

Rezoning #19CZ23

West Village

Kelly Rd

S Salem St To Nc 540 Hwy Sb Ramp

540

NC 540 Hwy SB

Nc 540 Hwy Sb To S Salem St Ramp

S Salem St





# PETITION TO AMEND THE OFFICIAL ZONING MAP & 2045 LAND USE MAP

This document is a public record under the North Carolina Public Records Act and may be published on the Town's website or disclosed to third parties.

Application #: \_\_\_\_\_ Submittal Date: \_\_\_\_\_  
2045 LUM Amendment: \_\_\_\_\_ Fee Paid: \_\_\_\_\_

## Project Information

Project Name: 2524 & 2604 Kelly Road, Apex, NC 27502  
Address(es): 2524 & 2604 Kelly Road, Apex, NC 27502  
PIN(s): 0731433004, 0731424892

\_\_\_\_\_ Acreage: 1.15+0.95= 2.1  
Current Zoning: RR (Rural Residential) Proposed Zoning: MORR-CZ (Mixed: Office, Residential, Retail)  
Current 2045 LUM Designation: Mixed use: Office, HD Residential, Commercial Services  
Proposed 2045 LUM Designation: (no change)

See next page for LUM Amendment.

If any portion of the project is shown as mixed use (3 or more stripes on the 2045 Land Use Map) provide the following:

Area classified as mixed use:	Acreage:	<u>2.1</u>
Area proposed as non-residential development:	Acreage:	<u>2.1 maximum</u>
Percent of mixed use area proposed as non-residential:	Percent:	<u>100% maximum</u>

## Applicant Information

Name: Brian Griffith (Acting as agent for both properties)  
Address: 2121 McKenzie Ridge Ln  
City: Apex State: NC Zip: 27502  
Phone: 919-387-8775 E-mail: briandgriffith@outlook.com

## Owner Information

Name (1 of 2): <u>Friendship Coworking LLC</u>	Name (2 of 2): <u>Miuccio, Anthony J Trustee &amp; Miuccio, Martha J Trustee</u>
Representative: <u>Brian Griffith</u>	Representative: <u>Anthony (Tony) Miuccio</u>
Address: <u>2121 McKenzie Ridge Ln</u>	Address: <u>PO Box 2063</u>
City, State: <u>Apex, North Carolina</u>	City, State: <u>Apex, North Carolina</u>
Zip: <u>27502</u>	Zip: <u>27502</u>
Phone: <u>919-387-8775</u>	Phone: <u>919-355-2145</u>

## Agent Information

Name: N/A (See above)  
Address: \_\_\_\_\_  
City: \_\_\_\_\_ State: \_\_\_\_\_ Zip: \_\_\_\_\_  
Phone: \_\_\_\_\_ E-mail: \_\_\_\_\_

Other contacts: Tony Miuccio, 2604 Kelly Rd, Apex, NC 27502 : 919-889-1309  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

**PETITION TO AMEND THE OFFICIAL ZONING MAP & 2045 LAND USE MAP**

Application #: \_\_\_\_\_ Submittal Date: \_\_\_\_\_

**2045 LAND USE MAP AMENDMENT (IF APPLICABLE)**

The applicant does hereby respectfully request the Town Council amend the 2045 Land Use Map. In support of this request, the following facts are shown:

The area sought to be amended on the 2045 Land Use Map is located at:

N/A

Current 2045 Land Use Classification: Mixed Use: Office, HD Residential, Commercial Services

Proposed 2045 Land Use Classification: (no change)

What condition(s) justifies the passage of the amendment to the 2045 Land Use Map? Discuss the existing use classifications of the subject area in addition to the adjacent land use classifications. Use additional pages as needed.

---

---

---

---

---

---

---

---

---

---

## PETITION INFORMATION

Application #: \_\_\_\_\_

Submittal Date: \_\_\_\_\_

An application has been duly filed requesting that the property described in this application be rezoned from RR \_\_\_\_\_ to MORR-CZ . It is understood and acknowledged that if the property is rezoned as requested, the property described in this request will be perpetually bound to the use(s) authorized and subject to such conditions as imposed, unless subsequently changed or amended as provided for in the Unified Development Ordinance. It is further understood and acknowledged that final plans for any specific development to be made pursuant to any such Conditional Zoning shall be submitted for site or subdivision plan approval. Use additional pages as needed.

## PROPOSED USES:

The Rezoned Lands may be used for, and only for, the uses listed immediately below. The permitted uses are subject to the limitations and regulations stated in the UDO and any additional limitations or regulations stated below. For convenience, some relevant sections of the UDO may be referenced; such references do not imply that other sections of the UDO do not apply.

1	Accessory apartment	21	_____
2	_____	22	Restaurant, drive through
3	_____	23	Restaurant, general
4	_____	24	Medical or dental office or clinic
5	_____	25	Office, business or professional
6	_____	26	Barber and beauty shop
7	_____	27	Book store
8	_____	28	Convenience store
9	_____	29	Dry cleaners and laundry service
10	Day care facility	30	Financial institution
11	Church or place of worship (P/S)	31	Floral shop
12	Government service	32	Greenhouse or nursery, retail
13	School, public or private	33	Grocery, specialty
14	Utility, minor	34	Health/fitness center or spa
15	Tailor Shop	35	Newsstand or giftshop
16	Pet services	36	Personal service
17	Botanical garden	37	Pharmacy
18	Greenway	38	Studio for art
19	Park, active	39	Retail sales, general
20	Park, passive	40	_____



**PETITION INFORMATION**

Application #: \_\_\_\_\_ Submittal Date: \_\_\_\_\_

3) Zoning district supplemental standards. The proposed Conditional Zoning (CZ) District use’s compliance with Sec 4.4, Supplemental Standards, if applicable.

New structures/additions and new site features shall be in keeping with Section 4.4

---

---

---

4) *Design minimizes adverse impact.* The design of the proposed Conditional Zoning (CZ) District use’s minimization of adverse effects, including visual impact of the proposed use on adjacent lands; and avoidance of significant adverse impacts on surrounding lands regarding trash, traffic, service delivery, parking and loading, odors, noise, glare, and vibration and not create a nuisance.

When the property is redeveloped it shall be in compliance with all UDO requirements including buffers, landscaping, and buildings.

---

---

---

5) *Design minimizes environmental impact.* The proposed Conditional Zoning District use’s minimization of environmental impacts and protection from significant deterioration of water and air resources, wildlife habitat, scenic resources, and other natural resources.

When property is fully redeveloped the property shall meet or exceed UDO requirements.

---

---

---

6) *Impact on public facilities.* The proposed Conditional Zoning (CZ) District use’s avoidance of having adverse impacts on public facilities and services, including roads, potable water and wastewater facilities, parks, schools, police, fire and EMS facilities.

Currently the property is not served by public water or sewer. Road access is existing, and public services are readily available. Combined properties total 2.1 acres and will have limited impact on existing/future services.

---

---

---

7) *Health, safety, and welfare.* The proposed Conditional Zoning (CZ) District use’s effect on the health, safety, or welfare of the residents of the Town or its ETJ.

Property is aimed towards 2045 goals and will likely offer services to residents not currently immediately available.

---

Health, safety, and welfare of neighbors and surrounding area should not be affected.

---

---

**PETITION INFORMATION**

Application #: \_\_\_\_\_ Submittal Date: \_\_\_\_\_

8) *Detrimental to adjacent properties.* Whether the proposed Conditional Zoning (CZ) District use is substantially detrimental to adjacent properties.

Property is in accordance with 2045 goals and should not be considered detrimental towards adjacent properties.

---

---

---

9) *Not constitute nuisance or hazard.* Whether the proposed Conditional Zoning (CZ) District use constitutes a nuisance or hazard due to traffic impact or noise, or because of the number of persons who will be using the Conditional Zoning (CZ) District use.

Property will not constitute a nuisance or hazard with its limited size and uses.

---

---

---

10) *Other relevant standards of this Ordinance.* Whether the proposed Conditional Zoning (CZ) District use complies with all standards imposed on it by all other applicable provisions of this Ordinance for use, layout, and general development characteristics.

Upon redevelopment of the site all UDO provisions shall be adhered to and/or exceeded.

---

---

---

**CERTIFIED LIST OF NEIGHBORING PROPERTY OWNERS**

Application #: \_\_\_\_\_

Submittal Date: \_\_\_\_\_

Provide a certified list of property owners subject to this application and all property owners within 300' of the subject property and HOA Contacts.

	Owner's Name	PIN
1.	<u>Tony &amp; Judy Sears</u>	<u>731329495, 7313338590</u>
2.	<u>Anthony &amp; Martha Trustee Miuccio</u>	<u>731424892</u>
3.	<u>NC Department of Transportation</u>	<u>731726540</u>
4.	<u>NC Department of Transportation Turnpike Authority</u>	<u>731429605</u>
5.	<u>Fehey Family Farm, LLC</u>	<u>731434504</u>
6.	<u>Wayne &amp; Georgia Kennedy</u>	<u>731436017</u>
7.	_____	_____
8.	_____	_____
9.	_____	_____
10.	_____	_____
11.	_____	_____
12.	_____	_____
13.	_____	_____
14.	_____	_____
15.	_____	_____

I, Brian Griffith, certify that this is an accurate listing of all property owners and property owners within 300' of the subject property.

Date: 10/29/19

By: [Signature]

COUNTY OF WAKE STATE OF NORTH CAROLINA

Sworn and subscribed before me, Andria Franklin, a Notary Public for the above State and County, on this the 29 day of October, 2019.

Andria Franklin  
Notary Public

Andria Franklin  
Print Name

My Commission Expires: 4/16/2023

SEAL





# AGENT AUTHORIZATION FORM

Application #: \_\_\_\_\_

Submittal Date: \_\_\_\_\_

Brian Griffith and Tony Miuccio is the owner\* of the property for which the attached application is being submitted:

- Land Use Amendment
- Rezoning: For Conditional Zoning and Planned Development rezoning applications, this authorization includes express consent to zoning conditions that are agreed to by the Agent which will apply if the application is approved.
- Site Plan
- Subdivision
- Variance
- Other: \_\_\_\_\_

The property address is: 2524 Kelly Road, Apex, NC 27502

The agent for this project is: Brian D. Griffith (acting as agent for Tony Miuccio)

I am the owner of the property and will be acting as my own agent


Agent Name: Brian D. Griffith

Address: 2121 McKenzie Ridge Ln, Apex, NC 27502

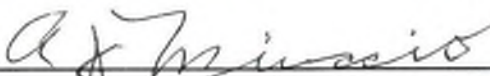
Telephone Number: (919) 387-8775

E-Mail Address: briandgriffith@outlook.com

Signature(s) of Owner(s)\*

  
\_\_\_\_\_  
Brian D. Griffith  
Type or print name

10/29/2019  
Date

  
\_\_\_\_\_  
Tony Miuccio  
Type or print name

10/29/2019  
Date

Attach additional sheets if there are additional owners.

\*Owner of record as shown on the latest equalized assessment rolls of Wake County. An option to purchase does not constitute ownership. If ownership has been recently transferred, a copy of the deed must accompany this authorization.

Pursuant to Article 40 of Chapter 66 of the North Carolina General Statutes (the Uniform Electronic Transactions Act) this application and all documents related hereto containing an electronic or digitized signature are legally binding in the same manner as are hard copy documents executed by hand signature. The parties hereby consent to use electronic or digitized signatures in accordance with the Town's Electronic Signature Policy and intend to be bound by the application and any related documents. If electronic signatures are used the application shall be delivered in an electronic record capable of retention by the recipient at the time of receipt.



**AFFIDAVIT OF OWNERSHIP**

Application #: \_\_\_\_\_

Submittal Date: \_\_\_\_\_

The undersigned, Brian D. Griffith (the "Affiant") first being duly sworn, hereby swears or affirms as follows:

1. Affiant is over eighteen (18) years of age and authorized to make this Affidavit. The Affiant is the sole owner, or is the authorized agent of all owners, of the property located at 2524 & 2604 Kelly Road, Apex, NC 27502 and legally described in Exhibit "A" attached hereto and incorporated herein (the "Property").
2. This Affidavit of Ownership is made for the purpose of filing an application for development approval with the Town of Apex.
3. If Affiant is the owner of the Property, Affiant acquired ownership by deed, dated 09/12/2019, 07/31/2003 and recorded in the Wake County Register of Deeds Office on 09/12/2019, in Book 017572 Page 01317-01318.  
Miuccio: Recorded 08/29/2003. Book 010405 Page 02240-02242
4. If Affiant is the authorized agent of the owner(s) of the Property, Affiant possesses documentation indicating the agency relationship granting the Affiant the authority to apply for development approval on behalf of the owner(s).
5. If Affiant is the owner of the Property, from the time Affiant was deeded the Property on 09/12/2019, 07/31/2003, Affiant has claimed sole ownership of the Property. Affiant or Affiant's predecessors in interest have been in sole and undisturbed possession and use of the property during the period of ownership. Since taking possession of the Property on 09/12/2019, 07/31/2003, no one has questioned Affiant's ownership or right to possession nor demanded any rents or profits. To Affiant's knowledge, no claim or action has been brought against Affiant (if Affiant is the owner), or against owner(s) (if Affiant is acting as an authorized agent for owner(s)), which questions title or right to possession of the property, nor is any claim or action pending against Affiant or owner(s) in court regarding possession of the Property.

This the 29 day of October, 2019.

 (seal)

\_\_\_\_\_  
Brian D. Griffith

Type or print name

STATE OF NORTH CAROLINA  
COUNTY OF Wake

I, the undersigned, a Notary Public in and for the County of Wake, hereby certify that Brian D. Griffith, Affiant, personally known to me or known to me by said Affiant's presentation of said Affiant's (personally known), personally appeared before me this day and acknowledged the due and voluntary execution of the foregoing Affidavit.



Andria Franklin  
Notary Public  
State of North Carolina  
My Commission Expires: 4/16/2023



Application #: \_\_\_\_\_

Submittal Date: \_\_\_\_\_

Insert legal description below.

LEGAL DESCRIPTION OF 2524 Kelly Road, Apex, NC

All of a tract of land lying and being in Wake County, Apex, NC, being described as Lot 1 of the "Minor Subdivision for Barrett Richardson", as recorded in Book of Maps 1997, Page 2069, Wake County Registry, and being more particularly described as follows:

BEGINNING at an iron pipe with cap, the southwestern corner of said lot 1, said beginning point having NAD 83(NSRS 2011) coordinates of North: 713,038.84 and East: 2,034,178.81 feet, thence from said beginning point in a clockwise direction north 32°56'13" east and 244.10 feet, through an iron pipe with a cap, lying 5.84 feet from the 35' r/w, to a point in the center of Kelly Road, thence 326.20 feet along the center of Kelly Road, along the arc of a non-tangent curve to the southeast, with a radius of 5116.44 feet and a chord bearing and distance of south 36°08'51" east and 326.14 feet to a point in the center of Kelly Road, thence leaving the center of Kelly Road, south 50°44'20" west and 129.69 feet through an iron pipe, lying 5.31' from the 35' r/w, to an iron pipe with a cap, thence north 35°33'52" west and 53.32 feet to an iron pipe with a cap, thence south 73°45'09" west and 148.87 feet to an iron pipe with a cap, thence north 20°04'42" west and 147.83 feet to the point and place of BEGINNING, containing net 1.147 acres, more or less, according to an ALTA/ACSM Land Title Survey by PTS Land Surveying, dated 09/05/2019, reference to which is made for a more particular description.

LEGAL DESCRIPTION OF 2604 Kelly Road, Apex, NC

BEGINNING at a point in the center line of S.R. 1163, said point being located 632.55 feet measured in a northwesterly direction along the center line of said road from the center line of old U.S. Highway #1 (now SR 1011) and runs thence South 54 degrees 31 minutes 50 seconds West 190.82 feet to an existing iron pipe; runs thence North 35 degrees 31 minutes 48 seconds West 228.44 feet to an existing iron pipe; runs thence north 54 degrees 25 minutes 45 seconds East 190.94 feet to an iron pipe in the centerline of S.R. 1163; runs thence South 35 degrees 30 minutes 00 seconds East 228.77 feet to the point and place of BEGINNING, containing 1.002 acres, according to map and survey entitled "Property of Charles A. Morris and wife, Debra C. Morris" by MM Weeks, RLS, dated May 13, 1991.



**Zoning Conditions:**

**For uses utilizing the existing structures the following shall apply:**

1. Only existing structures may be used for residential uses.
2. Parking shall be provided to the side or rear of the principal building.

**For future uses, the following shall apply:**

1. The use "Accessory apartment" shall be permitted only on floors above nonresidential uses in new construction.

**Non-Residential / Mixed-use new construction Design Guidelines:**

1. Buildings shall be arranged to define, create and activate edges and public places.
2. No more than (1) double-loaded parking bay shall be provided between any building and thoroughfares as identified on the Apex Transportation Map.
3. Drive-thru lanes, pick-up windows, and other like functions shall not be permitted along any thoroughfare or collector street as identified on the Apex Transportation Plan. Landscaping and/or other architectural features should be used to create screenings for these types of uses.
4. Elevations of corner buildings shall utilize design features such as variations in wall plane, variation in building mass, and window placement to generate street interest.
5. Architectural treatments such as varying roof forms, façade articulation, breaks in roof, walls with texture materials, and ornamental details as well as landscaping shall be incorporated to add visual interest.
6. Facades shall not have blank side walls creating a false front appearance.
7. Buildings shall have vertical proportions with no blank walls exceeding sixty (60) feet in width without being interrupted with an architectural feature such as, but not limited to, a column, recess in or projection from the facade.
8. Windows shall be divided to be square or vertical in proportion so each section of glass is taller than it is wide.
9. Differences of roof height, pitch, ridgelines, and materials shall be used to create visual interest and avoid repetition.
10. Vehicular and pedestrian cross access shall be provided to adjacent properties.
11. Public street access shall be by one of the three (3) methods below.
  - a. Abutting, within ten (10) feet of the shared property line of 2524 and 2604 Kelly Road or further south on 2604 Kelly Road property as a shared access easement in either case.
  - b. To existing West Village development streets.



- c. Temporary alternate for 2524 Kelly Road only; if 2524 Kelly Road develops prior to adjacent West Village street network and 2604 Kelly Road, 2524 Kelly Road may provide temporary entrance as close to 2604 Kelly Road property as allowed by the Town of Apex without offsite easement. Entrance shall be abandoned once option "a" or "b" is provided.

**Non-residential / mixed used exteriors shall incorporate variation in materials. The primary (front) façade of the main buildings to be considered may include:**

1. Brick and/or stone masonry
2. Decorative concrete block (integral color and/or textured)
3. Stone accents
4. Aluminum storefronts with anodized or pre-finished window colors
5. EIFS cornices, and parapet trim
6. EIFS or synthetic stucco shall not be used in the first four feet above grade and shall be limited to 25% of each building façade
7. Precast concrete
8. Roof features may include flat roofs with parapet, hip roofs or awnings with metal or canvas material
9. Soffit and fascia materials to be considered include EIFS with crown trim elements
10. Cementitious siding

**Exterior materials not allowable as a part of the development are as follows:**

1. Vinyl siding
2. Painted, smooth faced concrete block
3. Metal walls

# NOTICE OF NEIGHBORHOOD MEETING

This document is a public record under the North Carolina Public Records Act and may be published on the Town's website or disclosed to third parties.

October 15, 2019

Date

Dear Neighbor:

You are invited to a neighborhood meeting to review and discuss the development proposal at

2524 & 2604 Kelly Road, Apex, NC 27502

0731433004, 0731424892

Address(es)

PIN(s)

in accordance with the Town of Apex Neighborhood Meeting procedures. This meeting is intended to be a way for the applicant to discuss the project and review the proposed plans with adjacent neighbors and neighborhood organizations before the submittal of an application to the Town. This provides neighbors an opportunity to raise questions and discuss any concerns about the impacts of the project before it is officially submitted. Once an application has been submitted to the Town, it may be tracked using the [Interactive Development Map](#) or the [Apex Development Report](#) located on the Town of Apex website at [www.apexnc.org](http://www.apexnc.org).

A Neighborhood Meeting is required because this project includes (check all that apply):

Application Type	Approving Authority
<input checked="" type="checkbox"/> Rezoning (including Planned Unit Development)	Town Council
<input type="checkbox"/> Major Site Plan	Town Council (QJPH*)
<input type="checkbox"/> Special Use Permit	Town Council (QJPH*)
<input type="checkbox"/> Residential Master Subdivision Plan (excludes exempt subdivisions)	Technical Review Committee (staff)

\*Quasi-Judicial Public Hearing: The Town Council cannot discuss the project prior to the public hearing.

The following is a description of the proposal (also see attached map(s) and/or plan sheet(s)):

Property request for rezone as MORR with conditional zoning. (Mixed use: office, residential, retail)

Estimated submittal date: November 1, 2019

## MEETING INFORMATION:

Property Owner(s) name(s): Brian Griffith of Friendship Coworking, LLC & Miuccio Trust

Applicant(s): Brian Griffith (acting as agent for both properties)

Contact information (email/phone): briandgriffith@outlook.com (preferred) / (919) 387-8775

Meeting Address: 2524 Kelly Road, Apex, NC 27502 in Shop at rear of property

Date of meeting\*\*: Monday, October 28, 2019

Time of meeting\*\*: 6PM - 8PM

## MEETING AGENDA TIMES:

Welcome: 6:00-6:10 PM Project Presentation: 6:10-6:20 PM Question & Answer: 6:20-8:00 PM

\*\*Meetings shall occur between 5:00 p.m.-9:00 p.m. on a Monday through Thursday (excluding Town recognized holidays). If you have questions about the general process for this application, please contact the Planning Department at 919-249-3426. You may also find information about the Apex Planning Department and on-going planning efforts at <http://www.apexnc.org/180/Planning>.



# PROJECT CONTACT INFORMATION

This document is a public record under the North Carolina Public Records Act and may be published on the Town's website or disclosed to third parties.

## Development Contacts:

Project Name: 2524 & 2604 Kelly Rd Zoning: Exist: RR, Proposed MORR-CZ

Location: 2524 & 2604 Kelly Rd, Apex, NC 27502

Property PIN(s): 07314330004, 0731424892 Acreage/Square Feet: 1.15 & 0.95

Property Owner: Brian Griffith (acting as agent for both parcels) & Miuccio Trust

Address: 2121 McKenzie Ridge Ln. (Miuccio: 2604 Kelly Rd)

City: Apex State: NC Zip: 27502

Phone: (919) 387-8775 Email: briandgriffith@outlook.com

Developer: N/A

Address: \_\_\_\_\_

City: \_\_\_\_\_ State: \_\_\_\_\_ Zip: \_\_\_\_\_

Phone: \_\_\_\_\_ Fax: \_\_\_\_\_ Email: \_\_\_\_\_

Engineer: Brian D. Griffith, AIA

Address: 2121 McKenzie Ridge Ln

City: Apex State: NC Zip: 27502

Phone: (919) 387-8775 Fax: \_\_\_\_\_ Email: briandgriffith@outlook.com

Builder (if known): N/A

Address: \_\_\_\_\_

City: \_\_\_\_\_ State: \_\_\_\_\_ Zip: \_\_\_\_\_

Phone: \_\_\_\_\_ Fax: \_\_\_\_\_ Email: \_\_\_\_\_

**Please note that Town staff will not have complete information about a proposed development until the application is submitted for review. If you have a question about Town development standards and how they relate to the proposed development, please contact the appropriate staff person listed below.**

## Town of Apex Department Contacts

Planning Department Main Number (Provide development name or location to be routed to correct planner)	(919) 249-3426
Parks, Recreation & Cultural Resources Department Angela Reincke, Parks Planner	(919) 249-7468
Public Works - Transportation Russell Dalton, Senior Transportation Engineer	(919) 249-3358
Water Resources Department Mike Deaton, Stormwater & Utility Engineering Manager Stan Fortier, Senior Engineer (Sedimentation & Erosion Control)	(919) 249-3413 (919) 249-1166
Electric Utilities Division Rodney Smith, Electric Technical Services Manager	(919) 249-3342



### **Providing Input to Town Council:**

Each Town Council meeting agenda includes a Public Forum time when anyone is permitted to speak for three (3) minutes on any topic with the exception of items listed as Public Hearings for that meeting. The Town Council meets on the 1<sup>st</sup> and 3<sup>rd</sup> Tuesdays of each month at 7:00 p.m. (except for holidays, see schedule of meetings at <http://www.apexnc.org/838/Agendas-Minutes>). You may also contact Town Council by e-mail at [AllCouncil@apexnc.org](mailto:AllCouncil@apexnc.org).

### **Private Agreements and Easement Negotiation:**

The Town of Apex cannot enforce private agreements between developers and neighbors and is not a party to the easement and right-of-way negotiation that occurs between developers and neighboring property owners for easements or rights-of-way that are necessary to build the project.

It is recommended that all private agreements be made in writing and that if a property owner feels it necessary, they should obtain private legal counsel in order to protect their interests in both private agreements and during easement negotiations. The only conditions that the Town of Apex can enforce are those conditions that are made a part of the conditional zoning of the property by agreement of the developer and the Town.

As an example, if a developer offers to build a fence for a neighbor to mitigate some impact, the Town can only enforce the construction of the fence if the fence becomes a condition of the rezoning. This would occur by the developer offering the condition as part of their conditional zoning application package or at the Town Council public hearing on the conditional zoning and the Town accepting it as a condition. Private agreements regarding a fence being constructed will not be enforced by the Town.

To request that any agreement with a developer is made a part of the conditional zoning at the time of approval, you may ask at the Town Council public hearing if the agreement is included in the conditions. If it is not, you may request that the Town Council not approve the rezoning without the agreement being included in the conditions (note that it is up to Town Council whether to approve or deny the rezoning but they cannot impose conditions that the applicant does not agree to add). The developer's proposed conditions can be viewed any time after a rezoning is submitted on the Interactive Development Map at: <http://apexnc.maps.arcgis.com/apps/OnePane/basicviewer/index.html?appid=fa9ba2017b784030b15ef4da27d9e795>

### **Documentation:**

Neighbors to a requested new development and/or rezoning are strongly encouraged to fully document (such as through dated photographs) the condition of their property before any work is initiated for the new development. Stormwater controls installed on developed property are not designed to and will likely not remove 100% of the soil particles transported by stormwater runoff. As a result, creeks and ponds could become cloudy for a period of time after rain events.



## COMMON CONSTRUCTION ISSUES & WHO TO CALL

This document is a public record under the North Carolina Public Records Act and may be published on the Town's website or disclosed to third parties.

**Noise & Hours of Construction:** Non-Emergency Police 919-362-8661

Noise from tree removal, grading, excavating, paving, and building structures is a routine part of the construction process. The Town generally limits construction hours from 7:00 a.m. to 8:30 p.m. so that there are quiet times even during the construction process. Note that construction outside of these hours is allowed with special permission from the Town when it makes more sense to have the construction occur at night, often to avoid traffic issues. In addition, the Town limits hours of blasting rock to Monday through Friday from 8:00 a.m. to 5:00 p.m. Report violations of construction hours and other noise complaints to the Non-Emergency Police phone number at 919-362-8661.

**Construction Traffic:** James Misciagno 919-372-7470

Construction truck traffic will be heavy throughout the development process, including but not limited to removal of trees from site, loads of dirt coming in and/or out of the site, construction materials such as brick and wood brought to the site, asphalt and concrete trucks come in to pave, etc. The Town requires a construction entrance that is graveled to try to prevent as much dirt from leaving the site as possible. If dirt does get into the road, the Town can require they clean the street (see "Dirt in the Road" below).

**Road Damage & Traffic Control:** Water Resources – Infrastructure Inspections 919-362-8166

There can be issues with roadway damage, roadway improvements, and traffic control. Potholes, rutting, inadequate lanes/signing/stripping, poor traffic control, blocked sidewalks/paths are all common issues that should be reported to Water Resources – Infrastructure Inspections at 919-249-3427. The Town will get NCDOT involved if needed.

**Parking Violations:** Non-Emergency Police 919-362-8661

Unless a neighbor gives permission, there should be no construction parking in neighbors' driveways or on their property. Note that parking in the right-of-way is allowed, but Town regulations prohibit parking within 15 feet of driveways so as not to block sight triangles. Trespassing and parking complaints should be reported to the Non-Emergency Police phone number at 919-362-8661.

**Dirt in the Road:** James Misciagno 919-372-7470

Sediment (dirt) and mud gets into the existing roads due to rain events and/or vehicle traffic. These incidents should be reported to James Misciagno. He will coordinate the cleaning of the roadways with the developer.

**Dirt on Properties or in Streams:** James Misciagno 919-372-7470  
Danny Smith [Danny.Smith@ncdenr.gov](mailto:Danny.Smith@ncdenr.gov)

Sediment (dirt) can leave the site and get onto adjacent properties or into streams and stream buffers; it is typically transported off-site by rain events. These incidents should be reported to James Misciagno at 919-372-7470 so that he can coordinate the appropriate repairs with the developer. Impacts to the streams and stream buffers should also be reported to Danny Smith ([danny.smith@ncdenr.gov](mailto:danny.smith@ncdenr.gov)) with the State.

**Dust:** James Misciagno 919-372-7470

During dry weather dust often becomes a problem blowing into existing neighborhoods or roadways. These incidents should be reported to James Misciagno at 919-372-7470 so that he can coordinate the use of water trucks onsite with the grading contractor to help control the dust.

**Trash:** James Misciagno 919-372-7470

Excessive garbage and construction debris can blow around on a site or even off of the site. These incidents should be reported to James Misciagno at 919-372-7470. He will coordinate the cleanup and trash collection with the developer/home builder.

**Temporary Sediment Basins:** James Misciagno 919-372-7470

Temporary sediment basins during construction (prior to the conversion to the final stormwater pond) are often quite unattractive. Concerns should be reported to James Misciagno at 919-372-7470 so that he can coordinate the cleaning and/or mowing of the slopes and bottom of the pond with the developer.

**Stormwater Control Measures:** Mike Deaton 919-249-3413

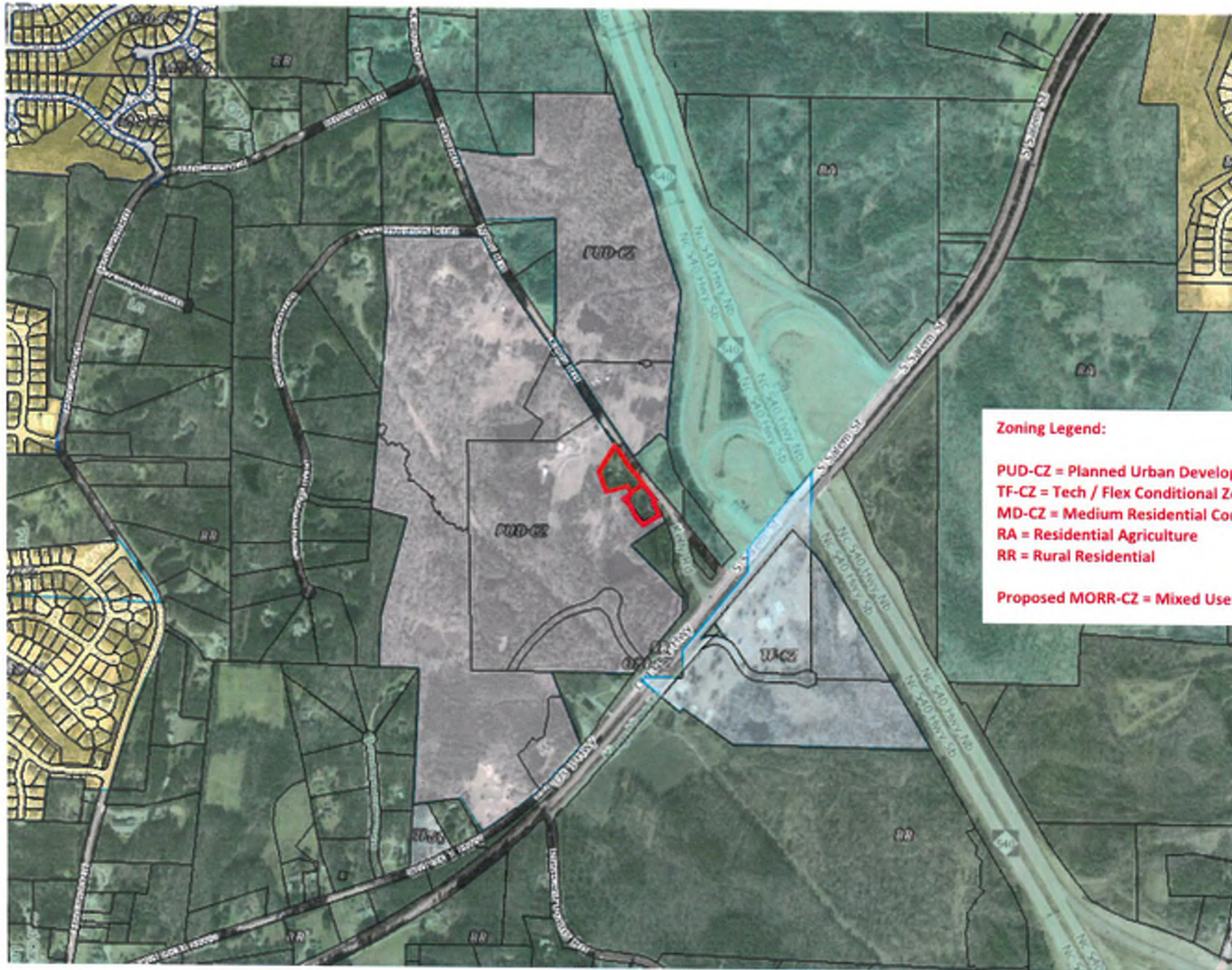
Post-construction concerns related to Stormwater Control Measures (typically a stormwater pond) such as conversion and long-term maintenance should be reported to Mike Deaton at 919-249-3413.

**Electric Utility Installation:** Rodney Smith 919-249-3342

Concerns with electric utility installation can be addressed by the Apex Electric Utilities Department. Contact Rodney Smith at 919-249-3342.



Existing Zoning / Vicinity Map:



**Zoning Legend:**

- PUD-CZ = Planned Urban Development Conditional Zoning**
- TF-CZ = Tech / Flex Conditional Zoning**
- MD-CZ = Medium Residential Conditional Zoning**
- RA = Residential Agriculture**
- RR = Rural Residential**

**Proposed MORR-CZ = Mixed Use: Office, Residential, Retail**



Location of 2524 Kelly Road property and notification radius:





Location of 2604 Kelly Road property and notification radius:





# NEIGHBORHOOD MEETING SIGN-IN SHEET

This document is a public record under the North Carolina Public Records Act and may be published on the Town's website or disclosed to third parties.

Meeting Address: 2524 Kelly Rd, Apex, NC 27502  
 Date of meeting: Monday, October 28, 2019 Time of meeting: 6:00 PM - 8:00 PM  
 Property Owner(s) name(s): Brian Griffith of Friendship Coworking, LLC  
 Applicant(s): Brian Griffith, Miuccio Trust

Please print your name below, state your address and/or affiliation with a neighborhood group, and provide your phone number and email address. Providing your name below does not represent support or opposition to the project; it is for documentation purposes only.

	NAME/ORGANIZATION	ADDRESS	PHONE #	EMAIL	SEND PLANS & UPDATES
1.	Brian Griffith, Friendship Coworking	2121 McKenzie Ridge Ln, APEX, NC			
2.	Wayne Kenney	201 High Meadow Dr Apex NC 27501			
3.	Tony Miuccio	2604 Kelly Rd			
4.					
5.					
6.					
7.					
8.					
9.					
10.					
11.					
12.					
13.					
14.					

Use additional sheets, if necessary.

# SUMMARY OF DISCUSSION FROM THE NEIGHBORHOOD MEETING

This document is a public record under the North Carolina Public Records Act and may be published on the Town's website or disclosed to third parties.

Property Owner(s) name(s): Brian Griffith, Miuccio Trust

Applicant(s): Brian Griffith

Contact information (email/phone): briandgriffith@outlook.com (preferred) / (919) 387-8775

Meeting Address: 2524 Kelly Rd, Apex, NC 27502

Date of meeting: October 28, 2019 Time of meeting: 6:00-8:00 PM

Please summarize the questions/comments and your response from the Neighborhood Meeting in the spaces below (attach additional sheets, if necessary). Please state if/how the project has been modified in response to any concerns. The response should not be "Noted" or "No Response". There has to be documentation of what consideration the neighbor's concern was given and justification for why no change was deemed warranted.

## Question/Concern #1:

Proposed location of water, sewer, and roadways of adjacent residential development?

## Applicant's Response:

Referred to publicly available plans by McAdams for West Village and Town of Apex Transportation map.

## Question/Concern #2:

Proposed use of 2524 parcel.

## Applicant's Response:

Use as coworking or office until future utilities and development made by others. Then parcel planned for redevelopment.

## Question/Concern #3:

Zoning / future development of immediate area.

## Applicant's Response:

Referred to Town of Apex current zoning map and 2045 zoning map.

## Question/Concern #4:

## Applicant's Response:



# AFFIDAVIT OF CONDUCTING A NEIGHBORHOOD MEETING, SIGN-IN SHEET AND ISSUES/RESPONSES SUBMITTAL

This document is a public record under the North Carolina Public Records Act and may be published on the Town's website or disclosed to third parties.

I, Brian Griffith, do hereby declare as follows:  
Print Name

1. I have conducted a Neighborhood Meeting for the proposed Rezoning, Major Site Plan, Master Subdivision Plan, or Special Use Permit in accordance with UDO Sec. 2.2.7 *Neighborhood Meeting*.
2. The meeting invitations were mailed to the Apex Planning Department, all property owners within 300 feet of the subject property and any neighborhood association that represents citizens in the area via first class mail a minimum of 10 days in advance of the Neighborhood Meeting.
3. The meeting was conducted at 2524 Kelly Rd, Apex, NC 27502 (location/address) on October 28, 2019 (date) from 6:00 PM (start time) to 8:00 PM (end time).
4. I have included the mailing list, meeting invitation, sign-in sheet, issue/response summary, and zoning map/reduced plans with the application.
5. I have prepared these materials in good faith and to the best of my ability.

10/29/2019  
Date

By:   
Brian D. Griffith

STATE OF NORTH CAROLINA  
COUNTY OF WAKE

Sworn and subscribed before me, Andria Franklin, a Notary Public for the above State and County, on this the 29 day of October, 2019.



Andria Franklin  
Notary Public  
Andria Franklin  
Print Name

My Commission Expires: 4/16/2023