

DRAFT MINUTES

**TOWN OF APEX
REGULAR TOWN COUNCIL MEETING
TUESDAY, APRIL 23, 2024
6:00 PM**

The Apex Town Council met for a Regular Town Council Meeting on Tuesday, April 23, 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=8Simz0Dtyv4>

[ATTENDANCE]

Elected Body

- Mayor Jacques K. Gilbert (presiding)
- Mayor Pro Tempore Ed Gray
- Councilmember Audra Killingsworth
- Councilmember Terry Mahaffey
- Councilmember Arno Zegerman
- Councilmember Brett Gantt

Town Staff

- Town Manager Randy Vosburg
 - Deputy Town Manager Shawn Purvis
 - 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

[COMMENCMENT]

Mayor Gilbert called the meeting to order and welcomed all who were in attendance and watching on stream. He then said the invocation would be delivered by Gudika Jenn from Radha Krishna Temple located in Apex, NC.

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1 **Gudika Jenn** thanked Mayor Gilbert for the opportunity to speak. She gave a
2 description of the Temple. She spoke about how it was founded and the teachings of Swami
3 Mukundan Nanji, the founder. She said the object of the temple was to connect with divine
4 and to develop and have faith and believe in God. Ms. Jenn said it was also for nurturing and
5 nourishing young minds. Ms. Jenn said it gave information about how it was for middle
6 schoolers and high schoolers and that there was leadership and communication to develop
7 programs, and to prepare them for the future ahead. She said that the object was to come
8 and show that and inspire others and encourage other people and children so that everyone
9 can reach their best version of themselves. She said that the Temple offers a beautiful
10 platform for everyone. She shared a message from the book "The Art and Science of
11 Happiness" written by Swami Mukundi. She thanked everyone and said she appreciated the
12 opportunity and looked forward to attending more of these forums so that she could take
13 inspiration and could continue a journey of becoming a better person.

14
15 **Mayor Gilbert** then led those in attendance in the Pledge of Allegiance.
16
17

18 **[CONSENT AGENDA]**
19

20 A **motion** was made by **Councilmember Zegerman** to approve the Consent Agenda
21 with the continuation of Consent Item 10 be moved to Old Business 1.
22

23 **VOTE: UNANIMOUS (5-0)**
24

25 **Mayor Gilbert** requested that this item be heard before moving to presentations.
26
27

28 **CN1 Agreement - University of North Carolina at Chapel Hill School of Government**
29 **Services (SOG Services) - Benchmarking Project - April 23, 2024 through**
30 **December 31, 2026 (REF: CONT-2024-100)**

31 Council voted to approve an agreement between School of Government Services (SOG
32 Services) and the Town of Apex, for participation in the NC Benchmarking Project, effective
33 April 23, 2024 through December 31, 2026, and to authorize the Town Manager to execute
34 on behalf of the Town.

35 **CN2 Agreement Amendment - Wake County, Town of Cary, and Town of Apex - Co-**
36 **Locating Communication Equipment - Western Wake Regional Water**
37 **Reclamation Facility (REF: CONT-2024-101)**

38 Council voted to approve an agreement for First Amendment of Ground Lease between the
39 Town of Cary and Town of Apex and Wake County, for co-locating communication
40 equipment on an existing radio tower at the Western Wake Regional Reclamation Facility,
41 and to authorize the Mayor to execute on behalf of the Town.

DRAFT MINUTES

1 **CN3 Annual Operating Budget FY2024-2025 - 2nd Public Hearing - Tuesday, May 14,**
2 **2024 - Set Public Hearing**

3 Council voted to schedule a second budget public hearing for May 14, 2024 on the Annual
4 Operating Budget including expenditures for Economic Development (pursuant to NCGS
5 158-7.1) for fiscal year 2024-2025.

6 **CN4 Budget Ordinance Amendment No. 15 - Electric System Expansion (REF: ORD-**
7 **2024-029)**

8 Council voted to approve Budget Ordinance Amendment 15 allocating additional funds for
9 the expansion of Apex's electric utility distribution system.

10 **CN5 Capital Project Ordinance No. 2024-14 - Active Capital Project Allocations (REF:**
11 **ORD-2024-030)**

12 Council voted to approve Capital Project Ordinance Amendment No. 2024-14 appropriating
13 funds already in capital project funds to active projects.

14 **CN6 Capital Project Ordinance Amendment 2024-15 and 2024-16 - ARPA Project**
15 **Funding Allocations (REF: ORD-2024-031 and ORD-2024-032)**

16 Council voted to adopt Capital Project Ordinance Amendment(s) No. 2024-15 and 2024-16
17 to allocate ARPA funds for identified projects.

18 **CN7 Capital Project Ordinance Amendment No. 2024-17 - Beaver Creek Greenway**
19 **Project (REF: ORD-2024-033)**

20 Council voted to approve Capital Project Ordinance Amendment 2024-17 appropriating an
21 additional \$3,632,629 in federal grant funds and interest earnings for the Beaver Creek
22 Greenway Project.

23 **CN8 Fee-in-Lieu (FIL) of Land Dedication - The Preserve on Holt**

24 Council voted to approve a Fee-in-lieu (FIL) of land dedication, a public greenway easement,
25 being offered by the applicant for a southern portion of the site to allow further design of the
26 greenway alignment to tie into the existing greenway easement on the adjacent property
27 provided by the Courtyard on Holt.

28 **CN9 Rezoning Case No. 24CZ01 - Veridea Expansion 2 - Statement and Ordinance**
29 **(REF: ORD-2024-034)**

30 Council voted to approve the Statement of the Town Council and Ordinance for Rezoning
31 Application No. 24CZ01, Todd Rechler, RXR Realty, petitioner, for the property located at 0 E
32 Williams Street (PIN 0740992164).

33 **~~CN10 Rezoning Case No. 22CZ27 - Center City Townhomes - Statement of Denial~~**

34 This item was pulled from the Consent Agenda, per Council vote.

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37

38 **[OLD BUSINESS]**

39

40 **OB1 Rezoning Case No. 22CZ27 - Center City Townhomes - Statement of Denial**

41

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1 **Councilmember Zegerman** said he would like to give the applicant an extension to
2 consider their feedback on this item from the last public hearing and incorporate it into their
3 zoning. He said he would like to give a 60-day extension, make a motion to reconsider, and
4 set the Public Hearing for the June 25th meeting.
5

6 A **motion** was made by **Councilmember Zegerman**, seconded by **Councilmember**
7 **Killingsworth**, to reconsider Council’s vote on Rezoning No. 22CZ27 - Center City
8 Townhomes, made at the April 9th, 2024 Regular Town Council Meeting.
9

10 **VOTE: UNANIMOUS (5-0)**

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12 A **motion** was made by **Councilmember Zegerman**, seconded by **Councilmember**
13 **Killingsworth**, to set the Public Hearing for this item for the June 25th, 2024 Regular Town
14 Council Meeting.
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16 **VOTE: UNANIMOUS (5-0)**

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20 **[PRESENTATIONS]**

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22 **PR1 Proclamation - Civilian Law Enforcement Professionals Week 2024 - April 21**
23 **through April 27, 2024 (REF: PRO-2024-010)**
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25 **Mayor Gilbert**, along with the rest of Town Council, read the Civilian Law
26 Enforcement Professionals Week 2024 proclamation. He thanked Chief Armstrong and his
27 Department for all their hard work. He invited Chief Armstrong and the members from the
28 Apex Police Department to receive the Proclamation and to take a picture.

29 **Chief Armstrong**, along with other members of the Apex Police Department
30 accepted the proclamation. He thanked the Mayor and Councilmembers for supporting the
31 effort and recognizing the amazing work that Apex Police Department does. Apex is the only
32 Police Department that he is aware of in the Country that recognizes the professional staff
33 with a Proclamation such as this. He said that this was added a couple of years ago because
34 they saw a void where they weren’t paying the honor and the respect to the organization for
35 the work that their professional staff do. He said he was grateful and thanked the Council.
36

37 **PR2 Proclamation - Small Business Week 2024 - April 28 through May 4, 2024 (REF:**
38 **PRO-2024-011)**
39

40 **Mayor Gilbert** along with the rest of Town Council read the Small Business Week
41 2024. He invited Colleen Merays and Apex Small Business Owners in attendance to receive
42 the Proclamation, to be recognized and take a picture.

1
2 **PR3 Proclamation - Think Apex Day 2024 - Saturday, April 27, 2024 (REF: PRO-2024-**
3 **012)**

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5 **Mayor Gilbert** along with the rest of the Town Council read Think Apex Day 2024.
6 Mayor Gilbert invited Think Apex members or volunteers to receive the Proclamation and for
7 a picture. He recognized Barbara Belicic, Small Business Specialist for all the work she has done
8 with the Think Apex Awards.
9

10 **PR4 Town of Apex Language Access Plan (LAP) (REF: PLCY-2024-003)**

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12 **Mayor Gilbert** introduced Linda Jones, Director of the Diversity, Equity, and Inclusion
13 Department, and Celeste Sherer, Coordinator, Diversity, Equity, and Inclusion Department.

14 **Director Jones** presented a packet to the Councilmembers of the Language Access
15 Collaborative Process and Scope of Work Plan and the findings and implementation action
16 items. She also recognized other staff members. She asked that the Council consider
17 approving the language of the access plan. She also asked to provide an update at the 2025
18 Council retreat.

19 **Celeste Sherer**, Diversity Equity and Inclusion Coordinator presented the proposed
20 Language Access Plan. She outlined the proposed implementation and proposed action
21 items for Councilmembers.
22

[LAP - SLIDE 1]



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1 [LAP - SLIDE 2]

Agenda

Town of Apex Proposed Language Access Plan

- Why Language Access
- Legal Requirements
- Language Data
 - Factors and Assessment
 - Survey Findings
- Stakeholder Engagement
- Suggestions and Recommendation
- Proposed Policies and Procedures
- Proposed Implementation and Proposed Action Items

2
3 [LAP - SLIDE 3]

Language Access Team

Order from left to right, (Town of Apex, Fiesta Christiana)

Stacie Galloway: Communications Director, **Susan Clifford, Steffie Bowden:** Administration, **Linda Jones:** Diversity, Equity, & Inclusion Director, **Allen Coleman:** Town Clerk, **Jeannette Casellas:** Family Support Manager, **Celeste Sherer:** Diversity, Equity & Inclusion Coordinator, **Claudia Tsiaousopoulos:** Director of Congregational Life

4
5 [LAP - SLIDE 4]

Mission

The Town of Apex is committed to its mission of delivering exceptional public service that fosters opportunities for individuals and the community to live, thrive, and reach their full potential.

To accomplish this mission and achieve the Town's goals of fostering a:

A Welcoming Community

High Performing Government

Environmental Leadership

Responsible Development

Economic Vitality

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1 [LAP - SLIDE 5]



“It is imperative to ensure all residents have meaningful access to Town services and programs, irrespective of their preferred language or English-speaking proficiency.”

2
3 [LAP - SLIDE 6]

Why Language Access?

The Language Access Plan (LAP) of the Town of Apex represents a proactive and strategic framework aimed at providing accessible services with an intentional focus on language equity.

Language Spoken at Home:
Among residents of Apex aged 5 years and older, **19%** (11,988 individuals) reported speaking languages other than English. Among those who reported speaking a language other than English at home, **4.2%** (2,562 individuals) indicated that their speaking ability was "less than very well.". Over the past decade residents who reported speaking a language other than English has increased from **13.6%** (4,659) to **19.5%** (11,988).

Table. 1 Language Spoken at home by Apex residents

Languages	Population Estimate	Percent
Total Population 2022 (5 years of age and older)	61, 462	
Speak only English	49, 474	80.5%
Speak languages other than English	11, 988	19.5%
Speak English less than "very well" (LEP)	2562	4.2%

Source: ACS 2022(5 Year Estimates), Table S1601

4
5 [LAP - SLIDE 7]

Legal Requirements:

Federal Requirement	Summary of Language Access-related Requirements
Title VI of Civil Rights Act of 1964 and Executive Order 13166 (2000)	Recipients of federal funding: Failure to provide meaningful access to LEP persons can constitute national origin discrimination.
Affordable Care Act (2010) Section 1557	Covered health entities: Must post taglines informing LEP public of availability of free language services in top 15 languages spoken by LEP individuals in the state.
Stafford Act	Emergency management: Administrator of FEMA required to lead efforts to prevent discrimination against LEP individuals in emergency management and assistance.
Americans with Disabilities Act	All federal, state, and local government programs: Requires reasonable steps be taken to offer comparable access for members of public with disabilities to a public entity's services, programs, and activities.
Section 504 of Rehabilitation Act of 1973	Recipients of federal funding: Requires those programs to provide accommodations to people with disabilities when necessary to ensure effective communication.

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1 [LAP - SLIDE 8]

Language Data

Language and English-Speaking Ability	Population Estimate	Percent
Spanish	5445	9.99%
Speaks English "very well"	3786	6.95%
(LEP) Speaks English less than "very well"	1659	3.04%
Chinese (including Mandarin)	3215	5.90%
Speaks English "very well"	2039	3.74%
(LEP) Speaks English less than "very well"	1176	2.15%
Telugu	2869	5.27%
Speaks English "very well"	2477	4.49%
(LEP) Speak English less than "very well"	392	.72%
Russian	1027	1.88%
Speaks English "very well"	735	1.34%
(LEP) Speaks English less than "very well"	292	.53%
Hindi	1998	3.66%
Speaks English "very well"	1736	3.19%
(LEP) Speaks English less than "very well"	262	.48%
*The highlighted sections indicate the Limited English Proficiency (LEP) languages that necessitate a review of Safe Harbor parameters.		

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3 [LAP - SLIDE 9]

Factors and Assessment

Factors	Town of Apex
# or proportion of LEP Individuals in the community	19% (11,988) or residents speak a languages other than English 4.2 % (2,562) of residents are LEP
Frequency of Contact with LEP Community	Department Frequency
Nature of Importance of Services	The Town provides essential services which include public safety services
Resources Available	To evaluate the Town conducted research to identify the elements necessary for the delivery of proficient and accurate language assistance
Identified Strategic Languages	The Town of Apex has employed the Department of Justice's safe harbor threshold, which is defined as 5% or 1,000 individuals, whichever is less, to determine the requirement for translation services . Upon reviewing the data , the Town of Apex is committed to translating essential documents into both Spanish and Chinese. Further assessment is required to determine whether documents should undergo translation into Traditional Chinese or Simplified Chinese

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5 [LAP - SLIDE 10]


Needs Assessment: Survey Findings

Internal Language Capacity Assessment:

- Eight departments reported "often" interactions with LEP residents who have the preferred languages of: **Spanish, Hindi, Chinese and Russian**
- Seventeen departments reported "occasional" interactions with the previously identified preferred languages in addition to Vietnamese
- Seven departments mentioned using bilingual employees to translate and interpret materials which is not required by their job responsibility and they are currently not compensated for this added responsibility
- Multiple departments receive funds dedicated towards language assistance: utilize telephonic translation services
- Notable challenges reported in regards to accuracy of digital translations along with potential technological barriers

The Language Assistance line of the Police Department was also examined, revealing the following insights:

- Over the past decade, Spanish dominated language requests, accounting for 82.6% of all calls seeking Language Assistance.




1 [LAP - SLIDE 11]

Stakeholder Engagement & Collaborative Efforts

Below is a sample of the on going efforts between the Town of Apex and Fiesta Cristiana:

- Home Repair Fair
- Faith Action ID: Fiesta Cristiana, El Centro, & Apex Police Department
- Hispanic Heritage Month
- Latino Arts Festival
- Fiesta Cristiana Family Resource Center (Open House Event):
 - Town of Apex participated by providing resources



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3 [LAP - SLIDE 12]

Suggestions and Recommendations

1. The Community would be more responsive if there was a person that could assist with past due concerns that spoke Spanish, and could be accessible by phone to help resolve these issues.
2. Providing resources in other languages at Town Hall and other Town of Apex department buildings that offer essential services for residents, such as guidance on creating accounts or starting and shutting off services, would be beneficial.
3. Additionally, offering information on translation and interpretation services would further support community needs.



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5 [LAP - SLIDE 13]

Proposed Policies & Proposed Procedures




Policies	Procedures
1. Notice of Availability for Language Assistance Services	1. Determining the Need for Language Assistance
2. Interpretation & Translation	2. Identification of Preferred Language & Language Services
3. Staff and Training	3. Interpretation & Translation
	4. Staff Training & Education
	5. Procedure for Monitoring and Updating the Plan

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1 [LAP - SLIDE 14]

Implementation & Proposed Action Items

The policies and procedures outlined above will guide the Town's efforts in FY 2024-25. This plan aims to align with identified priorities, comply with federal, state and applicable regulations, enhance capacity, and effectively respond to both staff and community stakeholder feedback.



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3 [LAP - SLIDE 15]

Proposed Implementation and Action Items

1. Build Capacity for Language Services

- Establish a cross-departmental Language Access Subcommittee within the DEI Committee that will review Town policies and procedures
- Departmental appointed language access liaisons to advocate for language access within their respective
- Assign Language Access responsibilities to oversee the management and implementation of the language access plan, resources and training
- Develop staff training programs on language services and resources
- Consult and Collaborate with Human Resources on development of a language proficiency assessment and language skills pay stipend for bilingual/multilingual
- Strengthen language services by securing and finalizing language service contracts.

Spring 2024

The Town will implement translation platform on the Town's website using Recite Me.

"Recite Me provides a variety of on-demand accessibility solutions to assist with ADA and WCAG (Web Content Accessibility Guidelines) standards while ensuring user-friendly for individuals with disabilities, situational challenges, and language needs, through customization and translation options."

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5 [LAP - SLIDE 16]


Implementation and Action

2. Respond to Specific Requests from Community

- Develop more clear messaging and processes to enhance language access at public meetings and to utilities department
- Begin to do outreach to Chinese-speaking, and Asian Community to gather Stakeholder input on vital document translation priorities and other language access priorities.

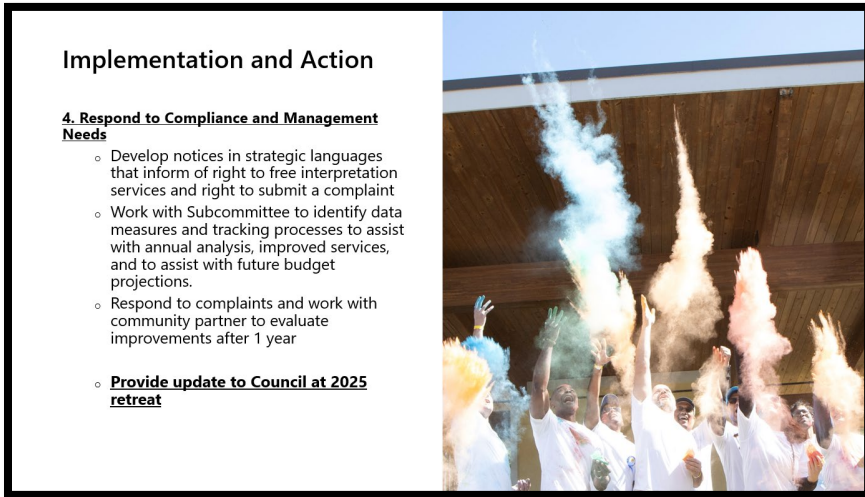
3. Respond to Specific Requests from Staff

- Develop clear resources and processes beyond telephonic interpretation to assist with interpretation
- Work with Subcommittee to identify vital documents and coordinate translation into strategic languages



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1 [LAP - SLIDE 17]



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3 [LAP - SLIDE 18]



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5 **Mayor Gilbert** thanked Ms. Sherer.
6 **Mayor Pro Tempore Gray** said this is a great effort and a good step forward. He said
7 this will allow for better access to the services that are provided, and that it is absolutely
8 necessary. He thanked the DEI Staff, and said he is proud to have them here.
9 **Councilmember Zegerman** said it was a great thing that the town was very diverse.
10 He thanked the DEI Staff for getting them to this point and said he was looking forward to
11 seeing implementation plan.
12 **Councilmember Mahaffey** asked about plans for language access for Town Council
13 meetings and making them more accessible with translation services.
14 **Director Jones** said that part of the implementation process is to identify those
15 particular gaps and the type of equipment that is needed and would be working the Allen
16 Coleman, the Town Clerk to streamline that process.
17 **Councilmember Mahaffey** also asked how sign language would be integrated into
18 the plan.

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1 **Susan Clifford**, Building Integrated Communities Staff Member, said that they were
2 recommending and encouraging language access and coordination. Also, she talked about
3 resources that would be incorporated under the language access services with compliance
4 being taken into consideration.

5 **Mayor Gilbert** thanked them for all of the work they did.

6
7 A **motion** was made by **Councilmember Zegerman**, seconded by **Mayor Pro-**
8 **Tempore Gray** approve the Town of Apex Language Access Plan.

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10 **VOTE: UNANIMOUS (5-0)**

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12 **[REGULAR MEETING AGENDA]**

13
14 A **motion** was made by **Councilmember Gantt**, seconded by **Councilmember**
15 **Killingsworth**, to approve the Regular Meeting Agenda with an added Closed Session Item
16 pursuant to NCGS § 143-318.11(a)(3).

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19 **VOTE: UNANIMOUS (5-0)**

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22 **[PUBLIC FORUM]**

23
24 First to speak was **Elizabeth Stitt** of 3113 Friendship Road:

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26 “Mayor, Town Council, good evening. On behalf of the Friendship Community. I would like to
27 extend a warm welcome to the new Town Manager, Mr. Vosburg, welcome, we look forward
28 to getting to know you. We also want to thank Shawn Purvis for his time, we tried not to wear
29 him down too much while he was serving as Interim Manager, but we do want to say thank
30 you as well. Segway into other thank you’s, as I was very excited Friday when the budget was
31 posted online. You know what I was looking for, I did see the funding for the improvements
32 to Friendship Road intersection, it does go a long way to helping the congestion in our area,
33 but we have a little more work to do. Because even with the turn lanes that you put in; it is not
34 going to flow properly without the signal, and I understand right now that currently we don’t
35 have funding for the signal portion, so I’m trying to figure out how much money that is and
36 then I’m going to start campaigning to go find that money, as you guys well know. I plan to hit
37 Holly Springs up, and plan to hit D.O.T., but if there’s some other non-traditional sources that
38 you need my community and I to go campaign for some money, let me know. I’m glad to
39 have the opportunity to do that. In the short term, however, if we could have a traffic officer.
40 We have looked at how we have reduced the time that we would need someone, and we
41 have 2 one-hour windows from 7:00 a.m. to 8:00 a.m. in the morning and then from 5:00 p.m.
42 to 6:00 p.m. in the evenings, it would go a long way because what’s happening today is

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1 obviously there's a lot of people playing the game of chicken, darting into the traffic. We're
2 having more accidents. We did talk to D.O.T, and they are going to get us the latest figures
3 for the last 12 to 18 months because there have been many more of those. We're having
4 some road rage, we're having people getting frustrated, they're honking their horns a lot
5 more. They're doing some crazy cut throughs, it's just getting to a point where we need
6 something to bring the temperature down. Every time we have an accident, we do see that a
7 police officer stays or checks at the next couple of days and it's a whole lot better and that's
8 why we're asking for a traffic officer for one hour in the morning and one hour in the
9 afternoon and that's it for tonight. Thank you very much, appreciate it."

10
11 **Mayor Gilbert** thanked Ms. Stitt

12
13 Next to speak was **Dawn Cozzalino** of 3632 Bosco Road:

14
15 "Good evening everyone, as you heard from Elizabeth I'm also very excited about the funding
16 for this intersection of Friendship and old US One for the turning lanes and it's a big step, it's
17 not all the way, but it's a big step to improving the traffic. Folks listening, watching tonight,
18 you may know this intersection, it's a stop sign onto a two-way traffic, east and west, and it just
19 backs up and causes a lot of stress, causes a lot of dangerous driving, it's almost like you have
20 to be, you know, SpaceX to kind of jump out onto the highway. Shouldn't be that way, right,
21 we can do better with that intersection, and there has been an uptick in accidents as well.
22 And the D.O.T has been a great partner. I worked with them for a traffic study actually, or
23 safety study I should call it, for Bosco Road that is also a very dangerous, like there is not
24 visibility, it's on a hill, and with their partnership getting this safety information and partnering
25 and collaborating with them, we were able to get those orange intersection warning signs,
26 because people I don't even think were aware that was a road and folks live out on that road,
27 so there's a lot that we've been doing you know ourselves, but you know just asking that you
28 guys work as well with some of the solutions, recommendations for a traffic cop. There was
29 also something I thought might be interesting, it's a little techy but at the Chatham Vinfast
30 Site, if you're familiar, they've been building out there. It's on a very curvy road. They had
31 these freestanding traffic lights, and they were metering without a person at all, they were
32 metering with red and green lights, the traffic on a closed lane which I thought was pretty
33 impressive. I don't how the tech worked, I'm not going to pretend to know how the tech
34 worked, but it's just another thought or an idea about until we get to that point where we
35 have the traffic light, we have the metering, we have the extra lanes and we can, you know,
36 allow people to drive and understand the rules of the road and not feel stressed, not feel
37 compelled to be frustrated and angry and so I ask that we just look into different solutions
38 and we're going to keep working with D.O.T. and on our end and supporting this effort. It's
39 very important for people's welfare and for everybody's peace in these times, so thank you
40 very much and God bless."

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42 **Mayor Gilbert** thanked Ms. Cozzalino

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Next to speak was **Danya Dahbour** of 410 James Street:

“My name is Danya, I’m a Palestinian American born and raised in North Carolina. I stand before you today expelled from stolen land on stolen land. Because there is a strip of land smaller than Raleigh, it is densely populated by 2.1 million native Palestinians, 50% children living under years of oppression, occupation, and siege. This land in the last 37 days has been turned into a demolition site by USA-backed Israel. It’s become an assortment of body parts of the dead, innocent. Palestinian men, women, and children, a 99.5% civilian death toll. Dead doctors, dead journalists, dead staff members, dead NICU infants, remnants of native people’s homes, hospitals, churches, schools, any and everything turned to rubble. A melting pot, the American dream. We have stood idly by as Israel publishes lies blindly endorsed by the President of the United States, the same United States that was built on the backs of indigenous people, nurtured by the Africans that were brought here in slavery. The same President who is sending 14.3 billion of my Palestinian-American tax dollars to fund the extermination of my lineage in Palestine. Is your pedestal obstructing your view of these atrocities because your children don’t look like these children? Are you just pretending that you’re not watching a genocide happen on your phone? I see myself in these children, I see my parents, I see my siblings, my nephews, my cousins, I see my family. I don’t have the privilege of disassociating from the Palestinians who are being wiped off the earth. We could have spared the lives of more than 5,000 children if our leaders listened to the millions of people across the globe urging for a ceasefire. I gave this speech on November 23rd of 2023. I’m here today, almost 7 months later, and today marks 200 days of genocide and Gaza has become more than a demolition site, in the last 200 days it has become a haunting place made up of your worst nightmares. It is overtaken by famine, anguish for lost loved ones, stories of unspeakable atrocities and desperation to end genocide, the 14,000 children dead today could have been spared by a ceasefire 7 months ago and now the President has sent 26 billion of my Palestinian-American tax dollars to fund Israel’s crimes. It is unbelievable that I have been forced to find creative ways to say genocide is bad. I grew up on James Street, I will pass by my house today after I leave here and reminisce on my childhood and when the people of Gaza pass their childhood homes, there is nothing there except dust and their dead family members, please pass a ceasefire.”

Mayor Gilbert thanked Ms. Dahbour

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Next to speak was Ms. **Alexis Kennedy** of 106 Buckhaven Court:

“Good evening Councilmembers. I have a few things that I would like to address which involved the incident during mine and Lama’s speech last meeting. Lama, a young, intelligent Palestinian woman was speaking about the atrocities that were being committed against her family and her people. It took great courage for her to speak about her personal trauma, personal trauma that is being spread via Instagram, TikTok and Twitter on live stream for the

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1 whole world to witness. It took courage for Lama to come up here to speak for her people
2 and her family. Her speech was a mere 4 and ½ minutes. The Zionist that was sitting directly
3 behind her could not even handle that, and had to shuffle his papers and toss them around,
4 throw up graphs and pictures to distract her and intimidate her, but Lama kept her voice clear
5 and held her poise. What we witnessed is just a tiny glimpse of what Palestinians have to go
6 through on a daily basis, in Gaza and West Bank. With Zionists that even in peaceful protests,
7 they have to aggressively attack. Afterwards, it was the Zionist's time to speak, and we all
8 respected it and listened with no interruptions. At the end of the meeting, it was not enough
9 for the Zionist, he had to come across the way and try to hand us paperwork and we
10 respectfully declined, and he couldn't take no for an answer. Trying to intimidate our group
11 and we were very lucky that we had the Police Department and our Police Chief to protect us
12 and de-escalate the situation, because he was taking no for an answer, and I would like to
13 take a moment and acknowledge both Police Officers that assisted us here in Apex. We are
14 extremely lucky to have a community that protects us, but who is protecting Palestine. I do
15 have to say the Zionist did have a valid point and called out that neither one our speeches
16 called for peace, and I agree, we didn't call for peace. Because peace doesn't mean justice,
17 peace doesn't mean Liberation; you can have peace and injustice at the same time, you can
18 have oppression and peace at the same time. True peace cannot be achieved until
19 oppression is stopped, until the genocide has stopped, until the apartheid has stopped in
20 Palestine. And while we don't have peace at this moment, there is a bountiful amount of love
21 and value of life from the people that are asking for a bare minimum ceasefire. There's a
22 picture in front of you, that is our future, and I would like to take a moment and have the
23 people that are in that picture stand up, so that you know that these are Apex residents that
24 went to Washington, DC to support humanity. If you are wondering what our message
25 means, this picture sums it all up for you. This is who is asking for a ceasefire, this is who is
26 asking for a free Palestine, the people in the picture are looking at their fellow humans and
27 recognize them as an individual, as a community and a culture to be protected. My last
28 speech I spoke of the world being a complex puzzle, and after seeing this picture in
29 Washington DC, I realized it was more than that, we are far more beautiful than a puzzle, we
30 are a collective that are more like a kaleidoscope, when you look at the individual pieces,
31 they're different, beautiful, uniquely shaped, but when you put them together, you make a
32 kaleidoscope, and you look into the light and the beauty is unexplainable, making beautiful
33 patterns with every turn and that is what diversity and humanity looks like to me and to us
34 who are asking for a ceasefire. We are a collective of unique pieces, different backgrounds,
35 different ethnicities, different religions who look to the light and we are all united on the idea
36 of never again means never again, for everyone. Free Palestine. Thank you."

37

38 **Mayor Gilbert** thanked Ms. Kennedy.

39

40 Next to speak was **Jeff Hastings** with PeakFest:

41

DRAFT MINUTES

1 "Thank you, Mayor, Town Council, welcome Town Manager. I just wanted to say that next
2 Saturday is PeakFest. I've seen some of you volunteer to help out at 5:30 in the morning,
3 Jacques, Mayor please. I just want to take an opportunity to thank the town for all that y'all
4 have done to help PeakFest. We will have 110 arts and crafts vendors, we have 26 nonprofits,
5 we have 21 sponsors, we have the town well represented. We have another 19 food trucks
6 that'll be here, and so I didn't want to say thank you after the fact, I want to say thank you
7 before the fact, for all that the town does to help us to pull this off and we couldn't do it
8 without everybody at the table, and just thank you very much, so we will see you on May 4th
9 and hope for sunny weather. Thank you."

10

11 **Mayor Gilbert** thanked everyone that came out to speak.

12

13 **[PUBLIC HEARINGS]**

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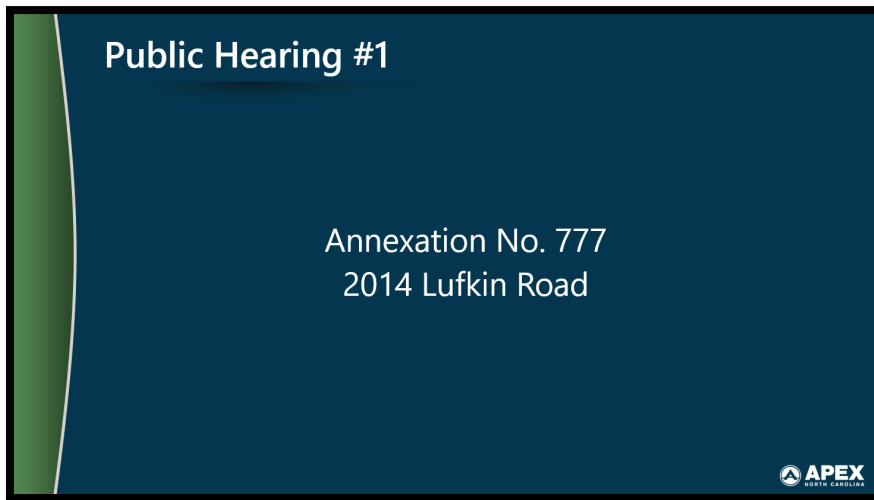
16 **PH1 Annexation No. 777 - 2014 Lufkin Road - 2.208 acres (REF: ORD-2024-035)**

17

18 **Dianne Khin**, Director of Planning Department, gave the following presentation
19 regarding 2014 Lufkin Road Annexation No. 777.

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[SLIDE 1]



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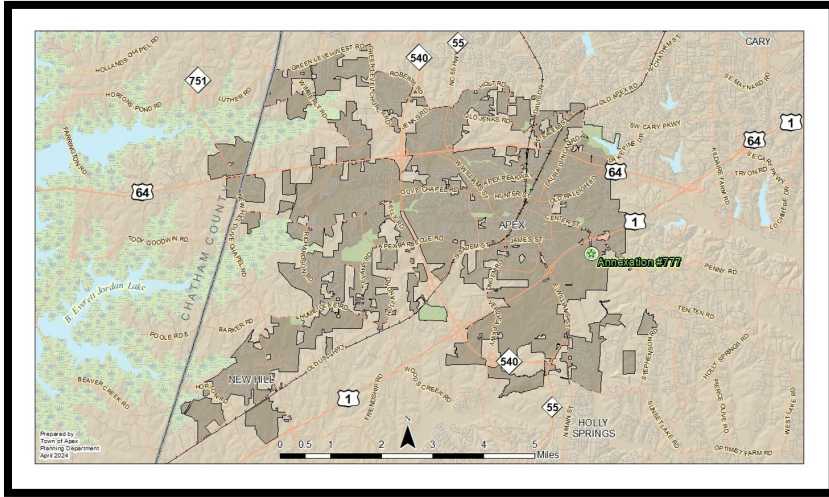
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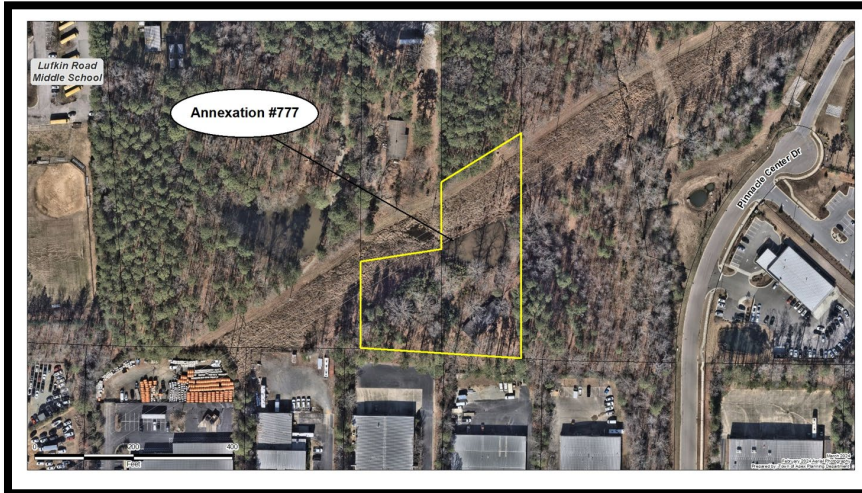
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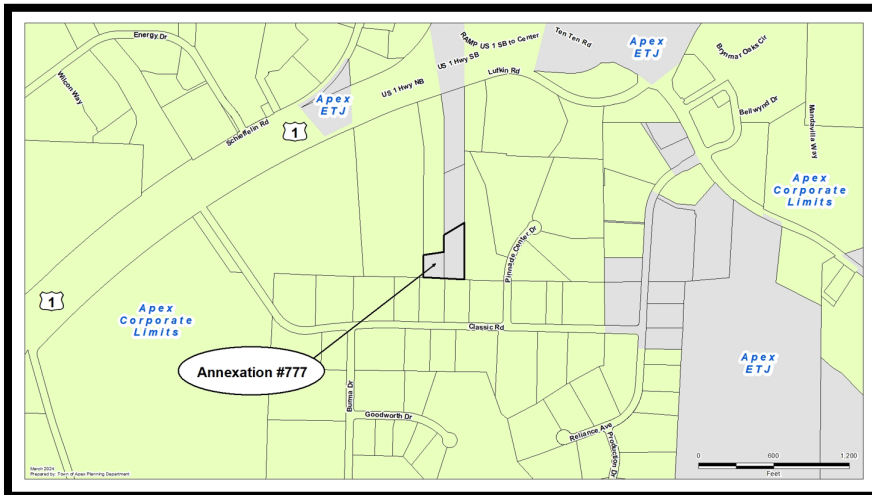
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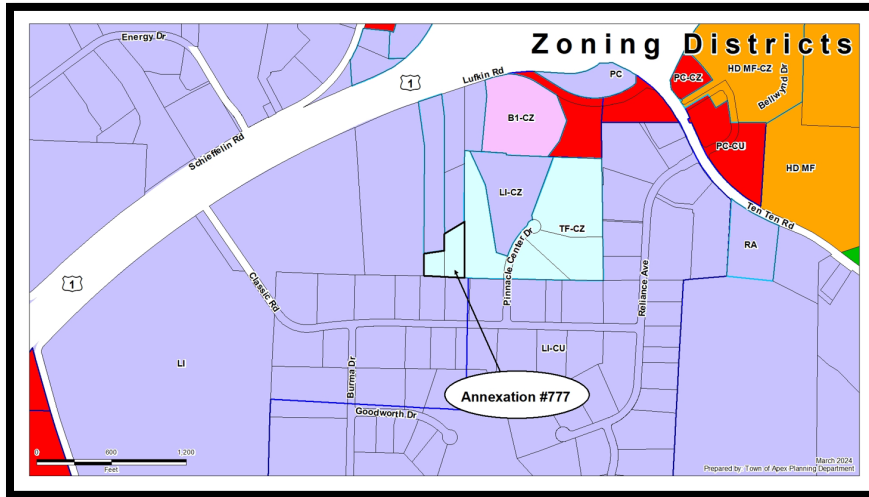


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5 [SLIDE 4]



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1 [SLIDE 5]



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Mayor Gilbert opened Public Hearing for this item. With no one signed up, he closed Public Hearing and moved discussion back to Council.

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A **motion** was made by **Councilmember Killingsworth**, seconded by **Councilmember Mahaffey**, to approve Annexation No. 777 - 2014 Lufkin Road

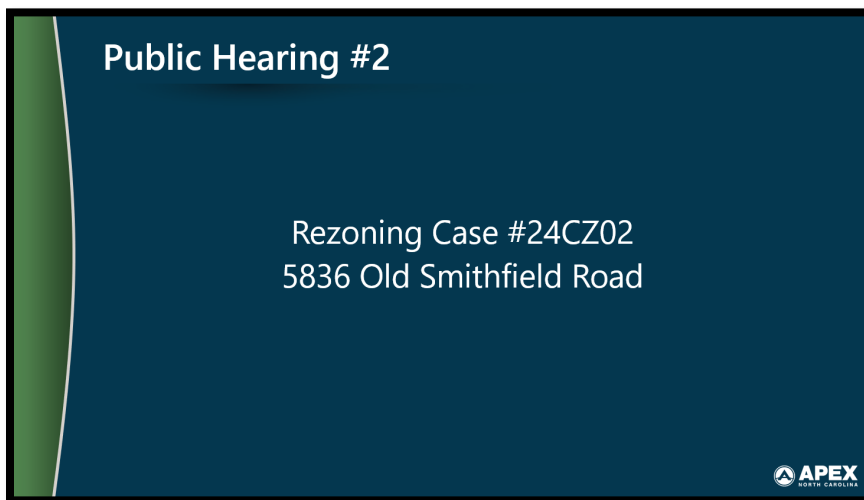
9 **VOTE: UNANIMOUS (5-0)**

10

11 **PH2 Rezoning Case No. 24CZ02 - 5836 Old Smithfield Road**

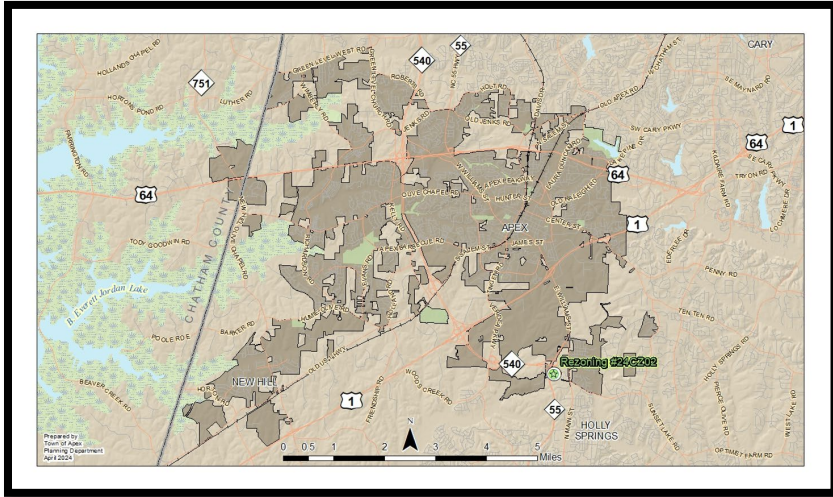
12 **Shelly Mayo**, Planner II, Planning Department, gave the following presentation regarding 5836 Old Smithfield Road.

13 [SLIDE 6]

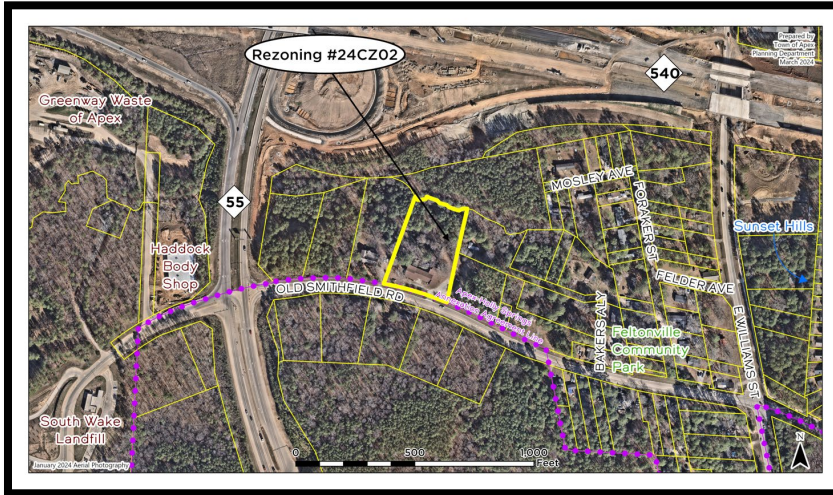


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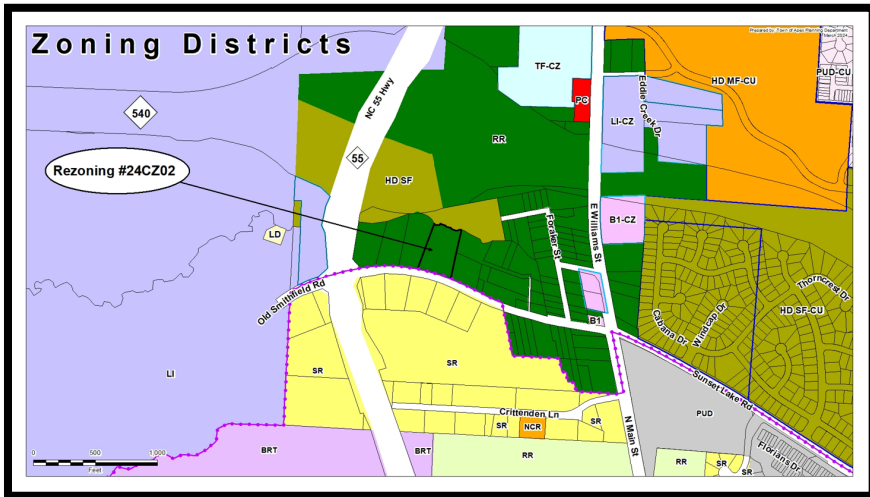
1 [SLIDE 7]



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3 [SLIDE 8]

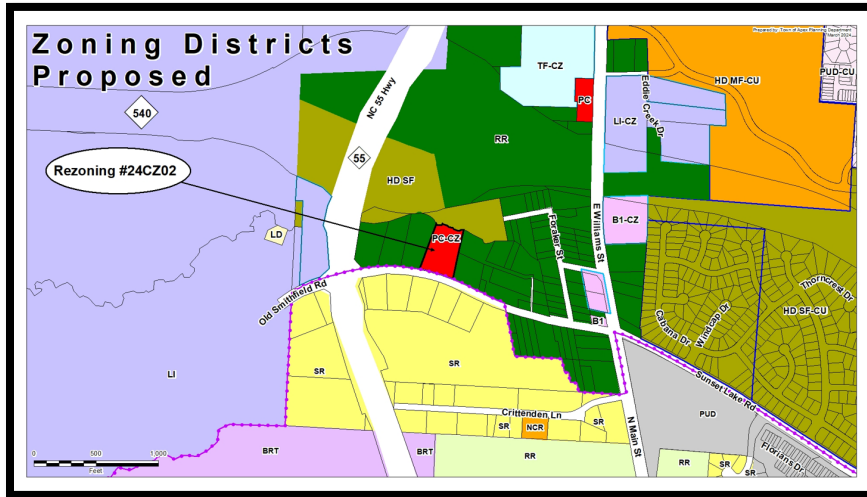


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5 [SLIDE 9]

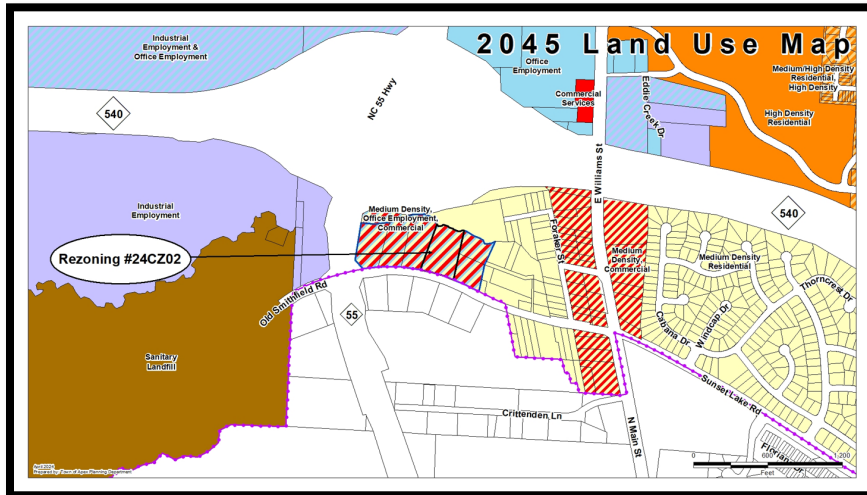


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1 [SLIDE 10]




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3 [SLIDE 11]



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5 [SLIDE 12]

Proposed Zoning Conditions:

- The existing nonconforming site shall not be subject to UDO Articles 8 and 9 except as stated below, and provided that all of the following conditions are met:
 1. Permitted uses:
 - o Assembly hall, for profit
 - o Assembly hall, non-profit
 - o Church or place of worship
 2. The existing buildings shall follow UDO Sec. 10.3 Nonconforming Structures. No additional buildings shall be permitted on site.




6

1 [SLIDE 13]

Proposed Zoning Conditions:


3. If the existing building is damaged or destroyed to the extent that it must be rebuilt per UDO Sec. 10.3, the rebuilt building will also meet these conditions:
 - a) The predominant exterior building materials shall be high quality materials, including:
 - i. Brick masonry
 - ii. Decorative concrete block (either integrally colored or textured)
 - iii. Stone accents
 - iv. Aluminum storefronts with anodized or pre-finished colors.
 - v. EIFs cornices, and parapet trim
 - vi. Precast concrete
 - b) EIFs or synthetic stucco shall not be used in the first forty inches above grade.
 - c) The building exterior shall have more than one material color.
 - d) The building shall have more than one parapet height.
 - e) The main entrance to the building shall be emphasized.



2
3 [SLIDE 14]

Proposed Zoning Conditions:


4. The total built upon area for the site shall not exceed 12% without a Stormwater Control Measure (SCM), unless it otherwise meets one or more of the exemptions listed in UDO Sec. 6.1.3.
5. The 100-foot riparian buffer at the northwestern corner of the property and the 50-foot riparian buffer at the rear property line shall not be disturbed, except the minimum necessary to install required sewer infrastructure and SCM outlets. The SCM water storage and treatment area shall not be permitted within the riparian buffer. The sewer shall be designed to minimize impacts to the riparian buffer. The required riparian buffers shall also be dedicated as Resource Conservation Area (RCA).
6. The buffer along Old Smithfield Road shall be a 15-foot Type E buffer.



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5 [SLIDE 15]

Proposed Zoning Conditions:

7. The buffer along the western property line shall be 10-foot existing undisturbed.
8. Along the eastern property line, there shall be no required perimeter buffer due to the existing sewer easement.
9. The site shall not require a Traffic Impact Analysis and no road improvements shall be required. This does not exempt the installation of improvements required for the safe ingress and egress of vehicles and emergency services accessing the site, including, but not limited to, installation of a paved driveway apron, necessary driveway relocation, and other roadway markings and signage associated with the driveway location.




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1 [SLIDE 16]

Proposed Zoning Conditions:


10. The parking lot may be gravel except for driveway aprons, which shall be concrete, and handicapped spaces, which shall be concrete or asphalt. Gravel parking shall at a minimum meet the following specifications:
 - a. Compacted Subgrade;
 - b. 6 Inches Aggregate Base Course;
 - c. 1.5 Inches #78M Stone; and
 - d. Drive aisles must be repaired or replaced with #78M Stone every six (6) months.
11. Parking and vehicular use areas shall not be required to be set back from any required buffers. Wheel stops shall be installed to protect vegetated areas from impacts by cars.



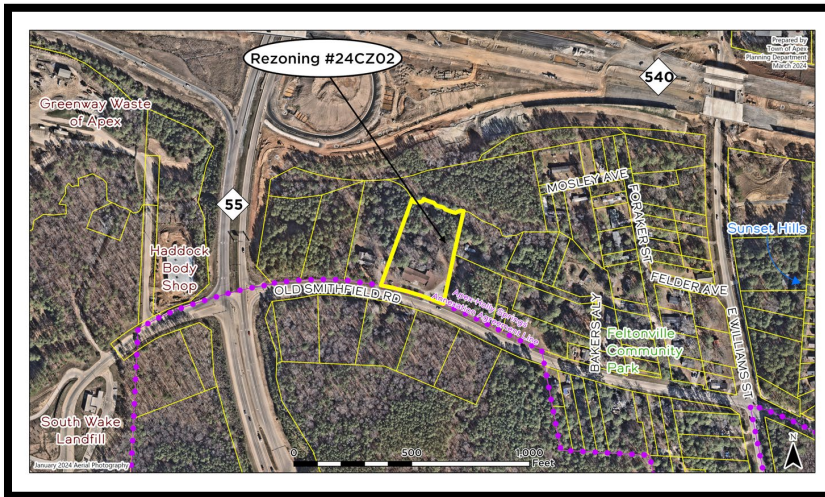
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3 [SLIDE 17]

Proposed Zoning Conditions:

12. No exterior lighting shall be installed on site unless a lighting plan is submitted which meets all provisions of UDO Sec. 8.6, except as required by building code or ADA.
13. A dumpster shall not be permitted unless it is screened by an enclosure, per UDO Sec. 8.2.8 and the Town of Apex Standard Specifications and Standard Details.
14. Signs shall not be permitted unless they meet all provisions of UDO Sec. 8.7.
15. At least 1 parking space per 500 square feet of building area shall be provided.



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5 [SLIDE 18]



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Councilmember Gantt asked if staff were concerned about the dust from the gravel becoming a nuisance for the nearby residents.

Ms. Mayo said it had been graveled for a very long time, there had not been any complaints from the neighbors, and the owners live right next door and are tightly wound in their community.

Mayor Gilbert thanked Ms. Mayo for working with the applicants. He said it was an iconic building and there were lots of good memories associated with it.

Mayor Gilbert opened Public Hearing for this item. With no one signed up, he closed Public Hearing and moved discussion back to Council.

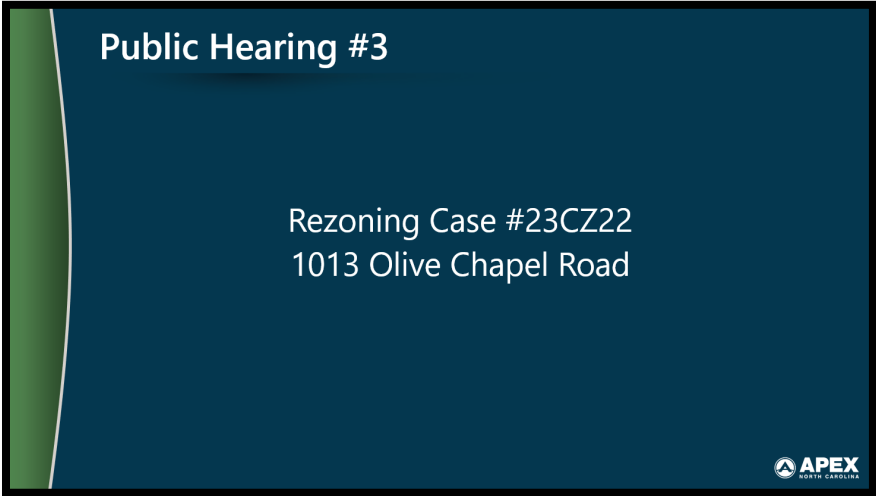
A **motion** was made by **Councilmember Mahaffey**, seconded by **Councilmember Zegerman**, to approve Rezoning No. 24CZ02 - 5836 Old Smithfield Road.

VOTE: UNANIMOUS (5-0)

PH3 Rezoning Case No. 23CZ22 - 1013 Olive Chapel Road (REF: OTHER-2024-059)

Joshua Killian, Planner I, Planning Department gave the following presentation regarding 1013 Olive Chapel Road.

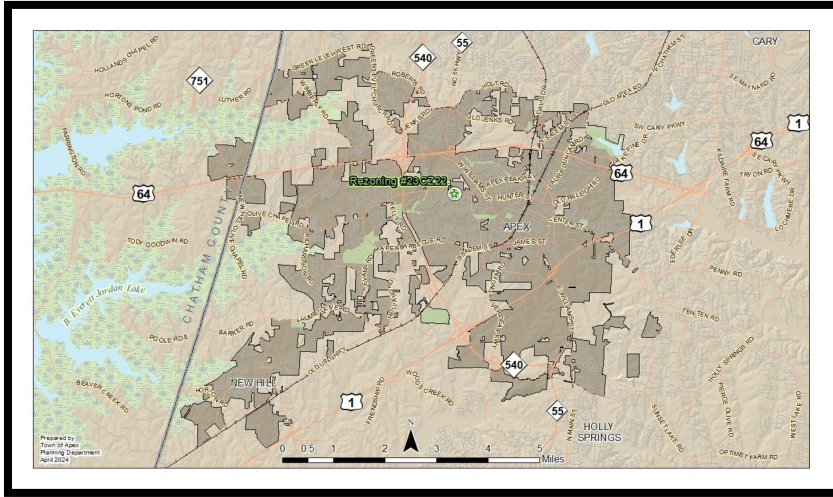
[SLIDE 19]



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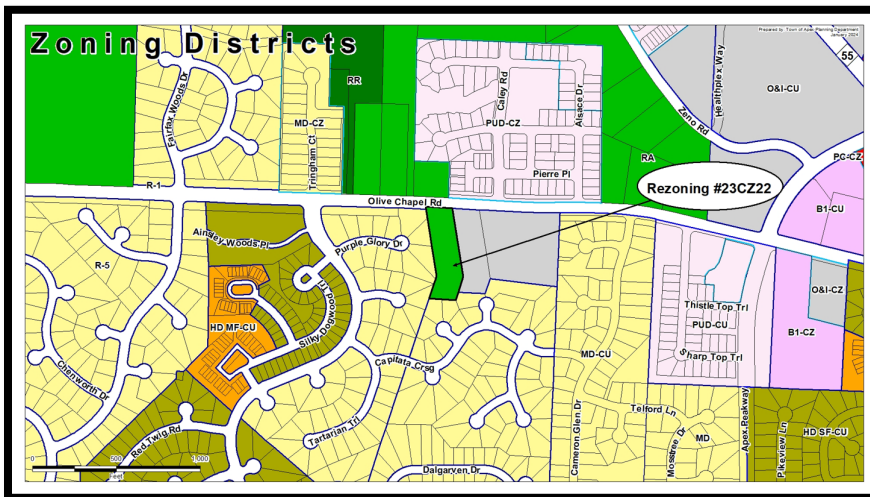
1 [SLIDE 20]



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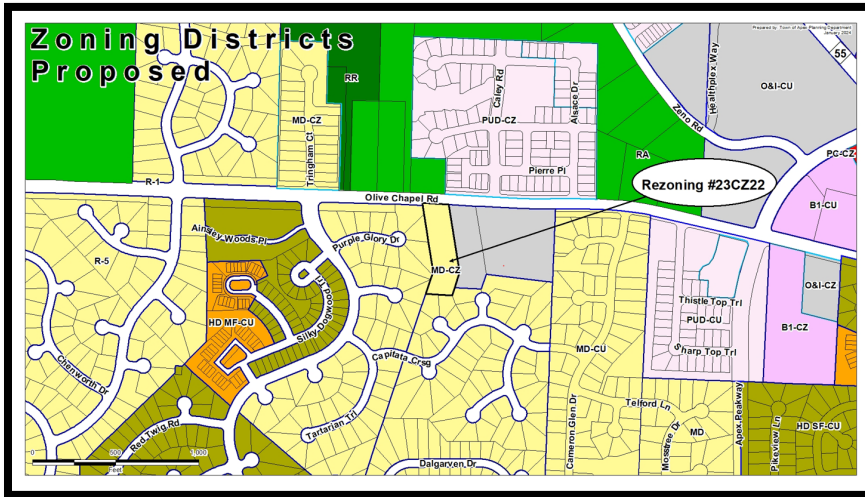


4 [SLIDE 22]

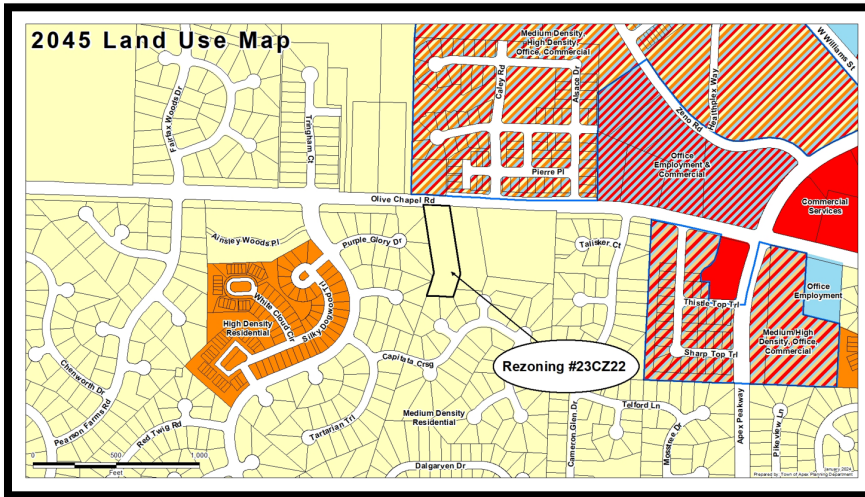


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1 [SLIDE 23]



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4 [SLIDE 25]
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Councilmember Gantt asked how many houses by-right could be put on this site if the site was not rezoned.

Director Khin said it would be one unit per 5 acres.

Councilmember Gantt asked about the land use map showing this area as medium density but the zoning for the parcels to the east are office and institutional. He asked about the history and why there was no office institutional on the land use map for the sites.

Director Khin said that she wasn't sure why it was rezoned to office institutional, but when it was adopted, no one put office institutional. She said the land use map indicates that if the property comes in for rezoning now that would be its classification. She added that they have the legal ability to zone as Office and Institutional on this property if they would like.

Councilmember Gantt asked was there ever a discussion from staff or anyone else to try to move the driveway off of Olive Chapel Road?

Mr. Killian said that was not a desire from staff or Capital Area Preservation.

Leticia Shapiro, Attorney of the Morning Star Law group gave the following presentation on behalf of the owners.

[APPLICANT PRESENTATION - SLIDE 1]



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1 [APPLICANT PRESENTATION - SLIDE 2]




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3 [APPLICANT PRESENTATION - SLIDE 3]

Proposed Zoning Conditions

Environmental Conditions

1. A Solar PV system shall be installed on 100% of the homes within the development with a minimum of 6 kilowatts per system.
2. All homes shall be equipped with a 220 outlet for electric vehicle charging.
3. Development shall meet all stormwater requirements listed in UDO Section 6.1.12, including but not limited to limiting the post-development stormwater flows to not exceed pre-development rates. In addition, the post-development peak runoff rate shall be limited to the pre-development peak runoff rate for the 2-year, 24-hour, the 10-year, 24-hour and the 25-year, 24-hour storm events.
4. Existing trees greater than 18" in a diameter that are removed by site development shall be replaced by planting a 1.5" caliper native tree from the Town of Apex Design and Development Manual either on-site or at an alternative location approved by Town of Planning Staff, above and beyond standard UDO requirements.
5. Development of the site shall include planting of warm season grasses.

4
5 [APPLICANT PRESENTATION - SLIDE 4]



Proposed Zoning Conditions

Zoning Condition (Historic Maynard-Pearson House)

6. Prior to the approval of the Master Subdivision Final Plat, a minimum 6' tall fence consisting of wood or vinyl shall be installed and/or plant materials including evergreen species not less than 6' in height shall be planted along the common property line of 1101 Olive Chapel Road (PIN 0732730167).

6

1 [APPLICANT PRESENTATION - SLIDE 5]

Proposed Zoning Conditions
Use and Architectural Conditions

7. Homeowner Association covenants shall not restrict the construction of accessory dwelling units.
8. Vinyl siding is not permitted; however, vinyl windows, decorative elements and trim are permitted.
9. Garage doors shall have windows, decorative details or carriage-style adornments on them.
10. The visible side of a home on a corner lot facing the public street shall contain at least 3 decorative elements such as, but not limited to, the following elements:

- Windows
 - Bay window
 - Recessed window
 - Decorative window
 - Trim around the windows
- Wrap around porch or side porch
- Two or more building materials
- Decorative brick/stone
- Decorative trim
- Decorative shake
- Decorative air vents on gable
- Decorative gable
- Decorative cornice
- Column
- Portico
- Balcony
- Dormer

11. The rear and side elevations of the units that can be seen from the right-of-way shall have trim around the windows.

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3 [APPLICANT PRESENTATION - SLIDE 6]

Proposed Zoning Conditions
Transportation Conditions

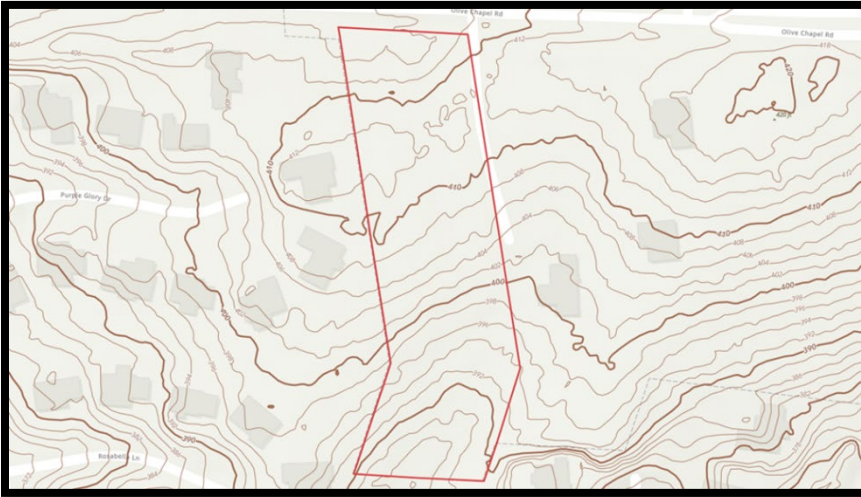
12. Subject to approval by the Town and NCDOT at the time of development plan review, access to Olive Chapel Road shall be provided by a single right-in/right-out intersection on the west side of the parcel, located approximately 350-400 feet west of Caley Road.
13. Development of the site will include a single stub street to the property located to the east with (PIN 0732733089).
14. Olive Chapel Road Frontage widening and right of way dedication shall be provided based on a 4-lane median divided section on 110-foot right of way as identified in the Transportation Plan.

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5 [APPLICANT PRESENTATION - SLIDE 7]

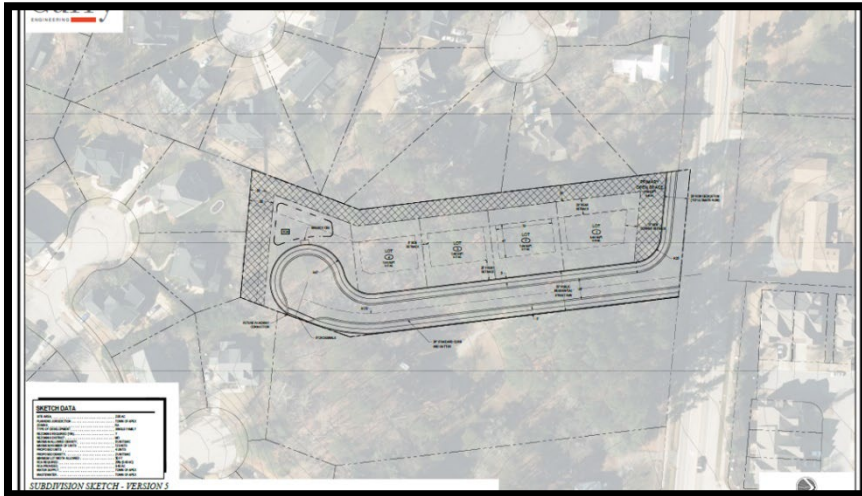


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1 **[APPLICANT PRESENTATION - SLIDE 8]**



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3 **[APPLICANT PRESENTATION - SLIDE 9]**



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5 **[APPLICANT PRESENTATION - SLIDE 10]**



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Councilmember Gantt said he had a hard time seeing how the parcel to the east is going connect with the street stub. He said he thinks the obvious thing would be to have the road to go right between these two on the property line and split it to allow for a more cohesive development in his opinion.

Don Curry, Curry Engineering, said the plan is work with staff to provide access to the parcel to the east the south end. Mr. Curry said they do not have access to the adjacent property.

Councilmember Gantt asked if homes were developed in the future and the stub is at the very southern end, how it would connect.

Mr. Curry said it was stubbed at the southern end of the property, but it is stubbed to the east as per staff's request so if a development occurred on that property, they would have the ability to connect to it as a public road. Mr. Curry said that their layout would need to conform to that stub location which is pretty typical of the first property in an area to develop. He said they would work with staff to set those street locations and then when future development occurs on vacant parcels then they connect to that stub.

Councilmember Gantt said this would imply that there would be a large cul-de-sac because there would probably not be another right in, right out 100 feet away on Olive Chapel Road.

Councilmember Zegerman asked if this would be a fully developed street with curb and gutter.

Mr. Curry said yes, it is a public street.

Councilmember Zegerman said he could see homes being developed on the other side of the road.

Councilmember Gantt said the Planning Board had said it would be on the other side of the road.

Councilmember Zegerman said he thought that condition was removed by Planning Board.

Mr. Curry said that condition was edited at the Planning Board. He said that he believed the staff's recommendation remained with the original language. He said in either case, they would need to stub to the east and more than likely that requirement would still remain at the staff level which is pretty typical when developing a piece of property.

Councilmember Gantt asked if the stub was on the east side instead of the west would there be driveways that would be able to access it from the parcel to the east. He said it seems from the sketch there would be a buffer and then there wouldn't be driveways on it.

Mr. Curry said that if it mirrors the layout that the applicant currently has, the road would be on the west side and then the cul-de-sac would be south of the homes, so the stub would be from that cul-de-sac to the east after passing the homes so there wouldn't be any conflict with the new homes or their yards.

Councilmember Gantt said that then there would presumably be two right in right outs on the western edge of the property, and then on the eastern edge of the adjacent

DRAFT MINUTES

1 property, and it would have a big loop. He asked if that is how it could potentially be
2 arranged.

3 **Mr. Curry** said he did not know how a future connection would work on Olive Chapel
4 Road, it would depend on their layout. He said he could foresee another connection, another
5 right and right out, to Olive Chapel Road, or possibly a full access if it lines assuming the
6 current home is removed with future development.

7 **Councilmember Gantt** said he just wanted the very best use of that land with all three
8 parcels cohesively interacting with each other, if possible.

9 **Mr. Curry** said they were doing the best they could to accomplish that by putting a
10 public road on the property and stubbing to the east, since they were only working with one
11 parcel.

12 **Councilmember Zegerman** said he did not see any buffer conditions and asked if the
13 road would go right up to the property line.

14 **Mr. Curry** said there was a buffer on the west side along the historic property line, but
15 said he did not believe there was a buffer on the east side.

16 **Councilmember Zegerman** said that he did not see any buffer on the plans so
17 conceivably there would be driveway access from that property to the east.

18 **Councilmember Gantt** asked if driveway access would access Olive Chapel Road
19 from the east.

20 **Mr. Killian** said based on the current zoning condition that is in the staff report the
21 road would be located on the west and then a stub would go to the east for public street
22 access.

23 **Russell Dalton**, Traffic Engineering Manager, showed a schematic explaining why
24 they chose to put the stub on the western end of the property. He explained that having the
25 connection on the west side of the parcel would allow drivers more time to move over into
26 the turn lane if they wanted to make the left-hand turn across the street.

27 **Councilmember Gantt** asked if it was expected to have full movement at Kaylee in
28 the ultimate construction.

29 **Mr. Dalton** said yes, that's correct.

30 **Councilmember Mahaffey** asked to clarify what the condition being presented
31 today.

32 **Mr. Dalton** said that the condition, subject to Town and NCDOT approval, is that the
33 access would be located approximately 350 to 400 ft west of Kaylee Road which is toward the
34 western side of the property.

35 **Councilmember Mahaffey** asked to clarify what the sketch was showing

36 **Mr. Dalton** said, this sketch illustrates what they'd shown previously, and it illustrates
37 why putting it on the east side is so problematic.

38 **Councilmember Mahaffey** said that implies the road would then be on the western
39 edge of the property.

40 **Mr. Dalton** said yes, as far west as practical.

41 **Councilmember Mahaffey** questioned if it would be the road and then the buffer
42 and then the existing homes next to it being on the west side. He clarified that the condition

DRAFT MINUTES

1 today is the original staff recommended condition of restricting it to the west and not the
2 Planning Board recommendation of removing that and letting it have more flexibility.

3 **Mr. Dalton** said that is correct.

4 **Councilmember Gannt** asked if staff was assuming that in the case that the U-turn is
5 going to happen in the street and not at the light.

6 **Mr. Dalton** said that's correct. It is natural driver behavior that they are going to take
7 the first possible U-turn opportunity and in a lot of ways it's easier to make a U-turn at a
8 location like this which is lower volume than a traffic light may be.

9 **Councilmember Zegerman** asked if the property is moved and the road did come
10 through, where would the storm water retention go.

11 **Mr. Curry** explained how the property drained and said they would need to do some
12 field surveying and get some topography on the property to try to get the storm water work.

13 **Councilmember Zegerman** asked if the 25-year storm condition would still stand.

14 **Mr. Curry** said yes, there was no change in that condition.

15 **Councilmember Zegerman** asked if the applicant has accepted the conditions
16 outlined by staff.

17 **Ms. Shapiro** said ideally the applicants would like to have the flexibility to not have
18 the strict language after agreeing to the right in right out turn. She said the applicant is willing
19 to do it either way and see how it goes. She added that they would like to work with staff and
20 do the best possible thing for this site.

21 **Mr. Killian** made one final note, that the zoning condition does also state that it is
22 subject to the approval of NCDOT and the Town of Apex, so the condition may not come into
23 play if the engineering doesn't work out.

24
25 **Mayor Gilbert** opened up the Public Hearing for comment.

26
27 First to speak was **Ken Alridge**, 1004 Alma Trail.

28
29 "Thank you, Mr. Mayor and Council Members. First of all, we would like to welcome
30 new residents. We're glad, we've lived here 15 years, and we think anyone that can enjoy this
31 town the we have, we're happy to see them come in. Our concern is we're at the very
32 southwest corner of this property and there is a drain in the back of our yard that essentially
33 catches storm water runoff from all these parcels, anytime it rains more than an inch, the
34 water runs from that parcel into that drain for about a week, okay, so it gets pretty backed up.
35 At one time we were very concerned about that, contacted the engineers for Apex that came
36 out looked at it and said it's a problem with a low water table back in that property. We see in
37 the plans that there is a plan for a sand filter as a solution and according to the North Carolina
38 Storm Water design manual and email from Jessica Bolin, who is the Manager of the
39 Engineers, basically that addresses the quality of the water, not the quantity. We've been told
40 that there's a 25 and a 40-year flood plan that's been looked at. My concern is that I don't
41 know how they can assess that when they're assessing it on property that is full of mature
42 trees and undergrowth and now we're going to have paved services and roofs, you know and

DRAFT MINUTES

1 roads. Obviously, the water run-off is going to be much greater, so our only concern is that we
2 would like to see a current study of what that runoff would be and how that would impact our
3 property and if they come up with a good plan, then we'll be happy with that. We just want to
4 make sure that we're not going to be getting flooded since all that land does run, as stated
5 earlier, to the southwest corner, that's the low point. The other concern we have is that there's
6 a couple of very mature champion trees on the property towards the south end in excess of
7 40 inches around and we would like to know if there's a way we can preserve those trees. I
8 know that currently there's a plan that if you have a tree that's so big, you have to replace it
9 with another tree of 1 ½ or 2 ½ inches, but it could be planted anywhere that's needed in the
10 town, hate to see the champion trees to be torn down, but we do understand."

11
12 **Mayor Gilbert** thanked him.

13
14 Next speaker is **Bill Keys** of 1014 Olive Chapel Road.

15
16 "I've been living there for almost 50 years and it used to be easy to get out on Olive
17 Chapel Road, it's not so easy now and if I'm looking forward to the prospect of median and
18 right in and right out, that's going to be great, we probably take 90% of every turn out our
19 driveway, we go east to Church, grocery store, whatever. To have to go right, that means we
20 it's a turnaround, it's finding somewhere to make a U-turn, it's to me that's just adds to the
21 problem of traffic, so that is the problem for us. I know it's a traffic concern when you have
22 that many cars coming out of which will effectively be a driveway with four house and not an
23 intersection or like really a street, but that's what my concern is, also the fact if you look at the
24 property when they widen Olive Chapel Road, I'm probably going to lose 20 to 30 feet of my
25 front yard because that would be the extension of the outside lane on the north side, would
26 go right through there so, that was my complaint, my piece of the pie here. We want to see it
27 done in a way that it doesn't impact us, I mean everybody wants it that way but I just wanted
28 you to be aware that if it does go right in right out, it doesn't just affect them it affects other
29 people. Thank you."

30
31 Next speaker is **Jeff Hastings** with Apex Historical Society of 1110 Olive Chapel Road:

32
33 "I would ask that you eliminate the right in, right out and the reason being is if
34 anybody that's coming west of that property, the first turnaround is the Maynard Pearson
35 House. The Maynard Pearson house has no driveway that is paved, it is all grass and mulch
36 right now and so every FedEx, UPS, Amazon, Chewy, visitor, anybody that's coming from
37 Apex that turns around, is going to turn around into the Maynard Pearson house, and it's
38 enough of an issue right now to maintain our yard and it'll be decimated going forward. We
39 will be forced to put up a gate, which is counteractive to what we want to do for the Town of
40 Apex. So if you look here, if they're looking at that, you know, the right in and right out, here
41 on the west end side, the next driveway is us and if you look at the right, there where I'm
42 shading, it's all gravel, and it's all mulch and so it's a big issue for us with the Maynard

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1 Pearson house of how with, without somebody living there, how do we maintain that property
2 and how do we maintain that driveway. The second thing is when it came, when I first saw it
3 and the driveway was on the east, then I look at the condition number 12, and the driveway
4 moves to the west. The driveway to the west, they're asking for a wood or vinyl fence or a 6-
5 foot buffer of vegetation. I'd like it to be a fence, wood, vinyl fence on the west hand side to
6 preserve the Maynard Pearson house from new development. So those are my two asks and
7 I'm not against development, we've seen this coming, we welcome the neighbors, we
8 welcome somebody else along with Rob, who is our neighbor, to overlook the property to
9 make sure that no mischief is happening, we'd love to see it developed in a right way, four
10 houses sounds like a fine idea, but it's just how do we preserve our property without it being
11 at the expense of having the right in, right out dedicated. So, thank you very much."

12
13 **Mayor Gilbert** thanked him.

14
15 Next speaker is **Rob Wellman** on behalf of Purple Glory Court:

16
17 "My name is Rob Wellman, and I am here on behalf of all of Purple Glory Court, I
18 actually talked to Mr. King here earlier today so I would like to address some of the things
19 before I start on what I have, because of things that you guys brought up, I wanted to talk
20 about Mr. King's property here first. He has zero intentions of turning that thing into a
21 residential property, he has it zoned, the way he got it I don't know, it happened 25, 30 years
22 ago, how people got the zoning that they get, you know what? But he has it as commercial
23 conditional improved and he has hopes of putting a wedding venue or some sort of
24 Community Center, event, that could house you know, weddings, baby showers or Church
25 gatherings, all sorts of things he mentioned VFW, American Legion, all those things, so that's
26 his intentions for this property, keep hearing about how you know, just automatically assume
27 that it's going to become houses, but that's not what he's looking to do. So again, my name is
28 Rob Wellman, I live at 1100 Purple Glory, I live next to the Maynard Pearson house there and
29 I'd like to start by asking the whole room a question and that is you know is this process
30 supposed to be fair, transparent and honest for everybody, including the applicants the
31 Town, the neighbors, you know. Does anybody disagree with the statement? No. Great. This
32 rezoning process has been anything but, and I'd like to start with the history of the property
33 On March 10th, 2021, 1013 Olive Chapel went on the market for sale of \$385,000, two days
34 later on March 12th, 2021 it went under contract, apparently there was an experienced builder
35 that bought the property and they came to the Town of Apex and were looking to get
36 approval for six homes on that lot, whatever answer they got, did not satisfy the builder. He
37 gave up all his deposit money, walked away. On May 5th of 2021, the applicants took the
38 property under contract and purchased the property for \$350,000, it's \$35,000 off asking
39 price, good job. Why did the property sale for \$35,000 less when every builder in the Greater
40 Triangle area had a swipe at it? It's because they all knew that between the drainage, the road
41 and everything else, that this property was really just meant for one or two homes. So, the
42 new owners take over and they wait one year and 3 months, on November 22nd they put it on

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1 the market for \$800,000, so \$450,000 more in a real short time period. I'm a real estate
2 agent, I've seen a lot of whoppers, as far as it goes and price jumps over the last several years
3 but that one takes the cake. In addition to this it was the property was purchased using a
4 \$245,000 note, that's kind of important when I get to what I'm going to talk about later. After
5 nobody bites on the property in February 2023, they drop it to \$690k, still no takers on the
6 property and it expires in the MLS on May 2023. Magically in July of 2023 the property
7 appears before the Rezoning Board or I'm sorry, TRC, the first records of the property coming
8 to be rezoned happened one month after the property expired. I don't understand why
9 they're trying to sell this family plot of land that they're talking about, I mean they didn't put a
10 sign up, it was internet only, nobody lives there, why not put a sign in the yard advertising
11 that it was for sale. You get more money, get more attention. In the MLS listing, and this is for
12 both of them, the one when they purchased it and when they posted it, it said forested land,
13 zoned rural agriculture and beautiful set on 2-acre lot waiting for your custom-built dream
14 home, nestled in highly sought-after prime Apex location, Beaver Creek Shopping Center, it
15 was the same language for each one. Here is exactly what happened in my opinion, I think in
16 2019 individuals got together and they've started property investing, that's good, you know,
17 we use property investors, they have multiple town homes and single family homes all over
18 the Triangle, they're leveraged on majority of those properties, they've taken money out like
19 ATMs until the end of 2022 when the rates went up so much that it was no longer feasible.
20 They are very smart individuals, don't question me, I'm not questioning any of that, they're
21 very, very smart, I can appreciate what they were doing, but this is all just an investor's game,
22 there's not true intent to actually develop the property. I know everybody despises the recent
23 phenomenon of the corporate investor taking homes from hardworking families, just trying to
24 achieve a piece of the pie. This is the same thing, a lot of their properties are brand new town
25 homes, do you like driving through all the new town home subdivisions developments and
26 seeing a For Rent sign in the yard before they're even done building the other four town
27 homes in that building? Because I mean if that's the phenomenon you like, that's what you're
28 approving. The applicants also own a property at 0 New Hill, Olive Chapel Road, it is 4 acres,
29 it is a beautiful property, primed for Home Building. You probably lose an acre of building
30 because a buffer would be needed because out there it's by the water, foul impoundment,
31 but it's still 3 acres of flat land, used to be farmland, it looks like, and it'd be protected for
32 eternity. They have a lot of room to build out there, like I said it's flat and there's a proposed
33 school going in right there. I lived in Scotts Mill when you guys put in the Scotts Ridge
34 Elementary School, pretty darn good for property value when you guys put in a school there.
35 Another point on the property at 0 New Hill Olive Chapel Road, they have eight different
36 individuals on the deed, why, because they're expanding investment operations. From a
37 group that is always looking for a discount on the real estate, it seems like a no-brainer, why
38 would you build behind our houses, deal with the traffic, the drainage, the right in, the right
39 out headaches, why would you not pick the land that would come out with positive equity,
40 otherwise, you're just looking at lighting 2 million dollars on fire if you're looking to view if
41 you're looking to build on this property. They can explain some of the transactions. In the
42 notes that the Attorney had, she said participant asked if any of the owners would be looking

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1 to live in the properties, yes all of the owners will live in the houses. The participant asked if
2 the owner had ever built a home, no we've never built, we bought the parcels to build our
3 own homes. Participant asked the owner if they had ever built in the subdivision before, no,
4 but we know some contractors do that, we're talking with builders who would do that for us.
5 Participant asked was the price point, they don't know. Participant asked what's the setbacks,
6 then they go on to say we have not yet talked to contractors, these are her notes, not my
7 notes, even though in the previous one, it says they're already talking with builders. Then the
8 participant, which I believe is me, asked for the plan was to live there, why did they try and
9 sell it for 6 months over the last year? For those 6 months last year, we were looking to sell
10 because we bought new homes but now do not like our homes and want to move into our
11 own homes that we can build. Well on January 18th, one of the applicants bought a house in
12 Trinity Park for 4,000... it was 4,000 square ft, they bought it for \$780,000, again another
13 steal, because it was listed at \$820,000, it was a brand-new spec home. The neighborhood's
14 beautiful, has a huge pool, I just want to get this straight, they're buying new construction
15 homes that are 4,000 square ft in the same year that they've going to breaking ground and
16 digging in and starting new homes, that just make any sense to me. So we all get together on
17 January 23rd, five days after the applicant closes on his brand new home telling us they're
18 going to build brand new houses behind us, they just built one, I mean I cherish my time with
19 my family, I know my neighbors cherish their time with their family, we don't appreciate being
20 called into these rezoning meetings on a Wednesday night only to be served a buffet of
21 cowpie because they just built a home, yet they're telling us they're going to be building
22 homes behind us, I'm a little confused. Another thing is for the project itself, it's a pure
23 financial loser, they're not building enough addresses to make up for the infrastructure. I'm
24 running short on time, I see that, so I'll hurry up here. But, basically, they're hot to trot, they're
25 getting ready to build and start according to them they're going to be tearing down trees
26 here later this summer, they didn't submit a site plan, in addition to their rezoning plan, I
27 don't understand why they would not do that."

28

29 **Mayor Gilbert** thanked Mr. Wellburn.

30

31 With no further sign ups, **Mayor Gilbert** closed public comment and opened back up
32 for Council discussion.

33

34 **Councilmember Killingsworth** wanted more information about the right in, right out.
35 She said that there had been emails and comments about not having the right in, right out as
36 part of a zoning condition.

37

38 **Mr. Dalton** explained the minimum standards for full movement intersections with
39 NCDOT, that full movement did not work here from a safety perspective. He said it is great
40 for connectivity to have full movement access, but it would not work here. He said there are
41 other design options that could address it, but there may be some other problems with
those. He said the specifics will be worked out in the design process with NCDOT.

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1 **Councilmember Zegerman** asked if at some point in the future this would be a
2 divided thoroughfare.

3 **Mr. Dalton** said that was correct. He said it may be a long time, but there would be a
4 divider in the middle and everything would be right in and right out.

5 **Councilmember Gantt** said he was not going to support this. He said it would be a
6 better development if it incorporated the property to the east.

7 **Councilmember Mahaffey** agreed with Councilmember Gantt.

8 **Councilmember Zegerman** clarified the motion to approve the rezoning with the
9 conditions stated in the staff report as recommended by staff.

10 **Councilmember Killingsworth** said to clarify the options of having a fence and not
11 vegetation as a buffer or both, whichever would be best suited for the separation regarding
12 the right in, right out.

13 **Ms. Shapiro** clarified that condition number 6 provides flexibility for either a fence or
14 both or just vegetation. She said they have had great conversations with neighbors and want
15 to be as accommodating as possible, and that she understood the concerns. She said the
16 families want to plant roots here, and there are 8 people on a deed because it consists of 4
17 married couples.

18 **Councilmember Zegerman** said it would be a better plan to have all 3 properties
19 come up together, but that is not the case. He said the rezoning request is consistent with the
20 2045 land use map. He said he would vote in favor of the motion.

21 **Councilmember Killingsworth** asked if they would they be willing to take out the
22 vegetation piece of the condition.

23 **Councilmember Zegerman** asked if at least a fence be included at minimum and
24 vegetation could be included along with the fence.

25 **Ms. Shapiro** said yes.

26 **Councilmember Killingsworth** said that given the amount of traffic, that she would
27 support the staff's recommendation for the right in, right out.

28
29
30 A **motion** was made by **Mayor Pro Tempore Gray**, seconded by **Councilmember**
31 **Killingsworth**, to approve Rezoning No. 23CZ22 - 1013 Olive Chapel Road with the
32 modification of the conditions to require a fence to be installed.

33
34 **Councilmember Gantt** gave a scenario of a wedding venue and the possibility of this
35 making it harder for future development.

36 **Councilmember Killingsworth** said that Council can't predict the future of the
37 development.

38 **Councilmember Zegerman** said it may never happen because of the infrastructure
39 costs. He said is there to approve this zoning condition.

40
41
42 **VOTE: 3-2, with Councilmember Gantt and Councilmember Mahaffey dissenting**

DRAFT MINUTES

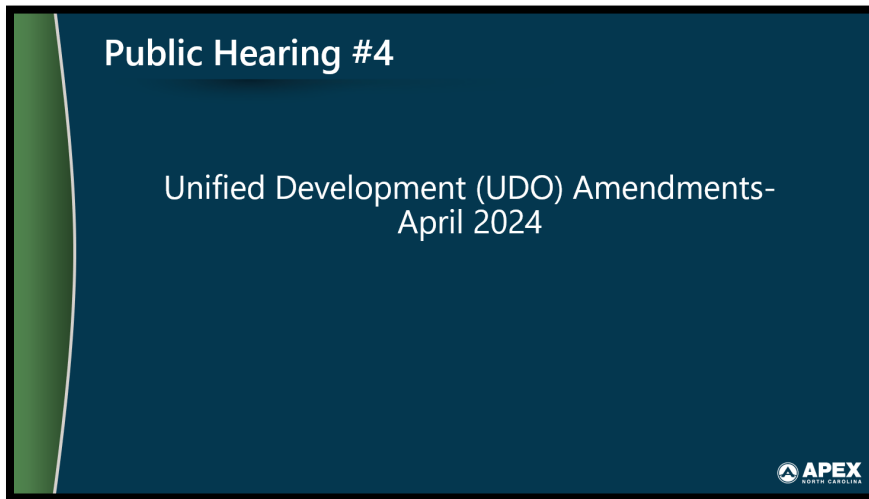
1 (**NOTE:** To view the additional zoning conditions documents, please see **OTHER-2024-059**)

2
3 **Mayor Gilbert** called for a recess at 8:15pm, and Council returned at 8:25pm.

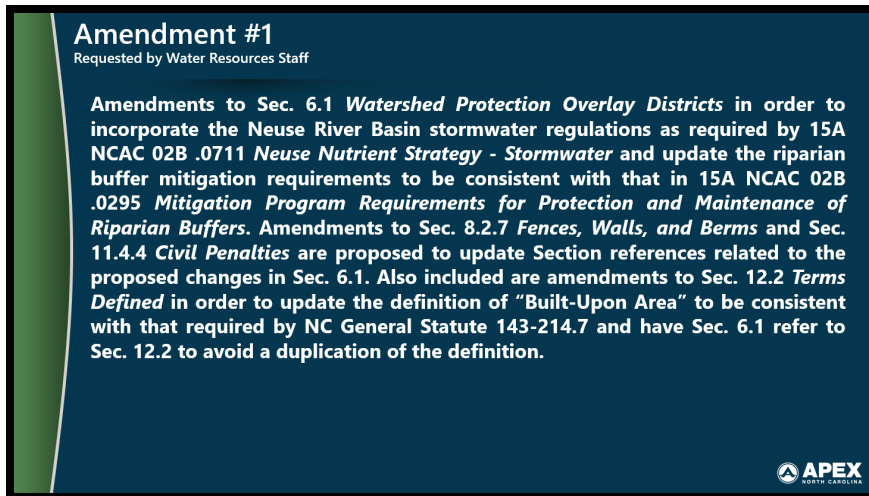
4
5
6 **PH4 Unified Development Ordinance (UDO) Amendments - April 2024 (REF: ORD-**
7 **2024-036)**

8
9 **Robert Patterson, P.E., Senior Stormwater Engineer**, Water Resources
10 Department gave the following presentation regarding the Unified Development Ordinance
11 (UDO) Amendments - April 2024.

12 **[SLIDE 26]**



13
14 **[SLIDE 27]**



15
16
17
18 **[SLIDE 28]**

Proposed Changes

- Section 6.1 – *Watershed Protection Overlay Districts*
 - Add Neuse River Basin Nutrient Management
 - Update Riparian Buffer Mitigation
- Section 12.2 – *Terms Defined*
 - Update Built-Upon Area (BUA) definition

UDO	Revision	State Regulation
6.1	Neuse Rules	15A NCAC 02B .0711
6.1	Buffer Mitigation	15A NCAC 02B .0295
12.2	BUA Definition	NCGS 143-214.7



1
2

[SLIDE 29]



3
4

[SLIDE 30]

Neuse Nutrient Management for Developments

- Nitrogen stormwater loading rate limit: ≤ 3.6 lbs/ac/yr*
- Land disturbance thresholds for stormwater requirements:

Development Type	Current	Min. Required per Regulation		Proposed	
	Town-wide	Neuse	Jordan/Cape Fear	Neuse	Jordan/Cape Fear
Single Family / Duplex	1 ac.	1 ac.	1 ac.	1 ac.	1 ac.
Commercial, Multifamily, etc.	1 ac.	0.5 ac.	1 ac.	0.5 ac.	0.5 ac.

*Currently no nutrient requirements within the Jordan/Cape Fear basin



5
6

[SLIDE 31]

Buffer Mitigation

- Revised mitigation calculation
 - Proximity, type, width
- Expanded mitigation options
 - Restore/enhance subject streams
 - Donate property
 - Buy mitigation bank credits
 - **New options** [6.1.15.H]
 - Preservation, restore/enhance non-subject streams/ditches, Enhanced SCM design/size
 - requires DEQ approval



1
2 [SLIDE 32]

Neuse Implementation

- Regulatory deadline
 - No later than July 1, 2024
- Proposed
 - Projects with 1st site plan submitted on or after July 1, 2024



3
4 [SLIDE 33]

Amendment #1

Requested by Water Resources Staff

6.1.1 Purpose, Authority, and Enactment

The purpose of the Watershed Protection Overlay Districts is to ensure the availability of public water supplies at a safe and acceptable level of water quality, to ensure protection of public water supplies for recreational and aesthetic purposes, to minimize sedimentation of streams, and to protect the environment, health, and general welfare of present and future residents of the Town and the Triangle Region under the authority set forth in Sec. 1.2 *Authority* of this Ordinance and in NCGS 160A-174. In addition, the Legislature of the State of North Carolina has, in Chapter 143, Article 21 of the North Carolina General Statutes, entitled Water and Air Resources, directed local governmental units to adopt regulations designed to promote the public health, safety, and general welfare pursuant to the more specific requirements set forth in 15A NCAC 2B .0100, 15A NCAC 2B .0200, and in the Jordan Water Supply Watershed Nutrient Management Strategy Rules, 15A NCAC 2B .0262 through .0273 and .0311(p), and the Neuse Nutrient Strategy: Stormwater Rule, 15A NCAC 02B .0731. Also pursuant to the Federal Water Pollution Control Act of 1972, federal Phase II Stormwater rules promulgated under it, and NCGS 143-215.1 and S.L. 2006-246, the Town is required to obtain a Phase II National Pollutant Discharge Elimination System (NPDES) permit for stormwater management for its municipal separate storm sewer system and to adopt, among other things, requirements and procedures to control the adverse effects of increased post development stormwater runoff and nonpoint and point source pollution associated with new development and redevelopment. (Additional specific purposes may be found in the Swift Creek Land Management Plan and the 2045 Land Use Map Update.) In furtherance of these goals and under such authorities, the Town of Apex promulgated this Sec. 6.1 *Watershed Protection Overlay Districts*.



5
6 [SLIDE 34]

6.1.3 Exemptions

...

A) Development **Single-family, duplex residential and related recreational development and expansion of development** that cumulatively disturbs less than one (1) acre and is not part of a larger common plan of development;

B) Development of an individual single-family or duplex residential lot that is located within the Neuse River Watershed, is not part of a larger common plan of development or sale, and does not result in a greater than five (5) percent built-upon area on the lot;


C) Commercial, industrial, institutional, multi-family, or local government development that cumulatively disturbs less than one-half (0.5) acre, does not expand existing structures on a parcel, and is not part of a larger common plan of development;

D) Commercial, industrial, institutional, multi-family, or local government development that cumulatively disturbs less than one-half (0.5) acre and does expand existing structures on a parcel, but does not result in a cumulative built upon area for the parcel exceeding that allowed in Sec. 6.1.6.B.1.a;

B)E) Redevelopment that cumulatively disturbs less than one (1) acre **the thresholds established in Sec. 6.1.3.A through D** and is not part of a larger common plan or development or sale;

C)E) Development Existing as of the Effective Date of this Section

...



1
2 [SLIDE 35]

D)G) *Expansions to Existing Development*


Any expansion to a lot or project that is exempt from the requirements of Sec. 6.1 pursuant to Sec. 6.1.3.CE, *Development Existing as of the Effective Date of this Section* and disturbs greater than one (1)-acre **the thresholds established in 6.1.3.A through D** must comply with the requirements of Sec. 6.1. The built-upon area of the existing development shall be included in the built-upon area calculations for any proposed expansion to any such lot or project; **but only the net increase in built-upon area is subject to stormwater treatment requirements.** Provided, however, that the built-upon area of any school facility owned by the Wake County Public School System or any qualified nonpublic school that is exempt from the requirements of Sec. 6.1 pursuant to Sec. 6.1.3.CE *Development Existing as of the Effective Date of this Section* is not required to be included in the built-upon area calculations for any expansion to such existing development. For purposes of this Section, "school facility" means any building, structure or other facility used by the Wake County Public School System or any qualified nonpublic school for educational purposes. For purposes of this Section, "qualified nonpublic school" means a school having an enrollment of 100 or more students, and that has one or more of the characteristics set out in NCGS 115C-555.

E)H) *Developments and Uses Exempted by State Law*

...

F)J) *Complete Applications*

...



3
4 [SLIDE 36]

6.1.6 Low-Density Development Option

A) *General*

All development within both the Primary Watershed Protection District and the Secondary Watershed Protection District shall be designed to comply with the standards of the low-density development option unless the Technical Review Committee or Town Council, as applicable, approves a plan of development pursuant to the procedures and standards for the high-density development option, or unless a minor or major variance is approved pursuant to Sec. 6.1.1314 *Modifications by Variance.*

...

6.1.7 High-Density Development Option

...

B) *Within the Primary Watershed Protection District*

...


3) *Stormwater Control Measures (SCMs)*

All stormwater control measures shall meet the requirements in Sec. 6.1.1213 *Stormwater Control Measures.*

For water quality purposes, SCMs shall be used to collect and hold the runoff from the first one-(1) inch of rainfall. This runoff volume shall be released in two (2) to five (5) days in accordance with Sec. 6.1.1213.

...

...




5
6 [SLIDE 37]

...
7) Nitrogen Control Requirements.
 For development located within the Neuse River Watershed the nitrogen control requirements in Sec. 6.1.12 shall be met. The developer shall submit an electronic version of the most current approved SNAP Tool for such calculations developed by the N.C. Dept. of Environmental Quality, Division of Water Resources at the first construction drawing submittal.

C) Within the Secondary Watershed Protection District

...
5) Nitrogen Control Requirements.
 For development located within the Neuse River Watershed the nitrogen control requirements in Sec. 6.1.12 shall be met. The developer shall submit an electronic version of the most current approved SNAP Tool for such calculations developed by the N.C. Dept. of Environmental Quality, Division of Water Resources at the first construction drawing submittal.

6.1.9 Definition of Built-Up Area
Built-upon area is defined in Sec. 12.2 Terms Defined. For the purposes of complying with the standards and requirements of the Watershed Protection Overlay Districts, calculation of the built-upon area within the proposed development shall include, but not be limited to, all existing public and private streets, proposed public streets, sidewalks, driveways, rooftops, parking lots, patios, and all other impervious and partially impervious surfaces, including CABG and gravel within the development. The water area of swimming pools and wooden slatted decks shall not be included in the calculation of the built-upon area.



1
 2 [SLIDE 38]


6.1.11 Riparian Buffers

...
 G) Uses Permitted Within the Riparian Buffer

...
 b) All uses not categorized as exempt, allowable, or allowable with mitigation are considered prohibited and may not proceed within the riparian buffer or outside the buffer if the use would impact the buffer, unless a variance is granted pursuant to Sec. 6.1.13~~14~~ below.

Use	Exempt*	Allowable*	Allowable with Mitigation*
Utility, non-electric, perpendicular crossings of streams and other surface waters subject to this Ordinance ^{13,2} ;			
• Disturb equal to or less than 40 linear feet of riparian buffer with a maintenance corridor equal to or less than 10 feet in width	X		
• Disturb equal to or less than 40 linear feet of riparian buffer with a maintenance corridor greater than 10 feet in width		X	
• Disturb greater than 40 linear feet but equal to or less than 150 linear feet of riparian buffer with a maintenance corridor equal to or less than 10 feet in width		X	
• Disturb greater than 40 linear feet but equal to or less than 150 linear feet of riparian buffer with a maintenance corridor greater than 10 feet in width			X
• Disturb greater than 150 linear feet of riparian buffer			X

...
 *Utility maintenance corridor shall have the same meaning as a utility easement.



3
 4 [SLIDE 39]


3) Requirements for Categories of Uses

...
 c) ALLOWABLE WITH MITIGATION. Uses designated as allowable may proceed within the riparian buffer provided that there are no practical alternatives to the requested use pursuant to Sec. 6.1.11.G.4 Determination of "No Practical Alternatives" and an appropriate mitigation strategy has been approved pursuant to Sec. 6.1.14~~15~~ below. These uses require written authorization from the Town of Apex.

...
 5) Mitigation

...
 b) Obtain approval for a mitigation proposal pursuant to Sec. 6.1.14~~15~~.

...



5
 6 [SLIDE 40]

6.1.12 Nitrogen Control Requirements.

A) Nutrient Loading Rate Targets.

- 1) The development shall meet either a nitrogen stormwater loading rate target of 3.6 pounds per acre per year, or the "runoff volume match" as defined in 15A NCAC 02H .1002.
- 2) The development area used for nutrient calculation and stormwater requirements include the site area less any existing built-upon-area. The development density used for determining stormwater requirements is the amount of built-upon-area subject to Sec. 6.1 at development completion divided by the development area.
- 3) The developer shall determine the nitrogen load and loading rate generated from the development area without stormwater control measures (SCMs) and determine the needed nitrogen load reduction to meet nutrient targets by using the most current approved SNAP Tool for such calculations developed by the N.C. Dept. of Environmental Quality, Division of Water Quality.



1
2 [SLIDE 41]

B) Methods to Meet Nutrient Control Requirements.

Development subject to Sec. 6.1 shall meet nitrogen loading target through a combination of the following methods:

- 1) Developments may reduce export of nitrogen through any combination of engineered SCMs treating runoff on the property, in an approved offsite regional SCM, or through acquisition of permanent nutrient offset credits. The developer shall calculate the nitrogen reduction provided by these controls using the most current approved SNAP Tool for such calculations developed by the N.C. Dept. of Environmental Quality, Division of Water Resources.
- 2) Proposed development undertaken by a local government solely as a public road expansion or public sidewalk project, or proposed development subject to the jurisdiction of the Surface Transportation Board, may meet nitrogen reduction needs for a development entirely through the use of permanent nitrogen offset credits pursuant to the Nutrient Offset Credit Trading Rule, 15A NCAC 02B.0703.



3
4 [SLIDE 42]


C) Use of Permanent Nutrient Offset Credits.

- 1) Sufficient permanent nutrient offset credits to meet development nutrient reduction needs not provided by engineered SCMs serving the development shall be acquired prior to approval of a development plan. The Stormwater Engineering Manager shall issue an approval letter for the development that documents the needed nitrogen credits and where the development is located relative to the Neuse Rules' geographic requirements. All permanent nutrient offset credits permitted pursuant to Sec. 6.1 shall meet the requirements of 15A NCAC 02B.0703.
- 2) Permanent nutrient offset credits shall be acquired pursuant to N.C.G.S. 143-214.26 and 15A NCAC 02B.0703 prior to the start of construction of the development project.
- 3) A developer subject to Sec. 6.1 may acquire permanent nutrient offset credits through of the following methods:
 - a) A private nutrient bank;
 - b) Offsite offset provided by the developer and approved by the Stormwater Engineering Manager; or
 - c) Payment into the Riparian Buffer Restoration Fund established by NCGS 143-214.21.




5
6 [SLIDE 43]

6.1.126.1.13 Stormwater Control Measures (SCMs)
 ...
 F) *Compliance Prior to Receiving Plat Approval or Certificate of Occupancy*
 Subject to Subsection G. below, prior to approval of a Final Plat (with respect to a subdivision), issuance of a certificate of occupancy (with respect to a site plan), or commencement of a use for any development upon which a SCM is required, the owner shall have installed the improvements required by this Article and shall have received the approval of the Stormwater Engineering Manager with respect to the improvements. Upon installation of the required improvements, the Stormwater Engineering Manager or designee shall inspect the SCM and the owner shall demonstrate that the required structure is in place, that it is operational, that it complies with all relevant portions of Sec. 6.1.1213 *Stormwater Control Measures (SCMs)*, and shall submit to the Stormwater Engineering Manager actual "as built" plans for the structure, which shall include the information listed in Article 6: *Overlay Districts*, and Section 1.06(c) *Stormwater Drainage System of the Town of Apex Standard Specifications and Standard Details*, certifying completion of the same.
 G) *Performance Guarantees*
 ...
 3) *Duration of performance guarantee.* Performance guarantees shall run until the requirements of Sec. 6.1.1213 have been satisfied and the Stormwater Engineering Manager has given final approval of the required SCM(s).
 4) *Default.* Failure of the owner to construct, repair, and if necessary, reconstruct the SCM(s) as required by Sec. 6.1.1213 is a default. Upon such default, the Town may obtain and use all or any portion of the performance guarantee necessary to complete the improvements.
 ...




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2 [SLIDE 44]

H) *Maintenance and Maintenance Guarantees*
 1) *Duty to maintain and maintenance and defects guarantee.* The owner is responsible for all maintenance and repair of improvements required by this Article. In addition to the Operation and Maintenance Agreement required by Sec. 6.1.1213.D, with respect to a subdivision, a maintenance and defects guarantee shall be provided by the owner in the amount equal to 25% of the total construction cost of the SCM to ensure proper maintenance and repair prior to conveyance of the improvements to a property owners association. The maintenance and defects guarantee shall be submitted to the Town of Apex prior to SCM final approval. The owner's estimate of this amount shall be submitted and is subject to review, modification, and approval by the Stormwater Engineering Manager. Such estimate shall be signed and sealed by a licensed North Carolina professional engineer, landscape architect, or land surveyor. Guarantees required by this Section may be in the form of a surety bond enforceable at the sole discretion of the Town and in the form prescribed by the Town, a letter of credit that meets the specifications of Sec. 7.5.17 *Irrevocable Letter of Credit in Lieu of Surety Bond or Other Guarantee of Performance*, certified check drawn in favor of the Town, or cash deposited with the Town.
 ...



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4 [SLIDE 45]

6.1.136.1.14 Modifications by Variance
 A) *General*
 Requests for minor and major variances from the standards of the Watershed Protection Overlay Districts shall be made to the Board of Adjustment, except for variance requests pertaining to impacts within Zone 1 and/or Zone 2 of a riparian buffer within the Neuse River Basin which shall be made to the Director of the NC DEQ as specified below in Sec. 6.1.1314.B.1.b and B.2.c. Due to certain process differences in State statutes or rules for decision making and appeals based on which basin or watershed a proposed project is located, a separate variance provision is set forth below for each of the following basins or watersheds: (i) the Neuse River Basin, (ii) the Jordan Lake Watershed portion of the Cape Fear River Basin and (iii) the Cape Fear River Basin outside of the Jordan Lake Watershed.
 Sec 6.1.1314.F sets forth an alternative variance process that is available for, but not required to be used by, an applicant seeking a variance from Sec. 6.1 density requirements for a project located in the Secondary Watershed Protection District and/or from Town Buffer requirements. Town Buffers and State Buffers are defined in Sec. 6.1.1415.C. The purpose of this alternative variance process is to provide additional design flexibility for a project that provides a unique or additional benefit to the Town or surrounding area that would not be available from a traditional development located in areas within the Town or its ETJ where the applicable requirements of Sec. 6.1 are not part of a State authorized program, or where separate State rules do not apply.



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6 [SLIDE 46]

DRAFT MINUTES

All applications for variances made to the Board of Adjustment shall be reviewed by the Board of Adjustment, which shall approve, approve with conditions (which may include mitigation requirements), or disapprove the variance after a public hearing noticed pursuant to Sec. 2.2.11 Public Notification, and conducted pursuant to Sec. 2.2.19 *Quasi-judicial Public Hearing Procedures*, based on the applicable standards in Sec. 6.1.1314.E or F.

B) *Variances for Activities in the Neuse River Basin*

1) *Minor Variances*

a) *Minor Variance Requests that are to be Submitted to the Board of Adjustment.*

- ...
- (iii) It pertains to activities that will impact Zone 3 of a riparian buffer located within the Neuse River Basin. However, if the impacted area is also within the Neuse River Basin's Primary Watershed Protection District and along perennial waters within a high- density development option area, the area of proposed impacts in the buffer also shall not exceed five (5%) percent of the buffer area. If such proposed activity within the Neuse River Basin requiring a variance for Zone 3 also includes impacts to Zone 2 that require a variance, then as specified in Sec. 6.1.1314.B.1.b.i. the Director of the NC DEQ shall consider the variance request as it pertains to Zone 2 impacts, and a separate variance request shall be submitted to the Board of Adjustment pertaining to Zone 3 impacts.
- ...



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[SLIDE 47]

b) *Minor Variance Requests that are to be Submitted to the NC DEQ.* A variance request for an activity in the Neuse River Basin shall be considered minor and a decision on such request shall be made by the NC DEQ when:

- (i) It pertains to activities that will impact Zone 2 of a riparian buffer located within the Neuse River Basin. However, if the impacted area is also within the Neuse River Basin's Primary Watershed Protection District and along perennial waters within a high density development option area, the proposed impacts to the buffer also shall not exceed five (5%) percent of the buffer area. If such proposed activity within the Neuse River Basin requiring a variance for Zone 2 also includes impacts to Zone 3 that require a variance, then the Director of the NC DEQ shall consider the variance request as it pertains to Zone 2 impacts, and as specified in Sec. 6.1.1314.B.1.a.iii a separate variance request shall be submitted to the Board of Adjustment pertaining to Zone 3 impacts.
- ...



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2) *Major Variances*

a) *Major Variance Requests Submitted to the Board of Adjustment That Will Be Decided by the Board of Adjustment.*

...
An appeal of a major variance decision made by the Board of Adjustment within the scope of this Sec. 6.1.1314.B.2.a shall be subject to review in Superior Court by proceedings in the nature of certiorari in accordance with NCGS 160D-406(h).

b) *Major Variance Requests Submitted to the Board of Adjustment That Will Be Forwarded to the Environmental Management Commission Upon Approval.*


...
Following a public hearing on an application within the scope of this Sec. 6.1.1314.B.2.b, the Board of Adjustment shall provide its recommendation to the Environmental Management Commission if the Board of Adjustment determines that the variance should be granted. After the Board of Adjustment reviews and recommends approval of the application for the major variance, the Planning Director shall prepare and forward to the Environmental Management Commission for consideration the following materials relevant to the application:
...



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[SLIDE 49]

C) *Variations for Activities in the Jordan Lake Watershed Portion of the Cape Fear River Basin*
...
2) *Major Variations*
a) *Major Variance Requests Submitted to the Board of Adjustment That Will Be Decided by the Board of Adjustment.*
...
An appeal of a major variance decision made by the Board of Adjustment within the scope of this Sec. 6.1.1314.C.2.a. shall be subject to review in Superior Court by proceedings in the nature of certiorari in accordance with NCGS 160D-406(h).
...
c) Following a public hearing on an application within the scope of this Sec. 6.1.1314.C.2.b, the Board of Adjustment shall provide its recommendation to the Environmental Management Commission if the Board of Adjustment determines that the variance should be granted. After the Board of Adjustment reviews and recommends approval of the application for the major variance, the Planning Director shall prepare and forward to the Environmental Management Commission for consideration the following materials relevant to the application:
...




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2 [SLIDE 50]

D) *Variations for Activities in the Cape Fear River Basin outside of the Jordan Lake Watershed*
...
2) *Major Variations*
a) *Major Variance Requests that are to be Submitted to the Board of Adjustment.*
...
Appeals of major variance decisions made by the Board of Adjustment within the scope of this Sec. 6.1.1314.D.2 shall be subject to review in Superior Court by proceedings in the nature of certiorari in accordance with NCGS 160D-406(h).
E) *Standards*
1) *General.* The standards set forth in Sec. 6.1.1314.E.2-3 shall be applicable to all variance requests submitted to the Board of Adjustment, except for a request submitted pursuant to the alternative variance process in Sec. 6.1.1314.F.
...



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4 [SLIDE 51]

F) *Alternative Process and Standards for Variance From Density Requirements in Secondary Watershed Protection District and/or From Impacts to Town Buffers*
1) An applicant seeking a variance from the density requirements in Sec. 6.1, which may include stormwater management requirements, for a project located in the Secondary Watershed Protection District, and/or from buffer requirements applicable to a Town Buffer as defined in Sec. 6.1.1415.C.1, may elect to, but is not required to, seek such variance pursuant to the process and standards set forth in this Sec. 6.1.1314.F. The purpose of this alternative variance process is to provide additional design flexibility for a project that provides a unique or additional benefit to the Town or surrounding area that would not be available from a traditional development in areas where the applicable Ordinance requirements are not part of a State authorized program or where separate State rules do not apply.



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6 [SLIDE 52]

- 4) Prior Approvals Required Before Submitting a Variance Request Under Sec. 6.1.1314.F.
 - a) Prior to submitting a variance request to the Board of Adjustment pursuant to this Sec. 6.1.1314.F, the applicant shall first have obtained all required permits and approvals for the proposed development from the DEQ and/or US Army Corps of Engineers, as may be applicable, with regard to any proposed dredging or filling of surface waters within the proposed development, and with regard to any proposed impacts to State Buffers in the Neuse River Basin (i.e. Zone 1 or Zone 2) or in the Cape Fear River Basin outside of the Jordan Lake Watershed (i.e. Zone 1).
 - (i) Although the Board of Adjustment may approve a variance request for impacts to Zone 1 of a riparian buffer in the Cape Fear River Basin outside of the Jordan Lake Watershed pursuant to the variance process in Sec. 6.1.1314.D.2, advance DEQ approval will be required for such impacts to Zone 1 of a riparian buffer in the Cape Fear River Basin outside of the Jordan Lake Watershed if the impacts are part of a project for which a variance is being sought pursuant to this Sec. 6.1.1314.F.
 - b) If the proposed project will impact any State Buffer in the Jordan Lake Watershed (i.e. Zone 1 or Zone 2) then, prior to submitting a variance request to the Board of Adjustment under this Sec. 6.1.1314.F for the remainder of the project, the applicant shall first submit a separate variance request to the Board of Adjustment pursuant to the applicable process and standards set forth in Sec. 6.1.1314.C and E pertaining to such impacts to Zone 1 and/or Zone 2, and the applicant shall have obtained approval of this request. Pursuant to Sec. 6.1.1314.C.1.iii a minor variance request pertaining to Zone 2 of a buffer in the Jordan Lake Watershed will be determined by the Board of Adjustment. Pursuant to Sec. 6.1.1314.C.2.b.iii, a major variance request pertaining to Zone 1, or Zone 1 and 2, of a buffer in the Jordan Lake Watershed shall first be considered by the Board of Adjustment, and the Board of Adjustment shall provide its recommendation to the Environmental Management Commission for final decision if the Board determines that the variance should be granted.

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2 [SLIDE 53]

- 5) An applicant for a variance who is electing to proceed pursuant to this Sec. 6.1.1314.F shall clearly state that intent in the application and shall provide written confirmation with the application that all prior approvals required pursuant to Sec. 6.1.1314.F.4 above have been obtained, or that no such approvals are required.
- 6) The application shall then be reviewed by the Board of Adjustment, which shall approve, approve with conditions (which may include mitigation requirements), or disapprove the variance after a public hearing noticed pursuant to Sec. 2.2.11 Public Notification, and conducted pursuant to Sec. 2.2.19 Quasi-judicial Public Hearing Procedures, based on the standards in Sec. 6.1.1314.F.2 and 3.

6.1.146.1.15 Mitigation for Riparian Buffers

A) Applicability

- 1) This Section applies to persons who wish to impact a riparian buffer within the Town or its ETJ when one of the following applies:
 - ...
 - b) The person has received a variance pursuant to Sec. 6.1.1314 and is required to perform mitigation as a condition of a variance approval.
- 2) The mitigation provisions of this Sec. 6.1.1415 apply to all buffer requirements in the Town or its ETJ, except that in the area of the Town or its ETJ in the Neuse River Basin the buffer mitigation requirements for Zones 1 and 2 shall be administered by the NC DEQ.

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4 [SLIDE 54]

B) *Issuance of the Mitigation Approval*
 The Town shall issue a mitigation approval upon determining that a proposal meets the requirements set out in this Sec. 6.1.1415. The approval shall identify at a minimum the option chosen for meeting the mitigation requirement, the required area of mitigation, and either the mitigation location or the offset payment amount as applicable, **and the water quality benefits to be provided by the mitigation site. For each mitigation site proposed by an applicant under 6.1.15.G or 6.1.15.H, the following criteria shall be met:**

- 1) **The location of the buffer mitigation site shall comply with the requirements of 6.1.15.D and E.**
- 2) **The mitigation proposal shall include a commitment to provide:**
 - a) **a perpetual conservation easement or similar preservation mechanism to ensure perpetual stewardship that protects the mitigation site's nutrient removal and other water quality functions;**
 - b) **a non-wasting endowment or other dedicated financial surety to provide for the perpetual land management and hydrological maintenance of lands and maintenance of structures as applicable; and**
 - c) **financial assurance in the form of a completion bond, credit insurance, letter of credit, escrow, or other vehicle acceptable to the Town payable to, or for the benefit of, the Town in an amount sufficient to ensure that the property is secured in fee title or by easement, and that planting or construction, monitoring and maintenance are completed as necessary to meet success criteria as specified in the approved mitigation plan. This financial assurance obligation shall not apply to the NC Division of Mitigation Services (DMS).**

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6 [SLIDE 55]

- 3) Diffuse flow of runoff shall be maintained in the riparian buffer. Any existing impervious cover or stormwater conveyances such as ditches, pipes, or drain tiles shall be eliminated and the flow converted to diffuse flow. If the applicant determines that elimination of existing stormwater conveyances is not feasible, then they shall include a justification and shall provide a delineation of the watershed draining to the stormwater outfall and the percentage of the total drainage by area treated by the riparian buffer with the mitigation plan specified in 6.1.15.G. and H. for Town approval. During mitigation plan review and approval, the Town may reduce credit proportionally.
- 4) Sewer easement within the buffer. If the proposed mitigation site contains a sewer easement in Zone 1, that portion of the sewer easement within Zone 1 shall not be suitable for buffer mitigation credit. If the proposed mitigation site contains a sewer easement in Zone 2, the portion of the sewer easement in Zone 2 may be suitable for buffer mitigation credit if:
 - a) the applicant or mitigation provider restores or enhances the forested buffer in Zone 1 adjacent to the sewer easement;
 - b) the sewer easement is required to be maintained in a condition that meets the vegetative requirements of the collection system permit; and
 - c) diffuse flow is provided across the entire buffer width.



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2 [SLIDE 56]

- 5) The applicant shall provide a site specific credit/debit ledger to the Town at regular intervals as specified in the mitigation plan approval or mitigation banking instrument once credits are established and until they are exhausted.
- 6) Buffer mitigation credit, nutrient offset credit, wetland mitigation credit, and stream mitigation credit shall be accounted for in accordance with the following:
 - a) Buffer mitigation used for buffer mitigation credit shall not be used for nutrient offset credits;
 - b) Buffer mitigation credit shall not be generated within wetlands that provide wetland mitigation credit required by 15A NCAC 02H .0506; and
 - c) Buffer mitigation credit may be generated on stream mitigation sites as long as the width of the restored or enhanced riparian buffer meets the requirements in Table 6.1.15.G.1.



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4 [SLIDE 57]

- C) *Options for Meeting the Mitigation Requirements*
The mitigation requirement may be met through one of the following options:
- 1) *State Buffers.* The mitigation requirements for State Buffers (defined herein as buffers required by the State laws and/or rules, or approved by the State as a State authorized program) may be met through one of the options a), b), or c) below. More specifically, State Buffers are: the 50-foot buffer required in the Neuse River Basin area of the Town and its ETJ; the 50-foot buffer required in the Jordan Lake Watershed area of the Town and its ETJ; the 30-foot buffer required by Phase 2 stormwater rules throughout the Town and its ETJ; the 30-foot buffer required adjacent to perennial waters in the Primary Watershed Protection District for developments utilizing the low-density option; and the 100-foot buffer required adjacent to perennial waters in the portion of the Primary Watershed Protection District within the Neuse River Basin for developments utilizing the high-density option. All other buffers in the Town and its ETJ regulated by Sec. 6.1 are referred to as "Town Buffers."
 - a) Payment of a compensatory mitigation fee either (i) to the State Riparian Buffer Restoration Fund pursuant to State rules applicable to the location of the State Buffer that is lost, contingent upon acceptance of payments by the NC Ecosystem Enhancement Program a compensatory buffer mitigation bank pursuant to Sec. 6.1.15.I, or (ii) to a private mitigation bank that complies with banking requirements of the US Army Corps of Engineers, currently set out at <http://www.saw.usace.army.mil/WETLANDS/Mitigation/mitbanks.html> or from the US Army Corps of Engineers, P.O. Box 1890, Wilmington, NC, 28402-1890, and the applicable trading criteria in State rules applicable to the location of the impacted State Buffer the Riparian Buffer Restoration Fund pursuant to Sec. 6.1.15.J. Payment shall conform to the requirements of N.C.G.S. 143-214.20.



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6 [SLIDE 58]

- b) Donation of real property or of an interest in real property pursuant to Sec. 6.1.1415.F; or
 - c) Restoration or enhancement of a non-forested riparian buffer pursuant to the requirements of Sec. 6.1.1415.G.
 - d) **Alternative buffer mitigation pursuant to the requirements of Sec. 6.1.15.H; or**
 - e) **Other buffer mitigation approved as a condition of a variance approval.**
- 2) *Town Buffers.* The mitigation requirement for Town Buffers may be met through one of the following options.
- a) **Alternative buffer mitigation pursuant to the requirements of Sec. 6.1.15.H.** Construction of an alternative measure or combination of measures that reduce nutrient loading as well or better than the riparian buffer that is lost, that is located in the same river basin as the riparian buffer that is lost, and that is approved by the Town. Such measures may include stormwater control measures and other means of capturing and controlling nutrients and other pollutants and shall be located on the site of the riparian buffer that is lost, if practicable, or as close to that location as is practicable;



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2 [SLIDE 59]

- b) Payment of a compensatory mitigation fee either: (i) **to a compensatory buffer mitigation bank pursuant to Sec. 6.1.15.I, (ii) to the Riparian Buffer Restoration Fund pursuant to Sec. 6.1.15.J, or (iii)** to a Town Riparian Buffer Restoration Fund established by the Town, if such fund is established and available at the time, and such fee shall be calculated using the same fee per square foot or acre as established in the State rules for a buffer in the same basin or watershed as the Town Buffer at issue, but the applicable multiplier to determine the required area of mitigation shall be determined pursuant to Sec. 6.1.1415.D.2. **Payment shall conform to the requirements of N.C.G.S. 143-214.20, or (ii)** to a private mitigation bank that complies with banking requirements of the US Army Corps of Engineers, currently as set out at <http://www.saw.usace.army.mil/WETLANDS/Mitigation/mitbanks.html> or from the US Army Corps of Engineers, P.O. Box 1890, Wilmington, NC, 28402-1890, and the applicable trading criteria in State rules applicable to the location of the State Buffer that is lost;
- c) Donation of real property, or of an interest in real property, pursuant to Sec. 6.1.1415.F; or
- d) Restoration or enhancement of a non-forested riparian buffer pursuant to the requirements of Sec. 6.1.1415.G; **or**
- e) **Other buffer mitigation approved as a condition of a variance approval.**



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4 [SLIDE 60]

- D) *The Area of Mitigation*
The Town shall determine the required area of mitigation for all mitigation options identified above in Sec. 6.1.1415.C and as further specified in the requirements for each option set out in this Sec. 6.1.1415, according to the following:
- ...
 - 2) The required area of mitigation shall be determined by applying the following multipliers to the area of the impacts determined according to Sec. 6.1.1415.D.1, for each zone of the riparian buffer:
 - ...
 - d) Impacts to wetlands within Zones 1 and 2 of the riparian buffer that are subject to mitigation under 15A NCAC 02H .0506 shall comply with the mitigation ratios in 15A NCAC 02H .0506; **and shall be deducted from buffer mitigation area.**

3) **Mitigation activities shall generate riparian buffer mitigation units in accordance with Table 6.1.15.D.1 below:**

Table 6.1.15.D.1


Mitigation Activity	Square Feet of Mitigation Buffer	Riparian Buffer Mitigation Units Generated
Restoration Site	1	1
Enhancement Site	2	1
Preservation Site on Non-Subject Urban Streams	3	1
Preservation Site on Subject Urban Streams	3	1
Preservation Site on Non-Subject Rural Streams	5	1
Preservation Site on Subject Rural Streams	10	1



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6 [SLIDE 61]


E) *The Location of Mitigation of Buffer Impacts*

- 1) *State Buffers.* For any option chosen for mitigation of State Buffer impacts, the mitigation effort **the following locational multipliers shall be applied to the area of mitigation, determined according to Sec. 6.1.15.D.2, based on location of the proposed mitigation site relative to that of the proposed impact site,** located within the same subwatershed where the impacted property is located and the same distance or closer to the closest public water supply reservoir as the proposed impact, and as close to the location of the impact as feasible. Alternatively, the applicant may propose mitigation anywhere within the Town's corporate limits or ETJ provided that the mitigation proposal accounts for differences in delivery of nutrients to the affected reservoir resulting from differences between the locations of the buffer impact and mitigation. Additional location requirements for the property donation option are enumerated below in Sec. 6.1.14.F.3.a.
 - a) **Mitigation within the 12-digit Hydraulic Unit Code (HUC) shall be multiplied by 0.75;**
 - b) **Mitigation within the eight-digit HUC shall be multiplied by one (1); and**
 - c) **Outside of the eight-digit HUC shall be multiplied by two (2).**



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2 [SLIDE 62]

- 2) *Town Buffers.* For any option chosen for mitigation of Town buffer impacts, the mitigation effort shall be located within the same river basin where the impacted property is located **the same as that for State Buffers in Sec. 6.1.15.E.1.** Additional location requirements for the property donation option are enumerated below in Sec. 6.1.14.F.3.a.
- 3) **Geographic Restrictions on Location of Mitigation. Mitigation shall be performed in the same river basin where the impact is located with the following additional specifications:**
 - a) **In the Jordan Lake Watershed, mitigation shall be within the Lower New Hope sub-watershed of the Jordan Lake Watershed.**
 - b) **Buffer mitigation for impacts within watersheds with riparian buffer rules that also have federally listed threatened or endangered aquatic species may be done within other watersheds with the same federally listed threatened or endangered aquatic species as long as the impacts are in the same river basin as the mitigation site.**




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4 [SLIDE 63]

F) *Donation of Property*

Persons who choose to satisfy their mitigation determination by donating real property or an interest in real property shall meet the following requirements:

- 1) The donation of real property interests may be used to either partially or fully satisfy the payment of a compensatory mitigation fee to either: the State Riparian Buffer Restoration Fund for impacts to a State Buffer **in accordance with 15A NCAC 02R .0403,** or to a Town Riparian Buffer Restoration Fund, if established and available at the time, for impacts to a Town Buffer **in accordance with this Sec. 6.1.15.F.** The value of the property interest shall be determined by an appraisal performed in accordance with Sec. 6.1.415.F.4.d. The donation shall satisfy the mitigation determination if the appraised value of the donated property interest is equal to or greater than the required mitigation fee calculated pursuant to 15A NCAC 2B .0269**02R .0601.** If the appraised value of the donated property interest is less than the required fee, the applicant shall pay the remaining balance due.

...



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6 [SLIDE 64]

DRAFT MINUTES

- 3) Donation of real property interests to satisfy the mitigation determination shall be accepted only if such property meets all of the following requirements:
 - a) In addition to the location requirements for mitigation of buffer impacts for State Buffers and Town Buffers, as applicable in Sec. 6.1.1415.E, the property shall be located within an area that is identified as a priority for restoration in, or is otherwise consistent with the goals of, the Basinwide Wetlands and Riparian Restoration Plan for the Basin developed by the NC DEQ pursuant to NCGS 143-214.10 for the basin in which the property is located;
 - b) The property shall contain riparian buffers not currently protected by the State's riparian buffer protection program that are in need of restoration as defined in Sec. 6.1.1415.G.4;
 - ...
 - d) The size of the restorable riparian buffer on the property to be donated shall equal or exceed the area of mitigation responsibility determined pursuant to Sec. 6.1.1415.D;
 - ...



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2 [SLIDE 65]

- 4) At the expense of the applicant or donor, the following information shall be submitted to the Town with any proposal for donations or dedications of interest in real property:
 - a) Documentation that the property meets the requirements laid out in Sec. 6.1.1415.F.3;
 - ...
 - c) A current property survey performed in accordance with the procedures of the North Carolina Department of Administration, State Property Office, as identified by the State Board of Registration for Professional Engineers and Land Surveyors in "Standards of Practice for Land Surveying in North Carolina." Copies may be obtained from the North Carolina State Board of Registration for Professional Engineers and Land Surveyors, www.ncbels.org 3620 Six Forks Road, Suite 300, Raleigh, North Carolina 27609;
 - d) A current appraisal of the value of the property performed in accordance with the procedures of the North Carolina Department of Administration, State Property Office as identified by the Appraisal Board in the "Uniform Standards of Professional North Carolina Appraisal Practice." Copies may be obtained from the Appraisal Foundation, Publications Department, P.O. Box 96734, Washington, D.C. 20090-6734 <http://www.appraisalfoundation.org>; and
 - e) A title certificate; **and**
 - f) **A Phase 1 Environmental Site Assessment documenting that the property does not contain structures that present health or safety problems to the general public. If wells, septic systems, water treatment systems, or water or sewer connections exist, they shall be filled, remediated, or closed at owner's expense and in accordance with State health and safety regulations.**



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4 [SLIDE 66]

- 5) In addition to the factors outlined in Sec. 6.1.15.F.2 through 4, the Town shall consider the following factors when determining whether to accept a donation of interest in real property to satisfy compensatory mitigation requirements:
 - a) whether restoration of the property will offset the adverse impacts of the permitted project; and
 - b) whether the adverse impacts of the permitted project are within the same 8-digit HUC as the property proposed for donation.




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6 [SLIDE 67]

G) **Riparian Buffer Restoration or Enhancement**
 Persons who choose to meet their mitigation requirement through riparian buffer restoration or enhancement shall meet the following requirements:

- 1) The applicant may restore or enhance a non-forested riparian buffer if either of the following applies: **The area of riparian buffer restoration or enhancement shall be equal to the required area of mitigation determined pursuant to Sec. 6.1.15.D;**
 - a) The area of riparian buffer restoration is equal to the required area of mitigation determined pursuant to Sec. 6.1.14.D; or
 - b) The area of riparian buffer enhancement is three (3) times larger than the required area of mitigation determined pursuant to Sec. 6.1.14.D;
- 2) The location of the riparian buffer restoration or enhancement shall comply with the requirements in Sec. 6.1.14.15.E;
- 3) The riparian buffer restoration or enhancement site **may be proposed in accordance with Table 6.1.15.G.1 below** shall have a minimum width of 50 feet or equal to the width of the impacted buffer, whichever is greater, as measured on a line perpendicular to the surface water;

Buffer Width (ft)	Proposed Percentage of Full Credit
Less than 20	0%
20-29	75%
30-100	100%
101-200	33%



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2 [SLIDE 68]

- 4) Enhancement and restoration shall both have the objective of establishing a forested riparian buffer according to the requirements this Section. Enhancement shall be distinguished from restoration based on existing buffer conditions **which shall be determined by the Town. The applicant must submit a written request for the Town to perform this on-site buffer mitigation determination.** Where existing trees are sparse, that is greater than or equal to 100 trees per acre but less than 200 trees per acre, a buffer may be enhanced. Where existing woody vegetation is absent, that is less than 100 trees per acre, a buffer may be restored; **In accordance with 15A NCAC 02B .0295:**
 - a) **Enhancement site means a riparian zone site characterized by conditions between that of a restoration site and a preservation site such that the establishment of woody stems (i.e., tree or shrub species) will maximize nutrient removal and other buffer functions;**
 - b) **Restoration site means riparian zone sites that are characterized by an absence of trees and by a lack of dense growth of smaller woody stems (i.e., shrubs or saplings) or sites that are characterized by scattered individual trees such that the tree canopy is less than 25 percent of the cover and by a lack of dense growth of smaller woody stems (i.e., shrubs or saplings); and**
 - c) **Preservation site is defined in Sec. 6.1.15.H.1.**

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4 [SLIDE 69]

- 5) The applicant shall first receive an Authorization Certificate for the proposed use according to the requirements of Sec. 6.1.11.G.5, or a variance pursuant to Sec. 6.1.13. After receiving this Certificate or variance, the applicant shall submit a restoration or enhancement plan for approval by the Town. The restoration or enhancement plan shall **demonstrate compliance with the requirements in Sec. 6.1.15.B, D, and E; and shall also** contain the following:
 - b) A vegetation plan **that shall detail the activities proposed to ensure a final performance standard of 260 stems per acre at the completion of monitoring. The final performance standard shall include a minimum of four native hardwood tree species or four native hardwood tree and native shrub species, where no one species is greater than 50% of stems. Native hardwood and native shrub volunteer species may be included to meet the final performance standard of 260 stems per acre. The Town may approve alternative vegetation plans upon consideration of factors, including site wetness and plant availability, to meet the requirements of this Section.** The vegetation plan shall include a minimum of at least two (2) native hardwood tree species planted at a density sufficient to provide 320 trees per acre at maturity;
 - c) A grading plan, **if applicable.** The site shall be graded in a manner to ensure diffuse flow through the **entire** riparian buffer;
 - d) A **schedule for implementation, including fertilization and herbicide plan if applicable;** and
 - e) A **schedule for implementation monitoring plan to document whether the site is expected to meet the final performance standards as defined in Sec. 6.1.15.G.5.b and other anticipated benefits to the adjacent water. The plan shall include a proposed schedule and method for monitoring the vegetative status of the restoration or enhancement site for five (5) years, including the health and average stem densities of native hardwood tree or tree and shrub species that are to be counted toward the final performance standard.**

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6 [SLIDE 70]

DRAFT MINUTES

- 6) Within one (1) year after the Town has approved the restoration or enhancement plan, the applicant shall present proofdocumentation to the Town that the riparian buffer has been restored or enhanced; unless the applicant requests, and the Town agrees in writing prior to that date, to a longer time period. If proofdocumentation is not presented within this timeframe, then the person shall be in violation of both the State's, where applicable, and the Town's riparian buffer protection program and shall be subject to civil penalties pursuant to Sec. 6.15.16;
- 7) The mitigation area shall be placed under a perpetual conservation easement that will provide for protection of the property's nutrient removal functions; and
- 8) The applicant shall submit written annual reports, unless an alternative schedule has been approved by the Town during the mitigation plan approval, for a period of five (5) years after completion of the restoration or enhancement site, showing that compliance with the trees planted have survivedapproved monitoring plan and that diffuse flow through the riparian buffer has been maintained; and The applicant shall replace trees that do not survive and restore diffuse flow if needed during that five-(5)-year period.
- 8) If the Town determines that the native hardwood tree or tree and shrub species at the site are not expected to meet the final performance standards listed in Sec. 6.1.15.G.5.b , then the Town may require that the applicant replace trees or trees and shrubs as needed during that five-(5) year period. If the Town determines that diffuse flow through the buffer is not being maintained, then the Town may require that the applicant restore diffuse flow. If the Town determines that the final performance standards listed in Sec. 6.1.15.G.5.b have not been achieved at the end of the five-(5) year monitoring period, the Town may require additional years of monitoring. The Town shall make determinations referenced in this Section on a site specific basis based on the annual reports, any supplemental information submitted by the applicant, or a site evaluation by the Town.

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[SLIDE 71]

H) Alternative Buffer Mitigation.

Any proposal for alternative buffer mitigation for impacts to State Buffers shall be submitted by the applicant in writing to the NC DEQ in accordance with 15A NCAC 02B .0295, and shall meet the content and procedural requirements for approval by the NC DEQ. Any proposal for alternative buffer mitigation for impacts to Town Buffers shall be provided in writing to the Town, shall meet the content and procedural requirements for approval by the Town, shall meet the requirements set out in Sec. 6.1.15.B and D, and the requirements set out as follows:

- 1) Preservation site means riparian zone sites that, as determined by a site visit conducted by the Town, are characterized by a forest consisting of the forest strata and diversity of species appropriate for the location.
- 2) Retroactive Credit. Alternative buffer mitigation sites constructed and within the required monitoring period on the effective date of this Rule shall be eligible for use as alternative buffer mitigation sites. Alternative buffer mitigation sites that have completed monitoring and were released by the Town on or within the past 10 years of the effective date of 15A NCAC 02B .0295, November 1, 2015, shall be eligible for use as alternative buffer mitigation sites. These alternative buffer mitigation sites shall receive credit in accordance with the criteria set forth in Sec. 6.1.15.D and E. All alternative buffer mitigation site proposals submitted for retroactive credit shall include the following:



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[SLIDE 72]

- a) A map or maps of the proposed alternative buffer mitigation site;
- b) Documentation of pre-existing conditions showing that the proposed alternative buffer mitigation site met the criteria to qualify for the applicable alternative buffer mitigation type identified in the applicable item in this Sec. 6.1.15.H;
- c) Documentation of the activities that were conducted at the proposed alternative buffer mitigation site to meet success criteria identified in the applicable item in this Sec. 6.1.15.H; and
- d) Documentation that the proposed alternative buffer mitigation site met the success criteria identified in the applicable item in this Sec. 6.1.15.H.
- 3) Buffer Restoration and Enhancement on Non-Subject Streams. Restoration or enhancement of buffers may be conducted on intermittent or perennial streams that are not buffered pursuant to Sec. 6.1.11.C and D. These streams shall be confirmed as intermittent or perennial streams by Town staff in accordance with Sec. 6.1.11.D.4. The proposal shall meet all applicable requirements of Sec. 6.1.11.G.



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[SLIDE 73]

- 4) Preservation of Buffer on Non-Subject Streams. Preservation of buffers on intermittent or perennial streams that are not buffered pursuant to Sec. 6.1.11.C and D may be proposed in order to permanently protect the buffer from cutting, clearing, filling, grading, and similar activities that would affect the functioning of the buffer. These streams shall be confirmed as intermittent or perennial streams by Town staff in accordance with Sec. 6.1.11.D.4. The preservation site shall meet the requirements of Table 6.1.15.G.1; and shall be absent of the following: structures, infrastructure, hazardous substances, solid waste, and encumbrances and conditions on the transfer of the property interests. The area of preservation credit within a buffer mitigation site shall comprise of no more than 25% of the total area of buffer mitigation.
- 5) Preservation of Buffers on Subject Streams. Buffer preservation may be proposed on streams that are buffered pursuant to Sec. 6.1.11.C and D in order to permanently protect the buffer from cutting, clearing, filling, grading, and similar activities that would affect the functioning of the buffer beyond the protection afforded by the existing buffer rules on sites that meet the definition of a preservation site. The preservation site shall meet the requirements of Table 6.1.15.G.1; and shall be absent of the following: extensive structures, extensive infrastructure, hazardous substances, solid waste, and encumbrances and conditions on the transfer of the property interests. The area of preservation credit within a buffer mitigation site shall comprise of no more than 25% of the total area of buffer mitigation.



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2 [SLIDE 74]

- 6) Enhancement of grazing areas adjacent to streams. Buffer credit at a 2:1 ratio shall be available for an applicant who proposes permanent exclusion of grazing livestock that otherwise degrade the stream and riparian zone through trampling, grazing, or waste deposition by fencing the livestock out of the stream and its adjacent buffer. The applicant shall provide an enhancement plan as set forth in Sec. 6.1.15.G. The applicant shall demonstrate that grazing was the predominant land use since August, 2000, the effective date of the UDO Town riparian buffer regulations.
- 7) Mitigation on ephemeral channels. For purposes of riparian buffer mitigation as described in this Sec. 6.1.15.H, an ephemeral channel is defined as a natural channel exhibiting discernible banks within a topographic crenulation (V-shaped contour lines) indicative of natural drainage on the 1:24,000 scale (7.5 minute) quadrangle topographic map prepared by the U.S. Geologic Survey, or as seen on digital elevation models with contours developed from the most recent available LiDAR data, available at no cost at <http://www.ncfloodmaps.com/lidar.com>. Ephemeral channels only flow for a short period of time after precipitation in the drainage area and do not have periods of base flow sustained by groundwater discharge. The applicant shall provide a delineation of the watershed draining to the ephemeral channel. The entire area proposed for mitigation shall be within the contributing drainage area to the ephemeral channel. The ephemeral channel shall be directly connected to an intermittent or perennial stream and contiguous with the rest of the mitigation site protected under a perpetual conservation easement. The area of the mitigation site on ephemeral channels shall comprise no more than 25% of the total area of buffer mitigation. The proposal shall meet all applicable requirements of Sec. 6.1.15.G for restoration or enhancement. The proposal shall meet all applicable requirements of 6.1.15.H.4 and 5 for preservation.



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4 [SLIDE 75]

- 8) Restoration and Enhancement on Ditches. For purposes of riparian buffer mitigation as described in this Sec. 6.1.15.H, a ditch is defined as a man-made channel other than a modified natural stream that was constructed for drainage purposes. The width of the restored or enhanced area shall not be less than 30 feet and shall not exceed 50 feet for crediting purposes. The applicant or mitigation provider shall provide a delineation of the watershed draining to the ditch. The watershed draining to the ditch shall be at least four times larger than the restored or enhanced area along the ditch. The perpetual conservation easement shall include the ditch and the confluence of the ditch with the intermittent or perennial stream, and provide language that prohibits future maintenance of the ditch. The proposal shall meet all applicable requirements of Sec. 6.1.15.G for restoration or enhancement. To be used for mitigation, a ditch shall meet all of the following criteria:
 - a) be directly connected with and draining towards an intermittent or perennial stream;
 - b) be contiguous with the rest of the mitigation site protected under a perpetual conservation easement;
 - c) stormwater runoff from overland flow shall drain towards the ditch;
 - d) be between one (1) and three (3) feet in depth; and
 - e) the entire length of the ditch shall have been in place prior to the effective date of the UDO Town buffer regulations, August, 2000.



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6 [SLIDE 76]

- 9) Stormwater Treatment Options. All stormwater treatment options shall meet the following requirements:
- a) Structural options already required by other local, state, or federal rule or permit cannot be used as alternative buffer mitigation credit, except to the extent such measure(s) exceed the requirements of such rule or permit. Stormwater Control Measures (SCMs), including bioretention facilities, constructed wetlands, infiltration devices and sand filters are all potentially approvable SCMs by the Town for alternative buffer mitigation credit. Other SCMs may be approved only if they meet the nutrient removal levels outlined in Sec. 6.1.15.H.9.b. Existing or planned SCMs for a local, state, or federal rule or permit may be retrofitted or expanded to improve their nutrient removal if this level of treatment is not required by other local, state, or federal rules. In this case, the predicted increase in nutrient removal may be counted toward alternative buffer mitigation credit;
 - b) Minimum treatment levels: Any structural SCM shall provide at least 30% total nitrogen and 35% total phosphorus removal as demonstrated by a scientific and engineering literature review as approved by the Town. The mitigation proposal shall demonstrate that the proposed alternative removes an equal or greater annual mass load of nutrients to surface waters as the buffer impact authorized in the authorization certificate or variance, following the calculation of impact and mitigation areas pursuant to Sec. 6.1.15.D and E. To estimate the rate of nutrient removal of the impacted buffer, the applicant may use the "NC Division of Water Quality-Methodology and Calculation for determining nutrient reductions associated with Riparian Buffer Establishment" available at no cost at <https://files.nc.gov/ncdeq/Water%20Quality/Planning/NPU/Nutrient%20Offset%20Rule/Ag-Buffer-Credit.pdf>. The applicant may propose an alternative method of estimating the nutrient removal for consideration and review by the Town;

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2 [SLIDE 77]

- c) All proposed structural SCMs shall follow the NC DEQ Stormwater Design Manual and the *Town of Apex Standard Specifications and Standard Details*. If a specific proposed structural SCM is not addressed in this Manual, the applicant shall follow Part F in this Manual for approval.
- d) All structural options are required to have Town approved operation and maintenance agreements in accordance with 6.1.12.D;
- e) All structural options are required to have continuous and perpetual maintenance and inspection in accordance with 6.1.12.H and I;
- f) Upon completion of construction, the designer for the type of SCM installed shall provide a signed and sealed certification statement that the system was inspected during construction and that the SCM was constructed in conformity with plans and specifications approved by the Town and in accordance with 6.1.12.F and the *Town of Apex Standard Specifications and Standard Details*;
- g) Removal and replacement of structural options: If a structural option is proposed to be removed and cannot be replaced on-site, then a structural or non-structural measure of equal or better nutrient removal capacity, as determined by calculations submitted to and approved by the Town, in a location as specified by Sec. 6.1.15.G shall be constructed as a replacement;

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4 [SLIDE 78]

- h) Renovation or repair of structural options: If the applicant or the Town determines that a structural option must be renovated or repaired, it shall be renovated to provide equal or better nutrient removal capacity than as originally designed; and
 - i) Structural options, as well as their operation and maintenance, are the responsibility of the landowner or easement holder unless the Town gives written approval for another responsible party to operate and maintain them. Structural options shall be located in recorded easements for the purposes of operation and maintenance and shall have recorded access easements providing access to the nearest public right-of-way. These easements shall be granted in favor of the party responsible for operating and maintaining the structure and provide that operation and maintenance is the responsibility of the landowner, easement holder, or other responsible party.
- 10) Approval for other alternative buffer mitigation options. Other alternative riparian buffer mitigation options not specified within this Sec. 6.1.15.H may be submitted to the Town for review and recommendation to the Water Resources Director on a case-by-case basis. Any proposal submitted under Sec. 6.1.15.H.10 shall provide documentation or calculations to demonstrate that the proposed alternative mitigation option removes an equal or greater annual mass load of nutrients to surface waters as a riparian buffer. Upon completion of the Town's review, and prior to recommendation to the Water Resources Director, the Town shall advertise a 30-calendar day public comment period through the Town's website with instructions on how to provide comments. Town staff shall present their recommendations, including comments received during the public comment notice period, to the Water Resources Director for a final decision. If approved by the Water Resources Director, the alternative buffer mitigation option may be proposed by other applicants.


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6 [SLIDE 79]

DRAFT MINUTES

I) Purchase of Buffer Mitigation Credits from a Private or Public Compensatory Buffer Mitigation Bank. Applicants who choose to satisfy some or all of their mitigation by purchasing mitigation credits from a private or public compensatory buffer mitigation bank shall meet the following requirements:

- 1) The compensatory buffer mitigation bank from which credits are purchased shall have available riparian buffer credits approved by the NCDEQ;
- 2) The compensatory buffer mitigation bank from which credits are purchased shall be located pursuant to 6.1.15.D and 6.1.15.E; and
- 3) After receiving a mitigation acceptance letter from the compensatory buffer mitigation bank, proof of payment for the credits shall be provided to the Town prior to any activity that results in the removal or degradation of the protected riparian buffer, and prior to Construction Drawing approval.

J) Payment to the Riparian Buffer Restoration Fund. Applicants who choose to satisfy some or all of their mitigation requirement by paying a compensatory mitigation fee to the Riparian Buffer Restoration Fund shall meet the requirements of 15A NCAC 02R .0601. Applicants may also choose to make a payment to a Town Riparian Buffer Restoration Fund, if established and available at the time, for impacts to a Town Buffer. Payments made to the NC Division of Mitigation Services (DMS), or the Town as applicable, shall be contingent upon acceptance of the payment by the DMS, or the Town. The DMS, or the Town, shall consider their financial, temporal, and technical ability to satisfy the mitigation request to determine whether they shall accept or deny the request.



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2 [SLIDE 80]


6.1.156.1.16 Civil Penalties
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6.1.166.1.17 Criminal Penalties
...

6.1.176.1.18 Remedies
...

8.2.7 Fences, Walls, and Berms
Fences, walls, and berms are permitted as elements of site design and in some locations, may be used to conceal storage or other unsightly or conflicting land uses. Fences are not allowed around detention and retention basins per Sec. 6.1.123.B.10. All fences, walls, and berms shall meet the following requirements:
...


11.4.4 Civil Penalties
Except as provided in Sec. 6.1.156, the following civil penalties may be imposed on a person who violates this Ordinance:
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4 [SLIDE 81]

12.2 TERMS DEFINED
...

Built-Upon Area
For the purposes of complying with the standards and requirements of the Watershed Protection Overlay Districts, calculation of the built-upon area within the proposed development shall include, but not be limited to, all existing public and private streets, proposed public streets, sidewalks, driveways, rooftops, parking lots, patios, and all other impervious and partially impervious surfaces, including CABC and gravel within the development. In accordance with NCGS 143-214.7, built upon area does not include the water area of swimming pools; and wooden-slatted decks; and a surface of number 57 stone, as designated by the American Society for Testing and Materials, laid at least four inches thick over a geotextile fabric; a trail as defined in G.S. 113A-85 that is either unpaved or paved as long as the pavement is porous with a hydraulic conductivity greater than 0.001 centimeters per second (1.41 inches per hour); or landscaping material, including, but not limited to, gravel, mulch, sand, and vegetation, placed on areas that receive pedestrian or bicycle traffic or on portions of driveways and parking areas that will not be compacted by the weight of a vehicle, such as the area between sections of pavement that support the weight of a vehicle, shall not be included in the calculation of the built-upon area. The owner or developer of a property may opt out of any of the exemptions from built-upon area set out in this section.



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6 Councilmember Mahaffey asked if these were to be in compliance with state law.

DRAFT MINUTES

1 **Mr. Patterson** said yes, with one caveat.

2 **Councilmember Mahaffey** asked how a stormwater control measure could be
3 created on half of an acre.

4 **Mr. Patterson** said it could be underground, and there were various other options.

5 **Councilmember Killingsworth** asked how much extra time it would take to get
6 permission from DEQ.

7 **Mr. Patterson** said it may take an extra month or two, but that could vary.

8 **Councilmember Mahaffey** asked how this impacted the current buffer width
9 requirements.

10 **Mr. Patterson** said it did not change the current buffer and explained that it changed
11 the mitigation calculations.

12 **Councilmember Mahaffey** asked what the state standard for buffer width was.

13 **Mr. Patterson** said the state standard was 50 feet, but the town standard was 100 feet
14 for perennial streams, and 50 for intermittent.

15 **Councilmember Mahaffey** asked if there was any interaction with the new rules for
16 mitigation if the town buffer rules are stricter.

17 **Mr. Patterson** said no, it will not impact that.

18
19 **Mayor Gilbert** opened up Public Hearing for comment. With no one signed up, he
20 closed Public Hearing and moved discussion back to Council.

21
22 A **motion** was made by **Councilmember Mahaffey**, seconded by **Councilmember**
23 **Zegerman**, to approve the Unified Development Ordinance (UDO) Amendments of April
24 2024.

25
26 **VOTE: UNANIMOUS (5-0)**

27
28 **[UPDATES BY TOWN MANAGER]**

29
30 **Town Manager Randy Vosburg** said that the budget had been released and said it
31 could be found on the town's website. He said there were two upcoming events: The
32 Housing Fair and Think Apex Day. He said that the Communications Department had
33 received an Excellence in Communications Award from the North Carolina City and County
34 Communications (NC3C), recognizing the department for their work on the 150th year and
35 the 150th year party. He thanked the Council and the Mayor and said that everyone had been
36 very welcoming.

37
38 **[CLOSED SESSION]**

39
40 A **motion** was made by **Councilmember Zegerman**, seconded By **Councilmember**
41 **Gantt**, to enter into Closed Session Pursuant to NCGS § 143-318.11(a)(3) and NCGS § 143-
42 318.11(a)(6).

DRAFT MINUTES

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VOTE: UNANIMOUS (5-0)

Council entered into Closed Session at 8:42 PM.

CS1 Laurie Hohe, Town Attorney

RE: Empire Contractors, Inc. v. Town of Apex.

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.”

CS2 Laurie Hohe, Town Attorney

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.”

CS3 ADDED - 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 **10:01 p.m.**

[ADJOURNMENT]

Mayor Gilbert adjourned the meeting at 10:01 p.m.

Jacques K. Gilbert
Mayor

Allen Coleman, CMC, NCCCC
Town Clerk to the Apex Town Council

Submitted for approval by Town Clerk Allen Coleman and approved on _____.

DRAFT MINUTES

1