. BY FLOOR AREA PROPOSED HEIGHT OF BUILDING	0 S.F. 58,000 58,000 32' MA
PROPOSED NUMBER OF STORIES PROPOSED NUMBER OF ROOMS NUMBER OF PARKING SPACES REQUIRED TOTAL NUMBER OF PARKING SPACES PROVIDED	1 62 MAX 62 50 MIN
REQUIRED SETBACKS FRONT 5' FROM FACADE SIDE 5' SIDE CORNER 10'	
REAR 10' WATERSHED PROTECTION OVERLAY DISTRICT	PRIMA
BUILT UPON AREA SUMMARY PRIMARY WATERSHED PROTECTION OVERLA MAXIMUM IMPERVIOUS PER UDO SEC.6.	.1
PROPOSED IMPERVIOUS MAX ALLOWED UNDER HIGH DENSITY OPTION FOR PUD-CZ	5
DOES SITE CONTAIN HISTORIC STRUCTURES	NO
NOTE: THE PARKS, RECREATION AND CULTURAL RE UNANIMOUSLY RECOMMENDED A FEE-IN-LIEU OF D	EDICAT



1" = 200'

**PROJECT DATA** X SENIOR LIVING OF APEX D USE ACRES ACRES RES 0 S.F. 0 S.F. AX. ARY WATERSHED PROTECTION OVERLAY DISTRICT 12% 50% 70% RCES ADVISORY COMMISSION REVIEWED THE PROJECT AT THE JUNE 29TH, 2022 MEETING AND TION. THE FEE RATE IS SET AT THE TIME OF TOWN COUNCIL APPROVAL AND RUNS WITH THE LIFE OF THE PROJECT AND IS BASED ON THE TOTAL UNIT COUNT ON THE APPROVED SITE PLAN.

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# EXISTING CONDITIONS NOTES

- 1. BOUNDARY AND FIELD TOPOGRAPHIC SURVEY PROVIDED BY SUMMIT DESIGN AND ENGINEERING, MARCH 2022.
- 2. PROJECT SITE IS NOT LOCATED WITHIN ANY SPECIAL FLOOD HAZARD AREAS OR FUTURE CONDITIONS FLOOD HAZARD AREAS, AS SHOWN ON FIRM PANEL #3720073300JJ DATED 5/2/2006 AND PANEL #3720073200J DATED 5/2/2006.
- 3. THERE ARE NO PROTECTED WETLANDS WITHIN THE PROJECT SITE.
- 4. THERE ARE NO BUFFERED STREAMS WITHIN THE PROJECT SITE.
- 5. TREE INFORMATION BASED ON SURVEY PROVIDED BY SUMMIT DESIGN AND ENGINEERING, MARCH 2022.
- 6. THE SUBJECT PROPERTY IS LOCATED WITHIN THE TOWN OF APEX PRIMARY WATERSHED PROTECTION OVERLAY DISTRICT.
- 7. ANY EXISTING MISCELLANEOUS STRUCTURES AND DRIVEWAYS SHALL BE REMOVED PER THE TOWN OF APEX STANDARDS AND REQUIREMENTS.
- 8. EXISTING CONDITIONS AS SHOWN ON THESE PLANS ARE GENERAL AND ILLUSTRATIVE IN NATURE AND DO NOT INCLUDE MECHANICAL, ELECTRICAL AND MISCELLANEOUS STRUCTURES. IT IS THE RESPONSIBILITY OF THE CONTRACTOR TO REVIEW THE PROJECT SITE AND FAMILIARIZE WITH ACTUAL FIELD CONDITIONS PRIOR TO BIDDING AND COMMENCING WORK. IF FIELD CONDITIONS ARE FOUND TO BE SIGNIFICANTLY DIFFERENT THE CONTRACTOR SHALL NOTIFY THE PROJECT LANDSCAPE ARCHITECT OR ENGINEER IMMEDIATELY.





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11, 74 M. FT.

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# ILLUSTRATIVE ELEVATIONS OF THE CALYX FACILITY IN FUQUAY-VARINA. CALYX SENIOR LIVING OF APEX WILL HAVE A BUILDING WITH SIMILAR STYLE AND MATERIALS



NOT APPROVED FOI CONSTRUCTION

PLAN SHEETS ARE INTENDED FOR ILLUSTRATIVE USE ONLY

RENDERINGS BY HR ASSOCIATES



### |Agenda Item | cover sheet

for consideration by the Apex Town Council

Item Type: CONSENT AGENDA Meeting Date: September 13, 2022

### <u>Item Details</u>

Presenter(s): Amanda Bunce, Current Planning Manager

Department(s): Planning and Community Development

#### Requested Motion

Motion to approve the Statement of the Town Council and Ordinance for Rezoning Application #22CZ15 CarSpace Apex, Chris Rurkowski, TMTLA Associates, petitioner, for the property located at 1720 & 1740 Pinnacle Center Drive (PINs 0751272154 & 0751270023).

#### Approval Recommended?

The Planning and Community Development Department recommends approval.

#### <u>Item Details</u>

Rezoning Application #22CZ15 was approved at the August 23, 2022 Town Council meeting.

#### <u>Attachments</u>

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



STATEMENT OF TOWN COUNCIL AND ORDINANCE AMENDING THE OFFICIAL ZONING DISTRICT MAP OF THE TOWN OF APEX TO CHANGE THE ZONING OF APPROXIMATELY 6.92 ACRES LOCATED AT 1720 & 1740 PINNACLE CENTER DRIVE FROM TECH/FLEX-CONDITIONAL ZONING (TF-CZ #14CZ30) TO LIGHT INDUSTRIAL-CONDITIONAL ZONING (LI-CZ)

#### #22CZ15

**WHEREAS**, Classic Road Partners, LLC/Chris Rurkowski, TMTLA Associates, owner/applicant (the "Applicant"), submitted a completed application for a conditional zoning on the 1<sup>st</sup> day of June 2022 (the "Application"). The proposed conditional zoning is designated #22CZ15;

**WHEREAS**, the Director of Planning and Community Development for the Town of Apex, Dianne Khin, caused proper notice to be given (by publication and posting) of a public hearing on #22CZ15 before the Planning Board on the 8<sup>th</sup> day of August 2022;

**WHEREAS**, the Apex Planning Board held a public hearing on the 8<sup>th</sup> day of August 2022, gathered facts, received public comments and formulated a recommendation regarding the application for conditional zoning #22CZ15. A motion was made by the Apex Planning Board to recommend approval; the motion passed by a vote of 6-0 for the application for #22CZ15;

**WHEREAS**, pursuant to N.C.G.S. §160D-601 and Sec. 2.2.11.E of the Unified Development Ordinance, the Director of Planning and Community Development caused proper notice to be given (by publication and posting), of a public hearing on #22CZ15 before the Apex Town Council on the 23<sup>rd</sup> day of August 2022;

**WHEREAS**, the Apex Town Council held a public hearing on the 23<sup>rd</sup> day of August 2022. Amanda Bunce, Current Planning Manager, presented the Planning Board's recommendation at the public hearing;

**WHEREAS**, all persons who desired to present information relevant to the application for #22CZ15 and who were residents of Apex or its extraterritorial jurisdiction, or who owned property adjoining the property for which the conditional zoning is sought, were allowed to present evidence at the public hearing before the Apex Town Council. No one who wanted to speak was turned away;

WHEREAS, the Apex Town Council finds that the approval of the rezoning is consistent with the 2045 Land Use Plan and other adopted plans in that: The 2045 Land Use Map designates this area Industrial Employment. This designation on the 2045 Land Use Map includes the zoning district Light Industrial-Conditional Zoning (LI-CZ) and the Apex Town Council has further considered that the proposed rezoning to Light Industrial-Conditional Zoning (LI-CZ) will maintain the character and appearance of the area and provide the flexibility to accommodate the growth in population, economy, and infrastructure consistent with that contemplated by the 2045 Land Use Map;

**WHEREAS**, the proposed rezoning is reasonable and in the public interest because it provides flexibility for the use "Self-service storage facility" that will allow the establishment of a use that is unique within Apex and it is also compatible with the surrounding uses and those anticipated on nearby vacant parcels. In addition, several recommended conditions from the Environmental Advisory Board have been added that will mitigate the environmental impact of proposed development beyond what would be anticipated with development under the current zoning; and

**WHEREAS**, the Apex Town Council by a vote of 4 to 0 approved Application #22CZ15 rezoning the subject tract located at 1720 & 1740 Pinnacle Center Dr from Tech/Flex-Conditional Zoning (TF-CZ #14CZ30) to Light Industrial-Conditional Zoning (LI-CZ).

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

<u>Section 1</u>: 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."

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**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 Tech/Flex-Conditional Zoning (TF-CZ #14CZ30) to Light Industrial-Conditional Zoning (LI-CZ), subject to the conditions stated herein.

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

**Section 4:** The "Rezoned Lands" are subject to all of the following conditions which are imposed as part of this rezoning:

#### Limitation of Uses:

The Rezoned Lands may be used for, and only for, the uses listed immediately below. The permitted uses are subject to the limitations and regulations stated in the UDO and any additional limitations or regulations stated below. For convenience, some relevant sections of the UDO may be referenced; such references do not imply that other sections of the UDO do not apply. An "(SUP)" designation indicates a Special Use Permit is required prior to commencing this use.

#### Permitted Uses and Limitations:

- 1. Security or caretaker quarters
- 2. Assembly hall, nonprofit
- 3. Assembly hall, for-profit
- 4. Church or place of worship (P/SUP)
- 5. Day care facility
- 6. Drop-in or short-term day care
- 7. Government service
- 8. Transportation facility
- 9. Veterinary clinic or hospital
- 10. Vocational school
- 11. Communication tower, commercial (SUP)
- 12. Communication tower, constructed stealth (SUP)
- 13. Communication tower, camouflage stealth (SUP)
- 14. Recycling Center
- 15. Recycling collection station (SUP)
- 16. Utility, minor
- 17. Botanical garden
- 18. Entertainment, indoor
- 19. Entertainment, outdoor (SUP)
- 20. Greenway
- 21. Park, active
- 22. Park, passive
- 23. Youth or day camps
- 24. Restaurant, general
- 25. Dispatching Office
- 26. Medical or dental office or clinic

- 27. Medical or dental laboratory
- 28. Office, business or professional
- 29. Pilot plant
- 30. Research facility
- 31. Glass sales
- 32. Health/fitness center or spa
- 33. Kennel (SUP)
- 34. Monument sales, retail
- 35. Repair services, limited
- 36. Retail sales, bulky goods
- 37. Retail sales, general (%)
- 38. Self-service storage
- 39. Studio for art
- 40. Upholstery shop
- 41. Pet services
- 42. Automotive paint or body shop
- 43. Car wash or auto detailing
- 44. Repair and maintenance, general
- 45. Vehicle sales and rental, light
- 46. Building supplies, wholesale
- 47. Contractor's office and storage yard
- 48. Laboratory, industrial research
- 49. Machine or welding shop
- 50. Warehousing
- 51. Woodworking or cabinetmaking
- 52. Wholesale, general
- 53. Manufacturing and processing
- 54. Brewery



55. Distillery

57. Microdistillery

#### 56. Microbrewery

#### Conditions:

- 1. Building exteriors shall have more than two material colors.
- 2. The building shall have architectural elements such as varied roof forms, articulation of the façade, breaks in the roof, walls with texture materials and ornamental details.
- 3. Architectural detail such as windows, awnings, trellises, articulation, arcades, and material changes shall be utilized.
- 4. Building main entrances shall be emphasized.
- 5. The predominant building materials shall be high quality materials, including brick, native stone, metal panel, glass, fiber cement cladding and/or masonry units.
- 6. EIFS or synthetic stucco shall not be used in the first forty (40) inches above grade.
- 7. The supplemental standards for the self-service storage use found in UDO Sec. 4.4.5.G.14 shall be amended as follows only for a self-service storage use where the storage units are designed solely to accommodate the storage of vehicles in addition to office and/or co-working space.
  - a) Self-service storage bays shall be allowed to be designed to accommodate office space, including co-working space as well as the storage of vehicles. Storage bays shall not be used to manufacture, fabricate or process goods; service or repair small engines or electrical equipment, or to conduct similar repair activities; conduct garage sales or retail sales of any kind; or conduct any other commercial or industrial activity on the site;
  - b) A security or caretaker quarters use may be established on the site of a self-storage facility;
  - c) Except as provided in this section, all property stored on the site of a self-service storage facility use shall be entirely within enclosed buildings;
  - d) Open storage of recreational vehicles and dry storage of pleasure boats of the type customarily maintained by persons for their personal use shall be permitted within a self-service storage facility use, provided that the following standards are met:
    - (i) The storage shall occur only within a designated area. The designated area shall be clearly delineated;
    - (ii) The storage area shall not exceed 25% of the buildable area of the site;
    - (iii) The storage area shall be entirely screened from view from adjacent residential areas and public roads by a building and/or solid fencing with landscaping on the outside of the fence;
    - (iv) Storage shall not occur within the area set aside for minimum building setbacks;
    - (v) No dry stacking of boats shall be permitted on site; and
    - (vi) No vehicle maintenance, washing or repair shall be permitted.
  - e) The minimum lot size for a self-service storage facility shall be three acres. No variance or other relief shall be granted from this standard;
  - f) The development shall not encroach into any buffer required by this Ordinance; the minimum required setback from any property line shall be the greater of any required buffer or setback (Sec. 8.2.6.B).
  - g) If separate structures are constructed, there shall be a minimum separation of 10 feet between the buildings within the facility;
  - h) The maximum size of a storage bay shall be 4,000 square feet;
  - i) The maximum height of a self-service storage facility use shall be 48 feet. Stair structures for roof access shall be allowed to exceed the maximum building height by no more than five (5)



feet. In addition, a parapet wall shall be constructed to screen roof-mounted heating and air conditioning and other equipment, if any.

- j) The following on-site circulation standards shall apply:
  - (i) Interior parking shall be provided in the form of aisleways adjacent to the storage bays. These aisleways shall be used both for circulation and temporary customer parking while using storage bays. The minimum width of these aisleways shall be 21 feet if only oneway traffic is permitted, and 30 feet if two-way traffic is permitted;
  - (ii) The one-or two-way traffic flow patterns in aisleways shall be clearly marked. Marking shall consist at a minimum of use of standard directional signage and painted lane markings with arrows;
  - (iii) Appropriate access and circulation by vehicles and emergency equipment shall be ensured through the design of internal turning radii of aisleways.
- Outdoor lighting shall be the minimum necessary to discourage vandalism and theft. If a facility abuts a residential district, outdoor lighting fixtures shall be no more than 15 feet in height;
- I) No exterior loudspeakers or paging equipment shall be permitted on the site;
- m) Storage bay doors shall not face any abutting property located in a residential district, nor shall they be visible from any public road; and
- n) The minimum building setback distance from RCA area shall be 5 feet.
- o) Parking internal to each unit shall count as 2 parking spaces towards the minimum parking requirement of the site.

Additional Zoning Conditions

- 8. At least 75% of the landscaping shall be native species. Landscaping shall be coordinated with and approved by the Planning Department at site or subdivision review.
- 9. A minimum of 3 native hardwood tree species shall be used for the landscaping on site.
- 10. The project shall use full cutoff LED fixtures that have a maximum color temperature of 3000K for all exterior lighting, including, but not limited to, parking lot and building mounted fixtures.
- 11. The project shall install light timers, motion sensors, or other smart lighting technology for all lighting within the parking lot.
- 12. The building(s) shall be designed to incorporate passive daylighting techniques, including, but not limited to, southern building orientation, clerestory windows, solar tubes, skylights, light redirection devices, and/or large windows.
- 13. Tree clearing, SCM, or infrastructure shall not occur or be placed in either zone of the riparian buffer, except as necessary for the installation of Town of Apex utilities.
- 14. The project shall install a minimum of two (2) signs adjacent to wooded or natural condition Resource Conservation Area. The signage shall indicate that the area is RCA and is to be preserved in perpetuity and not disturbed.

**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 #22CZ15

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

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

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

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

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

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

TOWN OF APEX

#### ATTEST:

Mayor

Allen Coleman, CMC, NCCCC Town Clerk

**APPROVED AS TO FORM:** 

Town Attorney

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### |Agenda Item | cover sheet

for consideration by the Apex Town Council

Item Type: CONSENT AGENDA Meeting Date: September 13, 2022

### <u>Item Details</u>

Presenter(s):Lauren Staudenmaier, Planner IIDepartment(s):Planning and Community Development

#### Requested Motion

Motion to set Public Hearing for the September 27, 2022 Town Council meeting regarding Rezoning Application #22CZ16 1039 Irongate Drive. The applicant, Aaron Robertson, seeks to rezone approximately 0.46 acres from Rural Residential (RR) to Medium Density-Conditional Zoning (MD-CZ). The proposed rezoning is located at 1039 Irongate Drive.

#### Approval Recommended?

The Planning and Community Development Department recommends approval.

<u>Item Details</u>

The property to be rezoned is identified as PIN 0741129183.

<u>Attachments</u>

- Vicinity Map
- Application





PETITION TO AMEND THE OFFICIAL ZONING MAP					
	nt is a public record under the North Carolina Public	c Records Ac	t and may be published on t	he Town's website	e or disclosed to
third parties. Application	000740	Subm	nittal Date:		
		Fee P			
Project Info	ormation				
	A array Dahartaan				
Project Nan					
Address(es)					
PIN(s): <u>U</u>	741129183			0	40
—	DD				.46
Current Zor	·	Proposed			·····
Current 204	15 LUM Classification(s): Medium/H	ign Dei	nsity Residentia	al/Office E	mployment
Is the propo	osed rezoning consistent with the 2045 LUM	Classificat	ion(s)? Yes	No 🖌	
If any port	ion of the project is shown as mixed use (3 c	or more str	ipes on the 2045 Land U	lse Map) provid	le the following:
Are	a classified as mixed use:		Acreage:		
Are	a proposed as non-residential development	:	Acreage:		
Pero	cent of mixed use area proposed as non-resi	dential:	Percent:		
Applicant I	nformation				
Name:	Aaron Robertson				
Address:	PO Box 712				
City:	Morrisville	State:	NC	Zip:	27560
<i>,</i> Phone:	919-780-4843	– E-mail:	amanspropert		gmail.com
Owner Info	ormation	-	· · ·		•
Name:	Aaron Robertson				
Address:	PO Box 712				
City:	Morrisville	State:	NC	Zip:	27560
Phone:		E-mail:			
Agent Info	Aaron Robertson				
Name:	PO Box 712				
Address:					27560
City:	Morrisville	State:	NC	Zip:	27560
Phone:	919-780-4843	E-mail:	amanspropert	lesu425@	gmail.com
Other cont	acts:				
		- Page 104 -			

Rezoning Application

**PETITION INFORMATION** 

22CZ16

Application #:

Submittal Date:

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

#### **PROPOSED USES:**

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

<sup>1</sup> Accessory apartment	21
2 Single-family	22
3	23
4	24
5	25
6	26
7	27
8	28
9	29
10	30
11	31
12	32
13	33
14	34
15	35
16	36
17	37
18	38
19	39
20	40

Application #:

#### 22CZ16

Submittal Date:

#### **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.

- 1. The minimum lot width shall be 90 feet.
- 2. The front setback shall be 25.5 feet.

3. No permitted encroachments into the required setback shall be permitted within the front setback.

#### LEGISLATIVE CONSIDERATIONS - CONDITIONAL ZONING

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

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

The proposed rezoning and LUM change to Medium Density Residential will be consistent because the proposed zoning conditions will allow the property to be consistent with the surrounding neighborhood.

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 uses and conditions for this rezoning will ensure that the district is compatible

#### with the surrounding residential land uses.

- Page 106 -R<del>ezoning Applicatio</del>n

PETITION	INFORMATION	

22CZ16

Application #:

Submittal Date:

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

# The proposed Conditional Zoning District will be in compliance with Section 4.4 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 design will match the surrounding residential areas, comply with Section 6.3, and will have no significant adverse impacts on surrounding lands.

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 uses will minimize environmental impacts by reducing the amount of tree removal.

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 uses will not increase the demand on public facilities and services.

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 uses will not be detrimental to health, safety, or welfare of the residents of the town.

PETITION INFORMATION	PETITION	INFORMATION
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22CZ16

Application #:

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

### The proposed uses will not be detrimental adjacent properties.

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

The proposed uses will not constitute as a nuisance or hazard to adjacent properties.

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

### The proposed rezoning will comply with all standards.

	- Page 108 -	
R	егонні Аррісацо	h

AGENT AUTHORIZA	
Application #:	22CZ16 Submittal Date:
AARCON R	ubmitted:
	mendment 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: 1039 ILONDATE DR
The agent for this pro	niect is:
1	owner of the property and will be acting as my own agent
Agent Name:	Aaron Kobertson
Address:	PO BOX 712 Morrisville NC 27560
Telephone Number:	919-780-4843
E-Mail Address: Amonsproperties 0425 @gmail.com	
	Signature(s) of Owner(s)* An Auto Aron Robertson Type or print name Date
	Type or print name Date

Attach additional sheets if there are additional owners.

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

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

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2.0
AFFIDAVIT OF OV	VNERSHIP	
Application #:	22CZ16	Submittal Date:

\_\_\_\_\_\_ (the "Affiant") first being duly sworn, hereby

The undersigned, Haron Kabertein swears or affirms as follows:

- 1. Affiant is over eighteen (18) years of age and authorized to make this Affidavit. The Affiant is the sole owner, or is the authorized agent of all owners, of the property located at 1034 Transate 0-. Apry MC 2752 and legally described in Exhibit "A" attached hereto and incorporated herein (the "Property").
- 2. This Affidavit of Ownership is made for the purpose of filing an application for development approval with the Town of Apex.
- If Affiant is the owner of the Property, Affiant acquired ownership by deed, dated  $\frac{1/26/22}{10}$ , and recorded in the Wake County Register of Deeds Office on  $\frac{1/20/22}{10}$ , in Book 1888 Page 3. 2117
- If Affiant is the authorized agent of the owner(s) of the Property, Affiant possesses documentation 4. indicating the agency relationship granting the Affiant the authority to apply for development approval on behalf of the owner(s).
- 5. If Affiant is the owner of the Property, from the time Affiant was deeded the Property on , Affiant has claimed sole ownership of the Property. Affiant or Affiant's predecessors in interest have been in sole and undisturbed possession and use of the property during the period of ownership. Since taking possession of the Property on  $\frac{1}{20/22}$ , 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  $30^{+1}$  day of Juke , 20\_22\_. (seal) Type or print name

#### STATE OF NORTH CAROLINA COUNTY OF Wake

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



Au Chastain Pederson Notary Public State of North Carolina My Commission Expires: 3/10/2024

#### AFFIDAVIT OF OWNERSHIP: EXHIBIT A – LEGAL DESCRIPTION

Application #:

22CZ16

Submittal Date:

#### Insert legal description below.

Legal description for lot 26, Irongate Subdivison

Beginning at an existing iron pipe on the southern right of way of Irongate Drive in Wake County, North Carolina, said iron pipe being the northeastern corner of Lot 26 in Iron Gate Subdivision as recorded in book of maps 1969, page 156 in the Wake County Registry; thence leaving said right of way along common property line of, now or formerly, Sharon Greene as recorded in Wake County Registry in deed book 7913 page 467, Lots 24 and 25, S04°30W 200.00 feet to an existing iron pipe; thence N85°30W 100.00 feet along the northern boundary of, now or formerly, EBT Farms, LLC property as recorded in said Registry in deed book 7913 page 467; thence N04°30W 200.00 feet with common property line of, now or formerly, Henry and Fannie Byrd as recorded in said Registry in deed book 2377 page 147, Lot 28, to an existing iron pipe on the southern right of way of Irongate Drive; thence along said right of way S85°30E 100.00 feet to the Point of Place of Beginning containing 0.459 +/- acres.





### Wake County Residential Development Notification

	Developer Company Information
Company Name	
Company Phone Number	
Developer Representative Name	
Developer Representative Phone Number	
Developer Representative Email	

New Residential Subdivision Information	
Date of Application for Subdivision	Plea
City, Town or Wake County Jurisdiction	abo
Name of Subdivision	stu
Address of Subdivision (if unknown enter nearest cross streets)	gro
REID(s)	
PIN(s)	

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

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

Please send any questions about this form to:

studentassignment-gisgroup@wcpss.net

Projected Date	es Information
Subdivision Completion Date	
Subdivision Projected First Occupancy Date	

	Lot by Lot Development Information																
Unit Type	Total # of Units	Senior Living	Studio	1 Bedroom	2 Bedroom	3 Bedroom	4 Bedroom		re Foot nge	Price	Range	Anticipated Completion Units & Dates		es			
								Min	Max	Low	High	Year	# Units	Year	# Units	Year	# Units
Single Family	1					1		2600	2600		souk						
Townhomes																	
Condos																	
Apartments																	
Other																	

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Revised 08/10/2018

### 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.

7 Date

Dear Neighbor:

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

1039 I RONGATE DR	0741129185
ABEX	
	minit 1

Address(es)

PIN(s)

in accordance with the Town of Apex Neighborhood Meeting procedures. This meeting is intended to be a way for the applicant to discuss the project and review the proposed plans with adjacent neighbors and neighborhood organizations before the submittal of an application to the Town. This provides neighbors an opportunity to raise questions and discuss any concerns about the impacts of the project before it is officially submitted. If you are unable to attend, please refer to the Project Contact Information page for ways to contact the applicant. Notified neighbors may request that the applicant provide updates and send plans via email or mail. Once an application has been submitted to the Town, it may be tracked using the <u>Interactive</u> <u>Development Map</u> or the <u>Apex Development Report</u> located on the Town of Apex website at http://www.apexnc.org/180/Planning-Community-Development.

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

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

\*Quasi-Judicial Public Hearing: The Board of Adjustment cannot discuss the project prior to the public hearing.

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

PLODOSED ZONING - MEDIUM DENSITY RESIDENTIAL - CONDITIONAL ZONING

Estimated submittal date:	
MEETING INFORMATION:	
Property Owner(s) name(s):	AARON ROBERBON
Applicant(s):	
Contact information (email/phone):	9.9-780-9843
Meeting Address:	1039 IRANGATE DR
Date/Time of meeting**:	6 PM
Welcome: 6 PM Project	Presentation: 6:770 PM Question & Answer: 7100 PM
	m9:00 p.m. on a Monday through Thursday (excluding Town recognized
	eneral process for this application, please contact the Planning and Community
	5. You may also find information about the Apex Planning Department and on-
going planning efforts at http://www.apex	nc.org/180/Planning-Community-Development.

Neighborhood Meeting Instruction Packet & Affidavit

# **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:	
	Square Feet: 20000 SF 0.46T/-AC
Property Owner: Anton ROBELS	500
Address: PO BOX 712	12-510
City: MORRISVILLE	State: Zip: JTS GO
Phone: 99-7-80-98-13 Email: AN	MNSPLOPERTIESO42526MML.10
Developer: NA	
Address:	
City: State:	Zip:
Phone: Fax:	Email:
Engineer: <u>Sulveyor</u> : ECLS Address: 19 N MCKINLEY	GIOBAL INC
City: COATS	State: NC Zip: 27521
Phone: 910-897-3257 Fax:	Email: ALLISONSCEUSCIDEAL
Builder (if known): PAUL SATTE	entitle INS. COM
Address:	
City:	State: NC Zip:
Phone: 94-965-248 ax:	Email: PAULNCBUILDERCGUAL

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

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

Page 115 -Neighborhood Meeting more packet & Affidavit

## **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:	<u> </u>	039	IRONGATE	DRIVE, APEX, NC	
Date of meeting: _	6	23	2022	Time of meeting:	6:00 pm
Property Owner(s)	name(s):	·			
Applicant(s):				-	

Please <u>print</u> your name below, state your address and/or affiliation with a neighborhood group, and provide your phone number and email address. Providing your name below does not represent support or opposition to the project; it is for documentation purposes only. For virtual meetings, applicants must include all known participants and request the information below.

	NAME/ORGANIZATION	ADDRESS	PHONE #	EMAIL	SEND PLANS & UPDATES
1.	SONYA WARD/ECLS	310 KEITH STREET, APEX,			
2.		30 0 C Riper Cin Pr ADX 782 April 27502			$\checkmark$
	Norma Study +	103B Iron gate Dr.			com V
4.	Sobert + Varessa Lassiter	1011 Jangte Do DC2			
5.	RosellaWalters Ha	san 1045 lvongate			<i>uV</i>
6.	Sharm Greene	1037 Irongate Dr.			$\checkmark$
7.	Dorothy Thomas	1048 Irongate Dr			$\checkmark$
8.	Rich Spullon	1020 Rongate DR			
9.	Phoenix Normy Ile	1040 Frongate Rd			
10.	Haran Robertson	1039 Fronte Dr.			1
11.		· · · · · · · · · · · · · · · · · · ·			
12.					
13.		- 1. S.			
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): AARON ROBERSON
Applicant(s):
Contact information (email/phone): <u>999-780-9843</u>
Meeting Address: 1039, 2006ate DR APEX
Date of meeting: <u>(4-23-22</u> Time of meeting: <u>(4-23-22</u>

Please summarize the questions/comments and your responses from the Neighborhood Meeting or emails/phone calls received in the spaces below (attach additional sheets, if necessary). Please state if/how the project has been modified in response to any concerns. The response should not be "Noted" or "No Response". There has to be documentation of what consideration the neighbor's concern was given and justification for why no change was deemed warranted.

Question/Concern#1: HOW WILL REZONING EFFECT EXISTING
Applicant's Response: WILL REACH OLT TO APEN FOR DETAILS
Question/Concern #2: How TO STOP EROSION OF NEIGHBORNG LOTS PLOM 1039 (RONGATE
Applicant's Response: WE NEED TO GET LEZQUING DASSES TO BE ABLE TO CONTINUE MY CONSTRUCTION SO SON LANDSCAPE CAN BE DONE
Question/Concern #3:
Applicant's Response:
Question/Concern #4:
Applicant's Response:
Page 9 of 10 Neighborhood Me cket & Affidavit Last Updated: December 21, 2021

# 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, ALLISON SMITH, do hereby declare as follows: Print Name

- 1. I have conducted a Neighborhood Meeting for the proposed Rezoning, Major Site Plan, Residential Master Subdivision Plan, or Special Use Permit in accordance with UDO Sec. 2.2.7 *Neighborhood Meeting*.
- 2. The meeting invitations were mailed to the Apex Department of Planning and Community Development, all property owners and tenants abutting and within 300 feet of the subject property and any neighborhood association that represents citizens in the notification area via first class mail a minimum of 14 days in advance of the Neighborhood Meeting.

3. The meeting was conducted at 1039 (Dan Game DR (location/address) on <u>(c-23-22</u> (date) from <u>CoDM</u> (start time) to <u>8 pm</u> (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.

By: Ulm

STATE OF NORTH CAROLINA COUNTY OF WAKE Harnett Sworn and subscribed before me, <u>Colleen Marcus</u> Notary Public for the above State and County, on this the <u>26th</u> day of <u>July</u>, 20<u>22</u>. SEAL <u>Colleen Marcus</u> Notary Public Colleen Marcus Print Name My Commission Expires: <u>January 20</u>2025

SITE ADDRESS	PIN NUM	OWNER	MAILING ADDRESS	
1039 IRONGATE DR	0741129183	A-MAN'S PROPERTY SERVICES LLC	PO BOX 712	MORRISVILLE NC 27560-0712
1026 IRONGATE DR	0741221559	ANDERSON, BETTIE J	1026 IRONGATE DR	APEX NC 27502-6505
1043 IRONGATE DR	0741127172	BYRD, HENRY LEE BYRD, FANNIE M	PO BOX 411	APEX NC 27502-0411
1018 IRONGATE DR	0741128631	CROSS, PEARLIE M RICHARDSON, DORA C	1018 IRONGATE DR	APEX NC 27502-6505
0 VERIDEA PKWY	0741119629	EBT FARMS, LLC	472 HENRYS RIDGE RD	PITTSBORO NC 27312-4641
1037 IRONGATE DR	0741221133	GREENE, SHARON F	1037 IRONGATE DR	APEX NC 27502-6506
1047 IRONGATE DR	0741125184	JOHNSON, TRACY LEWIS	3807 SHAFTSBURY ST	DURHAM NC 27704-1662
1016 IRONGATE DR	0741127549	LASSITER, ROBERT MCCOY	1011 IRONGATE DR	APEX NC 27502-6506
3004 RIVER CIR	0741223182	PERKINS, JOSEPH E PERKINS, SANDRA M	PO BOX 702	APEX NC 27502-0702
3006 RIVER CIR	0741222186	PERKINS, JOSEPH EDWARD	PO BOX 702	APEX NC 27502-0702
1022 IRONGATE DR	0741220651	RICKS, GAIL A	1022 IRONGATE DR	APEX NC 27502-6505
1020 IRONGATE DR	0741129650	SPULLER, RICHARD E SPULLER, ALISON B	1020 IRONGATE DR	APEX NC 27502-6505
1038 IRONGATE DR	0741220461	STUART, NORMA J	1038 IRONGATE DR	APEX NC 27502-6505
1044 IRONGATE DR	0741127440	TRADE BRIDGE PROPERTIES LLC BLOUNT, WILLIAM H JR	1022 EVANS RD	CARY NC 27513-3111
1042 IRONGATE DR	0741128339	UZZELL, RONALD	1042 IRONGATE DR	APEX NC 27502-6505
1045 IRONGATE DR	0741126183	WALTERS, ROSELLA N	1045 IRONGATE DR	APEX NC 27502-6506
		Current Tenant	1040 Irongate DR	APEX NC 27502
		Current Tenant	1041 Irongate DR	APEX NC 27502
		Current Tenant	3004 River CIR	APEX NC 27502

1

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1039\_Irongate\_Notification\_List.xls

# |Agenda Item | cover sheet

for consideration by the Apex Town Council

Item Type: CONSENT AGENDA Meeting Date: September 13, 2022

# <u>Item Details</u>

Presenter(s):Sarah Van Every, Senior PlannerDepartment(s):Planning and Community Development

#### Requested Motion

Motion to set Public Hearing for the September 27, 2022 Town Council meeting regarding Rezoning Application #21CZ17 Ten Ten Business Park. The applicant, M. Gray Styers, J National Capital V, LLC., seeks to rezone approximately 4.6 acres from Residential Agricultural (RA) to Light Industrial-Conditional Zoning (LI-CZ). The proposed rezoning is located at 2132 Ten Ten Road.

#### Approval Recommended?

The Planning and Community Development Department recommends approval.

#### Item Details

The property to be rezoned is identified as PIN 0751359861 (portion of).

<u>Attachments</u>

- Vicinity Map
- Application





Mandavilla Way

Avalon Peaks

Way

**Hedera** 

Solandra Lin

# Rezoning #21CZ17

al Photography ing Department May 202; Aerial F repared by: Town of Apex



#### **REZONING PETITION SUBMISSION:**

Applications and fees are due by 12:00 pm on the first business day of each month. See the <u>Rezoning</u> Schedule on the website for details. LATE FEE: \$300

#### **REZONING PETITION FEES:**

Conditional Zoning: \$1,000.00 Rezoning: \$700.00\* \*No zoning conditions may be added to address concerns of staff, adjacent property owners, Planning Board, or Town Council

**PRE-APPLICATION MEETING:** Separate pre-application meetings with the Technical Review Committee (TRC) and the Environmental Advisory Board (EAB) are required to be scheduled prior to the submittal of a PD Plan for PUD-CZ.

Pre-application meetings with the TRC are typically scheduled during regular business hours on the 1<sup>st</sup>, 2<sup>nd</sup>, and 5<sup>th</sup> Thursdays of the month and pre-application meetings with the EAB are held at 6 p.m. on the 3<sup>rd</sup> Thursday of the month during the regularly scheduled EAB meeting.

To schedule a meeting, applicants must e-mail a pdf map of the parcel(s) to be rezoned and a completed <u>Rezoning Pre-Application Meeting Request</u> form to Planner Lauren Staudenmaier (<u>lauren.staudenmaier@apexnc.org</u>) no later than five (5) working days prior to the desired meeting day.

**PURPOSE OF A CONDITIONAL ZONING:** Conditional Zoning (CZ) Districts are zoning districts in which the development and use of property is subject to the ordinance standards applicable to the corresponding general use district as well as additional rules, regulations, and conditions that are imposed as part of the legislative decision creating the district. A Conditional Zoning (CZ) District allows particular uses to be established only in accordance with site specific standards and conditions pertaining to each individual development project. All site-specific standards and conditions must be consistent with the objectives of these regulations, the adopted 2045 Land Use Map, and adopted area plans. The review process established in this part provides for the accommodation of such uses by a reclassification of property into a CZ District, subject to site-specific standards and conditions.

**NEIGHBORHOOD MEETING:** Neighborhood meetings are required per UDO Sec. 2.2.7 prior to application submission. The applicant is required to notify property owners, tenants, and any neighborhood association that represents citizens that are abutting or within 300 feet of the subject property via first class mail a minimum of 14 days in advance of the neighborhood meeting. The notification list must be obtained by emailing <u>addressing.team@apexnc.org</u> and will be provided within 5-10 business days of the initial request. The applicant shall use their own return address on the envelopes as the meeting is a private meeting between the developer and the neighbors. The applicant shall submit "Neighborhood Meeting Packet" forms included in this application packet with their initial submittal.

**ANNEXATION REQUIREMENTS**: If a property or portion thereof subject to this rezoning is outside the corporate limits and ETJ, an <u>annexation petition</u> is **required** to be submitted on the same day as this application.

to access IDT Plans Website T.
rtment
<ul> <li>(2) sets of envelopes addressed to property hers subject to the application and to those on the ification list.</li> <li>Addresses must be from the notification list obtained by emailing addressing.team@apexnc.org</li> <li>Affixed with first class stamps and the following return address:</li> <li>Town of Apex</li> <li>Planning and Community Development</li> <li>P.O. Box 250</li> <li>Apex, NC 27502</li> <li>ition Fee by one of the following forms of payment:</li> <li>In person with Visa or Master Card;</li> <li>Cash (exact amount only); or</li> <li>Check payable to 'Town of Apex'</li> </ul>
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#### (REZONING) PETITION TO AMEND THE OFFICIAL ZONING DISTRICT MAP

**NEIGHBORHOOD MEETING:** Neighborhood meetings are required per UDO Sec. 2.2.7 prior to application submission. The applicant Is required to notify property owners, tenants, and any neighborhood association that represents citizens that are abutting or within 300 feet of the subject property via first class mail a minimum of 14 days in advance of the neighborhood meeting. The notification list must be obtained by emailing addressing.team@apexnc.org and will be provided within 5-10 business days of the initial request. The applicant shall use their own return address on the envelopes as the meeting is a private meeting between the developer and the neighbors. In their initial submittal, the applicant shall submit the "Neighborhood Meeting Packet" forms included in this application packet. The Neighborhood Meeting Packet is located at the very end of this document.

**<u>REVIEW FOR SUFFICIENCY</u>**: Incomplete plans will be returned to the applicant and sufficiently complete applications are forwarded to TRC staff for review.

**<u>REVIEW BY STAFF</u>**: TRC staff reviews the application to determine compliance with the Unified Development Ordinance (UDO). If the application is determined not to be compliant with the UDO, comments will be sent to the applicant. The applicant must address all staff comments before any public hearings are scheduled.

PUBLIC HEARING NOTIFICATION: Notification of the public hearing will take place by three different methods.

- 1. A written notice will be prepared by Planning staff and sent to property owners, tenants, and neighborhood associations abutting and within 300 feet of the land subject to the application not more than 25 days nor less than 10 days prior to the public hearings, as required by the UDO.
- 2. A notice will be published on the Town of Apex website (<u>www.apexnc.org</u>) no less than 10 days, but not more than 25 days, prior to the public hearings.
- 3. A public hearing sign will be posted at the land subject to the application at least 10 days prior to the public hearings.

 $1^{\text{st}}$  PUBLIC HEARING/PLANNING BOARD MEETING: The Planning Board will consider the application, relevant support materials, the Staff Report, and public testimony given at the public hearing. After the public hearing the Planning Board will make a recommendation to the Town Council. The Planning Board may recommend approval, approval with conditions, or disapproval. The application is then forwarded to the Town Council. The Planning Board meets at 4:30 p.m. in the Town Hall Council Chambers on the date indicated on the Rezoning Schedule.

**<u>2<sup>ND</sup> PUBLIC HEARING/TOWN COUNCIL MEETING:</u>** The Town Council will consider the application, relevant support materials, the Staff Report, the Planning Board recommendation, and public testimony given at the public hearing. After the public hearing the Town Council will vote to approve, approve with conditions, or disapprove the rezoning. The Town Council meets at 6:00 p.m. in the Town Council Chambers on the date indicated on the Rezoning Schedule.

	TO AMEND THE OFFICIAL ZONING MAP			TV . AND	N. Serve I		
This docum third partie	ent is a public record under the North Carolina Publes.	lic Records A	ct and may be		own's websi	te or disclosed to	
Applicatio	on #: 21CZ17		nittal Date:	07/01/2021			
		Fee	Paid:	·			
Project In	formation	- Here					
Project Na	me: Ten Ten Business Park						
Address(e	s): 2132 Ten Ten Road						
PIN(s):	Portion of 0751359861						
-				Ac	creage: A	pprox. 4.6 acres	
Current Zo	oning: RA	Proposed	Zoning:	LI-CZ			
Current 20	45 LUM Classification(s): Industrial E	Employr	nent				
Is the prop	osed rezoning consistent with the 2045 LUN	/ Classifica	tion(s)? Ye	es 🗸	No		
If any por	tion of the project is shown as mixed use (3	or more st	ripes on the	2045 Land Use N	Map) provid	de the following:	
Are	ea classified as mixed use:			Acreage: _			
Are	ea proposed as non-residential development	t:		Acreage:			
Per	cent of mixed use area proposed as non-res	idential:		Percent: _			
Applicant	Information						
Name:	J National Capital V, LLC c/o M	. Gray S	tyørs, Jr.				
Address:	434 Fayetteville Street, Suite	2800					
City:	Raleigh	State:	NC		Zip:	27601	
Phone:	919-755-8741	E-mail:	styers@	foxrothschil	d.com		
Owner Info	ormation						
Name:	Vertical Bridge AM II LLC						
Address:	70 Park of Commerce Drive,	Suite 2	00				
City:	Boca Raton	State:	FL		Zip:	33487	
Phone:		E-mail:					
Agent Info	mation		- 18 M				
Name:	M. Gray Styers, Jr.						
Address:	434 Fayetteville Street, Suite	2800			_		
City:	Raleigh	State:	NC		Zip:	27601	
Phone:	919-755-8741	E-mail:	gstyers@	ofoxrothsch			
Other contacts:							

R

PETITION INFORMATION	The States and States

Application #:

-21CZ17 \_\_\_\_

Submittal Date:

07/01/2021

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

#### **PROPOSED USES:**

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

1	See attached list of proposed uses	21	
2		22	
3		23	
4		24	
5		25	
6		26	
7		27	
8		28	
9		29	
10		30	
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20		40	

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### Proposed Uses by Right in LI

Security or caretaker quarters	Monument sales, retail
Government service	Repair services, limited
Transportation facility	Retail sales, bulky goods
Veterinary clinic or hospital	Retail sales, general
Vocational school	Self-service storage
Recycling center	Studio for art
Recycling collection station	Upholstery shop
Utility, minor	Pet services
Water or wastewater plant	Automotive Accessory Sales and Installation
Wireless support structure	Automotive paint or body shop
Wireless communication facility	Automotive parts
Botanical garden	Automotive service station
Entertainment, indoor	Car wash or auto detailing
Greenway	Repair and maintenance, general
Park, active (access only)	Towing service
Park, passive (access only)	Towing service storage
Shooting range, indoor	Truck terminal
Broadcasting station (radio and television)	Vehicle sales and rental, heavy (access only)
Radio and television recording studio	Building supplies, wholesale
Commissary	Contractor's office and storage yard
Restaurant, general	Gas and fuel, wholesale
Dispatching office	Laboratory, industrial research
Medical or dental office or clinic	Machine or welding shop
Medical or dental laboratory	Warehousing
Office, business or professional	Woodworking or cabinetmaking
Publishing office	Wholesaling, general
Research facility	Brewery
Parking garage, commercial	Distillery
Parking lot, commercial	Manufacturing and processing
Artisan Studio	Manufacturing and processing, minor
Funeral home	Microbrewery
Gas and fuel, retail	Microdistillery
Glass sales	
Health/fitness center or spa	
Kennel	

#### Special Uses in LI

Airplane landing strip	
Airport	
Chipping and Mulching	
Communication tower, commercial	
Communication tower, constructed stealth	

Communication tower, camouflage stealth	
Communication tower, public safety	(4)
Electrical power facility	
Incinerator	
Recycling Plant	
Sanitary Landfill	
Land Clearing and Inert Debris Landfill	
Arena, auditorium or stadium	
Entertainment, outdoor	
Regional recreation complex	
Adult Establishment	
Electronic gaming operation	
Asphalt or concrete plant	
Dry cleaning and dyeing plant	
Laundry plant	
Wood or lumber processing	

Application #:

21CZ17

#### 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.

1) The developer proposes a 12' Type C buffer along the easternmost and westernmost boundaries

of the area to be rezoned, with the additional condition that the planting of such buffers will include

a minimum of three species of native hardwood canopy trees with a size at installation no smaller than

2.5" caliper. The buffer shall not preclude vehicular cross connections to adjacent properties pursuant

to an approved site plan, nor shall it apply to a publicly dedicated street right-of-way pursuant to a duly

approved subdivision plan.

2) Tower improvements substantially similar to or greater than those that serve as the basis for the

zero-fall-zone letter submitted with the rezoning application shall be constructed, and a certification of the completion of

construction of such improvements shall be submitted to the Town, prior to the approval of construction drawings.

3) For any building greater than 10, 000 square feet, the building design shall include conduit for the future installation

of solar PV panels and sufficient roof load-bearing capacity to support solar PV panels.

#### 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.

#### See attached narrative.

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

#### See attached narrative.

PETITION INFORMATION

Application #:

21CZ17

Submittal Date: 07/01/2021

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

See attached narrative.

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.

See attached narrative.

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.

See attached narrative.

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.

See attached narrative.

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.

See attached narrative.

Rezoning Application

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#### **PETITION INFORMATION**

Application #:

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

\_\_07/01/2021

Submittal Date:

detrimental to adjacent properties.

#### See attached narrative.

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.

#### See attached narrative.

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.

See attached narrative.

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

The subject property is *currently* inconsistent with the 2045 Future Land Use Map, but this rezoning request will make the property consistent. The request is to rezone a portion that is currently zoned Residential Agriculture of a larger parcel zoned Light Industrial. The portion subject to rezoning is currently undeveloped, vacant land. The 2045 Land Use Map classifies the entire parcel as Industrial Employment. "Industrial Employment is intended to delineate land that allows for industrial uses such as light manufacturing, tech-flex, warehousing, and processing facilities." (Peak Plan 2030, p. 23). RA is not an allowable zoning in the Industrial Employment 2045 Land Use Classification. Therefore, rezoning this area to Light Industrial will bring the area into consistency.

The subject property is also identified as "underdeveloped" in the Advance Apex 2045 Plan's Land Use Screening Map (Figure 1). Under the 2045 Plan, this means the parcel is identified "to receive new growth." (p 3, Advance Apex 2045 Land Use Update Memo). The 2030 Peak Plan anticipates the demand for industrial land in Apex to increase by approximately 110 acres through 2032. (Peak Plan 2030 p 13). The current zoning of RA abutting Ten Ten Road is preventing any development of the parcel zoned LI because a RA district cannot provide access to a LI use. Ten Ten Road is the only thoroughfare abutting the property that could provide access. This rezoning will add approximately 4.6 acres of industrial land, and will provide for the productive use and access to the remaining acres of the parcel that is already zoned light industrial.

Several goals, objectives and policies of the Peak Plan will be accomplished by rezoning this portion from RA to LI. First, it will encourage and achieve the goal of "Balanced Growth." Balanced Growth is accomplished by encouraging non-residential land uses to achieve a more sustainable, balanced tax base. (Peak Plan 2030, p. 30-31). By rezoning this area from RA to LI, the remainder of the parcel zoned LI will be accessible for development plans that will bring jobs and an increased tax base for Apex on non-residential lands.

The goal of Balanced Growth is also accomplished by preserving industrial lands identified in the 2045 Land Use Map for employment through zoning mechanisms. (Peak Plan 2030, p. 30-31). The portion subject to rezoning is identified as industrial land in the 2030 and 2045 Land Use Map, and rezoning the parcel to LI is a zoning mechanism that will allow the parcel to be accessed and ultimately developed to bring jobs and increase the economic strength of the area, in a currently underdeveloped parcel.

Supporting retail growth near already-developed areas is another important component of achieving Balanced Growth. (Peak Plan 2030, p. 30-31). The requested rezoning is in an area surrounded by light industrial uses.

Next, the request will achieve the goal of "Economic Development". (Peak Plan 2030, p. 33). This goal is accomplished by preserving "access and visibility for large parcels that could be developed" as employment centers along transportation corridors. (Peak Plan 2030, p. 33). The area zoned Light Industrial is currently not accessible. The rezoning request is necessary to provide access to the rest of the parcel which is currently underdeveloped. In addition, the subject property abuts Ten Ten Road and is located near the intersection of Ten Ten Road and Jessie drive. Jessie Drive is a key transportation

corridor under the Peak Plan, and Ten Ten Road is identified for improvements in the next five years with plans to expand to 6-lanes. Rezoning the portion zoned RA to LI will provide employment and economic development opportunities along these transportation corridors. Overall, this request will accomplish the goal of Economic Development in Apex.

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

The site is currently surrounded to the east, west and south by Light Industrial zoning. Across from the property, on the other side of Ten Ten Road, is Planned Commercial and High Density Multi-Family Residential. This request to rezone the subject area to LI is appropriate for the location and consistent with 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.

The proposed uses will comply with any applicable supplemental standards in UDO Section 4.4.

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

As required by the UDO, the uses proposed will be designed to minimize any adverse impacts.

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.

As required by the UDO, the uses proposed will be designed to minimize any adverse impacts.

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.

As required by the UDO, the uses proposed will avoid any adverse impacts 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 zoning of Light Industrial will not effect the health, safety of welfare of residents of Apex or the ETJ. The surrounding properties are zoned Light Industrial, consistent with this request. There is one high-density multi-family parcel within 300 feet of the subject parcel that is located across Ten Ten road from the parcel.

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

The rezoning request is likely to enhance the value of adjacent properties by increase the value of the land and will not be substantially detrimental.

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 rezoning will allow for the development of a use that is consistent with the surrounding area and consistent with the designation and intent of the 2045 Land Use Map. The rezoning will not constitute a nuisance or hazard.

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.

As required by the UDO, the uses proposed will comply with all relevant standards of the UDO.

#### Supplemental Project Narrative to Rezoning Petition

The second condition that the Applicant has added to the rezoning petition will also further the public interest and land development goals of the Town of Apex in other ways.

As noted in the previously submitted Project Narrative to the Application, the subject property has been identified as "underdeveloped" in the Advance Apex 2045 Plan's Land Use Screen Map in the 2019 Future Land Use Map Update. Most of the subject parcel is already zoned LI, but a radio broadcast tower has been located on the property since 1986. Since that time (and with the wide-spread deployment of mobile commercial radio service (i.e. cellphone) towers since the mid-1990s), the Applicant understands that tower construction techniques have improved; stronger tower construction materials have become more widely utilized; "fall zone" analyses and designs have become more sophisticated; and structural standards for tower construction have become more rigorous. A recent comprehensive structural analysis of the tower identified certain "overstresses" under the current standards (i.e. if the tower were built new today).

If this rezoning is approved, Applicant, at considerable expense, will have substantial improvements constructed to strengthen the tower and to address these overstresses so that it is brought up to "all current codes and standards." Those improvements are shown in the sealed Design Drawings by Stainless, a business of FDH Infrastructure Services, an engineering firm based in Raleigh, submitted with this application.

With those improvements, "<u>the fall zone under the design considerations as outlined</u> <u>by the building code is 0 feet</u>" ("zero fall zone") as stated in the Fall Zone Letter prepared by Christophy Ply, PE, SE, President/CEO of Engineered Tower Solutions, also submitted with this application.

Applicant offers as a condition of the rezoning that it will provide the Town with a certification that these improvements have been completed prior to approval of construction drawings for development on the property. In other words, the tower improvements will be made prior to construction of other buildings on the property.

Approval of the rezoning with this condition and the tower improvements that will consequentially be made will result in the Town not only realizing the benefits of development of this underdeveloped large parcel at a designated Employment Mixed Use Activity Center (as discussed in the original Project Narrative), but the radio tower will also then have a zero fall zone and meet all current applicable codes and standards.

AGEN	NT AUTHORIZA			AN PROPERTY.
Appli	cation #:	21CZ17	Submittal Date:	07/01/2021
Vertical	l Bridge AM II I	LLC	is the owner* of the pro	operty for which the attached
applica	ation is being s	ubmitted:		
	Land Use A	Mendment		
Y	i	For Conditional Zoning and Pla authorization includes expres Agent which will apply if the a	anned Development rezoning a sonsent to zoning conditions application is approved.	applications, this that are agreed to by the
	Site Plan			
	Subdivision			
	Variance			
	Other:		0	
The pro	perty address	is: 2132 Ten Ten Road		
The age	nt for this proj	iect is: Hayes Finley		
Amount Al		owner of the property and wil Hayes Finley	li be acting as my own agent	
Agent N				
Address			te 2800, Raleigh, NC 27604	
Telepho	ne Number:	919-755-8837		
E-Mail A	ddress:	hfinley@foxrothschild.com		
		Signature(s) of Owner(s)* Adam Ginda		
		MÖU	Type or print nar	nc <u>5-17-2021</u> Date
		130004	KORMANS	5-12-21
		100000	Type or print nan	ne Date

Attach additional sheets if there are additional owners.

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

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

Rezoning & 2045 LUM Amendment Application

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#### AFFIDAVIT OF OWNERSHIP

Application #: 21CZ17

Submittal Date: \_\_\_\_07/01/2021

The undersigned, <u>Adam Ginder</u> swears or affirms as follows:

(the "Affiant") first being duly sworn, hereby

- Affiant is over eighteen (18) years of age and authorized to make this Affidavit. The Affiant is the sole owner, or is the authorized agent of all owners, of the property located at <u>2132 Ten Ten Road Apox, NC 27502</u> and legally described in Exhibit "A" attached hereto and incorporated herein (the "Property").
- 2. This Affidavit of Ownership is made for the purpose of filing an application for development approval with the Town of Apex.
- 3. If Affiant is the owner of the Property, Affiant acquired ownership by deed, dated November 23,2016 and recorded in the Wake County Register of Deeds Office on \_\_\_\_\_\_, in Book 016613 Page
- 4. If Affiant is the authorized agent of the owner(s) of the Property, Affiant possesses documentation indicating the agency relationship granting the Affiant the authority to apply for development approval on behalf of the owner(s).

This the  $12^{+1}$  day of  $Ma\sqrt{}$ 20 ZI (seal) Adam Type or print name

#### STATE OF NORTH CAROLINA COUNTY OF Paim Beach

I, the undersigned, a Notary Public in and for the County of <u>Paim Beach</u>, hereby certify that <u>Adam Ginder</u>, Affiant, <u>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</u>

due and voluntary execution of the foregoing Affidavit.

**GRANT PHILLIPS** Commission # HH 043213 Expires September 16, 2024 Bonded Thru Troy Fain Insurance 800-385-7019

[NOTARY SEAL]

Notary Public Florida State of North Carolina September 16,2024 My Commission Expires:

Rezoning & 2045 LUM Amendment Application

- Page 136 -

Application #:

21CZ17

Submittal Date: \_\_\_\_07/01/2021\_

4.326

Insert legal description below.

A PORTION OF ALL THAT CERTAIN PARCEL OF LAND LYING IN THE TOWNSHIP OF WHITEOAK, COUNTY OF WAKE, STATE OF NORTH CAROLINA, DESCRIBED IN DEED BOOK 12494, PAGE 1893, FURTHER DESCRIBED AS: COMMENCING FROM AN EXISTING CONCRETE MONUMENT, FOUND ON THE SOUTHERN BOUNDARY OF SAID PARCEL, AND HAVING NORTH CAROLINA STATE PLANE COORDINATES E:2054044'-N:714443'; THENCE, N 05° 48' 42" W FOR A DISTANCE OF 1965.97 FEET TO THE POINT OF BEGINNING: THENCE, N 03° 32' 08" E FOR A DISTANCE OF 616.87 FEET TO A POINT; THENCE, N 03° 32' 08" E FOR A DISTANCE OF 14.33 FEET TO A POINT; THENCE, S 52° 52' 43" E FOR A DISTANCE OF 53.71 FEET TO A POINT; THENCE, S 56° 29' 06" E FOR A DISTANCE OF 80.99 FEET TO A POINT; THENCE, S 59° 15' 26" E FOR A DISTANCE OF 79.52 FEET TO A POINT; THENCE, S 61° 39' 02" E FOR A DISTANCE OF 76.92 FEET TO A POINT THENCE, S 64° 52' 36" E FOR A DISTANCE OF 77.35 FEET TO A POINT THENCE, S 65° 55' 15" E FOR A DISTANCE OF 77.86 FEET TO A POINT; THENCE, S 05° 54' 23" W FOR A DISTANCE OF 446.50 FEET TO A POINT; THENCE, N 85° 02' 05" W FOR A DISTANCE OF 381.92 FEET TO THE POINT OF BEGINNING, CONTAINING 207,341 SQFT -OR- 4.76 ACRES.



INTERNET STREAMERICS. COMME

NEW YORK AND AND AN ADDRESS OF

# Wake County Residential Development Notification

	Developer Company Information
Company Name	
Company Phone Number	
Developer Representative Name	
Developer Representative Phone Number	
Developer Representative Email	
	And A second

New Residential Subdivision In	formation
Date of Application for Subdivision	
City, Town or Wake County Jurisdiction	
Name of Subdivision	
ddress of Subdivision (if unknown enter nearest cross streets)	
EID(s)	
PIN(s)	
	ار این محمولات است. است از ۲۰۰۰ بر راسین این مادین است این میروند و میکند و این این در محمولات این این است این این

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

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

Please send any questions about this form to: studentassignment-gisgroup@wcpss.net

Projected Date	s Information
Subdivision Completion Date	
Subdivision Projected First Occupancy Date	

Unit Type	Total # of Units	Senior Living	Studio	1 Bedroom	2 Bedroom	3 Bedroom	4 Bedroom		e Foot nge	Price Range		Anticipated Completion Units & Dates					
						Ì		Min	Max	Low	High	Year	# Units	Year	# Units	Year	# Units
Single Family		i i	1							1			1				1
Townhomes																	Ī
Condos										1						• • • • • • • • • • • • • • • • • • •	1
Apartments		1								1		1				[	1
Other		Contraction of the local diversion of the local diversion of the local diversion of the local diversion of the	Contraction of the local data			den en este este este este este este este		en al l'Antipart de	an anna an a seas	francista inter			tamen manif				4

Revised 08/10/2018





434 Fayetteville Street Suite 2800 Raleigh, NC 27601 Tel (919) 755-8700 Fax (919) 755-8800 www.foxroteschile.com

HAYES FINLEY Direct No: 919 755 8837 Email: HFinley@Foxrothschild.com

April 16, 2021

#### Re: Notice of Neighborhood Meeting

Neighborhood Property Owners:

You are invited to attend a virtual neighborhood meeting on April 28, 2021 to discuss the proposed rezoning of approximately 4.6 acres at 2132 Ten Ten Road from Residential Agricultural (RA) to Light Industrial. The meeting will begin at 5:00 p.m and last until 7:00 p.m. You can participate online or by telephone.

To participate via video, follow these instructions:

- 1. Go to www.webex.com.
- 2. In the top right corner of the page, click "Join."
- 3. In the "Enter Meeting Information" bar, type the meeting number: 185 417 6683.
- 4. Then enter the Password: tentenroad
- 5. Tips:
- a. You may download the desktop app or join from your browser.
- b. You can call in for audio or use your computer audio.
- c. Call in a few minutes early to set up your audio and video.

You may also join by phone:

+1-215-299-3000 US Toll +1-800-598-1154 US Toll Free Access code: 185 417 6683

Please see the attachments for specific details regarding the neighborhood meeting and rezoning process.

#### A Pennsylvania Limited Liability Partnership

California Colorado District of Columbia Georgia Illinois Nevada Delaware Florida Minnesota New Jersey New York North Carolina South Carolina Pennsylvania Virginia Washington Texas



April 16, 2021 Page 2

If you have any concerns or questions I can be reached at:

Hayes Finley Fox Rothschild LLP 434 Fayetteville Street, Suite 2800 Raleigh, NC 27601 <u>hfinley@foxrothschild.com</u> 919-755-8837

Sincerely,

stury-

Hayes Finley



- Page 141 -



# List of persons invited to the Neighborhood Meeting

	PIN	FIN Ext	Real Estate ID							
SUBJECT				Owner	Mail Address 1	Mail Address 2	Mail Address 3	Street Name	Ste Address	
PROPERTY	751359861	0	67257 VERTICAL BRIDGE AM					CLOCI HEILE	GIE Address	۵ty
SUBJECT			STEET VERICAL BRIDGEAU		750 PARK OF COM MERCE DR STE 200	BOCA RATON FL 33487-3650		TEN TEN RO	2132 TEN TEN RD	
PROPERTY	751359861	800	120512 TVX OF RALEIGH DUF							
1	751367704	0	203246 PSNCIII LP		3012 HIGHWOODS BLVD	RALEIGH NC 27604-1037		TEN TEN RO	O TEN TEN RD	
2	751464462	ō	120976 COLONIAL PIPELINE (	$\sim$	P9# 25863	701 WESTERNAVE	GLENDALE CA 91201-2349		2110 TEN TEN RO	
3	751470207	0	67241 MOJAC2 LLC		RESURGENSPLAZA	945 E PACES FERRY RD NE	ATLANTA GA 30326-1160	TEN TEN RD	2200 TEN TEN RO	APEX
4	751477193	0	56788 CFK APEX LAND CO L	16	PO BOX 28929	RALEIGH NC 27611-8929		TEN TEN RD	2147 TEN TEN RO	APEX
5	751466438	0	252638 90F RC FUNDING ! LL		MARVIN FPOER & COMP	3520 PIEDMONT RD NE STE 410	ATLANTA GA 30305-1512	SOLANDRA LN	200 SOLANDRA LN	APEX
6	751467337	0	252180 JAYT PROPERTIES LL		902 CARNEDIE CTR STE 520	PRINCETON NJ08540-6531		TEN TEN RD	2280 TEN TEN RD	APEX
7	751459934	0	196429 MOTIVA ENTERPRISE		2019 EASTCHESTER DR	HIGH POINT NC 27265-1406		TEN TEN RD	2290 TEN TEN RD	APEX
8	751449982	0	104751 BRITE PROPERTIES		PROPERTY TAX DEPT	PO B0X2727	HOUSTON TX 77252-2727	TEN TEN RD	2300 TEN TEN RD	APEX
9	751532815	0	36704 CAREY CJONES MEM		PO BOX 2723	SHALLOTTE NC 28459-2723		TEN TEN RD	2320 TEN TEN RD	10 000
10	751138504	0	45172 JACK 1. LLC		PO BOX 781	AFEX NC 27502-0781		TEN TEN RD	2512 TEN TEN RD	
11	751341664	0		DRIVE BUSINESS ONT MASTER ORD	738 CASH ST	APEX NC 27502-1302		PRISTINE WATER DR	O PRISTINE WATER DR	APEY
11	751341664	1	402986 IPEARL HOLDINGSLL	C C C C C C C C C C C C C C C C C C C	BOBBITT DESIGN BUILD	600 GERMANTOWN RD	RALEIGH NC 27607-5144	PRODUCTION DR	2025 PRODUCTION DR	
11	751341664	2	402987 2031 PRODUCTION R		2025 PRODUCTION DR	APEX NC 27539-6349		PRODUCTION DR	2025 PRODUCTION DR	
12	751342839	0	311464 PRODUCTION DRIVE		407 CATLIN RD	CARYNC27519-5982		PRODUCTION DR	2031 PRODUCTION DR	
12	751342839	1	400206 BUILDERS RESOURCE	SERVICESING	ABCZ PROPERTIES LLC PO BOX 1356	2511 RELIANCE AVE	APEX NC 27539-6347	PRODUCTION DR	2019 PRODUCTION DR	
12	751342839	2	400207 A& EREAL ESTATE B		PO BOX 1536	HOLLY SPRINGS NC 27540-1356		PRODUCTION DR	2019 PRODUCTION DR	APEX
12	751342839	3	400208 A & EREAL ESTATE B		PO BOX 162 PO BOX 162	APEX NC 27502-0162		PRODUCTION DR	2019 PRODUCTION DR	APEX
12	751342839	4	400209 ED PROFERIES LC		2019 PRODUCTION DR STE 104	APEX NC 27502-0162			2019 PRODUCTION DR	APEX
12	751342839	5	400210 A & EREAL ESTATE B	NTEEPRISESUIC	PO BOX 162	APEX NC 27539-6356		PRODUCTION DR	2019 PRODUCTION DR	APEX
12	751342839	6	400211 SCIOLINO, CONSTANC		184 AMERICAN CT	APEX NC 27502-0162		PRODUCTION DR	2019 PRODUCTION DR	
12	751342839	7	400212 JKLINVESTMENTSIL		125 HILLSOF THE HAW	APEX NC 27523-6725 PITTSBORO NC 27312-8583			2019 FRODUCTION DR	
12	751342839	8	400213 BSS LLC		2015 PRODUCTION DR UNIT 100	APEXINC27539-6349			2019 PRODUCTION DR	
13	751351185	0	232248 PINNACLE PARKIV LL	C	HOPE BUFFALOE	7825 OLD STAGE RD		PRODUCTION DR	2015 PRODUCTION DR	
14	751352443	0	230515 PINNACLE PARK INVE	STMENTSULC	5210 DRIFTWOOD LN	MOREHEAD CITY NC 28557-2576	RALEIGH NC 27603-5521	RELIANCEAVE	0 RELIANCE AVE	APEX
15	751352673	0	232381 RELIANCE CENTER OC		7905 BLANEY FRANKSRD	APEX NC 27539-7460			0 RELIANCE AVE	APEX
15	751352673	1	304500 BARONE REAL ESTAT	EINVESTMENTSLLC	2475 RELIANCEAVE	APEX NC 27539-7049		REJANCEAVE	2475 RELIANCE AVE	APEX
15	751352673	2	304501 LOCKFORGE INVESTIV	IBNTSLLC	3204 RIGHTERSMILL WAY	APEX NC27539-3627		REJANCEAVE	2475 RELIANCEAVE	APEX
15	751352673	3	304502 IDM LLC		7908 SENTER FARM RD	APEX NC27539-9789		RELIANCEAVE	2477 RELIANCE AVE	APEX
15	751352673	4	304503 LAGALY, SAVANNAH	M TRUSTEE LAGALY, NOAH D TRUSTEE	213 LINTON BANKS PL	CARYNC 27513-2053			2479 RELIANCEAVE	APEX
15	751352673	5	304504 D O M RENTALS& PR	OPERTYMANAGEMENT IIC	417 OULVERT ST	APEXNC27502-1731		REJANCEAVE	2481 RELIANCEAVE	APEX
16	751352880	0	226381 FRIDLEY, JUDITH A		302 EDINBURGH DR	CARYNC27511-6410		REJANCEAVE	2483 RELIANCEAVE	APEX
17	751352984	0	226380 D & SINVESTMENTS	ис	3007 BUCKINCHAM WAY	APEX NC27502-9341		RELIANCEAVE	2465 RELIANCEAVE	APEX
18	751363103	0	222533 ABOOD, JOHN D ABO	XOD, MARILYN D	1413 ROCK CREEK LN	CARYNC27511-5636		RELIANCE AVE	2455 RELIANCE AVE	
19	751363310	0	220651 SEVEN SPRINGS.PROP	PERTIES GROUP LLC	2435 RELIANCE AVE	APEX NC 27539-7049		REJANCEAVE	2445 RELIANCEAVE	
20	751363870	0	219693 HILDAN LLC		2425 RELIANCE AVE	APEX NC27539-7049			2435 RELIANCEAVE	
21	751375103	0	189839 REJANCELLC		2401 RELIANCE AVE	APEX NC27539-7049		REJANCEAVE	2425 RELIANCE AVE	1000
						1 CARGE/005/045		NELANUEAVE	2401 REJANCEAVE	APEX

Active/773770/05498/121744074.v1-4/16/21

G.



Town of Apex Planning Department PO Box 250 Apex, NC 27502

T: 919-249-3426 F: 919-249-3338

# Instruction Packet and Affidavit for Electronic Neighborhood Meetings

This packet consists of instructions and templates for conducting a required Electronic Neighborhood Meeting <u>during times when in-person gatherings are restricted</u>. Planning Department staff are available to advise you in the preparation of these materials. Call the Planning Department at (919) 249-3426 for more information.

#### WHAT IS THE PURPOSE OF A NEIGHBORHOOD MEETING?

A neighborhood meeting is a required form of community outreach to receive initial feedback regarding certain project types prior to submittal to the Planning Department per the standards found in UDO Sec. 2.2.7. The intention of the meeting is to initiate neighbor communication and identify issues and concerns early on and provide the applicant an opportunity to address neighbor concerns about the potential impacts of the project prior to submitting an application. A neighborhood meeting is valid for six (6) months prior to the submission of an application; a delay in submission requires a new neighborhood meeting.

#### WHEN IS A NEIGHBORHOOD MEETING REQUIRED?

- Rezonings (including Planned Unit Developments);
- Major Site Plans;
- Residential Master Subdivision Plans (excluding exempt subdivisions); or
- Special Use Permits

#### INSTRUCTIONS

Prior to submitting an application for a Rezoning, Major Site Plan, Residential Master Subdivision Plan (excluding exempt subdivisions), or Special Use Permit, the applicant must conduct at least one (1) Electronic Neighborhood Meeting as indicated below. The applicant shall submit all forms included in this packet with the initial application submittal.

Whenever feasible, an in-person Neighborhood Meeting following all of the requirements of the standard Neighborhood Meeting procedures shall be held prior to public hearing by the Planning Board and/or Town Council or approval by Technical Review Committee, as appropriate. Feasibility shall be determined by the Planning Director, taking into account the regularly published schedule, length of delay caused by ongoing emergency declarations, amount of public interest expressed during the electronic neighborhood meeting and afterwards, and any other pertinent information that would show that a particular project warrants an in-person neighborhood meeting prior to public hearings and/or approval.

The Electronic Neighborhood Meeting must be held in accordance with the following rules:

#### These groups and individuals must be invited to the meeting:

- The applicant is required to notify the Planning Department, all property owners within 300 feet of the subject property, and any neighborhood association that represents citizens in the area via first class mail a minimum of 10 days in advance of the neighborhood meeting, not including the day of mailing. The applicant shall use <u>their own return address</u> on the envelopes as the meeting is a private meeting between the applicant and the neighbors.
- The applicant shall include with the meeting notice a vicinity map in addition to the "mailed materials" requirements below.

Instruction Packet & Affidavit of Electronic Neighborhood Meetings

#### The meeting must be held within specific timeframes and meet certain requirements:

- During emergency declarations and/or limits on size of gatherings and social distancing, the meeting must be held as follows prior to application submittal:
  - Electronically via an interactive online video conferencing software such as Microsoft Teams, Zoom, WebEx, or any similar platform of the applicant's choice for a minimum of two (2) hours, Monday through Thursday, during the 5:00 p.m. 9:00 p.m. time period. The meeting cannot be held on Town recognized holidays (which coincide with the State of North Carolina recognized holidays).
- An attendance sheet must be used log known attendees at the electronic meeting. Note if no one attended.
- Mailed materials requirements:

In addition to a vicinity map, the following documents shall be mailed with the meeting notice:

- For rezonings (excluding rezonings to PUD-CZ, TND-CZ and MEC-CZ), an existing zoning map of the area must be provided to help facilitate discussion.
- For rezonings to PUD-CZ, TND-CZ and MEC-CZ; Major Site Plans; Residential Master Subdivision Plans; and Special Use Permits, preliminary plans of the proposed development must be provided to help facilitate discussion. Neighbors may request emailed copies of the maps or plans from the applicant by contacting the applicant and requesting such; applicant shall provide reduced copies upon request.
- Contact information for the applicant's representative and Town Staff must be provided on the attached "Project Contact Information" form.
- o "Common Construction Issues & Who to Call" sheet (attached) must be included.
- A copy of the mailed materials must be included as part of the Neighborhood Meeting report.
- The agenda for the Electronic Neighborhood Meeting shall include:
  - Explanation of all processes the meeting is being held for (rezoning, subdivision, etc.).
  - Explanation of future meetings (additional neighborhood meetings, Planning Board, Town Council, etc.).
  - Explanation of development proposal uses and conditions for rezonings, layout for subdivision and site plans, and builder/end user if known/public knowledge.
- Questions or concerns by virtual attendees, and responses by the applicant, if any, must be noted. The applicant shall also include any questions and concerns received via written correspondence (such as email) or phone call along with responses provided by the applicant during the Electronic Neighborhood Meeting and in the Neighborhood Meeting Report.
- The applicant shall be responsible for notifying any neighbors who request to be kept up-todate of any additional neighborhood meetings and the actual submittal date to the Town with a link to the Town of Apex's Interactive Development Map.

#### For accountability purposes, please submit the following with your application:

- A copy of the letter mailed to neighbors and neighborhood organizations (use attached invitation template);
- A list of those persons and neighborhood organizations invited to the meeting;
- A copy of the attendance sheet for the Electronic Neighborhood Meeting (use attached attendance sheet template);
- A summary of the meeting and a list of any changes made to the project as a result of the neighborhood comments (use attached meeting summary template);
- The affidavit, signed, dated, and notarized (use attached affidavit template); and
- One reduced copy of the maps and/or plans provided in the mailing.

Instruction Packet & Affidavit of Electronic Neighborhood Meetings
#### NOTICE OF ELECTRONIC NEIGHBORHOOD MEETING

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

April 16, 2021

Date

Dear Neighbor:

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

#### 2132 Ten Ten Road

2 Ten Ten Road	0751359861	
Address(es)	PIN(s)	

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

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

Application Type		Approving Authority
Ø	Rezoning (including Planned Unit Development)	Town Council
۵	Major Site Plan	Town Council (QJPH*)
0	Special Use Permit	Town Council (QJPH*)
Q	Residential Master Subdivision Plan (excludes exempt subdivisions)	Technical Review
l	Residential Master Subdivision Flan (excludes exempt subdivisions)	Committee (staff)

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

The following is a description of the proposal (also see attached map(s) and/or plan sheet(s)): The rezoning request is to rezone approximately 4.6 acres of the northern area of the parcel, abutting Ten Ten Road from Residential Agricultural to Light Industrial.

Estimated submittal date: May 3, 2021

Property Owner(s) name(s):	VERTICAL BRIDGE AM II LLC
Applicant(s):	Hayes Finley, Fox Rothschild LLP
Contact information (email/phone):	hayes.finley@gmail.com/919-755-8837
Electronic Meeting invitation/call in	see attached letter with instructions
Date of meeting**:	April 28, 2021
Time of meeting**:	5pm-7pm
MEETING AGENDA TIMES:	

Welcome: 5:00 pm

Project Presentation: 5:15-5:45pm Question & Answer: 5:45-7:00pm

\*\*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.

Instruction Packet & Affidavit of Electronic Neighborhood Meetings

#### **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:	1	
Project Name: Ten Ten Business Pa	irk 🛛	Zoning: RA
Location: 2132 Ten Ten Road		
Property PIN(s): 0751359861	Acreage/Square Feet:	Approx. 4.6 acres
Property Owner: VERTICAL BRIDGE	AM II LLC	la en anticipat de la company de la compa
Address: 750 Park of Commerce Dr	ive Ste 200	
City: Boca Raton	State: FL	zip: 33487
Phone: 919.787.4262 Email:	jacksonanton@	)me.com
Developer: J National Capital V, LLC	anna chuis a chi futtu a sada anna Apergo mandal dala condi	ar na hand dan ar shaqaya ya gaya a ar ta sana a sa antar an an ar a Sederara Namera ya Bernin akar da akar may
Address: 4006 Abbey Parkway	¥6	
city: Raleigh	State: NC	zip: 27612
Phone: 919.740.2487 Fax:	Er	nail: jacksonanton@me.com
Engineer: William G. Daniel & Associa	tes, P.A.	
Address: 1150 S.E. Maynard Road,	Suite 260	
City: Cary	State: NC	Zip: 27511
Phone: <u>919.467.9708</u> Fax:	En	nail: bdaniel@wmgda.com
Builder (if known):		annen den la Marinen Malanza de la 1994 e a danse a statistica por participante de la Marine de Malanza de Ma
Address:		
City:	State:	Zip:
Phone: Fax:	En	nail:

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	the second se
Public Works - Transportation Russell Dalton, Senior Transportation Engineer	(919) 249-3358	
Water Resources Department Jessica Bolin, Senior Engineer (Stormwater, Sedimentation & Erosion Control)	(919) 249-3537	
Stan Fortier, Senior Engineer (Stormwater, Sedimentation & Erosion Control) James Gregg, Utility Engineer (Water & Sewer)	(919) 249-1166 (919) 249-3324	
Electric Utilities Division Rodney Smith, Electric Technical Services Manager	(919) 249-3342	

Instruction Packet & Affidavit of Electronic Neighborhood Meetings

#### Providing Input to Town Council:

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

#### Private Agreements and Easement Negotiation:

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

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

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

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

#### Documentation:

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

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

This document is a public record under the North Carolina Public Records Act and may be published on the Town's website<br/>or disclosed to third parties.Noise & Hours of Construction:Non-Emergency Police919-362-8661

	Construction: Non-Emergency Police	919-362-8661
Noise from tree r	emoval, grading, excavating, paving, and bu	ilding structures is a routine part of the
construction proce	ss. The Town generally limits construction hou	rs from 7:00 a.m. to 8:30 p.m. so that there
are quiet times ev	en during the construction process. Note th	at construction outside of these hours is
	al permission from the Town when it makes mo	
	id traffic issues. In addition, the Town limits	
	m. to 5:00 p.m. Report violations of construction	
	lice phone number at 919-362-8661.	on nours and other noise complaints to the
Construction Traffic		919-372-7470
	traffic will be heavy throughout the developm	
	om site, loads of dirt coming in and/or out of th	
	to the site, asphalt and concrete trucks co	
	nce that is graveled to try to prevent as much o	03 1011
the second se	oad, the Town can require they clean the street	THE ARE RELEASED IN THE RELEASED
Road Damage & Tra	affic Control: Water Resources – Infra	astructure Inspections 919-362-8166
	s with roadway damage, roadway improveme	
	ning/striping, poor traffic control, blocked sidew	
	r Resources – Infrastructure Inspections at 919-2	249-3427. The Town will get NCDOT involved
if needed.		
<b>Parking Violations:</b>	Non-Emergency Police	919-362-8661
Unless a neighbor giv	ves permission, there should be no construction	parking in neighbors' driveways or on their
property. Note that p	parking in the right-of-way is allowed, but Town r	regulations prohibit parking within 15 feet of
driveways so as not t	to block sight triangles. Trespassing and parking	complaints should be reported to the Non-
	one number at 919-362-8661.	
Dirt in the Road:	James Misciagno	919-372-7470
Sediment (dirt) and i	mud gets into the existing roads due to rain ev	vents and/or vehicle traffic. These incidents
	o James Misciagno. He will coordinate the cleani	
<b>Dirt on Properties o</b>	r in Streams: James Misciagno	919-372-7470
Dirt on Properties o		지수는 다양 이 집에서 다니지 않는 것 같은 지원에 가지 않는 것 같은 것 같아.
	Danny Smith	Danny.Smith@ncdenr.gov
Sediment (dirt) can le	Danny Smith ave the site and get onto adjacent properties or i	<u>Danny.Smith@ncdenr.gov</u> nto streams and stream buffers; it is typically
Sediment (dirt) can lea transported off-site b	Danny Smith ave the site and get onto adjacent properties or i by rain events. These incidents should be report	<u>Danny.Smith@ncdenr.gov</u> nto streams and stream buffers; it is typically ted to James Misciagno at 919-372-7470 so
Sediment (dirt) can lead transported off-site b that he can coordinat	Danny Smith ave the site and get onto adjacent properties or i by rain events. These incidents should be report te the appropriate repairs with the developer.	<u>Danny.Smith@ncdenr.gov</u> nto streams and stream buffers; it is typically ted to James Misciagno at 919-372-7470 so Impacts to the streams and stream buffers
Sediment (dirt) can lead transported off-site b that he can coordinat should also be reported	Danny Smith ave the site and get onto adjacent properties or i by rain events. These incidents should be report te the appropriate repairs with the developer. ed to Danny Smith ( <u>danny.smith@ncdenr.gov</u> ) w	<u>Danny.Smith@ncdenr.gov</u> nto streams and stream buffers; it is typically ted to James Misciagno at 919-372-7470 so Impacts to the streams and stream buffers with the State.
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# ELECTRONIC NEIGHBORHOOD MEETING ATTENDANCE SHEET

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

Meeting Format: WebEx		
Date of meeting: April 28, 2021	Time of meeting:	5pm-7pm
Property Owner(s) name(s):	VERTICAL BRIDGE AM II LLC	
Applicant(s): Hayes Finley, Fox	Rothschild LLP	

Please list Electronic Neighborhood Meeting Attendees who provided their name and/or contact information either during the meeting or via phone/email before or after the meeting.

NAME/ORGANIZATION	ADDRESS	PHONE #	EMAIL	SEND PLANS
John Abood	2445 Reliance Ave, Apex, NC 27539			& UPDATES
Ryan Thigpen	2435 Reliance Ave, Apex, NC 27539			Y
	434 Fayetteville Street, Raleigh, NC 27604	919-755-8837		n/a
Bill Daniel				174
Bill Jackson				
2				
				-
	John Abood Ryan Thigpen Hayes Finley Bill Daniel Bill Jackson	John Abood2445 Reliance Ave, Apex, NC 27539Ryan Thigpen2435 Reliance Ave, Apex, NC 27539Hayes Finley434 Fayetteville Street, Raleigh, NC 27604Bill Daniel	John Abood2445 Reliance Ave, Apex, NC 27539Ryan Thigpen2435 Reliance Ave, Apex, NC 27539Hayes Finley434 Fayetteville Street, Raleigh, NC 27604919-755-8837Bill DanielBill JacksonImage: Street Reliance Ave, Apex, NC 27604919-755-8837Bill JacksonImage: Street Reliance Ave, Apex, NC 27604919-755-8837Bill JacksonImage: Street Reliance Ave, Apex, NC 27604919-755-8837Image: Stre	John Abood2445 Reliance Ave, Apex, NC 27539InterfaceRyan Thigpen2435 Reliance Ave, Apex, NC 27539InterfaceHayes Finley434 Fayetteville Street, Raleigh, NC 27604919-755-8837Bill DanielInterfaceInterfaceBill JacksonInterfaceInterfac

Use additional sheets, if necessary.

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# SUMMARY OF DISCUSSION FROM THE ELECTRONIC NEIGHBORHOOD MEETING

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

Property Owner(s) name(s):	VERTICAL BRIDGE AM II LLC
Applicant(s): Hayes Finley, Fox F	Rothschild LLP
Contact information (email/phone):	hfinley@foxrothschild.com/919-755-8837
Meeting Format: WebEx	
Date of meeting: April 28, 2021	Time of meeting: 5pm-7pm

Please summarize the questions/comments and your response from the Electronic Neighborhood Meeting in the spaces below (attach additional sheets, if necessary). Please state if/how the project has been modified in response to any concerns. The response should not be "Noted" or "No Response". There has to be documentation of what consideration the neighbor's concern was given and justification for why no change was deemed warranted.

Question/Concern #1:

What is the nature of the offering (type of lots, water/sewer, etc)?

Applicant's Response:

The overall planning has not been done yet, the request is to rezone the portion of the parcel adjoining Ten Ten Rd for access.

We appear to have access to city water/sewer and natural gas. Preference to build buildings instead of sell lots.

Lot sizes will vary due to environmental constraints. Maybe 4-5 acre lot sizes.

Question/Concern #2:

Supporting of the project, curious about the process, timeline of project.

Applicant's Response:

Planning to submit the application in June, will have public hearings and anticipate final action in August,

Infrastructure construction could begin 8 months after the rezoning.

Question/Concern #3:

Good project- hard to find good Light Industrial property. Who might object to this project?

Applicant's Response:

Agreed. We are not adjacent to any single-family residential, so don't anticipate any objections.

Question/Concern #4:

Access onto Ten Ten Road and traffic improvements?

Applicant's Response:

Major widening of Ten Ten Road has been approved for 2030. We have hired Ramey Kemp & Assoc, to do a TIA. NCDOT and

Apex traffic engineer expressed preference for entrance on the side of the frontage near the mini warehouse.

Instruction Packet & Affidavit of Electronic Neighborhood Meetings

Last Updated: March 25, 2020

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

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

I, Hayes Finley \_\_\_\_\_, do hereby declare as follows:

Print Name

- 1. I have conducted an Electronic Neighborhood Meeting for the proposed Rezoning, Major Site Plan, Residential Master Subdivision Plan, or Special Use Permit in accordance with UDO Sec. 2.2.7 *Neighborhood Meeting*.
- 2. The meeting invitations were mailed to the Apex Planning Department, all property owners within 300 feet of the subject property and any neighborhood association that represents citizens in the area via first class mail a minimum of 10 days in advance of the Electronic Neighborhood Meeting.
- 3. The meeting was conducted via WebEx (indicate format of meeting) on April 28, 2021 (date) from 5pm (start time) to 7pm (end time).
- 4. I have included the mailing list, meeting invitation, attendance sheet issue/response summary, and zoning map/reduced plans with the application.
- 5. I have prepared these materials in good faith and to the best of my ability.

By:

STATE OF NORTH CAROLINA COUNTY OF WAKE

Sworn and subscribed before me, Curthin o	L. Jacks ~ a Notary Public for the above State and
County, on this the _28 Hay of _ 5 Lun	e, 2021.
SEAL	Cystliad Jaden
man AIA L. Januar	Cuptura L. Jackson
AND TAP TO	Print Name
Comm. Exp.	My Commission Expires: 1 - 7 - 2023

Instruction Packet & Affidavit of Electronic Neighborhood Meetings

Date: July 19, 2022



Bill Jackson J National Capital V LLC 4006 Abbey Park Way Raleigh, NC 27612 Engineered Tower Solutions, PLLC 3227 Wellington Court Raleigh, NC 27615 (919) 782-2710

Subject:	Fall Zone Letter	
Tower Owner Designation:	Vertical Bridge Site Number: Vertical Bridge Site Name:	US-NC-5033 RAL-027-FM
Engineering Firm Designation:	Engineered Tower Solutions Job Number:	22105172.STR.1671
Site Data:	2132 Ten Ten Road, Apex, Wake County, NC 27502 Latitude <i>35° 42' 50.02''</i> , Longitude -78° <i>49' 2.96''</i> 1580 Foot – Guyed Tower	

Dear Bill Jackson,

*Engineered Tower Solutions* is pleased to submit this "**Fall Zone Letter**" to comment on the above-mentioned tower.

The Structural Modification Drawings sealed by Stainless on May 24, 2022 (Stainless Project no. 327621) meets all current applicable codes and standards. The structural modification drawings address the overstresses outlined in the Comprehensive Structural Analysis by Stainless on April 15, 2022 (Stainless Report no. 327620). Upon completion of the structural modifications outlined in Stainless Project no. 327621, the subject tower will be adequate to support the applied loads at the required design event as outlined in the North Carolina Building Code, 2018 edition. When a design wind event occurs, there are additional safety factors that allow the structure to remain in satisfactory condition with no signs of failure. **Thus, the fall zone under the design considerations as outlined by the building code is 0 feet.** 

We at the *Engineered Tower Solutions* appreciate the opportunity of providing our continuing professional services to you. If you have any questions or need further assistance on this or any other projects, please give us a call.

Fall Zone Letter Prepared by:



# |Agenda Item | cover sheet

for consideration by the Apex Town Council

Item Type: CONSENT AGENDA Meeting Date: September 13, 2022

## Item Details

Presenter(s): Allen Coleman, Town Clerk

Department(s): Town Clerk's Office

Requested Motion

Motion to approve the Apex Tax Report dated July 31, 2022.

Approval Recommended?

Yes

#### <u>Item Details</u>

The Wake County Board of Commissioners, in regular session on September 6, 2022, approved and accepted the enclosed tax report for the Town of Apex, dated July 31, 2022.

#### <u>Attachments</u>

• Tax Report





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

TEL 919 856 6180 FAX 919 856 5699

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

September 7, 2022

Mr. Allen Coleman Town Clerk Town of Apex Post Office Box 250 Apex, North Carolina 27502

Dear Mr. Coleman:

The Wake County Board of Commissioners, in regular session on September 6, 2022, approved and accepted the enclosed tax report for the Town of Apex.

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

Sincerely,

Yvonne Gilyard

Deputy Clerk to the Board Wake County Board of Commissioners

Enclosure(s)

Tax Co Board TO: FOR:	Tax Committee Meeting: 08/18/2022 Board of Commissioners Meeting: 09/06/2022 TO: Wake County Board of Commissioners and Town Board o <mark>f Apex T</mark> FOR: Consideration of Requests for Adjustments, Rebates, and/or Refunds of Penalties	nd Town Board of <mark>Apex</mark> ts, Rebates, and/or Refunds of Penalties	Approved by: The Wake Cour recommend reli least one of the	nty Tax ief of t follov	K UMA Committee has approved the late listing and/or vehi ving conditions apply:	t the following policies of the penalties when a	ty to
		Relief Codes:	<ol> <li>New to North Ca</li> <li>First time listing</li> <li>Previous year list</li> <li>Omitted item(s) 1</li> </ol>	<ol> <li>New to North Carolina</li> <li>First time listing</li> <li>Provided proof of timely</li> <li>Previous year listing on time</li> <li>Omitted item(s) from listing - Current/previous listing on time</li> </ol>	<ol> <li>Military Deployment</li> <li>Provided proof of tin</li> <li>Current/previous listing on</li> </ol>	<ol> <li>Military Deployment</li> <li>Provided proof of timely listing cent/previous listing on time</li> </ol>	20
Item #	f Taxpayer(s)	Description Jurisdiction	Account # / Year For Late List Appealed Payment Status	Late List Appealed	Appcal/Request Type	Recommendation	Relief Code
18163	AMAZON.COM SERVICES INC PO BOX 743068 DALLAS TX 75374	BUSINESS PERSONAL PROPERTY APEX	0006967762 2022 Not Paid	\$5.95	Late List Penalty	Granted	9
- Page 156 -	GENERAL PARTS DISTRIBUTION LLC RYAN LLC PO BOX 56607 ATLANTA GA 30343-0607	BUSINESS PERSONAL PROPERTY APEX	0006552843 2022 Not Paid	\$102.98	\$102.98 Late List Penalty	Granted	ø
This Tax C	This List Requires Board Action Tax Committee Members: Natasha Baldwin, City Of Raleigh Kim Lorbacher, Wake County Finance Jessica Murphy-Rhem, Town Of Cary	Of Raleigh county Finance Town Of Cary		Z Z	Marcus Kinrade, Tax Administrator	x Administrator	

Report Generated 8/10/2022

Page 1 of 1

* WAKE COUNTY softh CAROTIAN					Wake County Tax Administration Rebate Details 07/01/2022 - 07/31/2022	County Tax Adminis Rebate Details 07/01/2022 - 07/31/2022	istration 12	0	DATE 07/31/2022	TIME PAGE 1:25:34 PM 1
REBATE PRO	PROPERTY	CITY TAG	LATE LIST	BILLED INTEREST	TOTAL REBATED	PROCESS DATE	ACCOUNT NUMBER	TAX YEAR	YEAR BILLING FOR TYPE	OWNER
BUSINESS ACCOUNTS	S									
819760	3,532.04	00.0	353.20	0.00	3,885.24	07/06/2022	0006914805	2021	2021 000000	TW APEX REAL ESTATE LLC
SUBTOTALS FOR BUSINESS ACCOUNTS	3,532.04	0.00	353.20	0.00	3,885.24	1	Properties Rebated	cebated		
INDIVIDUAL PROPERTY ACCOUNTS	ST									
820567	31.09	00.00	0.00	0.00	31.09	07/12/2022	0006954856	2022		BLATER, BRIAN RULAN
820948 821531	78.52 3.58	0.00	0.00	0.00	78.52 3.94	07/14/2022 07/21/2022	0006875171	2022 2021	2022 000000 2021 000000	BILLS, CLIFFORD ANDREW RANDO, DAMON DOUIGLAS
822345	165.99	30.00	0.00	0.00	195.99	07/29/2022	0006950542	2022		RAIMUNDI PAGAN, LOURDES
821529 822349	3.88 80.57	0.00	0.39	0.00	4.27 80.57	07/21/2022 07/29/2022	0006875171 0006972166	2020 2022	2020 000000 2021 000000	GIBELLE RANDO, DAMON DOUGLAS DAUSSIN, SANDRA TRACY
SUBTOTALS FOR INDIVIDUAL PROPERTY ACCOUNTS	363.63	30.00	0.75	0.00	394.38	6	Properties Rebated	kebated		
INDIVIDUAL REAL ESTATE ACCOUNTS	٦									
819921 819926 819949 819919	109.16 610.69 262.87 564.87	0.00 0.00 0.00	0.00 0.00 0.00	0.00 0.00 0.00	109.16 610.69 262.87 564.87	07/01/2022 07/01/2022 07/01/2022 07/01/2022	0000030757 0000202659 0000220786 00002277691	2022 2022 2022 2022	2022 000000 2022 000000 2022 000000 2022 000000	HOFFMAN, BONNIE BURGESS HAWLEY, JOANNE B TEW, BETTY R ATKINSON, PETER

- Page 157 -

* WAKE COUNTY ACCUNTY					Wake County Tax Administration Rebate Dctails 07/01/2022 - 07/31/2022 APEX	County Tax Adminis Rebate Details 07/01/2022 - 07/31/2022 APEX	istration 2	DATE 07/31/2022	TIME 1:25:41 PM	PAGE 2
REBATE NUMBER	PROPERTY	CITY TAG	LATE LIST	BILLED INTEREST	TOTAL REBATED	PROCESS DATE	ACCOUNT NUMBER	TAX YEAR BILLING OWNER YEAR FOR TYPE	ING OWNER	
INDIVIDUAL REAL ESTATE ACCOUNTS	L TS					I				
819905 821188 819963	1,063.15 408.29 399.25	0.00 0.00	0.00 0.00 0.00	0.00 0.00	1,063.15 408.29 399.25	1,063.15 07/01/2022 408.29 07/19/2022 399.25 07/01/2022	0000100214 0000173563 0000216422	2022         2022         000000           2022         2021         000000           2022         2022         000000	00 MCCALL, CLIFTON E 00 KIRKPATRICK, TERESAL 00 EARL, LAURA H	SAL
SUBTOTALS FOR INDIVIDUAL REAL ESTATE ACCOUNTS	3,418.28	00.0	0.00	0.00	3,418.28	۲	Properties Rebated	Rebated		
TOTAL REBATED FOR APEX	7,313.95	30.00	353.95	0.00	7,697.90	14	Properties R	14 Properties Rebated for City		

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# |Agenda Item | cover sheet

for consideration by the Apex Town Council

Item Type:CONSENT AGENDAMeeting Date:September 13, 2022

## <u>Item Details</u>

Presenter(s): Dianne Khin, Director of Planning and Community Development

Department(s): Planning and Community Development

#### Requested Motion

Motion to approve the Statement of the Apex Town Council pursuant to G.S. 160D-605(a) addressing action on the Unified Development Ordinance (UDO) Amendments of August 23, 2022.

#### Approval Recommended?

The Planning and Community Development Department recommends approval.

#### <u>Item Details</u>

<u>Attachments</u>

Statement of Town Council



# STATEMENT OF THE APEX TOWN COUNCIL PURSUANT TO G.S. 160D-605(a) ADDRESSING ACTION ON THE UNIFIED DEVELOPMENT ORDINANCE (UDO) AMENDMENTS OF AUGUST 23, 2022

Pursuant to G.S. §160D-601 and Sec. 2.2.11.E of the Unified Development Ordinance, the Director of Planning and Community Development for the Town of Apex, Dianne Khin, caused proper notice to be given (by publication and posting), of a public hearing on UDO Amendments before the Town Council on the 5<sup>th</sup> day of August 2022.

The Apex Town Council held a public hearing on the 23<sup>rd</sup> day of August 2022. Amanda Bunce, Current Planning Manager presented the Planning Board's vote to recommend approval by a vote of 6-0 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 on the 23<sup>rd</sup> day of August 2022 by a vote of 4 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 various UDO Amendments of August 23, 2022 are consistent with the Advance Apex: The 2045 Plan and reasonable and in the public interest for the following reason(s):

- 1. The amendments to UDO Secs. 2.2.6 *Pre-Application Meeting* and 2.2.7.B *Neighborhood Meetings* require pre-application meetings with the Technical Review Committee be held prior to mailing notices for a neighborhood meeting, require applicants to provide information about long range plan amendments directly associated with a rezoning or development in the notice of and during the neighborhood meeting so that the public is better informed of proposed changes and make grammatical changes for clarity.
- 2. The amendment to UDO Sec. 4.4.3.G *Supplemental Standards; Utilities; Utility, Minor* removes the height limitation for water towers to provide more flexibility in the siting and design of such towers.
- 3. The amendment to UDO Sec. 8.2.7.A *Fences, Walls, and Berms; Materials* allows the unfinished side of a fence to face an alley to provide more flexibility with design in the Downtown Festival District.
- 4. The amendments to UDO Sec. 8.3.2 *Off-Street Parking Requirements* provide the vehicular and bicycle parking requirements for "Parking garage, public" and "Parking lot, public" and changes the phrase "no requirement" to "none" for consistency.
- 5. The amendment to UDO Sec. 8.3.6.E *Parking Lot Design Standards, Dimensions* clarifies that the dimensional standards provided are minimum standards.
- 6. The amendments to UDO Sec. 8.3.9 *Shared Parking* increases the percentage of parking that may be shared for the use "Church or place of worship" to better reflect the typical parking needs of such use.

Jacques K. Gilbert Mayor

ATTEST:

Allen Coleman, CMC, NCCCC Town Clerk

# |Agenda Item | cover sheet

for consideration by the Apex Town Council

Item Type:CONSENT AGENDAMeeting Date:September 13, 2022

## <u>Item Details</u>

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

#### Requested Motion

Motion to set the Public Hearing for the September 27, 2022 Town Council meeting regarding various amendments to the Unified Development Ordinance (UDO).

#### Approval Recommended?

The Planning and Community Development Department recommends approval.

#### <u>Item Details</u>

Summary of UDO Amendments

Requested by Planning Staff:

- Amendment to Secs. 4.2.2 Use Table; 4.3.3 Use Classifications, Utilities; 4.4.3 Supplemental Use Standards, Utilities; 8.2.6.B.4 Land Use Classes; and 8.3.2 Off-Street Parking Requirements in order to create the use "Yard waste transfer station" and to establish the definition, supplemental standards, land use class and parking standards for such use.
- 2. Amendments to Secs. 7.2.5 *Single-family Residential Grading* and 8.1.2.B.2.b *Site and Tree Survey Required* in order to update references to the date of LiDAR data.
- 3. Amendments to Sec. 8.7 *Signs* in order to modify the standards for internally illuminated signs and signs within Planned Development Districts and to create a sign type and standards for interior signs located in parking lots.

#### <u>Attachments</u>

• N/A



# |Agenda Item | cover sheet

for consideration by the Apex Town Council

Item Type: PUBLIC HEARING Meeting Date: September 13, 2022

## <u>Item Details</u>

Presenter(s):Jenna Shouse, Senior Long Range PlannerDepartment(s):Planning & Community Development

#### Requested Motion

Public hearing and possible motion to amend the Bicycle and Pedestrian System Plan map to add proposed bicycle lanes along Laura Duncan Road between Old Apex Road and the Town of Apex boundary with the Town of Cary.

#### Approval Recommended?

Planning and Community Development Department staff recommend approval of the proposed amendment.

Planning and Community Development Department staff will present this item to the Planning Board at their September 12, 2022 meeting. The Planning Board's recommendation will be presented by staff at the Council meeting.

#### <u>Item Details</u>

The purpose of this hearing is to consider the addition of proposed bicycle lanes along Laura Duncan Road to align with the Town of Cary's plans to stripe bike lanes along the section of Laura Duncan Road in their jurisdiction.

#### <u>Attachments</u>

Staff Report



#### STAFF REPORT

**Transportation Plan Amendments** 

September 13, 2022 Town Council Meeting



The purpose of the public hearing is to consider the facts in order to formulate a decision. The Bicycle and Pedestrian System Plan map represents a network of current and future facilities that provide guidance on what is likely to be suitable for long term growth, connectivity, and recreation. The Plan does not require a schedule for implementation nor does it set aside funding for improvements. Instead, it helps the Town establish long term priorities and identify requirements for new development. The Plan was last amended on July 12, 2022.

The purpose of the public hearing is to consider an amendment to the Bicycle and Pedestrian System Plan map to add proposed bicycle lanes along Laura Duncan Road between Old Apex Road and the Town of Apex boundary with the Town of Cary.

Snokemont or Existing Bicycle Lane 'id Ln-Proposed Bicycle Lane Dr Or Corostone Conter pointe Dr Lost Tree Ln Existing Sidewalk Existing Street-Side Greenway Existing Side Path Proposed Side Path Proposed Public Greenway labara Ln Apex Corporate Limits outh 600 PKNY Old APEX Rd Apex Extraterritorial Jurisdictio Beth Canp D 0 Add Dotson **Tahoe** Gler **Proposed Bicycle Lanes** Along Laura Duncan Road Kilarney och Lomond Cir Loop Laurel Park Elementary School Salem Church Rd 80550m Bay Lin Dundalk Way New Derby Ln Laurel Park Pl Salem Pointe Jurnley BOYBOUCHE Royal Berry Ct A 1.000 Town of Apex Planning Department, August 2022

A map of the proposed amendment to the Bicycle and Pedestrian System Plan map is displayed in Figure 1 below.

Figure 1. Proposed Bicycle and Pedestrian System Plan Map Amendment

The purpose of this hearing is to consider the addition of proposed bicycle lanes along Laura Duncan Road to align with the Town of Cary's plans to stripe bike lanes along the section of Laura Duncan Road in their jurisdiction. There is an existing bicycle lane along the east side of Laura Duncan Road, south of the intersection with Old Apex Road.

The Town of Cary shared their plans to stripe bike lanes along Laura Duncan Road in July 2022, following the approval of Rezoning #21CZ29 North Salem Station Planned Unit Development (PUD) in May 2022. Town of Apex staff plan to coordinate with the North Salem Station developers to stripe bike lanes along Laura Duncan Road as part of their development.

#### STAFF REPORT

Transportation Plan Amendments

September 13, 2022 Town Council Meeting



On August 29, 2022, the Project Planner for Rezoning #21CZ29 North Salem Station PUD shared the legal ad and a summary of the proposed amendment to the Bicycle and Pedestrian System Plan map with individuals who contacted the Apex Planning and Community Development regarding the rezoning.

#### Staff Recommendation:

Planning and Community Development Department staff recommend approval of the proposed amendments.

#### Planning Board Recommendation:

Planning and Community Development Department staff will present this item to the Planning Board at their September 12, 2022 meeting. The Planning Board's recommendation will be presented by staff at the Council meeting.

## |Agenda Item | cover sheet

for consideration by the Apex Town Council

Item Type: PUBLIC HEARING Meeting Date: September 13, 2022

## Item Details

Presenter(s):Brian Meyer, Joe Curtin, Trevor JohnsonDepartment(s):Legal; Planning

#### Requested Motion

Public hearing and possible motion to adopt an ordinance amendment to Chapter 10, Article I of the Town Code.

#### Approval Recommended?

Yes

#### <u>Item Details</u>

Section 10-1 of the Town Code governing the cleanliness of premises is limited in scope to only apply to those conditions on property in which the accumulation of materials outdoors constitutes a fire hazard. This limitation does not adequately address the public nuisances that may exist within the town. The ordinance as amended would prohibit in or on open yard areas the placement, accumulation, or storage of litter, junk, trash, manmade materials, or hazardous waste. It would also prohibit in open yards the placement or storage of furniture, appliances, household goods, or equipment that is not designed to be stored outdoors. Such situations would be declared to be public nuisances. The amended ordinance excepts patio furniture and recreational equipment that is appropriate for outdoor use. Lastly, the amended ordinance would update and clarify the regulation of accumulated weeds, overgrown grass, and undergrowth by identifying acceptable lengths and public nuisance conditions, and would require more frequent cutting of vacant lots.

Since Council's initial consideration, the amended ordinance has been revised to include gender neutral language and to provide authority to the Town Manager to waive or reduce assessed civil penalties up to \$10,000. It also limits the prohibition on overgrown grass to turfgrass, thereby permitting longer growth of grass species used for ornamental or pollination ourposes. This language was reviewed by the Bee City

- Page 165 -

Committee. Finally, the revised language also creates an exception for grass grown for feeding permitted livestock.

<u>Attachments</u>

• Ordinance Amendment to Chapter 10



# Ordinance Amending Article I of Chapter 10 HEALTH AND SANITATION



- Page 167 -

# Purpose

 Chapter 10 of the Apex Town Code of Ordinances currently prohibits conditions constituting public nuisances such as the uncontrolled growth of weeds and grass as well as the accumulation of certain items on property. The ordinance does not provide much detail as to what is considered uncontrolled growth or what conditions constitute a public nuisance. This amendment is intended to provide clarification and guidance.



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# Cleanliness of Premises – PROHIBITIONS

- Industrial and hazardous materials
- Trash and refuse
- Rusted, wrecked, dismantled, decaying, or inoperable materials, appliances, or furniture
- Household fixtures, furniture, electrical goods, and appliances not designed for outdoor use
- Conditions creating a fire hazard







# **Cleanliness of Premises - EXCEPTIONS**

- Use of household furniture on an enclosed porch
- Use of furniture for outdoor use (eg. patio and lawn furniture)
- Recreational equipment like swing sets and playhouses







# Public Nuisance – Accumulation of Weeds/Undergrowth - PROHIBITIONS

- Overgrown weeds, grass, or briars creating a harborage for rodents, vermin or other pests
- Turfgrass exceeding 8 inches in height.





# Public Nuisance – Accumulation of Weeds/Undergrowth - EXCEPTIONS

- Non-turfgrass such as ornamental plantings and pollinator plants
- Grasses grown for the purpose of feeding livestock permitted pursuant to Sec. 4-3 of the town code



# Changes Since Last Meeting:

- Ensured all language is gender neutral
- Authority delegated to Town Manager to reduce or waive civil penalties up to \$10,000 (upon resolution of the violation)
- Restrict application of Section 10-5 to weeds, briars, and turfgrass, not all grass. Now allows higher growth to accommodate pollinator and ornamental plants and grass used to feed permitted livestock.

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

#### AN ORDINANCE AMENDING ARTICLE I OF CHAPTER 10 "HEALTH AND SANITATION" OF THE TOWN OF APEX CODE OF ORDINANCES

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

**Section 1.** That Sections 10-1, 10-5, 10-6 and 10-7 of Article I of Chapter 10 of the Town of Apex Code of Ordinances are hereby amended as shown below with additions shown by underlined text and deletions shown as struck-through text:

#### Sec. 10-1. Cleanliness of premises—Generally.

- (a) It shall be unlawful for any person to allow the uncontrolled growth of noxious weeds and grass, or the accumulation of offensive animal or vegetable matter dangerous and prejudicial to the public health, or the accumulation of rubbish or trash creating a fire hazard dangerous to the public safety, or allow the existence of any condition which may constitute a public nuisance, upon any premises within the town. neglect a premise or property or create a dilapidated condition upon any premises within the town. Any of the following described conditions in or on a yard, vacant lot, deck, landing, patio, porch, unenclosed carport, or driveway between a sidewalk and curb or pavement edge are hereby found and declared to constitute a detriment, danger and hazard to the health, safety, morals, and general welfare of the inhabitants of the town and are found and declared to be public nuisances wherever the same may exist and the creation, maintenance, or failure to abate any of the following nuisances, is hereby declared to be unlawful:
  - (1) The accumulation of noxious weeds and grass, litter, junk, rubbish, trash, discarded human-made materials, refuse, wood, solid waste materials, industrial materials, or hazardous waste, or potentially dangerous devices.
  - (2) The creation of a littered condition by leaving materials on property which are partially or wholly rusted, wrecked, dismantled, junked or otherwise in an inoperative condition and which are not completely enclosed within an enclosed structure. Examples of such materials include, but are not limited to, dilapidated or decaying furniture, appliances, machinery,

equipment, building materials, automotive parts, tires, or any other items in a state of disrepair.

- (3) <u>Placement or accumulation of household fixtures, household or office</u> <u>furniture, domestically used electrical goods or appliances, metal products</u> <u>of any kind and similar items not designed or intended to withstand the</u> <u>elements for outdoor use. This subsection shall not prohibit the following:</u>
  - (i) The use of household furniture on an enclosed porch having a roof, walls, screens, or glass windows; or
  - (ii) <u>The use of furniture in good condition which is designed for</u> <u>outdoor use such as patio or lawn furniture on porches, landings, or</u> <u>yard areas; or</u>
  - (iii) <u>Recreational equipment designed for outdoor use such as swing</u> sets, playhouses, or trampolines.
- (b) No owner or occupant of any premises shall bury <u>or allow to remain</u> therein any animal or vegetable matter which, on decaying, may become dangerous or prejudicial to the public health or may constitute a nuisance.
- (c) <u>It shall be unlawful for any person to permit or allow to accumulate or remain on</u> <u>any lot or premises, litter or articles of a combustible or flammable nature which</u> <u>create a fire hazard dangerous to the public safety.</u>

(Code 1973, §§ 16-2, 16-10)

Cross reference(s)—Collection of garbage and trash, § 12-110 et seq.; removal of rubbish in cemetery, § 6-23.

State law reference(s)—Regulating disposal of refuse, G.S. 160A-192; littering, G.S. 14-399, 14-399.1.

#### Sec. 10-2. Same—Businesses.

It shall be unlawful for any person operating any business within the town to fail, refuse or neglect to keep the premises of such business free from trash, empty boxes or any other debris unless such trash, box or other debris is placed in authorized containers for collection as provided in this Code.

(Code 1973, § 16-3)

#### Sec. 10-3. Same—Care of plots along sidewalk.

The occupant or owner of every lot abutting a sidewalk shall keep the space along the sidewalk cut and in a sanitary condition. Failure to do so will subject the premises to the necessary work by the town, and the cost shall be assessed against the owner of the abutting lot and collected as taxes.

(Code 1973, § 16-13)

Charter reference(s)—Keeping sidewalks free of debris, § 5-4.

#### Sec. 10-4. Same—Sweeping trash on streets.

No person shall sweep or in any manner cause trash to be deposited on the streets or sidewalks.

(Code 1973, § 18-10)

Cross reference(s)—Littering in parks, § 15-7(d).

# Sec. 10-5. Same—Weeds to be cut <u>Accumulation of weeds and undergrowth declared to be</u> <u>a public nuisance</u>.

- (a) It is found and determined that there are lots and tracts of land in the town upon which dense growths of weeds, vines, briars or undergrowth have been allowed to grow, accumulate, or remain. Where such conditions provide a harborage for rodents, vermin, mosquitoes or other pests, or exist in such proximity to houses and other structures as to increase the hazards of disease, injury or fire, or otherwise constitute a detriment, danger or hazard to the health, safety and welfare of the residents of the town, they are hereby declared to be unlawful and a public nuisance. Further, where weeds, vines, briars, or turfgrass (narrow-leaved grass species tolerant to low mowing heights including but not limited to fescue, bermuda, zoysia, and centipede) are over eight inches in height, such conditions are hereby declared to be unlawful and a public nuisance. Under such circumstances, a public necessity exists to exercise the police power of the town to cause the abatement of such public nuisance in the manner provided by this article. This subsection shall not apply to grasses grown for the purpose of feeding livestock that are permitted within town limits in accordance with section 4-3 of this Code.
- (b) The owner or any person in possession of any vacant lot vacant of any buildings or structures shall cut or shrub down within four inches of the ground all weeds, grass or other noxious growth from the lot at least twice three times each year; the first time not later than May 31, the second time not later than July 31, June 15 and the second final time not later than September 30 August 15 of each year. Each day after these dates, respectively, shall be and constitute a separate offense, punishable by civil

<u>penalty of</u>. The delinquent shall, on conviction, pay a fine of \$1.00 for each day any weeds, grass, or other noxious growth shall remain uncut. If, for any cause, the weeds or other noxious growth are not cut down on the lot on or before June 15 and August 15 the dates designated in this subsection, the town may cause the same to be cut down and the cost of cutting may be charged against each of the lots from which the weeds or other noxious growth are moved and against the owners thereof, and charged to them and collected as taxes.

(Code 1973, § 16-12)

#### Sec. 10-6. Discarded refrigerators, etc.

It shall be unlawful for any person to <u>place</u>, <u>discard</u>, <u>or</u> <del>discard or</del> have stored outside any icebox, refrigerator, freezer chest or any other airtight box on any lot, street, alley, yard, platform or any other location outside of a building without first removing or making the latching mechanism inoperative in such a manner as not to prevent the opening from the inside of such items by small children, or in the alternative shall remove the doors.

(Code 1973, § 16-1)

State law reference(s)—Similar provisions, G.S. 14-318.1.

#### Sec. 10-7. Persons to comply with order; action by town.

- (a) This article may be enforced by any one, all, or a combination of the remedies provided below, elsewhere in this article, or otherwise authorized by state statute.
- (b) If any person shall violate any provision of sections 10-1 through 10-6, or create, allow, or maintain a pubic nuisance as described in sections 10-1 through 10-6, the town shall notify the owner of the property by posting notice of the violation in a conspicuous place on the property describing the conditions found to exist and an order requiring the owner to correct the conditions in violation within the time specified in the notice which shall not exceed ten days from the posting of said notice. The town may extend the time for compliance where the town finds such extension to be reasonable. The town shall also mail a copy of the notice of violation to the owner of the property as shown on the Wake County tax listing of the subject property as of the date of the notice.
- (c) A violation of this article is punishable as a misdemeanor as provided by G.S. 14-4.
- (d) Any person who fails to comply with any provisions of this article shall be subject to an initial civil penalty of \$50.00 and an additional civil penalty of \$50.00 for each day thereafter in which the violation remains. The penalty may be recovered by the town in the nature of a debt if the owner does not pay the same within 30 days after the date for

compliance provided in the notice of violation. Upon correction of the violation the person cited may request, in writing, a reduction or waiver of a civil penalty. The town manager is authorized to waive or reduce civil penalties for violations of this article when the penalty does not exceed the sum of ten thousand dollars (\$10,000.00).

(e) If any person shall violate any provision of sections 10-1 through 10-5, it shall be the duty of the code enforcement officer or the chief of police to give notice to the owner or to any person in possession of the lot, directing that within 12 hours or sooner from the time of notice, all weeds, trash and other offensive vegetable or animal matter shall be removed from the lot. Should any owner or any person in possession <u>of a property</u> refuse or fail to abate the<u>a</u> nuisance within the time specified in the notice of violation, the code enforcement officer or the chief of police town may shall proceed to remove same <u>or otherwise correct the conditions</u>; and the cost thereof shall be charged against the lot and shall become a lien on the lot. If not paid within 30 days, the lien shall be collected as in the manner provided for the collection of delinquent taxes.

(Code 1973, § 16-11)

State law reference(s)—Authority of town to abate public health nuisances, G.S. 160A-193; abatement of nuisance by local health director, G.S. 130A-19.

#### Secs. 10-8-10-19. Reserved.

- **Section 2.** It is the intention of the governing body, and it is hereby ordained that the provisions of this ordinance shall become and be made a part of the Code of Ordinances and the sections of this ordinance may be renumbered to accomplish such intention.
- **Section 3.** The Town Clerk and/or Town Manager are hereby authorized to renumber, revise formatting, correct typographic errors, to verify and correct cross references, indexes and diagrams as necessary to codify, publish, and/or accomplish the provisions of this Ordinance or future amendments as long as doing so does not alter the terms of this Ordinance.
- **Section 4. Severability, Conflict of Laws.** If this ordinance or application thereof to any person or circumstances is held invalid, such invalidity shall not affect other provisions or applications of the ordinance which can be given separate effect and to the end the provisions of this ordinance are declared to be severable. All ordinances or parts of ordinances in conflict with this ordinance are hereby repealed.

Section 5. Effective Date. This ordinance shall be effective upon adoption.

Introduced by Council Member:

Seconded by Council Member:

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

Jacques K. Gilbert Mayor

ATTEST:

Allen L. Coleman, CMC, NCCCC Town Clerk

APPROVED AS TO FORM:

Laurie L. Hohe Town Attorney

# |Agenda Item | cover sheet

for consideration by the Apex Town Council

Item Type: OLD BUSINESS Meeting Date: September 13, 2022

## Item Details

Presenter(s): Shawn Purvis, Deputy Town Manager

Department(s): Administration

#### Requested Motion

Motion to approve the Town's Strategic Plan Framework for the Apex Strategic Plan 2022, and adopt a resolution titled "Resolution of Apex Town Council Adopting the Apex Strategic Plan".

#### Approval Recommended?

Yes

#### <u>Item Details</u>

Council began laying the framework for the Town's strategic plan with the adoption of mission and vision statements and strategic goals in January 2020. Meetings between Council, Town Manager Crosby, and administration staff in August 2021 provided further direction for developing the Apex Strategic Plan. With the help of Zelos, the town conducted multiple work sessions with Council and town staff to revise the strategic goals/priorities and develop objectives for the strategic plan framework. Staff shared the framework with Council at the June 7 budget work session and received feedback for final revisions. Town staff will use the strategic plan framework to develop the final pieces of the Apex Strategic Plan that will create strategic business plans and performance measures for each department and division.

#### <u>Attachments</u>

- Strategic Plan Framework
- Resolution



# TOWN OF APEX Strategic Plan Framework



#### Mission

Provide exceptional public service that fosters opportunity for the individual and community to live, thrive, and reach their peak.

#### Vision

A community unified in the stewardship of our small-town character and natural environment, for a future where all succeed.

#### Values

Performance Empowerment Accountability Knowledge



# Goal: A Welcoming Community

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

#### Objectives

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



### Goal: High Performing Government

Deliver exceptional service valuing an engaged workforce with an emphasis on efficiency, collaboration, innovation, and inclusion

Objectives

- Use resources efficiently and effectively
- Provide customer-focused service
- Attract, retain, and develop our workforce
- Promote a culture of innovation and creativity
- Maintain transparency in stewardship of public resources
- Enhance communications for a more informed workforce

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# Goal: Environmental Leadership

Commit to sustaining natural resources and environmental well-being

### Objectives

- Adopt clean energy and efficiency measures
- Preserve natural resources and habitats
- Reduce environmental waste
- Proactively address climate vulnerability



Goal: Responsible Development

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

### Objectives

- Plan for and invest in infrastructure
- Provide and promote mobility
- Support diverse housing options
- Balance impacts of growth and development



# **Goal: Economic Vitality**

Improve and sustain an environment that invites and retains a diversity of residents, employment opportunities, and businesses

Objectives

- Recruit, retain, and develop businesses
- Leverage community assets to benefit businesses and residents
- Engage in placemaking
- Identify key opportunities to strengthen economic environment

### RESOLUTION: 22-\_\_\_\_

### **RESOLUTION OF APEX TOWN COUNCIL ADOPTING THE APEX STRATEGIC PLAN**

**WHEREAS**, the Town of Apex, NC (the "Town") has been engaged in developing a strategic plan since January 2020; and

**WHEREAS,** strategic planning is a disciplined effort to produce fundamental decisions and actions that shape and guide what projects, services, and programs an organization provides and why it provides them; and

**WHEREAS,** there are numerous benefits to strategic planning, including clear policy direction for operational and budgetary priorities, increased effectiveness and efficiency, and improved communications and transparency; and

**WHEREAS,** the strategic plan is intended to guide the Town for the next 3-5 years and be reviewed annually; and

**WHEREAS**, the strategic plan includes the vision statement, mission statement, values, and five (5) strategic goals/priorities; and

**WHEREAS,** the Town Council reviewed the proposed strategic plan framework on September 13, 2022.

# NOW THEREFORE, THE TOWN COUNCIL OF THE TOWN OF APEX RESOLVES THAT:

**MISSION STATEMENT:** Provide exceptional public service that fosters opportunity for the individual and community to live, thrive, and reach their peak.

**VISION STATEMENT:** A community unified in the stewardship of our small-town character and natural environment, for a future where all succeed.

VALUES: Performance, Empowerment, Accountability, and Knowledge

### **STRATEGIC GOALS/PRIORITIES:**

### • A Welcoming Community

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

Objectives:

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

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### • High Performing Government

Deliver exceptional service valuing an engaged workforce with an emphasis on efficiency, collaboration, innovation, and inclusion

**Objectives:** 

- Use resources efficiently and effectively
- Provide customer-focused service
- Attract, retain, and develop our workforce
- Promote a culture of innovation and creativity
- o Maintain transparency in stewardship of public resources
- o Enhance communications for a more informed workforce

### • Economic Vitality

Improve and sustain an environment that invites and retains a diversity of residents, employment opportunities, and businesses

**Objectives:** 

- o Recruit, retain, and develop businesses
- Leverage community assets to benefit businesses and residents
- Engage in placemaking
- o Identify key opportunities to strengthen economic environment

### Environmental Leadership

Commit to sustaining natural resources and environmental well-being

**Objectives:** 

- Adopt clean energy and efficiency measures
- Preserve natural resources and habitats
- Reduce environmental waste
- o Proactively address climate vulnerability

### Responsible Development

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

**Objectives:** 

- Plan for and invest in infrastructure
- Provide and promote mobility
- Support diverse housing options
- o Balance impacts of growth and development

Motion made by Council Member

Motion seconded by Council Member

With \_\_\_\_\_ Council Members voting aye.

With \_\_\_\_\_ Council Members voting no.

Adopted and effective this the \_\_\_\_\_ day of \_\_\_\_\_, 2022.

Jacques K. Gilbert Mayor

ATTEST:

Allen L. Coleman, CMC, NCCCC Town Clerk

# |Agenda Item | cover sheet

for consideration by the Apex Town Council

Item Type:

UNFINISHED BUSINESS

Meeting Date: September 13, 2022

# Item Details

Presenter(s): Lauren Staudenmaier, Planner II Department(s): Planning and Community Development

Requested Motion

Continued from the July 26<sup>th</sup> Town Council Meeting.

Possible motion to approve Rezoning Application #22CZ06 Yellowbridge PUD. The applicant, Matthew Carpenter for Lennar Carolinas, seeks to rezone approximately 48.24 acres from Rural Residential (RR) to Planned Unit Development-Conditional Zoning (PUD-CZ). The proposed rezoning is located at 2813 & 2817 US 64 Highway West.

### Approval Recommended?

The Planning and Community Development Department recommends approval.

The Planning Board held a public hearing on July 11, 2022 and by a vote of 4-3 recommended approval of the rezoning with the following additional condition offered by the applicant: "6' opaque privacy fence shall be installed by developer along inside of the buffer along southern property line."

<u>Item Details</u>

The properties to be rezoned are identified as PINs 0722743789 & 0722752304.

### <u>Attachments</u>

- Staff Report
- Vicinity Map
- Application





The public hearing for this rezoning was held on July 25, 2022 and was closed. The vote was continued to September 13, 2022. Proposed standards that have changed since that time are shown in bold.

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

### **BACKGROUND INFORMATION:**

Location:	2813 & 2817 US 64 Highway West
Applicant/Agent:	Matthew Carpenter, Parker Poe/Tucker Ennis, Lennar Carolinas, LLC.
Owner:	Yellowbridge Capital, LLC.

### **PROJECT DESCRIPTION:**

Acreage:	±48.24 acres			
PINs:	0722743789 & 0722752304			
Current Zoning:	Rural Residential (RR)			
Proposed Zoning:	Planned Unit Development-Conditional Zoning (PUD-CZ)			
Current 2045 Land Use Map:	Medium Density Residential			
If rezoned as proposed, the 20	45 Land Use Map Designation will change to: Medium Density			
Residential and Commercial Services				
Town Limits: ETJ				

### Adjacent Zoning & Land Uses:

	Zoning	Land Use
North:	Wake County Highway District (HD); Planned Unit Development-Conditional Zoning (PUD-CZ #18CZ31)	Commercial; US 64 Highway West; Single- family Residential (Westford subdivision)
South:	Planned Unit Development-Conditional Use (PUD-CU #04CU15)	Single-family Residential (Stratford at Abbington subdivision)
East:	Rural Residential (RR); Medium Density Residential (MD)	Vacant; Single-family Residential (Abbington subdivision)
West:	Rural Residential (RR)	Vacant

### **EXISTING CONDITIONS:**

The properties are situated on the south side of US 64 Highway West, adjacent to Chanticlair Drive. The properties are north of Stratford at Abbington, west of Abbington, and east of Sweetwater subdivisions. The property located on 2817 US 64 Highway West is vacant with existing vegetation and a stream that bisects the property from west to east; and the property located on 2813 US 64 Highway West contains residential structures.

### **NEIGHBORHOOD MEETING:**

The applicant conducted two neighborhood meetings on February 23, 2022 and June 8, 2022. The neighborhood meeting reports are attached.



### WCPSS Coordination:

A Letter of Impact from Wake County Public School System (WCPSS) was received for this rezoning and is included in the staff report packet. WCPSS indicates that elementary and high schools within the current assignment area for this rezoning/development are anticipated to have insufficient capacity for future students; transportation to schools outside of the current assignment area should be anticipated. School expansion or construction within the next five years may address concerns at the elementary and high school grade level.

### 2045 LAND USE MAP:

The 2045 Land Use Map designates the subject properties as Medium Density Residential. The residential portion of the proposed rezoning to Planned Unit Development-Conditional Zoning (PUD-CZ) is consistent with that Land Use Map designation. The proposed rezoning also includes commercial uses in an area adjacent to US 64 Highway West. If the properties are rezoned as proposed, the 2045 Land Use Map will automatically be amended to Medium Density Residential and Commercial Services per NCGS 160D-605(a).

### PLANNED UNIT DEVELOPMENT PLAN:

The applicant is proposing a Planned Unit Development Plan with uses and development standards as follows:

### **Permitted Uses:**

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

### Residential Uses

- Single-family
- Townhouse
- Accessory apartment\*

\*Homeowners Association covenants shall not restrict the construction of accessory dwelling units.

### Recreational Uses

- Park, active
- Greenway
- Park, passive

### Non-Residential

- Restaurant, general
- Restaurant, drive-through
- Medical or dental office or clinic
- Medical or dental laboratory
- Office, business or professional
- Publishing office
- Artisan Studio
- Barber and beauty shop
- Book store

- Recreation facility, private
- Utility, minor
- Grocery, general
- Grocery, specialty
- Health/fitness center or spa
- Kennel
- Newsstand or gift shop
- Personal service
- Pharmacy
- Printing and copying service
- Real estate sales



- Convenience store
- Dry cleaners and laundry service
- Farmer's market
- Financial institution
- Floral shop
- Greenhouse or nursery, retail
- Utility, minor

- Repair services, limited
- Retail sales, general
- Studio for art
- Tailor shop
- Upholstery shop
- Pet services
- Day care facility
- Veterinary clinic or hospital

### **Proposed Design Controls:**

### **Residential:**

Proposed Land Area: 44.93 acres Maximum Number of units: 160 units Maximum Density: 3.6 units per acre Maximum Building Height: 45 feet, 3 stories Maximum Built-Upon Area: 70% Front Loaded Townhouse Minimum Lot Width: 18' Rear Loaded Townhouse Minimum Lot Width: 18' Single-family Minimum Lot Width: 50'\* Single-family Minimum Lot Size: 6,000 sf \*Single-family detached homes adjacent to the Property's southernmost property line adjacent to the Abbington neighborhood from the northwestern corner of PIN 0722645333 to the northeastern corner of PIN 0722748868 shall have a minimum lot width of 60 feet.

### Non-Residential:

Proposed Land Area: 3.5 acres Maximum Building Square Feet: 25,000 sf Maximum Building Height: 50' Maximum Built-Upon Area: 70%

### Setbacks:

	Proposed Minimum Setbacks				
Front Loaded	Front	10'			
Townhouse	Side	0' (5' for end units)			
	Rear	5'			
	Corner Side	8'			
	Minimum Building Separation	10'			
	Minimum Buffer/RCA	10' for buildings; 5' for parking area			
Rear Loaded	Front	5'			
Townhouse	Side	0' (5' for end units)			
	Rear	5'			
	Corner	8'			
	Minimum Building Separation	10'			
	- Page 18	30 -			

Prepared by: Lauren Staudenmaier, Planner II



	Proposed Minimum Setbacks					
Single-Family	Front 20'					
Detached	Side	6'				
	Rear	15'				
	Corner	8'				
	Minimum Buffer/RCA	10' for buildings; 5' for parking areas				
Non-Residential	Front (US-64)	10'				
	Side	10'				
	Rear	10'				
	Corner Side	10'				
	From Buffer/RCA	10' for buildings; 5' for parking areas				

### **Proposed RCA & Buffers**

The proposed Yellowbridge PUD is located west of the Highway 540 Corridor and is required to provide a minimum 30% of RCA for the residential district and 25% RCA for the commercial district.

Residential and Non-Residential Buffers:

Residential and Non-Residential Durier.		
Perimeter Buffers:	UDO Required	Proposed
Along the Property's shared	20' Type A	30' Type A
property line with PIN 0722762014		
Along the Property's US-64	100' Type A/50' Type A (UDO	50' Type A*
Highway West frontage east of PIN	Section 8.2.6.B.5.f.ii.c)	
0722762014		
Along the Property's US-64	100' Type A	100' Type E
Highway West frontage west of PIN		
0722762014		
Along the Property's westernmost	20' Type B (Land Use Class 2 or 3);	20' Type B
boundary	10' Type B (Land Use Class 1)	
Along the north and south side of	10' Type A (Land Use Class 2 or 3);	10' Type D
Chanticlair Drive west of the	10' Type D (Alley-loaded homes	
intersection of Chanticlair Drive	facing a major collector)	
and the US-64 access road		
Along the north side of Chanticlair	Within residential developments,	18' Type A
Drive from the westernmost	no street front buffer is required	
boundary of the gas easement to	on minor collectors or residential	
the intersection of Chanticlair Drive	streets	
and the US-64 access road **		
Along the Property's easternmost	10' Type B (Land Use Class 2 or 3);	10' Type B
boundary adjacent to PIN	20' Type A (Land Use Class 4 or 5)	
0722850629		
Along the gas easement	20' Туре В	10' Type A along both sides
		of gas easement (20' total)
Along the Property's southern	20' Type B (Land Use Class 2 or 3)	50' Type A***
property line from the northwest		
corner of PIN 0722645333 to the		

### STAFF REPORT Rezoning #22CZ06 Yellowbridge PUD

September 13, 2022 Town Council Meeting



Perimeter Buffers:	UDO Required	Proposed
northeast corner of PIN 0722741431***		
Along the Property's southern property line from the northeast corner of PIN 0722741431 to the northwest corner of PIN 0722748868****	20' Type B (Land Use Class 2 or 3)	50' Type A****

- \* The Development shall meet requirements (i) through (iii) in UDO Section 8.2.6(B)(5)(f)(ii)(c) to reduce the buffer width along US-64 Highway West to 50 feet.
- \*\* The developer shall construct a decorative landscape wall within the buffer, parallel to Chanticlair Drive. The landscape wall shall be constructed of brick, stone, or similar materials, and be similar in design and character to the existing landscape wall along the south side of Chanticlair Drive in Abbington.
- \*\*\* This portion of the perimeter buffer shall remain undisturbed and supplemented with Type A buffer plantings.
- \*\*\*\* This portion of the perimeter buffer shall be cleared, graded, include a minimum 3-foot berm, and be replanted to a Type A buffer standard.

Based on neighborhood feedback, the applicant is proposing to remove the zoning condition for the proposed minimum six foot (6') tall opaque privacy fence along the north edge of the 50' Type A buffer along the southern property line from the northwest corner of PIN 0722645333 to the northeast corner of PIN 072274131 and the southern property line from the northeast corner of PIN 072274131 to the northwest corner of PIN 0722748868.

### ZONING CONDITIONS

The following conditions shall also apply:

- 1. Homeowners Association covenants shall not restrict the construction of accessory dwelling units.
- 2. All heavy duty construction traffic shall enter and exit the site via US-64 Highway West. Heavy duty construction traffic shall not use Chanticlair Drive, Rothwood Way, or Lyndenbury Drive. "No Construction Traffic" signage shall be posted along Chanticlair Drive and Rothwood Way.
- 3. All dwelling units shall be pre-configured with conduit for a solar energy system.
- 4. The project shall install at least one (1) sign per SCM discouraging the use of fertilizer and to reduce pet waste near SCM drainage areas. The sign(s) shall be installed in locations that are publicly accessible, such as adjacent to, but outside of public property and/or public easement(s), amenity centers, sidewalks, greenways, or side paths.
- 5. The project shall install a minimum of two (2) pet waste stations.
- 6. The project shall plant drought resistant warm season grasses throughout the development to minimize irrigation and chemical use.
- 7. Stormwater control devices shall be designed and constructed so that post development peak runoff does not exceed pre-development peak runoff conditions for the 24-hour, 1 year, 10 year, and 25 year storm events.
- 8. Landscaping shall include at least four (4) native hardwood tree species throughout the Development.
- 9. No clearing or land disturbance shall be permitted within the riparian buffer, except the minimum necessary to install required road and utility infrastructure and SCM outlets. The SCM water storage and treatment shall not be permitted within the riparian buffer. Sewer infrastructure shall be designed to minimize impacts to riparian buffers.

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- 10. Any outdoor lighting installed in the commercial area and on private amenities, signs, landscaping, walls, or fences shall be full cutoff LED fixtures with a maximum color temperature of 3000k. This condition shall not apply to lighting on single-family homes, townhouses, accessory buildings, or street lighting.
- 11. At least 75% of plants shall be native species. Landscaping will be coordinated with and approved by the Planning Department at site or subdivision review.
- 12. The Development shall include a minimum of two (2) residential restricted affordable housing townhouse or detached single-family median-income ownership units (the "Affordable Units"). The Affordable Units shall be constructed on-site and sold (includes unit price and lot price) at a mutually agreeable maximum affordable housing median-income ownership initial sales price (the "Initial Sales Price"). The Affordable Units shall be occupied by low or median-income households earning no more than one-hundred percent (100%) of the Raleigh NC Metropolitan Statistical Area (MSA), Area Median Income (AMI), adjusted for family size as most recently published by HUD (the "Income Limit"). For purposes of calculating the Initial Sales Price for the Affordable Units, affordable shall mean a reasonable down payment and monthly housing costs expected during the first calendar year of occupancy, including utilities or utility allowances, mortgage loan principal and interest, mortgage insurance, property taxes, homeowner's insurance, homeowner's association dues, if any, and all other property assessments, dues and fees assessed as a condition of property ownership, which does not exceed thirty percent (30%) times (x's) one-hundred percent (100%) times (x's) the annual median-income limit (100% AMI Category), based on a family size that is equal to the actual number of bedrooms as the Affordable Units, applicable to the Raleigh, NC MSA as most recently published by the HUD. A restrictive covenant (i.e. resale deed restriction) with a minimum affordability period of fifteen (15) years (the "Affordability Period") shall be recorded in the Wake County Registry against each of the Affordable Units concurrently at the close of escrow upon the sale of the Affordable Units. A restrictive covenant (i.e. affordable housing agreement) between the Town and applicant shall be recorded in the Wake County Registry against each of the lots for the Affordable Units prior to the issuance of a building permit for such lots to memorialize the affordable housing terms and conditions of the approved zoning condition. The Affordable Units may be townhouses or single-family detached houses, at the discretion of the developer, and shall be designated on the Master Subdivision Final Plat, which may be amended from time to time. Final Affordable Housing Unit floor plan selection which includes the unit size and bedroom size will be at the discretion of the developer. The Affordable Units may be provided in multiple phases or in one single phase. Developer will work with the Town to identify qualifying buyers for the first sale of the Affordable Units (the "First Sale"). Following the First Sale of the Affordable Units, Developer shall not be responsible for managing the Affordable Units or performing marketing, applicant screening, and selection related to future sales of the Affordable Units. Town staff will assist with the administrative duties of the Affordable Units during the Affordable Period.

### **Architectural Standards**

The proposed development offers the following architectural controls to ensure a consistency of character throughout the development, while allowing for enough variety to create interest and avoid monotony. Changes to the exterior materials, roof, windows, doors, process, trim, etc. are allowable with administrative approval at the staff level. Further details shall be provided at the time of development plan submittal. The following conditions shall apply:



### **RESIDENTIAL DISTRICT DESIGN GUIDELINES**

Single-Family Detached:

- 1. Vinyl siding is not permitted; however, vinyl windows, decorative elements and trim are permitted.
- 2. The roof shall be pitched at 5:12 or greater for 75% of the building designs.
- 3. Eaves shall project at least 12 inches from the wall of the structure.
- 4. Garage doors shall have windows, decorative details or carriage-style adornments on them.
- 5. The garage shall not protrude more than 1 foot out from the front façade and front porch.
- 6. Garages on the front façade of a home that faces the street shall not exceed 30% of the total width of the house and garage together.
- 7. The visible side of a home on a corner lot facing the public street shall contain at least 3 decorative elements such as, but not limited to, the following elements:
  - Windows
  - Bay window
  - Recessed window
  - Decorative window
  - Trim around the windows
  - Wrap around porch or side porch
  - Two or more building materials
  - Decorative brick/stone

- Decorative shake
- Decorative air vents on gable
- Decorative gable
- Decorative cornice
- Column
- Portico
- Balcony
- Dormer

- Decorative trim
- 8. 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.
- 9. House entrances for units with front-facing single-car garages shall have a prominent covered porch/stoop area leading to the front door.
- 10. The rear and side elevations of the units that can be seen from the right-of-way shall have trim around the windows.
- 11. Front porches shall be a minimum of 5 feet deep.
- 12. No more than 25% of lots may be accessed with J-driveways. There shall be no more than 3 such homes in a row on any single block. Any lots eligible for a J-driveway home shall be identified on the Final Plat.
- 13. In addition, all single-family detached homes shall include:
  - 1. Covered front porches
  - 2. Crawl space foundations
  - 3. Custom porch railings
  - 4. Masonry on all elevations up to first floor window sills
  - 5. Multiple roof lines and gables
  - 6. Shutters or trim on all front elevation windows
  - 7. Pediments, crossheads, or 1x6 or greater trim on all front elevation windows
  - 8. Multiple siding styles

Townhouses (front and alley loaded):

- 1. Vinyl siding is not permitted; however, vinyl windows, decorative elements and trim are permitted.
- 2. The roofline cannot be a single mass; it must be broken up horizontally and vertically between every unit.
- 3. Garage doors must have windows, decorative details or carriage-style adornments on them.



- 4. House entrances for units with front-facing single-car garages shall have a covered porch/stoop area leading to the front door.
- 5. The garage cannot protrude more than 1 foot out from the front façade or front porch.
- 6. 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 cornice

Decorative shake

Decorative gable

Decorative air vents on gable

- Column
- Portico
- Balcony
- Dormer

- Decorative trim
- 7. Building facades shall have horizontal relief achieved by staggering the units.
- 8. 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.
- 9. The rear and side elevations of the units with right-of-way frontage shall have trim around the windows.

### COMMERCIAL DISTRICT DESIGN GUIDELINES

- 1. Architectural treatments such as varying roof forms, façade articulation, breaks in roof, walls with texture materials and ornamental details shall be incorporated to add visual interest.
- 2. Large expanses of blank walls greater than 25 feet in length or height shall be broken up with windows or other architectural features to reduce visual impacts.
- 3. Roof features may include flat roofs with parapet, hip roofs or awnings with metal or canvas material.

### COMMERCIAL DISTRICT MATERIALS

Non-residential exteriors shall incorporate variation in materials. The front façade and other facades located along a public right-of-way may include:

- 1. Brick and/or stone masonry
- 2. Decorative concrete block (integral color or textured)
- 3. Stone accents
- 4. Aluminum storefronts with anodized or pre-finished colors
- 5. EIFS cornices, and parapet trim
- 6. 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
- 7. Precast concrete
- 8. Soffit and fascia materials to be considered include EIFS with crown trim elements
- 9. Cementitious siding

Rear elevations of non-residential buildings facing opaque landscape buffers or not visible from vehicular use areas or public rights-of-way may incorporate decorative concrete masonry, metal coping, or EIFS trim.



### NATURAL RESOURCE AND ENVIRONMENTAL DATA

The Property is within the Beaver Creek Basin, Jordan Lake Watershed, and Primary Watershed Protection Overlay District as shown on the Town of Apex Watershed Protection Overlay Map 2019. The project site does not sit within a designated current or future 100-year floodplain as shown on the Town of Apex Watershed & FEMA Map dated April 2015. FIRM Panel 3720072200J dated May 2, 2006 does not include a floodplain within the property boundary.

### PARKING

Parking for the development shall meet the requirements of UDO Section 8.3.

### PUBLIC FACILITIES:

The proposed PUD shall be designed to comply with the Town's Sewer and Water Master Plan and Standards and Specifications. The development will be served water and sewer by the Town of Apex.

### STORMWATER MANAGEMENT:

The PUD stormwater control devices shall be designed and constructed to exceed UDO standards so that the post development peak runoff does not exceed pre-development peak runoff conditions for the 24-hour, 1 year, 10 year, and 25 year storm events. The development shall meet all stormwater management requirements for quality and quantity treatment in accordance with UDO Section 6.1.

### APEX TRANSPORTATION PLAN/ACCESS and CIRCULATION:

The proposed PUD is consistent with the Apex Transportation Plan and Bicycle Pedestrian System Plan.

- All proposed driveway access and improvements on state-maintained roadways are subject to both Apex and NCDOT review and approval.
- A maximum of one (1) access point shall be proposed on US 64, to be constructed as a left-in/right-in/right-out public street access at the existing median break with a stop-controlled northbound approach with one lane of ingress and one lane of egress and an exclusive eastbound right turn lane with a minimum 100 feet of storage and appropriate deceleration length and taper on US Hwy 64. Improve the median break and construct physical separation between turn lanes to accommodate trucks and prevent both improper left turns and vehicular turning-movement conflicts.
- Construct an exclusive eastbound U-turn median break on US Hwy 64, approximately halfway between the site access at the existing median break and Kellyridge Drive including a U-turn lane with a minimum of 100 feet of storage and appropriate deceleration length and taper. If the eastbound Uturn lane is removed from the existing median break location to the west, extend the storage to 150 feet at this location.
- Consistent with the Transportation Plan Thoroughfare and Collector Street Map, Chanticlair Drive shall be extended westward as a Major Collector Street with a minimum 60-foot right-of-way, consistent with Town Standards.
- No residential driveways shall be permitted on existing or future Major Collector Street(s).
- Rothwood Way shall be extended north and stubbed to the southernmost property line of PIN 0722850629. Homes located on Rothwood Way shall take driveway access from Rothwood Way.
- The extension of Chanticlair Drive shall be constructed concurrently with the project but shall remain closed to traffic between Yellowbridge and Abbington subdivisions until such time that the 50<sup>th</sup> CO is approved for Yellowbridge. The form of closure shall be noted on the subdivision plan and subject to Town staff approval.



• Potential Access Points shown on the Conceptual Site Plan and Conceptual Utility Plan (C100) are not shown in exact locations but show required connections. Connections may only be removed from the subdivision connectivity requirements of the PUD if the developer shows to the satisfaction of the Planning Director, in consultation with the Technical Review Committee (TRC), that the construction of the connection would be impractical based on environmental conditions found in the field at the time of Master Subdivision Plan approval.

### ENVIRONMENTAL ADVISORY BOARD:

The Apex Environmental Advisory Board (EAB) held a pre-application meeting for this rezoning on February 17, 2022. The zoning conditions suggested by the EAB are listed below along with the applicant's response to each condition.

EAB Suggested Condition	Applicant's Response
Solar conduit shall be included in building designs.	Added
Pet waste stations shall be installed.	Added
Include landscaping that requires less irrigation and chemical use.	Added
o Plant warm season grasses for drought-resistance.	
Increase the number of native hardwood species planted to 3.	Added
Increase design storm pre- and post-attenuation requirement to include the 25-year storm.	Added
Install solar PV systems to 50 homes with a minimum 4 kilowatts DC power rating (approximately 12 panels).	Not added; Applicant has committed to affordable housing.
<ul> <li>Install signage near environmental sensitive areas in order to:</li> <li>Reduce pet waste near SCM drainage areas.</li> <li>Eliminate fertilizer near SCM drainage areas.</li> </ul>	Added
<ul> <li>Increase biodiversity.</li> <li>Plant pollinator-friendly flora.</li> <li>Plant native flora (Refer to the Apex Design &amp; Development Manual for approved native species).</li> </ul>	Added
<ul> <li>Implement green infrastructure.</li> <li>Provide diverse and abundant pollinator and bird food sources (e.g. nectar, pollen, and berries from blooming plants) that bloom in succession from spring to fall.</li> <li>Plant warm season grasses to reduce irrigation.</li> </ul>	Added
Add information signage or other marking at the boundary of lots when they are adjacent to a wooded or natural condition resource conservation area (RCA) indicating that the area beyond the sign is RCA and is not to be disturbed.	Not added; Property irons are in place to mark the property boundaries and it is the homeowner's responsibility to know where their boundaries are located.
Apply for green building certifications, such as LEED, Energy Star, BREEAM, Green Globes, NGBS Green, or Green Guard.	Not added; Each builder has their own certification process. They offer Energy Star, SEER ratings, or other ratings. Having a builder with

## STAFF REPORT

Rezoning #22CZ06 Yellowbridge PUD

September 13, 2022 Town Council Meeting



EAB Suggested Condition	Applicant's Response
	a focus on one energy efficiency program over another or changing their certification after the zoning approval could cause an issue.
Include International Dark Sky Association compliance standards.	Added
<ul> <li>Outdoor lighting shall be shielded in a way that focuses lighting to the ground.</li> </ul>	
<ul> <li>Lighting that minimizes the emission of blue light to reduce glare shall be used.</li> </ul>	
• Lighting with a color temperature of 3000K or less shall be used for outside installations in non-residential use cases.	
Add a zoning condition which minimizes tree clearing, installation of	Added
an SCM, or infrastructure in any zone of the riparian buffer, except as	
necessary for the installation of Town of Apex utilities.	
Add a zoning condition that indicates that species native to the	Added
eastern US shall be used to meet the landscaping requirements for	
Section 8.2 of the UDO up to 75-80%.	

### PARKS, RECREATION, AND CULTURAL RESOURCES ADVISORY COMMISSION:

The Parks, Recreation, and Cultural Resources Advisory Commission reviewed the Yellowbridge PUD project at their April 27, 2022 meeting. The Commission made a recommendation for a fee-in-lieu of dedication for a maximum of 50 single-family detached units and 110 single-family attached units. The recommendation is based on the current 2022 fee rate of single-family detached units for \$3,753.89 and single-family attached units for \$2,528.25. The total residential fee in lieu per current unit count is \$465,802.

### PLANNING BOARD RECOMMENDATION:

The Planning Board held a Public Hearing on July 11, 2022 and by a vote of 4-3 recommended approval of the rezoning with the following additional condition offered by the applicant: "6' opaque privacy fence shall be installed by developer along inside of the buffer along southern property line." The reason for the dissenting vote was due to:

- 1. No clear community entry and exist design from Us 64. Only existing driveway to be used as construction access which may not hold weight of construction trucks and equipment. Using this driveway goes over the stream as construction access will affect the environment with all construction debris.
- 2. Scale and proportion of lot widths and sizes of homes are not gradual. There needs to be a transition from Sweetwater community to the west lots are tighter, to Abbington and Stratford community wider lots; bigger homes.
- 3. Insufficient space in elementary and high schools.
- 4. Chanticlair Road connection may become "beltway" with traffic holdup from construction trucks in and out on US 64 Highway.



One Planning Board member agreed with #1-#3. Another Planning Board member agreed with #1-#4; also, the developer should continue to work with neighbors as was done for Morris Tract, but neighbors need to come up with a more cohesive ask.

### PLANNING STAFF RECOMMENDATION:

Planning staff recommends approval of Rezoning #22CZ06 Yellowbridge PUD as proposed by the applicant.

### ANALYSIS STATEMENT OF THE REASONABLENESS OF THE PROPOSED REZONING:

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

The 2045 Land Use Map designates the subject properties as Medium Density Residential. The residential portion of the proposed rezoning to Planned Unit Development-Conditional Zoning (PUD-CZ) is consistent with that Land Use Map designation. The proposed rezoning also includes a commercial uses in an area adjacent to US 64 Highway West. If the properties are rezoned as proposed, the 2045 Land Use Map will automatically be amended to Medium Density Residential and Commercial Services per NCGS 160D-605(a).

Approval of the proposed rezoning is reasonable and in the public interest because it will provide a transition between higher and lower residential densities, while providing commercial development along US 64 Highway. The proposed rezoning also provides additional environmental conditions and a minimum of two affordable housing units.

Since the July 26, 2022 Town Council Meeting, the applicant met with neighbors on August 11, 2022 and then made the following changes:

- Additional single-family architectural zoning conditions have been added.
- An increased streetscape buffer from a 10' Type A buffer to an 18' Type A buffer is provided along Chanticlair Drive to the intersection of Chanticlair Drive and the US 64 Highway access road.
- A zoning condition was added to require a brick/stone landscaping wall along the north side of Chanticlair Drive.
- At the July 11, 2022 Planning Board, the applicant added a zoning condition requiring a 6' opaque privacy fence along inside of the buffer along southern property line. Based on neighborhood feedback, the applicant is proposing to remove the zoning condition of the proposed minimum six foot tall opaque privacy fence along the north edge of the 50' Type A buffer along the southern property line from the northwest corner of PIN 0722645333 to the northeast corner of PIN 072274131 and the southern property line from the northeast.

# PLANNED UNIT DEVELOPMENT DISTRICT AND CONDITIONAL ZONING STANDARDS: *Standards*

In return for greater flexibility in site design requirements, Planned Development (PD) Districts are expected to deliver exceptional quality community designs that preserve critical environmental resources; provide high quality community amenities; incorporate creative design in the layout of buildings, Resource Conservation Area and circulation; ensure compatibility with surrounding land uses and neighborhood



character; provide high quality architecture; and provide greater efficiency in the layout and provision of roads, utilities, and other infrastructure. The Planned Development (PD) Districts shall not be used as a means of circumventing the Town's adopted land development regulations for routine developments.

1. Planned Unit Development (PUD-CZ) District

In approving a Planned Development (PD) Zoning District designation for a PUD-CZ, the Town Council shall find the PUD-CZ district designation and PD Plan for PUD-CZ demonstrates compliance with the following standards:

- a) Development parameters
  - (i) The uses proposed to be developed in the PD Plan for PUD-CZ are those uses permitted in Sec. 4.2.2 *Use Table.*
  - (ii) The uses proposed in the PD Plan for PUD-CZ can be entirely residential, entirely non-residential, or a mix of residential and non-residential uses, provided a minimum percentage of non-residential land area is included in certain mixed use areas as specified on the 2045 Land Use Map. The location of uses proposed by the PUD-CZ must be shown in the PD Plan with a maximum density for each type of residential use and a maximum square footage for each type of non-residential use.
  - (iii) The dimensional standards in Sec. 5.1.3 Table of Intensity and Dimensional Standards, Planned Development Districts may be varied in the PD Plan for PUD-CZ. The PUD-CZ shall demonstrate compliance with all other dimensional standards of the UDO, North Carolina Building Code, and North Carolina Fire Code.
  - (iv) The development proposed in the PD Plan for PUD-CZ encourages cluster and compact development to the greatest extent possible that is interrelated and linked by pedestrian ways, bikeways and other transportation systems. At a minimum, the PD Plan must show sidewalk improvements as required by the Apex Transportation Plan and the *Town of Apex Standard Specifications and Standard Details*, and greenway improvements as required by the Town of Apex Parks, Recreation, Greenways, and Open Space Plan and the Apex Transportation Plan. In addition, sidewalks shall be provided on both sides of all streets for single-family detached homes.
  - (v) The design of development in the PD Plan for PUD-CZ results in land use patterns that promote and expand opportunities for walkability, connectivity, public transportation, and an efficient compact network of streets. Cul-de-sacs shall be avoided unless the design of the subdivision and the existing or proposed street system in the surrounding area indicate that a through street is not essential in the location of the proposed cul-desac, or where sensitive environmental areas such as streams, floodplains, and wetlands would be substantially disturbed by making road connections.
  - (vi) The development proposed in the PD Plan for PUD-CZ is compatible with the character of surrounding land uses and maintains and enhances the value of surrounding properties.
  - (vii) The development proposed in the PD Plan for PUD-CZ has architectural and design standards that are exceptional and provide higher quality than routine developments. All residential uses proposed in a PD Plan for PUD-CZ shall provide architectural elevations representative of the residential structures to be built to ensure the Standards of this Section are met.
- b) *Off-street parking and loading*. The PD Plan for PUD-CZ shall demonstrate compliance with the standards of Sec. 8.3 *Off-Street Parking and Loading*, except that variations from these standards may be permitted if a comprehensive parking and loading plan for the PUD-CZ is





submitted as part of the PD Plan that is determined to be suitable for the PUD-CZ, and generally consistent with the intent and purpose of the off-street parking and loading standards.

- c) *RCA*. The PD Plan for PUD-CZ shall demonstrate compliance with Sec. 8.1.2 Resource Conservation Area, except that the percentage of RCA required under Sec. 8.1.2 may be reduced by the Town Council by no more than 10% provided that the PD Plan for PUD-CZ includes one or more of the following:
  - (i) A non-residential component;
  - (ii) An overall density of 7 residential units per acre or more; or
  - (iii) Environmental measures including but not limited to the following:
    - a. The installation of a solar photovoltaic (PV) system on a certain number or percentage of single-family or townhouse lots or on a certain number or percentage of multifamily, mixed-use, or nonresidential buildings. All required solar installation shall be completed or under construction prior to 90% of the building permits being issued for the approved number of lots or buildings. For single-family or townhouse installations, the lots on which these homes are located shall be identified on the Master Subdivision Plat, which may be amended;
    - b. The installation of a geothermal system for a certain number or percentage of units within the development; or
    - c. Energy efficiency standards that exceed minimum Building Code requirements (i.e. SEER rating for HVAC).
- d) Landscaping. The PD Plan for PUD-CZ shall demonstrate compliance with the standards of Sec. 8.2 Landscaping, Buffering and Screening, except that variations from these standards may be permitted where it is demonstrated that the proposed landscaping sufficiently buffers uses from each other, ensures compatibility with land uses on surrounding properties, creates attractive streetscapes and parking areas and is consistent with the character of the area. In no case shall a buffer be less than one half of the width required by Sec. 8.2 or 10 feet in width, whichever is greater.
- e) Signs. Signage in the PD Plan for PUD-CZ shall demonstrate compliance with Sec. 8.7 Signs, except that the standards can be varied if a master signage plan is submitted for review and approval concurrent with the PD plan and is determined by the Town Council to be suitable for the PUD-CZ and generally consistent with the intent and purpose of the sign standards of the UDO. The master signage plan shall have design standards that are exceptional and provide for higher quality signs than those in routine developments and shall comply with Sec. 8.7.2 *Prohibited Signs*.
- f) *Public facilities.* The improvements standards and guarantees applicable to the public facilities that will serve the site shall comply with Article 7: *Subdivision and* Article 14: *Parks, Recreation, Greenways, and Open Space.* 
  - (i) The PD Plan for PUD-CZ demonstrates a safe and adequate on-site transportation circulation system. The on-site transportation circulation system shall be integrated with the off-site transportation circulation system of the Town. The PD Plan for PUD-CZ shall be consistent with the Apex Transportation Plan and the *Town of Apex Standard Specifications and Standard Details* and show required right-of-way widths and road sections. A Traffic Impact Analysis (TIA) shall be required per Sec. 13.19.
  - (ii) The PD Plan for PUD-CZ demonstrates a safe and adequate on-site system of potable water and wastewater lines that can accommodate the proposed development, and are efficiently integrated into off-site potable water and wastewater public improvement plans. The PD Plan shall include a proposed water and wastewater plan.



- (iii) Adequate off-site facilities for potable water supply, sewage disposal, solid waste disposal, electrical supply, fire protection and roads shall be planned and programmed for the development proposed in the PD Plan for PUD-CZ, and the development is conveniently located in relation to schools and police protection services.
- (iv) The PD Plan shall demonstrate compliance with the parks and recreation requirements of Sec. Article 14: *Parks, Recreation, Greenways, and Open Space* and Sec. 7.3.1 *Privately-owned Play Lawns* if there is a residential component in the PUD-CZ.
- g) Natural resource and environmental protection. The PD Plan for PUD-CZ demonstrates compliance with the current regulatory standards of this Ordinance related to natural resource and environmental protection in Sec. 6.1 Watershed Protection Overlay District, Sec. 6.2 Flood Damage Prevention Overlay District, and Sec. 8.1 Resource Conservation.
- h) *Storm water management.* The PD Plan shall demonstrate that the post-development rate of on-site storm water discharge from the entire site shall not exceed pre-development levels in accordance with Sec. 6.1.7 of the UDO.
- i) *Phasing.* The PD Plan for PUD-CZ shall include a phasing plan for the development. If development of the PUD-CZ is proposed to occur in more than one phase, then guarantees shall be provided that project improvements and amenities that are necessary and desirable for residents of the project, or that are of benefit to the Town, are constructed with the first phase of the project, or, if this is not possible, then as early in the project as is technically feasible.
- j) *Consistency with 2045 Land Use Map.* The PD Plan for PUD-CZ demonstrates consistency with the goals and policies established in the Town's 2045 Land Use.
- k) *Complies with the UDO.* The PD Plan for PUD-CZ demonstrates compliance with all other relevant portions of the UDO.

### CONDITIONAL ZONING STANDARDS:

The Town Council shall find the PUD-CZ designation demonstrates compliance with the following standards. 2.3.3.F:

### **Legislative Considerations**

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

- 1) *Consistency with 2045 Land Use Map.* The proposed Conditional Zoning (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.



PLANNED	UNIT DEVELOPMENT APPLICATION				
This docume third parties.	nt is a public record under the North Carolina Public	Records Ac	t and may be published o	on the Town's websit	te or disclosed to
Application		_	Submittal Date:		evised June 10, 2022
Fee Paid	\$	_	Check #	Revised Septe	mber 2022
<b>PETITION</b>	TO AMEND THE OFFICIAL ZONING DISTRIC	Τ ΜΑΡ			
Project Nar	<sub>ne:</sub> Yellowbridge				
Address(es	): 2813 and 2817 US 64 Hwy W	V			
PIN(s) C	722743789 and 0722752304				
_				Acreage: 4	8.24 acres
Current Zoi	ning: Rural Residential (RR)	Propo	osed Zoning: Planne	d Unit Development- Con	ditional Zoning (PUD-CZ)
Current 204	45 LUM Designation: Medium Der	nsity Res	sidential		
Is the prop	osed rezoning consistent with the 2045 LUM	Classificat	tion(s)? Yes 🗆	No	(Due exclusively to the commercial uses along US-64)
If any port	ion of the project is shown as mixed use (3 o	r more stri	ipes on the 2045 Land	d Use Map) provid	le the following:
Ar	ea classified as mixed use:		Acreage:	N/A	
Ar	ea proposed as non-residential development	:	Acreage:	N/A	
Pe	rcent of mixed use area proposed as non-res	idential:	Percent:	N/A	
Applicant I	nformation				
Name:	Lennar Carolinas, LLC c/o Matth	ew Car	penter		
Address:	301 Fayetteville Street, Suite 140	00			
City:	Raleigh	State:	NC	Zip:	27601
Phone:	(919) 835-4032	E-mail:	matthewcarpe	nter@parkerp	oe.com
Owner Info	prmation				
Name:	Yellowbridge Capital, LLC				
Address:	113 Mill Point Road				
	Kitty Hawk	State:	NC	Zini	27949-4082
City: Phone:				Zip:	
		E-mail:			
Agent Info		_			
Name:	Lennar Carolinas, LLC attn. Tucker Ennis				
Address:	1100 Perimeter Park Drive, Suite	e 112			
City:	Morrisville	State:	NC	Zip:	27560
Phone:	(919) 835-4032	E-mail: tucker.ennis@lennar.com			
Other cont	acts:				

### PLANNED UNIT DEVELOPMENT APPLICATION

Application #:

22CZ06

Submittal Date:

March 1, 2022

### PLANNED UNIT DEVELOPMENT DISTRICT STANDARDS:

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

### **LEGISLATIVE CONSIDERATIONS - CONDITIONAL ZONING**

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

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

The property is designated as Medium Density Residential on the Land Use Map ("LUM") which contemplates both single-family detached homes and townhomes with densities up to 6 units an acre. Medium Density Residential developments are intended to provide a transition from more urbanized areas of Apex to lower density neighborhoods. The PUD contemplates a mix of single-family detached homes and townhomes at an overall density of approximately 3.2 units/acre, well within the LUM's suggested density. Additionally, the denser townhomes will provide a density transition between US-64, future commercial uses fronting 64, and lower density single-family detached homes to the south. Accordingly, the proposed PUD is consitent with the LUM designation and the Town of Apex Comprehensive Plan (the "Comp Plan") as a whole.

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 overall density proposed by the PUD is consistent with existing residential development in this area. Lot types have been strategically located (single-family detached homes on large lots located adjacent to the Abbington neighborhood) to ensure compatibility with the existing Abbington neighborhood to the south and east. A 50-foot planted buffer has also been provided along the southern property line to maintain a level of privacy for homeowners adjacent to the south. Further, architectural conditions in the PUD text will help ensure high quality construction adn compatibility with the character of the surrounding area.

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

The PUD will comply with Supplemental Standards in UDO Section 4.4, to the extent they are applicable.

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### **PETITION PROCESS INFORMATION**

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

As shown on the Concept Plan, the proposed development will include several transportation improvements that will improve connectivity including the extension of Chanticlair Drive which currently stubs to the edge of the Abbington neighborhood, and a direct US-64 access point that will serve the proposed development and the Abbington Neighborhood. As stated above, the project has been designed to ensure compatibility of land uses and includes several buffers to help minimize adverse impacts.

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 property is located within the Beaver Creek Drainage Basin and is thus within the Primary Watershed Protection Overlay District as shown on the Town of Apex Watershed Protection Map. This PUD will comply with all built upon area, vegetated conveyances, structural SCMs and riparian stream buffer requirements of UDO Section 6.1.7. The PUD will provide at least 30% Resource Conservation Area ("RCA") as required by the UDO. The PUD text also offers environmental commitments which include planting of drought resistant warm grasses, planting of at least four native hardwood tree species, and implementation of stormwater control devices that exceed UDO requirements.

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.

As discussed above, the proposed development will include several traffic improvements. Water and sewer services are available to the site and the proposed development will not have adverse impacts on potable water and wastewater facilities, parks, schools, police, fie, or 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.

The proposed PUD will improve the public health, safety, and welfare by providing a mix of housing types in a location convenient to existing restaurants, retail, and Town services.

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

The proposed residential use is consistent with existing residential development in the area. As discussed above, the Concept Plan has been designed to mitigate adverse effects on adjacent properties.

### **PETITION PROCESS INFORMATION**

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

The proposed residential use is consistent with existing residential development in the area. As discussed above, the Concept Plan has been designed to mitigate adverse effects on adjacent properties.

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

The PUD will be governed by the regulations contained in the attached PUD Text and Concept Plan. The PUD will comply with all other regulations of the UDO to the extent they do not conflict with the PUD regulations.

### **DEVELOPMENT NAME APPROVAL APPLICATION**

Application #: 22CZ06

Submittal Date:

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

Description of location: 2813 and 2817 US 64 Hwy W

Nearest intersecting roads: US 64 Hwy W and Kellyridge Dr.

Wake County PIN(s): 0722743789 and 0722752304

Township: White Oak

**Contact Information (as appropriate)** 

contact mornation (as appropriate)					
Contact person:Lennar Carolinas, LLC c/o Matthew Carpenter					
Phone number: Fax number:					
Address:					
E-mail address:matthewcarpenter@parkerpoe.com					
Owner:Yellowbridge Capital, LLC					
Phone number: Fax number:					
Address: 113 Mill Point Road, Kitty Hawk, NC, 27949-4082					
E-mail address:					
Proposed Subdivision/Development Name					
1 <sup>st</sup> Choice: Yellowbridge					
2 <sup>nd</sup> Choice (Optional):					

Town of Apex Staff Approval:

Town of Apex Planning Department Staff

Date

Application #: 22CZ06

Submittal Date:

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

### WAKE COUNTY, NORTH CAROLINA CUSTOMER SELECTION AGREEMENT

2813 and 2817 US 64 Hwy W

(the "Premises")

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

Yellowbridge Capital, LLC

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

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

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

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

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

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

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

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AC	LЕ	<b>F</b> I	E	J.

CUSTON	IER:	TOWN OF APEX
BY:	Tucker Ennis	BY:
-	Authorized Agent	Authorized Agent
DATE:	3/1/2022	DATE:

Agen	T <b>A</b> UTHORIZATI	ION FORM			
Applic	ation #:	22CZ06	Submittal Date:	Submittal Date:	
Yellowb	ridge Capital, Ll	LC	is the owner* of the property	for which the attached	
applica	tion is being sul	bmitted:	•		
	Land Use Am	nendment			
	a		ned Dèvelopment rezoning applica consent to zoning conditions that a oplication is approved.		
	Site Plan				
	Subdivision		· •		
	Variance				
	Other:			·····	
The pro	perty address i	is: 2813 and 2817 US 64	Hwy W, Apex, NC, 27523		
The age	ent for this proje	ect is:			
	🗆 I am the d	owner of the property and will	be acting as my own agent		
Agent Name: Tucker Ennis					
Address: 1100 Perimeter Par		1100 Perimeter Park Drive,	Suite 112, Morrisville, NC 27560		
Telephone Number: (		(919) 835-4032			
E-Mail Address: tucker.ennis@lennar.com					
		Signature(s) of Owner(s)*			
Sound Monach					
as agent for Yellowbridge Capital, LLC 2/24/				2/24/22	
			Type or print name	Date	
		GERALD L. H	ORNick	, <b>/</b>	
			Type or print name	2/24/22 Date	

Attach additional sheets if there are additional owners.

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\*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.

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Planned Unit Develoment-Conditional Zoning Application

Last Updated: August 30, 2019

### **AFFIDAVIT OF OWNERSHIP**

Application #: 22CZ06

Submittal Date:

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

 Affiant is over eighteen (18) years of age and authorized to make this Affidavit. The Affiant is the sole owner, or is the authorized agent of all owners, of the property located at <u>2813 and 2817 US 64 Hwy W</u> and legally described in Exhibit "A" attached hereto and incorporated herein (the "Property").

- 2. This Affidavit of Ownership is made for the purpose of filing an application for development approval with the Town of Apex.
- 3. 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).
- 4. To Affiant's knowledge, no claim or action has been brought against the owners of the property which questions title or right to possession of the property, nor is any claim or action pending against Affiant or owner(s) in court regarding possession of the Property.

This the 25th day of FEBRUARY, 2022.

**Tucker Ennis** 

# STATE OF NORTH CAROLINA

I, the undersigned, a Notary Public in and for the County of <u>Duran</u> hereby certify that <u>Tuckev Emis</u>, Affiant, personally known to me or known to me by said Affiant's presentation of said Affiant's \_\_\_\_\_\_, personally appeared before me this day and acknowledged the due and voluntary execution of the foregoing Affidavit.

Elesabeth Warren

Notary Public State of North Carolina My Commission Expires: June 18, 2024

ELISABETH WARREN Notary Public, North Carolina Durham County My Commission Expires June 18, 2024

[NOTARY SEAL]

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Planned Unit Development-Conditional Zoning Application

### <u>Exhibit A</u> To Owner Affidavit for Yellowbridge Rezoning Legal Description

### PIN# 0722752304 & 0722743789

All that certain real property situated in White Oak Township, Wake County, North Carolina, described as follows:

Beginning at a set iron rod on the northern right of way line of Chanticlair Drive, said iron rod marking the southwestern corner of Lot 74 as said lot is shown and so designated on that certain subdivision plat entitled "Windsor at Abbington – Phase 1, Section A, Map 2, Lots 24-27 & 65-74" recorded in Book of Maps 1998, Page 203, Wake County Registry; thence along the northern right of way line of Chanticlair Drive, South 89°37'45" West 280.73 feet to a set iron rod; thence South 00°22'15" East 30.04 feet to a set iron rod at the centerline of the western terminus of Chanticlair Drive and the northeastern corner of the 0.08 acre Reserved Area depicted on that certain subdivision plat entitled "Stratford at Abbington, Phase 1: Lots 1-31, 65-75, Owner: Highway 64, LLC" recorded in Book of Maps 2006, Pages 2638 to 2640, Wake County Registry; thence along the northern and western boundary of said Reserved Area and continuing along the northwestern boundary of said Stratford at Abbington subdivision the following nine courses: (1) South 89°37'45" West 118.01 feet to a set iron rod; (2) South 05°29'21" West 40.93 feet to a set iron rod; (3) South 01°54'29" East 98.00 feet to a set iron rod; (4) South 11°29'28" East 62.80 feet to a set iron rod; (5) South 22°27'50" West 118.06 feet to a found iron pipe; (6) South 70°08'38" West 118.71 feet to a found iron pipe; (7) South 77°30'46" West 65.05 feet to a found iron pipe; (8) South 73°46'05" West 40.75 feet to a found iron pipe; and (9) South 73°28'08" West 311.49 feet to a found iron pipe at an angle point in the northern boundary of Lot 64 as said lot is shown and so designated on that certain subdivision plat entitled "Stratford at Abbington, Phase 2: Lots 32-64, Owner: Highway 64, LLC" recorded in Book of Maps 2008, Pages 33 and 34, Wake County Registry; thence along the northern boundary of said Stratford at Abbington Phase 2 subdivision South 82°16'49" West 758.57 feet to a found iron pipe with cap at the northwestern corner of Lot 56 of said Stratford at Abbington Phase 2 subdivision, said point also being on the eastern boundary of Lot 2 as said lot is shown and so designated on that certain plat entitled "Recombination Survey for Cecil V. Campfield and Wife Sharon K. Campfield" recorded in Book of Maps 1995, Page 334, Wake County Registry; thence along the eastern boundary of said Campfield plat the following two courses: (1) North 03°08'59" East 417.75 feet to a found bent iron pipe; and (2) North 03°12'21" East 406.54 feet to a found iron pipe with cap at the southeastern corner of Lot 'A' as said lot is shown and so designated on that certain plat entitled "Recombination for Joel V. Perry" recorded in Book of Maps 1985, Page 522, Wake County Registry; thence along the eastern boundary of said Perry plat North 03°11'42" East 841.95 feet to a found iron rod with cap on the southern right of way line of U.S. Highway 64; thence along said southern right of way line North 82°54'26" East 331.57 feet to a set iron rod at the northwestern corner of the parcel depicted on that certain plat entitled "Boundary Survey, Property of Calvin Mills, Prepared for David and Sharon Raymer" recorded in Book of Maps 2004, Page 698, Wake County Registry; thence along the western, southern and eastern boundary of said Mills plat the following three courses: (1) South 07°08'43" East 189.52 feet to a found iron pipe; (2) North 82°51'17" East 420.02 feet to a found iron pipe; and (3) North 07°08'43" West 189.14 feet to a set iron rod on the southern right of way line of U.S. Highway 64; thence along said southern right of way line the following two courses: (1) North 82°54'26" East 265.68 feet to a set iron rod; and (2) North 82°53'08" East 305.02 feet to a set iron rod at the northwestern corner of Area "B" as shown and so designated on that certain plat entitled "Property of Blakely-Braswell Land Company, LLC" recorded in Book of Maps 1996, Page 634, Wake County Registry; thence along the western boundary of said Area "B", South 11°47'52" West 42.58 feet to a found iron pipe with cap at the northwestern corner of Tract 'A' as said lot is shown and so designated on that certain plat entitled "Property of Calvin E. Mills, Alta Belle P. Mills, Ted Mills & Randy Mills By William R. Hoke & Paul Stam, Jr., Co-trustees" recorded in Book of Maps 1984, Page 404, Wake County Registry; thence along the western and southern boundaries of said Mills plat the following five courses: (1) South 07°43'26" West 146.44 feet to a found iron pipe with cap; (2) South 03°03'23" East 318.20 feet to a found iron pipe with cap; (3) South 05°04'48" West 519.04 feet to a found iron pipe with cap; (4) South 15°45'44" West 60.82 feet to a found iron pipe with broken cap; and (5) South 89°57'43" East 359.26 feet to a found iron pipe with cap on the western boundary of Lot 73 of the previously mentioned Windsor at Abbington subdivision plat recorded in Book of Maps 1998, Page 203, Wake County Registry; thence along the western boundary of said Windsor at Abbington subdivision South 02°25'07" East 148.61 feet to the point of beginning.

Containing 48.2331 acres, more or less, and being all of Lot "B" as said lot is shown and so designated on that certain plat entitled "Subdivision, Property of Gaither Bryant Garner, Jr. and Gerald L. Hornick" recorded in Book of Maps 1984, Page 1516, Wake County Registry, TOGETHER WITH all of Tract 1 as said tract is shown and so designated on that certain plat entitled "Division for Gerald L. Hornick, et ux and G. Bryant Garner, et ux" recorded in Book of Maps 2003, Page 474, Wake County Registry, LESS AND EXCEPT the area dedicated as public right of way for Chanticlair Drive as recorded in Deed Book 11778, Page 1490, Wake County Registry.



	ake County Reside	Wake County Residential Development Notification	Please complete each
			section of this form and
	Developer Company Information	y Information	submit with volir
Company Name	Lennar Carolinas, LL	Q	application
Company Phone Number	c/o Matthew Carpenter, 919-835-4032	ter, 919-835-4032	
Developer Representative Name			Town of Anex staff will
Developer Representative Phone Number			enter this information
Developer Representative Email	matthewcarpenter@parkerpoe.com	parkerpoe.com	into the online W/CDSS
Z	New Residential Subdivision Information	sion Information	
Date of Application for Subdivision		unknown, Rezoning submittal 3/1/2022	Please send any questions
City, Town or Wake County Jurisdiction		Town of Apex	about this form to:
Name of Subdivision		Yellowbridge	studentassignment-gis-
Address of Subdivision (if unknown enter nearest cross streets)	earest cross streets)	2813 & 2817 US 64 West	group@wcpss.net
REID(s)			
(s)NIL			
P		U/22/43/09 and U/22/32304	

ubdivision Co	ubdivision Completion Date							2026									
Subdivision Pr	Subdivision Projected First Occupancy Date	cupancy	Date					2026									
					Lot	t by Lot	t Develd	ppment //	by Lot Development Information	nq							
Unit Type	Total # of Units	Senior Living	oibut2	1 Bedroom	2 Bedroom	3 Bedroom	4 Bedroom	Square Foot Range	e Foot Ige	Price I	Price Range	4	Anticipated Completion Units & Dates	d Comple	etion Unit	ts & Date	SS
								Min	Мах	Low	High	Year	# Units	Year	# Units	Year	# Units
Single Family	<u>37</u>									unknown	own	2026					
Townhomes	<u>119</u>									unknown	own	2026					
Condos																	
Apartments																	

**Projected Dates Information** 

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# Revised 08/10/2018

Other

# NOTICE OF ELECTRONIC NEIGHBORHOOD MEETING

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

February 7, 2022

### Date

**Dear Neighbor:** 

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

2813 and 2817 US 64 Hwy W

Address(es)

PIN(s)

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

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

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

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

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

The applicant is proposing to rezone the property to Planned Unit Development - Conditional Zoning District to

facilitate the development of single-family detached homes and townhomes. Additional information

will be provided at the meeting.

Estimated submittal date: March 1, 2022

MEETING INFORMATION: Property Owner(s) name(s):	Yellowbridge Capital, LLC
Applicant(s):	Lennar Carolinas, LLC c/o Matthew Carpenter
Contact information (email/phone	e): _matthewcarpenter@parkerpoe.com; (919) 835-4032
Electronic Meeting invitation/call info:	in See attached
Date of meeting**:	February 23, 2022
Time of meeting**:	6:00 PM
MEETING AGENDA TIMES: Welcome: <sup>6:00 PM</sup> Proje	ct Presentation: between 6:00 - 8:00 PM Question & Answer: between 6:00 - 8:00 PM

http://www.apexnc.org/180/Planning.

Project Presentation: \_\_\_\_\_\_

\*\*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

Page 3 of 9

- Page 215 -Instruction Packet & Affi Neighborhood Meetings

### February 7, 2022

### **Re: Notice of Virtual Neighborhood Meeting**

Neighboring Property Owners:

You are invited to attend a neighborhood meeting on February 23, 2022 from 6–8pm. The purpose of the meeting is to discuss an upcoming application to rezone two parcels of land located at 2813 US 64 Hwy W (PIN 0722743789) and 2817 US 64 Hwy W (PIN 0722752304) (collectively, the "Property"). The Property is currently zoned Rural Residential (RR), and is proposed to be rezoned to Planned Unit Development-Conditional Zoning (PUD-CZ).

The applicant is proposing a rezoning to Planned Unit Development Conditional Zoning (PUD-CZ) for the development of single-family detached homes and townhomes. During the meeting, the applicant will describe the nature of this rezoning request and field any questions from the public. Enclosed are: (1) a vicinity map outlining the location of the subject parcel; (2) a zoning map of the subject area; (3) a preliminary concept plan of the Planned Unit Development; (4) a project contact information sheet; and (5) a common construction issues & who to call information sheet.

The meeting will be held virtually. You can participate online via Zoom or by telephone. To participate in the Zoom online meeting:

Visit:	https://zoom.us./join
Enter the following meeting ID:	889 8258 3077
Enter the following password:	057493
To participate by telephone:	
Dial:	1 929 205 6099
Enter the following meeting ID:	889 8258 3077 #
Enter the Participant ID:	#
Enter the Meeting password:	057493 #

If you have any questions about this rezoning, please contact me at (919) 835-4032 or via email at <u>matthewcarpenter@parkerpoe.com</u>.

Thank you,

Matthew Carpenter

# **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: Yellowbridge		Zoning:
Location: 2813 and 2817 US 64 Hw	y W	
Property PIN(s): 0722743789 and 07227523	<sup>04</sup> Acreage/Square Feet:	48.24 acres
Property Owner: Yellowbridge Capital,	, LLC	
Address: 301 Fayetteville Street, Sui	ite 1400	
City: Raleigh	State: NC	Zip: 27601
Phone: (919) 835-4032 En	nail: matthewcarpenter	@parkerpoe.com
Developer:		
Address: 113 Mill Point Road		
City: Kitty Hawk	State: NC	Zip: 27949-4082
Phone: Fax:	n/a En	nail:
Engineer:		
Address: 1100 Perimeter Park Drive	, Suite 112	
City: Morrisville	State: NC	Zip: _27560
Phone: (919) 835-4032 Fax:	n/a En	nail: tucker.ennis@lennar.com
Builder (if known): Same as Develope	r	
Address:		
City:	State:	Zip:
Phone: Fax:	Er	nail:

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

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

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

	Time of meeting: 6:00 PM		
Meeting Format: Online via zoom	Date of meeting: February 23, 2022	Property Owner(s) name(s): Yellowbridge Capital, LLC	innar Carolinas
Meeting Format:	Date of meeting:	Property Owner(	Applicant(s): Lennar Carolinas

Please list Electronic Neighborhood Meeting Attendees who provided their name and/or contact information either during the meeting or via phone/email before or after the meeting.

		NAME/ORGANIZATION	ADDRESS	PHONE #	EMAIL	SEND PLANS & UPDATES
	1	See attached attendance list				
	2.					
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- Page	4.					
218 -	5.					
]	9.					
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	10.					
	11.					
	12.					
	13.					
	14.					
-	Use	Use additional sheets, if necessary.				

### Yellowbridge PUD Neighborhood Meeting Sign-In Sheet February 23, 2022

Walton Norman Tommy and Cheryl Russell Brant Gifford Brian Carlson Gerald Hornick Rhonda Riley Lisa Gerboth Claire Johns Jen Curtis-Maury Suzanne Bailey **Steve Ritchie** Lauren Colvard Steve Smith David Risk Mark Vermette **Teresa Messier** Sharon Hershkowitz CJ Bottitta Joe Logan Debra Becker Sharon Putney Bob Zumwalt Scott Fast Jeremy Brewer Kate Macdonnel Chip Allen Alex Richbourg Lisa Nelson **Polly Petrino** Jason Hornick Katherine Coutros Matt Lauffer Tom Colhoun Sachin Sheth Julie Robertson Kari Hughes Heather Galeotti Jim Logsdon Melanie Schuller Kara Fleshman Carolyn Bentley Mike Hershk **Bob** Gibbons Kathryn Finnan

Matt Bond Jay Vora Adam Orentlicher Albert Paz Stephanie White Joe Schmidtke Michele Hemric Robert Kovarik Brett Fleshman Bob Atkinson

\*Contact information was received but has been redacted for filing

### SUMMARY OF DISCUSSION FROM THE ELECTRONIC NEIGHBORHOOD MEETING

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

Property Owner(s) name(s): <u>Yellowbridge Capital, LL</u>	.C
Applicant(s): Lennar Carolinas	
Contact information (email/phone):	
Meeting Format: Online via zoom	
Date of meeting: February 23, 2022	Time of meeting: 6:00 PM

Please summarize the questions/comments and your response from the Electronic Neighborhood Meeting in the spaces below (attach additional sheets, if necessary). Please state if/how the project has been modified in response to any concerns. The response should not be "Noted" or "No Response". There has to be documentation of what consideration the neighbor's concern was given and justification for why no change was deemed warranted.

Question/Concern #1: General questions/concerns about the ponds

Applicant's Response	The plan is to drain both of the ponds. The ponds are both old farm ponds and the dam of one of the ponds is unreliable due to tree growth. Although we do not think the ponds are jurisdictional, we are waiting on a final determination from the Army Corps of engineers as to whether the ponds are jurisdictional. If they are jurisdictional, we will have to reevaluate our current plans.
C	everal questions/concerns related to the single family detached homes facing Rothwood Way. ould you move these homes to another area on the site? Could you increase the buffer between ne homes and the gas easement?
Applicant's Response	: We are looking at the possibility of moving the homes slightly to the west to enlarge the buffer between the homes and the gas easement. The goal of placing larger lot single-family homes in this location was to ensure compatibility with Abbington.
	here will the neighborhood signs be located? Will there be a neighborhood entrance sign near othwood Way?
Applicant's Response	2: Lennar typically has a monument sign at the entrance of the subdivision. Although the final location of signs will be determined at site plan, we anticipate there to only be one monument sign located at the US-64 entrance to the development.
	eneral traffic concerns and other specific traffic questions. Concerns related to residents of the roposed development cutting through Abbington to get to Beaver Creek
Applicant's Response	We anticipate that most residents will use the US-64 entrance/exit and expect it will also be a benefit for Abbington residents. We are in the process of completing a Traffic Impact Analysis which will take into account existing traffic and new traffic from the proposed development, and recommend road improvements if necessary.

Instruction Packet & Affi

### Notice List for Neighborhood Meeting

	RALEIGH NC 27614-8837		DALEICH NC 37603 1660																																																								
	11010 RAVEN RIDGE RD	APEX NC 27502-4308	APEX NC 27502-4318 727 W UAPGETT ST STE 100	727 VY FIANGETT ST STE TUS APEX NO 27502-4318	APEX NC 27502-9642	APEX NC 27502-4310	APEX NC 27502-9642	APEA NU 27502 0644	APEX NC 27502-4308	APEX NC 27502-4311	APEX NC 27502-9619	APEX NC 27502-4308	APEA NC 2/502-4315 ADEV NC 27502 0545	AFEX NO 27502-4309	APEX NC 27502-9642	APEX NC 27502-4310	APEX NC 27502-9644	APEX NC 27502-9729	APEX NC 27502-4317	AFEA NO 27502-3044	APEX NC 27502-4309	APEX NC 27502-4308	APEX NC 27502-4318	APEX NC 2/502-4310 APEX NC 27502 4300	APEX NC 27502-4309	APEX NC 27502-4308	APEX NC 27502-9646	APEX NC 27502-9621	AFEA NG 27502-7803 APEX NG 27502-7803	APEX NC 27502-4316	APEX NC 27502-4309	APEX NC 27523-7803	APEX NC 27502-4311	CARY NC 2/519-5011	APEX NC 27502-4316	APEX NC 27502-9621	APEX NC 27502-4308	APEX NC 2/502-4316 APEX NC 27502 9643	AFEA NO 27502-8043 APEX NO 27502-4318	APEX NC 27502-9645	APEX NC 27502-4308	APEX NC 27502-4310	APEX NC 27502 4311 APEX NC 27502 4315	APEX NC 27502-4309	RALEIGH NC 27603-1408	CARY NC 27513-5616	APEXING 27502-9621 CAPVING 27513-8636	APEX NC 27502-4317	APEX NC 27502-4310	APEX NC 27502-4309	SILVER SPRING MD 20910-1265 SILVEP SPPING MD 20040-1265	APEX NC 27502-2325	APEX NC 27502-9642	KITTY HAWK NC 27949-4082 ADEX NC 27502-1309	AFEX NC 27502-0250	APEX NC 27502	APEX NC 27502 APEX NC 27502	APEX NC 27523	
MAILING ADDESS	PPM INC OF RALEIGH	1113 ROTHWOOD WAY	2617 BRYANT POND LN MATHEL PUSSELL TRUSTEE	2605 REVANT POND I NUSIEE	101 TIMBERLEA CT	2599 BRYANT POND LN	103 TIMBERLEA CT	2012 I MAKEN FOREST UR 502 I VAIDENIDI IDV DD		2598 BRYANT POND LN	308 LYNDENBURY DR	1125 ROTHWOOD WAY	2000 LIMKEN FOREST UR		100 TIMBERLEA CT	2575 BRYANT POND LN	501 LYNDENBURY DR	405 CHANTICLAIR DR	2628 BRYANT POND LN	2003 LTINDENBORT UR 2654 TIMKEN FOREST DR	1132 ROTHWOOD WAY	1107 ROTHWOOD WAY	2611 BRYANT POND LN		1120 ROTHWOOD WAY	1131 ROTHWOOD WAY	404 CHANTICLAIR DR	112 LANGSHIRE CT	405 LYNDENBURY UK 1101 GOLLATH I N	2671 TIMKEN FOREST DR	1140 ROTHWOOD WAY	1105 GOLIATH LN	2592 BRYANT POND LN	7231 CARPENTER FIRE STATION RU 7231 CADDENTED FIDE STATION PD	2661 TIMKEN FOREST DR	115 LANGSHIRE CT	1137 ROTHWOOD WAY	2651 IIMKEN FOREST DR 403 I VNIDENDLIDY DD	2623 BRYANT POND I N	402 LYNDENBURY DR	1101 ROTHWOOD WAY	2593 BRYANT POND LN	2584 BKYANI PONU LN 2660 TIMMEN EOREST DB	1146 ROTHWOOD WAY	621 W JONES ST	116 TURQUOISE CREEK DR	113 LANGSHIRE CI 16601 WESTON DKWY STE 100	2616 BRYANT POND LN	2581 BRYANT POND LN	1100 ROTHWOOD WAY	2900 LINDEN LN STE 300	56 HUNTER ST STE 110	102 TIMBERLEA CT	113 MILL POINT RD	PO BOX 250	504 Lyndenbury DR	2813 Us 64 HWY W 2901 He 64 HWY W	2001 US 64 HWY W	
OWNED	JNITY ASSN INC		ALLEN, CHESTER W IV ALLEN, ELENI N ANS TRUET THE	RAILEY JAMES FDWARD RAILEY SUZANNE C	BANKS, WAYNE BANKS, DEOGRATIAS A	BECKER, SHANNON V BECKER, DEBRA LYNN	BISI, JOHN EMERSON TRUSTEE JOHN EMERSON BISI FAMILY LINING TRUST	BKEVVER, JEREMY JOE IROSIEE BREVVER, FAULA MARIE IRUSIEE PRIDEMPATIOU DAVID NI PRIDEMPATIOU CONNIET	BURLESON, RYAN W L BURLESON, BETSY L	CARTWRIGHT, TIMOTHY J CARTWRIGHT, MELISSA S	CHIADO, DYLAN CHIADO, HALEY	COOLING, KEVIN TRUSTEE COOLING, JOANNE TRUSTEE	CURTIS-MAURY, MALTHEVY F CURTIS-MAURY, JENNIFER		FAST. SCOTT H TRUSTEE FAST. MARY KATHERINE TRUSTEE	FLESHMAN. JAMES BRETT FLESHMAN. KARA N	FOULKES, MICHAEL J FOULKES, ELIZABETH H	GANNON, TRAVIS GANNON, DANIELE	GARRETT, PATRICK JAMES GARRETT, MELISSA BETH	CREEN REVAN CREEN FRIN	HARRIS. SHARITA A	HERSHKOWITZ, MICHAEL THOMAS HERSHKOWITZ, SHARON MARIE	HIBDON-ROBERTSON, JULIA LYNN	HOBARI, BARKY /IK HOBARI, UEBOKAH LYNN /IK Iouns Popeet a Iouns olaide a	KISER. JEFFERSON B III KISER. DENISE C	LABER, PATRICK LABER, DIANE	LAMB, KIMBERLY S LAMB, JONATHAN E	LAUFFER, MATTHEW S LAUFFER, LISA C	LOGSPUN, JAMES M LOGSPUN, NIMBERLY D LOVD FRANK ROVAL LOVD AMY S	MACDONELL, JAMES T MACDONELL, KATHARINE G		MARY L WALKIEWICZ TRUST	MATHEWS, JAMES C MATHEWS, HOLLY	MATTHEWS, JOSEPH I MATTHEWS, PHILOMINA MATTHEWS LOSEPH I MATTHEWS PHILOMINA I	MITCHELL, JENNIFER D	PARKER, WILLIAM P II PARKER, SUSAN R	PEPE, RICHARD L PEPE, CHRISTINE	PELEKSON, KIRK PELEKSON, GINDI Detedson, thaden wavnie detedson, dachel i ove	PETERNON, ITAREN WATNE FELENSON, KAOTEL LOVE PETERNO RAYMOND J PETERNO POLI Y M		RITCHIE, STEVEN H RITCHIE, CHRISTA VENO	ROZET, TIMOTHY DANIEL ROZET, KATHLEEN SCANDURA	SAMBURSKI, CHRISTUPHER WILLIAM TRUSTEE SAMBURSKI, KARELYN JU TRUSTEE Schmintye Tosedu a schmintye vedaniya		SMITH, JEFFREY D SMITH, AMY N	SWEETWATER PROPERTY OWNERS ASSOCIATION, INC	TAVLOP MORPISON OF CAPOLINAS INC	VANZANTEN, JOHN HOLLIS JR VANZANTEN. HEIDI JILL RAFFK	VERMETTE, MARK E VERMETTE, ELIZABETH S	VORA, JAY VORA, ALYSSA K	VVESTFORD COMMERCIAL WEHLP		WHITE, ALAN WHITE, STEPHANIE A	YELLOWBRIDGE CAPITAL LLC ZI IMMAI T PORERT ZI IMMANI T SUSAN	ZOWWYALI, NOENI ZOWWYALI, SUGAIN TOWN OF APEX	Current Tenant	Current Tenant Current Tenant	Current Tenant Current Tenant	
MIN NIG	0722731969	0722841609	0722649347 0777667677	0722741431	0722853496	0722742422	0722852554	01/22040333	0722840599	0722742283	0722855248	0722840570	01/22040334	0722748778	0722852274	0722746502	0722842868	0722844846	0722649161	01/22042019	0722747405	0722841709	0722740440	0/22/4440/	0722748601	0722749453	0722855042	0722852790	0722632045	0722645123	0722746321	0722643056	0722743285	0/22850529	0722646134	0722852843	0722749305	0/2264/01/	0722648353	0722854046	0722841808	0722743414	0/22/44288	0722746202	0722844765	0722644046	0/22862012	0722740129	0722744590	0722748868	0/2266/310 0722660502	0722667508	0722852327	0722752304 0722748660	6000417710				
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### AFFIDAVIT OF CONDUCTING AN ELECTRONIC NEIGHBORHOOD MEETING AND ISSUES/RESPONSES SUBMITTAL

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

I, Matthew J. Carpenter \_\_\_\_\_, do hereby declare as follows:

Print Name

- 1. I have conducted an Electronic Neighborhood Meeting for the proposed Rezoning, Major Site Plan, Residential Master Subdivision Plan, or Special Use Permit in accordance with UDO Sec. 2.2.7 *Neighborhood Meeting*.
- 2. The meeting invitations were mailed to the Apex Planning Department, all property owners within 300 feet of the subject property and any neighborhood association that represents citizens in the area via first class mail a minimum of 10 days in advance of the Electronic Neighborhood Meeting.
- 3. The meeting was conducted via Online via zoom (indicate format of meeting) on February 23, 2022 (date) from 6:00 PM (start time) to 8:00 PM (end time).
- 4. I have included the mailing list, meeting invitation, attendance sheet issue/response summary, and zoning map/reduced plans with the application.
- 5. I have prepared these materials in good faith and to the best of my ability.

STATE OF NORTH CAROLINA COUNTY OF WAKE

Sworn and subscribed before me, Cinay Wieland	, a Notary Public for the above State and
County, on this the 1th day of March 2022.	





Notary Public

My Commission Expires: 2-2-2-2-6

### NOTICE OF ELECTRONIC NEIGHBORHOOD MEETING

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

May 25, 2022

Date

Dear Neighbor:

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

2813 and 2817 US 64 Hwy W	0722743789 and 0722752304
Address(es)	PIN(s)

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

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

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

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

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

The applicant is proposing to rezone the property to Planned Unit Development - Conditional Zoning District to

facilitate the development of a mixed-use project with single-family detached homes, townhomes, and commercial uses. Additional information

and updates since the first neighborhood meeting will provided during the meeting.

Estimated submittal date: June 10, 2022 (resubmittal)

MEETING INFORMATION: Property Owner(s) name(s):	Yellowbridge Capital, LLC
Applicant(s):	Lennar Carolinas, LLC c/o Matthew Carpenter
Contact information (email/phone):	matthewcarpenter@parkerpoe.com; (919) 835-4032
Electronic Meeting invitation/call in info:	See attached
Date of meeting**:	
Time of meeting**:	
MEETING AGENDA TIMES: Welcome: <sup>6:00 PM</sup> Project P	Presentation: between 6:00 - 8:00 PM Question & Answer: between 6:00 - 8:00 PM

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

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Instruction Packet & Afficience Neighborhood Meetings

### May 25, 2022

### **Re: Notice of Second Virtual Neighborhood Meeting**

Neighboring Property Owners:

You are invited to attend a second neighborhood meeting on June 8, 2022 from 6–8pm to discuss the rezoning of two parcels of land located at 2813 US 64 Hwy W (PIN 0722743789) and 2817 US 64 Hwy W (PIN 0722752304) (collectively, the "Property"). The Property is currently zoned Rural Residential (RR), and is proposed to be rezoned to Planned Unit Development-Conditional Zoning (PUD-CZ). The requested rezoning is to facilitate the development of a mixed-use project featuring single-family detached homes, townhomes, and commercial uses fronting US-64.

You may have attended the first neighborhood meeting for this case on February 23. Since the first meeting, we have filed the rezoning application and have made several changes to the plans. During the June 8 meeting, we will describe the nature of the rezoning request, provide updates since the first neighborhood meeting, and answer any questions. Enclosed are: (1) a vicinity map outlining the location of the subject parcel; (2) a zoning map of the subject area; (3) a revised preliminary concept plan of the Planned Unit Development; (4) a project contact information sheet; and (5) a common construction issues & who to call information sheet.

The meeting will be held virtually. You can participate online via Zoom or by telephone. To participate in the Zoom online meeting:

Visit:	<u>https://zoom.us./join</u>								
Enter the following meeting ID:	891 3054 5916								
Enter the following password:	810545								
To participate by telephone:									
Dial:	1 929 205 6099								
Enter the following meeting ID:	891 3054 5916 #								
Enter the Participant ID:	#								
Enter the Meeting password:	810545 #								

If you have any questions about this rezoning, please contact me at (919) 835-4032 or via email at <u>matthewcarpenter@parkerpoe.com</u>.

Thank you,

Matthew Carpenter



### **Rezoning of:**

### 2813 and 2817 US 64 Hwy W

### Vicinity Map



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

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### **Rezoning of:**

2813 and 2817 US 64 Hwy W

### **Zoning Map**

**Current Zoning: RR** 



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

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### **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: Yellowbridge	Zoning: Rural Residential (RR)
Location: 2813 and 2817 US 64 Hwy W	
Property PIN(s): 0722743789 and 0722752304 Acr	reage/Square Feet: 48.43 acres
Property Owner: Yellowbridge Capital, LLC	
Address: 113 Mill Point Road	
<sub>City:</sub> Kitty Hawk	State: NC Zip: 27949-4082
Phone: n/a Email:	n/a
Developer: Lennar Carolinas, LLC	
Address: 1100 Perimeter Park Drive, Suite	9 112
City: Morrisville St	tate: NC Zip: 27560
Phone: <u>c/o Matthew Carpenter; 919-835-4032</u> Fax: <u>n/a</u>	Email: matthewcarpenter@parkerpoe.com
Engineer: Peak Engineering & Design, PLLC	; Attn. Jeff Roach
Address: 1125 Apex Peakway	
City: Apex	State: NC Zip: 27502
Phone: 919-439-0100 Fax: n/a	Email: jroach@peakengineering.com
Builder (if known): Same as Developer	
Address:	
City:	State: Zip:
Phone: Fax:	Email:

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

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

# ELECTRONIC NEIGHBORHOOD MEETING ATTENDANCE SHEET

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

Meeting Format: (	Online via zoom	
Date of meeting: $\overline{J}$	June 8, 2022	Time of meeting: 6:00 PM
Property Owner(s) r	(s) name(s): Yellowbridge Capital, LLC	
Applicant(s): Lennar Carolinas	ar Carolinas	

Please list Electronic Neighborhood Meeting Attendees who provided their name and/or contact information either during the meeting or via phone/email before or after the meeting.

_		NAME/ORGANIZATION	ADDRESS	HONE #	EMAIL	SEND PLANS & UPDATES
_	<del>,</del>	See attached attendance list				
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_	12.					
_	13.					
_	14.					
	Use	Use additional sheets, if necessary.				

### Yellowbridge PUD Neighborhood Meeting Sign-In Sheet June 8, 2022

David Risk Gerald Hornick Bill Zerman Kathy Coutros Jen Curtis-Maury Thomas Ainsley Jay Vora Steve Ritchie Ed Knight Alex Richbourg Kari Hughes Brant Gifford Chip Allen Jonathan Lamb Polly Petrino Cheryl Russell Tommy Russell Jim Logsdon Brett Fleshman Suzanne Bailey Kari Hughes M Bond Rebecca Waite Kate Macdonell Scott Patrick Paige Polito Julie Robertson Janarthan Kirupananthan Penny Grieci Sharon Hershkowitz Joe Logan Emily Dilday Conne Bridenbaugh Mary Kay Fast Chris Sawyer Conor Brockett Heather Galeotti Jonathan Polito Veronika Schmidtke

\*Contact information was received but has been redacted for filing

### SUMMARY OF DISCUSSION FROM THE ELECTRONIC NEIGHBORHOOD MEETING

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

Property Owner(s) name(s): Yellowbridge Capital, LLC	
Applicant(s): Lennar Carolinas	
Contact information (email/phone):	
Meeting Format: Online via zoom	
Date of meeting: June 8, 2022	_ Time of meeting: <u>6:00 PM</u>

Please summarize the questions/comments and your response from the Electronic Neighborhood Meeting in the spaces below (attach additional sheets, if necessary). Please state if/how the project has been modified in response to any concerns. The response should not be "Noted" or "No Response". There has to be documentation of what consideration the neighbor's concern was given and justification for why no change was deemed warranted.

\*Please see attached chat log for a full list of questions. All questions were answered orally by the applicant team

- Question/Concern #1: What is the plan for the four homes on Chanticlair? We would like these homes removed from the plan.
- Applicant's Response: Applicant's Response: Although we can't agree to remove these homes from the project, we have taken steps to ensure they will be more compatible with the Abbington neighborhood. In the PUD Text, we've agreed to extend Rothwood Way so that these lots will take driveway access from Rothwood, akin to Stratford at Abbington homes. We've also widened the buffer adjacent to the gas easement to a 20-foot type A buffer and will be planting a 10-foot buffer along Chanticlair Drive.

Question/Concern #2: Will you limit the types of allowed uses in the Commercial District?

Applicant's Response: Yes, the PUD Text includes a list of Permitted Use for the Commercial District. These uses will be the only permitted uses in that area. We are working with staff on appropriate uses and have already agreed to remove certain uses that would be permitted by the UDO.

Question/Concern #3: What is the overall residential density of the project?

Applicant's Response: The PUD limits maximum residential density to 160 units which equates to approximately 3.5 units/acre.

Question/Concern #4: What are the red stars on the Concept Plan?

Applicant's Response: These represent conceptual open space and play lawn locations. Specific open space and play lawn locations will be finalized at the subdivision phase, following rezoning, so these locations could change.

## **Neighborhood Meeting Neighbor Notice List**

	RALEIGH NC 27614-8837		RALFIGH NC 27603-1669																																																															
	11010 RAVEN RIDGE RD	APEX NC 27502-4308	727 W HARGETT ST STE 100		AF EX NO 27502 9640	ADEX NO 27502-0042	APEX NC 27502-9642	APEX NC 27502-4315	APEX NC 27502-9644	APEX NC 27502-4308	APEX NC 27502-4311	APEX NC 27502-9619	ADEX NO 27502-0010	AFEX NO 27502 4245	APEX NC 2/ 502-9645	APEX NC 2/502-4309	APEX NC 27502-9642	APEX NC 27502-4310	APEX NC 27502-9644	APEX NC 27502-9729	APEX NC 27502-4317	APEX NC 27502-9644	APEX NC 27502-4315	APEX NC 27502-4309	APEX NC 27502-4308	APEX NC 27502-4318	APEX NC 27502-4310	APEX NC 27502-4309	APEX NC 27502-4309	APEX NC 27502-4308	APEX NC 27502-9646		APEA NU 27502-9043 APEV NC 27502 7803	AFEA NO 27502-7303	AFEA NO 27502-4310	AFEX NC 27593-7803	APEX NC 27502-4311	CARY NC 27519-8611	CARY NC 27519-8611	APEX NC 27502-4316	APEX NC 27502-9621	APEX NC 27502-4308	APEX NC 27502-4316	APEX NC 27502-9643	APEX NC 27502-4318	APEX NC 2/502-9645	APEA NO 2/302-4306	AFEA NO 210024310 ADEX NO 27602 4211	APEX NC 27502-4315	APEX NC 27502-4309	RALEIGH NC 27603-1408	CARY NC 27513-5616	APEX NC 27502-9621	CARY NC 27513-8636	APEX NC 2/502-431/	AFEA NO 27502-4310 ADEX NO 27502-4309	SILVER SPRING MD 20910-1265	APEX NC 27502-2325	APEX NC 27502-9642	KILLY HAWK NC 2/949-4082 ABEY NC 27602 4300	APEX NC 2/302-4303 APEX NC 27502-0250	APEX NC 27502	APEX NC 27502	APEX NC 27502	APEX NC 27523	
MAILING ADDRESS	PPM INC OF RALEIGH		ZULI BATANI POND LN KATHIFI RUSSELI TRUSTEF		2000 DIVIDIAL FORD EN		103 TIMBERI FA CT	2672 TIMKEN FOREST DR	503 LYNDENBURY DR	1119 ROTHWOOD WAY	2598 BRYANT POND LN	308 I YNDENRIIRY DR				1106 RUI HWUUD WAY	100 TIMBERLEA CT	2575 BRYANT POND LN	501 LYNDENBURY DR	405 CHANTICLAIR DR	2628 BRYANT POND LN	505 LYNDENBURY DR	2654 TIMKEN FOREST DR	1132 ROTHWOOD WAY	1107 ROTHWOOD WAY	2611 BRYANT POND LN	2587 BRYANT POND LN	1126 ROTHWOOD WAY	1120 ROTHWOOD WAY	1131 ROTHWOOD WAY		112 LANGSHIKE CI					2592 BRYANT POND I N	7231 CARPENTER FIRE STATION RD	7231 CARPENTER FIRE STATION RD	2661 TIMKEN FOREST DR	115 LANGSHIRE CT	1137 ROTHWOOD WAY	2651 TIMKEN FOREST DR	403 LYNDENBURY DR	2623 BRYANT POND LN				2004 DIVINITY OND EN	1146 ROTHWOOD WAY	621 W JONES ST	116 TURQUOISE CREEK DR	113 LANGSHIRE CT	15501 WESTON PKWY STE 100	2616 BRYANT POND LN		2900 LINDEN LN STE 300	56 HUNTER ST STE 110	102 TIMBERLEA CT	113 MILL POINT RU		504 Lvndenburv DR	2813 Us 64 HWY W	2901 Us 64 HWY W	3001 Us 64 HWY W	
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### 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.

Matthew J. Carpenter, do hereby declare as follows:

- 1. I have conducted a Neighborhood Meeting for the proposed Rezoning, Major Site Plan, Residential Master Subdivision Plan, or Special Use Permit in accordance with UDO Sec. 2.2.7 *Neighborhood Meeting.*
- 2. The meeting invitations were mailed to the Apex Department of Planning and Community Development, all property owners and tenants abutting and within 300 feet of the subject property and any neighborhood association that represents citizens in the notification area via first class mail a minimum of 14 days in advance of the Neighborhood Meeting.
- 3. The meeting was conducted at <u>Online via 200m</u> (location/address) on <u>June 8</u> (date) from <u>6:00 pm</u> (start time) to <u>8:00 pm</u> (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.

2022

STATE OF NORTH CAROLINA COUNTY OF WAKE

Sworn and subscribed before me, <u>Cindy Wieland</u>, a Notary Public for the above State and County, on this the <u>277</u> day of <u>June</u>, 20<u>22</u>.

SEAL



Notary Public ining Wieland

Print Name

My Commission Expires: 2 - 22 - 26

### YELLOWBRIDGE NEIGHBORHOOD MEETING June 8, 2022 Chat Box Questions/Comments

Contact information: Jeff Roach with Peak Engineering & Design (jroach@peakengineering.com)

From Penny Grieci to Everyone 06:13 PM

Do you have a drawing with the specific types of homes?

From polly petrino to Everyone 06:15 PM

when will you begin draining the ponds? can you notify us a few days in advance?

From Jay Vora to Everyone 06:15 PM

Do the red stars still represent "play areas" or open spaces?

From Chip Allen to Everyone 06:15 PM

What is the percentage of homes per usage acreage as much of the land is not buildable resulting in large number of homes in small space?

From Jen Curtis-Maury to Everyone 06:15 PM

Any what precautions do you take to prevent our adjacent lots from flooding during the draining and then potential natural refilling?

From Jim Logsdon to Everyone 06:15 PM

What's the game plan for the 4 homes on Chanticlair now

From Scott Fast to Everyone 06:16 PM

Now it appears the location closest to US 64 is now proposed as commercial - probably a good idea - but will you limit the TYPE of business (gas station yes/no, 24 hour stop & rob, medical only, etc.)?

From Brant Gifford to Everyone 06:16 PM

Does Lennar plan to develop the Commercial property themselves, or partner? Do you have example of Commercial development?

From polly petrino to Everyone 06:16 PM

how long will road construction take; what is that timeframe likely to be?

From David Risk to Everyone 06:16 PM

Matthew we saw a plan that takes out single family homes and replaces with townhomes behind the 4 homes closest to our neighborhood. Why that possible change? the orangish area on the east of the street to 64

From Thomas Ainsley to Everyone 06:16 PM

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Can you please go into additional detail about the location, and quantity, and percentage of the overall project, of proposed townhomes within the development, understanding that your plans may not be final?

From Cheryl & Tommy Russell to Everyone 06:17 PM

the area in yellow off chanticlair, I'm assuming it's the 4 homes in plan. Please consider removing those as they don't fit and appear to be part of abbingtion. I know we've asked for them to be removed - any updates on those?

From Julie Robertson to Everyone 06:17 PM

Is there anything that can be done for the wildlife that life in the pond to relocate them to a new location?

From Chip Allen to Everyone 06:19 PM

Where will the pond water go? Will it be sucked up into and in your experience are snakes going into impacted adjacent land like our homes and pools an issue?

From PPAB Land Use to Everyone 06:20 PM

All meeting participants please enter your name, physical address, email address, and phone numbers in the chat.

From Jim Logsdon to Everyone 06:20 PM

If you turn the houses sideways will the 2 that back to the pipeline assume the pipeline for their backyards?

From Julie Robertson to Everyone 06:20 PM

Will the ponds be left open for a period of time to know if it is wetlands or not? How long is that period?

From Cheryl & Tommy Russell to Everyone 06:20 PM

to clarify our concern —The concern about the 4 homes is not about the way the face, it was about having those 4 homes there. They appear to be in abbington.

From Jim Logsdon to Everyone 06:21 PM

And if that's the case I won't get any 50 ft buffer, their backyard will touch my fence

From Julie Robertson to Everyone 06:21 PM

Julie Robertson

2611 Bryant Pond Lane

From polly petrino to Everyone 06:22 PM

12 months of our houses shaking from road construction

From Brant Gifford to Everyone 06:22 PM

If you're willing to partner for the commercial development, then why wouldn't Lennar partner with a custom builder for the 4 houses to better align to homes in Abbington?

From Cheryl & Tommy Russell to Everyone 06:23 PM

Chervl and Tommy Russell 323 Chanticlair Drive

From Scott Fast to Everyone 06:23 PM

ASK - Please, for the commercial, please consider professional / light 'commercial' use, not a gas station, not another bar / outdoor seating restaurant, there is just no need for that in Apex nor behind our community.

From Chip Allen to Everyone 06:23 PM

Eleni & Chip Allen, 2617 Bryant Pond Lane.

From Julie Robertson to Everyone 06:23 PM

Is there anything we can do to limit the construction on the weekends and have certain hours during the week so that we can still enjoy our yards?

From polly petrino to Everyone 06:24 PM

Polly & Ray Petrino, 2623 Bryant Pond Ln,

From Chip Allen to Everyone 06:24 PM

Will your neighborhood have a fence that runs along the Abbington side?

From Penny Grieci to Everyone 06:24 PM

If you are going to put townhomes to the east of the street then can you move the park area to next to the 4 homes on Chanticlair?

From Janarthan Kirupananthan to Everyone 06:24 PM

Janarthan Kirupananthan 2537 Bryant Pond Ln

From Jay Vora to Everyone 06:24 PM

Jay Vora - 1100 Rothwood Way;

From Emily Dilday to Everyone 06:24 PM

Mark and Emily Dilday 1167

From Scott Fast to Everyone 06:25 PM

Inquiry - Have you approached purchasing the land that is directly NORTH of the YELLOW single family homes nearest Abbington? the land with the pond DUE EAST of the three ponds you show in BLUE. Is Lennar interested in buying that land and developing???

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Scott Fast, 100 Timberlea Court, Apex, NC 27502

From Mary Kay Fast to Everyone 06:25 PM

Mary Kay Fast, 100 Timberlea Court, Apex, NC 27502,

From Scott Patrick to Everyone 06:26 PM

Scott Patrick 202 Lyndenbury Drive

From Jen Curtis-Maury to Everyone 06:28 PM

what about the snakes part of Chips question. He asked about your experience with snakes invading our backyards after ponds are drained I think.

From Kate Macdonell to Everyone 06:28 PM

Can you talk about the buffer between the 4 houses and Chanticlair Drive?

From Janarthan Kirupananthan to Everyone 06:28 PM

Can the proposed location of the 4 homes be turned into another open/play space since Lennar has rejected removal of the houses.

From Jonathan Lamb to Everyone 06:28 PM

I agree with removing the 4 houses at the intersection of Rothwood and Chanticlair. I did not understand the reason given to keep those as part of the plan. Eric Lamb 404 Chanticlair Dr.

From Rebecca Waite to Everyone 06:28 PM

Agree with the concerns regarding the wildlife being displaced as well as the four homes along Chanticlair Dr. Having them turned will still look awkward, but having them there makes them look like they are in Abbington.

Rebecca Waite Duncroft Ct. r

From Chip Allen to Everyone 06:30 PM

Please define the growing season as that was not answered and is very important for us to know. How does Lennar define this for your planning purposes for this project?

From Scott Fast to Everyone 06:31 PM

Thank you.

From Emily Dilday to Everyone 06:32 PM

We also agree with the concerns that the 4 homes on Chanticlair/Rothwood, regardless of which way they are facing, will look out of place.

From Scott Patrick to Everyone 06:32 PM

LeNelle & Scott Patrick, 202 Lyndenbury Dr. Apex, NC 27502

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From Steve Ritchie to Everyone 06:32 PM

Steve & Christa Ritchie 1101 Rothwood Way

From Chip Allen to Everyone 06:33 PM

Why will Lennar not widen the lots adjacent to Abbington?

From Suzanne Bailey to Everyone 06:33 PM

Suzanne & Jim Bailey 2605 Bryant Pond Lane

From Steve Ritchie to Everyone 06:34 PM

After the extension of Rothwood Way, what will be the size of those 4 lots relative to the other Abbington homes on Rothwood Way?

From Paige Polito to Everyone 06:34 PM

On Goliath Ln the builder Exeter took just several lots to build on; most of the lots on that street were developed by Loyd Builders. It seems that a custom builder may consider building just a few homes on a street so this may be something Lennar could at least consider for Chanticlair.

From Jen Curtis-Maury to Everyone 06:34 PM

Jen Curtis-Maury 2666 Timken Forest Drive. I would like to officially request on the record again to remove the 4 Chanticlair homes and to further widen the lots adjacent to Abbington (beyond 60 ft., our lots are about 90 ft.). Also, I would like to be updated on any plan changes.

From Kari Hughes to Everyone 06:35 PM

Rob and Kari Hughes, 101 Duncroft Court, Apex, NC 27502, 9

From Kate Macdonell to Everyone 06:35 PM

Abbington lots are about 90 feet wide. Your plan shows the south lots as 60 feet wide. Can you please widen those single family detached lots?

From Scott Patrick to Everyone 06:36 PM

LeNelle & Scott Patrick, 202 Lyndenbury Dr. Apex, NC 27502

From Cheryl & Tommy Russell to Everyone 06:40 PM

Are there any proposed play / open areas in your plan? If so - can you consider putting the 4 homes there and make the 4 home proposal a play area. It would blend the two neighborhoods together vs. 4 homes in that area.

From Jim Logsdon to Everyone 06:40 PM

How large will those 4 lots be off Chanticlair now that you're turning them sideways and you have to extend Rothwood way and they will have a 20ft plus 50 ft pipeline easement

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### From Chip Allen to Everyone 06:41 PM

Chip and Eleni Allen 2617 Bryant Pond Ln. We are officially requesting on the record again to remove the 4 Chanticlair homes and to further widen the lots adjacent to Abbington (beyond 60 ft., our lots are about 90 ft.). We also express extreme concern about the ponds being drained as it will result in land erosion and wildlife destruction. The density of your proposed neighborhood is outrageous for the amount of usable land. The homes are not comparable to those in Abbington. Please ensure the commercial space is conducive to its residential location with no bars or late night openings and no large delivery trucks that will make loud noises. Also Chanticlair must be finished to meet up with Sweetwater. Very concerned about traffic going to schools and shops running on Bryant Pond. Please update us on all plan changes.

From Julie Robertson to Everyone 06:41 PM

I would like to go on record and voice my concerns about the 4 Chanticlair homes and I think they still need to be removed and that space used as green space. And I would like wider lots for those houses that are backing up to Abbington. I have concerns about the number of townhomes that are being added as part of the plan. I feel like we are not able to negotiate because of the price of land being purchased is so high and the buildable land is so poor. You have 80 ft lot plans why can we not go up to that lot size to help match the Abbington homes. I am also concerned about what these smaller lots and homes that will now back up to my home, the draining and clear cutting of the land behind my house will cause my home values to go down.

From Kate Macdonell to Everyone 06:42 PM

Since this is being recorded and submitted, I want to go on record saying I agree with removing the 4 houses on Chanticlair and widening the southern lots.

From Jen Curtis-Maury to Everyone 06:42 PM

The lots were 60 feet on your first submission. Less housing units means fewer neighbors bordering each yard. That is the exact point of widening the lots and is what we are asking for.

From Paige Polito to Everyone 06:44 PM

I am going on record concurring with other residents to agree with removing the 4 houses on Chanticlair and widening the southern lots.

From Chip Allen to Everyone 06:44 PM

Will AirBnB and other type of very short term rentals be permitted in the Leanna's HOA?

From Jen Curtis-Maury to Everyone 06:45 PM

Please read Cheryl

From Kate Macdonell to Everyone 06:45 PM

Can you explain what a type E buffer looks like? Landscape easement

From Jay Vora to Everyone 06:45 PM

As the homeowner right on the corner of Rothwood and Chanticlair, the 4 houses on chanticlair will probably impact my home more than most. I might be the only one in the neighborhood, but I think the turned lots will actually blend in well with Abbington and is a good decision. Even though they technically aren't in our neighborhood, I think continuity matters to the look and feel of our neighborhood.

From Cheryl & Tommy Russell to Everyone 06:46 PM

We would like to go on record and request the 4 homes are removed from Chanticlair Abbington connection and widening the lots directly behind Abbington.

From Scott Fast to Everyone 06:46 PM

On the Apex town interactive development map, the filing for Yellowbridge on 03/31 was noted as "non-residential" - is that the 'proposed use' or 'the current status' ????

From Suzanne Bailey to Everyone 06:46 PM

I would like to officially request on the record to remove the 4 Chanticlair homes and to further widen the lots adjacent to Abbington (beyond 60 ft., our lots are about 90 ft.).

From Janarthan Kirupananthan to Everyone 06:47 PM

Is there a dust mitigation plan during the many months of construction?

From Scott Fast to Everyone 06:48 PM

Okay, thank you.

From Kate Macdonell to Everyone 06:50 PM

The additional 5 ft landscape easement is within private property lines, right? So it's 10 feet, you can not count the 5 feet on someone's property. Just want to clarify that.

From Chip Allen to Everyone 06:51 PM

Because the ponds are being drained in June ish the spring growing season will be omitted. How is this being factored in? Decision by the army corps needs to take this into account.

From Bill Zerman to Everyone 06:52 PM

Can you describe what the traffic flow pattern from yellowbridg to 64

From Kate Macdonell to Everyone 06:52 PM

Can you tell us how you summarize this meeting for the Town Council? Do they see this chat or do you write it up for them?

From Julie Robertson to Everyone 06:53 PM

How will we receive further updates?

From Chip Allen to Everyone 06:53 PM

Please repeat the timelines are that was reviewed very quickly

### From Jen Curtis-Maury to Everyone 06:54 PM

There is a graphic from the town's traffic department

From Cheryl & Tommy Russell to Everyone 06:54 PM

We have a difficult time leaving our neighborhood onto 64 now - what have the traffic studies shown?

From polly petrino to Everyone 06:55 PM

I agree with Julie Robertson's comments above, The density will cause home values to decline from their current status. Quality of life during construction is also being glossed over here. There will be significant noise pollution and we have already had to contend with Sweetwater for several years. In addition, this is just adding to our general infrastructure issues, particularly our enrollment capped schools in this area. There needs to be more proactive collaboration from builders on this point.

From Chip Allen to Everyone 06:55 PM

Please submit entire chat as the official transcript as we were not able to ask verbal questions

From Penny Grieci to Everyone 06:56 PM

Will you provide us with a copy of your notes that you submit to the town?

From Scott Fast to Everyone 07:00 PM

Can you share documented commentary or guidelines or mandates from the town of Apex, county of Wake, or state of NC about your submittals? Written communications, as to land use, density, US 64 access, changes and charges Lennar will incur for ANY changes to town roads (access, signage), county roads or state highway access? I would appreciate to read what they may be communicating, if open to the public...??

https://experience.arcgis.com/experience/41bf89a7c97d43a2934b0e823c8bfa45

https://www.apexnc.org/Search?searchPhrase=interactive

easier link ... :)

The proposed 'unit' or dwelling capacity is what now? How many Detached, how many attached, I guess no villas or condos now? Then min of 2.3 to 3.2 persons per HH, that means how many total persons?

From Rebecca Waite to Everyone 07:01 PM

I am also concerned about the traffic. It is already very difficult to turn left (and even right at times) out of the Kellyridge entrance.

From Scott Patrick to Everyone 07:01 PM

I reiterate severely limiting what type of commercial development goes on Rt 64. Believe we could quickly come up with a quick list of absolute non-starters with a gas station being at the top of this list for me.

From Scott Fast to Everyone 07:01 PM

we agree w/Rebecca White ... just today was terrible

From Cheryl & Tommy Russell to Everyone 07:02 PM

Agreed, I couldn't turn right

From Scott Fast to Everyone 07:03 PM

The planner is whom? Loren? please write in chat :) Thx

From polly petrino to Everyone 07:04 PM

Lauren Staudenmaier lauren.staudenmaier@apexnc.org

From Kate Macdonell to Everyone 07:04 PM

Do you anticipate staff asking you to make further changes to the plan?

From Scott Fast to Everyone 07:04 PM

Max = 160 units, SFD, townhomes, rough count 120 +/- today ... 120\*3 = 360, 120\*5=600... lots of cars, buses...

From Scott Patrick to Everyone 07:06 PM

40 detached is a very small number and I would consider this an absolute floor. should be higher than 40/120. when is this finalized and committed?

From Julie Robertson to Everyone 07:07 PM

Since you are adding in the commercial why does the count have to stay at 160?

From Scott Patrick to Everyone 07:08 PM

did the mix of attached / detached change then?

From Scott Fast to Everyone 07:10 PM

I recall we discussed stop signs on Chanticlair, whether at Rothwood or within Yellowbridge, it will be a mix of vehicle and foot traffic between those intersections... any thoughts?

From Chip Allen to Everyone 07:11 PM

Thank you for your time.

From Scott Fast to Everyone 07:11 PM

we will have a 3-way at Rothwood and then a 3-way inside Yellowbridge...Please show map again to address stop signs ... so all can see.

From Kate Macdonell to Everyone 07:11 PM

Will there be neighborhood signage delineating Abbington from Yellowbridge where the neighborhoods transition?

From Scott Fast to Everyone 07:12 PM

Yes! just west of Rothwood. yes.

From Cheryl & Tommy Russell to Everyone 07:14 PM

What are the red stars on this map?

From Jim Logsdon to Everyone 07:14 PM

Those 4 lots are going to be postage stamp size now that Rothwood will be extending and they will still have a 20ft and 50ft pipeline easement....I call BS

From Cheryl & Tommy Russell to Everyone 07:14 PM

ok, I had asked earlier - could the 4 homes be moved to one of those?

From Jim Logsdon to Everyone 07:14 PM

Sorry, bad message

From Julie Robertson to Everyone 07:15 PM

What about the land you need that Abbington owns?

From Kate Macdonell to Everyone 07:15 PM

A red star where those 4 houses on Chanticalire are right now would be great! :-)

From Chip Allen to Everyone 07:18 PM

Requires 2/3 vote for Abbignton to sell that land

From Jonathan Polito to Everyone 07:18 PM

How is this proposal helping Apex or the neighboring properties in Abbington? It will NOT increase or help the values of the homes in Abbington and as we've seen recently with the Wake County tax increase vote DEVELOPMENT DOES NOT PAY FOR ITSELF! But rather taxes existing residents more.

From Scott Fast to Everyone 07:19 PM

Have to be honest...I am getting an itchy feeling that you MAY know more about the Matthew's intentions and status of action, not saying you DO, but if you do, can you please share? I live directly to the right of the pond on their property and don't want to look at a bank, gas station, townhomes or condos... If not you, can I speak to someone in Apex as to their intentions? Thank you.

From Chip Allen to Everyone 07:19 PM

Again entering into chat since not read. The sell of the Abbington land to Lennar requires a 2/3 vote from Abbington residents.

From Scott Fast to Everyone 07:20 PM

I have a doctor on speed dial and a cocktail... all good.

From Brant Gifford to Everyone 07:21 PM

Speaking of Chanticlair, we had heard the extension to Sweetwater through the Atkinson property was looked at, and not accepted to be extended at this time. Does Lennar or Jeff have any indication from the town how they propose to complete this collector, or a timeline for completion?

From Julie Robertson to Everyone 07:21 PM

When does that negotiation on the land needed happen? Does it happen when the zoning request goes in or when the subdivision plan is put together.

From Scott Fast to Everyone 07:21 PM

Joe Matthews... he owns that land above/north of the '4 yellow homes'. Towards US 64. FYI.

https://www.apexnc.org/Search?searchPhrase=interactive

From Kate Macdonell to Everyone 07:21 PM

Just FYI to all thinking about future development around us, buffers and lot sizes/widths matter and set precedents for the future.

From Jen Curtis-Maury to Everyone 07:24 PM

You said what the HOA Covenants say right now? What does that mean?

From Kate Macdonell to Everyone 07:26 PM

We definitely appreciate the 50ft buffer. Can you also widen the southern lots? So that precedent can be set when the next 2 parcels sell?

From Chip Allen to Everyone 07:26 PM

Goliath Lane are custom homes comparable to Abbington home. This should be noted for the record.

From Jen Curtis-Maury to Everyone 07:27 PM

Agree with Kate and Chip's comments

From Conne Bridenbaugh to Everyone 07:28 PM

Agree with removal of the four homes at the intersection of Rothwood and Chanticlair and widen the lots adjacent to Abbington. The developers of Sweetwater made it work with Abbington. Lennar can as well. Turning them is not the desired solution. David and Conne Bridenbaugh. 503 Lyndenbury Dr.

### OWNER

### YELLOWBRIDGE CAPITOL, LLC 113 MILL POND ROAD KITTY HAWK, NC 27949-4082 Contact: TOM COLHOUN

COLHOUN REAL ESTATE P: (919) 267-6928

### ENGINEER/LAND PLANNER PEAK ENGINEERING & DESIGN, PLLC

JEFF ROACH, P.E. 5448 APEX PEAKWAY #368 APEX, NC 27502 P: (919) 439-0100 www.PeakEngineering.com

### ENVIRONMENTAL CONSULTANT SOIL & ENVIRONMENTAL CONSULTANTS, PA

STEVEN BALL, RF, PWS 8412 FALLS OF NEUSE ROAD, SUITE 104 RALEIGH, NC 27615 P: (919) 846-5900 www.SandEC.com

### APPLICANT

### **LENNAR CORPORATION - RALEIGH DIVISION** STEPHEN DORN 1100 PERIMETER DRIVE SUITE 112 MORRISVILLE, NC 27560

P: (919) 224-9922 www.lennar.com

### SURVEYOR

JMT (JOHNSON, MIRMIRAN & THOMPSON, INC.) MIKE ZMUDA 1130 SITUS COURT SUITE 200 RALEIGH, NC 27606 P: (804) 267-1258 www.jmt.com

### TRAFFIC ENGINEER

RAMEY KEMP & ASSOCIATES, INC. RYNAL STEPHENSON, P.E. 5805 FARINGDON PLACE, SUITE 100 RALEIGH, NC 27609 P: (919) 872-5115 www.RameyKemp.com



AERIAL MAP NO SCALE



### <REZONING> YELLOWBRIDGE PUD

### 2817 US 64 HWY W APEX, NORTH CAROLINA 27502 PROJECT NUMBER: 210701 DATE March 1, 2022

	SITE	INFO	RMA	TION:	
Property Owner	Property Address	PIN	REID	Acreage	Deed Book/Plat Book & Page
	2817 US 64 HWY W	0722-75-2304		43.90 acres	DB 013508 PG 01177 BM 2003 Pg474
YELLOWBRIDGE CAPITAL, LLC 1 13 MILL POINT RD KITTY HAWK NC 27949-4082	2813 US 64 HWY W	0722-74-3789	0138551	4.34 acres	DB 013508 PG 01181 BM 2003 Pg474
Total Deeded Acreage:				48.43 acres	
Township:	White Oak				
Flood Zone Information:		3720072200J da ow the presenc		22 hes on the property	
Watershed Information:	Primary Wa	tershed Protect	ion Overlay Di	strict, Beaver Creek	Basin, Cape Fear River Basin
Historical:	Per the NC	SHPO, no histori	cal structures	are located within t	he project boundary
Annexation:	Annexation	required for uti	lity services		
Existing Zoning:	RR - Rural R	esidential			
Proposed Zoning:			- Conditional	Zoning (PUD-CZ)	
2045 Land Use Map:		ensity Residentia		/	
Existing Use: Proposed Uses:	Single Fami Residential	ly Residential ar	nd vacant pro	perty	
Single-family	Townhouse		Ac	cessory apartment	
Park, active	Park, passiv		Gr	eenway	
Recreation facility, private					
* Homeowners Association covenants st	Commercia		accessory awe	elling Units	
Restaurant, general	Restaurant, c	lrive-through	Medico	Il or dental office or	clinic Medical or dental laboratory
Office, business or professional	Publishing off		Artisan	Studio	Barber and beauty shop
Book store Dry cleaners and laundry service	Convenience Farmer's marl		Financia	al institution	Floral shop
Greenhouse or nursery, retail	Grocery, ger	-		y, specialty	
Health/fitness center or spa	Kennel		Newssto	and or gift shop	Personal service
Pharmacy	Printing and o	copying service	Real est	tate sales	Repair services, limited
Retail sales, general	Studio for art		Tailor sh		Upholstery shop
Pet services * Refer to PD Text for a list of uses and of	Day care fac		Veterine	ary clinic or hospital	Utility, minor
	mer zoning standard	22			
Maximum Number of Lots: Proposed Project Density:	160 dwelling 3.56 dwellin	-	6.0 units/acre	for Medium Density	Residential districts)
Lots:	Min Lot Size	Min Lot Width	Max Build	ling Height	
Single-family detached	6,000 SF	50 feet		15 feet / 3 stories	
Single-family attached (townhouse)	N/A	18 feet	4	15 feet / 3 stories	
Parking Requirements:					
Single Family Detached:	2 spaces/d	welling unit requ	uired		
Single Family Attached:	2 spaces/d	welling unit + 0.	25 guest spac	es/dwelling unit	
Single Family parking provided by drive	way and garage (m	iin 2 spaces/lot)			
Building Setbacks (minimum setbacks ur	nless otherwise note	d):			
Residential:	Single-famil		wnhouse (fror	nt loaded)	Townhouse (rear loaded)
Front:	20 feet		feet		5 feet
Rear: Side:	15 feet 6 feet	-	feet feet (5' for end	d upita)	5 feet 0 feet (5' for end units)
Side (Corner Lot):	8 feet		feet	a onins)	8 feet
Min. Building Separation		_	feet		10 feet
<u>Commercial</u> : Non Residential Square Footage:	25,000 SF				
Maximum Building Height:	50 feet				
Setbacks:					
Front: (US Hwy 64) Rear:	10 feet 10 feet				
Side: From Buffer/RCA:	10 feet	dings/5' for Park	ring Argan		
Parking:		Section 8.3	ang Areas		
Maximum Build Upon Area:	3	3.90 acres, 70%			
	13	5.20 acres	1007		alian for the state of the State of the State
RCA Required:		4.53 aces + 0.68	acres (30% ov	verall + 5% Mass Gro	ading for single-family detached)
		5.20 aaraa' '			
RCA to be Provided:	13	5.20 acres minin te to be "Mass (			
RCA to be Provided: Grading:	13 Si	te to be "Mass (	Graded"	maximum acreage	e for mass grading)
RCA to be Provided: Grading:	1: Si plat: 5	te to be "Mass ( 0% (limited by A	Graded" pex UDO to a	maximum acreage	
RCA to be Provided: Grading: % of total lots to be graded prior to first   % of the pre-development drainage are	13 Si plat: 51 m eas that	te to be "Mass ( 0% (limited by A naximum of 20 c	Graded" pex UDO to a	-	
RCA Required: RCA to be Provided: Grading: % of total lots to be graded prior to first   % of the pre-development drainage are have been preserved within their nature	13 Si plat: 51 m eas that	te to be "Mass ( 0% (limited by A	Graded" pex UDO to a	-	

### RIPARIAN BUFFERS AND WETLANDS:

RIPARIAN BUFFERS AND WETLANDS LOCATED ON SITE BY S&EC TO BE CONFIRMED BY THE US ARMY CORPS OF ENGINEERS AND TOWN OF APEX.

C000 COVER SHEET

C002 EXISTING CONDITIONS







### SITE AND UTILITY NOTES:

- . DEVELOPMENT ACCESS AND STUB STREET LOCATIONS SHALL BE FINALIZED AT MASTER SUBDIVISION PLAN DESIGN AND APPROVAL.
- FINAL RESOURCE CONSERVATION AREA (RCA), OPEN SPACE, AND PLAY LAWN LOCATIONS SHALL BE COORDINATED WITH STAFF AND BUILDER DURING MASTER SUBDIVISION PLAN DESIGN AND APPROVAL.
- ALL ZONING PLAN SHEETS ARE PROVIDED FOR ILLUSTRATIVE PURPOSES ONLY. FINAL DESIGN COMPONENTS ARE DETERMINED AT MASTER SUBDIVISION PLAN.
- REFER TO PD TEXT DOCUMENTS FOR A LIST OF ALLOWABLE USES, ZONING CONDITIONS, AND OTHER DESIGN STANDARDS FOR THE DEVELOPMENT.
- 5. ENVIRONMENTAL FEATURES ARE SUBJECT TO FINAL REVIEW CONCURRENCE WITH VARIOUS REGULATING AGENCIES.
- PUBLIC PEDESTRIAN AND VEHICULAR ACCESS IS SHOWN FOR CONCEPTUAL PURPOSES AND ARE SUBJECT TO REVISIONS DURING THE MASTER SUBDIVISION PLAN DESIGN AND APPROVAL
- 7. ALL SITE ELEMENTS ARE REQUIRED TO MEET OR EXCEED TOWN OF APEX, NCDOT, OR OTHER REVIEW AUTHORITY STANDARD DESIGN SPECIFICATIONS.
- PROJECT WILL COMPLY WITH ADOPTED TOWN MASTER PLANS INCLUDING TRANSPORTATION, WATER, SEWER, AND GREENWAYS.
- 9. THE PROJECT IS REQUESTING FULL TOWN SERVICES, INCLUDING BUT NOT LIMITED TO WATER, SEWER AND ELECTRICITY. 10. THE PROJECT WILL NOT UTILIZE PRIVATE SEWAGE DISPOSAL.

### POTENTIAL ACCESS POINTS:

Potential Access Points shown on the Conceptual Site Plan / Conceptual Utility Plan (C100) are not shown in exact locations but show required connections. Connections can only be removed from the subdivision connectivity requirements of the PUD if the developer shows to the satisfaction of the Planning Director, in consultation with the Technical Review Committee (TRC), that the construction of the connection would be impractical based on environmental conditions found in the field at the time of Master Subdivision Plan approval.



SCALE: 1" = 100'

### 1 CONCEPTUAL SITE PLAN/ SCALE: 1"=100'



(PUD PLAN) r & Design All Rights Re

### YELLOWBRIDGE

Planned Unit Development

Apex, North Carolina

### **Submittal Dates**

First Submittal: March 1, 2022 Second Submittal: April 8, 2022 Third Submittal: May 13, 2022 Fourth Submittal: June 10, 2022 Fifth Submittal: June 28, 2022

### **Developer**

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

### **Civil Engineer**

Peak Engineering & Design 1125 Apex Peakway Apex, NC 27502

### Land Use Attorneys

Parker Poe Adams & Bernstein LLP 301 Fayetteville Street, Suite 1400 Raleigh, NC 27602





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### **VICINITY MAP**



### **PROJECT DATA**

Name of Project:	Yellowbridge PUD
Property Owner:	Yellowbridge Capital, LLC 113 Mill Point Road Kitty Hawk, NC 27949
Developer:	Lennar Corporation Raleigh Division 1100 Perimeter Park Drive, Suite 112 Morrisville, NC 27560
Prepared by:	Parker Poe Adams & Bernstein LLP 301 Fayetteville Street, Suite 1400 Raleigh, NC 27601
	Peak Engineering & Design 1125 Apex Peakway Apex, NC 27502
Current Zoning:	Rural Residential (RR)
Proposed Zoning:	Planned Unit Development Conditional Zoning (PUD-CZ)
Proposed Zoning: Current 2045 Land Use Map Designation:	Planned Unit Development Conditional Zoning (PUD-CZ) Medium Density Residential
Current 2045 Land Use Map	
Current 2045 Land Use Map Designation: Proposed 2045 Land Use Map	Medium Density Residential Residential Area: Medium Density Residential
Current 2045 Land Use Map Designation: Proposed 2045 Land Use Map Designation	Medium Density Residential Residential Area: Medium Density Residential Commercial Area: Commercial Services 2817 US 64 Highway W Apex NC 27523
Current 2045 Land Use Map Designation: Proposed 2045 Land Use Map Designation Site Address:	Medium Density Residential Residential Area: Medium Density Residential Commercial Area: Commercial Services 2817 US 64 Highway W Apex NC 27523 2813 US 64 Highway W Apex NC 27523 0722752304
Current 2045 Land Use Map Designation: Proposed 2045 Land Use Map Designation Site Address: Property Identification Number:	Medium Density Residential Residential Area: Medium Density Residential Commercial Area: Commercial Services 2817 US 64 Highway W Apex NC 27523 2813 US 64 Highway W Apex NC 27523 0722752304 0722743789 (the "Property") 48.43 acres



### **PURPOSE STATEMENT**

This document and the accompanying exhibits submitted herewith (collectively, the "PUD") are provided pursuant to the Town of Apex Unified Development Ordinance ("UDO") Planned Unit Development provisions. This PUD addresses the development of approximately 48.43 acres along US 64 Highway W, less than one mile from the 540/US-64 interchange. The Property is undeveloped and within the Town's Extra Territorial Planning jurisdiction. Yellowbridge PUD will be a mixed-use community with two districts, the Residential District and the Commercial District.

Yellowbridge PUD will feature a mix of single-family detached homes, alley loaded townhouses, front loaded townhouses, and commercial uses with walking paths and open space (the "Development"). The mix of housing types will serve residents with varying budgets, backgrounds, and family needs. The community will be conveniently located to existing amenities and have easy access to highways. The neighborhood style commercial uses fronting US-64 Highway West will create a transition in development intensity from the highway south through the Development. The PUD is intended to create flexibility in design and land uses to deliver a high quality residential development that fits the context of existing development in the area. The Residential District is consistent with the Property's Medium Density Land Use Map ("LUM") designation; and generally, with the Apex Comprehensive Plan's ("Peak Plan") goal of accommodating a mix of housing types to serve the Town's growing and increasingly diverse population. Although the LUM does not specifically designate the Property for commercial uses, the portion of the Property fronting US-64 Highway West is appropriate for the neighborhood serving commercial uses permitted by this PUD. The Commercial District is located directly across US-64 Highway West from the Westford PUD which permits a variety of residential, office, and commercial uses along the road. Additionally, the Commercial District is located adjacent to the Local Bar and is separated from the Residential District by a stream and wetlands that will act as a natural buffer between future commercial uses and residential neighborhoods to the south.

### CONSISTENCY WITH PLANNED UNIT DEVELOPMENT STANDARDS

(i) The uses proposed to be developed in the PD plan for PUD-CZ are those uses permitted in Sec. 4.2.2 Use Table

**RESPONSE**: The uses permitted within The Yellowbridge PUD are permitted within this designation in UDO Section 4.2.2 Use Table.

(ii) The uses proposed in the PD Plan for PUD-CZ can be entirely residential, entirely non-residential, or a mix of residential and non-residential uses, provided a minimum percentage of non-residential land area is included in certain mixed use areas as specified on the 2045 Land Use Map. The location of uses proposed by the PUD-CZ must be shown in the PD Plan with a maximum density for each type of residential use and a maximum square footage for each type of non-residential use.


**RESPONSE**: The Yellowbridge PUD is a mixed use community with a mix of housing types and commercial uses outlined in this PUD.

(iii) The dimensional standards in Sec. 5.1.3 Table of Intensity and Dimensional Standards, Planned Development Districts may be varied in the PD Plan for PUD-CZ. The PUD-CZ shall demonstrate compliance with all other dimensional standards of the UDO, North Carolina Building Code, and North Carolina Fire Code.

**RESPONSE**: This PUD specifies intensity and dimensional standards for the project. The PUD's standards are consistent with the UDO's vision for Planned Unit Developments – to provide site specific, high-quality neighborhoods that preserve natural features and exhibit compatibility with, and connectivity to, surrounding land uses. Except as specifically stated in this PUD, Yellowbridge will comply with all other requirements of the UDO and will comply with all applicable requirements of the North Carolina Building Code and the North Carolina Fire Code.

(iv) The development proposed in the PD Plan for PUD-CZ encourages cluster and compact development to the greatest extent possible that is interrelated and linked by pedestrian ways, bikeways and other transportation systems. At a minimum, the PD Plan must show sidewalk improvements as required by the Advance Apex: The 2045 Transportation Plan and the Town of Apex Standard Specifications and Standard Details, and greenway improvements as required by the Town of Apex Parks, Recreation, Greenways, and Open Space Plan and the Advance Apex: The 2045 Transportation Plan. In addition, sidewalks shall be provided on both sides of all streets for single-family detached homes.

**RESPONSE**: Yellowbridge PUD will feature sidewalks throughout. Sidewalks will connect the project and the adjacent Abbington neighborhood, improving pedestrian connectivity. The PUD also commits to significant right of way dedication and roadway improvements called for by the Transportation Plan.

(v) The design of development in the PD Plan for PUD-CZ results in land use patterns that promote and expand opportunities for walkability, connectivity, public transportation, and an efficient compact network of streets. Cul-de-sacs shall be avoided unless the design of the subdivision and the existing or proposed street system in the surrounding area indicate that a through street is not essential in the location of the proposed cul-de-sac, or where sensitive environmental areas such as streams, floodplains, and wetlands would be substantially disturbed by making road connections.

**RESPONSE**: The proposed street layout has been designed to enhance pedestrian and vehicular connectivity while protecting sensitive environmental features and being mindful of existing residential development. The development will facilitate the vision of the Transportation Plan by extending the existing Chanticlair Drive stub street across the site to the west. Additionally, the project will extend a public street to the north to US-64 Highway West which will increase connectivity and provide Abbington residents an additional route to US-64 Highway West.

# (vi) The development proposed in the PD Plan for PUD-CZ is compatible with the character of surrounding land uses and maintains and enhances the value of surrounding properties.

**RESPONSE**: The proposed development is compatible with the character of the existing and planned uses in the surrounding area. This area of the Town's ETJ is at the intersection between growing sections of northwest Apex and historically rural, western Wake County. Adjacent properties are largely residential subdivisions with some commercial uses nearby. Nearby residential developments include the Villages at Westford Apartments, the Townes at Westford, the Stratford at Abbington, the Abbington Community, and the Sweetwater Community and Town Center. The Villages at Westford Apartments are directly across US 64 Highway West and consist of 296 apartments with a clubhouse and pool that were constructed in 2019 as part of the Westford PUD. The Stratford at Abbington and the Abbington Community are both single-family detached subdivisions. The Sweetwater Community and Town Center is a residential and commercial site with townhomes, single family homes and various commercial uses.

Yellowbridge PUD will provide a mix of housing types and neighborhood serving commercial uses that offer a transition between US 64 Highway West and the lower intensity Abbington community to the south. Density will transition from more dense townhomes to larger lot single-family detached homes as the site moves north to south. Additionally, this PUD contains buffer commitments and design standards that will ensure compatibility with neighboring uses.

(vii) The development proposed in the PD Plan for PUD-CZ has architectural and design standards that are exceptional and provide higher quality than routine developments. All residential uses proposed in a PD Plan for PUD-CZ shall provide architectural elevations representative of the residential structures to be built to ensure the Standards of this Section are met.

**RESPONSE**: Yellowbridge PUD will feature high quality and thoughtful design. Architectural standards, design controls, and conceptual elevations are included in this PUD.

## CONSISTENCY WITH CONDITIONAL ZONING STANDARDS

Yellowbridge PUD is consistent with the conditional zoning standards set forth in UDO Section 2.3.3.F.1-10. Please see the accompanying PUD-CZ Application for the statements of consistency addressing each standard.



## **PERMITTED USES**

The Property may be used for the uses listed below. The permitted uses are subject to the limitations and regulations stated in the UDO and any additional limitations or regulations stated below. For convenience, some relevant sections of the UDO may be referenced; such references do not imply that other sections of the UDO do not apply. Homeowners Association covenants shall not restrict the construction of accessory dwelling units.

#### **RESIDENTIAL DISTRICT**

The following uses shall be permitted in the Residential District:

Residential	
Single-family	Permitted
Townhouse	Permitted
Accessory apartment*	Permitted
Recreational Uses	
Park, active	Permitted
Greenway	Permitted
Park, passive	Permitted
Recreation facility, private	Permitted
Utility, minor	Permitted

\* Homeowners Association covenants shall not restrict the construction of accessory dwelling units.

#### **COMMERCIAL DISTRICT**

The following uses shall be permitted in the Commercial District:

Restaurant, general	Permitted
Restaurant, drive-through	Permitted
Medical or dental office or	Permitted
clinic	
Medical or dental laboratory	Permitted
Office, business or	Permitted
professional	
Publishing office	Permitted
Artisan Studio	Permitted
Barber and beauty shop	Permitted
Book store	Permitted
Convenience store	Permitted
Dry cleaners and laundry	Permitted
service	

Farmer's market	Permitted
Financial institution	Permitted
Floral shop	Permitted
Greenhouse or nursery, retail	Permitted
Grocery, general	Permitted
Grocery, specialty	Permitted
Health/fitness center or spa	Permitted
Kennel	Permitted
Newsstand or gift shop	Permitted
Personal service	Permitted
Pharmacy	Permitted
Printing and copying service	Permitted
Real estate sales	Permitted
Repair services, limited	Permitted
Retail sales, general	Permitted
Studio for art	Permitted
Tailor shop	Permitted
Upholstery shop	Permitted
Pet services	Permitted
Day care facility	Permitted
Veterinary clinic or hospital	Permitted
Utility, minor	Permitted

## AFFORDABLE HOUSING

The Development shall include a minimum of two (2) residential restricted affordable housing townhouse or detached single-family median-income ownership units (the "Affordable Units"). The Affordable Units shall be constructed on-site and sold (includes unit price and lot price) at a mutually agreeable maximum affordable housing median-income ownership initial sales price (the "Initial Sales Price"). The Affordable Units shall be occupied by low or median-income households earning no more than one-hundred percent (100%) of the Raleigh NC Metropolitan Statistical Area (MSA), Area Median Income (AMI), adjusted for family size as most recently published by HUD (the "Income Limit")(. For purposes of calculating the Initial Sales Price for the Affordable Units, affordable shall mean a reasonable down payment and monthly housing costs expected during the first calendar year of occupancy, including utilities or utility allowances, mortgage loan principal and interest, mortgage insurance, property taxes, homeowner's insurance, homeowner's association dues, if any, and all other property assessments, dues and fees assessed as a condition of property ownership, which does not exceed thirty percent (30%) times (x's) one-hundred percent (100%) times (x's) the annual median-income limit (100% AMI Category), based on a family size that is equal to the actual number of bedrooms as the Affordable Units, applicable to the Raleigh, NC MSA as most recently published by the HUD. A restrictive covenant (i.e. resale deed restriction) with a minimum affordability period of fifteen (15) years (the "Affordability Period") shall be recorded in the Wake County Registry against each of the Affordable Units concurrently at the close of escrow upon the sale of the Affordable Units. A restrictive covenant (i.e. affordable housing agreement) between the Town and applicant shall be recorded in the Wake County Registry against each of the lots for the Affordable Units prior to the issuance of a building permit for such lots to memorialize the affordable housing terms and conditions of the approved zoning condition. The Affordable Units may be townhouses or single-family detached houses, at the discretion of the developer, and shall be designated on the Master Subdivision Final Plat, which may be amended from time to time. Final Affordable Housing Unit floor plan selection which includes the unit size and bedroom size will be at the discretion of the developer. The Affordable Units may be provided in multiple phases or in one single phase. Developer will work with the Town to identify qualifying buyers for the first sale of the Affordable Units (the "First Sale"). Following the First Sale of the Affordable Units, Developer shall not be responsible for managing the Affordable Units or performing marketing, applicant screening, and selection related to future sales of the Affordable Units. Town staff will assist with the administrative duties of the Affordable Units during the Affordable Period.

## **DESIGN CONTROLS**

Development shall comply with the following minimum design controls.

## UNIVERSAL DESIGN CONTROLS

Total Project Area	48.43 acres
Maximum Built-Upon Area	70% of gross site acreage

#### **RESIDENTIAL DISTRICT DESIGN CONTROLS**

Maximum Residential Density	160 units
Maximum Residential Density	3.6 units/acre
Proposed Land Area	44.93 acres
Front Loaded Townhouses	
Minimum Lot Size	None
Minimum Lot Width	18 ft.
Minimum Setbacks	
Front	10 ft.
Side	0 ft. (5 ft. for end units)
Rear	5 ft.
Corner Side	8 ft.
Maximum Building Height	3 stories; 45 ft.
Minimum Building Separation	10 ft.
Minimum Buffer/RCA Setbacks	10 ft. for buildings
	5 ft. for parking areas
Rear Loaded Townhouses	
Minimum Lot Size	None
Minimum Lot Width	18 ft.
Minimum Setbacks	
Front	5 ft.
Side	0 ft. (5 ft. for end units)
Rear	5 ft.
Corner Side	8 ft.
Maximum Building Height	3 stories; 45 ft.
Minimum Building Separation	10 ft.
Single-Family Detached	
Minimum Lot Size	6,000 square feet
Minimum Lot Width*	50 ft.
Minimum Setbacks	
Front	20 ft.
Side	6 ft.
	11



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Rear	15 ft.
Corner Side	8 ft.
Maximum Building Height	3 stories; 45 ft.
Minimum Buffer/RCA Setbacks	10 ft. for buildings
	5 feet for parking areas
Minimum Resource Conservation	30% of gross site acreage
Area	

\*Single-family detached homes adjacent to the Property's southernmost property line adjacent to the Abbington neighborhood from the northwestern corner of PIN 0722645333 to the northeastern corner of PIN 0722748868 shall have a minimum lot width of 60 feet.

#### COMMERCIAL DISTRICT DESIGN CONTROLS

Proposed Land Area	3.5 acres		
Maximum Building Square Footage	25,000 SF		
Minimum Setbacks			
Front (US-64)	10 ft.		
Side	10 ft.		
Rear	10 ft.		
Corner Side	10 ft.		
Maximum Building Height	50 ft.		
Minimum Buffer/RCA Setbacks	10 ft. for buildings		
	5 ft. for parking areas		
Minimum Resource Conservation Area	25% of gross site acreage		

## LANDSCAPING, BUFFERING, AND SCREENING

Perimeter buffers shall be built and planted to the following lot width and planting standards:

Along the Property's shared property line with PIN 0722762014	30 ft. Type A
Along the Property's US-64 Highway West frontage east of PIN 0722762014*	50 ft. Type A*
Along the Property's US-64 Highway West frontage west of PIN 0722762014	100 ft. Type E



Along the Property's westernmost boundary	20 ft. Type B
Along the north and south side of Chanticlair Drive west of the intersection of Chanticlair Drive and the US-64 access road	10 ft. Type D
Along the north side of Chanticlair Drive from the westernmost boundary of the gas easement to the intersection of Chanticlair Drive and the US-64 access road**	18 ft. Type A**
Along the Property's easternmost boundary adjacent to PIN 0722850629	10 ft. Туре В
Along the gas easement	10 ft. Type A
Along the Property's southern property line from the northwest corner of PIN 0722645333 to the northeast corner of PIN 0722741431***	50 ft. Type A***
Along the Property's southern property line from the northeast corner of PIN 0722741431 to the northwest corner of PIN 0722748868****	50 ft. Type A****

\* The Development shall meet requirements (i) through (iii) in UDO Section 8.2.6(B)(5)(f)(ii)(c) to reduce the buffer width along US-64 Highway West to 50 feet.

\*\* The developer shall construct a decorative landscape wall within the buffer, parallel to Chanticlair Drive. The landscape wall shall be constructed of brick, stone, or similar materials, and be similar in design and character to the existing landscape wall along the south side of Chanticlair Drive in Abbington.

\*\*\* This portion of the perimeter buffer shall remain undisturbed and supplemented with Type A buffer plantings.

\*\*\*\* This portion of the perimeter buffer shall be cleared, graded, include a minimum 3-foot berm, and be replanted to a Type A buffer standard.

# **ARCHITECTURAL STANDARDS**

Yellowbridge PUD offers the following architectural controls to ensure a consistency of character throughout the development, while allowing for enough variety to create interest and avoid monotony. Elevations included are conceptual examples. Final elevations must comply with these architectural standards but may vary from the conceptual elevations. Further details may be provided at the time of Residential Master Subdivision Plan submittal.

## **RESIDENTIAL DISTRICT DESIGN GUIDELINES**

Single-Family Detached:

- 1. Vinyl siding is not permitted; however, vinyl windows, decorative elements and trim are permitted.
- 2. The roof shall be pitched at 5:12 or greater for 75% of the building designs.
- 3. Eaves shall project at least 12 inches from the wall of the structure.
- 4. Garage doors shall have windows, decorative details or carriage-style adornments on them.
- 5. The garage shall not protrude more than 1 foot out from the front façade and front porch.
- 6. Garages on the front façade of a home that faces the street shall not exceed 30% of the total width of the house and garage together.
- 7. The visible side of a home on a corner lot facing the public street shall contain at least 3 decorative elements such as, but not limited to, the following elements:
  - Windows
  - Bay window
  - Recessed window
  - Decorative window
  - Trim around the windows
  - Wrap around porch or side porch
  - Two or more building materials
  - Decorative brick/stone

- Decorative shake
- Decorative air vents on gable
- Decorative gable
- Decorative cornice
- Column
- Portico
- Balcony
- Dormer

- Decorative trim
- 8. 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.
- 9. House entrances for units with front-facing single-car garages shall have a prominent covered porch/stoop area leading to the front door.
- 10. The rear and side elevations of the units that can be seen from the right-of-way shall have trim around the windows.
- 11. Front porches shall be a minimum of 5 feet deep.
- 12. No more than 25% of lots may be accessed with J-driveways. There shall be no more than 3 such homes in a row on any single block. Any lots eligible for a J-driveway home shall be identified on the Final Plat.



- 13. In addition, all single-family detached homes shall include:
  - 1. Covered front porches
  - 2. Crawl space foundations
  - 3. Custom porch railings
  - 4. Masonry on all elevations up to first floor window sills
  - 5. Multiple roof lines and gables
  - 6. Shutters or trim on all front elevation windows
  - 7. Pediments, crossheads, or 1x6 or greater trim on all front elevation windows
  - 8. Multiple siding styles

Townhouses (front and alley loaded):

- 1. Vinyl siding is not permitted; however, vinyl windows, decorative elements and trim are permitted.
- 2. The roofline cannot be a single mass; it must be broken up horizontally and vertically between every unit.
- 3. Garage doors must have windows, decorative details or carriage-style adornments on them.
- 4. House entrances for units with front-facing single-car garages shall have a covered porch/stoop area leading to the front door.
- 5. The garage cannot protrude more than 1 foot out from the front façade or front porch.
- 6. 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 gable
  - Decorative gable
  - Decorative cornice
  - Column
  - Portico
  - Balcony
  - Dormer
- 7. Building facades shall have horizontal relief achieved by staggering the units.
- 8. 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.

15 - Page 263 - 9. The rear and side elevations of the units with right-of-way frontage shall have trim around the windows.

## CONCEPTUAL RESIDENTIAL DISTRICT BUILDING ELEVATIONS









#### **COMMERCIAL DISTRICT DESIGN GUIDELINES**

- 1. Architectural treatments such as varying roof forms, façade articulation, breaks in roof, walls with texture materials and ornamental details shall be incorporated to add visual interest.
- 2. Large expanses of blank walls greater than 25 feet in length or height shall be broken up with windows or other architectural features to reduce visual impacts.
- 3. Roof features may include flat roofs with parapet, hip roofs or awnings with metal or canvas material.

#### COMMERCIAL DISTRICT MATERIALS

Non-residential exteriors shall incorporate variation in materials. The front façade and other facades located along a public right-of-way may include:

- 1. Brick and/or stone masonry
- 2. Decorative concrete block (integral color or textured)
- 3. Stone accents
- 4. Aluminum storefronts with anodized or pre-finished colors
- 5. EIFS cornices, and parapet trim
- 6. 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
- 7. Precast concrete
- 8. Soffit and fascia materials to be considered include EIFS with crown trim elements
- 9. Cementitious siding

Rear elevations of non-residential buildings facing opaque landscape buffers or not visible from vehicular use areas or public rights-of-way may incorporate decorative concrete masonry, metal coping, or EIFS trim.





## REPRESENTATIVE COMMERCIAL DISTRICT BUILDING ELEVATIONS



## PARKING AND LOADING

Parking shall comply with minimum parking standards set forth in UDO Section 8.3.

## SIGNAGE

Signage shall comply with UDO Section 8.7.

In addition, the project shall install at least one (1) sign per SCM discouraging the use of fertilizer and to reduce pet waster near SCM drainage areas. The sign(s) shall be installed in locations that are publicly accessible, such as adjacent to, but outside of public property and/or public easement(s), amenity centers, sidewalks, greenways, or side paths.

## **CONSTRUCTION TRAFFIC**

All heavy duty construction traffic shall enter and exit the site via US-64 Highway West. Heavy duty construction traffic shall not use Chanticlair Drive, Rothwood Way, or Lyndenbury Drive. "No Construction Traffic" signage shall be posted along Chanticlair Drive and Rothwood Way.

## NATURAL RESOURCES AND ENVIRONMENTAL DATA



### RIVER BASINS AND WATERSHED PROTECTION OVERLAY DISTRICTS

The Property is within the Beaver Creek Basin, Jordan Lake Watershed, and Primary Watershed Protection Overlay District as shown on the Town of Apex Watershed Protection Overlay Map 2019. This PUD will comply with all built upon area, vegetated conveyances, structural SCMs and riparian stream buffer requirements of UDO Section 6.1.8.

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

The Development will meet or exceed the minimum Resource Conservation Area ("RCA") requirements in UDO Section 8.1.2 and 2.3.4. The Property is located west of 540 and is therefore required to preserve a minimum of 30% RCA for the Residential District and 25% RCA for the Commercial District. Designated RCA areas will be consistent with UDO Section 8.1.2(B). Preserved streams, wetlands, and associated riparian buffers provide the primary RCAs throughout the Property. Additional RCAs may include stormwater management areas, multi-use paths, and perimeter buffers.

#### Floodplain

The project site does not sit within a designated current or future 100-year floodplain as shown on the Town of Apex Watershed & FEMA Map dated April 2015. FIRM Panel 3720072200J dated May 2, 2006 does not include a floodplain within the property boundary.

#### **Historic Structures**

There are no known historic structures present on the Property.

#### **Environmental Commitments Summary**

The following environmental conditions shall apply to the Development:

- All dwelling units shall be pre-configured with conduit for a solar energy system.
- The project shall install at least one (1) sign per SCM discouraging the use of fertilizer and to reduce pet waste near SCM drainage areas. The sign(s) shall be installed in locations that are publicly accessible, such as adjacent to, but outside of public property and/or public easement(s), amenity centers, sidewalks, greenways, or side paths.
- The project shall install a minimum of two (2) pet waste stations.
- The project shall plant drought resistant warm season grasses throughout the development to minimize irrigation and chemical use.
- Stormwater control devices shall be designed and constructed so that post development peak runoff does not exceed pre-development peak runoff conditions for the 24-hour, 1 year, 10 year, and 25 year storm events.
- Landscaping shall include at least four (4) native hardwood tree species throughout the Development.



- No clearing or land disturbance shall be permitted within the riparian buffer, except the minimum necessary to install required road and utility infrastructure and SCM outlets. The SCM water storage and treatment shall not be permitted within the riparian buffer. Sewer infrastructure shall be designed to minimize impacts to riparian buffers.
- Any outdoor lighting installed in the commercial area and on private amenities, signs, landscaping, walls, or fences shall be full cutoff LED fixtures with a maximum color temperature of 3000k. This condition shall not apply to lighting on single-family homes, townhouses, accessory buildings, or street lighting.
- At least 75% of plants shall be native species. Landscaping will be coordinated with and approved by the Planning Department at site or subdivision review.

## STORMWATER MANAGEMENT

Stormwater control devices shall be designed and constructed to exceed UDO standards so that post development peak runoff does not exceed pre-development peak runoff conditions for the 24-hour, 1 year, 10 year, and 25 year storm events. Otherwise, the Development shall meet all stormwater management requirements for quality and quantity treatment in accordance with Section 6.1 of the UDO.

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

## PARKS AND RECREATION

This project was reviewed by the Parks, Recreation, and Cultural Resources Advisory Commission on April 27, 2022 and a fee-in-lieu of dedication was recommended.

Single-family detached Units:	\$ 3,753.89 x 50 =	\$ 187 <i>,</i> 694.50
Single-family attached Units:	\$ 2,528.25 x 110 =	<u>\$ 278,107.50</u>
Total residential fee in lieu per current unit count:		\$ 465 <i>,</i> 802

The final unit count and total fee-in-lieu will be calculated at Master Subdivision Plan and Construction Document review.

## **PUBLIC FACILITIES**

The proposed PUD shall meet all Public Facilities requirements as set forth in UDO Section 2.3.4(F)(1)(f) and be designed to comply with the Town's Sewer and Water Master Plan and Standards and Specifications. Road and utility infrastructure shall be as follows:

## GENERAL ROADWAY INFRASTRUCTURE

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

#### TRANSPORTATION IMPROVEMENTS

The following conditions regarding transportation improvements apply and shall be phased consistent with the Traffic Impact Analysis that has been performed for this rezoning, which is on file with the Town of Apex.

- All proposed driveway access and improvements on state-maintained roadways are subject to both Apex and NCDOT review and approval.
- A maximum of one (1) access point shall be proposed on US 64, to be constructed as a left-in/right-in/right-out public street access at the existing median break with a stop-controlled northbound approach with one lane of ingress and one lane of egress and an exclusive eastbound right turn lane with a minimum 100 feet of storage and appropriate deceleration length and taper on US Hwy 64. Improve the median break and construct physical separation between turn lanes to accommodate trucks and prevent both improper left turns and vehicular turning-movement conflicts.
- Construct an exclusive eastbound U-turn median break on US Hwy 64, approximately halfway between the site access at the existing median break and Kellyridge Drive including a U-turn lane with a minimum of 100 feet of storage and appropriate deceleration length and taper. If the eastbound U-turn lane is removed from the existing median break location to the west, extend the storage to 150 feet at this location.
- Consistent with the Transportation Plan Thoroughfare and Collector Street Map, Chanticlair Drive shall be extended westward as a Major Collector Street with a minimum 60-foot right-of-way, consistent with Town Standards.
- No residential driveways shall be permitted on existing or future Major Collector Street(s).
- Rothwood Way shall be extended north and stubbed to the southernmost property line of PIN 0722850629. Homes located on Rothwood Way shall take driveway access from Rothwood Way.
- The extension of Chanticlair Drive shall be constructed concurrently with the project but shall remain closed to traffic between Yellowbridge and Abbington subdivisions until such time that the 50<sup>th</sup> CO is approved for Yellowbridge. The form of closure shall be noted on the subdivision plan and subject to Town staff approval.



• Potential Access Points shown on the Conceptual Site Plan and Conceptual Utility Plan (C100) are not shown in exact locations but show required connections. Connections may only be removed from the subdivision connectivity requirements of the PUD if the developer shows to the satisfaction of the Planning Director, in consultation with the Technical Review Committee (TRC), that the construction of the connection would be impractical based on environmental conditions found in the field at the time of Master Subdivision Plan approval.

## PEDESTRIAN AND BICYCLE IMPROVEMENTS

Per UDO requirements, sidewalks shall be provided along both sides of all streets.

#### WATER AND SANITARY SEWER

All lots within the Development will be served by Town of Apex water and sanitary sewer. The utility design will be finalized at the time of Master Subdivision Plan or Site Plan approval and be based on available facilities adjacent to the site at that time. The design will meet the current Town of Apex master plans for water and sewer. A conceptual utility plan is included in the PUD Concept Plan for reference.

### **OTHER UTILITIES**

Electricity will be provided by Apex Electric. Phone, cable, and gas will be provided by the Developer and shall meet Town of Apex standards as outlined in the UDO.

## PHASING

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

## CONSISTENCY WITH LAND USE PLAN

The proposed Development is generally consistent with Advance Apex 2045: The Apex Comprehensive Plan, adopted in February 2019. The Land Use Map designates the Property as Medium Density Residential which allows a PUD zoning district and contemplates the housing types and densities proposed in the Residential District. This PUD updates the LUM designation of the Commercial District to Commercial Services. Although the LUM does not specifically designate the Property for commercial uses, the portion of the Property fronting US-64 Highway West is appropriate for the neighborhood serving commercial uses permitted by this PUD. The Commercial District is located directly across US-64 Highway West from the Westford PUD which permits a variety of residential, office, and commercial uses along the road. Additionally, the Commercial District is located adjacent to the Local Bar and is separated from the Residential District by a stream and wetlands that will act as a natural buffer between future commercial uses and residential neighborhoods to the south.



# **COMPLIANCE WITH UDO**

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

## EXHIBIT A Legal Description The Property

#### PIN# 0722752304 & 0722743789

All that certain real property situated in White Oak Township, Wake County, North Carolina, described as follows:

Beginning at a set iron rod on the northern right of way line of Chanticlair Drive, said iron rod marking the southwestern corner of Lot 74 as said lot is shown and so designated on that certain subdivision plat entitled "Windsor at Abbington - Phase 1, Section A, Map 2, Lots 24-27 & 65-74" recorded in Book of Maps 1998, Page 203, Wake County Registry; thence along the northern right of way line of Chanticlair Drive, South 89°37'45" West 280.73 feet to a set iron rod; thence South 00°22'15" East 30.04 feet to a set iron rod at the centerline of the western terminus of Chanticlair Drive and the northeastern corner of the 0.08 acre Reserved Area depicted on that certain subdivision plat entitled "Stratford at Abbington, Phase 1: Lots 1-31, 65-75, Owner: Highway 64, LLC" recorded in Book of Maps 2006, Pages 2638 to 2640, Wake County Registry; thence along the northern and western boundary of said Reserved Area and continuing along the northwestern boundary of said Stratford at Abbington subdivision the following nine courses: (1) South 89°37'45" West 118.01 feet to a set iron rod; (2) South 05°29'21" West 40.93 feet to a set iron rod; (3) South 01°54'29" East 98.00 feet to a set iron rod; (4) South 11°29'28" East 62.80 feet to a set iron rod; (5) South 22°27'50" West 118.06 feet to a found iron pipe; (6) South 70°08'38" West 118.71 feet to a found iron pipe; (7) South 77°30'46" West 65.05 feet to a found iron pipe; (8) South 73°46'05" West 40.75 feet to a found iron pipe; and (9) South 73°28'08" West 311.49 feet to a found iron pipe at an angle point in the northern boundary of Lot 64 as said lot is shown and so designated on that certain subdivision plat entitled "Stratford at Abbington, Phase 2: Lots 32-64, Owner: Highway 64, LLC" recorded in Book of Maps 2008, Pages 33 and 34, Wake County Registry; thence along the northern boundary of said Stratford at Abbington Phase 2 subdivision South 82°16'49" West 758.57 feet to a found iron pipe with cap at the northwestern corner of Lot 56 of said Stratford at Abbington Phase 2 subdivision, said point also being on the eastern boundary of Lot 2 as said lot is shown and so designated on that certain plat entitled "Recombination Survey for Cecil V. Campfield and Wife Sharon K. Campfield" recorded in Book of Maps 1995, Page 334, Wake County Registry; thence along the eastern boundary of said Campfield plat the following two courses: (1) North 03°08'59" East 417.75 feet to a found bent iron pipe; and (2) North 03°12'21" East 406.54 feet to a found iron pipe with cap at the southeastern corner of Lot 'A' as said lot is shown and so designated on that certain plat entitled "Recombination for Joel V. Perry" recorded in Book of Maps 1985, Page 522, Wake County Registry; thence along the eastern boundary of said Perry plat North 03°11'42" East 841.95 feet to a found iron rod with cap on the southern right of way line of U.S. Highway 64; thence along said southern right of way line North 82°54'26" East 331.57 feet to a set iron rod at the northwestern corner of the parcel depicted on that certain plat entitled "Boundary Survey, Property of Calvin Mills, Prepared for David and Sharon Raymer" recorded in Book of Maps 2004, Page 698, Wake County Registry; thence along the western, southern and eastern boundary of said Mills plat the following three courses: (1) South 07°08'43" East 189.52 feet to a found iron pipe; (2) North 82°51'17" East 420.02 feet to a found iron pipe; and (3) North 07°08'43" West 189.14 feet to a set iron rod on the southern right of way line of



U.S. Highway 64; thence along said southern right of way line the following two courses: (1) North 82°54'26" East 265.68 feet to a set iron rod; and (2) North 82°53'08" East 305.02 feet to a set iron rod at the northwestern corner of Area "B" as shown and so designated on that certain plat entitled "Property of Blakely-Braswell Land Company, LLC" recorded in Book of Maps 1996, Page 634, Wake County Registry; thence along the western boundary of said Area "B", South 11°47'52" West 42.58 feet to a found iron pipe with cap at the northwestern corner of Tract 'A' as said lot is shown and so designated on that certain plat entitled "Property of Calvin E. Mills, Alta Belle P. Mills, Ted Mills & Randy Mills By William R. Hoke & Paul Stam, Jr., Co-trustees" recorded in Book of Maps 1984, Page 404, Wake County Registry; thence along the western and southern boundaries of said Mills plat the following five courses: (1) South 07°43'26" West 146.44 feet to a found iron pipe with cap; (2) South 03°03'23" East 318.20 feet to a found iron pipe with cap; (3) South 05°04'48" West 519.04 feet to a found iron pipe with cap; (4) South 15°45'44" West 60.82 feet to a found iron pipe with broken cap; and (5) South 89°57'43" East 359.26 feet to a found iron pipe with cap on the western boundary of Lot 73 of the previously mentioned Windsor at Abbington subdivision plat recorded in Book of Maps 1998, Page 203, Wake County Registry; thence along the western boundary of said Windsor at Abbington subdivision South 02°25'07" East 148.61 feet to the point of beginning.

Containing 48.2331 acres, more or less, and being all of Lot "B" as said lot is shown and so designated on that certain plat entitled "Subdivision, Property of Gaither Bryant Garner, Jr. and Gerald L. Hornick" recorded in Book of Maps 1984, Page 1516, Wake County Registry, TOGETHER WITH all of Tract 1 as said tract is shown and so designated on that certain plat entitled "Division for Gerald L. Hornick, et ux and G. Bryant Garner, et ux" recorded in Book of Maps 2003, Page 474, Wake County Registry, LESS AND EXCEPT the area dedicated as public right of way for Chanticlair Drive as recorded in Deed Book 11778, Page 1490, Wake County Registry.

# **RAMEY KEMP ASSOCIATES**

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Yellow Bridge Residential **Traffic Impact Analysis** Apex, North Carolina



# TRAFFIC IMPACT ANALYSIS

FOR

# **YELLOW BRIDGE RESIDENTIAL**

LOCATED

IN

# **APEX, NORTH CAROLINA**

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

Prepared By: Ramey Kemp & Associates, Inc. 5808 Faringdon Place, Suite 100 Raleigh, NC 27609 License #C-0910

FEBRUARY 2022



Prepared By: <u>TF</u>

Reviewed By: <u>NB</u>

RKA Project No. 22004

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## TRAFFIC IMPACT ANALYSIS YELLOW BRIDGE APEX, NORTH CAROLINA

### **EXECUTIVE SUMMARY**

### 1. Development Overview

A Traffic Impact Analysis (TIA) was conducted for the proposed Yellow Bridge Residential development in accordance with the Town of Apex (Town) Unified Development Ordinance (UDO) and North Carolina Department of Transportation (NCDOT) capacity analysis guidelines. The proposed development is to be located south of US 64 and west of the Abbington subdivision in Apex, North Carolina. The proposed development is expected to consist of 59 single-family homes, 83 townhomes, and 25,000 square feet (sq. ft.) of retail space to be built out in 2026. Site access is proposed via one (1) left-over driveway along US 64 at the existing median break, and one (1) internal connection to Chanticlair Drive.

## 2. Existing Traffic Conditions

The study area for the TIA was determined through coordination with the Town and NCDOT and consists of the following existing intersections:

• US 64 and Median Break

Existing peak hour traffic volumes were determined based on a combination of previously collected traffic counts at the intersection of US 64 and Jenks Road / Richardson Road, and new turning movement counts conducted at the existing median break. Previously conducted traffic counts at the intersection of US 64 and Jenks Road / Richardson Road were collected in October 2021 during typical weekday AM (7:00 AM – 9:00 AM) and PM (4:00 PM – 6:00 PM) peak periods, while schools were in session for in person learning. These previously conducted counts were utilized to determine through volume traffic at the median break. Turning movement volumes at the median break were determined based on traffic counts conducted at the existing median break, in January 2022, during a typical weekday AM (7:00 AM – 9:00 AM) and PM (4:00 PM – 6:00 PM) peak periods, while schools were in session for in person learning. These previously conducted at the existing median break, in January 2022, during a typical weekday AM (7:00 AM – 9:00 AM) and PM (4:00 PM – 6:00 PM) peak periods, while schools were in session for in person learning. Weekday AM and PM traffic volumes were balanced between study intersections, where appropriate.



## 3. Site Trip Generation

The proposed development is assumed to consist of a maximum of 59 single-family homes, 83 townhomes, and 25,000 square feet (sq. ft.) of retail space. Average weekday daily, AM peak hour, and PM peak hour trips for the proposed development were estimated using methodology contained within the ITE Trip Generation Manual, 10<sup>th</sup> Edition. Table E-1 provides a summary of the trip generation potential for the site.

Land Use (ITE Code)	Intensity	Daily Traffic (vpd)	Weel AM F Hour (vp	Peak Trips	PM I Hour	kday Peak Trips oh)
			Enter	Exit	Enter	Exit
Single-Family Homes (210)	59 DU	640	12	35	38	23
Multi-Family Homes (Low-Rise) (220)	83 DU	588	9	31	31	19
Shopping Center (820)	25 KSF	944	15	9	45	50
Total Trips2,172		36	75	114	92	
Internal Capture (2% AM & 1% PM)*		0	-2	-11	-12	
Total External Trips		36	73	103	80	
Pass-By Trips: Shopping ( (34% PM)	Center		-	-	-14	-14
Total Primary Trip	S		36	73	89	66

**Table E-1: Site Trip Generation** 

\*Utilizing methodology contained in the NCHRP Report 684.

## 4. Future Traffic Conditions

Through coordination with the Town and NCDOT, it was determined that an annual growth rate of 3% would be used to generate 2026 projected weekday AM and PM peak hour traffic volumes. The following adjacent developments were identified to be considered under future conditions:

- Westford Residential (currently 75% built-out)
- Legacy PUD (US 64 Residential)
- Sweetwater Development



The study analyzes traffic conditions during the weekday AM and PM peak hours for the following scenarios:

- 2022 Existing Traffic Conditions
- 2026 No-Build Traffic Conditions
- 2026 Build Traffic Conditions

## 5. Capacity Analysis Summary

The analysis considered weekday AM and PM peak hour traffic for 2018 existing, 2022 no-build, and 2022 build conditions. Refer to Section 7 of the TIA for the capacity analysis summary performed at each study intersection.

## 6. Recommendations

Based on the findings of this study, specific geometric and traffic control improvements have been identified at study intersections. The improvements are summarized below and are illustrated in Figure E-1.

## **Recommended Improvements by Developer**

## US 64 and Median Break / Site Access

- Construct the northbound approach (Site Access) with one ingress and one egress lane striped as an exclusive right-turn lane.
- Provide stop-control for the northbound approach (Site Access). The proposed intersection will be configured as a left-over.
- Construct an exclusive eastbound (US 64) right-turn lane with a minimum of 100 feet of storage and appropriate decel and taper.
- Restripe the existing westbound (US 64) u-turn lane to provide for a westbound left-turn movement.

## US 64 and Eastern U-Turn Location

• Construct an exclusive eastbound (US 64) u-turn lane with a minimum of 100 feet of storage and appropriate decel and taper to be located east of the existing median break and proposed site driveway location.

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# TRAFFIC IMPACT ANALYSIS YELLOW BRIDGE RESIDENTIAL APEX, NORTH CAROLINA

## 1. INTRODUCTION

The contents of this report present the findings of the Traffic Impact Analysis (TIA) conducted for the proposed Yellow Bridge Residential development located south of US 64 and west of the Abbington subdivision in Apex, North Carolina. The purpose of this study is to determine the potential impacts to the surrounding transportation system created by traffic generated by the proposed development, as well as recommend improvements to mitigate the impacts.

The proposed development, anticipated to be completed in 2026, is assumed to consist of the following uses:

- 59 single-family homes
- 83 townhomes
- 25,000 square feet (sq. ft.) retail space

The study analyzes traffic conditions during the weekday AM and PM peak hours for the following scenarios:

- 2022 Existing Traffic Conditions
- 2026 No-Build Traffic Conditions
- 2026 Build Traffic Conditions

## 1.1. Site Location and Study Area

The proposed development is located south of US 64 and west of the Abbington subdivision in Apex, North Carolina. Refer to Figure 1 for the site location map.

The study area for the TIA was determined through coordination with the North Carolina Department of Transportation (NCDOT) and the Town of Apex (Town) and consists of the following existing intersections:



• US 64 and Median Break

Refer to Appendix A for the approved scoping documentation.

## 1.2. Proposed Land Use and Site Access

The site is located south of US 64 and west of the Abbington subdivision. The proposed development, anticipated to be completed in 2026, is assumed to consist of the following uses:

- 59 single-family homes
- 83 townhomes
- 25,000 square feet (sq. ft.) retail space

Site access is proposed via one (1) left-over driveway along US 64 at the existing median break, and one (1) internal connection to Chanticlair Drive. Refer to Figure 2 for a copy of the preliminary site plan.

## 1.3. Adjacent Land Uses

The proposed development is located in an area consisting primarily of commercial and residential development.

## 1.4. Existing Roadways

Existing lane configurations (number of traffic lanes on each intersection approach), lane widths, storage capacities, and other intersection and roadway information within the study area are shown in Figure 3. Table 1 provides a summary of this information, as well.

Road Name	Route Number	Typical Cross Section	Speed Limit	Maintained By	2019 AADT (vpd)
US 64		4-lane divided	55 mph	NCDOT	27,000

**Table 1: Existing Roadway Inventory** 








#### 2. 2022 EXISTING PEAK HOUR CONDITIONS

#### 2.1. 2022 Existing Peak Hour Traffic Volumes

Existing peak hour traffic volumes were determined based on a combination of previously collected traffic counts at the intersection of US 64 and Jenks Road / Richardson Road, and new turning movement counts conducted at the existing median break. Previously conducted traffic counts at the intersection of US 64 and Jenks Road / Richardson Road were collected in October 2021 during typical weekday AM (7:00 AM – 9:00 AM) and PM (4:00 PM – 6:00 PM) peak periods, while schools were in session for in person learning. These previously conducted counts were utilized to determine through volume traffic at the median break. Turning movement volumes at the median break were determined based on traffic counts conducted at the existing median break, in January 2022, during a typical weekday AM (7:00 AM – 9:00 AM) and PM (4:00 PM – 6:00 PM) peak periods, while schools were in session for in person learning. Weekday AM and PM traffic volumes were balanced between study intersections, where appropriate. Refer to Figure 4 for 2022 existing weekday AM and PM peak hour traffic volumes. A copy of the count data is located in Appendix B of this report.

#### 2.2. Analysis of 2022 Existing Peak Hour Traffic Conditions

The 2022 existing weekday AM and PM peak hour traffic volumes were analyzed to determine the current levels of service at the study intersections under existing roadway conditions. The results of the analysis are presented in Section 7 of this report.





#### 3. 2026 NO-BUILD PEAK HOUR CONDITIONS

In order to account for growth of traffic and subsequent traffic conditions at a future year, no-build traffic projections are needed. No-build traffic is the component of traffic due to the growth of the community and surrounding area that is anticipated to occur regardless of whether or not the proposed development is constructed. No-build traffic is comprised of existing traffic growth within the study area and additional traffic created as a result of adjacent approved developments.

#### 3.1. Ambient Traffic Growth

Through coordination with the Town and NCDOT, it was determined that an annual growth rate of 3% would be used to generate 2026 projected weekday AM and PM peak hour traffic volumes. Refer to Figure 5 for 2026 projected peak hour traffic.

#### 3.2. Adjacent Development Traffic

Through coordination with the Town and NCDOT, the following adjacent developments were identified to be included as an approved adjacent development in this study:

- Westford Residential (currently 75% built-out)
- Legacy PUD (US 64 Residential)
- Sweetwater Development Commercial

Table 2, on the following page, provides a summary of the adjacent developments.



Development Name	Location	Build-Out Year	Land Use / Intensity	TIA Performed
Westford Residential	North of US 64 and east of Jenks Road	2019*	90 single-family homes 300 apartments 225 townhomes	December 2016 by Kimley-Horn
Legacy PUD (US 64 Residential)	South of US 64, west of the former Tee-to-Green site	2026	75 single-family homes 400 apartments 11,000 sq. ft. Day Care 3,500 sq. ft. FF Restaurant	July 2021 by Kimley-Horn (Phase 2 TIA Addendum)
Sweetwater Development	South of the US 64 and Jenks Road / Richardson Road intersection	2019**	375 single-family homes 60 condominiums 50,000 sq. ft. office space 200,000 sq. ft. retail space 7,000 sq. ft. HTSD 1,490 sq. ft. FF w/ DT 4-lane Drive-In Bank	December 2014 by RKA

**Table 2: Adjacent Development Information** 

\*Assumed currently 75% built-out.

\*\*Residential portion is assumed fully built-out.

Based on coordination with the Town and NCDOT, it was assumed that the Westford Residential development is currently approximately 75% built-out at the time of scoping and therefore a portion of development site traffic is captured in the existing traffic counts. Similarly, it was assumed that the residential portion of the Sweetwater development was constructed at the time of data collection and therefore the associated trips were not considered in the calculation of adjacent development traffic.

It should be noted that the adjacent developments were approved, during scoping, by the Town and NCDOT. Adjacent development trips are shown in Figure 6. Adjacent development information can be found in Appendix C.

#### 3.3. Future Roadway Improvements

Based on coordination with the NCDOT and the Town, it was determined there were no future roadway improvements to consider with this study.



#### 3.4. 2026 No-Build Peak Hour Traffic Volumes

The 2026 no-build traffic volumes were determined by projecting the 2022 existing peak hour traffic to the year 2026, and adding the adjacent development trips. Refer to Figure 7 for an illustration of the 2026 no-build peak hour traffic volumes at the study intersections.

#### 3.5. Analysis of 2026 No-Build Peak Hour Traffic Conditions

The 2026 no-build AM and PM peak hour traffic volumes at the study intersections were analyzed with future geometric roadway conditions and traffic control. The analysis results are presented in Section 7 of this report.









#### 4. SITE TRIP GENERATION AND DISTRIBUTION

#### 4.1. Trip Generation

The proposed development is assumed to consist of 59 single-family homes, 86 townhomes, and 25,000 sq. ft. of retail space. Average weekday daily, AM peak hour, and PM peak hour trips for the proposed development were estimated using methodology contained within the ITE *Trip Generation Manual*, 10th Edition. Table 3 provides a summary of the trip generation potential for the site. It should be noted that several trip generation scenarios were considered and that the most conservative scenario was considered in the analysis. Refer to Appendix I for a summary of the proposed densities considered and a comparison of the expected trip generations.

Land Use (ITE Code)	Intensity	Daily Traffic (vpd)	Weekday AM Peak Hour Trips (vph)		Weekday PM Peak Hour Trips (vph)			
			Enter	Exit	Enter	Exit		
Single-Family Homes (210)	59 DU	640	12	35	38	23		
Multi-Family Homes (Low-Rise) (220)	83 DU	588	9	31	31	19		
Shopping Center (820)	25 KSF	944	15	9	45	50		
Total Trips2,172			36	75	114	92		
Internal Capture (2% AM & 1% PM)*			0	-2	-11	-12		
Total External Trips			36	73	103	80		
Pass-By Trips: Shopping Center (34% PM)			-	-	-14	-14		
Total Primary Trips				73	89	66		

**Table 3: Trip Generation Summary** 

\*Utilizing methodology contained in the NCHRP Report 684.

It is estimated that the proposed development will generate approximately 2,172 total site trips on the roadway network during a typical 24-hour weekday period. Of the daily traffic volume, it is anticipated that 111 trips (36 entering and 75 exiting) will occur during the



weekday AM peak hour and 206 trips (114 entering and 92 exiting) will occur during the weekday PM peak hour.

Internal capture of trips between the residential and retail uses was considered in this study. Internal capture is the consideration for trips that will be made within the site between different land uses, so the vehicle technically never leaves the internal site but can still be considered as a trip to that specific land use. Internal capture typically only considers trips between residential, office, and retail/restaurant land uses. Based on NCHRP Report 684 methodology, a weekday AM peak hour internal capture of 2% and a weekday PM peak hour internal capture rate of 11% was applied to the total trips. The internal capture reductions are expected to account for approximately 2 trips (0 entering and 2 exiting) during the weekday AM peak hour and 23 trips (11 entering and 12 exiting) during the weekday PM peak hour.

Pass-by trips were also taken into consideration in this study. Pass-by trips are made by the traffic already using the adjacent roadway, entering the site as an intermediate stop on their way to another destination. Pass-by percentages are applied to site trips after adjustments for internal capture. Pass-by trips are expected to account for approximately 28 trips (14 entering and 14 exiting) during the weekday PM peak hour. It should be noted that the pass-by trips were balanced, as it is likely that these trips would enter and exit in the same hour.

The total primary site trips are the calculated site trips after the reduction for internal capture and pass-by trips. Primary site trips are expected to generate approximately 109 trips (33 entering and 73 exiting) during the weekday AM peak hour and 155 trips (89 entering and 66 exiting) during the weekday PM peak hour.

#### 4.2. Site Trip Distribution and Assignment

Trip distribution percentages used in assigning site traffic for this development were estimated based on a combination of existing traffic patterns, population centers adjacent to the study area, and engineering judgment.



It is estimated that the residential site trips will be regionally distributed as follows:

- 75% to/from the east via US 64
- 20% to/from the west via US 64
- 5% to/from the east via Chanticlair Drive

It is estimated that the commercial site trips will be regionally distributed as follows:

- 65% to/from the east via US 64
- 30% to/from the west via US 64
- 5% to/from the east via Chanticlair Drive

The residential site trip distribution is shown in Figure 8A, the commercial site trip distribution is shown in Figure 8B. Refer to Figure 9A and Figure 9B for the residential and commercial site trip assignment, respectively.

The pass-by site trips were distributed based on existing traffic patterns with consideration given to the proposed driveway access and site layout. Refer to Figure 10 for the pass-by site trip distribution. Pass-by site trips are shown in Figure 11.

The total site trips were determined by adding the primary site trips and the pass-by site trips. Refer to Figure 12 for the total peak hour site trips at the study intersections.

















#### 5. 2026 BUILD TRAFFIC CONDITIONS

#### 5.1. 2026 Build Peak Hour Traffic Volumes

To estimate traffic conditions with the site fully built-out, the total site trips were added to the 2026 no-build traffic volumes to determine the 2026 build traffic volumes. Refer to Figure 13 for an illustration of the 2026 build peak hour traffic volumes with the proposed site fully developed.

#### 5.2. Analysis of 2026 Build Peak Hour Traffic Conditions

Study intersections were analyzed with the 2026 build traffic volumes using the same methodology previously discussed for existing and no-build traffic conditions. Intersections were analyzed with improvements necessary to accommodate future traffic volumes. The results of the capacity analysis for each intersection are presented in Section 7 of this report.





#### 6. TRAFFIC ANALYSIS PROCEDURE

Study intersections were analyzed using the methodology outlined in the *Highway Capacity Manual* (HCM), 6<sup>th</sup> Edition published by the Transportation Research Board. Capacity and level of service are the design criteria for this traffic study. A computer software package, Synchro (Version 10.3), was used to complete the analyses for most of the study area intersections. Please note that the unsignalized capacity analysis does not provide an overall level of service for an intersection; only delay for an approach with a conflicting movement.

The HCM defines capacity as "the maximum hourly rate at which persons or vehicles can reasonably be expected to traverse a point or uniform section of a lane or roadway during a given time period under prevailing roadway, traffic, and control conditions." Level of service (LOS) is a term used to represent different driving conditions, and is defined as a "qualitative measure describing operational conditions within a traffic stream, and their perception by motorists and/or passengers." Level of service varies from Level "A" representing free flow, to Level "F" where breakdown conditions are evident. Refer to Table 4 for HCM levels of service and related average control delay per vehicle for both signalized and unsignalized intersections. Control delay as defined by the HCM includes "initial deceleration delay, queue move-up time, stopped delay, and final acceleration delay". An average control delay of 50 seconds at a signalized intersection results in LOS "D" operation at the intersection.

UNSIGNALIZED INTERSECTION		SIGNALIZED INTERSECTION			
LEVEL OF SERVICE	AVERAGE CONTROL DELAY PER VEHICLE (SECONDS)	LEVEL OF SERVICE	AVERAGE CONTROL DELAY PER VEHICLE (SECONDS)		
А	0-10	А	0-10		
В	10-15	В	10-20		
С	15-25	С	20-35		
D	25-35	D	35-55		
E	35-50	E	55-80		
F	>50	F	>80		

Table 4: Highway Capacity Manual – Levels-of-Service and Delay



#### 6.1. Adjustments to Analysis Guidelines

Capacity analysis at all study intersections was completed according to the NCDOT Congestion Management Guidelines.



#### 7. CAPACITY ANALYSIS

#### 7.1. US 64 and Median Break / Site Access

The existing unsignalized median break along US 64 was analyzed under 2022 existing, 2026 no-build, and 2026 build traffic conditions with the lane configurations and traffic control shown in Table 5. Refer to Table 5 for a summary of the analysis results. Refer to Appendix D for the Synchro capacity analysis reports. Copies of the SimTraffic Queueing and Performance Reports can be found in Appendix F.

ANALYSIS	A P P R	LANE	PEAK	DAY AM HOUR SERVICE	WEEKDAY PM PEAK HOUR LEVEL OF SERVICE		
SCENARIO	O A C H	CONFIGURATIONS	Approach	Overall (seconds)	Approach	Overall (seconds)	
2022 Existing	EB* WB**	1 UT, 2 TH 1 UT, 2 TH	C <sup>1</sup> C <sup>1</sup>	N/A	C1 C1	N/A	
2026 No-Build	EB* WB**	1 UT, 2 TH 1 UT, 2 TH	C <sup>1</sup> D <sup>1</sup>	N/A	$D^1$ $D^1$	N/A	
2026 Build	EB* WB** NB	1 UT, 2 TH, <b>1 RT</b> 1 UT- <b>LT</b> , 2 TH <b>1 RT</b>	$C^1$ $F^1$ $E^2$	N/A	$\begin{array}{c} D^1 \\ F^1 \\ E^2 \end{array}$	N/A	

Table 5: Analysis Summary of US 64 and Median Break / Site Access

\*Synchro analyzed the EBU as NBL movements due to the nature of the median break and synchro limitations. \*\*Synchro analyzed the WBU as SBL movements due to the nature of the median break and synchro limitations. Improvements to lane configurations by the developer shown in bold.

1. Level of service for major-street u-turn/left-turn movement.

2. Level of service for minor-street approach.

Capacity analysis of 2022 existing and 2026 no-build traffic conditions indicates that the major-street u-turn movements are expected to operate at LOS D or better during both the weekday AM and PM peak hours.

Upon buildout of the proposed development, the site driveway is proposed to connect as the 3<sup>rd</sup> leg at the existing median break. Under 2026 build traffic conditions the westbound major-street left-turn/u-turn movement is expected to operate at LOS F during both the weekday AM and PM peak hours. The eastbound u-turn movement is expected to operate at LOS D or better during the weekday AM and PM peak hours. The minor-street approach is expected to operate at LOS E during both the weekday AM and PM peak hours. These



levels of service are not uncommon for stop-controlled minor-street approaches (and majorstreet left-turn/u-turn movements) with heavy mainline traffic volumes. According to SimTraffic Performance Reports which report delays for each movement based on simulation modeling of the entire study network, the minor-street approach is expected to experience delays of less than 35 seconds during the weekday AM and PM peak hours under 2026 build traffic conditions.

Due to the poor levels-of-service expected at this intersection, a traffic signal was considered under 2026 build traffic conditions to achieve acceptable levels-of-service. Weekday AM and PM peak hour traffic volumes were utilized in evaluating the potential need for signalization based on the guidelines contained within the *Guidelines for Signalization of Intersections with Two or Three Approaches Final Report*, published by the Institute for Transportation Research and Education (ITRE). Based on a review of the expected queue lengths at this intersection it is reported that the minor-street approach is expected to exceed capacity during both the weekday AM and PM peak hours. However, due to the primarily residential nature of the site and the expected acceptable operation of the westbound left-turn movement into the site, a traffic signal is not recommended due to the additional delay that installation of a signal would add on the mainline corridor (US 64). Refer to Appendix G for the ITRE 95<sup>th</sup> percentile queue length calculations.

A right-turn lane was considered based on the NCDOT *Policy on Street and Driveway Access to North Carolina Highways* (Driveway Manual) and an exclusive right-turn lane with 100 feet of storage is recommended on the eastbound approach (US 64). The existing storage for the westbound left-turn lane is expected to provide sufficient storage upon buildout of the development based on the NCDOT Driveway Manual and SimTraffic simulations under 2026 build traffic conditions. Refer to Appendix H for a copy of the turn-lane warrants.



#### 7.2. US 64 and Future Eastern U-Turn Location

The proposed eastern u-turn location along US 64 was analyzed under 2026 build traffic conditions with the lane configurations and traffic control shown in Table 6. Refer to Table 6 for a summary of the analysis results. Refer to Appendix E for the Synchro capacity analysis reports. Copies of the SimTraffic Queueing and Performance Reports can be found in Appendix F.

Table 6: Analysis Summary of US 64 and Future Eastern U-Turn Location

ANALYSIS SCENARIO	A P P R O A C H	LANE CONFIGURATIONS	PEAK	DAY AM HOUR SERVICE	WEEKDAY PM PEAK HOUR LEVEL OF SERVICE		
			Approach	Overall (seconds)	Approach	Overall (seconds)	
2026 Build	EB* WB	<b>1 UT</b> , 2 TH 2 TH	C1 	N/A	D1 	N/A	

\*Synchro analyzed the EBU as NBL movements due to the nature of the median break and synchro limitations. **Improvements to lane configurations by the developer shown in bold.** 

1. Level of service for major-street u-turn movement.

Upon buildout of the proposed development, a new u-turn location is expected to be constructed to facilitate site traffic exiting the development heading westbound on US 64. Capacity analysis of 2026 build traffic conditions indicates that the major-street u-turn movement is expected to operate at LOS D or better during the weekday AM and PM peak hours.

The eastbound u-turn movement was modeled with a combined storage of 200 feet in synchro due to limitations with superstreet modeling. Based on a review of SimTraffic simulations under 2026 build traffic conditions, queues for this movement are not expected to exceed 76 feet (approximately 3 vehicles) during the weekday AM and PM peak hours. Therefore, an eastbound (US 64) u-turn lane with 100 feet of storage is recommended at this location.



#### 8. CONCLUSIONS

This Traffic Impact Analysis was conducted to determine the potential traffic impacts of the proposed Yellow Bridge Residential development, located south of US 64 and west of the Abbington subdivision in Apex, North Carolina. The proposed development, anticipated to be completed in 2026, is expected to consist of 59 single-family homes, 83 townhomes, and 25,000 sq. ft. of retail space. Site access to the proposed development is expected to be provided via one (1) left-over driveway along US 64 at the existing median break, and one (1) internal connection to Chanticlair Drive.

The study analyzes traffic conditions during the weekday AM and PM peak hours for the following scenarios:

- 2022 Existing Traffic Conditions
- 2026 No-Build Traffic Conditions
- 2026 Build Traffic Conditions

#### Trip Generation

It is estimated that the proposed development will generate approximately 109 primary trips (33 entering and 73 exiting) during the weekday AM peak hour and 155 primary trips (89 entering and 66 exiting) during the weekday PM peak hour.

#### Adjustments to Analysis Guidelines

Capacity analysis at all study intersections was completed according to NCDOT Congestion Management Guidelines. Refer to section 6.1 of this report for a detailed description of any adjustments to these guidelines made throughout the analysis.

#### Intersection Capacity Analysis Summary

All the study area intersections (including the proposed site driveways) are expected to operate at acceptable levels-of-service under existing and future year conditions with the exception of the intersections listed below. A summary of the study area intersections that are expected to need improvements are as follows:



#### US 64 and Median Break / Site Access 1

Under 2026 build traffic conditions the westbound major-street left-turn/u-turn movement is expected to operate at LOS F during both the weekday AM and PM peak hours. The minor-street approach is expected to operate at LOS E during both the weekday AM and PM peak hours. These levels of service are not uncommon for stop-controlled minor-street approaches (and major-street left-turn/u-turn movements) with heavy mainline traffic volumes. According to SimTraffic Performance Reports which report delays for each movement based on simulation modeling of the entire study network, the minor-street approach is expected to experience delays of less than 35 seconds during the weekday AM and PM peak hours under 2026 build traffic conditions.

Due to the poor levels-of-service expected at this intersection, a traffic signal was considered under 2026 build traffic conditions to achieve acceptable levels-of-service. Weekday AM and PM peak hour traffic volumes were utilized in evaluating the potential need for signalization based on the guidelines contained within the *Guidelines for Signalization of Intersections with Two or Three Approaches Final Report*, published by ITRE. Based on a review of the expected queue lengths at this intersection it is reported that the minor-street approach is expected to exceed capacity during both the weekday AM and PM peak hours. However, due to the primarily residential nature of the site and the expected acceptable operation of the westbound left-turn movement, a traffic signal is not recommended due to the additional delay that installation of a signal would add on the mainline corridor (US 64).

A right-turn lane was considered based on the NCDOT *Policy on Street and Driveway Access to North Carolina Highways* (Driveway Manual) and an exclusive right-turn lane with 100 feet of storage is recommended on the eastbound approach (US 64). The existing storage for the westbound left-turn lane is expected to provide sufficient storage upon buildout of the development based on the NCDOT Driveway Manual and SimTraffic simulations under 2026 build traffic conditions.



#### 9. **RECOMMENDATIONS**

Based on the findings of this study, specific geometric improvements have been identified and are recommended to accommodate future traffic conditions. See a more detailed description of the recommended improvements below. Refer to Figure 14 for an illustration of the recommended lane configuration for the proposed development.

#### **Recommended Improvements by Developer**

US 64 and Median Break / Site Access

- Construct the northbound approach (Site Access) with one ingress and one egress lane striped as an exclusive right-turn lane.
- Provide stop-control for the northbound approach (Site Access). The proposed intersection will be configured as a left-over.
- Construct an exclusive eastbound (US 64) right-turn lane with a minimum of 100 feet of storage and appropriate decel and taper.
- Restripe the existing westbound (US 64) u-turn lane to provide for a westbound left-turn movement.

#### US 64 and Eastern U-Turn Location

• Construct an exclusive eastbound (US 64) u-turn lane with a minimum of 100 feet of storage and appropriate decel and taper to be located east of the existing median break and proposed site driveway location.





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# **TECHNICAL APPENDIX**

# **APPENDIX A**

### **SCOPING DOCUMENTATION**

### **RAMEY KEMP ASSOCIATES**

TOGETHER WE ARE LIMITLESS

T 919 872 5115 5808 Faringdon Pl, Raleigh, NC 27609

January 12, 2022

Russell Dalton, PE Town of Apex 73 Hunter Street Apex, NC 27502 P: 919-249-3358 E: <u>russell.dalton@apexnc.org</u> [Sent via Email]

Reference:	Yellow Bridge Residential	
	Apex, North Carolina	

Subject: Memorandum of Understanding for TIA Report

Dear Mr. Dalton:

The following is a Memorandum of Understanding (MOU) outlining the proposed scope of work and assumptions related to the Traffic Impact Analysis (TIA) for the proposed Yellow Bridge Residential development in Apex, North Carolina. The proposed development is located south of US 64 and west of the Abbington subdivision. The development is expected to consist of 59 single-family homes, 83 townhomes, and 25,000 square feet (sq. ft.) of retail space. This MOU reflects the assumptions outlined during initial coordination between Ramey Kemp Associates (RKA), the Town of Apex (Town), and the North Carolina Department of Transportation (NCDOT). Refer to the attached site location map. Site access to the proposed development is expected to be provided via one (1) left-over driveway along US 64 at the existing median break, and one (1) internal connection to Chanticlair Drive.

The proposed development, anticipated to be completed in 2026, is expected to consist of the following land uses:

- 59 single-family homes
- 83 townhomes
- 25,000 sq. ft. retail space

#### Study Area

Based on a coordination with NCDOT and Town staff, the study area is proposed to consist of the following intersections:

- US 64 and Median Break (unsignalized)
- US 64 and Future Eastern U-Turn Location



#### **Existing Traffic Volumes**

Existing peak hour traffic volumes will be determined based on a combination of previously conducted traffic counts at the intersection US 64 and Jenks Road / Richardson Road, and new turning movement counts conducted at the existing median break. Previously conducted traffic counts at the intersection of US 64 and Jenks Road / Richardson Road were collected in October 2022 during typical weekday AM (7:00 AM – 9:00 AM) and PM (4:00 – 6:00 PM) peak periods, while schools were in session for in person learning. These previously conducted counts will be utilized to determine through volume traffic at the existing median break. Turning movement volumes will be determined based on traffic counts conducted at the existing median break, in January 2022 during a typical weekday AM (7:00 AM – 9:00 AM) and PM (4:00 – 6:00 PM) peak periods, while schools are in session for in person learning.

#### **Background Traffic Volumes**

Based on coordination with NCDOT and the Town, background traffic volumes will be determined by projecting 2022 existing traffic volumes to the year 2026 using a 3% annual growth rate. Additionally, it was determined that the following adjacent developments are to be included in this study:

- Westford (currently 75% build-out)
- Legacy PUD (US 64 Residential)

#### **Future Roadway Improvements**

Based on coordination with the Town and NCDOT, it was determined that there were no future roadway improvements to consider with this study.

#### **Trip Generation**

Average weekday daily, AM peak hour, and PM peak hour trips for the proposed development were estimated using methodology contained within the ITE *Trip Generation Manual*, 10<sup>th</sup> Edition. Refer to Table 1, on the following page, for a summary of the proposed site trip generation for full buildout of the proposed development.



Land Use	Intensity 7	Daily Traffic	Weekday AM Peak Hour Trips			Weekday PM Peak Hour Trips		
(ITE Code)		(vpd)	Enter	(vph) Exit	Total	Enter	(vph) Exit	Total
Single-Family Home (210)	59 DU	640	12	35	47	38	23	61
Multi-Family Home (Low-Rise) (220)	95 DU	588	9	31	40	31	19	50
Shopping Center (820)	25 KSF	944	15	9	24	45	50	95
Total Trips 2,172		36	75	111	114	92	206	
Internal Capture (2% AM, 11 %PM)			0	-2	-2	-11	-12	-23
Total External Trips			36	73	109	103	80	183
Pass-By Trips (Shopping Center: 34% PM):			-	-	-	-14	-14	-28
Total Primary Trips			33	73	109	89	66	155

Table 1. Trin Ceneration Summary

It is estimated that the proposed development will generate approximately 2,172 site trips on the roadway network during a typical 24-hour weekday period. Of the daily traffic volume, it is anticipated that 109 primary trips (33 entering and 73 exiting) will occur during the weekday AM peak hour and 155 primary trips (89 entering and 66 exiting) will occur during the weekday PM peak hour.

#### **Trip Distribution and Assignment**

Site trips are distributed based on the locations of existing traffic patterns, population centers adjacent to the study area, and engineering judgment. A summary of the overall distributions is below.

Residential:

- 75% to/from the east via US 64
- 20 % to/from the west via US 64
- 5% to/from the east via Chanticlair Drive

Commercial:

- 65% to/from the east via US 64
- 30 % to/from the west via US 64
- 5% to/from the east via Chanticlair Drive

Refer to the attached site trip distribution figures.



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#### **Analysis Scenarios**

All capacity analyses will be performed utilizing Synchro (Version 10.3). All study intersections will be analyzed during the weekday AM and PM peak hours under the following proposed traffic scenarios:

- 2022 Existing Traffic Conditions
- 2026 No-Build Traffic Conditions
- 2026 Build Traffic Conditions

#### <u>Report</u>

The TIA report will be prepared based on the Town and NCDOT requirements.

If you find this memorandum of understanding acceptable, please let me know so that we may include it in the TIA report. If you have any questions or concerns, please do not hesitate to contact me.

Sincerely, *Ramey Kemp Associates*,

Wathind My

Nate Bouquin P.E., PTOE Traffic Engineering Project Manager

Attachments:

Site Location Map Site Plan Proposed Site Trip Distribution Figures NCHRP Internal Capture Reports










	NCHRP 684 Internal Trip Capture Estimation Tool									
Project Name: Yellow Bridge Residential Organization: RKA										
Project Location:	Apex, NC		Performed By:	TF						
Scenario Description:	Full-Build		Date:	1/12/2022						
Analysis Year:	2026		Checked By:							
Analysis Period: AM Street Peak Hour Date:										

	Table 1-A: Base Vehicle-Trip Generation Estimates (Single-Use Site Estimate)									
Land Use	Development Data (For Information Only)				Estimated Vehicle-Trips <sup>3</sup>					
	ITE LUCs1	Quantity	Units	1	Total	Entering	Exiting			
Office										
Retail	820	25	KSF		-	15	9			
Restaurant										
Cinema/Entertainment										
Residential	210, 220	59, 83	DU			21	66			
Hotel										
All Other Land Uses <sup>2</sup>										
					0	36	75			

	Table 2-A: Mode Split and Vehicle Occupancy Estimates										
Land Use		Entering Tri	os			Exiting Trips					
Lanu Use	Veh. Occ.4	% Transit	% Non-Motorized		Veh. Occ. <sup>4</sup>	% Transit	% Non-Motorized				
Office	1.10	0%	0%		1.10	0%	0%				
Retail	1.10	0%	0%		1.10	0%	0%				
Restaurant	1.10	0%	0%		1.10	0%	0%				
Cinema/Entertainment	1.10	0%	0%		1.10	0%	0%				
Residential	1.10	0%	0%		1.10	0%	0%				
Hotel	1.10	0%	0%		1.10	0%	0%				
All Other Land Uses <sup>2</sup>	1.10	0%	0%		1.10	0%	0%				

	Table 3-A: Average Land Use Interchange Distances (Feet Walking Distance)									
Origin (From)				Destination (To)						
	Office	Retail	Restaurant	Cinema/Entertainment	Residential	Hotel				
Office										
Retail										
Restaurant										
Cinema/Entertainment										
Residential										
Hotel										

	Table 4-A: Internal Person-Trip Origin-Destination Matrix*										
Origin (From)	Destination (To)										
	Office	Retail	Restaurant	Cinema/Entertainment	Residential	Hotel					
Office		0	0	0	0	0					
Retail	0		0	0	0	0					
Restaurant	0	0		0	0	0					
Cinema/Entertainment	0	0	0		0	0					
Residential	0	1	0	0		0					
Hotel	0	0	0	0	0						

Table 5-A	: Computatio	ns Summary		Table 6-A: Internal Trip Capture Percentages by Land Use			
	Total	Entering	Exiting	Land Use	Entering Trips	Exiting Tr	
All Person-Trips	123	40	83	Office	N/A	N/A	
Internal Capture Percentage	2%	3%	1%	Retail	6%	0%	
				Restaurant	N/A	N/A	
External Vehicle-Trips <sup>5</sup>	110	36	74	Cinema/Entertainment	N/A	N/A	
External Transit-Trips <sup>6</sup>	0	0	0	Residential	0%	1%	
External Non-Motorized Trips <sup>6</sup>	0	0	0	Hotel	N/A	N/A	

<sup>1</sup>Land Use Codes (LUCs) from *Trip Generation Manual*, published by the Institute of Transportation Engineers.

<sup>2</sup>Total estimate for all other land uses at mixed-use development site is not subject to internal trip capture computations in this estimator. <sup>3</sup>Enter trips assuming no transit or non-motorized trips (as assumed in ITE *Trip Generation Manual*).

<sup>4</sup>Enter vehicle occupancy assumed in Table 1-A vehicle trips. If vehicle occupancy changes for proposed mixed-use project, manual adjustments must be made

to Tables 5-A, 9-A (O and D). Enter transit, non-motorized percentages that will result with proposed mixed-use project complete.

<sup>5</sup>Vehicle-trips computed using the mode split and vehicle occupancy values provided in Table 2-A.

<sup>6</sup>Person-Trips

\*Indicates computation that has been rounded to the nearest whole number.

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Project Name:	Yellow Bridge Residential
Analysis Period:	AM Street Peak Hour

Table 7-A: Conversion of Vehicle-Trip Ends to Person-Trip Ends									
Land Use	Tab	ole 7-A (D): Enter	ing Trips			Table 7-A (O): Exiting Trips			
	Veh. Occ.	Vehicle-Trips	Person-Trips*	1	Veh. Occ.	Vehicle-Trips	Person-Trips*		
Office	1.10	0	0	1	1.10	0	0		
Retail	1.10	15	17	1	1.10	9	10		
Restaurant	1.10	0	0	1	1.10	0	0		
Cinema/Entertainment	1.10	0	0	]	1.10	0	0		
Residential	1.10	21	23	]	1.10	66	73		
Hotel	1.10	0	0		1.10	0	0		

Table 8-A (O): Internal Person-Trip Origin-Destination Matrix (Computed at Origin)											
Origin (From)		Destination (To)									
	Office	Retail	Restaurant	Cinema/Entertainment	Residential	Hotel					
Office		0	0	0	0	0					
Retail	3		1	0	1	0					
Restaurant	0	0		0	0	0					
Cinema/Entertainment	0	0	0		0	0					
Residential	1	1	15	0		0					
Hotel	0	0	0	0	0						

Table 8-A (D): Internal Person-Trip Origin-Destination Matrix (Computed at Destination)											
Origin (From)		Destination (To)									
	Office	Retail	Restaurant	Cinema/Entertainment	Residential	Hotel					
Office		5	0	0	0	0					
Retail	0		0	0	0	0					
Restaurant	0	1		0	1	0					
Cinema/Entertainment	0	0	0		0	0					
Residential	0	3	0	0		0					
Hotel	0	1	0	0	0						

	Table 9-A (D): Internal and External Trips Summary (Entering Trips)									
Destination Land Use		Person-Trip Esti	mates		External Trips by Mode*					
Desunation Land Use	Internal	External	Total	1	Vehicles <sup>1</sup>	Transit <sup>2</sup>	Non-Motorized <sup>2</sup>			
Office	0	0	0	1	0	0	0			
Retail	1	16	17	1	15	0	0			
Restaurant	0	0	0	1	0	0	0			
Cinema/Entertainment	0	0	0	1	0	0	0			
Residential	0	23	23	1	21	0	0			
Hotel	0	0	0	]	0	0	0			
All Other Land Uses <sup>3</sup>	0	0	0	1	0	0	0			

Table 9-A (O): Internal and External Trips Summary (Exiting Trips)										
Origin Land Llag		Person-Trip Estimates				External Trips by Mode*				
Origin Land Use	Internal	External	Total	1	Vehicles <sup>1</sup>	Transit <sup>2</sup>	Non-Motorized <sup>2</sup>			
Office	0	0	0		0	0	0			
Retail	0	10	10	1	9	0	0			
Restaurant	0	0	0		0	0	0			
Cinema/Entertainment	0	0	0	1	0	0	0			
Residential	1	72	73		65	0	0			
Hotel	0	0	0	1	0	0	0			
All Other Land Uses <sup>3</sup>	0	0	0		0	0	0			

<sup>1</sup>Vehicle-trips computed using the mode split and vehicle occupancy values provided in Table 2-A

<sup>2</sup>Person-Trips

<sup>3</sup>Total estimate for all other land uses at mixed-use development site is not subject to internal trip capture computations in this estimator

\*Indicates computation that has been rounded to the nearest whole number.

	NCHRP 684 Internal Trip Capture Estimation Tool									
Project Name:	Yellow Bridge Residential	Organization:	RKA							
Project Location:	Apex, NC		Performed By:	TF						
Scenario Description:	Full-Build		Date:	1/12/2022						
Analysis Year:	2026		Checked By:							
Analysis Period:	PM Street Peak Hour		Date:							

	Table 1-P: Base Vehicle-Trip Generation Estimates (Single-Use Site Estimate)									
Land Use	Development Data (For Information Only)				Estimated Vehicle-Trips <sup>3</sup>					
Land Ose	ITE LUCs <sup>1</sup>	Quantity	Units	1	Total	Entering	Exiting			
Office				1						
Retail	820	25	KSF	1		45	50			
Restaurant										
Cinema/Entertainment										
Residential	210, 220	59, 83	DU			69	42			
Hotel										
All Other Land Uses <sup>2</sup>										
					0	114	92			

	Table 2-P: Mode Split and Vehicle Occupancy Estimates										
Land Use		Entering Tri	ps			Exiting Trips					
	Veh. Occ.4	% Transit	% Non-Motorized		Veh. Occ. <sup>4</sup>	% Transit	% Non-Motorized				
Office	1.10	0%	0%		1.10	0%	0%				
Retail	1.10	0%	0%		1.10	0%	0%				
Restaurant	1.10	0%	0%		1.10	0%	0%				
Cinema/Entertainment	1.10	0%	0%		1.10	0%	0%				
Residential	1.10	0%	0%		1.10	0%	0%				
Hotel	1.10	0%	0%		1.10	0%	0%				
All Other Land Uses <sup>2</sup>	1.10	0%	0%		1.10	0%	0%				

Table 3-P: Average Land Use Interchange Distances (Feet Walking Distance)											
Origin (From)		Destination (To)									
	Office	Retail	Restaurant	Cinema/Entertainment	Residential	Hotel					
Office											
Retail					2500						
Restaurant											
Cinema/Entertainment											
Residential											
Hotel											

Table 4-P: Internal Person-Trip Origin-Destination Matrix*											
Origin (From)		Destination (To)									
	Office	Retail	Restaurant	Cinema/Entertainment	Residential	Hotel					
Office		0	0	0	0	0					
Retail	0		0	0	7	0					
Restaurant	0	0		0	0	0					
Cinema/Entertainment	0	0	0		0	0					
Residential	0	5	0	0		0					
Hotel	0	0	0	0	0						

Table 5-P	: Computatio	ns Summary		Table 6-P: Internal Trip Capture Percentages by Land Use			
	Total	Entering	Exiting	Land Use	Entering Trips	Exiting Trips	
All Person-Trips	227	126	101	Office	N/A	N/A	
Internal Capture Percentage	11%	10%	12%	Retail	10%	13%	
				Restaurant	N/A	N/A	
External Vehicle-Trips <sup>5</sup>	185	104	81	Cinema/Entertainment	N/A	N/A	
External Transit-Trips <sup>6</sup>	0	0	0	Residential	9%	11%	
External Non-Motorized Trips <sup>6</sup>	0	0	0	Hotel	N/A	N/A	

<sup>1</sup>Land Use Codes (LUCs) from *Trip Generation Manual*, published by the Institute of Transportation Engineers.

<sup>2</sup>Total estimate for all other land uses at mixed-use development site is not subject to internal trip capture computations in this estimator.

<sup>3</sup>Enter trips assuming no transit or non-motorized trips (as assumed in ITE *Trip Generation Manual*).

<sup>4</sup>Enter vehicle occupancy assumed in Table 1-P vehicle trips. If vehicle occupancy changes for proposed mixed-use project, manual adjustments must be ⁵Vehicle-trips computed using the mode split and vehicle occupancy values provided in Table 2-P.

<sup>3</sup>Person-Trips

\*Indicates computation that has been rounded to the nearest whole number.

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Project Name:	
Analysis Period:	PM Street Peak Hour

Table 7-P: Conversion of Vehicle-Trip Ends to Person-Trip Ends									
Land Use	Table	7-P (D): Entering	g Trips		Table 7-P (O): Exiting Trips				
	Veh. Occ.	Vehicle-Trips	Person-Trips*	1	Veh. Occ.	Vehicle-Trips	Person-Trips*		
Office	1.10	0	0	1	1.10	0	0		
Retail	1.10	45	50	1	1.10	50	55		
Restaurant	1.10	0	0	1	1.10	0	0		
Cinema/Entertainment	1.10	0	0	1	1.10	0	0		
Residential	1.10	69	76		1.10	42	46		
Hotel	1.10	0	0		1.10	0	0		

	Table 8-P (O): Internal Person-Trip Origin-Destination Matrix (Computed at Origin)										
Origin (From)	Destination (To)										
	Office	Retail	Restaurant	Cinema/Entertainment	Residential	Hotel					
Office		0	0	0	0	0					
Retail	1		16	2	7	3					
Restaurant	0	0		0	0	0					
Cinema/Entertainment	0	0	0		0	0					
Residential	2	19	10	0		1					
Hotel	0	0	0	0	0						

Table 8-P (D): Internal Person-Trip Origin-Destination Matrix (Computed at Destination)											
Origin (From)		Destination (To)									
Origin (From)	Office	Retail	Restaurant	Cinema/Entertainment	Residential	Hotel					
Office		4	0	0	3	0					
Retail	0		0	0	35	0					
Restaurant	0	25		0	12	0					
Cinema/Entertainment	0	2	0		3	0					
Residential	0	5	0	0		0					
Hotel	0	1	0	0	0						

	Table 9-P (D): Internal and External Trips Summary (Entering Trips)										
Destination Land Use	Pe	erson-Trip Estima	ates		External Trips by Mode*						
Destination Land Ose	Internal	External	Total		Vehicles <sup>1</sup>	Transit <sup>2</sup>	Non-Motorized <sup>2</sup>				
Office	0	0	0		0	0	0				
Retail	5	45	50		41	0	0				
Restaurant	0	0	0		0	0	0				
Cinema/Entertainment	0	0	0	1	0	0	0				
Residential	7	69	76	1	63	0	0				
Hotel	0	0	0	1	0	0	0				
All Other Land Uses <sup>3</sup>	0	0	0		0	0	0				

	Table 9-P (O): Internal and External Trips Summary (Exiting Trips)										
Origin Land Llos	Pe	erson-Trip Estima	ates		External Trips by Mode*						
Origin Land Use	Internal	External	Total	1	Vehicles <sup>1</sup>	Transit <sup>2</sup>	Non-Motorized <sup>2</sup>				
Office	0	0	0		0	0	0				
Retail	7	48	55	1	44	0	0				
Restaurant	0	0	0	1	0	0	0				
Cinema/Entertainment	0	0	0	1	0	0	0				
Residential	5	41	46		37	0	0				
Hotel	0	0	0	1	0	0	0				
All Other Land Uses <sup>3</sup>	0	0	0		0	0	0				

<sup>1</sup>Vehicle-trips computed using the mode split and vehicle occupancy values provided in Table 2-P

<sup>2</sup>Person-Trips

<sup>3</sup>Total estimate for all other land uses at mixed-use development site is not subject to internal trip capture computations in this estimator \*Indicates computation that has been rounded to the nearest whole number.

#### **Tucker Fulle**

From:	Fenner, Edwin F <effenner@ncdot.gov></effenner@ncdot.gov>
Sent:	Tuesday, January 18, 2022 5:45 PM
To:	Nate Bouquin; Serge Grebenschikov; Russell Dalton; Brennan, Sean P
Cc:	Tucker Fulle; Bunting, Clarence B; Walker, Braden M; Ishak, Doumit Y
Subject:	RE: [External] Yellow Bridge Apex - TIA Scope
Attachments:	MOU - Yellow Bridge Residential 01.12.22.pdf
Follow Up Flag:	Flag for follow up
Flag Status:	Flagged

Nate,

The attached MOU looks good to the District.

**Edwin Fenner, PE** Assistant District Engineer Division 5/District 1 Department of Transportation

919-733-3213 office 919-715-5778 fax <u>effenner@ncdot.gov</u>

4009 District Drive (Physical Address) Raleigh, NC 27607

1575 Mail Service Center (Mailing Address) Raleigh, NC 27699-1575

From: Nate Bouquin <nbouquin@rameykemp.com>
Sent: Thursday, January 13, 2022 12:06 AM
To: Serge Grebenschikov <Serge.Grebenschikov@apexnc.org>; Russell Dalton <Russell.Dalton@apexnc.org>; Brennan,
Sean P <spbrennan@ncdot.gov>; Fenner, Edwin F <effenner@ncdot.gov>
Cc: Tucker Fulle <tfulle@rameykemp.com>; Bunting, Clarence B <cbunting@ncdot.gov>; Walker, Braden M
<bmwalker1@ncdot.gov>; Ishak, Doumit Y <dishak@ncdot.gov>
Subject: [External] Yellow Bridge Apex - TIA Scope

**CAUTION:** External email. Do not click links or open attachments unless you verify. Send all suspicious email as an attachment to <u>Report Spam.</u>

All –

Attached is the MOU for the Yellow Bridge development in Apex. This MOU is based off of the scoping meetings we had with NCDOT and the Town back in late December.

One small note with this – you will notice the trip generation includes retail. The developer is considering non-residential at the northernmost section of the site, along US 64. This hasn't been solidified yet, but we wanted to go ahead and include it in the TIA as it would be more conservative versus assuming all residential.

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Please let us know your thoughts on this MOU.

Thanks!

Nate Bouquin, PE, PTOE Traffic Engineering Project Manager D 919 987 1301 | M 919 961 4065 RAMEY KEMP ASSOCIATES TOGETHER WE ARE LIMITLESS

Email correspondence to and from this sender is subject to the N.C. Public Records Law and may be disclosed to third parties.

#### **Tucker Fulle**

From:	Nate Bouquin
Sent:	Thursday, January 13, 2022 10:37 AM
To:	Serge Grebenschikov
Cc:	Tucker Fulle
Subject:	RE: Yellow Bridge Apex - TIA Scope
Attachments:	Sweetwater TIA.pdf
Follow Up Flag:	Flag for follow up
Flag Status:	Flagged

Thanks serge, we will make sure and include these changes.

Nate Bouquin, PE, PTOE Traffic Engineering Project Manager D 919 987 1301 | M 919 961 4065 rameykemp.com

From: Serge Grebenschikov <Serge.Grebenschikov@apexnc.org>
Sent: Thursday, January 13, 2022 10:01 AM
To: Nate Bouquin <nbouquin@rameykemp.com>
Subject: RE: Yellow Bridge Apex - TIA Scope

Hi Nate,

Looking over the MOU I realized that I did not ask you to include Sweetwater Commercial. I think it would be prudent to do so as they are contributing around 200 vph on US 64, and the commercial phases are in construction today. Apologies for that. I have attached the Sweetwater TIA for reference.

Please see my markups in the screenshot below for Background Development Traffic. These are the only comments that I have.

#### **Background Traffic Volumes**

Based on coordination with NCDOT and the Town, background traffic volumes will be determined by projecting 2022 existing traffic volumes to the year 2026 using a 3% annual growth rate. Additionally, it was determined that the following adjacent developments are to be included in this study: Westford Residential

Westford (currently 75% build-out)

Legacy PUD (US 64 Residential)

Future Roadway Improvements

Please add Sweetwater Commercial traffic along US 64

#### Thanks

#### Serge Grebenschikov, PE

Traffic Engineer Public Works & Transportation – Traffic 73 Hunter Street, 3<sup>rd</sup> Fl PO Box 250

- Page 336 -

From: Nate Bouquin <<u>nbouquin@rameykemp.com</u>>
Sent: Thursday, January 13, 2022 12:06 AM
To: Serge Grebenschikov <<u>Serge.Grebenschikov@apexnc.org</u>>; Russell Dalton <<u>Russell.Dalton@apexnc.org</u>>; Brennan,
Sean P <<u>spbrennan@ncdot.gov</u>>; Fenner, Edwin F <<u>effenner@ncdot.gov</u>>
Cc: Tucker Fulle <<u>tfulle@rameykemp.com</u>>; Bunting, Clarence B <<u>cbunting@ncdot.gov</u>>; Walker, Braden M
<<u>bmwalker1@ncdot.gov</u>>; Ishak, Doumit Y <<u>dishak@ncdot.gov</u>>
Subject: Yellow Bridge Apex - TIA Scope

**Notice: This message is from an external sender.** Do not click links or open attachments unless you trust the sender, and can verify the content is safe.

All –

Attached is the MOU for the Yellow Bridge development in Apex. This MOU is based off of the scoping meetings we had with NCDOT and the Town back in late December.

One small note with this – you will notice the trip generation includes retail. The developer is considering non-residential at the northernmost section of the site, along US 64. This hasn't been solidified yet, but we wanted to go ahead and include it in the TIA as it would be more conservative versus assuming all residential.

Please let us know your thoughts on this MOU.

Thanks!

Nate Bouquin, PE, PTOE Traffic Engineering Project Manager D 919 987 1301 | M 919 961 4065



# **APPENDIX B**

**TRAFFIC COUNTS** 

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File Name : Apex(US 64 and Jenks)AM Peak Site Code : Start Date : 10/28/2021 Page No : 1

								Gro	ups P	rinted- C	Cars +	- Trucl	(S								
		Je	nks R	oad				US 64	1			Richa	ardson	Road				US 64	1		1
		So	uthbo	und			W	estbou	und				orthbo	und			E	astbou	ind		
Start Time	Right	Thru	Left	UTrn	App. Total	Right	Thru	Left	UTrn	App. Total	Right	Thru	Left	UTrn	App. Total	Right	Thru	Left	UTrn	App. Total	Int. Total
07:00 AM	19	0	0	0	19	19	225	33	0	277	74	0	0	0	74	4	253	15	0	272	642
07:15 AM	29	0	0	0	29	21	218	30	0	269	98	0	0	0	98	6	307	26	0	339	735
07:30 AM	22	0	0	0	22	14	253	36	1	304	106	0	0	0	106	6	341	21	0	368	800
07:45 AM	24	0	0	0	24	21	239	46	0	306	84	0	0	0	84	8	289	26	0	323	737
Total	94	0	0	0	94	75	935	145	1	1156	362	0	0	0	362	24	1190	88	0	1302	2914
08:00 AM	27	0	0	0	27	26	290	53	0	369	80	0	0	0	80	11	304	18	0	333	809
08:15 AM	33	0	0	0	33	12	238	47	2	299	71	0	0	0	71	16	276	26	0	318	721
08:30 AM	30	0	0	0	30	18	246	49	0	313	96	0	0	0	96	8	285	20	0	313	752
08:45 AM	29	0	0	0	29	18	267	45	0	330	90	0	0	0	90	7	263	16	0	286	735
Total	119	0	0	0	119	74	1041	194	2	1311	337	0	0	0	337	42	1128	80	0	1250	3017
Grand Total	213	0	0	0	213	149	1976	339	3	2467	699	0	0	0	699	66	2318	168	0	2552	5931
Apprch %	100	0	0	0		6	80.1	13.7	0.1		100	0	0	0		2.6	90.8	6.6	0		
Total %	3.6	0	0	0	3.6	2.5	33.3	5.7	0.1	41.6	11.8	0	0	0	11.8	1.1	39.1	2.8	0	43	
Cars +	211	0	0	0	211	137	1890	328	3	2358	697	0	0	0	697	66	2225	164	0	2455	5721
% Cars +	99.1	0	0	0	99.1	91.9	95.6	96.8	100	95.6	99.7	0	0	0	99.7	100	96	97.6	0	96.2	96.5
Trucks	2	0	0	0	2	12	86	11	0	109	2	0	0	0	2	0	93	4	0	97	210
% Trucks	0.9	0	0	0	0.9	8.1	4.4	3.2	0	4.4	0.3	0	0	0	0.3	0	4	2.4	0	3.8	3.5



File Name : Apex(US 64 and Jenks)AM Peak Site Code : Start Date : 10/28/2021 Page No : 2

		Je	nks R	oad				US 64	4			Richa	ardsor	Road				US 6	4		
		Sc	outhbo	und			W	estbo	und			No	orthbo	und			E	astbou	und		
Start Time	Right	Thru	Left	UTrn	App. Total	Right	Thru	Left	UTrn	App. Total	Right	Thru	Left	UTrn	App. Total	Right	Thru	Left	UTrn	App. Total	Int. Total
Peak Hour A	nalysi	s From	n 07:00	O AM t	o 08:45	AM -	Peak 1	of 1													
Peak Hour for	or Enti	re Inte	rsectic	on Beg	ins at 0	7:15 A	M														
07:15 AM	29	0	0	0	29	21	218	30	0	269	98	0	0	0	98	6	307	26	0	339	735
07:30 AM	22	0	0	0	22	14	253	36	1	304	106	0	0	0	106	6	341	21	0	368	800
07:45 AM	24	0	0	0	24	21	239	46	0	306	84	0	0	0	84	8	289	26	0	323	737
08:00 AM	27	0	0	0	27	26	290	53	0	369	80	0	0	0	80	11	304	18	0	333	809
Total Volume	102	0	0	0	102	82	1000	165	1	1248	368	0	0	0	368	31	1241	91	0	1363	3081
% App. Total	100	0	0	0		6.6	80.1	13.2	0.1		100	0	0	0		2.3	91	6.7	0		
PHF	.879	.000	.000	.000	.879	.788	.862	.778	.250	.846	.868	.000	.000	.000	.868	.705	.910	.875	.000	.926	.952





File Name : Apex(US 64 and Jenks)PM Peak Site Code : Start Date : 10/28/2021 Page No : 1

								Gro	ups P	rinted- C	Cars +	- Trucl	kS								
		Je	nks R	oad				US 64	4			Richa	ardson	Road				US 64	1		1
		So	outhbo	und			W	estbo	und			No	orthbo	und				astbou	Ind		Ļ
Start Time	Right	Thru	Left	UTrn	App. Total	Right	Thru	Left	UTrn	App. Total	Right	Thru	Left	UTrn	App. Total	Right	Thru	Left	UTrn	App. Total	Int. Total
04:00 PM	35	0	0	0	35	12	302	56	0	370	50	0	0	0	50	6	237	18	0	261	716
04:15 PM	36	0	0	0	36	18	341	50	0	409	64	0	0	0	64	12	312	17	0	341	850
04:30 PM	35	0	0	0	35	14	318	62	0	394	75	0	0	0	75	11	292	19	0	322	826
04:45 PM	41	0	0	0	41	19	295	63	2	379	69	0	0	0	69	17	355	16	0	388	877
Total	147	0	0	0	147	63	1256	231	2	1552	258	0	0	0	258	46	1196	70	0	1312	3269
05:00 PM	40	0	0	0	40	19	315	58	1	393	90	0	0	0	90	4	316	17	0	337	860
05:15 PM	36	0	0	0	36	18	346	61	0	425	66	0	0	0	66	11	299	24	0	334	861
05:30 PM	25	0	0	0	25	20	293	61	2	376	57	0	0	0	57	12	271	15	0	298	756
05:45 PM	36	0	0	0	36	13	287	55	0	355	61	0	0	0	61	5	281	15	0	301	753
Total	137	0	0	0	137	70	1241	235	3	1549	274	0	0	0	274	32	1167	71	0	1270	3230
Grand Total	284	0	0	0	284	133	2497	466	5	3101	532	0	0	0	532	78	2363	141	0	2582	6499
Apprch %	100	0	0	0		4.3	80.5	15	0.2		100	0	0	0		3	91.5	5.5	0		
Total %	4.4	0	0	0	4.4	2	38.4	7.2	0.1	47.7	8.2	0	0	0	8.2	1.2	36.4	2.2	0	39.7	
Cars +	282	0	0	0	282	132	2456	465	5	3058	529	0	0	0	529	78	2309	141	0	2528	6397
% Cars +	99.3	0	0	0	99.3	99.2	98.4	99.8	100	98.6	99.4	0	0	0	99.4	100	97.7	100	0	97.9	98.4
Trucks	2	0	0	0	2	1	41	1	0	43	3	0	0	0	3	0	54	0	0	54	102
% Trucks	0.7	0	0	0	0.7	0.8	1.6	0.2	0	1.4	0.6	0	0	0	0.6	0	2.3	0	0	2.1	1.6



File Name : Apex(US 64 and Jenks)PM Peak Site Code : Start Date : 10/28/2021 Page No : 2

		Je	nks R	oad				US 64	4			Richa	ardsor	Road				US 64	4		
		Sc	outhbo	und			W	estbo	und			No	orthbo	und			E	astbou	und		
Start Time	Right	Thru	Left	UTrn	App. Total	Right	Thru	Left	UTrn	App. Total	Right	Thru	Left	UTrn	App. Total	Right	Thru	Left	UTrn	App. Total	Int. Total
Peak Hour A	nalysi	s From	n 04:00	DPM t	o 05:45	PM -	Peak 1	of 1													
Peak Hour for	or Enti	re Inte	rsectio	on Beg	ins at 04	4:30 P	M														
04:30 PM	35	0	0	0	35	14	318	62	0	394	75	0	0	0	75	11	292	19	0	322	826
04:45 PM	41	0	0	0	41	19	295	63	2	379	69	0	0	0	69	17	355	16	0	388	877
05:00 PM	40	0	0	0	40	19	315	58	1	393	90	0	0	0	90	4	316	17	0	337	860
05:15 PM	36	0	0	0	36	18	346	61	0	425	66	0	0	0	66	11	299	24	0	334	861
Total Volume	152	0	0	0	152	70	1274	244	3	1591	300	0	0	0	300	43	1262	76	0	1381	3424
% App. Total	100	0	0	0		4.4	80.1	15.3	0.2		100	0	0	0		3.1	91.4	5.5	0		
PHF	.927	.000	.000	.000	.927	.921	.921	.968	.375	.936	.833	.000	.000	.000	.833	.632	.889	.792	.000	.890	.976





Raleigh, NC 27609 PH: 919-872-5115

> File Name : US 64 and U-Turn Location Site Code : 00000001 Start Date : 1/11/2022 Page No : 1

							(	Group	s Print	ed- Car	s - TR	KS - S	emis								
								US 64										US 64			
			om No					rom E					om Sc					om W			
Start Time	Right	Thru	Left	Peds	App. Total	Right	Thru	Left	U-Turns	App. Total	Right	Thru	Left	Peds	App. Total	Right	Thru	Left	U-Turns	App. Total	Int. Total
07:00 AM	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	1	1	1
07:15 AM	0	0	0	0	0	0	0	0	1	1	0	0	0	0	0	0	0	0	0	0	1
07:30 AM	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	5	5	5
07:45 AM	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	1	1	1
Total	0	0	0	0	0	0	0	0	1	1	0	0	0	0	0	0	0	0	7	7	8
08:00 AM	0	0	0	0	0	0	0	0	1	1	0	0	0	0	0	0	0	0	2	2	3
08:15 AM	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	1	1	1
08:30 AM	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	4	4	4
08:45 AM	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	1	1	1
Total	0	0	0	0	0	0	0	0	1	1	0	0	0	0	0	0	0	0	8	8	9
*** BREAK *	**																				
04:00 PM	0	0	0	0	0	0	0	0	2	2	0	0	0	0	0	0	0	0	1	1	3
04:15 PM	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	1	1	1
04:30 PM	0	0	0	0	0	0	0	0	1	1	0	0	0	0	0	0	0	0	5	5	6
04:45 PM	0	0	0	0	0	0	0	0	1	1	0	0	0	0	0	0	0	0	4	4	5
Total	0	0	0	0	0	0	0	0	4	4	0	0	0	0	0	0	0	0	11	11	15
05:00 PM	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	2	2	2
05:15 PM	0	0	0	0	0	0	0	0	1	1	0	0	0	0	0	0	0	0	5	5	6
05:30 PM	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	3	3	3
05:45 PM	0	0	0	0	0	0	0	0	2	2	0	0	0	0	0	0	0	0	3	3	5
Total	0	0	0	0	0	0	0	0	3	3	0	0	0	0	0	0	0	0	13	13	16
Grand Total	0	0	0	0	0	0	0	0	9	9	0	0	0	0	0	0	0	0	39	39	48
Apprch %	0	0	0	0		0	0	0	100		0	0	0	0		0	0	0	100		
Total %	0	0	0	0	0	0	0	0	18.8	18.8	0	0	0	0	0	0	0	0	81.2	81.2	
Cars	0	0	0	0	0	0	0	0	9	9	0	0	0	0	0	0	0	0	34	34	43
<u>% Cars</u>	0	0	0	0	0	0	0	0	100	100	0	0	0	0	0	0	0	0	87.2	87.2	89.6
	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	5 12.8	5	5
<u>% TRKS</u>	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0		12.8	10.4
Semis	0	0 0	0 0	0 0	0 0	0	0	0	0	0	0	0	0	0	0 0	0	0	0	0 0	0	0 0
% Semis	U	U	U	U	0	U	0	0	U	U	0	U	0	U	0	U	U	0	U	0	U



Suite 100 Raleigh, NC 27609 PH: 919-872-5115

> File Name : US 64 and U-Turn Location Site Code : 00000001 Start Date : 1/11/2022 Page No : 2

								US 64	1									US 64	1		
		Er	om No	orth				rom E				۲r	om So	uth				om W	-		
0 T		1	-				T	-				1		T				-	631		,
Start Time			Left	Peds	App. Total	Right		Left	U-Turns	App. Total	Right	Thru	Left	Peds	App. Total	Right	Thru	Left	U-Turns	App. Total	Int. Total
Peak Hour A	nalysi	s From	n 07:00	) AM t	o 11:45	AM - F	Peak 1	of 1													
Peak Hour fo	or Entii	re Inte	rsectio	n Beg	ins at 0	7:15 A	M														
07:15 AM	0	0	0	0	0	0	0	0	1	1	0	0	0	0	0	0	0	0	0	0	1
07:30 AM	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	5	5	5
07:45 AM	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	1	1	1
08:00 AM	0	0	0	0	0	0	0	0	1	1	0	0	0	0	0	0	0	0	2	2	3
Total Volume	0	0	0	0	0	0	0	0	2	2	0	0	0	0	0	0	0	0	8	8	10
% App. Total	0	0	0	0		0	0	0	100		0	0	0	0		0	0	0	100		
PHF	.000	.000	.000	.000	.000	.000	.000	.000	.500	.500	.000	.000	.000	.000	.000	.000	.000	.000	.400	.400	.500
Cars	0	0	0	0	0	0	0	0	2	2	0	0	0	0	0	0	0	0	4	4	6
% Cars	0	0	0	0	0	0	0	0	100	100	0	0	0	0	0	0	0	0	50.0	50.0	60.0
TRKS	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	4	4	4
% TRKS	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	50.0	50.0	40.0
Semis	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
% Semis	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0



Suite 100 Raleigh, NC 27609 PH: 919-872-5115





Suite 100 Raleigh, NC 27609 PH: 919-872-5115

> File Name : US 64 and U-Turn Location Site Code : 00000001 Start Date : 1/11/2022 Page No : 4

								US 64	1									US 64	1		
		Fr	om No	orth			F	rom E	ast			Fr	om Sc	outh			Fr	om W	est		
Start Time	Right	Thru	Left	Peds	App. Total	Right	Thru	Left	U-Turns	App. Total	Right	Thru	Left	Peds	App. Total	Right	Thru	Left	U-Turns	App. Total	Int. Total
Peak Hour A	nalysi	s From	n 12:00	) PM to	05:45	PM - I	Peak 1	of 1													
Peak Hour fo	or Enti	re Intei	rsectio	n Begi	ins at 0	4:30 P	M														
04:30 PM	0	0	0	0	0	0	0	0	1	1	0	0	0	0	0	0	0	0	5	5	6
04:45 PM	0	0	0	0	0	0	0	0	1	1	0	0	0	0	0	0	0	0	4	4	5
05:00 PM	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	2	2	2
05:15 PM	0	0	0	0	0	0	0	0	1	1	0	0	0	0	0	0	0	0	5	5	6
Total Volume	0	0	0	0	0	0	0	0	3	3	0	0	0	0	0	0	0	0	16	16	19
% App. Total	0	0	0	0		0	0	0	100		0	0	0	0		0	0	0	100		
PHF	.000	.000	.000	.000	.000	.000	.000	.000	.750	.750	.000	.000	.000	.000	.000	.000	.000	.000	.800	.800	.792
Cars	0	0	0	0	0	0	0	0	3	3	0	0	0	0	0	0	0	0	15	15	18
% Cars	0	0	0	0	0	0	0	0	100	100	0	0	0	0	0	0	0	0	93.8	93.8	94.7
TRKS	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	1	1	1
% TRKS	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	6.3	6.3	5.3
Semis	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
% Semis	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0



# **APPENDIX C**

## ADJACENT DEVELOPMENT INFORMATION

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Traffic Impact Analysis for Westford Apex, North Carolina

Prepared for: The Halle Companies Apex, North Carolina

Prepared by: Kimley-Horn and Associates, Inc. NC License #F-0102 421 Fayetteville Street Suite 600 Raleigh, NC 27601 (919) 677-2000



December 2016 018995001





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### Kimley **»Horn**

#### 7.0 **Recommendations**

The following roadway improvements are committed to be performed by other developments in the area:

US 64 at Jenks Road:

- Convert existing intersection to a superstreet configuration with left turn crossovers and downstream U-Turns (by Sweetwater Phase 1)
- Monitor crossovers for MUTCD traffic signal warrants and install a traffic signal if warrants are met (by Sweetwater Phase 1)
- Construct a single westbound left-turn lane with 300 feet of storage and a single rightturn lane with 100 feet of storage on US 64 (by Sweetwater Phase 1)
- Construct a single eastbound left-turn lane with 300 feet of storage and a single right-turn lane with 50 feet of storage on US 64 (by Sweetwater Phase 1)
- Extend the westbound left-turn lane on US 64 to provide 500 feet of storage (by Smith Farm prior to platting 300 units)
- Extend the eastbound right-turn lane on US 64 to provide 100 feet of storage (by Smith Farm prior to platting of 360 units)
- Construct an additional northbound right-turn lane on Richardson Road with 300 feet of storage (by Smith Farm prior to platting 360 units)

US 64 at West U-turn:

- Construct a single lane U-turn with 250 feet of storage (by Sweetwater Phase 1)
- Monitor for MUTCD traffic signal warrants and install a traffic signal if warrants are met (by Sweetwater Phase 1)

US 64 at East U-turn:

- Construct a single lane U-turn with 250 feet of storage on US 64 (by Sweetwater Phase 1)
- Monitor for MUTCD traffic signal warrants and install a traffic signal if warrants are met (by Sweetwater Phase 1)
- Extend eastbound U-turn lane on US 64 to provide 400 feet of storage (by Smith Farm Phase 1)

Green Level Church Road at Jenks Road:

• Monitor this intersection for MUTCD traffic signal warrants and install a traffic signal if warrants are met (by The Preserve at White Oak Creek)



### Kimley **»Horn**

The following roadway improvements are recommended to be performed to accommodate projected Westford site traffic based on the analysis presented herein:

US 64 at Jenks Road:

• If not already done by others, monitor this intersection for MUTCD traffic signal warrants for the eastbound left-turn, the westbound through and right-turn, and the southbound right-turn movements and install a traffic signal if warrants are met

US 64 at West U-Turn:

• If not already done by others, monitor this intersection for MUTCD traffic signal warrants and install a traffic signal if warrants are met

Jenks Road at Green Level Church Road:

• If not already done by others, monitor this intersection for MUTCD traffic signal warrants and install a traffic signal if warrants are met

Jenks Road at Wimberly Road / Street B:

- Construct an exclusive westbound left-turn lane with a minimum of 50 feet of storage on Jenks Road
- Construct an exclusive eastbound left-turn lane with a minimum of 50 feet of storage on Jenks Road

US 64 at Street A:

• Construct an exclusive westbound right-turn lane with a minimum of 75 feet of storage on US 64

Jenks Road at Street A:

- Construct an exclusive westbound left-turn lane with a minimum of 50 feet of storage on Jenks Road
- Provide separate left- and right-turn lanes on the northbound approach of Street A

Jenks Road at Street C:

• Construct an exclusive westbound left-turn lane with a minimum of 50 feet of storage on Jenks Road

Analysis indicates that with the committed and recommended improvements in place, all of the study intersections are expected to operate at an acceptable level of service. The recommended lane geometry is shown on Figure 9.



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### Kimley »Horn

#### KIMLEY-HORN AND ASSOCIATES, INC NC License #F-0102

#### MEMORANDUM

То:	Mr. Serge Grebenschikov, P.E., Town of Apex Mr. Russell Dalton, P.E., Town of Apex
From:	Travis Fluitt, P.E., Kimley-Horn and Associates, Inc,
Date:	July 9, 2021
Subject:	US 64 Residential, Apex, NC – Phase 2 TIA Addendum



Kimley-Horn has prepared this addendum to the *US 64 Residential TIA* (Kimley-Horn, April 2021) to evaluate the traffic impact of Phase 2 of the proposed development. Per the original TIA, Phase 1 of the development was assumed to include 400 apartment units and to be built-out by 2024. For this analysis, Phase 2 of the development is assumed to include 75 single family homes, a 11,000 square foot (SF) day care center, and a 3,500 SF drive-thru fast-food restaurant. Phase 2 is assumed to be built-out by 2026.

This report presents trip generation, directional distribution, traffic analyses, and recommendations for transportation improvements required to meet anticipated traffic demands in conjunction with build-out of Phase 2 of the proposed development in the 2026 study year.

#### **Study Area**

The study area intersections were obtained from the original TIA and were not modified as part of this analysis. Consistent with the original TIA, two site access scenarios were analyzed:

With RI/RO Driveway Scenario

- Proposed access road connection to US 64 opposite Flying Hawk Road
- Existing right-in/right-out (RI/RO) driveway on US 64

Without RI/RO Driveway Scenario

• Proposed access road connection to US 64 opposite Flying Hawk Road

#### **Background Traffic**

The projected (2024) background traffic volumes from the original TIA were grown at a 3% annual rate up to the 2026 study year to calculate the projected (2026) background traffic volumes.

#### **Trip Generation and Assignment**

Consistent with the original TIA, the trip generation potential of the proposed development was determined using the traffic generation data published in the *ITE Trip Generation Handbook* (Institute of Transportation Engineers, Tenth Edition, 2017). The trip generation is summarized in <u>Table 1</u>.

## Kimley »Horn

	ITE Tra	Tab Iffic Gene		(Vehicle:	s)			
Land Use Code	Land Use	Intens	sity	Daily Total	AM Pea In	ak Hour Out	PM Pe In	ak Hour Out
210	Single Family Housing	75	d.u.	798	15	43	49	28
221	Multifamily Housing (Mid-Rise)	400	d.u.	2,178	35	98	102	66
565	Day Care Center	11,000	s.f.	524	64	57	57	65
934	Fast-Food Restaurant	3,500	s.f.	1,648	72	69	59	55
	Subtotal			5,148	186	267	267	214
	Internal Capture Reduction	n		462	17	17	18	18
	Pass-by Capture/Diverted Link	Trips		730	28	32	40	39
	Total Net New External Tri	ps		3,956	141	218	209	157

As shown in Table 1, the development is anticipated to generate approximately 3,956 new external trips on a typical weekday, with 359 new external trips during the AM peak hour and 366 new external trips during the PM peak hour.

Internally captured trips are trips that begin and end on the project site and do not access the external roadway network. ITE Methodology indicates that internal capture between the proposed land uses will represent approximately 7.5% of site trips in both peak hours.

Pass-by trips are trips already on the network that will make a trip to the site as they pass by on the adjacent street. ITE Methodology indicates that approximately 49% of the AM peak hour trips and 50% of the PM peak hour trips associated with the fast-food restaurant will be pass-by trips. ITE Methodology also indicates that up to 50% of the day care trips in the PM peak hour may be diverted link trips. Consistent with previous studies performed in the Town, a diverted link trip percentage of 25% was applied to the PM peak hour day care trips to present a conservative analysis.

The proposed site-generated trips were assigned to the surrounding roadway network. Due to the addition of the commercial traffic, the following overall distribution was used for Phase 2:

- 70% to/from the east on US 64
- 30% to/from the west on US 64

The proposed pass-by trips were assigned to the roadway network based on the directional distribution of background volumes along US 64.

Full trip generation calculations, site-generated trip assignment, and pass-by trip assignment are shown on the intersection spreadsheets attached to this memorandum.



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### Traffic Impact Analysis

For

### Sweetwater Development

Located in

Apex, North Carolina

Prepared For: ExperienceOne Homes, LLC, P.O. Box 5509 Cary, NC 27512

Prepared By: Ramey Kemp & Associates, Inc. 5808 Faringdon Place, Suite 100 Raleigh, NC 27609 NC Corporate License # C-0910

December 2014



RKA Project #14260

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#### 9. **RECOMMENDATIONS**

Based on the findings of this study, specific geometric improvements have been identified and are recommended to accommodate future traffic conditions. Improvements that are necessary and recommended to accommodate a residential phase and full site build out generated traffic are identified below. These are improvements recommended for the development. Refer to Figure 14 and Figure 14a for the recommended improvements.

#### **Residential:**

#### US 64 and Jenks Road/Site Access

- Convert the intersection to a superstreet design.
- Convert the southbound approach of Jenks Road to provide a single right turn lane and one inbound lane.
- Construct the Site Access (Jenks Road extension) with one outbound lane and one inbound lane. The outbound lane should be a single right turn lane.
- Install stop signs at the intersections.
- Construct a single westbound left turn lane at the Site Access intersection with a minimum of 275 feet of storage.
- A single eastbound left turn lane is currently provided at the Jenks Road intersection with 250 feet of storage which should be adequate for this phase.
- Construct a U-turn opening on US 64 approximately 800-1,000 feet east of the Site Access. Provide one u-turn lane with a minimum of 150 feet of storage plus appropriate taper.
- Construct a u-turn opening on US 64 approximately 800-1,000 feet west of Jenks Road. Provide one u-turn lane with a minimum of 250 feet of storage and appropriate taper.
- Install a stop sign at the u-turn locations.
- Consider modifying the potential interchange design to accommodate future traffic volumes and require less right-of-way.

#### Kelly Road and Wendhurst Court/Beaver Creek Commons Drive

• Provide through movement striping on the westbound leg.



#### Full Build Out:

The following recommendations do not consider the residential phase and are intended to be considered independently.

US 64 and Jenks Road/Site Access

- Convert the intersection to a superstreet design. It is anticipated this will be required with the initial phase of the development
- Convert the southbound approach of Jenks Road to provide dual right turn lanes and one inbound lane.
- Construct the Site Access (Jenks Road extension) with a minimum of two outbound lanes and one inbound lane. The outbound lanes should be dual right turn lanes.
- Install traffic signals at the intersection when warranted
- Construct dual westbound left turn lanes at the Site Access signal with a minimum of 300 feet of storage.
- Construct dual eastbound left turn lanes at the Jenks Road signal with a minimum of 300 feet of storage.
- Construct a u-turn opening on US 64 approximately 800-1,000 feet east of the Site Access. Provide dual u-turn lanes with a minimum of 250 feet of full width storage plus appropriate taper.
- Construct a u-turn opening on US 64 approximately 800-1,000 feet west of Jenks Road. Provide one u-turn lane with a minimum of 250 feet of storage and appropriate taper.
- Install a traffic signal at the u-turn locations when warranted.
- Consider modifying the potential interchange design to accommodate future traffic volumes and require less right-of-way.





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# **APPENDIX D**

### CAPACITY ANALYSIS CALCULATIONS US 64 & MEDIAN BREAK

Int Delay, s/veh	0					
Movement	EBL	EBT	WBT	WBR	SBL	SBR
Lane Configurations					٢	
Traffic Vol, veh/h	0	1650	0	0	4	0
Future Vol, veh/h	0	1650	0	0	4	0
Conflicting Peds, #/hr	0	0	0	0	0	0
Sign Control	Free	Free	Stop	Stop	Stop	Stop
RT Channelized	-	None	-	None	-	None
Storage Length	-	-	-	-	0	-
Veh in Median Storage,	# -	0	16983	-	0	-
Grade, %	-	0	0	-	0	-
Peak Hour Factor	90	90	90	90	90	90
Heavy Vehicles, %	2	2	2	2	2	2
Mvmt Flow	0	1833	0	0	4	0

Major/Minor	Major1		Minor2					
	Majuri	0						
Conflicting Flow All	-	0	917 0	-				
Stage 1	-	-		-				
Stage 2	-	-	917	-				
Critical Hdwy	-	-	6.84	-				
Critical Hdwy Stg 1	-	-	-	-				
Critical Hdwy Stg 2	-	-	5.84	-				
Follow-up Hdwy	-	-	3.52	-				
Pot Cap-1 Maneuver	0	-	271	0				
Stage 1	0	-	-	0				
Stage 2	0	-	350	0				
Platoon blocked, %		-						
Mov Cap-1 Maneuver		-	271	-				
Mov Cap-2 Maneuver	· -	-	271	-				
Stage 1	-	-	-	-				
Stage 2	-	-	350	-				
Approach	EB		SB			_		
HCM Control Delay, s			18.5					
HCM LOS	0		10.5 C					
			U					
Minor Lane/Major Mvi	mt	EBT SBLn1			 			 
Capacity (veh/h)		- 271						
HCM Lane V/C Ratio		- 0.016						
HCM Control Delay (s	5)	- 18.5						
HCM Lane LOS		- C						
HCM 95th %tile Q(ver	ר)	- 0.1						
	,							

Int Delay, s/veh	0					
Movement	EBL	EBT	WBT	WBR	SBL	SBR
Lane Configurations		<b>^</b>			7	
Traffic Vol, veh/h	0	2231	0	0	4	0
Future Vol, veh/h	0	2231	0	0	4	0
Conflicting Peds, #/hr	0	0	0	0	0	0
Sign Control	Free	Free	Stop	Stop	Stop	Stop
RT Channelized	-	None	-	None	-	None
Storage Length	-	-	-	-	0	-
Veh in Median Storage,	# -	0	16983	-	0	-
Grade, %	-	0	0	-	0	-
Peak Hour Factor	90	90	90	90	90	90
Heavy Vehicles, %	2	2	2	2	2	2
Mvmt Flow	0	2479	0	0	4	0

Major/Minor	Major1		Minor2			
Conflicting Flow All	-	0	1240	-		
Stage 1	-	-	0	_		
Stage 2	-	-	1240	-		
Critical Hdwy	-	-	6.84	-		
Critical Hdwy Stg 1	-	-	-	-		
Critical Hdwy Stg 2	-	-	5.84	-		
Follow-up Hdwy	-	-	3.52	-		
Pot Cap-1 Maneuver	0	-	167	0		
Stage 1	0	-	-	0		
Stage 2	0	-	236	0		
Platoon blocked, %		-				
Mov Cap-1 Maneuver		-	167	-		
Mov Cap-2 Maneuver	-	-	167	-		
Stage 1	-	-	-	-		
Stage 2	-	-	236	-		
Approach	EB		SB			
HCM Control Delay, s	0		27.1			
HCM LOS			D			
Minor Lane/Major Mvn	nt	EBT SBLn1				
Capacity (veh/h)		- 167				
HCM Lane V/C Ratio		- 0.027				
HCM Control Delay (s)	)	- 27.1				
HCM Lane LOS		- D				
HCM 95th %tile Q(veh	)	- 0.1				

5.6

#### Intersection

Int Delay, s/veh

Movement	EBL	EBT	EBR	WBL	WBT	WBR	NBL	NBT	NBR	SBL	SBT	SBR	
Lane Configurations		<b>^</b>	1						1		र्स		
Traffic Vol, veh/h	0	2231	9	0	0	0	0	0	70	4	25	0	
Future Vol, veh/h	0	2231	9	0	0	0	0	0	70	4	25	0	
Conflicting Peds, #/hr	0	0	0	0	0	0	0	0	0	0	0	0	
Sign Control	Free	Free	Free	Stop	Stop	Stop	Stop	Stop	Stop	Stop	Stop	Stop	
RT Channelized	-	-	None	-	-	None	-	-	None	-	-	None	
Storage Length	-	-	0	-	-	-	-	-	0	-	-	-	
Veh in Median Storage,	, # -	0	-	-	16983	-	-	0	-	-	0	-	
Grade, %	-	0	-	-	0	-	-	0	-	-	0	-	
Peak Hour Factor	90	90	90	90	90	90	90	90	90	90	90	90	
Heavy Vehicles, %	2	2	2	2	2	2	2	2	2	2	2	2	
Mvmt Flow	0	2479	10	0	0	0	0	0	78	4	28	0	

Major/Minor   Major1   Minor1   Minor2     Conflicting Flow All   0   0   -   1240   1240   2489   -     Stage 1   -   -   -   0   0   -   -   0   0   -     Stage 2   -   -   -   -   0   0   -   -   0   0   -     Critical Hdwy   -   -   -   6.94   7.54   6.54   - <td< th=""></td<>
Stage 1 - - - 0 0 -   Stage 2 - - - - 1240 2489 -   Critical Hdwy - - - 6.94 7.54 6.54 -   Critical Hdwy Stg 1 - - - - 6.54 - -   Critical Hdwy Stg 2 - - - - 6.54 5.54 -   Critical Hdwy Stg 2 - - - - 6.54 5.54 -   Critical Hdwy Stg 2 - - - - 6.54 5.54 -   Follow-up Hdwy - - - 3.32 3.52 4.02 -   Pot Cap-1 Maneuver 0 - - 0 0 - - 0   Stage 1 0 - - 0 0 - - 0   Mov Cap-1 Maneuver - - - 167 70 29 -   Mov Cap-1 Maneuver - - - -
Stage 2 - - - - 1240 2489 -   Critical Hdwy - - - 6.94 7.54 6.54 -   Critical Hdwy Stg 1 - - - - 6.54 5.54 -   Critical Hdwy Stg 2 - - - - 6.54 5.54 -   Critical Hdwy Stg 2 - - - - 6.54 5.54 -   Critical Hdwy Stg 2 - - - - 6.54 5.54 -   Follow-up Hdwy - - - - 3.32 3.52 4.02 -   Pot Cap-1 Maneuver 0 - - 0 0 167 131 29 0   Stage 1 0 - - 0 0 - 186 58 0   Platoon blocked, % - - - 167 70 29 -   Mov Cap-2 Maneuver - - - - 70 29 -   Sta
Critical Hdwy Stg 1 -
Critical Hdwy Stg 2 - - - - 6.54 5.54 -   Follow-up Hdwy - - - 3.32 3.52 4.02 -   Pot Cap-1 Maneuver 0 - - 0 0 167 131 29 0   Stage 1 0 - - 0 0 - - 0   Stage 2 0 - - 0 0 - - 0   Platoon blocked, % - - - 167 70 29 -   Mov Cap-1 Maneuver - - - - 70 29 -   Mov Cap-1 Maneuver - - - - 70 29 -   Mov Cap-2 Maneuver - - - - 70 29 -   Stage 1 - - - - - - - -
Follow-up Hdwy - - - 3.32 3.52 4.02 -   Pot Cap-1 Maneuver 0 - - 0 0 167 131 29 0   Stage 1 0 - - 0 0 - - 0   Stage 2 0 - - 0 0 - - 0   Platoon blocked, % - - - 167 70 29 -   Mov Cap-1 Maneuver - - - - 70 29 -   Mov Cap-2 Maneuver - - - - 70 29 -   Stage 1 - - - - - - - -
Pot Cap-1 Maneuver 0 - - 0 0 167 131 29 0   Stage 1 0 - - 0 0 - - 0   Stage 2 0 - - 0 0 - - 0   Platoon blocked, % - - - 167 70 29 -   Mov Cap-1 Maneuver - - - - 70 29 -   Mov Cap-2 Maneuver - - - - 70 29 -   Stage 1 - - - - - - - -
Stage 1 0 - - 0 0 - - 0   Stage 2 0 - - 0 0 - 186 58 0   Platoon blocked, % - - - - 167 70 29 -   Mov Cap-1 Maneuver - - - - 70 29 -   Mov Cap-2 Maneuver - - - - 70 29 -   Stage 1 - - - - - - - -
Stage 2 0 - - 0 0 - 186 58 0   Platoon blocked, % - <t< td=""></t<>
Platoon blocked, % - -   Mov Cap-1 Maneuver - - - 167 70 29 -   Mov Cap-2 Maneuver - - - 70 29 -   Stage 1 - - - - - - -
Mov Cap-1 Maneuver   -   -   -   167   70   29   -     Mov Cap-2 Maneuver   -   -   -   -   70   29   -     Stage 1   -   -   -   -   70   29   -
Mov Cap-2 Maneuver   -   -   -   70   29   -     Stage 1   - </td
Stage 1
Stage 2 99 58 -
Approach EB NB SB
HCM Control Delay, s 0 44.1 \$344.8
HCM Control Delay, s 0 44.1 \$344.6
Minor Lane/Major Mvmt NBLn1 EBT EBR SBLn1
Capacity (veh/h) 167 32
HCM Lane V/C Ratio 0.466 1.007
HCM Control Delay (s) 44.1\$ 344.8
HCM Lane LOS E F

#### Notes

~: Volume exceeds capacity

HCM 95th %tile Q(veh)

\$: Delay exceeds 300s +: Computation Not Defined

3.5

\*: All major volume in platoon

2.2

Int Delay, s/veh	0					
Movement	EBL	EBT	WBT	WBR	SBL	SBR
Lane Configurations		<b>^</b>			٢	
Traffic Vol, veh/h	0	1596	0	0	4	0
Future Vol, veh/h	0	1596	0	0	4	0
Conflicting Peds, #/hr	0	0	0	0	0	0
Sign Control	Free	Free	Stop	Stop	Stop	Stop
RT Channelized	-	None	-	None	-	None
Storage Length	-	-	-	-	0	-
Veh in Median Storage,	# -	0	16983	-	0	-
Grade, %	-	0	0	-	0	-
Peak Hour Factor	90	90	90	90	90	90
Heavy Vehicles, %	2	2	2	2	2	2
Mvmt Flow	0	1773	0	0	4	0

Major/Minor	Major1		Minor2		
			-		
Conflicting Flow All	-	0	887	-	
Stage 1	-	-	0	-	
Stage 2	-	-	887	-	
Critical Hdwy	-	-	6.84	-	
Critical Hdwy Stg 1	-	-	-	-	
Critical Hdwy Stg 2	-	-	5.84	-	
Follow-up Hdwy	-	-	3.52	-	
Pot Cap-1 Maneuver	0	-	284	0	
Stage 1	0	-	-	0	
Stage 2	0	-	363	0	
Platoon blocked, %		-			
Mov Cap-1 Maneuve	r -	-	284	-	
Mov Cap-2 Maneuve		-	284	-	
Stage 1	-	-	-	-	
Stage 2	-	-	363	-	
Approach	EB		SB		
HCM Control Delay, s	s 0		17.9		
HCM LOS			С		
Minor Lane/Major Mv	umt	EBT SBLn1			
	int				_
Capacity (veh/h)		- 284			
HCM Lane V/C Ratio		- 0.016			
HCM Control Delay (	s)	- 17.9			
HCM Lane LOS		- C			
HCM 95th %tile Q(ve	h)	- 0			

Int Delay, s/veh	0					
Movement	EBL	EBT	WBT	WBR	SBL	SBR
Lane Configurations					٢	
Traffic Vol, veh/h	0	2258	0	0	4	0
Future Vol, veh/h	0	2258	0	0	4	0
Conflicting Peds, #/hr	0	0	0	0	0	0
Sign Control	Free	Free	Stop	Stop	Stop	Stop
RT Channelized	-	None	-	None	-	None
Storage Length	-	-	-	-	0	-
Veh in Median Storage,	# -	0	16983	-	0	-
Grade, %	-	0	0	-	0	-
Peak Hour Factor	90	90	90	90	90	90
Heavy Vehicles, %	2	2	2	2	2	2
Mvmt Flow	0	2509	0	0	4	0

Major/Minor M	Major1		Minor2				
Conflicting Flow All	Majori	0	1255	_			
Stage 1	-	U	1255	-			
Stage 2	-	-	1255	-			
Critical Hdwy			6.84	_			
Critical Hdwy Stg 1		_	0.04	_			
Critical Hdwy Stg 2	-		5.84	_			
Follow-up Hdwy	_	_	3.52	-			
Pot Cap-1 Maneuver	0		164	0			
Stage 1	0	-	-	0			
Stage 2	0	-	232	0			
Platoon blocked, %	Ū	-	202	Ū			
Mov Cap-1 Maneuver	-	-	164	_			
Mov Cap-2 Maneuver	-	-	164	-			
Stage 1	-	-	-	-			
Stage 2	-	-	232	-			
Ŭ							
A mana a ab			CD			_	
Approach	EB		SB				
HCM Control Delay, s	0		27.6				
HCM LOS			D				
Minor Lane/Major Mvm	nt	EBT SBLn1					
Capacity (veh/h)		- 164					
HCM Lane V/C Ratio		- 0.027					
HCM Control Delay (s)		- 27.6					
HCM Lane LOS		- D					
HCM 95th %tile Q(veh)		- 0.1					

38.1

#### Intersection

Int Delay, s/veh

Movement   EBL   EBT   EBR   WBL   WBT   WBR   NBL   NBR   SBL   SBT   SBR     Lane Configurations	<u>,</u>													
Traffic Vol, veh/h 0 2251 28 0 0 0 0 76 4 71 0   Future Vol, veh/h 0 2251 28 0 0 0 0 76 4 71 0   Conflicting Peds, #/hr 0	Movement	EBL	EBT	EBR	WBL	WBT	WBR	NBL	NBT	NBR	SBL	SBT	SBR	
Future Vol, veh/h 0 2251 28 0 0 0 0 76 4 71 0   Conflicting Peds, #/hr 0 <t< td=""><td>Lane Configurations</td><td></td><td><b>^</b></td><td>1</td><td></td><td></td><td></td><td></td><td></td><td>1</td><td></td><td>ŧ</td><td></td><td></td></t<>	Lane Configurations		<b>^</b>	1						1		ŧ		
Conflicting Peds, #/hr 0 <td>Traffic Vol, veh/h</td> <td>0</td> <td>2251</td> <td>28</td> <td>0</td> <td>0</td> <td>0</td> <td>0</td> <td>0</td> <td>76</td> <td>4</td> <td>71</td> <td>0</td> <td></td>	Traffic Vol, veh/h	0	2251	28	0	0	0	0	0	76	4	71	0	
Sign ControlFreeFreeFreeStopStopStopStopStopStopStopStopStopRT ChannelizedNoneNoneNoneNoneStorage Length000Veh in Median Storage, #-01698300-Grade, %-000-0-Peak Hour Factor909090909090909090909090	Future Vol, veh/h	0	2251	28	0	0	0	0	0	76	4	71	0	
RT Channelized - - None - - None - - None   Storage Length - - 0 - - 0 - - 0   Veh in Median Storage, # - 0 - - 0 - - 0 -   Grade, % - 0 - - 0 - - 0 -   Peak Hour Factor 90	Conflicting Peds, #/hr	0	0	0	0	0	0	0	0	0	0	0	0	
Storage Length - - 0 - - 0 -	Sign Control	Free	Free	Free	Stop	Stop	Stop	Stop	Stop	Stop	Stop	Stop	Stop	
Veh in Median Storage, # - 0 - - 16983 - - 0 - - 0 -   Grade, % - 0 - - 0 - - 0 - - 0 -   Peak Hour Factor 90	RT Channelized	-	-	None	-	-	None	-	-	None	-	-	None	
Grade, % - 0 0 0 0 - Peak Hour Factor 90 90 90 90 90 90 90 90 90 90 90 90	Storage Length	-	-	0	-	-	-	-	-	0	-	-	-	
Peak Hour Factor 90 90 90 90 90 90 90 90 90 90 90 90 90	Veh in Median Storage.	,# -	0	-	-	16983	-	-	0	-	-	0	-	
	Grade, %	-	0	-	-	0	-	-	0	-	-	0	-	
	Peak Hour Factor	90	90	90	90	90	90	90	90	90	90	90	90	
Heavy Vehicles, % 2 2 2 2 2 2 2 2 2 2 2 2 2 2 2 2 2 2	Heavy Vehicles, %	2	2	2	2	2	2	2	2	2	2	2	2	
Mvmt Flow 0 2501 31 0 0 0 0 0 84 4 79 0	Mvmt Flow	0	2501	31	0	0	0	0	0	84	4	79	0	

Major/Minor I	Major1				Minor1		1	Minor2			
Conflicting Flow All	-	0	0		-	-	1251	1251	2532	-	
Stage 1	-	-	-		-	-	-	0	0	-	
Stage 2	-	-	-		-	-	-	1251	2532	-	
Critical Hdwy	-	-	-		-	-	6.94	7.54	6.54	-	
Critical Hdwy Stg 1	-	-	-		-	-	-	-	-	-	
Critical Hdwy Stg 2	-	-	-		-	-	-	6.54	5.54	-	
Follow-up Hdwy	-	-	-		-	-	3.32	3.52	4.02	-	
Pot Cap-1 Maneuver	0	-	-		0	0	164	129	~ 27	0	
Stage 1	0	-	-		0	0	-	-	-	0	
Stage 2	0	-	-		0	0	-	183	~ 55	0	
Platoon blocked, %		-	-								
Mov Cap-1 Maneuver	-	-	-		-	-	164	63	~ 27	-	
Mov Cap-2 Maneuver	-	-	-		-	-	-	63	~ 27	-	
Stage 1	-	-	-		-	-	-	-	-	-	
Stage 2	-	-	-		-	-	-	89	~ 55	-	
Approach	EB				NB			SB			
HCM Control Delay, s	0				48.2		\$ ^	186.4			
HCM LOS	•				E		Ŧ	F			
Minor Lane/Major Mvm	nt N	BLn1	EBT	EBR SBLn1							
Capacity (veh/h)		164	-	- 28							
HCM Lane V/C Ratio	(	0.515	-	- 2.976							
HCM Control Delay (s)		48.2	-	\$ 1186.4							
HCM Lane LOS		E	-	- F							

#### Notes

~: Volume exceeds capacity

HCM 95th %tile Q(veh)

\$: Delay exceeds 300s +: Computation Not Defined

10

\_

\*: All major volume in platoon

2.5

Int Delay, s/veh	0.1					
Movement	EBT	EBR	WBL	WBT	NBL	NBR
Lane Configurations				<b>^</b>	1	
Traffic Vol, veh/h	0	0	0	1277	8	0
Future Vol, veh/h	0	0	0	1277	8	0
Conflicting Peds, #/hr	0	0	0	0	0	0
Sign Control	Stop	Stop	Free	Free	Stop	Stop
RT Channelized	-	None	-	None	-	None
Storage Length	-	-	-	-	0	-
Veh in Median Storage,	# 0	-	-	0	0	-
Grade, %	0	-	-	0	0	-
Peak Hour Factor	90	90	90	90	90	90
Heavy Vehicles, %	2	2	2	2	2	2
Mvmt Flow	0	0	0	1419	9	0

Major/Minor	Ν	lajor2	Ν	1inor1	
Conflicting Flow All		-	-	710	-
Stage 1		-	-	0	-
Stage 2		-	-	710	-
Critical Hdwy		-	-	6.84	-
Critical Hdwy Stg 1		-	-	-	-
Critical Hdwy Stg 2		-	-	5.84	-
Follow-up Hdwy		-	-	3.52	-
Pot Cap-1 Maneuver		0	-	368	0
Stage 1		0	-	-	0
Stage 2		0	-	448	0
Platoon blocked, %			-		
Mov Cap-1 Maneuver		-	-	368	-
Mov Cap-2 Maneuver		-	-	368	-
Stage 1		-	-	-	-
Stage 2		-	-	448	-
Approach		WB		NB	
HCM Control Delay, s		0		15	
HCM LOS		0		C	
				U	
Minor Lane/Major Mvmt	NBLn1	WBT			
Capacity (veh/h)	368	-			
HCM Lane V/C Ratio	0.024	-			
HCM Control Delay (s)	15	-			
	0				

HCM Lane LOS

HCM 95th %tile Q(veh)

С

0.1

-

-

Int Delay, s/veh	0.1					
Movement	EBT	EBR	WBL	WBT	NBL	NBR
Lane Configurations				<b>^</b>	٦	
Traffic Vol, veh/h	0	0	0	1807	9	0
Future Vol, veh/h	0	0	0	1807	9	0
Conflicting Peds, #/hr	0	0	0	0	0	0
Sign Control	Stop	Stop	Free	Free	Stop	Stop
RT Channelized	-	None	-	None	-	None
Storage Length	-	-	-	-	0	-
Veh in Median Storage,	# 0	-	-	0	0	-
Grade, %	0	-	-	0	0	-
Peak Hour Factor	90	90	90	90	90	90
Heavy Vehicles, %	2	2	2	2	2	2
Mvmt Flow	0	0	0	2008	10	0

Major/Minor	Major2	Minor1	
Conflicting Flow All	-	- 1004	-
Stage 1	-	- 0	-
Stage 2	-	- 1004	-
Critical Hdwy	-	- 6.84	-
Critical Hdwy Stg 1	-		-
Critical Hdwy Stg 2	-	- 5.84	-
Follow-up Hdwy	-	- 3.52	-
Pot Cap-1 Maneuver	0	- 238	0
Stage 1	0		0
Stage 2	0	- 315	0
Platoon blocked, %		-	
Mov Cap-1 Maneuver	-	- 238	-
Mov Cap-2 Maneuver	-	- 238	-
Stage 1	-		-
Stage 2	-	- 315	-
Approach	WB	NB	
HCM Control Delay, s	0	20.8	
HCM LOS		С	
Miner Lene (Meier Muret			

Minor Lane/Major Mvmt	NBLn1	WBT	
Capacity (veh/h)	238	-	
HCM Lane V/C Ratio	0.042	-	
HCM Control Delay (s)	20.8	-	
HCM Lane LOS	С	-	
HCM 95th %tile Q(veh)	0.1	-	

Int Delay, s/veh	0.1					
Movement	EBT	EBR	WBL	WBT	NBL	NBR
Lane Configurations				<b>^</b>	7	
Traffic Vol, veh/h	0	0	0	1823	9	0
Future Vol, veh/h	0	0	0	1823	9	0
Conflicting Peds, #/hr	0	0	0	0	0	0
Sign Control	Stop	Stop	Free	Free	Stop	Stop
RT Channelized	-	None	-	None	-	None
Storage Length	-	-	-	-	0	-
Veh in Median Storage,	# 0	-	-	0	0	-
Grade, %	0	-	-	0	0	-
Peak Hour Factor	90	90	90	90	90	90
Heavy Vehicles, %	2	2	2	2	2	2
Mvmt Flow	0	0	0	2026	10	0

Major/Minor	Ν	/lajor2	Ν	/linor1		
Conflicting Flow All		-		1013	-	
Stage 1		-	-	0	-	
Stage 2		-	-	1013	-	
Critical Hdwy		-	-	6.84	-	
Critical Hdwy Stg 1		-	-	-	-	
Critical Hdwy Stg 2		-	-	5.84	-	
Follow-up Hdwy		-	-	3.52	-	
Pot Cap-1 Maneuver		0	-	235	0	
Stage 1		0	-	-	0	
Stage 2		0	-	312	0	
Platoon blocked, %			-			
Mov Cap-1 Maneuver		-	-	235	-	
Mov Cap-2 Maneuver		-	-	235	-	
Stage 1		-	-	-	-	
Stage 2		-	-	312	-	
Approach		WB		NB		
HCM Control Delay, s		0		21		
HCM LOS		•		C		
Minor Long/Major Mumt	NDI n1	WBT				
Minor Lane/Major Mvmt	NBLn1					
Capacity (veh/h)	235	-				
HCM Lane V/C Ratio	0.043	-				
HCM Control Delay (s)	21	-				
HCM Lane LOS	С	-				

HCM 95th %tile Q(veh)

0.1

-

Int Delay, s/veh	0.2					
Movement	EBT	EBR	WBL	WBT	NBL	NBR
Lane Configurations				<b>^</b>	7	
Traffic Vol, veh/h	0	0	0	1622	16	0
Future Vol, veh/h	0	0	0	1622	16	0
Conflicting Peds, #/hr	0	0	0	0	0	0
Sign Control	Stop	Stop	Free	Free	Stop	Stop
RT Channelized	-	None	-	None	-	None
Storage Length	-	-	-	-	0	-
Veh in Median Storage,	# 0	-	-	0	0	-
Grade, %	0	-	-	0	0	-
Peak Hour Factor	90	90	90	90	90	90
Heavy Vehicles, %	2	2	2	2	2	2
Mvmt Flow	0	0	0	1802	18	0

Major/Minor	Major2	Minor1	
Conflicting Flow All	-	- 901	-
Stage 1	-	- 0	-
Stage 2	-	- 901	-
Critical Hdwy	-	- 6.84	-
Critical Hdwy Stg 1	-		-
Critical Hdwy Stg 2	-	- 5.84	-
Follow-up Hdwy	-	- 3.52	-
Pot Cap-1 Maneuver	0	- 278	0
Stage 1	0		0
Stage 2	0	- 357	0
Platoon blocked, %		-	
Mov Cap-1 Maneuver	-	- 278	-
Mov Cap-2 Maneuver	-	- 278	-
Stage 1	-		-
Stage 2	-	- 357	-
Approach	WB	NB	
HCM Control Delay, s	0	18.8	
HCM LOS		C	

Minor Lane/Major Mvmt	NBLn1	WBT
Capacity (veh/h)	278	-
HCM Lane V/C Ratio	0.064	-
HCM Control Delay (s)	18.8	-
HCM Lane LOS	С	-
HCM 95th %tile Q(veh)	0.2	-

Int Delay, s/veh	0.2					
Movement	EBT	EBR	WBL	WBT	NBL	NBR
Lane Configurations				<b>^</b>	7	
Traffic Vol, veh/h	0	0	0	2223	19	0
Future Vol, veh/h	0	0	0	2223	19	0
Conflicting Peds, #/hr	0	0	0	0	0	0
Sign Control	Stop	Stop	Free	Free	Stop	Stop
RT Channelized	-	None	-	None	-	None
Storage Length	-	-	-	-	0	-
Veh in Median Storage	,# 0	-	-	0	0	-
Grade, %	0	-	-	0	0	-
Peak Hour Factor	90	90	90	90	90	90
Heavy Vehicles, %	2	2	2	2	2	2
Mvmt Flow	0	0	0	2470	21	0

Major/Minor	Majo	.r?	N	/linor1	
	iviajo	nΖ			
Conflicting Flow All		-	-	1200	-
Stage 1		-	-	0	-
Stage 2		-	-	1235	-
Critical Hdwy		-	-	6.84	-
Critical Hdwy Stg 1		-	-	-	-
Critical Hdwy Stg 2		-	-	5.84	-
Follow-up Hdwy		-	-	3.52	-
Pot Cap-1 Maneuver		0	-	169	0
Stage 1		0	-	-	0
Stage 2		0	-	238	0
Platoon blocked, %		-	-		-
Mov Cap-1 Maneuver		-	-	169	-
Mov Cap-2 Maneuver		-	-	169	-
Stage 1		_	_	-	-
Stage 2		_	-	238	
Oldge 2				200	
Approach	N	٧B		NB	
HCM Control Delay, s		0		29.3	
HCM LOS				D	
Minor Lane/Major Mvmt	NBLn1 WE	3T			
Capacity (veh/h)	169	-			
HCM Lane V/C Ratio	0.125	-			
HCM Control Delay (s)	29.3	-			
	-				

D

0.4

-

-

HCM Lane LOS

HCM 95th %tile Q(veh)

Int Delay, s/veh	0.3					
Movement	EBT	EBR	WBL	WBT	NBL	NBR
Lane Configurations				<b>^</b>	7	
Traffic Vol, veh/h	0	0	0	2239	19	0
Future Vol, veh/h	0	0	0	2239	19	0
Conflicting Peds, #/hr	0	0	0	0	0	0
Sign Control	Stop	Stop	Free	Free	Stop	Stop
RT Channelized	-	None	-	None	-	None
Storage Length	-	-	-	-	0	-
Veh in Median Storage,	# 0	-	-	0	0	-
Grade, %	0	-	-	0	0	-
Peak Hour Factor	90	90	90	90	90	90
Heavy Vehicles, %	2	2	2	2	2	2
Mvmt Flow	0	0	0	2488	21	0

Major/Minor	Major2	N	1inor1	
Conflicting Flow All			1244	-
Stage 1	-	-	0	-
Stage 2	-	-	1244	-
Critical Hdwy	-	-	6.84	-
Critical Hdwy Stg 1	-	-	-	-
Critical Hdwy Stg 2	-	-	5.84	-
Follow-up Hdwy	-	-	3.52	-
Pot Cap-1 Maneuver	0	-	166	0
Stage 1	0	-	-	0
Stage 2	0	-	235	0
Platoon blocked, %		-		
Mov Cap-1 Maneuver	-	-	166	-
Mov Cap-2 Maneuver	-	-	166	-
Stage 1	-	-	-	-
Stage 2	-	-	235	-
Approach	WB		NB	
HCM Control Delay, s	0	 	29.8	
HCM LOS			D	
			2	
Minor Lane/Major Mvmt	NBLn1 WBT			
Capacity (veh/h)	166 -			
HCM Lane V/C Ratio	0.127 -			
HCM Control Delay (s)	29.8 -			

D

0.4

-

-

HCM Lane LOS

HCM 95th %tile Q(veh)

# **APPENDIX E**

### CAPACITY ANALYSIS CALCULATIONS US 64 &

### **FUTURE EASTERN U-TURN LOCATION**

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Int Delay, s/veh	0.2					
Movement	EBT	EBR	WBL	WBT	NBL	NBR
Lane Configurations				<b>^</b>	٦	
Traffic Vol, veh/h	0	0	0	1834	16	0
Future Vol, veh/h	0	0	0	1834	16	0
Conflicting Peds, #/hr	0	0	0	0	0	0
Sign Control	Stop	Stop	Free	Free	Stop	Stop
RT Channelized	-	None	-	None	-	None
Storage Length	-	-	-	-	0	-
Veh in Median Storage,	# 0	-	-	0	0	-
Grade, %	0	-	-	0	0	-
Peak Hour Factor	90	90	90	90	90	90
Heavy Vehicles, %	2	2	2	2	2	2
Mvmt Flow	0	0	0	2038	18	0

Major/Minor	Ν	Major2	Ν	Minor1		
Conflicting Flow All		-		1019	-	
Stage 1		-	-	0	-	
Stage 2		-	-	1019	-	
Critical Hdwy		-	-	6.84	-	
Critical Hdwy Stg 1		-	-	-	-	
Critical Hdwy Stg 2		-	-	5.84	-	
Follow-up Hdwy		-	-	3.52	-	
Pot Cap-1 Maneuver		0	-	233	0	
Stage 1		0	-	-	0	
Stage 2		0	-	309	0	
Platoon blocked, %			-			
Mov Cap-1 Maneuver		-	-	233	-	
Mov Cap-2 Maneuver		-	-	233	-	
Stage 1		-	-	-	-	
Stage 2		-	-	309	-	
Approach		WB		NB		
HCM Control Delay, s		0		21.7		
HCM LOS		•		С		
				•		
		MOT				
Minor Lane/Major Mvmt	NBLn1	WBT				
Capacity (veh/h)	233	-				
HCM Lane V/C Ratio	0.076	-				
HCM Control Delay (s)	21.7	-				
HCM Lane LOS	С	-				

0.2

HCM 95th %tile Q(veh)

Int Delay, s/veh	0.3					
Movement	EBT	EBR	WBL	WBT	NBL	NBR
Lane Configurations				<b>^</b>	5	
Traffic Vol, veh/h	0	0	0	2290	23	0
Future Vol, veh/h	0	0	0	2290	23	0
Conflicting Peds, #/hr	0	0	0	0	0	0
Sign Control	Stop	Stop	Free	Free	Stop	Stop
RT Channelized	-	None	-	None	-	None
Storage Length	-	-	-	-	0	-
Veh in Median Storage,	# 0	-	-	0	0	-
Grade, %	0	-	-	0	0	-
Peak Hour Factor	90	90	90	90	90	90
Heavy Vehicles, %	2	2	2	2	2	2
Mvmt Flow	0	0	0	2544	26	0

Major/Minor	Ma	ajor2	N.	1inor1	
Major/Minor	IVIč	ajuiz			
Conflicting Flow All		-	-	1272	-
Stage 1		-	-	0	-
Stage 2		-	-		-
Critical Hdwy		-	-	6.84	-
Critical Hdwy Stg 1		-	-	-	-
Critical Hdwy Stg 2		-	-	5.84	-
Follow-up Hdwy		-	-	3.52	-
Pot Cap-1 Maneuver		0	-	159	0
Stage 1		0	-	-	0
Stage 2		0	-	227	0
Platoon blocked, %			-		
Mov Cap-1 Maneuver		-	-	159	-
Mov Cap-2 Maneuver		-	-	159	-
Stage 1		-	-	-	-
Stage 2		-	-	227	-
Approach		WB		NB	
HCM Control Delay, s		0		31.9	
HCM LOS				D	
Minor Lane/Major Mvmt	NBLn1 \	NBT			
Capacity (veh/h)	159	-			
HCM Lane V/C Ratio	0.161	-			
HCM Control Delay (s)	31.9	-			

D

0.6

-

-

HCM Lane LOS

HCM 95th %tile Q(veh)

# **APPENDIX F**

# SIMTRAFFIC QUEUEING & PERFORMANCE RESULTS

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#### 4: US 64 EB & Median Break Performance by movement

Movement	EBL	EBT	All
Denied Del/Veh (s)	1.6	0.3	0.3
Total Del/Veh (s)	2.6	0.8	0.8

#### 5: US 64 EB & Median Break Performance by movement

Movement	EBT	SBL	All
Denied Del/Veh (s)	0.0	0.0	0.0
Total Del/Veh (s)	0.1	18.4	0.1

#### 6: Median Break & US 64 WB Performance by movement

Movement	WBL	WBT	All
Denied Del/Veh (s)	2.7	0.2	0.2
Total Del/Veh (s)	2.4	1.1	1.1

#### 7: Median Break & US 64 WB Performance by movement

Movement	WBT	NBL	All
Denied Del/Veh (s)	0.0	0.0	0.0
Total Del/Veh (s)	0.1	9.6	0.1

#### **Total Network Performance**

Denied Del/Veh (s)	0.3
Total Del/Veh (s)	2.3

#### Intersection: 4: US 64 EB & Median Break

#### Movement

Directions Served Maximum Queue (ft) Average Queue (ft) 95th Queue (ft) Link Distance (ft) Upstream Blk Time (%) Queuing Penalty (veh) Storage Blk Time (%) Queuing Penalty (veh)

#### Intersection: 5: US 64 EB & Median Break

Movement	SB
Directions Served	L
Maximum Queue (ft)	28
Average Queue (ft)	4
95th Queue (ft)	21
Link Distance (ft)	59
Upstream Blk Time (%)	
Queuing Penalty (veh)	
Storage Bay Dist (ft)	
Storage Blk Time (%)	
Queuing Penalty (veh)	

#### Intersection: 6: Median Break & US 64 WB

Movement Directions Served Maximum Queue (ft) Average Queue (ft) 95th Queue (ft) Link Distance (ft) Upstream Blk Time (%) Queuing Penalty (veh) Storage Blk Time (%) Queuing Penalty (veh)

#### Intersection: 7: Median Break & US 64 WB

Movement	NB
Directions Served	L
Maximum Queue (ft)	28
Average Queue (ft)	6
95th Queue (ft)	24
Link Distance (ft)	59
Upstream Blk Time (%)	
Queuing Penalty (veh)	
Storage Bay Dist (ft)	
Storage Blk Time (%)	
Queuing Penalty (veh)	

#### Network Summary

Network wide Queuing Penalty: 0

#### 4: US 64 EB & Median Break Performance by movement

Movement	EBL	EBT	All
Denied Del/Veh (s)	1.8	0.6	0.6
Total Del/Veh (s)	2.9	1.2	1.2

#### 5: US 64 EB & Median Break Performance by movement

Movement	EBT	SBL	All
Denied Del/Veh (s)	0.0	0.0	0.0
Total Del/Veh (s)	0.1	30.2	0.2

#### 6: Median Break & US 64 WB Performance by movement

Movement	WBL	WBT	All
Denied Del/Veh (s)	2.1	0.4	0.4
Total Del/Veh (s)	3.2	1.5	1.5

#### 7: Median Break & US 64 WB Performance by movement

Movement	WBT	NBL	All
Denied Del/Veh (s)	0.0	0.0	0.0
Total Del/Veh (s)	0.1	22.4	0.2

#### **Total Network Performance**

Denied Del/Veh (s)	0.5
Total Del/Veh (s)	3.2

#### Intersection: 4: US 64 EB & Median Break

#### Movement

Directions Served Maximum Queue (ft) Average Queue (ft) 95th Queue (ft) Link Distance (ft) Upstream Blk Time (%) Queuing Penalty (veh) Storage Blk Time (%) Queuing Penalty (veh)

#### Intersection: 5: US 64 EB & Median Break

Movement	SB
Directions Served	L
Maximum Queue (ft)	28
Average Queue (ft)	5
95th Queue (ft)	21
Link Distance (ft)	59
Upstream Blk Time (%)	
Queuing Penalty (veh)	
Storage Bay Dist (ft)	
Storage Blk Time (%)	
Queuing Penalty (veh)	

#### Intersection: 6: Median Break & US 64 WB

Movement Directions Served Maximum Queue (ft) Average Queue (ft) 95th Queue (ft) Link Distance (ft) Upstream Blk Time (%) Queuing Penalty (veh) Storage Blk Time (%) Queuing Penalty (veh)

#### Intersection: 7: Median Break & US 64 WB

Movement	NB	
Directions Served	L	
Maximum Queue (ft)	43	
Average Queue (ft)	8	
95th Queue (ft)	31	
Link Distance (ft)	59	
Upstream Blk Time (%)	0	
Queuing Penalty (veh)	0	
Storage Bay Dist (ft)		
Storage Blk Time (%)		
Queuing Penalty (veh)		

#### Network Summary

Network wide Queuing Penalty: 0

#### 4: US 64 EB & Median Break Performance by movement

Movement	EBL	EBT	All
Denied Del/Veh (s)	1.9	0.6	0.6
Total Del/Veh (s)	3.2	1.7	1.7

#### 5: Site Access/Median Break & US 64 EB Performance by movement

Movement	EBT	EBR	NBR	SBL	SBT	All
Denied Del/Veh (s)	0.0	0.0	0.1	0.0	1.6	0.0
Total Del/Veh (s)	0.2	0.0	28.5	59.0	43.3	1.7

#### 6: Median Break & US 64 WB Performance by movement

Movement	WBL	WBT	All
Denied Del/Veh (s)	0.0	0.0	0.0
Total Del/Veh (s)	4.3	1.1	1.1

#### 7: Median Break & US 64 WB Performance by movement

Movement	WBT	NBL	All
Denied Del/Veh (s)	0.0	0.0	0.0
Total Del/Veh (s)	0.1	21.6	0.2

#### 8: US 64 EB & Eastern U-Turn Location Performance by movement

Movement	EBL	EBT	All
Denied Del/Veh (s)	0.0	0.0	0.0
Total Del/Veh (s)	3.9	1.6	1.6

#### 9: Eastern U-Turn Location & US 64 WB Performance by movement

Movement	WBT	NBL	All
Denied Del/Veh (s)	0.3	0.0	0.3
Total Del/Veh (s)	1.1	20.0	1.2

#### **Total Network Performance**

0.5	
0.5	
F 0	
5.Z	
	5.2
### Intersection: 4: US 64 EB & Median Break

### Movement

Directions Served Maximum Queue (ft) Average Queue (ft) 95th Queue (ft) Link Distance (ft) Upstream Blk Time (%) Queuing Penalty (veh) Storage Blk Time (%) Queuing Penalty (veh)

Queuing Penalty (veh)

### Intersection: 5: Site Access/Median Break & US 64 EB

Movement	EB	EB	NB	SB
Directions Served	Т	Т	R	LT
Maximum Queue (ft)	4	4	92	80
Average Queue (ft)	0	0	36	26
95th Queue (ft)	3	3	71	64
Link Distance (ft)	66	66	1062	60
Upstream Blk Time (%)				2
Queuing Penalty (veh)				1
Storage Bay Dist (ft)				
Storage Blk Time (%)				

### Intersection: 6: Median Break & US 64 WB

Movement	WB
Directions Served	L
Maximum Queue (ft)	6
Average Queue (ft)	0
95th Queue (ft)	4
Link Distance (ft)	
Upstream Blk Time (%)	
Queuing Penalty (veh)	005
Storage Bay Dist (ft)	225
Storage Blk Time (%)	
Queuing Penalty (veh)	

### Intersection: 7: Median Break & US 64 WB

Movement	NB
Directions Served	L
Maximum Queue (ft)	38
Average Queue (ft)	7
95th Queue (ft)	28
Link Distance (ft)	59
Upstream Blk Time (%)	0
Queuing Penalty (veh)	0
Storage Bay Dist (ft)	
Storage Blk Time (%)	
Queuing Penalty (veh)	

### Intersection: 8: US 64 EB & Eastern U-Turn Location

### Movement Directions Served Maximum Queue (ft) Average Queue (ft) 95th Queue (ft) Link Distance (ft) Upstream Blk Time (%) Queuing Penalty (veh) Storage Bay Dist (ft) Storage Blk Time (%) Queuing Penalty (veh)

### Intersection: 9: Eastern U-Turn Location & US 64 WB

Movement	NB
Directions Served	L
Maximum Queue (ft)	48
Average Queue (ft)	13
95th Queue (ft)	38
Link Distance (ft)	60
Upstream Blk Time (%)	0
Queuing Penalty (veh)	0
Storage Bay Dist (ft)	
Storage Blk Time (%)	
Queuing Penalty (veh)	

### **Network Summary**

Network wide Queuing Penalty: 1

### 4: US 64 EB & Median Break Performance by movement

Movement	EBL	EBT	All
Denied Del/Veh (s)	2.1	0.3	0.3
Total Del/Veh (s)	2.7	0.8	0.9

### 5: US 64 EB & Median Break Performance by movement

Movement	EBT	SBL	All
Denied Del/Veh (s)	0.0	0.0	0.0
Total Del/Veh (s)	0.1	12.0	0.1

### 6: Median Break & US 64 WB Performance by movement

Movement	WBL	WBT	All
Denied Del/Veh (s)	1.7	0.3	0.3
Total Del/Veh (s)	2.7	1.3	1.3

### 7: Median Break & US 64 WB Performance by movement

Movement	WBT	NBL	All
Denied Del/Veh (s)	0.0	0.0	0.0
Total Del/Veh (s)	0.1	17.4	0.3

### **Total Network Performance**

Denied Del/Veh (s)	0.3
Total Del/Veh (s)	2.5

### Intersection: 4: US 64 EB & Median Break

#### Movement

Directions Served Maximum Queue (ft) Average Queue (ft) 95th Queue (ft) Link Distance (ft) Upstream Blk Time (%) Queuing Penalty (veh) Storage Blk Time (%) Queuing Penalty (veh)

### Intersection: 5: US 64 EB & Median Break

Movement	SB
Directions Served	L
Maximum Queue (ft)	28
Average Queue (ft)	4
95th Queue (ft)	20
Link Distance (ft)	59
Upstream Blk Time (%)	
Queuing Penalty (veh)	
Storage Bay Dist (ft)	
Storage Blk Time (%)	
Queuing Penalty (veh)	

### Intersection: 6: Median Break & US 64 WB

Movement Directions Served Maximum Queue (ft) Average Queue (ft) 95th Queue (ft) Link Distance (ft) Upstream Blk Time (%) Queuing Penalty (veh) Storage Blk Time (%) Queuing Penalty (veh)

### Intersection: 7: Median Break & US 64 WB

Movement	NB
Directions Served	L
Maximum Queue (ft)	50
Average Queue (ft)	14
95th Queue (ft)	39
Link Distance (ft)	59
Upstream Blk Time (%)	0
Queuing Penalty (veh)	0
Storage Bay Dist (ft)	
Storage Blk Time (%)	
Queuing Penalty (veh)	

### Network Summary

Network wide Queuing Penalty: 0

### 4: US 64 EB & Median Break Performance by movement

Movement	EBL	EBT	All
Denied Del/Veh (s)	1.7	0.6	0.6
Total Del/Veh (s)	3.3	1.2	1.3

### 5: US 64 EB & Median Break Performance by movement

Movement	EBT	SBL	All
Denied Del/Veh (s)	0.0	0.0	0.0
Total Del/Veh (s)	0.1	35.2	0.2

### 6: Median Break & US 64 WB Performance by movement

Movement	WBL	WBT	All
Denied Del/Veh (s)	1.6	0.5	0.5
Total Del/Veh (s)	4.1	1.9	1.9

### 7: Median Break & US 64 WB Performance by movement

Movement	WBT	NBL	All
Denied Del/Veh (s)	0.0	0.0	0.0
Total Del/Veh (s)	0.1	40.4	0.5

### **Total Network Performance**

Denied Del/Veh (s)	0.6
Total Del/Veh (s)	3.6

### Intersection: 4: US 64 EB & Median Break

### Movement

Directions Served Maximum Queue (ft) Average Queue (ft) 95th Queue (ft) Link Distance (ft) Upstream Blk Time (%) Queuing Penalty (veh) Storage Blk Time (%) Queuing Penalty (veh)

### Intersection: 5: US 64 EB & Median Break

Movement	SB
Directions Served	L
Maximum Queue (ft)	32
Average Queue (ft)	5
95th Queue (ft)	21
Link Distance (ft)	59
Upstream Blk Time (%)	0
Queuing Penalty (veh)	0
Storage Bay Dist (ft)	
Storage Blk Time (%)	
Queuing Penalty (veh)	

### Intersection: 6: Median Break & US 64 WB

Movement Directions Served Maximum Queue (ft) Average Queue (ft) 95th Queue (ft) Link Distance (ft) Upstream Blk Time (%) Queuing Penalty (veh) Storage Blk Time (%) Queuing Penalty (veh)

## Intersection: 7: Median Break & US 64 WB

Movement	NB
Directions Served	L
Maximum Queue (ft)	64
Average Queue (ft)	17
95th Queue (ft)	47
Link Distance (ft)	59
Upstream Blk Time (%)	1
Queuing Penalty (veh)	0
Storage Bay Dist (ft)	
Storage Blk Time (%)	
Queuing Penalty (veh)	

### Network Summary

Network wide Queuing Penalty: 0

### 4: US 64 EB & Median Break Performance by movement

Movement	EBL	EBT	All
Denied Del/Veh (s)	1.8	0.6	0.6
Total Del/Veh (s)	3.6	2.0	2.1

### 5: Site Access/Median Break & US 64 EB Performance by movement

Movement	EBT	EBR	NBR	SBL	SBT	All
Denied Del/Veh (s)	0.0	0.0	0.1	0.0	0.5	0.0
Total Del/Veh (s)	0.3	0.0	35.1	83.4	85.4	4.0

### 6: Median Break & US 64 WB Performance by movement

Movement	WBL	WBT	All
Denied Del/Veh (s)	0.0	0.0	0.0
Total Del/Veh (s)	22.6	1.6	2.2

### 7: Median Break & US 64 WB Performance by movement

Movement	WBT	NBL	All
Denied Del/Veh (s)	0.0	0.0	0.0
Total Del/Veh (s)	0.2	35.9	0.4

### 8: US 64 EB & Eastern U-Turn Location Performance by movement

Movement	EBL	EBT	All
Denied Del/Veh (s)	0.0	0.0	0.0
Total Del/Veh (s)	4.2	1.7	1.7

### 9: Eastern U-Turn Location & US 64 WB Performance by movement

Movement	WBT	NBL	All
Denied Del/Veh (s)	0.6	0.0	0.6
Total Del/Veh (s)	1.6	59.8	2.2

### **Total Network Performance**

Denied Del/Veh (s)	0.6	
Denied Del/Veh (s)	0.0	
Total Dal/Vab (a)	76	
Total Del/Veh (s)	1.0	

### Intersection: 4: US 64 EB & Median Break

### Movement

Directions Served Maximum Queue (ft) Average Queue (ft) 95th Queue (ft) Link Distance (ft) Upstream Blk Time (%) Queuing Penalty (veh) Storage Blk Time (%) Queuing Penalty (veh)

Queuing Penalty (veh)

### Intersection: 5: Site Access/Median Break & US 64 EB

Movement	EB	NB	SB
Directions Served	R	R	LT
Maximum Queue (ft)	17	111	113
Average Queue (ft)	1	45	66
95th Queue (ft)	7	91	118
Link Distance (ft)	66	1062	60
Upstream Blk Time (%)			30
Queuing Penalty (veh)			22
Storage Bay Dist (ft)			
Storage Blk Time (%)			

### Intersection: 6: Median Break & US 64 WB

Movement	WB	WB
Directions Served	L	Т
Maximum Queue (ft)	77	44
Average Queue (ft)	15	3
95th Queue (ft)	80	43
Link Distance (ft)		990
Upstream Blk Time (%)		
Queuing Penalty (veh)		
Storage Bay Dist (ft)	225	
Storage Blk Time (%)		0
Queuing Penalty (veh)		0

### Intersection: 7: Median Break & US 64 WB

Movement	NB
Directions Served	L
Maximum Queue (ft)	59
Average Queue (ft)	16
95th Queue (ft)	43
Link Distance (ft)	59
Upstream Blk Time (%)	1
Queuing Penalty (veh)	0
Storage Bay Dist (ft)	
Storage Blk Time (%)	
Queuing Penalty (veh)	

### Intersection: 8: US 64 EB & Eastern U-Turn Location

### Movement Directions Served Maximum Queue (ft) Average Queue (ft) 95th Queue (ft) Link Distance (ft) Upstream Blk Time (%) Queuing Penalty (veh) Storage Bay Dist (ft) Storage Blk Time (%) Queuing Penalty (veh)

### Intersection: 9: Eastern U-Turn Location & US 64 WB

Movement	NB
Directions Served	L
Maximum Queue (ft)	76
Average Queue (ft)	24
95th Queue (ft)	57
Link Distance (ft)	60
Upstream Blk Time (%)	3
Queuing Penalty (veh)	1
Storage Bay Dist (ft)	
Storage Blk Time (%)	
Queuing Penalty (veh)	

### **Network Summary**

Network wide Queuing Penalty: 23

# **APPENDIX G**

## ITRE 95<sup>th</sup> PERCENTILE QUEUE LENGTH CALCULATIONS

- Page 409 -

### **Northbound Right-Turn Movement**





- Page 410 -

### Westbound Left-Turn Movement

AM Pea	k Hour	
t =		
CVAF =	1	<del>~</del> 1823/2239
Conflicting =	2240	€25/71
ACV =	2,240	<b>\$</b> 2/3
Turn Vol =	27	
PM Peal	k Hour	9/19 - 16
PM Peal t =	k Hour	9/19 - 16 2231/2251 - 2287/2 9/28 - 2287/2
	k Hour 1	2231/2251 - 2287/2
t =	k Hour <u>1</u> 2279	<b>7</b> 0
t = CVAF =	1	<b>7</b> 0
t = CVAF = Conflicting =	1 2279	9/19 <b>5</b> 2231/2251 <b>5</b> 9/28 <b>6</b> 9/28 <b>7</b> 9/28 <b>7</b> 9/28 <b>7</b> 9/28 <b>7</b> 9/28 <b>7</b> 9/28 <b>7</b> 9/28 <b>7</b> 9/28 <b>7</b> 9/28 <b>7</b> 9/28 <b>7</b>



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# **APPENDIX H**

**TURN LANE WARRANTS** 





# **APPENDIX I**

## **TRIP GENERATION COMPARISON**

- Page 414 -

Land Use (ITE Code)	Intensity	Daily Traffic (vpd)	Weekday AM Peak Hour Trips (vph)		Weekday PM Peak Hour Trips (vph)	
			Enter	Exit	Enter	Exit
Single-Family Homes (210)	53 DU	580	11	32	35	20
Multi-Family Homes (Low-Rise) (220)	103 DU	741	11	38	38	23
Total Trips	1,321	22	70	73	43	

Table 1: Trip Generation Summary – Scenario 1

### Table 2: Trip Generation Summary – Scenario 2

Land Use (ITE Code)	Intensity	Daily Traffic (vpd)	Weekday AM Peak Hour Trips (vph)		Weekday PM Peak Hour Trips (vph)	
			Enter	Exit	Enter	Exit
Single-Family Homes (210)	44 DU	489	9	27	29	17
Multi-Family Homes (Low-Rise) (220)	107 DU	768	12	39	39	23
Shopping Center (820)	25 KSF	944	15	9	45	50
Total Trips	2,201	36	75	113	90	

### Table 3: Trip Generation Summary – Scenario 3

Land Use (ITE Code)	Intensity	Daily Traffic (vpd)	Weel AM F Hour (vp	Peak Trips	Weekday PM Peak Hour Trips (vph)	
			Enter	Exit	Enter	Exit
Single-Family Homes (210)	59 DU	640	12	35	38	23
Multi-Family Homes (Low-Rise) (220)	83 DU	587	9	31	31	19
Shopping Center (820)	25 KSF	944	15	9	45	50
Total Trips	2,171	36	75	114	92	

Scenario	Daily Traffic (vpd)	Weekday AM Peak Hour Trips (vph)		Weekday PM Peak Hour Trips (vph)	
		Enter	Exit	Enter	Exit
Scenario 3 [Analyzed in the TIA]	2,171	36	75	114	92
Scenario 1 Difference (+/-) [Scenario 1 - Scenario 3]	-850	-14	-5	-41	-49
Scenario 2 Difference (+/-) [Scenario 2 – Scenario 3]	+30	0	0	-1	-2

## Table 4: Trip Generation Summary Comparison

### PLANNING BOARD REPORT TO TOWN COUNCIL Rezoning Case: 22CZ06 Yellowbridge PUD

Planning Board Meeting Date: July 11, 2022



### **Report Requirements:**

Per NCGS §160D-604(b), all proposed amendments to the zoning ordinance or zoning map shall be submitted to the Planning Board for review and comment. If no written report is received from the Planning Board within 30 days of referral of the amendment to the Planning Board, the Town Council may act on the amendment without the Planning Board report. The Town Council is not bound by the recommendations, if any, of the Planning Board.

Per NCGS §160D-604(d), the Planning Board shall advise and comment on whether the proposed action is consistent with all applicable officially adopted plans, and provide a written recommendation to the Town Council that addresses plan consistency and other matters as deemed appropriate by the Planning Board, but a comment by the Planning Board that a proposed amendment is inconsistent with the officially adopted plans shall not preclude consideration or approval of the proposed amendment by the Town Council.

PROJECT DESCRIPTION: Acreage:	48.24
PIN(s):	0722743789 & 0722752304
Current Zoning:	Rural Residential (RR)
Proposed Zoning:	Planned Unit Development-Conditional Zoning (PUD-CZ)
Current 2045 Land Use Map:	Medium Density Residential
If rezoned as proposed, the 2	2045 Land Use Map Designation will change to: Medium Density Residential and Commercial Services
Town Limits:	ETJ
if applicable. Applicable plans h 2045 Land Use Map Consistent	ed Plans:         the project is consistent or inconsistent with the following officially adopted plans,         have a check mark next to them.         Inconsistent       Reason: If rezoned, the 2045 Land Use         nended to Medium Density Residential and Commercial Services.
Apex Transportation Plan	n Inconsistent Reason:
<ul> <li>Parks, Recreation, Open</li> <li>Consistent</li> </ul>	Space, and Greenways Plan Inconsistent Reason:
Page 1	Planning Board Report to Town Council

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## PLANNING BOARD REPORT TO TOWN COUNCIL Rezoning Case: 22CZ06 Yellowbridge PUD

Planning Board Meeting Date: July 11, 2022



### Legislative Considerations:

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

- 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: If rezoned, the 2045 Land Use

Map will automatically be amended to Medium Density Residential and Commercial Services.

 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.

·	0 0			
	Consistent	Inconsistent	Reason:	
· ·	Consistent	meenblotent		

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.

1	Consistent
---	------------

Inconsistent

Reason: \_\_\_\_\_

Rez	PLANNING BOARD REPORT TO TOWN COUNCIL Rezoning Case: 22CZ06 Yellowbridge PUD Planning Board Meeting Date: July 11, 2022		
6.	Impact on public facilities. The proposed Conditional Zoning (CZ) District use's avoidance of having adverse impacts on public facilities and services, including roads, potable water and wastewater facilities, parks, schools, police, fire and EMS facilities.		
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.         Image: Ima		

## PLANNING BOARD REPORT TO TOWN COUNCIL

Rezoning Case: 22CZ06 Yellowbridge PUD

Planning Board Meeting Date: July 11, 2022



### Planning Board Recommendation:

	Motion: <u>To recommend approval as presented with additional conditional</u>
1	Introduced by Planning Board member: <u>Keith Braswell</u>
	Seconded by Planning Board member: Ryan Akers
	<i>Approval</i> : the project is consistent with all applicable officially adopted plans and the applicable legislative considerations listed above.
$\checkmark$	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:
<u>As pr</u>	esented with additional condition:
<u>6' op</u>	aque privacy fence shall be installed by developer along inside of the buffer along southern property
line.	
	<i>Denial</i> : the project is not consistent with all applicable officially adopted plans and/or the applicable legislative considerations as noted above.
	With <u>4</u> Planning Board Member(s) voting "aye"
	With <u>3</u> Planning Board Member(s) voting "no"
	Reasons for dissenting votes:
	Sarah Soh - 1) no clear community entry, 2) scale and proportion is off, i3) insufficient space in
	schools, 4) Chanticlair connection might be beltway (see attached). Mark Steele - agree with 1-3.
	Tina Sherman - agree with 1-4; also, developer should contnue to work with neighbors as was done
	for Morris Tract, but neighbors need to come up with a more cohesive ask.
This	report reflects the recommendation of the Planning Board, this the <u>11th</u> day of July 2022.
Atte	st:

Mynlets

Reggie Skinner, Planning Board Chair

Dianne Khin Digitally signed by Dianne Khin Date: 2022.07.11 18:49:22 -04'00'

Dianne Khin, Director of Planning and Community Development

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I No clear community entry lexit design from 64. only Existing driveway to be used as construction access: which may not hold weight of construction trucks & equipment. Using this driveway goes over the stream as construction access will affect the environment with all the construction debris.

- 2. Scale and proportion of lot widths and sizes of homes are not gradual. There needs to be a transition: Sweetwater community to the west lots are tighter, to Abbington and Stratford community wider lots, bigger homes.
- 3. Insufficient space in elementary and high schools
- 4. chanticlair connection may become "beltway" with traffic hold-up from construction trucks ing out on 64.
- END Note: this is a work in progress from both sides of encourage the conversations with community and Leman to continue.





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

## PUBLIC NOTIFICATION OF PUBLIC HEARINGS

CONDITIONAL ZONING #22CZ06

Yellowbridge PUD

Pursuant to the provisions of North Carolina General Statutes §160D-602 and to the Town of Apex Unified Development Ordinance (UDO) Section 2.2.11, notice is hereby given of public hearings before the Planning Board of the Town of Apex. The purpose of these hearings is to consider the following:

Applicant: Lennar Carolinas, LLC./Matthew Carpenter, Parker Poe
Authorized Agent: Tucker Ennis, Lennar Carolinas, LLC.
Property Addresses: 2813 & 2817 US 64 Highway
Acreage: ±48.24 acres
Property Identification Numbers (PINs): 0722743789 & 0722752304
Current 2045 Land Use Map Designation: Medium Density Residential
If rezoned as proposed, the 2045 Land Use Map Designation will change to: Medium Density Residential & Commercial Services
Existing Zoning of Properties: Rural Residential (RR)
Proposed Zoning of Properties: Planned Unit Development-Conditional Zoning (PUD-CZ)

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

### Planning Board Public Hearing Date and Time: July 11, 2022 4:30 PM

You may attend the meeting in person or view the meeting through the Town's YouTube livestream at: <u>https://www.youtube.com/c/townofapexgov</u>. Please visit <u>www.apexnc.org</u> on the day of the meeting to confirm whether the meeting will be held in-person or remotely.

If you are unable to attend, you may provide a written statement by email to <u>public.hearing@apexnc.org</u>, or submit it to the clerk of the Planning Board, Jeri Pederson (73 Hunter Street or USPS mail - P.O. Box 250, Apex, NC 27502), at least two business days prior to the Planning Board vote. You must provide your name and address for the record. The written statements will be delivered to the Planning Board prior to their vote. Please include the Public Hearing name in the subject line.

In the event that the Planning Board meeting is held remotely or with at least one member attending virtually, written comments may be submitted up to 24 hours prior to the scheduled time of the meeting per NCGS §166A-19.24 according to the methods specified above. Virtual meetings may be viewed via the Town's YouTube livestream at <a href="https://www.youtube.com/c/townofapexgov">https://www.youtube.com/c/townofapexgov</a>.

A separate notice of the Town Council public hearing on this project will be mailed and posted in order to comply with State public notice requirements.

### Vicinity Map:



Property owners, tenants, and neighborhood associations within 300 feet of the proposed conditional zoning have been sent this notice via first class mail. All interested parties may submit comments with respect to the application by the means specified above. In addition to the above map, the location of the property may be viewed online at <a href="https://maps.raleighnc.gov/imaps">https://maps.raleighnc.gov/imaps</a>. The 2045 Land Use Map may be viewed online at <a href="https://www.apexnc.org/DocumentCenter/View/478">www.apexnc.org/DocumentCenter/View/478</a>. You may call 919-249-3426, Department of Planning and Community Development, with questions or for further information. To view the petition and related documents on-line: <a href="https://www.apexnc.org/DocumentCenter/View/38520/22CZ06">https://www.apexnc.org/DocumentCenter/View/478</a>.

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

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PO BOX 250 APEX, NORTH CAROLINA 27502 TELÉFONO 919-249-3426

## NOTIFICACIÓN PÚBLICA DE AUDIENCIAS PÚBLICAS

ORDENAMIENTO TERRITORIAL CONDICIONAL #22CZ06 Yellowbridge PUD (Desarrollo de Unidad Planificada)

De conformidad con las disposiciones de los Estatutos Generales de Carolina del Norte §160D-602 y con la Sección 2.2.11 de la Ordenanza de Desarrollo Unificado (UDO) del ayuntamiento de Apex, por la presente se notifican las audiencias públicas ante el Consejo Municipal del Ayuntamiento de Apex. El propósito de estas audiencias es considerar lo siguiente:

Solicitante: Lennar Carolinas, LLC./Matthew Carpenter, Parker Poe Agente autorizado: Tucker Ennis, Lennar Carolinas, LLC. Dirección de las propiedades: 2813 & 2817 US 64 Highway Superficie: ±48.24 acres Números de identificación de las propiedades: 0722743789 & 0722752304 Designación actual en el Mapa de Uso Territorial para 2045: Medium Density Residential Si se aprueba el cambio de zonificación como se propone, el Mapa de Uso Territorial para el 2045 cambiará a: Medium Density Residential & Commercial Services Ordenamiento territorial existente de las propiedades: Residencial Rural (RR) Ordenamiento territorial propuesto para las propiedades: Desarrollo de Unidad Planificada-Ordenamiento Territorial Condicional (PUD-CZ)

Cámara del Consejo, 2º piso 73 Hunter Street, Apex, Carolina del Norte

Los comentarios recibidos antes de la audiencia pública de la Junta de Planificación no se proporcionarán al Consejo Municipal. Los comentarios para la audiencia pública del Consejo Municipal deben presentarse por separado en el plazo especificado a continuación.

### Fecha y hora de la audiencia pública del Consejo Municipal: 26 de julio de 2022 6:00 P.M.

Puede asistir a la reunión de manera presencial o seguir la transmisión en directo por YouTube a través del siguiente enlace: <u>https://www.youtube.com/c/townofapexgov</u>.

Si no puede asistir, puede enviar una declaración escrita por correo electrónico a <u>public.hearing@apexnc.org</u>, o presentarla a la oficina del Secretario Municipal (73 Hunter Street o por correo USPS a P.O. Box 250, Apex, NC 27502), al menos dos días hábiles antes de la votación del Consejo Municipal. Debe proporcionar su nombre y dirección para que conste en el registro. Las declaraciones escritas se entregarán al Consejo Municipal antes de la votación. No olvide incluir el nombre de la audiencia pública en el asunto.

En caso de que la reunión del Consejo Municipal se lleve a cabo remotamente o que por lo menos uno de los miembros asista virtualmente, se permite presentar comentarios por escrito hasta 24 horas antes de la hora programada de la reunión según los estatutos de Carolina del Norte NCGS §166A-19.24 siguiendo los métodos especificados anteriormente. Las reuniones virtuales se pueden seguir en la transmisión en directo por YouTube a través del siguiente enlace: <u>https://www.youtube.com/c/townofapexgov</u>.

### Mapa de las inmediaciones:



Los propietarios, inquilinos y asociaciones de vecinos en un radio de 300 pies del Ordenamiento Territorial Condicional propuesto han recibido esta notificación por correo postal de primera clase. Todas las partes interesadas pueden presentar comentarios sobre la solicitud a través de los medios especificados anteriormente. La ubicación de la propiedad también puede verse aquí: <u>https://maps.raleighnc.gov/imaps</u>. Puede ver el Mapa de Uso Territorial para 2045 aquí: <u>www.apexnc.org/DocumentCenter/View/478</u>. Si tiene preguntas o desea obtener más información, puede comunicarse con el Departamento de Planificación y Desarrollo Comunitario al 919-249-3426. Puede ver la solicitud y otros documentos relacionados aquí: <u>https://www.apexnc.org/DocumentCenter/View/28520/22CZ06.</u>

Dianne F. Khin, AICP

Directora de Planificación y Desarrollo Comunitario





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

## **AFFIDAVIT CERTIFYING** Public Notification – Written (Mailed) Notice

Section 2.2.11 Town of Apex Unified Development Ordinance

**Project Name:** 

Conditional Zoning #22CZ06 Yellowbridge PUD 2813 & 2817 US 64 Highway

Project Location:

Applicant or Authorized Agent:

**Tucker Ennis** 

Firm:

Lennar Carolinas, LLC.

This is to certify that I, as Director of Planning and Community Development, mailed or caused to have mailed by first class postage for the above mentioned project on June 24, 2022, a notice containing the time and place, location, nature and scope of the application, where additional information may be obtained, and the opportunity for interested parties to be heard, to the property owners and tenants within 300' of the land subject to notification. I further certify that I relied on Wake County Tax Assessor information and the Town of Apex Master Address Repository provided to me by Town of Apex GIS Staff as to accuracy of the list and accuracy of mailing addresses of property owners and tenants within 300' of the land subject to notification.

6/27/2022

Director of Planning and Community Development

STATE OF NORTH CAROLINA COUNTY OF WAKE

Sworn and subscribed before me,

Jeri Chastain Pederson, a Notary Public for the above

State and County, this the



Jen Chastain Pederson Notary Public

My Commission Expires: <u>3</u> <u>10</u> <u>2024</u>

- Page 426 -

27 day of June , 2022.



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

## PUBLIC NOTIFICATION OF PUBLIC HEARINGS

CONDITIONAL ZONING #22CZ06

Yellowbridge PUD

Pursuant to the provisions of North Carolina General Statutes §160D-602 and to the Town of Apex Unified Development Ordinance (UDO) Section 2.2.11, notice is hereby given of public hearings before the Town Council of the Town of Apex. The purpose of these hearings is to consider the following:

Applicant: Lennar Carolinas, LLC/Matthew Carpenter, Parker Poe Authorized Agent: Tucker Ennis, Lennar Carolinas, LLC Property Addresses: 2813 & 2817 US 64 Highway Acreage: ±48.24 acres Property Identification Numbers (PINs): 0722743789 & 0722752304 Current 2045 Land Use Map Designation: Medium Density Residential If rezoned as proposed, the 2045 Land Use Map Designation will change to: Medium Density Residential & Commercial Services Existing Zoning of Properties: Rural Residential (RR) Proposed Zoning of Properties: Planned Unit Development-Conditional Zoning (PUD-CZ)

Public Hearing Location: Apex Town Hall

Council Chamber, 2<sup>nd</sup> Floor 73 Hunter Street, Apex, North Carolina

Comments received prior to the Planning Board public hearing will not be provided to the Town Council. Separate comments for the Town Council public hearing must be provided by the deadline specified below.

### Town Council Public Hearing Date and Time: July 26, 2022 6:00 PM

You may attend the meeting in person or view the meeting through the Town's YouTube livestream at: <u>https://www.youtube.com/c/townofapexgov</u>. Please visit <u>www.apexnc.org</u> on the day of the meeting to confirm whether the meeting will be held in-person or remotely.

If you are unable to attend, you may provide a written statement by email to <u>public.hearing@apexnc.org</u>, or submit it to the Office of the Town Clerk (73 Hunter Street or USPS mail - P.O. Box 250, Apex, NC 27502), at least two business days prior to the Town Council vote. You must provide your name and address for the record. The written statements will be delivered to the Town Council members prior to their vote. Please include the Public Hearing name in the subject line.

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### Vicinity Map:



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

- Page 427 -





PO BOX 250 APEX, NORTH CAROLINA 27502 TELÉFONO 919-249-3426

## NOTIFICACIÓN PÚBLICA DE AUDIENCIAS PÚBLICAS

ORDENAMIENTO TERRITORIAL CONDICIONAL #22CZ06 Yellowbridge PUD (Desarrollo de Unidad Planificada)

De conformidad con las disposiciones de los Estatutos Generales de Carolina del Norte §160D-602 y con la Sección 2.2.11 de la Ordenanza de Desarrollo Unificado (UDO) del ayuntamiento de Apex, por la presente se notifican las audiencias públicas ante el Consejo Municipal del Ayuntamiento de Apex. El propósito de estas audiencias es considerar lo siguiente:

Solicitante: Lennar Carolinas, LLC./Matthew Carpenter, Parker Poe Agente autorizado: Tucker Ennis, Lennar Carolinas, LLC. Dirección de las propiedades: 2813 & 2817 US 64 Highway Superficie: ±48.24 acres Números de identificación de las propiedades: 0722743789 & 0722752304 Designación actual en el Mapa de Uso Territorial para 2045: Medium Density Residential Si se aprueba el cambio de zonificación como se propone, el Mapa de Uso Territorial para el 2045 cambiará a: Medium Density Residential & Commercial Services Ordenamiento territorial existente de las propiedades: Residencial Rural (RR) Ordenamiento territorial propuesto para las propiedades: Desarrollo de Unidad Planificada-Ordenamiento Territorial Condicional (PUD-CZ)

Cámara del Consejo, 2º piso 73 Hunter Street, Apex, Carolina del Norte

Los comentarios recibidos antes de la audiencia pública de la Junta de Planificación no se proporcionarán al Consejo Municipal. Los comentarios para la audiencia pública del Consejo Municipal deben presentarse por separado en el plazo especificado a continuación.

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### Mapa de las inmediaciones:



Los propietarios, inquilinos y asociaciones de vecinos en un radio de 300 pies del Ordenamiento Territorial Condicional propuesto han recibido esta notificación por correo postal de primera clase. Todas las partes interesadas pueden presentar comentarios sobre la solicitud a través de los medios especificados anteriormente. La ubicación de la propiedad también puede verse aquí: <u>https://maps.raleighnc.gov/imaps</u>. Puede ver el Mapa de Uso Territorial para 2045 aquí: <u>www.apexnc.org/DocumentCenter/View/478</u>. Si tiene preguntas o desea obtener más información, puede comunicarse con el Departamento de Planificación y Desarrollo Comunitario al 919-249-3426. Puede ver la solicitud y otros documentos relacionados aquí: <u>https://www.apexnc.org/DocumentCenter/View/28520/22CZ06.</u>

Dianne F. Khin, AICP

Directora de Planificación y Desarrollo Comunitario





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

## **AFFIDAVIT CERTIFYING** Public Notification – Written (Mailed) Notice

Section 2.2.11 Town of Apex Unified Development Ordinance

Project Name:	
---------------	--

Project Location:

Conditional Zoning #22CZ06 Yellowbridge PUD

2813 & 2817 US 64 Highway

Applicant or Authorized Agent:

**Tucker Ennis** 

Firm:

Lennar Carolinas, LLC

This is to certify that I, as Director of Planning and Community Development, mailed or caused to have mailed by first class postage for the above mentioned project on July 1, 2022, a notice containing the time and place, location, nature and scope of the application, where additional information may be obtained, and the opportunity for interested parties to be heard, to the property owners and tenants within 300' of the land subject to notification. I further certify that I relied on information from the Wake County Tax Assessor and the Town of Apex Master Address Repository provided to me by Town of Apex GIS Staff as to accuracy of the list and accuracy of mailing addresses of property owners and tenants within 300' of the land subject to notification.

772002

e Akhin

or of Planning and Community Development

STATE OF NORTH CAROLINA COUNTY OF WAKE

Sworn and subscribed before me,

State and County, this the

	JERI CHASTAIN PEDERSON
6	Notary Public
4	Wake County, North Carolina
	My Commission Expires
	March 10, 2024
di	

Jeri Chastain Pederson , a Notary Public for the above 7 day of July , 202 2.

Jew Chastan Pederson Notary Public

My Commission Expires: <u>3 / 10 / 2024</u>

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

## Public Hearing was closed; vote was continued to September 13, 2022 PUBLIC NOTIFICATION OF PUBLIC HEARINGS

CONDITIONAL ZONING #22CZ06

Yellowbridge PUD

Pursuant to the provisions of North Carolina General Statutes §160D-602 and to the Town of Apex Unified Development Ordinance (UDO) Section 2.2.11, notice is hereby given of public hearings before the Town Council of the Town of Apex. The purpose of these hearings is to consider the following:

Applicant: Lennar Carolinas, LLC/Matthew Carpenter, Parker Poe Authorized Agent: Tucker Ennis, Lennar Carolinas, LLC Property Addresses: 2813 & 2817 US 64 Highway Acreage: ±48.24 acres Property Identification Numbers (PINs): 0722743789 & 0722752304 Current 2045 Land Use Map Designation: Medium Density Residential If rezoned as proposed, the 2045 Land Use Map Designation will change to: Medium Density Residential & Commercial Services Existing Zoning of Properties: Rural Residential (RR)

Proposed Zoning of Properties: Planned Unit Development-Conditional Zoning (PUD-CZ)

Public Hearing Location: Apex Town Hall

Council Chamber, 2<sup>nd</sup> Floor 73 Hunter Street, Apex, North Carolina

Comments received prior to the Planning Board public hearing will not be provided to the Town Council. Separate comments for the Town Council public hearing must be provided by the deadline specified below.

### Town Council Public Hearing Date and Time: July 26, 2022 6:00 PM

You may attend the meeting in person or view the meeting through the Town's YouTube livestream at: <u>https://www.youtube.com/c/townofapexgov</u>. Please visit <u>www.apexnc.org</u> on the day of the meeting to confirm whether the meeting will be held in-person or remotely.

If you are unable to attend, you may provide a written statement by email to <u>public.hearing@apexnc.org</u>, or submit it to the Office of the Town Clerk (73 Hunter Street or USPS mail - P.O. Box 250, Apex, NC 27502), at least two business days prior to the Town Council vote. You must provide your name and address for the record. The written statements will be delivered to the Town Council members prior to their vote. Please include the Public Hearing name in the subject line.

In the event that the Town Council meeting is held remotely or with at least one member attending virtually, written comments may be submitted up to 24 hours prior to the scheduled time of the meeting per NCGS §166A-19.24 according to the methods specified above. Virtual meetings may be viewed via the Town's YouTube livestream at <a href="https://www.youtube.com/c/townofapexgov">https://www.youTube.com/c/townofapexgov</a>.

Vicinity Map:



Property owners, tenants, and neighborhood associations within 300 feet of the proposed conditional zoning have been sent this notice via first class mail. All interested parties may submit comments with respect to the application by the means specified above. In addition to the above map, the location of the property may be viewed online at <a href="https://maps.raleighnc.gov/imaps">https://maps.raleighnc.gov/imaps</a>. The 2045 Land Use Map may be viewed online at <a href="https://www.apexnc.org/DocumentCenter/View/478">www.apexnc.org/DocumentCenter/View/478</a>. You may call 919-249-3426, Department of Planning and Community Development, with questions or for further information. To view the petition and related documents on-line: <a href="https://www.apexnc.org/DocumentCenter/View/38520/22CZ06">https://www.apexnc.org/DocumentCenter/View/478</a>.

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

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PO BOX 250 APEX, NORTH CAROLINA 27502 TELÉFONO 919-249-3426

### La audiencia pública fue cerrada; la votación se continuó hasta el 13 de septiembre de 2022 NOTIFICACIÓN PÚBLICA DE AUDIENCIAS PÚBLICAS ORDENAMIENTO TERRITORIAL CONDICIONAL #22CZ06

Yellowbridge PUD (Desarrollo de Unidad Planificada)

De conformidad con las disposiciones de los Estatutos Generales de Carolina del Norte §160D-602 y con la Sección 2.2.11 de la Ordenanza de Desarrollo Unificado (UDO) del ayuntamiento de Apex, por la presente se notifican las audiencias públicas ante el Consejo Municipal del Ayuntamiento de Apex. El propósito de estas audiencias es considerar lo siguiente:

Solicitante: Lennar Carolinas, LLC./Matthew Carpenter, Parker Poe Agente autorizado: Tucker Ennis, Lennar Carolinas, LLC. Dirección de las propiedades: 2813 & 2817 US 64 Highway Superficie: ±48.24 acres Números de identificación de las propiedades: 0722743789 & 0722752304 Designación actual en el Mapa de Uso Territorial para 2045: Medium Density Residential Si se aprueba el cambio de zonificación como se propone, el Mapa de Uso Territorial para el 2045 cambiará a: Medium Density Residential & Commercial Services Ordenamiento territorial existente de las propiedades: Residencial Rural (RR) Ordenamiento territorial propuesto para las propiedades: Desarrollo de Unidad Planificada-Ordenamiento Territorial Condicional (PUD-CZ)

Cámara del Consejo, 2º piso 73 Hunter Street, Apex, Carolina del Norte

Los comentarios recibidos antes de la audiencia pública de la Junta de Planificación no se proporcionarán al Consejo Municipal. Los comentarios para la audiencia pública del Consejo Municipal deben presentarse por separado en el plazo especificado a continuación.

### Fecha y hora de la audiencia pública del Consejo Municipal: 26 de julio de 2022 6:00 P.M.

Puede asistir a la reunión de manera presencial o seguir la transmisión en directo por YouTube a través del siguiente enlace: <u>https://www.youtube.com/c/townofapexgov</u>.

Si no puede asistir, puede enviar una declaración escrita por correo electrónico a <u>public.hearing@apexnc.org</u>, o presentarla a la oficina del Secretario Municipal (73 Hunter Street o por correo USPS a P.O. Box 250, Apex, NC 27502), al menos dos días hábiles antes de la votación del Consejo Municipal. Debe proporcionar su nombre y dirección para que conste en el registro. Las declaraciones escritas se entregarán al Consejo Municipal antes de la votación. No olvide incluir el nombre de la audiencia pública en el asunto.

En caso de que la reunión del Consejo Municipal se lleve a cabo remotamente o que por lo menos uno de los miembros asista virtualmente, se permite presentar comentarios por escrito hasta 24 horas antes de la hora programada de la reunión según los estatutos de Carolina del Norte NCGS §166A-19.24 siguiendo los métodos especificados anteriormente. Las reuniones virtuales se pueden seguir en la transmisión en directo por YouTube a través del siguiente enlace: <u>https://www.youtube.com/c/townofapexgov</u>.

### Mapa de las inmediaciones:



Los propietarios, inquilinos y asociaciones de vecinos en un radio de 300 pies del Ordenamiento Territorial Condicional propuesto han recibido esta notificación por correo postal de primera clase. Todas las partes interesadas pueden presentar comentarios sobre la solicitud a través de los medios especificados anteriormente. La ubicación de la propiedad también puede verse aquí: <u>https://maps.raleighnc.gov/imaps</u>. Puede ver el Mapa de Uso Territorial para 2045 aquí: <u>www.apexnc.org/DocumentCenter/View/478</u>. Si tiene preguntas o desea obtener más información, puede comunicarse con el Departamento de Planificación y Desarrollo Comunitario al 919-249-3426. Puede ver la solicitud y otros documentos relacionados aquí: <u>https://www.apexnc.org/DocumentCenter/View/28520/22CZ06.</u>

Dianne F. Khin, AICP

Directora de Planificación y Desarrollo Comunitario

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Student Assignment 5625 Dillard Drive Cary, NC, 27518 Email: studentassignment@wcpss.net

April 13, 2022

Dianne Khin, AICP Director, Department of Planning and Community Development Town of Apex <u>Dianne.Khin@apexnc.org</u>

Dear Dianne,

The Wake County Public School System (WCPSS) Office of School Assignment received information about a proposed rezoning/development within the Town of Apex planning area. We are providing this letter to share information about WCPSS's capacity related to the proposal. The following information about the proposed rezoning/development was provided through the Wake County Residential Development Notification database:

- Date of application: March 1, 2022
- Name of development: 22CZo6 Yellowbridge PUD
- Address of rezoning: 2813 & 2817 US 64 Hwy W
- Total number of proposed residential units: 170
- Type(s) of residential units proposed: 130 Townhomes, 40 Single-family detached

Based on the information received at the time of application, the Office of School Assignment is providing the following assessment of possible impacts to the Wake County Public School System:

- □ Schools at <u>all</u> grade levels within the current assignment area for the proposed rezoning/development are anticipated to have <u>sufficient</u> capacity for future students.
- Schools at <u>the following</u> grade levels within the current assignment area for the proposed rezoning/development are anticipated to have <u>insufficient</u> capacity for future students; transportation to schools outside of the current assignment area should be anticipated:
  - $\square$  Elementary  $\square$  Middle  $\square$  High

The following mitigation of capacity concerns due to school construction or expansion is anticipated:

- □ Not applicable existing school capacity is anticipated to be sufficient.
- □ School expansion or construction within the next five years is not anticipated to address concerns.
- School expansion or construction within the next five years may address concerns at these grade levels:
  - $\square$  Elementary  $\square$  Middle  $\square$  High

Thank you for sharing this information with the Town of Apex Planning Board and Town Council as they consider the proposed rezoning/development.

Sincerely, *Glenn Carrozza* 

tel: (919) 431-7333 fax: (919) 694-7753