

STAFF REPORT

Amendments to the Unified Development Ordinance

October 28, 2025 Town Council Meeting



Requested by Transportation & Infrastructure Development Staff:

- 1) **Amendments to Secs. 7.4 Dedication of ROW; 7.4.2 Dedication of ROW, No Deprivation of Land; 7.5.1 Required Improvements, Generally and Exemptions; 7.5.4 Required Improvements, Streets; and 13.16 Transportation, Developer Agreements in order to update and clarify road frontage widening requirements and add certain exemptions for new development.**

Background: Transportation & Infrastructure Development staff proposes the following amendments to ensure development supports a connected, safe, and efficient system while protecting property owners through limits on dedications, exemptions for small-scale projects, and proportionality when costs exceed a reasonable amount. These standards balance long-range transportation goals with fairness and practicality in development review.

7.4 Dedication of ROW

When a street or highway corridor identified in *Advance Apex: The 2045 Transportation Plan* established and adopted pursuant to NCGS 136-66.2, is located on or immediately adjacent to land subject to subdivision, site plan, or other development plan, the landowner shall dedicate the right-of-way for the street or highway to the Town if:

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7.4.2 No Deprivation of Land

The dedication of right-of-way ~~does not result in the denial of a reasonable use~~ **is not greater than 35%** of the original tract of land.

7.5 Required Improvements

7.5.1 Required Improvements, Generally and Exemptions

A) Generally

The developer of any **site or** subdivision within the Town or the Town's extraterritorial jurisdiction shall be responsible for the proper installation of improvements as set forth in the following sections and as set forth in the Town of Apex Standard Specifications and Standard Details. No final plat for subdivision shall be approved until required improvements have been installed or their installation guaranteed as provided herein in those areas shown on the plat.

B) Exemptions

~~A site plan or subdivision plan that does not propose a subdivision of an existing parcel into more than four (4) lots, has an anticipated number of vehicular trips less than 150 per day, and a total of less than 10,000 square feet of proposed non-residential buildings is exempt from public road frontage improvements and new location public road construction that would otherwise be required~~

based on the Advance Apex: The 2045 Transportation Plan and typical road sections specified in the Town of Apex Standard Specifications and Construction Details. This exemption 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. Buildings shall not be permitted in areas that are planned for future roadway construction and expansion. Right-of-way dedication is recommended for planned public roadways where practical to promote future connectivity to adjacent properties and future improvement projects.

The following exemptions apply to construction of public road frontage improvements and new location public road construction that would otherwise be required based on Advance Apex: The 2045 Transportation Plan and typical road sections specified in the Town of Apex Standard Specifications and Standard Details.

- 1) Single-family or duplex construction on an existing parcel (no subdivision).**
- 2) A site plan or subdivision plan that does not propose a subdivision of an existing parcel into more than four (4) lots.**
- 3) A site plan or subdivision plan that has an anticipated number of vehicular trips less than 150 per day.**
- 4) A site plan with a total of less than 10,000 square feet of proposed non-residential buildings.**
- 5) A site plan or subdivision plan abuts a street with controlled access and cannot obtain a driveway access to the street.**
- 6) A project submitted for site plan or subdivision plan approval is subject to street frontage improvements in accordance with the Advance Apex: The 2045 Transportation Plan in which the total cost of the street improvements will exceed 35% of the site work costs and the proposed use or expansion does not trigger a Traffic Impact Analysis. Cost estimates shall be provided by the property owner/developer, adhering to the NCDOT Standard Specifications for Roads and Structures, for both the required street improvements and proposed site work costs. Cost estimates are required to be submitted to the Transportation & Infrastructure Development Director who will approve or deny the values presented to justify the exemption.**

These exemptions do 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. Buildings shall not be permitted in areas that are planned for future roadway construction and expansion. Right-of-way dedication **and permanent slope easements are still required** for planned

public roadways **and widenings** where practical to promote future connectivity to adjacent properties and future improvement projects.

- C) **Fee-In-Lieu Due to State and Local Improvement Plans**
Where a project is adjacent to a street identified on the North Carolina Department of Transportation State Transportation Improvement Program or the Town's Capital Improvement Program and is scheduled to be under construction within three (3) years from the date of first site plan or first subdivision plan submittal, and remains scheduled within three years of construction plan approval, street improvements may not be required, based on approval of the Transportation & Infrastructure Development Director, provided that right-of-way and permanent slope easements are dedicated to accommodate the future project and a fee-in-lieu payment for the street improvements is made for the street improvements.

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7.5.4 Streets

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- D) *Apex Peakway Construction Requirements*

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- 4) *Order of Construction*

New construction or frontage widening along the Apex Peakway corridor in conjunction with development is required in the same manner as all other road improvements described in Secs. 7.5.9.C.1 and 7.5.9.C.2.

~~Because of expected low traffic counts early in the life of the facility, two travel lanes with curb and gutter and sidewalk are to be constructed initially with grading for the remaining roadway width when adequate public right-of-way is available. First priority of construction shall be the outer two travel lanes. In constructing only the outer two lanes, the inside curb shall be constructed as median curb.~~

- ~~a) Development on Outside of Road Corridor~~

~~One half of the right-of-way shall be dedicated and the outside two lanes and sidewalk shall be built as specified above.~~

- ~~b) Development on Inside of Road Corridor~~

~~When property develops on the inside of the corridor and the outer lanes have already been constructed, the remaining one half (½) right-of-way shall be dedicated and an approved connection shall be made to the outer lanes. A fee in lieu shall be paid for construction of the inside lanes and multi-use path.~~

~~If the outer lanes have not been constructed and the developer has access to the property through an existing road, then the Town may consider accepting the dedication of one half (½) of the right-of-way and a fee in lieu of construction. If the outer lanes have not been constructed but the only access to the property being developed is the Peakway, then the developer shall make the necessary arrangements to have the right-of-way dedicated and the outside lanes constructed and may be required to dedicate the right-of-way and pay a fee in lieu of construction of the~~

~~inside lanes. In a situation where it may be possible to build the inside lanes and transition from the outside lanes to the inside lanes meeting 40 mph roadway design guidelines, then the Town may consider allowing the developer to dedicate the right of way and build the inside lanes instead of the outside lanes.~~

~~c) Development of Both Sides of the Road Corridor~~

~~If the owner develops property on both sides of the corridor, the full right of way shall be dedicated with construction of the outer two lanes, curb and gutter and sidewalk as specified above. The property owner shall also provide grading for the remaining half of the roadway.~~

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Article 13 Transportation
13.16 Developer Agreements

Where a development includes **off-site improvements to** a thoroughfare shown on the approved Thoroughfare and Collector Street Plan map, by mutual consent, the Town and the Developer may enter into an agreement regarding the terms of the participation of the developer in the construction and/or financing of such road. **Frontage opposite the development may be considered an off-site improvement.** Such agreement may provide for appropriate compensation to the developer for the developer's participation in the financing and/or construction of the road. The agreement shall be in accordance with NCGS 160D Article 10 and in a form approved by the Town and shall identify:

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Requested by Water Resources Staff:

- 2) ***Amendments to Sec. 6.1.7 Watershed Protection Overlay Districts, High-Density Development Option*** in order to specify the maximum built-upon area allowed within the Jordan Lake Critical Area of the Town's water supply watershed.

Background: This amendment to Sec. 6.1.7 *High-Density Development Option* updates and clarifies the built-upon area limits for projects within the Jordan Lake Critical Area, ensuring consistency with NC DEQ's watershed protection rules. These amendments are primarily technical in nature and are not expected to change how the regulations are applied in practice; rather, they will improve the accuracy and usability of the ordinance while maintaining compliance with state environmental requirements.

6.1.7 High-Density Development Option

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C) Within the Jordan Lake Critical Area (defined by NCDEQ as any land within a half-mile radius of the normal pool elevation of the lake).

1) Built-Upon Area

Per NCDEQ water supply watershed rules, within the Jordan Lake Critical Area, high density development is limited to 50% built-upon area.

- 3) **Amendments to Sec. 6.1.11 Watershed Protection Overlay Districts, Riparian Buffers** in order to clarify the exclusion of residential lots within any Riparian Buffer Zone and to fix a typographical error.

Background: In most new development, riparian buffers are dedicated as Resource Conservation Area, which prevents residential lots from being platted with such buffers. However, there is currently no express prohibition in the UDO. Better protection of these buffers can be ensured if they are not located on residential lots, therefore staff is proposing a standard that prohibits the platting of residential lots within any riparian buffer. Staff has also found a typographical error in this section that is proposed to be corrected.

6.1.11 Riparian Buffers

No new clearing, grading, or development shall take place nor shall any new building permits be issued in violation of this section. **No residential lots shall be located within any riparian buffer zone.** No exemptions shall be permitted from this section except for any use, development, or activity that has been specifically exempted by any applicable state law from local regulations of the type established by this Ordinance, or as provided in Sec. 6.1.11.J *Exemption When Existing Uses are Present and Ongoing*. The following activities impacting Zone 1 and/or 2 of a riparian buffer in the Jordan Lake Watershed or in the Neuse River Basin shall be administered by the NC Department of Environmental Quality (NC DEQ): (i) activities conducted under the authority of the State, the United States, multiple jurisdictions, or local units of government, (ii) forest harvesting or (iii) agricultural activities.

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G) *Uses Permitted Within the Riparian Buffer*

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2) *Within Zone 3 of a Riparian Buffer in the Neuse River Basin and All Other Remaining Areas of Both the Primary Watershed Protection District and the Secondary Watershed Protection District*

Within all areas, other than Zones 1 and 2 ~~or~~ **of** the Neuse River Basin, the following land disturbing activities and uses shall be permitted within any required riparian buffer:

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Requested by Planning Staff:

- 4) **Amendments to Sec. 8.3.11 Off-Street Parking and Loading, Electric Vehicle Charging Spaces** to broaden the exemption for multi-family or apartment units that are restricted to households with an annual income that is not greater than 80% Area Median Income (AMI) from the electric vehicle charging space requirements of the UDO.

Background: Planning staff proposes this amendment to exempt units that are committed to being leased to households with an annual income that is not greater than 80% of Area Median Income (AMI). Currently, the UDO provides an exemption from electric vehicle charging spaces when 100% of units of the multi-family or apartment project is restricted to households with an annual income that is not greater than 80% AMI. This amendment would clarify that the exemption also applies on a unit-by-unit basis. The intent is to encourage mixed-income projects by recognizing and supporting developments that dedicate a portion of units to households with an annual income that is not greater than 80% AMI.

8.3.11 Off-Street Parking and Loading, Electric Vehicle Charging Spaces

8.3.11 Electric Vehicle Charging Spaces

Within multi-family or apartment projects, any dwelling unit restricted to households with an annual income that is not greater than 80% of the Area Median Income for the respectively-sized household in the Raleigh, NC MSA, as determined by the United States Department of Housing and Urban Development, are exempt from all electric vehicle charging space requirements. Such restrictions shall be demonstrated through a recorded covenant, deed restriction, or other binding affordability agreement approved by the Town. The required number of EV charging spaces for the project shall be reduced in proportion to the number of exempt units.

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5) **Amendments to Sec. 4.3.5.G.3 Use Classifications, Commercial Uses, Retail Sales and Service, Building supplies, retail to clarify the scope of permitted retail products allowed by this use.**

Background: Planning staff propose this amendment to refine the description of the “Building supplies, retail” use. Currently, the term “swimming pools” is overly broad and could be interpreted to include a sales office where customers place orders for swimming pools which is classified as “Retail sales, general”. The “Building supplies, retail” use is intended to allow the sale of above ground pools and pool forms.

4.3.5 Commercial Uses

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G) *Retail Sales and Service*

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- 3) *Building supplies, retail.* An establishment primarily engaged in the retail sale of building supplies and home improvement products including, but not limited to, ~~swimming pools~~ **above ground pools, pool forms**, spas, greenhouses, and outdoor play sets. In the B2 District, this includes traditional hardware stores not exceeding 7,000 square feet in area, but not building supplies or hardware stores in excess of 7,000 square feet.

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6) **Amendments to Sec. 4.3.6 Use Classifications, Industrial Uses in order to permit showrooms as an accessory use to the principal uses listed in that section.**

Background: Planning staff propose this amendment to allow showrooms as an accessory use when they are directly related to the principal industrial use on the site. The intent is to provide greater flexibility for property owners while ensuring compliance with the Unified Development Ordinance’s standards in Sec. 4.5.2 *Accessory Uses and Structures*.

4.3.6 Industrial Uses

Industrial Uses shall be allowed to have a showroom as an accessory use provided the goods and services offered are directly related to the primary use and the showroom meets the requirements in Sec. 4.5.2 Accessory Uses and Structures, Generally.

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- 7) **Amendment to Sec. 4.3.3.D Use Classifications, Utilities, Electrical Power Facility** to clarify that the use is limited to electrical generation and does not include non-generating uses such as distribution or switching.

Background: Planning staff propose this amendment to clarify that “Electrical power facility” applies specifically to electrical generation facilities and does not include uses such as distribution and switching functions, which are more appropriately classified as an electrical substation by the use “Utility, minor” in UDO Sec. 4.3.3.J.

4.3.3 Utilities

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D) *Electrical Power Facility*

The principal use of land for an electrical generation ~~facility, distribution, or switching station.~~ **See Sec. 4.3.3.J Utility, minor for electrical substation and other elements of an electrical transmission network.**

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PLANNING STAFF RECOMMENDATION:

Planning staff recommend approval of the proposed amendments.

PLANNING BOARD RECOMMENDATION:

The Planning Board reviewed these amendments at their October 13, 2025, meeting and unanimously recommended approval.