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**TOWN OF APEX  
REGULAR TOWN COUNCIL MEETING  
TUESDAY, OCTOBER 24, 2023  
6:00 PM**

10 The Apex Town Council met for a Regular Town Council Meeting on Tuesday, October 24, 2023 at  
11 6:00 PM in the Council Chambers at Apex Town Hall, located at 73 Hunter Street in Apex, North  
12 Carolina.

13 This meeting was open to the public. Members of the public were able to attend this meeting in-  
14 person or watch online via the livestream on the Town's YouTube Channel. The recording of this  
15 meeting can be viewed here: <https://www.youtube.com/watch?v=kwkgoJQ2rqE>

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**[ATTENDANCE]**

25 Elected Body

26 Mayor Jacques K. Gilbert (presiding)  
27 Mayor Pro Tempore Audra Killingsworth  
28 Councilmember Brett Gantt  
29 Councilmember Ed Gray  
30 Councilmember Arno Zegerman  
31 Councilmember Terry Mahaffey  
32 Absent: None

33 Town Staff

34 Interim Town Manager Shawn Purvis  
35 Assistant Town Manager Demetria John  
36 Assistant Town Manager Marty Stone  
37 Deputy Town Attorney Brian Meyer  
38 Town Clerk Allen Coleman  
39 Deputy Town Clerk Ashley Gentry  
40 Planning Director Dianne Khin  
41 Fire Chief Tim Herman  
42 Deputy Fire Chief David Dillon  
43 All other staff members will be identified appropriately below

**[COMMENCEMENT]**

39 **Mayor Gilbert** called the meeting to order, and thanked everyone for watching and  
40 attending. He then invited everyone to join in a moment of silence.

41 **Mayor Gilbert** led in the recitation of the Pledge of Allegiance.  
42  
43

1 [SLIDE 1]



2

3 [CONSENT AGENDA]

4

5 A **motion** was made by **Councilmember Zegerman**, seconded by **Councilmember Gantt**,  
6 to approve the Consent Agenda as presented.

7

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

9

10 **CN1 Annexation No. 770 - Legacy Station - 26.63 acres (REF: RES-2023-064, RES-2023-065,**  
11 **and OTHER-2023-107)**

12 Council votes to adopt a Resolution Directing the Town Clerk to Investigate Petition Received, to  
13 accept the Certificate of Sufficiency by the Town Clerk, and to adopt a Resolution setting the Date of  
14 a Public Hearing for November 14, 2023, on the Question of Annexation - Apex Town Council's  
15 intent to annex 26.63 acres, Legacy Station, Satellite Annexation No. 770 into the Town Corporate  
16 Limits.

17 **CN2 Council Meeting Minutes - October 10, 2023**

18 Council voted to approve, as submitted or amended, Meeting Minutes from the following meeting:  
19 October 10, 2023 - Regular Town Council Meeting Minutes

20 **CN3 Fee Schedule Amendments - Fiscal Year 2023-2024**

21 Council voted to approve amended Fee Schedule for Fiscal Year 2023-2024 to include addition of  
22 mattress and box spring disposal fee and increase to wholesale water rates and columbarium rates.

23 **CN4 Ordinance Amendment - Chapter 15 Parks and Recreation, Section 15-6 - Pleasant Park**  
24 **Hours of Operation (REF: ORD-2023-107)**

25 Council voted to approve an Ordinance Amendment amending Chapter 15 Parks and Recreation,  
26 Section 15-6 of the Town Code to include Pleasant Park opening and closing times.

27

28 [PRESENTATIONS]

29

30 **PR1 Proclamation - American Indian Heritage Month - November 2023 (REF: PRO-2023-**  
31 **035)**

1           **Mayor Gilbert** and the rest of Council read the American Indian Heritage Month 2023  
2 Proclamation in unity.

3           Representatives of the Triangle Native American Society accepted the Proclamation and took  
4 a picture with the Mayor and Council.

5           **Mr. Wynn** thanked the Mayor and Council for their support, and said Celeste Sherer and Lisa  
6 Raschke have been great to work with. He said the Triangle Native American Society looks forward  
7 to working with the town in the future.

8  
9 **PR2 Proclamation - Italian American Heritage Month - October 2023 (REF: PRO-2023-036)**

10           **Mayor Gilbert** and the rest of Council read the Italian American Heritage Month 2023  
11 Proclamation in unity.

12           **Michael D'Amore** accepted the Proclamation, and took a picture with the Mayor and  
13 Council.

14           **Mr. D'Amore** thanked the Mayor, Council, and the residents of Apex. He said it has been a  
15 very welcoming community. He said Apex is one of the most welcoming communities, and he is  
16 excited to work with the community to continue making it welcoming to the Italian American  
17 community.

18  
19 **[REGULAR MEETING AGENDA]**

20  
21           A **motion** was made by **Mayor Pro Tempore Killingsworth**, seconded by **Councilmember**  
22 **Gray**, to approved the Regular Meeting Agenda as presented.

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

25  
26 **[PUBLIC FORUM]**

27  
28 **[SLIDE 2]**

The slide is titled "Public Participation" and contains the following text:

- Please sign in with the Town Clerk prior to the start of the meeting for all Public Hearings and Public Forum
- Public Forum speakers are requested to address only items that **do not** appear in the 'Public Hearings' section on tonight's agenda
- The Mayor will recognize those who would like to speak at the appropriate time
- Large groups are asked to select a representative to speak for the entire group and are limited to 9 minutes
- Individual comments must be limited to 3 minutes to allow others the opportunity to speak

At the bottom of the slide is the logo for APEX NORTH CAROLINA.

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1 First to speak was **Beth Bland** of 3724 Friendship Road:

2  
3 "There are two items that I want to talk about this evening. The first item concerns your October 19  
4 Work Session. The Big Branch Force Main was on the agenda, concerning funding for the project.  
5 There was no notification to any property owners affected by this project, and I would like to say  
6 anything to do with the Big Branch Force Main is of interest to both my husband, myself, and I'm sure  
7 many of the other property owners. And that included the funding. Councilman Gray, I did watch it  
8 on YouTube, you were absolutely correct with your comment that we definitely would question the  
9 Council as to why our properties have been subject to all the inspections of our properties, and the  
10 threat of eminent domain, when this project is not even fully funded yet. So, I just wanted to bring  
11 that up. The second item concerns the Friendship Road. The one-mile section from US 1 to Old US 1,  
12 or the Apex part of Friendship Road. It's only about a mile. There is a zoning request in front of the  
13 Holly Springs Council for the Friendship Innovation Park, the developers are asking to add  
14 residential areas, including two seven-story apartment buildings with 600 units in each building.  
15 There are also numerous projects that will be completed by Apex on Old US 1, that will probably  
16 happen in the next year or two. Including the Park, Depot 499, I think Holland Road has a project on  
17 it. And all this will continue to increase the traffic on Friendship Road, which is already a problem to  
18 get off of the road onto US 1. I believe there may be an effort going on for Apex, Holly Springs, and  
19 DOT to address this. I don't know if that's for sure, but I think, or I'd like to hope that that's being  
20 considered. I would like to encourage you to make it a priority. The infrastructure is not in place to  
21 handle all the growth that is occurring right now. So, I would just appreciate it if you would work with  
22 Holly Springs and NCDOT and figure this out. Because the US 1 corridor, you know it's so noisy, and  
23 you can't even get on Old US 1 at certain times of day. So, thank you for listening, I appreciate it."

24  
25 **Mayor Gilbert** thanked Ms. Bland for her comments.

26  
27 Next to speak was **Dawn Cozzalino** of 3632 Bosco Road:

28  
29 "I laid out two cones here, one is C and one is E, and these reflect the space of roughly 30 feet. I'd  
30 like you to think about this space, and why it's significant. If you think a moment, when there was a  
31 time when there was a severe storm or even a tornado came through the Apex area. Numerous  
32 times, it was fine. But there was that one storm, that just, was so unfortunate and just devastates and  
33 breaks everything in its path. Including part of your cherished home. The Western Big Branch and  
34 Force Main is that terrible severe storm. Cones, 30 feet. That easement is 18 acres of tree canopy this  
35 way. It's basically a default, most utility easement are this width. That's man-made destruction. And  
36 the replacement wouldn't be any nice repairs on your house or roof, it would actually be these really  
37 unattractive arch structures and smelly ventilation pipes. It could be avoided with our Town Council  
38 here tonight. With doing due diligence. And what I mean by that is having those difficult  
39 conversations with the Town of Holly, with the DOT, with Utility companies. That the people of Apex  
40 have elected you with confidence to have. It's your duty to consider all other alternatives for the  
41 town, and these alternatives that least impact peoples property or the environment, the tree canopy,  
42 for one. The design solution for the Western Big Branch and Force Main that causes actually the least  
43 amount of impact is one that hasn't been discussed fully. And that's the south side of US 1. This  
44 solution impressively causes the least impact by not decreasing property values, not adding traffic

1 pollution and traffic noise, which Beth mentioned. Or losing these 18 acres of tree canopy within  
2 these two cones. Most importantly, it would not gut 30 feet of somebody's cherished property and  
3 land. We're talking about the New Hill and Friendship farms. Thank you very much."  
4

5 Next to speak was **James Jesserer** of 1366 Elk River Drive:  
6

7 "In a Closed Session, Town Council declined our request to appeal 1305 Holt Road Variance, which  
8 is 23VAR01. Regardless, we are here tonight to present compelling new information, questions, and  
9 concerns. On the BOA process itself, and we will use our experience at the BOA and the BOA  
10 minutes to illustrate these concerns. My remarks will exclusively focus on process. For steadfast and  
11 evenhanded adherence to process are the keys to good governance. Process must be easy to  
12 understand, accessible, and evenly applied to all parties. Let's start with the BOA minutes. Our  
13 colleague Don Braden requested and received from June Cowles BOA minutes that were marked as  
14 revised and final. These minutes were 38 pages. And I've given copies of everything. 38 pages. Of  
15 heavily edited minutes. We knew they were edited due to the redlined added sections. We don't  
16 know who, or why they were redlined. While reviewing the minutes, we received yet another official  
17 and now signed minutes of the BOA, which were only 17 pages long. It would take a forensic  
18 investigation to determine what was added, and then what was deleted to get to 17 pages. We offer  
19 these two documents as evidence of our concern. These two different sets of minutes are a reflection  
20 of the chaos of that July BOA meeting. How would any of you react to receiving two such  
21 documents? What would your level of confidence be regarding the BOA meeting, and would you  
22 not wonder if the meeting notes were possibly altered to justify the decision? Was this ineptitude, or  
23 simply something else? And is it illustrative of good process? Continuing on process, process needs  
24 a legal expert to make sure a BOA meeting strictly adheres to guidelines. My colleague, Chuck  
25 Mettina wrote a letter to Mayor Gilbert, Chairman Carmac, and Town Attorney Hohe, with concerns  
26 that Ms. Hohe and Chair Carmac had engaged in ex-parte communications about the BOA,  
27 communication strictly forbidden by BOA process. In her response, which I have also made a copy of  
28 for the Town Council, Ms. Hohe made it clear that the BOA was Hohe's client. Ms. Hohe stated, by  
29 including our attorney Mr. Kuhn on the email with Mr. Carmac, that communication is not considered  
30 ex-parte. Ms. Hohe further added her communication with Mr. Carmac, could be, and this is a quote,  
31 be in private to preserve the attorney-client privilege, and that such communication between an  
32 attorney and her client is not ex-parte communication. Honestly, we were satisfied with her first  
33 statement. But the second statement remains problematic for transparency and accountability. So  
34 who stands for process at the BOA? Certainly not Attorneys Hohe and Welsh, they are there to serve  
35 their client, the BOA, and it would be a gross error to conflate serving process and serving the BOA,  
36 for they are separate and distinct parties. Who is the arbitrator of process? I will use the July BOA to  
37 outline the critical role of process adherence and how lack of process can and did lead to a flawed  
38 decision. Jason Barron used two witnesses as rebuttal witnesses. Now, bear with me, a rebuttal  
39 witness is someone who is called to testify in order to contradict or disapprove the testimony of a  
40 witness called by the opposition. Their testimony must be confined solely to the subject matter of  
41 the evidence rebutted. New evidence on other subjects may not be brought into the rebuttal. Ok,  
42 Mr. Barron called Mr. Roach in rebuttal to Don Braden, and Roach talked at great length about  
43 nothing that Braden spoke about. Instead, Mr. roach made the applicant's case, none of which  
44 should have been allowed. Where was the advocate for process? Mr. Barron then called Mr. Adams

1 as a rebuttal witness to the testimony of Chuck Mettina, and Adams proceeded to testify on a wide  
2 array of topics, again intended to make the applicant's case, but for the most part, totally unrelated  
3 to the testimony of Mr. Mettina. Both Roach and Adams were called as rebuttal witnesses, and both  
4 were allowed to violate process. We have fundamental issues with their testimony, but we are here  
5 to focus on process. Again, where was the advocate for process? Mr. Barron objected at least 13  
6 times in the 17-page version of the minutes, including an objection advance, whatever that means.  
7 We, however, ask if these objections, real or imaginary, can have an impact on the BOA, and the  
8 answer is yes, of course. That's why attorneys routinely use objections. Who is ruling on those  
9 objections? The answer, according to the minutes, is no one. Hohe and Welsh serve the BOA, by  
10 objecting, Barron served the applicant. And due process was an orphan, and without due process,  
11 justice was unborn. This leads me to the issue of hearsay testimony being allowed at the July BOA, a  
12 flagrant violation of BOA guidelines. Review the minutes, any mention of DOT opinion without  
13 documentation is hearsay. There was no representative of the DOT present at the BOA, yet Mr.  
14 Roach, Mr. Dalton, and in particular, Mr. Adams were allowed to testify or comment to the dictates of  
15 the NCDOT, and it was Mr. Adams, who in a response to a question from Vice-Chair Johnson, who  
16 asked the following question, do we know beyond a shadow of doubt that NCDOT would not permit  
17 a curb cut on Holt Road, and Mr. Adams said correct, the Town asked, and we have asked, and  
18 NCDOT has said in no uncertain terms that there's no driveway access from Holt would be allowed.  
19 That is all hearsay, and should have been disallowed. But there was no advocate for process at the  
20 BOA. And in addition to hearsay at the BOA. In addition to hearsay, Mr. Adams statement might  
21 even have been more damning. I offer the only written statement by the NCDOT from a Mr. Jacob  
22 Nicholson, Assistant District Engineer of the NCDOT, which calls into question the veracity of the  
23 statement of Mr. Adams. Here I'll read it, and you have copies of this. If the existing parcel is not  
24 subdivided, and only one single home occupies the parcel, the existing driveway may be used as  
25 long as it does not cause a safety hazard or drainage issue. The department would not require a  
26 driveway permit. If their lot is subdivided, and/or has multiple houses on it, they would likely be  
27 required to access through Elk River Drive, pending approval from the Town of Apex. So we'll share  
28 everything. The word "likely" is not the phrase Mr. Adams used, which is beyond the possibility. It  
29 certainly wasn't within a shadow of a doubt which is what they said, and likely is not close to  
30 uncertain terms. Unfortunately, process was not upheld, and the damage was done. Vice Chair  
31 Johnson used Adams testimony of Page 14 of the minutes, stating independent of that, there was  
32 testimony from a witness that they did speak to the NCDOT. Vice Chair Johnson has swallowed the  
33 hook of a clever attorney, and has paid witness of, all of which was hearsay, all because there was no  
34 advocate for process at the meeting. The real victim of this lack of process now is Don Braden and  
35 his wife Cheryl, who suffers from Alzheimers. We can't fault Jason Barron for being an advocate for  
36 his client any more than you could fault a guard dog for biting someone. You can't fault Ms. Hohe,  
37 who serves the BOA. You can't fault a group of decent volunteer citizens for not knowing process.  
38 You can't even fault Vice Chair Johnson who said, and I quote, it was the opposing parties'  
39 responsibility to bring in the evidence contrary to the testimony. Johnson is flat out wrong. A process  
40 advocate would have disallowed that testimony, and justice should never be hostage to having paid  
41 representation. I could get arrested for robbery in Apex, and get free legal counsel. Are you telling  
42 me that voters, taxpaying citizens can't expect the same opportunity at the BOA?"

43 **Mayor Gilbert** thanked Mr. Jesserer, and said they would definitely be in touch.  
44

1 Next to speak was **Dean Krupa** of 2001 Simca Court:

2  
3 "Before I get started with what I wanted to talk about, I just wanted to give a little background about  
4 who I am and where I came from. I moved here about a year ago from Arizona. I lived there for about  
5 28 years, I tried to escape most of those years, it's a hard place to live. But I moved here now and this  
6 is my home. I love it here, I love the trees, I love the nature, I love the rural character, the farms, I love  
7 taking my dogs for a walk and meeting neighbors, I have a neighbor back there, I like to see my  
8 daughter play outside. But as I grow older, and not just here but in Arizona, I'm really concerned  
9 we're losing our wild habitats, trees are getting cut down, we're losing clean air, clean water. I got  
10 involved with environmental groups back in Arizona, I hope to do so here. But I also learned that I  
11 need to get involved in this form. I started a conversation online on NextDoor, and a lot of people  
12 feel the same way that I do, and you guys talked about the issues. But I posted three different  
13 messages over about a month and a half, and Councilman Mahaffey was part of those messages, it  
14 generated about 529 comments, so there's a lot of people feeling concerned. But we have to get  
15 that conversation offline and in front of people. We have to work together. So, my goal is to get  
16 more involved. I tried to get others to be here, and fill these seats, I think it's important for all of us to  
17 learn. I've been watching the replays of the Town Council meetings online, it's fascinating, you guys  
18 have great questions, great conversations, I love the back and forth. There's a lot of terminology I  
19 don't understand, so I want to just dive in and learn, and went to a meet and greet with  
20 Councilmember Zegerman and Councilmember Mahaffey last night, and learned their platforms and  
21 what they stand for. That's why I'm here, I want to recruit others, there's a lot of great ideas, I met with  
22 this group, there's a lot of great ideas so I'm just trying to bring more people and get more voices  
23 heard. So, thank you."

24  
25 **Mayor Gilbert** thanked Mr. Krupa for his comments. He then instructed Town Clerk Coleman  
26 to reach back out to the speakers tonight to connect and help address their concerns. Mayor Gilbert  
27 closed Public Forum and moved the meeting to Public Hearings.

28  
29 **Mayor Gilbert** noticed someone additional who wished to speak during Public Forum, and  
30 re-opened it.

31  
32 **Stuart Wagner** of 302 Country Valley Court:

33  
34 "Good evening Mayor Gilbert, members of the Town Council. Thank you for giving me some tonight  
35 to be able to speak to the Town Council about GoApex Route 1, and our Public Transport bus. My  
36 name is Stuart Wagner, I've lived in Apex since 2001, I'm a citizen volunteering as chairman of the  
37 Apex Transit Advisory Committee. My connection to transit specifically started with my connection to  
38 the local Cary bus service in 2006, with regular ridership on the GoCary system from Apex to my  
39 workplace in Cary. Since then, public transportation use has become such that I have chosen my  
40 various doctors, physicians, dentist, etc. because they are located on various Apex and Cary bus  
41 routes. When I was offered a chance to a part of Apex's journey into public transportation by former  
42 Mayor Olive, I leapt at it. And it is with great pride that I am able to stand here today and say that  
43 more than a full year Apex has been on the transit map. Our committee worked long and hard to  
44 bring GoApex Route 1 into existence, and we're very encouraged by the response and ridership of

1 our citizens, our young families, teens, and adults, both able-bodied and less-bodied of Apex. And  
2 of course, by our town leaders. Now that we have passed our first anniversary of our inaugural ride,  
3 I'd like to share some facts about GoApex Route 1. The GoApex Route 1's circulator runs fare-free,  
4 Monday through Saturday, from 6 AM to 10 PM, except for major holidays, returning to Town Hall at  
5 the top of each hour. Along with the regular bus service, there's also the door-to-door service  
6 offering as well. The hourly loop has 45 stops and serves our community as far south as the Wal-Mart  
7 shopping center in the Cambridge Village Retirement Center, North and West to the Publix  
8 Shopping Center, with stops through Beaver Creek and Downtown. There are also stops at the  
9 growing Apex WakeMed complex, and the Apex Senior Center. Over the course of the last 15  
10 months, we have seen ridership maintain a steady state with an average of 1,100 boardings per  
11 month. To be clear, that is 40 people per day, over a 27-day average month. Our latest data point  
12 was August of this year, when we logged 1,535 boardings over 27 days of operation, this is almost a  
13 20% increase from the same month a year previous. Our professionally-licensed CDL drivers  
14 regularly hit an on-time of 90% or better, and by industry standards, this is in the exceptional range.  
15 Our committee realizes Apex and surrounding areas are booming in growth, and with a more  
16 cosmopolitan population to boot. Hence, we are working on several enhancement items including a  
17 bus stop improvement program, a bus stop art project, a stop-change feature to better serve those  
18 using the Senior Center, and last and certainly not least, how we scale the system to keep up with  
19 Apex's growth. Whether this is more frequency, adding Sunday route service, or even a second  
20 route, we are ready for the challenge as we move into 2024. The Transit Advisory Committee has  
21 appreciated the support of the Council, and our growing ridership. We're looking forward to that  
22 same spirit of guidance, cooperation, public support, and vision that we've had since we formed the  
23 committee. The Transit Advisory Committee has solicited input from our citizens about a variety of  
24 opportunities, such as PeakFest, pop-up events around town, online questionnaires, and we will  
25 continue to do so. We listen to resident's suggestions, their bus riding stories, and their hopes for  
26 future transit in Apex. Many of us have watched Apex grow by leaps and bounds over the past 2  
27 decades, we are energized by this growth. 20 years ago, the days of 5-8 empty, boarded up  
28 buildings on Salem Street, no internet availability downtown, gravel roads within the town limits, and  
29 intersections without governing traffic safety lights. Those days are gone, look at Apex now. It is a  
30 thriving, multicultural community. In addition to PeakFest, Fourth of July, and Christmas Parades, we  
31 now celebrate Hispanic Culture, Juneteenth, Pride Month, Native American Heritage Month, Italian  
32 American Heritage Month, and more. Apex has become a place for everyone. A viable public transit  
33 system is one of those valuable entities every growing community needs. Our transit system has  
34 proved valuable and needed with documented, proven success. When the bus service first started, a  
35 dear friend of mine wrote me expressing her gratitude for the town's effort on GoApex Route 1. She  
36 told me her adult daughter, who was auditorily and visually impaired, had been riding GoApex  
37 Route 1 to and from her work and apartment. The bus was one of the things that allowed her to start  
38 living an independent life. It was a game-changer for her existence. Allowing her to become an  
39 active, independent, and contributing member of the Apex community. Now, not every story has to  
40 be life-changing. Maybe the lead story is how our teenagers get around town without having to  
41 borrow the family car. Maybe it's how our seniors get to the grocery store, physicians appointments,  
42 or a social outing more independently and more often. Maybe it's how a family goes downtown for a  
43 meal, or to shop without burning extra fuel or hunting for a coveted parking space. The possibilities  
44 are endless, so let's keep Apex vibrant community it is growing to be, and keep looking for those



1 possibilities as we continue to support and grow our public transit in Apex. Thank you very much for  
2 this time.”

3

4 **Mayor Gilbert** thanked Mr. Wagner for his comments, and for all the work he is doing in  
5 transit for the community.

6

7 **[PUBLIC HEARING]**

8

9 **PH1 Transit Plan Map Amendment - Future GoApex Route 1**

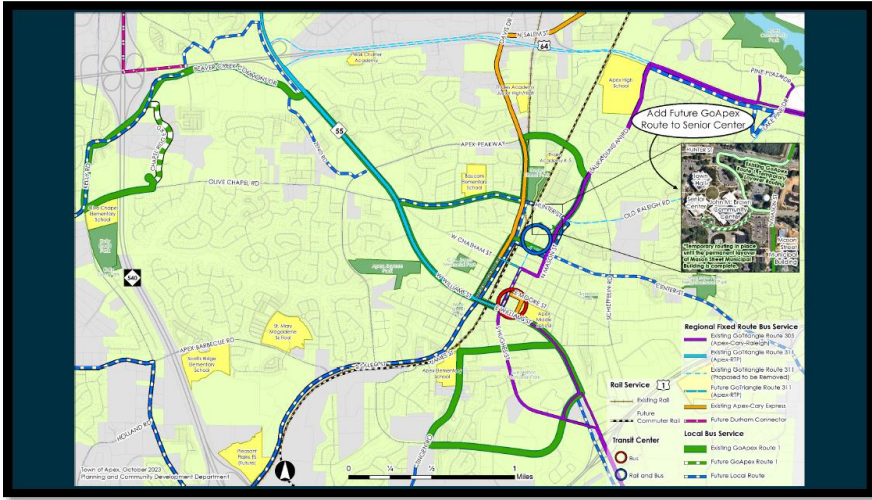
10 **Katie Schwing**, Senior Planner for Long Range Transit, gave the following information  
11 regarding the Transit Plan Map Amendment - GoApex Route 1.

12 **[SLIDE 3]**



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14 **[SLIDE 4]**



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19 **[SLIDE 5]**



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[SLIDE 6]

**Public Hearing #1**  
Requested by Planning Staff

*If Approved:*


- Staff plan to work with the GoApex Route 1 contracted service provider (GoCary) to implement change to routing as soon as possible

Operating Impacts:

- No anticipated impacts to trip run-time
- No anticipated impacts to operating costs for Route 1
- No anticipated impacts to operating costs for GoApex Door to Door (ADA paratransit service)

Capital Impacts:

- Staff plan to install a bus stop sign and bench for public use near the entrance to the Apex Senior Center
- Funding would be through local funding already included in the adopted Capital Improvement Plan, as well as the Wake Transit Community Funding Area program



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[SLIDE 7]

**Public Hearing #1**  
Requested by Planning Staff

**Planning Board Recommendation:**


- The Planning Board unanimously recommended approval of the proposed amendment during their October 9, 2023 meeting.

**Transit Advisory Committee Recommendation:**

- The Transit Advisory Committee unanimously recommended approval of the proposed amendment during their October 11, 2023 meeting.

**Staff Recommendation:**

- Planning staff recommend supporting the proposed amendment.
- Transportation, Infrastructure and Development staff and Parks, Recreation, and Cultural Resources staff are supportive as well.



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1 **Councilmember Zegerman** said he didn't have a question, he just wanted to thank Ms.  
2 Schwing.

3  
4 **Mayor Gilbert** opened the Public Hearing for this item. With no one signed up, he closed  
5 Public Hearing and moved discussion back to Council.

6  
7 A **motion** was made by **Mayor Pro Tempore Killingsworth**, seconded by **Councilmember**  
8 **Gray**, to approve the Transit Plan Map Amendment - Future GoApex Route 1.

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

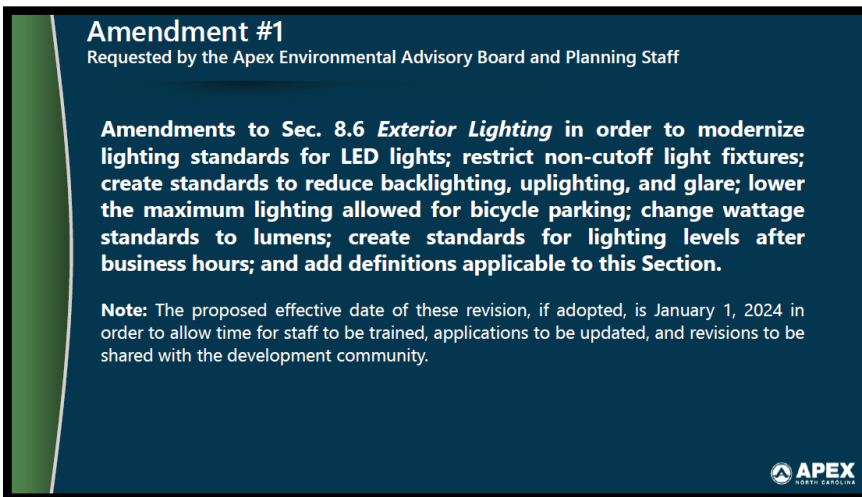
11  
12 **PH2 Unified Development Ordinance (UDO) Amendments - October 2023 (REF: ORD-2023-**  
13 **108)**

14 **Amanda Bunce**, Current Planning Manager, gave the following presentation regarding the  
15 Unified Development Ordinance Amendments of October 2023.

16 **[SLIDE 8]**



17  
18 **[SLIDE 9]**



19  
20 **[SLIDE 10]**

8.6 EXTERIOR LIGHTING

8.6.1 Purpose and Intent

**The purpose of this Ordinance is to provide regulations for outdoor lighting that will:**

- A) Permit the use of outdoor lighting that will heighten nighttime safety, utility, security, productivity, enjoyment, and commerce.**
- B) Minimize adverse offsite impacts of lighting such as light trespass, and obtrusive light.**
- C) Curtail light pollution.**
- D) Help protect wildlife and habitat from the adverse effects of night lighting.**
- E) Conserve energy and resources.**

The provision of outdoor lighting heightens nighttime safety and visibility, and is used to enhance the security of property and people. Lighting should be provided in areas of heavy vehicle and pedestrian use, and areas that are dangerous if unlit such as stairs, intersections, or changes in grade. It is important to set clear guidelines so that lighting **Outdoor lighting should** adequately serves the site while minimizing negative impacts on surrounding properties.



1  
2 [SLIDE 11]

8.6.2 Lighting Plan

Any development **Site Plan and Nonresidential Master Subdivision Plan** that proposes exterior lighting shall include a detailed exterior lighting plan as part of the plan submission. This plan shall include:

- A) Specifications for the lighting fixtures such as: type of unit (cutoff, non-cutoff, glare shields, etc.), **BUG rating**, lamps (wattage, lumens, etc.), correlated color temperature of lamps (Kelvin), electrical load requirements, utility company involved, method of wiring, routing/location of lines, location of lights, and mounting heights. **All lighting fixtures proposed shall be high efficiency and possess LED lamp technology.**
- B) An isofootcandle plan that shows typical foot-candle contours or a point photometric grid that indicates foot-candle levels measured at grade across the site. A point photometric plan is required for Minor and Major Site Plans with more than two (2) light poles. Other information such as: maximum, average, and minimum site foot-candles and uniformity ratio (average/minimum) should also be included. Foot-candle levels shall be shown at initial **published** levels **for each fixture**.



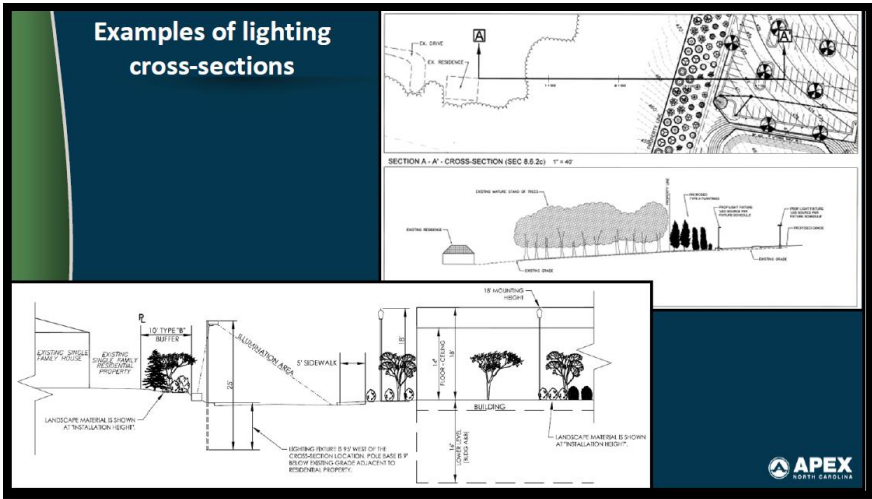
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4 [SLIDE 12]

- C) Cross-sections of all lighted perimeter areas immediately adjacent to existing residential properties indicating how all exterior lighting (site and building mounted lighting) will be designed to limit spillover light and control off-site glare (see Sec. 8.6.4.D.4). A cross-section must **shall** be provided for each adjoining single-family residential property. Where the developing site adjoins multi-family residential property, a typical cross-section must be provided at 100-foot intervals along the common property line. The cross-sections must accurately represent existing site topography of the residential properties, sections of the residential units, and proposed topography and site/architectural elements (buildings, retaining walls, lights, landscape screening, etc.) of the developing site (see Sec. 8.6.4.A). **It is not necessary to produce or overlay foot-candle readings on the cross-section drawings. The intent is to identify areas where fixture placement may introduce potential glare and require mitigation through shielding if mitigation is not provided through protected or proposed vegetation.**

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8 [SLIDE 13]



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2 [SLIDE 14]

### 8.6.3 Illumination Standards

A) The tables below set forth standards for lighting intensity based upon the land use or activity involved. Values are presented in initial foot-candles measured at grade. Site lighting shall not exceed these initial average foot-candle levels. Average values must be calculated using the levels found within the lighted area; for example, a parking lot must be calculated using the levels found within the curb to curb or paved parking area only. **The developer shall provide the name of the software program used to determine the lighting parameters as well as the summary sheets indicating the average illuminance and uniformity ratios achieved in their layouts.**

B) **Color Temperature**  
The correlated color temperature (CCT) of lamps in exterior lighting shall not exceed 3,500 Kelvins. Athletic field lighting shall be exempt from this requirement.

Use	Horizontal Illuminance Average	Uniformity Ratio (Average/minimum)
- Multi-family residential or condominium (stacked flat)	4.0	8/1
- Retail	4.0	4/1
- Office	2.0	4/1
- Industrial		
- Educational		
- Cultural, civic, and recreational		
- Church or place of worship		
- Townhomes and other attached residential		

Location	Horizontal Illuminance Average	Uniformity Ratio (Average/minimum)
**Vital locations (entry/exit doors, service areas, ATMs, bicycle parking, etc.)	5.0	4/1
Bicycle parking	3.0	4/1
Sidewalks	1.0	4/1
Vehicle use area other than parking (service areas, drives and approach ways, private access roads, etc.)	1.0	4/1
Storage yards	4.0	4/1
Loading/unloading docks and platforms	15.0	4/1
Auto sales yard/enclosed outdoor display	10.0	8/1
General recreational areas (fields**, playgrounds, courts**, pools)	10.0	4/1

\*Average initial levels for vital locations shall be generally based on an area 10 feet by 10 feet or the limits of the specific area.  
\*\*See 8.6.4.1.1 for specific exceptions to this standard.

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4 [SLIDE 15]

### 8.6.4 Design Requirements

A) **Mounting Heights**  
Outdoor lighting fixtures shall be designed, located and mounted at heights shown to be appropriate in cross-section (see also Sec. 8.6.2.C), but in no case shall be greater than:

- 1) 18 feet above grade for *non-cutoff* lights (see Sec. 8.6.4.D.2);
- 2) 1) 35 feet above grade for **full cutoff fixtures** (see Sec. 8.6.4.D.3), **except as stated elsewhere in this Section.** The height for **full cutoff lights fixtures** along the perimeter of non-residential sites where they are immediately adjacent to adjoining residential properties shall be designed based on cross-sections as required by Sec. 8.6.2.C). **House-side shields are required based on cross-sections to avoid glare produced by lamp sources that is visible from the edge of residential building(s) and not fully shielded by existing or proposed vegetation shown on the landscape plan.**
- 2) Mounting height is measured from the finished grade or surface and includes the total height of the fixture, pole, and any base or other supporting structure required to mount the light(s).

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8 [SLIDE 16]

B) Location

- 1) All outdoor lighting fixtures shall be located a minimum of 10 feet from a property or right-of-way line, and should be kept out of and at least two (2) feet away from any required perimeter or streetscape buffer, and tree save area.
- 2) The layout of lighting shall be designed so that poles do not interfere with other elements of the approved site such as trees, landscaping, and parking. In general, poles shall be kept at least 20 feet away from the trunk of any large type tree and at least 10 feet away from the trunk of any small type tree, **except in cases where the Planning Director determines it is not reasonable and practical.**
- 3) Lighting for outdoor display areas, such as auto dealerships, must be located inside the illuminated area or no more than 10 feet away from the outside edge of the illuminated area so that the amount of direct glare and the visual field of view does not present a safety hazard to the passing motorist.

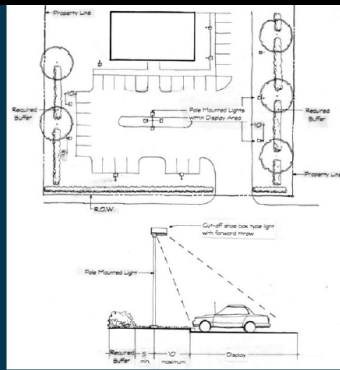


Figure 8.6.4.B Location/Lighting for Outdoor Display



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[SLIDE 17]

D) Spillover Light and Glare Control

- 1) All outdoor lighting shall be designed and located such that the maximum illumination measured in initial foot-candles at the property line shall not exceed 0.3 onto adjacent residential sites and 1.0 onto adjacent non-residential sites and public rights-of-way.
  - 2) Non-cutoff lights are prohibited along the perimeter of non-residential sites where they are immediately adjacent to adjoining residential properties. Non-cutoff lights may require external caps and/or internal shields to control glare.
  - 3) Cutoff lights shall be full cutoff with no sag-type lenses;
  - 4) Cutoff lights used along the perimeter of non-residential sites where they are immediately adjacent to adjoining residential properties must be fitted with externally mounted shields placed on the residential side. The shields must be appropriately sized to sufficiently limit visible glare from the light onto the residential properties. Additional internal shields or other devices may be required to direct the light away from residential properties.
- 2) **All fixtures shall be fully shielded, full cutoff type fixtures with a concealed lamp/light source, except as otherwise stated within this Section.**



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[SLIDE 18]

3) Backlight, Uplight, and Glare (BUG)

The three components of BUG ratings are based on IES TM-15-07 "Luminaire Classification System for Outdoor Luminaires" from the Illuminating Engineering Society, as amended (see Figure 8.6.4.D-2). The rating system is assigned a value between 0 and 5 for each component with lower numbers indicating less light in a given direction.

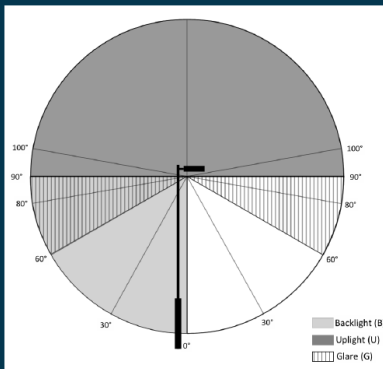


Figure 8.6.4.D BUG Rating Zones

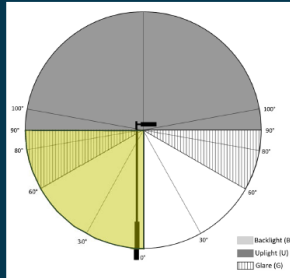


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[SLIDE 19]

a) **Backlight (B)** creates light trespass onto adjacent sites. The B rating accounts for the amount of light 0 to 90 degrees vertical from the ground in the direction opposite from the area intended to be lit. Except as otherwise stated in this Section, the maximum permitted backlight (B) rating shall be:

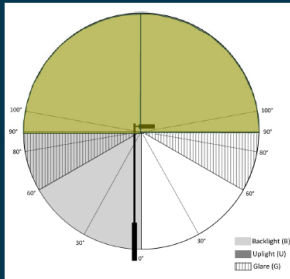
- (i) 3 for fixtures located 20 feet or less from a public right-of-way.
- (ii) 2 for fixtures located 20 feet or less from the property line of a residential use or a vacant property in a residential zoning district



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[SLIDE 20]

b) **Uplight (U)** contributes to artificial sky glow. The U rating defines the amount of light into the upper hemisphere 90 to 180 degrees vertical from the ground. Except as otherwise stated in this Section, the maximum permitted uplight (U) rating is 0, since all fixtures should be full cutoff.

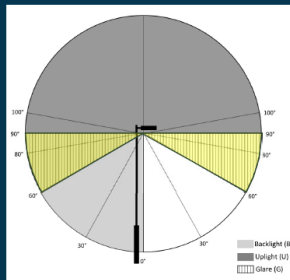


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[SLIDE 21]

c) **Glare (G)** is the component of light that can be annoying or visually disabling. The G rating accounts for the amount of front light and backlight 60 to 90 degrees vertical from the ground. Except as otherwise stated in this Section, the maximum permitted glare (G) rating shall be:

- (i) 1 for fixtures located 20 feet or less from a public right-of-way.
- (ii) 0 for fixtures located 20 feet or less from the property line of a residential use or a vacant property in a residential zoning district.



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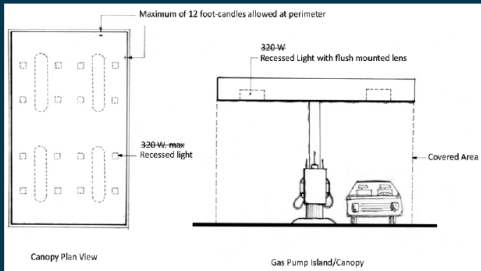
[SLIDE 22]

- E) **Wattage/Lumens**  
Lamps for non-cut-off fixtures (LED) shall not exceed 100-watts. Lamps for **full** cut-off fixtures (LED) shall not exceed 250-watts **15,500 lumens**
- F) **Building, Ground Mounted Fixtures and Accent Lighting**  
Lighting shall not be mounted to buildings or used to illuminate buildings or other site features unless approved as integral elements on the development plan. Lighting will not be approved unless the light fixtures are carefully selected, located, aimed, and shielded so that light is directed only onto limited parts of the building façade, specimen landscape, and site features, and spillover light is minimized (see also Secs. 8.6.4.C *Architectural/Site Compatibility*, 8.6.4.D *Spillover Light and Glare Control*, and 8.6.4.E *Wattage/Lumens*). Building, ground mounted fixtures and accent lighting must meet the following criteria:
- 1) Lights must not be used to illuminate entire portions of building(s), landscape, or site features.
  - 2) Building mounted lights such as wall-pack and goose-neck type fixtures shall be fully shielded, true **full** cutoff type fixtures (concealed lamp/light source). The lighting must be directed downward, and the wattage **lumens** must not exceed 75-watts **2,500 lumens**.
  - 3) Accent lights must be low-wattage **lumen** or low-voltage and the maximum illumination on any surface shall not exceed 5.0 average initial foot-candles.
  - 4) Awnings and canopies used for building accents over doors, windows, and etc. shall not be internally lit (i.e. from underneath or behind). If lit from above, the lighting must be spaced sparingly so that only limited portions of awnings and canopies are accented.
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2 [SLIDE 23]

- H) **Lighting for Gas Station/Convenience Store Canopies**  
Lighting for canopies for service stations and similar uses shall be restricted to no more than two (2) 320-watt **11,000 lumen** recessed lighting fixtures (including lenses) mounted flush with the bottom of the canopy on each side of a gasoline pump island, or any other design that meets the standards of this ordinance. Lighting for canopies for service stations and other similar uses such as but not limited to bank and pharmacy drive through, and large covered main entrance canopies shall not exceed an initial maximum level of 12 foot-candles as measured at ground level at the inside of the outside edge of the canopy and an initial average level of 25 foot-candles under the canopy.



8.6.4.H Exterior Lighting Design Requirements – Lighting for Gas Stations & Convenience Store Canopies



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4 [SLIDE 24]

### Lumens

Project Name	Wall Packs	Parking Lot Lights	Canopy
3050 Lufkin Rd	1,500	13,571	n/a
Apex Senior Center	3,237-3,515	15,000	n/a
ATI Phase 5	n/a	28,500	n/a
Christian Brothers Automotive	2,731	526-7,800	n/a
Crossroads Ford	6,523	34,850	n/a
Crossroads Ford Truck Center	5,936	31,177	n/a
Eagles @ Laura Duncan Rd	2,310	15,259	5,750
Fifth Third Bank	1,000	10,000	1,000
Harmony Animal Hospital	n/a	20,555	n/a
Holt Rd Medical Office Building	n/a	4,406-19,136	n/a
Kangaroo @ Ten Ten Rd	2,900	13,650	10,871
Lake Pine Animal Hospital	n/a	19,036	n/a
Lidl	1,050-5,232	12,464-25,557	n/a
Lightbridge Academy @ Sweetwater	788	15,380.9	n/a
Marriott Spring Hill	n/a	7,504	n/a
Meridian at 1010	491	10,682-20,555	n/a
Publix Pointe Lot 4	905	10,799	10,871
The Hub/Stop N Go	2,400	6,171	5,750



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8 [SLIDE 25]



*I) Sports and Athletic Field Lighting*

Lighting for ball fields and sports courts may need to exceed illumination standards for general recreational needs in order to meet higher standards required for tournament play. The Planning Director must approve any deviations from the illumination standards; however, before any changes will be considered the sports lighting must meet these minimum standards:

- 1) Fixtures must **shall** not exceed 80 feet in mounting height (this includes bases and/or other mounting structures).
- 2) Fixtures must **shall** be fitted with the manufacturer's glare control package. If the manufacturer does not have a glare control package, the fixture specification must be changed to a manufacturer that offers a glare control package.
- 3) Fixtures must **shall** be designed and aimed so that their beams fall within the primary playing area and the immediate surroundings, so that off-site direct illumination is significantly restricted. Spillover levels at the property line must not exceed 0.3 foot-candles onto residential properties.
- 4) Lighting shall be extinguished no later than one (1) hour after the event ends.



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2 [SLIDE 26]

*J) Private Recreation Facility Lighting*

Lighting for ball fields and sports courts at a private recreation facility may exceed illumination standards set forth in this Section in order to meet higher standards required for active recreation. The Planning Director must approve any deviations from the illumination standards; however, before any changes will be considered the proposed lighting must **shall** meet these minimum standards:

- 1) Fixtures must **shall** not exceed 35 feet in mounting height (this includes bases and/or other mounting structures).
- 2) Fixtures must **shall** be fitted with the manufacturer's glare control package. If the manufacturer does not have a glare control package, the fixture specification must **shall** be changed to a manufacturer that offers a glare control package.
- 3) Fixtures must **shall** be designed and aimed so that their beams fall within the primary playing area and the immediate surroundings, so that off-site direct illumination is significantly restricted. Spillover levels at the property line must **shall** not exceed 0.3 foot-candles onto residential properties.

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4 [SLIDE 27]

*K) Illuminated Tubing or Strings of Light*

Illuminated tubing or strings of light on trees and landscaping or outlining property lines or open sales areas, rooflines or wall edges of buildings are prohibited except as provided in Sec. 8.7.1.A.25 *Holiday*. This prohibition does not apply to Town of Apex owned trees provided that the illuminated tubing or strings of lights on trees are not permanently installed and are removed from the tree and reinstalled or replaced at least twice per year.

*L) Illumination for a Regional Recreation Complex*

...

- 3) Building-mounted lights such as wall-pack and goose-neck type fixtures shall be fully shielded, true **full** cutoff type fixtures (concealed lamp/light source). The lighting must be directed downward, and the wattage **lumens** must **shall** not exceed 100-watts **2,500 lumens**.

...

**M) Controls shall be provided that automatically extinguish all outdoor lighting when sufficient daylight is available using a control device or system such as a photoelectric switch, astronomic time switch or equivalent functions from a programmable lighting controller, building automation system, or lighting energy management system, all with battery or similar backup power or device.**



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8 [SLIDE 28]

N) For non-residential uses, the lumens for each fixture shall be reduced by at least 30% no later than one (1) hour after the business is closed to the public except that lighting reductions are not required for the following:

- 1) When a site contains no more than two (2) fixtures.
- 2) Code required lighting for steps, stairs, walkways, and building entrances.
- 3) Motion activated lighting.
- 4) Lighting approved by a Special Use Permit in which times of operation are specifically identified.
- 5) Businesses that operate on a 24-hour basis.
- 6) When in the opinion of the Technical Review Committee, lighting levels must be maintained to ensure the health, safety, and welfare of the community.

8.6.5 Exemptions

The standards of this section shall not apply to:

- ...  
B) Lighting associated with temporary uses that have been permitted, provided that the lighting meets the general standards of this section.  
...
- E) Municipal Street lighting installed within public rights-of-way or on Town-owned property for the benefit of public health, safety, and welfare.



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[SLIDE 29]

8.6.7 Lighting Definitions

Astronomic Time Switch: An automatic lighting control device that switches outdoor lighting relative to time of solar day with time of year correction.

Backlight: For an exterior fixture, lumens emitted in the quarter sphere below horizontal and in the opposite direction of the intended orientation of the fixture. For fixtures with symmetric distribution, backlight will be the same as front light.

BUG: A fixture classification system that classifies backlight (B), uplight (U) and glare (G).

Foot-candle: The unit of measure expressing the quantity of light received on a surface. One (1) foot-candle is the illuminance produced by a candle on one (1) square foot of surface area measured from a distance of one (1) foot.

Glare: Light entering the eye directly from fixtures or indirectly from reflective surfaces that causes visual discomfort or reduced visibility.

Lamp: A generic term for a source of optical radiation (i.e. "light"), often called a "bulb" or "tube". Examples include incandescent, fluorescent, high-intensity discharge (HID) lamps, and low-pressure sodium (LPS) lamps, as well as light-emitting diode (LED) modules and arrays.



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[SLIDE 30]

Landscape Lighting: Lighting of trees, shrubs, or other plant material as well as ponds and other landscape features.

LED: Light Emitting Diode.

Light Pollution: Any adverse effect of artificial light including, but not limited to, glare, light trespass, sky glow, energy waste, compromised safety and security, and impacts on the nocturnal environment.

Light Trespass: Light that falls beyond the property it is intended to illuminate.

Lighting: "Electric" or "man-made" or "artificial" lighting. See "lighting equipment".

Lighting Equipment: Equipment specifically intended to provide gas or electric illumination, including but not limited to, lamp(s), luminaire(s), ballast(s), poles, posts, lens(es), and related structures, electrical wiring, and other necessary or auxiliary components.

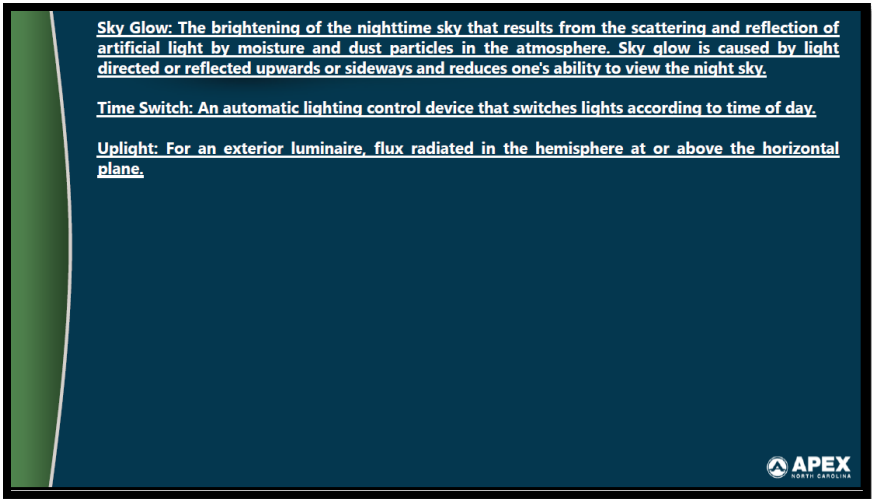
Photoelectric Switch: A control device employing a photocell or photodiode to detect daylight and automatically switch lights off when sufficient daylight is available.

Sales area: Uncovered area used for sales of retail goods and materials, including but not limited to automobiles, boats, tractors and other farm equipment, building supplies, and gardening and nursery products.



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[SLIDE 31]



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**Councilmember Mahaffey** asked where the rating system came from, and said there was a reference to an IES standard.

**Ms. Bunce** said yes, that is the Illuminating Engineering Society.

**Councilmember Zegerman** asked if Ms. Bunce was aware of the motivation to lower the lighting requirement for bicycle parking.

**Ms. Bunce** said the desire was the lower the level of everything, and that the new bicycle parking lighting standards would be in between vital location standards and those of things like parking lots.

**Mayor Pro Tempore Killingsworth** asked if there were any concerns from public safety regarding lowering lighting.

**Ms. Bunce** said they did not work with public safety for these amendments, it was the EAB, planning, and electric departments.

**Councilmember Gray** asked if this was not changing the level of brightness, more so just the definition of brightness.

**Ms. Bunce** said yes, the effect of the light on the ground will not change, but the intensity of the light in a particular fixture has been set.

**Councilmember Gantt** said there an example of a picture where there is someone robbing a property, but they couldn't really be seen because of poorly covered lights. He said this should help see more in certain areas when things aren't shining directly into people's eyes. He said there may be lower light in some places, but it should overall be better because it is better directed. He added that the uplight was totally wasted, and that component was more important for the night sky.

**Councilmember Gray** thanked Ms. Bunce for letting them geek out on this.

**Mayor Gilbert** opened up 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 Gray**, seconded by **Councilmember Zegerman**, to approve the Unified Development Ordinance Amendments of October 2023.

1 **Councilmember Gantt** said he had been wanting to do this since he got elected, and he said  
2 at the first EAB meeting before Covid, he told them that the biggest impact they could have would  
3 be things that could be put into the UDO. He said some of the folks on the board were lighting  
4 experts, and this was a very thoughtful product from multiple components. He thanked Ms. Bunce,  
5 other town staff, and the EAB members who have helped bring this project together. He said he  
6 thinks this will have long-lasting positive impacts on the town.

7  
8 **VOTE: UNANIMOUS (5-0)**

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10  
11 **[NEW BUSINESS]**

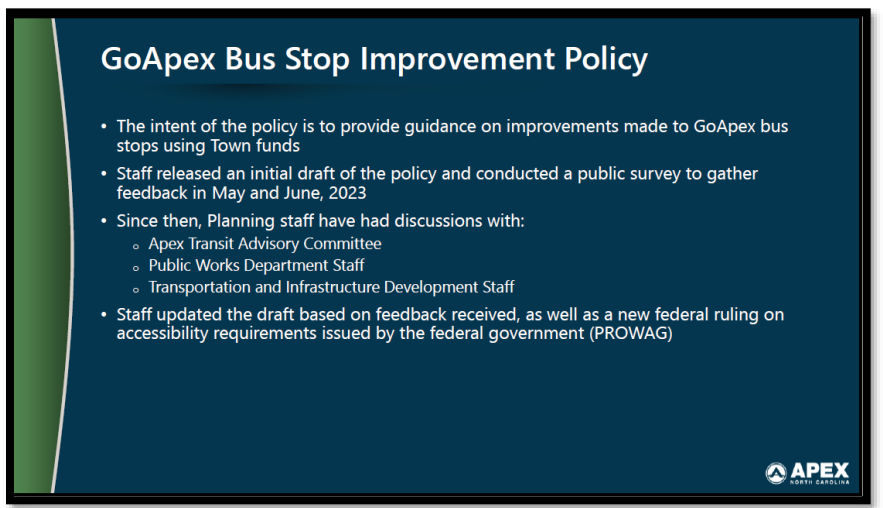
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13 **NB1 GoApex Bus Stop Improvement Policy (REF: PLCY-2023-013)**

14 **Katie Schwing**, Senior Planner for Long Range Transit, gave the following information  
15 regarding the GoApex Bus Stop Improvement Policy.

16 **[SLIDE 32]**



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18 **[SLIDE 33]**




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1 [SLIDE 34]

## GoApex Bus Stop Improvement Policy

**Policy Highlights:**

- Establishes Standard bus stop improvements, for which all GoApex stops would qualify
- Establishes Enhanced bus stop improvements, for which stops would undergo a qualification and prioritization process
  - Criteria Considered:
    - ridership estimates
    - nearby land uses
    - stop function
    - presence of transit-reliant populations
    - presence of historically underserved populations
    - site context
    - community requests
  - Standard Bus Stop Improvements would take first priority before enhanced improvements
- Allows for other types of improvements on a case-by-case basis and some deviations based on special circumstances




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[SLIDE 35]

## GoApex Bus Stop Improvement Policy

Standard Improvements	Enhanced Improvements	Other Improvements
<p><i>ALL GoApex stops would qualify for:</i></p> <ul style="list-style-type: none"> <li>• GoApex bus stop sign</li> <li>• Concrete or asphalt landing pad and amenity pad</li> <li>• Adequate lighting</li> <li>• Bench</li> <li>• Post-mounted Information box with route schedule and map</li> </ul>	<p><i>GoApex stops would be subject to qualification and prioritization for:</i></p> <ul style="list-style-type: none"> <li>• Covered shelter with seating</li> <li>• Bicycle racks</li> </ul>	<p><i>GoApex stops could be considered for the following based on discussion with Town Staff and/or the development review process:</i></p> <ul style="list-style-type: none"> <li>• Trash receptacles</li> <li>• Bicycle, pedestrian, or roadway infrastructure improvements</li> <li>• Enhanced information and connectivity</li> <li>• Public art</li> <li>• Alternative bus stop designs, landscaping and/or enhanced public spaces</li> </ul>



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[SLIDE 36]

## GoApex Bus Stop Improvement Policy


- If approved, Staff plan to complete the qualification and prioritization process and move forward with installation of initial improvements with available funding in FY24 budget
- It is anticipated that further improvements would be installed over time

**Transit Advisory Committee Recommendation:**

- The Transit Advisory Committee unanimously recommended approval of the draft policy during their October 11, 2023 meeting.

**Staff Recommendation:**

- Planning staff recommend approval of the draft policy.



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1 **Councilmember Zegerman** said he would like to see trash receptacles put in at places  
2 where shelters are installed. He said he doesn't think it should be left to a case-by-case basis.

3 **Councilmember Gantt** said there is a lot of discussion about trash on the transit committee.  
4 He said there was concern, but also a realization from staff that there may be overflowing trash cans.

5 **Councilmember Zegerman** said he understood, but he thinks if there is enough ridership to  
6 warrant a shelter, there is enough to warrant a trash receptacle.

7 **Councilmember Gantt** said transit would be killed if there was an overflowing trash can at a  
8 shelter.

9 **Councilmember Zegerman** said they are building a policy around one department maybe  
10 not having enough staff to pick up trash, and that would be another problem to solve. He said for  
11 this policy, ridership that warrants a shelter at a stop should also have trash receptacles. He said they  
12 should talk about how to assist public works with dealing with this, but that shouldn't prevent this  
13 from going in the policy.

14 **Councilmember Gray** said he was excited they were getting this policy. He said in  
15 Wilmington, he saw bus stops that weren't even with sidewalks, let alone including shelters. He said  
16 this a policy that would assist the town in many ways, through ridership, total use, or making it look  
17 more appealing. He said it's not perfect, but it does move things in the right direction, and he  
18 appreciates the work staff is putting in on this, as these policies will be longer-term payouts that will  
19 help keep GoApex moving in the right direction.

20 **Councilmember Gantt** said he wanted to close the loop on the trash discussion. He asked  
21 Ms. Schwing why that ended up in Other rather than Enhanced.

22 **Ms. Schwing** said staff discussed it with public works, and Director Mullis indicated at the  
23 time that they could take on an additional 6 trash cans with the person currently assigned to it. She  
24 said there may be more than 6 enhanced bus stops, so that wouldn't work with their current  
25 capacity. She said it would be up to Council to change that if needed, but that was her discussion  
26 with staff.

27 **Councilmember Gray** said he doesn't think trash is a showstopper, because the town is  
28 good at ensuring trash doesn't sit. He said public works wouldn't let them down on this.

29 **Ms. Schwing** said that Public Works was very supportive of this, they just wanted to ensure  
30 they were able to maintain a high standard.

31 **Mayor Gilbert** asked if Council was in favor of **Councilmember Zegerman's** proposed  
32 changed.

33 **Mayor Pro Tempore Killingsworth** said she would like to see it under enhanced.

34 **Councilmember Zegerman** said they can look at other scenarios where trash receptacles  
35 would be necessary, but it should at least be a part of the enhanced category.

36  
37 A **motion** was made by **Councilmember Zegerman**, seconded by **Mayor Pro Tempore**  
38 **Killingsworth**, to approve the GoApex Bus Stop Improvement Policy, with the change of including  
39 trash receptacles in the standards for Enhanced Bus Shelters.

40  
41 **VOTE: UNANIMOUS (5-0)**

42  
43 **Mayor Gilbert** thanked Ms. Schwing and Councilmember Gantt for their work on this.

1 **Councilmember Gantt** said he predicted they would go with staff's recommendation on this  
2 topic, and he was wrong about that.

3  
4 **NB2 Ordinance Amendment - Chapter 5 - Article 1 - Section 5 - Automatic Fire Sprinkler**  
5 **System Requirements**

6 **Councilmember Mahaffey** said this was a potential ordinance proposal which would require  
7 fire sprinkler systems in all residential properties in Apex. He said they are not currently required in  
8 state law to be installed in townhomes or single-family homes. He said the NC General Statute has a  
9 provision allowing Municipalities to pass ordinances for stricter fire safety code. He said it would  
10 then go to the Building Code Council, and become Apex law if they approved it. He said he has  
11 invited Fire Chief Herman and Deputy Fire Marshal Dillon to the meeting tonight to help answer  
12 questions. He noted that there will be questions and discussion about costs and impacts to  
13 development, and he would welcome that. He said he wanted to be clear that the reason he is  
14 proposing this is for the preservation of life. He said sprinkler systems reduce fatalities by about 80%.  
15 He added that it decreases property damage by around 70%. He said without sprinkler or  
16 suppression systems, homes can become engulfed in flames quickly. He said there are also cost  
17 savings in terms of the decrease of insurance rates. He said his father and grandfather were both fire  
18 chiefs. He said the Town Council has the opportunity to do something tonight that has the ability to  
19 preemptively preserve life. He said they are sitting here before a tragedy may occur, and not after,  
20 talking about they can make Apex safer. He invited Chief Herman up to speak on the topic to  
21 Council and answer questions.

22 **Councilmember Gantt** asked why there isn't a report they can look at with this information  
23 rather than somebody talking tonight.

24 **Councilmember Mahaffey** said there is plenty of data about this topic with the Municipal  
25 government and development communities. He said he brought some fact sheets, but it may mean  
26 more to hear from an expert rather than reading from something printed off the internet. He said  
27 one of the problems in this is that the cost estimates largely depend on who is asked.

28 **Councilmember Gantt** said he was mostly wanting to know data from a non-biased source,  
29 not from developers or trade organizations.

30 **Councilmember Mahaffey** said he could give him an answer from the data he found, but it  
31 may be better to hear it from the town's fire staff.

32 **Chief Herman** said as the fire chief, he supports anything that would enhance life and  
33 property safety. He said Mr. Dillon would be the true subject matter expert, as he is part of the risk  
34 reduction division. Chief Herman said before they ask him questions, he is going to ask them a few.  
35 His first question was, "what is the best way to put out a fire?"

36 **Councilmember Zegerman** said to not start one.

37 **Chief Herman** said that was correct, to prevent it. He said that is one of the main focuses of  
38 the fire department. He said if a fire cannot be prevented, the best way to put it out is quick  
39 suppression. He said the things that worries him the most about fire risk is dense, clustered  
40 residential homes. He said it is a matter of when not if there would be multiple homes burning  
41 simultaneously. He said fires in today's construction double in size every 30 seconds. He said fires  
42 reach from the ceiling to the floor in 4-5 minutes. He said the response time goal from the time 911  
43 is called to when the fire department arrives on scene to respond is 8 minutes 90% of the time. He  
44 said the fire service fully supports this, but he said he understands this is a sticky political topic in

1 some ways. He said he and Mr. Dillon were happy to answer any questions they had, or research and  
2 bring back answers.

3 **Mr. Dillon** said he has been excited about this all day. He said doing this would be a legacy  
4 item for everyone at the table. He said behind every badge there is a heart that cares about people,  
5 and this would be a way to preserve life in Apex.

6 **Councilmember Gray** thanked Mr. Dillon and the fire department for all that they do. He said  
7 he is no expert on sprinkler systems, and asked if Mr. Dillon could explain the logistics of sprinkler  
8 systems in homes some.

9 **Mr. Dillon** said some sprinkler heads are concealed behind a plate, which will extend and  
10 activate if the plate gets to 155 degrees Fahrenheit. He said there would be less sprinkler heads in a  
11 single-family home than in a commercial building, and they would use sprinklers with the NFPA D  
12 standard. He said they could be run through a home's regular cold-water loop plumbing system. He  
13 said sprinklers only go in rooms where people would typically be in homes, not unused basements  
14 or attics. He said these would flow about 13 gallons a minute, so they would not flood a home  
15 before firefighters could respond.

16 **Councilmember Gray** asked if there would be concerns about sprinkler heads going off  
17 from something like smoke from cooking, like smoke detectors.

18 **Mr. Dillon** said sprinklers only activate based on direct heat on each individual sprinkler  
19 head. They do not go off simultaneously. He said nobody in North Carolina has ever died in a home  
20 with sprinklers.

21 **Councilmember Gray** asked if there were residences here in Apex with these internal  
22 sprinkler systems already installed.

23 **Mr. Dillon** said a majority of the early sections of Bella Casa have them, as well as many in  
24 Colvin Park. He said many homes in Apex have them, and many in the past 20 years have installed  
25 them as a way to save money on insurance.

26 **Councilmember Gantt** asked about the difference in risk reduction for newer homes which  
27 have wired smoke detectors with battery backup.

28 **Councilmember Mahaffey** said the fact sheet he was referring to from the National Home  
29 Sprinkler Coalition used homes with smoke detectors as the baseline for comparison.

30 **Councilmember Gantt** asked about the risk reduction of smoke detectors versus not having  
31 them.

32 **Mr. Dillon** said a working smoke detector doubles the chances of surviving a fire.

33 **Councilmember Gantt** asked if fire risk in newer buildings was higher or lower than in older  
34 buildings, and asked if there was data he could speak to for Apex.

35 **Mr. Dillon** said fires happen at all kinds of buildings, old or new. He said they could happen  
36 at Reunion Park and be suppressed by the sprinklers, or happen in a home from a cooking fire.

37 **Councilmember Mahaffey** said the modern layout of houses contributes to the rate of fire  
38 spread, through things like open concepts.

39 **Councilmember Gantt** asked if the building materials were better for fire risk now.

40 **Mr. Dillon** said modern construction has increased flammability.

41 **Councilmember Gantt** said he would think wiring would be better at least.

42 **Councilmember Mahaffey** said potentially, but if there were a wiring fire it could hit a candle  
43 close by and spread throughout the open floors. He said he thinks it is worse now than it has ever  
44 been.



1 **Councilmember Zegerman** said with increased density, there is also the risk of spreading  
2 the fire to other buildings and units more quickly.

3 **Councilmember Mahaffey** said this is where the argument that homeowners are  
4 responsible for themselves and those living with them becomes a problem. There are other  
5 apartments or units that could be affected by a fire in a apartment or townhome environment. He  
6 said they are currently required in apartments, but there was a proposal to remove even that  
7 component. He said that is why it's important for them to create their own regulations. He said  
8 townhomes are not subject to that regulation, but the same problem could occur. He said with  
9 trends in developments, single-family homes are looking a lot like townhomes in how close they are  
10 to each other. He said that is another reason this issue needs to be looked at now.

11 **Mayor Gilbert** asked if Mr. Dillon could describe how fire rated walls work.

12 **Mr. Dillon** said those fire rated walls separate townhomes that are considered different  
13 dwellings, and different areas of commercials buildings. He said these would not be found in single-  
14 family homes.

15 **Councilmember Gantt** asked if there would be reductions in other needs of fire response,  
16 such as hydrant spacing, if this was approved for new constructions.

17 **Mr. Dillon** said yes, there could be a relaxing in some other mitigating factors since  
18 sprinklers would be so beneficial in decreasing spread.

19 **Chief Herman** said there would be other areas that don't have sprinklers since it wouldn't be  
20 a complete retrofit. He said it is important to maintain the 5-minute travel time response for those  
21 areas with sprinklers as well, as they respond to other types of hazards.

22 **Mr. Dillon** said the travel time also keeps their ISO Class 1 rating, which helps lower  
23 insurance rates for everyone in the town.

24 **Councilmember Gray** asked how the spacing of hydrants would change in areas this policy  
25 may be implemented.

26 **Mr. Dillon** said there wouldn't be a need for firefighters to fill up as often when responding,  
27 because the sprinklers has already gotten the job started. He said it would be a break for developers  
28 in terms of building their infrastructure.

29 **Councilmember Mahaffey** said the number of homes before an egress was a big factor for  
30 availability too.

31 **Mayor Pro Tempore Killingsworth** thanked the fire department for all they do. She asked if  
32 there was an estimate on how much a sprinkler system would cost to implement it in a single-family  
33 home.

34 **Mr. Dillon** said the national average, from the NFPA study, is \$1.61 per square foot. He said  
35 that is for a multipurpose system tied to the existing cold-water loop. He said the department tells  
36 people that it is roughly the cost of granite countertops in their home.

37 **Mayor Pro Tempore Killingsworth** asked if there was an estimate of potential insurance  
38 cost savings with sprinkler systems.

39 **Mr. Dillon** said he has seen rate cuts of up to 35%, but you have to shop around and let them  
40 know you have the sprinklers installed.

41 **Councilmember Mahaffey** added that Habitat for Humanity has chosen to put sprinklers into  
42 their new homes.

43 **Councilmember Gantt** asked for the cost estimate of that.

44 **Councilmember Mahaffey** said he did not have it.

1 **Councilmember Gantt** asked if they know the costs of the ones that have been installed in  
2 homes in Apex.

3 **Mr. Dillon** said those have been the standalone systems, so likely in the 3-5 dollar per square  
4 foot range, but he does not know the total cost.

5 **Councilmember Gray** asked if putting these systems in new developments on the periphery  
6 of Apex's boundaries would help alleviate difficulties caused by travel time and not having fire  
7 stations as close to those areas.

8 **Mr. Dillon** said public and private partnerships would be key on this. He said there was  
9 discussion about Veridea providing fire response infrastructure, but that never happened. He said  
10 those relationships would be key to making this work.

11 **Chief Herman** said one of the key things is figuring out the travel times to areas and  
12 identifying the biggest gaps, but also the risk and how much resources have to put into responses.  
13 He said a residential structure fire requires an Effective Response Force (ERF) of 17 firefighters and 4  
14 engines, as well as 2 battalion chiefs. He said these positions are accounted for through critical  
15 tasking. He said they are looking at these questions with Fire Station 7. He said for a building with  
16 sprinklers, he is open to sending less ERF, because the facts show that the response will be much  
17 less because the fire was contained by the sprinkler system.

18 **Councilmember Gray** said that information helps out a lot. He said this gives a better idea of  
19 the resource to investment ratio for the personnel hours needed to respond and effectively maintain  
20 emergency coverage in all areas. He asked if there would need to be backflow inspections on these  
21 systems, and if so, who would be paying for it.

22 **Rudy Baker**, Inspections and Permits Director, said they would not require backflow  
23 inspection, because they would already be tied into the plumbing system.

24 **Councilmember Gantt** asked if these systems required maintenance.

25 **Director Baker** said he did not think they did for commercial buildings, but he would get  
26 back to them.

27 **Councilmember Gantt** asked Town Attorney Hohe if counties would be able to do this.

28 **Town Attorney Hohe** said they would be subject to the same process that the town is in  
29 passing this and having it be reviewed. She said her assumption would be the applicability would be  
30 to the County jurisdiction, and not municipal jurisdictions. She said she would need to research it to  
31 confirm.

32 **Councilmember Gantt** said he suspects that the cost of these systems would be lower if  
33 there was more than just Apex putting these in, because it would drive more of a business.

34 **Councilmember Zegerman** said the installation of it is simple since it goes in with the  
35 existing water system.

36 **Councilmember Gantt** said he understands the principle, but these things often end up  
37 more complicated and expensive in reality.

38 **Councilmember Mahaffey** said the expense only goes up over time, and the best time to do  
39 it is when the home is being constructed.

40 **Councilmember Gantt** said that part makes sense.

41 **Mayor Gilbert** said a county wide approach would have a bigger impact for Apex, since fire  
42 covers homes outside of the corporate limits.

43 **Councilmember Zegerman** asked how many developments don't annex into Apex before  
44 construction anyway.

1 **Mayor Gilbert** said there were still quite a few.

2 **Councilmember Zegerman** said he can he a county policy being supplemental to theirs, but  
3 doing it within the town would be the most beneficial.

4 **Councilmember Mahaffey** said it would be best to start this at the county or state level, but  
5 they have to start somewhere.

6 **Councilmember Gantt** said that the higher the level it was required at, the cheaper it would  
7 become.

8 **Councilmember Mahaffey** said there would also be a delay in this getting implemented, as  
9 there is a delay after it became fully approved to give developers time to prepare.

10 **Councilmember Gantt** asked about the insurance reductions with sprinkler systems.

11 **Mr. Dillon** said they have seen as much as a 35% reduction in Apex.

12 **Mayor Gilbert** thanked Chief Herman and Mr. Dillon for answering their questions and  
13 informing them on this topic.

14 **Mr. Dillon** reminded everyone to change the batteries in their smoke detectors when they  
15 set their clocks back.

16 **Mayor Gilbert** began the discussion for the item. He said he fully supports the intent of the  
17 topic. He said he wants to ensure the process is done properly. He said he wants to hear from the  
18 developers and other players that would be interested in the development of this.

19 **Councilmember Gray** said it is hard to argue against measures to increase public safety. He  
20 said this is not quite as simple of a discussion as a cost/benefit ration as well. He said this would be a  
21 major policy shift, which may impact other jurisdictions as they see how Apex approaches this. He  
22 said he would like to get a staff report, and some more specifics from that would help inform their  
23 decisions. He said he would like to see some more information on how this would benefit or impact  
24 dwellings with various spacing, and how this may impact the UDO. He said he also does not know  
25 the legal implications, and if the town has the full authority to do this to the extent he wants to. He  
26 agreed with Mayor Gilbert that input from the development community would be beneficial. He said  
27 he was thinking about earthquake-proofing houses. It may be useful if an earthquake happened, as  
28 it has before and could again, but was it as necessary as doing that in California? He said that was  
29 part of the equation here. He said there are lots of pieces of information he needs to consider before  
30 making this decision. He said the Council prides themselves on making decisions based on data, but  
31 they don't have the data fully on this.

32 **Councilmember Mahaffey** said it isn't unclear at all when builders stand on this issue. He  
33 said that has been shows in states and municipalities nationwide. He said they are against this. He  
34 said this debate has been going on for decades in places around the country. He said the fact is they  
35 save lives, and this is one of the only things in the building code they have any say in. He said, to him,  
36 the protection of life is worth it. He said growing up his dad was a fire chief, and on the mantle at  
37 home his dad had a firefighter of the year award. He said his mother told him that his father won the  
38 award for running into a burning building, fully engulfed, because he heard there was a kid in there.  
39 As it turned out, there was not a kid in there, but he had gone anyway. He said that is the dedication  
40 that all of our first responders have to this issue, and sprinklers would eliminate that need of them to  
41 have to take that kind of risk. He said it's a good thing as it decreases insurance costs, increases  
42 survival chances, and improves level of service from fire departments. He said they can get any data  
43 they want, and he isn't against that, but the data won't change. He said there is an upfront cost that

1 would be recouped on insurance costs, and homes with sprinklers would be less likely to burn down,  
2 and their occupants less likely to die.

3 **Councilmember Zegerman** said he doesn't think that the data is going to change any  
4 outcome. He said fundamentally the point is the safety and risk mitigation these systems provide, at  
5 what is ultimately a nominal cost for all of the benefits that come out of this. He said in response to  
6 Councilmember Gray's comments, this is not a cost/benefit analysis. He said they are having the  
7 wrong conversation if they are tripping on the dollars.

8 **Councilmember Mahaffey** said the point about UDO amendments changing was a good  
9 one. He said he wanted to push back a bit on those needing to be ready before they pass this,  
10 because there is a long process to this becoming law. He said he wouldn't want to staff to put a lot of  
11 time into looking at those potential changes just for it not to get through the Building Code Council  
12 (BCC). He said they could look at changes in anticipation during the 6-month waiting period if this  
13 did get through the BCC after they passed it.

14 **Councilmember Gray** said he agrees that they don't need to completely build those UDO  
15 changes now, but he would like to know what the unintended consequences would be from this  
16 change. He said they should be looking at figuring out the "unknown unknowns", and use the  
17 process to make sure things don't go down the wrong pathway. He said the builders may say it is too  
18 expensive, but he would love to know the costs to analyze things. He said, with all due respect, that it  
19 is dangerous for Council to forget that there are processes in place to allow them to take a step  
20 back, pause, and think about what they haven't thought about. He said he is in support of the  
21 amendment, and thinks it would save lives of people inside and outside of Apex, but he wants to  
22 wants to be able to say that he has looked at the numbers and made decisions based on those. He  
23 said he does not want to delay decisions, but they need to make those decisions based on the right  
24 advice.

25 **Mayor Gilbert** asked if anybody was opposed to a public hearing for this item.

26 **Councilmember Mahaffey** indicated that he was, and said he was ready to pass it now.

27 **Councilmember Zegerman** said he doesn't think it is needed.

28 **Mayor Gilbert** said they owe it to their constituents to get all of the information, and he still  
29 many questions. He asked Mayor Pro Tempore Killingsworth her thoughts.

30 **Mayor Pro Tempore Killingsworth** said she was wondering what would make her say no to  
31 this. She said she couldn't think of anything that would. She said if there was a vote tonight, she  
32 would say yes to this. She understands that there are questions, and more information they could  
33 gather from staff. She said she is asking herself what would change her view if they delayed this.

34 **Mayor Gilbert** asked what the process would be if this was passed tonight.

35 **Town Attorney Hohe** said it would go before the state BCC, and if they approved it, it would  
36 come back to the town, and would go into effect 6 months after that point.

37 **Councilmember Gantt** asked if carve outs for municipalities in the state building code was a  
38 common thing.

39 **Town Attorney Hohe** said she does not know, but implementing a more stringent fire code  
40 is something outlined in general statutes, with the approval of the state BCC.

41 **Councilmember Gantt** asked if any municipalities have done this.

42 **Town Attorney Hohe** said she did not know.

1 **Councilmember Gantt** said as a statistician, he wants data as well. He said there could be  
2 tens or hundreds of millions of dollars in cost based on this decision, just with current projects and  
3 developments.

4 **Councilmember Zegerman** asked if it would change his mind about this if the number was  
5 100 million.

6 **Councilmember Gantt** asked if anyone has ever died in a fire in Apex.

7 **Councilmember Zegerman** asked if they wanted to wait until it did happen. He said getting  
8 into the numbers like this makes it the wrong conversation.

9 **Mayor Gilbert** said to him it was about the process and being consistent with how they make  
10 decisions.

11 **Councilmember Gantt** said in his day job, he works on particulate matter pollution. He said  
12 there is no safe level of particulate matter pollution in the atmosphere, but rules for them are still set  
13 with the notion that pollution is still going to happen. He said 100 million dollars to not save any lives  
14 is a bad idea.

15 **Councilmember Zegerman** said the aggregate cost could be very high, but it would be  
16 distributed across many cases. He said he would be open to a public hearing for this item, but his  
17 vote on it would not change.

18 **Mayor Gilbert** said then why would there be a reason not to allow the public to weigh in.

19 **Councilmember Gantt** said the Clean Air Act is the most cost/benefit positive law in the  
20 United States. He said the papers he has read on this topic indicate that the cost/benefit for a policy  
21 like this is a negative. However, he said it is a positive for multi-family developments.

22 **Councilmember Zegerman** asked if they were wanting to quantify the cost of a human life  
23 now. He said he would defer to Councilmember Mahaffey on having a Public Hearing.

24  
25 A **motion** was made by **Councilmember Mahaffey**, seconded by **Mayor Pro Tempore**  
26 **Killingsworth**, to approve the Automatic Fire Sprinkler System Requirements Ordinance  
27 Amendment as presented.

28  
29 **VOTE: 3-2, Councilmember Gantt and Councilmember Gray dissenting**

30  
31 **Clerk's Note:** *This ordinance passed by a simple majority (3-2). For the Town to pass an*  
32 *ordinance on the date of introduction (first vote by council), the ordinance must receive an affirmative*  
33 *vote by 2/3s of its members. For Apex, this "supermajority" vote requires an affirmative vote of 4*  
34 *members. Because the ordinance passed by a simple majority, it will be presented again on*  
35 *November 14, 2023 for a second vote. If the ordinance receives an affirmative vote by a simple*  
36 *majority on the 2nd reading (second vote by council) it will pass.*

37  
38  
39 **[UPDATES BY INTERIM TOWN MANAGER]**

40  
41 **Interim Town Manager Purvis** said early voting starts this weekend, runs from October 28-  
42 November 4, at the John Brown Community Center. He said there was a strategic planning session  
43 coming up for Council this Friday, and they had a Joint Meeting with Wake County on October 30<sup>th</sup>.  
44 He said staff is out at Pleasant Park now and testing everything, and they are on track for the

1 November 4<sup>th</sup> grand opening. He said they closed on the 3.4 million-dollar bonds for the Mason  
2 Street Municipal Building, and tomorrow they will close on the 17 million-dollar bonds for the  
3 Peakway Project.

4  
5 **[CLOSED SESSION]**

6  
7 A **motion** was made by **Mayor Pro Tempore Killingsworth**, seconded by **Councilmember**  
8 **Zegerman**, to enter into Closed Session pursuant to NCGS §143-318.11(a)(5).

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

11  
12 Council entered into Closed Session at 8:14p.m.

13  
14 **CS1 Demetria John, Assistant Town Manager, and**  
15 **Steve Adams Utilities Acquisition Specialist**

16 **NCGS §143-318.11(a)(5):**

17 *"To establish, or to instruct the public body's staff or negotiating agents concerning the position to be*  
18 *taken by or on behalf of the public body in negotiating (i) the price and other material terms of a*  
19 *contract or proposed contract for the acquisition of real property by purchase, option, exchange, or*  
20 *lease; or (ii) the amount of compensation and other material terms of an employment contract or*  
21 *proposed employment contract."*

22  
23 Council returned to open session at 9:12 p.m.

24  
25 **[ADJOURNEMENT]**

26  
27 **Mayor Gilbert** adjourned the meeting at 9:12 p.m.

28  
29 Jacques K. Gilbert  
30 Mayor

31  
32 Allen Coleman, CMC, NCCCC  
33 Town Clerk to the Apex Town Council

34  
35 Submitted for approval by Town Clerk Allen Coleman and approved on \_\_\_\_\_.