



AGENDA | REGULAR TOWN COUNCIL MEETING

February 27, 2024 at 6:00 PM

Council Chambers - Apex Town Hall, 73 Hunter Street

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

Town Council and Administration

Mayor: Jacques K. Gilbert | Mayor Pro-Tempore: Edward Gray

Council Members: Brett D. Gantt; Audra Killingsworth; Terry Mahaffey; Arno Zegerman

Interim Town Manager: Shawn Purvis

Assistant Town Managers: Demetria John and Marty Stone

Town Clerk: Allen Coleman | Town Attorney: Laurie L. Hohe

COMMENCEMENT

Call to Order | Invocation | Pledge of Allegiance

CONSENT AGENDA

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

- CN1 Agreement - North Carolina Department of Transportation (NCDOT) - EB-6021 Beaver Creek Greenway Project - Supplemental Agreement**
Angela Reincke, Parks Project Planning Manager, Parks, Recreation, and Cult. Resources Dept.
- CN2 Appointments - Board of Adjustment (BOA) - Chair/Vice-Chair**
Allen Coleman, Town Clerk
- CN3 Appointments - Planning Board (PB)**
Allen Coleman, Town Clerk
- CN4 Appointments - Planning Board (PB) - Chair/Vice Chair**
Allen Coleman, Town Clerk
- CN5 Capital Project Ordinance Amendment No. 2024-12 - Middle Creek Greenway and Appropriations Capital Project Funds**
Amanda Grogan, Director, Budget and Performance Management Department, and, Angela Reincke, Parks Project Planning Manager, Parks, Recreation, and Cult. Resources Dept.
- CN6 Capital Project Ordinance Amendment No. 2024-13 - Wimberly Road Property Acquisition**
Steve Adams, Utilities Acquisition and Real Estate Specialist, Trans. and Infra. Dev. Dept.

- CN7 Construction Contract Award Amendment - Fred Smith Co. - Beaver Creek Greenway Extension Phase I, IA, and II - and, NCDOT Supplemental Agreement EB-6021**
Angela Reincke, Parks Project Planning Manager, Parks, Recreation, and Cult. Resources Dept
- CN8 Council Meeting Minutes - February 13, 2024**
Allen Coleman, Town Clerk
- CN9 Encroachment Agreement - 2512 Canarywood Lane Lot 31**
Chris Johnson, P.E., MPA, Director, Transportation and Infrastructure Development Dept.
- CN10 Encroachment Agreement - 2516 Canarywood Lane Lot 30**
Chris Johnson, P.E., MPA, Director, Transportation and Infrastructure Development Dept.
- CN11 North Chatham Volunteer Fire Department (VFD) - Annexation Debt One-Time Payment**
Antwan Morrison, Director, Finance Department
- CN12 Reimbursement Resolution (2) - Municipal Building Projects and Parks & Recreation Projects**
Antwan Morrison, Director, Finance Department
- CN13 Unified Development Ordinance (UDO) Amendments - January 2024 - Statement and Ordinance**
Amanda Bunce, Current Planning Manager, Planning Department

PRESENTATIONS

- PR1 Proclamation - Bleeding Disorders Awareness Month - March 2024**
Mayor Jacques K. Gilbert
- PR2 Proclamation - Women's History Month - March 2024**
Mayor Jacques K. Gilbert

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 Annexation No. 773 - 1075 South Hughes Street - Chick-Fil-A - 3.431 acres

Dianne Khin, Director, Planning Department

PH2 Annexation No. 775 - 1133 Twin Creek Road - 2.80 acres

Dianne Khin, Director, Planning Department

PH3 Annexation No. 776 - Sundance of NC, LLC - Salem Church Road - 2.90 acres

Dianne Khin, Director, Planning Department

PH4 Rezoning Case No. 23CZ17 - 0 Herbert Street

Liz Loftin, Senior Planner, Planning Department

PH5 Rezoning Case No. 23CZ23 - Saunders Street Parking Lot

Liz Loftin, Senior Planner, Planning Department

PH6 Unified Development Ordinance (UDO) Amendments - February 2024 - Traffic Calming

Sajid Hassan, P.E., Traffic Safety Engineer, Transportation and Infrastructure Dev. Dept.

PH7 Unified Development Ordinance (UDO) Amendments - February 2024 - Signs and Typo Correction

Amanda Bunce, Current Planning Manager, Planning Department

NEW BUSINESS

UPDATES BY TOWN MANAGER

CLOSED SESSION

Council will enter into closed session pursuant to:

CS1 Mayor Jacques K. Gilbert

NCGS § 143-318.11(a)(6):

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

ADJOURNMENT

| Agenda Item | cover sheet

for consideration by the Apex Town Council

Item Type: CONSENT AGENDA

Meeting Date: February 27, 2024

Item Details

Presenter(s): Angela Reincke, Parks Planning Project Manager

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

Requested Motion

Motion to approve a Supplemental Agreement with North Carolina Department of Transportation (NCDOT) for \$3,442,629 in additional funding for the EB-6021 Beaver Creek Greenway Project and authorize the Interim Town Manager, or their designee, to execute on behalf of the Town.

Approval Recommended?

Yes

Item Details

The Beaver Creek Greenway was bid in July 2023 and subsequently awarded to the lowest bidder, Fred Smith Co. at the August 8, 2023 Town Council meeting (CN18). On September 26, 2023, Council amended the motion taken on August 8, 2023, to ensure compliance with Locally Administered Project Program (LAPP) and clarified the construction contract was with Fred Smith Company and not NCDOT.

This agreement provides an additional \$3,442,629 in funding to the Beaver Creek project, to a combined project total of \$4,495,510 in federal funding through the LAPP program. As a result of the increased costs of the project, Parks, Recreation, and Cultural Resources (PRCR) staff took a request to Capital Area Metropolitan Planning Organization (CAMPO) for additional funding for the costs over the estimate in the original LAPP request. CAMPO approved the additional funding and this agreement spells out the allocation of funds available for reimbursement for the construction of the Beaver Creek Greenway.

REVISED FUNDING TABLE

| Fund Source (Agreement #) | Federal Funds Amount | Reimbursement Rate | Non-Federal Match \$ | Non-Federal Match Rate |
|---------------------------------------|-------------------------|-----------------------|-------------------------|---------------------------|
| TADA (#8841) | \$1,052,881 | 80% | \$263,221 | 20% |
| TADA (#12780) | \$3,442,629 | 80% | \$860,658 | 20% |
| Subtotal | \$4,495,510 | 80% | \$1,123,879 | 20% |
| Additional Local Participation | | | \$2,581,971 | 100% |
| Total Estimated Cost | | \$8,201,360 | | |

Attachments

- CN1-A1: Agreement - North Carolina Department of Transportation (NCDOT) - EB-6021 Beaver Creek Greenway Project - Supplemental Agreement



NORTH CAROLINA
WAKE COUNTY

SUPPLEMENTAL AGREEMENT

DATE: 1/16/2024

NORTH CAROLINA DEPARTMENT OF
TRANSPORTATION

TIP #: EB-6021

AND

WBS ELEMENTS: PE _____

ROW _____

TOWN OF APEX

CON 48818.3.1

OTHER FUNDING:

FEDERAL-AID #: 0520125

CFDA #: 20.205

TOTAL SUPPLEMENTAL FUNDS [NCDOT PARTICIPATION] \$3,442,629

THIS AGREEMENT is made and entered into on the last date executed below, by and between the North Carolina Department of Transportation, an agency of the State of North Carolina, hereinafter referred to as the "Department", and the Town of Apex, hereinafter referred to as the "Municipality."

WITNESSETH:

WHEREAS, the Department and the Municipality on 8/29/2019, entered into a certain Project Agreement for the original scope: the construction of Beaver Creek Greenway which will complete a missing gap in the greenway corridor between Kelly Road Park and Apex Nature Park and realign an adjacent segment of existing Beaver Creek Greenway in Apex, programmed under Project EB-6021; and,

WHEREAS, this Supplemental Agreement is to provide additional TADA funding for the project.

NOW THEREFORE, the parties wish to supplement the aforementioned Agreement whereby the following provisions are amended:

3. FUNDING

REIMBURSEMENT FOR ELIGIBLE ACTIVITIES

Subject to compliance by the Municipality with the provisions set forth in this Agreement and the availability of federal funds, the Department shall reimburse 80% of eligible expenses incurred by the Municipality up to a maximum of \$4,495,510 of TADA funds. The Municipality will provide \$2,581,971 as their local match and all costs that exceed the total estimated cost per the Revised Funding Table below:

REVISED FUNDING TABLE

| Fund Source (Agreement #) | Federal Funds Amount | Reimbursement Rate | Non-Federal Match \$ | Non-Federal Match Rate |
|---------------------------------------|---------------------------------|-------------------------------|---------------------------------|-----------------------------------|
| TADA (#8841) | \$1,052,881 | 80% | \$263,221 | 20% |
| TADA (#12780) | \$3,442,629 | 80% | \$860,658 | 20% |
| Subtotal | \$4,495,510 | 80% | \$1,123,879 | 20% |
| Additional Local Participation | | | \$2,581,971 | 100% |
| Total Estimated Cost | | \$8,201,360 | | |

WORK PERFORMED BY NCDOT

All work performed by the Department on this Project, including, but not limited to, reviews, inspections, and Project oversight, during any phase of the delivery of the Project, shall reduce the funding available to the Municipality under this Agreement. The Department will set aside ten percent (10%) of the total estimated cost, or \$820,136 to use towards the costs related to review and oversight of this Project, including, but not limited to review and approval of plans, environmental documents, contract proposals, engineering estimates, construction engineering and inspection oversight, and other items as needed to ensure the Municipality's appropriate compliance with state and federal regulations.

In the event that the Department does not utilize all the set-aside funding, then those remaining funds will be available for reimbursement to the Municipality at the above reimbursement rate. For all cost of work performed on the Project, whether incurred by the Municipality or by the Department, the Municipality shall provide the non-federal match. The Department will bill the Municipality for the non-federal match of any costs that the Department incurs on the Project and for any costs that exceed the Total Estimated Cost.

OTHER PROVISIONS

The other party to this Agreement shall comply with Title VI of the Civil Rights Act of 1964 (Title 49 CFR, Subtitle A, Part 21) and related nondiscrimination authorities. Title VI and related authorities prohibit discrimination on the basis of race, color, national origin, disability, gender, and age in all programs or activities of any recipient of Federal assistance.

A copy or facsimile copy of the signature of any party shall be deemed an original with each fully executed copy of the Agreement as binding as an original, and the parties agree that this Agreement can be executed in counterparts, as duplicate originals, with facsimile signatures sufficient to evidence an agreement to be bound by the terms of the Agreement.

Except as hereinabove provided, the Agreement heretofore executed by the Department and the Municipality on 8/29/2019, is ratified and affirmed as therein provided.

IN WITNESS WHEREOF, this Agreement has been executed, in duplicate, the day and year heretofore set out, on the part of the Department and the Municipality by authority duly given.

L.S. ATTEST:

TOWN OF APEX

BY: _____

BY: _____

TITLE: _____

TITLE: _____

DATE: _____

DATE: _____

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

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

(SEAL)

(FINANCE OFFICER)

Federal Tax Identification Number

Remittance Address:

Town of Apex

DEPARTMENT OF TRANSPORTATION

BY: _____

(CHIEF ENGINEER)

DATE: _____

APPROVED BY BOARD OF TRANSPORTATION ITEM O: _____ (Date)

| Agenda Item | cover sheet

for consideration by the Apex Town Council

Item Type: CONSENT AGENDA

Meeting Date: February 27, 2024

Item Details

Presenter(s): Allen Coleman, Town Clerk

Department(s): Town Clerk's Office

Requested Motion

Motion to confirm the following leadership positions on the Apex Board of Adjustment (BOA) for calendar year 2024:

- Robert Carmac, Chair of the Apex Board of Adjustment (BOA)
- Tracy Taylor, Vice-Chair of the Apex Board of Adjustment (BOA)

Approval Recommended?

Mayor Jacques K. Gilbert recommends both Robert Carmac for Chair and Tracy Taylor for Vice-Chair on the Apex Board of Adjustment (BOA).

Item Details

On Tuesday, February 20, 2024, the Apex Board of Adjustment unanimously (5-0) voted to nominate Robert Carmac to the Chair position and Tracy Taylor to the Vice-Chair position for calendar year 2024.

Pursuant to the Town's Unified Development Ordinance (UDO) Section 2.1.3 (C)(1), the chair and vice-chair of the Board of Adjustment shall be appointed by the Mayor from the members of the Board of Adjustment. The term of the chair and vice-chair shall be one (1) year.

The current BOA members were reminded that the facilitated nomination process would be treated as a recommendation only and the final appointing authority rested solely with the Mayor for both leadership positions on this Board.

Attachments

- None



| Agenda Item | cover sheet

for consideration by the Apex Town Council

Item Type: CONSENT AGENDA

Meeting Date: February 27, 2024

Item Details

Presenter(s): Allen Coleman, Town Clerk

Department(s): Town Clerk's Office

Requested Motion

A. Motion to reappoint the following Apex Planning Board members each for a (2) two-year term expiring December 31, 2025:

- PB-008 - Alyssa Byrd - reappointment for 2nd Term
- PB-009 - Daniel Khodaparast - reappointment for 2nd Term
- PB-006 - Steven Rhodes - reappointment for 2nd Term
- PB-002 - Tina Sherman - reappointment for 3rd Term

B. Motion to recommend the Wake County Commissioners' reappoint the following Apex Planning Board member, ETJ Representative, for a (2) two-year term expiring December 31, 2025:

- PB-003 - Tim Royal - reappointment for 3rd Term

C. Motion to appoint Preston Mitchell to the Apex Planning Board for a (2) two-year term expiring December 31, 2025:

- PB-001 - Preston Mitchell - appointment for 1st Term

Approval Recommended?

Mayor Jacques K. Gilbert recommends Alyssa Byrd, Daniel Khodaparast, Steven Rhodes, Tim Royal, and Tina Sherman for reappointment consideration and recommends Preston Mitchell replace Reginald Skinner's position on the Apex Planning Board. Mr. Reginald Skinner is not seeking reappointment.

Item Details

The Town Clerk's Office advertised the Apex Planning Board vacancies for two weeks beginning Thursday, December 21, 2023 and ending on Wednesday, January 3, 2024. A variety of platforms were used to recruit for these positions including: Facebook, Instagram, Nextdoor, and the Town's Website.

A total of (20) twenty **new** applications were received for appointment consideration to the Apex Planning Board. Attached, in alphabetical order, are their respective applications. Only (18) eighteen candidates are eligible for appointment; however, the Apex Planning Board only has (6) six expired positions.

On Monday February 12, 2024, the current Apex Planning Board nominated all five (5) existing members for reappointment consideration. Immediately following, Board members discussed new applicants for the vacant position. A total of five (5) candidates were nominated. Each Board member ranked their top five (5) candidates on who they would like to see fill the vacant position.

The results of the rank choice ballot nomination process were:

- Kiel, Autumn (one vote)
- Langford, Marissa (one vote)
- Malone, Robert (none)
- Mitchell, Preston (three votes - tied for no. 1)
- Toppe, Noah (three votes - tied for no. 1)

The public is invited to re-watch the Apex Planning Board meeting from February 12, 2024, on the Town's Youtube Channel via the following link: <https://www.youtube.com/c/TownofApexGov>. The nomination process begins at 1 hour 38 minutes and 22 seconds.

Section 2.1.2 (Planning Board) of the Unified Development Ordinance (UDO) for the Town of Apex states:

- **Positions:** The Planning Board shall consist of nine (9) voting members and one (1) non-voting member.
- **Terms:** Members shall be appointed for terms of two (2) years. No member of the Planning Board may serve more than five (5) consecutive two (2) year terms.
- **Appointments:** Members shall be appointed as follows:
 - a) Regular members of the Planning Board from the ETJ shall be appointed by the Wake County Board of County Commissioners.
 - b) Regular members of the Planning Board from the Town shall be recommended by the Mayor and appointed by the Town Council.
 - c) The regular member of the Planning Board who resides outside the corporate limits and ETJ, but within the area covered by the Town's 2045 Land Use Map shall be recommended by the Mayor and appointed by the Town Council.

d) The non-voting member of the Planning Board shall be recommended by the Mayor and appointed by the Town Council.

Attachments

- CN3-A1: Applicants at a Glance - Appointments - Planning Board (PB)





"The Peak of Good Living"

OFFICE OF THE TOWN CLERK

TOWN OF APEX NORTH CAROLINA

PLANNING BOARD

APPLICANTS AT A GLANCE

Applicants for Reappointment:

Alyssa Byrd, Daniel Khodaparast, Steven Rhodes, Tim Royal, Tina Sherman, and Reginald Skinner - Apex Planning Board Members individuals seeking to be reappointed each for a two-year term expiring December 31, 2025.

| Position No. | Applicant(s) | Current Appointment Term | Status | Resident Status | Notes |
|--------------|---------------------|--------------------------|-----------------------|--------------------|----------------------------|
| PB-008 | Byrd, Alyssa | 1 st Term | Active Current Member | Corporate Limits | Eligible for Reappointment |
| PB-009 | Khodaparast, Daniel | 1 st Term | Active Current Member | Corporate Limits | Eligible for Reappointment |
| PB-006 | Rhodes, Steven | 1 st Term | Active Current Member | Corporate Limits | Eligible for Reappointment |
| PB-003 | Royal, Tim | 2 nd Term | Active Current Member | ETJ Representative | Eligible for Reappointment |
| PB-002 | Sherman, Tina | 2 nd Term | Active Current Member | Corporate Limits | Eligible for Reappointment |
| PB-003 | Skinner, Reginald | 2 nd Term | Active Current Member | Corporate Limits | Not Seeking Reappointment |



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TOWN OF APEX NORTH CAROLINA

| Applicant(s) | Status | Resident Status | Notes |
|----------------------|--------|---------------------------------|------------------------------|
| Bennett, Joshua | NEW | Corporate Limits | Eligible for Appointment |
| Copersito, Russell | NEW | Corporate Limits | Eligible for Appointment |
| Deeley, Cathy | NEW | ETJ | Eligible for Appointment |
| Hakeem, Shagufta | NEW | Corporate Limits | Eligible for Appointment |
| Hollenbeck, William | NEW | Corporate Limits | Eligible for Appointment |
| Kiel, Autumn | NEW | Corporate Limits | Eligible for Appointment |
| Langford, Marissa | NEW | Corporate Limits | Eligible for Appointment |
| Lyon, Gregory | NEW | Corporate Limits | Eligible for Appointment |
| Melone, Robert | NEW | Corporate Limits | Eligible for Appointment |
| Mendez, Maya | NEW | ETJ | Eligible for Appointment |
| Mitchell, Preston | NEW | Corporate Limits | Eligible for Appointment |
| Nye, Samuel | NEW | Corporate Limits | Eligible for Appointment |
| Patel, Uday | NEW | Corporate Limits | Eligible for Appointment |
| Reyes-Illanes, Oscar | NEW | Corporate Limits | Eligible for Appointment |
| Savarese, Kimberly | NEW | Corporate Limits | Eligible for Appointment |
| Schwartz, Benjamin | NEW | Neither Corporate Limits or ETJ | Not Eligible for Appointment |



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TOWN OF APEX NORTH CAROLINA

| Applicant(s) | Status | Resident Status | Notes |
|-------------------|--------|------------------|--------------------------|
| Senko, Daniel | NEW | Corporate Limits | Eligible for Appointment |
| Simcox, Boyer | NEW | Corporate Limits | Eligible for Appointment |
| Thapaaliya, Janak | NEW | Corporate Limits | Eligible for Appointment |
| Toppe, Noah | NEW | Corporate Limits | Eligible for Appointment |

APPLICATIONS

ELIGIBLE FOR REAPPOINTMENT

- Byrd, Alyssa
- Khodaparast, Daniel
- Rhodes, Steven
- Royal, Tim (*ETJ Rep*)
- Sherman, Tina
- Skinner, Reginald
(*Not Seeking
Reappointment*)

Entry #: 501 - Planning Board **Status:** Submitted **Submitted:** 7/19/2022 11:39 AM

Applications are held by the [Town Clerk](#) until such time that a vacancy occurs. Please note, your completed form is subject to public inspection upon request.

[Learn more](#) about each of the committees listed below.

Original Submittal

I'm interested in serving on...

Planning Board

How did you hear about this opportunity to serve?

Town Website

Candidate Contact Information

Legal Name

Alyssa Stepusin

Preferred First Name

Alyssa Byrd

Address

103 Sugarland Drive, Apex, North Carolina 27502

Do you live within the Apex town limits?

Yes

Do you live within the town's extra-territorial jurisdiction (ETJ)?

No

Email

Mobile Phone

Alternate Phone (work/home)

Background Information

Current Employer

Lee & Associates Raleigh-Durham

Current Job Title

Director of Marketing & Communications

Tell us why you would like to serve?

I worked in the public sector for over a decade and after transitioning to the private sector, I'd love to reengage by helping shape my community. Apex is an incredible place with valuable assets. I want to serve the community and bring my past and current experience as (hopefully!) a strength to the planning board.

Please list any education, special skills, or experience you have that would be useful while considering this form.

Current Position: Lee & Associates Raleigh-Durham (commercial real estate) - Marketing and Communications Director

NC Real Estate License # 298106

Previous: Town of Fuquay-Varina Economic Development Director

Chatham County Economic Development Corporation, President

Chatham County Economic Development Corporation, Director of Marketing and Strategic Planning

With my background of more than a decade in economic development, I have a strong grasp of public policy and processes, planning, utilities, transportation, and other indirect issues (workforce, education, etc.) that planning board members are charged with reviewing. If selected for a future role with the planning board, I would bring hard skills, such as understanding how to navigate and read a UDO, as well as an appreciation for the value of staff in processing these complex requests. My current position with Lee & Associates also affords me the opportunity to see development trends across the Triangle region. I want to support the Town's effort to be innovative and grow while balancing the issues that naturally arise from change and development. I will also preemptively note that I take conflicts of interest seriously. I would always proactively address any issues between requests to the board and my position in commercial real estate.

If you now serve, or have previously served on any town boards, commissions or committees, please list the committees and dates served.

None for the Town of Apex, but I have held a number of committee roles in Siler City, Pittsboro, and Chatham County.

Entry #: 492 - Planning Board **Status:** Submitted **Submitted:** 6/5/2022 1:04 PM

Applications are held by the [Town Clerk](#) until such time that a vacancy occurs. Please note, your completed form is subject to public inspection upon request.

[Learn more](#) about each of the committees listed below.

Original Submittal

I'm interested in serving on...

Planning Board

How did you hear about this opportunity to serve?

Friend / Neighbor, Town Website

Candidate Contact Information

Legal Name

Daniel Khodaparast

Preferred First Name

Address

121 Ada Street, Apex, North Carolina 27502

Do you live within the Apex town limits?

Yes

Do you live within the town's extra-territorial jurisdiction (ETJ)?

No

Email

Mobile Phone

Alternate Phone (work/home)

Background Information

Current Employer

Oracle NetSuite

Current Job Title

Senior Software Engineer & Team Lead

Tell us why you would like to serve?

Every day our community grows. I want to help make an impact on ensuring that its growth is done well, with respect to the diverse members of it. We need to take into account the needs of those members and best position appropriate land use to satisfy demand into the future.

Please list any education, special skills, or experience you have that would be useful while considering this form.

I have dual degrees in Computer Science and Mechanical Engineering. I currently am a Senior Software Engineer and Team Lead. In my role, I manage a team of engineers spread across the US and Czech Republic.

I understand various cultural and personality differences can make up a great team and that not everyone comes from the same background. Words, thoughts, and plans must be adapted to keep things flowing smoothly. I have applied this by even traveling (pre-covid) overseas to give training/talks about various technical subjects.

My curiosity and drive often leads me into doing extensive research and documentation to ensure that all bases are covered when addressing any issues.

If you now serve, or have previously served on any town boards, commissions or committees, please list the committees and dates served.

n/a

Entry #: 629 - Planning Board **Status:** Submitted **Submitted:** 1/29/2024 6:41 PM

Applications are held by the [Town Clerk](#) until such time that a vacancy occurs. Please note, your completed form is subject to public inspection upon request.

[Learn more](#) about each of the committees listed below.

Original Submittal

I'm interested in serving on...

Planning Board

How did you hear about this opportunity to serve?

Currently serving

Candidate Contact Information

Legal Name

Steven A Rhodes

Preferred First Name

Address

107 Downing Place, Apex, North Carolina 27502

Pronouns

Do you live within the Apex town limits?

Yes

Do you live within the town's extra-territorial jurisdiction (ETJ)?

No

Email

Mobile Phone

Alternate Phone (work/home)

Background Information

Current Employer

Dominion Energy

Current Job Title

Marketing and Sales Manager

Tell us why you would like to serve?

I'm dedicated in serving Apex and our community by fully engaging in the planning process.

Please list any education, special skills, or experience you have that would be useful while considering this form.

- MBA
- 15 years of Utility Experience
- Former HOA Board Member that worked collaboratively with the Town Officials

If you now serve, or have previously served on any town boards, commissions or committees, please list the committees and dates served.

none

Tim Royal

Pending Application

Entry #: 147 - Planning Board **Status:** Submitted **Submitted:** 8/29/2019 9:30 AM

Applications are held by the [Town Clerk](#) until such time that a vacancy occurs. Please note, your completed form is subject to public inspection upon request.

[Learn more](#) about each of the committees listed below.

Original Submittal

1/2/2017

I'm interested in serving on...

Planning Board

How did you hear about this opportunity to serve?

Candidate Contact Information

Legal Name

Tina Sherman

Preferred First Name

Address

2251 Toad Hollow Trail, Apex, NC 27502

Do you live within the Apex town limits?

Yes

Do you live within the town's extra-territorial jurisdiction (ETJ)?

Email

Mobile Phone

Alternate Phone (work/home)

Background Information

Current Employer

Current Job Title

Tell us why you would like to serve?

I am interested in encouraging thoughtful and intentional development in the Town as it continues to grow.

Please list any education, special skills, or experience you have that would be useful while considering this form.

I am a citizen of the community who closely follows development and growth. I am eager to listen, learn and weigh in on as to how proposed planning will effect our community.

If you have served, or have previously served on any town boards, commissions or committees, please list the committees and dates served.

Entry #: 155 - Planning Board **Status:** Submitted **Submitted:** 8/29/2019 9:30 AM

Applications are held by the [Town Clerk](#) until such time that a vacancy occurs. Please note, your completed form is subject to public inspection upon request.

[Learn more](#) about each of the committees listed below.

Original Submittal

11/21/2017

I'm interested in serving on...

Planning Board

How did you hear about this opportunity to serve?

Candidate Contact Information

Legal Name

Reginald T Skinner

Preferred First Name

Address

106 Hasbrouck Drive, Apex, NC 27523

Do you live within the Apex town limits?

Yes

Do you live within the town's extra-territorial jurisdiction (ETJ)?

Email

Mobile Phone

Alternate Phone (work/home)

Background Information

Current Employer

Juniper Networks

Current Job Title

Service Manager

Tell us why you would like to serve?

I have an interest in our town, i'd like to see growth but not growth for the sake of growth.

Please list any education, special skills, or experience you have that would be useful while considering this form.

i don't see Apex from the car as often as most. I'm a cyclist, so i see the town a lot slower (speed wise) than most. Helps to take it in better.

If you now serve, or have previously served on any town boards, commissions or committees, please list the committees and dates served.

APPLICATIONS

ELIGIBLE FOR APPOINTMENT

- Bennett, Joshua
- Copersito, Russell
- Deeley, Cathy
- Hakeem, Shagufta
- Hollenbeck, William
- Kiel, Autumn
- Langford, Marissa
- Lyon, Gregory
- Melone, Robert
- Mendez, Maya
- Mitchell, Preston
- Nye, Samuel
- Patel, Uday
- Reyes-Illanes, Oscar

- Savarese, Kimberly
- Schwartz, Benjamin (*Not Eligible for Appointment*)
- Senko, Daniel
- Simcox, Boyer
- Thapaaliya, Janak
- Toppe, Noah

Entry #: 617 - Planning Board **Status:** Submitted **Submitted:** 1/2/2024 2:10 PM

Applications are held by the [Town Clerk](#) until such time that a vacancy occurs. Please note, your completed form is subject to public inspection upon request.

[Learn more](#) about each of the committees listed below.

Original Submittal

I'm interested in serving on...

Planning Board

How did you hear about this opportunity to serve?

Instagram

Candidate Contact Information

Legal Name

JOSHUA BENNETT

Preferred First Name

Josh

Address

2708 ANGELICA ROSE WAY, APEX, North Carolina 27502

Do you live within the Apex town limits?

Yes

Do you live within the town's extra-territorial jurisdiction (ETJ)?

No

Email

~~jbenett@apexnc.gov~~

Mobile Phone

~~(888) 210-0234~~

Alternate Phone (work/home)

Background Information

Current Employer

Moseley Architects

Current Job Title

Vice President

Tell us why you would like to serve?

As an Architect I believe strongly in the power of a well planned built environment. Growth in Apex is accelerating and since moving here three years ago I recognize my part in the rapid expansion of our Town's population and the need for services.

Please list any education, special skills, or experience you have that would be useful while considering this form.

I'm a licensed architect currently practicing in Virginia, North Carolina, and South Carolina. My career has focused on the planning, design, and construction of municipal buildings serving growing localities.

If you now serve, or have previously served on any town boards, commissions or committees, please list the committees and dates served.

N/A

Entry #: 545 - Planning Board **Status:** Reviewed **Submitted:** 2/13/2023 5:37 PM

Applications are held by the [Town Clerk](#) until such time that a vacancy occurs. Please note, your completed form is subject to public inspection upon request.

[Learn more](#) about each of the committees listed below.

Original Submittal

I'm interested in serving on...

Planning Board

How did you hear about this opportunity to serve?

Town Website, Planning board meeting

Candidate Contact Information

Legal Name

Russell Copersito

Preferred First Name

Russell

Address

1201 Dunn Ridge Ln, Apex, North Carolina 27502

Pronouns

Do you live within the Apex town limits?

Yes

Do you live within the town's extra-territorial jurisdiction (ETJ)?

Yes

Email

Mobile Phone

Alternate Phone (work/home)

Background Information

Current Employer

Salem Street Realty

Current Job Title

Director of Operations

Tell us why you would like to serve?

I am actively involved in property management in the apex area. Seeing the impact the town growth has and living in the town since 1995 has given us a great view of the town and its growth. My knowledge and involvement in the town and property ownership/management would be good to offer a good perspective towards planning and future development. I have worked through planning and applications meetings and am familiar with the process leading towards planning

Please list any education, special skills, or experience you have that would be useful while considering this form.

Real estate broker

Law enforcement (understanding of statute and ordinances)

If you now serve, or have previously served on any town boards, commissions or committees, please list the committees and dates served.

None

Entry #: 566 - Planning Board **Status:** Reviewed **Submitted:** 6/6/2023 9:06 AM

Applications are held by the [Town Clerk](#) until such time that a vacancy occurs. Please note, your completed form is subject to public inspection upon request.

[Learn more](#) about each of the committees listed below.

Original Submittal

I'm interested in serving on...

Planning Board

How did you hear about this opportunity to serve?

Town Website

Candidate Contact Information

Legal Name

Cathy Deeley

Preferred First Name

Address

2508 Whistling Quail, Apex, North Carolina 27502

Pronouns

Do you live within the Apex town limits?

No

Do you live within the town's extra-territorial jurisdiction (ETJ)?

Yes

Email

Mobile Phone

Alternate Phone (work/home)

Background Information

Current Employer

N/A

Current Job Title

Tell us why you would like to serve?

I have lived in the same home for 25 years and have seen the area grow; I make it a practice to stay aware of new developments, and how they may impact the area. The Town staff has been very responsive in answering my questions in the past. .

Please list any education, special skills, or experience you have that would be useful while considering this form.

I have been a right of way / relocation agent, as well as a real estate supervisor for a corporation previously.

If you now serve, or have previously served on any town boards, commissions or committees, please list the committees and dates served.

N/A

Entry #: 539 - Planning Board **Status:** Reviewed **Submitted:** 1/11/2023 8:41 AM

Applications are held by the [Town Clerk](#) until such time that a vacancy occurs. Please note, your completed form is subject to public inspection upon request.

[Learn more](#) about each of the committees listed below.

Original Submittal

I'm interested in serving on...

Planning Board

How did you hear about this opportunity to serve?

Friend / Neighbor

Candidate Contact Information

Legal Name

Shagufta F Hakeem

Preferred First Name

Shagufta

Address

108 Kellerhis Dr, Apex, North Carolina 27502

Pronouns

Do you live within the Apex town limits?

Yes

Do you live within the town's extra-territorial jurisdiction (ETJ)?

Yes

Email

\

Mobile Phone

Alternate Phone (work/home)

Background Information

Current Employer

Unemployed/Volunteer

Current Job Title

Researcher

Tell us why you would like to serve?

I want to bring 7+ years of experience in serving the community through multiple areas: planning/execution of specific strategies, literacy, crime prevention.

Please list any education, special skills, or experience you have that would be useful while considering this form.

I have legal experience and a focus in understanding the international implications of local decisions. I graduated in 2015 with a Master's degree from Duke University where I explored areas of study related to: aging in place, affordable housing and refugee/asylum care.

If you now serve, or have previously served on any town boards, commissions or committees, please list the committees and dates served.

None

Entry #: 548 - Planning Board **Status:** Reviewed **Submitted:** 2/18/2023 7:48 AM

Applications are held by the [Town Clerk](#) until such time that a vacancy occurs. Please note, your completed form is subject to public inspection upon request.

[Learn more](#) about each of the committees listed below.

Original Submittal

I'm interested in serving on...

Planning Board

How did you hear about this opportunity to serve?

Town Website

Candidate Contact Information

Legal Name

William P Hollenbeck

Preferred First Name

Pat

Address

2927 Angelica Rose Way, Apex, North Carolina 27502

Pronouns

Do you live within the Apex town limits?

Yes

Do you live within the town's extra-territorial jurisdiction (ETJ)?

No

Email

Mobile Phone

Alternate Phone (work/home)

Background Information

Current Employer

Wolfspeed/Cree

Current Job Title

Senior Sales Manager - Materials Global

Tell us why you would like to serve?

I'm interested in helping develop the community and realizing it's potential.

Please list any education, special skills, or experience you have that would be useful while considering this form.

Bachelors of Science in Materials Engineering,
Masters of Business Administration/Technology Commercialization and Entrepreneurship

If you now serve, or have previously served on any town boards, commissions or committees, please list the committees and dates served.

None

Entry #: 622 - Planning Board **Status:** Submitted **Submitted:** 1/3/2024 8:39 PM

Applications are held by the [Town Clerk](#) until such time that a vacancy occurs. Please note, your completed form is subject to public inspection upon request.

[Learn more](#) about each of the committees listed below.

Original Submittal

I'm interested in serving on...

Planning Board

How did you hear about this opportunity to serve?

Instagram, Town Website

Candidate Contact Information

Legal Name

Autumn J Kiel

Preferred First Name

Autumn

Address

404 East Chatham Street, Apex, North Carolina 27502

Pronouns

Do you live within the Apex town limits?

Yes

Do you live within the town's extra-territorial jurisdiction (ETJ)?

No

Email

Mobile Phone

Alternate Phone (work/home)

(919) 454-2498

Background Information

Current Employer

Yorkshire Group

Current Job Title

Managing Director

Tell us why you would like to serve?

As a resident of downtown Apex and previous Apex business owner, I am very interested in the progress, development and preservation of Apex while optimizing it as a community, a historic area and a place of business. I live within walking distance of Salem Street and know many of the business owners personally-they are neighbors and friends. I understand the challenges and needs of not only the local business owners, but also the residents. I am passionate about seeing Apex grow without losing the charming parts of this town that make Apex...Apex. Small changes have large impacts on a town that prides itself on its historical heritage and charm.

Please list any education, special skills, or experience you have that would be useful while considering this form.

Education: UNC Chapel Hill- major in Anthropology

Businesses: Founder and Former Owner of Studio One Dance Center

Founder and Former Owner of Austin Jade (clothing brand, educational kid's camps, and scholarship fund)

Current Business: Providing management, consulting, and capital financing for early stage local businesses-Yorkshire Group

Philanthropy: Austin Jade - Breast Cancer Awareness and Funds Raised Through Professional Wakeboarders, surfers, and celebrities

Austin Jade- College Scholarships for Design Students

Free Weekly High School Course in Entrepreneurship

Passions: Disabilities Rights (especially within the school system), art, music, dance, education

If you now serve, or have previously served on any town boards, commissions or committees, please list the committees and dates served.

n/a

Entry #: 609 - Planning Board **Status:** Submitted **Submitted:** 1/1/2024 1:54 PM

Applications are held by the [Town Clerk](#) until such time that a vacancy occurs. Please note, your completed form is subject to public inspection upon request.

[Learn more](#) about each of the committees listed below.

Original Submittal

I'm interested in serving on...

Planning Board

How did you hear about this opportunity to serve?

Facebook

Candidate Contact Information

Legal Name

Marissa J Langford

Preferred First Name

Address

565 Chessie Station, Apex, North Carolina 27502

Do you live within the Apex town limits?

Yes

Do you live within the town's extra-territorial jurisdiction (ETJ)?

No

Email

[REDACTED]@gmail.com

Mobile Phone

[REDACTED] (919) 455-5455

Alternate Phone (work/home)

Background Information

Current Employer

Red Hat

Current Job Title

Vice President, Analytics & Performance Management

Tell us why you would like to serve?

I lived in Apex in the 1990's before relocating to Sanford, NC for a number of years. We chose to move back to Apex in 2022 because I wanted to be closer to my job in Raleigh. We selected a town home near downtown because the walkability to restaurants and stores was important to us. Even though I had observed that Apex was growing over the years, I didn't appreciate how much until living here again. I want to be part of ensuring we grow smartly and achieve a balance that best serves residents as well as business. This is a great community and maintaining all the things that make it great while it expands and welcomes more and more people is the challenge that faces our elected council members. I want to be part of helping to shape what Apex becomes.

Please list any education, special skills, or experience you have that would be useful while considering this form.

I have expertise in strategic planning and problem solving - both skills I believe are important to serve on the Planning Board. Through training and experience I've learned how to ask good questions that get to the root of the problem we are trying to solve. I have extensive experience in facilitating discussions to build solutions and long term strategic plans.

If you now serve, or have previously served on any town boards, commissions or committees, please list the committees and dates served.

Not applicable.

Entry #: 625 - Planning Board **Status:** Submitted **Submitted:** 1/7/2024 9:51 PM

Applications are held by the [Town Clerk](#) until such time that a vacancy occurs. Please note, your completed form is subject to public inspection upon request.

[Learn more](#) about each of the committees listed below.

Original Submittal

I'm interested in serving on...

Planning Board

How did you hear about this opportunity to serve?

Friend / Neighbor

Candidate Contact Information

Legal Name

Gregory Lyon

Preferred First Name

Gregory

Address

603 laurel berry ct, APEX, North Carolina 27523

Pronouns

Do you live within the Apex town limits?

Yes

Do you live within the town's extra-territorial jurisdiction (ETJ)?

Yes

Email

Mobile Phone

Alternate Phone (work/home)

Background Information

Current Employer

Course Management Investment Advisor

Current Job Title

Chief Compliance Officer

Tell us why you would like to serve?

I possess a distinctive proficiency that I can contribute to the board—a fusion of pragmatic skills honed in construction, complemented by the refined cognitive acumen derived from my current white-collar position. This dual perspective endows me with a capacity for meticulous attention to detail, juxtaposed with a discerning simplicity when evaluating the feasibility of ambitious concepts. My experience as a Town Council candidate has garnered feedback affirming the recognition of my voice as both desired and imperative for steering the future success of Apex.

Please list any education, special skills, or experience you have that would be useful while considering this form.

Was the best in my high school for Drafting and Construction design. Which allowed me to get a scholarship to a community college. Where I got my Associates degree in Drafting and Design, I also competed for my school at State computer-aided drafting competitions. I grew up in a construction home and started working construction at age 12, still run the family painting business.

If you now serve, or have previously served on any town boards, commissions or committees, please list the committees and dates served.

I have never served.

Entry #: 618 - Planning Board **Status:** Submitted **Submitted:** 1/2/2024 3:32 PM

Applications are held by the [Town Clerk](#) until such time that a vacancy occurs. Please note, your completed form is subject to public inspection upon request.

[Learn more](#) about each of the committees listed below.

Original Submittal

I'm interested in serving on...

Planning Board

How did you hear about this opportunity to serve?

Town Employee / Elected Official

Candidate Contact Information

Legal Name

Robert A Melone

Preferred First Name

Bob

Address

400 Eyam Hall Lsne, Apex, North Carolina 27502

Pronouns

Do you live within the Apex town limits?

Yes

Do you live within the town's extra-territorial jurisdiction (ETJ)?

No

Email

Mobile Phone

Alternate Phone (work/home)

Background Information

Current Employer

Retired

Current Job Title

Tell us why you would like to serve?

Interest in the community

Please list any education, special skills, or experience you have that would be useful while considering this form.

BA, EdM, EdM, EdD, 30 years public school experience, 10 years transportation experience

If you now serve, or have previously served on any town boards, commissions or committees, please list the committees and dates served.

None

Entry #: 587 - Planning Board **Status:** Submitted **Submitted:** 10/18/2023 6:37 PM

Applications are held by the [Town Clerk](#) until such time that a vacancy occurs. Please note, your completed form is subject to public inspection upon request.

[Learn more](#) about each of the committees listed below.

Original Submittal

I'm interested in serving on...

Planning Board

How did you hear about this opportunity to serve?

Town Website

Candidate Contact Information

Legal Name

Mya E Mendez

Preferred First Name

Address

2700 Whistling Quail run, Apex, North Carolina 27502

Do you live within the Apex town limits?

No

Do you live within the town's extra-territorial jurisdiction (ETJ)?

Yes

Email

~~Alienmen12@gmail.com~~
~~aliemend@apexnc.gov~~

Mobile Phone

~~(919) 553-3518~~
~~aliemend@apexnc.gov~~

Alternate Phone (work/home)

(940) 386-1117

Background Information

Current Employer

Student

Current Job Title

Student

Tell us why you would like to serve?

I want to help the town stay clean and well-kept for all its residents. Soon I will be applying for colleges, and I want to leave my mark on Apex before it is too late. As I am a student there are few ways, I can successfully affect the community. By having a spot on the board of planning I can help the growth and improvement of the town of Apex. I want to see the positive effects of my work helping people daily and making a difference in others' lives. I also want to learn more about the effort put in to support a well-kept town.

Please list any education, special skills, or experience you have that would be useful while considering this form.

Camp concealer in training, 5 Place at Nationals Future Business Leaders of America critical thinking division, many babysitting jobs, excellent at math.

If you now serve, or have previously served on any town boards, commissions or committees, please list the committees and dates served.

NA

Entry #: 555 - Planning Board **Status:** Reviewed **Submitted:** 3/2/2023 4:18 PM

Applications are held by the [Town Clerk](#) until such time that a vacancy occurs. Please note, your completed form is subject to public inspection upon request.

[Learn more](#) about each of the committees listed below.

Original Submittal

I'm interested in serving on...

Planning Board

How did you hear about this opportunity to serve?

Town Website

Candidate Contact Information

Legal Name

Preston Mitchell

Preferred First Name

Address

305 Acorn Hill Lane, Apex, North Carolina 27502

Pronouns

Do you live within the Apex town limits?

Yes

Do you live within the town's extra-territorial jurisdiction (ETJ)?

No

Email

Mobile Phone

Alternate Phone (work/home)

(919) 755-2142

Background Information

Current Employer

Womble Bond Dickinson, LLP

Current Job Title

Land Planner

Tell us why you would like to serve?

Having practiced local government land use planning, yet now transitioned into the private sector, I am excited about the opportunity to serve in a volunteer capacity for my home community. I would very much like to be an active part of managing and guiding the growth of Apex.

Please list any education, special skills, or experience you have that would be useful while considering this form.

I have practiced land use planning, development services, and code enforcement as a certified professional planner (AICP) for various local governments for nearly 25 years. My longest - and most enjoyable - time (14+ yrs.) was with the City of Salisbury, NC in the Piedmont area.

If you now serve, or have previously served on any town boards, commissions or committees, please list the committees and dates served.

None in Apex

Entry #: 624 - Planning Board **Status:** Submitted **Submitted:** 1/4/2024 8:15 PM

Applications are held by the [Town Clerk](#) until such time that a vacancy occurs. Please note, your completed form is subject to public inspection upon request.

[Learn more](#) about each of the committees listed below.

Original Submittal

I'm interested in serving on...

Planning Board

How did you hear about this opportunity to serve?

Town Email, Town Website

Candidate Contact Information

Legal Name

Samuel R Nye

Preferred First Name

Sammy

Address

1576 Salem Village Drive, Apex, North Carolina 27502

Pronouns

Do you live within the Apex town limits?

Yes

Do you live within the town's extra-territorial jurisdiction (ETJ)?

Yes

Email

Mobile Phone

Alternate Phone (work/home)

(919) 835-4787

Background Information

Current Employer

The Site Group, PLLC

Current Job Title

Principal

Tell us why you would like to serve?

I would like to get more involved with the Planning and Development process in Apex. I enjoy working with and support our Planning Department Staff and would like to serve the community. I have lived in Apex since 2006 and would like to contribute and be a part of the success of Apex.

Please list any education, special skills, or experience you have that would be useful while considering this form.

I am a licensed civil engineer and have practiced in the triangle area since 2003. I work on development projects and have been getting more involved and the planning and zoning side of development projects. I enjoy the public engagement portion of that work and would like to have a voice in discussion and support the Board.

If you now serve, or have previously served on any town boards, commissions or committees, please list the committees and dates served.

I have not served on any Town boards to date.

Entry #: 573 - Planning Board **Status:** Reviewed **Submitted:** 7/28/2023 7:40 PM

Applications are held by the [Town Clerk](#) until such time that a vacancy occurs. Please note, your completed form is subject to public inspection upon request.

[Learn more](#) about each of the committees listed below.

Original Submittal

I'm interested in serving on...

Planning Board

How did you hear about this opportunity to serve?

Town Employee / Elected Official

Candidate Contact Information

Legal Name

Uday P Patel

Preferred First Name

Address

1533 ARMSCROFT LN, APEX, North Carolina 27502

Pronouns

Do you live within the Apex town limits?

Yes

Do you live within the town's extra-territorial jurisdiction (ETJ)?

No

Email

Mobile Phone

Alternate Phone (work/home)

Background Information

Current Employer

NEWYORK LIFE INSURANCE COMPANY

Current Job Title

AGENT/FINANCIAL ADVISOR

Tell us why you would like to serve?

To serve the community and help the citizens. Love staying in Apex and want it to be more prettier.

Please list any education, special skills, or experience you have that would be useful while considering this form.

Bachelor in Pharmacy, have participated in Town Planning board in India, special skills are planning development cause I firmly believe without planning and implementing on paper goes a long way.

If you now serve, or have previously served on any town boards, commissions or committees, please list the committees and dates served.

City of Edison, Ga (10 years Board), Saddlebrook HOA (President 2years in Apex, NC)

Entry #: 559 - Planning Board **Status:** Reviewed **Submitted:** 5/3/2023 2:07 PM

Applications are held by the [Town Clerk](#) until such time that a vacancy occurs. Please note, your completed form is subject to public inspection upon request.

[Learn more](#) about each of the committees listed below.

Original Submittal

I'm interested in serving on...

Planning Board

How did you hear about this opportunity to serve?

Town Employee / Elected Official

Candidate Contact Information

Legal Name

Oscar A Reyes-Illanes

Preferred First Name

Address

1026 Diamond Dove Ln, Apex, North Carolina 27502

Pronouns

Do you live within the Apex town limits?

Yes

Do you live within the town's extra-territorial jurisdiction (ETJ)?

No

Email

Mobile Phone

Alternate Phone (work/home)

Background Information

Current Employer

Koerber Pharma

Current Job Title

Consultant

Tell us why you would like to serve?

I believe that spending time enriching my community is a great way to broaden my perceptions of my town. By immersing myself in a community and surrounding with people who are dedicated to bettering this town, one can learn so much about how the Town of Apex works. I am seeking to gain a unique sense of purpose by serving those around me.

Please list any education, special skills, or experience you have that would be useful while considering this form.

MA in Public Administration
BA in Criminal Justice
Paralegal (US Navy)
Excellent organizational skills
Reliable

If you now serve, or have previously served on any town boards, commissions or committees, please list the committees and dates served.

N/A

Entry #: 597 - Planning Board **Status:** Submitted **Submitted:** 12/21/2023 2:00 PM

Applications are held by the [Town Clerk](#) until such time that a vacancy occurs. Please note, your completed form is subject to public inspection upon request.

[Learn more](#) about each of the committees listed below.

Original Submittal

I'm interested in serving on...

Planning Board

How did you hear about this opportunity to serve?

Facebook

Candidate Contact Information

Legal Name

Kimberly Savarese

Preferred First Name

Kim

Address

2342 McKenzie Ridge Lane, Apex, North Carolina 27502

Do you live within the Apex town limits?

Yes

fdsfsdfsdfsdfsdfsdfs

Do you live within the town's extra-territorial jurisdiction (ETJ)?

No

Email

~~kimberly.savarese@apexnc.gov~~

Mobile Phone

~~(704) 234-1234~~

Alternate Phone (work/home)

Background Information

Current Employer

Current Job Title

Tell us why you would like to serve?

Would like to be more involved in the community and have approximately 25 years worth of real estate development and construction experience (predominantly in NY), but with vast understanding the complexities and process required to entitle land and local jurisdictional prerequisites for developers to build.

Please list any education, special skills, or experience you have that would be useful while considering this form.

As mentioned, have been in the real estate and construction sector for about 25 years, from managing and developing residential projects to large scale master plans.

If you now serve, or have previously served on any town boards, commissions or committees, please list the committees and dates served.

Not applicable

Entry #: 554 - Planning Board **Status:** Reviewed **Submitted:** 2/28/2023 2:40 PM

Applications are held by the [Town Clerk](#) until such time that a vacancy occurs. Please note, your completed form is subject to public inspection upon request.

[Learn more](#) about each of the committees listed below.

Original Submittal

I'm interested in serving on...

Planning Board

How did you hear about this opportunity to serve?

Internet search

Candidate Contact Information

Legal Name

Benjamin E Schwarz

Preferred First Name

Ben

Address

3161 n Walnut Creek parkway, Raleigh, North Carolina 27606

Pronouns

Do you live within the Apex town limits?

No

Do you live within the town's extra-territorial jurisdiction (ETJ)?

No

Email

Mobile Phone

Alternate Phone (work/home)

Background Information

Current Employer

NCSU

Current Job Title

Research assistant

Tell us why you would like to serve?

I want to address problems of racism, environmental degradation and inequality head on, and I want planning experience to become a senior planner one day.

Please list any education, special skills, or experience you have that would be useful while considering this form.

Expected graduation from NCSU with a BS in environmental science: May 5th. relevant coursework: GIS course for City planning. Also my current work engages stakeholders from different counties in NC, which builds on my community engagement experience.

If you now serve, or have previously served on any town boards, commissions or committees, please list the committees and dates served.

None, this would be my first job :)

Entry #: 623 - Planning Board **Status:** Submitted **Submitted:** 1/3/2024 10:38 PM

Applications are held by the [Town Clerk](#) until such time that a vacancy occurs. Please note, your completed form is subject to public inspection upon request.

[Learn more](#) about each of the committees listed below.

Original Submittal

I'm interested in serving on...

Planning Board

How did you hear about this opportunity to serve?

Town Email, Town Website, Personal

Candidate Contact Information

Legal Name

Daniel W Senko

Preferred First Name

Dan

Address

1508 Ingraham Dr, Apex, North Carolina 27502

Pronouns

Do you live within the Apex town limits?

Yes

Do you live within the town's extra-territorial jurisdiction (ETJ)?

No

Email

Mobile Phone

Alternate Phone (work/home)

Background Information

Current Employer

Retired 2022 (Fidelity Investments)

Current Job Title

Retired 2022 (Squad Leader)

Tell us why you would like to serve?

I have lived in Wake County for 27 years (24 in Cary, 3 in Apex) and have experienced the growth in the area. I always am interested and investigate regional and local traffic and development plans so that I am knowledgeable with facts as there is a lot of "I heard" comments in these areas. While I mostly focused on Cary for 2 decades, there is much overlap and synergy with Apex. I have 2 children with 2 grandchildren each, all in Apex (we are blessed) so my attention to Apex is warranted.

As a current homeowner involved in a rezoning request, I am learning first hand about the Apex UDO, key public Planning Board documents, and how to use the Development in Apex website to do research and review applications and document submitted by development companies, Apex citizens and TOA staff, etc.

With that background and the notification that there are openings on the Planning Board, I decided to apply to serve as I have a keen interest in Planning Board activities, I have first hand experience with the Planning Board process, I have extensive leadership experience in my professional roles and I know I can add value as a Planning Board Member for the Town of Apex.

Please list any education, special skills, or experience you have that would be useful while considering this form.

I have a B.S. in Management Information Systems and have been in I/T related positions my whole career spanning analyst, technical lead, consultant, squad lead and manager to name a few. I have worked with large Fortune 500 companies in RTP with thirty years at IBM, one at Lenovo and seven at Fidelity Investments. In almost every role, I have been in a leadership position for a team and have excellent written/verbal communication and negotiation skills as well as a technical background which enables me to effectively work with business and I/T staff, management teams and clients.

I have done public speaking and chosen for lead roles as the contact and interface to myriad types of business partners such as Client Management and Development Teams, Worldwide Business Transformation Teams, External Consultants and Auditors.

I was a mentor for over 20 years and also excel as a professional coach to younger staff. Personally, I love working with kids and I coached my son's youth baseball and soccer teams and assistant coached my daughter's youth and travel softball teams. I was able to be the assistant coach at Davis Drive Middle School during my daughter's eighth grade for the girls basketball and softball teams.

I continue to assistant coach for one grandson's T Ball, soccer and basketball teams in the Parish Athletics league, working with my son as the head coach. This is very rewarding to me. I plan to coach for another grandson when he is old enough and begins playing sports.

If you now serve, or have previously served on any town boards, commissions or committees, please list the committees and dates served.

None. I am active on social media and follow/participate in Apex related groups and topics on Facebook, Nextdoor and Twitter.

Entry #: 567 - Planning Board **Status:** Reviewed **Submitted:** 6/6/2023 10:10 AM

Applications are held by the [Town Clerk](#) until such time that a vacancy occurs. Please note, your completed form is subject to public inspection upon request.

[Learn more](#) about each of the committees listed below.

Original Submittal

I'm interested in serving on...

Planning Board

How did you hear about this opportunity to serve?

Town Website

Candidate Contact Information

Legal Name

Boyer Simcox

Preferred First Name

Boyer

Address

3221 Akebia Way, Apex, North Carolina 27539

Pronouns

Do you live within the Apex town limits?

Yes

Do you live within the town's extra-territorial jurisdiction (ETJ)?

Yes

Email

Mobile Phone

Alternate Phone (work/home)

Background Information

Current Employer

retired

Current Job Title

retired

Tell us why you would like to serve?

I recently retired to Apex from Cambridge, Ohio. I have experience in planning having been an executive director of a regional planning commission in Marietta Ohio covering 8 counties.

Please list any education, special skills, or experience you have that would be useful while considering this form.

I have 45 years of experience in planning and implementing programs for local communities. I have worked with local. state, county and federal officials. to accomplish our goals.

If you now serve, or have previously served on any town boards, commissions or committees, please list the committees and dates served.

I have not served on board in this area. I have served on boards on the state, federal and local areas. The boards in part would be transportation, planning, job training and community action types of organization.

I marked yes on the above question concerning the ETJ but not sure that is correct.

Thanks

Boyer

Entry #: 611 - Planning Board **Status:** Submitted **Submitted:** 1/1/2024 5:10 PM

Applications are held by the [Town Clerk](#) until such time that a vacancy occurs. Please note, your completed form is subject to public inspection upon request.

[Learn more](#) about each of the committees listed below.

Original Submittal

I'm interested in serving on...

Planning Board

How did you hear about this opportunity to serve?

Town Website

Candidate Contact Information

Legal Name

Janak Thapaliya

Preferred First Name

Address

3082 Wising Well Wynd, Apex, North Carolina 27502

Do you live within the Apex town limits?

Yes

Do you live within the town's extra-territorial jurisdiction (ETJ)?

No

Email

~~janak500@outlook.com~~

Mobile Phone

~~(919) 551-1815~~

Alternate Phone (work/home)

Background Information

Current Employer

Siemens Energy

Current Job Title

Senior civil structural engineer

Tell us why you would like to serve?

Being a licensed professional civil engineer, I would like to get involved in the communities and serve community where I live.

Please list any education, special skills, or experience you have that would be useful while considering this form.

Masters of civil Engineer.

15 years of professional civil engineering expereince in consulting and construction fields.

Licensed professional civil engineer in North Carolina.

If you now serve, or have previously served on any town boards, commissions or committees, please list the committees and dates served.

None

Entry #: 572 - Planning Board

Status: Submitted

Submitted: 7/24/2023 10:13 PM

Applications are held by the [Town Clerk](#) until such time that a vacancy occurs. Please note, your completed form is subject to public inspection upon request.

[Learn more](#) about each of the committees listed below.

Original Submittal

I'm interested in serving on...

Planning Board

How did you hear about this opportunity to serve?

Town Website

Candidate Contact Information

| | | |
|---|--------------|---|
| Legal Name | | Preferred First Name |
| Noah Toppe | | |
| Address | | |
| 1885 Lazio Ln, Apex, North Carolina 27502 | | |
| Do you live within the Apex town limits? | | Do you live within the town's extra-territorial jurisdiction (ETJ)? |
| Yes | | No |
| Email | Mobile Phone | Alternate Phone (work/home) |
| noah@toppe.com | 919.444.4444 | |

Background Information

| | |
|------------------|--|
| Current Employer | Current Job Title |
| UNC Health | Program Manager - Real Estate Development & Facilities |

Tell us why you would like to serve?

When my wife and I moved to North Carolina from Northern Virginia five years ago, we chose Apex for its charm and potential. Upon moving here, I immediately started reading the Peak Plan 2030 and the 2045 Land Use Map. The more I read, the more excited I became about Apex's opportunity to develop into an even better place to call home.

Balanced growth is critical for supporting a variety of uses in Apex without negatively impacting the Town's charm. At the current pace, Apex's current estimated population of ~75,000 is estimated to increase to ~125,000 by 2030. Depending on the economy and other factors, the growth rate may slow down, but it is still important to make sure that each project is viewed through multiple lenses.

In addition, having two parents in the real estate planning and development sectors has always fueled my interest in helping to shape the landscape of a local municipality. The opportunity to be a part of the decision-making process in the place my family and I call home is very exciting.

Please list any education, special skills, or experience you have that would be useful while considering this form.

Currently and for the past 14 years I have worked in both the public and private real estate sectors. My experience leading highest and best use analyses for various properties will prepare me to look at proposed projects from multiple perspectives in an effort to provide the most benefit to the Town and its residents.

In addition, I hold a master's degree in public policy (with a concentration in social policy) from George Mason University. Through my education, I gained valuable experience learning how to evaluate policy proposals and understanding how they would have impacts on institutions, processes, or targeted populations. These skills will help me evaluate the impacts of proposed planning projects at a local community/neighborhood level and a more macro (town-wide) level.

On a personal level, I grew up in both Raleigh and Cary and am very familiar with the greater Triangle area. I also have a good understanding of how to use the various GIS maps at the Wake County and Town of Apex level.

If you now serve, or have previously served on any town boards, commissions or committees, please list the committees and dates served.

No

| Agenda Item | cover sheet

for consideration by the Apex Town Council

Item Type: CONSENT AGENDA

Meeting Date: February 27, 2024

Item Details

Presenter(s): Allen Coleman, Town Clerk

Department(s): Town Clerk's Office

Requested Motion

Motion to confirm the following leadership positions on the Apex Planning Board for calendar year 2024:

- Tina Sherman, Chair of the Apex Planning Board
- Tim Royal, Vice-Chair of the Apex Planning Board

Approval Recommended?

Mayor Jacques K. Gilbert recommends both Tina Sherman as Chair and Tim Royal as Vice-Chair of the Apex Planning Board for calendar year 2024.

Item Details

On Monday, February 12, 2024, the Apex Planning Board unanimously (8-0) voted to nominate Tina Sherman to the Chair position and Tim Royal to the Vice-Chair position for calendar year 2024.

Pursuant to the Town's Unified Development Ordinance (UDO) Section 2.1.2.C.1, the Chair and Vice-Chair of the Apex Planning Board shall be appointed by the Mayor from the members of the Board and confirmed by the Town Council. The term of the chair and vice-chair shall be one year.

The public is invited to re-watch the Planning Board meeting Part 2 from February 12, 2024 on the Town's YouTube Channel via the following link: <https://www.youtube.com/c/TownofApexGov>. The nomination process begins at 15 minutes and 47 seconds of the video.

The current Planning Board members were reminded that the facilitated nomination process would be treated as a recommendation only and the final appointing authority rested with the Mayor and Town Council.

Attachments

- None



| Agenda Item | cover sheet

for consideration by the Apex Town Council

Item Type: CONSENT AGENDA

Meeting Date: February 27, 2024

Item Details

Presenter(s): Angela Reincke, Parks Planning Project Manager

Department(s): Parks, Recreation & Cultural Resources

Requested Motion

Motion to adopt Capital Project Ordinance Amendment No. 2024-12 to cover additional cost of existing deficit (\$508,500) and an amount equal to 10% of the contract costs, for the construction of Middle Creek Greenway Phase I and Phase IIB, and to appropriate funds already received in the various Capital Project funds.

Approval Recommended?

Yes

Item Details

The Middle Creek Greenway project was awarded to Fred Smith Co. in March of 2023. The action by Town Council included a Capital Project Ordinance Amendment that provided funds to cover the cost of the Fred Smith contract (total \$5,357,976). That contract did not include contingency or allowances. The additional funding request is to cover an existing deficit (\$508,500) and an amount equal to 10% of the contract cost (\$535,500) to be available for work that would be identified through Change Orders to complete the project.

The ordinance amendment also appropriates funds already received in the various Capital Project funds. This includes a true up of interest earned, interest earned from debt proceeds, bond premium and reallocation from closed projects.

Proposed Change Orders:

| | |
|--|---------|
| RCO #1 ABC Stone for unsuitable soils | 11,900 |
| RCO #2 Undercut/ backfill for unsuitable soils | 148,900 |
| RCO #3 (Anticipated) Drainage Pipe/ Rip Rap | 9,000 |
| RCO #4 (Anticipated) Remobilization | 15,000 |
| | <hr/> |
| | 184,800 |

Attachments

- CN5-A1: Capital Project Ordinance Amendment No. 2024-12 - Middle Creek Greenway and Appropriation of Debt in Project Funds
- CN5-A2: Funding Memo - Capital Project Ordinance Amendment No. 2024-12 - Middle Creek Greenway and Appropriation of Debt in Project Funds
- CN5-A3: Map of pipe addition request - Capital Project Ordinance Amendment No. 2024-12 - Middle Creek Greenway and Appropriation of Debt in Project Funds
- CN5-A4: Change Order Request for ABC Stone - Capital Project Ordinance Amendment No. 2024-12 - Middle Creek Greenway and Appropriation of Debt in Project Funds
- CN5-A5: Change Order Request for Undercut PHI - Capital Project Ordinance Amendment No. 2024-12 - Middle Creek Greenway and Appropriation of Debt in Project Funds





Town of Apex

CAPITAL PROJECT ORDINANCE AMENDMENT 2024-12

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

61 - General Capital Project Fund

Section 1. The revenues anticipated for the projects are:

| | |
|--|------------------|
| 61-9225-1005-36100: Interest Earned | 183,800 |
| 61-9225-1005-36102: Interest Earned - Debt | 30,400 |
| 61-9225-1005-39106: Bond Premium | 88,700 |
| 61-9225-1005-39102: Bond Proceeds | 60,000 |
| Total Mason St Building Revenues | \$362,900 |

| | |
|--|-----------------|
| 61-9225-0107-36100: Interest Earned | 19,970 |
| 61-9225-0107-39710: Transfer from General Fund | 26,330 |
| Total Phone System Revenues | \$46,300 |

Section 2. The expenditures anticipated are:

| | |
|-------------------------------------|------------------|
| 61-9225-1005: Mason Street Building | 362,900 |
| 61-9225-0107: Phone System Upgrade | 46,300 |
| Total Expenditures | \$409,200 |

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

63 - Street Improvement Capital Project Fund

Section 3. The revenues anticipated for the projects are:

| | |
|--|--------------------|
| 63-9250-1006-36100: Interest Earned | 105,500 |
| 63-9250-1006-36102: Interest Earned - Debt | 270,100 |
| 63-9250-1006-39106: Bond Premium | 1,250,800 |
| Total Peakway Southwest Revenues | \$1,626,400 |

| | |
|--|------------------|
| 63-9250-1004-36100: Interest Earned | 54,300 |
| 63-9250-1004-37801: Town of Cary Reimbursement | 516,115 |
| Total Lake Pine Revenues | \$570,415 |

| | |
|---|-----------------|
| 63-9250-1116-36100: Interest Earned | 16,200 |
| 63-9250-1116-39710: Transfer from General Fund | 79,000 |
| Total Beaver Creek Commons / Zeno Drive Revenues | \$95,200 |

| | |
|--|---------|
| 63-9250-1119-36100: Interest Earned | 8,000 |
| 63-9250-1119-39710: Transfer from General Fund | 130,000 |

| | |
|--|------------------|
| Total Salem Street Streetscape Revenues | \$138,000 |
| 63-9250-1121-37085: Developer Reimbursement | 150,250 |
| Total Burma Drive Revenues | \$150,250 |
| 63-9250-1114-36100: Interest Earned | 36,500 |
| 63-9250-1114-36102: Interest Earned - Debt | 8,900 |
| 63-9250-1114-39106: Bond Premium | 55,590 |
| Total Safe Routes to School Revenues | \$100,990 |

Section 4. The expenditures anticipated are:

| | |
|---|--------------------|
| 63-9250-1006: Peakway Southwest | 1,626,400 |
| 63-9250-1004: Lake Pine Improvements | 570,415 |
| 63-9250-1116: Beaver Creek Commons / Zeno Drive | 95,200 |
| 63-9250-1119: Salem Street Streetscape | 138,000 |
| 63-9250-1121: Burma Drive | 150,250 |
| 63-9250-1114: Safe Routes to School | 100,990 |
| Total Expenditures | \$2,681,255 |

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

67 - Recreation Capital Project Fund

Section 5. The revenues anticipated for the projects are:

| | |
|--|--------------------|
| 67-9200-0005-36100: Interest Earned | 440,000 |
| 67-9200-0005-36102: Interest Earned - Debt | 603,000 |
| Total Pleasant Park Revenues | \$1,043,000 |
| 67-9200-0003-36100: Interest Earned | 71,500 |
| 67-9200-0003-39777: Transfer from Recreation Reserve | 1,244,000 |
| 67-9200-0003-39710: Transfer from General Fund | 700,000 |
| Total Middle Creek Revenues | \$2,015,500 |

Section 6. The expenditures anticipated are:

| | |
|-------------------------------------|--------------------|
| 67-9200-0005: Pleasant Park | 1,043,000 |
| 67-9200-0003: Middle Creek Greenway | 2,015,500 |
| Total Expenditures | \$3,058,500 |

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

Adopted this the 27th day of February, 2024.

Attest:

Town Clerk



March 17, 2023

To: Shawn Purvis, Deputy Town Manager

From: Craig Setzer, Parks, Recreation and Cultural Resources Director

Re: Middle Creek Greenway Construction Funding Phase I and Phase II-B

The purpose of this memo is to provide Council with a recommendation to fund the construction of Middle Creek Greenway Phase I and Phase II-B.

Background

Middle Creek Greenway PHI and PHII-B (including Spur B) total 1.6 miles of greenway that link the Town of Apex to Holly Springs at Sunset Lake Road. The two phases start at Sunset Lake Road (adjacent to Sunset Hills Subdivision), run north to just beyond Colby Chase Drive (Pemberley Subdivision), and have a spur connecting to the Miramonte Subdivision. PHI will include a trailhead with parking at the town's southern terminus of the trail. The estimated budget for Middle Creek Greenway Phase I and Phase IIB was \$3,139,545 in 2021. Per the original estimate staff requested and received grant funding from Wake County for 49 percent (\$1,544,686). The Town of Apex would have been responsible for covering the remaining portion of \$1,594,859. Town staff received bids for Middle Creek Greenway PHI and PHII-B (including Spur B) on February 14 with the low bidder's total cost of \$5,357,976.

Discussion

The total cost of the project is \$2,218,431 above original estimates. In an attempt to address the shortfall staff has looked at alternatives to reduce the scope of the project. A reduction in the scope would require rebidding of the project and could also require review and amending of the Wake County funding agreement. Staff asked Wake County if any additional bond funds would be available, but the funds have all been allocated to different projects. Staff has identified several sources to cover the shortfall - \$600,000 from the CIP for Annual Miscellaneous Greenway Connections and \$1,618,431 to be split between the Recreation Capital Reserve Fund and General Fund fund balance. The use of Miscellaneous Greenway connections Annual CIP allocation will not deter or delay planned feasibility studies or design of priority corridors as staff was recently awarded feasibility funding for the northern portion of Middle Creek greenway and the Swift Creek connector into the Town of Cary. The upcoming 2023-24 allocation will allow staff to start design on the highest scoring studied corridor along with looking at the highest priority corridors for an additional feasibility study. The General Fund currently has approximately \$8.7 million available for allocation from fund balance and the Recreation Capital Reserve has \$5.8 million available.

Recommendation

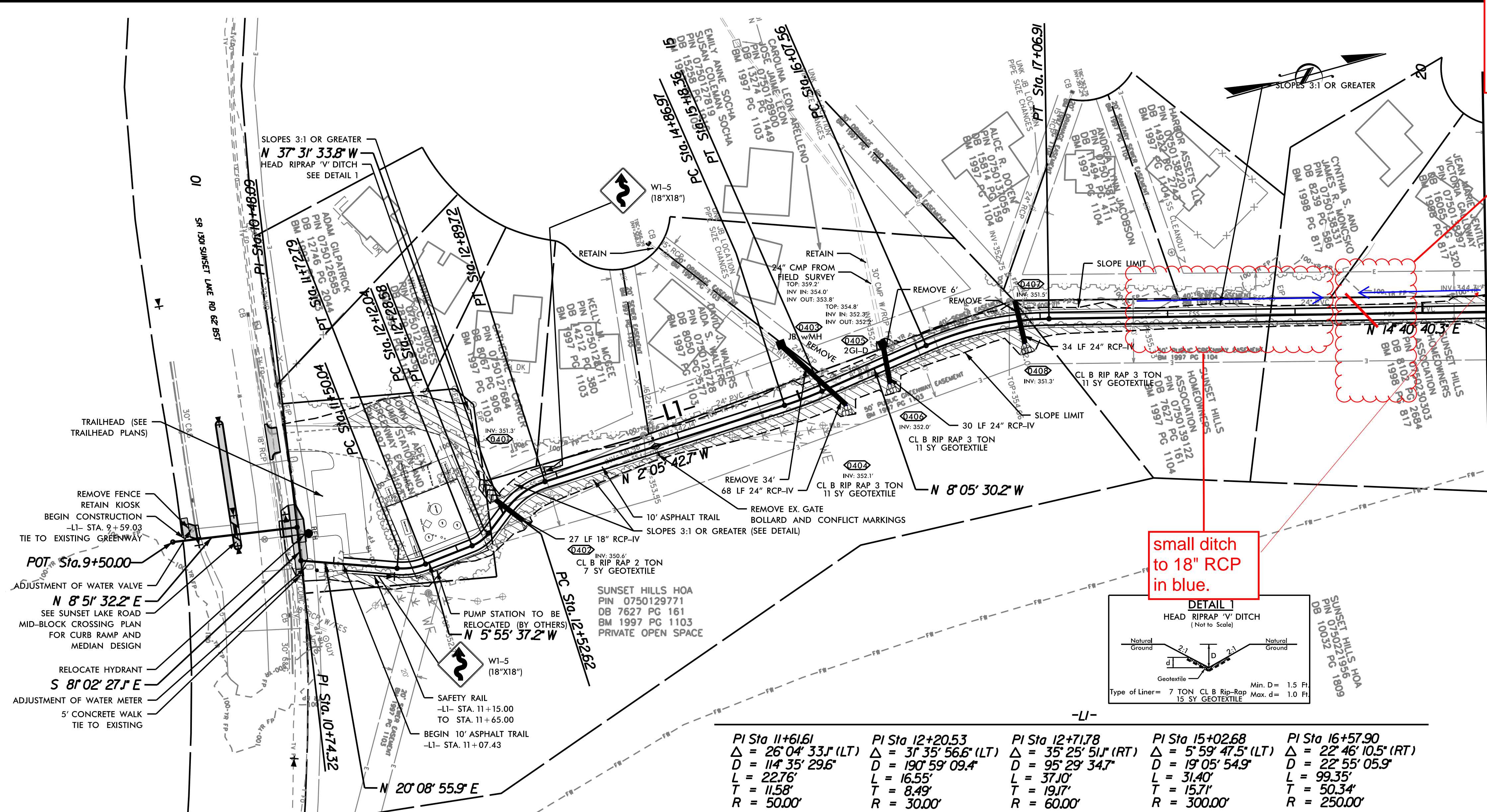
For the Town to complete the Middle Creek Greenway, additional funding will need to be allocated. Staff has identified funding sources for the \$2,218,431 shortfall from current capital allocations, General Fund fund balance, and the Recreation Capital Reserve Fund. The use of these funds is consistent with the Town's commitment the 2017 Parks Bond projects, the assignment of Recreation Subdivision fees-in-lieu for greenway construction, and the completion a major greenway corridor within the town that has been highly prioritized in approved plans. Staff does not anticipate any delays or negative impact from reallocating the funds set aside for greenway feasibility studies, but does recognize that use of reserves from the General Fund and Recreation

Capital Reserve would represent a decrease in funds available for other capital projects experiencing budget shortfalls or being considered by Town Council.

8/17/99

REVISIONS

8/17/99



Would like to install 18" RCP approx 35 LF approx station # 19+40 to 19+50.

small ditch to 18" RCP in blue.

PROJECT REFERENCE NO.

SHEET NO.

C-4

ENGINEER

NORTH CAROLINA PROFESSIONAL SEAL

21472

033809

ENGINEER

MICHAEL S. REPPICH

DOCUMENT NOT CONSIDERED FINAL

UNLESS ALL SIGNATURES COMPLETED

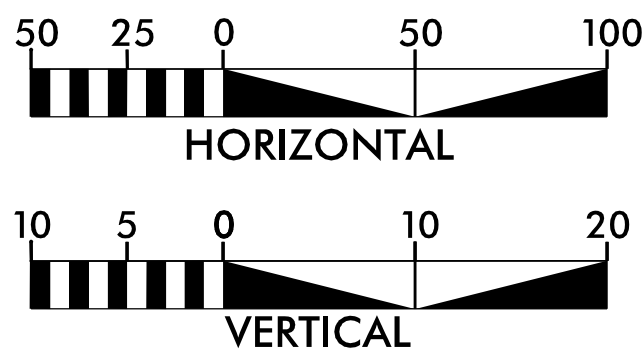
alta

Alta Engineering SE, PLLC

111 E Chapel Hill Street, Suite 100 | Durham, NC 27701

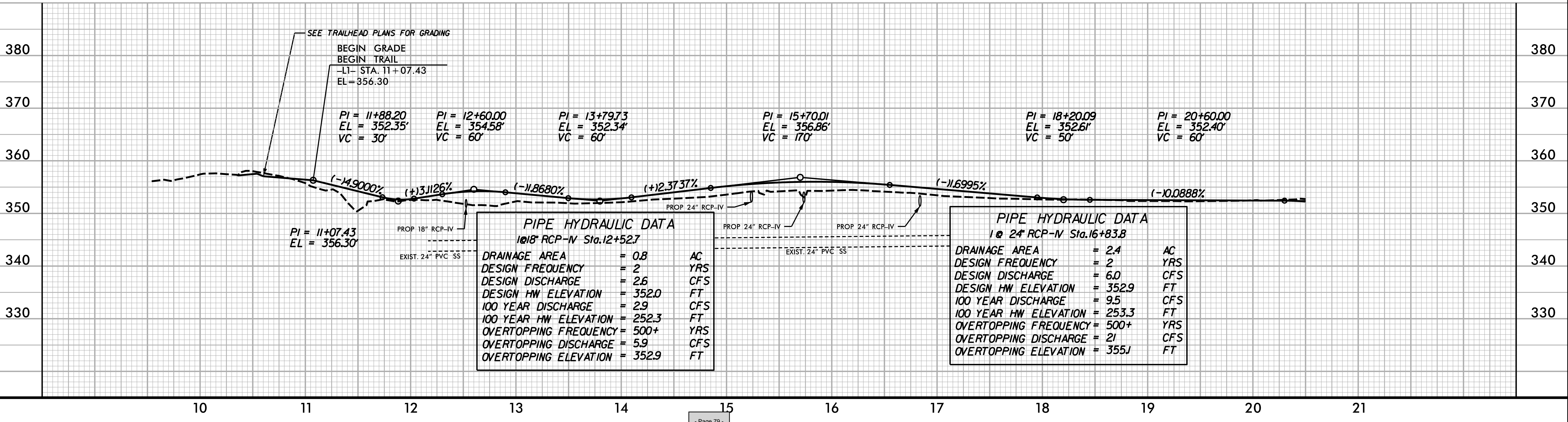
919-486-6444 | info@alta.com | www.alta.com | NC License #PC-2001

NOTES:
1) SEE SHEET C-1 FOR GENERAL NOTES.



The signatures affixed below certify that this sheet has been reviewed and approved solely per the certifications signed on the cover sheet of these construction plans.

| | |
|--|---|
| Approved rdillon 03/09/2021 1:27:08 PM | N/A stforier 03/11/2021 4:13:11 PM |
| Public Works - Transportation N/A sewens 03/12/2021 9:07:15 AM | Water Resources - Stormwater Approved moseley 03/10/2021 8:24:16 AM |
| Building Inspections Approved valley 03/09/2021 10:50:00 PM | Planning Approved moseley 03/10/2021 8:24:16 AM |
| Water Resources - Utility Engineering N/A rsmith 03/09/2021 1:59:26 PM | Planning - Transportation N/A khuegerich 03/09/2021 11:10:57 AM |
| Electric N/A stforier 03/11/2021 4:13:16 PM | Fire Approved areincke 03/09/2021 11:05:17 AM |
| Water Resources - Soil & Erosion Control | Parks, Recreation & Cultural Resources |





FRED SMITH COMPANY
 6105 Chapel Hill Rd
 Raleigh, NC 27607
 Phone: (919) 582-3528
 Fax: (919) 582-3529

CHANGE ORDER REQUEST # 1

Town of Apex

Angela Reincke Parks Planning Project Manager
 Bryce Bernard Capital Projects Inspector

DATE: 12.18.2023

Fred Smith Company

Austin Ferreira Assistant Project Manager

RCO #001 - Incidental Stone (ABC)

Description of Work:

This change order request would be for determining pricing for incidental ABC stone to be used at the inspector's/special inspector's discretion or for backfilling undercut with ABC stone.

| Labor | | | | |
|----------------------|-----|-------|------------|--------------|
| Description | UoM | Units | Unit Price | Total |
| Foreman | HR | 8 | \$ 69.00 | \$ 552.00 |
| Labor | HR | 16 | \$ 33.00 | \$ 528.00 |
| Roller Operator | HR | 8 | \$ 38.50 | \$ 308.00 |
| Zippy Truck Operator | HR | 8 | \$ 34.03 | \$ 272.24 |
| Loader Operator | HR | 8 | \$ 41.36 | \$ 330.88 |
| Excavator Operator | HR | 8 | \$ 47.11 | \$ 376.88 |
| Total | | | | \$ 2,368.00 |
| Equipment | | | | |
| Description | UoM | Units | Unit Price | Total |
| Pickup Truck | HR | 8 | \$ 125.00 | \$ 1,000.00 |
| Trench Roller | HR | 8 | \$ 90.00 | \$ 720.00 |
| Small Loader | HR | 8 | \$ 155.00 | \$ 1,240.00 |
| 200 Excavator | HR | 8 | \$ 205.00 | \$ 1,640.00 |
| Zippy Truck | HR | 8 | \$ 155.00 | \$ 1,240.00 |
| Total | | | | \$ 5,840.00 |
| Material | | | | |
| Description | UoM | Units | Unit Price | Total |
| ABC Stone | TN | 100 | \$ 14.00 | \$ 1,400.00 |
| Trucking | TN | 100 | \$ 6.80 | \$ 680.00 |
| Total | | | | \$ 2,080.00 |
| Summary | | | | |
| Total | | | | \$ 10,288.00 |
| Markup | | | | \$ 1,543.20 |
| Grand Total | | | | \$ 11,831.20 |
| Total Per Ton | | | | \$ 118.31 |

FSC II, LLC dba FRED SMITH COMPANY

CONTRACTOR (Firm Name)

Town of Apex

OWNER (Firm Name)

ACCEPTED BY (Signature) (Date)

Austin Ferreira

(Typed name)

Assistant Project Manager

(Title)

ACCEPTED BY (Signature) (Date)

(Typed name)

(Title)

CHANGE ORDER REQUEST



FRED SMITH COMPANY
6105 Chapel Hill Rd
Raleigh, NC 27607

Phone: (919) 582-3528
Fax: (919) 582-3529

CHANGE ORDER REQUEST # 2
DATE: 1.23.2024

Town of Apex

Angela Reincke
53 Hunter St.
Apex, NC 27502

FSC PROJECT #:

1812479

Fred Smith Company

Austin Ferreira
701 Corporate Center Dr, STE 101
Raleigh, NC 27607

ITEMS INCLUDED IN CHANGE ORDER REQUEST

This work covers the excavation, haul off of waste, material for undercut, and installation of undercut. The undercut structure is as follows. Layer of geotextile, 1' of CL-B Rip Rap, layer of geotextile, 2' of #67 stone with geogrid at each 8" interval. Plan typical structure would be placed on top of the proposed undercut structure.

| | | | | | |
|--------------|----------------------|--------|----|----------|---------------------|
| 1 | Undercut | 454.00 | SY | \$192.32 | \$87,311.87 |
| 2 | Excavation and Waste | 454.00 | CY | \$135.60 | \$61,564.29 |
| Grand Total: | | | | | \$148,876.16 |

We estimate the contract time will require 11 additional days based on impact to the critical path for this extra work.

Clarifications/Exclusions

- 1 All clarifications/conditions noted in the contract and original pricing dated are applicable to this pricing.
- 2 Proposal is presented as a unit price proposal. Changes in scope or magnitude of work will change the final price.
- 3 Only the work items listed are included in this proposal. No assumptions are made as to work being incidental to those items.
- 4 This is only a recommendation for undercut for PHI undercut. FSC can not guarantee the efficacy of this recommendation
- 5 This recommendation is based on estimates of field conditions.

FSC II, LLC dba FRED SMITH COMPANY

CONTRACTOR (Firm Name)

6105 Chapel Hill Road
Raleigh, NC 27607

ADDRESS

ACCEPTED BY (Signature)

(Date)

(Typed name)

(Title)

Town of Apex

OWNER (Firm Name)

53 Hunter St
Apex, NC 27502

ADDRESS

ACCEPTED BY (Signature)

(Date)

(Typed name)

(Title)

PLEASE RETURN ONE FULLY EXECUTED COPY TO THIS OFFICE.



Middle Creek Greenway
FSC Project No. 1812479
RCO #02 Undercut Swamplands

Description of Work:

This work covers the excavation, haul off of waste, material for undercut, and installation of undercut.

Undercut Structure

| LABOR & BURDEN | | | | OVERTIME | | | | |
|--------------------|-----|--------|---------|----------|------|-------------|------------|-------------|
| DESCRIPTION | UOM | Quant | Rate | Quant | Rate | Subtotal | MU | TOTAL |
| Foreman | HR | 70.00 | \$55.98 | | | \$3,918.60 | \$587.79 | \$4,506.39 |
| Excavator Operator | HR | 70.00 | \$51.39 | | | \$3,597.30 | \$539.60 | \$4,136.90 |
| Dozer Operator | HR | 70.00 | \$53.00 | | | \$3,710.00 | \$556.50 | \$4,266.50 |
| Laborer (2) | HR | 140.00 | \$40.15 | | | \$5,621.00 | \$843.15 | \$6,464.15 |
| SUBTOTAL | | 350.00 | HR | | | \$16,846.90 | \$2,527.04 | \$19,373.94 |

| MATERIAL | | | | | | | | |
|----------------------------|-----|--------|------------|------------|----------|-------------|------------|-------------|
| DESCRIPTION | UOM | Quant | Unit Cost | Subtotal | Tax | Total | MU | TOTAL |
| Class B Rip Rap | TN | 303.00 | \$26.00 | | | \$7,878.00 | \$1,181.70 | \$9,059.70 |
| 67 Stone | TN | 606.00 | \$21.00 | | | \$12,726.00 | \$1,908.90 | \$14,634.90 |
| BX1100 Geogrid 12.95'x246' | RL | 3.00 | \$415.00 | \$1,245.00 | \$29.05 | \$1,245.00 | \$186.75 | \$1,431.75 |
| 5.7 HPG Woven 15'x300' | RL | 1.00 | \$1,350.00 | \$1,350.00 | \$94.50 | \$1,350.00 | \$202.50 | \$1,552.50 |
| 8 OZ Non-Woven 12.5'x360' | RL | 2.00 | \$750.00 | \$1,500.00 | \$52.50 | \$1,500.00 | \$225.00 | \$1,725.00 |
| SUBTOTAL | | | | \$4,095.00 | \$176.05 | \$24,699.00 | \$3,704.85 | \$28,579.90 |

| EQUIPMENT | | | | | | | | |
|---------------|-----|-------|----------|--|-----|-------------|-------------|-------------|
| DESCRIPTION | UOM | Quant | Rate | | Tax | Subtotal | MU | TOTAL |
| Pickup Truck | HR | 70.00 | \$53.37 | | | \$3,735.90 | \$560.39 | \$4,296.29 |
| 300 Excavator | HR | 70.00 | \$177.92 | | | \$12,454.40 | \$1,868.16 | \$14,322.56 |
| D5 Dozer | HR | 70.00 | \$163.44 | | | \$11,440.80 | \$1,716.12 | \$13,156.92 |
| SUBTOTAL | | | | | | \$0.00 | \$27,631.10 | \$4,144.67 |
| | | | | | | \$0.00 | | \$31,775.77 |

| SUBCONTRACTOR | | | | | | | | |
|--------------------------|-----|--------|--------|--|-----|------------|----------|------------|
| DESCRIPTION | UOM | Quant | Rate | | Tax | Subtotal | MU | TOTAL |
| Trucking Class B Rip Rap | TN | 303.00 | \$8.16 | | | \$2,472.48 | \$370.87 | \$2,843.35 |
| Trucking 67 Stone | TN | 606.00 | \$6.80 | | | \$4,120.80 | \$618.12 | \$4,738.92 |
| SUBTOTAL | | | | | | \$6,593.28 | \$988.99 | \$7,582.27 |

| Miscellaneous | | | | | | | | |
|---------------|-----|-------|------|--|--|----------|--------|--------|
| DESCRIPTION | UOM | Quant | U.P. | | | Subtotal | MU | TOTAL |
| | | | | | | \$0.00 | \$0.00 | \$0.00 |
| | | | | | | \$0.00 | \$0.00 | \$0.00 |
| | | | | | | \$0.00 | \$0.00 | \$0.00 |
| | | | | | | \$0.00 | \$0.00 | \$0.00 |
| SUBTOTAL | | | | | | \$0.00 | \$0.00 | \$0.00 |

TOTAL: \$87,311.87



Middle Creek Greenway
FSC Project No. 1812479
RCO #02 Undercut Swamplands

Description of Work:

This work covers the excavation, haul off of waste, material for undercut, and installation of undercut.

Excavation and Haul Off

LABOR & BURDEN

| DESCRIPTION | UOM | Quant | Rate | OVERTIME | | Subtotal | MU | TOTAL |
|--------------------|-----|--------|---------|----------|------|------------|----------|------------|
| | | | | Quant | Rate | | | |
| Foreman | HR | 40.00 | \$55.98 | | | \$2,239.20 | \$335.88 | \$2,575.08 |
| Excavator Operator | HR | 40.00 | \$51.39 | | | \$2,055.60 | \$308.34 | \$2,363.94 |
| Dozer Operator | HR | 40.00 | \$53.00 | | | \$2,120.00 | \$318.00 | \$2,438.00 |
| SUBTOTAL | | 120.00 | HR | | | \$6,414.80 | \$962.22 | \$7,377.02 |

MATERIAL

| DESCRIPTION | UOM | Quant | Unit Cost | Subtotal | Tax | Total | MU | TOTAL |
|-------------|-----|-------|-----------|----------|--------|--------|--------|--------|
| | | | | | | \$0.00 | \$0.00 | \$0.00 |
| | | | | | | \$0.00 | \$0.00 | \$0.00 |
| | | | | | | \$0.00 | \$0.00 | \$0.00 |
| | | | | | | \$0.00 | \$0.00 | \$0.00 |
| | | | | | | \$0.00 | \$0.00 | \$0.00 |
| SUBTOTAL | | | | \$0.00 | \$0.00 | \$0.00 | \$0.00 | \$0.00 |

EQUIPMENT

| DESCRIPTION | UOM | Quant | Rate | | Tax | Subtotal | MU | TOTAL |
|---------------|-----|-------|----------|--|--------|-------------|------------|-------------|
| Pickup Truck | HR | 40.00 | \$53.37 | | | \$2,134.80 | \$320.22 | \$2,455.02 |
| 300 Excavator | HR | 40.00 | \$177.92 | | | \$7,116.80 | \$1,067.52 | \$8,184.32 |
| D5 Dozer | HR | 40.00 | \$163.44 | | | \$6,537.60 | \$980.64 | \$7,518.24 |
| | | | | | | \$0.00 | \$0.00 | \$0.00 |
| SUBTOTAL | | | | | \$0.00 | \$15,789.20 | \$2,368.38 | \$18,157.58 |

SUBCONTRACTOR

| DESCRIPTION | UOM | Quant | Rate | | Tax | Subtotal | MU | TOTAL |
|----------------------|-----|-------|----------|--|-----|------------|----------|------------|
| Trucking to Landfill | HR | 40.00 | \$108.00 | | | \$4,320.00 | \$648.00 | \$4,968.00 |
| | | | | | | \$0.00 | \$0.00 | \$0.00 |
| SUBTOTAL | | | | | | \$4,320.00 | \$648.00 | \$4,968.00 |

Miscellaneous

| DESCRIPTION | UOM | Quant | U.P. | | | Subtotal | MU | TOTAL |
|-----------------|-----|--------|---------|--|--|-------------|------------|-------------|
| Dump Fees - C&D | CY | 454.64 | \$59.41 | | | \$27,010.16 | \$4,051.52 | \$31,061.69 |
| | | | | | | \$0.00 | \$0.00 | \$0.00 |
| | | | | | | \$0.00 | \$0.00 | \$0.00 |
| | | | | | | \$0.00 | \$0.00 | \$0.00 |
| SUBTOTAL | | | | | | \$27,010.16 | \$4,051.52 | \$31,061.69 |

TOTAL: \$61,564.29

| Agenda Item | cover sheet

for consideration by the Apex Town Council

Item Type: CONSENT AGENDA

Meeting Date: February 27, 2024

Item Details

Presenter(s): Steve Adams, Utility Acquisition and Real Estate Specialist

Department(s): Transportation and Infrastructure Development

Requested Motion

Motion to adopt Capital Project Ordinance Amendment 2024-13 appropriating recreation reserve funds for the purchase of Wimberly Road Property

Approval Recommended?

Yes

Item Details

The property on Wimberly Road is a potential American Tobacco Trail (ATT) head connection and a potential park expansion. The total cost of this property acquisition is \$565,000 from the recreation reserves fund.

Attachments

- CN6-A1: Capital Project Ordinance Amendment 2024-13 - Capital Project Ordinance Amendment No. 2024-13 - Wimberly Road Property Acquisition





Town of Apex

CAPITAL PROJECT ORDINANCE AMENDMENT 2024-13

67 - Recreation Capital Project Fund

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

Section 1. The revenues anticipated for the projects are:

| | |
|---|------------------|
| 9200-0012-39777: Transfer from Recreation Reserve | 565,000 |
| Total Revenues | \$565,000 |

Section 2. The expenditures anticipated are:

| | |
|---|------------------|
| 9200-0012-47100: Wimberly Property, Capital Outlay - Land | 565,000 |
| Total Expenditures | \$565,000 |

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 27th day of February, 2024.

Attest:

Jacques K. Gilbert, Mayor

Allen L. Coleman, CMC, NCCCC
Town Clerk

| Agenda Item | cover sheet

for consideration by the Apex Town Council

Item Type: CONSENT AGENDA

Meeting Date: February 27, 2024

Item Details

Presenter(s): Angela Reincke, Parks Planning Project Manager

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

Requested Motion

- A. Motion to approve an amendment to the construction contract awarded with Fred Smith Co., previously approved on August 8, 2023 and September 9, 2023, for the extension of Beaver Creek Greenway Phase 1, 1A, and II and authorize Interim Town Manager, or their designee, to execute on behalf of the Town.
- B. Motion to approve a Supplemental Agreement with Fred Smith Co. for a memorializing contract amendment, and to sign the recommendation of approval of North Carolina Department of Transportation (NCDOT) EB-6021 Supplemental Agreement No. 1, and authorize the Interim Town Manager, or their designee, to execute on behalf of the Town.

Approval Recommended?

Yes

Item Details

North Carolina Department of Transportation (NCDOT) requested two amendments to the construction contract with Fred Smith Co to be approved by Apex Town Council. The first is to provide the latest version of FHWA 1273, Revised October 23, 2023. The second is the removal of Section D ("Retainage") of Paragraph 4 of the Contract, entitled "CONSIDERATION AND PAYMENT OF SERVICES," to amend such that no retainage will be withheld by from the contractor at any time during the life of the contract with respect to N.C.G.S 143-134.1 as it is not allowed for Locally Administered Projects Program (LAPP) projects.

Attachments

- CN7-A1: Construction Contract Award Amendment - Fred Smith Co. - Beaver Creek Greenway Extension Phase I, IA, and II - and, NCDOT Supplemental Agreement EB-6021
- CN7-A2: Contract Provisions Federal-Aid Construction Contracts - Construction Contract Award Amendment - Fred Smith Co. - Beaver Creek Greenway Extension Phase I, IA, and II - and, NCDOT Supplemental Agreement EB-6021
- CN7-A3: Supplemental Agreement - Construction Contract Award Amendment - Fred Smith Co. - Beaver Creek Greenway Extension Phase I, IA, and II - and, NCDOT Supplemental Agreement EB-6021



STATE OF NORTH CAROLINA
COUNTY OF WAKE

AMENDMENT TO TOWN OF APEX
CONSTRUCTION CONTRACT

This Amendment to Town of Apex Construction Contract (the or this “Amendment”) is made and entered into this _____ day of _____, 2024 by and between the Town of Apex, a municipal corporation of the State of North Carolina, (“Town”) and FSC II, LLC dba Fred Smith Company, a North Carolina limited liability corporation with its principal business offices located at 701 Corporate Center Drive Suite 101 Raleigh NC 27607 (the “Contractor”). Town and Contractor may hereinafter be referred to collectively as the “Parties.”

WITNESSETH

WHEREAS, Town and Contractor entered into a contract entitled, “Town of Apex Greenway Construction Contract” on or about January 30th, 2024 (the “Contract”) for the construction of Beaver Creek Greenway Extension Phases 1, 2 and 1A; and

WHEREAS, the Parties desire to update certain provisions of the Contract to remove the withholding of retainage and replace FHWA 1273 with the revised October 23, 2023 version; and

WHEREAS, both Parties wish to memorialize the same through this Amendment.

NOW, THEREFORE, in consideration of the foregoing, the Parties do hereby agree to amend the Contract as follows:

1. Section D (“Retainage”) of Paragraph 4 of the Contract, entitled “CONSIDERATION AND PAYMENT OF SERVICES,” is hereby amended (such that no retainage will be withheld) to read as follows:

D. INTENTIONALLY DELETED.

2. FHWA-1273. FHWA-1273 – Revised October 23, 2023 “Required Contract Provisions Federal-Aid Construction Contracts” is attached to this Amendment and hereby physically incorporated into the Contract. The Contractor agrees to comply with the provisions of FHWA-1273-Revised October 23, 2023.

3. Effective Date. This Amendment shall be effective upon execution by both Parties. The Contract will continue in full force and effect except as amended herein.

IN WITNESS WHEREOF, the Parties have entered into this Amendment effective this ____ day of _____, 2024.

FSC II, LLC dba Fred Smith Company

Town of Apex

(Print name)

Shawn Purvis, Interim Town Manager

Signature

Attest:

Title

Allen L. Coleman, CMC, NCCCC, Town Clerk

Attest:

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

Secretary (if a corporation)

Antwan Morrison, Finance Director

REQUIRED CONTRACT PROVISIONS FEDERAL-AID CONSTRUCTION CONTRACTS

- I. General
- II. Nondiscrimination
- III. Non-segregated Facilities
- IV. Davis-Bacon and Related Act Provisions
- V. Contract Work Hours and Safety Standards Act Provisions
- VI. Subletting or Assigning the Contract
- VII. Safety: Accident Prevention
- VIII. False Statements Concerning Highway Projects
- IX. Implementation of Clean Air Act and Federal Water Pollution Control Act
- X. Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion
- XI. Certification Regarding Use of Contract Funds for Lobbying
- XII. Use of United States-Flag Vessels:

ATTACHMENTS

A. Employment and Materials Preference for Appalachian Development Highway System or Appalachian Local Access Road Contracts (included in Appalachian contracts only)

I. GENERAL

1. Form FHWA-1273 must be physically incorporated in each construction contract funded under title 23, United States Code, as required in 23 CFR 633.102(b) (excluding emergency contracts solely intended for debris removal). The contractor (or subcontractor) must insert this form in each subcontract and further require its inclusion in all lower tier subcontracts (excluding purchase orders, rental agreements and other agreements for supplies or services). 23 CFR 633.102(e).

The applicable requirements of Form FHWA-1273 are incorporated by reference for work done under any purchase order, rental agreement or agreement for other services. The prime contractor shall be responsible for compliance by any subcontractor, lower-tier subcontractor or service provider. 23 CFR 633.102(e).

Form FHWA-1273 must be included in all Federal-aid design-build contracts, in all subcontracts and in lower tier subcontracts (excluding subcontracts for design services, purchase orders, rental agreements and other agreements for supplies or services) in accordance with 23 CFR 633.102. The design-builder shall be responsible for compliance by any subcontractor, lower-tier subcontractor or service provider.

Contracting agencies may reference Form FHWA-1273 in solicitation-for-bids or request-for-proposals documents, however, the Form FHWA-1273 must be physically incorporated (not referenced) in all contracts, subcontracts and lower-tier subcontracts (excluding purchase orders, rental agreements and other agreements for supplies or services related to a construction contract). 23 CFR 633.102(b).

2. Subject to the applicability criteria noted in the following sections, these contract provisions shall apply to all work

performed on the contract by the contractor's own organization and with the assistance of workers under the contractor's immediate superintendence and to all work performed on the contract by piecework, station work, or by subcontract. 23 CFR 633.102(d).

3. A breach of any of the stipulations contained in these Required Contract Provisions may be sufficient grounds for withholding of progress payments, withholding of final payment, termination of the contract, suspension / debarment or any other action determined to be appropriate by the contracting agency and FHWA.

4. Selection of Labor: During the performance of this contract, the contractor shall not use convict labor for any purpose within the limits of a construction project on a Federal-aid highway unless it is labor performed by convicts who are on parole, supervised release, or probation. 23 U.S.C. 114(b). The term Federal-aid highway does not include roadways functionally classified as local roads or rural minor collectors. 23 U.S.C. 101(a).

II. NONDISCRIMINATION (23 CFR 230.107(a); 23 CFR Part 230, Subpart A, Appendix A; EO 11246)

The provisions of this section related to 23 CFR Part 230, Subpart A, Appendix A are applicable to all Federal-aid construction contracts and to all related construction subcontracts of \$10,000 or more. The provisions of 23 CFR Part 230 are not applicable to material supply, engineering, or architectural service contracts.

In addition, the contractor and all subcontractors must comply with the following policies: Executive Order 11246, 41 CFR Part 60, 29 CFR Parts 1625-1627, 23 U.S.C. 140, Section 504 of the Rehabilitation Act of 1973, as amended (29 U.S.C. 794), Title VI of the Civil Rights Act of 1964, as amended (42 U.S.C. 2000d et seq.), and related regulations including 49 CFR Parts 21, 26, and 27; and 23 CFR Parts 200, 230, and 633.

The contractor and all subcontractors must comply with: the requirements of the Equal Opportunity Clause in 41 CFR 60-1.4(b) and, for all construction contracts exceeding \$10,000, the Standard Federal Equal Employment Opportunity Construction Contract Specifications in 41 CFR 60-4.3.

Note: The U.S. Department of Labor has exclusive authority to determine compliance with Executive Order 11246 and the policies of the Secretary of Labor including 41 CFR Part 60, and 29 CFR Parts 1625-1627. The contracting agency and the FHWA have the authority and the responsibility to ensure compliance with 23 U.S.C. 140, Section 504 of the Rehabilitation Act of 1973, as amended (29 U.S.C. 794), and Title VI of the Civil Rights Act of 1964, as amended (42 U.S.C. 2000d et seq.), and related regulations including 49 CFR Parts 21, 26, and 27; and 23 CFR Parts 200, 230, and 633.

The following provision is adopted from 23 CFR Part 230, Subpart A, Appendix A, with appropriate revisions to conform to the U.S. Department of Labor (US DOL) and FHWA requirements.

1. Equal Employment Opportunity: Equal Employment Opportunity (EEO) requirements not to discriminate and to take affirmative action to assure equal opportunity as set forth under laws, executive orders, rules, regulations (*see* 28 CFR Part 35, 29 CFR Part 1630, 29 CFR Parts 1625-1627, 41 CFR Part 60 and 49 CFR Part 27) and orders of the Secretary of Labor as modified by the provisions prescribed herein, and imposed pursuant to 23 U.S.C. 140, shall constitute the EEO and specific affirmative action standards for the contractor's project activities under this contract. The provisions of the Americans with Disabilities Act of 1990 (42 U.S.C. 12101 et seq.) set forth under 28 CFR Part 35 and 29 CFR Part 1630 are incorporated by reference in this contract. In the execution of this contract, the contractor agrees to comply with the following minimum specific requirement activities of EEO:

a. The contractor will work with the contracting agency and the Federal Government to ensure that it has made every good faith effort to provide equal opportunity with respect to all of its terms and conditions of employment and in their review of activities under the contract. 23 CFR 230.409 (g)(4) & (5).

b. The contractor will accept as its operating policy the following statement:

"It is the policy of this Company to assure that applicants are employed, and that employees are treated during employment, without regard to their race, religion, sex, sexual orientation, gender identity, color, national origin, age or disability. Such action shall include: employment, upgrading, demotion, or transfer; recruitment or recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship, pre-apprenticeship, and/or on-the-job training."

2. EEO Officer: The contractor will designate and make known to the contracting officers an EEO Officer who will have the responsibility for and must be capable of effectively administering and promoting an active EEO program and who must be assigned adequate authority and responsibility to do so.

3. Dissemination of Policy: All members of the contractor's staff who are authorized to hire, supervise, promote, and discharge employees, or who recommend such action or are substantially involved in such action, will be made fully cognizant of and will implement the contractor's EEO policy and contractual responsibilities to provide EEO in each grade and classification of employment. To ensure that the above agreement will be met, the following actions will be taken as a minimum:

a. Periodic meetings of supervisory and personnel office employees will be conducted before the start of work and then not less often than once every six months, at which time the contractor's EEO policy and its implementation will be reviewed and explained. The meetings will be conducted by the EEO Officer or other knowledgeable company official.

b. All new supervisory or personnel office employees will be given a thorough indoctrination by the EEO Officer, covering all major aspects of the contractor's EEO obligations within thirty days following their reporting for duty with the contractor.

c. All personnel who are engaged in direct recruitment for the project will be instructed by the EEO Officer in the contractor's procedures for locating and hiring minorities and women.

d. Notices and posters setting forth the contractor's EEO policy will be placed in areas readily accessible to employees, applicants for employment and potential employees.

e. The contractor's EEO policy and the procedures to implement such policy will be brought to the attention of employees by means of meetings, employee handbooks, or other appropriate means.

4. Recruitment: When advertising for employees, the contractor will include in all advertisements for employees the notation: "An Equal Opportunity Employer." All such advertisements will be placed in publications having a large circulation among minorities and women in the area from which the project work force would normally be derived.

a. The contractor will, unless precluded by a valid bargaining agreement, conduct systematic and direct recruitment through public and private employee referral sources likely to yield qualified minorities and women. To meet this requirement, the contractor will identify sources of potential minority group employees and establish with such identified sources procedures whereby minority and women applicants may be referred to the contractor for employment consideration.

b. In the event the contractor has a valid bargaining agreement providing for exclusive hiring hall referrals, the contractor is expected to observe the provisions of that agreement to the extent that the system meets the contractor's compliance with EEO contract provisions. Where implementation of such an agreement has the effect of discriminating against minorities or women, or obligates the contractor to do the same, such implementation violates Federal nondiscrimination provisions.

c. The contractor will encourage its present employees to refer minorities and women as applicants for employment. Information and procedures with regard to referring such applicants will be discussed with employees.

5. Personnel Actions: Wages, working conditions, and employee benefits shall be established and administered, and personnel actions of every type, including hiring, upgrading, promotion, transfer, demotion, layoff, and termination, shall be taken without regard to race, color, religion, sex, sexual orientation, gender identity, national origin, age or disability. The following procedures shall be followed:

a. The contractor will conduct periodic inspections of project sites to ensure that working conditions and employee facilities do not indicate discriminatory treatment of project site personnel.

b. The contractor will periodically evaluate the spread of wages paid within each classification to determine any evidence of discriminatory wage practices.

c. The contractor will periodically review selected personnel actions in depth to determine whether there is evidence of discrimination. Where evidence is found, the contractor will promptly take corrective action. If the review indicates that the discrimination may extend beyond the actions reviewed, such corrective action shall include all affected persons.

d. The contractor will promptly investigate all complaints of alleged discrimination made to the contractor in connection with its obligations under this contract, will attempt to resolve such complaints, and will take appropriate corrective action

within a reasonable time. If the investigation indicates that the discrimination may affect persons other than the complainant, such corrective action shall include such other persons. Upon completion of each investigation, the contractor will inform every complainant of all of their avenues of appeal.

6. Training and Promotion:

a. The contractor will assist in locating, qualifying, and increasing the skills of minorities and women who are applicants for employment or current employees. Such efforts should be aimed at developing full journey level status employees in the type of trade or job classification involved.

b. Consistent with the contractor's work force requirements and as permissible under Federal and State regulations, the contractor shall make full use of training programs (i.e., apprenticeship and on-the-job training programs for the geographical area of contract performance). In the event a special provision for training is provided under this contract, this subparagraph will be superseded as indicated in the special provision. The contracting agency may reserve training positions for persons who receive welfare assistance in accordance with 23 U.S.C. 140(a).

c. The contractor will advise employees and applicants for employment of available training programs and entrance requirements for each.

d. The contractor will periodically review the training and promotion potential of employees who are minorities and women and will encourage eligible employees to apply for such training and promotion.

7. Unions: If the contractor relies in whole or in part upon unions as a source of employees, the contractor will use good faith efforts to obtain the cooperation of such unions to increase opportunities for minorities and women. 23 CFR 230.409. Actions by the contractor, either directly or through a contractor's association acting as agent, will include the procedures set forth below:

a. The contractor will use good faith efforts to develop, in cooperation with the unions, joint training programs aimed toward qualifying more minorities and women for membership in the unions and increasing the skills of minorities and women so that they may qualify for higher paying employment.

b. The contractor will use good faith efforts to incorporate an EEO clause into each union agreement to the end that such union will be contractually bound to refer applicants without regard to their race, color, religion, sex, sexual orientation, gender identity, national origin, age, or disability.

c. The contractor is to obtain information as to the referral practices and policies of the labor union except that to the extent such information is within the exclusive possession of the labor union and such labor union refuses to furnish such information to the contractor, the contractor shall so certify to the contracting agency and shall set forth what efforts have been made to obtain such information.

d. In the event the union is unable to provide the contractor with a reasonable flow of referrals within the time limit set forth in the collective bargaining agreement, the contractor will, through independent recruitment efforts, fill the employment vacancies without regard to race, color, religion, sex, sexual orientation, gender identity, national origin, age, or disability; making full efforts to obtain qualified and/or qualifiable minorities and women. The failure of a union to provide

sufficient referrals (even though it is obligated to provide exclusive referrals under the terms of a collective bargaining agreement) does not relieve the contractor from the requirements of this paragraph. In the event the union referral practice prevents the contractor from meeting the obligations pursuant to Executive Order 11246, as amended, and these special provisions, such contractor shall immediately notify the contracting agency.

8. Reasonable Accommodation for Applicants /

Employees with Disabilities: The contractor must be familiar with the requirements for and comply with the Americans with Disabilities Act and all rules and regulations established thereunder. Employers must provide reasonable accommodation in all employment activities unless to do so would cause an undue hardship.

9. Selection of Subcontractors, Procurement of Materials

and Leasing of Equipment: The contractor shall not discriminate on the grounds of race, color, religion, sex, sexual orientation, gender identity, national origin, age, or disability in the selection and retention of subcontractors, including procurement of materials and leases of equipment. The contractor shall take all necessary and reasonable steps to ensure nondiscrimination in the administration of this contract.

a. The contractor shall notify all potential subcontractors, suppliers, and lessors of their EEO obligations under this contract.

b. The contractor will use good faith efforts to ensure subcontractor compliance with their EEO obligations.

10. Assurances Required:

a. The requirements of 49 CFR Part 26 and the State DOT's FHWA-approved Disadvantaged Business Enterprise (DBE) program are incorporated by reference.

b. The contractor, subrecipient or subcontractor shall not discriminate on the basis of race, color, national origin, or sex in the performance of this contract. The contractor shall carry out applicable requirements of 49 CFR part 26 in the award and administration of DOT-assisted contracts. Failure by the contractor to carry out these requirements is a material breach of this contract, which may result in the termination of this contract or such other remedy as the recipient deems appropriate, which may include, but is not limited to:

- (1) Withholding monthly progress payments;
- (2) Assessing sanctions;
- (3) Liquidated damages; and/or
- (4) Disqualifying the contractor from future bidding as non-responsible.

c. The Title VI and nondiscrimination provisions of U.S. DOT Order 1050.2A at Appendixes A and E are incorporated by reference. 49 CFR Part 21.

11. Records and Reports: The contractor shall keep such records as necessary to document compliance with the EEO requirements. Such records shall be retained for a period of three years following the date of the final payment to the contractor for all contract work and shall be available at reasonable times and places for inspection by authorized representatives of the contracting agency and the FHWA.

a. The records kept by the contractor shall document the following:

(1) The number and work hours of minority and non-minority group members and women employed in each work classification on the project;

(2) The progress and efforts being made in cooperation with unions, when applicable, to increase employment opportunities for minorities and women; and

(3) The progress and efforts being made in locating, hiring, training, qualifying, and upgrading minorities and women.

b. The contractors and subcontractors will submit an annual report to the contracting agency each July for the duration of the project indicating the number of minority, women, and non-minority group employees currently engaged in each work classification required by the contract work. This information is to be reported on [Form FHWA-1391](#). The staffing data should represent the project work force on board in all or any part of the last payroll period preceding the end of July. If on-the-job training is being required by special provision, the contractor will be required to collect and report training data. The employment data should reflect the work force on board during all or any part of the last payroll period preceding the end of July.

III. NONSEGREGATED FACILITIES

This provision is applicable to all Federal-aid construction contracts and to all related construction subcontracts of more than \$10,000. 41 CFR 60-1.5.

As prescribed by 41 CFR 60-1.8, the contractor must ensure that facilities provided for employees are provided in such a manner that segregation on the basis of race, color, religion, sex, sexual orientation, gender identity, or national origin cannot result. The contractor may neither require such segregated use by written or oral policies nor tolerate such use by employee custom. The contractor's obligation extends further to ensure that its employees are not assigned to perform their services at any location under the contractor's control where the facilities are segregated. The term "facilities" includes waiting rooms, work areas, restaurants and other eating areas, time clocks, restrooms, washrooms, locker rooms and other storage or dressing areas, parking lots, drinking fountains, recreation or entertainment areas, transportation, and housing provided for employees. The contractor shall provide separate or single-user restrooms and necessary dressing or sleeping areas to assure privacy between sexes.

IV. DAVIS-BACON AND RELATED ACT PROVISIONS

This section is applicable to all Federal-aid construction projects exceeding \$2,000 and to all related subcontracts and lower-tier subcontracts (regardless of subcontract size), in accordance with 29 CFR 5.5. The requirements apply to all projects located within the right-of-way of a roadway that is functionally classified as Federal-aid highway. 23 U.S.C. 113. This excludes roadways functionally classified as local roads or rural minor collectors, which are exempt. 23 U.S.C. 101. Where applicable law requires that projects be treated as a project on a Federal-aid highway, the provisions of this subpart will apply regardless of the location of the project. Examples include: Surface Transportation Block Grant Program projects funded under 23 U.S.C. 133 [excluding recreational trails projects], the Nationally Significant Freight and Highway

Projects funded under 23 U.S.C. 117, and National Highway Freight Program projects funded under 23 U.S.C. 167.

The following provisions are from the U.S. Department of Labor regulations in 29 CFR 5.5 "Contract provisions and related matters" with minor revisions to conform to the FHWA-1273 format and FHWA program requirements.

1. Minimum wages (29 CFR 5.5)

a. *Wage rates and fringe benefits.* All laborers and mechanics employed or working upon the site of the work (or otherwise working in construction or development of the project under a development statute), will be paid unconditionally and not less often than once a week, and without subsequent deduction or rebate on any account (except such payroll deductions as are permitted by regulations issued by the Secretary of Labor under the Copeland Act ([29 CFR part 3](#))), the full amount of basic hourly wages and bona fide fringe benefits (or cash equivalents thereof) due at time of payment computed at rates not less than those contained in the wage determination of the Secretary of Labor which is attached hereto and made a part hereof, regardless of any contractual relationship which may be alleged to exist between the contractor and such laborers and mechanics. As provided in paragraphs (d) and (e) of 29 CFR 5.5, the appropriate wage determinations are effective by operation of law even if they have not been attached to the contract. Contributions made or costs reasonably anticipated for bona fide fringe benefits under the Davis-Bacon Act ([40 U.S.C. 3141\(2\)\(B\)](#)) on behalf of laborers or mechanics are considered wages paid to such laborers or mechanics, subject to the provisions of paragraph 1.e. of this section; also, regular contributions made or costs incurred for more than a weekly period (but not less often than quarterly) under plans, funds, or programs which cover the particular weekly period, are deemed to be constructively made or incurred during such weekly period. Such laborers and mechanics must be paid the appropriate wage rate and fringe benefits on the wage determination for the classification(s) of work actually performed, without regard to skill, except as provided in paragraph 4. of this section. Laborers or mechanics performing work in more than one classification may be compensated at the rate specified for each classification for the time actually worked therein: *Provided*, That the employer's payroll records accurately set forth the time spent in each classification in which work is performed. The wage determination (including any additional classifications and wage rates conformed under paragraph 1.c. of this section) and the Davis-Bacon poster (WH-1321) must be posted at all times by the contractor and its subcontractors at the site of the work in a prominent and accessible place where it can be easily seen by the workers.

b. *Frequently recurring classifications.* (1) In addition to wage and fringe benefit rates that have been determined to be prevailing under the procedures set forth in [29 CFR part 1](#), a wage determination may contain, pursuant to § 1.3(f), wage and fringe benefit rates for classifications of laborers and mechanics for which conformance requests are regularly submitted pursuant to paragraph 1.c. of this section, provided that:

(i) The work performed by the classification is not performed by a classification in the wage determination for which a prevailing wage rate has been determined;

(ii) The classification is used in the area by the construction industry; and

(iii) The wage rate for the classification bears a reasonable relationship to the prevailing wage rates contained in the wage determination.

(2) The Administrator will establish wage rates for such classifications in accordance with paragraph 1.c.(1)(iii) of this section. Work performed in such a classification must be paid at no less than the wage and fringe benefit rate listed on the wage determination for such classification.

c. *Conformance.* (1) The contracting officer must require that any class of laborers or mechanics, including helpers, which is not listed in the wage determination and which is to be employed under the contract be classified in conformance with the wage determination. Conformance of an additional classification and wage rate and fringe benefits is appropriate only when the following criteria have been met:

(i) The work to be performed by the classification requested is not performed by a classification in the wage determination; and

(ii) The classification is used in the area by the construction industry; and

(iii) The proposed wage rate, including any bona fide fringe benefits, bears a reasonable relationship to the wage rates contained in the wage determination.

(2) The conformance process may not be used to split, subdivide, or otherwise avoid application of classifications listed in the wage determination.

(3) If the contractor and the laborers and mechanics to be employed in the classification (if known), or their representatives, and the contracting officer agree on the classification and wage rate (including the amount designated for fringe benefits where appropriate), a report of the action taken will be sent by the contracting officer by email to DBAconformance@dol.gov. The Administrator, or an authorized representative, will approve, modify, or disapprove every additional classification action within 30 days of receipt and so advise the contracting officer or will notify the contracting officer within the 30-day period that additional time is necessary.

(4) In the event the contractor, the laborers or mechanics to be employed in the classification or their representatives, and the contracting officer do not agree on the proposed classification and wage rate (including the amount designated for fringe benefits, where appropriate), the contracting officer will, by email to DBAconformance@dol.gov, refer the questions, including the views of all interested parties and the recommendation of the contracting officer, to the Administrator for determination. The Administrator, or an authorized representative, will issue a determination within 30 days of receipt and so advise the contracting officer or will notify the contracting officer within the 30-day period that additional time is necessary.

(5) The contracting officer must promptly notify the contractor of the action taken by the Wage and Hour Division

under paragraphs 1.c.(3) and (4) of this section. The contractor must furnish a written copy of such determination to each affected worker or it must be posted as a part of the wage determination. The wage rate (including fringe benefits where appropriate) determined pursuant to paragraph 1.c.(3) or (4) of this section must be paid to all workers performing work in the classification under this contract from the first day on which work is performed in the classification.

d. *Fringe benefits not expressed as an hourly rate.*

Whenever the minimum wage rate prescribed in the contract for a class of laborers or mechanics includes a fringe benefit which is not expressed as an hourly rate, the contractor may either pay the benefit as stated in the wage determination or may pay another bona fide fringe benefit or an hourly cash equivalent thereof.

e. *Unfunded plans.* If the contractor does not make payments to a trustee or other third person, the contractor may consider as part of the wages of any laborer or mechanic the amount of any costs reasonably anticipated in providing bona fide fringe benefits under a plan or program, *Provided*, That the Secretary of Labor has found, upon the written request of the contractor, in accordance with the criteria set forth in § 5.28, that the applicable standards of the Davis-Bacon Act have been met. The Secretary of Labor may require the contractor to set aside in a separate account assets for the meeting of obligations under the plan or program.

f. *Interest.* In the event of a failure to pay all or part of the wages required by the contract, the contractor will be required to pay interest on any underpayment of wages.

2. Withholding (29 CFR 5.5)

a. *Withholding requirements.* The contracting agency may, upon its own action, or must, upon written request of an authorized representative of the Department of Labor, withhold or cause to be withheld from the contractor so much of the accrued payments or advances as may be considered necessary to satisfy the liabilities of the prime contractor or any subcontractor for the full amount of wages and monetary relief, including interest, required by the clauses set forth in this section for violations of this contract, or to satisfy any such liabilities required by any other Federal contract, or federally assisted contract subject to Davis-Bacon labor standards, that is held by the same prime contractor (as defined in § 5.2). The necessary funds may be withheld from the contractor under this contract, any other Federal contract with the same prime contractor, or any other federally assisted contract that is subject to Davis-Bacon labor standards requirements and is held by the same prime contractor, regardless of whether the other contract was awarded or assisted by the same agency, and such funds may be used to satisfy the contractor liability for which the funds were withheld. In the event of a contractor's failure to pay any laborer or mechanic, including any apprentice or helper working on the site of the work all or part of the wages required by the contract, or upon the contractor's failure to submit the required records as discussed in paragraph 3.d. of this section, the contracting agency may on its own initiative and after written notice to the contractor, take such action as may be necessary to cause the suspension of any further payment, advance, or guarantee of funds until such violations have ceased.

b. *Priority to withheld funds.* The Department has priority to funds withheld or to be withheld in accordance with paragraph

2.a. of this section or Section V, paragraph 3.a., or both, over claims to those funds by:

- (1) A contractor's surety(ies), including without limitation performance bond sureties and payment bond sureties;
- (2) A contracting agency for its reprocurement costs;
- (3) A trustee(s) (either a court-appointed trustee or a U.S. trustee, or both) in bankruptcy of a contractor, or a contractor's bankruptcy estate;
- (4) A contractor's assignee(s);
- (5) A contractor's successor(s); or
- (6) A claim asserted under the Prompt Payment Act, [31 U.S.C. 3901-3907](#).

3. Records and certified payrolls (29 CFR 5.5)

a. *Basic record requirements* (1) *Length of record retention.* All regular payrolls and other basic records must be maintained by the contractor and any subcontractor during the course of the work and preserved for all laborers and mechanics working at the site of the work (or otherwise working in construction or development of the project under a development statute) for a period of at least 3 years after all the work on the prime contract is completed.

(2) *Information required.* Such records must contain the name; Social Security number; last known address, telephone number, and email address of each such worker; each worker's correct classification(s) of work actually performed; hourly rates of wages paid (including rates of contributions or costs anticipated for bona fide fringe benefits or cash equivalents thereof of the types described in [40 U.S.C. 3141\(2\)\(B\)](#) of the Davis-Bacon Act); daily and weekly number of hours actually worked in total and on each covered contract; deductions made; and actual wages paid.

(3) *Additional records relating to fringe benefits.* Whenever the Secretary of Labor has found under paragraph 1.e. of this section that the wages of any laborer or mechanic include the amount of any costs reasonably anticipated in providing benefits under a plan or program described in [40 U.S.C. 3141\(2\)\(B\)](#) of the Davis-Bacon Act, the contractor must maintain records which show that the commitment to provide such benefits is enforceable, that the plan or program is financially responsible, and that the plan or program has been communicated in writing to the laborers or mechanics affected, and records which show the costs anticipated or the actual cost incurred in providing such benefits.

(4) *Additional records relating to apprenticeship.* Contractors with apprentices working under approved programs must maintain written evidence of the registration of apprenticeship programs, the registration of the apprentices, and the ratios and wage rates prescribed in the applicable programs.

b. *Certified payroll requirements* (1) *Frequency and method of submission.* The contractor or subcontractor must submit weekly, for each week in which any DBA- or Related Acts-covered work is performed, certified payrolls to the contracting

agency. The prime contractor is responsible for the submission of all certified payrolls by all subcontractors. A contracting agency or prime contractor may permit or require contractors to submit certified payrolls through an electronic system, as long as the electronic system requires a legally valid electronic signature; the system allows the contractor, the contracting agency, and the Department of Labor to access the certified payrolls upon request for at least 3 years after the work on the prime contract has been completed; and the contracting agency or prime contractor permits other methods of submission in situations where the contractor is unable or limited in its ability to use or access the electronic system.

(2) *Information required.* The certified payrolls submitted must set out accurately and completely all of the information required to be maintained under paragraph 3.a.(2) of this section, except that full Social Security numbers and last known addresses, telephone numbers, and email addresses must not be included on weekly transmittals. Instead, the certified payrolls need only include an individually identifying number for each worker (e.g., the last four digits of the worker's Social Security number). The required weekly certified payroll information may be submitted using Optional Form WH-347 or in any other format desired. Optional Form WH-347 is available for this purpose from the Wage and Hour Division website at <https://www.dol.gov/sites/dolgov/files/WHDL/legacy/files/wh347.pdf> or its successor website. It is not a violation of this section for a prime contractor to require a subcontractor to provide full Social Security numbers and last known addresses, telephone numbers, and email addresses to the prime contractor for its own records, without weekly submission by the subcontractor to the contracting agency.

(3) *Statement of Compliance.* Each certified payroll submitted must be accompanied by a "Statement of Compliance," signed by the contractor or subcontractor, or the contractor's or subcontractor's agent who pays or supervises the payment of the persons working on the contract, and must certify the following:

(i) That the certified payroll for the payroll period contains the information required to be provided under paragraph 3.b. of this section, the appropriate information and basic records are being maintained under paragraph 3.a. of this section, and such information and records are correct and complete;

(ii) That each laborer or mechanic (including each helper and apprentice) working on the contract during the payroll period has been paid the full weekly wages earned, without rebate, either directly or indirectly, and that no deductions have been made either directly or indirectly from the full wages earned, other than permissible deductions as set forth in [29 CFR part 3](#); and

(iii) That each laborer or mechanic has been paid not less than the applicable wage rates and fringe benefits or cash equivalents for the classification(s) of work actually performed, as specified in the applicable wage determination incorporated into the contract.

(4) *Use of Optional Form WH-347.* The weekly submission of a properly executed certification set forth on the reverse side of Optional Form WH-347 will satisfy the requirement for submission of the "Statement of Compliance" required by paragraph 3.b.(3) of this section.

(5) *Signature.* The signature by the contractor, subcontractor, or the contractor's or subcontractor's agent must be an original handwritten signature or a legally valid electronic signature.

(6) *Falsification.* The falsification of any of the above certifications may subject the contractor or subcontractor to civil or criminal prosecution under [18 U.S.C. 1001](#) and [31 U.S.C. 3729](#).

(7) *Length of certified payroll retention.* The contractor or subcontractor must preserve all certified payrolls during the course of the work and for a period of 3 years after all the work on the prime contract is completed.

c. *Contracts, subcontracts, and related documents.* The contractor or subcontractor must maintain this contract or subcontract and related documents including, without limitation, bids, proposals, amendments, modifications, and extensions. The contractor or subcontractor must preserve these contracts, subcontracts, and related documents during the course of the work and for a period of 3 years after all the work on the prime contract is completed.

d. *Required disclosures and access* (1) *Required record disclosures and access to workers.* The contractor or subcontractor must make the records required under paragraphs 3.a. through 3.c. of this section, and any other documents that the contracting agency, the State DOT, the FHWA, or the Department of Labor deems necessary to determine compliance with the labor standards provisions of any of the applicable statutes referenced by § 5.1, available for inspection, copying, or transcription by authorized representatives of the contracting agency, the State DOT, the FHWA, or the Department of Labor, and must permit such representatives to interview workers during working hours on the job.

(2) *Sanctions for non-compliance with records and worker access requirements.* If the contractor or subcontractor fails to submit the required records or to make them available, or refuses to permit worker interviews during working hours on the job, the Federal agency may, after written notice to the contractor, sponsor, applicant, owner, or other entity, as the case may be, that maintains such records or that employs such workers, take such action as may be necessary to cause the suspension of any further payment, advance, or guarantee of funds. Furthermore, failure to submit the required records upon request or to make such records available, or to permit worker interviews during working hours on the job, may be grounds for debarment action pursuant to § 5.12. In addition, any contractor or other person that fails to submit the required records or make those records available to WHD within the time WHD requests that the records be produced will be precluded from introducing as evidence in an administrative proceeding under [29 CFR part 6](#) any of the required records that were not provided or made available to WHD. WHD will take into consideration a reasonable request from the contractor or person for an extension of the time for submission of records. WHD will determine the reasonableness of the request and may consider, among other things, the location of the records and the volume of production.

(3) *Required information disclosures.* Contractors and subcontractors must maintain the full Social Security number and last known address, telephone number, and email address

of each covered worker, and must provide them upon request to the contracting agency, the State DOT, the FHWA, the contractor, or the Wage and Hour Division of the Department of Labor for purposes of an investigation or other compliance action.

4. Apprentices and equal employment opportunity (29 CFR 5.5)

a. *Apprentices* (1) *Rate of pay.* Apprentices will be permitted to work at less than the predetermined rate for the work they perform when they are employed pursuant to and individually registered in a bona fide apprenticeship program registered with the U.S. Department of Labor, Employment and Training Administration, Office of Apprenticeship (OA), or with a State Apprenticeship Agency recognized by the OA. A person who is not individually registered in the program, but who has been certified by the OA or a State Apprenticeship Agency (where appropriate) to be eligible for probationary employment as an apprentice, will be permitted to work at less than the predetermined rate for the work they perform in the first 90 days of probationary employment as an apprentice in such a program. In the event the OA or a State Apprenticeship Agency recognized by the OA withdraws approval of an apprenticeship program, the contractor will no longer be permitted to use apprentices at less than the applicable predetermined rate for the work performed until an acceptable program is approved.

(2) *Fringe benefits.* Apprentices must be paid fringe benefits in accordance with the provisions of the apprenticeship program. If the apprenticeship program does not specify fringe benefits, apprentices must be paid the full amount of fringe benefits listed on the wage determination for the applicable classification. If the Administrator determines that a different practice prevails for the applicable apprentice classification, fringe benefits must be paid in accordance with that determination.

(3) *Apprenticeship ratio.* The allowable ratio of apprentices to journeymen on the job site in any craft classification must not be greater than the ratio permitted to the contractor as to the entire work force under the registered program or the ratio applicable to the locality of the project pursuant to paragraph 4.a.(4) of this section. Any worker listed on a payroll at an apprentice wage rate, who is not registered or otherwise employed as stated in paragraph 4.a.(1) of this section, must be paid not less than the applicable wage rate on the wage determination for the classification of work actually performed. In addition, any apprentice performing work on the job site in excess of the ratio permitted under this section must be paid not less than the applicable wage rate on the wage determination for the work actually performed.

(4) *Reciprocity of ratios and wage rates.* Where a contractor is performing construction on a project in a locality other than the locality in which its program is registered, the ratios and wage rates (expressed in percentages of the journeyworker's hourly rate) applicable within the locality in which the construction is being performed must be observed. If there is no applicable ratio or wage rate for the locality of the project, the ratio and wage rate specified in the contractor's registered program must be observed.

b. *Equal employment opportunity.* The use of apprentices and journeymen under this part must be in conformity with

the equal employment opportunity requirements of Executive Order 11246, as amended, and [29 CFR part 30](#).

c. Apprentices and Trainees (programs of the U.S. DOT).

Apprentices and trainees working under apprenticeship and skill training programs which have been certified by the Secretary of Transportation as promoting EEO in connection with Federal-aid highway construction programs are not subject to the requirements of paragraph 4 of this Section IV. 23 CFR 230.111(e)(2). The straight time hourly wage rates for apprentices and trainees under such programs will be established by the particular programs. The ratio of apprentices and trainees to journeymen shall not be greater than permitted by the terms of the particular program.

5. Compliance with Copeland Act requirements. The contractor shall comply with the requirements of 29 CFR part 3, which are incorporated by reference in this contract as provided in 29 CFR 5.5.

6. Subcontracts. The contractor or subcontractor must insert FHWA-1273 in any subcontracts, along with the applicable wage determination(s) and such other clauses or contract modifications as the contracting agency may by appropriate instructions require, and a clause requiring the subcontractors to include these clauses and wage determination(s) in any lower tier subcontracts. The prime contractor is responsible for the compliance by any subcontractor or lower tier subcontractor with all the contract clauses in this section. In the event of any violations of these clauses, the prime contractor and any subcontractor(s) responsible will be liable for any unpaid wages and monetary relief, including interest from the date of the underpayment or loss, due to any workers of lower-tier subcontractors, and may be subject to debarment, as appropriate. 29 CFR 5.5.

7. Contract termination: debarment. A breach of the contract clauses in 29 CFR 5.5 may be grounds for termination of the contract, and for debarment as a contractor and a subcontractor as provided in 29 CFR 5.12.

8. Compliance with Davis-Bacon and Related Act requirements. All rulings and interpretations of the Davis-Bacon and Related Acts contained in 29 CFR parts 1, 3, and 5 are herein incorporated by reference in this contract as provided in 29 CFR 5.5.

9. Disputes concerning labor standards. As provided in 29 CFR 5.5, disputes arising out of the labor standards provisions of this contract shall not be subject to the general disputes clause of this contract. Such disputes shall be resolved in accordance with the procedures of the Department of Labor set forth in 29 CFR parts 5, 6, and 7. Disputes within the meaning of this clause include disputes between the contractor (or any of its subcontractors) and the contracting agency, the U.S. Department of Labor, or the employees or their representatives.

10. Certification of eligibility. a. By entering into this contract, the contractor certifies that neither it nor any person or firm who has an interest in the contractor's firm is a person or firm ineligible to be awarded Government contracts by virtue of [40 U.S.C. 3144\(b\)](#) or § 5.12(a).

b. No part of this contract shall be subcontracted to any person or firm ineligible for award of a Government contract by virtue of [40 U.S.C. 3144\(b\)](#) or § 5.12(a).

c. The penalty for making false statements is prescribed in the U.S. Code, Title 18 Crimes and Criminal Procedure, [18 U.S.C. 1001](#).

11. Anti-retaliation. It is unlawful for any person to discharge, demote, intimidate, threaten, restrain, coerce, blacklist, harass, or in any other manner discriminate against, or to cause any person to discharge, demote, intimidate, threaten, restrain, coerce, blacklist, harass, or in any other manner discriminate against, any worker or job applicant for:

a. Notifying any contractor of any conduct which the worker reasonably believes constitutes a violation of the DBA, Related Acts, this part, or [29 CFR part 1](#) or [3](#);

b. Filing any complaint, initiating or causing to be initiated any proceeding, or otherwise asserting or seeking to assert on behalf of themselves or others any right or protection under the DBA, Related Acts, this part, or [29 CFR part 1](#) or [3](#);

c. Cooperating in any investigation or other compliance action, or testifying in any proceeding under the DBA, Related Acts, this part, or [29 CFR part 1](#) or [3](#); or

d. Informing any other person about their rights under the DBA, Related Acts, this part, or [29 CFR part 1](#) or [3](#).

V. CONTRACT WORK HOURS AND SAFETY STANDARDS ACT

Pursuant to 29 CFR 5.5(b), the following clauses apply to any Federal-aid construction contract in an amount in excess of \$100,000 and subject to the overtime provisions of the Contract Work Hours and Safety Standards Act. These clauses shall be inserted in addition to the clauses required by 29 CFR 5.5(a) or 29 CFR 4.6. As used in this paragraph, the terms laborers and mechanics include watchpersons and guards.

1. Overtime requirements. No contractor or subcontractor contracting for any part of the contract work which may require or involve the employment of laborers or mechanics shall require or permit any such laborer or mechanic in any workweek in which he or she is employed on such work to work in excess of forty hours in such workweek unless such laborer or mechanic receives compensation at a rate not less than one and one-half times the basic rate of pay for all hours worked in excess of forty hours in such workweek. 29 CFR 5.5.

2. Violation; liability for unpaid wages; liquidated damages. In the event of any violation of the clause set forth in paragraph 1. of this section the contractor and any subcontractor responsible therefor shall be liable for the unpaid wages and interest from the date of the underpayment. In addition, such contractor and subcontractor shall be liable to the United States (in the case of work done under contract for the District of Columbia or a territory, to such District or to such territory), for liquidated damages. Such liquidated damages shall be computed with respect to each individual laborer or

mechanic, including watchpersons and guards, employed in violation of the clause set forth in paragraph 1. of this section, in the sum currently provided in 29 CFR 5.5(b)(2)* for each calendar day on which such individual was required or permitted to work in excess of the standard workweek of forty hours without payment of the overtime wages required by the clause set forth in paragraph 1. of this section.

* \$31 as of January 15, 2023 (See 88 FR 88 FR 2210) as may be adjusted annually by the Department of Labor, pursuant to the Federal Civil Penalties Inflation Adjustment Act of 1990.

3. Withholding for unpaid wages and liquidated damages

a. *Withholding process.* The FHWA or the contracting agency may, upon its own action, or must, upon written request of an authorized representative of the Department of Labor, withhold or cause to be withheld from the contractor so much of the accrued payments or advances as may be considered necessary to satisfy the liabilities of the prime contractor or any subcontractor for any unpaid wages; monetary relief, including interest; and liquidated damages required by the clauses set forth in this section on this contract, any other Federal contract with the same prime contractor, or any other federally assisted contract subject to the Contract Work Hours and Safety Standards Act that is held by the same prime contractor (as defined in § 5.2). The necessary funds may be withheld from the contractor under this contract, any other Federal contract with the same prime contractor, or any other federally assisted contract that is subject to the Contract Work Hours and Safety Standards Act and is held by the same prime contractor, regardless of whether the other contract was awarded or assisted by the same agency, and such funds may be used to satisfy the contractor liability for which the funds were withheld.

b. *Priority to withheld funds.* The Department has priority to funds withheld or to be withheld in accordance with Section IV paragraph 2.a. or paragraph 3.a. of this section, or both, over claims to those funds by:

- (1) A contractor's surety(ies), including without limitation performance bond sureties and payment bond sureties;
- (2) A contracting agency for its procurement costs;
- (3) A trustee(s) (either a court-appointed trustee or a U.S. trustee, or both) in bankruptcy of a contractor, or a contractor's bankruptcy estate;
- (4) A contractor's assignee(s);
- (5) A contractor's successor(s); or
- (6) A claim asserted under the Prompt Payment Act, [31 U.S.C. 3901–3907](#).

4. **Subcontracts.** The contractor or subcontractor must insert in any subcontracts the clauses set forth in paragraphs 1. through 5. of this section and a clause requiring the subcontractors to include these clauses in any lower tier subcontracts. The prime contractor is responsible for compliance by any subcontractor or lower tier subcontractor with the clauses set forth in paragraphs 1. through 5. In the

event of any violations of these clauses, the prime contractor and any subcontractor(s) responsible will be liable for any unpaid wages and monetary relief, including interest from the date of the underpayment or loss, due to any workers of lower-tier subcontractors, and associated liquidated damages and may be subject to debarment, as appropriate.

5. **Anti-retaliation.** It is unlawful for any person to discharge, demote, intimidate, threaten, restrain, coerce, blacklist, harass, or in any other manner discriminate against, or to cause any person to discharge, demote, intimidate, threaten, restrain, coerce, blacklist, harass, or in any other manner discriminate against, any worker or job applicant for:

a. Notifying any contractor of any conduct which the worker reasonably believes constitutes a violation of the Contract Work Hours and Safety Standards Act (CWHSSA) or its implementing regulations in this part;

b. Filing any complaint, initiating or causing to be initiated any proceeding, or otherwise asserting or seeking to assert on behalf of themselves or others any right or protection under CWHSSA or this part;

c. Cooperating in any investigation or other compliance action, or testifying in any proceeding under CWHSSA or this part; or

d. Informing any other person about their rights under CWHSSA or this part.

VI. SUBLETTING OR ASSIGNING THE CONTRACT

This provision is applicable to all Federal-aid construction contracts on the National Highway System pursuant to 23 CFR 635.116.

1. The contractor shall perform with its own organization contract work amounting to not less than 30 percent (or a greater percentage if specified elsewhere in the contract) of the total original contract price, excluding any specialty items designated by the contracting agency. Specialty items may be performed by subcontract and the amount of any such specialty items performed may be deducted from the total original contract price before computing the amount of work required to be performed by the contractor's own organization (23 CFR 635.116).

a. The term “perform work with its own organization” in paragraph 1 of Section VI refers to workers employed or leased by the prime contractor, and equipment owned or rented by the prime contractor, with or without operators. Such term does not include employees or equipment of a subcontractor or lower tier subcontractor, agents of the prime contractor, or any other assignees. The term may include payments for the costs of hiring leased employees from an employee leasing firm meeting all relevant Federal and State regulatory requirements. Leased employees may only be included in this term if the prime contractor meets all of the following conditions: (based on longstanding interpretation)

(1) the prime contractor maintains control over the supervision of the day-to-day activities of the leased employees;

(2) the prime contractor remains responsible for the quality of the work of the leased employees;

(3) the prime contractor retains all power to accept or exclude individual employees from work on the project; and
(4) the prime contractor remains ultimately responsible for the payment of predetermined minimum wages, the submission of payrolls, statements of compliance and all other Federal regulatory requirements.

b. "Specialty Items" shall be construed to be limited to work that requires highly specialized knowledge, abilities, or equipment not ordinarily available in the type of contracting organizations qualified and expected to bid or propose on the contract as a whole and in general are to be limited to minor components of the overall contract. 23 CFR 635.102.

2. Pursuant to 23 CFR 635.116(a), the contract amount upon which the requirements set forth in paragraph (1) of Section VI is computed includes the cost of material and manufactured products which are to be purchased or produced by the contractor under the contract provisions.

3. Pursuant to 23 CFR 635.116(c), the contractor shall furnish (a) a competent superintendent or supervisor who is employed by the firm, has full authority to direct performance of the work in accordance with the contract requirements, and is in charge of all construction operations (regardless of who performs the work) and (b) such other of its own organizational resources (supervision, management, and engineering services) as the contracting officer determines is necessary to assure the performance of the contract.

4. No portion of the contract shall be sublet, assigned or otherwise disposed of except with the written consent of the contracting officer, or authorized representative, and such consent when given shall not be construed to relieve the contractor of any responsibility for the fulfillment of the contract. Written consent will be given only after the contracting agency has assured that each subcontract is evidenced in writing and that it contains all pertinent provisions and requirements of the prime contract. (based on long-standing interpretation of 23 CFR 635.116).

5. The 30-percent self-performance requirement of paragraph (1) is not applicable to design-build contracts; however, contracting agencies may establish their own self-performance requirements. 23 CFR 635.116(d).

VII. SAFETY: ACCIDENT PREVENTION

This provision is applicable to all Federal-aid construction contracts and to all related subcontracts.

1. In the performance of this contract the contractor shall comply with all applicable Federal, State, and local laws governing safety, health, and sanitation (23 CFR Part 635). The contractor shall provide all safeguards, safety devices and protective equipment and take any other needed actions as it determines, or as the contracting officer may determine, to be reasonably necessary to protect the life and health of employees on the job and the safety of the public and to protect property in connection with the performance of the work covered by the contract. 23 CFR 635.108.

2. It is a condition of this contract, and shall be made a condition of each subcontract, which the contractor enters into pursuant to this contract, that the contractor and any subcontractor shall not permit any employee, in performance of the contract, to work in surroundings or under conditions which are unsanitary, hazardous or dangerous to his/her health or safety, as determined under construction safety and

health standards (29 CFR Part 1926) promulgated by the Secretary of Labor, in accordance with Section 107 of the Contract Work Hours and Safety Standards Act (40 U.S.C. 3704). 29 CFR 1926.10.

3. Pursuant to 29 CFR 1926.3, it is a condition of this contract that the Secretary of Labor or authorized representative thereof, shall have right of entry to any site of contract performance to inspect or investigate the matter of compliance with the construction safety and health standards and to carry out the duties of the Secretary under Section 107 of the Contract Work Hours and Safety Standards Act (40 U.S.C. 3704).

VIII. FALSE STATEMENTS CONCERNING HIGHWAY PROJECTS

This provision is applicable to all Federal-aid construction contracts and to all related subcontracts.

In order to assure high quality and durable construction in conformity with approved plans and specifications and a high degree of reliability on statements and representations made by engineers, contractors, suppliers, and workers on Federal-aid highway projects, it is essential that all persons concerned with the project perform their functions as carefully, thoroughly, and honestly as possible. Willful falsification, distortion, or misrepresentation with respect to any facts related to the project is a violation of Federal law. To prevent any misunderstanding regarding the seriousness of these and similar acts, Form FHWA-1022 shall be posted on each Federal-aid highway project (23 CFR Part 635) in one or more places where it is readily available to all persons concerned with the project:

18 U.S.C. 1020 reads as follows:

"Whoever, being an officer, agent, or employee of the United States, or of any State or Territory, or whoever, whether a person, association, firm, or corporation, knowingly makes any false statement, false representation, or false report as to the character, quality, quantity, or cost of the material used or to be used, or the quantity or quality of the work performed or to be performed, or the cost thereof in connection with the submission of plans, maps, specifications, contracts, or costs of construction on any highway or related project submitted for approval to the Secretary of Transportation; or

Whoever knowingly makes any false statement, false representation, false report or false claim with respect to the character, quality, quantity, or cost of any work performed or to be performed, or materials furnished or to be furnished, in connection with the construction of any highway or related project approved by the Secretary of Transportation; or

Whoever knowingly makes any false statement or false representation as to material fact in any statement, certificate, or report submitted pursuant to provisions of the Federal-aid Roads Act approved July 11, 1916, (39 Stat. 355), as amended and supplemented;

Shall be fined under this title or imprisoned not more than 5 years or both."

IX. IMPLEMENTATION OF CLEAN AIR ACT AND FEDERAL WATER POLLUTION CONTROL ACT (42 U.S.C. 7606; 2 CFR 200.88; EO 11738)

This provision is applicable to all Federal-aid construction contracts in excess of \$150,000 and to all related subcontracts. 48 CFR 2.101; 2 CFR 200.327.

By submission of this bid/proposal or the execution of this contract or subcontract, as appropriate, the bidder, proposer, Federal-aid construction contractor, subcontractor, supplier, or vendor agrees to comply with all applicable standards, orders or regulations issued pursuant to the Clean Air Act (42 U.S.C. 7401-7671q) and the Federal Water Pollution Control Act, as amended (33 U.S.C. 1251-1387). Violations must be reported to the Federal Highway Administration and the Regional Office of the Environmental Protection Agency. 2 CFR Part 200, Appendix II.

The contractor agrees to include or cause to be included the requirements of this Section in every subcontract, and further agrees to take such action as the contracting agency may direct as a means of enforcing such requirements. 2 CFR 200.327.

X. CERTIFICATION REGARDING DEBARMENT, SUSPENSION, INELIGIBILITY AND VOLUNTARY EXCLUSION

This provision is applicable to all Federal-aid construction contracts, design-build contracts, subcontracts, lower-tier subcontracts, purchase orders, lease agreements, consultant contracts or any other covered transaction requiring FHWA approval or that is estimated to cost \$25,000 or more – as defined in 2 CFR Parts 180 and 1200. 2 CFR 180.220 and 1200.220.

1. Instructions for Certification – First Tier Participants:

a. By signing and submitting this proposal, the prospective first tier participant is providing the certification set out below.

b. The inability of a person to provide the certification set out below will not necessarily result in denial of participation in this covered transaction. The prospective first tier participant shall submit an explanation of why it cannot provide the certification set out below. The certification or explanation will be considered in connection with the department or agency's determination whether to enter into this transaction. However, failure of the prospective first tier participant to furnish a certification or an explanation shall disqualify such a person from participation in this transaction. 2 CFR 180.320.

c. The certification in this clause is a material representation of fact upon which reliance was placed when the contracting agency determined to enter into this transaction. If it is later determined that the prospective participant knowingly rendered an erroneous certification, in addition to other remedies available to the Federal Government, the contracting agency may terminate this transaction for cause of default. 2 CFR 180.325.

d. The prospective first tier participant shall provide immediate written notice to the contracting agency to whom this proposal is submitted if any time the prospective first tier participant learns that its certification was erroneous when submitted or has become erroneous by reason of changed circumstances. 2 CFR 180.345 and 180.350.

e. The terms "covered transaction," "debarred," "suspended," "ineligible," "participant," "person," "principal," and "voluntarily excluded," as used in this clause, are defined in 2 CFR Parts 180, Subpart I, 180.900-180.1020, and 1200. "First Tier Covered Transactions" refers to any covered transaction between a recipient or subrecipient of Federal funds and a participant (such as the prime or general contract). "Lower Tier Covered Transactions" refers to any covered transaction under a First Tier Covered Transaction (such as subcontracts). "First Tier Participant" refers to the participant who has entered into a covered transaction with a recipient or subrecipient of Federal funds (such as the prime or general contractor). "Lower Tier Participant" refers any participant who has entered into a covered transaction with a First Tier Participant or other Lower Tier Participants (such as subcontractors and suppliers).

f. The prospective first tier participant agrees by submitting this proposal that, should the proposed covered transaction be entered into, it shall not knowingly enter into any lower tier covered transaction with a person who is debarred, suspended, declared ineligible, or voluntarily excluded from participation in this covered transaction, unless authorized by the department or agency entering into this transaction. 2 CFR 180.330.

g. The prospective first tier participant further agrees by submitting this proposal that it will include the clause titled "Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion-Lower Tier Covered Transactions," provided by the department or contracting agency, entering into this covered transaction, without modification, in all lower tier covered transactions and in all solicitations for lower tier covered transactions exceeding the \$25,000 threshold. 2 CFR 180.220 and 180.300.

h. A participant in a covered transaction may rely upon a certification of a prospective participant in a lower tier covered transaction that is not debarred, suspended, ineligible, or voluntarily excluded from the covered transaction, unless it knows that the certification is erroneous. 2 CFR 180.300; 180.320, and 180.325. A participant is responsible for ensuring that its principals are not suspended, debarred, or otherwise ineligible to participate in covered transactions. 2 CFR 180.335. To verify the eligibility of its principals, as well as the eligibility of any lower tier prospective participants, each participant may, but is not required to, check the System for Award Management website (<https://www.sam.gov/>). 2 CFR 180.300, 180.320, and 180.325.

i. Nothing contained in the foregoing shall be construed to require the establishment of a system of records in order to render in good faith the certification required by this clause. The knowledge and information of the prospective participant is not required to exceed that which is normally possessed by a prudent person in the ordinary course of business dealings.

j. Except for transactions authorized under paragraph (f) of these instructions, if a participant in a covered transaction knowingly enters into a lower tier covered transaction with a person who is suspended, debarred, ineligible, or voluntarily excluded from participation in this transaction, in addition to other remedies available to the Federal Government, the department or agency may terminate this transaction for cause or default. 2 CFR 180.325.

* * * * *

2. Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion – First Tier Participants:

a. The prospective first tier participant certifies to the best of its knowledge and belief, that it and its principals:

(1) Are not presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participating in covered transactions by any Federal department or agency, 2 CFR 180.335;

(2) Have not within a three-year period preceding this proposal been convicted of or had a civil judgment rendered against them for commission of fraud or a criminal offense in connection with obtaining, attempting to obtain, or performing a public (Federal, State, or local) transaction or contract under a public transaction; violation of Federal or State antitrust statutes or commission of embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements, or receiving stolen property, 2 CFR 180.800;

(3) Are not presently indicted for or otherwise criminally or civilly charged by a governmental entity (Federal, State or local) with commission of any of the offenses enumerated in paragraph (a)(2) of this certification, 2 CFR 180.700 and 180.800; and

(4) Have not within a three-year period preceding this application/proposal had one or more public transactions (Federal, State or local) terminated for cause or default. 2 CFR 180.335(d).

(5) Are not a corporation that has been convicted of a felony violation under any Federal law within the two-year period preceding this proposal (USDOT Order 4200.6 implementing appropriations act requirements); and

(6) Are not a corporation with any unpaid Federal tax liability that has been assessed, for which all judicial and administrative remedies have been exhausted, or have lapsed, and that is not being paid in a timely manner pursuant to an agreement with the authority responsible for collecting the tax liability (USDOT Order 4200.6 implementing appropriations act requirements).

b. Where the prospective participant is unable to certify to any of the statements in this certification, such prospective participant should attach an explanation to this proposal. 2 CFR 180.335 and 180.340.

* * * * *

3. Instructions for Certification – Lower Tier Participants:

(Applicable to all subcontracts, purchase orders, and other lower tier transactions requiring prior FHWA approval or estimated to cost \$25,000 or more - 2 CFR Parts 180 and 1200). 2 CFR 180.220 and 1200.220.

a. By signing and submitting this proposal, the prospective lower tier participant is providing the certification set out below.

b. The certification in this clause is a material representation of fact upon which reliance was placed when this transaction was entered into. If it is later determined that the prospective lower tier participant knowingly rendered an erroneous certification, in addition to other remedies available to the Federal Government, the department, or agency with which

this transaction originated may pursue available remedies, including suspension and/or debarment.

c. The prospective lower tier participant shall provide immediate written notice to the person to which this proposal is submitted if at any time the prospective lower tier participant learns that its certification was erroneous by reason of changed circumstances. 2 CFR 180.365.

d. The terms "covered transaction," "debarred," "suspended," "ineligible," "participant," "person," "principal," and "voluntarily excluded," as used in this clause, are defined in 2 CFR Parts 180, Subpart I, 180.900 – 180.1020, and 1200. You may contact the person to which this proposal is submitted for assistance in obtaining a copy of those regulations. "First Tier Covered Transactions" refers to any covered transaction between a recipient or subrecipient of Federal funds and a participant (such as the prime or general contractor). "Lower Tier Covered Transactions" refers to any covered transaction under a First Tier Covered Transaction (such as subcontracts). "First Tier Participant" refers to the participant who has entered into a covered transaction with a recipient or subrecipient of Federal funds (such as the prime or general contractor). "Lower Tier Participant" refers any participant who has entered into a covered transaction with a First Tier Participant or other Lower Tier Participants (such as subcontractors and suppliers).

e. The prospective lower tier participant agrees by submitting this proposal that, should the proposed covered transaction be entered into, it shall not knowingly enter into any lower tier covered transaction with a person who is debarred, suspended, declared ineligible, or voluntarily excluded from participation in this covered transaction, unless authorized by the department or agency with which this transaction originated. 2 CFR 1200.220 and 1200.332.

f. The prospective lower tier participant further agrees by submitting this proposal that it will include this clause titled "Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion-Lower Tier Covered Transaction," without modification, in all lower tier covered transactions and in all solicitations for lower tier covered transactions exceeding the \$25,000 threshold. 2 CFR 180.220 and 1200.220.

g. A participant in a covered transaction may rely upon a certification of a prospective participant in a lower tier covered transaction that is not debarred, suspended, ineligible, or voluntarily excluded from the covered transaction, unless it knows that the certification is erroneous. A participant is responsible for ensuring that its principals are not suspended, debarred, or otherwise ineligible to participate in covered transactions. To verify the eligibility of its principals, as well as the eligibility of any lower tier prospective participants, each participant may, but is not required to, check the System for Award Management website (<https://www.sam.gov/>), which is compiled by the General Services Administration. 2 CFR 180.300, 180.320, 180.330, and 180.335.

h. Nothing contained in the foregoing shall be construed to require establishment of a system of records in order to render in good faith the certification required by this clause. The knowledge and information of participant is not required to exceed that which is normally possessed by a prudent person in the ordinary course of business dealings.

i. Except for transactions authorized under paragraph e of these instructions, if a participant in a covered transaction knowingly enters into a lower tier covered transaction with a person who is suspended, debarred, ineligible, or voluntarily

excluded from participation in this transaction, in addition to other remedies available to the Federal Government, the department or agency with which this transaction originated may pursue available remedies, including suspension and/or debarment. 2 CFR 180.325.

* * * * *

4. Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion--Lower Tier Participants:

a. The prospective lower tier participant certifies, by submission of this proposal, that neither it nor its principals:

(1) is presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participating in covered transactions by any Federal department or agency, 2 CFR 180.355;

(2) is a corporation that has been convicted of a felony violation under any Federal law within the two-year period preceding this proposal (USDOT Order 4200.6 implementing appropriations act requirements); and

(3) is a corporation with any unpaid Federal tax liability that has been assessed, for which all judicial and administrative remedies have been exhausted, or have lapsed, and that is not being paid in a timely manner pursuant to an agreement with the authority responsible for collecting the tax liability. (USDOT Order 4200.6 implementing appropriations act requirements)

b. Where the prospective lower tier participant is unable to certify to any of the statements in this certification, such prospective participant should attach an explanation to this proposal.

* * * * *

XI. CERTIFICATION REGARDING USE OF CONTRACT FUNDS FOR LOBBYING

This provision is applicable to all Federal-aid construction contracts and to all related subcontracts which exceed \$100,000. 49 CFR Part 20, App. A.

1. The prospective participant certifies, by signing and submitting this bid or proposal, to the best of his or her knowledge and belief, that:

a. No Federal appropriated funds have been paid or will be paid, by or on behalf of the undersigned, to any person for influencing or attempting to influence an officer or employee of any Federal agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of any Federal contract, the making of any Federal grant, the making of any Federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any Federal contract, grant, loan, or cooperative agreement.

b. If any funds other than Federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any Federal agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this Federal contract, grant, loan, or

cooperative agreement, the undersigned shall complete and submit Standard Form-LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions.

2. This certification is a material representation of fact upon which reliance was placed when this transaction was made or entered into. Submission of this certification is a prerequisite for making or entering into this transaction imposed by 31 U.S.C. 1352. Any person who fails to file the required certification shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each such failure.

3. The prospective participant also agrees by submitting its bid or proposal that the participant shall require that the language of this certification be included in all lower tier subcontracts, which exceed \$100,000 and that all such recipients shall certify and disclose accordingly.

XII. USE OF UNITED STATES-FLAG VESSELS:

This provision is applicable to all Federal-aid construction contracts, design-build contracts, subcontracts, lower-tier subcontracts, purchase orders, lease agreements, or any other covered transaction. 46 CFR Part 381.

This requirement applies to material or equipment that is acquired for a specific Federal-aid highway project. 46 CFR 381.7. It is not applicable to goods or materials that come into inventories independent of an FHWA funded-contract.

When oceanic shipments (or shipments across the Great Lakes) are necessary for materials or equipment acquired for a specific Federal-aid construction project, the bidder, proposer, contractor, subcontractor, or vendor agrees:

1. To utilize privately owned United States-flag commercial vessels to ship at least 50 percent of the gross tonnage (computed separately for dry bulk carriers, dry cargo liners, and tankers) involved, whenever shipping any equipment, material, or commodities pursuant to this contract, to the extent such vessels are available at fair and reasonable rates for United States-flag commercial vessels. 46 CFR 381.7.

2. To furnish within 20 days following the date of loading for shipments originating within the United States or within 30 working days following the date of loading for shipments originating outside the United States, a legible copy of a rated, 'on-board' commercial ocean bill-of-lading in English for each shipment of cargo described in paragraph (b)(1) of this section to both the Contracting Officer (through the prime contractor in the case of subcontractor bills-of-lading) and to the Office of Cargo and Commercial Sealift (MAR-620), Maritime Administration, Washington, DC 20590. (MARAD requires copies of the ocean carrier's (master) bills of lading, certified onboard, dated, with rates and charges. These bills of lading may contain business sensitive information and therefore may be submitted directly to MARAD by the Ocean Transportation Intermediary on behalf of the contractor). 46 CFR 381.7.

**ATTACHMENT A - EMPLOYMENT AND MATERIALS
PREFERENCE FOR APPALACHIAN DEVELOPMENT
HIGHWAY SYSTEM OR APPALACHIAN LOCAL ACCESS
ROAD CONTRACTS (23 CFR 633, Subpart B, Appendix B)**

This provision is applicable to all Federal-aid projects funded under the Appalachian Regional Development Act of 1965.

1. During the performance of this contract, the contractor undertaking to do work which is, or reasonably may be, done as on-site work, shall give preference to qualified persons who regularly reside in the labor area as designated by the DOL wherein the contract work is situated, or the subregion, or the Appalachian counties of the State wherein the contract work is situated, except:

a. To the extent that qualified persons regularly residing in the area are not available.

b. For the reasonable needs of the contractor to employ supervisory or specially experienced personnel necessary to assure an efficient execution of the contract work.

c. For the obligation of the contractor to offer employment to present or former employees as the result of a lawful collective bargaining contract, provided that the number of nonresident persons employed under this subparagraph (1c) shall not exceed 20 percent of the total number of employees employed by the contractor on the contract work, except as provided in subparagraph (4) below.

2. The contractor shall place a job order with the State Employment Service indicating (a) the classifications of the laborers, mechanics and other employees required to perform the contract work, (b) the number of employees required in each classification, (c) the date on which the participant estimates such employees will be required, and (d) any other pertinent information required by the State Employment Service to complete the job order form. The job order may be placed with the State Employment Service in writing or by telephone. If during the course of the contract work, the information submitted by the contractor in the original job order is substantially modified, the participant shall promptly notify the State Employment Service.

3. The contractor shall give full consideration to all qualified job applicants referred to him by the State Employment Service. The contractor is not required to grant employment to any job applicants who, in his opinion, are not qualified to perform the classification of work required.

4. If, within one week following the placing of a job order by the contractor with the State Employment Service, the State Employment Service is unable to refer any qualified job applicants to the contractor, or less than the number requested, the State Employment Service will forward a certificate to the contractor indicating the unavailability of applicants. Such certificate shall be made a part of the contractor's permanent project records. Upon receipt of this certificate, the contractor may employ persons who do not normally reside in the labor area to fill positions covered by the certificate, notwithstanding the provisions of subparagraph (1c) above.

5. The provisions of 23 CFR 633.207(e) allow the contracting agency to provide a contractual preference for the use of mineral resource materials native to the Appalachian region.

6. The contractor shall include the provisions of Sections 1 through 4 of this Attachment A in every subcontract for work which is, or reasonably may be, done as on-site work.



NORTH CAROLINA DEPARTMENT OF TRANSPORTATION SUPPLEMENTAL AGREEMENT or FORCE ACCOUNT DOCUMENTATION

SUPPLEMENTAL AGREEMENT NO.: 1 FORCE ACCOUNT DOCUMENTATION NO.: _____

PROJECT NO.: EB-6021 FEDEAL AID NO.: _____

COUNTY: Wake CONTRACT NO.: CON-2023-288

CONTRACTOR: Fred Smith Company

1. Description, location, and justification for change: FHWA 1273 Revised October 23, 2023 and Removal of Retainage - This Supplemental Agreement is written in accordance with the 2018 NCDOT Standard Specification, Section 104-2 Supplemental Agreements. The two sections of this Supplemental Agreement are:

1. FHWA 1273, Revised October 23, 2023

During the FHWA review of the contract documents it was determined the current contract need to be amended to provide the latest revision of FHWA 1273, Revised October 23, 2023. See Attachment A

2. Document: PRE-CON CONCURRENCE REQUEST – CONSTRUCTION

Ref: PRE-CON CONCURRENCE REQUEST - CONSTRUCTI Approval

The following section of the executed contract between the contractor, Fred Smith Company, and the Town of Apex, Pages F-77-78 shall be removed in its entirety such that there will be no retainage withheld by from the contractor at any time during the life of the contract with respect to N.C.G.S 143-134.1.

D. Retainage: *In accordance with N.C.G.S 143-134.1, for projects costing more than \$ 1 00,000.00, the Town may withhold a percentage of payment until the Project has been satisfactorily completed. Retainage on periodic and final payment for this Project shall be as follows:*

- a. Retainage withheld shall not exceed 5% at any time.*
- b. The same terms shall apply to the general contractor and subcontractors alike.*
- c. Following 50% completion of the Project, the Town, with written consent from the Surety, shall not retain further retainage if the Contractor continues to perform satisfactorily and any nonconforming work identified 'in writing prior to that time has been corrected by the Contractor and accepted by the Town. The Project shall be deemed 50% complete when the Contractor's gross Project invoices, excluding the value of materials stored off-site, equal or exceed 50% of the value of the Contract, except the value of mated a ls stored on-site shall not exceed 20% of the Contractor's gross Project invoices for the purpose of determining whether the Project is 50% complete.*
- d. If the Town determines that the Contractor is not performing satisfactorily, the Town may reinstate retainage for each subsequent periodic payment application up to 5%. Following 50% completion of the Project, Town is authorized to withhold additional retainage not to exceed 5% from a subsequent periodic payment application if the amount of total retainage withheld falls below 2.5%, through the completion of the Project*

This Supplemental Agreement will have no affect or bearing to any other sections of the 2018 NCDOT Standard Specifications or Contract Documents.

2. Justification: FHWA 1273 Revised October 23, 2023 and Removal of Retainage: In order to proceed with the construction of Project EB-6021 the FHWA required these two modifications be made to the contract. ,

3. Estimation of quantities of work resulting from change and the basis of payment:

| Line Code No. | Adj. | Description | Unit | Negotiated or Contract Price | Field Change | | Original Plan | |
|---------------|------|-------------|------|------------------------------|--------------|--------|---------------|--------|
| | | | | | Quantity | Amount | Quantity | Amount |
| | | | | | | \$ - | | \$ - |
| | | | | | | \$ - | | \$ - |
| | | | | | | \$ - | | \$ - |
| | | | | | | \$ - | | \$ - |
| | | | | | | \$ - | | \$ - |
| | | | | | | \$ - | | \$ - |
| | | | | | | \$ - | | \$ - |
| | | | | | | \$ - | | \$ - |
| | | | | | | \$ - | | \$ - |
| | | | | | | \$ - | | \$ - |

Total Field Change Amount: \$ - Total Original Plan Amount: \$ -
Supplemental Agreement Net Underrun: \$ - Supplemental Agreement Net Overrun: \$ -

4. Extension of contract time (if applicable):

No time extension will be granted for this work.

**BASIS OF AGREEMENT BETWEEN
THE NORTH CAROLINA DEPARTMENT OF TRANSPORTATION AND CONTRACTOR**

1. The Contractor agrees to perform the work described in this Supplemental Agreement in consideration of the payment set out herein.
2. The terms and conditions of said contract are hereby ratified and remain in full force and effect except as modified by such Supplemental Agreement(s) as may heretofore have been entered into between the Department and the Contractor and as modified by this Supplemental Agreement.
3. All terms and conditions of this Supplemental Agreement are herein set out and there are no agreements relating thereto not expressed herein.
4. This Supplemental Agreement shall not constitute a release or waiver of any lawful claims that the Contractor has or may have against the Department under said contract pursuant to G.S. 136-29 except for the matters specifically covered herein.

In witness whereof, the Department and the Contractor have caused this Supplemental Agreement to be executed by their duly authorized representatives.

| | |
|--|--|
| APPROVAL RECOMMENDED: BY: _____ LOCAL GOVERNMENT AGENCY OFFICIAL DATE: _____ | CONTRACTOR BY: _____ AUTHORIZED REPRESENTATIVE DATE: _____ |
| APPROVAL RECOMMENDED: BY: _____ LOCAL GOVERNMENT PM/CEI ENGINEER DATE: _____ | APPROVAL GRANTED: BY: _____ NCDOT ENGINEER DATE: _____ |

FORCE ACCOUNT DOCUMENTATION

Documentation of the authorized Force Account work shall be completed for all state and federally-funded projects.

| | |
|---|---|
| APPROVAL GRANTED: BY: _____ RESIDENT ENGINEER DATE: _____ | APPROVAL GRANTED: BY: _____ DIVISION ENGINEER DATE: _____ |
|---|---|

FOR CONSTRUCTION AND MATERIALS BRANCH USE ONLY

Approval of the Federal Highway Administration ☐ is ☐ is not requested.

APPROVED with the understanding that Federal participation in this work, the cost of which cannot be met from Federal aid funds provided for under the now effective project agreement, will be contingent upon additional Federal aid funds being made available for the project by a modified project agreement, to be executed prior to or at the final voucher stage.

APPROVED: FEDERAL HIGHWAY ADMINISTRATION

REVIEWED: CONSTRUCTION UNIT

BY: _____ **BY:** _____

DATE: _____ **DATE:** _____

COMMENTS:

REQUIRED CONTRACT PROVISIONS FEDERAL-AID CONSTRUCTION CONTRACTS

- I. General
- II. Nondiscrimination
- III. Non-segregated Facilities
- IV. Davis-Bacon and Related Act Provisions
- V. Contract Work Hours and Safety Standards Act Provisions
- VI. Subletting or Assigning the Contract
- VII. Safety: Accident Prevention
- VIII. False Statements Concerning Highway Projects
- IX. Implementation of Clean Air Act and Federal Water Pollution Control Act
- X. Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion
- XI. Certification Regarding Use of Contract Funds for Lobbying
- XII. Use of United States-Flag Vessels:

ATTACHMENTS

A. Employment and Materials Preference for Appalachian Development Highway System or Appalachian Local Access Road Contracts (included in Appalachian contracts only)

I. GENERAL

1. Form FHWA-1273 must be physically incorporated in each construction contract funded under title 23, United States Code, as required in 23 CFR 633.102(b) (excluding emergency contracts solely intended for debris removal). The contractor (or subcontractor) must insert this form in each subcontract and further require its inclusion in all lower tier subcontracts (excluding purchase orders, rental agreements and other agreements for supplies or services). 23 CFR 633.102(e).

The applicable requirements of Form FHWA-1273 are incorporated by reference for work done under any purchase order, rental agreement or agreement for other services. The prime contractor shall be responsible for compliance by any subcontractor, lower-tier subcontractor or service provider. 23 CFR 633.102(e).

Form FHWA-1273 must be included in all Federal-aid design-build contracts, in all subcontracts and in lower tier subcontracts (excluding subcontracts for design services, purchase orders, rental agreements and other agreements for supplies or services) in accordance with 23 CFR 633.102. The design-builder shall be responsible for compliance by any subcontractor, lower-tier subcontractor or service provider.

Contracting agencies may reference Form FHWA-1273 in solicitation-for-bids or request-for-proposals documents, however, the Form FHWA-1273 must be physically incorporated (not referenced) in all contracts, subcontracts and lower-tier subcontracts (excluding purchase orders, rental agreements and other agreements for supplies or services related to a construction contract). 23 CFR 633.102(b).

2. Subject to the applicability criteria noted in the following sections, these contract provisions shall apply to all work

performed on the contract by the contractor's own organization and with the assistance of workers under the contractor's immediate superintendence and to all work performed on the contract by piecework, station work, or by subcontract. 23 CFR 633.102(d).

3. A breach of any of the stipulations contained in these Required Contract Provisions may be sufficient grounds for withholding of progress payments, withholding of final payment, termination of the contract, suspension / debarment or any other action determined to be appropriate by the contracting agency and FHWA.

4. Selection of Labor: During the performance of this contract, the contractor shall not use convict labor for any purpose within the limits of a construction project on a Federal-aid highway unless it is labor performed by convicts who are on parole, supervised release, or probation. 23 U.S.C. 114(b). The term Federal-aid highway does not include roadways functionally classified as local roads or rural minor collectors. 23 U.S.C. 101(a).

II. NONDISCRIMINATION (23 CFR 230.107(a); 23 CFR Part 230, Subpart A, Appendix A; EO 11246)

The provisions of this section related to 23 CFR Part 230, Subpart A, Appendix A are applicable to all Federal-aid construction contracts and to all related construction subcontracts of \$10,000 or more. The provisions of 23 CFR Part 230 are not applicable to material supply, engineering, or architectural service contracts.

In addition, the contractor and all subcontractors must comply with the following policies: Executive Order 11246, 41 CFR Part 60, 29 CFR Parts 1625-1627, 23 U.S.C. 140, Section 504 of the Rehabilitation Act of 1973, as amended (29 U.S.C. 794), Title VI of the Civil Rights Act of 1964, as amended (42 U.S.C. 2000d et seq.), and related regulations including 49 CFR Parts 21, 26, and 27; and 23 CFR Parts 200, 230, and 633.

The contractor and all subcontractors must comply with: the requirements of the Equal Opportunity Clause in 41 CFR 60-1.4(b) and, for all construction contracts exceeding \$10,000, the Standard Federal Equal Employment Opportunity Construction Contract Specifications in 41 CFR 60-4.3.

Note: The U.S. Department of Labor has exclusive authority to determine compliance with Executive Order 11246 and the policies of the Secretary of Labor including 41 CFR Part 60, and 29 CFR Parts 1625-1627. The contracting agency and the FHWA have the authority and the responsibility to ensure compliance with 23 U.S.C. 140, Section 504 of the Rehabilitation Act of 1973, as amended (29 U.S.C. 794), and Title VI of the Civil Rights Act of 1964, as amended (42 U.S.C. 2000d et seq.), and related regulations including 49 CFR Parts 21, 26, and 27; and 23 CFR Parts 200, 230, and 633.

The following provision is adopted from 23 CFR Part 230, Subpart A, Appendix A, with appropriate revisions to conform to the U.S. Department of Labor (US DOL) and FHWA requirements.

1. Equal Employment Opportunity: Equal Employment Opportunity (EEO) requirements not to discriminate and to take affirmative action to assure equal opportunity as set forth under laws, executive orders, rules, regulations (*see* 28 CFR Part 35, 29 CFR Part 1630, 29 CFR Parts 1625-1627, 41 CFR Part 60 and 49 CFR Part 27) and orders of the Secretary of Labor as modified by the provisions prescribed herein, and imposed pursuant to 23 U.S.C. 140, shall constitute the EEO and specific affirmative action standards for the contractor's project activities under this contract. The provisions of the Americans with Disabilities Act of 1990 (42 U.S.C. 12101 et seq.) set forth under 28 CFR Part 35 and 29 CFR Part 1630 are incorporated by reference in this contract. In the execution of this contract, the contractor agrees to comply with the following minimum specific requirement activities of EEO:

a. The contractor will work with the contracting agency and the Federal Government to ensure that it has made every good faith effort to provide equal opportunity with respect to all of its terms and conditions of employment and in their review of activities under the contract. 23 CFR 230.409 (g)(4) & (5).

b. The contractor will accept as its operating policy the following statement:

"It is the policy of this Company to assure that applicants are employed, and that employees are treated during employment, without regard to their race, religion, sex, sexual orientation, gender identity, color, national origin, age or disability. Such action shall include: employment, upgrading, demotion, or transfer; recruitment or recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship, pre-apprenticeship, and/or on-the-job training."

2. EEO Officer: The contractor will designate and make known to the contracting officers an EEO Officer who will have the responsibility for and must be capable of effectively administering and promoting an active EEO program and who must be assigned adequate authority and responsibility to do so.

3. Dissemination of Policy: All members of the contractor's staff who are authorized to hire, supervise, promote, and discharge employees, or who recommend such action or are substantially involved in such action, will be made fully cognizant of and will implement the contractor's EEO policy and contractual responsibilities to provide EEO in each grade and classification of employment. To ensure that the above agreement will be met, the following actions will be taken as a minimum:

a. Periodic meetings of supervisory and personnel office employees will be conducted before the start of work and then not less often than once every six months, at which time the contractor's EEO policy and its implementation will be reviewed and explained. The meetings will be conducted by the EEO Officer or other knowledgeable company official.

b. All new supervisory or personnel office employees will be given a thorough indoctrination by the EEO Officer, covering all major aspects of the contractor's EEO obligations within thirty days following their reporting for duty with the contractor.

c. All personnel who are engaged in direct recruitment for the project will be instructed by the EEO Officer in the contractor's procedures for locating and hiring minorities and women.

d. Notices and posters setting forth the contractor's EEO policy will be placed in areas readily accessible to employees, applicants for employment and potential employees.

e. The contractor's EEO policy and the procedures to implement such policy will be brought to the attention of employees by means of meetings, employee handbooks, or other appropriate means.

4. Recruitment: When advertising for employees, the contractor will include in all advertisements for employees the notation: "An Equal Opportunity Employer." All such advertisements will be placed in publications having a large circulation among minorities and women in the area from which the project work force would normally be derived.

a. The contractor will, unless precluded by a valid bargaining agreement, conduct systematic and direct recruitment through public and private employee referral sources likely to yield qualified minorities and women. To meet this requirement, the contractor will identify sources of potential minority group employees and establish with such identified sources procedures whereby minority and women applicants may be referred to the contractor for employment consideration.

b. In the event the contractor has a valid bargaining agreement providing for exclusive hiring hall referrals, the contractor is expected to observe the provisions of that agreement to the extent that the system meets the contractor's compliance with EEO contract provisions. Where implementation of such an agreement has the effect of discriminating against minorities or women, or obligates the contractor to do the same, such implementation violates Federal nondiscrimination provisions.

c. The contractor will encourage its present employees to refer minorities and women as applicants for employment. Information and procedures with regard to referring such applicants will be discussed with employees.

5. Personnel Actions: Wages, working conditions, and employee benefits shall be established and administered, and personnel actions of every type, including hiring, upgrading, promotion, transfer, demotion, layoff, and termination, shall be taken without regard to race, color, religion, sex, sexual orientation, gender identity, national origin, age or disability. The following procedures shall be followed:

a. The contractor will conduct periodic inspections of project sites to ensure that working conditions and employee facilities do not indicate discriminatory treatment of project site personnel.

b. The contractor will periodically evaluate the spread of wages paid within each classification to determine any evidence of discriminatory wage practices.

c. The contractor will periodically review selected personnel actions in depth to determine whether there is evidence of discrimination. Where evidence is found, the contractor will promptly take corrective action. If the review indicates that the discrimination may extend beyond the actions reviewed, such corrective action shall include all affected persons.

d. The contractor will promptly investigate all complaints of alleged discrimination made to the contractor in connection with its obligations under this contract, will attempt to resolve such complaints, and will take appropriate corrective action

within a reasonable time. If the investigation indicates that the discrimination may affect persons other than the complainant, such corrective action shall include such other persons. Upon completion of each investigation, the contractor will inform every complainant of all of their avenues of appeal.

6. Training and Promotion:

a. The contractor will assist in locating, qualifying, and increasing the skills of minorities and women who are applicants for employment or current employees. Such efforts should be aimed at developing full journey level status employees in the type of trade or job classification involved.

b. Consistent with the contractor's work force requirements and as permissible under Federal and State regulations, the contractor shall make full use of training programs (i.e., apprenticeship and on-the-job training programs for the geographical area of contract performance). In the event a special provision for training is provided under this contract, this subparagraph will be superseded as indicated in the special provision. The contracting agency may reserve training positions for persons who receive welfare assistance in accordance with 23 U.S.C. 140(a).

c. The contractor will advise employees and applicants for employment of available training programs and entrance requirements for each.

d. The contractor will periodically review the training and promotion potential of employees who are minorities and women and will encourage eligible employees to apply for such training and promotion.

7. Unions: If the contractor relies in whole or in part upon unions as a source of employees, the contractor will use good faith efforts to obtain the cooperation of such unions to increase opportunities for minorities and women. 23 CFR 230.409. Actions by the contractor, either directly or through a contractor's association acting as agent, will include the procedures set forth below:

a. The contractor will use good faith efforts to develop, in cooperation with the unions, joint training programs aimed toward qualifying more minorities and women for membership in the unions and increasing the skills of minorities and women so that they may qualify for higher paying employment.

b. The contractor will use good faith efforts to incorporate an EEO clause into each union agreement to the end that such union will be contractually bound to refer applicants without regard to their race, color, religion, sex, sexual orientation, gender identity, national origin, age, or disability.

c. The contractor is to obtain information as to the referral practices and policies of the labor union except that to the extent such information is within the exclusive possession of the labor union and such labor union refuses to furnish such information to the contractor, the contractor shall so certify to the contracting agency and shall set forth what efforts have been made to obtain such information.

d. In the event the union is unable to provide the contractor with a reasonable flow of referrals within the time limit set forth in the collective bargaining agreement, the contractor will, through independent recruitment efforts, fill the employment vacancies without regard to race, color, religion, sex, sexual orientation, gender identity, national origin, age, or disability; making full efforts to obtain qualified and/or qualifiable minorities and women. The failure of a union to provide

sufficient referrals (even though it is obligated to provide exclusive referrals under the terms of a collective bargaining agreement) does not relieve the contractor from the requirements of this paragraph. In the event the union referral practice prevents the contractor from meeting the obligations pursuant to Executive Order 11246, as amended, and these special provisions, such contractor shall immediately notify the contracting agency.

8. Reasonable Accommodation for Applicants /

Employees with Disabilities: The contractor must be familiar with the requirements for and comply with the Americans with Disabilities Act and all rules and regulations established thereunder. Employers must provide reasonable accommodation in all employment activities unless to do so would cause an undue hardship.

9. Selection of Subcontractors, Procurement of Materials

and Leasing of Equipment: The contractor shall not discriminate on the grounds of race, color, religion, sex, sexual orientation, gender identity, national origin, age, or disability in the selection and retention of subcontractors, including procurement of materials and leases of equipment. The contractor shall take all necessary and reasonable steps to ensure nondiscrimination in the administration of this contract.

a. The contractor shall notify all potential subcontractors, suppliers, and lessors of their EEO obligations under this contract.

b. The contractor will use good faith efforts to ensure subcontractor compliance with their EEO obligations.

10. Assurances Required:

a. The requirements of 49 CFR Part 26 and the State DOT's FHWA-approved Disadvantaged Business Enterprise (DBE) program are incorporated by reference.

b. The contractor, subrecipient or subcontractor shall not discriminate on the basis of race, color, national origin, or sex in the performance of this contract. The contractor shall carry out applicable requirements of 49 CFR part 26 in the award and administration of DOT-assisted contracts. Failure by the contractor to carry out these requirements is a material breach of this contract, which may result in the termination of this contract or such other remedy as the recipient deems appropriate, which may include, but is not limited to:

- (1) Withholding monthly progress payments;
- (2) Assessing sanctions;
- (3) Liquidated damages; and/or
- (4) Disqualifying the contractor from future bidding as non-responsible.

c. The Title VI and nondiscrimination provisions of U.S. DOT Order 1050.2A at Appendixes A and E are incorporated by reference. 49 CFR Part 21.

11. Records and Reports: The contractor shall keep such records as necessary to document compliance with the EEO requirements. Such records shall be retained for a period of three years following the date of the final payment to the contractor for all contract work and shall be available at reasonable times and places for inspection by authorized representatives of the contracting agency and the FHWA.

a. The records kept by the contractor shall document the following:

(1) The number and work hours of minority and non-minority group members and women employed in each work classification on the project;

(2) The progress and efforts being made in cooperation with unions, when applicable, to increase employment opportunities for minorities and women; and

(3) The progress and efforts being made in locating, hiring, training, qualifying, and upgrading minorities and women.

b. The contractors and subcontractors will submit an annual report to the contracting agency each July for the duration of the project indicating the number of minority, women, and non-minority group employees currently engaged in each work classification required by the contract work. This information is to be reported on [Form FHWA-1391](#). The staffing data should represent the project work force on board in all or any part of the last payroll period preceding the end of July. If on-the-job training is being required by special provision, the contractor will be required to collect and report training data. The employment data should reflect the work force on board during all or any part of the last payroll period preceding the end of July.

III. NONSEGREGATED FACILITIES

This provision is applicable to all Federal-aid construction contracts and to all related construction subcontracts of more than \$10,000. 41 CFR 60-1.5.

As prescribed by 41 CFR 60-1.8, the contractor must ensure that facilities provided for employees are provided in such a manner that segregation on the basis of race, color, religion, sex, sexual orientation, gender identity, or national origin cannot result. The contractor may neither require such segregated use by written or oral policies nor tolerate such use by employee custom. The contractor's obligation extends further to ensure that its employees are not assigned to perform their services at any location under the contractor's control where the facilities are segregated. The term "facilities" includes waiting rooms, work areas, restaurants and other eating areas, time clocks, restrooms, washrooms, locker rooms and other storage or dressing areas, parking lots, drinking fountains, recreation or entertainment areas, transportation, and housing provided for employees. The contractor shall provide separate or single-user restrooms and necessary dressing or sleeping areas to assure privacy between sexes.

IV. DAVIS-BACON AND RELATED ACT PROVISIONS

This section is applicable to all Federal-aid construction projects exceeding \$2,000 and to all related subcontracts and lower-tier subcontracts (regardless of subcontract size), in accordance with 29 CFR 5.5. The requirements apply to all projects located within the right-of-way of a roadway that is functionally classified as Federal-aid highway. 23 U.S.C. 113. This excludes roadways functionally classified as local roads or rural minor collectors, which are exempt. 23 U.S.C. 101. Where applicable law requires that projects be treated as a project on a Federal-aid highway, the provisions of this subpart will apply regardless of the location of the project. Examples include: Surface Transportation Block Grant Program projects funded under 23 U.S.C. 133 [excluding recreational trails projects], the Nationally Significant Freight and Highway

Projects funded under 23 U.S.C. 117, and National Highway Freight Program projects funded under 23 U.S.C. 167.

The following provisions are from the U.S. Department of Labor regulations in 29 CFR 5.5 "Contract provisions and related matters" with minor revisions to conform to the FHWA- 1273 format and FHWA program requirements.

1. Minimum wages (29 CFR 5.5)

a. *Wage rates and fringe benefits.* All laborers and mechanics employed or working upon the site of the work (or otherwise working in construction or development of the project under a development statute), will be paid unconditionally and not less often than once a week, and without subsequent deduction or rebate on any account (except such payroll deductions as are permitted by regulations issued by the Secretary of Labor under the Copeland Act ([29 CFR part 3](#))), the full amount of basic hourly wages and bona fide fringe benefits (or cash equivalents thereof) due at time of payment computed at rates not less than those contained in the wage determination of the Secretary of Labor which is attached hereto and made a part hereof, regardless of any contractual relationship which may be alleged to exist between the contractor and such laborers and mechanics. As provided in paragraphs (d) and (e) of 29 CFR 5.5, the appropriate wage determinations are effective by operation of law even if they have not been attached to the contract. Contributions made or costs reasonably anticipated for bona fide fringe benefits under the Davis-Bacon Act ([40 U.S.C. 3141\(2\)\(B\)](#)) on behalf of laborers or mechanics are considered wages paid to such laborers or mechanics, subject to the provisions of paragraph 1.e. of this section; also, regular contributions made or costs incurred for more than a weekly period (but not less often than quarterly) under plans, funds, or programs which cover the particular weekly period, are deemed to be constructively made or incurred during such weekly period. Such laborers and mechanics must be paid the appropriate wage rate and fringe benefits on the wage determination for the classification(s) of work actually performed, without regard to skill, except as provided in paragraph 4. of this section. Laborers or mechanics performing work in more than one classification may be compensated at the rate specified for each classification for the time actually worked therein: *Provided*, That the employer's payroll records accurately set forth the time spent in each classification in which work is performed. The wage determination (including any additional classifications and wage rates conformed under paragraph 1.c. of this section) and the Davis-Bacon poster (WH-1321) must be posted at all times by the contractor and its subcontractors at the site of the work in a prominent and accessible place where it can be easily seen by the workers.

b. *Frequently recurring classifications.* (1) In addition to wage and fringe benefit rates that have been determined to be prevailing under the procedures set forth in [29 CFR part 1](#), a wage determination may contain, pursuant to § 1.3(f), wage and fringe benefit rates for classifications of laborers and mechanics for which conformance requests are regularly submitted pursuant to paragraph 1.c. of this section, provided that:

(i) The work performed by the classification is not performed by a classification in the wage determination for which a prevailing wage rate has been determined;

(ii) The classification is used in the area by the construction industry; and

(iii) The wage rate for the classification bears a reasonable relationship to the prevailing wage rates contained in the wage determination.

(2) The Administrator will establish wage rates for such classifications in accordance with paragraph 1.c.(1)(iii) of this section. Work performed in such a classification must be paid at no less than the wage and fringe benefit rate listed on the wage determination for such classification.

c. Conformance. (1) The contracting officer must require that any class of laborers or mechanics, including helpers, which is not listed in the wage determination and which is to be employed under the contract be classified in conformance with the wage determination. Conformance of an additional classification and wage rate and fringe benefits is appropriate only when the following criteria have been met:

(i) The work to be performed by the classification requested is not performed by a classification in the wage determination; and

(ii) The classification is used in the area by the construction industry; and

(iii) The proposed wage rate, including any bona fide fringe benefits, bears a reasonable relationship to the wage rates contained in the wage determination.

(2) The conformance process may not be used to split, subdivide, or otherwise avoid application of classifications listed in the wage determination.

(3) If the contractor and the laborers and mechanics to be employed in the classification (if known), or their representatives, and the contracting officer agree on the classification and wage rate (including the amount designated for fringe benefits where appropriate), a report of the action taken will be sent by the contracting officer by email to DBAconformance@dol.gov. The Administrator, or an authorized representative, will approve, modify, or disapprove every additional classification action within 30 days of receipt and so advise the contracting officer or will notify the contracting officer within the 30-day period that additional time is necessary.

(4) In the event the contractor, the laborers or mechanics to be employed in the classification or their representatives, and the contracting officer do not agree on the proposed classification and wage rate (including the amount designated for fringe benefits, where appropriate), the contracting officer will, by email to DBAconformance@dol.gov, refer the questions, including the views of all interested parties and the recommendation of the contracting officer, to the Administrator for determination. The Administrator, or an authorized representative, will issue a determination within 30 days of receipt and so advise the contracting officer or will notify the contracting officer within the 30-day period that additional time is necessary.

(5) The contracting officer must promptly notify the contractor of the action taken by the Wage and Hour Division

under paragraphs 1.c.(3) and (4) of this section. The contractor must furnish a written copy of such determination to each affected worker or it must be posted as a part of the wage determination. The wage rate (including fringe benefits where appropriate) determined pursuant to paragraph 1.c.(3) or (4) of this section must be paid to all workers performing work in the classification under this contract from the first day on which work is performed in the classification.

d. Fringe benefits not expressed as an hourly rate.

Whenever the minimum wage rate prescribed in the contract for a class of laborers or mechanics includes a fringe benefit which is not expressed as an hourly rate, the contractor may either pay the benefit as stated in the wage determination or may pay another bona fide fringe benefit or an hourly cash equivalent thereof.

e. Unfunded plans. If the contractor does not make payments to a trustee or other third person, the contractor may consider as part of the wages of any laborer or mechanic the amount of any costs reasonably anticipated in providing bona fide fringe benefits under a plan or program, *Provided*, That the Secretary of Labor has found, upon the written request of the contractor, in accordance with the criteria set forth in

§ 5.28, that the applicable standards of the Davis-Bacon Act have been met. The Secretary of Labor may require the contractor to set aside in a separate account assets for the meeting of obligations under the plan or program.

f. Interest. In the event of a failure to pay all or part of the wages required by the contract, the contractor will be required to pay interest on any underpayment of wages.

2. Withholding (29 CFR 5.5)

a. Withholding requirements. The contracting agency may, upon its own action, or must, upon written request of an authorized representative of the Department of Labor, withhold or cause to be withheld from the contractor so much of the accrued payments or advances as may be considered necessary to satisfy the liabilities of the prime contractor or any subcontractor for the full amount of wages and monetary relief, including interest, required by the clauses set forth in this section for violations of this contract, or to satisfy any such liabilities required by any other Federal contract, or federally assisted contract subject to Davis-Bacon labor standards, that is held by the same prime contractor (as defined in § 5.2). The necessary funds may be withheld from the contractor under this contract, any other Federal contract with the same prime contractor, or any other federally assisted contract that is subject to Davis-Bacon labor standards requirements and is held by the same prime contractor, regardless of whether the other contract was awarded or assisted by the same agency, and such funds may be used to satisfy the contractor liability for which the funds were withheld. In the event of a contractor's failure to pay any laborer or mechanic, including any apprentice or helper working on the site of the work all or part of the wages required by the contract, or upon the contractor's failure to submit the required records as discussed in paragraph 3.d. of this section, the contracting agency may on its own initiative and after written notice to the contractor, take such action as may be necessary to cause the suspension of any further payment, advance, or guarantee of funds until such violations have ceased.

b. Priority to withheld funds. The Department has priority to funds withheld or to be withheld in accordance with paragraph

2.a. of this section or Section V, paragraph 3.a., or both, over claims to those funds by:

- (1) A contractor's surety(ies), including without limitation performance bond sureties and payment bond sureties;
- (2) A contracting agency for its reprocurement costs;
- (3) A trustee(s) (either a court-appointed trustee or a U.S. trustee, or both) in bankruptcy of a contractor, or a contractor's bankruptcy estate;
- (4) A contractor's assignee(s);
- (5) A contractor's successor(s); or
- (6) A claim asserted under the Prompt Payment Act, [31 U.S.C. 3901–3907](#).

3. Records and certified payrolls (29 CFR 5.5)

a. Basic record requirements (1) Length of record retention. All regular payrolls and other basic records must be maintained by the contractor and any subcontractor during the course of the work and preserved for all laborers and mechanics working at the site of the work (or otherwise working in construction or development of the project under a development statute) for a period of at least 3 years after all the work on the prime contract is completed.

(2) *Information required.* Such records must contain the name; Social Security number; last known address, telephone number, and email address of each such worker; each worker's correct classification(s) of work actually performed; hourly rates of wages paid (including rates of contributions or costs anticipated for bona fide fringe benefits or cash equivalents thereof of the types described in [40 U.S.C. 3141\(2\)\(B\)](#) of the Davis-Bacon Act); daily and weekly number of hours actually worked in total and on each covered contract; deductions made; and actual wages paid.

(3) *Additional records relating to fringe benefits.* Whenever the Secretary of Labor has found under paragraph 1.e. of this section that the wages of any laborer or mechanic include the amount of any costs reasonably anticipated in providing benefits under a plan or program described in [40 U.S.C. 3141\(2\)\(B\)](#) of the Davis-Bacon Act, the contractor must maintain records which show that the commitment to provide such benefits is enforceable, that the plan or program is financially responsible, and that the plan or program has been communicated in writing to the laborers or mechanics affected, and records which show the costs anticipated or the actual cost incurred in providing such benefits.

(4) *Additional records relating to apprenticeship.* Contractors with apprentices working under approved programs must maintain written evidence of the registration of apprenticeship programs, the registration of the apprentices, and the ratios and wage rates prescribed in the applicable programs.

b. Certified payroll requirements (1) Frequency and method of submission. The contractor or subcontractor must submit weekly, for each week in which any DBA- or Related Acts-covered work is performed, certified payrolls to the contracting

agency. The prime contractor is responsible for the submission of all certified payrolls by all subcontractors. A contracting agency or prime contractor may permit or require contractors to submit certified payrolls through an electronic system, as long as the electronic system requires a legally valid electronic signature; the system allows the contractor, the contracting agency, and the Department of Labor to access the certified payrolls upon request for at least 3 years after the work on the prime contract has been completed; and the contracting agency or prime contractor permits other methods of submission in situations where the contractor is unable or limited in its ability to use or access the electronic system.

(2) *Information required.* The certified payrolls submitted must set out accurately and completely all of the information required to be maintained under paragraph 3.a.(2) of this section, except that full Social Security numbers and last known addresses, telephone numbers, and email addresses must not be included on weekly transmittals. Instead, the certified payrolls need only include an individually identifying number for each worker (e.g., the last four digits of the worker's Social Security number). The required weekly certified payroll information may be submitted using Optional Form WH-347 or in any other format desired. Optional Form WH-347 is available for this purpose from the Wage and Hour Division website at <https://www.dol.gov/sites/dolgov/files/WHDL/legacy/files/wh347.pdf> or its successor website. It is not a violation of this section for a prime contractor to require a subcontractor to provide full Social Security numbers and last known addresses, telephone numbers, and email addresses to the prime contractor for its own records, without weekly submission by the subcontractor to the contracting agency.

(3) *Statement of Compliance.* Each certified payroll submitted must be accompanied by a "Statement of Compliance," signed by the contractor or subcontractor, or the contractor's or subcontractor's agent who pays or supervises the payment of the persons working on the contract, and must certify the following:

(i) That the certified payroll for the payroll period contains the information required to be provided under paragraph 3.b. of this section, the appropriate information and basic records are being maintained under paragraph 3.a. of this section, and such information and records are correct and complete;

(ii) That each laborer or mechanic (including each helper and apprentice) working on the contract during the payroll period has been paid the full weekly wages earned, without rebate, either directly or indirectly, and that no deductions have been made either directly or indirectly from the full wages earned, other than permissible deductions as set forth in [29 CFR part 3](#); and

(iii) That each laborer or mechanic has been paid not less than the applicable wage rates and fringe benefits or cash equivalents for the classification(s) of work actually performed, as specified in the applicable wage determination incorporated into the contract.

(4) *Use of Optional Form WH-347.* The weekly submission of a properly executed certification set forth on the reverse side of Optional Form WH-347 will satisfy the requirement for submission of the "Statement of Compliance" required by paragraph 3.b.(3) of this section.

(5) *Signature.* The signature by the contractor, subcontractor, or the contractor's or subcontractor's agent must be an original handwritten signature or a legally valid electronic signature.

(6) *Falsification.* The falsification of any of the above certifications may subject the contractor or subcontractor to civil or criminal prosecution under [18 U.S.C. 1001](#) and [31 U.S.C. 3729](#).

(7) *Length of certified payroll retention.* The contractor or subcontractor must preserve all certified payrolls during the course of the work and for a period of 3 years after all the work on the prime contract is completed.

c. *Contracts, subcontracts, and related documents.* The contractor or subcontractor must maintain this contract or subcontract and related documents including, without limitation, bids, proposals, amendments, modifications, and extensions. The contractor or subcontractor must preserve these contracts, subcontracts, and related documents during the course of the work and for a period of 3 years after all the work on the prime contract is completed.

d. *Required disclosures and access* (1) *Required record disclosures and access to workers.* The contractor or subcontractor must make the records required under paragraphs 3.a. through 3.c. of this section, and any other documents that the contracting agency, the State DOT, the FHWA, or the Department of Labor deems necessary to determine compliance with the labor standards provisions of any of the applicable statutes referenced by § 5.1, available for inspection, copying, or transcription by authorized representatives of the contracting agency, the State DOT, the FHWA, or the Department of Labor, and must permit such representatives to interview workers during working hours on the job.

(2) *Sanctions for non-compliance with records and worker access requirements.* If the contractor or subcontractor fails to submit the required records or to make them available, or refuses to permit worker interviews during working hours on the job, the Federal agency may, after written notice to the contractor, sponsor, applicant, owner, or other entity, as the case may be, that maintains such records or that employs such workers, take such action as may be necessary to cause the suspension of any further payment, advance, or guarantee of funds. Furthermore, failure to submit the required records upon request or to make such records available, or to permit worker interviews during working hours on the job, may be grounds for debarment action pursuant to § 5.12. In addition, any contractor or other person that fails to submit the required records or make those records available to WHD within the time WHD requests that the records be produced will be precluded from introducing as evidence in an administrative proceeding under [29 CFR part 6](#) any of the required records that were not provided or made available to WHD. WHD will take into consideration a reasonable request from the contractor or person for an extension of the time for submission of records. WHD will determine the reasonableness of the request and may consider, among other things, the location of the records and the volume of production.

(3) *Required information disclosures.* Contractors and subcontractors must maintain the full Social Security number and last known address, telephone number, and email address

of each covered worker, and must provide them upon request to the contracting agency, the State DOT, the FHWA, the contractor, or the Wage and Hour Division of the Department of Labor for purposes of an investigation or other compliance action.

4. Apprentices and equal employment opportunity (29 CFR 5.5)

a. *Apprentices* (1) *Rate of pay.* Apprentices will be permitted to work at less than the predetermined rate for the work they perform when they are employed pursuant to and individually registered in a bona fide apprenticeship program registered with the U.S. Department of Labor, Employment and Training Administration, Office of Apprenticeship (OA), or with a State Apprenticeship Agency recognized by the OA. A person who is not individually registered in the program, but who has been certified by the OA or a State Apprenticeship Agency (where appropriate) to be eligible for probationary employment as an apprentice, will be permitted to work at less than the predetermined rate for the work they perform in the first 90 days of probationary employment as an apprentice in such a program. In the event the OA or a State Apprenticeship Agency recognized by the OA withdraws approval of an apprenticeship program, the contractor will no longer be permitted to use apprentices at less than the applicable predetermined rate for the work performed until an acceptable program is approved.

(2) *Fringe benefits.* Apprentices must be paid fringe benefits in accordance with the provisions of the apprenticeship program. If the apprenticeship program does not specify fringe benefits, apprentices must be paid the full amount of fringe benefits listed on the wage determination for the applicable classification. If the Administrator determines that a different practice prevails for the applicable apprentice classification, fringe benefits must be paid in accordance with that determination.

(3) *Apprenticeship ratio.* The allowable ratio of apprentices to journeymen on the job site in any craft classification must not be greater than the ratio permitted to the contractor as to the entire work force under the registered program or the ratio applicable to the locality of the project pursuant to paragraph 4.a.(4) of this section. Any worker listed on a payroll at an apprentice wage rate, who is not registered or otherwise employed as stated in paragraph 4.a.(1) of this section, must be paid not less than the applicable wage rate on the wage determination for the classification of work actually performed. In addition, any apprentice performing work on the job site in excess of the ratio permitted under this section must be paid not less than the applicable wage rate on the wage determination for the work actually performed.

(4) *Reciprocity of ratios and wage rates.* Where a contractor is performing construction on a project in a locality other than the locality in which its program is registered, the ratios and wage rates (expressed in percentages of the journeyworker's hourly rate) applicable within the locality in which the construction is being performed must be observed. If there is no applicable ratio or wage rate for the locality of the project, the ratio and wage rate specified in the contractor's registered program must be observed.

b. *Equal employment opportunity.* The use of apprentices and journeymen under this part must be in conformity with

the equal employment opportunity requirements of Executive Order 11246, as amended, and [29 CFR part 30](#).

c. Apprentices and Trainees (programs of the U.S. DOT).

Apprentices and trainees working under apprenticeship and skill training programs which have been certified by the Secretary of Transportation as promoting EEO in connection with Federal-aid highway construction programs are not subject to the requirements of paragraph 4 of this Section IV. 23 CFR 230.111(e)(2). The straight time hourly wage rates for apprentices and trainees under such programs will be established by the particular programs. The ratio of apprentices and trainees to journeymen shall not be greater than permitted by the terms of the particular program.

5. Compliance with Copeland Act requirements. The contractor shall comply with the requirements of 29 CFR part 3, which are incorporated by reference in this contract as provided in 29 CFR 5.5.

6. Subcontracts. The contractor or subcontractor must insert FHWA-1273 in any subcontracts, along with the applicable wage determination(s) and such other clauses or contract modifications as the contracting agency may by appropriate instructions require, and a clause requiring the subcontractors to include these clauses and wage determination(s) in any lower tier subcontracts. The prime contractor is responsible for the compliance by any subcontractor or lower tier subcontractor with all the contract clauses in this section. In the event of any violations of these clauses, the prime contractor and any subcontractor(s) responsible will be liable for any unpaid wages and monetary relief, including interest from the date of the underpayment or loss, due to any workers of lower-tier subcontractors, and may be subject to debarment, as appropriate. 29 CFR 5.5.

7. Contract termination: debarment. A breach of the contract clauses in 29 CFR 5.5 may be grounds for termination of the contract, and for debarment as a contractor and a subcontractor as provided in 29 CFR 5.12.

8. Compliance with Davis-Bacon and Related Act requirements. All rulings and interpretations of the Davis-Bacon and Related Acts contained in 29 CFR parts 1, 3, and 5 are herein incorporated by reference in this contract as provided in 29 CFR 5.5.

9. Disputes concerning labor standards. As provided in 29 CFR 5.5, disputes arising out of the labor standards provisions of this contract shall not be subject to the general disputes clause of this contract. Such disputes shall be resolved in accordance with the procedures of the Department of Labor set forth in 29 CFR parts 5, 6, and 7. Disputes within the meaning of this clause include disputes between the contractor (or any of its subcontractors) and the contracting agency, the U.S. Department of Labor, or the employees or their representatives.

10. Certification of eligibility. a. By entering into this contract, the contractor certifies that neither it nor any person or firm who has an interest in the contractor's firm is a person or firm ineligible to be awarded Government contracts by virtue of [40 U.S.C. 3144\(b\)](#) or § 5.12(a).

b. No part of this contract shall be subcontracted to any person or firm ineligible for award of a Government contract by virtue of [40 U.S.C. 3144\(b\)](#) or § 5.12(a).

c. The penalty for making false statements is prescribed in the U.S. Code, Title 18 Crimes and Criminal Procedure, [18 U.S.C. 1001](#).

11. Anti-retaliation. It is unlawful for any person to discharge, demote, intimidate, threaten, restrain, coerce, blacklist, harass, or in any other manner discriminate against, or to cause any person to discharge, demote, intimidate, threaten, restrain, coerce, blacklist, harass, or in any other manner discriminate against, any worker or job applicant for:

a. Notifying any contractor of any conduct which the worker reasonably believes constitutes a violation of the DBA, Related Acts, this part, or [29 CFR part 1](#) or [3](#);

b. Filing any complaint, initiating or causing to be initiated any proceeding, or otherwise asserting or seeking to assert on behalf of themselves or others any right or protection under the DBA, Related Acts, this part, or [29 CFR part 1](#) or [3](#);

c. Cooperating in any investigation or other compliance action, or testifying in any proceeding under the DBA, Related Acts, this part, or [29 CFR part 1](#) or [3](#); or

d. Informing any other person about their rights under the DBA, Related Acts, this part, or [29 CFR part 1](#) or [3](#).

V. CONTRACT WORK HOURS AND SAFETY STANDARDS ACT

Pursuant to 29 CFR 5.5(b), the following clauses apply to any Federal-aid construction contract in an amount in excess of \$100,000 and subject to the overtime provisions of the Contract Work Hours and Safety Standards Act. These clauses shall be inserted in addition to the clauses required by 29 CFR 5.5(a) or 29 CFR 4.6. As used in this paragraph, the terms laborers and mechanics include watchpersons and guards.

1. Overtime requirements. No contractor or subcontractor contracting for any part of the contract work which may require or involve the employment of laborers or mechanics shall require or permit any such laborer or mechanic in any workweek in which he or she is employed on such work to work in excess of forty hours in such workweek unless such laborer or mechanic receives compensation at a rate not less than one and one-half times the basic rate of pay for all hours worked in excess of forty hours in such workweek. 29 CFR 5.5.

2. Violation; liability for unpaid wages; liquidated damages. In the event of any violation of the clause set forth in paragraph 1. of this section the contractor and any subcontractor responsible therefor shall be liable for the unpaid wages and interest from the date of the underpayment. In addition, such contractor and subcontractor shall be liable to the United States (in the case of work done under contract for the District of Columbia or a territory, to such District or to such territory), for liquidated damages. Such liquidated damages shall be computed with respect to each individual laborer or

mechanic, including watchpersons and guards, employed in violation of the clause set forth in paragraph 1. of this section, in the sum currently provided in 29 CFR 5.5(b)(2)* for each calendar day on which such individual was required or permitted to work in excess of the standard workweek of forty hours without payment of the overtime wages required by the clause set forth in paragraph 1. of this section.

* \$31 as of January 15, 2023 (See 88 FR 88 FR 2210) as may be adjusted annually by the Department of Labor, pursuant to the Federal Civil Penalties Inflation Adjustment Act of 1990.

3. Withholding for unpaid wages and liquidated damages

a. *Withholding process.* The FHWA or the contracting agency may, upon its own action, or must, upon written request of an authorized representative of the Department of Labor, withhold or cause to be withheld from the contractor so much of the accrued payments or advances as may be considered necessary to satisfy the liabilities of the prime contractor or any subcontractor for any unpaid wages; monetary relief, including interest; and liquidated damages required by the clauses set forth in this section on this contract, any other Federal contract with the same prime contractor, or any other federally assisted contract subject to the Contract Work Hours and Safety Standards Act that is held by the same prime contractor (as defined in § 5.2). The necessary funds may be withheld from the contractor under this contract, any other Federal contract with the same prime contractor, or any other federally assisted contract that is subject to the Contract Work Hours and Safety Standards Act and is held by the same prime contractor, regardless of whether the other contract was awarded or assisted by the same agency, and such funds may be used to satisfy the contractor liability for which the funds were withheld.

b. *Priority to withheld funds.* The Department has priority to funds withheld or to be withheld in accordance with Section IV paragraph 2.a. or paragraph 3.a. of this section, or both, over claims to those funds by:

- (1) A contractor's surety(ies), including without limitation performance bond sureties and payment bond sureties;
- (2) A contracting agency for its procurement costs;
- (3) A trustee(s) (either a court-appointed trustee or a U.S. trustee, or both) in bankruptcy of a contractor, or a contractor's bankruptcy estate;
- (4) A contractor's assignee(s);
- (5) A contractor's successor(s); or
- (6) A claim asserted under the Prompt Payment Act, [31 U.S.C. 3901–3907](#).

4. Subcontracts. The contractor or subcontractor must insert in any subcontracts the clauses set forth in paragraphs 1. through 5. of this section and a clause requiring the subcontractors to include these clauses in any lower tier subcontracts. The prime contractor is responsible for compliance by any subcontractor or lower tier subcontractor with the clauses set forth in paragraphs 1. through 5. In the

event of any violations of these clauses, the prime contractor and any subcontractor(s) responsible will be liable for any unpaid wages and monetary relief, including interest from the date of the underpayment or loss, due to any workers of lower-tier subcontractors, and associated liquidated damages and may be subject to debarment, as appropriate.

5. Anti-retaliation. It is unlawful for any person to discharge, demote, intimidate, threaten, restrain, coerce, blacklist, harass, or in any other manner discriminate against, or to cause any person to discharge, demote, intimidate, threaten, restrain, coerce, blacklist, harass, or in any other manner discriminate against, any worker or job applicant for:

a. Notifying any contractor of any conduct which the worker reasonably believes constitutes a violation of the Contract Work Hours and Safety Standards Act (CWHSSA) or its implementing regulations in this part;

b. Filing any complaint, initiating or causing to be initiated any proceeding, or otherwise asserting or seeking to assert on behalf of themselves or others any right or protection under CWHSSA or this part;

c. Cooperating in any investigation or other compliance action, or testifying in any proceeding under CWHSSA or this part; or

d. Informing any other person about their rights under CWHSSA or this part.

VI. SUBLETTING OR ASSIGNING THE CONTRACT

This provision is applicable to all Federal-aid construction contracts on the National Highway System pursuant to 23 CFR 635.116.

1. The contractor shall perform with its own organization contract work amounting to not less than 30 percent (or a greater percentage if specified elsewhere in the contract) of the total original contract price, excluding any specialty items designated by the contracting agency. Specialty items may be performed by subcontract and the amount of any such specialty items performed may be deducted from the total original contract price before computing the amount of work required to be performed by the contractor's own organization (23 CFR 635.116).

a. The term "perform work with its own organization" in paragraph 1 of Section VI refers to workers employed or leased by the prime contractor, and equipment owned or rented by the prime contractor, with or without operators. Such term does not include employees or equipment of a subcontractor or lower tier subcontractor, agents of the prime contractor, or any other assignees. The term may include payments for the costs of hiring leased employees from an employee leasing firm meeting all relevant Federal and State regulatory requirements. Leased employees may only be included in this term if the prime contractor meets all of the following conditions: (based on longstanding interpretation)

- (1) the prime contractor maintains control over the supervision of the day-to-day activities of the leased employees;
- (2) the prime contractor remains responsible for the quality of the work of the leased employees;

- (3) the prime contractor retains all power to accept or exclude individual employees from work on the project; and
- (4) the prime contractor remains ultimately responsible for the payment of predetermined minimum wages, the submission of payrolls, statements of compliance and all other Federal regulatory requirements.

b. "Specialty Items" shall be construed to be limited to work that requires highly specialized knowledge, abilities, or equipment not ordinarily available in the type of contracting organizations qualified and expected to bid or propose on the contract as a whole and in general are to be limited to minor components of the overall contract. 23 CFR 635.102.

2. Pursuant to 23 CFR 635.116(a), the contract amount upon which the requirements set forth in paragraph (1) of Section VI is computed includes the cost of material and manufactured products which are to be purchased or produced by the contractor under the contract provisions.

3. Pursuant to 23 CFR 635.116(c), the contractor shall furnish (a) a competent superintendent or supervisor who is employed by the firm, has full authority to direct performance of the work in accordance with the contract requirements, and is in charge of all construction operations (regardless of who performs the work) and (b) such other of its own organizational resources (supervision, management, and engineering services) as the contracting officer determines is necessary to assure the performance of the contract.

4. No portion of the contract shall be sublet, assigned or otherwise disposed of except with the written consent of the contracting officer, or authorized representative, and such consent when given shall not be construed to relieve the contractor of any responsibility for the fulfillment of the contract. Written consent will be given only after the contracting agency has assured that each subcontract is evidenced in writing and that it contains all pertinent provisions and requirements of the prime contract. (based on long- standing interpretation of 23 CFR 635.116).

5. The 30-percent self-performance requirement of paragraph (1) is not applicable to design-build contracts; however, contracting agencies may establish their own self-performance requirements. 23 CFR 635.116(d).

VII. SAFETY: ACCIDENT PREVENTION

This provision is applicable to all Federal-aid construction contracts and to all related subcontracts.

1. In the performance of this contract the contractor shall comply with all applicable Federal, State, and local laws governing safety, health, and sanitation (23 CFR Part 635). The contractor shall provide all safeguards, safety devices and protective equipment and take any other needed actions as it determines, or as the contracting officer may determine, to be reasonably necessary to protect the life and health of employees on the job and the safety of the public and to protect property in connection with the performance of the work covered by the contract. 23 CFR 635.108.

2. It is a condition of this contract, and shall be made a condition of each subcontract, which the contractor enters into pursuant to this contract, that the contractor and any subcontractor shall not permit any employee, in performance of the contract, to work in surroundings or under conditions which are unsanitary, hazardous or dangerous to his/her health or safety, as determined under construction safety and

health standards (29 CFR Part 1926) promulgated by the Secretary of Labor, in accordance with Section 107 of the Contract Work Hours and Safety Standards Act (40 U.S.C. 3704). 29 CFR 1926.10.

3. Pursuant to 29 CFR 1926.3, it is a condition of this contract that the Secretary of Labor or authorized representative thereof, shall have right of entry to any site of contract performance to inspect or investigate the matter of compliance with the construction safety and health standards and to carry out the duties of the Secretary under Section 107 of the Contract Work Hours and Safety Standards Act (40 U.S.C. 3704).

VIII. FALSE STATEMENTS CONCERNING HIGHWAY PROJECTS

This provision is applicable to all Federal-aid construction contracts and to all related subcontracts.

In order to assure high quality and durable construction in conformity with approved plans and specifications and a high degree of reliability on statements and representations made by engineers, contractors, suppliers, and workers on Federal-aid highway projects, it is essential that all persons concerned with the project perform their functions as carefully, thoroughly, and honestly as possible. Willful falsification, distortion, or misrepresentation with respect to any facts related to the project is a violation of Federal law. To prevent any misunderstanding regarding the seriousness of these and similar acts, Form FHWA-1022 shall be posted on each Federal-aid highway project (23 CFR Part 635) in one or more places where it is readily available to all persons concerned with the project:

18 U.S.C. 1020 reads as follows:

"Whoever, being an officer, agent, or employee of the United States, or of any State or Territory, or whoever, whether a person, association, firm, or corporation, knowingly makes any false statement, false representation, or false report as to the character, quality, quantity, or cost of the material used or to be used, or the quantity or quality of the work performed or to be performed, or the cost thereof in connection with the submission of plans, maps, specifications, contracts, or costs of construction on any highway or related project submitted for approval to the Secretary of Transportation; or

Whoever knowingly makes any false statement, false representation, false report or false claim with respect to the character, quality, quantity, or cost of any work performed or to be performed, or materials furnished or to be furnished, in connection with the construction of any highway or related project approved by the Secretary of Transportation; or

Whoever knowingly makes any false statement or false representation as to material fact in any statement, certificate, or report submitted pursuant to provisions of the Federal-aid Roads Act approved July 11, 1916, (39 Stat. 355), as amended and supplemented;

Shall be fined under this title or imprisoned not more than 5 years or both."

IX. IMPLEMENTATION OF CLEAN AIR ACT AND FEDERAL WATER POLLUTION CONTROL ACT (42 U.S.C. 7606; 2 CFR 200.88; EO 11738)

This provision is applicable to all Federal-aid construction contracts in excess of \$150,000 and to all related subcontracts. 48 CFR 2.101; 2 CFR 200.327.

By submission of this bid/proposal or the execution of this contract or subcontract, as appropriate, the bidder, proposer, Federal-aid construction contractor, subcontractor, supplier, or vendor agrees to comply with all applicable standards, orders or regulations issued pursuant to the Clean Air Act (42 U.S.C. 7401-7671q) and the Federal Water Pollution Control Act, as amended (33 U.S.C. 1251-1387). Violations must be reported to the Federal Highway Administration and the Regional Office of the Environmental Protection Agency. 2 CFR Part 200, Appendix II.

The contractor agrees to include or cause to be included the requirements of this Section in every subcontract, and further agrees to take such action as the contracting agency may direct as a means of enforcing such requirements. 2 CFR 200.327.

X. CERTIFICATION REGARDING DEBARMENT, SUSPENSION, INELIGIBILITY AND VOLUNTARY EXCLUSION

This provision is applicable to all Federal-aid construction contracts, design-build contracts, subcontracts, lower-tier subcontracts, purchase orders, lease agreements, consultant contracts or any other covered transaction requiring FHWA approval or that is estimated to cost \$25,000 or more – as defined in 2 CFR Parts 180 and 1200. 2 CFR 180.220 and 1200.220.

1. Instructions for Certification – First Tier Participants:

a. By signing and submitting this proposal, the prospective first tier participant is providing the certification set out below.

b. The inability of a person to provide the certification set out below will not necessarily result in denial of participation in this covered transaction. The prospective first tier participant shall submit an explanation of why it cannot provide the certification set out below. The certification or explanation will be considered in connection with the department or agency's determination whether to enter into this transaction. However, failure of the prospective first tier participant to furnish a certification or an explanation shall disqualify such a person from participation in this transaction. 2 CFR 180.320.

c. The certification in this clause is a material representation of fact upon which reliance was placed when the contracting agency determined to enter into this transaction. If it is later determined that the prospective participant knowingly rendered an erroneous certification, in addition to other remedies available to the Federal Government, the contracting agency may terminate this transaction for cause of default. 2 CFR 180.325.

d. The prospective first tier participant shall provide immediate written notice to the contracting agency to whom this proposal is submitted if any time the prospective first tier participant learns that its certification was erroneous when submitted or has become erroneous by reason of changed circumstances. 2 CFR 180.345 and 180.350.

e. The terms "covered transaction," "debarred," "suspended," "ineligible," "participant," "person," "principal," and "voluntarily excluded," as used in this clause, are defined in 2 CFR Parts 180, Subpart I, 180.900-180.1020, and 1200. "First Tier Covered Transactions" refers to any covered transaction between a recipient or subrecipient of Federal funds and a participant (such as the prime or general contract). "Lower Tier Covered Transactions" refers to any covered transaction under a First Tier Covered Transaction (such as subcontracts). "First Tier Participant" refers to the participant who has entered into a covered transaction with a recipient or subrecipient of Federal funds (such as the prime or general contractor). "Lower Tier Participant" refers any participant who has entered into a covered transaction with a First Tier Participant or other Lower Tier Participants (such as subcontractors and suppliers).

f. The prospective first tier participant agrees by submitting this proposal that, should the proposed covered transaction be entered into, it shall not knowingly enter into any lower tier covered transaction with a person who is debarred, suspended, declared ineligible, or voluntarily excluded from participation in this covered transaction, unless authorized by the department or agency entering into this transaction. 2 CFR 180.330.

g. The prospective first tier participant further agrees by submitting this proposal that it will include the clause titled "Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion-Lower Tier Covered Transactions," provided by the department or contracting agency, entering into this covered transaction, without modification, in all lower tier covered transactions and in all solicitations for lower tier covered transactions exceeding the \$25,000 threshold. 2 CFR 180.220 and 180.300.

h. A participant in a covered transaction may rely upon a certification of a prospective participant in a lower tier covered transaction that is not debarred, suspended, ineligible, or voluntarily excluded from the covered transaction, unless it knows that the certification is erroneous. 2 CFR 180.300; 180.320, and 180.325. A participant is responsible for ensuring that its principals are not suspended, debarred, or otherwise ineligible to participate in covered transactions. 2 CFR 180.335. To verify the eligibility of its principals, as well as the eligibility of any lower tier prospective participants, each participant may, but is not required to, check the System for Award Management website (<https://www.sam.gov/>). 2 CFR 180.300, 180.320, and 180.325.

i. Nothing contained in the foregoing shall be construed to require the establishment of a system of records in order to render in good faith the certification required by this clause. The knowledge and information of the prospective participant is not required to exceed that which is normally possessed by a prudent person in the ordinary course of business dealings.

j. Except for transactions authorized under paragraph (f) of these instructions, if a participant in a covered transaction knowingly enters into a lower tier covered transaction with a person who is suspended, debarred, ineligible, or voluntarily excluded from participation in this transaction, in addition to other remedies available to the Federal Government, the department or agency may terminate this transaction for cause or default. 2 CFR 180.325.

* * * * *

2. Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion – First Tier Participants:

a. The prospective first tier participant certifies to the best of its knowledge and belief, that it and its principals:

(1) Are not presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participating in covered transactions by any Federal department or agency, 2 CFR 180.335;

(2) Have not within a three-year period preceding this proposal been convicted of or had a civil judgment rendered against them for commission of fraud or a criminal offense in connection with obtaining, attempting to obtain, or performing a public (Federal, State, or local) transaction or contract under a public transaction; violation of Federal or State antitrust statutes or commission of embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements, or receiving stolen property, 2 CFR 180.800;

(3) Are not presently indicted for or otherwise criminally or civilly charged by a governmental entity (Federal, State or local) with commission of any of the offenses enumerated in paragraph (a)(2) of this certification, 2 CFR 180.700 and 180.800; and

(4) Have not within a three-year period preceding this application/proposal had one or more public transactions (Federal, State or local) terminated for cause or default. 2 CFR 180.335(d).

(5) Are not a corporation that has been convicted of a felony violation under any Federal law within the two-year period preceding this proposal (USDOT Order 4200.6 implementing appropriations act requirements); and

(6) Are not a corporation with any unpaid Federal tax liability that has been assessed, for which all judicial and administrative remedies have been exhausted, or have lapsed, and that is not being paid in a timely manner pursuant to an agreement with the authority responsible for collecting the tax liability (USDOT Order 4200.6 implementing appropriations act requirements).

b. Where the prospective participant is unable to certify to any of the statements in this certification, such prospective participant should attach an explanation to this proposal. 2 CFR 180.335 and 180.340.

* * * * *

3. Instructions for Certification – Lower Tier Participants:

(Applicable to all subcontracts, purchase orders, and other lower tier transactions requiring prior FHWA approval or estimated to cost \$25,000 or more - 2 CFR Parts 180 and 1200). 2 CFR 180.220 and 1200.220.

a. By signing and submitting this proposal, the prospective lower tier participant is providing the certification set out below.

b. The certification in this clause is a material representation of fact upon which reliance was placed when this transaction was entered into. If it is later determined that the prospective lower tier participant knowingly rendered an erroneous certification, in addition to other remedies available to the Federal Government, the department, or agency with which

this transaction originated may pursue available remedies, including suspension and/or debarment.

c. The prospective lower tier participant shall provide immediate written notice to the person to which this proposal is submitted if at any time the prospective lower tier participant learns that its certification was erroneous by reason of changed circumstances. 2 CFR 180.365.

d. The terms "covered transaction," "debarred," "suspended," "ineligible," "participant," "person," "principal," and "voluntarily excluded," as used in this clause, are defined in 2 CFR Parts 180, Subpart I, 180.900 – 180.1020, and 1200. You may contact the person to which this proposal is submitted for assistance in obtaining a copy of those regulations. "First Tier Covered Transactions" refers to any covered transaction between a recipient or subrecipient of Federal funds and a participant (such as the prime or general contractor). "Lower Tier Covered Transactions" refers to any covered transaction under a First Tier Covered Transaction (such as subcontracts). "First Tier Participant" refers to the participant who has entered into a covered transaction with a recipient or subrecipient of Federal funds (such as the prime or general contractor). "Lower Tier Participant" refers any participant who has entered into a covered transaction with a First Tier Participant or other Lower Tier Participants (such as subcontractors and suppliers).

e. The prospective lower tier participant agrees by submitting this proposal that, should the proposed covered transaction be entered into, it shall not knowingly enter into any lower tier covered transaction with a person who is debarred, suspended, declared ineligible, or voluntarily excluded from participation in this covered transaction, unless authorized by the department or agency with which this transaction originated. 2 CFR 1200.220 and 1200.332.

f. The prospective lower tier participant further agrees by submitting this proposal that it will include this clause titled "Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion-Lower Tier Covered Transaction," without modification, in all lower tier covered transactions and in all solicitations for lower tier covered transactions exceeding the \$25,000 threshold. 2 CFR 180.220 and 1200.220.

g. A participant in a covered transaction may rely upon a certification of a prospective participant in a lower tier covered transaction that is not debarred, suspended, ineligible, or voluntarily excluded from the covered transaction, unless it knows that the certification is erroneous. A participant is responsible for ensuring that its principals are not suspended, debarred, or otherwise ineligible to participate in covered transactions. To verify the eligibility of its principals, as well as the eligibility of any lower tier prospective participants, each participant may, but is not required to, check the System for Award Management website (<https://www.sam.gov/>), which is compiled by the General Services Administration. 2 CFR 180.300, 180.320, 180.330, and 180.335.

h. Nothing contained in the foregoing shall be construed to require establishment of a system of records in order to render in good faith the certification required by this clause. The knowledge and information of participant is not required to exceed that which is normally possessed by a prudent person in the ordinary course of business dealings.

i. Except for transactions authorized under paragraph e of these instructions, if a participant in a covered transaction knowingly enters into a lower tier covered transaction with a person who is suspended, debarred, ineligible, or voluntarily

excluded from participation in this transaction, in addition to other remedies available to the Federal Government, the department or agency with which this transaction originated may pursue available remedies, including suspension and/or debarment. 2 CFR 180.325.

* * * * *

4. Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion--Lower Tier Participants:

a. The prospective lower tier participant certifies, by submission of this proposal, that neither it nor its principals:

(1) is presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participating in covered transactions by any Federal department or agency, 2 CFR 180.355;

(2) is a corporation that has been convicted of a felony violation under any Federal law within the two-year period preceding this proposal (USDOT Order 4200.6 implementing appropriations act requirements); and

(3) is a corporation with any unpaid Federal tax liability that has been assessed, for which all judicial and administrative remedies have been exhausted, or have lapsed, and that is not being paid in a timely manner pursuant to an agreement with the authority responsible for collecting the tax liability. (USDOT Order 4200.6 implementing appropriations act requirements)

b. Where the prospective lower tier participant is unable to certify to any of the statements in this certification, such prospective participant should attach an explanation to this proposal.

* * * * *

XI. CERTIFICATION REGARDING USE OF CONTRACT FUNDS FOR LOBBYING

This provision is applicable to all Federal-aid construction contracts and to all related subcontracts which exceed \$100,000. 49 CFR Part 20, App. A.

1. The prospective participant certifies, by signing and submitting this bid or proposal, to the best of his or her knowledge and belief, that:

a. No Federal appropriated funds have been paid or will be paid, by or on behalf of the undersigned, to any person for influencing or attempting to influence an officer or employee of any Federal agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of any Federal contract, the making of any Federal grant, the making of any Federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any Federal contract, grant, loan, or cooperative agreement.

b. If any funds other than Federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any Federal agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this Federal contract, grant, loan, or

cooperative agreement, the undersigned shall complete and submit Standard Form-LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions.

2. This certification is a material representation of fact upon which reliance was placed when this transaction was made or entered into. Submission of this certification is a prerequisite for making or entering into this transaction imposed by 31

U.S.C. 1352. Any person who fails to file the required certification shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each such failure.

3. The prospective participant also agrees by submitting its bid or proposal that the participant shall require that the language of this certification be included in all lower tier subcontracts, which exceed \$100,000 and that all such recipients shall certify and disclose accordingly.

XII. USE OF UNITED STATES-FLAG VESSELS:

This provision is applicable to all Federal-aid construction contracts, design-build contracts, subcontracts, lower-tier subcontracts, purchase orders, lease agreements, or any other covered transaction. 46 CFR Part 381.

This requirement applies to material or equipment that is acquired for a specific Federal-aid highway project. 46 CFR 381.7. It is not applicable to goods or materials that come into inventories independent of an FHWA funded-contract.

When oceanic shipments (or shipments across the Great Lakes) are necessary for materials or equipment acquired for a specific Federal-aid construction project, the bidder, proposer, contractor, subcontractor, or vendor agrees:

1. To utilize privately owned United States-flag commercial vessels to ship at least 50 percent of the gross tonnage (computed separately for dry bulk carriers, dry cargo liners, and tankers) involved, whenever shipping any equipment, material, or commodities pursuant to this contract, to the extent such vessels are available at fair and reasonable rates for United States-flag commercial vessels. 46 CFR 381.7.

2. To furnish within 20 days following the date of loading for shipments originating within the United States or within 30 working days following the date of loading for shipments originating outside the United States, a legible copy of a rated, 'on-board' commercial ocean bill-of-lading in English for each shipment of cargo described in paragraph (b)(1) of this section to both the Contracting Officer (through the prime contractor in the case of subcontractor bills-of-lading) and to the Office of Cargo and Commercial Sealift (MAR-620), Maritime Administration, Washington, DC 20590. (MARAD requires copies of the ocean carrier's (master) bills of lading, certified onboard, dated, with rates and charges. These bills of lading may contain business sensitive information and therefore may be submitted directly to MARAD by the Ocean station (or by the contractor) on behalf of the contractor). 46 CFR 381.7.

**ATTACHMENT A - EMPLOYMENT AND MATERIALS
PREFERENCE FOR APPALACHIAN DEVELOPMENT
HIGHWAY SYSTEM OR APPALACHIAN LOCAL ACCESS
ROAD CONTRACTS (23 CFR 633, Subpart B, Appendix B)**

This provision is applicable to all Federal-aid projects funded under the Appalachian Regional Development Act of 1965.

1. During the performance of this contract, the contractor undertaking to do work which is, or reasonably may be, done as on-site work, shall give preference to qualified persons who regularly reside in the labor area as designated by the DOL wherein the contract work is situated, or the subregion, or the Appalachian counties of the State wherein the contract work is situated, except:

a. To the extent that qualified persons regularly residing in the area are not available.

b. For the reasonable needs of the contractor to employ supervisory or specially experienced personnel necessary to assure an efficient execution of the contract work.

c. For the obligation of the contractor to offer employment to present or former employees as the result of a lawful collective bargaining contract, provided that the number of nonresident persons employed under this subparagraph (1c) shall not exceed 20 percent of the total number of employees employed by the contractor on the contract work, except as provided in subparagraph (4) below.

2. The contractor shall place a job order with the State Employment Service indicating (a) the classifications of the laborers, mechanics and other employees required to perform the contract work, (b) the number of employees required in each classification, (c) the date on which the participant estimates such employees will be required, and (d) any other pertinent information required by the State Employment Service to complete the job order form. The job order may be placed with the State Employment Service in writing or by telephone. If during the course of the contract work, the information submitted by the contractor in the original job order is substantially modified, the participant shall promptly notify the State Employment Service.

3. The contractor shall give full consideration to all qualified job applicants referred to him by the State Employment Service. The contractor is not required to grant employment to any job applicants who, in his opinion, are not qualified to perform the classification of work required.

4. If, within one week following the placing of a job order by the contractor with the State Employment Service, the State Employment Service is unable to refer any qualified job applicants to the contractor, or less than the number requested, the State Employment Service will forward a certificate to the contractor indicating the unavailability of applicants. Such certificate shall be made a part of the contractor's permanent project records. Upon receipt of this certificate, the contractor may employ persons who do not normally reside in the labor area to fill positions covered by the certificate, notwithstanding the provisions of subparagraph (1c) above.

5. The provisions of 23 CFR 633.207(e) allow the contracting agency to provide a contractual preference for the use of mineral resource materials native to the Appalachian region.

6. The contractor shall include the provisions of Sections 1 through 4 of this Attachment A in every subcontract for work which is, or reasonably may be, done as on-site work.

| Agenda Item | cover sheet

for consideration by the Apex Town Council

Item Type: CONSENT AGENDA

Meeting Date: February 27, 2024

Item Details

Presenter(s): Allen Coleman, Town Clerk

Department(s): Town Clerks Office

Requested Motion

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

- February 13, 2024 - Regular Town Council Minutes

Approval Recommended?

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

Item Details

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

Attachments

- CN8-A1: **DRAFT** Minutes - February 13, 2024 - Regular Town Council Minutes



DRAFT MINUTES
TOWN OF APEX
REGULAR TOWN COUNCIL MEETING
TUESDAY, FEBRUARY 13, 2024
6:00 PM

The Apex Town Council met for a Regular Town Council Meeting on Tuesday, February 13, 2024 at 6:00 PM in the Council Chambers at Apex Town Hall, located at 73 Hunter Street in Apex, North Carolina.

This meeting was open to the public. Members of the public were able to attend this meeting in-person or watch online via the livestream on the Town's YouTube Channel. The recording of this meeting can be viewed here: <https://www.youtube.com/watch?v=8r5geZhdujQ>

[ATTENDANCE]

Elected Body

Mayor Jacques K. Gilbert (presiding)
Councilmember Audra Killingsworth
Councilmember Arno Zegerman
Councilmember Terry Mahaffey
Councilmember Brett Gantt
Absent: Mayor Pro Tempore Ed Gray

Town Staff

Interim Town Manager Shawn Purvis
Assistant Town Manager Demetria John
Assistant Town Manager Marty Stone
Town Attorney Laurie Hohe
Town Clerk Allen Coleman
Deputy Town Clerk Ashley Gentry
Planning Director Dianne Khin
All other staff members will be identified appropriately below

[COMMENCEMENT]

Mayor Gilbert called the meeting to order and welcomed all who were in attendance and watching. He said Apex is celebrating Black History Month and not just for the month of February but throughout the entire year. He said he would like to reflect on the significance that many people have made contributions in our community. He then said the invocations will be delivered by Jedah Dancy who is apart of the Mayors Internship Program and is an Ambassador on the champion Apex team and is also a Senior at Apex Friendship High School.

Jediah Dancy introduced herself and shared what Black History Month means to her. She said "As I look back on Black History Month I see unwavering resilience courage and strength. I am

inspired by the black leaders, activists, artists, scientists, and everyday heroes who in the face of adversity pave the way for Progress, Justice, and Equality from the fight against oppression to the triumphs of innovation the journey from then to now has been a testament to a different kind of power, a power that truly exemplifies what it means to be black and beautiful. For me black history isn't just about remembering the past it is about building our future. We all have to remember that in challenging times there is power and unity the work is not yet done but together we can continue to work towards a better future for all we must continue to stand firm in the face of Injustice advocate for change and celebrate our differences because that is how we as a society can continue and honor the work of those who came before us. I consider myself a very fortunate person to be born and raised right here in Apex, in a community where a sentiment of unity and inclusion is the standard. Apex is growing we all know it we all see it but what I love most about the growth is that as we grow in numbers we also grow in recognition what I mean by this is that in these past few years I have loved to see our community's focus on diversity truly flourish. I have attended festivals and celebrations where I've been able to experience different cultures food music and other Arts. I can also remember walking through the downtown area in protest with the black lives matter movement and just a week or so ago one of my best friends was able to set up a try on hijab Booth kind of right downtown in honor of world her job day and I thought that was pretty cool as well um being able to hear from and learn about other cultures is truly amazing. Apex has been coined the peak of good living and I say that we keep earning this Honor by ensuring that we continue to be the welcoming community that I love and more. like I mentioned before the work is not done yet but I can't wait to see what we do next and before I go I just want to leave off with this quote from former president Barack Obama. "Change will not come if we wait for some other person or some other time we are the ones we've been waiting for we are the change that we seek" thank you"

Mayor Gilbert then led those in attendance in the Pledge of Allegiance.

[CONSENT AGENDA]

A **motion** was made by **Councilmember Zegerman**, seconded by **Councilmember Gantt**, to approve the Consent Agenda as presented.

VOTE: UNANIMOUS (4-0)

CN1 Agreement - Magnet Forensics Software - Digital Evidence Examination (REF: CONT-2024-027)

Council voted to approve a license agreement with Magnet Forensics, effective January 1, 2024 through December 31, 2024, to examine digital evidence with mobile, cloud, and digital resources, and authorize the Interim Town Manager, or their designee, to execute on behalf of the Town

CN2 Annexation No. 773 - 1075 South Hughes Street - Chick-Fil-A - 3.431 acres (REF: RES-2024-005, RES-2024-006, and OTHER-2024-028)

Council voted to adopt a Resolution Directing the Town Clerk to Investigate Petition Received, to accept the Certificate of Sufficiency by the Town Clerk, and to adopt a Resolution Setting the Date of a Public Hearing for February 27, 2024, on the Question of Annexation - Apex Town Council's intent

to annex 3.431 acres, located at 1075 South Hughes Street, Chick-Fil-A, Annexation No. 773 into the Town Corporate limits.

CN3 Annexation No. 775 - 1133 Twin Creek Road - 2.80 acres (REF: RES-2024-007, RES-2024-008, and OTHER-2024-029)

Council voted to adopt a Resolution Directing the Town Clerk to Investigate Petition Received, to accept the Certificate of Sufficiency by the Town Clerk, and to adopt a Resolution Setting the Date of a Public Hearing for February 27, 2024, on the Question of Annexation - Apex Town Council's intent to annex 2.80 acres, located at 1133 Twin Creek Road, Annexation No. 775 into the Town Corporate limits.

CN4 Annexation No. 776 - Sundance of NC, LLC - Salem Church Road - 2.90 acres (REF: RES-2024-009, RES-2024-010, and OTHER-2024-030)

Council voted to adopt a Resolution Directing the Town Clerk to Investigate Petition Received, to accept the Certificate of Sufficiency by the Town Clerk, and to adopt a Resolution Setting the Date of a Public Hearing for February 27, 2024, on the Question of Annexation - Apex Town Council's intent to annex 2.90 acres, Sundance of NC, LLC, located on Salem Church Road, Annexation No. 776 into the Town Corporate limits.

CN5 Appointments - Environmental Advisory Board (EAB)

Council voted to reappoint the following Apex Environmental Advisory Board (EAB) members each for a three-year (3) term expiring December 31, 2026:

EAB-001 - Suzanne Mason - reappointment for 2nd Term

EAB-003 - Katie Schaaf - reappointment for 3rd Term

EAB-004 - Patrick Adams - reappointment for 2nd Term

Council voted to appoint Njeri Moller to the Apex Environmental Advisory Board (EAB) for a three-year (3) term expiring December 31, 2026:

EAB-008 - Njeri Moller - appointment for 1st Term

CN6 Appointments - Environmental Advisory Board (EAB) - Chair/Vice-Chair

Council voted to confirm the following leadership positions on the Environmental Advisory Board (EAB) for calendar year 2024:

Suzanne Mason, Chair of the Environmental Advisory Board (EAB)

John Garrison, Vice-Chair of the Environmental Advisory Board (EAB)

CN7 Budget Ordinance Amendment No. 12 - Electric Utility Operations (REF: ORD-2024-006)

Council voted to adopt Budget Ordinance Amendment No. 12 allocating additional funds for expansion of Apex's electric utility distribution system

CN8 Construction Contract Award - Hollins Construction Services, Inc. (HCS) - Reedy Branch Greenway and Capital Project Ordinance Amendment 2024-11 (REF: CONT-2024-008 and ORD-2024-012)

Council voted to award a construction contract with Hollins Construction Services, Inc (HCS) for Reedy Branch Greenway (Sweetwater Gap) construction and adopt corresponding Capital Project Ordinance Amendment 2024-11, and to authorize the Interim Town Manager, or their designee, to execute on behalf of the Town.

CN9 Council Meeting Minutes - Various

Council voted to approve Meeting Minutes from the following meeting:

January 16, 2024 - Town Council Work Session Minutes

January 23, 2024 - Regular Town Council Minutes

February 3, 2024 - Special Town Council Meeting Minutes

February 4, 2024 - Special Town Council Meeting Minutes

CN10 Friendship Village Subdivision - Fee-in-Lieu (FIL)

Council voted to approve a Fee-in-Lieu (FIL) in the amount of \$10,870.95 for an 8-inch DIP Sewer Main located in the Friendship Village Subdivision.

CN11 Resolution - Abandon Existing Utility Easements - Primrose School Site (REF: RES-2024-011)

Council voted to approve a resolution entitled Resolution to Abandon Portion of Existing Public Utility Easement at Primrose School Property, located at 614 Old Mill Village Drive.

CN12 Rezoning Case No. 23CZ13 Seymour Mixed Use PUD - Statement and Ordinance (REF: ORD-2024-007)

Council voted to approve Statement of the Town Council and Ordinance for Rezoning Case No. 23CZ13 Seymour Mixed Use PUD, Barnett Properties, LLC, petitioner, for the property located at 0, 0, and 0 Tingen Road (PINs 0741142574; 0741152543; 0741155913).

CN13 Rezoning Case No. 23CZ14 Salem Street Townhome PUD - Statement an Ordinance (REF: ORD-2024-008)

Council voted to approve the Statement of the Town Council and Ordinance for Rezoning Case No. 23CZ14 Salem Street Townhome PUD, Bateman Civil Survey Company, petitioner, for the property located at 0, 0, 720 South Salem Street (PINs 0741178829, 0741179910, 0741179971).

CN14 Rezoning Case No. 23CZ15 Apex Gateway Ph. 2 Amendment Statement and Ordinance (REF: ORD-2024-009)

Council voted to approve Statement of the Town Council and Ordinance for Rezoning Case No. 23CZ15 Apex Gateway Phase 2 Amendment. The applicant is Gray Harrell, Beacon Development for the properties located at: 314, 450, 482, 472, 546, 610, 696, 527, 0, & 0 NC Hwy 751; 0, 0, & 0 Hwy 64 East; 0 & 44 New Hill Road (PINs 071200461386, 071200460876, 071200367945, 071200470121, 071200378303, 071200376549, 071200372751, 071200261673, 071200350755, 071200245813, 071200245419, 071200246438, 071200435356, 071200452105, and 071200543241).

CN15 Rezoning Case No. 23CZ20 Sweetwater PUD Amendment - Statement and Ordinance (REF: ORD-2024-010)

Council voted to approve the Statement of the Town Council and Ordinance for Rezoning Case No. 23CZ12 Sweetwater PUD Amendment, David Schmidt, ExperienceOne Homes, LLC, petitioner, for the properties located at 1451 Richardson Rd; 1051 & 1075 Newland Ave; 2800, 2810 Teachey Pl, & 2820 Teachey Pl; 0 Core Banks St and 0 Little Gem Lane (PINs 0722550034, 0722544876, 0722544404, 0722457646, 0722454406, 0722443942, 0722441499, and 0722441386).

CN16 Software License - Gladiator Forensics

Council voted to approve the terms and conditions for purchase and use of Gladiator Forensics' software license and permission to use Wake County Sheriff's Office Gladiator Forensics Server, and to authorize the Interim Town Manager, or their designee, to execute on behalf of the Town.

CN17 Surplus Badge and Service Weapon - Retiring Sergeant John Jones

Council voted to declare one badge and service weapon (Glock Model 19, 9mm handgun, Serial Number XWZ747) as surplus property, and award these items to retired Sergeant John Jones.

CN18 Surplus Vehicles - 1999 GMC C8500 and 2008 International Workstar 7300

Council voted to declare the following two (2) vehicles as surplus, authorize the sale of both vehicles, and authorize the Purchasing Manager and Interim Town Manager, or their designee, to sign documents necessary to complete the sale:

Vehicle A - 1999 GMC C8500 Vin # 1GDP7H1CXXJ512964

Vehicle B - 2008 International Workstar 7300 Vin # 1HTZZAAR98J047097

CN19 Tax Report - December 2023 (REF: OTHER-2024-031)

Council voted to approve Apex Tax Reports dated January 9, 2024.

[PRESENTATIONS]

PR1 Apex Public School Foundation - Quarterly Peak S.T.A.R. Awards - 2nd Quarter

Councilmember Mahaffey introduced the Peak S.T.A.R Award, which is meant to honor the hard work of a school faculty member in Apex Schools. He introduced Barb Conroy, President and Co-Founder of the Apex Public School Foundation (APSF), who would be honoring the recipient.

Ms. Conroy said the APSF represents 19 schools, and would be expanding to 20 next year. She said their main program is their teacher grant programs, which funds programs to enhance student engagement. She introduced Erin Muse of Salem Middle School, Math Interventionist, who was the recipient of this quarter's Peak S.T.A.R Award. She said she is a school-wide leader, and works hard to support all students.

Councilmember Mahaffey gave the award to Ms. Muse, and thanked her for all she does for the students in Apex.

Ms. Conroy spoke about the grants that the APSF has recently provided.

PR2 Proclamation - Black History Month - February 2024 (REF: PRO-2024-003)

Mayor Gilbert, along with the rest of Council, read the Black History Month 2024 Proclamation in unity.

Phyllis Daniel received a copy Proclamation in honor of Clarice Atwater, who was the first Black Mayor Pro-Tempore in the town's history.

Kim Davis received a copy of the Proclamation in honor of her mother Sarah Davis, an Apex resident who rode a bus to Washington, D.C. to hear Martin Luther King Jr.'s "I Have a Dream" Speech, and her father Rev. William Davis, who was a longtime minister in the Town of Apex. Mayor Gilbert noted that this couple was a "voice of hope" for the Black community in Apex.

Several members of the Justice family received a copy of the Proclamation, In honor of Abraham and Correnna Justice, who developed the land near what is now knows as Justice Heights Street in order to provide homes for the Black Community in Justice Heights.

Karen Lee received a copy of the Proclamation in honor of her great-grandfather Waylon Matthews, one of the first businessmen to establish a general store in the Town of Apex

Pender Beckwith received a copy of the Proclamation, in honor of his uncle John Wayne Beckwith, who became the first Black police officer with the Apex Police Department in 1962.

Anthony Bowens Jr. and Tyler Evans received a copy of the Proclamation, who were two of the driving forces behind bringing a Juneteenth celebration to the Town of Apex.

1 **Ms. Lee** thanked Councilmember Killingsworth and former Councilmember Nicole Dozier,
2 who helped establish a town-led celebration of Black History Month in Apex. She said she used to
3 have to go to neighboring towns to celebrate, and she is happy she can celebrate great Black
4 History Month events here in the town.

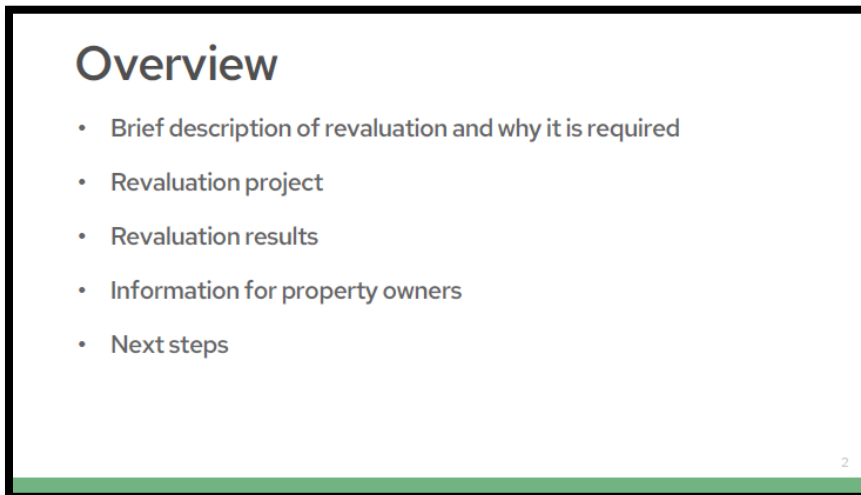
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6 **PR3 Wake County 2024 Revaluation Results**

7 **Nicole Kreiser**, Deputy Tax Administrator for Wake County, gave the following presentation
8 regarding the Wake County 2024 Revaluation Results.

9 **[PR3 - SLIDE 1]**



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13 **[PR3 - SLIDE 2]**



1 [PR3 - SLIDE 3]

What is Revaluation?

The process of updating Wake County's **real property** values to reflect **fair market value** as of **January 1, 2024**



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3 [PR4 - SLIDE 4]

Why Perform a Revaluation?

- ▶ Required by NC General Statutes
North Carolina law requires all counties to revalue real property at least once every 8 years.
Note: Wake County transitioned from an 8-year to a 4-year revaluation cycle in 2016.
- ▶ Tax Equity and Fairness
Revaluation ensures property values accurately reflect their market value, so that the property tax burden is spread equitably across all taxpayers.

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7 [PR3 - SLIDE 5]

Revaluation Includes:

- Real property or all residential and commercial land and structures, which includes homes, apartments, condominiums, office buildings, stores and warehouses.
- Fair market value is the most probable price a property would bring at sale in an open and competitive market.
- Effective date is January 1, 2024. The last revaluation was conducted 4 years ago with an effective date of January 1, 2020.




Revaluation impacts approximately 89% of Apex's property tax base.

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Page 7 of 29

1 [PR3 - SLIDE 6]

Revaluation Excludes:

- ▶ Personal property such as business computers, office furniture, machinery, manufacturing equipment 
- ▶ Vehicles: registered motor vehicles, other vehicles, trailers, campers, boats, airplanes 
- ▶ Public utility property: electric/nuclear power generation, gas companies, bus lines, railroads 

These property types are appraised annually; 11 percent of Apex's tax base.

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3 [PR3 - SLIDE 7]

Mass Appraisal

- Mass appraisal is the process of appraising a large number of properties as of a given effective date, using data, standardized methods, and statistical analysis to arrive at uniform and equitable values.
- General revaluations are conducted by applying mass appraisal techniques, with thorough analysis from appraisal staff and the use of computer-assisted mass appraisal (CAMA) software system.
- The sales approach, cost approach, and income approach to value are all considered when applicable to appraise all real property.

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7 [PR3 - SLIDE 8]

Revaluation Steps

Neighborhooding



Land and Building Pricing







Field and Office Review



Notice of Assessment Appeal Review






1 [PR3 - SLIDE 9]

| Wake County Revaluation Review Activity | | |
|--|----------------|---------------|
| Property Type | Office Reviews | Field Reviews |
|  Residential | 220,553 | 151,798 |
|  Rural | 13,744 | 16,457 |
|  Commercial | 14,534 | 9,200 |
|  Total Reviewed | 248,831 | 177,455 |

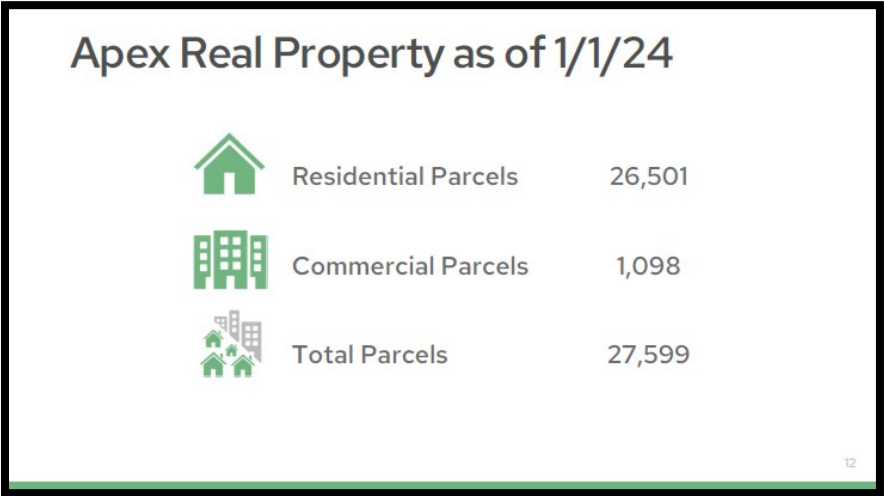
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3 [PR3 - SLIDE 10]

| Wake County Revaluation History | | | | | |
|---|---------|---------|-----------|-----------|-----------|
| | 1992 | 2000 | 2008 | 2016 | 2020 |
| Total Parcels | 165,000 | 230,000 | 325,000 | 360,000 | 395,000 |
| Single Family | 105,000 | 150,000 | 258,000 | 283,700 | 312,000 |
| % Change from Reappraisal | 43% | 43% | 40% | 5% | 23% |
| Taxable Value Post Reappraisal | \$21 B | \$43 B | \$94 B | \$118.3 B | \$162.2 B |
| Taxable Value After Growth (New Construction) | \$30 B | \$67 B | \$112.3 B | \$131.3 B | \$178.5 B |

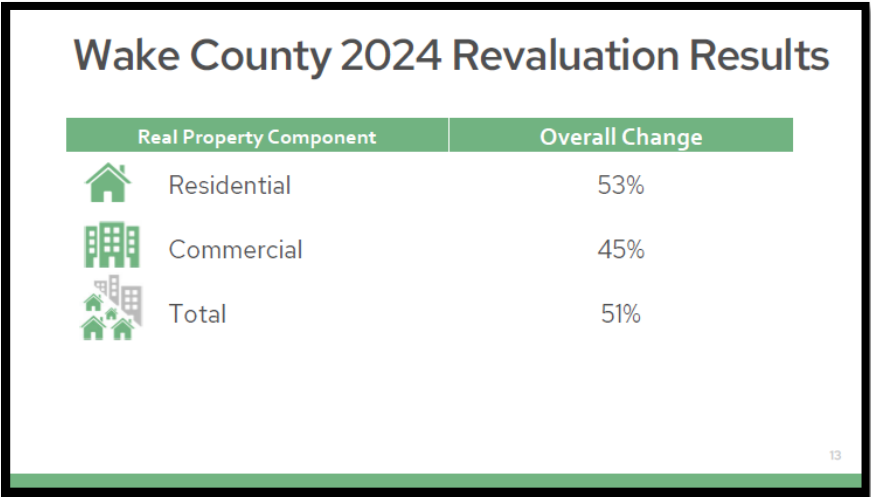
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7 [PR3 - SLIDE 11]

| Wake County Real Property as of 1/1/24 | | |
|---|---------|--|
|  Residential Parcels | 403,886 | |
|  Commercial Parcels | 23,641 | |
|  Total Parcels | 427,527 | |

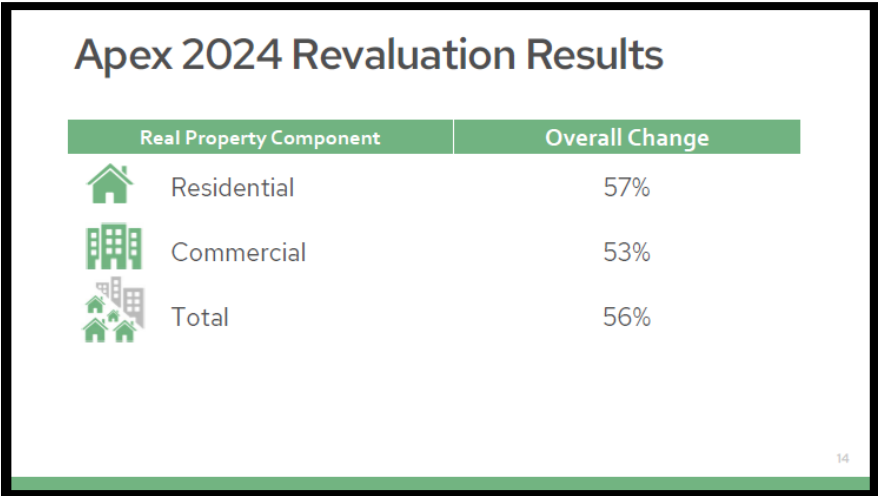
1 [PR3 - SLIDE 12]



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3 [PR3 - SLIDE 13]



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7 [PR3 - SLIDE 14]



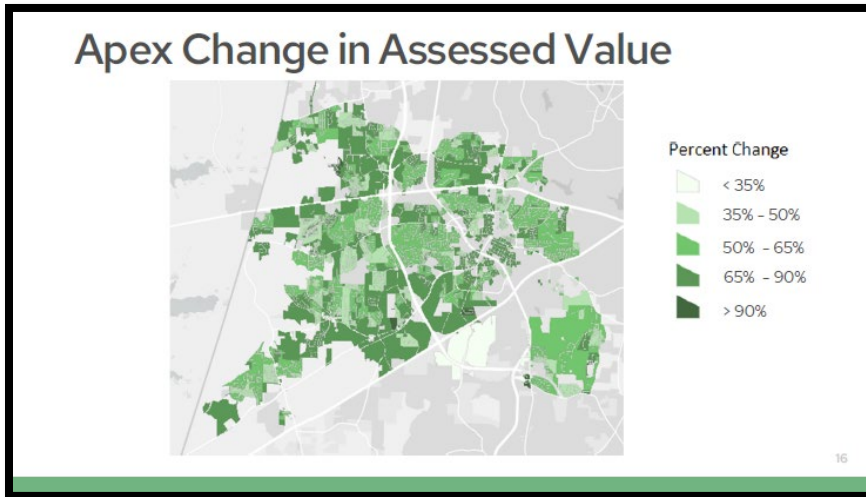
1 [PR3 - SLIDE 15]

Percent Change by Jurisdiction

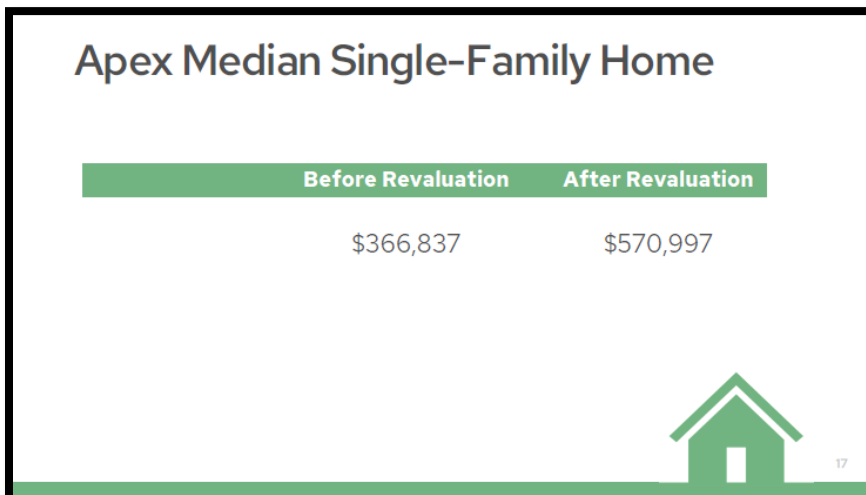
| Jurisdiction | Residential Change | Commercial Change | Overall Change |
|---------------------|--------------------|-------------------|----------------|
| Apex | 57% | 53% | 56% |
| Cary | 56% | 39% | 51% |
| Fuquay-Varina | 54% | 52% | 54% |
| Garner | 54% | 59% | 56% |
| Holly Springs | 53% | 80% | 58% |
| Knightdale | 51% | 67% | 57% |
| Morrisville | 55% | 37% | 45% |
| Raleigh | 52% | 43% | 48% |
| Rolesville | 51% | 52% | 51% |
| Wake Forest | 51% | 50% | 51% |
| Wendell | 63% | 75% | 65% |
| Zebulon | 48% | 50% | 49% |
| Unincorporated | 52% | 41% | 51% |
| Wake County Overall | 53% | 45% | 51% |

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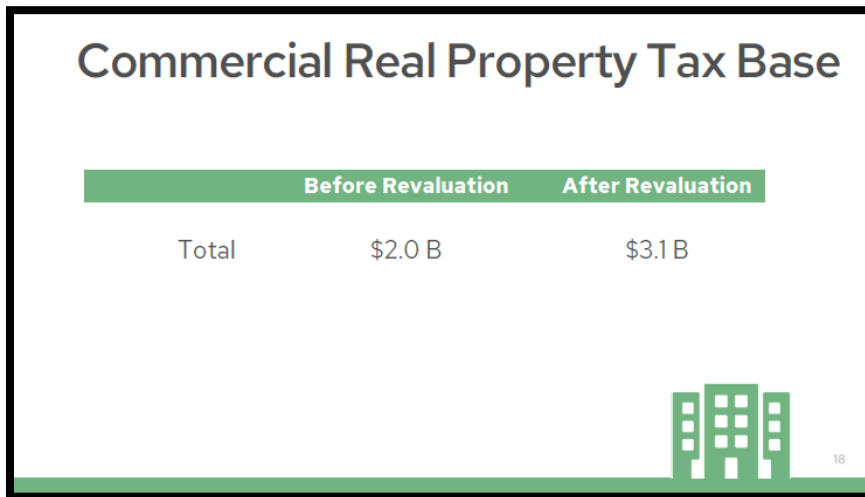
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3 [PR3 - SLIDE 16]



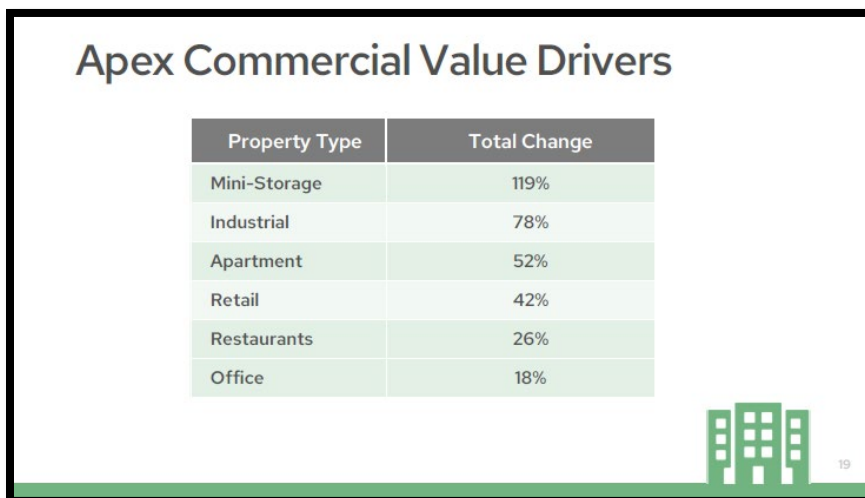
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7 [PR3 - SLIDE 17]



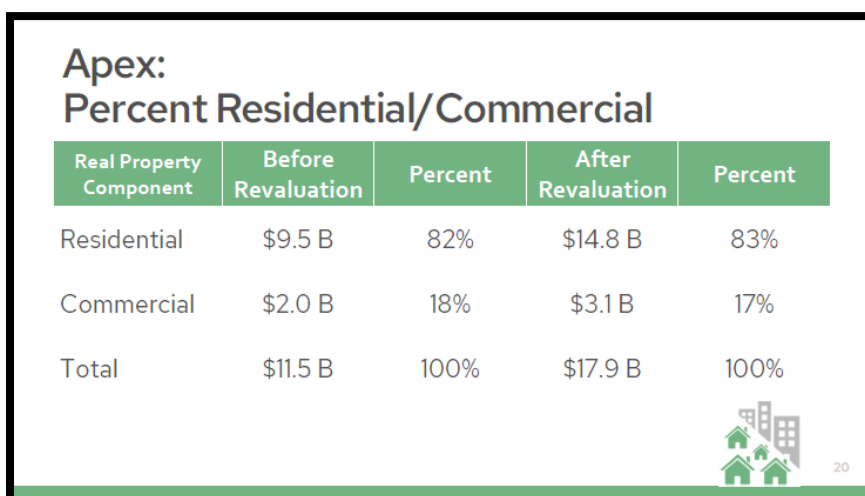
1 **[PR3 - SLIDE 18]**



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3 **[PR3 - SLIDE 19]**



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7 **[PR3 - SLIDE 20]**






1 [PR3 - SLIDE 21]

| Municipal Total Tax Base | | | |
|--------------------------|----------------------|----------------------|-----------------------|
| Jurisdiction | Estimated FY 24 Base | Estimated FY 25 Base | Average Annual Growth |
| Apex | \$12.49 B | \$19.39 B | 6.43% |
| Cary | \$34.40 B | \$49.68 B | 2.10% |
| Fuquay-Varina | \$6.46 B | \$10.24 B | 10.88% |
| Garner | \$5.89 B | \$9.00 B | 7.91% |
| Holly Springs | \$8.12 B | \$12.56 B | 8.60% |
| Knightdale | \$2.75 B | \$4.27 B | 4.19% |
| Morrisville | \$6.87 B | \$9.42 B | 3.84% |
| Raleigh | \$81.77 B | \$115.63 B | 2.41% |
| Rolesville | \$1.63 B | \$2.51 B | 8.12% |
| Wake Forest | \$7.64 B | \$11.36 B | 4.67% |
| Wendell | \$1.60 B | \$2.79 B | 13.31% |
| Zebulon | \$1.82 B | \$2.47 B | 10.21% |
| Wake County Overall | \$207.2 B | \$301.05 B | 3.44% |

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3 [PR3 - SLIDE 22]

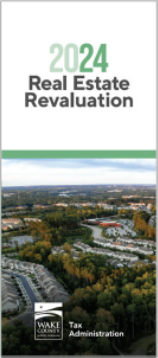
Resources Available to the Public



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7 [PR3 - SLIDE 23]

Tools for Property Owners:
Informational Brochure


- Included in each Notice of Assessment
 - What is Revaluation and Why is it Important?
 - How is Revaluation Conducted?
 - Will My Value Stay The Same Between Revaluations?
 - Will This Affect My Property Tax Bill?
 - What if I Disagree With My Value?
 - How Do I File an Appeal?
 - Tax Relief Programs



1 [PR3 - SLIDE 24]

Tools for Property Owners: Updated Information Online

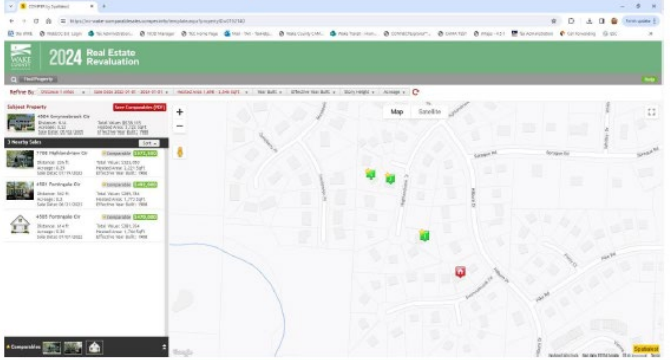
- Wake.gov/revaluation
 - Frequently Asked Questions
 - Appeals
 - Revaluation Statistics
 - Tax Portal
 - Property Search
 - Comparable Sales
 - Revenue-Neutral Calculator
 - Schedule of Values



About Revaluation
Every four years, Wake County revalues real estate to ensure all properties are valued and taxed equitably. Real estate revaluations are required by law in North Carolina, and they set the tax value of all residential and commercial land and structures such as homes, office buildings, stores, and farms. They do not include what is classified as individual personal property, such as vehicles, boats, airplanes, and business equipment, which are valued annually.

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3 [PR3 - SLIDE 25]

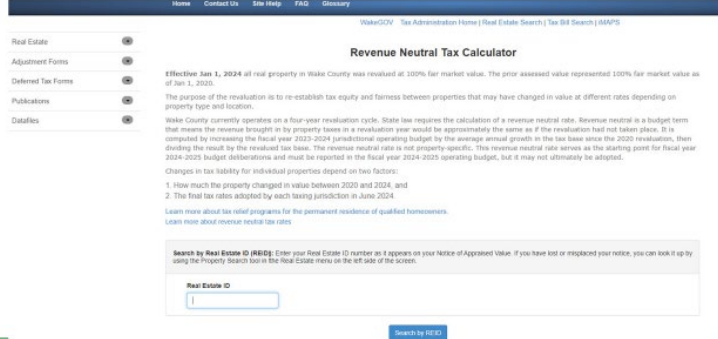
Tools for Property Owners: Residential Comparable Sales Search



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7 [PR3 - SLIDE 26]

Tools for Property Owners: Revenue Neutral Calculator



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1 [PR3 - SLIDE 27]

Tools for Property Owners: Online Tutorial about Appeals



2024 Real Estate Revaluation




How to File an Appeal

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3 [PR3 - SLIDE 28]

Tax Relief Programs: 2024



Deadline to Apply: June 1, 2024
Late applications may be accepted on a case-by-case basis. Forgetting or not knowing about the program are typically not valid reasons for lateness. Examples of good cause may include: physical or mental illness, death of an immediate family member, military deployment, or delay in receiving disability certification.

To find out more, visit wake.gov/taxrelief or call 919-856-5400

| | Seniors and Disabled Program (Elderly or Disabled Homestead Exclusion) | Tax Deferment Program (Circuit Breaker Tax Deferment Program) | Disabled Veterans Program (Disabled Veterans Exclusion) |
|--|---|--|---|
| Who Can Apply (These requirements MUST be met as of January 1, 2024) | 65 years & older OR Anyone totally and permanently disabled | 65 years & older OR Anyone totally and permanently disabled AND Owned and occupied home for at least five years | Veterans of any age with a total & permanent disability connected to their military service or their unmarried surviving spouse |
| Gross Income Requirement (Income BEFORE taxes or other deductions are taken out. It is NOT Adjusted Income.) | \$36,700 or less during 2023 (Combined income for married couples) | \$55,050 or less during 2023 (Combined income for married couples) | NONE |
| Tax Relief Benefit (Home value includes the residence, related improvements, and up to one acre of the building site.) | \$25,000 or 50% off home value, whichever is greater. | Taxes limited to 4% of income if gross income is \$36,700 or less Taxes limited to 5% of income if gross income is \$36,700 to \$55,050 Last 3 years of deferred taxes (with interest) may become due if a disqualifying event occurs. | Home value is reduced by \$45,000 |

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7 [PR3 - SLIDE 29]

Remaining 2024 Revaluation Schedule

January 16, 2024

- Presentation of Revaluation Results
- Information online at wake.gov/revaluation

January 17, 2024

- New assessed value notices mailed

March 1, 2024

- Deadline for property owners to file informal assessment reviews

April 24, 2024


- Board of Equalization and Review (BOER) convenes for 2024

May 15, 2024

- Deadline for property owners to file a formal appeal to the BOER

Through Fall 2024




- BOER considers all timely filed formal appeals



1 [PR3 - SLIDE 30]

Customer Service

- Revaluation Call Center: 919-857-3800
- Dedicated Revaluation Email: revaluation@wake.gov
- Tax Administration office in Wake County Justice Center




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3 [PR3 - SLIDE 31]

2024 Real Estate Revaluation

Wake County Tax Administration
919-857-3800
revaluation@wake.gov
Wake.gov/revaluation



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7 **Councilmember Mahaffey** thanked Ms. Kreiser for providing this information, and he was
8 glad she gave some resources for folks with questions. He said the appeals process is important, and
9 asked if it was a possibility that an appeal would lead to the property value increasing.

10 **Ms. Kreiser** said that was a possibility. She said anything is a possibility when looking at
11 things again, but she did not want that to discourage people from applying.

12 **Councilmember Mahaffey** said he wanted to make a point that not everyone should just
13 apply, he said it would be advisable to look at your own data first and determine if there is reason to
14 appeal the results. He said there were also two different appeals process, and asked if she suggest
15 people using both.

16 **Ms. Kreiser** said it is up to the discretion of the property owner, but she said a quicker and
17 easier way to start is an informal review. She said after that, if they chose, they could still appeal to
18 the Board of Equalization and Review for a formal review. She said people can do both, or either.

19 **Councilmember Mahaffey** asked about the revenue-neutral tax calculator on the County's
20 website not including Apex.

1 **Ms. Kreiser** said town's who chose to participate are included, so Apex properties currently
2 only show County rates.

3 **Councilmember Mahaffey** asked if they could be included if they provided the necessary
4 data.

5 **Ms. Kreiser** said yes.

6 **Councilmember Mahaffey** said he would look into that and follow up.

7 **Councilmember Zegerman** asked why some properties within neighborhoods had higher
8 rates of increase than the other properties near them.

9 **Ms. Kreiser** said she didn't want to specify without looking at the data, but they may have a
10 larger square footage, or a different characteristic than other homes in that neighborhood. She
11 encouraged anyone who was curious about a case like that to reach out to their office to speak to an
12 appraiser and walk through the data.

13 **Councilmember Mahaffey** asked if this was the process where getting a home addition
14 would roll into the new property value.

15 **Ms. Kreiser** said yes.

16 **Councilmember Gantt** said for him the land value went up a lot for him. He said he noticed
17 large parcels went up more than others, so the land seems to have gone up more than buildings.

18 **Mr. Kreiser** said they had been lower on land value in the 2020 revaluation, so this time both
19 land and building value were at market value.

20 **Councilmember Zegerman** said it was also noticeable that older areas of town seem to have
21 appreciated much more than the newer areas. He said this seems backwards, since newer homes
22 are larger and with more amenities. He asked if this was a common trend in Wake County.

23 **Ms. Kreiser** said she doesn't have the data for that in front of her, but they did a targeted
24 project at what they called "legacy homes", which were homes from before 1980's that haven't had
25 ownership changes, and since there haven't been permits taken out for many of those, there was an
26 assumption that many of those homes hadn't had some modernizations.

27 **Councilmember Zegerman** said the Justice Heights neighborhood really stands out to him,
28 since it had a high rate of revaluation increase and is a poorer area of town. He said something feels
29 off about that.

30 **Ms. Kreiser** suggested any homeowner in that area with questions or concerns, and they will
31 look at the data to ensure the value is reflecting fair market value. She said they included a
32 downward adjustment for homeowners who had lived there for a long time and hadn't made
33 alterations to their home, in order to try to account for changes in properties around them.

34 **Councilmember Gantt** said he would argue that Apex is so new that many of the older
35 homes are near downtown, so the desirability of living in those neighborhoods has gone up over
36 time, and especially recently. He asked about land vs. building tax rates, and that he thinks it would
37 be beneficial to have different tax rates for those two things. He said he thinks it may be beneficial
38 for the Board of Commissioners to add to their legislative agenda a differential tax rate for those
39 things, since State law currently requires they be the same. He said other states do that, and he
40 thinks they have had good outcomes.

41 **Ms. Kreiser** said Article 5, Section 2 of the North Carolina Constitution has a uniformity
42 clause, which requires local governments to tax land and buildings at the same rate, and follow the
43 same rules for exclusions and exemptions. She said it may be a pretty uphill battle for that to change.

1 **Councilmember Mahaffey** said it would seem better to tax buildings higher than land, since
2 older lots typically have larger land amounts and smaller homes.

3 **Councilmember Gantt** said typically taxing land higher is done in order to encourage
4 development, and it could be an incentive to develop land in Apex, especially near downtown.

5 **Councilmember Mahaffey** said that could encourage development, but it wouldn't help
6 homeowners. He said a more comprehensive list of tax relief programs would be good, but that a lot
7 of people cannot qualify for them.

8 **Councilmember Gantt** said there could be a progressive property tax rate, but that would
9 be even less likely to happen.

10 **Councilmember Zegerman** said as much as the town would want to be able to give people
11 a break on their property taxes, they are not able to.

12 **Ms. Kreiser** said last week they gave tax relief information to municipalities and other
13 organizations. She said last year urban counties worked to try to get a bill passed that would change
14 how the tax relief would be done to be on a percentage basis, but the General Assembly told them
15 that would violate the uniformity clause.

16 **Councilmember Mahaffey** said he wanted people to understand that the change in the
17 home value is more relevant based on the relative value to the rest of Apex. He said if your property
18 went up 50%, but lots of other properties nearby went up 60%, your tax bill will probably decrease.
19 He said the tax rate is going to do down dramatically in order to compensate for much higher values.
20 He said he also wanted to highlight the appeals process and how there was a limited time to file
21 those. He also said there were resources available for people to utilize tax relief, that different
22 people are able to qualify for. He said he was also frustrated that the revaluation shifted some of the
23 relative tax burden more to residences, but he said that shows they should shift the development in
24 the town to more commercial properties.

25 **Councilmember Gantt** said they have been doing that in recent years.

26 **Councilmember Mahaffey** said yes, but they are still 83% residential.

27 **Councilmember Gantt** said he thinks that will be different in 2028 based on the things they
28 have been doing in the last couple years.

29
30
31
32 **[REGULAR MEETING AGENDA]**

33
34 A **motion** was made by **Councilmember Zegerman**, seconded by **Councilmember**
35 **Killingsworth**, to approve the Regular Meeting Agenda as presented.

36
37 **VOTE: UNANIMOUS (4-0)**

38
39 **[PUBLIC FORUM] (Note: To view Public Forum and Public Hearing Sign Up Sheets, see OTHER-**
40 **2024-034)**

41
42 First to speak was **Beth Bland** of Friendship Road

1 "So tonight, this is basically just for you Mayor Gilbert, I just got this in the mail, I don't know if you all
2 have seen this but it's a great article about the Mayor. I wanted to congratulate you being featured in
3 the cap trust magazine. My family has known you for a very long time, and I enjoyed reading the
4 article and learning more about you and your family. I personally have experience how you truly care
5 about the people you know and serve. So, it's been 13 years now, but I have never forgotten your
6 kindness the day I told you about my late husband passing. You're a man of great integrity and
7 sincerity. I can't imagine the number of hats you wear in your job, or all of the different agendas that
8 cross your desk, and I'm going to Segway just a little bit. So, for those of us being affected by the Big
9 Branch Force Main, we have appreciated your listening and encouragement in our effort to move it
10 to the south side of US 1. Some of your advice in the article was to show up. So, I have never been to
11 a Town Council meeting before until about 18 month ago, I have learned a lot, and I will keep
12 showing up. Another advice was to speak up. The big branch force main to myself, to Tom, and
13 many of our neighbors, needs to be moved, and there is a solution out there. So, I appreciated
14 being able to be heard, and I appreciate you and the work that you do. Thank you. "

15
16 **Mayor Gilbert** thanked Ms. Bland for her comments.

17
18 Next to speak was **Dawn Cozzalino** of Bosco Road:

19
20 "While I wish this was a two-way forum where we could exchange ideas, I can only ask you to listen.
21 What I'm going to be mentioning tonight about Apex is not directed towards the Mayor, it's directed
22 towards Town Council and the staff. Apex has lost the people's trust. It's due to numerous reasons.
23 For example, not sharing information to the community, downplaying casually the effects of eminent
24 domain, quietly working behind the scenes communicating to state officials and developers. Apex
25 knew exactly what they were doing. They simply took a Sharpie to southwestern Wake County. We're
26 talking about little beaver conservation easement, we're talking about extension of Richardson Road,
27 we're talking about the extension of western big branch force main. Even when the community
28 provided other opportunities to course correct, Apex authoritarian culture could not adapt. The train
29 left the station, and is hurling down the tracks, So I've quoted from the movie The Terminator, "the
30 government machine can't be bargained with, can't be reasoned with, it doesn't feel pity or remorse
31 or fear, and it absolutely will not stop. Apex has also demonstrated that it does not care about our
32 community. Apex wants us to believe there is only one way, and that they must make take properties
33 in the name of eminent domain. When Apex fights for the benefits of citizens first and foremost, not
34 developers, there are always other ways of working with the community for meaningful outcomes.
35 Otherwise, all Apex is doing is weaponizing eminent domain to control and to conceal outright
36 stealing of properties. Thank you."

37
38 Next to speak was **Elizabeth Stitt** of 3113 Friendship Road:

39
40 "Mayor you may recognize my handwriting for all 3 speakers tonight because there was a major 3-
41 car accident at Old US 1 and Friendship Road, and I got out before the accident happened, so I
42 signed them up. So I'm going to talk a little bit about my tax value. One of my properties, my main
43 property, went up 84%. I have a smaller piece that went up over 100%. And it does not actually
44 encourage development, I think it makes it harder for development because for a developer to

1 come buy out my property, they're going to have to pay me a lot more, and what they can build on
2 my property have to have a greater TCO in order to make the project work. So if my value has gone
3 up a lot, people aren't going to be able to buy it, but I'm going to be able to go get loans against it.
4 And tap into my equity, bound equity just because the tax rate went up, and I can go buy my
5 neighbor's properties, and I can go buy other's properties. It helps me become more wealthy and
6 tap into other properties of other people who may not be able to continue to afford, you know sell
7 out. So the increasing land value is a benefit to those of us who have the land, it's not good for the
8 community, it's not good for development. I wanted to give that counterpoint because I was
9 listening to the conversation and saying we have a real problem with affordable housing, and these
10 values going up do not help that problem at all. And those of us that are still here, very few of us are
11 going to leave anytime soon because it is our forever homes, and where can we go in Wake County
12 where we can be this close to an airport, this close to hospitals, this close to shopping, this close to
13 food, this close to roads, we have more connectivity out in the Friendship county than anywhere else
14 in Wake County. If you look at the number of points that we have to 540, to US 1, to 64, to 55, we
15 have been made a unicorn based on what every one of my neighbors have told me. So you know
16 when we come up here and say hey we want to have a say in our community, we want to have a say,
17 because we're not going anywhere. And I had to walk out of the Town Council meeting last meeting
18 because I was so offended, because what I realized was we do care more about protecting our trees,
19 protecting our water, protecting conservation easements, things that are supposed to be protected.
20 We're the ones that are living and breathing that protection. And there was no opportunity to really
21 have a dialogue about the little beaver creek conservation easement the way it was put up. So I can
22 tell you what I do know is decisions can change, rezonings can change, and we can have some
23 discussions and have a better outcome. So I just encourage you consider having some more
24 dialogue with us. Thank you."

25
26 **Mayor Gilbert** thanked Ms. Stitt for her comments.

27
28 Next to speak was **Phil Welch** of 1471 Big Leaf Loop:

29
30 "My name is Phil Welch. I live at 1471 Big Leaf Loop in Apex. I'm an advocate for housing choices for
31 all of our residents and workers here. I want to speak to you about: A Case for Protecting Our Hard-
32 Working Neighbors. I'm referring to an older neighborhood in Apex where homes sprung up in the
33 late 1980s. The development was originally envisioned as a place where working-class families could
34 own modest, affordable homes. Over the ensuing 40 years, the neighborhood has changed
35 dramatically, along with the surrounding community. Initially, this neighborhood served as a
36 launchpad for younger families. They were able to save their money and move to larger homes as
37 their families grew. However, as their housing expenses increased and reasonably priced,
38 middle-market homes became scarce, there were far fewer families that could save and move on.
39 Also, as the homes aged and families struggled to maintain them, the neighborhood became less
40 desirable, except for the prices which, up until recently, continued to be reasonable.
41 Now, as with so many older neighborhoods in Apex, this neighborhood of about 100 affordable
42 homes is seriously threatened by rising land values and potential redevelopment. This would
43 displace families which have lived here for 10 years or more. Unfortunately, the land there is now
44 worth more than the homes which is a recipe for irresistible property sales, out-migration of lower-

1 income families, wholesale redevelopment and in-migration of higher-income households, also
2 known as gentrification. The possible removal of these long-time residents would also be
3 diametrically opposed to the vision in Apex's Affordable Housing Plan: Apex welcomes people of
4 diverse backgrounds, and supports opportunities for affordable, safe, sanitary, and quality housing
5 that meets the needs of people of all incomes, ages, and abilities. With that vision in mind, we need
6 to explore all possible ways to preserve the affordable homes and neighborhoods of these families.
7 Losing these homes would mean the displacement of families with deep roots in the community,
8 including their jobs, their children's schools, their extended families and their faith communities.
9 If this was a neighborhood of working-class, white families, these individuals would be showing up to
10 protest at Council meetings, taking to social media to state their case and organizing rallies and
11 marches. However, this is a marginalized community of people of color, including undocumented
12 adults, who are fearful of the publicity, discrimination and retaliation that would threaten their
13 families, almost as much as their relocation to other counties or states. I'm referring to one of Apex's
14 three manufactured home communities. I beg you to join me and other advocates, some of whom
15 are here with me tonight, in exploring creative ways to protect these beloved neighbors from
16 threatened displacements from their homes and community. Thank you!"

17
18 Next to speak was **Zoe Wampler** of 1011 Tender Drive:

19
20 "My name is Zoe, I am a Jewish resident of Apex and a member of the Triangle Chapter of Jewish
21 Voice for Peace. I'm here today to draw attention to a safety issue for our residents. As you may
22 already be aware, the current Israeli war on Gaza has been characterized as genocide, not to be
23 used lightly by the US-based Center for Constitutional Rights. The war has also led to a dramatic
24 increase in islamophobia and antisemitism here in the US, with the most recent incident taking place
25 in Austin, Texas when a group of Muslim-Americans were violently attacked in a suspected hate
26 crime. Last week I sent an email asking each of you to sign on to a letter co-drafted by Jewish Voice
27 for Peace, Muslim Women for, and NC General Assembly Representatives Harrison, Price, and
28 Cervania. This letter calls on the Biden Administration, and the NC Congressional Delegation to take
29 the following actions: number 1, support the ceasefire now resolution currently in the US House of
30 Representatives and introduce a companion resolution in the Senate. Number 2, urge the Biden
31 Administration to continue to work for the diplomatic release of all hostages, both those held by
32 Hamas and the Palestinians detained by the Israeli Government and Military. And number 3, urge
33 the US Department of State and Homeland Security to extend the temporary protected status and
34 authorize deferred enforced departure to Palestinian families currently residing in the United States,
35 so as to offer them the much-needed protection and stability they need in this time. I want to thank
36 Councilmembers Killingsworth and Zegerman, who have already courageously signed on to this
37 letter, and I urge the rest of the Council to join them. According to the US Campaign for Palestinian
38 Rights, every year North Carolina residents contribute over 90 million in federal tax dollars toward
39 the US funding of the Israeli military, which totals 3.8 billion dollars annually. Apex resident account
40 for just under \$750,000 of that sum. It is the responsibility of local elected officials such as yourselves
41 to ensure that our taxpayer money is used for the betterment and safety of the people you serve,
42 and not for supporting genocidal wars. I urge the Council to follow in the footsteps of our fellow
43 North Carolinians on the Carrboro Town Council, and put forth a ceasefire resolution against the
44 ongoing Israeli attack on Gaza. These symbolic measures represent the will of the people, as well as

1 put pressure on our Congressmembers, such as Representative Wiley Nickel, who have yet to sign
2 on to such resolutions. Jewish and Palestinian safety are thoroughly intertwined, and a permanent
3 ceasefire is the only way to achieve safety for all, both those living on the land of Israel and Palestine,
4 and those of the Jewish and Palestinian diaspora living here in North Carolina. Thank you for your
5 time.”

6
7 **Mayor Gilbert** thanked Ms. Wampler for her comments.

8
9 **[PUBLIC HEARING]**

10
11 **PH1 Unified Development Ordinance (UDO) Amendments - January 2024 (REF: ORD-2024-**
12 **011)**

13 **Amanda Bunce**, Current Planning Manager, gave the following presentation regarding the
14 January 2024 UDO Amendments. She requested amendment 2 be pulled, and will be returning with
15 potential alterations.

16 **[SLIDE 1]**



17
18 **[SLIDE 2]**



1



3



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[SLIDE 5]



1 [SLIDE 6]

Amendment #3
Requested by Planning Staff

3. Amendments to Sec. 6.1.11.G *Uses Permitted Within the Riparian Buffer* in order clarify that screened porches are allowed to encroach into a riparian buffer in the same manner as sheds and gazebos based on interpretation from the North Carolina Department of Environmental Quality.

Table 6.1.11.G.1

| Use | Exempt* | Allowable* | Allowable with Mitigation* |
|--|---------|------------|----------------------------|
| Recreational and accessory structures in Zones 2 and 3: | | | |
| • Sheds and gazebos, and screened porches in Zones 2 and 3, except along perennial waters in Neuse River Basin where high-density development option is utilized | | | |
| o Total footprint less than or equal to 150 square feet per lot | | X | |
| o Total footprint greater than 150 square feet per lot | | | X |
| • Slatted uncovered decks and associated steps, provided the use meets the requirements of Sec. 6.1.11.E and F of this Ordinance: | | | |
| o Deck at least eight (8) feet in height in Zone 2 and no vegetation removed from Zone 1 | | X | |
| o Deck less than eight (8) feet in height in Zone 2 or vegetation removed from Zone 1 | | | X |
| o Deck in Zone 3 | | X | |

APEX NORTH CAROLINA

2
3
4 **Councilmember Mahaffey** noted that he was disappointed Amendment 2 got pulled, as he was
5 ready to speak against it for half an hour. He said he thinks it would be bad, and hopes they never
6 bring it back.

7
8
9 A **motion** was made by **Councilmember Gantt**, seconded by **Councilmember**
10 **Killingsworth**, to approve Amendments 1 and 3 of the Unified Development Ordinance
11 Amendments of January 2024.

12
13 **VOTE: UNANIMOUS (4-0)**

14
15
16 **[OLD BUSINESS]**

17 **OB1 Ordinance Amendment - Chapter 5 - Article 1 - Section 5 - Automatic Fire Sprinkler**
18 **System Requirements (Discussion ONLY)**

19 **Mayor Gilbert** said this originally discussed and passed 3-2 during the November 14th, 2023
20 meeting, and needed to come back for a second reading. He said he was originally concerned that
21 this item did not receive enough public input initially, and there were also different staff measures
22 that didn't have an opportunity to weigh in. He said this was an opportunity for Council to give
23 direction to staff so they can bring this back for a second vote at a scheduled time. He asked each
24 Councilmember to share with staff what direction they want them to go in, and what they would like
25 to see in the staff report when it comes back to Council.

26 **Councilmember Gantt** asked if he wanted them to provide people they want to be involved
27 in the process, or questions that they have.

28 **Mayor Gilbert** said anything that helps to give Interim Town Manager Purvis and staff a
29 better idea of what they need in the staff report.

1 **Interim Town Manager Purvis** said the biggest thing they are looking for is what Council
2 would like to see and know, before they send staff down the avenues of research. He said the staff
3 report will be laying out the consideration to have.

4 **Councilmember Mahaffey** said he was a bit surprised that they were still on this in February,
5 as he said he thought they had decided they were going to be sharing with staff what they wanted to
6 see individually then, and then setting a public hearing to further the discussion. He said he sounds
7 like that is the plan now. He said he sent Interim Town Manager Purvis an email after the meeting in
8 November about the information he felt would be relevant. He said these types of ordinances are in
9 place around the country, and there has been lots of research done on those. He said he thought
10 other members would be sharing that information with staff then as well. He said he would like this
11 to move quickly, get the information they need, hold the public hearing, and then make a decision.

12 **Mayor Gilbert** said he wanted to have it this way for transparency. He said he wanted the
13 discussion to be public, and that he wouldn't see emails that Councilmember Mahaffey sent. He said
14 it would be good to have this discussion, and he thinks there could even be a work session
15 regarding this to hold a dialogue with staff. He said there are people that would really be impacted
16 by this in the community, and he said it's important that they hear this discussion.

17 **Councilmember Zegerman** said he would like to see a summary of changes to the building
18 fire code over the last 4 years. He said that would be good context. He said this would be for single
19 family and townhomes, since apartments already require sprinkler systems. He wants to see the
20 allowable building materials and if those have changed, and what the impact of that has been of the
21 fire safety of the structures. He said he was mostly concerned about townhomes, but was also
22 concerned about single-family residences since the lot offset has decreased. He said he'd like to see
23 how these changes change the building industry, so they can have more impact about what these
24 changes may bring.

25 **Councilmember Killingsworth** asked if he would prefer to have a work session or just a
26 public hearing once the information comes in.

27 **Councilmember Zegerman** said he would prefer to just have a public hearing, unless there
28 was more information presentation than the staff could put in the staff report. He said unless staff
29 requests a work session, he is fine with just having a public hearing.

30 **Councilmember Killingsworth** said she would like some clarifying information regarding
31 this has been implemented. She wanted additional information on how water damage insurance
32 would work if sprinklers went off, and if there were protections for homeowners for water damage in
33 these scenarios. She added that she'd like to see information regarding the flammability of what
34 houses are constructed with now versus a decade ago.

35 **Councilmember Zegerman** said that's similar to what he would like to see. He said he would
36 like to see the evolution of the fire code and the safety measures over recent times.

37 **Councilmember Killingsworth** said she also wanted to know what the cost estimate
38 difference between homes without sprinkler systems and homes with in case of fire. She said she
39 would like to see this on a local level if possible, or at least to a comparable area. She said she would
40 definitely like to have input from the public, but she would prefer that to be in the form of a work
41 session, which she says they have done similar in the past. She said this would be a time for plenty of
42 discussion and public input, but not when they would expect to make the decision.

43 **Councilmember Mahaffey** asked if that would be separate from the Public Hearing.

44 **Councilmember Killingsworth** said yes.

1 **Councilmember Mahaffey** asked how it would be different.

2 **Councilmember Killingsworth** said it would just be a time for them to gather information.

3 **Councilmember Gantt** said he would be interested in a discussion about the setbacks, cul-
4 de-sac lengths, and what planning changes could benefit from the sprinklers being in the houses
5 based on safety. He asked if staff would recommend any changes to the ordinances to go along with
6 it. He said he would also love to love to get a cost estimate per square foot that was based on Apex,
7 Wake County, and/or North Carolina, or a comparable community in another state. He wanted to
8 know what the actual cost would have been in the last few years. He said he would also prefer a work
9 session on this topic in order to do a deeper dive on it.

10 **Councilmember Killingsworth** asked if Interim Town Manager Purvis needed any clarifying
11 information on that.

12 **Interim Town Manager Purvis** said he didn't think so. He said he would be getting in touch
13 with staff to determine the time needed to put this research and information together.

14 **Councilmember Gantt** asked if they agreed that they wanted the data to be based on Apex
15 in the past couple years to get a best estimate.

16 **Councilmember Mahaffey** said not really. He said there really won't be any residential
17 sprinkler information in Apex in the past 2 years. He said he thinks data regarding how it behaves on
18 homes is applicable across the country because of industry standards.

19 **Councilmember Gantt** said he sees the national estimates, but he isn't sure how it would
20 translate to here very well. He said lots of houses in Apex are using a different option for siding in
21 construction than many houses nationwide.

22 **Councilmember Mahaffey** said he understands his point, but he wanted to add that fire
23 safety of homes has been studied by every community in every country forever. He said the data is
24 out there, and he is saying it is okay to look at data for homes in other places because they live in
25 homes like we do.

26 **Councilmember Gantt** said the cost question is wondering about if more expensive homes
27 translate to more expensive sprinkler systems.

28 **Councilmember Mahaffey** said he thinks that was a good question.

29 **Mayor Gilbert** said he would like staff to gather input from stakeholders, including residents,
30 homebuilders, modelers, affordable housing advocates, and others, and he would like to have it
31 vetted by the Housing Advisory Board.

32 **Interim Town Manager Purvis** said he was wondering what the best venue to receive all of
33 this public input would be.

34 **Mayor Gilbert** said he was mostly wanting to make sure that they are able to gather input
35 from stakeholders and have a structured way of doing that.

36 **Interim Town Manager Purvis** said they can speak about what the best way to receive that
37 input may be, and that Housing Advisory Board would be one of those stakeholders.

38 **Mayor Gilbert** said he was concerned about voting on the same night as the public hearing
39 for something like this, as the public may present information they didn't account for, and that could
40 be problematic.

41 **Councilmember Zegerman** asked if it would be good if they did a work session and then a
42 public hearing.

43 **Mayor Gilbert** said he would hope so.

1 **Councilmember Gantt** asked if they would need a public hearing if they do the work session
2 to gather community input.

3 **Councilmember Killingsworth** said the idea of public hearing would be to get input from
4 residents and stakeholders, and her idea would be that they did not vote on it during the work
5 session when they gather all of this information together, and then at the next meeting be able to
6 vote.

7 **Councilmember Mahaffey** asked if they wanted to set dates.

8 **Town Clerk Coleman** said once they voted, anything they approved would have to go
9 before the Building Code Council, and they have already missed the deadline to have something go
10 before the Council in March. He said it also doesn't sound like they would be able to meet the June
11 deadline. He said at that point the next Building Code Council meeting would be September 9th, so
12 they could work their way back from there.

13 **Councilmember Zegerman** asked what the submission deadline was.

14 **Town Clerk Coleman** said it was normally the first day of the month prior, so to make the
15 September 9th meeting the deadline would be August 1st. He said this would mean they would need
16 to vote on it by June, since they don't meet in July.

17 **Councilmember Mahaffey** said in June they will be finalizing the budget.

18 **Mayor Gilbert** said this was a lot of work to get the information they are wanting, so it may
19 need to be pushed back.

20 **Interim Town Manager Purvis** suggested June 18th, as that could still meet the August 1st
21 deadline.

22 **Councilmember Zegerman** said that seemed a little late since there would only be one
23 Council meeting after that.

24 **Councilmember Mahaffey** said he was concerned about this overlapping with preparing the
25 budget. He asked if he would be more worried about this being in May or June.

26 **Interim Town Manager Purvis** said May. He said he hopes by the end of the May the budget
27 would be pretty much wrapped up. He said the budget Public Hearing was scheduled for May 21st,
28 and the follow-up workshop, if needed, was May 23rd. He said they were hoping to adopt the budget
29 on June 11th.

30 **Mayor Gilbert** said his concern was how this policy would impact the residents and
31 stakeholders in Apex.

32 **Councilmember Gantt** said it could be a work session in June, and then a public hearing
33 and vote on the second Council meeting date in June.

34 **Councilmember Zegerman** said he was concerned that it was a short turnaround between
35 the potential work session the last meeting in June. He said they could potentially call a special
36 session in July if necessary.

37 **Town Clerk Coleman** clarified that Council agreed to amend the calendar to hold a Work
38 Session for this item on June 18th, and a Public Hearing for this item on June 25th.

40 [UPDATES BY TOWN MANAGER]

41 **Interim Town Manager Purvis** reiterated the Counter History Ice Cream Social that was
42 upcoming at the Halle. He said Think Apex nominations were open through the end of the month,
43 and the town would be celebrating businesses, individuals, and nonprofits in the town. He said the

Wake Up and Read drive ends this week, and the town has collected about 500 books so far. He said restaurant week was February 26-March 3, and there are 16 participating restaurants this year. He said there was a full week this week, with a budget workshop this Thursday and Friday.

[CLOSED SESSION]

A **motion** was made by **Councilmember Mahaffey**, seconded by **Councilmember Zegerman**, to enter into Closed Session pursuant to NCGS § 143-318.11(a)(3) and NCGS § 143-318.11(a)(5).

VOTE: UNANIMOUS (4-0)

Council entered into Closed Session at **7:49 p.m.**

**CS1 Demetria John, Assistant Town Manager and
Steve Adams, Real Estate and Utilities Acquisition Specialist**

NCGS § 143-318.11(a)(5)

"To establish, or to instruct the public body's staff or negotiating agents concerning the position to be taken by or on behalf of the public body in negotiating (i) the price and other material terms of a contract or proposed contract for the acquisition of real property by purchase, option, exchange, or lease."

CS2 Laurie Hohe, Town Attorney

RE: Town of Apex v. Briartac Family, LLC

NCGS § 143-318.11(a)(3):

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

CS3 Laurie Hohe, Town Attorney

NCGS § 143-318.11(a)(3):

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

Council returned to open session at **8:39 p.m.**

A **motion** was made by **Councilmember Killingsworth**, seconded by **Councilmember Zegerman**, to enter into Closed Session pursuant to NCGS § 143-318.11(a)(6)

ADDED CS4 Mayor Jacques K. Gilbert

NCGS § 143-318.11(a)(6)

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

Council returned to open session at **9:25 p.m.**

[ADJOURNEMENT]

Mayor Gilbert adjourned the meeting at **9:26 p.m.**

Jacques K. Gilbert
Apex, Mayor

Allen Coleman, CMC, NCCCC

Town Clerk to the Apex Town Council

Submitted for approval by Apex Town Clerk Allen Coleman

| Agenda Item | cover sheet

for consideration by the Apex Town Council

Item Type: CONSENT AGENDA

Meeting Date: February 27, 2024

Item Details

Presenter(s): Chris Johnson, P.E., MPA, Director

Department(s): Transportation & Infrastructure Development

Requested Motion

Motion to approve an Encroachment Agreement between the Town and property owner Taylor Morrison of Carolinas, Inc., located at 2512 Canarywood Lane, Apex, NC 27523, to install a sidewalk that will encroach 8 square feet (SF) and a driveway that will encroach 81 square feet (SF) onto the Town of Apex Public Drainage Easement and authorize the Interim Town Manager, or their designee, to execute the same.

Approval Recommended?

Yes

Item Details

The proposed Encroachment Agreement is between the Town and property owner Taylor Morrison of Carolinas, Inc. (Grantee) for the property described as a residential lot known as Wake County PIN No. 0722-78-8273, Book of Maps 2023, Page 01815, lot is also known as 2512 Canarywood Lane, Apex, NC 27523. Grantee wishes to install certain improvements, more particularly described as a sidewalk that will encroach 8 square feet (SF) and a driveway that will encroach 81 square feet (SF) onto the Town of Apex Public Drainage Easement.

Attachments

- CN9-A1: Encroachment Agreement - 2512 Canarywood Lane Lot 31
- CN9-A2: Exhibit A - 2512 Canarywood Lane Lot 31



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

STATE OF NORTH CAROLINA
COUNTY OF WAKE

ENCROACHMENT AGREEMENT

THIS ENCROACHMENT AGREEMENT, being made this _____ day of _____, 2024, by and between Taylor Morrison of Carolinas, Inc., hereinafter referred to as "Grantee," and the Town of Apex, hereinafter referred to as the "Town."

WHEREAS, the Grantee is the owner of a certain residential lot of land in the County of Wake, State of North Carolina, which is designated as **PIN #0722-78-8273** by the Wake County Revenue Department and more particularly described as **Lot 31** of the subdivision known as Alderwood shown on that certain plat recorded in **Book of Maps 2023, Page 01815**, Wake County Registry (hereinafter the "**Subdivision Plat**"). The residential lot is also known as **2512 Canarywood Lane, Apex NC 27523**. The residential lot described in this paragraph is hereinafter referred to as the "**Residential Lot**."

WHEREAS, the Town is the owner of a **Town of Apex Public Drainage Easement** as shown on the **Subdivision Plat** hereinafter referred to as the "**Public Drainage Easement**."

WHEREAS, Grantee wishes to install certain improvements more particularly described as a **sidewalk that will encroach 8 square feet (SF) and a driveway that will encroach 81 square feet (SF) onto the Public Drainage Easement**, which serves the Residential Lot, hereinafter referred to as the "**Encroachment**", all as shown on the attached **Exhibit A**. Grantee desires to make certain agreements and covenants regarding the Encroachment.

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

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

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

2. The Encroachment shall not be enlarged or increased beyond the Encroachment shown in **Exhibit A** and described in this Encroachment Agreement. Grantee is responsible for any and all expenditures of labor or materials required for the installation, erection, repair, removal, or maintenance of the above-referenced Encroachment and shall be allowed to maintain the Encroachment and to perform all necessary repairs, maintenance, and replacement of the Encroachment as may be necessary from time to time.

3. The Town shall not be held responsible for any and all property damage or injury or death of any person which results from any and all negligence, omission, defect in design, maintenance, or workmanship created by the Encroachment described herein, or any cause of action arising out of the installation, maintenance, removal, destruction, or location of said Encroachment.

4. Grantee agrees to and does hereby hold the Town, its officers, council members and employees harmless from any and all liability arising out of such negligence, omission, defect or other cause of action; that it will defend the Town, its officers, council members and employees, and pay all attorney fees in any and all actions brought as a result of such; and that it will indemnify the Town, its officers, council members, and employees against any and all loss sustained by reason of such negligence, omission, defect, or other cause of action, claim, cost, or expense arising out of the installation, maintenance, removal, or location of said Encroachment; provided that, Grantee shall not be obligated hereunder to indemnify the Town for any negligent acts or omissions of the Town, its contractor(s) (including sub-contractors) and their respective officers, agents and employees.

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

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

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

To Grantee: Taylor Morrison of Carolinas, Inc.
 15501 Weston Parkway, Suite 100
 Cary, NC 27512

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

8. Grantee agrees to abide by all applicable laws, regulations, statutes and ordinances.

9. This Encroachment Agreement shall not divest the Town of any rights or interest in said **Public Drainage Easement**.

10. If the Town deems, within its sole discretion, that removal of all or apportion of the Encroachment is necessary in order to operate, protect, maintain, modify, replace, add-to or improve its facilities located within the **Public Drainage Easement**, then Grantee shall cause such removal to be made at Grantee's sole expense within 30 days after receipt of notice from the Town and shall be completed in a manner that will allow the Town complete and safe access to the **Public Drainage Easement**. In the event that the Grantee fails to timely remove the Encroachment or in the event of an emergency associated with the condition of the **Public Drainage Easement**, the Town is authorized to remove all or such portion of the Encroachment as the Town determines in its sole discretion to be reasonably necessary, convenient or advisable to operate, protect, maintain, modify, replace, add-to or improve its facilities located within the **Public Drainage Easement**. The Town shall have the sole discretion to determine the existence of an emergency associated with the condition of the **Public Drainage Easement**.

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

12. Grantee, during the life of this Encroachment Agreement, agrees to procure or cause to be procured from a responsible insurance carrier or carriers authorized under the laws of the State of North Carolina, insurance in the minimum amounts of \$300,000/\$500,000/\$300,000 covering full liability for any and all personal injury, property damage or wrongful death caused by the construction, maintenance, location, repair or visual obstruction of said Encroachment. Grantee shall furnish the Town, without demand, each July a certification from the insurance carrier or carriers with whom the insurance herein mentioned is carried, stating that such compensation is covered by such carrier or carriers and showing such insurance to be in full force and effect. Both Grantee and the Town shall be named as insured parties by endorsement of the policy. In the event of any change in the insurance policy, Grantee shall give the Town thirty (30) days' notice of such change. Should Grantee fail to pay premiums upon said insurance or to perform any of the agreement, terms or conditions herein contained, the Town, at its option, by written notice may declare this Encroachment Agreement canceled and terminated and all rights acquired hereunder by Grantee shall thereupon terminate.

13. Notwithstanding Section 14 below, Grantee shall be released from its obligation under this Encroachment Agreement only upon the assumption of said obligations either by a successor in title to the **Residential Lot**, or by assumption of said obligations by an incorporated party approved by the Town. The Town's consent to such assumption and release shall be required but shall not be withheld, conditioned or delayed if, as reasonably determined by the Town, the party assuming Grantee's obligations possesses adequate financial resources and ownership interest, and Grantee's delegate and proposed assignee assume and agree to fulfill, in writing, all of Grantee's duties set forth in this Encroachment Agreement.

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

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

GRANTEE

Taylor Morrison of Carolinas, Inc.

By: Christian Sheppard (SEAL)
Christian Sheppard
Land Development Director



NORTH CAROLINA
COUNTY OF Wake [county in which acknowledgement taken]

I, Candice N. Blakeslee, a Notary Public of Wake County, North Carolina, certify that Christian Sheppard, personally appeared before me this day and acknowledged that he is the Land Development Director for Taylor Morrison of Carolinas, Inc. Grantee herein, and that by authority duly given as Land Development Director for the company, the foregoing instrument was signed and sealed by him on behalf of the company and acknowledged said writing to be the act and deed of said company.

Witness my hand and official stamp or seal, this 5th day of February, 2024.

[Signature]
[Signature of Notary Public]

Candice N Blakeslee
Notary Public, North Carolina
Wake County
My Commission Expires
March 5, 2028

My Commission Expires: 03.05.2028

(SEAL)

TOWN OF APEX

Shawn Purvis, ICMA-CM
Interim Town Manager

(Corporate Seal)

ATTEST:

Allen Coleman, CMC, NCCCC
Town Clerk

STATE OF NORTH CAROLINA

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

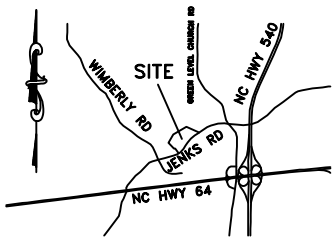
I, _____, a Notary Public for _____
_____ County, North Carolina, certify that **Allen Coleman** personally came before me this day and
acknowledged that he is **Town Clerk** for the **Town of Apex, a North Carolina Municipal Corporation**, and that
by authority duly given and as the act of the corporation,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

Witness my hand and official stamp or seal, this ____ day of _____, 2024.

[Signature of Notary Public]

My Commission Expires: _____

(SEAL)



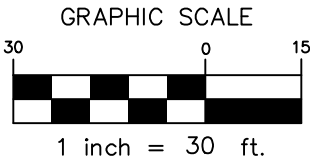
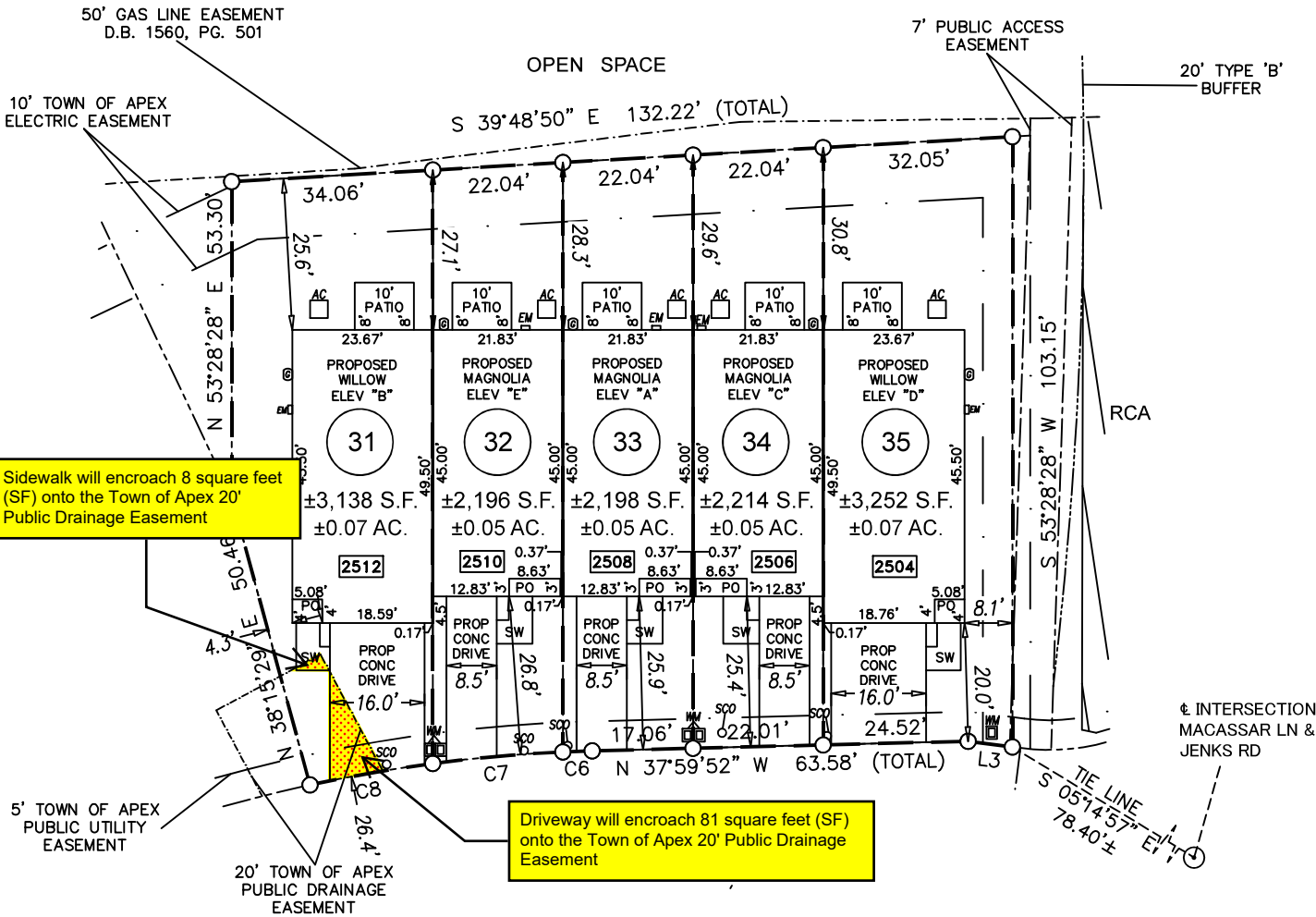
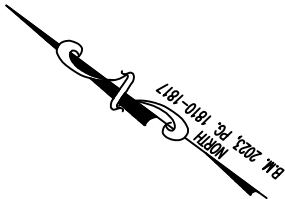
- LEGEND**
- AC=AIR CONDITIONING UNIT
 - AG=ABOVE GROUND
 - BOC=BACK OF CURB
 - BG=BELOW GROUND
 - CATV=CABLE TV
 - CB=CATCH BASIN
 - DW=CONC DRIVEWAY
 - EB=ELECTRIC BOX
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 - TF=TRANSFORMER
 - WM=WATER METER
 - WV=WATER VALVE
 - ⊙ EIP=EXISTING IRON PIPE
 - ⊙ IRON PIPE SET
 - ⊙ EIR=EXISTING IRON ROD

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

VICINITY MAP (NTS)

SETBACKS

| | |
|---------------|-----|
| TWNHM: | |
| FRONT(PORCH) | 8' |
| FRONT(GARAGE) | 20' |
| REAR | 10' |
| SIDE STREET | 8' |
| NON-RES: | |
| FRONT | 20' |
| SIDE | 20' |
| REAR | 20' |



REVISION: UTILITIES ADDED PER REQUEST 11-03-2023 MTH

| | |
|--------------|------------|
| PROJECT: | ALDERWOOD |
| DRAWN BY: | MTH |
| SURVEYED BY: | N/A |
| SCALE: | 1"=30' |
| FIELD WORK: | N/A |
| DWG DATE: | 10-31-2023 |

FOR
TAYLOR MORRISON
CANARYWOOD LANE
LOTS 31-35 ALDERWOOD SUBDIVISION
APEX CO., NC
B.M. 2 - Page 157 - 1817

ECLS
GLOBAL, INC.
U.S. VETERAN-OWNED
19 N MCKINLEY ST
COATS, NC 27521
910.897.3257 ECLSGLOBALINC.COM
910.897.2329 (FAX) CO#C-4175

| Agenda Item | cover sheet

for consideration by the Apex Town Council

Item Type: CONSENT AGENDA

Meeting Date: February 27, 2024

Item Details

Presenter(s): Chris Johnson, P.E., MPA, Director

Department(s): Transportation & Infrastructure Development

Requested Motion

Motion to approve an encroachment agreement between the Town and property owner Taylor Morrison of Carolinas, Inc., located at 2516 Canarywood Lane, Apex, NC 27523, to install a sidewalk that will encroach 11 square feet (SF) and a driveway that will encroach 12 square feet (SF) onto the Town of Apex Public Drainage Easement and authorize the Interim Town Manager, or their designee, to execute the same.

Approval Recommended?

Yes

Item Details

The proposed Encroachment Agreement is between the Town and property owner Taylor Morrison of Carolinas, Inc. (Grantee) for the property described as a residential lot known as Wake County PIN #0722-78-8246, Book of Maps 2023, Page 01815, lot is also known as 2516 Canarywood Lane, Apex, NC 27523. Grantee wishes to install certain improvements, more particularly described as a sidewalk that will encroach 11 square feet (SF) and a driveway that will encroach 12 square feet (SF) onto the Town of Apex Public Drainage Easement.

Attachments

- CN10-A1: Encroachment Agreement - 2516 Canarywood Lane Lot 30
- CN10-A2: Exhibit A - 2516 Canarywood Lane Lot 30



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

**STATE OF NORTH CAROLINA
COUNTY OF WAKE**

ENCROACHMENT AGREEMENT

THIS ENCROACHMENT AGREEMENT, being made this _____ day of _____, 2024, by and between Taylor Morrison of Carolinas, Inc., hereinafter referred to as "Grantee," and the Town of Apex, hereinafter referred to as the "Town."

WHEREAS, the Grantee is the owner of a certain residential lot of land in the County of Wake, State of North Carolina, which is designated as **PIN# 0722-78-8246** by the Wake County Revenue Department and more particularly described as **Lot 30** of the subdivision known as Alderwood shown on that certain plat recorded in **Book of Maps 2023, Page 01815**, Wake County Registry (hereinafter the "**Subdivision Plat**"). The residential lot is also known as **2516 Canarywood Lane, Apex NC 27523**. The residential lot described in this paragraph is hereinafter referred to as the "**Residential Lot**."

WHEREAS, the Town is the owner of a **Town of Apex Public Drainage Easement** as shown on the **Subdivision Plat** hereinafter referred to as the "**Public Drainage Easement**."

WHEREAS, Grantee wishes to install certain improvements more particularly described as a **sidewalk that will encroach 11 square feet (SF) and a driveway that will encroach 12 square feet (SF) onto the Public Drainage Easement**, which serves the Residential Lot, hereinafter referred to as the "**Encroachment**", all as shown on the attached **Exhibit A**. Grantee desires to make certain agreements and covenants regarding the Encroachment.

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

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

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

2. The Encroachment shall not be enlarged or increased beyond the Encroachment shown in **Exhibit A** and described in this Encroachment Agreement. Grantee is responsible for any and all expenditures of labor or materials required for the installation, erection, repair, removal, or maintenance of the above-referenced Encroachment and shall be allowed to maintain the Encroachment and to perform all necessary repairs, maintenance, and replacement of the Encroachment as may be necessary from time to time.

3. The Town shall not be held responsible for any and all property damage or injury or death of any person which results from any and all negligence, omission, defect in design, maintenance, or workmanship created by the Encroachment described herein, or any cause of action arising out of the installation, maintenance, removal, destruction, or location of said Encroachment.

4. Grantee agrees to and does hereby hold the Town, its officers, council members and employees harmless from any and all liability arising out of such negligence, omission, defect or other cause of action; that it will defend the Town, its officers, council members and employees, and pay all attorney fees in any and all actions brought as a result of such; and that it will indemnify the Town, its officers, council members, and employees against any and all loss sustained by reason of such negligence, omission, defect, or other cause of action, claim, cost, or expense arising out of the installation, maintenance, removal, or location of said Encroachment; provided that, Grantee shall not be obligated hereunder to indemnify the Town for any negligent acts or omissions of the Town, its contractor(s) (including sub-contractors) and their respective officers, agents and employees.

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

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

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

To Grantee: Taylor Morrison of Carolinas, Inc.
15501 Weston Parkway, Suite 100
Cary, NC 27512

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

8. Grantee agrees to abide by all applicable laws, regulations, statutes and ordinances.

9. This Encroachment Agreement shall not divest the Town of any rights or interest in said **Public Drainage Easement**.

10. If the Town deems, within its sole discretion, that removal of all or apportion of the Encroachment is necessary in order to operate, protect, maintain, modify, replace, add-to or improve its facilities located within the **Public Drainage Easement**, then Grantee shall cause such removal to be made at Grantee's sole expense within 30 days after receipt of notice from the Town and shall be completed in a manner that will allow the Town complete and safe access to the **Public Drainage Easement**. In the event that the Grantee fails to timely remove the Encroachment or in the event of an emergency associated with the condition of the **Public Drainage Easement**, the Town is authorized to remove all or such portion of the Encroachment as the Town determines in its sole discretion to be reasonably necessary, convenient or advisable to operate, protect, maintain, modify, replace, add-to or improve its facilities located within the **Public Drainage Easement**. The Town shall have the sole discretion to determine the existence of an emergency associated with the condition of the **Public Drainage Easement**.

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

12. Grantee, during the life of this Encroachment Agreement, agrees to procure or cause to be procured from a responsible insurance carrier or carriers authorized under the laws of the State of North Carolina, insurance in the minimum amounts of \$300,000/\$500,000/\$300,000 covering full liability for any and all personal injury, property damage or wrongful death caused by the construction, maintenance, location, repair or visual obstruction of said Encroachment. Grantee shall furnish the Town, without demand, each July a certification from the insurance carrier or carriers with whom the insurance herein mentioned is carried, stating that such compensation is covered by such carrier or carriers and showing such insurance to be in full force and effect. Both Grantee and the Town shall be named as insured parties by endorsement of the policy. In the event of any change in the insurance policy, Grantee shall give the Town thirty (30) days' notice of such change. Should Grantee fail to pay premiums upon said insurance or to perform any of the agreement, terms or conditions herein contained, the Town, at its option, by written notice may declare this Encroachment Agreement canceled and terminated and all rights acquired hereunder by Grantee shall thereupon terminate.

13. Notwithstanding Section 14 below, Grantee shall be released from its obligation under this Encroachment Agreement only upon the assumption of said obligations either by a successor in title to the **Residential Lot**, or by assumption of said obligations by an incorporated party approved by the Town. The Town's consent to such assumption and release shall be required but shall not be withheld, conditioned or delayed if, as reasonably determined by the Town, the party assuming Grantee's obligations possesses adequate financial resources and ownership interest, and Grantee's delegate and proposed assignee assume and agree to fulfill, in writing, all of Grantee's duties set forth in this Encroachment Agreement.

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

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

GRANTEE

Taylor Morrison of Carolinas, Inc.

By: Christian Sheppard (SEAL)
Christian Sheppard
Land Development Director

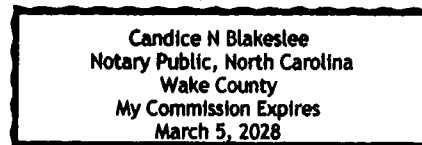


NORTH CAROLINA
COUNTY OF Wake [county in which acknowledgement taken]

Candice N. Blakeslee, a Notary Public of Wake County, North Carolina, certify that Christian Sheppard, personally appeared before me this day and acknowledged that he is the Land Development Director for Taylor Morrison of Carolinas, Inc. Grantee herein, and that by authority duly given as Land Development Director for the company, the foregoing instrument was signed and sealed by him on behalf of the company and acknowledged said writing to be the act and deed of said company.

Witness my hand and official stamp or seal, this 4th day of February, 2024.

[Signature]
[Signature of Notary Public]



My Commission Expires: 03.05.2028

(SEAL)

TOWN OF APEX

Shawn Purvis, ICMA-CM
Interim Town Manager

(Corporate Seal)

ATTEST:

Allen Coleman, CMC, NCCCC
Town Clerk

STATE OF NORTH CAROLINA

COUNTY OF _____ [county in which acknowledgement taken]

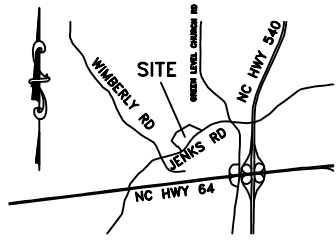
I, _____, a Notary Public for _____
County, North Carolina, certify that **Allen Coleman** personally came before me this day and
acknowledged that he is **Town Clerk** for the **Town of Apex, a North Carolina Municipal Corporation**, and that
by authority duly given and as the act of the corporation,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

Witness my hand and official stamp or seal, this ____ day of _____, 2024.

[Signature of Notary Public]

My Commission Expires: _____

(SEAL)



VICINITY MAP (NTS)

SETBACKS

| | |
|---------------|-----|
| TWNHM: | |
| FRONT(PORCH) | 8' |
| FRONT(GARAGE) | 20' |
| REAR | 10' |
| SIDE STREET | 8' |
| NON-RES: | |
| FRONT | 20' |
| SIDE | 20' |
| REAR | 20' |

IMPERVIOUS AREA

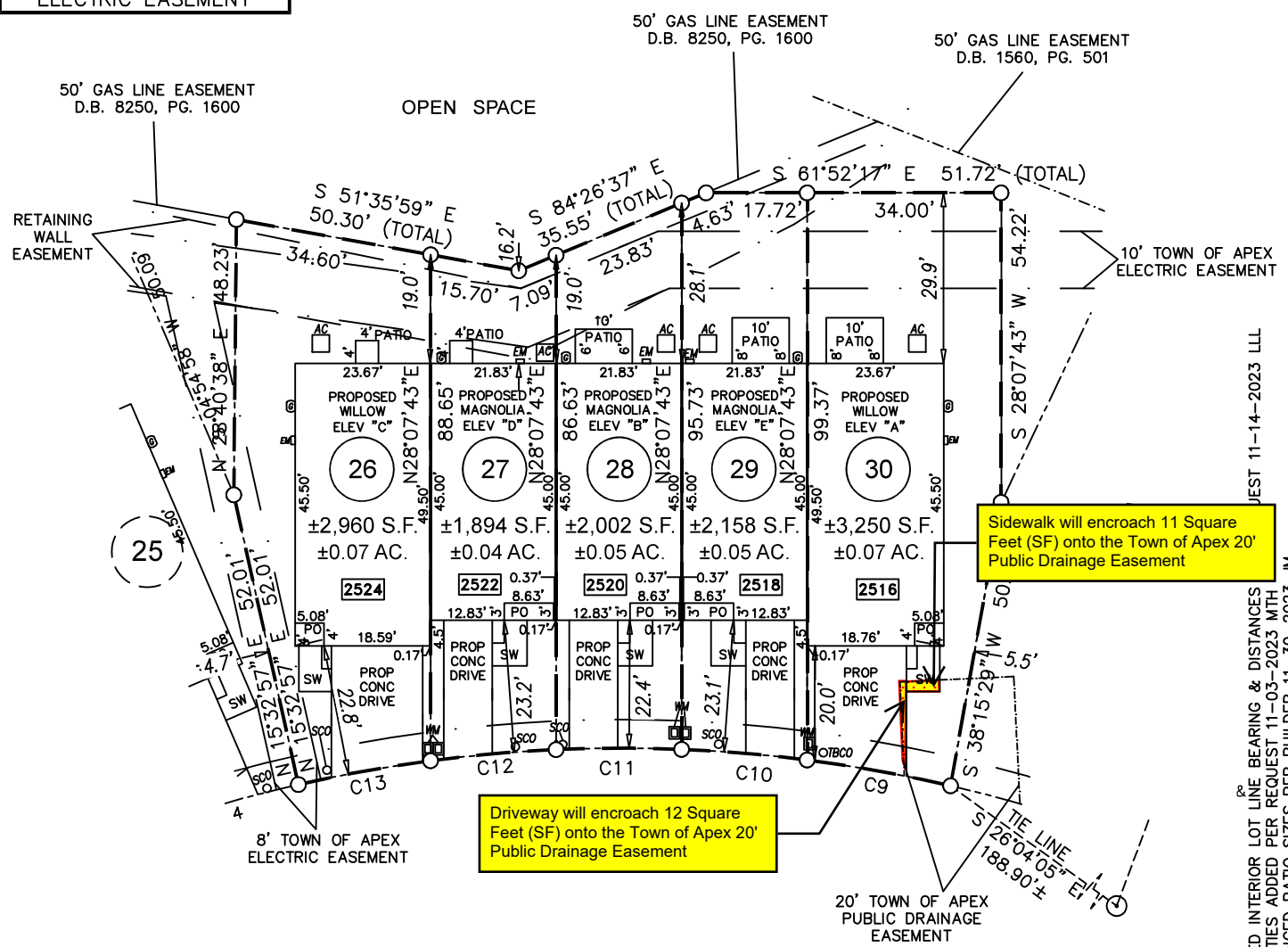
| LOT | HOUSE | DRIVE/WALK | PATIO | TOTAL |
|-----|------------|------------|---------|------------|
| 26 | 1,176 S.F. | 384 S.F. | 16 S.F. | 1,576 S.F. |
| 27 | 990 S.F. | 243 S.F. | 16 S.F. | 1,249 S.F. |
| 28 | 990 S.F. | 231 S.F. | 60 S.F. | 1,281 S.F. |
| 29 | 990 S.F. | 242 S.F. | 80 S.F. | 1,312 S.F. |
| 30 | 1,184 S.F. | 382 S.F. | 80 S.F. | 1,646 S.F. |

PATIOS IN LOTS 26, 27, AND 28, ENCRDACHING ON RETAINING WALL AND ELECTRIC EASEMENT

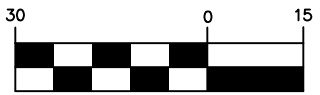
EXHIBIT A

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

- LEGEND
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 - BG=BELOW GROUND
 - CATV=CABLE TV
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 - EM=ELECTRIC METER
 - EOP=EDGE OF PAVEMENT
 - FH=FIREF HYDRANT
 - LP=LIGHT POLE
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 - RCP=REINFORCED CONC PIPE
 - R/W=RIGHT OF WAY
 - SCO=CLEANOUT
 - SW=SIDEWALK
 - TP=TELEPHONE PEDESTAL
 - TF=TRANSFORMER
 - WM=WATER METER
 - WV=WATER VALVE
 - EIP=EXISTING IRON PIPE
 - ⊙ IRON PIPE SET
 - ⊙ EIR=EXISTING IRON ROD



GRAPHIC SCALE



1 inch = 30 ft.

JEST 11-14-2023 LLL

REVISION: ADDED INTERIOR LOT LINE BEARING & DISTANCES
REVISION: UTILITIES ADDED PER REQUEST 11-03-2023 MTH
REVISION: CHANGED PATIO SIZES PER BUILDER 11-30-2023 JM

PROJECT: ALDERWOOD
DRAWN BY: MTH
SURVEYED BY: N/A
SCALE: 1"=30'
FIELD WORK: N/A
DWG DATE: 11-01-2023

FOR
TAYLOR MORRISON
CANARYWOOD LANE
LOTS 26-30 ALDERWOOD SUBDIVISION
APEX CO., NC
B.M. 2 - Page 165 - 1817

ECLS
GLOBAL, INC.
U.S. VETERAN-OWNED
19 N MCKINLEY ST
COATS, NC 27521
910.897.3257 ECLS@GLOBALINC.COM
910.897.2329 (FAX) CO#C-4175

| Agenda Item | cover sheet

for consideration by the Apex Town Council

Item Type: CONSENT AGENDA

Meeting Date: February 27, 2024

Item Details

Presenter(s): Antwan Morrison, Director

Department(s): Finance

Requested Motion

Motion to approve a Voluntary Annexation Agreement (RE: Annexation No. 748 - Apex Gateway Phase II) with North Chatham Volunteer Fire Department and to authorize staff to proceed with payment of \$6,349.45, which is a pro-rata share of the department's debt pursuant to North Carolina General Statute 160A-31.1.

Approval Recommended?

Yes

Item Details

North Carolina General Statute 160A-31.1 requires that a municipality annexing an area served by a volunteer fire department pay a pro rata share of the department's debt outstanding as of the annexation date. The Town of Apex and the North Chatham Volunteer Fire Department have agreed to a lump sum payment of \$6,349.45 following the Apex Annexation 749 of an area served by the Department which was effective March 26, 2023. The agreement and debt payment have received the required approval of the Local Government Commission (LGC) at its February 6, 2024 meeting. This is a one-time payment.

Attachments

- CN11-A1: Voluntary Annexation Agreement - Countersigned Copy - North Chatham Volunteer Fire Department (VFD) - Annexation Debt Payment
- CN11-A2: LGC Approval Letter - North Chatham Volunteer Fire Department (VFD) - Annexation Debt Payment



VOLUNTARY ANNEXATION AGREEMENT
CONCERNING ASSUMPTION OF DEBT OF RURAL FIRE PROTECTION DISTRICT

This agreement made this ____ day of _____, 2023, by and between the Town of Apex, hereinafter referred to as "**Town**" and North Chatham Volunteer Fire Department, a rural fire protection district under Article 3A of Chapter 69 of the General Statutes, hereinafter referred to as "**Department**".

WHEREAS, the Town Council of the Town of Apex has adopted an ordinance annexing those areas ("**Areas**") described on Exhibit A (attached hereto and incorporated herein by reference), into the corporate limits of the Town pursuant to a petition ("**Petition**") of the owners in accordance with the provisions of Article 6A, Part 2 of Chapter 160A of the General Statutes; and

WHEREAS, the Department, prior to annexation, provides or provided fire service in the Areas; and

WHEREAS, pursuant to N.C.G.S. Section 160A-31.1, if the Department meets certain conditions, beginning with the effective date of annexation, Town is required to pay annually a proportionate share of interest and principal payments due on debt for facilities or equipment that existed at the time of submission of the petition for annexation; and

WHEREAS, the Department has met its conditions precedent under the Statute, and the parties hereto desire to agree to a payment schedule.

NOW THEREFORE, in consideration of the premises, the parties hereto agree as follows:

1. The parties agree:
 - a) The petition for annexation of Areas was submitted to Town on the 4 day of January 2023 ("**Petition Date**").
 - b) The effective date for annexation of Areas is the ____ day of _____ 202__ ("**Effective Date**").
2. The Department has made the following representations and warranties, upon which the Town has relied:
 - a) The assessed value of the entire fire district served by the Department as of January 1 of the calendar year of the Effective Date is:

\$ 7,358,366,653
("**Assessed value of Fire District**")

b) The assessed value of the Areas annexed as of the Effective Date is:

\$ 5,703,838
("Assessed value of Areas")

c) The percentage, calculated in accordance with N.C.G.S. Section 160A- 31.1, that the assessed value of Areas bears to the assessed value of District is:

0.07752%

d) The total debt related to facilities and equipment ("**Debt**") of the Department as of the Petition Date is:

\$ 8,103,229
with annual payment of:

\$ 878,521.48

e) The promissory notes, security agreements, deeds of trust, and amortization schedules attached in this agreement are true copies of documents representing existing valid obligations pertaining to the Debt.

3. Town agrees to prepay that percentage set forth in 2-c above of the total Debt of Department. Such payment shall be made in one lump sum payment ("**Lump Sum Payment**") that shall be made by Town to Department within 90 days of receipt by Town of approval of this Agreement by the Local Government Commission. The amount of this payment is \$ \$6,281.22 in principle and \$ 68.23 in interest for a total of \$ 6,349.45.
4. Department agrees that the total Lump Sum Payment shall be applied in prepayment of Debt. Such prepayment shall be made within 90 days of receipt of Lump Sum Payment by Department.
5. The parties agree that this Agreement is conditioned upon written approval of Agreement by the Local Government Commission ("**LGC**"). Upon execution of this Agreement by both parties, Town shall submit a copy of the Agreement to the LGC for review and approval.
6. Verification of Work Authorization; Iran Divestment Act Certification. Department, and all subcontractors, shall comply with Article 2, Chapter 64, of the North Carolina General Statutes. Department hereby certifies that Department, and all subcontractors, are not on the Iran Final Divestment List created by the North Carolina State Treasurer pursuant to N.C.G.S. 147-86.58.

IN WITNESS WHEREOF, the parties have executed this agreement the day and year written above.



TOWN OF APEX

By: [Signature]
Shawn Purvis, Interim Town Manager

ATTEST: [Signature]
Allen Coleman, Town Clerk

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

By: [Signature]
Antwan Morrison, Apex Finance Director

Rural Fire Protection District

By: [Signature]
(Signature)

Charles Hall Quinlan
(Print name)

Title: President Board of Directors

APEX FIRE DEPARTMENT
VOLUNTARY ANNEXATION DEBT ASSUMPTION WORKSHEET

Annexation Number 749

Petition date 1/4/2023

Effective Date/Annexation No of Mo. 3/26/2023

Fire District Value 7,358,366,653

Annexed Area Value 5,703,838

| | | | |
|--------------------------|----------|------------------|------|
| % Annexed/District Value | 0.07752% | Yrly Int. Factor | 0.46 |
|--------------------------|----------|------------------|------|

| | Principal | Int. Rate | Yrly Int Share |
|---------------------------|--------------|-----------|----------------|
| Loan 1 - United Financial | 203,229.25 | 1.59% | 1.15 |
| Loan 2 - United Financial | 7,900,000.00 | 2.39% | 67.08 |
| Total | 8,103,229.25 | | 68.23 |

Share of Debt Principal 6,281.22

Interest Share 68.23

Lump Sum Total Debt Assumption 6,349.45



NORTH CAROLINA
DEPARTMENT OF STATE TREASURER

STATE TREASURER OF NORTH CAROLINA
DALE R. FOLWELL, CPA

Dale R. Folwell, CPA

STATE AND LOCAL GOVERNMENT FINANCE DIVISION
AND THE LOCAL GOVERNMENT COMMISSION

February 6, 2024

Shawn Purvis, Deputy Town Manager
Town of Apex
73 Hunter St.
PO Box 250
Apex NC 27502

Re: Town of Apex and North Chatham VFD

Dear Ms. Purvis:

The Town of Apex and the North Chatham Volunteer Fire Department are requesting approval of an annexation payment according to G.S. 160A -31.1, whereby the Town will make lump sum payment of \$6,349.45 for the debt related to facilities and equipment. The annexation was completed on March 26, 2023. The Local Government Commission approved the above Annexation on February 6, 2024.

We are pleased to have had this opportunity to serve you.

Sincerely,

Jennifer Wimmer

Jennifer Wimmer, Deputy Secretary
Local Government Commission

GCG/ac

Cc: Antwan Morrison, Finance Director
Laurie Hohe, Legal
Town of Apex

3200 Atlantic Avenue • Raleigh, North Carolina 27604

Courier #56-20-45

Telephone: (919) 814-4300 • Fax: (919) 855-5812

www.NCTreasurer.com

| Agenda Item | cover sheet

for consideration by the Apex Town Council

Item Type: CONSENT AGENDA

Meeting Date: February 27, 2024

Item Details

Presenter(s): Antwan Morrison, Director

Department(s): Finance

Requested Motion

- A. Motion to adopt a Reimbursement Resolution for Municipal Building Projects authorizing a latter issuance of public funding to pay for these prior expenditures.
- B. Motion to adopt a Reimbursement Resolution for Parks and Recreation Projects authorizing a latter issuance of public funding to pay for these prior expenditures.

Approval Recommended?

Yes

Item Details

The town has continued to experience a high growth level. As we continue to expand, more services are needed, which affects our staffing and spacing needs. As a result, town administration has been challenged with reviewing and addressing spacing needs for current and future staff. The town is currently engaged in performing a town wide spacing needs study, which includes the Town Hall building.

In addition, leadership has expressed a desire to restore the historic Tunstall House property, as well as to complete the phase 2 project for Pleasant Park which includes the baseball and softball complex.

The town intends to issue a limited obligation bond to fund the cost of these projects. The attached resolution(s) authorizes staff to proceed with project spending and allows the town to reimburse itself from the future debt issuance at a future date, as allowed Treasury Regulation, Section 1.150-2.

The current estimated cost for these projects is \$23.5 million.

Attachments

- CN12-A1: Reimbursement Resolution - Municipal Building Projects
- CN12-A2: Reimbursement Resolution - Parks and Recreation Projects



Resolution No.
Date Adopted:
Effective Date:

**REIMBURSEMENT RESOLUTION –
MUNICIPAL BUILDING PROJECTS**

BE IT RESOLVED by the Town Council of the Town of Apex, North Carolina, as follows:

Section 1. The Town intends to undertake a project, advance its own funds to pay project costs, and then reimburse itself from financing proceeds for these early expenditures. The Finance Officer has advised the Council that it is desirable for the Council to adopt this resolution to document the Town's plans, in order to comply with certain federal tax rules relating to this type of reimbursement.

Section 2. The resolution covers certain public improvements to include, but not limited to, renovations of the Town Hall facility, resurfacing of Town Hall parking lot and the renovation of the Town's historical Tunstall House. Project costs include design, construction, and construction administration along with other infrastructure and civil site work required for the project, together with the payment of the related financing costs and other necessary or incidental costs.

Section 3. The Town intends to finance the project. The expected type of financing (which is subject to change) is limited obligation bonds. The expected maximum amount of bonds or other obligations to be issued or contracted for the project is \$7,500,000.

Section 4. The Town intends that funds that have been advanced, or may be advanced, from the General Fund, or any other Town fund, for project costs will be reimbursed from the financing proceeds.

This resolution shall take effect immediately.

Adopted by the Apex Town Council on this, the 27th day of February, 2024.

Town of Apex by

ATTEST:

Jacque Gilbert, Mayor

Allen Coleman, Town Clerk

Resolution No.
Date Adopted:
Effective Date:

**REIMBURSEMENT RESOLUTION –
PARKS AND RECREATION PROJECTS**

BE IT RESOLVED by the Town Council of the Town of Apex, North Carolina, as follows:

Section 1. The Town intends to undertake a project, advance its own funds to pay project costs, and then reimburse itself from financing proceeds for these early expenditures. The Finance Officer has advised the Council that it is desirable for the Council to adopt this resolution to document the Town's plans, in order to comply with certain federal tax rules relating to this type of reimbursement.

Section 2. The resolution covers certain park and recreation improvements to include, but not limited to, construction of four turf fields, fieldhouse with restrooms, offices, meeting and concession spaces, maintenance storage building and other related park and recreation projects. Project costs include design, construction, and construction administration along with other infrastructure and civil site work required for the project, together with the payment of the related financing costs and other necessary or incidental costs.

Section 3. The Town intends to finance the project. The expected type of financing (which is subject to change) is limited obligation bonds. The expected maximum amount of bonds or other obligations to be issued or contracted for the project is \$16,000,000.

Section 4. The Town intends that funds that have been advanced, or may be advanced, from the General Fund, or any other Town fund, for project costs will be reimbursed from the financing proceeds.

This resolution shall take effect immediately.

Adopted by the Apex Town Council on this, the 27th day of February, 2024.

Town of Apex by

ATTEST:

Jacques Gilbert, Mayor

Allen Coleman, Town Clerk

| Agenda Item | cover sheet

for consideration by the Apex Town Council

Item Type: CONSENT AGENDA

Meeting Date: February 27, 2024

Item Details

Presenter(s): Amanda Bunce, Current Planning Manager

Department(s): Planning

Requested Motion

Motion to approve the Statement of the Apex Town Council pursuant to G.S. 160D-605(a) addressing action on the Unified Development Ordinance (UDO) Amendments of February 13, 2024.

Approval Recommended?

The Planning Department recommends approval.

Item Details

Attachments

- CN13-A1: Statement of Town Council - Unified Development Ordinance (UDO) Amendments - January 2024 - Statement and Ordinance



STATEMENT OF THE APEX TOWN COUNCIL PURSUANT TO G.S. 160D-605(a) ADDRESSING ACTION ON THE UNIFIED DEVELOPMENT ORDINANCE (UDO) AMENDMENTS OF FEBRUARY 13, 2024

Pursuant to G.S. §160D-601 and Sec. 2.2.11.E of the Unified Development Ordinance, the Planning Director for the Town of Apex, Dianne Khin, caused proper notice to be given (by publication and posting), of a public hearing on UDO Amendments before the Town Council on the 13th day of February 2024.

The Apex Town Council held a public hearing on the 13th day of February 2024. Amanda Bunce, Current Planning Manager presented the Planning Board's vote to recommend approval by a vote of 7-0 at the public hearing.

All persons who desired to present information relevant to the UDO were allowed to present evidence at the public hearing before the Apex Town Council. No one who wanted to speak was turned away.

The Town Council on the 13th day of February 2024 by a vote of 4-0 approved the Ordinance for UDO Amendments.

The Apex Town Council finds from information and testimony provided at the public hearing that the approval of the various UDO Amendments of February 13, 2024 are consistent with the Advance Apex: The 2045 Plan and reasonable and in the public interest for the following reason(s):

1. The amendments to UDO Sec. 12.2 *Terms Defined* expand the boundaries of the Downtown Festival District which will allow more flexibility in the number of promotional events and the setback for outdoor operations of certain uses.
2. The amendment to UDO Sec. 6.1.11.G *Uses Permitted Within the Riparian Buffer* clarifies that screened porches are allowed to encroach into a riparian buffer in the same manner as sheds and gazebos consistent with an interpretation from the North Carolina Department of Environmental Quality.

Jacques K. Gilbert
Mayor

ATTEST:

Allen Coleman, CMC, NCCCC
Town Clerk

Date



"The Peak of Good Living"

TOWN OF APEX NORTH CAROLINA

Proclamation

Bleeding Disorders Awareness Month 2024

from the Office of the Mayor

WHEREAS, Bleeding disorders are a group of conditions in which the body is unable to form a proper blood clot, resulting in extended bleeding after injury, surgery, trauma, or menstruation, and can be significantly debilitating and even fatal if not treated properly; and,

WHEREAS, There are many different types of bleeding and blood disorders which affect millions of people around the world, including Hemophilia, von Willebrand Disease, anemia, HIV, and more; and,

WHEREAS, According to the US Centers for Disease Control, there are more than 3 million people nationwide who are affected by some form of bleeding disorder; and,

WHEREAS, Volunteers, researchers, caregivers, and medical professionals work tirelessly to improve the quality of life for people and families who live with blood and bleeding disorders; and,

WHEREAS, There are many ways residents can contribute to the ongoing work to improve lives of those with blood and bleeding disorders, such as: educating themselves on the diseases and their impacts, donating to causes and organizations that research treatment and advocate for affected people, and raising awareness and support for the cause within their community.

NOW, THEREFORE, I, Jacques K. Gilbert, Mayor of Apex, North Carolina, do hereby proclaim the Month of March, 2024, as "Bleeding Disorders Awareness Month" in the Town of Apex, and call on the community to join me in helping to provide more support, understanding, and funding to help fight these diseases in order to one day find a cure.

I hereby set my hand and have caused the Seal of the Town of Apex,
North Carolina, to be affixed this the 27th day of February 2024

Jacques Gilbert, Mayor



"The Peak of Good Living"

TOWN OF APEX
NORTH CAROLINA

Proclamation

Women's History Month 2024

from the Office of the Mayor

WHEREAS, Women's History Month traces its roots back to the inaugural International Women's Day in 1911, and by 1987, there was bipartisan Congressional support to recognize this month-long observance annually; and,

WHEREAS, The theme of Women's History Month 2024 celebrates "Women Who Advocate for Equity, Diversity, and Inclusion", which acknowledges both the challenges and achievements of women throughout history; and,

WHEREAS, Women have persistently fought for rights not only for themselves, but for numerous other underrepresented and disenfranchised groups in America, and we honor these women who have taken the lead in demonstrating the significance of change; and,

WHEREAS, We recognize and honor women of every race, ethnicity, age, and status who have worked in their homes, communities, and workplaces to cultivate a more inclusive and equitable society for all; and,

WHEREAS, The Town of Apex is proud to present the program "Designing Women: Beloved Apex Landmarks and Their Designers", on Sunday, March 10th, at 2 PM at Pleasant Park. This panel discussion will highlight the women who helped shape some of Apex's most significant landmarks.

NOW, THEREFORE, I, Jacques K. Gilbert, Mayor of Apex, North Carolina, do hereby proclaim the Month of March, 2024, "Women's History Month" in the Town of Apex, and invite all residents to thank a woman in their life for the things they do every day to make the world around them a better and more inclusive place.

I hereby set my hand and have caused the Seal of the Town of Apex, North Carolina, to be affixed this the 27th day of February 2024

Jacques Gilbert, Mayor

| Agenda Item | cover sheet

for consideration by the Apex Town Council

Item Type: CONSENT AGENDA

Meeting Date: February 27, 2024

Item Details

Presenter(s): Dianne Khin, Director

Department(s): Planning

Requested Motion

Conduct a Public Hearing and possible motion to adopt Ordinance on the Question of Annexation - Apex Town Council's intent to annex 3.431 acres, located at 1075 South Hughes Street, Chick-Fil-A, Annexation No. 773 into the Town Corporate limits.

Approval Recommended?

Yes

Item Details

The annexation has been certified and a public hearing has been posted as required.

Attachments

- PH1-A1: Annexation Ordinance - Annexation No. 773
- PH1-A2: Public Hearing Notice - Annexation No. 773
- PH1-A3: Legal Description - Annexation No. 773
- PH1-A4: Aerial Map - Annexation No. 773
- PH1-A5: Plat Map - Annexation No. 773
- PH1-A6: Annexation Petition - Annexation No. 773





TOWN OF APEX, NORTH CAROLINA

Municipality No. 333

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

ORDINANCE NO. 2024 - _____
ANNEXATION PETITION NO. 773

CHICK-FIL-A
1075 SOUTH HUGHES STREET - 3.431 ACRES

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 February 27, 2024, 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 February 27, 2024. The survey plat that describes the annexed territory is that certain survey plat entitled "Annexation Map for the Town of Apex, White Oak Township, PIN(S): 0741665093 Land Surveyor dated August 9, 2023" and recorded in Book of Maps book number 2024 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 27th day of February, 2024.

Jacques K. Gilbert
Mayor

ATTEST:

Allen L. Coleman, CMC, NCCCC
Town Clerk

APPROVED AS TO FORM:

Laurie L. Hohe
Town Attorney

Legal Description

1075 South Hughes Street

3.431 ACRE ANNEXATION TRACT

Beginning at a concrete monument being located at the right of way intersection of the north right of way of South Hughes St. and the east right of way of Apex Peakway having NC. Grid coordinates of N: 715,811.3829 and E: 2,046,204.7261; thence along Apex Peakway N 22°16'40" W for 98.98 feet to a concrete monument; thence along

curve concave to the east having a radius of 918.64 feet, an arc of 460.89 feet and a chord of N 26°08'51" E for 456.07 feet to an iron pin; thence leaving said right of way and following the common line of Hack (TMS. 0741667003) the following: S 48°37'44" E for 155.15 feet; S 48°37'44" E for 16.52 feet; S 20°56'20" W for 74.11 feet; S 00°51'32" E for 44.60 feet; S 44°40'45" E for 51.58 feet; S 56°34'25" E for 27.28 feet; S 54°45'40" E for 28.16 feet; S 49°43'03" E for 105.93 feet; S 48°11'50" W for 159.84 feet; S 14°42'36" W for 78.39 feet; S 30°17'24" E for 42.43 feet to an iron pin located on the north right of way of South Hughes St.; thence along Hughes St. N 75°18'24" W for 322.21 feet to the Point of Beginning. Said tract contains 3.431 or 149,467 square feet more or less

STATE OF NORTH CAROLINA

COUNTY OF WAKE

CLERK'S CERTIFICATION

I, Allen L. Coleman, Town Clerk, Town of Apex, North Carolina, do hereby certify the foregoing is a true and correct copy of Annexation Ordinance No. 2024 _____, adopted at a meeting of the Town Council, on the 27th day of February 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 27th day of February 2024.

Allen L. Coleman, CMC, NCCCC
Town Clerk

(SEAL)



"The Peak of Good Living"

OFFICE OF THE TOWN CLERK

TOWN OF APEX NORTH CAROLINA

Media Contact:

Allen Coleman, Town Clerk to the Apex Town Council

FOR IMMEDIATE RELEASE

PUBLIC NOTICE – PUBLIC HEARING

APEX, N.C. (February 15, 2024) – The Town Council of Apex, North Carolina has scheduled a Public Hearing to be held at **6:00 p.m.** at Apex Town Hall, 73 Hunter Street, on the **27th day of February, 2024**, on the question of annexation of the following property requested by petition filed pursuant to G.S. 160A-31:

Annexation Petition No. 773 1075 South Hughes Street – Chick-Fil-A – 3.431 acres





"The Peak of Good Living"

OFFICE OF THE TOWN CLERK

TOWN OF APEX NORTH CAROLINA

Residents may submit written comments to the Town Council with attention marked to the Town Clerk Allen Coleman; P.O. Box 250; Apex, NC 27502 or by email at public public.hearing@apexnc.org. Please use subject line "Annexation Petition No. 773" and include your first and last name, your address, and your phone number in your written statements. Written comments will be accepted until 3:00 PM on Tuesday, February 27, 2024.

Members of the public can access and view the meeting on the Town's YouTube Channel <https://www.youtube.com/c/TownofApexGov> or attend in-person.

Anyone needing special accommodations to attend this meeting and/or if this information is needed in an alternative format, please contact the Town Clerk's Office. The Town Clerk is located at 73 Hunter Street in Apex Town Hall on the 2nd Floor, (email) allen.coleman@apexnc.org or (phone) 919-249-1260. We request at least 48 hours' notice prior to the meeting to make the appropriate arrangements.

Questions should be directed to the Town Clerk's Office.

###

3.431 ACRE ANNEXATION TRACT

Beginning at a concrete monument being located at the right of way intersection of the north right of way of South Hughes St. and the east right of way of Apex Peakway having NC. Grid coordinates of N: 715,811.3829 and E: 2,046,204.7261; thence along Apex Peakway N 22°16'40" W for 98.98 feet to a concrete monument; thence along a curve concave to the east having a radius of 918.64 feet, an arc of 460.89 feet and a chord of N 26°08'51" E for 456.07 feet to an iron pin; thence leaving said right of way and following the common line of Hack (TMS. 0741667003) the following: S 48°37'44" E for 155.15 feet; S 48°37'44" E for 16.52 feet; S 20°56'20" W for 74.11 feet; S 00°51'32" E for 44.60 feet; S 44°40'45" E for 51.58 feet; S 56°34'25" E for 27.28 feet; S 54°45'40" E for 28.16 feet; S 49°43'03" E for 105.93 feet; S 48°11'50" W for 159.84 feet; S 14°42'36" W for 78.39 feet; S 30°17'24" E for 42.43 feet to an iron pin located on the north right of way of South Hughes St.; thence along Hughes St. N 75°18'24" W for 322.21 feet to the Point of Beginning. Said tract contains 3.431 or 149,467 square feet more or less



| Line Table | | |
|------------|--------|-------------|
| Line # | Length | Direction |
| L1 | 98.98 | N22°16'40"W |
| L4 | 55.16 | S21°55'44"W |
| L5 | 125.01 | N14°44'12"E |
| L6 | 125.03 | N75°14'20"W |
| L7 | 125.04 | S14°42'36"W |
| L8 | 155.15 | S48°37'44"E |
| L9 | 16.52 | S48°37'44"E |
| L10 | 74.11 | S20°56'20"W |
| L11 | 44.60 | S0°51'32"E |
| L12 | 51.58 | S44°40'45"E |
| L13 | 27.28 | S56°34'25"E |
| L14 | 28.16 | S54°45'40"E |
| L15 | 105.93 | S49°43'03"E |
| L16 | 159.84 | S48°11'50"W |
| L17 | 78.39 | S14°42'36"W |
| L18 | 42.43 | S30°17'24"E |
| L19 | 83.77 | N50°12'55"E |
| L20 | 34.93 | N52°22'40"E |
| L21 | 75.38 | S62°50'35"E |

SITE DATA TABLE:

PART TMS # 0741665093
ZONED: PUD-CZ (#08C214)
147,507 SQ.FT.
3.386 ACRES
SETBACK:
5' FROM BUFFER

PART TMS # 0741665093
ZONED: PUD-CZ (#08C214)
269,664 SQ.FT.
6.191 ACRES
SETBACK:
5' FROM BUFFER

SURVEYOR'S NOTES:

1.) I HEREBY STATE THAT TO THE BEST OF MY KNOWLEDGE, INFORMATION, AND BELIEF, THE SURVEY SHOWN HEREON WAS MADE IN ACCORDANCE WITH THE REQUIREMENTS OF THE MINIMUM STANDARDS MANUAL FOR THE PRACTICE OF LAND SURVEYING IN THE STATE OF NORTH CAROLINA, AND MEETS OR EXCEEDS THE REQUIREMENTS FOR A CLASS "A" SURVEY AS SPECIFIED THEREIN. THIS PROPERTY IS NOT LOCATED WITHIN A DESIGNATED FLOOD HAZARD AREA.

2.) ZONING PROVIDED BY THE APPROPRIATE GOVERNMENTAL AGENCY: TO BE USED FOR INFORMATIONAL PURPOSES ONLY.

3.) THE WORDS "CERTIFY", "CERTIFIES" OR "CERTIFICATION" AS USED HEREIN ARE UNDERSTOOD TO BE AN EXPRESSION OF PROFESSIONAL OPINION BY THE SURVEYOR, BASED UPON HIS BEST KNOWLEDGE, INFORMATION AND BELIEF, AS SUCH, DO NOT CONSTITUTE A GUARANTEE NOR A WARRANTY, EXPRESSED OR IMPLIED.

FLOOD INFORMATION:

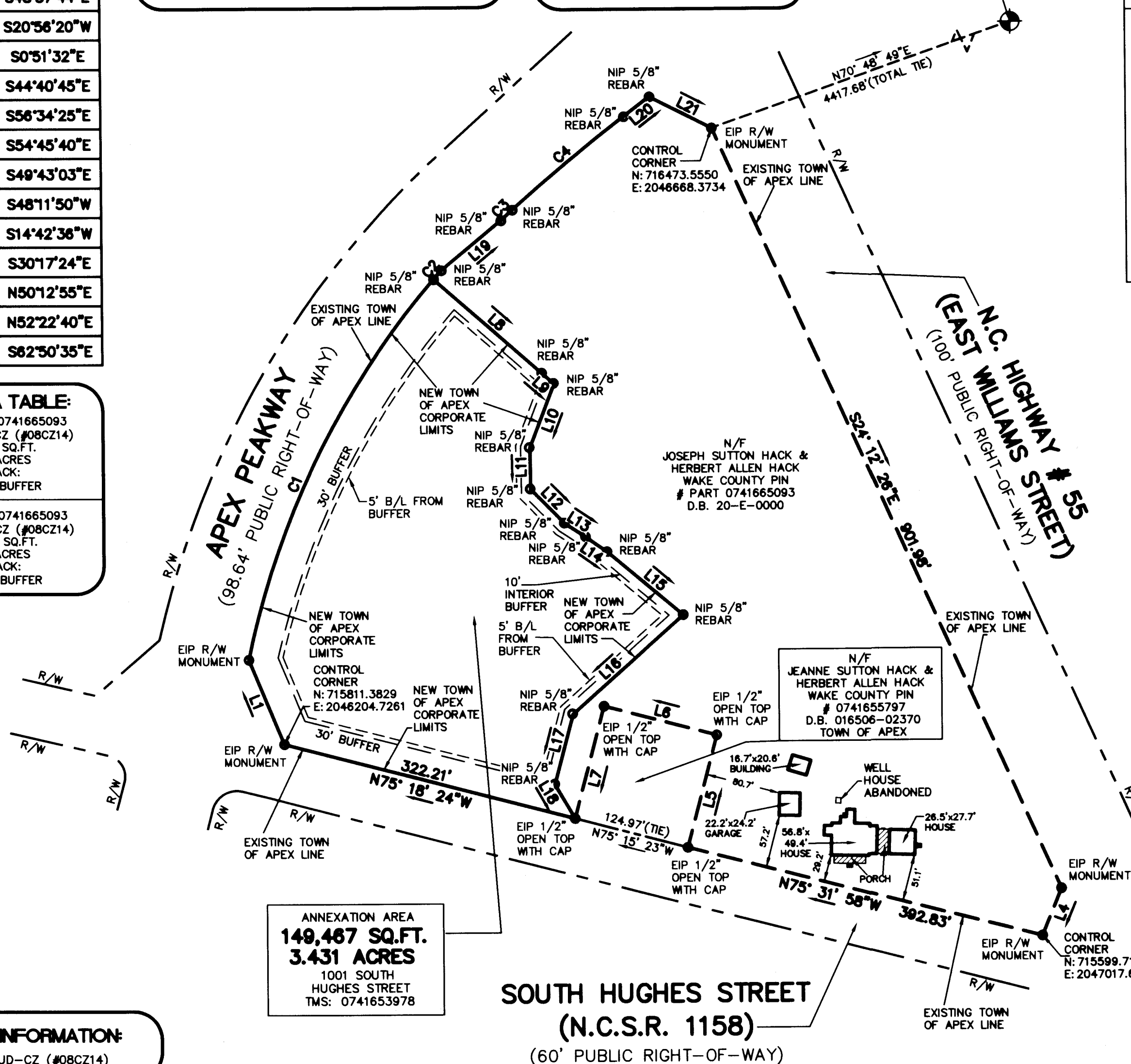
THIS PROPERTY IS LOCATED IN FLOOD ZONE "X"

PER NFIP FIRM COMMUNITY
PANEL NO. 3720074100J
EFFECTIVE DATE: 5-2-2006.

LEGEND:

- NIP NEW IRON PIN (5/8" REBAR)
- EIP EXISTING IRON PIN
- R/W RIGHT-OF-WAY

MONUMENT
"VIOLET"
N: 717925.4000
E: 2050840.6700



ANNEXATION AREA
149,467 SQ.FT.
3.431 ACRES
1001 SOUTH HUGHES STREET
TMS: 0741653978

ZONING INFORMATION:

ZONED: PUD-CZ (#08C214)

| Curve Table | | | | | |
|-------------|--------|---------|-----------|-----------------|--------------|
| Curve # | Length | Radius | Delta | Chord Direction | Chord Length |
| C1 | 460.89 | 918.64 | 28°44'45" | S26°08'51"W | 456.07 |
| C2 | 12.94 | 918.64 | 0°48'25" | S40°55'26"W | 12.94 |
| C3 | 16.76 | 734.38 | 1°18'27" | N47°40'52"E | 16.76 |
| C4 | 156.14 | 2212.57 | 4°02'36" | S50°21'23"W | 156.11 |

PROPERTY INFORMATION

TOTAL ACREAGE TO BE ANNEXED: 3.386
POPULATION OF ACREAGE TO BE ANNEXED: 0
EXISTING # OF HOUSING UNITS: 1
PROPOSED # OF HOUSING UNITS: 1
ZONING DISTRICT #: PUD-CZ

REASON(S) FOR ANNEXATION (SELECT ALL THAT APPLY)

- NEED WATER SERVICE DUE TO WELL FAILURE ☐
- NEED SEWER SERVICE DUE TO SEPTIC SYSTEM FAILURE ☐
- WATER CONSTRUCTION (NEW CONSTRUCTION) ☒
- SEWER SERVICE (NEW CONSTRUCTION) ☒
- RECEIVE TOWN SERVICES ☒

CERTIFICATE OF SURVEY AND ACCURACY:

I, JAMES R. FREELAND, certify that this plat was drawn under my supervision from an actual survey made under my supervision, (deed description recorded in Book 16506, page 2370) (other); that the boundaries not surveyed are clearly indicated as drawn from information found in Book N/A, page N/A; that the ratio of precision or positional accuracy as calculated is 10,000; that this plat was prepared in accordance with N.C.G.S. §47-30(f)(11) as amended. Witness my original signature, license number and seal this 26th day of January, A.D., 2024.

Seal or Stamp
License No. L2836

ANNEXATION

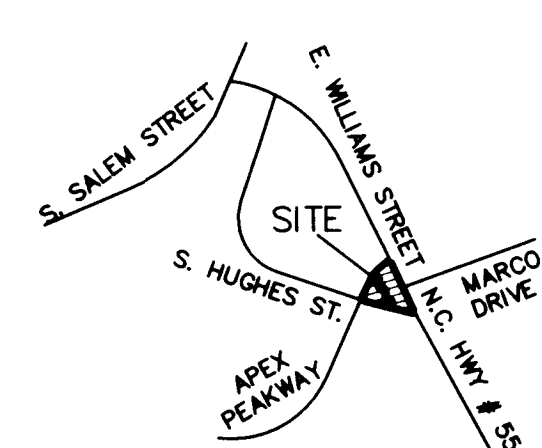
I, ALLEN COLEMAN, CMC, NCCCO, TOWN CLERK, APEX, NORTH CAROLINA CERTIFY THIS A TRUE AND EXACT MAP OF ANNEXATION ADOPTED THE DAY OF 2023, BY THE TOWN COUNCIL. I SET MY HAND AND SEAL OF THE TOWN OF APEX,

ALLEN COLEMAN, CMC, NCCCO, TOWN CLERK

-SEAL-

SETBACKS:

SOUTH HUGHES STREET:
5' FROM ESTABLISHED BUFFER
APEX PEAKWAY:
5' FROM ESTABLISHED BUFFER
UNDIST. PERIMETER:
10' FROM ESTABLISHED BUFFER
DIST. PERIMETER:
5' FROM ESTABLISHED BUFFER
INTERNAL PL: 0'



VICINITY MAP (NOT TO SCALE)

ANNEXATION AREA:

149,467 SQ.FT.
3.431 ACRES

OWNER INFORMATION:

JOSEPH SUTTON HACK &
HERBERT ALLEN HACK
1340 HARDING PLACE
CHARLOTTE, NC 28204
(704) 405-9400
jirvin@cp-nc.com; lchillers@cp-nc.com

BASIS OF BEARINGS:

BASIS OF BEARINGS BASED ON GPS "RTK"
OBSERVATION OF
NCGS MONUMENT "VIOLET"
NAD 83 (2007) - NAVD 88

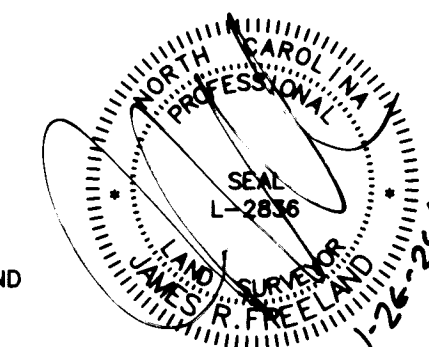


FREELAND & ASSOCIATES, INC.

323 WEST STONE AVE.
GREENVILLE S.C. 29609
TEL. (864) 271-4924 FAX: (864) 233-0315
EMAIL: info@freeland-associates.com

DRAWN: CF PARTY CHIEF: CJ CHECKED: JCC
REF. PLAT BOOK: BM2008-535 & BM 2023-1927
REF. DEED BOOK: 16506-2370
WAKE COUNTY PIN: 0741665093 & BM2007 PG2419
DATE OF SURVEY: 8-9-2023
DATE DRAWN: 11-14-2023
DRAWING NO: 77488-ANNEXATION
DATE OF LAST REVISION:

0' 100' 200' 300'
SCALE: 1" = 100'



PLS: JAMES R. FREELAND
NO: L2836
COA: C-0478

STATE OF NORTH CAROLINA
TOWN OF APEX
WHITE OAK TOWNSHIP
WAKE COUNTY

ANNEXATION MAP
FOR
THE TOWN OF APEX

SITE ADDRESS:
1001 SOUTH HUGHES STREET
APEX, NC 27502

PETITION FOR VOLUNTARY ANNEXATION

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

Application #: _____
Fee Paid \$ _____

Submittal Date: _____
Check # _____

TO THE TOWN COUNCIL APEX, NORTH CAROLINA

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

OWNER INFORMATION

Hack, Herbert Allen

Owner Name (Please Print)

704-405-9400

Phone

Hack, Joseph Sutton

Owner Name (Please Print)

704-405-9400

Phone

0741653978

Property PIN or Deed Book & Page #

jhack2018@gmail.com

E-mail Address

0741653978

Property PIN or Deed Book & Page #

jhack2018@gmail.com

E-mail Address

Owner Name (Please Print)

Property PIN or Deed Book & Page #

Phone

E-mail Address

SURVEYOR INFORMATION

Surveyor: Freeland & Associates, Inc.

Phone: 864-271-4924

Fax: _____

E-mail Address: jclark@freelandsc.com

ANNEXATION SUMMARY CHART

| Property Information | | Reason(s) for annexation (select all that apply) | |
|--------------------------------------|--------|--|-------------------------------------|
| Total Acreage to be annexed: | 3.431 | Need water service due to well failure | <input type="checkbox"/> |
| Population of acreage to be annexed: | 0 | Need sewer service due to septic system failure | <input type="checkbox"/> |
| Existing # of housing units: | 1 | Water service (new construction) | <input checked="" type="checkbox"/> |
| Proposed # of housing units: | 1 | Sewer service (new construction) | <input checked="" type="checkbox"/> |
| Zoning District*: | PUD-CZ | 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 with questions.

Submittal Date: 11/20/23

COMPLETE IF SIGNED BY INDIVIDUALS:

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

Herbert Allen Hack

Please Print

Joseph Sutton Hack

Please Print

Please Print

Please Print

STATE OF NORTH CAROLINA
COUNTY OF WAKE

Sworn and subscribed before me, Thomas F. Colbourn, a Notary Public for the above State and County,
this the 20 day of, November, 2023.

Thomas F. Colchert

Notary Public

SEAL

THOMAS F. COLHOUN
NOTARY PUBLIC
WAKE COUNTY, NC

My Commission Expires: Oct. 25, 2025

COMPLETE IF A CORPORATION:

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

Corporate Name

SEAL

By:

Attest:

President (Signature)

Secretary (Signature)

STATE OF NORTH CAROLINA
COUNTY OF WAKE

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

Notary Public

SEAL

My Commission Expires:

PETITION FOR VOLUNTARY ANNEXATION

Town of Apex, North Carolina



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

ANNEXATION FEE: \$200.00

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

HARD COPY SUBMITTAL REQUIREMENTS:

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

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

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

REVIEW AND APPROVAL PROCESS:

- **SUBMITTAL:** Submit hard copy application with original wet signatures (no photo copies or scanned images) and fee to the Department of Planning and Community Development and upload an electronic copy of the application, legal description and Annexation Plat via [GeoCivix](#).
- **REVIEW BY STAFF:** The Planning Department and Development Services Department review the annexation submission. Comments will be sent to the applicant via email.
- **DESIGNATION OF ANNEXATION NUMBER:** The application is assigned an annexation number once the annexation petition is received.
- **ANNEXATION PLAT SUBMISSION:** After the map and legal description are deemed sufficient by the Town of Apex, the applicant is required to submit three (3) 18"x24" Mylar annexation plats to the Planning Department by the due date on the attached Annexation Schedule.
- **1ST TOWN COUNCIL MEETING:** This Town Council Meeting is typically held the second Tuesday of each month. The Town Council will pass a resolution directing the Town Clerk to investigate the annexation petition. The Town Clerk will present to the Town Council a Certificate of Sufficiency indicating that the annexation petition is complete. A resolution setting the date of the public hearing is then approved.
- **LEGAL ADVERTISEMENT:** A legal advertisement will be published on the Town of Apex's website no more than 25 days and no less than 10 days prior to the date of the public hearing.
- **2ND TOWN COUNCIL MEETING/PUBLIC HEARING:** This Town Council Meeting is typically held the fourth Tuesday of each month. The Town Council will either adopt or deny an ordinance to extend the corporate limits of the Town of Apex.
- **RECORDATION:** If the annexation is approved by the Town Council, the Town Clerk will have the Annexation Plats recorded at the Wake County or Chatham County Register of Deeds, as appropriate. Wake County or Chatham County will keep one of the recorded plats, one copy will be returned to the Planning Department, and the surveying company is given the remaining recorded Annexation Plat.

FOR WELL AND/OR SEPTIC FAILURES:

If the purpose of the petition is to connect to public water and/or sewer, contact Water Resources Program Coordinator Jessica Sloan at 919-372-7478 or jessica.sloan@apexnc.org to confirm that public water and/or sewer is available to the property. In order to receive public water and/or sewer services from the Town of Apex, refer to the checklist of items below to assist with obtaining one or both of these services:

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

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

PETITION FOR VOLUNTARY ANNEXATION

Application #: _____

Submittal Date: _____

COMPLETE IF IN A LIMITED LIABILITY COMPANY

In witness whereof, _____ a limited liability company, 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 Limited Liability Company _____

By: _____

Signature of Member/Manager

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: _____

COMPLETE IF IN A PARTNERSHIP

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

Name of Partnership _____

By: _____

Signature of General Partner

STATE OF NORTH CAROLINA
COUNTY OF WAKE

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

Notary Public

SEAL

My Commission Expires: _____

FOR APPLICANT USE ONLY

PLEASE DO NOT INCLUDE THIS CHECKLIST WITH YOUR APPLICATION SUBMITTAL

| COMMON ACRONYMS/DEFINITIONS | | | |
|--------------------------------|----------------------------|-----------------------------|---|
| GeoCivix (IDT) | Electronic Plan Review | UDO | Town's Unified Development Ordinance |
| TOA | Town of Apex | NCDEQ | North Carolina Dept. of Environmental Quality |
| RCA | Resource Conservation Area | DDM | Design & Development Manual |
| CONTACT INFORMATION | | | |
| Planning Department | (919) 249-3426 | Water Resources (Utilities) | (919) 372-7478 |
| Development Services | (919) 249-3394 | Clerk's Office | (919) 249-1260 |

| # | REQUIRED PLAT ITEMS |
|----|---|
| 1 | The exact boundary lines of the area to be annexed fully dimensioned by lengths and bearings, and the location of intersecting boundary lines of existing town limits, labeled and distinctly marked. Include full right-of-way if the area on both sides is or will be in the corporate limits. |
| 2 | Show and label any utility easements with metes and bounds. |
| 3 | Accurate locations and descriptions of all monuments, markers, and control points. |
| 4 | Ultimate right-of-way widths on all streets. |
| 5 | Entitle "ANNEXATION MAP for the TOWN OF APEX" or "SATELLITE ANNEXATION MAP for the TOWN OF APEX", as appropriate. |
| 6 | Name of property owner. |
| 7 | Name, seal, and registration of Professionally Licensed Surveyor (PLS). |
| 8 | Date of the survey and map preparation; a north arrow indicating whether the index is true magnetic North Carolina grid (NAD 83 or NAD 27) or deed; graphic scale; and declination. |
| 9 | Names of the township, county, and state. |
| 10 | A detailed vicinity map. |
| 11 | Include address of property if assigned. |
| 12 | Show all contiguous or non-contiguous town limits. |
| 13 | <p>The following certification must be placed on the map near a border to allow the map to be sealed:</p> <p>Annexation # _____</p> <p>I, Allen Coleman, CMC, NCCCC, Town Clerk, Apex, North Carolina certify this a true and exact map of annexation adopted the _____ day of _____, 20____, by the Town Council. I set my hand and seal of the Town of Apex, _____.</p> <p style="text-align: center;">Day/Month/Year</p> <p style="text-align: right;">_____ Allen Coleman, CMC, NCCCC, Town Clerk</p> <p style="text-align: center;">-Seal-</p> |
| 14 | Leave 2 inch by 2 inch space for the Wake County or Chatham County Register of Deeds stamp on the plat. All final plats must be stamped and signed before they can be accepted by the Town. |

PAYMENT DATE
11/20/2023
COLLECTION STATION
eSuites

RECEIVED FROM
Lillie Childers

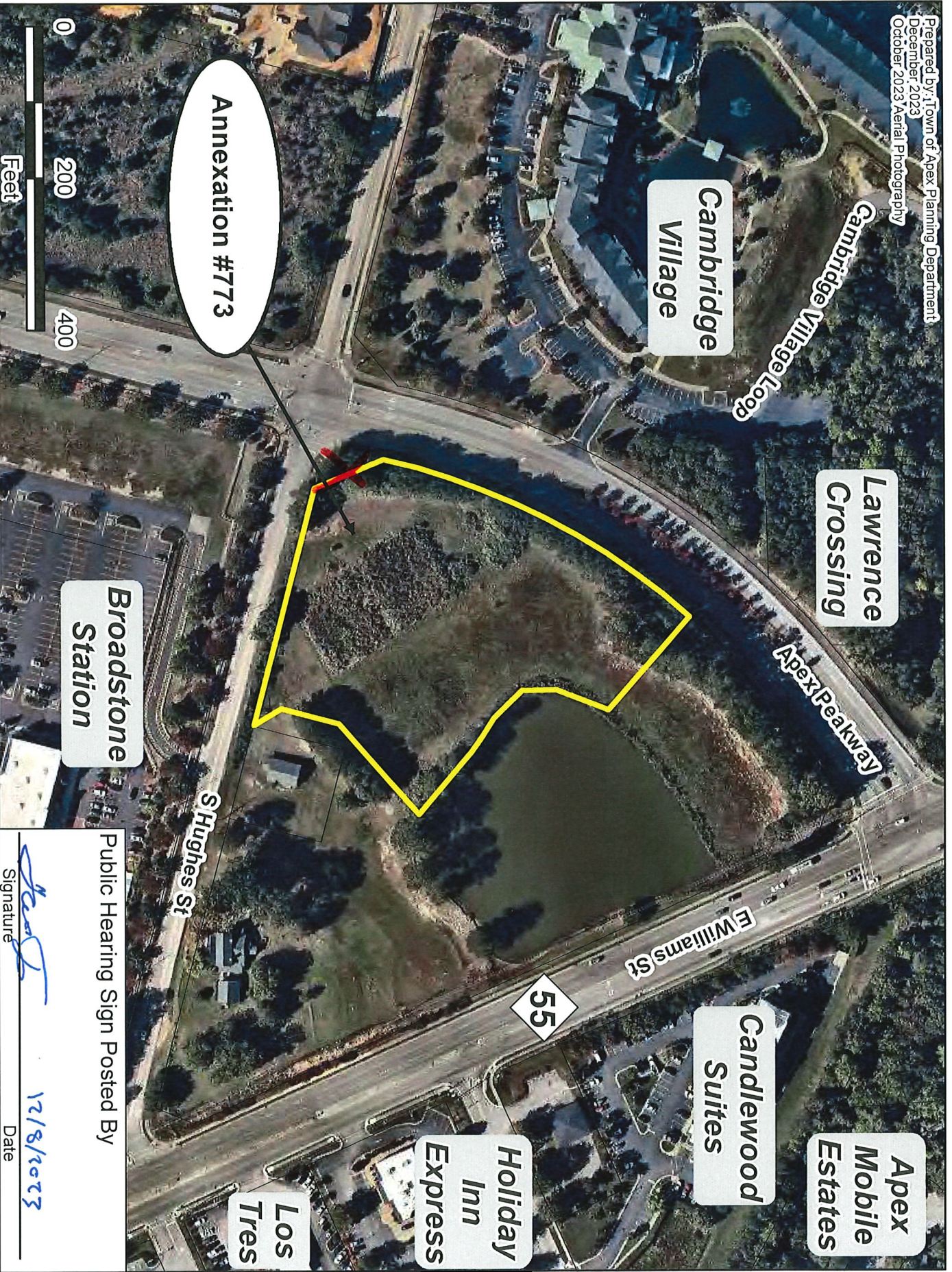
DESCRIPTION
Annexation #773 Chick-fil-a (Broadstone) - 2023-00000023 online payment

TOWN OF APEX
P O BOX 250
APEX, NC 27502
(919) 362-8676 - Utility Payments
(919) 249-3418 - Permits Only
(919) 249-3426 - Planning & Zoning Only

BATCH NO.
2024-00001378
RECEIPT NO.
2024-00094127
CASHIER
Lauren Sisson

| PAYMENT CODE | RECEIPT DESCRIPTION | TRANSACTION AMOUNT | | | | | | |
|---------------|---|--------------------|--------|--------|-------|-----|----------|--|
| PPC | PROJECT PLANNING CENTER FEES Annexation #773 Chick-fil-a (Broadstone) - 2023-00000023 online payment | \$200.00 | | | | | | |
| Payments: | <table><tr><th>Type</th><th>Detail</th><th>Amount</th></tr><tr><td>Other</td><td>CHG</td><td>\$200.00</td></tr></table> | Type | Detail | Amount | Other | CHG | \$200.00 | |
| Type | Detail | Amount | | | | | | |
| Other | CHG | \$200.00 | | | | | | |
| Total Amount: | | \$200.00 | | | | | | |

Customer Copy



Public Hearing Sign Posted By

Signature

12/8/2023
Date

| Agenda Item | cover sheet

for consideration by the Apex Town Council

Item Type: CONSENT AGENDA

Meeting Date: February 27, 2024

Item Details

Presenter(s): Dianne Khin, Director

Department(s): Planning

Requested Motion

Conduct a Public Hearing and possible motion to adopt Ordinance on the Question of Annexation - Apex Town Council's intent to annex 2.80 acres, located at 1133 Twin Creek Road, Annexation No. 775 into the Town Corporate limits.

Approval Recommended?

Yes

Item Details

The annexation has been certified and a public hearing has been posted as required.

Attachments

- PH2-A1: Annexation Ordinance - Annexation No. 775
- PH2-A2: Public Hearing Notice - Annexation No. 775
- PH2-A3: Legal Description - Annexation No. 775
- PH2-A4: Aerial Map - Annexation No. 775
- PH2-A5: Plat Map - Annexation No. 775
- PH2-A6: Annexation Petition - Annexation No. 775





TOWN OF APEX, NORTH CAROLINA

Municipality No. 333

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

ORDINANCE NO. 2024 - _____
ANNEXATION PETITION NO. 775
1133 TWIN CREEK ROAD - 2.80 ACRES

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 February 27, 2024, 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 February 27, 2024. The survey plat that describes the annexed territory is that certain survey plat entitled "Annexation Map for the Town of Apex, White Oak Township, PIN(S): 0743123570 Land Surveyor dated January 9, 2024" and recorded in Book of Maps book number 2024 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 27th day of February, 2024.

Jacques K. Gilbert
Mayor

ATTEST:

Allen L. Coleman, CMC, NCCCC
Town Clerk

APPROVED AS TO FORM:

Laurie L. Hohe
Town Attorney

Legal Description

1133 Twin Creek Road

BEGINNING at a point on or near the western right of way of NCSR 3028 (Twin Creek Road) bearing NAD 83 (2011) coordinate values of North 732,658.11 feet, East 2,041,535.89 feet by others (B.M. 2017, Pg. 1294); thence South 89° 16' 18" East, 30.00 feet to a point; thence South 00° 42' 41" West, 396.32 feet to a point; thence North 85° 03' 04" West, 94.63 feet to a point; thence North 58° 51' 31" West, 336.04 feet to a point; thence North 00° 46' 10" East, 219.25 feet to a point; thence South 89° 16' 18"

Page 3 of 3

East, 353.90 feet to the BEGINNING, containing 2.8 total acres more or less. This description was prepared for the sole purpose of annexation of a municipal boundary and for no other use.

STATE OF NORTH CAROLINA

COUNTY OF WAKE

CLERK'S CERTIFICATION

I, Allen L. Coleman, Town Clerk, Town of Apex, North Carolina, do hereby certify the foregoing is a true and correct copy of Annexation Ordinance No. 2024 _____, adopted at a meeting of the Town Council, on the 27th day of February 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 27th day of February, 2024.

(SEAL)

Allen L. Coleman, CMC, NCCCC
Town Clerk



"The Peak of Good Living"

OFFICE OF THE TOWN CLERK

TOWN OF APEX NORTH CAROLINA

Media Contact:

Allen Coleman, Town Clerk to the Apex Town Council

FOR IMMEDIATE RELEASE

PUBLIC NOTICE – PUBLIC HEARING

APEX, N.C. (February 15, 2024) – The Town Council of Apex, North Carolina has scheduled a Public Hearing to be held at **6:00 p.m.** at Apex Town Hall, 73 Hunter Street, on the **27th day of February, 2024**, on the question of annexation of the following property requested by petition filed pursuant to G.S. 160A-31:

Annexation Petition No. 775 1133 Twin Creek Road – 2.80 acres





"The Peak of Good Living"

OFFICE OF THE TOWN CLERK

TOWN OF APEX NORTH CAROLINA

Residents may submit written comments to the Town Council with attention marked to the Town Clerk Allen Coleman; P.O. Box 250; Apex, NC 27502 or by email at public public.hearing@apexnc.org. Please use subject line "Annexation Petition No. 775" and include your first and last name, your address, and your phone number in your written statements. Written comments will be accepted until 3:00 PM on Tuesday, February 27, 2024.

Members of the public can access and view the meeting on the Town's YouTube Channel <https://www.youtube.com/c/TownofApexGov> or attend in-person.

Anyone needing special accommodations to attend this meeting and/or if this information is needed in an alternative format, please contact the Town Clerk's Office. The Town Clerk is located at 73 Hunter Street in Apex Town Hall on the 2nd Floor, (email) allen.coleman@apexnc.org or (phone) 919-249-1260. We request at least 48 hours' notice prior to the meeting to make the appropriate arrangements.

Questions should be directed to the Town Clerk's Office.

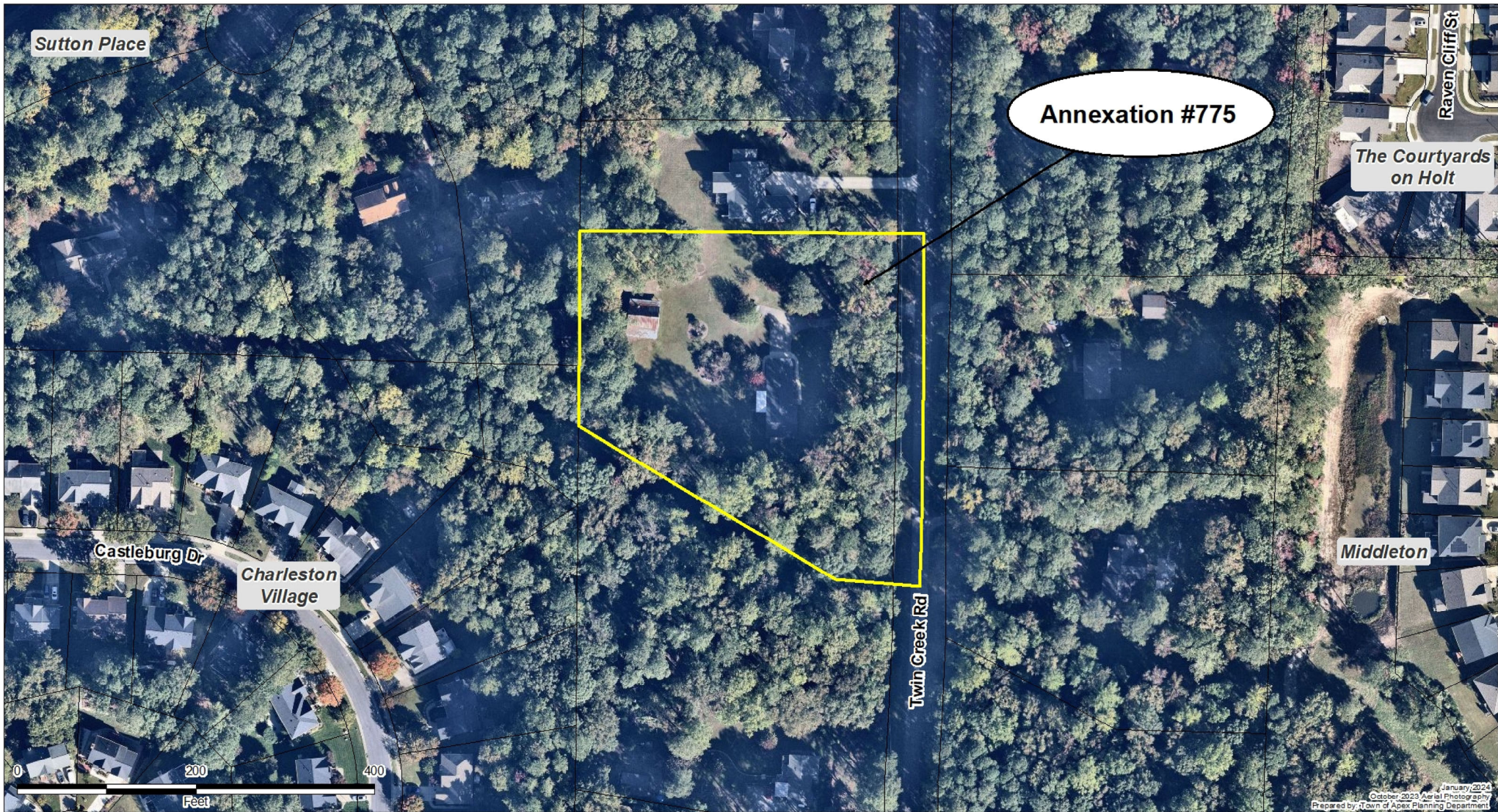
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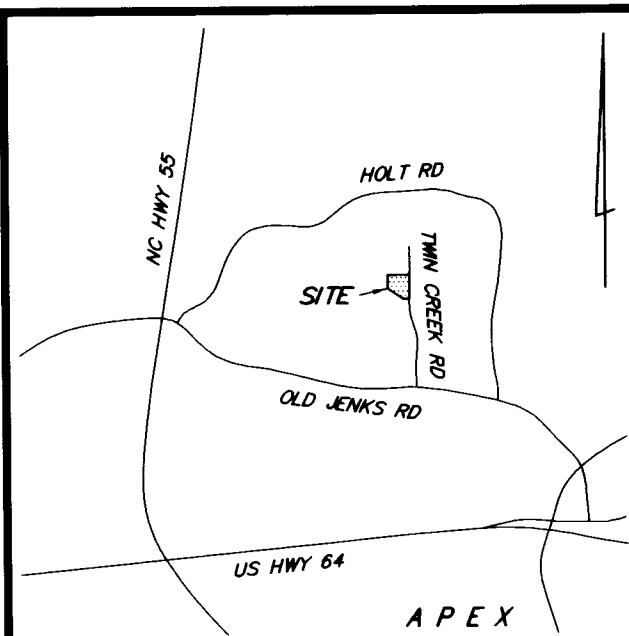
Smith & Smith Surveyors, P.A.
P.O. Box 457
Apex, N.C. 27502
(919) 362-7111
Firm License No. C-0155

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

BEGINNING at a point on or near the western right of way of NCSR 3028 (Twin Creek Road) bearing NAD 83 (2011) coordinate values of North 732,658.11 feet, East 2,041,535.89 feet by others (B.M. 2017, Pg. 1294); thence South 89° 16' 18" East, 30.00 feet to a point; thence South 00° 42' 41" West, 396.32 feet to a point; thence North 85° 03' 04" West, 94.63 feet to a point; thence North 58° 51' 31" West, 336.04 feet to a point; thence North 00° 46' 10" East, 219.25 feet to a point; thence South 89° 16' 18" East, 353.90 feet to the BEGINNING, containing 2.8 total acres more or less.

This description was prepared for the sole purpose of annexation of a municipal boundary and for no other use.





VICINITY MAP (NOT TO SCALE)

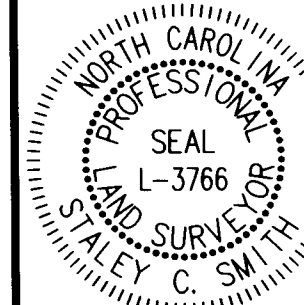
I, STALEY C. SMITH, CERTIFY THAT THIS PLAT WAS DRAWN UNDER MY SUPERVISION FROM AN ACTUAL SURVEY MADE UNDER MY SUPERVISION AS RECORDED IN:

DEED BOOK 6581, PAGE 436
DEED BOOK 16691, PAGE 2461
BOOK OF MAPS 2017, PAGE 85

THAT THE BOUNDARIES NOT SURVEYED ARE CLEARLY INDICATED AS BROKEN LINES AND WERE PLOTTED FROM INFORMATION AS REFERENCED HEREON; THAT THE RATIO OF PRECISION AS CALCULATED WAS 1: N/A AND THAT THIS PLAT MEETS THE REQUIREMENTS OF THE STANDARDS OF PRACTICE FOR LAND SURVEYING IN NORTH CAROLINA (21 NCAC 56 .1600)

THIS MAP OR PLAT IS EXEMPT FROM THE REQUIREMENTS OF G.S. 47-30 PURSUANT TO G.S. 47-30(j).

WITNESS MY ORIGINAL SIGNATURE, LICENSE NUMBER, AND SEAL THIS 10TH DAY OF JANUARY, A.D., 2024.



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

ANNEXATION #

I, ALLEN COLEMAN, CMC, NCCCC, TOWN CLERK, Apex, North Carolina certify this is a true and exact map of annexation adopted the day of , 2024, by the Town Council. I set my hand and seal of the Town of Apex, , 2024.

ALLEN COLEMAN, CMC, NCCCC, TOWN CLERK

SURVEYOR NOTES:

1. THE PROPERTY SHOWN HEREON MAY BE SUBJECT TO COVENANTS, CONDITIONS, RESTRICTIONS, RIGHTS OF WAY, AND EASEMENTS OF RECORD AFFECTING THE SAME.
2. NO TITLE SEARCH HAS BEEN PERFORMED BY THIS FIRM DURING THE COURSE OF THIS SURVEY.
3. THIS SURVEYOR DOES NOT CERTIFY TO THE EXISTENCE OR NON-EXISTENCE OF ANY UNDERGROUND UTILITIES, BURIAL GROUNDS, OR ANY SUBSURFACE FEATURES THAT MAY OR MAY NOT BE PRESENT ON THIS SITE.
4. ALL DISTANCES ARE HORIZONTAL U.S. SURVEY FOOT UNIT GROUND MEASUREMENTS.
5. AREA DETERMINED USING THE COORDINATE GEOMETRY METHOD.
6. CURRENT PROPERTY ZONING: RR (RURAL RESIDENTIAL)
7. THIS MAP WAS PREPARED FOR THE SOLE PURPOSE OF ANNEXATION OF A MUNICIPAL BOUNDARY. THIS MAP SHOULD NOT BE USED TO TRANSFER PROPERTY SHOWN HEREON.
8. SUBJECT PROPERTY ADDRESS: 1133 TWIN CREEK ROAD APEX, NC 27502

Legend

R/W - Right Of Way
PIN - Parcel Identification Number
NCSR - North Carolina Secondary Road
1133 - Street Address

- Property Line (not surveyed)
- Property Line (not surveyed)
- Approximate Right Of Way Line (not surveyed)
- Easement (not surveyed)
- Buffer (not surveyed)
- Existing Town of Apex Corporate Limits (not surveyed)

RECORDED IN BOOK OF MAPS 2024, PAGE

TIMOTHY K. MEDLIN
LAUREN L. MEDLIN
D.B. 15010, PG. 2340 ~ TRACT ONE
B.M. 1986, PG. 259

TIMOTHY K. MEDLIN
LAUREN L. MEDLIN
D.B. 15010, PG. 2340 ~ TRACT TWO
B.M. 1999, PG. 55

ANTHONY J. PEASE AND
ANITA W. PEASE, TRUSTEES
D.B. 19467, PG. 1841
B.M. 1995, PG. 678

CHARLES W. HAMLETT
SHIRLEY N. HAMLETT
D.B. 3293, PG. 697
B.M. 1974, PG. 73

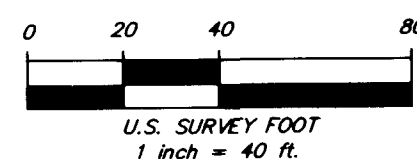
(4-A) & (4-B)
KEITH HORIL
D.B. 18065, PG. 68
B.M. 1974, PG. 73

(3)
ALBERT R. HUX, JR.
JUDY M. HUX
D.B. 2266, PG. 447
B.M. 1974, PG. 127

(6)
JASON LUCIA
TRISHA KLENOW
D.B. 15362, PG. 693
B.M. 2017, PG. 85

KAREN R. NEWSOME
D.B. 6581, PG. 436
D.B. 16691, PG. 2461
B.M. 2017, PG. 85

2.8 ACRES TOTAL ANNEXED
ACCORDING TO BOOK OF MAPS 2017, PAGE 85
NOT A PHYSICAL SURVEY



N.C. GRID COORDINATE
NAD 83 (2011)
N= 732,658.11
E= 2,041,535.89
U.S. SURVEY FOOT
BY OTHERS
(B.M. 2017, PG. 1294)

LISTED OWNER
(NOT A TITLE VERIFICATION)
JESSE RANDALL NEWSOME
KAREN R. NEWSOME
1133 TWIN CREEK ROAD
APEX, NC 27502
PIN 0743-12-3570



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

DATE JANUARY 9, 2024
SCALE 1" = 40'
DRAWN BY WGH
PROJ. NO. 2024-02

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 #: Annexation #775

Submittal Date: 1-10-2024

Fee Paid \$ \$200.00

Check # 7612

TO THE TOWN COUNCIL APEX, NORTH CAROLINA

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

OWNER INFORMATION

KAREN R. NEWSOME

Owner Name (Please Print)

0743-12-3570

Property PIN or Deed Book & Page #

919 961 4372

Phone

karenapex@nc.rr.com

E-mail Address

Owner Name (Please Print)

Property PIN or Deed Book & Page #

Phone

E-mail Address

Owner Name (Please Print)

Property PIN or Deed Book & Page #

Phone

E-mail Address

SURVEYOR INFORMATION

Surveyor: SMITH & SMITH SURVEYORS, P.A.

Phone: 919 362 7111

Fax: n/a

E-mail Address: sfaley@smithandsmithsurveyors

ANNEXATION SUMMARY CHART

Property Information

Total Acreage to be annexed: 2.8

Population of acreage to be annexed: less than 4

Existing # of housing units: 1

Proposed # of housing units: 0

Zoning District*: RA

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

Need water service due to well failure ☒

Need sewer service due to septic system failure ☐

Water service (new construction) ☒

Sewer service (new construction) ☐

Receive Town Services ☐

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

PETITION FOR VOLUNTARY ANNEXATION

Application #: Annexation #775

Submittal Date: 1-10-2024

COMPLETE IF SIGNED BY INDIVIDUALS:

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

Karen R. Newsome
Please Print

Karen R. Newsome
Signature

Please Print

Signature

Please Print

Signature

Please Print

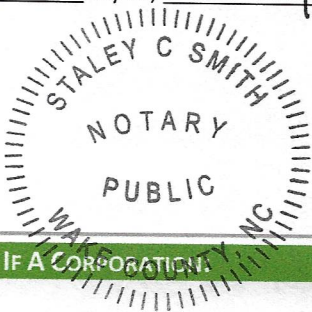
Signature

STATE OF NORTH CAROLINA
COUNTY OF WAKE

Sworn and subscribed before me, STALEY C. SMITH, a Notary Public for the above State and County,
this the 10th day of January, 2024.

Staley C. Smith
Notary Public

SEAL



My Commission Expires: 10/6/2026

COMPLETE IF A CORPORATION:

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

Corporate Name _____

SEAL

By: _____

President (Signature)

Attest: _____

Secretary (Signature)

STATE OF NORTH CAROLINA
COUNTY OF WAKE

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

Notary Public

SEAL

My Commission Expires: _____

PETITION FOR VOLUNTARY ANNEXATION

Application #: Annexation #775

Submittal Date: 1-10-2024

COMPLETE IF IN A LIMITED LIABILITY COMPANY

In witness whereof, _____ a limited liability company, 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 Limited Liability Company _____

By: _____
Signature of Member/Manager

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: _____

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: _____

| Agenda Item | cover sheet

for consideration by the Apex Town Council

Item Type: CONSENT AGENDA

Meeting Date: February 27, 2024

Item Details

Presenter(s): Dianne Khin, Director

Department(s): Planning

Requested Motion

Conduct a Public Hearing and possible motion to adopt Ordinance of Annexation - Apex Town Council's intent to annex 2.90 acres, Sundance of NC, LLC, located on Salem Church Road, Annexation No. 776 into the Town Corporate limits.

Approval Recommended?

Yes

Item Details

The annexation has been certified and a public hearing has been posted as required.

Attachments

- PH3-A1: Annexation Ordinance - Annexation No. 776
- PH3-A2: Public Hearing Notice - Annexation No. 776
- PH3-A3: Legal Description - Annexation No. 776
- PH3-A4: Aerial Map - Annexation No. 776
- PH3-A5: Plat Map - Annexation No. 776
- PH3-A6: Annexation Petition - Annexation No. 776





TOWN OF APEX, NORTH CAROLINA

Municipality No. 333

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

ORDINANCE NO. 2024 - _____
ANNEXATION PETITION NO. 775
SUNDANCE OF NC, LLC
SALEM CHURCH ROAD - 2.90 ACRES

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 February 27, 2024, 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 February 27, 2024. The survey plat that describes the annexed territory is that certain survey plat entitled "Annexation Map for the Town of Apex, ETJ, Cary, Wake County, North Carolina, PIN(S): 0743817269, 0743818219, 0743818299, 0743819289, 0743911218, Land Surveyor dated January 23, 2024" and recorded in Book of Maps book number 2024 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 27th day of February, 2024.

Jacques K. Gilbert
Mayor

ATTEST:

Allen L. Coleman, CMC, NCCCC
Town Clerk

APPROVED AS TO FORM:

Laurie L. Hohe
Town Attorney

Legal Description

Salem Church Road

Lying and being in Town of Apex ETJ, Cary Township, Wake County, North Carolina, and described more fully as follows to wit: BEGINNING at the northwest corner Lot A (B.M. 2005, Pg. 508), also being the southernmost corner Lots 32 & 33 (B.M. 2003, Pg. 1053); thence South 00° 44' 07" East, 272.12 feet to a point; thence North 87° 32' 00" West, 43.01 feet to a point; thence North 88° 10' 26" West, 215.08 feet to a point;

thence North 88° 29' 23" West, 200.28 feet to a point; thence North 00° 51' 23" East, 285.36 feet to a point; thence South 86° 32' 31" East, 451.22 feet to the BEGINNING, containing 2.9013 total acres more or less. This description was prepared for the sole purpose of annexation of a municipal boundary and for no other use. and for no other use.

STATE OF NORTH CAROLINA

COUNTY OF WAKE

CLERK'S CERTIFICATION

I, Allen L. Coleman, Town Clerk, Town of Apex, North Carolina, do hereby certify the foregoing is a true and correct copy of Annexation Ordinance No. 2024 _____, adopted at a meeting of the Town Council, on the 27th day of February 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 27th day of February, 2024.

(SEAL)

Allen L. Coleman, CMC, NCCCC
Town Clerk



"The Peak of Good Living"

OFFICE OF THE TOWN CLERK

TOWN OF APEX NORTH CAROLINA

Media Contact:

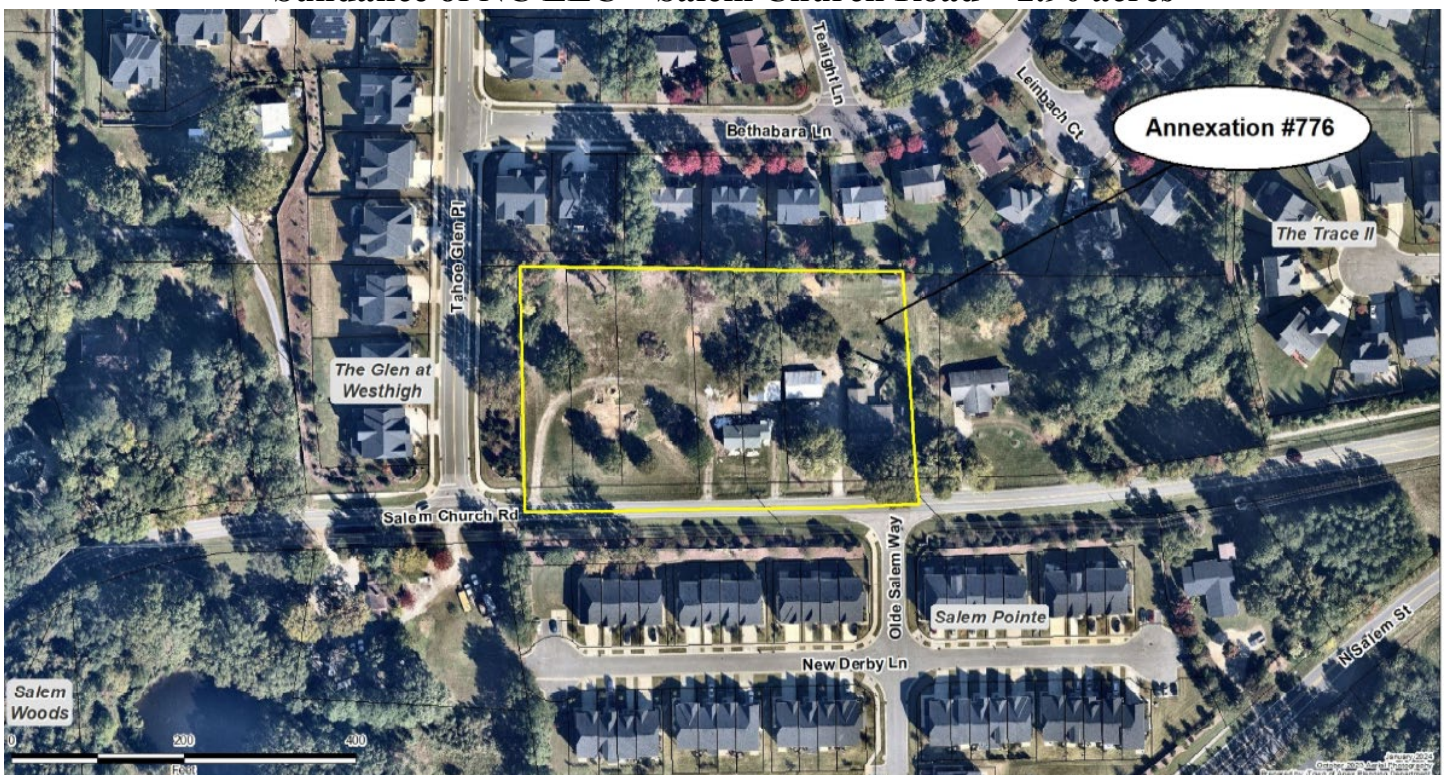
Allen Coleman, Town Clerk to the Apex Town Council

FOR IMMEDIATE RELEASE

PUBLIC NOTICE – PUBLIC HEARING

APEX, N.C. (February 15, 2024) – The Town Council of Apex, North Carolina has scheduled a Public Hearing to be held at **6:00 p.m.** at Apex Town Hall, 73 Hunter Street, on the **27th day of February, 2024**, on the question of annexation of the following property requested by petition filed pursuant to G.S. 160A-31:

Annexation Petition No. 776 **Sundance of NC LLC – Salem Church Road – 2.90 acres**





"The Peak of Good Living"

OFFICE OF THE TOWN CLERK

TOWN OF APEX NORTH CAROLINA

Residents may submit written comments to the Town Council with attention marked to the Town Clerk Allen Coleman; P.O. Box 250; Apex, NC 27502 or by email at public public.hearing@apexnc.org. Please use subject line "Annexation Petition No. 776" and include your first and last name, your address, and your phone number in your written statements. Written comments will be accepted until 3:00 PM on Tuesday, February 27, 2024.

Members of the public can access and view the meeting on the Town's YouTube Channel <https://www.youtube.com/c/TownofApexGov> or attend in-person.

Anyone needing special accommodations to attend this meeting and/or if this information is needed in an alternative format, please contact the Town Clerk's Office. The Town Clerk is located at 73 Hunter Street in Apex Town Hall on the 2nd Floor, (email) allen.coleman@apexnc.org or (phone) 919-249-1260. We request at least 48 hours' notice prior to the meeting to make the appropriate arrangements.

Questions should be directed to the Town Clerk's Office.

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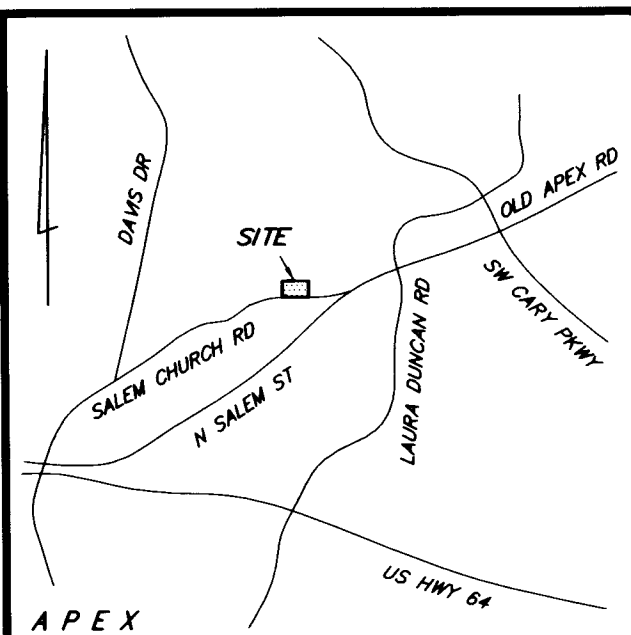
Smith & Smith Surveyors, P.A.
P.O. Box 457
Apex, N.C. 27502
(919) 362-7111
Firm License No. C-0155

Lying and being in Town of Apex ETJ, Cary Township, Wake County, North Carolina,
and described more fully as follows to wit:

BEGINNING at the northwest corner Lot A (B.M. 2005, Pg. 508), also being the southernmost corner Lots 32 & 33 (B.M. 2003, Pg. 1053); thence South $00^{\circ} 44' 07''$ East, 272.12 feet to a point; thence North $87^{\circ} 32' 00''$ West, 43.01 feet to a point; thence North $88^{\circ} 10' 26''$ West, 215.08 feet to a point; thence North $88^{\circ} 29' 23''$ West, 200.28 feet to a point; thence North $00^{\circ} 51' 23''$ East, 285.36 feet to a point; thence South $86^{\circ} 32' 31''$ East, 451.22 feet to the BEGINNING, containing 2.9013 total acres more or less.

This description was prepared for the sole purpose of annexation of a municipal boundary and for no other use.





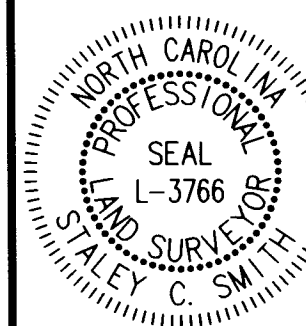
VICINITY MAP (NOT TO SCALE)

I, STALEY C. SMITH, CERTIFY THAT THIS PLAT WAS DRAWN UNDER MY SUPERVISION FROM AN ACTUAL SURVEY MADE UNDER MY SUPERVISION AS RECORDED IN:

D.B. 19434, PG. 1176

THAT THE BOUNDARIES NOT SURVEYED ARE CLEARLY INDICATED AS BROKEN LINES AND WERE PLOTTED FROM INFORMATION AS REFERENCED HEREON; THAT THE RATIO OF PRECISION AS CALCULATED WAS 1: N/A AND THAT THIS PLAT WAS PREPARED IN ACCORDANCE WITH G.S. 47-30(j) AS AMENDED.

WITNESS MY ORIGINAL SIGNATURE, LICENSE NUMBER, AND SEAL THIS 23RD DAY OF JANUARY, A.D., 2024.



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

TAHOE GLEN PLACE
60' PUBLIC R/W
B.M. 2020, PGS. 428-430

GLEN AT WESTHIGH OWNERS ASSOCIATION, INC.
RCA & OPEN SPACE
B.M. 2020, PGS. 428-430
B.M. 2016, PG. 1184 (ANNEX # 578)

10' X 70' SIGHT DISTANCE TRIANGLE
B.M. 2020, PGS. 428-430

30' TOWN OF APEX PUBLIC
SANITARY SEWER EASEMENT
B.M. 2020, PGS. 428-430

30' TYPE "E"
BUFFER
B.M. 2020,
PGS. 428-430

30' TOWN OF APEX PUBLIC
SANITARY SEWER EASEMENT
B.M. 2020, PGS. 428-430
(NO SIGNATURE)

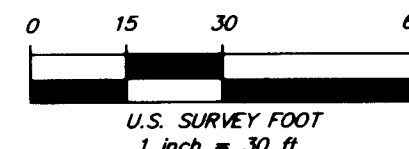
10' X 70' SIGHT DISTANCE TRIANGLE
B.M. 2020, PGS. 428-430
(NO SIGNATURE)

SALEM CHURCH COURT, LLC
D.B. 19277, PG. 2605

SALEM POINTE OWNERS ASSOCIATION, INC.
D.B. 17411, PG. 1651
B.M. 2017, PG. 270
B.M. 2015, PG. 1933 (ANNEX # 552)

Legend

- XXX - Street Address (Typical)
- R/W - Right Of Way (Approximate)
- PIN - Parcel Identification Number
- NCSR - North Carolina Secondary Road
- Property Line (not surveyed)
- Property Line (not surveyed)
- Approximate Right Of Way Line (not surveyed)
- Easement (not surveyed)
- Existing Town of Apex Corporate Limits (not surveyed)
- Existing Town of Cary Corporate Limits (not surveyed)



OLDE SALEM WAY
50' PUBLIC R/W
B.M. 2017, PG. 270

ANNEXATION MAP for the TOWN OF APEX
SUNDANCE OF NC, LLC
TOWN OF APEX ET AL, CARY TOWNSHIP, WAKE COUNTY, NORTH CAROLINA

LISTED OWNER
(NOT A TITLE VERIFICATION)
SUNDANCE OF NC, LLC
505 E CHATHAM ST
APEX, NC 27502
PIN 0743-81-7269
0743-81-8219
0743-81-8299
0743-81-9289
0743-91-1218



Smith & Smith,
Surveyors, P.A.

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

FIRM LICENSE No. C-0155

DATE JANUARY 23, 2024
SCALE 1" = 30'
DRAWN BY WHH
PROJ. NO. 2023-34

SURVEYOR NOTES:

1. THE PROPERTY SHOWN HEREON MAY BE SUBJECT TO COVENANTS, CONDITIONS, RESTRICTIONS, RIGHTS OF WAY, AND EASEMENTS OF RECORD AFFECTING THE SAME.
2. NO TITLE SEARCH HAS BEEN PERFORMED BY THIS FIRM DURING THE COURSE OF THIS SURVEY.
3. THIS SURVEYOR DOES NOT CERTIFY TO THE EXISTENCE OR NON-EXISTENCE OF ANY UNDERGROUND UTILITIES, BURIAL GROUNDS, OR ANY SUBSURFACE FEATURES THAT MAY OR MAY NOT BE PRESENT ON THIS SITE.
4. ALL DISTANCES ARE HORIZONTAL U.S. SURVEY FOOT UNIT GROUND MEASUREMENTS.
5. AREA DETERMINED USING THE COORDINATE GEOMETRY METHOD.
6. CURRENT ZONING IS TOWN OF APEX MD-CZ (MEDIUM DENSITY - CONDITIONAL ZONING 23CZ10)
7. THIS MAP WAS PREPARED FOR THE SOLE PURPOSE OF ANNEXATION OF A MUNICIPAL BOUNDARY. THIS MAP SHOULD NOT BE USED TO TRANSFER PROPERTY SHOWN HEREON.

ANNEXATION #

I, ALLEN COLEMAN, CMC, NCCCC, TOWN CLERK, Apex, North Carolina
certify this is a true and exact map of annexation adopted
the _____ day of _____, 2024.
by the Town Council. I set my hand and seal of
the Town of Apex, _____, 2024.

ALLEN COLEMAN, CMC, NCCCC, TOWN CLERK

2.9013 ACRES TOTAL ANNEXED
NOT A PHYSICAL SURVEY

TRACT THREE

D.B. 19434, PG. 1176
PIN 0743-91-1218

D.B. 19434, PG. 1176
B.M. 2024, PG. 165

A PORTION OF
PIN 0743-81-9289

D.B. 19434, PG. 1176
B.M. 2023, PG. 2238
PIN 0743-81-8299

D.B. 19434, PG. 1176
B.M. 2024, PG. 165

A PORTION OF
PIN 0743-81-9289

D.B. 19434, PG. 1176
B.M. 2023, PG. 2238
PIN 0743-81-8219

D.B. 19434, PG. 1176
B.M. 2023, PG. 2238
PIN 0743-81-7269

SUNDANCE OF NC, LLC
D.B. 19502, PG. 933
B.M. 2005, PG. 508

SUNDANCE OF NC, LLC
D.B. 19502, PG. 933
B.M. 2005, PG. 508
B.M. 2017, PG. 476 (ANNEX # 587)

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 #: Annexation # 776
Fee Paid: \$ 200.00

Submittal Date: 1-23-2024
Check #: 19290

TO THE TOWN COUNCIL APEX, NORTH CAROLINA

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

OWNER INFORMATION

SUNDANCE OF NC LLC

Owner Name (Please Print)

843 458 4353

Phone

D.B. 1943A, PG. 1176

Property PIN or Deed Book & Page #

crhelton1@gmail.com

E-mail Address

Owner Name (Please Print)

Property PIN or Deed Book & Page #

Phone

E-mail Address

Owner Name (Please Print)

Property PIN or Deed Book & Page #

Phone

E-mail Address

SURVEYOR INFORMATION

Surveyor: SMITH & SMITH SURVEYORS, P.A.

Phone: 919 362-7111

Fax: N/A

E-mail Address: staley@smithandsmithsurveyors.net

ANNEXATION SUMMARY CHART

Property Information

Total Acreage to be annexed: approx. 2.9 ac.

Population of acreage to be annexed: 0

Existing # of housing units: 0

Proposed # of housing units: 8

Zoning District*: MD-CZ

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

Need water service due to well failure ☐

Need sewer service due to septic system failure ☐

Water service (new construction) ☐

Sewer service (new construction) ☒

Receive Town Services ☐

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

PETITION FOR VOLUNTARY ANNEXATION

Application #: Annexation #776

Submittal Date: 1-23-2024

COMPLETE IF SIGNED BY INDIVIDUALS:

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

Please Print

Signature

Please Print

Signature

Please Print

Signature

Please Print

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: _____

COMPLETE IF A CORPORATION:

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

Corporate Name _____

SEAL

By: _____

Attest:

President (Signature)

Secretary (Signature)

STATE OF NORTH CAROLINA
COUNTY OF WAKE

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

Notary Public

SEAL

My Commission Expires: _____

PETITION FOR VOLUNTARY ANNEXATION

Application #: Annexation # 776

Submittal Date: 1-23-2024

COMPLETE IF IN A LIMITED LIABILITY COMPANY

In witness whereof, SUNDANCE OF NC a limited liability company, caused this instrument to be executed in its name by a member/manager pursuant to authority duly given, this the 23rd day of JANUARY, 2024.

Name of Limited Liability Company SUNDANCE OF NC LLC

By:

Care R Helton

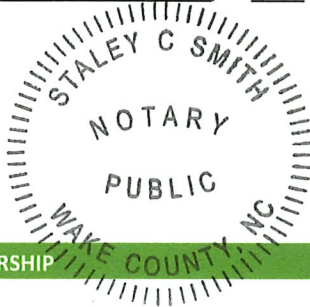
Signature of Member/Manager

STATE OF NORTH CAROLINA
COUNTY OF WAKE

Sworn and subscribed before me, STALEY C. SMITH, a Notary Public for the above State and County, this the 23rd day of JANUARY, 2024.

Staley C. Smith
Notary Public

SEAL



My Commission Expires: 10/6/26

COMPLETE IF IN A PARTNERSHIP

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

Name of Partnership _____

By:

Signature of General Partner

STATE OF NORTH CAROLINA
COUNTY OF WAKE

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

Notary Public

SEAL

My Commission Expires: _____

| Agenda Item | cover sheet

for consideration by the Apex Town Council

Item Type: PUBLIC HEARING
Meeting Date: February 27, 2024

Item Details

Presenter(s): Liz Loftin, Senior Planner

Department(s): Planning

Requested Motion

Public Hearing and possible motion to approve Rezoning Application No. 23CZ17 0 Herbert Street. The applicant, Russell Copersito, Salem Street Realty, LLC, seeks to rezone approximately .27 acres from Medium Density Residential (MD) to Neighborhood Business-Conditional Zoning (B1-CZ). The proposed rezoning is located at 0 Herbert Street.

Approval Recommended?

The Planning Department recommends approval.

The Planning Board held a Public Hearing on February 12, 2024 and unanimously voted to recommend approval of the rezoning with the conditions offered by the applicant.

Item Details

The property to be rezoned is identified as PIN 0741397109.

Attachments

- PH4-A1: Staff Report - Rezoning Case No. 23CZ17 - 0 Herbert Street
- PH4-A2: Vicinity Map - Rezoning Case No. 23CZ17 - 0 Herbert Street
- PH4-A3: Application - Rezoning Case No. 23CZ17 - 0 Herbert Street
 - Neighborhood Meeting Notice - Rezoning Case No. 23CZ17 - 0 Herbert Street
 - PB Report to TC Signed - Rezoning Case No. 23CZ17 - 0 Herbert Street
 - Public Notice - Rezoning Case No. 23CZ17 - 0 Herbert Street



STAFF REPORT

Rezoning #23CZ17 0 Herbert Street

February 27, 2024 Town Council Meeting



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

BACKGROUND INFORMATION:

Location: 0 Herbert Street
Applicant: Russell Copersito, Salem Street Realty, LLC
Owner: RV International Properties, LLC

PROJECT DESCRIPTION:

Acreage: ±.27 acres
PIN: 0741397109
Current Zoning: Medium Density Residential (MD)/Small Town Character Overlay District
Proposed Zoning: Neighborhood Business-Conditional Zoning (B1-CZ)/
Small Town Character Overlay District
Current 2045 Land Use Map: Medium Density Residential
If rezoned as proposed, the 2045 Land Use Map Designation will change to: Commercial Services
Town Limits: Inside Town Limits

Adjacent Zoning & Land Uses:

| | Zoning | Land Use |
|---------------|---------------------------------|--|
| North: | Neighborhood Business (B1) | Vacant |
| South: | Medium Density Residential (MD) | Single-family detached |
| East: | Neighborhood Business (B1) | Vacant |
| West: | Neighborhood Business (B1) | Herbert St.; Railroad; Single-family detached |

Existing Conditions:

The property to be rezoned is vacant and located on the west side of Herbert St, which has a paved width of approximately 10 feet and no curb or gutter.

Neighborhood Meeting:

The applicant conducted the first neighborhood meeting on July 21, 2023 and the second on August 28, 2023. The neighborhood meeting reports are attached.

2045 Land Use Map:

The 2045 Land Use Map designates the property as Medium Density Residential. The proposed rezoning to B1-CZ is not consistent with the Land Use Map designation. If the property is rezoned as proposed, the 2045 Land Use Map will automatically be amended to Commercial Services per NCGS 160D-605(a). This

STAFF REPORT

Rezoning #23CZ17 0 Herbert Street

February 27, 2024 Town Council Meeting



classification is consistent with the Office Employment/Commercial Services land use classification of the properties to the north and east.

Permitted 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.

The applicant is proposing the following uses (SUP=Special Use Permit):

- | | |
|--|----------------------------------|
| 1. Government service | 17. Book store |
| 2. Veterinary clinic or hospital | 18. Convenience store |
| 3. Vocational school | 19. Farmer's market |
| 4. Utility, minor | 20. Financial institution |
| 5. Wireless support structure | 21. Floral shop |
| 6. Wireless communication facility | 22. Grocery, general |
| 7. Botanical garden | 23. Grocery, specialty |
| 8. Entertainment, indoor | 24. Health/fitness center or spa |
| 9. Greenway | 25. Newsstand or gift shop |
| 10. Park, active | 26. Personal service |
| 11. Park, passive | 27. Pharmacy |
| 12. Restaurant, general | 28. Printing and copying service |
| 13. Medical or dental office or clinic | 29. Real estate sales |
| 14. Office, business or professional | 30. Retail sales, general |
| 15. Artisan studio (SUP) | 31. Tailor shop |
| 16. Barber and beauty shop | |

PROPOSED ZONING CONDITIONS:

1. The predominant exterior building materials shall be high quality materials, including: brick masonry, decorative concrete block, stone accents, aluminum storefronts with anodized or pre-finished colors, EIFS cornices and parapet trim, precast concrete, or other similar materials as defined in UDO Section 9.3.
2. The main entrance should be emphasized and the exterior shall be more than one color.
3. A privacy fence will be erected between the commercial development and the residential lots. The privacy fence will be at a minimum 6 feet tall.
4. No vehicular access will be allowed from Herbert Street, except for emergency vehicles.

ENVIROMENTAL ADVISORY BOARD:

This rezoning was exempt from meeting with the Apex Environmental Advisory Board (EAB) per Unified Development Ordinance (UDO) Section 2.1.9.A.2.c. The proposed rezoning is in the Small Town Character Overlay District.

PLANNING STAFF RECOMMENDATION:

Planning staff recommends approval of Rezoning #23CZ17 with the conditions as offered by the applicant.

STAFF REPORT

Rezoning #23CZ17 0 Herbert Street

February 27, 2024 Town Council Meeting



PLANNING BOARD RECOMMENDATION:

The Planning Board held a public hearing on February 12, 2024 and unanimously recommended approval with the conditions as proposed by the applicant.

ANALYSIS STATEMENT OF THE REASONABLENESS OF THE PROPOSED REZONING:

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

The 2045 Land Use Map classifies the subject properties as Medium Density Residential. This designation does not include the non-residential uses proposed by this rezoning. If the property is to be rezoned as proposed, the 2045 Land Use Map will automatically be amended to Commercial Services per NCGS 160D-505(a). The proposed rezoning to Neighborhood Business-Conditional Zoning (B1-CZ) will maintain the character and appearance of the area and provide the flexibility to accommodate the growth in population, economy, and infrastructure consistent with that contemplated by the 2045 Land Use Map.

The proposed rezoning is reasonable and in the public interest because it will expand the area available for non-residential development, restrict vehicular access on Herbert Street, and provide a 6' tall privacy fence between the commercial development and residential lots.

CONDITIONAL ZONING STANDARDS:

The Town Council shall find the Neighborhood Business-Conditional Zoning (B1-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 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 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 District use's compliance with Sec 4.4 *Supplemental Standards*, if applicable.
- 4) *Design minimizes adverse impact.* The design of the proposed Conditional Zoning District use's minimization of adverse effects, including visual impact of the proposed use on adjacent lands; and avoidance of significant adverse impacts on surrounding lands regarding trash, traffic, service delivery, parking and loading, odors, noise, glare, and vibration and not create a nuisance.
- 5) *Design minimizes environmental impact.* The proposed Conditional Zoning District use's minimization of environmental impacts and protection from significant deterioration of water and air resources, wildlife habitat, scenic resources, and other natural resources.

STAFF REPORT

Rezoning #23CZ17 0 Herbert Street

February 27, 2024 Town Council Meeting



- 6) *Impact on public facilities.* The proposed Conditional Zoning 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 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 District use is substantially detrimental to adjacent properties.
- 9) *Not constitute nuisance or hazard.* Whether the proposed Conditional Zoning 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 District use complies with all standards imposed on it by all other applicable provisions of this Ordinance for use, layout, and general development characteristics.



(REZONING) PETITION TO AMEND THE OFFICIAL ZONING DISTRICT MAP**REZONING PETITION SUBMISSION:**

Applications and fees are due by 12:00 pm on the first business day of each month. See the [Rezoning Schedule](#) on the website for details.

LATE FEE: \$300

REZONING PETITION FEES:

Conditional Zoning: \$1,000.00

Rezoning: \$700.00*

*No zoning conditions may be added to address concerns of staff, adjacent property owners, Planning Board, or Town Council

PRE-APPLICATION MEETING: A pre-application meeting with the Technical Review Committee (TRC) is required to be scheduled prior to sending notices for the required pre-application Neighborhood Meeting and prior to submittal of a Rezoning Petition. Pre-application meetings with the TRC are typically scheduled during regular business hours on the 1st, 2nd, and 5th Thursdays of the month. To schedule an appointment for a meeting, the applicant must contact Planner II Lauren Staudenmaier (lauren.staudenmaier@apexnc.org). To finalize the appointment time, the applicant must complete and upload the [Rezoning Pre-Application Meeting Request form](#) and required documents at least five (5) working days prior to the scheduled meeting. The invitation to the meeting will be sent to the applicant and staff once the required information is uploaded.

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

NEIGHBORHOOD MEETING: One (1) neighborhood meeting prior to application submittal and another meeting in the month prior to the anticipated public hearing date are required per UDO Sec. 2.2.7. The applicant is required to notify property owners, tenants, and any neighborhood association that represents citizens that are abutting or within 300 feet of the subject property via first class mail a minimum of 14 days in advance of the neighborhood meeting. The notification list must be obtained by emailing addressing.team@apexnc.org and will be provided within 5-10 business days of the initial request. The applicant shall use their own return address on the envelopes as the meeting is a private meeting between the developer and the neighbors. In their initial submittal, the applicant shall submit the "Neighborhood Meeting Packet" forms included in this application packet. The Neighborhood Meeting Packet is located at the very end of this document.

ANNEXATION REQUIREMENTS: If a property or portion thereof subject to this rezoning is outside the corporate limits and ETJ, an [annexation petition](#) is **required** to be submitted on the same day as this application.

Electronic Submittal Requirements: Click here to access the GeoCivix (IDT Plans) Website

- One (1) original Rezoning Petition Application
- Written Metes and Bounds Legal Description
- Agent Authorization Form & Affidavit of Ownership
- Neighborhood Meeting Packet
- WCPSS Residential Development Notice Form
- If applicable: Annexation Petition, map, legal description, and \$200.00 fee
- Notification list including property owners of the land subject to the application, all property owners and tenants abutting and located within 300 feet of the land subject to the application, and any neighborhood association that represents citizens within the notification area. This list must be obtained by emailing addressing.team@apexnc.org and will be provided within 5-10 business days of the initial request.

Hard Copy Submittal Requirements: Submit to Planning Department

- Two (2) sets of envelopes addressed to property owners subject to the application and to those on the notification list.
 - Addresses must be from the notification list obtained by emailing addressing.team@apexnc.org
 - Affixed with first class stamps and the following return address: Town of Apex Planning Department
P.O. Box 250
Apex, NC 27502
- Petition Fee by one of the following forms of payment:
 - Visa or Master Card (online only);
 - Cash (exact amount only); or
 - Check payable to 'Town of Apex'

(REZONING) PETITION TO AMEND THE OFFICIAL ZONING DISTRICT MAP

NEIGHBORHOOD MEETING: One (1) neighborhood meeting prior to application submittal and another meeting in the month prior to the anticipated public hearing date are required per UDO Sec. 2.2.7. The applicant is required to notify property owners, tenants, and any neighborhood association that represents citizens that are abutting or within 300 feet of the subject property via first class mail a minimum of 14 days in advance of the neighborhood meeting. The notification list must be obtained by emailing addressing.team@apexnc.org and will be provided within 5-10 business days of the initial request. The applicant shall use their own return address on the envelopes as the meeting is a private meeting between the developer and the neighbors. In their initial submittal, the applicant shall submit the "Neighborhood Meeting Packet" forms included in this application packet. The Neighborhood Meeting Packet is located at the very end of this document.

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

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

REVIEW BY THE ENVIRONMENTAL ADVISORY BOARD (EAB): All applications for Rezoning must be reviewed by the EAB during the staff review portion of the process. The EAB will offer suggested zoning conditions to the applicant. To request to be on the EAB agenda, applicants must contact Senior Program Support Specialist Lindley Paynter (lindley.paynter@apexnc.org) at least five (5) working days prior to the desired EAB meeting. The EAB meets at 6:00 p.m. on the 3rd Thursday of the month. Review by the EAB must occur at least one (1) month prior to the first public hearing notification date in order to maintain the published schedule. This allows time for staff to review any additional zoning conditions proposed based on the EAB's recommendations.

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

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

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

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

PETITION TO AMEND THE OFFICIAL ZONING 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 #: #23CZ17

Submittal Date: 8-1-23

Fee Paid: paid

Project Information

Project Name: RV International Properties

Address(es): 0 Herbert St

PIN(s): 0741397109

Acreage: .27

Current Zoning: MD

Proposed Zoning: B1-CZ

Current 2045 LUM Classification(s): Medium Density Residential

Is the proposed rezoning consistent with the 2045 LUM Classification(s)? Yes ☐

No ☒

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: Russell Copersito

Address: 315 S. Salem St. Suite 324

City: Apex

State: NC

Zip: 27502

Phone: 919-650-8529

E-mail: russell@salemstreetrealty.com

Owner Information

Name: RV International Properties LLC

Address: 301 E. Williams St

City: Apex

State: NC

Zip: 27502

Phone:

E-mail: comparefoodsapex@hotmail.com

Agent Information

Name: Salem Street Realty, LLC

Address: 315 S. Salem St. Suite 324

City: Apex

State: NC

Zip: 27502

Phone: 9196508529

E-mail: russell@salemstreetrealty.com

Other contacts: Christian Pedersen, Attorney, 919-591-2240, cpedersen1@dobsonlawnc.com

PETITION INFORMATIONApplication #: #23CZ17 Submittal Date: 8-1-23

An application has been duly filed requesting that the property described in this application be rezoned from MD _____ to B1-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 (UDO). It is further understood and acknowledged that final plans for any specific development to be made pursuant to any such Conditional Zoning shall be submitted for site or subdivision plan approval, as required by the UDO. Use additional pages as needed.

PROPOSED USES:

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

| | | | |
|----|---|----|---|
| 1 | <u>Grocery Store, General</u> | 21 | <u>Park, Active</u> |
| 2 | <u>Grocery Store, Specialty</u> | 22 | <u>Park, Passive</u> |
| 3 | <u>Office, Business or professional</u> | 23 | <u>real estate sales</u> |
| 4 | <u>Barber and Beauty shop</u> | 24 | |
| 5 | <u>Book store</u> | 25 | <u>Restaurant, general</u> |
| 6 | <u>retail sales, general</u> | 26 | <u>Medical or Dental office or clinic</u> |
| 7 | <u>Tailor shop</u> | 27 | |
| 8 | <u>Government Service</u> | 28 | |
| 9 | | 29 | |
| 10 | <u>Veterinary Clinic or Hospital</u> | 30 | |
| 11 | <u>Vocational School</u> | 31 | <u>Convenience Store</u> |
| 12 | <u>pharmacy</u> | 32 | |
| 13 | <u>printing and copying service</u> | 33 | <u>farmers market</u> |
| 14 | <u>Utility minor</u> | 34 | <u>artisan studio</u> |
| 15 | <u>Wireless Support Structure</u> | 35 | <u>financial institution</u> |
| 16 | <u>wireless Communication Facility</u> | 36 | <u>floral shop</u> |
| 17 | <u>personal service</u> | 37 | |
| 18 | <u>Botanical Garden</u> | 38 | <u>Health/fitness center or spa</u> |
| 19 | <u>Entertainment, Indoor</u> | 39 | |
| 20 | <u>Greenway</u> | 40 | <u>Newsstand or gift shop</u> |

PETITION INFORMATION

Application #: #23CZ17 Submittal Date: 8-1-23

PROPOSED CONDITIONS:

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

See attached document for Rezoning 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 lots adjacent to 0 Herbert St. are zoned B1 and this rezoning will be appropriate as it will be consistent with the purposes, goals, objectives and policies of the 2045 Land Use Map as it does not materially alter the lot in a way that is substantially different from the other lots surrounding it.

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 conditional zoning district use is appropriate for its proposed location as the adjacent lots are already zoned B1 and it does not materially change the character of the surrounding land uses.

PETITION INFORMATION

Application #: #23CZ17 Submittal Date: 8-1-23

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

The rezoned lot will comply with all applicable subsections of Sec 4.4 of the Supplemental Standards that are applicable, specifically 4.4.5 and all applicable subsections.

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.

Any building built on the rezoned property will be designed to minimize the adverse effects on the adjacent lands to reduce noise, trash, traffic, parking, odors, glare, and other nuisances. A fence was one of the options brought up in the first neighborhood meeting.

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 designs for any future building on the rezoned property will minimize the impact of the deterioration of water and air resources, wildlife habitats, scenic resources, and other natural resources. This concern was discussed in the neighborhood meeting and will be addressed by the engineer in future plans.

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

The proposed conditional zoning district should have no adverse impact on public facilities and services as the proposed use is already what the adjacent lots are zoned for.

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 conditional zoning district should have no adverse effect on the health safety, or welfare of the residents of the town as the adjacent lots are already zoned for the same use.

PETITION INFORMATION

Application #:

#23CZ23

Submittal Date:

8-1-23

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

The proposed conditional zoning district use will not be substantially detrimental to adjacent properties as the proposed conditional zoning is the same as the zoning of the adjacent properties facing highway 55.

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

The proposed conditional zoning district will not constitute a nuisance as it will not increase traffic, impact noise, or increase the number of persons who will be using the conditional zoning district as the adjacent lots are zoned for the same 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.

The proposed conditional zoning district use complies will all standards imposed on it by all other applicable provisions of this ordinance for use, layout, and general development characteristics as the adjacent lots are zoned for the same use.

Attachment for Zoning Conditions

1. The predominant exterior building materials shall be high quality materials, including: brick masonry, decorative concrete block, stone accents, aluminum storefronts with anodized or pre-finished colors, EIFS cornices and parapet trim, precast concrete, or other similar materials as defined in UDO Section 9.3.
2. The main entrance should be emphasized and the exterior shall be more than one color.
3. A privacy fence will be erected between the commercial development and the residential lots. The privacy fence will be at a minimum 6 feet tall.
4. No vehicular access will be allowed from Herbert Street, except for emergency vehicles.

AGENT AUTHORIZATION FORM

Application #: #23CZ17

Submittal Date: 8-1-23

RV International Properties, LLC

application is being submitted;

is the owner* of the property for which the attached

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

☐ Site Plan

☐ Subdivision

☐ Variance

☐ Other:

The property address is: 0 Herbert St. Apex, NC 27502

The agent for this project is: Salem St. Realty

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

Agent Name: Russell Copersito

Address: 315 S Salem St Ste 324 Apex, NC 27502

Telephone Number: 919-650-8529

E-Mail Address: Russell@SalemStreetRealty.com

Signature(s) of Owner(s)*

Cesar Valdez

Type or print name

08/1/2023

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 #: #23CZ23

Submittal Date: 8-1-23

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

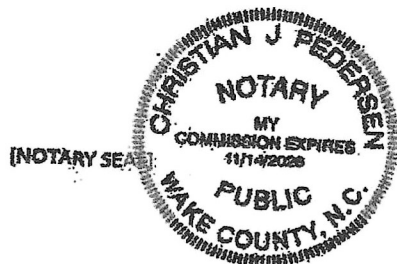
1. Affiant is over eighteen (18) years of age and authorized to make this Affidavit. The Affiant is the sole owner, or is the authorized agent of all owners, of the property located at 0 Herbert St. Apex, NC 27502 and legally described in Exhibit "A" attached hereto and incorporated herein (the "Property").
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 4/12/2023 and recorded in the Wake County Register of Deeds Office on 4/17/2023 in Book 19311 Page 114.
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 4/17/2023, Affiant has claimed sole ownership of the Property. Affiant or Affiant's predecessors in interest have been in sole and undisturbed possession and use of the property during the period of ownership. Since taking possession of the Property on 4/17/2023, 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 1st day of August, 2023.

Russell Coperello (seal)
Type or print name

STATE OF NORTH CAROLINA
COUNTY OF Wake

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



[Signature]
Notary Public
State of North Carolina
My Commission Expires: 11/14/2026

Last Updated: August 30, 2019

EXHIBIT A

BEGINNING at a p.k. nail at the southwestern corner of property now owned by Cor S. Bregman (Book 7038, Page 45, Wake County Registry ("WCR"); PIN #074106397322) (hereinafter "200 Williams"), said nail being located South 43deg 30' 28" East a distance of 515.63 feet from NCGS Mon. "Salem"; running thence along and with the southern line of said 200 Williams, South 64, deg 01' 30" East a distance of 191.03 feet to an iron pipe at the southeastern corner of 200 Williams and in the western line of Lot 2 (Pin# 074106398264) as shown on the map recorded in book of Maps 1987, Page 85, WCR; running thence along and with the western line of said Lot 2, South 23 deg 14' 34" West a distance of 32.49 feet to an axle located at the northwestern corner of Lot 3 (Pin #074106398133) as shown on the plat recorded in Book of Maps 1994, Page 1102, WCR; running thence along and with the western line of said Lot 3, South 25 deg 20' 45" West a distance of 31.37 feet to an iron pipe at the northeastern corner of property now or formerly owned by Sallie Bell Holt Sauls Heirs (Deed Book 959, Page 122, WCR; Pin #074106396145); running thence along and with the northern line of the Sauls Heirs Property, North 62 deg 44' 19" West a distance of 195.95 feet to a p.k. nail; running thence North 28 deg 50' 39" East a distance of 59.50 feet to the POINT AND PLACE OF BEGINNING, containing 11,942 square feet (0.274 acres), more or less, and being all of the property shown and described on that certain survey entitled "Property of COR S. BREGMAN, Herbert Street, Apex, Wake Co., N.C.:", dated 02/06/97, and prepared by John Y. Phelps, Jr., R.L.S. (Field Book 706), and also being the same property conveyed to Ernest R. Sauls and Sallie B. Sauls by deed recorded in Book 1320, Page 47, Wake County Registry, to which survey and deed reference is hereby made for a more particular description of same.



Dobson Law Firm, PLLC.

Attorney at Law
1130 SITUS COURT STE 240
RALEIGH, NORTH CAROLINA 27606

TELEPHONE (919) 591-2240



How to Participate in the July 31, 2023, 5:00 PM Neighborhood Meeting

Re: 400 S Hughes Street

- To participate by PC, Mac, iPad, iPhone, or Android device,
 - Join using the following link: https://teams.microsoft.com/join/19%3ameeting_NTA3NGRkM2MtMzdkZC00YzAyLWE3YzQtZmQ5ZmJkMzM2MGFI%40thread.v2/0?context=%7b%22id%22%3a%224f30e79f-805f-4976-a094-24d6fd38730f%22%2c%22Oid%22%3a%224662e6ec-1c1a-43ca-b5e6-4b934174e8bd%22%7d
 - Meeting ID: 225 825 258 142
 - Passcode: HuZTpv

If you have difficulty connecting or have technical difficulties during the meeting, you can email us at info@dobsonlawnc.com or call (919) 591-2240.

You are encouraged to join the meeting via your computer or smartphone so that you will have access to Teams' Webinar's interactive features including Raise Hand and Chat.

During the meeting, participants will be muted by default. Also, participants' video will be off by default, i.e., only the presenters will be visible.

- If you are participating via your computer, iPhone, or Android device, you can submit questions/comments by using the Raise Hand and/or Chat features. If you use Raise Hand, a panelist will either unmute you to allow you the opportunity to speak or will chat with you to solicit your questions/comments.
- If you are participating via telephone, you can submit questions/comments prior to and during the meeting via email at info@dobsonlawnc.com. At the end of the Q&A period of the meeting, all callers will be unmuted to allow for questions/comments.

NOTICE OF NEIGHBORHOOD MEETING

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

7/31/2023

Date

Dear Neighbor:

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

0 Herbert St. Apex, NC 2752

0741397109

Address(es)

PIN(s)

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

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 | Technical Review Committee (staff) |
| <input type="checkbox"/> Minor Site Plan for the uses "Day care facility", "Government service", "School, public or private", "Restaurant, drive-through", or "Convenience store with gas sales" | Technical Review Committee (staff) |
| <input type="checkbox"/> Special Use Permit | Board of Adjustment (QJPH*) |
| <input type="checkbox"/> Residential Master Subdivision Plan (excludes exempt subdivisions) | Technical Review Committee (staff) |

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

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

Rezoning a residential lot to conditional use commercial to come in line with the surrounding lots so a local

grocery store can be built on the property.

Estimated submittal date:

MEETING INFORMATION:

Property Owner(s) name(s): RV International Properties, LLC

Applicant(s): Russell Copersito

Contact information (email/phone): russell@saalemstreetrealty.com/9196508529

Meeting Address: Virtual Meeting in Microsoft teams, link in attached letter

Date/Time of meeting**: 7/31/2023 5:00 P.M.

Welcome: 5:00 PM Project Presentation: 5:15 PM Question & Answer: 5:30PM

**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>.

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: Compare Zoning: B1-CZ

Location: 0 Herbert St

Property PIN(s): 0741397109 Acreage/Square Feet: .21

Property Owner: RV International Properties, LLC

Address: 301 E. Williams St

City: Apex State: NC Zip: 27502

Phone: 9196508529 Email: russell@salemstreetrealty.com

Developer: _____

Address: _____

City: _____ State: _____ Zip: _____

Phone: _____ Fax: _____ Email: _____

Engineer: _____

Address: _____

City: _____ State: _____ Zip: _____

Phone: _____ Fax: _____ Email: _____

Builder (if known): _____

Address: _____

City: _____ State: _____ Zip: _____

Phone: _____ Fax: _____ Email: _____

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

| Town of Apex Department Contacts | |
|--|----------------|
| Planning Department Main Number (Provide development name or location to be routed to correct planner) | (919) 249-3426 |
| Parks, Recreation & Cultural Resources Department Angela Reincke, Parks Planning Project Manager | (919) 372-7468 |
| Public Works - Transportation Russell Dalton, Traffic Engineering Manager | (919) 249-3358 |
| Water Resources Department Jessica Bolin, Environmental Engineering Manager (Stormwater, Sedimentation & Erosion Control) | (919) 249-3537 |
| Matt Echols, Utility Engineering Manager (Water & Sewer) | (919) 372-7505 |
| 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 2nd and 4th 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.

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.

Noise & Hours of Construction: Non-Emergency Police 919-362-8661

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.

Construction Traffic: James Misciagno 919-372-7470

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).

Road Damage & Traffic Control: Water Resources – Infrastructure Inspections 919-362-8166

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.

Parking Violations: Non-Emergency Police 919-362-8661

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.

Dirt in the Road: James Misciagno 919-372-7470

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.

Dirt on Properties or in Streams: James Misciagno 919-372-7470
Danny Smith Danny.Smith@ncdenr.gov

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) with the State.

Dust: James Misciagno 919-372-7470

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.

Trash: James Misciagno 919-372-7470

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.

Temporary Sediment Basins: James Misciagno 919-372-7470

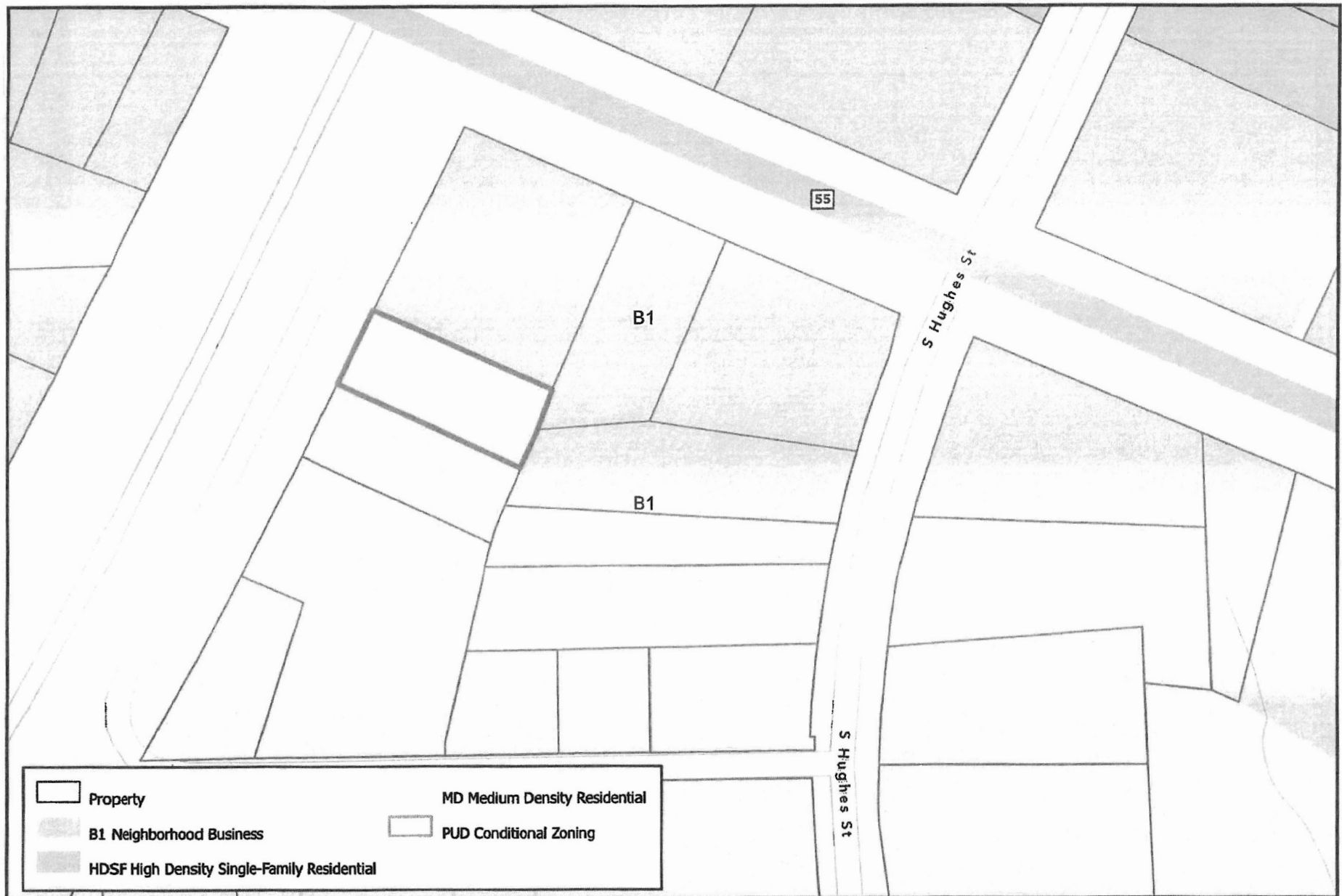
Temporary sediment basins during construction (prior to the conversion to the final stormwater pond) are often quite unattractive. Concerns should be reported to James Misciagno at 919-372-7470 so that he can coordinate the cleaning and/or mowing of the slopes and bottom of the pond with the developer.

Stormwater Control Measures: Jessica Bolin 919-249-3537

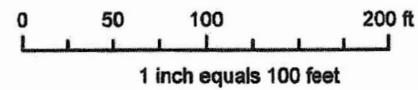
Post-construction concerns related to Stormwater Control Measures (typically a stormwater pond) such as conversion and long-term maintenance should be reported to Jessica Bolin at 919-249-3537.

Electric Utility Installation: Rodney Smith 919-249-3342

Concerns with electric utility installation can be addressed by the Apex Electric Utilities Department. Contact Rodney Smith at 919-249-3342.



0 Herbert Street Zoning Map



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

NEIGHBORHOOD MEETING SIGN-IN SHEET

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

Meeting Address: Virtual Meeting in Microsoft teams, link in attached letter

Date of meeting: 7/31/2023 Time of meeting: 5:00 - 6:00 PM

Property Owner(s) name(s): RV International Properties, LLC

Applicant(s): Russell Copersito

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. For virtual meetings, applicants must include all known participants and request the information below.

| | NAME/ORGANIZATION | ADDRESS | PHONE # | EMAIL | SEND PLANS & UPDATES |
|-----|---|--|---------|-------|--------------------------|
| 1. | Pam Adams | 406 Herbert St | | | <input type="checkbox"/> |
| 2. | Brian Morrissey | | | | <input type="checkbox"/> |
| 3. | Russell Copersito/Applicant | 315 S. Salem St. Suite 324 | | | <input type="checkbox"/> |
| 4. | Russ Copersito/Agent | 315 S. Salem St. Suite 324 | | | <input type="checkbox"/> |
| 5. | Christian Pedersen/Attorney for Applicant and Owner | 1130 Situs Ct. Suite 240 Raleigh, NC 27606 | | | <input type="checkbox"/> |
| 6. | Cesar Valdez/Owner | | | | <input type="checkbox"/> |
| 7. | Liza Locascio | | | | <input type="checkbox"/> |
| 8. | | | | | <input type="checkbox"/> |
| 9. | | | | | <input type="checkbox"/> |
| 10. | | | | | <input type="checkbox"/> |
| 11. | | | | | <input type="checkbox"/> |
| 12. | | | | | <input type="checkbox"/> |
| 13. | | | | | <input type="checkbox"/> |
| 14. | | | | | <input type="checkbox"/> |

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): RV International Properties, LLC

Applicant(s): Russell Copersito

Contact information (email/phone): russell@salemstreetrealty.com/9196508529

Meeting Address: Virtual Meeting in Microsoft teams, link in attached letter

Date of meeting: 7/31/2023 Time of meeting: 5:00 - 6:00 PM

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

Question/Concern #1:

Applicant's Response:

Question/Concern #2:

Applicant's Response:

Question/Concern #3:

Applicant's Response:

Question/Concern #4:

Applicant's Response:

Neighborhood Meeting 7/31/2023

Questions

What is the plan to use the property for – The majority of the property will be used as a buffer zone for the grocery store that is being planed on the other lots owned by the owner.

What is the setback requirement – Off the top of our heads we are not sure, the engineers doing the site plan know and have it built into the plans, probably 20ft on each side, will follow up at the next neighborhood meeting with the answer.

Will there be another meeting? – Yes.

Will there be trees planted for privacy? – Yes, but site design will give more details on the privacy plans once the site design is finalized.

Where will the entrance be for the grocery store? – The entrance will be off highway 55 on hughes street.

What will the drainage situation be? – The site design will have more information on the drainage situation.

Will you send emails for the next neighborhood meeting? – For the next neighborhood meeting a letter will be sent out and we will follow the other notification methods required by the town of apex

When will construction start? – After the rezoning is approved, could be as much as 8-10 months.

Will any fencing be going up? – Depends on the setback requirements and site plan, if the neighbors want a fence put up we will take that into consideration*.

What kind of grocery store is being proposed? – Small local grocery store, not a chain.

What is the proposed timeline? – Full detailed timeline is to come after meeting with the town but we are aiming to break ground next year.

Would the widening of Hwy 55 happen before this project is completed? – No idea, since it does not affect the rezoning of Herbert St. we do not have that information.

Where would the entrance for the project be? – On Hughes Street.

So the entrance would be the now vacant lots to get to the structure on Herbert? – Access would be a right in and right out on Hughes street. There may or may not be a structure on the Herbert street lot, if any portion of the Herbert Street lot it will only be a small portion of the business.

*Neighbor has requested a fence be put up on the portion of the lots facing the pre-existing houses

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, Russell Copersito, do hereby declare as follows:
Print Name

1. I have conducted a Neighborhood Meeting for the proposed Rezoning, Major Site Plan, Minor Site Plan, Residential Master Subdivision Plan, or Special Use Permit in accordance with UDO Sec. 2.2.7.B *Neighborhood Meeting*.
2. The meeting invitations were mailed to the Apex Planning Department, all property owners and tenants abutting and within 300 feet of the subject property and any neighborhood association that represents citizens in the notification area via first class mail a minimum of 14 days in advance of the Neighborhood Meeting.
3. The meeting was conducted at Virtual Meeting in Microsoft teams, link in attached letter (location/address) on 7/31/2023 (date) from 5:00 Pm (start time) to 6:00 Pm (end time).
4. I have included the mailing list, meeting invitation, sign-in sheet, issue/response summary, and zoning map/reduced plans with the application.
5. I have prepared these materials in good faith and to the best of my ability.

8/1/23
Date

By: [Signature]

STATE OF NORTH CAROLINA
COUNTY OF WAKE

Sworn and subscribed before me, Christian J. Pedersen a Notary Public for the above State and County, on this the 1 day of August, 20 23.

SEAL



[Signature]
Notary Public
Christian J. Pedersen
Print Name

My Commission Expires: 11/14/2023



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

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

Instruction Packet and Affidavit for Neighborhood Meetings

This packet consists of instructions and templates for conducting a required Neighborhood Meeting. Planning staff are available to advise you in the preparation of these materials. Call the Planning Department at (919) 249-3426 for more information.

WHAT IS THE PURPOSE OF A NEIGHBORHOOD MEETING?

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

WHEN IS A NEIGHBORHOOD MEETING REQUIRED?

- Rezoning (including Planned Unit Developments);
- Major Site Plans;
- Minor Site Plans for the uses "Day care facility", "Government service", "School, public or private", "Restaurant, drive-through", and "Convenience store with gas sales";
- Residential Master Subdivision Plans (excluding exempt subdivisions); or
- Special Use Permits

INSTRUCTIONS

Prior to submitting an application for a Rezoning; Major Site Plan; Minor Site Plans for the uses "Day care facility", "Government service", "School, public or private", "Restaurant, drive-through", or "Convenience store with gas sales"; residential Master Subdivision Plan (excluding exempt subdivisions); or Special Use Permit, the applicant must conduct at least one (1) Neighborhood Meeting. **The notices for this Neighborhood Meeting shall not be mailed until after the pre-application meeting with the Technical Review Committee has been held.** This meeting may be held in-person or virtually. Virtual meetings shall provide a dial-in option in addition to a link to participate by internet. The applicant shall submit all forms included in this packet with the initial application submittal.

A second Neighborhood Meeting is required for all Rezoning (including Planned Unit Developments). This meeting shall be held in the month preceding the anticipated public hearing date.

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

These groups and individuals must be invited to the meeting:

- The applicant is required to notify the Planning Department, all property owners and tenants abutting and within 300 feet of the subject property, and any neighborhood association that represents citizens in the notification area via first class mail a minimum of 14 days in advance

of the neighborhood meeting, not including the day of mailing. The applicant shall send an email to addressing.team@apexnc.org to request the notification list as early as possible in order to receive the list in time for the mailing. The list will be provided within 5-10 business days of the initial request. The applicant shall use their own return address on the envelopes as the meeting is a private meeting between the applicant and the neighbors. An updated list shall be provided by Planning staff prior to the required 2nd meeting for Rezoning applications.

- The applicant shall include with the meeting notice a vicinity map in addition to the materials listed under "Mailing and handout requirements" below.

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

- For all applications except Rezonings, the meeting must be held for a minimum of two (2) hours, Monday through Thursday, during the 5:00 p.m. - 9:00 p.m. time period.
- For Rezoning, two (2) meetings are required. The first meeting must be held prior to submittal of the application and the second meeting must be held in the month preceding the anticipated public hearing date. The meetings must be held for a minimum of one (1) hour each, Monday through Thursday, during the 5:00 p.m. - 9:00 p.m. time period.
- Meetings cannot be held on Town recognized holidays (<http://www.apexnc.org/calendar.aspx>).
- In-person meetings:
 - Meeting shall be held at a place that is generally accessible to neighbors that reside in close proximity to the land subject to the application.
 - A sign-in sheet must be used in order to verify attendance. Ensure each attendee signs in. Please note if any person(s) refuses to sign in. Note if no one attended.
- Virtual meetings:
 - Meeting shall be held via an interactive online video conferencing software such as Microsoft Teams, Zoom, WebEx, or any similar platform of the applicant's choice. A dial-in option shall be provided.
 - An attendance sheet must be used to log known attendees at the virtual meeting. Note if no one attended.
- Mailing and handout requirements to help facilitate discussion:
 - For rezonings (excluding rezonings to PUD-CZ, TND-CZ and MEC-CZ):
 - A vicinity map and existing zoning map of the area; and
 - An exhibit(s) showing any proposed long range plan amendment(s), if applicable.
 - For rezonings to PUD-CZ, TND-CZ and MEC-CZ; Major Site Plans; Minor Site Plans for the uses "Day care facility", "Government service", "School, public or private", "Restaurant, drive-through", and "Convenience store with gas sales"; residential Master Subdivision Plans; and Special Use Permits:
 - A vicinity map and preliminary plans of the proposed development. Neighbors may request emailed/mailed copies of the maps or plans from the applicant by checking the "send plans" box on the sign-in sheet; applicant shall provide reduced copies upon request. For virtual meetings, the applicant must ask meeting participants if they would like any materials emailed/mailed to them; and
 - An exhibit showing any proposed long range plan amendment(s), if applicable.
 - Printed copies (handouts) must equal the number of notices required to be sent.
 - Contact information for the applicant's representative and Town Staff must be provided on the attached "Project Contact Information" form.
 - "Common Construction Issues & Who to Call" sheet (attached) must be included as part of the mailing/handout.
 - A copy of the handout must be included as part of the Neighborhood Meeting report.

- The agenda of the meeting shall include:
 - Explanation of all processes the meeting is being held for (rezoning, subdivision, etc.).
 - Explanation of future meetings (additional neighborhood meetings, Planning Board, Town Council, etc.).
 - Explanation of development proposal – uses and conditions for rezonings, layout for subdivision and site plans, and builder/end user if known/public knowledge.
- Questions or concerns by attendees, and responses by the applicant, if any, must be noted. For in-person meetings, provide blank comment sheets or notecards for neighbors to submit written comments. For virtual meetings, copy all questions and answers entered into the meeting's chat feature before closing the meeting and save them into a document. The applicant shall also include any questions and concerns received via written correspondence (such as email) or phone call along with responses provided by the applicant.
- The applicant shall be responsible for notifying any neighbors who check the "Send Plans & Updates" box on the sign-in sheet or who otherwise request to be updated of any additional neighborhood meetings and the actual submittal date to the Town with a link to the Town of Apex's Interactive Development Map.

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

- A copy of the letter mailed to the Planning Department, neighbors, and neighborhood organizations (use attached invitation template);
- A list of those persons and neighborhood organizations invited to the meeting;
- A copy of the sign-in sheet (use attached sign-in sheet template);
- A summary of the meeting and a list of any changes made to the project as a result of the neighborhood comments (use attached meeting summary template);
- The affidavit, signed, dated, and notarized (use attached affidavit template); and
- One (1) reduced copy of the maps and/or plans included in the invitation and presented to the neighbors at the Neighborhood Meeting.

NOTICE OF NEIGHBORHOOD MEETING

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

8/28/2023

Date

Dear Neighbor:

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

0 Herbert St. Apex, NC 27502

0741397109

Address(es)

PIN(s)

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

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 | Technical Review Committee (staff) |
| <input type="checkbox"/> Minor Site Plan for the uses "Day care facility", "Government service", "School, public or private", "Restaurant, drive-through", or "Convenience store with gas sales" | Technical Review Committee (staff) |
| <input type="checkbox"/> Special Use Permit | Board of Adjustment (QJPH*) |
| <input type="checkbox"/> Residential Master Subdivision Plan (excludes exempt subdivisions) | Technical Review Committee (staff) |

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

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

Rezoning a residential lot to conditional use commercial to bring it in line with the surrounding lots for a local grocery store can be built on the property.

Estimated submittal date: January 5, 2024

MEETING INFORMATION:

Property Owner(s) name(s): RV International Properties, LLC

Applicant(s): Russell Copersito

Contact information (email/phone): russell@salemstreetrealty.com/9196508529

Meeting Address: Virtual Meeting in Microsoft Teams, Link in attached letter

Date/Time of meeting**: 8/28/2023 5:00 PM

Welcome: 5:00 Project Presentation: 5:15 Question & Answer: 5:30

**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>.

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: Compare Zoning: B1-CZ

Location: 0 Herbert St

Property PIN(s): 0741397109 Acreage/Square Feet: .21

Property Owner: RV International Properties, LLC

Address: 301 E. Williams St

City: Apex State: NC Zip: 27502

Phone: 9196508529 Email: russell@saalemstreetrealty.com

Developer: _____

Address: _____

City: _____ State: _____ Zip: _____

Phone: _____ Fax: _____ Email: _____

Engineer: _____

Address: _____

City: _____ State: _____ Zip: _____

Phone: _____ Fax: _____ Email: _____

Builder (if known): _____

Address: _____

City: _____ State: _____ Zip: _____

Phone: _____ Fax: _____ Email: _____

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

Town of Apex Department Contacts

| | |
|--|----------------|
| Planning Department Main Number | |
| (Provide development name or location to be routed to correct planner) | (919) 249-3426 |
| Parks, Recreation & Cultural Resources Department | |
| Angela Reincke, Parks Planning Project Manager | (919) 372-7468 |
| Public Works - Transportation | |
| Russell Dalton, Traffic Engineering Manager | (919) 249-3358 |
| Water Resources Department | |
| Jessica Bolin, Environmental Engineering Manager (Stormwater, Sedimentation & Erosion Control) | (919) 249-3537 |
| Matt Echols, Utility Engineering Manager (Water & Sewer) | (919) 372-7505 |
| 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 2nd and 4th 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.

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.

Noise & Hours of Construction: Non-Emergency Police 919-362-8661

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.

Construction Traffic: James Misciagno 919-372-7470

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).

Road Damage & Traffic Control: Water Resources – Infrastructure Inspections 919-362-8166

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.

Parking Violations: Non-Emergency Police 919-362-8661

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.

Dirt in the Road: James Misciagno 919-372-7470

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.

Dirt on Properties or in Streams: James Misciagno 919-372-7470
Danny Smith Danny.Smith@ncdenr.gov

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) with the State.

Dust: James Misciagno 919-372-7470

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.

Trash: James Misciagno 919-372-7470

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.

Temporary Sediment Basins: James Misciagno 919-372-7470

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.

Stormwater Control Measures: Jessica Bolin 919-249-3537

Post-construction concerns related to Stormwater Control Measures (typically a stormwater pond) such as conversion and long-term maintenance should be reported to Jessica Bolin at 919-249-3537.

Electric Utility Installation: Rodney Smith 919-249-3342

Concerns with electric utility installation can be addressed by the Apex Electric Utilities Department. Contact Rodney Smith at 919-249-3342.



Dobson Law Firm, PLLC.

Attorney at Law
1130 SITUS COURT STE 240
RALEIGH, NORTH CAROLINA 27606

TELEPHONE (919) 591-2240



**How to Participate in the August 28, 2023, 5:00 PM Neighborhood Meeting
Re: 400 S Hughes Street**

- To participate by PC, Mac, iPad, iPhone, or Android device,
 - Join using the following link: https://teams.microsoft.com/l/meetup-join/19%3ameeting_NGJhMWRmZGQtYmQ5Mi00ZTBkLWE4ZDEtODRmNDQ5ZjFmMjAw%40thread.v2/0?context=%7b%22Tid%22%3a%224f30e79f-805f-4976-a094-24d6fd38730f%22%2c%22Oid%22%3a%224662e6ec-1c1a-43ca-b5e6-4b934174e8bd%22%7d
 - Meeting ID: 235 528 256 157
 - Passcode: CEGjJD

If you have difficulty connecting or have technical difficulties during the meeting, you can email us at info@dobsonlawnc.com or call (919) 591-2240.

You are encouraged to join the meeting via your computer or smartphone so that you will have access to Teams' Webinar's interactive features including Raise Hand and Chat.

During the meeting, participants will be muted by default. Also, participants' video will be off by default, i.e., only the presenters will be visible.

- If you are participating via your computer, iPhone, or Android device, you can submit questions/comments by using the Raise Hand and/or Chat features. If you use Raise Hand, a panelist will either unmute you to allow you the opportunity to speak or will chat with you to solicit your questions/comments.
- If you are participating via telephone, you can submit questions/comments prior to and during the meeting via email at info@dobsonlawnc.com. At the end of the Q&A period of the meeting, all callers will be unmuted to allow for questions/comments.

NEIGHBORHOOD MEETING SIGN-IN SHEET

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

Meeting Address: Virtual Microsoft Teams Meeting

Date of meeting: 8/28/2023

Time of meeting: 5-6 PM

Property Owner(s) name(s): RV International Property, LLC

Applicant(s): Russell Copersito, Jr.

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. For virtual meetings, applicants must include all known participants and request the information below.

| | NAME/ORGANIZATION | ADDRESS | PHONE # | EMAIL | SEND PLANS & UPDATES |
|-----|-------------------|---------|---------|-------|--------------------------|
| 1. | P. Adams | | | | <input type="checkbox"/> |
| 2. | | | | | <input type="checkbox"/> |
| 3. | | | | | <input type="checkbox"/> |
| 4. | | | | | <input type="checkbox"/> |
| 5. | | | | | <input type="checkbox"/> |
| 6. | | | | | <input type="checkbox"/> |
| 7. | | | | | <input type="checkbox"/> |
| 8. | | | | | <input type="checkbox"/> |
| 9. | | | | | <input type="checkbox"/> |
| 10. | | | | | <input type="checkbox"/> |
| 11. | | | | | <input type="checkbox"/> |
| 12. | | | | | <input type="checkbox"/> |
| 13. | | | | | <input type="checkbox"/> |
| 14. | | | | | <input type="checkbox"/> |

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): RV International Property, LLC

Applicant(s): Russell Copersito, Jr.

Contact information (email/phone): _____

Meeting Address: Virtual Microsoft Teams Meeting

Date of meeting: 8/28/2023

Time of meeting: 5-6 PM

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

Question/Concern #1:

See Attached Sheet for questions from neighborhood meeting.

Applicant's Response:

Question/Concern #2:

Applicant's Response:

Question/Concern #3:

Applicant's Response:

Question/Concern #4:

Applicant's Response:

Neighborhood Meeting 8/28/2023

Attendees

Chris Pedersen

Russell Copersito

P Adams – wtadams7@gmail.com

Questions and Answers

- Is this the same meeting as July 31st?
 - Yes, the town wanted us to do another meeting with updates for the proposed rezoning application
- Will there be another meeting with concerns about the project?
 - Yes, we will have another meeting down the road addressing further project details.
- Interested in set backs from property line and water run off
 - This meeting is for the rezoning of the lot itself, as such the plans for the set backs and water run off will be addressed in the later meeting after the rezoning has been approved.
- 0 Hubert (Herbert) St. is the only property needing rezoning?
 - Yes, the lots adjacent to 0 Herbert are already zoned B1 and we are applying for the lot to be rezoned B1-CZ to fall in line with the adjacent lots.
- Wondering about the big oak on property line with 406 hughes
 - For now, no landscaping plan has been put in place on the properties and the town has not approved for any trees to be removed on this set of lots.
- Will the grocery store across the street be moved if rezoning is approved?
 - The rezoning of 0 Herbert St. will not affect any surrounding businesses and as such we do not know if anything will happen with the store across the street.
- Restrictions placed on the rezoned property will apply to all other lots on property?
 - Restrictions placed on the rezoned property will apply to all the lots in which are being used for the proposed grocery store.
- Are we the only one in this meeting?
 - Yes, letters were sent out to other residents for todays meeting and everyone on the list supplied by the town of who needed to be notified was sent a letter for todays meeting.

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, Russell Copersito, do hereby declare as follows:
Print Name

1. I have conducted a Neighborhood Meeting for the proposed Rezoning, Major Site Plan, Minor Site Plan, Residential Master Subdivision Plan, or Special Use Permit in accordance with UDO Sec. 2.2.7.B *Neighborhood Meeting*.
2. The meeting invitations were mailed to the Apex Planning Department, all property owners and tenants abutting and within 300 feet of the subject property and any neighborhood association that represents citizens in the notification area via first class mail a minimum of 14 days in advance of the Neighborhood Meeting.
3. The meeting was conducted at Virtual Meeting in Microsoft teams, link in attached letter (location/address) on 8/28/2023 (date) from 5:00 Pm (start time) to 6:00 Pm (end time).
4. I have included the mailing list, meeting invitation, sign-in sheet, issue/response summary, and zoning map/reduced plans with the application.
5. I have prepared these materials in good faith and to the best of my ability.

8/29/23
Date

By: *R. Copersito*

STATE OF NORTH CAROLINA
COUNTY OF WAKE

Sworn and subscribed before me, Christian J. Pedersen, a Notary Public for the above State and County, on this the 29th day of August, 2023.

SEAL

Christian J. Pedersen
Notary Public
Christian J. Pedersen
Print Name

My Commission Expires: 11/14/2023
2026

PLANNING BOARD REPORT TO TOWN COUNCIL

Rezoning Case: #23CZ17 0 Herbert Street

Planning Board Meeting Date: February 12, 2024



Report Requirements:

Per NCGS §160D-604(b), all proposed amendments to the zoning ordinance or zoning map shall be submitted to the Planning Board for review and comment. If no written report is received from the Planning Board within 30 days of referral of the amendment to the Planning Board, the Town Council may act on the amendment without the Planning Board report. The Town Council is not bound by the recommendations, if any, of the Planning Board.

Per NCGS §160D-604(d), the Planning Board shall advise and comment on whether the proposed action is consistent with all applicable officially adopted plans, and provide a written recommendation to the Town Council that addresses plan consistency and other matters as deemed appropriate by the Planning Board, but a comment by the Planning Board that a proposed amendment is inconsistent with the officially adopted plans shall not preclude consideration or approval of the proposed amendment by the Town Council.

PROJECT DESCRIPTION:

Acreage: ±0.27 acres

PIN(s): 0741397109

Current Zoning: Medium Density Residential (MD)

Proposed Zoning: Neighborhood Business-Conditional Zoning (B1-CZ)

Current 2045 Land Use Map: Medium Density Residential

If rezoned as proposed, the 2045 Land Use Map Designation will change to: Commercial Services

Town Limits: Inside Town Limits

Applicable Officially Adopted Plans:

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

☒ 2045 Land Use Map
☒ Consistent ☐ Inconsistent Reason: _____

☒ Apex Transportation Plan
☒ Consistent ☐ Inconsistent Reason: _____

☐ Parks, Recreation, Open Space, and Greenways Plan
☐ Consistent ☐ Inconsistent Reason: _____

PLANNING BOARD REPORT TO TOWN COUNCIL

Rezoning Case: #23CZ17 0 Herbert Street

Planning Board Meeting Date: February 12, 2024



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: #23CZ17 0 Herbert Street

Planning Board Meeting Date: February 12, 2024



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: #23CZ17 0 Herbert Street

Planning Board Meeting Date: February 12, 2024



Planning Board Recommendation:

Motion: To recommend approval with conditions as presented.

Introduced by Planning Board member: Keith Braswell

Seconded by Planning Board member: Tim Royal

- ☐ *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:

Conditions as presented.

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

With 8 Planning Board Member(s) voting "aye"

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

Reasons for dissenting votes:

This report reflects the recommendation of the Planning Board, this the 12th day of February 2024.

Attest:

Tina Sherman, Planning Board Vice-Chair

Dianne F. Khin

Digitally signed by Dianne F. Khin
Date: 2024.02.12 16:57:15
-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 #23CZ17
0 Herbert Street**

Pursuant to the provisions of North Carolina General Statutes §160D-602 and to the Town of Apex Unified Development Ordinance (UDO) Section 2.2.11, notice is hereby given of public hearings before the Planning Board of the Town of Apex. The purpose of these hearings is to consider the following:

Applicant/Authorized Agent: Russell Copersito, Salem Street Realty, LLC
Property Address: 0 Herbert Street
Acreage: ±0.27 acres
Property Identification Number (PIN): 0741397109
Current 2045 Land Use Map Designation: Medium Density Residential
If rezoned as proposed, the 2045 Land Use Map Designation will change to: Commercial Services
Existing Zoning of Property: Medium Density Residential (MD)
Proposed Zoning of Property: Neighborhood Business-Conditional Zoning (B1-CZ)

Public Hearing Location: Apex Town Hall
Council Chamber, 2nd Floor
73 Hunter Street, Apex, North Carolina

Planning Board Public Hearing Date and Time: February 12, 2024 4:30 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 a written statement by email to public.hearing@apexnc.org, or submit it to the clerk of the Planning Board, Jeri Pederson (73 Hunter Street or USPS mail - P.O. Box 250, Apex, NC 27502), at least two business days prior to the Planning Board vote. You must provide your name and address for the record. The written statements will be delivered to the Planning Board prior to their vote. Please include the Public Hearing name in the subject line.

A separate notice of the Town Council public hearing on this project will be mailed and posted in order to comply with State public notice requirements.

Vicinity Map:



Property owners, tenants, and neighborhood associations within 300 feet of the proposed conditional zoning have been sent this notice via first class mail. All interested parties may submit comments with respect to the application by the means specified above. In addition to the above map, the location of the property may be viewed online at <https://maps.raleighnc.gov/imag>. The 2045 Land Use Map may be viewed online at www.apexnc.org/DocumentCenter/View/478. You may call 919-249-3426, Department of Planning and Community Development, with questions or for further information. To view the petition and related documents on-line: <https://www.apexnc.org/DocumentCenter/View/44160/23CZ17>.

Dianne F. Khin, AICP
Planning Director



TOWN OF APEX
PO BOX 250
APEX, NORTH CAROLINA 27502
TELÉFONO 919-249-3426

NOTIFICACIÓN PÚBLICA DE AUDIENCIAS PÚBLICAS
ORDENAMIENTO TERRITORIAL CONDICIONAL #23CZ17
0 Herbert Street

De conformidad con las disposiciones de los Estatutos Generales de Carolina del Norte §160D-602 y con la Sección 2.2.11 de la Ordenanza de Desarrollo Unificado (UDO) del ayuntamiento de Apex, por la presente se notifican las audiencias públicas ante la Junta de Planificación de Apex. El propósito de estas audiencias es considerar lo siguiente:

Solicitante/Agente autorizado: Russell Copersito, Salem Street Realty, LLC

Dirección de la propiedad: 0 Herbert Street

Superficie: ±0.27 acres

Número de identificación de la propiedad: 0741397109

Designación actual en el Mapa de Uso Territorial para 2045: Medium Density Residential

Si se aprueba el cambio de zonificación como se propone, el Mapa de Uso Territorial para el 2045 cambiará a:

Commercial Services

Ordenamiento territorial existente de la propiedad: Medium Density Residential (MD)

Ordenamiento territorial propuesto para la propiedad: Neighborhood Business-Conditional Zoning (B1-CZ)

Lugar de la audiencia pública: Ayuntamiento de Apex

Cámara del Consejo, 2º piso

73 Hunter Street, Apex, Carolina del Norte

Fecha y hora de la audiencia pública de la Junta de Planificación: 12 de febrero de 2024 4:30 P.M.

Puede asistir a la reunión de manera presencial o seguir la transmisión en directo por YouTube a través del siguiente enlace: <https://www.youtube.com/c/townofapexgov>.

Si no puede asistir, puede enviar una declaración escrita por correo electrónico a public.hearing@apexnc.org, o presentarla a la secretaria de la Junta de Planificación, Jeri Pederson (73 Hunter Street o por correo USPS a P.O. Box 250, Apex, NC 27502), al menos dos días hábiles antes de la votación de la Junta de Planificación. Debe proporcionar su nombre y dirección para que conste en el registro. Las declaraciones escritas se entregarán a la Junta de Planificación antes de la votación. No olvide incluir el nombre de la audiencia pública en el asunto.

De conformidad con los requisitos estatales de notificaciones públicas, se enviará por correo y se publicará por separado una notificación de la audiencia pública del Consejo Municipal sobre este proyecto.

Mapa de las inmediaciones:



Los propietarios, inquilinos y asociaciones de vecinos en un radio de 300 pies del Ordenamiento Territorial Condicional propuesto han recibido esta notificación por correo postal de primera clase. Todas las partes interesadas pueden presentar comentarios sobre la solicitud a través de los medios especificados anteriormente. La ubicación de la propiedad también puede verse aquí: <https://maps.raleighnc.gov/imaps>. Puede ver el Mapa de Uso Territorial para 2045 aquí: www.apexnc.org/DocumentCenter/View/478. Si tiene preguntas o desea obtener más información, puede comunicarse con el Departamento de Planificación y Desarrollo Comunitario al 919-249-3426. Puede ver la solicitud y otros documentos relacionados aquí: <https://www.apexnc.org/DocumentCenter/View/44160/23CZ17>.

Dianne F. Khin, AICP
Directora de Planificación

Fechas de publicación: 26 de enero de 2024- 12 de febrero de 2024

Legal Notice of Public Hearings

23CZ17 0 Herbert Street TC Not

Adobe Acrobat: PDF edit, convert, sign tools

chrome-extension://efaidnbmninnibpcapjcgclclefindmkaj/https://www.apexnc.org/DocumentCenter/View/...

Municode Meetings

Plan Review

Planning Departme...

iMAPS

Real Estate Search

Register of Deeds

Unified Developme...

ExecuTime Enterpris...

Tools

apexnc.org / 23CZ17 ...combined

Desktop

Share

Sign in

TOWN OF APEX

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

PUBLIC NOTIFICATION
OF PUBLIC HEARINGS
CONDITIONAL ZONING #23CZ17
0 Herbert Street

Pursuant to the provisions of North Carolina General Statutes §160D-602 and to the Town of Apex Unified Development Ordinance (UDO) Section 2.2.11, notice is hereby given of public hearings before the Planning Board and Town Council of the Town of Apex. The purpose of these hearings is to consider the following:

Applicant/Authorized Agent: Russell Copersito, Salem Street Realty, LLC
Property Address: 0 Herbert Street
Acreage: ±.27 acres
Property Identification Numbers (PIN): 0741397109
2045 Land Use Map Designation: Medium Density Residential
If rezoned as proposed, the 2045 Land Use Map Designation will change to: Commercial Services
Existing Zoning of Properties: Medium Density (MD) Residential
Proposed Zoning of Properties: Neighborhood Business-Conditional Zoning (B1-C2)


Public Hearing Location: Apex Town Hall
Council Chamber, 2nd Floor
73 Hunter Street, Apex, North Carolina

Comments received prior to the Planning Board public hearing will not be provided to the Town Council. Separate comments for the Town Council public hearing must be provided by the deadline specified below.

Town Council Public Hearing Date and Time: February 27, 2024 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 a written statement by email to public.hearing@apexnc.org, or submit it to the Office of the Town Clerk (73 Hunter Street or USPS mail - P.O. Box 250, Apex, NC 27502), at least two business days prior to the Town Council vote. You must provide your name and address for the record. The written statements will be delivered to the Town Council prior to their vote. Please include the Public Hearing name in the subject line.

Vicinity Map:



Property owners, tenants, and neighborhood associations within 300 feet of the proposed conditional zoning have been sent this notice via first class mail. All interested parties may submit comments with respect to the application by the means specified above. In addition to the above map, the location of the property may be viewed online at <https://maps.raleighnc.gov/imaps>. The 2045 Land Use Map may be viewed online at www.apexnc.org/DocumentCenter/View/478. You may call 919-249-3426, Planning Department, with questions or for further information. To view the petition and related documents on-line: <https://www.apexnc.org/DocumentCenter/View/44160/23CZ17>.

Dianne F. Khin, AICP
Planning Director

Published Dates: February 2 - February 27, 2024

- Page 266 -

55°F Sunny 11:30 AM 2/15/2024



TOWN OF APEX
POST OFFICE BOX 250
APEX, NORTH CAROLINA 27502
TELÉFONO 919-249-3426

NOTIFICACIÓN PÚBLICA DE AUDIENCIAS PÚBLICAS
ORDENAMIENTO TERRITORIAL CONDICIONAL #23CZ17
0 Herbert Street

De conformidad con las disposiciones de los Estatutos Generales de Carolina del Norte §1600-602 y con la Sección 2.2.11 de la Ordenanza de Desarrollo Unificado (UDO) del Ayuntamiento de Apex, por la presente se notifican las audiencias públicas ante la Junta de Planificación y el Consejo Municipal del Ayuntamiento de Apex. El propósito de estas audiencias es considerar lo siguiente:

Solicitante/Agente autorizado: Russell Copersito, Salem Street Realty, LLC
Dirección de la propiedad: 0 Herbert Street
Superficie: ±.27 acres
Número de identificación de la propiedad: 0741397109
Designación actual en el Mapa de Uso Territorial para 2045: Medium Density Residential
Si se aprueba el cambio de zonificación como se propone, el Mapa de Uso Territorial para el 2045 cambiará a: Commercial Services
Ordenamiento territorial existente de la propiedad: Medium Density Residential (MD)
Ordenamiento territorial propuesto para la propiedad: Neighborhood Business-Conditional Zoning (B1-C2)

Lugar de la audiencia pública: Ayuntamiento de Apex
Cámara del Consejo, 2º piso
73 Hunter Street, Apex, Carolina del Norte

Los comentarios recibidos antes de la audiencia pública de la Junta de Planificación no se proporcionarán al Consejo Municipal. Los comentarios para la audiencia pública del Consejo Municipal deben presentarse por separado en el plazo especificado a continuación.

Fecha y hora de la audiencia pública del Consejo Municipal: 27 de febrero de 2024 6:00 P.M.
Puede asistir a la reunión de manera presencial o seguir la transmisión en directo por YouTube a través del siguiente enlace: <https://www.youtube.com/c/townofapexnc>.

Si no puede asistir, puede enviar una declaración escrita por correo electrónico a public.hearing@apexnc.org, o presentarla a la oficina del Secretario Municipal (73 Hunter Street o por correo USPS a P.O. Box 250, Apex, NC 27502), al menos dos días hábiles antes de la votación del Consejo Municipal. Debe proporcionar su nombre y dirección para que conste en el registro. Las declaraciones escritas se entregarán al Consejo Municipal antes de la votación. No olvide incluir el nombre de la audiencia pública en el asunto.



Los propietarios, inquilinos y asociaciones de vecinos en un radio de 300 pies del Ordenamiento Territorial Condicional propuesto han recibido esta notificación por correo postal de primera clase. Todas las partes interesadas pueden presentar comentarios sobre la solicitud a través de los medios especificados anteriormente. La ubicación de la propiedad también puede verse aquí: <https://maps.raleighnc.gov/imaps>. Puede ver el Mapa de Uso Territorial para 2045 aquí: www.apexnc.org/DocumentCenter/View/478. Si tiene preguntas o desea obtener más información, puede comunicarse con el Departamento de Planificación al 919-249-3426. Puede ver la solicitud y otros documentos relacionados aquí: <https://www.apexnc.org/DocumentCenter/View/44160/23CZ17>.

Dianne F. Khin, AICP
Directora de Planificación

Fechas de publicación: 2 de febrero-27 de febrero de 2024



TOWN OF APEX

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

**PUBLIC NOTIFICATION
OF PUBLIC HEARINGS
CONDITIONAL ZONING #23CZ17
0 Herbert Street**

Pursuant to the provisions of North Carolina General Statutes §160D-602 and to the Town of Apex Unified Development Ordinance (UDO) Section 2.2.11, notice is hereby given of public hearings before the Planning Board of the Town of Apex. The purpose of these hearings is to consider the following:

Applicant/Authorized Agent: Russell Copersito, Salem Street Realty, LLC
Property Address: 0 Herbert Street
Acreage: ±0.27 acres
Property Identification Number (PIN): 0741397109
Current 2045 Land Use Map Designation: Medium Density Residential
If rezoned as proposed, the 2045 Land Use Map Designation will change to: Commercial Services
Existing Zoning of Property: Medium Density Residential (MD)
Proposed Zoning of Property: Neighborhood Business-Conditional Zoning (B1-CZ)

Public Hearing Location: Apex Town Hall
Council Chamber, 2nd Floor
73 Hunter Street, Apex, North Carolina

Planning Board Public Hearing Date and Time: February 12, 2024 4:30 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 a written statement by email to public.hearing@apexnc.org, or submit it to the clerk of the Planning Board, Jeri Pederson (73 Hunter Street or USPS mail - P.O. Box 250, Apex, NC 27502), at least two business days prior to the Planning Board vote. You must provide your name and address for the record. The written statements will be delivered to the Planning Board prior to their vote. Please include the Public Hearing name in the subject line.

A separate notice of the Town Council public hearing on this project will be mailed and posted in order to comply with State public notice requirements.

Vicinity Map:



Property owners, tenants, and neighborhood associations within 300 feet of the proposed conditional zoning have been sent this notice via first class mail. All interested parties may submit comments with respect to the application by the means specified above. In addition to the above map, the location of the property may be viewed online at <https://maps.raleighnc.gov/imaps>. The 2045 Land Use Map may be viewed online at www.apexnc.org/DocumentCenter/View/478. You may call 919-249-3426, Department of Planning and Community Development, with questions or for further information. To view the petition and related documents on-line: <https://www.apexnc.org/DocumentCenter/View/44160/23CZ17>.

Dianne F. Khin, AICP
Planning Director



TOWN OF APEX

PO BOX 250
APEX, NORTH CAROLINA 27502
TELÉFONO 919-249-3426

NOTIFICACIÓN PÚBLICA DE AUDIENCIAS PÚBLICAS

ORDENAMIENTO TERRITORIAL CONDICIONAL #23CZ17

0 Herbert Street

De conformidad con las disposiciones de los Estatutos Generales de Carolina del Norte §160D-602 y con la Sección 2.2.11 de la Ordenanza de Desarrollo Unificado (UDO) del ayuntamiento de Apex, por la presente se notifican las audiencias públicas ante la Junta de Planificación de Apex. El propósito de estas audiencias es considerar lo siguiente:

Solicitante/Agente autorizado: Russell Copersito, Salem Street Realty, LLC

Dirección de la propiedad: 0 Herbert Street

Superficie: ±0.27 acres

Número de identificación de la propiedad: 0741397109

Designación actual en el Mapa de Uso Territorial para 2045: Medium Density Residential

Si se aprueba el cambio de zonificación como se propone, el Mapa de Uso Territorial para el 2045 cambiará a: Commercial Services

Ordenamiento territorial existente de la propiedad: Medium Density Residential (MD)

Ordenamiento territorial propuesto para la propiedad: Neighborhood Business-Conditional Zoning (B1-CZ)

Lugar de la audiencia pública: Ayuntamiento de Apex

Cámara del Consejo, 2º piso

73 Hunter Street, Apex, Carolina del Norte

Fecha y hora de la audiencia pública de la Junta de Planificación: 12 de febrero de 2024 4:30 P.M.

Puede asistir a la reunión de manera presencial o seguir la transmisión en directo por YouTube a través del siguiente enlace: <https://www.youtube.com/c/townofapexgov>.

Si no puede asistir, puede enviar una declaración escrita por correo electrónico a public.hearing@apexnc.org, o presentarla a la secretaria de la Junta de Planificación, Jeri Pederson (73 Hunter Street o por correo USPS a P.O. Box 250, Apex, NC 27502), al menos dos días hábiles antes de la votación de la Junta de Planificación. Debe proporcionar su nombre y dirección para que conste en el registro. Las declaraciones escritas se entregarán a la Junta de Planificación antes de la votación. No olvide incluir el nombre de la audiencia pública en el asunto.

De conformidad con los requisitos estatales de notificaciones públicas, se enviará por correo y se publicará por separado una notificación de la audiencia pública del Consejo Municipal sobre este proyecto.

Mapa de las inmediaciones:



Los propietarios, inquilinos y asociaciones de vecinos en un radio de 300 pies del Ordenamiento Territorial Condicional propuesto han recibido esta notificación por correo postal de primera clase. Todas las partes interesadas pueden presentar comentarios sobre la solicitud a través de los medios especificados anteriormente. La ubicación de la propiedad también puede verse aquí: <https://maps.raleighnc.gov/imaps>. Puede ver el Mapa de Uso Territorial para 2045 aquí: www.apexnc.org/DocumentCenter/View/478. Si tiene preguntas o desea obtener más información, puede comunicarse con el Departamento de Planificación y Desarrollo Comunitario al 919-249-3426. Puede ver la solicitud y otros documentos relacionados aquí: <https://www.apexnc.org/DocumentCenter/View/44160/23CZ17>.

Dianne F. Khin, AICP
Directora de Planificación



TOWN OF APEX

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

PUBLIC NOTIFICATION OF PUBLIC HEARINGS CONDITIONAL ZONING #23CZ17 0 Herbert Street

Pursuant to the provisions of North Carolina General Statutes §160D-602 and to the Town of Apex Unified Development Ordinance (UDO) Section 2.2.11, notice is hereby given of public hearings before the Planning Board and Town Council of the Town of Apex. The purpose of these hearings is to consider the following:

Applicant/Authorized Agent: Russell Copersito, Salem Street Realty, LLC

Property Address: 0 Herbert Street

Acreage: ±.27 acres

Property Identification Numbers (PIN): 0741397109

2045 Land Use Map Designation: Medium Density Residential

If rezoned as proposed, the 2045 Land Use Map Designation will change to: Commercial Services

Existing Zoning of Properties: Medium Density (MD) Residential

Proposed Zoning of Properties: Neighborhood Business-Conditional Zoning (B1-CZ)

Public Hearing Location: Apex Town Hall
Council Chamber, 2nd Floor
73 Hunter Street, Apex, North Carolina

***Comments received prior to the Planning Board public hearing will not be provided to the Town Council.
Separate comments for the Town Council public hearing must be provided by the deadline specified below.***

Town Council Public Hearing Date and Time: February 27, 2024 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 a written statement by email to public.hearing@apexnc.org, or submit it to the Office of the Town Clerk (73 Hunter Street or USPS mail - P.O. Box 250, Apex, NC 27502), at least two business days prior to the Town Council vote. You must provide your name and address for the record. The written statements will be delivered to the Town Council prior to their vote. Please include the Public Hearing name in the subject line.

Vicinity Map:



Property owners, tenants, and neighborhood associations within 300 feet of the proposed conditional zoning have been sent this notice via first class mail. All interested parties may submit comments with respect to the application by the means specified above. In addition to the above map, the location of the property may be viewed online at <https://maps.raleighnc.gov/imaps>. The 2045 Land Use Map may be viewed online at www.apexnc.org/DocumentCenter/View/478. You may call 919-249-3426, Planning Department, with questions or for further information. To view the petition and related documents on-line: <https://www.apexnc.org/DocumentCenter/View/44160/23CZ17>.

Dianne F. Khin, AICP
Planning Director



TOWN OF APEX

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

NOTIFICACIÓN PÚBLICA DE AUDIENCIAS PÚBLICAS

ORDENAMIENTO TERRITORIAL CONDICIONAL #23CZ17

0 Herbert Street

De conformidad con las disposiciones de los Estatutos Generales de Carolina del Norte §160D-602 y con la Sección 2.2.11 de la Ordenanza de Desarrollo Unificado (UDO) del Ayuntamiento de Apex, por la presente se notifican las audiencias públicas ante la Junta de Planificación y el Consejo Municipal del Ayuntamiento de Apex. El propósito de estas audiencias es considerar lo siguiente:

Solicitante/Agente autorizado: Russell Copersito, Salem Street Realty, LLC

Dirección de la propiedad: 0 Herbert Street

Superficie: ±.27 acres

Número de identificación de la propiedad: 0741397109

Designación actual en el Mapa de Uso Territorial para 2045: Medium Density Residential

Si se aprueba el cambio de zonificación como se propone, el Mapa de Uso Territorial para el 2045 cambiará a: Commercial Services

Ordenamiento territorial existente de la propiedad: Medium Density Residential (MD)

Ordenamiento territorial propuesto para la propiedad: Neighborhood Business-Conditional Zoning (B1-CZ)

Lugar de la audiencia pública: Ayuntamiento de Apex

Cámara del Consejo, 2º piso

73 Hunter Street, Apex, Carolina del Norte

Los comentarios recibidos antes de la audiencia pública de la Junta de Planificación no se proporcionarán al Consejo Municipal. Los comentarios para la audiencia pública del Consejo Municipal deben presentarse por separado en el plazo especificado a continuación.

Fecha y hora de la audiencia pública del Consejo Municipal: 27 de febrero de 2024 6:00 P.M.

Puede asistir a la reunión de manera presencial o seguir la transmisión en directo por YouTube a través del siguiente enlace: <https://www.youtube.com/c/townofapexgov>.

Si no puede asistir, puede enviar una declaración escrita por correo electrónico a public.hearing@apexnc.org, o presentarla a la oficina del Secretario Municipal (73 Hunter Street o por correo USPS a P.O. Box 250, Apex, NC 27502), al menos dos días hábiles antes de la votación del Consejo Municipal. Debe proporcionar su nombre y dirección para que conste en el registro. Las declaraciones escritas se entregarán al Consejo Municipal antes de la votación. No olvide incluir el nombre de la audiencia pública en el asunto.

Mapa de las inmediaciones:



Los propietarios, inquilinos y asociaciones de vecinos en un radio de 300 pies del Ordenamiento Territorial Condicional propuesto han recibido esta notificación por correo postal de primera clase. Todas las partes interesadas pueden presentar comentarios sobre la solicitud a través de los medios especificados anteriormente. La ubicación de la propiedad también puede verse aquí: <https://maps.raleighnc.gov/imaps>. Puede ver el Mapa de Uso Territorial para 2045 aquí: www.apexnc.org/DocumentCenter/View/478. Si tiene preguntas o desea obtener más información, puede comunicarse con el Departamento de Planificación al 919-249-3426. Puede ver la solicitud y otros documentos relacionados aquí: <https://www.apexnc.org/DocumentCenter/View/44160/23CZ17>.

Dianne F. Khin, AICP
Directora de Planificación



Rezoning #23CZ17

E Williams St

55

St Hughes St

Herbert St

Germaine Village

Public Hearing Sign Posted By


Signature

8/14/2023
Date



TOWN OF APEX

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

AFFIDAVIT CERTIFYING Public Notification – Written (Mailed) Notice

Section 2.2.11

Town of Apex Unified Development Ordinance

Project Name: Conditional Zoning #23CZ17
Project Location: 0 Herbert Street
Applicant or Authorized Agent: Russell Copersito
Firm: Salem Street Realty, LLC
Planning Board: February 12, 2024
Public Hearing Date:
Project Planner: Liz Loftin

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 January 26, 2024, a notice containing the time and place, location, nature and scope of the application, where additional information may be obtained, and the opportunity for interested parties to be heard, to the property owners and tenants within 300' of the land subject to notification. I further certify that I relied on information from the Wake County Tax Assessor and the Town of Apex Master Address Repository provided to me by Town of Apex GIS Staff as to accuracy of the list and accuracy of mailing addresses of property owners and tenants within 300' of the land subject to notification.

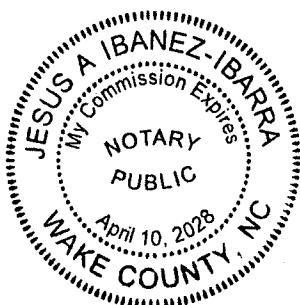
1/30/2024
Date

Jeannie F. Khan
Planning Director

STATE OF NORTH CAROLINA
COUNTY OF WAKE

Sworn and subscribed before me, Jesus A. Ibanez-Ibarra, a Notary Public for the above

State and County, this the 30th day of January, 2024.



Jesus A. Ibanez-Ibarra
Notary Public

My Commission Expires: 4/10/2028



TOWN OF APEX

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

AFFIDAVIT CERTIFYING Public Notification – Written (Mailed) Notice

Section 2.2.11

Town of Apex Unified Development Ordinance

Project Name: Conditional Zoning #23CZ17
Project Location: 0 Herbert Street
Applicant or Authorized Agent: Russell Copersito
Firm: Salem Street Realty, LLC
Town Council
Public Hearing Date: February 27, 2024
Project Planner: Liz Loftin

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 February 2, 2024, a notice containing the time and place, location, nature and scope of the application, where additional information may be obtained, and the opportunity for interested parties to be heard, to the property owners and tenants within 300' of the land subject to notification. I further certify that I relied on information from the Wake County Tax Assessor and the Town of Apex Master Address Repository provided to me by Town of Apex GIS Staff as to accuracy of the list and accuracy of mailing addresses of property owners and tenants within 300' of the land subject to notification.

2/5/2024
Date

Shanne L. Kher
Planning Director

STATE OF NORTH CAROLINA
COUNTY OF WAKE

Sworn and subscribed before me, Jesus A. Ibanez-Ibarra, a Notary Public for the above

State and County, this the 5th day of February, 202 4.



Jesus A. Ibanez-Ibarra
Notary Public

My Commission Expires: 4 / 10 / 2028

| Agenda Item | cover sheet

for consideration by the Apex Town Council

Item Type: PUBLIC HEARING
Meeting Date: February 27, 2024

Item Details

Presenter(s): Liz Loftin, Senior Planner

Department(s): Planning

Requested Motion

Public Hearing and possible motion to approve Rezoning Application No. 23CZ23. The applicant, Town of Apex, seeks to rezone approximately 2.41 acres from Medium Density Residential (MD) & Mixed Office-Residential-Retail-Conditional Zoning (MORR-CZ #09CZ12) to Downtown Business-Conditional Zoning (B2-CZ).

The proposed rezoning is located at 0 & 211 Templeton Street, 0 Saunders Street.

Approval Recommended?

The Planning Department recommends approval.

The Planning Board held a Public Hearing on February 12, 2024 and voted 7 to 1 to recommend approval with the conditions as presented plus additional condition to not wait on installation of proposed fence.

Item Details

The properties to be rezoned is identified as PINs 0742319843, 0742318765, 0742317640.

Attachments

- PH5-A1: Staff Report - Rezoning Case No. 23CZ23 - Saunders Street Parking Lot
- PH5-A2: Aerial Map - Rezoning Case No. 23CZ23 - Saunders Street Parking Lot
- PH5-A3: Application - Rezoning Case No. 23CZ23 - Saunders Street Parking Lot
 - Neighborhood Meeting Notice - Rezoning Case No. 23CZ23 - Saunders Street Parking Lot
 - PB Report to TC Signed - Rezoning Case No. 23CZ23 - Saunders Street Parking Lot
 - Public Notice - Rezoning Case No. 23CZ23 - Saunders Street Parking Lot



STAFF REPORT

Rezoning #23CZ23 Saunders Street Parking Lot

February 27, 2024 Town Council Meeting



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

BACKGROUND INFORMATION:

Location: 0 Saunders Street, 0 & 211 Templeton Street

Applicant/Owner: Town of Apex

PROJECT DESCRIPTION:

Acreage: ±2.41 acres

PIN: 0742319843, 0742318765, 0742317640

Current Zoning: Medium Density Residential (MD) & Mixed Office-Residential-Retail-Conditional Zoning (MORR-CZ #09CZ12)/Small Town Character Overlay District

Proposed Zoning: Downtown Business-Conditional Zoning (B2-CZ)/Small Town Character Overlay District

2045 Land Use Map: Mixed-Use: Commercial Services/Office Employment/Medium Density Residential

Town Limits: Inside

Adjacent Zoning & Land Uses:

| | Zoning | Land Use |
|---------------|--|---|
| North: | High Density Single Family; High Density Single Family-Conditional Use (HDSF-CU #87CU03); Mixed Office-Residential-Retail-Conditional Zoning (MORR-CZ #09CZ12) | Single-Family Residential |
| South: | Medium Density Residential (MD); Downtown Business (B2) | Saunders St; Government Service (Police Station) |
| East: | Downtown Business (B2) | Public Parking Lot; Commercial |
| West: | Medium Density Residential (MD); High Density Single Family-Conditional Use (HDSF-CU #87CU03) | Cemetery; Single-Family Residential |

Existing Conditions:

The subject properties total +/-2.41 acres and are located on the north side of Saunders Street. Two of the properties are vacant and one has gravel parking.

Neighborhood Meeting:

The applicant conducted a neighborhood meeting on November 15, 2023 and a second meeting on January 17, 2024. The neighborhood meeting reports are attached.

2045 Land Use Map:

The 2045 Land Use Map designates the properties as Mixed-Use: Commercial Services/Office Employment/Medium Density Residential. The proposed rezoning to Downtown Business-Conditional Zoning (B2-CZ) is consistent with the Land Use Map designation.

STAFF REPORT

Rezoning #23CZ23 Saunders Street Parking Lot

February 27, 2024 Town Council Meeting



Permitted 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.

The applicant is proposing the following uses:

- Government Service
- Parking lot, public
- Park, active
- Park, passive

PROPOSED ZONING CONDITIONS:

1. A minimum 7-foot privacy fence shall be provided along the northern property boundary of PIN 0742319843 at the time the lot is developed in accordance with a site plan.

ENVIRONMENTAL ADVISORY BOARD:

This rezoning was exempt from meeting with the Apex Environmental Advisory Board (EAB) per Unified Development Ordinance (UDO) Section 2.1.9.A.2.c. The proposed rezoning is in the Small Town Character Overlay District.

PLANNING STAFF RECOMMENDATION:

Planning staff recommends approval of Rezoning #23CZ23 with the conditions as offered by the applicant.

PLANNING BOARD RECOMMENDATION:

The Planning Board held a public hearing on February 12, 2024 meeting and voted 7 to 1 to recommend approval with the conditions as presented plus additional condition to not wait on installation of proposed fence.

ANALYSIS STATEMENT OF THE REASONABLENESS OF THE PROPOSED REZONING:

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

The 2045 Land Use Map classifies the subject properties as Mixed-Use: Commercial Services/Office Employment/Medium Density Residential. The proposed rezoning to Downtown Business Conditional Zoning (B2-CZ) is consistent with that land use classification.

The proposed rezoning is reasonable and in the public interest because it will expand the area available for public parking downtown in accordance with the Downtown Master Plan and Parking Study and provide a privacy fence along residential properties to the north.

CONDITIONAL ZONING STANDARDS:

The Town Council shall find the Downtown Business-Conditional Zoning (B2-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

STAFF REPORT

Rezoning #23CZ23 Saunders Street Parking Lot

February 27, 2024 Town Council Meeting



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 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 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 District use's compliance with Sec 4.4 *Supplemental Standards*, if applicable.
- 4) *Design minimizes adverse impact.* The design of the proposed Conditional Zoning District use's minimization of adverse effects, including visual impact of the proposed use on adjacent lands; and avoidance of significant adverse impacts on surrounding lands regarding trash, traffic, service delivery, parking and loading, odors, noise, glare, and vibration and not create a nuisance.
- 5) *Design minimizes environmental impact.* The proposed Conditional Zoning District use's minimization of environmental impacts and protection from significant deterioration of water and air resources, wildlife habitat, scenic resources, and other natural resources.
- 6) *Impact on public facilities.* The proposed Conditional Zoning 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 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 District use is substantially detrimental to adjacent properties.
- 9) *Not constitute nuisance or hazard.* Whether the proposed Conditional Zoning 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 District use complies with all standards imposed on it by all other applicable provisions of this Ordinance for use, layout, and general development characteristics.

Blanchard St

Woodbriar St

Brittany Trace

Saunders St

Templeton St

The Halle

N Salem St

Center St

The Depot

Seaboard St

Apex Police Department

Rezoning #23CZ23



PETITION TO AMEND THE OFFICIAL ZONING 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 #: 23CZ23 Submittal Date: 11-27-2023
Fee Paid: N/A (Town of Apex Project)

Project Information

Project Name: Saunders Street Parking Lot (3 additional parcels)
Address(es): 211 Templeton St, 0 Templeton St, & 0 Saunders St, Apex, NC 27502
PIN(s): 0742319843, 0742318765, 0742317640
Acreage: 2.41
Current Zoning: MORR-CZ (09CZ12) & MD Proposed Zoning: B2-CZ
Current 2045 LUM Classification(s): Mixed-Use: Commercial Services, Office Employment, Medium Density Residential
Is the proposed rezoning consistent with the 2045 LUM Classification(s)? Yes ☒ No ☐

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

| | | |
|--|----------|-------------|
| Area classified as mixed use: | Acreage: | <u>2.41</u> |
| Area proposed as non-residential development: | Acreage: | <u>2.41</u> |
| Percent of mixed use area proposed as non-residential: | Percent: | <u>100%</u> |

Applicant Information

Name: Town of Apex, Attn: Russell Dalton, Traffic Engineering Manager
Address: 105-B Upchurch St, PO Box 250
City: Apex State: NC Zip: 27502
Phone: 919-249-3358 E-mail: russell.dalton@apexnc.org

Owner Information

Name: Town of Apex
Address: PO Box 250
City: Apex State: NC Zip: 27502
Phone: _____ E-mail: _____

Agent Information

Name: Town of Apex, Attn: Russell Dalton, Traffic Engineering Manager
Address: PO Box 250 (105-B Upchurch St)
City: Apex State: NC Zip: 27502
Phone: 919-249-3358 E-mail: russell.dalton@apexnc.org

Other contacts: _____

PETITION INFORMATION

Application #: 23CZ23 Submittal Date: 11-27-2023

An application has been duly filed requesting that the property described in this application be rezoned from MORR-CZ & MD to B2-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 (UDO). It is further understood and acknowledged that final plans for any specific development to be made pursuant to any such Conditional Zoning shall be submitted for site or subdivision plan approval, as required by the UDO. Use additional pages as needed.

PROPOSED USES:

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

| | | | |
|----|---------------------|----|--|
| 1 | Government Service | 21 | |
| 2 | Park, Active | 22 | |
| 3 | Park, Passive | 23 | |
| 4 | Parking Lot, Public | 24 | |
| 5 | | 25 | |
| 6 | | 26 | |
| 7 | | 27 | |
| 8 | | 28 | |
| 9 | | 29 | |
| 10 | | 30 | |
| 11 | | 31 | |
| 12 | | 32 | |
| 13 | | 33 | |
| 14 | | 34 | |
| 15 | | 35 | |
| 16 | | 36 | |
| 17 | | 37 | |
| 18 | | 38 | |
| 19 | | 39 | |
| 20 | | 40 | |

PETITION INFORMATION

Application #: _____ Submittal Date: _____

PROPOSED CONDITIONS:

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

A minimum 7-foot privacy fence shall be provided along the northern property boundary of PIN 0742319843 at the time the lot is developed in accordance with a site plan.

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 conditional rezoning is consistent with the 2045 Land Use Map designation.

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 conditional zoning is to expand surface parking in accordance with the Downtown Plan. As the parcel is adjacent to existing paved public surface parking, the proposed rezoning will be compatible with the character of surrounding land uses.

PETITION INFORMATION

Application #: 23CZ23 Submittal Date: 11-27-2023

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

All proposed uses will be consistent with the standards provided in the Town of Apex UDO including any applicable supplemental standards.

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

The design of the proposed conditional zoning district will be compatible with the nearby uses because the purpose of this rezoning is to expand existing public surface parking as identified in the top ten projects of the Downtown Plan through public engagement opportunities during plan development, schematic design, and final design.

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

The proposed conditional zoning expands the footprint of the existing paved public parking lot and will be developed in a manner consistent with UDO requirements, including meeting stormwater requirements for additional impervious area with the addition of a bio-retention SCM.

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

The proposed conditional rezoning will avoid having adverse impacts on public infrastructure and will provide additional paved public parking spaces consistent with the goals of the Downtown Plan.

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 conditional rezoning will not adversely impact health, safety, or welfare by maintaining access to existing public streets and providing more public parking spaces for Downtown Apex.

PETITION INFORMATION

Application #: 23CZ23 Submittal Date: 11-27-2023

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

The proposed conditional zoning will increase accessibility to Downtown Apex with the addition of public parking spaces.

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

The proposed conditional rezoning would not be a nuisance or hazard and would operate in a manner consistent with the existing public parking lot.

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 conditional rezoning will comply with all standards and specifications of the UDO, Apex Standard Details & Specifications, and any other conditions of approval.

AGENT AUTHORIZATION FORMApplication #: 23CZ23Submittal Date: 11-27-2023

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

- ☒ 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: 211 Templeton St, 0 Templeton St, & 0 Saunders St, Apex, NC 27502

The agent for this project is: Russell Dalton, PE, Traffic Engineering Manager

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

Agent Name: Russell Dalton, PE, Traffic Engineering Manager

Address: 105-B Upchurch St, PO Box 250, Apex, NC 27502

Telephone Number: 919-249-3358

E-Mail Address: russell.dalton@apexnc.org

Signature(s) of Owner(s)*

Digitally signed by Shawn Purvis
Date: 2023.11.20 20:08:05 -05'00'

Shawn Purvis, Interim Town Manager

11/20/2023

Type or print name

Date

Type or print name

Date

Attach additional sheets if there are additional owners.

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

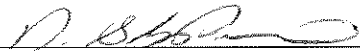
Pursuant to Article 40 of Chapter 66 of the North Carolina General Statutes (the Uniform Electronic Transactions Act) this application and all documents related hereto containing an electronic or digitized signature are legally binding in the same manner as are hard copy documents executed by hand signature.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

AFFIDAVIT OF OWNERSHIPApplication #: 23CZ23Submittal Date: 11-27-2023

The undersigned, Shawn Purvis (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 0 Templeton St, Apex, NC 27502 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 09/16/2022, and recorded in the Wake County Register of Deeds Office on 09/16/2022, in Book 19149 Page 1011.
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 09/19/2022, 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 09/16/2022, 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 21st day of Nov., 2023.

 (seal)
Shawn Purvis, Interim Town Manager
Type or print name

STATE OF NORTH CAROLINA
COUNTY OF Wake

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

Sandra S. Burke
Notary Public
State of North Carolina
My Commission Expires: 9/9/25

[NOTARY SEAL]

AFFIDAVIT OF OWNERSHIP: EXHIBIT A – LEGAL DESCRIPTIONApplication #: 23CZ23Submittal Date: 11-27-2023**Insert legal description below.**

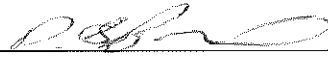
BEGINNING at a stake George Reuschling's corner on the West side of a roadway, runs thence north 62° 40' West 365 feet to a stake in Fred Saunders line, another corner for George Reuschling; thence North 86° 30' West along the line of said Fred Saunders to a stake on the East side of a roadway; thence in a southerly direction along said roadway 85 feet to a stake, a corner for Fred Saunders; thence South 61° 20' East 423 feet along said Saunders line to a stake on the West side of a roadway; thence North 33° 40' East along the West side of said roadway 130 feet to a stake, the point of BEGINNING and being all of lot No. 9 and part of Lot No. 10 of the Templeton property, surveyed by R. A. Colvin in 1918 and recorded in Book of Maps 1920, page 87 Office of Wake County Register of Deeds, and being shown in the Wake County Tax Office as PIN number 0742-31-8765.

AFFIDAVIT OF OWNERSHIPApplication #: 23CZ23Submittal Date: 11-27-2023

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

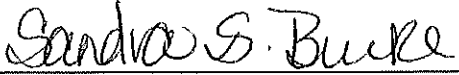
1. Affiant is over eighteen (18) years of age and authorized to make this Affidavit. The Affiant is the sole owner, or is the authorized agent of all owners, of the property located at 0 Saunders St, Apex, NC 27502 and legally described in Exhibit "A" attached hereto and incorporated herein (the "Property").
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 09/16/2022, and recorded in the Wake County Register of Deeds Office on 09/16/2022, in Book 19149 Page 953.
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 09/16/2022, 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 09/16/2022, 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 21st day of Nov., 2023.

 (seal)
Shawn Purvis, Town Manager
 Type or print name

STATE OF NORTH CAROLINA
 COUNTY OF Wake

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


 Notary Public
 State of North Carolina
 My Commission Expires: 9/9/25

[NOTARY SEAL]

AFFIDAVIT OF OWNERSHIP: EXHIBIT A – LEGAL DESCRIPTIONApplication #: 23CZ23Submittal Date: 11-27-2023**Insert legal description below.**

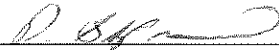
BEGINNING at a stake on the North side of Saunders Street a corner for J. F. Saunders, runs thence with the line of J. F. Saunders in a northerly direction 190 feet to a stake; thence with line of the Templeton property in a westerly direction 85 feet to a stake; thence with the cemetery lot in a southerly direction 86 feet to stake; thence with the cemetery lot in a westerly direction 136 feet to a stake in L. L. Lanier's line; thence with the line of L. L. Lanier in a southerly direction 94 feet to a stake on the north side of Saunders Street; thence parallel with Saunders Street in a easterly direction to the point of BEGINNING, the same being old Apex Methodist Church lot which is excepted therefrom the cemetery lot. Right of egress and ingress strictly reserved by the Apex Methodist Church, and being shown in the Wake County Tax Office as PIN number 0742-31-7640, subject to all matters and items of record.

AFFIDAVIT OF OWNERSHIPApplication #: 23CZ23Submittal Date: 11-27-2023

The undersigned, Shawn Purvis (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 211 Templeton St, Apex, NC 27502 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 10/18/2023, and recorded in the Wake County Register of Deeds Office on 10/25/2023, in Book 19462 Page 2116.
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 10/25/2023, 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 10/25/2023, 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 21st day of Nov., 2023.

 (seal)
Shawn Purvis, Interim Town Manager
 Type or print name

STATE OF NORTH CAROLINA
 COUNTY OF Wake

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


 Notary Public
 State of North Carolina
 My Commission Expires: 9/9/25

[NOTARY SEAL]

AFFIDAVIT OF OWNERSHIP: EXHIBIT A – LEGAL DESCRIPTION

Application #: 23CZ23

Submittal Date: 11-27-2023

Insert legal description below.

BEING ALL of Lot 2, containing 0.4944 acres more or less, as shwon on that certain plat entitled "Exempt Plat Town of Apex" and recorded in Book of Maps 2023, Page 1549 Wake County Registry

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

BEGINNING at a common corner of Susan S. Mills & Maureen Q. Seymour (Wake County PIN 0742317640) and Apex United Methodist Church, Inc. (PIN 0742317711), also being a point located on the northern right-of-way of Saunders Street; thence leaving said right-of-way and following the western lines of Mills and Seymour the following three (3) calls: N 26°33'54" E 109.01', S 63°58'37" E 135.90', and N 25°42'31" E 80.37' to a point; thence along the northern line of Apex United Methodist Church, Inc., also being a southern line of Marcia M. Lund (PIN 0742318765), N 66°21'48" W 172.46' to a point; thence continuing with the southern line of Lund, also being a common line with Charles Tabron (PIN 0742315782), N 65°08'53" W 31.82' to a corner; thence N 02°37'35" W 87.12' to the northwest corner of Lund and being a point on the southern boundary of the Brittany Trace neighborhood; thence along the southern boundary of Brittany Trace, also being the rear property line for Lots 38 through 45, the following three (3) calls: S 89°48'08" E 14.82', N 89°05'31" E 194.92', and S 88°48'57" E 228.00' to a point in the southern line of Brittany Trace Lot 45; thence along the common line of Town of Apex (PIN 0742319843) and Renata Cristina Williams, Trustee, of the Williams Family Trust (PIN 0742410882) S 23°58'10" W 102.00' to a corner; thence continuing S 64°18'20" E 90.31' to corner, also being a point in the western line of unopened Temple Street right-of-way; thence along the unopened Temple Street western right-of-way line, also being the Town of Apex eastern line, S 28°32'17" W 29.08' to a common corner with the aforementioned Lund property; thence along the common line of Lund and unopened Temple Street S 28°23'13" W 126.84' to a point in the northern line of Town of Apex (PIN 0742319568); thence along the northern line of Town of Apex, also being a southern line of Lund, N 63°16'23" W 140.27' to a point; thence along the eastern line of Mills and Seymour S 29°32'01" W 94.22' to a point; thence continuing along the same line, also being the western line of Town of Apex (PIN 0742319439), S 29°48'28" W 94.79' to a point in the northern right-of-way of Saunders Street; thence along said right-of-way line N 65°04'47" W 83.74' to a point; thence continuing N 65°09'12" W 136.10' along said right-of-way to the point and place of BEGINNING containing 2.53 acres more or less. The above described tracts of land are all of Wake County PINs 0742.18-31-7640, 0742.18-31-8765, and 0742.18-31-9843, also being the same described in Deed Book 915 Page 132, Deed Book 16028 Page 407, and Deed Book 19462 Page 2116 of the Wake County Registry.

The preceding metes and bounds description was prepared without the benefit of an actual survey for the sole purpose of amending the Official Zoning District Map and shall not be used for the conveyance of property.



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

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

Instruction Packet and Affidavit for Neighborhood Meetings

This packet consists of instructions and templates for conducting a required Neighborhood Meeting. Planning staff are available to advise you in the preparation of these materials. Call the Planning Department at (919) 249-3426 for more information.

WHAT IS THE PURPOSE OF A NEIGHBORHOOD MEETING?

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

WHEN IS A NEIGHBORHOOD MEETING REQUIRED?

- Rezoning (including Planned Unit Developments);
- Major Site Plans;
- Minor Site Plans for the uses "Day care facility", "Government service", "School, public or private", "Restaurant, drive-through", and "Convenience store with gas sales";
- Residential Master Subdivision Plans (excluding exempt subdivisions); or
- Special Use Permits

INSTRUCTIONS

Prior to submitting an application for a Rezoning; Major Site Plan; Minor Site Plans for the uses "Day care facility", "Government service", "School, public or private", "Restaurant, drive-through", or "Convenience store with gas sales"; residential Master Subdivision Plan (excluding exempt subdivisions); or Special Use Permit, the applicant must conduct at least one (1) Neighborhood Meeting. **The notices for this Neighborhood Meeting shall not be mailed until after the pre-application meeting with the Technical Review Committee has been held.** This meeting may be held in-person or virtually. Virtual meetings shall provide a dial-in option in addition to a link to participate by internet. The applicant shall submit all forms included in this packet with the initial application submittal.

A second Neighborhood Meeting is required for all Rezoning (including Planned Unit Developments). This meeting shall be held in the month preceding the anticipated public hearing date.

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

These groups and individuals must be invited to the meeting:

- The applicant is required to notify the Planning Department, all property owners and tenants abutting and within 300 feet of the subject property, and any neighborhood association that represents citizens in the notification area via first class mail a minimum of 14 days in advance

of the neighborhood meeting, not including the day of mailing. The applicant shall send an email to addressing.team@apexnc.org to request the notification list as early as possible in order to receive the list in time for the mailing. The list will be provided within 5-10 business days of the initial request. The applicant shall use their own return address on the envelopes as the meeting is a private meeting between the applicant and the neighbors. An updated list shall be provided by Planning staff prior to the required 2nd meeting for Rezoning applications.

- The applicant shall include with the meeting notice a vicinity map in addition to the materials listed under “Mailing and handout requirements” below.

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

- For all applications except Rezonings, the meeting must be held for a minimum of two (2) hours, Monday through Thursday, during the 5:00 p.m. - 9:00 p.m. time period.
- For Rezoning, two (2) meetings are required. The first meeting must be held prior to submittal of the application and the second meeting must be held in the month preceding the anticipated public hearing date. The meetings must be held for a minimum of one (1) hour each, Monday through Thursday, during the 5:00 p.m. - 9:00 p.m. time period.
- Meetings cannot be held on Town recognized holidays (<http://www.apexnc.org/calendar.aspx>).
- In-person meetings:
 - Meeting shall be held at a place that is generally accessible to neighbors that reside in close proximity to the land subject to the application.
 - A sign-in sheet must be used in order to verify attendance. Ensure each attendee signs in. Please note if any person(s) refuses to sign in. Note if no one attended.
- Virtual meetings:
 - Meeting shall be held via an interactive online video conferencing software such as Microsoft Teams, Zoom, WebEx, or any similar platform of the applicant’s choice. A dial-in option shall be provided.
 - An attendance sheet must be used to log known attendees at the virtual meeting. Note if no one attended.
- Mailing and handout requirements to help facilitate discussion:
 - For rezonings (excluding rezonings to PUD-CZ, TND-CZ and MEC-CZ):
 - A vicinity map and existing zoning map of the area; and
 - An exhibit(s) showing any proposed long range plan amendment(s), if applicable.
 - For rezonings to PUD-CZ, TND-CZ and MEC-CZ; Major Site Plans; Minor Site Plans for the uses “Day care facility”, “Government service”, “School, public or private”, “Restaurant, drive-through”, and “Convenience store with gas sales”; residential Master Subdivision Plans; and Special Use Permits:
 - A vicinity map and preliminary plans of the proposed development. Neighbors may request emailed/mailed copies of the maps or plans from the applicant by checking the “send plans” box on the sign-in sheet; applicant shall provide reduced copies upon request. For virtual meetings, the applicant must ask meeting participants if they would like any materials emailed/mailed to them; and
 - An exhibit showing any proposed long range plan amendment(s), if applicable.
 - Printed copies (handouts) must equal the number of notices required to be sent.
 - Contact information for the applicant’s representative and Town Staff must be provided on the attached “Project Contact Information” form.
 - “Common Construction Issues & Who to Call” sheet (attached) must be included as part of the mailing/handout.
 - A copy of the handout must be included as part of the Neighborhood Meeting report.

- The agenda of the meeting shall include:
 - Explanation of all processes the meeting is being held for (rezoning, subdivision, etc.).
 - Explanation of future meetings (additional neighborhood meetings, Planning Board, Town Council, etc.).
 - Explanation of development proposal – uses and conditions for rezonings, layout for subdivision and site plans, and builder/end user if known/public knowledge.
- Questions or concerns by attendees, and responses by the applicant, if any, must be noted. For in-person meetings, provide blank comment sheets or notecards for neighbors to submit written comments. For virtual meetings, copy all questions and answers entered into the meeting’s chat feature before closing the meeting and save them into a document. The applicant shall also include any questions and concerns received via written correspondence (such as email) or phone call along with responses provided by the applicant.
- The applicant shall be responsible for notifying any neighbors who check the “Send Plans & Updates” box on the sign-in sheet or who otherwise request to be updated of any additional neighborhood meetings and the actual submittal date to the Town with a link to the Town of Apex’s Interactive Development Map.

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

- A copy of the letter mailed to the Planning Department, neighbors, and neighborhood organizations (use attached invitation template);
- A list of those persons and neighborhood organizations invited to the meeting;
- A copy of the sign-in sheet (use attached sign-in sheet template);
- A summary of the meeting and a list of any changes made to the project as a result of the neighborhood comments (use attached meeting summary template);
- The affidavit, signed, dated, and notarized (use attached affidavit template); and
- One (1) reduced copy of the maps and/or plans included in the invitation and presented to the neighbors at the Neighborhood Meeting.

NOTICE OF NEIGHBORHOOD MEETING

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

10/27/23

Date

Dear Neighbor:

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

211 Templeton St, 0 Templeton St, & 0 Saunders St

0742319843, 0742318765, 0742317640

Apex, NC 27502

Address(es)

PIN(s)

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

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 | Technical Review Committee (staff) |
| <input type="checkbox"/> | Minor Site Plan for the uses "Day care facility", "Government service", "School, public or private", "Restaurant, drive-through", or "Convenience store with gas sales" | Technical Review Committee (staff) |
| <input type="checkbox"/> | Special Use Permit | Board of Adjustment (QJPH*) |
| <input type="checkbox"/> | Residential Master Subdivision Plan (excludes exempt subdivisions) | Technical Review Committee (staff) |

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

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

Saunders Street Parking Lot (3 additional parcels)

Estimated submittal date: 12/1/23

MEETING INFORMATION:

Property Owner(s) name(s):

Town of Apex

Applicant(s):

Russell Dalton, PE, Traffic Engineering Manager

Contact information (email/phone):

russell.dalton@apexnc.org / 919-249-3358

Meeting Address:

Apex Town Hall (3rd floor), 73 Hunter St, Apex, NC 27502

Date/Time of meeting**:

11/15/23 5:30 p.m.-6:30 p.m.

Welcome: 5:30 p.m.

Project Presentation: 5:40 p.m.

Question & Answer: 5:50-6:30 p.m.

**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>.

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: Saunders Street Parking Lot (3 additional parcels) Zoning: B2-CZ

Location: 211 Templeton St, 0 Templeton St, & 0 Saunders St

Property PIN(s): 0742319843, 0742318765, 0742317640 Acreage/Square Feet: 2.41 ac. / 104,980 sqft.

Property Owner: Town of Apex

Address: PO Box 250

City: Apex State: NC Zip: 27502

Phone: 919-249-3358 Email: russell.dalton@apexnc.org

Developer: (same as owner)

Address: _____

City: _____ State: _____ Zip: _____

Phone: _____ Fax: _____ Email: _____

Engineer: Stantec Consulting, Inc. for Russell Dalton, PE, Traffic Engineering Manager

Address: 105-B Upchurch St, PO Box 250, Apex, NC 27502

City: Apex State: NC Zip: 27502

Phone: 919-249-3358 Fax: _____ Email: russell.dalton@apexnc.org

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 Planning Project Manager | (919) 372-7468 |
| Public Works - Transportation Russell Dalton, Traffic Engineering Manager | (919) 249-3358 |
| Water Resources Department Jessica Bolin, Environmental Engineering Manager (Stormwater, Sedimentation & Erosion Control) | (919) 249-3537 |
| Matt Echols, Utility Engineering Manager (Water & Sewer) | (919) 372-7505 |
| 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 2nd and 4th 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.

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.

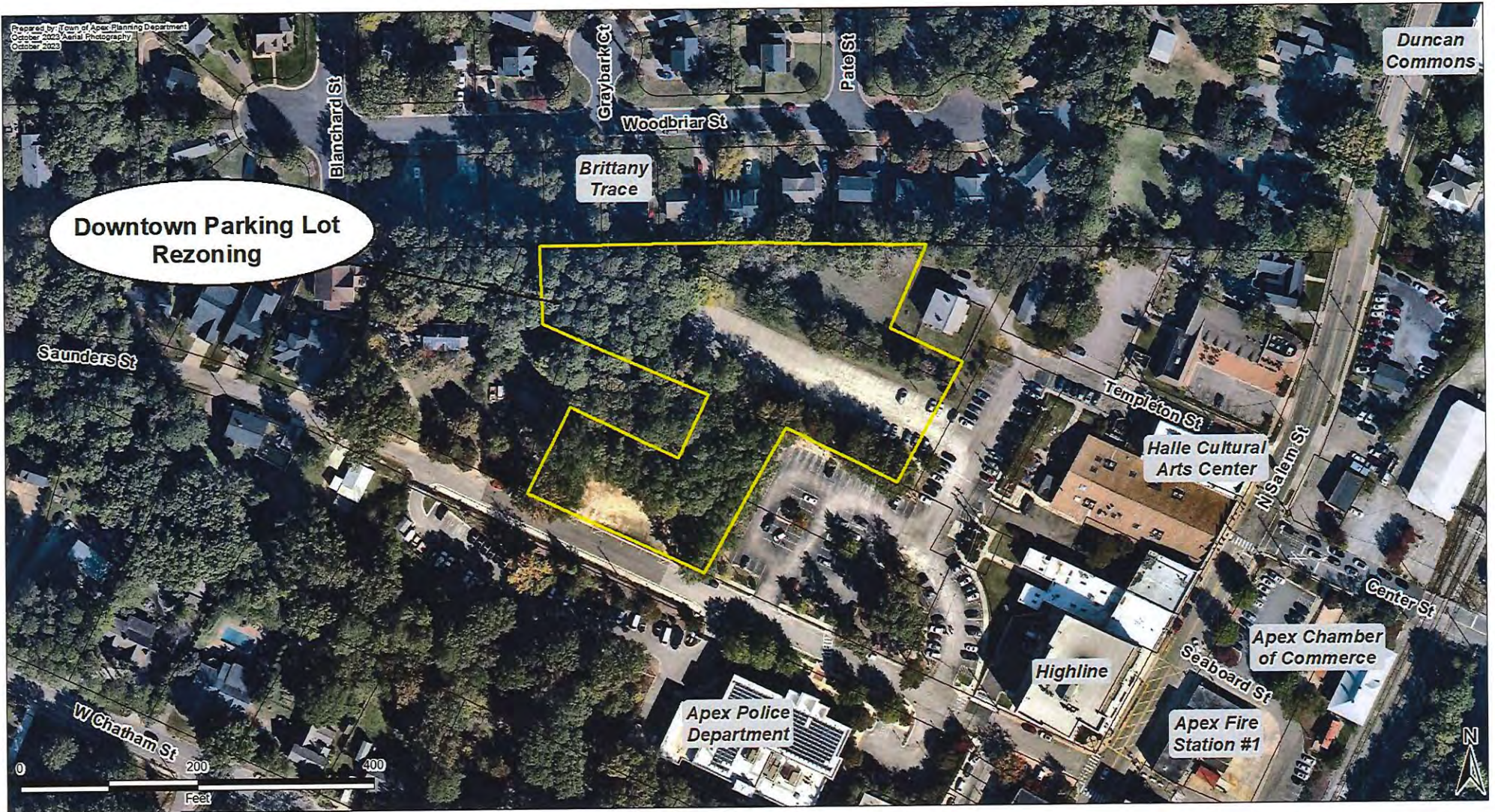
It is recommended that all private agreements be made in writing and that if a property owner feels it necessary, they should obtain private legal counsel in order to protect their interests in both private agreements and during easement negotiations. The only conditions that the Town of Apex can enforce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

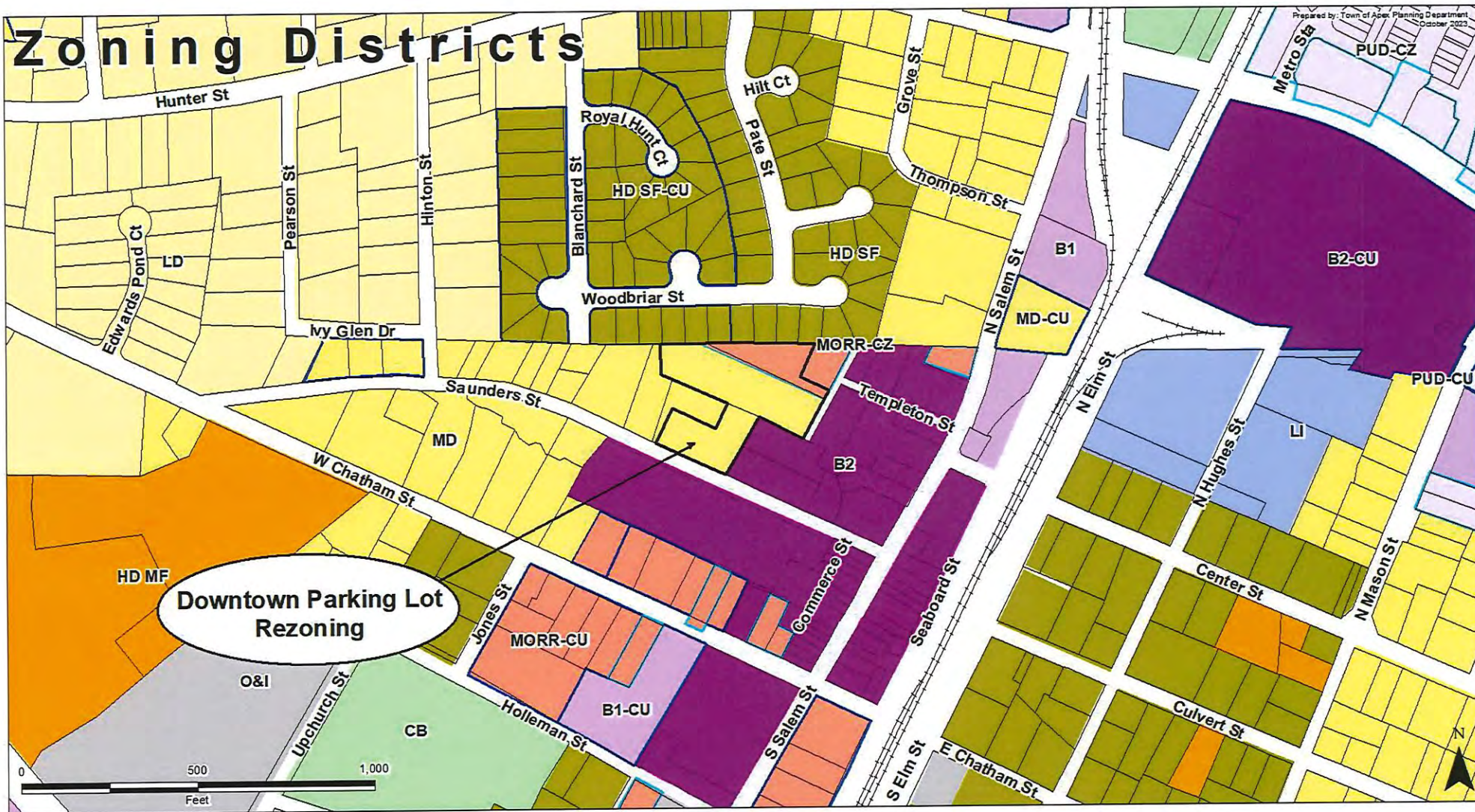
As an example, if a developer offers to build a fence for a neighbor to mitigate some impact, the Town can only enforce the construction of the fence if the fence becomes a condition of the rezoning. This would occur by the developer offering the condition as part of their conditional zoning application 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>

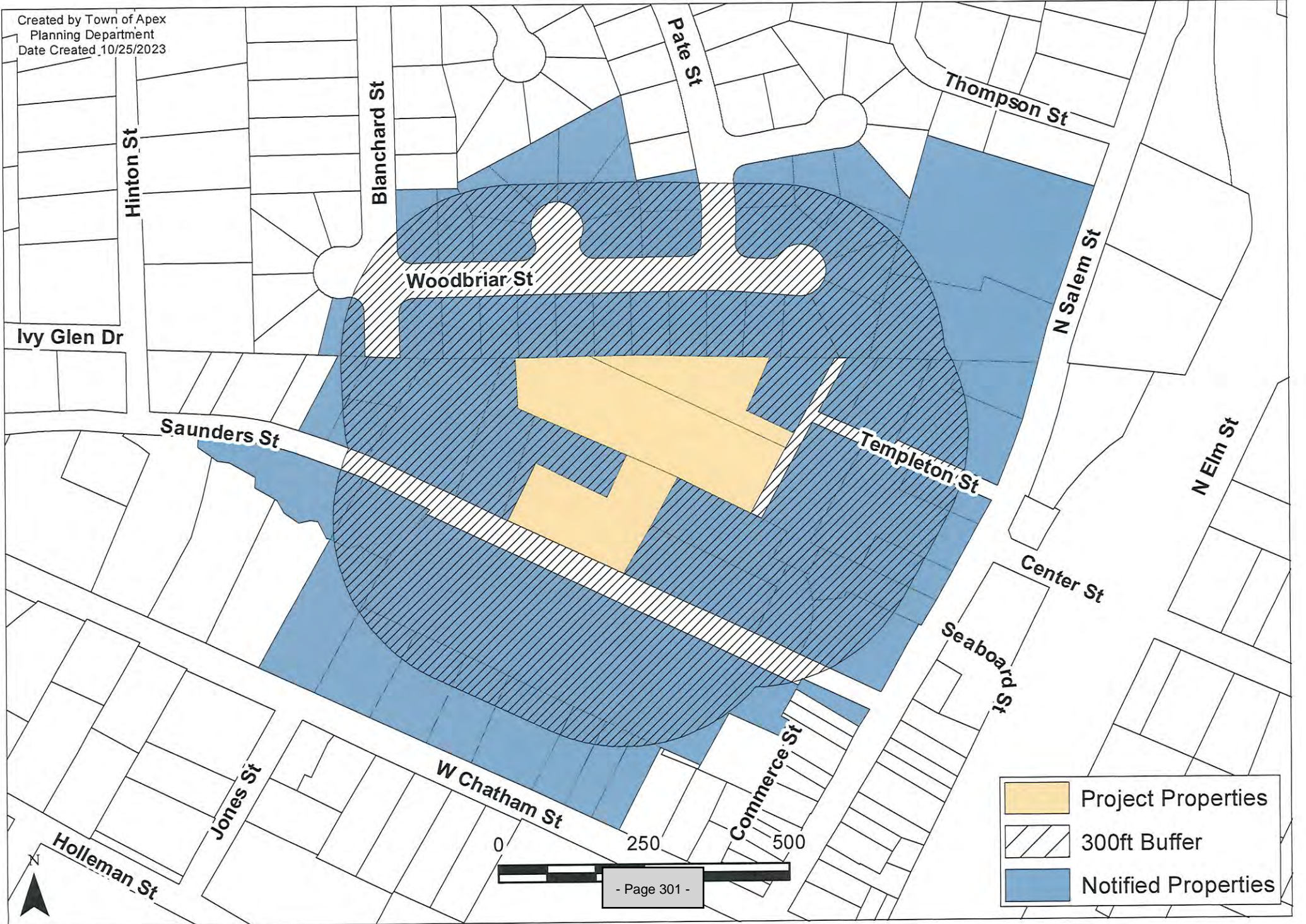
Documentation:

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.





Notified Properties Within 300ft of the Project Properties



| SITE ADDRESS | PIN NUMBER | OWNER | MAILING ADDRESS | MAILING ADDRESS 2 |
|------------------------|------------|---|----------------------------|----------------------------|
| 309 N SALEM ST | 0742414844 | 309 NORTH SALEM STREET LLC | 201 TURQUOISE CREEK DR | CARY NC 27513-3498 |
| 214 W CHATHAM ST | 0742314330 | ANDERSON, HANNAH DIXON, HARRISON | 214 W CHATHAM ST | APEX NC 27502-1408 |
| 237 N SALEM ST | 0742413663 | APEX TOWN OF | PO BOX 250 | APEX NC 27502-0250 |
| 0 SAUNDERS ST | 0742317711 | APEX UNITED METHODIST CHURCH INC | 106 S HUGHES ST | APEX NC 27502-1910 |
| 222 W CHATHAM ST | 0742312474 | BANNING, PAULA H | 222 W CHATHAM ST | APEX NC 27502-1408 |
| 225 N SALEM ST | 0742412642 | BRAND APEX LLC | 7600 JERICHO TPKE STE 402 | WOODBURY NY 11797-1705 |
| 306 SAUNDERS ST | 0742313802 | BRUBAKER, NATHANAE A BRUBAKER, JOHANNA R | 306 SAUNDERS ST | APEX NC 27502-1381 |
| 301 PATE ST | 0742328160 | BUNN, CHRISTOPHER B BUNN, MELANIE | 301 PATE ST | APEX NC 27523-7818 |
| 301 SAUNDERS ST | 0742313672 | CESPEDES, MERQUIADES NELSON JR GARCIA, CLAUDIA LISBETH YANES | 7704 JENKS RD | APEX NC 27502-1384 |
| 1203 BRITTANY POINT CT | 0742421136 | CHATMAN, COADY R CHATMAN, MEGAN M | 1203 BRITTANY POINT CT | APEX NC 27502-1300 |
| 2110 BLANCHARD ST | 0742313894 | COSGRAVE, ERIN MALONE COSGRAVE, EOIN JOSEPH | 2110 BLANCHARD ST | APEX NC 27502-1447 |
| 217 SAUNDERS ST | 0742314788 | DAVIS, DAVID J DAVIS, SUSAN G | 217 SAUNDERS ST | APEX NC 27502-1371 |
| 1005 WOODBRIAR ST | 0742315973 | DEANGELIS, ALEXIS MARIE | 1005 WOODBRIAR ST | APEX NC 27502-1370 |
| 1002 WOODBRIAR ST | 0742325101 | DIDAWICK, ERIC B DIDAWICK, VICTORIA M | 1002 WOODBRIAR ST | APEX NC 27502-1369 |
| 905 WOODBRIAR ST | 0742313913 | DIVERS, GREGORY W DIVERS, RACHEL L | 905 WOODBRIAR ST | APEX NC 27502-1477 |
| 221 N SALEM ST | 0742412581 | DTA II LLC | 221 N SALEM ST STE 1 | APEX NC 27502-1387 |
| 1105 WOODBRIAR ST | 0742411983 | EGGERS, JASON S EGGERS, KAREN | 1105 WOODBRIAR ST | APEX NC 27502-1387 |
| 1103 WOODBRIAR ST | 0742411902 | EVERS, JOHN P EVERS, MAUREEN ELIZABETH | 1103 WOODBRIAR ST | APEX NC 27502-1370 |
| 1000 WOODBRIAR ST | 0742324141 | FADL, ABDELHAMID EL MORCHID, RACHIDA | 1000 WOODBRIAR ST | APEX NC 27502-1408 |
| 206 W CHATHAM ST | 0742316213 | GERTIS, KARLA S | 206 W CHATHAM ST | APEX NC 27502-2306 |
| 300 PATE ST | 0742420049 | KITOKO, JOHN KITOKO, HENRIETTE | 300 PATE ST | APEX NC 27502-1371 |
| 1013 WOODBRIAR ST | 0742318943 | KLINE, DONALD S JR KLINE, MIKKI A | 1013 WOODBRIAR ST | APEX NC 27502-1408 |
| 218 W CHATHAM ST | 0742313345 | KOCH, KENNETH E JR KOCH, CHERYL H | 218 W CHATHAM ST | APEX NC 27502-1406 |
| 108 W CHATHAM ST | 0742317194 | KPW INVESTMENTS LLC | 108 W CHATHAM ST | EXCELSIOR MN 55331-3001 |
| 209 N SALEM ST | 0742412309 | KTJ 366 LLC | 400 WATER ST STE 200 | MC LEAN VA 22101-2030 |
| 0 TEMPLETON ST | 0742318765 | LUND, MARGIA M | 7204 THRASHER RD | APEX NC 27502-1381 |
| 303 PATE ST | 0742328156 | MACK, DEBORAH TRUSTEE DEBORAH MACK LIVING TRUST | 303 PATE ST | APEX NC 27502-2306 |
| 302 PATE ST | 0742420146 | MAGARINO-GOMEZ, VIVIAN | 302 PATE ST | APEX NC 27502-1408 |
| 210 W CHATHAM ST | 0742315227 | MAGUIRE, PENELOPE | 210 W CHATHAM ST | APEX NC 27502-1387 |
| 1107 WOODBRIAR ST | 0742422012 | MAY, KATHRYN CASEY MAY, DARYL STUBBS | 1107 WOODBRIAR ST | APEX NC 27502-1371 |
| 1017 WOODBRIAR ST | 0742319973 | MCHENRY, KEVIN R MCHENRY, MICHELLE P | 1017 WOODBRIAR ST | APEX NC 27502-1373 |
| 2009 GRAYBARK CT | 0742325167 | MILLER, MARK J MILLER, KELLY L | 2009 GRAYBARK CT | APEX NC 27502-1437 |
| 304 SAUNDERS ST | 0742313756 | MILLS, AMY S | 304 SAUNDERS ST | APEX NC 27502-1822 |
| 0 SAUNDERS ST | 0742317640 | MILLS, SUSAN S SEYMOUR, MAUREEN Q | 107 S SALEM ST | APEX NC 27502-1387 |
| 1101 WOODBRIAR ST | 0742410933 | MOULD, THOMAS A MOULD, MARJORY M | 1101 WOODBRIAR ST | APEX NC 27502-1371 |
| 1003 WOODBRIAR ST | 0742315922 | OVERTON, NEAL W | 1003 WOODBRIAR ST | APEX NC 27523-5506 |
| 200 W CHATHAM ST | 0742317157 | PEAK CITY PROPERTIES LLC | 260 MOUNT PISGAH CHURCH RD | APEX NC 27502-1371 |
| 1007 WOODBRIAR ST | 0742316942 | PETTEWAY, LINDA DIANE PETTEWAY, STEPHEN ROBERT JR | 1007 WOODBRIAR ST | FRIENDSVILLE TN 37737-2301 |
| 2011 GRAYBARK CT | 0742325088 | PLATT, JAMIE LYNN CAMACHO, FRANCISCO JOAQUIN | 725 LOUDON VIEW DR | APEX NC 27502-1371 |
| 1009 WOODBRIAR ST | 0742317903 | PLATT, TIMOTHY T | 1009 WOODBRIAR ST | APEX NC 27502-1408 |
| 202 W CHATHAM ST | 0742316199 | READER PROPERTIES LLC | 202 W CHATHAM ST | APEX NC 27502-1431 |
| 311 N SALEM ST | 0742413983 | RIGGS, CHARLES D RIGGS, MICHELE C | 311 N SALEM ST | APEX NC 27502-3924 |
| 219 N SALEM ST | 0742412418 | SALEM STREET PROMENADE LLC | 5448 APEX PEAKWAY STE 337 | APEX NC 27502-1446 |
| 305 SAUNDERS ST | 0742312628 | SAYERS, MICHAEL A SAYERS, PATRICIA A | 305 SAUNDERS ST | APEX NC 27502-1373 |
| 2007 GRAYBARK CT | 0742326251 | SCOTTON, JULIUS ALEXANDER SCOTT, SHANYA GALE | 2007 GRAYBARK CT | APEX NC 27502-1372 |
| 2010 GRAYBARK CT | 0742327188 | SLOAN, BECKY ANN | 2010 GRAYBARK CT | APEX NC 27502-1372 |
| 2008 GRAYBARK CT | 0742327235 | STONE, VALERIE I CREAAGER, DAVID DOUGLAS | 2008 GRAYBARK CT | APEX NC 27502-1371 |
| 1001 WOODBRIAR ST | 0742314943 | SWARTLEY, WILLIAM A SWARTLEY, KATHRYN A | 1001 WOODBRIAR ST | APEX NC 27502-1447 |
| 301 N SALEM ST | 0742413776 | SYNERGY USA LLC | 7852 PERCUSSION DR | APEX NC 27502-1447 |
| 215 SAUNDERS ST | 0742315782 | TABRON, CHARLES | 215 SAUNDERS ST | CARY NC 27518-8609 |
| 1011 WOODBRIAR ST | 0742317982 | TEW-BABB LLC | 110 REDFERN DR | MORRISVILLE NC 27560-6676 |
| 108 TEMPLETON ST | 0742411883 | THAI, THAO-VAN TRUSTEE LY, TAM MINH TRUSTEE | 1965 GRACE POINT RD | APEX NC 27502-1384 |
| 1205 BRITTANY POINT CT | 0742422117 | THIBEAULT, MARK S | 1205 BRITTANY POINT CT | APEX NC 27502-1372 |
| 2012 GRAYBARK CT | 0742327190 | TRACEY, KAREN MARIE | 2012 GRAYBARK CT | APEX NC 27502-1386 |
| 1106 WOODBRIAR ST | 0742421190 | WILDER, C RANDOLPH WILDER, TARA J | 1106 WOODBRIAR ST | APEX NC 27502-1441 |
| 211 TEMPLETON ST | 0742319843 | WILLIAMS, STEPHEN ERROL WILLIAMS, RENATA CRISTINA | 215 TEMPLETON ST | APEX NC 27502-1371 |
| 1015 WOODBRIAR ST | 0742319913 | ZALESKIN, JASON ABRAHAM TRUSTEE ZALESKIN, JENNY CHAYA TRUSTEE | 1015 WOODBRIAR ST | APEX NC 27502-1431 |
| 317 N SALEM ST | 0742424142 | ZUBLENA, JONATHAN ZUBLENA, TAYLOR | 317 N SALEM ST | APEX NC 27502 |
| | | Current Tenant | 200 W Chatham ST | APEX NC 27502 |
| | | Current Tenant | 2011 Graybark CT | APEX NC 27502 |
| | | Current Tenant | 201 N Salem ST Suite 101 | APEX NC 27502 |
| | | Current Tenant | 201 N Salem ST | APEX NC 27502 |
| | | Current Tenant | 209 N Salem ST | APEX NC 27502 |
| | | Current Tenant | 209 N Salem ST Suite 105 | APEX NC 27502 |
| | | Current Tenant | 209 N Salem ST Suite 104 | APEX NC 27502 |
| | | Current Tenant | 209 N Salem ST Suite 103 | APEX NC 27502 |
| | | Current Tenant | 209 N Salem ST Suite 102 | APEX NC 27502 |
| | | Current Tenant | 209 N Salem ST Suite 101 | APEX NC 27502 |
| | | Current Tenant | 209 N Salem ST Suite 100 | APEX NC 27502 |
| | | Current Tenant | 209 N Salem ST Suite 200 | APEX NC 27502 |
| | | Current Tenant | 209 N Salem ST Suite 205 | APEX NC 27502 |
| | | Current Tenant | 209 N Salem ST Suite 214 | APEX NC 27502 |
| | | Current Tenant | 209 N Salem ST Suite 220 | APEX NC 27502 |
| | | Current Tenant | 209 N Salem ST Suite 305 | APEX NC 27502 |
| | | Current Tenant | 219 N Salem ST Suite 201 | APEX NC 27502 |
| | | Current Tenant | 219 N Salem ST Suite 200 | APEX NC 27502 |
| | | Current Tenant | 219 N Salem ST Suite 203 | APEX NC 27502 |
| | | Current Tenant | 219 N Salem ST Suite 100 | APEX NC 27502 |
| | | Current Tenant | 219 N Salem ST Suite 103 | APEX NC 27502 |
| | | Current Tenant | 219 N Salem ST Suite 101 | APEX NC 27502 |
| | | Current Tenant | 219 N Salem ST Suite 105 | APEX NC 27502 |
| | | Current Tenant | 219 N Salem ST Suite 102 | APEX NC 27502 |

219 N Salem ST Suite 104
219 N Salem ST
221 N Salem ST Suite 001
221 N Salem ST Suite 100
221 N Salem ST Suite 200
223 N Salem ST Suite 001
223 N Salem ST Suite 100
223 N Salem ST Suite 200
225 N Salem ST
225 N Salem ST Suite 101
225 N Salem ST Suite 106
225 N Salem ST Suite 108
225 N Salem ST Suite 110
225 N Salem ST Suite 112
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225 N Salem ST Suite 123
225 N Salem ST Suite 117
225 N Salem ST Suite 111
225 N Salem ST Suite 201
237 N Salem ST
301 N Salem ST
301 N Salem ST Suite 105
301 N Salem ST Suite 100
301 N Salem ST Suite 101
301 N Salem ST Suite 103
301 N Salem ST Suite 102
301 N Salem ST Suite 104
309 N Salem ST
319 N Salem ST
205 Saunders ST
301 Saunders ST
108 Templeton ST
1011 Woodbrair ST

[illegible]

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: Apex Town Hall (3rd floor), 73 Hunter St, Apex, NC 27502

Date of meeting: 11/15/23 Time of meeting: 5:30-6:30 p.m.

Property Owner(s) name(s): Town of Apex

Applicant(s): Russell Dalton, PE, Traffic Engineering Manager

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. For virtual meetings, applicants must include all known participants and request the information below.

| | NAME/ORGANIZATION | ADDRESS | PHONE # | EMAIL | SEND PLANS & UPDATES |
|-----|--------------------|------------------------|---------|-------|-------------------------------------|
| 1. | PHIL ZALESKIN | 1015 WOODBRIAR ST APEX | | | <input checked="" type="checkbox"/> |
| 2. | Donald Kline | 1013 Woodbriar | | | <input checked="" type="checkbox"/> |
| 3. | Tom & Margie Mould | 1101 Woodbriar St. | | | <input checked="" type="checkbox"/> |
| 4. | JOE FORESTA | 1904 OLD RAILROAD | | | <input checked="" type="checkbox"/> |
| 5. | Jim Bishop | 217 N. Salem St | | | <input checked="" type="checkbox"/> |
| 6. | Mike Burt | 219 N. Salem | | | <input type="checkbox"/> |
| 7. | Mitch Kline | 1013 Woodbriar St | | | <input checked="" type="checkbox"/> |
| 8. | Susan Davis | 217 Saunders St | | | <input type="checkbox"/> |
| 9. | David Davis | 217 Saunders St | | | <input checked="" type="checkbox"/> |
| 10. | Penny Maguire | 216 W. Chatham | | | <input checked="" type="checkbox"/> |
| 11. | Michelle McIntony | 1017 Woodbriar St | | | <input checked="" type="checkbox"/> |
| 12. | RD Meckles | 1745 Truman Road | | | <input checked="" type="checkbox"/> |
| 13. | David Parriz | 219 N. Salem St. | | | <input checked="" type="checkbox"/> |
| 14. | | | | | <input type="checkbox"/> |

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): Town of Apex

Applicant(s): Town of Apex

Contact information (email/phone): Russell Dalton, russell.dalton@apexnc.org, 919-249-3358

Meeting Address: Town Hall, 73 Hunter Street, Apex, NC, 27502

Date of meeting: November 15, 2023 Time of meeting: 5:30 PM - 6:45 PM

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

Question/Concern #1:

What would happen where the 7' fence proposed as a zoning condition ends?

Applicant's Response:

It would end adjacent to preserved trees.

Question/Concern #2:

What is potential future use that would need sewer and water?

Applicant's Response:

The rezoning includes Government Service; Park, Active; and Park, Passive. While staff are currently proposing additional parking in the new area to be rezoned, there has been some interest from Town Council in other uses that would fall into these zoning districts and benefit from water and sewer. Comments regarding the use can be provided as part of the rezoning process.

Question/Concern #3:

Can we go over parking mitigation strategies during lot closure? How will business owners be updated? Can this be a topic at a downtown business stakeholders meeting? Can business owners be encouraged to park further away/use church parking to leave spaces for customers?

Applicant's Response:

Input on possible strategies was gathered through a survey and open house. Multiple strategies are being pursued but are not the focus of discussion this evening and are not ready for presentation. Updates will be posted on the Downtown Design Projects page and shared through that email interest list. Staff will also look into the requested meeting.

Question/Concern #4:

Is one of the development concepts a parking garage?

Applicant's Response:

The Downtown Master Plan & Parking Study evaluated the possibility of a parking garage and concluded it is not needed at this time. The proposed rezoning would not allow a parking garage and it is not currently proposed. Another rezoning would be required if a parking garage was pursued in this location in the future.

Question/Concern:

Who is this parking intended for? The community at large, visitors, downtown residents, businesses, the government? Have other areas like the Town campus been investigated as possible parking locations? It does not seem that this parking is needed and there is no benefit to the residents of Brittany Trace who will be negatively impacted by the parking and are able to walk to downtown. Providing too much parking will result in overcrowding of downtown. Residents of Brittany Trace already experience disruption from existing parking and this is expected to increase public discourse such as theft and noise (music, yelling, hooting and hollering). If people desire to shop in a particular area they will be willing to walk (consider Crabtree).

Applicant's Response:

Business owners present responded that the parking is needed. The parking is intended for all of the stakeholders listed. Town campus has been investigated as a possible location for additional parking through both the Downtown Plan and more recent S-Line Transit Oriented Development (TOD) study. While the TOD study does include a concept showing structured parking on Town Campus, the adopted Downtown Plan also documented a need for parking in very close proximity to the center of the historic downtown commercial area.

Question/Concern:

How was the Town able to take the Williams' property (PIN 0742319843) when we've tried to buy it multiple times to expand our backyard? We should be given an opportunity to increase our property so that we aren't right next to the new use.

Applicant's Response:

The Town acquired this property through a fee-simple purchase, it was not a taking using eminent domain. You can request an additional setback or buffer as a condition of the rezoning.

Question/Concern:

Is there a setback required?

Applicant's Response:

A setback is not required, but you can include comments for consideration as a possible zoning condition related to a setback.

Question/Concern:

What are the steps for asking for conditions?

Applicant's Response:

We are taking notes tonight regarding your requests and concerns and will use this to consider additional conditions. You may also write requests on the notecards provided and leave those with staff. You may reach out to the project contact (Russell Dalton), and can also speak during the two public hearings noted that will occur before the Planning Board and Town Council.

Question/Concern:

Are you taking down the stand of trees north of the gravel lot [on the southern border of PIN 0742319843]? Is there an opportunity to leave trees here?

Applicant's Response:

These trees will need to be removed as part of the Saunders Lot construction project as this area will need to be graded.

Question/Concern:

What is the status of the consideration of removing on-street parking spaces on Salem Street?

Applicant's Response:

The Salem Streetscape project that is currently in final design will leave 10 out of the 30 existing spaces. This project will not begin until the Saunders Lot expansion project is complete.

Question/Concern:

We would like a 30'-40' wide buffer and a berm between Brittany Trace and the proposed rezoning. We would like the fence to be on the southern side of the buffer to preserve existing trees.

Applicant's Response:

Staff will evaluate the request for a buffer and berm, but keep in mind the Town did purchase this for a purpose. If the buffer is too wide, it may make the property unusable.

Question/Concern:

What will happen with the wire fence on PIN 0742319843 with the Saunders Lot construction? If it is removed will removal open PIN 0742319843 up to vehicular and pedestrian traffic before a fence is installed?

Applicant's Response:

The fence will be removed, but the Saunders Lot will be closed during construction and curb will be installed with the construction project.

Question/Concern:

Can you provide more information about bioretention stormwater control? How long will water sit in the control device? Will it become a breeding ground for mosquitoes?

Applicant's Response:

The device is a shallow planted depression and is not intended to hold water permanently. During a storm event, water may collect in the depression and slowly drain into the stormwater system through a connection that allows water to infiltrate without overwhelming the stormwater system. Specific information is not available this evening regarding the anticipated drainage time for this specific device, but 24-72 hours is typical.

Question/Concern:

What is the Town providing as a buffer for the Williams house?

Applicant's Response:

They are installing their own privacy fence.

Question/Concern:

What is the timeframe for development of PIN 0742319843? Could PIN 0742319843 be considered separately?

Applicant's Response:

It is included in the rezoning request, but there is currently no scoped or funded design project for that parcel. A comment could be made during the public hearing to separate consideration of 0742319843 as a separate rezoning. It would need to be scoped then design completed and approved in approximately 6-8 months, so the soonest we expect a plan would ready for construction is late 2024.

Question/Concern:

Will you talk about the layout of the parking lot itself? The location of the handicap parking along the arc is not a good choice as this area is at a lower level than Salem Street and it will be difficult to move wheelchairs up to the street level. Why have no handicap spaces been added in other locations where the Town has added parking and they are within a foot of level of Salem Street? The area closer to Templeton is also closer to level with Salem Street.

Applicant's Response:

Additional accessible parking spaces will be added with the Salem Streetscape, Seaboard, and Commerce projects. Finding locations for accessible spaces that meet ADA requirements is very difficult given the slope and site constraints. We will take another look at the planned locations to determine if this can be improved.

Question/Concern:

When Saunders Lot is closed, but the spaces and access along Templeton are kept open, deliveries will be an issue. Some of the deliveries currently tie up that drive aisle for multiple hours. Can the Saunders Lot plan be reviewed to determine if any other locations can be kept open at periods of time during construction?

Applicant's Response:

We have looked carefully at the plan and will do so again. Continued outreach with business owners will reiterate that deliveries will not be allowed to block the drive aisle.

Question/Concern:

Written comment: Please consider some fencing on the west side of the project to discourage people wandering toward our back yard. Protection for the little cemetery is important too. It is already heavily vandalized!

Applicant's Response:

There will be a retaining wall extending along the western edge of the Saunders Parking Lot from the sidewalk at Saunders Street up to the western extent of where the parking lot ends and landscaping is being replanted in the area being graded beyond that point to the limits of the undisturbed wooded area. That wall creates a barrier along most of the cemetery property line adjacent to the Saunders Parking Lot. We will investigate the possibility of a fence being added from the end of the wall and running north along the remaining edge of the proposed parking to the northern property line of 0 Templeton St.

Question/Concern:

Written comment: As a Brittany Trace resident, asking for a (1) 25-foot setback from Brittany Trace to north side of Town's new property (previously Williams); (2) 12-foot privacy fence.

Applicant's Response:

Considering the narrow-pointed shape and relatively small size of that parcel, staff are unable to recommend a 25-foot buffer or setback given concerns about the viability of a future site plan under that constraint. Staff will consider whether a buffer of a lesser width can be proposed and/or whether the fence can be increased in height if the parcel is developed for public parking. The existing Mixed Office-Residential-Retail Conditional Zoning for that parcel permits development of park passive and park active uses along with various other office, residential, and retail uses without requirements for a buffer or fence. Building setbacks are already required according to the minimums defined in the Unified Development Ordinance which would be evaluated at the time of site plans dependent on what is proposed.

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, Russell H. Dalton, do hereby declare as follows:

Print Name

1. I have conducted a Neighborhood Meeting for the proposed Rezoning, Major Site Plan, Minor Site Plan, Residential Master Subdivision Plan, or Special Use Permit in accordance with UDO Sec. 2.2.7.B *Neighborhood Meeting*.
2. The meeting invitations were mailed to the Apex Planning Department, all property owners and tenants abutting and within 300 feet of the subject property and any neighborhood association that represents citizens in the notification area via first class mail a minimum of 14 days in advance of the Neighborhood Meeting.
3. The meeting was conducted at Town Hall, 73 Hunter Street, Apex, NC, 27502 (location/address) on November 15, 2023 (date) from 5:30 (start time) to 6:45 (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.

11/17/2023
Date

By: Russell H Dalton

STATE OF NORTH CAROLINA
COUNTY OF WAKE

Sworn and subscribed before me, Lindley Paynter, a Notary Public for the above State and County, on this the 17th day of November, 2023.



Lindley Paynter
Notary Public
Lindley Paynter
Print Name

My Commission Expires: My Commission Expires August 27, 2025



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

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

Instruction Packet and Affidavit for Neighborhood Meetings

This packet consists of instructions and templates for conducting a required Neighborhood Meeting. Planning staff are available to advise you in the preparation of these materials. Call the Planning Department at (919) 249-3426 for more information.

WHAT IS THE PURPOSE OF A NEIGHBORHOOD MEETING?

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

WHEN IS A NEIGHBORHOOD MEETING REQUIRED?

- Rezoning (including Planned Unit Developments);
- Major Site Plans;
- Minor Site Plans for the uses "Day care facility", "Government service", "School, public or private", "Restaurant, drive-through", and "Convenience store with gas sales";
- Residential Master Subdivision Plans (excluding exempt subdivisions); or
- Special Use Permits

INSTRUCTIONS

Prior to submitting an application for a Rezoning; Major Site Plan; Minor Site Plans for the uses "Day care facility", "Government service", "School, public or private", "Restaurant, drive-through", or "Convenience store with gas sales"; residential Master Subdivision Plan (excluding exempt subdivisions); or Special Use Permit, the applicant must conduct at least one (1) Neighborhood Meeting. **The notices for this Neighborhood Meeting shall not be mailed until after the pre-application meeting with the Technical Review Committee has been held.** This meeting may be held in-person or virtually. Virtual meetings shall provide a dial-in option in addition to a link to participate by internet. The applicant shall submit all forms included in this packet with the initial application submittal.

A second Neighborhood Meeting is required for all Rezoning (including Planned Unit Developments). This meeting shall be held in the month preceding the anticipated public hearing date.

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

These groups and individuals must be invited to the meeting:

- The applicant is required to notify the Planning Department, all property owners and tenants abutting and within 300 feet of the subject property, and any neighborhood association that represents citizens in the notification area via first class mail a minimum of 14 days in advance

of the neighborhood meeting, not including the day of mailing. The applicant shall send an email to addressing.team@apexnc.org to request the notification list as early as possible in order to receive the list in time for the mailing. The list will be provided within 5-10 business days of the initial request. The applicant shall use their own return address on the envelopes as the meeting is a private meeting between the applicant and the neighbors. An updated list shall be provided by Planning staff prior to the required 2nd meeting for Rezoning applications.

- The applicant shall include with the meeting notice a vicinity map in addition to the materials listed under “Mailing and handout requirements” below.

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

- For all applications except Rezonings, the meeting must be held for a minimum of two (2) hours, Monday through Thursday, during the 5:00 p.m. - 9:00 p.m. time period.
- For Rezoning, two (2) meetings are required. The first meeting must be held prior to submittal of the application and the second meeting must be held in the month preceding the anticipated public hearing date. The meetings must be held for a minimum of one (1) hour each, Monday through Thursday, during the 5:00 p.m. - 9:00 p.m. time period.
- Meetings cannot be held on Town recognized holidays (<http://www.apexnc.org/calendar.aspx>).
- In-person meetings:
 - Meeting shall be held at a place that is generally accessible to neighbors that reside in close proximity to the land subject to the application.
 - A sign-in sheet must be used in order to verify attendance. Ensure each attendee signs in. Please note if any person(s) refuses to sign in. Note if no one attended.
- Virtual meetings:
 - Meeting shall be held via an interactive online video conferencing software such as Microsoft Teams, Zoom, WebEx, or any similar platform of the applicant’s choice. A dial-in option shall be provided.
 - An attendance sheet must be used to log known attendees at the virtual meeting. Note if no one attended.
- Mailing and handout requirements to help facilitate discussion:
 - For rezonings (excluding rezonings to PUD-CZ, TND-CZ and MEC-CZ):
 - A vicinity map and existing zoning map of the area; and
 - An exhibit(s) showing any proposed long range plan amendment(s), if applicable.
 - For rezonings to PUD-CZ, TND-CZ and MEC-CZ; Major Site Plans; Minor Site Plans for the uses “Day care facility”, “Government service”, “School, public or private”, “Restaurant, drive-through”, and “Convenience store with gas sales”; residential Master Subdivision Plans; and Special Use Permits:
 - A vicinity map and preliminary plans of the proposed development. Neighbors may request emailed/mailed copies of the maps or plans from the applicant by checking the “send plans” box on the sign-in sheet; applicant shall provide reduced copies upon request. For virtual meetings, the applicant must ask meeting participants if they would like any materials emailed/mailed to them; and
 - An exhibit showing any proposed long range plan amendment(s), if applicable.
 - Printed copies (handouts) must equal the number of notices required to be sent.
 - Contact information for the applicant’s representative and Town Staff must be provided on the attached “Project Contact Information” form.
 - “Common Construction Issues & Who to Call” sheet (attached) must be included as part of the mailing/handout.
 - A copy of the handout must be included as part of the Neighborhood Meeting report.

- The agenda of the meeting shall include:
 - Explanation of all processes the meeting is being held for (rezoning, subdivision, etc.).
 - Explanation of future meetings (additional neighborhood meetings, Planning Board, Town Council, etc.).
 - Explanation of development proposal – uses and conditions for rezonings, layout for subdivision and site plans, and builder/end user if known/public knowledge.
- Questions or concerns by attendees, and responses by the applicant, if any, must be noted. For in-person meetings, provide blank comment sheets or notecards for neighbors to submit written comments. For virtual meetings, copy all questions and answers entered into the meeting's chat feature before closing the meeting and save them into a document. The applicant shall also include any questions and concerns received via written correspondence (such as email) or phone call along with responses provided by the applicant.
- The applicant shall be responsible for notifying any neighbors who check the "Send Plans & Updates" box on the sign-in sheet or who otherwise request to be updated of any additional neighborhood meetings and the actual submittal date to the Town with a link to the Town of Apex's Interactive Development Map.

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

- A copy of the letter mailed to the Planning Department, neighbors, and neighborhood organizations (use attached invitation template);
- A list of those persons and neighborhood organizations invited to the meeting;
- A copy of the sign-in sheet (use attached sign-in sheet template);
- A summary of the meeting and a list of any changes made to the project as a result of the neighborhood comments (use attached meeting summary template);
- The affidavit, signed, dated, and notarized (use attached affidavit template); and
- One (1) reduced copy of the maps and/or plans included in the invitation and presented to the neighbors at the Neighborhood Meeting.

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 2nd and 4th 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.

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.

| | | |
|---|-----------------------------|---------------------|
| Noise & Hours of Construction: | Non-Emergency Police | 919-362-8661 |
|---|-----------------------------|---------------------|

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.

| | | |
|------------------------------|------------------------|---------------------|
| Construction Traffic: | James Misciagno | 919-372-7470 |
|------------------------------|------------------------|---------------------|

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).

| | | |
|---|---|---------------------|
| Road Damage & Traffic Control: | Water Resources – Infrastructure Inspections | 919-362-8166 |
|---|---|---------------------|

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.

| | | |
|----------------------------|-----------------------------|---------------------|
| Parking Violations: | Non-Emergency Police | 919-362-8661 |
|----------------------------|-----------------------------|---------------------|

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.

| | | |
|--------------------------|------------------------|---------------------|
| Dirt in the Road: | James Misciagno | 919-372-7470 |
|--------------------------|------------------------|---------------------|

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.

| | | |
|--|--|--|
| Dirt on Properties or in Streams: | James Misciagno Danny Smith | 919-372-7470 Danny.Smith@ncdenr.gov |
|--|--|--|

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) with the State.

| | | |
|--------------|------------------------|---------------------|
| Dust: | James Misciagno | 919-372-7470 |
|--------------|------------------------|---------------------|

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.

| | | |
|---------------|------------------------|---------------------|
| Trash: | James Misciagno | 919-372-7470 |
|---------------|------------------------|---------------------|

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.

| | | |
|-----------------------------------|------------------------|---------------------|
| Temporary Sediment Basins: | James Misciagno | 919-372-7470 |
|-----------------------------------|------------------------|---------------------|

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.

| | | |
|-------------------------------------|----------------------|---------------------|
| Stormwater Control Measures: | Jessica Bolin | 919-249-3537 |
|-------------------------------------|----------------------|---------------------|

Post-construction concerns related to Stormwater Control Measures (typically a stormwater pond) such as conversion and long-term maintenance should be reported to Jessica Bolin at 919-249-3537.

| | | |
|---------------------------------------|---------------------|---------------------|
| Electric Utility Installation: | Rodney Smith | 919-249-3342 |
|---------------------------------------|---------------------|---------------------|

Concerns with electric utility installation can be addressed by the Apex Electric Utilities Department. Contact Rodney Smith at 919-249-3342.

Duncan
Commons

Graybark Ct

Pate St

Woodbriar St

Brittany
Trace

Downtown Parking Lot
Rezoning

Saunders St

Blanchard St

Templeton St

Halle Cultural
Arts Center

N Salem St

Center St

Apex Chamber
of Commerce

Seaboard St

Apex Fire
Station #1

Highline

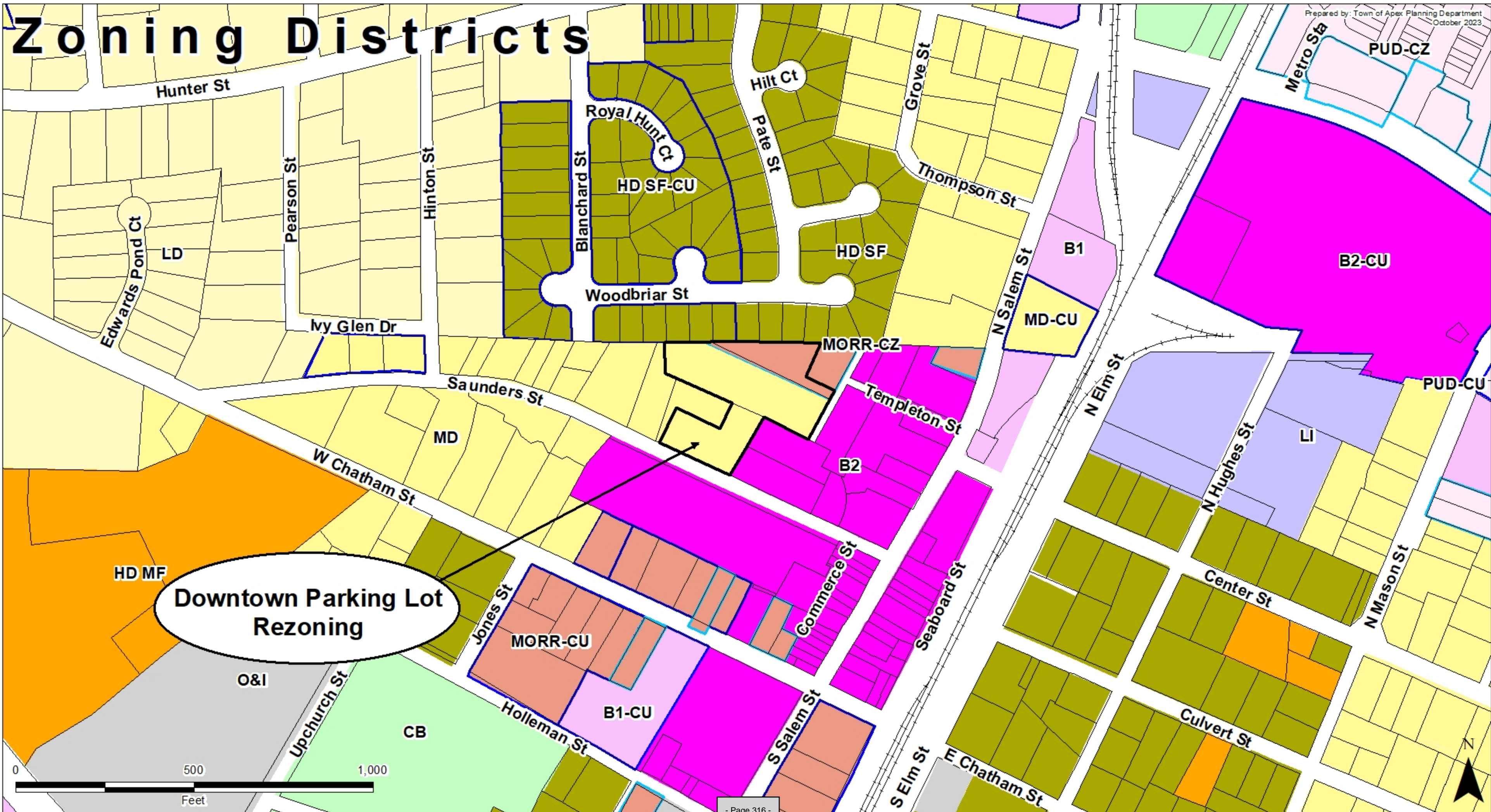
Apex Police
Department

W Chatham St



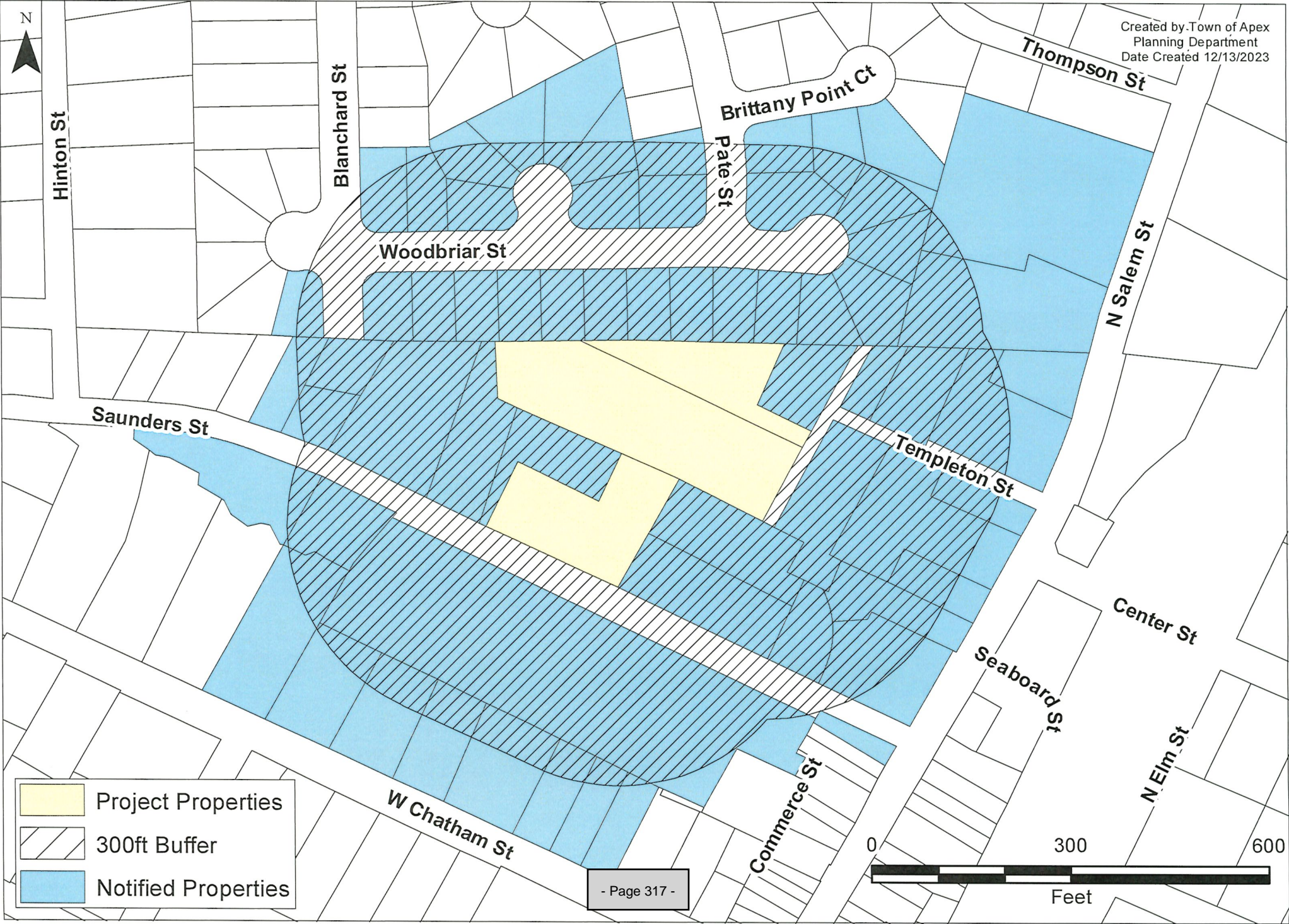
Zoning Districts

Prepared by: Town of Apex Planning Department
October 2023



Notified Properties Within 300ft of the Project Properties

Created by Town of Apex
Planning Department
Date Created 12/13/2023



| SITE ADDRESS | PIN NUMBER | OWNER | MAILING ADDRESS | MAILING ADDRESS 2 |
|------------------------|------------|---|----------------------------|----------------------------|
| 309 N SALEM ST | 0742414844 | 309 NORTH SALEM STREET LLC | 201 TURQUOISE CREEK DR | CARY NC 27513-3498 |
| 214 W CHATHAM ST | 0742314330 | ANDERSON, HANNAH DIXON, HARRISON | 214 W CHATHAM ST | APEX NC 27502-1408 |
| 237 N SALEM ST | 0742413663 | APEX TOWN OF | PO BOX 250 | APEX NC 27502-0250 |
| 0 SAUNDERS ST | 0742317711 | APEX UNITED METHODIST CHURCH INC | 106 S HUGHES ST | APEX NC 27502-1910 |
| 222 W CHATHAM ST | 0742312474 | BANNING, PAULA H | 222 W CHATHAM ST | APEX NC 27502-1408 |
| 225 N SALEM ST | 0742412642 | BRAND APEX LLC | 7600 JERICHO TPKE STE 402 | WOODBURY NY 11797-1705 |
| 306 SAUNDERS ST | 0742313802 | BRUBAKER, NATHANAE A BRUBAKER, JOHANNA R | 306 SAUNDERS ST | APEX NC 27502-1437 |
| 301 PATE ST | 0742328180 | BUNN, CHRISTOPHER B BUNN, MELANIE | 301 PATE ST | APEX NC 27502-1381 |
| 301 SAUNDERS ST | 0742313672 | CESPEDES, MERQUIADES NELSON JR GARCIA, CLAUDIA LISBETH YANES | 7704 JENKS RD | APEX NC 27523-7818 |
| 1203 BRITTANY POINT CT | 0742421136 | CHATMAN, COADY R CHATMAN, MEGAN M | 1203 BRITTANY POINT CT | APEX NC 27502-1384 |
| 2110 BLANCHARD ST | 0742313894 | COSGRAVE, ERIN MALONE COSGRAVE, EGIN JOSEPH | 2110 BLANCHARD ST | APEX NC 27502-1300 |
| 217 SAUNDERS ST | 0742314788 | DAVIS, DAVID J DAVIS, SUSAN G | 217 SAUNDERS ST | APEX NC 27502-1447 |
| 1005 WOODBRIAR ST | 0742315973 | DEANGELIS, ALEXIS MARIE | 1005 WOODBRIAR ST | APEX NC 27502-1371 |
| 1002 WOODBRIAR ST | 0742325101 | DIDAWICK, ERIC B DIDAWICK, VICTORIA M | 1002 WOODBRIAR ST | APEX NC 27502-1370 |
| 905 WOODBRIAR ST | 0742313913 | DIVERS, GREGORY W DIVERS, RACHEL L | 905 WOODBRIAR ST | APEX NC 27502-1369 |
| 221 N SALEM ST | 0742412581 | DTA II LLC | 221 N SALEM ST STE 1 | APEX NC 27502-1477 |
| 1105 WOODBRIAR ST | 0742411983 | EGGERS, JASON S EGGERS, KAREN | 1105 WOODBRIAR ST | APEX NC 27502-1387 |
| 1103 WOODBRIAR ST | 0742411902 | EVERS, JOHN P EVERS, MAUREEN ELIZABETH | 1103 WOODBRIAR ST | APEX NC 27502-1387 |
| 1000 WOODBRIAR ST | 0742324141 | FADL, ABDELHAMID EL MORCHID, RACHIDA | 1000 WOODBRIAR ST | APEX NC 27502-1370 |
| 206 W CHATHAM ST | 0742316213 | GERTIS, KARLA S | 206 W CHATHAM ST | APEX NC 27502-1408 |
| 300 PATE ST | 0742420049 | KITOKO, JOHN KITOKO, HENRIETTE | 300 PATE ST | APEX NC 27502-2306 |
| 1013 WOODBRIAR ST | 0742318943 | KLINE, DONALD S JR KLINE, MIKKI A | 1013 WOODBRIAR ST | APEX NC 27502-1371 |
| 218 W CHATHAM ST | 0742313345 | KOCH, KENNETH E JR KOCH, CHERYL H | 218 W CHATHAM ST | APEX NC 27502-1408 |
| 108 W CHATHAM ST | 0742317194 | KPW INVESTMENTS LLC | 108 W CHATHAM ST | APEX NC 27502-1406 |
| 209 N SALEM ST | 0742412309 | KTJ 366 LLC | 400 WATER ST STE 200 | EXCELSIOR MN 55331-3001 |
| 0 TEMPLETON ST | 0742318765 | LUND, MARCIA M | 7204 THRASHER RD | MC LEAN VA 22101-2030 |
| 303 PATE ST | 0742328156 | MACK, DEBORAH TRUSTEE DEBORAH MACK LIVING TRUST | 303 PATE ST | APEX NC 27502-1381 |
| 302 PATE ST | 0742420146 | MAGARINO-GOMEZ, VIVIAN | 210 W CHATHAM ST | APEX NC 27502-2306 |
| 210 W CHATHAM ST | 0742315227 | MAGUIRE, PENELOPE | 1107 WOODBRIAR ST | APEX NC 27502-1408 |
| 1107 WOODBRIAR ST | 0742422012 | MAY, KATHRYN CASEY MAY, DARYL STUBBS | 1017 WOODBRIAR ST | APEX NC 27502-1387 |
| 1017 WOODBRIAR ST | 0742319973 | MCHENRY, KEVIN R MCHENRY, MICHELLE P | 2009 GRAYBARK CT | APEX NC 27502-1371 |
| 2009 GRAYBARK CT | 0742325167 | MILLER, MARK J MILLER, KELLY L | 304 SAUNDERS ST | APEX NC 27502-1373 |
| 304 SAUNDERS ST | 0742313756 | MILLS, AMY S | 107 S SALEM ST | APEX NC 27502-1437 |
| 0 SAUNDERS ST | 0742317640 | MILLS, SUSAN S SEYMOUR, MAUREEN Q | 1101 WOODBRIAR ST | APEX NC 27502-1822 |
| 1101 WOODBRIAR ST | 0742410933 | MOULD, THOMAS A MOULD, MARJORY M | 1003 WOODBRIAR ST | APEX NC 27502-1387 |
| 1003 WOODBRIAR ST | 0742315922 | OVERTON, NEAL W | 260 MOUNT PISGAH CHURCH RD | APEX NC 27502-1371 |
| 200 W CHATHAM ST | 0742317157 | PEAK CITY PROPERTIES LLC | 1007 WOODBRIAR ST | APEX NC 27523-5506 |
| 1007 WOODBRIAR ST | 0742316942 | PETTEWAY, LINDA DIANE PETTEWAY, STEPHEN ROBERT JR | 725 LOUDON VIEW DR | APEX NC 27502-1371 |
| 2011 GRAYBARK CT | 0742325088 | PLATT, JAMIE LYNN CAMACHO, FRANCISCO JOAQUIN | 1009 WOODBRIAR ST | FRIENDSVILLE TN 37737-2301 |
| 1009 WOODBRIAR ST | 0742317903 | PLATT, TIMOTHY T | 202 W CHATHAM ST | APEX NC 27502-1371 |
| 202 W CHATHAM ST | 0742316199 | READER PROPERTIES LLC | 311 N SALEM ST | APEX NC 27502-1408 |
| 311 N SALEM ST | 0742413983 | RIGGS, CHARLES D RIGGS, MICHELE C | 5448 APEX PEAKWAY STE 337 | APEX NC 27502-1431 |
| 219 N SALEM ST | 0742412418 | SALEM STREET PROMENADE LLC | 305 SAUNDERS ST | APEX NC 27502-3924 |
| 305 SAUNDERS ST | 0742312628 | SAYERS, MICHAEL A SAYERS, PATRICIA A | 2007 GRAYBARK CT | APEX NC 27502-1446 |
| 2007 GRAYBARK CT | 0742326251 | SCOTTON, JULIUS ALEXANDER SCOTT, SHANYA GALE | 2010 GRAYBARK CT | APEX NC 27502-1373 |
| 2010 GRAYBARK CT | 0742327188 | SLOAN, BECKY ANN | 2008 GRAYBARK CT | APEX NC 27502-1372 |
| 2008 GRAYBARK CT | 0742327235 | STONE, VALERIE I CREAMER, DAVID DOUGLAS | 1001 WOODBRIAR ST | APEX NC 27502-1372 |
| 1001 WOODBRIAR ST | 0742314943 | SWARTLEY, WILLIAM A SWARTLEY, KATHRYN A | 7852 PERCUSSION DR | APEX NC 27502-1371 |
| 301 N SALEM ST | 0742413776 | SYNERGY USA LLC | 215 SAUNDERS ST | APEX NC 27539-3607 |
| 215 SAUNDERS ST | 0742315782 | TABRON, CHARLES | 110 REDFERN DR | APEX NC 27502-1447 |
| 1011 WOODBRIAR ST | 0742317982 | TEW-BABB LLC | 1865 GRACE POINT RD | CARY NC 27518-8609 |
| 108 TEMPLETON ST | 0742411883 | THAI, THAO-VAN TRUSTEE LY, TAM MINH TRUSTEE | 1205 BRITTANY POINT CT | MORRISVILLE NC 27560-6676 |
| 1205 BRITTANY POINT CT | 0742422117 | THIBEAULT, MARK S | PO BOX 250 | APEX NC 27502-1384 |
| 211 TEMPLETON ST | 0742319843 | TOWN OF APEX | 2012 GRAYBARK CT | APEX NC 27502-0250 |
| 2012 GRAYBARK CT | 0742327190 | TRACEY, KAREN MARIE | 1106 WOODBRIAR ST | APEX NC 27502-1372 |
| 1106 WOODBRIAR ST | 0742421190 | WILDER, C RANDOLPH WILDER, TARA J | 215 TEMPLETON ST | APEX NC 27502-1386 |
| 215 TEMPLETON ST | 0742410882 | WILLIAMS, RENATA CRISTINA TRUSTEE WILLIAMS FAMILY TRUST | 1015 WOODBRIAR ST | APEX NC 27502-1441 |
| 1015 WOODBRIAR ST | 0742319913 | ZALESKIN, JASON ABRAHAM TRUSTEE ZALESKIN, JENNY CHAYA TRUSTEE | 317 N SALEM ST | APEX NC 27502-1371 |
| 317 N SALEM ST | 0742424142 | ZUBLENA, JONATHAN ZUBLENA, TAYLOR | 200 W Chatham ST | APEX NC 27502-1431 |
| Current Tenant | | | 2011 Graybark CT | APEX NC 27502 |
| Current Tenant | | | 201 N Salem ST Suite 101 | APEX NC 27502 |
| Current Tenant | | | 209 N Salem ST Suite 100 | APEX NC 27502 |
| Current Tenant | | | 209 N Salem ST Suite 101 | APEX NC 27502 |
| Current Tenant | | | 209 N Salem ST Suite 103 | APEX NC 27502 |
| Current Tenant | | | 209 N Salem ST Suite 104 | APEX NC 27502 |
| Current Tenant | | | 209 N Salem ST Suite 105 | APEX NC 27502 |
| Current Tenant | | | 209 N Salem ST | APEX NC 27502 |
| Current Tenant | | | 209 N Salem ST Suite 102 | APEX NC 27502 |
| Current Tenant | | | 219 N Salem ST | APEX NC 27502 |
| Current Tenant | | | 219 N Salem ST 100 | APEX NC 27502 |
| Current Tenant | | | 219 N Salem ST Suite 101 | APEX NC 27502 |
| Current Tenant | | | 219 N Salem ST Suite 102 | APEX NC 27502 |
| Current Tenant | | | 219 N Salem ST Suite 103 | APEX NC 27502 |
| Current Tenant | | | 219 N Salem ST Suite 104 | APEX NC 27502 |
| Current Tenant | | | 219 N Salem ST Suite 105 | APEX NC 27502 |
| Current Tenant | | | 219 N Salem ST Suite 200 | APEX NC 27502 |
| Current Tenant | | | 219 N Salem ST Suite 201 | APEX NC 27502 |
| Current Tenant | | | 219 N Salem ST Suite 203 | APEX NC 27502 |
| Current Tenant | | | 221 N Salem ST Suite 001 | APEX NC 27502 |
| Current Tenant | | | 221 N Salem ST Suite 000 | APEX NC 27502 |
| Current Tenant | | | 221 N Salem ST Suite 200 | APEX NC 27502 |
| Current Tenant | | | 223 N Salem ST Suite 001 | APEX NC 27502 |
| Current Tenant | | | 223 N Salem ST Suite 100 | APEX NC 27502 |
| Current Tenant | | | 223 N Salem ST Suite 200 | APEX NC 27502 |
| Current Tenant | | | 225 N Salem ST | APEX NC 27502 |
| Current Tenant | | | 225 N Salem ST Suite 100 | APEX NC 27502 |
| Current Tenant | | | 225 N Salem ST Suite 101 | APEX NC 27502 |
| Current Tenant | | | 225 N Salem ST Suite 106 | APEX NC 27502 |
| Current Tenant | | | 225 N Salem ST Suite 108 | APEX NC 27502 |
| Current Tenant | | | 225 N Salem ST Suite 110 | APEX NC 27502 |
| Current Tenant | | | 225 N Salem ST Suite 111 | APEX NC 27502 |
| Current Tenant | | | 225 N Salem ST Suite 112 | APEX NC 27502 |
| Current Tenant | | | 225 N Salem ST Suite 113 | APEX NC 27502 |
| Current Tenant | | | 225 N Salem ST Suite 114 | APEX NC 27502 |
| Current Tenant | | | 225 N Salem ST Suite 115 | APEX NC 27502 |

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225 N Salem ST Suite 116
225 N Salem ST Suite 117
225 N Salem ST Suite 118
225 N Salem ST Suite 119
225 N Salem ST Suite 120
225 N Salem ST Suite 121
225 N Salem ST Suite 122
225 N Salem ST Suite 124
225 N Salem ST Suite 126
225 N Salem ST Suite 127
225 N Salem ST Suite 201
237 N Salem ST
301 N Salem ST
301 N Salem ST Suite 100
301 N Salem ST Suite 101
301 N Salem ST Suite 102
301 N Salem ST Suite 103
301 N Salem ST Suite 104
301 N Salem ST Suite 105
309 N Salem ST
112 Saunders ST
301 Saunders ST
108 Templeton ST
1011 Woodbriar ST

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Created by Town of Apex Planning Department
Date Created 12/13/2023

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.

12/15/23

Date

Dear Neighbor:

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

211 Templeton St, 0 Templeton St, & 0 Saunders St

0742319843, 0742318765, 0742317640

Apex, NC 27502

Address(es)

PIN(s)

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

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 | Technical Review Committee (staff) |
| <input type="checkbox"/> Minor Site Plan for the uses "Day care facility", "Government service", "School, public or private", "Restaurant, drive-through", or "Convenience store with gas sales" | Technical Review Committee (staff) |
| <input type="checkbox"/> Special Use Permit | Board of Adjustment (QJPH*) |
| <input type="checkbox"/> Residential Master Subdivision Plan (excludes exempt subdivisions) | Technical Review Committee (staff) |

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

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

Saunders Street Parking Lot (3 additional parcels)

Estimated submittal date: submitted 12/1/23, resubmittal 1/5/24

MEETING INFORMATION:

Property Owner(s) name(s): Town of Apex

Applicant(s): Russell Dalton, PE, Traffic Engineering Manager

Contact information (email/phone): russell.dalton@apexnc.org / 919-249-3358

Meeting Address: Apex Town Hall (3rd floor), 73 Hunter St, Apex, NC 27502

Date/Time of meeting**: 1/17/24 5:30 p.m.-6:30 p.m. (Neighborhood Meeting #2)

Welcome: 5:30 p.m. Project Presentation: 5:40 p.m. Question & Answer: 5:50-6:30 p.m.

**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>.

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: Saunders Street Parking Lot (3 additional parcels) Zoning: B2-CZ

Location: 211 Templeton St, 0 Templeton St, & 0 Saunders St

Property PIN(s): 0742319843, 0742318765, 0742317640 Acreage/Square Feet: 2.41 ac. / 104,980 sqft.

Property Owner: Town of Apex

Address: PO Box 250

City: Apex State: NC Zip: 27502

Phone: 919-249-3358 Email: russell.dalton@apexnc.org

Developer: (same as owner)

Address: _____

City: _____ State: _____ Zip: _____

Phone: _____ Fax: _____ Email: _____

Engineer: Stantec Consulting, Inc. for Russell Dalton, PE, Traffic Engineering Manager

Address: 105-B Upchurch St, PO Box 250, Apex, NC 27502

City: Apex State: NC Zip: 27502

Phone: 919-249-3358 Fax: _____ Email: russell.dalton@apexnc.org

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 Planning Project Manager | (919) 372-7468 |
| Public Works - Transportation Russell Dalton, Traffic Engineering Manager | (919) 249-3358 |
| Water Resources Department Jessica Bolin, Environmental Engineering Manager (Stormwater, Sedimentation & Erosion Control) | (919) 249-3537 |
| Matt Echols, Utility Engineering Manager (Water & Sewer) | (919) 372-7505 |
| 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 2nd and 4th 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.

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.

| | | |
|---|-----------------------------|---------------------|
| Noise & Hours of Construction: | Non-Emergency Police | 919-362-8661 |
|---|-----------------------------|---------------------|

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.

| | | |
|------------------------------|------------------------|---------------------|
| Construction Traffic: | James Misciagno | 919-372-7470 |
|------------------------------|------------------------|---------------------|

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).

| | | |
|---|---|---------------------|
| Road Damage & Traffic Control: | Water Resources – Infrastructure Inspections | 919-362-8166 |
|---|---|---------------------|

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.

| | | |
|----------------------------|-----------------------------|---------------------|
| Parking Violations: | Non-Emergency Police | 919-362-8661 |
|----------------------------|-----------------------------|---------------------|

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.

| | | |
|--------------------------|------------------------|---------------------|
| Dirt in the Road: | James Misciagno | 919-372-7470 |
|--------------------------|------------------------|---------------------|

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.

| | | |
|--|--|--|
| Dirt on Properties or in Streams: | James Misciagno Danny Smith | 919-372-7470 Danny.Smith@ncdenr.gov |
|--|--|--|

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) with the State.

| | | |
|--------------|------------------------|---------------------|
| Dust: | James Misciagno | 919-372-7470 |
|--------------|------------------------|---------------------|

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.

| | | |
|---------------|------------------------|---------------------|
| Trash: | James Misciagno | 919-372-7470 |
|---------------|------------------------|---------------------|

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.

| | | |
|-----------------------------------|------------------------|---------------------|
| Temporary Sediment Basins: | James Misciagno | 919-372-7470 |
|-----------------------------------|------------------------|---------------------|

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.

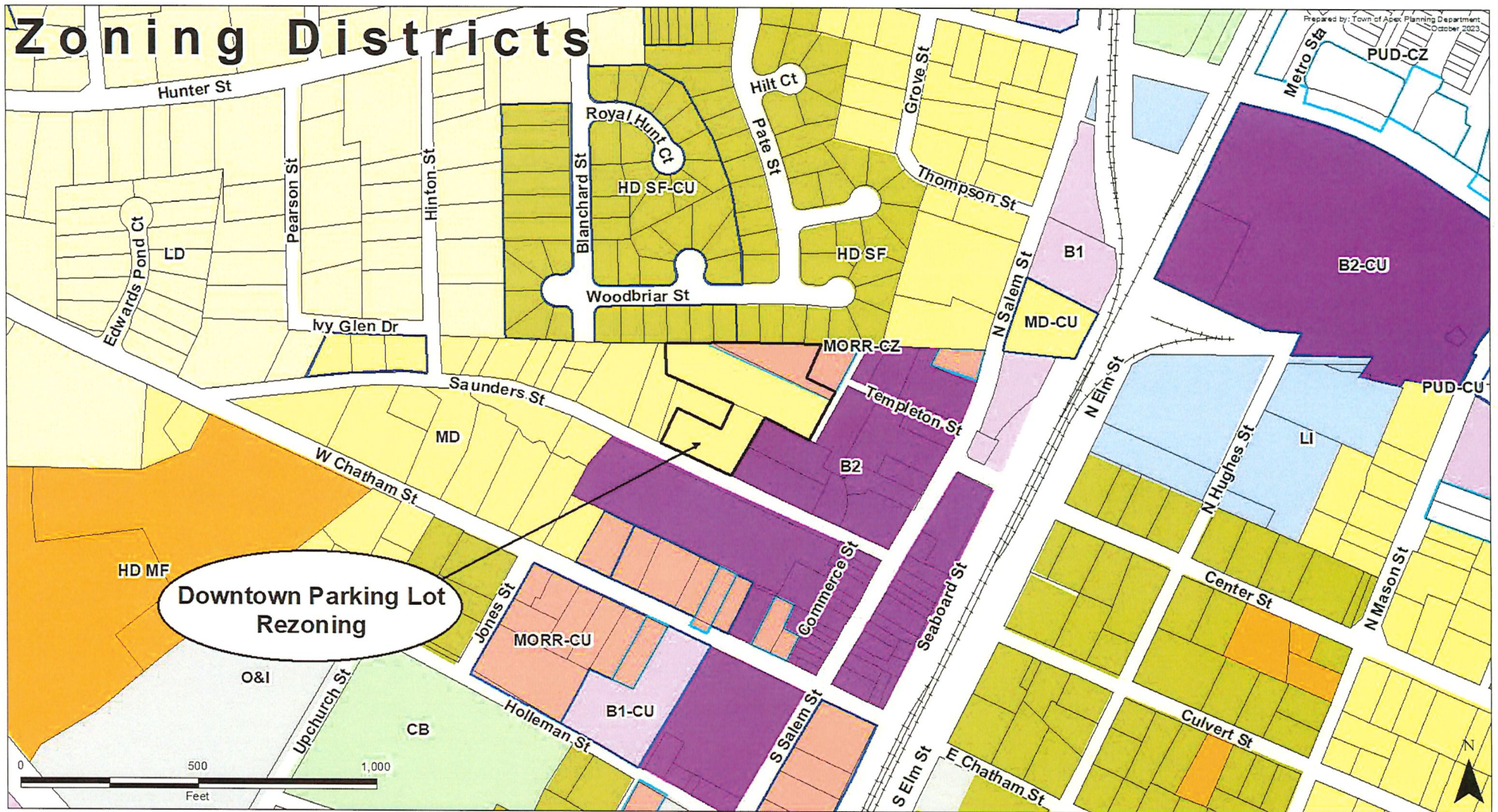
| | | |
|-------------------------------------|----------------------|---------------------|
| Stormwater Control Measures: | Jessica Bolin | 919-249-3537 |
|-------------------------------------|----------------------|---------------------|

Post-construction concerns related to Stormwater Control Measures (typically a stormwater pond) such as conversion and long-term maintenance should be reported to Jessica Bolin at 919-249-3537.

| | | |
|---------------------------------------|---------------------|---------------------|
| Electric Utility Installation: | Rodney Smith | 919-249-3342 |
|---------------------------------------|---------------------|---------------------|

Concerns with electric utility installation can be addressed by the Apex Electric Utilities Department. Contact Rodney Smith at 919-249-3342.





NEIGHBORHOOD MEETING SIGN-IN SHEET

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

Meeting Address: Apex Town Hall (3rd floor), 73 Hunter St, Apex, NC 27502

Date of meeting: 1/17/24 Time of meeting: 5:30-6:30 p.m.

Property Owner(s) name(s): Town of Apex

Applicant(s): Russell Dalton, PE, Traffic Engineering Manager

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. For virtual meetings, applicants must include all known participants and request the information below.

| | NAME/ORGANIZATION | ADDRESS | PHONE # | EMAIL | SEND PLANS & UPDATES |
|-----|-------------------|--------------------|---------|-------|-------------------------------------|
| 1. | Mike Lagers | 305 Saunders St | | | <input checked="" type="checkbox"/> |
| 2. | Pat Lagers | 305 Saunders St. | | | <input checked="" type="checkbox"/> |
| 3. | RD Mecker | 1765 Trum Horn Dr | | | <input checked="" type="checkbox"/> |
| 4. | Michelle Mottmy | 1017 Woodbriar St. | | | <input checked="" type="checkbox"/> |
| 5. | MARSHALL BARNES | 1035 Salem St | | | <input checked="" type="checkbox"/> |
| 6. | David Davis | 217 Saunders St | | | <input type="checkbox"/> |
| 7. | Susan Davis | 217 Saunders St | | | <input type="checkbox"/> |
| 8. | Diane Carlin | 223 N Salem St. | | | <input checked="" type="checkbox"/> |
| 9. | Andy Werlong | 117 N Salem St | | | <input checked="" type="checkbox"/> |
| 10. | PHIL ZALESKI | 1015 WOODBRIAR ST | | | <input type="checkbox"/> |
| 11. | | | | | <input type="checkbox"/> |
| 12. | | | | | <input type="checkbox"/> |
| 13. | | | | | <input type="checkbox"/> |
| 14. | | | | | <input type="checkbox"/> |

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): Town of Apex

Applicant(s): Russell Dalton, PE, Traffic Engineering Manager

Contact information (email/phone): russell.dalton@apexnc.org / 919-249-3358

Meeting Address: Apex Town Hall (3rd floor), 73 Hunter St, Apex, NC 27502

Date of meeting: 1/17/24 Time of meeting: 5:30-6:30 p.m.

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

Question/Concern #1: (see attached)

Applicant's Response:

Question/Concern #2:

Applicant's Response:

Question/Concern #3:

Applicant's Response:

Question/Concern #4:

Applicant's Response:

Saunders Street Parking Lot Rezoning Neighborhood Meeting #2
January 17, 2024, 5:30-6:30 p.m., Apex Town Hall
Q&A Summary

Question/Concern:

[In the Saunders Lot Plan,] is the removal of the proposed water line up to the Williams property a permanent cancellation of that plan?

Applicant's Response:

The Town could come back and include a water line later, as part of a site plan for the Williams Lot. It is not included as part of site plan for Saunders Lot.

Question/Concern:

Clarification Question/Concern about buffer - are you saying only a fence will be included in the conditions?

Applicant's Response:

Yes, that is the staff proposal. Other requests may be made by the community during the public hearing for Planning Board and Town Council consideration.

Question/Concern:

A June start date for the Saunders Lot takes the construction process through the Christmas season. 40% of sales in downtown businesses are during the season leading up to Christmas. If we could bump construction into the first of 2025, that would spare the impact on sales to businesses along the main street.

Applicant's Response:

Noted.

Question/Concern:

Please confirm - the Town is not adding water and sewer extensions right now to 211 Templeton?

Applicant's Response:

Correct.

Question/Concern:

Can you clarify what would be allowed right now on 211 Templeton, under current zoning?

Applicant's Response:

The last zoning case was in 2009, and included Government Service, Park Active, Park Passive, among other uses. Rezoning will add Parking Lot, Public and take away some of the other uses listed under the current zoning.

Question/Concern:

Is it correct that the fence would not be installed prior to Saunders Lot construction?

Applicant's Response:

That is correct, as we do not yet have a site plan.

Question/Concern:

There are two mature trees on the Williams Lot, will those be left?

Applicant's Response:

It is not certain, but the goal is to preserve as many mature trees as possible.

Question/Concern:

Will things stay as-is on the Williams property prior to a larger construction project? [Resident seemed to indicate some clean up would be favorable.]

Applicant's Response:

If existing conditions are a concern, we could consider removing some of the structures on the Williams Lot prior to a construction project.

Question/Concern:

Prefer to see Park, Passive (greenspace).

Applicant's Response:

Noted.

Question/Concern:

Define Park, Passive; Park, Active; and Government Service.

Applicant's Response:

The following definitions from the UDO were provided:

Park, Active - A park that provides opportunities for active recreational activities to the general public like ballfields, jogging trails, exercise areas, and playgrounds.

Park, Passive - A public or private outdoor recreational use relying on a natural or man-made resource base that is developed with a low intensity of impact on the land. Typical uses include trail systems, wildlife management and demonstration areas for historical, cultural, scientific, educational or other purposes that relates to the natural qualities of the area, and support facilities for such activities. Support facilities may include caretakers' quarters.

Government Services - Buildings or facilities owned or operated by a government entity that provide services for the public, excluding utility and recreational services. Typical uses include administrative offices of government agencies, post offices, public libraries, police and fire stations, EMS stations, and transit stations.

Question/Concern:

Would PeakFest be allowed to use this area [the Williams Lot]?

Applicant's Response:

There has not been a discussion of special event uses at this time. Plans for the Saunders Lot do not prohibit use for events.

Question/Concern:

About how many spaces will be maintained during construction of the Saunders Lot? Would there be time limits on those spaces? Would there be access to spaces from businesses?

Applicant's Response:

Anticipate close to 80 spaces will be maintained during most of construction with phased construction in addition to the spaces north of Templeton and easternmost row of parking behind the businesses where grading is not required. The location of the 80 spaces would shift during construction due to grading and underground work. Parking time limits are not proposed during construction and access will be maintained from Templeton to Saunders.

Question/Concern:

Comment that holiday shopping is the cash cow for the year [inferring even more than 40 percent of sales]. Impacting this season would be a substantial impact. It would help businesses if the construction timing could avoid the holidays.

Applicant's Response:

Noted.

Question/Concern:

Would you have to have water and sewer for a park?

Applicant's Response:

Not necessarily.

Question/Concern:

Why was the rezoning resubmitted in January?

Applicant's Response:

This was part of the regular resubmittal process. Staff responded to a comment from the Planning Department to revise the condition as shown with strike-out.

Question/Concern:

Will the PPT be uploaded?

Applicant's Response:

We will post it on the project website.

Question/Concern:

Will people be able to wander around the Williams Lot, once the fence is removed?

Applicant's Response:

The fence along the south property line would be removed during construction of the Saunders Lot. There will ultimately be curb and gutter or parking stops. In the interim, it would be a construction site. Permanent fencing is not proposed for the south property line as part of the Saunders Lot plans.

Question/Concern:

You don't have a site plan for the Williams Lot yet - can you provide a guesstimate of the number of parking spaces it could provide?

Applicant's Response:

Rough sketch was around 30 spaces.

Question/Concern:

Clarification - what will happen with parking in arc?

Applicant's Response:

At the end of the project, it will be repaved.

Question/Concern:

How many EV parking spaces will there be in the new lot and can they be moved to less prime locations?

Applicant's Response:

10, plus an accessible EV space. The UDO does provide guidance on the location and specifies requirements regarding the number. There was public feedback that requested EV spaces during the design process.

Question/Concern:

Will the EV spaces be free?

Applicant's Response:

There is no planned user charge for the EV spaces.

Question/Concern:

Where is the free gas pump?

Applicant's Response:

Noted.

Question/Concern:

Is the Saunders Lot plan instead of a parking deck? What is the history of the consideration?

Applicant's Response:

A parking deck was considered during the Downtown Plan, including an evaluation of schematics. It wasn't recommended in the Downtown Plan. There wasn't enough of a need and the cost is very high.

Question/Concern:

Cary, Holly Springs, and Morrisville all either have or have announced that they are planning to build parking decks. Apex is regressing in terms of making it accessible to patrons. A parking lot is heading the wrong direction.

Applicant's Response:

Noted.

Question/Concern:

Has anyone looked at what this will do to Salem Street and Hunter Street? I understand bringing in more business, but what will this do to traffic?

Applicant's Response:

Noted.

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, Russell H. Dalton, do hereby declare as follows:
Print Name

1. I have conducted a Neighborhood Meeting for the proposed Rezoning, Major Site Plan, Minor Site Plan, Residential Master Subdivision Plan, or Special Use Permit in accordance with UDO Sec. 2.2.7.B *Neighborhood Meeting*.
2. The meeting invitations were mailed to the Apex Planning Department, all property owners and tenants abutting and within 300 feet of the subject property and any neighborhood association that represents citizens in the notification area via first class mail a minimum of 14 days in advance of the Neighborhood Meeting.
3. The meeting was conducted at Apex Town Hall (3rd floor), 73 Hunter St, Apex, NC 27502 (location/address) on 1/17/24 (date) from 5:30 p.m. (start time) to 6:30 p.m. (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.

1/22/24
Date

By: Russell H Dalton

STATE OF NORTH CAROLINA
COUNTY OF WAKE

Sworn and subscribed before me, Lindley Paynter, a Notary Public for the above State and County, on this the 22nd day of January, 2024.



Lindley Paynter
Notary Public
Lindley Paynter
Print Name

My Commission Expires: _____ My Commission Expires August 27, 2025

PLANNING BOARD REPORT TO TOWN COUNCIL

Rezoning Case: #23CZ23 Saunders Street Parking Lot

Planning Board Meeting Date: February 12, 2024



Report Requirements:

Per NCGS §160D-604(b), all proposed amendments to the zoning ordinance or zoning map shall be submitted to the Planning Board for review and comment. If no written report is received from the Planning Board within 30 days of referral of the amendment to the Planning Board, the Town Council may act on the amendment without the Planning Board report. The Town Council is not bound by the recommendations, if any, of the Planning Board.

Per NCGS §160D-604(d), the Planning Board shall advise and comment on whether the proposed action is consistent with all applicable officially adopted plans, and provide a written recommendation to the Town Council that addresses plan consistency and other matters as deemed appropriate by the Planning Board, but a comment by the Planning Board that a proposed amendment is inconsistent with the officially adopted plans shall not preclude consideration or approval of the proposed amendment by the Town Council.

PROJECT DESCRIPTION:

Acreage: ±2.41 acres

PIN(s): 0742319843, 0742318765, 0742317640

Current Zoning: Medium Density Residential (MD) &
Mixed Office-Residential-Retail-Conditional Zoning (MORR-CZ #09CZ12)

Proposed Zoning: Downtown Business-Conditional Zoning (B2-CZ)

2045 Land Use Map: Mixed-Use: Commercial Services/Office Employment/Medium Density Residential

Town Limits: Inside Town Limits

Applicable Officially Adopted Plans:

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

☒ 2045 Land Use Map
☒ Consistent ☐ Inconsistent Reason: _____

☒ Apex Transportation Plan
☒ Consistent ☐ Inconsistent Reason: _____

☐ Parks, Recreation, Open Space, and Greenways Plan
☐ Consistent ☐ Inconsistent Reason: _____

PLANNING BOARD REPORT TO TOWN COUNCIL

Rezoning Case: #23CZ23 Saunders Street Parking Lot

Planning Board Meeting Date: February 12, 2024



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: #23CZ23 Saunders Street Parking Lot

Planning Board Meeting Date: February 12, 2024



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: #23CZ23 Saunders Street Parking Lot

Planning Board Meeting Date: February 12, 2024



Planning Board Recommendation:

Motion: To recommend approval with conditions as presented plus additional condition to not wait on installation of proposed fence.

Introduced by Planning Board member: Alyssa Byrd

Seconded by Planning Board member: Keith Braswell

- ☐ *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:

Conditions as presented plus additional condition to not wait on installation of proposed fence.

- ☐ *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 1 Planning Board Member(s) voting "no"

Reasons for dissenting votes:

Dissenting vote by Daniel Khodaparast - see attached reason(s).

This report reflects the recommendation of the Planning Board, this the 12th day of February 2024.

Attest:

Tina Sherman, Planning Board Vice-Chair

Dianne F. Khin

Digitally signed by Dianne F. Khin
Date: 2024.02.12 17:51:31 -05'00'

Dianne Khin, Planning Director

PLANNING BOARD REPORT TO TOWN COUNCIL

Dissenting Member Comments



Planning Board Member Name: Daniel Khodaparast

Meeting Date: 02/12/2024

☒ Rezoning # 23CZ23

☐ Long Range Plan amendment(s) _____

☐ Other _____

Reason(s) for dissenting vote:

I highly value downtown Apex and live within walking distance. I understand the needs of business owners and do not want them to be subjected to multiple bouts of construction should the need for a parking deck be identified sooner, rather than later. We have so many people moving to the area and there is constant growth around downtown. I do not feel that the proposal for zoning for a parking lot will be adequate in the short term. I feel that utilizing a public-private partnership would alleviate monetary concerns and help expand the downtown footprint better.



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

**PUBLIC NOTIFICATION
OF PUBLIC HEARINGS**
CONDITIONAL ZONING #23CZ23
Saunders Street Parking Lot

Pursuant to the provisions of North Carolina General Statutes §160D-602 and to the Town of Apex Unified Development Ordinance (UDO) Section 2.2.11, notice is hereby given of public hearings before the Planning Board of the Town of Apex. The purpose of these hearings is to consider the following:

Applicant/Authorized Agent: Town of Apex, Attn: Russell Dalton, Traffic Engineering Manager
Property Addresses: 0 & 211 Templeton Street, 0 Saunders Street
Acreage: ±2.41 acres
Property Identification Numbers (PINs): 0742319843, 0742318765, 0742317640
2045 Land Use Map Designation: Mixed-Use: Commercial Services/Office Employment/Medium Density Residential
Existing Zoning of Properties: Medium Density Residential (MD) & Mixed Office-Residential-Retail-Conditional Zoning (MORR-CZ #09CZ12)
Proposed Zoning of Properties: Downtown Business-Conditional Zoning (B2-CZ)

Public Hearing Location: Apex Town Hall
Council Chamber, 2nd Floor
73 Hunter Street, Apex, North Carolina

Planning Board Public Hearing Date and Time: February 12, 2024 4:30 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 a written statement by email to public.hearing@apexnc.org, or submit it to the clerk of the Planning Board, Jeri Pederson (73 Hunter Street or USPS mail - P.O. Box 250, Apex, NC 27502), at least two business days prior to the Planning Board vote. You must provide your name and address for the record. The written statements will be delivered to the Planning Board prior to their vote. Please include the Public Hearing name in the subject line.

A separate notice of the Town Council public hearing on this project will be mailed and posted in order to comply with State public notice requirements.

Vicinity Map:



Property owners, tenants, and neighborhood associations within 300 feet of the proposed conditional zoning have been sent this notice via first class mail. All interested parties may submit comments with respect to the application by the means specified above. In addition to the above map, the location of the property may be viewed online at <https://maps.raleighnc.gov/imaps>. The 2045 Land Use Map may be viewed online at www.apexnc.org/DocumentCenter/View/478. You may call 919-249-3426, Department of Planning and Community Development, with questions or for further information. To view the petition and related documents on-line: <https://www.apexnc.org/DocumentCenter/View/45490>.

Dianne F. Khin, AICP
Planning Director



TOWN OF APEX
PO BOX 250
APEX, NORTH CAROLINA 27502
TELÉFONO 919-249-3426

NOTIFICACIÓN PÚBLICA DE AUDIENCIAS PÚBLICAS
ORDENAMIENTO TERRITORIAL CONDICIONAL #23CZ23
Saunders Street Parking Lot

De conformidad con las disposiciones de los Estatutos Generales de Carolina del Norte §160D-602 y con la Sección 2.2.11 de la Ordenanza de Desarrollo Unificado (UDO) del ayuntamiento de Apex, por la presente se notifican las audiencias públicas ante la Junta de Planificación de Apex. El propósito de estas audiencias es considerar lo siguiente:

Solicitante/ Agente autorizado: Town of Apex, Attn: Russell Dalton, Traffic Engineering Manager
Dirección de las propiedades: 0 & 211 Templeton Street, 0 Saunders Street
Superficie: ±2.41 acres
Número de identificación de las propiedades: 0742319843, 0742318765, 0742317640
Designación actual en el Mapa de Uso Territorial para 2045: Mixed-Use: Commercial Services/Office Employment/Medium Density Residential
Ordenamiento territorial existente de las propiedades: Medium Density Residential (MD) & Mixed Office-Residential-Retail-Conditional Zoning (MORR-CZ #09CZ12)
Ordenamiento territorial propuesto para las propiedades: Downtown Business-Conditional Zoning (B2-CZ)

Lugar de la audiencia pública: Ayuntamiento de Apex
Cámara del Consejo, 2º piso
73 Hunter Street, Apex, Carolina del Norte

Fecha y hora de la audiencia pública de la Junta de Planificación: 12 de febrero de 2024 4:30 P.M.
Puede asistir a la reunión de manera presencial o seguir la transmisión en directo por YouTube a través del siguiente enlace: <https://www.youtube.com/c/townofapexgov>.

Si no puede asistir, puede enviar una declaración escrita por correo electrónico a public.hearing@apexnc.org, o presentarla a la secretaria de la Junta de Planificación, Jeri Pederson (73 Hunter Street o por correo USPS a P.O. Box 250, Apex, NC 27502), al menos dos días hábiles antes de la votación de la Junta de Planificación. Debe proporcionar su nombre y dirección para que conste en el registro. Las declaraciones escritas se entregarán a la Junta de Planificación antes de la votación. No olvide incluir el nombre de la audiencia pública en el asunto.

De conformidad con los requisitos estatales de notificaciones públicas, se enviará por correo y se publicará por separado una notificación de la audiencia pública del Consejo Municipal sobre este proyecto.

Mapa de las inmediaciones:



Los propietarios, inquilinos y asociaciones de vecinos en un radio de 300 pies del Ordenamiento Territorial Condicional propuesto han recibido esta notificación por correo postal de primera clase. Todas las partes interesadas pueden presentar comentarios sobre la solicitud a través de los medios especificados anteriormente. La ubicación de la propiedad también puede verse aquí: <https://maps.raleighnc.gov/imaps>. Puede ver el Mapa de Uso Territorial para 2045 aquí: www.apexnc.org/DocumentCenter/View/478. Si tiene preguntas o desea obtener más información, puede comunicarse con el Departamento de Planificación y Desarrollo Comunitario al 919-249-3426. Puede ver la solicitud y otros documentos relacionados aquí: <https://www.apexnc.org/DocumentCenter/View/45490>.

Dianne F. Khin, AICP
Directora de Planificación

Legal Notice of Public Hearings

23CZ23 Saunders Street Parking

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TOWN OF APEX

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

NOTIFICACIÓN PÚBLICA DE AUDIENCIAS PÚBLICAS

ORDENAMIENTO TERRITORIAL CONDICIONAL #23CZ23
Saunders Street Parking Lot

De conformidad con las disposiciones de los Estatutos Generales de Carolina del Norte §1600-602 y con la Sección 2.2.11 de la Ordenanza de Desarrollo Unificado (UDO) del Ayuntamiento de Apex, por la presente se notifican las audiencias públicas ante la Junta de Planificación y el Consejo Municipal del Ayuntamiento de Apex. El propósito de estas audiencias es considerar lo siguiente:

Solicitante/Agente autorizado: Town of Apex, Attn: Russell Dalton, Traffic Engineering Manager
Dirección de las propiedades: 0 & 211 Templeton Street, 0 Saunders Street
Superficie: ±2.41 acres
Número de identificación de las propiedades: 0742319843, 0742318765, 0742317640
Designación actual en el Mapa de Uso Territorial para 2045: Mixed-Use: Commercial Services Office
Employment/Medium Density Residential
Ordenamiento territorial existente de las propiedades: Medium Density Residential (MD) & Mixed Office-Residential-Retail-Conditional Zoning (MORR-CZ #09C212)
Ordenamiento territorial propuesto para las propiedades: Downtown Business-Conditional Zoning (B2-CZ)


Lugar de la audiencia pública: Ayuntamiento de Apex
Cámara del Consejo, 2º piso
73 Hunter Street, Apex, Carolina del Norte

Los comentarios recibidos antes de la audiencia pública de la Junta de Planificación no se proporcionarán al Consejo Municipal. Los comentarios para la audiencia pública del Consejo Municipal deben presentarse por separado en el plazo especificado a continuación.

Fecha y hora de la audiencia pública del Consejo Municipal: 27 de febrero de 2024 6:00 P.M.
Puede asistir a la reunión de manera presencial o seguir la transmisión en directo por YouTube a través del siguiente enlace: <https://www.youtube.com/c/townofapexgov>.

Si no puede asistir, puede enviar una declaración escrita por correo electrónico a public.hearing@apexnc.org, o presentarla a la oficina del Secretario Municipal (73 Hunter Street o por correo USPS a P.O. Box 250, Apex, NC 27502), al menos dos días hábiles antes de la votación del Consejo Municipal. Debe proporcionar su nombre y dirección para que conste en el registro. Las declaraciones escritas se entregarán al Consejo Municipal antes de la votación. No olvide incluir el nombre de la audiencia pública en el asunto.

Mapa de las Inmediaciones:



Los propietarios, inquilinos y asociaciones de vecinos en un radio de 300 pies del Ordenamiento Territorial Condicional propuesto han recibido esta notificación por correo postal de primera clase. Todas las partes interesadas pueden presentar comentarios sobre la solicitud a través de los medios especificados anteriormente. La ubicación de la propiedad también puede verse aquí: <https://maps.apexnc.gov/maps>. Puede ver el Mapa de Uso Territorial para 2045 aquí: www.apexnc.org/DocumentCenter/View/4578. Si tiene preguntas o desea obtener más información, puede comunicarse con el Departamento de Planificación al 919-249-3426. Puede ver la solicitud y otros documentos relacionados aquí: <https://www.apexnc.org/DocumentCenter/View/45490>.

Dianne F. Khin, AICP
Directora de Planificación

Fechas de publicación: 2 de febrero-27 de febrero de 2024

- Page 342 -

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TOWN OF APEX

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

**PUBLIC NOTIFICATION
OF PUBLIC HEARINGS
CONDITIONAL ZONING #23CZ23
Saunders Street Parking Lot**

Pursuant to the provisions of North Carolina General Statutes §160D-602 and to the Town of Apex Unified Development Ordinance (UDO) Section 2.2.11, notice is hereby given of public hearings before the Planning Board of the Town of Apex. The purpose of these hearings is to consider the following:

Applicant/Authorized Agent: Town of Apex, Attn: Russell Dalton, Traffic Engineering Manager
Property Addresses: 0 & 211 Templeton Street, 0 Saunders Street
Acreage: ±2.41 acres
Property Identification Numbers (PINs): 0742319843, 0742318765, 0742317640
2045 Land Use Map Designation: Mixed-Use: Commercial Services/Office Employment/Medium Density Residential
Existing Zoning of Properties: Medium Density Residential (MD) & Mixed Office-Residential-Retail-Conditional Zoning (MORR-CZ #09CZ12)
Proposed Zoning of Properties: Downtown Business-Conditional Zoning (B2-CZ)

Public Hearing Location: Apex Town Hall
Council Chamber, 2nd Floor
73 Hunter Street, Apex, North Carolina

Planning Board Public Hearing Date and Time: February 12, 2024 4:30 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 a written statement by email to public.hearing@apexnc.org, or submit it to the clerk of the Planning Board, Jeri Pederson (73 Hunter Street or USPS mail - P.O. Box 250, Apex, NC 27502), at least two business days prior to the Planning Board vote. You must provide your name and address for the record. The written statements will be delivered to the Planning Board prior to their vote. Please include the Public Hearing name in the subject line.

A separate notice of the Town Council public hearing on this project will be mailed and posted in order to comply with State public notice requirements.

Vicinity Map:



Property owners, tenants, and neighborhood associations within 300 feet of the proposed conditional zoning have been sent this notice via first class mail. All interested parties may submit comments with respect to the application by the means specified above. In addition to the above map, the location of the property may be viewed online at <https://maps.raleighnc.gov/imaps>. The 2045 Land Use Map may be viewed online at www.apexnc.org/DocumentCenter/View/478. You may call 919-249-3426, Department of Planning and Community Development, with questions or for further information. To view the petition and related documents on-line: <https://www.apexnc.org/DocumentCenter/View/45490>.

Dianne F. Khin, AICP
Planning Director



TOWN OF APEX

PO BOX 250
APEX, NORTH CAROLINA 27502
TELÉFONO 919-249-3426

NOTIFICACIÓN PÚBLICA DE AUDIENCIAS PÚBLICAS

ORDENAMIENTO TERRITORIAL CONDICIONAL #23CZ23
Saunders Street Parking Lot

De conformidad con las disposiciones de los Estatutos Generales de Carolina del Norte §160D-602 y con la Sección 2.2.11 de la Ordenanza de Desarrollo Unificado (UDO) del ayuntamiento de Apex, por la presente se notifican las audiencias públicas ante la Junta de Planificación de Apex. El propósito de estas audiencias es considerar lo siguiente:

Solicitante/ Agente autorizado: Town of Apex, Attn: Russell Dalton, Traffic Engineering Manager

Dirección de las propiedades: 0 & 211 Templeton Street, 0 Saunders Street

Superficie: ±2.41 acres

Número de identificación de las propiedades: 0742319843, 0742318765, 0742317640

Designación actual en el Mapa de Uso Territorial para 2045: Mixed-Use: Commercial Services/Office
Employment/Medium Density Residential

Ordenamiento territorial existente de las propiedades: Medium Density Residential (MD) & Mixed Office-Residential-Retail-Conditional Zoning (MORR-CZ #09CZ12)

Ordenamiento territorial propuesto para las propiedades: Downtown Business-Conditional Zoning (B2-CZ)

Lugar de la audiencia pública: Ayuntamiento de Apex
Cámara del Consejo, 2º piso
73 Hunter Street, Apex, Carolina del Norte

Fecha y hora de la audiencia pública de la Junta de Planificación: 12 de febrero de 2024 4:30 P.M.

Puede asistir a la reunión de manera presencial o seguir la transmisión en directo por YouTube a través del siguiente enlace: <https://www.youtube.com/c/townofapexgov>.

Si no puede asistir, puede enviar una declaración escrita por correo electrónico a public.hearing@apexnc.org, o presentarla a la secretaria de la Junta de Planificación, Jeri Pederson (73 Hunter Street o por correo USPS a P.O. Box 250, Apex, NC 27502), al menos dos días hábiles antes de la votación de la Junta de Planificación. Debe proporcionar su nombre y dirección para que conste en el registro. Las declaraciones escritas se entregarán a la Junta de Planificación antes de la votación. No olvide incluir el nombre de la audiencia pública en el asunto.

De conformidad con los requisitos estatales de notificaciones públicas, se enviará por correo y se publicará por separado una notificación de la audiencia pública del Consejo Municipal sobre este proyecto.

Mapa de las inmediaciones:



Los propietarios, inquilinos y asociaciones de vecinos en un radio de 300 pies del Ordenamiento Territorial Condicional propuesto han recibido esta notificación por correo postal de primera clase. Todas las partes interesadas pueden presentar comentarios sobre la solicitud a través de los medios especificados anteriormente. La ubicación de la propiedad también puede verse aquí: <https://maps.raleighnc.gov/imaps>. Puede ver el Mapa de Uso Territorial para 2045 aquí: www.apexnc.org/DocumentCenter/View/478. Si tiene preguntas o desea obtener más información, puede comunicarse con el Departamento de Planificación y Desarrollo Comunitario al 919-249-3426. Puede ver la solicitud y otros documentos relacionados aquí: <https://www.apexnc.org/DocumentCenter/View/45490>.

Dianne F. Khin, AICP
Directora de Planificación



TOWN OF APEX

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

PUBLIC NOTIFICATION OF PUBLIC HEARINGS CONDITIONAL ZONING #23CZ23 Saunders Street Parking Lot

Pursuant to the provisions of North Carolina General Statutes §160D-602 and to the Town of Apex Unified Development Ordinance (UDO) Section 2.2.11, notice is hereby given of public hearings before the Planning Board and Town Council of the Town of Apex. The purpose of these hearings is to consider the following:

Applicant/Authorized Agent: Town of Apex, Attn: Russell Dalton, Traffic Engineering Manager

Property Addresses: 0 & 211 Templeton Street, 0 Saunders Street

Acreage: ±2.41 acres

Property Identification Numbers (PINs): 0742319843, 0742318765, 0742317640

2045 Land Use Map Designation: Mixed-Use: Commercial Services/Office Employment/Medium Density Residential

Existing Zoning of Properties: Medium Density Residential (MD) & Mixed Office-Residential-Retail-Conditional Zoning (MORR-CZ #09CZ12)

Proposed Zoning of Properties: Downtown Business-Conditional Zoning (B2-CZ)

Public Hearing Location: Apex Town Hall
Council Chamber, 2nd Floor
73 Hunter Street, Apex, North Carolina

Comments received prior to the Planning Board public hearing will not be provided to the Town Council. Separate comments for the Town Council public hearing must be provided by the deadline specified below.

Town Council Public Hearing Date and Time: February 27, 2024 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 a written statement by email to public.hearing@apexnc.org, or submit it to the Office of the Town Clerk (73 Hunter Street or USPS mail - P.O. Box 250, Apex, NC 27502), at least two business days prior to the Town Council vote. You must provide your name and address for the record. The written statements will be delivered to the Town Council prior to their vote. Please include the Public Hearing name in the subject line.

Vicinity Map:



Property owners, tenants, and neighborhood associations within 300 feet of the proposed conditional zoning have been sent this notice via first class mail. All interested parties may submit comments with respect to the application by the means specified above. In addition to the above map, the location of the property may be viewed online at <https://maps.raleighnc.gov/imaps>. The 2045 Land Use Map may be viewed online at www.apexnc.org/DocumentCenter/View/478. You may call 919-249-3426, Planning Department, with questions or for further information. To view the petition and related documents on-line: <https://www.apexnc.org/DocumentCenter/View/45490>.

Dianne F. Khin, AICP
Planning Director



TOWN OF APEX

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

NOTIFICACIÓN PÚBLICA DE AUDIENCIAS PÚBLICAS

ORDENAMIENTO TERRITORIAL CONDICIONAL #23CZ23

Saunders Street Parking Lot

De conformidad con las disposiciones de los Estatutos Generales de Carolina del Norte §160D-602 y con la Sección 2.2.11 de la Ordenanza de Desarrollo Unificado (UDO) del Ayuntamiento de Apex, por la presente se notifican las audiencias públicas ante la Junta de Planificación y el Consejo Municipal del Ayuntamiento de Apex. El propósito de estas audiencias es considerar lo siguiente:

Solicitante/Agente autorizado: Town of Apex, Attn: Russell Dalton, Traffic Engineering Manager

Dirección de las propiedades: 0 & 211 Templeton Street, 0 Saunders Street

Superficie: ±2.41 acres

Número de identificación de las propiedades: 0742319843, 0742318765, 0742317640

Designación actual en el Mapa de Uso Territorial para 2045: Mixed-Use: Commercial Services Office
Employment/Medium Density Residential

Ordenamiento territorial existente de las propiedades: Medium Density Residential (MD) & Mixed Office-Residential-Retail-Conditional Zoning (MORR-CZ #09CZ12)

Ordenamiento territorial propuesto para las propiedades: Downtown Business-Conditional Zoning (B2-CZ)

Lugar de la audiencia pública: Ayuntamiento de Apex

Cámara del Consejo, 2º piso

73 Hunter Street, Apex, Carolina del Norte

Los comentarios recibidos antes de la audiencia pública de la Junta de Planificación no se proporcionarán al Consejo Municipal. Los comentarios para la audiencia pública del Consejo Municipal deben presentarse por separado en el plazo especificado a continuación.

Fecha y hora de la audiencia pública del Consejo Municipal: 27 de febrero de 2024 6:00 P.M.

Puede asistir a la reunión de manera presencial o seguir la transmisión en directo por YouTube a través del siguiente enlace: <https://www.youtube.com/c/townofapexgov>.

Si no puede asistir, puede enviar una declaración escrita por correo electrónico a public.hearing@apexnc.org, o presentarla a la oficina del Secretario Municipal (73 Hunter Street o por correo USPS a P.O. Box 250, Apex, NC 27502), al menos dos días hábiles antes de la votación del Consejo Municipal. Debe proporcionar su nombre y dirección para que conste en el registro. Las declaraciones escritas se entregarán al Consejo Municipal antes de la votación. No olvide incluir el nombre de la audiencia pública en el asunto.

Mapa de las inmediaciones:



Los propietarios, inquilinos y asociaciones de vecinos en un radio de 300 pies del Ordenamiento Territorial Condicional propuesto han recibido esta notificación por correo postal de primera clase. Todas las partes interesadas pueden presentar comentarios sobre la solicitud a través de los medios especificados anteriormente. La ubicación de la propiedad también puede verse aquí: <https://maps.raleighnc.gov/imaps>. Puede ver el Mapa de Uso Territorial para 2045 aquí: www.apexnc.org/DocumentCenter/View/478. Si tiene preguntas o desea obtener más información, puede comunicarse con el Departamento de Planificación al 919-249-3426. Puede ver la solicitud y otros documentos relacionados aquí: <https://www.apexnc.org/DocumentCenter/View/45490>.

Dianne F. Khin, AICP
Directora de Planificación


Signature

12/8/2023
Date





TOWN OF APEX

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

AFFIDAVIT CERTIFYING Public Notification – Written (Mailed) Notice

Section 2.2.11

Town of Apex Unified Development Ordinance

Project Name: Conditional Zoning #23CZ23
Project Location: 0 & 211 Templeton Street, 0 Saunders Street
Applicant or Authorized Agent: Town of Apex, Attn: Russell Dalton, Traffic Engineering Manager
Firm: Town of Apex
Planning Board: February 12, 2024
Public Hearing Date:
Project Planner: Liz Loftin

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 January 26, 2024, a notice containing the time and place, location, nature and scope of the application, where additional information may be obtained, and the opportunity for interested parties to be heard, to the property owners and tenants within 300' of the land subject to notification. I further certify that I relied on information from the Wake County Tax Assessor and the Town of Apex Master Address Repository provided to me by Town of Apex GIS Staff as to accuracy of the list and accuracy of mailing addresses of property owners and tenants within 300' of the land subject to notification.

1/30/2024
Date

Shianne Khin
Planning Director

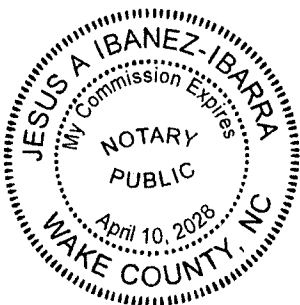
STATE OF NORTH CAROLINA
COUNTY OF WAKE

Sworn and subscribed before me,

Jesus A. Ibanez-Ibarra, a Notary Public for the above

State and County, this the

30th day of January, 2024.



Jesus A. Ibanez-Ibarra
Notary Public

My Commission Expires: 4/10/2028



TOWN OF APEX

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

AFFIDAVIT CERTIFYING Public Notification – Written (Mailed) Notice

Section 2.2.11

Town of Apex Unified Development Ordinance

Project Name: Conditional Zoning #23CZ23
Project Location: 0 & 211 Templeton Street, 0 Saunders Street
Applicant or Authorized Agent: Town of Apex, Attn: Russell Dalton, Traffic Engineering Manager
Firm: Town of Apex
Town Council
Public Hearing Date: February 27, 2024
Project Planner: Liz Loftin

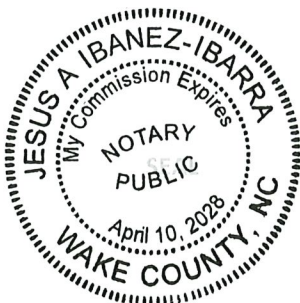
This is to certify that I, as Planning Director, mailed or caused to have mailed by first class postage for the above mentioned project on February 2, 2024, a notice containing the time and place, location, nature and scope of the application, where additional information may be obtained, and the opportunity for interested parties to be heard, to the property owners and tenants within 300' of the land subject to notification. I further certify that I relied on information from the Wake County Tax Assessor and the Town of Apex Master Address Repository provided to me by Town of Apex GIS Staff as to accuracy of the list and accuracy of mailing addresses of property owners and tenants within 300' of the land subject to notification.

2/5/2024
Date

Shane L. Thier
Planning Director

STATE OF NORTH CAROLINA
COUNTY OF WAKE

Sworn and subscribed before me, Jesus A. Ibanez-Ibarra, a Notary Public for the above
State and County, this the 5th day of February, 2024.



Jesus A. Ibanez-Ibarra
Notary Public

My Commission Expires: 4 / 10 / 2028

| Agenda Item | cover sheet

for consideration by the Apex Town Council

Item Type: PUBLIC HEARING
Meeting Date: February 27, 2024

Item Details

Presenter(s): Sajid Hassan, P.E., Traffic Safety Engineer
Department(s): Transportation & Infrastructure Development

Requested Motion

Public Hearing and possible motion regarding amendments to the Unified Development Ordinance (UDO) related to the traffic calming criteria and process.

Approval Recommended?

The Planning and Transportation & Infrastructure Development Departments recommend approval. The Planning Board heard these amendments at their February 12, 2024 meeting and unanimously recommended approval.

Item Details

Amendments to Sec. 7.2.1.L *Traffic Calming* are proposed in order to update the criteria and process used for warranting and approving traffic calming devices as well as the roles and responsibilities within the Town for collecting traffic data and administering the traffic calming program.

In May 2007, the traffic calming policy was updated and incorporated in the UDO. In 2015, the Town's traffic engineer conducted public outreach involving various HOA boards with the assistance of Apex Police Department which resulted in changes to the criteria and process for warranting and approving traffic calming devices. At that time, Apex Police Department collected traffic data for each study and provided it to the Town's traffic engineer. Since 2015, the Transportation & Infrastructure Development Department has been formed and engineering staff added within that department have been collecting the data while also administering the program. Community input of growing traffic safety concerns in neighborhoods and adoption of the Vision Zero Action Plan has since caused staff to revisit the current criteria and process. In 2023, staff researched other communities' traffic calming practices for consideration of potential changes to the traffic calming program. The proposed changes to the UDO are to align it with the updated roles and responsibilities within the traffic calming program as well as updating the criteria and process used to recommend and approve traffic calming devices based on staff's research conducted in 2023.

Attachments

- PH6-A1: Staff Report - Unified Development Ordinance (UDO) Amendments - February 2024 - Traffic Calming
 - Public Notice - Unified Development Ordinance (UDO) Amendments - February 2024 - Traffic Calming
- PH6-A2: Planning Board Report to Town Council - Unified Development Ordinance (UDO) Amendments - February 2024 - Traffic Calming

- PH6-A3: Ordinance - Unified Development Ordinance (UDO) Amendments - February 2024 - Traffic Calming



STAFF REPORT

Amendments to the Unified Development Ordinance

February 27, 2024 Town Council Meeting



Requested by Transportation & Infrastructure Development Staff:

1. **Amendments to Sec. 7.2.1.L *Traffic Calming* in order to update the criteria and process used for warranting and approving traffic calming devices as well as the roles and responsibilities within the Town for collecting traffic data and administering the traffic calming program.**

Background: In May 2007, the traffic calming policy was updated and incorporated in the Unified Development Ordinance (UDO). In 2015, the Town's traffic engineer conducted public outreach involving various HOA boards with the assistance of Apex Police Department which resulted in changes to the criteria and process for warranting and approving traffic calming devices. At that time, Apex Police Department collected traffic data for each study and provided it to the Town's traffic engineer. Since 2015, the Transportation & Infrastructure Development Department has been formed and engineering staff added within that department have been collecting the data while also administering the program.

Community input of growing traffic safety concerns in neighborhoods and adoption of the Vision Zero Action Plan has since caused staff to revisit the current criteria and process. In 2023, staff researched other communities' traffic calming practices for consideration of potential changes to the traffic calming program. The proposed changes to the UDO are to align it with the updated roles and responsibilities within the traffic calming program as well as updating the criteria and process used to recommend and approve traffic calming devices based on staff's research conducted in 2023.

7.2.1 Streets

...

L) *Traffic Calming*

- 1) No development proposal shall be permitted to provide for the installation of traffic calming measures in an adjacent or nearby existing neighborhood unless the street(s) meet the criteria in ~~Section 7.2.1.(L).{3}~~ of this Ordinance.
- 2) All new residential developments shall provide for the installation for traffic calming measure(s) on each Residential Street within the development where the length of the public street exceeds 1,000 feet. The location and type of traffic calming measure(s) shall be determined by the Planning Department and **Transportation & Infrastructure Development Department Engineering Division of Construction Management**. Traffic calming measure(s) include but are not limited to traffic circles, roundabouts, curb extensions, chicanes, splitter islands, and designated on-street parking. **Vertical deflection devices such as Speed speed humps and/or speed cushions** are only allowed as traffic calming measures in existing neighborhoods that meet the criteria in ~~Section 7.2.1.(L).{3}~~ of this Ordinance. **Signs, markings, warning devices, educational outreach and enforcement measures may be recommended by Town staff based on engineering evaluation, but the implementation of such measures shall not be subject to the requirements of Sec. 7.2.1.L.3.**

- 3) This section replaces the Town of Apex Traffic Calming Device Policy and Guidelines. The Town may install and maintain traffic calming devices on Town-maintained streets directly serving residential driveways where speeding vehicles are the primary concern. The following procedures are meant to ensure that traffic calming devices are installed and used as intended for the appropriate and consistent treatment on Town-maintained streets and receive the support of the affected neighborhood. Traffic calming devices are limited to vertical and/or horizontal changes in the vehicular travelway that may or may not involve adjustments to existing curb. Stop and yield signs are defined as traffic control devices and are not appropriate for use as traffic calming devices. Stop and yield signs are however subject to engineering evaluation by the Town's ~~Construction Management—Engineering~~ **traffic engineering** staff according to the Manual on Uniform Traffic Control Devices. Traffic calming requests are subject to the following qualifying criteria:
- a) Streets on which traffic calming devices are requested must be residential and exhibit all of the following characteristics:
 - (i) Posted speed is 25 miles per hour;
 - (ii) Roadway is not a **Major** Collector Street or Thoroughfare;
 - (iii) The ~~average 85th-percentile~~ speed **meets or exceeds 30-32** miles per hour ~~during any one-hour period in which the~~ **and the** number of vehicles **traveling on the street in a 24-hour period** meets or exceeds ~~100-800~~. ~~The data collected to determine average speed may be based on an average of 100 vehicles per hour or more over multiple days of data; and~~
 - (iv) Installation of traffic calming devices along the street is not anticipated to create unacceptable delays in emergency response times for residences served by the street in the judgment of the Town's Police Chief and Fire Chief **or their designee(s)**.
 - b) The request must be initiated, accepted, and supported by the property owners within the affected residential neighborhood:
 - (i) The requesting party must submit a request to the ~~Transportation~~ **Traffic Safety** Engineer. Requests for traffic calming devices at a particular location are limited to one request within a 24-month period. ~~Upon consultation with the Town's Police Department, the Transportation Engineer may request a study be conducted or inform the requesting party that the location is not a candidate for traffic calming measures based on the Town's criteria. If requested, the Town's Police Department will conduct a traffic speed and volume survey and provide the results to the Transportation Engineer who will determine whether all criteria in Section 7.2.1 (L)(3) are satisfied.~~
 - (ii) If all the required criteria in Section 7.2.1.(L).{3} are met, the ~~Transportation~~ **Traffic Safety** Engineer will notify the requesting

party and homeowners' association (if one exists), develop a sketch plan reflecting the types and locations of the proposed traffic calming devices, and **only in the absence of a homeowners' association, prepare a petition boundary area.** The petition boundary area shall include at a minimum all lots adjacent to the street within the subdivision where traffic calming devices are proposed along with all cul-de-sac streets and loop streets dependent on that street for connectivity. **Before the Town can proceed with implementation of the traffic calming plan, either the requesting party must return a valid petition in favor of the plan according to Sec. 7.2.1.L.3.b.iii, or** ~~Once the homeowners' association~~ **must provide (1) proof of neighborhood notification, (2) meeting minutes, and (3) documentation of association approval of the plan to the Traffic Safety Engineer within six (6) months.** ~~is provided the sketch plan and petition boundary area, the association shall have 30 calendar days to either vote against the plan in order to end the process or vote to proceed, either with the association voting to administer a petition to the Transportation Engineer or the association delegating that authority to the original requesting party. In either event the association shall notify the Transportation Engineer of the vote. If the homeowners' association takes no action or fails to notify the Transportation Engineer of the outcome of the vote within 30 calendar days of being provided the sketch plan and petition boundary area then the requesting party may proceed with the petition. The requesting party and homeowners' association may provide Town staff with input concerning the desired types and locations of the proposed traffic calming devices, but the final decision as to all elements of the sketch plan (including but not limited to the types and locations of the proposed traffic calming devices) shall be solely within the engineering judgment of Town staff.~~

- (iii) **In the absence of a homeowners' association, the** ~~The requesting party or homeowners' association for the affected residential neighborhood must provide the Town with a completed petition as noted in part Section 7.2.1.(L).(3).(b).(ii) with at least 70% agreement from homeowners within the petition boundary area no later than six (6) months following the date~~ **the traffic calming sketch plan is provided** ~~of the traffic survey. Each signature line shall include the printed and signed name of at least one of the deed holders for the residential property, the address, and date signed.~~
- (iv) ~~The requesting party or homeowners' association must pay the Town 20% of the estimated cost of installing the requested traffic calming devices as reflected in the sketch plan prior to the request being scheduled for consideration by the Town Council. If the Town Council does not approve the plan then the 20% cost share shall be refunded.~~

- (iv) The Town Council will consider a ~~petition~~ **request** to remove traffic calming devices on Town-maintained streets **by a requestor with a valid removal petition or by homeowners' association approval of a removal request following the same process for requesting installation.** ~~upon receipt of a petition signed by at least 70% of the owners of lots within the petition boundary area as noted in Section 7.2.1(L)(3)(b)(ii).~~ In the absence of a previously defined petition boundary area **where a homeowners' association does not exist,** the **Transportation Traffic Safety** Engineer shall prepare a new petition boundary area. ~~The homeowners' association may proceed with a petition to remove traffic calming devices at any time or delegate that authority to a requesting party. In the absence of a homeowners' association or if no action is taken by the homeowners' association within 30 calendar days of receiving a request the requesting party may proceed with a petition. If a removal petition is submitted at any time within five (5) years from the date of installation thereof, the requesting party or homeowners' association must pay the Town (in advance of removal) 100% of the estimated cost of removing such device(s); provided, however, that nothing shall limit or otherwise impair the Town's discretion to remove, at the Town's initiative, any traffic calming device on Town-maintained streets.~~

After all of the criteria have been satisfied, the Town Council will make the final decision whether to approve the proposed installation/removal project. The Town Council reserves the right to deny any request for installation/removal of traffic calming devices on Town-maintained streets, in its sole discretion. After the project has been approved by the Town Council and submitted to the Town's Director of **Transportation & Infrastructure Development** ~~Construction Management~~, the street will be rated for priority, and then scheduled for installation/removal of the traffic calming devices in accordance with the approved sketch plan.

PLANNING STAFF AND TRANSPORTATION & INFRASTRUCTURE DEVELOPMENT STAFF RECOMMENDATION:

Planning staff and Transportation & Infrastructure Development staff recommend approval of the proposed amendments.

PLANNING BOARD RECOMMENDATION:

The Planning Board heard these amendments at their February 12, 2024 meeting and unanimously recommended approval.



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)

Pursuant to the provisions of North Carolina General Statutes §160D-601 and to the Town of Apex Unified Development Ordinance (UDO) Sec. 2.2.11, 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 that are applicable Town-wide:

Requested by Transportation & Infrastructure Development Staff:

1. Amendments to Sec. 7.2.1.L *Traffic Calming* in order to update the criteria and process used for warranting and approving traffic calming devices as well as the roles and responsibilities within the Town for collecting traffic data and administering the traffic calming program.

Public Hearing Location: Apex Town Hall
Council Chamber, 2nd Floor
73 Hunter Street, Apex, North Carolina

Town Council Public Hearing Date and Time: February 27, 2024 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 a written statement by email to public.hearing@apexnc.org, or submit it to the Office of the Town Clerk (73 Hunter Street or USPS mail - P.O. Box 250, Apex, NC 27502), at least two business days prior to the Town Council vote. You must provide your name and address for the record. The written statements will be delivered to the Town Council members prior to their vote. Please include the Public Hearing name in the subject line.

The UDO can be accessed online at: <http://www.apexnc.org/233>.

Dianne F. Khin, AICP
Planning Director

Published Dates: February 5-27, 2024



TOWN OF APEX

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

NOTIFICACIÓN PÚBLICA DE AUDIENCIAS PÚBLICAS

Modificación de la Ordenanza de Desarrollo Unificado (UDO)

De conformidad con las disposiciones de los Estatutos Generales de Carolina del Norte §160D-601 y con la sección 2.2.11 de la Ordenanza de Desarrollo Unificado (UDO) del pueblo de Apex, por la presente se notifican las audiencias públicas ante el Consejo Municipal del pueblo de Apex a fin de solicitar comentarios relativos a la siguiente modificación de la Ordenanza de Desarrollo Unificado que se aplican a toda la ciudad:

A solicitud del personal de Desarrollo de Transporte e Infraestructura:

1. Enmiendas a la sección 7.2.1.L *Moderación del tráfico* para actualizar los criterios y el proceso utilizados para garantizar y aprobar los dispositivos de moderación de tráfico, así como las funciones y responsabilidades dentro del ayuntamiento para la recopilación de datos de tráfico y la administración del programa de moderación del tráfico.

Lugar de la audiencia pública: Ayuntamiento de Apex
Cámara del Consejo, 2º piso
73 Hunter Street, Apex, Carolina del Norte

Fecha y hora de la audiencia pública del Consejo Municipal: 27 de febrero de 2024 6:00 PM

Puede asistir a la reunión de manera presencial o seguir la transmisión en directo por YouTube a través del siguiente enlace: <https://www.youtube.com/c/townofapexgov>.

Si no puede asistir, puede enviar una declaración escrita por correo electrónico a public.hearing@apexnc.org, o presentarla a la Oficina del Secretario Municipal (73 Hunter Street o por correo USPS a P.O. Box 250, Apex, NC 27502), al menos dos días hábiles antes de la votación del Consejo Municipal. Debe proporcionar su nombre y dirección para que conste en el registro. Las declaraciones escritas se entregarán al Consejo Municipal antes de la votación. No olvide incluir el nombre de la audiencia pública en el asunto.

Se puede acceder a la UDO en línea en: <http://www.apexnc.org/233>.

Dianne F. Khin, AICP
Directora de Planificación

Fechas de publicación: 5 de febrero – 27 de febrero de 2024



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)

Pursuant to the provisions of North Carolina General Statutes §160D-601 and to the Town of Apex Unified Development Ordinance (UDO) Sec. 2.2.11, 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 that are applicable Town-wide:

Requested by Transportation & Infrastructure Development Staff:

1. Amendments to Sec. 7.2.1.L *Traffic Calming* in order to update the criteria and process used for warranting and approving traffic calming devices as well as the roles and responsibilities within the Town for collecting traffic data and administering the traffic calming program.

Public Hearing Location: Apex Town Hall
Council Chamber, 2nd Floor
73 Hunter Street, Apex, North Carolina

Town Council Public Hearing Date and Time: February 27, 2024 6:00 PM

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The UDO can be accessed online at: <http://www.apexnc.org/233>.

Dianne F. Khin, AICP
Planning Director

Published Dates: February 5-27, 2024



TOWN OF APEX

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

NOTIFICACIÓN PÚBLICA DE AUDIENCIAS PÚBLICAS

Modificación de la Ordenanza de Desarrollo Unificado (UDO)

De conformidad con las disposiciones de los Estatutos Generales de Carolina del Norte §160D-601 y con la sección 2.2.11 de la Ordenanza de Desarrollo Unificado (UDO) del pueblo de Apex, por la presente se notifican las audiencias públicas ante el Consejo Municipal del pueblo de Apex a fin de solicitar comentarios relativos a la siguiente modificación de la Ordenanza de Desarrollo Unificado que se aplican a toda la ciudad:

A solicitud del personal de Desarrollo de Transporte e Infraestructura:

1. Enmiendas a la sección 7.2.1.L *Moderación del tráfico* para actualizar los criterios y el proceso utilizados para garantizar y aprobar los dispositivos de moderación de tráfico, así como las funciones y responsabilidades dentro del ayuntamiento para la recopilación de datos de tráfico y la administración del programa de moderación del tráfico.

Lugar de la audiencia pública: Ayuntamiento de Apex
Cámara del Consejo, 2º piso
73 Hunter Street, Apex, Carolina del Norte

Fecha y hora de la audiencia pública del Consejo Municipal: 27 de febrero de 2024 6:00 PM

Puede asistir a la reunión de manera presencial o seguir la transmisión en directo por YouTube a través del siguiente enlace: <https://www.youtube.com/c/townofapexgov>.

Si no puede asistir, puede enviar una declaración escrita por correo electrónico a public.hearing@apexnc.org, o presentarla a la Oficina del Secretario Municipal (73 Hunter Street o por correo USPS a P.O. Box 250, Apex, NC 27502), al menos dos días hábiles antes de la votación del Consejo Municipal. Debe proporcionar su nombre y dirección para que conste en el registro. Las declaraciones escritas se entregarán al Consejo Municipal antes de la votación. No olvide incluir el nombre de la audiencia pública en el asunto.

Se puede acceder a la UDO en línea en: <http://www.apexnc.org/233>.

Dianne F. Khin, AICP
Directora de Planificación

Fechas de publicación: 5 de febrero – 27 de febrero de 2024

PLANNING BOARD REPORT TO TOWN COUNCIL
Unified Development Ordinance Amendments: Traffic Calming

Planning Board Meeting Date: February 12, 2024



Report Requirements:

Per NCGS §160D-604, all proposed amendments to the zoning ordinance or zoning map shall be submitted to the Planning Board for review and comment. If no written report is received from the Planning Board within 30 days of referral of the amendment to the Planning Board, the Town Council may act on the amendment without the Planning Board report. The Town Council is not bound by the recommendations, if any, of the Planning Board.

Planning Board Recommendation:

Motion: To recommend approval as proposed.

Introduced by Planning Board member: Tim Royal

Seconded by Planning Board member: Steven Rhodes

- ☒ Approval of the proposed UDO amendment(s)
☐ Approval of the proposed UDO amendment(s) with the following conditions:

- ☐ Denial of the proposed UDO amendment(s)

With 8 Planning Board Member(s) voting "aye"

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

Reasons for dissenting votes:

This report reflects the recommendation of the Planning Board, this the 12th day of February 2024.

Attest:



Tina Sherman, Planning Board Vice-Chair

Dianne F. Khin Digitally signed by Dianne F. Khin
Date: 2024.02.12 18:57:42 -05'00'

Dianne Khin, Planning Director

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 7.2.1.L 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:

7.2.1 Streets

...

L) *Traffic Calming*

- 1) No development proposal shall be permitted to provide for the installation of traffic calming measures in an adjacent or nearby existing neighborhood unless the street(s) meet the criteria in ~~Section 7.2.1.(L).{3}~~ of this Ordinance.
- 2) All new residential developments shall provide for the installation for traffic calming measure(s) on each Residential Street within the development where the length of the public street exceeds 1,000 feet. The location and type of traffic calming measure(s) shall be determined by the Planning Department and ~~Transportation & Infrastructure Development Department~~Engineering Division of Construction Management. Traffic calming measure(s) include but are not limited to traffic circles, roundabouts, curb extensions, chicanes, splitter islands, and designated on-street parking. Vertical deflection devices such as Speed speed humps and/or speed cushions are only allowed as traffic calming measures in existing neighborhoods that meet the criteria in ~~Section 7.2.1.(L).{3}~~ of this Ordinance. Signs, markings, warning devices, educational outreach and enforcement measures may be recommended by Town staff based on engineering evaluation, but the implementation of such measures shall not be subject to the requirements of Sec. 7.2.1.L.3.
- 3) This section replaces the Town of Apex Traffic Calming Device Policy and Guidelines. The Town may install and maintain traffic calming devices on Town-maintained streets directly serving residential driveways where speeding vehicles are the primary concern. The following procedures are meant to ensure that traffic calming devices are installed and used as intended for the appropriate and consistent treatment on Town-maintained streets and receive the support of the affected neighborhood. Traffic calming devices are limited to vertical and/or horizontal changes in the vehicular travelway that may or may not involve adjustments to existing curb. Stop and yield signs are defined as traffic control devices and are not appropriate for use as traffic calming devices. Stop and yield signs are however subject to engineering evaluation by the Town's ~~Construction Management—Engineering~~ traffic engineering staff according to the Manual on Uniform Traffic Control Devices. Traffic calming requests are subject to the following qualifying criteria:
 - a) Streets on which traffic calming devices are requested must be residential and exhibit all of the following characteristics:
 - (i) Posted speed is 25 miles per hour;
 - (ii) ~~Roadway is not a~~ Major Collector Street or Thoroughfare;

- (iii) The average ~~85th-percentile~~ speed **meets or** exceeds ~~30-32~~ miles per hour during any one-hour period in which the **and the** number of vehicles **traveling on the street in a 24-hour period** meets or exceeds ~~100-800~~. The data collected to determine average speed may be based on an average of 100 vehicles per hour or more over multiple days of data; and
 - (iv) Installation of traffic calming devices along the street is not anticipated to create unacceptable delays in emergency response times for residences served by the street in the judgment of the Town's Police Chief and Fire Chief **or their designee(s)**.
- b) The request must be initiated, accepted, and supported by the property owners within the affected residential neighborhood:
- (i) The requesting party must submit a request to the ~~Transportation~~ **Traffic Safety** Engineer. Requests for traffic calming devices at a particular location are limited to one request within a 24-month period. ~~Upon consultation with the Town's Police Department, the Transportation Engineer may request a study be conducted or inform the requesting party that the location is not a candidate for traffic calming measures based on the Town's criteria. If requested, the Town's Police Department will conduct a traffic speed and volume survey and provide the results to the Transportation Engineer who will determine whether all criteria in Section 7.2.1 (L)(3) are satisfied.~~
 - (ii) If all the required criteria in Section 7.2.1(L)(3) are met, the ~~Transportation~~ **Traffic Safety** Engineer will notify the requesting party and homeowners' association (if one exists), develop a sketch plan reflecting the types and locations of the proposed traffic calming devices, and **only in the absence of a homeowners' association, prepare a petition boundary area.** The petition boundary area shall include at a minimum all lots adjacent to the street within the subdivision where traffic calming devices are proposed along with all cul-de-sac streets and loop streets dependent on that street for connectivity. **Before the Town can proceed with implementation of the traffic calming plan, either the requesting party must return a valid petition in favor of the plan according to Sec. 7.2.1.L.3.b.iii, or** ~~Once the homeowners' association~~ **must provide (1) proof of neighborhood notification, (2) meeting minutes, and (3) documentation of association approval of the plan to the Traffic Safety Engineer within six (6) months.** ~~is provided the sketch plan and petition boundary area, the association shall have 30 calendar days to either vote against the plan in order to end the process or vote to proceed, either with the association voting to administer a petition to the Transportation Engineer or the association delegating that~~

authority to the original requesting party. In either event the association shall notify the Transportation Engineer of the vote. If the homeowners' association takes no action or fails to notify the Transportation Engineer of the outcome of the vote within 30 calendar days of being provided the sketch plan and petition boundary area then the requesting party may proceed with the petition. The requesting party and homeowners' association may provide Town staff with input concerning the desired types and locations of the proposed traffic calming devices, but the final decision as to all elements of the sketch plan (including but not limited to the types and locations of the proposed traffic calming devices) shall be solely within the engineering judgment of Town staff.

- (iii) **In the absence of a homeowners' association, the** ~~The requesting party or homeowners' association for the affected residential neighborhood must provide the Town with a completed petition as noted in part Section 7.2.1(L)(3)(b)(ii) with at least 70% agreement from homeowners within the petition boundary area no later than six (6) months following the date the traffic calming sketch plan is provided of the traffic survey. Each signature line shall include the printed and signed name of at least one of the deed holders for the residential property, the address, and date signed.~~
- (iv) ~~The requesting party or homeowners' association must pay the Town 20% of the estimated cost of installing the requested traffic calming devices as reflected in the sketch plan prior to the request being scheduled for consideration by the Town Council. If the Town Council does not approve the plan then the 20% cost share shall be refunded.~~
- (iv) The Town Council will consider a petition request to remove traffic calming devices on Town-maintained streets by a requestor with a valid removal petition or by homeowners' association approval of a removal request following the same process for requesting installation. upon receipt of a petition signed by at least 70% of the owners of lots within the petition boundary area as noted in Section 7.2.1(L)(3)(b)(ii). In the absence of a previously defined petition boundary area where a homeowners' association does not exist, the Transportation Traffic Safety Engineer shall prepare a new petition boundary area. The homeowners' association may proceed with a petition to remove traffic calming devices at any time or delegate that authority to a requesting party. In the absence of a homeowners' association or if no action is taken by the homeowners' association within 30 calendar days of receiving a request the requesting party may proceed with a petition. If a removal petition is submitted at any time within five (5) years from the date of installation thereof, the requesting party or homeowners' association must pay the Town (in advance of

~~removal) 100% of the estimated cost of removing such device(s); provided, however, that nothing shall limit or otherwise impair the Town's discretion to remove, at the Town's initiative, any traffic calming device on Town-maintained streets.~~

After all of the criteria have been satisfied, the Town Council will make the final decision whether to approve the proposed installation/removal project. The Town Council reserves the right to deny any request for installation/removal of traffic calming devices on Town-maintained streets, in its sole discretion. After the project has been approved by the Town Council and submitted to the Town's Director of **Transportation & Infrastructure Development**~~Construction Management~~, the street will be rated for priority, and then scheduled for installation/removal of the traffic calming devices in accordance with the approved sketch plan.

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 _____ 2024.

Introduced by Council Member _____

Seconded by Council Member _____

Attest:

TOWN OF APEX

Allen Coleman, CMC, NCCCC
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: February 27, 2024

Item Details

Presenter(s): Amanda Bunce, Current Planning Manager

Department(s): Planning

Requested Motion

Public Hearing and possible motion regarding various amendments to the Unified Development Ordinance (UDO).

Approval Recommended?

The Planning Department recommends approval.

The Planning Board heard these amendments at their February 12, 2024 meeting and unanimously recommended approval.

Item Details

Requested by the Planning Committee of Town Council and Planning Staff:

1. Amendments to Sec. 8.7 *Signs* in order to state the purpose of the sign ordinance; identify signs exempt from the sign ordinance; regulate temporary signs consistently by the categories of "commercial speech" and "non-commercial speech" to comply with Supreme Court rulings; prohibit all temporary signs within Town rights-of-way except for exempt signs; and remove interactive digital displays as a permitted sign type. Also proposed are amendments to Secs. 4.5.5 *Home Occupation*; 4.6 *Temporary Uses and Structures*; 8.6.4 *Exterior Lighting, Design Requirements*; and 8.6.5 *Exterior Lighting, Exemptions* in order to update references to the sign standards. The proposed effective date is April 1, 2024.

Requested by Planning Staff:

2. Amendments to Sec. 5.1.1 *Table of Intensity and Dimensional Standards, Residential Districts* in order to correct a typographical error for the section reference in the Additional Regulations column for the use Townhouses, detached.

Attachments

- PH7-A1: Staff Report - Unified Development Ordinance (UDO) Amendments - February 2024 - Signs and Typo Correction
 - Public Notice - Unified Development Ordinance (UDO) Amendments - February 2024 - Signs and Typo Correction
- PH7-A2: Planning Board Report to Town Council - Unified Development Ordinance (UDO) Amendments - February 2024 - Signs and Typo Correction

- PH7-A3: Ordinance - Unified Development Ordinance (UDO) Amendments - February 2024 - Signs and Typo Correction



STAFF REPORT

Amendments to the Unified Development Ordinance

February 27, 2024 Town Council Meeting



Requested by Town Council and Planning Staff:

1. **Amendments to Sec. 8.7 *Signs* in order to state the purpose of the sign ordinance; identify signs exempt from the sign ordinance; regulate temporary signs consistently by the categories of “commercial speech” and “non-commercial speech” to comply with Supreme Court rulings; prohibit all temporary signs within Town rights-of-way except for exempt signs; and remove “window interactive digital display” as a permitted sign type. Also proposed are amendments to Secs. 4.5.5 *Home Occupation*; 4.6 *Temporary Uses and Structures*; 8.6.4 *Exterior Lighting, Design Requirements*; and 8.6.5 *Exterior Lighting, Exemptions* in order to update references to the sign standards. The proposed effective date is April 1, 2024.**

Background Information

Planning staff have been receiving complaints from the public about temporary signs, while the issue of political signs in the right-of-way comes up every election season. The Supreme Court has ruled that all similar types of signs need to be treated the same. Therefore, all non-commercial temporary signs, including but not limited to, political signs, non-profit event signs, church/place of worship signs, etc. have to be allowed with the same maximum size and allowed in the same places for the same amount of time.

Planning staff initially sought input from the Planning Committee and then held a work session with Town Council to get direction on how to proceed in amending the temporary sign section of the Unified Development Ordinance in order to be compliant with the Supreme Court rulings. One main issue discussed was whether to allow any temporary signs that are not exempt within Town rights-of-way. The State already prohibits signs within its rights-of-way with limited exceptions.

8.7 SIGNS

The purpose of this Section is to accomplish the following objectives:

To ensure that signs are designed, constructed, installed, and maintained so that public safety and traffic safety are not compromised;

To minimize distractions and visual obstructions that contribute to traffic hazards and endanger public safety;

To allow for adequate and effective communication while preventing visual clutter; and

To ensure a high standard for the design and size of signs so that they enhance the aesthetic appearance and attractiveness of the community, and create an aesthetic environment that has a positive impact on economic development.

8.7.1 Permitted Signs: Location, Size, and Number

All signs are subject to Sec. 8.7.9 *Definitions*, ~~and~~ Article 12: *Definitions*, and Sec. 8.7.2 through 8.7.6. The sections listed specifically in Sec. 8.7.1 have been included for emphasis and user convenience and shall not be construed to exclude other sections of the Ordinance. **Any sign permitted by these regulations may display or publish a non-**

commercial message. This includes both signs that require and do not require a permit.
Exemptions from Sec. 8.7.1 are found in subsection 8.7.1.C.

Table 8.7.1

P = allowed with permit X = not allowed √ = allowed without permit

| Sign Type | Conditions | Residential Uses | Commercial Uses | Industrial Uses | Office & Institutional Uses | Illumination ¹ |
|--|------------------------------|------------------|-----------------|-----------------|-----------------------------|---------------------------|
| Permanent Sign Types | | | | | | |
| 1 Awning | 8.7.1.A.1 | X | P | P | P | Yes |
| 2 Reserved Home Occupation | 8.7.1.A.2 | P | X | X | X | No |
| 3 Building Marker | 8.7.1.A.3 | √ | √ | √ | √ | Yes |
| 4 Civic Club Non-profit (Off-Premise) Reserved | 8.7.1.A.4 | X | P | P | P | No |
| 5 Directory: | 8.7.1.A.5 | X | P | P | P | Yes |
| 6 • Building | 8.7.1.A.6 | P | P | P | P | Yes |
| 7 • Ground | | | | | | |
| 7 Flags | 8.7.1.A.7 | √ | √ | √ | √ | Yes |
| 8 Gasoline Sales | 8.7.1.A.8 | X | √ | √ | X | Yes |
| 9 Governmental | 8.7.1.A.9 | √ | √ | √ | √ | Yes |
| 10 Health/Hospital | 8.7.1.A.10 | X | X | X | P | Yes |
| 11 Incidental | 8.7.1.A.11 | √ | √ | √ | √ | Yes |
| 12 Marquee | 8.7.1.A.12 | X | √ | X | X | Yes |
| 13 Menu Board | 8.7.1.A.13 | X | P | X | X | Yes |
| 14 Principal Ground: | 8.7.1.A.14 | X | P | P | P | Yes |
| 15 • Non-residential | 8.7.1.A.15 | P | X | X | X | Yes |
| 16 • Residential | | | | | | |
| 16 Special/Historic | 8.7.1.A.16 | P | P | P | P | Yes |
| 17 Suspended | 8.7.1.A.17 | X | P | P | P | Yes |
| 18 Wall | 8.7.1.A.18 | X | P | P | P | Yes |
| 19 Interior Sign | 8.7.1.A.19 | X | P | X | X | Yes |
| 31 B. 6 Window | 8.7.1.A.31 B.6 | X | √ | √ | √ | Yes |
| 31 Window Interactive Digital Display | 8.7.1.A.31 | X | P | P | P | Yes |
| Temporary Sign Types | | | | | | |
| 1 On-premise, Non-commercial Temporary Signs | 8.7.1.B.1 | X | √ | √ | √ | No |
| 20 Construction Sites/Development: | 8.7.1.A.20-a B. 2 | X | P | P | P | No |
| 2 • Non-residential | 8.7.1.A.20-b | P | X | X | X | No |
| 21 • or mixed use | | | | | | |
| 21 • Residential | | | | | | |
| 21 Contractor | 8.7.1.A.21 | √ | √ | √ | √ | No |
| 22 Event: | 8.7.1.A.22 | X | P | P | P | No |
| 23 • For-profit | 8.7.1.A.23 | P | P | P | P | No |
| 24 • Non-profit | 8.7.1.A.24 | √ | √ | √ | √ | No |
| 24 • Public | | | | | | |
| 3 Event, commercial | 8.7.1.B.3 | X | √ | √ | √ | No |
| 4 Event, non-commercial | 8.7.1.B.4 | X | √ | √ | √ | No |
| 25 Coming Soon/Grand Opening/Closing | 8.7.1.A.25 | X | P | P | P | No |
| 26 Holiday | 8.7.1.A.26 | √ | √ | √ | √ | Yes |

| Sign Type | | Conditions | Residential Uses | Commercial Uses | Industrial Uses | Office & Institutional Uses | Illumination ¹ |
|--|----------------------------|------------------|------------------|-----------------|-----------------|-----------------------------|---------------------------|
| 27 | Political | 8.7.1.A.27 | ✓ | ✓ | ✓ | ✓ | No |
| 28 | Public Notice | 8.7.1.A.28 | ✓ | ✓ | ✓ | ✓ | No |
| 29 | Real Estate | 8.7.1.A.29 | ✓ | ✓ | ✓ | ✓ | No |
| 30 | Seasonal Outdoor Sales | 8.7.1.A.30 | P | P | P | P | Yes |
| 31 | Window | 8.7.1.A.31 | X | ✓ | ✓ | ✓ | No |
| 32 | Yard Sale | 8.7.1.A.32 | ✓ | ✓ | ✓ | ✓ | No |
| 7 | Sandwich Board Sign | 8.7.1.B.7 | X | ✓ | X | ✓ | No |
| Prohibited | | | | | | | |
| See Sec. 8.7.2 <i>Prohibited Signs</i> | | | | | | | |
| Central Business District, Apex National Register Historic District, Small Town Character Overlay District, and Mixed Office-Residential-Retail, and Downtown Festival District | | | | | | | |
| See Sec. 8.7.7 <i>Central Business District, Apex National Register Historic District, Small Town Character Overlay District, and Mixed Office-Residential-Retail, and Downtown Festival District</i> | | | | | | | |
| Planned Developments PUD-CZ, TND-CZ, MEC-CZ (except those governed by Sec. 8.7.7) | | | | | | | |
| See Sec. 2.3.4 | | | | | | | |
| Sign Design and Color | | | | | | | |
| ¹ Subject to Sec. 8.7.4.C <i>Uniform Color Scheme</i> , 8.6 <i>Exterior Lighting</i> , and 8.7.6.B <i>Sign illumination</i> . | | | | | | | |

A) **Conditions-Permanent Sign Types**

Permanent signs are allowed as follows:

...

2) **Reserved Home Occupation Signs**

Signs advertising home occupations shall be permitted where a home occupation has been approved per Sec. 4.5.5 Home Occupation. Home Occupation signs shall be permitted as follows:

- a) **A Home Occupation sign permit is required and shall be obtained from the Planning Department;**
- b) **In addition to meeting the requirements of Sec. 8.7.4 Sign Design and Color, plastic and/or acrylic sign faces are prohibited;**
- c) **A sign is permitted on the home where a Home Occupation has been approved, provided:**
 - (i) **The sign shall be no larger than 12 inches by 12 inches;**
 - (ii) **The sign shall be placed no higher than six (6) feet at the front door; and**
 - (iii) **The sign shall not be internally lit; external lighting shall be limited to traditional residential lighting fixtures.**
- d) **Where a home occupation exists on a lot with a minimum of 300 feet of linear road frontage, one (1) permanent sign may be placed in the front yard, provided:**
 - (i) **The sign shall be no larger than 18 inches by 24 inches;**

(ii) The maximum height of the sign shall be four (4) feet;

(iii) The sign shall not be internally lit;

(iv) The sign shall not be located in the right-of-way and shall be located so that it does not obscure vision at driveway sight triangles.

...

4) Civic Club Non-Profit (Off-Premise) Reserved

A sign (emblem or insignia) advertising for a non-profit organization (charitable, civic, fraternal, patriotic, religious, or similar organization) and meets the conditions below:

The emblem or insignia shall be allowed provided that:

- a) Limited to three (3) signs per organization.
- b) Located a minimum of 15 feet from any public right of way.
- c) A maximum of two (2) square feet in size and a maximum of four (4) feet in height.
- d) Not displayed in connection with a commercial promotion or as an advertising device.
- e) Shall obtain property owner permission through a letter.

...

B) Temporary Sign Types

Temporary signs are allowed as follows provided that no temporary signs are permitted within Town rights of way abutting Town-owned property with the exception of banners that hang above the street which are in accordance with Sec. 8.7:

1) On-premise, Non-commercial Temporary Signs

A temporary sign with a non-commercial message that is not associated with an event nor located on residential property shall be allowed as follows:

- a) **Only one (1) sign shall be permitted on-site.**
- b) **Such sign shall not exceed 16 square feet and four (4) feet in height if freestanding or 32 square feet if affixed to the building.**
- c) **The permit for such sign shall be limited to 60 days each.**
- d) **Such sign shall be located on private property.** Written permission from the property owner shall be obtained.

2) Construction Sites/Development

An on-site ~~premise~~ temporary sign erected during the active construction of a development project that meets the conditions below:

- a) ~~Non-Residential or Mixed-Use (including both non-residential and residential uses) Construction/Development signs shall be allowed provided that:~~
 - ~~(i) a)~~ One (1) sign **is allowed** per major ~~major~~ **full-service** vehicular entrance. If there is no full-service vehicular entrance, then such sign may be located at one (1) limited-service vehicular entrance.
 - ~~(ii) b)~~ ~~No s~~Such temporary signs shall **not** exceed ~~64-32~~ square feet or a maximum height of five (5) feet.
 - ~~(iii)~~ Permits for such temporary signs shall be limited to six (6) months with renewable option upon written request for an additional six (6) month period.
 - ~~(iv) c)~~ Construction Plan approval is required prior to **approval of the** sign permitting.
 - ~~(v) d)~~ Sign shall be removed **prior to** approval of **the** Certificate of Occupancy **for the final building in a non-residential, multi-family, or mixed-use development and no later than the time at which 100% of the properties within a residential subdivision have initially been sold to a private owner or initially leased to the first resident.**
- b) ~~Residential Construction/Development signs shall be allowed provided that:~~
 - ~~(i)~~ A maximum of one (1) such sign per development at a residential development entrance shall be permitted.
 - ~~(ii)~~ Such sign shall not exceed 32 square feet and five (5) feet in height.
 - ~~(iii)~~ Construction Plan approval is required prior to sign permitting.
 - ~~(iv)~~ The sign shall be removed no later than the time at which 100% of the properties within the residential development have initially been sold to a builder or private owner.

21) ~~Contractor~~

~~An on-site temporary sign identifying the name of the contractor performing a service such as but not limited to painters, building contractor, roof cleaning, landscaper, and meets the conditions below:~~

- a) Contractor sign shall be allowed provided that:
- b) Contractor signs shall be no larger than five (5) square feet and four (4) feet tall.

- c) ~~One (1) sign per a contractor per a site shall be allowed.~~
- d) ~~Such sign may be displayed during the time and on-site that the service is being performed.~~



Figure 8.7.1.A.21: This contractor sign is of appropriate size.

~~22)~~ **3) Event, for-profit commercial**

Temporary on-premise signs for erected during commercial events shall be allowed provided that:

- a) ~~Only one (1)~~ **No more than three (3) signs** advertising promotional or other commercial events or fairs, carnivals, horse shows, and similar events shall be permitted on-site.
- b) **The combined sign area for the number of signs permitted** Such sign shall not exceed 16 square feet and four (4) feet in height if freestanding or 32 square feet if affixed to the building. **Freestanding signs shall not exceed four (4) feet in height.**
- c) **The effective date for a P** permits for such temporary sign(s) shall ~~be limited to no~~ **not be** sooner than ~~one~~ **two (2)** weeks prior to the commencement of the event. **Such sign(s)** and shall be removed no later than two **(2)** days after the end of the event.
- d) See Sec. 4.6 Temporary Uses and Structures.



Figure 8.7.1.A.22: This on-premise sign meets size requirements.

~~23)~~ **4) Event, non-profit non-commercial (on-premise and off-premise)**

a) ~~On-premise~~

Temporary, on-premise signs for erected during non-profit commercial events shall be allowed provided that:

- (i) ~~a)~~ **Signs advertising non-profit events shall be limited to No more than three (3) signs per lot for such event shall be permitted on-site.**

~~b) The combined sign area for the number of signs permitted and individually or cumulatively shall not exceed 32 square feet and five (5) feet in height. 16 square feet if freestanding or 32 square feet if affixed to the building. Freestanding signs shall not exceed four (4) feet in height.~~

~~(ii)c) Such signs shall be permitted no sooner than one~~ **The effective date for a permit for such sign(s) shall not be sooner than two (2) weeks** prior to the commencement of the event. **Such sign(s)** and shall be removed no later than two **(2)** days after the end of the event.

~~(iii) If the sign display area is permanent but the message displayed is subject to periodic changes, then the sign shall be regarded as permanent.~~

~~(iv)d) Signs shall be non-illuminated only.~~

~~(v)e) The~~ **One (1)** structure holding the ~~banners~~ **sign, such as a banner,** may remain between events and shall not be used to display ~~banners or signs~~ between events and shall not exceed a maximum of five (5) feet in height.

~~(vi)f) See Sec. 4.6 Temporary Uses and Structures.~~

~~b) Off-premise
Temporary off-premise signs for non-profit events shall be allowed provided that:~~

~~(i) Signs advertising fund raisers, school events, fairs, revivals and other similar events shall be limited to 30 signs event and each shall not exceed five (5) square feet in size and four (4) feet in height.~~

~~(ii) Such signs shall be permitted no sooner than one week prior to the commencement of the event and shall be removed no later than two (2) days after the end of the event.~~

~~(iii) Written permission from the property owner shall be obtained.~~

~~(iv) See Sec. 4.6 Temporary Uses and Structures.~~

~~24) Event public (on-premise and off-premise)~~

~~Public event signs or banners shall be allowed provided that:~~

~~a) Such signs or banners shall be permitted only for public events proclaimed by the Town Council.~~

- b) Such signs may be located in the public right-of-way but outside of the sight triangles.
- c) Such signs shall be removed within 48 hours after the end of the event.

~~25) *Coming Soon/Grand Opening/Closing*~~

~~A sign advertising the permitted during the initial opening or closing of a business and meets the conditions below:~~

~~Coming Soon/Grand Opening/Closing signs shall be allowed provided that:~~

- a) Such signs shall be attached to the building wall.
- b) The total signage shall not exceed 32 square feet.
- c) Permits for such temporary signs shall be limited to 60 days each.



Figure 8.7.1.A.25: This banner meets the maximum size requirement.

~~26) *Holiday*~~

~~Displays erected on a seasonal basis in observance of religious, national, or state holidays, which are not intended to be permanent and contain no commercial message and meets the conditions below:~~

~~Holiday displays as a part of customary holiday decorations shall be allowed provided that:~~

- a) ~~No temporary signs, banners, lighting, or displays shall be on display for more than 60 days.~~
- b) ~~Such signs shall display no commercial message.~~



Figure 8.7.1.A.26: Customary holiday display

~~27) — *Political*~~

~~A temporary sign of a candidate, party, or group supporting the candidacy of an individual for office or expressing or soliciting public support of, or opposition to, any public issues and meets the conditions below:~~

~~Political signs shall be allowed provided that:~~

- ~~a) — Such sign(s) may be placed within Town of Apex public street rights-of-way during the period 45 days prior to election to which the sign is directed, provided that no such signs shall be:

 - ~~(i) — Located within a sight triangle,~~
 - ~~(ii) — Located in a way to obscure vision or obstruct traffic,~~
 - ~~(iii) — Located or installed in a manner that creates a hazard,~~
 - ~~(iv) — Located on utility poles or within street medians,~~
 - ~~(v) — Located on other Town-owned property.~~~~
- ~~b) — Such sign(s) shall not exceed five (5) square feet and a height of four (4) feet.~~
- ~~c) — Where such signs refer to an election or other political event, they shall be removed within 10 days after the election or political event.~~

~~28) — *Public Notice*~~

~~A temporary sign advertising official notices or advertisements posted under the direction of a public official.~~

~~Official notices or advertisements posted or displayed by or under the direction of a public official in the performance of official duties, or by trustees under deeds of trusts or other similar instruments, or court appointed commissioners shall be allowed.~~

~~29) — *Real Estate*~~

~~A temporary sign advertising the real estate upon which the sign is located as being for rent, lease or sale and meets the conditions below:~~

Real estate signs shall be allowed provided that:

- a) ~~Single family, duplex, triplex, quadplex, townhome, condo or residential lot or dwelling;~~
 - (i) ~~A maximum of one (1) real estate sign per lot frontage advertising for rent, sale, or lease.~~
 - (ii) ~~A maximum of one (1) real estate sign per lot frontage advertising an Open House. Such sign shall be displayed no longer than 36 hours before the event and shall be removed at the conclusion of the event.~~

~~Such signs shall not exceed five (5) square feet and four (4) feet in height and shall be located on the property to which the advertisement is referring. The signs shall be removed when property is sold by the transfer of title to the new owner. Signs are not allowed off premise or in private common areas.~~

- b) ~~No multi family apartment leasing signage allowed except as specifically stated in Sec. 8.7.1.A.15.b.vi.~~
- c) ~~Residential subdivision sales center~~
 - (i) ~~One (1) residential subdivision "sales center" sign, not to exceed 16 square feet or five (5) feet in height is permitted on the lot on which the sales center is located. The sign shall be removed no later than the time at which 100% of the properties within the residential development have initially been sold to a builder or private owner.~~
 - (ii) ~~Directional signs shall be permitted at the first crossroad beyond the entrance of the subdivision within the subdivision directing traffic to the residential subdivision "sales center". Directional signs shall be a maximum of four (4) square feet with a maximum height of four (4) feet.~~
- d) ~~A maximum of one (1) real estate sign per lot frontage advertising the rent, sale or lease of a non-residential lot or structure including tenant spaces located within a structure. Such sign shall not exceed 16 square feet and five (5) feet in height and shall be located on the property to which the advertisement is referring. The sign shall be removed when the rented or leased property is occupied by the new tenant or when the property is sold by the transfer of title to the new owner. Signs are not allowed off premise or in private common areas.~~

30) ~~Seasonal Outdoor Sales~~

a) Seasonal Agricultural Signs for Products Sold Where They Are Grown

- (i) ~~Definitions.~~ (a) “Seasonal Agricultural Signs” are signs that advertise seasonal agricultural products which were grown on the property where they are offered for sale and that contain no other messages; (b) “On-Site Agricultural Products” are seasonal agricultural products which were grown on the property where they are offered for sale; and (c) “Off-Site Agricultural Products” are seasonal agricultural products that were not grown on the property where they are offered for sale.
- (ii) ~~On-Premises Signs.~~ Pursuant to UDO Sec. 1.4.4, on a private property where On-Site Agricultural Products are sold, Seasonal Agricultural Signs are not regulated by the Town of Apex.
- (iii) ~~Off-Premises Signs.~~ For each private property where On-Site Agricultural Products are sold, 30 Off-Premises Seasonal Agricultural Signs that advertise the products shall be allowed. Off-premises signs allowed by this subsection may be displayed only on private property and only with the permission of the off-premises private property owner. Only one off-premises sign is allowed per off-premises private property.
- (iv) ~~Duration.~~ For each private property where On-Site Agricultural Products are sold, Off-Premises Seasonal Agricultural Signs may be displayed only while the advertised products are actually for sale, and only during one 45 consecutive day period per calendar year per On-Site Agricultural Product. The signs shall be removed immediately upon the sooner of the end of the 45 day period or the end of the sale of the products. At no time shall more than 30 Off-Premises Seasonal Agricultural Signs be displayed for a given property regardless of the number of agricultural products being sold on that property.
- (v) ~~Physical Characteristics.~~ Each Off-Premises Seasonal Agricultural Sign shall not exceed five (5) square feet in area and four (4) feet in height. Off-Premises Seasonal Agricultural Signs may only be ground signs.
- (vi) ~~Limitation on Off-Site Agricultural Products.~~ Off-Site Agricultural Products shall not be a majority of the agricultural products offered for sale on a property during any time that an Off-Premises Seasonal Agricultural Sign is being displayed related to the property.
- (vii) ~~Contiguous Properties.~~ Contiguous properties owned by the same person, family, establishment, or entity shall be treated as one property for the purposes of the Section.
- (viii) ~~Limitations Are Comprehensive.~~ The limitations on Off-Premises Seasonal Agricultural Signs stated in Subsections i-vii of this

Section shall apply regardless of the number of persons, family members, establishments, or entities that sell the products on a property and regardless of the number of booths, stands, tables, tents, or the like that are located on a property.

(ix) ~~See Sec. 4.6 *Temporary Uses and Structures* and Sec. 8.7.6.B *Sign Illumination*.~~

b)5) Other Seasonal Outdoor Sales Signs

Outdoor temporary sales signs advertising a product of a particular season **not located on a bona fide farm** shall be permitted **on sites with a temporary use permit allowing seasonal outdoor sales** provided that:

(i) ~~Such signs shall advertise the sale of seasonal products such as, but not limited to, Christmas trees, pumpkins, and fireworks.~~

ii) **a)** Such signs shall be limited to 32 square feet and ~~four (4)~~ **five (5)** feet in height.

iii) **b)** Such signs shall be permitted for no more than 30 days.

iv) **c)** ~~See Sec. 4.6 *Temporary Uses and Structures* and Sec. 8.7.6.B *Sign Illumination*.~~

v) **d)** **Such signs authorized by this Subsection 8.7.1.A.30.b may shall** be displayed only on the premises where the seasonal products are being sold.



Figure 8.7.1.A.30: This seasonal sign is located in the right of way.

31)6) Window

Any sign, picture, symbol, or combination thereof that is placed on the outside or inside of a window or door and is visible from the exterior and meets the conditions below:

a) Signs shall be allowed on the show window glass of non-residential buildings provided that all such commercial and incidental signs (both temporary and permanent) do not exceed a combined maximum of 25% of the total window area per facade.

b) Temporary window signs shall only be installed on the inside of a window or door.

c) ~~An Interactive Digital Display is a digital window sign that is placed on the inside of a window or door and has a display area that changes at a predetermined frequency and upon a person~~

interacting directly with the sign. This type of window sign shall meet the conditions listed above in addition to the following:

- (i) ~~Such sign shall only be placed on a window that is angled at least 45 degrees from the street.~~
- (ii) ~~The display area shall not exceed three (3) square feet.~~
- (iii) ~~The display area of the sign shall remain static for at least five (5) minutes unless a person is actively using the interactive features of the display area.~~
- (iv) ~~Such sign shall be equipped with automatic dimming technology that adjusts the sign's brightness in direct correlation with natural ambient light conditions.~~
- (v) ~~The brightness shall not exceed six (6) foot candles from dusk to dawn when measured one (1) foot from the center of the display area.~~

~~32) Yard Sale~~

~~A sign advertising the sale of household articles in a residential yard or garage and meets the conditions below:~~

~~Yard sale signs shall be allowed provided that:~~

- a) ~~Such signs shall be no larger than five (5) square feet and four (4) feet in height.~~
- b) ~~Such signs shall be displayed no longer than 36 hours before the event and shall be removed at the conclusion of the event.~~
- c) ~~Such signs shall be allowed one (1) on-site and two (2) off-site on private property only with permission of property owners.~~

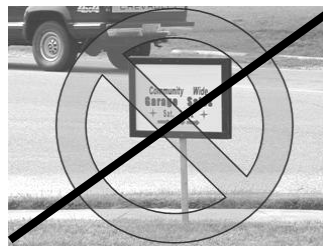


Figure 8.7.1.A.32: This sign is located in the public right of way.

7) Sandwich Board Sign

A sign consisting of two panels joined together at the top and configured in the shape of an inverted "V" so that the bottom of the sign rests upon or near the ground and meets the conditions below.

Sandwich Board Signs shall be allowed provided that:

- a) The total area of the signboard (including both sides) shall not exceed 14 square feet.
- b) Any sandwich board sign shall not exceed two (2) linear feet in width, with a maximum height of 42 inches.
- c) The sign must be constructed of materials that present a finished appearance. Rough cut plywood is not acceptable. The sign's lettering should be professionally painted or applied.
- d) The sign shall not interfere with vehicular circulation and shall be placed to allow for at least three (3) feet of sidewalk width for unrestricted pedestrian movement;
- e) The sign shall be removed at the end of the business day.
- f) Any person erecting a sandwich board sign shall indemnify and hold harmless the Town and its officers, agents, and employees from any claim arising out of the presence of the sign on Town property or public right-of-way.

B) *Home Occupation Signs*

Signs advertising home occupations shall be permitted where a home occupation has been approved per UDO Sec. 4.5.5 *Home Occupation*. Home Occupation signs shall be permitted as follows:

- 1) A Home Occupation sign permit is required and must be obtained from the Planning Department;
- 2) In addition to meeting the requirements of Sec. 8.7.4 *Sign Design and Color*, plastic and/or acrylic sign faces are prohibited;
- 3) A placard is permitted on the home where a Home Occupation has been approved, provided:
 - a) — The sign shall be no larger than 12 inches by 12 inches;
 - b) — The placard shall be placed no higher than 6' at the front door; and
 - c) — The sign shall not be internally lit; external lighting shall be limited to traditional residential lighting fixtures.
- 4) Where a home occupation exists on a lot with a minimum of 300 feet of linear road frontage, one sign may be placed in the front yard, provided:
 - a) — The sign shall be no larger than 18 inches by 24 inches;
 - b) — The maximum height of the sign shall be 4 feet;
 - c) — The sign shall not be internally lit;

- d) ~~The sign must be permanent and affixed to a permanent pole(s); and~~
- e) ~~The sign shall not be located in the right-of-way and must be located so that it does not obscure vision at driveway sight triangles.~~

C) The following are exempt from the standards in this Section:

- 1) Any official or public notice or warning sign required by a valid and applicable federal, state, or local law, regulation or chapter; by a public utility company; or by order of a court of competent jurisdiction.
- 2) Any sign located within the right-of-way or on private property that is used as a traffic control device. This includes, but is not limited to, any sign that is described and identified in the Manual on Uniform Traffic Control Devices (MUTCD) and approved by the Federal Highway Administrator as the National Standard, regulatory signs (that give notice of traffic laws or regulations), warning signs (that give notice of a situation that might not readily be apparent), and guide signs (that show route designations, directions, distances, services, points of interest, and other geographical, recreational, or cultural information).
- 3) Signs erected by or on behalf of a governmental or quasi-governmental agency including, but not limited to, noncommercial signs identifying a government building or service, traffic control signs, street name signs, street address signs, warning signs, safety signs, informational signs, traffic or other directional signs, public notices of events, public notice of government actions, proposed changes of land use, any proposed rezoning, or any other governmental sign.
- 4) Seasonal Agricultural Signs erected on a property where seasonal agricultural products were grown and are offered for sale. "On-Site Agricultural Products" are seasonal agricultural products which were grown on the property where they are offered for sale. Pursuant to UDO Sec. 1.4.4 *Bona Fide Farms Exempt*, on a private property where On-Site Agricultural Products are sold, Seasonal Agricultural Signs are not regulated by the Town of Apex.
- 5) Non-commercial signs on a residential property.

8.7.2 Prohibited Signs

The following signs are expressly prohibited within all zoning districts:

- A) Commercial and non-commercial signs within the public right-of-way. The only type of signs permitted in the public right-of-way are **with the exception of**

~~those permitted by NCGS 136-32, governmental or city-sponsored civic signs, or unless specifically authorized elsewhere in this s~~Section.

- B) ~~Unless specifically authorized elsewhere in this o~~Ordinance, no **Commercial** off-premise signs, as defined in Sec. 8.7.9 *Definitions*, are permitted.
- C) Any sign located in the required sight triangle, as defined in Sec. 8.7.9 *Definitions*.
- D) No sign may extend above a parapet or be placed upon a roof surface except that for purposes of this section, roof surfaces, such as a mansard roof, constructed at an angle of 75 degrees or more from horizontal shall be regarded as wall space.
- E) Any nonexempt sign which is not authorized by a valid permit.
- F) ~~Abandoned~~ **Obsolete** signs, as defined in Sec. 8.7.9 *Definitions*.
- G) Portable signs, as defined in Sec. 8.7.9 *Definitions*, except ~~signs authorized by Sec. 8.7.7 *Central Business District*~~ **sandwich board signs**.
- H) Animated Signs or Attracting Devices as defined in Sec. 8.7.9 *Definitions*, except decorative banners on residential property displayed by the resident with non-commercial messages are allowed. Banners are permitted only in accordance with the specific authorizations provided in Sec. 8.7.1.A.20-32B *Temporary Signs Types*. ~~This shall not include Interactive Digital Displays permitted under Sec. 8.7.1.A.31.c.~~
- I) ~~Illuminated tubing or strings of lights on trees and landscaping or outlining property lines or open sales areas, rooflines, or wall edges of a building. This requirement shall not apply to reasonable and customary holiday decorations as authorized by Sec. 8.7.1.A.26 *Holiday*.~~ **Reserved.**
- J) Signs comprised in whole or in part of exposed ~~neon~~ **lighted** tubing. This requirement shall not prohibit the use of ~~neon~~ **lighted** tubing when it is fully contained within a sign fixture or element thereof, or if it is a two (2) square foot or smaller sign displaying the word "OPEN" with or without a logo.
- K) Pole signs as defined in Sec. 8.7.9 *Definitions*.
- L) ~~Tourist-Oriented Directional Signs (TODS). North Carolina General Statutes Chapter 136 Article 11B.~~
- M) Billboard signs as defined in Sec. 8.7.9 *Definitions*.
- N) Changeable copy sign(s) as defined in Sec. 8.7.9 *Definitions*, except for gasoline sales sign, menu boards, and marquee that comply with this Ordinance. ~~This shall not include Interactive Digital Displays permitted under Sec. 8.7.1.A.31.c.~~

- O) Series signs as defined in Sec. 8.7.9 *Definitions*.
- P) Box-style signs with internally-illuminated backgrounds. Individually illuminated letters and logos are permitted.
- Q) Exposed LED signs with the exception of LED signs used to display gas prices as permitted by Sec. 8.7.1.A.8.b.

...

8.7.4 Sign Design and Color

- A) ~~*Items of Information*~~***Finishes***
~~In order to increase readability and to decrease confusion, the number of items of information per sign shall be kept to a minimum. All signs requiring permits must be constructed of materials that present a finished appearance. Rough cut plywood is not acceptable. The sign's lettering should be professionally painted or applied; a "yard sales" or "graffiti" look with hand painted or paint stenciled letters is not acceptable.~~

...

...

8.7.6 Installation Requirements

...

- B) Sign Illumination
 - 3) Flashing or intermittent lights. No sign shall contain or be illuminated by flashing or intermittent light or lights of changing degrees of intensity. ~~This shall not include Interactive Digital Displays permitted under Sec. 8.7.1.A.31.e.~~

...

- C) *Sign maintenance*

...

- ~~2) *Abandonment of signs.* If a sign advertises any enterprise or activity, including but not limited to a business, service, commodity, accommodation, or attraction that is no longer operating or being offered or conducted, that sign shall be considered abandoned and shall, within 90 days of the enterprise or activity ceasing, be removed by the sign owner, owner of the property where the sign is located or other party having control over the sign.~~

- ~~32) ...~~

...

8.7.7 Central Business District, Apex National Register Historic District, Small Town Character Overlay District, and Mixed Office-Residential-Retail, and Downtown Festival District

- A) *Sign Types*

Table 8.7.7.A

P = allowed with permit

| | Sign Type | Conditions | Permitted | Illumination |
|---|----------------|------------|-----------|----------------|
| 1 | Projecting | 8.7.7.A.1 | P | Sec. 8.7.7.B.4 |
| 2 | Sandwich Board | 8.7.7.A.2 | P | Sec. 8.7.7.B.4 |
| 3 | Wall | 8.7.7.A.3 | P | Sec. 8.7.7.B.4 |
| 4 | Bracket | 8.7.7.A.4 | P | Sec. 8.7.7.B.4 |
| 5 | Awning | 8.7.7.A.5 | P | Sec. 8.6.4.F.4 |

...

2) *Sandwich Board Sign*

A sign consisting of two panels joined together at the top and configured in the shape of an inverted “V” so that the bottom of the sign rests upon or near the ground and meets the conditions below:

Sandwich Board Signs shall be allowed provided that:

- a) — The total area of the signboard (including both sides) shall not exceed 14 square feet.
- b) — Any sandwich board sign shall not exceed two (2) linear feet in width, with a maximum height of 42 inches. Within these specified maximum dimensions, creative shapes that reflect the theme of the business are encouraged (i.e. ice cream shops may display a sign in the shape of an ice cream cone).
- c) — The sign must be constructed of materials that present a finished appearance. Rough cut plywood is not acceptable. The sign’s lettering should be professionally painted or applied; a “yard sales” or “graffiti” look with hand painted or paint stenciled letters is not acceptable, however, chalkboard signs shall be permitted. The written message of the sign should be kept to the minimum necessary to communicate the name of the business or a special message of the business.
- d) — The sign shall be located within four (4) feet of the main building entrance to the business and its location shall not interfere with pedestrian or vehicular circulation;
- e) — The sign shall be removed at the end of the business day.
- f) — Any person erecting a sandwich board sign shall indemnify and hold harmless the Town and its officers, agents, and employees from any claim arising out of the presence of the sign on Town property or public right of way.
- g) **In addition to the standards in Sec. 8.7.1.B.7 such** Sandwich boards **signs** located in the Central Business District shall either be located in the designated area for outdoor storage, display, and sales/rentals for that business or on the brick utility strip in front of the business.

...

...

8.7.9 Definitions

Abandoned Sign

~~Any sign that advertises any enterprise or activity, including but not limited to a business, service, commodity, accommodation, or attraction that is no longer operating or being offered or conducted and has been vacated for a period of more than 90 days of the enterprise or activity ceasing.~~

Animated Sign or Attracting Device

Any sign that uses movement or change of lighting to depict action or create a special effect, scene, or attract attention, including beacons, pennants, hand-held signs, **feather signs**, streamers, balloons or other inflatables used as signs, spot lights and search lights, high-intensity illuminated signs, electronic or mechanical indications of time and temperature, or other moving or flashing signs. ~~This shall not include Interactive Digital Displays permitted under Sec. 8.7.1.A.31.e.~~

Awning

A material such as fabric, metal, flexible plastic, or vinyl that is supported by or attached to a frame and that extends from the exterior wall of a building without ground-mounted support.

Bracket Sign

A ground sign with one post and extending arm from which the sign hangs.

Banner

A temporary sign constructed of lightweight fabric or similar material such as, but not limited to vinyl, fabric, or paper.

Billboard

An off-premise outdoor advertising sign owned by a person, corporation, or other entity that engages in the business of selling the advertising or communicative space on that sign.

Building Façade

The entire area of a building facing or side extending from the roof or parapet to the ground and from one corner of the building to another but does not include any structural or nonstructural elements which extend beyond the roof of a building.

Canopy

A structure constructed of rigid materials, including but not limited to metal, wood, concrete, canvas, or glass, which is attached to and supported by a building, or which is free-standing and supported by column, poles, or braces extended to the ground.

Changeable Copy

A sign or portion of a sign with characters, letters or illustrations that can be changed or rearranged without altering the face or the surface of the sign. ~~This shall not include Interactive Digital Displays permitted under Sec. 8.7.1.A.31.e.~~

Commercial Message

Any sign, wording, logo, or other representation that names or advertises a business, product, service or other commercial activity.

Copy (permanent or temporary)

The wording or pictorial graphics on a sign surface either in permanent or removable form.

Development

Single-use lots, multiple-use lots, shopping centers with or without outparcels connected thereto as shown on an approved Master Subdivision Plan, or any other group of non-residential projects planned as a total entity.

Exterior Lighting

Lighting, such as that used in and around buildings, recreation areas, parking lots, and signs designed to illuminate certain areas for visibility.

Feather Sign

A sign extending in a sleeve-like fashion down a telescoping or fixed pole that is mounted in the ground or on a building or stand. A feather sign is usually shaped like a sail or feather, and attached to the pole support on one (1) vertical side.

~~Major~~ **Full-Service Vehicular Entrance**

The principal vehicular full access point from which to enter and exit.

Gasoline Sales Sign

A service station sign advertising fuel prices in accordance with North Carolina General Statutes.

Illegal Sign

A sign erected, altered, replaced, or maintained in violation of this UDO.

Illuminated Sign

A sign with an artificial light source incorporated internally or externally for the purpose of lighting the sign.

Internal Illumination

A light source concealed or contained within the sign itself, such as fluorescent, ~~or~~ neon tubing, **or LED**, which lights the sign but where the light source is not visible.

Logo

A graphic sign which represents a particular trademark or business symbol for identification.

Master Sign Plan

Sign criteria established per UDO Sec. 8.7.5 for design consistency among all signs within an integrated development, multiple use development, or mixed-use development.

Mechanical Movement

Animation, revolution, rotation, or other movement of any or all parts of a sign.

Obsolete Sign

A sign relating to or identifying a business or activity that has not been conducted on the premises for six (6) months or to a transpired election or event, or to a political party or non-profit organization that no longer exists. This also includes the structure for a sign that is not allowed under this Ordinance if such structure cannot be used for a legal use or does not comply with the height, size, or other physical requirements of the Ordinance.

Off-premise Sign

A sign that directs attention to a business commodity, service, or establishment conducted, sold, or offered at a location other than the premises where the sign is erected or affixed.

On-premise Sign

A sign that directs attention to a business commodity, service, or establishment conducted, sold, or offered on the premises on which the sign is erected or affixed.

Pennant

A lightweight plastic, fabric, or other material, whether or not containing a message of any kind, suspended from a rope, wire, string, or pole, usually in series, designed to move in the wind.

Permanent Sign

A sign constructed of durable materials and intended to exist for the duration of time that the use or occupant is located on the premises and that is permanently affixed or attached to the ground or a structure or which cannot be removed without special handling.

Pole Sign

A sign that is not attached to a building, but is supported by a pole(s) or mast which has as its principal function the support of the sign.

Portable Sign

A sign that is not permanently affixed to a building, structure, or the ground or other permanent structure including but not limited to; sandwich board signs/A-frame, T-frame signs, products, costumed characters, hand-held signs, umbrellas that are not associated with a restaurant seating area, hot air or gas-filled balloons, or a sign designed to be transported, including, but not limited to the following: signs designed to be transported by means of wheels, signs attached to or painted on vehicles or trailers parked and visible from any public right-of-way.

Projecting Sign

A sign affixed to a building or wall in such a manner that its leading edge extends more than 12 inches beyond the surface of said building or wall.

Roof Sign

A sign attached to and extending above a roof of a building or other structure, ~~but shall not include emblems of religious orders or institutions.~~

Sandwich Board Sign

A sign consisting of two panels joined together at the top and configured in the shape of an inverted "V" so that the bottom of the sign rests upon or near the ground.

Series Signs

A message, copy, or announcement, which uses a series of two (2) or more signs placed in a line generally parallel to a street, highway, or expressway carrying a single message, copy, or announcement, a part of which is contained on each sign.

Sight Triangle

A triangular-shaped portion of land established at street intersections and driveways in which nothing is erected, placed, planted, or allowed to grow in such a manner as to limit or obstruct the sight distance of motorists entering or leaving the intersection, as set forth in the *Town of Apex Standard Specifications and Standard Details*.

Sign

An identification, description, animation, illustration, or attention getting device, illuminated or non-illuminated, which is visible from a public right-of-way and which directs attention to a realty, product, service, place, activity, person, institution, performance, commodity, firm, business or solicitation, including permanently installed or situated merchandise or an emblem, logo, painting, banner, poster, bulletin board, pennant, placard, or temporary sign designed to identify or convey information, with the exception of state, municipal, national, and religious **governmental and non-commercial** flags.

Sign Face

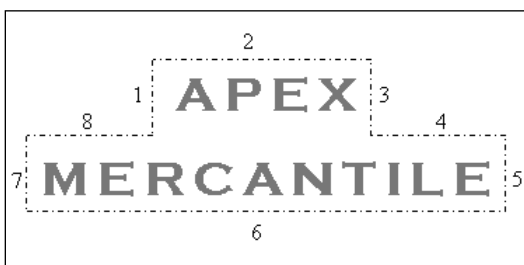
The entire surface area of a sign upon, against, or through which copy is placed.

Sign Height

The vertical distance measured from the sign's average grade level, provided that no filling, berming, or mounding solely for the purpose of locating the sign at a higher level is done.

Sign Surface Area

The entire area of a sign shall be the smallest rectangle entire area within a single, continuous eight-sided, straight-sided perimeter that encloses the entire sign inclusive of any border or trim and all the elements of the matter displayed, but excluding the base or apron, supports, and other structural members. In the case of three-dimensional or painted letters located directly on a wall surface, the surface area shall be defined as the area encompassing the individual letters themselves including any trim and excluding the background that supports the three-dimensional or painted letters.



Temporary Sign

A sign that is used in connection with a circumstances, situation, or event that is designed, intended, or expected to take place or to be completed within a definite period of time after the erection of such sign. If a sign display area is permanent but the message displayed is subject to periodic changes, that sign shall not be regarded as temporary. **For the purposes of this Section, a sign which is intended for use of one (1) year or less shall be deemed a temporary sign.**

4.5.5 Home Occupation

...

G) External Evidence

Signs shall be limited to those permitted by Sec. 8.7.1.B **A.2 Home Occupation Signs**. No further external evidence or sign shall advertise, display, or otherwise indicate the presence of the home occupation, nor shall the street address of the home occupation be advertised through signs, billboards, television, radio, newspapers, websites, or social media;

4.6 Temporary Uses and Structures

4.6.1 Permit Required

A) General Regulations

The general regulations of this subsection shall apply to all allowed temporary uses unless otherwise expressly stated.

- 1) *Temporary signs*. No temporary signs shall be permitted in a public right-of-way or off-premises of the temporary use. ~~All temporary signs associated with the temporary use shall be displayed no sooner than one week prior to the commencement of the temporary use and shall be removed no later than two days after the end of the temporary use.~~ All temporary signs shall meet the requirements of 8.7.1 *Signs, Permitted Signs: Location, Size, and Number*.

...

4.6.2 Temporary Uses and Structures, No Permit Required

A) Residential Yard Sales

...

- 3) Signs shall meet the requirements in Sec. 8.7 **Signs-1.A.32 Yard Sale**.

8.6.4 Exterior Lighting, Design Requirements

...

K) Illuminated Tubing or Strings of Light

Illuminated tubing or strings of light on trees and landscaping or outlining property lines or open sales areas, rooflines or wall edges of buildings are prohibited except as ~~provided in Sec. 8.7.1.A.26 Holiday~~ **for reasonable and customary holiday decorations**. This prohibition does not apply to Town of Apex owned trees provided that the

illuminated tubing or strings of lights on trees are not permanently installed and are removed from the tree and reinstalled or replaced at least twice per year.

8.6.5 Exterior Lighting, Exemptions

The standards of this Section shall not apply to:

...

- C) Seasonal lighting that is part of customary holiday decorations and annual civic events, provided that it meets all the requirements of Sec. 8.7.1.A.26 *Holiday*.

...

Requested by Planning Staff:

2. Amendments to Sec. 5.1.1 *Table of Intensity and Dimensional Standards, Residential Districts* in order to correct a typographical error for the section reference in the Additional Regulations column for the use Townhouses, detached.

| Use | Average Lot Size | Minimum Lot Width (Feet) | Minimum Setbacks (Feet) | | | | Max. Height (Feet) | Max. Built-Upon Area (%)* | Max. Density (Gross Units per Acre) | Additional Regulations |
|---|------------------|--------------------------|-------------------------|------|------|-------------|--------------------|---------------------------|-------------------------------------|------------------------|
| | | | Front | Side | Rear | Corner Side | | | | |
| MD | | | | | | | | | | |
| Townhouses, detached | — | 26 | 10 min./15 max. | 3 | 5 | 15 | 36 | 65 | 7 | Sec. 4.14.1.J |
| HDSF | | | | | | | | | | |
| Townhouses, detached | — | 26 | 10 min./15 max. | 3 | 5 | 15 | 36 | 65 | 7 | Sec. 4.14.1.J |
| HDMF | | | | | | | | | | |
| Townhouses, detached | — | 26 | 10 min./15 max. | 3 | 5 | 15 | 36 | 65 | 7 | Sec. 4.14.1.J |
| MORR | | | | | | | | | | |
| Townhouses, detached | — | 26 | 10 min./15 max. | 3 | 5 | 15 | 36 | 65 | 7 | Sec. 4.14.1.J |
| *See Sec 6.1 Watershed Protection Overlay Districts. | | | | | | | | | | |
| **These setbacks are for the perimeter of entire project only. | | | | | | | | | | |
| ***Projects submitted prior to April 1, 2008 shall be governed by the Minimum Front Setbacks in place at the time of submittal. | | | | | | | | | | |

PLANNING STAFF RECOMMENDATION:

Planning staff recommend approval of the proposed amendments.

PLANNING BOARD RECOMMENDATION:

The Planning Board heard these amendments at their February 12, 2024 meeting and unanimously recommended approval.



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)

Pursuant to the provisions of North Carolina General Statutes §160D-601 and to the Town of Apex Unified Development Ordinance (UDO) Sec. 2.2.11, 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 that are applicable Town-wide:

Requested by the Town Council and Planning Staff:

1. Amendments to Sec. 8.7 *Signs* in order to state the purpose of the sign ordinance; identify signs exempt from the sign ordinance; regulate temporary signs consistently by the categories of "commercial speech" and "non-commercial speech" to comply with Supreme Court rulings; prohibit all temporary signs within Town rights-of-way except for exempt signs; and remove interactive digital displays as a permitted sign type. Also proposed are amendments to Secs. 4.5.5 *Home Occupation*; 4.6 *Temporary Uses and Structures*; 8.6.4 *Exterior Lighting, Design Requirements*; and 8.6.5 *Exterior Lighting, Exemptions* in order to update references to the sign standards. The proposed effective date is April 1, 2024.

Requested by Planning Staff:

2. Amendments to Sec. 5.1.1 *Table of Intensity and Dimensional Standards, Residential Districts* in order to correct a typographical error for the section reference in the Additional Regulations column for the use Townhouses, detached.

Public Hearing Location: Apex Town Hall
Council Chamber, 2nd Floor
73 Hunter Street, Apex, North Carolina

Town Council Public Hearing Date and Time: February 27, 2024 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 a written statement by email to public.hearing@apexnc.org, or submit it to the Office of the Town Clerk (73 Hunter Street or USPS mail - P.O. Box 250, Apex, NC 27502), at least two business days prior to the Town Council vote. You must provide your name and address for the record. The written statements will be delivered to the Town Council members prior to their vote. Please include the Public Hearing name in the subject line.

The UDO can be accessed online at: <http://www.apexnc.org/233>.

Dianne F. Khin, AICP
Planning Director

Published Dates: February 5-27, 2024



TOWN OF APEX

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

NOTIFICACIÓN PÚBLICA DE AUDIENCIAS PÚBLICAS

Modificación de la Ordenanza de Desarrollo Unificado (UDO)

De conformidad con las disposiciones de los Estatutos Generales de Carolina del Norte §160D-601 y con la sección 2.2.11 de la Ordenanza de Desarrollo Unificado (UDO) del pueblo de Apex, por la presente se notifican las audiencias públicas ante el Consejo Municipal del pueblo de Apex a fin de solicitar comentarios relativos a la siguiente modificación de la Ordenanza de Desarrollo Unificado que se aplican a toda la ciudad:

A solicitud del Consejo Municipal y del personal de Planificación:

1. Enmiendas a la sección 8.7 *Señales* para establecer el propósito de la ordenanza de señales; identificar las señales exentas de la ordenanza de señales; regular las señales temporales de forma coherente de acuerdo con las categorías de "discurso comercial" y "discurso no comercial" para cumplir con las sentencias del Tribunal Supremo; prohibir todas las señales temporales dentro de los derechos de paso de la ciudad, excepto para las señales exentas; y eliminar las pantallas digitales interactivas como un tipo de señal permitida. También se proponen enmiendas a las secciones 4.5.5 *Ocupación doméstica*; 4.6 *Usos y estructuras temporales*; 8.6.4 *Iluminación exterior, requisitos de diseño*; y 8.6.5 *Iluminación exterior, exenciones* con el fin de actualizar las referencias a las normas de señalización. La fecha de entrada en vigencia propuesta es el 1 de abril de 2024.

A solicitud del personal de Planificación:

2. Enmiendas a la sección 5.1.1 *Tabla de intensidad y normas dimensionales, distritos residenciales* para corregir un error tipográfico para la referencia de la sección en la columna de Reglamentos adicionales para el uso Casas unifamiliares, separadas.

Lugar de la audiencia pública: Ayuntamiento de Apex
Cámara del Consejo, 2º piso
73 Hunter Street, Apex, Carolina del Norte

Fecha y hora de la audiencia pública del Consejo Municipal: 27 de febrero de 2024 6:00 PM

Puede asistir a la reunión de manera presencial o seguir la transmisión en directo por YouTube a través del siguiente enlace: <https://www.youtube.com/c/townofapexgov>.

Si no puede asistir, puede enviar una declaración escrita por correo electrónico a public.hearing@apexnc.org, o presentarla a la Oficina del Secretario Municipal (73 Hunter Street o por correo USPS a P.O. Box 250, Apex, NC 27502), al menos dos días hábiles antes de la votación del Consejo Municipal. Debe proporcionar su nombre y dirección para que conste en el registro. Las declaraciones escritas se entregarán al Consejo Municipal antes de la votación. No olvide incluir el nombre de la audiencia pública en el asunto.

Se puede acceder a la UDO en línea en: <http://www.apexnc.org/233>.

Dianne F. Khin, AICP
Directora de Planificación

Fechas de publicación: 5 de febrero – 27 de febrero de 2024



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)

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Requested by the Town Council and Planning Staff:

1. Amendments to Sec. 8.7 *Signs* in order to state the purpose of the sign ordinance; identify signs exempt from the sign ordinance; regulate temporary signs consistently by the categories of "commercial speech" and "non-commercial speech" to comply with Supreme Court rulings; prohibit all temporary signs within Town rights-of-way except for exempt signs; and remove interactive digital displays as a permitted sign type. Also proposed are amendments to Secs. 4.5.5 *Home Occupation*; 4.6 *Temporary Uses and Structures*; 8.6.4 *Exterior Lighting, Design Requirements*; and 8.6.5 *Exterior Lighting, Exemptions* in order to update references to the sign standards. The proposed effective date is April 1, 2024.

Requested by Planning Staff:

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Public Hearing Location: Apex Town Hall
Council Chamber, 2nd Floor
73 Hunter Street, Apex, North Carolina

Town Council Public Hearing Date and Time: February 27, 2024 6:00 PM

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Dianne F. Khin, AICP
Planning Director

Published Dates: February 5-27, 2024



TOWN OF APEX

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NOTIFICACIÓN PÚBLICA DE AUDIENCIAS PÚBLICAS

Modificación de la Ordenanza de Desarrollo Unificado (UDO)

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A solicitud del Consejo Municipal y del personal de Planificación:

1. Enmiendas a la sección 8.7 *Señales* para establecer el propósito de la ordenanza de señales; identificar las señales exentas de la ordenanza de señales; regular las señales temporales de forma coherente de acuerdo con las categorías de "discurso comercial" y "discurso no comercial" para cumplir con las sentencias del Tribunal Supremo; prohibir todas las señales temporales dentro de los derechos de paso de la ciudad, excepto para las señales exentas; y eliminar las pantallas digitales interactivas como un tipo de señal permitida. También se proponen enmiendas a las secciones 4.5.5 *Ocupación doméstica*; 4.6 *Usos y estructuras temporales*; 8.6.4 *Iluminación exterior, requisitos de diseño*; y 8.6.5 *Iluminación exterior, exenciones* con el fin de actualizar las referencias a las normas de señalización. La fecha de entrada en vigencia propuesta es el 1 de abril de 2024.

A solicitud del personal de Planificación:

2. Enmiendas a la sección 5.1.1 *Tabla de intensidad y normas dimensionales, distritos residenciales* para corregir un error tipográfico para la referencia de la sección en la columna de Reglamentos adicionales para el uso Casas unifamiliares, separadas.

Lugar de la audiencia pública: Ayuntamiento de Apex
Cámara del Consejo, 2º piso
73 Hunter Street, Apex, Carolina del Norte

Fecha y hora de la audiencia pública del Consejo Municipal: 27 de febrero de 2024 6:00 PM

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Se puede acceder a la UDO en línea en: <http://www.apexnc.org/233>.

Dianne F. Khin, AICP
Directora de Planificación

Fechas de publicación: 5 de febrero – 27 de febrero de 2024

PLANNING BOARD REPORT TO TOWN COUNCIL

Unified Development Ordinance Amendments: Proposed by Planning Staff

Planning Board Meeting Date: February 12, 2024



Report Requirements:

Per NCGS §160D-604, all proposed amendments to the zoning ordinance or zoning map shall be submitted to the Planning Board for review and comment. If no written report is received from the Planning Board within 30 days of referral of the amendment to the Planning Board, the Town Council may act on the amendment without the Planning Board report. The Town Council is not bound by the recommendations, if any, of the Planning Board.

Planning Board Recommendation:

Motion: To recommend approval as presented.

Introduced by Planning Board member: Sarah Soh

Seconded by Planning Board member: Steven Rhodes

- ☒ Approval of the proposed UDO amendment(s)
☐ Approval of the proposed UDO amendment(s) with the following conditions:

- ☐ Denial of the proposed UDO amendment(s)

With 8 Planning Board Member(s) voting "aye"

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

Reasons for dissenting votes:

This report reflects the recommendation of the Planning Board, this the 12th day of February 2024.

Attest:


Tina Sherman, Planning Board Vice-Chair

Dianne F. Khin Digitally signed by Dianne F. Khin
Date: 2024.02.12 19:22:21 -05'00'
Dianne Khin, Planning Director

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. Sections 8.7, 4.5.5, 4.6, 8.6.4, and 8.6.5 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:

8.7 SIGNS

The purpose of this Section is to accomplish the following objectives:

To ensure that signs are designed, constructed, installed, and maintained so that public safety and traffic safety are not compromised;

To minimize distractions and visual obstructions that contribute to traffic hazards and endanger public safety;

To allow for adequate and effective communication while preventing visual clutter; and

To ensure a high standard for the design and size of signs so that they enhance the aesthetic appearance and attractiveness of the community, and create an aesthetic environment that has a positive impact on economic development.

8.7.1 Permitted Signs: Location, Size, and Number

All signs are subject to Sec. 8.7.9 *Definitions*, and Article 12: *Definitions*, and Sec. 8.7.2 through 8.7.6. The sections listed specifically in Sec. 8.7.1 have been included for emphasis and user convenience and shall not be construed to exclude other sections of the Ordinance. **Any sign permitted by these regulations may display or publish a non-commercial message. This includes both signs that require and do not require a permit. Exemptions from Sec. 8.7.1 are found in subsection 8.7.1.C.**

Table 8.7.1

P = allowed with permit X = not allowed √ = allowed without permit

| 1 | Awning | 8.7.1.A.1 | X | P | P | P | Yes |
|----|---|-------------------------|-----------------|-----------------|-----------------|-----------------|------------------|
| 2 | Reserved Home Occupation | <u>8.7.1.A.2</u> | <u>P</u> | <u>X</u> | <u>X</u> | <u>X</u> | <u>No</u> |
| 3 | Building Marker | 8.7.1.A.3 | √ | √ | √ | √ | Yes |
| 4 | Civic Club Non-profit (Off-Premise) Reserved | 8.7.1.A.4 | X | P | P | P | No |
| 5 | Directory: | 8.7.1.A.5 | X | P | P | P | Yes |
| 6 | • Building | 8.7.1.A.6 | P | P | P | P | Yes |
| 7 | • Ground | | | | | | |
| 7 | Flags | 8.7.1.A.7 | √ | √ | √ | √ | Yes |
| 8 | Gasoline Sales | 8.7.1.A.8 | X | √ | √ | X | Yes |
| 9 | Governmental | 8.7.1.A.9 | √ | √ | √ | √ | Yes |
| 10 | Health/Hospital | 8.7.1.A.10 | X | X | X | P | Yes |
| 11 | Incidental | 8.7.1.A.11 | √ | √ | √ | √ | Yes |
| 12 | Marquee | 8.7.1.A.12 | X | √ | X | X | Yes |
| 13 | Menu Board | 8.7.1.A.13 | X | P | X | X | Yes |
| 14 | Principal Ground: | | | | | | |
| 15 | • Non-residential | 8.7.1.A.14 | X | P | P | P | Yes |

| | | | | | | | |
|--|--|---|-----------------------|-----------------|-----------------|-----------------|------------------|
| | • Residential | 8.7.1.A.15 | P | X | X | X | Yes |
| 16 | Special/Historic | 8.7.1.A.16 | P | P | P | P | Yes |
| 17 | Suspended | 8.7.1.A.17 | X | P | P | P | Yes |
| 18 | Wall | 8.7.1.A.18 | X | P | P | P | Yes |
| 19 | Interior Sign | 8.7.1.A.19 | X | P | X | X | Yes |
| 31 B.6 | Window | 8.7.1.A. 31 B.6 | X | √ | √ | √ | Yes |
| 31 | Window-Interactive Digital Display | 8.7.1.A.31 | X | P | P | P | Yes |
| 1 | <u>On-premise, Non-commercial Temporary Signs</u> | <u>8.7.1.B.1</u> | <u>X</u> | <u>√</u> | <u>√</u> | <u>√</u> | <u>No</u> |
| 20 2 | Construction Sites/ Development: — • Non-residential — or mixed-use — • Residential | 8.7.1.A.20.a B.2 8.7.1.A.20.b | X P | P X | P X | P X | No No |
| 21 | Contractor | 8.7.1.A.21 | √ | √ | √ | √ | No |
| 22 | Event: — • For-profit | 8.7.1.A.22 | X | P | P | P | No |
| 23 | — • Non-profit | 8.7.1.A.23 | P | P | P | P | No |
| 24 | — • Public | 8.7.1.A.24 | √ | √ | √ | √ | No |
| 3 | <u>Event, commercial</u> | <u>8.7.1.B.3</u> | <u>X</u> | <u>√</u> | <u>√</u> | <u>√</u> | <u>No</u> |
| 4 | <u>Event, non-commercial</u> | <u>8.7.1.B.4</u> | <u>X</u> | <u>√</u> | <u>√</u> | <u>√</u> | <u>No</u> |
| 25 | Coming Soon/Grand Opening/Closing | 8.7.1.A.25 | X | P | P | P | No |
| 26 | Holiday | 8.7.1.A.26 | √ | √ | √ | √ | Yes |
| 27 | Political | 8.7.1.A.27 | √ | √ | √ | √ | No |
| 28 | Public Notice | 8.7.1.A.28 | √ | √ | √ | √ | No |
| 29 | Real Estate | 8.7.1.A.29 | √ | √ | √ | √ | No |
| 30 5 | Seasonal Outdoor Sales | 8.7.1.A. 30 B.5 | P | P | P | P | Yes |
| 31 6 | Window | 8.7.1.A. 31 B.6 | X | √ | √ | √ | No |
| 32 | Yard Sale | 8.7.1.A.32 | √ | √ | √ | √ | No |
| 7 | <u>Sandwich Board Sign</u> | <u>8.7.1.B.7</u> | <u>X</u> | <u>√</u> | <u>X</u> | <u>√</u> | <u>No</u> |
| See Sec. 8.7.2 Prohibited Signs | | | | | | | |
| See Sec. 8.7.7 Central Business District, Apex National Register Historic District, Small Town Character Overlay District, and Mixed Office-Residential-Retail, <u>and Downtown Festival District</u> | | | | | | | |
| See Sec. 2.3.4 | | | | | | | |
| ¹ Subject to Sec. 8.7.4.C Uniform Color Scheme, 8.6 Exterior Lighting, and 8.7.6.B Sign illumination. | | | | | | | |

A) **Conditions-Permanent Sign Types**

Permanent signs are allowed as follows:

...

2) **Reserved-Home Occupation Signs**

Signs advertising home occupations shall be permitted where a home occupation has been approved per Sec. 4.5.5 Home Occupation. Home Occupation signs shall be permitted as follows:

- a) A Home Occupation sign permit is required and shall be obtained from the Planning Department;
- b) In addition to meeting the requirements of Sec. 8.7.4 Sign Design and Color, plastic and/or acrylic sign faces are prohibited;
- c) A sign is permitted on the home where a Home Occupation has been approved, provided:
 - (i) The sign shall be no larger than 12 inches by 12 inches;
 - (ii) The sign shall be placed no higher than six (6) feet at the front door; and
 - (iii) The sign shall not be internally lit; external lighting shall be limited to traditional residential lighting fixtures.
- d) Where a home occupation exists on a lot with a minimum of 300 feet of linear road frontage, one (1) permanent sign may be placed in the front yard, provided:
 - (i) The sign shall be no larger than 18 inches by 24 inches;
 - (ii) The maximum height of the sign shall be four (4) feet;
 - (iii) The sign shall not be internally lit;
 - (iv) The sign shall not be located in the right-of-way and shall be located so that it does not obscure vision at driveway sight triangles.

...

4) Civic Club Non-Profit (Off-Premise) Reserved

A sign (emblem or insignia) advertising for a non-profit organization (charitable, civic, fraternal, patriotic, religious, or similar organization) and meets the conditions below:

The emblem or insignia shall be allowed provided that:

- a) Limited to three (3) signs per organization.
- b) Located a minimum of 15 feet from any public right-of-way.
- c) A maximum of two (2) square feet in size and a maximum of four (4) feet in height.
- d) Not displayed in connection with a commercial promotion or as an advertising device.
- e) Shall obtain property owner permission through a letter.

...

B) Temporary Sign Types

Temporary signs are allowed as follows ~~provided that no temporary signs are permitted within Town rights-of-way abutting Town-owned property with the exception of banners that hang above the street which are in accordance with Sec. 8.7:~~

1) On-premise, Non-commercial Temporary Signs

A temporary sign with a non-commercial message that is not associated with an event nor located on residential property shall be allowed as follows:

- a) Only one (1) sign shall be permitted on-site.**
- b) Such sign shall not exceed 16 square feet and four (4) feet in height if freestanding or 32 square feet if affixed to the building.**
- c) The permit for such sign shall be limited to 60 days each.**
- d) Such sign shall be located on private property.** Written permission from the property owner shall be obtained.

~~20)~~ **2) Construction Sites/Development**

An on-site ~~premise~~ temporary sign erected during the active construction of a development project that meets the conditions below:

- ~~a) Non-Residential or Mixed-Use (including both non-residential and residential uses) Construction/Development signs shall be allowed provided that:~~
 - ~~(i) a) One (1) sign is allowed per major full-service vehicular entrance. If there is no full-service vehicular entrance, then such sign may be located at one (1) limited-service vehicular entrance.~~
 - ~~(ii) b) No such temporary signs shall not exceed 64-32 square feet or a maximum height of five (5) feet.~~
 - ~~(iii) Permits for such temporary signs shall be limited to six (6) months with renewable option upon written request for an additional six (6) month period.~~
 - ~~(iv) c) Construction Plan approval is required prior to approval of the sign permitting.~~
 - ~~(v) d) Sign shall be removed prior to approval of the Certificate of Occupancy for the final building in a non-residential, multi-family, or mixed-use development and no later than the time at which 100% of the properties within a residential subdivision have initially been sold to a private owner or initially leased to the first resident.~~
- ~~b) Residential Construction/Development signs shall be allowed provided that:~~

- (i) ~~A maximum of one (1) such sign per development at a residential development entrance shall be permitted.~~
- (ii) ~~Such sign shall not exceed 32 square feet and five (5) feet in height.~~
- (iii) ~~Construction Plan approval is required prior to sign permitting.~~
- (iv) ~~The sign shall be removed no later than the time at which 100% of the properties within the residential development have initially been sold to a builder or private owner.~~

~~21) Contractor~~

~~An on-site temporary sign identifying the name of the contractor performing a service such as but not limited to painters, building contractor, roof cleaning, landscaper, and meets the conditions below:~~

- a) ~~Contractor sign shall be allowed provided that:~~
- b) ~~Contractor signs shall be no larger than five (5) square feet and four (4) feet tall.~~
- c) ~~One (1) sign per a contractor per a site shall be allowed.~~
- d) ~~Such sign may be displayed during the time and on-site that the service is being performed.~~



Figure 8.7.1.A.21: This contractor sign is of appropriate size.

~~22) 3) Event, for-profit commercial~~

~~Temporary on-premise signs for erected during commercial events shall be allowed provided that:~~

- a) ~~Only one (1) **No more than three (3)** signs advertising promotional or other commercial events or fairs, carnivals, horse shows, and similar events shall be permitted on-site.~~
- b) ~~**The combined sign area for the number of signs permitted** Such sign shall not exceed 16 square feet and four (4) feet in height if freestanding or 32 square feet if affixed to the building. **Freestanding signs shall not exceed four (4) feet in height.**~~

- c) ~~The effective date for a P~~permits for such temporary sign(s) shall be limited to no ~~not be~~ sooner than ~~one~~**two (2)** weeks prior to the commencement of the event. **Such sign(s)** and shall be removed no later than two **(2)** days after the end of the event.
- d) See Sec. 4.6 *Temporary Uses and Structures*.



Figure 8.7.1.A.22: This on-premise sign meets size requirements.

~~23)~~ **4)** *Event, non-profit **non-commercial** (on-premise and off-premise)*

- a) ~~On-premise~~
Temporary, on-premise signs for **erected during non-profit commercial** events shall be allowed provided that:
- (i) ~~a)~~ Signs advertising non-profit events shall be limited to **No more than three (3) signs per lot for such event shall be permitted on-site.**
- b) **The combined sign area for the number of signs permitted and individually or cumulatively shall not exceed 32 square feet and five (5) feet in height. 16 square feet if freestanding or 32 square feet if affixed to the building. Freestanding signs shall not exceed four (4) feet in height.**
- (ii) ~~c)~~ Such signs shall be permitted no sooner than one **The effective date for a permit for such sign(s) shall not be sooner than two (2) weeks** prior to the commencement of the event. **Such sign(s)** and shall be removed no later than two **(2)** days after the end of the event.
- (iii) If the sign display area is permanent but the message displayed is subject to periodic changes, then the sign shall be regarded as permanent.
- (iv) ~~d)~~ Signs shall be non-illuminated only.
- (v) ~~e)~~ **The One (1) structure holding the banners sign, such as a banner,** may remain between events and shall not be used to display banners or signs between events and shall not exceed a maximum of five (5) feet in height.
- (vi) ~~f)~~ See Sec. 4.6 *Temporary Uses and Structures*.

- b) ~~Off-premise~~
~~Temporary off-premise signs for non-profit events shall be allowed provided that:~~
- ~~(i) Signs advertising fund raisers, school events, fairs, revivals and other similar events shall be limited to 30 signs-event and each shall not exceed five (5) square feet in size and four (4) feet in height.~~
 - ~~(ii) Such signs shall be permitted no sooner than one-week prior to the commencement of the event and shall be removed no later than two (2) days after the end of the event.~~
 - ~~(iii) Written permission from the property owner shall be obtained.~~
 - ~~(iv) See Sec. 4.6 Temporary Uses and Structures.~~

~~24) Event public (on-premise and off-premise)~~

~~Public event signs or banners shall be allowed provided that:~~

- ~~a) Such signs or banners shall be permitted only for public events proclaimed by the Town Council.~~
- ~~b) Such signs may be located in the public right-of-way but outside of the sight triangles.~~
- ~~c) Such signs shall be removed within 48 hours after the end of the event.~~

~~25) Coming Soon/Grand Opening/Closing~~

~~A sign advertising the permitted during the initial opening or closing of a business and meets the conditions below:~~

~~Coming Soon/Grand Opening/Closing signs shall be allowed provided that:~~

- ~~a) Such signs shall be attached to the building wall.~~
- ~~b) The total signage shall not exceed 32 square feet.~~
- ~~c) Permits for such temporary signs shall be limited to 60 days each.~~



~~Figure 8.7.1.A.25: This banner meets the maximum size requirement.~~

26) ~~Holiday~~

~~Displays erected on a seasonal basis in observance of religious, national, or state holidays, which are not intended to be permanent and contain no commercial message and meets the conditions below:~~

~~Holiday displays as a part of customary holiday decorations shall be allowed provided that:~~

- ~~a) No temporary signs, banners, lighting, or displays shall be on display for more than 60 days.~~
- ~~b) Such signs shall display no commercial message.~~



Figure 8.7.1.A.26: Customary holiday display

27) ~~Political~~

~~A temporary sign of a candidate, party, or group supporting the candidacy of an individual for office or expressing or soliciting public support of, or opposition to, any public issues and meets the conditions below:~~

~~Political signs shall be allowed provided that:~~

- ~~a) Such sign(s) may be placed within Town of Apex public street rights of way during the period 45 days prior to election to which the sign is directed, provided that no such signs shall be:
 - ~~(i) Located within a sight triangle,~~
 - ~~(ii) Located in a way to obscure vision or obstruct traffic,~~
 - ~~(iii) Located or installed in a manner that creates a hazard,~~
 - ~~(iv) Located on utility poles or within street medians,~~
 - ~~(v) Located on other Town owned property.~~~~
- ~~b) Such sign(s) shall not exceed five (5) square feet and a height of four (4) feet.~~
- ~~c) Where such signs refer to an election or other political event, they shall be removed within 10 days after the election or political event.~~

28) ~~Public Notice~~

~~A temporary sign advertising official notices or advertisements posted under the direction of a public official.~~

~~Official notices or advertisements posted or displayed by or under the direction of a public official in the performance of official duties, or by trustees under deeds of trusts or other similar instruments, or court appointed commissioners shall be allowed.~~

29) ~~Real Estate~~

~~A temporary sign advertising the real estate upon which the sign is located as being for rent, lease or sale and meets the conditions below:~~

~~Real estate signs shall be allowed provided that:~~

a) ~~Single family, duplex, triplex, quadplex, townhome, condo or residential lot or dwelling;~~

(i) ~~A maximum of one (1) real estate sign per lot frontage advertising for rent, sale, or lease.~~

(ii) ~~A maximum of one (1) real estate sign per lot frontage advertising an Open House. Such sign shall be displayed no longer than 36 hours before the event and shall be removed at the conclusion of the event.~~

~~Such signs shall not exceed five (5) square feet and four (4) feet in height and shall be located on the property to which the advertisement is referring. The signs shall be removed when property is sold by the transfer of title to the new owner. Signs are not allowed off premise or in private common areas.~~

b) ~~No multi family apartment leasing signage allowed except as specifically stated in Sec. 8.7.1.A.15.b.vi.~~

c) ~~Residential subdivision sales center~~

(i) ~~One (1) residential subdivision "sales center" sign, not to exceed 16 square feet or five (5) feet in height is permitted on the lot on which the sales center is located. The sign shall be removed no later than the time at which 100% of the properties within the residential development have initially been sold to a builder or private owner.~~

(ii) ~~Directional signs shall be permitted at the first crossroad beyond the entrance of the subdivision within the subdivision directing traffic to the residential subdivision "sales center". Directional signs shall be a maximum of four (4) square feet with a maximum height of four (4) feet.~~

- d) — A maximum of one (1) real estate sign per lot frontage advertising the rent, sale or lease of a non-residential lot or structure including tenant spaces located within a structure. Such sign shall not exceed 16 square feet and five (5) feet in height and shall be located on the property to which the advertisement is referring. The sign shall be removed when the rented or leased property is occupied by the new tenant or when the property is sold by the transfer of title to the new owner. Signs are not allowed off premise or in private common areas.

30) — *Seasonal Outdoor Sales*

a) Seasonal Agricultural Signs for Products Sold Where They Are Grown

- (i) — *Definitions.* (a) “Seasonal Agricultural Signs” are signs that advertise seasonal agricultural products which were grown on the property where they are offered for sale and that contain no other messages; (b) “On-Site Agricultural Products” are seasonal agricultural products which were grown on the property where they are offered for sale; and (c) “Off-Site Agricultural Products” are seasonal agricultural products that were not grown on the property where they are offered for sale.
- (ii) — *On-Premises Signs.* Pursuant to UDO Sec. 1.4.4, on a private property where On-Site Agricultural Products are sold, Seasonal Agricultural Signs are not regulated by the Town of Apex.
- (iii) — *Off-Premises Signs.* For each private property where On-Site Agricultural Products are sold, 30 Off-Premises Seasonal Agricultural Signs that advertise the products shall be allowed. Off-premises signs allowed by this subsection may be displayed only on private property and only with the permission of the off-premises private property owner. Only one off-premises sign is allowed per off-premises private property.
- (iv) — *Duration.* For each private property where On-Site Agricultural Products are sold, Off-Premises Seasonal Agricultural Signs may be displayed only while the advertised products are actually for sale, and only during one 45 consecutive day period per calendar year per On-Site Agricultural Product. The signs shall be removed immediately upon the sooner of the end of the 45 day period or the end of the sale of the products. At no time shall more than 30 Off-Premises Seasonal Agricultural Signs be displayed for a given property regardless of the number of agricultural products being sold on that property.
- (v) — *Physical Characteristics.* Each Off-Premises Seasonal Agricultural Sign shall not exceed five (5) square feet in area and four (4) feet in height. Off-Premises Seasonal Agricultural Signs may only be ground signs.

- (vi) ~~Limitation on Off-Site Agricultural Products.~~ Off-Site Agricultural Products shall not be a majority of the agricultural products offered for sale on a property during any time that an Off-Premises Seasonal Agricultural Sign is being displayed related to the property.
- (vii) ~~Contiguous Properties.~~ Contiguous properties owned by the same person, family, establishment, or entity shall be treated as one property for the purposes of the Section.
- (viii) ~~Limitations Are Comprehensive.~~ The limitations on Off-Premises Seasonal Agricultural Signs stated in Subsections i-vii of this Section shall apply regardless of the number of persons, family members, establishments, or entities that sell the products on a property and regardless of the number of booths, stands, tables, tents, or the like that are located on a property.
- (ix) See Sec. 4.6 *Temporary Uses and Structures* and Sec. 8.7.6.B *Sign Illumination*.

~~b)5)~~ ~~Other Seasonal Outdoor Sales Signs~~
 Outdoor temporary sales signs advertising a product of a particular season **not located on a bona fide farm** shall be permitted **on sites with a temporary use permit allowing seasonal outdoor sales** provided that:

- (i) ~~Such signs shall advertise the sale of seasonal products such as, but not limited to, Christmas trees, pumpkins, and fireworks.~~
- ii) **a)** Such signs shall be limited to 32 square feet and ~~four (4)~~ **five (5)** feet in height.
- iii) **b)** Such signs shall be permitted for no more than 30 days.
- ~~iv) c)~~ See Sec. 4.6 *Temporary Uses and Structures* and Sec. 8.7.6.B *Sign Illumination*.
- ~~v) d)~~ **Such signs authorized by this Subsection 8.7.1.A.30.b may shall** be displayed only on the premises where the seasonal products are being sold.



Figure 8.7.1.A.30: This seasonal sign is located in the right-of-way.

~~31)6)~~ **Window**
 Any sign, picture, symbol, or combination thereof that is placed on the outside or inside of a window or door and is visible from the exterior and meets the conditions below:

- a) Signs shall be allowed on the show window glass of non-residential buildings provided that all such commercial and incidental signs (both temporary and permanent) do not exceed a combined maximum of 25% of the total window area per facade.
- b) Temporary window signs shall only be installed on the inside of a window or door.
- c) An Interactive Digital Display is a digital window sign that is placed on the inside of a window or door and has a display area that changes at a predetermined frequency and upon a person interacting directly with the sign. This type of window sign shall meet the conditions listed above in addition to the following:
 - (i) ~~Such sign shall only be placed on a window that is angled at least 45 degrees from the street.~~
 - (ii) ~~The display area shall not exceed three (3) square feet.~~
 - (iii) ~~The display area of the sign shall remain static for at least five (5) minutes unless a person is actively using the interactive features of the display area.~~
 - (iv) ~~Such sign shall be equipped with automatic dimming technology that adjusts the sign's brightness in direct correlation with natural ambient light conditions.~~
 - (v) ~~The brightness shall not exceed six (6) foot-candles from dusk to dawn when measured one (1) foot from the center of the display area.~~

~~32) Yard Sale~~

~~A sign advertising the sale of household articles in a residential yard or garage and meets the conditions below:~~

~~Yard sale signs shall be allowed provided that:~~

- a) ~~Such signs shall be no larger than five (5) square feet and four (4) feet in height.~~
- b) ~~Such signs shall be displayed no longer than 36 hours before the event and shall be removed at the conclusion of the event.~~
- c) ~~Such signs shall be allowed one (1) on-site and two (2) off-site on private property only with permission of property owners.~~



Figure 8.7.1.A.32: This sign is located in the public right of way.

7) Sandwich Board Sign

A sign consisting of two panels joined together at the top and configured in the shape of an inverted "V" so that the bottom of the sign rests upon or near the ground and meets the conditions below.

Sandwich Board Signs shall be allowed provided that:

- a) The total area of the signboard (including both sides) shall not exceed 14 square feet.**
- b) Any sandwich board sign shall not exceed two (2) linear feet in width, with a maximum height of 42 inches.**
- c) The sign must be constructed of materials that present a finished appearance. Rough cut plywood is not acceptable. The sign's lettering should be professionally painted or applied.**
- d) The sign shall not interfere with vehicular circulation and shall be placed to allow for at least three (3) feet of sidewalk width for unrestricted pedestrian movement;**
- e) The sign shall be removed at the end of the business day.**
- f) Any person erecting a sandwich board sign shall indemnify and hold harmless the Town and its officers, agents, and employees from any claim arising out of the presence of the sign on Town property or public right-of-way.**

B) Home Occupation Signs

Signs advertising home occupations shall be permitted where a home occupation has been approved per UDO Sec. 4.5.5 Home Occupation. Home Occupation signs shall be permitted as follows:

- 1) A Home Occupation sign permit is required and must be obtained from the Planning Department;**
- 2) In addition to meeting the requirements of Sec. 8.7.4 Sign Design and Color, plastic and/or acrylic sign faces are prohibited;**
- 3) A placard is permitted on the home where a Home Occupation has been approved, provided:**
 - a) The sign shall be no larger than 12 inches by 12 inches;**
 - b) The placard shall be placed no higher than 6' at the front door; and**
 - c) The sign shall not be internally lit; external lighting shall be limited to traditional residential lighting fixtures.**
- 4) Where a home occupation exists on a lot with a minimum of 300 feet of linear road frontage, one sign may be placed in the front yard, provided:**
 - a) The sign shall be no larger than 18 inches by 24 inches;**

- b) — The maximum height of the sign shall be 4 feet;
- c) — The sign shall not be internally lit;
- d) — The sign must be permanent and affixed to a permanent pole(s);
and
- e) — The sign shall not be located in the right-of-way and must be located so that it does not obscure vision at driveway sight triangles.

C) The following are exempt from the standards in this Section:

- 1) **Any official or public notice or warning sign required by a valid and applicable federal, state, or local law, regulation or chapter; by a public utility company; or by order of a court of competent jurisdiction.**
- 2) **Any sign located within the right-of-way or on private property that is used as a traffic control device. This includes, but is not limited to, any sign that is described and identified in the Manual on Uniform Traffic Control Devices (MUTCD) and approved by the Federal Highway Administrator as the National Standard, regulatory signs (that give notice of traffic laws or regulations), warning signs (that give notice of a situation that might not readily be apparent), and guide signs (that show route designations, directions, distances, services, points of interest, and other geographical, recreational, or cultural information).**
- 3) **Signs erected by or on behalf of a governmental or quasi-governmental agency including, but not limited to, noncommercial signs identifying a government building or service, traffic control signs, street name signs, street address signs, warning signs, safety signs, informational signs, traffic or other directional signs, public notices of events, public notice of government actions, proposed changes of land use, any proposed rezoning, or any other governmental sign.**
- 4) **Seasonal Agricultural Signs erected on a property where seasonal agricultural products were grown and are offered for sale. "On-Site Agricultural Products" are seasonal agricultural products which were grown on the property where they are offered for sale. Pursuant to UDO Sec. 1.4.4 Bona Fide Farms Exempt, on a private property where On-Site Agricultural Products are sold, Seasonal Agricultural Signs are not regulated by the Town of Apex.**
- 5) **Non-commercial signs on a residential property.**

8.7.2 Prohibited Signs

The following signs are expressly prohibited within all zoning districts:

- A) **Commercial and non-commercial signs within the public right-of-way. The only type of signs permitted in the public right-of-way are with the exception of**

those permitted by NCGS 136-32, governmental or city-sponsored civic signs, or unless specifically authorized elsewhere in this sSection.

- B) ~~Unless specifically authorized elsewhere in this oOrdinance, no~~ **Commercial** off-premise signs, as defined in Sec. 8.7.9 *Definitions*, ~~are permitted.~~
- ...
- F) ~~Abandoned~~ **Obsolete** signs, as defined in Sec. 8.7.9 *Definitions*.
- G) Portable signs, as defined in Sec. 8.7.9 *Definitions*, except signs authorized by Sec. 8.7.7 *Central Business District* **sandwich board signs**.
- H) Animated Signs or Attracting Devices as defined in Sec. 8.7.9 *Definitions*, except decorative banners on residential property displayed by the resident with non-commercial messages are allowed. Banners are permitted only in accordance with the specific authorizations provided in Sec. 8.7.1.A.20-32B *Temporary Signs Types*. ~~This shall not include Interactive Digital Displays permitted under Sec. 8.7.1.A.31.c.~~
- I) ~~Illuminated tubing or strings of lights on trees and landscaping or outlining property lines or open sales areas, rooflines, or wall edges of a building. This requirement shall not apply to reasonable and customary holiday decorations as authorized by Sec. 8.7.1.A.26 Holiday~~ **Reserved**.
- J) Signs comprised in whole or in part of exposed ~~neon~~ **lighted** tubing. This requirement shall not prohibit the use of ~~neon~~ **lighted** tubing when it is fully contained within a sign fixture or element thereof, or if it is a two (2) square foot or smaller sign displaying the word "OPEN" with or without a logo.
- ...
- L) ~~Tourist Oriented Directional Signs (TODS). North Carolina General Statutes Chapter 136 Article 11B.~~
- ...
- N) Changeable copy sign(s) as defined in Sec. 8.7.9 *Definitions*, except for gasoline sales sign, menu boards, and marquee that comply with this Ordinance. ~~This shall not include Interactive Digital Displays permitted under Sec. 8.7.1.A.31.c.~~
- ...

8.7.4 Sign Design and Color

- A) ~~*Items of Information*~~ **Finishes**
~~In order to increase readability and to decrease confusion, the number of items of information per sign shall be kept to a minimum. All signs requiring permits must be constructed of materials that present a finished appearance. Rough cut plywood is not acceptable. The sign's lettering should be professionally painted or applied; a "yard sales" or "graffiti" look with hand painted or paint stenciled letters is not acceptable.~~
- ...
- ...

8.7.6 Installation Requirements

...

B) Sign Illumination

...

- 3) Flashing or intermittent lights. No sign shall contain or be illuminated by flashing or intermittent light or lights of changing degrees of intensity. ~~This shall not include Interactive Digital Displays permitted under Sec. 8.7.1.A.31.c.~~

...

C) Sign maintenance

...

- ~~2) *Abandonment of signs.* If a sign advertises any enterprise or activity, including but not limited to a business, service, commodity, accommodation, or attraction that is no longer operating or being offered or conducted, that sign shall be considered abandoned and shall, within 90 days of the enterprise or activity ceasing, be removed by the sign owner, owner of the property where the sign is located or other party having control over the sign.~~

32) ...

...

8.7.7 Central Business District, Apex National Register Historic District, Small Town Character Overlay District, and Mixed Office-Residential-Retail, and Downtown Festival District

A) Sign Types

...

2) Sandwich Board Sign

~~A sign consisting of two panels joined together at the top and configured in the shape of an inverted "V" so that the bottom of the sign rests upon or near the ground and meets the conditions below:~~

~~Sandwich Board Signs shall be allowed provided that:~~

- ~~a) The total area of the signboard (including both sides) shall not exceed 14 square feet.~~
- ~~b) Any sandwich board sign shall not exceed two (2) linear feet in width, with a maximum height of 42 inches. Within these specified maximum dimensions, creative shapes that reflect the theme of the business are encouraged (i.e. ice cream shops may display a sign in the shape of an ice cream cone).~~
- ~~c) The sign must be constructed of materials that present a finished appearance. Rough cut plywood is not acceptable. The sign's lettering should be professionally painted or applied; a "yard sales" or "graffiti" look with hand painted or paint stenciled letters is not acceptable, however, chalkboard signs shall be permitted. The written message of the sign should be kept to the minimum necessary to communicate the name of the business or a special message of the business.~~

- d) ~~The sign shall be located within four (4) feet of the main building entrance to the business and its location shall not interfere with pedestrian or vehicular circulation;~~
- e) ~~The sign shall be removed at the end of the business day.~~
- f) ~~Any person erecting a sandwich board sign shall indemnify and hold harmless the Town and its officers, agents, and employees from any claim arising out of the presence of the sign on Town property or public right of way.~~
- g) **In addition to the standards in Sec. 8.7.1.B.7 such** Sandwich boards **signs** located in the Central Business District shall either be located in the designated area for outdoor storage, display, and sales/rentals for that business or on the brick utility strip in front of the business.

...

8.7.9 Definitions

Abandoned Sign

~~Any sign that advertises any enterprise or activity, including but not limited to a business, service, commodity, accommodation, or attraction that is no longer operating or being offered or conducted and has been vacated for a period of more than 90 days of the enterprise or activity ceasing.~~

Animated Sign or Attracting Device

Any sign that uses movement or change of lighting to depict action or create a special effect, scene, or attract attention, including beacons, pennants, hand-held signs, **feather signs**, streamers, balloons or other inflatables used as signs, spot lights and search lights, high-intensity illuminated signs, electronic or mechanical indications of time and temperature, or other moving or flashing signs. ~~This shall not include Interactive Digital Displays permitted under Sec. 8.7.1.A.31.c.~~

...

Changeable Copy

A sign or portion of a sign with characters, letters or illustrations that can be changed or rearranged without altering the face or the surface of the sign. ~~This shall not include Interactive Digital Displays permitted under Sec. 8.7.1.A.31.c.~~

...

Feather Sign

A sign extending in a sleeve-like fashion down a telescoping or fixed pole that is mounted in the ground or on a building or stand. A feather sign is usually shaped like a sail or feather, and attached to the pole support on one (1) vertical side.

Major Full-Service Vehicular Entrance

The principal vehicular full access point from which to enter and exit.

...

Internal Illumination

A light source concealed or contained within the sign itself, such as fluorescent, ~~or~~ neon tubing, **or LED**, which lights the sign but where the light source is not visible.

...

Master Sign Plan

Sign criteria established per UDO Sec. 8.7.5 for design consistency among all signs within an integrated development, multiple use development, or mixed-use development.

...

Obsolete Sign

A sign relating to or identifying a business or activity that has not been conducted on the premises for six (6) months or to a transpired election or event, or to a political party or non-profit organization that no longer exists. This also includes the structure for a sign that is not allowed under this Ordinance if such structure cannot be used for a legal use or does not comply with the height, size, or other physical requirements of the Ordinance.

...

Permanent Sign

A sign constructed of durable materials and intended to exist for the duration of time that the use or occupant is located on the premises and that is permanently affixed or attached to the ground or a structure or which cannot be removed without special handling.

...

Portable Sign

A sign that is not permanently affixed to a building, structure, or the ground or other permanent structure including but not limited to; sandwich board signs/A-frame, T-frame signs, products, costumed characters, hand-held signs, umbrellas that are not associated with a restaurant seating area, hot air or gas-filled balloons, or a sign designed to be transported, including, but not limited to the following: signs designed to be transported by means of wheels, signs attached to or painted on vehicles or trailers parked and visible from any public right-of-way.

...

Roof Sign

A sign attached to and extending above a roof of a building or other structure, ~~but shall not include emblems of religious orders or institutions.~~

~~Sandwich Board Sign~~

~~A sign consisting of two panels joined together at the top and configured in the shape of an inverted "V" so that the bottom of the sign rests upon or near the ground.~~

~~Series Signs~~

~~A message, copy, or announcement, which uses a series of two (2) or more signs placed in a line generally parallel to a street, highway, or expressway carrying a single message, copy, or announcement, a part of which is contained on each sign.~~

...

Sign

An identification, description, animation, illustration, or attention getting device, illuminated or non-illuminated, which is visible from a public right-of-way and which directs attention to a realty, product, service, place, activity, person, institution, performance, commodity, firm, business or solicitation, including permanently installed or situated merchandise or an emblem, logo, painting, banner, poster, bulletin board, pennant, placard, or temporary sign designed to identify or convey information, with the exception of state, municipal, national, and religious **governmental and non-commercial** flags.

...

Temporary Sign

A sign that is used in connection with a circumstances, situation, or event that is designed, intended, or expected to take place or to be completed within a definite period of time after the erection of such sign. If a sign display area is permanent but the message displayed is subject to periodic changes, that sign shall not be regarded as temporary. **For the purposes of this Section, a sign which is intended for use of one (1) year or less shall be deemed a temporary sign.**

4.5.5 Home Occupation

...

G) External Evidence

Signs shall be limited to those permitted by Sec. 8.7.1.B **A.2 Home Occupation Signs**. No further external evidence or sign shall advertise, display, or otherwise indicate the presence of the home occupation, nor shall the street address of the home occupation be advertised through signs, billboards, television, radio, newspapers, websites, or social media;

4.6 Temporary Uses and Structures

4.6.1 Permit Required

A) General Regulations

The general regulations of this subsection shall apply to all allowed temporary uses unless otherwise expressly stated.

- 1) *Temporary signs*. No temporary signs shall be permitted in a public right-of-way or off-premises of the temporary use. ~~All temporary signs associated with the temporary use shall be displayed no sooner than one week prior to the commencement of the temporary use and shall be removed no later than two days after the end of the temporary use.~~ All temporary signs shall meet the requirements of 8.7.1 *Signs, Permitted Signs: Location, Size, and Number*.

...

4.6.2 Temporary Uses and Structures, No Permit Required

A) Residential Yard Sales

...

- 3) Signs shall meet the requirements in Sec. 8.7 **Signs-1 A.32 Yard Sale**.

8.6.4 Exterior Lighting, Design Requirements

...

K) Illuminated Tubing or Strings of Light

Illuminated tubing or strings of light on trees and landscaping or outlining property lines or open sales areas, rooflines or wall edges of buildings are prohibited except as ~~provided in Sec. 8.7.1.A.26 Holiday~~ **for reasonable and customary holiday decorations**. This prohibition does not apply to Town of Apex owned trees provided that the illuminated tubing or strings of lights on trees are not permanently installed and are removed from the tree and ~~reinstalled or replaced~~ at least twice per year.

8.6.5 Exterior Lighting, Exemptions

The standards of this Section shall not apply to:

...

- C) Seasonal lighting that is part of customary holiday decorations and annual civic events, provided that it meets all the requirements of Sec. 8.7.1.A.26 ~~Holiday~~.

...

Section 2. Section 5.1.1 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:

5.1.1 Table of Intensity and Development Standards, Residential Districts

| Use | Average Lot Size | Minimum Lot Width (Feet) | Minimum Setbacks (Feet) | | | | Max. Height (Feet) | Max. Built-Upon Area (%)* | Max. Density (Gross Units per Acre) | Additional Regulations |
|--|------------------|--------------------------|-------------------------|------|------|-------------|--------------------|---------------------------|-------------------------------------|------------------------|
| | | | Front | Side | Rear | Corner Side | | | | |
| MD | | | | | | | | | | |
| Townhouses, detached | — | 26 | 10 min./15 max. | 3 | 5 | 15 | 36 | 65 | 7 | Sec. 4.14.1.J |
| HDSF | | | | | | | | | | |
| Townhouses, detached | — | 26 | 10 min./15 max. | 3 | 5 | 15 | 36 | 65 | 7 | Sec. 4.14.1.J |
| HDMF | | | | | | | | | | |
| Townhouses, detached | — | 26 | 10 min./15 max. | 3 | 5 | 15 | 36 | 65 | 7 | Sec. 4.14.1.J |
| MORR | | | | | | | | | | |
| Townhouses, detached | — | 26 | 10 min./15 max. | 3 | 5 | 15 | 36 | 65 | 7 | Sec. 4.14.1.J |
| *See Sec 6.1 Watershed Protection Overlay Districts. | | | | | | | | | | |
| **These setbacks are for the perimeter of entire project only. | | | | | | | | | | |
| ***Projects submitted prior to April 1, 2008 shall be governed by the Minimum Front Setbacks in place at | | | | | | | | | | |

Section 3. These amendments shall not apply to projects for which an application for development approval has been submitted before the effective date of this ordinance.

Section 4. 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 5. 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 6. The ordinance shall be effective upon enactment on the 1st day of April 2024.

Introduced by Council Member _____

Seconded by Council Member _____

Attest:

TOWN OF APEX

Allen Coleman, CMC, NCCCC
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: CLOSED SESSION

Meeting Date: February 27, 2024

Item Details

Presenter(s): Mayor Jacques K. Gilbert

Department(s): Governing Body

Requested Motion

Possible motion to enter into closed session pursuant to NCGS § 143-318.11(a)(6) to consider a personnel matter.

Approval Recommended?

N/A

Item Details

NCGS § 143-318.11(a)(6)

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

Attachments

- N/A

