



# AGENDA | REGULAR TOWN COUNCIL MEETING

Tuesday, November 17, 2020 at 6:00 PM

Council Chamber at Apex Town Hall, 73 Hunter Street

## Council and Administration

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

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

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

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

## COMMENCEMENT

Call to Order | Invocation | Pledge of Allegiance

## PRESENTATIONS

[PR1](#) Mayor Jacques Gilbert

Presentation to Police Officer Steven LaFemina

[PR2](#) Colleen Merays, Downtown and Small Business Development Coordinator

Shannon Flaherty, Executive Director, Apex Chamber of Commerce

Presentation of Apex Small Business Saturday Promotion

[PR3](#) North Carolina Chapter of the American Planning Association

Presentation of the Marvin Collins Small Area Plan Award from the North Carolina Chapter of the American Planning Association.

## CONSENT AGENDA

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

[CN1](#) Donna Hosch, Town Clerk

Motion to approve Minutes of the September 30, 2020 Special Council Meeting, the October 20, 2020 Regular Council Meeting, and the October 27, 2020 Special Council Meeting

[CN2](#) Shelly Mayo, Planner II

Motion to approve Findings of Fact, Conclusions of Law and Decision approving a Major Site Plan for Apex Friendship Elementary School located at 7901 Humie Olive Road.

[CN3](#) 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 MCI Enterprises LLC (MCI Business Park Buildings 3 & 4) property containing 5.53 acres located at MCI Business Park, Annexation #697 into the Town's corporate limits.

[CN4](#) Vance Holloman, Finance Director

Motion to approve Budget Ordinance Amendment No. 7 appropriating the proceeds of the 2020 Taxable General Obligation Refunding Bonds.

[CN5](#) Russell Dalton, Sr Transportation Engineer and Vance Holloman, Finance Director

Motion to approve Design Services Agreement with Stantec Consulting Services Inc. for Downtown Streetscape and Parking Design in the amount of \$614,597 and the corresponding Capital Project Ordinance Amendment No. 2021-02.

[CN6](#) Erika Sacco, IT Director

Motion to approve ILA with Cary NC to connect resources by Town of Apex and Cary owned fiber.

#### REGULAR MEETING AGENDA

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

#### PUBLIC FORUM

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

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

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

#### PUBLIC HEARINGS

[PH1](#) Shelly Mayo, Planner II

Public hearing and possible motion to adopt an Ordinance on the Question of Annexation – Apex Town Council's intent to annex Florence S. Morrison Family Living Trust (Holleman Hills South) properties containing 10.16 acres located at 5131 and 5145 Church Road, Annexation #696 into the Town's corporate limits. This annexation will be heard concurrently with Rezoning Application #20CZ09.

[PH2](#) Shelly Mayo, Planner II

Public Hearing and possible motion to approve Rezoning Application #20CZ09 Holleman Hills South and Ordinance. The applicant, Alonzo Wilson, seeks to rezone approximately 10.16 acres from Wake County R-30 to Medium Density-Conditional Zoning (MD-CZ). The proposed rezoning is located at 5131 and 5145 Church Road.

[PH3](#) Adam Stephenson, Engineering Supervisor

Public Hearing and possible motion regarding amendments to the Unified Development Ordinance related to the Flood Damage Prevention Overlay District.



- [PH4](#) Amanda Bunce, Current Planning Manager  
Public Hearing and possible motion regarding various amendments to the Unified Development Ordinance as requested by Planning staff.
- [PH5](#) Shannon Cox, Long Range Planning Manager  
Public hearing and possible motion regarding proposed amendments to the Thoroughfare and Collector Street Plan map associated with review of data from Advance Apex: The 2045 Transportation Plan.
- [PH6](#) Jenna Shouse, Long Range Planner II  
Public hearing and possible motion to amend the Bicycle and Pedestrian System Plan map to add side path, a grade-separated pedestrian crossing, and greenway associated with the approved Depot 499 Planned Unit Development (PUD).
- [PH7](#) Shannon Cox, Long Range Planning Manager  
Public hearing and possible motion regarding two proposed amendments to the Thoroughfare and Collector Street Plan map associated with the possible reversal of amendments made according to recommendations in the Southwest Area Study pertaining to New Hill Olive Chapel Road and North Salem Street.
- [PH8](#) Joanna Helms, Economic Development Director  
Public Hearing and possible motion to provide economic development incentives for Project Protein in accordance with the Town's Policy on Economic Development Incentives and to direct staff and the Town Attorney to draft an agreement between the Town and the company according to terms provided herein by Council and to authorize the Town Manager to approve and execute the final agreement

OLD BUSINESS

UNFINISHED BUSINESS

NEW BUSINESS

CLOSED SESSION

WORK SESSION

- [WS1](#) Amanda Grogan, Budget & Management Analyst; Shawn Purvis, Asst. Town Manager  
Consider possible financing options to fund transportation projects presented at the November 4, 2020 Council Meeting Work Session

ADJOURNMENT

# | Agenda Item | cover sheet

for consideration by the Apex Town Council

Item Type: PRESENTATION

Meeting Date: November 17, 2020

## Item Details

Presenter(s): Mayor Jacques Gilbert

Department(s): Governing Body

### Requested Motion

Presentation to Police Officer Steven LaFemina

### Approval Recommended?

N/A

### Item Details

N/A

### Attachments

- None



# | Agenda Item | cover sheet

for consideration by the Apex Town Council

Item Type: PRESENTATION

Meeting Date: November 17, 2020

## Item Details

Presenter(s): Colleen Merays, Downtown and Small Business Development Coordinator  
Shannon Flaherty, Executive Director, Apex Chamber of Commerce

Department(s): Economic Development

### Requested Motion

Presentation of Apex Small Business Saturday Promotion

### Approval Recommended?

N/A

### Item Details

N/A

### Attachments



# | Agenda Item | cover sheet

for consideration by the Apex Town Council

Item Type: PRESENTATION

Meeting Date: November 17, 2020

## Item Details

Presenter(s): North Carolina Chapter of the American Planning Association

Department(s): Planning and Community Development

### Requested Motion

Presentation of the Marvin Collins Small Area Plan Award from the North Carolina Chapter of the American Planning Association.

### Approval Recommended?

Not Applicable

### Item Details

The Steering Committee of the Downtown Master Plan & Parking Study has been invited to receive this prestigious planning award from APA - NC.

### Attachments

- None



# | Agenda Item | cover sheet

for consideration by the Apex Town Council

Item Type: CONSENT AGENDA  
Meeting Date: November 17, 2020

## Item Details

Presenter(s): Donna Hosch, Town Clerk  
Department(s): Office of the Town Clerk

### Requested Motion

Motion to approve Minutes of the September 30, 2020 Special Council Meeting, the October 20, 2020 Regular Council Meeting, and the October 27, 2020 Special Council Meeting

### Approval Recommended?

Yes

### Item Details

N/A

### Attachments

- September 30, 2020 Special Meeting Minutes
- October 20, 2020 Regular Meeting Minutes
- October 27, 2020 Special Meeting Minutes





## SPECIAL TOWN COUNCIL MEETING

Wednesday, September 30, 2020 at 5:00 PM

Council Chamber at Apex Town Hall, 73 Hunter Street

### Council and Administration

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

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

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

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

In attendance were Mayor Jacques K. Gilbert, Mayor Pro Tem Nicole L. Dozier, and Council Members Audra M. Killingsworth, Cheryl F. Stallings, and Terry Mahaffey.

Absent was Council Member Brett D. Gantt

### COMMENCEMENT

Mayor Gilbert called the meeting to order.

Mayor Gilbert called for a motion to go into Closed Session.

Council Member Dozier made the motion; Council

Member Killingsworth seconded the motion.

The motion carried by a 4-0 vote.

Council discussed a personnel matter.

Mayor Gilbert called for a motion to return to Open Session.

Council Member Stallings made the motion; Council

Member Killingsworth seconded the motion.

The motion carried by a 4-0 vote.

With no further business and without objection from Council, Mayor Gilbert adjourned the meeting.

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Terry Mahaffey, Council Member

ATTEST:

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Jacques K. Gilbert, Mayor



## REGULAR TOWN COUNCIL MEETING

Tuesday, October 20, 2020 at 6:00 PM

Council Chamber at Apex Town Hall, 73 Hunter Street

### Council and Administration

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

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

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

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

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

### COMMENCEMENT

Mayor Gilbert called the meeting to order and read a statement on diversity and inclusion related to religion. He talked about unity in Apex, encouraging all citizens to continue to work together. Mayor Gilbert led the Pledge of Allegiance.

### PRESENTATIONS

PR1 Mayor Jacques K. Gilbert

Proclamation declaring October 22, 2020 as Arbor Day in the Town of Apex  
The entire Council shared in the reading of the Proclamation.

PR2 Jacques K. Gilbert, Mayor

Breast Cancer Awareness Month Proclamation  
The entire Council shared in the reading of the Proclamation.

### CONSENT AGENDA

CN1 Donna Hosch, Town Clerk

Minutes of the September 15, 2020 Regular Council Meeting

CN2 Amanda Bunce, Current Planning Manager



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

CN3 Shelly Mayo, Planner II

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

CN4 Liz Loftin, Senior Planner

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

CN5 Lauren Staudenmaier, Planner I

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

CN6 Shelly Mayo, Planner II

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

CN7 Amanda Bunce, Current Planning Manager

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

CN8 Colleen Merays, Downtown & Small Business Development Coordinator

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

CN9 Colleen Merays, Downtown & Small Business Development Coordinator

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

CN10 Michael Deaton

Amendment to the Conservation Easement Ruth Holleman Property and authorization for the Town Manager to sign all related documents on behalf of the Town

CN11 Jose Martinez, Director

Approval and authorization for the Town Manager to execute the same for an Encroachment Agreement between the Town and property owners, Joshua R. Klatt

and Elizabeth T. Klatt (Grantees), regarding Wake County, NC PIN#0732-70-6379, 104 Gullane Court, as recorded in Book of Maps 2003, Page 00812, Wake County Register of Deeds

- CN12 Mary Beth Manville, Human Resources Director  
Three (3) year contract with CCS Medical to administer the “Living Connected” Diabetes Management Program for Town employees covered under the Town’s health insurance plan. At the end of the 3 year term, the contract will auto-renew for periods of one (1) year.
- CN13 John M. Brown, Parks and Recreation Director  
Ordinance amendment to add Salem Pond Park to section (a) (1) of Section 15-6 of the Town of Apex Code of Ordinances and set its hours of operation
- CN14 John M. Brown, Parks and Recreation Director  
Extending summer park operating hours through February 28, 2021

Mayor Gilbert called for a motion to adopt the Consent Agenda. Council Member Stallings made the motion; Council Member Killingsworth seconded the motion.  
The motion carried by a 5-0 vote.

#### REGULAR MEETING AGENDA

Mayor Gilbert stated he wished to move the Work Session to the November 4, 2020 Regular Council Meeting.

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

#### PUBLIC FORUM

Nadia Howard spoke about the allowance of goats in the Town, pointing to the Town Ordinance. She explained why she felt goats would be appropriate and presented facts related to goats and why they make great pets and how they bring joy to their owners.

PUBLIC HEARINGS

PH1 Lauren Staudenmaier, Planner I

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

Staff oriented Council to the site. Staff recommended approval.

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

Mayor Gilbert called for a motion. Council Member Stallings made the motion to adopt the Ordinance; Council Member Gantt seconded the motion.

The motion carried by a 5-0 vote.

PH2 Amanda Bunce, Current Planning Manager

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

Staff oriented Council to the rezoning. The property contains an historic home. Planning staff and the Planning Board recommended approval.

Responding to Council, staff stated they were able to help the property owner with the rezoning, noting that this situation has not come up with any frequency.

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

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

The motion carried by a 5-0 vote.

OLD BUSINESS

OB1 Colleen Merays, Downtown and Small Business Development Coordinator

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

to sidewalk dining and alcohol consumption on public streets and sidewalks through November 1, 2020.

Staff stated this was an extension recommended by ADBA. As requested by Council, staff surveyed businesses, 70% of the them stating they wished for the extension. 23% did not. Comments received from the businesses were presented.

Responding to Council, staff clarified the survey was to extend to November 1. She has not heard anything from ADBA about extending, but a good number of the impacted businesses would like for the date to be extended. Staff stated that maybe when the holidays are over, we could revisit this concept.

Council stated if we extend just to November 1, it would be the end of the program which would be prior to the next Council meeting. Extending further would give Council a chance to re-evaluate at the next Council meeting. The program has been successful, and he was worried what will happen to the businesses afterwards during the winter months.

Council stated she also thought about the November 1 date. Any certainty we could provide would be helpful; she wanted to see extension to the end of the November 1 week. She also wanted to do what we can to help support businesses during the winter months.

Responding to Council, staff spoke about restaurants and what could be done to shelter during the winter months. She explained that the heaters are loud and could hinder one's dining experience. She spoke about what else businesses could do to help bring in customers.

Council asked what other colder states are doing. Staff stated Chicago is doing a competition to address the issue, D.C. is doing grants, and N.Y. folks are putting on layers and sitting outside and rushing through their meals. No one has any solid answers as no one thought we would be looking at this issue through the winter.

Council stated our role is to be supportive to our businesses and to find a way to do so. We should not expect businesses to purchase heaters, for example, if this is a viable option. We should take advantage of the good weather and extend the program until the weather turns.

Council stated parking would be important to businesses during the holiday rushes, i.e., Small Business Saturday. However, he supported extending the date.

Council stated the Town Manager suggested extending to November 8. Conversation ensued along the lines of an extend-to date, and business wanting to keep the program in place as long as possible.

Mayor Gilbert called for a motion. Council Member Dozier made the motion to extend the program to November 8; Council Member Mahaffey seconded the motion.

The motion carried by a 5-0 vote.

#### UNFINISHED BUSINESS

UB1 Mike Deaton, Water Resources Director

Reduction of the Civil Penalty that was assessed to the Center Street Pharmacy property owner on March 19, 2020, from \$4,700 to \$2,000

Staff recapped the situation with the assessment, recommending a reduction to \$2,000. Staff explained the criteria used for this assessment. He stated staff will develop amendments to the UDO to further clarify this process. The requestor did not respond as to whether or not he would be in attendance at this meeting [he was not].

Council stated appreciation for the logic of developing a sensible number.

Council stated making this reduction would be muddling the process and that he could not support this.

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

Council Members Killingsworth, Stallings, and Mahaffey voted in the affirmative;

Council Members Gantt and Dozier voted in the negative.

The motion carried by a 3-2 vote.

#### NEW BUSINESS

NB1 Nicole Dozier, Mayor Pro Tem

Town of Apex Living Wage resolution and an amendment to the Personnel Policies Manual to include a Living Wage policy

Council gave background on why she wished to do this, noting she is Chair and has been a member of the Personnel Committee. She operates on centering people and recognized what our people have been doing even in the midst of a pandemic. It was time to let the public know of our recognition of staff with the living wage. Also, they should understand the values the Committee shares. Council read the Resolution.

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

Responding to Council, the Mayor Pro Tem stated why this was important to put into the budget. The Mayor stated seeing as he was a retired staff member, this was a strong message. He appreciated management's support in moving this forward.

Council stated this shows where Council's values are and she strongly supported this because Town employees are worth it. The sentiment was echoed by Council.

Responding to Council, Mayor Pro Tem spoke about other businesses which have adopted the living wage. Staff clarified those municipalities which have adopted such a policy and stated that we could talk to other counterparts about doing the same.

Council thanked his colleagues for pushing this issue, which has been worked on for a few years.

Mayor Pro Tem thanked staff for pushing this along and making sure it was supported by the budget.

The motion carried by a 5-0 vote.

NB2 Shannon Cox, Long Range Planning Manager with Shawn Purvis, Assistant Town Manager

Implementation of the proposed Apex Cares Housing Rehabilitation Program with an annual funding allocation from the Affordable Housing Fund

Staff stated she would be outlining a possible new program. We are still working on the affordable housing plan; this would be an early implementation item. She outlined what the Steering Committee has been working on. Because of NC laws, there is not much we can do about tenant rights.

The program would provide assistance to homeowners with needed repairs. Staff went over several of the highlights of the guidelines. The Town currently has a \$1 million annual allocation to the Affordable Housing Fund. The recommendation here was to allocate \$250,000 annually to the new program, Apex Cares, the details being presented. Wake County has similar programs with a few differences. None of the County's programs have been utilized in Apex because citizens are not aware of them. Staff spoke to Council questions about advocacy for awareness building.

Staff stated we have connected with Dan Sargent, Executive Director, Rebuilding Together of the Triangle, to roll in with his program. Mr. Sargent explained how they service the County with the work that they do. There is need even in places one would not expect. They have a waiting list which includes a few Apex residents. Mr. Sargent spoke about their having an opportunity to address the utility piece.

Responding to Council, Mr. Sargent spoke about the challenge in finding people who need help. He spoke to means testing. They have explored having a cap on the value of homes in order to balance the home worth with income and funding. Staff stated we don't have this qualifier and would have to feel it out. Mr. Sargent stated their program is built around the value of the home and what the owner's goals are. They do not want to improve for resale.

Responding to Council, Mr. Sargent spoke to how people in Apex may benefit from the program. They currently know of seven or eight homeowners here, and he believed there would be more.

Staff spoke to how they arrived at the dollars. We wanted to make sure we cover the needed cost, and several factors were used in coming up with a round number. We have not yet finalized any agreement – we were waiting to see in which direction Council wanted to go. Mr. Sargent explained how they balance the funds on their end with the municipalities with whom they are working.

Responding to Council, staff spoke more about advocacy which is emerging. Tools will need to be paired with education and public engagement. She explained the information they received from the public input, stating that most respondents didn't think such a program was needed in Apex. She explained the strategies of the Steering Committee. Apex Cares is in their top three priorities.

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

Council stated the more people learn and understand, the more they may be empathetic to such a program, especially in the midst of COVID. Staff stated there will be opportunities to share information with the public.

Council stated this was a fantastic program and wanted the public to recognize that the program is about helping people to stay in their homes. This gives them an option and

addresses a dimension of affordable housing. Council was in agreement, and she provided examples of what situations may arise which would cause a need for this program.

Council stated affordable housing looks different in each area. She exampled another municipality's efforts in addressing affordable housing. Rehabilitation was one way to keep affordable housing from leaving. The program may get more interest than we think. This is a great first step, and she couldn't wait to see what happens.

Council thanked staff and the Steering Committee for their efforts. We have a lot of disparity in Apex, and she was concerned about the condition of housing. She hoped this program could help some of our neighbors in difficult housing situations.

The motion carried by a 5-0 vote.

NB3 Audra Killingsworth, Council Member

Amendment of Section 4.3 of the Town of Apex Code of Ordinances to allow the keeping of dwarf/pygmy goats within the town limits

Council stated we added miniature pigs to the Ordinance a while ago. Looking through the slide show during Public Forum, pygmy goats are adorable. They are smaller than some dogs, and they are taken care of like a dog or a cat. As far as noise, Council stated she has received complaints about dogs. She did not believe the goats would be as big of a problem. Nancy Howard contacted neighbors and received good feedback. Council recommended to follow the Ordinance similar to that for pigs.

Council stated the presentation brought a lot of joy.

Council asked if the Town has the authority to pre-empt an HOA Covenant on this. The Town Attorney stated 'no' and explained why. Council asked if there would be a maximum number per dwelling, Council responding it would be what people could take care of and house reasonably, adding that breeding was a consideration for the number of pigs.

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

The motion carried by a 5-0 vote.

NB4 Cheryl Stallings, Council Member

Discussion regarding recent amendments to the Transportation Plan Map and direction to staff to begin the process to re-examine two changes to allow for additional public input



Council stated there were five amendments, three having consistent recommendation from staff and the Planning Board. The two which did not, Council struggled with. After further reflection, Council was concerned. She wanted to create more opportunities for public input because of the potential impact on homes and businesses.

Council stated maybe we could do a social media push on the two items and go through the process again to the Planning Board and Council.

Council also had trouble with the two items, along with the one related to the church. He wanted to engage with the church community for them to get more information from us. He wondered if there was a way to engage more citizens when it comes down to Council making a decision.

Council asked staff to weigh in on this. Staff stated this was a difficult question. Amendments came from the study, and there was public engagement. A lot of amendments don't have this level of engagement, and she stated the various avenues of public input. Staff had conversations with the church and explained this may or may not happen, but they were still concerned. Staff explained It will become difficult if we start to target areas around transportation amendments. She was not sure what additional information we would get if we redid the public notice. Staff was hesitant to do target mailing around specific projects.

Council stated there was more concern for those amendments for which staff had no recommendations. Council echoed this sentiment. Staff stated we can use Council feedback to make recommendations in the future. Responding to Council, staff stated that if we go through process once more, it would be the same public notice as was previously posted. She spoke about what would happen if a development came in one of the corridors.

Council stated it would be better to get more information in writing and this would make her feel better about the long range plan. Council was in agreement.

Staff stated they could think about the staff report and provide more information that way.

Council stated Council should be making the call. He asked the Town Attorney could a motion to reconsider be made. The answer was 'no', and the Town Attorney explained why. Council stated maybe a FaceBook page could be created for all public hearings as is done for rezonings.

Council agreed that any way to get public comment is good.

Council agreed Council should be making the decision. He didn't think hearing any negative comments would impact his vote. He thought reposting would confuse the information without new information being provided.

Council stated she had no problems making tough decisions. But, it was harder to assess, for example, a roadway going from two to six lanes.

Council stated it was a good idea to have public input even if Council would have to go through this twice.

The Town Attorney clarified that staff would bring back the two amendments after going through the process again.

Mayor Gilbert called for a motion. Council Member Stallings made the motion to bring back the two amendments after going through the process again;

Council Member Mahaffey seconded the motion.

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

The motion carried by a 4-1 vote.

Council clarified for staff to expand all public hearing posts on FB and not just rezonings. Conversation ensued around doing so. Council stated it would be better to err on the side of more conversation rather than less.

#### CLOSED SESSION

CS1 Jacques K. Gilbert, Mayor

Closed Session to discuss a personnel matter

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

The motion carried by a 5-0 vote.

Mayor Gilbert called for a motion to return to Open Session. Council Member Killingsworth made the motion; Council Member Stallings seconded the motion.

The motion carried by a 5-0 vote.

WORK SESSION

WS1 Shannon Cox, Russell Dalton, Vance Holloman, Shawn Purvis

Receive information regarding cost and timing of transportation projects and existing debt capacity in order to consider possible financing options to fund transportation projects

Council voted to move this item to the November 4, 2020 Regular Meeting.

ADJOURNMENT

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

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Donna B. Hosch, MMC, NCCMC  
Town Clerk

ATTEST:

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Jacques K. Gilbert, Mayor



## SPECIAL TOWN COUNCIL MEETING

Tuesday, October 27, 2020 at 4:00 PM

Council Chamber at Apex Town Hall, 73 Hunter Street

### Council and Administration

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

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

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

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

In attendance were Mayor Jacques K. Gilbert, Mayor Pro Tem Nicole L. Dozier, and Council Members Audra M. Killingsworth, Brett D. Gantt Cheryl F. Stallings, and Terry Mahaffey. Also in attendance was Town Manager Drew Havens.

### COMMENCEMENT

Mayor Gilbert called the meeting to order.

Mayor Gilbert called for a motion to go into Closed Session.

Council Member Dozier made the motion; Council

Member Killingsworth seconded the motion.

The motion carried by a 4-0 vote.

Council discussed a personnel matter.

Mayor Gilbert called for a motion to return to Open Session.

Council Member Stallings made the motion; Council

Member Killingsworth seconded the motion.

The motion carried by a 4-0 vote.

With no further business and without objection from Council, Mayor Gilbert adjourned the meeting.

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Donna B. Hosch, MMC, Town Clerk

ATTEST:

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Jacques K. Gilbert, Mayor

# | Agenda Item | cover sheet

for consideration by the Apex Town Council

Item Type: CONSENT AGENDA  
Meeting Date: November 17, 2020

## Item Details

Presenter: Shelly Mayo, Planner II  
Department: Planning and Community Development

### Requested Motion

Motion to approve Findings of Fact, Conclusions of Law and Decision approving a Major Site Plan for Apex Friendship Elementary School located at 7901 Humie Olive Road.

### Approval Recommended?

Yes, by the Planning and Community Development Department.

### Item Details

On November 4, 2020, Town Council approved a Major Site Plan for Apex Friendship Elementary School.

### Attachments

- Findings of Fact, Conclusions of Law and Decision.



**BEFORE THE TOWN COUNCIL OF THE TOWN OF APEX  
MAJOR SITE PLAN FOR APEX FRIENDSHIP ELEMENTARY SCHOOL**

**FINDINGS OF FACT**

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

1. Alice Reese, CLH Design, P.A./Wake County Board of Education, owner/applicant (the “Applicant”), submitted a completed application for a major site plan on the 3<sup>rd</sup> day of August, 2020.
2. Pursuant to G.S. §160A-384, and 2.2.11 (E) of the Unified Development Ordinance, the Planning Director caused proper notice to be given (by publication and posting), of a public hearing on the major site plan for the Apex Friendship Elementary School before the Town Council on the 4<sup>th</sup> day of November 2020.
3. The Apex Town Council held a public hearing, including an evidentiary hearing, on the 4<sup>th</sup> day of November 2020.
4. All persons who desired to present evidence relevant to the major site plan for the Apex Friendship Elementary School were allowed the opportunity to present evidence at the public hearing before the Apex Town Council.
5. The Applicant proposes build a 1 to 3 story elementary school totaling 128,790 square feet with playgrounds, track, exercise fields, separate bus drop-off and carpool lanes, and surface parking.
6. After discussion about the intermittent stream and natural draw for gravity sewer on the western boundary of the property, the Town Council determined that: (1) the natural draw for gravity sewer is split between the Apex Friendship Schools Campus and future Friendship Station PUD properties; (2) the location of the sewer likely would not be constructed on the Applicant’s property due to the natural draw split, topography, and other engineering factors; and (3) the burden of the sewer extension should be shared equally between the property owners on both sides of the natural draw for gravity sewer.
7. The Applicant established by competent sworn testimony all matters stated in the application and staff report for the proposed major site plan and established that the proposed major site plan is in compliance with the standards provided in the UDO.

**CONCLUSIONS OF LAW**

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

1. The Applicant submitted a completed application for the major site plan for the Apex Friendship Elementary School;
2. The matters stated in the application are established by competent and substantial evidence;
3. The development proposed in the site plan and its general location is compatible with the character of surrounding land uses;
4. The development and uses in the site plan comply with Sec. 4.4 *Supplemental Standards*;
5. The development proposed in the site plan and its general layout and design comply with all appropriate standards in Article 8: *General Development Standards*;
6. The site plan does not propose anything that would be inconsistent with the requirements of Sec. 8.1.4 *Slope Protection Standards*;

**FINDINGS OF FACT AND CONCLUSIONS OF LAW FOR APEX FRIENDSHIP ELEMENTARY SCHOOL MAJOR  
SITE PLAN**

7. The development proposed in the site plan conforms to the requirements of Sec. 7.4., *Dedication of ROW for Thoroughfare Streets and Highways*;
8. The development proposed in the site plan with the additional condition to pay a fee-in-lieu for the reasonable cost of the Applicant's fair share of the sewer extension improvements to enable future connection to adjoining property where strict adherence to the requirements for public improvements would cause an unnecessary hardship conforms to the requirements of Sec. 7.5 *Required Improvements*;
9. The development proposed in the site plan and its general layout and design comply with all other relevant standards of this Ordinance;
10. The application and site plan meet the standards for major site plans stated in Sec.2.3.6.E.2;
11. The Applicant is entitled in law and in fact to the approval of the major site plan for the Apex Friendship Elementary School.

**DECISION**

The Apex Town Council hereby approves the major site plan for the Apex Friendship Elementary School, subject to all of the following conditions which are imposed as part of this major site plan approval:

1. The Applicant is required to pay a fee-in-lieu in the amount of \$57,335 representing the Applicant's fair share of the cost of the sewer extension improvements.

These Findings of Fact, Conclusions of Law and Decision, shall constitute written documentation of Town Council's approval of the major site plan for the Apex Friendship Elementary School.

**THE TOWN OF APEX**

By: \_\_\_\_\_  
Jacques K. Gilbert  
Mayor

(Corporate Seal)  
ATTEST:

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

STATE OF NORTH CAROLINA  
COUNTY OF WAKE

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

Witness my hand and official stamp or seal, this \_\_\_\_\_ day \_\_\_\_\_, 2020.

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

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



# | Agenda Item | cover sheet

for consideration by the Apex Town Council

Item Type: CONSENT AGENDA  
Meeting Date: November 17, 2020

## Item Details

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

### Requested Motion

Motion to adopt a Resolution Directing the Town Clerk to Investigate Petition Received, to accept the Certificate of Sufficiency by the Town Clerk, and to adopt a Resolution Setting Date of Public Hearing on the Question of Annexation- Apex Town Council's intent to annex MCI Enterprises LLC (MCI Business Park Buildings 3 & 4) property containing 5.53 acres located at MCI Business Park, Annexation #697 into the Town's corporate limits.

### Approval Recommended?

Yes, by the Planning and Community Development Department.

### Item Details

The Town Clerk certifies to the investigation of said annexation. Adoption of the Resolution authorizes the Town Clerk to advertise said public hearing by electronic means on the Town of Apex's website. The Public Hearing would be scheduled for the December 1, 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





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

Annexation Petition #697  
MCI Enterprises LLC (MCI Business Park Buildings 3 & 4)

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 17<sup>th</sup> day of November 2020.

---

Jacques K. Gilbert  
Mayor

ATTEST:

---

Donna B. Hosch, MMC, NCCMC  
Town Clerk



CERTIFICATE OF SUFFICIENCY BY THE TOWN CLERK

Annexation Petition #697  
MCI Enterprises LLC (MCI Business Park Buildings 3 & 4)

**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 17<sup>th</sup> day of November 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 #: 697  
Fee Paid: \$ 200.00

Submittal Date: 8/3/2020  
Check #: 1670

### 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

MCI Enterprises LLC

0740959168

Owner Name (Please Print)

Property PIN or Deed Book & Page #

919-481-3434

mmattachione@mattachione.com

Phone

E-mail Address

MCI Enterprises LLC

0740959547

Owner Name (Please Print)

Property PIN or Deed Book & Page #

919-481-3434

mmattachione@mattachione.com

Phone

E-mail Address

Owner Name (Please Print)

Property PIN or Deed Book & Page #

Phone

E-mail Address

### Surveyor Information

Surveyor: Atkinson Land Surveying, PLLC

Phone: 919-556-6818

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

E-mail Address: alspllc@earthlink.net

### Annexation Summary Chart

Property Information		Reason(s) for annexation (select all that apply)	
Total Acreage to be annexed:	<u>5.53</u>	Need water service due to well failure	<input type="checkbox"/>
Population of acreage to be annexed:	<u>0</u>	Need sewer service due to septic system failure	<input type="checkbox"/>
Existing # of housing units:	<u>0</u>	Water service (new construction)	<input checked="" type="checkbox"/>
Proposed # of housing units:	<u>0</u>	Sewer service (new construction)	<input checked="" type="checkbox"/>
Zoning District*:	<u>LI-CZ</u>	Receive Town Services	<input checked="" type="checkbox"/>

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

PETITION FOR VOLUNTARY ANNEXATION

Application #: 697

Submittal Date: 8/3/2020

COMPLETE IF SIGNED BY INDIVIDUALS:

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

Michael Mattarchione  
Please Print

[Signature]  
Signature

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

\_\_\_\_\_  
Signature

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

\_\_\_\_\_  
Signature

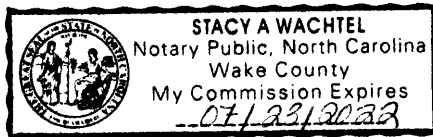
\_\_\_\_\_  
Please Print

\_\_\_\_\_  
Signature

STATE OF NORTH CAROLINA  
COUNTY OF WAKE

Sworn and subscribed before me, Stacy A. Wachtel a Notary Public for the above State and County,  
this the 22 day of July, 2020.

SEAL



Stacy A. Wachtel  
Notary Public

My Commission Expires: July 23, 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\_\_\_\_.

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 #: 697

Submittal Date: 8/3/2020

COMPLETE IF IN A LIMITED LIABILITY COMPANY

In witness whereof, MCI ENTERPRISES LLC a limited liability company, caused this instrument to be executed in its name by a member/manager pursuant to authority duly given, this the 22 day of JULY, 2020.

Name of Limited Liability Company MCI ENTERPRISES, LLC

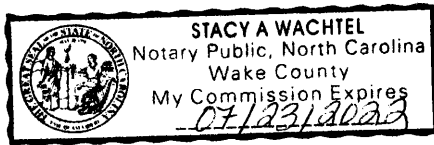
By: \_\_\_\_\_

Signature of Member/Manager

STATE OF NORTH CAROLINA  
COUNTY OF WAKE

Sworn and subscribed before me, Stacy A. Wachtel, a Notary Public for the above State and County, this the 22<sup>nd</sup> day of JULY, 2020.

SEAL



Stacy A. Wachtel  
Notary Public

My Commission Expires: JULY 23, 2022

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: \_\_\_\_\_

Legal Description PIN #0740959547

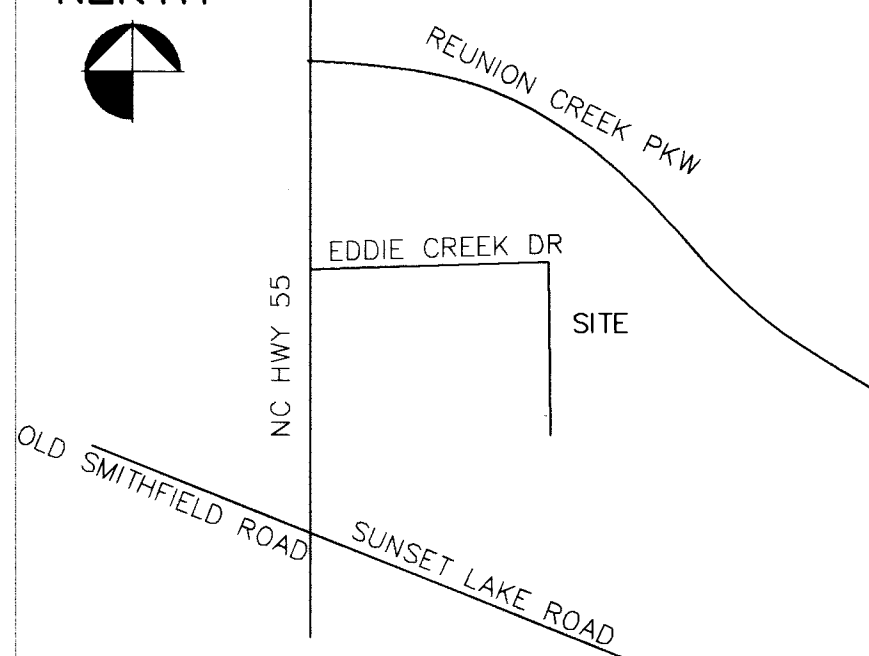
Beginning at an existing iron pipe having NC Grid coordinates of N 705724.78 E 2049671.06 Thence from said point of beginning S76-16-50 E 8.91 ft to an existing iron pipe. Thence S 76-16-50 E 639.21 ft to an existing iron pipe. Thence S 01-22-45 E 127.09 ft to an existing iron pipe. Thence N 83-41-09 W 629.72 ft to an existing iron pipe. Thence N 83-36-53 W 6.50 ft to an existing iron pipe. Thence N 00-05-29 W 210.79 ft to the point and place of beginning. Containing 2.44 acres as shown on book of maps 1988, page 1805

Legal Description PIN #0740959168

Beginning at an iron pipe, said pipe being the north east corner of book of maps 1981, page 383, thence S00-05-01E 60.18 to a point, thence S85-41-42E 19.99 to a point, thence S85-42-37E 88.77 to a point, thence S00-22-13E 265.00 to a point, thence S85-41-20E 395.12 to a point, thence N00-22-03W 60.20 to a point, thence N00-20-38W 135.00 to a point, thence N00-19-34W 130.05 to a point, thence N85-41-47W 335.06 to a point, thence N85-42-36W 153.11 to a point, thence N85-38-18W 15.58 to the point and place of beginning containing 3.09 acres



NORTH



VICINITY MAP (NTS)

I, JAMES WADE ATKINSON, JR., CERTIFY THAT THIS MAP WAS DRAWN UNDER MY SUPERVISION FROM AN ACUTAL GPS SURVEY MADE UNDER MY SUPERVISION AND THE FOLLOWING INFORMATION WAS USED TO PERFORM THE SURVEY:

- (1) CLASS OF SURVEY: 1
- (2) POSITIONAL ACCURACY: 0.03
- (3) TYPE OF GPS FIELD PROCEDURE: L1, L2 STATIC
- (4) DATES OF SURVEY: 5-28-2018
- (5) DATUM/EPOCH: NAD 83(2011)
- (6) PUBLISHED/FIXED CONTROL USED: OPUS SOLUTION
- (7) GEOD MODEL: GEOD09
- (8) COMBINED GRID FACTOR: 0.99988977
- (9) UNITS: US FEET

*James W. Atkinson, Jr.*  
REGISTERED LAND SURVEYOR

I, JAMES W. ATKINSON, JR. A PROFESSIONAL LAND SURVEYOR,  
CERTIFY THAT THIS PLAT IS A SURVEY OF AN EXISTING PARCEL  
OR PARCELS OF LAND.

*James W. Atkinson, Jr.*  
JAMES W. ATKINSON, JR P.L.S. L-3449

## NOTES:

- PROPERTY IS SUBJECT TO ALL EASEMENTS, AGREEMENTS AND R.O.W.'S ON RECORD PRIOR TO THE RECORDING OF THIS PLAT.
- ALL DISTANCES ARE HORIZONTAL GROUND DISTANCES

NORTH CAROLINA  
WAKE COUNTY

I, JAMES WADE ATKINSON, JR., CERTIFY THAT THIS PLAT WAS DRAWN UNDER MY SUPERVISION FROM (AN ACTUAL FIELD SURVEY MADE UNDER MY SUPERVISION) (DEED DESCRIPTION RECORDED IN DEED BOOK 17055, PAGE # 1653, ECT.) (OTHER), THAT THE RATIO OF PRECISION AS CALCULATED BY LATITUDES AND DEPARTURES IS 1:10,000 AND THAT THE BOUNDARIES NOT SURVEYED ARE SHOWN AS BROKEN LINES PLOTTED FROM INFORMATION FOUND IN THE REFERENCES LISTED; THAT THIS PLAT WAS PREPARED IN ACCORDANCE WITH G.S. 47-30 AS AMENDED. WITNESS MY ORIGINAL SIGNATURE REGISTRATION NUMBER AND SEAL THIS 29HT DAY OF JULY, A.D., 2020.

SEAL OR STAMP



*James W. Atkinson, Jr.*  
SURVEYOR  
L-3449  
REGISTRATION NUMBER

THE PROPERTY SHOWN HEREON IS NOT WITHIN FLOOD PLAIN PER FEMA FIRM PANEL # 37183C0483E  
EFFECTIVE DATE 3-3-1992

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 \_\_\_\_\_, 2020 BY THE TOWN  
COUNCIL. I SET MY HAND AND SEAL OF THE TOWN OF APEX,

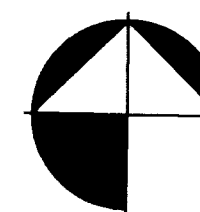
DAY MONTH YEAR

DONNA B. HOSCH, MMC, NCCMC, TOWN CLERK

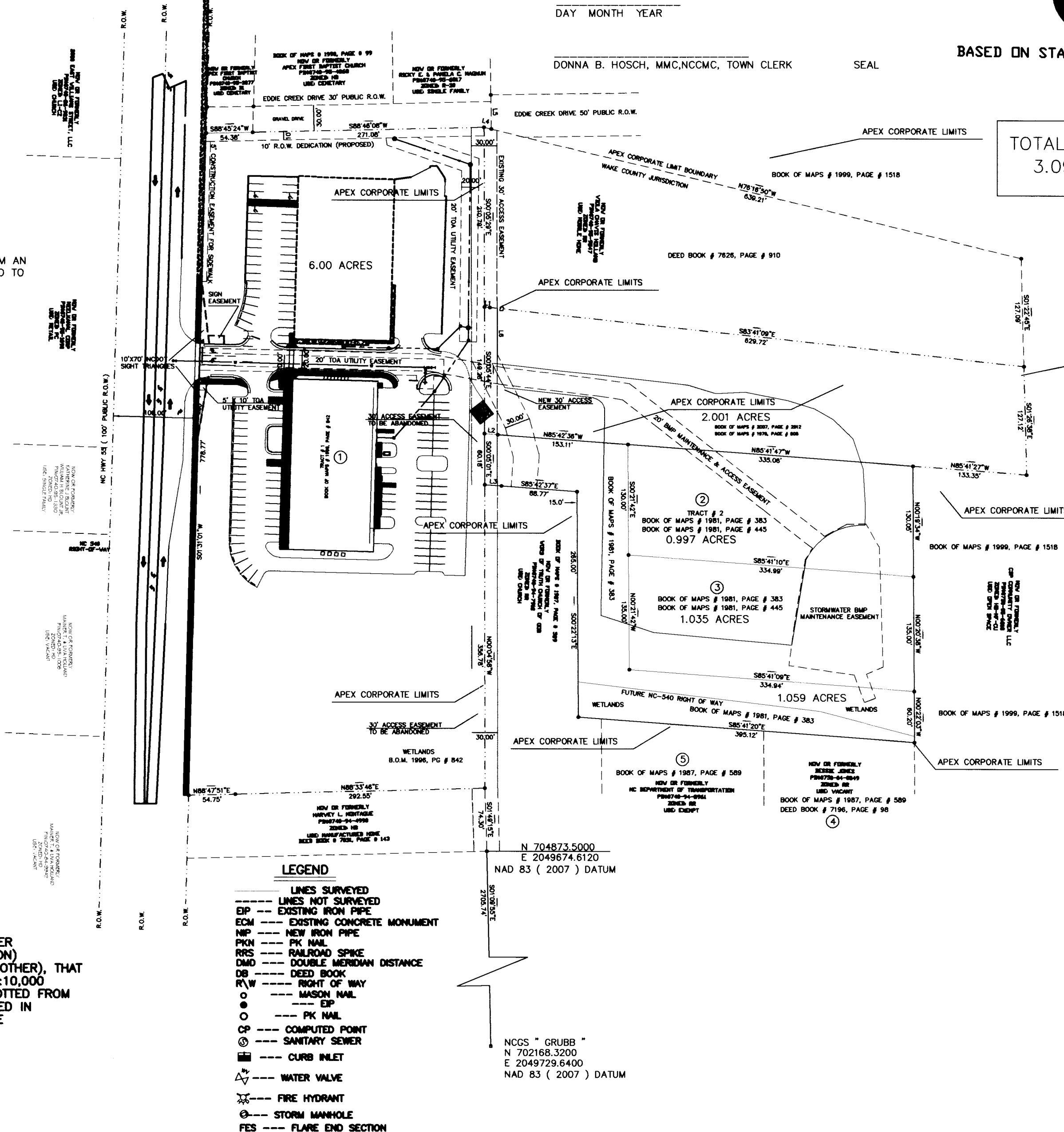
SEAL

BASED ON STATIC GPS OBSERVATION

NC GRID NORTH



TOTAL ANNEXATION  
3.090 ACRES



LINE TABLE		
LINE	LENGTH	BEARING
L1	6.50	N83°36'53"W
L2	15.58	N85°38'18"W
L3	19.99	N85°41'42"W
L4	8.91	S76°16'50"E
L5	40.12	N01°02'48"W

## LEGEND

- LINES SURVEYED
- LINES NOT SURVEYED
- EIP --- EXISTING IRON PIPE
- ECM --- EXISTING CONCRETE MONUMENT
- NIP --- NEW IRON PIPE
- PKN --- PK NAIL
- RRS --- RAILROAD SPIKE
- DMD --- DOUBLE MERIDIAN DISTANCE
- DB --- DEED BOOK
- R/W --- RIGHT OF WAY
- --- MASON NAIL
- --- EIP
- --- PK NAIL
- CP --- COMPUTED POINT
- ⊙ --- SANITARY SEWER
- CURB INLET
- △ --- WATER VALVE
- ✕ --- FIRE HYDRANT
- ⊙ --- STORM MANHOLE
- FES --- FLARE END SECTION

NCGS "GRUBB"  
N 702168.3200  
E 2049729.6400  
NAD 83 ( 2007 ) DATUM

OWNER  
MCI ENTERPRISES, LLC  
2121 E WILLIAMS STREET  
APEX, NC 27539

## REVISIONS

"ANNEXATION MAP for the TOWN OF APEX"

50' 0' 100'



TOWNSHIP: WHITE OAK

COUNTY: WAKE

STATE: NORTH CAROLINA

ADDRESS: 0 EDDIE CREEK DR

ZONE = LI-CZ

PIN # 0740959168

ATKINSON LAND SURVEYING, PLLC  
PROFESSIONAL LAND SURVEYORS P-1719  
3155 TARBORO ROAD  
YOUNGSVILLE, NC 27596  
TELE: 556-6818

DATE: 08-29-2020

SURVEYED BY: JWA

ANNEXATION #

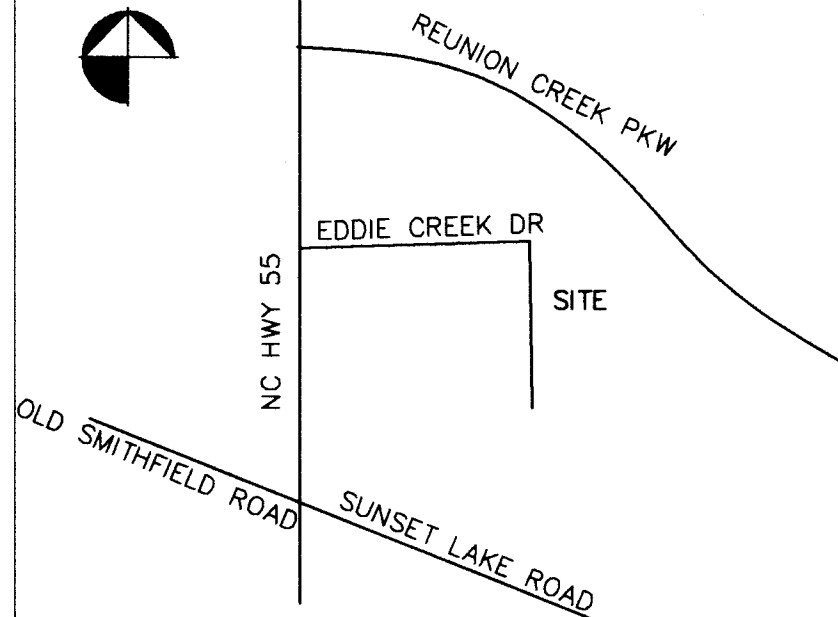
SCALE: 1" = 100'

DRAWN BY: JWA

CHECKED &amp; CLOSURE BY: \_\_\_\_\_

- Page 35 -

NORTH



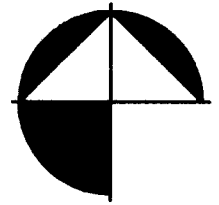
VICINITY MAP (NTS)

I JAMES WADE ATKINSON, JR, CERTIFY THAT THIS MAP WAS DRAWN UNDER MY SUPERVISION FROM AN ACUTAL GPS SURVEY MADE UNDER MY SUPERVISION AND THE FOLLOWING INFORMATION WAS USED TO PERFORM THE SURVEY:  
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(9) UNITS: US FEET

REGISTERED LAND SURVEYOR

TOTAL ANNEXATION  
2.44 ACRES

GRID NORTH

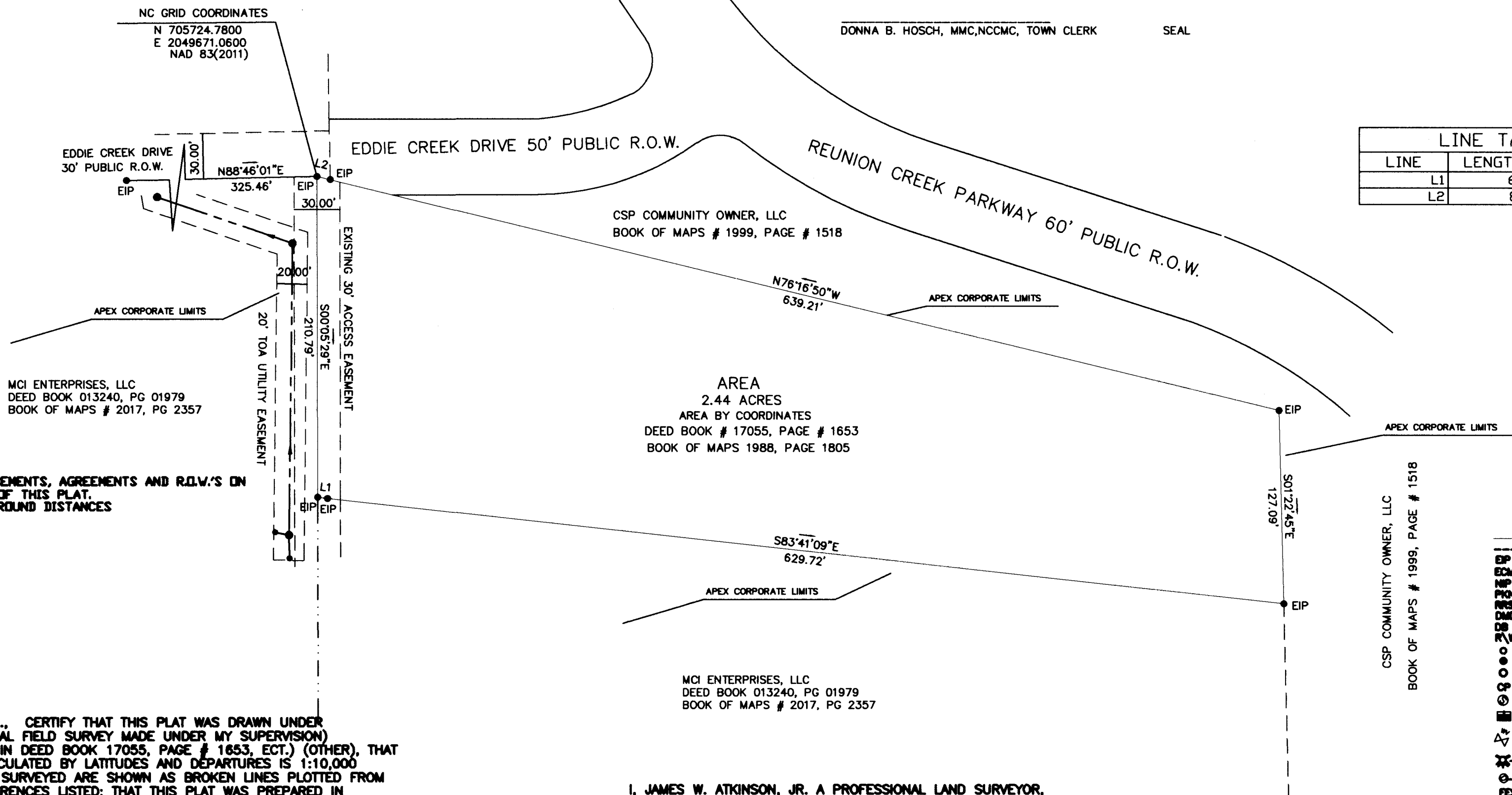


BASED ON  
GPS OBSERVATION

ANNEXATION # \_\_\_\_\_  
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CERTIFY THIS A TRUE AND EXACT MAP OF ANNEXATION  
ADOPTED THE \_\_\_\_\_ DAY OF \_\_\_\_\_, 2020 BY THE TOWN  
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DAY MONTH YEAR

DONNA B. HOSCH, MMC, NCCMC, TOWN CLERK SEAL

REFERENCES  
DEED BOOK # 17055, PAGE # 1653  
BOOK OF MAPS 1988, PAGE 1805



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NORTH CAROLINA  
WAKE COUNTY

I, JAMES WADE ATKINSON, JR., CERTIFY THAT THIS PLAT WAS DRAWN UNDER  
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(DEED DESCRIPTION RECORDED IN DEED BOOK 17055, PAGE # 1653, ECT.) (OTHER), THAT  
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SEAL OR STAMP



*James W. Atkinson, Jr.*  
SURVEYOR  
L-3449  
REGISTRATION NUMBER

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OR PARCELS OF LAND.

JAMES W. ATKINSON, JR P.L.S. L-3449

OWNER  
MCI ENTERPRISES, LLC  
2121 E WILLIAMS STREET  
APEX, NC 27539

LEGEND

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S --- SANITARY SEWER  
C --- CUMULATIVE INLET  
W --- WATER VALVE  
F --- FIRE HYDRANT  
S --- STORM MANHOLE  
FES --- FLARE END SECTION

REVISIONS

"ANNEXATION MAP for the TOWN OF APEX"

30' 0' 60'



TOWNSHIP: WHITE OAK	COUNTY: WAKE	DATE: 07-29-2020	SURVEYED BY: JWA	ANNEXATION #
STATE: NORTH CAROLINA	ADDRESS: 5513 EDDIE CREEK DR	SCALE: 1" = 60'	DRAWN BY: JWA	
ZONE = LI-CZ	PIN # 0740959547	CHECKED & CLOSURE BY: JWA		

[Home](#)

## Wake County Real Estate Data Account Summary

[iMaps](#)[Tax Bills](#)Real Estate ID **0206589**PIN # **0740959168**Account  
SearchLocation Address  
**0 EDDIE CREEK DR**Property Description  
**SM PT MCI BUSINESS PARK BM2017-02357**[Pin/Parcel History](#) [Search Results](#) [New Search](#)
[Account](#) | [Buildings](#) | [Land](#) | [Deeds](#) | [Notes](#) | [Sales](#) | [Photos](#) | [Tax Bill](#) | [Map](#)

Property Owner <b>MCI ENTERPRISES LLC</b> (Use the Deeds link to view any additional owners)		Owner's Mailing Address <b>2121 E WILLIAMS ST STE 100</b> <b>APEX NC 27539-7765</b>	Property Location Address <b>0 EDDIE CREEK DR</b> <b>APEX NC 00000-0000</b>
<b>Administrative Data</b> Old Map # <b>695--</b> Map/Scale <b>0740 02</b> VCS <b>SWAP001</b> City Fire District <b>23</b> Township <b>WHITE OAK</b> Land Class <b>VACANT</b> ETJ <b>AP</b> Spec Dist(s) Zoning <b>LI-CZ</b> History ID 1 History ID 2 Acreage <b>2.86</b> Permit Date Permit #		<b>Transfer Information</b> Deed Date <b>3/5/2010</b> Book & Page <b>13870 1904</b> Revenue Stamps Pkg Sale Date 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>\$572,858</b> Bldg. Value Assessed <b>\$8,380</b>  Tax Relief  Land Use Value Use Value Deferral Historic Deferral Total Deferred Value *Property Data Under Review Use/Hist/Tax Relief Assessed Total Value Assessed* <b>*\$581,238</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.

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 **0030282** PIN # **0740959547**Account  
SearchLocation Address  
**5513 EDDIE CREEK DR** Property Description  
**APEX RD TR1**
[Pin/Parcel History](#) [Search Results](#) [New Search](#)

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

Property Owner <b>MCI B3 LLC</b> (Use the Deeds link to view any additional owners)		Owner's Mailing Address <b>2121 E WILLIAMS ST STE 100</b> <b>APEX NC 27539-7765</b>	Property Location Address <b>5513 EDDIE CREEK DR</b> <b>APEX NC 27539-6510</b>
<b>Administrative Data</b> Old Map # <b>695-00000-0061</b> Map/Scale <b>0740 02</b> VCS <b>SWAP001</b> City Fire District <b>23</b> Township <b>WHITE OAK</b> Land Class <b>VACANT</b> ETJ <b>AP</b> Spec Dist(s) Zoning <b>LI-CZ</b> History ID 1 History ID 2 Acreage <b>2.39</b> Permit Date Permit #		<b>Transfer Information</b> Deed Date <b>9/2/2020</b> Book & Page <b>18054 0491</b> Revenue Stamps Pkg Sale Date Pkg Sale Price Land Sale Date <b>2/28/2018</b> Land Sale Price <b>\$325,000</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>\$360,006</b> Bldg. Value Assessed  Tax Relief Land Use Value Use Value Deferral Historic Deferral Total Deferred Value  Use/Hist/Tax Relief Assessed Total Value Assessed* <b>\$360,006</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.

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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.



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

Annexation Petition #697  
MCI Enterprises LLC (MCI Business Park Buildings 3 & 4)

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 1<sup>st</sup> day of December 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 17<sup>th</sup> day of November 2020.

---

Jacques K. Gilbert, Mayor

ATTEST:

---

Donna B. Hosch, MMC, NCCMC, Town Clerk

Legal Description PIN #0740959547

Beginning at an existing iron pipe having NC Grid coordinates of N 705724.78 E 2049671.06 Thence from said point of beginning S76-16-50 E 8.91 ft to an existing iron pipe. Thence S 76-16-50 E 639.21 ft to an existing iron pipe. Thence S 01-22-45 E 127.09 ft to an existing iron pipe. Thence N 83-41-09 W 629.72 ft to an existing iron pipe. Thence N 83-36-53 W 6.50 ft to an existing iron pipe. Thence N 00-05-29 W 210.79 ft to the point and place of beginning. Containing 2.44 acres as shown on book of maps 1988, page 1805

Legal Description PIN #0740959168

Beginning at an iron pipe, said pipe being the north east corner of book of maps 1981, page 383, thence S00-05-01E 60.18 to a point, thence S85-41-42E 19.99 to a point, thence S85-42-37E 88.77 to a point, thence S00-22-13E 265.00 to a point, thence S85-41-20E 395.12 to a point, thence N00-22-03W 60.20 to a point, thence N00-20-38W 135.00 to a point, thence N00-19-34W 130.05 to a point, thence N85-41-47W 335.06 to a point, thence N85-42-36W 153.11 to a point, thence N85-38-18W 15.58 to the point and place of beginning containing 3.09 acres

Legal Description PIN #0740959547

Beginning at an existing iron pipe having NC Grid coordinates of N 705724.78 E 2049671.06 Thence from said point of beginning S76-16-50 E 8.91 ft to an existing iron pipe. Thence S 76-16-50 E 639.21 ft to an existing iron pipe. Thence S 01-22-45 E 127.09 ft to an existing iron pipe. Thence N 83-41-09 W 629.72 ft to an existing iron pipe. Thence N 83-36-53 W 6.50 ft to an existing iron pipe. Thence N 00-05-29 W 210.79 ft to the point and place of beginning. Containing 2.44 acres as shown on book of maps 1988, page 1805



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## 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 #: 697  
Fee Paid: \$ 200.00

Submittal Date: 8/3/2020  
Check #: 1670

### 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

MCI Enterprises LLC

0740959168

Owner Name (Please Print)

Property PIN or Deed Book & Page #

919-481-3434

mmattachione@mattachione.com

Phone

E-mail Address

MCI Enterprises LLC

0740959547

Owner Name (Please Print)

Property PIN or Deed Book & Page #

919-481-3434

mmattachione@mattachione.com

Phone

E-mail Address

Owner Name (Please Print)

Property PIN or Deed Book & Page #

Phone

E-mail Address

### Surveyor Information

Surveyor: Atkinson Land Surveying, PLLC

Phone: 919-556-6818

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

E-mail Address: alspllc@earthlink.net

### Annexation Summary Chart

Property Information		Reason(s) for annexation (select all that apply)	
Total Acreage to be annexed:	<u>5.53</u>	Need water service due to well failure	<input type="checkbox"/>
Population of acreage to be annexed:	<u>0</u>	Need sewer service due to septic system failure	<input type="checkbox"/>
Existing # of housing units:	<u>0</u>	Water service (new construction)	<input checked="" type="checkbox"/>
Proposed # of housing units:	<u>0</u>	Sewer service (new construction)	<input checked="" type="checkbox"/>
Zoning District*:	<u>LI-CZ</u>	Receive Town Services	<input checked="" type="checkbox"/>

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

PETITION FOR VOLUNTARY ANNEXATION

Application #: 697

Submittal Date: 8/3/2020

COMPLETE IF SIGNED BY INDIVIDUALS:

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

Michael Mattachione  
Please Print

[Signature]  
Signature

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

\_\_\_\_\_  
Signature

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

\_\_\_\_\_  
Signature

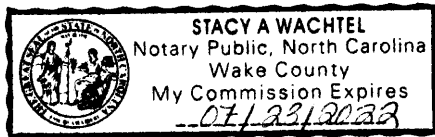
\_\_\_\_\_  
Please Print

\_\_\_\_\_  
Signature

STATE OF NORTH CAROLINA  
COUNTY OF WAKE

Sworn and subscribed before me, Stacy A. Wachtel a Notary Public for the above State and County,  
this the 22 day of July, 2020.

SEAL



Stacy A. Wachtel  
Notary Public

My Commission Expires: July 23, 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\_\_\_\_.

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 #: 697

Submittal Date: 8/3/2020

COMPLETE IF IN A LIMITED LIABILITY COMPANY

In witness whereof, MCI ENTERPRISES LLC a limited liability company, caused this instrument to be executed in its name by a member/manager pursuant to authority duly given, this the 22 day of JULY, 2020.

Name of Limited Liability Company MCI ENTERPRISES, LLC

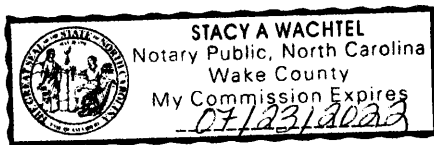
By:

[Signature]  
Signature of Member/Manager

STATE OF NORTH CAROLINA  
COUNTY OF WAKE

Sworn and subscribed before me, Stacy A. Wachtel, a Notary Public for the above State and County, this the 22<sup>nd</sup> day of JULY, 2020.

SEAL



Stacy A. Wachtel  
Notary Public

My Commission Expires: JULY 23, 2022

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

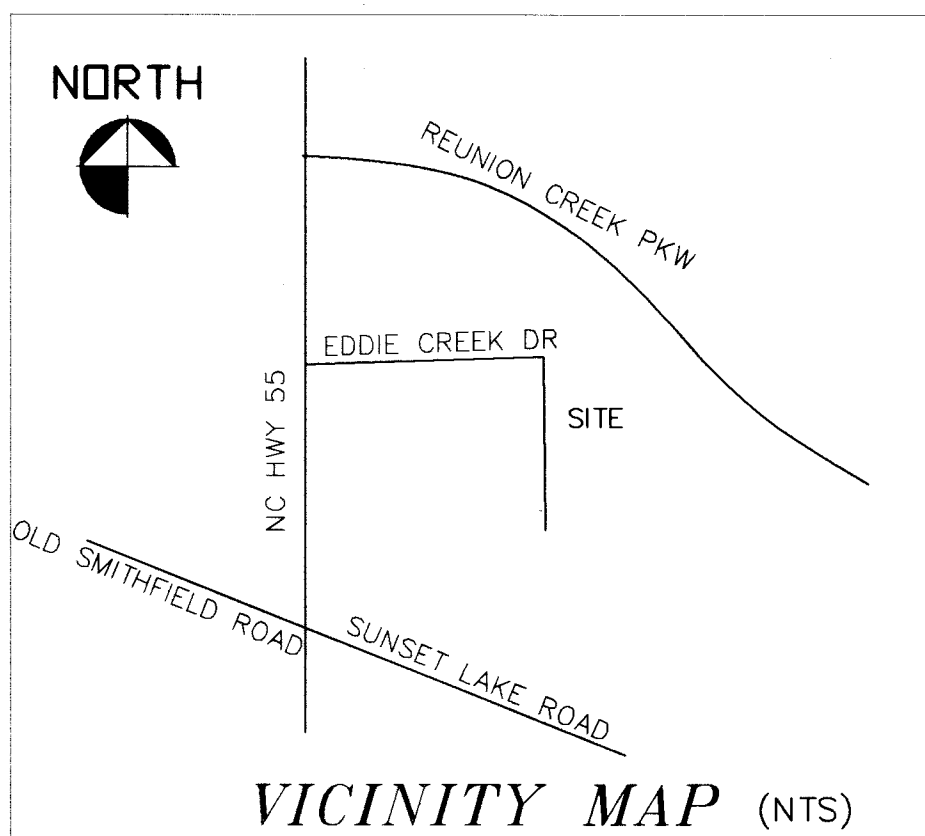
My Commission Expires: \_\_\_\_\_


Legal Description PIN #0740959547


Beginning at an existing iron pipe having NC Grid coordinates of N 705724.78 E 2049671.06 Thence from said point of beginning S76-16-50 E 8.91 ft to an existing iron pipe. Thence S 76-16-50 E 639.21 ft to an existing iron pipe. Thence S 01-22-45 E 127.09 ft to an existing iron pipe. Thence N 83-41-09 W 629.72 ft to an existing iron pipe. Thence N 83-36-53 W 6.50 ft to an existing iron pipe. Thence N 00-05-29 W 210.79 ft to the point and place of beginning. Containing 2.44 acres as shown on book of maps 1988, page 1805

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REGISTERED LAND SURVEYOR

  
JAMES W. ATKINSON, JR P.L.S. L-3449

-PROPERTY IS SUBJECT TO ALL EASEMENTS, AGREEMENTS AND R.O.W.'S ON  
RECORD PRIOR TO THE RECORDING OF THIS PLAT.  
-ALL DISTANCES ARE HORIZONTAL GROUND DISTANCES

SEAL OR STAMP



TOTAL ANNEXATION  
3.090 ACRES

LINE	LENGTH	BEARING
L1	6.50	N83°36'53"
L2	15.58	N85°38'18"
L3	19.99	N85°41'42"
L4	8.91	S76°16'50"
L5	40.12	N01°02'48"

```

      LINES SURVEYED
----- LINES NOT SURVEYED
EIP --- EXISTING IRON PIPE
ECM --- EXISTING CONCRETE MONUMENT
NIP --- NEW IRON PIPE
PKN --- PK NAIL
RRS --- RAILROAD SPIKE
DMD --- DOUBLE MERIDIAN DISTANCE
DB --- DEED BOOK
R/W --- RIGHT OF WAY
  O --- MASON NAIL
  @ --- EIP
  O --- PK NAIL
CP --- COMPUTED POINT
  S --- SANITARY SEWER
  [ ] --- CURB INLET
  W --- WATER VALVE
  X --- FIRE HYDRANT
  @ --- STORM MANHOLE
FES --- FLARE END SECTION

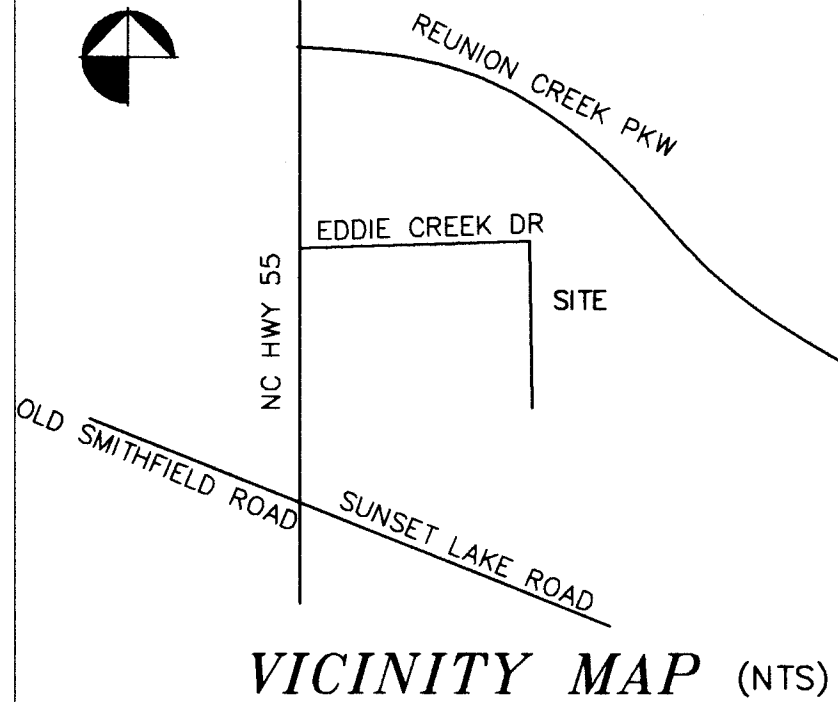
```

NCGS " GRUBB "  
N 702168.3200  
E 2049729.6400  
NAD 83 ( 2007 ) DATUM

OWNER  
MCI ENTERPRISES, LLC  
2121 E WILLIAMS STREET  
APEX, NC 27539

REVISIONS		<p align="center"><i>"ANNEXATION MAP for the TOWN OF APEX"</i></p>		ATKINSON LAND SURVEYING, PLLC PROFESSIONAL LAND SURVEYORS P-1719 3155 TARBORO ROAD YOUNGSVILLE, NC 27596 TELE: 556-6818	
50'    0'    100' 	TOWNSHIP: WHITE OAK	COUNTY: WAKE	DATE: 08-29-2020	SURVEYED BY: JWA	ANNEXATION #
	STATE: NORTH CAROLINA	ADDRESS: 0 EDDIE CREEK DR	SCALE: 1" = 100'	DRAWN BY: JWA	
	ZONE = LI-CZ	PIN # 0740959168	CHECKED & CLOSURE BY: JWA		

NORTH



VICINITY MAP (NTS)

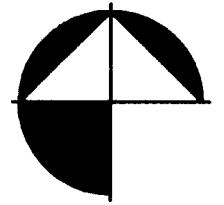
I JAMES WADE ATKINSON, JR, CERTIFY THAT THIS MAP WAS DRAWN UNDER MY SUPERVISION FROM AN ACUTAL GPS SURVEY MADE UNDER MY SUPERVISION AND THE FOLLOWING INFORMATION WAS USED TO PERFORM THE SURVEY:

- (1) CLASS OF SURVEY: 1
- (2) POSITIONAL ACCURACY: 0.03
- (3) TYPE OF GPS FIELD PROCEEDURE: L1, L2 STATIC
- (4) DATES OF SURVEY : 5-28-2018
- (5) DATUM\EPOCH: NAD 83(2011)
- (6) PUBLISHED\FIXED CONTROL USED: OPUS SOLUTION
- (7) GEOID MODEL: GEOID09
- (8) COMBINED GRID FACTOR: 0.99988977
- (9) UNITS: US FEET

REGISTERED LAND SURVEYOR

TOTAL ANNEXATION  
2.44 ACRES

GRID NORTH



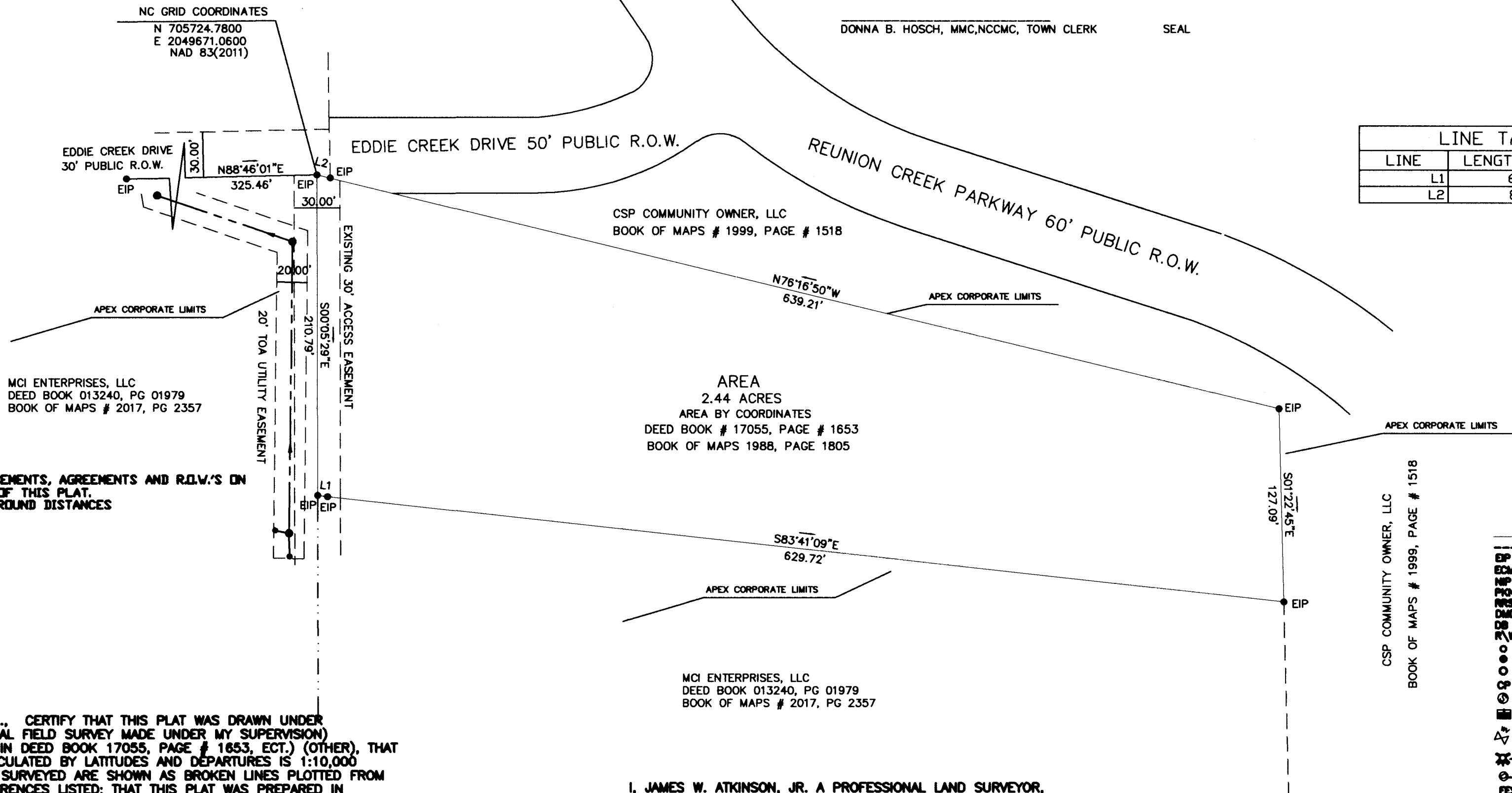
BASED ON  
GPS OBSERVATION

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 \_\_\_\_\_, 2020 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  
DEED BOOK # 17055, PAGE # 1653  
BOOK OF MAPS 1988, PAGE 1805

LINE TABLE		
LINE	LENGTH	BEARING
L1	6.50	N83°36'53"W
L2	8.91	S76°16'50"E



NOTES:  
-PROPERTY IS SUBJECT TO ALL EASEMENTS, AGREEMENTS AND R.O.W.'S ON  
RECORD PRIOR TO THE RECORDING OF THIS PLAT.  
-ALL DISTANCES ARE HORIZONTAL GROUND DISTANCES

NORTH CAROLINA  
WAKE COUNTY

I, JAMES WADE ATKINSON, JR., CERTIFY THAT THIS PLAT WAS DRAWN UNDER  
MY SUPERVISION FROM (AN ACTUAL FIELD SURVEY MADE UNDER MY SUPERVISION)  
(DEED DESCRIPTION RECORDED IN DEED BOOK 17055, PAGE # 1653, ECT.) (OTHER), THAT  
THE RATIO OF PRECISION AS CALCULATED BY LATITUDES AND DEPARTURES IS 1:10,000  
AND THAT THE BOUNDARIES NOT SURVEYED ARE SHOWN AS BROKEN LINES PLOTTED FROM  
INFORMATION FOUND IN THE REFERENCES LISTED; THAT THIS PLAT WAS PREPARED IN  
ACCORDANCE WITH G.S. 47-30 AS AMENDED. WITNESS MY ORIGINAL SIGNATURE  
REGISTRATION NUMBER AND SEAL THIS 29HT DAY OF JULY, A.D., 2020.

SEAL OR STAMP



*James W. Atkinson, Jr.*  
SURVEYOR  
L-3449  
REGISTRATION NUMBER

I, JAMES W. ATKINSON, JR. A PROFESSIONAL LAND SURVEYOR,  
CERTIFY THAT THIS PLAT IS A SURVEY OF AN EXISTING PARCEL  
OR PARCELS OF LAND.

JAMES W. ATKINSON, JR P.L.S. L-3449

OWNER  
MCI ENTERPRISES, LLC  
2121 E WILLIAMS STREET  
APEX, NC 27539

LEGEND

--- LINES SURVEYED  
--- LINES NOT SURVEYED  
EIP --- EXISTING IRON PIPE  
ECM --- EXISTING CONCRETE MONUMENT  
NIP --- NEW IRON PIPE  
PKN --- PK NAIL  
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FH --- FIRE HYDRANT  
SM --- STORM MANHOLE  
FES --- FLARE END SECTION

REVISIONS

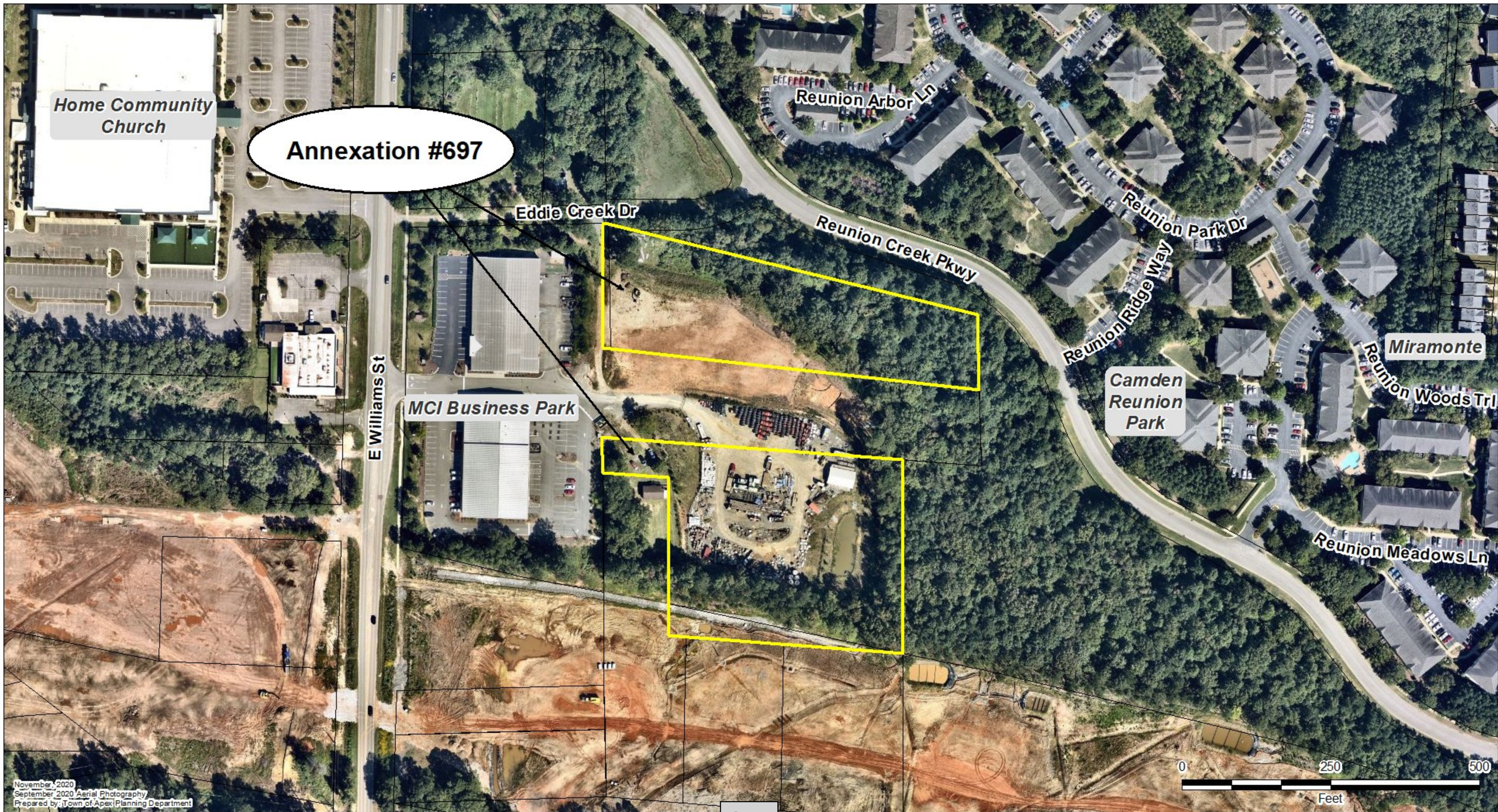
"ANNEXATION MAP for the TOWN OF APEX"

30' 0' 60'

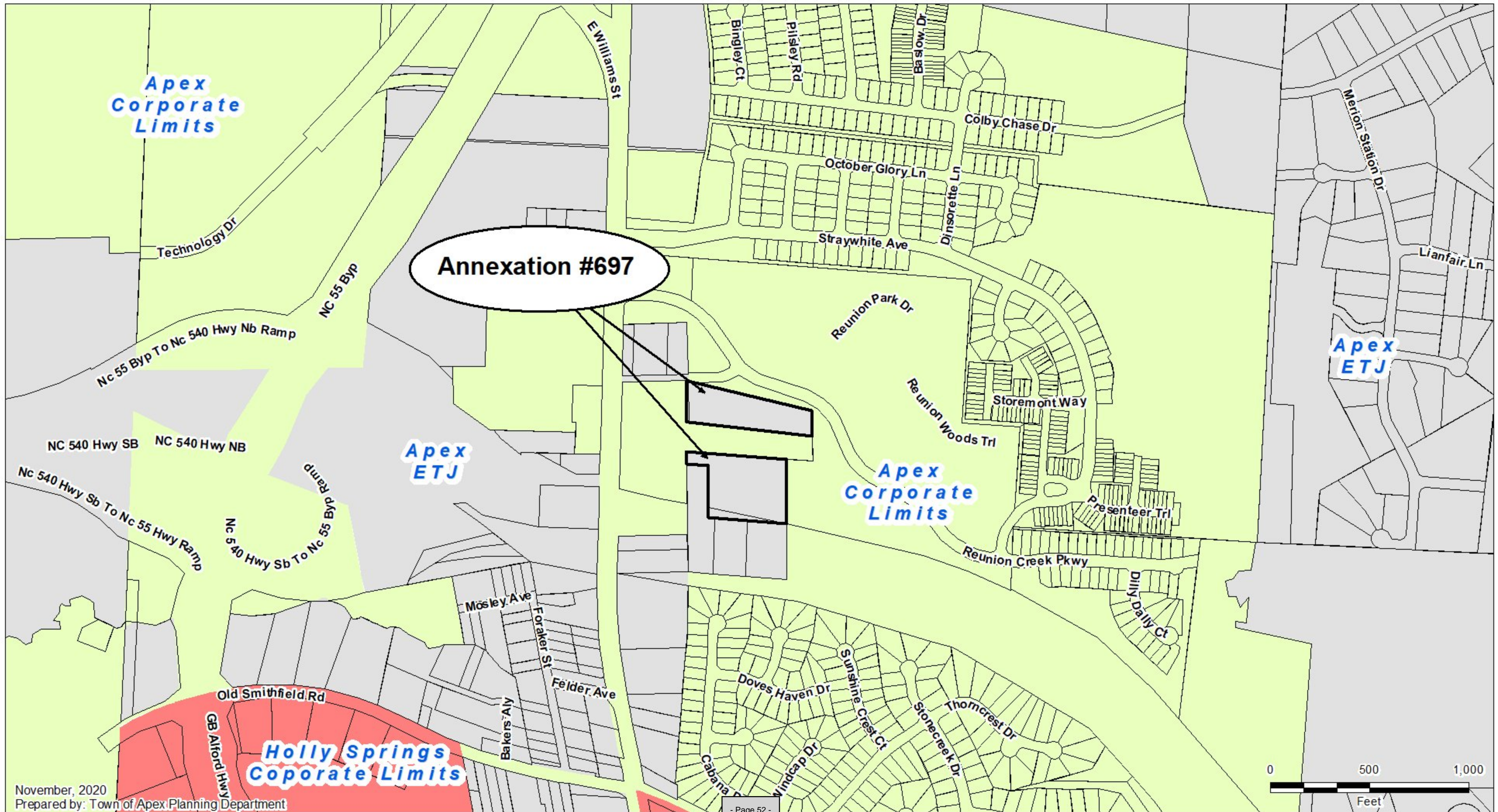


TOWNSHIP: WHITE OAK	COUNTY: WAKE	DATE: 07-29-2020	SURVEYED BY: JWA	ANNEXATION #
STATE: NORTH CAROLINA	ADDRESS: 5513 EDDIE CREEK DR	SCALE: 1" = 60'	DRAWN BY: JWA	
ZONE = LI-CZ	PIN # 0740959547	CHECKED & CLOSURE BY: JWA		











# Zoning Districts

SD-CZ

Technology Dr

NC 55 Byp

TF-CZ

E Williams St

PC

RR

Annexation #697

HD SF

LD

Old Smithfield Rd

HS:R-15

HS:R-15

Foraker St

B1

HS:PUD

LI-CZ

HD MF-CU

B1-CZ

HD SF-CU

PUD-CZ

Colby Chase Dr

MD-CZ

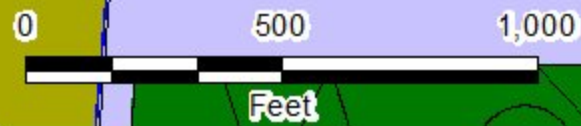
PUD-CU

Reunion Park Dr

Straywhite Ave

Lianfair Ln

LI





# | Agenda Item | cover sheet

for consideration by the Apex Town Council

Item Type: CONSENT AGENDA  
Meeting Date: November 17, 2020

## Item Details

Presenter: Vance Holloman, Finance Director  
Department(s): Finance Department

### Requested Motion

Motion to approve Budget Ordinance Amendment No. 7 appropriating the proceeds of the 2020 Taxable General Obligation Refunding Bonds.

### Approval Recommended?

Yes

### Item Details

The Town has issued the 2020 Taxable GO Refunding Bonds for the purpose of advance refunding the 2012 Wastewater System GO Bonds. Budget Amendment No. 7 appropriates the proceeds of the 2020 Bonds in the Water Sewer Fund for the purpose of funding the escrow for the advance refunding and paying issuance cost. The payments of proceeds to the escrow account will be made by the bond purchaser and the State Treasurer on behalf of the Town. However, the Town must budget the funds and record these transactions in its accounting records. The Town will directly receive and expend the funds appropriated for issuance cost.

The Refunding Bonds were sold at a true interest cost of 1.71% resulting in gross saving of \$4 million and a net present value savings of \$3.55 million which represents a 12.85% savings.

### Attachments

- Budget Ordinance Amendment No. 7





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## Town of Apex

### FY 2020-2021 BUDGET ORDINANCE AMENDMENT NUMBER 7

---

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

#### **WATER SEWER FUND**

##### **Section 1. Revenues**

Bond Proceeds	\$29,440,000
<b>Total</b>	<b>\$29,440,000</b>

##### **Section 2. Expenditures**

Other Financing Use-Payment to Refund Debt	\$29,067,539
Bond Issuance Costs	201,507
Bond Issuance Costs-Underwriters Discount	170,954
<b>Total</b>	<b>\$29,440,000</b>

Adopted this the 17th day of November, 2020.

---

Jacques K. Gilbert, Mayor

Attest:

---

Donna B. Hosch, Town Clerk

# | Agenda Item | cover sheet

for consideration by the Apex Town Council

Item Type: CONSENT AGENDA  
Meeting Date: November 17, 2020

## Item Details

Presenter(s): Russell Dalton, Sr Transportation Engineer and Vance Holloman, Finance Director

Department(s): PW&T and Finance

### Requested Motion

Motion to approve Design Services Agreement with Stantec Consulting Services Inc. for Downtown Streetscape and Parking Design in the amount of \$614,597 and the corresponding Capital Project Ordinance Amendment No. 2021-02.

### Approval Recommended?

Yes

### Item Details

Town staff recommend proceeding with final design for the following projects: Salem Street Streetscape, improvements to both the Commerce Street and Seaboard Street alleys, and expansion of the Saunders Street parking lot. These projects were identified as priorities in the Downtown Plan and Parking Study. Construction of these projects will be prioritized in the Capital Improvement Program. The contract includes a public involvement plan, survey and final design of the aforementioned projects for a total fee of \$614,597.

The Transportation Capital Reserve Fund identifies three (3) projects which will be incorporated into this design effort: Downtown Alley Improvements, Salem Streetscape, and Saunders Street Parking Lot. The budget amendment appropriates funds based on the proposed contract fee. The majority of funds (\$600,000) is already allocated among the three projects. The remaining funds will allocate interest earnings from the Capital Project Fund.

### Attachments

- Design Services Agreement for Downtown Streetscape and Parking Design
- Capital Project Ordinance Amendment No. 2021-02





## Town of Apex

### CAPITAL PROJECT ORDINANCE AMENDMENT 2021-02

#### 63 - Street Improvements Capital Project Fund

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

**Section 1. The revenues anticipated for the projects are:**

Interest Earnings (Debt Proceeds)	14,650
<b>Total Revenues</b>	<b>\$14,650</b>

**Section 2. The expenditures anticipated are:**

47680: Downtown Alley Improvements	<b>(148,500)</b>
47682: Salem St Downtown Streetscape	108,000
47683: Saunders St Parking Lot Expansion	55,150
<b>Total Expenditures</b>	<b>\$14,650</b>

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

Adopted this the 17th day of November, 2020.

Attest:

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

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

## COUNTY OF WAKE

## DESIGN SERVICES AGREEMENT

THIS AGREEMENT is entered into this \_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_ by and between, Stantec Consulting Services Inc., a North Carolina corporation with its principal business offices located at 801 Jones Franklin Road, Suite 300, Raleigh, NC 27606 (the “Design Professional”), and the Town of Apex, a municipal corporation of the State of North Carolina, (the “Town”). Town and Design Professional may collectively be referred to as “Parties” hereinafter.

**WITNESSETH:**

WHEREAS, the Town is engaged in the utilization and operation of Town buildings, infrastructure, and facilities which from time to time require design, revision, engineering, evaluation, surveying, testing, architectural services and other related projects; and

WHEREAS, the professional services of engineers, architects, surveyors and others are at times needed by the Town for the services as described above; and

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

WHEREAS, pursuant to N.C.G.S. 143-64.31, it is the public policy of the State of North Carolina that municipalities announce all requirements for architectural, engineering, and surveying services, and select firms qualified on the basis of demonstrated competence and qualifications, and negotiate contracts for services at a fair and reasonable fee with the best qualified firm; and

WHEREAS, the Town has announced the requirements for said services and selected Design Professional in accordance with the criteria and procedure provided in N.C.G.S. 143-64.31.

NOW THEREFORE, the Town and the Design Professional, for the consideration stated herein, agree as follows:

**1. SCOPE OF SERVICES.**

The Design Professional agrees to perform for the Town the following services: Engineering Survey, Public Involvement, Planning and Design Services as provided in the attached fee summary titled “Apex Design Fee” dated October 19, 2020 and scope titled “Scope for Consulting Services, Downtown Streetscape and Parking Design.” In the event of a conflict between the terms of the attached Scope of Services or Design Fee (hereinafter collectively “Scope” or “Scope of Services”) and this Agreement, this Agreement shall control.



## **2. SPECIFICATIONS.**

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

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

Design Professional shall commence the work required in this Agreement no later than 15 days after the date of execution of this Agreement, and the Design Professional shall complete entire work no later than August 31, 2022. Additionally, Design Professional shall perform in accordance with any individual timelines provided in the attached Scope of Services. If Design Professional has not satisfactorily commenced or completed the work within the times specified, the Town may declare such delay a material breach of contract and may pursue all available legal and equitable remedies. Any changes to the schedule(s) provided in the Agreement must be agreed to in writing by the Town and the Design Professional.

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

In consideration of the above services, the Town will pay the Design Professional the total sum of \$614,597.00. The costs attributed to specific services are as shown in the attached Scope. In the event the Town requests that any service shown in the Scope not be performed, the total sum designated in this section shall be reduced by the corresponding amount attributed to that particular service in the Scope. Invoices from Design Professional for services performed shall be paid by the Town within thirty (30) days from receipt of invoice. Town has the right to require the Design Professional to produce for inspection all of Design Professional's records and charges to verify the accuracy of all invoices. Town shall pay Design Professional's invoices at times set forth above unless a bona fide dispute exists between Town and Design Professional concerning the accuracy of said invoice or the services covered thereby.

## **5. CHANGE ORDERS**

- A. In the event Town requests changes or additions to the services that are not covered by the Scope, these changes will not invalidate or relieve Design Professional from any guarantee it has given in this Agreement. Changes in work shall not proceed without a Change Order approved by the Town. Design Professional shall provide a complete breakdown of all costs associated with the Change Order request. No claim for adjustments of the Agreement price or the completion date shall be valid unless the procedure outlined in this Section is followed. Any work performed pursuant to an approved Change Order shall be governed by the terms of this Agreement.
- B. Change Orders shall be submitted by the Design Professional for the Town's review and approval. Design Professional shall provide a detailed scope and all applicable supporting information. The Town shall respond to the Design Professional's proposal within fourteen (14) days of receipt of the proposal. If accepted, the Town shall prepare the Change Order for the Design Professional's signature. The Town shall execute the approved Change Order within seven (7) days of receipt from the Design Professional. In the event a Change Order cannot be agreed upon by the Parties, nothing in this Agreement shall preclude the Town from performing, or having performed, the work requested in a Change Order.

## **6. INDEMNIFICATION.**

To the extent permitted by law, the Design Professional agrees to indemnify and hold harmless (but not defend) the Town of Apex, its elected and appointed officials, and employees, against any and all losses, damages, and expenses, including all costs connected therewith, for any damages which may be claimed or recovered against or from the Town of Apex, its elected or appointed officials, and employees, by reason of personal injury, including bodily injury or death and/or property damage, including loss of use thereof, to the extent caused by the negligent acts, errors, or omissions of Design Professional.

Design Professional shall not be liable to the Town for damages related to loss of profits, loss of income, unrealized energy savings, diminution of property value, or loss of reimbursement of credits from governmental or other agencies.

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

The Design Professional shall adhere to all applicable laws, ordinances, and regulations of the United States, the State of North Carolina, the County of Wake, and the Town of Apex in the performance of the services outlined in this Agreement and any attached specifications. This Agreement shall be governed by the applicable laws of the State of North Carolina.

## **8. E-VERIFY COMPLIANCE.**

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

## **9. STANDARD OF CARE.**

Design Professional agrees to perform the work with the reasonable skill and diligence required by customarily accepted professional practices and procedures normally provided in the performance of the work at the time when and the location in which the work was performed. This standard of care is the sole and exclusive standard of care that will be applied to measure Design Professional's performance.

## **10. INSURANCE.**

The Design Professional shall maintain valid general liability insurance in the minimum amount of \$1,000,000, commercial automobile liability insurance in the minimum amount of \$2,000,000, and provide certificates of such insurance naming the Town of Apex as an additional insured by endorsement to the policies. If the policy has a blanket additional insured provision, the Design Professional's insurance shall be primary and non-contributory to other insurance. Additionally, the Design Professional shall maintain professional liability insurance in the minimum amount of \$1,000,000 and maintain and show proof of workers' compensation insurance, and employer's liability insurance in the minimum amount of \$1,000,000. The Design Professional shall provide notice of cancellation, non-renewal, or reduction in coverage to the Town of Apex within 10 days of their receipt of notice from the insurance company. All required certificates of insurance, endorsements, and blanket additional insured policy provisions are attached and considered part of this document. Notwithstanding the foregoing, neither the requirement of Design Professional to have sufficient insurance nor the requirement that Town is named as an additional

insured, shall constitute waiver of the Town's governmental immunity in any respect, under North Carolina law.

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

When specified by the Safety and Risk Manager, the Design Professional shall attend a pre-project safety review meeting with Town representatives and the Safety and Risk Manager prior to the start of work.

#### **12. DEFAULT.**

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

#### **13. OWNERSHIP OF DOCUMENTS.**

Upon full payment of all monies owed to Design Professional, all designs, drawings, specifications, design calculations, notes and other works developed in the performance of this Agreement shall become the property of the Town and may be used on any other design or construction without additional compensation to the Design Professional. The use of the design, including specifications, by any person or entity, for the purpose other than as set forth in this Agreement, shall be at the full risk of such person or entity and the Design Professional shall be relieved of any liability whatsoever, including claims for personal injury, property damage, or death as a result of such other use. The Parties acknowledge and agree that nothing in this section shall limit the ownership rights, access, or use of the above referenced works by the Design Professional.

#### **14. TERMINATION FOR CONVENIENCE AND DEFAULT.**

Town shall have the right to terminate this Agreement for the Town's convenience upon thirty (30) days written notice to Design Professional. Design Professional shall terminate performance of services on a schedule acceptable to the Town. In the event of termination for convenience, the Town shall pay Design Professional for all services satisfactorily performed. The Design Professional may terminate this Agreement upon seven (7) days' notice in writing in the event the Town has committed material breach of this Agreement. Non-payment of the Design Professional's invoices will be considered a material breach of this Agreement.

#### **15. NOTICE.**

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

##### **TO DESIGN PROFESSIONAL:**

Stantec Consulting Services Inc.  
Attention: Mike Lindgren  
801 Jones Franklin Rd, Suite 300  
Raleigh, NC 27606  
Email: [Michael.lindgren@stantec.com](mailto:Michael.lindgren@stantec.com)

##### **TO TOWN:**

Town of Apex  
Attention: Russell Dalton  
PO Box 250  
Apex, NC 27502  
Email: [Russell.dalton@apexnc.org](mailto:Russell.dalton@apexnc.org)

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

Neither Design Professional nor Town shall be in default of the provisions of this Agreement for delays in performance due to forces beyond the control of the parties. "Forces beyond the control of the parties" shall mean, but is not limited to, delay caused by pandemic, fire, acts of God, flood, earthquakes, storms, lightning, epidemic, war, riot, and/or civil disobedience.

## **17. NONWAIVER FOR BREACH.**

No breach or non-performance of any term of this Agreement shall be deemed to be waived by either party unless said breach or non-performance is waived in writing and signed by the parties. No waiver of any breach or non-performance under this Agreement shall be deemed to constitute a waiver of any subsequent breach or non-performance and for any such breach or non-performance each party shall be relegated to such remedies as provided by law.

## **18. CONSTRUCTION.**

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

## **19. NO REPRESENTATIONS.**

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

## **20. SEVERABILITY.**

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

## **21. COUNTERPARTS.**

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

## **22. MODIFICATION.**

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

## **23. BINDING EFFECT.**

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

## **24. ASSIGNMENT.**

Design Professional shall not assign, sublet, or transfer any rights under or interest in (including, but without limitation, monies that may become due or monies that are due) this Agreement without the written consent of the Town. Nothing contained in this paragraph shall prevent Design Professional from employing such independent consultants, associates, and subcontractors as it may deem appropriate to assist Design Professional in the performance of services rendered.

## **25. INDEPENDENT CONTRACTOR.**

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

## **26. NON-APPROPRIATION.**

Notwithstanding any other provisions of this Agreement, the parties agree that payments due hereunder from the Town are from appropriations and monies from the Town Council and any other governmental entities. In the event sufficient appropriations or monies are not made available to the Town to pay the terms of this Agreement for any fiscal year, this Agreement shall terminate immediately without further obligation of the Town. Town shall provide notice to Design Professional in the event the Town fails to appropriate funds, and in such event Design Professional's obligations under the Agreement shall immediately cease, except for completion of any services paid in advance if any.

## **27. IRAN DIVESTMENT ACT CERTIFICATION.**

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

## **28. ANTI-HUMAN TRAFFICKING.**

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

## 29. ELECTRONIC SIGNATURE.

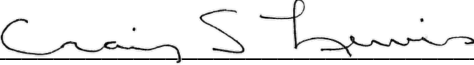
Pursuant to Article 40 of Chapter 66 of the North Carolina General Statutes (the Uniform Electronic Transactions Act) this Agreement and all documents related hereto containing an electronic or digitized signature are legally binding in the same manner as are hard copy documents executed by hand signature.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

In witness thereof, the contracting parties, by their authorized agents, affix their signatures and seals this \_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_.

### Design Professional

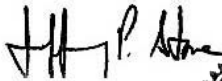
Name: Craig Lewis

Name of Design Professional (type or print)

By:   
(Signature)

Title: Principal

Attest:



Assistant Secretary, a corporation



### Town of Apex


\_\_\_\_\_  
Town Manager

Attest:

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

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

\_\_\_\_\_  
Finance Director

 <b>Stantec</b>		Stantec Consulting Services Inc.	
		801 Jones Franklin Road Suite 300, Raleigh NC 27606-3394	
<b>Apex Design Fee</b>			
<b>SUMMARY</b>			
<b>Monday, October 19, 2020</b>			
<b>Task No.</b>	<b>Task Name</b>	<b>Fee</b>	
1	Salem Streetscape	\$271,206.00	
2	Commerce Alleyscape	\$50,652.00	
3	Seaboard Alleyscape	\$50,818.00	
4	Downtown Parking (includes Smart Parking)	\$105,140.00	
5	All Physical Surveys	\$66,850.00	
6	All Geotech/ESA	\$25,502.00	
7	All Utilities	\$44,429.00	
<b>Total Fees for Four Projects</b>		<b>\$614,597.00</b>	

**Town of Apex**  
**Scope for Consulting Services**

**Downtown Streetscape and Parking Design**

Submitted to:

***Town of Apex***

BY:

***Stantec Consulting Services Inc.***

***801 Jones Franklin Road, Suite 300, Raleigh, NC 27606***

***2127 Ayrsley Town Boulevard, Suite 300, Charlotte, NC 28273***

***Principal-in-Charge, Mike Lindgren, PE***

***Project Manager, Amanda Morrell, PLA***



## ***Brief Project Description from the Request for Statements of Qualifications Issued by the Town of Apex on June 17, 2020 for Downtown Streetscape and Parking Design***

*Specifically, the Town is seeking to redesign the streetscape on the town-maintained portion of Salem Street between Center Street and Chatham Street, as well as improve the streetscape along Commerce Street and Seaboard Street, the alleys parallel to Salem Street. Additionally, the Town would like to improve and expand the public parking lots accessed from Templeton Street and Saunders Street west of Salem Street. Portions of the project may include privately owned property, and both ends of the Salem Street corridor within the scope of the project intersect state-maintained roadways. This project is within a National Register Historic District.*

### **Project Approach**

Throughout the duration of the project, the Stantec team will coordinate with the Town of Apex's Project Manager to complete the documented tasks and services. For us, project management is vital and must be provided as an ongoing activity. We are highly responsive via email and phone on an as-needed basis throughout the process. Coordinating the tasks and various specialties required to execute a highly detailed public realm project of this nature will be a key role of the project manager. We will setup a regular check-in meeting that will run every two weeks during Phases 1 and 2 and weekly during Phases 3, 4, and 5.

Also, Stantec relies on intensive public input processes to guide design projects and aspects of outreach and engagement will be woven throughout the approach provided. Stantec's unique combination of creativity and technical knowledge will serve the Town of Apex during the implementation of this critical public infrastructure investment. As we stressed during the Downtown Master Plan process, these areas should be designed for people and incite vibrancy in the heart of Apex. Please refer to the ***Public Engagement Plan*** for a deeper understanding of the planned public facilitation.

### **Phase 1 Project Initiation & Surveys (8 weeks)**

#### **Task 1.1 Town Staff & Design Team Kickoff + Site Visit/Walking Tour**

The consultant will provide information (study area boundary and downtown concepts) to be uploaded one week prior to a Virtual Pre-App Meeting with all relevant Town Departments. The Virtual Pre-App meeting will take place one week prior to an on-site visit. During that virtual meeting, department representatives will be invited to participate in the on-site walk through.

The Consultant's discipline leads will schedule a kickoff with the Town of Apex to initiate the project once a notice to proceed is received. We propose a project team meeting and field visit in-person following social distancing guidelines (masks, spacing, etc.). The project management team will review the scope of work and project schedule during this conversation and establish clear milestones.

At this on-site meeting, Town Staff will need to provide all available information related to the following projects that may impact this effort, including but not limited to: wayfinding program recommendations, James to Downtown updates, water line replacement projects, updated bus routes and stops, information from the parking-to-dining program, 209 N. progress, etc.

#### **Task 1.2 Initializing Virtual Engagement & Downtown Comment Boxes**

The Town of Apex's public engagement hub available through PublicInput.com provides a critical path to almost immediate public input related to this effort. Creating a landing page for this project on the Town's engagement hub is a top priority. This will be the online location that serves to inform, update, and engage the residents of Apex during this process. Videos, schedules, meeting recordings, FAQs, and survey links will all be found on this site. In future tasks, we will also use this site as the basis for virtual open house events and online public meetings. Stantec will work with Town staff to leverage this digital platform and create a virtual home for the project.

The existing database of email addresses who have participated in past projects along with individuals who sign up on the project's site for updates will provide an audience for surveys when deemed appropriate in the process. Subsequent ads via social media and utility bills will garner additional survey participants. The platform's ability to survey through SMS text messaging also removes many barriers to equitable outreach. This approach yields a data driven design methodology that reflects the desires of a spectrum of Apex citizens. By utilizing the platform's geospatial technology, we can identify areas of the population that are unreached by these outreach efforts and create targeted campaigns and strategies to allow their voices to be heard.

For those individuals who may not have access to the internet, the Town can provide comment collection boxes in key locations - Halle, Chamber, Community Center, possibly even in partnership with businesses. The Town can provide signs/sandwich boards along the corridor alerting the community of both online and comment box locations for input.

### **Task 1.3 Focus Group Meetings**

The COVID-19 pandemic has shifted the balance of our approach to public engagement to lean more heavily on virtual outreach. In reality, we have always received broader input from our online activities than in-person engagement opportunities. While we still greatly value face-to-face interactions with both our client and client communities, we are now operating under a unique set of circumstances. The ability to use Microsoft Teams and/or Zoom for focus group meetings still allows us to gather small groups of stakeholders together in a virtual space. We will work with the Town staff to create the stakeholder lists and a block schedule for two days of meetings (up to 12 one hour session). Upon request by any invitees, the Town will provide a reserved space in the Halle with technology in place to safely attend the meeting. We expect the Downtown Ambassadors to be involved in these initial meetings and continue to stay engaged throughout the process in both design direction and in encouraging the community's participation.

### **Task 1.4 Physical Survey, Utility Coordination, Phase 1 ESA, and Geotechnical Investigation + Smart Parking Needs Assessment**

#### **1.4.1 Physical Survey**

Our survey crews will also hit the ground running once the notice to proceed is provided. Topographic surveys of the project extents along with subsurface utility location will serve to create detailed base data for our designers to work within. We can use pin flags in the grass or soil areas and a temporary chalk paint on surfaces. We can also use a wax crayon in some areas. Details of the survey scope include:

Provide a topographic survey within the project limits to include.

- Establish site control as needed. Control will be tied to NC GRID.
- Topographic survey of the site by a field survey including GPS and 3D laser scanning.
- 3D laser scanning along Commerce St and Salem St. includes data processing and mapping. Additional data and mapping can be produced at a later date from the scan data if needed.
- Provide a survey of the storm sewer structures and sanitary structures to one structure outside of the limits. Unfound pipes will be noted as other end unknown.
- Provide a SUE survey of the underground utilities to include record research, designating with electromagnetic equipment and survey. SUE Level "A" test holes is not included.
- Provide a survey of the properties within the limits. An overall property map will be created and included with the topographic survey.
- Create exhibit maps for proposed easements. Estimating 20 maps.

#### *1.4.2 Utility Coordination*

Initial efforts will focus on making a preliminary assessment of the likely impacted utilities. This will involve making initial contacts with the impacted Utility Provider, collection of utility records, i.e. prior rights documents, existing encroachment permits, as-builts, exiting routing plans, SUE mapping request, and the development of a preliminary routing layout. Our utility experts will handle the following during this initial phase of work:

- Preliminary confirmation of impacted utilities, including an 811 inquiry, project survey, and field visit verification
- Establish individual Utility Owners “Key Person”, Point-Of-Contact for all coordination activities, i.e. design, relocation decisions, and cost estimates
- Procurement of documents, i.e. prior rights encroachment agreements, recorded utility easements, existing routing plans, and/or as-builts
- Weekly Check-In calls with various Utility Owners

#### *1.4.3 Phase 1 ESA (15 days)*

Falcon (subconsultant) will provide a Phase I ESA to identify known or suspected underground storage tanks, petroleum contamination or other hazardous material release that may be encountered during construction of the project. The Phase I ESA will be prepared in general accordance with ASTM Standard E 1527-13, Standard Practice for

The Phase I ESA will include:

- Records Review
- Site Reconnaissance
- Interviews (where possible)
- Report

The Phase I ESA is intended to permit a user to satisfy one of the requirements to qualify for the innocent landowner, contiguous property owner, or bona fide prospective purchaser limitations on CERCLA liability.

Additional requirements include but are not limited to: performing a search for the existence of environmental liens and activity use limitations (AULs) and obtaining a current chain-of-title for the subject site back to at least 1940. These services are not included with this proposal. If a search is not available from the client, Falcon will review reasonably ascertainable Recorded Land Title Records online. Falcon is not proposing to have this research performed by a legal professional, and the results should not be construed as a legal chain-of-title for the property, or acceptable lien or AUL search.

Some exceptions to the ASTM standard will be necessary based on availability of information, lack of access to buildings within the corridor, and inability to obtain property owner interviews. However, we understand Town staff may contact some property owners and obtained information regarding past property usage and presence/removal of USTs. We assume all such information made available to the Town and/or Stantec will be forwarded to us for our records.

#### *1.4.4 Geotechnical Investigation (45 days)*

Falcon (subconsultant) will also provide geotechnical services that include investigation and recommendations for the streetscape improvements and proposed parking lot expansion/improvements. We also understand some excavations will be necessary throughout the project extents associated with utility and stormwater improvement/relocations. A preliminary boring plan has been prepared based on the provided preliminary plans. A depth of 10 feet has been assumed for all borings for the purposes of this proposal. This boring plan is only intended to be a representative plan. Boring locations may be adjusted based on a variety of factors once we review more developed preliminary plans.

### Roadway Investigation

Falcon will perform a Subsurface Investigation consisting of fourteen (14) Standard Penetration Test (SPT) borings at or near the locations indicated in the attached boring location plan. Boring locations may be adjusted in select areas due to access or utility conflicts. A total of 160 linear feet of drilling is assumed.

The investigation will begin with a site reconnaissance and borehole stakeout by Falcon field staff. All borings will be located in the field by Falcon personnel using handheld GPS equipment capable of sub-meter accuracy. Following initial reconnaissance and stakeout, we will mobilize a drill rig to perform test borings. Falcon will make reasonable attempts to contact all property owners in person or by telephone prior to accessing their properties for our borings. However, if contact cannot be made, a letter will be mailed to the owners mailing address per GIS information. Falcon will contact the North Carolina One-call Center (NCOCC) to request subscriber utilities be located on site following staking of our proposed boring locations.

We anticipate truck, ATV, or rubber track mounted drill rigs equipped with hollow stem augers and an automatic hammer will be able to access the vast majority of boring locations. However, due to the urban nature of the project site, various obstructions, overhead and underground utilities, existing site users/operations, etc. select borings may be performed with hand auger, DCP, and/or rod soundings, and potentially limited to a depth of up to 6 feet or to refusal.

A number of borings will require our drilling equipment to be within or in very close proximity to existing roadways. Lane closures will be performed by certified in-house staff or a pre-qualified sub-consultant in general accordance with the Manual on Uniform Traffic Control Devices (MUTCD) and NCDOT requirements, utilizing flagmen where appropriate. We have assumed all work within roadways will be limited to between 9AM and 4PM. In addition, we have included professional time to coordinate our field activities with appropriate Town personnel as it relates to work in active roadways and impacts to traffic. If more restrictive time limitations are imposed, additional fees will be required due reduced productivity or overnight labor surcharges.

SPT borings will be performed in general accordance with ASTM D1586 "Penetration Test and Split Spoon Sampling of Soils". We will also collect bulk soil samples of auger cuttings from areas of proposed roadway cut or near-grade construction for laboratory compaction and CBR testing. The water table will be measured in the boreholes following completion of drilling in all borings, and again after approximately 24-hours in select borings. Following completion of all borehole readings, boreholes will be backfilled with soil cuttings, and excess cuttings will be evenly dispersed around the ground surface surrounding the borehole or in nearby landscape/wooded areas. Our drilling activities will cause some disturbance to the existing ground surface and vegetation, including tire ruts. No site restoration efforts aside from backfilling the boreholes are included in this cost estimate.

Soil samples obtained during drilling will be visually-manually classified in general accordance with the AASHTO soil classification system by a Falcon geotechnical professional, collected in moisture proof containers, and transported to our laboratory where they will be reviewed and selected for laboratory testing. Samples will be retained in our office for a period of thirty (30) days unless otherwise requested. All borehole ground surface elevations will be determined based on GPS coordinates and project topographical data provided to us by others.

At the six (6) locations within existing streets, we will perform a pavement core boring prior to the SPT boring. At each location, we will obtain, observe, and measure a pavement core, and perform a dual-mass Dynamic Cone Penetrometer (DCP) test and advance an auger into the subgrade. Visual observation of the core condition and surrounding pavement condition will also be performed at each location.

### Laboratory Testing

All soil samples obtained during drilling will be collected in moisture proof containers and transported to our laboratory where they will be visually-manually classified in general accordance with AASHTO by a Falcon geotechnical professional. We propose a laboratory testing program consisting of a number of representative tests as follows:

## PROPOSED LABORATORY TESTING PROGRAM

### **SAMPLE COUNT AND TYPE**

### **TEST**

Eighteen (18) split spoon samples

Natural Moisture Content

Eight (8) split spoon samples

Natural Moisture Content  
Grain Size Analysis  
Atterberg Limits

Two (2) bulk auger cutting sample

Natural Moisture Content  
Grain Size Analysis  
Atterberg Limits  
Standard Proctor Compaction  
96-hour Laboratory Soaked California  
Bearing Ratio (1-point)

Upon completion of the field investigation and laboratory testing, Falcon will prepare a Subsurface Report of Geotechnical Investigation for the project, including but not limited to the following information:

- Descriptions of the Project, Site, and Site Geology.
- Descriptions of field and laboratory testing methods and their results.
- Discussion of subsurface conditions encountered including soil, rock, and groundwater.
- Discussion of noted areas of geotechnical interest.
- Discussion of anticipated design and construction difficulties associated with the encountered site and subsurface conditions.
- Earthmoving recommendations including expected excavation conditions, expected groundwater conditions, acceptable fill materials including re-use of on-site soils, fill placement and compaction.
- Discussion of drainage and groundwater management.
- Recommendations for pavement subgrade preparation and pavement section designs.
- Report appendices with the following:
  - Site Vicinity Map
  - Site Photographs
  - Legend to Soil/Rock Classification Symbols and Definitions
  - Boring Location Plan
  - Subsurface Profile(s) depicting subsurface conditions
  - Test Boring Logs with coordinates and ground surface elevations

### **1.4.5 Smart Parking Needs Assessment**

Stantec's Smart Mobility experts will lead the Needs Assessment for Smart Parking in Downtown Apex. Tasks within this scope include:

- Project Management, Data Collection/Coordination with Overall Design Team (*Assumption: inventory info available from Downtown Study*)
- Verify Needs and Parking areas to evaluate for occupancy detection (*Assumption: Templeton Surface Parking Lot + On-Street Spaces in the Core*)
- Review of available technologies/high level range of potential costs/possible implementation options
- Review of potential policy/implementation issues and discuss with Apex staff (*Assumption: Templeton Surface Parking Lot + On-Street Spaces in the Core*)
- General requirements for each option, next steps (*Deliverable: Memorandum, Presentation Slides, Discussion, Selection of Preferred Option, QA*)

## Phase 2 Schematic Design (8 weeks)

### Task 2.1 Brainstorm Design Sessions

The most important aspect of schematic design is the creative process where our multidisciplinary team's thought leadership collaborates. These conversations should also evolve to include the Town's project management team. Mural is an online tool we have utilized to interact successfully with our clients by essentially creating a large sketch pad we are all sitting around virtually. The platform offers us the ability to interact in real time with drawing and comment tools. We have found it most useful when brainstorming as a team despite our distance and offering the ability for the Town of Apex's key staff to also interact with the designers. We anticipate having a series of **four to six sessions** with the Town participating in at least two of the scheduled meetings. The platform also allows users to interact and comment even outside of scheduled meetings so progress and plans can evolve between sessions. The 2D plan investigations will be based on the detailed surveys which will allow for increased accuracy and assumptions.

### Task 2.2 Schematic Design Package

Conceptual visualizations of the various options and aspects of the project will be created to include both plan and three-dimensional studies. We will review these utilizing the Mural application with the Town prior to cost estimations.

### Task 2.3 Schematic Estimate of Probable Cost & Utility Coordination

By providing estimates of probable cost with schematic master plans, 30%, 60%, and 90% construction documents, our clients can make important decisions and be prepared for the bid opening. This initial schematic estimate will be expedited by the planning level estimates already created by our team during the Downtown Master Plan process.

Our utility experts will handle the following tasks once the schematic design package is available to them:

- Direct coordination- in person/virtual meetings
- Preliminary utility conflict identification
- Conceptual utility conflict resolution options
- Weekly Check-In calls with various Utility Owners

### Task 2.4 Public Workshop #1 & Public Hearing

We would like to interact with the public during the schematic design phase to garner a final preferred direction for the streetscape, alleyscape, and parking designs. The schematic design options along with their pros and cons must be clearly conveyed and commented on. Depending on the state of the pandemic, we are prepared to conduct this workshop in-person or virtually. The current crisis has pushed Stantec's best creative minds to create virtual meeting rooms modeled after any space imaginable. This allows for the creation of a dynamic space where the public can interact with the options when it is convenient for them and provide feedback to be collected at the end of a set time. We would also envision other ways to reach the portions of the population that may not have internet access including direct mailings or drop-in events where individuals or families can sign-up for times to review the ideas in-person in a safe manner. See the **Public Engagement Plan** for alternative options for the format of this workshop.

A public hearing and vote by Council is anticipated for the final solution on the Salem Streetscape. Stantec staff will be available to attend the hearing via Teams.

## Phase 3 Design Development (8 weeks)

### Task 3.1 Design Development Drawing Set

The design team will create a CAD drawing set based on the completed survey and preferred schematic plan. The set will serve as the basis for the following phase of construction documentation. The set will include: Layout, Lighting, Planting, Design Details, Utilities, Grading/Drainage, Pavement Markings, and Signage. *(Note: This set will include the design of consolidated trash/recycling in the Saunders Street parking lot as well as the alleys.)*

### Task 3.2 Initial Estimation of Probable Cost & Final Phasing

Based on the final design development drawing set, an initial estimation of probable cost will be created by the design team for consideration and budget review. Final phasing based on these costs will be outlined and inform the construction document creation in the following phase.

### Task 3.3 Public Workshop #2

The public workshop during the design development phase is all about getting the details right. The design's evolution toward construction documents will include the selection of a number of public amenities. The team would like to allow the community to help shape the final selections. This is also a critical opportunity to provide education on the phasing created through the estimation of probable cost. See the **Public Engagement Plan** for alternative options for the format of this workshop.

## Phase 4 Construction Documents (32 weeks-broken down into four 8-week segments...1-Seaboard Alleyscape, 2-Commerce Alleyscape, 3-Municipal Parking, 4-Salem Street)

All disciplines listed below will follow the same procedure of delivery that includes a 30% set, a 60% set, a 90% set, and a 100% set for review/approval by the Town. The project management team will employ quality control and review methods prior to all submittals. Per the Town's Capital Improvement Program, the alleyscape will be prioritized for completion first as to move that set of drawings to bid by April of 2021. We recommend bidding Seaboard Street first in order to spend the funds during the 2020-2021 FY. Commerce Street alleyscape and the municipal parking lot improvements will be prepared and bid for 2021-2022 FY funding, and finally, the Salem Streetscape will be prepared and bid for 2022-23 FY funding. *(Schedule subject to change.)*

### Task 4.1 Landscape Architecture

Stantec will prepare landscape architectural working drawings and specifications that set forth in detail the requirements for construction of the proposed site improvements for this effort. The sheets will include demolition, layout, lighting, planting, hardscape, furnishings, amenities, and design details related to the streetscape, alleyscape, and parking area designs.

### Task 4.2 Roadway Design

Stantec will develop roadway plans to implement the Town's vision for streetscape and parking area reconfigurations. We will follow the Town's Engineering Specifications and coordinate any innovative ideas with the Town's Project Manager. Our focus will be on maintaining safety, access, and mobility for all modes of travel, both during and after construction. The plans will be thoughtfully engineered to meet project objectives with a high degree of quality and clarity and will follow Stantec's strong quality management review process.

### Task 4.3 Hydraulic Design and Sediment and Erosion Control Design (Subconsultant-Sungate)

- Complete a field visit to verify existing drainage patterns and collect supplemental survey data for the project area.

- Complete hydraulic designs for the project in accordance with NCDOT's *Guidelines for Drainage Studies and Hydraulic Design*. Sungate will complete inlet and storm drainage calculations and ditch calculations. Sungate will attempt to provide stormwater treatment using Stormwater Control Measures where practicable.
- For each stormwater outfall, Sungate will complete an analysis to determine that the downstream receiving channel will not be adversely affected. This will include calculation of preconstruction and postconstruction discharges for the 2, 5, and 10-year storm events.
- Sungate will provide a Stormwater Management Plan based on NCDOT's spreadsheet format. Stormwater Control Measures design is not included in this scope of work.
- Sungate will prepare a Drainage Summary in NCDOT standard format.
- It is anticipated that the project will disturb greater than 1 acre of land. Sungate will prepare and submit Sedimentation and Erosion Control Plans for NCDEQ Land Quality review and approval. Sungate will coordinate with the Town for signature on the Financial Responsibility Form. The Town will provide a check for the review fee. Sungate will complete Clearing and Grubbing Phase and Final Grade Phase erosion control designs and provide quantities and project special provisions.

*Note: The proposed project scope for hydraulic design and SEC design does not include as-built surveys; wetland, stream, and buffer determination, delineation, mitigation, or permitting; Permit/Review Agency fees; or other services not described above. Nitrogen and phosphorous calculations have not been included in the scope of work.*

#### **Task 4.4 Pavement Marking and Signing Plans; Traffic Control Plans; Traffic Signal Design**

Infrastructure projects in vibrant, walkable places are the most complex because they impact where people walk, how they directly access stores, and their peaceful enjoyment of a glass of wine outside in the evening. Stantec's traffic engineering design team is a trusted partner of many North Carolina municipalities as well as NCDOT. We understand that signs, pavement markings, and traffic signals are the main ways that we as engineers communicate with road users how to safely navigate roadways and intersections. These disciplines are also integral in creating traffic operations that are harmonious between vehicles, pedestrians, and bicycles. Stantec will prepare traffic engineering design plans to all NCDOT and Town standards to provide clear and thorough information while avoiding visual clutter and confusion. In addition, Stantec will prepare Traffic Control Plans that maximize work zone mobility and safety, while minimizing exposure of workers and road users to each other. We are familiar with the *NCDOT Guidelines for the Level of Pedestrian Accommodations in Work Zones July 2018* and attended associated training. Perhaps most importantly, we recognize that this is not as much as a traffic disruption as it is for pedestrians and merchants. We will work with the Town to prepare a PR program geared at education and awareness.

#### *Assumptions:*

- Signal upgrades at 1 location: Salem at Chatham. One final design and up to one temp design at this location.
- Simple Signals Communications Plan (SCP) (4 pages max) to maintain existing OH or underground fiber or wireless system with max of 2 splice details
- Full Signing and Marking plan along Salem St. from Chatham to Center. May need to extend project limits ~200' in each direction to tie markings to existing and address begin/ end bike lanes.
- No marking plans for alleys (can reference standards).
- No signing anticipated for alleys, but can accommodate any necessary new signing in Salem St. signing plan if necessary.
- No TMP for alleys (can reference standards; will include any necessary work time restrictions in Salem St. TMP)



#### **Task 4.5 Utility Relocation Plans**

After extensive direct coordination with the various Utility Providers, inclusive of the resolution of separation and other facility placement conflicts; Stantec will develop the permissible dry and/or wet utility relocation plan set according to the specification of the individual Utility and the municipality. The plan set will include a detailed facility routing plan, handhole, vault locations, profiles, standard installation method details, and quantities. The coordination effort will conclude with the facilitation of the municipal Utility Encroachment Agreement, estimation of utility relocation cost and the procurement of state and local environmental permits.

#### **Task 4.6 Smart Parking Requirements Development**

Along with the team's 90% submittal for the parking design, Stantec's Smart Mobility experts will provide the functional/performance requirements for the development of an occupancy detection system. *(Assumptions: Assume separate approach for On-Street vs Surface Parking Lot; Need to Coordinate on Power, Communications, and Wayfinding Signage)*

#### **Task 4.7 Monthly Technical Review Committee Meetings**

The design team's project management team will meet virtually with the Technical Review Committee (TRC) to review the progress sets at a designated time each month or more frequently at times should it be beneficial to expedite the process, schedule and/or delivery. All plan submittals will follow the electronic submittal process described online for review by the Technical Review Committee (TRC) for monthly cycle submittal and review comments: <https://www.apexnc.org/DocumentCenter/View/31081/Planning-and-Development-Services-Updated-Submittal-Requirements>

#### **Task 4.8 Public Updates**

The design team would like to help the Town provide regular public updates during this phase to keep them engaged and excited about the upcoming construction. Helping business owners and patrons navigate the timing of implementation is also a necessary open line of communication to create at this time.

### **Phase 5 Estimation & Bidding (12 weeks)**

#### **Task 5.1 Final Estimation of Probable Cost**

The Stantec team will create a final estimation of probable cost for the projects based on the construction documents prior to final bid of each project.

#### **Task 5.2 Creation of Bid Packages**

A specifications manual will be created to complete the public bid package along with the construction documents for each project. Stantec's project management team will assist in the review of bids received at the request of the Town's Project Manager. As indicated in Phase 4, four separate public bid packages will be released according to the schedule and funding availability.

##### **Task 5.2.1 Smart Parking Requirements Development**

Stantec's Smart Mobility experts will develop a Request for Information (RFI) related to the parking occupancy detection system for Downtown Apex. The team will reference cost estimates from previous phases as they support one-on-one discussions with 3-4 responsive vendors. Following the RFI process, the design team will develop a RFP based on Town standards and will support the qualifications development/evaluation, lead the evaluation process, create a short-list along with Town staff, and provide input on contract development with the successful vendor.

## **Phase 6 Construction Administration (optional)**

Upon request and on an hourly as-needed basis, Stantec can provide construction administration. Examples for potential needs include site visits during critical path implementation such as paving mock-ups and nursery tree tagging.

Other elements where our expertise may prove useful include:

- Shop drawing review
- Request for Information

***On the following pages, please reference the following exhibits:***

***Exhibit A            Organizational Chart***

***Exhibit B            Project Schedule***

***Exhibit C            Project Extents Map***

***Exhibit D            Public Participation Plan***

# A

## PROJECT PERSONNEL

# ORGANIZATIONAL CHART



### PRINCIPAL-IN-CHARGE

Mike Lindgren, PE

### PROJECT MANAGER

Amanda Morrell, PLA

### DEPUTY PROJECT MANAGER

Timothy Tresohlavy, AICP, GISP

### QA/QC & TECHNICAL ADVISOR

Jenny Horne, PLA

### LANDSCAPE ARCHITECTURE

**Amanda Morrell, PLA**

Jamie Hairfield, PLA

Crystal Aponte

### SIGNALS, SIGNS, AND MARKINGS

**Betsy L. Watson, PE**

Jay Woolard, PE

Regina Muncey, PE

### UTILITY/SURVEY

**Melvin Briggs (UTILITY LEAD)**

**Bruce Beavers, PLS (SUE/SURVEY LEAD)**

Linda Pass, PE

Oriana Roumillat, PE (Water/Sewer) (STV)

### ROADWAY DESIGN

**Mike Lindgren, PE**

Ryan White

Dean Sarvis, PE

Steve Smallwood, PE

Matthew Ferguson, PE

### SUBCONSULTANT SERVICES

#### HYDRAULIC DESIGN

Josh Dalton, PE (SUNGATE)

Will Hines, PE (SUNGATE)

#### GEOTECHNICAL ENGINEERING

Chris Norville, PE (FALCON)

Jeremy Hamm, PE (FALCON)

# B SCHEDULE



Public Engagement  
Touchpoint



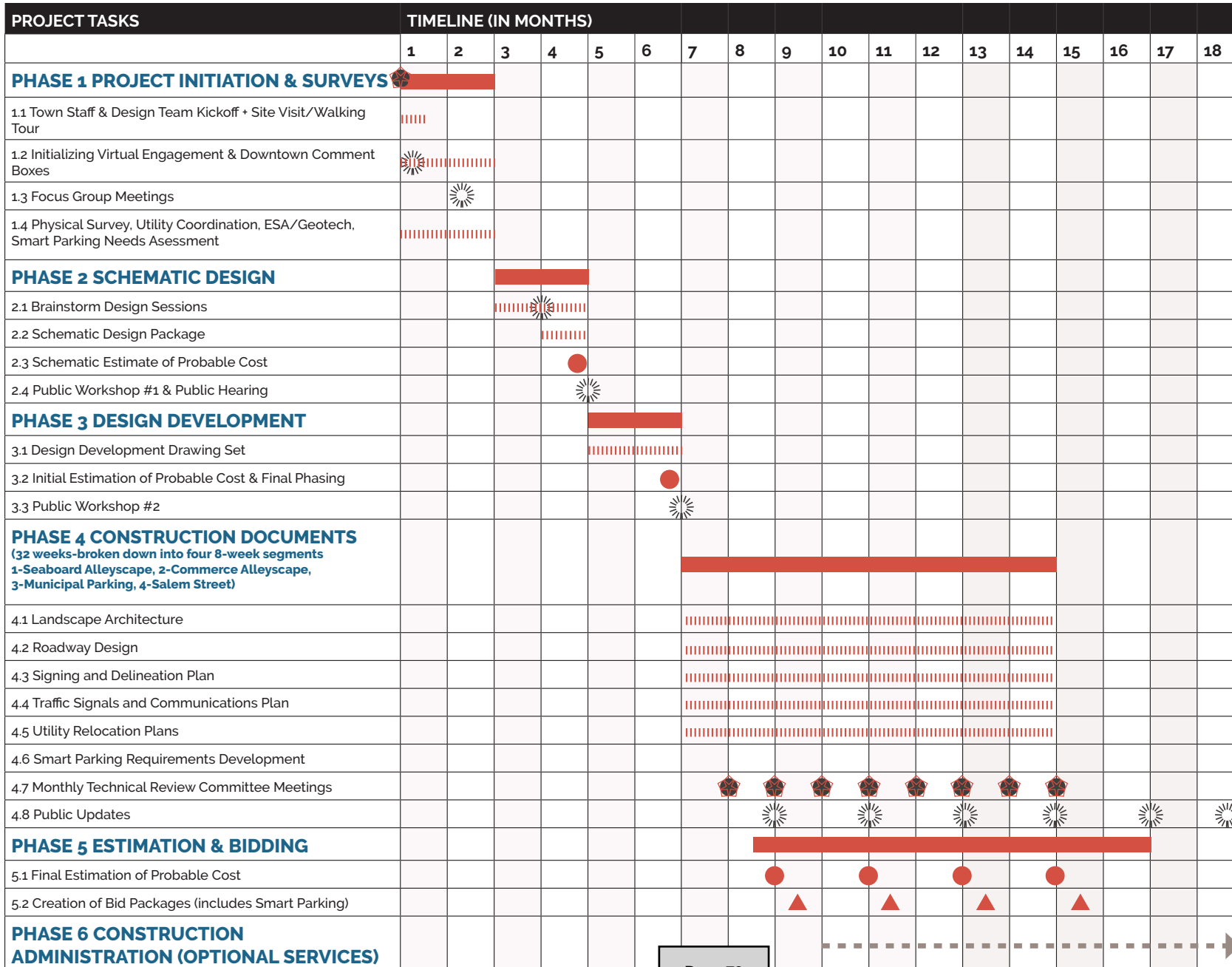
Cost Estimate



Technical Review  
Committee Meeting



Public Bid

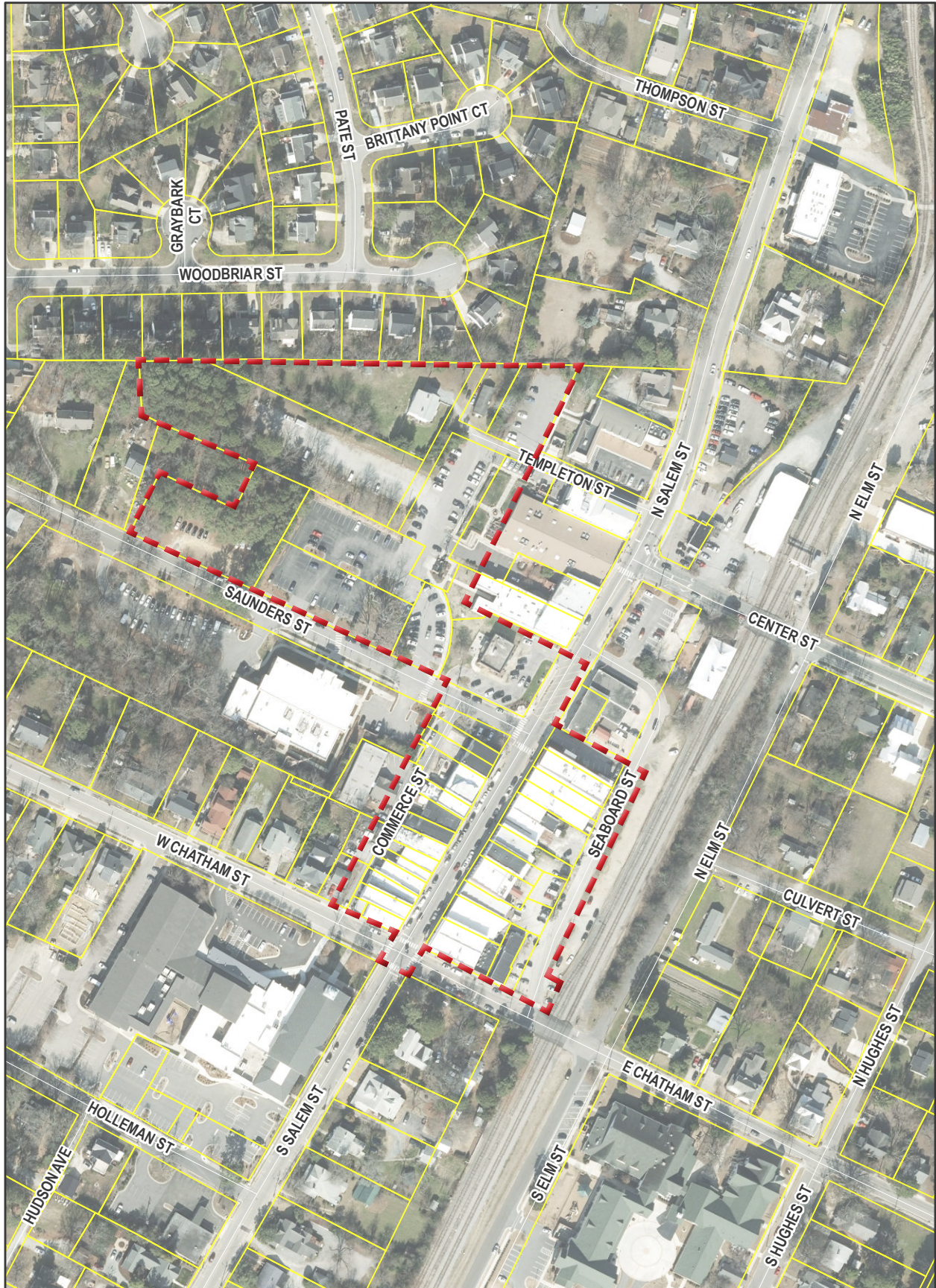


SCHEDULE SUBJECT TO CHANGE





# PROJECT EXTENTS EXHIBIT





# PUBLIC

# PARTICIPATION

# PLAN

FOR THE DOWNTOWN  
STREETSCAPE, ALLEYSCAPE  
AND PARKING DESIGN

TOWN OF APEX, NC

10/19/2020





# 1. OVERVIEW OF THE PUBLIC PARTICIPATION PLAN

## 1.1. Public Participation Plan

This document provides an overview of planned public engagement for the Downtown Apex Streetscape, Alleyscape, and Parking Design. Garnering public input during the design process is essential to achieving an end product that will most effectively serve the Town and its citizens. High-quality public engagement will navigate a final design solution created with public trust and inclusive input.

*\*It is important to note that this project is occurring during the Coronavirus/COVID-19 global pandemic that has caused unprecedented changes to public health, economic activity, travel patterns, and generally civic and public life in Apex and the world. It will be essential to revisit this public participation plan throughout the project's progress to assess the relevance of the approaches described herein and, as necessary, make adjustments. Both the Town and the Stantec consulting team are committed to making this process valuable for the Town and will use good judgment in adjusting priorities in times of rapid change and uncertainty.*

*At this time, most meetings are recommended to be conducted remotely, via Zoom and other online platforms as appropriate, but some in-person meetings are forecasted later in the project timeline with the assumption that they can be executed safely.*

## 1.2. Approach and Timeline

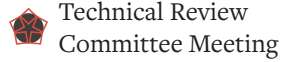
The following schedule establishes a process for broad community input as well as targeted stakeholder involvement and feedback for technical aspects of the plan. It occurs in four phases. First, we “Initiate” the effort with an online project landing page and focused stakeholder conversations. Second, we move into “Schematic Designs” with interactive Brainstorm Sessions that incorporate feedback loops with stakeholders, the client team, and the public. Third, we move into “Design Development” where the public will weigh in on final amenity choices and phasing of the preferred concept. Finally, during the creation of “Construction Documents”, the public will be given regular updates to keep them engaged and excited about the upcoming construction.








*Schedule shown on the following page.*



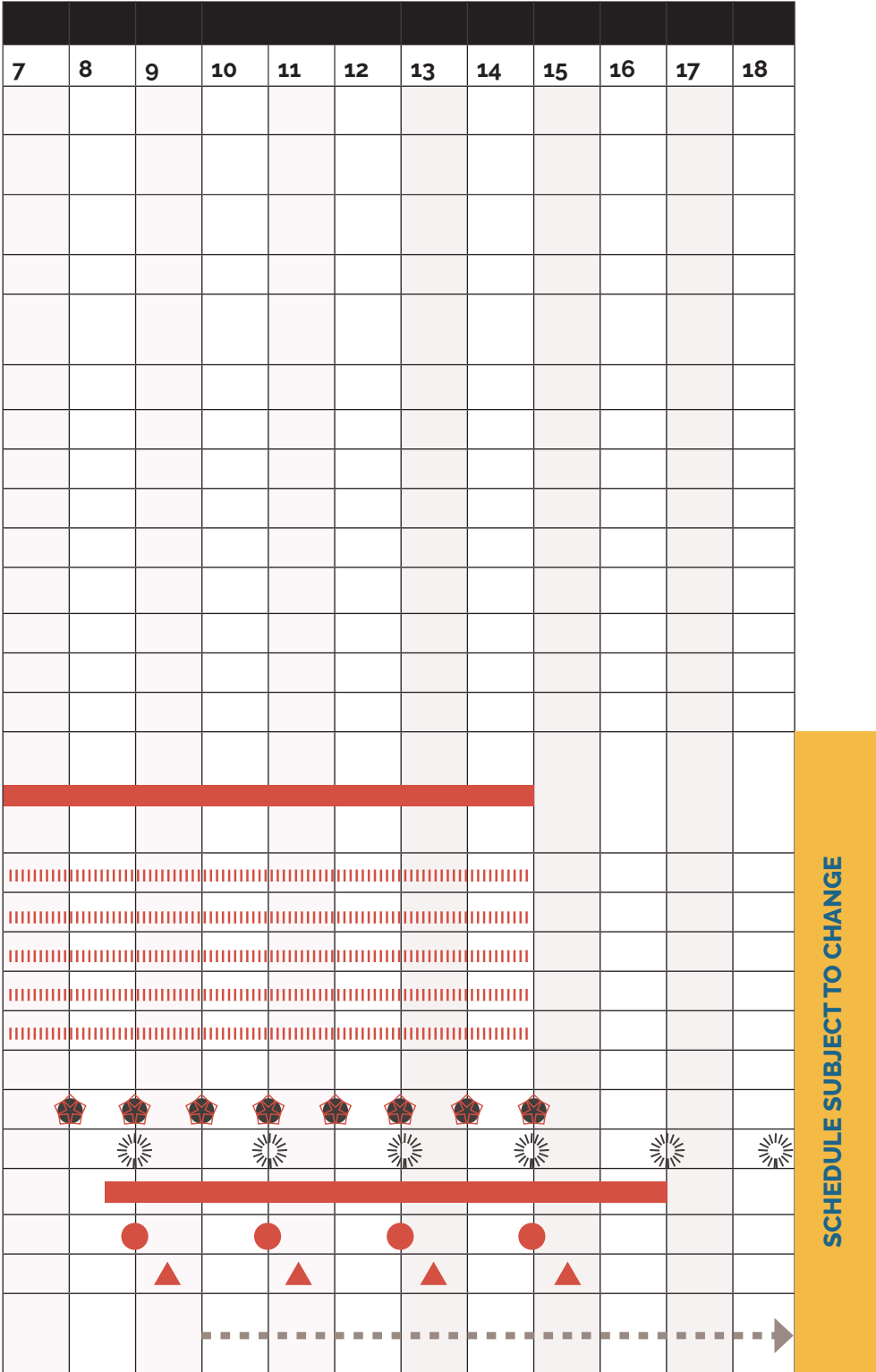


### 1.2.1 Downtown Design Projects Schedule



PROJECT TASKS	TIMELINE (IN MONTHS)					
	1	2	3	4	5	6
<b>PHASE 1 PROJECT INITIATION &amp; SURVEYS</b>						
1.1 Town Staff & Design Team Kickoff + Site Visit/Walking Tour						
1.2 Initializing Virtual Engagement & Downtown Comment Boxes						
1.3 Focus Group Meetings						
1.4 Physical Survey, Utility Coordination, ESA/Geotech, Smart Parking Needs Assessment						
<b>PHASE 2 SCHEMATIC DESIGN</b>						
2.1 Brainstorm Design Sessions						
2.2 Schematic Design Package						
2.3 Schematic Estimate of Probable Cost						
2.4 Public Workshop #1 & Public Hearing						
<b>PHASE 3 DESIGN DEVELOPMENT</b>						
3.1 Design Development Drawing Set						
3.2 Initial Estimation of Probable Cost & Final Phasing						
3.3 Public Workshop #2						
<b>PHASE 4 CONSTRUCTION DOCUMENTS</b> (32 weeks-broken down into four 8-week segments 1-Seaboard Alleyscape, 2-Commerce Alleyscape, 3-Municipal Parking, 4-Salem Street)						
4.1 Landscape Architecture						
4.2 Roadway Design						
4.3 Signing and Delineation Plan						
4.4 Traffic Signals and Communications Plan						
4.5 Utility Relocation Plans						
4.6 Smart Parking Requirements Development						
4.7 Monthly Technical Review Committee Meetings						
4.8 Public Updates						
<b>PHASE 5 ESTIMATION &amp; BIDDING</b>						
5.1 Final Estimation of Probable Cost						
5.2 Creation of Bid Packages (includes Smart Parking)						
<b>PHASE 6 CONSTRUCTION ADMINISTRATION (OPTIONAL SERVICES)</b>						

1.2.1 Downtown Design Projects Schedule (continued)



## 2. PROTOCOLS

### 2.1. Project Management Team (PMT)

The Project Management Team will discuss the progress of the plan; identify design goals, issues and challenges; brainstorm potential solutions and strategies; and oversee the public engagement process and schedule. Project Management Team members include the following with others participating as necessary to address particular discussion topics:

Organization	Core Team
Town of Apex	Russell Dalton, Town Engineer, Project Manager
	Shannon Cox, Long Range Planning Manager
	Colleen Merays, Downtown and Small Business Coordinator
Stantec	Amanda Morrell, Project Manager
	Mike Lindgren, Principal-in-Charge

### PMT Meetings

The Project Management Team will meet bi-monthly during Phases 1 and 2, and weekly during Phases 3, 4, and 5. Other Town Department staff and consultant discipline leads will join as needed. Stantec will host these calls through its Teams or Zoom platforms.

Phase	# of Calls
Phase 1	4
Phase 2	4
Phase 3	8
Phase 4	32
Phase 5	48

### Public Hearings

The Project Management Team anticipates the need for at least one public hearing with Town Council following the Schematic Design Phase to secure a vote on the preferred Salem Streetscape solution. Additional meeting attendance is available as an optional service subject to time and materials in accordance with the project scope and contract.

## 2.2. Communications

Following are recommended protocols for approvals and communication contacts in relation to the Public Participation Plan.

### External Communications shall be directed to:

- Russell Dalton, Project Manager (Town)

### Press or Media Inquiries shall be directed to:

- Russell Dalton, Project Manager (Town)
- Press/Media responses and support provided as needed by Amanda Morrell, Project Manager (Stantec)

### Social Media (e.g., hashtags)

Approval from:

- Russell Dalton, Project Manager (Town)
- Team to use Town branding guidelines
- Promotions to come from Town media outlets
- Town to post to Next Door
- Town to Live Tweet and share to other media outlets

### Digital Portal/Platform content and quality control approvals from:

- Russell Dalton, Project Manager (Town)
- Amanda Morrell, Project Manager (Stantec)

### Meeting Coordination approvals

Russell Dalton, Project Manager (Town)

### Council Communications

Russell Dalton, Project Manager (Town)

Shannon Cox, Long Range Planner (Town)

### Distribution of documents/release study materials or deliverables to any agency, organization, or person

- Russell Dalton, Project Manager (Town)
- Shannon Cox, Long Range Planner (Town)

### Review process and timeline

- Upcoming meeting, presentation: at least one week for review
- Task related deliverables: at least two weeks for review

## 2.3. General Outreach Strategies/Tools

- **Microsoft Teams/Zoom:** We will utilize both Teams and Zoom for video/audio meetings throughout the process.
- **PublicInput.com:** We will help to provide content to the Town's PublicInput.com site and recommend that it be used as the platform for all digital/virtual information and activity.
- **Word of Mouth:** Town Staff, the Downtown Ambassadors, and stakeholder groups will help spread the word. We will provide them with email and social media content as needed, as well as physical flyers to share widely with the community.
- **Video/Audio Recordings:** Stantec and the Town will collaborate to produce audio/video content for the project website and outreach.
- **MURAL:** Stantec will leverage their corporate subscription to the digital workspace known as MURAL. Mural is a web-based digital collaboration space where creativity in the design process is not reliant on face-to-face interactions. As a team, we can brainstorm ideas, evolve design concepts, and facilitate client/stakeholder input all in an easy to navigate platform. Comment tools, live voting, embedded graphics, and the ability to draw in the space all help create a dynamic experience for participants.

## 3. PUBLIC TOUCHPOINTS

### 3.1. Phase 1 Engagement

#### Initializing Virtual Engagement & Downtown Comment Boxes

##### Online Project Presence:

Virtual Landing Page on Town's Engagement Hub via Publicinput.com platform

##### Online Content:

Videos, schedules, meeting recordings, FAQs, and survey links will all be found on this site

*Notes: In future tasks, we will also use this site as the basis for virtual open house events and online public meetings. Stantec will work with Town staff to leverage this digital platform and create a virtual home for the project.*

*By utilizing the platform's geospatial technology, we can identify areas of the population that are unreached by these initial efforts and create targeted campaigns and strategies to allow their voices to be heard.*

##### Accommodations for Individuals without Internet Access:

- Comment collection boxes in key locations - Halle, Chamber, Community Center, possibly even in partnership with businesses
- Signs/sandwich boards around Downtown alerting the community of both online and comment box locations for input
- Paper surveys and SMS text surveys

#### Focus Group Meetings

##### Participants:

Stakeholder groups, Stantec Staff, Town Staff as necessary, General Public (limited to public workshop)

##### Number of Sessions:

12

##### Time/Date:

1 hour per session; December 2020-refer to project schedule

##### Session Format:

2-days of virtual meetings via Zoom

*Notes: To maximize conversation over a virtual platform, please limit participation in any meeting to less than 10 people. Meetings will be scheduled and coordinated by Town staff, using the consultant's Zoom account.*

*Upon request, reserved space can be provided at the Halle or Town Hall.*

## 3.2. Phase 2 Engagement

### Brainstorm Design Sessions

**Number of Sessions:**

Up to 6

**Participants:**

Town Staff, Consultant Staff, Stakeholders (participant makeup based on needs related to design progression and/or input on concepts)

**Time/Date:**

1 hour per session; January-February 2021-refer to project schedule

**Session Format:**

Virtual Mural/Teams Combination

### Public Workshop #1

**Number of Sessions:**

1 (with ability for information to be accessed and input provided beyond the specified day)

**Participants:**

Town Staff, Consultant Staff, General Public

**Time/Date:**

1-2 hour session; March 2021 refer to project schedule

**Session Format:**

Virtual Mural/Zoom/Publicinput.com (includes direct mailings or socially distanced drop-in events for those without internet access) OR In-Person Workshop with Stations (depending on state of pandemic)

## 3.3. Phase 3 Engagement

### Public Workshop #2

**Number of Sessions:**

1 (with ability for information to be accessed and input provided beyond the specified day)

**Participants:**

Town Staff, Consultant Staff, General Public

**Time/Date:**

1-2 hour session; May 2021 refer to project schedule

**Session Format:**

Virtual Mural/Zoom/Publicinput.com (includes direct mailings or socially distanced drop-in events for those without internet access) OR In-Person Workshop with Stations (depending on state of pandemic)

## 3.4. Phase 4 Engagement

### Public Updates

**Number of Sessions:**

Up to 6 (with ability for information to be accessed and input provided beyond the specified day)

**Participants:**

Town Staff, Consultant Staff, General Public

**Time/Date:**

1 hour session; May 2021 refer to project schedule

**Session Format:**

Video Recordings of Construction Planning Updates

### 3.5. Public Workshop Format Options

We will assist with two public workshops during the process. We have provided four alternative formats for these meetings. The final determination will be made by mutual consent of Stantec and the Town approximately 2 months prior. All advertisement for the event will be the responsibility of the Town. The current assumption is both public workshops will be virtual in nature due to the pandemic.

**Option A: Live Zoom Virtual Meeting with Live Polling (recorded version can be uploaded to engagement landing page)**

This live meeting will include an introductory presentation, live polling, live chat and Q&A facilitation. Additional consultation will be made available throughout the day by appointment and on a drop-in basis utilizing Zoom break-out rooms.

**Option B: Storymap created using ArcGIS Online**

This web-based interactive site can tell the story of the design's evolution. It can be advertised to the public and visited at their convenience. Data analytics can track the number of site visits.

**Option C: Virtual Public Workshop via PublicInput.com Portal**

A virtual public workshop with informational videos, content, surveys, and mapping can be created on the project's engagement site. This tool can be advertised to the public and visited at their convenience. Data analytics can track the number of site visits.

**Option D: Virtual Public Workshop via 3D Vista Software**

A virtual public workshop with informational videos, content, and surveys can be created using 3D Vista software. This tool can be advertised to the public and visited at their convenience. Data analytics can track the number of site visits.



## PANDEMIC ERA PUBLIC ENGAGEMENT REQUIRES A FLEXIBLE & ROBUST TOOLBOX



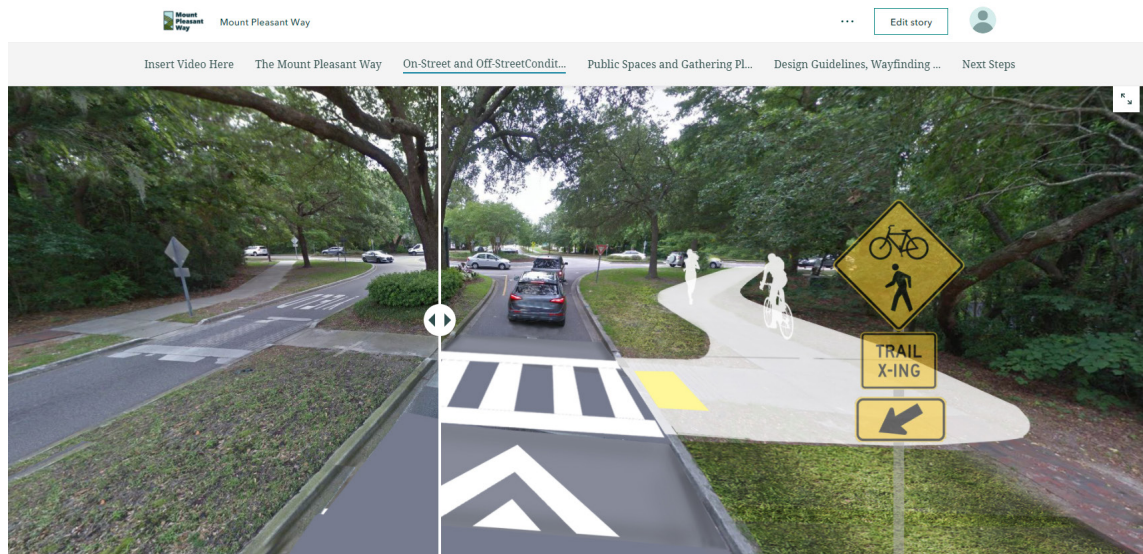
*Stantec Toolbox for Pandemic Era Engagement*



*3D Vista Software Virtual Public Workshop*



*3D Vista Software Virtual Public Workshop*



*ArcGIS Online Storymap Tool*





## TOWN OF APEX, NC



### **Stantec Consulting Services Inc.**

2127 Ayrsley Town Boulevard Suite 300,  
Charlotte NC 28273-3555

# | Agenda Item | cover sheet

for consideration by the Apex Town Council

Item Type: CONSENT AGENDA

Meeting Date: November 17, 2020

## Item Details

Presenter(s): Erika Sacco, IT Director

Department(s): IT Department

### Requested Motion

Motion to approve ILA with Cary NC to connect resources by Town of Apex and Cary owned fiber.

### Approval Recommended?

Yes

### Item Details

The Town of Apex and the Town of Cary would like to establish fiber connectivity to better support the services shared between the municipalities.

## Attachments

- An Agreement to Establish Fiber Connectivity (Cary Apex Fiber Agreement)



**AGREEMENT  
TO ESTABLISH FIBER CONNECTIVITY**

This AGREEMENT TO ESTABLISH FIBER CONNECTIVITY, dated the [REDACTED] day of [REDACTED], 20[REDACTED] ("Agreement"), is between the Town of Cary ("Cary") and the Town of Apex ("Apex"), each being municipal corporations organized and existing under the laws of the State of North Carolina. Cary and Apex are sometimes referred to jointly as "Parties."

**WITNESSETH**

**WHEREAS**, The Parties are parties to an Interlocal Agreement for Emergency Dispatch and Communications effective January 15, 2019 pursuant to which Cary provides Apex with emergency dispatch and communication services; and

**WHEREAS**, to better support the provision of these services and to better link the Parties for potential, future endeavors, the Parties seek to establish a direct fiber connection between one another with the intent of increasing data transfer speed and resiliency; and

**WHEREAS**, to accomplish this, Cary intends to install a 96-count fiber bundle from the current fiber bundle at the intersection of Carpenter Fire Station Road and NC Highway 55 to the Apex corporate limits on NC Highway 55; and

**WHEREAS**, Apex, in turn, intends to install a 144-count fiber bundle from Apex's IT Data Center located at 73 Hunter Street, Apex, NC 27502 to the Cary corporate limits on NC Highway 55 to connect to Cary's 96-count fiber bundle at that location; and

**WHEREAS**, the Parties intend to reserve strands within each bundle for the use of the other and to provide space in their respective facilities for ancillary equipment necessary to establish a direct fiber connection between the Parties; and

**WHEREAS**, the Parties agree that Cary shall bear the costs of installing and maintaining the portions of the fiber connection lying within Cary's corporate limits and that Apex shall bear the costs of installing and maintaining the portions of the fiber connection lying within Apex's corporate limits; and

**NOW THEREFORE**, for and in consideration of the recitals and the mutual promises and covenants contained in this Agreement, the Parties agree as follows;

1. **Incorporation of Recitals and Purpose:** The Recitals are true and are incorporated into this Agreement. The purpose of this Agreement is to provide the terms and conditions under which Parties will install and maintain a fiber connection between their respective internal information technology networks.
2. **Duration and Term:**

- a. This Agreement shall have an initial term of five (5) years beginning on the date this Agreement is executed by the parties and, if not earlier terminated in accordance with its terms, shall thereafter automatically renew for successive one (1) year renewal terms.

**3. No Joint Agency:** No joint agency is established by this Agreement.

**4. Definitions:**

- a. **Apex Segment:** The portion of Components that lie within Apex's corporate limits.
- b. **Cary Segment:** The portion of Components that lie within Cary's corporate limits.
- c. **Components:** All physical components of the fiberoptic connection between the Parties, including, without limitation, poles, wires, pipes, underground conduits, ducts, equipment cabinets, manholes, hand holes, vaults, splice enclosures, fibers, cables, buffer tubes, devices, switches, routers, amplifiers, power supplies and other structures and appurtenances.
- d. **Connection Point:** The geographic location where the corporate limits of Cary and Apex meet on NC Highway 55 where the Parties will join their respective Components to create the direct fiberoptic connection between the Parties.
- e. **Direct Connection:** The minimum twelve (12) fiber strands within the Apex and Cary Segments that are reserved for use by the Parties to establish a direct fiber connection between the Parties.
- f. **Excess Capacity:** Fiber strands within Components that are in excess of Cary's and/or Apex's current Internal Network and operational needs.
- g. **Internal Network:** the respective information technology networks within each of the Parties whose functions are not directly related to the Components.

**5. Roles and Responsibilities of each Party:**

**A. Cary's Roles and Responsibilities:**

1. Cary shall take the actions necessary and bear the costs to install the Cary Segment of Components needed to run a 96-count fiber bundle from its current fiber bundle located at Carpenter Fire Station Road and NC Highway 55 to the Connection Point;
2. Cary shall reserve a minimum of twelve (12) fiberoptic strands from within the 96-count cable from the Connection Point to NC 55 Hwy at Jenks Road

to establish the Direct Connection between the Parties and to be used in partnership with Apex in serving custom circuits as requested;

3. Cary shall provide cubicle rack units (or similar space) at both its James Jackson Facility and its Town Hall Facility to Apex for the installation of Apex networking equipment. Said Rack Unit shall include access to AC or DC power;
4. Cary shall, upon agreement with Apex, cross-connect appropriate strands from within the 12-count shared cable into its data center equipment at its expense.
5. Cary shall be solely responsible for the operation, maintenance, and repair of the Cary Segment; and
6. Cary shall be solely responsible for the operation and maintenance of its Internal Network, systems, and equipment;
7. Cary shall maintain a 24/7 network operations center for the purpose of receiving reports of service disruption and for the coordination and repair of the Direct Connection and Components.
8. Cary shall provide after-hours support for Cary owned fiber segment.
9. Cary shall provide one 12-count cable to serve as interconnect segment between Cary's hand hole and Apex's hand hole.
10. Cary shall splice the 12-count interconnect cable to Cary's 12-count buffer-tube within their 96-count cable for the purpose of this interconnect.

**B. Apex Roles and Responsibilities:**

1. Apex shall take the actions necessary and bear the costs to install the Apex Segment of Components needed to run a 144-count fiber cable from its IT Data Center located at Apex Town Hall to the Connection Point;
2. Apex shall reserve a minimum of twelve (12) fiberoptic strands from within the 144-Count cable from the Connection Point to Apex Town Hall to establish the Direct Connection between the parties and to be used in partnership with Cary in serving custom circuits as requested;
3. Apex shall provide a cubicle Rack Unit (or similar space) at its Town Hall to Cary for the installation of Cary networking equipment. Said Rack Unit shall include access to AC or DC power;
4. Apex shall, upon agreement with Cary, cross-connect appropriate strands from within the 12-count shared cable into its data center equipment at its expense.

5. Apex shall be solely responsible for the operation, maintenance, and repair of the Apex Segment.
6. Apex shall be solely responsible for the operation of its Internal Network, systems, and equipment;
7. Apex shall maintain a 24/7 system dispatch center for the purpose of receiving reports of service disruption and for the coordination and repair of the Direct Connection and its Components.
8. Apex shall provide contact information for the dispatch center and apprise Cary of any changes to the preferred method of engaging with this center on a twenty-four (24) hour per day, seven (7) days per week basis.
9. Apex shall provide after-hours support for Apex owned fiber segment.
10. Apex shall splice the 12-count interconnect cable to Apex's 12-count buffer-tube within their 144-count cable for the purpose of this interconnect.

**C. Roles and Responsibilities Shared by the Parties:**

1. The Parties shall take all actions necessary and perform all network maintenance functions with the goal that the Direct Connection meets a twenty-four (24) hour per day, seven (7) days per week functional requirement.
2. Neither Party shall be required to pay any rent or other fee or charge to the other Party in connection with the use of the Components, Direct Connection, or any Excess Capacity;
3. Neither Party shall use the Components, Direct Connection, or any Excess Capacity as collateral for any loan or otherwise pledge any property of the other Party, including this Agreement, as payment or surety for the payment of amount, debt or obligation;
4. Neither Party shall have the right to transfer or assign its rights in the Components, Direct Connection, or Excess Capacity to a third-party for the purpose of selling, promoting, or operating telecommunications connections without the consent of both Parties but with the understanding that such consent shall not be unreasonably withheld;
5. The Parties shall use the Components, Direct Connection, and any Excess Capacity in compliance with this Agreement and all applicable government codes, ordinances, laws, rules and regulations as may now or in the future exist;
6. Each Party shall cooperate with and support the other in complying with any requirements of any governmental authority, applicable to its respective rights and obligations hereunder;

7. The Parties shall keep the Components, Direct Connection, and any Excess Capacity in good repair, operating condition, and working order. In performing any repairs, replacements, alterations, the Parties shall not cause unreasonable interference with use of the Direct Connection or any Excess Capacity. It shall be the respective Segment owner's responsibility to perform basic maintenance inspection work and provide locates;
8. The Parties shall ensure that the specifications and standards of Components used in both the Apex and Cary Segments shall conform in all material respects to specifications and standards of the two similar facilities currently used by the Parties;
9. The Parties shall promptly notify the other of any matters pertaining to, or the occurrence (or impending occurrence) of, any event of which it is aware that could give rise to any damage or impending damage to the Components.
10. If at any time one of the Parties determine that an alteration, repair, or inspection of Components is needed, the Party shall notify the other in advance and abide by any changes in scheduling that may be required by the Parties. The Parties shall coordinate and schedule resources necessary for maintenance, testing, or repairs as required to maintain reliable and continuous services. Parties may be required to provide a representative to be present, at their cost, during such activities. In the event of an emergency, this section shall not apply and the provisions of section 12 of this Agreement shall control.
11. Any scheduled or routine activities or maintenance shall be performed in accordance with standard industry practices. Intrusive maintenance (maintenance that requires service down time or potentially service down time) will be performed Monday - Thursday, during the hours of 1:00 am and 5:00 am. The scheduling Party will notify the other Party in writing at least ten (10) business days prior to commencing any such scheduled maintenance.
12. The Parties shall perform any necessary emergency repairs as soon as reasonably practicable. Any unscheduled maintenance work performed by a Party shall be reported to the other Party as soon as is practicable. The Parties shall make all reasonable efforts to schedule emergency maintenance during off peak hours as described herein and at such a date and time that will provide Parties reasonable notice.
13. Each party shall designate a representative to assist with maintenance and repairs, beyond the ordinary operation and basic maintenance inspection work on the Components. In the event that a Party requires additional assistance from the other Party, the Party shall contact the other Party's designated representative either verbally or in writing. Such assistance may include, but is not limited to, assistance in making any connection to

any Excess Capacity, assistance in acquiring additional rights of use, or assistance in dealing with any unusual loss of signal, defect or break, or other actions. Upon receipt of a request for such services, the Parties shall endeavor to perform the requested services as soon as possible. If the designated representatives of the Parties are unable to complete the services and third-party assistance becomes necessary, then upon agreement as to the cost, the Parties shall equally share the cost thereof. The Parties shall conduct all such work to minimize the effect on the Direct Connection and any Excess Capacity.

**6. Termination:**

- a. The Parties may terminate this Agreement as to the other by providing ninety (90) days written notice of termination ("Termination Notice").

**7. Breach and Default:**

- a. Any material breach of the terms or conditions of this Agreement shall constitute a default. In the event of a default, the defaulting Party shall be given notice of such alleged default in the manner prescribed in Section 8 of this Agreement. Upon receipt of notice, the defaulting Party shall have the opportunity to cure the default within thirty (30) days. If the default is not cured within thirty (30) days the non-defaulting Party may terminate this Agreement immediately.

- 8. Notices.** Unless otherwise provided, all notices provided for herein shall be in writing and shall be sent properly addressed by first class mail, with a copy sent by e-mail, to the Parties at the addresses shown below:

**Town of Cary**  
Chief Technology Officer  
Town of Cary  
PO Box 8005  
Cary, North Carolina 27512-8005

Attention: Peter Kennedy

Email address: Peter.Kennedy@townofcary.org

With copies to: Raymond.Cain@townofcary.org

**Town of Apex**  
Director of Information Technology  
Town of Apex  
PO Box 250  
Apex, North Carolina 27502



Attention: Erika Sacco

Email address: Erika.Sacco@apexnc.org

All notices shall be effective three (3) days after having been deposited, properly addressed and postage prepaid, in the US Postal Service. Any Party hereto may change the person to whom or the address to which notices should be provided by giving written notice to the other Parties of the change.

9. **Public Records.** The Parties may provide copies of public records, including copyrighted records, in response to public record requests.
10. **Force Majeure.** No Party shall be responsible for any default, delay, or failure to perform if such default, delay, or failure to perform is due to causes beyond the Party's reasonable control, including, but not limited to, actions or inactions of governmental authorities, epidemics, pandemics, wars, actions of malicious actors, embargoes, fires, hurricanes, unusual adverse weather, acts of God, or the default of a common carrier. In the event of a default, delay, or failure to perform due to causes beyond a Party's reasonable control, the Party shall diligently and in good faith act to the extent within its power to remedy the circumstances affecting its performance and to complete its performance in as timely a manner as is reasonably possible.
11. **Entire Agreement/Amendments.** This Agreement constitutes the entire agreement between the Parties with respect to its general subject matter. This Agreement may not be changed except in writing signed by all the Parties.
12. **Representations and Warranties.** The Parties each represent, covenant and warrant for the other's benefit as follows:
  - a. Each Party has all necessary power and authority to enter into this Agreement and to carry out the transactions contemplated by this Agreement. This Agreement is a valid and binding obligation of each Party.
  - b. Neither the execution and delivery of this Agreement, nor the fulfillment of or compliance with its terms and conditions, nor the consummation of the transactions contemplated by this Agreement, results in a breach of the terms, conditions and provisions of any agreement or instrument to which either Party is now a party or by which either is bound, or constitutes a default under any of the foregoing.
  - c. To the knowledge of each Party, there is no litigation or other court or administrative proceeding pending or threatened against such Party (or against any other person) affecting such Party's rights to execute or deliver this Agreement or to comply with its obligations under this Agreement. Neither such Party's execution and delivery of this Agreement, nor its compliance with its obligations under this Agreement, requires the approval

of any regulatory body or any other entity the approval of which has not been obtained.

- 13. Dispute Resolution.** In the event of conflict or default that might arise for matters associated with this Agreement, the Parties agree to informally communicate to resolve the conflict. If any such dispute cannot be informally resolved, then such dispute, or any other matter arising under this Agreement, shall be subject to resolution in a court of competent jurisdiction. Such disputes, or any other claims, disputes or other controversies arising out of, and between the Parties shall be subject to and decided exclusively by the appropriate general court of justice of Wake County, North Carolina.
- 14. No Waiver of Non-Compliance with Agreement.** No provision of this Agreement shall be deemed to have been waived by any Party hereto unless such waiver shall be in writing and executed by the same formality as this Agreement. The failure of any Party hereto at any time to require strict performance by the other of any provision hereof shall in no way affect the right of the other Parties to thereafter enforce the same. In addition, no waiver or acquiescence by a Party hereto of any breach of any provision hereof by another Party shall be taken to be a waiver of any succeeding breach of such provision or as a waiver of the provision itself.
- 15. Governing Law.** The Parties intend that this Agreement be governed by the law of the State of North Carolina. Proper venue for any action shall solely be Wake County, North Carolina.
- 16. Assignment.** The Parties may not sell or assign any interest in or obligation under this Agreement without the prior express written consent of the other Parties.
- 17. Liability of Officers and Agents.** No officer, agent, elected official, or employee of any Party will be subject to any personal liability or accountability by reason of the execution of this Agreement or any other documents related to the transactions contemplated hereby. Such officers, agents, elected officials, or employees will be deemed to execute such documents in their official capacities only, and not in their individual capacities. This section will not relieve any such officer, agent, elected official, or employee from the performance of any official duty provided by law.
- 18. Execution in Counterparts/Electronic Version of Agreement.** This Agreement may be executed in any number of counterparts, each of which shall be an original and all of which shall constitute but one and the same instrument. The Parties may convert a signed original of the Agreement to an electronic record pursuant to a North Carolina Department of Natural and Cultural Resources approved procedure and process for converting paper records to electronic records for record retention purposes. Such electronic record of the Agreement shall be deemed for all purposes to be an original signed Agreement.
- 19. No Third-Party Beneficiaries.** This Agreement is not intended to and does not confer any right, power, or benefit on any person other than the Parties and only the Parties may enforce, modify or terminate this Agreement as provided herein. There are no third-party beneficiaries to this Agreement.

**20. Severability.** In the event any provision of this Agreement shall be held invalid or unenforceable by a court of competent jurisdiction, such holding shall not invalidate or render unenforceable any other provision hereof. If one or more paragraphs, sections sentences, clauses, or phrases shall be declared void, invalid or otherwise unenforceable for any reason by the valid, final judgment or decree of any court of competent jurisdiction, such judgment or decree shall not affect the remaining provisions of this Agreement and the same shall continue to be fully effective and enforceable on the basis that said remaining provisions would have been agreed to by the Parties without the incorporation of such void, invalid or otherwise unenforceable paragraph, section, sentence, clause or phrase.

**21. Further Assurances/Corrective Instruments; Good Faith/Due Diligence.** The Parties agree that they will, from time to time, execute, acknowledge and deliver, or cause to be executed, acknowledged and delivered, such supplements hereto and such further instruments as may reasonably be required for carrying out the intention of this Agreement. The Parties agree to work together in good faith and will all due diligence to provide for and carry out the purpose of this Agreement.

**22. Verification of Work Authorization.** The Parties shall comply with Article 2, Chapter 64, of the North Carolina General Statutes to the extent applicable.

**23. Pre-Audit Requirement.** This Agreement has not been fully executed and is not effective until the Preaudit Certificate (if required by N.C.G.S § 159-28) has been affixed and signed by the Parties' finance officers or deputy finance officers.

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

**[The Remainder of This Page Intentionally Left Blank; Signatures Follow]**

**IN TESTIMONY WHEREOF**, the Town of Apex and the Town of Cary, pursuant to resolutions of their respective governing boards spread upon their minutes, have caused this Agreement to be executed and attested by their duly authorized officers and their official seals affixed, the day and year first written above.

**Town of Cary:**

Russ Overton, Deputy Town Manager

Signature: \_\_\_\_\_

Date Signed: \_\_\_\_\_

**Town of Apex:**

Drew Havens, Town Manager

Signature: \_\_\_\_\_

Date Signed: \_\_\_\_\_

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

\_\_\_\_\_

Name: \_\_\_\_\_

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

\_\_\_\_\_

Vance Holloman, Town of Apex Finance Director

# | Agenda Item | cover sheet

for consideration by the Apex Town Council

Item Type: PUBLIC HEARING  
Meeting Date: November 17, 2020

## Item Details

Presenter: Shelly Mayo, Planner II  
Department: Planning and Community Development

### Requested Motion

Public hearing and possible motion to adopt an Ordinance on the Question of Annexation – Apex Town Council's intent to annex Florence S. Morrison Family Living Trust (Holleman Hills South) properties containing 10.16 acres located at 5131 and 5145 Church Road, Annexation #696 into the Town's corporate limits. This annexation will be heard concurrently with Rezoning Application #20CZ09.

### 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. 2020-1117-37  
ANNEXATION PETITION NO. #696  
Florence S. Morrison Family Living Trust (Holleman Hills South)

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-31, 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 November 17, 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-31, 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-31, 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 November 17, 2020. The survey plat that describes the annexed territory is that certain survey plat entitled "Annexation Map for the Town of Apex, Smith and Smith Surveyors, dated July 27, 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 17<sup>th</sup> day of November 2020.

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

ATTEST:

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

APPROVED AS TO FORM:

\_\_\_\_\_  
Laurie L. Hohe  
Town Attorney

Legal Description

Lying and being in Buckhorn Township, Wake County, North Carolina, and described as follows to wit:

BEGINNING at a calculated point, being the southwestern corner of AMH NC Development LP Limited Partnership, common corner with property owned by the Town of Apex; thence with the southern property line of AMH NC Development LP Limited Partnership, South 79°55'06" East, 658.83 feet to a calculated point, the northwestern corner of Mark C. Maletta; thence with a western property line of aforesaid Maletta, South 06°01'45" West, 34.00 feet to a calculated point; thence continuing with aforesaid Maletta and beyond with Duke Energy Progress, Inc., South 03°30'00" West, 626.00 feet to a calculated point being a northeastern corner of property owned by the Town of Apex; thence the following two (2) property lines with the Town of Apex, North 80°39'00" West, 683.15 feet to a calculated point and North 05°47'16" East, 666.38 feet to the point and place of BEGINNING, containing 10.16 acres more or less. The above-described parcel of land is all of Wake County PIN 0619.02-89-9026 and PIN 0619.02-88-9725.

Note:

The sole purpose of this description is for municipal boundary annexation and for no other purpose. This description is not a result of a current physical survey.

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. 2020-1117-37 adopted at a meeting of the Town Council, on the 17<sup>th</sup> day of November, 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 18<sup>th</sup> day of November 2020.

(SEAL)

---

Donna B. Hosch, MMC, NCCMC  
Town Clerk

## PETITION FOR VOLUNTARY ANNEXATION

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

Application #:	<u>696</u>	Submittal Date:	<u>8/3/2020</u>
Fee Paid	<u>\$ 200</u>	Check #	<u>3064</u>

### TO THE TOWN COUNCIL APEX, NORTH CAROLINA

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

### Owner Information

<u>Florence S Morrison Family Living Trust</u>	<u>0619-89-9026</u>
Owner Name (Please Print)	Property PIN or Deed Book & Page #
<u>Phone</u>	<u>E-mail Address</u>
<u>Florence S Morrison Family Living Trust</u>	<u>0619-88-9725</u>
Owner Name (Please Print)	Property PIN or Deed Book & Page #
<u>Phone</u>	<u>E-mail Address</u>
<u>Owner Name (Please Print)</u>	<u>Property PIN or Deed Book &amp; Page #</u>
<u>Phone</u>	<u>E-mail Address</u>

### Surveyor Information

Surveyor: Smith & Smith Surveyors

Phone: (919) 362-7111 Fax: \_\_\_\_\_

E-mail Address: staley@smithandsmithsurveyors.net

### Annexation Summary Chart

Property Information		Reason(s) for annexation (select all that apply)	
Total Acreage to be annexed:	<u>10.16</u>	Need water service due to well failure	<input type="checkbox"/>
Population of acreage to be annexed:	<u>0</u>	Need sewer service due to septic system failure	<input type="checkbox"/>
Existing # of housing units:	<u>1</u>	Water service (new construction)	<input checked="" type="checkbox"/>
Proposed # of housing units:	<u>25</u>	Sewer service (new construction)	<input checked="" type="checkbox"/>
Zoning District*:	<u>R-30 (Wake Co)</u>	Receive Town Services	<input checked="" type="checkbox"/>

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

# PETITION FOR VOLUNTARY ANNEXATION

Application #: 696

Submittal Date: 8/3/2020

## COMPLETE IF SIGNED BY INDIVIDUALS:

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

Sheila Morrison

Please Print

Sheila Morrison

Signature

Please Print

Signature

Please Print

Signature

Please Print

Signature

STATE OF NORTH CAROLINA  
COUNTY OF WAKE

Sworn and subscribed before me, Yvonne Harrison, a Notary Public for the above State and County,  
this the 28 day of July, 2020.

Yvonne Harrison

Notary Public

SEAL



My Commission Expires: 8-12-2020

## COMPLETE IF A CORPORATION:

In witness whereof, said corporation has caused this instrument to be executed by its President and attested by its Secretary or other officer 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: \_\_\_\_\_

Smith & Smith, Surveyors, P.A.  
P.O. Box 457  
Apex, N.C. 27502  
(919) 362-7111  
Firm License No. C-0155

Lying and being in Buckhorn Township, Wake County, North Carolina, and described as follows to wit:

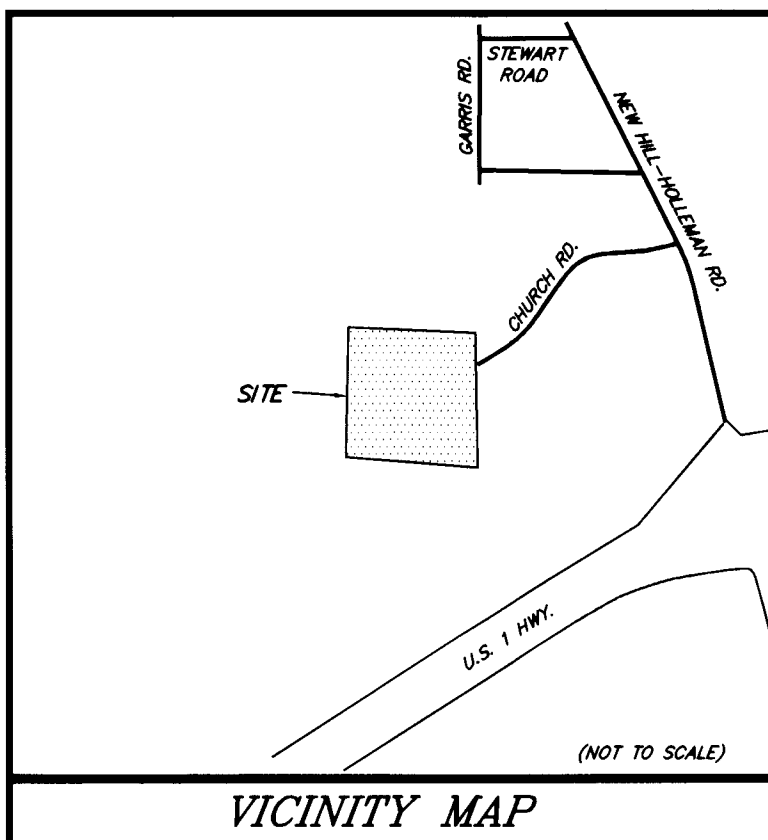
BEGINNING at a calculated point, being the southwestern corner of AMH NC Development LP Limited Partnership, common corner with property owned by the Town of Apex; thence with the southern property line of AMH NC Development LP Limited Partnership, South 79°55'06" East, 658.83 feet to a calculated point, the northwestern corner of Mark C. Maletta; thence with a western property line of aforesaid Maletta, South 06°01'45" West, 34.00 feet to a calculated point; thence continuing with aforesaid Maletta and beyond with Duke Energy Progress, Inc., South 03°30'00" West, 626.00 feet to a calculated point being a northeastern corner of property owned by the Town of Apex; thence the following two (2) property lines with the Town of Apex, North 80°39'00" West, 683.15 feet to a calculated point and North 05°47'16" East, 666.38 feet to the point and place of BEGINNING, containing 10.16 acres more or less. The above-described parcel of land is all of Wake County PIN 0619.02-89-9026 and PIN 0619.02-88-9725.

Note:

The sole purpose of this description is for municipal boundary annexation and for no other purpose. This description is not a result of a current physical survey.







I, STALEY C. SMITH, certify that this plat was drawn under my supervision from deeds of record, that boundaries not surveyed are clearly indicated as broken lines and drawn from information found in Deed Book 8732, Page 1044; that the precision as calculated is 1: N/A; that this plat meets the requirements of the standards of practice for land surveying in North Carolina 21 NCAC 56.1600.

Witness my original signature, license number and seal this 17th day of August, 2020.



*Staley C. Smith*  
Professional Land Surveyor  
L-3766  
License Number

ALL DISTANCES ARE HORIZONTAL GROUND U.S. SURVEY FEET MEASUREMENTS.

AREA DETERMINED USING THE COORDINATE METHOD.

REFERENCE: DEED BOOK 8732, PAGE 1044 (TRACT TWO & TRACT SIX)  
BOOK OF MAPS 1983, PAGE 577 (LOT 1, 2, & 3)  
BOOK OF MAPS 1985, PAGE 450 (LOT 3)

#### SURVEYOR NOTES:

- THE PROPERTY SHOWN HEREON IS SUBJECT TO ALL EASEMENTS OF RECORD AFFECTING SAME.
- NO TITLE SEARCH HAS BEEN PERFORMED BY THIS FIRM DURING THE COURSE OF THIS SURVEY.
- THIS SURVEYOR DOES NOT CERTIFY TO THE EXISTENCE OR NON-EXISTENCE OF ANY UNDERGROUND UTILITIES, BURIAL GROUNDS, OR ANY SUBSURFACE FEATURES THAT MAY OR MAY NOT BE PRESENT ON THIS SITE.
- NOT AN ACTUAL SURVEY ON THIS DATE.
- THIS MAP OR PLAT IS EXEMPT FROM THE REQUIREMENTS OF G.S. 47-30 PURSUANT TO G.S. 47-30 (j).
- THIS MAP IS PREPARED FOR THE SOLE PURPOSE OF MUNICIPAL BOUNDARY ANNEXATION.

#### LEGEND

- XXXX - Street Address (Typical)  
TL - Total  
R/W - Right Of Way  
TOA - Town of Apex

- Existing Corporate Limit Line  
Right Of Way Line Or Easement Line  
Unsurveyed Line  
Unsurveyed Line  
Unsurveyed Line  
Unsurveyed Line

RECORDED IN BOOK OF MAPS **2020**, PAGE \_\_\_\_\_

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

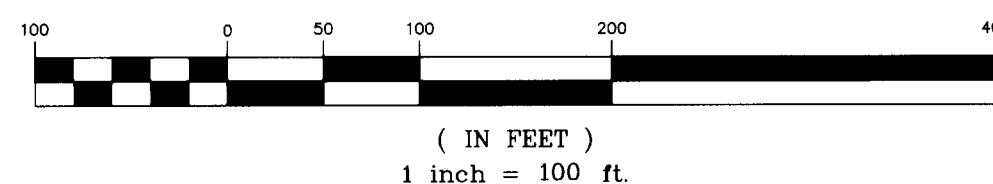
I, Donna B. Hosch, MMC, NCCMC, Town Clerk, Apex, North Carolina certify this is a true and exact map of annexation adopted this the \_\_\_\_\_ day of \_\_\_\_\_, 2020, by the Town Council. I set my hand and seal of the Town of Apex, \_\_\_\_\_, 2020.

Donna B. Hosch, MMC, NCCMC, Town Clerk

MAP NORTH  
B.M. 1983, PG. 577

**TOWN OF APEX**  
D.B. 15654, PG. 273 (TRACT ONE)  
B.M. 2011, PG. 412  
PIN 0619.02-79-6350  
ANNEXATION # 413  
(B.M. 2007, PG. 1131)

**10.16 ACRES TOTAL ANNEXED**



#### AMH NC DEVELOPMENT LP LIMITED PARTNERSHIP

D.B. 17291, PG. 2030  
B.M. 1988, PG. 272  
PIN 0619.02-89-9620  
ANNEXATION # 608  
(B.M. 2017, PG. 1859)

**STANLEY S. EVANS  
DEBRA P. EVANS**  
D.B. 2944, PG. 522  
PIN 0619.02-99-3364

**MARK C. MALETTA**  
D.B. 14542, PG. 1787  
PIN 0619.02-99-6238

**D.B. 8097, PGS. 182-188  
NCDOT PROJECT 6.402152**

**30' EXISTING ACCESS EASEMENT**  
D.B. 3117, PG. 873  
(B.M. 1987, PG. 807)

**DUKE ENERGY PROGRESS, INC.**  
D.B. 15289, PG. 2437  
PIN 0629.04-61-7801

#### ANNEXATION MAP FOR THE TOWN OF APEX

PROPERTY OWNED BY

**FLORENCE S. MORRISON FAMILY LIVING TRUST**

BUCKHORN TOWNSHIP, WAKE COUNTY, NORTH CAROLINA

**LISTED OWNER**  
(NOT A TITLE VERIFICATION)  
FLORENCE S. MORRISON  
FAMILY LIVING TRUST  
P.O. BOX 109  
NEW HILL, N.C. 27562-0109  
P.I.N. 0619.02-89-9026  
0619.02-88-9725



**Smith and Smith  
surveyors**

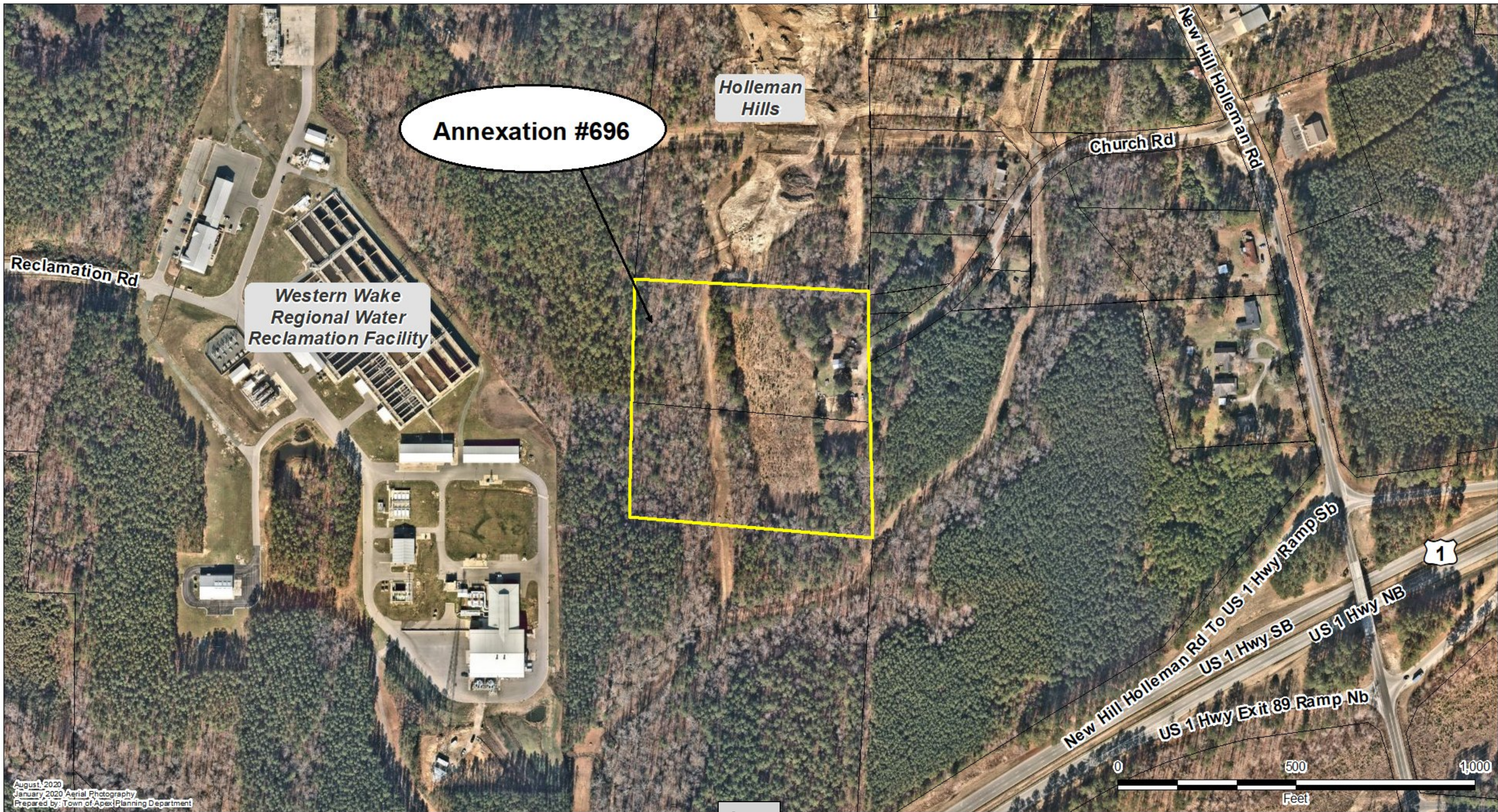
FIRM LICENSE No. C-0155

P.O. BOX 457  
APEX, N.C. 27502  
(919) 362-7111

PITTSBORO, N.C. 27312  
(919) 542-4321

**DATE** JULY 27, 2020  
**SCALE** 1" = 100'  
**DRAWN BY** J.A.B.  
**PROJECT NO.** 2020-41





**Annexation #696**

Holleman Hills

Western Wake Regional Water Reclamation Facility

Church Rd

New Hill Holleman Rd

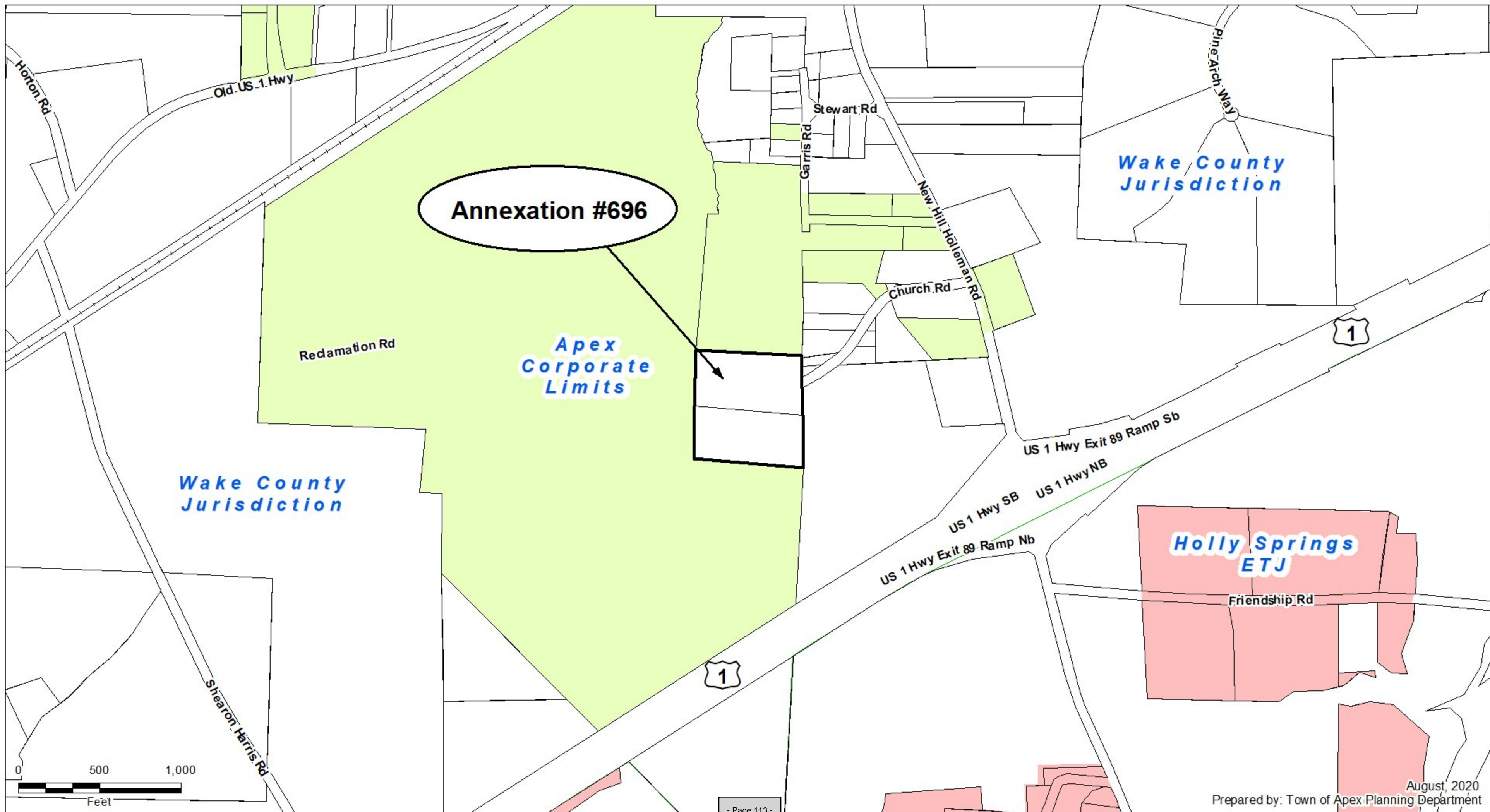
Reclamation Rd

1

New Hill Holleman Rd To US 1 Hwy Ramp Sb  
US 1 Hwy SB  
US 1 Hwy NB  
US 1 Hwy Exit 89 Ramp Nb

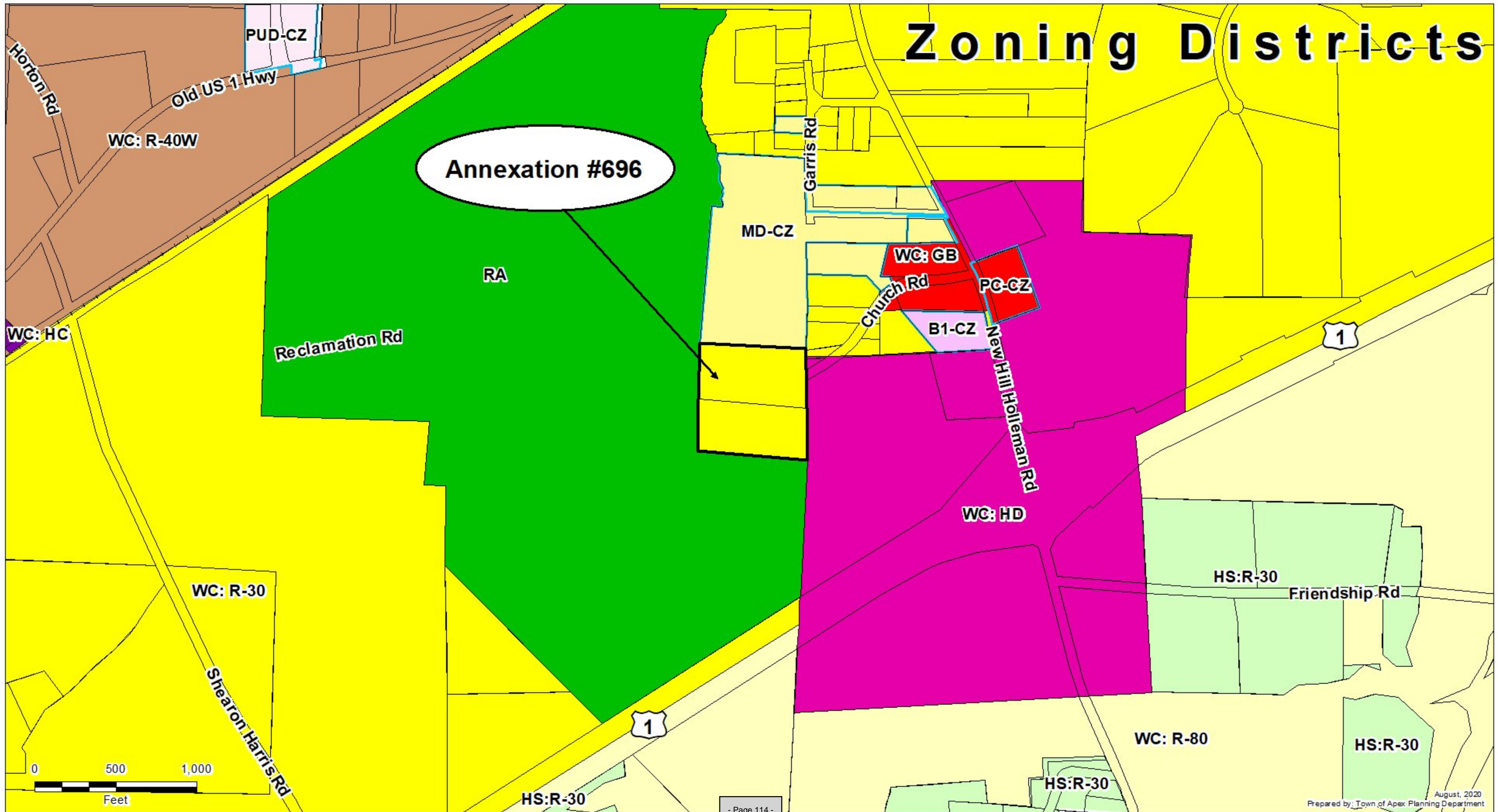
0 500 1,000  
Feet







# Zoning Districts



# | Agenda Item | cover sheet

for consideration by the Apex Town Council

Item Type: PUBLIC HEARING  
Meeting Date: November 17, 2020

## Item Details

Presenter(s): Shelly Mayo, Planner II  
Department(s): Planning and Community Development

### Requested Motion

Public Hearing and possible motion to approve Rezoning Application #20CZ09 Holleman Hills South and Ordinance. The applicant, Alonzo Wilson, seeks to rezone approximately 10.16 acres from Wake County R-30 to Medium Density-Conditional Zoning (MD-CZ). The proposed rezoning is located at 5131 and 5145 Church Road.

### Approval Recommended?

The Planning and Community Development Department recommends approval with an additional condition.

The Planning Board held a Public Hearing on November 9, 2020 and unanimously voted to recommend approval of the rezoning with the conditions offered by the applicant.

### Item Details

The properties to be rezoned are identified as PINs 0619899026 and 0619889725.

### Attachments

- Staff Report
- Vicinity Map
- Application



## STAFF REPORT

### Rezoning #20CZ09 Holleman Hills South

November 17, 2020 Town Council Meeting



All property owners within three hundred (300) feet of this rezoning have been notified per UDO Section 2.2.11 "Public Notification".

#### BACKGROUND INFORMATION:

**Location:** 5131 & 5145 Church Road  
**Agent/Owner:** Jeff Roach, Peak Engineering & Design/Alonzo Wilson

#### PROJECT DESCRIPTION:

**Acreage:** +/- 10.16 acres  
**PINs:** 0619899026, 0619889725  
**Current Zoning:** Wake Co. R-30  
**Proposed Zoning:** Medium Density Residential-Conditional Zoning (MD-CZ)  
**2045 Land Use Map:** Medium Density Residential  
**Town Limits:** Outside Corporate Limits and ETJ

#### ADJACENT ZONING & LAND USES:

	Zoning	Land Use
<b>North:</b>	Medium Density-Conditional Zoning (MD-CZ #17CZ14)	Single-family Residential (Holleman Hills Subdivision)
<b>South:</b>	Residential Agricultural (RA #07RZ20)	Western Wake Regional Water Reclamation Facility
<b>East:</b>	Wake County Highway District (HD); Wake County Residential-30	Vacant
<b>West:</b>	Residential Agricultural (RA #07RZ20)	Western Wake Regional Water Reclamation Facility

#### EXISTING CONDITIONS:

The site consists of two (2) parcels totaling +/- 10.16 acres. It is located at the end of Church Road, west of New Hill Holleman Road between US 1 Hwy and Old US 1 Hwy and east of the Western Wake Regional Water Reclamation Facility. It is south of the Holleman Hills Subdivision, which was approved on March 22, 2018 and is currently under construction.

#### NEIGHBORHOOD MEETING:

The applicant conducted a neighborhood meeting on October 19, 2020. The meeting report is attached.

#### 2045 LAND USE MAP:

The 2045 Land Use Map identifies the subject property as Medium Density Residential. The proposed rezoning to Medium Density Residential-Conditional Zoning is consistent with that Land Use Map designation.

#### PROPOSED ZONING CONDITIONS:

##### Proposed Uses:

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

1. Single-family
2. Park, active
3. Park, passive
4. Greenway
5. Utility, minor
6. Accessory apartment
7. Family care home
8. Recreation facility, private



## STAFF REPORT

Rezoning #20CZ09 Holleman Hills South

November 17, 2020 Town Council Meeting



### Buffering:

1. If this subdivision is developed as a part of the approved Holleman Hills Subdivision, no buffer shall be provided along the northern property line adjacent to Holleman Hills.
2. A 20-foot Type B Buffer will be provided along the eastern boundary at the 2 residential properties PIN 0619-99-3364 & 0619-99-6238. The remaining length of the eastern boundary of the project shall be a 10-foot Type B Buffer.
3. A 10-foot Type B Buffer will be provided along the southern boundary of the project adjacent to PIN 0619-79-6350 (Western Wake Regional Water Reclamation Facility).

### Single-family residential:

1. Vinyl siding is not permitted; however, vinyl windows, decorative elements and trim are permitted.
2. Garage doors must have windows, decorative details, or carriage-style adornments on them.
3. Eaves shall project at least 12 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 3 decorative elements such as, but not limited to, the following elements:
  - a. Windows
  - b. Bay window
  - c. Recessed window
  - d. Decorative window
  - e. Trim around the window
  - f. Wrap around porch or side porch
  - g. Two or more building materials
  - h. Decorative brick/stone
  - i. Decorative trim
  - j. Decorative shake
  - k. Decorative gable
  - l. Decorative air vents on gable
  - m. Decorative cornice
  - n. Column
  - o. Portico
  - p. Balcony
  - q. Dormer
5. A varied color palette shall be utilized on homes throughout the subdivision, to include a minimum of three color families for siding and shall include varied trim, shutter and accent colors complementing the siding color.
6. House entrances for units with front-facing single-car garages shall have a prominent covered porch/stoop area leading to the front door.
7. The garage cannot protrude more than 1 foot out from the front façade or front porch.
8. Homes will be pre-wired for solar panels.

Buffer Analysis		
Buffers:	UDO:	Proposed:
Northern boundary:	10-foot Type B	10' Type B if separate subdivision; no buffer if part of Holleman Hills
Southern boundary:	60-foot Type A	10-foot Type B
Eastern boundary:		
Adjacent to Use Class 1: PINs 0619-99-3364 & 0619-99-6238	20-foot Type B	20-foot Type B
Adjacent to Other Use Classes:	20-foot Type A	10-foot Type B

### PLANNING STAFF RECOMMENDATION:

Planning staff recommends approval of rezoning #20CZ09 Holleman Hills South if the following condition is added:

## STAFF REPORT

### Rezoning #20CZ09 Holleman Hills South

November 17, 2020 Town Council Meeting



- A 100-foot riparian buffer shall be provided for all perennial streams in accordance with the requirements of UDO Sec. 6.1 as of August 3, 2020.

In February 2022, the Town's NPDES Phase II permit will expire. Unless it is renewed, our ability to enforce a 100-foot riparian buffer in the Big Branch and Middle Creek watershed basins will end at that time. To mitigate this, we are requesting a zoning condition for any rezoning in those 2 basins that will ensure a 100-foot buffer on perennial streams. Otherwise, an amended subdivision or site plan could be submitted to reduce the buffer to 50-feet. Given the concerns that Apex residents and Council members have expressed regarding tree protection and environmental preservation, a zoning condition is currently our best tool to make sure the 100-foot buffer is provided for all perennial streams. To that end, Planning and Water Resources Staff are requesting this riparian buffer condition on all residential rezoning petitions within the Big Branch and Middle Creek watershed basins.

#### PLANNING BOARD RECOMMENDATION:

Planning Board heard this petition at their November 9, 2020 Public Hearing and unanimously voted to recommended approval of the rezoning as presented by the applicant.

#### ANALYSIS STATEMENT OF THE REASONABLENESS OF THE PROPOSED REZONING:

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

Approval of the rezoning is reasonable as the proposed Medium Density Residential-Conditional Zoning district is consistent with the Medium Density Residential land use classification on the 2045 Land Use Map.

The proposed rezoning is reasonable and in the public interest if the condition requested by staff is added because it will maintain a valuable tool to preserve tree canopy and improve water quality. The rezoning will also permit increased housing options in the New Hill area and permit higher densities necessary to support future non-residential uses in the adjacent Neighborhood Mixed Use Activity Center as identified on the 2045 Land Use Map.

#### CONDITIONAL ZONING STANDARDS:

The Town Council shall find the Medium Density Residential-Conditional Zoning (MD-CZ) designation demonstrates compliance with the following standards. 2.3.3.F:

##### Legislative Considerations

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

- 1) *Consistency with 2045 Land Use Map.* The proposed Conditional Zoning (CZ) District use's appropriateness for its proposed location and consistency with the purposes, goals, objectives, and policies of the 2045 Land Use Map.
- 2) *Compatibility.* The proposed Conditional Zoning (CZ) District use's appropriateness for its proposed location and compatibility with the character of surrounding land uses.
- 3) *Zoning district supplemental standards.* The proposed Conditional Zoning (CZ) District use's compliance with Sec 4.4 *Supplemental Standards*, if applicable.
- 4) *Design minimizes adverse impact.* The design of the proposed Conditional Zoning (CZ) District use's minimization of adverse effects, including visual impact of the proposed use on adjacent lands; and

## STAFF REPORT

### Rezoning #20CZ09 Holleman Hills South

November 17, 2020 Town Council Meeting



avoidance of significant adverse impacts on surrounding lands regarding trash, traffic, service delivery, parking and loading, odors, noise, glare, and vibration and not create a nuisance.

- 5) *Design minimizes environmental impact.* The proposed Conditional Zoning District use's minimization of environmental impacts and protection from significant deterioration of water and air resources, wildlife habitat, scenic resources, and other natural resources.
- 6) *Impact on public facilities.* The proposed Conditional Zoning (CZ) District use's avoidance of having adverse impacts on public facilities and services, including roads, potable water and wastewater facilities, parks, schools, police, fire and EMS facilities.
- 7) *Health, safety, and welfare.* The proposed Conditional Zoning (CZ) District use's effect on the health, safety, or welfare of the residents of the Town or its ETJ.
- 8) *Detrimental to adjacent properties.* Whether the proposed Conditional Zoning (CZ) District use is substantially detrimental to adjacent properties.
- 9) *Not constitute nuisance or hazard.* Whether the proposed Conditional Zoning (CZ) District use constitutes a nuisance or hazard due to traffic impact or noise, or because of the number of persons who will be using the Conditional Zoning (CZ) District use.
- 10) *Other relevant standards of this Ordinance.* Whether the proposed Conditional Zoning (CZ) District use complies with all standards imposed on it by all other applicable provisions of this Ordinance for use, layout, and general development characteristics.







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

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

Application #: 20CZ09

Submittal Date: 08-03-2020

2045 LUM Amendment: \_\_\_\_\_

Fee Paid: \_\_\_\_\_

### Project Information

Project Name: Holleman Hills South

Address(es): 5131 & 5145 Church Road, New Hill, NC 27562

PIN(s): 0619-89-9026 & 0619-88-9725

Acreage: 10.16

Current Zoning: R-30 (Wake County Zoning) Proposed Zoning: MD-CZ

Current 2045 LUM Designation: Medium Density Residential

Proposed 2045 LUM Designation: N/A

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: Alonzo Wilson

Address: 1609 White Oak Church Road

City: Apex

State: NC

Zip: 27523

Phone: (919) 924-6002

E-mail: revawil@bellsouth.net

### Owner Information

Name: Florence S Morrison Family Living Trust

Address: PO Box 10

City: New Hill

State: NC

Zip: 27562

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

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

### Agent Information

Name: Peak Engineering & Design, Jeff Roach

Address: 1125 Apex Peakway

City: Apex

State: NC

Zip: 27502

Phone: (919) 439-0100

E-mail: jroach@peakengineering.com

Other contacts: fspinnenweber@peakengineering.com

dwoods@peakengineering.com

jedwards@peakengineering.com



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

Application #: 20CZ09

Submittal Date: 08-03-2020

**2045 LAND USE MAP AMENDMENT (IF APPLICABLE)**

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

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

N/A

Current 2045 Land Use Classification:

Proposed 2045 Land Use Classification:

N/A

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

N/A

## PETITION INFORMATION

Application #:

20CZ09

Submittal Date:

08-03-2020

An application has been duly filed requesting that the property described in this application be rezoned from R-30 to MD-CZ. It is understood and acknowledged that if the property is rezoned as requested, the property described in this request will be perpetually bound to the use(s) authorized and subject to such conditions as imposed, unless subsequently changed or amended as provided for in the Unified Development Ordinance. It is further understood and acknowledged that final plans for any specific development to be made pursuant to any such Conditional Zoning shall be submitted for site or subdivision plan approval. Use additional pages as needed.

## PROPOSED USES:

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

1	Single-Family	21	
2	Park, active	22	
3	Park, passive	23	
4	Greenway	24	
5	Utility, minor	25	
6	Accessory apartment	26	
7	Family care home	27	
8	Recreation facility, private	28	
9		29	
10		30	
11		31	
12		32	
13		33	
14		34	
15		35	
16		36	
17		37	
18		38	
19		39	
20		40	

## PETITION INFORMATION

Application #:

20CZ09

Submittal Date:

08-03-2020

## PROPOSED CONDITIONS:

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

Please see attached sheet for proposed zoning conditions.

## LEGISLATIVE CONSIDERATIONS - CONDITIONAL ZONING

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

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

The proposed residential development will not require a modification to the 2045 Land Use Map and is in keeping with the adopted plans from the Town of Apex.

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

The proposed use will have buffers and building standards which are compatible with the surrounding uses and fit within the Town's long-range plans for the property.

## PETITION INFORMATION

Application #:

20CZ09

Submittal Date:

08-03-2020

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

The proposed use will meet the required Supplemental Standards for the proposed use(s).

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

The design will provide perimeter buffer, architectural controls, access, and utility connections to avoid adverse impacts on the surrounding properties.

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

The site is proposed to meet UDO standards for design controls, including minimization and avoidance of environmentally sensitive areas, limited site impact, and reduction in clearing of perimeter vegetation.

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

The site is located close to existing public facilities, including water, sewer, stormwater, gas, electric and telephone. The site has significant surrounding public infrastructure including streets with easy access for emergency vehicles and personnel.

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

The proposed use will not be detrimental to the health, safety, and welfare of Apex residents. The use will provide a service to Apex citizens.



## PETITION INFORMATION

Application #:

20CZ09

Submittal Date:

08-03-2020

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

The use is in keeping with the adopted plans and will not be detrimental to the adjacent property owners.

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

The use does not constitute a nuisance or hazard based upon the anticipated number of persons who will utilize the service.

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

The proposed development will meet the standards within various sections of the Town of Apex UDO.

Rezoning Conditions:

Buffering:

1. If this subdivision is developed as a part of the approved Holleman Hills Subdivision, no buffer shall be provided along the northern property line adjacent to Holleman Hills.
2. A 20' Type B Buffer will be provided along the eastern boundary at the 2 residential properties PIN# 0619-99-3364 & 0619-99-6238. The remaining length of the eastern boundary of the project shall be a 10' Type B Buffer.
3. A 10' Type B Buffer will be provided along the southern boundary of the project adjacent to Pin# 0619-79-6350 (Western Wake Regional Water Reclamation Facility).

Single-family residential:

1. Vinyl siding is not permitted; however, vinyl windows, decorative elements and trim are permitted.
2. Garage doors must have windows, decorative details, or carriage-style adornments on them.
3. Eaves shall project at least 12 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 3 decorative elements such as, but not limited to, the following elements:
  - Windows
  - Bay window
  - Recessed window
  - Decorative window
  - Trim around the window
  - Wrap around porch or side porch
  - Two or more building materials
  - Decorative brick/stone
  - Decorative trim
  - Decorative shake
  - Decorative gable
  - Decorative air vents on gable
  - Decorative cornice
  - Column
  - Portico
  - Balcony
  - Dormer
5. A varied color palette shall be utilized on homes throughout the subdivision, to include a minimum of three color families for siding and shall include varied trim, shutter and accent colors complementing the siding color.
6. House entrances for units with front-facing single-car garages shall have a prominent covered porch/stoop area leading to the front door.
7. The garage cannot protrude more than 1 foot out from the front façade or front porch.
8. Homes will be pre-wired for solar panels.

**CERTIFIED LIST OF NEIGHBORING PROPERTY OWNERS**Application #: 20CZ09Submittal Date: 08-03-2020

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

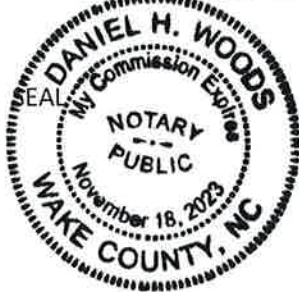
	Owner's Name	PIN
1.	Town of Apex	0619-79-6350
2.	Florence S Morrison Family Living Trust	0619-88-9725
3.	Florence S Morrison Family Living Trust	0619-89-9026
4.	Duke Energy Progress Inc.	0629-61-7801
5.	Wake County	0629-61-7801
6.	AMH Development NT LP Limited Partnership	0619-99-9620
7.	Stanley Evans	0619-99-3364
8.	Ina Evans	0619-99-4436
9.	Ina Evans	0619-99-4650
10.	Mark Maletta	0619-99-6238
11.		
12.		
13.		
14.		
15.		

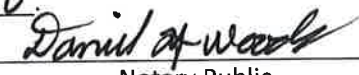
I, Jonathan Edwards, certify that this is an accurate listing of all property owners and property owners within 300' of the subject property.

Date: July 1, 2020By: 

COUNTY OF WAKE STATE OF NORTH CAROLINA

Sworn and subscribed before me, DANIEL H. WOODS, a Notary Public for the above State and County, on this the 1 day of JULY, 2020.



  
 Notary Public  
DANIEL H WOODS  
 Print Name

My Commission Expires: 11/18/2023

## AGENT AUTHORIZATION FORM

Application #: 20CZ09

Submittal Date: 08-03-2020

Florence S Morrison Family Living 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: 5131 & 5145 Church Road, New Hill, NC 27562

The agent for this project is: Peak Engineering & Design

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

Agent Name: Jeff Roach

Address: 1125 Apex Peakway, Apex, NC 27502

Telephone Number: (919) 439-0100

E-Mail Address: jroach@peakengineering.com

Signature(s) of Owner(s)\*

Sheila Morrison

Sheila Morrison

Type or print name

07-23-20

Date

\*

Type or print name

Date

Attach additional sheets if there are additional owners.

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

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



# AFFIDAVIT OF OWNERSHIP

Application #:

20CZ09

Submittal Date:

08-03-2020

The undersigned, Sheila Morrison (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 5131 & 5145 Church Road, New Hill, NC 27562 and legally described in **Exhibit "A"** attached hereto and incorporated herein (the "Property").
2. This Affidavit of Ownership is made for the purpose of filing an application for development approval with the Town of Apex.
3. If Affiant is the owner of the Property, Affiant acquired ownership by deed, dated 4-24-1991, 11-14-2000, and recorded in the Wake County Register of Deeds Office on 4-24-1991, 11-14-2000, in Book 4892, 8732 Page 1044, 577.
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 5131 & 5145 Church Road, New Hill, NC 27562, 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 5131 & 5145 Church Road, New Hill, NC 27562, 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 28 day of July, 2020.

Sheila Morrison (seal)

Sheila Morrison

Type or print name

STATE OF NORTH CAROLINA

COUNTY OF Durham

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



Yvonne Harrison

Notary Public

State of North Carolina

My Commission Expires: 8-12-2020

## AFFIDAVIT OF OWNERSHIP: EXHIBIT A – LEGAL DESCRIPTION

Application #: 20CZ09

Submittal Date: 08-03-2020

**Insert legal description below.**

For legal descriptions, please refer to the following deeds:

Florence S Morrison Family Living Trust 0619-89-9026, Deed Book - 004892, Deed Page - 00577

Florence S Morrison Family Living Trust 0619-88-9725, Deed Book - 008732, Deed Page - 01044

# 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.

10-5-2020

Date

Dear Neighbor:

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

5131 & 5145 Church Road, New Hill, NC 27562

0619-88-9725 & 0619-89-9026

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)):

Property to rezone to Medium Density (single family residential)

Meeting will take place via Zoom. Please use web address below to register for meeting.

<https://us02web.zoom.us/j/87006293556?pwd=dG44VFBLSDZjb1JQS2JvUFFtMjJoQT09>

Estimated submittal date: \_\_\_\_\_

## MEETING INFORMATION:

Property Owner(s) name(s):	Florence S Morrison Family Living Trust
Applicant(s):	Alonzo Wilson
Contact information (email/phone):	Jeff Roach, jroach@peakengineering.com (919) 439-0100
Meeting Address:	Meeting being held via Zoom.
Date of meeting**:	October 19, 2020
Time of meeting**:	5:30

## MEETING AGENDA TIMES:

Welcome: 5:30      Project Presentation: 5:40      Question & Answer: 5:55

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

# PROJECT CONTACT INFORMATION

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

## Development Contacts:

Project Name: Holleman Hills South Zoning: Existing R-30, Proposed MD-CZ

Location: 5131 & 5145 Church Road, New Hill, NC 27562

Property PIN(s): 0619-88-9725 & 0619-89-9026 Acreage/Square Feet: 10.16 acres

Property Owner: Florence S Morrison Family Living Trust

Address: PO Box 10

City: New Hill State: NC Zip: 27562

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

Developer: Alonzo Wilson

Address: 1609 White Oak Church Road

City: Apex State: NC Zip: 27523

Phone: (919) 924-6002 Fax: \_\_\_\_\_ Email: revawil@bellsouth.net

Engineer: Peak Engineering & Design, Jeff Roach

Address: 1125 Apex Peakway

City: Apex State: NC Zip: 27502

Phone: (919) 270-6940 Fax: \_\_\_\_\_ Email: jroach@peakengineering.com

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

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

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

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

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

## Town of Apex Department Contacts

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

### Providing Input to Town Council:

Each Town Council meeting agenda includes a Public Forum time when anyone is permitted to speak for three (3) minutes on any topic with the exception of items listed as Public Hearings for that meeting. The Town Council meets on the 1<sup>st</sup> and 3<sup>rd</sup> Tuesdays of each month at 6:00 p.m. (except for holidays, see schedule of meetings at <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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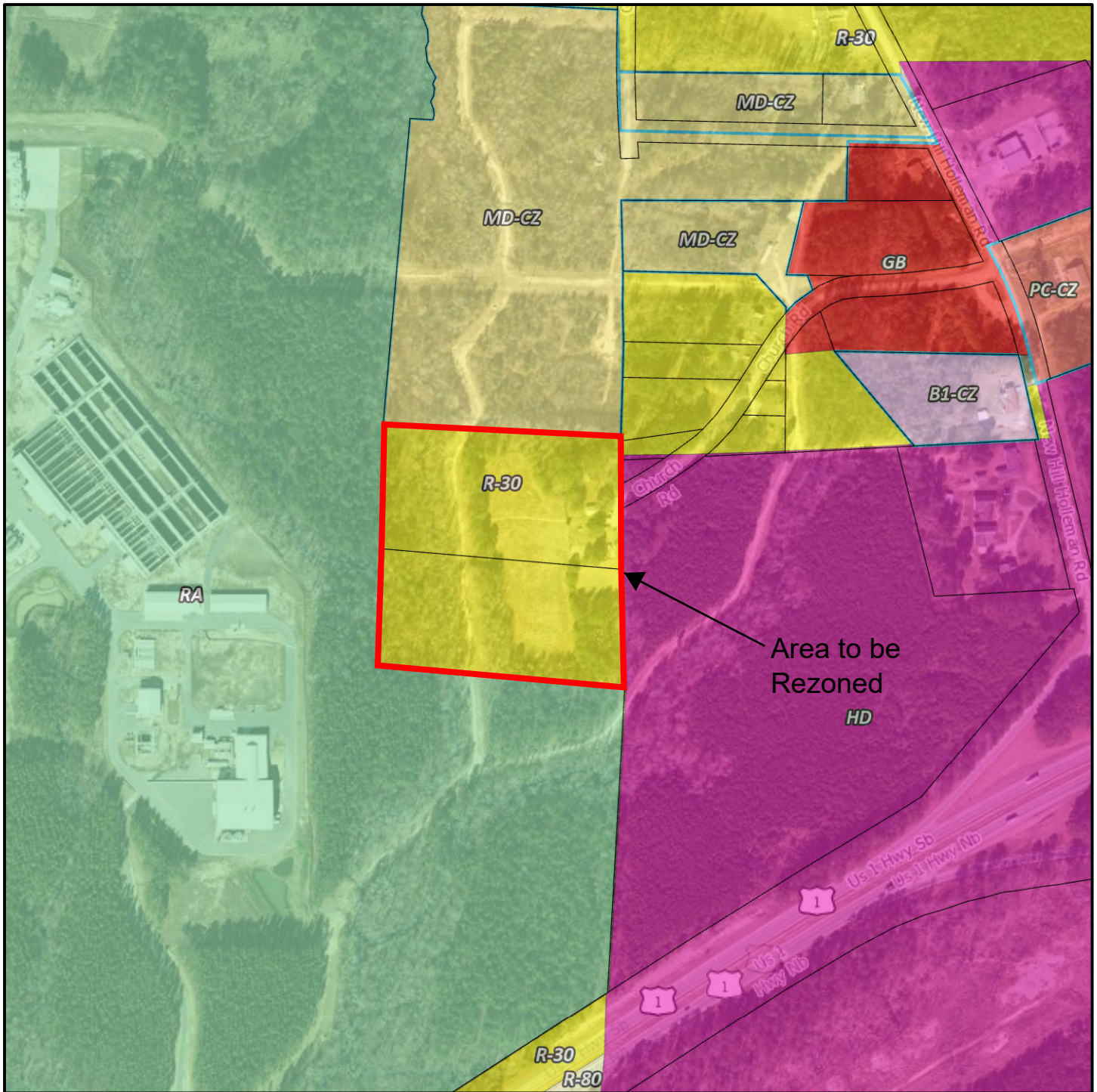
Temporary sediment basins during construction (prior to the conversion to the final stormwater pond) are often quite unattractive. Concerns should be reported to James Misciagno at 919-372-7470 so that he can coordinate the cleaning and/or mowing of the slopes and bottom of the pond with the developer.

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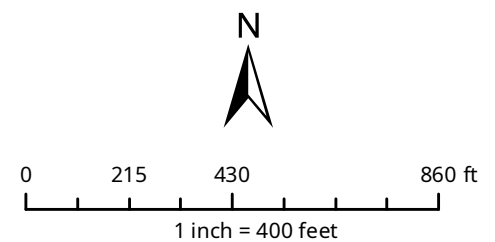
Post-construction concerns related to Stormwater Control Measures (typically a stormwater pond) such as conversion and long-term maintenance should be reported to Mike Deaton at 919-249-3413.

<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.



## Holleman Hills South



### **Disclaimer**

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

# 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: Zoom meeting online  
Date of meeting: Monday, October 19, 2020 Time of meeting: 5:30 pm - 7:30 pm  
Property Owner(s) name(s): Florence S. Morrison Family Living Trust  
Applicant(s): Alonzo Wilson (ATM Development); Jeff Roach (Peak Engineering & Design - engineer)

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.					
2.	There were no attendees at the meeting				
3.					
4.					
5.					
6.					
7.					
8.					
9.					
10.					
11.					
12.					
13.					
14.					

Use additional sheets, if necessary.

# SUMMARY OF DISCUSSION FROM THE NEIGHBORHOOD MEETING

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

Property Owner(s) name(s): Florence S. Morrison Family Living Trust

Applicant(s): Alonzo Wilson (ATM Development); Jeff Roach (Peak Engineering & Design - engineer)

Contact information (email/phone): Jeff Roach - Peak Engineering & Design (919) 439-0100 or via email

Meeting Address: Zoom meeting online

Date of meeting: Monday, October 19, 2020 Time of meeting: 5:30 pm

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

Question/Concern #1:

There were no attendees at the meeting

Applicant's Response:

Question/Concern #2:

Applicant's Response:

Question/Concern #3:

Applicant's Response:

Question/Concern #4:

Applicant's Response:



# AFFIDAVIT OF CONDUCTING A NEIGHBORHOOD MEETING, SIGN-IN SHEET AND ISSUES/RESPONSES SUBMITTAL

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

I, Jeffrey A. Roach, do hereby declare as follows:

Print Name

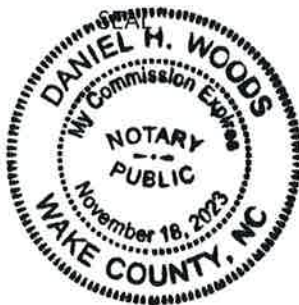
1. I have conducted a Neighborhood Meeting for the proposed Rezoning, Major Site Plan, Master Subdivision Plan, or Special Use Permit in accordance with UDO Sec. 2.2.7 *Neighborhood Meeting*.
2. The meeting invitations were mailed to the Apex Planning Department, all property owners within 300 feet of the subject property and any neighborhood association that represents citizens in the area via first class mail a minimum of 10 days in advance of the Neighborhood Meeting.
3. The meeting was conducted at Zoom meeting (location/address) on Monday, October 19, 2020 (date) from 5:30 (start time) to 7:30 (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.

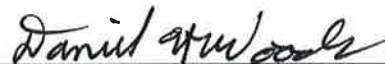
Oct 20, 2020  
Date

By: 

STATE OF NORTH CAROLINA  
COUNTY OF WAKE

Sworn and subscribed before me, DANIEL H. WOODS, a Notary Public for the above State and County, on this the 20 day of OCTOBER, 2020.





Notary Public

DANIEL H. WOODS

Print Name

My Commission Expires: 11/18/23



# 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.

December 11, 2019

Date

Dear Neighbor:

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

5145 & 5131 Church Rd. New Hill NC 27562

0619889725 & 0619899026

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 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)):

Property to rezone to Medium Density (single family residential)

Estimated submittal date: \_\_\_\_\_

## MEETING INFORMATION:

Property Owner(s) name(s): ATM Development, LLC

Applicant(s): Alonzo Wilson

Contact information (email/phone): revawil@bellsouth.net/919-924-6002

Meeting Address: 3101 New Hill Holleman Rd. New Hill, NC 27539

Date of meeting\*\*: December 30, 2019

Time of meeting\*\*: 5:30-7:30 pm

## MEETING AGENDA TIMES:

Welcome: 5:30-5:40 Project Presentation: 5:40-5:50 Question & Answer: 5:50-7:30

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

## 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): Florence S. Morrison Family Living Trust

Applicant(s): ATM DEVELOPMENT, LLC

Contact information (email/phone): revawil@bellsouth.net

Meeting Address: 3101 New Hill Holleman Road New Hill, NC 27539

Date of meeting: 12-30-2019

Time of meeting: 5:30 - 730

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:

How is property being developed?

Applicant's Response:

Property is proposed for single family detached homes.

Question/Concern #2:

Number units being built?

Applicant's Response:

We are asking for a medium density zoning, which is 6 units per acre.

Question/Concern #3:

What is future plan for New Hill Holleman Rd.

Applicant's Response:

Check with the Town of Apex to see what future thorough fare plan is.

Question/Concern #4:

Is housing low income (subsidized housing).

Applicant's Response:

No, this is not the intent of developer.



# 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: 3101 NEW HILL HOLLEMAN RD. NEW HILL, NC 27539  
 Date of meeting: 12-30-2019 Time of meeting: \_\_\_\_\_  
 Property Owner(s) name(s): ATM DEVELOPMENT, LLC  
 Applicant(s): ALONZO WILSON

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.	Paul Barth	3101 New Hill Holleman Rd			N
2.	Jackie Lee	520 Bayoak Dr. Cary, NC			Y
3.	Marilyn Lee	3504 New Hill-Holleman Rd New Hill, N.C. 27562			Yes
4.	Dixie Lee Newsome	500 Bayoak Dr. Cary, NC 27513			yes
5.	Sheila Morgan	P.O. Box 10, New Hill, NC 27562			yes
6.	John J. Inhof	2909 New Hill Holleman Rd			yes
7.	Victor Galloway	3016 New Hill Holleman Rd New Hill, NC 27562			yes.
8.	Johnnie Todd	2916 Garbis Rd New Hill NC 27562			yes
9.	Stanley Evans	5128 Church Rd New Hill, NC			yes
10.					
11.					
12.					
13.					
14.					

Use additional sheets, if necessary.

# PLANNING BOARD REPORT TO TOWN COUNCIL

Rezoning Case: 20CZ09 Holleman Hills South

Planning Board Meeting Date: November 9, 2020



## Report Requirements:

Per NCGS 160A-387, all proposed amendments to the zoning ordinance or zoning map shall have a written report provided from the Planning Board to the Town Council within 30 days of referral of the amendment to the Planning Board, or the Town Council may proceed in its consideration of the amendment without the Planning Board report. Furthermore, in no case is the Town Council bound by the recommendations, if any, of the Planning Board.

Per NCGS 160A-383, the Planning Board shall advise and comment on whether the proposed zoning amendment is consistent with all applicable officially adopted plans, and provide a written recommendation to the Town Council that addresses plan consistency and other matters as deemed appropriate by the Planning Board, but a comment by the Planning Board that a proposed amendment is inconsistent with the officially adopted plans shall not preclude consideration or approval of the proposed amendment by the Town Council.

### PROJECT DESCRIPTION:

**Acreage:** +/- 10.16

**PIN(s):** 0619899026, 0619889725

**Current Zoning:** Wake Co. R-30

**Proposed Zoning:** Medium Density Residential - Conditional Zoning (MD-CZ)

**2045 Land Use Map:** Medium Density Residential

**Town Limits:** Outside the ETJ & Corporate Limits

### Applicable Officially Adopted Plans:

The Board must state whether the project is consistent or inconsistent with the following officially adopted plans, if applicable. Applicable plans have a check mark next to them.

☒ 2045 Land Use Map  
☒ Consistent ☐ Inconsistent Reason: \_\_\_\_\_

☒ Apex Transportation Plan  
☒ Consistent ☐ Inconsistent Reason: \_\_\_\_\_

☒ Parks, Recreation, Open Space, and Greenways Plan  
☒ Consistent ☐ Inconsistent Reason: \_\_\_\_\_

## PLANNING BOARD REPORT TO TOWN COUNCIL

Rezoning Case: 20CZ09 Holleman Hills South

Planning Board Meeting Date: November 9, 2020



### Legislative Considerations:

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

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

☒ Consistent ☐ Inconsistent Reason: \_\_\_\_\_

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

☒ Consistent ☐ Inconsistent Reason: \_\_\_\_\_

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

☒ Consistent ☐ Inconsistent Reason: \_\_\_\_\_

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

☒ Consistent ☐ Inconsistent Reason: \_\_\_\_\_

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

☒ Consistent ☐ Inconsistent Reason: \_\_\_\_\_



## PLANNING BOARD REPORT TO TOWN COUNCIL

Rezoning Case: 20CZ09 Holleman Hills South

Planning Board Meeting Date: November 9, 2020



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

☒ Consistent

☐ Inconsistent

Reason: \_\_\_\_\_

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

☒ Consistent

☐ Inconsistent

Reason: \_\_\_\_\_

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

☒ Consistent

☐ Inconsistent

Reason: \_\_\_\_\_

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

☒ Consistent

☐ Inconsistent

Reason: \_\_\_\_\_

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

☒ Consistent

☐ Inconsistent

Reason: \_\_\_\_\_

# PLANNING BOARD REPORT TO TOWN COUNCIL

Rezoning Case: 20CZ09 Holleman Hills South

Planning Board Meeting Date: November 9, 2020



## Planning Board Recommendation:

Motion: To recommend approval as proposed by the applicant.

Introduced by Planning Board member: Ryan Akers

Seconded by Planning Board member: Beth Godfrey

- ☐ *Approval:* the project is consistent with all applicable officially adopted plans and the applicable legislative considerations listed above.
- ☒ *Approval with conditions:* the project is not consistent with all applicable officially adopted plans and/or the applicable legislative considerations as noted above, so the following conditions are recommended to be included in the project in order to make it fully consistent:

As proposed by applicant.

- ☐ *Denial:* the project is not consistent with all applicable officially adopted plans and/or the applicable legislative considerations as noted above.

With 7 Planning Board Member(s) voting "aye"

With 0 Planning Board Member(s) voting "no"

Reasons for dissenting votes:

This report reflects the recommendation of the Planning Board, this the 9th day of November 2020.

Attest:

**Michael Marks** Digitally signed by Michael Marks  
Date: 2020.11.09 19:42:22 -05'00'

Michael Marks, Planning Board Chair

**Dianne Khin** Digitally signed by Dianne Khin  
Date: 2020.11.09 17:01:09 -05'00'

Dianne Khin, Planning Director

**TOWN OF APEX**

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

**PUBLIC NOTIFICATION  
OF PUBLIC HEARINGS  
CONDITIONAL ZONING #20CZ09  
Holleman Hills South**

Pursuant to the provisions of North Carolina General Statutes §160A-364 and to the Town of Apex Unified Development Ordinance (UDO) Section 2.2.11, notice is hereby given of public hearings before the Planning Board and Town Council of the Town of Apex. The purpose of these hearings is to consider the following:

**Applicant:** Alonzo Wilson

**Authorized Agent:** Jeff Roach, Peak Engineering & Design

**Property Addresses:** 5131 & 5145 Church Road

**Acreage:** ±10.16 acres

**Property Identification Numbers (PINs):** 0619899026, 0619889725

**2045 Land Use Map Designation:** Medium Density Residential

**Existing Zoning of Properties:** Wake Co. R-30

**Proposed Zoning of Properties:** Medium Density Residential-Conditional Zoning (MD-CZ)

**Public Hearing Location:** Apex Town Hall  
Council Chambers, 2<sup>nd</sup> Floor  
73 Hunter Street, Apex, North Carolina

*Comments received prior to or during the Planning Board public hearing will not be read during the Town Council public hearing. Separate comments must be provided for the two public hearings in the time frames specified below.*

**Planning Board Public Hearing Date and Time: November 9, 2020 4:30 PM**

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

If you are unable to attend, you may provide comments no later than noon on Friday, November 6, 2020 by email ([public.hearing@apexnc.org](mailto:public.hearing@apexnc.org), 350-word limit) or voicemail (919-362-7300, 3-minute limit) according to the Remote Participation Policy at: <http://www.apexnc.org/DocumentCenter/View/31397>. You must provide your name and address for the record. These comments will be read during the Planning Board meeting.

**Town Council Public Hearing Date and Time: November 17, 2020 6:00 PM**

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

If you are unable to attend, you may provide comments no sooner than Friday, November 6<sup>th</sup> but no later than noon on Monday, November 16, 2020 by email ([public.hearing@apexnc.org](mailto:public.hearing@apexnc.org), 350-word limit) or voicemail (919-362-7300, 3-minute limit) according to the Remote Participation Policy at: <http://www.apexnc.org/DocumentCenter/View/31397>. You must provide your name and address for the record. These comments will be read during the Town Council meeting.

If the Council meeting is held with at least one member attending virtually, written comments on the subject of the public hearing may be submitted between publication of any required notice and 24 hours after the public hearing and the Council's vote will occur at the Council's next regularly scheduled meeting.

**Vicinity Map:**



Property owners within 300 feet of the proposed conditional zoning have been sent this notice via first class mail. All interested parties may appear at the public hearing and be heard. Maps showing the location for the above site(s) to be considered in addition to a copy of the 249-3426, Department of Planning and Community Development. To view the petition and related documents on-line: <https://www.apexnc.org/DocumentCenter/View/31397>.





## TOWN OF APEX

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

## PUBLIC NOTIFICATION OF PUBLIC HEARINGS CONDITIONAL ZONING #20CZ09 Holleman Hills South

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**Applicant:** Alonzo Wilson

**Authorized Agent:** Jeff Roach, Peak Engineering & Design

**Property Addresses:** 5131 & 5145 Church Road

**Acreage:** ±10.16 acres

**Property Identification Numbers (PINs):** 0619899026, 0619889725

**2045 Land Use Map Designation:** Medium Density Residential

**Existing Zoning of Properties:** Wake Co. R-30

**Proposed Zoning of Properties:** Medium Density Residential-Conditional Zoning (MD-CZ)

**Public Hearing Location:** Apex Town Hall  
Council Chambers, 2<sup>nd</sup> Floor  
73 Hunter Street, Apex, North Carolina

***Comments received prior to or during the Planning Board public hearing will not be read during the Town Council public hearing. Separate comments must be provided for the two public hearings in the time frames specified below.***

### **Planning Board Public Hearing Date and Time: November 9, 2020 4:30 PM**

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

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### **Town Council Public Hearing Date and Time: November 17, 2020 6:00 PM**

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

If you are unable to attend, you may provide comments no sooner than Friday, November 6<sup>th</sup> but no later than noon on Monday, November 16, 2020 by email ([public.hearing@apexnc.org](mailto:public.hearing@apexnc.org), 350-word limit) or voicemail (919-362-7300, 3-minute limit) according to the Remote Participation Policy at: <http://www.apexnc.org/DocumentCenter/View/31397/>. You must provide your name and address for the record. These comments will be read during the Town Council meeting.

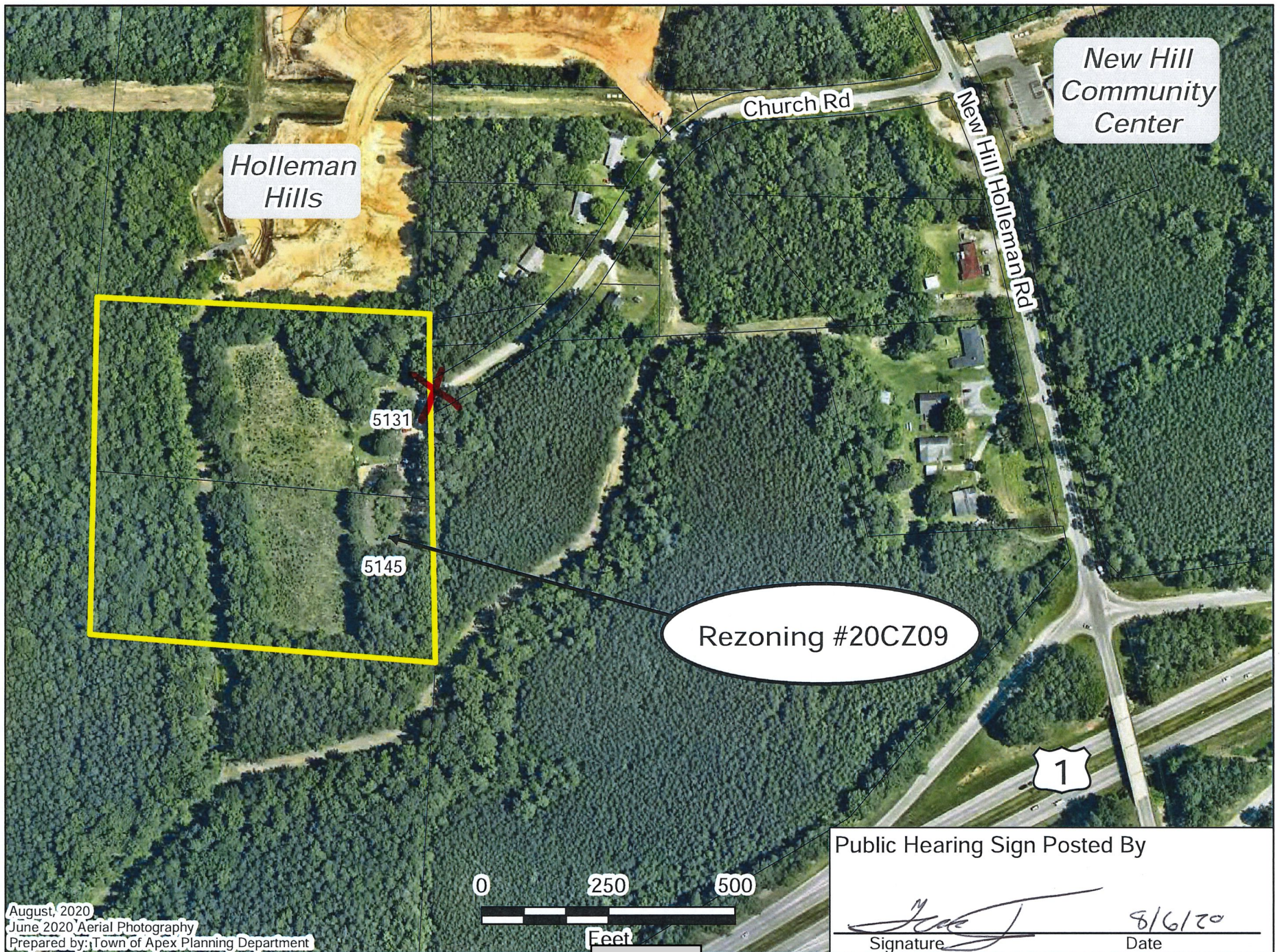
If the Council meeting is held with at least one member attending virtually, written comments on the subject of the public hearing may be submitted between publication of any required notice and 24 hours after the public hearing and the Council's vote will occur at the Council's next regularly scheduled meeting.

### **Vicinity Map:**



Property owners within 300 feet of the proposed conditional zoning have been sent this notice via first class mail. All interested parties may appear at the public hearing and be heard with respect to the application. Maps showing the location for the above site(s) to be considered in addition to a copy of the [2045 Land Use Map](#) can be inspected at the Apex Town Hall or call 919-249-3426, Department of Planning and Community Development, for further information. To view the petition and related documents on-line: <https://www.apexnc.org/DocumentCenter/View/32764>.





August, 2020  
June 2020 Aerial Photography  
Prepared by: Town of Apex Planning Department





## TOWN OF APEX

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

### AFFIDAVIT CERTIFYING Public Notification – Written (Mailed) Notice

Section 2.2.11

Town of Apex Unified Development Ordinance

Project Number and/or Name: Conditional Zoning #20CZ09  
Holleman Hills South

Project Location: 5131 & 5145 Church Road

Authorized Agent: Jeff Roach

Firm: Peak Engineering & Design

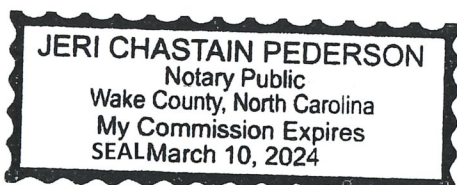
This is to certify that I, as Planning Director, mailed or caused to have mailed by first class postage for the above mentioned project on October 23, 2020, a notice containing the time and place, location, nature and scope of the application, where additional information may be obtained, and the opportunity for interested parties to be heard, to the property owners within 300' of the land subject to notification. I further certify that I relied on information provided to me by the above-mentioned person as to accuracy and mailing addresses of property owners within 300' of the land subject to notification.

10/27/2020  
Date

Lauren Staudenmaier for Dianne Khin  
Planning Director

STATE OF NORTH CAROLINA  
COUNTY OF WAKE

Sworn and subscribed before me, Jeri Chastain Pederson, a Notary Public for the above State and County, this the 27 day of October, 2020.



Jeri Chastain Pederson  
Notary Public

My Commission Expires: 03 / 10 / 2024

**ORDINANCE AMENDING THE OFFICIAL ZONING DISTRICT MAP OF THE TOWN OF APEX TO CHANGE THE ZONING OF APPROXIMATELY 10.16 ACRES LOCATED ON 5131 & 5145 CHURCH ROAD FROM WAKE CO. R-30 TO MEDIUM DENSITY RESIDENTIAL-CONDITIONAL ZONING (MD-CZ).**

**#20CZ09**

**WHEREAS**, the application of Alonzo Wilson for ATM Development, LLC, 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 9<sup>th</sup> day of November 2020 before the Planning Board and the 17<sup>th</sup> day of November 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 Wake County R-30 to Medium Density Residential-Conditional Zoning (MD-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 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 stated.

- |                  |                                 |
|------------------|---------------------------------|
| 1. Single-family | 5. Utility, minor               |
| 2. Park, active  | 6. Accessory apartment          |
| 3. Park, passive | 7. Family care home             |
| 4. Greenway      | 8. Recreation facility, private |

**Buffering:**

1. If this subdivision is developed as a part of the approved Holleman Hills Subdivision, no buffer shall be provided along the northern property line adjacent to Holleman Hills.
2. A 20-foot Type B Buffer will be provided along the eastern boundary at the 2 residential properties PIN 0619-99-3364 & 0619-99-6238. The remaining length of the eastern boundary of the project shall be a 10-foot Type B Buffer.
3. A 10-foot Type B Buffer will be provided along the southern boundary of the project adjacent to PIN 0619-79-6350 (Western Wake Regional Water Reclamation Facility).

**Single-family residential:**

1. Vinyl siding is not permitted; however, vinyl windows, decorative elements and trim are permitted.
2. Garage doors must have windows, decorative details or carriage-style adornments on them.

**Ordinance Amending the Official Zoning District Map #20CZ09**

3. Eaves shall project at least 12 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 3 decorative elements such as, but not limited to, the following elements:
  - a. Windows
  - b. Bay window
  - c. Recessed window
  - d. Decorative window
  - e. Trim around the window
  - f. Wrap around porch or side porch
  - g. Two or more building materials
  - h. Decorative brick/stone
  - i. Decorative trim
  - j. Decorative shake
  - k. Decorative gable
  - l. Decorative air vents on gable
  - m. Decorative cornice
  - n. Column
  - o. Portico
  - p. Balcony
  - q. Dormer
5. A varied color palette shall be utilized on homes throughout the subdivision, to include a minimum of three color families for siding and shall include varied trim, shutter and accent colors complementing the siding color.
6. House entrances for units with front-facing single-car garages shall have a prominent covered porch/stoop area leading to the front door.
7. The garage cannot protrude more than 1 foot out from the front façade or front porch.
8. Homes will be pre-wired for solar panels.

**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**

**ATTEST:**

\_\_\_\_\_  
Mayor

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

**APPROVED AS TO FORM:**

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

Attachment A: Legal Description for Rezoning 20CZ09 Holleman Hills South:

For legal descriptions, please refer to the following deeds:

Florence S Morrison Family Living Trust 0619-89-9026, Deed Book - 004892, Deed Page - 00577

Florence S Morrison Family Living Trust 0619-88-9725, Deed Book - 008732, Deed Page - 01044



# | Agenda Item | cover sheet

for consideration by the Apex Town Council

Item Type: PUBLIC HEARING  
Meeting Date: November 17, 2020

## Item Details

Presenter(s): Adam Stephenson, Engineering Supervisor  
Department(s): Public Works and Transportation

### Requested Motion

Public Hearing and possible motion regarding amendments to the Unified Development Ordinance related to the Flood Damage Prevention Overlay District.

### Approval Recommended?

The Planning and Community Development Department recommends approval.  
The Planning Board heard these amendments at their November 9, 2020 meeting and unanimously recommended approval.

### Item Details

Summary of UDO Amendments

Requested by Public Works and Transportation Staff:

1. Amendments to Sec. 6.2 *Flood Damage Prevention Overlay District* to allow automatic adoption of future Special Flood Hazard Areas established under the Cooperating Technical State (CTS) agreement between the State of North Carolina and FEMA in its Flood Insurance Study (FIS) for Wake County, to allow for floodway and non-encroachment area encroachment via Conditional Letter of Map Revision (CLOMR) and Letter of Map Revision (LOMR) issued by FEMA which is consistent with current practice, and to include additional definitions.

### Attachments

- Staff Report
- Ordinance
- Legal Notice



## STAFF REPORT

### Amendments to the Unified Development Ordinance

November 17, 2020 Town Council Meeting



#### Requested by the Public Works and Transportation Staff:

1. Amendments to Sec. 6.2 Flood Damage Prevention Overlay District to allow automatic adoption of future Special Flood Hazard Areas established under the Cooperating Technical State (CTS) agreement between the State of North Carolina and FEMA in its Flood Insurance Study (FIS) for Wake County, to allow for floodway and non-encroachment area encroachment via Conditional Letter of Map Revision (CLOMR) and Letter of Map Revision (LOMR) issued by FEMA which is consistent with current practice, and to include additional definitions.

##### 6.2.1 Authority

The Town is authorized to adopt the Flood Damage Prevention Overlay District pursuant to Part 6, Article 21 of Chapter 143; Parts 3, 5, and 8 of Article 19 of Chapter 160A; and Article 8 of Chapter 160A of the NCGS. The Legislature of the State of North Carolina has in Part 6, Article 21 of Chapter 143; Article 6 of Chapter 153A; Article 8 of Chapter 160A; and Article 7, 9, and 11 of Chapter 160D of the North Carolina General Statutes, delegated to local governmental units the authority to adopt regulations designed to promote the public health, safety, and general welfare.

...

##### 6.2.6 Basis for Establishing the Special Flood Hazard Areas

The Special Flood Hazard Areas are those identified under the Cooperating Technical State (CTS) agreement between the State of North Carolina and FEMA in its Flood Insurance Study (FIS) for Wake County dated ~~May 2, 2006~~ **December 6, 2019**, and its accompanying Flood Insurance Rate Map Panels (0721, 0722, 0731, 0732, 0733, 0740, 0741, 0742, 0743, 0750, 0751, 0752, 0753, to include additional ETJ panels, 0608K, 0710K, 0711K, 0712K, 0713K, 0720, 0723, & 0730) associated DFIRM panels, including any digital data developed as part of the FIS, which are adopted by reference and declared to be a part of this Ordinance, and any revision thereto. The "Special Flood Hazard Areas" also include those defined through standard engineering analysis for private developments or by governmental agencies, but which have not yet been incorporated in the FIRM. This includes detailed flood information generated as a requirement of Sec. 6.2.17.B *Provide Flood Data*.

...

##### 6.2.12 Penalties for Violation

Violation of the provisions of this ~~Section~~ Ordinance or failure to comply with any of its requirements, including violation of conditions and safeguards established in connection with grants of variance or special exception, shall constitute a **Class 1** misdemeanor pursuant to NC G.S. § 143-215.58. Any person who violates this ~~Section~~ Ordinance or fails to comply with any of its requirements shall, upon conviction thereof, be fined not more than ~~\$50.00~~ **100.00** or be imprisoned for not more than 30 days, or both. Each day such violation continues shall be considered a separate offense. Nothing herein contained shall prevent the Town from taking such other lawful action as is necessary to present or remedy any violation.

##### 6.2.13 Administration

...

###### B) *Floodplain Development Permit and Certification Requirements*

Application for a floodplain development permit shall be made to the Floodplain Administrator on forms furnished by the Town prior to any development activities in the

Flood Damage Prevention Overlay District. The floodplain development permit may include, but shall not be limited to, plans in duplicate drawn to scale showing the nature, location, dimensions, and elevations of the area in question; existing or proposed structures; and the location of fill materials, storage areas, and drainage facilities. Specifically, the following information is required:

1) *Base flood elevation data provided.* Where base flood elevation data is provided in accordance with Sec. 6.2.17.B *Provide Flood Data*, and 6.2.6 *Basis for Establishing the Special Flood Hazard Areas*, the application for a floodplain development permit shall show:

a) The elevation (in relation to ~~mean sea level~~**NAVD 1988**) of the lowest floor (including basement of all new and substantially improved structures;

b) If the structure has been floodproofed in accordance with Sec. 6.2.16.B.~~32 Commercial, Industrial, or Nonresidential Structure~~**Non-Residential Construction**, the elevation (in relation to ~~mean sea level~~**NAVD 1988**) to which the structure was floodproofed.

...

4) *Structure floodproofed.* When a structure is floodproofed, the applicant shall provide a certificate from a registered professional engineer or architect that the nonresidential flood-proofed structure meets the floodproofing standards in Sec. 6.2.16.B.~~32 Commercial, Industrial, or Nonresidential Structure~~**Non-Residential Construction**.

5) *Floor elevation or floodproofing certification required.* A floor elevation or floodproofing certification is required after the lowest floor is completed. Within 21 calendar days of establishment of the lowest floor elevation, or floodproofing by whatever construction means, whichever is applicable, it shall be the duty of the permit holder to submit to the Floodplain Administrator a certification of the elevation of the lowest floor, or floodproofing elevations, whichever is applicable, as built, in relation to ~~mean sea level~~**NAVD 1988**. Said certification shall be prepared by or under the direct supervision of a registered land surveyor or professional engineer and certified by same. When floodproofing is utilized for a particular building said certification shall be prepared by or under the direct supervision of a professional engineer or architect and certified by same. Any work done within the 21-day calendar period and prior to submission of the certification shall be at the permit holder's risk. The Floodplain Administrator shall review the floor elevation survey data submitted. The permit holder immediately and prior to further progressive work being permitted to proceed shall correct deficiencies detected by such review. Failure to submit the survey or failure to make said corrections required shall be cause to issue a stop-work order for the project.

C) *Duties and Responsibilities*

The duties of the Floodplain Administrator shall include but are not be limited to:

...

5) *Preventing encroachment within floodways and non-encroachment areas.* Preventing encroachment within *floodways* and non- encroachment areas unless

the certification and flood hazard reduction provisions of Secs. 6.2.16.A *General Standards*, through 6.2.198 *Standards for Subdivisions*, are met.

- 6) *Actual elevations.* Obtaining actual elevation (in relation to ~~mean sea level~~ **NAVD 1988**) of the lowest floor (including basement) of all new or substantially improved structures, in accordance with Sec. 6.2.13.B.5 *Floor Elevation or Floodproofing Certification Required*.
- 7) *Actual elevations.* Obtaining actual elevation (in relation to ~~mean sea level~~ **NAVD 1988**) to which the new or substantially improved structures have been floodproofed, in accordance with Sec. 6.2.13.B.5 *Floor Elevation or Floodproofing Certification Required*.
- 8) *Actual elevations.* Obtain actual elevation (in relation to ~~mean sea level~~ **NAVD 1988**) of all public utilities in accordance with Sec. 6.2.13.B.5 *Floor Elevation or Floodproofing Certification Required*.
- 9) *Certifications.* When floodproofing is utilized for a particular structure, obtain certifications from a registered professional engineer or architect in accordance with Sec. 6.2.16.B.32 *Commercial, Industrial, or Nonresidential Structure* **Non-Residential Construction**.

...

...

#### 6.2.16 Provisions for Flood Hazard Reduction

##### A) General Standards

In all Special Flood Hazard Areas the following provisions are required:

...

- 4) *Prevent water from entering or accumulating within the components during conditions of flooding. All new Electrical, heating, ventilation, plumbing, air conditioning equipment and other service facilities* **equipment shall be designed and/or located at or above the regulatory flood protection elevation or designed and installed so as to prevent water from entering or accumulating within the components during conditions of flooding; the occurrence of the base flood. These include, but are not limited to, HVAC equipment, water softener units, bath/kitchen fixtures, ductwork, electric/gas meter panels/boxes, utility/cable boxes, water heaters, and electric outlets/switches.**
  - a) **Replacements part of a substantial improvement, electrical, heating, ventilation, plumbing, air conditioning equipment, and other service equipment shall also meet the above provisions.**
  - b) **Replacements that are for maintenance and not part of a substantial improvement, may be installed at the original location provided the addition and/or improvements only comply with the standards for new construction consistent with the code and requirements for the original structure.**

...

##### B) Specific Standards

In all Special Flood Hazard Areas where Base Flood Elevation (BFE) data has been provided and in Future Conditions Flood Hazard Areas where Future Conditions Flood



Elevations data has been provided, as set forth in Sec. 6.2.6 or Sec. 6.2.17, the following provisions, in addition to the provisions of Sec. 6.2.16.A, are required:

- ...
- 3) *Manufactured or mobile homes.* Manufactured or mobile homes existing on August 1, 2000.
- ...
- b) Manufactured or mobile homes that are to be placed or substantially improved on sites in an existing manufactured home subdivision or mobile home park that are not subject to the provisions of Sec. 6.2.16.B.43.a above must be elevated so that the lowest floor of the manufactured or mobile home is elevated no lower than two (2) feet above the base flood elevation, and is securely anchored to an adequately anchored foundation to resist flotation, collapse, and lateral movement.
- ...
- 4) *Recreational vehicle.* A recreational vehicle is ready for highway use if it is on wheels or a jacking system, is attached to the site only by quick disconnect type utilities and security and devices, and has no permanently attached additions. Recreation vehicles placed on sites shall either:
- ...
- c) Meet the requirements of Sec. 6.2.13.B *Floodplain Development Permit and Certification Requirements*, Sec. 6.2.16.A *General Standards*, and Sec. 6.2.16.B.43 *Manufactured or Mobile Homes*.
- ...
- 6) *Floodways and Non-Encroachment Areas.* Located within Special Flood Hazard Areas established in Sec. 6.2.6 *Basis for Establishing the Special Flood Hazard Areas*, Sec. 6.2.17.B *Provide Flood Data*, or Sec. 6.2.18.D *Base Elevation Data or Certification of No Floodplain*, are areas designated as floodways and non-encroachment areas. The floodways and non-encroachment areas are extremely hazardous areas due to the velocity of floodwaters which carry debris and potential projectiles and has erosion potential. ~~The following provisions shall apply:~~ **No encroachments, including fill, new construction, substantial improvements and other developments shall be permitted unless:**
- a) ~~No encroachments shall be permitted. Substantial improvements of structures and buildings in existence on August 1, 2000 shall be permitted if it is demonstrated through hydrologic and hydraulic analyses performed in accordance with standard engineering practice that the proposed encroachment would not result in any increase in the flood levels during the occurrence of the base flood. Such certification and technical data shall be presented to the Floodplain Administrator. It is demonstrated that the proposed encroachment would not result in any increase in the flood levels during the occurrence of the base flood discharge, based on hydrologic and hydraulic analyses performed in accordance with standard engineering practice and presented to the Floodplain Administrator prior to issuance of floodplain development permit; or~~

- b) If Sec. 6.2.16.B.7.a above is satisfied, all substantial improvements shall comply with all applicable flood hazard reduction provisions of Secs. 6.2.16.A General Standards, through 6.2.18 Standards for Subdivisions. **A Conditional Letter of Map Revision (CLOMR) has been approved by FEMA. A Letter of Map Revision (LOMR) must also be obtained within six months of completion of the proposed encroachment.**
- c) ~~No manufactured or mobile homes shall be permitted, except in an existing manufactured home subdivision or mobile home park. A replacement manufactured or mobile home may be placed on a lot in an existing manufactured home subdivision or mobile home park provided the anchoring and the elevation standards of Sec. 6.2.16.B.4 *Manufactured or Mobile Homes*, are met.~~

**7) Standards for Riverine Floodplains with Base Flood Elevations but without Established Floodways or Non-Encroachment Areas. Along rivers and streams where BFE data is provided by FEMA or is available from another source but neither floodway nor non-encroachment areas are identified for a Special Flood Hazard Area on the FIRM or in the FIS report, the following requirements shall apply to all development within such areas:**

- a) **Standards of 6.2.16 Sections A and B; and**
- b) **Until a regulatory floodway or non-encroachment area is designated, no encroachments, including fill, new construction, substantial improvements, or other development, shall be permitted unless certification with supporting technical data by a registered professional engineer is provided demonstrating that the cumulative effect of the proposed development, when combined with all other existing and anticipated development, will not increase the water surface elevation of the base flood more than one (1) foot at any point.**

...

#### 6.2.19 Terms Defined

Unless specifically defined below, words or phrases used in this Ordinance shall be interpreted so as to give them the meaning they have in common usage and to give this Ordinance its most reasonable application.

...

**"Alteration of a watercourse" means a dam, impoundment, channel relocation, change in channel alignment, channelization, or change in cross-sectional area of the channel or the channel capacity, or any other form of modification which may alter, impede, retard or change the direction and/or velocity of the riverine flow of water during conditions of the base flood.**

...

**"Area of Future-Conditions Flood Hazard" means the land area that would be inundated by the 1-percent-annual-chance (100- year) flood based on future-conditions hydrology.**

...

**"Development Activity" means any activity defined as Development which will necessitate a Floodplain Development Permit. This includes buildings, structures, and non-structural items, including (but not limited to) fill, bulkheads, piers, pools, docks, landings, ramps, and erosion control/stabilization measures.**

“Digital Flood Insurance Rate Map (DFIRM)” means the digital official map of a community, issued by the Federal Emergency Management Agency (FEMA), on which both the Special Flood Hazard Areas and the risk premium zones applicable to the community are delineated.

...

“Existing building and existing structure” means any building and/or structure for which the “start of construction” commenced before March 3, 1992, the effective date of the initial FIRM.

“Existing Manufactured Home Park or Manufactured Home Subdivision” means a manufactured home park or subdivision for which the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including, at a minimum, the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads) was completed before **February 18, 1992**, the original effective date of the floodplain management regulations adopted by the community.

...

“Flood-resistant material” means any building product [material, component or system] capable of withstanding direct and prolonged contact (minimum 72 hours) with floodwaters without sustaining damage that requires more than low-cost cosmetic repair. Any material that is water-soluble or is not resistant to alkali or acid in water, including normal adhesives for above-grade use, is not flood-resistant. Pressure-treated lumber or naturally decay-resistant lumbers are acceptable flooring materials. Sheet-type flooring coverings that restrict evaporation from below and materials that are impervious, but dimensionally unstable are not acceptable. Materials that absorb or retain water excessively after submergence are not flood-resistant. Please refer to Technical Bulletin 2, Flood Damage-Resistant Materials Requirements, and available from the FEMA. Class 4 and 5 materials, referenced therein, are acceptable flood-resistant materials.

...

“Floodway encroachment analysis” means an engineering analysis of the impact that a proposed encroachment into a floodway or non-encroachment area is expected to have on the floodway boundaries and flood levels during the occurrence of the base flood discharge. The evaluation shall be prepared by a qualified North Carolina licensed engineer using standard engineering methods and hydraulic models meeting the minimum requirements of the National Flood Insurance Program.

...

“Letter of Map Change (LOMC)” means an official determination issued by FEMA that amends or revises an effective Flood Insurance Rate Map or Flood Insurance Study. Letters of Map Change include:

- (a) Letter of Map Amendment (LOMA): An official amendment, by letter, to an effective National Flood Insurance Program map. A LOMA is based on technical data showing that a property had been inadvertently mapped as being in the floodplain, but is actually on natural high ground above the base flood elevation. A LOMA amends the current effective Flood Insurance Rate Map and establishes that a specific property, portion of a property, or structure is not located in a special flood hazard area.
- (b) Letter of Map Revision (LOMR): A revision based on technical data that may show changes to flood zones, flood elevations, special flood hazard area

boundaries and floodway delineations, and other planimetric features.

- (c) Letter of Map Revision Based on Fill (LOMR-F): A determination that a structure or parcel of land has been elevated by fill above the BFE and is, therefore, no longer located within the special flood hazard area. In order to qualify for this determination, the fill must have been permitted and placed in accordance with the community's floodplain management regulations.
- (d) Conditional Letter of Map Revision (CLOMR): A formal review and comment as to whether a proposed project complies with the minimum NFIP requirements for such projects with respect to delineation of special flood hazard areas. A CLOMR does not revise the effective Flood Insurance Rate Map or Flood Insurance Study; upon submission and approval of certified as-built documentation, a Letter of Map Revision may be issued by FEMA to revise the effective FIRM.

"Light Duty Truck" means any motor vehicle rated at 8,500 pounds Gross Vehicular Weight Rating or less which has a vehicular curb weight of 6,000 pounds or less and which has a basic vehicle frontal area of 45 square feet or less as defined in 40 CFR 86.082-2 and is:

- (a) Designed primarily for purposes of transportation of property or is a derivation of such a vehicle, or
- (b) Designed primarily for transportation of persons and has a capacity of more than 12 persons; or
- (c) Available with special features enabling off-street or off-highway operation and use.

"Lowest Adjacent Grade (LAG)" means the **lowest** elevation of the ground, sidewalk or patio slab immediately next to the building, or deck support, after completion of the building.

...

"Map Repository" means the location of the official flood hazard data to be applied for floodplain management. It is a central location in which flood data is stored and managed; in North Carolina, FEMA has recognized that the application of digital flood hazard data products have the same authority as hard copy products. Therefore, the NCEM's Floodplain Mapping Program websites house current and historical flood hazard data. For effective flood hazard data the NC FRIS website (<http://FRIS.NC.GOV/FRIS>) is the map repository, and for historical flood hazard data the FloodNC website (<http://FLOODNC.GOV/NCFLOOD>) is the map repository.

...

"Mean Sea Level" means, for purposes of this Ordinance, the National Geodetic Vertical Datum (NGVD) as corrected in 1929, the North American Vertical Datum (NAVD) as corrected in 1988, or other vertical control datum used as a reference for establishing varying elevations within the floodplain, to which Base Flood Elevations (BFEs) shown on a FIRM are referenced. Refer to each FIRM panel to determine datum used.

"New Construction" means structures for which the "start of construction" commenced on or after **February 18, 1992**, the effective date of the original version of the community's Flood Damage Prevention Ordinance and includes any subsequent improvements to such structures.



...

“Post-FIRM” means construction or other development for which the “start of construction” occurred on or after **March 3, 1992**, the effective date of the initial Flood Insurance Rate Map ~~for the area.~~

“Pre-FIRM” means construction or other development for which the “start of construction” occurred before **March 3, 1992**, the effective date of the initial Flood Insurance Rate Map ~~for the area.~~

...

“Recreational Vehicle (RV)” means a vehicle, which is:

- (1) built on a single chassis;
- (2) 400 square feet or less when measured at the largest horizontal projection;
- (3) designed to be self-propelled or permanently towable by a light duty truck; and
- (4) designed primarily not for use as a permanent dwelling, but as temporary living quarters for recreational, camping, travel, or seasonal use.
- (5) **Is fully licensed and ready for highway use.**

“Reference Level” is the top of the lowest floor for structures within Special Flood Hazard Areas and Future Conditions Flood Hazard Areas designated as ~~Zone A1-A30, AE, A, A99 or Zone X~~ **(Future) Zones A, AE, and Future X.**

“Regulatory Flood Protection Elevation” means the ~~elevation above mean sea level to which the reference level of all structures and other development located within Special Flood Hazard Areas and Future Conditions Flood Hazard Areas must be protected~~ **“Base Flood Elevation” plus the “Freeboard”.**

- (1) In “Special Flood Hazard Areas” where Base Flood Elevations (BFEs) have been determined, this elevation shall be the BFE plus two (2) feet of freeboard.
- (2) In “Special Flood Hazard Areas” where no BFE has been established, this elevation shall be at least two (2) feet above the highest adjacent grade.
- (3) In Future Conditions Flood Hazard Areas this elevation shall be the Future Conditions Flood Elevation plus two (2) feet of freeboard.

...

“Substantial Improvement” means any combination of repairs, reconstruction, rehabilitation, addition, or other improvement of a structure, taking place during any one-(1) year period for which the cost equals or exceeds 50% of the market value of the structure before the “start of construction” of the improvement. This term includes structures which have incurred “substantial damage”, regardless of the actual repairwork performed. The term does not, however, include either:

- (1) any correction of existing violations of State or community health, sanitary, or safety code specifications which have been identified by the community code

enforcement official and which are the minimum necessary to assure safe living conditions; or,

- (2) any alteration of a historic structure, provided that the alteration will not preclude the structure's continued designation as a historic structure and the alteration is approved by variance issued pursuant to Sec. 6.2.15 of this Ordinance.

“Technical Bulletin and Technical Fact Sheet” means a FEMA publication that provides guidance concerning the building performance standards of the NFIP, which are contained in Title 44 of the U.S. Code of Federal Regulations at Section 60.3. The bulletins and fact sheets are intended for use primarily by State and local officials responsible for interpreting and enforcing NFIP regulations and by members of the development community, such as design professionals and builders. New bulletins, as well as updates of existing bulletins, are issued periodically as needed. The bulletins do not create regulations; rather they provide specific guidance for complying with the minimum requirements of existing NFIP regulations.

“Temperature Controlled” means having the temperature regulated by a heating and/or cooling system, built-in or appliance.

...

“Water Surface Elevation (WSE)” means the height, in relation to ~~mean sea level~~ NAVD 1988, of floods of various magnitudes and frequencies in the floodplains of coastal or riverine areas.

...

**PLANNING STAFF RECOMMENDATION:**

Planning staff recommends approval of the proposed UDO amendments.

**PLANNING BOARD RECOMMENDATION:**

The Planning Board heard these amendments at their November 9, 2020 meeting and unanimously recommended approval.

# PLANNING BOARD REPORT TO TOWN COUNCIL

## Unified Development Ordinance Amendments

Planning Board Meeting Date: November 9, 2020



### Report Requirements:

Per NCGS 160A-387, all proposed amendments to the zoning ordinance or zoning map shall have a written report provided from the Planning Board to the Town Council within 30 days of referral of the amendment to the Planning Board, or the Town Council may proceed in its consideration of the amendment without the Planning Board report. Furthermore, in no case is the Town Council bound by the recommendations, if any, of the Planning Board.

### Planning Board Recommendation:

Motion: Motion to approve as presented.

Introduced by Planning Board member: Mark Steele

Seconded by Planning Board member: Ryan Akers

- ☒ Approval of the proposed UDO amendment(s)  
☐ Approval of the proposed UDO amendment(s) with the following conditions:

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☐ Denial of the proposed UDO amendment(s)

With 7 Planning Board Member(s) voting "aye"

With 0 Planning Board Member(s) voting "no"

Reasons for dissenting votes:

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This report reflects the recommendation of the Planning Board, this the 9th day of November 2020.

Attest:

**Michael Marks** Digitally signed by Michael Marks  
Date: 2020.11.09 19:50:58 -05'00'

Michael Marks, Planning Board Chair

**Dianne Khin** Digitally signed by Dianne Khin  
Date: 2020.11.09 18:47:56 -05'00'

Dianne Khin, Planning Director



## TOWN OF APEX

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

## PUBLIC NOTIFICATION OF PUBLIC HEARING

### AMENDMENTS TO THE UNIFIED DEVELOPMENT ORDINANCE (UDO)

Notice is hereby given of a public hearing before the Town Council of the Town of Apex for the purpose of soliciting comments relative to the following amendment(s) to the Unified Development Ordinance:

#### **Requested by Public Works and Transportation Staff:**

1. Amendments to Sec. 6.2 *Flood Damage Prevention Overlay District* to allow automatic adoption of future Special Flood Hazard Areas established under the Cooperating Technical State (CTS) agreement between the State of North Carolina and FEMA in its Flood Insurance Study (FIS) for Wake County, to allow for floodway and non-encroachment area encroachment via Conditional Letter of Map Revision (CLOMR) and Letter of Map Revision (LOMR) issued by FEMA which is consistent with current practice, and to include additional definitions.

**Public Hearing Location:** Apex Town Hall  
Council Chambers, 2<sup>nd</sup> Floor  
73 Hunter Street, Apex, North Carolina

#### **Town Council Public Hearing Date and Time: November 17, 2020 6:00 PM**

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

If you are unable to attend, you may provide comments no later than noon on Monday, November 16, 2020 by email ([public.hearing@apexnc.org](mailto:public.hearing@apexnc.org), 350-word limit) or voicemail (919-362-7300, 3-minute limit) according to the Remote Participation Policy at: <http://www.apexnc.org/DocumentCenter/View/31397/>. You must provide your name and address for the record. These comments will be read during the Town Council meeting.

If the Council meeting is held with at least one member attending virtually, written comments on the subject of the public hearing may be submitted between publication of any required notice and 24 hours after the public hearing and the Council's vote will occur at the Council's next regularly scheduled meeting.

The UDO can be accessed online at: <http://www.apexnc.org/233>.

Published Dates: October 26-November 17, 2020

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



## TOWN OF APEX

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

## PUBLIC NOTIFICATION OF PUBLIC HEARING

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Published Dates: October 26-November 17, 2020

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



AN ORDINANCE TO AMEND CERTAIN SECTIONS OF THE UNIFIED DEVELOPMENT ORDINANCE

BE IT ORDAINED by the Town Council of the Town of Apex as follows:

**Section 1. Section 6.2 of the Unified Development Ordinance is amended to read as follows with additions shown as bold underlined text and deletions shown as struck-through text:**

6.2.1 Authority

The Town is authorized to adopt the Flood Damage Prevention Overlay District pursuant to Part 6, Article 21 of Chapter 143; Parts 3, 5, and 8 of Article 19 of Chapter 160A; and Article 8 of Chapter 160A of the NCGS. **The Legislature of the State of North Carolina has in Part 6, Article 21 of Chapter 143; Article 6 of Chapter 153A; Article 8 of Chapter 160A; and Article 7, 9, and 11 of Chapter 160D of the North Carolina General Statutes, delegated to local governmental units the authority to adopt regulations designed to promote the public health, safety, and general welfare.**

...

6.2.6 Basis for Establishing the Special Flood Hazard Areas

The Special Flood Hazard Areas are those identified under the Cooperating Technical State (CTS) agreement between the State of North Carolina and FEMA in its Flood Insurance Study (FIS) for Wake County dated ~~May 2, 2006~~ **December 6, 2019**, and its accompanying Flood Insurance Rate Map Panels (~~0721, 0722, 0731, 0732, 0733, 0740, 0741, 0742, 0743, 0750, 0751, 0752, 0753, to include additional ETJ panels, 0608K, 0710K, 0711K, 0712K, 0713K, 0720, 0723, & 0730~~) **associated DFIRM panels, including any digital data developed as part of the FIS,** which are adopted by reference and declared to be a part of this Ordinance, **and any revision thereto.** The "Special Flood Hazard Areas" also include those defined through standard engineering analysis for private developments or by governmental agencies, but which have not yet been incorporated in the FIRM. This includes detailed flood information generated as a requirement of Sec. 6.2.17.B *Provide Flood Data*.

...

6.2.12 Penalties for Violation

Violation of the provisions of this ~~Section~~ **Ordinance** or failure to comply with any of its requirements, including violation of conditions and safeguards established in connection with grants of variance **or special exception**, shall constitute a **Class 1** misdemeanor **pursuant to NC G.S. § 143-215.58.** Any person who violates this ~~Section~~ **Ordinance** or fails to comply with any of its requirements shall, upon conviction thereof, be fined not more than ~~\$50.00~~ **100.00** or be imprisoned for not more than 30 days, or both. Each day such violation continues shall be considered a separate offense. Nothing herein contained shall prevent the Town from taking such other lawful action as is necessary to present or remedy any violation.

6.2.13 Administration

...

B) *Floodplain Development Permit and Certification Requirements*

Application for a floodplain development permit shall be made to the Floodplain Administrator on forms furnished by the Town prior to any development activities in the Flood Damage Prevention Overlay District. The floodplain development permit may include, but shall not be limited to, plans in duplicate drawn to scale showing the nature,

location, dimensions, and elevations of the area in question; existing or proposed structures; and the location of fill materials, storage areas, and drainage facilities. Specifically, the following information is required:

- 1) *Base flood elevation data provided.* Where base flood elevation data is provided in accordance with Sec. 6.2.17.B *Provide Flood Data*, and 6.2.6 *Basis for Establishing the Special Flood Hazard Areas*, the application for a floodplain development permit shall show:
  - a) The elevation (in relation to ~~mean sea level~~ **NAVD 1988**) of the lowest floor (including basement of all new and substantially improved structures;
  - b) If the structure has been floodproofed in accordance with Sec. 6.2.16.B.32 ~~*Commercial, Industrial, or Nonresidential Structure*~~ ***Non-Residential Construction***, the elevation (in relation to ~~mean sea level~~ **NAVD 1988**) to which the structure was floodproofed....
- 4) *Structure floodproofed.* When a structure is floodproofed, the applicant shall provide a certificate from a registered professional engineer or architect that the nonresidential flood-proofed structure meets the floodproofing standards in Sec. 6.2.16.B.32 ~~*Commercial, Industrial, or Nonresidential Structure*~~ ***Non-Residential Construction***.
- 5) *Floor elevation or floodproofing certification required.* A floor elevation or floodproofing certification is required after the lowest floor is completed. Within 21 calendar days of establishment of the lowest floor elevation, or floodproofing by whatever construction means, whichever is applicable, it shall be the duty of the permit holder to submit to the Floodplain Administrator a certification of the elevation of the lowest floor, or floodproofing elevations, whichever is applicable, as built, in relation to ~~mean sea level~~ **NAVD 1988**. Said certification shall be prepared by or under the direct supervision of a registered land surveyor or professional engineer and certified by same. When floodproofing is utilized for a particular building said certification shall be prepared by or under the direct supervision of a professional engineer or architect and certified by same. Any work done within the 21-day calendar period and prior to submission of the certification shall be at the permit holder's risk. The Floodplain Administrator shall review the floor elevation survey data submitted. The permit holder immediately and prior to further progressive work being permitted to proceed shall correct deficiencies detected by such review. Failure to submit the survey or failure to make said corrections required shall be cause to issue a stop-work order for the project.

C) *Duties and Responsibilities*

The duties of the Floodplain Administrator shall include but are not be limited to:

...

- 5) *Preventing encroachment within floodways and non-encroachment areas.*  
Preventing encroachment within floodways and non-encroachment areas unless the certification and flood hazard reduction provisions of Secs. 6.2.16.A *General Standards*, through 6.2.19 ~~8~~ *Standards for Subdivisions*, are met.
- 6) *Actual elevations.* Obtaining actual elevation (in relation to ~~mean sea level~~ **NAVD 1988**) of the lowest floor (including basement) of all new or substantially improved structures, in accordance with Sec. 6.2.13.B.5 *Floor Elevation ~~Or~~ Floodproofing Certification Required*.
- 7) *Actual elevations.* Obtaining actual elevation (in relation to ~~mean sea level~~ **NAVD 1988**) to which the new or substantially improved structures have been floodproofed, in accordance with Sec. 6.2.13.B.5 *Floor Elevation or Floodproofing Certification Required*.
- 8) *Actual elevations.* Obtain actual elevation (in relation to ~~mean sea level~~ **NAVD 1988**) of all public utilities in accordance with Sec. 6.2.13.B.5 *Floor Elevation or Floodproofing Certification Required*.
- 9) *Certifications.* When floodproofing is utilized for a particular structure, obtain certifications from a registered professional engineer or architect in accordance with Sec. 6.2.16.B.3 ~~2 Commercial, Industrial, or Nonresidential Structure~~ **Non-Residential Construction**.

...

...

#### 6.2.16 Provisions for Flood Hazard Reduction

##### A) General Standards

In all Special Flood Hazard Areas the following provisions are required:

...

- 4) *Prevent water from entering or accumulating within the components during conditions of flooding. **All new** ~~Electrical, heating, ventilation, plumbing, air conditioning equipment and other service facilities~~ **equipment** shall be designed and/or located at or above the regulatory flood protection elevation or designed and installed so as to prevent water from entering or accumulating within the components during conditions of flooding; the occurrence of the base flood. These include, but are not limited to, HVAC equipment, water softener units, bath/kitchen fixtures, ductwork, electric/gas meter panels/boxes, utility/cable boxes, water heaters, and electric outlets/switches.*
  - a) Replacements part of a substantial improvement, electrical, heating, ventilation, plumbing, air conditioning equipment, and other service equipment shall also meet the above provisions.
  - b) Replacements that are for maintenance and not part of a substantial improvement, may be installed at the original location provided the addition and/or improvements only comply with the standards for new construction consistent with the code and requirements for the original structure.

...

B) Specific Standards

In all Special Flood Hazard Areas where Base Flood Elevation (BFE) data has been provided and in Future Conditions Flood Hazard Areas where Future Conditions Flood Elevations data has been provided, as set forth in Sec. 6.2.6 or Sec. 6.2.17, the following provisions, in addition to the provisions of Sec. 6.2.16.A, are required:

...

- 3) *Manufactured or mobile homes.* Manufactured or mobile homes existing on August 1, 2000.

...

- b) Manufactured or mobile homes that are to be placed or substantially improved on sites in an existing manufactured home subdivision or mobile home park that are not subject to the provisions of Sec. 6.2.16.B.43.a above must be elevated so that the lowest floor of the manufactured or mobile home is elevated no lower than two (2) feet above the base flood elevation, and is securely anchored to an adequately anchored foundation to resist flotation, collapse, and lateral movement.

...

- 4) *Recreational vehicle.* A recreational vehicle is ready for highway use if it is on wheels or a jacking system, is attached to the site only by quick disconnect type utilities and security and devices, and has no permanently attached additions. Recreation vehicles placed on sites shall either:

...

- c) Meet the requirements of Sec. 6.2.13.B *Floodplain Development Permit and Certification Requirements*, Sec. 6.2.16.A *General Standards*, and Sec. 6.2.16.B.43 *Manufactured or Mobile Homes*.

...

- 6) *Floodways and Non-Encroachment Areas.* Located within Special Flood Hazard Areas established in Sec. 6.2.6 *Basis for Establishing the Special Flood Hazard Areas*, Sec. 6.2.17.B *Provide Flood Data*, or Sec. 6.2.18.D *Base Elevation Data or Certification of No Floodplain*, are areas designated as floodways and non-encroachment areas. The floodways and non-encroachment areas are extremely hazardous areas due to the velocity of floodwaters which carry debris and potential projectiles and has erosion potential. ~~The following provisions shall apply:~~ **No encroachments, including fill, new construction, substantial improvements and other developments shall be permitted unless:**

- a) ~~No encroachments shall be permitted. Substantial improvements of structures and buildings in existence on August 1, 2000 shall be permitted if it is demonstrated through hydrologic and hydraulic analyses performed in accordance with standard engineering practice that the proposed encroachment would not result in any increase in the flood levels during the occurrence of the base flood. Such certification and technical data shall be presented to the Floodplain Administrator. It is demonstrated that the proposed encroachment would not result in~~

any increase in the flood levels during the occurrence of the base flood discharge, based on hydrologic and hydraulic analyses performed in accordance with standard engineering practice and presented to the Floodplain Administrator prior to issuance of floodplain development permit; or

- b) If Sec. 6.2.16.B.7.a above is satisfied, all substantial improvements shall comply with all applicable flood hazard reduction provisions of Secs. 6.2.16.A General Standards, through 6.2.18 Standards for Subdivisions. A Conditional Letter of Map Revision (CLOMR) has been approved by FEMA. A Letter of Map Revision (LOMR) must also be obtained within six months of completion of the proposed encroachment.
- e) ~~No manufactured or mobile homes shall be permitted, except in an existing manufactured home subdivision or mobile home park. A replacement manufactured or mobile home may be placed on a lot in an existing manufactured home subdivision or mobile home park provided the anchoring and the elevation standards of Sec. 6.2.16.B.4 Manufactured or Mobile Homes, are met.~~

**7) Standards for Riverine Floodplains with Base Flood Elevations but without Established Floodways or Non-Encroachment Areas. Along rivers and streams where BFE data is provided by FEMA or is available from another source but neither floodway nor non-encroachment areas are identified for a Special Flood Hazard Area on the FIRM or in the FIS report, the following requirements shall apply to all development within such areas:**

- a) Standards of 6.2.16 Sections A and B; and
- b) Until a regulatory floodway or non-encroachment area is designated, no encroachments, including fill, new construction, substantial improvements, or other development, shall be permitted unless certification with supporting technical data by a registered professional engineer is provided demonstrating that the cumulative effect of the proposed development, when combined with all other existing and anticipated development, will not increase the water surface elevation of the base flood more than one (1) foot at any point.

...

**6.2.19 Terms Defined**

Unless specifically defined below, words or phrases used in this Ordinance shall be interpreted so as to give them the meaning they have in common usage and to give this Ordinance its most reasonable application.

...

**“Alteration of a watercourse” means a dam, impoundment, channel relocation, change in channel alignment, channelization, or change in cross-sectional area of the channel or the channel capacity, or any other form of modification which may alter, impede, retard or change the direction and/or velocity of the riverine flow of water during conditions of the base flood.**



...

**“Area of Future-Conditions Flood Hazard” means the land area that would be inundated by the 1-percent-annual-chance (100- year) flood based on future-conditions hydrology.**

...

**“Development Activity” means any activity defined as Development which will necessitate a Floodplain Development Permit. This includes buildings, structures, and non-structural items, including (but not limited to) fill, bulkheads, piers, pools, docks, landings, ramps, and erosion control/stabilization measures.**

**“Digital Flood Insurance Rate Map (DFIRM)” means the digital official map of a community, issued by the Federal Emergency Management Agency (FEMA), on which both the Special Flood Hazard Areas and the risk premium zones applicable to the community are delineated.**

...

**“Existing building and existing structure” means any building and/or structure for which the “start of construction” commenced before March 3, 1992, the effective date of the initial FIRM.**

“Existing Manufactured Home Park or Manufactured Home Subdivision” means a manufactured home park or subdivision for which the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including, at a minimum, the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads) was completed before **February 18, 1992**, the original effective date of the floodplain management regulations adopted by the community.

...

**“Flood-resistant material” means any building product [material, component or system] capable of withstanding direct and prolonged contact (minimum 72 hours) with floodwaters without sustaining damage that requires more than low-cost cosmetic repair. Any material that is water-soluble or is not resistant to alkali or acid in water, including normal adhesives for above-grade use, is not flood-resistant. Pressure-treated lumber or naturally decay-resistant lumbers are acceptable flooring materials. Sheet-type flooring coverings that restrict evaporation from below and materials that are impervious, but dimensionally unstable are not acceptable. Materials that absorb or retain water excessively after submergence are not flood-resistant. Please refer to Technical Bulletin 2, Flood Damage-Resistant Materials Requirements, and available from the FEMA. Class 4 and 5 materials, referenced therein, are acceptable flood-resistant materials.**

...

**“Floodway encroachment analysis” means an engineering analysis of the impact that a proposed encroachment into a floodway or non-encroachment area is expected to have on the floodway boundaries and flood levels during the occurrence of the base flood discharge. The evaluation shall be prepared by a qualified North Carolina licensed engineer using standard engineering methods and hydraulic models meeting the minimum requirements of the National Flood Insurance Program.**

...

“Letter of Map Change (LOMC)” means an official determination issued by FEMA that amends or revises an effective Flood Insurance Rate Map or Flood Insurance Study. Letters of Map Change include:

- (a) Letter of Map Amendment (LOMA): An official amendment, by letter, to an effective National Flood Insurance Program map. A LOMA is based on technical data showing that a property had been inadvertently mapped as being in the floodplain, but is actually on natural high ground above the base flood elevation. A LOMA amends the current effective Flood Insurance Rate Map and establishes that a specific property, portion of a property, or structure is not located in a special flood hazard area.
- (b) Letter of Map Revision (LOMR): A revision based on technical data that may show changes to flood zones, flood elevations, special flood hazard area boundaries and floodway delineations, and other planimetric features.
- (c) Letter of Map Revision Based on Fill (LOMR-F): A determination that a structure or parcel of land has been elevated by fill above the BFE and is, therefore, no longer located within the special flood hazard area. In order to qualify for this determination, the fill must have been permitted and placed in accordance with the community’s floodplain management regulations.
- (d) Conditional Letter of Map Revision (CLOMR): A formal review and comment as to whether a proposed project complies with the minimum NFIP requirements for such projects with respect to delineation of special flood hazard areas. A CLOMR does not revise the effective Flood Insurance Rate Map or Flood Insurance Study; upon submission and approval of certified as-built documentation, a Letter of Map Revision may be issued by FEMA to revise the effective FIRM.

“Light Duty Truck” means any motor vehicle rated at 8,500 pounds Gross Vehicular Weight Rating or less which has a vehicular curb weight of 6,000 pounds or less and which has a basic vehicle frontal area of 45 square feet or less as defined in 40 CFR 86.082-2 and is:

- (a) Designed primarily for purposes of transportation of property or is a derivation of such a vehicle, or
- (b) Designed primarily for transportation of persons and has a capacity of more than 12 persons; or
- (c) Available with special features enabling off-street or off-highway operation and use.

“Lowest Adjacent Grade (LAG)” means the **lowest** elevation of the ground, sidewalk or patio slab immediately next to the building, or deck support, after completion of the building.

...

**“Map Repository” means the location of the official flood hazard data to be applied for floodplain management. It is a central location in which flood data is stored and managed; in North Carolina, FEMA has recognized that the application of digital flood hazard data products have the same authority as hard copy products. Therefore, the NCEM’s Floodplain Mapping Program websites house current and historical flood hazard data. For effective flood hazard data the NC FRIS website (<http://FRIS.NC.GOV/FRIS>) is the map repository, and for historical flood hazard data the FloodNC website (<http://FLOODNC.GOV/NCFLOOD>) is the map repository.**

...

**“Mean Sea Level” means, for purposes of this Ordinance, the National Geodetic Vertical Datum (NGVD) as corrected in 1929, the North American Vertical Datum (NAVD) as corrected in 1988, or other vertical control datum used as a reference for establishing varying elevations within the floodplain, to which Base Flood Elevations (BFEs) shown on a FIRM are referenced. Refer to each FIRM panel to determine datum used.**

**“New Construction” means structures for which the “start of construction” commenced on or after **February 18, 1992**, the effective date of the original version of the community’s Flood Damage Prevention Ordinance and includes any subsequent improvements to such structures.**

...

**“Post-FIRM” means construction or other development for which the “start of construction” occurred on or after **March 3, 1992**, the effective date of the initial Flood Insurance Rate Map for the area.**

**“Pre-FIRM” means construction or other development for which the “start of construction” occurred before **March 3, 1992**, the effective date of the initial Flood Insurance Rate Map for the area.**

...

**“Recreational Vehicle (RV)” means a vehicle, which is:**

- (1) built on a single chassis;
- (2) 400 square feet or less when measured at the largest horizontal projection;
- (3) designed to be self-propelled or permanently towable by a light duty truck; and
- (4) designed primarily not for use as a permanent dwelling, but as temporary living quarters for recreational, camping, travel, or seasonal use.
- (5) **Is fully licensed and ready for highway use.**

**“Reference Level” is the top of the lowest floor for structures within Special Flood Hazard Areas and Future Conditions Flood Hazard Areas designated as ~~Zone A1-A30, AE, A, A99 or Zone X~~ (Future) **Zones A, AE, and Future X.****

~~“Regulatory Flood Protection Elevation” means the elevation above mean sea level to which the reference level of all structures and other development located within Special Flood Hazard Areas and Future Conditions Flood Hazard Areas must be protected~~ **“Base Flood Elevation” plus the “Freeboard”.**

- (1) In “Special Flood Hazard Areas” where Base Flood Elevations (BFEs) have been determined, this elevation shall be the BFE plus two (2) feet of freeboard.
- (2) In “Special Flood Hazard Areas” where no BFE has been established, this elevation shall be at least two (2) feet above the highest adjacent grade.
- (3) In Future Conditions Flood Hazard Areas this elevation shall be the Future Conditions Flood Elevation plus two (2) feet of freeboard.

...

“Substantial Improvement” means any combination of repairs, reconstruction, rehabilitation, addition, or other improvement of a structure, taking place during any one-(1) year period for which the cost equals or exceeds 50% of the market value of the structure before the “start of construction” of the improvement. This term includes structures which have incurred “substantial damage”, regardless of the actual repairwork performed. The term does not, however, include either:

- (1) any correction of existing violations of State or community health, sanitary, or safety code specifications which have been identified by the community code enforcement official and which are the minimum necessary to assure safe living conditions; or,
- (2) any alteration of a historic structure, provided that the alteration will not preclude the structure's continued designation as a historic structure **and the alteration is approved by variance issued pursuant to Sec. 6.2.15 of this Ordinance.**

**“Technical Bulletin and Technical Fact Sheet” means a FEMA publication that provides guidance concerning the building performance standards of the NFIP, which are contained in Title 44 of the U.S. Code of Federal Regulations at Section 60.3. The bulletins and fact sheets are intended for use primarily by State and local officials responsible for interpreting and enforcing NFIP regulations and by members of the development community, such as design professionals and builders. New bulletins, as well as updates of existing bulletins, are issued periodically as needed. The bulletins do not create regulations; rather they provide specific guidance for complying with the minimum requirements of existing NFIP regulations.**

**“Temperature Controlled” means having the temperature regulated by a heating and/or cooling system, built-in or appliance.**

...

~~“Water Surface Elevation (WSE)” means the height, in relation to mean sea level~~ **NAVD 1988**, of floods of various magnitudes and frequencies in the floodplains of coastal or riverine areas.

...

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

**Section 3.** All ordinances or parts of ordinances in conflict with this ordinance are hereby repealed. If any section, paragraph, subdivision, clause or provision of this ordinance shall be adjudged invalid, such adjudication shall apply only to such section, paragraph, subdivision, clause or provision so adjudged and the remainder of the ordinance shall be deemed valid and effective.

**Section 4.** The ordinance shall be effective upon enactment on the \_\_\_\_ day of November 2020.

Introduced by Council Member \_\_\_\_\_

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

Attest:

TOWN OF APEX

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

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

Approved As To Form:

\_\_\_\_\_  
Laurie L. Hohe  
Town Attorney



# | Agenda Item | cover sheet

for consideration by the Apex Town Council

Item Type: PUBLIC HEARING  
Meeting Date: November 17, 2020

## Item Details

Presenter(s): Amanda Bunce, Current Planning Manager

Department(s): Planning and Community Development

### Requested Motion

Public Hearing and possible motion regarding various amendments to the Unified Development Ordinance as requested by Planning staff.

### Approval Recommended?

The Planning and Community Development Department recommends approval.

The Planning Board heard these amendments at their November 9, 2020 meeting and unanimously recommended approval as presented with the understanding that staff will work with the public commenter regarding spacing of access to the thoroughfare.

### Item Details

Summary of UDO Amendments

Requested by Planning Staff:

1. Amendment to Sec. 8.1.2.E *Designation of RCA on Plans and Plats* in order to require that a metes and bounds description of any Resource Conservation Area be provided on Master Subdivision Final Plats. This is currently only an application requirement for Master Subdivision Final Plats, but is already a requirement in the UDO for Site Plan Final Plats.
2. Amendments to Sec. 8.3.6 *Parking Lot Design Standards* in order to add a new subsection requiring that non-residential and/or multi-family sites proposed along a thoroughfare provide vehicular cross-access easements to adjacent non-residential and/or multi-family sites.
3. Amendments to Secs. 7.2.3.G *Corner Lots* and 8.3.4.E *Residential Driveway Standards* in order to limit the number of driveways for single-family residential properties to one (1) with certain exceptions.
4. Amendments to Sec. 2.3.4.F.3.c Major Employment Center (MEC-CZ) District, RCA and landscaping in order to correct a typographical error in a reference to another section of the UDO.

### Attachments

- Staff Report
- Ordinance
- Legal Notice



## STAFF REPORT

### Amendments to the Unified Development Ordinance

November 17, 2020 Town Council Meeting



#### Requested by the Planning Staff:

1. **Amendment to Sec. 8.1.2.E *Designation of RCA on Plans and Plats* in order to require that a metes and bounds description of any Resource Conservation Area be provided on Master Subdivision Final Plats. This is currently only an application requirement for Master Subdivision Final Plats, but is already a requirement in the UDO for Site Plan Final Plats and should be a UDO requirement for Master Subdivision Final Plats as well.**

#### 8.1.2.E *Designation of RCA on Plans and Plats*

- 1) *Master Subdivision Plan and Plats.* The approved RCA shall be shown on the Master Subdivision Plan as a separate lot (or lots) from the individual residential or non-residential building lots. The RCA **(with metes and bounds description)** shall be shown on the Final Plat, to be preserved in perpetuity.
- 2) *Site Plans and Plats.* The approved RCA shall be shown on the Site Plan for each development site. The RCA **(with metes and bounds description)** shall be shown on the Final Plat, to be preserved in perpetuity.

2. **Amendments to Sec. 8.3.6 *Parking Lot Design Standards* in order to add a new subsection requiring that non-residential and/or multi-family sites proposed along a thoroughfare provide vehicular cross-access easements to adjacent non-residential and/or multi-family sites. Currently these cross-access easements are negotiated by staff with the applicant during rezoning and/or site plan review.**

#### 8.3.6 *Parking Lot Design Standards*

...

##### G) **Cross-Access and Driveway Construction Easement**

- 1) **All non-residential and/or multi-family sites proposed along a thoroughfare shall be required to dedicate vehicular cross-access to adjacent non-residential and/or multi-family sites in compliance with the following standards:**
  - a) **A 25' minimum cross-access and driveway construction easement shall be provided.**
  - b) **A 20' minimum driveway cross-connection shall be constructed within the easement to facilitate trips between the subject site and existing, proposed, and/or future non-residential and/or multi-family uses, promoting shared driveway access to the thoroughfare where practical.**
  - c) **When the subject site is adjacent to a vacant property zoned or shown on the 2045 Land Use Map for non-residential and/or multi-family use,**

a stub for future cross-access shall be constructed as close as possible to the common property line with the easement extending to the property line.

d) The location of the cross-access and driveway construction easement and connection shall be reviewed and approved by the Public Works and Transportation Director based on the following factors which include but are not limited to:

(i) Existing cross-access easements;

(ii) Topography, including future vertical and horizontal alignment;

(iii) Location of environmental features, including but not limited to Resource Conservation Areas;

(iv) Safety considerations; and/or

(v) Existing infrastructure obstructions.

e) Sites proposed for development adjacent to an existing vehicular cross-access and driveway construction easement and connection shall be required to construct a driveway through the easement to the adjoining parking lot or driveway.

f) Additional driveway access to the thoroughfare shall be avoided, except in cases where additional access is reviewed and approved by the Public Works and Transportation Director upon finding that such access meets the following minimum distancing requirements between driveways along the thoroughfare:

(i) 250 feet may be allowed for right-in/right-out direct access in addition to cross-access;

(ii) 500 feet may be allowed for full movement to a minor thoroughfare for direct access in addition to cross-access; and/or

(iii) 1,000 feet may be allowed for full movement to a major thoroughfare for direct access in addition to cross-access.

The Public Works and Transportation Director may reduce the minimum spacing separation above by no more than 10% upon review of site constraints and a traffic impact analysis, when required.

2) Exceptions to the cross-access requirements may be granted by the Public Works and Transportation Director based on site-specific constraints that

make it impractical to dedicate such cross-access and driveway construction easements and connections, including but not limited to:

- a) Existing cross-access easements;
- b) Significant topographical differences;
- c) Significant environmental features, including but not limited to Resource Conservation Areas;
- d) Vehicular safety or other safety/security factors; and/or
- e) Existing infrastructure obstructions.

**3) Rights of vehicular access shall be granted to all abutting properties and recorded with the Wake County Register of Deeds contemporaneously with the recording of the Site Plan Final Plat for the approved Site Plan. No Certificate of Occupancy will be signed until evidence of the recordation is provided to the Planning and Community Development Department.**

**4) The cross-access and driveway construction agreement shall be certified by an attorney licensed to practice law in the State of North Carolina, confirming compliance with all of all provisions of Sec. 8.3.6.G.**

**GH) Off-Street Parking Area Landscaping, Buffering, and Screening**

Off-street parking areas shall be landscaped, buffered, and screened in accordance with the standards of Sec. 8.2.

- 3. Amendments to Secs. 7.2.3.G *Corner Lots* and 8.3.4.E *Residential Driveway Standards* in order to limit the number of driveways for single-family residential properties to one (1) with certain exceptions.**

**7.2.3.G *Corner Lots***

For single-family residential uses, corner lots shall have additional width sufficient to provide setbacks based upon the yard standards of Article 5; **Measurements**, from both front and side streets **and the front lot line shall be specified on the Master Subdivision Final Plat. Except as provided in Sec. 8.3.4.E.3, the final plat shall note on such lots that access shall be limited to one (1) and such access shall not be from a thoroughfare or major collector street.**

**8.3.4.E *Residential Driveway Standards***

...

**3) Number of Access Points**

**Single-family residential properties are limited to one (1) driveway access point to the public street system, except in the following cases:**

- a) **A circular drive that is contributing to the historic nature of a *Historic Structure* as defined in Sec. 12.2 *Terms Defined*;**
- b) **Homes without an existing garage or carport, where a proposed garage or carport would be served from a different street than the existing driveway; or**

- c) Construction of an accessory apartment, where the accessory apartment would be served from a different street than the primary driveway.

**4. Amendments to Sec. 2.3.4.F.3.c Major Employment Center (MEC-CZ) District, RCA and landscaping in order to correct a typographical error in a reference to another section of the UDO.**

**2.3.4.F.3 Major Employment Center (MEC-CZ) District**

- c) *RCA and landscaping.* The PD Plan for MEC-CZ establishes a resource conservation area (RCA). The criteria used to establish the RCA shall comply with Sec. 8.1.2 *Resource Conservation Area*. Landscaping and illumination complies with the standards of Sec. 8.2, *Landscaping, Buffering and Screening*, and Sec. ~~8.7~~6 *Exterior Lighting*, except that variations from these standards may be permitted where it is demonstrated that the proposed landscaping sufficiently buffers uses from each other, ensures compatibility with land uses on surrounding properties, creates attractive streetscapes and parking areas and is consistent with the character of the area.

**PLANNING STAFF RECOMMENDATION:**

Planning staff recommends approval of the proposed UDO amendments.

**PLANNING BOARD RECOMMENDATION:**

The Planning Board heard these amendments at their November 9, 2020 meeting and unanimously recommended approval as presented with the understanding that staff will work with the public commenter regarding spacing of access to the thoroughfare.



# PLANNING BOARD REPORT TO TOWN COUNCIL

## Unified Development Ordinance Amendments

Planning Board Meeting Date: November 9, 2020



### Report Requirements:

Per NCGS 160A-387, all proposed amendments to the zoning ordinance or zoning map shall have a written report provided from the Planning Board to the Town Council within 30 days of referral of the amendment to the Planning Board, or the Town Council may proceed in its consideration of the amendment without the Planning Board report. Furthermore, in no case is the Town Council bound by the recommendations, if any, of the Planning Board.

### Planning Board Recommendation:

Motion: Motion to approve as presented with the understanding that staff will work with the public commenter regarding spacing of access to the thoroughfare.

Introduced by Planning Board member: Beth Godfrey

Seconded by Planning Board member: Mark Steele

- ☒ Approval of the proposed UDO amendment(s)  
☐ Approval of the proposed UDO amendment(s) with the following conditions:

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- ☐ Denial of the proposed UDO amendment(s)

With 7 Planning Board Member(s) voting "aye"

With 0 Planning Board Member(s) voting "no"

Reasons for dissenting votes:

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This report reflects the recommendation of the Planning Board, this the 9th day of November 2020.

Attest:

**Michael Marks** Digitally signed by Michael Marks  
Date: 2020.11.09 19:45:35 -05'00'

Michael Marks, Planning Board Chair

**Dianne Khin** Digitally signed by Dianne Khin  
Date: 2020.11.09 18:52:48 -05'00'

Dianne Khin, Planning Director



## TOWN OF APEX

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

## PUBLIC NOTIFICATION OF PUBLIC HEARING

### AMENDMENTS TO THE UNIFIED DEVELOPMENT ORDINANCE (UDO)

Notice is hereby given of a public hearing before the Town Council of the Town of Apex for the purpose of soliciting comments relative to the following amendment(s) to the Unified Development Ordinance:

#### Requested by Planning Staff:

1. Amendment to Sec. 8.1.2.E *Designation of RCA on Plans and Plats* in order to require that a metes and bounds description of any Resource Conservation Area be provided on Master Subdivision Final Plats. This is currently only an application requirement for Master Subdivision Final Plats, but is already a requirement in the UDO for Site Plan Final Plats.
2. Amendments to Sec. 8.3.6 *Parking Lot Design Standards* in order to add a new subsection requiring that non-residential and/or multi-family sites proposed along a thoroughfare provide vehicular cross-access easements to adjacent non-residential and/or multi-family sites.
3. Amendments to Secs. 7.2.3.G *Corner Lots* and 8.3.4.E *Residential Driveway Standards* in order to limit the number of driveways for single-family residential properties to one (1) except where a circular drive is contributing to the historic nature of a Historic Structure.
4. Amendments to Sec. 2.3.4.F.3.c *Major Employment Center (MEC-CZ) District, RCA and landscaping* in order to correct a typographical error in a reference to another section of the UDO.

**Public Hearing Location:** Apex Town Hall  
Council Chambers, 2<sup>nd</sup> Floor  
73 Hunter Street, Apex, North Carolina

#### Town Council Public Hearing Date and Time: November 17, 2020 6:00 PM

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

If you are unable to attend, you may provide comments no later than noon on Monday, November 16, 2020 by email ([public.hearing@apexnc.org](mailto:public.hearing@apexnc.org), 350-word limit) or voicemail (919-362-7300, 3-minute limit) according to the Remote Participation Policy at: <http://www.apexnc.org/DocumentCenter/View/31397/>. You must provide your name and address for the record. These comments will be read during the Town Council meeting.

If the Council meeting is held with at least one member attending virtually, written comments on the subject of the public hearing may be submitted between publication of any required notice and 24 hours after the public hearing and the Council's vote will occur at the Council's next regularly scheduled meeting.

The UDO can be accessed online at: <http://www.apexnc.org/233>.

Published Dates: October 26-November 17, 2020

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



## TOWN OF APEX

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

## PUBLIC NOTIFICATION OF PUBLIC HEARING AMENDMENTS TO THE UNIFIED DEVELOPMENT ORDINANCE (UDO)

Notice is hereby given of a public hearing before the Town Council of the Town of Apex for the purpose of soliciting comments relative to the following amendment(s) to the Unified Development Ordinance:

### Requested by Planning Staff:

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2. Amendments to Sec. 8.3.6 *Parking Lot Design Standards* in order to add a new subsection requiring that non-residential and/or multi-family sites proposed along a thoroughfare provide vehicular cross-access easements to adjacent non-residential and/or multi-family sites.
3. Amendments to Secs. 7.2.3.G *Corner Lots* and 8.3.4.E *Residential Driveway Standards* in order to limit the number of driveways for single-family residential properties to one (1) except where a circular drive is contributing to the historic nature of a Historic Structure.
4. Amendments to Sec. 2.3.4.F.3.c *Major Employment Center (MEC-CZ) District, RCA and landscaping* in order to correct a typographical error in a reference to another section of the UDO.

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The UDO can be accessed online at: <http://www.apexnc.org/233>.

Dianne F. Khin, AICP

Published Dates: October 26-November 17, 2020

Planning and Community Development

AN ORDINANCE TO AMEND CERTAIN SECTIONS OF THE UNIFIED DEVELOPMENT ORDINANCE

BE IT ORDAINED by the Town Council of the Town of Apex as follows:

**Section 1. Section 8.1.2.E of the Unified Development Ordinance is amended to read as follows with additions shown as bold underlined text and deletions shown as struck-through text:**

*8.1.2.E Designation of RCA on Plans and Plats*

- 1) *Master Subdivision Plan and Plats.* The approved RCA shall be shown on the Master Subdivision Plan as a separate lot (or lots) from the individual residential or non-residential building lots. The RCA **(with metes and bounds description)** shall be shown on the Final Plat, to be preserved in perpetuity.
- 2) *Site Plans and Plats.* The approved RCA shall be shown on the Site Plan for each development site. The RCA **(with metes and bounds description)** shall be shown on the Final Plat, to be preserved in perpetuity.

**Section 2. Section 8.3.6 of the Unified Development Ordinance is amended to read as follows with additions shown as bold underlined text and deletions shown as struck-through text:**

*8.3.6 Parking Lot Design Standards*

...

- G) **Cross-Access and Driveway Construction Easement**
  - 1) **All non-residential and/or multi-family sites proposed along a thoroughfare shall be required to dedicate vehicular cross-access to adjacent non-residential and/or multi-family sites in compliance with the following standards:**
    - a) **A 25' minimum cross-access and driveway construction easement shall be provided.**
    - b) **A 20' minimum driveway cross-connection shall be constructed within the easement to facilitate trips between the subject site and existing, proposed, and/or future non-residential and/or multi-family uses, promoting shared driveway access to the thoroughfare where practical.**
    - c) **When the subject site is adjacent to a vacant property zoned or shown on the 2045 Land Use Map for non-residential and/or multi-family use, a stub for future cross-access shall be constructed as close as possible to the common property line with the easement extending to the property line.**
    - d) **The location of the cross-access and driveway construction easement and connection shall be reviewed and approved by the Public Works and Transportation Director based on the following factors which include but are not limited to:**

- (i) Existing cross-access easements;
  - (ii) Topography, including future vertical and horizontal alignment;
  - (iii) Location of environmental features, including but not limited to Resource Conservation Areas;
  - (iv) Safety considerations; and/or
  - (v) Existing infrastructure obstructions.
- e) Sites proposed for development adjacent to an existing vehicular cross-access and driveway construction easement and connection shall be required to construct a driveway through the easement to the adjoining parking lot or driveway.
- f) Additional driveway access to the thoroughfare shall be avoided, except in cases where additional access is reviewed and approved by the Public Works and Transportation Director upon finding that such access meets the following minimum distancing requirements between driveways along the thoroughfare:
- (i) 250 feet may be allowed for right-in/right-out direct access in addition to cross-access;
  - (ii) 500 feet may be allowed for full movement to a minor thoroughfare for direct access in addition to cross-access; and/or
  - (iii) 1,000 feet may be allowed for full movement to a major thoroughfare for direct access in addition to cross-access.

The Public Works and Transportation Director may reduce the minimum spacing separation above by no more than 10% upon review of site constraints and a traffic impact analysis, when required.

- 2) Exceptions to the cross-access requirements may be granted by the Director of Public Works and Transportation based on site-specific constraints that make it impractical to dedicate such cross-access and driveway construction easements and connections, including but not limited to:

- a) Existing cross-access easements;
- b) Significant topographical differences;
- c) Significant environmental features, including but not limited to Resource Conservation Areas;



d) Vehicular safety or other safety/security factors; and/or

e) Existing infrastructure obstructions.

3) Rights of vehicular access shall be granted to all abutting properties and recorded with the Wake County Register of Deeds contemporaneously with the recording of the Site Plan Final Plat for the approved Site Plan. No Certificate of Occupancy will be signed until evidence of the recordation is provided to the Planning and Community Development Department.

4) The cross-access and driveway construction agreement shall be certified by an attorney licensed to practice law in the State of North Carolina, confirming compliance with all of all provisions of Sec. 8.3.6.G.

**GH) Off-Street Parking Area Landscaping, Buffering, and Screening**

Off-street parking areas shall be landscaped, buffered, and screened in accordance with the standards of Sec. 8.2.

**Section 3.** Sections 7.2.3.G and 8.3.4.E of the Unified Development Ordinance are amended to read as follows with additions shown as bold underlined text and deletions shown as struck-through text:

**7.2.3.G Corner Lots**

For **single-family** residential uses, corner lots shall have additional width sufficient to provide setbacks based upon the yard standards of Article 5; ~~*Measurements*~~, from both front and side streets **and the front lot line shall be specified on the Master Subdivision Final Plat. Except as provided in Sec. 8.3.4.E.3, the final plat shall note on such lots that access shall be limited to one (1) and such access shall not be from a thoroughfare or major collector street.**

**8.3.4.E Residential Driveway Standards**

...

**3) *Number of Access Points***

**Single-family residential properties are limited to one (1) driveway access point to the public street system, except in the following cases:**

a) **A circular drive that is contributing to the historic nature of a *Historic Structure* as defined in Sec. 12.2 *Terms Defined*;**

b) **Homes without an existing garage or carport, where a proposed garage or carport would be served from a different street than the existing driveway; or**

c) **Construction of an accessory apartment, where the accessory apartment would be served from a different street than the primary driveway.**

**Section 4.** Section 2.3.4.F.3.c of the Unified Development Ordinance are amended to read as follows with additions shown as bold underlined text and deletions shown as struck-through text:

2.3.4.F.3 *Major Employment Center (MEC-CZ) District*

- c) *RCA and landscaping.* The PD Plan for MEC-CZ establishes a resource conservation area (RCA). The criteria used to establish the RCA shall comply with Sec. 8.1.2 *Resource Conservation Area*. Landscaping and illumination complies with the standards of Sec. 8.2, *Landscaping, Buffering and Screening*, and Sec. ~~8.7~~6 *Exterior Lighting*, except that variations from these standards may be permitted where it is demonstrated that the proposed landscaping sufficiently buffers uses from each other, ensures compatibility with land uses on surrounding properties, creates attractive streetscapes and parking areas and is consistent with the character of the area.

**Section 5.** The Planning Director and/or Town Manager are hereby authorized to renumber, revise formatting, correct typographic errors, to verify and correct cross references, indexes and diagrams as necessary to codify, publish, and/or accomplish the provisions of this ordinance or future amendments as long as doing so does not alter the terms of this ordinance.

**Section 6.** All ordinances or parts of ordinances in conflict with this ordinance are hereby repealed. If any section, paragraph, subdivision, clause or provision of this ordinance shall be adjudged invalid, such adjudication shall apply only to such section, paragraph, subdivision, clause or provision so adjudged and the remainder of the ordinance shall be deemed valid and effective.

**Section 7.** The ordinance shall be effective upon enactment on the \_\_\_\_ day of November 2020.

Introduced by Council Member \_\_\_\_\_

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

Attest:

TOWN OF APEX

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

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

Approved As To Form:

\_\_\_\_\_  
Laurie L. Hohe  
Town Attorney

# | Agenda Item | cover sheet

for consideration by the Apex Town Council

Item Type: PUBLIC HEARING  
Meeting Date: November 17, 2020

## Item Details

Presenter(s): Shannon Cox, Long Range Planning Manager  
Department(s): Planning and Community Development

### Requested Motion

Public hearing and possible motion regarding proposed amendments to the Thoroughfare and Collector Street Plan map associated with review of data from Advance Apex: The 2045 Transportation Plan.

### Approval Recommended?

Planning staff recommends approval of all proposed amendments.

The Planning Board considered the amendments during their November 9, 2020 meeting and unanimously recommended approval of all amendments.

### Item Details

Twelve amendments to the Thoroughfare and Collector Street Plan map will be presented by staff. Most of these amendments are a result of the completion of a quality review of data supporting Advance Apex: The 2045 Transportation Plan.

### Attachments

- Staff report with exhibits



# STAFF REPORT

## Transportation Plan Amendments

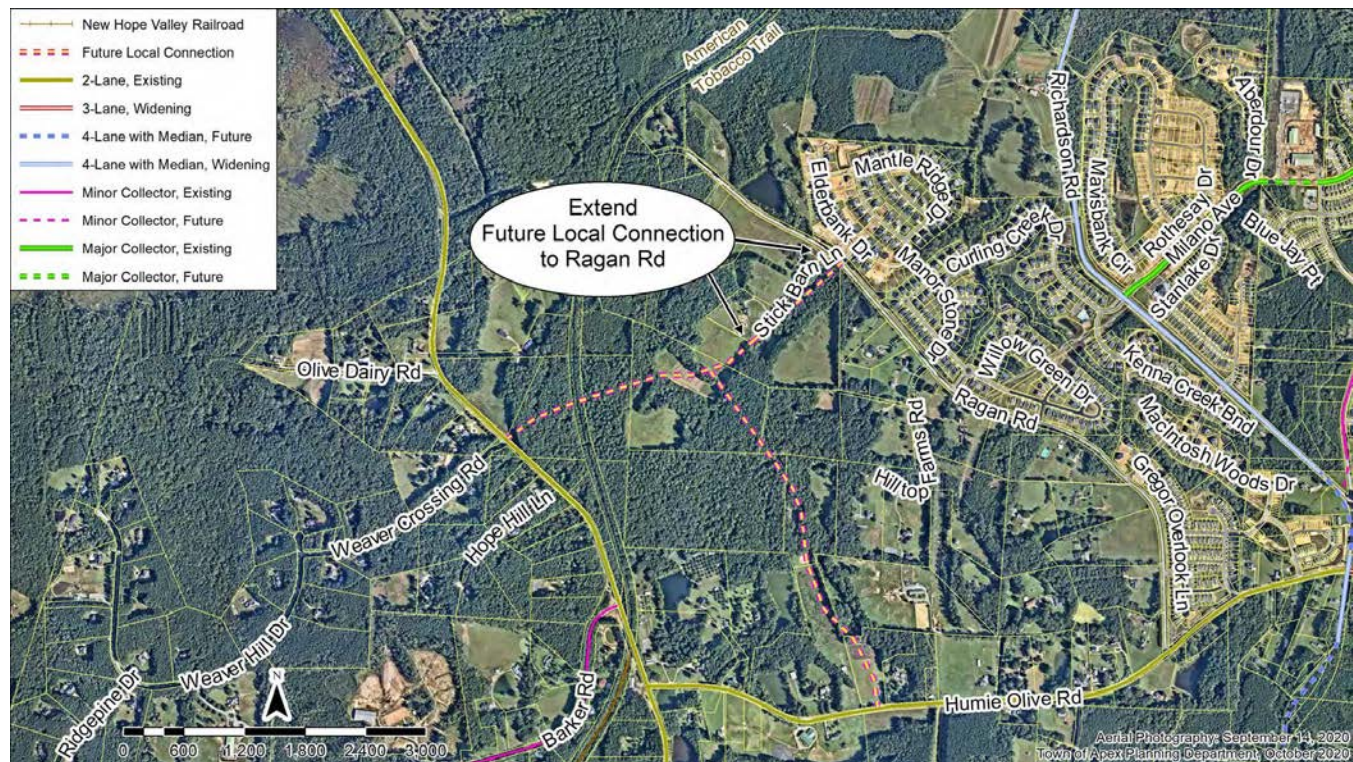
November 17, 2020 Town Council Meeting



The Thoroughfare and Collector Street Plan map of Advance Apex: The 2045 Comprehensive Transportation Plan represents a network of current and future facilities that provide guidance on what is likely to be suitable for long term growth. The plan does not require a schedule for implementation nor does it set aside funding for improvements. Instead, the plan helps the Town establish long term priorities. The purpose of the public hearing is to consider proposed amendments to the network of planned thoroughfare and collector streets in order to make a decision. Most of the proposed amendments are associated with a detailed review of GIS data for Advance Apex: The 2045 Comprehensive Transportation Plan.

### Amendment 1: Extend future Local Connection to Ragan Road.

Purpose	The adopted plan does not show the future local connection extending east to Ragan Road, along existing Stick Barn Lane, which is a private drive. This change is a correction.
Input Received	No concerns from Police, Fire, EMS, or Public Works and Transportation. Parks and Greenways Planner confirmed this future crossing of the future extension of the American Tobacco Trail is likely to be acceptable based on spacing guidance.
Planning Staff Recommendation	Support.
Anticipated Implementation	Not programmed. Likely to occur only with development.





**Amendment 2: Realign future Local Connection from Lovage Drive to match existing road.**

Purpose	Revise the planned alignment of a future local connection to use an existing drive, Lawson Lane.
Input Received	No concerns from Police, Fire, EMS, or Public Works and Transportation.
Planning Staff Recommendation	Support.
Anticipated Implementation	Not programmed. Likely to occur only with development.





**Amendment 3: Shift alignment of future Major Collector street between Apex Peakway and South Salem Street.**

Purpose	The Apex Peakway Southwest Connector project is in the final stages of permitting and right-of-way. This amendment would update the map to reflect approved plans.
Input Received	No concerns from Police, Fire, EMS, or Public Works and Transportation.
Planning Staff Recommendation	Support.
Anticipated Implementation	Construction is anticipated to begin in 2021.





#### Amendment 4: Revise alignment of future extension of James Street west of Apex Peakway.

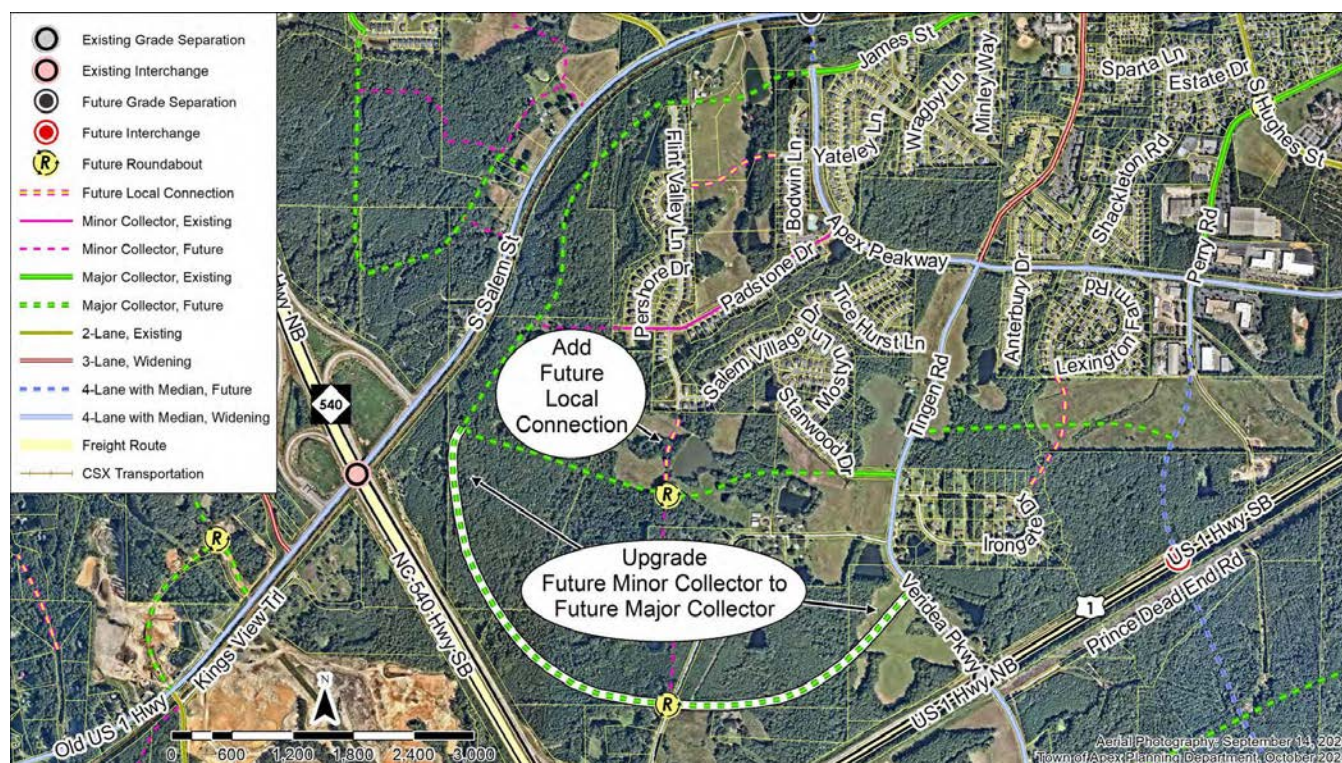
Purpose	This is a minor shift in the planned alignment of a future roadway to align with an existing stub extending from Flint Valley Lane.
Input Received	No concerns from Police, Fire, EMS, or Public Works and Transportation.
Planning Staff Recommendation	Support.
Anticipated Implementation	Not programmed. Likely to occur only with development.





**Amendment 5: Upgrade future extension of James Street to a Major Collector street.**

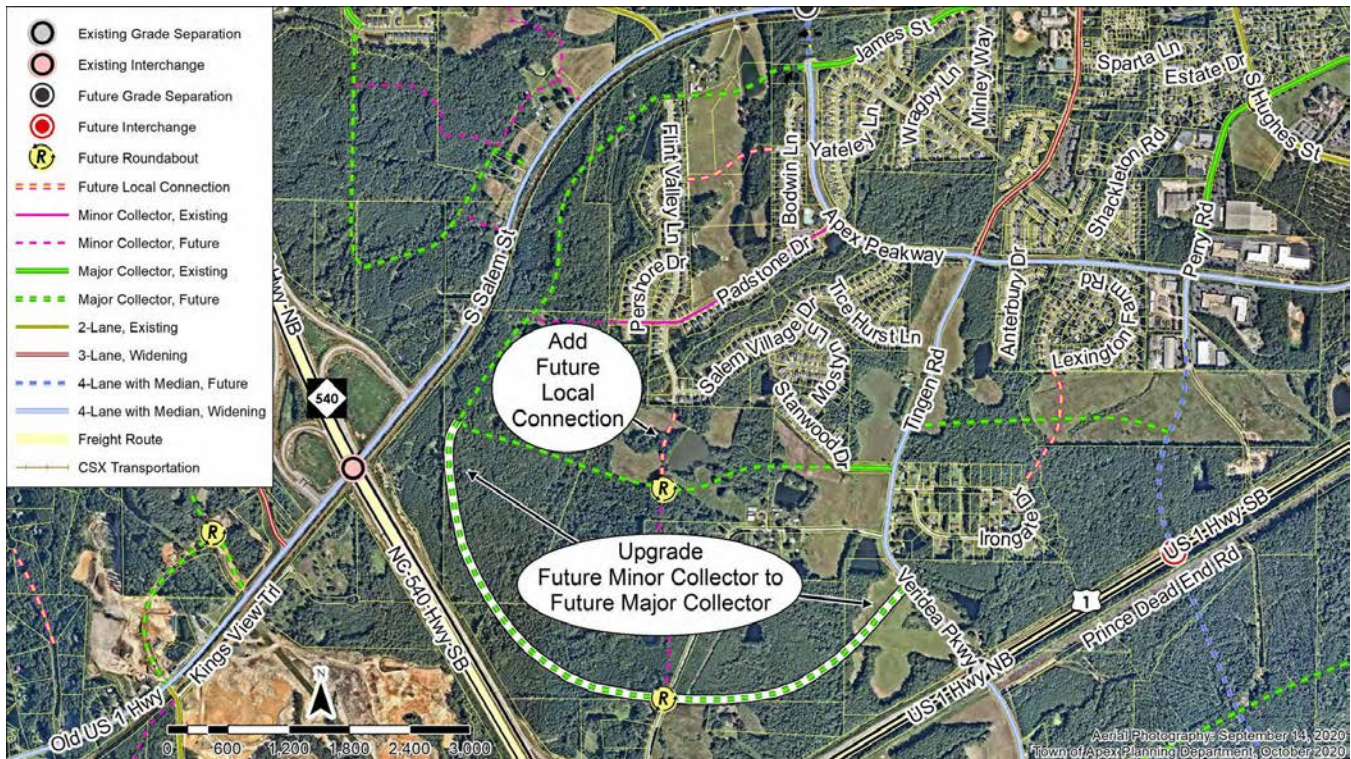
Purpose	The future extension of James Street will connect to thoroughfares and is expected to carry substantial traffic. The upgrade to a Major Collector street will eliminate the possibility of residential driveways directly accessing this future roadway and will result in a higher design standard.
Input Received	No concerns from Police, Fire, EMS, or Public Works and Transportation.
Planning Staff Recommendation	Support.
Anticipated Implementation	Not programmed. Likely to occur with development.





### Amendment 6: Add a future local connection from Flint Valley Lane.

Purpose	Increase transparency of intent to extend Flint Valley Lane and ensure future connectivity.
Input Received	No concerns from Police, Fire, EMS, or Public Works and Transportation.
Planning Staff Recommendation	Support.
Anticipated Implementation	Not programmed. Likely to occur only with development.





### Amendment 7: Realign future Local Connection from Jerimouth Drive to Evans Road.

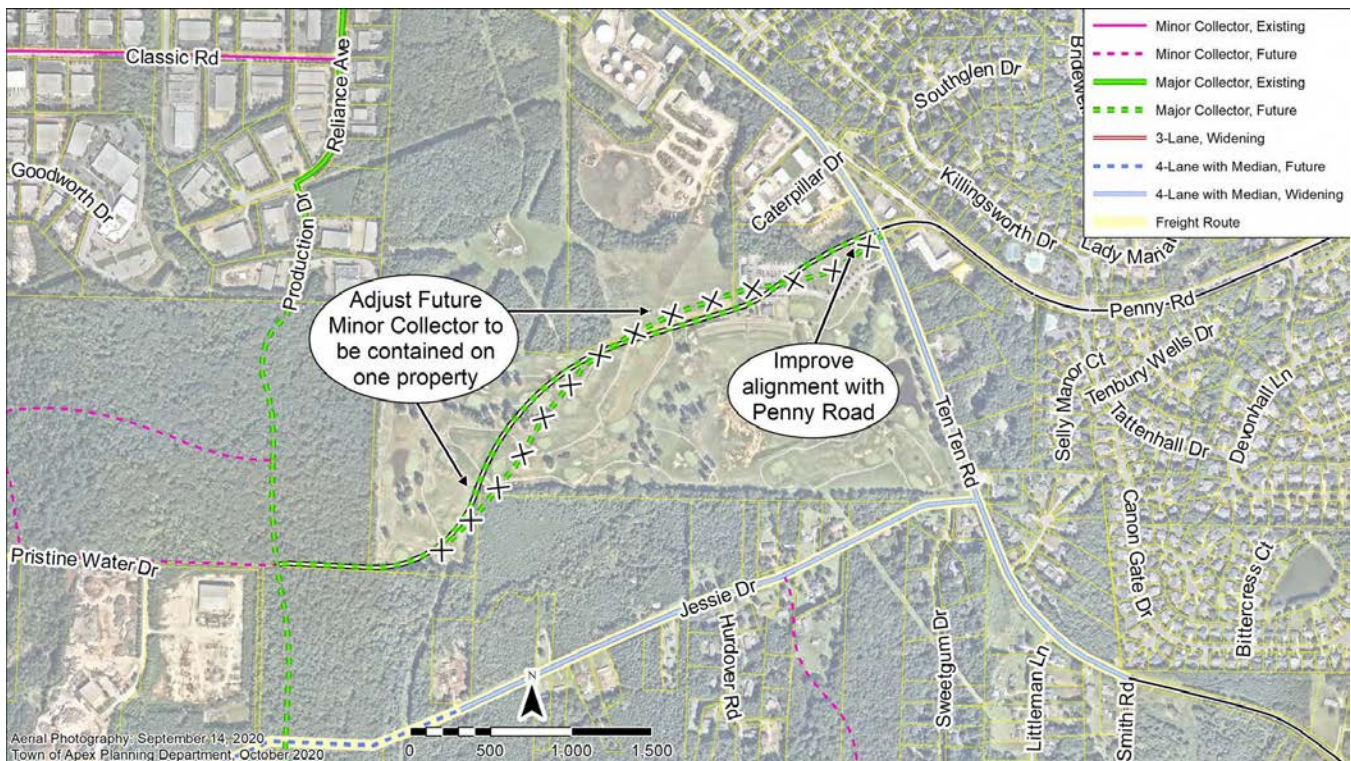
Purpose	Avoid steep slopes and align the future connection to Evans Road across from the entrance to Apex Nature Park.
Input Received	No concerns from Police, Fire, EMS, or Public Works and Transportation.
Planning Staff Recommendation	Support.
Anticipated Implementation	Not programmed. Likely to occur only with development.





**Amendment 8: Adjust alignment of future Major Collector street between Ten Ten Road and Production Drive.**

Purpose	Improve the alignment across from Penny Road and contain the future roadway on one property.
Input Received	No concerns from Police, Fire, EMS, or Public Works and Transportation.
Planning Staff Recommendation	Support.
Anticipated Implementation	Not programmed. Likely to occur only with development.





**Amendment 9: Add a future Major Collector street over US 1 between Schieffelin Road and Lufkin Road.**

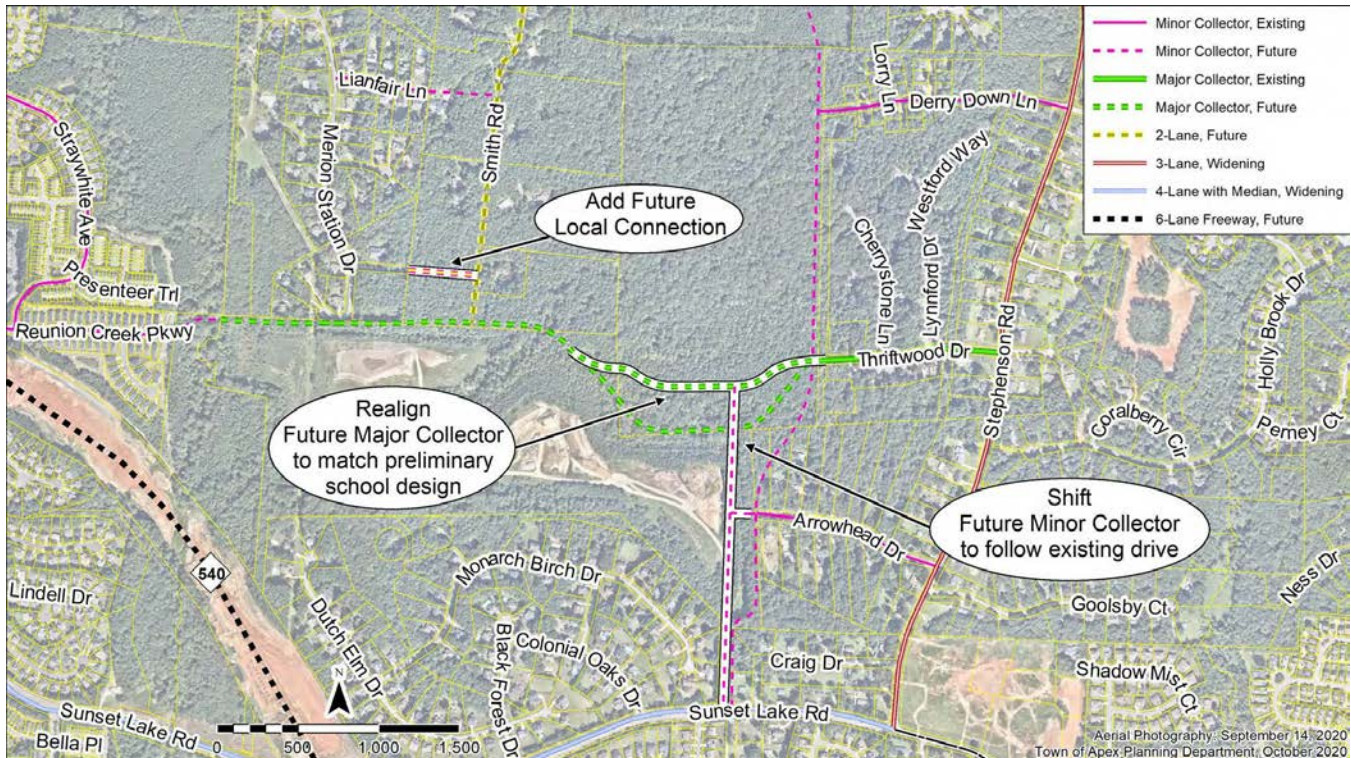
Purpose	The adopted plan shows a grade-separated crossing in this location but does not specify the roadway classification. The amendment is intended to add clarity.
Input Received	No concerns from Police, Fire, EMS, or Public Works and Transportation.
Planning Staff Recommendation	Support.
Anticipated Implementation	Not programmed in the 5-year local program nor the 10-year State program.





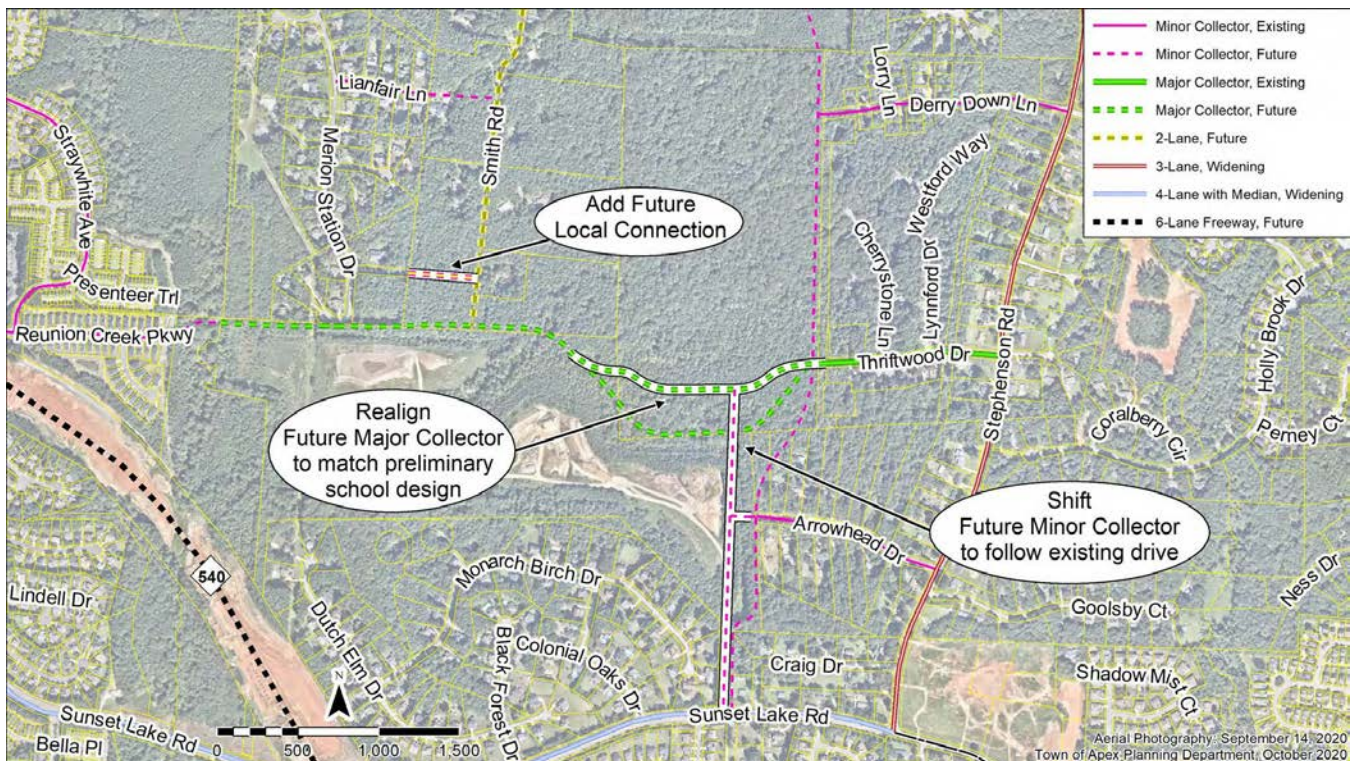
### Amendment 10: Add future Local Connection between Smith Road and Merion Station Drive.

Purpose	Increase transparency of intent to extend Ballytore Drive and ensure future connectivity.
Input Received	No concerns from Police, Fire, EMS, or Public Works and Transportation.
Planning Staff Recommendation	Support.
Anticipated Implementation	Not programmed. Likely to occur only with development.



### Amendment 11: Realign future Major Collector street between Reunion Creek Parkway and Thriftwood Drive.

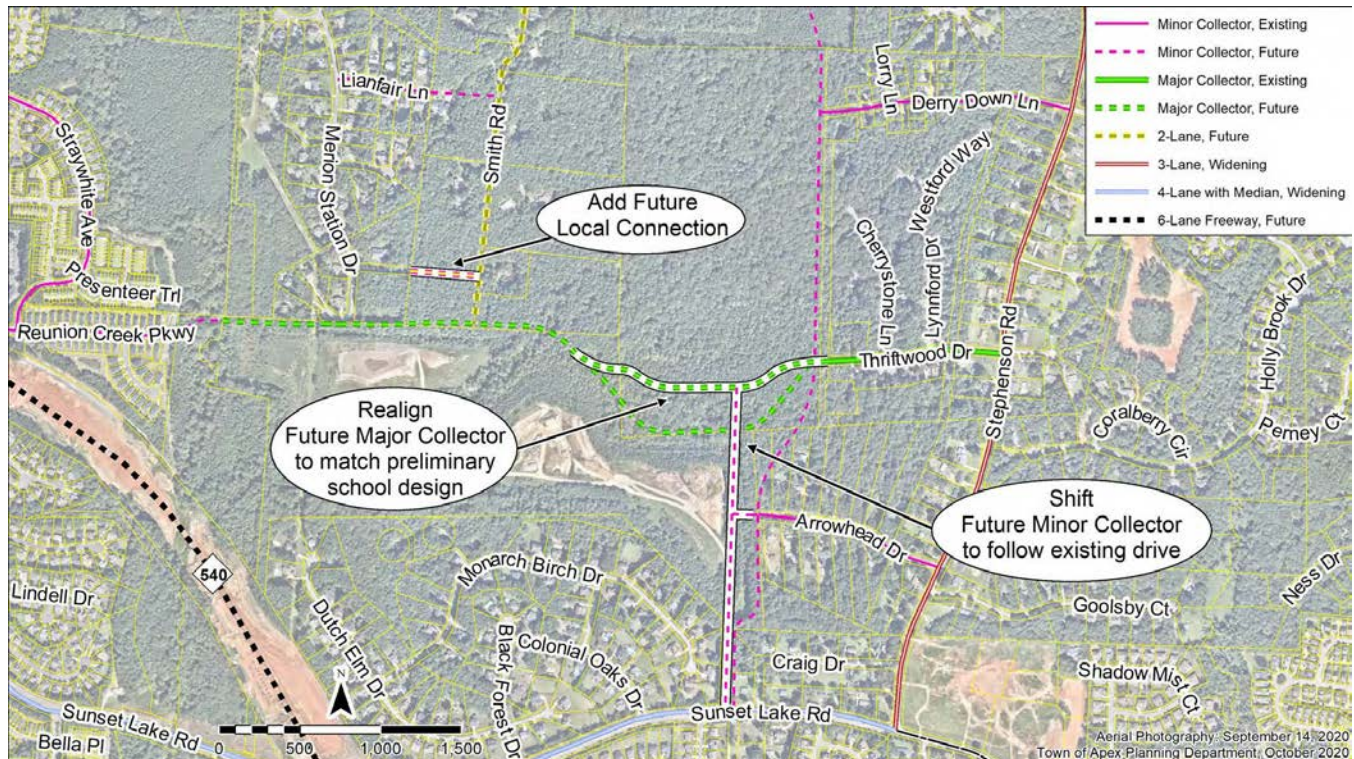
Purpose	Align the future Major Collector street for consistency with preliminary plans for Felton Grove High School.
Input Received	No concerns from Police, Fire, EMS, or Public Works and Transportation.
Planning Staff Recommendation	Support.
Anticipated Implementation	Only the portion of the Major Collector street on the high school property is likely to be built. Improvements to existing Thriftwood Drive are not programmed. The connection to Reunion Creek Parkway will be a challenge and is likely to be a long range project.





## Amendment 12: Shift future Minor Collector street between Sunset Lake Road and Thriftwood Drive.

Purpose	The realignment follows an existing drive and avoids residential impacts. It also creates two shorter Minor Collector streets which are intended to be low-speed roadways.
Input Received	No concerns from Police, Fire, EMS, or Public Works and Transportation.
Planning Staff Recommendation	Support.
Anticipated Implementation	Not programmed and unlikely to occur with development. This is likely to be a long range project.



### Staff Recommendation:

The proposed amendments were reviewed with staff from Public Works and Transportation, Police, Fire, and EMS. There were no concerns. Planning staff recommend approval of all amendments.

### Planning Board Recommendation:

The Planning Board considered the proposed amendments during a public hearing on November 9, 2020 and unanimously recommended approval of all amendments.



# | Agenda Item | cover sheet

for consideration by the Apex Town Council

Item Type: PUBLIC HEARING  
Meeting Date: November 17, 2020

## Item Details

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

### Requested Motion

Public hearing and possible motion to amend the Bicycle and Pedestrian System Plan map to add side path, a grade-separated pedestrian crossing, and greenway associated with the approved Depot 499 Planned Unit Development (PUD).

### Approval Recommended?

Planning and Community Development Department staff recommend approval of the proposed amendments. The proposed amendment was reviewed with staff from Public Works and Transportation, Police, Fire, EMS and the Parks, Recreation and Cultural Resources Department and there were no concerns.

Planning Board unanimously recommended approval of the proposed amendments to the Bicycle and Pedestrian System Plan map at their November 9, 2020 meeting.

### Item Details

The purpose of the public hearing is to consider the following proposed amendments to the Bicycle and Pedestrian System Plan map:

1. Add Proposed Side Path along the west side of South Salem Street from Apex Barbecue Road to the interchange at NC 540 to match the approved Depot 499 PUD.
2. Add a Proposed Grade-Separated Pedestrian Crossing of South Salem Street and the railroad tracks to match a condition requested by Town Council and included in the approved Depot 499 PUD.
3. Add Proposed Greenway to provide a pedestrian connection from the Proposed Pedestrian Crossing to the future intersection of James Street and Padstone Drive.

### Attachments

- Staff Report



# STAFF REPORT

## Transportation Plan Amendments

November 17, 2020 Town Council Meeting



The purpose of the public hearing is to consider the facts in order to formulate a decision. The Bicycle and Pedestrian System Plan map represents a network of current and future facilities that provide guidance on what is likely to be suitable for long term growth, connectivity, and recreation. The Plan does not require a schedule for implementation nor does it set aside funding for improvements. Instead, it helps the Town establish long term priorities and identify requirements for new development. The Plan was last amended on October 6, 2020.

The purpose of the public hearing is to consider the following proposed amendments to:

1. Add Proposed Side Path along the west side of South Salem Street from Apex Barbecue Road to the interchange at NC 540 to match the approved Depot 499 Planned Unit Development (PUD).
2. Add a Proposed Grade-Separated Pedestrian Crossing of South Salem Street and the railroad tracks to match a condition requested by Town Council and included in the approved Depot 499 PUD.
3. Add Proposed Greenway to provide a pedestrian connection from the Proposed Pedestrian Crossing to the future intersection of James Street and Padstone Drive.

A map of the proposed amendments to the Bicycle and Pedestrian System Plan map is displayed in Figure 1 below.

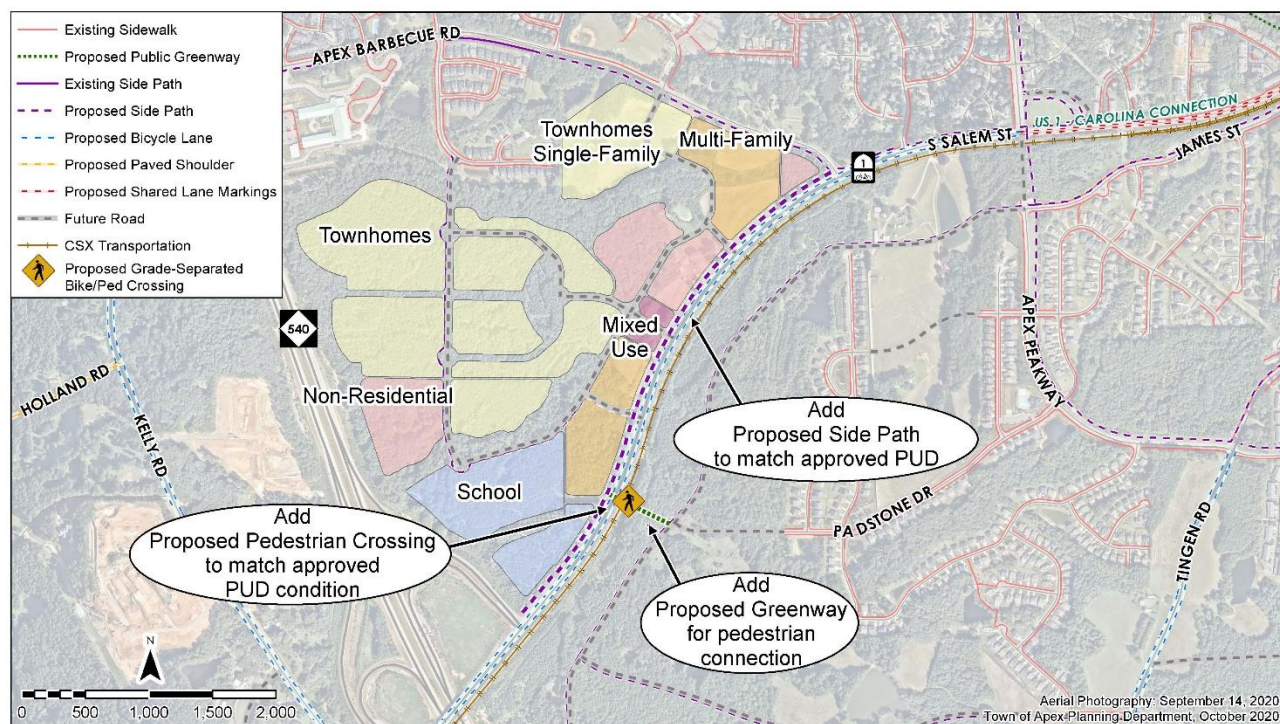


Figure 1. Proposed Bicycle and Pedestrian System Plan Map Amendments

The purpose of the proposed amendments is to update the Bicycle and Pedestrian System Plan Map for consistency with the approved Depot 499 PUD, Rezoning Case #20CZ01. The proposed amendments are designed to enhance bicycle and pedestrian connectivity along and across South Salem Street, the adjacent railroad tracks, and the future street network on the east side of the railroad tracks.

The proposed amendments would update the Bicycle and Pedestrian System Plan map for consistency with the following Walkability conditions in the approved Depot 499 PUD, Rezoning Case #20CZ01:



- Ten-foot wide side paths along South Salem Street frontage.
- At the time of Major Site Plan for any development in Pods I and J, developer agrees to dedicate an approximately 25'x25' area along the South Salem Street frontage to serve as a connection point for a future grade separated pedestrian connection across South Salem Street and the railroad, to be constructed by others. This area may overlap the 15' streetscape buffer along South Salem Street. If the Bicycle and Pedestrian System Plan map has not been amended to reflect a grade-separated crossing of South Salem Street and the railroad in this vicinity, the area for a connection point shall not be required.

The location of the Proposed Pedestrian Crossing in relation to Pods I and J in the approved Depot 499 PUD Layout is displayed in Figure 2 below. Multi-family residential development is proposed in Pods I and J. A school is proposed in Pod S. The Proposed Pedestrian Crossing is located in an area with high anticipated pedestrian volumes. It is anticipated to provide a safe route to school for students who may travel to the future school from the east side of South Salem Street.

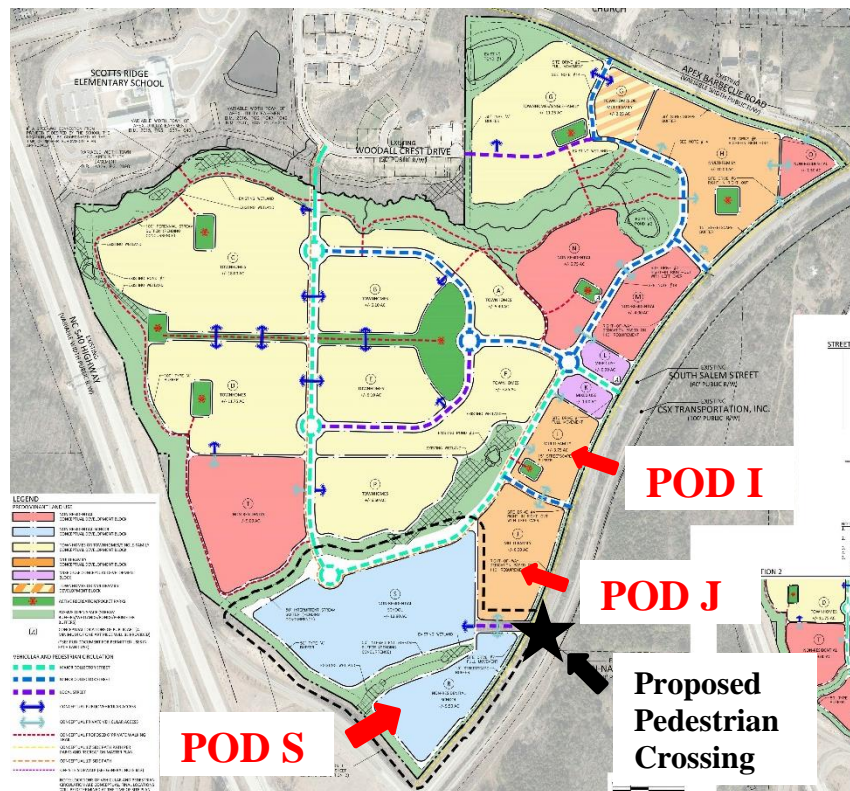


Figure 2. Depot 499 Planned Unit Development Approved Layout

#### Staff Recommendation:

The proposed amendment was reviewed with staff from Public Works and Transportation, Police, Fire, EMS and the Parks, Recreation and Cultural Resources Department and there were no concerns. A representative of the Depot 499 PUD also reviewed the amendment and indicated it is consistent with the intent of the PUD. Planning staff recommends approval of the proposed amendments to be shown on the Bicycle and Pedestrian System Plan map.

## STAFF REPORT

### Transportation Plan Amendments

November 17, 2020 Town Council Meeting



#### **Planning Board Recommendation:**

Planning Board unanimously recommended approval of the proposed amendments to the Bicycle and Pedestrian System Plan map at their November 9, 2020 meeting.



# | Agenda Item | cover sheet

for consideration by the Apex Town Council

Item Type: PUBLIC HEARING  
Meeting Date: November 17, 2020

## Item Details

Presenter(s): Shannon Cox, Long Range Planning Manager  
Department(s): Planning and Community Development

### Requested Motion

Public hearing and possible motion regarding two proposed amendments to the Thoroughfare and Collector Street Plan map associated with the possible reversal of amendments made according to recommendations in the Southwest Area Study pertaining to New Hill Olive Chapel Road and North Salem Street.

### Approval Recommended?

Planning staff recommends denial of the proposed amendments.

The Planning Board considered the amendments during their November 9, 2020 meeting and made the following recommendations:

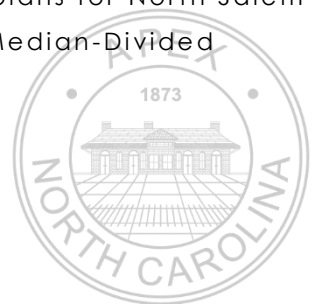
- Unanimously recommend rejecting the proposed amendment to downgrade New Hill Olive Chapel Road to an Existing Two-Lane Rural Thoroughfare, in favor of maintaining plans to upgrade this roadway to a Future Four-Lane Median-Divided Thoroughfare.
- In a vote of 6 to 2, recommend rejecting the proposed amendment to downgrade North Salem Street to a Future Three-Lane Thoroughfare, in favor of maintaining plans to upgrade this roadway to a Future Four-Lane Median-Divided Thoroughfare.

### Item Details

The Town Council amended the Thoroughfare and Collector Street Plan Map on October 6, 2020 to reflect recommendations from the regional Southwest Area Study led by the Capital Area Metropolitan Planning Organization. Subsequently, Town Council requested a second public hearing to potentially reconsider two of those amendments. Staff will present the reversal of the amendments adopted in October, those are: (1) Downgrade plans for New Hill Olive Chapel Road between Old US 1 Highway and Olive Chapel Road from Future Four-Lane, Median-Divided Thoroughfare to Existing Two-Lane Rural Thoroughfare, and (2) Downgrade plans for North Salem Street between All Wheel Drive and Apex Peakway from Future Four-Lane, Median-Divided Thoroughfare to Future Three-Lane Thoroughfare.

### Attachments

- Staff report with exhibits







The Thoroughfare and Collector Street Plan map of Advance Apex: The 2045 Comprehensive Transportation Plan represents a network of current and future facilities that provide guidance on what is likely to be suitable for long term growth. The plan does not require a schedule for implementation nor does it set aside funding for improvements. Instead, the plan helps the Town establish long term priorities. The purpose of the public hearing is to consider proposed amendments to the network of planned thoroughfare and collector streets in order to formulate a decision.

The purpose of these amendments is to consider the possible reversal of two amendments adopted by the Town Council on October 6, 2020. Given the complexity of the decision for these two amendments, Town Council expressed an interest in holding a second public hearing to further discuss the amendments and provide an additional opportunity for public input to be heard.

#### **Amendment 1. New Hill Olive Chapel Road between Old US 1 Highway and Olive Chapel Road**

The proposed amendment would downgrade plans for this roadway from Future Four-Lane, Median-Divided Thoroughfare to Existing Two-Lane Rural Thoroughfare (see Figure 1). This amendment would reverse the decision made on October 6, 2020 to amend the Thoroughfare and Collector Street Plan map for consistency with recommendations from the regional Southwest Area Study (SWAS).

The SWAS recommendation is based on the need for increased capacity on this regional corridor and commuter route. The traffic model runs project 15,000 – 17,700 vehicles per day along New Hill Olive Chapel Road by 2045. The North Carolina Department of Transportation measured 6,900 vehicles per day along this corridor in 2019. The recommendation to upgrade this section of New Hill Olive Chapel Road to a Future Four-Lane, Median-Divided Thoroughfare is consistent with plans to upgrade the corridor to highway standards and designate it as NC 751. The extended corridor for future NC 751 would stretch 20 miles, from where it currently terminates north of US 64 to US 401 in Lillington. An image of the future NC 751 corridor from the SWAS is shown in Figure 2.

A Four-Lane, Median-Divided Thoroughfare provides both traffic capacity and potential safety benefits compared to a Two-Lane Rural Thoroughfare or undivided facility. The main concerns of the widened facility are the possible loss of the rural context of this corridor and property impacts. Known major constraints along the corridor include: a cemetery located approximately 420' south of Olive Chapel Road adjacent to Olive Chapel Baptist Church; historic structures along the corridor, but especially concentrated at the "crossroads" of Olive Chapel Road, Humie Olive Road and Old US 1 Highway; and floodway and a crossing of Little Beaver Creek through US Army Corps of Engineer property north of Humie Olive Road. The right-of-way for both the Town's Four-Lane, Median-Divided Thoroughfare and Two-Lane Rural Thoroughfare is 110' (see Figure 3 and Figure 4). This means, as redevelopment occurs, the same right-of-way is required (or requested as applicable) regardless of the designation on the Thoroughfare and Collector Street Plan map. At the time of project design, to avoid or minimize impacts in constrained areas, the minimum right-of-way needed for a Four-Lane, Median-Divided Thoroughfare is 80'. This right-of-way would not allow for turn lanes and would result in other tradeoffs, such as the reduction of space between pedestrian facilities and roadway edge and narrowing of shoulder or bicycle lanes. For this reason, and because conditions often change between project construction and long range planning; adjustments to the typical section are made during project design, with more detailed information, and not at the time of long range planning.

Widening this roadway is not programmed in the Town's 5-year Capital Improvement Program, nor the State's 10-year Transportation Improvement Program.

*Staff Recommendation:*

The original amendment to upgrade New Hill Olive Chapel Road to a Future Four-Lane, Median-Divided Thoroughfare was reviewed with staff from Public Works and Transportation, Police, Fire, and EMS. Given the added capacity, and potential safety benefit of a median, there were no concerns from these perspectives. The Fire Department asked to be involved in project design to have input on the location of median breaks for emergency access.

Planning Department staff did not make a recommendation regarding the original amendment to upgrade the corridor, suggesting the determination of the balance between traffic capacity and context is best made by the Planning Board and Town Council as representatives of the public. Two Town Council members expressly requested that Planning staff offer a recommendation. While Planning Staff recognizes the desire to maintain a rural corridor and minimize property impacts, the regional importance of this route as future NC 751 is the driving factor. For this reason, Planning Staff recommends maintaining the Four-Lane Median-Divided Thoroughfare designation, for consistency with regional plans, and rejecting the proposed reversal of the recently-approved amendment to the Thoroughfare and Collector Street Plan Map.

*Planning Board Recommendation:*

The Planning Board considered the amendments during their November 9, 2020 meeting and unanimously recommend rejecting the proposed amendment to downgrade New Hill Olive Chapel Road, between Old US 1 Highway and Olive Chapel Road, to an Existing Two-Lane Rural Thoroughfare, in favor of maintaining plans to upgrade this roadway to a Future Four-Lane Median-Divided Thoroughfare.

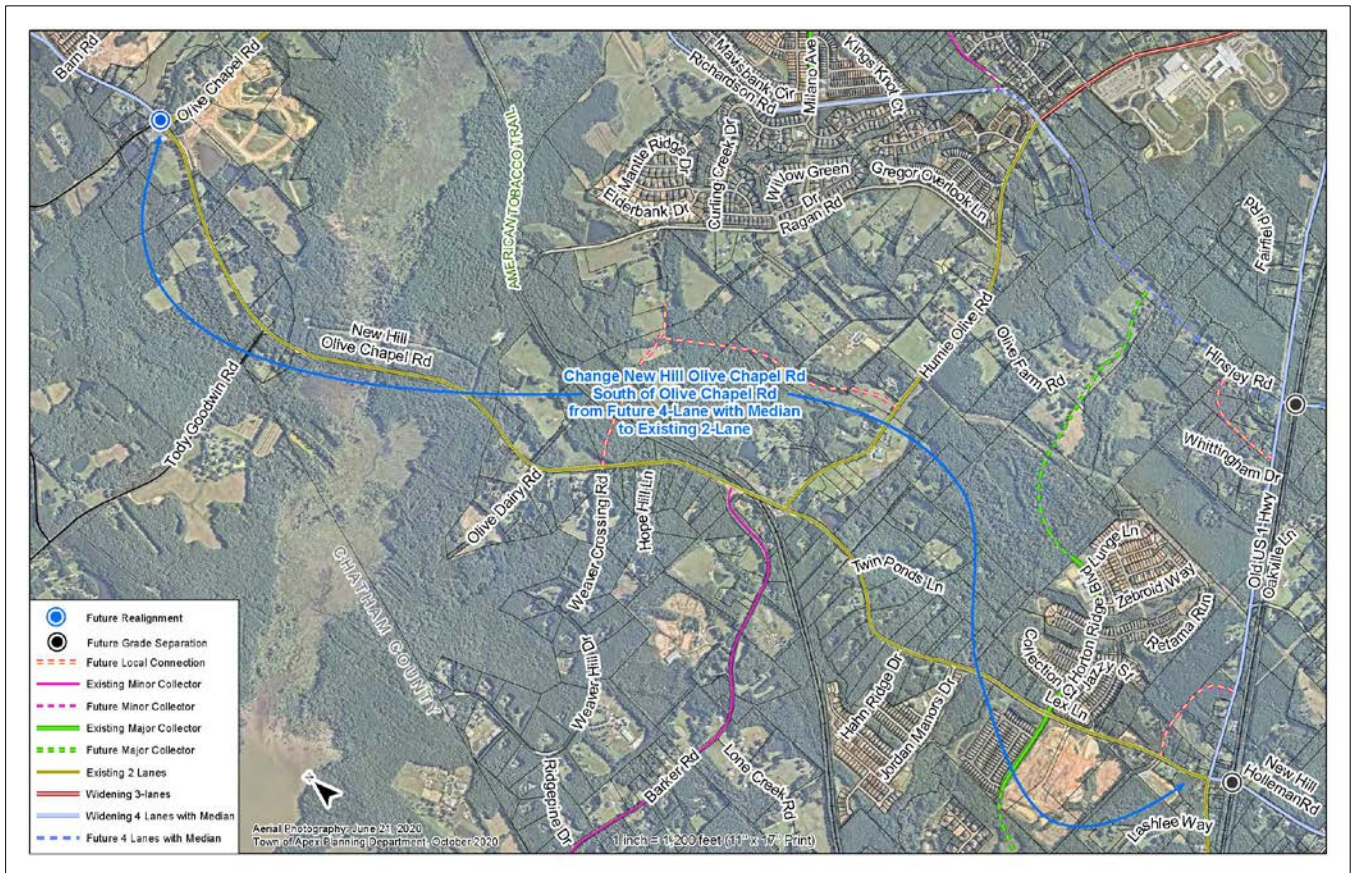


Figure 1. Proposed amendment to New Hill Olive Chapel Road corridor



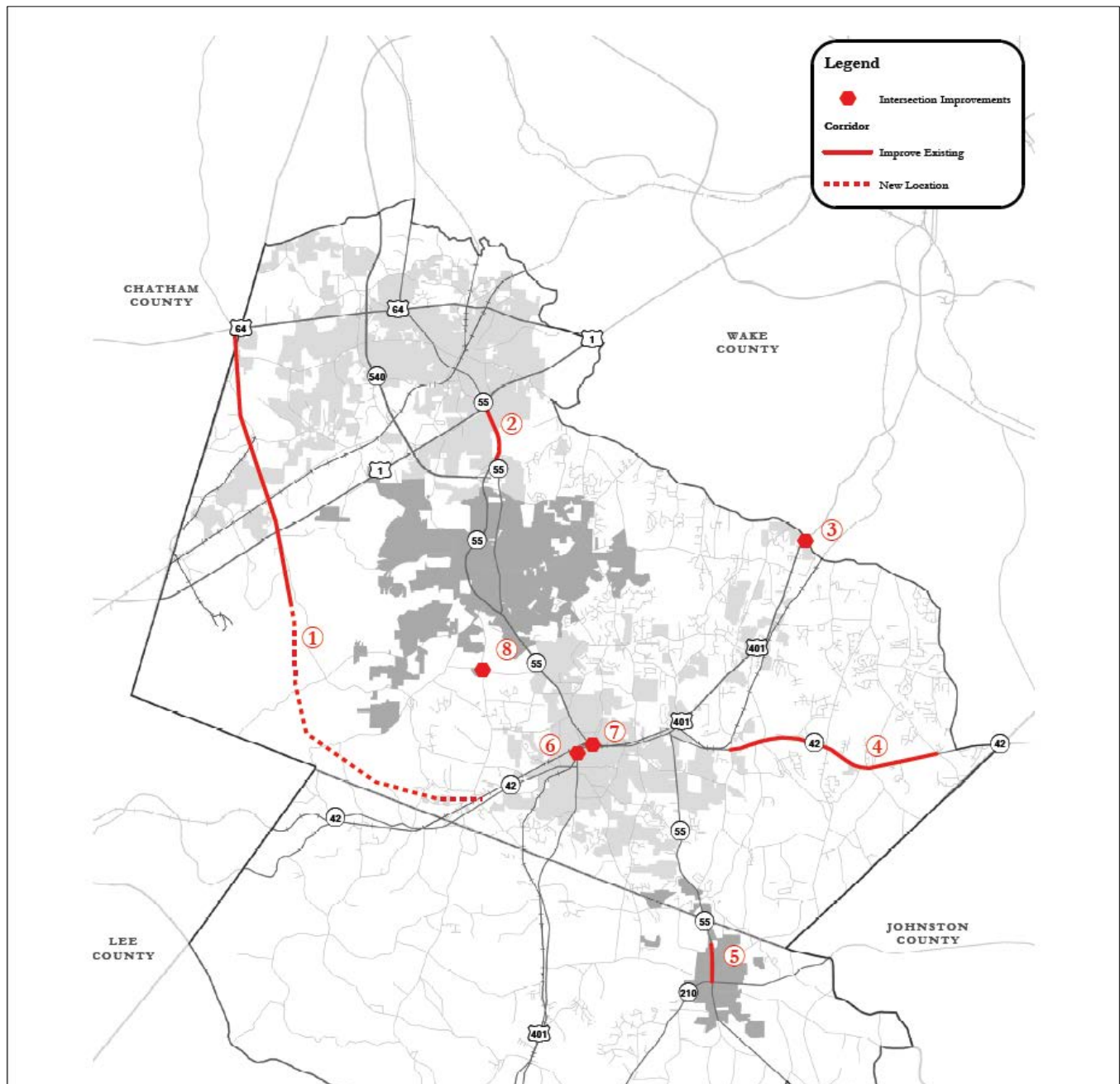


Figure 2. Future NC 751 Corridor as shown in the Southwest Area Study

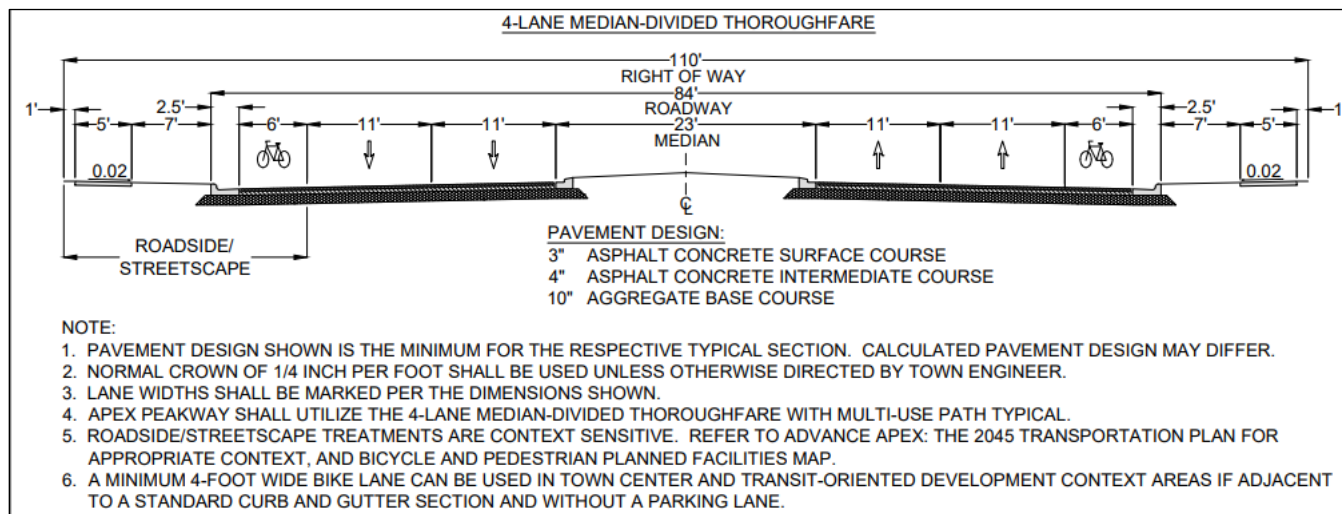


Figure 3. Town of Apex Standard Detail for a Four-Lane Median-Divided Thoroughfare

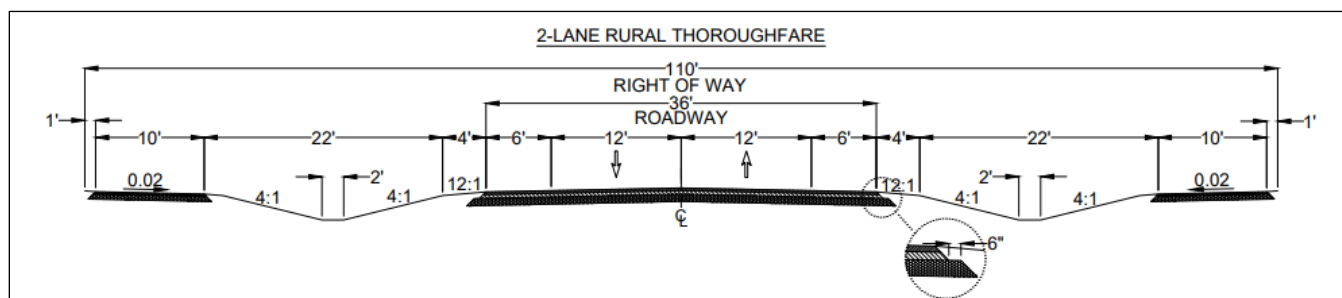


Figure 4. Town of Apex Standard Detail for a Two-Lane Rural Thoroughfare

## Amendment 2. North Salem Street between Apex Peakway and All Wheel Drive

The proposed amendment would downgrade plans for this roadway between All Wheel Drive and Apex Peakway from Future Four-Lane, Median-Divided Thoroughfare to Future Three-Lane Thoroughfare (see Figure 5). The Thoroughfare and Collector Street Plan Map has been updated to reflect existing conditions between All Wheel Drive and US 64. This amendment would reverse the decision made on October 6, 2020 to amend the Thoroughfare and Collector Street Plan map for consistency with recommendations from the SWAS.

The SWAS recommendation is based on the need for increased capacity on this route. The traffic model runs project anticipated traffic volumes of 23,000 – 26,400 vehicles per day by 2045. The North Carolina Department of Transportation measured 9,500 vehicles per day along this corridor in 2019. The main concern heard regarding future widening is potential impacts to historic resources and the urban character of this corridor.

As explained with Amendment 1, the Town's typical section for a Four-Lane Median-Divided Thoroughfare is 110'. At the time of project design, to avoid or minimize impacts in constrained areas, the minimum right-of-way needed for a Four-Lane, Median-Divided Thoroughfare is 80'. This right-of-way is consistent with the Town's typical section for a Three-Lane Thoroughfare. This right-of-way would not allow for turn lanes and would result in other tradeoffs. For this reason, and because conditions often change between project construction and long range planning; adjustments to the typical section are made during project design, with more detailed information, and not at the time of long range planning.



Widening this roadway is not programmed in the Town's 5-year Capital Improvement Program, nor the State's 10-year Transportation Improvement Program.

*Staff Recommendation:*

The original amendment to upgrade North Salem Street to a Future Four-Lane, Median-Divided Thoroughfare was reviewed with staff from Public Works and Transportation, Police, Fire, and EMS. Given the added capacity, there were no concerns from these perspectives. The Police Department noted the possible benefit of maintaining traffic flow during school arrival and dismissal times for Thales Academy Junior High/High School, which can create long queues.

Planning Department staff did not make a recommendation regarding the original amendment to upgrade the corridor, suggesting the determination of the balance between traffic capacity and context is best made by the Planning Board and Town Council as representatives of the public. Two Town Council members expressly requested that Planning staff offer a recommendation. Given the high traffic volumes projected for this corridor, the strong public sentiment to address traffic congestion, the change in the context that has already occurred along this corridor between US 64 and Apex Peakway, and the flexibility during design; Planning Staff recommends maintaining the Four-Lane Median-Divided Thoroughfare designation and rejecting the proposed reversal of the recently-approved amendment to the Thoroughfare and Collector Street Plan Map.

*Planning Board Recommendation:*

The Planning Board considered the amendments during their November 9, 2020 meeting and, in a vote of 6 in favor to 2 against, recommend rejecting the proposed amendment to downgrade North Salem Street, between All Wheel Drive and Apex Peakway, to a Future Three-Lane Thoroughfare, in favor of maintaining plans to upgrade this roadway to a Future Four-Lane Median-Divided Thoroughfare.



Figure 5. Proposed amendment to plans for North Salem Street

# | Agenda Item | cover sheet

for consideration by the Apex Town Council

Item Type: PUBLIC HEARING  
Meeting Date: November 17, 2020

## Item Details

Presenter(s): Joanna Helms, Economic Development Director

Department(s): Economic Development

### Requested Motion

Public Hearing and possible motion to provide economic development incentives for Project Protein in accordance with the Town's Policy on Economic Development Incentives and to direct staff and the Town Attorney to draft an agreement between the Town and the company according to terms provided herein by Council and to authorize the Town Manager to approve and execute the final agreement

### Approval Recommended?

Yes

### Item Details

- This is a BioAg industry project
- Propose 30 new jobs to be created
- Propose a \$9.5 million investment
- Propose to construct a 30,000 sf facility
- Company is considering a 10 acre site in Cash Corporate Center just off end of Production Drive
- Location competition is Ohio and KY
- Timeframe – start construction asap; occupy Nov. 2021
  - Project Protein meets all the requirements to qualify for the Town of Apex's Development Incentive Grant
- 

### Attachments

- Proposed Incentive Scenario



## Project Protein

### Development Investment Grant Scenario

$$\begin{array}{l} \text{\$9,500,000} \\ \text{(investment)} \\ \hline \text{\$100} \\ \text{(valuation)} \\ \hline \end{array} = \$95,000 * \begin{array}{l} .38 \\ \text{(tax} \\ \text{rate)} \end{array} = \begin{array}{l} \$36,100 \\ \text{(annual} \\ \text{taxes} \\ \text{paid)} \end{array} * 90\% = \begin{array}{l} \$32,490 \\ \text{(annual} \\ \text{incentive)} \end{array} * \begin{array}{l} 3 \\ \text{(years)} \end{array} = \begin{array}{l} \$97,470 \\ \text{(Total} \\ \text{Incentive)} \end{array}$$

November 2020



# | Agenda Item | cover sheet

for consideration by the Apex Town Council

Item Type: WORK SESSION

Meeting Date: November 17, 2020

## Item Details

Presenter(s): Amanda Grogan, Budget & Management Analyst; Shawn Purvis, Asst. Town Manager

Department(s): Planning, PW-Transportation, Finance, Budget

### Requested Motion

Consider possible financing options to fund transportation projects presented at the November 4, 2020 Council Meeting Work Session

### Approval Recommended?

N/A

### Item Details

The current CIP includes \$47.7M for transportation projects over the next four years and \$27.5M for projects beyond 2025. Staff is preparing updated CIP requests and has identified additional needs beyond the current plan. While some of the smaller projects are expected to be covered through annual revenue sources, the larger projects will require a financing mechanism in order to move forward. Planning and Transportation staff has provided an update on expected timelines and cost estimates for large transportation projects and potentially LAPP-funded projects and Finance staff provided an update on expected debt capacity and limits. This is the follow-up meeting at which budget staff will assist Council in considering and prioritizing transportation projects within the limits of the expected debt models in order for Council to consider the feasibility of a bond referendum.

### Attachments

- None

**This Work Session will be held in Training Room A on the third floor of Town Hall.  
The public may watch this Session using this link: <https://bit.ly/3n6vQdp>**

