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# Apex Town Council Meeting

Tuesday, February 04, 2020

Jacques K. Gilbert, Mayor  
Nicole L. Dozier, Mayor Pro Tempore  
Brett D. Gantt, Audra M. Killingsworth, Cheryl F. Stallings,  
and Terry Mahaffey, Council Members  
Drew Havens, Town Manager  
Shawn Purvis, Assistant Town Manager  
Marty Stone, Assistant Town Manager  
Donna B. Hosch, MMC, NCCMC, Town Clerk  
Laurie L. Hohe, Town Attorney

The Regular Meeting of the Apex Town Council  
scheduled for Tuesday, February 04, 2020, at  
6:00 PM will be held in the Council Chamber of  
Apex Town Hall, 73 Hunter Street. The meeting  
will adjourn when all business is concluded or at  
10:00 PM, whichever comes first.

## COMMENCEMENT

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Call to Order : Invocation : Pledge of Allegiance

## PRESENTATIONS

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- [PR1](#) Anne Tazewell, Senior Special Projects Manager  
NC Clean Energy Technology Center / NC State University  
Presentation by Anne Tazewell to the Town of Apex in recognition of our achieving the Gold level designation under SolSmart, a program led by the International City/County Management Association and The Solar Foundation, along with a team of partners with deep expertise in solar energy and local governments that recognizes efforts to reduce barriers to development of solar energy.
- [PR2](#) Mayor Jacques Gilbert  
Presentation of Proclamation to the Matthews Family honoring C.W. Matthews
- [PR3](#) Bo Howes – Triangle Land Conservancy  
Presentation by Bo Howes from the Triangle Land Conservancy relative to their plans for conserving land in the Jordan Lake watershed.

## CONSENT AGENDA

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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](#) Dianne Khin, Planning and Community Development Director

Motion to adopt a Resolution Directing the Town Clerk to Investigate Petition Received, to accept the Certificate of Sufficiency by the Town Clerk, and to adopt a Resolution Setting Date of Public Hearing on the Question of Annexation – Apex Town Council's intent to annex Doug Behan & Sohini Sengupta property containing 2.208 acres located at 7617 Reams Court, Annexation #671 into the Town's corporate limits.

[CN2](#) Sarah Rayfield, Senior Planner

Motion to approve Statement of the Town Council and Ordinance for Rezoning Case #19CZ12 Kissena Lane PUD. Jeff Roach, Peak Engineering & Design, PLLC / Hector Cuales, petitioners for the properties located on 0 and 1105 Tingen Road.

[CN3](#) Lauren Staudenmaier, Planner I

Motion to approve Statement of the Town Council and Ordinance for 2045 Land Use Map amendment and Rezoning Case #19CZ24 Upchurch-Williams House, Cara Powell/Capital Area Preservation, Inc., petitioners for the property located on 7213 Roberts Road.

[CN4](#) Shelly Mayo, Planner II

Motion to set the Public Hearing for the February 18, 2020 Town Council meeting regarding Rezoning Application #19CZ21 Heelan PUD and Ordinance. The applicant, Jason Barron for Morningstar Law Group, seeks to rezone approximately 141.732 acres from Wake Co. R-40W to Planned Unit Development–Conditional Zoning (PUD-CZ). The proposed rezoning is located at 8824 & 8829 New Hope Farm Road, 3108 & 3120 Olive Farm Road, and 0 Humie Olive Road.

[CN5](#) Shelly Mayo, Planner II

Motion to adopt a Resolution Directing the Town Clerk to Investigate Petition Received, to accept the Certificate of Sufficiency by the Town Clerk, and to adopt a Resolution Setting Date of Public Hearing on the Question of Annexation – Apex Town Council's intent to annex Henry Steven Kastelberg, Carol B. Heelan Irrevocable Trust c/o George Heelan, Edward and Deborah Peart and Jerfi and Lisa Cicin (Heelan PUD) property containing 141.732 acres located at 0 ,8824 and 8829 Humie Olive Road and 3108 and 3120 Olive Farm Road, Annexation #676 into the Town's corporate limits.

[CN6](#) Shelly Mayo, Planner II

Motion to set the Public Hearing for the February 18, 2020 Town Council meeting regarding Rezoning Application #19CZ25 Jenks & Wimberly Mixed Use PUD. The applicant, Taylor Morrison of Carolinas, Inc., seeks to rezone approximately 14.68 acres from Rural Residential (RR) to Planned Unit Development–Conditional Zoning (PUD-CZ). The proposed rezoning is located at 1533 Wimberly Road and 7912, 8000, and 8016 Jenks Road.



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

Motion to approve and authorize the Town Manager to execute the same for an Encroachment Agreement between the Town and property owners, Ivan Peter Ryzebol and Lily Ryzebol regarding Wake County, NC, PIN#0721-91-7087, Lot 15 Verona at Bella Casa, Phase 9, Section 2 as shown and recorded in Book of Maps 2016, Page 1360, 2145 Vecchio Lane, Apex, NC 27502.

## REGULAR MEETING AGENDA

Mayor Gilbert will call for additional Agenda items from Council or Staff and set the Agenda prior to taking action

## PUBLIC FORUM

Public Forum allows the public an opportunity to address the Town Council. The speaker is requested not to address an item that appears as a Public Hearing 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](#) Dianne Khin, Planning and Community Development Director

Public Hearing and possible motion to adopt an Ordinance on the Question of Annexation – Apex Town Council's intent to annex DRP NC 4, LLC (Roberts Crossing) property containing 27.75 acres located at 0, 7013, 7019, 7021, 7029 and 7113 Roberts Road, Annexation #675 into the Town's corporate limits.

## OLD BUSINESS

## UNFINISHED BUSINESS

[UB1](#) Drew Havens, Town Manager

Discussion and possible motion to direct staff to prepare, for Council consideration, amendment(s) to the Town of Apex Code of Ordinances relative to playing upon streets.

## NEW BUSINESS

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## CLOSED SESSION

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[Laurie](#) Hohe, Town Attorney

Possible motion to go into closed session pursuant to NCGS 143-318(a)(3) to discuss the handling of the matters of Town of Apex v. Beverly Rubin and Beverly Rubin v. Town of Apex, et al.

## WORK SESSION

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## ADJOURNMENT

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# | Agenda Item | cover sheet

for consideration by the Apex Town Council

Item Type: PRESENTATION

Meeting Date: February 4, 2020

## Item Details

Presenter(s): Anne Tazewell, Senior Special Projects Manager  
NC Clean Energy Technology Center / NC State University  
Department(s): Administration

### Requested Motion

Presentation by Anne Tazewell to the Town of Apex in recognition of our achieving the Gold level designation under SolSmart, a program led by the International City/County Management Association and The Solar Foundation, along with a team of partners with deep expertise in solar energy and local governments that recognizes efforts to reduce barriers to development of solar energy.

### Approval Recommended?

N/A

### Item Details

For several months in 2019, members of our team worked, with assistance from the NC Clean Energy Technology Center, to document our efforts related to reducing barriers to solar PV deployment in Apex and make some improvements in processes and communication. This effort was in pursuit of designation from the national SolSmart program. As a result of these efforts and the leadership of the Town Council in eliminating fees, modifying ordinances, deploying solar PV on our buildings, among other efforts, we have been awarded the Gold level designation by SolSmart. In addition, due to our efforts to improve processes in Building Inspections and the interface between Electric and Inspections, we received a Special Recognition Award in the Inspections category where we earned 88% of all available points.

With our designation, there are now 7 designees (all three levels) in North Carolina, and we join Asheville, Chapel Hill, Carrboro, and Chatham County as one of only 5 Gold level designees. Nationwide there are 347 total designees and 127 Gold level. This puts Apex as one of the best in the state and nation in terms of encouraging solar energy growth.

### Attachments

- None



# | Agenda Item | cover sheet

for consideration by the Apex Town Council

Item Type: PRESENTATION  
Meeting Date: February 4, 2020

## Item Details

Presenter(s): Mayor Jacques Gilbert  
Department(s): Governing Body

### Requested Motion

Presentation of Proclamation to the Matthews Family honoring C.W. Matthews

### Approval Recommended?

### Item Details

This presentation is being given during Black History Month to honor and recognize the many contributions to the Town of Apex by Mr. C.W. Matthews.

### Attachments

- None



# | Agenda Item | cover sheet

for consideration by the Apex Town Council

Item Type: PRESENTATION

Meeting Date: February 4, 2020

## Item Details

Presenter(s): Bo Howes – Triangle Land Conservancy

Department(s): N/A

### Requested Motion

Presentation by Bo Howes from the Triangle Land Conservancy relative to their plans for conserving land in the Jordan Lake watershed.

### Approval Recommended?

N/A

### Item Details

Council Member Mahaffey heard a similar presentation at a meeting he attended and suggested that the TLC come and brief our Council about their efforts.

### Attachments

- None



# | Agenda Item | cover sheet

for consideration by the Apex Town Council

Item Type: CONSENT AGENDA

Meeting Date: February 4, 2020

## Item Details

Presenter(s): Dianne Khin, Planning Director

Department(s): Planning and Community Development

### Requested Motion

Motion to adopt a Resolution Directing the Town Clerk to Investigate Petition Received, to accept the Certificate of Sufficiency by the Town Clerk, and to adopt a Resolution Setting Date of Public Hearing on the Question of Annexation – Apex Town Council's intent to annex Doug Behan & Sohini Sengupta property containing 2.208 acres located at 7617 Reams Court, Annexation #671 into the Town's corporate limits.

### Approval Recommended?

Planning and Community Development Department recommends approval.

### Item Details

The Town Clerk certifies to the investigation of said annexation. Adoption of the Resolution authorizes the Town Clerk to advertise said public hearing by electronic means and on the Town of Apex's website. The Public Hearing would be scheduled for the February 17, 2020 Town Council meeting.

### Attachments

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



## PETITION FOR VOLUNTARY ANNEXATION

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

Application #: 671  
Fee Paid \$ 200

Submittal Date: 7/30/19  
Check # 2649

### TO THE TOWN COUNCIL APEX, NORTH CAROLINA

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

### Owner Information

Douglas A Behan  
Owner Name (Please Print)  
(919) 434-1659  
Phone

PIN 0733017343  
Property PIN or Deed Book & Page #  
doug.behan@sas.com  
E-mail Address

Sohini Sengupta  
Owner Name (Please Print)  
(919) 883-8177  
Phone

PIN 0733017343  
Property PIN or Deed Book & Page #  
sohini.sengupta@duke.edu  
E-mail Address

Owner Name (Please Print)  
Phone

Property PIN or Deed Book & Page #  
E-mail Address

### Surveyor Information

Surveyor: Benton W Dewar and Associates

Phone: (919) 552-9813 Fax: \_\_\_\_\_

E-mail Address: \_\_\_\_\_

### Annexation Summary Chart

Total Acreage to be annexed:	<u>2.208</u>	Reason for annexation: (select one)	
Population of acreage to be annexed:	<u>0</u>	Receive Town Services	<u>X</u>
Existing # of housing units:	<u>0</u>	Other (please specify)	_____
Zoning District*:	<u>RR</u>		

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



PETITION FOR VOLUNTARY ANNEXATION

Application #:

671

Submittal Date:

7/30/19

COMPLETE IF SIGNED BY INDIVIDUALS:

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

Douglas A Behan

Please Print

SOHINI SENGUPTA

Please Print

Please Print

Please Print

STATE OF NORTH CAROLINA  
COUNTY OF WAKE

DA Behan

Signature

SA Sengupta

Signature

Signature

Signature

Sworn and subscribed before me, Joshua Burrows, a Notary Public for the above State and County,  
this the 16<sup>th</sup> day of July, 2019.

Joshua Burrows

Notary Public

SEAL

My Commission Expires: August 20, 2022

COMPLETE IF A CORPORATION:

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

Corporate Name

SEAL

By:

Attest:

President (Signature)

Secretary (Signature)

STATE OF NORTH CAROLINA  
COUNTY OF WAKE

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

Notary Public

SEAL

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

## LEGAL DESCRIPTION

Commencing at the centerline intersection of NCSR # 1600 Green Level Church Road and Reams Court (45' Public R/W):

Thence North 11 degrees 16 minutes 15 seconds East – 50.76 feet to an existing iron pipe on the eastern right of way of said Green Level Church Road, the point of BEGINNING:

Thence North 58 degrees 23 minutes 24 seconds East – 365.11 feet to an existing iron pipe;

Thence North 37 degrees 59 minutes 35 seconds West – 228.20 feet to an existing iron pipe;

Thence North 48 degrees 00 minutes 12 seconds West – 210.35 feet to an iron pipe;

Thence North 37 degrees 47 minutes 55 seconds East – 183.85 feet to an existing iron stake;

Thence North 88 degrees 41 minutes 47 seconds East – 165.43 feet to an existing iron pipe;

Thence South 11 degrees 57 minutes 24 seconds East – 370.92 feet to an existing iron pipe;

Thence along a curve to the left having a radius of 122.50 feet, an arc length of 47.21 feet, a chord bearing and distance of South 15 degrees 38 minutes 26 seconds West – 46.92 feet to an existing iron pipe;

Thence South 04 degrees 24 minutes 05 seconds West – 14.31 feet to an existing iron pipe;

Thence along a curve to the right having a radius of 77.50 feet, and arc length of 72.98 feet a chord bearing and distance of South 31 degrees 22 minutes 33 seconds West – 70.31 feet to an existing iron pipe;

Thence South 58 degrees 21 minutes 01 seconds West – 366.92 feet to an existing iron stake on the northern right of way of Green Level Church Road;

Thence North 24 degrees 26 minutes 38 seconds West – 15.12 feet to an existing iron pipe, the point of BEGINNING, containing 2.208 Acres, and being Lot 7 Castlereach North Section III, Book of Maps 2018 Page 56, as recorded in the Wake County Register of deeds.

LEGEND

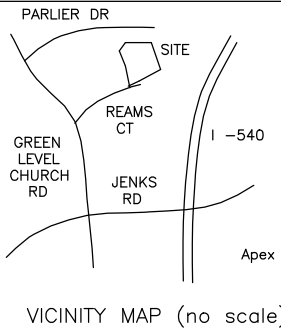
CMS - CONCRETE MONUMENT SET  
ECM - EXISTING CONCRETE MONUMENT  
EIP - EXISTING IRON PIPE  
EIS - EXISTING IRON STAKE  
ERB - EXISTING REBAR  
ECS - EXISTING COTTON SPIKE  
EPK - EXISTING PK NAIL  
EN - EXISTING NAIL  
ERS - EXISTING RAILROAD SPIKE  
IPS - IRON PIPE SET  
ISS - IRON STAKE SET  
RSS - RAILROAD SPIKE SET  
NS - NAIL SET  
PKS - PK OR MAG. NAIL SET  
R/W - RIGHT OF WAY  
CL - CENTERLINE  
B.M. - BOOK OF MAPS  
P.B. - PLAT BOOK  
M.B. - MAP BOOK  
D.B. - DEED BOOK  
SB - SET BACK  
EP - EDGE PAVEMENT  
NCGS - NORTH CAROLINA GEODETIC SURVEY  
TOA - TOWN OF APEX  
TOA - TOWN OF APEX  
TOA - TOWN OF APEX

ECS - EXISTING COTTON SPINDLE  
CSS - COTTON SPINDLE SET  
D - DRAINAGE  
G - GAS LINE  
S - SANITARY SEWER  
W - WATER  
E - ELECTRIC  
T - TELEPHONE  
FH - FIRE HYDRANT  
WM - WATER METER  
WV - WATER VALVE  
CO - SEWER CLEANOUT  
TP - TELEPHONE PEDESTAL  
UP - UTILITY POLE  
EL - ELEVATION  
MH - MANHOLE  
BC - BACK OF CURB  
HVAC - HEAT/AC UNIT  
CP - COMPUTED POINT

NOTES  
AREA BY COORDINATES.  
THIS PROPERTY IS NOT LOCATED IN A FEMA  
MAPPED FLOOD HAZARD AREA. FEMA MAP #  
3720073300J; ZONE X; EF. DATE 5/2/2006.  
SUBJECT TO ABOVE AND OR UNDERGROUND  
UTILITIES AND OR EASEMENTS.

TOA - TOWN OF APEX  
PUUE - PUBLIC UTILITY EASEMENT  
PRDE - PRIVATE DRAINAGE EASEMENT  
UE - UTILITY EASEMENT  
SSMH - SANITARY SEWER MANHOLE

B.M. 2017 PG. 886



TOWN OF APEX JURISDICTION  
PROPERTY ZONED - RR  
MINIMUM BUILDING SETBACKS  
FRONT - 40'  
SIDE - 15'  
REAR - 25'  
50% MAXIMUM BUILT UPON AREA

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

I, DONNA B. HOSCH, MMC, NCCMC, TOWN CLERK, APEX, NORTH CAROLINA CERTIFY THIS A TRUE AND EXACT MAP OF ANNEXATION ADOPTED THE \_\_\_\_ DAY OF \_\_\_\_\_, 20\_\_\_\_, BY THE TOWN COUNCIL, I SET MY HAND AND SEAL OF THE TOWN OF APEX,

Day/Month/Year

Donna B. Hosch, MMC, NCCMC, Town Clerk

SEAL

LINE TABLE		
COURSE	BEARING	DISTANCE
L-1	S 49°35'42"E	22.68'
L-2	S 65°20'43"E	21.71'
L-3	S 11°53'46"E	35.61'
L-4	S 88°41'45"W	48.90'
L-5	N 11°53'34"W	35.61'
L-6	N 86°07'35"E	9.84'
L-7	N 89°20'50"E	39.08'

HICKORY MOUNTAIN ROAD  
60' PRIVATE ACCESS EASEMENT  
D.B. 2747 PG. 112  
B.M. 1982 PG. 822  
B.M. 1988 PG. 439  
B.M. 1989 PG. 1013

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

I, \_\_\_\_\_, REVIEW OFFICER OF \_\_\_\_\_  
COUNTY, CERTIFY THAT THE MAP OR PLAT TO WHICH THIS CERTIFICATION IS AFFIXED MEETS ALL STATUTORY REQUIREMENTS FOR RECORDING.

DATE \_\_\_\_\_ REVIEW OFFICER \_\_\_\_\_

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

BENTON W. DEWAR NCPLS - 3040

I, BENTON W. DEWAR, CERTIFY THAT THIS PLAT WAS DRAWN UNDER MY SUPERVISION FROM AN ACTUAL SURVEY MADE UNDER MY SUPERVISION DEED BOOK \_\_\_\_\_ PAGE \_\_\_\_\_ MAP # \_\_\_\_\_ PAGE \_\_\_\_\_; THAT THE BOUNDARIES NOT SURVEYED ARE CLEARLY INDICATED AS DRAWN FROM INFORMATION FOUND IN DEED MAP BOOK \_\_\_\_\_ PAGE \_\_\_\_\_; THAT THE RATIO OF PRECISION OR POSITIONAL ACCURACY AS CALCULATED IS \_\_\_\_\_; THAT THIS PLAT WAS PREPARED IN ACCORDANCE WITH G.S. 47-30 AS AMENDED. WITNESS MY ORIGINAL SIGNATURE, LICENSE NUMBER AND SEAL THIS \_\_\_\_ DAY OF \_\_\_\_\_, A.D. 20\_\_\_\_

BENTON W. DEWAR, NCPLS - 3040

SATELLITE ANNEXATION MAP FOR THE

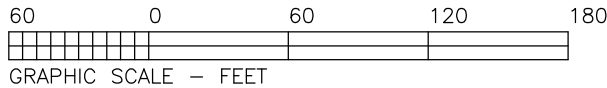
TOWN OF APEX

PROPERTY OF

DOUGLAS A. BEHAN  
SOHINI SENGUPTA

7617 REAMS COURT, APEX, NC 27523  
LOT 7 CASTLEREAGH NORTH SECTION III  
BOOK OF MAPS 1987 PAGE 886  
BOOK OF MAPS 2018 PAGE 86  
DEED BK. 16914 PAGE 1  
PIN # 0733017343  
WHITE OAK TOWNSHIP

WAKE COUNTY - NORTH CAROLINA  
SCALE : 1" = 60' - JULY 29, 2019



BENTON W. DEWAR AND ASSOCIATES  
PROFESSIONAL LAND SURVEYOR  
5920 HONEYCUTT ROAD  
HOLLY SPRINGS, NC 27540  
PH. # (919)-552-9813

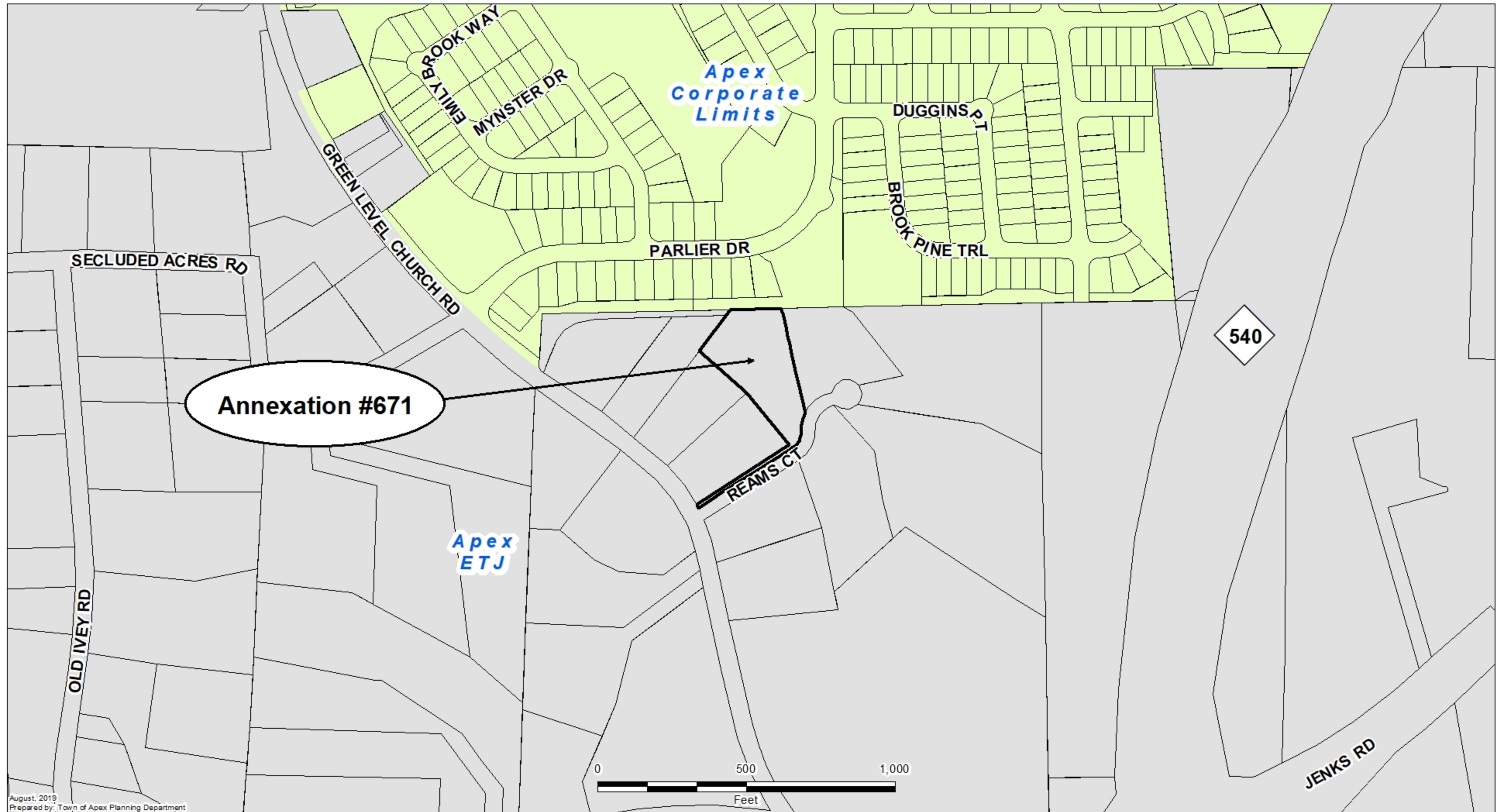
REVISED : 10/1/2019 TOWN COMMENTS

19-67L  
7617REAM\14A\600

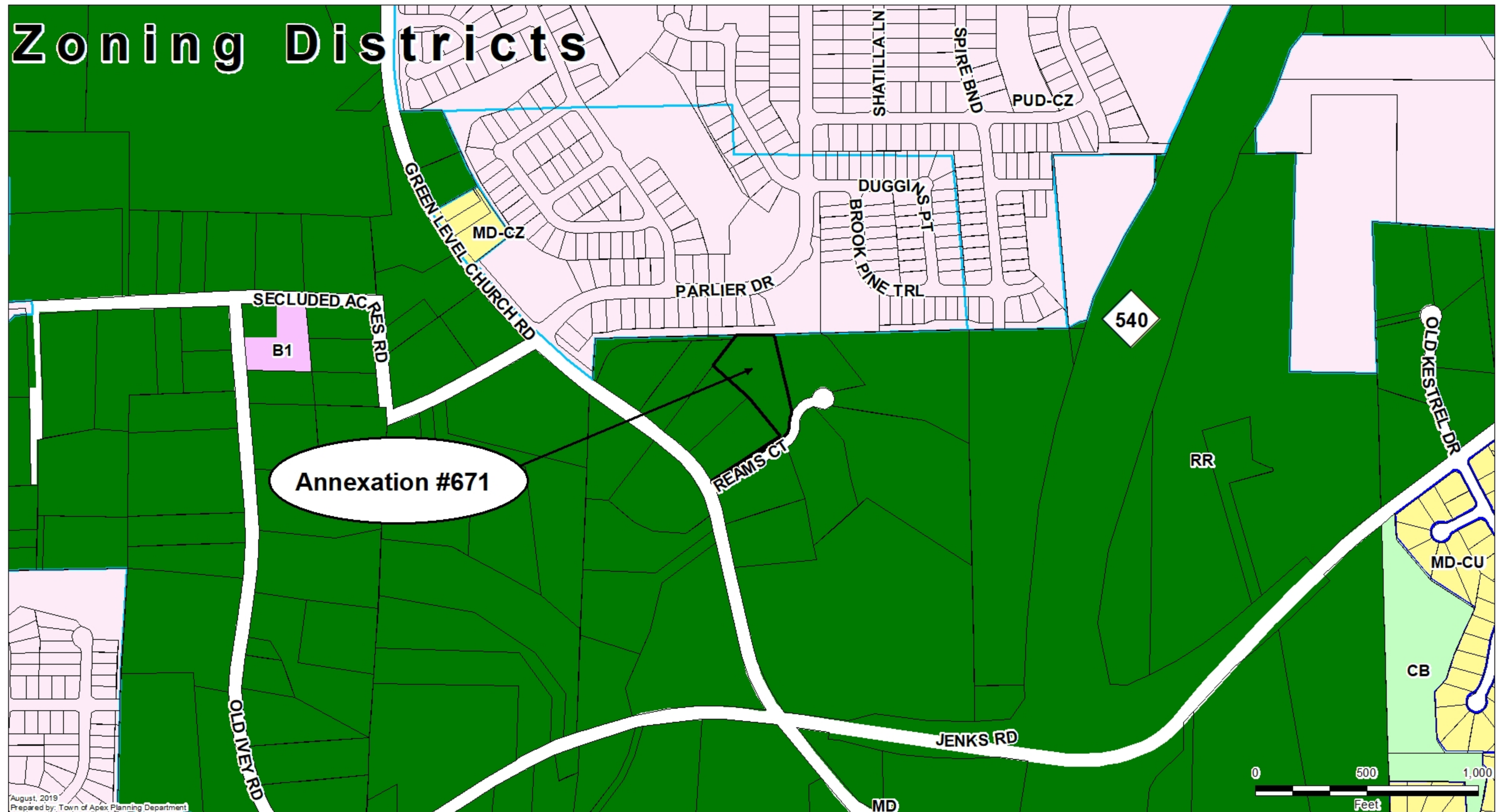








# Zoning Districts





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

Annexation Petition #671  
7617 Reams Court

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

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

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

This the 4th day of February 2020.

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Jacques K. Gilbert  
Mayor

ATTEST:

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Donna B. Hosch, MMC, NCCMC  
Town Clerk





CERTIFICATE OF SUFFICIENCY BY THE TOWN CLERK

Annexation Petition #671  
7617 Reams Court

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

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

IN WITNESS WHEREOF, I have hereunto set my hand and affixed the seal of the Town of Apex, North Carolina this 4th day of February 2020.

---

Donna B. Hosch, MMC, NCCMC  
Town Clerk

(Seal)



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

Annexation Petition #671  
7617 Reams Court

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

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

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

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

Section 1. A public hearing on the question of annexation of the area described herein will be held at the Apex Town Hall at 6 o'clock p.m. on the 18th day of February 2020.

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

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

This the 4th day of February 2020.

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Jacques K. Gilbert, Mayor

ATTEST:

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Donna B. Hosch, MMC, NCCMC, Town Clerk

# | Agenda Item | cover sheet

for consideration by the Apex Town Council

Item Type: CONSENT AGENDA

Meeting Date: February 4, 2020

## Item Details

Presenter(s): Sarah Rayfield, Senior Planner

Department(s): Planning and Community Development

### Requested Motion

Motion to approve Statement of the Town Council and Ordinance for Rezoning Case #19CZ12 Kissena Lane PUD. Jeff Roach, Peak Engineering & Design, PLLC / Hector Cuales, petitioners for the properties located on 0 and 1105 Tingen Road.

### Approval Recommended?

Planning and Community Development Department recommends approval.

### Item Details

Rezoning Case #19CZ12 was approved at the January 21, 2020 Town Council Meeting.

### Attachments

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



**STATEMENT OF THE APEX TOWN COUNCIL PURSUANT TO G.S. 160A-383  
ADDRESSING ACTION ON ZONING PETITION #19CZ12**

Jeff Roach, Peak Engineering & Design, PLLC / Hector Cuales, applicant /owner (the "Applicant"), submitted a completed application for a conditional zoning on the 3<sup>rd</sup> day of June 2019 (the "Application"). The proposed conditional zoning is designated #19CZ12.

The Planning Director for the Town of Apex, Dianne Khin, caused proper notice to be given (by publication and posting) of a public hearing on #19CZ12 before the Planning Board held on the 13<sup>th</sup> day of January 2020.

Pursuant to G.S. §160A-384 and Sec. 2.2.11(E) of the Unified Development Ordinance, the Planning Director caused proper notice to be given (by publication and posting), of a public hearing on #19CZ12 before the Town Council on the 21<sup>st</sup> day of January 2020.

The Apex Planning Board held a public hearing on the 13<sup>th</sup> day of January 2020, gathered facts, received public comments and formulated a recommendation regarding the application for conditional zoning #19CZ12. A motion was made at the Apex Planning Board to recommend approval; the motion passed unanimously for the application for #19CZ12.

The Apex Town Council held a public hearing on the 21<sup>st</sup> day of January 2020. Sarah Rayfield, Senior Planner presented the Planning Board's recommendation at the public hearing.

All persons who desired to present information relevant to the application for #19CZ12 and who were residents of Apex or its extraterritorial jurisdiction, or who owned property adjoining the property for which the conditional zoning is sought, were allowed to present evidence at the public hearing before the Apex Town Council. No one who wanted to speak was turned away.

The Town Council by a vote of 5 to 0 approved Application #19CZ12 rezoning the subject tract located at 0 and 1105 Tingen Road from Residential Agricultural (RA) & High Density Single-Family Residential (HDSF) to Planned Unit Development-Conditional Zoning (PUD-CZ).

The Apex Town Council finds that the approval of the rezoning is consistent with the 2045 Land Use Plan and other adopted plans in that: The 2045 Land Use Map designates this area as Medium Density Residential. 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.

**STATEMENT OF THE APEX TOWN COUNCIL ZONING PETITION #19CZ12**

**PAGE 2**

The Apex Town Council finds that the approval of the rezoning is reasonable and in the public interest in that it will allow for the development of affordable, infill single-family residential development that will be compatible with the single-family uses to the north, south, and east. The rezoning will encourage compatible development of the property and increase the tax base.

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Jacques K. Gilbert  
Mayor

ATTEST:

---

Donna B. Hosch, MMC, NCCMC  
Town Clerk

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Date

**ORDINANCE AMENDING THE OFFICIAL ZONING DISTRICT MAP OF THE TOWN OF APEX TO CHANGE THE ZONING OF APPROXIMATELY 1.74 ACRES LOCATED ON 0 AND 1105 TINGEN ROAD FROM RESIDENTIAL AGRICULTURAL (RA) & HIGH DENSITY SINGLE-FAMILY RESIDENTIAL (HDSF) TO PLANNED UNIT DEVELOPMENT-CONDITIONAL ZONING (PUD-CZ)**

**#19CZ12**

**WHEREAS**, the application of Jeff Roach, Peak Engineering & Design, PLLC / Hector Cuales petitioner, for the rezoning of lands hereinafter described was duly filed with the office of the Planning Director and thereafter a public hearing was held hereon on the 13<sup>th</sup> day of January 2020 before the Planning Board. Thereafter, the Planning Board submitted its final report to the Town Council recommending approval of said application for the rezoning of the lands hereinafter described, all in accordance with the requirements of the Town of Apex Unified Development Ordinance and the provisions of Chapter 160A, Article 19, of the North Carolina General Statutes. A public hearing was held on the 21<sup>st</sup> day of January 2020, before the Town Council. All public hearings were held pursuant to due notice mailed and published pursuant to G.S. § 160A-384; **NOW, THEREFORE**,

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

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

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

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

**Section 4:** The “Rezoned Lands” are subject to the conditions in Attachment “B” Kissena Lane PUD which are imposed as part of this rezoning.

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

**Ordinance Amending the Official Zoning District Map #19CZ12**  
**Page Two**

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

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

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

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

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

This the \_\_\_\_ day of \_\_\_\_\_ 2020.

**TOWN OF APEX**

\_\_\_\_\_  
Mayor

**ATTEST:**

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

**APPROVED AS TO FORM:**

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



### **LEGAL DESCRIPTION**

BEGINNING at a point at the eastern right of way of Apex – Kissena Lane, said point having North Carolina State Plane Coordinates of North: 716185.88, East: 2042966.10; thence S 75°25'28.9" E a distance of 114.0' to a point; thence N 41°31'17.7" E a distance of 159.57' to a point; thence N 41°02'51.63" W a distance of 135.43' to a point; thence N 87°31'47.18" W a distance of 194.25' to a point; thence N 86°36'12.88" W a distance of 115.97' to a point; thence N 86°36'13.48" W a distance of 15.09' to a point; thence N 86°46'43.74" W a distance of 68.94' to a point; thence N 86°46'44.71" W a distance of 40.12' to a point; thence S 10°01'58.36" W a distance of 199.57' to a point; thence S 86°24'20.96" E a distance of 109.94' to a point; thence S 76°02'36.51" E a distance of 5.22' to a point; thence N 86°21'54.99" E a distance of 11.0' to a point; thence S 75°25'28.79" E a distance of 39.0' to the original Point of Beginning.

The above described annexation area containing an area of 75,917 square feet (1.74 acres).

All deeds referenced above recorded in Wake County Register of Deeds.

# Kissena Lane

## A PLANNED UNIT DEVELOPMENT

### PD PLAN Rezoning Case #19CZ12

June 3, 2019

Revised July 12, 2019

Revised August 8, 2019

Revised August 20, 2019

Project Contact:

Hector Cuales

33085 Whittingham Drive

New Hill, NC 27562

Civil Engineering & Land Planning:

Jeff Roach, P.E.

Peak Engineering & Design, PLLC

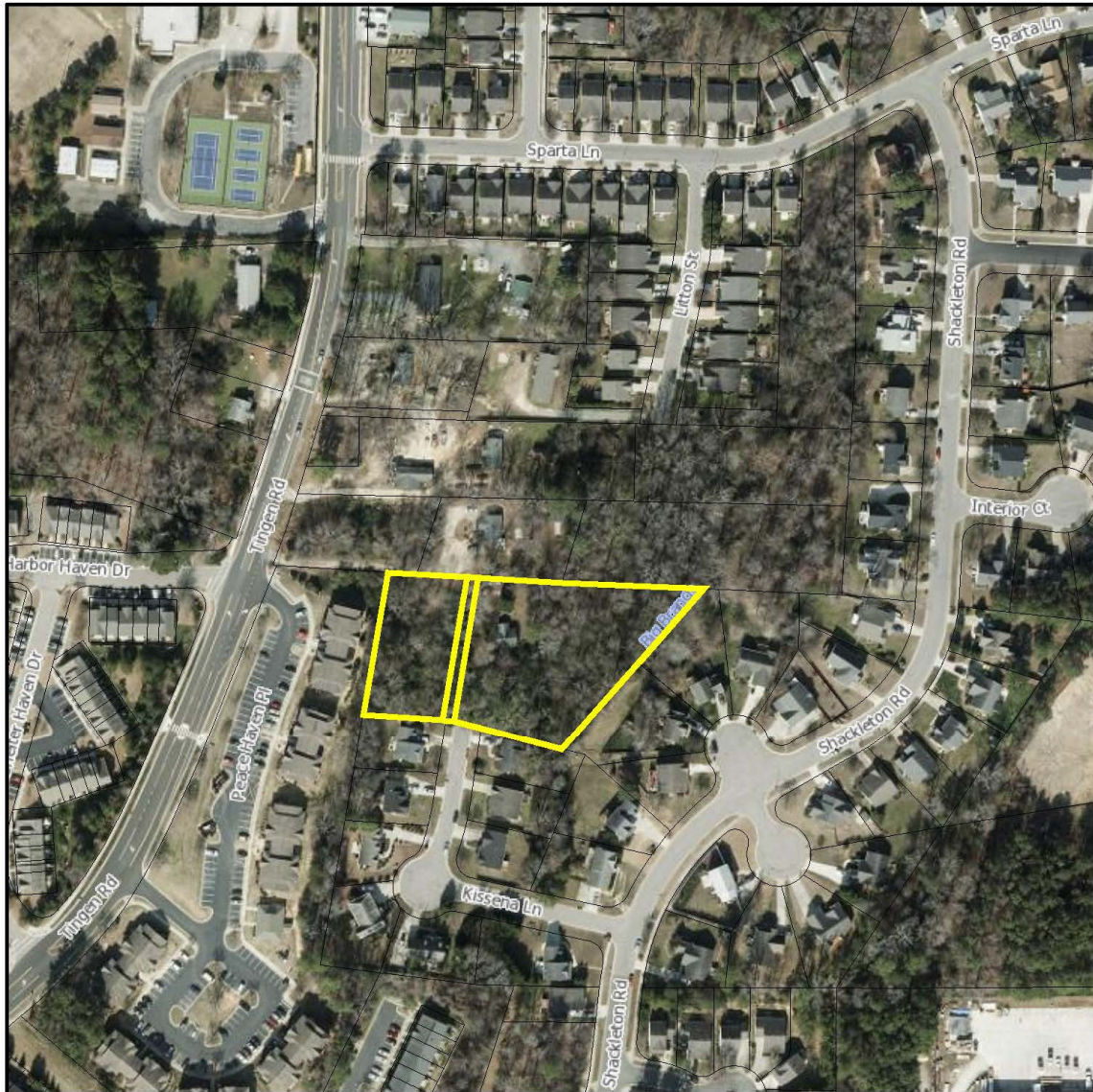
## **Table of Contents**

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Section 2:	Vicinity Map
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Section 9:	Resource Conservation Area (RCA)
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Section 18:	Plan Consistency
Section 19:	Compliance with the Unified Development Ordinance (UDO)

## **Exhibits**

## Section 2: Vicinity Map

Kissena is an assembly of three (3) properties located at the termination of Kissena Lane; south of Sparta Lane, directly west of West Haven Apartments and Tingen Road. The property is bordered to the north by existing residential properties; to the east and south of by Perry Farms Subdivision; and apartments to the west.



### **Section 3: Project Data**

Project name: Kissena Lane Extension

**Property Owner:**

Hector Cuales  
1105 Tingen Road  
Apex, NC 27502  
PINs 0741-31-1302 (1.17 acres)  
0741-26-9237 (0.07 acres)  
0741-26-8380 (0.50 acres)

**Project Contact:**

Hector Cuales  
3308 Whittingham Drive  
New Hill, NC 27562  
[hectorcual@gmail.com](mailto:hectorcual@gmail.com)

**Prepared by:**

Jeff Roach, P.E.  
Peak Engineering & Design, PLLC  
1125 Apex Peakway  
Apex, NC 27502  
(919) 439-0100  
[jroach@peakengineeringdesign.com](mailto:jroach@peakengineeringdesign.com)

**Zoning:**

Existing Zoning: High Density-Single Family (HD-SF) and  
Rural Agricultural (RA)  
Proposed Zoning: Planned Unit Development – Conditional Zoning (PUD-CZ)

**2045 Land Use Map**

Existing Land Use Designation: Medium Density Residential (< 6.0 units/acre residential)  
Proposed Land Use: Medium Density Residential (< 5.8 units/acre residential)  
Total Property: 1.74 acres

Legal descriptions for the properties being zoned are provided by Peak Engineering & Design, PLLC and has been assembled from available plats, deeds, and other Wake County GIS data. This information is public and provided within the zoning application packet.

#### **Section 4: Purpose Statement**

Kissena Lane is a proposed Planned Unit Development (PUD) with a maximum of 10 single family residential lots currently located inside the Apex town limits. As part of the rezoning process, some of the properties will be required to annex, to be voted on by the Apex Town Council. The PUD parameters are outlined in UDO Section 2.3.4(F)(1)(a)(i - vi) and answered in various locations within the PD text document.

The purpose of the PUD rezoning application is to develop a residential development that is compatible with the value, quality and character of the surrounding properties and developments. The standards included with the submittal provide for flexibility in the building design and lot sizes to accommodate various highly sought after products in the Apex market. The targeted market for this project includes houses high in quality and lower in cost compared to other recent residential developments within the Town of Apex. Items such as small lot sizes, building design, and other development components will be considered to make new homes within the Kissena Lane Extension affordable for persons with varying incomes. Habitat for Humanity, or similar programs, which aid in the affordability of new homes will assist in the design and construction of the new homes. 100% of the dwelling units developed on the property shall be set at a price that, on average, is affordable to a household with an annual income of 70% of the Area Median Income for the respectively-sized household in the Raleigh, NC MSA, as determined by the United States Department of Housing and Urban Development (HUD).

The construction throughout the property will include streets, utilities, and landscaping while protecting the natural environment to the maximum extent, all of which will be done in accordance with current Town of Apex requirements.

#### **Permitted Uses\***

The rezoned lands may be use for the uses listed below. The permitted uses are subject to the limitation stated in UDO Section 4.2.2:

- |                                  |                  |
|----------------------------------|------------------|
| 1. Single family                 | 5. Greenway      |
| 2. Accessory apartment           | 6. Park, active  |
| 3. Utility, minor                | 7. Park, passive |
| 4. Recreation facility – private |                  |

\*100% of the dwelling units developed on the property shall be set at a price that, on average, is affordable to a household with an annual income of 70% of the Area Median Income for the respectively-sized household in the Raleigh, NC MSA, as determined by the United States Department of Housing and Urban Development (HUD).



### Section 5: Description, Density and Dimensional Standards

The project will comply with the standards as established by UDO Section 5.1.3 or as noted within the PD Text for the project:

Proposed maximum density: 5.80 units/acre  
(includes R/W, Open Space and lots)

Proposed Maximum Building Height: 36'

Proposed Minimum Lot Width: 33'

Proposed Minimum Building Setbacks:

Front: 20'

Side: 5'

Rear: 10'

Percentage of Built Upon Area: 70% maximum

Maximum number of lots: 10 lots

*\*\* Porches, patios, decks and other structures may encroach into requirement building setbacks as permitted by the Town of Apex UDO.*

### Section 6: Architectural Standards

#### Single-family residential standards:

1. Vinyl siding is permitted for exterior building materials.
2. The roof shall be pitched at 5:12 or greater. This excludes porches, screen porches, bay windows, and decorative elements.
3. Eaves shall project at least 8 inches from the wall of the structure.
4. The visible side of a home on a corner lot facing the public street shall contain at least 2 decorative elements such as, but not limited to, the following elements:
  - Windows
  - Bay window
  - Recessed window
  - Decorative window
  - Trim around the windows or decorative trim
  - 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
5. House entrances may be placed at finished grade or a raised floor with crawl space.
6. The rear and side elevations of the units that can be seen from the right-of-way shall have trim around the windows.
7. Front porches shall be a minimum of 6 feet deep.



**Section 7: Parking and Loading**

Parking will be provided by parking pads and/or driveways and will comply with the Town of Apex UDO Section 8.3 for single family residential lots. Residential driveways shall have a minimum width of 12' and 20' in length as measured from the back of the sidewalk or, where no sidewalk exists, the back of the curb, to count as required parking.

**Section 8: Resource Conservation Area (RCA)**

The project is required to meet UDO Section 8.1.2 for resource conservation area. The project is located east of I-540 and is required to establish 20% Resource Conservation Area with an additional 2% RCA if mass graded. The project will protect environmentally sensitive features to meet the RCA requirements. Final location and acreage will be provided during the Master Subdivision Plan submittal Process.

**Section 9: Landscaping**

Internal landscaping will comply with UDO section 8.2.4(A)(4) for street tree plantings, foundation plantings and tree preservation. In lieu of required buffer plantings along the western, northern and southern property lines, adjacent to PINs 0741-26-8146, 0741-26-6052, 0741-26-7486 and 0741-26-0405, a solid 6' wood fence shall be installed. A 50' section of the fence will be removed with the extension of Kissena Lane in the future. The location of the fence removal will be determined when Kissena Lane is extended beyond the project, into the adjacent property. Buffering to the east will be provided by the existing stream buffer. The project will maintain similar density and design of the existing development to the south.

**Section 10: Signage**

All signage will comply with the applicable standards and requirements of UDO Section 8.7. Signage for the residential development shall be coordinated with staff during the appropriate Master Subdivision Plan and/or Master Signage Plan approval.

**Section 11: Public Facilities**

The project's construction will consist of the extension of public facilities to serve the site. All public facilities and infrastructure shall comply with the Town of Apex Sewer and Water Master Plans and the Town of Apex Standards and Specifications. Facilities include:

**Water:**

Water will be provided by connecting to an existing waterline along Kissena Lane. The design team will coordinate with staff to locate and size the necessary extensions during the Master Subdivision and Construction Document review phases.

**Sanitary Sewer:**

Sanitary sewer will be provided by connecting to an existing sewer main at the end of Kissena Lane. The design shall be coordinated with Town of Apex staff during the Master Subdivision Plan and Construction Document phases. Extensions along natural draws are required per Town of Apex specifications.

#### Streets:

The project is showing the extension of Kissena Drive north from the existing dead end to the properties northern boundary. The development will stub a residential street to adjacent property owner to the north for future connections. No street stubs are provided east due to environmental feature or to the west due to existing development. The final alignment of all internal streets will be coordinated with staff. Per UDO Section 2.3.4, PUD developments commonly include sidewalk on both sides of the streets. The existing Kissena Lane street stub does not include sidewalks on either side of the street. To continue this design, and to reduce construction cost for affordability, sidewalks along the Kissena Lane Extension are not proposed.

#### Other Utilities:

Electric service shall be provided by the Town of Apex in conjunction with the appropriate staff. Gas, telephone, and cable shall be provided by the builder as coordinated with the appropriate utility companies.

#### Transportation:

A Traffic Impact Analysis (TIA) was not required for this project. There are no improvements to existing roads, signals or other transportation facilities proposed with this project.

### **Section 12: Pedestrian Circulation System and Amenities**

To assist with the affordability of the new homes, the absence of sidewalk on Kissena Lane and the small nature of the project, sidewalks are not proposed with this project.

### **Section 13: Parks and Recreation**

This Planned Development proposes less than 30 (or a maximum of 10) single family detached units so only a fee-in-lieu payment will be required per UDO Section 14.1.2 Exemptions. The property abuts existing Public Greenway Easement for the future Big Brach Greenway, but with the limited number of units, the necessity to cross Big Branch Creek and impact to riparian buffer when access to the greenway would be within 350 ft or 0.07 mile, the project is not requested to accommodate a connection within the project boundaries

### **Section 14: Natural Resources and Environmental Protection**

Kissena Lane is located within the Town's Secondary Watershed Protection Overlay District. The properties are currently undeveloped and has one stream containing stream buffers. The design team will coordinate with staff to minimize impacts to the buffer during the Master Subdivision and Construction Document review phases. Per FEMA FIRM Maps 3720074100J dated May 2, 2006 there are no Special Hazard Flood Prone areas. No historical structures are identified within the property boundary pursuant to the North Carolina State Historic Preservation Office's website.

### **Section 15: Stormwater Management**

The project will not require a Stormwater Control Measures (SCMs). The project is small in nature with a disturbance of less than one (1) acre. Per UDO Section 6.1, projects with a disturbance of 1 acre or less do not require an SCM.

**Section 16: Phasing**

The project is small in nature and consists of single family homes, roadway extensions, utility services and other site design features which will all be constructed in one phase. For this reason, a phasing plan has not been included as part of the design.

**Section 17: Plan Consistency**

The proposed zoning for Kissena complies with the 2045 Land Use Map designation for this area as a medium density residential development. Kissena Lane is a medium density development and will have an overall project density at or below 6.0 units/acre. The project will meet the requirements of the Transportation Master Plan, the Bike Apex Plan, the Parks, Recreation, Greenways, and Open Space Plan, along with other Town of Apex adopted plans which direct development, as amended from time-to-time.

**Section 18: Compliance with the Unified Development Ordinance**

Kissena Lane will comply with the relevant standards of the Town of Apex's Unified Development Ordinance and other development related standards. Any deviation from standards shall be approved by staff, Planning Board, or Town Council representatives throughout the zoning and design development processes as required.

**EXHIBITS****I. COVER SHEET (Sheet C000)**

The Cover Sheet contains contact information, vicinity map, site design guidelines, and required Town of Apex notes and descriptions.

**II. EXISTING CONDITIONS (Sheet C001)**

The existing conditions plan includes the base site items, zoning of adjacent properties, boundary, environmental features, and existing conditions around the property.

**III. CONCEPTUAL SITE PLAN (Sheet C100)**

This sheet includes standard site notes, site infrastructure, vehicular connectivity locations, buffers, areas proposed for development.

**IV. CONCEPTUAL UTILITY PLAN (Sheet C200)**

The Conceptual Utility Plan shows the preliminary location for connection to existing water, sewer, and stormwater as well as the existing infrastructure for said services. The final design will be completed to the Apex standards at the time of Master Subdivision submittal.



PLANNED UNIT DEVELOPMENT

KISSENA LANE

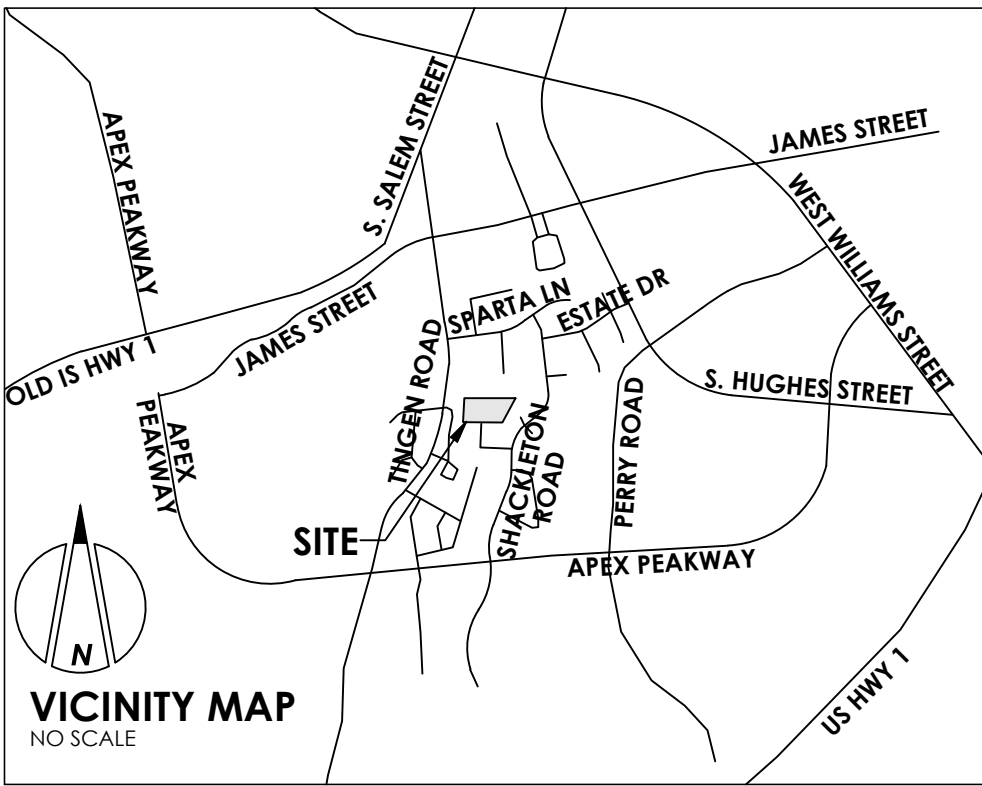
1105 TINGEN ROAD  
APEX, NORTH CAROLINA  
PROJECT NUMBER: 180901  
DATE: JUNE 3, 2019

SITE INFORMATION:

Property Owner/Site Address	PIN	REID	Map Number	Deeded Acreage	Deed Book/Plat Book & Page
Hector Cuales 0 Tingen Road Apex, NC 27502	0741-26-8380	0052620	074110	0.5	DB 17272 PG 00548
Hector Cuales 0 Tingen Road Apex, NC 27502	0741-26-9237	0247235	074110	0.07	DB 17272 PG 00548
Hector Cuales 1105 Tingen Road Apex, NC 27502	0741-36-1302	0059739	074110	1.17	DB 17673 PG 001611

Total Deeded Acreage: 1.74 acres

Existing Zoning:	Rural Agricultural (RR), High Density-Single Family (HD-SF)
Proposed Zoning:	PUD-CZ (Planned Unit Development - Conditional Zoning)
2045 Land Use Map:	High Density Single Family
Existing Use:	Vacant & Single Family
Proposed Uses:	Single Family
Township:	White Oak
Flood Zone Information:	Firm Panel 3720074100J dated May 2, 2006 does not show the presence of flood zones on properties.
Watershed Information:	Secondary Watershed Protection Overlay District, Big Branch Basin, Cape Fear River Basin.
Historical:	Per the NC SHPO, no historical structures are located within the project boundary.
Design Standards:	
Minimum Lot Width:	33'
Maximum Built Upon Area:	70%
Maximum Density:	5.80 Units per Acre
Maximum Number Lots:	10
Building Setbacks:	
Front:	20'
Rear:	10'
Side:	5' min. (No Aggregate)
Side (Corner Lot):	5'
Maximum Density:	5.80 Units per Acre
Building:	
Proposed Building Height:	36' maximum
Proposed Building Stories:	3 stories (maximum)



INDEX OF DRAWINGS:

C000	COVER SHEET
C001	EXISTING CONDITIONS
C100	OVERALL SITE PLAN
C105	OVERALL PHASING PLAN
C200	OVERALL UTILITY PLAN



DEVELOPER/OWNER  
HECTOR CUALES  
3308 WHITTINGHAM DRIVE  
NEW HILL, NC 27562  
E: HECTORCUAL@GMAIL.COM

ENGINEER/LAND PLANNER  
PEAK ENGINEERING & DESIGN, PLLC  
JEFF ROACH, P.E.  
5448 APEX PEAKWAY #368  
APEX, NC 27502  
Phone (919) 439-0100  
www.PeakEngineering.com



NC License #P-0673

project:  
KISSENA LANE  
1105 TINGEN ROAD  
BUCKHORN  
APEX, NORTH CAROLINA 27502



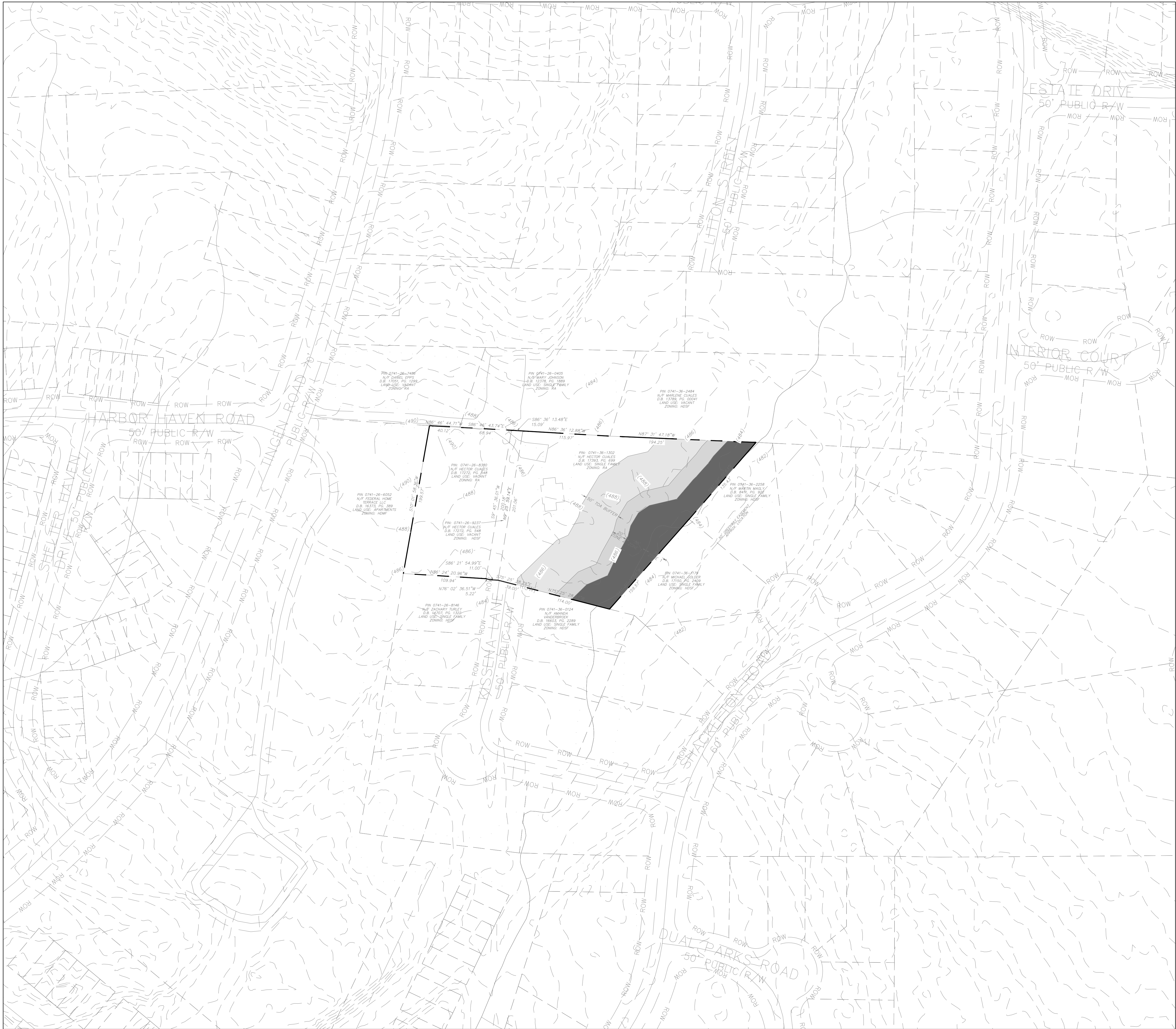
REV	DATE	BY
1	6/3/2019	J. ROACH
2	6/3/2019	J. ROACH

title:  
COVER SHEET

proj #:  
180901  
date:  
June 3, 2019  
dwg by: chkd by:  
XXX JR  
scale:  
As Noted

sheet:  
C000  
Planned Unit Development





- NOTES:
1. THERE ARE NO CONTRIBUTING HISTORICAL STRUCTURES WITHIN THE PROJECT BOUNDARY.
  2. SUBJECT PROPERTIES KNOWN AS PARCEL IDENTIFICATION NUMBERS; AS SHOWN ON SHEET C000.
  3. ALL OFF-SITE EASEMENTS SHALL BE ACQUIRED BY THE DEVELOPER AND THESE OFF-SITE EASEMENTS SHALL BE RECORDED BY A DEED OF EASEMENT PRIOR TO UTILITY INFRASTRUCTURE CONSTRUCTION APPROVAL. THESE EASEMENTS SHALL BE DEDICATED TO THE TOWN OF APEX AND LABELED "TOWN OF APEX PUBLIC UTILITY EASEMENT".
  4. NO PERSON SHALL PLACE ANY PART OF A STRUCTURE, ANY PERMANENT EQUIPMENT, OR IMPROVEMENT UPON TOWN OF APEX PUBLIC UTILITY EASEMENTS, PROHIBITED STRUCTURES INCLUDE, BUT ARE NOT LIMITED TO: BUILDINGS, HOUSES, AIR CONDITIONING UNITS, HEAT PUMP UNITS, DECKS, GARAGES, STORAGE/TOOL SHEDS, SWIMMING POOLS, WALLS, RETAINING WALL, MECHANISMS/APURTANCES AND FENCES. UPON PRIOR WRITTEN APPROVAL BY THE PUBLIC WORKS DEPARTMENT. FENCES MAY PERMITTED ACROSS EASEMENTS, PROVIDED THAT AN ACCESS GATE IS INSTALLED FOR THE FULL WIDTH OF THE EASEMENT.
  5. NO PERSON SHALL PLANT TREES, SHRUBS, OR OTHER PLANTS WITHIN A TOWN OF APEX PUBLIC UTILITY EASEMENT WITHOUT PRIOR WRITTEN APPROVAL FROM THE PUBLIC WORKS DEPARTMENT.
  6. ANY AND ALL STREET SIGNS SHALL ONLY BE PROVIDED AND INSTALLED BY THE TOWN OF APEX.
  7. FIRM PANEL 3720074100J EFFECTIVE 5-6-2006 DOES NOT SHOW THE PRESENCE OF FLOOD ZONES ON PROPERTIES.
  8. WATERSHED INFORMATION: SECONDARY WATERSHED PROTECTION OVERLAY DISTRICT, BIG BRANCH CREEK BASIN, CAPE FEAR RIVER BASIN.

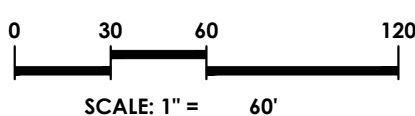
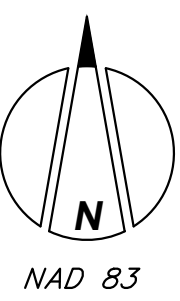
BOUNDARY INFORMATION OBTAINED FROM WAKE COUNTY GIS, DEED AND PLAT DESCRIPTIONS, APEX LIDAR, ADVANCED CIVIL DESIGN, AND OTHER AVAILABLE DATA SOURCES. FINAL BOUNDARY AND SURVEY DOCUMENTS WILL BE PROVIDED DURING THE MASTER SUBDIVISION PLAN DESIGN PHASE OF THE DEVELOPMENT.

STREAM BUFFERS

- 30' ZONE 1 BUFFER
- 20' ZONE 2 BUFFER
- 50' TOA BUFFER

PROJECT'S PERIMETER BOUNDARY

ENVIRONMENTAL FEATURES NOTE:  
STREAM BUFFERS WERE OBTAINED FROM APEX WATERSHED PROTECTION OVERLAY DISTRICT MAP, USGS MAPPING, AND WAKE COUNTY SOILS SURVEY. A FINAL JURISDICTIONAL DETERMINATION (JD) MAP WILL BE PREPARED AND PROVIDED TO STAFF FOR APPROVAL CONCURRENCE.

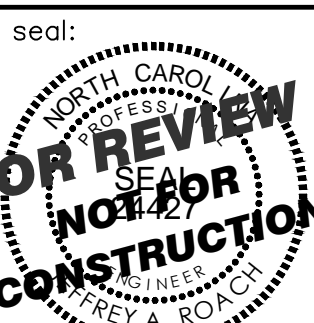


1 EXISTING CONDITIONS  
C001 SCALE: 1"= 60'



NC License #P-0673

project:  
KISSENA LANE  
1105 TINGEN ROAD  
BUCKHORN  
APEX, NORTH CAROLINA 27502



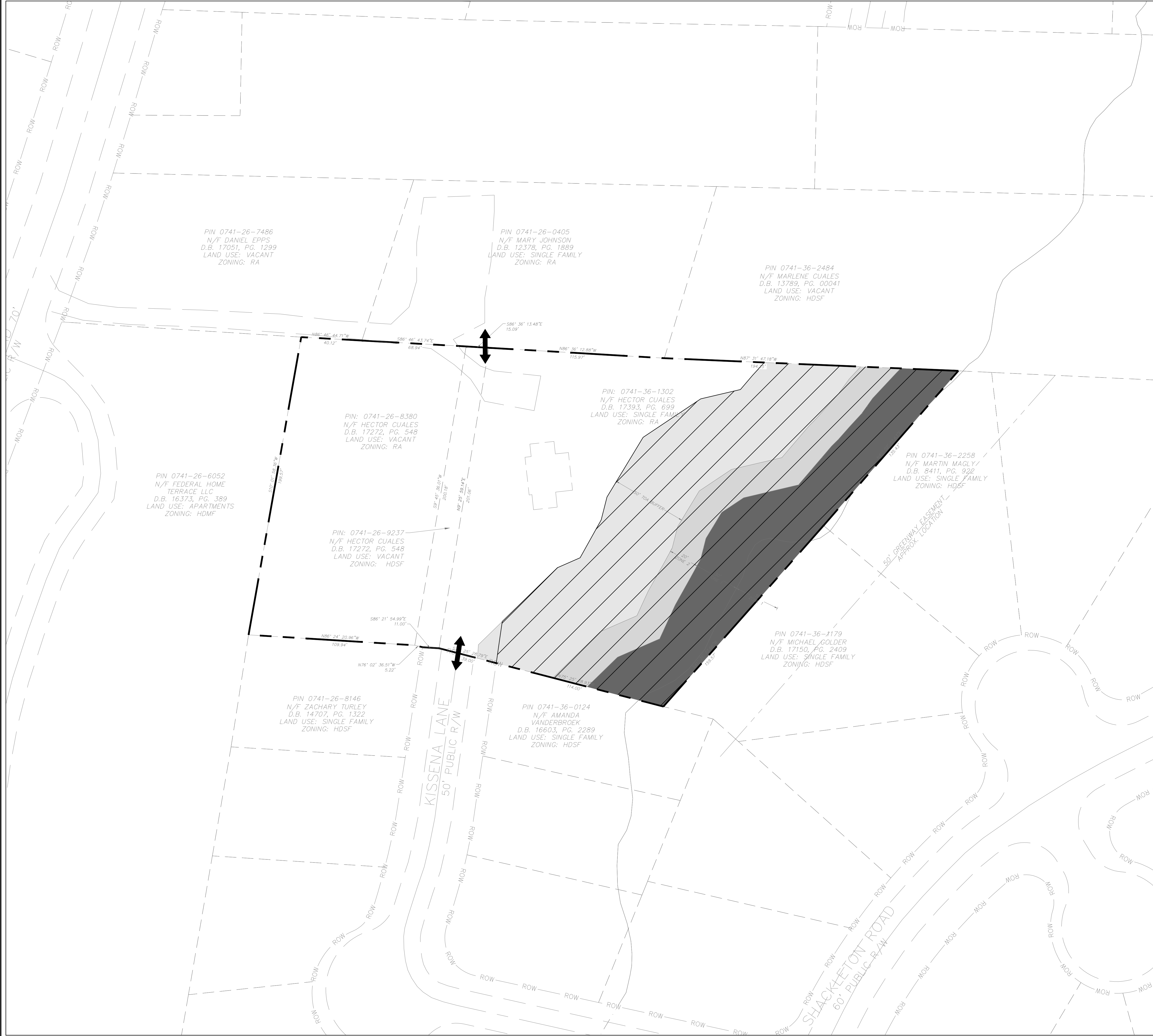
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2	6/8/2019	TOWN OF APEX COMMENTS	DP

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EXISTING CONDITIONS

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180901  
date:  
June 3, 2019  
dwg by: JE  
chkd by: DW  
scale:  
As Noted

sheet:  
C001  
Planned Unit Development





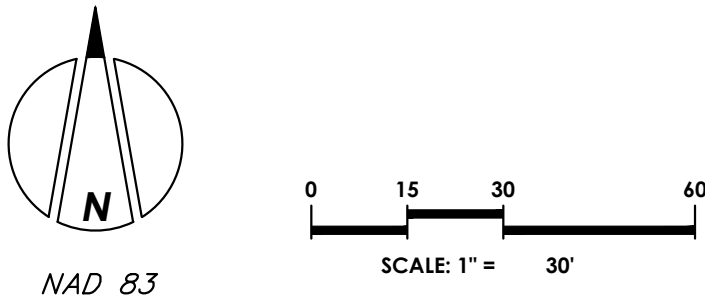
- PRELIMINARY RESOURCE CONSERVATION AREA
- PRELIMINARY DEVELOPMENT AREA
- PRELIMINARY STREET CONNECTIONS

- STREAM BUFFERS
- 30' ZONE 1 BUFFER
  - 20' ZONE 2 BUFFER
  - 50' TOA BUFFER

PROJECT'S PERIMETER BOUNDARY

PLAN SHEETS ARE INTENDED FOR ILLUSTRATIVE USE ONLY

ENVIRONMENTAL FEATURES NOTE:  
STREAM BUFFERS WERE OBTAINED FROM APEX WATERSHED PROTECTION OVERLAY DISTRICT MAP, USGS MAPPING AND WAKE COUNTY SOILS SURVEY. A FINAL JURISDICTIONAL DETERMINATION (JD) MAP WILL BE PREPARED AND PROVIDED TO STAFF FOR APPROVAL CONCURRENCE.



1 CONCEPTUAL SITE PLAN  
SCALE: 1"= 30'

project:  
**KISSENA LANE**  
**1105 TINGEN ROAD**  
**BUCKHORN**  
**APEX, NORTH CAROLINA 27502**



DATE		BY	
1	8/8/2019	DATE OF FIRST COMMENTS	DATE
2	8/8/2019	DATE OF NEXT COMMENTS	DATE

title:  
**CONCEPTUAL SITE PLAN**

proj #:  
**180901**

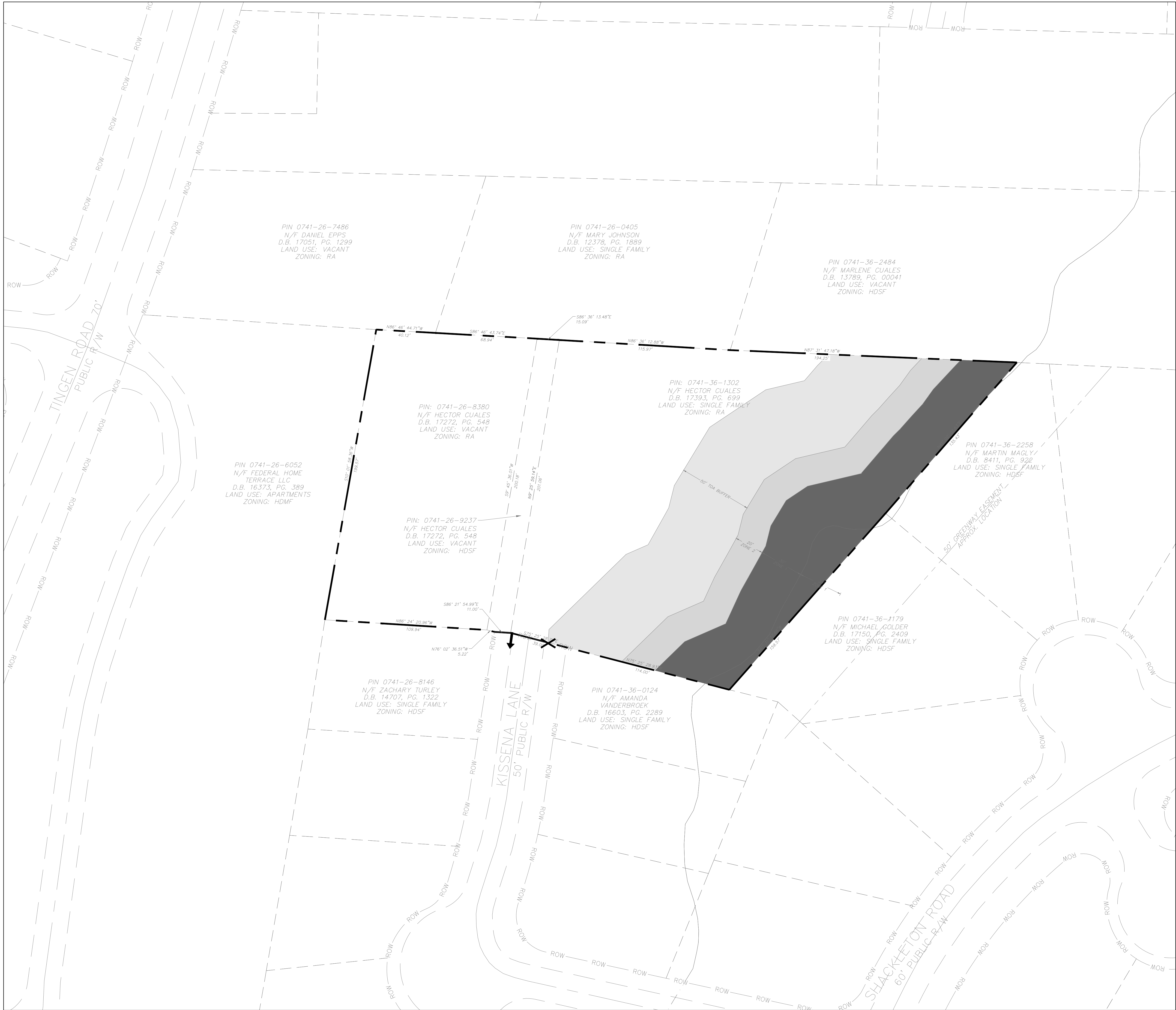
date:  
**June 3, 2019**

dwg by: chkd by:  
**JE DW**

scale:  
**As Noted**

sheet:

**C100**  
Planned Unit Development



- NOTES:
1. THE PROJECT IS REQUEST FULL TOWN OF APEX UTILITIES, INCLUDING WATER, SEWER AND ELECTRICAL SERVICES. THE FINAL LOCATION AND TIMING OF THE REFERENCED SERVICES SHALL BE COORDINATED WITH TOWN STAFF.
  2. THE PROJECT IS NOT PROPOSING PRIVATE SEWAGE DISPOSAL.
  3. THE LOCATION OF LOTS, STREETS, OPEN SPACE, RESOURCE CONSERVATION AREAS, STORMWATER CONTROLS, AND OTHER SITE IMPROVEMENTS ARE ILLUSTRATIVE ONLY AND WILL BE COORDINATED WITH STAFF DURING THE MASTER SUBDIVISION PLAN REVIEW PROCESS.
  4. THE PROJECT WILL COMPLY WITH TOWN OF APEX STANDARDS AND SPECIFICATIONS AS OUTLINED WITHIN THE DESIGN AND DEVELOPMENT MANUAL, THE REZONING PD TEXT, AND UNIFIED DEVELOPMENT ORDINANCE (UDO).

- ↑ PROPOSED WATER CONNECTION
- ✕ PROPOSED SEWER CONNECTION

STREAM BUFFERS

- 30' ZONE 1 BUFFER
- 20' ZONE 2 BUFFER
- 50' TOA BUFFER

ENVIRONMENTAL FEATURES NOTE:  
STREAM BUFFERS WERE OBTAINED FROM APEX WATERSHED PROTECTION OVERLAY DISTRICT MAP, USGS MAPPING, WAKE COUNTY SOILS SURVEY A FINAL JURISDICTIONAL DETERMINATION (JD) MAP WILL BE PREPARED AND PROVIDED TO STAFF FOR APPROVAL CONCURRENCE.

PROJECT PERIMETER BOUNDARY

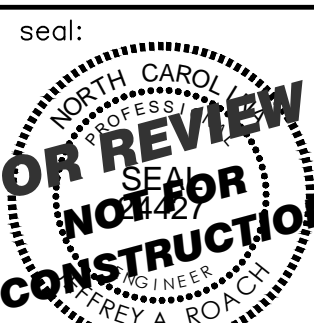
NAD 83

0 15 30 60  
SCALE: 1" = 30'

1 CONCEPTUAL UTILITY PLAN  
C200 SCALE: 1" = 30'

NC License #P-0673

project:  
**KISSENA LANE**  
**1105 TINGEN ROAD**  
**BUCKHORN**  
**APEX, NORTH CAROLINA 27502**



DATE		BY	
DATE OF PRELIMINARY		DATE	
DATE OF FINAL		DATE	
1	2/12/2019	DATE	DATE
2	4/8/2019	DATE	DATE

title:  
**CONCEPTUAL UTILITY PLAN**

proj #:  
**180901**

date:  
**June 3, 2019**

dwg by: chkd by:  
**JE DW**

scale:  
**As Noted**

sheet:  
**C200**  
Planned Unit Development







# | Agenda Item | cover sheet

for consideration by the Apex Town Council

Item Type: CONSENT AGENDA

Meeting Date: February 4, 2020

## Item Details

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

### Requested Motion

Motion to approve Statement of the Town Council and Ordinance for 2045 Land Use Map amendment and Rezoning Case #19CZ24 Upchurch-Williams House, Cara Powell/Capital Area Preservation, Inc., petitioners for the property located on 7213 Roberts Road.

### Approval Recommended?

The Planning and Community Development Department recommends approval.

### Item Details

Rezoning Case #19CZ24 was approved at the January 21, 2020 Town Council Meeting.

### Attachments

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



**ORDINANCE AMENDING THE OFFICIAL ZONING DISTRICT MAP OF THE TOWN OF APEX TO CHANGE THE ZONING OF APPROXIMATELY 5.50 ACRES LOCATED ON 7213 ROBERTS ROAD FROM RURAL RESIDENTIAL (RR) TO OFFICE & INSTITUTIONAL-CONDITIONAL ZONING (O&I-CZ)**

**#19CZ24**

**WHEREAS**, the application of Cara Powell/Capital Area Preservation, Inc., petitioner, for the rezoning of lands hereinafter described was duly filed with the office of the Planning Director and thereafter public hearings were held hereon on the 13<sup>th</sup> day of January 2020 before the Planning Board and the 21<sup>st</sup> day of January 2020, before the Town Council, respectively, pursuant to due notice mailed and published pursuant to G.S. § 160A-384. Thereafter, the Planning Board submitted its final report to the Town Council recommending approval of said application for the rezoning of the lands hereinafter described, all in accordance with the requirements of the Town of Apex Unified Development Ordinance and the provisions of Chapter 160A, Article 19, of the North Carolina General Statutes; **NOW, THEREFORE**,

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

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

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

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

**Zoning Conditions:**

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

**Permitted Uses and Limitations:**

- |                                     |  |
|-------------------------------------|--|
| 1. Assembly hall, nonprofit         | 12. Medical or dental office or clinic |
| 2. Assembly hall, for profit        | 13. Office, business or professional   |
| 3. Church or place of worship (P/S) | 14. Barber and beauty shop             |
| 4. Government service               | 15. Floral shop                        |
| 5. Veterinary clinic or hospital    | 16. Real estate sales                  |
| 6. Vocational school                | 17. Studio for art                     |
| 7. Botanical garden                 | 18. Tailor shop                        |
| 8. Greenway                         | 19. Pet services                       |
| 9. Park, active                     | 19. Restaurant, general (%)            |
| 10. Park, passive                   | 20. Personal service (%)               |
| 11. Youth or day camps              |  |

Conditions:

1. The sidewalk and parking for this historic landmark property shall be constructed with materials such as Exposed Aggregate Concrete or similar material.
2. All renovations on historic buildings requiring site plan approval shall follow the Secretary of the Interior’s guidelines for Rehabilitation of Historic Structures and applicable regulations in the UDO Section 6.3 Small Town Character Overlay District. If a historic building is designated as a Wake County Landmark, then a Certificate of Appropriateness from Wake County Historic Preservation Commission shall be required.
3. New development, construction or renovations to non-historic buildings shall comply with the applicable sections of the UDO and the following conditions:
  - a. EIFS or synthetic stucco shall not be used in the first four (4) feet above grade and shall be limited to only 25% of each building façade.
  - b. Predominate exterior building materials shall be high quality materials, including brick, wood, stacked stone, other native stone, and tinted/textured concrete masonry units.
  - c. Building exterior shall have more than one (1) material color.

**Section 4:** The Planning Director is hereby authorized and directed to cause the said Official Zoning District Map for the Town of Apex, North Carolina, to be physically revised and amended to reflect the zoning changes ordained by this Ordinance.

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

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

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

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

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

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

This the \_\_\_\_ day of \_\_\_\_\_ 2020.

**TOWN OF APEX**

\_\_\_\_\_  
Mayor

**ATTEST:**

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

**APPROVED AS TO FORM:**

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

**STATEMENT OF THE APEX TOWN COUNCIL PURSUANT TO G.S. 160A-383  
ADDRESSING ACTION ON ZONING PETITION #19CZ24**

Cara Powell/Capital Area Preservation, Inc., owner/applicant (the "Applicant"), submitted a completed application for a conditional zoning on the 1<sup>st</sup> day of November 2019 (the "Application"). The proposed conditional zoning is designated #19CZ24.

The Planning Director for the Town of Apex, Dianne Khin, caused proper notice to be given (by publication and posting) of a public hearing on #19CZ24 before the Planning Board held on the 13<sup>th</sup> day of January 2020.

Pursuant to G.S. §160A-384 and Sec. 2.2.11(E) of the Unified Development Ordinance, the Planning Director caused proper notice to be given (by publication and posting), of a public hearing on #19CZ24 before the Town Council on the 21<sup>st</sup> day of January 2020.

The Apex Planning Board held a public hearing on the 13<sup>th</sup> day of January 2020, gathered facts, received public comments and formulated a recommendation regarding the application for conditional zoning #19CZ24. A motion was made at the Apex Planning Board to recommend approval; the motion passed unanimously for the application for #19CZ24.

The Apex Town Council held a public hearing on the 21<sup>st</sup> day of January 2020. Lauren Staudenmaier, Planner I, presented the Planning Board's recommendation at the public hearing.

All persons who desired to present information relevant to the application for #19CZ24 and who were residents of Apex or its extraterritorial jurisdiction, or who owned property adjoining the property for which the conditional zoning is sought, were allowed to present evidence at the public hearing before the Apex Town Council. No one who wanted to speak was turned away.

The Town Council by a vote of 5 to 0 approved Application #19CZ24 rezoning the subject tract located at 7213 Roberts Road from Rural Residential (RR) to Office & Institutional-Conditional Zoning (O&I-CZ).

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

**STATEMENT OF THE APEX TOWN COUNCIL ZONING PETITION #19CZ24**  
**PAGE 2**

The Apex Town Council finds that the approval of the rezoning is reasonable and in the public interest in that it will provide for a variety of options for the use of the large historic home on the subject property. The historic structure was acquired by Capital Area Preservation (CAP) and moved to this site in 2015 and has been on the market since then. A historic preservation easement has been recorded on the property, which will ensure preservation of the house in a manner to maintain the Landmark status of the house. As the existing structure is residential in nature, the property will remain consistent with the appearance of the area. The rezoning will encourage compatible development of the property and increase the tax base.

\_\_\_\_\_  
Jacques K. Gilbert  
Mayor

ATTEST:

\_\_\_\_\_  
Donna B. Hosch, MMC, NCCMC  
Town Clerk

\_\_\_\_\_  
Date

AFFIDAVIT OF OWNERSHIP: EXHIBIT A – LEGAL DESCRIPTION

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

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

**Insert legal description below.**

Being all of the 5.57 acre shown on a plat which is recorded in Book of Maps 2015, Page 1405, Wake County Registry.

# | Agenda Item | cover sheet

for consideration by the Apex Town Council

Item Type: CONSENT AGENDA

Meeting Date: February 4, 2020

## Item Details

Presenter(s): Shelly Mayo, Planner II

Department(s): Planning and Community Development Department

### Requested Motion

Motion to set the Public Hearing for the February 18, 2020 Town Council meeting regarding Rezoning Application #19CZ21 Heelan PUD and Ordinance. The applicant, Jason Barron for Morningstar Law Group, seeks to rezone approximately 141.732 acres from Wake Co. R-40W to Planned Unit Development-Conditional Zoning (PUD-CZ). The proposed rezoning is located at 8824 & 8829 New Hope Farm Road, 3108 & 3120 Olive Farm Road, and 0 Humie Olive Road.

### Approval Recommended?

The Planning and Community Development Department recommends approval.

### Item Details

The following PINs are included in this rezoning:

0710986889 (portion of), 0720093139 (portion of), 0720181967, 0720075965, and 0720092779

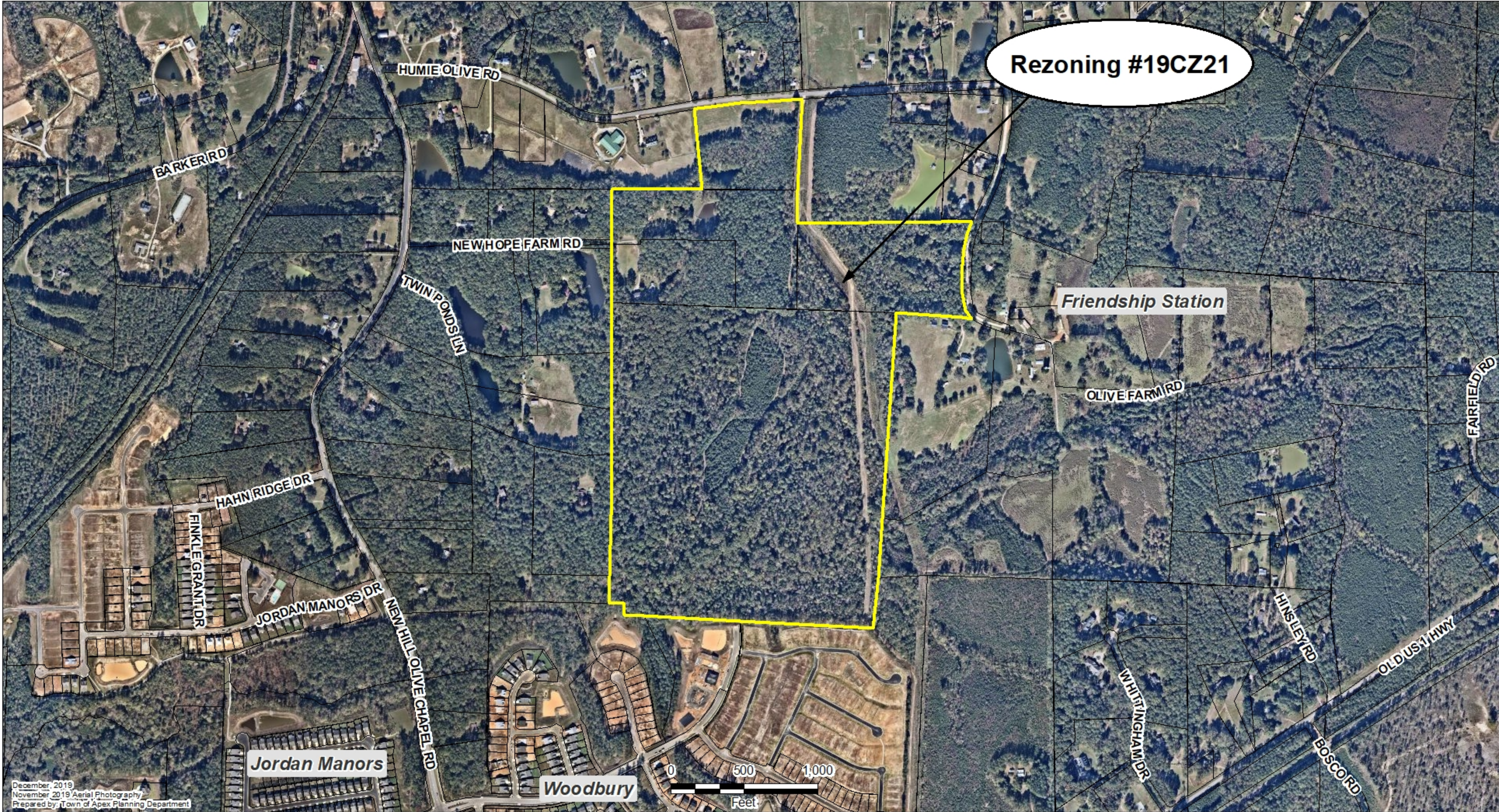
### Attachments

- Vicinity Map
- Application





Rezoning #19CZ21



HUMIE OLIVE RD

BARKER RD

NEW HOPE FARM RD

TWIN PONDS LN

Friendship Station

OLIVE FARM RD

HAHN RIDGE DR

FINKLE GRANT DR

JORDAN MANORS DR

NEW HILL OLIVE CHAPEL RD

Jordan Manors

Woodbury



FARFIELD RD

HINSLEY RD

WHITTINGHAM DR

BOSCORD

OLD US 1 HWY



**PLANNED UNIT DEVELOPMENT APPLICATION**

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

Application #:

Submittal Date:

Fee Paid

\$ 3,920

Check #

10.1.19  
11681 + 11682**PETITION TO AMEND THE OFFICIAL ZONING DISTRICT MAP**Project Name: Heelan RezoningAddress(es): 8824 & 8829 NEW HOPE FARM RD; 3108 & 3120 OLIVE FARM RD; & 0 HUMIE OLIVE RDPIN(s) 0710-98-6889 & 0720- 07-5965, 09-2779, 09-3139, & 18-1967Acreage: 141.12Current Zoning: R-40WProposed Zoning: PUD-CZCurrent 2045 LUM Designation: Low Density Residential & Medium Density ResidentialRequested 2045 LUM Designation: No Change

See next page for LUM amendment

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

Area classified as mixed use:

Acreage: \_\_\_\_\_

Area proposed as non-residential development:

Acreage: \_\_\_\_\_

Percent of mixed use area proposed as non-residential:

Percent: \_\_\_\_\_

**Applicant Information**Name: Jason Barron - Attorney for M/I Homes of Raleigh, LLCAddress: 1511 Sunday Drive | Ste 100City: RaleighState: NCZip: 27607Phone: 919-590-0371E-mail: jbarron@morningstarlawgroup.com**Owner Information**Name: See Attached

Address: \_\_\_\_\_

City: \_\_\_\_\_

State: \_\_\_\_\_

Zip: \_\_\_\_\_

Phone: \_\_\_\_\_

E-mail: \_\_\_\_\_

**Agent Information**Name: M/I Homes of Raleigh, LLCAddress: 1511 Sunday Drive | Ste 100City: RaleighState: NCZip: 27607Phone: 919-590-0371E-mail: jbarron@morningstarlawgroup.comOther contacts: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Property Owners

PIN	Owner	Mailing Address	City, State Zip	Deed Acres	Site Address
0710-98-6889	KASTELBERG, HENRY STEVEN	8824 NEW HOPE FARM RD	NEW HILL NC 27562-9178	8.86	8824 NEW HOPE FARM RD
0720-07-5965	CAROL B HEELAN IRREVOCABLE TRUST	12940 DORMAN RD	PINEVILLE NC 28134-9386	91	3120 OLIVE FARM RD
0720-18-1967	c/o GEORGE HEELAN TRUSTEE	APT 2206		16.77	3108 OLIVE FARM RD
0720-09-2779	CICIN, JERFI CICIN, LISA	104 CORSICA LN	CARY NC 27511-6476	9.49	0 HUMIE OLIVE RD
0720-09-3139	PEART, EDWARD A PEART, DEBORAH N	8829 NEW HOPE FARM RD	NEW HILL NC 27562-9179	15	8829 NEW HOPE FARM RD

Beginning at an existing iron pipe found in Olive Farm Road (SR 1178)(60' Public Right of Way), said iron pipe being South 49°37'44" West 28,658.33 feet from NCGS monument "Staley" having N.C. Grid Coordinates (NAD83/2011) of N=727,821.36, E=2,043,644.97, thence from said Beginning point, with a line in said road the following 8 calls; South 21°48'27" West 100.04 feet to a point, thence South 12°15'17" West 100.09 feet to a point, thence South 03°45'42" West 100.03 feet to a point, thence South 01°43'47" West 100.04 feet to a point, thence South 00°11'33" East 100.03 feet to a point, thence South 10°26'03" East 99.95 feet to a point, thence South 37°21'17" East 74.79 feet to an existing iron pipe, thence South 62°11'48" East 52.88 feet to a rebar set, thence leaving said line in Olive Farm Road (SR 1178) North 82°02'43" West 78.75 feet to a rebar set on the southwestern right of way of Olive Farm Road (SR 1178)(60' Public Right of Way), thence leaving said right of way North 82°02'43" West 64.50 feet to an existing iron pipe, thence North 85°44'16" West 448.90 feet to an existing iron pipe, thence South 03°55'05" West 1,407.26 feet to an existing iron pipe, thence South 03°53'40" West 401.10 feet to an existing iron pipe, thence South 06°15'03" West 347.00 feet to a rebar set, thence North 87°04'04" West 851.57 feet to an existing iron pipe, thence North 86°43'16" West 847.07 feet to a rebar set, thence North 01°00'24" East 76.02 feet to nail found at a bent iron pipe, thence North 89°12'54" West 100.50 feet to an existing iron pipe found, thence North 00°14'54" East 1,005.76 feet to an existing iron pipe, thence North 00°16'46" East 692.82 feet to an existing iron pipe, thence North 00°15'45" East 344.53 feet to an existing iron pipe, thence North 00°15'45" East 372.44 feet to a rebar set, thence North 00°22'39" East 30.01 feet to a rebar set, thence North 00°18'40" East 30.01 feet to an existing iron pipe, thence North 00°16'16" East 344.87 feet to an existing iron pipe, thence South 89°48'42" East 617.69 feet to an existing iron pipe, thence North 06°53'33" West 580.45 feet to a point in the centerline of Humie Olive Road (SR 1142)(60' Public Right of way), thence with said centerline North 81°10'21" East 136.24 feet to a point, thence North 81°24'46" East 53.40 feet to a point, thence North 83°08'38" East 60.19 feet to a point, thence North 85°15'06" East 77.57 feet to a point, thence North 85°46'28" East 104.35 feet to a point, thence North 85°53'22" East 147.45 feet to a point, thence North 86°13'49" East 26.06 feet to a point, thence North 86°13'49" East 35.00 feet to a point, thence North 86°13'49" East 115.00 feet to a point, thence leaving said centerline South 02°39'12" West 30.17 feet to a point on the southern right of way of Hume Olive Road (SR 1142)(60' Public Right of Way), thence leaving said right of way South 02°47'15" West 621.32 feet to an existing iron pipe, thence South 00°29'09" West 225.80 feet to an existing rebar, thence North 89°34'45" East 1,224.62 feet to the point and place of Beginning containing 141.732 Acres more or less.

**CERTIFIED LIST OF NEIGHBORING PROPERTY OWNERS**

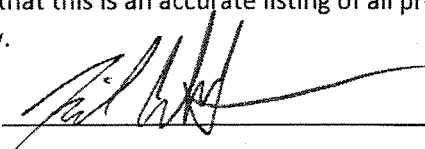
Application #: \_\_\_\_\_

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

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

	Owner's Name	PIN
1.	See Attached	
2.		
3.		
4.		
5.		
6.		
7.		
8.		
9.		
10.		
11.		
12.		
13.		
14.		
15.		

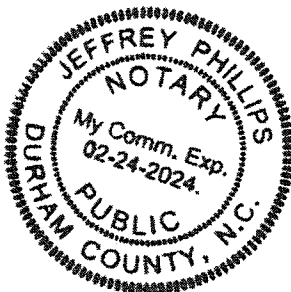
I, NZL Gresh, certify that this is an accurate listing of all property owners and property owners within 300' of the subject property.

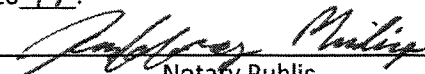
Date: 10/1/19By: 

COUNTY OF WAKE STATE OF NORTH CAROLINA

Sworn and subscribed before me, Jeffrey Phillips, a Notary Public for the above State and County, on this the 1st day of October, 2019.

SEAL



  
Notary Public  
Jeffrey Phillips  
Print Name

My Commission Expires: 02-24-2024

Certified List of Neighboring Property Owners

Owner's Name	PIN
3 BOYS CAPITAL LLC MUSIC ROW INVESTMENTS LLC	0720-17-7185
3 BOYS CAPITAL LLC SB CAPITAL LLC	0720-28-2995 0720-28-6437
ADAMS-KNOUFF, CAREY	0710-87-9844 0710-88-9126
ALBRECHT, DONNA J TRUSTEE DONNA J ALBRECHT RVCBLE LVNG TRUST	0710-88-9798
APEX TOWN OF	0720-19-0665 0720-19-6276 0720-19-7417
CAROL B HEELAN IRREVOCABLE TRUST	0720-18-1967 0720-07-5965
CICIN, JERFI CICIN, LISA	0720-09-2779
FMR INVESTMENTS LLC CHATHAM CAPITAL GROUP LLC	0720-27-6714
GENTILE, CHRISTOPHER D	0721-00-9530
GOODMAN, WILLIAM DAVID JR GOODMAN, JILL M	0710-99-0226
HOFFMAN, JOSEPH E JR HOFFMAN, SHIRLEY J	0710-88-4797
JUDD, MILDRED B JUDD, LINDA FAYE	0721-00-5342
KASTELBERG, HENRY STEVEN	0710-98-6889
KELLY, ROBERT L KELLY, MILDRED D	0720-29-4621
MCKEITHAN, KAREN D ST CLAIR, LANCE	0710-88-7654
MCKINNISH, TIMOTHY D	0710-86-5906
NORMAN, JOHN K	0710-97-0228
OLIVE, A C HEIRS	0720-19-9119
OLIVE, JUDITH H OLIVE, ROBERT A	0720-18-5030
OLIVER, JAMES E JR OLIVER, JANICE	0721-00-0505
OLIVER, JAMES E JR OLIVER, JANICE	0721-00-3444
OLIVER, JAMES E. JR. OLIVER, JANICE	0711-90-3580
PAIRIS-GARCIA, MONIQUE GARCIA, JUAN	0710-89-6246
PEART, EDWARD A PEART, DEBORAH N	0720-09-3139
PULTE HOME COMPANY, LLC	0710-86-7029 0710-95-2812 0710-96-3227 0710-96-4235 0710-96-8199 0720-05-7756
YUMEEWARRA FARM LLC	0710-99-3712

## DEVELOPMENT NAME APPROVAL APPLICATION

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

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

### Proposed Subdivision/Development Information

Description of location: 8824 & 8829 NEW HOPE FARM RD; 3108 & 3120 OLIVE FARM RD; & 0 HUMIE OLIVE

Nearest intersecting roads: Humie Olive Road at Olive Farm Road

Wake County PIN(s): 0710-98-6889 & 0720- 07-5965, 09-2779, 09-3139, & 18-1967

Township: Buckhorn

### Contact Information (as appropriate)

Contact person: Jason Barron

Phone number: 919-590-0371

Fax number: 919-301-8936

Address: 421 Fayetteville St | Ste 530 Raleigh, NC 27601

E-mail address: jbarron@morningstarlawgroup.com

Owner: \_\_\_\_\_

Phone number: \_\_\_\_\_ Fax number: \_\_\_\_\_

Address: \_\_\_\_\_

E-mail address: \_\_\_\_\_

### Proposed Subdivision/Development Name

1<sup>st</sup> Choice: Fallsgrove

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

### Town of Apex Staff Approval:

\_\_\_\_\_  
Town of Apex Planning Department Staff

\_\_\_\_\_  
Date



## STREET NAME APPROVAL APPLICATION

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

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

Wake County Approval Date: \_\_\_\_\_

### Guidelines:

- No names duplicating or sounding similar to existing road names
- Avoid difficult to pronounce names
- No individuals' names
- Avoid proper names of a business, e.g. Hannaford Drive
- Limit names to 14 characters in length
- No directionals, e.g. North, South, East, West
- No punctuation marks, e.g. periods, hyphens, apostrophes, etc.
- Avoid using double suffixes, e.g. Deer Path Lane
- All names must have an acceptable suffix, e.g. Street, Court, Lane, Path, etc.
- Use only suffixes which are Town of Apex approved
- Town of Apex has the right to deny any street name that is determined to be inappropriate

### Information:

Description of location: 8824 & 8829 NEW HOPE FARM RD; 3108 & 3120 OLIVE FARM RD; & 0 HUMIE OLIVE

Nearest intersecting roads: Humie Olive Road at Olive Farm Road

Wake County PIN(s): 0710-98-6889 & 0720- 07-5965, 09-2779, 09-3139, & 18-1967

Township: Buckhorn

### Contact information (as appropriate)

Contact person: Jason Barron

Phone number: 919-590-0371

Fax number: 919-301-8936

Address: 421 Fayetteville St | Ste 530 Raleigh, NC 27601

E-mail address: jbarron@morningstarlawgroup.com

Owner: \_\_\_\_\_

Phone number: \_\_\_\_\_ Fax number: \_\_\_\_\_

Address: \_\_\_\_\_

E-mail address: \_\_\_\_\_

## STREET NAME APPROVAL APPLICATION

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

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

# of roads to be named: 2

Please submit twice as many road names as needed, with preferred names listed first. Proposed road names should be written exactly as one would want them to appear. Town of Apex Planning Department staff will send all approved street names to the Wake County GIS Department for county approval. Please allow several weeks for approval. Upon approval Wake County GIS – Street Addressing will inform you of the approved street names.

Example: Road Name      Suffix

Hunter      Street

1	Fallsgrove Boulevard	11	_____
2	Sun Ochre Drive	12	_____
3	_____	13	_____
4	_____	14	_____
5	_____	15	_____
6	_____	16	_____
7	_____	17	_____
8	_____	18	_____
9	_____	19	_____
10	_____	20	_____

### TOWN OF APEX STAFF APPROVAL

Town of Apex Staff Approval

Date

### WAKE COUNTY STAFF APPROVAL:

GIS certifies that \_\_\_\_\_ names indicated by checkmark ☒ are approved.  
Please disregard all other names.

Comments:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Wake County GIS Staff Approval

Date



## TOWN OF APEX UTILITIES OFFER AND AGREEMENT

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

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

3108 & 3120 OLIVE FARM RD; 0 HUMIE OLIVE RD; &

8824 & 8829 NEW HOPE FARM RD

(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.

M/I Homes of Raleigh, LLC, the undersigned customer ("Customer") hereby irrevocably chooses and selects the Town of Apex (the "Town") as the permanent electric supplier for the Premises. Permanent service to the Premises will be preceded by temporary service if needed.

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

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

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

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

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

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

ACCEPTED:

CUSTOMER: M/I Homes of Raleigh, LLC TOWN OF APEX

BY: [Signature]

Authorized Agent

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

Authorized Agent

DATE: 9.27.19

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

**AGENT AUTHORIZATION FORM**

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

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

KASTELBERG, HENRY STEVEN

is the owner\* of the property for which the attached

application is being submitted:

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

The property address is: 8824 NEW HOPE FARM RD (0710-98-6889)The agent for this project is: M/I Homes of Raleigh, LLC☐ I am the owner of the property and will be acting as my own agentAgent Name: Erica LeathamAddress: 1511 Sunday Drive | Ste 100 Raleigh, NC 27607

Telephone Number: \_\_\_\_\_

E-Mail Address: \_\_\_\_\_

Signature(s) of Owner(s)\*

Henry Steven Kastelberg  
Henry Steven Kastelberg

Type or print name

26 Sept 2019  
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.

## AGENT AUTHORIZATION FORM

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

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

CICIN, JERIF CICIN, LISA

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

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

The property address is: 0 HUMIE OLIVE RD (0720-09-2779)

The agent for this project is: M/I Homes of Raleigh, LLC

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


Agent Name: Erica Leatham

Address: 1511 Sunday Drive | Ste 100 Raleigh, NC 27607

Telephone Number: \_\_\_\_\_

E-Mail Address: \_\_\_\_\_


Signature(s) of Owner(s)\*

  
Jerif Cicin

Type or print name

9/25/19

Date

  
Lisa Cicin

Type or print name

9/25/19

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.

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## AGENT AUTHORIZATION FORM

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

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

CAROL B HEELAN IRREVOCABLE TRUST

is the owner\* of the property for which the attached

application is being submitted:

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

The property address is: 3108 OLIVE FARM RD (0720-18-1967) & 3120 OLIVE FARM RD (0720-07-5965)

The agent for this project is: M/I Homes of Raleigh, LLC

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

Agent Name: Erica Leatham

Address: 1511 Sunday Drive | Ste 100 Raleigh, NC 27607

Telephone Number: \_\_\_\_\_

E-Mail Address: \_\_\_\_\_

Signature(s) of Owner(s)\*

George Heelan

George Heelan

Type or print name

Sept. 25, 2019

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.



## AGENT AUTHORIZATION FORM

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

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

PEART, EDWARD A PEART, DEBORAH N is the owner\* of the property for which the attached application is being submitted:

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

The property address is: 8829 NEW HOPE FARM RD (0720-09-3139)

The agent for this project is: M/I Homes of Raleigh, LLC

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

Agent Name: Erica Leatham

Address: 1511 Sunday Drive | Ste 100 Raleigh, NC 27607

Telephone Number: \_\_\_\_\_

E-Mail Address: \_\_\_\_\_

Signature(s) of Owner(s)\*

E. Aaron Peart

Type or print name

9-29-19

Date

Deborah N. Peart

Type or print name

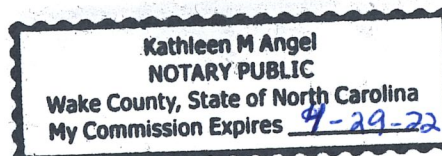
9-29-19

Date

Attach additional sheets if there are additional owners.

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

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



# AFFIDAVIT OF OWNERSHIP

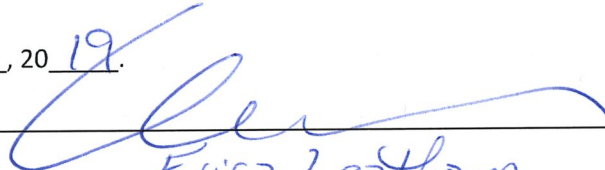
Application #: \_\_\_\_\_

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

The undersigned, Erica Leatham (the "Affiant") first being duly sworn, hereby swears or affirms as follows:

1. Affiant is over eighteen (18) years of age and authorized to make this Affidavit. The Affiant is the sole owner, or is the authorized agent of all owners, of the property located at 8824 & 8829 NEW HOPE FARM RD; 3108 & 3120 OLIVE FARM RD; & 0 HUMIE OLIVE RD 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 \_\_\_\_\_, and recorded in the Wake County Register of Deeds Office on \_\_\_\_\_, in Book \_\_\_\_\_ 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).
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 \_\_\_\_\_, 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 27<sup>th</sup> day of Sept, 2019.


 (seal)  
Erica Leatham  
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 Erica Leatham, Affiant, personally known to me or known to me by said Affiant's presentation of said Affiant's Erica Leatham, personally appeared before me this day and acknowledged the due and voluntary execution of the foregoing Affidavit.

[NOTARY SEAL]



  
Notary Public Sara S. Clifton  
State of North Carolina  
My Commission Expires: 1-10-2020

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

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

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

Insert legal description below.

Beginning at an existing iron pipe found in Olive Farm Road (SR 1178)(60' Public Right of Way), said iron pipe being South 49°37'44" West 28,658.33 feet from NCGS monument "Staley" having N.C. Grid Coordinates (NAD83/2011) of N=727,821.36, E=2,043,644.97, thence from said Beginning point, with a line in said road the following 8 calls; South 21°48'27" West 100.04 feet to a point, thence South 12°15'17" West 100.09 feet to a point, thence South 03°45'42" West 100.03 feet to a point, thence South 01°43'47" West 100.04 feet to a point, thence South 00°11'33" East 100.03 feet to a point, thence South 10°26'03" East 99.95 feet to a point, thence South 37°21'17" East 74.79 feet to an existing iron pipe, thence South 62°11'48" East 52.88 feet to a rebar set, thence leaving said line in Olive Farm Road (SR 1178) North 82°02'43" West 78.75 feet to a rebar set on the southwestern right of way of Olive Farm Road (SR 1178)(60' Public Right of Way), thence leaving said right of way North 82°02'43" West 64.50 feet to an existing iron pipe, thence North 85°44'16" West 448.90 feet to an existing iron pipe, thence South 03°55'05" West 1,407.26 feet to an existing iron pipe, thence South 03°53'40" West 401.10 feet to an existing iron pipe, thence South 06°15'03" West 347.00 feet to a rebar set, thence North 87°04'04" West 851.57 feet to an existing iron pipe, thence North 86°43'16" West 847.07 feet to a rebar set, thence North 01°00'24" East 76.02 feet to nail found at a bent iron pipe, thence North 89°12'54" West 100.50 feet to an existing iron pipe found, thence North 00°14'54" East 1,005.76 feet to an existing iron pipe, thence North 00°16'46" East 692.82 feet to an existing iron pipe, thence North 00°15'45" East 344.53 feet to an existing iron pipe, thence North 00°15'45" East 372.44 feet to a rebar set, thence North 00°22'39" East 30.01 feet to a rebar set, thence North 00°18'40" East 30.01 feet to an existing iron pipe, thence North 00°16'16" East 344.87 feet to an existing iron pipe, thence South 89°48'42" East 617.69 feet to an existing iron pipe, thence North 06°53'33" West 580.45 feet to a point in the centerline of Humie Olive Road (SR 1142)(60' Public Right of way), thence with said centerline North 81°10'21" East 136.24 feet to a point, thence North 81°24'46" East 53.40 feet to a point, thence North 83°08'38" East 60.19 feet to a point, thence North 85°15'06" East 77.57 feet to a point, thence North 85°46'28" East 104.35 feet to a point, thence North 85°53'22" East 147.45 feet to a point, thence North 86°13'49" East 26.06 feet to a point, thence North 86°13'49" East 35.00 feet to a point, thence North 86°13'49" East 115.00 feet to a point, thence leaving said centerline South 02°39'12" West 30.17 feet to a point on the southern right of way of Hume Olive Road (SR 1142)(60' Public Right of Way), thence leaving said right of way South 02°47'15" West 621.32 feet to an existing iron pipe, thence South 00°29'09" West 225.80 feet to an existing rebar, thence North 89°34'45" East 1,224.62 feet to the point and place of Beginning containing 141.732 Acres more or less.

# NOTICE OF NEIGHBORHOOD MEETING

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

9/16/19

Date

Dear Neighbor:

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

8824 & 8829 NEW HOPE FARM RD; 3108 & 3120 OLIVE FARM RD; & 0 HUMIE OLIVE RD

0710-98-6889 & 0720- 07-5965, 09-2779, 09-3139, & 18-1967

Address(es)

PIN(s)

in accordance with the Town of Apex Neighborhood Meeting procedures. This meeting is intended to be a way for the applicant to discuss the project and review the proposed plans with adjacent neighbors and neighborhood organizations before the submittal of an application to the Town. This provides neighbors an opportunity to raise questions and discuss any concerns about the impacts of the project before it is officially submitted. Once an application has been submitted to the Town, it may be tracked using the [Interactive Development Map](#) or the [Apex Development Report](#) located on the Town of Apex website at [www.apexnc.org](http://www.apexnc.org).

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

Application Type	Approving Authority
<input checked="" type="checkbox"/> Rezoning (including Planned Unit Development)	Town Council
<input type="checkbox"/> Major Site Plan	Town Council (QJPH*)
<input type="checkbox"/> Special Use Permit	Town Council (QJPH*)
<input checked="" type="checkbox"/> Residential Master Subdivision Plan (excludes exempt subdivisions)	Technical Review Committee (staff)

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

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

The applicant hopes to rezone about 142 acres to allow for the development of a residential community with about 475 dwelling units consisting of a mix of single-family detached homes on lots of different sizes and well as townhomes.

Estimated submittal date: October 1

## MEETING INFORMATION:

Property Owner(s) name(s):

HENRY KASTELBERG, CAROL B HEELAN IRREVOCABLE TRUST, JERIF & LISA CICIN, AND EDWARD & DEBORAH PEART

Applicant(s):

Jason Barron - Attorney for Applicant

Contact information (email/phone):

919-590-0371

Meeting Address:

237 N Salem St., Apex, NC 27502

Date of meeting\*\*:

September 26, 2019

Time of meeting\*\*:

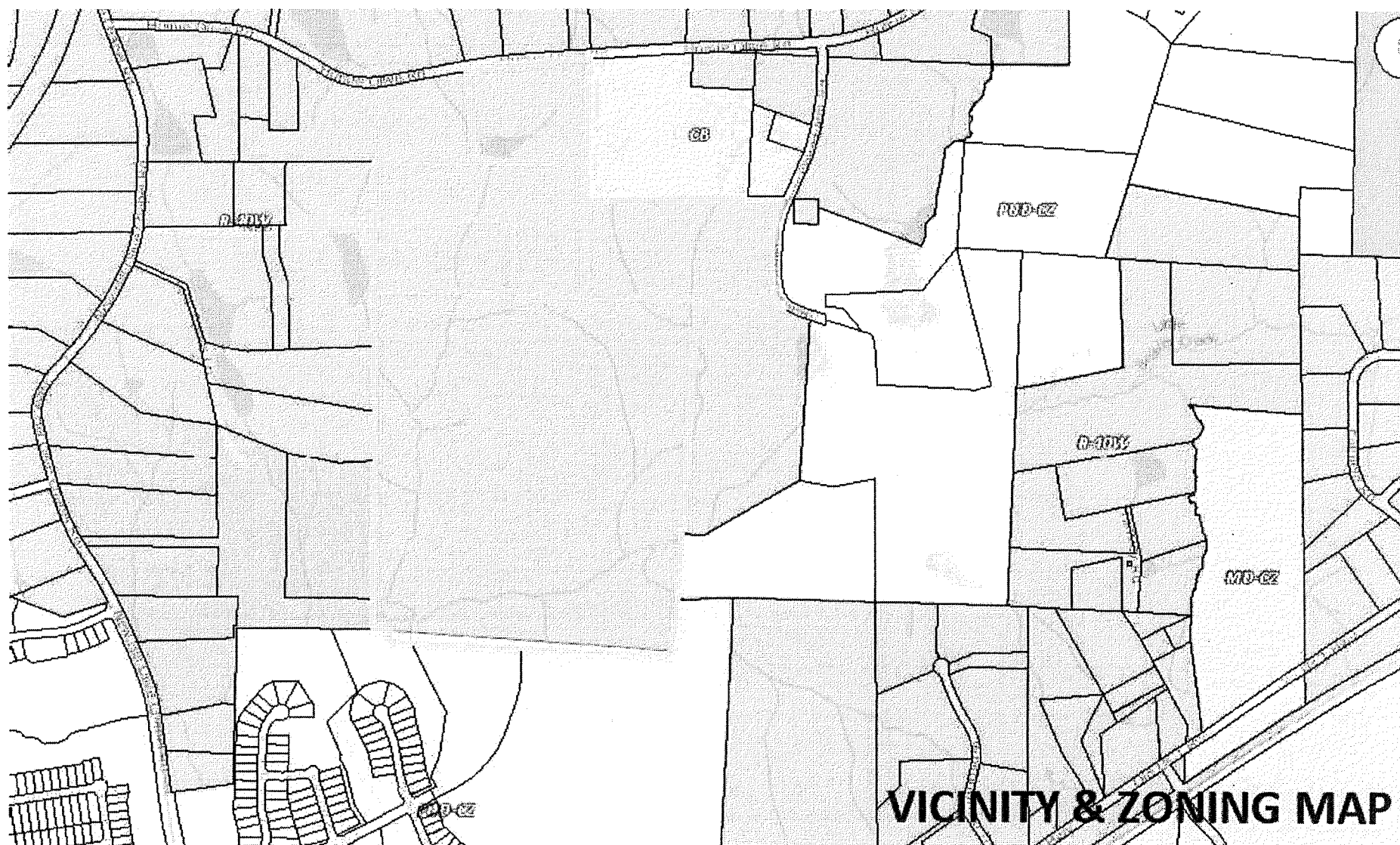
6:00 PM

## MEETING AGENDA TIMES:

Welcome: 6:00 - 6:05 Project Presentation: 6:05 - 6:10 Question & Answer: 6:10 - end

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





**VICINITY & ZONING MAP**

3 BOYS CAPITAL LLC MUSIC ROW INVESTMENTS LLC  
1018 N WELLONSBURG PL  
APEX NC 27502-7127

3 BOYS CAPITAL LLC SB CAPITAL LLC  
1018 N WELLONSBURG PL  
APEX NC 27502-7127

ADAMS-KNOUFF, CAREY  
8833 TWIN PONDS LN  
NEW HILL NC 27562-9235

ALBRECHT, DONNA J TRUSTEE DONNA J ALBRECHT  
RVCBLE LVNG TRUST  
8820 NEW HOPE FARM RD  
NEW HILL NC 27562-9178

TOWN OF APEX PLANNING DEPARTMENT  
PO BOX 250  
APEX NC 27502-0250

APEX TOWN OF  
PO BOX 250  
APEX NC 27502-0250

CAROL B HEELAN IRREVOCABLE TRUST  
c/o GEORGE HEELAN TRUSTEE  
12940 DORMAN RD APT 2208  
PINEVILLE NC 28134-9386

CICIN, JERIF CICIN, LISA  
104 CORSICA LN  
CARY NC 27511-6476

FMR INVESTMENTS LLC CHATHAM CAPITAL GROUP LLC  
1018 N WELLONSBURG PL  
APEX NC 27502-7127

GENTILE, CHRISTOPHER D  
1816 CROSS COUNTRY LN  
APEX NC 27502-9600

GOODMAN, WILLIAM DAVID JR GOODMAN, JILL M  
PO BOX 307  
NEW HILL NC 27562-0307

HOFFMAN, JOSEPH E JR HOFFMAN, SHIRLEY J  
8800 NEW HOPE FARM RD  
NEW HILL NC 27562-9178

JUDD, MILDRED B JUDD, LINDA FAYE  
8600 HUMIE OLIVE RD  
APEX NC 27502-8976

KASTELBERG, HENRY STEVEN  
8824 NEW HOPE FARM RD  
NEW HILL NC 27562-9178

KELLY, ROBERT L KELLY, MILDRED D  
3000 GALLOWAY RDG APT B302  
PITTSBORO NC 27312-3803

MCKEITHAN, KAREN D ST CLAIR, LANCE  
8812 NEW HOPE FARM RD  
NEW HILL NC 27562-9178

MCKINNISH, TIMOTHY D  
PO BOX 58232  
RALEIGH NC 27658-8232

NORMAN, JOHN K  
8848 TWIN PONDS LN  
NEW HILL NC 27562-9234

OLIVE, A C HEIRS  
3101 OLIVE FARM RD  
APEX NC 27502-9632

OLIVE, JUDITH H OLIVE, ROBERT A  
3132 OLIVE FARM RD  
APEX NC 27502-9632

OLIVER, JAMES E JR OLIVER, JANICE  
8620 HUMIE OLIVE RD  
APEX NC 27502-8976

OLIVER, JAMES E JR OLIVER, JANICE  
8608 HUMIE OLIVE RD  
APEX NC 27502-8976

PAIRIS-GARCIA, MONIQUE GARCIA, JUAN  
8815 NEW HOPE FARM RD  
NEW HILL NC 27562-9179

PEART, EDWARD A PEART, DEBORAH N  
8829 NEW HOPE FARM RD  
NEW HILL NC 27562-9179

PULTE HOME COMPANY, LLC  
1225 CRESCENT GRN STE 250  
CARY NC 27518-8119

YUMEEWARRA FARM LLC  
8633 HUMIE OLIVE RD  
APEX NC 27502-8976

# 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: 237 N Salem St

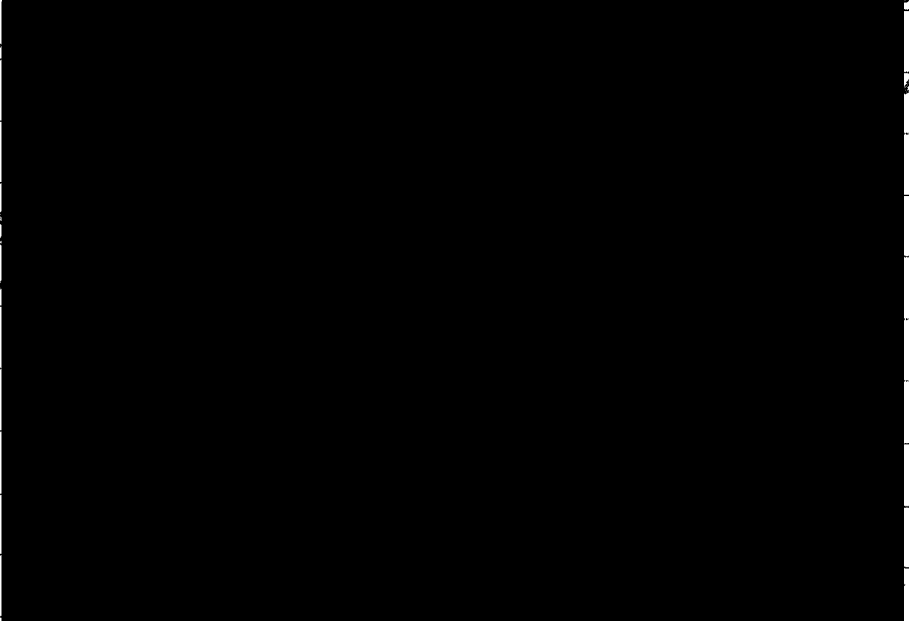
Date of meeting: 9/26/19

Time of meeting: 6:00 PM

Property Owner(s) name(s): HENRY KASTELBERG, CAROL B HEELAN IRREVOCABLE TRUST, JERIF & LISA CIGIN, AND EDWARD & DEBORAH PEART

Applicant(s): Jason Barron - Attorney for Applicant

Please print your name below, state your address and/or affiliation with a neighborhood group, and provide your phone number and email address. Providing your name below does not represent support or opposition to the project; it is for documentation purposes only.

	NAME/ORGANIZATION	ADDRESS	PHONE #	EMAIL	SEND PLANS & UPDATES
1.	DONNA ANDREWS	8820 New Hope Farm			Yes
2.	Star Kastelberg	8824 New Hope Farm			
3.	Mimi & Bob Kelly	3000 Galloway J. Heboro			
4.	Paul Barth	2108 New Hill Olive Chapel Rd			
5.	Joe Hoffman	8800 New Hope Farm Rd			
6.	Bill Zahr	New Hill, N.C. 27562			
7.	Dennis Connaghan	8633 Humie Olive			
8.	Steve Knier	"			
9.	Rob Tassar	1901 N. Harrison Ave			
10.	V/D Capomali	8820 New Hope Farm			
11.					
12.					
13.					
14.					

Use additional sheets, if necessary.



# SUMMARY OF DISCUSSION FROM THE NEIGHBORHOOD MEETING

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

Property Owner(s) name(s): HENRY KASTELBERG, CAROL B HEELAN IRREVOCABLE TRUST, JERIF & LISA CICIN, AND EDWARD & DEBORAH PEART

Applicant(s): Jason Barron - Attorney for Applicant

Contact information (email/phone): jbarron@morningstarlawgroup.com/919.590.0371

Meeting Address: 237 N Salem St

Date of meeting: 9/26/19 Time of meeting: 6:00PM

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

## Question/Concern #1:

There was a concern about the Town annexing surrounding property in conjunction with this application

### Applicant's Response:

We explained that the Town does not have the authority to independently annex property without the owner's consent, so no other property would be annexed as a result of our application.

## Question/Concern #2:

There was a concern about increased runoff

### Applicant's Response:

We explained that the project will meet the Town's requirements for stormwater runoff controls and that there are required buffers around streams on the property which will help to keep it clean

## Question/Concern #3:

There was a concern about the hours of construction activity because the project will be in the Town while the neighboring properties are in the County which might have different rules

### Applicant's Response:

We explained that though the Town and County ordinances may differ, we would be happy to work with this particular neighbor to coordinate construction activities with his horse farm activities

## Question/Concern #4:

How long will it take to build out this community?

### Applicant's Response:

A community of this size will be built out in phases. Once we break ground, it will take at least 5 to 6 years to build out the entire community.

# 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, Nil Ghosh, do hereby declare as follows:

Print Name

1. I have conducted a Neighborhood Meeting for the proposed Rezoning, Major Site Plan, Master Subdivision Plan, or Special Use Permit in accordance with UDO Sec. 2.2.7 *Neighborhood Meeting*.
2. The meeting invitations were mailed to the Apex Planning Department, all property owners within 300 feet of the subject property and any neighborhood association that represents citizens in the area via first class mail a minimum of 10 days in advance of the Neighborhood Meeting.
3. The meeting was conducted at 237 N Salem St (location/address) on 9/26/19 (date) from 6:00 (start time) to 8:00 (end time).
4. I have included the mailing list, meeting invitation, sign-in sheet, issue/response summary, and zoning map/reduced plans with the application.
5. I have prepared these materials in good faith and to the best of my ability.

9/27/19  
Date

By: [Signature]

STATE OF NORTH CAROLINA  
COUNTY OF WAKE

Sworn and subscribed before me, Jeffrey Phillips, a Notary Public for the above State and County, on this the 27<sup>th</sup> day of September, 20 19.

SEAL



[Signature]  
Notary Public  
Jeffrey Phillips  
Print Name

My Commission Expires: 02-24-2024

# 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: Heelan Zoning: PUD-CZ

Location: 8824 & 8829 NEW HOPE FARM RD; 3108 & 3120 OLIVE FARM RD; & 0 HUMIE OLIVE RD

Property PIN(s): 0710-08-6889 & 0720-07-5965, 09-2779, 09-3139, & 16-1967 Acreage/Square Feet: 141.12

Property Owner: HENRY KASTELBERG, CAROL B HEELAN IRREVOCABLE TRUST, JERIF & LISA CICIN, AND EDWARD & DEBORAH PEART

Address: \_\_\_\_\_

City: \_\_\_\_\_ State: \_\_\_\_\_ Zip: \_\_\_\_\_

Phone: \_\_\_\_\_ Email: \_\_\_\_\_

Developer: Jason Barron - Attorney for Developer

Address: 421 Fayetteville St | Ste 530

City: Raleigh State: NC Zip: 27601

Phone: 919.590.0371 Fax: \_\_\_\_\_ Email: jbarron@morningstarlawgroup.com

Engineer: Peter Cnossen

Address: P.O. Box 1062

City: Apex State: NC Zip: 27502

Phone: 919.387.1174 Fax: \_\_\_\_\_ Email: peter@jonescnossen.com

Builder (if known): \_\_\_\_\_

Address: \_\_\_\_\_

City: \_\_\_\_\_ State: \_\_\_\_\_ Zip: \_\_\_\_\_

Phone: \_\_\_\_\_ Fax: \_\_\_\_\_ Email: \_\_\_\_\_

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

## Town of Apex Department Contacts

Planning Department Main Number (Provide development name or location to be routed to correct planner)	(919) 249-3426
Parks, Recreation & Cultural Resources Department Angela Reincke, Parks Planner	(919) 249-7468
Public Works - Transportation Russell Dalton, Senior Transportation Engineer	(919) 249-3358
Water Resources Department Mike Deaton, Stormwater & Utility Engineering Manager	(919) 249-3413
Stan Fortier, Senior Engineer (Sedimentation & Erosion Control)	(919) 249-1166
Electric Utilities Division Rodney Smith, Electric Technical Services Manager	(919) 249-3342



**Providing Input to Town Council:**

Each Town Council meeting agenda includes a Public Forum time when anyone is permitted to speak for three (3) minutes on any topic with the exception of items listed as Public Hearings for that meeting. The Town Council meets on the 1<sup>st</sup> and 3<sup>rd</sup> Tuesdays of each month at 7:00 p.m. (except for holidays, see schedule of meetings at <http://www.apexnc.org/838/Agendas-Minutes>). You may also contact Town Council by e-mail at [AllCouncil@apexnc.org](mailto:AllCouncil@apexnc.org).

**Private Agreements and Easement Negotiation:**

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

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

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

To request that any agreement with a developer is made a part of the conditional zoning at the time of approval, you may ask at the Town Council public hearing if the agreement is included in the conditions. If it is not, you may request that the Town Council not approve the rezoning without the agreement being included in the conditions (note that it is up to Town Council whether to approve or deny the rezoning but they cannot impose conditions that the applicant does not agree to add). The developer's proposed conditions can be viewed any time after a rezoning is submitted on the Interactive Development Map at: <http://apexnc.maps.arcgis.com/apps/OnePane/basicviewer/index.html?appid=fa9ba2017b784030b15ef4da27d9e795>

**Documentation:**

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

# COMMON CONSTRUCTION ISSUES & WHO TO CALL

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

<b>Noise &amp; Hours of Construction:</b>	<b>Non-Emergency Police</b>	<b>919-362-8661</b>
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Noise from tree removal, grading, excavating, paving, and building structures is a routine part of the construction process. The Town generally limits construction hours from 7:00 a.m. to 8:30 p.m. so that there are quiet times even during the construction process. Note that construction outside of these hours is allowed with special permission from the Town when it makes more sense to have the construction occur at night, often to avoid traffic issues. In addition, the Town limits hours of blasting rock to Monday through Friday from 8:00 a.m. to 5:00 p.m. Report violations of construction hours and other noise complaints to the Non-Emergency Police phone number at 919-362-8661.

<b>Construction Traffic:</b>	<b>James Misciagno</b>	<b>919-372-7470</b>
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Construction truck traffic will be heavy throughout the development process, including but not limited to removal of trees from site, loads of dirt coming in and/or out of the site, construction materials such as brick and wood brought to the site, asphalt and concrete trucks come in to pave, etc. The Town requires a construction entrance that is graveled to try to prevent as much dirt from leaving the site as possible. If dirt does get into the road, the Town can require they clean the street (see "Dirt in the Road" below).

<b>Road Damage &amp; Traffic Control:</b>	<b>Water Resources – Infrastructure Inspections</b>	<b>919-362-8166</b>
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There can be issues with roadway damage, roadway improvements, and traffic control. Potholes, rutting, inadequate lanes/signing/stripping, poor traffic control, blocked sidewalks/paths are all common issues that should be reported to Water Resources – Infrastructure Inspections at 919-249-3427. The Town will get NCDOT involved if needed.

<b>Parking Violations:</b>	<b>Non-Emergency Police</b>	<b>919-362-8661</b>
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Unless a neighbor gives permission, there should be no construction parking in neighbors' driveways or on their property. Note that parking in the right-of-way is allowed, but Town regulations prohibit parking within 15 feet of driveways so as not to block sight triangles. Trespassing and parking complaints should be reported to the Non-Emergency Police phone number at 919-362-8661.

<b>Dirt in the Road:</b>	<b>James Misciagno</b>	<b>919-372-7470</b>
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Sediment (dirt) and mud gets into the existing roads due to rain events and/or vehicle traffic. These incidents should be reported to James Misciagno. He will coordinate the cleaning of the roadways with the developer.

<b>Dirt on Properties or in Streams:</b>	<b>James Misciagno</b> <b>Danny Smith</b>	<b>919-372-7470</b> <b><a href="mailto:Danny.Smith@ncdenr.gov">Danny.Smith@ncdenr.gov</a></b>
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Sediment (dirt) can leave the site and get onto adjacent properties or into streams and stream buffers; it is typically transported off-site by rain events. These incidents should be reported to James Misciagno at 919-372-7470 so that he can coordinate the appropriate repairs with the developer. Impacts to the streams and stream buffers should also be reported to Danny Smith ([danny.smith@ncdenr.gov](mailto:danny.smith@ncdenr.gov)) with the State.

<b>Dust:</b>	<b>James Misciagno</b>	<b>919-372-7470</b>
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During dry weather dust often becomes a problem blowing into existing neighborhoods or roadways. These incidents should be reported to James Misciagno at 919-372-7470 so that he can coordinate the use of water trucks onsite with the grading contractor to help control the dust.

<b>Trash:</b>	<b>James Misciagno</b>	<b>919-372-7470</b>
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Excessive garbage and construction debris can blow around on a site or even off of the site. These incidents should be reported to James Misciagno at 919-372-7470. He will coordinate the cleanup and trash collection with the developer/home builder.

<b>Temporary Sediment Basins:</b>	<b>James Misciagno</b>	<b>919-372-7470</b>
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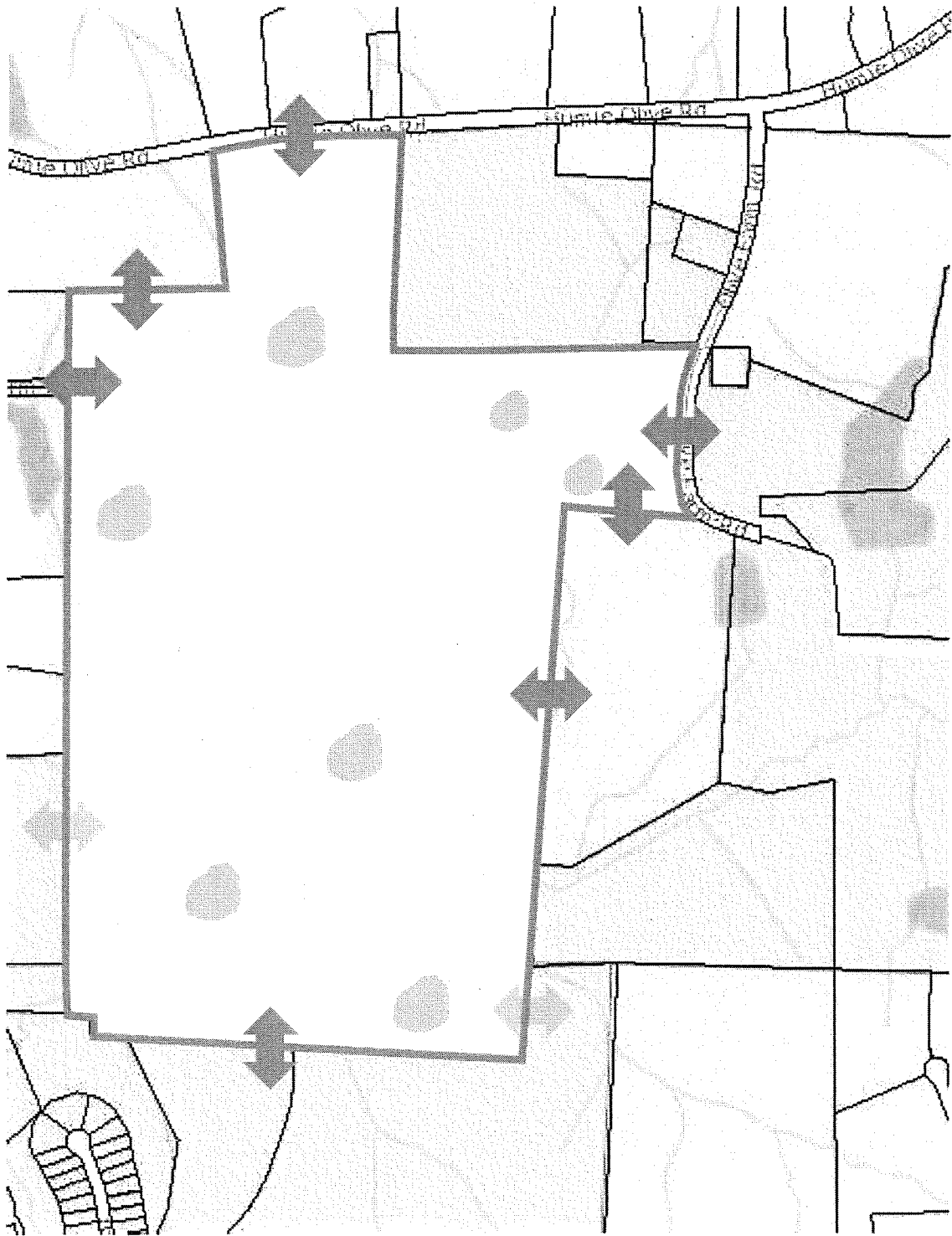
Temporary sediment basins during construction (prior to the conversion to the final stormwater pond) are often quite unattractive. Concerns should be reported to James Misciagno at 919-372-7470 so that he can coordinate the cleaning and/or mowing of the slopes and bottom of the pond with the developer.

<b>Stormwater Control Measures:</b>	<b>Mike Deaton</b>	<b>919-249-3413</b>
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Post-construction concerns related to Stormwater Control Measures (typically a stormwater pond) such as conversion and long-term maintenance should be reported to Mike Deaton at 919-249-3413.

<b>Electric Utility Installation:</b>	<b>Rodney Smith</b>	<b>919-249-3342</b>
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Concerns with electric utility installation can be addressed by the Apex Electric Utilities Department. Contact Rodney Smith at 919-249-3342.



- $\approx 141$  acres
- Mix of Townhomes and single-family detached
- 520 units max (3.7 du/ac)

# CERTIFIED LIST OF NEIGHBORING PROPERTY OWNERS

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

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

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

	Owner's Name	PIN
1.	See Attached	
2.		
3.		
4.		
5.		
6.		
7.		
8.		
9.		
10.		
11.		
12.		
13.		
14.		
15.		

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

Date: 10/1/19

By: [Signature]

COUNTY OF WAKE STATE OF NORTH CAROLINA

Sworn and subscribed before me, Jeffrey Phillips, a Notary Public for the above State and County, on this the 1st day of October, 20 19.

SEAL



[Signature]  
Notary Public  
Jeffrey Phillips  
Print Name

My Commission Expires: 02-24-2024



Certified List of Neighboring Property Owners

Owner's Name	PIN
3 BOYS CAPITAL LLC MUSIC ROW INVESTMENTS LLC	0720-17-7185
3 BOYS CAPITAL LLC SB CAPITAL LLC	0720-28-2995 0720-28-6437
ADAMS-KNOUFF, CAREY	0710-87-9844 0710-88-9126
ALBRECHT, DONNA J TRUSTEE DONNA J ALBRECHT RVCBLE LVNG TRUST	0710-88-9798
APEX TOWN OF	0720-19-0665 0720-19-6276 0720-19-7417
CAROL B HEELAN IRREVOCABLE TRUST	0720-18-1967 0720-07-5965
CICIN, JERFI CICIN, LISA	0720-09-2779
FMR INVESTMENTS LLC CHATHAM CAPITAL GROUP LLC	0720-27-6714
GENTILE, CHRISTOPHER D	0721-00-9530
GOODMAN, WILLIAM DAVID JR GOODMAN, JILL M	0710-99-0226
HOFFMAN, JOSEPH E JR HOFFMAN, SHIRLEY J	0710-88-4797
JUDD, MILDRED B JUDD, LINDA FAYE	0721-00-5342
KASTELBERG, HENRY STEVEN	0710-98-6889
KELLY, ROBERT L KELLY, MILDRED D	0720-29-4621
MCKEITHAN, KAREN D ST CLAIR, LANCE	0710-88-7654
MCKINNISH, TIMOTHY D	0710-86-5906
NORMAN, JOHN K	0710-97-0228
OLIVE, A C HEIRS	0720-19-9119
OLIVE, JUDITH H OLIVE, ROBERT A	0720-18-5030
OLIVER, JAMES E JR OLIVER, JANICE	0721-00-0505
OLIVER, JAMES E JR OLIVER, JANICE	0721-00-3444
OLIVER, JAMES E. JR. OLIVER, JANICE	0711-90-3580
PAIRIS-GARCIA, MONIQUE GARCIA, JUAN	0710-89-6246
PEART, EDWARD A PEART, DEBORAH N	0720-09-3139
PULTE HOME COMPANY, LLC	0710-86-7029 0710-95-2812 0710-96-3227 0710-96-4235 0710-96-8199 0720-05-7756
YUMEEWARRA FARM LLC	0710-99-3712

# AGENT AUTHORIZATION FORM

Application #: \_\_\_\_\_ Submittal Date: \_\_\_\_\_

KASTELBERG, HENRY STEVEN \_\_\_\_\_ is the owner\* of the property for which the attached application is being submitted:

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

The property address is: 8824 NEW HOPE FARM RD (0710-98-6889)

The agent for this project is: M/I Homes of Raleigh, LLC

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

Agent Name: Erica Leatham

Address: 1511 Sunday Drive | Ste 100 Raleigh, NC 27607

Telephone Number: \_\_\_\_\_

E-Mail Address: \_\_\_\_\_

Signature(s) of Owner(s)\*

*Henry Steven Kastelberg*  
\_\_\_\_\_  
Henry Steven Kastelberg  
Type or print name

26 Sept 2019  
\_\_\_\_\_  
Date

\_\_\_\_\_  
Type or print name Date

Attach additional sheets if there are additional owners.

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

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

# AFFIDAVIT OF 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, Nil Ghosh, do hereby declare as follows:  
Print Name

1. I have conducted a Neighborhood Meeting for the proposed Rezoning, Major Site Plan, Master Subdivision Plan, or Special Use Permit in accordance with UDO Sec. 2.2.7 *Neighborhood Meeting*.
2. The meeting invitations were mailed to the Apex Planning Department, all property owners within 300 feet of the subject property and any neighborhood association that represents citizens in the area via first class mail a minimum of 10 days in advance of the Neighborhood Meeting.
3. The meeting was conducted at 237 N Salem St (location/address) on 9/26/19 (date) from 6:00 (start time) to 8:00 (end time).
4. I have included the mailing list, meeting invitation, sign-in sheet, issue/response summary, and zoning map/reduced plans with the application.
5. I have prepared these materials in good faith and to the best of my ability.

9/27/19  
Date

By: [Signature]

STATE OF NORTH CAROLINA  
COUNTY OF WAKE

Sworn and subscribed before me, Jeffrey Phillips, a Notary Public for the above State and County, on this the 27<sup>th</sup> day of September, 20 19.

SEAL



[Signature]  
Notary Public  
Jeffrey Phillips  
Print Name

My Commission Expires: 02-24-2024



# Heelan Property PUD

PD PLAN

APEX, NORTH CAROLINA

Submitted:

October 1, 2019

Revised:

November 7, 2019

December 6, 2019

January 9, 2020

January 26, 2020

PREPARED BY:





**Section 1: Table of Contents – PUD Text**

Section 1: Table of Contents

Section 2: Vicinity Map

Section 3: Project Data

Section 4: Purpose Statement

Section 5: Permitted Uses

Section 6: Design Controls

Section 7: Architectural Controls

Section 8: Parking and Loading

Section 9: Signage

Section 10: Natural Resource and Environmental Data

Section 11: Stormwater Management

Section 12: Parks and Recreation

Section 13: Public Facilities

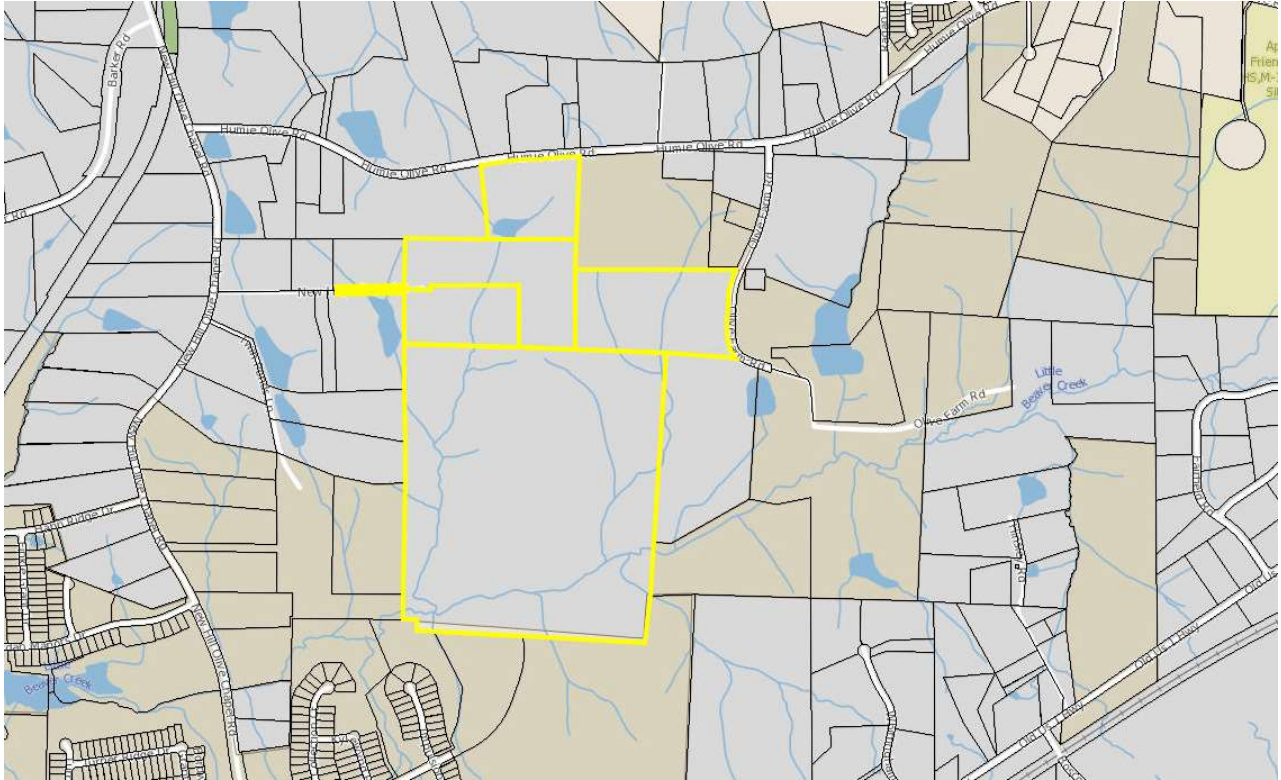
Section 14: Phasing Plan

Section 15: Consistency with 2045 Land Use Plan

Section 16: Compliance with UDO

Section 17: Compliance with Apex Bicycle Plan

## Section 2: Vicinity Map



The Heelan Property PUD is in the southwest region of Apex, east of New Hill Olive Chapel Road, south of Humie Olive Road, west of Olive Farm Road, and north of Old US-1. The Friendship Station PUD is being developed just east of the property. The Woodbury Community is being developed south of the property and Jordan Manors is further west of the property.

### Section 3: Project Data

**A. Name of Project:**

Heelan Property PUD

**B. Property Owners:**

Henry Steven Kastelberg  
Carol B Heelan Irrevocable Trust  
Lisa & Jerif Cicin  
Deborah N & Edward A Peart

**C. Prepared By:**

Jason Barron, Partner  
Morningstar Law Group  
421 Fayetteville St | Ste 530  
Raleigh, NC 27601

**D. Current Zoning Designation:**

Residential-40 Watershed (R-40W)

**E. Proposed Zoning Designation:**

Planned Unit Development – Conditional Zoning (PUD-CZ)

**F. Current 2045 Land Use Map Designation:**

Low Density Residential ( $\leq 3$  units/acre)  
Medium Density Residential (3-7 units/acre)

**G. Proposed 2045 Land Use Map Designation:**

Medium Density Residential  
Low Density Residential

**H. Proposed Use**

Up to 520 dwelling units and associated open space, recreational amenities and infrastructure.

**I. Size of Project**

Wake County Tax Identification Number	Acreage
0710-98-6889	142.42 acres
0720-07-5965	
0720-09-2779	
0720-09-3139	
0720-18-1967	

#### **Section 4: Purpose Statement**

The Heelan Property PUD development will be a single-family residential community with both detached and townhomes. The maximum building height shall be forty-five feet (45') measured to the top of any pitched roof. A 20-ft Type B Buffer will be established along the majority of the project's boundary, except for a 50-foot Type B Thoroughfare Buffer along Humie Olive Road, and a 15-ft Type A Landscape Buffer along the southern boundary and portions of the east and west boundaries. Additionally, all the buildings shall be prewired for solar.

This concept is consistent with the Town's stated PUD goal to provide site specific, high quality neighborhoods that preserve natural features and exhibit compatibility with, and connectivity to, surrounding land uses. More specifically, this plan will:

- Allow uses that are compatible with Section 4.2.2, *Use Table* of the UDO
- Provide for the preservation of existing open space areas.
- Provide appropriate buffering and screening from the proposed use to the existing residential areas.
- Demonstrate dimensional standards that are consistent with the UDO, and where variations occur, said variations will be included herein and subject to Council approval.
- Provide a high-quality community that is linked by a network of connected streets and pedestrian sidewalks that promotes connectivity, walkability and healthy lifestyles.
- Exhibit character and quality that is compatible with surrounding communities, which is expected to enhance the value of surrounding land uses.
- Provide significant open space and walkable trails to promote pedestrian activity, while appropriately buffering adjacent residential areas

All site-specific standards and conditions of this PUD Plan shall be consistent with all Conditional Zoning (CZ) District standards set forth in the UDO Section 2.3.3, *Conditional Zoning Districts* and UDO Section 2.3.4.F.1, *Planned Unit Development (PUD-CZ) District*. The proposed PUD will provide a development density that is consistent with principles found throughout the recently updated Advance Apex 2045.

#### **Section 5: Permitted Uses**

The development will only include residential and supporting uses. Specifically, the permitted uses include:

- Accessory apartment
- Single-family
- Townhouse
- Greenway
- Recreation Facility, private
- Park, active
- Park, passive
- Utility, minor



Additionally, the following conditions shall also apply:

- A. A maximum of 520 residential units shall be permitted upon the property, no more than 260 of which may be developed as townhomes.
- B. All buildings constructed on the property shall provide solar conduit for the installation of rooftop solar panels.
- C. No covenant prohibiting the accessory apartment use shall encumber the property.

## Section 6: Proposed Design Controls

### A. Maximum Non-Residential Design Controls

This PUD does not provide for any non-residential land uses (see Section 5, *Permitted Uses*).

### B. Residential Densities and Design Controls

**Density** - The overall gross density shall not exceed 3.7 units per acre. Density within the region designated as Low Density on the 2045 Land Use Map shall not exceed 3 units per acre, with a maximum of 96 residential units in this area. A density of up to 6 units per acre is allowed within areas designated as Medium Density on the 2045 Land Use Map.

**Design Controls** – At a minimum all residential uses shall comply with the following dimensional standards:

Maximum Density:	3.7 Units/Acre (includes RCA and rights-of-way)
Maximum Number of Units:	520
Within Low Density Residential:	96
Maximum Built-Upon Area:	70%
Minimum Lot Size:	n/a
Minimum Lot Width:	
Townhome Lots:	18'
Single-Family Lots:	40'
Maximum Building Height:	45' and 3 stories

*Note: Porches, patios, decks and other accessory structures may encroach into building setbacks as allowed by the Town of Apex UDO.*

Minimum Setbacks	Single-Family	Townhome
Front	10'	10'
Rear	20'	20'
Side	5'	5'
Corner	5'	5'
Building to Building	NA	10'
From Buffer/RCA	10' for Buildings 5' for Parking Areas	10' for Buildings 5' for Parking Areas

## C. Buffers

### Perimeter Buffers

North boundary:	20-foot Type B
South boundary:	15-foot Type A
West boundary:	
Adjacent to Use Class 1:	20-foot Type B
Adjacent to Other Use Classes:	15-ft Type A
East boundary:	
Adjacent to Use Class 1:	20-foot Type B
Adjacent to Other Use Classes:	15-ft Type A

*Note: Where perimeter buffers coincide with stream buffers or 100-year floodplain, existing vegetation will be used to meet the buffer width and opacity.*

### Thoroughfare Buffers

As depicted on the PD Plan, a 50-ft Type B Buffer shall be established along Humie Olive Road. Acreage within this buffer may be used to accommodate easements for other purposes including, but not limited to, greenways, public utilities, sidewalk, and the like.

## Section 7: Proposed Architectural Controls

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

- A.** Vinyl siding is not permitted; however, vinyl windows, decorative elements, and trim are permitted.
- B.** Residential areas will utilize brick, stone, and fiber cement plank siding.
- C.** Windows that are not recessed shall be trimmed. Windows shall vary in size and/or type.
- D.** At least four of the following decorative features shall be used on each building: decorative shake, board and batten siding, decorative porch rails and posts, shutters, decorative functional foundation and roof vents, recessed windows, decorative windows, decorative brick or stone, decorative gables, decorative cornices, or metal roofing.
- E.** A varied color palette shall be utilized throughout the development to include a minimum of three-color families for siding and shall include varied trim, shutter, and accent colors complementing the siding color.
- F.** The rear and side elevations of the units that can be seen from the right-of-way shall have trim around the windows.
- G.** Garage doors shall have windows, decorative details or carriage-style adornments on them.

- H. The front façade of any front-loaded garage shall not protrude farther than one foot forward of (i) the front façade of the dwelling unit, or (ii) the front porch of the dwelling unit, whichever is closer to the right-of-way from which the dwelling unit is addressed.
- I. J-drives or courtyard driveways shall be exempt from condition G above but shall make up no more than 30% of all single-family homes. There shall be no more than two (2) residences with a J-drive constructed in a row. Any lots eligible for a J-driveway home shall be identified on the Final Plat.
- J. Garages on the front façade of a single-family home that faces the street shall not exceed 40% of the total width of the house and garage together.
- K. Eaves shall project at least 12 inches from the wall of the structure.
- L. House entrances for units with front-facing single-car garages shall have a prominent covered porch/stoop area leading to the front door.
- M. The rear and side elevations of the units that can be seen from the right-of-way shall have trim around the windows.
- N. Front porches shall be a minimum of 6 feet deep.
- O. 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:
  - 1. Windows
  - 2. Bay window
  - 3. Recessed window
  - 4. Decorative window
  - 5. Trim around the windows
  - 6. Wrap around porch or side porch
  - 7. Two or more building materials
  - 8. Decorative brick/stone
  - 9. Decorative trim
  - 10. Decorative shake
  - 11. Decorative air vents on gable
  - 12. Decorative gable
  - 13. Decorative cornice
  - 14. Column
  - 15. Portico
  - 16. Balcony
  - 17. Dormer
- P. Additionally, the following conditions shall apply to any Townhome building(s):
  - 1. The roof of each unit shall be horizontally and/or vertically distinct from any adjacent unit to avoid the appearance of a single mass.

## **Section 8: Parking and Loading**

Parking for the development shall be per Town of Apex UDO. The requirements under Section 8.3 of the Town's UDO will be met.

## **Section 9: Signage**

All signage for this PUD shall comply with Section 8.7, *Signs*, of the Town of Apex UDO.

## **Section 10: Natural Resource and Environmental Data**

### **A. River Basins and Watershed Protection Overlay Districts**

The project is located within the primary watershed within the Beaver Creek Basin. Portions of the subject property along the southern boundary lie within Zone AE flood hazard areas according to the FEMA Floodplain Maps #s 3720072000J and

3720071000K. Based on review of the FEMA Floodplain Map #s 3720072000J and 3720071000K the majority of the subject property is located in the Zone X (non-shaded) area that is determined to be outside the 0.2% annual chance and future conditions 1% annual chance floodplain.

#### **B. Resource Conservation Areas (RCA) – Required and Provided**

This PUD will be subject to, and meet the requirements of Section 8.1.2 of the UDO, *Resource Conservation Area* and Section 2.3.4, *Planned Development Districts*.

The Site is located on the west of the 540 corridor and therefore is required to preserve a minimum of 25% Resource Conservation Area (RCA). Because the project is planned to be mass graded, an additional 5% RCA is required per Section 7.2.5(B) of the Town's UDO. Designated RCA areas will be consistent with the items listed in Section 8.1.2(B) of the Town's UDO. Preserved streams, wetlands, and associated riparian buffers provide the primary RCA's throughout the site. Additional RCA area provided may include stormwater management areas, perimeter buffers, and greenway trails within the walkable community.

#### **C. Any Historic Structures Present**

As confirmed by the North Carolina State Historic Preservation Office and Capital Area Preservation, Inc. there are no historic structures present within the project boundary.

### **Section 11: Stormwater Management**

A. This PUD shall meet all stormwater management requirements for quality and quantity treatment in accordance with Sections 2.3.4.F.1.h & 6.1.7 of the UDO, such that:

- Post development peak runoff shall not exceed pre-development peak runoff conditions for the 1 year, 10 year, and 25 year 24-hour storm events.

### **Section 12: Parks and Recreation**

The Parks, Recreation, and Cultural Resources Advisory Commission will review this proposal at the January 29, 2020, public meeting and subsequently this section will be updated with its recommendation.

### **Section 13: 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 according to sound engineering standards and shall comply with Town of Apex Sewer and Water Master Plan and the Town of Apex Standards and Specifications. Specifically, road and utility infrastructure shall be as follows:

- **General Roadway Infrastructure**

Developer shall provide minimum frontage widening based on ½ of a 2-lane thoroughfare in the rural context with public right-of-way dedication based on a



110-foot right-of-way along Humie Olive Road. The road network will promote connectivity wherever possible to adjacent neighborhoods and undeveloped property. Further, cul-de-sacs will be avoided except where environmental features make through streets unfeasible. Sidewalks will be provided on both sides of streets internal to the site and along street frontage.

Please refer to the concept plan of the PUD plan for proposed access points, stub streets and planned vehicular connectivity. All access and circulation are conceptual and will be finalized at the time of Development Plan review and approval.

- **Transportation Improvements**

Roadway improvements are subject to modification and final approval by the Town of Apex and NCDOT as part of the site plan and construction plan approval process. A traffic study has been performed as part of this PUD rezoning consistent with the Town's standards for the same. Based upon the traffic study, the following traffic improvements are proposed for this development:

- Developer shall construct a westbound left turn lane on Humie Olive Road at the proposed Site Drive with minimum 75 feet of storage and appropriate deceleration length and taper.
- Developer shall restripe the existing westbound approach of Horton Ridge Boulevard at New Hill Olive Chapel Road to accommodate an exclusive right turn lane and a shared through-left lane at the intersection.
- An eastbound left turn lane shall be constructed on Humie Olive Road at Richardson Road with minimum of 200 feet of storage plus appropriate deceleration length and taper prior to the 200 platted lot.
- Developer shall construct an eastbound right turn lane on Humie Olive Road at the proposed Site Drive with minimum 75 feet of storage and appropriate deceleration length and taper.
- Consistent with the 2045 Advance Apex Thoroughfare and Collector Street Plan and State law, the Developer shall construct Horton Ridge Boulevard in accord with the Town's design standards for a Major Collector.

- **Water and Sanitary Sewer**

All lots within the project will be served by the Town of Apex for water and sanitary sewer. The utility design will be finalized at the time of Development Plan review and approval based upon available facilities adjacent to the site at that time. A conceptual utility plan is included in the PUD plan for reference. The ultimate design for the utilities must meet the current Town of Apex master water and sewer plans for approval.

- **Other Utilities**

Electricity will be provided by Apex Electric. Phone, cable and gas will be provided by the developer and shall meet the Town of Apex standards as outlined in the UDO.

**Section 14: Phasing Plan**

This development is expected to be phased. The number and timing of the phases will depend on market conditions and other factors. Construction is anticipated to begin in 2022. Project phasing will be planned to ensure the points of access are provided in accordance with the UDO.

**Section 15: Consistency with the 2045 Land Use Map**

The proposed land use is consistent with the 2045 Land Use Map.

**Section 16: Compliance with the UDO**

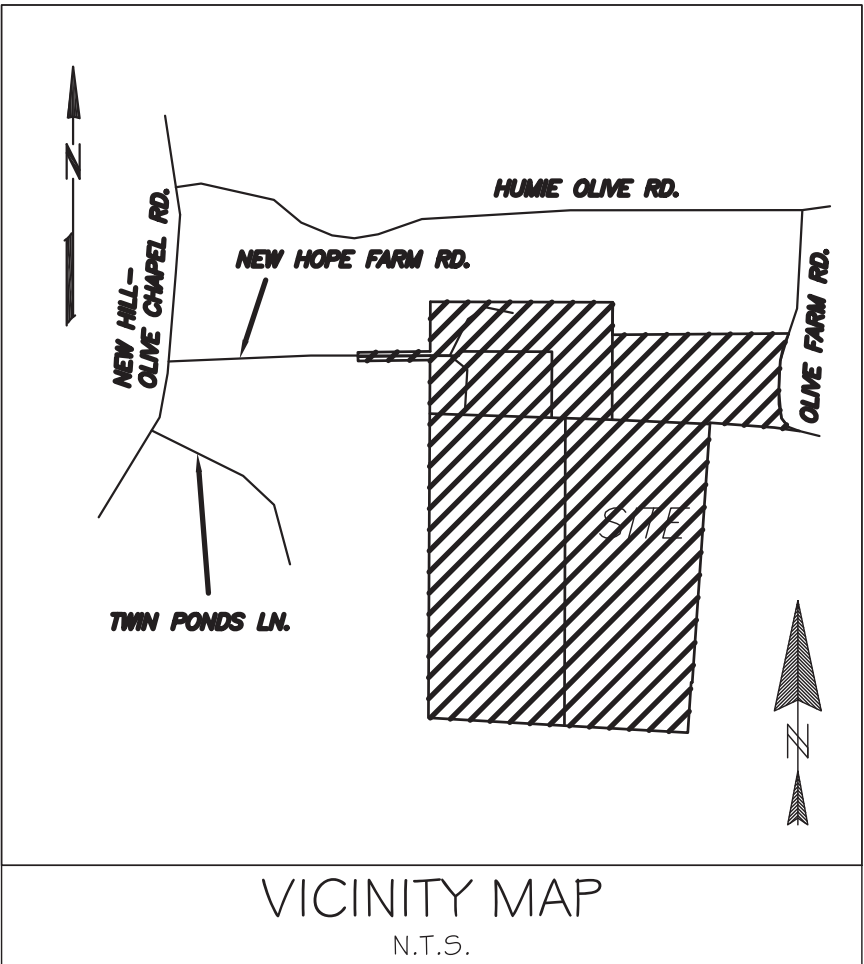
The development standards adopted for this PUD follow those set forth in the current version of the Town's Unified Development Ordinance (UDO). Any deviations from UDO requirements have been specifically defined elsewhere within this document and/or below:

**Section 17: Compliance with Comprehensive Transportation Plan and Bicycle Plan**

Development plans for new development made pursuant to this amendment to the Official Zoning District Map shall comply with the adopted Comprehensive Transportation Plan in effect at the time the development plan is submitted as provided for in the Unified Development Ordinance. Further, development of the Property shall be consistent with the Town's adopted Bicycle Plan. Pursuant to Bike Apex, new development on the property shall provide a 20' easement generally along Humie Olive Road within which a 10' wide asphalt meandering trail shall be installed.



# HEELAN PROPERTY PLANNED UNIT DEVELOPMENT



SITE DATA	
PROJECT NAME	HEELAN PROPERTY PUD
PREPARED BY CONTACT INFORMATION	JONES & CROSSEN ENGINEERING, PLLC P.O. BOX 1062 APEX, NORTH CAROLINA 27502 PHONE - (919) 387-1174 FAX - (919) 387-3375 CONTACT PERSON - PETER D. CROSSEN
OWNER / DEVELOPER CONTACT INFORMATION	MI HOMES-RALEIGH 1511 SUNDAY DRIVE SUITE #110 RALEIGH, NC 27607 PHONE - (919) 205-9980 CONTACT PERSON - ERICA LEATHAM
CURRENT ZONING	R-40W
CURRENT 2045 LAND USE MAP DESIGNATION	LOW & MEDIUM DENSITY RESIDENTIAL (LD & MD)
PROPOSED ZONING DESIGNATION	PUD-CZ
PROPOSED 2045 LAND USE MAP DESIGNATION	LOW & MEDIUM DENSITY RESIDENTIAL (LD & MD)
WAKE COUNTY PINS	0710-98-6889 (PARTIAL), 0720: 07-5965, 09-2779, 09-3139 (PARTIAL), 18-1967
TOTAL PROJECT AREA	142.42 ACRES
AREA IN HUMIE-OLIVE ROAD R/W DEDICATION	0.95 ACRE
AREA IN LAND DEDICATION	0.69 ACRE
NET SITE AREA	140.78 ACRES
MAXIMUM ALLOWED NUMBER OF UNITS	746 UNITS (108.57 AC. MEDIUM DENSITY AT 6 UNITS/ACRE, 31.86 AC. LOW DENSITY AT 3 UNITS/ACRE)
PROPOSED NUMBER OF UNITS	520 UNITS (3.7 UNITS/ACRE)
REQUIRED RCA / BUFFER AREA	42.13 ACRES (30.0%)
PROVIDED RCA / BUFFER AREA	42.26 ACRES (30.1%)
MAXIMUM BUILT UPON AREA FOR PUD	70% OR 98.3 ACRES
MAXIMUM BUILDING HEIGHT	45'
OFF STREET PARKING	PARKING WILL COMPLY WITH TOWN OF APEX UDO SECTION 8.3 FOR BOTH SINGLE-FAMILY RESIDENTIAL LOTS & TOWNHOME LOTS.
PUBLIC RECREATION REQUIREMENT	MULTI-FAMILY ATTACHED
WATERSHED INFORMATION	PRIMARY; BEAVER CREEK BASIN
APEX BUFFER DETERMINATION	APEX 19-003
HISTORIC STRUCTURE?	NO
PHASED DEVELOPMENT	YES
FEMA FLOODPLAIN INFORMATION	MAP #3720072000J & #3720071000K PROJECT IS WITHIN 100 YEAR FLOODPLAIN

#### PERMITTED USE:

- Single-family
- Townhouse
- Greenway
- Recreation Facility, private
- Park, active
- Park, passive
- Utility, minor

#### MINIMUM BUILDING SETBACKS-TOWNHOME

FROM BUILDING TO BUILDING	10'
FROM BUFFER/RCA	10' FOR BUILDINGS, 5' FOR PARKING
FRONT	10'
REAR	20'
SIDE	5'
CORNER SIDE	5'

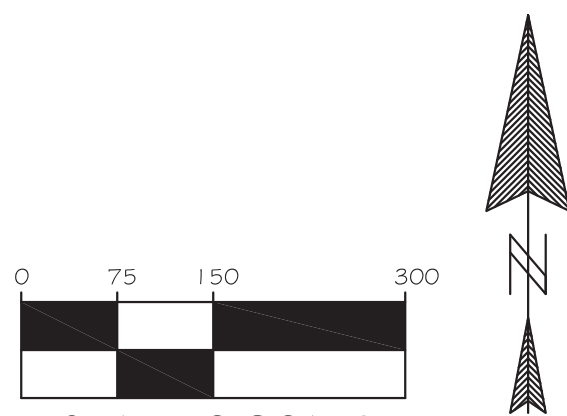
#### MINIMUM BUILDING SETBACKS-SINGLE FAM.

FROM BUFFER/RCA	10' FOR BUILDINGS, 5' FOR PARKING
FRONT	10'
REAR	20'
SIDE	5'
CORNER SIDE	5'

#### PD PLAN - DRAWING SHEET INDEX

- 1 COVER SHEET
- 2 PRELIMINARY LAYOUT PLAN
- 3 EXISTING CONDITIONS PLAN
- 4 PRELIMINARY UTILITY PLAN

PRELIMINARY PLANS  
NOT FOR CONSTRUCTION



THIS SHEET IS FOR  
ILLUSTRATIVE PURPOSES ONLY

FOR  
REVIEW  
ONLY

SCALE	1"=300'	DRAWN	PDC
DATE	OCTOBER 1, 2019		
REVISION	1/1/2019	1st TRC REVIEW	
	1/2/2019	2nd TRC REVIEW	
	01/09/20	3rd TRC REVIEW	
	01/27/20	4th TRC REVIEW	
PREP	1		
PROJECT	1910		







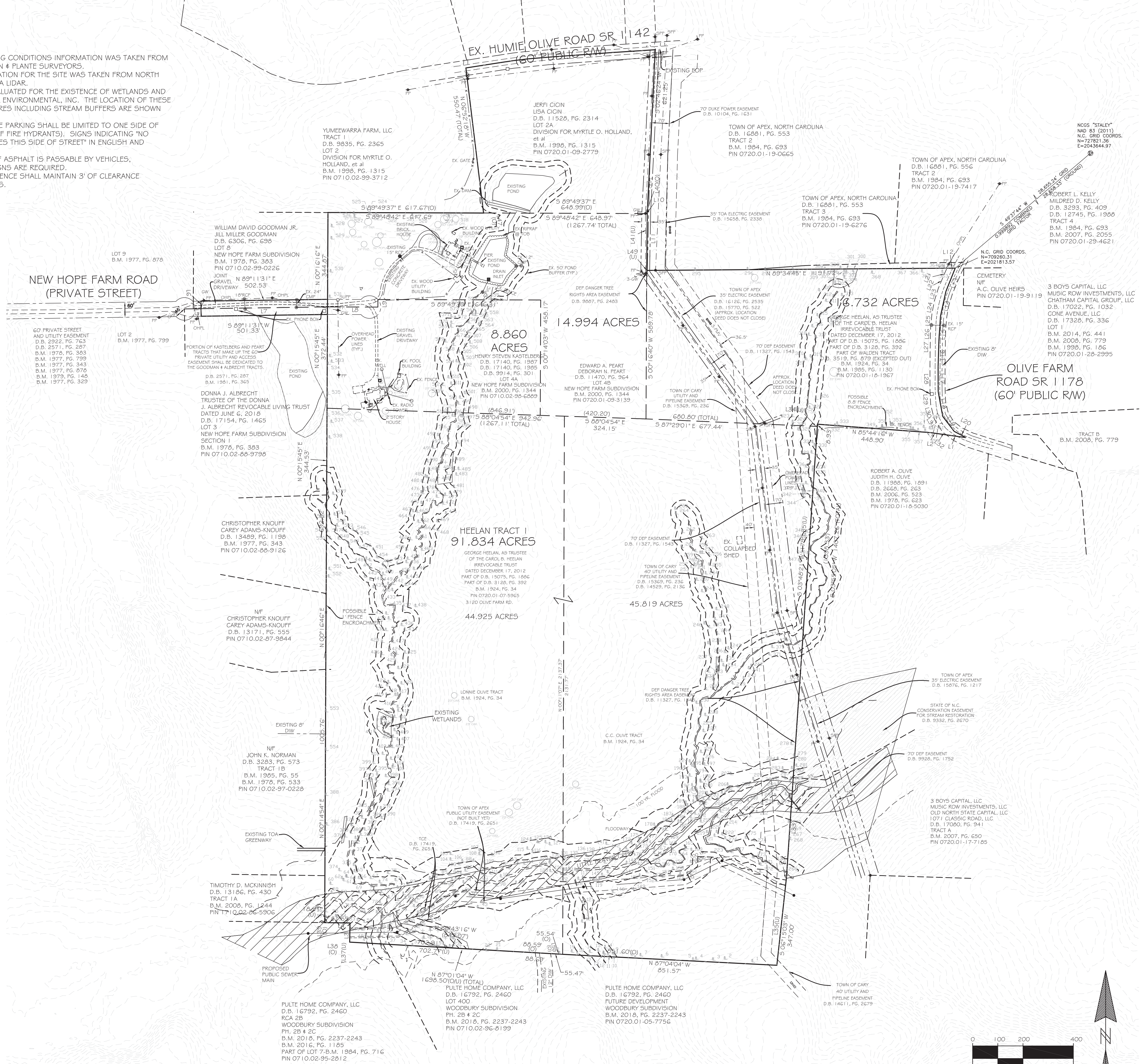
TOWN REQUIRED PUD NOTES:

1. PROTECTION FENCING MUST BE PLACED AWAY FROM ANY SAVED TREE ONE FOOT FOR EACH INCH OF TREE CALIPER. PROTECTION FENCING MUST BE PLACED AT LEAST 10 FEET AWAY FROM ANY OTHER DESIGNATED RESOURCE CONSERVATION AREA, SUCH AS BUT NOT LIMITED TO HISTORIC BUILDINGS AND STRUCTURES, WETLANDS, AND PONDS. PROTECTION FENCING MUST BE PLACED ALONG THE OUTSIDE LINE OF THE 100-YEAR FLOODPLAIN, AND THE OUTSIDE EDGE OF ANY RIPARIAN BUFFER. ADDITIONAL PROTECTION FENCING MAY BE REQUIRED IN OTHER LOCATIONS CLOSE TO CONSTRUCTION ACTIVITY WHERE IT IS DEEMED NECESSARY BY THE ZONING ENFORCEMENT OFFICER; SUCH AREAS MAY INCLUDE BUT ARE NOT LIMITED TO COMMON PROPERTY LINES OR NEAR PUBLIC AREAS (SIDEWALKS, ETC.).
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3. ALL REQUIRED SITE ELEMENTS SHOWN WITHIN A PARTICULAR PHASE MUST BE INSTALLED BEFORE A FINAL CERTIFICATE OF OCCUPANCY MAY BE ISSUED FOR ANY BUILDING WITHIN THAT PHASE.
4. NO SIGNS ARE APPROVED AS PART OF A PUD-CZ PLAN APPROVAL. A SEPARATE SIGN PERMIT MUST BE OBTAINED.

NOTES:

1. BOUNDARY AND EXISTING CONDITIONS INFORMATION WAS TAKEN FROM A SURVEY BY ROBINSON & PLANTE SURVEYORS.
2. TOPOGRAPHIC INFORMATION FOR THE SITE WAS TAKEN FROM NORTH CAROLINA SPACIAL DATA LIDAR.
3. THE SITE HAS BEEN EVALUATED FOR THE EXISTENCE OF WETLANDS AND STREAMS BY SPANGLER ENVIRONMENTAL, INC. THE LOCATION OF THESE ENVIRONMENTAL FEATURES INCLUDING STREAM BUFFERS ARE SHOWN AS SURVEYED.
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6. INSTALLATION OF SILT FENCE SHALL MAINTAIN 3' OF CLEARANCE AROUND FIRE HYDRANTS.

LINE TABLE					
LINE	BEARING	DISTANCE	L26	S 01°31'10" W	51.23'
L1	N 82°02'43" W	78.75'	L27	S 00°48'41" W	100.85'
L2	N 82°02'43" W	64.50'	L28	S 00°07'38" E	100.78'
L3	N 01°00'24" E	76.02'	L29	S 02°58'58" E	53.35'
L4	N 89°12'54" W	100.50'	L30	S 13°59'14" E	57.97'
L5	N 00°48'29" W	30.00'	L31	S 32°03'06" E	60.35'
L6	N 00°48'29" W	30.00'	L32	S 52°15'03" E	20.12'
L7	N 89°11'31" E	501.95'	L33	S 03°53'40" W	401.10'
L8	S 89°48'46" E	200.00'	L34	N 87°29'01" W	3.36'
L9	N 00°10'30" E	30.00'	L35	S 04°53'09" W	345.87'
L10	S 89°48'42" E	1.08'	L36	S 87°47'41" W	8.33'
L11	S 00°29'09" W	225.80'	L37	N 01°00'24" E	3.64'
L12	N 80°48'55" E	32.90'	L38	N 03°07'19" E	22.13'
L13	S 21°48'27" W	100.04'	L39	N 01°06'45" E	72.46'
L14	S 12°15'17" W	100.09'	L40	S 00°16'40" W	0.34'
L15	S 03°45'42" W	100.03'	L41	S 00°16'40" W	225.80'
L16	S 01°43'47" W	100.04'	L42	S 82°02'43" E	33.58'
L17	S 00°11'33" E	100.03'	L43	N 00°15'45" E	10.05'
L18	S 10°26'03" E	99.95'	L44	N 06°52'51" W	101.55'
L19	S 37°21'17" E	74.79'	L45	N 03°07'19" E	22.13'
L20	S 62°11'48" E	52.88'	L46	S 88°43'43" E	215.50'
L21	S 23°47'54" W	36.43'	L47	S 06°52'51" E	0.17'
L22	S 22°31'40" W	51.58'	L48	N 89°34'45" E	33.65'
L23	S 17°34'35" W	53.33'	L49	N 89°34'45" E	0.26'
L24	S 10°08'49" W	53.06'	L50	S 09°28'09" E	0.47'
L25	S 05°13'38" W	52.14'	L51	S 09°28'09" E	10.71'



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www.jonescnoson.com

FOR REVIEW ONLY

HEELAN PROPERTY PUD  
PD PLANS  
EXISTING CONDITIONS PLAN

SCALE: 1"=200'  
PDC

DATE: OCTOBER 1, 2019

REVISION: 1/10/19 1st TRC REVIEW  
1/20/19 2nd TRC REVIEW  
01/09/19 3rd TRC REVIEW  
01/27/20 4th TRC REVIEW

3  
1910

PRELIMINARY PLANS  
NOT FOR CONSTRUCTION

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ILLUSTRATIVE PURPOSES ONLY



TOWN REQUIRED PUD NOTES:

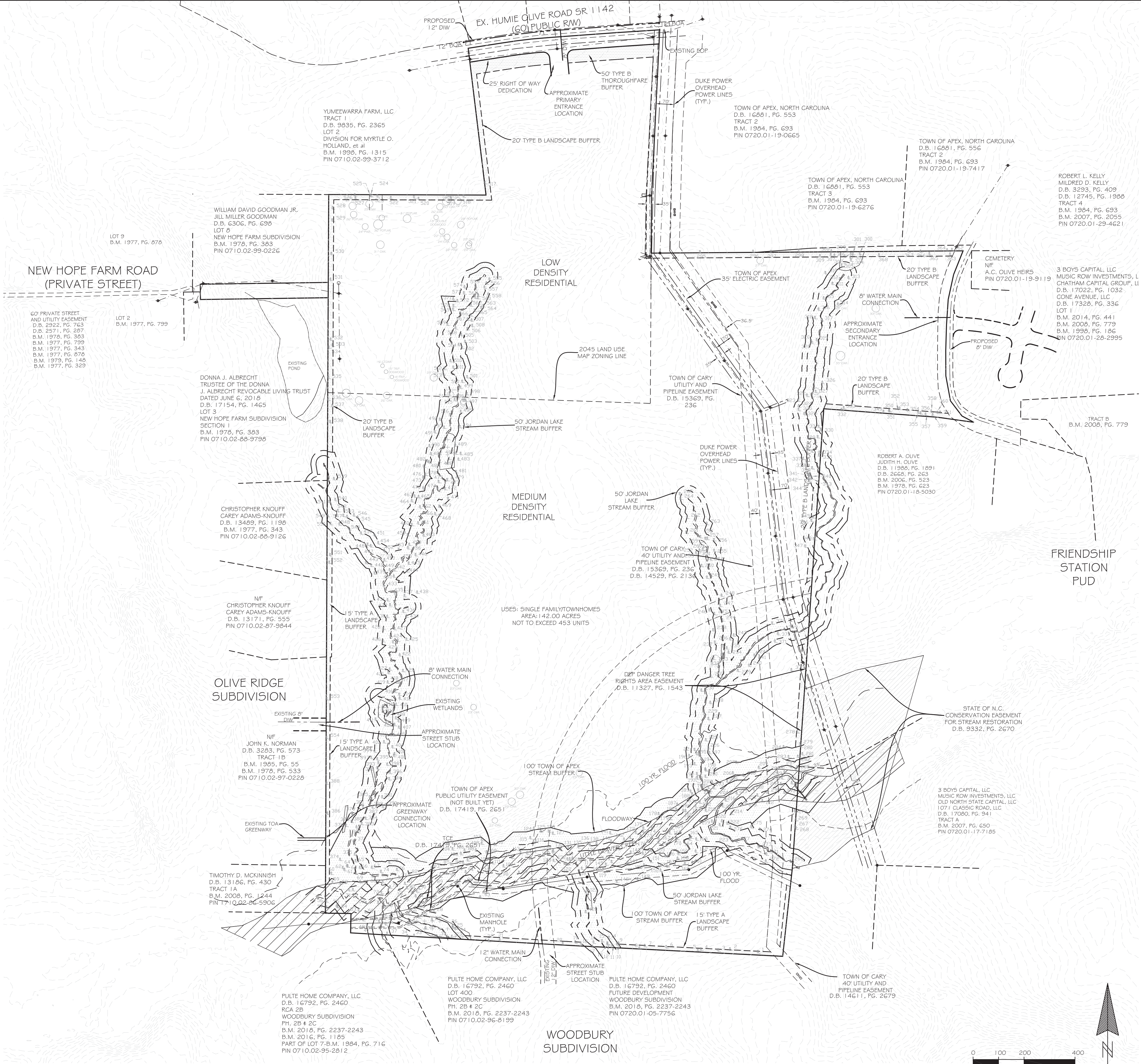
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+++++ - WETLANDS

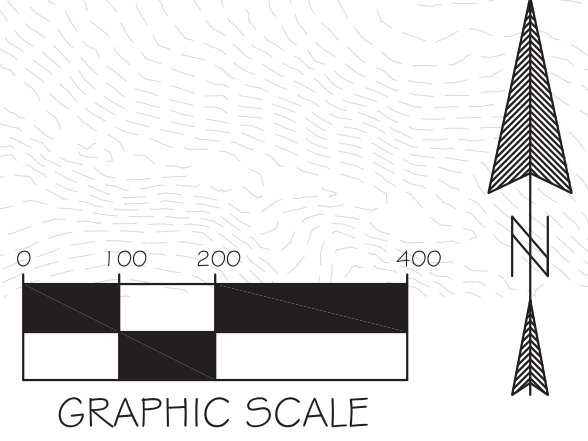
----- - RCA

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6. INSTALLATION OF SILT FENCE SHALL MAINTAIN 3' OF CLEARANCE AROUND FIRE HYDRANTS.
7. THE FUTURE LOCATIONS FOR WATER AND SEWER MAINS ARE APPROXIMATE AND SHALL BE DESCRIBED IN MORE DETAIL AT THE TIME OF MASTER PLANS. THESE UTILITY LOCATIONS ARE ILLUSTRATIVE TO SHOW CONNECTIONS AND SIZING.
8. ANY REQUIRED UTILITY CONNECTIONS TO SURROUNDING PROPERTIES AND PUBLIC RW SHALL BE ALLOWED THROUGH ALL PERIMETER BUFFERS.
9. CONTACT FOR TOWN OF APEX ELECTRIC UTILITIES IS RODNEY SMITH AT 919-249-3342.
10. THIS DEVELOPMENT SHALL USE FULL TOWN OF APEX SERVICES INCLUDING WATER, SEWER AND ELECTRICITY.
11. ALL UTILITY INFRASTRUCTURE SHALL MEET CURRENT TOWN OF APEX WATER AND SEWER MASTER PLANS.



PRELIMINARY PLANS  
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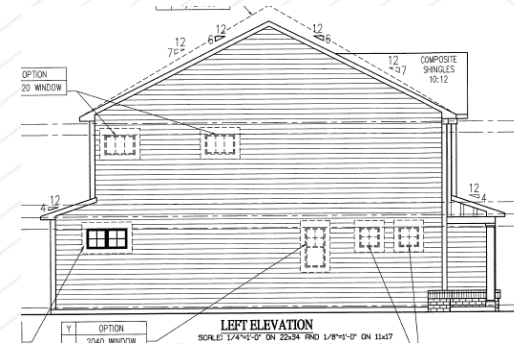
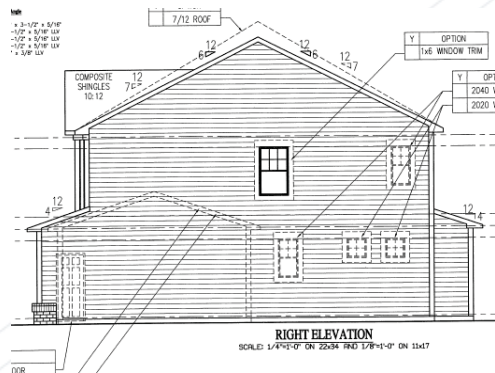
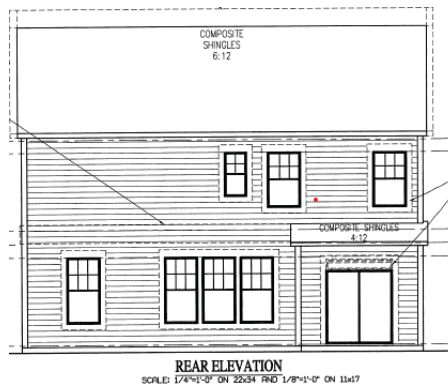
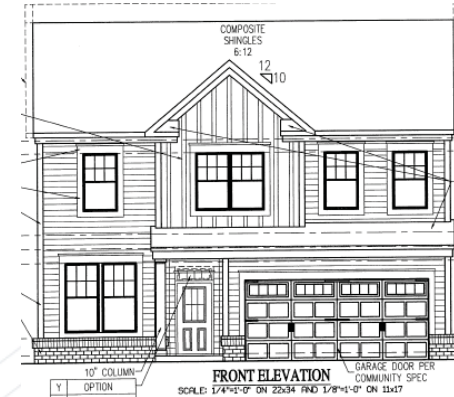
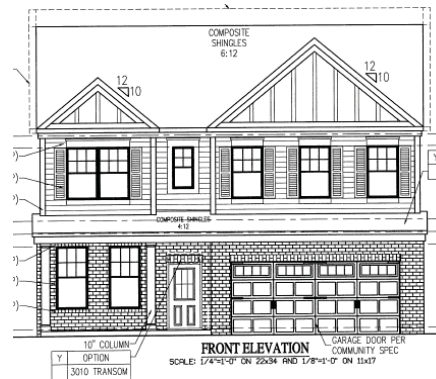
FOR  
REVIEW  
ONLY

HEELAN PROPERTY PUD  
PD PLANS  
PRELIMINARY UTILITY PLAN

SCALE	1"=200'
DATE	OCTOBER 1, 2019
REVISION	1/1/07/19 1st TRC REVIEW
	1/2/05/19 2nd TRC REVIEW
	01/09/20 3rd TRC REVIEW
	01/27/20 4th TRC REVIEW
SHEET	4
PROJECT	1910

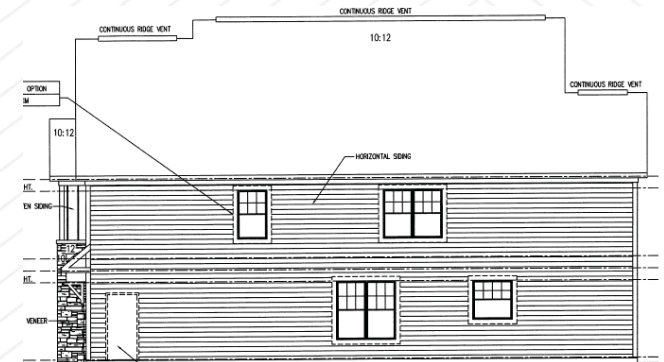
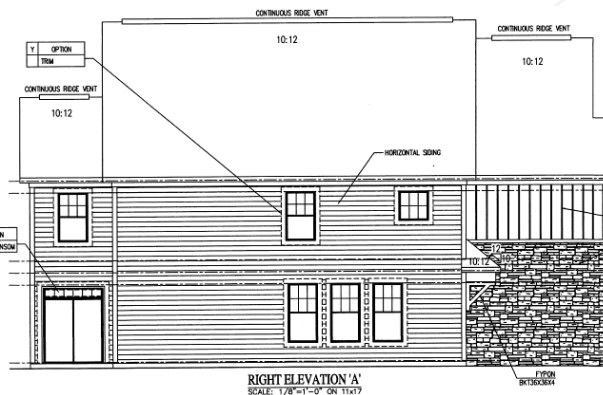
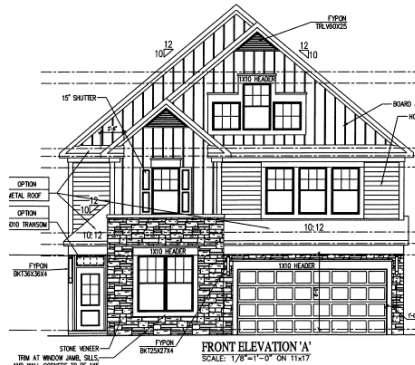


# Single Family Elevations, Illustrative



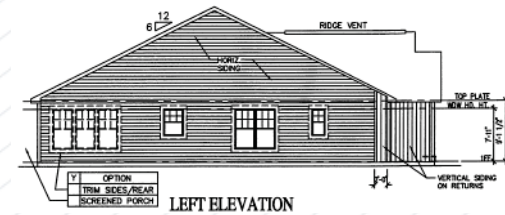
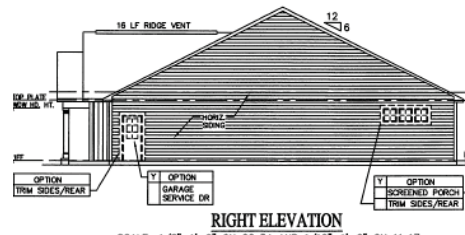
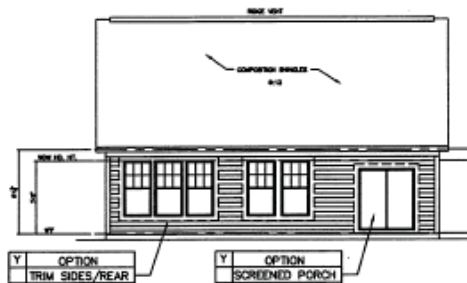
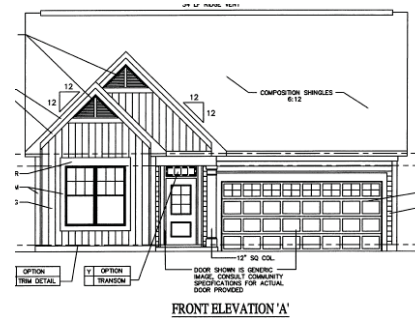


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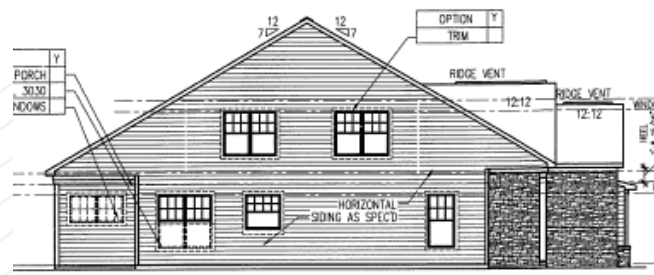
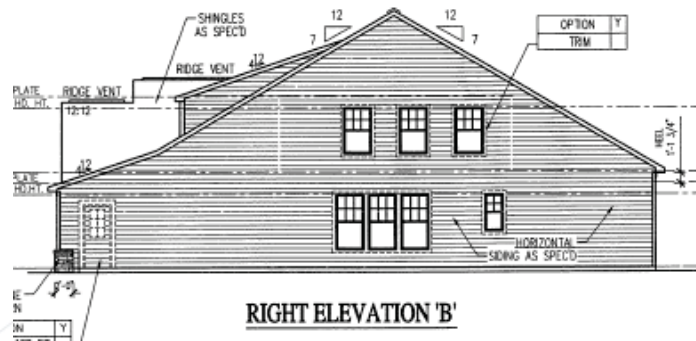
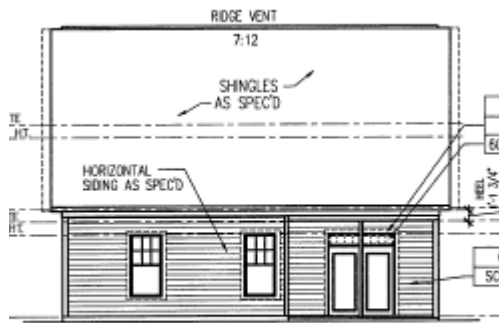
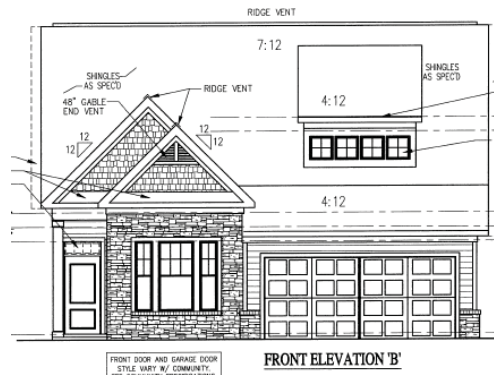
M/I HOMES

# Single Family Elevations, Illustrative



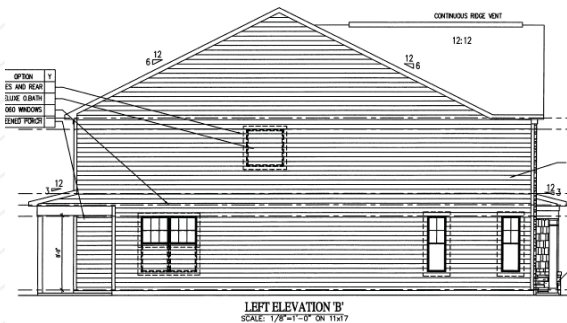
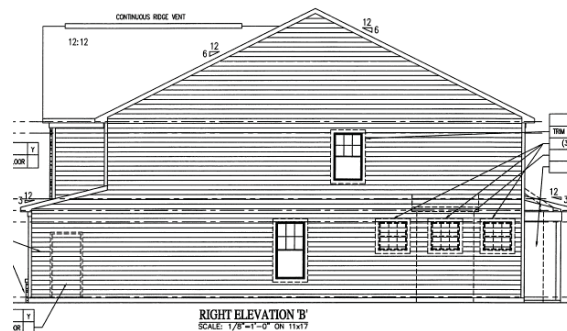
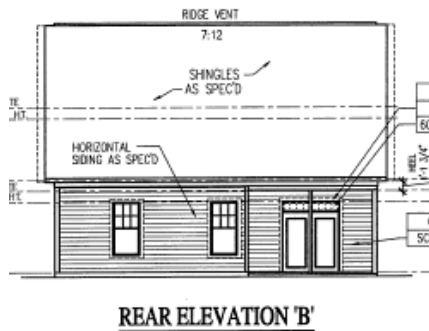
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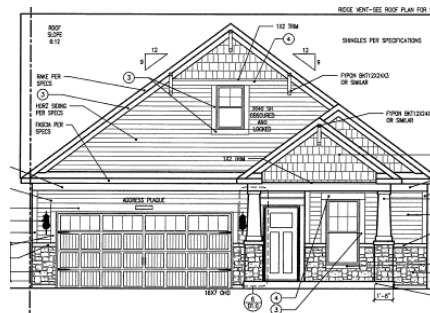
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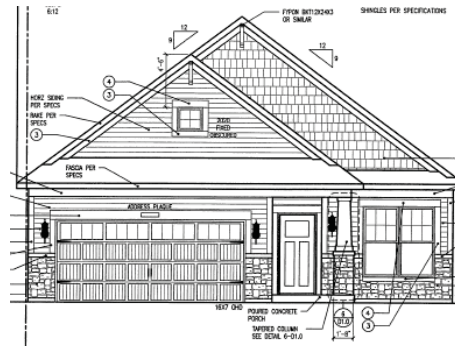


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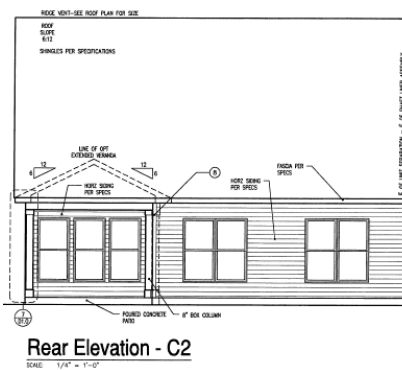


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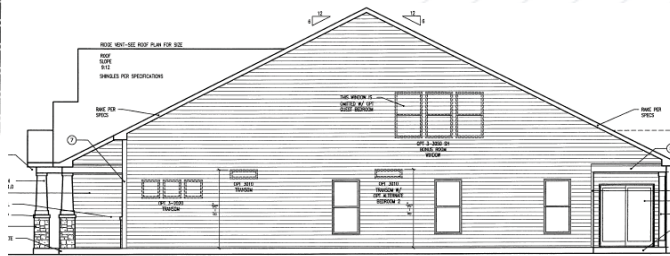
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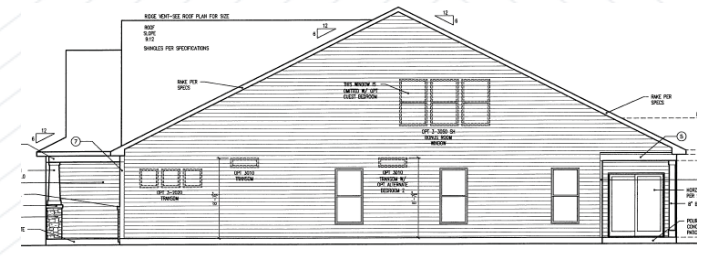
Front Elevation - C2



Rear Elevation - C2



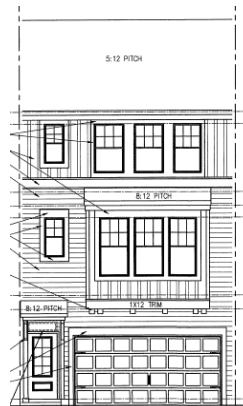
Side Elevation - C1



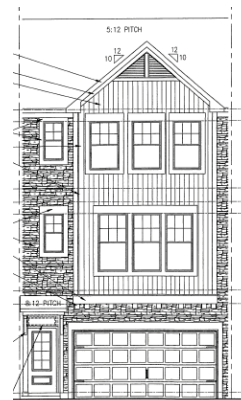
Side Elevation - C2



# Townhome Elevations, Illustrative



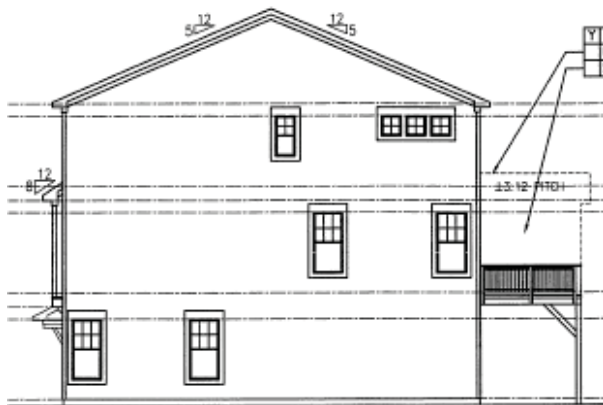
ELEVATION-A  
SCALE: 1/4"=1'-0" ON 22x34 AND 1/8"=1'-0" ON 11x17



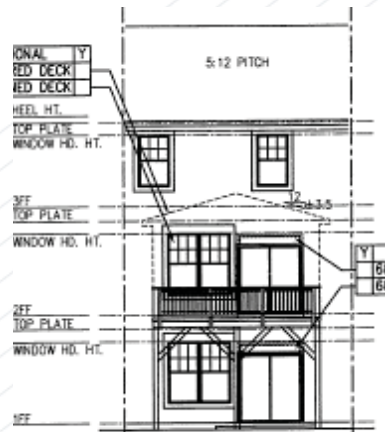
ELEVATION-C



ELEVATION-C



END UNIT -A □  
SCALE: 1/8"=1'-0" ON 22x34 AND 1/16"=1'-0" ON 11x17



REAR ELEVATION-A  
1/8"=1'-0" ON 22x34 AND 1/16"=1'-0" ON 11x17

# | Agenda Item | cover sheet

for consideration by the Apex Town Council

Item Type: CONSENT AGENDA

Meeting Date: February 4, 2020

## Item Details

Presenter(s): Shelly Mayo, Planner II

Department(s): Planning and Community Development

### Requested Motion

Motion to adopt a Resolution Directing the Town Clerk to Investigate Petition Received, to accept the Certificate of Sufficiency by the Town Clerk, and to adopt a Resolution Setting Date of Public Hearing on the Question of Annexation – Apex Town Council's intent to annex Henry Steven Kastelberg, Carol B. Heelan Irrevocable Trust c/o George Heelan, Edward and Deborah Peart and Jerfi and Lisa Cicin (Heelan PUD) property containing 141.732 acres located at 0 ,8824 and 8829 Humie Olive Road and 3108 and 3120 Olive Farm Road, Annexation #676 into the Town's corporate limits.

### Approval Recommended?

Planning and Community Development Department recommends approval.

### Item Details

The Town Clerk certifies to the investigation of said annexation. Adoption of the Resolution authorizes the Town Clerk to advertise said public hearing by electronic means and on the Town of Apex's website. The Public Hearing would be scheduled for the February 18, 2020 Town Council meeting.

### Attachments

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



## PETITION FOR VOLUNTARY ANNEXATION

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

Application #: \_\_\_\_\_ Submittal Date: \_\_\_\_\_  
Fee Paid \$ \_\_\_\_\_ Check # \_\_\_\_\_

### TO THE TOWN COUNCIL APEX, NORTH CAROLINA

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

### Owner Information

Henry Steven Kastelberg	0710-98-6889
Owner Name (Please Print)	Property PIN or Deed Book & Page #
Phone	E-mail Address
Carol B Heelan Irrevocable Trust c/o George Heelan	0720-07-5965 & 0720-18-1967
Owner Name (Please Print)	Property PIN or Deed Book & Page #
Phone	E-mail Address
Edward A & Deborah N Peart	0720-09-3139
Owner Name (Please Print)	Property PIN or Deed Book & Page #
Jerfi & Lisa Cicin	0720-09-2779
Phone	E-mail Address

### Surveyor Information

Surveyor: Robinson & Plante, P.C.  
Phone: 919-859-6030 Fax: 919-859-6032  
E-mail Address: buddy@robinsonplante.com

### Annexation Summary Chart

Total Acreage to be annexed:	_____	Reason for annexation: (select one)	
Population of acreage to be annexed:	0	Receive Town Services	X
Existing # of housing units:	3	Other (please specify)	_____
Zoning District*:	R-40W		

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



PETITION FOR VOLUNTARY ANNEXATION

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

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

COMPLETE IF SIGNED BY INDIVIDUALS

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

Henry Steven Kastelberg

Please Print

Henry Steven Kastelberg

Signature

Please Print

Signature

Please Print

Signature

Please Print

Signature

STATE OF NORTH CAROLINA  
COUNTY OF WAKE

Sworn and subscribed before me, Catherine E. Walden, a Notary Public for the above State and County,  
this the 1 day of Oct, 2019.

Catherine E. Walden  
Notary Public

SEAL



My Commission Expires: 10/20/2020

COMPLETE IF A CORPORATION

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

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

SEAL

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

President (Signature)

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

Secretary (Signature)

STATE OF NORTH CAROLINA  
COUNTY OF WAKE

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

Notary Public

SEAL

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

PETITION FOR VOLUNTARY ANNEXATION

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

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

COMPLETE IF SIGNED BY INDIVIDUALS:

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

E. Aaron Peart  
Please Print

Deborah N. Peart  
Please Print

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

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

STATE OF NORTH CAROLINA  
COUNTY OF WAKE

[Signature]  
Signature

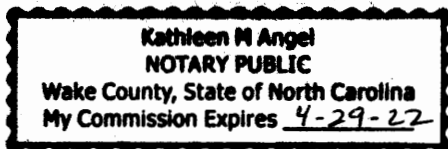
Deborah N. Peart  
Signature

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Signature

Sworn and subscribed before me, Kathleen M. Angel, a Notary Public for the above State and County,  
this the 30<sup>th</sup> day of September, 2019.

SEAL



[Signature]  
Notary Public

My Commission Expires: 4-29-22

COMPLETE IF A CORPORATION:

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

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

Attest: By: \_\_\_\_\_  
President (Signature)

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

STATE OF NORTH CAROLINA  
COUNTY OF WAKE

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

SEAL

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

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

PETITION FOR VOLUNTARY ANNEXATION

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

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

COMPLETE IF SIGNED BY INDIVIDUALS:

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

George Heeler  
Please Print

George Heeler  
Signature

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

\_\_\_\_\_  
Signature

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

\_\_\_\_\_  
Signature

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

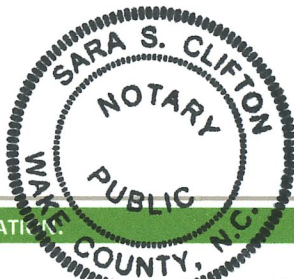
\_\_\_\_\_  
Signature

STATE OF NORTH CAROLINA  
COUNTY OF WAKE

Sworn and subscribed before me, Sara S Clifton, a Notary Public for the above State and County,  
this the 25 day of, September, 2019.

Sara S. Clifton  
Notary Public

SEAL



My Commission Expires: 1-10-2020

COMPLETE IF A CORPORATION:

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

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

SEAL

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

President (Signature)

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

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

STATE OF NORTH CAROLINA  
COUNTY OF WAKE

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

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

SEAL

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



# AGENT AUTHORIZATION FORM

Application #:

Submittal Date:

CAROL B HEELAN IRREVOCABLE TRUST

is the owner\* of the property for which the attached

application is being submitted:

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

The property address is:

3108 OLIVE FARM RD (0720-18-1967) & 3120 OLIVE FARM RD (0720-07-5965)

The agent for this project is:

M/I Homes of Raleigh, LLC

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

Agent Name:

Erica Leatham

Address:

1511 Sunday Drive | Ste 100 Raleigh, NC 27607

Telephone Number:

E-Mail Address:

Signature(s) of Owner(s)\*

*George Heelan*

George Heelan

Type or print name

Sept. 25, 2019

Date

Type or print name

Date

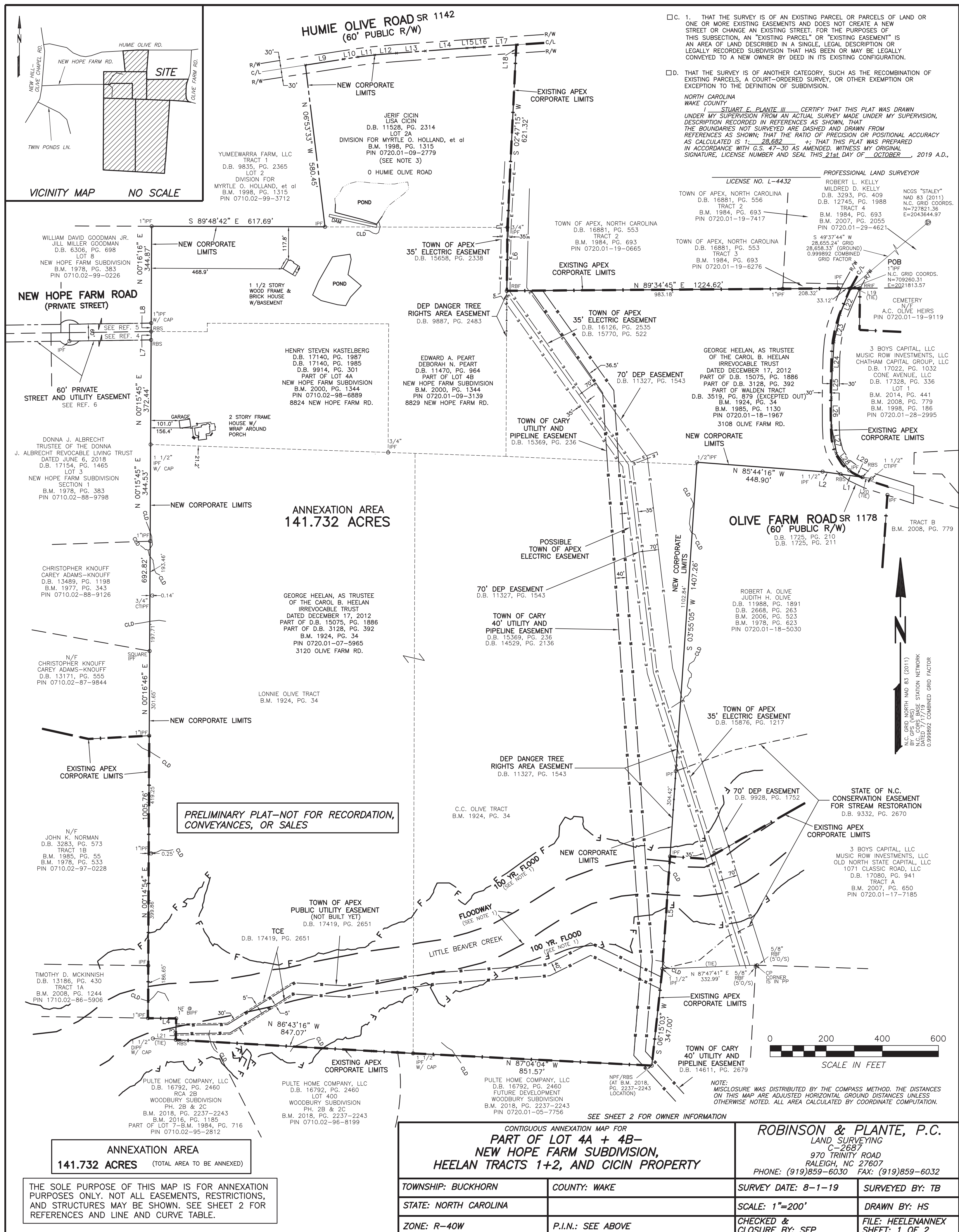
Attach additional sheets if there are additional owners.

\*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.

Beginning at an existing iron pipe found in Olive Farm Road (SR 1178)(60' Public Right of Way), said iron pipe being South 49°37'44" West 28,658.33 feet from NCGS monument "Staley" having N.C. Grid Coordinates (NAD83/2011) of N=727,821.36, E=2,043,644.97, thence from said Beginning point, with a line in said road the following 8 calls; South 21°48'27" West 100.04 feet to a point, thence South 12°15'17" West 100.09 feet to a point, thence South 03°45'42" West 100.03 feet to a point, thence South 01°43'47" West 100.04 feet to a point, thence South 00°11'33" East 100.03 feet to a point, thence South 10°26'03" East 99.95 feet to a point, thence South 37°21'17" East 74.79 feet to an existing iron pipe, thence South 62°11'48" East 52.88 feet to a rebar set, thence leaving said line in Olive Farm Road (SR 1178) North 82°02'43" West 78.75 feet to a rebar set on the southwestern right of way of Olive Farm Road (SR 1178)(60' Public Right of Way), thence leaving said right of way North 82°02'43" West 64.50 feet to an existing iron pipe, thence North 85°44'16" West 448.90 feet to an existing iron pipe, thence South 03°55'05" West 1,407.26 feet to an existing iron pipe, thence South 03°53'40" West 401.10 feet to an existing iron pipe, thence South 06°15'03" West 347.00 feet to a rebar set, thence North 87°04'04" West 851.57 feet to an existing iron pipe, thence North 86°43'16" West 847.07 feet to a rebar set, thence North 01°00'24" East 76.02 feet to nail found at a bent iron pipe, thence North 89°12'54" West 100.50 feet to an existing iron pipe found, thence North 00°14'54" East 1,005.76 feet to an existing iron pipe, thence North 00°16'46" East 692.82 feet to an existing iron pipe, thence North 00°15'45" East 344.53 feet to an existing iron pipe, thence North 00°15'45" East 372.44 feet to a rebar set, thence North 00°22'39" East 30.01 feet to a rebar set, thence North 00°18'40" East 30.01 feet to an existing iron pipe, thence North 00°16'16" East 344.87 feet to an existing iron pipe, thence South 89°48'42" East 617.69 feet to an existing iron pipe, thence North 06°53'33" West 580.45 feet to a point in the centerline of Humie Olive Road (SR 1142)(60' Public Right of way), thence with said centerline North 81°10'21" East 136.24 feet to a point, thence North 81°24'46" East 53.40 feet to a point, thence North 83°08'38" East 60.19 feet to a point, thence North 85°15'06" East 77.57 feet to a point, thence North 85°46'28" East 104.35 feet to a point, thence North 85°53'22" East 147.45 feet to a point, thence North 86°13'49" East 26.06 feet to a point, thence North 86°13'49" East 35.00 feet to a point, thence North 86°13'49" East 115.00 feet to a point, thence leaving said centerline South 02°39'12" West 30.17 feet to a point on the southern right of way of Hume Olive Road (SR 1142)(60' Public Right of Way), thence leaving said right of way South 02°47'15" West 621.32 feet to an existing iron pipe, thence South 00°29'09" West 225.80 feet to an existing rebar, thence North 89°34'45" East 1,224.62 feet to the point and place of Beginning containing 141.732 Acres more or less.







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

I, DONNA B. HOSCH, MMC, NCCMC, TOWN CLERK, APEX, NORTH CAROLINA CERTIFY THIS A TRUE AND EXACT MAP OF ANNEXATION ADOPTED THE \_\_\_\_\_DAY OF \_\_\_\_\_, \_\_\_\_\_, BY THE TOWN COUNCIL. I SET MY HAND AND SEAL OF THE TOWN OF APEX, \_\_\_\_\_/\_\_\_\_\_/\_\_\_\_\_  
DAY MONTH YEAR

\_\_\_\_\_  
DONNA B. HOSCH, MMC, NCCMC, TOWN CLERK  
-SEAL-

REFERENCES:

- B.M. 1978, PG. 383  
B.M. 1981, PG. 365  
B.M. 1998, PG. 519  
D.B. 12840, PG. 1936  
D.B. 16792, PG. 2460
- B.M. 2016, PG. 1185-ANNEXATION MAP  
B.M. 2018, PG. 326-333  
B.M. 2018, PG. 1088-1091  
B.M. 2018, PG. 2237  
B.M. 1984, PG. 716  
MAP BY WITHERS AND RAVENEL ENTITLED "ALTA/NSPS  
LAND TITLE SURVEY OF BRISTOL AND NEW HILL PROPERTIES",  
AND DATED 3-30-17
- D.B. 1151, PG. 232-TRACT 1+2  
D.B. 2601, PG. 587-TRACT ONE
- HENRY STEVEN KASTELBERG  
D.B. 17140, PG. 1987  
D.B. 17140, PG. 1985  
D.B. 9914, PG. 301  
PART OF LOT 4A  
NEW HOPE FARM SUBDIVISION  
B.M. 2000, PG. 1344  
PIN 0710.02-98-6889  
8824 NEW HOPE FARM RD.
- EDWARD A. PEART  
DEBORAH N. PEART  
D.B. 11470, PG. 964  
PART OF LOT 4B  
NEW HOPE FARM SUBDIVISION  
B.M. 2000, PG. 1344  
PIN 0720.01-09-3139  
8829 NEW HOPE FARM RD.
- 60' PRIVATE STREET  
AND UTILITY EASEMENT  
D.B. 2922, PG. 763  
D.B. 2571, PG. 287  
B.M. 1978, PG. 383  
B.M. 1977, PG. 799  
B.M. 1977, PG. 343  
B.M. 1977, PG. 878  
B.M. 1979, PG. 148  
B.M. 1977, PG. 329  
B.M. 1981, PG. 365

NOTES:

- THE PROPERTY IS IN THE 100 YR. FLOOD AND FLOODWAY, ZONE AE,  
BY FEMA FIRM MAP NO. 3720071000K PANEL 0710, EFFECTIVE DATE 2/2/2007  
AND FIRM MAP NO. 3720072000J PANEL 0720, EFFECTIVE DATE 5/2/2006.  
100 YR. FLOOD AND FLOODWAY LINES TAKEN FROM NCFLOODMAPS.COM ON 8/2/19.
- PROPERTY IS SUBJECT TO ALL EASEMENTS AND RESTRICTIONS OF RECORD.  
NO TITLE EXAMINATION HAS BEEN DONE BY ROBINSON & PLANTE, P.C.
- CICIN PROPERTY WAS NOT FIELD SURVEYED AT THIS TIME. BOUNDARY SHOWN  
TAKEN FORM B.M. 1998, PG. 1315. NO EASEMENTS, RESTRICTIONS, OR  
STRUCTURES HAVE BEEN SHOWN FOR THIS PROPERTY.

☐ C. 1. THAT THE SURVEY IS OF AN EXISTING PARCEL OR PARCELS OF LAND OR  
ONE OR MORE EXISTING EASEMENTS AND DOES NOT CREATE A NEW  
STREET OR CHANGE AN EXISTING STREET. FOR THE PURPOSES OF  
THIS SUBSECTION, AN "EXISTING PARCEL" OR "EXISTING EASEMENT" IS  
AN AREA OF LAND DESCRIBED IN A SINGLE, LEGAL DESCRIPTION OR  
LEGALLY RECORDED SUBDIVISION THAT HAS BEEN OR MAY BE LEGALLY  
CONVEYED TO A NEW OWNER BY DEED IN ITS EXISTING CONFIGURATION.

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

NORTH CAROLINA  
WAKE COUNTY  
STUART E. PLANTE III CERTIFY THAT THIS PLAT WAS DRAWN  
UNDER MY SUPERVISION FROM AN ACTUAL SURVEY MADE UNDER MY SUPERVISION,  
DESCRIPTION RECORDED IN REFERENCES AS SHOWN, THAT  
THE BOUNDARIES NOT SURVEYED ARE DASHED AND DRAWN FROM  
REFERENCES AS SHOWN; THAT THE RATIO OF PRECISION OR POSITIONAL ACCURACY  
AS CALCULATED IS 1: 28,682 +; THAT THIS PLAT WAS PREPARED  
IN ACCORDANCE WITH G.S. 47-30 AS AMENDED. WITNESS MY ORIGINAL  
SIGNATURE, LICENSE NUMBER AND SEAL THIS 21st DAY OF OCTOBER, 2019 A.D.,

\_\_\_\_\_  
PROFESSIONAL LAND SURVEYOR

LICENSE NO. L-4432

OWNERS:

JERIF AND LISA CICIN  
104 CORSICA LN.  
CARY, NC 27511  
DEBORAH AND EDWARD PEART  
8829 NEW HOPE FARM RD.  
NEW HILL, NC 27562  
HENRY STEVEN KASTELBERG  
8824 NEW HOPE FARM RD.  
NEW HILL, NC 27562  
GEORGE HEELAN TRUSTEE  
12940 DORMAN RD., APT. 2206  
PINEVILLE, NC 28134

LEGEND

(X)-CALCULATED POINT  
(BIPF)-BENT IRON PIPE FOUND  
(IPF)-IRON PIPE FOUND  
(DIPF)-DISTURBED IRON PIPE FOUND  
(RRIF)-RAILROAD IRON FOUND  
(RBF)-REBAR FOUND  
(RBS)-REBAR SET  
(NF)-NAIL FOUND  
(CTIPF)-CRIMP TOP IRON PIPE FOUND  
(DEP)-DUKE ENERGY PROGRESS  
(CLD)-CENTERLINE DITCH  
(TCE)-TEMPORARY CONSTRUCTION EASEMENT  
(POB)-POINT OF BEGINNING

LINE TABLE

LINE	BEARING	DISTANCE
L1	N 82°02'43" W	78.75'
L2	N 82°02'43" W	64.50'
L3	N 01°00'24" E	76.02'
L4	N 89°12'54" W	100.50'
L5	S 03°53'40" W	401.10'
L6	S 00°29'09" W	225.80'
L7	N 00°22'39" E	30.01'
L8	N 00°18'40" E	30.01'
L9	N 81°10'21" E	136.24'
L10	N 81°24'46" E	53.40'
L11	N 83°08'38" E	60.19'
L12	N 85°15'06" E	77.57'
L13	N 85°46'28" E	104.35'
L14	N 85°53'22" E	147.45'
L15	N 86°13'49" E	26.06'
L16	N 86°13'49" E	35.00'
L17	N 86°13'49" E	115.00'
L18	S 02°39'12" W	30.17'
L19	N 89°34'45" E	33.65'
L20	S 82°02'43" E	33.58'
L21	N 86°43'16" W	81.79'
L22	S 21°48'27" W	100.04'
L23	S 12°15'17" W	100.09'
L24	S 03°45'42" W	100.03'
L25	S 01°43'47" W	100.04'
L26	S 00°11'33" E	100.03'
L27	S 10°26'03" E	99.95'
L28	S 37°21'17" E	74.79'
L29	S 62°11'48" E	52.88'

CONTIGUOUS ANNEXATION MAP FOR

PART OF LOT 4A + 4B-  
NEW HOPE FARM SUBDIVISION,  
HEELAN TRACTS 1+2, AND CICIN PROPERTY

ROBINSON & PLANTE, P.C.  
LAND SURVEYING  
C-2687  
970 TRINITY ROAD  
RALEIGH, NC 27607  
PHONE: (919)859-6030 FAX: (919)859-6032

TOWNSHIP: BUCKHORN

COUNTY: WAKE

SURVEY DATE: 8-1-19

SURVEYED BY: TB

STATE: NORTH CAROLINA

SCALE: 1"=200'

DRAWN BY: HS

ZONE: R-40W

P.I.N.: SEE ABOVE

CHECKED &  
CLOSURE BY: SEP

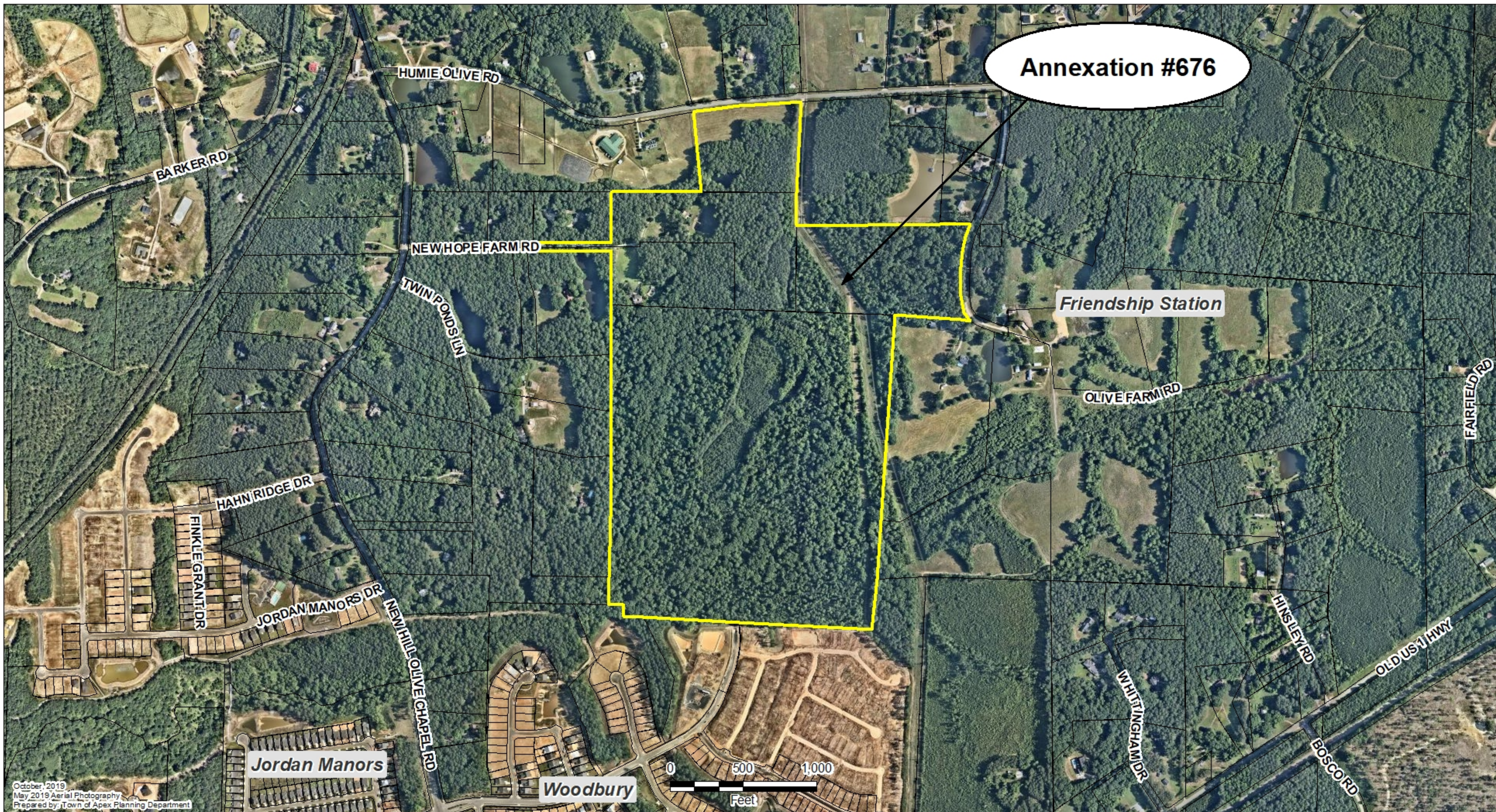
FILE: HEELANNEX  
SHEET: 2 OF 2

PRELIMINARY PLAT-NOT FOR RECORDATION,  
CONVEYANCES, OR SALES

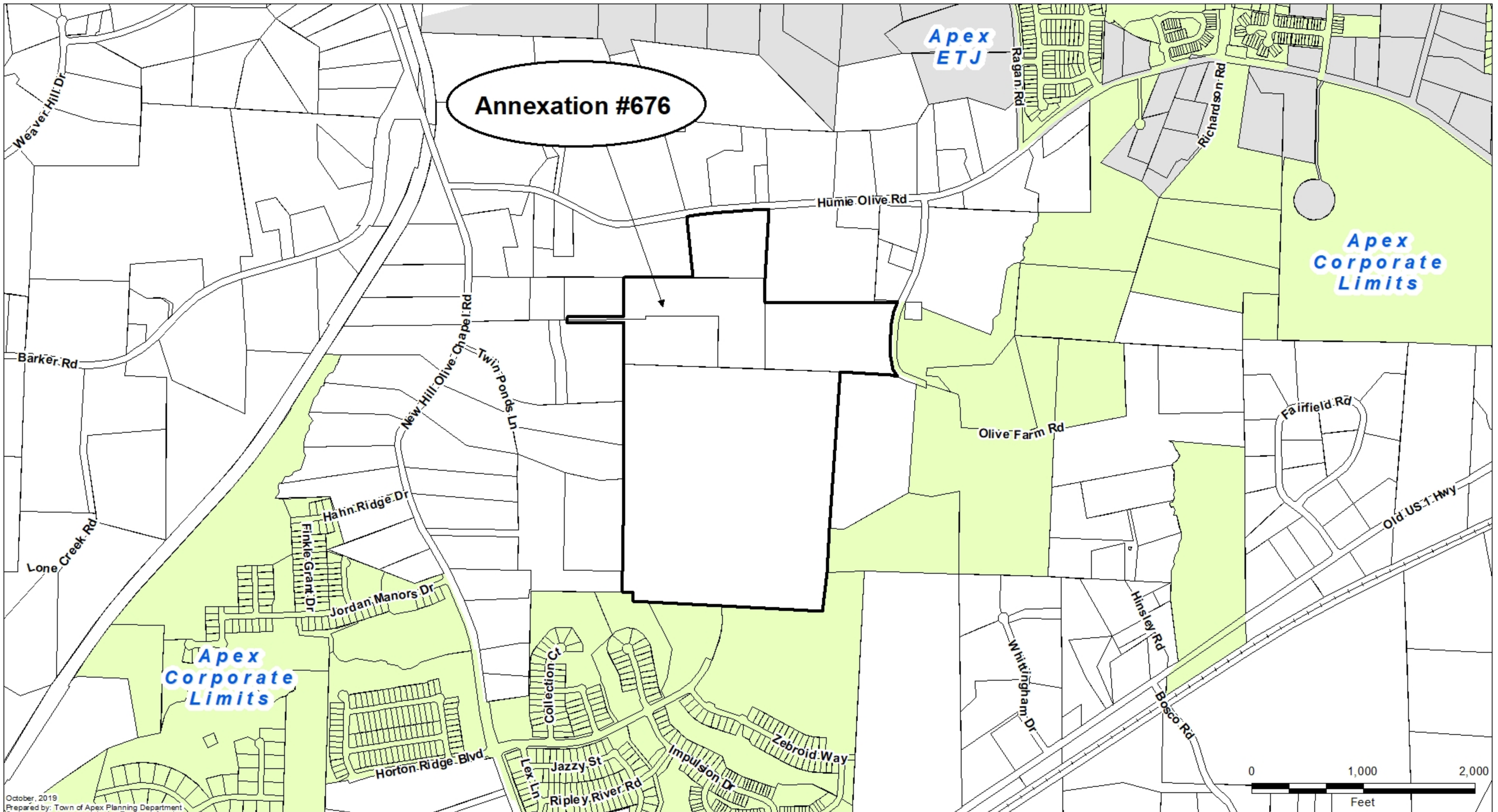
RECORDED IN PLAT BOOK \_\_\_\_\_ PAGE \_\_\_\_\_.



**Annexation #676**

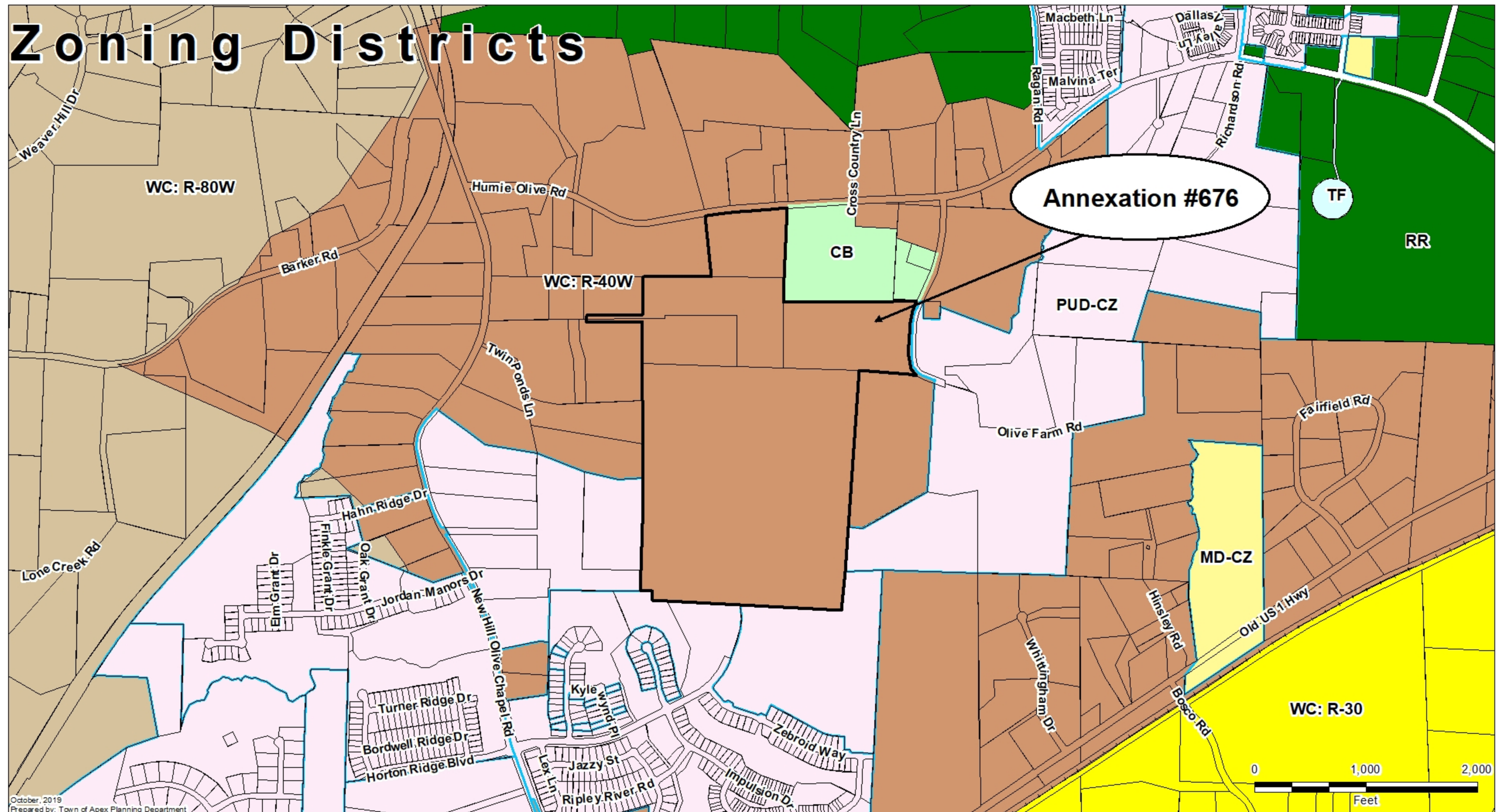








# Zoning Districts





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

Annexation Petition #676  
Heelan PUD

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

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

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

This the 4th day of February 2020.

---

Jacques K. Gilbert  
Mayor

ATTEST:

---

Donna B. Hosch, MMC, NCCMC  
Town Clerk





CERTIFICATE OF SUFFICIENCY BY THE TOWN CLERK

Annexation Petition #676  
Heelan PUD

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

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

IN WITNESS WHEREOF, I have hereunto set my hand and affixed the seal of the Town of Apex, North Carolina this 4th day of February 2020.

---

Donna B. Hosch, MMC, NCCMC  
Town Clerk

(Seal)

## PETITION FOR VOLUNTARY ANNEXATION

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

Application #: \_\_\_\_\_ Submittal Date: \_\_\_\_\_  
Fee Paid \$ \_\_\_\_\_ Check # \_\_\_\_\_

### TO THE TOWN COUNCIL APEX, NORTH CAROLINA

1. We, the undersigned owners of real property, respectfully request that the area described in Part 4 below be annexed to the Town of Apex, Wake County, North Carolina.
2. The area to be annexed is ☒ contiguous, ☐ non-contiguous (satellite) to the Town of Apex, North Carolina and the boundaries are as contained in the metes and bounds description attached hereto.
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### Owner Information

Henry Steven Kastelberg	0710-98-6889
Owner Name (Please Print)	Property PIN or Deed Book & Page #
Phone	E-mail Address
Carol B Heelan Irrevocable Trust c/o George Heelan	0720-07-5965 & 0720-18-1967
Owner Name (Please Print)	Property PIN or Deed Book & Page #
Phone	E-mail Address
Edward A & Deborah N Peart	0720-09-3139
Owner Name (Please Print)	Property PIN or Deed Book & Page #
Jerfi & Lisa Cicin	0720-09-2779
Phone	E-mail Address

### Surveyor Information

Surveyor: Robinson & Plante, P.C.  
Phone: 919-859-6030 Fax: 919-859-6032  
E-mail Address: buddy@robinsonplante.com

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Population of acreage to be annexed:	0	Receive Town Services	X
Existing # of housing units:	3	Other (please specify)	_____
Zoning District*:	R-40W		

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



PETITION FOR VOLUNTARY ANNEXATION

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

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

COMPLETE IF SIGNED BY INDIVIDUALS

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

Henry Steven Kastelberg

Please Print

Henry Steven Kastelberg

Signature

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

\_\_\_\_\_  
Signature

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

\_\_\_\_\_  
Signature

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

\_\_\_\_\_  
Signature

STATE OF NORTH CAROLINA  
COUNTY OF WAKE

Sworn and subscribed before me, Catherine E. Walden, a Notary Public for the above State and County,  
this the 1 day of Oct, 2019.

Catherine E. Walden  
Notary Public

SEAL



My Commission Expires: 10/20/2020

COMPLETE IF A CORPORATION

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

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

SEAL

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

President (Signature)

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

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

STATE OF NORTH CAROLINA  
COUNTY OF WAKE

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

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

SEAL

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

PETITION FOR VOLUNTARY ANNEXATION

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

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

COMPLETE IF SIGNED BY INDIVIDUALS:

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

E. Aaron Peart  
Please Print

Deborah N. Peart  
Please Print

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

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

STATE OF NORTH CAROLINA  
COUNTY OF WAKE

[Signature]  
Signature

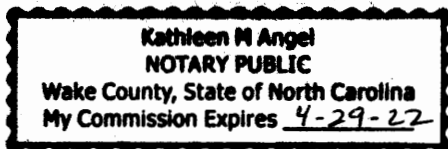
Deborah N. Peart  
Signature

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Signature

Sworn and subscribed before me, Kathleen M. Angel, a Notary Public for the above State and County,  
this the 30<sup>th</sup> day of September, 2019.

SEAL



[Signature]  
Notary Public

My Commission Expires: 4-29-22

COMPLETE IF A CORPORATION:

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

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

Attest: By: \_\_\_\_\_  
President (Signature)

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

STATE OF NORTH CAROLINA  
COUNTY OF WAKE

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

SEAL

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

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



PETITION FOR VOLUNTARY ANNEXATION

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

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

COMPLETE IF SIGNED BY INDIVIDUALS:

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

George Heeler  
Please Print

George Heeler  
Signature

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

\_\_\_\_\_  
Signature

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

\_\_\_\_\_  
Signature

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

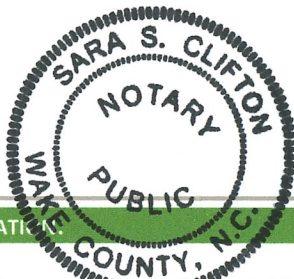
\_\_\_\_\_  
Signature

STATE OF NORTH CAROLINA  
COUNTY OF WAKE

Sworn and subscribed before me, Sara S Clifton, a Notary Public for the above State and County,  
this the 25 day of, September, 2019.

Sara S. Clifton  
Notary Public

SEAL



My Commission Expires: 1-10-2020

COMPLETE IF A CORPORATION:

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

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

SEAL

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

President (Signature)

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

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

STATE OF NORTH CAROLINA  
COUNTY OF WAKE

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

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

SEAL

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

# AGENT AUTHORIZATION FORM

Application #:

Submittal Date:

CAROL B HEELAN IRREVOCABLE TRUST

is the owner\* of the property for which the attached

application is being submitted:

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

The property address is:

3108 OLIVE FARM RD (0720-18-1967) & 3120 OLIVE FARM RD (0720-07-5965)

The agent for this project is:

M/I Homes of Raleigh, LLC

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

Agent Name:

Erica Leatham

Address:

1511 Sunday Drive | Ste 100 Raleigh, NC 27607

Telephone Number:

E-Mail Address:

Signature(s) of Owner(s)\*

*George Heelan*

George Heelan

Type or print name

Sept. 25, 2019

Date

Type or print name

Date

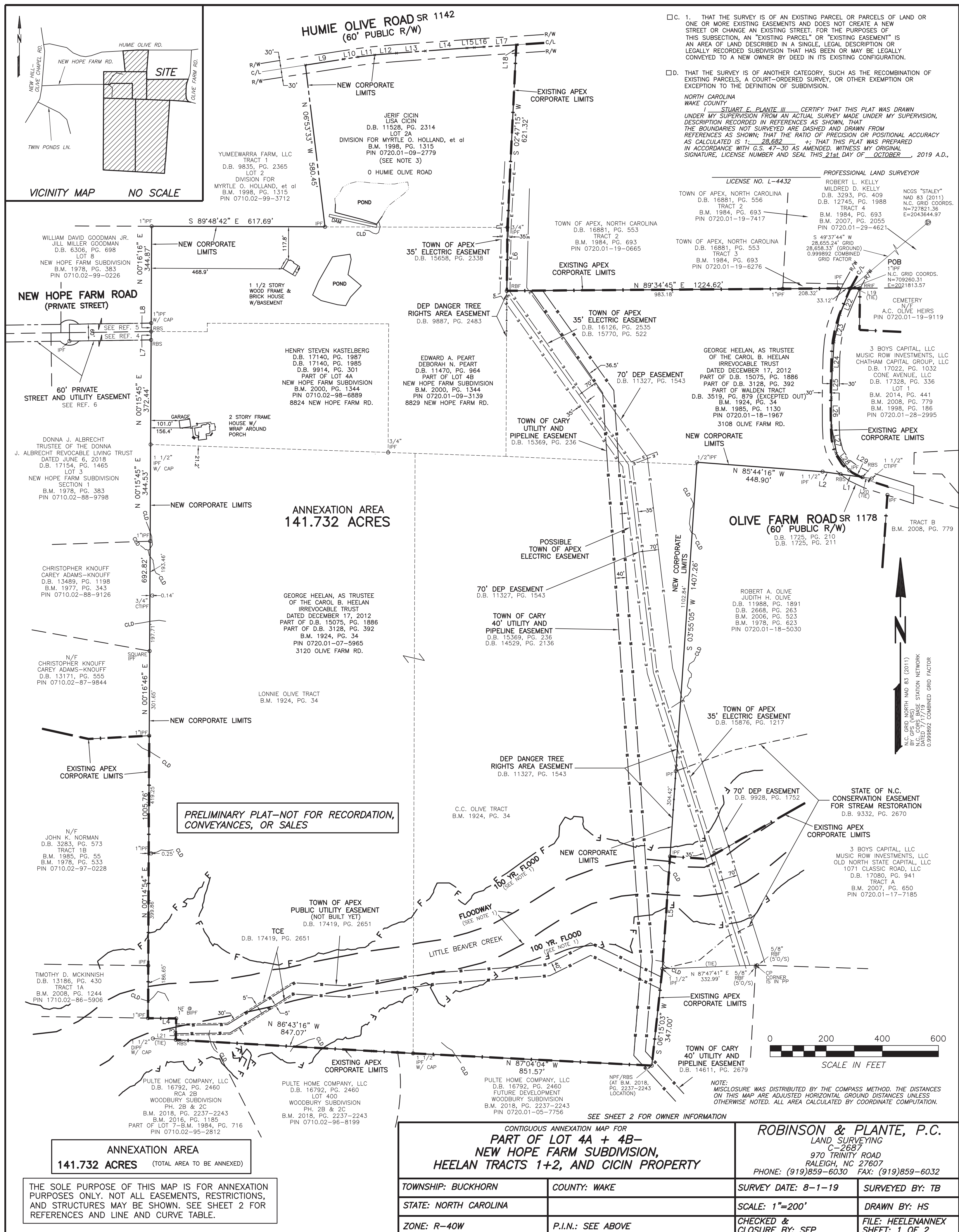
Attach additional sheets if there are additional owners.

\*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.

Beginning at an existing iron pipe found in Olive Farm Road (SR 1178)(60' Public Right of Way), said iron pipe being South 49°37'44" West 28,658.33 feet from NCGS monument "Staley" having N.C. Grid Coordinates (NAD83/2011) of N=727,821.36, E=2,043,644.97, thence from said Beginning point, with a line in said road the following 8 calls; South 21°48'27" West 100.04 feet to a point, thence South 12°15'17" West 100.09 feet to a point, thence South 03°45'42" West 100.03 feet to a point, thence South 01°43'47" West 100.04 feet to a point, thence South 00°11'33" East 100.03 feet to a point, thence South 10°26'03" East 99.95 feet to a point, thence South 37°21'17" East 74.79 feet to an existing iron pipe, thence South 62°11'48" East 52.88 feet to a rebar set, thence leaving said line in Olive Farm Road (SR 1178) North 82°02'43" West 78.75 feet to a rebar set on the southwestern right of way of Olive Farm Road (SR 1178)(60' Public Right of Way), thence leaving said right of way North 82°02'43" West 64.50 feet to an existing iron pipe, thence North 85°44'16" West 448.90 feet to an existing iron pipe, thence South 03°55'05" West 1,407.26 feet to an existing iron pipe, thence South 03°53'40" West 401.10 feet to an existing iron pipe, thence South 06°15'03" West 347.00 feet to a rebar set, thence North 87°04'04" West 851.57 feet to an existing iron pipe, thence North 86°43'16" West 847.07 feet to a rebar set, thence North 01°00'24" East 76.02 feet to nail found at a bent iron pipe, thence North 89°12'54" West 100.50 feet to an existing iron pipe found, thence North 00°14'54" East 1,005.76 feet to an existing iron pipe, thence North 00°16'46" East 692.82 feet to an existing iron pipe, thence North 00°15'45" East 344.53 feet to an existing iron pipe, thence North 00°15'45" East 372.44 feet to a rebar set, thence North 00°22'39" East 30.01 feet to a rebar set, thence North 00°18'40" East 30.01 feet to an existing iron pipe, thence North 00°16'16" East 344.87 feet to an existing iron pipe, thence South 89°48'42" East 617.69 feet to an existing iron pipe, thence North 06°53'33" West 580.45 feet to a point in the centerline of Humie Olive Road (SR 1142)(60' Public Right of way), thence with said centerline North 81°10'21" East 136.24 feet to a point, thence North 81°24'46" East 53.40 feet to a point, thence North 83°08'38" East 60.19 feet to a point, thence North 85°15'06" East 77.57 feet to a point, thence North 85°46'28" East 104.35 feet to a point, thence North 85°53'22" East 147.45 feet to a point, thence North 86°13'49" East 26.06 feet to a point, thence North 86°13'49" East 35.00 feet to a point, thence North 86°13'49" East 115.00 feet to a point, thence leaving said centerline South 02°39'12" West 30.17 feet to a point on the southern right of way of Hume Olive Road (SR 1142)(60' Public Right of Way), thence leaving said right of way South 02°47'15" West 621.32 feet to an existing iron pipe, thence South 00°29'09" West 225.80 feet to an existing rebar, thence North 89°34'45" East 1,224.62 feet to the point and place of Beginning containing 141.732 Acres more or less.







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

I, DONNA B. HOSCH, MMC, NCCMC, TOWN CLERK, APEX, NORTH CAROLINA CERTIFY THIS A TRUE AND EXACT MAP OF ANNEXATION ADOPTED THE \_\_\_\_\_DAY OF \_\_\_\_\_, \_\_\_\_\_, BY THE TOWN COUNCIL. I SET MY HAND AND SEAL OF THE TOWN OF APEX, \_\_\_\_\_/\_\_\_\_\_/\_\_\_\_\_  
DAY MONTH YEAR

\_\_\_\_\_  
DONNA B. HOSCH, MMC, NCCMC, TOWN CLERK  
-SEAL-

REFERENCES:

- B.M. 1978, PG. 383  
B.M. 1981, PG. 365  
B.M. 1998, PG. 519  
D.B. 12840, PG. 1936  
D.B. 16792, PG. 2460
- B.M. 2016, PG. 1185-ANNEXATION MAP  
B.M. 2018, PG. 326-333  
B.M. 2018, PG. 1088-1091  
B.M. 2018, PG. 2237  
B.M. 1984, PG. 716  
MAP BY WITHERS AND RAVENEL ENTITLED "ALTA/NSPS  
LAND TITLE SURVEY OF BRISTOL AND NEW HILL PROPERTIES",  
AND DATED 3-30-17
- D.B. 1151, PG. 232-TRACT 1+2  
D.B. 2601, PG. 587-TRACT ONE
- HENRY STEVEN KASTELBERG  
D.B. 17140, PG. 1987  
D.B. 17140, PG. 1985  
D.B. 9914, PG. 301  
PART OF LOT 4A  
NEW HOPE FARM SUBDIVISION  
B.M. 2000, PG. 1344  
PIN 0710.02-98-6889  
8824 NEW HOPE FARM RD.
- EDWARD A. PEART  
DEBORAH N. PEART  
D.B. 11470, PG. 964  
PART OF LOT 4B  
NEW HOPE FARM SUBDIVISION  
B.M. 2000, PG. 1344  
PIN 0720.01-09-3139  
8829 NEW HOPE FARM RD.
- 60' PRIVATE STREET  
AND UTILITY EASEMENT  
D.B. 2922, PG. 763  
D.B. 2571, PG. 287  
B.M. 1978, PG. 383  
B.M. 1977, PG. 799  
B.M. 1977, PG. 343  
B.M. 1977, PG. 878  
B.M. 1979, PG. 148  
B.M. 1977, PG. 329  
B.M. 1981, PG. 365

NOTES:

- THE PROPERTY IS IN THE 100 YR. FLOOD AND FLOODWAY, ZONE AE,  
BY FEMA FIRM MAP NO. 3720071000K PANEL 0710, EFFECTIVE DATE 2/2/2007  
AND FIRM MAP NO. 3720072000J PANEL 0720, EFFECTIVE DATE 5/2/2006.  
100 YR. FLOOD AND FLOODWAY LINES TAKEN FROM NCFLOODMAPS.COM ON 8/2/19.
- PROPERTY IS SUBJECT TO ALL EASEMENTS AND RESTRICTIONS OF RECORD.  
NO TITLE EXAMINATION HAS BEEN DONE BY ROBINSON & PLANTE, P.C.
- CICIN PROPERTY WAS NOT FIELD SURVEYED AT THIS TIME. BOUNDARY SHOWN  
TAKEN FORM B.M. 1998, PG. 1315. NO EASEMENTS, RESTRICTIONS, OR  
STRUCTURES HAVE BEEN SHOWN FOR THIS PROPERTY.

☐ C. 1. THAT THE SURVEY IS OF AN EXISTING PARCEL OR PARCELS OF LAND OR  
ONE OR MORE EXISTING EASEMENTS AND DOES NOT CREATE A NEW  
STREET OR CHANGE AN EXISTING STREET. FOR THE PURPOSES OF  
THIS SUBSECTION, AN "EXISTING PARCEL" OR "EXISTING EASEMENT" IS  
AN AREA OF LAND DESCRIBED IN A SINGLE, LEGAL DESCRIPTION OR  
LEGALLY RECORDED SUBDIVISION THAT HAS BEEN OR MAY BE LEGALLY  
CONVEYED TO A NEW OWNER BY DEED IN ITS EXISTING CONFIGURATION.

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

NORTH CAROLINA  
WAKE COUNTY  
STUART E. PLANTE III CERTIFY THAT THIS PLAT WAS DRAWN  
UNDER MY SUPERVISION FROM AN ACTUAL SURVEY MADE UNDER MY SUPERVISION,  
DESCRIPTION RECORDED IN REFERENCES AS SHOWN, THAT  
THE BOUNDARIES NOT SURVEYED ARE DASHED AND DRAWN FROM  
REFERENCES AS SHOWN; THAT THE RATIO OF PRECISION OR POSITIONAL ACCURACY  
AS CALCULATED IS 1: 28,682 +; THAT THIS PLAT WAS PREPARED  
IN ACCORDANCE WITH G.S. 47-30 AS AMENDED. WITNESS MY ORIGINAL  
SIGNATURE, LICENSE NUMBER AND SEAL THIS 21st DAY OF OCTOBER, 2019 A.D.,

\_\_\_\_\_  
PROFESSIONAL LAND SURVEYOR

LICENSE NO. L-4432

OWNERS:

JERIF AND LISA CICIN  
104 CORSICA LN.  
CARY, NC 27511  
DEBORAH AND EDWARD PEART  
8829 NEW HOPE FARM RD.  
NEW HILL, NC 27562  
HENRY STEVEN KASTELBERG  
8824 NEW HOPE FARM RD.  
NEW HILL, NC 27562  
GEORGE HEELAN TRUSTEE  
12940 DORMAN RD., APT. 2206  
PINEVILLE, NC 28134

LEGEND

(X)-CALCULATED POINT  
(BIPF)-BENT IRON PIPE FOUND  
(IPF)-IRON PIPE FOUND  
(DIPF)-DISTURBED IRON PIPE FOUND  
(RRIF)-RAILROAD IRON FOUND  
(RBF)-REBAR FOUND  
(RBS)-REBAR SET  
(NF)-NAIL FOUND  
(CTIPF)-CRIMP TOP IRON PIPE FOUND  
(DEP)-DUKE ENERGY PROGRESS  
(CLD)-CENTERLINE DITCH  
(TCE)-TEMPORARY CONSTRUCTION EASEMENT  
(POB)-POINT OF BEGINNING

LINE TABLE

LINE	BEARING	DISTANCE
L1	N 82°02'43" W	78.75'
L2	N 82°02'43" W	64.50'
L3	N 01°00'24" E	76.02'
L4	N 89°12'54" W	100.50'
L5	S 03°53'40" W	401.10'
L6	S 00°29'09" W	225.80'
L7	N 00°22'39" E	30.01'
L8	N 00°18'40" E	30.01'
L9	N 81°10'21" E	136.24'
L10	N 81°24'46" E	53.40'
L11	N 83°08'38" E	60.19'
L12	N 85°15'06" E	77.57'
L13	N 85°46'28" E	104.35'
L14	N 85°53'22" E	147.45'
L15	N 86°13'49" E	26.06'
L16	N 86°13'49" E	35.00'
L17	N 86°13'49" E	115.00'
L18	S 02°39'12" W	30.17'
L19	N 89°34'45" E	33.65'
L20	S 82°02'43" E	33.58'
L21	N 86°43'16" W	81.79'
L22	S 21°48'27" W	100.04'
L23	S 12°15'17" W	100.09'
L24	S 03°45'42" W	100.03'
L25	S 01°43'47" W	100.04'
L26	S 00°11'33" E	100.03'
L27	S 10°26'03" E	99.95'
L28	S 37°21'17" E	74.79'
L29	S 62°11'48" E	52.88'

CONTIGUOUS ANNEXATION MAP FOR

PART OF LOT 4A + 4B-  
NEW HOPE FARM SUBDIVISION,  
HEELAN TRACTS 1+2, AND CICIN PROPERTY

ROBINSON & PLANTE, P.C.  
LAND SURVEYING  
C-2687  
970 TRINITY ROAD  
RALEIGH, NC 27607  
PHONE: (919)859-6030 FAX: (919)859-6032

TOWNSHIP: BUCKHORN	COUNTY: WAKE	SURVEY DATE: 8-1-19	SURVEYED BY: TB
STATE: NORTH CAROLINA		SCALE: 1"=200'	DRAWN BY: HS
ZONE: R-40W	P.I.N.: SEE ABOVE	CHECKED & CLOSURE BY: SEP	FILE: HEELENNANEX SHEET: 2 OF 2

PRELIMINARY PLAT-NOT FOR RECORDATION,  
CONVEYANCES, OR SALES

RECORDED IN PLAT BOOK \_\_\_\_\_ PAGE \_\_\_\_\_.



**Annexation #676**

### Friendship Station

OLIVE FARM RD

HINSLEY RD

OLD US 1 HWY



WHITTINGHAM DR

BARKER RD

## HUMIE OLIVE R

NEW HOPE FARM R

TWIN PONDS

HAHN RIDGE DR

**FINKLE GRAIN-BIX**

An aerial photograph showing a residential development. A road, labeled 'NEW HILL OLIVE CHAPEL', runs diagonally across the frame. The area is densely wooded with green trees. Some buildings and parking areas are visible at the bottom left.

**Jordan Manors**

**Woodbury**

A graphic scale bar with alternating black and white segments. It is marked with '0', '500', and '1,000' at the top, and the word 'Feet' is centered below the bar.




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## Wake County Real Estate Data Account Summary

[iMaps](#)
[Tax Bills](#)

Real Estate ID 0105635

PIN # 0710986889

 Account  
Search
 

 Location Address  
8824 NEW HOPE FARM RD

 Property Description  
LO4A RCMB NEW HOPE FARM SUB BM2000-01344

[Pin/Parcel History](#)
[New Search](#)

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

Property Owner <b>KASTELBERG, HENRY STEVEN</b> (Use the Deeds link to view any additional owners)		Owner's Mailing Address <b>8824 NEW HOPE FARM RD</b> <b>NEW HILL NC 27562-9178</b>		Property Location Address <b>8824 NEW HOPE FARM RD</b> <b>NEW HILL NC 27562-9178</b>	
<b>Administrative Data</b> Old Map # 691-00000-0048 Map/Scale 0710 02 VCS 03WC022 City Fire District 23 Township BUCKHORN Land Class R-<10-HS ETJ WC Spec Dist(s) Zoning R-40W History ID 1 History ID 2 Acreage 8.86 Permit Date 4/29/2011 Permit # 0000112142		<b>Transfer Information</b> Deed Date 5/30/2018 Book & Page 17140 1987 Revenue Stamps Pkg Sale Date 11/3/1982 Pkg Sale Price \$58,000 Land Sale Date Land Sale Price <b>Improvement Summary</b> Total Units 1 Recycle Units 1 Apt/SC Sqft Heated Area 3,377		<b>Assessed Value</b> Land Value Assessed \$22,500 Bldg. Value Assessed \$382,090 Tax Relief Land Use Value Use Value Deferment Historic Deferment Total Deferred Value Use/Hist/Tax Relief Assessed Total Value Assessed* \$404,590	

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

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

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


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## Wake County Real Estate Data Account Summary

[iMaps](#)  
[Tax Bills](#)

Real Estate ID 0047551

PIN # 0720075965

Account  
SearchLocation Address  
3120 OLIVE FARM RDProperty Description  
FONNIE OLIVE LAND
[Pin/Parcel History](#) [New Search](#)

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

Property Owner <b>CAROL B HEELAN IRREVOCABLE TRUST</b> (Use the Deeds link to view any additional owners)		Owner's Mailing Address <b>GEORGE HEELAN TRUSTEE</b> 12940 DORMAN RD APT 2206 PINEVILLE NC 28134-9386	Property Location Address <b>3120 OLIVE FARM RD</b> APEX NC 27502-9632
<b>Administrative Data</b>		<b>Transfer Information</b>	<b>Assessed Value</b>
Old Map #	691-00000-0004	Deed Date	12/27/2012
Map/Scale	0720 01	Book & Page	15075 1886
VCS	03WC900	Revenue Stamps	
City		Pkg Sale Date	6/6/1983
Fire District	23	Pkg Sale Price	
Township	BUCKHORN	Land Sale Date	
Land Class	FOR-FARM	Land Sale Price	
ETJ	WC		
Spec Dist(s)			
Zoning	R-40W	<b>Improvement Summary</b>	
History ID 1		Total Units	0
History ID 2		Recycle Units	0
Acreage	91.00	Apt/SC Sqft	
Permit Date		Heated Area	
Permit #			
			Land Value Assessed \$2,965,872
			Bldg. Value Assessed
			Tax Relief
			Land Use Value \$10,465
			Use Value Deferment \$2,955,407
			Historic Deferment
			Total Deferred Value \$2,955,407
			Use/Hist/Tax Relief Assessed \$10,465
			Total Value Assessed* \$2,965,872

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

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

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## Wake County Real Estate Data Account Summary

[iMaps](#)  
[Tax Bills](#)
Real Estate ID **0047552**PIN # **0720181967**Account  
SearchLocation Address  
**3108 OLIVE FARM RD**Property Description  
**WALDEN LD**
[Pin/Parcel History](#) [New Search](#)

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

Property Owner <b>CAROL B HEELAN IRREVOCABLE TRUST HEELAN, GEORGE /TR</b> (Use the Deeds link to view any additional owners)		Owner's Mailing Address <b>GEORGE HEELAN TRUSTEE 12940 DORMAN RD APT 2206 PINEVILLE NC 28134-9386</b>	Property Location Address <b>3108 OLIVE FARM RD APEX NC 27502-9632</b>
<b>Administrative Data</b> Old Map # <b>691-00000-0003</b> Map/Scale <b>0720 01</b> VCS <b>03WC900</b> City Fire District <b>23</b> Township <b>BUCKHORN</b> Land Class <b>FOR-FARM</b> ETJ <b>WC</b> Spec Dist(s) Zoning <b>R-40W</b> History ID 1 History ID 2 Acreage <b>16.77</b> Permit Date Permit #		<b>Transfer Information</b> Deed Date <b>12/27/2012</b> Book & Page <b>15075 1886</b> Revenue Stamps Pkg Sale Date <b>6/6/1983</b> Pkg Sale Price Land Sale Date Land Sale Price <b>Improvement Summary</b> Total Units <b>0</b> Recycle Units <b>0</b> Apt/SC Sqft Heated Area	<b>Assessed Value</b> Land Value Assessed <b>\$611,880</b> Bldg. Value Assessed Tax Relief Land Use Value <b>\$6,463</b> Use Value Deferment <b>\$605,417</b> Historic Deferment Total Deferred Value <b>\$605,417</b> Use/Hist/Tax Relief Assessed <b>\$6,463</b> Total Value Assessed* <b>\$611,880</b>

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

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

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## Wake County Real Estate Data Account Summary

[iMaps](#)  
[Tax Bills](#)

Real Estate ID 0117372

PIN # 0720093139

Account  
SearchLocation Address  
8829 NEW HOPE FARM RDProperty Description  
LO4B RCMB NEW HOPE FARM SUB BM2000-01344
[Pin/Parcel History](#) [New Search](#)

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

Property Owner <b>PEART, EDWARD A &amp; DEBORAH N</b> (Use the Deeds link to view any additional owners)		Owner's Mailing Address <b>8829 NEW HOPE FARM RD</b> <b>NEW HILL NC 27562-9179</b>		Property Location Address <b>8829 NEW HOPE FARM RD</b> <b>NEW HILL NC 27562-9179</b>	
<b>Administrative Data</b>		<b>Transfer Information</b>		<b>Assessed Value</b>	
Old Map #	691-00000-0055	Deed Date	7/15/2005	Land Value Assessed	\$302,500
Map/Scale	0720 01	Book & Page	11470 0964	Bldg. Value Assessed	\$264,458
VCS	03WC022	Revenue Stamps	1150.00		
City		Pkg Sale Date	7/15/2005	Tax Relief	
Fire District	23	Pkg Sale Price	\$575,000		
Township	BUCKHORN	Land Sale Date		Land Use Value	
Land Class	AC>10-HS	Land Sale Price		Use Value Deferment	
ETJ	WC			Historic Deferment	
Spec Dist(s)				Total Deferred Value	
Zoning	R-40W	<b>Improvement Summary</b>			
History ID 1		Total Units	1	Use/Hist/Tax Relief Assessed	
History ID 2		Recycle Units	1	Total Value Assessed*	\$566,958
Acreage	15.00	Apt/SC Sqft			
Permit Date	9/4/2012	Heated Area	2,746		
Permit #	0000130574				

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

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

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




[Home](#)

## Wake County Real Estate Data Account Summary

[iMaps](#)  
[Tax Bills](#)
Real Estate ID **0224440**PIN # **0720092779**Account  
SearchLocation Address  
**0 HUMIE OLIVE RD**Property Description  
**LO2A MYRTLE HOLLAND ETAL PROP BM1998-1315**
[Pin/Parcel History](#) [New Search](#)

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

Property Owner <b>CICIN, JERIF &amp; LISA</b> (Use the Deeds link to view any additional owners)		Owner's Mailing Address <b>104 CORSICA LN</b> <b>CARY NC 27511-6476</b>	Property Location Address <b>0 HUMIE OLIVE RD</b> <b>APEX NC 27502-8975</b>
<b>Administrative Data</b> Old Map # <b>668--</b> Map/Scale <b>0720 01</b> VCS <b>03WC900</b> City Fire District <b>23</b> Township <b>BUCKHORN</b> Land Class <b>VACANT</b> ETJ <b>WC</b> Spec Dist(s) Zoning <b>R-40W</b> History ID 1 History ID 2 Acreage <b>9.49</b> Permit Date Permit #		<b>Transfer Information</b> Deed Date <b>8/16/2005</b> Book & Page <b>11528 2314</b> Revenue Stamps <b>450.00</b> Pkg Sale Date Pkg Sale Price Land Sale Date <b>8/16/2005</b> Land Sale Price <b>\$225,000</b> <b>Improvement Summary</b> Total Units <b>0</b> Recycle Units <b>0</b> Apt/SC Sqft Heated Area	<b>Assessed Value</b> Land Value Assessed <b>\$482,520</b> Bldg. Value Assessed Tax Relief Land Use Value Use Value Deferment Historic Deferment Total Deferred Value Use/Hist/Tax Relief Assessed Total Value Assessed* <b>\$482,520</b>

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

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

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

Annexation Petition #676  
Heelan PUD

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

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

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

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

Section 1. A public hearing on the question of annexation of the area described herein will be held at the Apex Town Hall at 6 o'clock p.m. on the 18th day of February 2020.

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

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

This the 4th day of February 2020.

---

Jacques K. Gilbert, Mayor

ATTEST:

---

Donna B. Hosch, MMC, NCCMC, Town Clerk



# | Agenda Item | cover sheet

for consideration by the Apex Town Council

Item Type: CONSENT AGENDA

Meeting Date: February 4, 2020

## Item Details

Presenter(s): Shelly Mayo, Planner II

Department(s): Planning and Community Development Department

### Requested Motion

Motion to set the Public Hearing for the February 18, 2020 Town Council meeting regarding Rezoning Application #19CZ25 Jenks & Wimberly Mixed Use PUD. The applicant, Taylor Morrison of Carolinas, Inc., seeks to rezone approximately 14.68 acres from Rural Residential (RR) to Planned Unit Development-Conditional Zoning (PUD-CZ). The proposed rezoning is located at 1533 Wimberly Road and 7912, 8000, and 8016 Jenks Road.

### Approval Recommended?

The Planning and Community Development Department recommends approval.

### Item Details

The following PINs are included in this rezoning:

0722788252, 0722784193, 0722780191 & 0722687241

### Attachments

- Vicinity Map
- Application







**Rezoning #19CZ25**

*The Preserve at  
White Oak Creek*

Rambling Creek Rd

Sunnybranch Ln

White Oak Grove Way

**Caitlin  
Pond**

**Sunnybrook  
Farms**

Jenks Rd

**Townes at  
Westford**

Haybeck Ln

Monument Hill Aly

Brookside Hill Aly

**Westford  
Apartments**

Fletcherstone Way



**PLANNED UNIT DEVELOPMENT APPLICATION**

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

Application #:	_____	Submittal Date:	_____
Fee Paid	\$ _____	Check #	_____

**PETITION TO AMEND THE OFFICIAL ZONING DISTRICT MAP**

Project Name: Jenks and Wimberly Mixed Use PUD

Address(es): 7912, 8000, & 8016 Jenks Road & 1533 Wimberly Road

PIN(s) 0722-78-8252; 0722-78-4193; 0722-78-0191; & 0722-68-7241

\_\_\_\_\_ Acreage: 14.86

Current Zoning: RR Proposed Zoning: PUD

Current 2045 LUM Designation: Mixed Use

Requested 2045 LUM Designation: Mixed Use

See next page for LUM amendment

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

Area classified as mixed use:	Acreage:	<u>14.86</u>
Area proposed as non-residential development:	Acreage:	<u>1.53</u>
Percent of mixed use area proposed as non-residential:	Percent:	<u>10%</u>

**Applicant Information**

Name: Taylor Morrison of Carolinas, Inc.

Address: 15501 Weston Parkway | Ste 100

City: Cary State: NC Zip: 27513

Phone: \_\_\_\_\_ E-mail: \_\_\_\_\_

**Owner Information**

Name: SEE ATTACHED

Address: \_\_\_\_\_

City: \_\_\_\_\_ State: \_\_\_\_\_ Zip: \_\_\_\_\_

Phone: \_\_\_\_\_ E-mail: \_\_\_\_\_

**Agent Information**

Name: Jason Barron

Address: 421 Fayetteville St | Ste 530

City: Raleigh State: NC Zip: 27601

Phone: 919-590-0371 E-mail: jbarron@morningstarlawgroup.com

Other contacts: Nil Ghosh - nghosh@morningstarlawgroup.com

Robbie Bell - Robbie.Bell@bnkinc.com

## Property Owners Information

PIN	REID	Site Address	Owner	Mail Address 1	Mail Address 2	Deed Acres
0722-68-7241	164032	1533 WIMBERLY RD	RICHARD L & TRISHA S HINESLEY	4070 RANEY WAY DR	STEM NC 27581-9651	1.68
0722-78-0191	173563	8016 JENKS RD	TERESA L KIRKPATRICK	591 BENT OAK TRL	CONCORD NC 28027-9715	6.22
0722-78-4193	173564	8000 JENKS RD	CHARLES K & FRANCES J LEWIS	323 SCENIC MOUNTAIN DR	SPARTA NC 28675-9434	3.55
0722-78-8252	173565	7912 JENKS RD	MICHAEL D & ALISON N CLEARY	7912 JENKS RD	APEX NC 27523-7821	3.41



# CERTIFIED LIST OF NEIGHBORING PROPERTY OWNERS

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

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

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

Owner's Name	PIN(s)	Owner's Name	PIN(s)
1 AMUNDSEN, MARY	0722-78-2474	38 MISHRA, NEHA MISHRA, VAIBHAV	0722-68-7692
2 TOWN OF APEX	0722-67-1588; 0722-67-8629	39 MUDEMALA, NARESH KUMAR REDDY	0722-88-0416
3 ARORA, VISHIT THAREJA, MEDHA	0722-68-7415	40 GANGAVARAM, VENKATA	0722-68-7473
4 ASHLAND, REBECCA	0722-78-8486	41 NELAPATI, MADHUSUDHANARAO	0722-68-2430
5 BANGALORE, RAJESH	0722-78-3455	42 CHUNCHU, ASWINI	0722-78-9476
6 BARRETT, PAUL	0722-78-8467	43 OTTAWAY, DANNY L OTTAWAY, JOAN M	0722-78-4405
7 BIYYAM, YOGANAND RAGIREDDY, KEERTHI	0722-78-8684	44 PAREKH, GEET PAREKH, SUCHI	0722-88-1459
8 BLESSINGER, JEFF S BLESSINGER, PAMELA KAY	0722-78-7556	45 PARK, JAE HYUNG PARK, ALICIA N	0722-78-7592
9 BRAY, TONY BRAY, SHARON	0722-78-6690	46 CHOCKALINGAM, SHANMUGAPRIYA	0722-78-2495
10 CASCIOLI, MARGARET A	0722-88-0456	47 PATEL, PARVEEN PATEL, IMRAN	0722-68-6508
11 CHEN, XUE MEI	0722-88-1561	48 PENMETSA, DILEEP KUMAR	0722-78-2424
12 CHIGURUPATI, POOJA ALURI, VENKAT SUMAN	0722-68-6533	49 NADIMPALLI, ARUNA	0722-68-5672
13 CICHOCKI, TERRY	0722-67-3959	50 PINO, HECTOR F PINO, ANA M	0722-68-8433
14 CLEARY, MICHAEL DUANE CLEARY, ALISON N	0722-78-8252	51 PORE, DAMONT PORE, MICHELE	0722-78-2444
15 CREWS, MARK L CREWS, CYNTHIA E	0722-78-7574	52 RAILTON, DEBORAH L LITTLEFIELD, THOMAS A	0722-78-8520
16 DHOOM DHADAKA LLC	0722-78-9712	53 RAMAIYAN, VENKATESHKUMAR	0722-88-0436
17 DONAHUE, WILLIAM M DONAHUE, AUDREY A	0722-78-1484	54 POONGAVANAME, THAMIZHARASI SELVAME	0722-78-9744
18 DWORKIN, JEFFREY J DWORKIN, GAYLE ANN	0722-88-1604	55 REN, LEI SUN, JIA	0722-88-2526
19 FAN, ZHUORAN QU, RAN	0722-88-0663	56 ROMAN, RUBEN BADILLO-VELEZ, NORMARIE	0722-78-1454
20 FOSTER, KEVIN	0722-78-0494	57 SEVER, MICHELLE LYNN	0722-88-1407
21 FRANKLIN, DANA FRANKLIN, ROBIN	0722-88-1582	58 SHARMA, PRIYANKA SHARMA, TARUN	0722-78-9456
22 GAUTAM, DEEPALI GAUTAM, NITIN	0722-88-0487	59 SHENG, WANQING TIAN, YUAN	0722-78-9436
23 GUO, ZHIHONG	0722-78-3485	60 SHI, JING SHI, KARL	0722-78-8656
24 HINESLEY, TRISHA S HINESLEY, RICHARD L	0722-68-7241	61 SING, JAMIE HUSTACE, JESSICA	0722-68-8549
25 HOBBS, RONALD SCOTT HOBBS, JANET H	0722-88-6419	62 SRIVASTAVA, SUJIT VIJAYKUMAR	0722-68-6479
			0722-68-9944; 0722-77-6175; 0722-77-1624; 0722-78-1519; 0722-78-2404; 0722-78-3415; 0722-78-5873; 0722-78-6700;
26 HOU, JIE	0722-78-8665	63 SRIVASTAVA, PRIYANKA SUJIT	
			TAYLOR MORRISON OF CAROLINAS INC

					0722-78-6722; 0722-78-7527; 0722-78-9678; 0722-78-9670; 0722-88-0611; 0722-88-2455; 0722-88-3808
27	KASIVISWANATHAN, MUTHURAMAN MUTHURAMAN LAKSHMANAN, YEGAMMAI	0722-68-5645	64	VEMULAPALLI, MADHAVI KODALI, PRASHANT	0722-78-3435
28	KASTELBERG, CAROLINE SCHNEYDER	0722-78-0424	65	WANG, QIN HE, RUI	0722-78-9602
29	KIRKPATRICK, TERESA L	0722-78-0191	66	WESTFORD APARTMENTS WEH LP WESTFORD WEH LP LIMITED PARTNERSHIP	0722-67-4129  0722-87-5709
30	KUMAR, ASHOK VERMA, ROME LEWIS, CHARLES KENNETH LEWIS, FRANCES J	0722-88-2504  0722-78-4193	67	WILBORN, LACHELLE RACHEL	0722-88-0632
32	LING, LEI	0722-78-9406	69	XU, XIN LI, ZHE CAIRA, RICHARD JOSEPH JR CAIRA, MELISSA B	0722-68-7656  0722-78-0579
33	MAYSONET, MARIBEL SANTIAGO	0722-78-8628	70	FENG, DAN	0722-78-5679
34	BOOTES, RICHARD WAYNE FLECHSIG, BRADLEY D FLECHSIG, KRISTIN P	0722-78-1424  0722-78-2519	71	KOHL, DANIEL WILLIAM KOHL, TIFFANY ROBYN	0722-78-2559
36	LENT, JENNIFER EILEEN	0722-78-2680	73	LITTLE, BENJAMIN LITTLE, REBECCA	0722-78-1549
37	PAYE, ROBERT S III	0722-78-1579	74	RUSSELL, JUDY ROSEMARIE	0722-78-0464

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

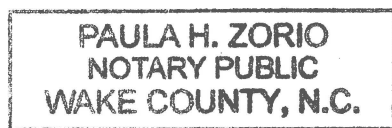
Date: 1/27/2020

By: [Signature]

COUNTY OF WAKE STATE OF NORTH CAROLINA

Sworn and subscribed before me, Paula H. Zorio, a Notary Public for the above State and County, on this the 27<sup>th</sup> day of January, 2020.

SEAL



[Signature]  
Notary Public  
Paula H. Zorio  
Print Name

My Commission Expires: 03/26/2024



**DEVELOPMENT NAME APPROVAL APPLICATION**

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

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

Fee for Initial Submittal: No Charge

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

**Purpose**

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

**Guidelines**

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

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

**Existing Development Titles, Recurring**

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

\*excludes names with Green Level

## DEVELOPMENT NAME APPROVAL APPLICATION

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

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

### Proposed Subdivision/Development Information

Description of location: Northeast quadrant of intersection of Jenks Road and Wimberly Road

Nearest intersecting roads: Jenks Road & Wimberly Road

Wake County PIN(s): 0722-78-8252; 0722-78-4193; 0722-78-0191; & 0722-68-7241

Township: White Oak

### Contact Information (as appropriate)

Contact person: Jason Barron

Phone number: 919-590-0371

Fax number: \_\_\_\_\_

Address: 421 Fayetteville St | St 530 Raleigh, NC 27601

E-mail address: jbarron@morningstarlawgroup.com

Owner: \_\_\_\_\_

Phone number: \_\_\_\_\_ Fax number: \_\_\_\_\_

Address: \_\_\_\_\_

E-mail address: \_\_\_\_\_

### Proposed Subdivision/Development Name

1<sup>st</sup> Choice: RETRGAT AT THE PRESERVING AT WHITE OAK

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

### Town of Apex Staff Approval:

\_\_\_\_\_  
Town of Apex Planning Department Staff

\_\_\_\_\_  
Date



**STREET NAME APPROVAL APPLICATION**

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

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

Wake County Approval Date: \_\_\_\_\_

**Guidelines:**

- No names duplicating or sounding similar to existing road names
- Avoid difficult to pronounce names
- No individuals' names
- Avoid proper names of a business, e.g. Hannaford Drive
- Limit names to 14 characters in length
- No directionals, e.g. North, South, East, West
- No punctuation marks, e.g. periods, hyphens, apostrophes, etc.
- Avoid using double suffixes, e.g. Deer Path Lane
- All names must have an acceptable suffix, e.g. Street, Court, Lane, Path, etc.
- Use only suffixes which are Town of Apex approved
- Town of Apex has the right to deny any street name that is determined to be inappropriate

**Information:**

Description of location: \_\_\_\_\_ Northeast quadrant of intersection of Jenks Road and Wimberly Road

Nearest intersecting roads: \_\_\_\_\_ Jenks Road &amp; Wimberly Road

Wake County PIN(s): \_\_\_\_\_ 0722-78-8252; 0722-78-4193; 0722-78-0191; &amp; 0722-68-7241

Township: \_\_\_\_\_ White Oak

**Contact information (as appropriate)**

Contact person: \_\_\_\_\_ Jason Barron

Phone number: \_\_\_\_\_ 919-590-0371

Fax number: \_\_\_\_\_

Address: \_\_\_\_\_ 421 Fayetteville St | St 530 Raleigh, NC 27601

E-mail address: \_\_\_\_\_ jbarron@morningstarlawgroup.com

Owner: \_\_\_\_\_

Phone number: \_\_\_\_\_

Fax number: \_\_\_\_\_

Address: \_\_\_\_\_

E-mail address: \_\_\_\_\_

STREET NAME APPROVAL APPLICATION

Application #: Submittal Date:

# of roads to be named:

Please submit twice as many road names as needed, with preferred names listed first. Proposed road names should be written exactly as one would want them to appear. Town of Apex Planning Department staff will send all approved street names to the Wake County GIS Department for county approval. Please allow several weeks for approval. Upon approval Wake County GIS – Street Addressing will inform you of the approved street names.

Example: Road Name Suffix

Hunter Street

1	11
2	12
3	13
4	14
5	15
6	16
7	17
8	18
9	19
10	20

TOWN OF APEX STAFF APPROVAL

Town of Apex Staff Approval Date

WAKE COUNTY STAFF APPROVAL:

GIS certifies that names indicated by checkmark are approved.  
Please disregard all other names.

Comments:

Wake County GIS Staff Approval Date



## TOWN OF APEX UTILITIES OFFER AND AGREEMENT

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

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

7912, 8000, & 8016 Jenks Road & 1533 Wimberly Road

(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.

\_\_\_\_\_, the undersigned customer ("Customer") hereby irrevocably chooses and selects the Town of Apex (the "Town") as the permanent electric supplier for the Premises. Permanent service to the Premises will be preceded by temporary service if needed.

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

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

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

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

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

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

ACCEPTED:

CUSTOMER:

TOWN OF APEX

BY:

BY:

Authorized Agent

Authorized Agent

DATE:

DATE:

**AGENT AUTHORIZATION FORM**

Application #:

Submittal Date:

MICHAEL D & ALISON N CLEARY

is the owner of the property for which the attached

application is being submitted:

- ☐ Land Use Amendment
- ☒ Rezoning
- ☒ Site Plan
- ☒ Subdivision
- ☐ Variance
- ☐ Other: \_\_\_\_\_

The property is located at: 7912 Jenks RdThe agent for this project is: Jeremy Medlin☐ I am the owner of the property and will be acting as my own agentAgent Name: Jeremy MedlinAddress: 15501 Weston Parkway | Suite 100 | Cary, NC 27513Telephone Number: 919-291-3819

Fax Number: \_\_\_\_\_

E-Mail Address: jmedlin@taylormorrison.com

Signature(s) of Owner(s)

DocuSigned by:

Alison N Cleary

4E46324F5D994DA...

Alison N Cleary10/29/2019

Type or print name

Date

DocuSigned by:

Michael Duane Cleary

55D7F9E3F8A8492...

Michael Duane Cleary10/29/2019

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.**



**AGENT AUTHORIZATION FORM**

Application #:

Submittal Date:

CHARLES K &amp; FRANCES J LEWIS

is the owner of the property for which the attached

application is being submitted:

- ☐ Land Use Amendment
- ☒ Rezoning
- ☒ Site Plan
- ☒ Subdivision
- ☐ Variance
- ☐ Other: \_\_\_\_\_

The property is located at: 8000 Jenks Rd

The agent for this project is: Jeremy Medlin

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

Agent Name: Jeremy Medlin

Address: 15501 Weston Parkway | Suite 100 | Cary, NC 27513

Telephone Number: 919-291-3819

Fax Number:

E-Mail Address: jmedlin@taylormorrison.com

Signature(s) of Owner(s)

DocuSigned by:  
Charles Kenneth Lewis

Charles Kenneth Lewis

10/29/2019

Type or print name

Date

DocuSigned by:  
Frances Johnson Lewis

Frances Johnson Lewis

10/29/2019

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.**

**AGENT AUTHORIZATION FORM**

Application #:

Submittal Date:

TERESA L KIRKPATRICK

is the owner of the property for which the attached

application is being submitted:

- ☐ Land Use Amendment
- ☒ Rezoning
- ☒ Site Plan
- ☒ Subdivision
- ☐ Variance
- ☐ Other: \_\_\_\_\_

The property is located at: 8016 Jenks Rd

The agent for this project is: Jeremy Medlin

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

Agent Name: Jeremy Medlin

Address: 15501 Weston Parkway | Suite 100 | Cary, NC 27513

Telephone Number: 919-291-3819

Fax Number:

E-Mail Address: jmedlin@taylormorrison.com

Signature(s) of Owner(s)

DocuSigned by:

*Teresa Costner*

BAC3409CD02A7B...

Teresa Costner

10/29/2019

Type or print name

Date

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.**



**AGENT AUTHORIZATION FORM**

Application #:

Submittal Date:

RICHARD L&amp; TRISHA S HINESLEY

is the owner of the property for which the attached

application is being submitted:

- ☐ Land Use Amendment
- ☒ Rezoning
- ☒ Site Plan
- ☒ Subdivision
- ☐ Variance
- ☐ Other: \_\_\_\_\_

The property is located at: 1533 Wimberly Rd

The agent for this project is: Jeremy Medlin

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

Agent Name: Jeremy Medlin

Address: 15501 Weston Parkway | Suite 100 | Cary, NC 27513

Telephone Number: 919-291-3819

Fax Number:

E-Mail Address: jmedlin@taylormorrison.com

Signature(s) of Owner(s)

DocuSigned by:

Richard Hinesley

F04EEC1005B14CF...

Richard Hinesley

10/29/2019

Type or print name

Date

DocuSigned by:

Trisha Hinesley

F04EEC1005B14CF...

Trisha Hinesley

10/29/2019

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.**

## AFFIDAVIT OF OWNERSHIP

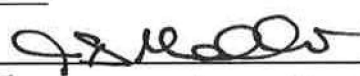
Application #: \_\_\_\_\_

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

The undersigned, Jeremy Medlin (the "Affiant") first being duly sworn, hereby swears or affirms as follows:

1. Affiant is over eighteen (18) years of age and authorized to make this Affidavit. The Affiant is the sole owner, or is the authorized agent of all owners, of the property located at 7912, 8000, & 8016 Jenks Road & 1533 Wimberly Road and legally described in **Exhibit "A"** attached hereto and incorporated herein (the "Property").
2. This Affidavit of Ownership is made for the purpose of filing an application for development approval with the Town of Apex.
3. If Affiant is the owner of the Property, Affiant acquired ownership by deed, dated \_\_\_\_\_, and recorded in the Wake County Register of Deeds Office on \_\_\_\_\_, in Book \_\_\_\_\_ 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).
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 \_\_\_\_\_, 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.

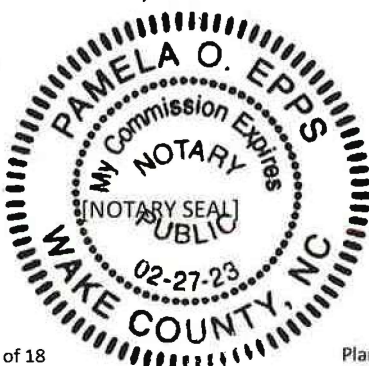
This the 27<sup>th</sup> day of Oct, 2019.

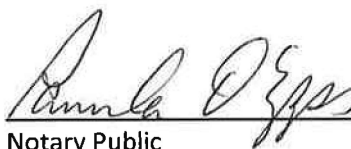
 J.A. (seal)  
Jeremy D. Medlin  
Type or print name

STATE OF NORTH CAROLINA

COUNTY OF Wake

I, the undersigned, a Notary Public in and for the County of Wake, hereby certify that Jeremy D. Medlin, 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.





Notary Public

State of North Carolina

My Commission Expires: 2-27-23



## DESCRIPTION FOR REZONING OF JENKS ASSEMBLAGE

### BOOK OF MAPS 1987 PAGE 1048

BEGINNING at an iron pipe set in the northern right-of-way of Jenks Road, N.C.S.R. No. 1601, a 60 ft. public right-of-way, said iron pipe is at the intersection with the eastern right-of-way of Joe Wimberly Road, N.C.S.R. 1603, a 60 ft. public right-of-way, as referenced in Book of Maps 1987, Page 1048 and recorded in the Wake County Registry; thence leaving the said right-of-way of Jenks Road and with the said right-of-way of Joe Wimberly Road, N 32°15'15"W a distance of 59.96 feet to an existing iron pipe being the southern common corner with the Richard Allison Lewis Jr. property as referenced in Deed Book 3323, Page 385 and recorded in the Wake County Registry; thence with the common line of the said Lewis property, N 00°11'15"W a distance of 537.66 feet to an existing iron pipe being the southwest corner of the Warren T. Tunstall property as referenced in Deed Book 1892, Page 530 and recorded in the Wake County Registry; thence with the common line of the said Tunstall property, N 87°58'34"E a distance of 1370.03 feet to an existing iron pipe; thence S 01°37'28"E a distance of 61.09 feet to an iron pipe set in the northern right-of-way of said Jenks Road; thence with the said right-of-way, S 37° 28' 08" W a distance of 58.01 feet to a point; thence S 38°21'00"W a distance of 51.98 feet to a point; thence S 20°24'13"W a distance of 52.61 feet to a point; thence S 45°24'17"W a distance of 50.80 feet to a point; thence S 50°37'17"W a distance of 51.72 feet to a point; thence S 54°32'12"W a distance of 56.84 feet to a point; thence S 56°57'25"W a distance of 50.16 feet to a point; thence S 58°50'58"W a distance of 53.70 feet to a point; thence S 61°32'35"W a distance of 54.37 feet to a point; thence S 65°47'47"W a distance of 52.80 feet to a point; thence S 69°41'29"W a distance of 53.91 feet to a point; thence S 73° 32'01"W a distance of 44.67 feet to an iron pipe set; thence S 75°40'54"W a distance of 862.49 feet to the Point and Place of BEGINNING and containing 13.176 acres and being all of Lots 1, 2 & 3 of the Sunnybrook Farms "Section I" as referenced in said Book of Maps 1987 Page 1048.

### BOOK OF MAPS 1987 PAGE 1291

BEGINNING at an existing nail in the centerline of Joe Wimberly Road, N.C.S.R. 1603, a 60 ft. public right-of-way, said nail being at the intersection with the northern right-of-way of Jenks Road, N.C.S.R. 1601, a 60 ft. public right-of-way as referenced in Book of Maps 1987, Page 1291 and recorded in the Wake County Registry; thence with the said centerline of Joe Wimberly Road, N 31°59'44"W a distance of 51.05 feet to an existing nail; thence N 31°59'44"W a distance of 179.43 feet to an existing nail; thence N 22°04'13"W a distance of 425.44 feet to an iron pipe set; thence leaving the said centerline of Joe Wimberly Road, N 88° 00'32"E a distance of 32.91 feet to an iron pipe set on the eastern right-of-way of said Joe Wimberly Road and being the southwest corner of the Beverly W. Harris property as referenced in Deed Book 2219, Page 349 and recorded in the Wake County Registry; thence with the common line of the said Beverly W. Harris property, N 88° 00'32"E a distance of 247.61 feet to an existing iron pipe being the northwest corner of the property of Joel V. Perry as referenced in Deed Book 2643, Page 137 and recorded in the Wake County Registry; thence with the common line of the said Perry property, S

00°09'18"E a distance of 599.49 feet to the Point and Place of BEGINNING and containing 2.12 acres minus 0.44 acres in the right-of-way leaving a net area of 1.68 acres and being Tract 8A as referenced in said Book of Maps 1987, Page 1291.

Total area to be re-zoned is 13.176 acres plus 1.68 acres equals grand total of 14.856 acres.





# Instruction Packet and Affidavit for Neighborhood Meetings

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

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

This packet consists of instructions and templates for conducting a required Neighborhood Meeting. Planning Department staff are available to advise you in the preparation of these materials. Call the Planning Department at (919) 249-3426 for more information.

## WHAT IS THE PURPOSE OF A NEIGHBORHOOD MEETING?

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

## WHEN IS A NEIGHBORHOOD MEETING REQUIRED?

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

## INSTRUCTIONS

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

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

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

- The applicant is required to notify the Planning Department, all property owners within 300 feet of the subject property, and any neighborhood association that represents citizens in the area via first class mail a minimum of 10 days in advance of the neighborhood meeting, not including the day of mailing. The applicant shall use their own return address on the envelopes as the meeting is a private meeting between the applicant and the neighbors.
- The applicant shall include with the meeting notice a vicinity map in addition to either the existing zoning map of the area or preliminary plans of the proposed development (see Handout requirements below).

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

- The meeting must be held for a minimum of two (2) hours, Monday through Thursday, during the 5:00 p.m. - 9:00 p.m. time period. The meeting cannot be held on a Town recognized holiday (which coincide with the State of North Carolina recognized holidays).
- The meeting shall be held at a place that is generally accessible to neighbors that reside in close proximity to the land subject to the application.
- A sign-in sheet must be used in order to verify attendance. Ensure each attendee signs in. Please note if any person(s) refuses to sign in. Note if no one attended.
- Handout requirements:
  - For rezonings (excluding rezonings to PUD-CZ, TND-CZ and MEC-CZ), a vicinity map and existing zoning map of the area must be provided to help facilitate discussion.
  - For rezonings to PUD-CZ, TND-CZ and MEC-CZ; Major Site Plans; residential Master Subdivision Plans; and Special Use Permits, preliminary plans of the proposed development must be available at the meeting to help facilitate discussion. Neighbors may request emailed/mailed copies of the maps or plans from the applicant by checking the “send plans” box on the sign-in sheet; applicant shall provide reduced copies upon request.
  - Printed copies must equal the number of notices required to be sent.
  - Contact information for the applicant’s representative and Town Staff must be provided on the attached “Project Contact Information” form.
  - “Common Construction Issues & Who to Call” sheet (attached) must be included as part of the handout.
  - A copy of the handout must be included as part of the Neighborhood Meeting report.
- The agenda of the meeting shall include:
  - Explanation of all processes the meeting is being held for (rezoning, subdivision, etc.).
  - Explanation of future meetings (additional neighborhood meetings, Planning Board, Town Council, etc.).
  - Explanation of development proposal – uses and conditions for rezonings, layout for subdivision and site plans, and builder/end user if known/public knowledge.
- Questions or concerns by attendees, and responses by the applicant, if any, must be noted. Provide blank comment sheets or notecards for neighbors to submit written comments. The applicant shall also include any questions and concerns received via written correspondence (such as email) or phone call along with responses provided by the applicant.
- The applicant shall be responsible for notifying any neighbors who check the “Send Plans & Updates” box on the sign-in sheet of any additional neighborhood meetings and the actual submittal date to the Town with a link to the Town of Apex’s Interactive Development Map.

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

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



# NOTICE OF NEIGHBORHOOD MEETING

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

10/11/19

Date

Dear Neighbor:

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

7912, 8000, & 8016 Jenks Rd & 1533 Wimberly Rd

0722-78-8252; 0722-78-4193; 0722-78-0191; & 0722-68-7241

Address(es)

PIN(s)

in accordance with the Town of Apex Neighborhood Meeting procedures. This meeting is intended to be a way for the applicant to discuss the project and review the proposed plans with adjacent neighbors and neighborhood organizations before the submittal of an application to the Town. This provides neighbors an opportunity to raise questions and discuss any concerns about the impacts of the project before it is officially submitted. Once an application has been submitted to the Town, it may be tracked using the [Interactive Development Map](#) or the [Apex Development Report](#) located on the Town of Apex website at [www.apexnc.org](http://www.apexnc.org).

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

Application Type	Approving Authority
<input checked="" type="checkbox"/> Rezoning (including Planned Unit Development)	Town Council
<input type="checkbox"/> Major Site Plan	Town Council (QJPH*)
<input type="checkbox"/> Special Use Permit	Town Council (QJPH*)
<input checked="" type="checkbox"/> Residential Master Subdivision Plan (excludes exempt subdivisions)	Technical Review Committee (staff)

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

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

A mixed-use community consisting of up to 90 townhomes and 21,000 sf of non-residential uses

Estimated submittal date: November 1

## MEETING INFORMATION:

Property Owner(s) name(s):

RICHARD L & TRISHA S HINESLEY; TERESA L KIRKPATRICK; CHARLES K & FRANCES J LEWIS; & MICHAEL D & ALISON N CLEARY

Applicant(s):

Jason Barron - Attorney for Applicant

Contact information (email/phone):

919-590-0371 / [jbarron@morningstarlawgroup.com](mailto:jbarron@morningstarlawgroup.com)

Meeting Address:

237 N Salem St Apex, NC

Date of meeting\*\*:

October 23, 2019

Time of meeting\*\*:

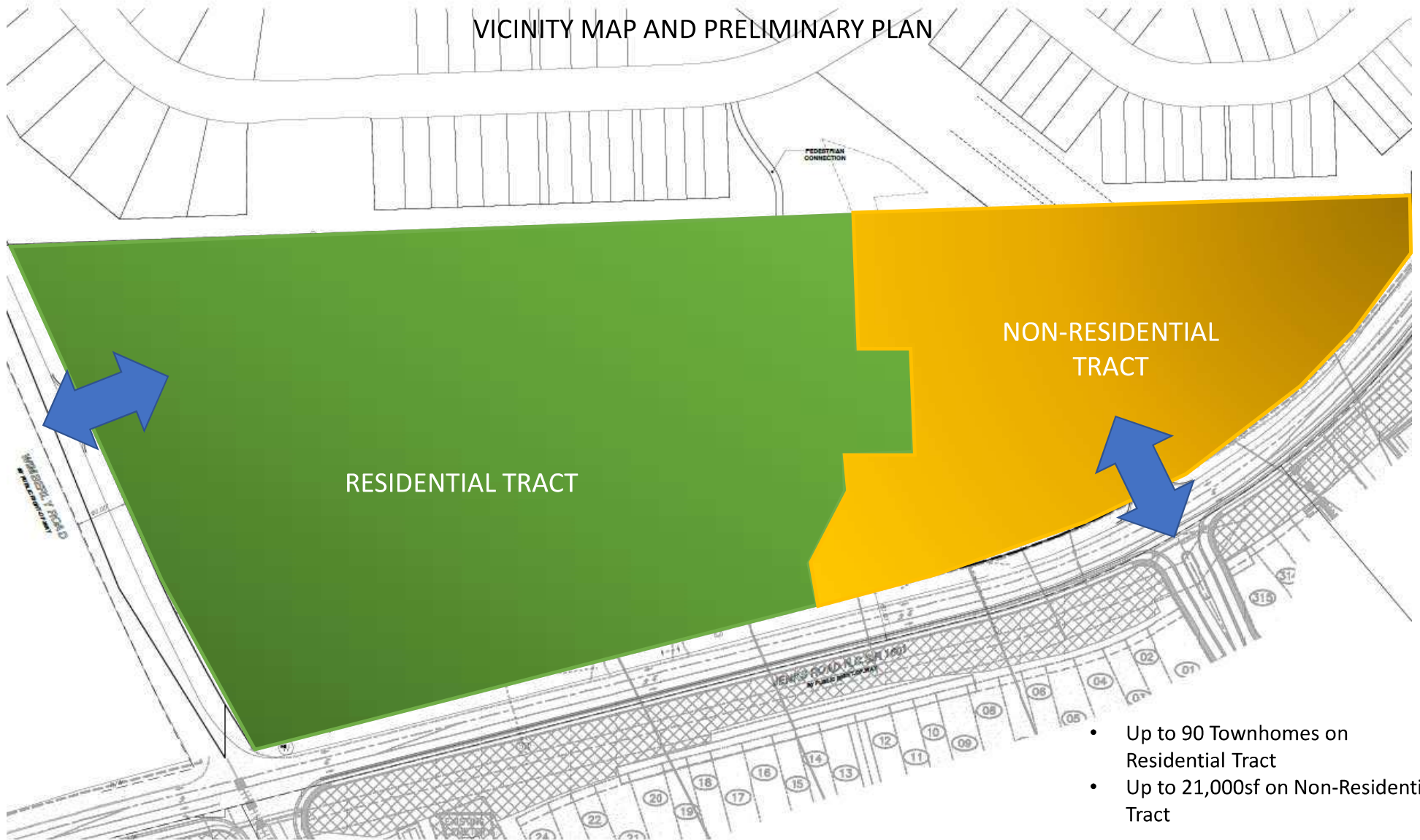
6:15 PM

## MEETING AGENDA TIMES:

Welcome: 6:15 PM - 6:18 PM Project Presentation: 6:18 PM - 6:25 PM Question & Answer: 6:25 PM - end

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

## VICINITY MAP AND PRELIMINARY PLAN



- Up to 90 Townhomes on Residential Tract
- Up to 21,000sf on Non-Residential Tract



# PROJECT CONTACT INFORMATION

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

## Development Contacts:

Project Name: Jenks Assemblage Zoning: PUD

Location: 7912, 8000, & 8016 Jenks Road & 1533 Wimberly Road

Property PIN(s): 0722-78-8252; 0722-78-4193; 0722-78-0191; & 0722-68-7241 Acreage/Square Feet: 14.86

Property Owner: RICHARD L & TRISHA S HINESLEY; TERESA L KIRKPATRICK; CHARLES K & FRANCES J LEWIS; & MICHAEL D & ALISON N CLEARY

Address: \_\_\_\_\_

City: \_\_\_\_\_ State: \_\_\_\_\_ Zip: \_\_\_\_\_

Phone: \_\_\_\_\_ Email: \_\_\_\_\_

Developer: Jason Barron - Attorney for Developer

Address: 421 Fayetteville St | Ste 530

City: Raleigh State: NC Zip: 27601

Phone: 919-590-0371 Fax: \_\_\_\_\_ Email: jbarron@morningstarlawgroup.com

Engineer: Robbie Bell

Address: 6310 Chapel Hill Road, Suite 250

City: Raleigh State: NC Zip: 27607

Phone: 919-851-4422 Fax: \_\_\_\_\_ Email: Robbie.bell@bnkinc.com

Builder (if known): \_\_\_\_\_

Address: \_\_\_\_\_

City: \_\_\_\_\_ State: \_\_\_\_\_ Zip: \_\_\_\_\_

Phone: \_\_\_\_\_ Fax: \_\_\_\_\_ Email: \_\_\_\_\_

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

## Town of Apex Department Contacts

Planning Department Main Number (Provide development name or location to be routed to correct planner)	(919) 249-3426
Parks, Recreation & Cultural Resources Department Angela Reincke, Parks Planner	(919) 249-7468
Public Works - Transportation Russell Dalton, Senior Transportation Engineer	(919) 249-3358
Water Resources Department Mike Deaton, Stormwater & Utility Engineering Manager Stan Fortier, Senior Engineer (Sedimentation & Erosion Control)	(919) 249-3413 (919) 249-1166
Electric Utilities Division Rodney Smith, Electric Technical Services Manager	(919) 249-3342

### **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 7:00 p.m. (except for holidays, see schedule of meetings at <http://www.apexnc.org/838/Agendas-Minutes>). You may also contact Town Council by e-mail at [AllCouncil@apexnc.org](mailto:AllCouncil@apexnc.org).

### **Private Agreements and Easement Negotiation:**

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

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

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

To request that any agreement with a developer is made a part of the conditional zoning at the time of approval, you may ask at the Town Council public hearing if the agreement is included in the conditions. If it is not, you may request that the Town Council not approve the rezoning without the agreement being included in the conditions (note that it is up to Town Council whether to approve or deny the rezoning but they cannot impose conditions that the applicant does not agree to add). The developer's proposed conditions can be viewed any time after a rezoning is submitted on the Interactive Development Map at: <http://apexnc.maps.arcgis.com/apps/OnePane/basicviewer/index.html?appid=fa9ba2017b784030b15ef4da27d9e795>

### **Documentation:**

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



# COMMON CONSTRUCTION ISSUES & WHO TO CALL

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

<b>Noise &amp; Hours of Construction:</b>	<b>Non-Emergency Police</b>	<b>919-362-8661</b>
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Noise from tree removal, grading, excavating, paving, and building structures is a routine part of the construction process. The Town generally limits construction hours from 7:00 a.m. to 8:30 p.m. so that there are quiet times even during the construction process. Note that construction outside of these hours is allowed with special permission from the Town when it makes more sense to have the construction occur at night, often to avoid traffic issues. In addition, the Town limits hours of blasting rock to Monday through Friday from 8:00 a.m. to 5:00 p.m. Report violations of construction hours and other noise complaints to the Non-Emergency Police phone number at 919-362-8661.

<b>Construction Traffic:</b>	<b>James Misciagno</b>	<b>919-372-7470</b>
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Construction truck traffic will be heavy throughout the development process, including but not limited to removal of trees from site, loads of dirt coming in and/or out of the site, construction materials such as brick and wood brought to the site, asphalt and concrete trucks come in to pave, etc. The Town requires a construction entrance that is graveled to try to prevent as much dirt from leaving the site as possible. If dirt does get into the road, the Town can require they clean the street (see "Dirt in the Road" below).

<b>Road Damage &amp; Traffic Control:</b>	<b>Water Resources – Infrastructure Inspections</b>	<b>919-362-8166</b>
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There can be issues with roadway damage, roadway improvements, and traffic control. Potholes, rutting, inadequate lanes/signing/stripping, poor traffic control, blocked sidewalks/paths are all common issues that should be reported to Water Resources – Infrastructure Inspections at 919-249-3427. The Town will get NCDOT involved if needed.

<b>Parking Violations:</b>	<b>Non-Emergency Police</b>	<b>919-362-8661</b>
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Unless a neighbor gives permission, there should be no construction parking in neighbors' driveways or on their property. Note that parking in the right-of-way is allowed, but Town regulations prohibit parking within 15 feet of driveways so as not to block sight triangles. Trespassing and parking complaints should be reported to the Non-Emergency Police phone number at 919-362-8661.

<b>Dirt in the Road:</b>	<b>James Misciagno</b>	<b>919-372-7470</b>
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Sediment (dirt) and mud gets into the existing roads due to rain events and/or vehicle traffic. These incidents should be reported to James Misciagno. He will coordinate the cleaning of the roadways with the developer.

<b>Dirt on Properties or in Streams:</b>	<b>James Misciagno</b> <b>Danny Smith</b>	<b>919-372-7470</b> <b><a href="mailto:Danny.Smith@ncdenr.gov">Danny.Smith@ncdenr.gov</a></b>
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Sediment (dirt) can leave the site and get onto adjacent properties or into streams and stream buffers; it is typically transported off-site by rain events. These incidents should be reported to James Misciagno at 919-372-7470 so that he can coordinate the appropriate repairs with the developer. Impacts to the streams and stream buffers should also be reported to Danny Smith ([danny.smith@ncdenr.gov](mailto:danny.smith@ncdenr.gov)) with the State.

<b>Dust:</b>	<b>James Misciagno</b>	<b>919-372-7470</b>
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During dry weather dust often becomes a problem blowing into existing neighborhoods or roadways. These incidents should be reported to James Misciagno at 919-372-7470 so that he can coordinate the use of water trucks onsite with the grading contractor to help control the dust.

<b>Trash:</b>	<b>James Misciagno</b>	<b>919-372-7470</b>
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Excessive garbage and construction debris can blow around on a site or even off of the site. These incidents should be reported to James Misciagno at 919-372-7470. He will coordinate the cleanup and trash collection with the developer/home builder.

<b>Temporary Sediment Basins:</b>	<b>James Misciagno</b>	<b>919-372-7470</b>
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Temporary sediment basins during construction (prior to the conversion to the final stormwater pond) are often quite unattractive. Concerns should be reported to James Misciagno at 919-372-7470 so that he can coordinate the cleaning and/or mowing of the slopes and bottom of the pond with the developer.

<b>Stormwater Control Measures:</b>	<b>Mike Deaton</b>	<b>919-249-3413</b>
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Post-construction concerns related to Stormwater Control Measures (typically a stormwater pond) such as conversion and long-term maintenance should be reported to Mike Deaton at 919-249-3413.

<b>Electric Utility Installation:</b>	<b>Rodney Smith</b>	<b>919-249-3342</b>
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Concerns with electric utility installation can be addressed by the Apex Electric Utilities Department. Contact Rodney Smith at 919-249-3342.

# NEIGHBORHOOD MEETING SIGN-IN SHEET

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

Meeting Address: 237 N. Salem Street, Apex (The Halle)

Date of meeting: October 23, 2019 Time of meeting: 6:00pm

Property Owner(s) name(s): Hinesly, Kirkpatrick, Lewis and Cleary

Applicant(s): Taylor Morrison Homes

Please print your name below, state your address and/or affiliation with a neighborhood group, and provide your phone number and email address. Providing your name below does not represent support or opposition to the project; it is for documentation purposes only.

	NAME/ORGANIZATION	ADDRESS	PHONE #	EMAIL	SEND PLANS & UPDATES
1.	Mary Amundsen	2563 Rambling Creek			
2.	Carla Schneider	2581 Rambling Creek Rd			
3.	Ahsan Cleary	7912 Jenks Rd			
4.	Michael Cleary	7912 Jenks Rd			
5.					
6.					
7.					
8.					
9.					
10.					
11.					
12.					
13.					
14.					

Use additional sheets, if necessary.



# SUMMARY OF DISCUSSION FROM THE NEIGHBORHOOD MEETING

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

Property Owner(s) name(s): Hinesly, Kirkpatrick, Lewis and Cleary

Applicant(s): Taylor Morrison Homes

Contact information (email/phone): c/o Jason Barron, Attorney (jbarron@morningstarlawgroup.com)

Meeting Address: 237 N. Salem Street, Apex

Date of meeting: October 23, 2019 Time of meeting: 6:00pm

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

## Question/Concern #1:

What is the distance between the proposed development and the existing homes on Rambling Creek Drive?

### Applicant's Response:

Fifty feet

## Question/Concern #2:

Where will the sidewalks be located?

### Applicant's Response:

There will be sidewalks on both sides of the street internal to the development, and a streetside trail will be constructed along Jenks Road and Wimberly Road that will connect to the existing streetside trails

## Question/Concern #3:

How will the units layout on the site?

### Applicant's Response:

We are still working on that, but generally speaking the units along the northern edge of the site will back up to existing townhomes

## Question/Concern #4:

Where will stormwater drain, and timing of overall approvals and construction?

### Applicant's Response:

Preliminary engineering has the site draining to a low spot along the northern edge of the site, slightly to the right of the center of the property. One year of permitting, and then approximately four years to build all of infrastructure and homes.

# 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, Jason Barron, do hereby declare as follows:

Print Name

1. I have conducted a Neighborhood Meeting for the proposed Rezoning, Major Site Plan, Master Subdivision Plan, or Special Use Permit in accordance with UDO Sec. 2.2.7 *Neighborhood Meeting*.
2. The meeting invitations were mailed to the Apex Planning Department, all property owners within 300 feet of the subject property and any neighborhood association that represents citizens in the area via first class mail a minimum of 10 days in advance of the Neighborhood Meeting.
3. The meeting was conducted at 237 N. Salem Street, Apex (location/address) on October 23, 2019 (date) from 6:00pm (start time) to 8:00pm (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.

OCTOBER 31, 2019

Date

By: [Signature]

STATE OF NORTH CAROLINA  
COUNTY OF WAKE

Sworn and subscribed before me, Kayla Pagan, a Notary Public for the above State and County, on this the 31<sup>st</sup> day of October, 2019.



Kayla Pagan  
Notary Public

Kayla Pagan  
Print Name

My Commission Expires: 12-8-2023

# Jenks and Wimberly Mixed Use PUD

PD PLAN  
APEX, NORTH CAROLINA

Submitted:  
November 1, 2019

Revised:  
December 6, 2019  
January 26, 2020

PREPARED BY:





**Section 1: Table of Contents – PUD Text**

Section 1: Table of Contents

Section 2: Vicinity Map

Section 3: Project Data

Section 4: Purpose Statement

Section 5: Permitted Uses

Section 6: Design Controls

Section 7: Architectural Controls

Section 8: Parking and Loading

Section 9: Signage

Section 10: Natural Resource and Environmental Data

Section 11: Stormwater Management

Section 12: Parks and Recreation

Section 13: Public Facilities

Section 14: Phasing Plan

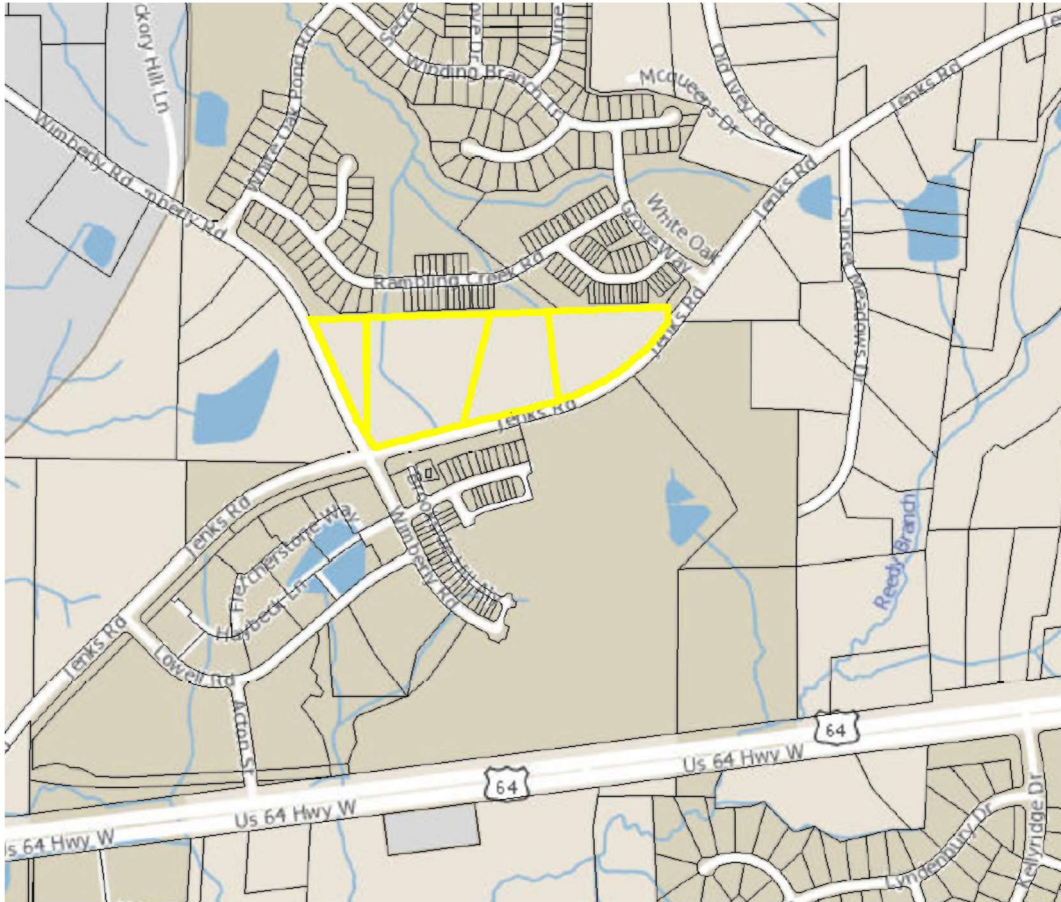
Section 15: Consistency with 2045 Land Use Plan

Section 16: Compliance with UDO

Section 17: Compliance with Apex Bicycle Plan

Section 18: Public Art

## Section 2: Vicinity Map



The Jenks and Wimberly Mixed Use PUD is located in the Town of Apex, north of Jenks Road at its intersection with Wimberly Road. The subject properties are south of White Oak Preserve, a residential community being developed by Taylor Morrison, and to the north of the Westford planned unit development. Westford is currently being developed for a combination of apartments and townhomes and is planned to include commercial uses along its westernmost boundary. To the west of the subject properties is a single-family home on an approximately 10 acre parcel, and to the east of the site as you head east on Jenks Road are a scattering of parcels that have been developed for single family residential uses to Wake County standards.

### Section 3: Project Data

#### A. Name of Project:

Jenks and Wimberly Mixed Use PUD

#### B. Property Owners:

Richard and Trisha Hinesly (0722-68-7241)  
Teresa Kirkpatrick (0722-78-0191)  
Charles and Frances Lewis (PIN 0722-78-4193)  
Michael and Alison Cleary (PIN 0722-78-8252)

#### C. Prepared By:

Jason Barron, Partner  
Morningstar Law Group  
421 Fayetteville St | Ste 530  
Raleigh, NC 27601

#### D. Current Zoning Designation:

Rural Residential (RR)

#### E. Proposed Zoning Designation:

Planned Unit Development – Conditional Zoning (PUD-CZ)

#### F. Current 2045 Land Use Map Designation:

Mixed Use High Density Residential, Office Employment, Commercial

#### G. Proposed 2045 Land Use Map Designation:

Mixed Use High Density Residential, Office Employment, Commercial

#### H. Proposed Use

Up to 22,000 square feet of commercial uses and 87 dwelling units, along with associated open space, recreational amenities and infrastructure.

Non-residential development area proposed: 4.53 of 14.68 ac (30%)

#### I. Size of Project

Wake County Tax Identification Number	Acreage
0722-68-7241, 0722-78-0191, 0722-78-4193, 0722-78-8252	14.68 acres



#### **Section 4: Purpose Statement**

The Jenks and Wimberly Mixed Use PUD development will be a mix of non-residential and high-density residential uses consistent with the Town's plans for this area. The non-residential will be located on a minimum of 30% of the subject property and will be zoned to include up to 22,000 square feet of uses. The townhome portion of the development will include a maximum of 87 dwelling units to be located on 10.33 acres, for a gross maximum density of 8.5 dwelling units per acre in the residential portion.

This concept is consistent with the Town's stated PUD goal to provide site-specific, high-quality neighborhoods that preserve natural feature and exhibit compatibility with, and connectivity to, surrounding land uses. More specifically, this plan will:

- Allow uses that are compatible with Section 4.2.2, *Use Table* of the UDO
- Provide for the preservation of existing environmentally sensitive areas.
- Provide appropriate buffering and screening from the proposed use to the existing residential areas.
- Offer a mix of high density residential and commercial uses in an area planned for the same.
- Demonstrate dimensional standards that are consistent with the UDO, and where variations occur, said variations will be included herein and subject to Council approval.
- Provide a high-quality community that is linked by a network of connected streets and pedestrian sidewalks that promotes connectivity, walkability and healthy lifestyles.
- Exhibit character and quality that is compatible with surrounding communities, which is expected to enhance the value of surrounding land uses.
- Provide open space and walkable trails to promote pedestrian activity, while appropriately buffering adjacent residential areas.
- Extend the town's pedestrian facilities by including a multi-use path along the Wimberly Road and Jenks Road frontages, connecting to and completing the gap in the multi-use path that has been constructed as part of the Preserve at White Oak.

All site-specific standards and conditions of this PUD Plan shall be consistent with all Conditional Zoning (CZ) District standards set forth in the UDO Section 2.3.3, *Conditional Zoning Districts* and UDO Section 2.3.4.F.1, *Planned Unit Development (PUD-CZ) District*. The proposed PUD will provide a development density and intensity that is consistent with principles found throughout the recently updated Advance Apex 2045.

#### **Section 5: 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. Specifically, the permitted uses include:

**Residential Tract:**

- Accessory apartment
- Townhomes
- Greenway
- Recreation Facility, private
- Park, active
- Park, passive
- Utility, minor
- Nursing or convalescent facility

**Commercial Tract:**

- Day care facility
- Botanical garden
- Entertainment, indoor
- Youth or day camps
- Restaurant, general
- Medical or dental office or clinic
- Office, business or professional
- Publishing office
- Artisan Studio
- Barber and beauty shop
- Book store
- Dry cleaners and laundry service
- Farmer's market
- Nursing or convalescent facility
- Financial institution
- Floral shop
- Greenhouse or nursery, retail
- Grocery, general
- Grocery, specialty
- Health/fitness center or spa
- Laundromat
- Newsstand or gift shop
- Personal service
- Pharmacy
- Printing and copying service
- Real estate sales
- Retail sales, general
- Studio for art
- Tailor shop
- Upholstery shop
- Pet services
- Microbrewery
- Greenway
- Recreation Facility, private
- Park, active
- Park, passive
- Utility, minor

The following conditions shall also apply:

- A. A maximum of 87 townhome units shall be permitted upon the property.
- B. A maximum of 22,000 square feet of nonresidential uses shall be permitted upon the property.
- C. All buildings constructed on the property shall provide solar conduit for the installation of rooftop solar panels.
- D. No covenant shall be placed on the property which prohibits accessory apartment as a use.
- E. All dwelling units constructed on the property shall provide solar conduit for the installation of rooftop solar panels.

**Section 6: Proposed Design Controls**

**A. Non-Residential Design Controls**

**Parcel Size** – +/- 4.53 acres

**Density** – The overall maximum nonresidential uses permitted upon the property shall be 22,000 square feet

## Jenks & Wimberly PUD

**Design Controls** – At a minimum, all nonresidential uses shall comply with the following dimensional standards:

- Maximum Built-Upon Area: 70%
- Maximum Building Height: 50'
- Minimum Building Setbacks:
  - Street 20 feet
  - Rear 20 feet
  - Side 20 feet
  - From Buffer/RCA: 20 feet for Buildings  
10 feet for Parking Areas

### B. Residential Design Controls

**Parcel Size** – +/-10.33 acres

**Density** - The overall gross residential density shall not exceed 8.5 units per acre.

**Design Controls** – At a minimum, all residential uses shall comply with the following dimensional standards:

- Maximum Density: 8.5 Units/Acre  
(includes RCA and rights-of-way in residential portion)
- Maximum Number of Units: 87
- Maximum Built-Upon Area: 70%
- Minimum Lot Size: n/a
- Minimum Lot Width: 22 feet
- Maximum Building Height: three (3) stories (45')

*Note: Porches, patios, decks and other accessory structures may encroach into building setbacks as allowed by the Town of Apex UDO.*

- Minimum Building Setbacks:
- Street 15 feet
    - o To garage door 20 feet
  - Rear 10 feet (Excluding Outdoor Storage)
  - Side 5 feet for end units, otherwise 0 feet
  - From Building to Building 10 feet
  - From Buffer/RCA 10 feet for Buildings  
5 feet for Parking Areas

### C. Buffers

#### Perimeter Buffers

	Residential	Non-residential
North boundary	20' Type A	50' Type A
East boundary	20' Type A	20' Type A
Wimberly Road	30' Type A	30' Type A
Jenks Road	30' Type A	30' Type E

*Note: Where perimeter buffers coincide with stream buffers or 100-year floodplain, existing vegetation will be used to meet the buffer width and opacity.*

#### Thoroughfare Buffers



## Jenks & Wimberly PUD

As depicted on the PD Plan, a 30' Buffer (Type A along the residential portion, Type E along the non-residential) shall be established along Jenks Road.

### **Section 7: Proposed Architectural Controls**

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

#### **A. For Residential Development**

1. Vinyl siding is not permitted; however, vinyl windows, decorative elements, and trim are permitted.
2. Primary building materials will be brick, stone, and fiber cement siding.
3. Windows that are not recessed shall be trimmed. Windows shall vary in size and/or type.
4. At least four of the following decorative features shall be used on each building: decorative shake, board and batten siding, decorative porch rails and posts, shutters, decorative functional foundation and roof vents, recessed windows, decorative windows, decorative brick or stone, decorative gables, decorative cornices, or metal roofing.
5. A varied color palette shall be utilized throughout the development to include a minimum of three-color families for siding and shall include varied trim, shutter, and accent colors complementing the siding color.
6. The rear and side elevations of the units that can be seen from the right-of-way shall have trim around the windows.
7. Front facing garage doors must have windows, decorative details, or carriage-style adornments.
8. Entrances for units with front-facing garages shall have a prominent covered porch/stoop area leading to the front door.
9. Porches constructed with a dwelling unit shall be a minimum of six feet (6') deep.
10. The front façade of any front-loaded garage shall not protrude farther than one foot forward of (i) the front façade of the dwelling unit, or (ii) the front porch of the dwelling unit, whichever is closer to the right-of-way from which the dwelling unit is addressed.

#### **B. For Commercial Development**

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

### **Section 8: Parking and Loading**

Parking for the development shall meet the requirements of UDO Section 8.3.

## **Section 9: Signage**

All signage for this PUD shall comply with Section 8.7, *Signs*, of the Town of Apex UDO.

## **Section 10: Natural Resource and Environmental Data**

### **A. River Basins and Watershed Protection Overlay Districts**

The project is located within the Beaver Creek drainage basin, which is within the Cape Fear River Basin. The site is within the primary Watershed Protection Overlay District but does not contain any FEMA designations and is not within the 100-year floodplain.

### **B. Resource Conservation Areas (RCA) – Required and Provided**

This PUD will be subject to, and meet the requirements of Section 8.1.2 of the UDO, *Resource Conservation Area* and Section 2.3.4, *Planned Development Districts*.

The site is located on the west side of the 540 corridor and therefore is required to preserve a minimum of 25% Resource Conservation Area (RCA). Designated RCA areas will be consistent with the items listed in Section 8.1.2(B) of the Town's UDO. Preserved streams, wetlands, and associated riparian buffers provide the primary RCA's throughout the site. Additional RCA area provided may include stormwater management areas, perimeter buffers, and greenway trails within the walkable community.

### **C. Any historic structures present**

As confirmed by the North Carolina State Historic Preservation Office and Capital Area Preservation, Inc. there are no historic structures present within the project boundary.

## **Section 11: Stormwater Management**

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

- a. Post development peak runoff shall not exceed pre-development peak runoff conditions for the 1-year and 10-year 24-hour storm events.

## **Section 12: Parks and Recreation**

The Parks, Recreation and Cultural Resources Advisory Commission will review this proposal at the January 29, 2020, public meeting and subsequently this section will be updated with its recommendation.

## **Section 13: 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 according to sound engineering standards and shall comply with Town of Apex Sewer and Water Master Plan and the Town of Apex Standards and Specifications. Specifically, road and utility infrastructure shall be as follows:

### **A. General Roadway Infrastructure**

Developer shall provide minimum dedication of public right-of-way along each of Jenks Road and Wimberly Road based on an 80-ft right-of-way, or 40 feet

## Jenks & Wimberly PUD

from roadway centerline. Cul-de-sacs will be avoided except where environmental features make through streets unfeasible. Sidewalks will be provided on both sides of streets internal to the site and along street frontage. In compliance with the 2045 Bike Apex Plan, a 10-foot wide Sidepath shall be constructed along the project frontage on the eastern side of Wimberly Road and the northern side of Jenks Road. Please refer to the concept plan of the PUD plan for proposed access points, stub streets and planned vehicular connectivity. All access and circulation is conceptual and will be finalized at the time of development plan review and approval.

### **B. Transportation Improvements**

Roadway improvements are subject to modification and final approval by the Town of Apex and NCDOT as part of the site plan and construction plan approval process. A traffic study has been performed as part of this PUD rezoning consistent with the Town's standards for the same. Based upon the traffic study, the following traffic improvements are proposed for this development:

- Subject to NCDOT review and approval, Developer shall restripe the two-way left turn (TWLT) lane on the eastbound approach of Jenks Road at the Site Access to accommodate a left turn lane with 100 feet of storage.
- Subject to NCDOT review and approval, Developer shall construct a southbound left turn lane on Wimberly Road at Jenks Road with 50 feet of storage and appropriate deceleration length and taper.

### **C. Water and Sanitary Sewer**

All lots within the project will be served by the Town of Apex for water and sanitary sewer. The utility design will be finalized at the time of development plan review and approval based upon available facilities adjacent to the site at that time. A conceptual utility plan is included in the PUD plan for reference. All utility infrastructure shall meet current Town water and sewer master plans.

### **D. Other Utilities**

Electricity will be provided by Apex Electric. Phone, cable and gas will be provided by the developer and shall meet the Town of Apex standards as outlined in the UDO.

## **Section 14: Phasing Plan**

This PUD may be completed in multiple phases, with construction anticipated to begin in 2020. Project phasing will be planned to ensure the points of access are provided in accordance with the UDO.

## **Section 15: Consistency with the 2045 Land Use Map**

The proposed land use is consistent with the 2045 Land Use Map.

## **Section 16: Compliance with the 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). Any



## Jenks & Wimberly PUD

deviations from UDO requirements have been specifically defined within this document.

### **Section 17: Compliance with Comprehensive Transportation Plan and Bicycle Plan**

Development plan review for any development to be made pursuant to this amendment to the Official Zoning District Map shall comply with the adopted Comprehensive Transportation Plan in effect at the time of the development plan approval as provided for in the Unified Development Ordinance. Further, development of the Property shall be consistent with the Town's adopted Bicycle Plan.

### **Section 18: Public Art**

The applicant shall provide a 6' x 6' Public Art easement to the Town of Apex along the Jenks Road frontage of the subject property. The precise location for this easement will be determined at the time of development plan review.



# JENKS AND WIMBERLY MIXED USE PUD



**RIGHT OF WAY DEDICATION:**  
JENKS: 3 LANE THOROUGHFARE, 80'  
WIMBERLY: 2- LANE COLLECTOR, 60'  
INTERNAL RESIDENTIAL STREETS: 50'  
IF REQUIRED, MINIMUM SHOULDER WIDTH: 5'  
FRONTAGE:  
10' SIDE PATH ALONG JENKS & WIMBERLY

**NOTE:**  
THE PARKS, RECREATION AND CULTURAL RESOURCES ADVISORY COMMISSION WILL REVIEW THIS PROPOSAL AT THE JANUARY 29, 2020 PUBLIC MEETING AND SUBSEQUENTLY THIS SECTION WILL BE UPDATED WITH THEIR RECOMMENDATION

**PRELIMINARY PLANS NOT  
FOR CONSTRUCTION**

**THIS SHEET IS FOR  
ILLUSTRATIVE PURPOSES ONLY**



**VICINITY MAP**  
N.T.S.



## PD PLAN - DRAWING SHEET INDEX

1. COVER SHEET
2. CC-1 - PRELIMINARY LAYOUT PLAN
3. CC-2 - EXISTING CONDITIONS PLAN
4. CC-3 - PRELIMINARY UTILITY PLAN

## BUFFERS

NORTH BOUNDARY (TOWNHOMES)	20' TYPE A
NORTH BOUNDARY (COMMERCIAL)	50' TYPE A
WIMBERLY ROAD	30' TYPE A
JENKS ROAD (TOWNHOMES)	30' TYPE A
JENKS ROAD (COMMERCIAL)	30' TYPE E
EAST BOUNDARY	20' TYPE A

## TRANSPORTATION ZONING CONDITIONS:

- SUBJECT TO NCDOT REVIEW AND APPROVAL, DEVELOPER SHALL RESTRIPE THE TWO-WAY LEFT TURN (TWLT) LANE ON THE EASTBOUND APPROACH OF JENKS ROAD AT THE SITE ACCESS TO ACCOMMODATE A LEFT TURN LANE WITH 100 FEET OF STORAGE.
- SUBJECT TO NCDOT REVIEW AND APPROVAL, DEVELOPER SHALL CONSTRUCT A SOUTHBOUND LEFT TURN LANE ON WIMBERLY ROAD AT JENKS ROAD WITH 50 FEET OF STORAGE AND APPROPRIATE DECELERATION LENGTH AND TAPER.

## SITE DATA

PROJECT NAME:	JENKS AND WIMBERLY MIXED USE PUD
PREPARED BY:	BASS, NIXON, AND KENNEDY, INC. 6310 CHAPEL HILL ROAD, STE 250 RALEIGH, NC 27607 PHONE: (919) 851-4422 FAX: (919) 851-8968 CONTACT PERSON: K. ROBERT BELL, JR., PE CPESC EMAIL ADDRESS: robbie.bell@bnkinc.com
DEVELOPER CONTACT INFORMATION:	TAYLOR MORRISON 15501 WESTON PARKWAY STE 100 CARY, NC 27513 PHONE: (919) 291-3819 EMAIL ADDRESS: jmedlin@taylor-morrison.com
CURRENT ZONING:	RR
CURRENT 2045 LAND USE MAP DESIGNATION:	MIXED USE
PROPOSED ZONING DESIGNATION:	PUD-CZ
WAKE COUNTY PINS:	(1) 0722687241 (2) 0722780191 (3) 0722784193 (4) 0722788252
TOTAL PROJECT AREA:	14.68 ACRES
REQUIRED RCA/BUFFER AREA	3.72 AC (25%)
PROVIDED RCA/BUFFER AREA	3.94 AC (26.4%)
COMMERCIAL PARCEL AREA	4.53 AC (30.5%)
RESIDENTIAL PARCEL AREA	10.33 ACRES
RIGHT-OF-WAY DEDICATION	0.24 ACRES
MAXIMUM NUMBER OF RESIDENTIAL UNITS	87 UNITS
MAXIMUM COMMERCIAL SQUARE FOOTAGE	22,000 SF
OFF STREET PARKING	PER TOWN OF APEX UDO REQUIREMENTS
WATERSHED INFORMATION	PRIMARY; BEAVER CREEK BASIN
HISTORIC STRUCTURE?	NO
FEMA FLOODPLAIN INFORMATION	MAP # 3720072200J - DATED 05/02/2006 PROJECT IS NOT WITHIN 100 YEAR FLOODPLAIN

MINIMUM BUILDING SETBACKS FOR RESIDENTIAL	
STREET	20' TO GARAGE DOOR
REAR	10' (EXCLUDING OUTDOOR STORAGE)
FROM BUILDING TO BUILDING	10'
FROM BUFFER/RCA	10' FOR BUILDINGS 5' FOR PARKING AREAS
MAXIMUM BUILDING HEIGHT	3 STORIES/45 FEET

MINIMUM BUILDING SETBACKS NON-RESIDENTIAL	
STREET	20'
REAR	10'
SIDE	20'
FROM BUFFER/RCA	20' FOR BUILDINGS 10' FOR PARKING AREAS
MAXIMUM BUILDING HEIGHT	3 STORIES/45 FEET

**ENGINEER:**

**BNK**

**BASS, NIXON & KENNEDY, INC.  
CONSULTING ENGINEERS**

**6310 CHAPEL HILL ROAD, SUITE 250  
RALEIGH, NORTH CAROLINA 27607**

**TELEPHONE: (919) 851-4422**

**FAX: (919) 851-8968**

**CERTIFICATION NUMBERS: NCBELS (C-0110)  
NCBOLA (C-0267)**

**CONTACT: K. ROBERT BELL, JR., PE CPESC  
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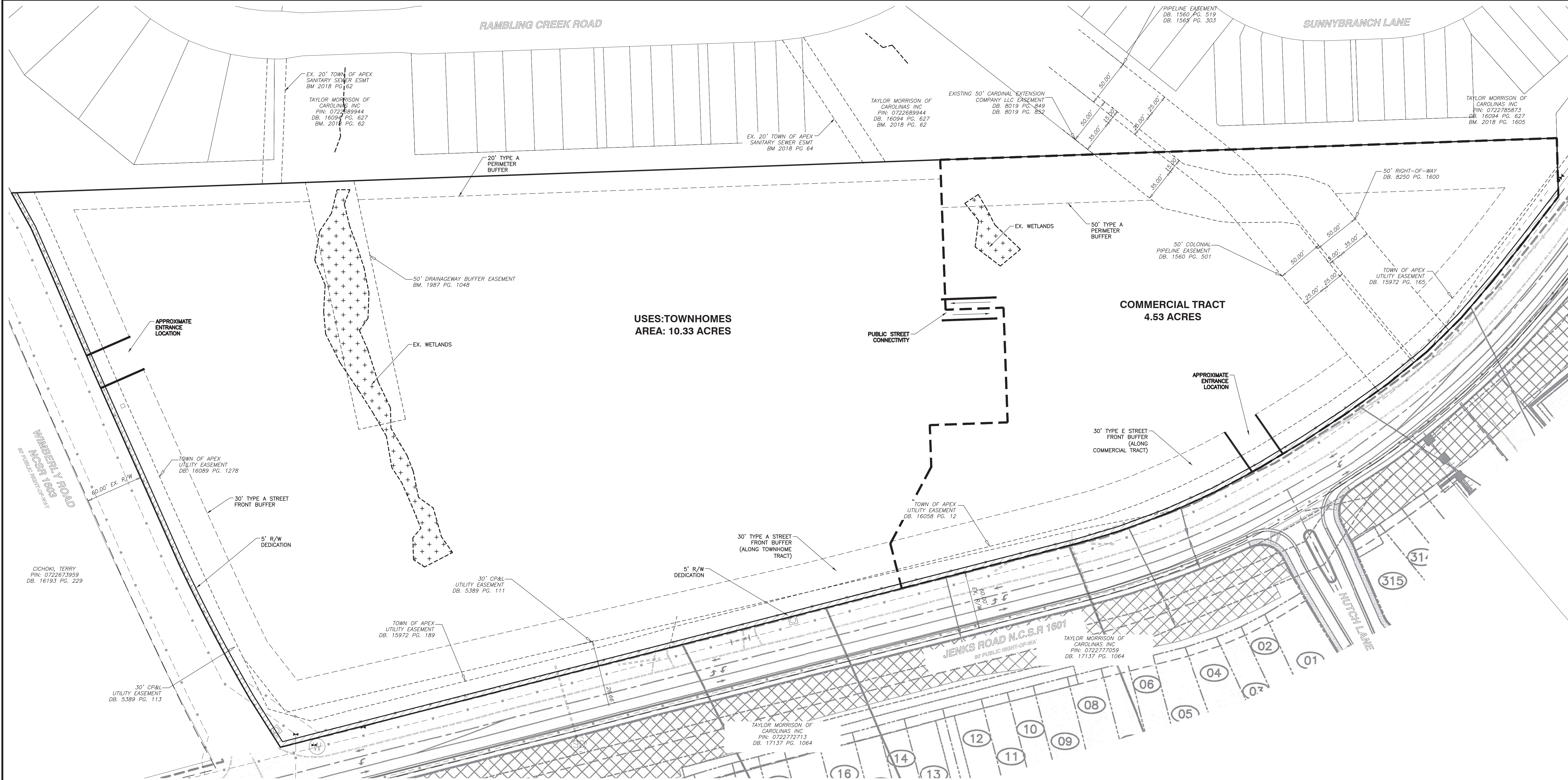
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EMAIL: Robbie.Bell@BNKinc.com





PLANNING NOTES:

- ENTRANCE LOCATIONS SHOWN HEREON ARE PRELIMINARY AND MAY CHANGE AT THE TIME OF MASTER PLAN APPROVAL.
- THE RESOURCE CONSERVATIVE AREA (RCA) SHOWN REASON IS PRELIMINARY AND MAY CHANGE AT TIME OF MASTER PLAN APPROVAL.
- THE MAINTENANCE OF RCA, LANDSCAPE BUFFERS, PASSIVE OPEN SPACE, COMMON AREAS, AND THE STORMWATER DEVICES SHALL BE THE RESPONSIBILITY OF THE PROPERTY ASSOCIATION.
- ALL SIGNAGE SHALL COMPLY WITH TOA UDO SECTION 8.7, SIGNS.
- THE PUD SHALL MEET TOWN OF APEX STORMWATER REQUIREMENTS OUTLINED IN TOA UDO SECTION 6.1.7 SUCH THAT POST-DEVELOPMENT RUNOFF SHALL NOT EXCEED PRE-DEVELOPMENT RUNOFF FOR THE 1-YEAR, 10-YEAR, AND 25-YEAR, 24 HOUR STORM EVENTS.

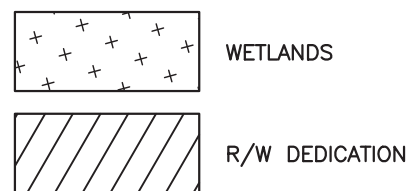
NOTES:

- BOUNDARY AND EXISTING CONDITIONS INFORMATION WAS TAKEN FROM A SURVEY BY BASS, NIXON AND KENNEDY, INC.
- TOPOGRAPHIC INFORMATION FOR THE SITE WAS TAKEN FROM WAKE COUNTY GIS.
- THE SITE HAS BEEN EVALUATED FOR THE EXISTENCE OF WETLANDS AND STREAMS BY BASS, NIXON AND KENNEDY, INC. THE LOCATION OF THESE ENVIRONMENTAL FEATURES AREA SHOWN AS SURVEYED

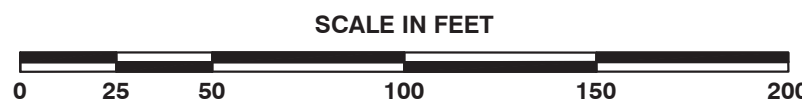
TOWN REQUIRED PUD NOTES:

- PROTECTION FENCING MUST BE PLACED AWAY FROM ANY SAVED TREE ONE FOOT FOR EACH INCH OF TREE CALIPER. PROTECTION FENCING MUST BE PLACED AT LEAST 10 FEET WAY FROM ANY OTHER DESIGNATED RESOURCE CONSERVATION AREA, SUCH AS BUT NOT LIMITED TO HISTORIC BUILDINGS AND STRUCTURES, WETLANDS, AND PONDS. PROTECTION FENCING MUST BE PLACED ALONG THE OUTSIDE EDGE OF ANY RIPARIAN BUFFER. ADDITIONAL PROTECTION FENCING MAY BE REQUIRED IN OTHER LOCATIONS CLOSE TO CONSTRUCTION ACTIVITY WHERE IT IS DEEMED NECESSARY BY THE ZONING ENFORCEMENT OFFICER; SUCH AREAS MAY INCLUDE BUT NOT LIMITED TO COMMON PROPERTY LINES OR NEAR PUBLIC AREAS (SIDEWALKS, ETC.).
- SITE ELEMENTS REQUIRED TO SATISFY RECREATIONAL REQUIREMENTS SUCH AS BUT NOT LIMITED TO PLAY FIELDS AND GREENWAY TRAILS AND ITEMS TYPICALLY ASSOCIATED WITH THEM (BENCHES, TRASH CONTAINERS, SIGNS, ETC.) MUST MEET ANY APPLICABLE STANDARDS FOUND IN THE TOWN OF APEX STANDARD SPECIFICATIONS AND CONSTRUCTION DETAILS AND THE REQUIREMENTS OF THE TOWN OF APEX PARKS AND RECREATION DEPARTMENT.
- ALL REQUIRED SITE ELEMENTS SHOWN WITHIN A PARTICULAR PHASE MUST BE INSTALLED BEFORE A FINAL CERTIFICATE OF OCCUPANCY MAY BE ISSUED FOR ANY BUILDING WITHIN THAT PHASE.
- NO SIGNS ARE APPROVED AS PART OF A PUD PLAN APPROVAL. A SEPARATE SIGN PERMIT MUST BE OBTAINED.

LEGEND



**PRELIMINARY PLANS NOT  
FOR CONSTRUCTION  
THIS SHEET IS FOR  
ILLUSTRATIVE PURPOSES ONLY**



**BASS, NIXON & KENNEDY, INC.**  
**CONSULTING ENGINEERS**  
6310 CHAPEL HILL ROAD, SUITE 250, RALEIGH, NC 27607  
TELEPHONE: (919) 851-1122 FAX: (919) 851-8986  
CERTIFICATION NUMBERS: NCBELS (C-0110); NCBOLA (C-0267)

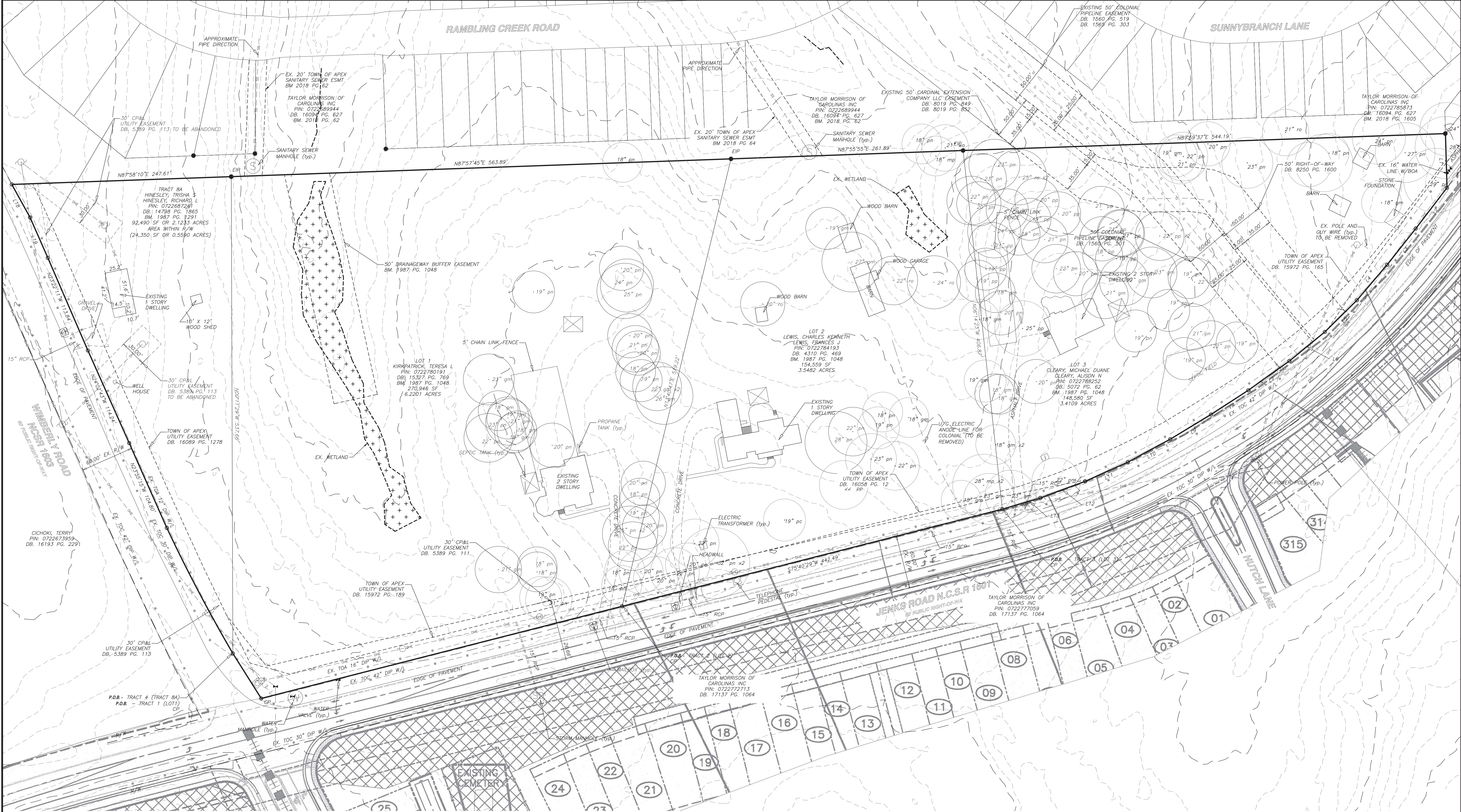
NO.	DATE	DESCRIPTION	BY
2	01-24-20	PER TOWN OF APEX COMMENTS	IP
1	12-06-19	PER TOWN OF APEX COMMENTS	IP

JOB NO.	DATE	DRAWN BY	IP
03-18201	11-01-19		

SHEET CC-1	JENKS AND WIMBERLY MIXED USE PUD		IP
	JENKS ROAD AT WIMBERLY ROAD		
TOWN OF APEX, WAKE COUNTY, NORTH CAROLINA		CHK BY: KRB	SCALE: 1" = 60'



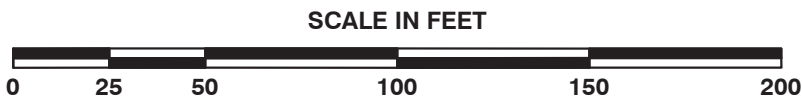
###BASS, NIXON & KENNEDY, INC. EXPRESSLY RESERVES ITS COMMON LAW COPYRIGHT AND OTHER PROPERTY RIGHTS IN THESE PLANS. THESE PLANS ARE NOT TO BE REPRODUCED, CHANGED OR COPIED IN ANY FORM OR MANNER WHATSOEVER, NOR ARE THEY TO BE ASSIGNED TO ANY THIRD PARTY WITHOUT FIRST OBTAINING THE EXPRESSED WRITTEN PERMISSION AND CONSENT OF BASS, NIXON & KENNEDY, INC.



SYMBOLS

- EXISTING 18" OR GREATER TREE LOCATION
- EXISTING COLONIAL ANODE LINE
- EXISTING OVERHEAD ELECTRIC
- EXISTING GATE VALVE
- EXISTING WATER MANHOLE
- EXISTING STORM DRAINAGE MANHOLE
- EXISTING SAN SEWER MANHOLE
- EXISTING ELECTRICAL TRANSFORMER
- EXISTING POWER POLE W/GUY
- EXISTING TELEPHONE PEDESTAL
- EXISTING MAILBOX
- EXISTING WETLANDS

PRELIMINARY PLANS NOT  
FOR CONSTRUCTION  
THIS SHEET IS FOR  
ILLUSTRATIVE PURPOSES ONLY



JENKS AND WIMBERLY  
MIXED USE PUD  
JENKS ROAD AT WIMBERLY  
TOWN OF APEX, WAKE COUNTY, NORTH CAROLINA

SHEET  
CC-2

EXISTING  
CONDITIONS PLAN

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BASS, NIXON & KENNEDY, INC.  
CONSULTING ENGINEERS  
6310 CHAPEL HILL ROAD, SUITE 250, RALEIGH, NC 27607  
TELEPHONE: (919) 851-1122 FAX: (919) 851-8988  
CERTIFICATION NUMBERS: NCBELS (C-0110); NCBOLA (C-0267)



NOT RELEASED FOR CONSTRUCTION OR BID SOLICITATION



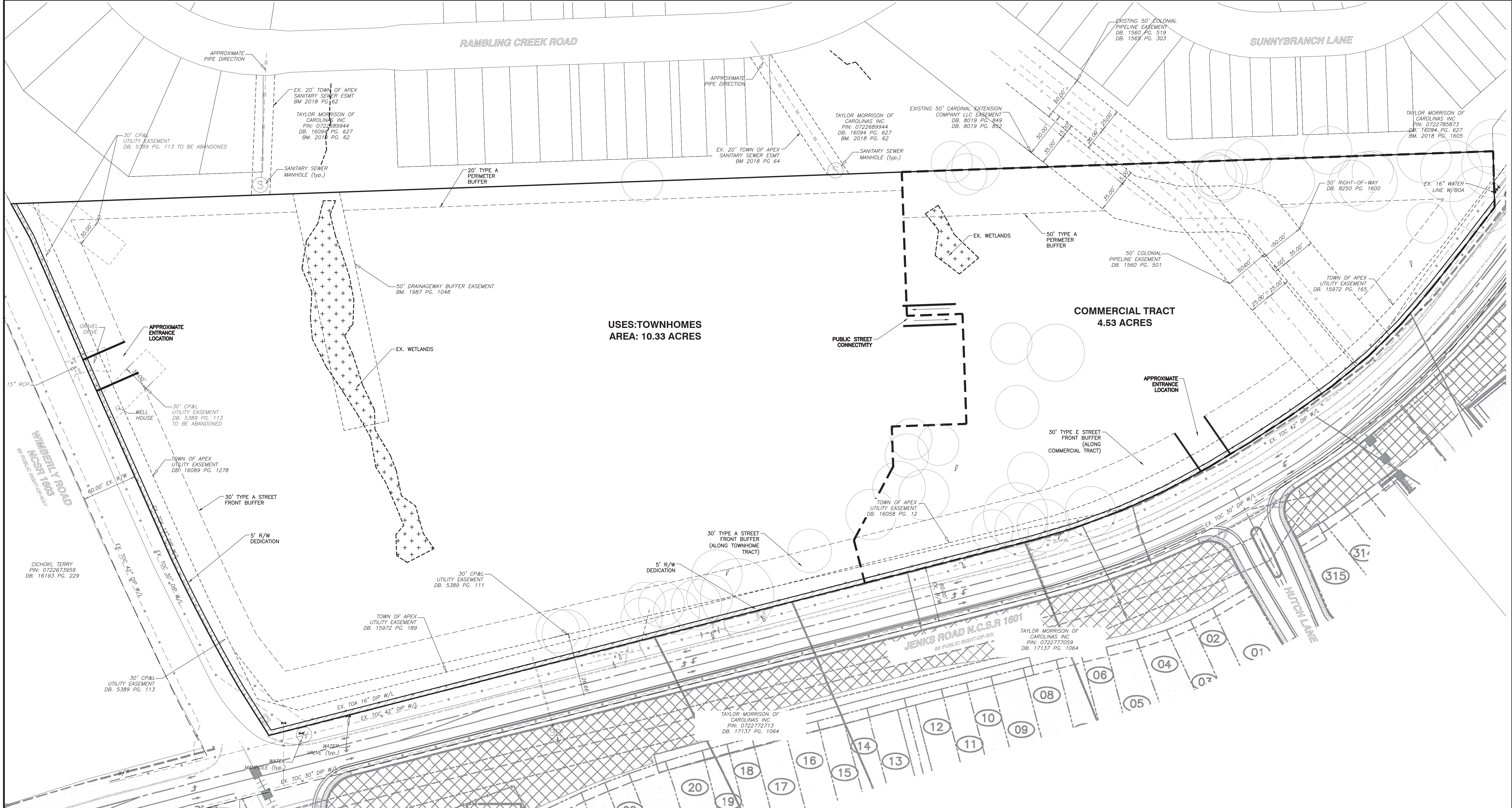
**BASS, NIXON & KENNEDY, INC.**  
**CONSULTING ENGINEERS**  
6310 CHAPEL HILL ROAD, SUITE 250, FALEIGH, NC 27607  
TELEPHONE: (919)851-4422 FAX: (919)851-8968  
CERTIFICATION NUMBERS: NCBELS (C-0110); NCBOLA (C-0267)

[illegible]

**JENKS AND WIMBERLY  
MIXED USE PUD  
JENKS ROAD AT WEMBERLY ROAD  
TOWN OF APEX, WAKE COUNTY, NORTH CAROLINA**

**SHEET**  
**CC-3**

NOT RELEASED FOR CONSTRUCTION OR BID SOLICITATION



TOWN REQUIRED PUD NOTES:

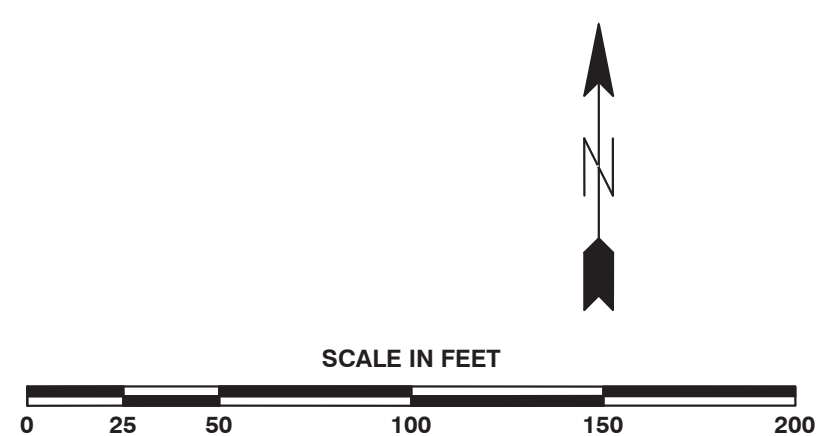
1. PROTECTION FENCING MUST BE PLACED AWAY FROM ANY SAVED TREE ONE FOOT FOR EACH INCH OF TREE CALIPER. PROTECTION FENCING MUST BE PLACED AT LEAST 10 FEET AWAY FROM ANY OTHER DESIGNATED RESOURCE (CONSERVATION AREA, WETLANDS, AND PONDS). BUT NOT NEARER THAN 5 FEET TO ANY STRIP OF WETLANDS, AND PONDS. PROTECTION FENCING MUST BE PLACED ALONG THE PERIMETER OF THE PROJECT AREA. PROTECTION FENCING MAY BE REQUIRED IN OTHER LOCATIONS CLOSE TO CONSTRUCTION ACTIVITY WHERE IT IS DEEMED NECESSARY BY THE ZONING ENFORCEMENT OFFICER; SUCH AREAS WILL BE NOTED ON THE ZONING MAP BUT ARE NOT LIMITED TO COMMON PROPERTY LINES OR NEAR PUBLIC AREAS (SIDEWALKS, ETC.).
2. SITE ELEMENTS REQUIRED TO SATISFY RECREATIONAL REQUIREMENTS SUCH AS BENCHES, TRASH CONTAINERS, SIGNS, ETC. MUST BE PLACED IN ACCORDANCE WITH THE TOWN OF PUD PUD AND THE TOWN OF PUD ASSOCIATED WITH THEM (BENCHES, TRASH CONTAINERS, SIGNS, ETC.) MUST MEET ANY APPLICABLE STANDARDS SHOWN IN THE TOWN OF PUD STANDARD SPECIFICATIONS AND THE TOWN OF PUD ASSOCIATED WITH THEM. REQUIREMENTS OF THE TOWN OF PUD PARKS AND RECREATION DEPARTMENT.
3. ALL REQUIRED SITE ELEMENTS SHOWN WITHIN A PARTICULAR PHASE MUST BE INSTALLED BEFORE THE EXPIRATION DATE OF OCCUPANCY MAY BE ISSUED FOR ANY BUILDING WITHIN THAT PHASE.
4. NO SIGNS ARE APPROVED PRIOR TO THE DATE OF A PUD PLAN APPROVAL. A SEPARATE APPLICATION MUST BE SUBMITTED.

NOTES:

1. BOUNDARY AND EXISTING CONDITIONS INFORMATION WAS TAKEN FROM A SURVEY BY BASS, NIXON AND KENNEDY, INC.
2. TOPOGRAPHIC INFORMATION FOR THE SITE WAS TAKEN FROM WAKE COUNTY GIS. THE EXISTENCE OF WETLANDS AND STREAMS WAS DETERMINED FROM A SURVEY BY BASS, NIXON AND KENNEDY, INC. THE LOCATION OF THESE ENVIRONMENTAL FEATURES AREA SHOWN AS SURVEYED.
3. THIS PUD IS REQUESTING FULL TOWN SERVICES - WATER, SEWER, AND ELECTRICITY.
5. THIS PUD SHALL MEET ALL STORMWATER MANAGEMENT REQUIREMENTS FOR QUALITY AND QUANTITY TREATMENT IN ACCORDANCE WITH SECTION 6.1.7 OF THE UDO, SUCH THAT: POST DEVELOPMENT PEAK RUNOFF SHALL NOT EXCEED PRE DEVELOPMENT PEAK RUNOFF CONDITIONS FOR THE 1 YEAR, 10 YEAR, 24-HOUR STORM EVENTS.

**PRELIMINARY PLANS NOT  
FOR CONSTRUCTION**

**THIS SHEET IS FOR  
ILLUSTRATIVE PURPOSES ONLY**



**TOWN OF APEX PROJECT NO. XX-XX-XX**









Kingston "B"

Bennington "A"

Stowe "A"

Bennington "A"



Left - Kingston "B"



Bennington "A"

Stowe "A"

Bennington "A"

Kingston "B"



Right - Bennington "A"



# | Agenda Item | cover sheet

for consideration by the Apex Town Council

Item Type: CONSENT AGENDA

Meeting Date: February 4, 2020

## Item Details

Presenter(s): Marty Stone, Assistant Town Manager

Department(s): Administration

### Requested Motion

Motion to approve and authorize the Town Manager to execute the same for an Encroachment Agreement between the Town and property owners, Ivan Peter Ryzebol and Lily Ryzebol regarding Wake County, NC, PIN#0721-91-7087, Lot 15 Verona at Bella Casa, Phase 9, Section 2 as shown and recorded in Book of Maps 2016, Page 1360, 2145 Vecchio Lane, Apex, NC 27502.

### Approval Recommended

Administration recommends approval

### Item Details

Approve Encroachment Agreement between the Town and Ivan Peter Ryzebol and Lily Ryzebol (Grantees) for property described as a residential lot known as Wake County, NC PIN#0721-91-7087, Lot 15, Verona at Bella Casa, Phase 9, Section 2, Book of Maps 2016, Page 1360, 2145 Vecchio Lane, Apex, NC 27502. Grantees wish to install a 148 SF concrete patio of which 24 SF will encroach into the 20' Public Sewer Utility Easement and a 140 LF fence with 40' (crossing perpendicularly) and 89 SF encroaching into the 20' Public Sewer Utility Easement.

### Attachments

- Encroachment Agreement
- Exhibit A





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

**STATE OF NORTH CAROLINA  
COUNTY OF WAKE**

**ENCROACHMENT AGREEMENT**

THIS ENCROACHMENT AGREEMENT, being made this \_\_\_\_ day of \_\_\_\_\_, 2020, by and between Ivan Peter Ryzebol, and spouse Lily Ryzebol , hereinafter referred to as "Grantees," and the Town of Apex, hereinafter referred to as the "Town."

WHEREAS, the Grantees are the owners of a certain residential lot of land in the County of Wake, State of North Carolina, which is more particularly described as **Lot 15** of the subdivision known as **Verona at Bella Casa, Phase 9, Section 2** as shown on that certain plat recorded in **Book of Maps 2016, Page 1360**, Wake County Registry (hereinafter the "**Subdivision Plat**"). The residential lot is also known as **2145 Vecchio Lane, Apex, NC 27502**. The residential lot described in this paragraph is hereinafter referred to as the "**Residential Lot**."

WHEREAS, the Town is the owner of a **20 foot wide Pubic Sewer Utility Easement as shown on the subdivision plat** hereinafter referred to as the "**Public Sewer Utility Easement**."

WHEREAS, Grantees desire to encroach upon through installation of a **148 SF concrete patio with 24 SF encroaching into the 20' Public Sewer Utility Easement and 140 LF fence with 40' (crossing perpendicularly) and 89 SF encroaching into the 20' Public Sewer Utility Easement** which serves the

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

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

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

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

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

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

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

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

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

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

To Grantees: Ivan Peter Ryzebol  
Lily Ryzebol  
2145 Vecchio Lane  
Apex, NC 27502

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

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

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

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

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



Paragraph 9.

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

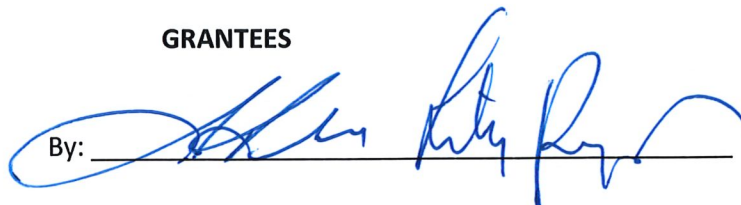
13. Notwithstanding Section 14 below, Grantees shall be released from its obligation under this Encroachment Agreement only upon the assumption of said obligations either by a successor in title to real property known as **Lot 15, Verona at Bella Casa Phase 9, Section 2 (2145 Vecchio Lane, Apex, NC 27502)**, or by assumption of said obligations by an incorporated property or condominium owners association for **Verona at Bella Casa Subdivision, Phase 9, Section 2**. The Town's consent to such assumption and release shall be required but shall not be withheld, conditioned or delayed if, as reasonably determined by the Town, the party assuming Grantees' obligations possesses adequate financial resources and ownership interest, and Grantees' delegate and proposed assignee assume and agree to fulfill, in writing, all of Grantees' duties set forth in this Encroachment Agreement.

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

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

GRANTEES

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

Two handwritten signatures in blue ink are written over a horizontal line. The first signature is on the left and the second is on the right.

Ivan Peter Ryzebol

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

Lily Ryzebol

STATE OF NORTH CAROLINA

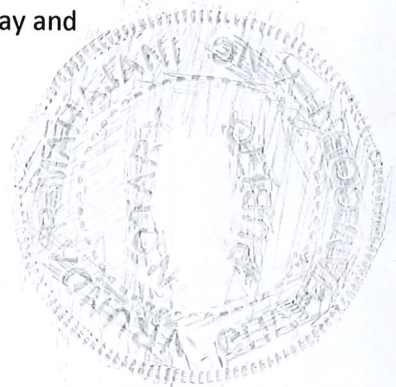
COUNTY OF CHATHAM [county in which acknowledgement taken]

I, do hereby certify that Ivan Peter Ryzebol, personally appeared before me this day and acknowledged the due execution of the foregoing instrument.

Witness my hand and official stamp or seal, this 27<sup>th</sup> day of January, 2020.

Vrunda R Mahajani  
[Signature of Notary Public]

My Commission Expires: 11/24/2024



\*\*\*\*\*

STATE OF NORTH CAROLINA

COUNTY OF CHATHAM [county in which acknowledgement taken]

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

Witness my hand and official stamp or seal, this 27<sup>th</sup> day of January, 2020.

Vrunda R Mahajani  
[Signature of Notary Public]

My Commission Expires: 11/24/2024





TOWN OF APEX

\_\_\_\_\_  
Andrew L. Havens  
Town Manager

(Corporate Seal)

ATTEST:

\_\_\_\_\_  
Donna B. Hosch, MMC, NCCMC  
Town Clerk

STATE OF NORTH CAROLINA

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

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

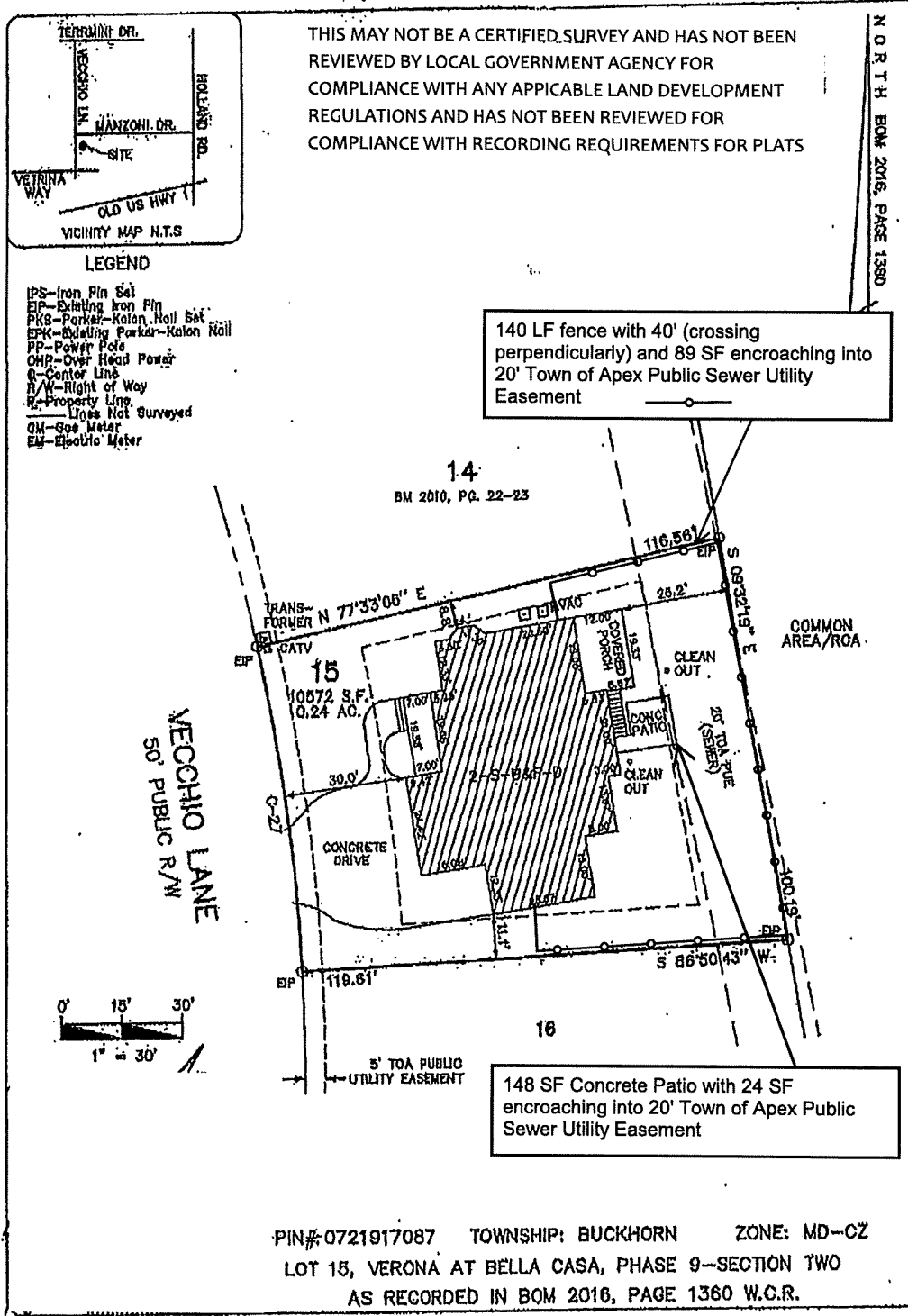
Witness my hand and official stamp or seal, this \_\_\_\_\_ day of \_\_\_\_\_, 2020.

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

*(Seal)*

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

# EXHIBIT A





# | Agenda Item | cover sheet

for consideration by the Apex Town Council

Item Type: PUBLIC HEARING

Meeting Date: February 4, 2020

## Item Details

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

Department(s): Planning and Community Development

### Requested Motion

Public Hearing and possible motion to adopt an Ordinance on the Question of Annexation – Apex Town Council's intent to annex DRP NC 4, LLC (Roberts Crossing) property containing 27.75 acres located at 0, 7013, 7019, 7021, 7029 and 7113 Roberts Road , Annexation #675 into the Town's corporate limits.

### Approval Recommended?

Yes, by the Planning and Community Development Department.

### Item Details

The Town Clerk certifies to the investigation of said annexation.

### Attachments

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





TOWN OF APEX, NORTH CAROLINA  
Municipality No. 333

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

ORDINANCE NO. 2020-0204-09  
ANNEXATION PETITION NO. #675  
Roberts Crossing

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

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

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

WHEREAS, the Town Clerk has certified the sufficiency of said petition and a public hearing on the question of this annexation was held at Apex Town Hall at 6:00 p.m. on February 4, 2020, after due notice by posting to the Town of Apex website, <http://www.apexnc.org/news/public-notice-legal-ads>; and

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



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

Section 1. By virtue of the authority granted by G.S.§160A-58.1, as amended, the territory described in the attached property description and also shown as "Annexation Area" on the below identified survey plat is hereby annexed and made part of the Town of Apex, North Carolina, as of the date of adoption of this Ordinance on February 4, 2020. The survey plat that describes the annexed territory is that certain survey plat entitled "Satellite Annexation Map for the Town of Apex of the Lands of DRP NC 4, LLC, MSS Land Consultants, dated January 13, 2020" and recorded in Book of Maps book number 2020 and page number [REDACTED], Wake County Registry.

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

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

Adopted this the 4th day of February 2020.

---

Jacques K. Gilbert  
Mayor

ATTEST:

---

Donna B. Hosch, MMC, NCCMC  
Town Clerk

APPROVED AS TO FORM:

---

Laurie L. Hohe  
Town Attorney

Legal Description

All that tract, piece or parcel of land lying and being situated in the Township of White Oak, Town of Apex, County of Wake, and State of North Carolina; being more particularly bounded and described as follows: BEGINNING at a point marked by an iron pipe set on the southeastern right-of way margin of NC 540 (an existing variable-width public right-of-way (NCDOT Project Reference: R-2635C; Deed Book 13838, pg 2632; Deed Book 14286, page 137)); said point also located on a southern line of lands of, now or formerly, NC Department of Transportation (Deed Book 7188, page 214; Book of Maps 1982, page 504); said point also being the POINT OR PLACE OF BEGINNING and having an North Carolina state plane coordinate of N 732,865.86'; E 2,033,172.29' (NAD 83 (2011)); thence; from said point of beginning, along said lands of NC Department of Transportation, and along lands of, now or formerly, Melanie J. Yelvington and Brian J.D. Enaman (Deed Book 6446, page 78), and along lands of, now or formerly, Don T. Poitras (Deed Book 8152, page 884), S 89°-46'-16" E 800.40' to an existing iron pipe; thence, continuing along said lands of Poitras, the following two courses: 1) S 89°-46'-16" E 294.29' to an existing concrete marker; 2) N 01° 04'-10" E 92.00' to an existing iron pipe marking a southwestern corner of lands of, now or formerly, Dorothy P. Thorpe and Evelyn P. Moss; thence, along said lands of Thorpe and Moss, S 85°-20'-04" E 101.34' to an existing iron pipe with cap and tack located on the southwestern right-of-way margin of Roberts Road (NCSR 1608) (an existing variable width public right-of-way (Deed Book 1930, page 234; Deed Book 1930, page 237)); thence, along the southwestern right-of-way margin of Roberts Road, the following seven courses: 1) S 21°-51'-59" E 87.02' to a point; 2) S 20°-02'-54" E 79.67' to an existing bent iron pipe; 3) S 19°-06'-54" E 488.97' to a point; 4) S 19°-45'-28" E 116.38' to a point; 5) S 21° 56'-12" E 96.73' to a point marked by an iron pipe set; 6) S 27°-16'-20" E 96.84' to a point; 7) S 33°-46'-22" E 105.74' to a point; said point being a northeastern corner of lands of, now or formerly, Haley S. Hoffler (Deed Book 16229, page 1989; Book of Maps 2002, page 561); thence, along said lands of Hoffler, and along lands of, now or formerly, Jeanne S. Collier and spouse, Matthew G. Collier (Deed Book 9665, page 1585), S 89°-59'-35" W 515.70' to an existing leaning iron pipe located in an eastern line of lands of, now or formerly, Peter Beal and wife, Penny Beal (Deed Book 11882, page 2654; Book of Maps 1982, page 595); thence, along said lands of Beal, N 00°-51'-35" E 22.67' to a nail at the base of an existing iron pipe; thence, continuing along said lands of Beal, and along lands of, now or formerly, Joseph Mack Jones and wife, Carrie Anne Morton Jones (Deed Book 13825, page 905; Book of Maps 1988, page 415), and along lands of, now or formerly, Harold W. Meder and wife, N. Janis Meder (Deed Book 4264, page 659), N 86°-26'-25" W 657.48' to an iron pipe set; said point lying on an easterly line of lands of, now or formerly, Francis Fuller Heirs (Deed Book 0167, page 131), thence along said lands of, now or formerly, Francis Fuller Heirs, the following four courses: 1) N00°-13'-34" E 579.91' to an existing iron pipe; 2) N89°-46'-26" W 384.75' to an existing iron pipe; 3) S 00°-13'-34" W 263.99' to an existing bent iron pipe ; 4) N 87°-35'-26" W 69.89' to



an existing iron pipe marking the northeastern corner of lands of Pine Top, LLC (Deed Book 13003, page 1155; Book of Maps 2008, page 303); thence, along said lands of Pine Top, S 88°-36'-02" W 174.81' to an existing iron bar marking a southeastern corner of lands of, now or formerly, North Carolina Turnpike Authority (NCTA) & North Carolina Department of Transportation (NCDOT) (Deed Book 13870, page 2185; Book of Maps 1998, page 900); thence along said lands of NCTA and NCDOT, N 02°-03'-56" W 115.65' to an iron pipe set on the southeastern right-of-way margin of NC 540; thence, along the southeastern right of-way margin of NC 540, the following four courses: 1) N 33°-02'-47" E 91.05' to an existing right-of-way disk; 2) N 27°-11'-44" E 51.94' to an existing right-of-way disk; 3) N 19°-56'-13" E 245.05' to an existing right-of-way disk; 4) N 38°-47'-08" E 81.42' to the point or place of beginning; containing 1,053,445 square feet, or 24.184 acres of land, more or less, as shown on a survey titled "SATELLITE ANNEXATION FOR THE TOWN OF APEX of the Lands of DRP NC 4, LLC", dated January 13, 2020, and prepared by MSS Land Consultants, PC. Together With that part of NC 540 Variable Width Public Right of Way more particularly described as follows: BEGINNING at a point marked by an iron pipe set on the southeastern right-of way margin of NC 540 (an existing variable-width public right-of-way (NCDOT Project Reference: R-2635C; Deed Book 13838, pg 2632; Deed Book 14286, page 137)); said point also located on a southern line of lands of, now or formerly, NC Department of Transportation (Deed Book 7188, page 214; Book of Maps 1982, page 504); said point also being the POINT OR PLACE OF BEGINNING and having an North Carolina state plane coordinate of N 732,865.86'; E 2,033,172.29' (NAD 83 (2011)); thence; from said point of beginning, along said southeastern right-of-way margin of NC 540 the following four (4) courses; 1) S 38°-47'-08" W 81.42' to an existing right-of-way disk; 2) S 19°-56'-13" W 245.05' to an existing right-of-way disk; 3) S 27°-11'-44" W 51.94' to an existing right-of way disk; 4) S 33°-02'-47" W 91.05' to an iron pipe set marking the northernmost corner of lands of, now or formerly, North Carolina Turnpike Authority (NCTA) & North Carolina Department of Transportation (NCDOT) (Deed Book 13870, page 2185; Book of Maps 1998, page 900); thence departing said southeastern margin of NC 540 N 65°-42'51" W 325.39' to a point on the northwestern right-of-way margin of said NC 540; thence along said northwestern margin N 24°17'09" E 465.04'; thence S 65°42'51" E 343.70' to the point or place of beginning. Containing 155,135 square feet, or 3.56 acres of land, more or less, as shown on a survey titled "SATELLITE ANNEXATION FOR THE TOWN OF APEX of the Lands of DRP NC 4, LLC", dated January 13, 2020, and prepared by MSS Land Consultants, PC.

STATE OF NORTH CAROLINA

COUNTY OF WAKE

CLERK'S CERTIFICATION

I, Donna B. Hosch, MMC, NCCMC, Town Clerk, Town of Apex, North Carolina, do hereby certify the foregoing is a true and correct copy of Annexation Ordinance No. 2020-0204-09, adopted at a meeting of the Town Council, on the 4th day of February 2020, the original of which will be on file in the Office of the Town Clerk of Apex, North Carolina.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed the official Seal of the Town of Apex, North Carolina, this the 5th day of February 2020.

---

Donna B. Hosch, MMC, NCCMC  
Town Clerk

(SEAL)



## PETITION FOR VOLUNTARY ANNEXATION

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

Application #: \_\_\_\_\_ Submittal Date: \_\_\_\_\_  
Fee Paid \$ \_\_\_\_\_ Check # \_\_\_\_\_

### TO THE TOWN COUNCIL APEX, NORTH CAROLINA

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

### Owner Information

DRP NC 4, LLC	073332 -9316,-6797 & 073342 -2608,-4410,-4096,-1758
Owner Name (Please Print)	Property PIN or Deed Book & Page #
212-751-5965	MEAGHAN. MAHONEY @ DWPARTNERS.COM
Phone	E-mail Address
Owner Name (Please Print)	Property PIN or Deed Book & Page #
Phone	E-mail Address
Owner Name (Please Print)	Property PIN or Deed Book & Page #
Phone	E-mail Address

### Surveyor Information

Surveyor: MSS Land Land Consultants, PC  
Phone: 919-510-4434 x23 Fax: \_\_\_\_\_  
E-mail Address: gowersw@mssland.com

### Annexation Summary Chart

Total Acreage to be annexed:	24.18	Reason for annexation: (select one)	
Population of acreage to be annexed:		Receive Town Services	X
Existing # of housing units:	3	Other (please specify)	
Zoning District*:	PUD-CZ		

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

**PETITION FOR VOLUNTARY ANNEXATION**

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

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

**COMPLETE IF IN A LIMITED LIABILITY COMPANY**

In witness whereof, DRP NC 4, LLC, a Delaware limited liability company, caused this instrument to be executed in its name by the Authorized Signatory of DW General Partner, LLC, its Manager pursuant to authority duly given, this the 10th day of January, 2020.

Name of Limited Liability Company DRP NC 4, LLC  
By: DW General Partner, LLC, its Manager

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

[Signature]  
Signature of Member/Manager

STATE OF NEW YORK

COUNTY OF NEW YORK

Sworn and subscribed before me, Meaghan Mahoney, a Notary Public for the above State and County, this the 10th day of January, 2020.

SEAL

MEAGHAN MAHONEY  
Notary Public, State of New York  
Reg. No. 01MA6346899  
Qualified in Nassau County  
My Commission Expires 8/22/2020

[Signature]  
Notary Public  
My Commission Expires: 8/22/2020

**COMPLETE IF IN A PARTNERSHIP**

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

Name of Partnership \_\_\_\_\_

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

Signature of General Partner

STATE OF NORTH CAROLINA

COUNTY OF WAKE

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

SEAL

\_\_\_\_\_  
Notary Public  
My Commission Expires: \_\_\_\_\_



**ROBERTS ROAD ASSEMBLAGE**

**ANNEXATION AREA**

All that tract, piece or parcel of land lying and being situated in the Township of White Oak, Town of Apex, County of Wake, and State of North Carolina; being more particularly bounded and described as follows:

BEGINNING at a point marked by an iron pipe set on the southeastern right-of-way margin of NC 540 (an existing variable-width public right-of-way (NCDOT Project Reference: R-2635C; Deed Book 13838, pg 2632; Deed Book 14286, page 137)); said point also located on a southern line of lands of, now or formerly, NC Department of Transportation (Deed Book 7188, page 214; Book of Maps 1982, page 504); said point also being the **POINT OR PLACE OF BEGINNING** and having an North Carolina state plane coordinate of N 732,865.86'; E 2,033,172.29' (NAD 83 (2011)); thence; from said point of beginning, along said lands of NC Department of Transportation, and along lands of, now or formerly, Melanie J. Yelvington and Brian J.D. Enaman (Deed Book 6446, page 78), and along lands of, now or formerly, Don T. Poitras (Deed Book 8152, page 884), S 89°-46'-16" E 800.40' to an existing iron pipe; thence, continuing along said lands of Poitras, the following two courses: 1) S 89°-46'-16" E 294.29' to an existing concrete marker; 2) N 01°-04'-10" E 92.00' to an existing iron pipe marking a southwestern corner of lands of, now or formerly, Dorothy P. Thorpe and Evelyn P. Moss; thence, along said lands of Thorpe and Moss, S 85°-20'-04" E 101.34' to an existing iron pipe with cap and tack located on the southwestern right-of-way margin of Roberts Road (NCSR 1608) (an existing variable-width public right-of-way (Deed Book 1930, page 234; Deed Book 1930, page 237)); thence, along the southwestern right-of-way margin of Roberts Road, the following seven courses: 1) S 21°-51'-59" E 87.02' to a point; 2) S 20°-02'-54" E 79.67' an existing bent iron pipe; 3) S 19°-06'-54" E 488.97' to a point; 4) S 19°-45'-28" E 116.38' to a point; 5) S 21°-56'-12" E 96.73' to a point marked by an iron pipe set; 6) S 27°-16'-20" E 96.84' to a point; 7) S 33°-46'-22" E 105.74' to a point; said point being a northeastern corner of lands of, now or formerly, Haley S. Hoffler (Deed Book 16229, page 1989; Book of Maps 2002, page 561); thence, along said lands of Hoffler, and along lands of, now or formerly, Jeanne S. Collier and spouse, Matthew G. Collier (Deed Book 9665, page 1585), S 89°-59'-35" W 515.70' to an existing leaning iron pipe located in an eastern line of lands of, now or formerly, Peter Beal and wife, Penny Beal (Deed Book 11882, page 2654; Book of Maps

**ROBERTS ROAD ASSEMBLAGE**

**ANNEXATION AREA**

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Together With that part of NC 540 Variable Width Public Right of Way more particularly described as follows:

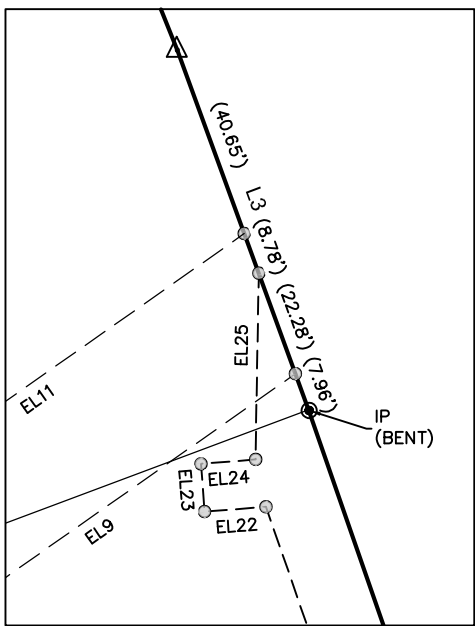
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**ROBERTS ROAD ASSEMBLAGE**

**ANNEXATION AREA**

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DETAIL A  
1" = 40'

Line Table		
LINE #	DIRECTION	LENGTH
EL9	S54°55'03"W	112.88'
EL10	N35°04'57"W	30.00'
EL11	N54°55'03"E	120.93'
EL12	S67°19'13"W	203.14'
EL13	N22°40'47"W	30.00'
EL14	N67°19'13"E	205.01'
EL15	N54°42'12"W	29.24'
EL16	N00°24'04"W	51.30'
EL17	N48°01'31"W	56.93'
EL18	S56°35'56"W	11.80'
EL19	N33°24'04"W	10.00'
EL20	N56°35'39"E	12.85'
EL21	N19°07'07"W	678.57'
EL22	N85°37'04"E	12.84'
EL23	N04°22'56"W	10.00'
EL24	N85°37'04"E	11.42'
EL25	N00°59'03"E	32.57'
EL26	S12°10'31"E	35.20'
EL27	S64°34'31"W	15.34'

Line Table		
LINE #	DIRECTION	LENGTH
L1	S85°20'04"E	101.34'
L2	S21°51'59"E	87.02'
L3	S20°02'54"E	79.67'
L4	S19°06'54"E	488.97'
L5	S19°45'28"E	116.38'
L6	S21°56'12"E	96.73'
L7	S27°16'20"E	96.84'
L8	S33°46'22"E	105.74'

FILED FOR REGISTRATION

CHARLES P. GILLIAM  
REGISTER OF DEEDS  
WAKE COUNTY

BY: \_\_\_\_\_  
ASST./DEPUTY

TIME: \_\_\_\_\_

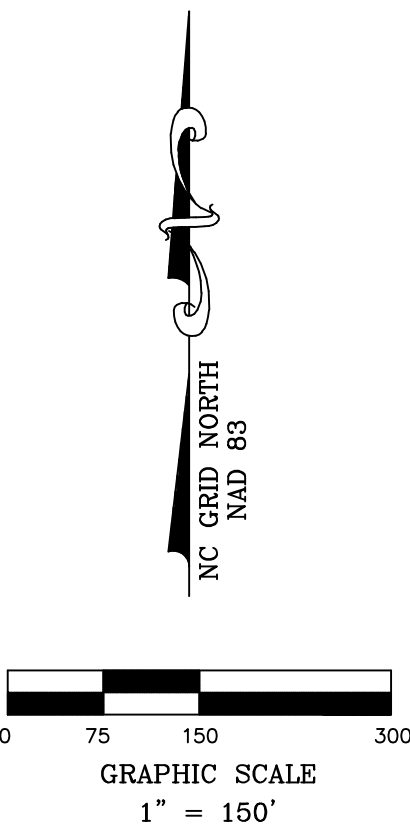
Annexation # \_\_\_\_\_

I, Donna B. Hosch, MMC, NCCMC, Town Clerk, Apex, North Carolina certify this a true

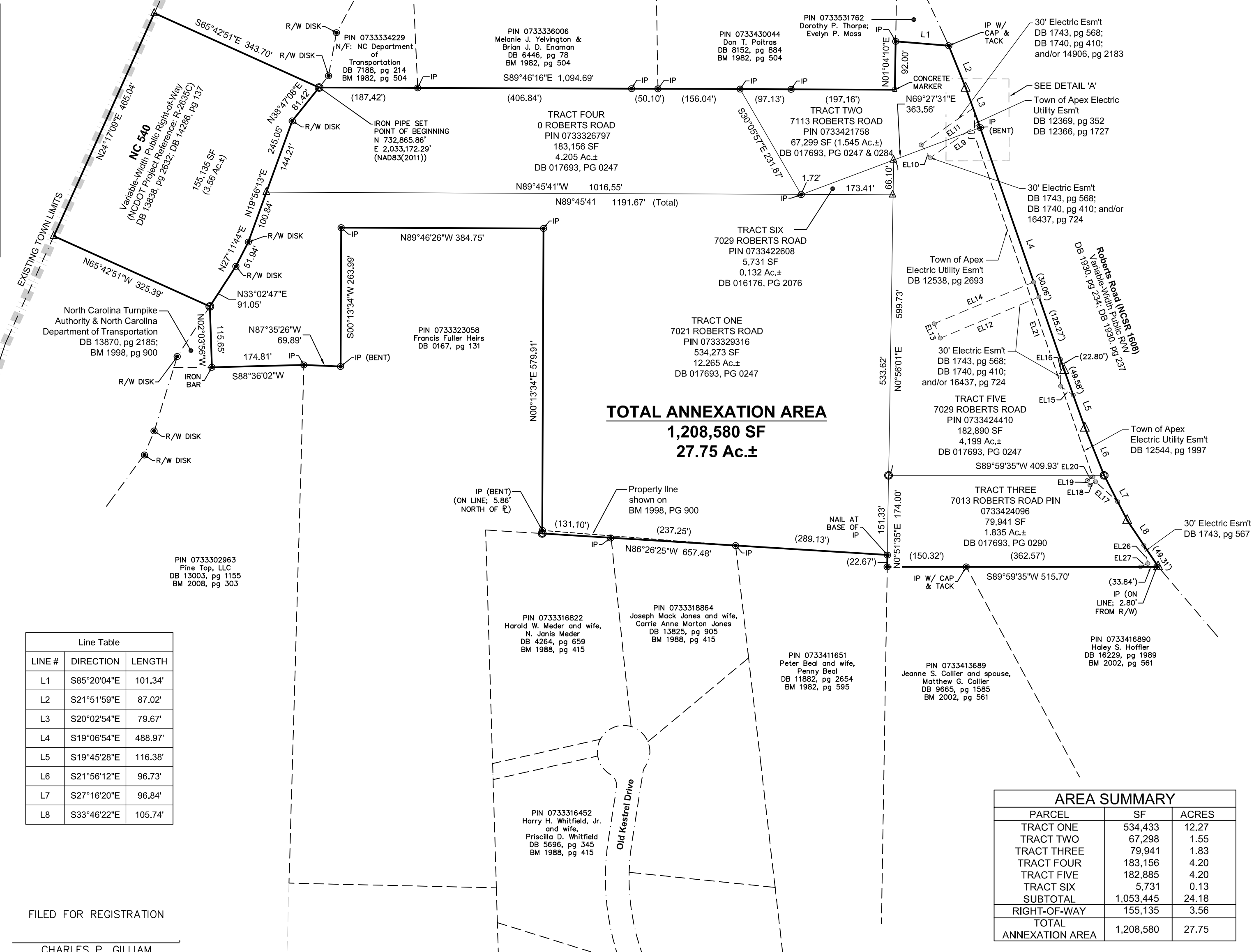
and exact map of annexation adopted the \_\_\_\_\_ day of \_\_\_\_\_,

by the Town Council. I set my hand and seal of the Town of Apex, \_\_\_\_\_ Day/Month/Year

Donna B. Hosch, MMC, NCCMC, Town Clerk



BOOK \_\_\_\_\_, PAGE \_\_\_\_\_



AREA SUMMARY		
PARCEL	SF	ACRES
TRACT ONE	534,433	12.27
TRACT TWO	67,298	1.55
TRACT THREE	79,941	1.83
TRACT FOUR	183,156	4.20
TRACT FIVE	182,885	4.20
TRACT SIX	5,731	0.13
SUBTOTAL	1,053,445	24.18
RIGHT-OF-WAY	155,135	3.56
TOTAL ANNEXATION AREA	1,208,580	27.75

#### GENERAL NOTES:

- All distances are horizontal ground distances and areas were computed using the coordinate method, unless otherwise noted hereon.
- The subject property is not located within a Special Flood Hazard Area as scaled from NFIP FIRM Number 3720073300J; Effective Date: May 2, 2006.
- Wetlands and stream buffers are not addressed by this survey.
- This survey was prepared for the parties and purpose indicated hereon. Any extension of the use beyond the purpose agreed to between the client and surveyor exceeds the scope of the engagement. Only copies of this survey with the Land Surveyor's original signature & an original embossed, ink or scanned seal are the product of the Land Surveyor.
- Property identification numbers taken from the official tax records of Wake County.
- All underground utilities shown hereon are based solely on visible ground surface evidence. Prior to any construction and/or excavation, the exact vertical & horizontal locations must be determined.
- Zoning: PUD-CZ
- References: DB 167, pg 130 & 131; DB 1705, pg 67; DB 7187, pg 170; DB 8068, pg 1768; DB 16176, pg 2073 & 2080; DB 17693, pg 247; DB 17693, pg 284; DB 17693, pg 290; BM 1998, pg 900; BM 1998, pg 415; BM 1982, pg 815.

I, Matthew A. Hayes, PLS (L-4516), certify that this survey is of an existing parcel or parcels of land and does not create a street or change an existing street; I also certify that this plat was drawn under my supervision from an actual survey performed under my supervision (deed description(s) shown hereon under "References"); that the boundaries not surveyed are clearly indicated as drawn from information shown hereon; that the ratio of precision or positional accuracy is 1:10,000+; that the Global Positioning System (GPS) survey and the following information was used to perform the GPS survey:

Class of survey: Class A  
Positional accuracy: 0.02' H; 0.02' V  
Type of GPS field procedure: OPUS  
Date(s) of Survey: March 20, 2013  
Datum/Epoch: NAD 83(2011) (EPOCH:2010.0000)  
Published/Fixed-control use: OPUS used  
Geoid model: NAVD88 (GEOID12A)  
Combined grid factor: 0.99990063  
Units: US Survey Feet

Witness my original signature, registration and seal.

Matthew A. Hayes, PLS

NORTH CAROLINA  
PROFESSIONAL  
SURVEYOR

**PRELIMINARY**  
NOT FOR RECORDATION,  
CONVEYANCES OR SALES

SURVEYED  
by

**MSS LAND CONSULTANTS**  
6118 Saint Giles St.  
Suite E  
Raleigh, NC 27612  
Phone (919) 510-4464  
Fax (919) 510-9102  
Email: gowersw@mssland.com



"Committed to Total Quality Service"

O:\\_BEAZER HOMES\BZH-19-01\dwg\Roberts\_Tracts\_AnnexationMap\_Rev.dwg

**SATELLITE ANNEXATION MAP**  
for the  
**TOWN OF APEX**  
of the Lands of  
**DRP NC 4, LLC**

Checked by:  
MAH

Drawn by:  
BAO

Date:  
Jan. 13, 2020

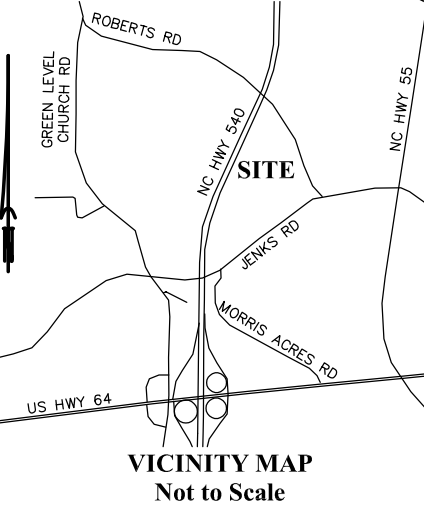
North  
Carolina

Wake  
County

White Oak  
Township

Town of  
Apex ETJ

- LEGEND**
- Existing Monumentation
  - Iron Pipe Set
  - Mathematical Points
  - IP Iron Pipe
  - IR Iron Rebar
  - CM Concrete Marker
  - SFHA Special Flood Hazard Area
  - N/F Now or Formerly
  - DB / BM Deed Book / Book of Maps
  - R/W Right-of-Way
  - Esm't. Easement
  - (0.00') Tie Distance (Chord Distance)
  - Town Limits





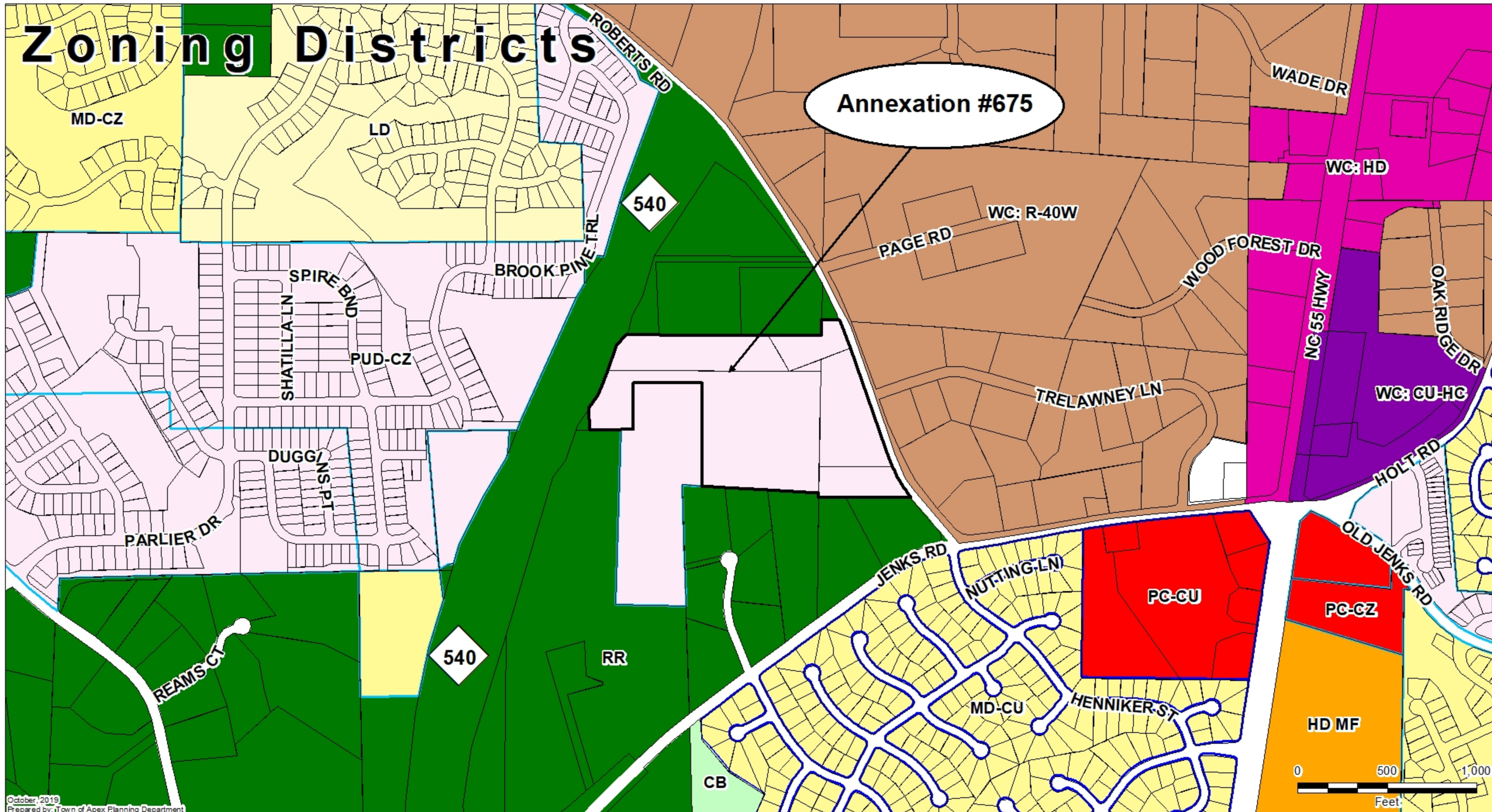








# Zoning Districts



# | Agenda Item | cover sheet

for consideration by the Apex Town Council

Item Type: UNFINISHED BUSINESS

Meeting Date: February 4, 2020

## Item Details

Presenter(s): Drew Havens, Town Manager

Department(s): Administration

### Requested Motion

Discussion and possible motion to direct staff to prepare, for Council consideration, amendment(s) to the Town of Apex Code of Ordinances relative to playing upon streets.

### Approval Recommended?

N/A

### Item Details

At the November 6, 2019 Town Council, a resident spoke, during Public Forum regarding concerns with the Town's current ordinance that restricts playing upon the streets. The written appeal to Council, was backed by numerous signatures on an online petition.

Following this meeting, I asked that staff review the current ordinance and evaluate the efficacy and appropriateness of the current ordinance and provide a narrative that includes information relative to leaving the ordinance as is, amending the ordinance (including suggested amendments) and an outright repeal of the ordinance.

Staff seeks Council direction regarding what, if any, modifications they wish to make to our ordinances.

### Attachments

- Memorandum dated December 27, 2019 as modified (to include additional Statute and Ordinance references)
- E-mail from petitioner





Dear Council Members,

My name is Lindsay Logan, and I am writing you as both a concerned Apex resident and mother. Recently my family and our neighbors have been targeted by a disgruntled neighbor who continues to attempt to make multiple police reports in reference to our children playing outside in the front of our driveways. We were informed by an Apex PD officer on Tuesday 10/22 that this gentleman made an additional report citing that we were in violation of Apex town ordinance Section 14-28. Prior to his most recent report, he had initially presented to law enforcement that his concern had been for parental supervision/safety of our children. However when those concerns were determined to be unfounded (there was a total of 6 adults supervising 4 children ages 4-9 upon the officer's contact) his complaints escalated to include this specific ordinance that children are not permitted to engage in "game" or "recreation" in any street or sidewalk. This particular individual has maintained his residence in Scotts Mill for 11 years, yet has very minimal interaction if any with his immediate neighbors. He and his wife have yet to ever approach any neighboring parent nor myself to directly express any safety concern related to our children playing outside. It is important to note that my youngest, my 6 year old daughter was just laugh last week how to ride her bike without training wheels. A huge milestone for any child! Unfortunately this sweet memory is now tainted by memories that will remain of when the police were called "because I was learning to ride a bike with my parents." She was in tears on Tuesday night repeating over and over "I'll never ride my bike again; I want to move!" It was devastating. As we consoled her. and y 9 year old son who also loves playing outside, we came to the realization that we would need to do more to bring this issue to light in our community. A community which is centered around supporting families. My children did settle that night because they knew I would be engaging you, as well as any other key community stakeholders including other parents, in pursuing changes to an ordinance that infringes on their right to enjoy their friends and area surrounding their property.

Upon reviewing Sec 14-28 I am quite compelled to request and advocate that this ordinance be amended immediately. Firstly I believe that an amendment should differentiate residential streets in private neighborhood communities. Our neighborhood in Scotts Mill is FULL of children who routinely play outside. In their yards, on the sidewalks, and yes sometimes in front of their driveways in the street. I have not witnessed any of them impeding traffic, preventing maintenance, or any of the other conditions stated in the ordinance that would otherwise prevent them from doing so. Secondly I would like an amendment to include some element of parental supervision as we have all diligently strived (countless hours of our weeks and years) to provide our children in order to keep them safe. This ordinance removes this inherent right as a parent. That regardless of standing feet away from your child while teaching them to ride their bike without training wheels...your neighbor may still call the police to report you. A fellow neighbor also mentioned the contradictory Chapter 20, Article I, Sec 20-3 where children under the age of 16 riding a bicycle must wear a helmet while riding on public streets.

According to the 2018 clinical report by The American Academy of Pediatrics, *The Power of Play: A Pediatric Role in Enhancing Development in Young Children*, play is recommended for children "to buffer toxic stress, build parental relationships, an improve executive functioning."

<https://pediatrics.aappublications.org/content/142/3/e20182058>

In closing, I will continue to advocate for change and resolution as it pertains to this particular ordinance to promote our right to peaceful enjoyment of our property while supporting both child and community safety. Please respond with the collective plan from the council as to what steps if any will be taken to address this issue.



December 27, 2019

To: Mayor Gilbert and Members of Town Council

From: Drew Havens, Town Manager

Re: Playing Upon Streets Ordinance Review

### **Background**

At the November 6, 2019 Town Council, a resident spoke, during Public Forum regarding her concerns with the Town's current ordinance that restricts playing upon the streets. Her written appeal to Council, backed by numerous signatures on an online petition, included the following:

Upon reviewing Sec 14-28 I am quite compelled to request and advocate that this ordinance be amended immediately. Firstly I believe that an amendment should differentiate residential streets in private neighborhood communities. Our neighborhood in Scotts Mill is FULL of children who routinely play outside. In their yards, on the sidewalks, and yes sometimes in front of their driveways in the street. I have not witnessed any of them impeding traffic, preventing maintenance, or any of the other conditions stated in the ordinance that would otherwise prevent them from doing so. Secondly I would like an amendment to include some element of parental supervision as we have all diligently strived (countless hours of our weeks and years) to provide our children in order to keep them safe. This ordinance removes this inherent right as a parent. That regardless of standing feet away from your child while teaching them to ride their bike without training wheels...your neighbor may still call the police to report you.

Following this meeting, I asked that staff review the current ordinance and evaluate the efficacy and appropriateness of the current ordinance and provide a narrative that includes information relative to leaving the ordinance as is, amending the ordinance (including suggested amendments) and an outright repeal of the ordinance.

### **History**

Our ordinance Section 14-28 was enacted in 1973 to prohibit play on all streets, and amended in 2011 to allow children to play upon limited cul-de-sac or dead-end streets. Based upon the input from staff who were here in 2011 and involved in the conversation related to this amendment, staff was directed to come up with guidance, understanding that Council, under public pressure, wanted to allow "playing" in streets while acknowledging it may be more or less risky under certain conditions. The conversation at that time began with reports of kids playing in street, supposedly being rude and not moving for residents trying to access their driveway, so police

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were called. Per Captain Stephens, the Police Department and Chief Jack Lewis were opposed to the change in 2011 to allow playing in the streets. She notes that “Public safety was, and continues to be, at the forefront of the concerns we have with allowing playing in the streets”.

### **Current Situation**

The amended Section 14-28, shown in its entirety in the Appendix A to this memorandum, permits playing upon limited streets and provides a definition of upon which streets this activity is allowed. Since enactment, the Apex Police Department reports receiving complaints from residents about parents and children shutting down the cul-de-sac or dead-end streets to all traffic thus not allowing residents to gain access to their homes without issue. Parents and children have set up cones to block the street requiring other residents to move the cones to gain entry to their home. They have also set up soccer/hockey goals and left the cul-de-sacs and dead end streets strewn with bicycles and toys, again prohibiting other residents of the cul-de-sac or dead-ends street to be able to back out or pull into their driveway. Residents have complained to police, that if they move the toys or request they be moved, a verbal altercation ensues.

The police department has also had issues with the ordinance requirement that a child under the age of 15 be directly supervised by a parent, guardian or another adult. They have received complaints about children playing without supervision and, upon responding, the parents state they can see the child out the window or if they are in the garage working and they determine that to be direct supervision. Staff feels that the spirit of the ordinance and “direct supervision” was that the parent or guardian was actively involved in watching the children play and in the immediate area. Without a clear definition of “direct supervision” police have found the level of supervision varies by the parent.

### **Examination of Other City/Town Ordinances**

As part of this effort, our Legal team researched similar ordinances in other local cities and towns. Summarized below are the ordinances reviewed.

Raleigh (1959): It shall be unlawful to play any game of any description or to throw any stone, snowball, or other missile by bean shooter or other such device upon the streets and sidewalks of the City.

Holly Springs (1982): Whenever authorized signs are placed designating any street, or part thereof, as a play street, no person shall drive a vehicle upon any such designated street, except persons who have business, or who reside, within the designated area; all such persons shall exercise the greatest care when driving upon any such play street. [Note: the term “play street” is not defined, nor has the Town designated any “play streets”].

Wake Forest (1985): No person shall play ball, bat or catch ball on any of the streets or sidewalks of the town in the business district [Note: specific to one part of town only]. No person upon roller skates, inline skates or riding in, or by means of, any coaster, toy vehicle or similar device,

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shall go upon any roadway, unless it be while crossing a street at a crosswalk or intersection, except upon streets set aside as play streets. [Note: “play streets” is not defined in the ordinance].

Garner (1959 with 2003 update): Playing games, throwing, missiles on streets, sidewalks, using, erecting and maintaining recreational devices in streets and rights-of way.

(a) All games of every description, and throwing stones or other missiles, are forbidden upon the streets and sidewalks of the town.

(b) No person may erect any type of recreational device in a public street or right of way. "Recreational device" as used herein, includes but is not limited to, basketball goals, soccer goals, hockey goals, skate board ramps, pylons for road courses for bicycles and skates, and any similar devices which encourage or aid in using streets or public rights-of way for play. "Unlawful recreational device" as used herein includes any such device when located in a public street or right-of way.

(c) No person may aid or abet a minor in the erection or use of any unlawful recreational device.

(d) No person may allow an unlawful recreational device to remain erected in a public street or right-of-way abutting the real property owned or occupied by that person.

[Note: Their ordinance includes penalties for violating this section and how unlawful items are removed and reclaimed].

Whenever authorized signs are erected indicating any street or part thereof as a play street, no person shall drive a vehicle upon any such street or position thereof, except drivers of vehicles having business or whose residences are within such closed area, and then any such driver shall exercise the greatest care in driving upon any such street or portion thereof. [Note: No “play streets” have been designated].

Durham (1982): The city manager shall have authority to declare any street or part thereof a "play street" and to place appropriate signs or devices in the roadway indicating and helping to protect the same.

Fuquay-Varina (1977): Whenever authorized signs are placed indicating any street, or part thereof, as a play street, no person shall drive a vehicle upon any such street, except persons who have business, or who reside, within the designated areas; all such persons operating a vehicle on such street shall exercise the greatest care when driving upon such street.

Cary: No ordinance in place regarding playing upon streets other than one that prohibits the use of roller skates and skateboards between sunset and sunrise.

Morrisville: No ordinance in place regarding playing upon streets.

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## Evaluation of Alternatives

### Option 1: No change.

While aspects of the current ordinance, as explained above, can lead to confusion, neighbor confrontation, and calls for enforcement when annoyed by children playing, these issues have been able to be mediated by our police department when all parties are reasonable and understanding. However, if a party insists on a literal interpretation/enforcement, it can lead to continued difficulties.

The current ordinance also suggests that playing upon certain streets is considered safe. As explained in Option 3 below, staff does not agree with that suggestion.

### Option 2: Amend the Ordinance to be more permissive.

This appears to be the option sought by the citizen who spoke. It is important to note that the reference in the written comment from the citizen regarding “private neighborhood communities” would not provide the relief sought by the person asking for an amendment as the situation at hand resulted from play in public street. While there are a limited number of private streets in Apex, it would be difficult to enforce our ordinance on private property.

It is true that while this option would allow playing upon the street from a local ordinance perspective, many activities prohibited in our ordinance would also run afoul of State law which prohibits obstructing the flow of traffic and other sections of our Ordinance which prohibit placing items on streets and sidewalks (See Appendix B). So, our police could still be called to respond and asked to take enforcement action under other law/ordinance provisions.

An alternative to consider under this option would be to, like other cities/towns, modify our ordinance to allow for the designation of “play streets”. This would require a process for designation and a set of rules regarding what can/cannot be done on these streets from both play and traffic perspectives.

This option would likely increase the misconception that the Town considers playing in the streets to be a safe activity. From a public safety perspective, the Apex Police Department has expressed opposition to any change in the ordinance that would expand the areas in which it is lawful, under our ordinance, to play upon the streets.

### Option 3: Amend the Ordinance to be more restrictive.

From a traffic and pedestrian safety point of view, it may be best to amend the ordinance to remove sections B and C which refer to play on certain streets. This would revert the ordinance back to its original form that prohibited play upon the streets and created restrictions on play upon sidewalks.

This comes from the perspective that streets are designed to allow the travel of motor vehicles and bicycles, and, in some cases where sidewalks/paths do not exist, the travel of pedestrians. In the situation where sidewalks do not exist, it is incumbent upon the pedestrian to use the road

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surface in accordance with state law, and upon the operator of a motor vehicle to obey the law as well. Having an ordinance that allows play on certain streets, or, if amended as requested in the petition, a greater number of streets, may give users of the streets for play a false sense that their activity is safe.

Option 4: Repeal the Ordinance.

A repeal of the ordinance would not mean that playing upon the streets would be permitted. If play were determined to be impeding traffic, our police would have to rely upon State statutes and other Town ordinances to take enforcement action.

### **Conclusions**

One of the statements in the e-mailed appeal to examine our ordinances suggests that one cannot use streets/sidewalks to teach a child to ride a bicycle without training wheels. In fact, our current ordinances do not prohibit the safe use of streets and sidewalks for the riding of bicycles so no one would be prohibited from teaching a child to ride. Use of public streets by bicycle is regulated by State law in order to attempt to make that use as safe as possible. Section 20-3 of our ordinances merely requires that someone under the age of 16 wear a helmet when riding a bicycle (see Appendix A for full text).

Staff, from a public safety perspective, would not support any expansion of the areas in which playing upon the streets is permitted. Our ordinances do not, as asserted, infringe on a person's ability to recreate outside their homes other than they are clear that this outside recreation should not happen upon the streets that are designed and maintained for the use of vehicles. No one wants to create a situation where there is a higher likelihood of interaction between children playing and motor vehicles. Our parks, greenways, side paths, and sidewalks are all designed to reduce the potential for pedestrian/vehicle interaction. Similarly, roadways are designed in a way that offers some separation from yards (curbs/swales) where people could be enjoying being outside their homes.

Please let me know if you need further from me or others on our team.



## Appendix A

### **Sec. 14-28. - Playing upon streets, sidewalks and public places.**

- (a) No person shall play at any game upon any street or use any street for the purpose of recreation.
- (b) From the later of sunrise or 7:00 a.m., on any given day, until sunset, except when it is raining, snowing, foggy, smoky or dim because of heavy cloud cover or other conditions, "limited cul-de-sac or dead-end street areas" within the town, as defined below, are excepted from subsection 14-28(a), provided that no person shall engage in any game or recreational activity upon limited cul-de-sac or dead-end street areas within the town in any manner so as to:
  - (1) Impede vehicular traffic;
  - (2) Interfere with maintenance activities such as street resurfacing or utility repairs;
  - (3) Endanger property;
  - (4) Endanger the life, limb or health of any person;
  - (5) Prevent the full and complete use of such street by other persons for the intended purposes thereof;
  - (6) Constitute a breach of the peace; or
  - (7) Constitute unreasonable annoyance to persons of ordinary sensibilities.

The exception for "limited cul-de-sac or dead-end street areas" stated in this subsection 14-28(b) does not apply to a child, 15 years old or younger, unless he is being directly supervised by his parent, legal guardian or another adult who has been directly and specifically authorized to supervise him by his parent or legal guardian.

- (c) For the purposes of section 14-28, "limited cul-de-sac or dead-end street areas" are those limited areas of Apex street system cul-de-sacs and dead-end streets within the town that are located within 100 feet from the end of the pavement of the cul-de-sac or dead-end street and not located within 100 feet of an intersection.
- (d) No person shall engage in any game or recreational activity upon any sidewalk or public place in the town in any manner so as to:
  - (1) Impede pedestrian traffic;
  - (2) Interfere with maintenance activities such as resurfacing or utility repairs;
  - (3) Endanger property;
  - (4) Endanger the life, limb or health of any person;
  - (5) Prevent the full and complete use of such sidewalk or public place by other persons for the intended purposes thereof;
  - (6) Constitute a breach of the peace; or
  - (7) Constitute unreasonable annoyance to persons of ordinary sensibilities.

### **Sec. 20-3. - Protective helmets required.**

- (a) Every person less than 16 years of age operating or riding a bicycle, moped, inline skates, roller skates, skate board, scooter, or other similar vehicle or device on a public street, sidewalk, greenway, or other right-of-way or on any property owned or controlled by the town shall wear a protective helmet on his head, with the chin strap securely fastened under the chin. Such helmet shall be fitted to the size of the wearer and shall meet or exceed the standards for bicycle helmet use and wear asset by ANSI (American National Standards Institute) or the Snell Memorial Foundation.
- (b) Riding a vehicle or device includes riding as a passenger.
- (c) No parent or guardian of any juvenile shall knowingly allow such juvenile to violate this section.

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## Appendix B

### North Carolina General Statutes

#### **20-174.1. Standing, sitting or lying upon highways or streets prohibited.**

(a) No person shall willfully stand, sit, or lie upon the highway or street in such a manner as to impede the regular flow of traffic.

(b) Violation of this section is a Class 2 misdemeanor. (1965, c. 137; 1969, c. 1012; 1993 (Reg. Sess., 1994), c. 761, s. 17.)

#### **Section 160A-296. Establishment and control of streets; center and edge lines**

(a) A city shall have general authority and control over all public streets, sidewalks, alleys, bridges, and other ways of public passage within its corporate limits except to the extent that authority and control over certain streets and bridges is vested in the Board of Transportation. General authority and control includes but is not limited to all of the following:

(1) The duty to keep the public streets, sidewalks, alleys, and bridges in proper repair.

(2) The duty to keep the public streets, sidewalks, alleys, and bridges open for travel and free from unnecessary obstructions.

(3) The power to open new streets and alleys, and to widen, extend, pave, clean, and otherwise improve existing streets, sidewalks, alleys, and bridges, and to acquire the necessary land therefor by dedication and acceptance, purchase, or eminent domain.

(4) The power to close any street or alley either permanently or temporarily.

(5) The power to regulate the use of the public streets, sidewalks, alleys, and bridges.

(6) The power to regulate, license, and prohibit digging in the streets, sidewalks, or alleys, or placing therein or thereon any pipes, poles, wires, fixtures, or appliances of any kind either on, above, or below the surface. To the extent a municipality is authorized under applicable law to impose a fee or charge with respect to activities conducted in its rights-of-way, the fee or charge must apply uniformly and on a competitively neutral and nondiscriminatory basis to all comparable activities by similarly situated users of the rights-of-way. No fee or charge for activities conducted in the right-of-way shall be assessed on businesses listed in G.S. 160A-206(b), except the following:

a. Fees to recover any difference between a city's right-of-way management expenses related to the activities of businesses listed in G.S. 160A-206(b) and distributions under Article 5 of Chapter 105 of the General Statutes.

b. Payments under agreements subject to G.S. 62-350.

(7) The power to provide for lighting the streets, alleys, and bridges of the city.

(8) The power to grant easements in street rights-of-way as permitted by G.S. 160A-273.

### Other Applicable Town Ordinances

#### **Sec. 18-11. - Obstructions—Structures; vehicles.**

(a) It shall be unlawful to build, erect, construct or place any porch, steps, fence, wall, storage pod, dumpster, construction materials, construction equipment, similar items, or other obstruction whatsoever in or over any of the streets or sidewalks. It shall be unlawful to obstruct any sidewalk or street with any buggy, wheelbarrow, wagon, automobile, truck or other vehicle, railroad car, chair, bench, open gate, chicken coop, box or other article; provided, that a margin not exceeding two and one-half feet in width on the inside of the sidewalk in the business blocks shall be allowed for the exhibition of merchandise by abutting merchants; provided further, that this section shall not apply to baby carriages and invalid chairs rolled on the sidewalks in such manner as not to obstruct the same.

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**Sec. 18-12. - Same—Boxes, etc.; building materials.**

No brick, stone, wood or other substances obstructing the free passage of persons or vehicles shall be placed or suffered to lie in any of the sidewalks, alleys, streets or other public ways of the town, nor shall any person place thereon any boxes, crates, casks or barrels of any description or any other obstruction of any kind; provided, that any person erecting a building may with permission place building material for immediate use on the streets in such a way as to not interfere with the usual traffic.

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# | Agenda Item | cover sheet

for consideration by the Apex Town Council

Item Type: CLOSED SESSION

Meeting Date: February 4, 2020

## Item Details

Presenter(s): Laurie Hohe, Town Attorney

Department(s): Legal

### Requested Motion

Possible motion to go into closed session pursuant to NCGS 143-318(a)(3) to discuss the handling of the matters of Town of Apex v. Beverly Rubin and Beverly Rubin v. Town of Apex, et al.

### Approval Recommended?

N/A

### Item Details

### Attachments

- None

