

STAFF REPORT

Amendments to the Unified Development Ordinance

January 9, 2024 Town Council Meeting



Requested by Planning Staff:

1. Amendments to Sec. 12.2 *Terms Defined* in order to expand the boundaries of the Downtown Festival District.

Background: In May 2022, the Downtown Festival District was created in order to allow more flexibility in the number of promotional events allowed in the downtown area and to set a reduced setback for outdoor operations of certain retail, restaurant and alcohol related uses and outdoor areas associated with promotional events than that required outside of the district.

12.2 Terms Defined

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Downtown Festival District

The purpose and intent of the Downtown Festival District is to celebrate the Salem Street corridor and vicinity and encourage a diversity of activities and programming by allowing more outdoor entertainment options on public and private properties than in other areas of Town while being cognizant of the surrounding residential neighborhoods. Legal description of boundaries: Beginning at an iron pipe being the southwest property corner of the Town of Apex Police Department and being the northwest corner of the Kenneth E. and Cheryl H. Koch, Jr. property; thence along the western property line of the Town of Apex Police Department N 29°37'50" E 91.05' to a point; thence continuing along said property line N 30°23'22" E 13.01' to a point; thence along the same property line N 40°38'29" E 142.69' to a point on the northern right-of-way of Saunders Street; thence along the Saunders Street northern right-of-way S 64°28'48" E 19.44' to a point; thence S 64°15'35" E 89.31' to a point on the aforementioned right-of-way; thence leaving the northern right-of-way of Saunders Street the following three (3) calls: N 18°01'23" E 184.23', N 65°08'53" W 31.82', and N 02°37'34" W 87.12' to a point on the southern boundary of the Brittany Trace neighborhood; then along the southern boundary of Brittany Trace, also being the rear property line for Lots 38 through 47, the following three (3) calls: S 89°48'07" E 14.82', N 89°06'04" E 194.87', and S 88°48'57" E 398.32' to a point; thence N 89°04'55" E 16.80' to a point; thence S 88°02'04" E 272.91' to a point on the western right-of-way of North Salem Street; thence along the North Salem Street western right-of-way the following six (6) calls: N 14°58'41" E 62.09', N 18°22'46" E 40.83', N 18°51'26" E 493.54', N 17°19'26" E 95.95', N 12°19'09" E 53.97', and N 14°51'47" E 151.61' to a point in the centerline of Hunter Street; thence with the Hunter Street centerline S 75°57'32" E 104.78' to a point in the centerline of the mainline track for CSX Transportation; thence along the CSX Transportation mainline track centerline N 02°16'41" E 1282.52' to a point; thence leaving the centerline of the mainline track for CSX Transportation and following the northern property line of the Town of Apex Hunter Street Park property S 87°43'03" E 580.19' to a point in the centerline of Ambergate Station; thence with the Ambergate Station centerline the following five (5) calls: S 02°43'42" W 159.30', S 02°06'51" W 103.90', S 03°09'44" W 15.57', S 05°10'12" W 20.26', and S 07°23'46" W 1.63' to a point; thence leaving the centerline of Ambergate Station S 87°56'20" E 157.12' to a point on the western right-of-way of CSX Transportation; thence along the CSX Transportation western right-of-way S 26°14'00" W 1091.25' to a point on the northern right-of-way of Hunter Street; thence along the Hunter Street northern right-of-way S 76°01'18" E 103.87' and S 75°58'18" E 78.32' to a point also being the western right-of-way of Metro Station; thence leaving the northern right-of-way of Hunter Street and following the Metro Station western right-of-way the next three (3) calls: N 26°17'55" E 139.57', N 29°35'10"

E 20.07', and N 36°09'34" E 20.07' to a point; thence leaving the western right-of-way of Metro Station and following the centerline of Massapequa Station S 63°41'13" E 394.10' to a point; thence leaving the Massapequa Station centerline S 26°15'45" W 14.12' to a point on the eastern right-of-way of Grand Central Station; thence leaving the Grand Central Station eastern right-of-way and following the northern property line of Lot 105 (56 Hunter Street) Villages of Apex South Village – Phase 1A S 63°44'15" E 97.58' to a corner; thence crossing the Villages of Apex South Common Area and following a property line of Lot 1 Villages of Apex South N 75°06'49" E 272.40' to a point; thence continuing with the edge of said property S 79°37'44" E 169.41' to a corner; thence crossing Lot 1 S 57°13'29" E 172.79' to a point in the centerline of Laura Duncan Road (N.C.S.R. 1308); thence along the Laura Duncan Road centerline the following seven (7) calls: S 30°28'38" W 15.53', S 36°13'57" W 28.13', S 36°18'01" W 50.25', S 38°00'41" W 69.01', S 40°05'16" W 110.45', S 39°37'43" W 106.22', and S 42°26'17" W 78.36' to the intersection of Laura Duncan Road and Hunter Street; thence leaving the intersection and continuing along the North Mason Street centerline the following twelve (12) calls: S 41°38'01" W 54.75', S 40°12'33" W 85.20', S 41°26'40" W 75.54', S 39°39'03" W 66.30', S 39°31'22" W 29.69', S 35°22'20" W 29.09', S 33°41'24" W 20.46', S 31°48'32" W 25.12', S 27°58'46" W 17.85', S 28°10'00" W 27.49', S 25°34'30" W 29.63', and S 25°01'01" W 26.26' to a point; thence leaving the centerline of North Mason Street and continuing along the northern property line of Town of Apex, also being the southern limit of an abandoned railroad easement, the following three (3) calls: S 57°30'04" E 71.43', S 51°04'36" E 36.87', and S 45°31'56" E 40.38' to a point; thence crossing the aforementioned Town of Apex property S 20°27'19" W 222.17' to its southern property line; thence along the southern property line of Town of Apex N 69°32'41" W 120.00' to a point on the eastern right-of-way of North Mason Street; thence N 22°06'06" E 34.22' to a point on the North Mason Street eastern right-of-way; thence crossing the right-of-way of North Mason Street and continuing along the southern property line of Town of Apex Town Campus N 66°08'18" W 199.31' to a corner; thence along a common line between Town of Apex and Larry Mack Jordan N 22°28'32" E 162.69' and N 77°35'02" W 96.38' to a corner; thence crossing a portion of Larry Mack Jordan, Town of Apex Town Campus, and North Hughes Street, also being collinear with the southern property line of the former Tunstall Life Estate, N 64°48'43" W 716.19' to a point in the centerline of the mainline track for CSX Transportation; thence along the CSX Transportation mainline track centerline S 26°12'58" W 2880.48' 1478.49' to the southern right-of-way of East Chatham Street; thence following the East Chatham Street right-of-way, also being the property line of Apex United Methodist Church, S 64°17'14" E 441.18' to the western right-of-way of South Hughes Street; thence S 25°56'18" W 422.48' along said right-of-way to the northern right-of-way of Olive Street; thence along the northern right-of-way of Olive Street N 63°57'19" W 177.20' to a point on the northern right-of-way and being the vehicle entrance for Apex United Methodist Church; thence crossing Olive Street and following the common line between Apex United Methodist Church and the property of Jon Douglas and Margaret Anne Allen S 25°57'20" W 175.73'; thence along the southern property line of Jon Douglas and Margaret Anne Allen S 64°30'43" E 177.80' to the western right-of-way of South Hughes Street; thence along the South Hughes Street right-of-way S 25°53'38" W 225.36' to the northern right-of-way of East Moore Street; thence following the East Moore Street right-of-way N 64°23'04" W 446.69' to a point in the centerline of the mainline track for CSX Transportation; thence along the CSX Transportation mainline track centerline across East Williams Street (NC Highway 55) and continuing with a clockwise curve for approximately 2074' to the eastern right-of-way of Tingen Road (N.C.S.R. 1153); thence leaving the centerline of the mainline track and following the eastern right-of-way of Tingen Road the following three (3) calls: N 01°33'18" E 229.62', N 00°35'34" W 74.00', and N 00°01'57" W 202.14' to a point; thence leaving the Tingen Road eastern right-of-way and crossing South Salem Street (N.C.S.R. 1011) N 60°23'59" W 67.78' to a point on the western right-of-way; thence following the western South Salem Street right-of-way, also being the property line of Walter J. McClamb (Albright Funeral Home), S 29°36'02" W 42.24'; thence continuing along the western South Salem Street right-of-way and across Justice Heights Street the following three (3) calls: S 30°11'02" W 98.31', S

32°41'15" W 42.11', and S 29°27'41" W 81.33' to the southeast corner of St. Mary's African Methodist Episcopal (A.M.E.) Church; the along the southern property line of St. Mary's A.M.E. Church N 62°22'04" W 139.32'; thence along the western property line of said church and continuing across Justice Heights Street to a point in the northern right-of-way N 23°57'20" E 116.56'; thence with the Justice Heights Street right-of-way N 67°18'07" W 117.88' to the southwest corner of Walter J. McLamb; thence leaving said right-of-way, following the western property line of Walter J. McClamb and crossing West Street N 28°07'02" E 334.67'; thence along the northern West Street right-of-way to the eastern right-of-way for First Street, also being the southwest corner of Town of Apex (West Street Park) N 60°49'18" W 57.97'; thence along the eastern First Street right-of-way N 29°33'54" E 413.62' to the northwest corner of Town of Apex; thence leaving said right-of-way S 64°02'10" E 105.35' to a point in the common line of Town of Apex and Kyler L. Zadell; thence crossing Kyler L. Zadell N 29°16'02" E 49.73' to a point on the northern property line; thence along the northern property line of Kyler L. Zadell S 63°55'11" E 45.52' to a corner with KC2 Holdings, LLC; thence S 65°13'20" E 50.56' to a corner of KC2 Holdings, LLC; thence N 32°29'05" E 144.34' along the western property line of KC2 Holdings, LLC to the southern right-of-way for Harwood Street; thence across Harwood Street N 27°42'28" E 36.66' to a property corner for Sauls Investment Properties, LLC; thence along the Harwood Street northern right-of-way the following four (4) calls: N 64°00'51" W 58.43', N 64°01'22" W 48.92', N 63°54'08" W 77.36', and a curve to the right having a radius of 21.41' feet and a chord bearing and distance of N 21°34'11" W 28.85' to a point in the eastern right-of-way of First Street; thence along said right-of-way N 29°27'20" E 21.97' to the southern right-of-way of West Williams Street; thence along the southern West Williams Street right-of-way S 64°26'19" E 100.86' and S 66°54'43" E 45.16' to a property corner of Sauls Investment Properties, LLC; thence crossing West Williams Street N 25°38'03" E 100.09' to the northern right-of-way and being a common corner of A.T. Seymour Heirs and K2 Holdings, LLC; to a point on the eastern right-of-way of East Williams Street (NC Highway 55); thence with the NC Highway 55 eastern right-of-way N 66°53'40" W 628.99' to a point on the eastern right-of-way of West Williams Street, also being the southeast corner of A.T. Seymour Heirs; thence along the eastern property line of A.T. Seymour Heirs the following three (3) calls: N 26°16'51" E 166.66', S 64°40'27" E 3.99', and N 27°36'14" E 109.53' to a point on the southern property line of Thomas E. Seymour; thence along the property lines of Thomas E. Seymour the following three (3) calls: N 64°44'27" W 209.92', N 29°11'13" E 116.32', and S 63°52'04" E 170.02' to the southeast corner of Eric D. and Patricia Pollock Creta; thence along the eastern property line of Eric D. and Patricia Pollock Creta N 26°07'32" E 184.96' to a point on the southern right-of-way of West Moore Street; thence along the West Moore Street southern right-of-way S 63°57'53" E 10.10' to a point; thence leaving the southern right-of-way of West Moore Street and following the eastern right-of-way of Hudson Avenue N 28°53'12" E 130.24' to a point; thence leaving the Hudson Avenue eastern right-of-way S 61°06'48" E 109.23' to a point; thence N 28°09'08" E 80.92' to a point; thence N 60°52'34" W 33.18' to a point; thence N 30°30'46" E 85.93' to a point; thence N 62°41'01" W 76.03' to a point; thence N 28°25'56" E 128.57' to a point being on the eastern right-of-way of Hudson Avenue and the southern right-of-way of Holleman Street; thence crossing Hudson Avenue N 56°56'16" W 20.07' to the northeast corner of William J. Evans, Jr.; thence along the Holleman Street southern right-of-way, also being the northern property line of William J. Evans, Jr., N 60°00'00" W 192.72' to the northeast corner of Carey C. Jones Memorial Park; thence leaving the southern right-of-way of Holleman Road and following the eastern edge of Carey C. Jones Memorial Park the following six (6) calls: S 29°51'00" W 150.00', N 60°03'08" W 5.20', S 26°14'24" W 99.23', N 63°24'21" W 11.54', N 65°03'26" W 89.86', and S 29°57'39" W 162.25' to a point on the northern right-of-way of West Moore Street; thence with the West Moore Street northern right-of-way N 71°38'54" W 546.63' to a point on the eastern right-of-way of Upchurch Street; thence along the Upchurch Street eastern right-of-way N 30°10'39" E 558.38' to a point on the northern right-of-way of Holleman Street; thence along the Holleman Street northern right-of-way S 61°48'47" E 284.70' and S 59°01'13" E 289.14' to a corner of Apex Baptist Church; thence leaving the northern right-of-way of Holleman Street and following

along the western edge of Apex Baptist Church the next four (4) calls: N 28°31'39" E 174.53', S 65°08'57" E 67.87', S 65°34'53" E 64.94', and N 29°20'38" E 256.34' to a point on the northern right-of-way of West Chatham Street; thence along the West Chatham Street northern right-of-way S 64°49'33" E 156.08' to a point; thence leaving the northern right-of-way of West Chatham Street N 27°15'51" E 159.33' to a point on the southern property line of the Town of Apex Police Department; thence along the southern property line of the Town of Apex Police Department the following four (4) calls: N 64°05'39" W 289.37', N 64°18'46" W 80.73', N 64°41'58" W 94.64', and N 64°14'26" W 103.74' to the point and place of beginning.

2. **Amendments to Sec. 7.5.4.E *Public Access Requirements* in order to remove standards related to the required number of points of access for new residential developments in order to generally rely on Appendix D of the North Carolina International Fire Code.**

Background: In September 2023, State law changed to no longer allow local governments to require access roads in excess of the Fire Code of the North Carolina Residential Code for One- and Two-Family Dwellings. Planning staff met with Fire Department and Transportation & Infrastructure Development staff to review the standards in the UDO for all residential developments and agreed that it is appropriate to rely on the Fire Code for multifamily developments as well.

7.5.4 Required Improvements, Streets

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E) Public Access Requirements

All residential development or any portion thereof shall meet and may exceed the minimum public access requirements established by Appendix D of the North Carolina International Fire Code. ~~(either by itself or in combination with another existing development through which it accesses the public street system) propose no more than 50 single-family units, 100 multi-family units, or 50 units of single-family and multi-family combined unless it is served by at least two (2) points of access to the public street system. When more than one (1) point is required, one (1) of those two (2) points must be a full-movement intersection and both points of access must be constructed to Town of Apex standards. A stub street allowing for future connectivity but not being extended to the public street system in conjunction with the proposed development cannot be considered a point of access. The points of access serving the development shall be separated by a minimum distance of 500 feet. The spacing between points of access is subject to approval by the North Carolina Department of Transportation if the access is proposed along a state-maintained roadway. Any residential development exceeding 300 residential units shall provide at least three (3) points of access to the public street system. Construction of a Major Collector or Thoroughfare on the Advance Apex: The 2045 Transportation Plan can provide opportunities for additional points of access when the existing roadway frontage cannot provide those opportunities. For multi-family development, at least one (1) point of access shall be full-movement.~~ See also Sec. 7.2.1.A.2 *Points of ingress/egress.*

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3. Amendments to Sec. 6.1.11.G *Uses Permitted Within the Riparian Buffer* in order to clarify that screened porches are allowed to encroach into a riparian buffer in the same manner as sheds and gazebos based on interpretation from the North Carolina Department of Environmental Quality.

Table 6.1.11.G.1

Use	Exempt*	Allowable*	Allowable with Mitigation*
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Recreational and accessory structures in Zones 2 and 3:			
<ul style="list-style-type: none"> • Sheds and gazebos, and screened porches in Zones 2 and 3, except along perennial waters in Neuse River Basin where high-density development option is utilized <ul style="list-style-type: none"> o Total footprint less than or equal to 150 square feet per lot o Total footprint greater than 150 square feet per lot • Slatted uncovered decks and associated steps, provided the use meets the requirements of Sec. 6.1.11.E and F of this Ordinance: <ul style="list-style-type: none"> o Deck at least eight (8) feet in height in Zone 2 and no vegetation removed from Zone 1 o Deck less than eight (8) feet in height in Zone 2 or vegetation removed from Zone 1 o Deck in Zone 3 		X	X
		X	X
		X	
...			

PLANNING STAFF RECOMMENDATION:

Planning staff recommends approval of the proposed amendments.

PLANNING BOARD RECOMMENDATION:

The Planning Board heard these amendments at their December 11, 2023 meeting and unanimously recommended approval.