

**TOWN OF APEX
TOWN COUNCIL REGULAR MEETING
TUESDAY, JANUARY 10, 2023
6:00 P.M.**

The Apex Town Council met for a regular meeting on Tuesday, January 10, 2023 at 6:00 p.m. at the Apex Town Hall located at 73 Hunter Street in Apex North Carolina.

[ATTENDANCE]

Elected Body

Mayor Jacques K. Gilbert (presiding)
Mayor Pro-Tempore Audra Killingsworth
Councilmember Brett Gantt
Councilmember Ed Gray
Councilmember Terry Mahaffey
Absent: None

Town Staff

Town Manager Catherine Crosby
Town Attorney Laurie Hohe
Town Clerk Allen Coleman
Deputy Town Manager Shawn Purvis
Assistant Town Manager Marty Stone
All other staff members will be identified appropriately below.

[COMMENCEMENT]

Mayor Gilbert called the meeting to order at 6:00 p.m. and welcomed the community and council back for a new year. He said faith and individual beliefs look differently throughout our community and the Town of Apex recognizes and celebrates those differences. He referred to the incident from the past week where an NFL player, Damar Hamlin, collapsed on the field and had to be resuscitated, and how people of all different religions turned to prayer in that time of fear and uncertainty.

Mayor Gilbert said individuals, regardless of their faith background, were always invited to deliver the invocation at regular town council meetings. He said a prayer offering thanks, asking for wisdom in discussing the best way forward for Apex, and emphasizing unity, love, hope, and peace.

Mayor Gilbert led the Town Council and members of the public in reciting the Pledge of Allegiance.

[CONSENT AGENDA]

A **motion** was made by Mayor Pro Tempore Audra Killingsworth, seconded by Councilmember Brett Gantt, to approve the Consent Agenda, as amended, with Consent Item No. 11 removed.

VOTE: UNANIMOUS (4-0)

CN1 2023 Revised Council Meeting Calendar

Council approved amendments to the Town Council meeting calendar for 2023.

CN2 Appointments - Public Art Committee

Council appointed Bradley Erickson and Susan Kirley to the Public Art Committee for a three-year (3) term each expiring January 31, 2025.

CN3 Fiscal Year 2023-2024 Annual Operating Budget Pre-Public Hearing - Set Public Hearing

Council set the Pre-Budget Public Hearing for Tuesday, January 24, 2023 at 6:00 p.m. to receive citizen input regarding the formulation of the Fiscal Year 2023-2024 Annual Operating Budget.

CN4 Encroachment Agreement - 1010 Woodlands Creek Way Lot 6 (Sherika Simpson)

Council approved an encroachment agreement between the Town and property owner Sherika Simpson to install a fence that will encroach 96 linear feet, a pool that will encroach 13 square feet, a pool pump that will encroach 5 square feet, two HVAC units that will encroach 12 square feet and a plastic shed that will encroach 40 square feet into the 20' Town of Apex Public Storm Drainage Easement and authorized the Town Manager to execute the agreement. A copy of this agreement is on file in the Office of the Town Clerk. Reference Document No. CONT-2023-006

CN5 Human Resources (HR) Policy Updates and Budget Ordinance Amendment No. 13 - 2022 Pay Study

Council approved various amendments and revisions to the Town's Position Classification Plan and corresponding pay policies, and approved a budget amendment related to the 2022 pay study.

Reference Document Nos. OTHER-2023-001, ORD-2023-001A

CN6 Resolution - North Carolina Department of Transportation (NCDOT) Paved Trails and Sidewalk Feasibility Study Grant Proposal

Council adopted a municipal resolution for the North Carolina Department of Transportation's Paved Trails and Sidewalk Feasibility Study Grant Proposal for the Town of Apex. Reference Document No. RES-2023-001

CN7 Rezoning Case No. 21CZ18 - Olive Chapel Professional Park

Council approved the Statement of the Town Council and Ordinance for Rezoning Case No. 21CZ18 Olive Chapel Professional Park. Jones and Cnossen Engineering, PLLC, petitioner, for the properties located at 0, 0, 0, 1480, 1460, and 1400 Chapel Ridge Road. A public hearing was conducted on November 29, 2022. Reference Document No. ORD-2023-005

CN8 Rezoning Case No. 22CZ18 - Humie Olive Place

Council approved the Statement of the Town Council and Ordinance for Rezoning Case No. 22CZ18 Humie Olive Place. Construction Masters, LLC, petitioner, for the properties located at 2157 and 0 Blazing Trail; 7994, 7988, and 7982 Humie Olive Road. A public hearing was conducted on November 29, 2022. Reference Document No. ORD-2023-003A

CN9 Rezoning Case No. 22CZ23 - Yellowbridge PUD Amendment - Set Public Hearing

Council set a public hearing for the January 24, 2023 Town Council meeting regarding Rezoning Case No. 22CZ23. The applicant, Tucker Ennis, Lennar Carolinas LLC, submitted a petition to rezoning approximately 48.2331 acres from Planned Unit Development-Conditional Zoning (PUD-CZ No. 22CZ06) to Planned Unit Development-Conditional Zoning (PUD-CZ). The proposed rezoning is located at 2813 and 2817 US 64 Highway West.

CN10 Rezoning Case No. 22CZ24 - Apex Gateway Ph 1 Amendment - Set Public Hearing

Council set a public hearing for the January 24, 2023 Town Council meeting regarding Rezoning Case No. 22CZ24 Apex Gateway Phase 1. The applicant Maggie Houston, Beacon Development, submitted a petition to rezoning approximately 132.11 acres from Light Industrial-Conditional Zoning (LI-CZ No. 22CZ02) to Light Industrial-Conditional Zoning (LI-CZ). The proposed rezoning is located at 104 NC Highway 751, NC Highway 751, 106 Off NC Highway 751, Off NC Highway 751.

~~CN11 Rezoning Case No. 22CZ25 - 0 Prince Dead End Road - Set Public Hearing~~

Shelly Mayo, Planner II

Council voted to remove this item from the Consent Agenda.

CN12 Tax Report - November 2022

Council voted to approved the Apex Tax Report dated December 09, 2022. Reference Document No. OTHER-2023-002

[UNFINISHED BUSINESS]**UB1 Appointment of Temporary At-Large Town Councilmember - Unexpired Term Ending December 6, 2023**

Allen Coleman, Town Clerk

Background:

On Tuesday, November 29, 2022, the Apex Town Council voted to accept Councilmember Cheryl Stallings resignation and initiate the selection process. Council unanimously voted to adopted a policy and process timeline for appointing a candidate to fill the unexpired term.

The application period was open from 9:00 AM on Wednesday, November 30 through 5:00 PM on Friday, December 9, 2022. The Town Clerk's Office in partnership with the Town's Communications' Department advertised the vacancy using a variety of platforms including the Town's website, social media, and local news media. A total of 34 completed applications were received for the temporary seat vacated by Former Councilmember Cheryl Stallings, who was recently elected to serve on the Wake County Board of Commissioners. Of the 34 applications, three did not meet the eligibility requirements set by the Apex Town Council.

On Friday, December 16, 2022, the Town Clerk's Office released the nomination results submitted by the Mayor and each individual Town Councilmember. Each member of the Town Council, including the Mayor, were able to select up to seven (7) candidates to be interviewed by the close of business day Friday, December 16, 2022. A total of seventeen (17) candidates received nominations, however, only four (4) received a majority (three or more) vote required to move forward in the process. The individuals who received three or more nominating votes were (in alphabetical order): John Marshall Barnes III, Tayon Dancy, Shagufta Hakeem, and Arno Zegerman.

On Friday, January 6, 2023, a Special Town Council meeting was held to conduct candidate interviews and hold a public hearing to receive feedback on the potential candidates. Two opportunities were provided for the public to provide comment: (A) Written Statements and (B) In-Person as part of the public hearing. The full meeting, including candidate interviews, the public hearing, and Council deliberations were open to the public and livestreamed on the Town's Youtube Channel: <https://www.youtube.com/c/TownofApexGov>

The following nominations and votes were captured by ballot form and announced by the Town Clerk:

Round One

Mayor Pro-Tempore Killingsworth for Arno Zegerman

Councilmember Mahaffey for Arno Zegerman

Councilmember Gantt for Tayon Dancy

Councilmember Gray for John Marshall Barnes

Nomination/Vote Results: Failed - lack of majority

Round Two

Mayor Pro-Tempore Killingsworth for Arno Zegerman

Councilmember Mahaffey for Arno Zegerman

Councilmember Gantt for Tayon Dancy

Councilmember Gray for Tayon Dancy

Nomination/Vote Results: Failed - 2-2 Tie (per adopted process the Mayor not eligible to vote)

Round Three

Mayor Pro-Tempore Killingsworth for Arno Zegerman

Councilmember Mahaffey for Arno Zegerman

Councilmember Gantt for Tayon Dancy

Councilmember Gray for Tayon Dancy

Nomination/Vote Results: Failed - 2-2 Tie (per adopted process the Mayor not eligible to vote)

Round Four

Mayor Pro-Tempore Killingsworth for Arno Zegerman

Councilmember Mahaffey for Arno Zegerman

Councilmember Gantt for Tayon Dancy

Councilmember Gray for Tayon Dancy

Nomination/Vote Results: Failed - 2-2 Tie (per adopted process the Mayor not eligible to vote)

Mayor Gilbert declared the meeting in recess for 15 minutes at 6:16 p.m.

Council reconvened at 6:31 p.m.

A **motion** was made by Councilmember Gantt to suspend the rules related to the voting process for selecting a candidate to fill the unexpired vacancy.

Motion fails due to lack of a second.

Mayor Gilbert, Councilmember Terry Mahaffey, and Councilmember Ed Gray all provided comments regarding the process.

Round Five

Mayor Pro-Tempore Killingsworth for Arno Zegerman

Councilmember Mahaffey for Arno Zegerman

Councilmember Gantt for Arno Zegerman

Councilmember Gray for Tayon Dancy

Nomination/Vote Results: Passed - Arno Zegerman

Mayor Gilbert declared the meeting in recess for 10 minutes at 6:50 p.m.

Council reconvened at 6:53 p.m.

PRESENTATIONS - None**[REGULAR AGENDA]**

A **motion** was made by Mayor Pro Tempore Audra Killingsworth, seconded by Councilmember Brett Gantt, to approve the Regular Agenda, as presented.

VOTE: UNANIMOUS (4-0)

PUBLIC FORUM

Public Forum allows the public an opportunity to address the Town Council. The speaker is requested not to address items that appear as Public Hearings scheduled on the Regular 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. Comments must be limited to 3 minutes to allow others the opportunity to speak.

Public Participation

- 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

Upon return from meeting recess, Mayor Gilbert opened up Public Forum.

First to Present was Elizabeth Ray Stitt of 3113 Friendship Road

“Mayor, Town Council, good evening and Happy New Year’s! At the December council meeting I shared that my neighbors and I were meeting with the town to have further discussions on the Big Branch Force Main that is proposed to come across our properties. What Allen is just handing out is a map that I brought tonight with some discussion points that we talked about in the conversation with the Town. The current route is proposed on the north side of US-1 and the Commons are on the upper left hand corner. The information that was given to us in the December meeting is still unacceptable, the impact to the various properties. So, at this point, unless there is some major change we don’t believe there will be, all of us neighbors are planning for litigation. We figure you guys are going to have to do eminent domain, because we don’t feel like there’s any common ground on what you’re proposing and the impact to our property. So that’s not good for us and that’s not good for the town. Litigation will cause your timelines to run far on the force main. So what we’re proposing is to ask the Town to relook at the route on the southern side, and you’ll see the points around it. In theory, the 30 foot easement can be 15 feet in the North Carolina DOT right of way, it could be 15 feet in the transmission line, there’s a lot of positives to that. And so, to that end, we are, or I am going to keep showing up. Our other neighbors are divide and conquering things, I got nominated to come here every other week. So we’re going to keep it on the radar and keep up the discussion, because we don’t want litigation and we don’t want eminent domain, just like you guys don’t want eminent domain either. We would also like to set up another meeting with the Town, we’re waiting for some dates to come back. We would love you guys to come out to our properties to understand how disastrous it is based on the current route. So you know how to get ahold of me, if you want to visit my neighbors without me I can get you in touch with them, but we would like you to get more engaged, especially given the impact to our properties. Thank you.”

Mayor Gilbert thanked Ms. Stitt for her comments.

Mayor Gilbert then invited Lazuli Abel of 4306 Haybeck Lane to deliver her comments.

"I guess I have to change my introduction to Good Evening everyone! I couldn't quite get my super awesome master document to you in time so we're just gonna have to role play for a sec. I'm a citizen who's been looking at ordinances across the country and seeing what successful, safe communities have in place to reach a safe vision, and you all are members of a town council who are convinced that mixed-use zoning and walkability are definitely beneficial for the town's citizens and pocket. And, go. Hello, do I hear correctly that you all are a collection of Town Council members who are convinced that mixed-use zoning and walkability are important to prioritize? What a coincidence, I've got a perfect list for you all to concretely put that vision in place, and bend all the complexities of that to your whim. 1) Require a safe separated bike lane on any new road or road re-surfacing. There's already so much resource going into the car infrastructure that I think it would be great to finally treat bicycles as the effective, environmentally safe, and cheaper form of transit that they are. 2) Use a coarser asphalt shown in government studies to reduce noise pollution by over 50%. Allow your people to talk to each other and enjoy being alongside a sidewalk not feeling a need to plug their ears every time traffic goes by. 3) Eliminate the huge land subsidies to vehicles by converting massive parking lots into productive areas, or by making parking spaces a paid service. We need to hold these cars accountable for the massive, unproductive, and expensive space that they necessitate and actually give that space back to the citizens, the people. 4) Eliminating parking minimums. This is a simple way to just stop endorsing every time there is a new development, the car first mindset. 5) Zone more mixed-use areas, allow children to learn independence and live healthier lifestyles by making sure parks, friends, libraries, and shops are safe to access by foot or bike. I'll try to get to the others. 6) Convert on-street parking into larger sidewalks. This would give the opportunity to show local businesses that you really respect them, because they need foot traffic, not car traffic going in front of them. Looks like I'm out so thanks for giving me your time, and I just hope that together we can use all of Apex's tools to deliver the people-focused mindset they deserve. Bye!"

Mayor Gilbert thanked Ms. Abel for her comments.

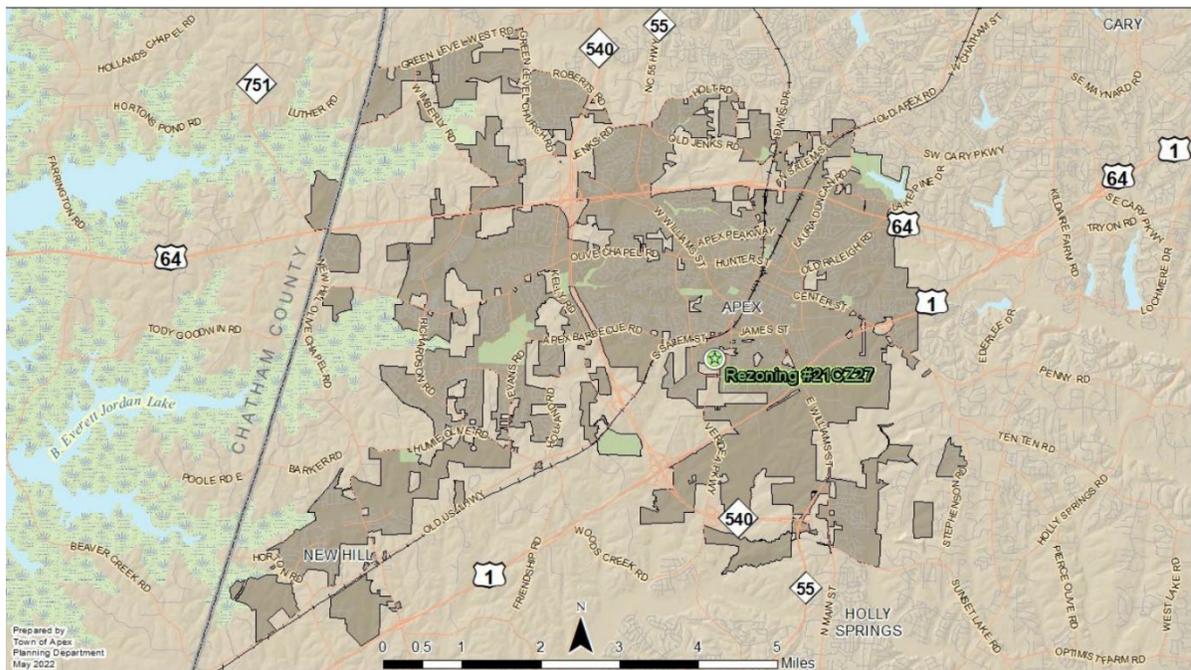
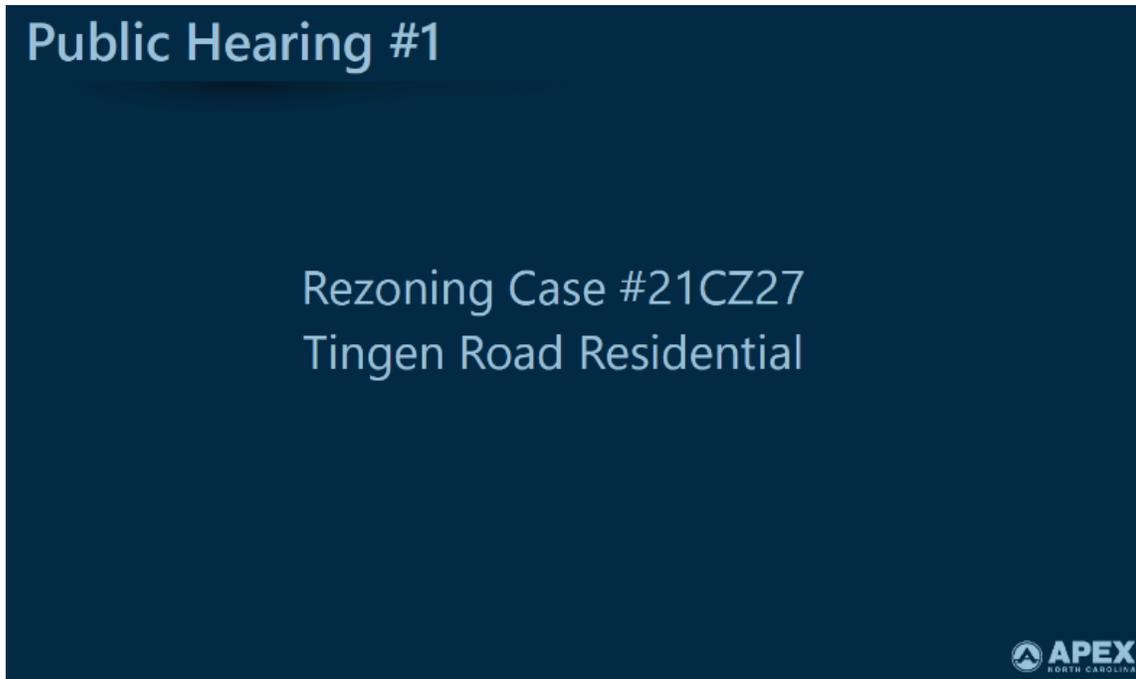
With no more signups, Mayor Gilbert closed public forum, and moved the meeting on to Public Hearings

PUBLIC HEARINGS

PH1 Rezoning Case No. 21CZ27 - 1010 Tingen Road

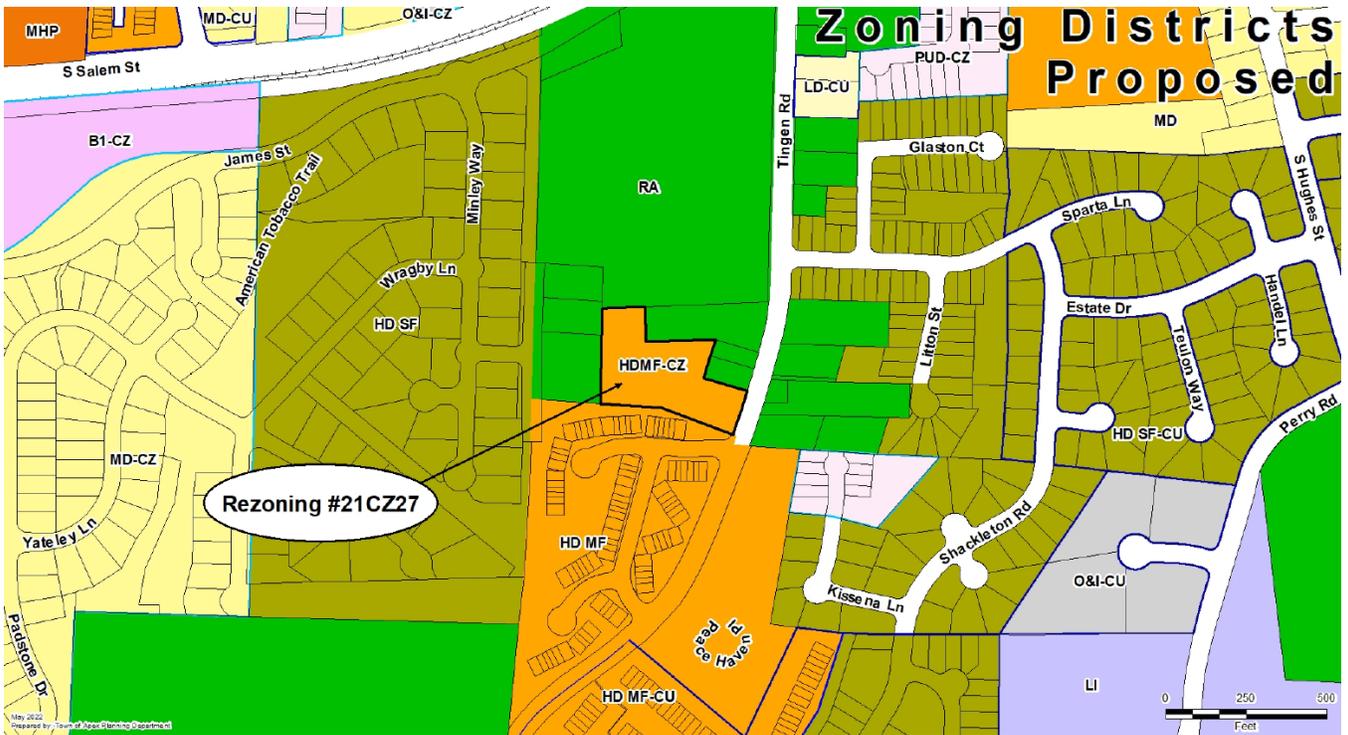
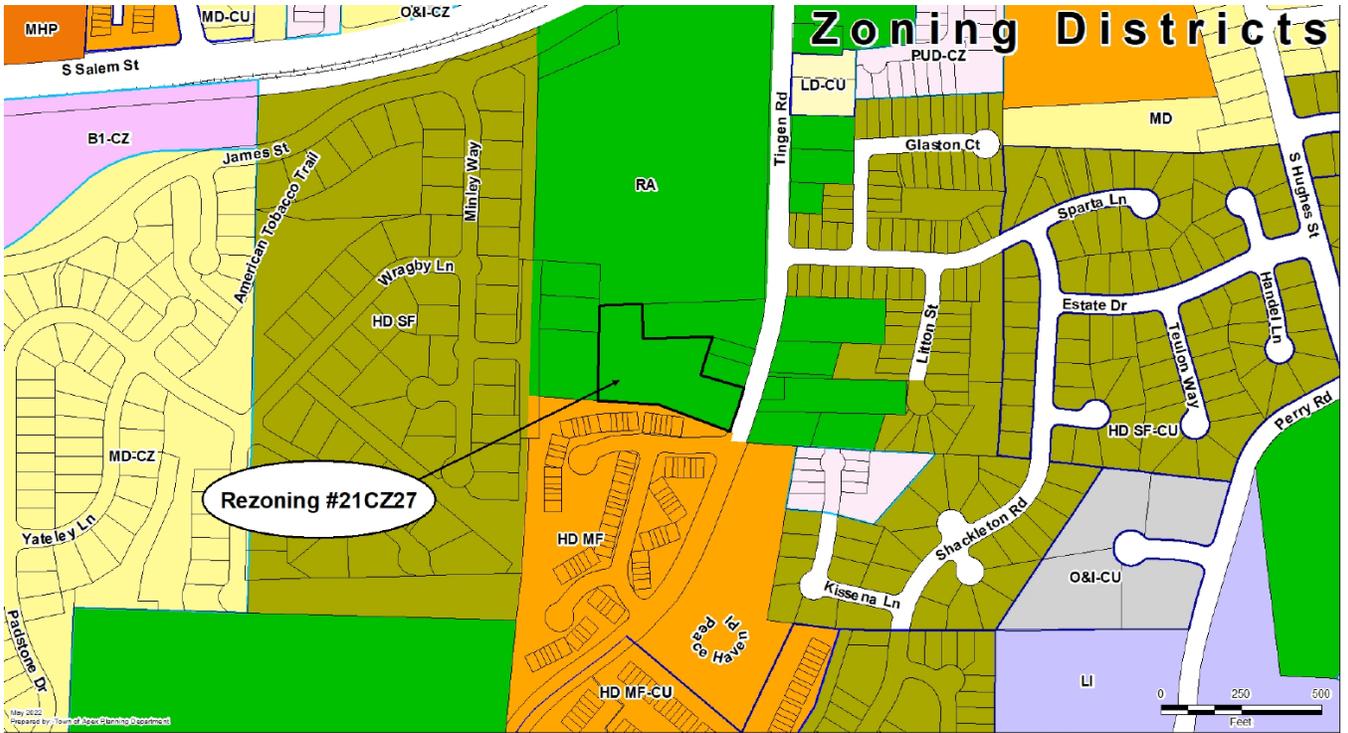
Shelly Mayo, Planner II

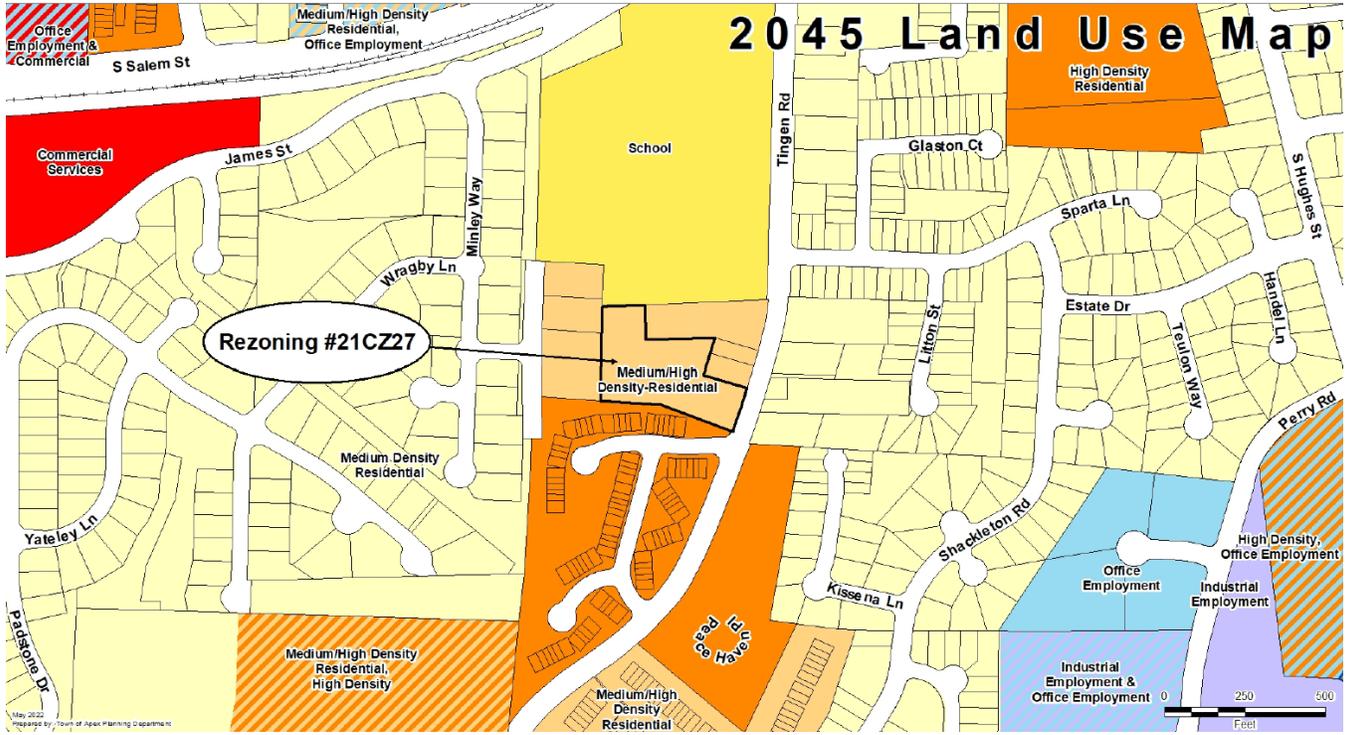
Shelly Mayo, Planner II, gave a staff presentation on Rezoning Case No. 21CZ27 - 1010 Tingen Road. Afterwards, she invited the Council to ask any questions.



Prepared by
Town of Apex
Planning Department
May 2022







Councilmember Gantt said he was wondering what distance would be required to allow for a full access entrance, and if a full access entrance would be granted if the road were constructed on the property directly Northeast of this one, which is owned by the same person.

Ms. Mayo said Russell Dalton, Traffic Engineering Manager, would have to answer regarding exact distances for those requirements, but said it was possible to craft language to do something like that, and that she would have to confer with the planning director and applicant.

Councilmember Gantt said he was wondering if the additional property could be rezoned as well if it were to be able to be given a full access movement

Ms. Mayo said she hasn't had discussions with the applicant about that yet, and would have to ask them what their plans are for it in the future. She said she was doubtful that adding the property to the Northeast to this rezoning would make the distance 300 feet from the previous road on Harbor Haven Drive. She asked Mr. Dalton to clear up the distance requirement on major thoroughfares.

Mr. Dalton said the department usually recommends 500 foot minimums between roads for full movement access. He also said he believes even if the developer was to add the property to the Northeast to the rezoning that it still would likely not be enough distance to meet that 500 foot minimum for full movement access.

Councilmember Gantt said he was concerned that people in the neighborhoods near the development would have to turn around within neighborhoods in order to go North on Tingen Road, which he said would be annoying for residents.

Mr. Dalton said if the property to the West was to develop, there would be an opportunity to provide a full movement access once the road was connected to Owlsmoor Lane, but he said he is uncertain on if or when that development may occur.

Mayor Pro Tem Killingsworth said she wanted more information regarding stormwater controls with this development.

Ms. Mayo said Robert Patterson, Senior Stormwater Engineer, would need to provide answers on that matter.

Mr. Patterson said he was wondering if Mayor Pro Tem Killingsworth had any specific questions about the stormwater situation with this property.

Mayor Pro Tem Killingsworth said in some of the pictures Council received, it looked as if stormwater from the property was getting very close to the property and houses to the south, and that she was concerned development on the property would cause this stormwater runoff to increase significantly without stormwater controls in this development.

Mr. Patterson said the development would have to meet 6.1 of the UDO, which requires peak continuation for the 1 in 10-year storm events as well as treatment of the first inch for water quality. He said the development would have to meet the conditions the Town sets for stormwater.

Mayor Pro Tem Killingsworth said she was curious if stormwater runoff improvements on the proposed development would improve runoff conditions currently seen by residents at the townhomes to the south.

Mr. Patterson said it would be difficult to say without having seen the property, and that is a question that is usually answered around construction drawing time, and that the engineer will conduct a stormwater impact analysis for the property to see if any adverse impacts were expected.

Ms. Mayo said that the Council received pictures showing a stormwater control device that is currently working as intended. She said there would be additional impervious surface with the new development, but that it would be treated based on the UDO and State guidelines. She said it should not increase stormwater impacts for the area to the south for normal storm conditions.

Councilmember Gantt said it looks like this parcel was draining into the townhome community to the south as the creek overflows. He said he was wondering if the development would add a system where stormwater would be controlled in a runoff pond, then put back into the creek.

Mr. Patterson said that was correct.

Councilmember Gantt said he was wondering if in Mr. Patterson or Ms. Mayo's experience that an area prone to erosion would have an erosion impact as a result of a development with a new stormwater control system.

Mr. Patterson said the stormwater control device would help control water quality as well as alleviate impacts of 1 in 10-year storm events to a point that is no worse than when the property began to be developed.

Councilmember Gantt said he was curious if the stormwater runoff would cause the drainage pond to begin eroding rather than the creek.

Ms. Mayo said the erosion and stormwater situations may not be completely connected.

Mr. Patterson said there was always some type of natural erosion in streams. He said the buffered portion goes up about halfway into the property, and that development could do channel stabilization in the area north of that buffer.

Councilmember Gantt said he wanted to know if the water north of that stream would be going to a pond as well

Mr. Patterson said that any runoff coming from north of the site would drain down normally, but any new impervious area on the site would be routed to a device.

Ms. Mayo said the applicant was not required to treat water coming from off-site, but is required to treat the net increase in impervious area caused by the development.

Councilmember Gray said he wanted to know if there were any conditions that would be appropriate to address potential extra stormwater runoff that we don't fully know about yet.

Ms. Mayo said they don't have enough information regarding that yet. She said the ordinance does say the ordinance clearly states that the development cannot make the stormwater runoff problem worse than it already is for any property.

Mr. Patterson said bank stabilization was not in the staff's authority to require a developer to do.

Ms. Mayo said that was something the Council could ask the applicant to do, but that staff does not currently have language that would make that enforceable at.

Councilmember Gantt said he was wondering how much of the stream would be in consideration for the bank stabilization issue.

Ms. Mayo said likely 100-150 feet

Councilmember Gantt said he was not sure if right in/right out would be necessary if the traffic patterns on Tingen Road change over time with new road connections and development.

Mr. Dalton said it was not a classification issue but rather a safety issue, as cars need enough distance to slow down before moving into a turn lane. He said there was a minimum requirement for that distance based on speed, and not traffic volume.

Mayor Gilbert invited the applicant to give a presentation.

On behalf of the applicant, Jason Barron of Morningstar Law Group gave a presentation, and after its conclusion invited Jeff Roach of Peak Engineering and Design to answer questions regarding stormwater for the site.

Councilmember Gantt said he wanted clarification regarding what was meant by “adverse consequences” in regards to implementing measures for a 1 in 25 year stormwater event.

Mr. Roach said there was a quantity question as well as a quality question. He said he didn't want to commit to solving a quantity issue of a 1 in 25-year storm, and it end up creating a quality issue downstream. Mr. Roach said they would do whatever was necessary to relieve the stormwater issues downstream. He said they will meet the 1 in 10-year storm and water quality requirements, and will work with the Town and go as far as they can in order to ensure the stormwater situation is left as good as possible. He said they are evaluating downstream conditions, but they have not fully researched the issue as the project is still in the zoning phase. He said there is some sand of this property, and will work to ensure the sand won't infiltrate pipe systems downstream. He said he just doesn't want to commit to one certain measure at the Council meeting tonight, as the situation may require something different depending on multiple factors in the future.

Councilmember Gantt said he was curious about the situation with the roads on the property.

Mr. Roach said he was working with staff and that the property to the northeast may be included in the future. He said the goal would be to have Owlsmoor Lane extended, as it would solve a lot of the connectivity projects described surrounding this project.

Councilmember Gantt said he was anticipating Harbor Haven Road to become the turnaround area for the people in this development in the interim, which he said would be very aggravating for the residents of that street.

Mr. Roach said there were many possibilities for people to come into the property currently, and even more with planned projects in the future.

Mayor Gilbert opened up Public Comment for this hearing.

Bridget Taylor of 226 Harbor Haven Drive was first to present comments

"I don't know if I can do this in 3 minutes but... I went to the planning board meeting for this property, was disappointed with the board only speaking about the low-income and such, how long it was going to property, little to nothing on the issues of this property. Yes, it's great the developer wants to build low income housing, but there are major issues with this property by adding an additional 16 homes. The first problem is the schools cannot handle anymore children at this time, this was stated by the planner. Also, please don't forget the Town of apex is already building 164 units two miles down the hill. Have you guys taken into consideration all these children? Putting them into these already overcrowded schools, is this okay to increase the overcrowding? Second problem, stormwater issue. Where is the developer going to move the stormwater so that it does not impact the existing homes. Yes, I understand the retention pond, but the water has to leave the retention pond, where is that water going to go? The current drainage for this property goes through West Haven Townhome complex. The problems have already occurred with the changes the town of Apex made by increasing the water flow from Tingen Road into the school's stormwater pond, which increased the sediment and water flow into the system. This caused major issues in the West Haven Townhome complex. This area cannot afford, cannot handle another increase. So where's this water supposedly going to go? According to the developer, if I understand correctly, they will move the water to the back of the property. Now that does have a shallow valley partway down, but only because the construction for the berm that was required for the West Haven townhomes. So how long will it take until it overflows or undercuts the berm and floods out the current residents in Salem Village in West Haven Townhomes. Does anybody even care about this? I mean, West Haven Townhomes is now dealing with a lack of care and resistibility for the stormwater damage done by others. We're getting the crap dumped on us. Last, I sat for the meeting and listened to them discuss a property that had four homes on it, they would not allow those four homes to enter the roadway on Holt Road, and I quote, "because there's an interchange 300 yards away and there was a curve." The planning board said it was too dangerous to connect to the roadway, so could you please explain how this property with 16 homes ins acceptable, because this property only has one way in and one way out, and that's on Tingen Road. The property owners on James Extension Street will not sell. This property is bordered by the school on

one side and West Haven Complex on the other. There is no other entrance or exit but Tingen Road. Tingen Road has three interchanges: Apex Peakway, Spartan road, and St James. It also has curves coming from both directions, not one. I really wish you'd look at the issues instead of being all googly-eyed for low-income housing, and that's all the planning board did."

Mayor Gilbert thanked Ms. Taylor for her time and invited the next speaker up

The next member of the public to give comment was Patricia Fritts of 206 Harbor Haven Drive

"Hello, my name is Patricia Fritts, I live at 206 Harbor Haven Drive, directly on the property line of 1010 Tingen Road. I have submitted numerous comments to the Council and to the planning board regarding the water that flows in between the building that I live on and the first building on Harbor Haven Drive. That water is really probably 10 feet away from the edge, the corner of the one building. And it's flat right there. So anymore water that comes down through there is gonna cause a big impact on our community. The stream bed is eroding and filling up our drainage area going down in to the woods, and it's a lot of sand. Sometimes it decreases and gets washed away a little bit, but it always comes back up. I'm also concerned with adding 20 townhomes there. I mean you figure maybe 2 cars per household, that's 40 more vehicles that are gonna be turning right, right in front of us, and what Ms. Taylor said is true. There's a corner that way and a corner coming this way. And even with the increased traffic caused by Salem Village, it's sometimes hard to get out, and I anticipate it probably would increase vehicle accidents, I don't know. But it just seems like 40 cars is a lot to add that road right now. I contacted JDI construction and asked for conditions to increase the stormwater management plan. I also asked them to add in a fence along the property line, because right behind our buildings is a hell. That 10-foot buffer is not gonna be enough. I mean those townhomes are gonna be, or apartments, or whatever he's gonna end up building, are gonna be right in my backdoor. I mean, people are probably gonna look right into my building. The buffer there is giant trees there. And that 10-foot buffer is gonna take that tree canopy away that protects those giant trees. And if they topple down on our buildings, they are gonna cause great property damage and probably are a great risk to, you know, cause injury to our residents if someone is unfortunate enough to be in the building

when a tree comes down. I mean there's a lot of dead trees in there too because it's pretty old, and there's always branches flying down., So I really would like the Council to consider carefully the impacts that allowing 20 Townhomes to go up in 2 acres, with a 50 foot stream buffer. The impact its gonna have on our community. I mean I think West Haven Townhomes was built as an affordable community in the first place. I don't know exactly but I think that a non-profit built them. I think we are a diverse community with moderate incomes, and I really want someone to unders...oops excuse me, I'm done. Please consider impacts on us, thank you."

Mayor Gilbert thanked Ms. Fritts for her time and invited the next speaker

Mr. Phil Welch of 1471 Big Leaf Loop was next to present

"Good evening Mayor and Town Council, my name is Phil Welch, I live at 1471 Big Leaf Loop. I'd like to speak in favor of rezoning the Tingen residential property. As the planner says, it's a great location for affordable housing. It's close the elementary school, it's close to downtown. And I'd like to point out that affordable housing is critically needed in the town. Especially so that our essential workers have at least a chance to live in the town here they work. I did testify at the planning board hearing about the income qualifications and the affordability period of ten years. I think those concerns were addressed and I think we need to move forward with the rezoning. My hope is, and this is an important point. My hope is that the price of the land will be reasonable so that the full maximum I believe of 20 townhomes, affordable townhomes, can be constructed and sold to income qualified buyers. Thank you."

Mayor Gilbert then thanked Mr. Welch

Mayor Gilbert then closed Public Hearing and opened Council discussion up

Councilmember Gray said he had questions for Mr. Dalton regarding the potential traffic issues that had been brought up throughout the discussion so far.

Mr. Dalton said it would not make a noticeable difference based on the current number of units, but that they are still recommending right in/right out based on the geometric spacing.

He said he doesn't have any oncoming traffic concerns based on what is currently being proposed.

Councilmember Gray said he was wondering if a Traffic Impact Analysis was not being done because the development was not large enough to trigger that threshold requirement.

Mr. Dalton said that was correct.

Councilmember Gantt said to imagine a scenario in the future where the Peakway was finished and the traffic flow was changed, and that he believed new developments would mitigate traffic flow on Tingen, particularly going north. He says he thinks over time people won't be using Harbor Haven to turn around in the future, and over time the traffic flow will be much better.

Councilmember Gray he felt that was a good way to think about it. He said he understood the skepticism on whether these larger traffic projects would be completed on time, but he said the Council should be focused on the long-term vision for the Town. He said they can't tell the future, but that the town should be making decisions based on the data and information available. He said they should rely on Mr. Dalton's expertise and interpretation of the data as he is an expert in the field. Mr. Gray said the photos of the stormwater runoff were troubling to him. He said he was not sure where the water was coming from, how long it has been going, and other point. He said he'd ask staff to continue researching the issue on the property and provide a report to him within the next 60 days. He said the current situation is a problem, and that it is a good thing that the applicant seems willing to fix the problem on site, even though they did not make it. He said the number of units in that space seems good to him, especially since they are meeting a need for more affordable housing. He said the town would need to address the transportation and traffic issues in the future, and that he is appreciative of the applicant being willing to work with them on those things. He says he thinks the project is overall good, and that he hopes more schools will be coming. He also advocated for the two year-round schools in Apex, which are at less than 70% occupancy to indicate there are possible solutions to

problems around this developments and others like it. He said he could support this project if they continue to look at solutions.

Mayor Pro Tem Killingsworth said the pictures of the stormwater and sediment runoff we “eye-opening”. She offered appreciation for the pictures being sent to them. She said in her experience, a lot of times stormwater runoff to an adjoining property is fixed by the property being developed as they put in the structures necessary to deal with it on their own land. She said the town has a great stormwater team that can help manage these types of situations. She said the affordable housing aspect was great, and that it was wonderful the developer was willing to work with them on mitigating runoff issues, and thus she could support the project.

Councilmember Mahaffey said stormwater is a very common topic at Council meetings. He said the instinct is a belief that development on a property close by will make stormwater issues worse. He said he believes people don’t realize that the Town has a law in it’s UDO which forbids development from making any stormwater problem on other land worse. He said if it is made worse, it becomes a problem with the town and they will have to fix it. He said people will feel better once they learn about that. He said it is actually beneficial to have land developed where a stormwater problem is emanating from, as it gives the developer an opportunity to fix the source of the problem along with their project. He said developers are not allowed to make it worse, and can potentially make it better. He said he understands the concern, but the laws state the problem cannot be made worse. He said the developers have a professional reputation to maintain, and that the Council would hold developers accountable for mistakes made by remembering it during future projects in the town. He said overall the motivation is for them to get it right and fix the problem. He asked the neighbors of this development to consider this perspective.

Councilmember Mahaffey also wanted to address the concern about school capacity. He mentioned a letter from the school system regarding the school capacity situation and how it may change once the planned school developments of the next five years come in. He said the Council takes these recommendations very seriously. He agreed the current capacity problems were bad, but these housing developments would take

years to build, along with the expansion of the local schools. He said there is a plan to address the capacity issues by all parties and so he can support the project.

Councilmember Gantt made a motion to approve Rezoning Case No. 21CZ27, seconded by Mayor Pro Tem Killingsworth.

Motion to approve Rezoning Case No. 21CZ27 passed unanimously, 4-0

AYES: Mayor Pro Tem Killingsworth, Councilmember Gray, Councilmember Mahaffey, Councilmember Gantt

NOES: None

PH2 Annexation No. 735 - Hatcher Property - 28.8420 acres

Dianne Khin, Planning Director

AND

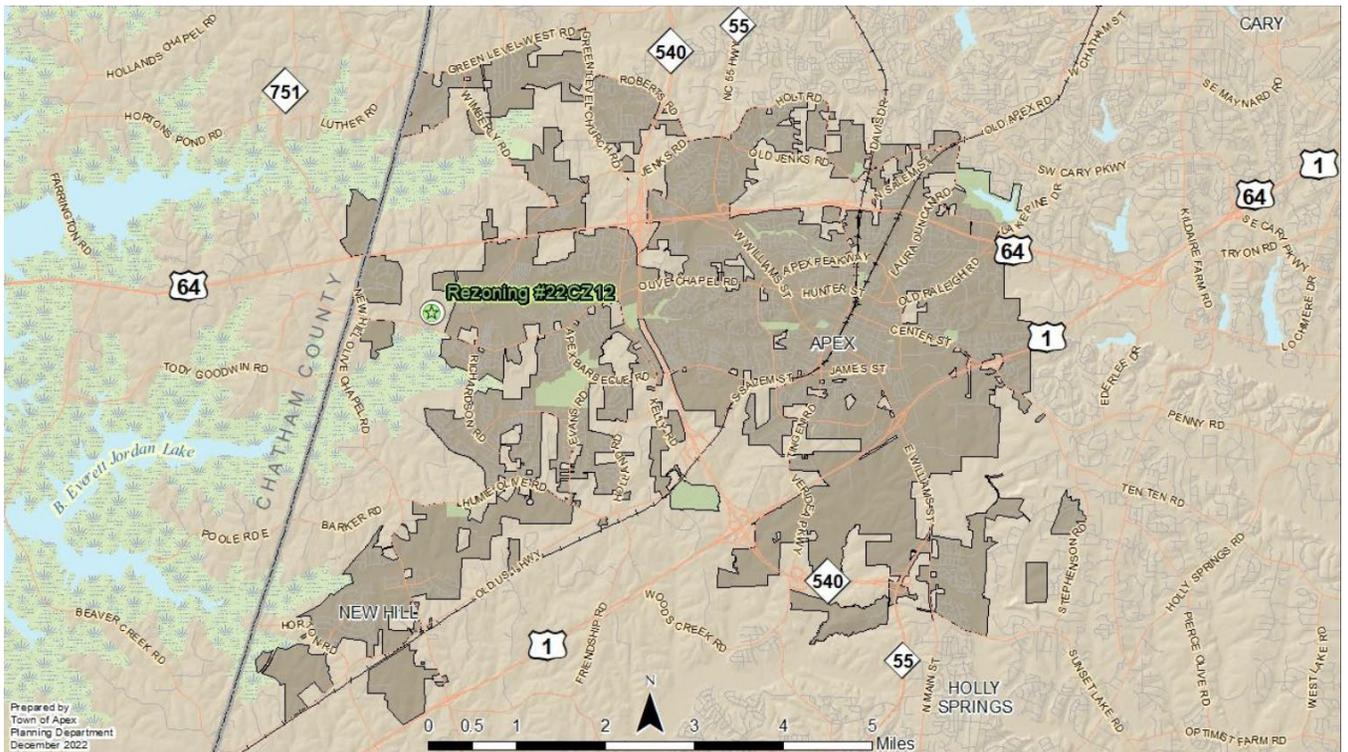
PH3 Rezoning Case No. 22CZ12 - Hatcher Property

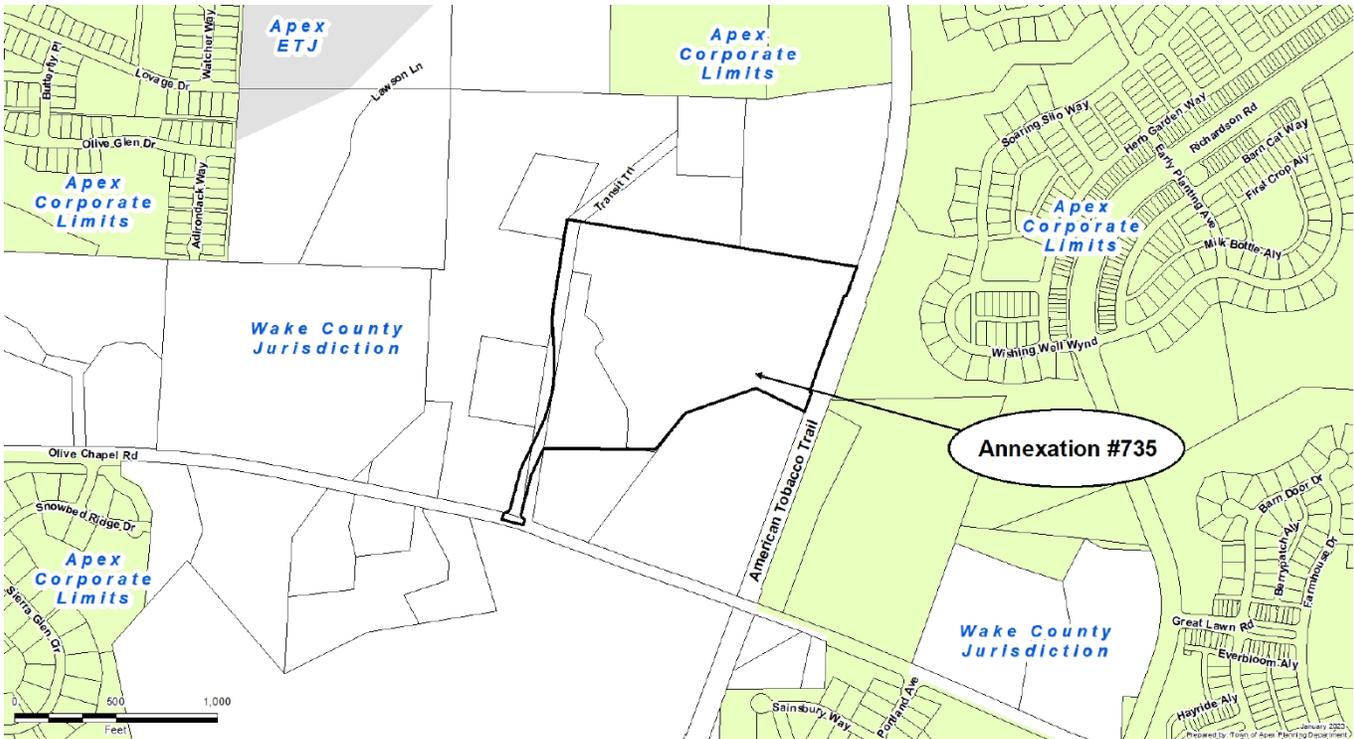
Shelly Mayo, Planner II

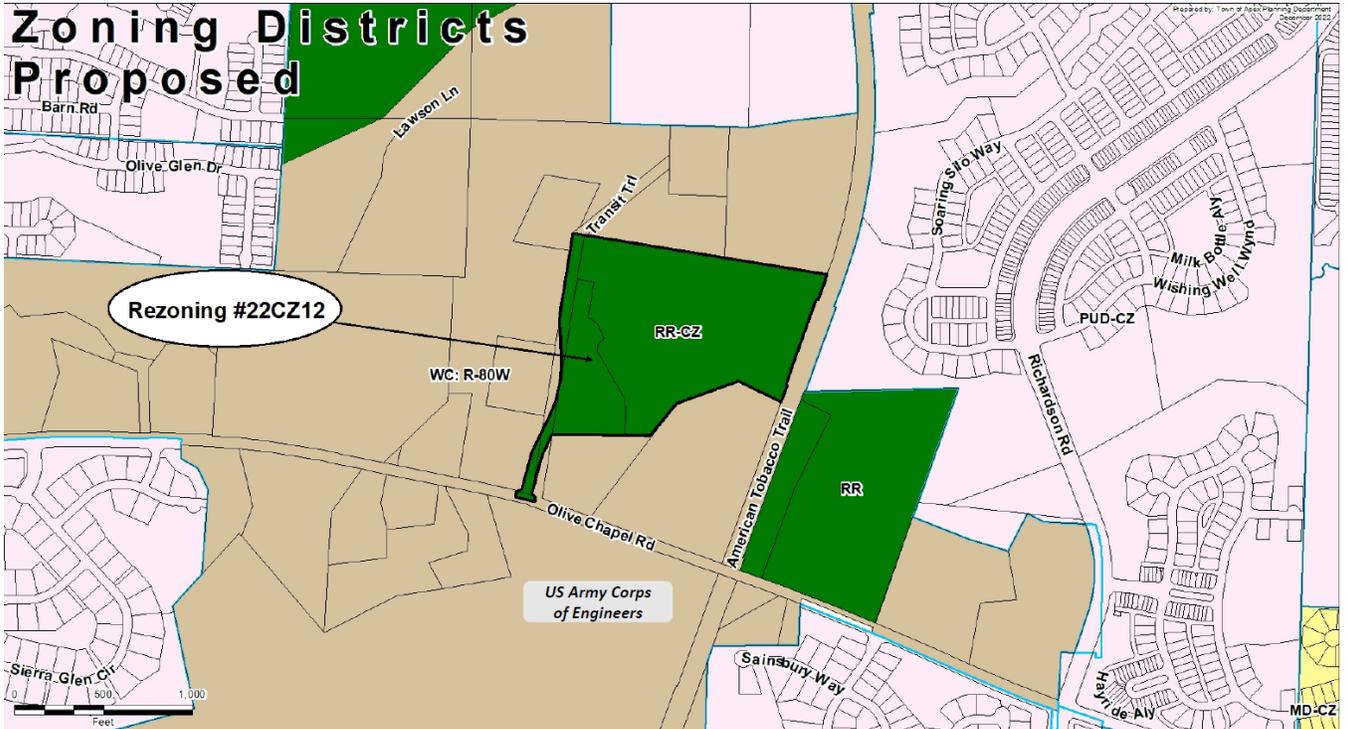
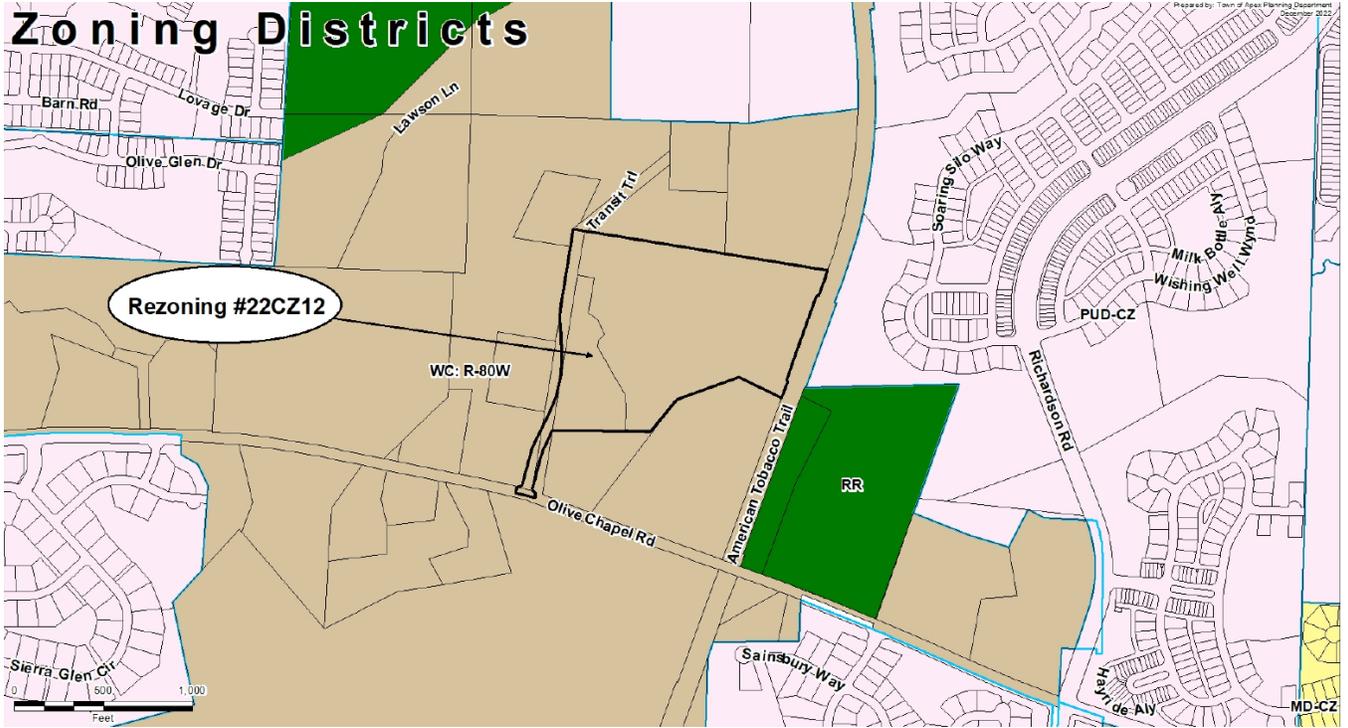
Ms. Mayo gave a presentation regarding Annexation No. 735 and Rezoning Case No. 22CZ12, and said she would field any questions and that the applicant was also there to do the same

Public Hearing #2 & #3

Annexation #735 & Rezoning Case #22CZ12 Hatcher Property









2045 Land Use Map If Rezoning Is Approved





- Zone A Condition 4 states:
 - Developer shall construct Transit Trail according to the Apex Thoroughfare and Collector Street Plan on 60' public right-of-way from Olive Chapel Road to the northern boundary of Zone A, along with a 10' Side Path for the entirety of the eastern side of the street, to be dedicated at the time of the first plat of the subdivision.
- Staff's recommended change:
 - Developer shall construct Transit Trail according to the Apex Thoroughfare and Collector Street Plan on 60' public right-of-way from Olive Chapel Road to the northern boundary of Zone A, along with a 10' Side Path for the entirety of the eastern side of the street, to be dedicated prior to recording a subdivision plat (exempt or otherwise) for Zone A.



Councilmember Mahaffey said he had made an inquiry about a potential school site north of the property.

Ms. Mayo said there is no new information. They remain interested in the site, but have not moved forward with anything.

Councilmember Gantt said there was a clock regarding when the school system was able to zone that land, and asked to be reminded what that was

Ms. Mayo said she wasn't exactly sure of the conditions, but that they have around 2 years from when the approval was granted for the rezoning or 2 years after the site plan for the apartments was submitted. She said she would look it up to find out and also remind the school of the clock and conditions on Councilmember Mahaffey's request.

Councilmember Gantt said this request would be a change from the original intent of the zoning requirements of 1 unit per 5 acres in this area and asked what staff felt about that.

Ms. Mayo said the staff feels the construction of Transit Trail north was a big bonus of this project, which would help save the town money and with bringing a new school in at that location. She said the school system typically wants to have 2 major points of access, and this development would help accomplish that while still remaining a relatively low density project at 1 unit per acre. She said staff feels this is still consistent with the broad intent of the rezoning, while also helping potentially relieve school capacity issues. She said there will also be several lanes and connection of pedestrian trails and sidewalks in the future of this area. She said staff feels the project is overall bringing more positives than negatives.

Councilmember Gantt said he was wondering if she would still feel the same way about the project's net positive nature if they knew the school was not going to be coming to that area.

Ms. Mayo said she felt the construction of Transit Trail would still have a positive impact on traffic relief in the area.

Councilmember Gantt said he wanted to know Ms. Mayo's belief on how the school would take having most of Transit Trail constructed from this project, but not all of it. He asked who would be responsible for the remaining construction and if the uncertainty would impact the school system's decision making.

Ms. Mayo said state law requires either the DOT or the town to provide any funding needed to complete traffic improvements to schools, depending on if it was a town or state road and if nobody else offered to fund it. She said developers were not required to undertake off-site improvements, and currently the town does not have a way to compensate them for it or require them to do it in this situation. She said staff made a request for this to the applicant, but was told it was not doable.

Mayor Gilbert called for a 10 minute recess

After the recess, Ms. Mayo wished to inform the Council that the developer has requested to add a condition saying they were not required to construct curb and gutter along the west side of Transit Trail, while the east side would have it and would have a 5 foot sidewalk from

Olive Chapel Road to the entrance of the future subdivision, and a 10 foot side path from the north side of the entrance to the edge of the property.

Councilmember Gantt said he was curious if this would mean the transportation plan would be changed to require side path on the west side of Transit Trail for the future developers to build.

Ms. Mayo said that was not a conversation staff has had yet, and that there was some greenway along the west side currently.

Councilmember Gantt said he wanted to know if there was precedent for one portion of the road to be left unfinished for future developers to take on as part of their requirements.

Ms. Mayo said this case was unique in that usually a public road would have both sides completed by the applicant, while private, rural roads sometimes left one side with just a ditch. She said it usually works out well in situations where the road has been out there to the public for a long time already, but it can depend on the traffic and other conditions in the area.

Councilmember Gantt asked if the road would crumble under heavier traffic from a potential school if the upgrades were not made by the applicant.

Ms. Mayo said she believed that would be the case but couldn't be certain. She said there are examples of in the town where one side of a road leading to a school has curb and gutter while the other does not.

Councilmember Mahaffey pointed out that leaving one half of the road without curb and gutter would provide an incentive for the town to bring more development to the other side under similar zoning conditions to get the road fully upgraded. He also said the requirements in the ordinance for the applicant illustrate a semantic difference, as the road is currently classified as a private driveway, which is different from an already

public road they are developing on. He said he also sees a fairness issue in going forward with this.

Councilmember Gantt said he had a question for staff regarding if it would change the precedent for the zoning in the area in the future.

Planning director Dianne Khin said staff had not talked about that, and any changes to the official zoning of the areas would be part of the 2055 land use map. She said it would make sense to do for the properties north of the property in order to help finish the road.

Councilmember Mahaffey said it likely wasn't necessary to worry about the overall rezoning right now and that it was likely some of the 1 per 5 acre zones in this area would be changed to 1 per 1 acre zones in the near future.

Patrick Kiernan of Jones and Cnossen Engineering gave a presentation on behalf of the applicant, and offered to answer any questions from the Council

Councilmember Gray said he wanted to understand the difference between Zone A and Zone B in the plans and why they were split up.

Mr. Kiernan said the applicant and staff felt as though splitting it up into two zoning areas would allow the landscape buffer to be put between Zone A and Zone B, rather than between the southern part of the property and its adjoining parcel. He said the property owner of the lot to the south does not have any desire for an additional buffer. He said the zones allowed the required 10 foot buffer to be placed between areas on the projects property.

Mayor Pro Tem Killingsworth said she was concerned about the driveway situation of the development and its safety risk, considering the increased traffic in the area. She said she wanted to follow staff's recommendation for the driveway accommodations in order to decrease risk of accidents. She said the less amount of driveway access onto to a major collector the better.

Mr. Kiernan said the grading of the road on the southern bounds of the property was not steep as originally thought and was around 5%, correcting a conversation he had with Mayor Pro Tem Killingsworth previously. He said the plans for a third driveway were to help accommodate adjoining apartments to houses in Zone A. He said his client feels the third driveway was desirable, and that he (Mr. Kiernan) does not feel it poses a significantly greater risk, especially considering the driveways would allow for residents to typically drive forward onto the road rather than having to reverse to join the flow of traffic.

Mayor Pro Tem Killingsworth said even having one driveway onto a road on this kind of grading was dangerous, and that less was inherently better.

With no further questions from the council, Mayor Gilbert opened up public comment for this hearing.

Lazuli Abel of 4306 Haybeck Lane was the first to present comment

"Acquire this property and turn it low density, I dare you to tell the people in this town that the opportunity for this historic land to go to another generic neighborhood that's dime a dozen across the entire state and town itself, we need that as opposed to an inviting forestry space with gravel roads that you can bring your family to, perhaps there's a brick street lined with local shops underneath apartments and office spaces to create a real destination that only Apex could provide. And even from a financial point, a low density single-family home, I'm looking at the data in Apex, and the best factor that we have for the value per acre is something like 300-400 thousand, which sounds pretty good, but the most important points of interest in the town, ie downtown area and North Salem Street in general, places like that pull in over 2 million dollars per acre. So to sit here and claim that low density is the best option for this shows that you would prefer to cripple the town's budget and tell 400 people that don't even live in Apex you deserve the opportunity to live here, rather than looking at everyone in this town and in this room especially, that their quality of life is less important than this engineers vision on what the 20th residential neighborhood is in town. Plus, I love the irony of Transit Trail being used as a high speed connection between Olive Chapel and 64, when, if your mission is to reduce traffic in that area, by putting more people there who need a car to live there, so what if there's another road because all the people who live there

are gonna be driving there and it wouldn't even matter. And I don't quite remember what the exact quote was but I think I heard that the engineers aren't willing to build a sidewalk because it doesn't fit the vision of their motive or something. What, so they think that safe infrastructure for us citizens is less important than what number is gonna go in their bank account at the end of all this? So zone this low density and I want you to look at everyone and say their quality of life is less important than people that don't live here."

Mayor Gilbert thanked Ms. Abel for her comment

With no other sign ups, Mayor Gilbert sent discussion back to the Council

Councilmember Gray said his real concern was the parcel to the north of this one and this parcel in particular. He said if the town wanted to attract a school to it and alleviate some crowding problems, having a large portion of the road be built as part of this project would be very attractive. He said he really liked that it can also be done without using the town's money. He said he likes the idea of not fully developing the west side of the road, because it gives more flexibility on what to do with that side if the school does end up going in that area, for things such as a carpool lane or a bus stop.

Councilmember Mahaffey wanted to ensure people understood that this project would not guarantee a school to come to this area. He said it does make the site more attractive for a school if the road access is better, and that the site had been reserved for them, though it has yet to be acted on. He said he believes there is still a lot of good in getting the road developed even if the school doesn't end up coming there, and for that reason he will support the project.

Councilmember Gray said they should keep the option open for the school to come there in the future by further developing the area.

Mayor Pro Tem Killingsworth said she was still concerned about the 3 driveways on the property.

Councilmember Gantt said he was proud of the creation of the 1 per 5 acres land designation, and that they're undoing it the first chance they have to keep it. He said he finds some of the suburban develops in the west of the town to be undesirable, and that he always needs a compelling reason to overlook the vision and purpose of the 1 per 5 acres designation. He said this project doesn't offer a full connection between roads for this community, so that doesn't offer a large enough benefit in his mind.

Councilmember Mahaffey said he wished to push back against these comments a bit. He said it would be large improvements to major road access and would provide great commercial benefit as well as benefit to a potential school in the future. He said getting 90% of the was a lot, and they could work with the property owner on the remainder of the land to complete the connection in the future.

This property owner was present, and offered to speak to this issue

Before he came up, Mayor Pro Tem Killingsworth said she wanted to ask the applicant about the driveway situation

Mr. Kiernan said the applicant was willing to reduce it back down to staff's recommended 2 driveways instead of 3.

The property owner of the land in question above, Kip Clement of 1801 Transit Trail came up to deliver comments

"Good evening, I represent the Clement family, which does own the property on the left of Transit Trail, and to the north of Mr. Ioanni's property. And I just want to be clear, because maybe I'm misunderstanding, as far as this additional missing segment as y'all have liked to put it, that has not been on the table, and at the present time is not on the table. So if that's what you're talking about, and I realize we're talking about in the future, and I realize that things change, but as far as right now that is as far as we're willing to change."

Councilmember Mahaffey said it was fine that the property owner didn't want to sell now, it would be a concern for the future.

Councilmember Gantt said there have been instances where there has been instances with lawsuits where there was a missing connection and things have escalated. He said this was something he wished to avoid. He said the lack of a sale or right of way being on the table currently is informing his decision on this.

Councilmember Mahaffey said he was quoting a wise person from a previous project (referring to Councilmember Gantt) who said "Terry, building something 80% of the way is better than getting nothing at all."

Councilmember Gantt said the project he said that in reference to (the Yellowbridge project) was quite a bit different in terms of density and mixed-use zoning than this one is.

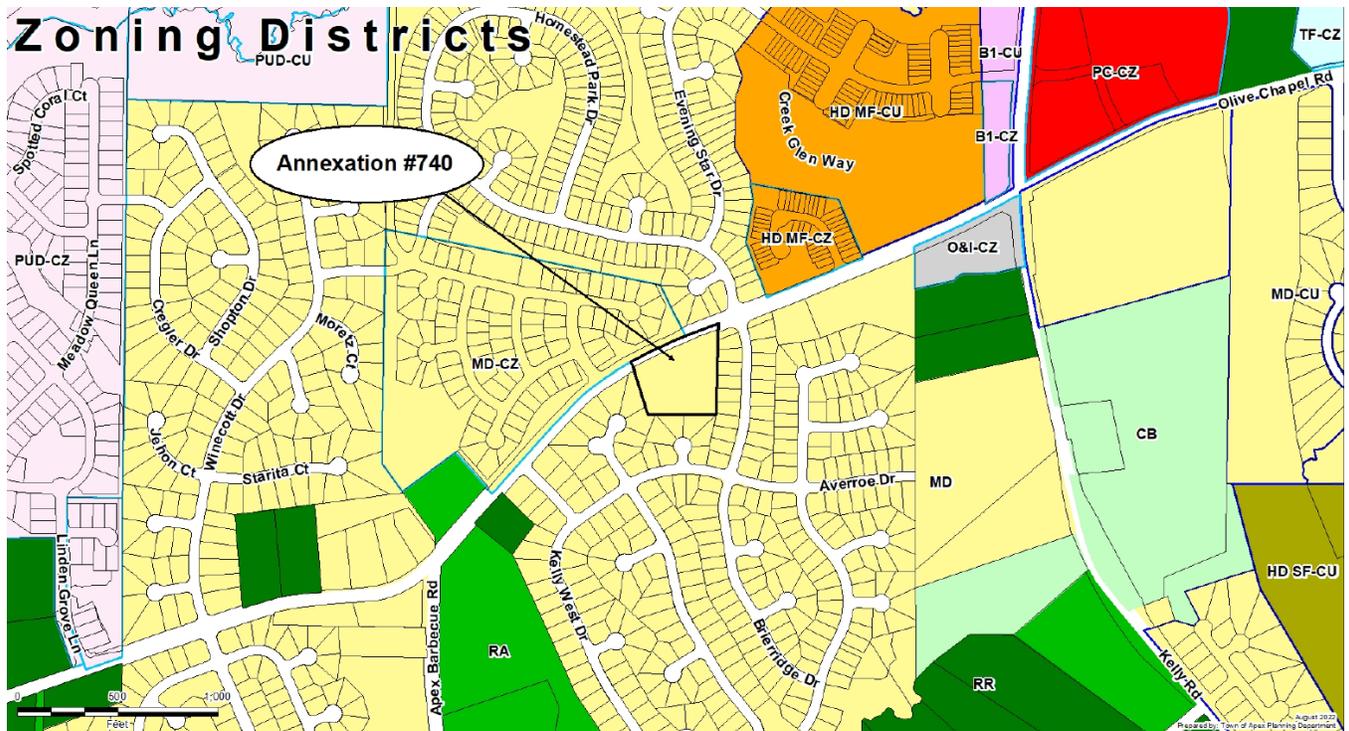
Mayor Pro Tem Killingsworth said it may help reduce traffic in areas of similar density, and Councilmember Gantt acknowledged it.

Councilmember Mahaffey made a motion to approve Annexation No. 735 and Rezoning Case No. 22CZ12 with the added conditions of dropping the number of driveways down to two and agreeing to the applicant's condition of not having curb and gutter on the western side, Councilmember Gray seconded.

Motion to approve Annexation No. 735 and Case No. 22CZ12 passed, 3-1

AYES: Mayor Pro Tem Killingsworth, Councilmember Gray, Councilmember Mahaffey,

NOES: Councilmember Gantt



No sign ups were made for public hearing on this matter

Councilmember Gray said he wanted to note that the town is getting more and more smaller parcels requesting annexation and that inevitably leads to more rezoning requests. He said since these parcels are typically smaller, a lot of considerations such as those from the Parks and Rec advisory board and the Environmental Advisory Board don't apply. He said the Council may need to look at applying things smaller properties are currently exempt from in order to maintain uniformity over time.

Councilmember Gantt said he wanted to know if the Council could require rezoning in annexation cases like this even if the area was already zoned

Ms. Khin said that was not possible, but that you could do that if land is being annexed from the county, but that does not apply here as this land is currently in the Extraterritorial Planning Jurisdiction (ETJ)

Councilmember Gantt also wanted to know if it were possible to limit exemptions currently for properties of this size.

Ms. Khin said she did not believe so

Councilmember Mahaffey said the Council needed to be sure they remained diligent when looking at potential “donut holes” that would naturally be parts of developments

Councilmember Gray said his main point is that the Council may want to look at certain exemptions for smaller properties, such as something like how much sidewalk they are required to construct. He said sometimes there can be conditions that end up creating undesirable scenarios, and asked staff to begin thinking about those kinds of issues as they pop up in properties like this.

Ms. Khin said sometimes developers attempt to purchase a “donut hole” around their development, but are not as able to do so as land owners are not always willing to sell, as she says in a later case on the agenda tonight.

Councilmember Gantt said he wondered if they would be required to provide stormwater controls

Mr. Patterson and Ms. Khin said based on the size of the plot it was likely that they would.

Mayor Pro Tem Killingsworth made a motion to approve Annexation No. 740, Councilmember Gray seconded.

Motion to approve Annexation No. 740 passed unanimously, 4-0

AYES: Mayor Pro Tem Killingsworth, Councilmember Gray, Councilmember Mahaffey, Councilmember Gantt

NOES: None

PH5 Annexation No. 741 - The Townes at the Station PUD - 16.30 acres

Dianne Khin, Planning Director

AND

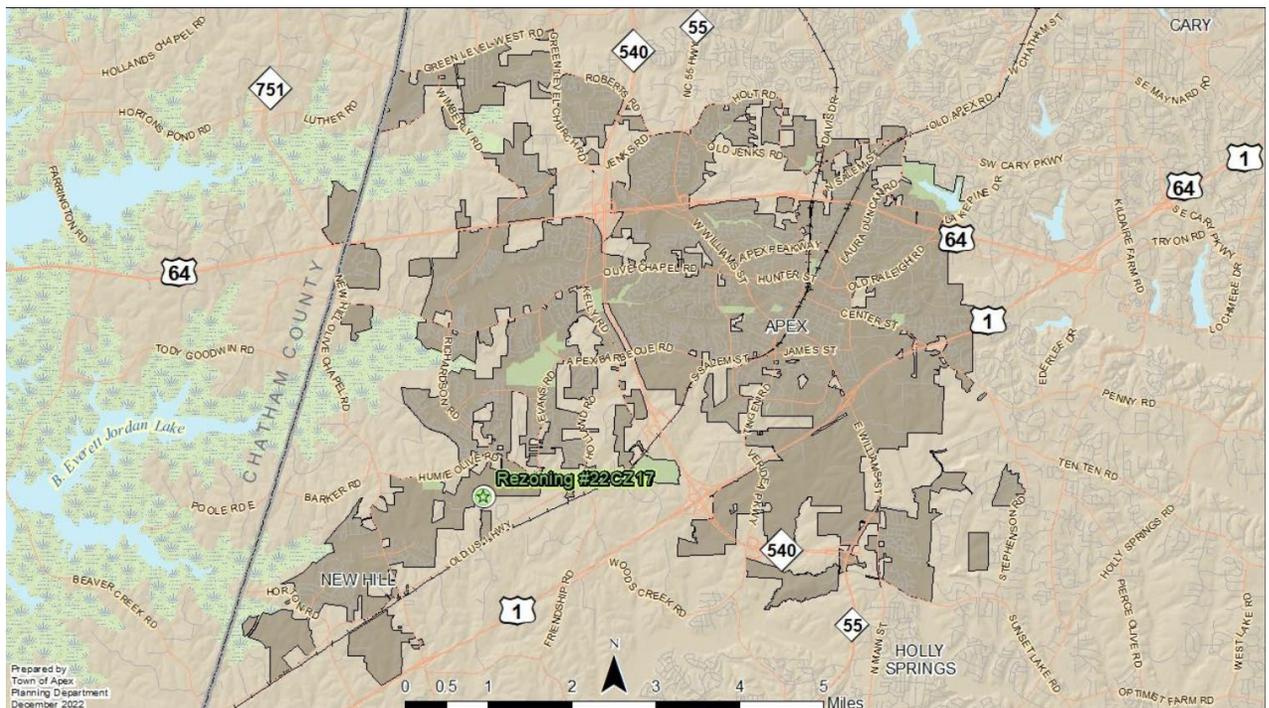
PH6 Rezoning Case No. 22CZ17 - The Townes at the Station PUD

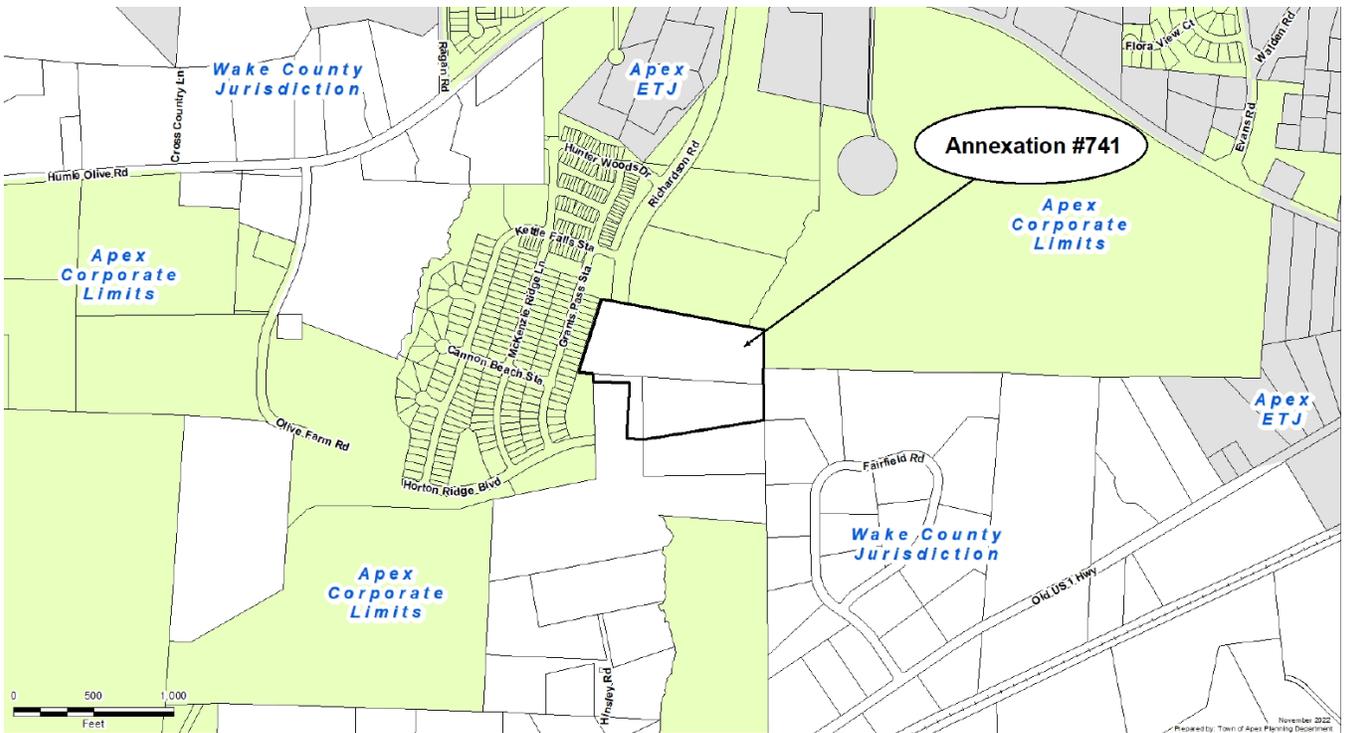
Shelly Mayo, Planner II

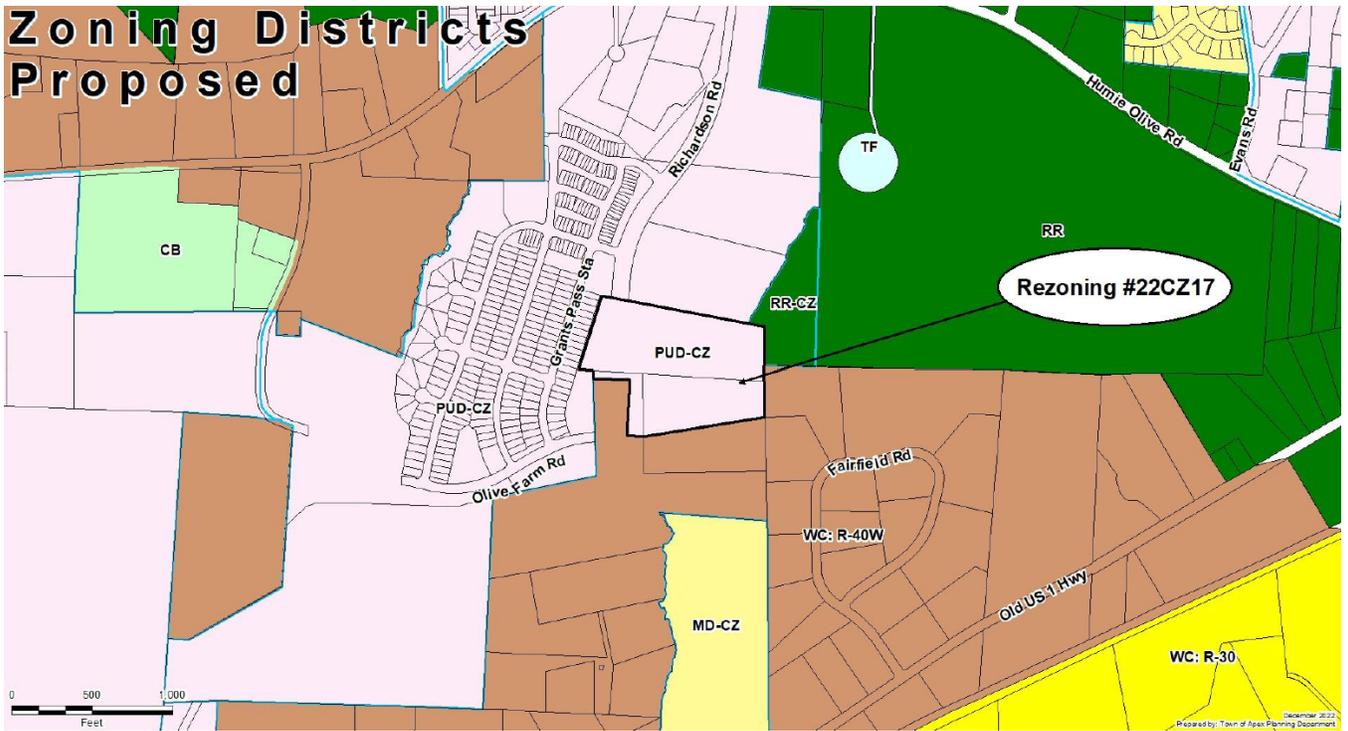
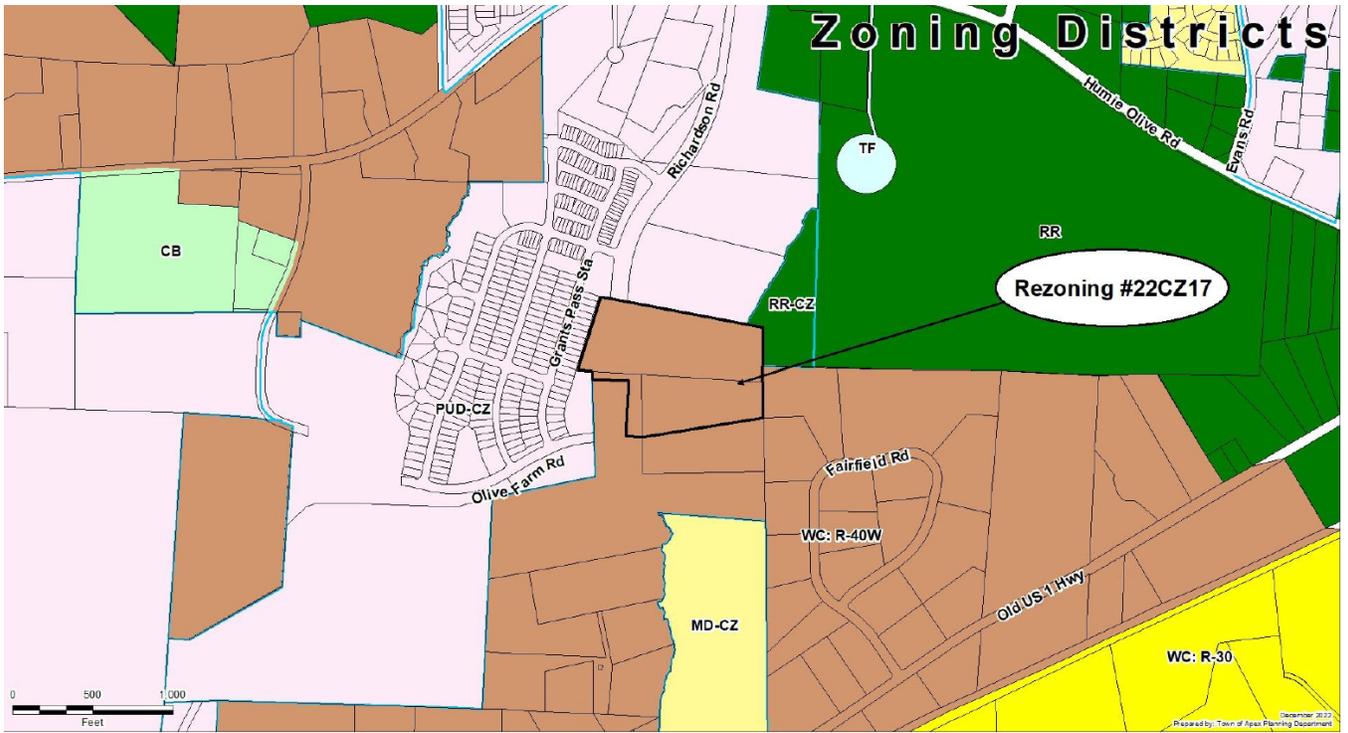
Ms. Mayo gave a presentation regarding Rezoning Case No. 22CZ17, and offered to answer questions the Council has.

Public Hearing #5 & #6

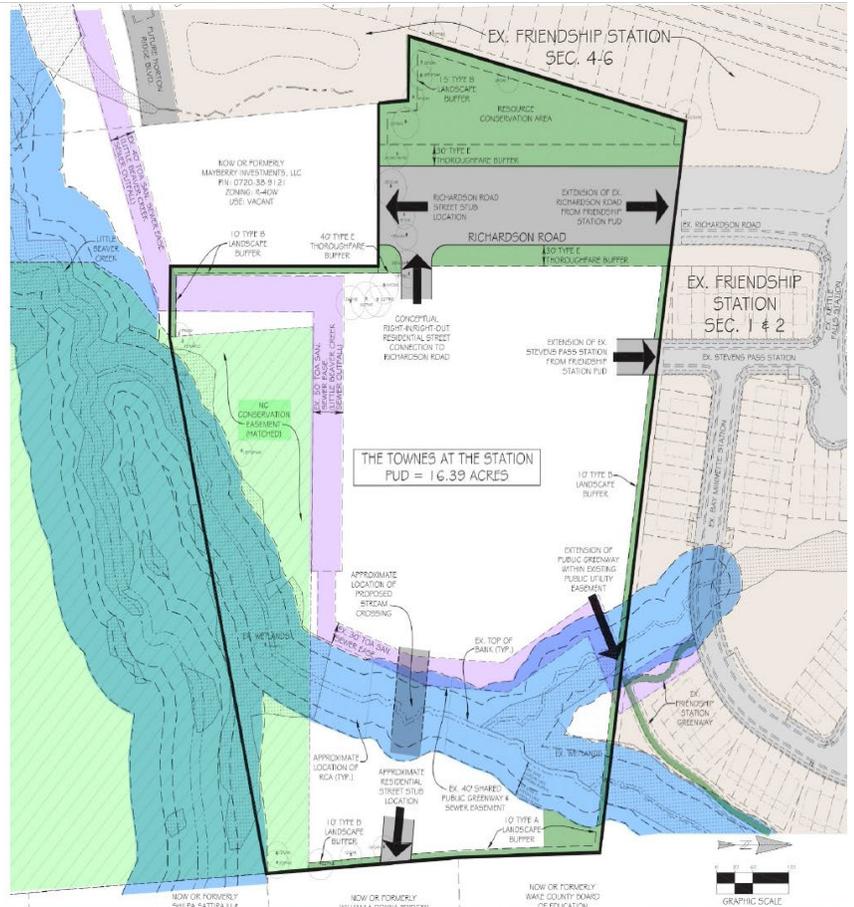
**Annexation #741 &
Rezoning Case #22CZ17
The Townes at the Station PUD**





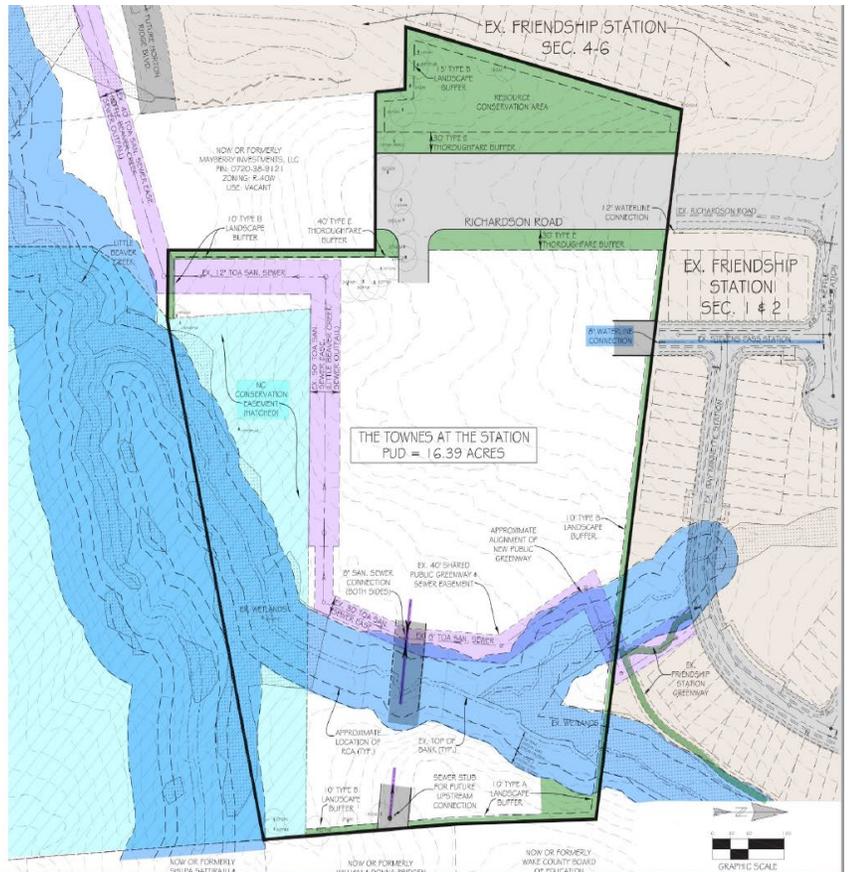


Site Layout



- ## Changes:
- A minimum 4kW solar PV system shall be installed on at least 4 townhomes units within the development. All solar installation required by this condition shall be completed or under construction prior to 90% of the building permits being issued for the development.
 - The maximum density for this project shall be 4.6 dwelling units/acre. There shall be no more than 75 townhomes.

Utility Plan



Elevations



Councilmember Gantt said he wanted to ask about the gap in road connection to Horton Ridge road and whether it would make it so parts of the property would have no commercial value and could only be used for infrastructure.

Ms. Mayo replied that she guesses the owner of the land that would connect the project to the road on the southwest wants to hold out selling until the town comes to them, it hopes it could bring in more money. She said was able to get some of the land from the adjoining property owner, but the remainder of the land they are not prepared to sell at this time. She said staff is encouraging negotiations between the parties, but there is nothing they can do to force the owner to sell the connecting land. She said staff does not want to recommend against approval based on a piece of land the applicant was not able to get. She said it is still a major positive that the town would get 500 linear feet of road built through this project. She said it would be great for the development to be able to connect to Horton Ridge Road, but staff and the applicant were not able to make it happen at this time.

Councilmember Mahaffey said he was bugged about the land swap that was done among these two property owners, as it maximizes the amount that the town will have to pay. He said the only part of the property that was not given as part of the transaction was the part that could only be built by the town once the development is built.

Mayor Pro Tem Killingsworth said she assumed a bridge would have to be built over the protected space.

Ms. Mayo said the bridge was going to be necessary at some point anyway, and that bridge was always going to be very expensive

Councilmember Gantt said that was a problem for future councils.

Mayor Pro Tem Killingsworth said it did seem to be expensive, but was necessary to build as part of the transportation plan's goal of establishing more connectivity.

Councilmember Mahaffey said he feels development connecting Richardson Drive was critical moving forward.

Mayor Pro Tem Killingsworth said she appreciated EAB recommendations being put into these cases

Ms. Mayo responded that she was the link between staff and the EAB, and there would be more cases coming up with that included

Mr. Kiernan gave a presentation, and offered to answer questions about the

Mayor Pro Tem Killingsworth said she was glad the applicant attempted to contact the property owner in regards to the Richardson Road extension, even if they weren't able to come to an agreement. She said there would still be several good things coming from the development.

Councilmember Mahaffey said he believes there is a school capacity issue

Mayor Pro Tem Killingsworth clarified only elementary and middle school had a capacity issue

Councilmember Mahaffey said he was tempted to ask for a 55+ age restriction, but that it would be strange to have an older community in a space that would be ideal for kids to live. He said he was still concerned about school capacity issues.

Councilmember Gantt said in the future he wants more children to be able to walk to schools. He said he believes the Town doesn't need this development, and that this development will require more road connections to be made by the Town.

Councilmember Mahaffey asked Councilmember Gantt what he would prefer to be developed here.

Councilmember Gantt said the important thing was the fact that the Town would be required to pay for certain connections in this development.

Councilmember Gray said the Town and the owner of the land in question have options for how to proceed with potential road connections. He said school capacity was an issue, but he said affordable housing, EV charging, and other positive things from the Councils perspective were things that allowed him to support.

Mayor Pro Tem Killingsworth Motioned to Approve Annexation No. 741 and Rezoning Case No. 22CZ17, seconded by Councilmember Gray.

AYES: Mayor Pro Tem Killingsworth, Councilmember Gray

NOES: Councilmember Gantt, Councilmember Mahaffey

With a 2-2 tie, Mayor Gilbert discussed his position before his tiebreaking vote.

Mayor Gilbert said he respected the opinions of his colleagues and sees the positives and negatives, but believes it is best to get what they can get rather than nothing in this situation.

Mayor Gilbert Voted AYE

Motion to Approve Annexation No. 741 and Rezoning Case No. 22CZ17 passed, 3-2

AYE: Mayor Pro Tem Killingsworth, Councilmember Gray, Mayor Gilbert

NAY: Councilmember Gantt, Councilmember Mahaffey

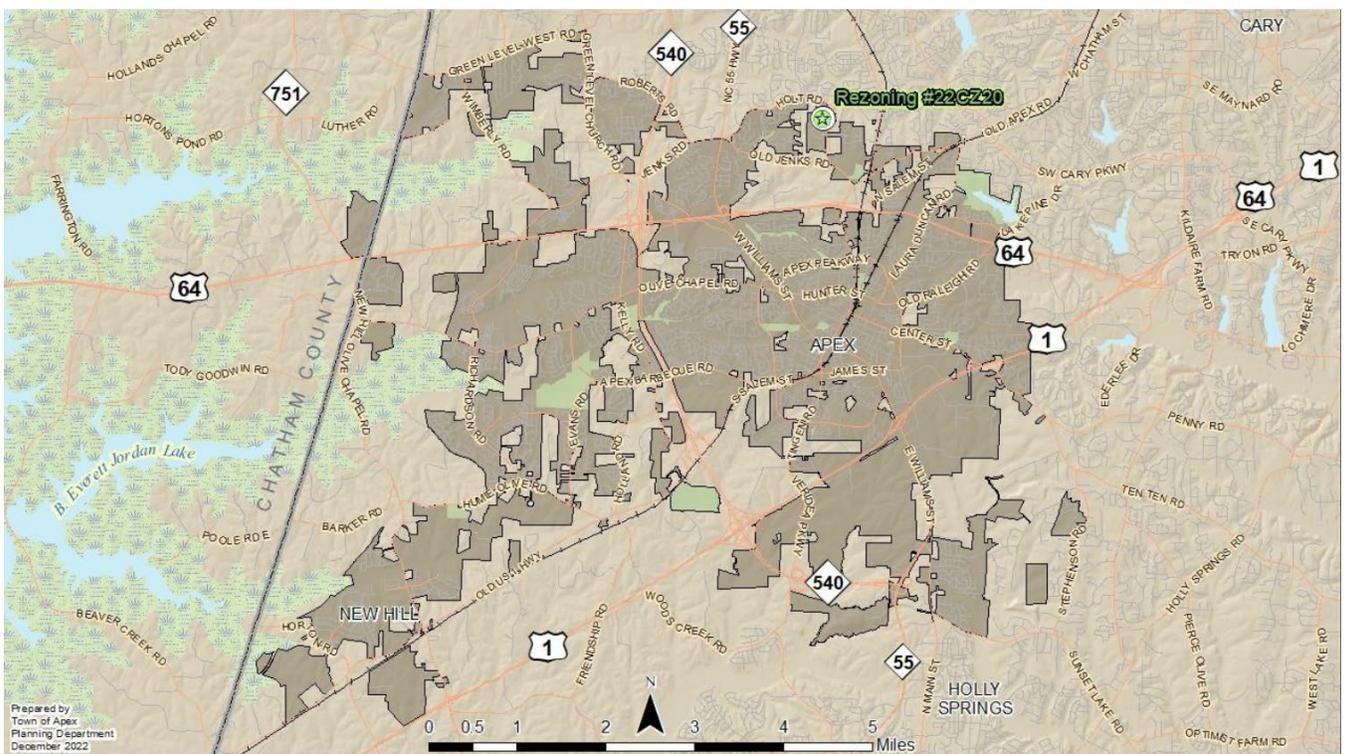
PH7 Rezoning Case No. 22CZ20 - The Preserve at Holt

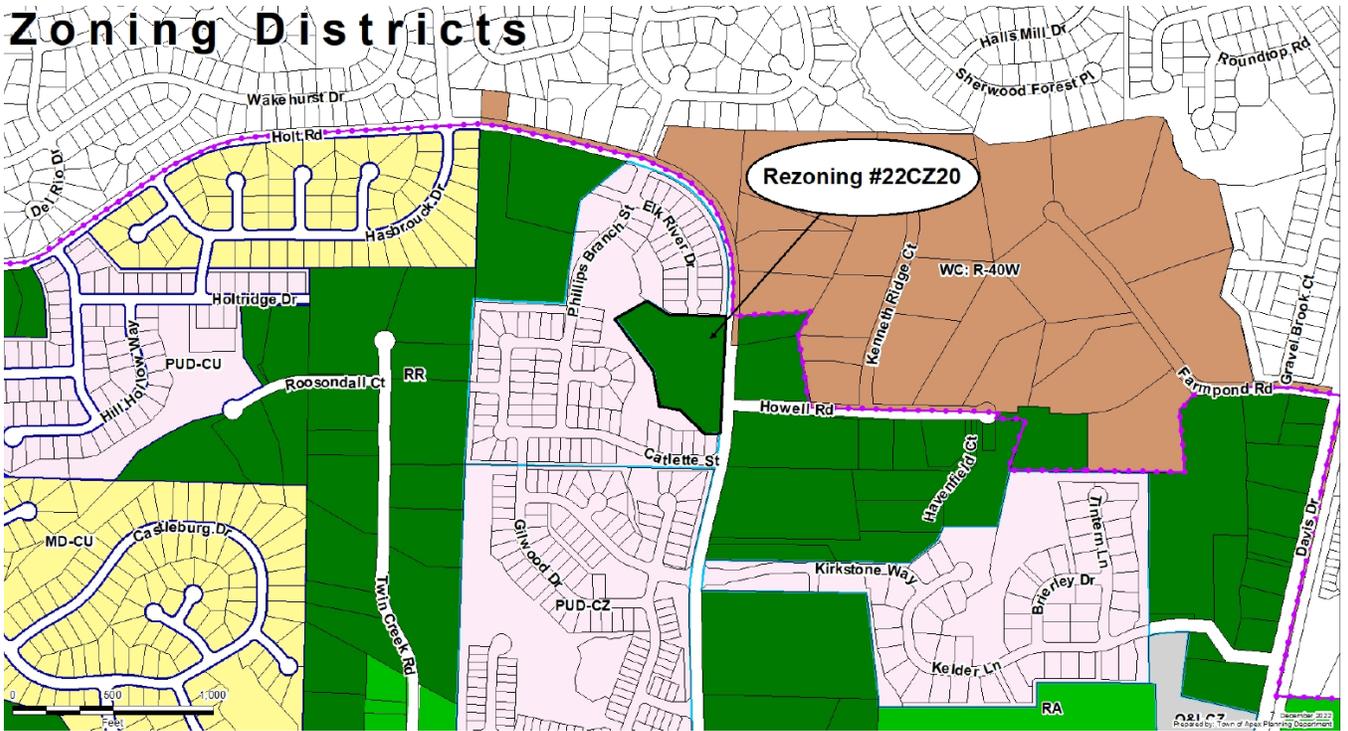
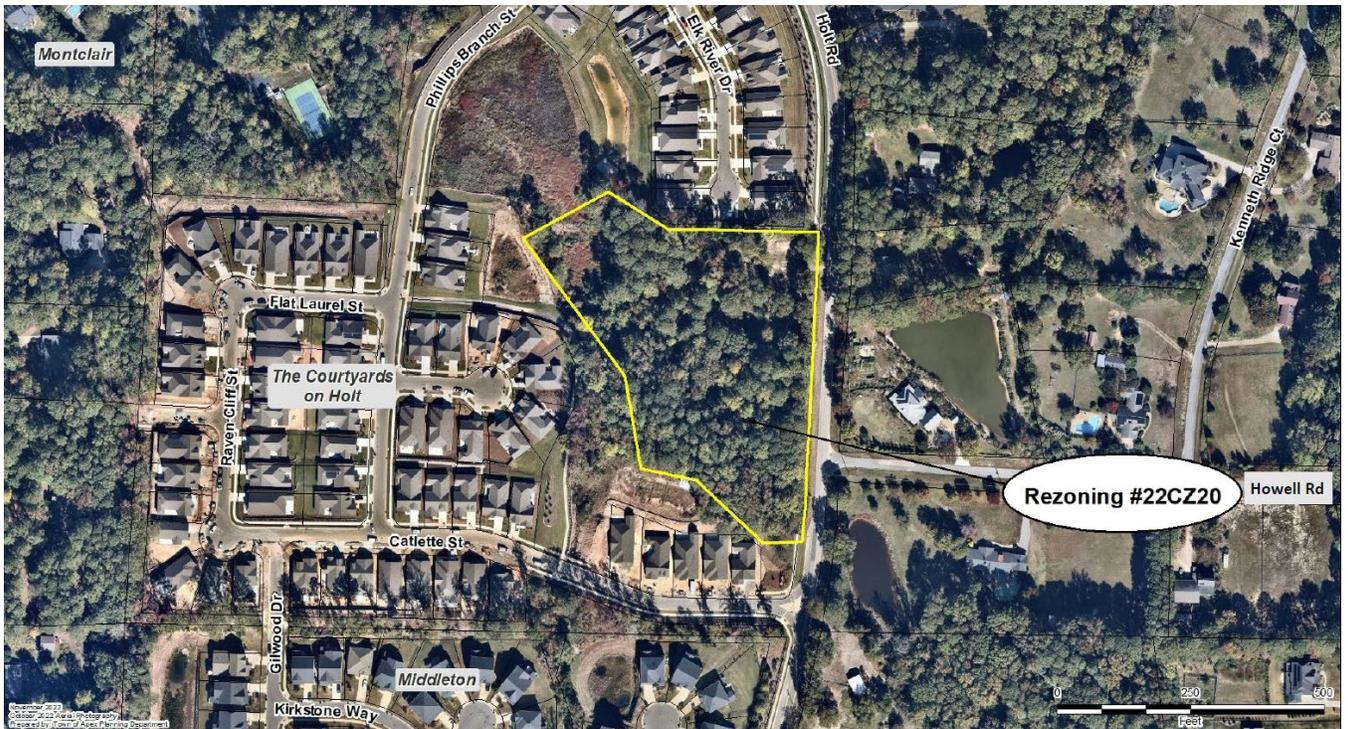
Shelly Mayo, Planner II

Ms. Mayo gave a presentation regarding Rezoning Case No. 22CZ20 and offered to answer questions from the Council

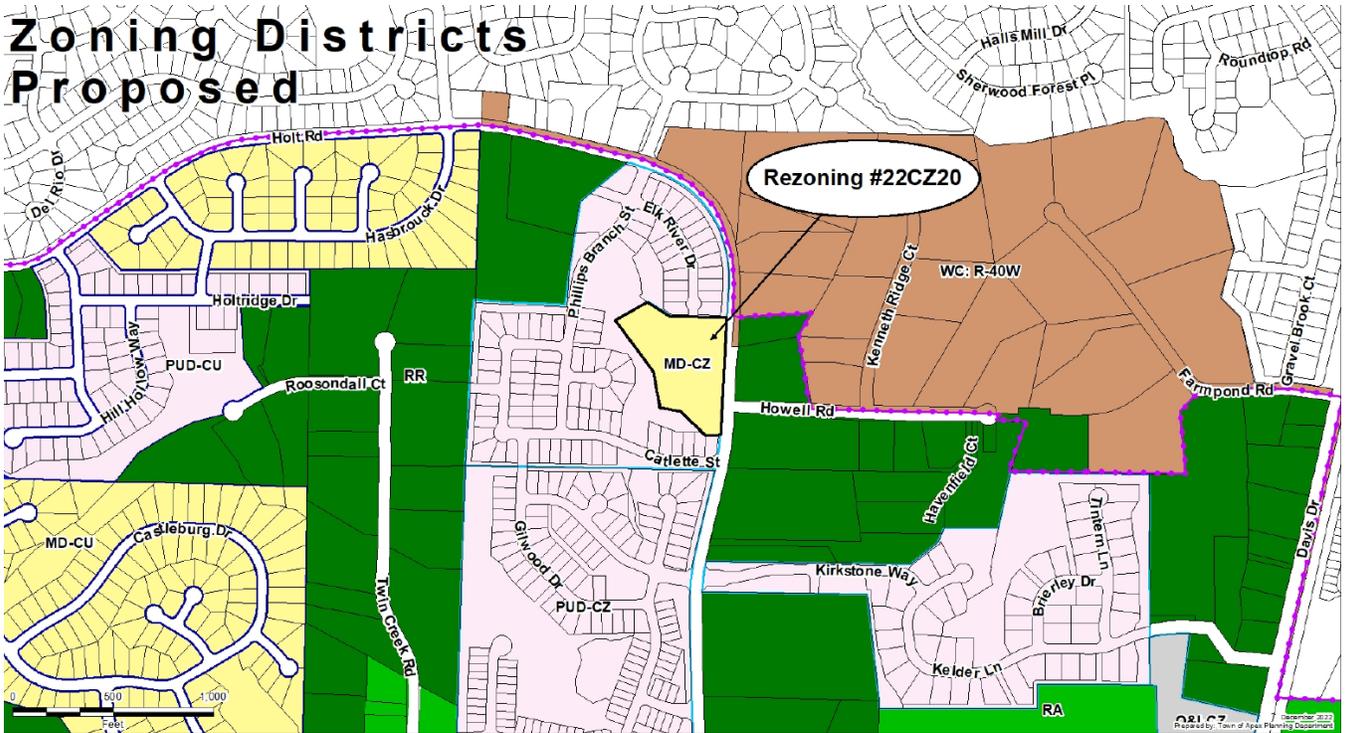
Public Hearing #7

Rezoning Case #22CZ20 The Preserve at Holt

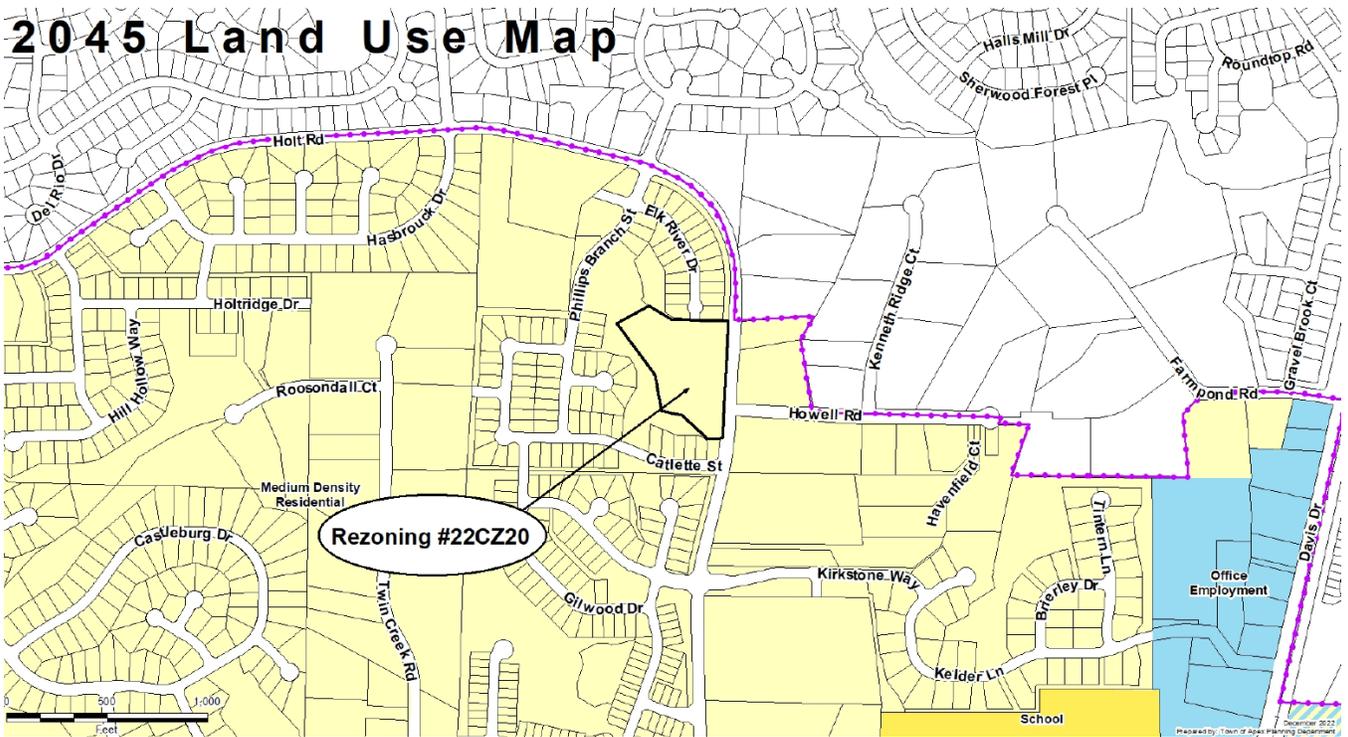




Zoning Districts Proposed



2045 Land Use Map



Without Rezoning – Currently Allowed

- 1.78 acres outside of stream buffer and wetlands
- Rural Residential Zoning
 - 1 lots (average 1 acre buildable area)
 - Driveway may connect to Elk River Dr. or Holt Rd
 - Not required:
 - Perimeter buffers
 - RCA
 - Environmental conditions
 - Architectural conditions
 - Sewer extension
 - Greenway easement
 - ROW dedication & Improvements along Holt Rd



Councilmember Gantt asked what the sewer extension did

Ms Mayo said that it added sewer lines for potential connection on Howell Road in the future

Councilmember Gantt said he wondered what other arrangements would be needed if this was not added

Ms. Mayo said it would likely have to go on Middleton Road, and that this project would connect the stubs to allow water flow to be improved

Councilmember Gray said he wanted to clarify that Holt Road was an NC DOT road, and therefore the Town could not change the speed limit

Mr. Dalton said that Holt Road was under State jurisdiction, but that residents could petition the NC DOT if they have concerns

Representing the applicant, Phil Koch gave comments regarding the development, and said he was willing to answer question from Council

Councilmember Gantt said he was wondering if the applicant knew about the desire of a previous council to have the sidewalk gap fixed in this development area

Mr. Koch said they were not aware of that being an issue

Councilmember Gantt said it was very important to have sidewalks along these roads, and that it would fall on the Town to put in sidewalk instead

Mr. Koch said the topography of the landscape makes putting in a sidewalk in that area very difficult

Councilmember Gantt said he was surprised this still was not being proposed when the area along the road is actually being developed now

Mr. Koch said they can get the sewer extension done, and that they can give the ROW and widening of the road, but he said it was a large burden to put on each lot for the extension of the sidewalk

Councilmember Gantt asked if there was any discussion of more lots, which would have required a sidewalk to be installed

Mr. Koch said there was a lot of trade offs in the discussions they had for developing the land, he said they wouldn't have accessory dwellings on site in order to stay below the 12% impervious

Councilmember Gantt said he believes the Town would prefer 15-20% impervious with an SEM would be better than 12% and no SEM

Mr. Koch said that would not be the case from an environmental standpoint

Councilmember Gantt said the SEMs would do a lot of good for water quality

Mr. Koch said that both ways had some positive environmental impacts

Councilmember Mahaffey asked about whether the development was wanting to merge with the HOA from the development near it or create their own

Mr. Koch said they can't join the same HOA at the adjoining property

Councilmember Mahaffey said he believed it was possible if enough residents wanted to join with an adjacent property as an annex

Mr. Koch said they have not discussed that with the property owner

Councilmember Mahaffey asked if they were willing to negotiate with the adjoining property to join their HOA

Mr. Koch said he could address that with the property owner

Councilmember Mahaffey said he wanted to ensure the property would be compatible with the adjoining neighborhood, and believes this development should be a 55+ community

Mr. Koch said that would be difficult as the owner is planning to live there himself and two additional families he is connected with

Councilmember Gantt asked if he had worked on any developments where part of it was 55+ and part of it was not

Mr. Koch said he had not, he said the circumstances around the project have been unique and difficult, and they would work with the Council and the neighbors on as much as they could

Councilmember Mahaffey said his preference was for this development to be completely compatible with the adjoining neighborhood

Mr. Koch said he would need to discuss this with the property owner

Mayor Gilbert moved to public comment to allow Mr. Koch time to discuss

First to comment was Don Azevedo of 1358 Elk River Drive

"Ladies and gentlemen of the council, thank you for allowing me to share my thoughts about the rezoning request from Preserves at Holt. My name is Don Azevedo, I'm a new resident at Courtyards at Holt at 1538 Elk River Drive. My wife and I selected this 55+ active adult community because of its intentions for the needs of the people past child-raising age, accommodating our changing physical capacities, and creating a positive community for folks in the later chapters of their lives. Following my presentation, seven of my neighbors will present more detailed discussions of the ways in which the rezoning request negatively impacts our community. Let me be clear, we are not against the development of the land in some way that makes sense. We are opposed to the forced traffic for potentially four homes with multiple drivers in each home, through Elk River Drive and Phillips Branch Road. IO will briefly review the issues you will be presented by my neighbors. The land being considered for rezoning is restricted by wetlands and a stream. Although the developer mentions preserving more than the required 50% of the existing canopy, this statement may be a bit of misdirection. Mr. Garr will go into more detail about the potential impacts. The numbers presented by the developer can be easily confusing. Mr. Mettina will describe the unique characteristics of this property and share some of the very real concerns about the environmental impact as proposed. In the current proposal the Preserves becomes a cul-de-sac attached to the Courtyards as you have mentioned. It will not be apparent that it is a separate development at all. Mr. Pacioli will provide more detail on how this rezoning proposal creates many compatibility concerns, as the Council has already mentioned. The residents at Courtyard on Holt selected this community because it was designed for people in later stages of life. Dr. Pearlmutter will describe how allowing the Preserves to use this community as its access to Holt diminishes that value considerably, and possibly completely. There are nearly a dozen entrances to communities from Holt Road. Mr. Ginsburg will discuss

the traffic challenges created by granting The Preserves access through Courtyards. The current plan for the Preserves is that the construction equipment will enter, although we have heard that will be changed and that's wonderful, we are still concerned about that and we'd like more reassurance about it. A 55+ citizenry has a set of needs that differ from the general populace. Mr. Braden was going to share with you his personal story of choosing the Courtyards and Apex as his new home. Unfortunately, his wife has an acute illness that prevents him from being here. Mrs. Botts has offered to read his statement. Forethought is a difficult skill to practice as you all have mentioned several times. Hindsight is always easier and yet often impossible to correct. Thank you again for this opportunity to present these concerns to you. Ultimately, we ask that you reject this rezoning request as currently written, and send it back to the developer and the planning commission for revision. The needs of the developer, our adjacent community, the environment, and the Town's plan for growth require better balancing in any approach to the use of the land."

Mayor Gilbert thanked Mr. Azevedo for his comments

Next to present was Armando Garr of 1339 Elk River Drive

"It's late, we're tired, everybody wants to go home so I'll be brief. I just want to talk about the trees. Back in the pre-application review with the EAB and the applicant, they had several suggestions or recommendations, I'll just focus on two of them. One was to preserve 50% of the tree canopy, the other was to plant a tree for every one that they cut. 12 inches in diameter, replace with a one-and-a-half-inch caliper. When the application for the Preserve was presented, they only had 50%, they didn't include replacing the trees. As we know, the 50% sounds very nice, but when you look at the property, a big chunk is occupied by wetlands and the creek buffer. I looked at the applicants site map, I took the 4 lots and I added the surface of the tree extension. All that adds to 60,432 square feet. We know it's 4.9 acres, the whole property. That's 214,000 square feet. So if we divide 60,432 square feet over 214,000 square feet we get 28%. 28% represents the area that can be developed and is going to be developed according to the plan. That also means that 72% cannot be developed. So if we're talking 50%, maybe it's a low target. This land we have here, as you saw is covered with trees, mature trees, we have a permanent creek. It's not unusual to see foxes, deer, raccoons, all types of birds over there, it's a valuable ecosystem we have, so what

we are asking is for you to help us preserve as much as we can of this ecosystem. To that end I have two requests for your consideration. One is to preserve at least 70% of the existing tree canopy. I think 50% is to low. The other one is that if you agree to have 4 houses built in this lot, and if those 4 houses are built, there's gonna be a lot of space to plant trees, so my request is to follow the EAB request to plant one tree for every one that is cut. And to plant them in this property, not around Apex. Thank you."

Mayor Gilbert thanked Mr. Garr for his comments.

Next to present was Chuck Mettina of 1328 Elk River Drive.

"My name is Chuck Mettina and I live at 1328 Elk River Drive and I'm going to speak about the environmental concerns that we have about the property. I'm going to start with what the builder has told you guys so far. One is that it only adds 4 units on an almost 5 acre site, and the second the design preserves more open space than is required. I want to help the Council understand why we feel these are a little bit misleading. The properties 4.9 acres, no one disputes that, however the claim that the property has a large area of open space is very misleading because of the wetlands and the stream that runs the entire length of the property. The UDO states that all developments under low density option have buffers for perennial stream of about 100 feet and intermittent streams need a buffer of no less than 50 feet. As Armando said when you subtract all this, all that adds up to 3.4 acres of land that cannot be developed by the builder. This is not open space, this is 3.4 acres of environmentally protected area. So that does leave about 1.5 acres of developable land. So this design does not add 4 units on a 5 acres site as the builder states, the design adds 4 large homes and an oversized cul-de-sac on 1.5 acres. So the UDO also states that the built upon area for medium density development should not exceed 12% of the total lot's area, which to us is 1.5 acres. The plans for Preserve on the design include 25,000 square feet of impervious surface, which equals about .6 acres. Take .6 over the 1.5 and you got 40% of impervious surface on the land they actually can build on. The last thing I want to talk about is that the builder also states all stormwater drainage will run between lots 2 and 3 and discharge to the stream, that's what the builder says. Diverting all stormwater to the wetlands and stream would be in direct conflict with the Town's commitment to control the adverse effects of increased post-development stormwater runoff associated with new development.

It's also in conflict with the Town's goal of minimizing sedimentation of streams. So we feel like the unique environmental restriction of this property would indicate that maintaining the current RR zoning is the most appropriate zoning of the property. The right user, right location, we feel RR is the best for that. So for these reasons, we're asking the Council to consider the real environmental impact of the proposed development and reconsider the rezoning from RR to MD."

Mayor Gilbert thanked Mr. Mettina for his comments.

Next to comment was Stephen Pacchioli of 1342 Elk River Drive

"Mr. Mayor, members of the council, I'm Steve Pacchioli, I reside at 1342 Elk River Drive. Thank you for introducing many of the points I was going to cover tonight. Nonetheless, let me begin by emphasizing that the proposed project provides virtually no physical separation or visual transition between the Courtyards and the Preserve. For all practical purposes, the Preserve will be a cul-de-sac, immediately adjoined to our neighborhood, providing a clear line of sight to residences with a character that is highly incompatible with that of the Courtyard. Aesthetically, architecturally, operationally, and from a lifestyle standpoint. The courtyards feature one story ranch homes with consistent design and exterior construction material's throughout. Complementary models and colors, private patios, low profile rooflines that accommodate second level living spaces. All homes are of a similar height. We've not seen the elevations intended for the preserve so we don't have insight into the exterior materials or colors to be used, but we are obviously concerned that the Preserve will visually clash with the aesthetic continuity of the Courtyards. Likewise, we're concerned that the requested MD zoning would allow construction of homes with heights of up to 40 feet in the Preserve. Such home will tower over the existing courtyard homes. The courtyards have a covenant that restricts the use of our properties and committees must evaluate and approve architectural changes and landscape enhancements. Trailers, storage bins, swing sets, similar items are prohibited on home sites and common areas. Lawn and landscape maintenance is required and performed consistently through our HOA. We know that the Preserve's covenant will not even restrict the construction of accessory dwelling units, which can be aesthetically unappealing. We are unclear on whether the Preserve will have maintenance requirements or a committee to govern future architectural changes. Without appropriate

controls, the level of compatibility between the developments will likely decrease over time. The sightlines and privacy levels on the patios of the two homes adjacent to the Preserve will be drastically impacted by this project. So, we agree it's essential that any development completed in the Preserve provide for type B landscape buffer of at least 20 feet. Over and above the buffers that already exist along the adjacent Courtyard's lots. The prints that we've seen only reflect the landscape buffer of ten feet, Shelly has indicated that that might be 20 feet, perhaps that's been amended since our last meeting, we ask you to keep that point in mind. I'll close by thanking you for your time, we appreciate your consideration of our concerns as you contemplate your vote. Have a good night."

Mayor Gilbert thanked Mr. Pacchioli for his comments

Next was Dr. Donald Perlmutter of 1362 Elk River Drive

"Mr. Mayor, Council, I appreciate your time and attention tonight. My name is Dr. Don Perlmutter and I reside at 1362 Elk River Drive. I'd like to address the issue of the vulnerability of our residents. Imagine if you will, elderly residents moving slowly and cautiously on their street, some with walkers and wheelchairs. They may be on their way to the neighborhood community center and pool, may be walking their dog, or picking up their mail. Consider also elderly drivers, many of whom have impaired vision or hearing, and pulling slowly out into their driveways. Now I understand as of tonight that our concerns about construction traffic can be much reduced and we're very grateful for that, but we still feel that the increased traffic along our street will present a greater risk to our vulnerable residents. The risk does not end with construction. It's predictable that we'll experience at minimum a 30% increase in traffic volume. This is based on the number of structures proposed by the Preserve versus the number of residences currently on Elk River, and the younger demographic likely in the Preserve. Courtyard on Holt is a planned 55+ community, Preserves is not. Once Preserves is populated, there will be an increased volume of vehicles, some commercial, some residential, and possibly including distracted teenage drivers. Furthermore, when construction of Courtyards concludes, Gilwood Drive will connect the Middleton subdivision to our community. It's reasonable to assume that Middleton residents who desire easier access to Cary would use Phillips Branch through Courtyards as a connector. This will compound the traffic issue of increased volume flowing to and from Elk River, and creating an even greater

safety issue. The planning committee decided that egress on Elk River is preferable to egress on Holt. We strongly disagree with that short-sighted assessment, because it places our most vulnerable residents at greater risk. They must continue to be able to drive and walk our streets safely. We're asking Council to deny egress for Preserves through Elk River Drive. Keep Elk River Drive closed to through traffic. Thank you again for your time."

Mayor Gilbert thanked Mr. Perlmutter for his comments

Next to present was Larry Ginsburg of 1324 Elk River Drive.

"Mr. Mayor, Councilmember, hello my name is Larry Ginsburg and I live at 1324 Elk River Drive in the existing cul-de-sac. I am hoping that you will consider listening to the 29 Courtyards on Holt existing homeowners on Elk River Drive and the neighboring streets. Unfortunately, the planning commission did not. Most of us on this block here have lived here for almost a year. In that year we've had to live with construction traffic for more than 6 months, we waited almost 3 months for a street lamp to be fixed, and we are still waiting for a clubhouse and pool to open as well as final paving of our street. Now we are being asked to live with more construction, as much as another year, and Elk River will be the easiest access point. Well what about Holt Road? The town planners at planning committee acknowledged that egress could either be Elk River Drive or Holt Road but chose Elk River Drive because potential accidents at 25 miles per hour are preferable to accidents at 45 miles per hour. Hard to believe this analysis was used to make a decision. Logically, shouldn't the traffic exiting any of the development along Holt road have the same concern? There's nothing different about exiting the Preserve as any other development along the street. There have been zero traffic studies related to the Preserve's egress off of Holt Road, just a gut feeling of the town officials and some planning board members that Holt Road was problematic and that Elk River Drive was less so. After all, it is only 4 houses, is the statement made by the planning commission meeting. This group does not care that this change would affect 21 existing homeowners on Elk River Drive. There are currently 11 street entrances for Apex developments along Holt Road, as well as 6 personal driveways. There would be nothing unique about another entrance for the Preserves on the whole community. Though development is forced to go through another community, so each community has a unique

entry/exit onto Holt Road. This separates each community from the other one, and allows them to have their own character. We know this is a unique property, but that it is why it was zoned the way it was. So why should the Preserves be given special status to change the character of Courtyard. As I mentioned before, our pool and clubhouse at Courtyard has not been released to our homeowners. This same planning commission had a say in those facilities. We had to wait for some heater on our pool, even though the outside temperature was 90 degrees. The clubhouse couldn't open because lights weren't installed in the parking lot. We asked if we could conditionally use it during daylight hours, again these were denied. The planning commission would not allow our request for deviation, but they are bending over backwards for the current requests. Again, our residents are the ones that suffer from these decisions, not the builder. Consider what you've already heard, the only decision you probably need to make is to deny the change of the zoning, and if they're going to have that development, have it on Holt Road. Thank you."

Mayor Gilbert thanked Mr. Ginsburg for his comments

Next to comment was Martin Tenebaum of 1329 Elk River Drive

"Good evening to everybody, and good evening especially to my fellow homeowners on Elk River Drive. Although my topic has been modified already by the agreement of not having construction go through Elk River immediately, it still is a potential problem because they're talking about going through Holt Road in the primary stages, but later on eventually going through Elk River Drive. My most basic concern was that there has been no real evaluations about what they're doing with the property. There's been no studies of the actual positive/negative impact that running construction materials and machinery through our Elk River Drive might have. The damage expected and the possible negative impact that heavy machines might have on this just completed roadway, the house foundations, etc. Our houses are built on cement slabs. The cement slabs have only been there for roughly two years. Ours on Elk River Drive have been there two years, other are less. But the impact that would happen with heavy construction material, heavy construction trucks, delivery trucks, what impact would that have on our buildings, our houses, that's what is important. We are already there. You're evaluating based upon what hardships the new owners have, but what about our hardships? We have many hardships. If you look at Elk River Drive, it is not a very

large street. It is a small street and I was looking at how we had some construction there because they're trying to repair the streets so they can cover and turn it over to the Town of Apex. When there's one truck on the street, that's the entire traffic, unless you want to overrun the workers, I mean that could happen. But there's no way that two-way traffic could happen on that street, so if you're talking about bringing in construction trucks and all that material, it's going to cause an impossibility for who lives there already, to live happily. And I don't understand why the fourth house they're claiming they want to build needs to be delayed, why can't they do it now with the construction trucks coming in from Elk River Drive? The point is, when we purchased our properties, it was a cul-de-sac. A lot of us purchased those particular properties because they were cul-de-sacs, and there was not going to be through traffic, and we didn't have to worry about being hit or anything of that nature. Now we're talking about putting four houses on the adjacent property, and specifically requiring that development to come through ours. There's no other way out provided that we we've been made aware of out to Holt. Thank you."

Mayor Gilbert thanked Mr. Tenebaum for his comments

Next to present was Ginny Botz of 1320 Elk River Drive

"My name is Ginny Botz, I live at 1320 Elk River Drive, which is the very last house on the left-hand side after the cul-de-sac. What I'm going to do tonight is read for the Don Braden statement, because he's not here. You heard earlier, his wife ins in the hospital and she has other health concerns that I think my reading what he wants to say is more important than what I had to say. He lives at 1321 Elk River Drive, right across the street from me. This comes from Don's heart through my voice: Until January 2021, I lived in Richmond, Virginia on a corner wooded lot that I loved. During our last years in the house, my wife's advanced Alzheimer's worsened and I began to need more help than I had nearby. For example, she got lost and knocked on the neighbor's door thinking it was her own house. For that main reason I decided to move to the Raleigh area closer to my daughter and son-in-law so that they could help me when I needed it. This allowed me to take care of my wife's needs at home. I chose to move to Apex, and particularly into the Courtyards on Holt for three primary reasons. This was a 55+ community, I got get a secluded cul-de-sac lot with tree view, and it was within ten minutes of my family support. He has come up with three basic reasons,

because of my time limit, I'm only going to go to the one I think is the most important, which is regarding the secluded cul-de-sac lot. Since my wife's diagnosis 13 years ago, the activities she was able to participate in and enjoy slowly declined and has actually disappeared. She no longer can take walks with me because of her mobility deficits. My wife has always been an avid nature lover and bird watcher. One thing that continues to enhance her quality of life is sitting on our courtyard looking out onto the woods and looking and listening to the birds. My fear is that building the homes as proposed including one directly across from my courtyard will eliminate the woods and wildlife that serve her primary source of engagement. I bought this lot for thirty-thousand-dollar premium specifically to provide the highest quality of life for her. Another issue with Alzheimer's that the people wander and get lost, I intentionally chose a lot at the end of that cul-de-sac to minimize that risk. Just in his summary, not going to his other two issues. You have heard the summary of requests today. For me, I hope the Town will consider allowing Preserves to extend its entrance to Holt Road, where a driveway already exists, to minimize traffic on Elk River Drive. I also hope it will require a 30-40-foot buffer from the lot edge to preserve trees. It's my responsibility to protect my wife, and I ask the Town to join me in providing her the protection she needs and deserves. I never said hello to you all, but I will say thank you for listening, and I know Don will as well.

Mayor Gilbert thanked Ms. Botz for her comments, and wished Mr. Braden and his family well

Mayor Gilbert opened discussion back up for Council, beginning with the property owner answering the previous about joining the HOA

The property owner, Mr. Baksha, said he did not want to join the HOA of Courtyards because he is 47, and thus would not be allowed to live in the community, since the HOA says residents should be age 55+. He said he was willing to accommodate as much as he could and that he bought the property in order to live there. He said he would be happy to join the HOA in 8 years or so when he turns 55. He says it also adding additional constraints on him, making the process more difficult.

Mr. Koch said a connection to Holt Road would have to be a pass-through. He said Elk River Drive is not a cul-de-sac, and that it was a pass-through road with a temporary turn-around. He said the turnaround that is there does not meet the requirements of a cul-de-sac. He said a cul-de-sac they would have to put in would be larger and would provide better access for emergency vehicles. He said he understands the concern about Mr. Braden's wife, and says he had a family member who passed away from it. He said he believes he could get the upper to about 25, possibly 30 feet. He said the property owner could not meet the 55+ age requirement of the HOA of Courtyards. He said stormwater is based on 12% of the entire lot being developed, and not 12% of the individual housing lots. He said the water would not go directly into the stream, and they will have to meet all stormwater guidelines for construction. He said if this was not approved there would not be a sewer extension, the Town would have to work out the greenway situation, the right of way situation, and more. He said they have chosen to maintain a corridor of canopy, rather than having it be placed in separate locations around the property, which he says is better for the wildlife. He says they want to be good neighbors and do the best they can, which is why it was initially limited to 4 lots.

Councilmember Mahaffey asked if there was a sign at the end of the road that says "site of a future road extension"

Mr. Koch said there was not

Ms. Mayo said there are three red diamonds at the end of that road, and there is supposed to be a sign indicating that it is a potential future road extension. She said the sign was likely there originally but came down somehow before houses were built, and says inspections may have missed it if it was not there originally. She apologized on behalf of staff.

Councilmember Gray said he was wondering about the design of the new large cul-de-sac and whether it was consistent with the desire for connectivity

Ms. Mayo said staff recommended a cul-de-sac instead of an extension to Holt Road is because there are roads in close proximity to each other in the same area, and ordinance states there needs to be at least 500 feet of space between connections on a road such as

Holt. She said the most space they could get for a connection on this property between another connector was about 350 feet.

Mr. Dalton said they could propose a right in/right out on Holt Road, but that NCDOT does not like that idea and would prefer them to use the existing residential streets. He said staff agrees with NCDOT for an extension of the cul-de-sac.

Councilmember Gray asked how many units they could max out on given the site medium density residential designation

Ms. Mayo said they could do 7 units per acre if it were townhomes, around 35 in total. She said density is calculated based on total size of the land, and not the size of the developable land only.

Councilmember Gantt said he wanted to know how many units would be required for them to have to build a sidewalk on Holt Road.

Ms. Mayo said 5

Councilmember Gantt asked if it was possible to fit 5 units in this lot

Ms. Mayo said it was possible, but would make it more difficult to meet the impervious surface requirements

Councilmember Mahaffey asked if they joined the HOA if they could use an existing SCM

Ms. Mayo said it was not possible

Mayor Gilbert closed the public hearing for comments and sent it back to Council for discussion

Councilmember Mahaffey said the applicant has proposed an incompatible project with the neighbors, which he believes goes against the concept of maintain compatibility as part of their application process. He said this was a clear case of what incompatibility means for rezoning. He said he was also concerned with the lack of a sidewalk on this project and the continuing trend of the Town losing out on opportunities for gaining infrastructure. He said the Council should decide how it wants to go about approving projects that has "donut holes" or missing parcels that end up being developed separately and don't allow for the infrastructure to be developed fully, except by the Town.

Councilmember Gray said there have been many conversations about stub streets, and that it is difficult to have one here and not go about meeting their goal of connectivity. He said he understands the neighbors concerns about the area being a cul-de-sac, but he said it is not that but rather a stub street. He said he believes having 4 residences is more amenable to the neighbors than if it was a townhome development. He said this project does not meet the goals of connectivity, which would extend Elk River to Holt. He said the large sidewalk gap was a significant problem

Mayor Pro Tem Killingsworth said currently there are several things the developer could do even without this project. She said they could construct without buffers, cut down more trees without replacing, and still connect to the stub street. She said accessory apartments were not a concern because that would contribute to impervious surface space. She said this would be around 8 cars, while a townhome community could add 50 or more cars. She said it was difficult to weigh this against her view that it may not be compatible with the Courtyards as a 55+ community, but that computability was difficult to define in this sense.

Councilmember Mahaffey said the precedent needed to be set regarding compatibility, whether that mean any resident projects were compatible with one another or if HOA, community lifestyle, and other factors should be applied to compatibility requirements for donut parcels such as this one, and in this case, it comes down to one being 55+

Mr. Koch said the applicant was willing to do a payment in lieu of \$40,000 to go towards construction of a sidewalk, and that \$150,000 would not be possible. He reiterated there were grading challenges on the terrain where the sidewalk would be built.

Councilmember Gantt said he was voting no, and that he remained irritated that this sidewalk was still not being proposed to be constructed as part of development of this property.

Councilmember Gantt motioned to deny Rezoning Case No. 22CZ20, seconded by Councilmember Mahaffey

Motion to deny Rezoning Case No. 22CZ20 passed unanimously, 4-0.

AYES: Mayor Pro Tem Killingsworth, Councilmember Gray, Councilmember Mahaffey, Councilmember Gantt

NOES: None

Mayor Pro Tem Killingsworth said she felt as though there was a lot of dialogue and compromise that could happen by the applicant to help close some of the gaps their position, the position of the Courtyard community, and the Council.

Councilmember Mahaffey said he would be willing to support a project that was more compatible with the surrounding development, including the covenants and the homes aesthetics

PH8 Unified Development Ordinance (UDO) Amendments - January 2023

Dianne Khin, Planning Director

Ms. Khin gave a presentation regarding the UDO amendments

Public Hearing #8

Possible motion regarding various amendments to the Unified Development Ordinance (UDO)



Amendment #1

1. Amendments to Secs. 4.2.2 Use Table; 4.3.5 Use Classifications, Commercial Uses and 4.3.6 Use Classifications, Industrial Uses in order to create the use “Warehousing fulfillment center”, change the definitions of “Truck terminal” and “Warehousing, general”, and to change the use “Wholesaling, general” to “Wholesaling distribution center”.

Use Type	Definition Section	Zoning Districts																Standards						
		Residential						Business						Planned Development			Other							
		R A	R R	L D	M D	H D S F	H D M F	M H	M H P	M O R R	O & I	B 1	B 2	P C	L I	T F	M E C		T N D	P U D	C B	S D	S T C	Section(s)
Industrial service																								
Warehousing, general	4.3.6.A.8														P	P						*	*	
Warehousing fulfillment center	4.3.6.A.11														P	P								
Woodworking or cabinetmaking	4.3.6.A.9														P	P						*	*	
Wholesaling distribution center-general	4.3.6.A.10														P	P								



4.3.5 Use Classifications, Commercial Uses

...

H) *Vehicle repair and service*

...

- 8) *Truck terminal*. A facility for loading and unloading freight or package express from trucks **the dispatching, storage, and maintenance of large vehicles, such as but not limited to tractor trailers and dump trucks. Does not include "Warehousing fulfillment center", "Warehousing, general", and "Wholesaling distribution center".**

4.3.6 Use Classifications, Industrial Uses

...

A) *Industrial service*

...

8) Warehousing, **general**

An establishment primarily engaged in the storage of materials, equipment, or products within a building, for manufacturing use or for distribution to wholesalers or retailers, as well as activities involving significant movement and storage of products or equipment. Typical uses include motor freight transportation, moving and storage facilities, cold storage, warehousing and dead storage facilities, but exclude self-service storage facilities and office-warehouse combinations. **This use excludes "Wholesaling distribution center", "Warehousing fulfillment center", and "Self-service storage".**

...

10) Wholesaling, general **distribution center**

An establishment primarily engaged in the display, storage, distribution and sale of goods to other firms for resale, but excluding vehicle sales, wholesale greenhouses or nurseries, wholesale of gas and fuel, and wholesale building supplies. **selling of goods in large quantities to be retailed by others and/or the delivering of large quantities of B2B (business to business) products, such as but not limited to beverage distribution centers and electronics distribution centers. This use excludes "Vehicle sales and rental, heavy", "Vehicle sales and rental, light", "Building Supplies, wholesale", "Gas and fuel, wholesale", "Greenhouse or nursery, wholesale", and "Warehousing fulfillment center".**

11) **Warehousing fulfillment center**

An establishment which serves as a third-party logistics (3PL) warehouse that receives, processes, and fills customer orders on behalf of eCommerce retailers, such as but not limited to Amazon Fulfillment Center, FulfillmentCompanies.net, or FedEx Fulfillment. This use is primarily B2C (business to consumer) in nature. This use excludes "Wholesaling distribution center" and "Warehousing, general".



Amendment #2

- 2. Amendment to Sec. 6.1 Watershed Protection Overlay Districts in order to change all references to “Environmental Engineering Manager” to “Stormwater Engineering Manager”.**



Amendment #3

- 3. Amendments to Sec. 6.1.11 Riparian Buffers and 6.1.13 Modifications by Variance in order to modify the single-family residential riparian buffer requirements and riparian buffer variance standards, and to provide updated references to state law.**

6.1.11 Riparian Buffers

...

D) Appeals of Stream Classification

Because the Neuse River is protected by a state-wide buffer program, which is managed by the NC DEQ, the authority to hear appeals of stream classifications for that portion of the Town of Apex and its ETJ that lies within the Neuse River Basin, which shall be indicated on the Town of Apex's "Watershed Protection Overlay District Map," rests within the sole jurisdiction of the NC DEQ unless the Town of Apex is delegated the authority to maintain its Neuse Buffer Program locally. Therefore, appeals of stream classifications shall be handled in the following manner:

1) Within the Neuse River Basin

When any affected party within the Neuse River Basin believes that the maps have inaccurately depicted surface waters, the affected party shall consult the NC DEQ as set forth in 15A N.C.A.C. 02B 0233(3), 0714(4).

...



...
 G) *Uses Permitted Within the Riparian Buffer*
 This Section shall apply to activities conducted within, or outside of with hydrologic impacts in violation of the diffuse flow requirements set out in Sec. 6.1.11.E upon, a riparian buffer regulated by this Section. The Town shall issue an approval for new development only if the proposed development will avoid impacts to riparian buffers regulated by this Section or, if an impact to any such buffer is proposed, in accordance with the requirements in Sec. 6.1.11.G.1 or 2 below, as applicable, the applicant has demonstrated that: (i) the proposed activity is exempt, (ii) the proposed activity is allowable or allowable with mitigation, and the requirements of this Section for proceeding such designated use have been met, or (iii) a variance authorizing the proposed activity has been obtained.

1) *Within Zones 1 and 2 of the Neuse River Basin*

Riparian buffers within the Neuse River Basin shall be maintained and protected per 15A NCAC 02B 0233.0714 Neuse River Basin: Nutrient Sensitive Waters Management Strategy: Protection and Maintenance of Existing Riparian Buffers, **as readopted effective June 15, 2020, which is hereby incorporated by reference.** Development activity may take place within Zone 1 or Zone 2 of a riparian buffer provided that the landowner has one of the following:

- a) For any use, other than one specified as exempt, an authorization certificate that documents that the NC DEQ has approved an allowable use, or an allowable use with mitigation, as described in 15A NCAC 02B.0233.0714 Neuse River Basin: Nutrient Sensitive Waters Management Strategy: Protection and Maintenance of Existing Riparian of Existing Riparian Buffers.
- b) An opinion from the NC DEQ that vested rights has been established for that activity.
- c) A letter from the NC DEQ documenting that a variance has been granted for the proposed activity.

...



Table 6.1.11.G.1

Use	Exempt*	Allowable*	Allowable with Mitigation*
...			
Recreational and accessory structures in Zones 2 and 3:			
• Sheds and gazebos in Zones 2 and 3, except along perennial waters in Neuse River Basin where high-density development option is utilized			
o Total footprint less than or equal to 150 square feet per lot		X	
o Total footprint greater than 150 square feet per lot			X
• Wooden slatted Slatted uncovered decks and associated steps, provided the use meets the requirements of Sec. 6.1.11.E and F of this Ordinance:			
o Deck at least eight (8) feet in height in Zone 2 and no vegetation removed from Zone 1		X	
o Deck less than eight (8) feet in height in Zone 2 or vegetation removed from Zone 1			X
o Deck in Zone 3		X	
...			



Table 6.1.11.G.1

Use	Exempt*	Allowable*	Allowable with Mitigation*
...			
<u>Residential Properties: Where application of this Section would preclude construction or expansion of a single-family residence and necessary infrastructure, the single-family residence may encroach in Zone 3 of the buffer if all of the following conditions are met: (1) the residence is set back the maximum feasible distance from the top of the bank, rooted herbaceous vegetation, normal high-water level, or normal water level, whichever is applicable, on the existing lot; (2) the residence is designed to minimize encroachment into the riparian buffer; (3) the residence meets the requirements of Sec. 6.1.11.E and F of the UDO; and (4) if the residence will be served by an on-site wastewater system, no part of the septic tank or drainfield may encroach into the riparian buffer:</u>			
<ul style="list-style-type: none"> • <u>The residence or necessary infrastructure only impacts Zone 3</u> • <u>Impacts other than the residence or necessary infrastructure in Zone 3. Covered porches and pools are not considered necessary infrastructure.</u> 		X	X
...			



6.1.13 Modifications by Variance

A) General

Requests for minor and major variances from the standards of the Watershed Protection Overlay Districts shall be made to the Board of Adjustment, except for variance requests pertaining to impacts within Zone 1 and/or Zone 2 of a riparian buffer within the Neuse River Basin which shall be made to the Director of the NC DEQ as specified below in Sec. 6.1.13.B.1.b and B.2.c. Due to certain process differences in State statutes or rules for decision making and appeals based on which basin or watershed a proposed project is located, a separate variance provision is set forth below for each of the following basins or watersheds: (i) the Neuse River Basin, (ii) the Jordan Lake Watershed portion of the Cape Fear River Basin and (iii) the Cape Fear River Basin outside of the Jordan Lake Watershed.

Sec 6.1.13.F sets forth an alternative variance process that is available for, but not required to be used by, an applicant seeking a variance from Sec. 6.1 density requirements for a project located in the Secondary Watershed Protection District and/or from Town Buffer requirements. Town Buffers and State Buffers are defined in Sec. 6.1.14.C. The purpose of this alternative variance process is to provide additional design flexibility for a project that provides a unique or additional benefit to the Town or surrounding area that would not be available from a traditional development located in areas within the Town or its ETJ where the applicable requirements of Sec. 6.1 are not part of a State authorized program, or where separate State rules do not apply.

All applications for variances made to the Board of Adjustment shall be reviewed by the Board of Adjustment, which shall approve, approve with conditions (which may include mitigation requirements), or disapprove the variance after a public hearing noticed pursuant to Sec. 2.2.11 *Public Notification*, and conducted pursuant to Sec. 2.2.19 *Quasi-judicial Public Hearing Procedures*, based on the applicable standards in Sec. 6.1.13.E or F.



E) *Standards*

- 1) *General.* The standards set forth in Sec. 6.1.13.E.2-3 shall be applicable to all variance requests submitted to the Board of Adjustment, except for a request submitted pursuant to the alternative variance process in Sec. 6.1.13.F.
- 2) In order to approve an application for a variance permit, the Board of Adjustment shall make a finding of fact as to whether **there are practical difficulties or unnecessary hardships that prevent compliance with the riparian buffer protection requirements the standards of Sec. 2.3.8.D.1.3 Variance Permit, Standards area met.**
 - a) **If the applicant complies with the provisions of this Sec. 6.1.11, applicant can secure no reasonable return from, nor make reasonable use of, applicant's property. Merely proving that the variance would permit a greater profit from the property shall not be considered adequate justification for a variance. Moreover, the Board of Adjustment shall consider whether the variance is the minimum possible deviation from the terms of Sec. 6.1.11 that shall make reasonable use of the property possible;**
 - b) **The hardship results from application of Sec. 6.1.11 to the property rather than from other factors such as deed restrictions or other hardship;**



- c) **The hardship is due to the physical nature of the applicant's property, such as its size, shape, or topography, such that compliance with provisions of Sec. 6.1.11 would not allow reasonable use of the property;**
- d) **The applicant did not cause the hardship by knowingly or unknowingly violating this Sec. 6.1.11;**
- e) **If in the Jordan Lake watershed, the applicant did not purchase the property after August 11, 2009, the effective date of 15A NCAC 02B .0267, and then request a variance;**
- f) **The hardship is rare or unique to the applicant's property;**
- g) ~~whether~~ The variance is in harmony with the general purpose and intent of the Town's Watershed Protection Overlay Districts and preserves its spirit; and
- h) ~~whether~~ In granting the variance, the public safety and welfare have been assured, water quality has been protected, and substantial justice has been done.



Councilmember Gantt said he was trying to figure out the reason for the difference between business to business vs. business to home.

Ms. Khin said it was to differentiate between activities that supported economic development (business to business) and activities that fulfilled transactions to consumers (business to home, ie Amazon)

Councilmember Gantt said he figured business to home would be more traffic on site

Ms. Khin said the major difference was the amount of parking needed for fulfillment centers, which was another differentiation. She said the new classification would be easier and more efficient for staff

Mayor Pro Tem Killingsworth motioned to approve Unified Development Ordinance Amendments - January 2023, seconded by Councilmember Gantt

Motion to approve Unified Development Ordinance Amendments - January 2023 passed unanimously, 4-0

AYES: Mayor Pro Tem Killingsworth, Councilmember Gray, Councilmember Mahaffey, Councilmember Gantt

NOES: None

NEW BUSINESS

There was no new business

UPDATES BY TOWN MANAGER

There were no updates by the Town Manager

CLOSED SESSION

Consensus on Council was to postpone the below mentioned closed session item scheduled for discussion:

CS1 Laurie Hohe, Town Attorney

**RE: Town of Apex v. Marcia M. Lund; 22-CVS-11706 and
Town of Apex v. Susan S. Smills, et al; 22-CVS-11707**

NCGS §143-318.11 (3):

"To consult with an attorney employed or retained by the public body in order to preserve the attorney-client privilege between the attorney and the public body."

ADJOURNMENT

Mayor Gilbert announced the meeting adjourned at 11: 39 p.m.

Jacques K. Gilbert
Apex, Mayor

Allen Coleman, CMC, NCCCC
Apex, Town Clerk

Submitted for approval by the Town Clerk Allen Coleman and approved on January 24, 2023.

APPROVED MEETING MINUTES
MINUTES | REGULAR TOWN COUNCIL MEETING



January 24, 2023 at 6:00 PM

Council Chambers - Apex Town Hall, 73 Hunter Street

The meeting will adjourn when all business is concluded or 10:00 PM, whichever comes first

Town Council and Administration

Mayor: Jacques K. Gilbert | Mayor Pro Tem: Audra Killingworth
Council Members: Brett D. Gantt; Ed Gray; Terry Mahaffey; Arno Zegerman
Town Manager: Catherine Crosby | Deputy Town Manager: Shawn Purvis
Assistant Town Managers: Demetria John and Marty Stone
Town Clerk: Allen Coleman | Town Attorney: Laurie L. Hohe

SPECIAL ANNOUCEMENT

The public was invited to attend a welcome reception for Councilmember Arno Zegerman on from 5:30 - 6:00 PM, just prior to the Town Council meeting. The reception was held in the lobby of the Apex Town Hall located at 73 Hunter Street in Apex, North Carolina. Light refreshments were provided.

NOTE: Councilmember Zegerman was appointed to the Apex Town Council on January 10, 2023 following an open and extensive application and selection process. Councilmember Zegerman was sworn-in at the January 12, 2023, Town Council Retreat meeting.



Apex Town Council Meeting

January 24, 2023

APPROVED | JANUARY 24, 2023 REGULAR TOWN COUNCIL MEETING MINUTES

COMMENCEMENT

Call to Order | Invocation | Pledge of Allegiance

Mayor Gilbert called the meeting to order, and opened by discussing the importance of diversity in culture and faith in Apex and emphasizing that we are "One Apex." He invited all in attendance to join in a moment of silence.

Boy Scout Troop 205 and 205-1 led the Pledge of Allegiance

Mayor Gilbert welcome new Councilmember Arno Zegerman, and invited him to give a few remarks

Councilmember Zegerman: "So since it's custom to have 3 minutes I'll try to stick with that, although I'm not going to ask the Clerk to time me. So, I'd like to start out with a couple comments Pastor Tyner made after the unity march on January 14th in memory of Dr. Martin Luther King. And as Pastor Tyner was remarking and remembering Dr. King's "I Have a Dream" speech, he said something that kind of stuck with me. And what he remarked on was that we all have dreams, and we all dream to leave this world a slightly better place for our children and those that come behind us, and it's that dream that brings me here. It's that dream that has led me to seek public office and what brings me in front of you guys here tonight. Pastor Tyner also remarked that we're not alone in our dreams, we stand on the dreams of those that came before us. For me that means my family's dream, my father who was the son of a bricklayer, worked hard to give me, as the first person in my extended family, the opportunity to attend college. And so, I want to extend that legacy. I also stand on the shoulders of Councilmembers, both past and present, and their dreams for Apex, and their dreams for the future of the Town. And so, I'd like to continue to build on the legacy that those Councilmembers have brought to the Town. And for me that means specifically that I would like to work on smart and sustainable development, and to me that means choosing developments that take care of our natural resources, protect our environment as best as possible, by leaving as much of the tree canopy in place as possible, including public spaces, green spaces, park lands, as part of the development. I would also like to see the Town be a

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little more aggressive in securing public spaces and green spaces. And then on the building and development side, what I would like to see is a mix of high- and low-density residential developments, that gives everybody in Apex to have an opportunity to have a home here in Town if they choose too, which includes affordable housing. I would also like to see some attractive commercial developments to create job opportunities for those people in Apex, so that we're not just a bedroom community but we have the opportunity to live and work in Town. But I also want to see development that keep pace with the rate and pace of our public infrastructure, be that transportation, environments, sidewalks, public services and utilities. So that leads us to transportation, and transportation is obviously a big concern for the Town, and what I would like to see as part of the legislation that I want to support and promote is that we address holistically, looking at public transit opportunities like rail and bus transit, aggressively pursue things like a safe route to schools, both of which will alleviate car traffic from our roads and couple that with clever and smart alternative traffic management solutions and I would look for road expansion and road widening as we need to. And lastly, I'd like to create a community that is accessible, equitable, and fair to everybody regardless of gender, race, political affiliation, background, sexual orientation, gender identification, everybody should have a place and the same rights in the Town of Apex. Again, these are not necessarily new concepts, I'm trying to build on some themes that have been said before me, and so as I serve this community for the next 10 months, I hope you join me in that dream of creating a bigger and better Apex, and keep Apex a place where we all want to live, work, and raise our families, and that's my commitment to the Town.

CONSENT AGENDA

All Consent Agenda items are considered routine, to be enacted by one motion with the adoption of the Consent Agenda, and without discussion. If a Council Member requests discussion of an item, the item may be removed from the Consent Agenda and considered separately. The Mayor will present the Consent Agenda to be set prior to taking action on the following items:

MOTION: Councilmember Gray motioned to approve the Consent Agenda as presented, Councilmember Gantt seconded

YES: Councilmember Gray, Councilmember Mahaffey, Mayor Pro Tem Killingsworth, Councilmember Gantt, Councilmember Zegerman

NO: None

Motion to approve the Consent Agenda as presented passed unanimously, 5-0

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CN1 Agreement - CSX Transportation Inc. - Walkway Crossing Maintenance Agreement - Pleasant Park Project

Daniel Edwards, Senior Capital Projects Manager, Administration

CN2 Agreement - Duke Energy Progress LLC - Lease Agreement for Police Firearms and Training Site

Jason Armstrong, Chief of Police

CN3 Agreement Amendment - Apex Fire Department Station #2 Ground Lease

Steve Adams, Utility Acquisition Specialist, Transportation and Infrastructure

CN4 Annexation No. 743 - 7624 Reams Ct. (Bhat Property) - 5.45 acres

Allen Coleman, Town Clerk

CN5 Annexation No. 745 - 1305 Holt Road - 5.367 acres

Allen Coleman, Town Clerk

CN6 Annexation No. 751 - 2705 Richardson Road - 3.677 acres

Allen Coleman, Town Clerk

CN7 Appointments - Environmental Advisory Board

Allen Coleman, Town Clerk

CN8 Appointments - Environmental Advisory Board Chair/Vice-Chair

Allen Coleman, Town Clerk

CN9 Appointments - Planning Board

Allen Coleman, Town Clerk

CN10 Appointments - Planning Board Chair/Vice Chair

Allen Coleman, Town Clerk

CN11 Contract Multi-Year - Kantola Training Solutions - Employee E-Learning Training Services - February 1, 2023 through January 31, 2026

Mary Beth Manville, Director, Human Resources

CN12 Council Meeting Minutes

Allen Coleman, Town Clerk

CN13 Encroachment Agreement - 470 Grand Highclere Way Lot 8

Marty Stone, Assistant Town Manager

CN14 Resolution of Support - Bus Stop Sidewalk Art Project

Katie Schwing, Senior Planner - Long Range Transit, Planning

CN15 Richardson Road - Temporary Closure

Russell Dalton, Traffic Engineering Manager, Transportation and Infrastructure

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CN16 Position Authorization List Update - Fiscal Year 2023

Mary Beth Manville, Director, Human Resources

CN17 Rezoning Case No. 21CZ27 - Tingen Road Residential - Statement & Ordinance

Shelly Mayo, Planner II, Planning

CN18 Rezoning Case No. 22CZ20 - The Preserve at Holt - Statement and Ordinance

Shelly Mayo, Planner II, Planning

CN19 Unified Development Ordinance (UDO) Amendments - January 2023

Dianne Khin, Director, Planning

PRESENTATIONS

PR1 Financial Update - Fiscal Year 23 Mid-Year Review

Shawn Purvis, Deputy Town Manager

Shawn Purvis, Deputy Town Manager gave a presentation regarding the Fiscal Year 23 Mid-Year Review

Councilmember Mahaffey asked if there was an update on the census issue and if it would affect revenues for the coming year

Deputy Town Manager Purvis said the only update was that they have provided everything necessary, and that they are being told the process is taking longer than expected. He said currently the Town has a 15% year-over-year increase in Sales Tax revenue, which is above the budgeted 9% expectation. He said the Town is potentially losing between 1 and 2 million dollars as a result of the census being off.

Councilmember Mahaffey also wanted to know how staff ensures the budget remains balanced while also not missing opportunities to invest what the Town has in its budget

Deputy Town Manager Purvis said the Town tries to keep a little cushion and be a bit conservative on the revenue expectations, but that he also wants to ensure no services are shorted and the money and capital is given properly to serve the Town effectively. He said the target for the actual ratio of income to expenditures is something that could be looked at.

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He said it was good to have a little money left over in the budget at the end of the year, but that quality and availability of service should not be sacrificed to achieve that.

PR2 Proclamation - Human Trafficking Prevention Month 2023

Jacques K. Gilbert, Mayor

Mayor Gilbert and the Council read aloud the Proclamation for Human Trafficking Awareness Month 2023, and Mayor Gilbert presented it to representatives of Shield NC

Jodi Wahba, Engagement Specialist for Shield NC, delivered a few comments:

“Thank you so much for recognizing today and this month as Human Trafficking Awareness and Prevention month. We really appreciate it. We know that you guys have been actively involved, and doing lots of first in the state initiatives to bring awareness to human trafficking, and that is just amazing that you guys can claim that, and we can claim that as Apex. At Shield, our main goal is to empower everybody in our community to understand and know the signs that they may see during their everyday life, during the career that each one of us have, and during the activities that we do within the community, so that we know the exact signs we see, and to know what to do when we see them and how to best respond. Because we know to end human trafficking, it will take all of us doing our part to shield our community, so thank you for joining us.”

Mayor Gilbert and the Council took a picture with the representatives from NC Shield

REGULAR MEETING AGENDA

Mayor Gilbert will call for additional Agenda items from Council or Staff and set the Regular Meeting Agenda prior to Council actions.

MOTION: Councilmember Zegerman motioned to set the Regular Meeting Agenda as listed, Mayor Pro Tem Killingsworth second.

YES: Councilmember Gray, Councilmember Mahaffey, Mayor Pro Tem Killingsworth, Councilmember Gantt, Councilmember Zegerman

NO: None

Motion to set the Regular Meeting Agenda as listed passed unanimously, 5-0

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PUBLIC FORUM

Public Forum allows the public an opportunity to address the Town Council. The speaker is requested not to address items that appear as Public Hearings scheduled on the Regular 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. Comments must be limited to 3 minutes to allow others the opportunity to speak.

Public Participation

- 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



Mayor Gilbert opened up Public Forum

First to present comment was Elizabeth Ray Stitt of 3113 Friendship Road (REF: OTHER-2023-017)

"I had prepared comments, but I actually decided I'm going to abandon those for a moment. I'd like to say that I have dreams too. I appreciate that you want this to be a fair and equitable place for people to live. And I think that most of the Council know that I live in the ETJ, I do not have the right to vote, and you're very much aware that the Town planned to put a force main through my property for a couple years before I even had a chance to respond to it. I have a dream that you can bring transparency and some fairness and a more equitable environment to my neighbors and I. Because the first notice I get should not be a letter from the Town saying we are entering your property with the right prior to combination. That's not how we build a community and I've come for the last 9 months, trying to be polite and friendly and all of those things to say "look, we want to work together, but this working together is not occurring" so I hope that tonight is a beginning of a new start, that we start having some more productive conversations, rather than just lawsuits and eminent domain, and what's going to happen obviously is that this is all going to continue out in the public

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media. I'm very much well aware that when the motion gets filed as public record, you know at the end of today's agenda you have a closed session, both of those cases I've pulled from the comfort of my couch, and those are eminent domain. You know, when people don't go along with the Town's plans, the Town squeezes us with legal. We really don't have to go that way. So, I'm not going to stand here for the next minute and 15 seconds, we all know that we can do better, so let's do better. I look forward to you fulfilling your promises. Thank you."

Mayor Gilbert thanked Ms. Stitt for her comment.

Ashley Solis of 1273 Brown Velvet Lane, representing Sweetwater Subdivision (REF: OTHER-2023-018)

"I once again have papers for you. The speed study has been completed, I don't know if anyone has had a chance to look, but I have some facts and figures. I would just start with saying that when we first moved here, my son was in middle school and we were in the Downtown and they were playing really bad Christmas music, and the tree was lit, and the Downtown was closed to cars. And we're walking and someone had a fake snow machine and then from the other side was bubbles. And I just looked around, coming from outside Chicago, this was completely foreign, and I said "I love this Town, I feel like I'm in a Hallmark movie. And I still feel that way about the Downtown. And with the commercial development that is going on in Sweetwater, I think it's great. It's great for the Town, more jobs, and we can always use for restaurants. What it's not great for is pedestrian traffic. And now that I've seen a dog struck and killed and several times almost a person struck and killed in the intersections, all I can think with the commercial development is not how much I love this Town and how charming it is, but I feel an impending doom, like someone is going to get hurt, someone else's child is going to get hit, because someone's child has been hit. So, a couple things that we could do that could immediately cost no money: The Town could pass an ordinance that all dog parks have to have two gates, that way there's a safety entrance. That's zero dollars. I would invite you all again to look at if it's in the budget to do something about a 4-way stop on Richardson and Hasse. I don't know if anyone has looked at the speed study yet but it says that on our part of Richardson, 4100 cars a day. That's 171 cars an hour. That's roughly 2 and three-quarters cars every minute. How is that safe going 45 miles an hour? If we can't reduce the speed limit, which it doesn't look like that would necessarily be productive based on the speed study done by the city, we have to do something. This is way too much traffic. And expanding Richardson to 4 lanes across is not going to help anything. We have 230 luxury apartments that will be leasing at the end of this year, a grocery

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store, a gas station, three outparcels, 1 almost 12,000 square foot office building, a concert area specifically for our outdoor concerts, a market area that's going to be there as where, and a parking garage. So that's 33 retail spaces. We have to do something. We need growth in Apex, but we need responsible, safe growth. I would invite any of you to take 10 minutes, I would love to walk you where we're talking about, my schedule is totally open. Thank you."

Mayor Gilbert thanked Ms. Solis for her comments and closed Public Forum as there were no more sign ups

Mayor Gilbert moved the meeting on to Public Hearings

PUBLIC HEARINGS

PH1 Budget Public Hearing - Fiscal Year 2023-2024

Amanda Grogan, Director, Budget & Performance Management

Amanda Grogan presented a PowerPoint regarding the Budget for Fiscal Year 2023-2024 and offered to answer any questions from the Council

Mayor Gilbert wanted to know what the engagement had been on the community feedback forms in prior years

Ms. Grogan said the most they had was last year's form, and over 400 people responded

Councilmember Gantt wanted to know if members of the public should email directly if they want to advocate for a specific project versus giving feedback on general priorities that the survey collects

Ms. Grogan said the form was used for more general buckets of priorities, and that email correspondence can be used for more specific projects.

Councilmember Gray said he was wondering if the survey was limited to things such as 1 per household or 1 per IP address

Ms. Grogan said it was not

Councilmember Gray said that could be a great way for high schoolers who can't yet to still have their voices heard and their priorities noted.

Ms. Grogan said the survey was available on the website.

Mayor Gilbert opened up Public Hearing for Comment

First to comment was Martha Geer of 3729 Bosco Road, representing Bosco Road

"As a retired Court of Appeals Judge I do want to thank you for your service. I at least only had one job, I know you have at least two. My question regarding the budget is will the Town Council have properly done its homework in deciding to spend tens of millions of dollars on the Big Branch Force Main. It's not clear to us in the community in New Hill that there has been an adequate assessment of the most cost effective or the safest way to run the force main. From what we've heard it sounds as if a fundamental assumption regarding cost is that there's not a lot of resistance on the North side of US-1, and that's simply not true. Resistance equals litigation, that slows down a project, that means money. There may well be less resistance on the South side. It's our understanding that developers who might help on the south side have been told there's no resistance on the North side. If they knew the reality, they might help with Duke and DOT, which I understand are the major obstacles supposedly on the south side. I would help with DOT, I already did. We got a fraction of what we wanted, and that's because the Town asked for a fraction of what we needed. In addition, there are also added costs. I'm willing to bet they haven't been considered. Residential owners relied on mature tree lines when they bought their properties along US-1. The Town will be taking that down and replacing it with grass. Nitrogen dioxide from traffic increases cancer rates, that's well established and Councilman Gantt, I think you may know some of that through your work at the EPA. We will fight for pollution barriers among residential properties. Creeks, wetlands and army corps of engineer's water bodies, there's one on Dr. Bruce's property, who's going to speak, you can't just plow through those. We will fight to require drilling under those creeks and wetlands, drilling is expensive as I believe you noted in one of your meetings in November. Bottom line is less resistance equals cheaper overall costs and faster construction, time is money. And lastly, I want to say bonds can be defeated. I won two statewide races, I was a democrat I wan in a republican year, the last time

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I won by 20 points thanks to my husband who is really very good at this. This is a simple campaign, this is a simple message: this bond will be sacrificing private homeowners to benefit developers. I would ask that you take another look at the South side of US-1. Thank you."

Mayor Gilbert thanked Ms. Geer for her comments.

Next to speak was Dr. Jon Bruce of 8164 Providence Oak Path, representing Bosco Road

"That's a tough act to follow, following a judge! She stole a lot of my fire, but I'm going to reiterate what she said a little bit and go on. So, thank you in advance for listening to my comments this evening, and as a former US army veteran, thank you for your service on this Council. My name is Dr. Jon Bruce of 8164 Providence Oak Path in New Hill. Our property has been listed as one of the multiple properties that the big branch force main project will negatively impact. For those of you who are not aware in the audience, the project is a permanent 30 foot right of way which will be placed across our properties with no replanting of trees or bushes of any kind on this right away with an annual mowing of grass. Vents will be placed at different intervals; these vents will likely or possibly release noxious gas on our properties. The knowledge I have on the project is largely through a group forum email of numerous concerned citizens in the New Hill and the Bosco Road area. It is through these concerned citizens that I learned that the Town of Apex wishes to connect areas of the Town of Apex to the Western Wake Treatment facility in New Hill. This will allow for current and future development of the Town of Apex and will offer no benefit to any of the homeowners negatively impacted. At no time did surveyors, engineers, or any other Town of Apex personnel or authority come to evaluate my property for this project, as they did neighboring properties. Because they did not take the time to visit us, they would not know that our septic drip field is within 30 feet of our southerly property line and likely would be disrupted. They also probably did not know about the US Army Corps of Engineers stream of wetlands there that would be impacted as well. Clearing 30 feet of trees between a heavily trafficked highway poses some major health risk to homeowners as well. Numerous health studies have identified a group of substances, Nitrogen Oxide which is carcinogenic, specifically causing lung cancer. American Cancer Society lists lung cancer as the number one cause of death in the US causing almost 1 in 5 cancer deaths. Nitrogen Oxides are listed on the US department of health and human services public health services agency for toxic substances and disease registry. On their site, they clearly state that people who live near areas with heavy motor vehicle use such as Highway 1, may be exposed to higher levels of Nitrogen Oxide. There is no way to determine whether homeowners

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would be exposed to a higher risk of lung cancer after removing a 30-foot buffer of trees and doing so may submit homeowners to an increased risk of developing lung cancer. These tumors grow slowly and likely would not manifest themselves for 1-2 decades. By that time, the developers would be long gone. Most of this Town Council will be replaced, and those still on it likely may not remember the conversation of this evening. On a personal note, this force main would significantly impact our way of life., My wife and I have worked all our lives to help people in need in pain economically and in many other ways. Like many all of us, our home is our reprieve, and it's a reward for decades of hard work. In respite from days of stress from being a surgeon for the last 30 years. Spending time on our land offers us peace and replenishment. An alternative is to place the main on the opposite of highway 1, on property owned by Duke Energy. No residents are present in that immediate area, so there is an alternative. With that, thank you."

Mayor Gilbert thanked Dr. Bruce for his comment.

Next to offer comment was Mark Blatchford of 433 Parkfield Drive

"Mr. Mayor, members of the Town Council, Mark Blatchford, 433 Parkfield Drive, I want to make two points with you tonight. The first one is background, the second one sort of leads into a sort of budget request. The first thing is I want to is not just on my behalf, but on behalf of the entire senior community, in fact I wish I had thought ahead of time and had 100 of them in here together with me so we could say to you: we love the senior center! It's where we go to get exercise, to learn, to be creative, to socialize, and of course get a free cup of that great coffee there. And it really benefits us in terms of our physical state, our mental state, our emotional state, our social state and I think we owe a debt of gratitude to this Town Council and prior Town Councils, and particularly to the voters and tax payers of Apex who voted to provide the money for the senior center. Now of course with anything you have that is popular, and the senior center is popular, we get more people coming every day, there's going to be more demand. So, my second point would be: in your budget considerations, just be aware of the fact that there's going to be more an more demands, we're all going to be seniors one day including the scouts, for services there. And I hope that you will consider the increased need for staffing and other resources to keep the programs we offer to the senior community, they're vital. Thank you very much."

Mayor Gilbert thanked Mr. Blatchford for his comment.

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Next to speak was Elizabeth Ray Stitt of 3113 Friendship Road

"I don't support the force main, but I'm not going to talk about that, believe it or not. So, last year the Town asked citizens to participate in a budget survey, similar to the survey that is being conducted this year. Last year's results showed that citizens ranked transportation as a top budget priority. Yet, despite it being the priority the Council only funded 8.3 million dollars in transportation capital improvements. And based on last year's projections for this coming year, only 9 million is going to be allocated for transportation. This is in comparison to the money that is being spent on sewer. So, for the 8 million that was allocated for this year, we had 12 million allocated for sewer projects. For this coming year, where we have 9 million allocated for all transportation improvements, which is our number 1 priority in Apex, they're getting 26 million. Or they're going to ask for 26 million. For one project that you've already heard there is no support for. If the citizens ranking of transportation in the survey wasn't enough, over the course of this past year, we have heard how Humie Olive road area is so congested that pets have had many close calls with cars. We know that Austin, the dog, was hit and died. We know that a student trying to get to school was hit by a car. We know that every traffic impact analysis of Friendship Road has shown that we have a level of service of F. Then during the Council meeting on December 13, the economic development strategic plan was presented to you. It showed that the citizens ranked transportation access as the second largest weakness of attracting businesses to Apex. And then ranked transportation access as the number 1 requirement for economic development. The data for funding transportation is overwhelming, yet I could not find any data that shows citizens want 26 million dollars spent on a sewer line. The disparity of the data and the funding gives you the impression that the Council is not prioritizing the needs of the community. With it being an election year, I think it is important that the Council consider looking at what actually these surveys say. If it was number 1 last year in the survey, why don't we have more funding? So please consider funding more transportation. Thank you.

Mayor Gilbert thanked Ms. Stitt for her comments.

Next to speak was Jeff Hastings of 3609 Friendship Road

"Thank you, Mayor, Town Council, sort of a different tangent. I have already taken the survey that the Town has provided. So, thank you for that, it went well. I wanted to thank you also because of the things on there was, as many of you it's near and dear to my heart, since it sits next door to us is the Tunstall house, I wanted to say that I appreciate the 400,00 that's already been allocated, and I want

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to continue to use the resources provided with the Town to rehabilitate restore that house, so it's true to what the wishes of Ms. Tunstall had when she sold the property to the Town of Apex at a very reasonable price. So, I just wanted to say thank you for what you're doing so far, and keep it up."

Mayor Gilbert thanked Mr. Hastings for his comments

Mayor Gilbert closed Public Hearing for comment and turned it back to Council for discussion

Councilmember Mahaffey thanked everyone who came out and offered feedback on the budget, and said the Council values citizen engagement, particularly on the budget.

Mayor Pro Tem Killingsworth concurred with Councilmember Mahaffey, and said it was often a struggle to get people to tell Council their priorities, so it was great to see so much involvement, and she offered thanks as well.

Councilmember Mahaffey wanted to emphasize that this was the start of the budget process, and that there would be more public hearings. He also asked about what the schedule for the budget was looking like going forward.

Ms. Grogan informed the Council that there has been a capital improvement plan that has been sent to them, there is a budget retreat on February 17th, non-profit applications are due on February 28th, departmental budgets will be completed on March 1st, the Personnel Committee will meet on March 23rd, Finance Committee will meet on April 6th and 10th, the budget will be distributed to the Town Council on April 20th, May 5th will be a budget Town Council workshop, May 23rd will have a public hearing on the proposed budget, June will have another Town Council budget workshop if necessary, and scheduled adoption is June 13th. She said staff would get this schedule posted online.

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MOTION: Councilmember Gray moved to go into closed session in order to consult with the Town Attorney, seconded by Mayor Pro Tem Killingsworth

YES: Councilmember Gray, Councilmember Mahaffey, Mayor Pro Tem Killingsworth, Councilmember Gantt, Councilmember Zegerman

NO: None

Motion to enter closed session passed unanimously, 5-0

NCGS §143-318.11 (3):

"To consult with an attorney employed or retained by the public body in order to preserve the attorney-client privilege between the attorney and the public body."

Council moved into closed session for about ten minutes

MOTION: Councilmember Gray motioned to return the meeting to open session, seconded by Councilmember Gantt.

YES: Councilmember Gray, Councilmember Mahaffey, Mayor Pro Tem Killingsworth, Councilmember Gantt, Councilmember Zegerman

NO: None

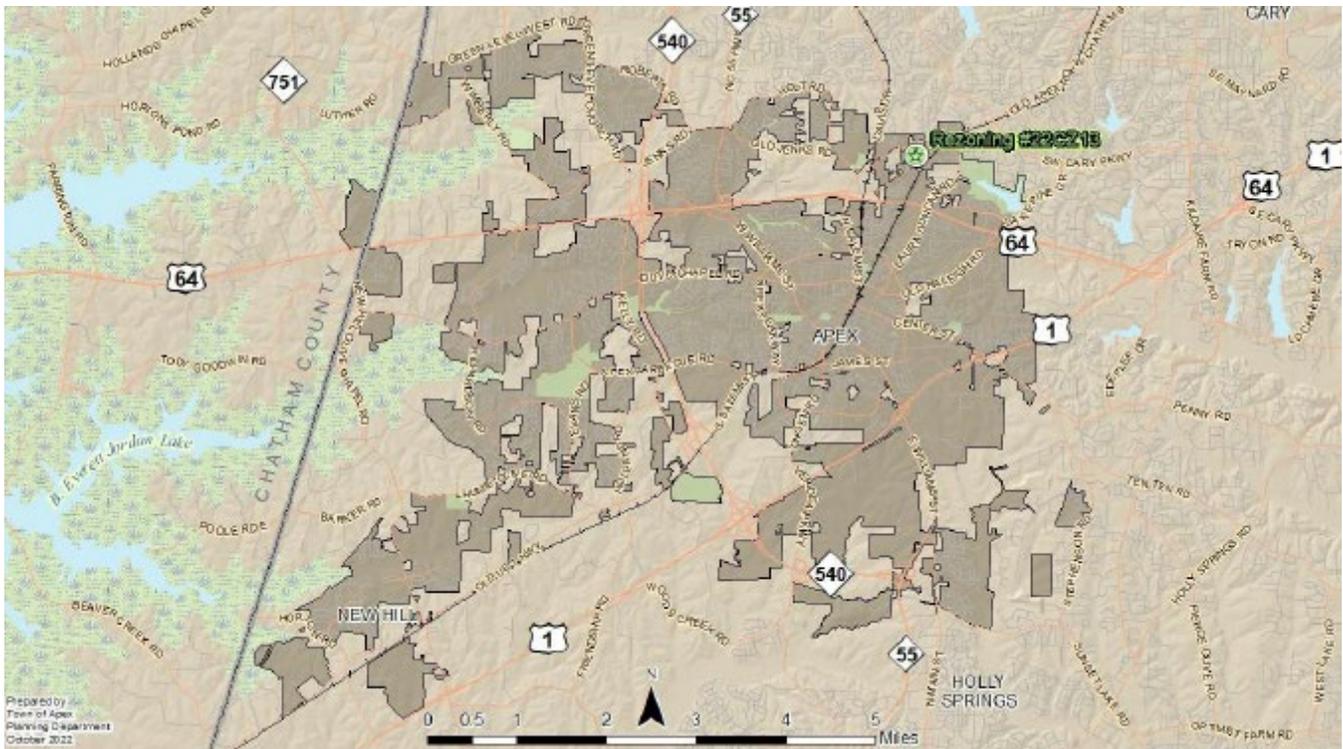
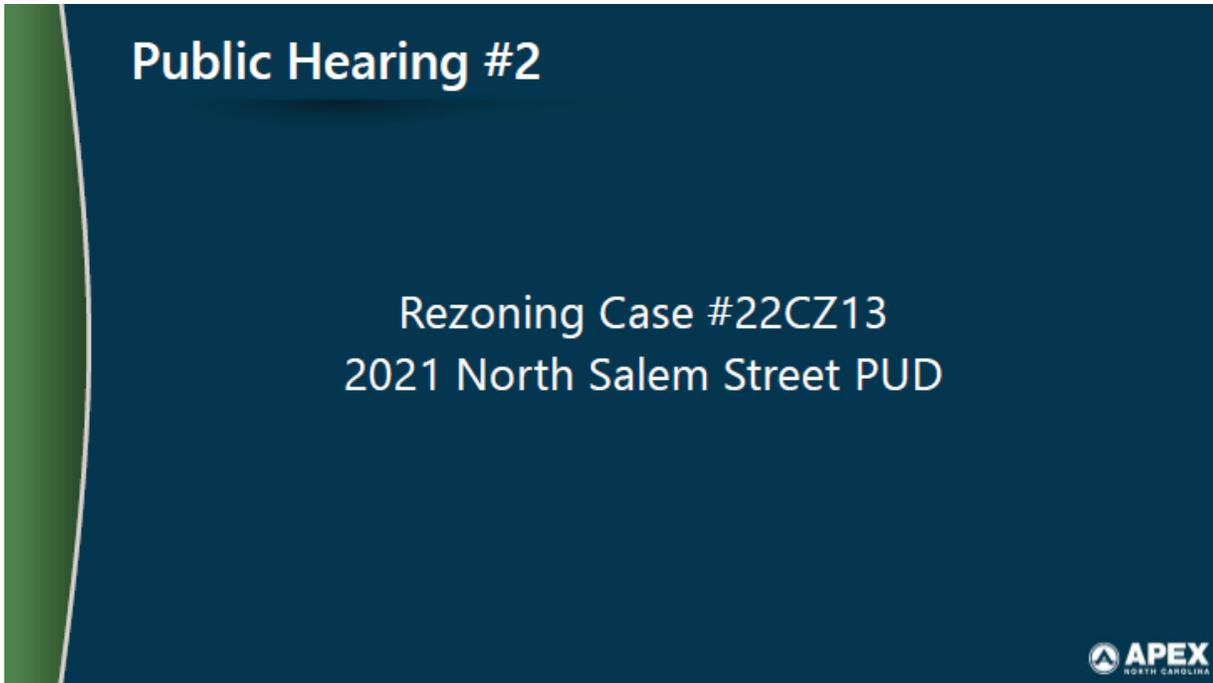
Motion to return the meeting to open session passed unanimously, 5-0

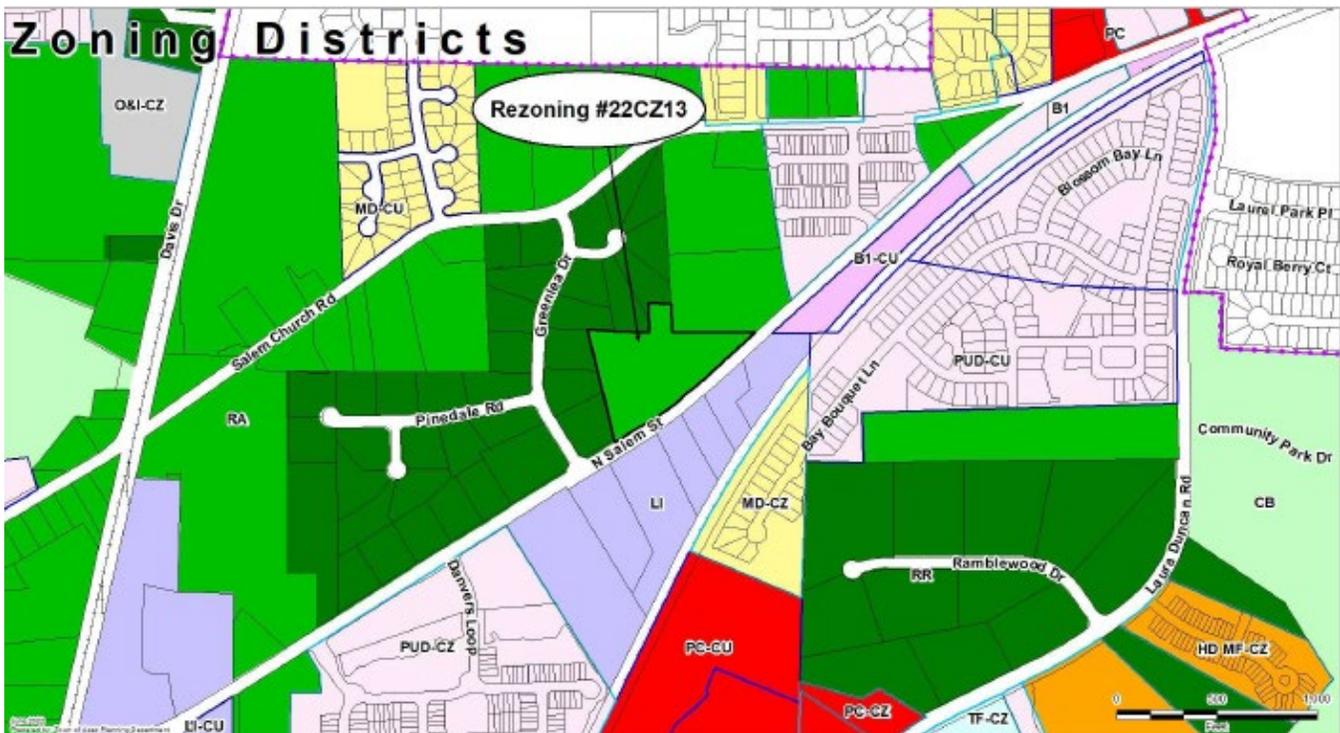
Mayor Gilbert moved the meeting on to Public Hearing 2

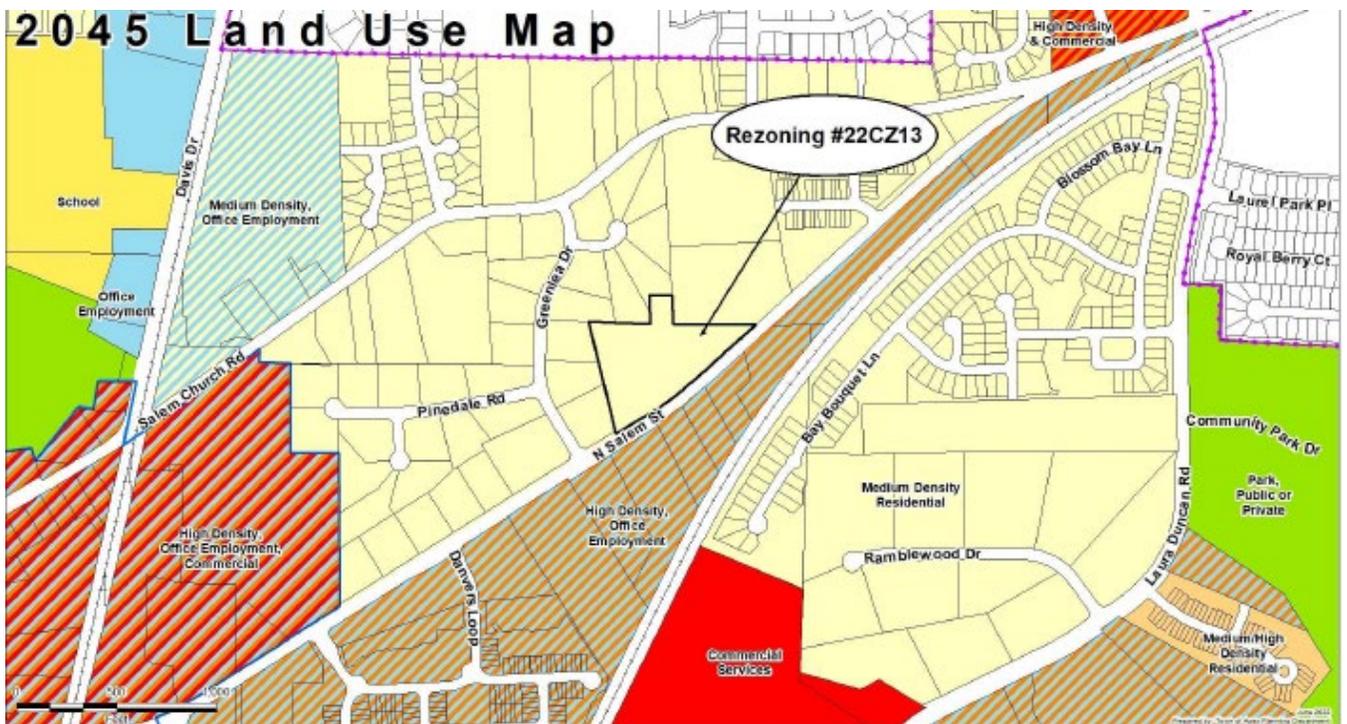
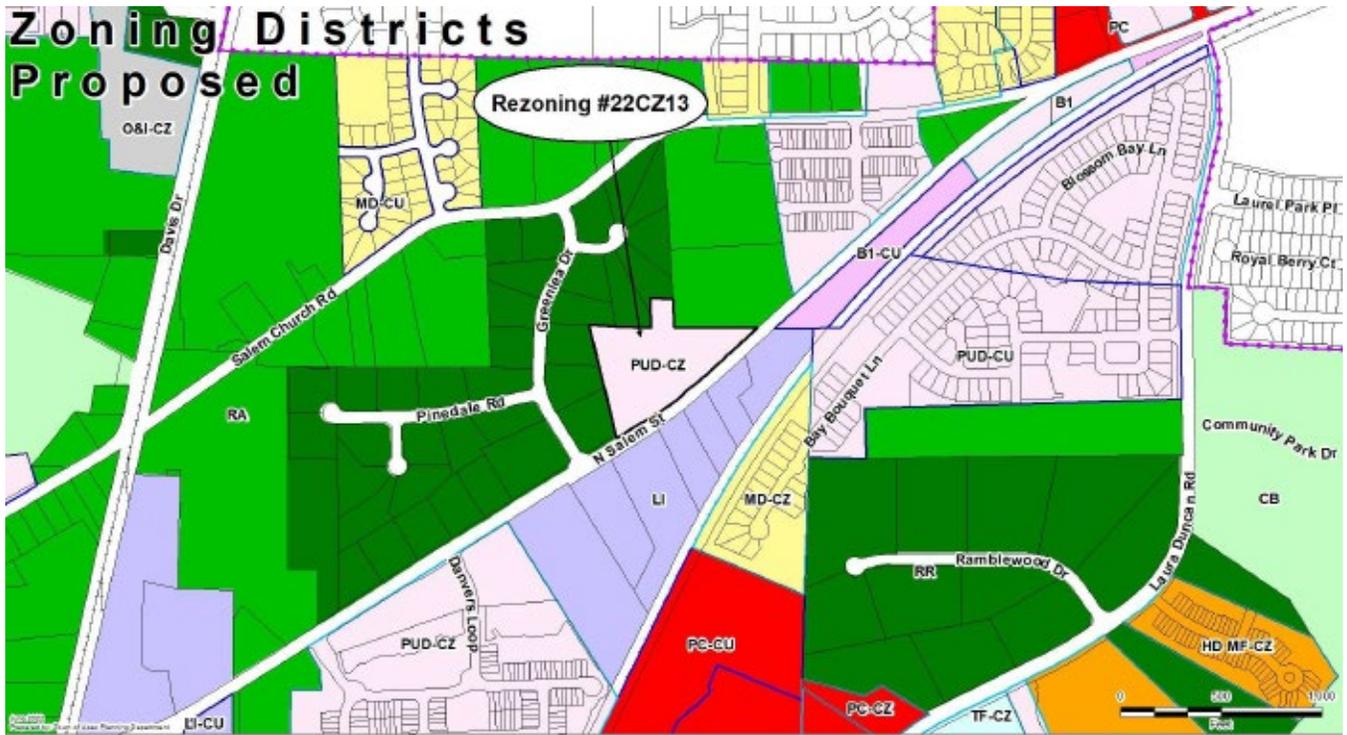
PH2 Rezoning Case No. 22CZ13 - 2021 N Salem St PUD

Amanda Bunce, Current Planning Manager, Planning

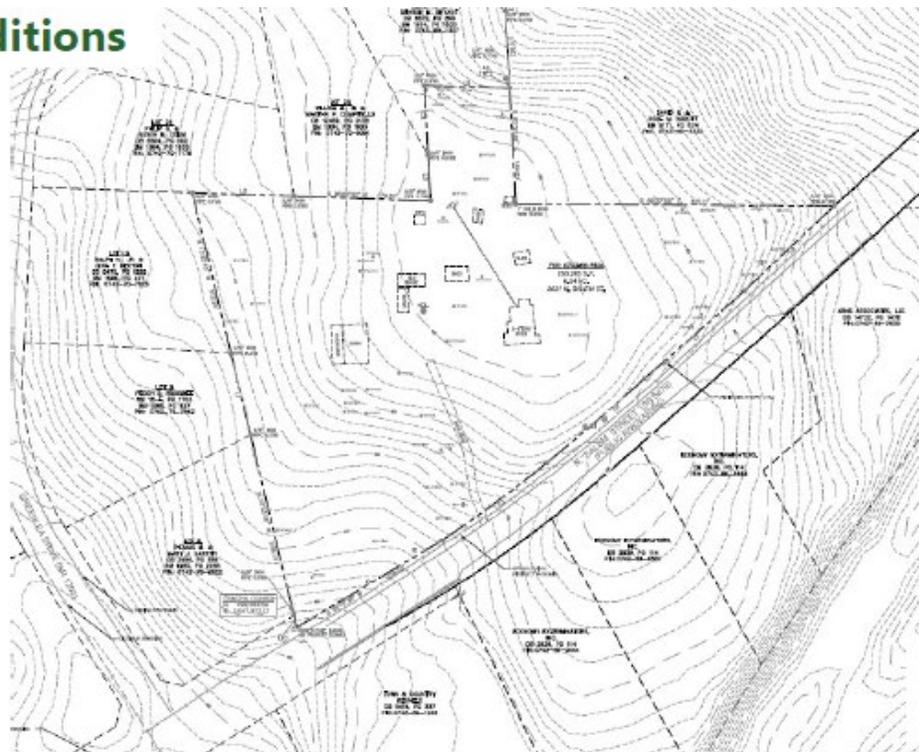
Amanda Bunce, Current Planning Manager, gave a presentation regarding Rezoning Case No. 22CZ13 - N Salem Street PUD, and offered to answer any questions Council had







Existing Conditions



Site Layout



1. THE PROJECT'S
2. THE ULTIMATE
3. THE ULTIMATE
4. THE ULTIMATE

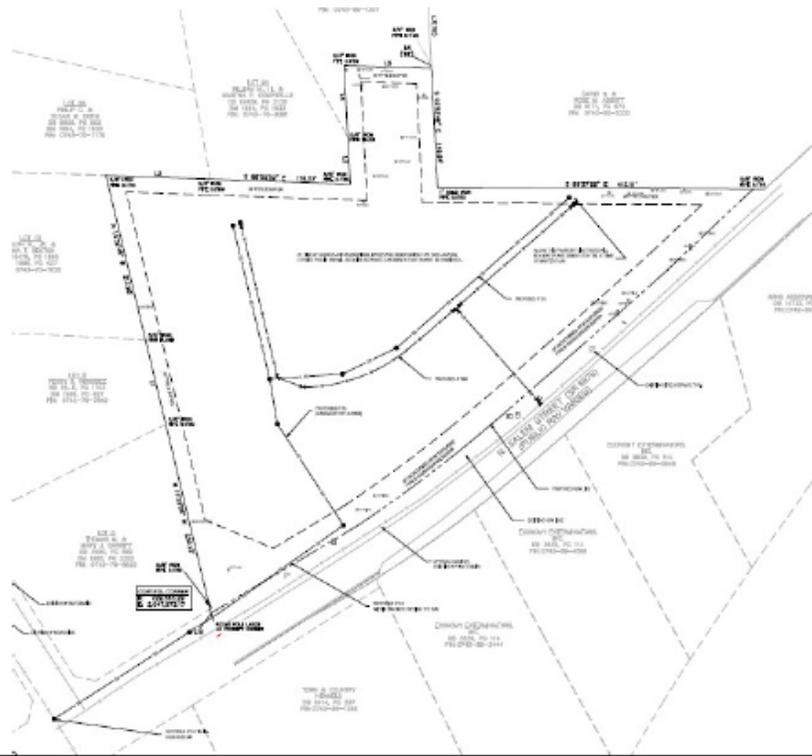
LEGEND

- PERIMETER BUFFER
- CONCEPTUAL ROAD CONNECTION
- CONCEPTUAL SOM LOCATION
- OPEN SPACE
- TOWNHOMES

NOTE: REQUIREMENTS PERUDO SECTION 8.2.2C.1
 - AN ENCROACHMENT INTO THE BUFFER MAY BE REQUIRED FOR A TOWN OF APEX BUS STOP. IF AN ENCROACHMENT IS REQUIRED, THE ENCROACHMENT INTO THE BUFFER SHALL CONTINUE TO BE COUNTED AS BUFFER AND SCA FOR PURPOSES OF MEETING THE LUDO AND CONDITIONAL ZONING.



Utility Plan



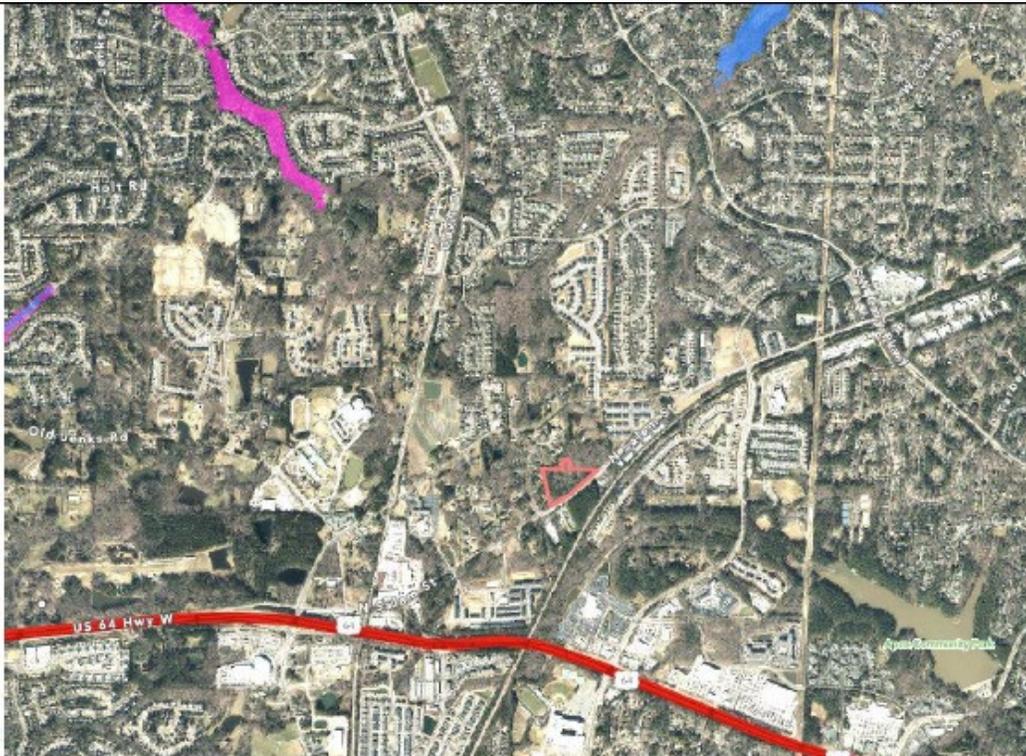
Elevations



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Jason Barron of Morningstar Law Group, on behalf of the applicant, gave a presentation and offered to answer any question that Council had:

2021 N Salem St





Zoning Conditions Offered

• Permitted Uses

- Townhouse
- Accessory apartment
- Utility, Minor
- Park, Active
- Park, Minor

• Max Dwellings

- Max of 40 townhomes

• Transit

- Amenity pad and lighting for future transit stop
- Dedication of Right-of-Way

• Pedestrian connection

- Extension of a 5' sidewalk to connect to existing sidewalk at Salem Pointe

Zoning Conditions Offered

• Environmental

- 4kw solar shall be installed on at least 4 homes
- Homes preconfigured for solar
- Dark sky and LED for non-residential
- Pervious pavement for exceeding parking maximums

- Signs at RCA and SCMs
- Native species
- Warm season grasses
- A min of 4 species of hardwood trees
- Deciduous trees over 18" which are removed, to be replaced with 1.5" min caliper trees



Zoning Conditions Offered

• Architectural Includes

- No vinyl siding
- Garage doors will be decorative
- Horizontal relief
- Broken up roofline

Affordable Housing

- One residential dwelling unit based on 100% AMI (includes lot and unit price)
- Affordability of a minimum of 10 years
- Public-private partnership for marketing and screening of applicants



Zoning Conditions Offered

- **Transportation (all subject to TOA and NCDOT approval)**

- Frontage improvements along N Salem Street
- Center turn lane extension between Greenlea Drive and Economy Exterminators driveway
- 5' minimum sidewalk along frontage
- Sidewalks on both sides of internal streets

- **Parks and Recreation**

- Fee-in-lieu of dedication



Zoning Conditions Offered

- **Historic Structures**

- \$100,000 donation to the Town to further historic preservation, without limitation, the Tunstall House
- The tobacco barn and wash house shall be preserved in accordance with the UDO
- The stone face on the portico of the existing brick home shall be saved and reused on the property





Councilmember Gantt said that he believes the Raleigh area has done a poor job of preserving historic buildings, particularly from the 60's and 70's, and asked if this proposal was not along the same lines with that mistreatment of old buildings in the area.

Mr. Barron said he agrees the preservation of older building in the Triangle has not been great, but that he believes this proposal is a good balance between achieving preservation priorities and recognizing the realities of the home in question from a practical point of view. He believes that it would be a different case if the home was in better condition or if it were more visible from the road. He said it does not feel like it is worth keeping the house if it means losing the other benefits of this rezoning case. He said this is an incredibly unique case in his experience and the applicant is doing all they can to work with the Town on capital preservation.

Councilmember Gray asked what the cost of moving the structure would be.

Mr. Barron responded that the estimate was around \$100,000 dollars.

Councilmember Gray wanted to confirm if that cost included the price of finding another site and moving it there.

Mr. Barron said that it did not include that, and a lot of the cost of the off-site removal would be determined by how far it would be moving, and that could not yet be estimated.

Councilmember Gray said he was also curious about the traffic impact of the development.

Mr. Barron said he believes 40 townhomes does not generate a lot of peak-hour trips, and that it is far below what the Town usually recommends as the threshold to require developers to make off-site improvements in order to compensate for traffic impact.

Councilmember Gray also asked why the applicant picked 100% of the Area Median Income (AMI) as the threshold for calculating affordable housing eligibility.

Mr. Barron responded that this number was chosen based on consultation with staff in order to find the right balance based on where the parcel is located and the cost of the townhomes. He said they all ended up agreeing that 100% AMI was the appropriate number.

Mayor Gilbert then opened up public hearing for comment for Public Hearing 2

Jeff Hastings of 3609 Friendship Road was first to present, on behalf of the Apex Historical Society

"Mayor, there's one other speaker that came in late that will sign up if that's okay. For the point of this conversation, as the President of the Apex Historical Society, I heard a lot that was said about that tract of property. One of the things that came to mind was priorities. Yes, the Town has priorities for solar, yes, the Town has priorities for sidewalks, they have infrastructure priorities. Are we willing to sacrifice all of that to let one person basically decide what the value is of one property over another? And are we going to let that one person override Capital Area Preservation, who is the authority in Wake County, Apex, and several other municipalities have a contract with Capital Area Preservation? They're the experts in the room. This whole thing came to Capital Area Preservation about 11 months ago. About the process of possibly setting the house. To the best of my knowledge, Capital Area Preservation has not been contacted in the 11 months. Apex Historical Society has not been contacted in the 11 months. We get an email Friday before planning board, saying that in lieu of saving the house, they want to donate some money. We find out about it after the fact, that it can't go to the public. It's just the timing of the whole thing. There's never been the resources given to see

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if the house is worth saving. Is it off the road? Yes, it's off the road. My 1890 house was off the road, and it burned to the ground. Nobody knew it was there. And I loved that part about it. But that doesn't make it any less relevant than the Tunstall house beside us. And when we start allowing the developers to decide what is of historical value in Apex, versus what is not, we go down a rabbit hole because with all due respect to Mr. Barron, this will not be the last time should this go forth. Because I guarantee you multiple developers are looking at this, because it's an easy fix. He talks about the dollar amount. \$6,200 a townhouse in Apex, that's the difference that the 250,000 dollars is. And we're going to sacrifice what could be a historical property, with no outreach by the developer, no attempt to have somebody found that might save the house. We're willing to sacrifice that for what we think are priorities. So, I respectfully ask that you decline it with that contingency that's in place. Thank you very much."

Mayor Gilbert thanked Mr. Hastings for his comments

Next to speak was Jeremy Bradham, Preservation Specialist for Capital Area Preservation

"Good evening Mayor, Council, my name is Jeremy Bradham, I'm the preservation specialist for Capital Area Preservation. I just wanted to piggyback off of what Jeff said and speak to the important of the ordinance here in Apex. Just so you all realize, we work all over Wake County. Every Town in Wake County looks to Apex for preservation. Holly Springs, Fuquay, they've all said "what has Apex done to make downtown so great and to save the historic structures around Apex?" And we always point to the ordinance. It was the first of its kind in the state. A few other Towns have followed suit, Cary and Wake Forest both have state enabling legislation like Apex got, but I want to speak to the fact that the ordinance would be completely undermined and really would open up a wormhole so to speak for developers being able to use payment in lieu of actually saving a historic property. I'm not speaking on just this specific property. If this would have happened in the past, there would be 6 less saved houses in Apex. We've done reviews for Apex for many years now. I've been at the company for 10 years, it was done before my time, there's been over a dozen that were not worthy of being saved. We try to find unique examples, and this is a 1941 Tutor Revival Pyramidal house and it's extremely unique for Apex, and it's really the only example Apex has, so that's why we gave our analysis. But we agree with the staff recommendation that that condition should be pulled. So, thank you for having me."

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Mayor Gilbert closed the Public Hearing for this item, and moved it back to Council for discussion

Councilmember Gray had an additional question for Mr. Barron. He said, Mr. Hastings said there had not been any communications between the applicant and the Capital Area Preservation or the Apex Historical Society, and wanted to know if that was the case or not.

Mr. Barron deferred to Mark Boles of Baker Residential to speak to that.

Mr. Boles said he has sent emails, left messages, and that there has been communication with Mr. Bradham and Capital Area Preservation.

Councilmember Mahaffey commented that he found the argument from the Apex Historical Society and Capital Area Preservation to be compelling. He said he is grateful for their expertise, and that part of what makes Apex great is the preservation of their historical structures. He said he does see the point the applicant is making with the house being in bad shape. He added he still wanted to defer to Capital Area Preservation on what is worth saving or not.

Councilmember Gray agreed that the Council needs to rely on Capital Area Preservation. He said that the fact the property is a bit more hidden does not diminish the value of the property. He said some benefits of this project include increased transportation access through sidewalk extension and bus access. He said they're getting solar, which is always a big deal to the Council. He also added the affordable housing at 100% AMI. He said the preservation issue was a big deal, but that getting everything else the Council asks developers for makes it more difficult to analyze. He understands the slippery slope argument, but he doesn't believe on balance it will end up as bad as expected if this is given as an exception. He said this could also prompt a look at the UDO and whether it needs to be adjusted. He believes the applicant has offered a creative solution by offering the fee in lieu, which he sees as similar to situations around sidewalks and canopy. He does see the risk of developers citing this example in the future, should this be passed. He said there's a lot of positive and negatives in this case, and that the door can be closed even if it's opened for specific circumstances. He said he could support the rezoning.

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Mayor Pro Tem Killingsworth said she was thinking about this in a similar way to Councilmember Gray. She believes the house in question does look very run down, and that there are many things the Council also asks for that they are receiving here, with added compensation to fill gaps in historic preservation in other areas using the fee in lieu. She said she can support the rezoning.

Councilmember Zegerman said this was a matter of where the Town's values and principles were. He said the concessions offered in exchange for losing the historical house did not seem sufficient. He added that having one unit out of forty be affordable housing was not meaningful. He said the Town needs to be serious about preserving the historical value of Apex. He said he wouldn't like to see the sidewalk and bus stop be lost, but there are alternatives to that. He said the proposed \$100,000 fee in lieu was the "easy way out". He added that he was not in favor of this rezoning as presented, and that it could be approved if agreements were made to maintain the house on site.

Councilmember Gantt said he wanted to do the greatest good for the greatest number of people. He said getting the sidewalks, and housing, and transportation access was a lot of good. He said the house being out of view is not a good argument for it having lesser value, and CAP's assessment should still be appreciated. He said there needs to be a balance between their perspective and doing the most good for the most people. He said he would also be considered about the possible outcome for the property and the historical sites if this proposal was denied.

MOTION: Councilmember Gantt motioned to approve Rezoning Case No. 22CZ13, seconded by Mayor Pro Tem Killingsworth.

-Further Discussion-

Councilmember Mahaffey said it was important to think about the big picture and what this means for Apex and its reputation, as well as what may happen to other historic homes that are in a similar circumstance. He said this is not just about this home, but that it's more about the overall conditions that they operate in.

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Mayor Gilbert added that he wanted clarity regarding the communications that Mr. Boles and Mr. Bradham had, and if a possible solution was worked on.

Mr. Boles said the proposed solution was to move the house with full preservation. He said they did look for alternative sites, but that it was difficult based on cost and feasibility of fitting the home on nearby areas from an aesthetic blending perspective, as a lot of the possibilities were commercial sites.

Councilmember Gantt asked if the report from CAP gave an opportunity for discussion afterwards

Mr. Bradham said that in the report they agree that there were questions on the foundation of the house and whether it could actually be moved, but that would be a question that movers and other experts would have to answer. He said that other houses that have looked far worse have been moved and preserved in Apex. He said that the mover believed the house could be moved, which informed their opinion that full preservation was the most appropriate option.

YES: Councilmember Gray, Councilmember Gantt, Mayor Pro Tem Killingsworth

NO: Councilmember Mahaffey, Councilmember Zegerman

Motion to approve Rezoning Case No. 22CZ13 passed, 3-2

PH3 Rezoning Case No. 22CZ23 - Yellowbridge PUD Amendment

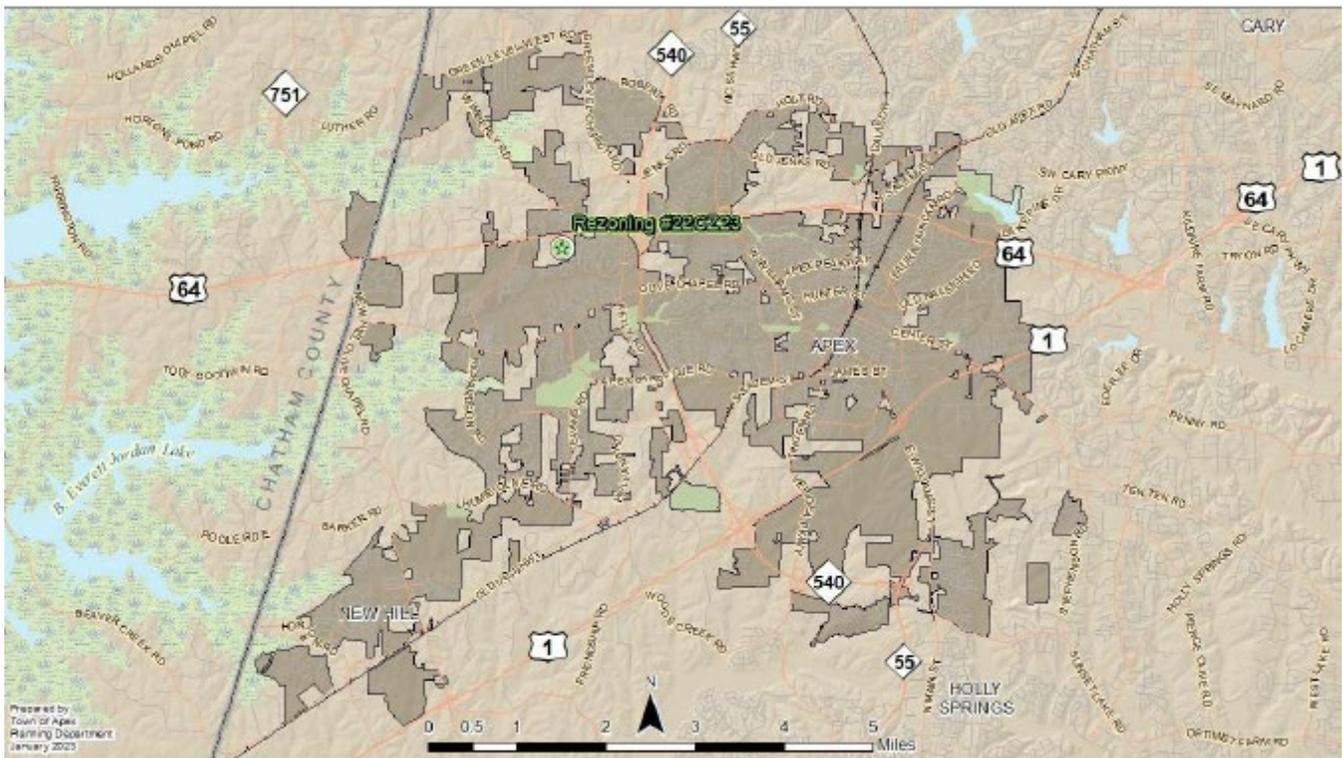
Lauren Staudenmaier, Planner II, Planning

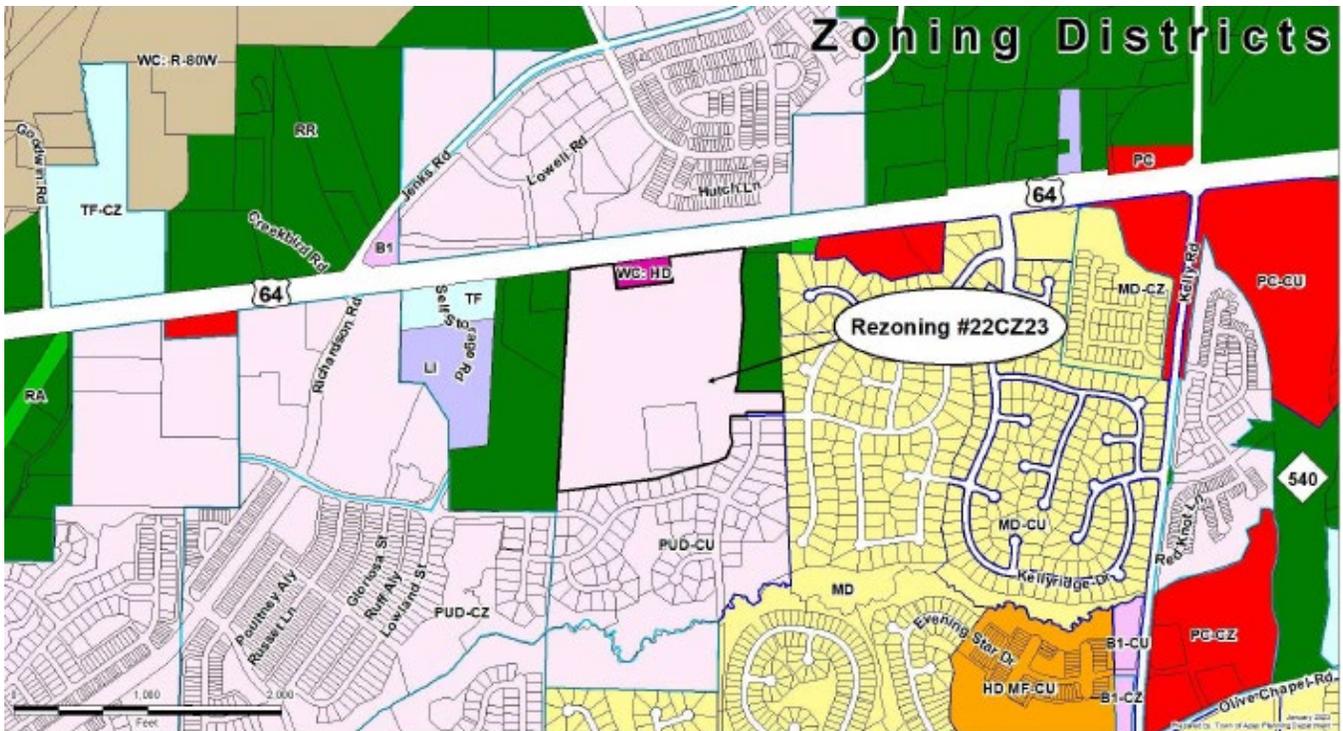
Lauren Staudenmaier, Planner II, gave a presentation regarding Rezoning Case No. 22CZ23 Amendment, and offered to answer questions from the Council.

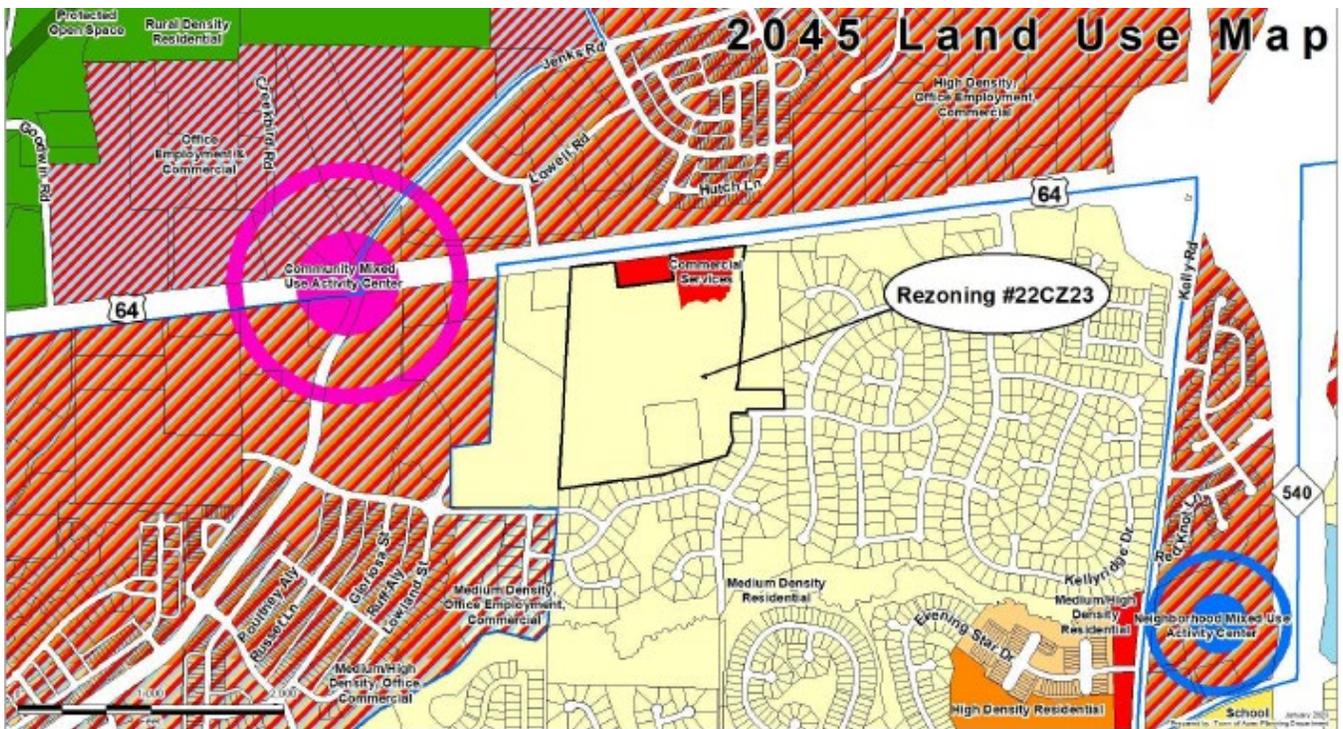
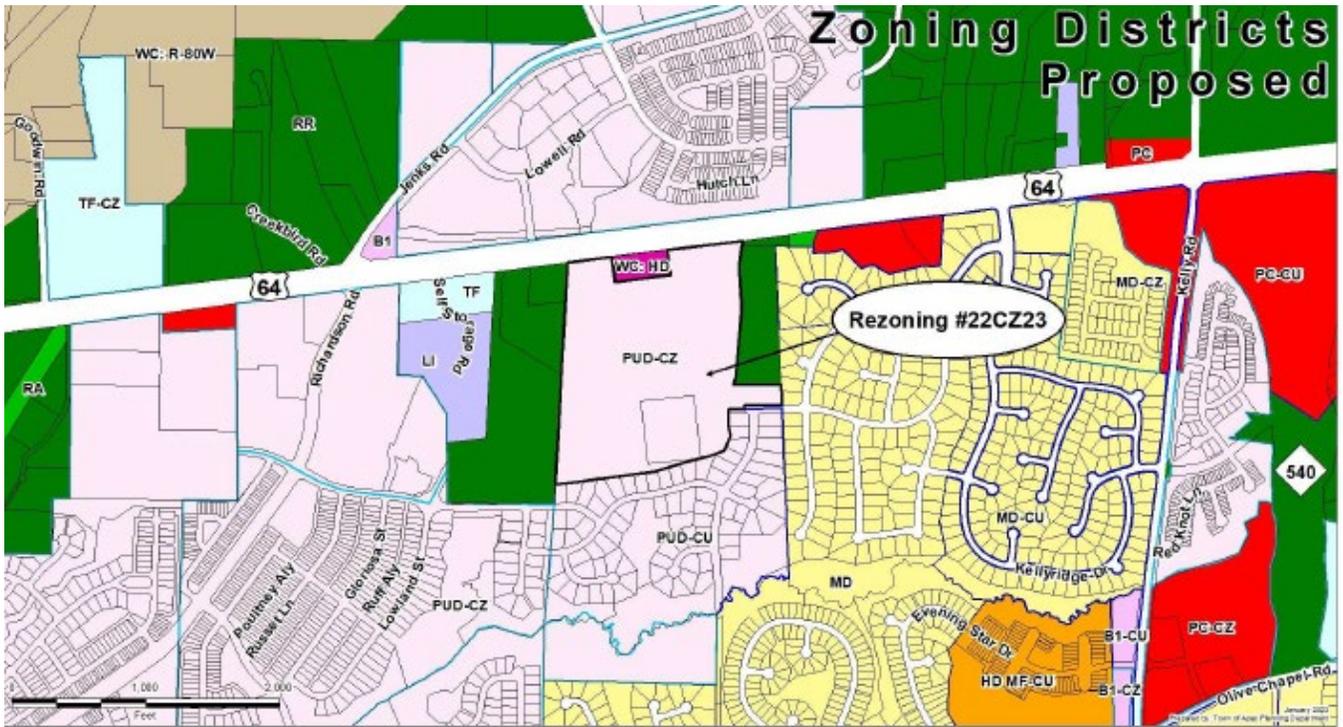
Public Hearing #3

**Rezoning Case #22CZ23
Yellowbridge PUD Amendment**

APEX
NORTH CAROLINA







The current Residential District Design Guideline #6 for single-family detached homes:

6. Garages on the front façade of a home that faces the street shall not exceed 30% of the total width of the house and garage together.

The following Residential District Design Guideline #6 for single-family detached homes shall be amended to:

6. Garages on the front façade of **homes** that **face** the street shall not exceed **50%** of the total width of the house and garage together.



Councilmember Gantt wondered what the reason for a 30% garage space width requirement versus 50% was...

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Dianne Khin, Planning Director, said this was one of the typos to be fixed, and staff recommendation was that the garages should not exceed 50% of the total width of the house and garage, rather than the currently approved 30%

Councilmember Zegerman asked if there were any consideration to lowering the garage front percentage.

Ms. Khin said that the homes would likely not be able to do a two-car garage with less than 50% garage front allowed, but that something like that would not fit for this project.

Councilmember Zegerman asked about the homes that had garages on the side and how that worked with the percentage

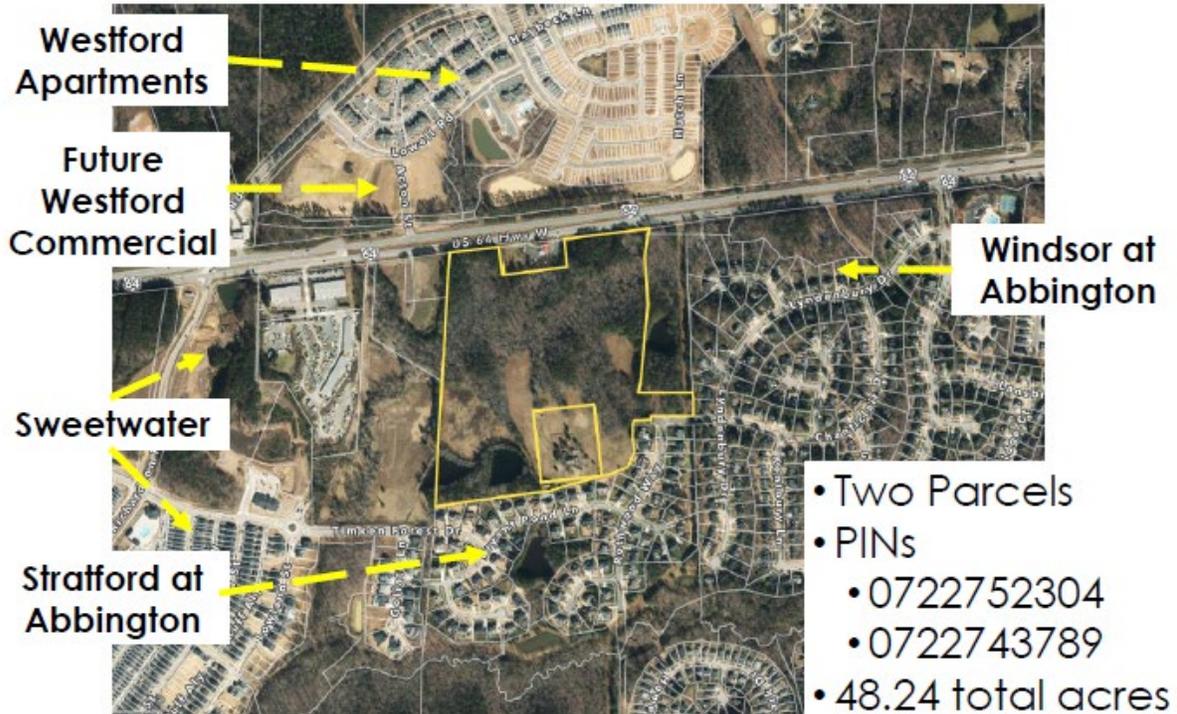
Ms. Khin said only the front façade counted towards the percentage, and that staff always tries to get developers to have back loaded garages or no garages at all, but that it isn't usually feasible because of site geography and market forces.

Matthew Carpenter, on behalf of the applicant, gave a presentation.



Yellowbridge PUD

PUD-CZ



RESIDENTIAL DISTRICT DESIGN GUIDELINES

Single-Family Detached:

- 6. Garages on the front façade of homes that face the street shall not exceed 530% of the total width of the house and garage together.



Previous Elevations



New Elevations





MOTION: Councilmember Gantt motioned to approve the Amendment to Rezoning Case No. 22CZ23, seconded by Mayor Pro Tem Killingsworth

-Further Discussion-

Councilmember Mahaffey said he reached out to people at Abbington, and they reiterated earlier concerns. He said even though he opposed earlier, he is okay with fixing this error through the amendment.

YES: Councilmember Gray, Councilmember Mahaffey, Mayor Pro Tem Killingsworth, Councilmember Gantt, Councilmember Zegerman

NO: None

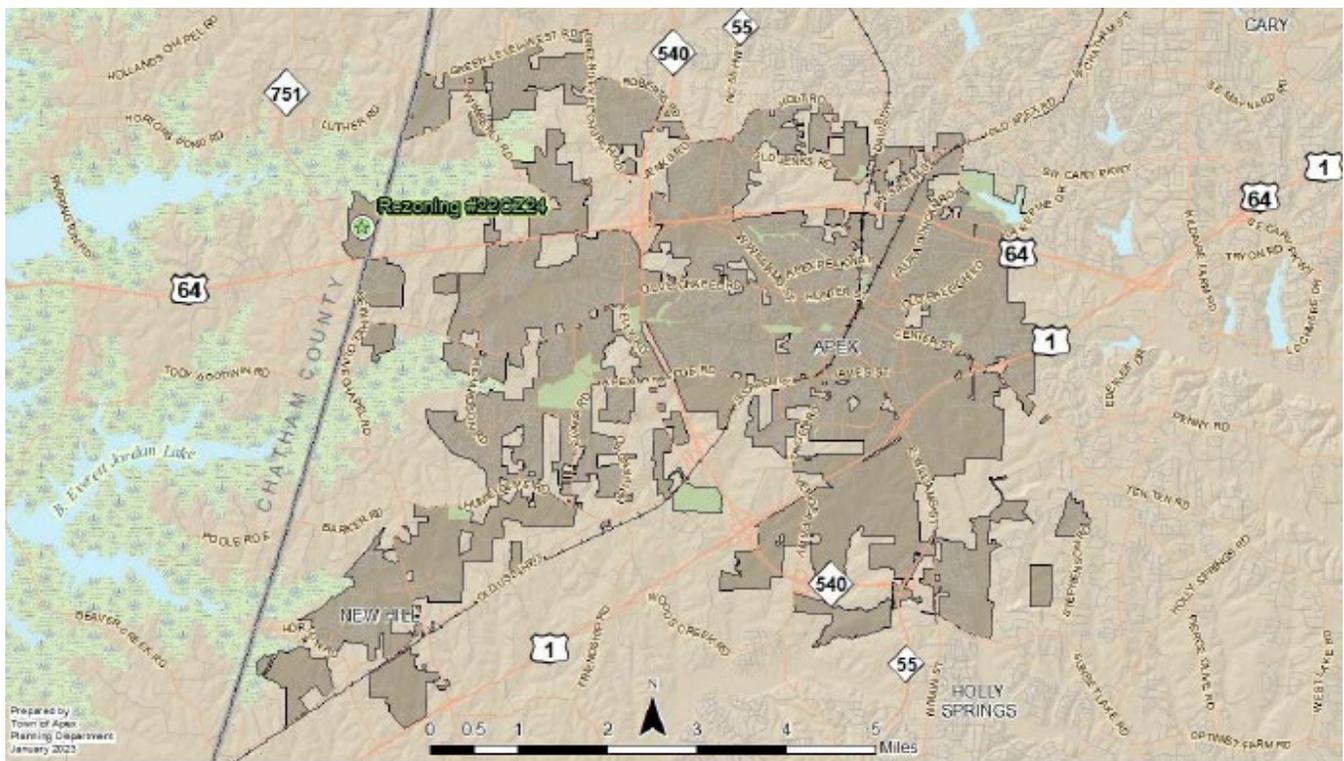
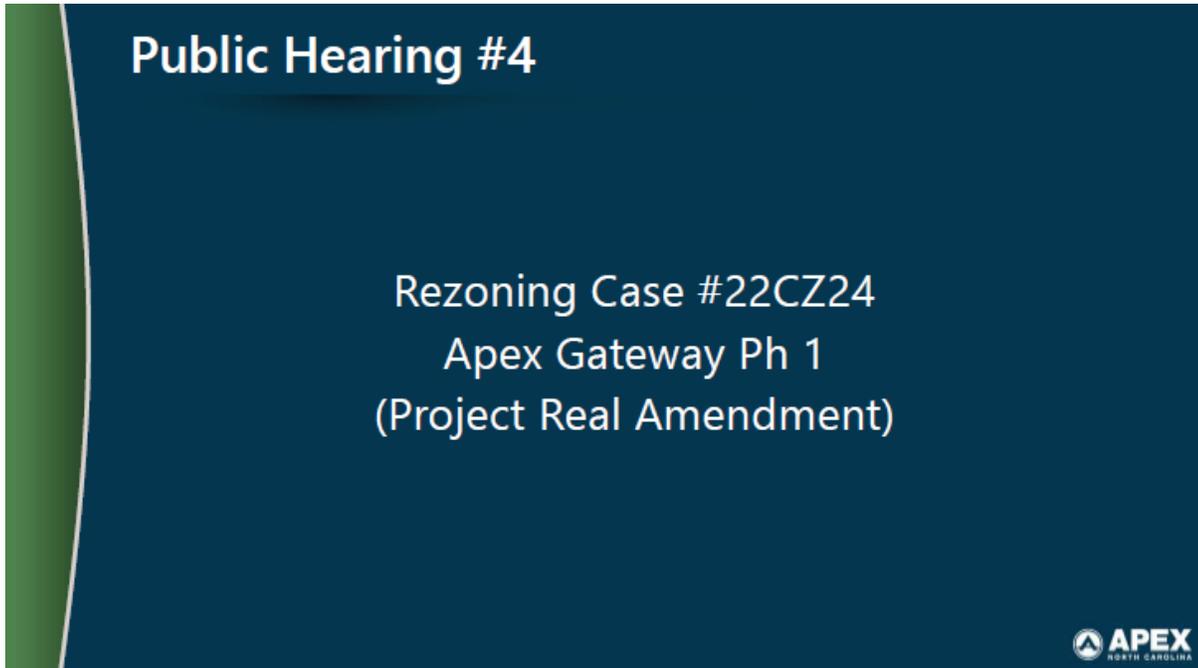
Motion to approve Amendment to Rezoning Case No. 22CZ23 passed unanimously, 5-0

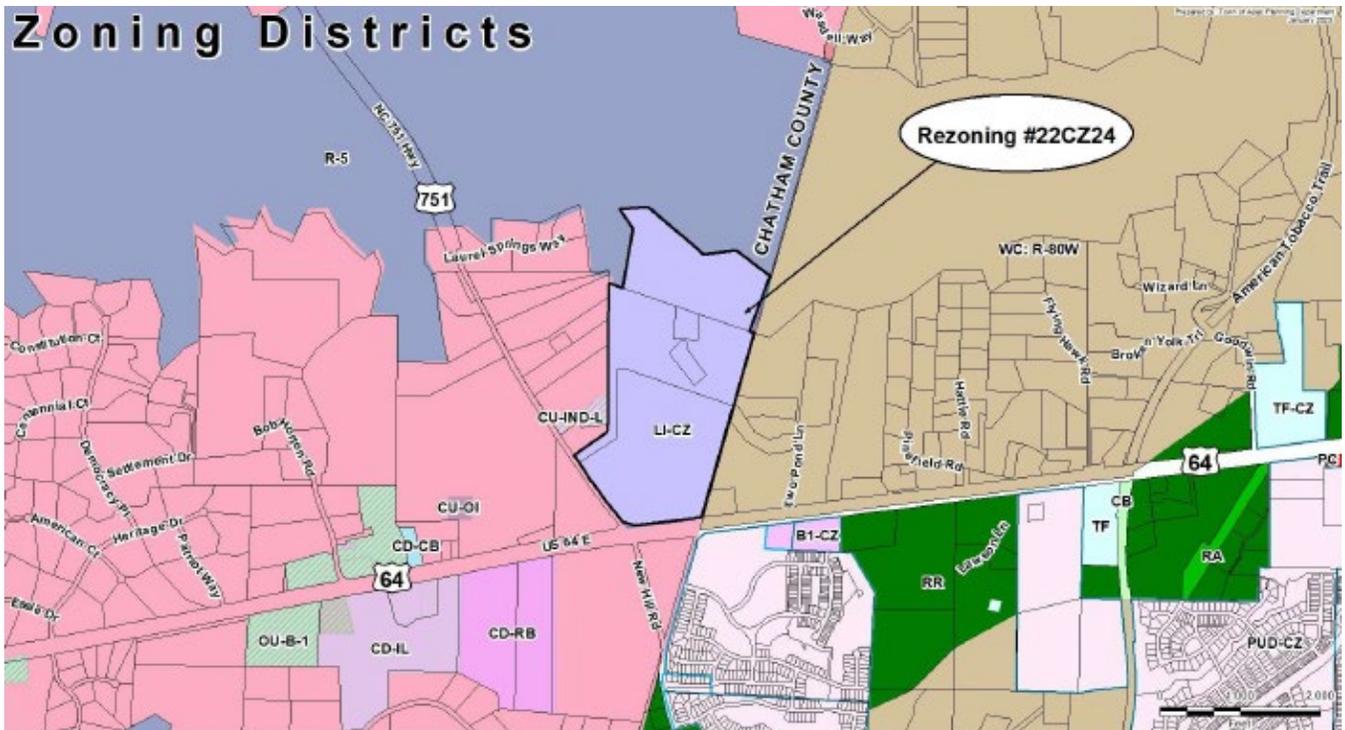
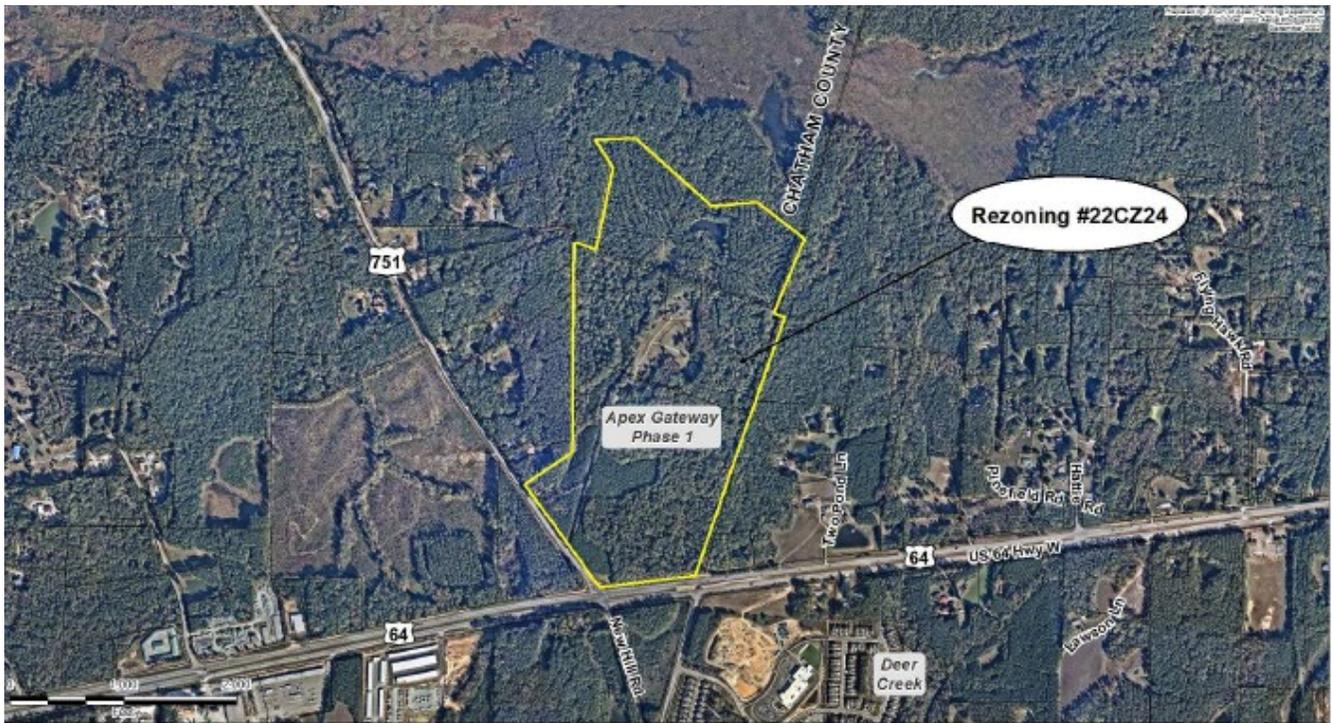
Mayor Gilbert called for a 10-minute recess

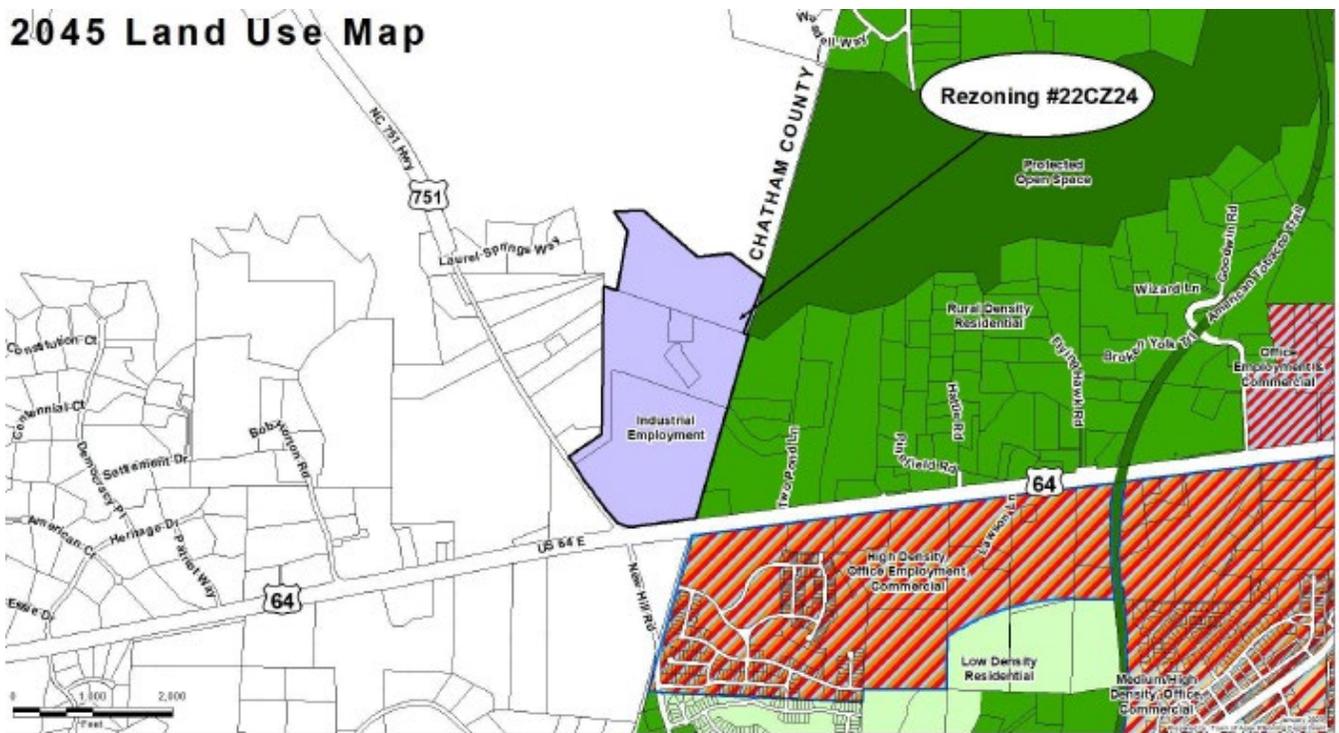
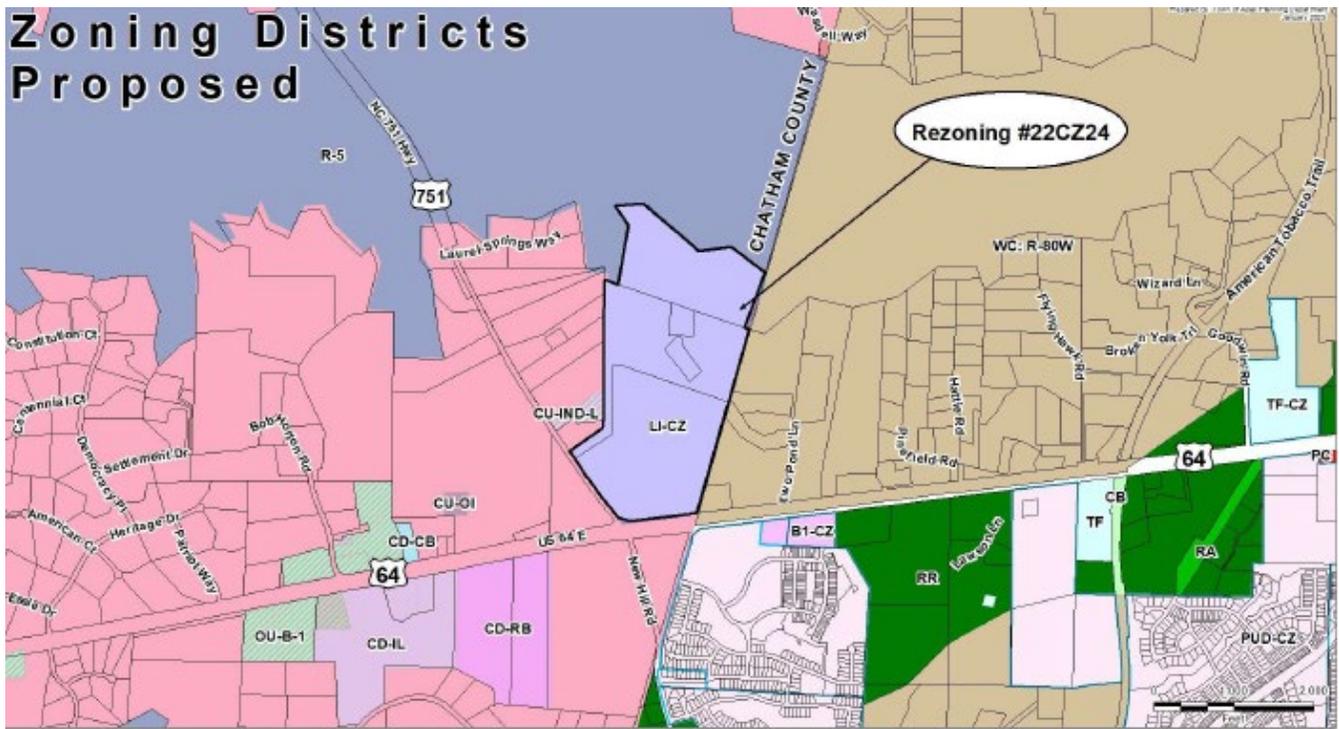
PH4 Rezoning Case No. 22CZ24 - Apex Gateway Ph 1 (Project Real amendment) Public Hearing

Amanda Bunce, Current Planning Manager

Amanda Bunce, Current Planning Manager, gave a presentation regarding the Project Real Amendment to Rezoning Case No. 22CZ24, and offered to answer any questions.





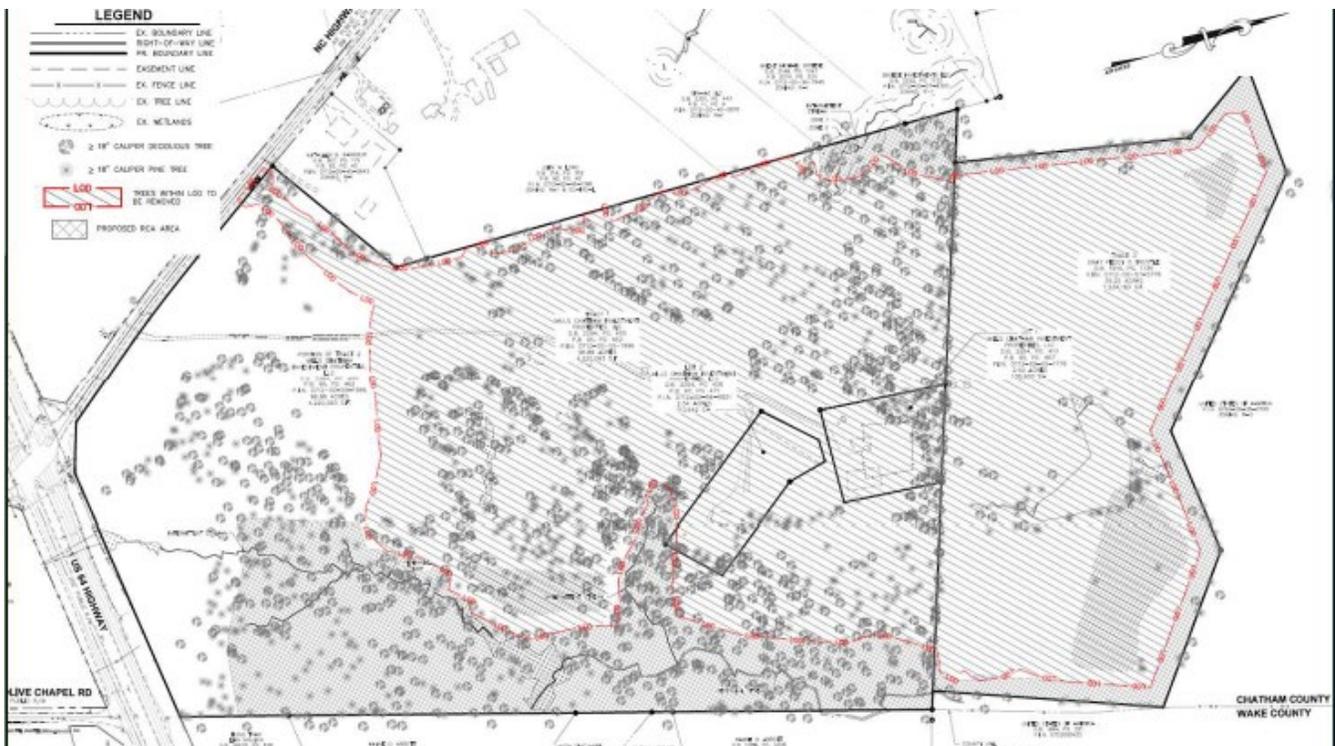


Current Condition:

Existing trees greater than 18" in diameter that are removed by site development shall be replaced by planting a 1.5" caliper native tree from the Town of Apex Design and Development Manual either on-site or at an alternative location approved by Town Planning Staff, above and beyond standard UDO requirements.

Proposed Condition:

Existing trees greater than 24" in diameter and at least 140 existing trees greater than 18" in diameter that are removed by site development shall be replaced by planting a 1.5" caliper native tree from the Town of Apex Design and Development Manual either on-site or at an alternative location approved by Town Planning Staff, above and beyond standard UDO requirements.





Councilmember Gantt asked where the number of 140 came from in regards to the minimum number of trees between 18 and 24 inches in diameter that would be replaced as a condition of zoning.

Ms. Bunce said she asked the applicant what they were able to offer as far as the trees in that range of diameter, and that is the number that they proposed after talking with their development team.

Councilmember Mahaffey asked what other efforts were made to find sites where the developer could replant all the trees taken down, even if it wasn't on the immediate site.

Ms. Bunce said the developer only has one other property in Town, and there is limited opportunity for planting on those sites. She said other sites in Town that are able to be developed are usually wooded already, and are not conducive to planting large numbers of trees.

Councilmember Mahaffey said it didn't necessarily need to be Town property that the trees were replanted on, and wondered if they could be moved to something like conservation areas.

Ms. Bunce replied that she was unaware of any conservation sites in the area that were under-treed.

APPROVED | JANUARY 24, 2023 REGULAR TOWN COUNCIL MEETING MINUTES

Councilmember Mahaffey said the Town should be trying to move to a place that increases or maintains its tree canopy cover through zoning conditions. He said the Town should work on finding an inventory of places that could accept trees to be planted if applicants were not able to re-plant all of the trees on site due to other structures going up.

Mayor Pro Tem Killingsworth asked Town Manager Crosby if it would be possible to create a waiting list of people who wanted trees to be planted on their properties that these kinds of excess tree plantings could go to.

Deputy Town Manager Purvis answered, and said there is a form of a waiting list for trees, but that sometimes the tree does not fit the space or area provided by the property owner, and that each year there is a new application to be included in this program.

Mayor Pro Tem Killingsworth said she wanted to use this program as an opportunity to get trees planted in situations like these where the developer on private property had to take down more trees than they could re-plant on site.

Town Manager Crosby said they could look into improvements and additions to the system to allow people to accept donations from properties such as these to be planted on their land.

Ms. Khin said Wake County is working on a tree cover analysis, and the draft for that should be coming out within the next few weeks. She said most of the areas in Apex without tree cover likely have utilities on them.

Councilmember Zegerman asked if it would be possible to ask for resource conservation areas instead of tree replanting, given the lack of space for replanting in the Town.

Councilmember Mahaffey said he believes Apex's resource conservation area should be much larger, and that he agrees with Councilmember Zegerman. He said he also believes the possibility of razing smaller trees to plant new large trees shouldn't be a possibility, and that they should look to close that loophole. He said he wanted to push people more towards off-site solutions, even it was difficult.

APPROVED | JANUARY 24, 2023 REGULAR TOWN COUNCIL MEETING MINUTES

Ms. Bunce said the conditions proposed here are over and above what the UDO states for requirements in terms of tree replanting

Walker Gorham, on behalf of the developer, gave a presentation

Mayor Gilbert opened up Public Hearing for comment

First to speak was Lawrence Kevin of 1628 Salem Village Drive

“So, one question, actually I have a father and a grandfather that’s a forester, was there a timber harvest plan submitted for this, and they actually do get some compensation for what they do with the trees from the property. So, I’m assuming if it’s a substantial amount of money from just the harvesting through the clear cutting of the property. So, I don’t know if they can provide an estimate of how much money is being gathered from clearing of the trees, I’d be interested to hear that. Also, I live in Salem Village Area, we have a HOA, we have private reserve lands, I can see where we would love to be able to plant some additional trees in some preserve areas, that’s one example of private property where we could probably welcome having trees planted there. That’s all.”

Mayor Gilbert brought it back to Council for discussion

Councilmember Gray said this is a result of what happens when they recognize that it is asinine to replace an 18-inch tree with a sapling. He said he appreciates the economics of this, and he agrees with Councilmember Mahaffey on looking at the wording of these conditions. He said he is in favor of this project.

Mayor Pro Tem Killingsworth said she understands that this amendment is necessary at this point.

Councilmember Zegerman said he does not like the optics of it, but that there is a willingness to still look for possible solutions from the side of the developer even after the vote. He said he wanted to continue looking for solutions along with the developer.

APPROVED | JANUARY 24, 2023 REGULAR TOWN COUNCIL MEETING MINUTES

Councilmember Gantt said he believes a commitment like that to continue working towards a solution should be something that was written and as a condition, and asked the applicant what they were willing to do.

Mr. Gorham said he offered a fee in lieu of the trees that were unable to be replanted on property or on available public property, and that he was committed to working in good faith to fulfill their obligations as best they can with the Town. He said if the Town comes up with a list of private property that can accommodate the trees, the developers will plant them there.

Councilmember Mahaffey said he would be willing to accept a fee in lieu, or accept a donation to a conservation organization in the area, and wondered why that is not something that is an option in this case.

MOTION: Councilmember Gray motioned to approve Amendment to Rezoning Case No. 22CZ24, seconded by Councilmember Gantt.

YES: Councilmember Gray, Councilmember Gantt, Mayor Pro Tem Killingsworth, Councilmember Zegerman

NO: Councilmember Mahaffey

Motion to approve Amendment to Rezoning Case No. 22CZ24 passed, 4-1

NEW BUSINESS

UPDATES BY TOWN MANAGER

Town Manager Caty Crosby shared that two new staff arrivals have occurred in the past week: Assistant Town Manager Demetria John, and Finance Director Antwan Morrison.

CLOSED SESSION

APPROVED | JANUARY 24, 2023 REGULAR TOWN COUNCIL MEETING MINUTES

Mayor Pro Tem Killingsworth motioned to move into Closed Session for items CS1 through CS3, seconded by Councilmember Zegerman

YES: Councilmember Gray, Councilmember Gantt, Mayor Pro Tem Killingsworth, Councilmember Zegerman, Councilmember Mahaffey

NO: None

Motion to move into closed session passed unanimously, 5-0

Council will enter into closed session at 8:26 PM pursuant to:

CS1 Laurie Hohe, Town Attorney

**RE: Town of Apex v. Marcia M. Lund; 22-CVS-11706 and
Town of Apex v. Susan S. Mills, et al; 22-CVS-11707**

NCGS §143-318.11 (3):

"To consult with an attorney employed or retained by the public body in order to preserve the attorney-client privilege between the attorney and the public body."

CS2 Allen Coleman, Town Clerk

NCGS §143-318.11 (1):

"To prevent the disclosure of information that is privileged or confidential pursuant to the law of this State or of the United States, or not considered a public record within the meaning of Chapter 132 of the General Statutes."

CS3 Jacques K. Gilbert, Mayor

NCGS §143-318.11 (6):

"To consider the qualifications, competence, performance, character, fitness, conditions of appointment, or conditions of initial employment of an individual public officer or employee or prospective public officer or employee; or to hear or investigate a complaint, charge, or grievance by or against an individual public officer or employee."

APPROVED | JANUARY 24, 2023 REGULAR TOWN COUNCIL MEETING MINUTES

Councilmember Gray motioned to come out of Closed Session, seconded by Councilmember Zegerman at 11:03 PM.

YES: Councilmember Gray, Councilmember Gantt, Mayor Pro Tem Killingsworth, Councilmember Zegerman, Councilmember Mahaffey

NO: None

Motion to move out of closed session passed unanimously, 5-0

ADJOURNMENT

Mayor Gilbert announced the meeting adjourned at 11:03 PM

Jacques K. Gilbert
Apex, Mayor

Allen Coleman, CMC, NCCCC
Apex, Clerk

Minutes approved on 14th of February, 2023 (CN8).

APPROVED

MINUTES | REGULAR TOWN COUNCIL MEETING



February 14, 2023 at 6:00 PM

Council Chambers - Apex Town Hall, 73 Hunter Street

The meeting will adjourn when all business is concluded or 10:00 PM, whichever comes first

Town Council and Administration

Mayor: Jacques K. Gilbert | Mayor Pro-Tempore: Audra Killingworth

Councilmembers: Brett D. Gantt; Terry Mahaffey; Arno Zegerman

Town Manager: Catherine Crosby | Deputy Town Manager: Shawn Purvis

Assistant Town Managers: Demetria John and Marty Stone

Town Clerk: Allen Coleman , Deputy Town Clerk: Ashley Knotts | Town Attorney: Laurie L. Hohe

Absent: Councilmember Edward Gray

COMMENCEMENT

Call to Order | Invocation | Pledge of Allegiance

Mayor Gilbert called the meeting to order, and reiterated the lessons of the most recent interfaith gathering: the importance of loving one another and making sure people in our community are doing well. He recognized the diversity of faiths in Apex and the strength it provides to our Town. He offered a word of prayer, inviting those who practice different faiths to observe a personal moment of silence and prayer at this time.

Mayor Gilbert led the Council and Public in the Pledge of Allegiance

CONSENT AGENDA

All Consent Agenda items are considered routine, to be enacted by one motion with the adoption of the Consent Agenda, and without discussion. If a Council Member requests discussion of an item, the item may be removed from the Consent Agenda and considered separately. The Mayor will present the Consent Agenda to be set prior to taking action on the following items:

MOTION: Mayor Pro Tem Killingsworth motioned to approve the Consent Agenda as presented, Council Member Mahaffey seconded

YES: Councilmember Mahaffey, Mayor Pro Tem Killingsworth, Councilmember Gantt, Councilmember Zegerman

NO: None

Motion to approve the Consent Agenda passed unanimously, 4-0

APPROVED

- CN1 Agreement Renewal - Rebuilding Together of the Triangle (RTT) - Housing Rehabilitation Program Administration Service Agreement and Apex Cares Housing Rehabilitation Program Updates**
Shannon Cox, Long Range Planning Manager, Planning
- CN2 Annexation No. 746 - Friendship Village - 27.853 acres**
Allen Coleman, Town Clerk
- CN3 Annexation No. 749 - Apex Gateway Phase 2 - 244.87 acres**
Allen Coleman, Town Clerk
- CN4 Annexation No. 750 - 2012 Ramblewood Drive - 5.719 acres**
Allen Coleman, Town Clerk
- CN5 Budget Ordinance Amendment No. 14 and Capital Project Ordinance Amendment No. 2023-4 - GoApex Route 1 Improvements - CDBG**
Shannon Cox, Long Range Planning Manager, Planning
- CN6 Contract Multi-Year - National Power, LLC - Generator Service/Repair - January 1, 2023 through December 31, 2025**
Michael Deaton, P.E., Director, Water Resources
- CN7 Contract Multi-Year - TexNXS, LLC - AquaResource Software Support - April 1, 2023 through March 31, 2026**
Michael Deaton, P.E., Director, Water Resources
- CN8 Council Meeting Minutes**
Allen Coleman, Town Clerk
- CN9 Encroachment Agreement - 3018 Lauder Lane Lot 30**
Marty Stone, Assistant Town Manager
- CN10 Encroachment Agreement - 1730 Wimberly Road Lot 186**
Marty Stone, Assistant Town Manager
- CN11 Memorandum of Understanding (MOU) between Hurricanes Hockey, LP and the Town of Apex - Joint Re-Development and Use of Town Facility**
Angela Reincke, Parks Planning Project Manager, Parks, Recreation, and Cultural Resources
- CN12 Rezoning Case No. 22CZ13 - 2021 N Salem St PUD - Statement and Ordinance**
Amanda Bunce, Current Planning Manager, Planning
- CN13 Rezoning Case No. 22CZ19 - The Heights PUD - Set Public Hearing**
Shelly Mayo, Planner II, Planning
- CN14 Rezoning Case No. 22CZ23 - Yellowbridge PUD Amendment - Statement and Ordinance**

APPROVED

Lauren Staudenmaier, Planner II, Planning

CN15 Rezoning Case No. 22CZ24 - Apex Gateway Ph 1 (Project Real Amendment) - Statement and Ordinance

Amanda Bunce, Current Planning Manager

CN16 Rezoning Case No. 22CZ26 - Apex Gateway Ph 2 - Set Public Hearing

Amanda Bunce, Current Planning Manager, Planning

CN17 Surplus - 2002 Sterling Water Tanker (Fleet Number 118) to the Town of Morrisville

Jeffrey Maynard, Assistant Chief, Fire Department

CN18 Unified Development Ordinance (UDO) Amendments - February 2023 - Set Public Hearing

Amanda Bunce, Current Planning Manager, Planning

CN19 Veridea Environmental Enhancement Plan - Set Public Hearing

Amanda Bunce, Current Planning Manager, Planning

PRESENTATIONS - None

REGULAR MEETING AGENDA

Mayor Gilbert will call for additional Agenda items from Council or Staff and set the Regular Meeting Agenda prior to Council actions.

MOTION: Councilmember Zegerman motioned to set the Regular Meeting Agenda as listed, Councilmember Gantt seconded.

YES: Councilmember Mahaffey, Mayor Pro Tem Killingsworth, Councilmember Gantt, Councilmember Zegerman

NO: None

Motion to set the Regular Meeting Agenda as listed passed unanimously, 4-0

APPROVED
PUBLIC FORUM

Public Forum allows the public an opportunity to address the Town Council. The speaker is requested not to address items that appear as Public Hearings scheduled on the Regular 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. Comments must be limited to 3 minutes to allow others the opportunity to speak.

Public Participation

- 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



Mayor Gilbert opened up Public Forum

First to speak was Carl Hilton of 505 E Chatham Street:

"I'm Carl R. Helton, 505 E Chatham Street here in Apex. I came to Apex in 1985 from the hills of South West Virginia. I'm a proud US Army Veteran, I serve currently with 82nd Airborne. I am the son-in-law of Mrs. Rachel Baker, who passed away January 5th at the age of 95. She lived in the same house on Ellington Street for 77 years, so I know a little bit about Apex. Since I came here I have built 3 affordable housing subdivisions: Perry Farm, Sugarland Run, and Kelly Glen. I have built one hundred homes, commercial buildings, and two churches. I was on the team that built the kid's Town playground. In honor of my first wife that passed away in 1992 I built a playground in Perry Farms and dedicated it to the Town. I served on the Town Council, where we helped design, oversee construction of this building, and the Parks and Rec building behind it. Although the plaques in the foyer have my name spelled wrong, they said it would cost too much to change it. I was a 1994 Apex citizen of the year, I am past president of the Apex Chamber of Commerce. I am a member of the Apex Rotary Club. I am sergeant-at-arms at the American Legions Post 124. I was Head Coach for girls' softball at Apex High School. I've coached softball at parks and rec for 15 years. I was just inducted as the 14th member of the Apex Chamber Hall of Fame, and I am currently Head Coach of

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JV girls' softball at Grace Christian School. And after all this, I could not get into the office to have a word with the Town Manager. Bill Sutton, Bruce Radford, Drew Havens' door was always open to the citizens of Apex. I'm 78 years old, I've had a heart attack, I've had open heart surgery. I have 3 items on my bucket list: one is I hope God will give me one more day that I can do something for someone in this Town. Second, I want to die before my kids or my grandkids. And third, I want to see a building built to honor the 2,000 veterans who served this country and now live in the Apex areas. It's just been reported the VA that 17 veterans are taking their lives every day. If we can save one of those by something we're going to do here in Apex, I think it would be worth it. Please, please, please, try to help us make this happen. God bless Apex, and may God bless the United States of America."

Mayor Gilbert thanked Mr. Hilton for his comments.

Next to speak was Elizabeth Ray Stitt of 3113 Friendship Road

"Elizabeth Ray Stitt, 3113 Friendship Road. Mayor, Town Council, good evening, Happy Valentine's. At the January 24th Town Council meeting there was a discussion about a conservation easement that is impacting the extension of Richardson Road to Old Us 1. I brought you a copy of the actual easement, executed in 2002, 21 years ago. This easement serves as a cautionary tale. For 21 years, this easement has been on public record and accessible online. During that time, has someone taken the time to talk to mee-maw, who executed the agreement, or her children, or her grandson who is married to my daughter. Plans to shift Richardson Road to the East or the West to avoid the wetlands could have incurred. Instead for 21 years, there was no conversation, just random lines drawn on the map, so when mee-maw sold the farm and developers divided it, they followed the Town's requested route for Richardson Road. Developing on both sides of the road until now, where there is no option but to go through the easement, which as you know, will require a very expensive bridge across the wetlands. Given that no development will occur on this remaining parcel, the Town will bear the cost of the bridge, and the Town's ongoing promise that the Richardson Road extension will bring desperately needed relief to traffic congestion that exists on Humie Olive Road and Richardson Road, is now just a promise, with no timeline and no funding. Yet, this Council approved another development on Richardson Road at the last meeting. I don't know whose responsibility it is to know the community that you're building within, but I know that the failure to have the conversation regarding the conservation easement is likely to be an 18-million-dollar mistake, the cost of the bridge. While it may be too late to move the Richardson Road, it's not too

APPROVED

late to talk with my neighbors regarding the multi-million-dollar mistake that is happening with the Big Branch Force Main. In both cases, talking could save millions of tax payer dollars. If your goal is to be good stewards of Apex taxpayer dollars, do not repeat the mistakes that you have inherited, and to know your neighbors in the way that small town neighbors actually know each other. Come meet with us, treat us like neighbors, accepts our offers to talk, and let's talk. It is truly that simple to get started. Thank you for your time and consideration."

Mayor Gilbert thanked Ms. Still for her comments

Next to speak was Beth Bushman Bland of 3724 Friendship Road.

"It is my first time that I have come to the Town, I have been a citizen of apex and now of the Friendship community. I moved here in 1985. All my children have gone through Apex High School, they've moved on, I know Jacques as a resource officer from way back when, it's nice to see you here. I am also impacted, myself and my husband Tom, by the Big Brand Force Main. I've had the Town come out and show me exactly where it's going to affect our property. We happen to be right before the Friendship bridge. So, we get to have this board at an angle, so that it effects two sides of our property. I asked if our property, we are actually C9 and C10 on the proposed plan, so that you know where we are. When I asked the Town to come out we met and I did ask "is our property the one most affected by what this Force Main is going to do?" And I was told yes. As far as the size of the property and amount its gong to take. In that vein, I would like to also share with you some of my thoughts, this was written in the Triangle Business Journal on May 27, 2022. I'm not going to read the whole thing, I'm just going to go over a few points that they mention. One of the biggest things that I saw was that Apex had the tenth largest growth rate in the country. It's first in North Carolina, it's growing at a rate of 7%. It outgrew Raleigh and Durham combined, which was only 1% between the two largest cities here in our community. The second largest Town, and this is with a population of over 50,000, is Mooresville, which is outside of Charlotte, and it's only growing at like 2.3%. No other Town is growing the way Apex is growing. My bringing this up is because I feel you are doing too much too quickly. Like I said, I have been here a long time. When I moved here, it was 4,000 people, so I've seen a lot of change. But I would just like to ask you to please caution your growth plans, and that includes this force main and what it's going to do to the properties and the size of the communities. We also have proposed development behind us, the Baucom Track, which we met with the developers yesterday, it's concerning as far as what their plans are. All I see around here are townhomes, apartments, people aren't coming to Apex for apartments, they're coming for houses

APPROVED

and some space and some land. So, I would just ask that you consider that when you look at everything you're doing. Thank you."

Mayor Gilbert thank Ms. Bland, and told her to tell her kids he says hello

With no further sign ups, Mayor Gilbert closed Public Forum

Mayor Gilbert moved the meeting on to Public Hearing

PUBLIC HEARINGS

PH1 Annexation No. 743 - 7624 Reams Ct. (Bhat Property) - 5.45 acres

Dianne Khin, Director, Planning

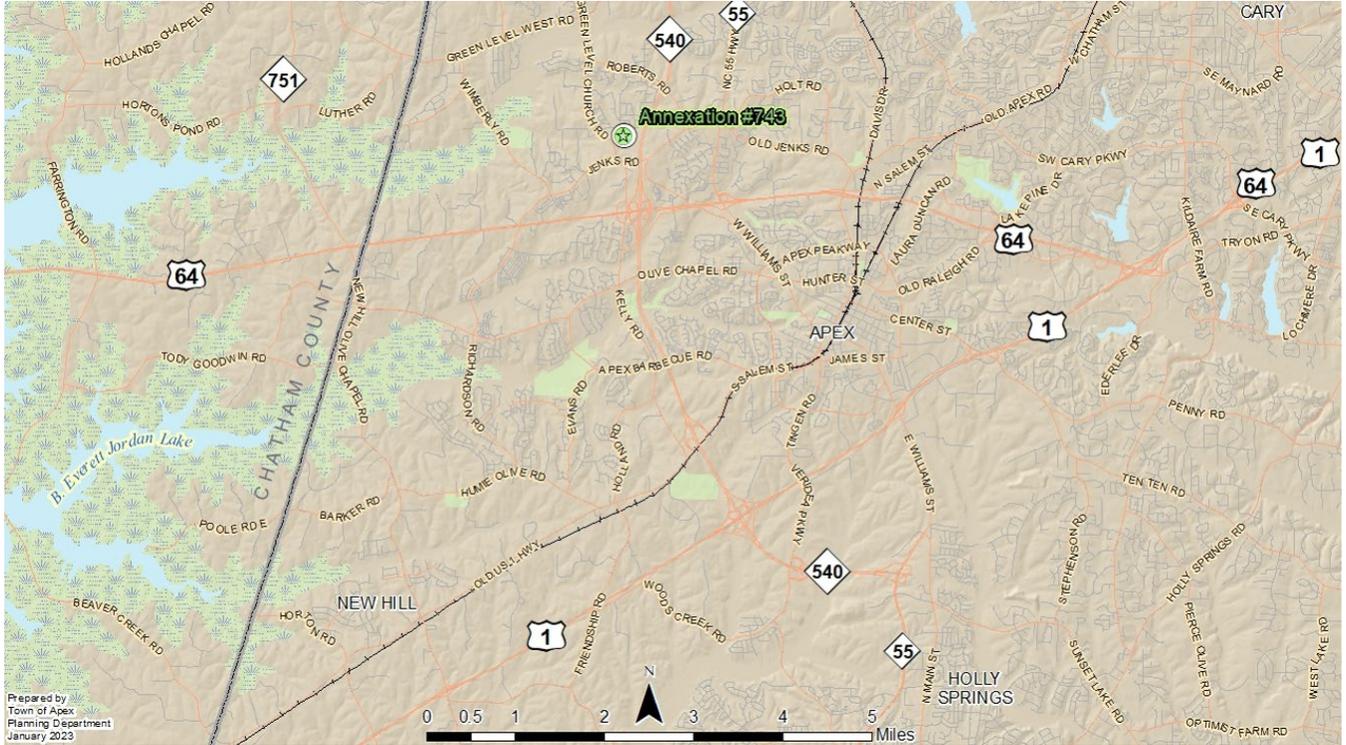
Dianne Khin, Planning Director, gave a presentation regarding Annexation No. 743 - 7624 Reams Ct, and offered to answer any questions

Public Hearing #1

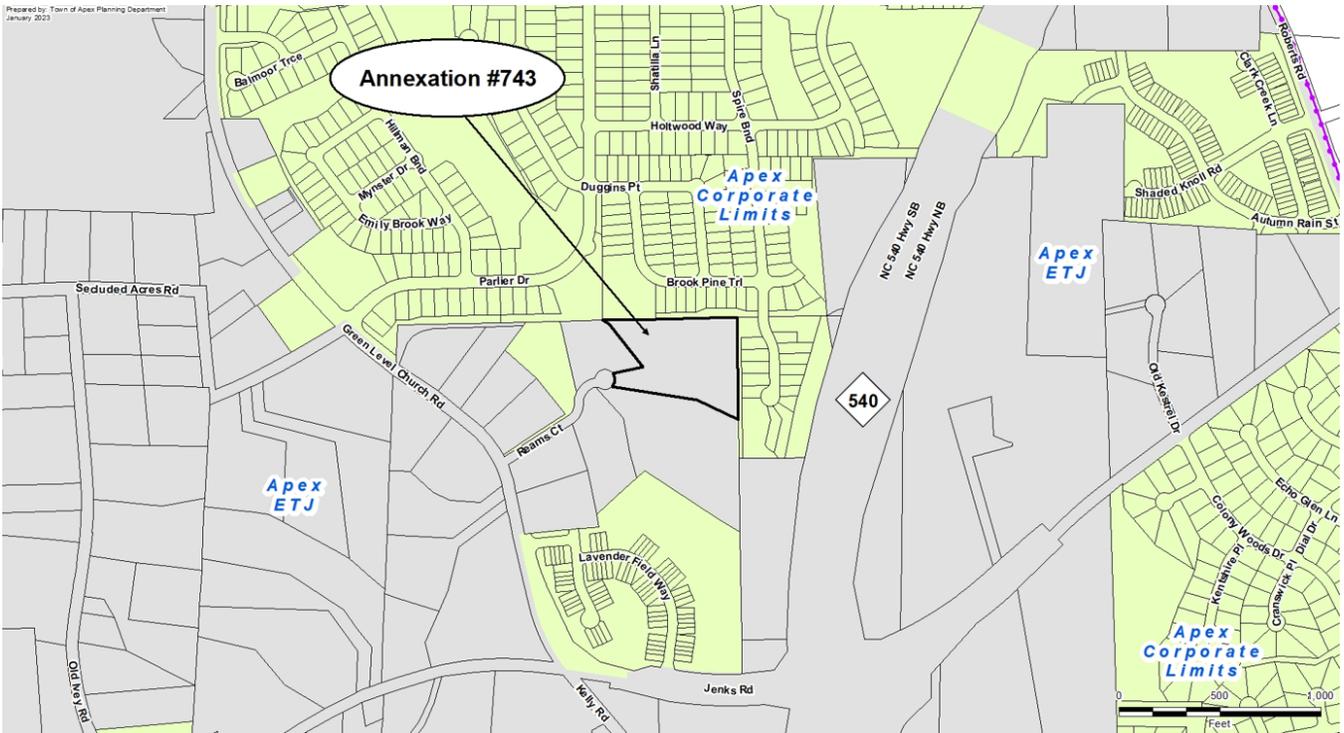
**Annexation #743
7624 Reams Court**



APPROVED



APPROVED



There were no signups to speak as part of this Public Hearing

APPROVED

MOTION: Mayor Pro Tem Killingsworth motioned to approve Annexation No. 743, Councilmember Mahaffey seconded

YES: Councilmember Mahaffey, Mayor Pro Tem Killingsworth, Councilmember Gantt, Councilmember Zegerman

NO: None

Motion to approve Annexation No. 743 passed unanimously, 4-0

PH2 Annexation No. 751 - 2705 Richardson Road - 3.677 acres

Dianne Khin, Director, Planning

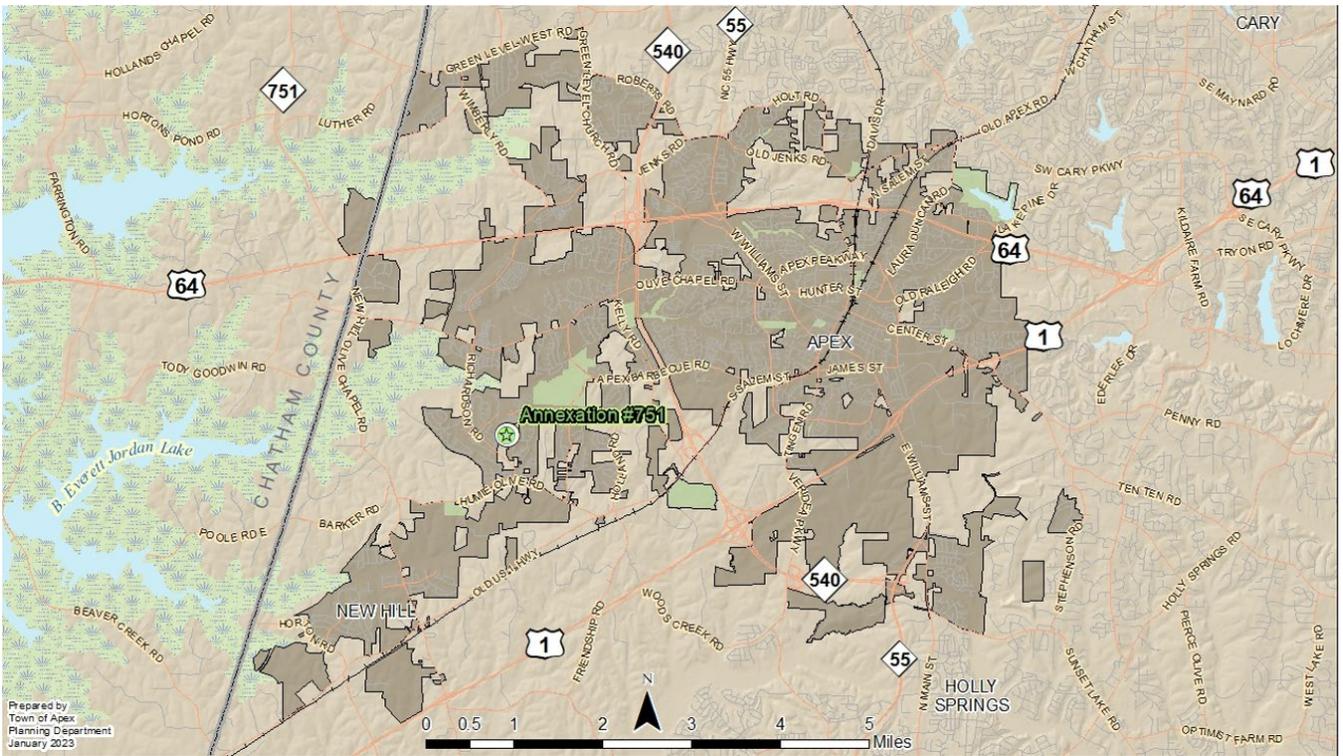
Dianne Khin, Planning Director, gave a presentation regarding Annexation No. 751 - 2705 Richardson Road, and offered to answer any questions.

Public Hearing #2

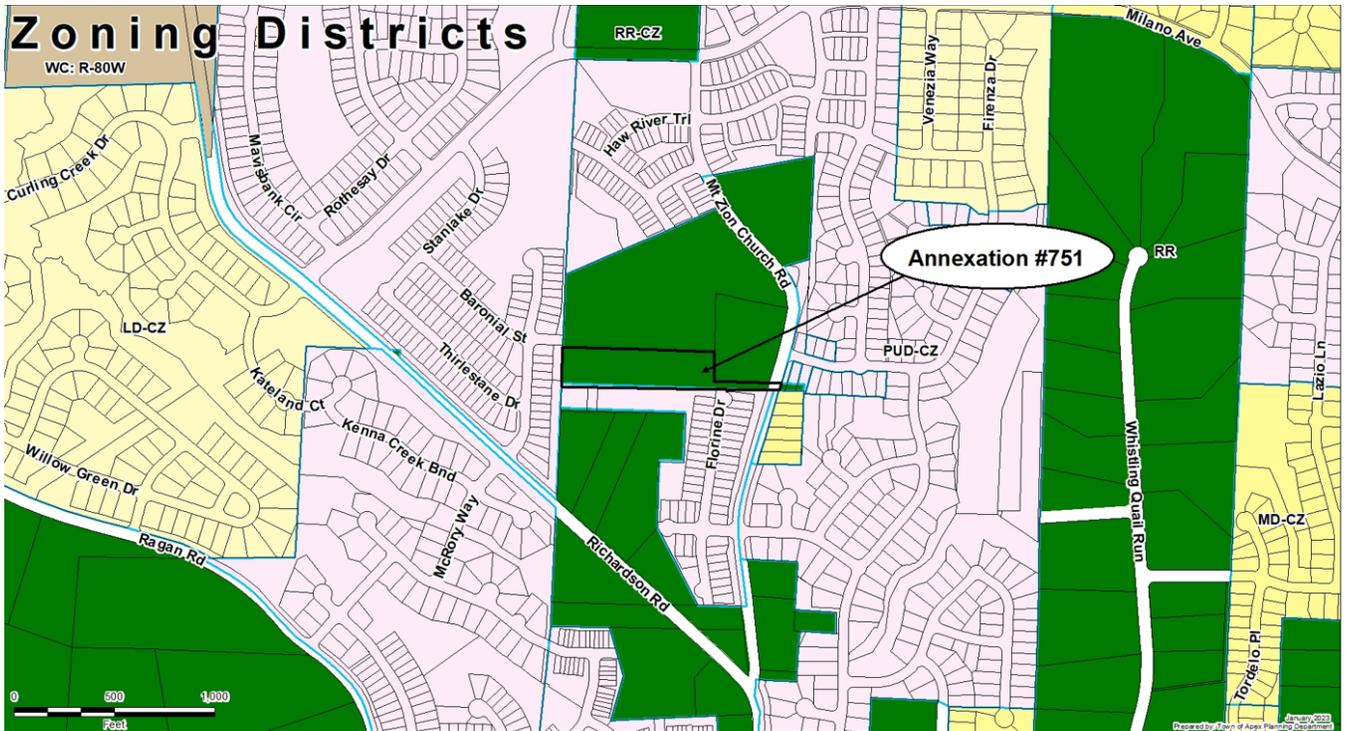
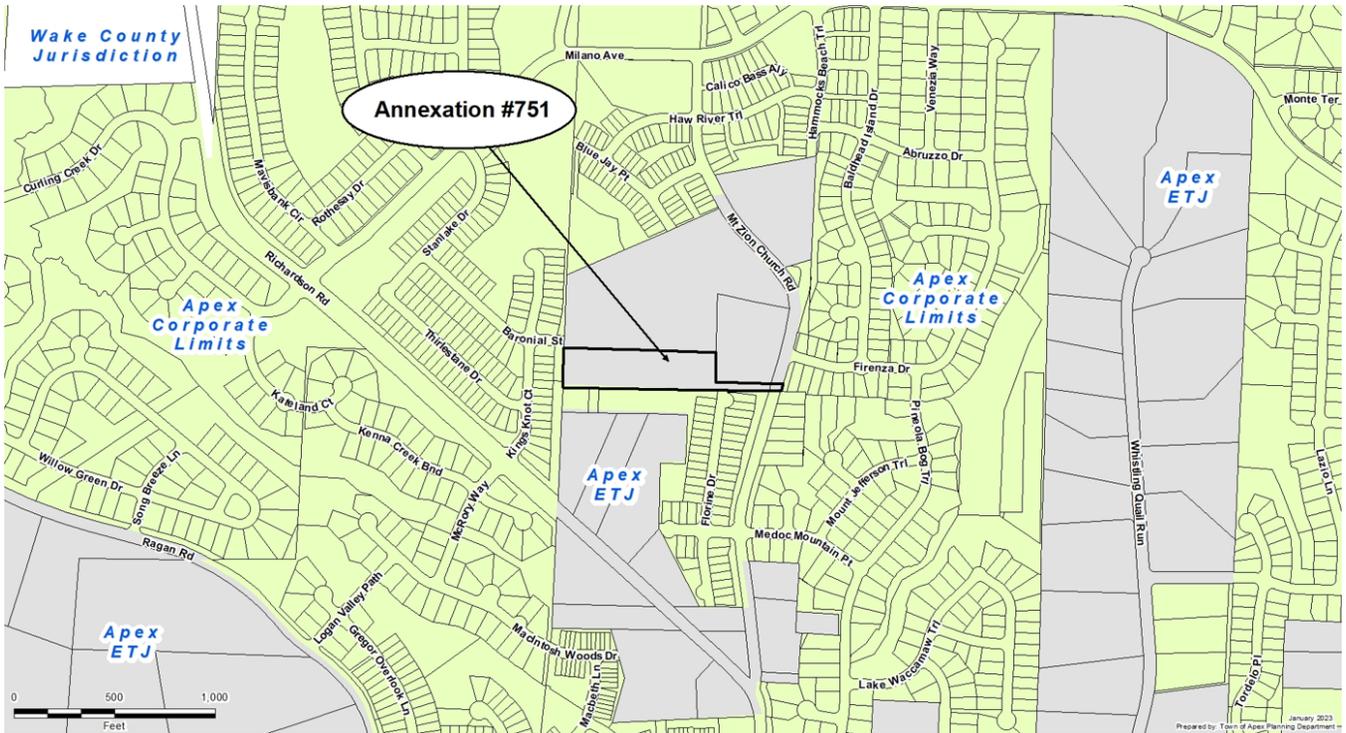
Annexation #751
2705 Richardson Road



APPROVED



APPROVED



APPROVED

Mayor Gilbert opened up Public Hearing

First to speak was Brandon Poythress of 1521 Kythira Drive:

"My name is Brandon Poythress, I currently reside at 1521 Kythira, and this property will be where I'll be constructing my single-family home if it gets annexed in. I'm a longtime native and have known Jacques for many, many years. Went to Apex Elementary, Middle, and High, have lived in Moncure for about the last 18 years to get out a little bit. Apex has definitely changed, I think in a pretty positive way since I lived here full time. The last place I lived in Town was in Kelly Glen subdivision. But I'm excited to have been able to work with the Atwaters and acquire this property if it gets annexed in, and the plan here is to build a single home on that property that gives me a little bit of my country feel and gives my wife location. Thank you."

Mayor Gilbert thanked Mr. Poythress, and said it was good to see him.

Mayor Gilbert closed Public Forum and opened it up for Council Discussion

MOTION: Councilmember Gantt motioned to approve Annexation No. 751, Councilmember Zegerman seconded

YES: Councilmember Mahaffey, Mayor Pro Tem Killingsworth, Councilmember Gantt, Councilmember Zegerman

NO: None

Motion to approve Annexation No. 751 passed unanimously, 4-0

APPROVED

PH3 Ordinance Amendment for Chapter 5 - Soil Erosion and Sedimentation Control

Robert Patterson, P.E., Senior Engineer, Water Resources

Robert Patterson, Stormwater Engineer, gave a presentation regarding proposed amendments to Chapter 5 of the Town Ordinance, and offered to answer any questions

Councilmember Zegerman asked if there were any provisions in the ordinance that would represent a net new cost to the Town

Mr. Patterson said there was not

There were no sign ups for Public Hearing regarding this item, and Mayor Gilbert moved it back to Council for discussion

MOTION: Mayor Pro Tem Killingsworth motioned to approve Ordinance Amendment for Chapter 5 - Soil Erosion and Sedimentation Control, Councilmember Gantt seconded

YES: Councilmember Mahaffey, Mayor Pro Tem Killingsworth, Councilmember Gantt, Councilmember Zegerman

NO: None

Motion to approve Ordinance Amendment for Chapter 5 passed unanimously, 4-0

Mayor Gilbert recognize the attendance of the Apex Youth Council, led by Elizabeth Shoaf, and thanked them for attending

NEW BUSINESS

UPDATES BY TOWN MANAGER

Town Manager Catherine Crosby congratulated the Parks and Rec team for receiving an \$82,000 grant from the North Carolina Department of Transportation to plan the Northern Connection of the Middle Creek Greenway to Cary

APPROVED
CLOSED SESSION

Mayor Pro Tem Killingsworth motioned to move into Closed Session for items CS1 through CS3, seconded by Councilmember Zegerman

YES: Councilmember Gantt, Mayor Pro Tem Killingsworth, Councilmember Zegerman, Councilmember Mahaffey

NO: None

Motion to move into closed session passed unanimously, 4-0

Council will enter into closed session pursuant to:

CS1 Allen Coleman, Town Clerk

NCGS §143-318.11 (1):

"To prevent the disclosure of information that is privileged or confidential pursuant to the law of this State or of the United States, or not considered a public record within the meaning of Chapter 132 of the General Statutes."

CS2 Jacques K. Gilbert, Mayor

NCGS §143-318.11 (6):

"To consider the qualifications, competence, performance, character, fitness, conditions of appointment, or conditions of initial employment of an individual public officer or employee or prospective public officer or employee; or to hear or investigate a complaint, charge, or grievance by or against an individual public officer or employee."

CS3 Jacques K. Gilbert, Mayor

NCGS §143-318.11 (6):

"To consider the qualifications, competence, performance, character, fitness, conditions of appointment, or conditions of initial employment of an individual public officer or employee or prospective public officer or employee; or to hear or investigate a complaint, charge, or grievance by or against an individual public officer or employee."

Mayor Gilbert declared the meeting adjourned at 9:18 p.m.

Jacques K. Gilbert
Mayor

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

Submitted for approval by Town Clerk Allen Coleman and approved on March 14, 2023 (CN6).

APPROVED MINUTES | TOWN COUNCIL STRATEGIC PLANNING SESSION
February 17, 2023 | 8 AM
Apex Town Hall | 73 Hunter Street Apex, NC 27502

Town Council

Mayor: Jacques K. Gilbert
Mayor Pro Tempore Audra Killingsworth
Council Member Brett D. Gantt
Council Member Terry Mahaffey
Council Member Arno Zegerman

ABSENT: Councilmember Ed Gray

Town Staff

Town Manager Catherine Crosby
Deputy Town Manager Shawn Purvis
Assistant Town Manager Demetria John
Assistant Town Manager Marty Stone
Town Clerk Allen Coleman
Town Attorney Laurie L. Hohe
Budget and Performance Manager Director Amanda Grogan
Lead Budget and Performance Analyst Jessica Hoffman
Budget and Performance Analyst Brian Murphy
Budget and Performance Analyst Jimmy Aughenbaugh
Budget & Management Intern David Schexnayder
Other staff as identified below

COMMENCEMENT

Call to Order | Invocation | Pledge of Allegiance

Mayor Gilbert called the meeting to order, and said it's the "most exciting day of the year" for Deputy Town Manager Shawn Purvis and his team.

Slide 1



Deputy Town Manager Shawn Purvis began by saying that it's going to be a long day of numbers and analysis, and that Amanda Grogan and her budget performance team will lead everyone through most of the meeting. He encouraged everyone's feedback and any recommendations. He said moving forward they're going to try to do this in September so the team will have more time to prepare in the budget, but this is a transition year.

Councilmember Gantt wanted to confirm that the budget was already partially done, and that this meeting was a chance to add or take out major things and tweak minor things, and that they can offer long term budget ideas and guidance.

Deputy Town Manager Purvis said yes, and that capital has so much impact on the budget that staff gets a lot of that direction from this meeting. The departments are building their budget requests right now they're actually due March 1st. He said there are a lot of moving parts but this will help frame how those large parts impacts are from the capital and said a lot of revenues are not in yet so we won't receive those numbers until March and possibly early April, which will affect their budgets as well as what they request.

Councilmember Zegerman asked if budget scores and revenues are not in does that mean its projections.

Deputy Town Manager Purvis said trends can be looked at but trends are not long picture. We get our analysis from either Wake County, the University of North Carolina School of Government, and the NC League of Municipalities.

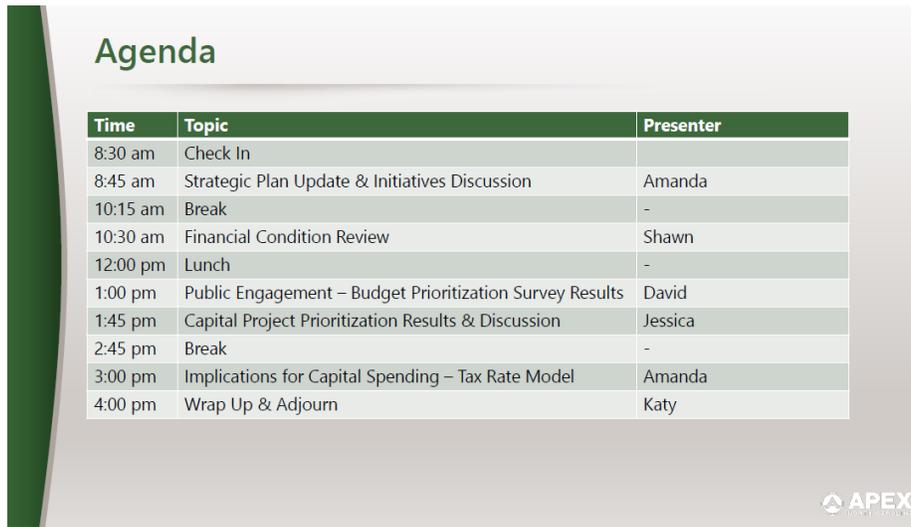
Councilmember Gantt said he saw a report saying State Revenue was higher than projected last fall, and ask if the numbers today would be a conservative estimate.

Deputy Town Manager Purvis said for the most part the numbers and projections will be conservative.

Ms. Grogan said the model will be updated as time goes along and they get more data. She said this whole process is still in the early stages.

Strategic Plan Update & Initiatives Discussion

Slide 2



Agenda

Time	Topic	Presenter
8:30 am	Check In	
8:45 am	Strategic Plan Update & Initiatives Discussion	Amanda
10:15 am	Break	-
10:30 am	Financial Condition Review	Shawn
12:00 pm	Lunch	-
1:00 pm	Public Engagement – Budget Prioritization Survey Results	David
1:45 pm	Capital Project Prioritization Results & Discussion	Jessica
2:45 pm	Break	-
3:00 pm	Implications for Capital Spending – Tax Rate Model	Amanda
4:00 pm	Wrap Up & Adjourn	Katy

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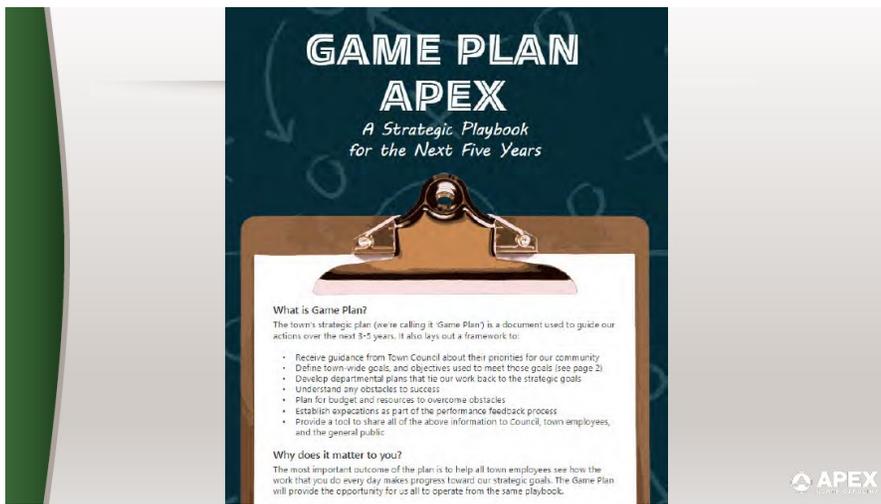
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Strategic Plan Update & Initiatives Discussion

Slide 4



Slide 5



Amanda Grogan, Budget and Performance Management Director, began with the strategic plan update. She stated the budget team launched "Game Plan Apex". This is the proposed strategic plan or calling it their "Game Plan", which is a guide of actions over the next three to five years. Departments are working on their individual plans identifying performance data, analysis data, their strategic goals and priorities. The strategic planning process is July through December and this is our first round with departments. Plans will be revisited annually to update and adjust as needed.

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Theme	Notes
Organizational Structure	- improve operational efficiency with services offered across the various departments as well as externally with residents and visitors
Human Resources	- Career progression - Succession Planning - Recruitment and retention efforts given a large share of retirees that have left or are eligible to leave soon (knowledge sharing)
Employee Engagement	- Enhance employee engagement efforts through ongoing communications from leaders, cross-training or information sharing to enhance the knowledge of what Town departments do, and general understanding of employee motivation and satisfaction levels
Community Outreach & Engagement	- Public engagement, outreach, education and general informing the community of services is important for them to do, which will also help with customer satisfaction and experience in addition to getting the "voice of community" as part of the department decision-making efforts
Diversity, Equity and Inclusion	- Given the changing community and organizational demographics along with a growing community, some departments implied a need to have a greater awareness of community expectations and needs, especially as it relates to diverse populations in age, race, and gender

Ms. Grogan said the budget team is putting together the budget now, January 2023 through June 2023. Phase one was Fall of 2022 to February 2023, in which departments developed their plans and is nearly complete. Phase two consists of departments work to finalize plans for February 2023 to April 2023, the budget team will review and identify budget implications. Council will then receive insights on all the initiatives once finalized by staff. Phase three is April 2023 to June 2023, this is the final process to share the budget plans with a tracking tool to monitor progress.

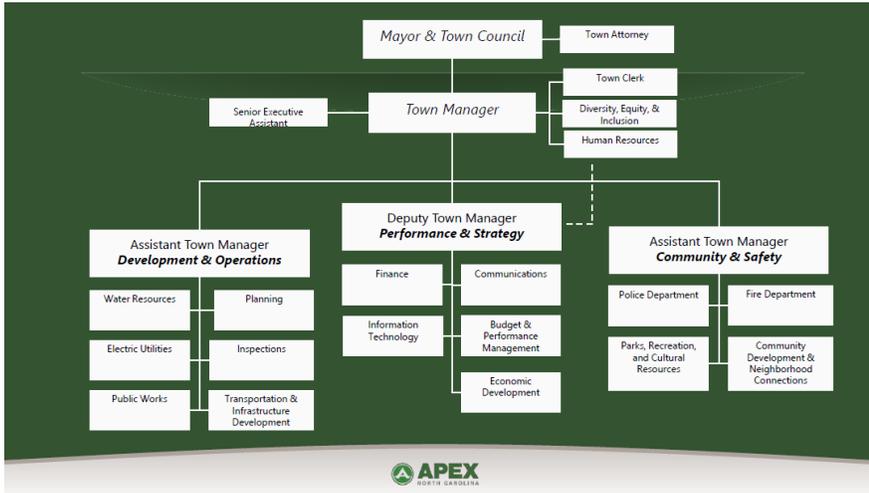
Ms. Grogan spoke on how departments develop their plans into specific themes.

Councilmember Zegerman asked if these specific planning guidelines were given to the departments or is these are the kinds of themes they saw developing as they start to see some of the outcomes of these plans.

Ms. Grogan said they took a top-down and bottom-up approach. Council worked to identify what the goals were and then identified different initiatives and objectives. It was then taken to the department level to have departments work out their plans and how they tie back to the larger picture, and now they are trying to connect these dots.

Ms. Grogan introduced Jimmy Aughenbaugh, who presented some initiatives that had been identified with some of the department, along with plans and themes.

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Administration Portfolio
 Katy Crosby, Town Manager

- Create organizational culture and value congruency

Human Resources

- Equip hiring managers with tools to make legally compliant, diverse, and successful hiring decisions
- Finalize development and implementation of new Employee Performance Management program and processes

Legal

- Provide responsive legal support and advice to Council and Staff that builds understanding
- Advance Legal team through continuing professional development

Themes: Development, Culture, Inclusion



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Performance & Strategy Portfolio

Shawn Purvis, Deputy Town Manager

Budget & Performance Management

- Facilitate development and monitoring of internal planning and performance processes to better align resources to goal accomplishment
- Encourage a culture of self improvement, collaboration, and innovation
- Complete the Sustainability Action Plan and submit to Council for adoption

Communications

- Externally communicate Apex's programs and initiatives to keep the community informed of what we're doing and why
- Guide the community through uncertain situations with effective communications planning

IT

- Deliver innovative services with emphasis on efficiency, collaboration, innovation and inclusion in the area of technology business practices and processes
- Encourage sustainable development and provide accessibility and connectivity for staff and our community in the area of technology practices and business processes.

Themes: Innovation, Communication, Collaboration



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Development & Operations Portfolio

Marty Stone, Assistant Town Manager

Transportation & Infrastructure Development

- Implement Vision Zero Action Plan
- Improve efficiency and customer experience of land development process

Inspections & Permitting

- Meet citizens where they are with Building Code questions to educate and build awareness of the connection between community safety and the built environment
- Provide cross-training to merge qualified residential inspectors into commercial inspectors

Facility Services

- Develop and implement Strategic Asset Management (SAM) program to assess, prioritize, and run-to-fail all critical assets
- Partner with Budget & Performance Management team to identify sustainability initiatives with highest ROI for prioritization

Themes: Sustainability, Efficiency, Customer Satisfaction



Mr. Aughenbaugh said they started with the top-down approach of working to figure out what the priorities are for the Town, then went back to departments to help them understand how their work contributes to these goals. The purpose for the administrative portfolio is to make sure the Town is all pushing towards the same objectives. The Human Resources side of this looked at recruitment and retention, and how to stay competitive with Apex's surrounding regions, and also trying to finalize the development and implementation of new Employee Performance Management program. The Legal side identified wanting to provide a responsive legal team and continuing to support that professional development to staff.

Mr. Aughenbaugh updated everyone on the performance and strategy portfolio. He stated the budget and performance management team is establishing a standardized budgetary review process with all departments throughout the fiscal year and also completing a Sustainability Action Plan to submit to Council for adoption. He said communications is working on extending the talent programs and specifically the 150th anniversary events, which is a big part of the strategic plan this year, as well as guiding the community through uncertain situations. He said the IT department is continuing to make sure the staff and community stays connected.

Mr. Augenbaugh moved along with the development and operations portfolio. He stated one of the things that needs to be focused on is recruitment particularly on the operations side. He said it is getting tough to find people to work positions like inspectors, planners, and water/sewer operators. He said transportation and infrastructure development is focused on implementing the Vision Zero Action Plan while improving efficiency and customer experience of the land development process. Inspections and Permitting side are educating people to understand the building codes and providing cross-training to merge qualified residential inspectors into commercial inspectors.

Mr. Augenbaugh said facilities are trying to think strategically about how the Town uses space. He said they're trying to develop and implement a Strategic Asset Management program to assess and prioritize all critical assets. The facilities department will partner with the budget and performance team to look at different sustainability initiatives that can reduce energy usage in the Town. The themes to focus on the operation side is sustainability, efficiency, and really focus on customer satisfaction.

Councilmember Mahaffey asked if someone can explain what the vacancy rate was for inspectors and how that's affecting our level of service like response time for inspections.

Mr. Aughenbaugh replied that it's his understanding that inspections are meeting the intended level of service, and that the problem is recruitment. He said there's not a lot of people that have the necessary certifications to be able to be an inspector. He said what is happening now is that the Town is having to hire people that are not certified, and then provide the training to let them get tested and become certified.

Assistant Town Manager Stone said they are working on increasing the pipeline for people who can do this work. He said they took on a high school student as an apprentice this past year, which has worked out well. He said because of the Council's work increasing salaries and benefits, they have seen a lot of people come from other communities and municipalities. He said their backlog and turnaround time is currently good.

Mary Beth Manville, Director of Human Resources, added that this problem with inspections has been going on since 2015. She said the regulation around inspectors has been realized so we had to get creative not only in partnering with our municipalities on how we can work together but also partnering with the Triangle J Council of Governments. She said they have an initiative to help with some of these difficulties to fill positions and it includes a lot of the trade positions. She thanked the Council for their support on increasing pay and benefits to attract and retain workers.

Mayor Pro Tem Killingsworth asked if Wake Tech offers training or any other training facilities.

Ms. Grogan said yes, but there are different levels and the exams are difficult to pass. She said the whole process takes more time than just classroom training, as it requires some work-related training in a more hands-on sense too. She said not many people want to go into the water and sewer field that are just entering the workforce.

Town Manager Crosby added that at the managers roundtable two things that were discussed were career progression and professional development. She said there is a huge desire

for more professional development, which is something the Town is looking into. The second thing is understanding the full compensation package and potentially expanding benefits.

Town Manager Crosby asked if Mr. Stone wanted to talk about streets.

Assistant Town Manager Stone said streets is down right now, but there was a backfill for a director and supervisor. He said he believes they are currently in a good place.

Ms. Manville added that looking at existing positions that are currently open, she said she's not seeing any struggle. The positions some positions that are harder to find, such as housing positions and DEI positions. She said they are going nationally trying to find people to fill these positions. She said that a majority of vacancies are either new positions that haven't been filled, or from internal promotions. She said Apex is positioned well moving forward. She said they are working with Haven creative to establish new forms of employer branding and to promote the benefits of working at Apex.

Assistant Town Manager Stone said they had just filled a long-term vacancy in an electrical engineering positions, and the recent work changes and improved benefits helped facilitate that.

Councilmember Zegerman asked where the Town thinks it is going to be exposed three years from now, and how to start building up these programs. He wondered where the Town feels most vulnerable in this aspect.

Mr. Aughenbaugh stated this is a one to three-year plan. He said they are seeing other places are having these issues, which is why we bring up the terms strategic rather than budget.

Councilmember Zegerman said he wanted to make sure they were considering how to position themselves to not lose out when surrounding municipalities improve their pay structures and benefit packages.

Councilmember Mahaffey was concerned about the housing issue in Apex, and how some people have to live outside Town and work here.

Town Manager Crosby said we have lost more leadership level positions but she doesn't feel that's the overwhelming issue. She said what has come up at the managers roundtable is affordability. She said she is in contact with Assistant Town Manager John and they are discussing ways they can address this issue. She added that they are looking at tying in cost-of-living with the employee branding work.

Ms. Manville added that two surveys were done, one was done five years ago, and one was done recently, that said they wanted to live in Apex and often have a 1-2-acre lot, but that it wasn't one of their major priorities. She said one of the reasons hiring is so competitive in the area is because people outside of Apex can easily work here or in many other municipalities. She said the factors may be different for recruiting than retention.

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Development & Operations Portfolio
Marty Stone, Assistant Town Manager

Fleet Services

- Transition to alternative-fuel vehicles for replacement of Town fleet (including hybrid, electric, and low-emission options where possible)
- Develop organizational structure to support comprehensive fleet management functions

Solid Waste

- Provide superior service delivery by establishing customer service standards and using data analytics to monitor efficiency of operations
- Explore regional partnership for sustainable disposal of yard waste

Streets

- Increase frequency of right-of-way (ROW) mowing and litter clean-up to increase TOA beautification
- Implement proactive approach to stormwater infrastructure maintenance, repair, and inspection

Themes: Sustainability, Efficiency, Customer Satisfaction



Mr. Aughenbaugh said on the fleet services side, the focus on the sustainability part of the Town's transition. The fleet team is focusing on transition to alternative fuel vehicle for replacement town fleet as well as developing a structure to support comprehensive fleet management functions. The solid waste side is contracted but monitored internally. He said the customer service standards are making sure were handling any complaints as quickly as possible and looking to explore a regional partnership for sustainable disposal of yard waste. He added that the streets focus is to increase frequency of right of way towing and litter clean up to increase beautification and also, to implement proactive approach to stormwater infrastructure maintenance, repair and inspections.

Mayor Pro Tempore Killingsworth asked about recycling being an issue previously and where it ends up going.

Mr. Mullis said recycling currently is through GFL and they dispose at Sunoco and recycling goes to Murph, which is in Garner.

Ms. Grogan said there were problems a few years ago, where GFL had to administer more fees because they couldn't find a location. She said last year the cost did go down, and asked Mr. Mullis if something was done to mitigate that.

Mr. Mullis said he was not, but that GFL would likely give them the cost escalation within the next month. He said a processing fee is standard for this kind of thing.

Town Manager Crosby said they have drafted a development sustainability plan and asked Ms. Grogan to speak about it.

Ms. Grogan said they've got a draft for the sustainability action plan and are mapping things out with departments, who are discussing and identifying their specific needs. She said they are looking at multiple areas of Town waste and how to reduce it.

Councilmember Gantt said the EPA is about to award tens of millions of dollars in grants, and encouraged Apex to come up with detailed plans and impact analyses for projects in order to share that information.

Ms. Grogan said this information should be coming soon, and they are trying to create the plans and strategic goals. She said they will be focusing on gathering the data and then building off of that.

Councilmember Mahaffey is worried about taking too long to plan simpler things, and potentially miss out on money that could come in for it.

Deputy Town Manager Stone said there is a lot more things that go into charging stations than simply putting one in a parking lot, so the planning process was necessary.

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Development & Operations Portfolio
Marty Stone, Assistant Town Manager

Planning

- Expand transit services both within the Town and connecting to the surrounding region
- Implement town-wide Wayfinding Signage Program

Electric Utility

- Increase participation in the Load Management Switch program and maintain load reduction capability
- Educate citizens about Town-owned electric system

Water Resources

- Expand community engagement efforts to increase resident knowledge of their water quality impacts
- Partner with the Manager's Office to develop a growth management plan to ensure infrastructure development meets Town needs

Themes: Sustainability, Efficiency, Customer Satisfaction

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Mr. Aughenbaugh said they planning is focused on expanding transit services both within the Town and connecting to the surrounding region. Then implement town-wide Wayfinding Signage Program which will not only help people get around but also encourage people to utilize different services. He said the electric utility side has increased participation in the load management switch program and maintain load reduction capability. He said they also plan to educate citizens about Town-owned electric system. The water resources side wants to expand community engagement efforts to increase resident knowledge of their water quality. Also, to partner with the manager's office to develop growth management plan to ensure infrastructure development meets the Town's needs.

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Community and Safety Portfolio
Demetria John, Assistant Town Manager

Parks, Recreation, & Cultural Resources

- Engage with the community to better understand the needs for current and future programming
- Maintain facilities and assets for the public to optimize recreational and cultural opportunities

Police

- Create a Community Policing model that improves the relationship between Apex PD and residents
- Enhance Crisis/Mental Health and Victim Assistance programs

Fire

- Increase community outreach and citizen education efforts to reduce the need for emergency response
- Partner with Development and Operations departments to ensure code enforcement programs are reducing community risk

Themes: Engagement, Accessibility, Accountability



Mr. Aughenbaugh moved on to the last portfolio with community and safety. He said the parks and recreation department are focusing a lot on engaging with the community to better understand the needs for current and future programming and how we can fully utilize Town facilities. He said the goal is also to maintain facilities and its assets for the public to optimize recreational and cultural opportunities. He added that police are working to create a community policing model that improves relationships with the community, and that fire's big focus is on community outreach to reduce the need for emergency responses. He said fire wants to partner with development and operations departments to enforce programs for reducing community risk and things are up to code

Councilmember Mahaffey asked how the crisis management program has been going

Chief Armstrong said he wouldn't put a level of success on it, as the Town only had one position to work with. He said most of these programs have had multiple people that have different roles and the Town is still building it out. He said the long-term goal is to build it into something that is beneficial for community members, and also safe for staff members. He said since the position is civilian, she is limited in what information she can access since she is not a law enforcement officer, and so they have had to apply support from sworn officers and are looking for better ways to go about that.

Councilmember Mahaffey asked if they were looking to move to a co-responder model this year.

Chief Armstrong said this is something they are looking to build out in stages over time, and that they are looking at acquiring more resources for the crisis counselor to be able to be in the field more and be safe when doing so.

Town Manager Crosby added that community development and neighborhood connections is a department that is going to be built over time as well, and they are working on setting up the foundation for it now.

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Terminology

- **Goals:** Broad statements of measurable outcomes to be achieved on behalf of customers
- **Objectives:** Statements of what you must do well or barriers that you must overcome to achieve a specific goal
- **Initiatives:** Specific programs, strategies, and activities that will help you meet your performance targets
- **Department Measures:** Quantifiable and qualifiable indicators of success

"Will you tell me please, which way I ought to go from here?"

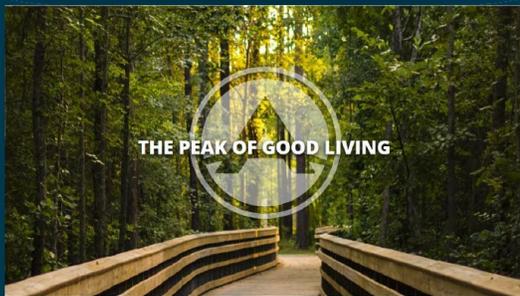
"That depends a good deal on where you want to get to."

- Alice's Adventures in Wonderland



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Break



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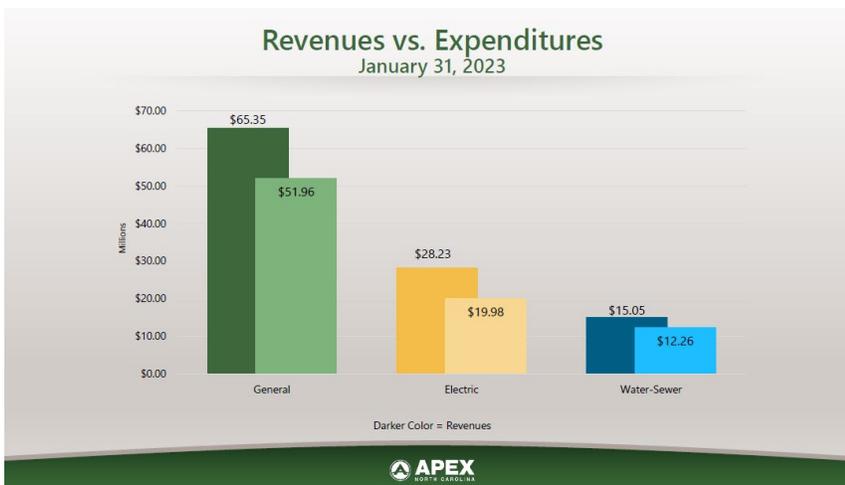
Mayor, Councilmembers, and Staff went on a break, then proceeded to participate in a group activity related to budget priorities related to strategic goals. (Budget and Performance Manager Amanda Grogan provided an overview and references were provided)

Financial Condition Review

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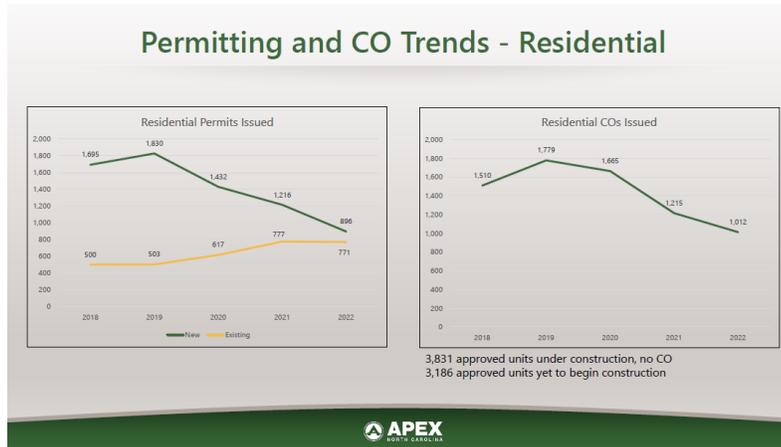
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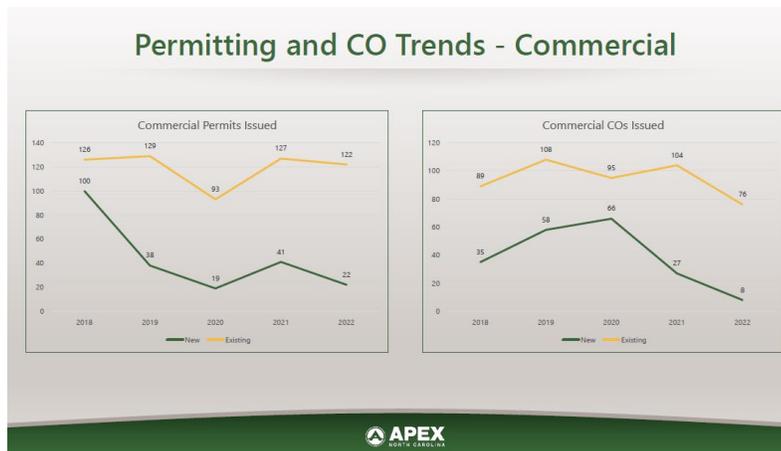
Deputy Town Manager Purvis went over the financial review also explained how it's being framed and structured. He said there are three primary resources that the Town looks at, which are, operating revenues, financial revenues, and budget development.

Deputy Town Manager Purvis went over the operational revenue piece. One of the trends that the Town has recognized and monitored is direct correlation with property value. He said adding in new construction, significant renovation, or an addition that has to be claimed or it will have to be revaluated every four years and that's the only way to add to the overall assessment.

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Councilmember Gantt said he asked staff to track a timeline of rezonings and what it would look like. He said rezonings ramped up in the years leading to 2015, and that the construction in 2018 and 2019 were likely those rezonings being developed.

Deputy Town Manager Purvis said that reserving smaller ones may happen within five to ten years and larger ones take up to twenty to thirty years depends on the market condition and the resources and desires of the developer.

Councilmember Zegerman said there are 3800 under construction units actively being built right now, and that they will materialize in the next three years. He said these could ramp the pace back up.

Deputy Town Manager Purvis said one of the reasons we want to look at it is really the pace of some of the builders, if they've slowed down or that they don't know to build at the same place in the current market. He said there is still growth but help understand the revenue and the property tax may not grow as fast.

Councilmember Mahaffey asked about data from further back.

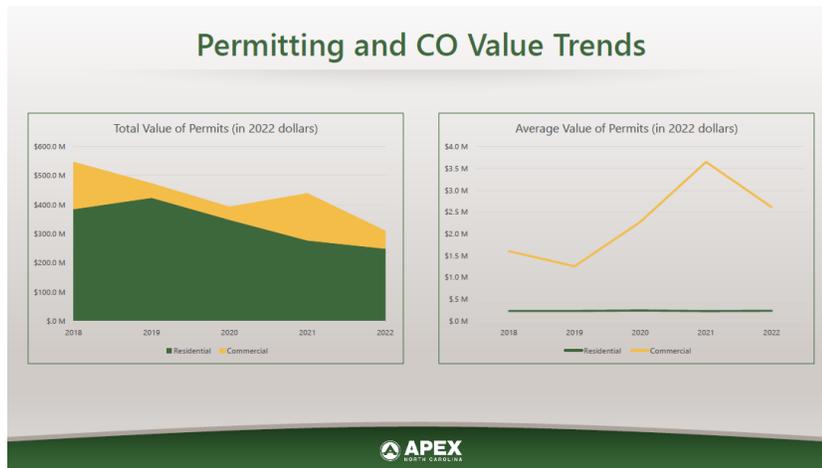
Deputy Town Manager Purvis said there is data gathered further back and he can send that out.

Deputy Town Manager Purvis showed the current overview of commercial trends. He said there hasn't been a lot in commercial but still the existing commercial is up.

Councilmember Gantt said in the last five years there's been a lot of mixed-use developments. He said presumably there will be more of these coming up in the next several years.

Deputy Town Manager Purvis said there were several that should be coming up soon. He said there is a little bit of mitigation in it, and that since the average value of what you are getting is higher than what you had, it keeps it from dropping. The total average of permits stays pretty flat on the residential side but commercial had a peak.

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Deputy Town Manager Purvis provided the last piece on the terms of the operating revenue that's going to show our trend per capita revenue. He stated if you take the property tax and taking our assessed value provided by our population is what our property taxes generate.

Councilmember Zegerman asked how this is compared to other neighboring communities.

Deputy Town Manager Purvis said that’s something to look into. He said some municipalities may or may not run this part in their budgets. The overall growth is happening but its at a slower rate, so asked Council to be prepared when staff puts the budget together to understand how much more revenue that we have. Being aware of taxes and that more commercial will help it has a higher value per unit so that will help.

Deputy Town Manager Purvis moved on to the General Fund Reserves. The projected available fund balance is going to be around 44 million. He said staff budgeted 3.6 million in the current year’s budget and that leaves us with 40.5 million in our available fund balance. The amended budget balance is around 98 million. He said 7.2 million is the funding balance for allocated for projects.

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General Fund Reserves June 30, 2022			
	Amount	Comments	
A	Available Fund Balance 6/30/22	\$44,101,884	Amount as of 6/30/21 - \$36.03M
B	FY23 Budgeted Fund Balance	\$3,620,000	
C	Available Fund Balance (A-B)	\$40,481,884	As of 6/30/22
D	Amended Budget*	\$98,011,632	As of 1/31/23
E	Available FB/Amended Budget % (C/D)	41.3%	
F	25% of Amended Budget (D x .25)	\$24,502,908	Town Policy Minimum
G	Available Fund Balance Over Min. (C-F)	\$15,978,976	
H	FB Allocated through Budget Amendments	\$7,258,600	As of 1/31/23
I	Possible Additional Appropriations (G-I)	\$8,720,376	

*Excluding FB allocated through budget amendments



Councilmember Zegerman asked if we’re spending about 11 million of our funding balances.

Deputy Town Manager Purvis stated that is correct. He proceeded that the available general fund balance of 98 million is at 4.3 percent. There is also allocated funds of 8.7 million for potential additional appropriations.

Councilmember Zegerman asked about the delta between revenues and expenses. He asked if there was another offset at the end of the year where our revenue outpaced expenses, and therefore they should be added to the fund balance.

Deputy Town Manager Purvis said he anticipates that and the forecast will come again with the overall budget, right now framework is being established.

Deputy Town Manager Purvis recommended Council considering changing the 25% for fund balance reserve to a range. He added that the bond rating agencies look at this as an aspect of rating, and they rate 35% or higher as “very strong”.

Councilmember Mahaffey said to be sure the Town maintains the Triple A rating, so we want to be at 35.

Mr. Morrison said that some of the large municipalities and counties think 25% is even high for them, they are looking at 20%.

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Utility Operating Funds Reserve Levels
June 30, 2022

	Electric Fund	Water-Sewer Fund
Working Capital	\$13,120,826	\$26,791,398
Days Operating Cash on Hand (FY22)	105.6 days	524.4 days
Days Operating Cash on Hand (FY23)	98.7 days	325.9 days

Deputy Town Manager Purvis went on to talk about the electric and water-sewer working capital funds. He said there is a lot of capital on hand on the water and sewer side. He said the Town is trying to close some projects out like the new water tower and some old lines replaced on Old Raleigh Road. He said within the next 10 years the wastewater recognition at Western Wake will need an expansion which will be a huge dollar amount.

Assistant Town Manager Stone said our long-range plan for the water resources is going to give us a better outlook. The Town partners with Cary and Apex water treatment plant and Western Wake plant. The town negotiates for a percentage of the plants use, so we have 23 percent of the water plant and 34 percent of the western wake. There is no room right now for improvement or expansion right now at the Middle Creek Plant that’s in Apex. Western Wake can be expanded by changing the technology of how they treat the wastewater.

Deputy Town Manager Purvis said there is an analysis studying being done for electric and waste water as a heads up for future targets. He moved on to the breakdown of other water-sewer capital fund reserves. These reserves are a “pot” essentially for bigger projects that hopefully bring grant opportunities.

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Other Fund Reserves
January 31, 2023

Fund	Balance	Comments
W-S Capital Reserve	\$12,836,476	\$4M budgeted to be transferred for W-S capital
W-S HB 463 Capital Reserve	\$8,651,844	No current use budgeted
Recreation Capital Reserve	\$5,674,314	No current use budgeted (project costs increasing)
Transportation Capital Reserve	\$4,574,349	\$1.25M budgeted to be transferred for streets capital; remainder almost entirely fee-in-lieu construction payments

Deputy Town Manager Purvis went over the total breakdown of debt of the general fund.

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Total Debt Outstanding

Debt Type	General	Water-Sewer	Electric	Total	Percent
General Obligation Bonds	\$59,440,000	\$29,080,000	-	\$88,520,000	67.0%
Installment Purchase	\$18,440,931	\$4,217,689	-	\$22,658,620	17.2%
Revenue Bonds/State Revolving Loans	-	\$10,500,000	\$10,357,000	\$20,857,000	15.8%
Total	\$77,880,931	\$43,797,689	\$10,357,000	\$132,035,620	100%



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General Fund Debt Capacity

Criteria	Value	Policy Limit	Available Capacity	Comments
Debt Outstanding	\$126,880,931	\$891,813,415	\$764,932,484	NCGS limit 8% of assessed value; Includes \$49M unissued debt
Assessed Value FY22	\$11,147,667,692			
Net Debt/AV	1.138%	\$278,691,692	\$151,810,761	Town Policy Limit 2.5%
FY23 Debt Service	\$7,766,986			
Net Debt Service/Exp.	7.37%	\$12,632,428	\$4,865,442	Town Policy Limit <12%



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Comparative Tax Supported Debt Levels - LGC Peer Group
June 30, 2022

Municipality	Debt as a % of Tax Base	Debt per Capita
Apex	1.139%	\$2,068
Asheville	0.559%	\$1,154
Chapel Hill	0.705%	\$1,078
Huntersville	0.375%	\$628

Comparative Group, population 50,000 to 99,999 with a AAA bond rating from Moody's Investor Services.



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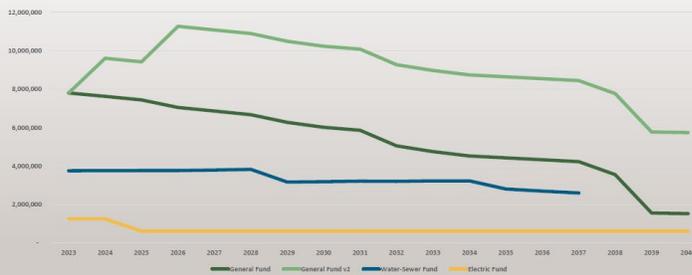
Comparative Tax Supported Debt Levels – Neighbors
June 30, 2022

Municipality	Debt as a % of Tax Base	Debt per Capita
Apex	1.139%	\$2,068
Cary	.947%	\$1,812
Fuquay-Varina	1.453%	\$2,071
Garner	2.051%	\$3,209
Holly Springs	1.289%	\$2,052
Morrisville	0.971%	\$1,969
Wake Forest	0.536%	\$786



Slide 30

Total Debt Service



Slide 31

Purposes of Outstanding General Fund Debt

Purpose	Amount w/out unissued bonds*	Percent	Amount w/ unissued bonds*	Percent
Parks & Recreation	\$54,162,931	69.5%	\$54,162,931	42.7%
Public Safety	\$12,888,565	16.5%	\$12,888,565	10.2%
Street & Sidewalks	\$9,415,000	12.1%	\$58,415,000	46.0%
General Government	\$1,414,435	1.8%	\$1,414,435	1.1%
Total	\$77,880,931	100%	\$126,880,931	100%

*Unissued Bonds = \$49M Streets & Sidewalks



Slide 32

Utility Funds Debt Service Coverage Ratios

Funds	Electric Fund	Water-Sewer Fund
Operating Revenues FY22	\$46,680,487	\$23,907,304
Cash Operating Expenses FY22	\$40,691,474	\$15,303,917
Revenues Available for Debt Service	\$5,989,013	\$8,603,387
Debt Service FY23	\$1,248,774	\$3,782,889
Ratio	4.80	2.27



Slide 33

Lunch



Councilmember Gantt asked about the money from the ARP was at.

Deputy Town Manager Purvis said it was in a separate account not reflected here, and that they will be giving Council a report on the projects it is funding. He added that on several projects cost estimates came in much higher than expected due to labor and materials cost.

Mayor Pro Tempore Killingsworth asked if it was possible to do certain projects in-house rather than contracting them out.

Deputy Town Manager Purvis said it may be possible for some very small projects, but for most of them the Town will not be able to handle and manage.

Councilmember Gantt said in general it seems the combination of costs are going up and interest rates are going up at the same time.

Deputy Town Manager Purvis went over the total breakdown of debt of the general fund

Councilmember Zegerman asked if the bond changes the breakdown of debt.

Deputy Town Manager Purvis said this gets built into the models that they create

Councilmember Gantt said in general it seems the combination of costs are going up and interest rates are going up at the same time.

Mr. Morrison agreed and said he wants to make sure we are not paying unneeded amounts of interest and the town also doesn't want to slow down and delay projects either.

Mayor Gilbert called for a recess at 12 PM.

[PUBLIC ENGAGEMENT - BUDGET PRIORITIZATION SURVEY RESULTS]

(Slide 34):



(Slide 35):

Budget Priorities Survey

Step 1 Step 2 Step 3 Step 4 Step 5

The Town of Apex wants to hear from you!

Each year, the Town works on creating its [annual budget](#), which is a year-long process involving the Mayor, Town Council, Town staff, and YOU. As a resident, your input is crucial in helping us set our service priorities. Let us know what's important to you!

For the purposes of this survey, you'll find Town services classified under the following categories:

1. Recreation and Cultural Opportunities
2. Transportation and Infrastructure
3. Environmental Sustainability
4. Economic Stability and Growth
5. Housing Affordability
6. Public Safety
7. Vibrant and Accessible Downtown

Please follow the instructions on each page to indicate your budgeting priorities. The survey should take about 10 minutes to complete.

The survey will be open for responses until **Friday, February 3, 2023**. Thank you for your participation!

If you have any questions or encounter technical difficulties, please contact the Budget Office at annual.budget@apexnc.org.



Slide 36:

Budget Priorities Survey

- Responses up 56% from last year
- Survey made available:
 - Website
 - All in Apex eNewsletter
 - eBill
 - Posted to all social media
 - Pushed out to staff to advertise at events, activities and advisory boards with the Public



Ms. Grogan stated that the Town had a substantial increase in its budget prioritization survey participation.

Councilmember Gantt asked what she would attribute the increase in participation to.

Ms. Grogan said the Town utilized multiple social media platforms, the Town website, the Town newsletter, boards and committees, and additionally used Instagram stories with “this or that” questions to draw more engagement beyond simply posting information

David Wood began the presentation on the survey. He said responses were up 56% from last year, with 619 responses. He detailed how the survey worked, with the first step being rating 7 different general areas of Town budget focus on a sliding scale of “not at all important” to “very important”. The Town created a chart sorting the areas based on the percentage of people who put a very positive response.

Mr. Wood then described the second step, which was a series of more specific budget priorities within each of the 7 more general areas, and rank them 1-5 based on their preferences of most important to least important, or identify that none of them are important to them. He then presented the results of this, with a pie chart for each category showing which goals within each category got the most favorable responses.

(Slide 37):

Step 1 – Sliding Scale

- **Recreation and Cultural Opportunities** - Construction of new parks, greenways and facilities; maintenance and improvements to existing parks, greenways, and facilities; and athletic and cultural arts programming.
- **Transportation and Infrastructure** - Construction and improvement of roadways, sidewalks, and bicycle lanes; public transit projects; and railroad crossing improvements.
- **Environmental Sustainability** - Stormwater management; sanitation and recycling services; and initiatives to decrease the Town's carbon footprint, such as renewable energy improvements to Town facilities.
- **Economic Stability and Growth** - Identifying and purchasing new development sites; recruiting new business and industry; and launching marketing initiatives for downtown businesses.
- **Housing Affordability** - Programs to assist with home rehabilitation for low-income homeowners; emergency rental assistance; down-payment assistance for new homebuyers; construction of affordable housing units; and homeownership counseling.
- **Public Safety** - Resources to support the operations of the three public safety departments within the Town: Fire, Police, and Emergency Communications.
- **Vibrant and Accessible Downtown** - Repurposing unused or underused spaces for public enjoyment; landscaping; and improving parking, sidewalks, and pedestrian crossings.

Please indicate the importance of the following budget priorities to you by moving the slider left or right.

Recreation and Cultural Opportunities
Construction of new parks, greenways and facilities; maintenance and improvements to existing parks, greenways, and facilities; and athletic and cultural arts programming.

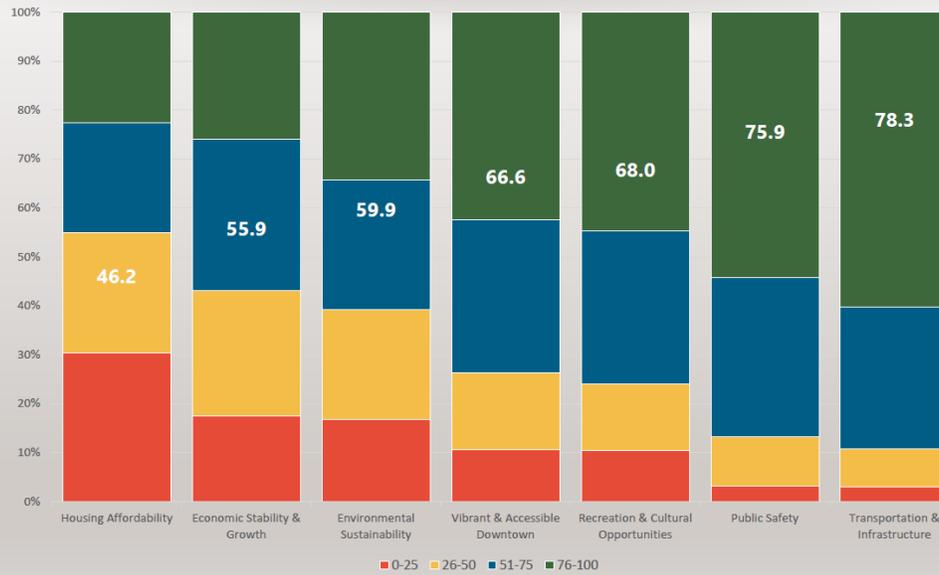


Not at all important Very important



(Slide 38):

**Importance of the Budget Priorities
(sliding scale 1-100, Average Score)**



(Slide 39):

Average Score Comparison by Category



(Slide 40):

Step 2: Ranking

Please rank the importance of the following items to you by placing them in your preferred order.

Recreation and Cultural Opportunities

YOUR TOP PRIORITY

New park and greenway construction and completion of existing greenway connections

Maintenance and renovation of current parks, recreation facilities, and greenways

Additional / enhanced athletic programming

Additional / enhanced cultural arts programming

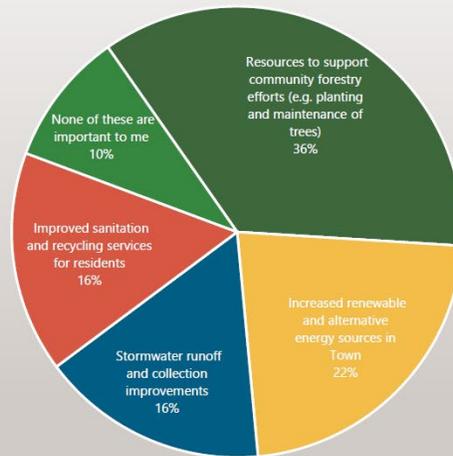
None of these are important to me



(Slide 41):

Council Goal: Environmental Leadership

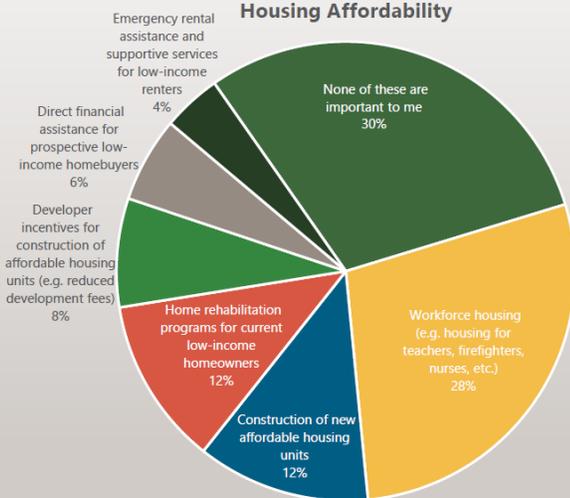
Environmental Sustainability



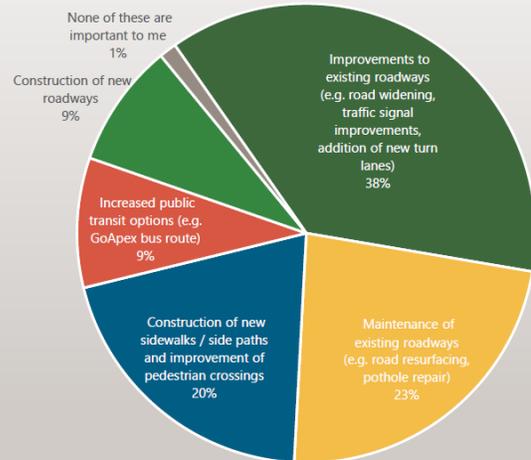
(Slide 42):

Council Goal: Responsible Development

Housing Affordability



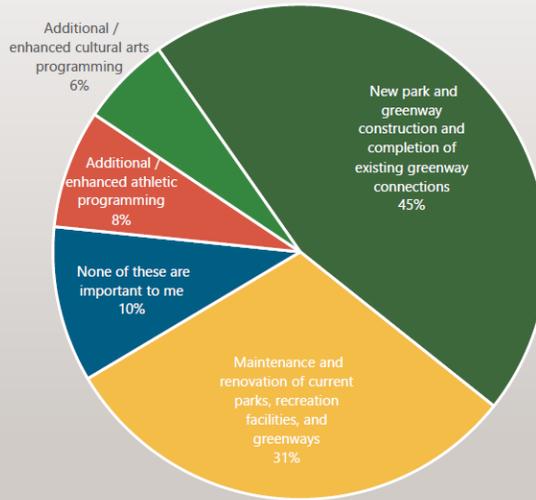
Transportation & Infrastructure



(Slide 43):

Council Goal: A Welcoming Community

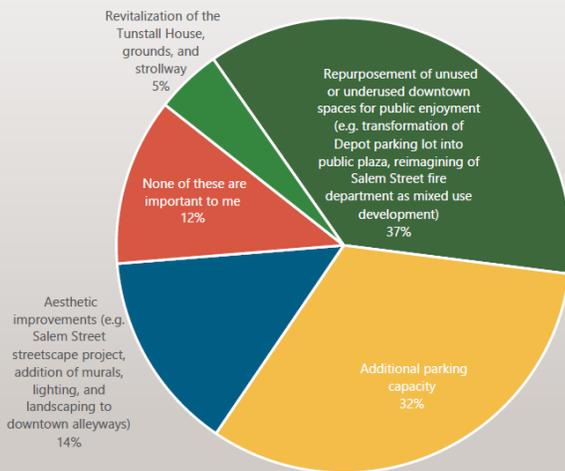
Recreation & Cultural Opportunities



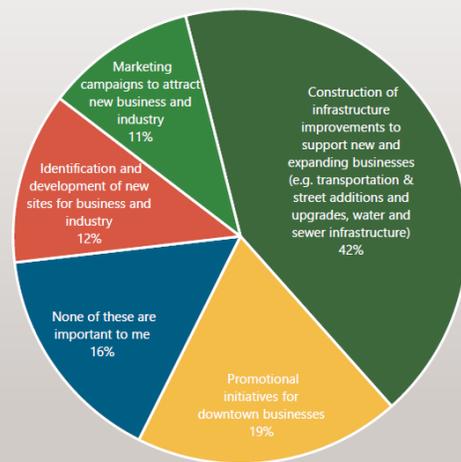
(Slide 44):

Council Goal: Economic Vitality

Vibrant & Accessible Downtown



Economic Stability & Growth



Councilmember Zegerman was curious about the demographic map for the survey, and asked if there a particular reason why the most common response areas were west of 540.

Ms. Grogan said this was the first year they added the option to choose which section of Apex you lived on, so they don't have other data to compare it to. She said they weren't sure exactly why certain communities were more responsive than others, but that it could serve as a guide on where to get more information out to.

Mr. Wood added that overall the demographics of the respondents matched up pretty well the Apex population, but that the caveat was since this was a government survey, it was likely most of the respondents were more engaged than the average resident.

Councilmember Mahaffey said he felt it was a positive thing that a lot of engagement was coming from newer communities in the western part of the Town.

Mr. Wood said staff would make a note to have sector response percentages along with the demographic information next year, as this aspect of the survey was new and would continue to grow.

Councilmember Gantt asked if there were surprises from staff's perspective regarding the results of the prioritizations within the broad categories.

Ms. Grogan responded by saying that the responses were very consistent with last year's results, but that it was a bit surprising that it was as consistent with such an uptick in engagement.

Mayor Gilbert wanted to confirm that people could theoretically take this as many times as they wanted.

Ms. Grogan replied that yes, no personal information was provided or collected, so people could theoretically take it multiple times.

Mayor Gilbert asked if the results of the Instagram stories were included in this data.

Ms. Grogan said that the categories and questions were not exactly the same so the data was not included in this set. She said given the reach the stories seemed to have, it is something they will look to build on in the future.

Mr. Wood said this would also allow for responses to be given only once per account, and that he believed this was the biggest driver for increased engagement year to year.

Councilmember Gantt said that some results of the demographic breakdown were confusing, such as housing affordability being more important to people who reported making 150 thousand or more a year in household income than below.

Mr. Wood said that for some questions and/or demographic information, not everybody responded to all the fields or questions within the survey, so the statistics are not perfectly accurate as a representation since demographic information is not required to be shared.

Ms. Grogan said household income was one of the things people tended not to report as often, as compared to something like gender.

Councilmember Gantt asked if a goal for next year was to increase engagement with the survey amongst the under-18 population.

Ms. Wood said yes, and that there are some things they can do, and that the significant lack of young people responding definitely skews the data a bit.

[CAPITAL PROJECTS PRIORITIZATION RESULTS AND DISCUSSION]

(Slide 45):



Ms. Grogan gave an overview of the CIP. She detailed how it is a planning mechanism by which the Town Council allocates limited resources to meet long-term goal. It becomes a statement of policy once adopted, but is still subject to change with fluctuations in priority. She said the purpose of the CIP was to forecast and match projected revenues with major capital needs over a five-year period. She gave a summary of the number of projects submitted within broad categories, and showed the allocated funding over the next 5 years for each category.

(Slide 46):

CIP Overview

- Planning mechanism by which the Town Council allocates limited financial resources to implement long-term goals
- Utilizes adopted plans and factors to shape projects and needs
 - i.e. Downtown Master Plan, Transportation Plan, Parks and Recreation Master Plan, development reports, debt capacity & potential funding sources
- Once adopted CIP becomes a statement of policy, but is a plan, and **subject to change** based upon changing demands, changing fiscal constraints, and other factors



(Slide 47):

CIP – Major Objectives

- The purpose of the CIP is to forecast and match projected revenues and major capital needs over a five-year period.
- Links community infrastructure needs and the financial capacity of the Town
- Major capital expenditures that have an asset value of greater than \$100,000 and a useful life of greater than three years.
 - acquisition of land,
 - construction or significant renovation of public facilities (i.e. buildings/parks),
 - construction of new transportation infrastructure (i.e. roads, sidewalks, multi-use paths),
 - expansion or significant renovation of water, wastewater, electric, or stormwater infrastructure,
 - capital equipment to support operations



(Slide 48):

General Fund CIP Project Summary							
Element	Submittals	FY23-24	FY24-25	FY25-26	FY26-27	FY27-28	Future
 Transportation	33	15,345,000	17,845,000	33,830,000	21,110,000	27,005,000	23,945,000
 Parks, Recreation & Cultural Resources	16	2,700,000	6,928,000	10,300,000	6,980,000	21,806,000	60,850,000
 Public Facilities	17	3,143,500	1,695,500	6,065,000	2,900,000	-	25,810,000
 Public Safety	7	1,140,000	698,000	400,000	400,000	400,000	2,704,000
 Public Works	16	515,000	547,000	680,000	590,000	588,000	655,000
Total All General Fund	89	\$22,843,500	\$27,713,500	\$51,275,000	\$31,980,000	\$49,799,000	\$113,964,000



(Slide 49):

Utility Fund CIP Project Summary							
Element	Submittals	FY23-24	FY24-25	FY25-26	FY26-27	FY27-28	Future
 Water Sewer Utility	29	38,600,000	4,450,000	10,680,000	1,300,000	5,750,000	42,875,000
 Electric Utility	7	1,250,000	2,730,000	1,750,000	3,625,000	-	-



Councilmember Zegerman was curious about whether spending money in an earlier year of the 5-year plan and beginning all potential projects could end up handcuffing the Town further down the line if projects end up having more of a cash requirement than expected in final stages of development.

Ms. Grogan said the numbers of each year beyond the currently adopted one are not set in stone, and can be changed each year as demands and goals change. She said there may be times where early development of projects ends up not coming to fruition, but that it may lead to better solutions based on what they gathered.

Councilmember Zegerman said he was more concerned about whether the project would be spending money the Town didn't have, if they were way above the projected percentage of budget towards capital.

Councilmember Mahaffey said to his understanding, each year the Town can come up with different answers to their project priorities. He said that yes, they are planning based on money they don't necessarily have.

Councilmember Zegerman said he wanted to know if spending the 15 million allocated for FY23-24 would lock them in to spending 27 million as part of that category of planning years down the road.

Ms. Grogan showed the whole spreadsheet for the CIP, and said some projects within the funding allocation for each year were one-year or short-term projects, so not everything would be associated with longer-term funding plans. She said starting a project and having to stop it because there isn't enough money available for the next year isn't necessarily always the case.

Mr. Wood said in some cases, projects would have to be reevaluated based on changing costs and expectations, but that is done on a year-to-year basis and doesn't tie funding up now for project phases in the future. He said Pleasant Park was a good example, as it was in the CIP when he arrived here 6 years ago, but has been taken out since because of changing circumstances. He said some projects would need to be reevaluated as they go on with input and guidance from Council. He said it's a plan, but that they are trying to make it as realistic as possible. He said even with that kind of planning, things can still happen after the first year which would cause budget challenges, which can't be foreseen.

Mr. Morrison said some years the Town may "lose" money on a design that is researched but paused, that design, or any work done on a project, is still available to pick up on once it comes back into the scope of prioritization.

Councilmember Zegerman said certain funding goals seem realistic, but that the dynamic of the conversation is changed when looking out into the farther future and seeing large amounts of money that will be needed for project completion years down the road.

Councilmember Mahaffey said that it depends on the project, and that certain projects will take a certain one-time funding investment and be done by the next year.

Mayor Pro Tempore Killingsworth said some projects may also may be ones they ask for bonds for, which they would need to discuss and decide on as a Council, especially for projects that

have a large up-front cost. She said transportation is a good example of this, as there is a lot of spending that needs to be done to catch up with the priorities that were higher than the funding given to it in the past decade.

Town Manager Crosby said many large-scale projects are phased, so full funding may be given to phases separately.

Councilmember Zegerman was concerned about projects that are “all or nothing”, such as the Big Branch project. He said if they go 1/3 of the way then stop, what they have done is completely useless.

Ms. Grogan said for projects that actually are all or nothing, they are required to pre-audit them as part of the Local Government Fiscal Control Act. She said in most cases for these large projects they won't have to come back halfway through and ask for more money. She said with Pleasant Park, the project could end up being divided into different segments, and once the issues arose partway through, decisions could be made based on if further investment wanted to go towards full completion or move it elsewhere and be able to utilize the component of the project that was completed. She said there are several large capital projects in the plan, but that the plan only serves as a guideline until the Council determines their priorities and sets the yearly funding based on the recommendations of staff, the parameters they have to work in, and the feedback from the public.

Councilmember Zegerman said he was afraid they would overcommit to projects on a year-to-year basis if they don't take a longer-term view with the funding ahead of time.

Ms. Grogan said part of the CIP analyses projects and the implications they may have on what the tax rate would need to be and how the Town can actually go about funding projects in the long-term.

Ms. Grogan then detailed how the staff scoring for each of the 28 projects evaluated worked - there were 8 categories which asked for objective scoring based on impact from multiple perspectives, if it was part of an existing project or goal or legally mandated, and funding sources and impact with weighted scores to determine priority from a staff perspective. She then described how the Council ranked these 28 projects, with the first part ranking highest to lowest priority, the second part aligning them with strategic goals. She then showed a comparison of how staff collectively scored projects compared to how Council collectively prioritized them. She showed a color chart that showed which projects Council was more or less in agreement on within themselves based on which projects aligned with which strategic goals.

(Slide 50):

Scoring Criteria - Staff

- 8 Categories
 - Public Health & Public Safety
 - Legal Mandate
 - Business Plan/Existing Project
 - Deferred Maintenance or Existing Infrastructure/Facilities
 - Economic Development
 - Funding/Budget Impact
 - Governmental Services
 - Extent of Primary Service Area

Public Health & Public Safety	
* Choose ONE response that best fits the project	Points Possible
Prevents or corrects an imminent and significant health or safety hazard	12 points
Prevents or corrects a significant potential health or safety hazard	10 points
Project improves the feeling of safety	5 points
Not Applicable	0 points

Funding/Budget Impact	
* Choose ONE response that best fits the project	Points Possible
Project produces an immediate significant reduction in operating costs	12 points
Project costs are 50% to 100% covered by non-Town funding sources	10 points
Project costs are up to 50% covered by non-Town funding sources OR will generate significant revenue to offset operating costs	5 points
Project has dedicated funding sources other than General Fund (i.e. User Fees)	2 points
Not Applicable	0 points



(Slide 51):

Scoring Criteria - Town Council

Council FY23-24 CIP Ranking	
CIP Projects for Ranking	Your Ranking
<p>Below is the list of projects for ranking in order of the CIP information book that was sent to you. The number associated with the project is the order in which it appears in the booklet. Please use this number to enter your rankings to the right.</p> <p>Project # Project</p> <ol style="list-style-type: none"> Jessie Drive Phase I and Phase II (pg. 2) GoApex Transit Program (pg. 2) Salem Street Downtown Streetscape and Resurfacing (pg. 2) Ragan Road Sidepath (pg. 2) Pristine Water Drive Connector (pg. 2) Production Drive Extension (pg. 3) Davis Drive at Salem Church Road Realignment (pg. 3) South Salem Street Bicycle Connection (pg. 3) Tinpan Road Pedestrian Bridge (pg. 3) Justice Heights Street Extension (pg. 3) Apex Parkway Southeast Connector (pg. 4) Hume Olive Road at Blazing Trail Traffic Signal (pg.4) Vision Zero - Signal Upgrades (pg. 4) 	<p>Please rank the projects to the left by entering the number associated with the project in the yellow cells in column C. Once your entire ranking is complete you will see only green cells, showing you have completed the ranking. When you enter that number, the project will populate in column D, showing you your ranked order. Please put your ranked project at the top of the list and lowest ranked project at the bottom. If a duplicate project number is entered, the duplicate cells will turn red indicating that you have already selected that project. Please continue the ranking until all of the cells are green. (Example: If Environmental Education Center is your top priority, you would enter 19 in cell C4 and the name of the project will populate in cell D4).</p> <p>Project # Project</p>

and / or

Step 1 Step 2 Step 3 Step 4

* Please drag and drop ALL projects into the empty slots at the top of the page. The projects should be ranked in order with your **highest priority at the top** of the list and **lowest at the bottom**. **CLICK THE GREEN CONFIRM PRIORITIES BOX ONCE COMPLETED BEFORE CLICKING CONTINUE AT THE BOTTOM OF THE PAGE**

YOUR TOP PRIORITY

Jessie Drive Phase I and Phase II (pg. 2)

GoApex Transit Program (pg. 2)

Salem Street Downtown Streetscape and Resurfacing (pg. 2)

Ragan Road Sidepath (pg. 2)

Pristine Water Drive Connector (pg. 2)

Production Drive Extension (pg. 3)

Davis Drive at Salem Church Road Realignment (pg. 3)

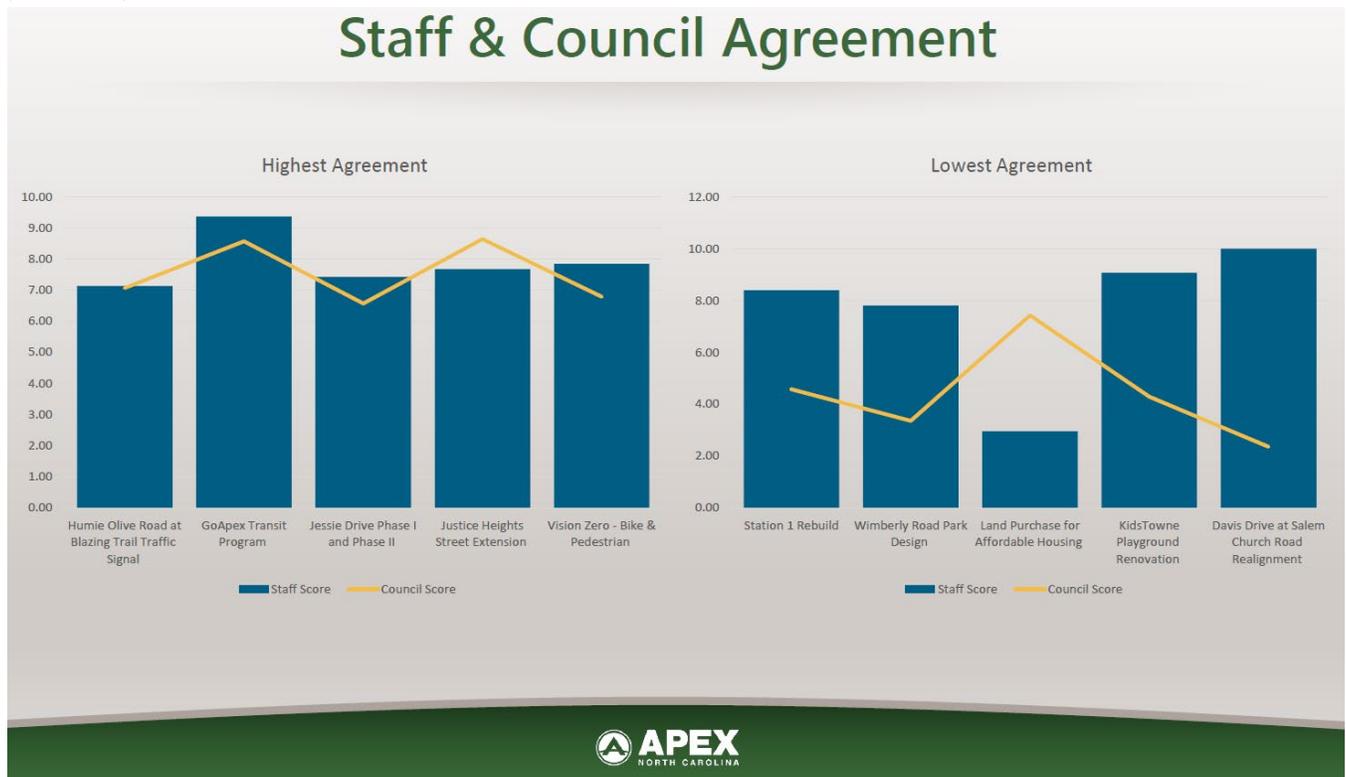
South Salem Street Bicycle Connection (pg. 3)



(Slide 52):



(Slide 53):



(Slide 54):



(Slide 55):



Ms. Grogan then showed the graph below, which categorizes the projects into four different groups based on Council’s assessments. Group 1 shows projects which were given above average scores by Council, and that Council scores were generally in agreement. Group 4 shows projects that Council gave below average scores to, and that Council generally agreed on these as well. Ms. Grogan highlighted groups 2 and 3, which identify the groups where Council scoring and how much in agreement the Council was with these differed, with Group 2 showing projects Council scored above-average, but that there was relatively low agreement on across Council, and Group 3 showing projects with below average Council scores, and also with relatively low Council agreement.

(Slide 56):

Capital Project Prioritization Results & Discussion

1: Above Average Score, Above Average Agreement	2: Above Average Score, Below Average Agreement
Jessie Drive Phase I and Phase II GoApex Transit Program Salem Street Downtown Streetscape and Resurfacing Ragan Road Sidepath Pristine Water Drive Connector South Salem Street Bicycle Connection Justice Heights Street Extension Pleasant Park Baseball & Softball Complex Environmental Education Center	Tingen Road Pedestrian Bridge Apex Peakway Southeast Connector Humie Olive Road at Blazing Trail Traffic Signal Vision Zero - Bike & Pedestrian Beaver Creek Extension Phase I & Phase II Land Purchase for Affordable Housing
3: Below Average Score, Below Average Agreement	4: Below Average Score, Above Average Agreement
Production Drive Extension Town-Wide Traffic Signal System Reedy Branch Greenway Jaycee Park Expansion Station 1 Rebuild Repurpose Depot Parking Lot	Davis Drive at Salem Church Road Realignment Vision Zero - Signal Upgrades Hunter Street Park Renovation KidsTowne Playground Renovation Big Branch Greenway Wimberly Road Park Design Olive Farm Park Design



Councilmember Mahaffey referred to the previous chart comparing staff scores to Council scores (See Slide 52). He said the result that jumped out to him most was the fact that Davis Drive at Salem Church Road Realignment was staff’s highest scoring project, but Council’s lowest scoring project. He wondered if there was something about the project he was missing.

Councilmember Gantt said he had never seen a disparity quite like this before. He said at the very least he understands it’s a bad intersection.

Mr. Wood said it was important to note that staff scored on a completely different criteria than Council. He said they considered objective measures of legal mandates, town safety, and town connectivity regarding transportation. He said Council is likely scoring it based more on what they believe it will provide to residents and what their constituents are wanting. He said this doesn’t

necessarily say there's a big difference between the value of the project, but rather that the two groups are looking at it from different perspectives.

Town Manager Crosby asked **Russell Dalton, Senior Transportation Engineer**, to speak to the David Drive Project

Mr. Dalton said the project would look at realigning the sharp curve along the railroad tracks at this intersection going towards Cary, and that it would require some significant land acquisitions and widening to the west in order to make it work, in addition to having a high cost. He asked if **Shannon Cox, Long Range Planning Manager**, could speak to the possibility of LAP (Locally Administered Projects) funding for this project.

Ms. Cox said this project was eligible for LAP funding, and would come down to details relating to safety, but she says they are not at that point yet. She said she believes the plan was to approach it with a feasibility study first, and potentially follow that with design and right of way construction after that. She said during the construction phase would be when they applied for LAP funding.

Councilmember Mahaffey asked if there were a lot of accidents at this intersection.

Mr. Dalton replied that it was not on the high injury network of the Town, and said that is partly due to the fact that the sharpness of the curve and the railroad track forces people to slow down and take more caution than usual.

Ms. Cox said one of the components staff may have been considering is the need to get some projects in the LAP funding queue. She said they are eligible for a certain number of submittals per mode. She said they wouldn't have another roadway project to put in this group if they didn't start the feasibility study soon.

Councilmember Gantt said he has noticed that the road projects are very competitive for this funding compared to other types of projects, and that it would require being a very good project to get the funding. He said this could possibly be one.

Ms. Cox said that yes, the roadway projects were very competitive because they are very expensive and there is not a lot of funding to go around, so only 1 or 2 are selected every year.

Councilmember Gantt said it may be insightful to discuss each of the 5 lowest agreement projects between staff score and Council score (*See Slide 53*). He said he understands where the difference comes from between staff and Council scores regarding Land Purchas for Affordable Housing,

Councilmember Mahaffey said he believes the KidsTowne Playground Renovation is a great idea, but that maybe it would make more sense to do it next year. He said the same applied for the Wimberly Road Park Design. He said these projects were things he felt didn't necessarily need to happen this year.

Councilmember Gantt said he was wondering why the KidsTowne and Wimberly Road Park projects were ranked so highly among staff, since he didn't see them as safety issues, unless KidsTowne was getting really bad.

Parks and Recreation Director Craig Setzer said that since KidsTowne is an older wooden structure, safety issues are starting to pop up. He said they try to stay on top of them, but that they are becoming more of a nuisance lately. He said from his perspective, that's why it was rated the way it was by staff.

Councilmember Gantt asked Mr. Setzer his thoughts on the score for the Wimberly Road Park Design project.

Mr. Setzer said from his perspective they were ranking the Wimberly Project based on the assumption that it would be something that came about several years down the road, and not a project they would start on immediately.

Councilmember Zegerman asked about the disparity in the Station 1 Rebuild.

Councilmember Gantt said that he rated that one pretty highly since it was near downtown and affected many people, and was curious about the other Councilmember's scores.

Ms. Grogan said they could compile an analysis to provide to Council regarding why each project in this discussion were scored the way they were, to help them understand why staff may have viewed something as a higher priority than them.

Town Manager Crosby said the Station 1 issue was also a capacity issue for fire safety.

Councilmember Zegerman said he rated them based on things that he felt were more important to get done earlier. He said the downtown streetscape was viewed as a higher immediate priority than the Station 1 rebuild and the Depot Lot Redesign.

Councilmember Gantt said he wanted to do all the downtown things yesterday, so he rated all of them very highly.

Councilmember Mahaffey said the Station 1 Rebuild was something that he felt would definitely happen in the future, but that other things take priority for him in this fiscal year.

Councilmember Gantt said he scored the downtown projects highly since he sees them as one of the things that affects everyone in Apex, and that he wasn't considering timing of the projects as much.

Councilmember Mahaffey said he organized his list based on the ones he wanted to complete or get started first. Some project he liked and thought were great ideas, but put them

lower relative to the ones he wanted to start earlier, even if he liked one of those later-starting projects more overall.

Councilmember Zegerman said his method was similar to Councilmember Mahaffey's.

Ms. Grogan said staff's scoring was based more on questions that had absolute criteria.

Mayor Gilbert asked which projects had moved from quadrants 1 and 2 to quadrants 3 and 4 from previous years (*See Slide 56*).

While Ms. Grogan was looking, **Councilmember Gantt** recommended that for future Council surveys on these matters, that they don't analyze them based on the timing of the project, as he feels staff should be more concerned about the timing, while Council should focus more on projects independent of timing.

Councilmember Mahaffey said he feels that makes sense.

Mr. Wood said that likely explains some of the observed disparities, as staff gave lots of points to projects that were in existing plans or were part of currently developing projects.

Ms. Hoffman says staff's lowest scored project may seem relatively higher than Council's because their ranking 1-28, whereas staff is assigning a number to it on an objective scale.

Ms. Grogan, answering Mayor Gilbert's earlier question, said the Environmental Education Center went up one quartile from last year, Tingen Road Pedestrian Bridge went up one quartile from last year, and Pleasant Park went down.

--A short break was taken to allow staff to prepare copies of last year's quartile chart showing Council quartile priorities similar to the one in *Slide 56*--

Ms. Hoffman highlighted some of the differences between last year's project quadrant chart, with a lot of quadrant 1 remaining the same, with one of the biggest differences being the Repurposing of the Depot Parking lot moving from quadrant 1 last year to quadrant 3 this year. The Environmental Education Center moved to quadrant 1, the GoApex Transit Program moved to quadrant 1, and Salem Street/Downtown Streetscape Resurfacing moved to quadrant 1. Beaver Creek Greenway Improvement moved to quadrant 2 from quadrant 3, Pleasant Park baseball and softball complex moved to quadrant 1, Land Purchase for Affordable Housing is in quadrant 2, and Pristine Water Connector is in quadrant. Jaycee Park expansion moved up to quadrant 3 from quadrant 4. Others that were on both years stayed the same, while some projects this year were not on last year's same survey.

Mayor Gilbert asked how much federal funding the Town received for the Tingen Road Pedestrian Bridge.

Deputy Town Manager Purvis said he didn't know exact amounts as it has not come through yet, and that it also wasn't an urgent matter at this time. He asked Ms. Cox if she had any update on that request for funding through Representative Ross' office.

Ms. Cox said the most recent update were that things were looking very positive, but not final. She said the timing is still unknown regarding when the agreement would be reached. She said they are expecting the Town to receive the full \$550,000 requested.

Ms. Grogan said some things dropped out of the survey for Council based on their general agreement in the past of where certain projects fell in their priorities and if they had gotten process made and funding allocated on others.

Councilmember Mahaffey said some of the things that stuck out to him were things around the Friendship area on Humie Olive Road. He said last year two accidents with injuries in that area. He said there is a new elementary school open in the area without a crosswalk. He says the fact that Humie Olive Road at Blazing Trail traffic signal isn't in quadrant 1 gives him "heartburn". He said they allocated funding to create the design for this, and that it would be a shame to not actually construct the project during this upcoming year. He asked his colleagues to move that up in their priorities.

Councilmember and the Mayor came to a general consensus that moving that project up to quadrant one was acceptable.

Councilmember Zegerman wanted clarification on what a project being in quadrant 2 meant.

Ms. Hoffman said it meant that there was a generally higher overall score on the project when looking at the Council as a whole, but that it indicated some of them may have put an item really high while another placed it really low.

Ms. Grogan added that quadrants 1 and 2 represented the top projects based on Council average, but the standard deviation of quadrant 2 was much higher than in quadrant 1. She said quadrant 3 represents ones that are in the bottom half of Council's scoring average, and also have a high variation in where Councilmembers placed them individually, while quadrant 4 were projects with a low average placement with most Councilmembers tending to place it there individually as well.

Councilmember Gantt wanted to know how this list correlated with the parks and greenway master plan study. He said he was hoping that study would provide a good guide on the prioritization of those projects and what should be funded.

Angela Reincke, Parks Planning Project Manager, said that the three greenway projects included in the CIP are the three highest priority projects that came from the master plan, and that they are currently doing feasibility studies on these three (Beaver Creek Extension, Reedy Branch Greenway, and the Big Branch Greenway).

Councilmember Gantt asked if there was a specific order they wanted to do them in or if they were all worth doing in an equal sense.

Ms. Reincke said the plan was to do the feasibility studies on the three simultaneously, then request funding based on the reprioritization after that step. She said the cost has moved significantly from 1.5-2 million per mile to 3.5-5 million per mile. She says they need a better understanding of the total cost before asking for construction funding.

Councilmember Gantt said he liked the objective scoring component because it allows projects to get on their radar that may not have from a community request perspective.

Deputy Town Manager Purvis these large studies allow for several projects to be analyzed in early stages, and then provides options for Council consideration and community input based on potential and cost forecast. He said they can be shuffled around priority wise at each stage if new information gathered changes things.

Mayor Gilbert asked what the direction forward for Land Purchasing for Affordable Housing was.

Town Manager Crosby said they have a proposal from UNC Development Financial Incentive (DFI) to do an analysis on the viability of land for affordable housing. She said after that, they will look at the results and conduct a cost analysis. She said they still have ARPA (American Rescue Plan Act) money set aside and money in the affordable housing fund that can go towards that. She said collectively they agree that the cost of land will present a challenge, but they are beginning to look at their options.

Councilmember Gantt asked how they should view the funding allocation for affordable housing each year, and if it can accumulate if it isn't all spent.

Deputy Town Manager Purvis said if it has accumulated enough for reserves then that is an option, and that they explore multiple revenue options for this issue. He says if it is an option it will be use, but a lot of programs are going to be coming up with Assistant Town Manager Demetria John. He said if there are reserves and opportunities to purchase land using them, they will bring them to Council.

Town Manager Crosby said there was a balance between saving money to purchase land while also spending on worthwhile projects as the opportunity arises.

Councilmember Gantt said he felt Vision Zero - Signal Upgrades should have been higher than quadrant 4. He said he feels it would help with traffic and pedestrian safety throughout the Town, and wondered why they felt the Humie Olive signal should be moved to quadrant 1 from 2.

Councilmember Mahaffey said the data supported improvements to this area in particular because of the high amount of pedestrian traffic and the insufficient crosswalk infrastructure.

Councilmember Gantt asked if this intersection was a part of Vision Zero.

Councilmember Mahaffey said the majority of the accidents came from 1 and 64.

Mr. Dalton said that staff has data on all intersection in Apex, and that they have crash and injury networks that inform the most dangerous areas from those perspectives.

Councilmember Mahaffey said that since the elementary school just opened recently, that is a variable that won't be accurately captured in already gathered data. He said he thinks the light should have gone in with the elementary school.

Councilmember Zegerman rated this item highly because it impacted safe traveling to three different schools, and is a relatively small cost compared to many other Vision Zero upgrades.

Councilmember Gantt said he tries to separate incidents that were in the news from what the data backs up as being a larger issue. He acknowledged a life lost or hurt was still an important thing to consider, he just wanted to avoid swaying too much into recency bias.

Councilmember Mahaffey said the new elementary school makes this upgrade a necessity to him.

(Slide 57):

Capital Project Prioritization Results & Discussion

What priority changes would Council like to make?

- I'd like to have a discussion during our budget workshop about the linkages between projects and alignment of projects with federal, state, and county grants. In particular, I'm hoping that we're considering the large federal grants as part of the Bipartisan Infrastructure Law and Inflation Reduction Act and how those funds have a time limit.
- My focus would be on getting a lot of visible projects accomplished in as short a timeline as possible.

Ms. Grogan invited discussion on the questions listed in *Slide 57 (above)*, as well as any other questions they may have.

Councilmember Mahaffey said his prioritization of projects can depend on whether there are funds readily available or given through grants for certain things.

Mayor Pro Tempore Killingsworth said staff will come to the Council saying they have money that has become available for certain projects, and asks if they want to move them up in the timeline.

Councilmember Gantt asked about how it would work if a grant required a match from the Town.

Ms. Grogan said that would be addressed through a budget amendment, as they would ask for the matching funds that way in order to receive a grant. She said they don't necessarily need to allocate funds for project grant matching ahead of time. She said they go this route so they don't have to tie up funds without a guarantee that the grant would come through.

Councilmember Gantt asked if there are any grants they are looking at setting aside funds for now so they don't miss out on them, and put a plan in place.

Ms. Grogan said she feels like the departments have done a good job of researching large scale projects and putting plans in place for things that could be applicable to grant requests in the future. She said they don't want to create a plan last minute in order to apply for a grant. She said the process of setting priorities and making sure plans are in place without reliant on grant money will help in the long run. She said they are tracking several grant opportunities, particularly regarding environmental funding opportunities. She added that having projects in the CIP indicates that the plans are there to do the projects independent of outside funding, and thus helps the process along.

Councilmember Gantt said he was commending staff for their work on these aspects.

Councilmember Mahaffey wanted to discuss the Friendship campus issue further. He said the amount of traffic, the lack of pedestrian infrastructure, the presence of the sun, and the co-location of three schools all combine to make this area fundamentally unsafe. He said long-term he feels like a pedestrian bridge or tunnel would be the best solution. He said this is something he would like to ask staff to add to the backlog for the future, so they have a plan and cost estimates if money becomes available. He said maybe the project could be combined with the Tingen Road Pedestrian Bridge project.

Councilmember Zegerman asked if he would want to do that project instead of the Tingen project.

Councilmember Mahaffey said he wouldn't. He said there's already some funding set aside for the Tingen Bridge. He said this kind of crossing was the only way to really ensure pedestrian safety. He said the three schools makes for a tremendous amount of pedestrian volume.

Councilmember Zegerman said he wondered if the fact that the Friendship crosswalk idea would serve three schools rather than one at Tingen changes the analysis.

Councilmember Mahaffey said that since the Tingen project had already gotten started and there was federal money coming in for it, he wouldn't want to mess that up.

Councilmember Gantt asked if he would want to do this project before waiting to see if the traffic light project had a positive impact.

Councilmember Mahaffey said no, that he was proposing the Town simply create a plan and get a dollar amount on it in order to be able to say "we are interested in doing this at some point". He wants to have it ready to go in case an opportunity comes up to have it funded.

Councilmember Gantt wondered if this would be necessary if the light alleviated the issue.

Councilmember Mahaffey said he didn't believe the light would solve all of the problems in the area. He said he prioritizes this project very highly, and it is a situation that will likely to arise in these situations where there's so many schools and overlapping drop-offs. He said a separated crosswalk such as a bridge would get the most value here than at any other place in the Town. All he asked was to get this project in the CIP. He said one of Apex's representative spoke to the parent of a student that was hit here. He said if there was to be some state funding that could be received through this line, it would be difficult to get for a project that wasn't in the CIP.

Mayor Pro Tempore Killingsworth agreed with this.

Councilmember Gantt said he would like to prioritize the Middle Creek Greenway to Holly Spring's Middle Creek Greenway across Sunset Lake Road.

Deputy Town Manager Purvis asked Ms. Reincke if they had a connection plan for that.

Ms. Reincke said they had a design and have been working with Holly Springs and the transportation department on this issue. They will work with NCDOT once the next steps are taken.

Councilmember Gantt asked if it would be safe enough.

Ms. Reincke said that time would tell, it's a large crossing and that studies would have to be done to determine that.

Councilmember Gantt said it would be nice for people to be able to and want to cross that road to get to the other Town's side. He said currently the road between the two makes it undesirable to cross, thus eliminating the connection.

Mayor Gilbert brought of the traffic and pedestrian situation at Apex High.

Mayor Pro Tempore Killingsworth said there was a lot of confusion from people leaving the high school parking lot and having kids cross the road in that busy of an area. She said she would love if staff took another look at potential solutions there, to hopefully avoid another student getting hit.

Councilmember Gantt said it would be great to have more pedestrian crossing consideration when constructing these schools. He said it would be nice to have developers construct these detached crosswalks, but he wasn't sure if they could require that. He said he hopes they can address this with new school construction up front in the future.

Councilmember Zegerman asked if the sidewalks around Apex High School were already in the works.

Mayor Pro Tempore Killingsworth said she believes there is a bid out on that currently.

Mr. Dalton said he is unaware if it has been bid or not, but that it was in the works.

Mayor Pro Tempore Killingsworth complimented Deputy Town Manager Purvis and the whole Budget department for how much easier this process has been for Council than when they first began doing them.

--The group took a short, scheduled break--

[IMPLICATIONS FOR CAPITAL SPENDING - TAX RATE MODEL]

Following the break, **Deputy Town Manager Purvis** introduced a presentation regarding Council's question about former levels of capital spending and what the Town can do to increase their ability to spend on those things.

Ms. Grogan said this would help Council understand how various tax levels would allow them to increase CIP funding.

Deputy Town Manager Purvis said it shows the full amounts of revenue and the percentage compared to that dollar amount. He said they always start with the revenue neutral rate as far as the reevaluations as a conservative estimate.

Councilmember Mahaffey asked what the statue was regarding the revenue neutral tax rate.

Deputy Town Manager Purvis said it required the Town to advertise what the revenue neutral tax rate would be, but it does not require them to adopt it.

Ms. Grogan said last year, Council's direction was to add a penny on the tax rate and dedicate it to capital. They budgeted based on this, and put that funding in a capital reserve.

Councilmember Zegerman asked at what rate all the high priority projects would be funded.

Ms. Grogan said it was tricky to give an exact estimate on that, because projects spanned across multiple years. She said the rate is probably higher than they want to go.

Councilmember Zegerman asked if they had enough staff to get all of the projects they were considering rolling practically, even if they got the numbers to work out to fund them.

Deputy Town Manager Purvis said this was definitely a challenge in the past. He said recently they have trying to build the organizational framework to allow for future projects to be taken on more effectively. He said capital spending had been down because of growth and enhancements to the Town's personnel policy and capacity. He said they are making improvements on this front, but not all departments would have the proper capacity to take on all of this currently. He said sometimes projects are pushed out because of human capital capacity, and not just financial capacity.

Councilmember Zegerman said this can sometimes allow for projects from other departments to get done earlier if one project has to be shifted back as far as its timing.

Ms. Grogan said sometimes that is plausible, if departments are able to complete projects in a short time frame to fill the development gap left by a larger project that had to be put on hold from a different department. She said Council has always taken the capacity challenges into consideration, and that it's something that they're researching as part of their strategic plan. She said this past year has had a lot of growth as far as new positions in the Town. She said this should help alleviate capacity issues to a degree, and that all of these challenges are taken into consideration during the budget planning process.

Councilmember Gantt said it was a good time for these projects to get going, after increasing the employee base of the Town by 10%.

Councilmember Mahaffey said he was wondering what the historic ratio of capital spending as a percentage of total budget they were trying to get to was.

Deputy Town Manager Purvis said they were aiming for around 11-12%.

Ms. Grogan said returning to this number wasn't quite as simple as it looked, as there was still variability in what was to come with revenues and operating costs, and how things would be affected by inflation. She said last year they tried to keep operating costs steady, while personnel costs went up a lot.

Councilmember Zegerman asked about when the tax rates would be going up again after the bonds.

Deputy Town Manager Purvis said if they sell in 2025 than they would increase by a cent and a half in 2026.

Councilmember Mahaffey asked if they could give some feedback as far as changing tax rates over the next few years, or if they wanted to wait until there was a draft budget.

Deputy Town Manager Purvis said feedback would be appreciated, and if there were numbers Council was willing to go to, then they could incorporate them into models in order to get various options and perspectives.

Councilmember Zegerman asked what the year-to-year increases in expected revenue were based on in addition to property value increases, without the tax rates going up.

Ms. Grogan said it accounted for population growth.

Deputy Town Manager Purvis said it included State revenues and sales tax, which has been a large increase over the last few years. He said they usually budget less than what the growth was from the year before to offer a conservative estimate. He said that property tax is usually a much more consistent year-to-year increase to model based on their value trends than other sources of revenue.

Councilmember Zegerman wanted to confirm when property values were reassessed in order for taxable value to change.

Ms. Grogan said that happens every 4 years, and that yearly tax base increases come from new property that is added.

Deputy Town Manager Purvis said Wake County re-evaluations happen in January 2024, while Chatham County has their re-evaluation in January 2025.

Mayor Pro Tempore Killingsworth wanted to know if staff was asking Council what their tolerance was for how much the tax rate could be changed in order to inform future discussions about the budget.

Ms. Grogan said yes, and also if they would want it to be done over time and potentially a long-term vision for their rate and budget. She said staff wants to consider options of what Council would take

the rate up to in order to provide scenarios of the differences that could make in the overall budget and the likelihood of project completions. She said wants a bit of direction so they can create models for Council to analyze.

Mayor Pro Tempore Killingsworth said her ceiling for the tax rate was 44 cents.

Councilmember Zegerman asked when the re-evaluations would be reflected in the budget.

Deputy Town Manager Purvis said it would be in the FY 2024-2025 Budget

Councilmember Mahaffey said not to worry about it too much, as an increase in the tax base would cause a decrease in the relative tax rate, making the overall revenue the same.

Town Manager Crosby said these numbers are very rough still, as department budgets are not yet in.

Ms. Grogan said retirements are also rising this year, which would cause another factor to be considered.

Councilmember Mahaffey wanted to know if there was anything else to consider for them to give them a tax rate guideline other than capital expenditures.

Deputy Town Manager Purvis said there was not much left the Town could adjust to increase revenues in a significant way other than tax rate.

Mayor Pro Tempore Killingsworth asked if anybody would want to see more than the 44-cent maximum over 1 year.

Councilmember Zegerman asked where neighboring communities on their tax rate.

Deputy Town Manager Purvis said Raleigh and Cary were likely the only two lower than Apex, with all other nearby communities likely around the same rate or higher.

Councilmember Mahaffey said other communities such as Raleigh have different regions with a relatively higher tax rate than the base for certain infrastructure support, and so the base rate there can't be directly compared to Apex.

Mr. Wood said that Cary, Raleigh, and Morrisville were lower than Apex, while all other communities in Wake County were higher.

Ms. Grogan added that Cary has other revenue streams available than Apex, such as different fees for transportation.

Councilmember Zegerman said he would like to see what it would look like with the tax rate around 44 or 45.

Councilmember Mahaffey said he wanted to gradually raise the rate up to around 44 or 45, in order to get to where capital expenditures was back to around 12%.

Mayor Pro Tempore Killingsworth said she would like to see up to a 2% increase for the next year, but that she wanted to wait and see what the budget projections looked like.

Councilmember Mahaffey said they could raise rates gradually and use some reserve funds to buffer in order to continue projects while the tax revenue was catching up.

Councilmember Gantt asked if they wanted guidance on whether or not to use reserves.

Deputy Town Manager Purvis said that would be part of recommendations with the budget, based on what projects are close and/or would be good to use reserves for. He said they will present Council options for this.

Mayor Gilbert asked about when the Justice Heights project could be done.

Ms. Grogan said the plans had it for 2024.

Councilmember Mahaffey asked for staff to adjust the rates to see the potential impact on capital expenditures of a 1.5 cent increased over the next two years each in their model. He said he liked that it would raise capital expenditure percentage to 15%.

Deputy Town Manager Purvis said while debt percentage is not directly capital expenditure, in a way it is because the debt was taken out in order to do some capital project. He said there are also other revenues that go directly to capital fund, and it doesn't show up in this general fund model. He said he thinks they need to get back to the historical number, because having it be lower doesn't allow for them to do the projects Council and residents want to get done. He said he didn't know exactly where neighboring communities were as far as this percentage.

Councilmember Mahaffey said for the fourth year running, transportation and infrastructure was the top priority reported by residents in the budget survey. He said it seems to be the best use of revenue increases from tax raises.

Councilmember Gantt said he wondered if taking out State projects from this consideration would change the results.

Mayor Gilbert said he was good with the projections.

Councilmember Gantt asked Mayor Gilbert how many people come to him saying taxes are too high versus the amount who come wanting to see projects get done.

Mayor Gilbert said he doesn't know exactly. He said lots of people come to him with varying concerns around this time.

Councilmember Mahaffey said last year there was a large personnel cost increase, which he said will help Apex be more competitive. He said 1.5 cents is a good first step, and they would recover any losses from this past year over time on a gradual increase.

Councilmember Zegerman said the costs are rising very quickly.

Councilmember Mahaffey said revenues are rising fast as well with sales tax. He said it is not intuitive to keep tax rate flat when in reality the revenue goes down looking at its inflation adjusted year-over-year.

Councilmember Gantt said on the local level, he thinks people want projects done more than they care about tax increases.

Councilmember Zegerman said this very much depends on their financial circumstances.

Ms. Grogan said preliminary numbers for the budget would be available around early April.

Councilmember Mahaffey asked about what guardrails were given to departments to set their budget.

Ms. Grogan said they have meetings with departments as they are creating their submittals, and that they work with them throughout the process. She said they have some parameters to follow as far as policy and requirements, and she that she also trusts them to exercise good judgement. She said many departments are tying budget requests back to strategic goals.

Mayor Gilbert thanked everyone for their work, and adjourned at 4:21 PM

Jacques K. Gilbert
Mayor

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

Minutes approved as submitted on April 11, 2023.

APPROVED
TOWN OF APEX
REGULAR TOWN COUNCIL MEETING
TUESDAY, FEBRUARY 28, 2023
7:00 PM

The Apex Town Council met for a Regular Town Council Meeting on Tuesday, February 28, 2023 at 7:00 pm in the Council Chambers at Apex Town Hall, located at 73 Hunter Street in Apex, North Carolina.

This meeting was open to the public. Members of the public were able to attend this meeting in-person or watch online via the livestream on the Town’s YouTube Channel. The recording of this meeting can be viewed here: <https://www.youtube.com/watch?v=S8ctCb-xNz0>

[ATTENDANCE]

Elected Body

- Mayor Jacques K. Gilbert (presiding)
- Mayor Pro-Tempore Audra Killingsworth
- Councilmember Brett Gantt
- Councilmember Ed Gray
- Councilmember Terry Mahaffey
- Councilmember Arno Zegerman
- Absent: None

Town Staff

- Town Manager Catherine Crosby
- Deputy Town Manager Shawn Purvis
- Assistant Town Manager Demetria John
- Assistant Town Manager Marty Stone
- Town Attorney Laurie Hohe
- Town Clerk Allen Coleman
- Deputy Town Clerk Ashley Knotts
- Planning Department Director Dianne Khin
- Planner II Shelly Mayo
- Long Range Planning Manager Shannon Cox
- Current Planning Manager Amanda Bunce
- All other staff members will be identified appropriately below

[COMMENCEMENT]

Mayor Gilbert called the meeting to order and recognized that this day, February 28, 2023, was the Town of Apex’s 150th Birthday, with it being 150 years since the Town was incorporated. He said the 150th Anniversary Kickoff Celebration was a great time in the Senior Center, and they would be continuing the celebrations tonight. He shared that diversity and inclusion are a priority, and that

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1 differences in the same faith traditions makes the Town stronger. He invited those in attendance to
2 recognize a personal moment of silence if they chose while the invocation was given. He welcomed
3 **Reverend Dr. George Green** to give the invocation.

4
5 **Rev. Dr. Green** said he was honored to be invited to give the invocation as a representative of the
6 oldest ecclesiastical church neighbor in the Town, Christian Home Christian Church, with the church
7 being 158 years old. Rev. Dr. Green thanked the Mayor and Council for the invitation, and agreed
8 with Mayor Gilbert that he also valued the diversity of faiths in Apex. Rev. Dr. Green then offered an
9 invocation asking for assistance and safety for the Town’s essential employees and citizens, and
10 asked for healing towards Councilmember Gray’s father. He asked that evil be defeated, and that a
11 spirit of unity and oneness be released throughout the Town.

12
13 **Mayor Gilbert** thanked Rev. Dr. Green for the invocation.

14
15 **Mayor Gilbert** then introduced National Recording Artist and Apex Native Gerald Hinton,
16 who would be performing the national anthem.

17
18 **Mr. Hinton** then performed the national anthem.

19
20 **Mayor Gilbert** thanked Mr. Hinton for the performance, then recognized Kerrin Cox and the
21 150th Anniversary Committee for their hard work in preparing the celebrations for tonight and
22 throughout the upcoming year.

23
24 **[CONSENT AGENDA]**

25
26 A **motion** was made by **Councilmember Arno Zegerman**, seconded by **Councilmember**
27 **Brett Gantt**, to approve the consent agenda with Consent Item 6 removed.

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

29
30 **CN1 2023 Revised Council Meeting Calendar**

31 Council voted to amend the 2023 Town Meeting Calendar

32 **CN2 Appointments - Board of Adjustment (BOA)**

33 Council voted to reappoint the following members to the Apex Board of Adjustment (BOA)
34 for three-year terms each retro-effective January 1, 2022 and each expiring December 31, 2025:

- 35
36 Ross Stocks, Regular Member of the Apex Board of Adjustment (BOA) - Corporate Limits
37 Bryan Johnson, Regular Member of the Apex Board of Adjustment (BOA) - Corporate Limits
38 Tracy Taylor, Regular Member of the Apex Board of Adjustment (BOA) - Corporate Limits promoted
39 from alternate member to regular member.
40 Umesh Pai, Regular Member of the Apex Board of Adjustment (BOA) - Corporate Limits promoted

APPROVED

1 from alternate member to regular member.

2 **AND**

3 Council voted to appoint three (3) alternate members to the Apex Board of Adjustment (BOA) for
4 three-year terms each effective the date of appointment (February 28, 2023) and expiring February
5 28, 2025:

6
7 William "Shelby" Lusk, 1st Alternate Member of the Apex Board of Adjustment (BOA)
8 Michael Sayers, 2nd Alternate Member of the Apex Board of Adjustment (BOA) - Corporate Limits
9 Joel LaMonica, 3rd Alternate Member of the Apex Board of Adjustment (BOA) - Corporate Limits

10
11 **CN3 Appointments - Board of Adjustment (BOA) Chair/Vice-Chair**

12 Council voted to confirm the following leadership positions on the Apex Board of Adjustment (BOA)
13 for calendar year 2023:

14 Robert Carmac, Chair of the Apex Board of Adjustment (BOA)
15 Bryan Johnson, Vice-Chair of the Apex Board of Adjustment (BOA)

16 **CN4 Appointments - Review Officers for the Town of Apex**

17 Council voted to approve a "Resolution Recommending the Appointment and The Reaffirmation of
18 Review Officers for the Town of Apex" pursuant to N.C.G.S § 47-30.2.

19 Reference Document: RES-2023-016

20 **CN5 Capital Project Ordinance Amendment 2023-5 - GPS Emergency Vehicle Preemption**
21 **Project**

22 Council voted to approve Capital Project Ordinance Amendment 2023-5 for GPS Emergency
23 Vehicle Preemption project.

24 **CN6 ~~Contract Multi-Year - Infrastructure Technology Services Inc - Electric Utility Installations~~**
25 **~~-February 28, 2023 through February 1, 2026~~**

26 *Eric Neumann, Director, Electric Utilities Department*

27 Council voted to remove this item from the Consent Agenda.

28 **CN7 Encroachment Agreement - 2901 Early Planting Ave Lot 395**

29 *Chris Johnson, Director, Transportation and Infrastructure Department*

30 Council voted to approve an encroachment agreement between the Town and property owner
31 Lennar Carolinas, LLC to install a driveway that will encroach 39 square feet (SF) onto the Town of
32 Apex Public Drainage Easement and to authorize the Town Manager to execute the same.

33 **CN8 Interlocal Agreement Addendum - Town of Holly Springs - Yard Waste Transport**

APPROVED

1 *John Mullis, Director, Public Works Department*

2 Council voted to approve an Addendum to the Interlocal Agreement with the Town of Holly Springs
3 for yard waste transport.

4 **CN9 Standard Specifications & Standard Details Revisions**

5 *Chris Johnson, Director, Transportation and Infrastructure Department*

6 Council voted to approve revisions to the Town Standard Specifications and Standard Details.

7 **CN10 Tax Report - January 2023**

8 *Allen Coleman, Town Clerk*

9 Council voted to approve the Apex Tax Report dated January 1, 2023.

10

11 **[PRESENTATIONS]**

12

13 **PR1 Presentation by the Apex Public School Foundation - Quarterly Peak S.T.A.R. Awards**

14 **Mayor Gilbert** invited Councilmember Mahaffey to lead the presentation for the Quarterly
15 Apex Peak S.T.A.R Award

16

17 **Councilmember Mahaffey** welcomed everyone and wished them a happy 150th Birthday
18 celebration day. He told those in attendance that the Quarterly Peak S.T.A.R Award was given to a
19 public-school teacher, staff member, or administrator in or around Apex to show appreciation for the
20 great work that they do to help Apex’s children grow and learn. He said S.T.A.R stands for “Staff,
21 Teacher, Administrator Recognition”. He said this is in partnership with the Apex Public School
22 Foundation, who helps Council in the selection process. He invited Michelle Woods of the Apex
23 Public School Foundation to give more information and introduce the recipient of the award.

24

25 **Michelle Woods:**

26 “My name is Michelle Woods, and I am the Program Chair as well as the Board Member on the Apex
27 Public School Foundation, and it is with great honor that we get to take a moment tonight and honor
28 one of our fantastic elementary school teachers here in Apex, Ms. Ashley Mitchell. She is a second-
29 grade teacher at Salem Elementary School, and she is tonight’s award recipient for the Peak S.T.A.R
30 Award. Her principal, Dr. Sarah Oatsvall, said this about her: “Ashley Mitchell is a classroom teacher
31 who goes above and beyond to meet the needs of her students by advocating for their needs
32 throughout the school. Additionally, she is a professional educator who collaborates with colleagues
33 and serves as a peer observation teacher in our building. This means that teachers throughout the

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1 building have the opportunity to come into her classroom and observe her instruction. This is so
2 important as we work to build a culture of ongoing professional learning.” It’s obvious that Ashley is
3 definitely an important person at her school and someone that is helping build the culture of
4 collaboration. So, it is with great honor that we want to give this award for Ashley, if she would come
5 up with her Principal.”

6
7 Ashley Mitchell received the award, and took a picture with Councilmember Mahaffey, Ms. Woods,
8 and Dr. Oatsvall.

9
10 **PR2 Proclamation - Town of Apex's 150th Anniversary of Incorporation**

11 Jacques K. Gilbert, Mayor

12 **Mayor Gilbert** invited the Council to join him in the reading of the Proclamation for the Town
13 of Apex’s 150th Anniversary of Incorporation (Reference Document: PRO-2023-002).

14
15 **Mayor Gilbert** invited the 150th Anniversary Committee to join him and Council to accept the
16 Proclamation and take a picture.

17
18 **[REGULAR AGENDA]**

19 A **motion** was made by Mayor Pro Tempore Audra Killingsworth, seconded by
20 Councilmember Edward Gray, to approve the Regular Agenda, as presented.

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

22
23 **[PUBLIC FORUM]**

24
25 **Mayor Gilbert** opened up Public Forums, and invited the first speaker up.

26
27 First to speak was **Cindy Howard** of 811 Shackleton Road:

28
29 “Hi, I’m Cindy Howard, I live at 811 Shackleton Road for 25 years. About 2 or 3 years ago we
30 received notification that the moneys had been founded and allocated to continue the extension of
31 Apex Peakway over South Salem Street. And construction would begin shortly. I live over in that
32 area, watched for it to happen, saw picket signs go up at the homes of people who lived nearby who
33 didn’t want it there, and no construction happened. And then the next thing I know, in the last

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1 election, we have a bond that comes up. now I can't remember the millions of dollars that it was
2 going to cost back 2 or 3 years ago, and we had the money for it, or you had the money for it. And
3 then, the bond came up in the last election for the extension of Apex Peakway over South Salem
4 Street. And that increases my property taxes. I voted against it. I wanted to know where the money
5 went to that was allocated first that is gone now, and now we're having to pay for it again. And I
6 needed answers, not just me, my neighborhood, other people I've spoken to, would like an
7 allocation of where this money has gone to that didn't go where it should have gone.

8
9 **Mayor Gilbert** thanked Ms. Howard for her comments, and told her he would ensure a staff
10 member would be in touch with her regarding her concerns.

11
12 **Ms. Howard** asked if there was a way to get the precise amounts of money and where they went to.

13
14 **Mayor Gilbert** said a staff member would be able to get that information to her.

15
16 **Ms. Howard** asked if the Town had been audited lately.

17
18 **Mayor Gilbert** said the Town gets audited every year. He thanked her for her comments.

19
20 Next to speak was **Ashley Solis** of 1273 Brown Velvet Lane:

21
22 "Hello, Ashely Solis, 1273 Brown Velvet Lane, Sweetwater Subdivision. I've been coming every
23 month for 6 months, 5 months now. I'm concerned with the safety in our neighborhood. Now every
24 month I come and I throw a bunch of facts and figures at you and I hand you huge packets of
25 information. Today I wanted to do something a little bit different and throw some different numbers
26 at you. This is my Aunt; her name was Linda. 10 years ago, she was struck and killed by a vehicle 10
27 days before Christmas. As someone who experienced a devastating loss due to someone being hit
28 by a vehicle, I assure you I will come month after month after month until we get this figured out,
29 how we can get the subdivision of Sweetwater and Smith Farm off Richardson safe for pedestrians. I
30 absolutely adore Apex. When we moved here 5 years ago, we actually looked in Raleigh and Cary. A
31 real estate agent brought us through Apex, we drove through downtown, and I said this is it, I don't
32 care what the house looks like I'm moving here. I'm proud to be from here, and I know everyone on
33 the Council cares about what happens to people in our neighborhood. The commercialization part

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1 I'm so happy with, you know we're going to have a deli and all these other things I can't wait to try.
2 Harris Teeter is going in on the Sweetwater side. It's going to be great, but I just feel a sense of
3 dread waiting to see what happens, like someone is going to get hit. We have specifically zoned for
4 an outdoor market area, which is awesome, and I'm thinking there's gonna, an outdoor concert area,
5 we need to not just think of speed study and what that showed, which showed a huge amount of
6 cars passing down Richardson each day. We need to take into account the foot traffic for the
7 neighborhood. Smith Farm is huge, Sweetwater is huge, and the apartments that are going in is 240
8 luxury apartments. So, with all that said, I'm really hoping we can continue to work together. My offer
9 always stands to come and I'll show you the intersections. I know Terry is coming Friday, the Mayor
10 was so gracious to come out a couple months ago as soon as the first meeting we went to I think. So,
11 I would appreciate it, and if you don't want me to walk you through just park by Sweetwater and walk
12 it yourself if you don't want a redhead pestering you during the whole thing. And I would invite you
13 to please think about it and please come out. I'm only concerned with the safety of children, pets,
14 and adults in our neighborhood, and I don't want to see anything happen. And happy birthday to
15 Apex!"

16

17 **Mayor Gilbert** thanked Ms. Solis for her comments, and thanked everyone who spoke in
18 public forum again. He then closed Public Forum, and moved the meeting onto Public Hearings.

19

20 **[PUBLIC HEARINGS]**

21

22 **PH1 Annexation No. 746 - Friendship Village - 27.853 acres**

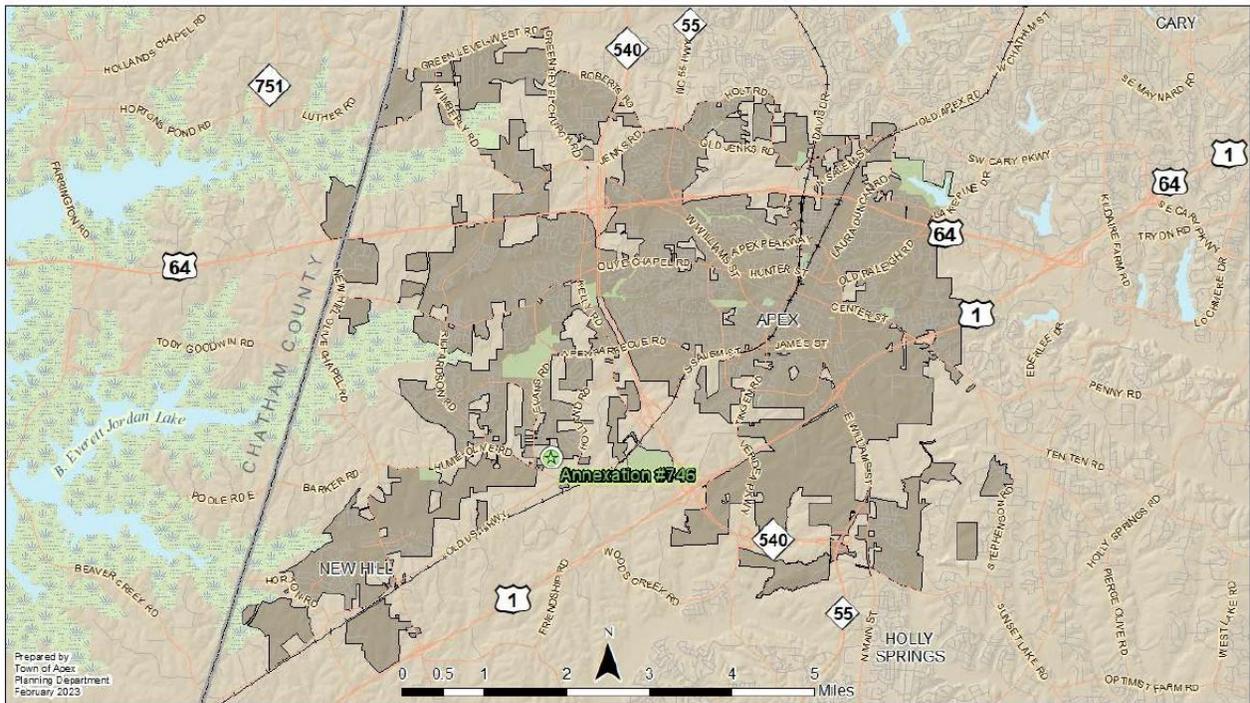
23 **Dianne Khin**, Planning Director, gave the following presentation regarding Annexation No. 746 -
24 Friendship Village

Public Hearing #1

Annexation #746 Friendship Village



1

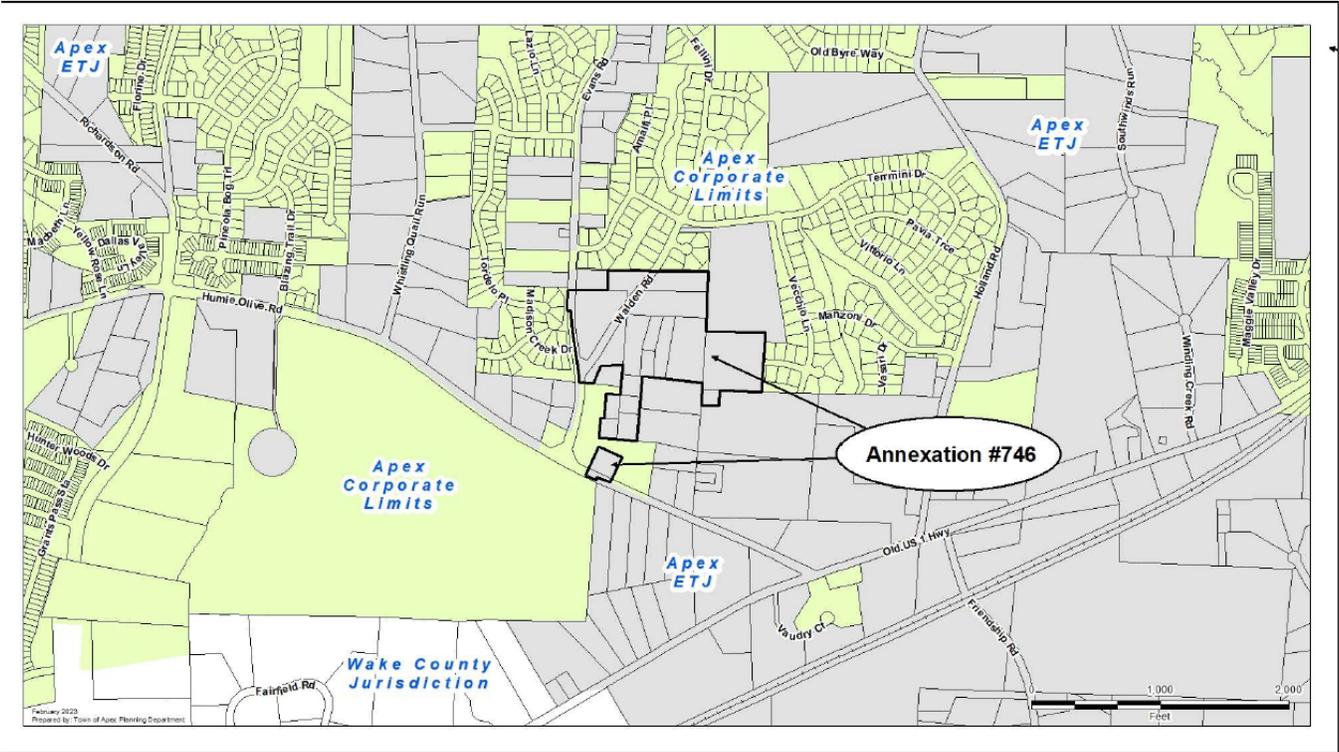


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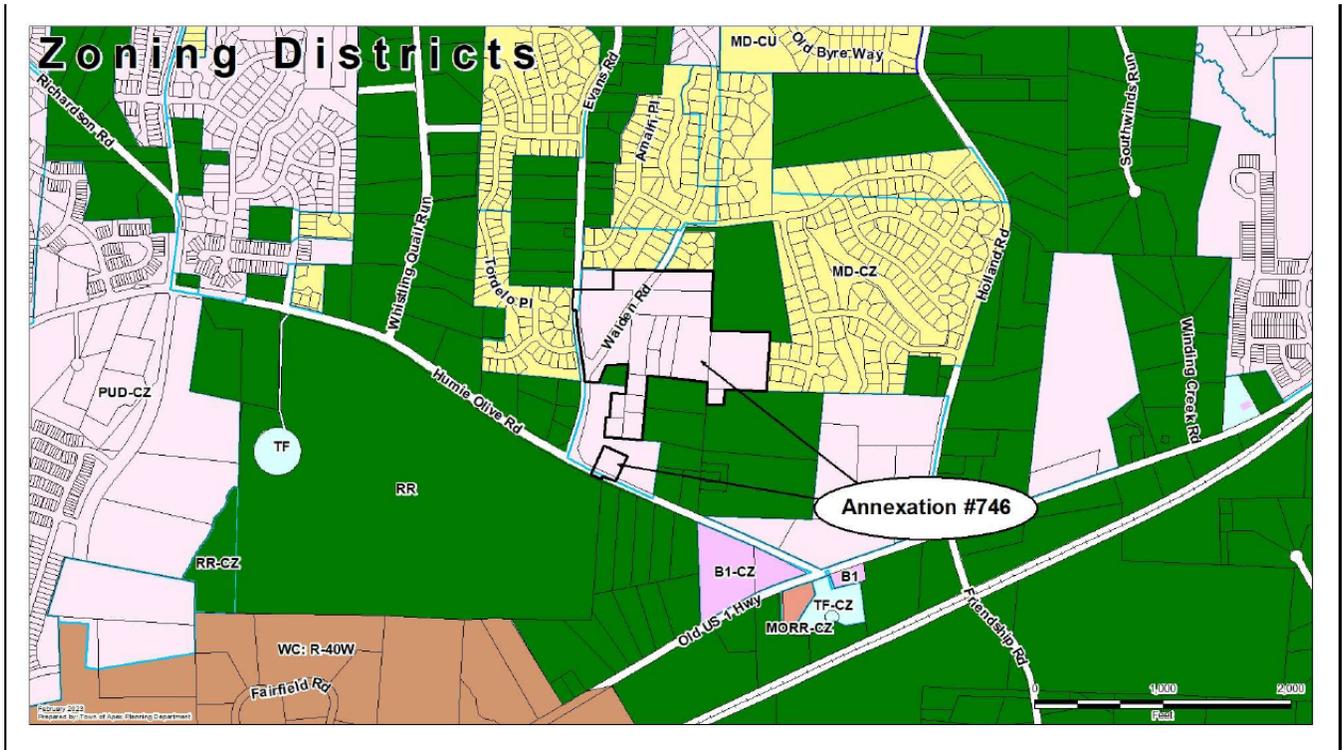


1



2

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Ms. Khin said staff recommended approval and offered to answer any questions.

A **motion** was made by Councilmember Terry Mahaffey, seconded by Councilmember Brett Gantt, to adopt Annexation No. 746.

VOTE: UNANIMOUS (5-0)

PH2 Annexation No. 750 - 2012 Ramblewood Drive - 5.719 acres

Dianne Khin, Planning Director, gave the following presentation regarding Annexation No. 750 - 2012 Ramblewood Drive

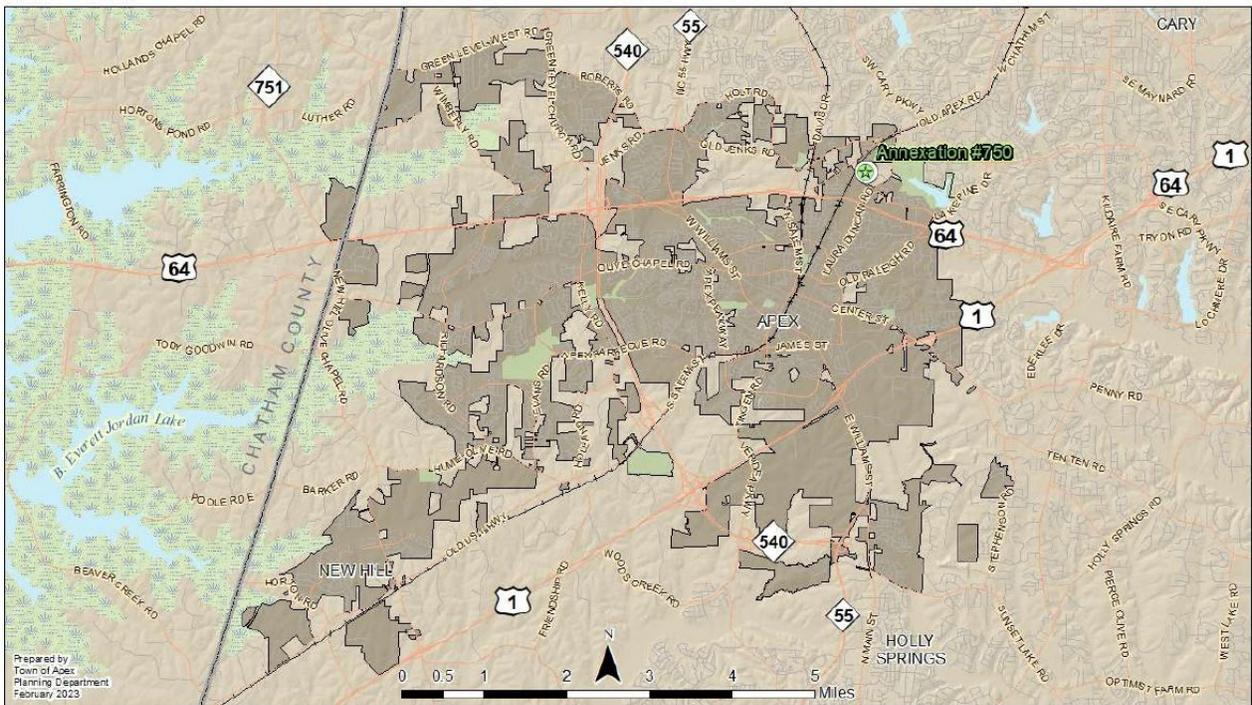
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Public Hearing #2

Annexation #750 2012 Ramblewood Drive



1

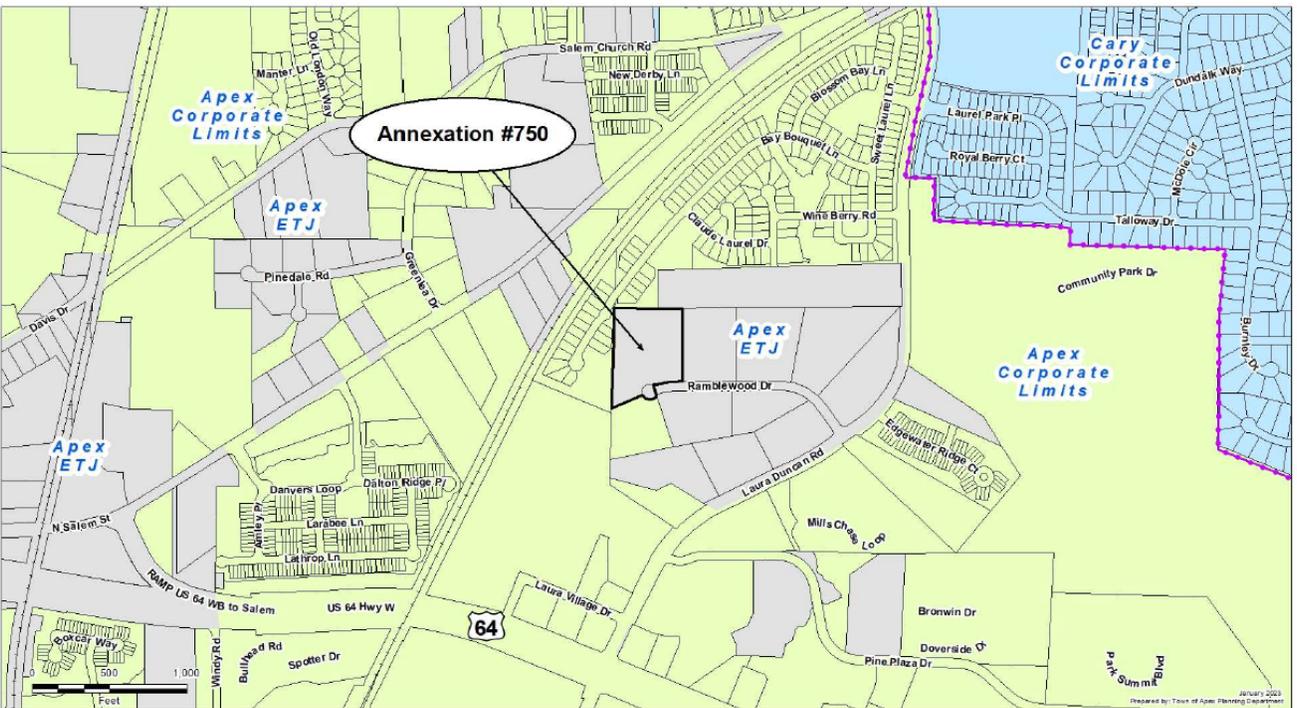


2

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1



2

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1 are two more lots coming up, including the house that currently stands, so I'm hoping for favorable
2 annexation."

3
4 **Mayor Gilbert** thanked Mr. Sabidhiki for his comments.

5
6 **Mayor Gilbert** called on Juan Ortega, who had also signed up, but he was no longer
7 present.

8
9 A **motion** was made by Mayor Pro Tempore Audra Killingsworth, seconded by
10 Councilmember Edward Gray, to adopt Annexation No. 750.

11
12 Before the vote, **Councilmember Mahaffey** said that for any person in the ETJ or the Town's
13 Long-Range Planning area and wants Town service, the Town will generally look favorably on their
14 Annexation Requests. He thanked the two speakers that came on behalf of the property, and stated
15 that petitions of their nature were likely to be looked upon favorably.

16
17 **VOTE: UNANIMOUS (5-0)**

18
19 **PH3 Rezoning Case No. 22CZ19 - The Heights PUD**

20 **Shelly Mayo**, Planner II, gave the following presentation regarding Rezoning Case No. 22CZ19 -
21 The Heights PUD

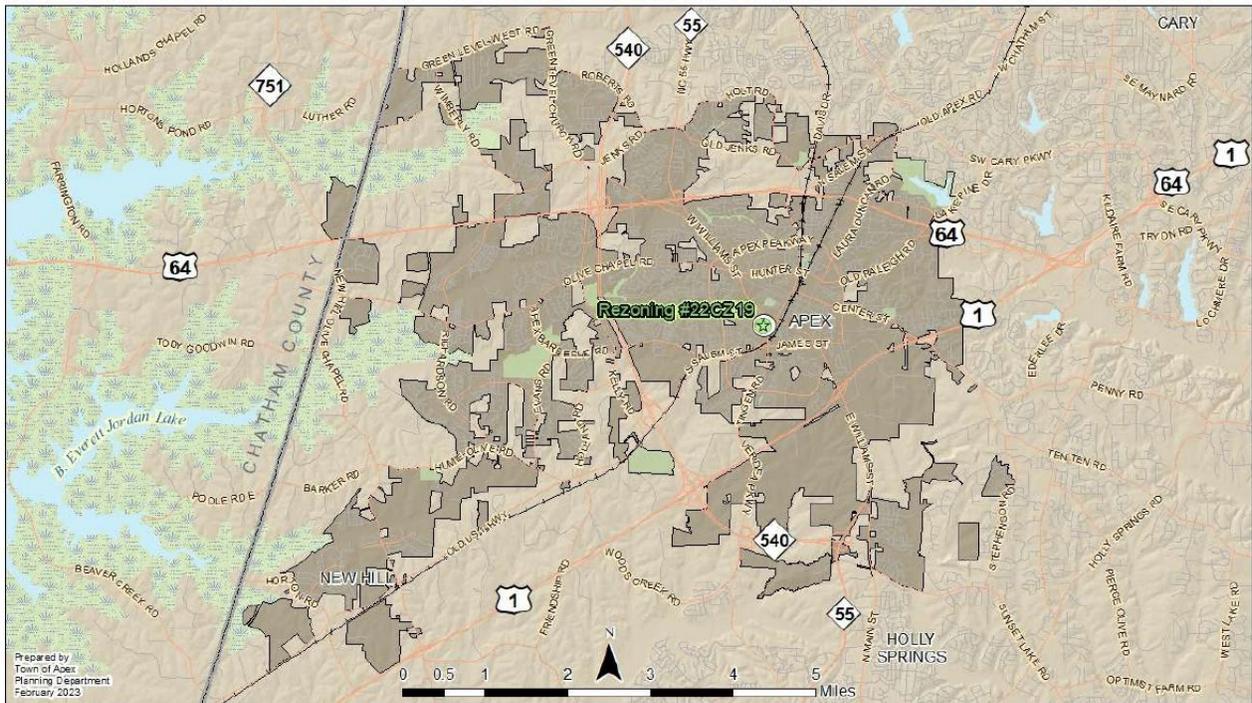
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Public Hearing #3

Rezoning Case #22CZ19 The Heights PUD



1

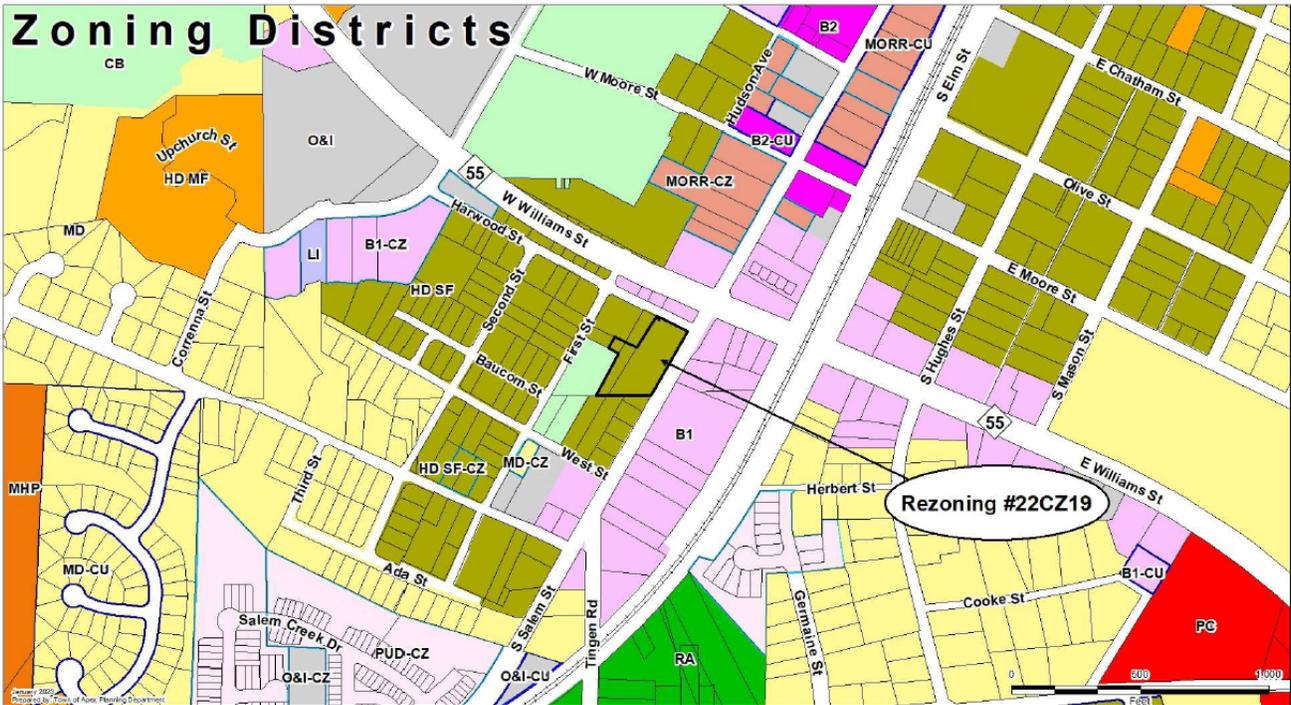


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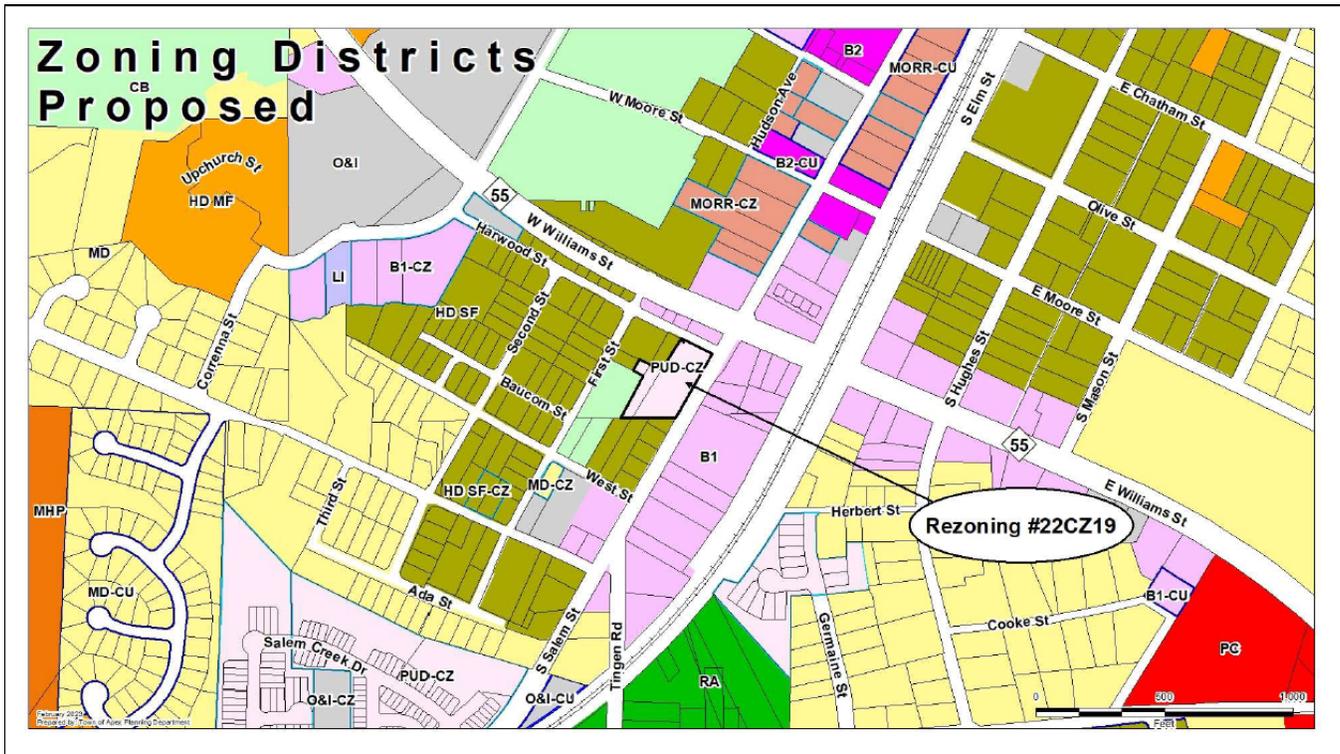


1

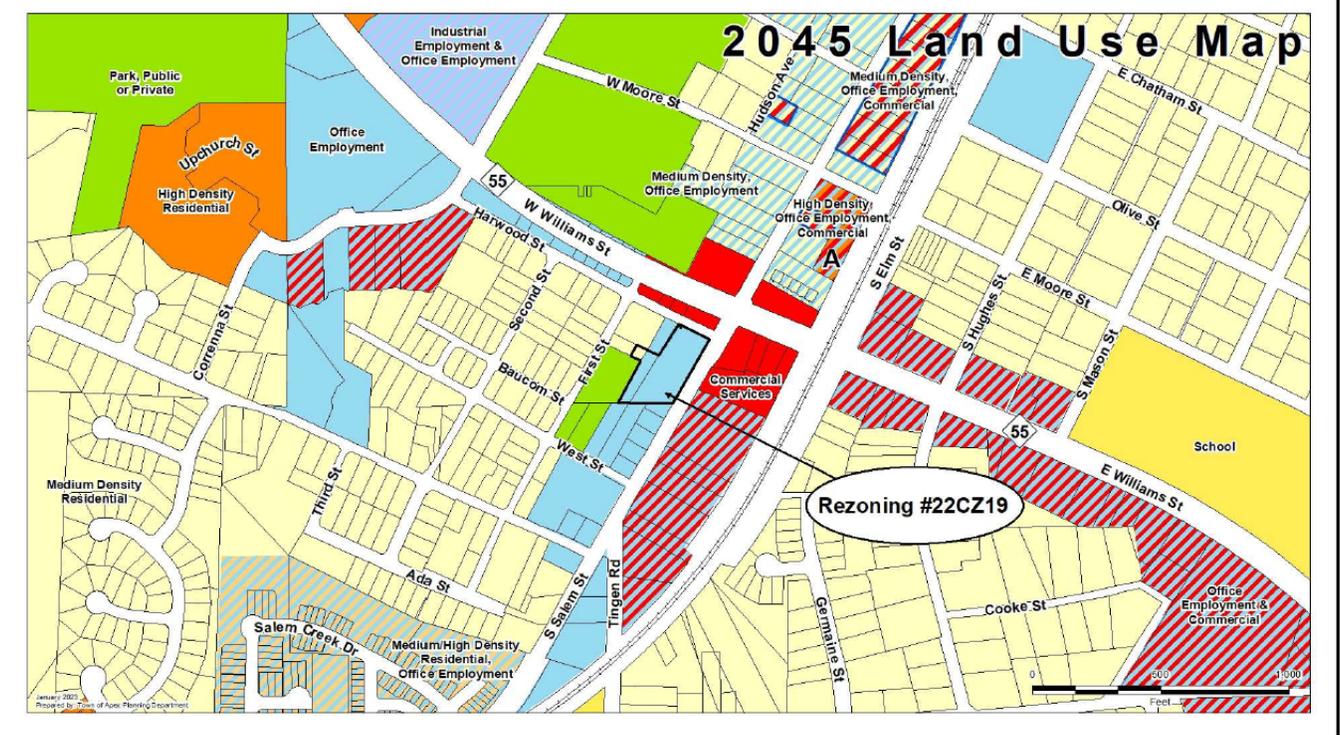


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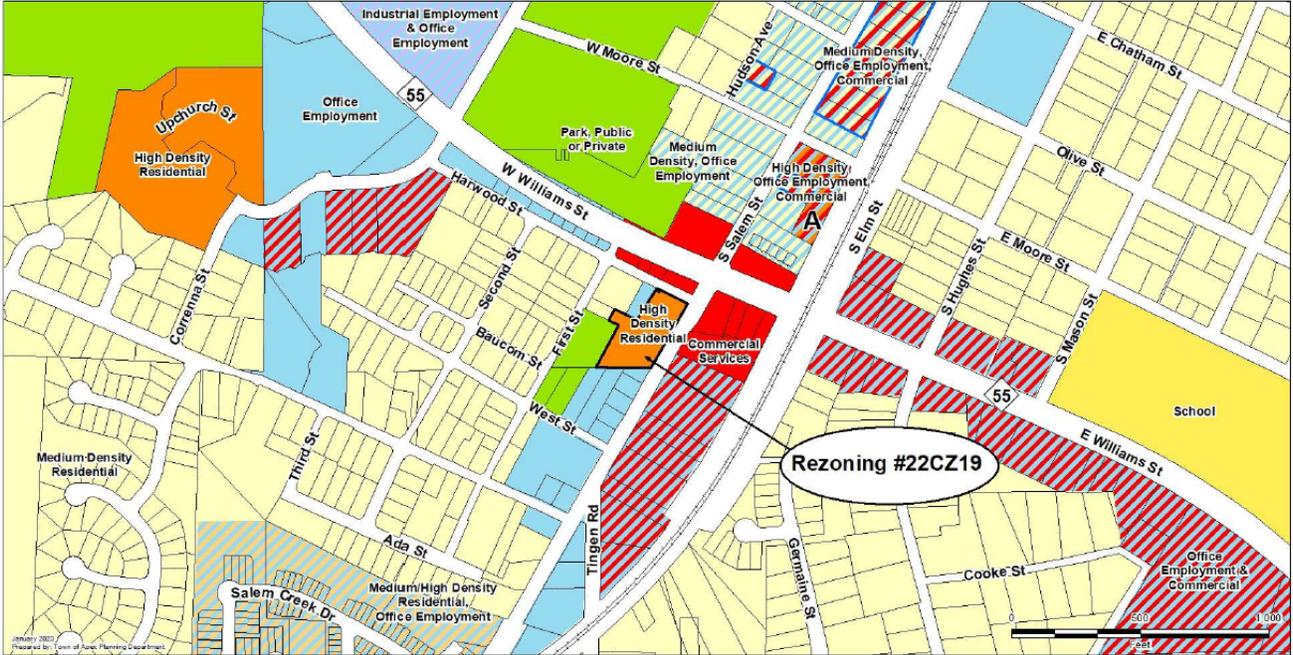
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2

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2045 Land Use Map If Rezoning Is Approved



1

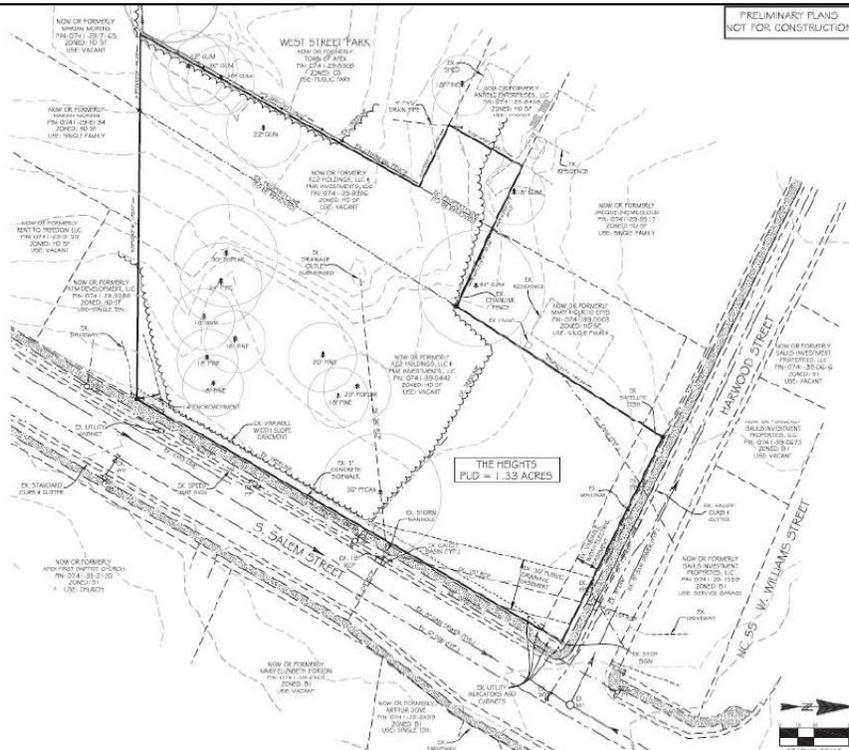
Downtown Plan



2

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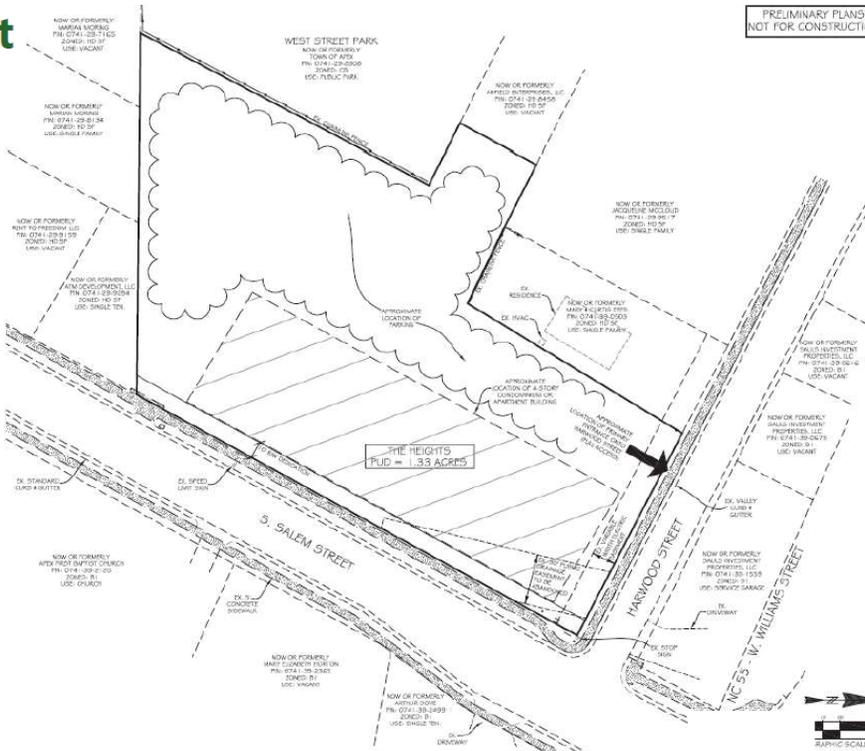
Existing Conditions



PRELIMINARY PLANS
NOT FOR CONSTRUCTION

1

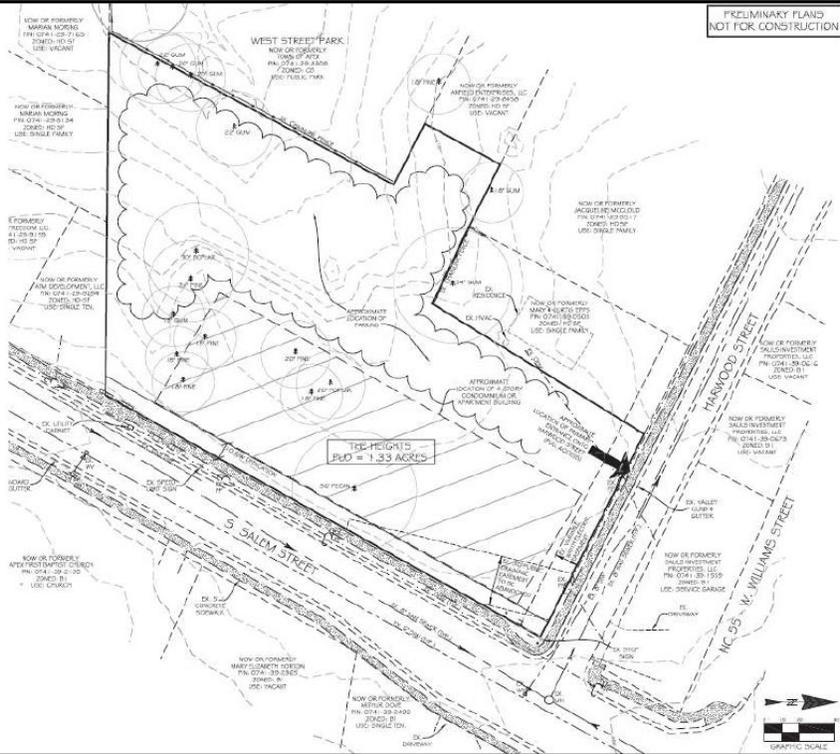
Site Layout



PRELIMINARY PLANS
NOT FOR CONSTRUCTION

2

Utility Plan



1

Elevations



2

Elevations



1

Conceptual Design - East Elevation

Elevations



2

Conceptual Design - West Elevation

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1 **Ms. Mayo** said she did not have the answer to that. She said her understanding was that
2 most of the units would be 1 or 2 bedrooms, but said the applicant was available to answer.

3
4 **Councilmember Zegerman** asked what the existing zoning conditions would allow the
5 developer to build on this site.

6
7 **Ms. Mayo** said currently it is High-Density Single Family, which typically means townhomes or
8 very small lot single family homes. She said given the size, it would be maybe 4-5 residences that
9 could be built under these conditions, all of which would likely have driveways connecting to Salem
10 Street or a shared driveway to access Harwood Street.

11
12 **Councilmember Zegerman** said that Ms. Mayo mentioned South Salem Street as a bike
13 highway, with dedicated bike lanes in the future. He said he wondered if a zero offset condition
14 meant that the bike lanes on that road couldn't be widened to put bike lanes in.

15
16 **Ms. Mayo** said the Right of Way would be dedicated before that point, which meant there
17 would be an additional ten feet of space available for bike lanes in this area once that is granted.

18
19 **Councilmember Zegerman** said he thought she had said 10 feet from the center of the
20 road.

21
22 **Ms. Mayo** clarified that the developers have to provide 40 feet from the center line of the
23 road, and that Right of Way is dedicated based on which side of the road it's on.

24
25 With no further questions for Ms. Mayo, **Mayor Gilbert** called on the applicant to speak

26
27 On behalf of the applicant, **Patrick Kiernan** of Jones and Cnossen Engineering spoke
28 regarding the proposal, and offered to answer any questions from Council.

29
30 **Councilmember Zegerman** asked how many of the units were studios.

31
32 **Mr. Kiernan** said at this point they did not know what the details of the interiors would look
33 like, but that there would be a mix of 1- and 2-bedroom units throughout the development.

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1
2 **Councilmember Zegerman** said he was asking because of the small size of the lot and the
3 difficulty he sees in the amount of space available if there's lots of studios. He said he was curious
4 about the parking management on site and the traffic situation. He said he wanted Russell Dalton,
5 Traffic Engineering Manager, to speak to this as well. He was concerned about the future widening
6 of NC 55 and how that may impact the traffic in this area.
7

8 **Mr. Kiernan** said he talked about this a little bit at the Planning Board meeting. He said part
9 of the reason they felt residential was a better use of this building than commercial or retail was
10 because there is no access from South Salem Street. He said this is easier to accommodate if it's a
11 residential area. He said they believe the development does not overburden any area or
12 intersection, as there are many options for the route's residents can take.
13

14 **Councilmember Zegerman** said he was concerned that routing a lot of traffic through a
15 residential neighborhood once Harwood Street is cut off from South Salem Street would cause
16 potential dangers with kids playing in the parks in that area. He said he was concerned about not
17 having traffic mitigation options for this site.
18

19 **Mr. Kiernan** said he would let Mr. Dalton speak to this later as well, but said early on they
20 discussed having access to South Salem Street would have required it to be a right in/right out, but
21 with the proximity to NC 55 (especially after the widening), they were concerned having that access
22 point would cause backups to the traffic in the area. He said Harwood Street was a more convenient
23 and safer option, and that he thinks Councilmember Zegerman's point was valid about more traffic
24 going into the neighborhood. He said he believed the Harwood route was better overall than
25 connecting it to South Salem.
26

27 **Councilmember Zegerman** asked if Mr. Kiernan's client currently owns the property.
28

29 **Mr. Kiernan** said that he did.
30

31 **Councilmember Zegerman** asked what would happen to the property if this project does
32 not get approved.
33

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1 **Mr. Kiernan** said he wouldn't be able to answer that for certain at the moment. He said he
2 isn't sure which options would be considered, but that with the current zoning conditions, 4-5 single
3 family residences may be an option as Ms. Mayo mentioned earlier. He added some information
4 regarding parking, saying that as the project developed, more space was added on in order to help
5 with the parking ratio. He said this is being proposed as an Urban style downtown apartment, and
6 that he understands the Town's goal is to move more towards public transit. He said the Town
7 encouraged the 1.3 parking ratio. He said with the additional area and parking spaces, they are now
8 able to provide a stormwater pond on-site, which he said would benefit the area and potentially
9 alleviate stormwater challenges.

10
11 **Councilmember Zegerman** said it looked like they were offering 5% of the parking spaces
12 to be covered by electric chargers, which comes out to 2 spots total.

13
14 **Ms. Mayo** came back up and said the Town does not have a parking classification for studio
15 apartments, so the number would 1.3 for that too. With this number multiplied by the 49 units, it
16 gives 64 spaces. With the 5% proposal for charging spaces, that yields 3 spots that would be
17 covered by electric chargers.

18
19 **Councilmember Zegerman** asked what the timeline for this project was.

20
21 **Mr. Kiernan** he was unsure, but that if the vote passes tonight they will start on next steps
22 quickly. He said once the plans were confirmed, the process could take between 7 months and
23 upwards of a year.

24
25 **Councilmember Zegerman** said the current proposal was for 2 units out of 49 to be
26 affordable housing at either 80 or 100 percent of Area Median Income (AMI). He said this
27 development is close to an area of Apex that is historically less wealthy than other parts of the Town,
28 and wondered how they decided to offer 2 affordable housing units.

29
30 **Mr. Kiernan** said he met with Michael Linsenmeyer of the Apex Housing Program, and the
31 Town recommended these numbers. He said the goal for these projects is 5% of units being
32 affordable, and that they have to chip away at the problem where they can.

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1 **Councilmember Zegerman** said he would like a development like this in the Downtown
2 Apex area to make more of a dent in the Affordable Housing problem than just 5%. He said he had
3 no further questions.

4
5 **Councilmember Gantt** said based on the downtown plan and future considerations, ground
6 floor retail desirability may go up more so than it is at right now. He asked what considerations the
7 developers had made as far as making the building design conducive to future ground floor retail.

8
9 **Mr. Kiernan** said it would be good to have that option down the road if the market catches
10 up in the future as expected. He said this offers higher ceilings, a fire sprinkler system, and that it is
11 probable that there would be access to storage rooms. He said the bones of the building would
12 allow for the ground floor to be used for retail purposes if that would be considered in the future.

13
14 **Councilmember Gantt** said he just wanted to confirm that some efforts were being taken to
15 allow the ground floor to be designed with this flexibility in mind.

16
17 **Mr. Kiernan** said that they would be making those efforts.

18
19 **Councilmember Gray** said it didn't look as though there was much participation at the
20 community meetings.

21
22 **Mr. Kiernan** said for the first meeting it was held via Zoom and nobody attended. He said
23 they were disappointed, as he wanted to see what the community feedback would be and that it was
24 an important part of the process. He said the second meeting was held in-person, and that
25 invitations were sent out. He said they drove to residents whose addresses weren't able to be
26 delivered to, and that they reached out to one of the Planning Board members in the neighborhood
27 to encourage him to spread the information about the meeting. He said around 8-10 people showed
28 up to that meeting and that it was a good discussion.

29
30 Traffic Engineering Manager **Russell Dalton** said traffic studies were conducted over a year
31 ago for this project, and that there is ample capacity within the street network for the proposal here.
32 He said the impact is below the Traffic Impact Analysis threshold, so there were no further
33 recommendations. He added that if the community wanted other areas to be studied for traffic

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1 calming or if they wanted police out there for certain issues there is a request process that they can
2 go through with staff.

3

4 **Mayor Gilbert** thanked Mr. Dalton, and opened up Public Hearing for Comment.

5

6 First to speak was **Shirley Smith**

7

8 "Good afternoon to my committee, my name is Shirley Smith, I'm an advocate for the residents of
9 Apex. I didn't invite myself, they called me. They said Ms. Smith, we've got a problem. What the
10 problem is, the residents there in Apex is not trusting with what's going on with this rezoning. And I
11 have a Master's Degree in Public Health from Duke. I also retired from the City of Raleigh and I
12 advocate in the community with anybody's concern, and I'm also a notary at North Carolina Attorney
13 General's Office. I just want to let you know my concerns because I came to the meeting on
14 December 15th also. It wasn't about 5 people there. I don't know about the 10. I never saw 10. I saw 5
15 people there. It was me, including Ms. Marian Moring, who stays at 424 South Salem Street on that
16 corner. Also, it was another gentleman there, and his wife. It was this gentleman here, and another
17 lady. The problem that I have, to the panel, I want to let you know I would remiss not to tell you how
18 that meeting went. That meeting was not too good. It was to the point that the gentleman that came
19 up here and spoke, quote it, let me tell you what he said: "It ain't like it used to be. We used to could
20 take it like the wild, wild west, and take it by force." So, I turned around and looked and I said "I beg
21 your pardon" and the lady that was with him said "don't pay that no mind what he's saying, cause
22 he's a good guy." I said "oh, that's a Freudian slip, but you can't take that back." I said "but it's like
23 this: it should be diversity, inclusion, and equality." I saw that on the news, ok. We are elderly, I'm 65
24 years old. And when I hear that kind of mess going on, it does something to me. I understand the
25 developers want to develop, but also don't forget, today is the birthday 150 years, how about we got
26 a resident in the room that's been there 111 years. So, what about her? Are you going to take her by
27 force? Are you going to do it like the wild, wild west like you used to? It's no shoot em up, no bang
28 bang. Everybody should be treated fairly. Just because she's elderly that does not mean you need to
29 force her out. She has a voice too. And also, when you're rezoning stuff you've got to go by what the
30 people want, not too much about the developer. What to do you plan to do with her? Are you
31 planning to put her in a nursing home? Take her house? Throw her out on the corner somewhere?
32 No, we're not having that. Because I'm a taxpayer too. Thank you, I appreciate it."

33

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1 Next to speak was **Marian Moring** of 424 South Selma Street

2 "Good evening everybody, I'll try not to take too much of your time. My great Aunt, land has been in
3 the family for over 111 years. But my problem is, they did not do what they said they were going to
4 do. When they made that sidewalk, they put me in a bad situation. That water ran under my house. It
5 was supposed to be temporarily. I had an attorney to help me. The attorney I had, Ramsall. Attorney
6 Robert Ramsall. I know I don't have that much time. But they did not do what they said they were
7 going to do. The Town of Apex said they were going to do one thing and they did not do it. It ran
8 under my house and I talked to the Mayor Gilbert, and he agreed that they were going to try to do
9 something to help me in that situation. He thought that was wrong. Anybody go to 424 South Selma
10 Street, they can tell that a five-year-old can look at that and tell that it was deliberately done because
11 that water ran out there. Now, I keep on having people call me and talking about they want to buy it.
12 I was set up. For that property. And this young man said that we didn't even go over there, and yes,
13 we did say we did not want that there. And you said, before you said, yourself, take it like the wild
14 wild west, by force. And I'm going to address that too, how they take it like the wild, wild west. By
15 force. Which I'm gonna give to an attorney, to see about that. It's not fair, and you should respect
16 every citizen of Apex. We are some of the original citizens from Apex. My great great parent was
17 slaved in Morrisville, and we come from slavery, and then they bought that land there, and also on
18 Ten Ten. It's not fair. I have to represent the people. Not a big corporation, because somebody got
19 to stand. And I let them get away with it, they will continue to get away with it, and it's not fair. They
20 never fixed my house, where they claimed, where they promised me they were going to fix. And
21 something needs to be done about that. Because if they're running over people now, what is the
22 future children going to do? Because they won't be there no more. I was reading that paper. Now
23 Marian Moring or former Marian Moring. Marian Moring is a warrior. And I will get every attorney
24 that I need to make sure that we expose, and the media, to see what dirty tricked y'all playing out
25 here. Thank You.

26
27 With no further sign ups, **Mayor Gilbert** closed the public hearing on this item, and asked
28 those in attendance to hold off on applause to help keep the meeting moving. He then moved
29 action back to council for discussion.

30
31 **Mayor Gilbert** said that as a man who grew up in the Justice Heights community, he wants to
32 ensure those that are still there have an opportunity to thrive. He said he was impressed at how
33 Justice Heights is moving forward. He said growing up in the area, he felt like the community was

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1 isolated, but that he has always wanted to see connection and people come together. He said he
2 believes what is being proposed ties in the community with Justice Heights and the rest of the Town.
3 He said he sees an opportunity with this project, but that there are things that still need to be
4 addressed, separate from this project. He said the concerns raised tonight about stormwater at Ms.
5 Moring's residence would be talked through with Town Staff. He said he appreciates what the
6 applicant has presented as far as recognition and support for Justice Heights in their conditions.
7

8 **Councilmember Gray** said based on the comments from public hearing, it seemed as
9 though there were structures on this parcel, but he didn't believe there were and wanted to get
10 confirmation.
11

12 **Ms. Mayo** came up and said that there were no structures on this parcel, and that the aerial
13 picture was taken within the last few months.
14

15 **Councilmember Gray** said he just wanted to ensure there weren't any tucked under the trees
16 that weren't visible. He said he asked about the neighborhood meetings because it gives him a
17 good idea of how engaged the community is going to be, and how engaged the Council needs to
18 be as far as filling that void if they are not able to be there. He said nobody showing up to the Zoom
19 meeting was not surprising, but that he appreciates that they went back out and had an in-person
20 meeting. He said he has concerns about displacement of families in the Justice Heights area, many
21 of whom are older. He wants to avoid doing that with this project. He said there are advantages to
22 this, particularly tying this area to South Salem and giving Justice Heights more access to the
23 economic prosperity that's happening further downtown. He said it's good there are transportation
24 plan concessions. He says the more developers shoulder those kinds of costs, the more resources
25 Apex can put into improvements elsewhere. He said the amount of affordable housing units isn't as
26 many as he would like, but that it is better than getting none. He claims the part that is really exciting
27 to him about this is that it provides a gateway to a part of Apex that many people are afraid to walk
28 through. He said many folks don't go to Justice Heights, and that is a detriment to them. He said this
29 will open up Justice Heights into a reflection of the vibrant community that it is, and provide access
30 and opportunity to those in downtown. He said he would be keeping a close eye on this project
31 moving forward should it come to fruition.
32

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1 **Mayor Pro Tempore Killingsworth** said this project brings in stormwater management,
2 which may help some of the issues that residents are seeing. She is encouraged to see affordable
3 housing be built here, and the possibility for pedestrian connection through the park. She also likes
4 highlighting the historical connection of the place and memorializing it.

5
6 **Councilmember Zegerman** said he really struggles with this one. He likes the idea of having
7 higher density housing in this area. He likes the idea of smaller units and offer more affordability. He
8 said he does not appreciate the departure from the downtown plan that many residents have given
9 input on. He said it was clear the land was purchased speculatively with this change in mind, and that
10 that gives him some pause. He said he understands the points made about connectivity and
11 stormwater management, but he is worried about traffic. Even though the roads may have capacity,
12 he said the community is not used to that kind of traffic through the neighborhood. He said he
13 would want this area to be developed when there is a greater understanding of the future of NC 55
14 and the Town's transportation hubs. He said if the project was denied, however, it would be an
15 overall worse outcome for the Town if the developer just built a few townhomes on this parcel. He
16 said he is torn.

17
18 **Councilmember Gantt** said it would be a disaster for Apex if this was to be developed with
19 the existing zoning and that it would be very disappointing that this important of a corner wouldn't
20 be developed more densely. He said he is a big believer of the downtown plan as well. He said as far
21 as transit, envisioning this area as with the future potential transportation changes means that denser
22 multi family housing would be perfect for it.

23
24 A **motion** was made **Councilmember Brett Gantt**, seconded by Mayor Pro Tempore **Audra**
25 **Killingsworth**, to approve Rezoning No. 22CZ19

26
27 **Councilmember Mahaffey** said Council has made great points, but that one thing they
28 haven't touched on is school capacity issues. He said this development highlights that there is still a
29 lack of middle school capacity in this area. He said most 1-bedroom units do not have children in
30 them, which is good to help with school capacity issues. He says Lufkin Middle has lots of capacity,
31 which is fairly close by, but he would prefer a school to be closer. He said it is an issue that he will be
32 looking at closer at this issue in the future and find out the plan for middle school capacity in Apex.

33

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1 **Councilmember Gray** said he wanted to push back on Councilmember Mahaffey calling the
2 situation of them having to go to Lufkin Middle not great, as he has a kid that goes there. He noted
3 he was just messing with Councilmember Mahaffey, and knows what he meant.
4

5 **Councilmember Mahaffey** said he wanted to clarify just in case, and said it was not great to
6 have to travel to Lufkin Middle, not that Lufkin Middle was not a great school. He said the school is
7 wonderful and has wonderful teachers. He wants a school in Western Apex in addition to Lufkin to
8 help with middle school capacity issues.
9

10 **VOTE: UNANIMOUS (5-0)**
11

12 **Mayor Gilbert** called for a ten-minute recess
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24 ***Public Hearings 4, 5, and 6 were heard simultaneously***

25 **PH4 2045 Land Use Map Amendment - Apex Gateway Phase 2**

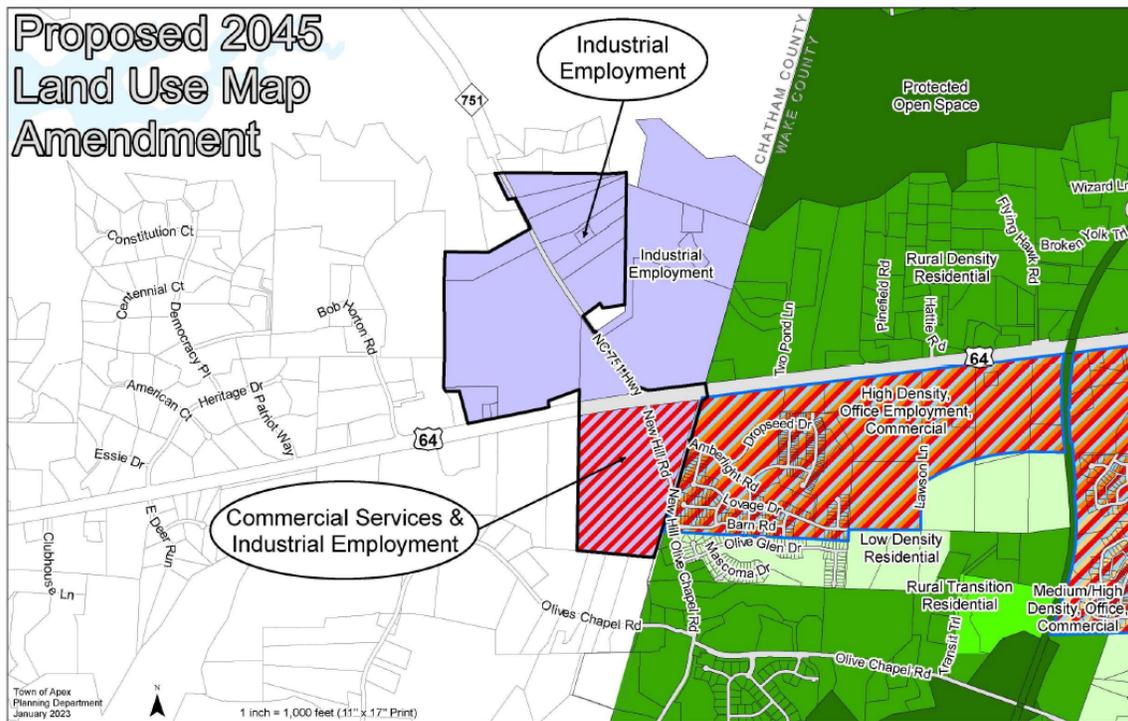
26 **Shannon Cox**, Long Range Planning Manager, gave a presentation regarding 2045 Land Use Map
27 Amendment - Apex Gateway Phase 2.

Public Hearing #4

2045 Land Use Map Amendment Apex Gateway Phase 2



1



2

3 **Councilmember Gantt** said he had seen the comments people have sent in regarding the
4 perceived incompatibility with the Chatham County Plan. He asked if Ms. Cox could describe the
5 discussions the Town had with officials and staff from Chatham County regarding this issue.

6

7 **Ms. Cox** deferred this answer to Amanda Bunce, Current Planning Manager.

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Ms. Bunce said representatives of Chatham County agreed that this use was consistent with their plan. She said the applicant has incorporated more retail uses into the proposal since speaking with adjoining property owners.

Councilmember Gantt asked if Chatham County officials signed off on the final version of this proposal.

Ms. Bunce said that they do not, but that Apex takes any feedback that they have regarding the project, and they haven't heard anything since the last discussion at the Planning Committee Meeting where they came to the consensus that the plan was congruent with Chatham County's Land Use goals.

Councilmember Gantt asked if the Chatham County Commissioners have been involved in this process.

Ms. Bunce said they have not heard from any of the County Commissioners, but that the Chatham County Economic Development Director submitted a comment to Public Hearing for the Planning Board Meeting on this topic in favor of the rezoning.

Councilmember Mahaffey said that one comment he received said Chatham County turned down this plan, and asked if that was true.

Ms. Bunce said she was not aware of any rezoning in the past for these properties in Chatham County. She said most developments will require water and sewer service that needs to come from Apex since Chatham County cannot provide it. She said there has been no vote in Chatham County regarding this rezoning, as this is under the Town of Apex's jurisdiction.

Councilmember Zegerman asked Ms. Bunce to remind him what Industrial Employment means in the context of Apex's boundaries

Ms. Bunce said that the Industrial Employment zone means industrial uses would be supported in this area. She said the particular zoning is part of the rezoning process, which is on the

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1 agenda for this area later tonight. She said they look at the proposed uses and how they are
2 compatible with the general area.

3

4 With no further questions from staff, **Ms. Bunce** moved on to the presentations for Public Hearings 5
5 and 6.

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30 **AND**

31 **PH5 Annexation No. 749 - Apex Gateway Phase 2 - 244.87 acres**

32 **AND**

33 **PH6 Rezoning Case No. 22CZ26 - Apex Gateway Phase 2**

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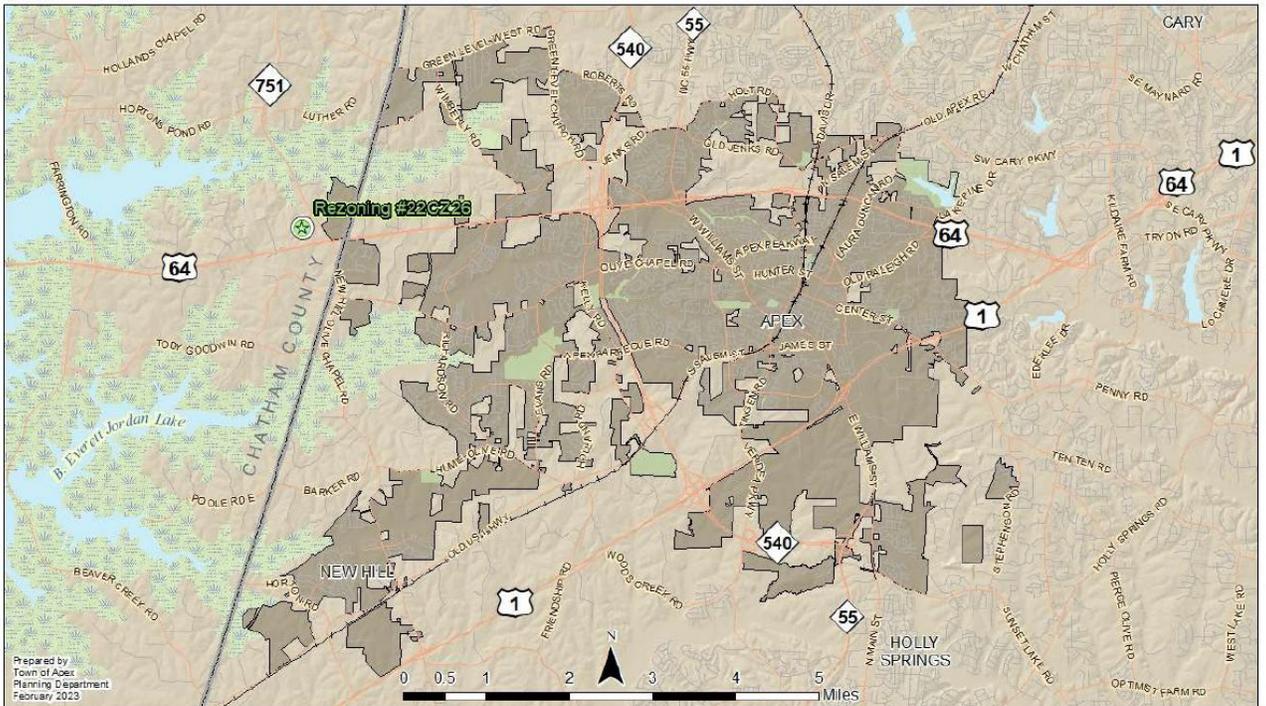
- 1 **Ms. Bunce** gave the following presentation regarding Annexation No. 749 & Rezoning No. 22CZ26 -
- 2 Apex Gateway Phase 2
- 3

Public Hearing #5 & #6

Annexation #749 & Rezoning Case #22CZ26 Apex Gateway Phase 2

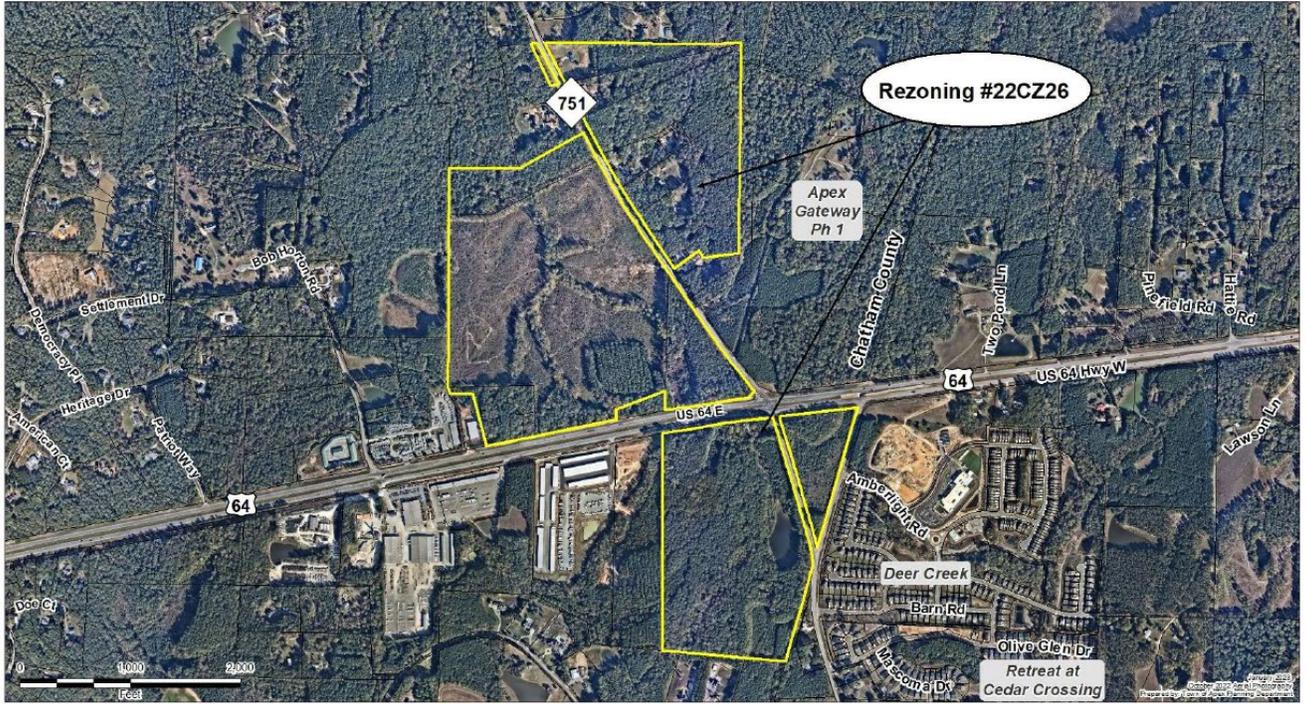


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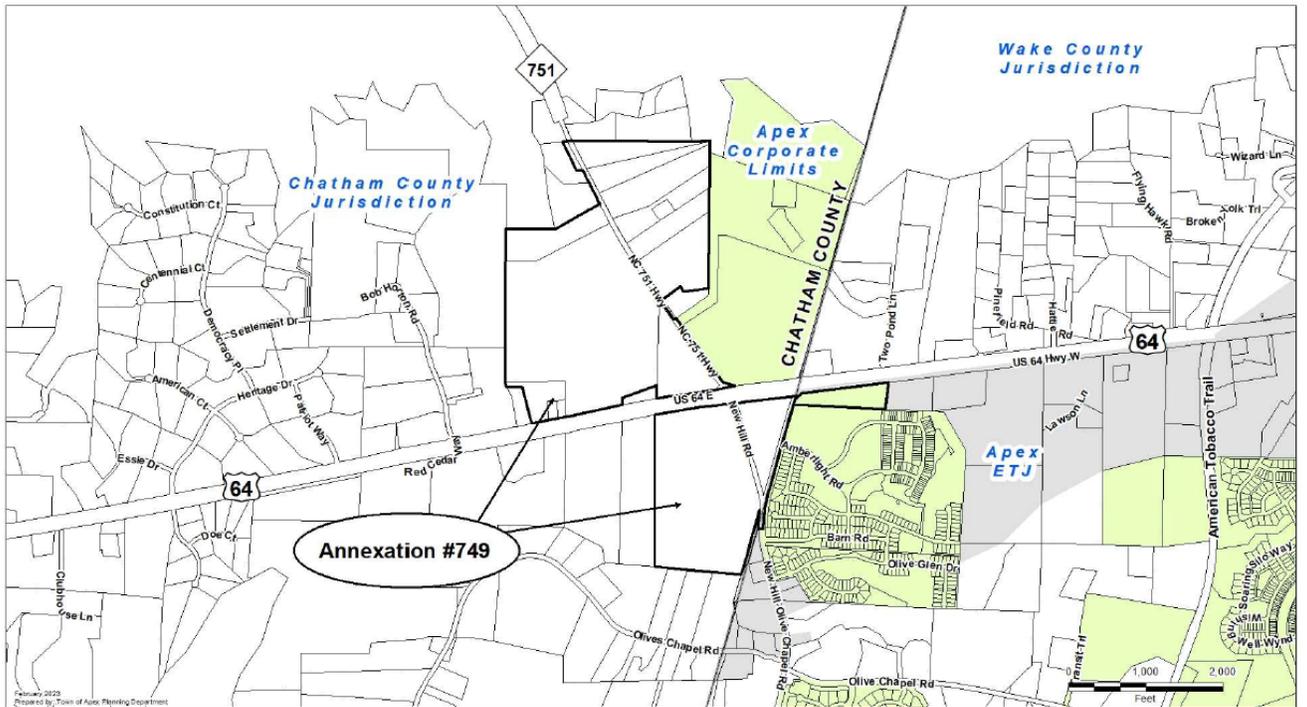


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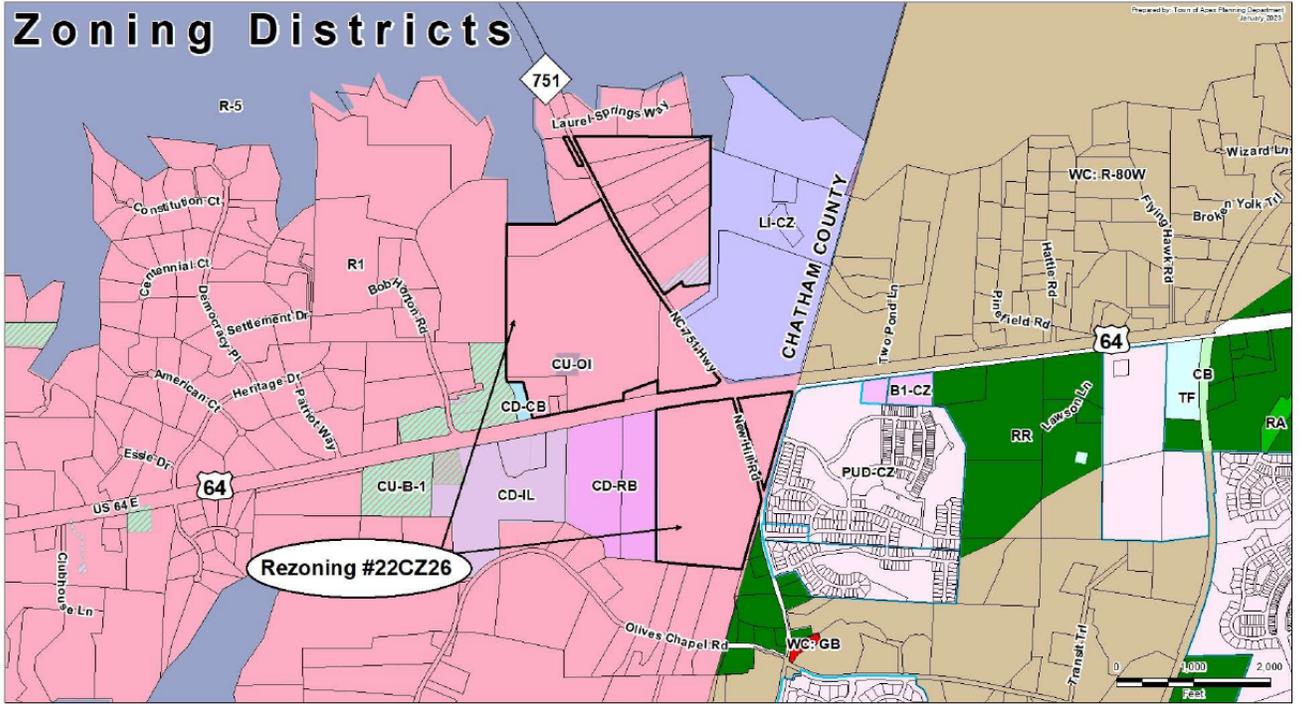


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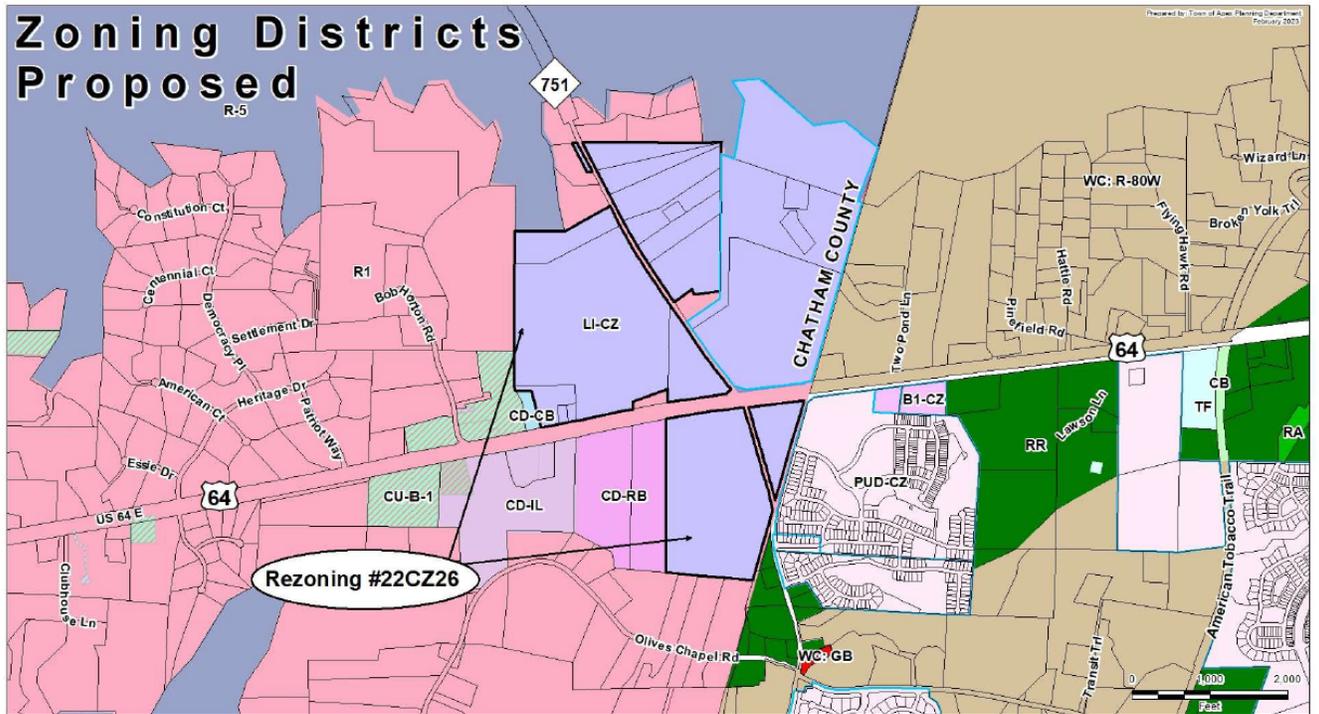


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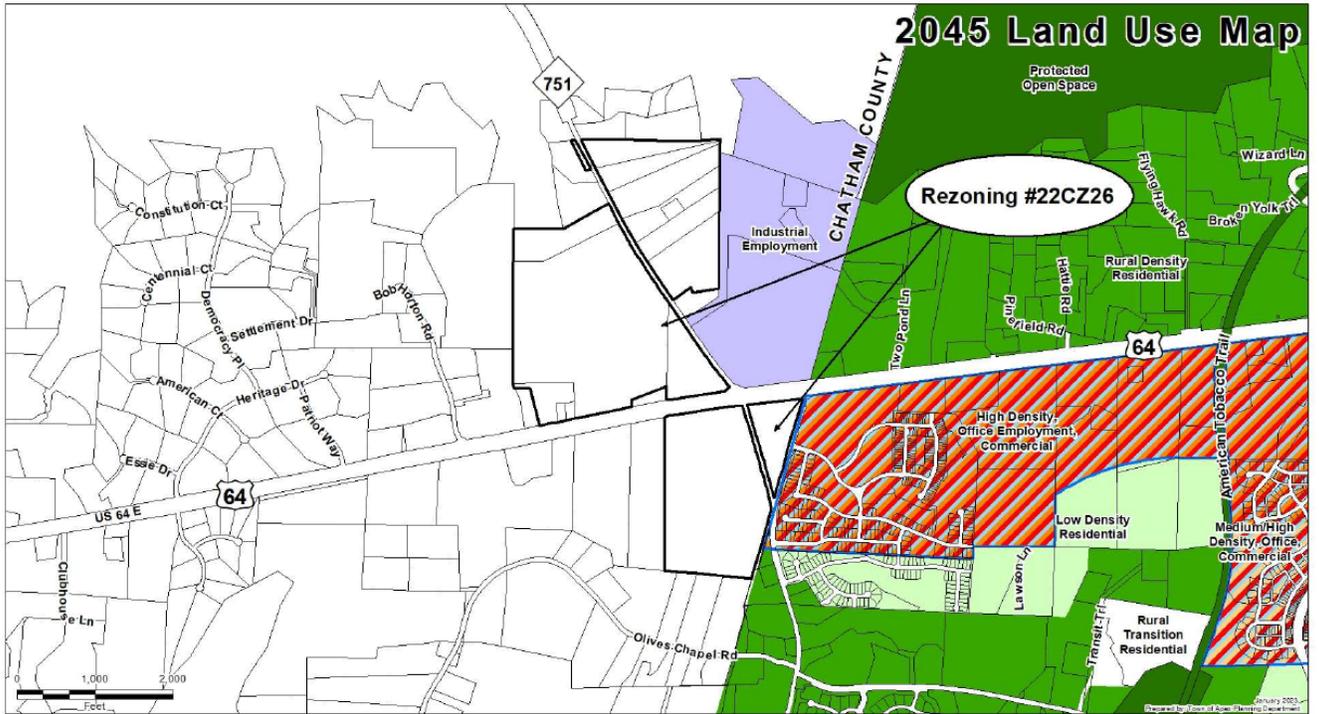


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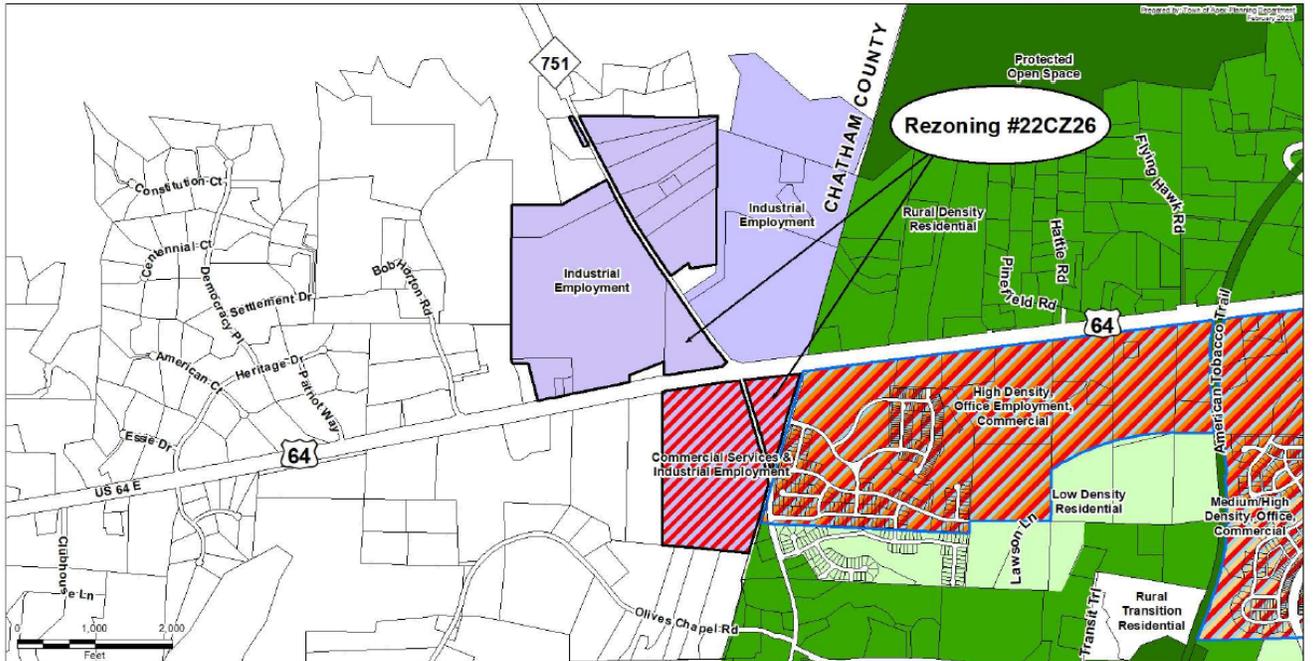
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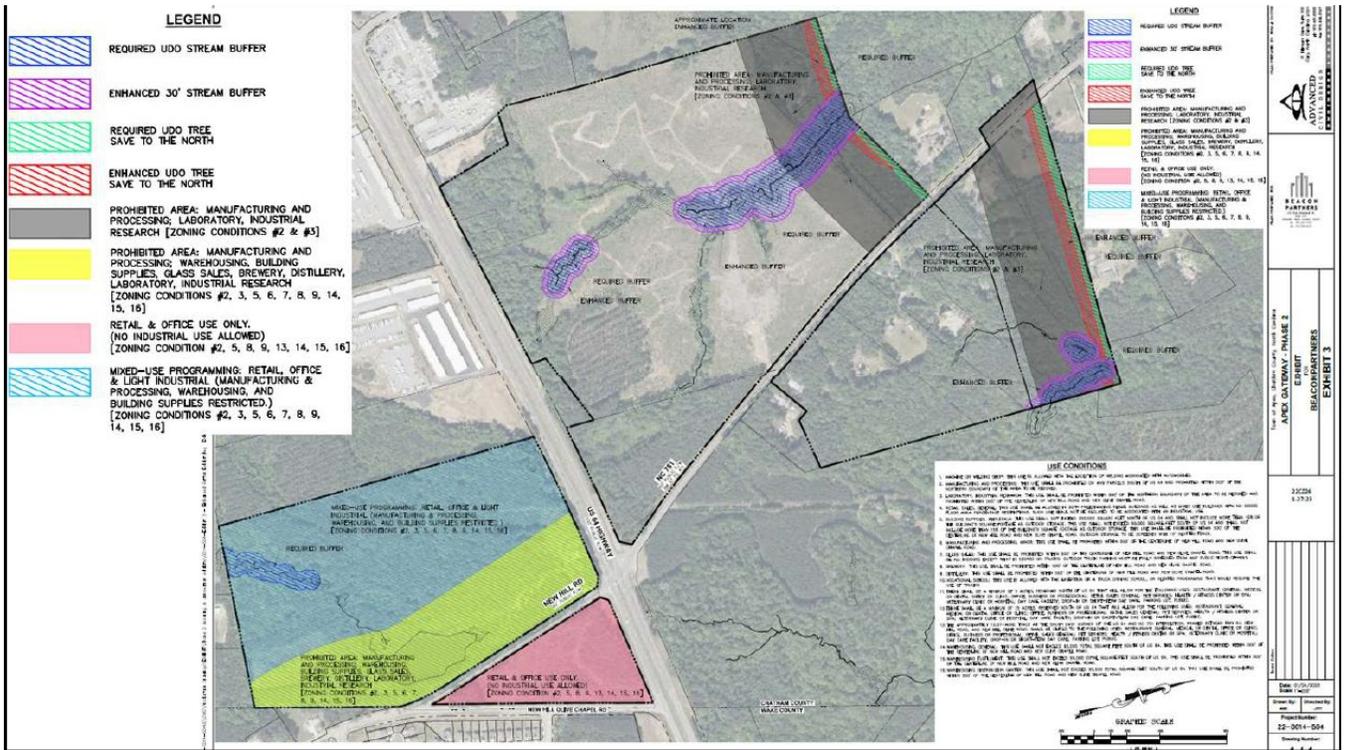
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2045 Land Use Map If Rezoning Is Approved

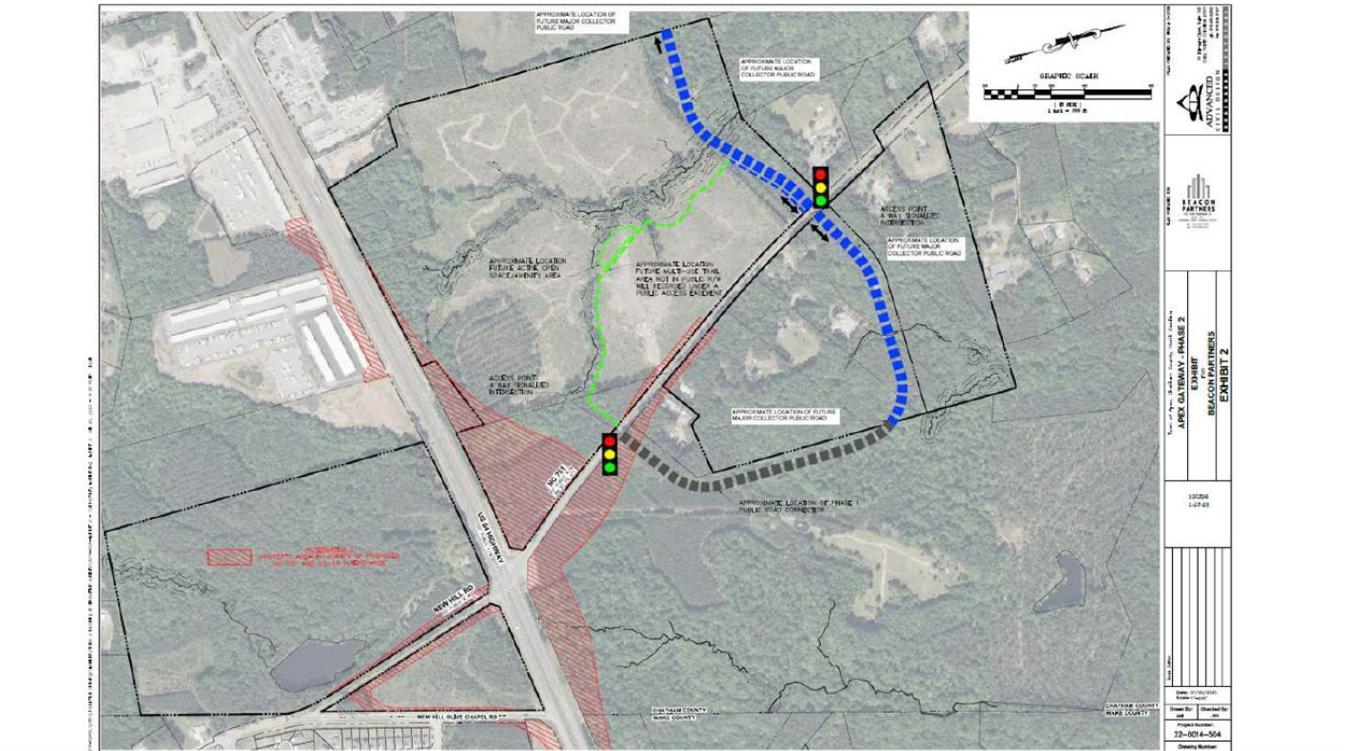


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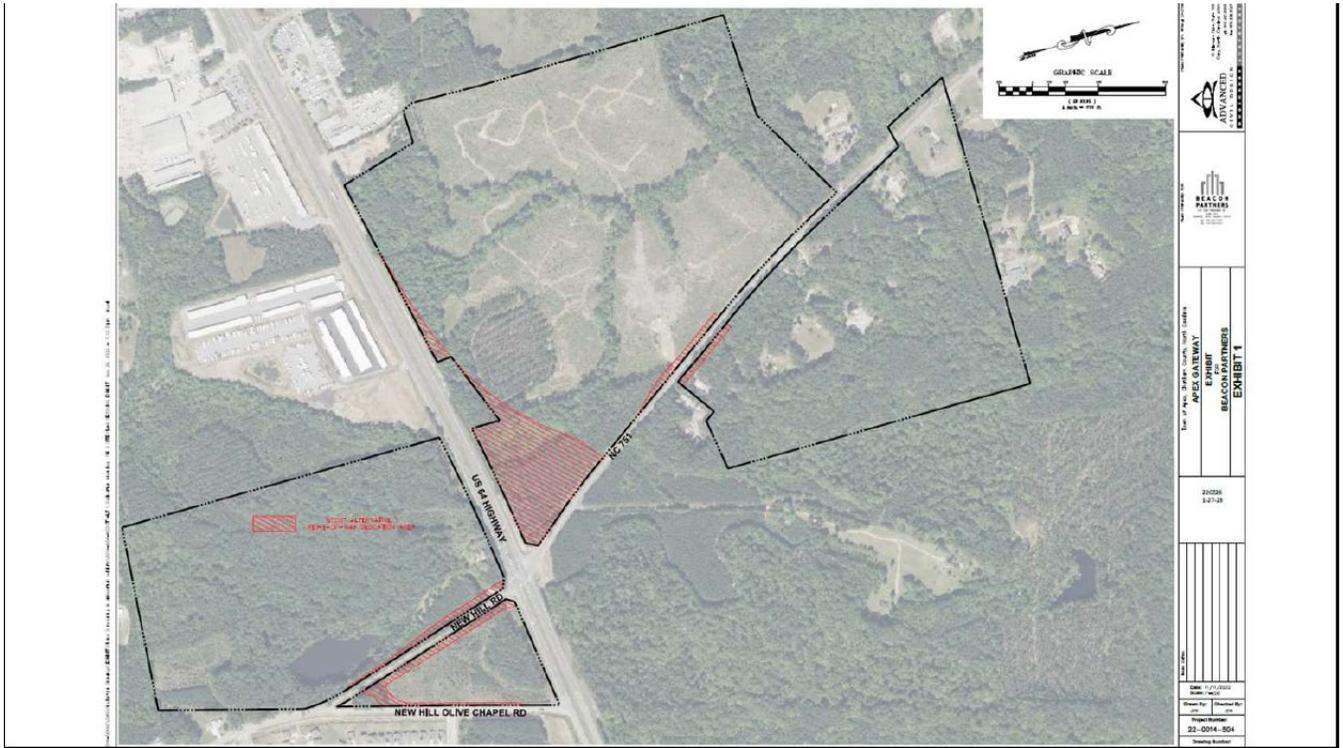


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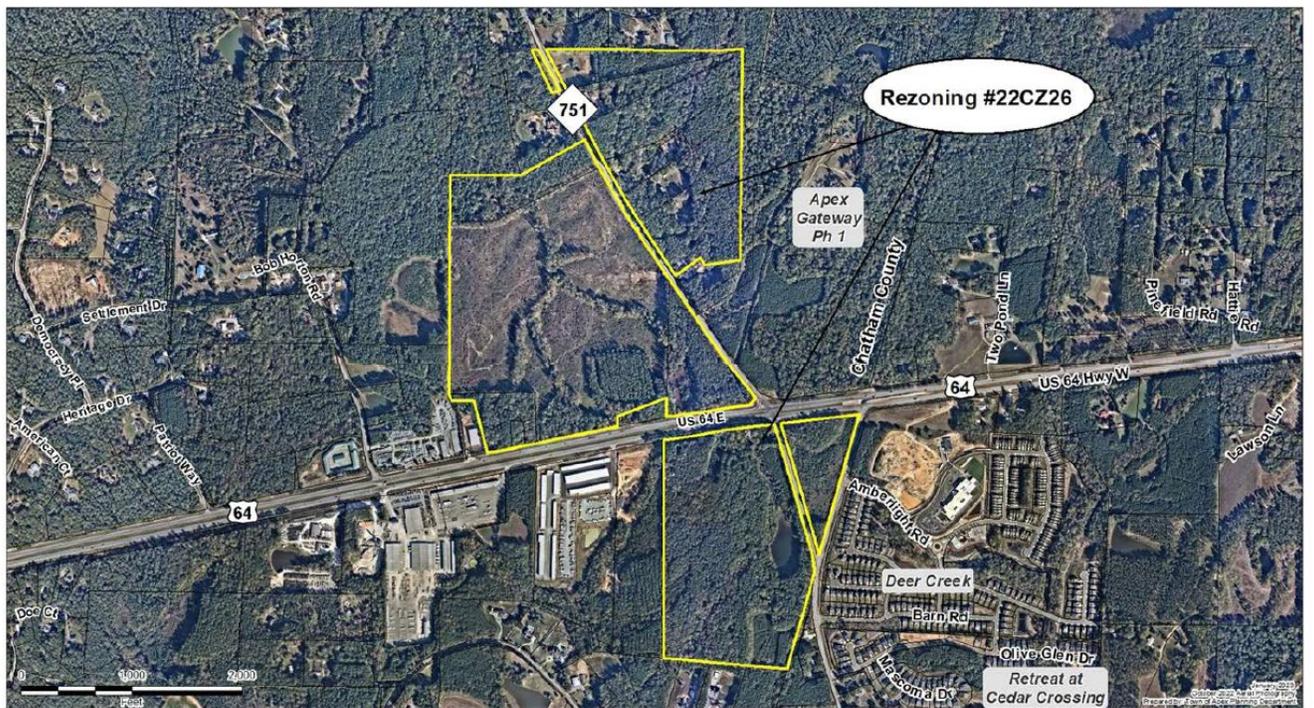


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Councilmember Mahaffey asked about the "donut hole" that was created in the middle of the Annexation/Rezoning

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1 **Ms. Bunce** said the applicant reached out to the property owner and the owner was unwilling
2 to be a part of the rezoning at this time, and that the applicant could speak to that better than she
3 could.

4
5 **Councilmember Gantt** said he had been comparing the comments about watershed
6 protection in that area, with the clear cutting and paving that seems to be going on there, and finds
7 the two to be a bit discontinuous. He asked Ms. Bunce if she was aware of that.

8
9 **Ms. Bunce** said she could only make guesses, but wouldn't be able to know for sure what
10 was going on. She said some of them have been there for a long time, and there has been a desire
11 for commercial development in the area of 64. Many self-storage facilities have gone out that way
12 because the Town would not approve them in this area

13
14 **Councilmember Gantt** said the paving seemed to be environmentally unfriendly.

15
16 **Ms. Khin** said those kinds of developments come up in that area because of the lack of need
17 for septic.

18 **Councilmember Gantt** said he was interested in knowing what kind of improvements at the
19 intersection of 71 and 64 would be implemented before the interchange was constructed.

20
21 **Mr. Dalton** said they are not in the stage of the process to have conducted traffic analyses
22 with Apex Gateway Phase 2 yet. He said through Apex Gateway Phase 1, there are turn lanes that are
23 supposed to be built on New Hill Road, North and South turning onto 64. He said they would
24 lengthen the right turn lane on 64 and implement protected only phasing for the left turns in the
25 area. He said the traffic analysis for Phase 1 has yielded capacity and safety improvements. He said
26 depending on what site plans come forward after this rezoning, they would have to scope additional
27 traffic analysis to account for the sites and reanalyze the intersection and the surrounding road
28 network.

29
30 **Councilmember Gantt** asked what the grade of the intersection was currently based on the
31 UDO.

32
33 **Mr. Dalton** said it fails, and is terrible right now.

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Councilmember Gantt asked what the grades were for the improvements made by Phase 1.

Mr. Dalton said it brings it back below Level Service D, which is the threshold. He said it provides turn lanes and adds capacity, but that the signal can only do so much without additional lanes being added

Councilmember Gantt asked if it was typical to see a developer improve the traffic conditions in an area, rather than just ensure they aren't made worse.

Mr. Dalton said it depends, and in this case since the road didn't have some of those turn lanes it was a lot easier to alleviate problems by simply adding them versus if they weren't there in the first place.

Walker Gorham of Beacon Partners, Development Manager for Apex Gateway, gave a presentation

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1

DEVELOPMENT PLAN UPDATES
INCORPORATING FEEDBACK FROM STAFF & COMMUNITY:

- 1.) INCORPORATE MORE RETAIL & OFFICE USES**
- 2.) INCREASE SETBACKS AND BUFFERS**
- 3.) ENHANCED ENVIRONMENTAL, SUSTAINABILITY, AND INFRASTRUCTURE COMMITMENTS**

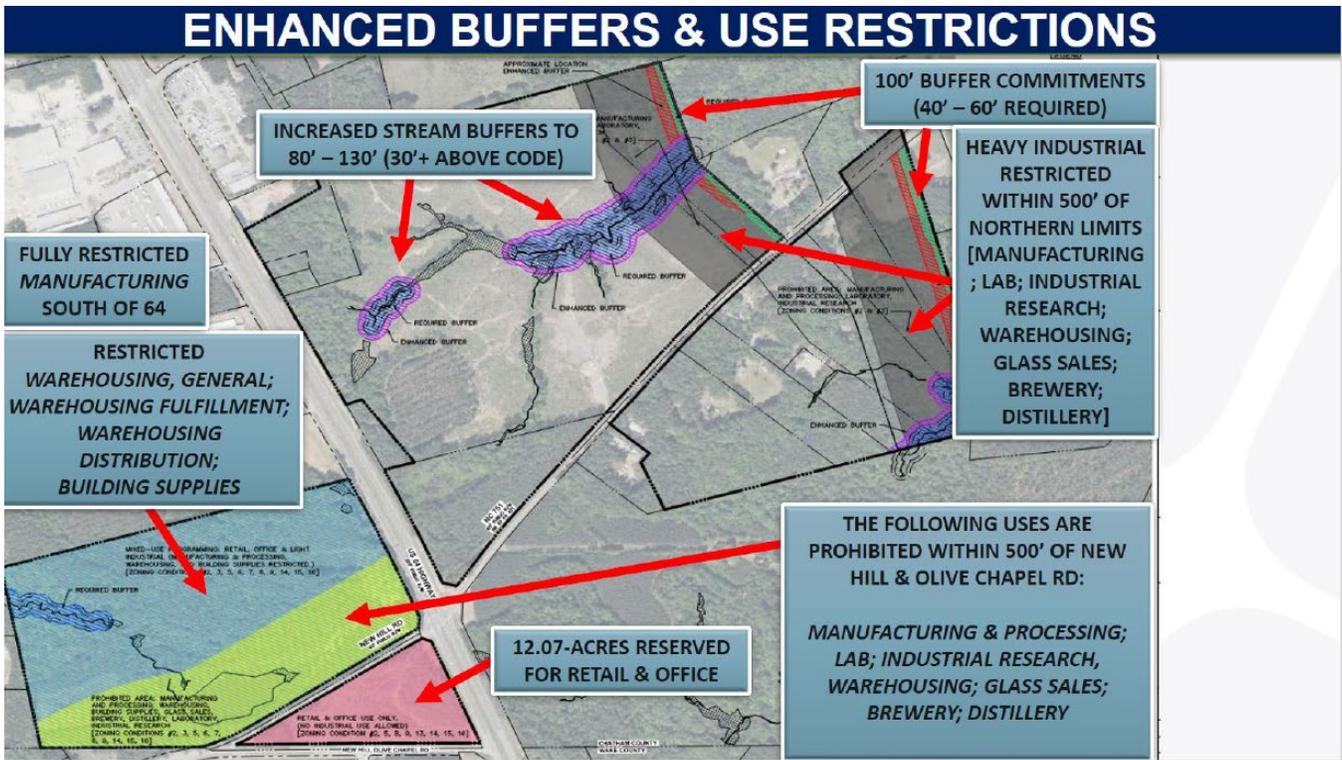

BEACON PARTNERS

2

USE RESTRICTIONS & ENHANCED BUFFERING

- ✓ Dedicating 20+ acres of frontage along US 64 / NC 751 exclusively for retail and office uses
- ✓ Reprogrammed all 85+ acres south of US 64: Restricting heavy industrial south of US 64 (manufacturing, lab / industrial research prohibited / warehousing restricted) to limit commercial traffic south of US 64
- ✓ Restricted heavy industrial (manufacturing, lab / industrial research prohibited) within 500' of northern property boundary limits along NC 751
- ✓ Restricted manufacturing, lab / industrial research and warehouse within 500' of New Hill Rd and New Olive Chapel Rd

1



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ENVIRONMENTAL, SUSTAINABILITY, AND INFRASTRUCTURE COMMITMENTS

- ✓ Committing to fund / construct **\$6.5+ Million** of public infrastructure (road dedication / construction, road widening, regional pump stations, and on-site pedestrian trail network)
- ✓ Committing **\$200,000 in grants** to the *Triangle Land Conservancy* (earmarked for White Oak Creek riparian plantings) and *Trees for the Triangle, Inc.*
- ✓ Increased environmental / sustainability commitments above Town requirements:
 1. Commitment to dedicate two (2) additional acres for the creation of new on-site wetland areas for enhanced nutrient treatment & storm water detention above Town requirements.
 2. Increased green stormwater infrastructure (adding bio-retention areas, permeable pavers, and rainwater harvesting cisterns)
 3. Committed to increase stream buffers to a minimum of 80' – 130'
 4. Increased northern property boundary disturbance buffers to 100'+

1

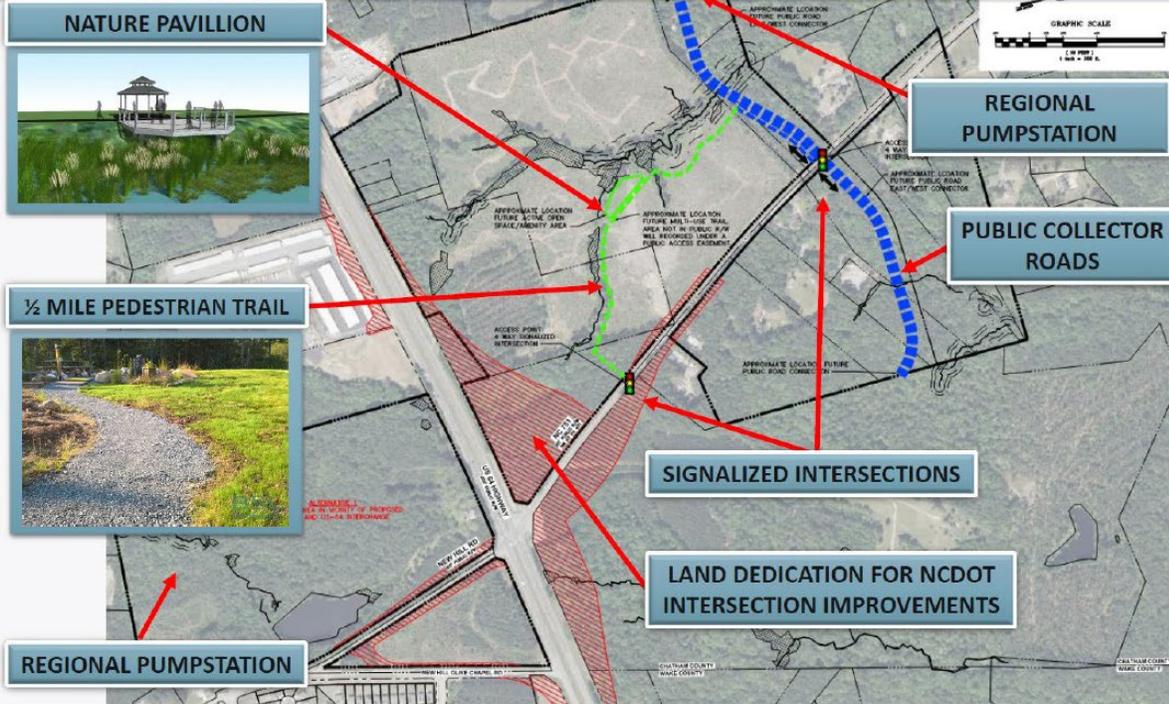
\$6.5+ MILLION PUBLIC INFRASTRUCTURE COMMITMENT

-  **LAND DEDICATION FOR FUTURE INTERSECTION IMPROVEMENTS:** Approximately 14-acres dedicated for future construction of US 64 & NC 751 intersection improvements.
-  **PUBLIC COLLECTOR ROAD CONSTRUCTION & DEDICATION:** Commitment to fund, construct, and dedicate major public collector roads and infrastructure to Town of Apex.
-  **TRAFFIC MITIGATION:** Commitment to install two (2) signalized intersections and road widening / turn lane installation along NC-751 to mitigate traffic congestion.
-  **PEDESTRIAN / BIKE PATH:** Construction of half-mile pedestrian / bike path programmed on-site.
-  **NATURE PAVILION / BOTANICAL GARDEN:** Construction of a nature pavilion and associated boardwalk along the on-site pedestrian / bike path.
-  **REGIONAL PUMP STATIONS:** Commitment to fund and construct two (2) regional pump stations (providing excess service capacity to region).

2

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PUBLIC INFRASTRUCTURE COMMITMENTS



1

QUESTIONS & COMMENTS



CONTACT INFORMATION

WALKER GORHAM – TRIANGLE MARKET LEADER
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 EMAIL: WILLIAM@BEACONDEVELOPMENT.COM

GRAY HARRELL – PROJECT MANAGER
 PHONE: 252.325.4200
 EMAIL: GRAY@BEACONDEVELOPMENT.COM

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4

Councilmember Gantt asked if Mr. Gorham would characterize the enhanced buffers and use restriction zones as in agreement with recommendations from staff.

6

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1 **Mr. Gorham** said the feedback from planning and staff was to limit the amount of truck traffic
2 south of 64. He said that led to increased restrictions in buffers. He said they also put a restriction on
3 the total size of warehouses and light industrial uses. He said that the feedback he has been given
4 from retailers is that this location is very attractive for business because of the traffic through the
5 area. He thinks the market will reflect the same.

6
7 **Councilmember Mahaffey** said the majority of comments they received dealt with trucking.
8 He asked if Mr. Gorham could explain what happened and how the initial submission changed to
9 what it is today, removing it entirely.

10
11 **Mr. Gorham** said he believes there was a bit of a miscommunication in the original
12 submission, and that there was never an intent to have a trucking facility on this property. He said
13 they wanted flexibility to target broad interest in electric vehicle manufacturing. He said the original
14 intent was to have the flexibility to accommodate some industrial needs of these kinds of businesses,
15 but that based on feedback and working with staff those plans have been cut, and south of 64 will be
16 commercial and office oriented, with pockets of light industrial elsewhere.

17
18 With no further questions for Mr. Gorham, **Mayor Gilbert** opened up public hearing for comment.

19
20 First to speak was **Jeff Hastings** of 3609 Friendship Road

21
22 "Thank you, Mayor and Town Council. Last time I spoke against you was not a great day in my
23 opinion, however, as I told people after that meeting I don't turn pale and run, I stand up for the
24 good fight of what I believe is Apex and the history of Apex. Shortly after that meeting, a gentleman I
25 believe Gray Harrell, came up and talked to me and got my information about the Mills House that
26 sits on the corner and wanted to talk about the possibility of moving it, talk about what the options
27 were. Luckily, before I had a chance to respond to him, he got in touch with Capital Area
28 Preservation. Capital Area Preservation and Beacon got together, made what I consider to be the
29 wise choice of saving that house. The house has been around since, the earliest part of the house
30 probably has been around since the late 1880's. I remember driving by it when I was a kid coming
31 up to see my grandparents, and you can very easily see the house from 64. But I congratulate staff, I
32 congratulate, I congratulate Beacon, I congratulate Capital Area Preservation on working towards
33 maintaining some of the priorities and trying to figure out how we can have relative historic

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1 properties remain historic where they are, or in close proximity to where they are. And so, thank you
2 very much.”

3

4 **Mayor Gilbert** thanked Mr. Hastings for his comments, and called up the next speaker.

5

6 Next to speak was **Nancy Cremer** of 357 Luther Road

7

8 “I wrote my name down not knowing if I was going to speak, because I didn’t know what I was going
9 to hear. So, I live out in that area, and I commend you for addressing some of the sustainability
10 issues, but it is not enough. And when you live out there and you see the landscape being
11 destroyed, and the trees coming down, it’s heartbreaking for one, and it’s especially in that
12 environmentally sensitive area, it’s just very disturbing. So, what I want to see, you know I appreciate
13 you’re gonna do a pavilion and a walking path and all of those things, I want to see some real visible
14 signs that you’re accommodating for the trees that you’re taking down from a climate change
15 perspective. I want to see on all of your buildings, on your flat tops, I want to see solar panels. I want
16 to see over your parking lots, I want to see solar panels, like they’re doing in a lot of Universities now.
17 I want to see from Apex, what you’re requiring of these developers is nothing. You know, a few tiny
18 trees being replaced is nothing, and it’s not going to get us where we need to be. Do you want the
19 gateway of Apex to be denuded of trees? How about solar panel down the median of 64 as you
20 drive into Town, now wouldn’t that be a nice gateway to Apex. So, if you’re going to do
21 development, I’m not naïve enough to think that you won’t, I know that you will, the bottom line is
22 the tax base, I know that, she said it. But if you’re going to do it, then I want to see some real visible
23 signs that you’re addressing climate change at the same time. Thank you.”

24

25 **Mayor Gilbert** thanked Ms. Cremer for her comments, and called up the next speaker.

26

27 Next to speak was Tim McKeever of 816 NC-751

28

29 “Thank you all. Just a couple of points here tonight because I know you all have heard from me
30 enough, and I just want to highlight a few things tonight. The first, which I wasn’t planning to speak
31 about, was the earlier question about trucking uses. It is true that they removed truck terminals from
32 this application and I do appreciate that, what was omitted earlier was that in the 3rd iteration of this
33 application they had wholesale and distribution centers, warehousing for phone centers and

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1 warehousing, and so I do want to ask if those things operate without trucking uses. And ask you to
2 consider that outside of that, my first question is about the two parcels at the northern most
3 boundary of the proposed development and the associated buffers that go along with those, which
4 staff earlier described tonight as required by the UDO. Both parcels are currently residential
5 properties and the applicant is neither purchasing nor developing either of the lots, but this
6 application actually places the northern tree buffer across these two properties. The buffer that they
7 highlighted as a significant concession tonight. What I would like to hear on the record tonight, at
8 this public forum, is when and how those buffers will be required, given that the applicant is neither
9 purchasing nor developing these. At the planning board meeting two weeks ago, staff said this
10 buffer would not be required unless and until those properties are redeveloped. If that buffer is not
11 required for the applicant's development, it sounds to me at least, like there may never actually be a
12 northern buffer and that Apex would be annexing these two residential properties in Chatham
13 County, which is something that Apex has historically said it will not do. And if that's the case, then it
14 also sounds, again, to me, maybe I'm misunderstanding that, that north of the intersection where my
15 family lives, on approximately about 200 feet from the boundary of this development, but it sounds
16 to me like we'd not only be getting the more intense uses, which the applicant actually described
17 tonight as "heavy industrial" for this development, whereas they're shielded south of the intersection,
18 but we'd also maybe not ever be getting a buffer. The second point I want to raise with you tonight is
19 about compatibility. There are a number of concerns about the proposal overall, but perhaps the
20 most obvious and concerning is that there's still a number of fundamentally incompatible uses. I
21 highlighted 3 of those earlier. And the 4th of those, to me, would be the manufacturing and
22 processing, given that all of the areas, or almost all of the areas, adjacent to this development, are
23 exclusively residential right now. Last month, this Town Council rejected a rezoning to develop 4
24 properties on 5 acres because it was incompatible. All I'd ask you tonight, is whether you would want
25 this in your neighborhood, and to show our neighborhood the same respect."

26
27 **Mayor Gilbert** thanked Mr. McKeever for his comments

28
29 Next to speak was **Steph McKeever** of 816 NC-751

30
31 "A vote for this rezoning is a dereliction of all of your duties as elected officials. I'd love to hear from
32 any of you: who in Cedar Crossings, the 55+ community, told you, reached out and said they want to
33 retire next to a truck stop? Which residents of Deer Creek bought a home in a residential subdivision

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1 with the hopes of raising their children in an industrial park? Who in Apex Math and Science
2 Academy wants their teenage student driving to school amongst 18-wheeler pulling in and out of an
3 already very dangerous, apparently F rated intersection? Who of the rural, single family homeowners
4 chose their home hoping for an industrial park to destroy the very specific environment in which they
5 chose to live? Who from the historic Olive Chapel Baptist church wants to replace the current forest
6 surrounding their home and their place of worship with a glorified truck stop? Who from Meritage
7 Homes and Toll Brothers wants to finish the homes they've been building that are now in an
8 industrial park? Who of the nearby property owners that will be directly and very negatively
9 impacted by this rezoning, were even notified? In summary, I'm asking all of you, which of your
10 constituents to let you know they support this rezoning? In fact, over 1600 residents of the Town of
11 Apex publicly have said they don't support this, and they don't want this. It doesn't go unnoticed the
12 lack of time and concern shown for this rezoning, as compared to other, much smaller and less
13 controversial developments. I sincerely hope that this has nothing to do with this Town's desire to
14 sneak something past resident whom you are hoping aren't paying attention. To put it mildly, your
15 support for this rezoning is short sighted, and you've got an alarming lack of attention to some very
16 obvious and serious issues. It's unnerving that some of you have even publicly states the sentiment
17 that "I don't even know where this is". And yet, seem to have an unwavering pre-formed opinion on
18 it. Which of the members of this Council actually visited the site and spent any time there, before
19 forming their opinion? It seems you need reminding that your job is to represent the people of Apex
20 and their interests. Your job is be thoughtful. To educate yourself on the issues and impacts and to
21 carve out a path forward that maximizes benefits and minimizes harms, both today and in the future.
22 Do your job. Stop representing your own self-interest and the interests of a developer and their low-
23 rent development for this Town. You can do better than this. Apex is better than this. Lastly, I'd like to
24 hear form the applicant, on the record in a public forum, how they think this proposal benefits and
25 does not harm adjacent property owners. Thank you."

26

27 Next to speak was **Jade Trenery** of 1314 Mascoma Drive

28

29 "Thank you for your work. I live where that lady was just saying, and it will be affected by me, but my
30 first thing is why Apex would want to pick up any part of Chatham County? It doesn't make sense to
31 me. If it was such a great deal, why wouldn't they rezone or redo things? So that's my first question.
32 Second question was maybe the company doesn't want to work in Chatham County because they
33 have forever chemicals in their water and I'm sure you all know this, since 2017 it's still not resolved,

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1 and then they had to know 4 weeks ago, it said that Pittsboro was suing 5 companies in Greensboro
2 for dumping forever chemicals in the Haw River. Now, if Apex picks this up, where is then the liability
3 goes because you know there will be class action suits. I'm just thinking why put yourself in harm's
4 way and make your residents unhappy too. Thank you."

5
6 **Mayor Gilbert** thanked everybody who came out to speak tonight. With no more signups, he
7 then closed public hearing for comment brought it back to Council for discussion.

8
9 **Councilmember Zegerman** wanted clarification regarding whether the request is asking for
10 light industrial or heavy industrial rezoning.

11
12 **Ms. Bunce** said the request for the zoning district is Light Industrial Conditional Zoning.

13
14 **Councilmember Gantt** wanted to clarify whether companies that are typically more polluting
15 would have a different classification.

16
17 **Ms. Bunce** said most likely, but it would depend on exactly what the company did to
18 determine where it would classify within their definitions.

19
20 **Councilmember Zegerman** asked if it was fair to say that things like car battery
21 manufacturing would typically be zoned as heavy industrial.

22
23 **Ms. Bunce** said to her understanding battery manufacturing is not currently allowed in the
24 Town Ordinance.

25
26 **Ms. Khin** said they have a long list of prohibited uses that would typically be considered as
27 heavy uses, but she can't say for sure that other communities would classify them that way.

28
29 **Councilmember Zegerman** wanted to confirm that it wouldn't be allowed under the light
30 industrial zoning.

31
32 **Ms. Khin** said battery manufacturing was not allowed anywhere in Apex.

33

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1 **Councilmember Mahaffey** said he believes there is a terminology issue here. He thinks light
2 industrial and heavy industrial mean different things to different people and different municipalities.
3 He said Apex's light industrial does not include what they consider to be heavy industrial.

4 **Ms. Bunce** said on the list of prohibited uses there were lots of things regarding chemicals, acid,
5 ammonia, asphalt, explosives and ammunition, and other types of intensive and polluting uses that
6 most people consider to be heavy industrial.

7
8 **Councilmember Mahaffey** said he was confused about the tree buffer issue raised during
9 public comment, and asked if Ms. Bunce could clarify that for him.

10
11 **Ms. Bunce** there are other property owners who have joined the rezoning along with Beacon,
12 so they can have a cohesive for zoning, uses, buffers, etc. She said if Beacon does not include some
13 of the northern properties in their development plan, a separate development plan would be
14 required for those properties, and that is when the increased buffer would be required. She said this
15 is the case for any development which happens in phases.

16
17 **Councilmember Zegerman** asked if this was assuming the current owner of those properties
18 would partner with Beacon to develop the land according to this plan.

19
20 **Ms. Bunce** said no matter who owned the property and who they developed with, they
21 would be required to provide the 100-foot buffer at the time of redevelopment.

22
23 **Mayor Pro Tempore Killingsworth** wanted to clarify if a lot of this had been cleared for
24 timber.

25
26 **Ms. Bunce** said lots of the northwest parcel has been used in forestry and cleared in recent
27 years.

28
29 **Mayor Gilbert** said there was a lot to think about. With many concerned people present, he
30 wanted to be sure they listened to everyone. He said Council has to make decisions in order to move
31 forward. He said he had been out to the site to look at it based on the emails he had received, and
32 he believes this is a tough one. He also said as the Chair of the Economic Development Committee
33 he looks at the benefits this brings to Apex. He appreciated Beacon's efforts and their desire to work

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1 with their neighbors. He said there was a lot to discuss, and he wants to hear what his colleagues
2 have to say.

3

4 **Councilmember Gantt** said he drives past this area a lot, and that he hates storage units. He
5 said the forestry has made the area look very bad. He said Jordan Lake State Park is wonderful, but
6 getting to the area is not as nice as he wishes it was. He said it makes sense that businesses would
7 want to come in along a major road like this. He said this wouldn't turn a park into an industrial area,
8 as the area is already cleared out in many places. He said he's annoyed with how the area looks, but
9 that it may change in the future. He acknowledged that he would not want to live next to this place if
10 he lived near Jordan Lake. He believed this would be making the inevitable transition of this area
11 becoming more industrialized quicker. He said he agrees that the intersection is bad currently, and
12 is excited about the positive impacts this phase of the project and the earlier phase would bring to
13 these roads. He said when they approved Deer Crossing, he anticipated a retail-like development
14 near the intersection where the school is going in now, and he sees this as correcting a lack of
15 neighborhood businesses on the south side. He said he also was excited about more retail on the
16 north side near 751.

17

18 An audience member asked if he was referring to a strip mall.

19

20 **Councilmember Gantt** said he wasn't exactly sure what it would look like, but that it would
21 be good to have businesses for daily use for the people in this area.

22

23 **Councilmember Mahaffey** said that is a limitation on what the Town is able to do. He said
24 they can choose the types of businesses and uses in an area, but not which businesses and
25 companies come there. He said he hoped the question about the tree buffer was clarified for the
26 concerned property owners. He said if the land doesn't get developed, a buffer doesn't have to be
27 put in, so it isn't dependent on the owners. He said if the land is developed in the future, it would
28 require a buffer to be placed there. He added if the owner wanted to rezone again before
29 developing, that Council does not tend to look favorably on proposals to loosen or remove buffer
30 requirements. He said situations like this are common. He said Chatham County did not do this type
31 of development under their jurisdiction is because they can't provide water and sewer service, and
32 Apex is the only one in the area that could. He said uses that don't require water and sewer sources
33 end up being things like storage units. He said Apex is involved because they have grown to this

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1 area and have water and sewer that can be extended to provide more employment opportunities
2 and businesses in this area. He also acknowledged that this application has had many changes since
3 its initial submission. He wanted to highlight that this development would be a benefit for the people
4 in the area such as residents of Deer Creek, even if they don't specifically come up and mention it to
5 him. He said whatever would be there would be much better than the original submission, which
6 was only light industrial. He also wanted to applaud the work the developer did on the historic home
7 on the property, to preserve as well as restore portions of it to enhance its structural integrity. He
8 said the environmental conditions are much better than the original proposal, and that he believes
9 Apex's environmental requirements are among some of the strongest in the area. He said extending
10 Apex's area into Chatham further extends the reach of these stricter environmental requirements. He
11 said riparian buffers are some of the most important concessions developers can make, and in this
12 case, they have been extended beyond what is required. He said the developer has offered to
13 donate to local nonprofits that do tree re-planting and land conservation. He acknowledged that
14 development requires the removal of trees, and the best that can be done is replanting. He said the
15 200,000 dollars they are also donating is not nothing, and is the largest donation of this type he has
16 seen from a developer. He also wanted to discuss the right of way and the future of the intersection.
17 He said he drives through this intersection a lot, and that it's horrible. He said that while it seems
18 counterintuitive, development needs to come in to fix problems like this and stormwater issues. He
19 said to get the interchange would normally take lots of land, lots of time, and lots of money. He said
20 this development gets almost all of the land required for the future interchange, and he said that
21 greatly increases the probability of the project to get done when the land is already available for the
22 NCDOT to use. He appreciates all the progress on these points since the original submission.

23
24 **Councilmember Gray** said the developer has made significant changes in regards to
25 removing and changing things that are improvements to the project. He said he also originally asked
26 the question of why Apex would be going into Chatham County. He said he realized throughout the
27 process that it was because Apex would do it better than Chatham County. He said he gets irritated
28 by seeing all the clear cutting and RV/Storage units out in that area on the way to Jordan Lake. He
29 said he believes Chatham County wanted to keep it as easy as possible for businesses to set up out
30 there, and that meant those types of businesses were the ones that did. He said he knows for a fact
31 one of the businesses in that area tried to start in Apex and when they weren't able to get approval,
32 they moved over just across jurisdiction in Chatham County, and that disturbs him. He said the
33 project is not perfect, but that the applicant has come a long way since the initial offer. He

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1 appreciated that they worked with Capital Area Preservation, which he said is unusual for a
2 developer to take initiative on. He said the applicant is willing to put effort in to put in environmental
3 buffer, improve and grant right of way for future projects, and preserving heritage and history, and
4 reached out to the community, even if they didn't abide by their wishes every time. He said this looks
5 like an applicant that has put Apex in a position to do this better than Chatham County.
6

7 **Councilmember Zegerman** said one of the things he really cares about is environmental
8 preservation, including enhanced buffers beyond UDO requirements. He said he does appreciate
9 the efforts made on this regard compared to the original plans. He said that unfortunately the Town
10 can't really require solar panels and every roof and things of that nature, as they can only ask for it at
11 this time. He said he has asked the developer to look at improving the amount of electric vehicle
12 charging spots available with the submission of site plans. He said the applicant made a
13 commitment in Phase 1 to make up for the trees they were unable to replace on site, and that they
14 have followed through on that with the donation to the environmental nonprofits.
15

16 **Councilmember Mahaffey** said he has tried to figure out a way to make solar part of the
17 requirements, but there are limitations to what they can do based on State statute. He said they need
18 to find ways to incentivize this kind of addition, and that is what they are trying to do. He said he
19 believes they are maxing out the requirements they are allowed to, and to let him know if there are
20 any he is missing because he would use it.
21

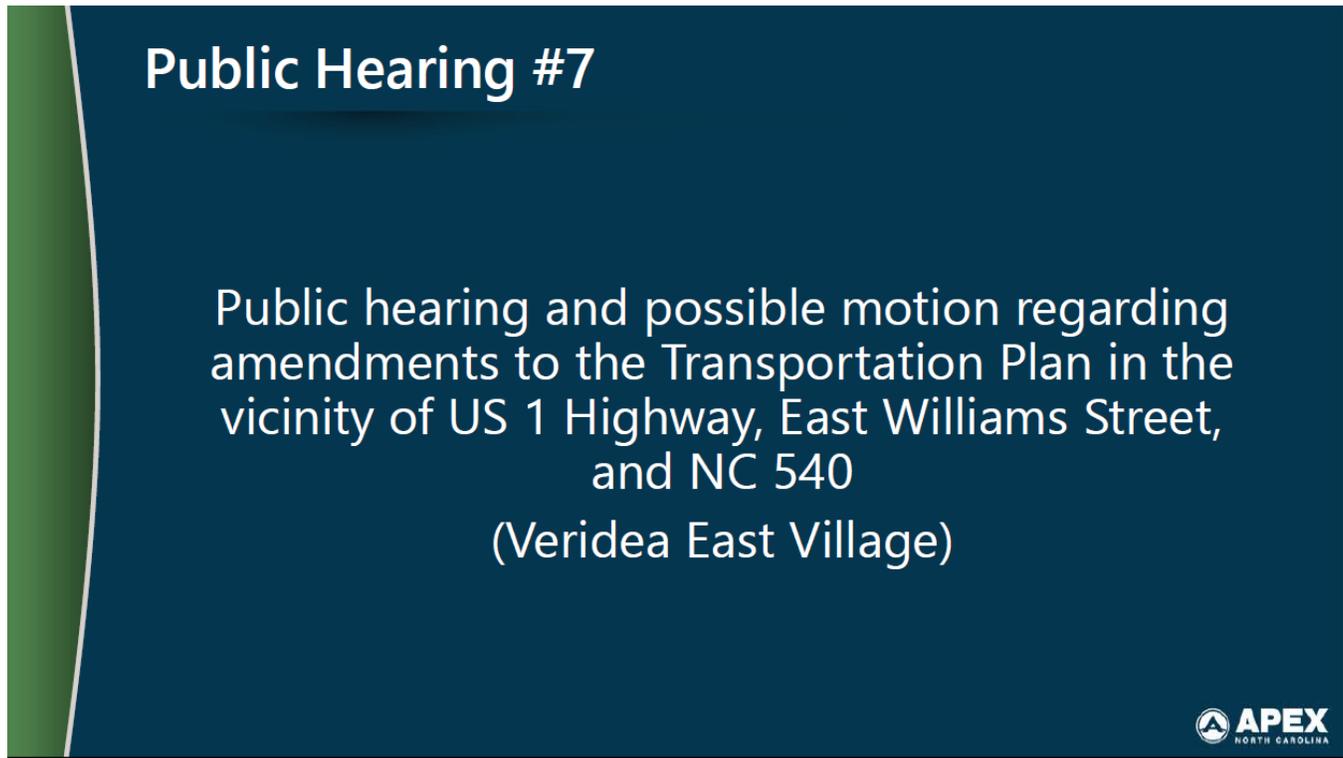
22 A **motion** was made by **Councilmember Edward Gray**, seconded by **Mayor Pro Tempore**
23 **Audra Killingsworth**, to approve the amendments to the 2045 Land Use Map, to adopt Annexation
24 No. 749, and to approve Rezoning No. 22CZ26
25

26 **VOTE: UNANIMOUS (5-0)**
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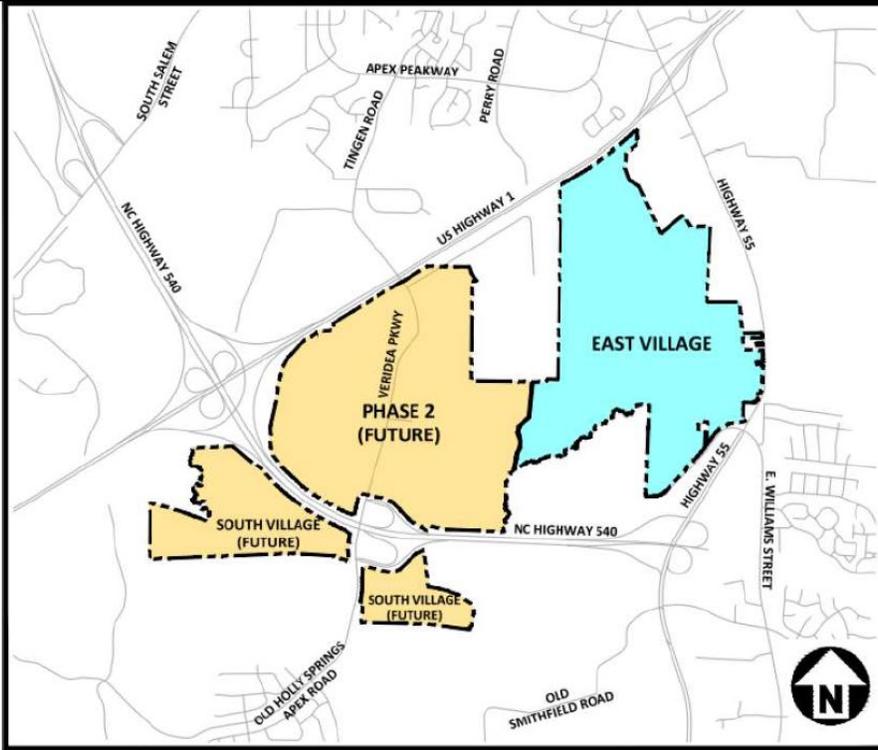
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PH7 Transportation Plan Amendments - Veridea East Village

Shannon Cox, Long Range Planning Manager, gave a presentation regarding the Transportation Plan Amendments for Veridea East Village



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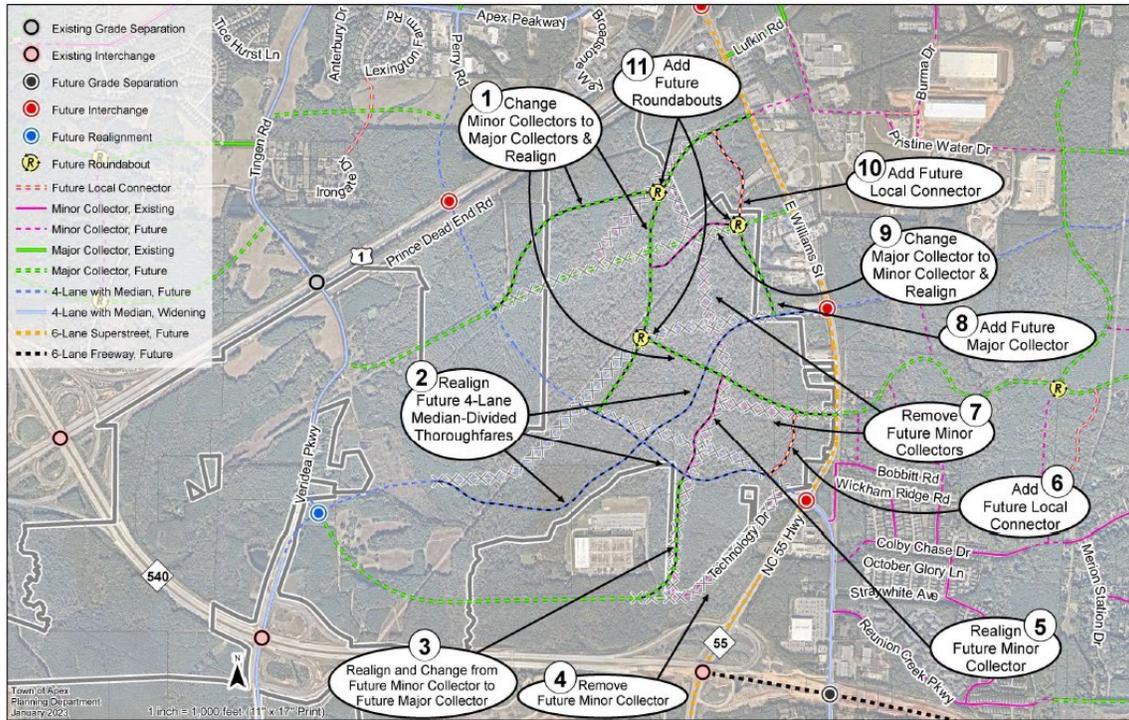


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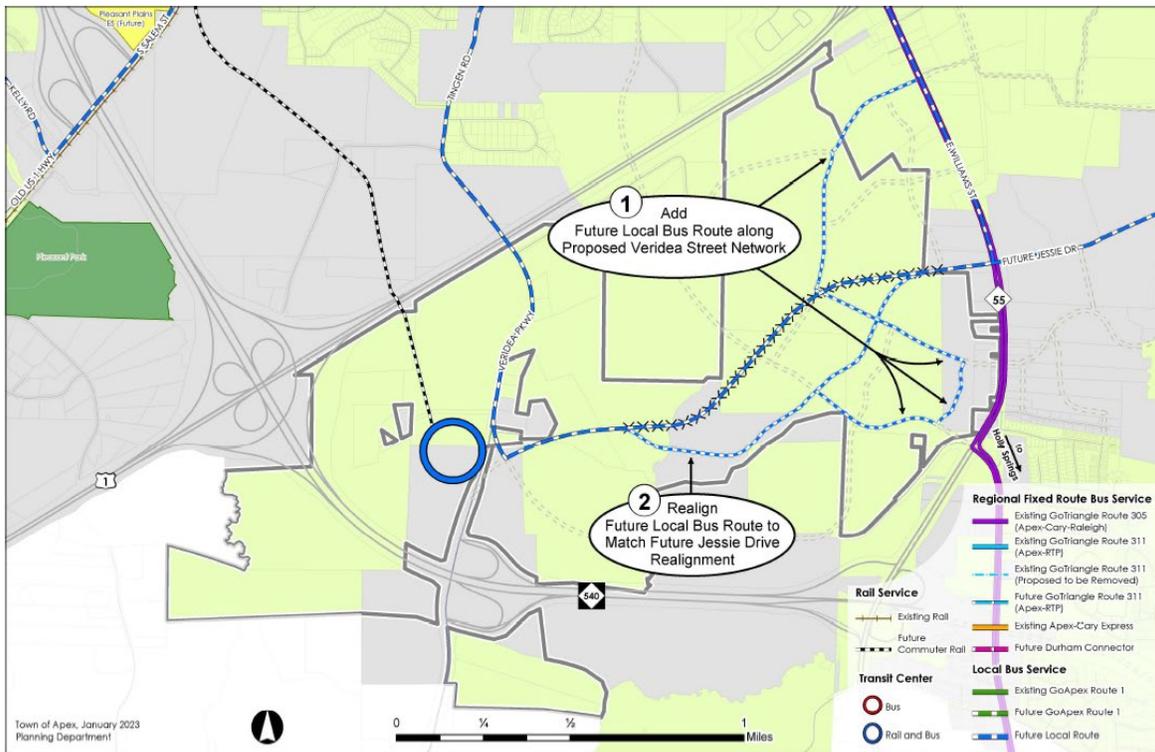


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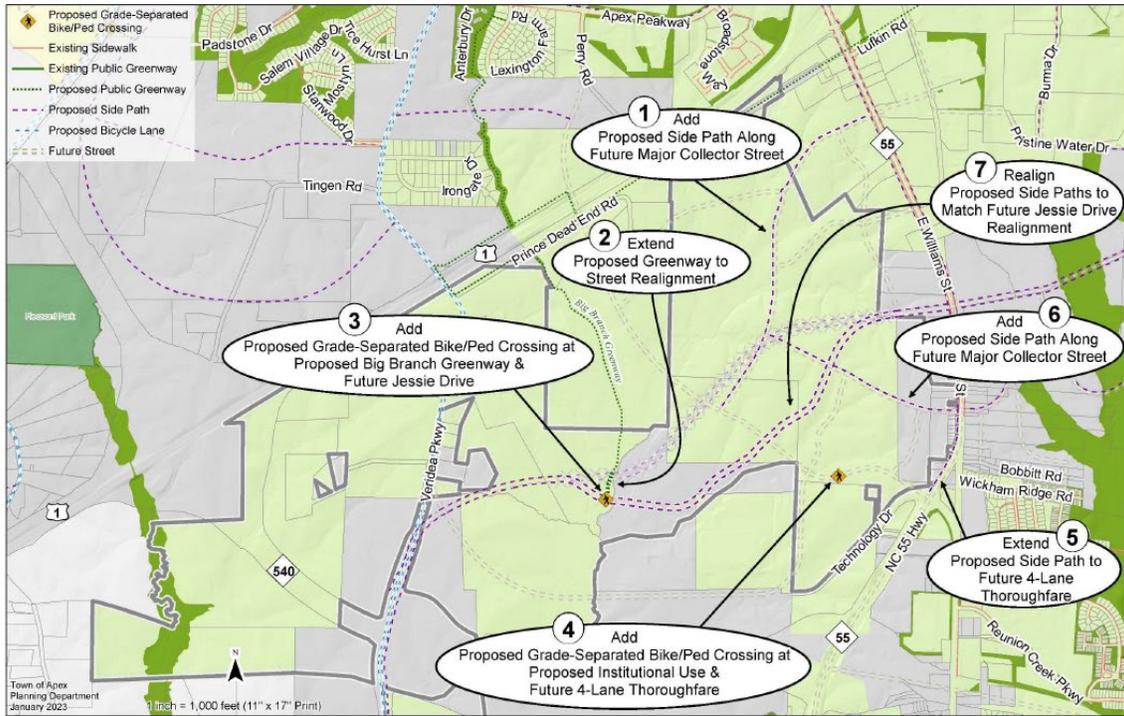


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Ms. Cox said staff was in support of the amendments, and offered to answer any questions.

Councilmember Gantt said some of these changes seemed very specific to Veridea, and wanted to know if Ms. Cox felt associating large changes like with a big development helped throughout the process to ultimately come to the best outcome.

Ms. Cox said it has not been an easy experience, although everybody has worked well together. She agreed that it is better to look at the bigger picture and see how things connect and work with the other aspects of the transit plan.

Councilmember Mahaffey said he wanted people to know that this has all come about through work between staff and the developers on where the roads would be going over the course of around a year. He asked if it would be fair to say that staff had worked with them to ensure their proposal and the Town’s transit map matched.

Ms. Cox said yes, and that it has been a close working relationship across multiple departments.

Councilmember Zegerman asked what drove the creation of the original plan.

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1
2 **Ms. Cox** said as of the last update to the plan in 2018, they did not make substantial changes
3 to this area because they knew Veridea was coming in.

4
5 **Councilmember Zegerman** said this seemed like a refinement of the existing plan, rather
6 than a large departure from the zoning purposes. He asked if this was a process they could expect to
7 see with other developments that come up in the future.

8
9 **Ms. Cox** said this one was a bit unique because of the sustainable development zoning,
10 which has a higher expectation. She said it focused on higher standards for transit and pedestrian
11 oriented development.

12
13 **Councilmember Mahaffey** said a high-level transportation plan can't account for the minutia
14 of each area, and lots of rezonings come with Transportation Plan changes, though typically smaller.

15
16 **Councilmember Zegerman** said that the point he wanted to make is that this process is a
17 good thing. He liked that they aren't simply sticking to plans that were made years ago.

18
19 **Councilmember Gray** thanked the planning staff for their hard work and for all they do.

20
21 No one signed up to speak for this public hearing

22
23 A **motion** was made by **Councilmember Arno Zegerman**, seconded by **Mayor Pro**
24 **Tempore Audra Killingsworth**, to approve the amendments to the Transportation Plan in the
25 vicinity of US 1 Highway, East Williams Street, and NC 540.

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

27 28 29 **PH8 Veridea Environmental Enhancement Plan**

30 **Ms. Bunce** gave a presentation regarding the Veridea Environmental Enhancement Plan.

Public Hearing #8

Possible motion regarding adoption of the
Veridea Environmental Enhancement Plan



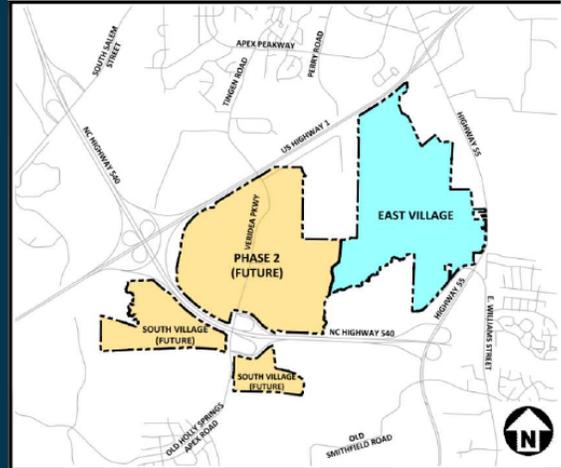
Veridea Environmental Enhancement Plan

The Veridea Sustainable Development (SD) Plan was adopted to “facilitate the development of Veridea as a community of safe, healthy, resource efficient and transit-oriented mixed-use projects planned and developed in accordance with Principles promoting Sustainability. Accordingly, Veridea will be developed in view of the following Guiding Principles:

- a. Create economic value
- b. Eliminate the concept of waste
- c. Insist on a renewable future
- d. Create delightful urban places
- e. Integrate nature throughout the community.”

Section 3.1.2 of the SD Plan includes a requirement for an Environmental Enhancement Plan (EEP) which is defined as:

“additional Sustainability Standards related to environmental enhancement required to be submitted to the Town Council for approval in accordance with UDO 2.3.16.F.3.b.”



1

Veridea Environmental Enhancement Plan

The Sustainability Standards included in the proposed EEP are intended to protect natural resources and the environment in light of this development pattern and to address secondary and cumulative impacts associated with the infrastructure required for Veridea. The EEP includes sections related to the following:

1. Building Standards (Energy, Water Efficiency, Indoor Air Quality, and Material Management)
2. Environmental and Natural Resource Protection (Resource Conservation Area)
3. Stormwater & Surface Water Management (Stormwater Management, Water Conservation, and Surface Water Enhancement)
4. Land Management (Sedimentation & Erosion Control Standards, Waste Minimization, Perimeter Buffers, Landscaping)
5. Air Quality Protections

2

Building Standards Highlights

- Energy
 - Min. 50% of non-residential buildings shall be certified by LEED, Green Globes, Fitwel, or similar
 - All residential buildings will meet at least one energy certification program including Energy Star, ecoSelect, LEED for Homes, or similar
 - Conduit for wiring of solar panels provided in all single-family and townhome units
- Water Efficiency
 - Min. 80% of landscaping shall be drought tolerant, native, and locally adaptive species
- Indoor Air Quality
- Material Management



1

Environmental and Natural Resource Protection Highlights

- Resource Conservation Area (RCA)
 - SD Plan requires 100 acres of RCA
 - Off-site RCA will not be used



2

Stormwater & Surface Water Management Highlights

- Stormwater Management
 - Variety of Stormwater Control Measures (SCMs) to be used including regional stormwater management facilities
 - Post-development peak flows shall not exceed pre-development peak flows for the 1, 10, and 25-year storms.
- Water Conservation
 - drought tolerant, native, and locally adaptive landscaping
 - Stormwater re-use will be utilized in at least the multifamily developments



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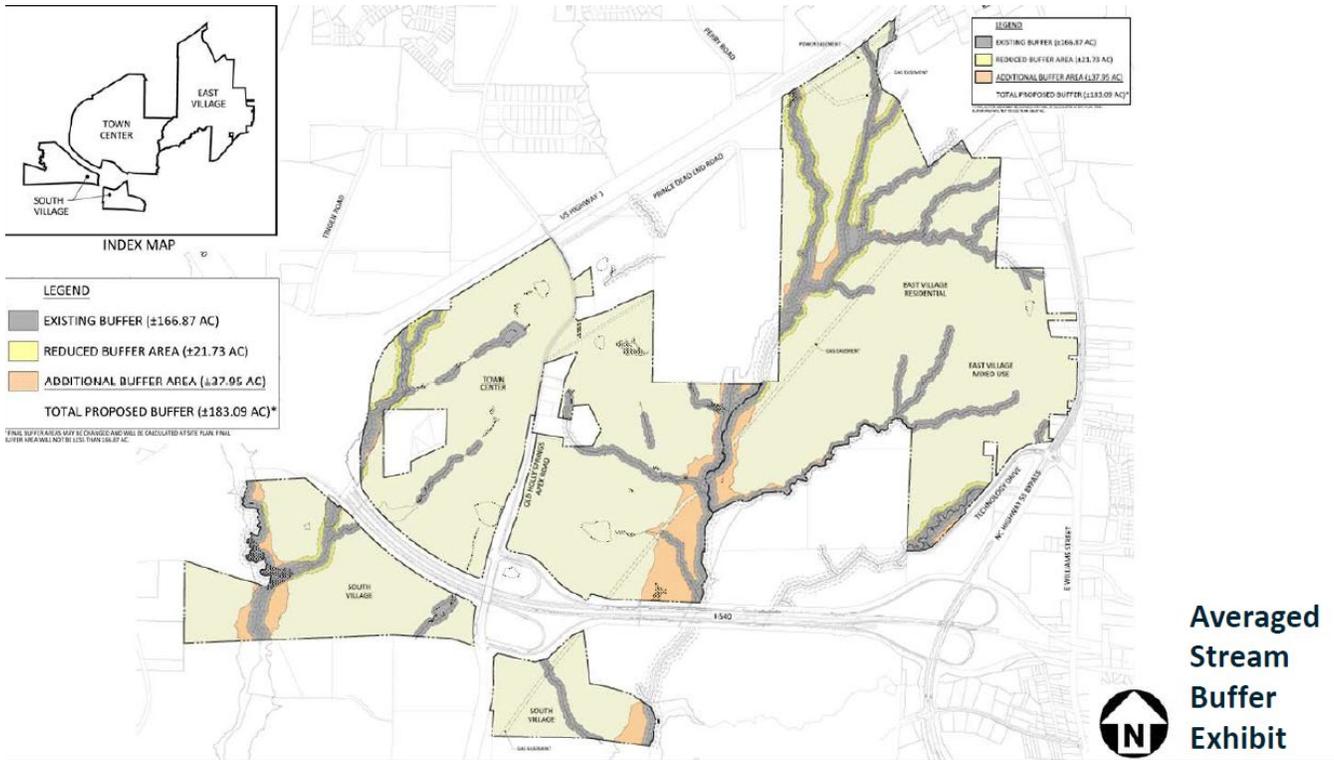
Stormwater & Surface Water Management Highlights

- Surface Water Enhancement
 - Signage prohibiting pet waste and use of fertilizers near environmentally sensitive areas
 - Averaged riparian buffer map
 - Minimum riparian buffer area of 166.87 acres



2

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Land Management Highlights

- Sedimentation & Erosion Control Standards
 - SCMs designed for 25-year storm event
- Waste Minimization
 - Land-clearing debris may be mulched and used onsite
 - Standards for mulch stockpiles provided
 - Slope and height standards for soil stockpiles
- Perimeter Buffers
- Landscaping
 - Where feasible, deciduous trees planted on south sides of buildings; evergreens planted on north side

Air Quality Protections Highlights

- Mixed-use development to increase internal trip capture
- Interconnected development providing sidewalks, greenways and walking paths to link land uses
- Linear parks along Jessie Drive
- Street trees
- 2 grade-separated pedestrian crossings
- EV outlets in garages of single-family homes



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Ms. Bunce said staff recommended approval and she was happy to answer any questions from Council

Councilmember Mahaffey was curious about where this plan came from, and whether it was something statutorily authorized or something Apex came up with.

Ms. Bunce said the original developer had in mind an environmentally friendly, sustainable, mixed-use urban development, and because it was an urban development, an environmental enhancement plan was used to help curb those impacts.

Councilmember Mahaffey wanted to confirm that this was unique to this case.

Ms. Khin said that yes, this plan was a condition of the zoning agreed to by the applicant in this particular case.

Councilmember Mahaffey wanted to know how the standards and conditions were created within this plan, and whether they worked with the developers like on the transportation plan.

APPROVED

1 **Ms. Bunce** said the EAB gave their list of typical zoning conditions, and that staff suggested
2 including anything they were willing to do that was above and beyond the requirements.

3
4 **Councilmember Gantt** asked if the UDO requirements in this case would be the current
5 UDO or the UDO requirements of a different point in the past.

6
7 **Town Attorney Hohe** said that permanent choice is usually where these kinds of things end
8 up, and she said Veridea is a unique example. She said the EEP is as of today, and represents all the
9 requirements of the Town and additional conditions the developer has agreed to as well.

10
11 **Councilmember Mahaffey** said that since this rezoning was originally approved in 2011,
12 usually the requirements would only be able to be enforced based on what they were when the
13 application was submitted, but that it was cool for the EEP to somewhat allow for it to be brought
14 into the present a bit more than developments like this with a time gap usually would. He said this
15 case was interesting because there has never been an EEP before Council before, so there is no
16 established precedent on what they would or should want within one.

17
18 **Councilmember Gray** said he liked this “genie in the bottle”, and that this idea could be
19 something.

20
21 With no further questions for Ms. Bunce, **Mayor Gilbert** opened up public hearing for
22 comment.

23
24 First to speak was the applicant, Joe Graziosi

25
26 “Good evening Mr. Mayor, members of the Council, my name is Joe Graziosi, I am the executive vice
27 president of arc star realty. I want to compliment your team here this evening. I think Shannon said
28 something earlier about being tired and this taking a little bit of time. I think part of me makes her
29 tired, but at the end of the day I do appreciate all the hard work they’ve done. Just sitting here, this is
30 my second or third Council meeting that I’ve attended, I’ve been coming to your great town for just
31 over 17 months since I started looking at Veridea, and as you know, we successfully closed on it for
32 over 90 million dollars last week, and I think that was highly publicized. I think we’re very excited.
33 Just going back, this is my third time sitting in this room and listening. Lot of great conversation

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1 tonight, looking at some zoning that was going on, and people of the public going on, something on
2 my 42 odd year career I've dealt with every day. This project zoned, right, this project is not about
3 zoning, it's about taking something that was created in 2011 and taking it to the next step but more
4 importantly delivering it, right? Because we can sit here and talk about the Veridea development
5 forever. A few points that I want to make this evening. At the end of the day, I think the collaboration
6 between my team, and we have a very big team, and your team, the staff here, is really what's getting
7 you to the genie in the bottle, and how we're recreating at the end of the day what might be today in
8 the UDO might be what was thought about in 2011 but bringing it to today. When it comes to the
9 transportation side and making 12 and 10-foot-wide paths so there can be bike lanes. You know,
10 when it comes to the environmental side of the equation, and having the walkability and having the
11 trails and the paths and the trails and so on and so forth. Arc Star and our company has made a very
12 big commitment in your Town, and we expect this to be successful, and we know that success comes
13 at a cost. And sometimes it comes at a cost that's greater than we anticipated, but if we get the front
14 door right, we know the backyard is gonna look great. And this is a multi-year phase project right.
15 You know, it's not something that we are coming into, and to the point of the amount of time,
16 energy, and effort that's gone into this thus far, we've been working I'd say for the better part of just
17 over a year, if not a little bit more, with the staff, and remember we bought a concept plan that
18 looked good in 2011. Lines on a page. But when Shannon was talking about these amendments this
19 evening to the roadway situations, point A still goes to Point B, and C to D and so on and so forth.
20 There are reasons that roads move around. For instance, there are mitigation of streams, there are
21 mitigations of different avenues within the actual geology there and the top, you know? There is
22 quite a difference in grade in this property, right? And I just remind us that it's 1000 acres, we're not
23 looking at a 2-acre site, or a 3-acre, or even a 20-acre site, so there's quite a bit of land there to
24 provide these buffers and things of that nature and make sure that we still create a great
25 development. So I do appreciate the opportunity to stand before this evening, I've had the
26 opportunity and the pleasure, again, of meeting you all before and working with your staff and we
27 are very much looking forward to continue partnership here and bring this home at the end of the
28 day and putting a shovel in the ground, so it's something that I'm personally committed to and really
29 do appreciate the opportunity here this evening, and I'm obviously available to answer any
30 questions that you all may have for me."

31

32 **Mayor Gilbert** thanked Mr. Graziosi for his comments

33

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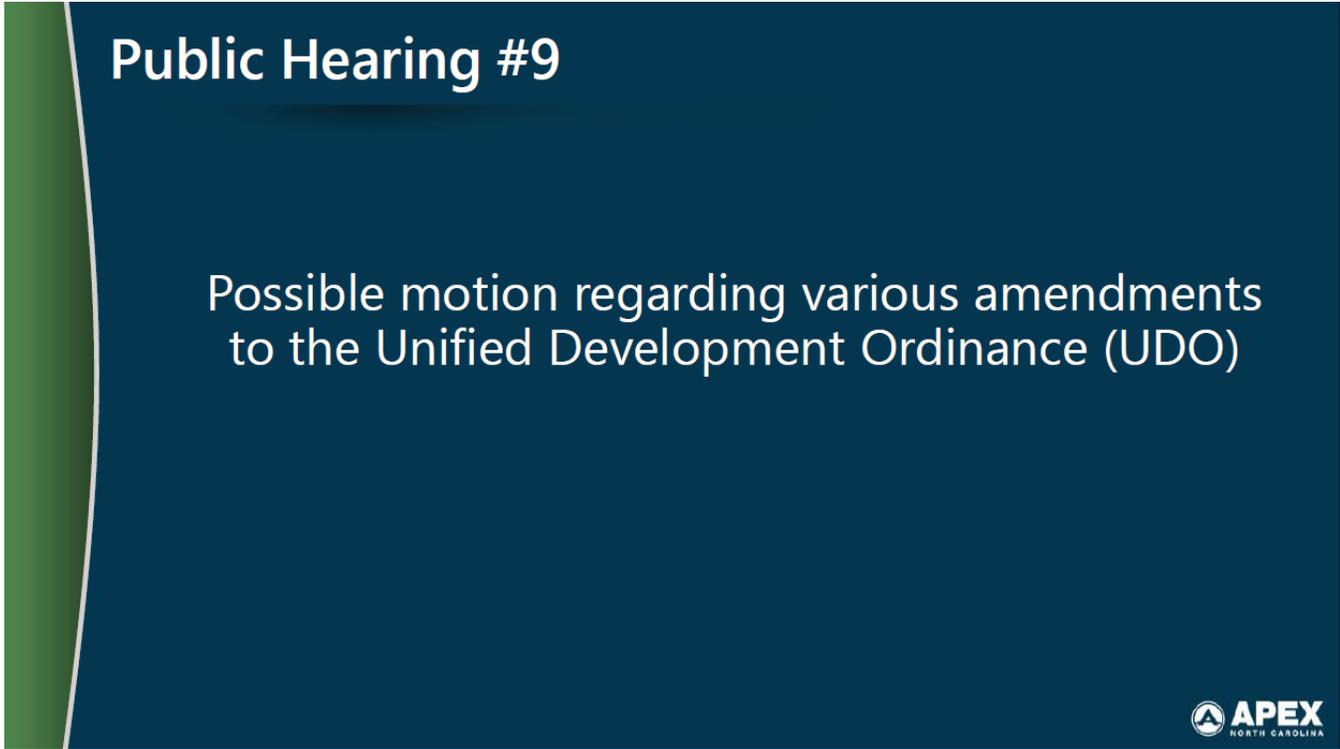
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A **motion** to approve was made by **Councilmember Brett Gantt**, seconded by **Councilmember Edward Gray**, to approve the Veridea Environmental Enhancement Plan.

VOTE: UNANIMOUS

PH9 Unified Development Ordinance (UDO) Amendments - February 2023

Ms. Bunce gave a presentation regarding the UDO Amendments for February 2023



Amendment #1

1. Amendments to Sec. 8.2.6.B.4 *Landscape Buffers Between Land Uses, Land Use Classes* in order to update the use names "Warehousing, general" and "Wholesaling distribution center" and add the use "Warehousing fulfillment center" in the list of Class 6 land uses.

8.2.6.B *Landscape Buffers Between Land Uses*

...

4) *Land Use Classes*

The 6 land use classes appearing in Table 1 include the following uses:

...

f) *Class 6:*

...

Warehousing, general

Warehousing fulfillment center

...

Wholesaling, general distribution center

...



1

Amendment #2

2. Amendments to Sec. 8.3.2.A *Off-Street Parking Schedule "A"* in order to remove the use "Wholesaling, general" from the Commercial Uses section of the table as it is an Industrial Use. This amendment would not change the parking requirement for this use which was recently renamed to "Wholesaling distribution center".

8.3.2 *Off-Street Parking Schedule*

A) *Off-Street Parking Schedule "A"*

Unless otherwise expressly stated in this Code, off-street motor vehicle and bicycle parking spaces shall be provided in accordance with Table 8.3-1. Electric vehicle charging space requirements shall be provided in accordance with Sec. 8.3.11 *Electric Vehicle Charging Spaces*.

Table 8.3-1: Off-Street Parking Schedule "A"

Use	Minimum Number of Motor Vehicle Spaces Required	Minimum Number of Bicycle Spaces Required
Commercial Uses		
...
Wholesaling, general	Schedule B	2 spaces
...
Industrial Uses		
All uses	Schedule B	2 spaces



2

Amendment #3

3. Amendments to Sec. 8.3.6.D *Parking Lot Design Standards, Surfacing and Maintenance* in order to allow "Agricultural Uses" to have the option to use gravel parking.

8.3.6 Parking Lot Design Standards

...
D) Surfacing and Maintenance

All off-street parking areas shall be paved and kept in a dust-free condition at all times. Permeable pavement, if used, shall comply with the North Carolina Department of Environmental Quality's Minimum Design Criteria in the NCDEQ Stormwater Design Manual.

1) *Exceptions*

Parking for the following shall be gravel or paved and kept in a dust-free condition at all times:

- a) All uses in the CB Conservation Buffer zoning district;
- b) Athletic Fields only under the category of Entertainment, Outdoor where allowed;
- c) Uses associated with Landmark and other historic structures. Exposed aggregate concrete, or similar, may be used for paving and railroad ties or landscape timbers may be used in lieu of concrete wheel stops; and
- d) Land clearing and inert debris landfills; **and**
- e) **All Agricultural uses.**



ADJOURNMENT

A **motion** was made by **Mayor Pro Tempore Audra Killingsworth**, seconded by **Councilmember Arno Zegerman**, to approve the Unified Development Ordinance Amendments of February 2023.

VOTE: UNANIMOUS (5-0)

Jacques K. Gilbert
Mayor

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

Submitted for approval by Town Clerk Allen Coleman and approved on March 14, 2023 (CN6).

APPROVED

TOWN OF APEX REGULAR TOWN COUNCIL MEETING TUESDAY, MARCH 14, 2023 6:00 PM

The Apex Town Council met for a Regular Town Council Meeting on Tuesday, March 14, 2023 at 6:00 pm in the Council Chambers at Apex Town Hall, located at 73 Hunter Street in Apex, North Carolina.

This meeting was open to the public. Members of the public were able to attend this meeting in-person or watch online via the livestream on the Town of Apex YouTube Channel. The recording of this meeting can be viewed here: <https://www.youtube.com/watch?v=Yrkmhc9htjk>

[ATTENDANCE]

Elected Body

Mayor Jacques K. Gilbert (presiding)
Mayor Pro-Tempore Audra Killingsworth
Councilmember Brett Gantt
Councilmember Ed Gray
Councilmember Terry Mahaffey
Councilmember Arno Zegerman
Absent: None

Town Staff

Town Manager Catherine Crosby
Deputy Town Manager Shawn Purvis
Assistant Town Manager Demetria John
Assistant Town Manager Marty Stone
Town Attorney Laurie Hohe
Town Clerk Allen Coleman
Deputy Town Clerk Ashley Gentry
All other staff members will be identified appropriately below

COMMENCEMENT

Mayor Gilbert called the meeting to order, and welcomed those in attendance and those watching live on the Town's YouTube channel. He then invited Councilmember Gray to recognize a group in attendance.

Councilmember Gray said it was always exciting to have a group of young people joining the Council meetings. He welcomed the Apex Youth Council, who he then invited to join him in doing the wave. He said they are bringing energy and enthusiasm, and that they are the future of the Town.

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Mayor Gilbert invited everyone to join him in a moment of silence to signify unify. He then led Council and those in attendance in the Pledge of Allegiance.

[CONSENT AGENDA]

A **motion** was made by **Mayor Pro Tempore Audra Killingsworth**, seconded by **Councilmember Ed Gray**, to approve the consent agenda with Consent Item 10 removed.

VOTE: UNANIMOUS (5-0)

CN1 2023 Revised Council Meeting Calendar

Council voted to approve a Revised version of the 2023 Council Meeting Calendar.

CN2 Annexation No. 747 - Apex Light Industrial - 21.246 acres

Council voted to adopt a Resolution Directing the Town Clerk to Investigate Petition Received, to accept the Certificate of Sufficiency by the Town Clerk, and to adopt a Resolution Setting the Date of a Public Hearing for March 28, 2023, on the Question of Annexation - Apex Town Council's intent to annex 21.246 acres, Apex Light Industrial, Annexation No. 747 into the Town Corporate limits.

CN3 Annexation No. 748 - The Townes at Chapel Ridge - 18.613 acres

Council voted to adopt a Resolution Directing the Town Clerk to Investigate Petition Received, to accept the Certificate of Sufficiency by the Town Clerk, and to adopt a Resolution Setting the Date of a Public Hearing for March 28, 2023, on the Question of Annexation - Apex Town Council's intent to annex 18.613 acres, the Townes at Chapel Ridge, Annexation No. 748 into the Town Corporate limits.

CN4 Appointments - Housing Advisory Board (HAB) - Chair/Vice-Chair

Council voted to confirm the following leadership positions on the Housing Advisory Board (HAB) for calendar year 2023:

Phil Welch, Chair of the Apex Housing Advisory Board (HAB)

Rhett Fussell, Vice-Chair of the Apex Housing Advisory Board (HAB)

CN5 Contract Multi-Year - OW Investors, LLC dba Mars Co - Water Meter Test Bench - March 14, 2023 through June 30, 2028

Council voted to approve a 5-Year Standard Services Contract with OW Investors, LLC, dba MARS Company, and to authorize the Town Manager to execute on behalf of the Town.

CN6 Council Meeting Minutes - February Meetings

Council voted to approve, as submitted or amended, Meeting Minutes from the following meetings:

February 14, 2023 Regular Town Council Meeting

February 17, 2023 Annual Council Retreat/Budget Workshop

APPROVED

February 21, 2023 Work Session Town Council Meeting

February 28, 2023 Regular Town Council Meeting

CN7 Rezoning Case No. 22CZ19 - The Heights PUD - Statement & Ordinance

Council voted to approve Statement of the Town Council and Ordinance for Rezoning Case #22CZ19 The Heights PUD. Charm City Developers, LLC is the applicant for the properties located at 406 S. Salem Street, 0 Harwood Street, and 0 First Street.

CN8 Rezoning Case No. 22CZ21 Apex Light Industrial - Set Public Hearing

Council voted to set the Public Hearing for the March 28, 2023 Town Council meeting regarding Rezoning Application #22CZ21 Apex Light Industrial and Ordinance. The applicant, Drew Thigpen, Greenberg Gibbons Properties, seeks to rezone approximately 55.68 acres from Rural Residential (RR), Tech/Flex-Conditional Zoning (TF-CZ #14CZ09), and Wake County Residential 80-W (R-80W) to Tech/Flex-Conditional Zoning (TF-CZ). The proposed rezoning is located at 3212, 3208, 3228, and 3232 US 64 Highway West, 0 and 7529 Creekbird Road.

CN9 Rezoning Case No. 22CZ22 Elevate 64 West PUD - Set Public Hearing

Council voted to set the Public Hearing for the March 28, 2023 Town Council meeting regarding Rezoning Application #22CZ22 Elevate 64 West PUD. The applicant, FA Develop, LLC, seeks to rezone approximately 35.15 acres from Rural Residential (RR) to Planned Unit Development-Conditional Zoning (PUD-CZ). The proposed rezoning is located at 3805 & 3809 US Hwy 64 W.

~~**CN10 Rezoning Case No. 22CZ27 Center City Townhomes - Set Public Hearing - REMOVED**~~

This item was removed from consideration.

CN11 Unified Development Ordinance (UDO) Amendments - February 2023 - Statement

Council voted to approve the Statement of the Apex Town Council pursuant to G.S. 160D-605(a) addressing action on the Unified Development Ordinance (UDO) Amendments of February 28, 2023.

CN12 Unified Development Ordinance (UDO) Amendments - March 2023 - Set Public Hearing

Council voted to set the Public Hearing for the March 28, 2023 Town Council meeting regarding various amendments to Unified Development Ordinance (UDO).

CN13 Tax Report - January 2023

Council voted to approve the Apex Tax Report dated February 20, 2023.

[PRESENTATIONS]

PR1 Proclamation - Bleeding Disorders Awareness Month

APPROVED

Mayor Gilbert invited Karyn Davis, Board of Directors Members of the Bleeding Disorders Foundation of North Carolina, to the front to receive the Proclamation and take a picture. Mayor and Council then read the Bleeding Disorders Awareness Month Proclamation in unity.

Ms. Davis thanked the Mayor and Council for the Proclamation.

PR2 Proclamation - Citizens Assisting Police in Apex (CAPA) Day

Councilmember Mahaffey acknowledged the leader of Citizens Assisting Police in Apex, Drew Ludlow. He thanked Mr. Ludlow for everything he does for the Town, CAPA, and the Officers. He said the time and effort he put into the program was amazing. Mayor and Council then read the CAPA Day 2023 Proclamation in unity.

Mayor Gilbert invited Mr. Ludlow and the other CAPA members present up to take a picture and receive the proclamation.

Mr. Ludlow offered some comments:

"I just want to thank all of our members. We've got about half of them here, out of about 50-55 members that are all volunteers. They volunteer on Saturdays, they volunteer on weekdays, weekends, and it's all for the Police Department and the Town of Apex. We couldn't have done any of this without them, so they got us here. But above all, I want to thank our officers, because they're the real reason these people do what they do. Thank you."

PR3 Proclamation - Developmental Disabilities Awareness Month

Mayor Gilbert invited Sherrell Gales, Supported Employee Manager at Abound Health, up to receive the Proclamation and take a picture. Mayor and Council then read the Developmental Disabilities Awareness Month Proclamation in unity.

Ms. Gales offered a few comments:

"Thank you so much again on behalf of Abound Health, we're so thankful to be able to be here today and adopt the proclamation For National Disability Awareness Month. Thank you again, Mayor Gilbert, and Apex, for all the inclusion you're bringing to the community."

PR4 Proclamation - Girl Scouts of the USA Appreciation Week - March 14 through March 21, 2023

Mayor Gilbert and Council read the Girl Scouts of the USA Appreciation Week Proclamation in unity.

APPROVED

PR5 Proclamation - Women's History Month

Mayor Gilbert invited Karen Lee, Linda Graham-Jones, Georgia Evangelist, Rosanna Lindhofer, and Pat Smith up to receive the Proclamation and take a picture. Mayor and Council then read the Women's History Month Proclamation in unity.

Former Town Clerk Georgia Evangelist offered a few words:

"I'm Georgia Evangelist, and I worked here from 1980 to 2012, over three decades, and most of that was your City Clerk. And I was young then, and I knew Jacques, and I have supported him 100%, you are blessed to have him as your Mayor, you are blessed to have this future Council that's sitting here and the ones to come in the future that's going to make Apex an even better place to live. And you haven't seen anything, if you think this is the Peak of Good Living you're in for a surprise, because it's just getting better and better. So, I welcome you to Apex, and I'm a homegrown girl, so I may be a little southern, but I still love everyone that's coming here, it's great. And Women's History, we've got so much more to tell you. It's been a wonderful month, I've learned a lot about things that I didn't even know myself that I will share all that time and I even found out more, so continue to support the women of this town. We have been a backbone for a long time, and we're going to continue to do our part, thank you."

Mayor Gilbert thanked Council for joining him in reading the Proclamations, and moved on to setting the regular meeting agenda.

[REGULAR MEETING AGENDA]

Councilmember Gray asked that New Business be moved to after Closed Session.

Mayor Gilbert called for a motion with this change.

A **motion** was made by **Councilmember Arno Zegerman**, seconded by **Councilmember Brett Gantt**, to approve the Regular Agenda, with the change of moving New Business to after Closed Session.

VOTE: UNANIMOUS (5-0)

[PUBLIC FORUM]

First to speak were **Kristin and Sean Uhrig** of 312 N Mason Street:

Kristin: "Thank you for the time. We are here actually at your suggestion. There is a speeding problem on Mason Street, directly right across from the Community Center. Speed Limit is 25 miles per hour, it's a three-lane road, and despite all the best efforts of Police and other Town members,

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it's not 25 miles an hour and we're afraid that something really bad is going to happen. The Town has done a very good job of putting deputies there to try to catch speeders, they put signs up on the speed limit signs to catch and it works for that moment, but over the long term we need something a lot more permanent to prevent that from happening."

Sean: "Yeah, I would say that believe it or not it is a residential street, there is a few of us that live there, and over the last two years the changes that have happened is that we now have 7 to 8 small children that are on that street and so they often play in their front yards. Our concern is not so much that a kid will run into the street, as much as a car will swerve onto the sidewalk, and I think that's definitely a concern. And we do appreciate the speed limit signs, I think it's helped to some degree, but we live on the opposite side without a sidewalk and believe it or not, you're welcome to come to my house and sit on the front porch any day of the week. You'll get cars that will turn at that light, it's only 350 feet at my driveway, and they're going 45 miles an hour by the time they pass my house."

Kristin: "The other concern is not just the residents but it's a highly trafficked area. Lots of communities around, to and from the community center, to downtown. I teach at Apex Middle School, and I know our kids use that route quite frequently from school to the community center, to the skate park, so we're just looking for a more permanent solution than just temporary speed traps and signs that try to slow people down. The other issue is it's a no-truck zone, and we've noticed a lot of trucks that really shouldn't be on that road. Car carriers, I can't think of any reason why a 10-car carrier would be going down Mason Street at that point. I could see Food Lion, those kinds of things, but semi-trucks do not need to be going down that road. Now that we have Apex Parkway, it's a great opportunity to divert traffic away from Mason Street. Thank you."

Mayor Gilbert thanked the Uhriqs for their comments.

Next to speak was **Elizabeth Ray Stitt** of 3113 Friendship Road:

"Elizabeth Ray Stitt, 3113 Friendship Road, and I have brought some of my neighbors with me tonight. I have more than 4 believe it or not, so I get more than 3 minutes for once. So, the last Town Council meeting I did not speak, it was your 150th celebration, my neighbors on Friendship Road, we don't celebrate Apex, because Apex's growth hasn't been very good for us. And so, you know, you've seen me a lot over the last months, so I decided to bring some of my neighbors, so with me is Bones Sears, and he lives on his family property that they've had for 92 years. I have the Reams-Holt Family who's had their property for 104 years. And I've only owned mine for 32, so I'm young in the neighborhood, but what I can tell you is the growth that has occurred hasn't been good. And I keep being told, "oh just wait, it's going to get better, just wait." And the question is, how much longer do we have to wait? So, for example, a few years ago our only community grocery store was pushed out

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due to the all the growth and now we have a brewery. So, every time we drive into town to get a loaf of bread that we used to be able to get at the community store, we know that we're still waiting for something better to come. Our roads are congested, they're not safe, and we're told "just wait for the turn lanes, wait till Amgen comes, wait till all these other things come, but on a regular day during traffic, I mean, during rush hour traffic, it's 35-40 cars deep because we don't have turn lanes. And if you come down our road you'll see that our asphalt is crumbling, literally falling in. And I know that you guys can't do anything about that, we're working with the DOT and so I bring this to you to say what's good for us? Our schools are capped because the Town is growing too quickly out in our areas. Our schools couldn't even be called Friendship Middle, Friendship High School, Friendship Elementary, it had to be Apex. So, if Apex is going to be out there, do something for us., We should not have to fight this day in and day out and be told just keep waiting and waiting and waiting. I try to come and be polite, you guys know that I'm never going to raise my voice at you, I'm not going to yell and scream, I've given you many invitations to come out, I've asked you to come out and look at what's going to happened with the force main. You can literally stand on Friendship Road Bridge, if you don't want to go with me, you can walk to one side of it and see five miles all the way down to the wastewater plant, clear land. You come over to the other side of the bridge, you see all of our houses and trees, and we're told "no, this is good, this is the best it's going to get", but it's not the peak of good living for us, and we're tired of promises so as you kick your 150th year celebration, we're going to kick off a year of petitions. And so, we're going to start doing petition signs along Friendship Road, asking the people who commute through to please support us. We're going to the media on the force main, we're just going to have an entire year of petitions because we want it to be the peak of good living, we want to celebrate with you, but we're not given the opportunity when we constantly are excluded from that. So, you know our concerns, many of times, so I'm going to start bringing petition results, you're going to get copies of it, and it's going to be to Holly Springs as well, DOT, Wake County Public Schools, it's going to be to everybody to say "look, we are in the section of the county where we're stuck. We're stuck because we're in between jurisdictions, and everybody points fingers at each other, and we're tired of people pointing fingers". We want leaders who will come to the table and work with us, and help us figure out how do we get turn lanes so we don't have cars 35 feet deep, how do our kids go to school without getting bussed across to another school district, how do we get a grocery store, I know we have Holland Road mixed-use assembly coming, but that doesn't get us our bread today. Or the last ten years. So, I'm appealing to you, my neighbors are appealing to you. We're going to do petitions. And I really hope we have a few meetings from now where I say hey, we have some success. We actually have people working with us, because right now we don't believe the slogan of "there's nothing we can't accomplish when we

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work together”, because we’re by ourselves. We keep asking, and we’re tired of the pointing. So, I’m not going to take the full 9 minutes, imagine that, I probably could, if I didn’t have a whole group of people waiting for you guys to have the rest of your meeting, so I’m going to be polite on that. But please reach out to my neighbors, reach out to me, let’s start figuring out how we actually make this something that we celebrate too. We’re tired of being excluded. And I’ve been told I can get annexed into town, and then I could be included, but I’m not quite ready to pay to play, so I think my needs and my tax dollars should be able to take care of the concerns of my neighbors and myself. Thank you.”

Mayor Gilbert thanked Ms. Stitt for her comments.

Next to speak was **Hadi Rahim:**

Good evening members of the Town Council and Citizens of Apex, my name is Hadi Rahim, I’m a high school student at Apex High School. I think you’ve all been aware about some of my emails I’ve sent you all about my petition about ending housing discrimination against LGBTQ people in Apex. So, in 2021 the Apex Town Council passed an Ordinance protecting LGBTQ people from discrimination in employment and public accommodations, but they are still not protected from housing discrimination, which is incredibly important, especially with all the people moving here. There aren’t any state-level protections against housing discrimination, the fair housing act of 1968 says that discrimination based off of sex is banned. Sex doesn’t necessarily include sexual orientation or gender identity. The presidential administration has said it does, but that could change with a different president. The supreme court has also said that it’s technically included, however, a supreme court decision doesn’t have any teeth if there’s no enforcement. If there’s no real federal enforcement and no real state enforcement, is it really illegal? I mean, it’s not like all the schools desegregated after Brown v. Board of Education. Apex High was still segregated until like the 70’s. So, it’s important that the Town Council passes a non-discrimination ordinance with some teeth to protect LGBTQ people from discrimination of that sort. I know that the ordinance is technically a County thing that all the Towns have to sign off on, it’s kind of administered partially by the restorative justice clinic at Campbell University. I’ve talked to the Director of that, he said he thinks there’s no reason why a Town couldn’t also include housing discrimination in an NDO. Plenty of other Towns in North Carolina have already done this, Greensboro has done it, the City of Durham has done it, not the county the City, I think Winston-Salem has done it. I haven’t seen any law that says “oh, these cities can do an NDO, but Apex can’t”, and my main reason for this is that we have so many problems in Apex that we’re trying to address, you know zoning laws, funding new people coming into the Town, car dependency, all those problems, those are really hard problems that we

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need to address right now, but I think we should also address something that we can actually fix and we know that there's a solution right now. I think that's something we deserve a win right now. And you know would we accept such a lack of protections from discrimination based ff of race, ethnicity, or gender, we wouldn't. So, I think it's important that we raise this issue as well. Just bringing it to your attention again. Thank you."

Mayor Gilbert thanked Mr. Rahim for his comments and thanked all speakers who presented.

[UPDATES BY TOWN MANAGER]

Town Manager Katy Crosby spoke about the 150th highlight. She talked about the cultural tourist series, which provides an open-door opportunity for community members to come together and learn. She said the first of these was the Apex Mosque Tour scheduled from 11 AM to 2 PM on Saturday, April 1st. She talked about how the Women of Apex Campaign provides a way from community members to nominate a woman of Apex who has lived a life of legacy. She said nominations could be made on the Town's website, and nominees would be posted on the Women of Apex webpage. She said nominees would be given special recognition at the March 30th Courageous Conversations Event.

[CLOSED SESSION]

A **motion** was made by **Mayor Pro Tempore Killingsworth**, seconded by **Councilmember Ed Gray**, to enter into Closed Session pursuant to the items listed below (CS1 and CS2):

VOTE: UNANIMOUS (5-0)

Council entered into closed session at 6:48 p.m.

CS1 Steve Adams, Utilities Acquisition Specialist

NCGS §143-318.11 (5):

"To instruct staff concerning the acquisition of real property."

CS2 Jacques K. Gilbert, Mayor

NCGS §143-318.11 (6):

"To consider the qualifications, competence, performance, character, fitness, conditions of appointment, or conditions of initial employment of an individual public officer or employee or prospective public officer or employee; or to hear or investigate a complaint, charge, or grievance by or against an individual public officer or employee."

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A **motion** was made by **Councilmember Ed Gray**, seconded by **Councilmember Brett Gantt** to return to open session.

VOTE: UNANIMOUS (5-0)

Council returned from closed session at 8:02 p.m.

A **motion** was made by **Mayor Pro Tempore Audra Killingsworth**, seconded by **Councilmember Brett Gantt**, to adopt a Resolution authorizing eminent domain proceedings related to the improvement of the Apex Street System - Apex Barbecue Road, South Salem Street, and Kelly Road.

VOTE: 4-1, Councilmember Arno Zegerman dissenting.

[NEW BUSINESS]

NB1

Councilmember Ed Gray commented about how he felt it was important for the Council to create Legislative Priorities. He said that since Apex was a growing community, there is a growing connection between Apex and the General Assembly and Federal Government in terms of working together to address Town needs. He said it's important for Council to be responsive to the citizens of Apex and other legislative bodies to help improve quality of life for residents. He said he believes the Town needs a point person to consolidate and work forward on Council's legislative priorities. He said that is not explicitly a position currently, but that is something that should be remedies.

A **motion** was made by **Councilmember Ed Gray**, seconded by **Mayor Pro Tempore Audra Killingsworth**, to direct the Town Council to create a Legislative Procedures and Policy Director under the Office of the Town Clerk, and to direct the Town Manager to take the necessary actions to implement that desire by the Council, and to place the Legislative Procedures and Policy Director's Personnel under the Town Clerk, and for this position to provide reports to the Council so the Council can create a legislative agenda and provide for Apex.

VOTE: 4-1, Councilmember Gantt dissenting.

[ADJOURNEMENT]

Mayor Gilbert announced the meeting adjourned at 8:05 p.m.

Jacques K. Gilbert
Mayor

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

Submitted for approval by Town Clerk Allen Coleman and approved on March 28, 2023.

APPROVED
TOWN OF APEX
PUBLIC SAFETY WORK SESSION
TUESDAY, MARCH 21, 2023
3:30 PM

The Apex Town Council met for a Public Safety Work Session on Tuesday, March 21, 2023 at 3:30 pm at the Apex Police Department located at 205 Saunders Street in Apex, North Carolina.

This meeting was open to the public. Members of the public were able to attend this meeting in-person or watch online via the livestream on the Town of Apex YouTube Channel. The recording of this meeting can be viewed here:

<https://www.youtube.com/live/xHpAfrDw-ss?feature=share>

[ATTENDANCE]

Elected Body

Mayor Jacques K. Gilbert (presiding)

Mayor Pro-Tempore Audra Killingsworth

Councilmember Brett Gantt

Councilmember Terry Mahaffey

Councilmember Arno Zegerman

Absent: Councilmember Ed Gray

Town Staff

Town Manager Catherine Crosby

Deputy Town Manager Shawn Purvis

Assistant Town Manager Demetria John

Assistant Town Manager Marty Stone

Town Attorney Laurie Hohe

Town Clerk Allen Coleman

Fire Chief Tim Herman

Chief of Police Jason Armstrong

All other staff members will be identified appropriately below

[COMMENCEMENT]

Mayor Gilbert called the meeting to order at 3:30 p.m. and led the Pledge of Allegiance. He said Mayor Pro Tempore Killingsworth and Councilmember Gray were on

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the way, but there was a quorum present for them to get started. He thanked Allen Coleman and Nicole Garcia for setting up the meeting room at the Police Department.

[AGENDA ITEM NO. 1 - PUBLIC SAFETY BI-ANNUAL UPDATES - APEX FIRE DEPARTMENT (AFD)]



[Fire Slide 1]

Fire Chief Tim Herman gave an overall review of the 2022 AFD Annual Report. (Reference OTHER-2023-028)

Councilmember Mahaffey asked if there are goals for the department based on the 90th percentile turnout, travel, and response times shown.

Fire Chief Herman said yes, the goal is a 90 second turnout time. He said a turnout report is created weekly and shown to staff, in which they are able to see when and where groups aren't meeting that 90 second goal. He said it often turns into a competition between shifts and stations to get the lowest turnout time. He also said this brings up questions about station design, and where bedrooms are in relation to engines. He said they are looking at working towards a 5-minute travel time, and they need to have a conversation on their "standard of coverage" regarding these goals moving forward.

Councilmember Mahaffey said it seems travel time seems to be driven mostly where the stations are in relation to the calls, and that building more stations would help. He asked if there was a plan to drive the turnout time down to 90 seconds.

Fire Chief Herman said that before he arrived, staff did not know there was a 90-second turnout goal since it was presented less often than the current weekly report. He said staff gets a shared report that they can look back at to see how long turnout took them, and identify exact shifts and crews that may not be meeting their target. He said as this data builds over time, they will be able to look at trends and identify more broad ways to make improvements.

Councilmember Mahaffey asked about what the causes of the three most dense response zones on the heatmap were.

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Fire Chief Herman said they are currently working with their new data analyst to get questions like that answered in a more objective sense, but he said it could be driven by high wreck area. He added a lot of the responses are to assisted living facilities as well.

AFD Annual Report Update



The slide features a collage of images on the left, including fire trucks and firefighters, with a central graphic for the "2022 Annual Report". On the right, a "RESPONSE STATISTICS" dashboard is displayed with the following data:

Category	Count
PERSONNEL	74,083
STRUCTURE FIRES	812 (61, 14)
TRUCK CALLS	4,685
LIQUID HAZARDOUS	4,742
HAZARDOUS WASTE	34,172
FIRE CALLS	117
HAZARDOUS CALLS	22,517
HAZARDOUS CALLS	139
FIRE ALARMS CALLS	93
VEHICLE ACCIDENTS	284
SERVICE CALLS	3,903
TECHNICAL SERVICE	69
ELECTRIC	48

Below the statistics are two bar charts: "Call Demand by Month" and "Call Demand by Day of the Week".

[Fire Slide 2]

AFD Recruit Academy

★ Graduates April 21st ★



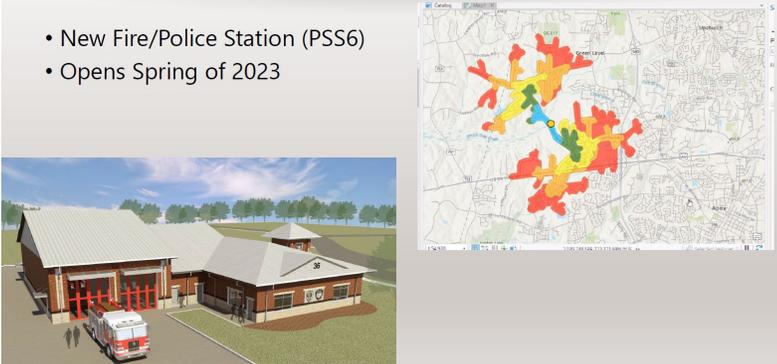
The slide includes three photographs: a group of recruits in red shirts performing push-ups, a group photo of the academy members with a certificate, and a group of recruits in red shirts standing in a line.

[Fire Slide 3]

Fire Chief Herman said he will be getting sworn in on April 21st, at the same ceremony where the AFD Recruit Academy class will be graduating.

Public Safety Station 6

- New Fire/Police Station (PSS6)
- Opens Spring of 2023

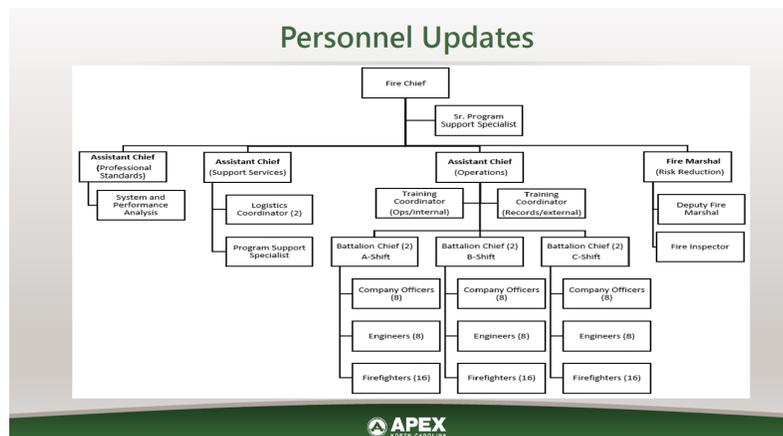


The slide features a 3D architectural rendering of the new Public Safety Station 6 on the left and a map of the station's service area on the right, highlighted in red and yellow.

[Fire Slide 4]

APPROVED

Fire Chief Herman said there are some delays opening up the new Fire Station. The back up plan is to staff Engine 36 which will operate out of station 5, and that will start April 24th. He said they will travel to the area during the day, and though they won't be able occupy the building yet, they will be serving the area as if they were.



[Fire Slide 5]

Policy and Procedure Updates

Completed a total evaluation on all guidelines/procedures to ensure best practices are in place and the department is meeting all requirements.

- 12 new or revised Standard Operating Guidelines (SOG) put into place first 4 months.
 - Mayday, FF safety, fireground procedures, technical rescue procedures, fire alarm/fire watch, key secure, hazardous materials, etc.
 - Cancer benefits program, pre-incident planning program, training program, assigned vehicle program.



[Fire Slide 6]

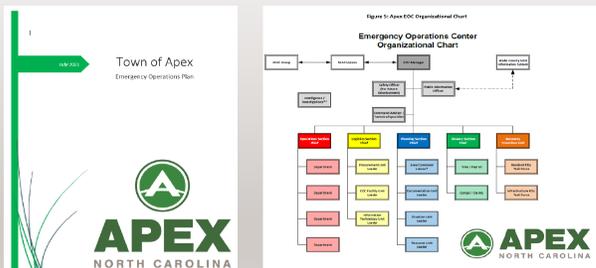
Policy and Procedure Updates

- 29 new guidelines identified for implementation over the next 6 months
 - Administrative
 - Safety
 - Operational
 - Apparatus Operations
 - Professional Development Programs



[Fire Slide 7]

Policy and Procedure Updates



APEX [Fire Slide 8]

Fire Chief Tim Herman said this organizational chart has been revised and updated with all current staff members.

Emerging Topics

- Preparing for the growth of Apex (Station 7).
 - Identify (confirm) the fire department's standard of coverage.
 - Use response time data to determine our current baselines/benchmarks.
 - Need Station 6 data to help guide the needs.
 - Town-wide facility study
- Succession Planning
 - 5-6 chief officer positions eligible to retire in 2-3 years.
 - Build a firm foundation
 - Provide guidance, professional development, and opportunities for our staff
- Supply Chain Issues
 - 30-36 months to get fire apparatus

APEX [Fire Slide 9]

Councilmember Gantt asked if towns in the US are going towards more of a standardized engine, such as the less customized and more widely produced ones in Europe.

Fire Chief Tim Herman said most fire departments are buying custom pumpers. They are auto electricals and are pretty common in the US. He said not all trucks fit the needs and specifications of what Apex looks for.

Questions

Tim Herman, Fire Chief
timothy.herman@apexnc.org

CONTACT INFORMATION Emergency 9-1-1 Administration (919) 362-4001	SOCIAL MEDIA @apexfiredept Website https://www.apexnc.org/262/Fire-Department
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[Fire Slide 10]

Mayor Gilbert asked what is being done with the mental health board for firefighters.

Fire Chief Tim Herman said there are programs being implemented within the department. One being the Chaplain Program which would be expanded on later in the presentation, mental health awareness, and an internal peer support program

[AGENDA ITEM NO. 2 - PUBLIC SAFETY BI-ANNUAL UPDATES - APEX POLICE DEPARTMENT (APD)]



[Police Slide 1]



[Police Slide 2]

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[Police Slide 3]

Lieutenant Promotions



Lt. Chris Myers



Lt. Brian Optiz



Lt. Greg Pawluk

[Police Slide 4]

Sergeant Promotions



Sgt. Matt Hunter



Sgt. Ashley Boyd



Sgt. David Swope



Sgt. James Sites

[Police Slide 5]

Police Chief Jason Armstrong said the promotions to Sergeant will take place April 3rd, and the whole department now has updated pictures.

Department Staffing

- Sworn positions filled – 89
- Sworn position conditional offers – 6
- Sworn positions vacant – 4

- Telecommunicator positions filled – 10
- Telecommunicator position conditional offers – 0
- Telecommunicator positions vacant – 3

- Non-sworn positions filled – 13
- Non-sworn position conditional offers – 1
- Non-sworn positions vacant – 1

[Police Slide 6]

Police Chief Armstrong said one thing being changed is the recruitment process. Previously, a position would be open and candidates applied and then it would close. After hire, several months go by for training and only a handful of individuals made it all the way through the Town’s process. He said five months at a time the Town wasn’t actively recruiting because the process was closed. Now, it’s a constant open process with training and admin staff keeping a tracking schedule. He said he hopes to have all 99 of the current sworn positions filled by June.

Councilmember Mahaffey asked what the comparison is like to the neighboring municipalities regarding the vacancy rates.

Police Chief Jason Armstrong said our vacancy rates are a lot better than other municipalities. He said Raleigh has a lot more vacancies than the ten percent the Town has as far as sworn positions. He said the agency as a whole is around six to seven percent in vacancy rate, which he said is a really good number. He said all the agencies around the area are facing similar challenges.

Councilmember Mahaffey asked what the attrition stats are for turnovers compared to other areas.

Police Chief Armstrong said HR handles more of that, but he said they keep track of attrition internally to determine why people leave.

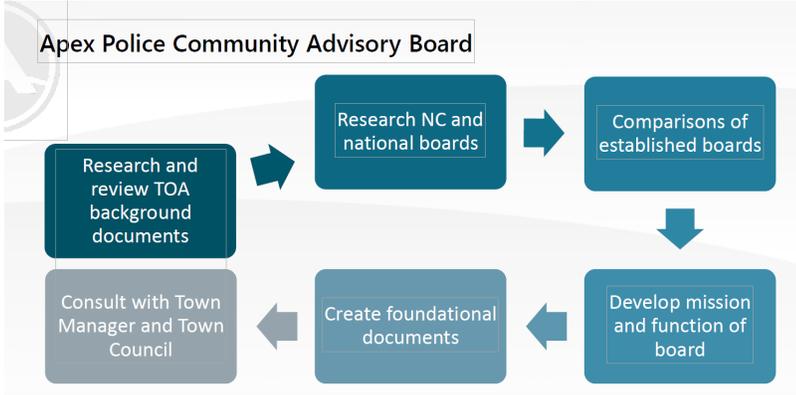
Councilmember Zegerman asked if the 15 positions that’s being filled are result of growth or if it’s because people are leaving.

Police Chief Armstrong said it was a combination of both. He said some of the vacancies come from people retiring, leaving to move out of state, or even completely getting out of law enforcement and getting private sector jobs. He said one of the things he is focused on is seeing if they are losing officers to surrounding agencies, and he said he has not seen much of that here.

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[Police Slide 7]



[Police Slide 8]

Police Chief Armstrong introduced Compliance Manager Megan Simpson who gave a review on the Apex Police Advisory Board.

Councilmember Mahaffey asked is there a timeline for next steps.

Ms. Simpson said it's a Council project and she said it's open for discussion. She said at this point they are receiving feedback on what they want to see, and that she can share research that she has done with them.

Councilmember Mahaffey clarified that next steps are Council gives feedback and then formal adoption

Police Chief Armstrong said yes.

Town Clerk Allen Coleman offered April 14th as a date to submit Councilmembers feedback on the Apex Community Police Advisory Board proposal documents in preparation for the May 16th Town Council Work Session. He said this would allow a month for staff to work through the comments and include the Town's legal department in the discussion.

Consensus was offered by Councilmembers.

Crisis Response Program

- Update from Crisis Counselor, Khea Morton

[Police Slide 9]

Ms. Morton gave a run down on what her position entails. She has conducted follow-ups with community members for incident reports that are received and that involve mental health or substance abuse. She stated she receives walk-ins as well as referrals from church communities. She said she works with people over however long people need support and connects them to the necessary resources. She said her next phase is Community Partnerships in which she will be reaching out to local churches and building a network. She said in six months she has had 105 cases assigned to her. From October to December she had 65 cases assigned and had 40 cases assigned recently. Those numbers do not include walk-ins nor cat calls that don't perceive reports

Councilmember Zegerman asked Ms. Morton to describe the process of when she gets a call and how exactly her role fits into it. He asked if she is counseling in the process or do other officers have the right resources to take care of people's mental health.

Ms. Morton said she recently passed the board and is approved to be a Licensed Clinical Social Worker Administrator (LCSWA). She said that Crisis Intervention is considered somewhat clinical as well as psycho education, which means educating people about mental health and coping skills to manage on a day to day basis. She said having consistent counseling session and diagnosing is not currently part of this role. She stated another process she is involved in is referrals by officers who have responded to calls and have identified a role that she could play in assisting someone.

Councilmember Zegerman asked who manages the situation if someone is in distress when the officer gets to the scene.

Police Chief Armstrong said all of the officers are sent to Crisis Intervention training because they are initial responders. He said staff is still working on building the policies and what the program is going to be. He said they are looking at building the program to see if crisis responders could respond alongside officers, or if two of them (once it is expanded) could respond to certain calls without an officer presence. He said sending a single crisis responder out to a call by themselves is not good practice based on what he has seen

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Councilmember Zegerman asked about scaling the program to be able to send out crisis counseling staff without armed officers in mental health cases. He said he understands not wanting to send out a single counselor on calls alone, but that he is wondering what needs to be done to grow the program to allow more responses to mental health cases without firearms present, and how they can determine when cases don't warrant officer response along with mental health response.

Police Chief Armstrong said a lot of times the information they are given from calls indicates that someone is scared or someone is out of control, and in these cases, officers are almost always going to be sent out on calls involving this. He said if there is any threat of violence or any situation is deemed unsafe, police will be sent out to assess the scene before any EMS or medical personnel is allowed to enter. He said they are looking at telecommunicator scripts to see if they can gather information pertaining to threats and mental health more fully, to see if the response can be mental health/crisis focused. He said it will take some time to fully flesh out the system of integrating crisis/victim advocate response fully into the police system, and to figure out best ways to determine who needs to be going on what calls.

Ms. Morton said one of the Community Partners that she worked with was kids' peace with The Hope Center. She said The Hope Center will be another asset to the "in the moment" crisis when a counselor onsite isn't available. Ms. Morton went on to say she does have some background in disaster resiliency from Tulane University. She said she sits in on the Task Force meetings, Wake County drug prevention overdose Coalition, The North Carolina community response networking meetings, so she's involved in a lot of meetings that way she can continue to build up those resources to be able to offer to the community.

Councilmember Zegerman commented on the opportunity to scale this kind of response through other organizations.

Police Chief Armstrong said that the police part of this response is meant to act as a bridge between their first response of situations, and getting people connected to outside resources to help them in the long-term. He said they will continue to build connections with other organizations and expand their network of support.

Mayor Pro Tempore Killingsworth said she realizes the program is still being built out and policies are still being made, but she would love to see a year from now what gaps still need to be filled and what gaps there are no resources for.

Crisis Counselor Morton said they will be collecting information like this, as well as information on call volume by day, month, and season. She said there is also a large gap for syringe exchange to help those facing addiction.

Councilmember Mahaffey said his interest lies the same as Mayor Pro Tempore Killingsworth. He said he thinks its fantastic connecting people to services and getting them the help they need. He also wants to point out it can work the other way too. He said the Town has a non-profit giving program and it has a budget to make donations, so giving

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money to support organizations that are supporting our citizens that are struggling is something to consider for the crisis response program.

Councilmember Zegerman asked if Ms. Morton had any internal wellness training.

Ms. Morton said she recently went to an officer Wellness training with the FBI. She said it was eye-opening to learn more of the experiences that officers go through. She said she's in the process of scheduling a first responder meeting with outside agencies to help look at different ways to develop wellness opportunities for First Responders.

Councilmember Gantt asked how Ms. Morton navigates what outside agencies should be doing for the Town versus what she is doing for the Town.

Ms. Morton said she connected with different municipalities across North Carolina and outside of North Carolina which all gave input on what actions are working and what is not working. She brought all that information in to begin developing a plan based on what will work here with the agency. Then within a year or two she will have more of a structure and implantation. She said a lot of the calls in this area revolve around self-harm reduction and prevention, and that she is looking to get more involved within the schools in Apex in the future.

Councilmember Zegerman said back in Ohio there is a family-wide system where the court could order cases to be assigned to county-led teams to provide services to people with a dual diagnosis of mental health conditions and substance abuse. He asked if there is something in Wake County to this effect.

Police Chief Armstrong said he hasn't seen any institution in Wake County that provides that service. He said he has seen County Commissioners have gone out to look for entities in the community that can be supported with County funding. He said it is currently up to towns, cities, or other organizations to provide those kinds of services.

Chaplain Program

- Update from Senior Chaplain, Pastor Kevin O'Brien

[Police Slide 10]

Senior Chaplain, Pastor Kevin O'Brien said his full-time job is at Apex Baptist Church. He said he's the congregational care Pastor and he also leads faith-based non-profits called One step Ministries, which is a faith-based addiction counseling program that

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meets weekly at the church. He said he has worked with Ms. Morton on several cases already, and has started working with the Fire Department as well. He said the program is definitely in need of expansion.

Pastor O'Brien spoke on the Chaplain program, and how the community has gotten more diverse and the program is building more relationships. He said he wants people of any faith to be able to utilize this program, which means adding in more leaders from different faiths to reach out to connect with people in the community. He's in the process of working with officer Ragland and officer Carter to expand the team. He said he had a luncheon a couple weeks ago where a number of clergy leaders in the area had come to express interest in getting involved in the program, and officer Ragland and Pastor O'Brien are in the process of following up with those interests. He said everyone involved will have different commitment levels but at this time it's about building a team of resources and not necessarily having everyone available for emergencies at any time.

Police Chief Jason Armstrong said he built this program when he got to the Town and when he revamped the policy he wanted to add more substance. He said he has seen one big thing over his career with the success of these programs is the frequency of meetings with a chaplain and having someone to consistently be able to talk to, and he has seen that with Pastor O'Brien. He said he and Fire Chief Herman are both committed to the health and wellness of their staff, and that while the chaplain is available to help the community, the priority currently is offering a resource to the officers and firefighters.



[Police Slide 13]

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Top 3 Offense Categories by Month												
2022												
	Jan	Feb	Mar	Apr	May	Jun	Jul	Aug	Sep	Oct	Nov	Dec
Fraud	36	32	31	29	20	32	31	24	64	35	17	31
Shoplifting	21	11	18	18	10	32	18	17	49	34	19	24
Larceny from Motor Vehicle	6	11	11	17	10	13	16	24	19	10	9	17
All Other Thefts	17	24	15	10	24	30	18	21	25	18	7	24
Drugs	23	26	30	24	20	25	30	18	21	18	19	19
Simple Assault	15	17	19	21	15	19	19	9	17	19	22	20

[Police Slide 14]

Police Chief Jason Armstrong outlined the top six ongoing crimes within the Town, shown above.

Councilmember Mahaffey asked if he could elaborate on the term "fraud". He said it's a very broad term.

Police Chief Jason Armstrong deferred to **Crime Analyst Jennifer Conley** to answer the question.

Ms. Conley gave examples of fraud crime. She said if someone steals your credit card and goes to Walmart and buy gift cards by using the stolen credit card, that's fraud. Any type of property obtained by false pretense, she said is usually a good definition to identify theft.

Technology

Recently Acquired

- Financial Skimming software
- Crypto currency software
- Storage device repair and recovery
- Mobile Digital Forensic Technology

Pending approval

- Upgraded camera system

[Police Slide 15]

Police Chief Jason Armstrong said this program is obtained by the Secret Service. He said the secret service is the lead agency in the country that works against fraud, counterfeiting, forgery, and this was their primary mission when they were first formed and then they added dignitary protection. The Secret Service does not have enough people to

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work all the cases so they developed a program where you can nominate officers to go to their training and they pay for all of it. He said it's in Alabama and the secret service paid for the officers that went. Then if they pass the test and they pass the training the secret service will give you this software and equipment for free that's worth tens of thousands of dollars. He said with the fraud problem, this is giving the agency some technology that helps the town do a better job at connecting those issues. He said software will give the ability to identify more of the crimes and hopefully identify the people that's doing it.

Police Chief Jason Armstrong talked about the upgraded camera system that's pending approval. This system is a license plate recognition camera and allows you to go back and look at the surrounding area. A couple surrounding municipalities have implemented the upgraded camera system: Raleigh and Garner. He said the benefit of the system is that it can tie into other municipalities that use it. He said vehicle crimes are happening so much more, this platform will help if the crime is being committed in Apex and travels to Raleigh or vice versa. He said this

Mayor Pro Tempore Killingsworth asked if the camera systems are being put on light poles or putting them in police vehicles.

Police Chief Jason Armstrong said there are specific places you can put them, but they will not be put on light poles. He said the Town is looking at putting the cameras at mainly problem issued locations. He said there will be some fixed installed locations and also mobile locations where the camera will see crimes in different locations. He said it will be a public-private partnership in a way, where businesses who are impacted by these crimes will help with their implementation. He said he has a gotten strong support for this kind of partnership from many of these businesses.

Councilmember Mahaffey asked if you can access the video itself or look at the tags.

Police Chief Armstrong said there is no video, just captures of the tag. It doesn't capture a picture of who's driving, this is a tag specific system that allows the tracking of the tag to see where it goes. He said the vehicle will be flagged on any system that utilizes this technology, including Raleigh and Garner. He said he recently spoke to Raleigh's Chief recently, and he said they have had tremendous success with it.

Councilmember Zegerman asked if this is a supplement to our camera system or a whole new infrastructure.

Police Chief Armstrong said it's an upgrade to what the Town's capabilities are within our existing CRM system right now. He said currently we have some cameras that were able to deploy in different areas for different crimes but the current system doesn't have the technology to do what the upgrade is needed for. He added Cary is looking into getting in on this system soon as well.

Councilmember Zegerman asked if there is only one specific vendor we're talking about.

Police Chief Armstrong said it would be ideal. Raleigh and Garner has the same vendor. The biggest impact is for our businesses within the Town and their partnership and

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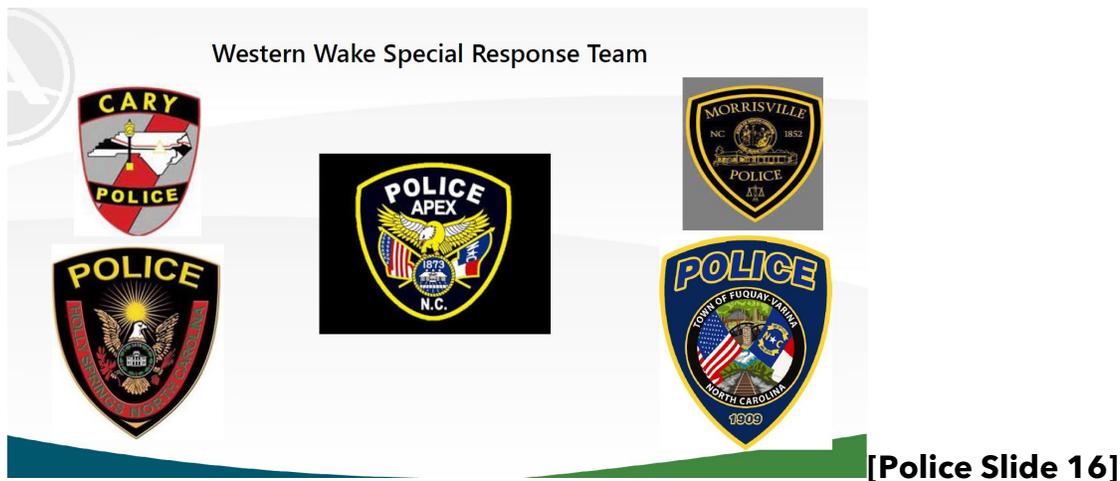
getting them to buy into the program and what the agency can do to provide support for them. He said there is one specific company that all agencies in North Carolina are looking into, as it will make it a lot easier for everyone to work together.

Councilmember Zegerman asked if this was something that was discussed on a county-wide level.

Police Chief Armstrong said this was something that could be explored, but in his experience most things won't usually rise to the level of a county-wide initiative. He said it's also meant to start as a relatively small number of cameras, and to use it as a way to expand their partnership with local businesses.

Councilmember Mahaffey asked if the business would get their own camera and would they have to pay their own subscription and then it would tie into the town's camera.

Police Chief Armstrong said yes, they would be able to have their own system that would tie in with the town system. He said this worked the same way with an HOA.



Police Chief Jason Armstrong said he has had discussions with the Chiefs of Town of Cary, Holly Springs, Morrisville, and Fuquay Varina about creating a special response regional team. This will create more exposure and more training for Apex and surrounding communities to work together, train together, and support each other. He said this would allow a response for an extreme situation, such as the hostage situation in Cary last month, to be much better across any of the municipalities in this program.

Mayor Gilbert asked who would be in charge of this program.

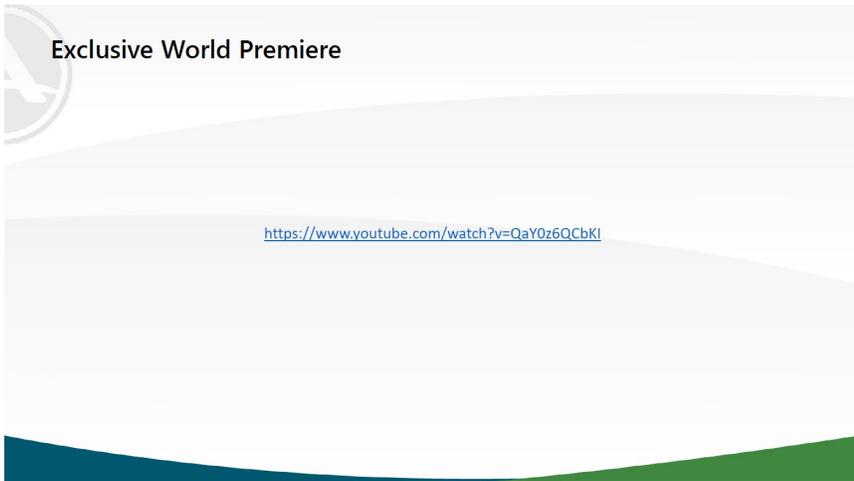
Police Chief Jason Armstrong said wherever the incident is located, that's who's in charge.

Mayor Pro Tempore Killingsworth asked what if it happens in Wake County jurisdiction.

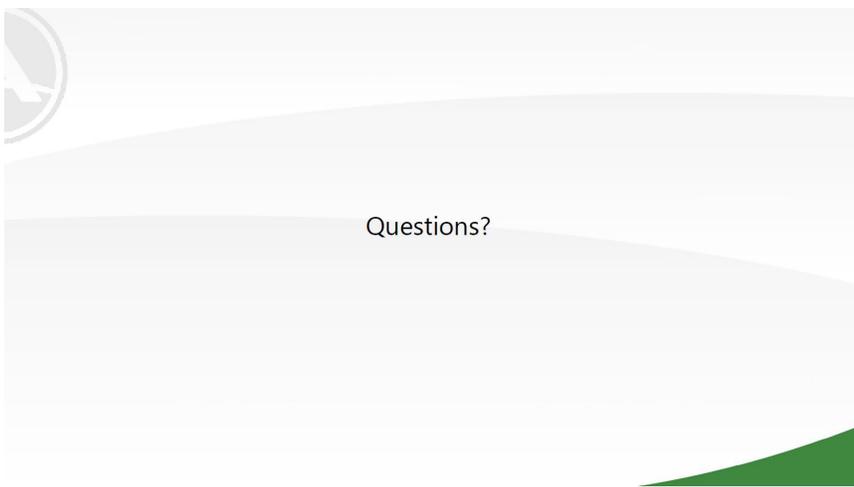
Police Chief Jason Armstrong said Wake County has their own team and Raleigh has their own team. This team is only serviced to Cary, Holly Springs, Morrisville, Apex and

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Fuquay-Varina. He said if Wake County needed additional resources, Wake County would dispatch and one of these teams would come in and assist them. He said the town or this special response group could be called in to aid the County if they need it, and the same goes if the county needs to come assist Apex. He said the police agencies in the area have a great relationship as far as assisting each other.



Police Chief Jason Armstrong played a new Police Department recruitment video.



Mayor Gilbert offered his thanks to Police Chief Armstrong and Fire Chief Herman for the presentations and for all they do.

Mayor Gilbert called for a 10-minute recess and notified the audience that additional business needed to be addressed.

Council entered a recess at 5:04 p.m.

Council reconvened at 5:17 p.m.

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[CLOSED SESSION] - Added

A motion was made by **Mayor Pro-Tempore Killingsworth, seconded by Councilmember Zegerman**, to enter into closed session pursuant to:

NCGS §143-318.11 (3):

“To consult with an attorney employed or retained by the public body in order to preserve the attorney-client privilege between the attorney and the public body.”

VOTE: UNANIMOUS (4-0), with Councilmember Gray absent.

Council entered into closed session at 5:19 p.m.

Council returned into open session at 5:57 p.m.

[ADJOURNMENT]

Mayor Gilbert declared the meeting adjourned at 5:58 p.m.

Jacques K. Gilbert
Apex, Mayor

Allen Coleman, CMC, NCCCC
Apex, Town Clerk

Submitted for approval by Apex Town Clerk Allen Coleman.

Minutes approved on the 11th Day of April, 2023.

APPROVED
TOWN OF APEX
REGULAR TOWN COUNCIL MEETING
TUESDAY, MARCH 28, 2023
6:00 PM

The Apex Town Council met for a Regular Town Council Meeting on Tuesday, March 28, 2023 at 6:00 pm in the Council Chambers at Apex Town Hall, located at 73 Hunter Street in Apex, North Carolina.

This meeting was open to the public. Members of the public were able to attend this meeting in-person or watch online via the livestream on the Town's YouTube Channel. The recording of this meeting can be viewed here: <https://www.youtube.com/watch?v=b3Bm5N3Pjpg>

[ATTENDANCE]

Elected Body

Mayor Jacques K. Gilbert (presiding)
Mayor Pro-Tempore Audra Killingsworth
Councilmember Brett Gantt
Councilmember Ed Gray
Councilmember Terry Mahaffey
Councilmember Arno Zegerman
Absent: None

Town Staff

Town Manager Catherine Crosby
Deputy Town Manager Shawn Purvis
Assistant Town Manager Demetria John
Assistant Town Manager Marty Stone
Town Attorney Laurie Hohe
Town Clerk Allen Coleman
Deputy Town Clerk Ashley Gentry
Planning Director Dianne Khin
Planner II Shelly Mayo
Long Range Planning Manager Shannon Cox
Current Planning Manager Amanda Bunce
All other staff members will be identified appropriately below

[COMMENCEMENT]

Mayor Gilbert opened the meeting by recognizing the diversity in the community. He then spoke on the tragedy of the school shooting in Tennessee recently, and said how important it was to take community safety seriously. He asked that everyone join him in a moment of silence to signify unity.

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Mayor Gilbert then led Council and those in attendance in the reciting of the Pledge of Allegiance.

[CONSENT AGENDA]

Mayor Gilbert noted that Councilmember Zegerman had requested to move Consent Item 3 to New Business, and that staff had requested the addition of Consent Item 8.

A **motion** was made by **Councilmember Brett Gantt**, seconded by **Councilmember Ed Gray**, to adopt the Consent Agenda, as amended, with Consent Item 3 moved to New Business and Consent Item 8 Added.

VOTE: UNANIMOUS (5-0)

CN1 Agreement - Interlocal Agreement with Town of Cary - 5925 Farmpond Rd - Water Service

Council voted to approve an Interlocal Agreement (ILA) with the Town of Cary to provide water service to a single-family residence located at 5925 Farmpond Rd. (REF: CONT-2023-065)

CN2 Appointment - Board of Adjustment (BOA)

Council voted to appoint one (1) alternate member to the Apex Board of Adjustment (BOA) to an unexpired term effective the date of appointment (March 28, 2023) and expiring February 28, 2026: William Hollenbeck, 3rd Alternate Member of the Apex Board of Adjustment (BOA) - Corporate Limit.

~~**CN3—Construction Contract Award/Budget Ordinance Amendment No. 15/Capital Project Ordinance Amendment No. 6 - Fred Smith Co. - Middle Creek Greenway PHI and PHII-B (including Spur B)**~~

This item was moved to New Business (NB1)

CN4 Council Meeting Minutes - March 14, 2023

Council voted to approve meeting minutes from the following meetings:

March 14, 2023 - Regular Town Council Meeting Minutes.

CN5 Ordinance Amendment - Temporary Modification of Chapter 14: Offenses and Miscellaneous Provisions, Section 14

Council voted to adopt an ordinance to temporarily modify Chapter 14: Section 14 of the Apex Town Code of Ordinance to accommodate alcohol on Town of Apex property on April 14 & 15, 2023 for the following special event: Bone Suckin' Peak City Pig Fest. (REF: ORD-2023-031)

CN6 Resolution - Authorizing Execution of Opioid Settlements

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Council voted to approve a Resolution authorizing execution of opioid settlements and approving the supplemental agreement for additional funds between the state of North Carolina and local governments on proceeds relating to the settlement of opioid litigation. (REF: CONT-2023-067 and RES-2023-023)

CN7 Veridea Environmental Enhancement Plan - Statement

Council voted to approve a Statement of the Apex Town Council pursuant to G.S. 160D-605(a) addressing action on the Veridea Environmental Enhancement Plan approved on February 28, 2023. (REF: OTHER-2023-029)

CN8 ADDED - Agreement - Renewal of GoApex Agreement with Town of Cary and MV Transportation - July 1, 2023 through June 30, 2024

Council voted to approve, and to authorize the Town Manager to sign and execute, an amendment to the GoApex Agreement with Town of Cary and MV Transportation. (REF: CONT-2023-076)

PRESENTATIONS

PR1 Proclamation - Child Abuse Prevention Month - April 2023

Mayor Gilbert welcomed employees from the Western Wake Human Service Center who were present to receive the proclamation: Karen Morant, Jocelyn Williams, Sandy Windham, Kelly McNeil Wilhelm, Julie Masterson, and Allison Thompson. He noted that that were all wearing blue in recognition of Child Abuse Prevention Month. He and Council then read the Child Abuse Prevention Month 2023 Proclamation in unity.

Karen Morant, Director of the Western Wake Health and Human Services Center gave a few comments:

"Indeed it is a privilege to greet you and to thank you, Mayor Gilbert, the Women and Men of the Council, Town Manager Crosby, and to the staff and the residents of the Town of Apex, to be here on behalf of County Manager David Ellis, Director Nannette Bowler the Director of Health and Human Services. I am Karen Morant, the Director of the Western Health and Human Services Center, it's at the service of Apex, Cary, and Morrisville. It is a privilege to stand here and publicly, in this public forum, acknowledge the partnership of over 5 years that we have had with the Town of Apex. Your stellar staff, I see Director Dianne back there, who has led the way in this partnership, made the connection as we are endeavored to increase access to equitable services to health and human services in this region. Your partnership continues to be one that is stellar, and leading the pathway as we address collectively the issues around affordable housing, food security, employment and transportation. Town Manager, I thank you for your leadership on your representation on our county community advisory committee. I cannot say enough about Danica who's here, who's navigated this time and this place and continued to be a champion for all things Public Services as well as Officer

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Ragland, who is the gateway to our work here in food security, so again we thank you and we're proud to be in partnership with you, as this is a great day and we celebrate next month as Child Abuse Prevention Month. Thank you."

Mayor Gilbert thanked Ms. Morant for her comments.

[REGULAR MEETING AGENDA]

Mayor Gilbert asked Councilmembers had amendments to the proposed regular meeting agenda.

Mayor Pro Tempore Killingsworth said she would like to add a Close Session Item pursuant to NCGS §143-318.11.

Mayor Gilbert asked for any other changes for the meeting agenda.

A **motion** was made by **Councilmember Arno Zegerman**, seconded by **Councilmember Ed Gray**, to approve the Regular Meeting Agenda with the addition of a second Closed Session item.

VOTE: UNANIMOUS (5-0)

[PUBLIC FORUM]

First to speak was **Pamela Thomas**:

"Good evening, Pamela Thomas, almost 6-month resident of Apex, North Carolina, the Peak of Good Living. I relocated here from Holly Springs, was there, I don't know, 9 months, and had to remove myself from a situation. A place I shouldn't have been, but nonetheless, I became a female veteran in distress very quickly. I did I guess what you call hotel hopping for about 4 months. Then I had to ask for help, which was difficult, it was very challenging to ask for help. 57 years old, and was very active in the community, active in my church, member of the Marine Corps League, I have dual memberships, Member of the Marine Corps League Auxiliary, serving as the Department of North Carolina Senior Vice President, working with the ministry at my church, the women's ministry in particular, and trying to maintain the legacy of baby sister, she went home 9 years ago to be with the Lord, and I had to ask for help. So, I called Paul Berry, retired Sergeant Major, "hey Paul Berry it's Pamela, I got to report a female veteran in distress Paul and it's me. I got a lot of plastic bags in my Highlander and the second row and the third row, and I'm tired, I'm tired." He said can you get to I had served as volunteer for a veteran's VA Live, the VIAC when the VA comes into the community so I was familiar with that, I had already attended it for April in Cary, and I had been a Volunteer so he said can you get to the VIAC in Charlotte in August? I called Paul Berry August 15th, he said can you get there on the 20th, which is a Saturday by this time. God has said, you know what, daughter, this is what you're going to do, because you're not in a shelter, you had a little cushion financially, so you gonna go up in them hotels, you're going to tell them who you are, you're going to ask them if they got good breakfast, because the truth will set you free. So that's what you're going to do daughter, you're going to let all your pride and so I said okay yeah, if I can find a good hotel, if there's a hotel nearby. I was able to get into Charlotte VIAC was conducted a lot different than Cary. So, Cary is kind of like a mass, mass influx of veterans, they come from all over, all over. Charlotte was more

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managed and maintained at a church, the first 5 veterans went in, and then 5 more. I was one of the first 5, Paul Berry had just grabbed me, he just grabbed me, it helped me, and then Crystal Miller they said "you're not going to leave, until we get you 100%", and I'm free in 2023. I'm free to grow, free to love, and free to heal my disability rating, it's military sexual trauma - PTSD. MST-PTSD. So, I became a 100% service connected veteran, unemployable and I realized after I got all my stuff September 14th, and my Marine brothers helped me, and I got a resident apartment in Apex. I had to stay the course, I had to remain prayerful, I had to seek God's will, because the Bible is good enough for my ancestors and it is good enough to me. Especially perilous, terrible times we live in. I've got to keep my chin up, I've got to keep my eyes forward, my shoulders back, I've got to straighten my crown because I did win a pageant that honored women veterans in 2016 age 50 and older, and I've got to strut like I belong because God loves me, God rescued me, God saved me, God qualifies me. And I started a non-profit called Liberty Nest ppt Ministry. Liberty is God, and the spirit is the spirit of the Lord is there's liberty, that comes from God, God first. Nest is your home, your dwelling. Nest is people. So, Liberty is God, Nest is people, ppt is my initials PowerPoint he said put your initials lowercase because it ain't about you. Ministry is nothing but helping people, and I change my mission statement, and I was running to bring it to Mr. Gray, because it was supposed to about just empowering people. But I had to add a statement, because I met a couple in my neighborhood with a 4-year-old little boy who's deaf in his right ear, and she's here by herself, she's got 3 boys, he just had a tube removed, 4 years old. I got 7 grandchildren, I'm Gigi of the year, I got a 9-year-old, almost 13, 7, 5, my twins are 3, Serenity and Harmony, and Faith is the youngest, I said this kid he could be mine. So, he showed, he lifted his shirt up and he showed me where the tube was removed, the scar on his heart was he had heart surgery and he's just running around. His name is Johnny. And now Johnny calls me Gigi, and I spent 4 hours with Carrie and Johnny, and I went in her house and I said they shouldn't put you in here, this is unsafe. First, I said you know what I'll get the Marines, we're coming in, we're going to help you unpack. Husband is still up north, and she's got 4 boys. Johnny is 4 with the disabilities, the challenges and she has a 13 and a 15-year-old, they're very helpful because they've got their brother with these issues, and I said "nah" I went into the neighborhood, I went into the new apartments they should have put her in, because it's unsafe, there's a section of the floor that is so fragile that I jumped. I said "oh, okay, alright, they threw a rock at the right warrior". Because I'm going to take some pictures of the new building they should have put you in and I'm going to send them some information to let them know. I keep this binder y'all, I started doing stickers, my grandchildren love it, especially my twins. "Gigi get those stickers off Gigi's window", and butterflies. I couldn't find matching for my name. The Lord said that's because you were so scrambled in hotels, you were scared, you were embarrassed, plastic bags in the second row, third row in my Highlander, I became a bag lady. He said but then I sent you to Apex. So, this is straight. I sent you to Apex September 29th, Ian came September 30th, so while he was sending a storm, because that's what he does, while he was sending a storm he brought me peace and Apex, oh fantily he said daughter I gave you a message, you've got to spread it, because liberty nest is something my ancestors didn't have. They stayed bound, I've got this postcard Alcatraz. But liberty nest, oh my goodness daughter, you tried, you tried to have a women veteran gathering, you just wanted a relaxed and informal pillow bring your blanket, your coloring book, your doll baby let's just try to be sisters okay. God told me I'm a sister keeper, I know you can't replace my sister but Liberty Nest ppt Ministry I added this today after I met. I said we have to advocate for orphans, widows, the elderly, the poor, and the oppressed to ensure their home, or their nest, is safe as well

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as suitable for any physical disabilities, adequate living space, and empower them to use their voice to address injustices and/or lack of corrective actions taken on their behalf. I don't know I'm like that came from me, Kymella must have just told me "sister this is what you write". The original mission was to provide conferences, gatherings, and workshops that inspire strength and provoke us to begin again with unwavering faith that Matthew 7:13-14 is the best road to travel, entering in at the straight gate, for wide is the gate and broad is the way that leads to destruction and many gold therein, straight is the gate, narrow is the way that leads to life, and few there be that find it. I'm telling you, I was one of the female Veterans I said you know what, I mean I'm just me. I grew up on a dirt road with the tobacco, I don't have no degree, I was a single mother, I just wanted to protect my baby girl."

Mayor Gilbert told Ms. Thomas that they loved her, and that she found the right place for her here in Apex. He said they are going to help take care of her. He said he would have staff get more information from her later, and that he wanted to speak with her personally soon.

Next to speak was Elizabeth Stitt of 3113 Friendship Road:

"Elizabeth Ray Stitt, 3113, Mayor, Town Council, good evening. On March 17th, my neighbors and I received letters from the town stating that more workers would be coming onto our property in regard to the big branch force main. So, the first thing I do is just shoot an email over, they know that's automatically what I'm going to do to say nobody comes on my property without emailing me first and scheduling time, just because my property is not set up for other people to come on. But that wasn't the case with some of my neighbors, and so when you read the letter it has two companies that are listed, CJS Conveyance and Hazen and Sawyer so the assumption was one of these two companies would show up at your door. Well that's not what happened. My neighbors reported to me in our email thread that we keep going and our every two-week phone call that random people showed up and as you all know, that's the oldest scam in the world. You don't have people show up at your door and say hey I'm here to do x, y, or z because if you didn't schedule the appointment, or you have no way of verifying that individual, we've all been taught for the last 30 years, you don't let that person on your property. So, my neighbors turned away these individuals from coming on their property to do work, and as the story was relayed to me one of my neighbors called in and complained and said, hey you know this is not okay, and instead of the reaction being okay hey let's figure out to work out better together, it was we're going to send out the Apex Sheriff with these people the next time. So, we have a little bit of a sense of humor where we are, first and foremost there's no such thing as the Apex Sheriff, it's Apex Police or Wake County Sheriff's Department, so we had a good little giggle over that. The next little giggle was in our community on one of our roads there's a 34-year retired Sheriff, and we know our rights and we know that Wake County Sheriff is just not going to come out and escort these people onto our properties. And so, part of my ask tonight is I shouldn't have to raise my hand every time to say, hey I got a letter let me email, please schedule an appointment, please pass my information along, I would like the Council to put some kind of process together for the town to follow. If someone is coming on my property, give me heads up, I need them to schedule it with me, it is not okay to send random men onto my property. Secondly, I have horses and animals that could hurt these people, and thirdly I know I'm running out of time seeing the button turn yellow here, is we have a really bad coyote problem. We talked with you guys about that before, made some comments about how I can't stand to shoot

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them they had to be trapped and removed and we have a neighbor that's a legal trapper and he traps and removes them, but you can you imagine one of these guys walking through our property and stepping in a trap? What it would do to their ankle. So, instead of us having to always react, if we could get some kind of process in place, we would appreciate your support. Thank you.

[PUBLIC HEARINGS]

Mayor Gilbert closed public forum with no more sign ups, and moved the meeting on to public hearings.

PH1 Annexation No. 748 - The Townes at Chapel Ridge - 18.613 acres

Dianne Khin, Planning Director, gave the following presentation and said staff recommended approval.

Councilmember Zegerman asked if this was in preparation for a future development.

Ms. Khin said that the development had already been approved, this was just for it to be able to get water and sewer.

With no sign ups for public hearing, **Mayor Gilbert** brought it back to Council for discussion and a possible motion.

A **motion** was made by **Mayor Pro Tempore Audra Killingsworth**, seconded by **Councilmember Terry Mahaffey**, to adopt Annexation Ordinance No. 748 - The Townes at Chapel Ridge. (REF: ORD-2023-027)

Councilmember Gantt wanted to note that this was a senior only townhome development that was approved in 2022, for Councilmember Zegerman's awareness. He said the developers proposed a senior living arrangement in response to concerns over school capacity issues.

VOTE: 5-0 (UNANIMOUS)

PH2 Annexation No. 747 - Apex Light Industrial - 21.246 acres

AND

PH3 Rezoning Case No. 22CZ21 Apex Light Industrial - Ordinance

Lauren Staudenmaier, Planner II, gave the following presentation for Public Hearings 2 and 3 combined. She offered to answer any questions.

Councilmember Gantt asked how they would evaluate a site plan if Lowell Road was the main thoroughfare in the future, but not currently. He said currently he imagines the entrance will currently be off of 64, but not forever if the other road ends up getting a connection.

APPROVED

Shannon Cox said they don't have a slide showing what future Lowell Road might be like, and that was a tough question to answer because they would actively be working with the developer on improving connectivity throughout the site.

Councilmember Gantt asked if the development would have buildings fronting Lowell when they are built, even it won't be the main entrance in the beginning. He said he's confused how this will change and be appropriate in the future.

Ms. Staudenmaier said her understanding was that the site plan would be providing buildings from the north to the south and the east to the west.

Councilmember Gantt said he hopes this looks good in 20 years and not just in 5 if it is passed. He said he had another question, which was if staff would have given a stronger approval if the plan involved more properties.

Ms. Staudenmaier said that establishing connectivity would have likely been easier if the applicant had kept the number of properties at the higher point they were at originally. She said she could get in touch with the applicant on if they have plans to expand to future areas and if they're had discussions with adjacent property owners. She said staff still does recommend approval.

Jason Barron, on behalf of the applicant, gave a presentation. He also wanted to touch on Councilmember Gantt's prior question. He said the east to west connection of Lowell Road would be a public street. He said the developers are viewing Lowell as the primary access point from day 1. He said they understand the role of that road, and that they pride themselves on the design of their projects. He said what it looks like in 20 years is a principle concern to the developers as well, considering they lease the buildings rather than sell them. He said regarding the properties to the east, there would have been a donut hole created if the project had expanded east at this time, as there was one property owner in the middle of that area who was not ready to sell or agree on a price with the developer. He said donut holes are much more difficult to work around in the future for uses like this.

Councilmember Zegerman asked if Mr. Barron had images of the full site plan with him.

Mr. Barron said he did not.

Councilmember Zegerman said in the site plan he saw earlier, there was a much larger building towards the back of the property. He wanted to know what the intended use for that building was.

Mr. Barron said the site plan at this stage is only committed to things as far as the right of way line. He said other than the things mentioned in the conditions, such as the Lowell Road connection, all of the site plans are ideas. He said currently they don't have a specific plan in mind for use of the back side of the property, but he says for phase 1 the general idea is what has been shown (REF: OTHER-2023-030). He said in an ideal world, they would have a similar use of the backside of the property as what is being observe in phase 1 with the tech flex buildings. He said there is room in the conditions for a larger footprint use, and that there were conversations about wholesale and distribution uses.

Councilmember Gantt was wondering if there was concern around road connections potentially getting blocked off because of other developments happening ahead of schedule.

Mr. Barron said the state would have to provide them access whether it was through Lowell Road or another way in that situation. He said he is not concerned that NCDOT would condemn right of way to 64 that exists today, without providing another access point to 64.

Councilmember Gantt asked if the list of uses was the same as they were on the application.

APPROVED

Mr. Barron said yes. He said the condition allowing the use of gasoline sales that Councilmember Gantt was concerned about is not something that the developer typically does with their projects, but that they want to have the flexibility to do that considering the expectation that many trucks would be coming into the development to serve the properties.

Councilmember Gray asked what the expectation was regarding the impact to traffic of trucks coming to and from the development on that portion of 64.

Mr. Barron said they have done a traffic study, which was not a requirement of the rezoning case, and they would be working on how to design the site based on those results. He said the developers are just as invested in making sure that trucks can adequately access their site as anybody, since this is the backbone of what they do as a business. He said that is a big deal across all of their sites, including this one.

Mayor Gilbert opened up public hearing for comment. The only person to sign up, Jeff Roach, declined to speak, so Mayor Gilbert brought it back to Council for discussion and a possible motion.

Councilmember Zegerman said he is principally in favor of having commercial use in this area. He said he did have concerns about some of the allowable uses, which included wholesale and distribution centers. He noted that Councilmember Gantt also had concerns about the potential for gas sales. He said lots of the areas around Apex are running out of ability to attract high-end office developments. He said Apex has several of these large parcels that can be used for those kinds of things. He said he would like to take some of the conditions off the allowable uses in the rezoning to encourage more of the higher-end commercial development. He said he asked the developer to strike conditions he had mentioned regarding wholesale and building supplies, and that those requests were politely declined.

Councilmember Gray said he felt this was the right location for this kind of project. He said he believes the uses are consistent with the land use map and what is consistent with what is needed along that particular corridor.

Councilmember Zegerman said he feels wholesale and distribution uses can be pushed further down into Chatham, since they do not require the same type of plumbing that an office building would need.

Councilmember Gray said he felt there was a limit to how much government should be getting into a private entities desire to do something consistent with what they have already said. He said it's consistent with the land use map. He said the land map could be changed, but he wouldn't like going to a developer and telling them not to do things that were consistent with the desires put in place by the government for that area already.

Councilmember Zegerman asked if that was the purpose of conditional zoning.

Councilmember Gray said he agreed, but he feels there is a limit to that if its consistent with the current zoning.

Councilmember Gantt said he also believed the needs of a wholesale facility would be more than simply septic, as there would be more people to support than something like RV sales.

Councilmember Zegerman said that was a fair point, but that Council had just approved a 90,000 square foot limit for wholesale distribution centers as part of the Apex Gateway project conditions. He said he wants to reserve the land they have while it's still available for some higher paying jobs.

APPROVED

Councilmember Mahaffey said he was wondering what land use would be most applicable to what Councilmember Zegerman was referring to. He said he envisions tech flex as something bridging to employment. He said these are the standard tech flex uses.

Councilmember Gray said EnviroFlight, the company that makes pet food out of bugs, is situated in a similar tech envisioned land use plan. He said he feels the government shouldn't be limiting the entrepreneurial opportunities that the developer wants to take.

A **motion** was made by **Councilmember Ed Gray**, seconded by **Councilmember Brett Gantt**, to adopt Annexation Ordinance No. 747 - Apex Light Industrial, and to approve Rezoning Case No. 22CZ21 - Apex Light Industrial, including revised condition number 5. (REF: ORD-2023-028)

Councilmember Mahaffey said he wanted to add that he would also love to have high-end biotech uses in Apex. He said Apex wasn't able to get some of the multi-billion-dollar projects that have landed in the surrounding area, but that the tech flex areas that have been popping up recently are looking to provide support and resources to these massive projects. He said this is the demand, and is good commercial zoning and a good commercial tax base. He said he would love to look at the land use map and see if there were ways to "catch those big fish". He said this project was filling a need and bringing it to Apex.

Mayor Pro Tempore Killingsworth said she agreed with Councilmember Zegerman that having higher paying jobs is important, but so is the need that this project would be filling to support other companies coming up in the area.

Councilmember Zegerman said there was no identified tenant for this project yet, and so the option is still being left open. He said his concern isn't about a 300,000 square foot building, but rather that wholesale and/or distribution centers would provide a lot of trucks, a lot of empty space, and not as many jobs, and that the jobs it does create are not well-paying jobs. He said he is for what has been proposed for phase one with the 5 tech flex buildings, but he wants to protect the town by removing some of these uses.

Mayor Gilbert said offered his thanks to the developers from his position as the economic development committee chair, saying that Apex needs this.

VOTE: 4-1, Councilmember Zegerman dissenting.

PH4 Transportation Plan Amendments - Elevate 64 West PUD

Shannon Cox, Long Range Planning Manager, gave a presentation regarding the transportation amendments.

Councilmember Gantt asked about the category of street side greenway, and was wondering if what was proposed here was similar to that categorization or different in some way.

Ms. Cox said street side greenway is typically a designation reserved for the rural area. She said it's meant to give a fuller greenway feel in places where full greenways aren't being proposed. She said this will be more of a side path look and feel.

Councilmember Gantt asked if it would make more sense to just designate this as a side path from a financial perspective.

APPROVED

Ms. Cox said she couldn't speak to financial components, but that designating it as a greenway allows it to more in line with the town's goals, and means it has different maintenance roles, and other amenities along the path that a typical side path wouldn't.

AND

PH5 Rezoning Case No. 22CZ22 Elevate 64 West PUD

Amanda Bunce, Current Planning Manager, gave a presentation regarding Rezoning No. 22CZ22 Elevate 64 West PUD.

Mayor Gilbert asked a question regarding how emergency services would be able to access portions of the property, since some of it involves future road connections.

Ms. Bunce said the pavement width would be wider in this type of project versus a residential area, so emergency equipment would be able to access the property in an easier manner.

Councilmember Gantt mentioned the difficulty people had reported having when attempting to cross Richardson Road in this area, and asked if the greenway connection would be looked at to be not at grade, so pedestrians could avoid having to cross the road.

Ms. Cox came up and said it would be a 60-foot right of way, 2 lane road, major collector. She said they currently don't have any grade separated crossings for things other than thoroughfares and highways. She said Richardson was classified as a thoroughfare.

Mayor Pro Tempore Killingsworth asked if there would be signs put up or lines on the road in a crossing area such as this.

Ms. Cox said that would be evaluated at the site plan stage and typically after development. She said they do have a pedestrian crossing analysis process to help determine how they would need to mark the area. She said with a greenway, it typically means they would have an enhanced crossing.

Councilmember Gantt asked if Vision Zero suggested they had problems at pedestrian crosswalks on collectors and roads like that, and if tunnels or bridges would be beneficial in more places.

Councilmember Mahaffey said he didn't think that was a component of Vision Zero.

Ms. Cox said that yes, that was not a specific component of Vision Zero.

Councilmember Mahaffey noted the amount of times that there have been incidents of pedestrians getting hit or having close calls, and Council thinking that tunnels would be really nice in those locations. He said it always come back around to how expensive it would be to build a tunnel in locations where a road already exists. He said during the construction of new road, like this, would be the time to push for a tunnel to be constructed preemptively.

Mayor Pro Tempore Killingsworth said her preference would be overdoing the visibility of the crosswalk to be as safe as possible and avoid even close calls.

Councilmember Mahaffey asked about the decision on whether extra visibility would include a flashing beacon or extra striping, wanting to know if it was an Apex standard or as part traffic

APPROVED

Senior Traffic Engineer Russell Dalton said there was a process to determine how they handle crossings. He said in instances like this, they may find the need to go ahead and mark and sign a crossing before the road opens, and he said greenways are typically marked and signed. He said rapid flash beacons wouldn't typically be recommended from the beginning in locations like this one, but that it could be evaluated later. He said typically on this kind of street there would be good visibility, high visibility signs from both directions, and that the town follows the latest guidance on that. He added that he also likes grade separations for crosswalks, but those are typically used in cases like a thoroughfare or a railroad. He said it is very difficult to figure out grade separation even during the planning process. He said people will also cross at-grade even in situations where there is grade separated option.

Councilmember Zegerman asked if there were speed reduction measures that could be taken coming into the area of the crossing on a major collector.

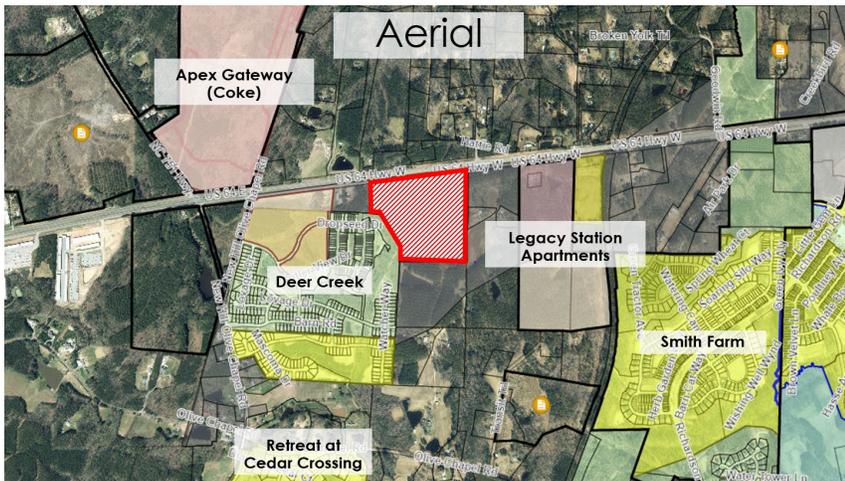
Mr. Dalton said the UDO recommends against traffic calming on major collector streets, since they are designed at 35 miles an hour, but that the warnings for the crosswalks do provide advanced notice.

Matthew Carpenter of Parker Poe, on behalf of the applicant, gave the following presentation, and offered to answer any questions.



Rezoning Elevate 64 West PUD PUD-CZ

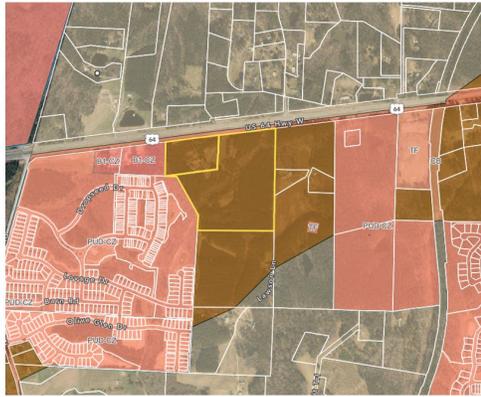
[SLIDE 1]



[SLIDE 2]

APPROVED

**Current Zoning = Rural Residential (RR)
Proposed Zoning = Planned Unit Development (PUD-CZ)**



[SLIDE 3]

**LUM = High Density Residential/Commercial
Services/Office Employment**



[SLIDE 4]

**Concept
Plan**



[SLIDE 5]

APPROVED

Affordable Housing

- 20 affordable housing units at 80% AMI
- 1 Person Household AMI = \$74,900
- 80% of 1 Person AMI = \$59,920
- 2 Person Household AMI = \$85,600
- 80% of 2 Person AMI = \$68,480

Job	Starting Salary	Average or Median Salary
Apex Police	\$58,911	\$60,100
Wake County Teacher	53,000	55,300
Apex Fire	51,500	59,333
Registered Nurse	51,500	102,398
Amazon Warehouse	27,000	35,000
School Librarian		55,930
Costco Retail Worker		52,000

[SLIDE 6]

Site Access – UDO

UDO Section 7.5.4 – Streets

(E) Public Access Requirements

Any residential development exceeding 300 residential units shall provide at least 3 points of access to the public street system. **Construction of a Major Collector or Thoroughfare on the *Advance Apex: The 2045 Transportation Plan* can provide opportunities for additional points of access when the existing roadway frontage cannot provide those opportunities.**

[SLIDE 7]

Site Access – Fire Code

D107.1 – One or two family dwelling residential developments

Developments of one or two-family dwellings where the number of dwelling units exceeds 30 shall be provided with ***two separate and approved fire apparatus access roads.***

Exceptions:

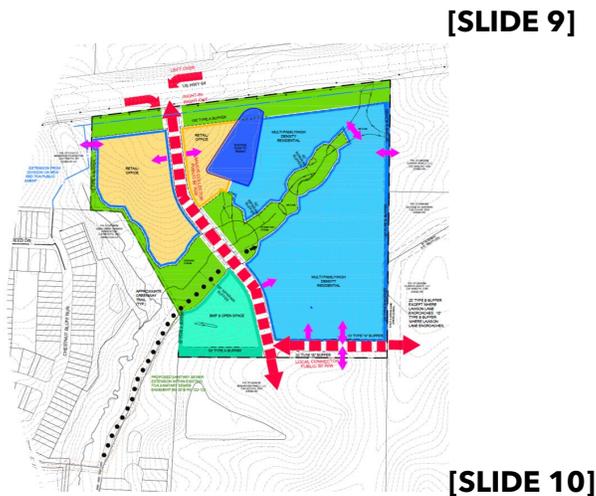
1. Where there are more than 30 dwelling units on a single public or private fire apparatus access road and ***all dwelling units are equipped throughout with an approved automatic sprinkler system*** in accordance with Section 903.3.1.1, 903.3.1.2 or 903.3.1.3 of the International Fire Code, ***access from two directions shall not be required.***

[SLIDE 8]

Environmental Conditions

- A minimum 7.5-kilowatt solar PV system shall be installed to offset electric consumption of common area and pool. Over the system's 30-year life, will reduce or offset 446,000 pounds of CO2 emissions.
- 5% of parking spaces as EV charging spaces
- Existing pond will remain
- Minimum of 10 pet waste stations
- 75% of landscaping will be native species
- Stormwater infrastructure to accommodate 100-year storm

Concept Plan



Mayor Gilbert opened up public hearing for comment, and with no sign ups brought it back to Council for discussion.

Councilmember Mahaffey asked about if there was any clarity on if Lawson Lane could be used in the case of an emergency.

Mr. Carpenter said currently it was a private gravel driveway, and that he doesn't think it could be called a public right of way, but that he would defer to staff regarding that. He said that trucks are going to use whatever road they need to in the case of an emergency.

Councilmember Gantt asked if there was going to be a median at the intersection onto 64, to where an accident wouldn't block both lanes.

Ms. Bunce said it would be a place where a left turn wasn't allowed, so there would be some kind of barrier put up there to prevent that from happening, creating a median.

Councilmember Gantt asked if a firetruck would just drive on the wrong side of the road for a bit if there was an accident blocking the right turn access in the case of a crash there.

Ms. Bunce said yes.

Mayor Gilbert asked if there was anything staff could do to try and work with a private driveway owner to come to an agreement with them regarding access for emergency purposes.

Ms. Bunce said she wasn't sure what staff could do in that situation, other than potentially sending them a letter asking them to work with the developer on that issue.

APPROVED

Mr. Carpenter said the developers they can make the first initial contact and start discussions with nearby property owners regarding potential access through their roads.

Councilmember Mahaffey said the only real issue here was the access and the way the road network works in this area. He said there are currently several developments coming up in this area that are currently disconnected. He said someone has to be the first one to build, even if the connections at that point are awkward. He said he had requested to look at access to a property from the west, but the property owner was not amenable to that at the time. He said it appears that this development seems to be the best candidate in the area to begin first, as 64 can take the influx of traffic the best before the internal connections are established.

Mayor Pro Tempore Killingsworth said this plan has a little bit of everything as far as residential and commercial needs, as well as addressing affordable housing and environmental concerns.

Councilmember Mahaffey said it was cool that the developer did 5% of the units at 80% AMI just from them asking.

Councilmember Zegerman said that didn't stop him from asking for more, but noted that the kinds of housing being built here are typically more affordable in general than other types anyway.

Councilmember Mahaffey also thanked the developers for hitting all of the EAB recommendations, he said usually developers try to opt out of at least one or two.

A **motion** was made by **Councilmember Brett Gantt**, seconded by **Mayor Pro Tempore Audra Killingsworth**, to approve the Transportation Plan Amendments related to Elevate 64 West PUD, and to approve Rezoning No. 22CZ22 - Elevate 64 West PUD. (REF: ORD-2023-029)

VOTE: UNANIMOUS (5-0)

PH6 Unified Development Ordinance (UDO) Amendments - March 2023

Ms. Bunce, gave the following presentation regarding the Amendments to the Unified Development Ordinance of March 2023

Councilmember Zegerman said it was a good thing for residents to have more communication regarding developments.

Councilmember Mahaffey asked if the change meant they didn't have to include setting the public hearing anymore on the consent agenda.

Ms. Bunce said that was correct.

Councilmember Mahaffey said he also wanted to note that meetings could be done virtually, and so weren't a big logistical hassle. He added that the change to the one-hour requirement was so developers didn't have to sit around for two hours if nobody was showing up to the meeting, but that he would fully expect that they wouldn't cut meetings short if people still wanted to stick around and discuss or ask questions.

Mayor Pro Tempore Killingsworth added that she was sure Council would hear about it if developers started doing that.

APPROVED

Councilmember Zegerman asked what problem was being solved with the second proposed amendment.

Ms. Bunce said that it was originally because of someone unique a developer had proposed a long time ago, and that it really doesn't serve much of a purpose anymore. She said this specific amendment applied to a unique situation that has only occurred once in Apex.

Ms. Khin added that transportation staff had asked for it to be removed.

Mayor Gilbert opened up public hearing for comment, with nobody signed up to speak he brought it back to Council for discussion to lead to a possible motion.

A **motion** was made by **Mayor Pro Tempore Audra Killingsworth**, seconded by **Councilmember Terry Mahaffey**, to adopt the proposed amendment to the Unified Development Ordinance. (REF: ORD-2023-030).

VOTE: 5-0 (UNANIMOUS)

[NEW BUSINESS]

NB1 Construction Contract Award/Budget Ordinance Amendment No. 15/Capital Project Ordinance Amendment No. 6 - Fred Smith Co. - Middle Creek Greenway PHI and PHII-B (including Spur B) - Originally CN3 on the agenda.

Councilmember Zegerman explained that his reasoning for wanting this item to be heard as new business was because the bid came back \$2.2 million higher than was originally budgeted, and he felt that was too high a cost to be passed on consent. He said he wanted there to be a bit of conversation about it. He said if the total project cost was going to come out to be \$3.7 million after money coming in from Wake County, was this the project that Council really wanted to spend that money here, or if another gap in the greenway system would be a better use of it.

Mayor Gilbert asked Craig Setzer, Director of Parks and Recreation, what would happen to the \$1.5 million in Wake County money they had committed to contribute to this if the Council decided to not do it.

Mr. Setzer said they would be able to do whatever they wanted to do with it. He said if Council decided to push this project's timeline down the road, the county would have the right to change the original agreement and potentially pull out their commitment. He said if the scope of the project changed, it would potentially have to be re-bid, and Wake County grant funding would also have to assess the changes and then decide what they wanted to do with their funding.

Councilmember Gantt said it was his understanding that the county typically funded greenway projects that offered connections between towns or to some of the larger trails such as the American Tobacco Trail.

Mr. Setzer said Wake County sees this greenway as a priority corridor. He said this is part of the "Great State Trails Plan", and serves as a large regional connection from a state perspective.

Councilmember Zegerman said there was still development that would need to be done, and this project was only connects to the south and doesn't connect to the north.

Mr. Setzer highlighted some of the key background points of the Middle Creek Greenway, at the request of Councilmember Gray.

APPROVED

Councilmember Zegerman asked if the town knew what the timeline was for the northern connection of the greenway to Ten-Ten Road.

Mr. Setzer said they are currently in the process of a feasibility study for that portion of the project, which the town got a grant for from NCDOT. He said there isn't a timeline for that portion of the project.

Councilmember Gantt asked about what are this study covered.

Mr. Setzer said this study covers the end of Phase IIB near Colby Chase Drive all the way up to Swift Creek near Ten Ten Road.

Councilmember Gantt wanted to clarify that the study wasn't to the point of studying the Ten-Ten to Regency connection.

Mr. Setzer said that was correct, but that ultimately that was the plan.

Councilmember Gray asked if it was true to say that if Council decided not to spend the money on this, then the Wake County money would go away.

Mr. Setzer said that was possible, but would be what he considered likely. He said any changes to the plan they would need to be notified of and then they would have a chance to respond.

Councilmember Gray asked if Mr. Setzer could speak to why the bid came back higher than expected.

Mr. Setzer said it was like everything else, where the construction costs have increased drastically over the past 2 years for essentially all materials. He said labor cost has also increased.

Councilmember Gray asked if delaying the project would be likely to increase the cost of the project in the future.

Mr. Setzer said he couldn't say for sure, but he would say that the project cost increasing was probable

Councilmember Zegerman wondered if a delay to the project would allow a chance for supply chain issues to be resolved a bit and for materials prices to stabilize.

Councilmember Mahaffey said he appreciated Councilmember Zegerman bringing this up as New Business to help highlight the challenges Council is facing on these projects and implementing the Capital Improvement Plan. He said he feels this situation will not be unique, where bids will come back higher than expected. He said considering this passed in the 2017 bond referendum, he feels an obligation to get this specific project over the finish line. He said delaying until next year risks losing the Wake County money, which he said offsets a good chunk of the increased bid. He added how difficult it was to get projects to the point this one was at, so he was ready to get this one done.

Councilmember Gray said he agreed, and that this project was a great example of one that the public has a desire to do and that there are identified funding source for. He said they always have to balance increasing costs with other goals of Council and the town. He said he agrees with Councilmember Mahaffey that the public desire for this project means they should do everything they can to get it done.

A **motion** was made by **Councilmember Brett Gantt**, seconded by **Councilmember Ed Gray**, to award a construction contract to Fred Smith Co., authorize the Town Manager to execute and approve corresponding, and to approve Budget Amendment No. 15 and Capital Project Ordinance Amendment 2023-6. (REF: ORD-2023-025, ORD-2023-026, and OTHER-2023-028).

APPROVED

Councilmember Zegerman said he wanted to offer his final thoughts. He said he understood why they wanted to not delay, seeing as this was a project voters strongly favored. He wanted to bring up that projects that had a substantial cost increase such as this one should at least have a conversation before Council approval.

VOTE: UNANIMOUS (5-0)

CLOSED SESSION

A **motion** was made by **Mayor Pro Tempore Audra Killingsworth**, seconded by **Councilmember Arno Zegerman**, to enter into closed session for the two scheduled items.

VOTE: UNANIMOUS

Council entered into closed session at 7:59 p.m.

CS1 Allen Coleman, Town Clerk

NCGS §143-318.11(a)(1):

"To prevent the disclosure of information that is privileged or confidential pursuant to the law of this State or of the United States, or not considered a public record within the meaning of Chapter 132 of the General Statutes."

CS2 ADDED - Audra Killingsworth, Mayor Pro Tempore

NCGS § 143-318.11(a)(6):

"To consider the qualifications, competence, performance, character, fitness, conditions of appointment, or conditions of initial employment of an individual public officer or employee or prospective public officer or employee; or to hear or investigate a complaint, charge, or grievance by or against an individual public officer or employee."

Council returned to open session at 9:54 p.m.

[ADJOURNMENT]

Mayor Gilbert declared the meeting adjourned at 9:55 p.m.

Jacques K. Gilbert
Mayor

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

Submitted for approval by Town Clerk Allen Coleman and approved on April 11, 2023.

APPROVED
TOWN OF APEX
REGULAR TOWN COUNCIL MEETING
TUESDAY, APRIL 11, 2023
6:00 PM

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

This meeting was open to the public. Members of the public were able to attend this meeting in-person or watch online via the livestream on the Town's YouTube Channel. The recording of this meeting can be viewed here: <https://www.youtube.com/watch?v=C2XxL0EYZjg>

[ATTENDANCE]

Elected Body

Mayor Jacques K. Gilbert (presiding)
Mayor Pro-Tempore Audra Killingsworth
Councilmember Brett Gantt
Councilmember Ed Gray
Councilmember Terry Mahaffey
Councilmember Arno Zegerman
Absent: None

Town Staff

Deputy Town Manager Shawn Purvis
Assistant Town Manager Demetria John
Assistant Town Manager Marty Stone
Town Attorney Laurie Hohe
Town Clerk Allen Coleman
Deputy Town Clerk Ashley Gentry
All other staff members will be identified appropriately below

[COMMENCEMENT]

Mayor Gilbert called the meeting to order, and said tonight would be a celebration. He recognized Representative Julie von Haefen, who represents Apex as the District 36 Representative in the North Carolina House of Representatives. He also recognized former Mayor Pro Tempore of the Apex Town Council, Nicole Dozier, and former Councilmember Kristine Hill, who were also in attendance. He then noted that Apex was a Town founded in faith, and that it was a strength of Apex to have many strong faith communities present in the Town. He asked those in attendance to join him in a moment of silence to pay respect to victims of violence and their families around the nation. He then led those in attendance in the reciting of the Pledge of Allegiance.

[CONSENT AGENDA]

APPROVED

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

VOTE: UNANIMOUS (5-0)

CN1 2023 Revised Council Meeting Calendar

Council voted to amend the 2023 Town Council Meeting Calendar.

CN2 Agreement - Joint Re-Development Agreement w/Hurricanes Hockey LP - Use of a Town Facility at Apex Community Park

Council voted to adopt an Agreement with Hurricanes Hockey, LP for the Joint Re-development and Use of a Town Facility (Apex Community Park) and to authorize the Town Manager to execute the agreement. **(REF: CONT-2023-077)**

CN3 Annexation No. 754 - Prestwick (Morris Tracts) - 14.129 acres

Council voted to adopt a Resolution Directing the Town Clerk to Investigate Petition Received, to accept the Certificate of Sufficiency by the Town Clerk, and to adopt a Resolution Setting the Date of a Public Hearing for April 25, 2023, on the Question of Annexation - Apex Town Council's intent to annex 14.129 acres, Prestwick (Morris Tracts) Annexation No. 754 into the Town Corporate limits.

(REF: RES-2023-024, OTHER-2023-033, and RES-2023-025)

CN4 Appointments - Board of Adjustment (BOA) - Various Amendments

Council voted to amend the Board of Adjustment Appointment Term Dates previously approved at the February 28th, Town Council Meeting, as follows:

Member	Position	Approved on 2/28/2023	Corrected Action
Ross Stocks	Regular Member	Re-appointed 1/1/2022 - 12/31/2025	Re-appointed 2/28/2023 - 12/31/2025
Umesh Pai	Regular Member	Re-appointed 1/1/2022 - 12/31/2025	Re appointed 2/28/2023 - 12/31/2025
Tracy Taylor	Regular Member	Re-appointed 1/1/2022 - 12/31/2025	Keep Original Term Expiring 12/31/2024
Michael Sayers	2 nd Alternate	Appointed 2/28/2023 - 2/28/2025	Appointed 2/28/2023 - 2/28/2026

AND

Council voted to amend the Board of Adjustment Appointment Term Dates previously approved on 5/25/2021 and on 2/28/2023, as follows:

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Member	Position	Approved on 5/25/2021	Approved on 2/28/2023	Corrected Action
Bryan Johnson	Regular Member	Re-appointed 5/25/2021 - 12/31/2022 (incorrectly listed 2-year term)	Re-appointed 1/1/2022 - 12/31/2025	Re-appointed (2nd Term) 1/1/2021 - 12/31/2023
William Shelby Lusk	Regular Member (Promoted from Alternate)	Appointed 5/25/2021 - 12/31/2022 (incorrectly listed 2-year term)	Re-appointed 1/1/2022 - 12/31/2025	Appointed (1st Term) 5/25/2021 - 12/31/2023

CN5 Contract Multi-Year - Infrastructure Technology Services Inc - Electric Utility Installations - May 1, 2023 through April 30, 2026

Council voted to approve a Master Services Agreement with Infrastructure Technology Services (ITS) Inc. to provide electric utility installation services related to underground cables from May 1, 2023 through April 30, 2026. **(REF: CONT-2023-078)**

CN6 Council Meeting Minutes

Council voted to approve, as submitted or amended, Meeting Minutes from the following meetings:

March 21, 2023 - Town Council Work Session Meeting Minutes

March 28, 2023 - Regular Town Council Meeting Minutes

CN7 Encroachment Agreement - 1478 Wragby Lane Lot 366

Council voted to approve an encroachment agreement between the Town and property owners John Hayden Johnson White and spouse Carissa Beth Johnson White to install a chicken coop with gravel fill that will encroach 48 square feet onto the 20' TOA Public Utility Easement and to authorize the Town Manager to execute the same. **(REF: CONT-2023-079)**

CN8 Encroachment Agreement - 2609 Sunnybrook Farm Drive Lot 269

Council voted to approve an encroachment agreement between the Town and property owner Jon English, Trustee of the Jon English Revocable Trust to install a 6" solid corrugated pipe that will encroach 40 linear feet and a wooden fence that will encroach 160 linear feet onto the Public Sanitary Sewer Easement. **(REF: CONT-2023-080)**

CN9 Resolution - Right-of-Way (ROW) Road Closure Request - Set Public Hearing

APPROVED

Council voted to approve a Resolution of Intent for the closing of a right-of-way (ROW) on a portion of Old Raleigh Road, located at the intersection of Old Raleigh road and Laura Duncan Road, extending to Old Mill Village Drive (See Survey Map Included); and to set a Public Hearing for Tuesday, May 25, 2023, following the required 30-day public notice period. **(REF: RES-2023-026)**

CN10 Rezoning Case No. 22CZ22 Elevate 64 West PUD - Statement & Ordinance

Council voted to approve Statement of the Town Council and Ordinance for Rezoning Case #22CZ22 Elevate 64 West PUD, FA Develop, LLC, for the properties located at 3805 & 3809 US Hwy 64 W (PINs 0712842430 & 0712749870). **(REF: ORD-2023-032)**

CN11 Unified Development Ordinance (UDO) Amendments - March 2023 - Statement

Council voted to approve the Statement of the Apex Town Council pursuant to G.S. 160D-605(a) addressing action on the Unified Development Ordinance (UDO) Amendments of March 28, 2023. **(REF: OTHER-2023-034)**

[PRESENTATIONS]

PR1 Commemorating Apex's 150th Anniversary - Representative Julie von Haefen

Representative von Haefen thanked the Council for inviting her to deliver this statement. She said she had originally planned to do this last month, but her legislative schedule prevented. She added that she did deliver a Representative Statement in the General Assembly on Apex's 150th Anniversary. She then congratulated the town on its 150th Anniversary, and read her Representative Statement. **(REF: OTHER-2023-035)**. She said she was proud to represent Apex in the General Assembly, and thanked residents for the honor of allowing her to do that. Mayor Gilbert and the rest of Council then joined her for a picture.

PR2 Proclamation - Celebrating Diversity Month - April 2023

Mayor Gilbert said that Linda Graham Jones, Director of the Diversity, Equity, and Inclusion Department, would be receiving the Proclamation. He and Council then read the Proclamation in unity **(REF: PRO-2023-009)**.

Director Jones received the Proclamation, then introduced Celeste Sherer, new Diversity, Equity, and Inclusion Coordinator with the Town of Apex. She added that after a year and a month, she was now no longer a department on her own. Her and Ms. Sherer then took a picture with Mayor Gilbert and Council.

PR3 Proclamation - National Telecommunicator Week - April 9th through April 15th, 2023

Mayor Gilbert said this Proclamation was very special to him. He said there was a group of people present, who are the ones who are protectors of the Peak and that answer the call. He said

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telecommunicators receive the calls, and give the information to these people. He shared that during his time as a Police Officer in Apex, there were times when he had to fill in as an emergency telecommunicator, and that he couldn't do it. He said it takes a special person to do this job, and he said Apex has skilled, professional, and well-trained individuals performing that task. He then read the Proclamation with Council in unity (**REF: PRO-2023-010**). Mayor Gilbert invited the telecommunicators present and Police Chief Jason Armstrong to join him and Council to receive the Proclamation and take a picture.

Chief Armstrong expressed his appreciation for all of the town's telecommunicators. He said what happened earlier that day in the town was unfortunate, but it highlighted how important telecommunicators are. He said officers can't get where they need to be and help people without telecommunications, and invited all attendees to join in appreciation of these people within the police department who are heard, but often not seen.

PR4 Think Apex Awards

Mayor Gilbert invited Barbara Belicic, Small Business Specialist for the Town of Apex Economic Development Department, to present the 2023 Think Apex Awards.

Ms. Belicic welcomed everyone to the 2023 Think Apex Awards Presentation, and gave some background on the initiative. She said Think Apex was created in 2014 as an initiative to encourage a local mindset by all parts of the Apex community. She said the Think Apex Awards recognize local businesses, individuals, non-profits, and youth for their dedicated service to others, and to Apex as a whole. She explained that nominations were received through an online, public application process, and that winners were selected by the award recipients for the past three years. She added that she asked former Mayor Pro Tempore and initiator of Think Apex to assist her.

Ms. Belicic called the names or names of the organization of all nominees, and asked them to remain standing to receive a round of applause once all nominees in their category had been announced. She then recognized the Top Thinker and Honorable Mention for each category, who are identified in the slides below along with all nominees. The Top Thinker and Honorable Mention then shook the hands of Council, and received their award from Ms. Dozier and Mayor Gilbert. Winners of each category then joined Council, Staff, and Ms. Dozier for a group picture.

[SLIDE 1]

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April 11, 2023

[SLIDE 2]

NOMINEES FOR THE INDIVIDUAL OR GROUP CATEGORY

Patrick Adams
Doris Battle
Nick Bryant
Karen Davis
Eraina Ferguson
Nancy Grace
Carl Helton
Bob Lampman
Jenny Midgley

[SLIDE 3]

NOMINEES FOR THE BUSINESS CATEGORY

Apex Pilates
Creech Chiropractic
Family Dermatology Apex
Kilwins
Kwench Juice Café
Positively Apex
Showtime Elite Apex
The Ragan Realty Group

[SLIDE 4]

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NOMINEES FOR THE NON-PROFIT CATEGORY

- 100 Who Give
- APEX Rotary Club
- Peak Beginnings

[SLIDE 5]

NOMINEES FOR THE YOUTH CATEGORY

- Scott's Ridge Elementary Chorus

[SLIDE 6]

**WINNERS FOR THE
INDIVIDUAL OR GROUP CATEGORY**

[SLIDE 7]

APPROVED

HONORABLE MENTION

Bob Lampman

[SLIDE 8]

TOP THINKER

Doris Battle

[SLIDE 9]

**WINNERS FOR THE
BUSINESS CATEGORY**

[SLIDE 10]

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HONORABLE MENTION

Creech Chiropractic

[SLIDE 11]

TOP THINKER

Kwench Juice Café

[SLIDE 12]

**WINNERS FOR THE
NON-PROFIT CATEGORY**

[SLIDE 13]

APPROVED

HONORABLE MENTION

Apex Rotary Club

[SLIDE 14]

TOP THINKER

Peak Beginnings

[SLIDE 15]

**WINNER FOR THE
YOUTH CATEGORY**

[SLIDE 16]

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TOP THINKER-YOUTH
Scott's Ridge Elementary Chorus

[SLIDE 17]



CONGRATULATIONS TO ALL NOMINEES & WINNERS!

LIVE LOCAL. THINK LOCAL.

Mayor Gilbert thanked the economic development team for putting together these awards, and thanked Ms. Belicic for her presentation.

[REGULAR MEETING AGENDA]

A **motion** was made by **Mayor Pro Tempore Audra Killingsworth**, seconded by **Councilmember Terry Mahaffey**, to approve the Regular Meeting Agenda as presented.

VOTE: UNANIMOUS (5-0)

[PUBLIC FORUM]

First to speak was **Marvin Hymanson** of 2907 Sunflower Road:

APPROVED

"Good evening, Mayor and Town Councilmembers, thank you for giving me the opportunity to speak. I would like to make a few points. My name is Marvin, I live near the Sweetwater Development, and I'm concerned about traffic in the area. Once the Town Center comes up, transportation is a top priority, and I have seen development after development approved in Apex without regards to transportation needs of the community or following a sound business plan. I am used to hopping on a metro or a public bus, and I'm looking for the metro but I haven't seen a train come by yet. Additionally, the schools in Wake County are at capacity, and it will take years to build them, so why are we allowing such rapid growth of the community. Children are playing in the streets, and bikes, skateboards in the community, and unless we slow down the growth, it's an accident waiting to happen and it won't get anyone's attention until somebody gets hurt. Thank you so much for your time, I appreciate it."

Mayor Gilbert thanked Mr. Hymanson for his comments.

Next to speak was **Gordon Keith** of 601 East Chatham Street:

"I am not sure what you call the account that you have on the utilities, where you go in and see what you owe and pay your bill online, but my account is corrupted. I have brought it to the attention of the people in the utilities department, they've communicated to IT, no one is able to fix it and IT came back to the utilities department and said they couldn't do anything about it. And I don't believe that we put men on the moon since 54 years ago, we've been putting toys on Mars since 26 years ago., and IT is saying they can't fix my corrupt account. And I want somebody to fix it. What you going to do?"

Mayor Gilbert said they would pass it along to Deputy Town Manager Shawn Purvis, and that he would be reaching out to him. He thanked him for his comments.

Next to speak was **Elizabeth Ray Stitt** of 3113 Friendship Road:

"I'm here representing several of my neighbors. Mayor, Town Council, good evening. At the last Town Council meeting on March 28th, just two weeks ago, I asked the Council to make sure to have the town let us know when sub-contractors would be sent out to our properties and to tell us what the scope of the work that they were going to be performing. A simple, basic, request for communication and transparency, so I could determine legitimacy of who is coming on my property. I only made this request because obviously my past requests aren't being answered. So, I was really surprised, three short days later, to get a letter in the mail from Falcon and they were wanting to come on my property. And I emailed them, and I copied four of the town staff members on the email, and I said I'm sorry but in my communications with the Town on March 14th, and March 17th, nobody mentioned who you were, nor do I recognize the scope of work, including cutting trees up to 6 inches in diameter. And I put a comment in my email to note that it takes 25 years for a pine tree to get to 6 inches in diameter, so to just say hey we're coming on your property and start cutting trees like it's nothing, it is something to those of us who actually have trees growing for a reason. So, I had expected at least when I had copied the four staff members, I would get some kind of response from the town, there was none. So, then I showed up at a town meeting and a couple of the staff

APPROVED

were there, nobody acknowledged, said anything about the email, and I thought okay you know the email was March 31st, it's now April 6th, I went home and I sent out a simple but direct email to just the four staff members and said could you please provide me a list of the contractors and their scope of work once again, so that I can determine the legitimacy. Then I showed up at a town meeting yesterday, again some of the staff members were there, again no comment at all. So, since the last time I came in front of you, no comment from anybody from the town staff to any of my neighbors and I. So, when I came here last time, I thought okay hey, you know it's at least on the radar that somebody's going to do something. I need to know, for safety reasons, who's coming on my property. This is not a joke, it's not funny. Two weeks of silence is not acceptable. The other issue I have is when we have asked questions. So, when I asked Falcon, I said can I have a copy of your permit. You say you're going to be drilling on my property in floodwaters. It's protected property. I have the right to see a copy of the permit, and they sent me oh hey we have a national permit, but they didn't send me a copy of the permit. The statute says while you guys can enter my property under eminent domain because you're going to take my property, you still owe me for damages. And I've asked the town for a good year, what is the compensation schedule for those damages? Nothing. So, at this point, the next meeting will be exactly 12 months since I've started coming to these meetings. I have come to every single one of them but one when I was out of the country. Nothing has changed. We have a wall of silence, this a concerted effort to not give us transparency, and it's not okay. So, we do have ways of addressing this, and we will address it, but it's unnecessary. You each have the responsibility to ensure that the town staff safeguards our safety, and people coming on my property and doing things with equipment around my animals, around my family, around my guests, is not okay. So again, I look forward to hearing from you, I have packaged up my emails, I'm going to send you everything together. I have reached out to the HR department of the town to file some complaints because a year is too long. So, I appreciate my neighbors coming and supporting, and I expect something please."

Mayor Gilbert thanked Ms. Stitt for her comments.

Next to speak was **Phil Welch** of 1471 Big Leaf Loop:

"Good evening Mayor, Mayor Pro Tem, Councilmembers, my name is Phil Welch, I live at 1471 Big Leaf Loop. I come today to make sure that you and other watching are aware of an important event that's coming up. You should each have a copy of this, on Thursday, May 4th, Apex is holding its first home repair fair (**REF: OTHER-2023-037**). The purpose of the fair is to showcase home repair programs available to income qualified Apex homeowners at discounted rates. We have 7 different agencies coming, including Rebuilding together of the Triangle, which contracts with the Town. Resource for Seniors, the Town of Apex, Wake County, Habitat Wake, the North Carolina Housing Finance Agency, and the Apex United Methodist Church. They will bring information on the repairs they can do, the homeowner income qualifications, and how homeowners can apply for these programs. As the chair of Apex's Housing Advisory Board, and an advocate for affordable homes with the Western Region Affordable Housing Action Group's Advocacy Team, I'm committed to encouraging various way to both preserve and build affordable home in Apex. What I have discovered is that many of our neighbors with limited incomes, especially our seniors, veterans, and service workers, often have just enough income to cover monthly housing and utility expenses.

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When a major home repair is needed – for example a roof replacement or a HVAC upgrade, they are not sure what to do because they most likely can't afford this large one-time expense. They may not know about a variety of programs that are available from the Town of Apex, Wake County a State agency, and local non-profits that offer these repairs at deeply discounted rates to income qualified households. When Apex residents make use of these programs, they are able to stay in homes that they have worked hard to pay off, and hope to pass along to their adult children. Please join me in helping to get the word out to homeowners who need to know about these programs so they continue to be part of the community. You have in your hands copies of the home repair flyer, and the invitation that's being distributed through congregations, social service agencies, and local businesses., I came with a supply of extra flyers, in case you need additional copies to hand out. And please consider yourselves officially invited to the home repair fair."

Mayor Gilbert thanked Mr. Welch for his comments.

Next to speak was **Martha Geer** of 3729 Bosco Road.

"Good evening, I'm Martha Geer, 3729 Bosco Road. I live in the Bosco Road community, which will be impacted by the big branch force main. Have any of you been there? You're about to make decision that really matter to our community and you've never been there, and don't you think that's odd? About 10 years ago, decisions were being made about communities in our area, and two Councilmembers had the good political sense and leadership to come meet with us. One of those was Ms. Dozier. I was really thrilled to see her. The staff did have a meeting here a few months back, how many of you came? But you're going to make decisions that significantly affect our neighborhoods, regular people's properties, not developer's properties. You can say to yourself, it's no big deal, it's just a sewer line on the edge of US-1, but Apex is going to get a 30-foot easement, and the trees will come down completely. Leaving the properties crossed by these easements, and the whole neighborhood exposed to US-1. I mean exposed. I singled you out last time I spoke Mr. Gantt, because you know from a health perspective that this isn't just some tree-hugging complaint. It's an actual public health concern that pollution noise affects the whole community, not just the three properties at the end of Bosco Road. And now we've learned that some of the trees are coming down sooner rather than later, because of Falcon Engineering's drilling and clearing, and that's all for a sewer pipe primarily for the benefit of one development. And don't mistake me, I'm not against developers. I represent developers in impact fee litigation, and I'm sure you know what that is. The town has been here before. Ms. Rubin's case. It didn't go well for the town, and it was not a good look for the town. It united Republicans and Democrats on the Court of Appeals in one opinion, and that's not often the case. The staff has tried to dress this issue as different from the Rubin case, but it's still the same thing. Even down just to the details. Ms. Rubin was threatened with prosecution, one of my neighbors was threatened that the town was going to bring out the Sheriff. He actually said the Apex Sheriff, we knew what he meant. The only difference is that we're talking about more people being harmed. I can't imagine the legal fees that the town spent on the Rubin case. And we've got more people, more lawyers, more solidarity, which will mean more fees and more visibility. Why don't you actually try to work with us? A little leadership, a little honesty, and at least a little desire to do, really do right by your neighbors like the Apex Councilmembers used to do. Thank you."

APPROVED

Mayor Gilbert thanked Ms. Geer for her comments.

Next to speak was **Danny Williams** of 3837 and 3901 Bosco Road:

"I'm Danny Williams, I have properties at 3837 and 3901 Bosco Road. If you've ever driven down US-1 you've probably seen it. It's got a fountain in front and one of the houses caught on fire, and it's still sitting there. And you can see them from the road. The fear is that you're really going to be able to see them from the road shortly when all the trees are removed. To what they said earlier, we also had people just show up at our gate, fortunately we had a gate, so you can't just get in our property., They wanted to go inspect our septic fields, and walk through our horse pastures where there's horses, donkeys, goats, which would have not turned well for them or the animals. No notice that they were coming, the only reason that they called us was because they couldn't get in the gate. So, we sent them away. We're not trying to be uncooperative, they're coming back this week with an appointment. We'll let them on. The same way with Falcon, they said they're going to come in and drill like 6-inch diameter, 20-foot-deep holes. But not to worry about the livestock and the horses, they'll be fine because they're going to put a cone over it. I don't know if any of who have ever had a horse or been near one. That cone is going to be a toy, and that cone is going to break a leg. That's why we're concerned about this. I'm not going to be nearly as elegant and well-spoken as the previous ones up here, that's just not me, but I think you've gotten bad information form your town staff and your town engineers. I think they told you this was going to be easy. Just a few residences, we'll go down that side of the road, no problem. It's not going to be easy. I know several people that you're going to have to go to eminent domain and I'm one of them. I would rather spend 4 times what you're going to pay me because you will destroy my property. We're one of the last few properties in those areas that actually have horses. We're a working horse farm. We train, we ride, it's a great, beautiful piece of property. You're welcome to come out and see it. We're not against development, I think Veridea is a great development, I think it's going to be good for Apex. We're not Apex unfortunately, but it's going to be great for Apex I think. But there's an option to go down the other side of US-1 but I think your staff has said no because they thought that would be too difficult. I don't think you've seen difficult yet, until you try to take people's land. I haven't been there as long as most of the people have, but we love the land there. And we can't vote you out, right? We get no benefit from it, we don't get sewer service, we can't vote you out. I've got about 1900 employees, several hundred of them do live in Apex. They can vote. One thing I'm very good at in business is marketing. I don't think you want to be known as the Council that got rid of some of the last few horse farms in the area, I think you'd rather be known as the Council that saved them and got it to go on the other side of the road where it really belongs. Or at least made an effort to get it to go over there. Nobody's even tried. Because it's not going to be as easy as your town engineers are telling you it's going to be. It's going to be very difficult. We will cooperate, but it's not going to easy, and it's not going to be quick."

Mayor Gilbert thanked Mr. Williams for his comments. With no more sign ups, Mayor Gilbert closed public forum moved the meeting on.

[UPDATES BY TOWN MANAGER]

APPROVED

Deputy Town Manager Shawn Purvis said they received communications from one of Apex's federal representatives saying that one of the projects they submitted is being passed along to the next stage of review, and that it is looking promising. He said this was an infrastructure project for economic development purposes. He said this weekend is Pig Fest, Monday, April 17th, is a downtown stakeholder's meeting in the afternoon, Tuesday, March 18th, is a budget workshop to discuss electric rates, Peak Academy starts Wednesday March 19th, and the next weekend is EarthFest. He added that next Friday is when Fire Chief Tim Herman will be sworn in.

[CLOSED SESSION]

A **motion** was made by **Mayor Pro Tempore Audra Killingsworth**, seconded by **Councilmember Zegerman**, to enter into closed session for the scheduled item.

VOTE: UNANIMOUS (5-0)

Council entered closed session at 6:57 p.m.

CS1 Laurie Hohe, Town Attorney

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

NCGS §143-318.11(a)(3):

"To consult with an attorney employed or retained by the public body in order to preserve the attorney-client privilege between the attorney and the public body."

Council returned to open session at 7:48 p.m.

[ADJOURNEMENT]

Mayor Gilbert declared the meeting adjourned at 7:49 p.m.

Jacques K. Gilbert
Mayor

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

Submitted for approval by Town Clerk Allen Coleman and approved on April 25, 2023.

APPROVED

**TOWN OF APEX
TOWN COUNCIL WORK SESSION
TUESDAY, APRIL 18, 2023
3:30 P.M.**

The Apex Town Council met for a work session on Tuesday, April 18, 2023 at 3:30 p.m. at the Apex Town Hall located at 73 Hunter Street in Apex North Carolina.

This meeting was open to the public. Members of the public were able to attend this meeting in-person or watch online via the livestream on the Town's YouTube Channel: <https://www.youtube.com/watch?v=F2Ww1L6fTQ>

[ATTENDANCE]

Elected Body

Mayor Jacques K. Gilbert (presiding)
Mayor Pro-Tempore Audra Killingsworth
Councilmember Brett Gantt
Councilmember Ed Gray
Councilmember Terry Mahaffey
Councilmember Arno Zegerman
Absent: None

Town Staff

Town Manager Catherine Crosby
Deputy Town Manager Shawn Purvis
Assistant Town Manager Demetria John
Assistant Town Manager Marty Stone
Town Attorney Laurie Hohe
Town Clerk Allen Coleman
Deputy Town Clerk Ashley Gentry
Electric Tech Services Manager Rodney Smith
Stormwater Utility Coordinator Evan Kirk
Electric Utilities Director Eric Neumann
Budget and Performance Management Director Amanda Grogan
Finance Director Antwan Morrison
Consultant w/1898 & Co. Part of Burns and McDonnell Craig Brown
All other staff members will be identified appropriately below.

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[COMMENCEMENT]

Mayor Gilbert called the meeting to order at 3:37 p.m. and led the Pledge of Allegiance.

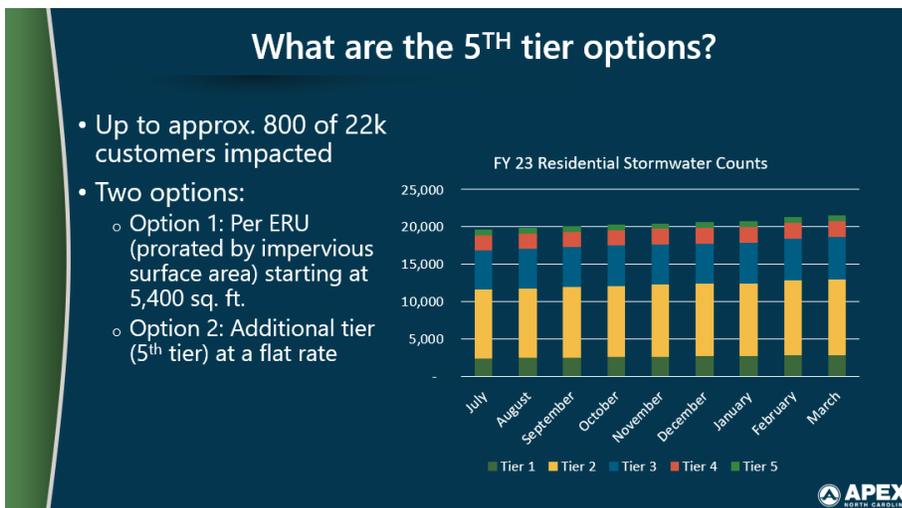
[AGENDA ITEM NO. 1 - STORMWATER UTILITY-FEE UPDATE AND POTENTIAL 5TH TIER]

Evan Kirk, Stormwater Utility Coordinator provided an overview of the Stormwater Utility Fee and potential 5th Tier Options.

[SLIDE 1]



[SLIDE 2]



[SLIDE 3]

5TH TIER Pros & Cons

Pros:

- o Increased equity among residential customers
- o Modest fee increases
- o Properties with large impervious area may see bill increase when adding additional impervious
- o ~\$24,000-\$50,000 per year in increased revenue (~1-2% of total revenues)

Cons:

- o Administrative cost to implementing
- o Communications Plan needed
- o Some increased administrative cost to maintain through "true ups"
- o Potential for pushback among impacted customers



[SLIDE 4]

Implementing a 5th tier

- Communication
 - o Mailers to all impacted customers (up to ~800):
 - Information on exact fee increase at each particular address
 - Education on why the 5th tier was added and how it's calculated
 - Staff contact information for questions and appeals
 - o Stormwater Utility Fee website updates
 - o Separate public notice of hearing (required by statute)
- Implementation
 - o Edit billing in New World
 - o Update GIS
 - o Ongoing "true ups"
- Timeline
 - o 3-6 months



Mr. Kirk said the proposed projected rollout would be January 1, 2024.

[SLIDE 5]

Option 1: Per ERU

- Customers in 5th tier would be charged as if their property were non-residential (prorated by ERU)
- ~\$25,000 per year in additional revenue

STORMWATER FEES	
<small>Stormwater fees are effective January 2022. Stormwater utility fees are based on the total amount of impervious surface on an individual lot or parcel.</small>	
Residential - Detached single-family homes, a duplex, or a manufactured home located on an individual lot or parcel.	
Tier 1: Small (400-1,500ft ²)	\$1.50
Tier 2: Medium (1,501-3,000ft ²)	\$5.00
Tier 3: Large (3,001-4,000ft ²)	\$7.50
Tier 4: Extra Large (4,001-5,400ft ²)	\$10.00
Tier 5: Homes with more than 5,400ft ² (2 ERU) pay the non-residential rate	\$5.00 per ERU (Total Impervious Area/\$2,700ft² * \$5)
Non-Residential - Parcels that contain more than two residential units, public/private institutional buildings, commercial buildings, parking lots, churches, etc.	
	\$5.00 per ERU (Total Impervious Area/\$2,700ft ² * \$5)

*ERU (Equivalent Residential Unit) is the GIS analysis of average impervious surface (rooftops, driveways, sidewalks, parking lots) per residential property. Approximately 2,700 ft²

**Properties with less than 400ft² of impervious surface are exempt.



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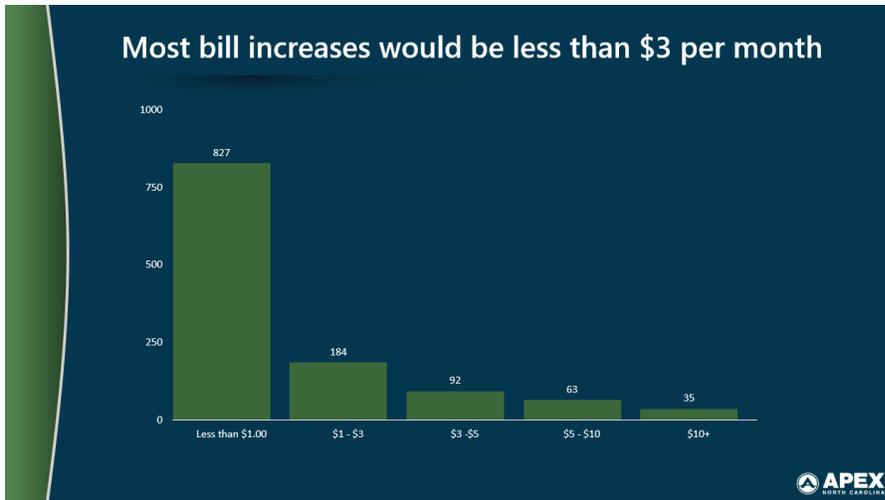
Councilmember Gantt asked if a 5500 square foot home roughly turns out to be \$10 or \$20 fee.

Mr. Kirk said Tier 4 stops at 5400 square feet, anyone who has a 5,401 square feet home would get a charge of \$10 and “one-ish” cents. He said that’s why 5400 square feet is the cutoff point because if you charge them as a non-residential customer, their bill would be above \$10.

Councilmember Gantt confirmed that it’s not a step change, but rather a gradual change.

Mr. Kirk said at that point the bill becomes prorated for every single square foot and multiply that by \$5.

[SLIDE 6]



[SLIDE 7]

Option 2: 5th tier at fixed rate

- Additional 5th tier at subjective cost (\$2.50-\$5.00 is reasonable)
- ~\$24,000-\$48,000 in additional revenue if starting at 5,400 sq. ft. impervious area

STORMWATER FEES	
Stormwater fees are effective January 2022. Stormwater utility fees are based on the total amount of impervious surface on an individual lot or parcel.	
Residential - Detached single-family homes, a duplex, or a manufactured home located on an individual lot or parcel.	
Tier 1: Small (400-1,500ft ²)	\$1.50
Tier 2: Medium (1,501-3,000ft ²)	\$5.00
Tier 3: Large (3,001-4,000ft ²)	\$7.50
Tier 4: Extra Large (4,001-5,400ft ²)	\$10.00
Tier 5: Homes with more than 5,400ft ²	\$15.00
Non-Residential - Parcels that contain more than two residential units, public/private institutional buildings, commercial buildings, parking lots, churches, etc.	\$5.00 per ERU (Total Impervious Area/\$2,700ft ² * \$5)

*ERU (Equivalent Residential Unit) is the GIS analysis of average impervious surface (rooftops, driveways, sidewalks, parking lots) per residential property. Approximately 2,700 ft²
*Properties with less than 400ft² of impervious surface are exempt.

APEX NORTH CAROLINA

[SLIDE 8]

Discussion

Option 1: Per ERU	Option 2: \$2.50-\$5.00 5 th tier	Option 3: No change
<ul style="list-style-type: none">• Most equitable• Medium increased revenue• Most administrative burden• Most difficult for public to understand	<ul style="list-style-type: none">• More equitable than status quo• Most increased revenue• Medium administrative burden• Easy for public to understand	<ul style="list-style-type: none">• Leaves opportunity open to change in future• No added administrative burden

Town staff are prepared to implement a 5th tier and would recommend mid-fiscal year (January 1, 2024) should Council approve



Councilmember Zegerman asked if measurements like 5400 square foot are looking at any impervious surface like driveways, home itself, and patios.

Mr. Kirk said yes sir.

Councilmember Gantt said this was his idea. He said what bothers him the most is a ten thousand square foot impervious property or bigger is getting charged the same as a five thousand square foot impervious.

Mr. Kirk said that option 2 doesn't do a good job of capturing that tail because we're charging everybody that same rate but the cutoff point can be changed. He said additional tiers could still be added in the future. He said he could get the data of how many people would fall into any potential tier.

Councilmember Zegerman asked what the gain would be from this. He said it would be equitable, and that was good, but the costs would likely offset the revenue.

Councilmember Gantt said he didn't think that was right.

Mr. Kirk said that in the first year, the cost would offset the revenue in the form of increased staff time, but even in the future the revenue gains would be insignificant. He said that they weren't doing this for revenue purposes.

Councilmember Zegerman said this adds more time having to be dedicated towards administrative work, in order to monitor the tiers, that could be used for other things. He asked why they were wanting to do this if it didn't come up with more funding to help fix stormwater management.

Councilmember Gantt asked for Mr. Kirk to clarify what the increase in administrative costs would be above current.

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Mr. Kirk said it was essentially the same. He said he looks at the aerial imagery, which has polygons drawn over the property to represent impervious surface, and extends the polygon if necessary to add new impervious surface, such as a patio. He said once this is edited, the area of impervious surface will be calculated automatically in GIS, so he can see if it changes the bill. He said in his experience, even when a property changes its amount of impervious surface, fewer than 10 percent of those instances actually trigger a bill change. He said the work is not as tedious as they may think, as he's already doing this process. He said the \$24,000 dollars would more than cover the additional cost.

Councilmember Killingsworth said that's part of the reason why they requested option two, since it would require less administration and add less work to staff.

Councilmember Mahaffey asked what problem this is actually seeking to solve. He said lots of town have a flat fee, and equity was why Apex decided to institute a tier system. He asked if the town has gotten any feedback on four tiers not being enough, and at that point how many tiers would actually be enough. He said this doesn't decrease the costs for people in lower tiers or who have less impervious surface, as he feels they would care more about paying less than people with more impervious surface paying more. He said this is essentially a change for the sake of a change, for an issue that isn't a big problem and wouldn't provide much additional revenue. He said this was a year where many fees were being changed or increased, and this was already a difficult budget to communicate to citizens. He said he isn't opposed, it just seems like this change would impact very few people and require more effort than it's worth. He said it would add to the narrative that Council is raising all the rates just for the sake of doing so.

Councilmember Gantt asked if Mr. Kirk could speak more on the ongoing revenue increase. He asked if he had an estimate of a five-year average revenue.

Mr. Kirk said he does not have that information. He said when someone adds impervious surface to the parcel, it typically is less than a thousand square feet of additional impervious added. He said a thousand square feet is less than two dollars per month. He said this would increase revenue some, accounting for administrative costs, in the long run.

Councilmember Mahaffey said if there was a larger upfront cost to adding impervious surface, then maybe people would think twice about adding more, versus the slight monthly increase. He asked if the town has any authority to charge for these things at permitting time.

Mr. Kirk said costs like that had to be proportional to the administrative costs incurred by the town

Councilmember Mahaffey asked if the permit costs have to be fixed with the town's costs instead of being based on impact or another measure.

Mr. Kirk said that this could be the case if the town had to implement a specific project that was directly caused by an increase in impervious surface. He said he's never heard of an upfront fee for impervious.

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Councilmember Zegerman asked how many units are in the first tier. He asked if the town can add tier 5 and set the rates for tier 1 to zero dollars.

Mr. Kirk said it could be set lower, but it would be legally dubious to set it at zero dollars because the town can't set a fee based off of income or other protected classes. If it lowered it could possibly be a dollar and twenty-five cents.

Councilmember Gantt said when he proposed this, he was projecting additional revenue of \$25,000 a year, which isn't a lot but it adds up. He said after four years, this could potentially bring in \$100,000 to do a big project. He also liked that this money would be coming in from the top 1% of the bracket.

Councilmember Zegerman said he likes the idea, but he's trying to figure out why they would be doing this if the net effect and impact of it is small.

Councilmember Mahaffey said it sounds like a solution in search of a problem.

Councilmember Gantt said it was \$25,000 a year from the top one percent.

Councilmember Mahaffey said yes, but that he doesn't believe that they care and that it's a conversation that they Council didn't have to have if they didn't want to. He said he is not opposed to it at some point in the future or raising rates with assumption that they go up eventually, but he said believes the rates should be tied to increased service or a specific project.

Councilmember Gantt said he thinks there are millions of dollars' worth of stormwater projects that need to be done, and every little bit helps.

Mayor Pro Tempore Killingsworth said she doesn't disagree, and there are a lot of stormwater projects that need to be done that can be very costly.

Councilmember Gantt said he imagined every year the town would use this on some of the smaller projects.

Director Grogan said for fiscal year 2024 there is an assessment that's in the budget to help identify what these projects are so the town can begin to map out what the CIP for stormwater funds looks like. She said it's hard to speak on it right now until the assessments are completed, and phase one of that is coming up in the upcoming year.

Councilmember Gantt asked if there were a bunch of twenty thousand-dollar projects that could be done.

Mr. Kirk said there was a stabilization of a culvert project in the downtown area and that project would cost about \$15000, and that's an example of a stormwater project that stormwater dollars were used for. He said there are projects already identified that have work orders in the system for the upcoming years.

Mayor Gilbert said this is a great discussion and asked what does Mr. Kirk needs from Council today.

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Mr. Kirk said he didn't necessarily need a decision today if further discussion is needed. He said he would accept a decision if there was one so he can start preparing.

Councilmember Gantt wanted to clarify that if the town wanted to start in January of next year, then it needs to be in the budget for FY 24-25.

Mr. Kirk said yes.

Mayor Pro Tempore Killingsworth said she'd like to make it easy as possible, so option two or three is what she would prefer.

Councilmember Mahaffey said another thing he wanted to point out was that this program just started and is in its second year. He said it has been fairly complicated already, and coming back this year with a new tier and the other rating without actually solving a problem, he said he doesn't think is useful. He said we need to raise 50 to 100 thousand a year to do it and that's a directed action to get behind. He said that's something he could get behind. He said with other things going on in this year's budget it's a discussion to have further when there are more concrete plans in place.

Councilmember Gantt asked Councilmember Mahaffey if he wanted the communication plan to state the examples of projects.

Councilmember Mahaffey said he's sharing option three this year.

Councilmember Gray said he is thinking of the long-term impact of this because the town can always add on, and he's in favor of option two.

Assistant Town Manager Stone asked right now in the system if staff have to go back and look based on the permit that's applied for to do an addition, then go back and look at that particular residence to determine how much it's going to change their tiers.

Mr. Kirk said yes, there are both permitted changes in impervious structures addition tools and there are unpermitted changes that impervious, such as a patio.

Assistant Town Manager Stone asked what the approach is to reviewing this, and if it's every 5 years.

Mr. Kirk said the town has planning districts. He said until he can get a good sense to what the workload is actually going to be he is looking at 20 percent of the town per year, with 12 districts, which leaves about 3 planning districts per year.

Assistant Town Manager Stone said when doing this work, he is having to look at previous percentages, and then would only be taking out a small amount of work because people don't come in for additions. He said once you get into the fifth tier you don't have to do anything. He pointed out that 500 or so customers are going to go up and instead of going up less than a dollar, they would be going up five dollars. He said this is kind of a reverse equitable thing where there is 827 that pay exactly what's owed and for impervious that would go up less than a dollar, those 827 are going to go up five dollars or 2.50 right out of the gate, which is Council's decision. He said it looks like there's more impact going to a

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set fee than doing a five dollar per fee. He said from a professional perspective, it's more standard to charge per impervious once people get to the cutoff of the ERU. He said it isn't usual to go above the ERU, and charge residents less than commercial. He said for stormwater fees, they have to be defensible.

Councilmember Mahaffey asked why five tiers of flat fees is indefensible and four tiers of flat fees is defensible.

Assistant Town Manager Stone said the gaps are much smaller. He said it is more defensible in his opinion for customers to pay for anything about their ERU.

Councilmember Gray said he was convinced and changed his mind to option 1.

Councilmember Zegerman asked if the town had enough funds to do additional projects does it have the staff capacity.

Assistant Town Manager Stone said stormwater is unique and has an operational side and an engineering side. There's Public Works and Water Resources, so there's a lot of work that can be done internal. It will help address the cost of dissipator pads, energy pads, and buying other things. He said he's currently in the process of conditional assessments and getting the contract going where the town will be looking at that in phases, which will define maintenance projects like things that needs to be addressed versus projects that may be new in the project system.

Councilmember Zegerman asked if the larger impervious services are typically the bigger homes.

Mr. Kirk said yes.

Councilmember Zegerman asked if Council raises property tax rates, could the money be used for stormwater management.

Mr. Kirk said they legally they can, but are not going to because of stormwater utility rates.

Assistant Town Manager Stone said the direction was to set up a utility phone for stormwater that would be self-supported and fully funded using stormwater fees to do stormwater activities. The direction that was worked on previously in the town would not use tax dollars for stormwater, he said Council can do that if that's your direction, but what cannot be done is using stormwater fees that we collect for anything except stormwater.

Councilmember Zegerman said he's struggling with this one because if it had a bigger benefit or a list of projects that can be pointed out it would be more attractive. He said if they're going to do it he would say option 2 for five dollars. He said he would like to make it big enough to be meaningful in some way.

Mayor Pro Tempore Killingsworth said she likes option 2 because it's simpler, but option 1 does seem easier to defend.

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Mr. Kirk said option 1 takes out the need to modify the rate structure in the future. He said option 2 leaves it open to potentially having to change the rate structure in the future.

Councilmember Gantt said option 1 captured a long tail and is interested in that. He said this would bring in a very small amount of money, but the fact that it's an ongoing thing is why it's worth discussing. He said \$25,000 adds up over time. He asked are there a lot of small projects that could have more impact than the big ones, he said what he values in this is more if there's a ton of small projects that could do a lot of good.

Assistant Town Manager Stone said he couldn't answer that because it depends on where it rains.

Mr. Kirk said the system assessment is going to allow the town to begin an asset management program and that asset management program combined with the CIP will allow staff to rank those projects. He said this will provide a priority ranking.

Councilmember Gantt said there would be a media pushback from any increase, he said the pushback would be stronger for the people with the most impervious surface if they went with option 1 and had to pay 10 or more extra dollars a month.

Councilmember Mahaffey said he would rather raise rates in three different ways than in four different ways. He said this would likely cause pushback from people who are pre-disposed to doing that. He wondered what the justification would be from Council if any of them were asked why they did this.

Councilmember Gray said adding to the larger conversation about how to tell people about this, he says it's much more of an educational basis. He said the money we're getting out of this to help kind of build the fund that education is something that can give us bigger dividends down the road. He said people will always complain about increases to fees, and that it comes down to explain what they're doing and why they're doing it.

Mayor Gilbert said there are three members who seem in favor of option one, so there is a majority.

[AGENDA ITEM #2 - [SOLAR AND EV RATE DESIGN]

Craig Brown, Consultant w/1898 & Co. Part of Burns and McDonnell, gave an overview of Solar and Electric Vehicle Rate Design.

[SLIDE 1]



Solar and EV Rate Design



Town of Apex, NC
April 18, 2023

[SLIDE 2]



Agenda

- Current Solar Usage and Financial Analysis
- Forecasted Solar Financial Analysis
- Rate Options for Solar Customers
- Rate Options for Residential EV Customers
- Rate Options for Public EV Chargers



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[SLIDE 3]



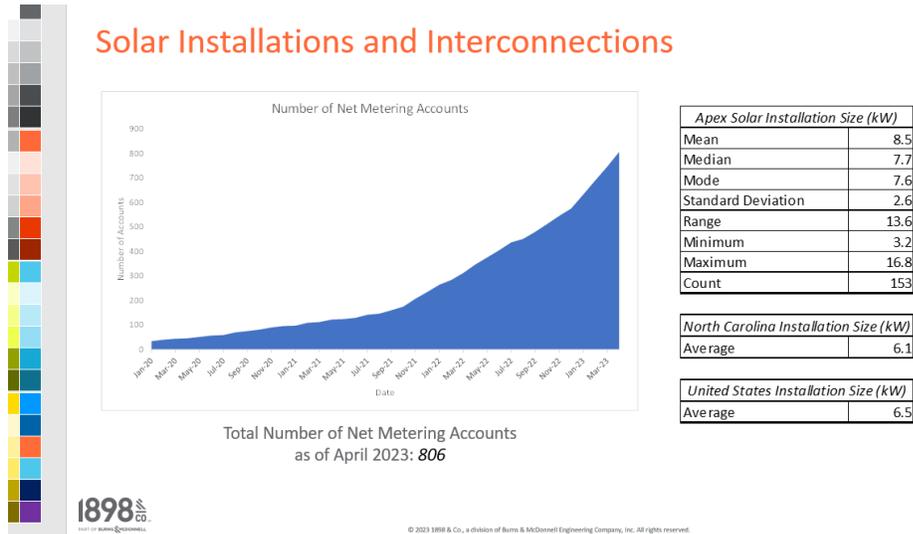
Current Solar Usage and Financial Analysis

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Councilmember Gantt said Duke has been in the news recently for votes that were had along these lines, he asked what Duke is doing versus what they do affect us at all.

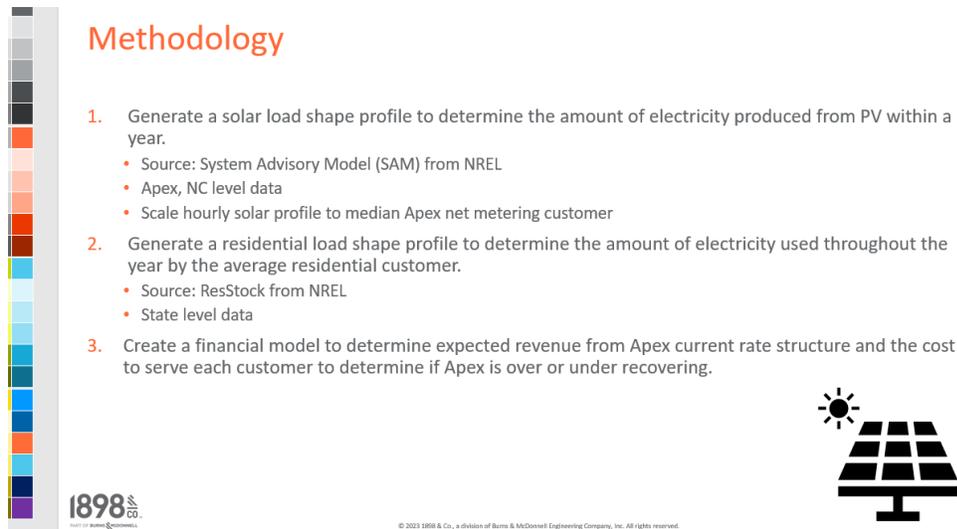
Mr. Brown said Duke is changing their net near program just from a flat rate like we do now to a time of use-based rate. He said details of that are still being worked out

[SLIDE 4]



4

SLIDE 5]



5

[SLIDE 6]

Methodology

4. Add in the solar generation into the financial model to determine the over or under recovery of a customer with solar installed.
5. Identify the coincident peak (CP) of both data sets to estimate impact on power supply costs
6. Model the expected over or under recovery based on the percent of Apex customers that install solar.
 - 10 percent of customer base
 - 20 percent
 - 50 percent



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[SLIDE 7]

Solar Generation Heat Map

- Assuming an 8 kW capacity solar system
- Load Shape Source: System Advisory Model (SAM)

	Jan	Feb	Mar	Apr	May	Jun	Jul	Aug	Sep	Oct	Nov	Dec
12:00:00 AM	-	-	-	-	-	-	-	-	-	-	-	-
1:00:00 AM	-	-	-	-	-	-	-	-	-	-	-	-
2:00:00 AM	-	-	-	-	-	-	-	-	-	-	-	-
3:00:00 AM	-	-	-	-	-	-	-	-	-	-	-	-
4:00:00 AM	-	-	-	-	-	-	-	-	-	-	-	-
5:00:00 AM	-	-	-	-	-	-	-	-	-	-	-	-
6:00:00 AM	-	-	-	-	0.03	0.07	0.02	-	-	-	-	-
7:00:00 AM	-	-	0.02	0.29	0.55	0.66	0.50	0.39	0.17	0.01	-	-
8:00:00 AM	0.05	0.27	0.86	1.40	1.69	1.83	1.50	1.55	1.28	1.07	0.70	0.05
9:00:00 AM	1.21	1.45	2.15	2.74	2.87	3.02	2.63	2.74	2.60	2.52	2.25	1.41
10:00:00 AM	2.15	2.62	3.48	3.96	4.05	4.00	3.55	3.76	3.48	3.28	3.35	2.41
11:00:00 AM	3.17	3.64	4.32	4.83	4.42	4.57	4.07	4.50	4.24	4.00	4.04	3.20
12:00:00 PM	3.56	4.18	4.77	5.13	4.88	4.87	4.41	4.37	4.63	4.01	4.33	3.61
1:00:00 PM	4.04	4.48	5.00	5.27	5.03	4.75	4.54	4.39	4.85	4.12	4.38	3.62
2:00:00 PM	3.87	4.33	4.61	4.95	4.49	4.59	4.57	3.93	4.24	3.88	3.91	3.49
3:00:00 PM	3.36	3.66	3.86	4.36	4.14	3.97	4.12	3.67	4.33	3.38	3.14	2.81
4:00:00 PM	2.32	2.98	2.85	3.17	3.30	3.41	3.36	2.92	2.95	2.31	2.03	1.92
5:00:00 PM	1.18	1.61	1.84	2.02	2.14	2.31	2.37	2.12	1.77	1.08	0.74	0.55
6:00:00 PM	0.02	0.26	0.70	0.84	0.98	1.17	1.19	1.07	0.53	0.03	-	-
7:00:00 PM	-	-	-	0.04	0.16	0.30	0.27	0.13	0.00	-	-	-
8:00:00 PM	-	-	-	-	-	-	-	-	-	-	-	-
9:00:00 PM	-	-	-	-	-	-	-	-	-	-	-	-
10:00:00 PM	-	-	-	-	-	-	-	-	-	-	-	-
11:00:00 PM	-	-	-	-	-	-	-	-	-	-	-	-

<https://sam.nrel.gov/> (Specific to Apex, NC)



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[SLIDE 8]

Solar Load Profiles

		Load Profiles						
Hour	Date & Time	Residential 1 (kWh)	Residential with Solar (kWh) SAM	Residential with Solar (kWh) APEX Average	Residential with Solar (kWh) APEX Median	Solar (kWh) SAM	Solar (kWh) APEX Average	Solar (kWh) APEX Median
1	1/1/23 12:00 AM	1.01	1.01	1.01	1.01	0.00	0.00	0.00
2	1/1/23 1:00 AM	1.13	1.13	1.13	1.13	0.00	0.00	0.00
3	1/1/23 2:00 AM	1.18	1.18	1.18	1.18	0.00	0.00	0.00
4	1/1/23 3:00 AM	1.26	1.26	1.26	1.26	0.00	0.00	0.00
5	1/1/23 4:00 AM	1.37	1.37	1.37	1.37	0.00	0.00	0.00
6	1/1/23 5:00 AM	1.52	1.52	1.52	1.52	0.00	0.00	0.00
7	1/1/23 6:00 AM	1.70	1.70	1.70	1.70	0.00	0.00	0.00
8	1/1/23 7:00 AM	1.81	1.81	1.81	1.81	0.00	0.00	0.00
9	1/1/23 8:00 AM	1.73	1.67	1.68	1.68	0.053	0.04	0.05
10	1/1/23 9:00 AM	1.56	1.39	1.42	1.41	0.175	0.14	0.15
11	1/1/23 10:00 AM	1.29	-0.83	-0.37	-0.53	2.216	1.76	1.91
12	1/1/23 11:00 AM	1.24	0.19	0.41	0.34	1.047	0.83	0.90
13	1/1/23 12:00 PM	1.14	-1.13	-0.66	-0.82	2.271	1.80	1.96
14	1/1/23 1:00 PM	1.01	0.63	0.71	0.69	0.379	0.30	0.33
15	1/1/23 2:00 PM	0.94	0.31	0.44	0.39	0.335	0.50	0.55
16	1/1/23 3:00 PM	0.98	0.53	0.62	0.59	0.455	0.36	0.39
17	1/1/23 4:00 PM	1.08	0.97	0.99	0.98	0.117	0.09	0.10
18	1/1/23 5:00 PM	1.23	1.23	1.23	1.23	0.000	0.00	0.00
19	1/1/23 6:00 PM	1.34	1.34	1.34	1.34	0.000	0.00	0.00
20	1/1/23 7:00 PM	1.39	1.39	1.39	1.39	0.000	0.00	0.00
21	1/1/23 8:00 PM	1.41	1.41	1.41	1.41	0.000	0.00	0.00
22	1/1/23 9:00 PM	1.37	1.37	1.37	1.37	0.000	0.00	0.00
23	1/1/23 10:00 PM	1.29	1.29	1.29	1.29	0.000	0.00	0.00
24	1/1/23 11:00 PM	1.15	1.15	1.15	1.15	0.00	0.00	0.00

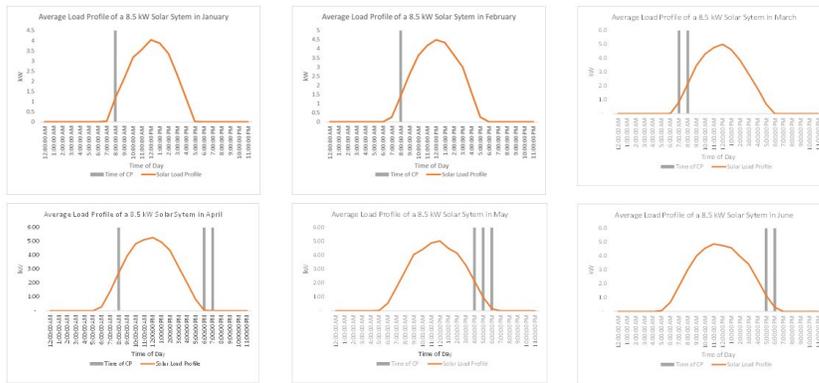


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[SLIDE 9]

Solar Load Profile at NCEMPA Coincident Peak (Last 5 Years)



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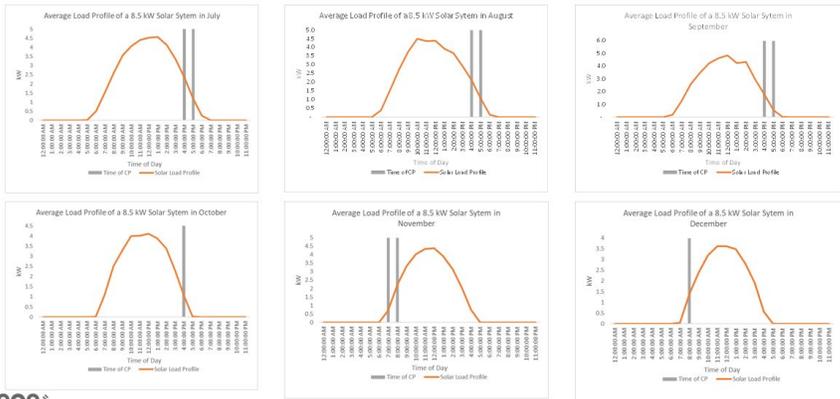
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Assistant Town Manager Stone asked Mr. Brown to explain how our power bills are made up and the breakdown of costs.

Mr. Brown said it's based on the concept of demand charges and energy charge, the demand charge is set based on the maximum kilowatt load at the peak, in this case its whenever Duke's system peaks and what the town's load is at an hour that sets your demand charge for the month. Demand charge is going down, it's 21 dollars per kW, it's a very high fixed charge, but energy cost is only 2.689 cents. He said the goal is to incentive people to use less energy during peak hours.

[SLIDE 10]

Solar Load Profile at NCEMPA Coincident Peak (Last 5 Years)



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[SLIDE 11]

[SLIDE 12]

Revenue and Power Supply Analysis

Description	Residential	Residential with Solar (kWh) APEX Median
Annual Energy (kWh)	10,581	191
Rate Charges		
Energy Charges	\$ 996.70	\$ 17.97
Customer Charges		
Annual Revenue per Cust	\$ 1,296.70	\$ 317.97



Description	Residential	Residential with Solar (kWh) APEX Median
NCEMFA Purchased Power Energy		
Total Annual Sales	\$ 30,581	\$ 191
NCEMFA Energy Rate	\$ 0.0229	\$ 0.0229
Annual Energy Charges	\$ 242.12	\$ 4.37
kW Demand During Monthly CP		
Jan	2.48	2.44
Feb	2.21	1.97
Mar	1.85	1.83
Apr	1.06	1.03
May	1.35	0.50
Jun	1.89	0.68
Jul	1.90	(1.00)
Aug	1.85	0.02
Sep	1.46	(1.10)
Oct	1.02	(0.96)
Nov	1.47	0.87
Dec	2.17	2.13
NCEMFA Demand and Delivery Charge (\$23.58/kW)		
Jan	\$ 58.57	\$ 57.60
Feb	\$ 52.00	\$ 46.51
Mar	\$ 38.91	\$ 38.55
Apr	\$ 25.00	\$ 24.25
May	\$ 31.84	\$ 11.84
Jun	\$ 39.87	\$ 12.07
Jul	\$ 44.85	\$ (23.64)
Aug	\$ 43.62	\$ 0.36
Sep	\$ 34.23	\$ (23.87)
Oct	\$ 23.96	\$ (23.03)
Nov	\$ 34.66	\$ 20.44
Dec	\$ 51.20	\$ 62.14
Total	\$ 478.77	\$ 191.23
Share of Other NCEMFA Riders (\$3.48 per month)	\$ 41.76	\$ 41.76
Total Annual Power Supply Costs	\$ 720.96	\$ 197.59



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[SLIDE 13]

Revenue Impact Analysis

Description	Residential	Residential with Solar (kWh) APEX Median
Annual Revenue Per Customer	\$1,296.70	\$317.97
Annual Power Supply Cost Per Customer	\$720.96	\$197.59
Contribution to Apex Distribution and Customer Costs	\$575.74	\$120.37
Under Collection of Dist and Cust Costs per Solar Cust		(\$455.36)
Loss Revenue at Various Solar Customer Levels:		
806 (3.2%)		(\$367,024)
2,500 (10%)		(\$1,138,411)
5,000 (20%)		(\$2,276,822)
12,500 (50%)		(\$5,692,056)

Contribution to Apex costs only 21% of standard residential

Loss of \$455 per solar customer



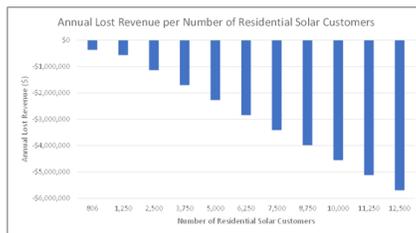
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[SLIDE 14]

Revenue Impact Analysis

Description	% Customers with Solar Installations			
	3.2%	10%	20%	50%
# of Solar Customers	806	2,500	5,000	12,500
Residential Revenue	\$31,693,326	\$30,171,189	\$27,924,825	\$21,185,732
Residential Power Supply Cost	\$17,636,819	\$16,822,868	\$15,621,642	\$12,017,965
Residential Contribution Margin	\$14,056,507	\$13,348,321	\$12,303,183	\$9,167,767
Apex Current Lost Revenue	(\$367,024)			
Additional Lost Revenue with Solar Growth		(\$708,186)	(\$1,753,324)	(\$4,888,740)



Current under collection is \$367,000



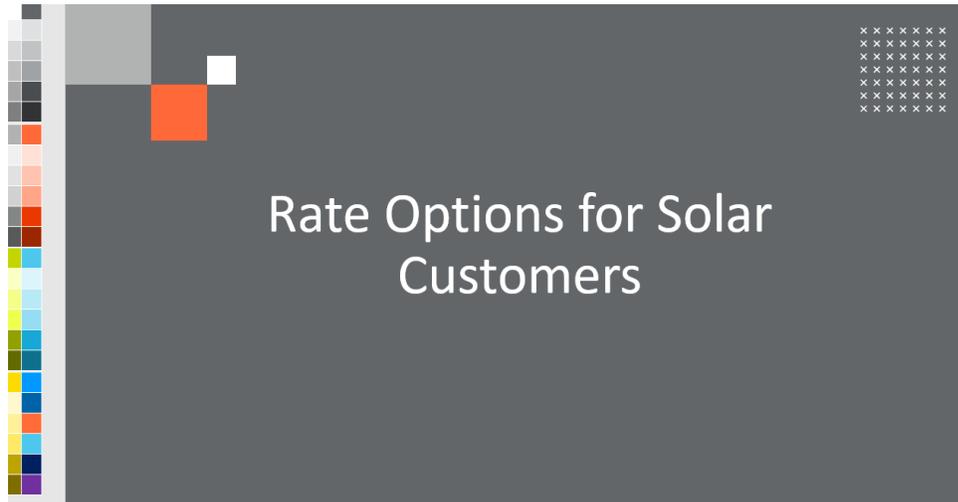
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Deputy Town Manager Purvis said Apex tends to see people oversize their solar installation for their property.

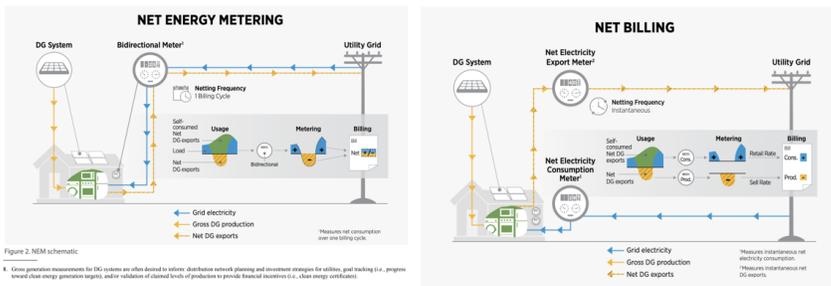
Mr. Brown said the average kW size in Apex was 8.5, while the state average was 6.1. He said this is largely developer driver, as they know this is an attractive are for solar meter rates.

[SLIDE 15]



[SLIDE 16]

Net Metering vs Net Billing



[SLIDE 17]

Net Metering with Fixed Customer and Distribution Charges

Description:

- The customer is charged an energy charge (\$/kWh) along with a fixed customer charge (\$/month) and distribution charge (\$/month). The energy charge is determined with a customer who has a bidirectional meter. The bidirectional meter works by increasing energy count when electricity is used from the grid and subtracts energy count when excess solar energy is sent back to the utility's grid.

PROS

- Receive a guaranteed monthly revenue stream to help cover customer and distribution charges
- More fair and equitable to non-solar rate payers

CONS

- Harms the expected payback of solar systems
- To recover all customer and distribution costs, the fixed portion must be quite large
- Solar customers electric bill would be significantly greater than the current rate structure.



[SLIDE 18]

Net Metering with Fixed Customer and Distribution Charges

Existing Bill Structure

Residential	Billing Units	Rate	Total \$
Energy Charges			
Total Energy Charges	(100) kWh	\$ 0.0942	\$ (9.42)
Customer Charge			
Customer Charge	1 month	\$ 25.00	\$ 25.00
Total Charges			\$ 15.58

Net Metering with Fixed Customer and Distribution Charges Bill Structure

Residential	Billing Determinants	Rate	Total \$
Energy Charges			
Total Energy Charges	(100) kWh	\$ 0.0850	\$ (8.50)
Customer Charge			
Customer Charge	1 month	\$ 20.00	\$ 20.00
Distribution Charge			
Distribution Charge	1 month	\$ 24.00	\$ 24.00
Total Charges			\$ 35.50



[SLIDE 19]

Net Metering with NCP or CP Demand and Energy Charges

Description:

- The customer is charged an energy charge (\$/kWh) for the power supply portion along with a distribution demand charge (\$/kW) that is based on NCP or a larger demand charged based on CP with a lower energy charge.

PROS

- Cost based recovery of distribution costs
- Receive a more consistent monthly revenue stream
- More fair and equitable to non-solar rate payers

CONS

- Won't recover all power supply CP demand costs in most months
- Must educate residential customers on how demand charges work
- More advanced metering and billing system requirements



[SLIDE 20]

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Net Metering with NCP or CP Demand and Energy Charges

Net Metering with Demand and Energy Charges Bill Structure

Existing Bill Structure

Residential	Billing Units	Rate	Total \$
Energy Charges			
Total Energy Charges	(100) kWh	\$ 0.0942	\$ (9.42)
Customer Charge			
Customer Charge	1 month	\$ 25.00	\$ 25.00
Total Charges			\$ 15.58

Residential	Billing Units	Rate	Total \$
Energy Charges			
Total Energy Charges	(100) kWh	\$ 0.0850	\$ (8.50)
Customer Charge			
Customer Charge	1 month	\$ 25.00	\$ 25.00
Dist Demand Charge			
Dist Demand Charge	2.00 kW	\$ 4.50	\$ 9.00
Total Charges			\$ 25.50

Residential	Billing Determinants	Rate	Total \$
Energy Charges			
Total Energy Charges	(100) kWh	\$ 0.0500	\$ (5.00)
Customer Charge			
Customer Charge	1 month	\$ 25.00	\$ 25.00
CP Demand Charge			
CP Demand Charge	0.00 kW	\$ 18.00	\$ -
Total Charges			\$ 20.00



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[SLIDE 21]

Net Metering with Time-of-Use Energy Charges

Description:

- The customer is charged an energy charge (\$/kWh) that fluctuates based on a Time-of-Use (TOU) Rate. This can be paired with a demand charge. On-peak exports can only offset (be netted with) on peak usage. Off peak exports are offset with off peak usage.

PROS

- Customers compensation is aligned better with system hourly costs
- More fair and equitable to non-solar rate payers

CONS

- Does not address recovery of distribution costs
- More advanced metering and billing system requirements



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Councilmember Zegerman asked to explain what Non-Coincident (NP) peak is.

Mr. Brown said regardless of the system, the individual customers' peak for the month is the Non-Coincident Peaker. Coincident Peak (CP) is a customer's peak at the time of the case.

[SLIDE 22]

Net Metering with Time-of-Use Energy Charges

Net Metering with Time-of-Use
Energy Charges Bill Structure

Existing Bill Structure

Residential	Billing Units	Rate	Total \$
Energy Charges			
Total Energy Charges	(100) kWh	\$ 0.0942	\$ (9.42)
Customer Charge			
Customer Charge	1 month	\$ 25.00	\$ 25.00
Total Charges			\$ 15.58

Residential	Billing Determinants	Rate	Total \$
Energy Charges			
Total Energy On-Peak Charges	50 kWh	\$ 0.195000	\$ 9.75
Total Energy Off-Peak Charges	(150) kWh	\$ 0.051800	\$ (7.77)
Customer Charge			
Customer Charge	1 month	\$ 25.00	\$ 25.00
Total Charges			\$ 26.98

Residential	Billing Determinants	Rate	Total \$
Energy Charges			
Total Energy On-Peak Charges	(125) kWh	\$ 0.195000	\$ (24.38)
Total Energy Off-Peak Charges	25 kWh	\$ 0.051800	\$ 1.30
Customer Charge			
Customer Charge	1 month	\$ 25.00	\$ 25.00
Total Charges			\$ 1.92



Councilmember Gantt said the best case for Apex solar customers is to have their panels pointed toward the sun in the morning in the winter and in the evening try to capture the sun before it goes down in the summer. He said he would incentivize that option to lower the costs for everybody because of the peak.

Mr. Brown said it doesn't have to be just for solar customers, this can be transformed to all residential customers so everyone is in the same boat.

Councilmember Zegerman asked are we using differentiated rates for on and off-peak rates.

Mr. Brown said it's an option.

Councilmember Gantt asked if the meter shortage is temporary.

Director Neumann said the current system that reads the meters is now un-expandable and it doesn't cover certain areas. He said there are a few meters that are being saved for commercial customers only.

Councilmember Zegerman asked if it's single rates.

Mr. Brown said yes, currently now everything is at nine and a half cents.

Councilmember Zegerman said he thinks there is an education issues around getting this information out as well.

[SLIDE 23]

Net Billing with Value of Solar (VOS) Rate

Description:

- Rate specifically for compensating solar customers for energy exported to the grid (\$/kWh) under a net billing approach.
- Common Value of Solar Rate Components:
 - Avoided generation energy costs
 - Avoided generation demand costs
 - Avoided transmission demand costs
 - Avoided distribution demand costs
 - Distribution system deferred capital investment
 - Cost of integrating additional solar into the distribution system
 - Environmental attributes (RECs)
 - Other environmental considerations



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[SLIDE 24]

Net Billing with Value of Solar (VOS) Rate

PROS

- Best represents the true avoided costs of energy produced from solar customers to the utility
- Most fair rate structure for all rate payers
- Can set the value of renewable attributes for your system

CONS

- Solar customers would get compensated less than the current rate structure
- More advanced metering and billing system requirements



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[SLIDE 25]

Net Billing with Value of Solar (VOS) Rate

Existing Bill Structure

Residential	Billing Units	Rate	Total \$
Energy Charges			
Total Energy Charges	(100) kWh	\$ 0.0942	\$ (9.42)
Customer Charge			
	1 month	\$ 25.00	\$ 25.00
Total Charges			\$ 15.58

Net Billing with Value of Solar Bill Structure

Residential	Billing Units	Rate	Total \$
Energy Charges			
Total Energy Delivered from the Grid Charges	100 kWh	\$ 0.0942	\$ 9.42
Total Energy Exported to the Grid Credit	(200) kWh	\$ 0.0650	\$ (11.00)
Customer Charge			
	1 month	\$ 25.00	\$ 25.00
Total Charges			\$ 23.42



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[SLIDE 26]

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Net Billing with TOU Rates

Description:

- Customers are compensated for excess solar sent to the utility grid equal to the time-of-use rate structure.
- Similar to current bilateral TOU

PROS

- More accurate way of passing on avoided cost
- Pairs well with the existing energy rate charged to the customer so the customer understands why they are being compensated at different levels.

CONS

- Solar customers would get paid less than the current rate structure
- More complicated rate structure
- Requires meter capable of bi-directional metering



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[SLIDE 27]

Net Billing with TOU Rates

Existing Bill Structure

Residential	Billing Units	Rate	Total \$
Energy Charges			
Total Energy Charges	(100) kWh	\$ 0.0942	\$ (9.42)
Customer Charge			
Customer Charge	1 month	\$ 25.00	\$ 25.00
Total Charges			\$ 15.58

Net Billing with TOU Rates Bill Structure

Residential	Billing Determinants	Rate	Total \$
Energy Charges			
Total Energy Delivered from the Grid On-Peak Charges	25 kWh	\$ 0.1950	\$ 4.88
Total Energy Delivered from the Grid Off-Peak Charges	75 kWh	\$ 0.0518	\$ 3.89
Total Energy Exported to the Grid On-Peak Credit	(50) kWh	\$ 0.1303	\$ (6.52)
Total Energy Exported to the Grid Off-Peak Credit	(150) kWh	\$ 0.0310	\$ (4.65)
Customer Charge			
Customer Charge	1 month	\$ 25.00	\$ 25.00
Total Charges			\$ 27.25



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[SLIDE 28]

Duke Energy Net Metering Policy

Duke Energy will be switching from a flat credit to a Time-of-Use credit for solar net metering compensation.

- Approved by the North Carolina Utilities Commission on March 23, 2023
 - Docket NO. E-100, SUB 180
 - <https://starw1.ncuc.gov/NCUC/ViewFile.aspx?Id=1452268d-1905-4d1e-a5c8-a9e84351e53a>
- Net metering changes for existing customer won't take place until 2027
- Still awaiting details as to how the TOU rate will be structured



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Councilmember Gantt asked if the cost structure in place with the peak being much higher than the regular is reflective of how much it costs to produce energy.

Mr. Brown said yes, the town pays the same rate as all their wholesalers. It is a formula rate that's updated every year.

[SLIDE 29]

Recommended Options for Apex Solar Customers

- Net billing remains the most cost-based and equitable option
- Assuming net metering remains in place:
 1. Although CP demand rates are the most equitable, Time-of-Use is the most realistic option considering the Town's environmental goals
 2. The minimum bill should be the Customer Charge.
 - Excess energy cannot offset the Customer Charge, but credits can be rolled to the next month
 3. TOU will allow customers that export during on-peak times to be compensated for benefiting the system.
 4. Carries a risk of manipulation with battery storage

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Councilmember Gantt asked if it will encourage investment in battery storage.

Mr. Brown said yes.

Councilmember Zegerman asked to clarify the hours of peak hours.

Councilmember Mahaffey said the peak is the peak when the sun is out at its highest around noon, but the peak usage is at 4 p.m.

Councilmember Zegerman said the town still has the fixed costs of all our distribution, he said if you net zero or not you rely on the grids and asks if \$25 will cover all that.

Mr. Brown said, no, it covers the customer piece.

Mayor Pro Tempore Killingsworth asked if it's on the down slope when they're providing some offset to the peak charge with our demand charge, is that showing cost difference.

Mr. Brown said it actually captures the negative number of power supply where they're actually contributing and getting paid for that demand by almost by lowering the system average.

Councilmember Gantt asked if time use is the only thing offered, what would the number be.

Mr. Brown said that's the next step in the process is trying to figure out where it goes.

Councilmember Gantt asked how would adding in heat pumps in Apex over the next 10 years effect this.

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Mr. Brown said it's beneficial because it adds winter kilowatt hour sales which increase the overall load factor for the system. He said it's good for the overall system load factor, but if its in line with your coincident peak it can be harmful.

Councilmember Gantt said this would maybe increase usage on peak usage on winter mornings.

Mr. Brown said yes.

Councilmember Mahaffey said we have the most solar friendly policy in North Carolina. He said Duke is making their changes in 2027 not in 2024. He said there is an opportunity here to see what happens with Duke and learn from that and see what the impacts are. He said he cares about total revenue versus the subsidy amount, and wants to look at that ratio. He said currently energy bills are about 1% higher than they would be, due to the solar incentives put in place for customers who use that. He said there needs to be a decision made on what that number would be before they felt it was too unfair for the customers paying the regular rate. He said he feels it is appropriate to put a policy in place that drives solar adoption, up to the point that solar adoption level is substantial enough or the standard rate becomes too high because of the subsidy. He said there are several things they can do if the solar subsidy is getting too expensive.

Town Manager Crosby said she wanted to clarify that all the customers that are being charged are getting credits back. She asked if the customer will get the 25-dollar fee that's all captured or is the town keeping it the way it is.

Councilmember Mahaffey said he is okay paying people to get solar panels. He wants them to get solar panels. He said he wants to see the solar adoption of Apex to a point where people notice solar panels everywhere. He said once that's done there is no need to subsidize anymore and then if costs get too much where everyone's bills are above a certain percent then that would be unfair then it would have to be changed at that point. He said there are ways to make sure it doesn't get to 5 percent or 10 percent. He said time of use was presented long term and is absolutely the right thing to do because there are other policy benefits that have an economic impact. He said he would like to wait to see what Duke Energy does because he wants to do it better than Duke.

Mayor Gilbert asked how many ElectriCities municipalities are using the same model Apex does.

Mr. Brown said Clayton wants to be similar to Apex. He said Greenville has three options, they are less solar friendly. He said they have a net billing option, buy and sell option, they have a net metering option with a demand charge.

Councilmember Gantt asked if time of use can be the only choice.

Mr. Brown said that's where he thinks the town should go and make this a mandatory rate for all residential customers.

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Councilmember Gantt said he thinks the solar adoption curve is going to be ramping up quickly, and in turn so will the increase to the non-solar energy billing per customer.

Councilmember Mahaffey said he didn't think it would be that quick, as not all homes would be suitable for solar adoption. He said his feedback is he doesn't want to make any drastic change today. He said the key number is the revenue loss and he wants to track certain points it reaches because he wants to make a policy change.

Mayor Pro Tempore Killingsworth said she would like to look at all of these other policy change options as part of the recommendation. She said she doesn't want to make any changes until AMA goes online and the exact numbers are out to know how much to offset were getting and not estimates.

Councilmember Zegerman asked what is the timeline.

Assistant Town Manager Stone said hopefully the town will get the contract in May. He said the first thing that has to happen is they start with our infrastructure building for the meters, and having our meters Apex specific. He said then there is a pilot program to make sure everything is working. It would be a solid year before the phase actually started.

Mayor Gilbert asked if it was a possibility to raise electric rates. He said some people can't afford the solar, and it does impact a large number of residents. He said he has to speak on behalf of the residents that can't continue to afford the rate increases.

Councilmember Gantt said he thinks time of use should be used for everybody anyway and it's a bonus that it helps with the solar incentives.

Councilmember Mahaffey said he agrees, but it's impractical to have everyone go to time of use. He said it's actually a lifestyle change to save money, but if nothing is changed, time of use would be a big bill increase.

Councilmember Gantt said it should be a gradual switch.

Mr. Brown said it's also a marketing plan. He said they would need to educate their customers. He added that in the first year of implementing something like these where customers could potentially change habits to save money on time of use, they could see how their electric bill changes over that first year, but still pay the original rate if time of use ended up being higher, in order to provide a sort of buffer period.

Director Grogan said they talked about piloting the possible rates out to people in order to educate people on the options and get public feedback.

Councilmember Zegerman said the rates can be changed over time.

Director Neumann explained how the rates have changed over the years and how rates are going now. He said the current rates do not disincentivize people from using energy at peak hours. He said demand is the most important factor. He said if people could be incentivized to use less energy during peak time either through CP or time of use rates, the town can reduce energy bills drastically. He said the problem is they're trying to recover

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energy cost through a variable that isn't related to how they are being billed. He said EV chargers and solar are messing with the way that cost used to be recovered.

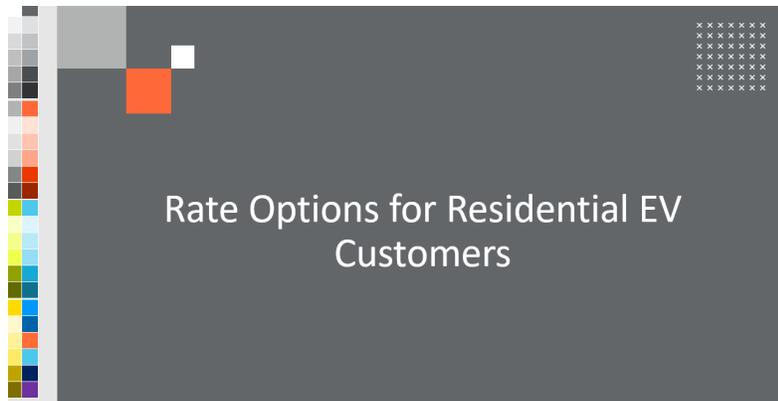
Mayor Pro Tempore Killingsworth asked if we have someone who is looking at the numbers so the town can recover more accurately.

Mr. Brown said it's less risky to have the flat CP rate rather than using time of use, because of time of use has to have the proper timing of peak hours, and that can end up not working out if the peaks aren't aligned.

Director Neumann said unfortunately the town is stuck with Duke Energy's peak that we don't know about until the month closes. He said the morning time is good to turn on generators for an hour or two before the peak is going to hit. He said the entire load management program needs to be overhauled. He said he would like to mandate participation, or charge people at a different rate.

Councilmember Mahaffey said it seemed important to get people to not be charging EVs during Peak Hours.

[SLIDE 30]



[SLIDE 31]

Whole House Time of Use Rate Options

Description:

- Rate structure that has different prices for electricity depending on the time of day that it is used. The rates are structured to encourage customers to avoid using electricity when the cost of electricity is the highest.

Common Strategies:

```
graph TD; A[3-Part TOU] --> B[Summer]; A --> C[Winter]; B --> B1[Off-Peak]; B --> B2[Super Off-Peak]; B --> B3[On-Peak]; C --> C1[Off-Peak]; C --> C2[Super Off-Peak]; C --> C3[On-Peak]; D[2-Part TOU] --> E[Summer]; D --> F[Winter]; E --> E1[Off-Peak]; E --> E2[On-Peak]; F --> F1[Off-Peak]; F --> F2[On-Peak];
```

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[SLIDE 32]

Whole House Time of Use Rate Options

PROS

- Positive impact on system peak
- Customer has opportunity to lower bills
- Super off-peak option promotes mutually beneficial EV charging
- Can be applied to all customers
- Only one meter required

CONS

- Low participation if opt in
- Potential negative customer reaction if mandatory
- Requires customer education



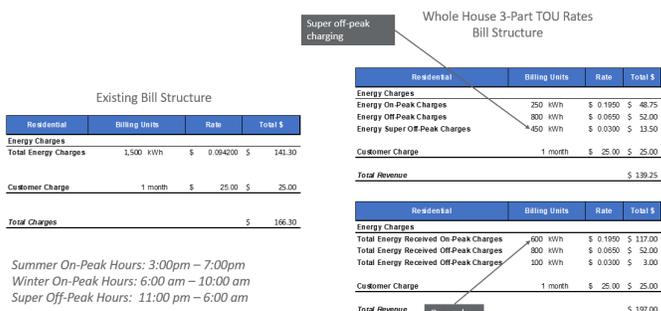
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[SLIDE 33]

Whole House Time of Use Rate Options



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Councilmember Mahaffey asked if there were ways to tell how many EVs or being charged or who had them

Mr. Brown said they could get data analysts to find patterns in large spikes which can show peak hours and can extrapolated to determine large energy-use items such as EVs

Councilmember Mahaffey said the important thing is to show people the comparison over a period of time for on-peak versus off-peak rates.

Director Neumann said the town needs to look at the customers its going to affect and educate them.

Councilmember Mahaffey said that once the AMI came in, they could see the customers who contribute the most to on-peak usage, and communicate directly with them about potentially changing their energy use habits to lower their bill significantly and decreased the overall peak usage.

Director Neumann said once they get the systems in to capture and utilize this data, they can work with the customers with high energy usages and help them work on that.

Councilmember Mahaffey said he’s looking more of a direct outreach to the people as it could likely change their behavior if someone tells them how to save money. He

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suggested a pilot program where people can “trial” a time of use program where they would be charged the lower of the two between flat rate and time of use. He said this is complicated, and it would be difficult to get people to fully understand this.

[SLIDE 34]

Coincident Peak Demand Rate

Description:
Residential customers pay a demand charge based on the amount of kW load being used during the system wide CP in addition to the customer charge and energy charge.

PROS

- Can significantly reduce residential electric demand during the CP
- More accurate revenue generation based on COS
- One-meter

CONS

- Could significantly increase a customer bill
- A system needs to be installed to inform the customer of a possible peak



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[SLIDE 35]

Coincident Peak Demand Rate

Existing Bill Structure

Residential	Billing Units	Rate	Total \$
Energy Charges			
Total Energy Charges	1,500 kWh	\$ 0.0942	\$ 141.30
Customer Charge	1 month	\$ 25.00	\$ 25.00
Total Charges			\$ 166.30

Coincident Peak Demand Rate Bill Structure

Residential	Billing Units	Rate	Total \$
Energy Charges			
Total Energy Charges	1,500 kWh	\$ 0.0500	\$ 82.50
Customer Charge	1 month	\$ 25.00	\$ 25.00
Demand Charge	7.00 kW	\$ 15.00	\$ 105.00
Total Charges			\$ 212.50

Residential	Billing Units	Rate	Total \$
Energy Charges			
Total Energy Charges	1,500 kWh	\$ 0.0500	\$ 82.50
Customer Charge	1 month	\$ 25.00	\$ 25.00
Demand Charge	1.00 kW	\$ 15.00	\$ 15.00
Total Charges			\$ 122.50

Minimizes load during CP



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[SLIDE 36]

Separately Metered Charger Rate Options

Description:

- A second meter is installed at the residential customers property, usually at the expense of the utility, for the purpose of specifically measuring electrical demand and usage for EV Charging. This allows for the utility to implement an EV specific TOU or demand charge. Since EV charging can be programmed, customers are more willing to participate knowing that they can consistently avoid on-peak charges.

EV Time-of-Use:

- Rate structure that has different prices for electricity depending on the time of day that it is used. The rates are structured to encourage customers to avoid using electricity when the cost of electricity is the highest.
 - Second meter that is only connected to the EV charger.
 - Higher participation than whole house TOU rates.
 - More extreme rate spreads compared to whole house TOU rates.



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Councilmember Zegerman asked what is the benefit of having a separate meter compared to load management

Mr. Brown said it gives the customer more control, and that they don't have to expose their entire house to time of use. He said load management works well, but has a higher administrative burden.

Councilmember Mahaffey said he would want to hook up as many things as possible to a time of use system knowing what the advantages and timings are. asked how implementable is EV Chargers, and if permits are required.

Assistant Town Manager Stone said if customers are getting a 240 Volt Plug-In. they are supposed to get a permit. He said once we have AMI, that will show who has them.

[SLIDE 37]

Separately Metered Charger Rate Options

EV Demand Rate:

- Residential customers pay a demand charge based on the number of kW of electricity being used during the system wide coincident peak or during a specific period of time in addition to the customer charge and energy charge.
- Two Strategies:
 - 1. TOU On-Peak Demand Charge**
 - A demand charge is added to the peak load during the on-peak TOU hours in addition to the customer and energy charge.
 - 2. CP Demand Charge**
 - Customer pays a demand charge based on the number of kW being used during the Coincident Peak in addition to the customer and energy charge.



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[SLIDE 38]

Separately Metered Rate Options

Existing Bill Structure

Residential	Billing Units	Rate	Total \$
Energy Charges			
Total Energy Charges	1,500 kWh	\$ 0.0942	\$ 141.30
Customer Charge			
	1 month	\$ 25.00	\$ 25.00
Total Charges			\$ 166.30

Separately Metered Rate Bill Structure

Residential	Billing Units	Rate	Total \$
Energy Charges			
Total Energy EV Charging On-Peak Charges	- kWh	\$ 0.2800	\$ -
Total Energy EV Charging Off-Peak Charges	450 kWh	\$ 0.0500	\$ 22.50
Total Energy of the House Charges	1,050 kWh	\$ 0.0942	\$ 98.91
Customer Charge			
	1 month	\$ 10.00	\$ 10.00
Total Charges			\$ 131.41



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[SLIDE 39]



Recommendation for Home EV Charging

- Any rate with a CP demand charge will always be the most cost based and equitable rate structure.
- Most reasonable option for Apex:
 - Whole House 3-part TOU design
 - On-peak for CP hours, Off-peak, Super Off-Peak for EV Charging
- Can be applied to all residential customers as a mandatory or opt-out rate
- Eliminates need for end-use rates – works for solar and EV
- Promotes responsible behavior for all customers



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Director Neumann said the CP rate guarantees that the town captures the peak period, and if the system goes to time of use, there may be occasions where peak is going to float into a period that wasn't covered. He said the impact on this would be significant. He said usually the highest demands are going to be in the same time of year and day, but there's still risk that it wouldn't be. He said the CP rate guarantees no risk.

Councilmember Mahaffey said the risk is pushed to the customer and they would get a high bill. He said he thinks it's appropriate for the town to take on the risk and mitigate all customers so no one suddenly gets a high bill.

[SLIDE 40]

Rate Options for Public EV Chargers

[SLIDE 41]

Characteristics of Public EV Chargers

Level 2 chargers

- Typical for home or local commercial use
- 240 V connection
- Charge at 5-10 kW



Direct-current fast charger (DCFC)

- Also known as Level 3 chargers
- 480 V 3-phase power
- Charge at 50-350 kW
- Currently more typical in transportation corridors



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Councilmember Gray gave his perspective since he owns a Tesla. He said if he plugs his car into an ordinary plug he would add five miles every one hour, if he plugs it in a home charger he would add 40 miles, and if he goes to a Tesla supercharger that’s operating at 350 kilowatts he would add 300 miles every half hour. He said the middle ground is the level 2 charger.

[SLIDE 42]

Considerations for Apex Related to NCEMPA Power Supply Rate Structure

Coincident peak demand charges are highly impacted by DCFC.

- It is imperative that DCFC rates be designed to avoid or recover demand costs
- If both chargers are being used for 30 minutes in the CP hour:
 - Power supply cost - \$7,648
 - Revenue @ LGS rate - \$3,726
- Does not include the cost of the charger if Town owned

Two 180 kW Chargers at Kohls	
Demand (kW)	360.00
Load Factor	10%
Monthly Energy @ 10% LF	26,280
Coincidence w/ NCEMPA Peak	100%
NCEMPA Demand (\$/kW CP)	
Billed Demand	\$21.17
Delivery	\$0.06
	\$21.23
Demand Cost per kWh	
	\$0.2908
NCEMPA Energy (\$/kWh)	
	\$0.02673
Monthly NCEMPA Demand & Energy Costs	
Demand	\$7,642.80
Energy	\$702.46
Total	\$8,345.26
Bundled Rate per kWh	
Average Power Supply \$/kWh	\$0.318
Apex Distribution and Fixed Power Supply	\$0.030
Charger Capital Cost Recovery	\$0.000
Total Rate	\$0.348
On-Peak Rate (\$/kWh)	\$0.348
Off Peak Rate (\$/kWh)	\$0.057



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[SLIDE 43]

Current Apex Public Chargers

Charger Description		Billing Units			NCEMPA Power Supply Costs			Revenue
		Avg kW Peak	Avg kWh	Load Factor	Demand	Energy	Total Cost	Total Billed
					\$ 21.17	\$ 0.02689		
EV Charger - Saunders 1 - Public	On Peak	41.4	392	6.3%	\$ 10,513.45	\$ 126.63	\$ 11,516.19	\$ 365.63
	Off Peak	43.5	1,652	6.5%		\$ 532.99	\$ 532.99	\$ 1,559.33
EV Charger - Hunter 1 - Public	Total	5.3	89	2.3%		\$ 28.80	\$ 28.80	\$ 85.44
EV Charger - Hunter 2 - Public	Total	3.9	71	2.5%		\$ 22.75	\$ 22.75	\$ 69.68
EV Charger Saunders 2 - Public	On Peak	12.6	379	20.1%	\$ 3,199.98	\$ 122.43	\$ 3,589.08	\$ 367.56
	Off Peak	12.9	2,103	28.1%	\$ -	\$ 678.65	\$ 678.65	\$ 1,974.84
					\$ 13,713.43	\$ 1,512.24	\$ 16,368.45	\$ 4,422.49

- When chargers are used on-peak and hit the CP, the power supply cost alone is nearly 4 times the revenue received
- This is before any contribution to Apex distribution or customer costs



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[SLIDE 44]

Time-of-Use (TOU) Energy Rates for Public EV Chargers

Description:

High differential TOU rates to capture CP demand costs in the on-peak period
Appropriate for public Level 2 chargers

PROS

- Better cost recovery method compared to a flat rate
- Encourages the EV charger owners to charge EV drivers in a similar manner
- Can incorporate seasonality

CONS

- Many EV drivers will still charge even with the higher price
- The EV charger owners still do not have to charge the EV drivers a TOU rate
- On peak periods must be synced with CP



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[SLIDE 45]

Coincident Peak Demand Rates

Description:

The Town's current LGS CP rate is ideal for cost recovery of high demand, low load factor electric loads.
Rate includes CP demand charge, NCP excess demand charge and energy charge.

PROS

- Accurately recover costs from public chargers that have high capacity with historically low load factors
- Strongly encourages EV charger owners to charge EV drivers in a way to avoid the CP.
- Based on existing Apex rate

CONS

- Has the potential to greatly increase the electric bill of the owner of the EV chargers if they allow charging during the CP
- Relies on owner of charger to control peak demand usage



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[SLIDE 46]

TOU Energy with On-peak Demand Rates

Description:

Blend of prior two concepts – CP demand costs can be spread across the on-peak energy charge and have a lower CP demand charge – moderating both charges somewhat

PROS

- Accurately recover costs from public chargers that have high capacity with historically low load factors
- Strongly encourages EV charger owners to charge EV drivers in a way to avoid the CP.
- Can incorporate seasonality

CONS

- Has the potential to greatly increase the electric bill of the owner of the EV chargers if they allow charging during the CP
- Relies on owner of charger to control peak demand usage



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[SLIDE 47]

Bundled Rates with Load Control

Description:

- A bill credit for a portion of the demand rate in exchange for the utility to be able to turn-off or reduce charging capacity during coincident peak events.
- Typically, utilities can declare 20 critical peak events each year that lasts for 2-4 hours.
 - Apex would need to call every month at the CP

Typical Structure:

- Can start from a more traditional rate
- Incentive paid on a per kW basis
- Level 2 or DCFC



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Councilmember Gray usually people who plug in at an EV charger do so because they are on critically low battery. He said since they charge so slow, there’s no advantage to using it over one at home He added that the ones on Saunders get a lot of traffic because people can plug in during meals, but even then, they can only add about 20 miles to their range during a meal. He noted that for him as an EV owner, the number one problem and deterrent is the risk of pulling up to a charger and having it not work.

Mr. Brown said level 2 publics chargers could be on time of use, but any business who adopts the level 3 DCFC charger should be mandated to be on the CP rate, in his opinion. He said the CP rate changes monthly in line with the peak, but can’t really be predictable. He said if the CP rate was expanded, their would likely need to be good communication with customers to inform them of the possibility of a certain day being on a CP rate.

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Councilmember Zegerman asked how to explain to a customer why their rates changed and they got an unexpectedly high bill if they started charging 10 minutes before 8, then left it on until 8:30.

Mr. Brown said the expected rates throughout the day shown on the chargers, they would stay consistent throughout each season and people would have a much better idea of what to expect.

Councilmember Mahaffey said he would want to incentivize private EV station operators to utilize a much higher charging rate.

[SLIDE 48]

Summary and Recommendation for Public EV Chargers

Public EV Chargers have very low utilization rates, especially in common areas.

EV Chargers present a huge financial risk for the Town without properly designed rates to recover the NCEMPA CP demand costs and distribution system costs

Recommendations:

- Level 2 Public Chargers – Time-of-Use Energy rates acceptable, but LGS CP rate preferred
- Level 3 DCFC – Mandatory LGS CP rate
 - Can be for whole account or separately metered DCFC only

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[SLIDE 49]

Questions and Discussion

Craig Brown
Senior Project Manager | Utility Finance and Rates
1898 & Co. | Part of Burns & McDonnell
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9400 Ward Parkway, Kansas City, MO 64114

Mayor Gilbert asked if a decision needs to be made or if this is for information only.

Councilmember Mahaffey asked did Council want to try the three-tier time use policy, he said he doesn't want to make it mandatory but nothing is stopping from trying it out.

Mr. Brown suggested to do the certified pilot program this year and they could design the rate.

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Director Grogan said these are decisions she needs for the budget. She said right now at a minimum the town is going to have a four percent increase for electric. She said an impact at residential rates that's being looked at is set \$25 charge so everyone pays to cover distribution costs and asked that it can't go negative for the year.

Mr. Brown said you could be under one month and it would roll over the next month.

Deputy Town Manager Purvis said an issue with this is that it has been being done manually, and it can't be automated until more resources come into play for the town to use.

Councilmember Gantt clarified that Council was wanting to go one decision at a time.

Councilmember Mahaffey said he was a hard no, as this would position the town as worse than Duke.

Assistant Town Manager Stone said they wanted to get 90 days' worth of cash on hand in case of unexpected energy costs.

Mayor Gilbert said it sounds like a lot of numbers and forecasting and asked if this can be looked at and come back at another time to make a more informed decision

Councilmember Zegerman said he hasn't seen the rate impacts or how it would affect the budget with the rate proposals.

Councilmember Mahaffey said the 4% increase was a 3% pass-through from the supplier, then 1% from the town, which he said was great.

Mayor Gilbert said they have a subject matter expert in the room, and he wanted to know if the discussion would be factoring in demand for solar, or if Council wanted to continue going in the direction they felt was right.

Councilmember Mahaffey said he is listening to the conversation, and he would consider incremental changes to the solar surcharge for non-solar customers. He said he didn't want that charge to get too large for those people, and that wouldn't be fair. He said the town has a chance to learn from Duke and possibly model after them. He said they are moving towards a time of use structure, and he is willing to do that as well over time. He said if the town can change behaviors alongside implementing time of use, it would be a win-win for them and customers.

Director Neumann said one thing to keep in mind there is really no relationship between the town's rates and how Duke does their business model. He said a lot of this conversation consists of "what does Duke do". He said Duke does things for financial reasons and are driven by a lot of other things that the Town of Apex has nothing to do with. He said we cannot make our policy match Duke's; the town does not have those drivers and is not getting compensated. He said the town can keep rates in line with Duke, but right now the town's rates are 13% cheaper than Duke's residential rates.

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Councilmember Mahaffey said he wanted to be clear that he wasn't comparing the town to Duke to say any decision they make would also be good for the town. He said he didn't care what their motivation for doing things was. He said what is important is what our citizens see and the comparison of Duke and the Town's bill amount. He said if the town's bill isn't lower than Duke's, then it shouldn't be a public utility. He said the town have to provide better service at lower cost or roughly the same cost to justify the existence of the electric department in the town. He said there was no reason to do any of that if the town wasn't doing better than Duke for rates and value. He said the town is currently much better than Duke, and he wants to stay much better than Duke in every way.

Mayor Gilbert said he really loves that the Town of Apex has their own Electric Utilities. He said if things continue going the direction they are going, the town would lose out on that.

Councilmember Mahaffey said he wouldn't let that happen. He said if it gets to a point where the town is worse than Duke, they could make changes to rectify that.

Councilmember Gantt said Councilmember Mahaffey's position on the electric utilities discussion has made him skeptical the town should continue with providing the public utility. He said he has become concerned about the long-term direction the town is heading.

Councilmember Mahaffey said with the current level of solar subsidy of today, he's comfortable with it. He said he would be growing uncomfortable as it grows, and is willing to consider changes. particularly the time of use changes. He would like to keep an eye on what the number is exactly. He said he was trying to communicate that he is willing to change it in the future but today he doesn't think we have a problem but as the adoption grows it can become a problem.

Councilmember Gantt said the curve looks to be exponential and not linear.

Mayor Gilbert said when it comes to building the budget, people are suffering. He said he gets a lot of calls of people wondering if there is going to be a tax increase or an electric rate increase, and said all those dollars add up and everyone can't afford it. He said he wants to make some adjustments.

Councilmember Gantt said he was ready to start voting on some of these proposals.

Councilmember Zegerman said he felt like the \$25 is meaningless unless the budget impact is known. He asked what is the \$25 minimum dollar bill going to do for the town. He asked what does it help and what would the offset be on a potential rate increase. He said a complete conversation needs to be discussed and not just about whether \$25 is a good number.

Town Manager Crosby asked Councilmember Zegerman if he wants to understand what is the fixed cost rate per customer to understand how that covers our fixed costs for utility.

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Councilmember Zegerman said yes.

Town Manager Crosby said right now until the new ERP the town cannot separate the charge and the fix rate because our system does the credit to the bill.

Councilmember Mahaffey said that once the ERP comes into play, the credits that cannot be applied in one month because of the minimum charge could be rolled over to be applied in a different month.

Councilmember Zegerman said the conversation he would like to have is if the town is looking at a four percent increase on electric grades and if it does a \$25 minimum, how would it be implemented.

Mr. Brown said the main question for today was if Council was willing to go above the system average for residents based on cost of service. He said case of service is a study which tells how relative the system average to what each class of share of that revenue department is.

Director Grogan said it was found that the large service was subsidizing residential and the plan is to offset that so the different types of services do a cost recovery. That's some of the rates that were looked at from the Finance Committee and had those large general services frozen because the other increase would make up the revenue rate as it is already overcompensating.

Mr. Brown said he would cap it as a percentage of the system average.

Director Grogan asked Councilmember Zegerman what information does he need.

Councilmember Mahaffey said he wanted to be clear this a different conversation than the one they were just on. He said there has been a concern about residential customers subsidizing other residential commercials. He said he thinks it is good that large commercial customers help subsidize residential customers. He said as long as large customers are getting a better deal than if they were with Duke, and it additionally helps residential customers, he likes that overall. He said he doesn't feel a need for larger customers to have a more equitable distribution. He said he does not want to change the deal that people who bought solar panels already have. He said the capital investment they made assumed there would not be something like the 25-dollar minimum charge being proposed.

Director Grogan said there are about 24,000 residential customers, but less than 20 large customers in this conversation.

Town Manager Crosby said there is confusion because some information that was presented to the Finance Committee hasn't been presented to the entire field. She said today the biggest thing is the impact on the budget which is something that will have more discussion on May 5th. She said the three main things that need to be addressed are the rates between LGC and residential customers, the 25-dollar minimum electric fee, and the Solar EV subsidies and their impacts.

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Councilmember Zegerman said he wants a comparison between current electric funds and what could be brought in or changed based on possible policy levers. Then based on what he understood he said there needs to be a conversation on how the gaps are going to be closed. He said he can't make a call right now on one specific conversation about one specific grade without all the other numbers. He said he didn't have all the information to make an informed decision.

Councilmember Gray said that's the component of the budget retreat is to talk these discussions out. He said a policy recommendation in terms of how to provide either assistance options like to opt out. He asked Town Manager Crosby to add to the list of discussion topics the feeling that customers with the lowest means have a life raft of sorts for this kind of rate change, and how to manage that through assistance or opt-out options. He said equity is a big part of this conversation, and he wants to ensure that is discussed as well.

Town Manager Crosby asked Council if they would be amenable to splitting up the conversation.

Councilmember Zegerman said the conversation of management costs has not been talked about it. He said if it has, he doesn't know about it. He said the conversation has been centered on the revenue side.

Town Manager Crosby said Finance Committee has.

Councilmember Mahaffey said the number he thought was a 1% increase in operating costs year over year for electric.

Director Grogan said it's higher than one percent. She said the town did substantially reduce expenditures and looked at that and inflation, she said specific requests related to new positions or crews were looked at as part of recommendations.

Councilmember Zegerman said he wasn't part of the Finance Committee and his observation is based on today's conversation. He said it seems he's being asked to make decisions based on partial as incomplete information. He said he cannot do that. He said he needed the full package of information or he would have to be counted out for the vote. He said he can't sit there and say "yeah, this is fine" or "this is not good", since he doesn't understand the complete impact it would have on residents. He said he's frustrated because he's not getting the information needs to make a proper budget decision.

Town Manager Crosby said that this work session technically is not part of the town's budget process, it's a session that was set to circle back on a conversation regarding rates. She said part of the frustration is probably because this is falling in the middle of the budget process.

Councilmember Zegerman said that the conversation was being treated as having budget means. He said Director Grogan is asking about specifics in order to model the budget, which he says makes complete sense. He said because of this being tied in, all information needs to be given before making a decision.

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Director Grogan said the meeting was just geared to part of the rate study for the impact of solar subsidies and EV charging because the town is seeing a huge uptick. She said a vote is not necessarily needed but she needs direction on these different things. She's also trying to get some direction in terms of budget because of the draft budget and wants Council informed with all information for them to be prepared on May 5th.

Town Manager Crosby said the challenge is there are two conversations going on, one is a conversation is being followed up from last year and then secondly, she's following up from the Personnel Meeting. She said to Councilmember Zegerman that's why he's missing some information, since not everyone was in on the previous discussions.

Councilmember Zegerman said they need to develop a viewpoint on how to handle these discussions will have an impact in the future.

Councilmember Mahaffey said he felt they had, with the discussion around time of use.

Councilmember Zegerman said yes that is true, but there hasn't been a follow up on everything such as what would happen with the 25-dollar minimum fee.

Mayor Pro Tempore Killingsworth said it use to be a day and a half of budget retreat where Council would combine all this information into that day and decide based on that policy or budget related item. She said spreading it out like this is better for everybody that we don't have to spend a day and a half analyzing all this stuff all at once. She said it's not about giving feedback, it's about seeing where the policy is and getting the information needed so Council can form a direction to go in. She said the information Councilmember Zegerman is looking for is going to come in the next budget session, and that is based on some of the background information that has been talked about.

Councilmember Zegerman said he's not part of the Finance Committee or the Personnel Committee so some of the documentation and information being referenced he has not seen, and so he doesn't know what to do with what he is being asked.

Councilmember Gray said something that had been done before with stormwater is a conversation that was had in committee was determined to be useful to expand to the larger body. He said the issue ultimately needs to be addressed in the budget meeting. He said getting the information earlier helps Council understand things before it's being discussed in a budget meeting.

Councilmember Zegerman asked if a decision needed to be made or if the conversation could move on for now.

Deputy Town Manager Purvis said this information will help build out a plan because the systems needed to fully implement these discussions aren't available yet, such as the ERP and the AMI that are expected down the road. He said talking about it now helps plan out for the future. He said the immediate effect is that the town is not changing the rate structure, the rates might change, but the structure will stay the same.

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Mayor Pro Tempore Killingsworth said the next time Council talks about solar or any changes that policy and things like the size of the system could also be discussed as possible limitations.

Deputy Town Manager Purvis said there's a lot of factors that go into this discussion. He to set the future model rate, they need to know what model is going to be used.

Councilmember Zegerman said now that Council has all these variables in play, scenarios should be run. He said it was a great presentation and that he learned a lot. He said he wanted to understand how far the spread between time of use rates should be in various versions.

[SLIDE 50]



[CLOSED SESSION]

A **motion** was made by **Mayor Pro Tempore Audra Killingsworth**, seconded by **Councilmember Arno Zegerman**, to go into Closed Session pursuant to:

NCGS § 143-318.11 (6)

"To consider the qualifications, competence, performance, character, fitness, conditions of appointment, or conditions of initial employment of an individual public officer or employee or prospective public officer or employee; or to hear or investigate a complaint, charge, or grievance by or against an individual public officer or employee."

VOTE: 5-0 (UNANIMOUS)

Council entered into closed session at 5:48 p.m.

Council returned into open session at 6:21 p.m.

APPROVED

[ADJOURNMENT]

Mayor Gilbert declared the meeting adjourned at 6:21 p.m.

Jacques K. Gilbert
Apex, Mayor

Allen Coleman, CMC, NCCCC
Apex, Town Clerk

Submitted for approval by Apex Town Clerk Allen Coleman.

Minutes approved on the 9th Day of May, 2023.

APPROVED
TOWN OF APEX
REGULAR TOWN COUNCIL MEETING
TUESDAY, APRIL 25, 2023
6:00 PM

The Apex Town Council met for a Regular Town Council Meeting on Tuesday, April 25, 2023 at 6:00 PM in the Council Chambers at Apex Town Hall, located at 73 Hunter Street in Apex, North Carolina.

This meeting was open to the public. Members of the public were able to attend this meeting in-person or watch online via the livestream on the Town's YouTube Channel. The recording of this meeting can be viewed here: <https://www.youtube.com/watch?v=fbUCRG149Wo>

[ATTENDANCE]

Elected Body

Mayor Pro-Tempore Audra Killingsworth (presiding)
Councilmember Brett Gantt
Councilmember Ed Gray
Councilmember Terry Mahaffey

Absent: Mayor Jacques K. Gilbert **and** Councilmember Arno Zegerman

Town Staff

Town Manager Catherine Crosby
Deputy Town Manager Shawn Purvis
Assistant Town Manager Marty Stone
Town Attorney Laurie Hohe
Town Clerk Allen Coleman
Deputy Town Clerk Ashley Gentry
Planning Director Dianne Khin
All other staff members will be identified appropriately below

[COMMENCEMENT]

Mayor Pro Tempore Audra Killingsworth called the meeting to order and welcomed all those attending and watching on livestream. She wanted to remind people that Apex was currently celebrating its 150th year. She discussed the Think Apex initiative, which helps celebrate those who make a difference in Apex, and encourages other to do so as well. She said Apex was made stronger by the variety of individuals that live here. She asked people to think about how they have given, how they do give, and how they will give to the Town of Apex. She said the town sees diversity as a strength, and asked everyone to join her in observing a personal moment of silence.

Mayor Pro Tempore Killingsworth then led Council and those in attendance in a recitation of the Pledge of Allegiance.

[SLIDE 1]



[CONSENT AGENDA]

A **motion** was made by **Councilmember Ed Gray**, seconded by **Councilmember Terry Mahaffey**, to approve the Consent Agenda as presented.

VOTE: 4-0 (UNANIMOUS)

CN1 Agreement - Converge One - Microsoft Teams Phone Services (REF: CONT-2023-098)

Council voted to approve a three-year Agreement between the Town and Converge One as a vendor to provide telephone services and to authorize the Town Manager to execute the agreement on behalf of the Town.

CN2 Agreement - Supplement No. 4 - North Carolina Department of Transportation (NCDOT) - Lake Pine Drive Improvements - Completion Date 12/31/2024 (REF: CONT-2023-099)

Council voted to approve a 4th Supplemental Agreement with NCDOT to extend the project completion deadline to 12/31/24 for U-5537, Lake Pine Drive Improvements, and to authorize the Town Manager to execute the agreement on behalf of the Town.

CN3 Agreement - North Carolina Department of Transportation (NCDOT) - Saunders St and Hinton St Sidewalk Project - BL-0095 (REF: CONT-2023-100)

Council voted to approve a Review and Oversight Agreement with NCDOT for design review and project oversight activities for project BL-0095, Saunders St and Hinton St Sidewalk, requiring payment of a \$10,000.00 deposit, and to authorize the Town Manager to execute the agreement on behalf of the Town.

CN4 Contract Technical Amendment - Itron, Inc. - Water and Electric Meter Software (REF: CONT-2023-101)

APPROVED

Council voted to approve the Amendment to the Itron Field Deployment Manager (FDM) and Field Tools Agreement and to authorize the Town Manager to execute the Amendment on behalf of the Town.

CN5 Council Meeting Minutes - Various

Council voted to approve, as submitted or amended, the Regular Town Council Meeting Minutes of April 11, 2023.

CN6 Design and Development Manual Updates (REF: OTHER-2023-038)

Council voted to approve the removal of details from the Design and Development Manual that were added to the Standard Specifications and Standard Details on February 28, 2023.

CN7 Encroachment Agreement - 2553 Silas Peak Lane Lot 30 (REF: CONT-2023-102)

Council voted to approve an encroachment agreement between the Town and property owner Upright Builders, Inc to install a driveway that will encroach 55 square feet (SF) onto the Town of Apex 20' Public Drainage Easement and authorize the Town Manager to execute the same.

CN8 Enterprise Resource Planning (ERP) System - Various Agreements, Budget Ordinance Amendment No. 16 and Capital Project Ordinance Amendment No. 2023-7

(REF: ORD-2023-033, ORD-2023-034, VARIOUS CONTRACTS)

Council voted to approve enterprise resource planning (ERP) system contracts, authorize the Town Manager to execute said contracts, and approve corresponding Budget Ordinance Amendment No. 16 and Capital Project Ordinance Amendment No. 2023-7.

CN9 Surplus Badge and Service Weapon - Retiring Police Officer Joseph S. Gianni

Council voted to declare one (1) badge and (1) service weapon (Glock Model 17 9mm handgun, Serial Number XTA-784) as surplus property; and, award to Retiring Officer Joseph S. Gianni who retired from the Apex Police Department.

[PRESENTATIONS]

PR1 Proclamation - Apex Small Business Week - April 30 through May 6, 2023

(REF: PRO-2023-011)

Mayor Pro Tempore Killingsworth and the rest of Council read the Apex Small Business 2023 Proclamation in unity.

Colleen Merays, Small Business Manager, invited up the owner of Apex Gallery in Downtown Apex, Nick Bryant, to receive the proclamation.

APPROVED

Mr. Bryant then gave a few comments, saying on behalf of the downtown businesses and other small businesses in Apex, they appreciate the town's support and look forward to its future support. He encouraged people to continue shopping in Apex.

PR2 Proclamation - Civilian Law Enforcement Professionals Week - April 23 through April 29, 2023 (REF: PRO-2023-012)

Mayor Pro Tempore Killingsworth, along with the rest of Council, then read the Civilian Law Enforcement Professionals Week 2023 Proclamation in unity.

Police Chief Jason Armstrong then accepted the proclamation, and expressed his gratitude to Council for accepting their request to acknowledge the Civilian Law Enforcement Professionals. He said there are a lot of people who contribute to keeping the community safe, and he said he appreciated Council committing to recognizing them.

PR3 Proclamation - Public Service Recognition Week - May 7 through May 13, 2023 (PRO-2023-013)

Mayor Pro Tempore Killingsworth, along with the rest of Council, read the Public Service Recognition Week 2023 Proclamation in unity.

Mary Beth Manville, Human Resources Director, wanted specifically recognized Town of Apex employees present, and asked them to stand and be recognized. She thanked everyone for their support of town employees.

PR4 Proclamation - Think Apex Day - Saturday, April 29, 2023 (PRO-2023-014)

Mayor Pro Tempore Audra Killingsworth, along with the rest of Council, read the Think Apex Day 2023 Proclamation in unity.

Barbara Belisic, Small Business Specialist, introduced a representative from Cambridge Village, and Tim Ahler, President of Western Wake Crisis Ministry, who are recipients of two of the activities at Think Apex Day. They accepted the proclamation.

Mr. Ahler thanked the Council for their support of Western Wake Crisis Ministry, and encouraged everyone to come volunteer and help in their work.

Ms. Belisic added that residents can find the Think Apex website by googling "Think Apex"
(NOTE: Think Apex Website Link - <https://www.apexnc.org/946/Think-Apex>)

[REGULAR MEETING AGENDA]

APPROVED

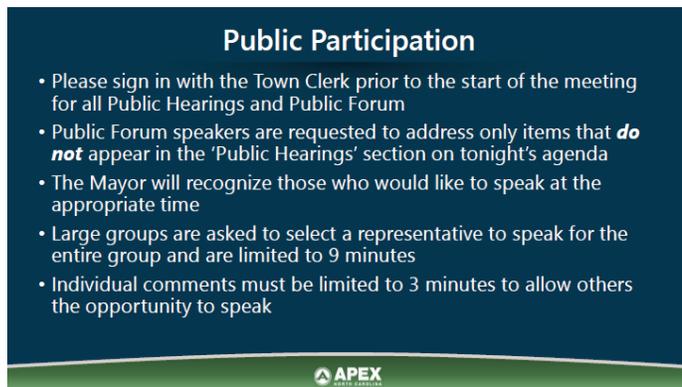
A **motion** was made by **Councilmember Ed Gray**, seconded by **Councilmember Brett Gantt**, to approve the Regular Meeting Agenda as presented.

VOTE: UNANIMOUS (4-0)

[PUBLIC FORUM]

(**NOTE:** To view sign-up sheets, see **OTHER-2023-040**)

[SLIDE 2]



Public Participation

- 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

APEX
TOWN CLERK

First to speak was **Ashley Solis** of 1272 Brown Velvet Lane (**NOTE:** Ms. Solis provided handouts to Council - **REF: OTHER-2023-039**)

"Sort of the continuation of the last five time we've been here, I kind of collated everything that we're requesting from the Town. Where we would like some painted crosswalks put in, rectangular rapid flashing beacons, I know that's been something that's been newly installed at different intersections in Apex, it seems to be successful. Still with the reduction of the speed limit between, we're asking specifically that Richardson between US 64 and Olive Chapel, from 45 to 35. And that wouldn't be all of Richardson, just that specific stretch. We're also asking, the more I'm researching and looking into this, bringing in specifically a pedestrian safety consultant of some kind, because I know everyone is doing the best they can, but if they're not trained specifically for pedestrian, I'm not as concerned with city traffic, I'm concerned with children on the street getting hit. And the main presser for this is, I'm really hoping we can get this done before Richardson is turned out to Departments of Transportation, because I think we all know it's dead in the water then, we'll never get anything done. So, there's a lot going on, and I feel it's the town's responsibility because the commercial site

APPROVED

of Sweetwater was approved, and it's awesome and I can't wait, but with that you can't approve outdoor venues, outdoor concert areas, farmer's markets, and all these things and not do anything for safety, and I don't think anyone did this on purpose, but we know it's a problem, so there's a huge amount of liability and pressure that I feel as a concerned citizen, and I'm sure you feel, for the safety of the kids in Apex. The apartments will be done at the end of this year, one of the buildings, and that's 240 additional units. So that's more traffic, more kids, more families crossing the street to get to the food trucks, more families crossing to get to the pool which open in 3 weeks for us, so it may not seem like it, but this is an extremely pressing matter, and I would ask that you consider making at least several of these in the interim. It's not that hard to paint lines for crosswalks, and then maybe we can get somebody out there to look at doing the flashing crosswalks. Because that wouldn't interfere with anything, unless someone is crossing the street. As you know from the speed study, there's over 4,000 cars a day going through, and I don't even want to tell you how much that is going to increase after 64 is open back up, and after the commercial site is in. I've noticed increased police presence in Abbingdon and Linden around us as Richardson has been closed for construction, and if they're having problems with people speeding through their neighborhoods, we've just shifted our problem to them for a little while. And it'll be our problem again in 6 weeks when Richardson opens back up. So, I'd ask you to seriously consider it, and again if anyone else wants to come out and take a look sometime, I would be happy to show you. Thank you."

Next to speak was **Marvin Hymanson** of 2907 Sunflower Road:

"Good Evening, Mayor Pro Tem and Town Councilmembers. Thank you for giving me the opportunity to speak. I would like to make 4 quick points. I am here to promote safety on Richardson Road, in support of my fellow residents of Smith Farm, and nearby Sweetwater development that are sitting in the back. As I stated at the last meeting, the schools in Wake County are at capacity, and it will take years to build them, so why are we allowing such rapid growth in the community? There needs to be an ordinance amendment that if we don't have adequate room in the schools, no new development should be approved. There also needs to be more family-friendly activities in Apex. We, as a town, need to prove family-friendly developments, such as putt-putt golf, bowling, rope courses as examples, and cultural events such as movies, concerts and live theater, similar to what Cary is also developing. Finally, I would like to know why Apex Peakway is not completed after the bonds have been approved. Thank you for your time, I appreciate the opportunity to speak."

APPROVED

With no more sign-ups for public forum, **Mayor Pro Tempore Killingsworth** moved the meeting to Public Hearings.

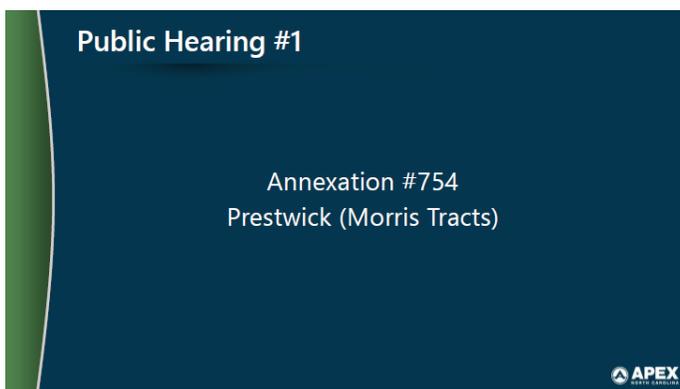
[PUBLIC HEARINGS]

(NOTE: To view sign-up sheets, see **OTHER-2023-040**)

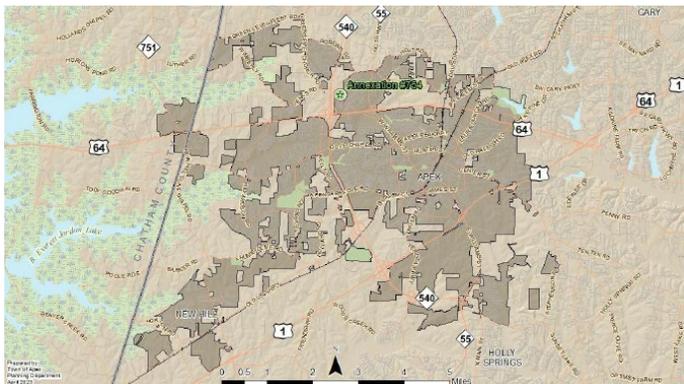
PH1 Annexation No. 754 - Prestwick (Morris Tracts) - 14.129 acres (REF: ORD-2023-035)

Dianne Khin, Planning Director, gave the following presentation regarding Annexation No. 754 - Prestwick (Morris Tracts). She said staff recommended approval.

[SLIDE 3]



[SLIDE 4]

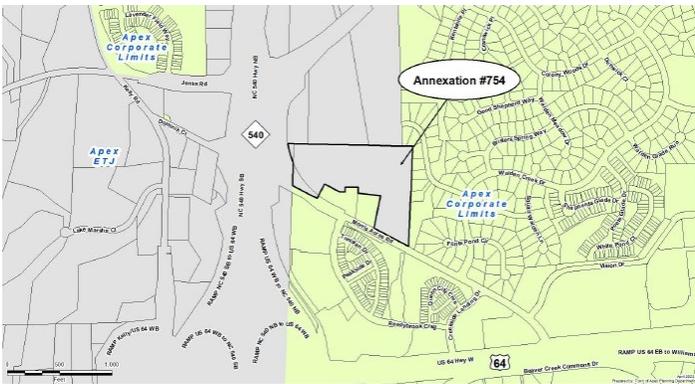


[SLIDE 5]

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[SLIDE 6]



[SLIDE 7]



Mayor Pro Tempore Killingsworth opened public hearing for this item. With no sign ups, she closed public hearing and moved discussion back to Council.

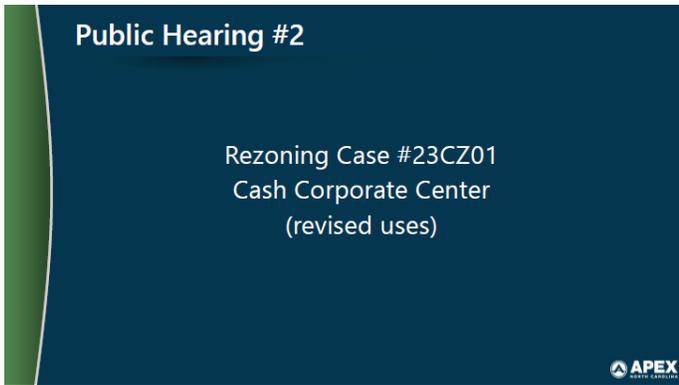
A **motion** was made by **Councilmember Ed Gray**, seconded by **Councilmember Terry Mahaffey**, to adopt Annexation No. 754 - Prestwick (Morris Tracts).

VOTE: 4-0 (UNANIMOUS)

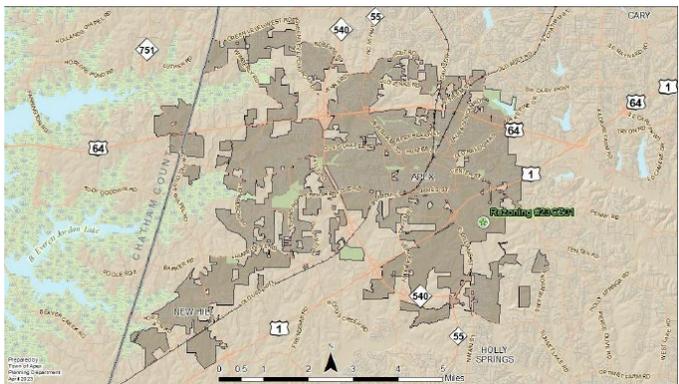
PH2 Rezoning Case No. 23CZ01 - Cash Corporate Center (revised uses)

Amanda Bunce, Current Planning Manager, gave the following presentation on Rezoning Case No. 23CZ01 - Cash Corporate Center (Revised Uses). She offered to answer any questions Council had.

[SLIDE 8]



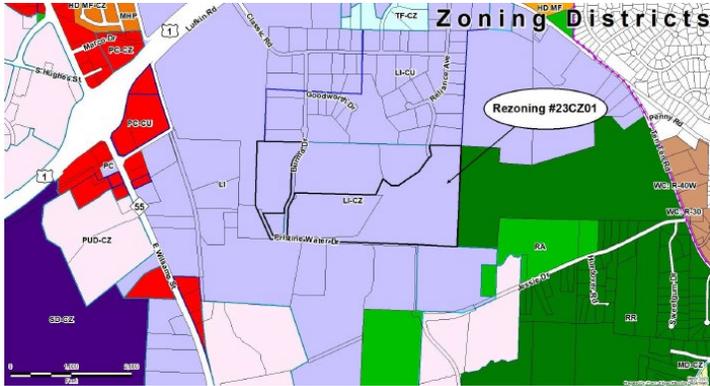
[SLIDE 9]



[SLIDE 10]



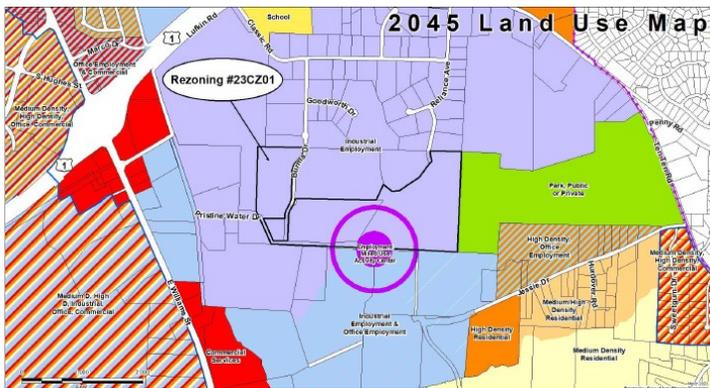
[SLIDE 11]



[SLIDE 12]



[SLIDE 13]



[SLIDE 14]

APPROVED



Councilmember Gantt asked about the thought process behind adding new uses versus the new uses bringing in less “good jobs”.

Ms. Bunce said they looked at the proposed uses, and one of the issues they were seeing was having to evaluate uses that were essentially a blend of multiple uses. She said providing additional flexibility makes it easier for certain businesses to locate within Cash Corporate Center. She said the list of proposed uses was reviewed with the Economic Development Director, and staff worked with the applicant to shorten the list to what they felt was appropriate to provide flexibility for the parcels.

Ashley Honeycutt Terrazas of Parker Poe, on behalf of the applicant, gave a presentation.

Mayor Pro Tempore Killingsworth opened public hearing for this item. With no sign-ups, she closed public hearing and moved discussion back to Council.

Councilmember Gray said the initial plan for Cash Corporate Center was to attract more human-capital based businesses, but that it’s important to note that the market is shifting the desired uses to something consistent with the zoning plan, but just outside of permitted uses. He said the additional proposed uses are still consistent with the current zoning policy. He said it will attract additional businesses outside of the original vision of what the development would be, but that they are making it an attractive spot for supporting businesses here or other regional businesses. He feels like this is something they should be able to support, and he would be voting in favor.

A **motion** was made by **Councilmember Ed Gray**, seconded by **Councilmember Terry Mahaffey**, to approve Rezoning Case No. 23CZ01 - Cash Corporate Center (Revised Uses).

VOTE: 4-0 (UNANIMOUS)

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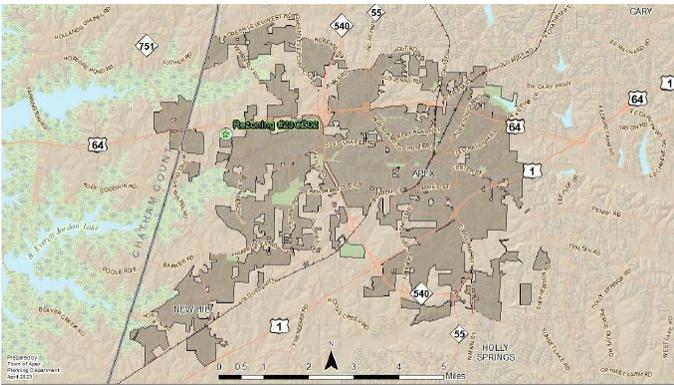
PH3 Rezoning Case No. 23CZ02 Triangle Home Services Phase II

Shelly Mayo, Planner II, gave the following presentation on Rezoning Case No. 23CZ02 - Triangle Home Services Phase II. She said staff recommends approval. She offered to answer any questions.

[SLIDE 15]



[SLIDE 16]

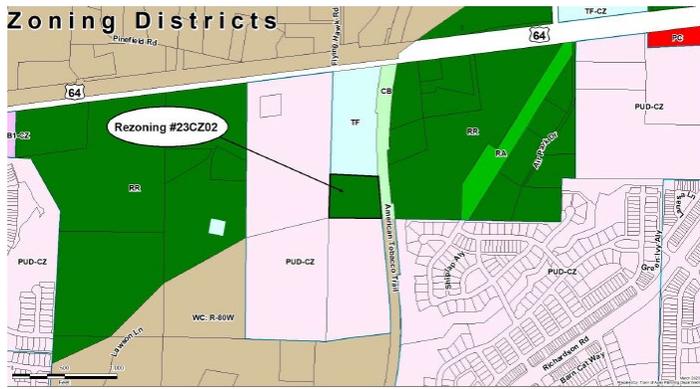


[SLIDE 17]

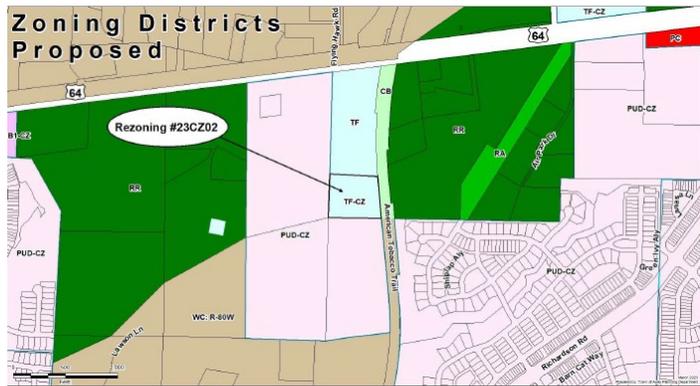


[SLIDE 18]

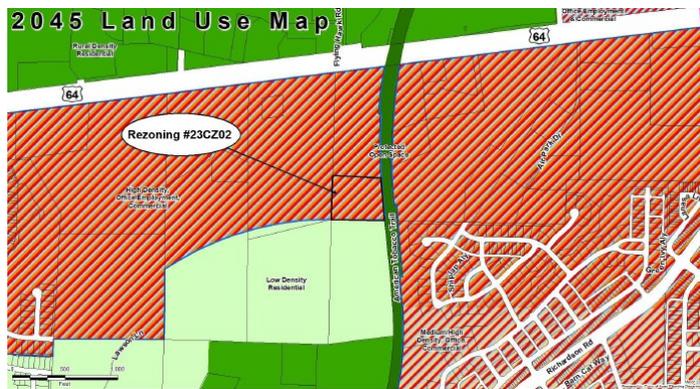
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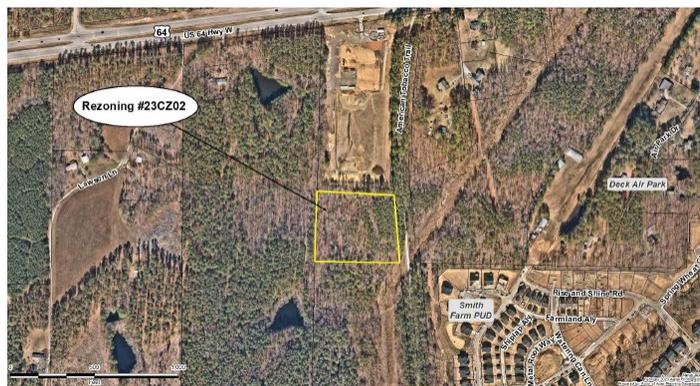
[SLIDE 19]



[SLIDE 20]



[SLIDE 21]



APPROVED

Mayor Pro Tempore Killingsworth asked if this property provides connectivity to the parcel where there might be a school, or if there's another parcel that needs to be added in before that happens.

Ms. Mayo said this parcel is immediately adjacent to the one that would have the school. She said it was highly unlikely the applicant would be willing to do that, because they have access to the future major collector on the western side of their parcel. She said they are participating in the construction of that road and sharing the right-of-way with Legacy along their shared north-south property line.

Councilmember Gantt said it seemed like the uses would bring in a lot of truck traffic. He wondered about what planning thought regarding that kind of use within tech-flex in close proximity to future apartments. He asked if there was potential for heavy trucking across the street from residential areas, and how does planning evaluate that.

Ms. Mayo said the parcel to the north was zoned as Tech-Flex without any additional conditions. She said on this site, they were looking to have the applicant remove uses to make certain that if the two properties develop together, that anything that results from the combined development is appropriate for the area. She said by restricting some uses on this site, they de facto restrict those uses on the northern site as well, since any use that isn't appropriate in one zone can't be in the other zone at all through the combined development.

Councilmember Gantt asked if both parcels had been included in this rezoning, would the equation have been different for some of the uses suggested in this one.

Ms. Mayo said that was difficult to say, since this was Tech-Flex, but that most of the uses they took out were heavier trucking options. She said warehousing generally doesn't bring in much traffic, since it is separate from distribution centers now.

Councilmember Gantt asked if there were examples in Apex that could help illustrate that point.

Ms. Mayo said there were several near Pristine Water Drive, one off of Lufkin near 55, and that there are multiple sections within the warehouses for different companies, and there is minimal traffic to and from those locations. She said it's normally a handful of trucks on a daily basis.

Jeff Roach, of Peak Engineering and Design, gave a presentation. He offered to answer any questions.

Councilmember Gantt asked him to remove self-storage, even if it's only for parking and SCM. He asked if that was under consideration.

Mr. Roach said they wanted to leave it just in case they use it. He said he and the owners see the property as more of office-type uses, but they want to leave their options open.

APPROVED

Mayor Pro Tempore Killingsworth opened public hearing for this item. With no sign-ups, she closed public hearing and moved discussion back to Council.

Councilmember Mahaffey said he views this as a simple matter. He said they already own the parcel to the north which has been zoned as Tech-Flex, and what they're proposing is compatible with that. He said this was a small addition to that. He said under different conditions he may give them more of a hard time, but he feels this is different to a case where they are looking at a completely new property and fundamentally changing the uses of the area.

Councilmember Gray said he was viewing it the same way. He said it is just a continuance of the use on the north side. He said it's a consistent use, and cleans up a donut hole.

Councilmember Gantt said he doesn't like self-storage, and the self-storage unit would be smaller if they didn't allow them at all. He said in his opinion, self-storage is a waste of land. He said he would be voting no.

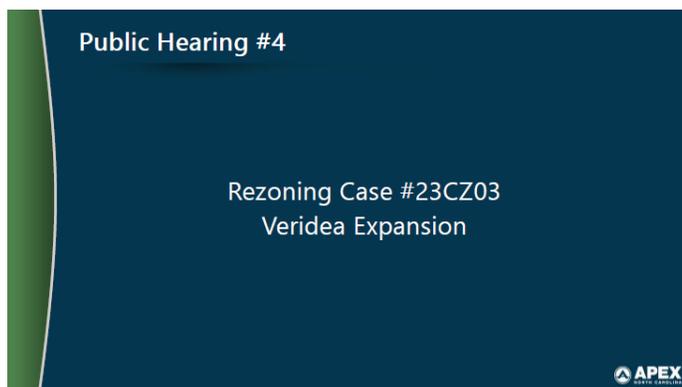
A **motion** was made by **Councilmember Gray**, seconded by **Councilmember Mahaffey**, to approve Rezoning Case No. 23CZ02 - Triangle Home Services Phase II.

VOTE: 3-1, Councilmember Gantt dissenting

PH4 Rezoning Case No. 23CZ03 Veridea Expansion

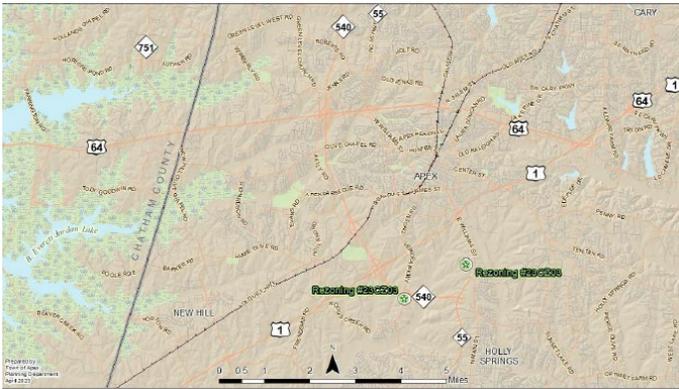
Amanda Bunce, Current Planning Manager, gave the following presentation regarding Rezoning Case No. 23CZ03 - Veridea Expansion. She said staff recommended approval, and offered to answer any questions.

[SLIDE 22]



[SLIDE 23]

APPROVED



[SLIDE 24]



Councilmember Gantt asked if staff has been approached by any landowner within 2000 feet from this property, but not connected to the main development, that wanted join on this special zoning, and if so, how would planning would deal with that.

Ms. Bunce said they have not been approached by anyone yet who meets the criteria and would be a satellite property within this zoning. She said staff would have to evaluate things based on where the property was. She said she couldn't see a situation where a property with a request like that would be completely detached from this property.

Councilmember Gantt asked if any property owner would be entitled to ask for those zoning conditions within 2000 feet, even if they were disconnected.

Ms. Bunce said they would be entitled to ask for it, but they would still need to come to Council to receive approval.

Jason Barron of Morningstar Law Group, gave a presentation and offered to answer any questions.

Mayor Pro Tempore Killingsworth opened public hearing for this item. With no sign-ups, she closed public hearing and brought discussion back to Council.

Councilmember Mahaffey said he called this case "viral zoning", because of how it expands to other properties.

APPROVED

Councilmember Gantt said he hoped it would be a helpful virus.

A **motion** was made by **Councilmember Brett Gantt**, seconded by **Councilmember Terry Mahaffey**, to approve Rezoning Case No. 23CZ03 - Veridea Expansion.

VOTE: 4-0 (UNANIMOUS)

[UPDATES FROM TOWN MANAGER]

Town Manager Catherine Crosby wanted to reiterate what Director Manville communicated about public service. She said she is grateful to work on a stellar team that contributes so much to the town. She said the town will be celebrating employees in a couple of weeks. She said there would be some cool t-shirts and other things that employees will receive. She wanted to congratulate Fire Chief Tim Herman and the new cadets, who were sworn in on Friday. She said hopefully soon they will be in their new fire station. She encouraged everyone to come out Saturday for Think Apex Day, and that it would be a great opportunity to give back to the community. She said the public could go to the town's website to find a link for "Peak Connections", which is an opportunity for residents and stakeholders to schedule time with her. She said the list of times will be updated every month, and that anyone who wishes to speak with her or get to know her was welcome.

Mayor Pro Tempore Killingsworth said she wanted to go down the line of Council, and ask what groups they have been meeting with or what other things they have been doing in the community over the past few weeks.

Councilmember Gray thanked the Apex Youth Council for being present for another meeting, and that is inspiring to see them involved in government. He led a round of applause for them.

Councilmember Mahaffey said the firefighter swearing-in ceremony was great. He said he had the opportunity to meet with artists at the Apex Art Walk at the Halle Cultural Arts Center. He said there were some local people participating this year. He said an app should be coming out soon that will provide a tour of the Halle. He said EarthFest was some fantastic last-minute changing of plans by staff to accommodate for weather, and that the event turned out great. He said there was cool vendors and a lot of attendance. He said he spoke with a lot of constituents at Council's booth, and was looking forward to the event next year.

APPROVED

Councilmember Gantt said he helped organize Pig Fest through his work with Apex Sunrise Rotary Club, and noted how great the town was to work with for festivals. He said he heard good things about staff interactions and their quality. He said he was looking forward to PeakFest, and encouraged everyone to appreciate town staff for the work they put into festivals.

Mayor Pro Tempore Killingsworth mentioned PeakFest and the upcoming Home Repair Fair. She said it is being hosted May 4th at the Apex Senior Center, and would help inform and help people regarding making repairs to their home through affordable means. She encouraged everyone to take a look at the Apex website to see all of the upcoming events, and mentioned the 150th year Passports, which provide a way to participate in these events and earn passport stickers to earn memorabilia.

[ADJOURNEMENT]

Mayor Pro Tempore Killingsworth declared the meeting adjourned at 7:09 PM

Jacques K. Gilbert
Apex, Mayor

Allen Coleman, CMC, NCCCC
Apex, Town Clerk

Submitted for approval by Apex Town Clerk, Allen Coleman.

Minutes approved on the 9th Day of May, 2023.

APPROVED
TOWN OF APEX
REGULAR TOWN COUNCIL MEETING
TUESDAY, MAY 9, 2023
6:00 PM

The Apex Town Council met for a Regular Town Council Meeting on Tuesday, May 9, 2023 at 6:00 PM in the Council Chambers at Apex Town Hall, located at 73 Hunter Street in Apex, North Carolina.

This meeting was open to the public. Members of the public were able to attend this meeting in-person or watch online via the livestream on the Town's YouTube Channel. The recording of this meeting can be viewed here: <https://www.youtube.com/watch?v=SGmfdy4bry4>

[ATTENDANCE]

Elected Body

Mayor Jacques K. Gilbert (presiding)
Mayor Pro-Tempore Audra Killingsworth
Councilmember Brett Gantt
Councilmember Ed Gray
Councilmember Terry Mahaffey
Councilmember Arno Zegerman
Absent: None

Town Staff

Deputy Town Manager Shawn Purvis
Assistant Town Manager Demetria John
Assistant Town Manager Marty Stone
Town Attorney Laurie Hohe
Town Clerk Allen Coleman
Deputy Town Clerk Ashley Gentry
Parks Planning and Project Manager Angela Reincke
Traffic Engineering Manager Russell Dalton
Director of Transportation & Infrastructure Development Department
All other staff members will be identified appropriately below

[COMMENCEMENT]

APPROVED



Mayor Gilbert called the meeting to order. He began by thanking those in attendance and watching on livestream for joining. He said PeakFest this past Saturday was a joyous occasion, and joked that he and Council met to put a bubble over the town to ensure no rain would interrupt it. He recognized the diversity of faiths in the town, and said it grants the town strength. He then spoke in honor of lifelong Apex resident and former Apex Commissioner/Councilmember, Auxiliary Police Officer, Volunteer Fireman, School Board Member, and World War II Veteran William Nolan Cooke, who passed away on May 6, 2023, at the age of 100. Mayor Gilbert then led a moment of silence in honor of Mr. Cooke and his family.

Mayor Gilbert then led a recitation of the Pledge of Allegiance

[CONSENT AGENDA]

A **motion** was made by **Mayor Pro Tempore Audra Killingsworth**, seconded by **Councilmember Brett Gantt**, to approve the Consent Agenda as amended, with the addition of consent item number 15 - 2023 - Revised Town Council Meeting Calendar.

VOTE: UNANIMOUS (5-0)

CN1 Agreement - North Carolina Department of Transportation (NCDOT) - Salem St and Chatham St - Review Traffic Signal Modifications (REF: CONT-2023-103)

Council voted to approve an Agreement with NCDOT for review and inspection of traffic signal modifications proposed by the Town of Apex at the intersection of Salem Street and Chatham Street in the Salem Streetscape project, and to authorize the Town Manager to execute the agreement on behalf of the Town.

CN2 Annexation No. 753 - 7612 Green Level Church Road - 1.74 acres (REF: RES-2023-027, RES-2023-028, and OTHER-2023-041)

Council vote to adopt a Resolution Directing the Town Clerk to Investigate Petition Received, to accept the Certificate of Sufficiency by the Town Clerk, and to adopt a Resolution Setting the Date of a Public Hearing for May 23, 2023, on the Question of Annexation - Apex Town Council's intent to

APPROVED

annex 1.74 acres located at 7612 Green Level Church Road, Annexation No. 754 into the Town Corporate limits.

CN3 Council Meeting Minutes - Multiple

Council voted to approve, as submitted or amended, Meeting Minutes from the following meetings:

April 18, 2023 - Town Council Work Session Meeting Minutes

April 25, 2023 - Regular Town Council Meeting Minutes

CN4 Encroachment Agreement - 1718 Wimberly Road Lot 181 (REF: CONT-2023-104)

Council voted to approve an encroachment agreement between the Town and property owner Taylor Morrison of Carolinas, Inc. to install a driveway that will encroach 9 square feet (SF) onto the Town of Apex 20' Public Storm Drainage Easement and authorize the Town Manager to execute the same.

CN5 Encroachment Agreement - 2918 Alderson Court Lot 259 (REF: CONT-2023-105)

Council voted to approve an encroachment agreement between the Town and property owners Shantanu Kaprekar and spouse Divya Namjoshi to install a fence that will encroach 132 linear feet (LF) onto the Town of Apex Sanitary Sewer Easement and authorize the Town Manager to execute the same.

CN6 Memorandum of Understanding (MOU) between Wake Technical Community College and the Town of Apex - LaunchAPEX Educational Training (REF: CONT-2023-106)

Council voted to approve a Memorandum of Understanding (MOU) between Wake Technical Community College (WTCC) and the Town of Apex to conduct educational training to small businesses in the Apex community through the LaunchAPEX program; and authorize the Town Manager to execute the MOU.

CN7 Position Authorization - Additional 0.5 FTE - Public Works Department

Council voted to approve an additional 0.5 FTE part-time, benefited Public Works Attendant, Market Range 04, position for the Public Works Department.

CN8 Purchase of Real Property - 1125 Wimberly Road and Budget Ordinance Amendment No. 17 (REF: ORD-2023-036)

Council voted to approve purchase of real property located at 1125 Wimberly Road, authorize the Town Manager to execute associated contracts, and approve corresponding Budget Ordinance Amendment 17.

CN9 Resolution - Designating Deputy Finance Officers (REF: RES-2023-029)

Council voted to approve a resolution designating the Accounting and Finance Manager, and Purchasing Manager positions with the authority of deputy finance officer for the purposes of complying with the Local Government Budget and Fiscal Control Act.

APPROVED

CN10 Resolution - Right-of-Way (ROW) Road Closure Request - Set Public Hearing (REF: RES-2023-030)

Council voted to approve a Resolution of Intent for the closing of a right-of-way (ROW) on a portion of Burma Drive located South of Goodworth Drive and North of Pristine Water Drive and between two tracts owned by Apex Industrial Owner 3 LLC (See Survey Map Included); and to set a Public Hearing for Tuesday, June 13, 2023, following the required 30-day public notice period.

CN11 Rezoning Case No. 23CZ01 - Cash Corporate Revised Uses - Statement and Ordinance (REF: RES-2023-037)

Council voted to approve the Statement of the Town Council and Ordinance for Rezoning Application #23CZ01, Rockpoint Group, LLC and Oppidan, petitioners, for the properties located at 0 & 0 Pristine Water Drive and 1251 Burma Drive (PINs 0751043020, 0751235497, & 0751132324).

CN12 Rezoning Case No. 23CZ02 - Triangle Home Services Phase II - Statement and Ordinance (REF: RES-2023-038)

Council voted to approve Statement of the Town Council and Ordinance for Rezoning Case #23CZ02 Triangle Home Services Phase II. The applicant is Peak Engineering & Design, PLLC for the property located at 0 US Hwy 64 West (PIN 0722047141).

CN13 Rezoning Case No. 23CZ03 - Veridea Expansion - Statement and Ordinance (REF: RES-2023-039)

Council voted to approve the Statement of the Town Council and Ordinance for Rezoning Application #23CZ03, Rebecca D'Eloia, RXR Realty, petitioner, for the properties located at 0 & 0 E Williams Street and 0 & 0 Veridea Parkway (PINs 0740982630, 0740982659, 0740240814, 0740052449).

CN14 Tax Reports - February and March 2023 (REF: OTHER-2023-042 and OTHER-2023-043)

Council voted to approve Apex Tax Reports dated March 5, 2023 and April 2, 2023.

CN15 ADDED - 2023 Revised Council Meeting Calendar

Council voted to amended the 2023 Council Meeting Calendar to move the Planning Committee meeting originally scheduled for Thursday, May 11th at 9:00 AM to Thursday, May 18th, 2023 at 9:00 AM at Town Hall located at 73 Hunter Street in Apex, North Carolina.

[PRESENTATIONS]

PR1 Presentation by the Apex Public School Foundation - Quarterly Peak S.T.A.R. Awards - 3rd Qtr

APPROVED

Mayor Gilbert announced that this presentation would be postponed until the May 23, 2023 Council Meeting.

PR2 Proclamation - Asian American and Pacific Islander Heritage Month - May 2023 (REF: PRO-2023-015)

Mayor Gilbert and Town Council read the Asian American and Pacific Islander Heritage Month Proclamation in unity.

Mayor Gilbert then invited Celeste Sherer, DEI Coordinator, Dr. Jeehun Kim, and Ms. Shimozono up to receive the Proclamation and take a picture.

Dr. Kim spoke about he loved the Town of Apex. He said he is an active duty army officer, who moved here in 2017. He spoke about the beauty and inclusiveness of the town. He said he was moved to Northern Virginia for work, but his family loved Apex so much they stayed and kept the family roots there. He thanked the Mayor and team for their partnership and collaboration.

Ms. Shimozono gave a few remarks as well:

"Thank you, Mayor Gilbert and Council and of course the Town of Apex for proclaiming May as Asian American and Pacific Islander, or AAPI, month. I am a second generation Japanese American, but I'm also part of the Buddhist Community here in Apex. We just opened our Buddhist center here in January. But of course, I wanted to thank my friends and family for supporting me, and of course my parents for keeping me connected to my Japanese heritage. And again, I wanted to thank my Buddhist community here and of course Apex for allowing us to have diverse religious faiths here and celebrating that. And finally, of course, I wanted to thank my fellow AAPI community members here in Apex for continuing to share your stories and experiences and culture to really enrich and educate the community here in Apex. Thank you once again for this opportunity and allowing me and Dr. Kim to share words, and thank you everybody here for coming to celebrate AAPI Month. Thank you!"

PR3 Proclamation - National Police Week and Peace Officers' Memorial Day Proclamation - May 14 through May 20, 2023 (REF: PRO-2023-016)

Mayor Gilbert and Town Council read the National Police Week and Peace Officers' Memorial Day Proclamation in unity.

Mayor Gilbert then invited Police Chief Jason Armstrong and members of the Apex Police Department who were present up to receive the proclamation and take a picture.

[REGULAR MEETING AGENDA]

A **motion** was made by **Councilmember Arno Zegerman**, seconded by **Councilmember Ed Gray**, to approve the Regular Meeting Agenda as presented.

VOTE: UNANIMOUS (5-0)

[SLIDE 2]

Public Participation

- 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



[PUBLIC FORUM] (NOTE: To view Public Forum sign-up list, see OTHER-2023-046)

Mayor Gilbert spoke how he and Council want to hear from the community, and that anyone is welcome to come present at Public Forum.

First to speak was **Ashley Solis** of 1273 Brown Velvet Lane:

"Hi again. We're here requesting that some changes be made to Richardson Road to increase pedestrian safety. That is painted crosswalks at Richardson Road and Hasse, and Coral Banks and Richardson. On those two same intersections, we would like flashing crosswalks, the technical name is rectangular rapid flashing beacons, at both of those intersections. Reduction of speed from 45 to 35 miles an hour, and we are urging and hoping you will consider bringing in specifically a pedestrian safety expert. I understand the planning that goes into these subdivisions takes years, and we have city engineers, but we're not taking into account foot traffic. And so much of what we're developing is mixed use space, which is amazing because that's what you want, and it's what's environmentally friendly, but we can't do better if we don't know better. So, if we could get somebody or something, consulting group, consultation, we're asking that that more heavily be considered. Okay so, according to Vision Zero, which we are all working towards as a city, 259 crashes involved pedestrians in 2022. In a different study by AAA, your risk of fatality is roughly 50 percent if you're going 42 miles an hour. The speed limit is 45, with no crosswalk. We are playing real life frogger on Richardson, and not crossing the street is not an option if you're trying to get to amenities, if you're looking at anything in the community, and I don't even want to think about what's going to happen once the commercial areas develop. Harris Teeter, an average grocery store, has 400 cars a day. That's cars, not people. So, we're already having a little over 4,000 cars a day on Richardson right now, and that's before the commercial site is done. So, I'm thinking possibly double, so you're going to have that many cars go by a day without lighted crosswalks. It's not a good situation, it's dangerous at best. I would also say that I work with kids every week, specifically disabled children, and I would not be able to, in good conscience, have them cross the street with me. My son is 17 and he has special needs, he cannot cross Richardson by himself, because that's how dangerous it is, especially if you're dealing with anyone with any kind of delay, or handicap that might take them a little longer to cross, so I'd like you to think of all those things, and I look at this more as an opportunity, and not necessarily just a problem to solve, because this will come up in

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other subdivisions that are coming, and if we learn from Sweetwater what to do, we won't have to go up and do anything that's going to cost us extra money in the future. Thanks."

Mayor Gilbert thanked Ms. Solis for her comments.

Next to speak was **Dare Johnston** of 1192 Brown Velvet Lane:

"I want to first off reiterate what was said earlier tonight, I have lived in Apex for a while now, I absolutely love the community. I'm so happy that I made the change and moved here. But, I live in Sweetwater, as do many of the other people here tonight, and I travel Richardson Road consistently as a pedestrian. I walk my dog, I walk back and forth, and over the time I've been living there, I've become more and more concerned with what I'm seeing. If you've never been to Sweetwater or Smith Farm, and you've never walked up and down Richardson Road, I would ask that you come out. Come out in the mornings, come out on the weekends, come out in the evenings, there are tons of pedestrians walking back and forth on that road. We're walking dogs, we have children, children who are learning to ride their bikes. It's a wonderful community, but it's also a community that has a major highway, or a major throughway, running right through the middle of Sweetwater and Smith Farm. If I live in the townhouse area of Sweetwater, I have to cross the street to go to the pool, I have to cross the street to go to the fitness center. If I'm living in Smith Farm on one side of the street, I also have to cross the street to get to the amenities at Smith Farm. It's not just adults that are doing this, it's also children that are doing this. And while we'd all like to believe that parents take their children and walk them across the street, we also all know that doesn't happen. I've also watched where Smith Farm has built their playfields, I've seen kids run after balls, into the street, into Richardson Road. A car coming 45 miles and hour down Richardson Road is not necessarily going to see that child, and they're going to run out into the middle of the street. I would ask for three things. I let Ashley do the statistics, this is an emotional plea from somebody who lives there and is a mom, honestly. Please lower the speed limit on Richardson from 45 to 35, we need crosswalks that first of all tell people that it's a crosswalk, and there's a state law that says that a crosswalk must be observed, and somebody has to stop for that crosswalk. The other thing that I would ask is that you look at lighting on Richardson Road. Richardson Road at night is extremely dark, we've got major traffic going back and forth on Richardson Road. We need more light. We've heard stories of people who don't see pedestrians who walk dogs and who are on Richardson Road at night, and it's very concerning, there just needs to be more light there. Overall, I would just ask that you listen to us, we've come multiple times. Just please, if nothing else, just study the issue, because what I'd like to avoid is it's not if tragedy is going to happen, it's when a tragedy is going to happen on that road. Thank you."

Mayor Gilbert thanked Ms. Johnston for her comments.

Next to speak was **Veronica Pacheco** of 1316 Brown Velvet Lane:

"I want to thank you all for all your efforts to reduce the speed limit, in honor of Austin, as you all know, my dog that got killed at the intersection of Richardson and Hasse, I feel like Austin has kept all the dogs safe in the dog parks so far, because there have been a lot of incidents of dogs who have crossed through there and escaped. Thankfully, they've survived. Twice, one of them got

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hit by a car and he survived, so I feel like Austin is an angel in heaven watching over all of our dogs. I do feel like that was a big tragedy for me, and I just can imagine another tragedy happening on that intersection, so I would love for you to go the extra mile, and make this happen for us to have crosswalks that are lighted on that intersection with the flashing lights at Richardson and Hasse. We sat there at the dog park, and we've noticed that within an hour, about 15 people cross either riding bikes, especially going to the Tobacco Trail, or just going back and forth now that the pool is open just on that intersection. They cross about 15 people an hour, so about 150 people a day that cross that intersection, and it's just a matter of time before something happens. If we could also ask for a few crosswalks with flashing signs and yield signs closer to Smith Farms as well, since there's a lot of people that cross through there. But I want to thank you for your efforts in reducing the speed limit, and for your patience and for listening to us and our concern as a community to help us keep our community safe. Thank you."

Mayor Gilbert thanked Ms. Pacheco for her comments,

Next to speak was **Elizabeth Ray Stitt** of 3113 Friendship Road (To view her handouts to Council, see **OTHER-2023-047**)

"Mayor, Town Council, good evening. So, this marks my one-year anniversary of coming to express my concerns regarding the Big Branch Force Main. It's not a joyous occasion for me, because very little progress has actually been made. Many of the questions we asked a year ago still remain unanswered, and when I came at the April 11th meeting, I shared with you, along with two of my neighbors, our concerns about how the safety of our animals, our properties, our family, our neighbors, the workers were at risk, based on the lack of communication. I shared in that meeting that I sent an email on April 6th, and the meeting was April 11th, of hey can I please get a list of sub-contractors who are coming on my property, what's the scope, I need to understand who's legitimate. To date, there has been zero response from the four employees who were on that email. What's worse is, I continue to get phone calls. I got two phone calls on May 2nd. The man argued with me that he had to come on my property to check my septic tank. I don't have a septic tank on the property that you're going to take. I had to send him public records showing it's in a flood zone, and by definition, you do not put a septic tank in a flood zone because it will contaminate the groundwater. So, once we got beyond that, 15 minutes later he calls me back and says "oh I need to come check the streams." And I said "before you do I need to understand how you're going to access my property, give me some details." He couldn't answer the question, so I sent him an email, giving him the opportunity to follow up with me. So today, a week later, I do my follow-up, he's like "oh sorry, we don't need to come on there." I don't understand who, what, when, and where, so that's a problem. But what's worse is beyond the silence, that's bad, what's worse is what the town did. The town posted online the weekly activities of five companies in enough detail about my property, my neighbor's properties, to impersonate the town, and to impersonate these 5 companies. So, when I say I need to know who's legitimate coming on my property, this is not a joke. A year of my time coming to say I need your help, I need your partnership, I need your support, communication, collaboration, at what point are you going to say we have got to all sit down at the table, and figure out how to all communicate. I don't know the answer, and I'm getting frustrated, and I'm a really patient person. And I will always be polite, my offer to each of you to come out to the

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property to see and understand the circumstances remains. It's been out there for an entire year. So, we have many more years ahead of us. You guys know that, this 26-million-dollar project has turned into a 40-million-dollar project, and with it being one of the larger town projects, if it was mine and I owned it, I certainly would go out there and put my boots on and go out there to understand what the problem is. Because this is our future, I am not going anywhere, I have lived here for 32 years. And public record will show, I have 38 acres. I am not going anywhere, I am not giving up my lifestyle, and I have a right to know who's coming on my property. Period. And I'm not going to take legal action against you guys, because you're going to take legal action against me to take my property and all of this will come out in court at that point. Please, start getting involved. Act like my neighbor. Act like you now me. It is a running joke with some of the developers because we all agree, they don't acknowledge me around here, they don't acknowledge me in public, because they don't want to be associated with me. Because I have a reputation of showing up over and over and over. I have rights as a human being, I need you to stop and communicate, show up, please. Thank you."

Mayor Gilbert thanked Ms. Stitt for her comments.

Next to speak was **Gabriel Carrillo** of 105 Cameron Valley:

"There are now 127 folks there, and I represent them as the president of the Kelly West HOA. So this is actually not the first time I've come before you guys before, I've met individually about this issue before, and I gotta tell you I'm quite frustrated with where things stand, just because it has been a can kicked down the road too far. And we are at the point now as a community, where we said we've got to take some action here, so I'm not actually here asking for anything, I'm here letting you know, which I think is the right thing to do, that we are going to proceed with doing something in terms of administrative steps for oversight. We don't know what to do at this stage, but it has been 10 years ago that we started this, and we allotted the land for it, and we said you guys can take it and do what you will, but give us one mile, that's all we've asked for in that greenway, one mile, and that can has been kicked numerous times. And at this stage what we've done, is we have reached out, we have cycled back on numerous opportunities to try to open up, I've contacted the utility company myself, I actually spoke to the head engineer that signed off on the easement, just so we could get it back and sent. And now we're at this stage, and I think it's atrocious, because we've been here long before 540 ever even showed up, and there's something to be said for the people that have been around here a while. No offense to Sweetwater, but we were way before. And you gotta honor those people who have that build and established part of fabric in this community. And so, there's three things about it. One, there's the procedural process we think has been problematic, we haven't been really included in what has gone forward, in terms of what is actually the bidding process. We were told that it's approved, it went for CAMPA Funds, we said that NCDOT was the problem, and that they had stopped, COVID has been blamed, it has been the recycled, replayed, excuses. And we're saying enough on that part. Because that's nothing new, we all have to deal with that in medicine, in law I have to deal with that myself. I can tell you right now, the buck is turning and supply chain ain't getting any better. So, we asked previously for the Town Council to think about actually finding funds for an alternative, or removing funds from an alternative situation that you have set up, and putting them aside for what potentially, we say, you're already agreed to and should invest in now.

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And so that's what we've said, we feel very strongly about it, and we feel very strongly about it. And we think Apex has got the money because we've been building like it's cool. And we know because our community which has been here for x amount of years has just been inundated, and so have our schools, which some of you I know are very passionate about new schools coming in, and I've shared that same frustration. But the lack of partnership, the lack of process, and the lack of respect for the individuals that have been here is far exceeding where it should. And it's a problem that has to be addressed. And our community which has 127 individuals, and our next-door neighbors at Greenbrier, 213 homes, are going to sign on with us, and we'll do what it takes, and we'll take those steps. Because we think we are tired of being built on and we're telling you all to build for us, not on top of us. And we ask: stop the delay of the greenway and do it, it's long overdue. Thank you."

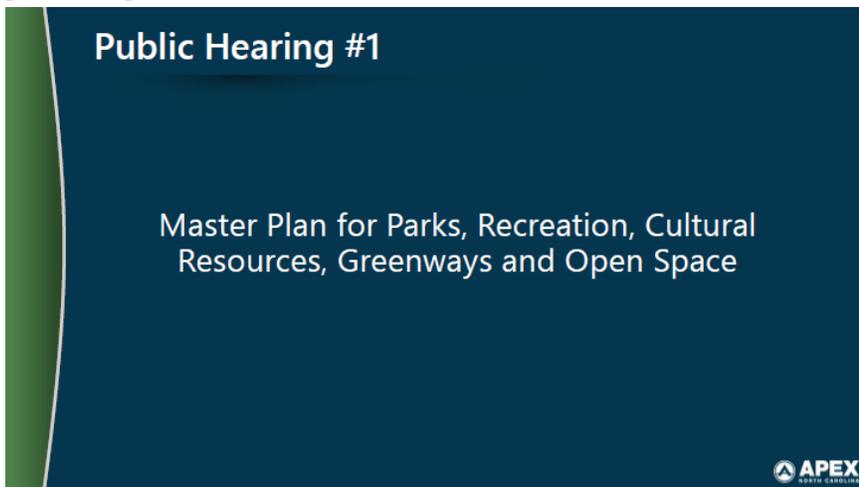
Mayor Gilbert thanked Mr. Carrillo for his comments, and closed Public Forum, moving the meeting on to the Public Hearings.

[PUBLIC HEARING] (NOTE: To view Public Hearing sign-up sheets, see OTHER-2023-046)

PH1 Master Plan for Parks, Recreation, Cultural Resources, Greenways and Open Space

Angela Reincke, Parks Planning Project Manager, and **Shweta Naneker**, Project Manager at McAdams Company (Consultant), presented the following PowerPoint regarding the Master Plan for Parks, Recreation, Cultural Resources, Greenways, and Open Space.

[SLIDE 3]



[SLIDE 4]

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Town of Apex

Master Plan for
Parks,
Recreation,
Cultural Resources,
Greenways, and
Open Space

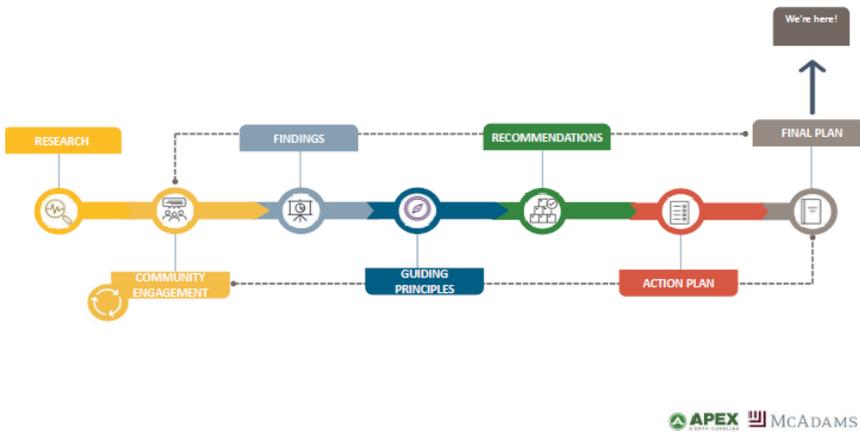
APEX
NORTH CAROLINA

MCADAMS

ETC
pros consulting
SAGE DESIGN GROUP

[SLIDE 5]

PLANNING PROCESS



[SLIDE 6]



The 2023-2033 comprehensive master plan for parks, recreation, cultural resources, greenways, and open space identified the following goals for the planning process.

Goals

- › Replace the 2013 PRGOS Master Plan
- › Identify community values
- › Define the parks system's role in the future of the Town of Apex
- › Develop a resource for elected officials, other town departments, and the public to guide future actions
- › Provide a framework for the PRCR Department
- › Guide improvements to current parks system
- › Accommodate additional demand by new residents
- › Develop the action and implementation plan
- › Qualify to access certain state and national funding sources

APEX MCADAMS

[SLIDE 7]

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State of the System

GREENWAYS ASSESSMENT

- › Evolving and expanding system
- › Town's and community's central focus on connectivity to destinations
- › Development-constructed greenways as new projects are built in Town
- › Challenges upkeeping older sections and managing new ones
- › Design standards are being implemented on new sections



[SLIDE 8]



State of the System

PARKLAND ASSESSMENT

- › Equitable park distribution
- › Acquisitions in high growth areas
- › Well-maintained high-quality park amenities with diverse programming
- › Well loved, high demand, and aging facilities
- › High demand for rentals and organized activities



[SLIDE 9]



State of the System

INDOOR RECREATION SPACE + PROGRAMMING ASSESSMENT

- › Town of Apex currently has 86,294 sq. ft. of indoor recreation space concentrated in the town core and current level of service is 1.37 Sq.Ft/ capita.
- › These facilities include a community center, a senior center, and a historic cultural arts center.
- › The senior center was opened at Town campus in November 2021.
- › The community center is in great condition. As most senior programs shift to the senior center, there is an opportunity to expand programming at the community center.
- › The renovated Halle Cultural Arts Center is a unique destination in downtown Apex.



[SLIDE 10]

APPROVED

COMMUNITY ENGAGEMENT

1800+

The planning process included more than 1,800 touch points with the community, advisory commission, Town staff, and Town Council combined.

- 3- Asset Mapping Sessions
- 2- Open Houses
- 2- Special Events
- 1- Online Questionnaire Survey
- 1- Scientific Survey
- 4- Focus Group Meetings
- 3- Visioning Workshops
- 3- Draft Recommendations Sessions
- 1- West Street Park Community Engagement



APEX MCDAMS

[SLIDE 11]

PLAN FRAMEWORK



APEX MCDAMS

[SLIDE 12]

PLAN FRAMEWORK - THEMES

APEXpand

Apex residents would like to **Expand** the Town's offerings with additional parkland, recreational programming, and a more connected greenway system while developing environmental stewardship programs and opportunities to strengthen the culture of belonging.

APEXperience

Residents want to **Experience** unique amenities and programs for all ages, abilities and interest that encourage a healthy lifestyle, explore cultural avenues and provide a strong sense of community.

APEXcel

Residents want to see the PRCR Department **Excel** in operational efficiencies, outstanding customer service, and best-in-class programming and facilities.

APEX MCDAMS

[SLIDE 13]

PLAN FRAMEWORK- GUIDING PRINCIPLES

APEXpand



CONNECTIVITY

Prioritize interconnected public realm through greenways, bikeways, and transportation.
Apex residents have expressed a strong desire for expanding greenway system and connectivity to destinations including parks, natural areas, and open space.

- › Prioritize interconnected public realm through greenways, bikeways, and transportation.



RECREATION OFFERINGS

Expand recreation offerings to attract new participants, retain current ones, and meet the needs of diverse demographics of Apex.
Apex residents have expressed a strong desire for variety of program offerings that inspire people to try something new and cater to varying interests.

- › Expand recreation offerings to attract new participants, retain current ones, and meet the needs of diverse and growing demographics of Apex.



CULTURE OF BELONGING

Nurture the culture of belonging by prioritizing inclusion, diversity, equity, and accessibility.
Apex residents consider diversity and inclusion offerings for all ages and ability levels an important to the community. Expanding cultural offerings to address the diversity of demographics was indicated as a future need.

- › Nurture the culture of belonging by prioritizing inclusion, diversity, equity, and accessibility.



ENVIRONMENTAL STEWARDSHIP

Expand efforts to protect the natural assets and collaborate on town-wide sustainability efforts.
Apex residents value access to natural areas and understand the positive health outcomes it provides. There is an environmental sustainability vision and a need for environmental education programming was identified.

- › Expand efforts to protect the natural assets and collaborate on town-wide sustainability efforts.



[SLIDE 14]

PLAN FRAMEWORK- GUIDING PRINCIPLES

APEXperience



HEALTH + WELLBEING

Support health and wellbeing of Apex residents through parks and recreation.
Apex residents ranked fitness and wellness programs as one of the top priorities for investment and there is a town-wide consensus that parks and recreation has positive effect on the community's health and quality of life.

- › Support health and wellbeing of Apex residents through parks and recreation.



SENSE OF COMMUNITY

Provide a chance for people to socialize, form friendships, and discover common grounds.
Apex residents indicated creating connections and developing a sense of community should be one of the most important considerations when planning parks and recreation investments. Parks provide a chance for social cohesion where people get to know each other and feel supported.

- › Provide a chance for people to socialize, form friendships, and discover common grounds.



UNIQUE TO APEX

Reflect on Apex's culture and history through the design of spaces that are unique, innovative, and imageable.
Apex residents would like to see inclusive programs and amenities that would attract out of town visitors to Apex as a way to generate economic impact.

- › Reflect on Apex's culture and history through the design of spaces that are unique, innovative, and imageable.



[SLIDE 15]

PLAN FRAMEWORK- GUIDING PRINCIPLES

APEXcel



OPERATIONS EFFICIENCY

Achieve organizational excellence by implementing business practices that enhance efficiency, staff satisfaction, and economic vitality.
Apex residents recognize that as the town continues to grow, there is need for additional staff, resources, and desire to be competitive with other recreation providers in the area.

- › Achieve organizational excellence by implementing business practices that enhance efficiency, staff satisfaction, and economic vitality.



CUSTOMER SERVICE

Provide outstanding customer service through streamlined communication and marketing efforts.
Apex residents consider PFRC staff an asset to the community for excellent customer service. PFRC staff indicated the desire for streamlined marketing efforts, streamlined online presence, and staff empowerment to assist in customer service.

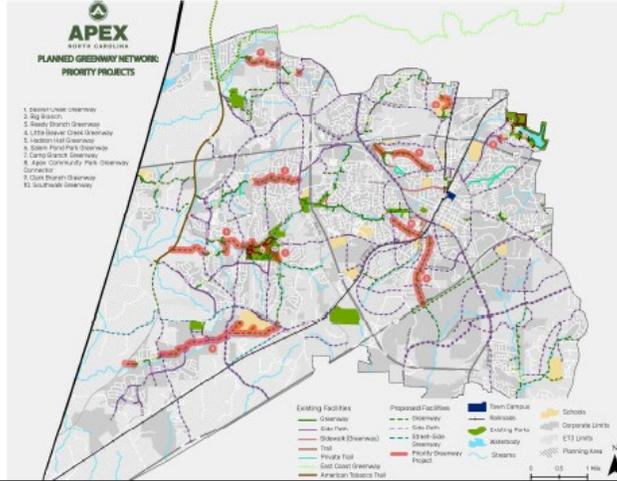
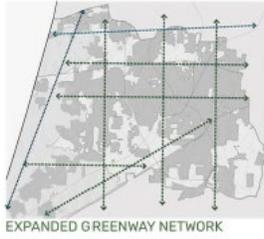
- › Provide outstanding customer service through streamlined communication and marketing efforts.



[SLIDE 16]

APPROVED

GREENWAY PRIORITY CORRIDORS



- › Feasibility Studies
 - › Beaver Creek Greenway
 - › Big Branch Greenway
 - › Reedy Branch Greenway

[SLIDE 17]

PARKLAND + FACILITY EXPANSION



[SLIDE 18]

PROGRAMMING



HEALTH + WELLBEING

SENSE OF COMMUNITY

ENVIRONMENTAL STEWARDSHIP

[SLIDE 19]

APPROVED

IMPLEMENTATION + ACTION PLAN

Implementation

This plan sets forth implementation guidelines for use as a decision-making tool for staff and elected officials. This approach informs and validates decisions through data and community values, leading to defensible and high performing projects implemented through consensus among stakeholders.

- › **Guiding Principles Compatibility**
- › **Community Needs**
- › **Parks System Advancement**
 - › Degree of Urgency
 - › Economic Impact
 - › Compatibility with Town policies and planning efforts including Advance Apex

PRIORITIZATION CRITERIA



[SLIDE 20]

COMMENTS

[SLIDE 21]

Town of Apex

Master Plan for
Parks,
Recreation,
Cultural Resources,
Greenways, and
Open Space

thank you!

APPROVED

Mayor Gilbert said it looked like a lot of work went into putting all of this together, and asked Council if they had any questions for the presenters.

Councilmember Mahaffey said there was a work session about the master plan, which provided a great opportunity to talk about the details of the plan. He said he would reserve questions for the next two public hearing. He thanked them for their hard work in putting the plan together over the past year or more, and that this puts the town in a great position moving forward.

Councilmember Zegerman said one of the things he stated in his January introduction was that he cares a lot about public parks and public spaces, and that it was exciting to see the vision updated to reflect the new needs of Apex. He said they had a lot of discussion and questions answered at the work session a couple months ago, and that he had no further questions at this time.

Councilmember Gantt said that he was exhausted just thinking about the amount of work that went into this project. He said he was very excited about how the greenway and parks projects were able to be prioritized based on numbers and analyze all the information together, and that it will help the Council best use the money raised through taxes and developer fees for the people of Apex.

Mayor Pro Tempore Killingsworth said she loved how comprehensive the plan is. She said it is responding to a growing town. She added that there is a big difference between small town needs and larger town needs, and that even though Apex loves to maintain a small-town feel, it is becoming too large for that term. She said it looks at the needs of the diverse population that Apex has at this point.

Councilmember Gray said that this was a plan that the people of Apex can truly call theirs. He said the process of putting this together had over 1,800 touchpoints with the community, and that this is a project that reflects the values of the community. He said the community can embrace it, because they created it.

Councilmember Mahaffey said he did have one question. He asked what the practical meaning of adopting an area for parkland acquisition search meant. He asked what the search area would mean for the people living in an area chosen for the parkland search areas and what that may mean for them.

Ms. Reincke said these zones are already included in the plan, and they are looking at amending them based on the new metrics they are using. She said the policy for what happens within the boundaries is not changing from the current practice. She said what they do now, the areas identified go through the process laid out in the UDO. She said they identify land for dedication as a first thought. She added that if a project is very large, and would fit in a specific area, they would try to figure out based on the number of units, the size of the property, and other factors from the UDO, whether or not the town would like to do a park, or work with a developer and see if they wanted to do a park. She said the areas identified were based on the measurements they have now, but they are going to look at any property with potential.

Councilmember Mahaffey said he just wanted to be clear for homeowners that this plan wouldn't really be changing anything. He wanted to ensure it wouldn't change what they could do on their properties, if it would devalue their homes, or that it would be turned into a park. He said he wanted to clarify that the large ovals identify areas where they may be wanting to plan for future parks, if they find the right circumstances.

Ms. Reincke said that was correct.

APPROVED

Councilmember Gantt said the vote for this change was a 3-2 vote in Parks and Rec Advisory Commission over making the ovals and search areas tighter and more focused, as there was concern over specific parcels being targeted. He said he felt the larger circles they had were actually pretty useless, and that the new smaller circles were more useful to let people know where the plan was really looking to potentially find future parks. He said this change that passed would be a good change.

Councilmember Mahaffey said he just wanted to inform homeowners that this would not affect what they would be able to do with their land.

Councilmember Gantt said this would also be good to inform the town on some decisions regarding fees-in-lieu or land, as land in these areas may be more valuable, even if the monetary values are the same.

Mayor Gilbert opened up the public hearing for comment. With no one signed up, he moved the meeting on to Public Hearing 2

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PH2 Master Plan Amendments for Parkland Acquisition and Indoor Facility Search Areas

Ms. Reincke then presented the following presentation for Parkland Acquisition and Indoor Facility Search Areas.

[SLIDE 22]

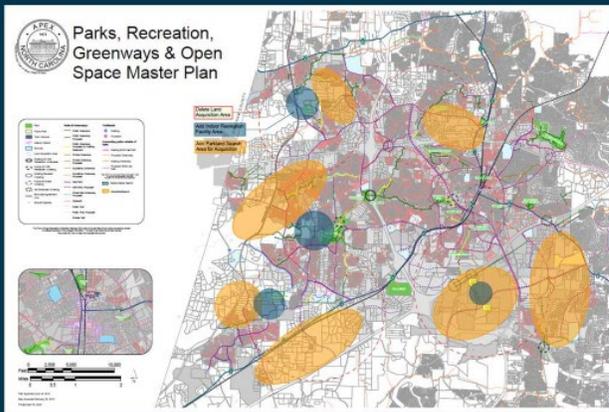
Public Hearing #2

Master Plan Amendments for Parkland Acquisition and Indoor Facility Search Areas



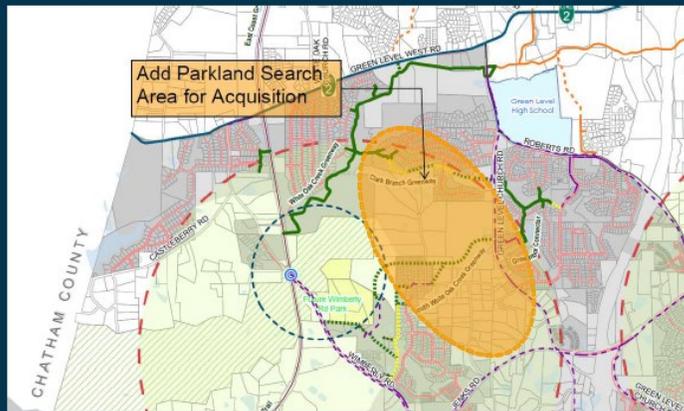
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Master Plan Amendments



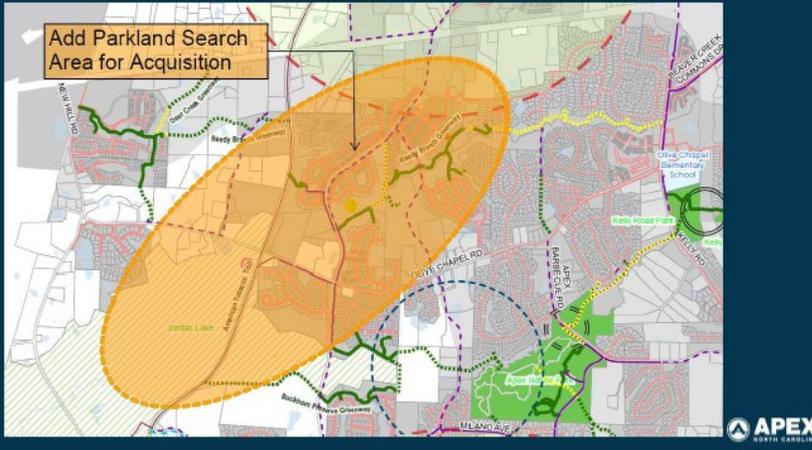
[SLIDE 24]

Map Amendment 2a



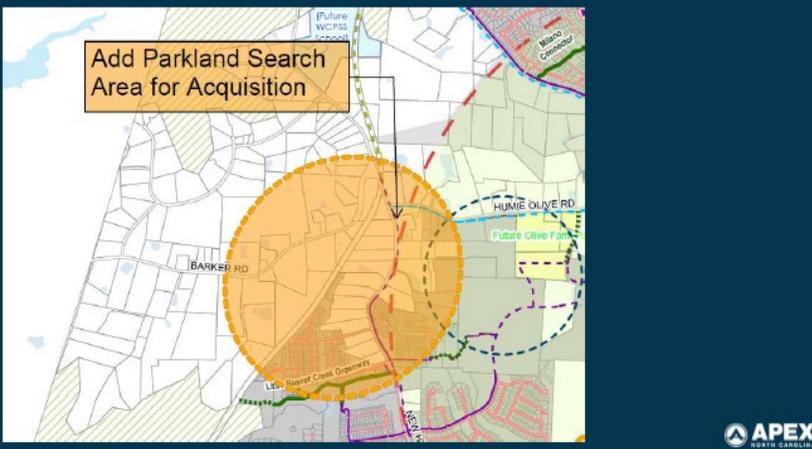
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Map Amendment 2b



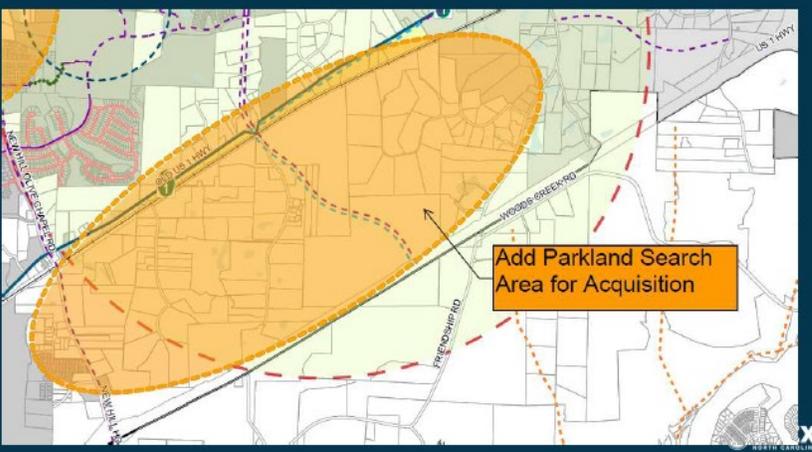
[SLIDE 26]

Map Amendment 2c



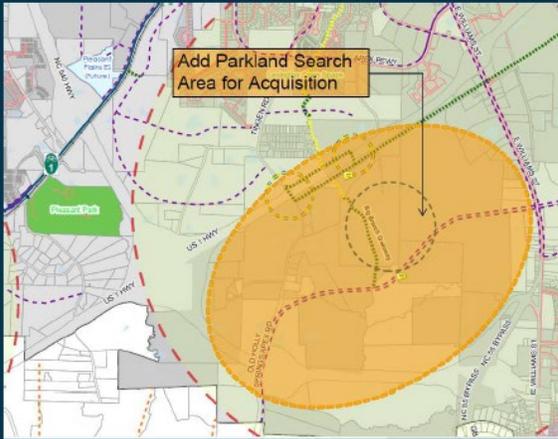
[SLIDE 27]

Map Amendment 2d



[SLIDE 28]

Map Amendment 2e



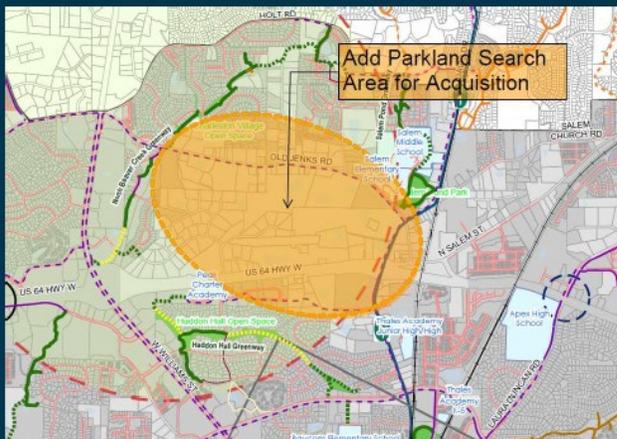
[SLIDE 29]

Map Amendment 2f



[SLIDE 30]

Map Amendment 2g



Councilmember Zegerman said he noticed that two of the search areas are near existing park land. He asked why there would be a search area near a place where a park already is.

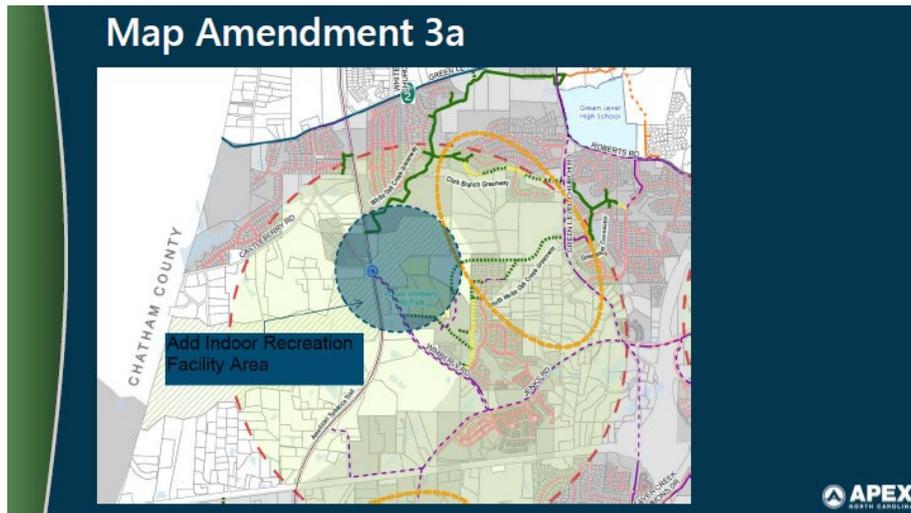
APPROVED

Ms. Reincke said that in some cases areas will look closer on a map than they are from a practical standpoint when using the 5-minute drive and 10-minute walk to a park framework. She said in this case, the areas near the parks identified have a gap to park access based on this framework. She said they also looked at cases where they could expand parks that are already there.

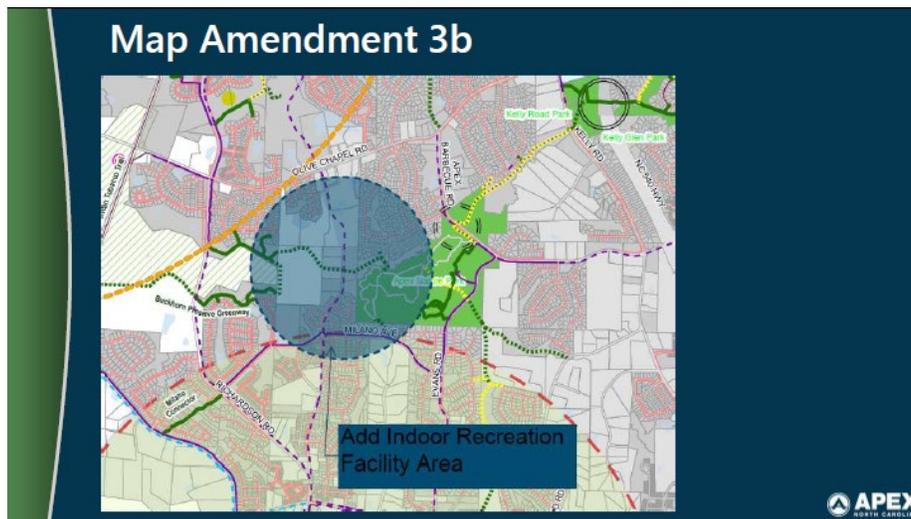
Councilmember Zegerman asked about the part of the search area circle to the right of the main road cutting through it near Olive Farm Park, and why it was included since access wasn't blocked off for it.

Ms. Reincke said this was an example where it was meant to be expanded, as that land had already been dedicated for a recreation activity center. She said this is being considered as the site of a future partnership for a recreation-based programming opportunity.

[SLIDE 31]



[SLIDE 32]



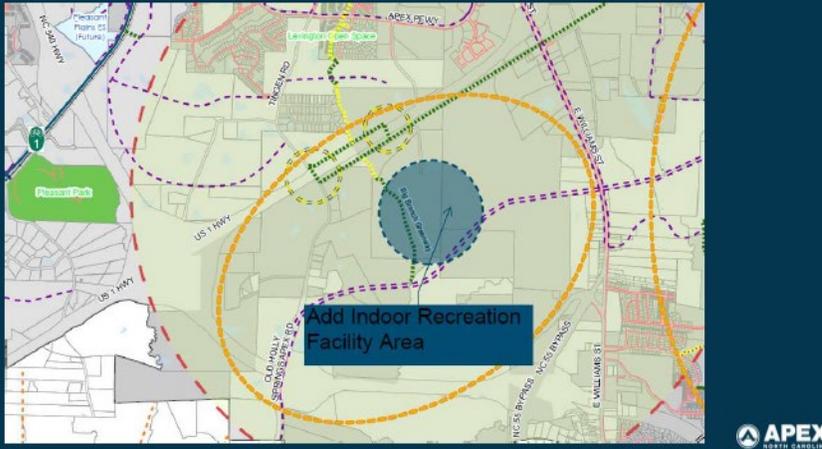
[SLIDE 33]

Map Amendment 3c



[SLIDE 34]

Map Amendment 3d



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AND

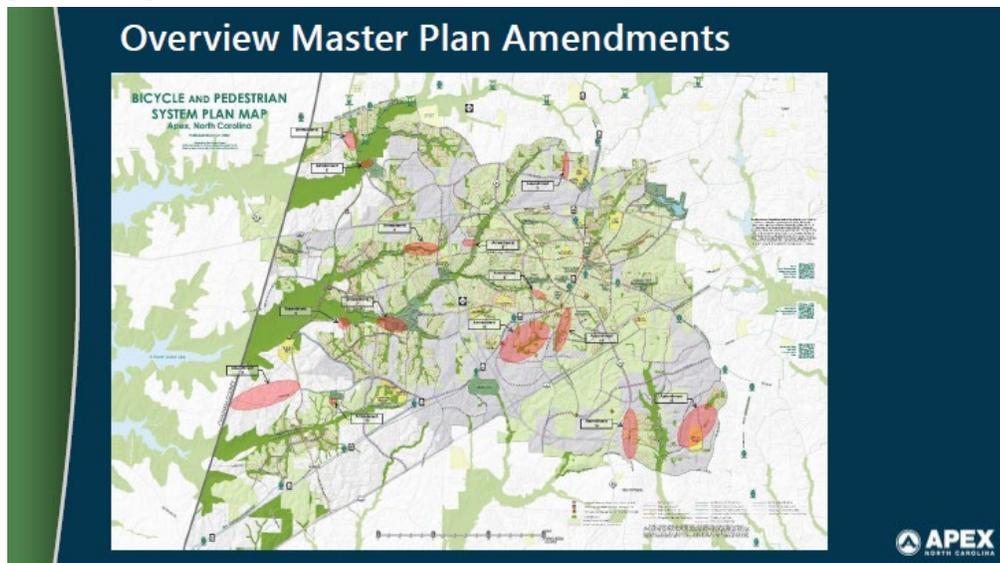
PH3 Bicycle and Pedestrian System Plan Map Amendments - Related to Master Plan for Parks, Recreation, Cultural Resources, Greenways and Open Space

Ms. Reincke gave the following presentation for the Bicycle and Pedestrian System Plan Map Amendments Related to Master Plan for Parks, Recreation, Cultural Resources, Greenways, and Open Space.

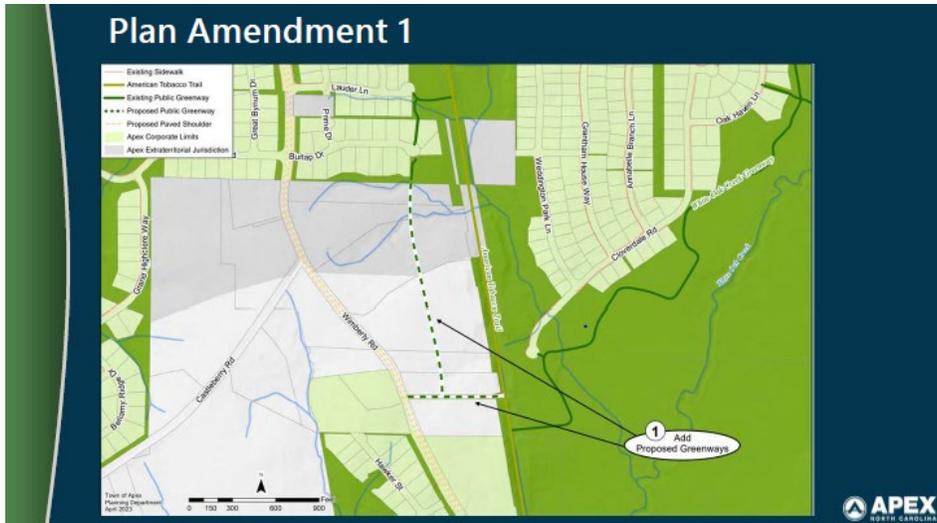
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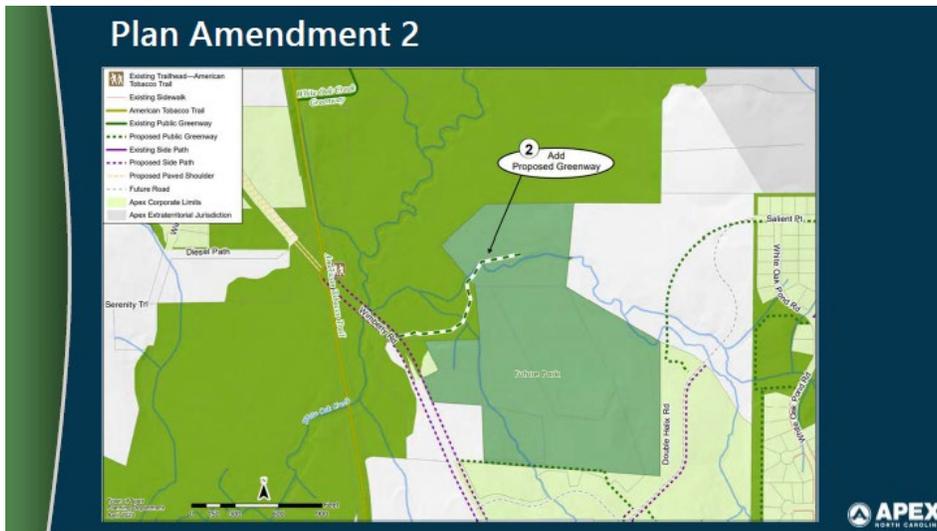
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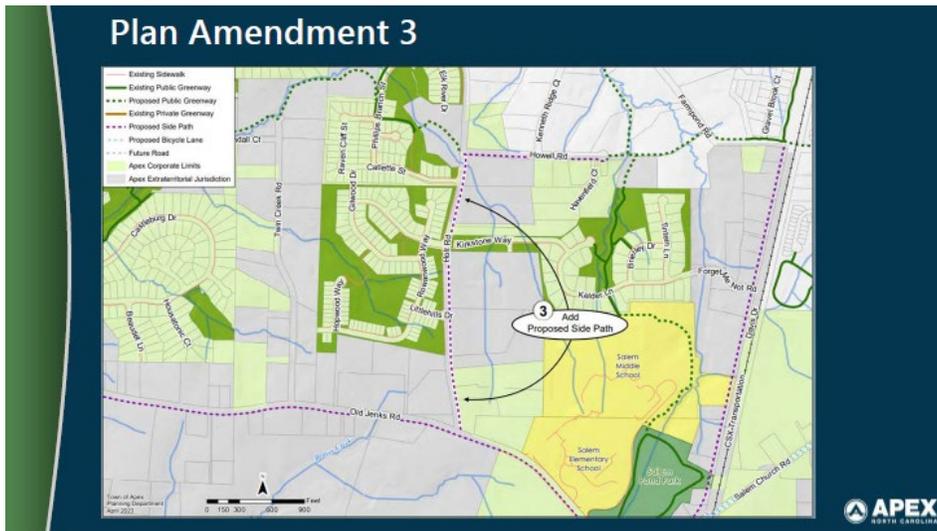
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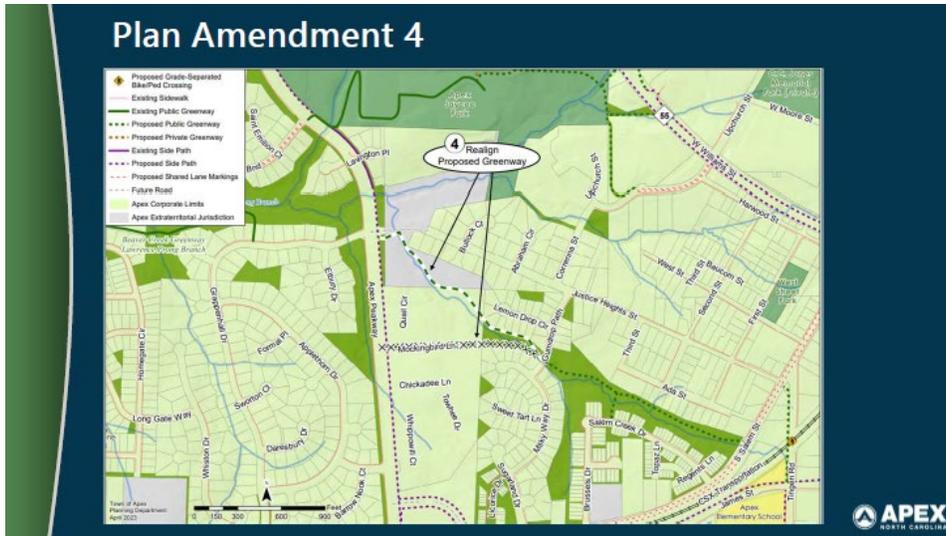
[SLIDE 38]



[SLIDE 39]



[SLIDE 40]



Councilmember Zegerman asked if Amendment 4 would interfere with the extension of Justice Heights Street, or if it would run alongside.

Ms. Reincke said it would run adjacent to it.

Councilmember Zegerman asked if Justice Heights would connect where Gravano connects to the Peakway.

Ms. Reincke said it comes in right below that.

[SLIDE 41]



Councilmember Gantt asked if the town had missed out on an opportunity to work with a developer in this area to get part of this greenway built when they built the townhomes there.

Ms. Reincke said there have been conversations with people from Colonial Pipeline about whether the town could get into their easement at all, and have talked to the engineer of the developer to the south, and there is also a development to the north, and they are currently looking at if there are any ways to fit into any of those. She said there are some issues in making that work such as slopes and riparian areas, so the town is placing it in this area on the map to give some flexibility as to what may happen if the future as development occurs. She said there was a pond, but there was a way to go around it. She said normally plans like this that sit near property lines get adjusted as plans for development come up.

APPROVED

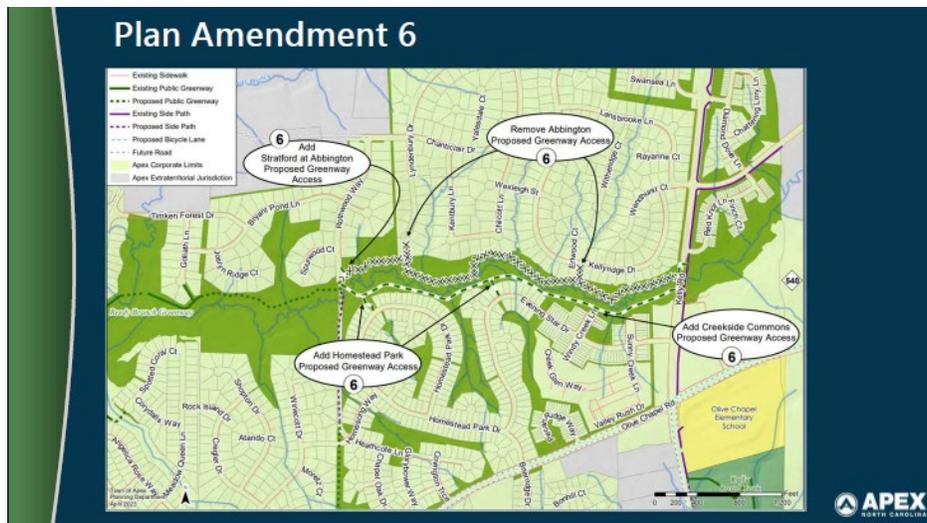
Councilmember Gantt asked if grade-separated crossings were possible or on the map at the time of construction in these areas. He wanted to know if it was unfeasible at the time, or if there was another reason it wasn't done then.

Ms. Reincke said she had heard that at the time that segment was not constructible. She said the Reedy Creek crossing has originally been routed within the creek corridor to connect to the American Tobacco Trail. She said it ended up that this area was nearly always underwater. She said the water and the grade separations made it so they were not allowed to connect to the American Tobacco Trail here.

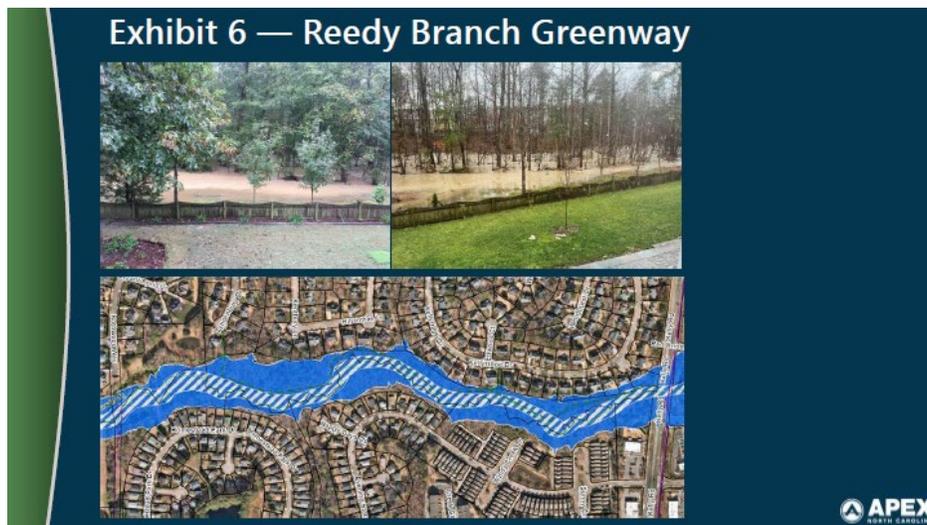
Councilmember Gantt said at-grade crosswalks at certain locations may be a short-sighted view, but he is glad the town is looking at doing this now. He said the greenway crossing may be difficult once the Peakway Bridge is completed.

Ms. Reincke said staff is getting better at identifying potential future conflicts before they arise.

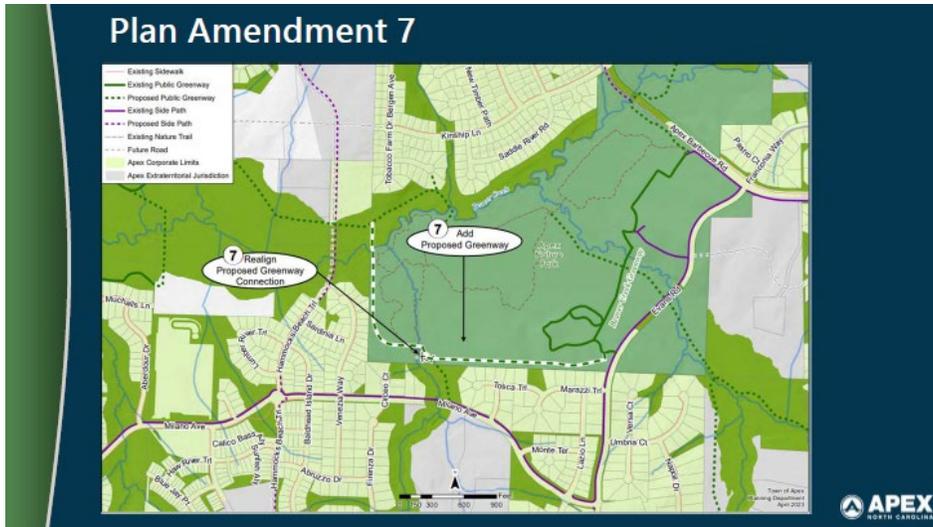
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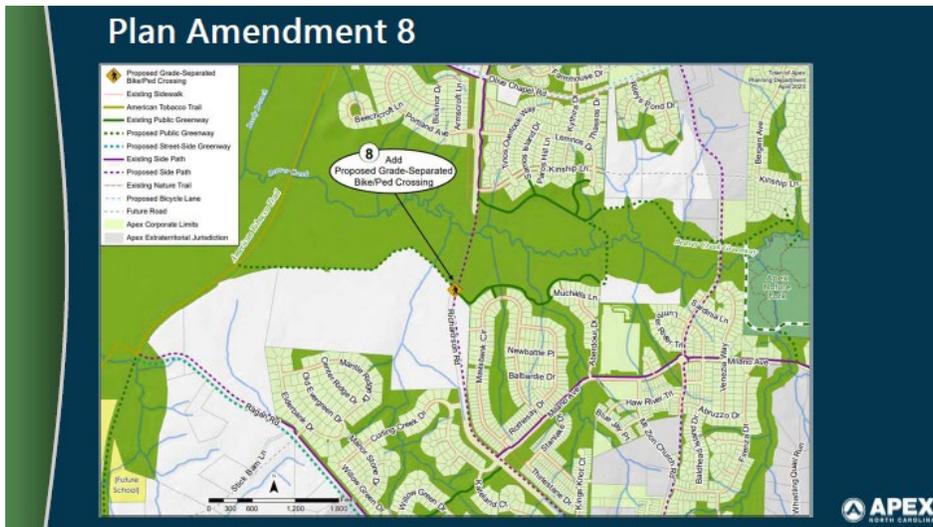
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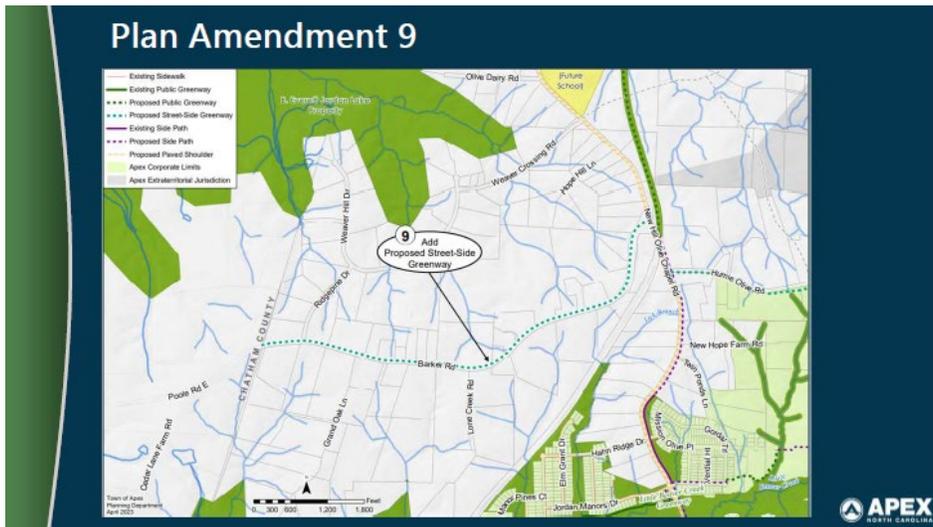
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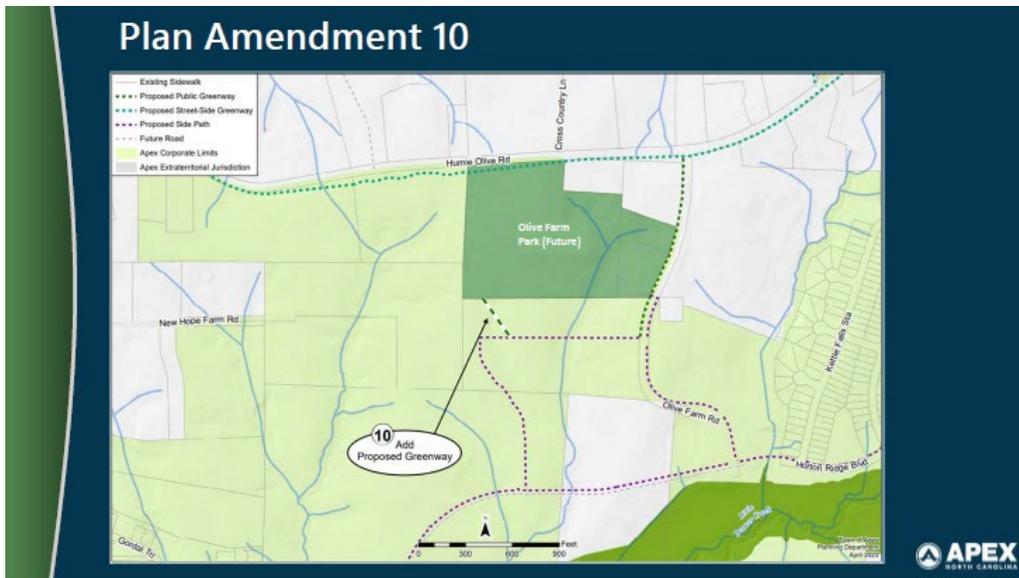
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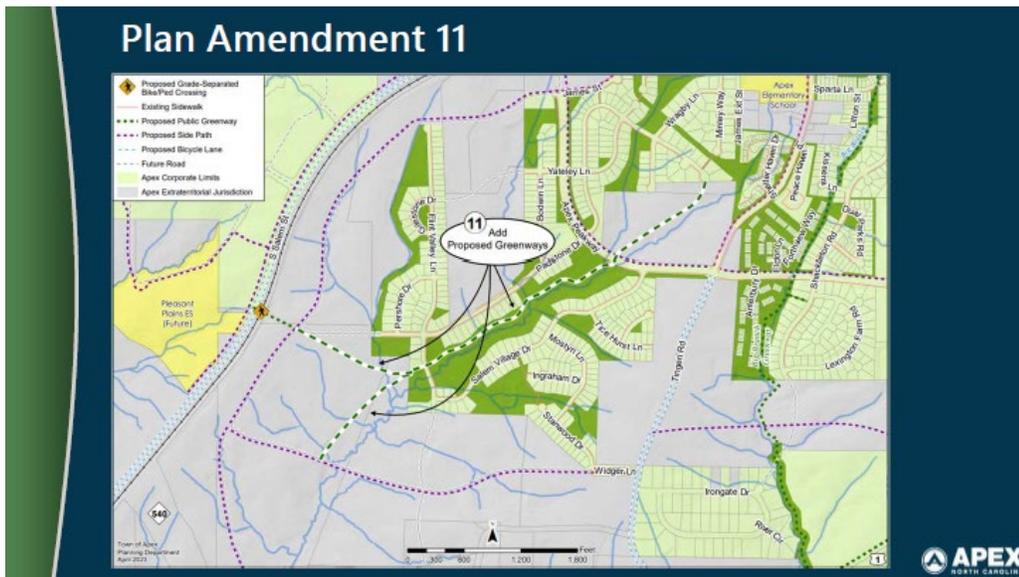
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[SLIDE 47]



[SLIDE 48]



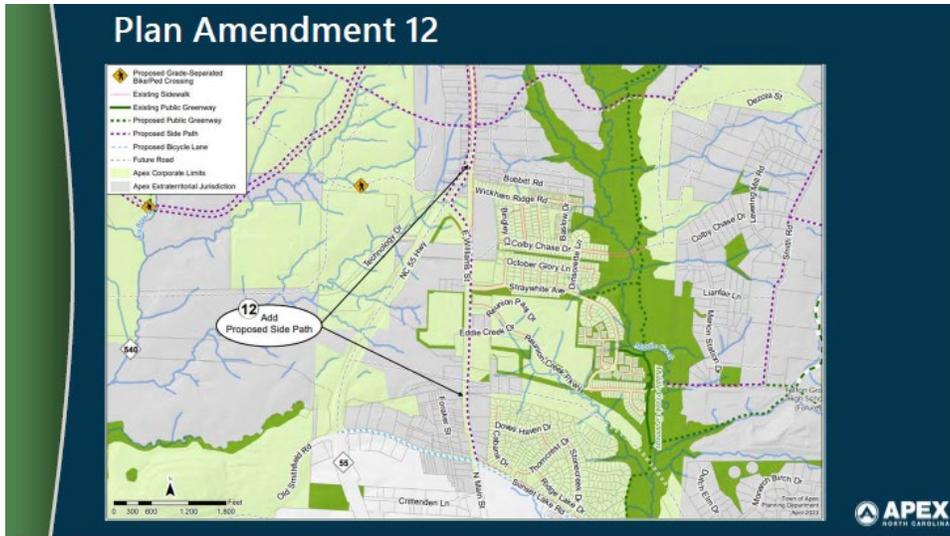
Councilmember Gantt asked why this greenway wasn't in the plan when Salem Village was constructed, since it's a relatively new development.

Ms. Reincke said she wasn't sure of the exact timeline of Salem Village and the plan when it was being developed. She said staff saw the potential connection now and are hopeful it works out.

Councilmember Zegerman asked if there was a way to connect it all the way to Apex Elementary, potentially using the James Street extension.

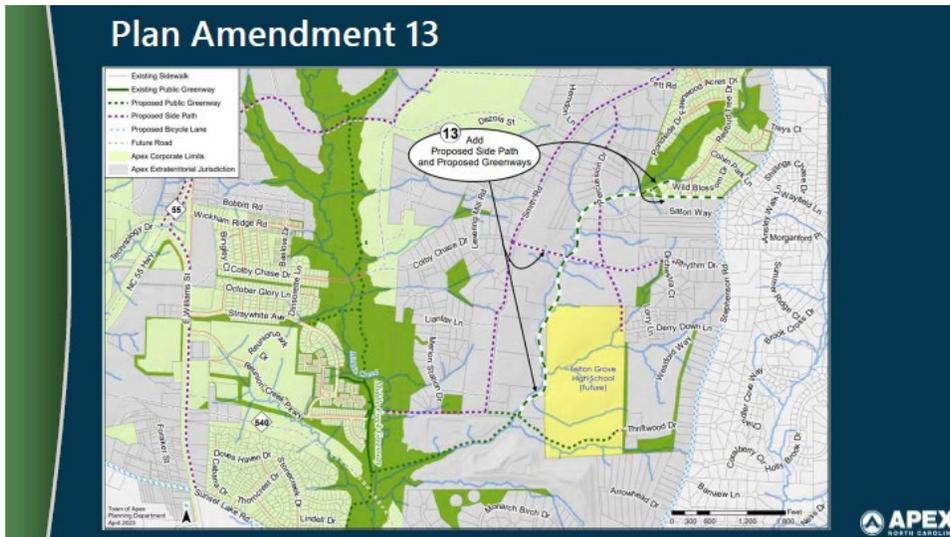
Ms. Reincke said staff looked at this possibility, and found there was very likely to be not enough space on the map to connect the greenway all the way to the school. She said there are sidepaths students can use to get to school after the greenway ends.

[SLIDE 49]



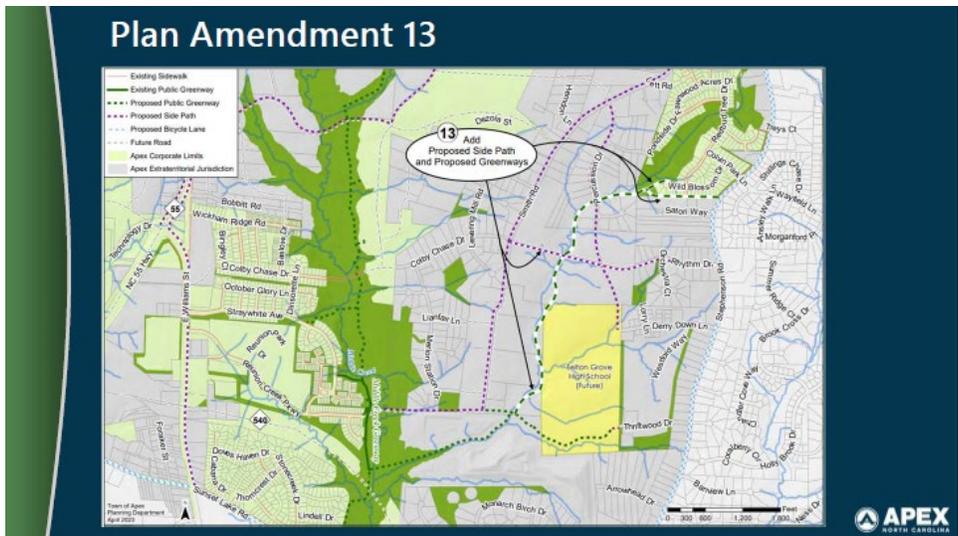
Councilmember Zegerman asked if there would be a crosswalk across Highway 55. **Ms. Reincke** said she wasn't sure about any plans for something like that.

[SLIDE 50]

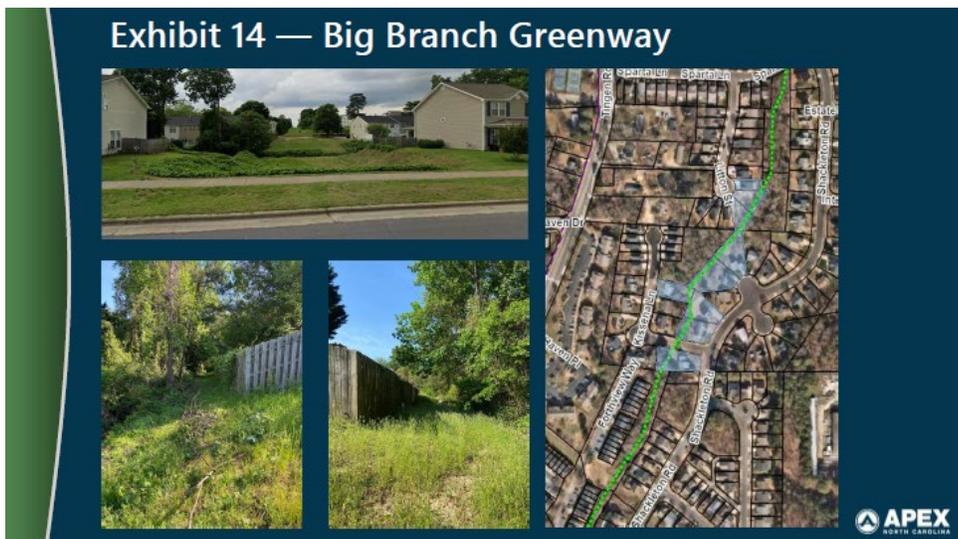


Councilmember Zegerman asked if there was a way to extend the sidepath along Colby Chase all the way to the Pemberley community. **Ms. Reincke** said that currently that area is developed. She said staff could look into the possibilities. **Councilmember Zegerman, Councilmember Gantt, and Councilmember Mahaffey** discussed how it would be a good idea because it would provide a safe route to the future Felton Grove High School, and would like it to be looked at.

[SLIDE 51]



[SLIDE 52]



Councilmember Gantt asked if lessons had been learned about assessing the possibility of greenway additions before projects are completed.

Ms. Reincke said that staff now has a process where they require an extra 15 feet of easement width if they identify a shared sanitary sewer greenway corridor. She said they are also doing dedications upfront, and that greenway easements cannot be within a residential lot.

Councilmember Zegerman asked how the greenway would cross the Peakway.

Ms. Reincke said staff would be looking at this, and that there was a possibility to build a culvert and potentially make a grade-separated crossing.

Councilmember Zegerman asked that a potentially grade-separated crossing at the Peakway be studied.

Ms. Reincke said staff would look at it.

Mayor Gilbert told Ms. Reincke that the work was very well done, and thanked staff for all of their hard work on this.

Mayor Gilbert opened up public hearing for this item. With no one signed up, he moved discussion back to Council.

APPROVED

A **motion** was made by **Mayor Pro Tempore Audra Killingsworth**, seconded by **Councilmember Brett Gantt**, to approve the Master Plan for Parks, Recreation, Cultural Resources, Greenways and Open Space, to approve the Master Plan Amendments for Parkland Acquisition and Indoor Facility Search Areas, and to approve the Bicycle and Pedestrian System Plan Map Amendments Related to Master Plan for Parks, Recreation, Cultural Resources, Greenways and Open Space.

VOTE: UNANIMOUS (5-0)

[NEW BUSINESS]

NB1 Richardson Road - Traffic Safety

Mayor Gilbert said he wanted to discuss this issue with the whole Council present. He said they have been getting comments from residents, social media messages, and emails, and now Council was in a position where they needed to make a decision, because the problem was not going away. He said they will make a decision tonight, because they are about solutions. He added that staff would be presenting information regarding this issue, then Council would discuss and decide what they are going to do.

Mayor Pro Tempore Killingsworth said that people had been talking about this issue a lot since last year, and that she prefers to prevent problems rather than react to problems. She said this area will eventually have even more traffic, and they need to get ahead of the problem.

Councilmember Gantt said he has been noticing problems in several different communities that are split by thoroughfares. He said maybe from a planning perspective, the town needs to work on seeing if developments can build amenities on either side of a road so residents of that community don't necessarily need to cross a main road to access them. He said this might could be addressed through zoning changes or in the site plan phase.

Mayor Pro Tempore Killingsworth said that it's a chance to think about pedestrian safety rather than primarily vehicular safety, and this could inform how they discuss these kinds of developments moving forward.

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APPROVED

Russell Dalton, Traffic Services Manager, gave the following presentation regarding Traffic Safety on Richardson Road

[SLIDE 1 - NB]



[SLIDE 2 - NB]



[SLIDE 3 - NB]

Local Transportation and Land Use Linkage

Suburban

Typical Development Pattern

This context type typically includes medium-density residential land uses characterized by single-family homes, townhomes, and duplexes. Commercial areas are often located near busy corridors and intersections most easily accessible by car with ample off-street parking.

Multimodal Considerations

Vehicle	Transit	Bicycle	Pedestrian
High Heavy reliance on vehicles; Higher than average volumes expected; Greater need for access management	Low Transit service may be present	Moderate Bicycle activity likely a mix of recreation and utilitarian trips. Use may increase near parks, schools, neighborhoods, and mixed-use activity centers	Moderate Moderate pedestrian activity, particularly near recreation areas, schools, and mixed-use activity centers

Legend
Context Areas

- Town Center
- Rural
- Suburban
- Transit-Oriented Development

[SLIDE 4 - NB]

Thoroughfare & Collector Street Plan Map

- Special Street Designations**
 - Freight Route
 - Future Local Connection
- Collector Streets**
 - Minor Collector, Existing
 - Minor Collector, Future
 - Major Collector, Existing
 - Major Collector, Future
- Thoroughfares**
 - 2-Lane, Existing
 - 2-Lane, Future
 - 3-Lane, Existing
 - 3-Lane, Future
 - 3-Lane, Widening
 - 4-Lane with Median, Existing
 - 4-Lane with Median, Future
 - 4-Lane with Median, Widening
 - 5-Lane, Existing
 - 6-Lane with Median, Widening
 - 6-Lane Superstreet, Future
 - 6-Lane Freeway, Future

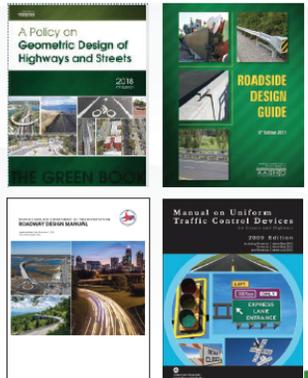
- Context
 - Local connections
 - Constraints
 - Stakeholder input
 - Traffic volume
- Congestion data (volume/capacity)
- Crash data
- MTP recommendations
- Regional connections
- Context
 - Stakeholder input (mainly impacts design)



[SLIDE 5 - NB]

Roadway Design & Traffic Control

- AASHTO Green Book & Roadside Design Guide
- NCDOT Roadway Design Manual
- FHWA Manual on Uniform Traffic Control Devices (MUTCD)
- Apex standard specifications & details
- Many other specialized publications provide guidance



[SLIDE 6 - NB]

Apex Street Geometric Standards, Detail 300.14

Richardson Road was constructed to meet NCDOT standards to turn over for state maintenance after completion from US 64 to Olive Chapel Road

CLASSIFICATION	DESIGN SPEED (MPH)	MAX. GRADE (%)	HORIZONTAL CURVE CONTROLS		VERTICAL CURVE CONTROLS	
			MAX. SUPER ELEVATION (%)	MIN. CL RADIUS (FT)	MIN. LENGTH CREST (FT)	MIN. LENGTH SAG (FT)
THOROUGHFARE	50	7	4	925	54A	96A
MAJOR COLLECTOR	35	10	4	371	29A	49A
MINOR COLLECTOR	30	10	NC	333	19A	37A
RESIDENTIAL STREET	25	10	NC	198	12A	26A
ALLEY	---	10	RC	50	12A	26A

- NOTES:
1. A = ALGEBRAIC DIFFERENCE IN GRADES
 2. NC / RC = NORMAL CROWN / REVERSE CROWN
 3. THIS TABLE OUTLINES MINIMUMS FOR ROADWAY DESIGN. SOUND ENGINEERING JUDGEMENT SHOULD BE EXERCISED WHEN USING MINIMUM DESIGN STANDARDS FOR ROADS.
 4. ALTERNATE DESIGNS SHALL BE IN ACCORDANCE WITH THE LATEST EDITION PUBLISHED BY AASHTO: A POLICY ON GEOMETRIC DESIGN OF HIGHWAYS AND STREETS.
 5. GRADES SHALL NOT EXCEED 5% WITHIN 100 FEET OF STOP OR YIELD CONDITION.

APPROVED

Councilmember Gantt said there seems to be some issues in the Sweetwater area because of it having sort of a “town center” feel to it.

Mr. Dalton said it seems like Councilmember Gantt may want a more urban form for these kinds of developments rather than a suburban form. He said modern design seeks to incorporate more urban design aspects into suburban corridors, but he said these can be dangerous, and they have to follow procedure to ensure they are making the best recommendation.

Councilmember Gantt said he’s a bit annoyed because this development isn’t completely finished yet, and the town has had years to learn from the mistakes of previous developments like it. He is wondering why it is still occurring.

Mr. Dalton said it is a major thoroughfare, and he said in the presentation he will discuss the purpose and need of the road, and how that compares to the desire for a more urban feel and speed. He said it isn’t unusual for a planned unit development to come up around a major thoroughfare such as this, and that situation inherently brings about these kinds of challenges.

[SLIDE 7 - NB]

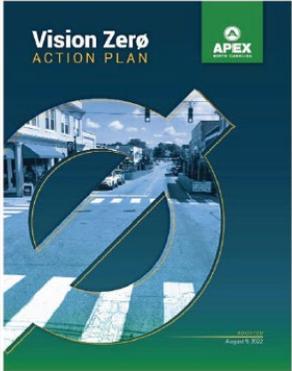


Vision Zero Action Plan

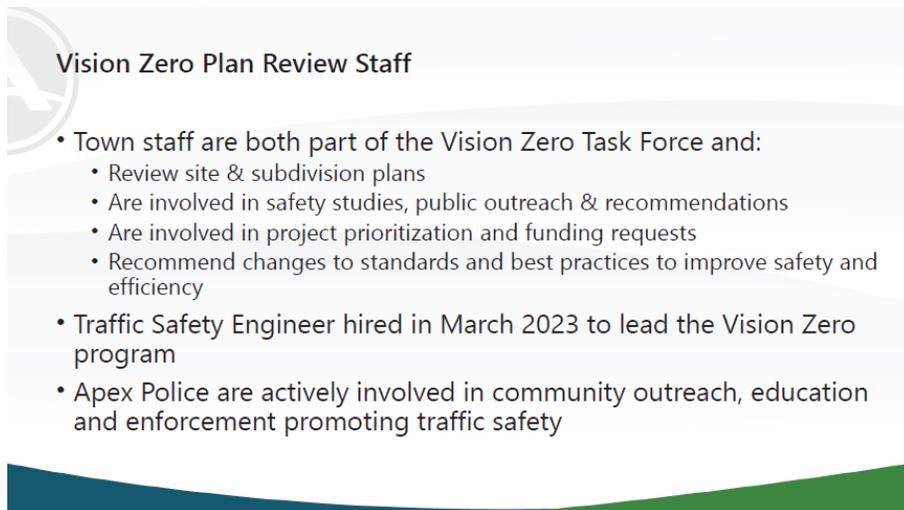
- Action Plan adopted August 2022
- Cross-departmental Task Force: Planning, Traffic, Police, Communications, DEI
- 28 Actionable Strategies
- 5-year crash data (2017-2022)
- High Crash & High Injury Network

FIVE "E" APPROACH

- Engineering
- Education
- Encouragement
- Enforcement
- Evaluation



[SLIDE 8 - NB]



Vision Zero Plan Review Staff

- Town staff are both part of the Vision Zero Task Force and:
 - Review site & subdivision plans
 - Are involved in safety studies, public outreach & recommendations
 - Are involved in project prioritization and funding requests
 - Recommend changes to standards and best practices to improve safety and efficiency
- Traffic Safety Engineer hired in March 2023 to lead the Vision Zero program
- Apex Police are actively involved in community outreach, education and enforcement promoting traffic safety

[SLIDE 9 - NB]

Request to lower speed limit from 45 mph to 35 mph

- Richardson Road is 45 mph from US 64 to south of Humie Olive Road
- Study result (Oct-Nov 2022):
 - Volume = 4,100 vehicles per day (vpd)
 - 85th percentile speed = 45 mph (15% or 615 vehicles > 45 mph)
 - Average speed = 39.7 mph
 - 2% of vehicles (82 vpd) traveling >50 mph
 - Not on Apex's Vision Zero "High Injury Network", 2017-2022 (see next slide for crash data summary)
- Projected year 2035 traffic = 20,300 vpd (almost 5x existing)

[SLIDE 10 - NB]

Annually Updated 5-year Crash Data (2017-2022) for Vision Zero

Segment	Town wide ranking by crash severity index*	Town wide ranking by number of crashes*
US 64 to Core Banks Street**	56 th	28 th
Core Banks St to Hasse Ave	832 nd	1,078 th
Great Lawn Rd to north of Olive Chapel Rd	116 th	199 th

*Ranking out of 1,080 total segments. No crashes reported from Hasse Ave to Great Lawn Rd from 7/1/17-6/30/22. 6,808 total crashes and 274 severe/fatal crashes occurred town wide in the Apex Police response area.

**Crashes prior to four-lane widening and US 64 signalization now in progress

Councilmember Gantt asked if Richardson Road was included in the entire timeline of the Vision Zero data collection, and if roads were finished during the data collection process, would they be included in some form as well.

Mr. Dalton said it measures the number of crashes on a road during the time period it was open. There wasn't any factor of trying to project crashes.

Councilmember Gantt asked how built up the area near Sweetwater was during the study and data collection period, and if the sidewalks and other pedestrian infrastructure were there.

Mr. Dalton said it was building out during this period, and that is one of the challenges of studying a road that is increasingly getting more traffic and pedestrians. He said he can't recall exactly when the whole route was completed on the full length, but that it has been for more than a few years.

Councilmember Gray wanted to clarify if the crashes in the date were vehicular crashes or all crashes.

Mr. Dalton said it included all crashes.

[SLIDE 11 - NB]

Request to lower speed limit from 45 mph to 35 mph

- Negative impacts from lower posted speed not matching suburban thoroughfare roadway design & context
 - Average driver will have difficulty complying with posted speed
 - Alignment & suburban environment not matching driver expectation
 - Longer distance trips vs local streets
 - Will still see “high” speeds (>45 mph)
 - Requests for more police enforcement and outreach resources directed to the corridor to ensure compliance
- NCDOT has relayed the following regarding speed limit: “...a reduction probably wouldn’t affect the decision to adopt, but Division Traffic would need to see a traffic study justifying the reduction. If they determine a reduction isn’t warranted, they would revert the speed limit back.”

[SLIDE 12 - NB]

Existing and Future Crosswalks across Richardson Road

- Signalized crosswalk (traffic signal)
- Marked and signed two-stage (median-protected) high-visibility crosswalks
- Future Traffic Signal
- ★ Amenity Center & Pool



Councilmember Gantt asked if Mr. Dalton could speak to the potential impact of this on Kelly and New Hill Olive Chapel Roads.

Mr. Dalton said that roadways like this are meant to provide a high level of mobility for vehicles, which doesn’t preclude the importance of pedestrian safety. He said staff needs to be conscious about the purpose of the roadway, and that once the roadway gets closer to its projected 20,000 vehicles per day, speed calming measures such as lowering the speed limit will have adverse impact to commuters on a road like this.

Councilmember Gantt asked if Mr. Dalton could speak to how the Core Banks future traffic light would impact the nearby crosswalk.

Mr. Dalton said if a traffic light provided pedestrian crosswalk with signal, town staff would recommend removal of the crosswalk currently in place. He said the 2-stage crosswalks are recommended when there is no signal crosswalk available for major thoroughfares.

Councilmember Zegerman wanted to know what high visibility meant in this context.

Mr. Dalton said they include yellow diamonds for pedestrian warning signs in advance, arrows pointing down to the crosswalk, and high visibility crosswalk bars.

Councilmember Mahaffey asked if there was a standard for the flashing style for crosswalks.

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Mr. Dalton said that would be discussed further in the presentation.

Councilmember Mahaffey said he though staff had communicated before that mid-block crossings weren't safe either, because vehicles didn't anticipate crossings occurring in those areas.

Mr. Dalton said staff make them as safe as they can be. He said they determine where crosswalks are needed based on DOT methodology, which he said is the best methodology they have found.

Councilmember Zegerman asked why there would be objection to flashing beacons in an area with no turning movement.

Mr. Dalton said there are warrants to flashing beacons, and staff plans to study them later this year. He said if they are not justified based on standards, then staff would typically not recommend them. He said they are a supplemental warning device, but they are meant for cases in which traffic volume is so high that there are no gaps in traffic. He said with the crossing in place today, and there being gaps in traffic on this road, people can cross safely on these crosswalks. He said when the traffic volume goes up, and people start taking chances to cross the road, that's when supplemental devices need to be put into place.

[SLIDE 13 - NB]

Request for crosswalks across Richardson Rd at Core Banks Street & Hasse Avenue, and Flashing Beacon (RRFB) Installation

- NCDOT will not approve signed & marked high-visibility crosswalks across thoroughfares at unsignalized intersections (where there are turning conflicts)
- Pedestrians should be guided to cross thoroughfares where a median refuge is present if possible
 - Apex added two high-visibility median-protected crosswalks in response to neighborhood concerns, north and south of Hasse Avenue, prior to volume warrants being met
 - A third crosswalk was installed south of Wishing Well Wynd for the greenway as part of Smith Farm

[SLIDE 14 - NB]

Supplemental Measures and Future Plans

- Existing crosswalks are being considered for supplemental markings and signs this summer to further enhance visibility
- Counts will be conducted this summer to consider RRFB at existing crosswalks, which is based on traffic & pedestrian volume
- Supplemental street lighting is planned in June to improve nighttime visibility along the corridor
- Core Banks Street is anticipated to warrant a traffic signal which will have signalized crosswalks (2+ years)
- Hasse Avenue unlikely to warrant a traffic signal based on volume

[SLIDE 15 - NB]

Hasse Avenue

- Major Collector Street, 35 mph, approved prior to the requirement to stripe a centerline and offset edge lines
- Speed limit sign request pending Public Works installation for Hasse Avenue and other streets within Sweetwater.
- Vicinity of Russet Lane & playground areas
 - Playground warning signs to be installed this summer
 - Pedestrian crossing study to be conducted this month in response to a request for a high-visibility crosswalk across Hasse Avenue (not a thoroughfare)

Councilmember Mahaffey asked what the recommendation would then be for Hasse and Core Banks. He said Mr. Dalton had mentioned they don't want people to cross there, but they are doing it anyway. He asked what the solution could be.

Mr. Dalton said pedestrians should be guided to cross thoroughfares where there is a median refuge present.

Councilmember Mahaffey asked if the median and island should be extended.

Mr. Dalton said at the intersection, pedestrians are still competing with turning movements. He said traffic engineering is based on human factors and sending messages to vehicles coming through. He said for drivers, crosswalk signs say "pedestrians might be crossing here, use caution", and to pedestrians it says "this is a safe place to cross". He said putting that at an intersection would be a concern, because no amount of flashing signs would be able to work in a situation where a vehicle is trying to turn and negotiate a gap in the traffic.

Councilmember Mahaffey asked if he felt the only safe way to provide a crosswalk there was with it included a stoplight, and if a study for a potential stoplight justification would be occurring.

Mr. Dalton said that was correct.

Councilmember Gray asked what the risk would be if the study would a light there wasn't justified, but a light was installed anyway.

Mr. Dalton said traffic signals may reduce some types of accidents but increase others. He said if the NCDOT took over the roadway, the decision would be up to them. He said if the town-maintained control of the roadway and put in an unwarranted traffic signal, it may be an issue for NCDOT if the town wanted to request transfer of control to them in the future.

Councilmember Zegerman asked what the town would be giving up if they kept the road in their own portfolio and did not transfer it to NCDOT.

Mr. Dalton said the biggest factor would be the long-term maintenance cost of the road. He said since it was a major roadway, it would be much more expensive than a typical town-owned road, and Powell Bill funds would not reimburse the town proportionally for that extra cost.

Mayor Gilbert asked how pedestrian crossings were measured in the study.

Mr. Dalton said they use trail cams, and are able to see crossings in a general wide area near an intersection or crossing spot. He said they then analyze that data compared to other factors with NCDOT guidance to help inform a decision.

Transportation Director Chris Johnson spoke about how this problem is something he has seen in many other municipalities in this area. He said traffic engineering concerns are complex as

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well, and that Mr. Dalton was following the same guidance traffic engineers follow in these situations in other places in his experience.

[SLIDE 16 - NB]

Questions

Councilmember Zegerman asked about if the traffic safety engineer hired in March has given any feedback on this road design.

Mr. Dalton said he has been actively involved in the review and study of the roadway. He said this is all a larger discussion about major roadways like this one, and whether the town would want NCDOT to take control of them, and how they want to develop around these roadways, taking into consideration their function. In regards to an earlier question from Councilmember Gantt, he said having amenities centers on both sides of a road for the same community is something developers would say isn't an easy solution. He said there would still likely be pedestrian crossings regardless of if this was the case, but that could be something looked at further.

Councilmember Gray said there was a situation in Cary where they installed a decorative fence on the median in order to guide pedestrians more on where to cross, and if that could be something to make predicting pedestrian crossings easier.

Mr. Dalton said he would want any recommendation to be a bit more passive than a fence. He said at an intersection, people would likely just go around the fence anyway. He said they are planning pawprints on the sidewalks guiding students to the new crosswalk on Tingen Road, and that those kinds of markings or pedestrian-scale signage could be useful here.

Councilmember Gray said he was thinking about fencing until the crosswalk area.

Mr. Dalton said that idea may be better in a situation like a school where a lot of people may be crossing at once. He said since this is a suburban corridor, he said the volume is lower and crossings are more spread out.

Director Johnson said from his experience at Cary High School, that fence was put up because students would cross the road at different places all at the same time, and that it was apples to oranges to compare that situation to this one.

Mayor Pro Tempore Killingsworth said in Louisiana she recalled highways moving down from 55 to 45 to 35 miles an hour as they got closer to areas with more pedestrians. She wondered if there were areas it could reasonably be dropped where people want to cross in the Sweetwater community, and then have it be raised back up.

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Mr. Dalton said speed changes on a single roadway is something he has seen in Florida, but he isn't sure what compliance would be like in this case. He said there is a relatively short distance between intersections, and if he isn't sure if drivers would adjust their speed based on that.

Mayor Pro Tempore Killingsworth said she feels this could be a situation where they could increase signage in order to make drivers aware that this area often has pedestrians' crossings. She said they could also lower the speed limit to 35 near the Smith Farms area, then increase it back up to 45 as the road gets to Highway 64. She said it's going to continue to get more dangerous as the area develops if they don't do something now.

Mr. Dalton said there's a difference between posted speed and compliance. He said drivers see the three mid-block crosswalks there currently, and that is already a cue to expect higher pedestrian activity. He said drivers also expect more vehicle and pedestrian traffic as they see more buildings and developments in an area, such as near Sweetwater. He said varying the speed limit is not something that would give a much higher level of safety in his opinion, and that the compliance would likely be marginal.

Mayor Pro Tempore Killingsworth said currently this is a two-lane road, and if the speed limit could be lowered now and then raised back to 45 if they decide to have it expanded into 4 lanes, given the likelihood that would come with more infrastructure such as traffic lights.

Mr. Dalton said part of it is already being widened to 4-lanes. He said the biggest issue with compliance would be the area that has a more suburban feel to it in the area that isn't 4-lanes, on the south part of the road. He said NCDOT would revert the speed limit back to 45 if it was set to 35 and they subsequently took it over.

Councilmember Mahaffey asked if Mr. Dalton felt speed limits were prescriptive or reactive. He said he felt Mr. Dalton viewed speed limits as something just to say how fast the area is, rather than to tell people how fast to go. He said he felt there would be a degree of voluntary compliance, even if not 100%. He asked if Mr. Dalton's overall philosophy was reactive or proactive.

Mr. Dalton said in this case it is proactive because of the type of facility. He said the intent of the roadway is a high degree of vehicle mobility. He said reactive would be when they are seeing a big problem on a roadway, and that this question is something lots of municipalities struggle with. He said he agreed that some people would comply with a change in posted speed limit, but that some people would not. He said the question is if they wanted to open up the possibility of more speed complaints and requests for police presence for compliance in this area, if the speed limit is lowered to no longer match the intent of the road.

Councilmember Mahaffey asked if the indentions of the sidewalk were a mistake, seeing as Mr. Dalton had described the Hasse intersection as an unsafe place for a crossing, given the likelihood of drivers trying to turn right.

Mr. Dalton said in North Carolina, all unmarked intersections are legal places to cross the road. He said if it is unmarked, it sends a message to pedestrians that they need to be more careful if they do try to cross here. He said this is why they do 2-stage crosswalks. And he said there are 3 in this area, which are considered to be safe crossing opportunities. He said that is the safest crossing opportunity this road can have until a traffic signal is put in.

Councilmember Mahaffey asked if the pedestrian ramps needed to kept on the sidewalk at this intersection, even if it's legal, since Mr. Dalton said it was not a safe opportunity. He asked if that was something they could do. He said he thinks people take those ramps as an indication that they can or should cross there.

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Director Johnson said that was something that could be done, but then it would create situations where people who had been using that as a crosswalk and been comfortable with that would no longer have a ramp to move their bike across, for example. He said they would find some people that liked the change and while others wouldn't.

Councilmember Mahaffey said he was thinking about this from a messaging perspective, and how to signal that this may not be a safe place to cross. He said he isn't necessarily suggesting anything, but that he thinks it's incongruent to have this ramp that seems to suggest the beginning of a crosswalk, but not have it be a safe crossing.

Mayor Gilbert moved to Council discussion for this item, with no further questions for Mr. Dalton. He thanked Mr. Dalton for all he does.

Mayor Gilbert said he always wanted to be on the side of being proactive. He said he wondered what they would really lose if they lowered the speed limit. He said they often talk about trying something new, such as last year putting in an all-way stop in downtown, which didn't work out. He said he is willing to try lowering the speed limit here, even if they can't predict what happens. He says he is still up in the air as far as the crosswalks. He said they could talk about lowering the speed limit first, then crosswalks.

Councilmember Mahaffey said his position was to lower the speed limit.

Mayor Pro Tempore Killingsworth said she agreed, and that the area before it gets to 64 should be 35.

Councilmember Gray said he was reflecting on Mr. Dalton's recommendations, and how he was looking at it from the perspective of where the road would be once it was 4-lanes and much more developed. He said he was also considering if it was NCDOT's road, and that they would revert it to 45 no matter what. He said Mr. Dalton was right in his analysis of the future of the road, and that he is right in saying the data does not support the reduction of the speed limit. He said even then, the town could lower the speed limit since it is their road. He says he has always been in favor of implementing a speed trap somewhere in town to raise revenue. He said realistically, he understands staff planning for it becoming a much larger and busier 4-lane road, but that until it gets to that point, a reduction would be a good idea.

Councilmember Zegerman said they never should have allowed a thoroughfare through a neighborhood like this. He said the data and studies don't necessarily warrant a speed lowering change for the type of road this is, but since the current volume of traffic is far below its intent, he sees no problem lowering the speed limit to 35 mph and trialing it.

Councilmember Gantt said he's listened to residents and staff on this, and that since he's a data guy, he sides with staff on this. He said lowering the speed limit would be a bad idea here. He said, however, he thinks he is outvoted.

Councilmember Mahaffey said he agreed with Mr. Dalton's analysis of the construction and intent of the road, but that the issue was not the road, but rather the neighborhood having been built around it. He said the neighborhood construction leads people to believe it is safe to cross at the intersection rather than at the 2-stage crossing, in order to get to the amenities center. He said he understands that compliance would not be 100%, but if the average speed went down it would be safer. He said there would still need to be things done to mitigate it further. He said they have to do the best they can with the way the neighborhood is already built, and currently he feels the first step is to lower the speed limit.

APPROVED

A **motion** was made by **Mayor Pro Tempore Audra Killingworth**, seconded by **Councilmember Arno Zegerman**, to lower the speed limit of Richardson Road from Olive Chapel Road to US Highway 64 from 45 miles per hour (mph) to 35 miles per hour (mph).

VOTE: 4-1, Councilmember Gantt dissenting

Mayor Gilbert invited further discussion regarding crosswalks.

Councilmember Mahaffey said he came to the meeting prepared to put in crosswalks at the intersections. He said it does make sense though that people wouldn't be looking at the pedestrians crossing without a stop light when turning right. He said they could potentially do a study of this. He said he understood that it would be a long shot for a traffic signal to be warranted here currently, but that likely wouldn't be the case in the future. He said maybe a study could be done then. He said he isn't prepared to direct staff to do anything regarding crosswalks at this time, however he is wanting more conversations to take place regarding future developments. He said the Sweetwater HOA could do something regarding directing residents to cross towards their amenities center. He said lighting will be a big benefit, but that he wasn't willing to take action on crosswalks right now.

Councilmember Gantt wanted to clarify if the crosswalk in question was Hasse, Core Banks, or both.

Councilmember Mahaffey said he was referring to Hasse specifically. He said he believed the intersection at Core Banks and Richardson would have a traffic light in the next couple years which would alleviate the issue.

Councilmember Zegerman asked about diagonal crosswalk designs, and if that could be explored here.

Mr. Dalton said he would need to see a concept of what he was referring to here before commenting on this situation.

Councilmember Zegerman said he had seen it a lot in cityscapes such as New York.

Director Johnson said those would typically be in places with a higher volume, and would still require a pedestrian signal. He said he doesn't believe that would be the best fit for Richardson at this time.

Mayor Gilbert wanted to confirm that there was no direction given to staff regarding crosswalks at this time.

Councilmember Gantt said he felt crossings at intersections without a light was dangerous.

Councilmember Gray said they need to start thinking about adding signals on the road, but that staff is acting appropriately in advising studies first. He said he wasn't sure if putting in a signal in a place where it would likely be needed in the future but not now would be a disadvantage, and maybe staff could answer that after looking into it and studying it more. He said there are at least three planned spots for lights, and is wondering why they would wait for the future traffic number to install them, if they anticipate it will get to that traffic level eventually. He said he understands this is a complex question and requires more time and date to answer.

No direction was provided regarding crosswalks at this time.

[UPDATES BY TOWN MANAGER]

Town Manager Katy Crosby public service employees, and thanked staff for all they do every day. She said there would be things going out on town socials highlighting town employees.

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She said they will be celebrated at the upcoming town cookout. She added shred day is Saturday, May 12th, at the Public Works building. Finally, she wished a happy Mother's Day to all the mothers.

[CLOSED SESSION]

A **motion** was made by **Mayor Pro Tempore Audra Killingsworth**, seconded by **Councilmember Ed Gray**, to enter into Closed Session pursuant to NCGS § 143-318.11 (5).

VOTE: UNANIMOUS (5-0)

Council entered into Closed Session at 8:48 p.m.

CS1 Steve Adams, Utilities Acquisition Specialist, Transportation and Infrastructure Dept.

NCGS §143-318.11 (5):

"To instruct staff concerning the acquisition of real property."

Council returned to open session at 9:20 p.m.

[ADJOURNEMENT]

Mayor Gilbert adjourned the meeting at 9:21 p.m.

Jacques K. Gilbert
Mayor

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

Submitted for approval by Town Clerk Allen Coleman and approved on May 23, 2023 (CN2).

APPROVED
TOWN OF APEX
REGULAR TOWN COUNCIL MEETING
TUESDAY, MAY 23, 2023
6:00 PM

The Apex Town Council met for a Regular Town Council Meeting on Tuesday, May 23, 2023 at 6:00 PM in the Council Chambers at Apex Town Hall, located at 73 Hunter Street in Apex, North Carolina.

This meeting was open to the public. Members of the public were able to attend this meeting in-person or watch online via the livestream on the Town’s YouTube Channel. The recording of this meeting can be viewed here: <https://www.youtube.com/watch?v=TrQJX835buY>

[ATTENDANCE]

Elected Body

- Mayor Jacques K. Gilbert (presiding)
- Mayor Pro-Tempore Audra Killingsworth
- Councilmember Brett Gantt
- Councilmember Ed Gray
- Councilmember Terry Mahaffey
- Councilmember Arno Zegerman
- Absent: None

Town Staff

- Town Manager Catherine Crosby
 - Deputy Town Manager Shawn Purvis
 - Assistant Town Manager Marty Stone
 - Town Attorney Laurie Hohe
 - Town Clerk Allen Coleman
 - Deputy Town Clerk Ashley Gentry
 - Planning Director Dianne Khin
 - Budget and Performance Management Director Amanda Grogan
 - Finance Director Antwan Morrison
 - Senior Planner June Cowles
 - Planner I Joshua Killian
- All other staff members will be identified appropriately below

[COMMENCEMENT]

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[SLIDE 1]



Mayor Gilbert called the meeting to order, and thanked those in attendance. He commented on the beautiful weather, and the beautiful people in attendance. He gave a shout out to Audio/Visual Specialist Fernando Guzman, who runs the IT infrastructure for Council Meetings. He then invited Mayor Pro Tempore Killingsworth to read a statement on diversity.

Mayor Pro Tempore Killingsworth read the following statement: ""The Town of Apex values and celebrates diversity and inclusion. We see diversity as a strength that binds our community together - inviting members from different faith communities to deliver the invocation at the beginning of our Council meetings, supports this unity. Recognizing that not everyone practices the same traditions, we welcome you to have a private moment of silence.""

Mayor Gilbert then recognized a few different faith leaders in attendance, then invited Pastor Eddie Mullins from Hope Community Church to deliver the invocation.

Pastor Mullins offered a word of thanks and encouragement to the Mayor and Councilmembers for their service to the town. He said there is no other place he would rather live and raise his family. He then delivered the invocation.

Mayor Gilbert then led those in attendance in the Pledge of Allegiance

[CONSENT AGENDA]

A **motion** was made by **Councilmember Arno Zegerman**, seconded by **Councilmember Ed Gray**, to approve the Consent Agenda as presented.

Before the vote, **Councilmember Gantt** wanted to share some remarks about Consent Item 8, the Resolution Approving the Amended Charter Resolution of Central Pines Regional Council. He said it has been his honor the past 5 years to serve as Council's delegate to the group (formerly known as the Triangle J Council of Governments). He said he feels this Council of Governments is very underappreciated, as they work on issues such as housing, ageing, transportation, and environmental issues. He said their work makes the region more cohesive and overall better, and that he is fully in support of the resolution.

VOTE: 5-0 (UNANIMOUS)

APPROVED

CN1 Annexation Ordinance Amendment - Annexation No. 750 - 2012 Ramblewood Drive - 5.719 acres (REF: ORD-2023-040)

Council voted to approve an amended Ordinance for Annexation No. 750, located at 2012 Ramblewood Drive, to include the right of way.

CN2 Council Meeting Minutes - Multiple

Council voted to approve, as submitted or amended, Meeting Minutes from the following meetings:

May 05, 2023 - Town Council Budget Work Session Meeting Minutes

May 09, 2023 - Regular Town Council Meeting Minutes

CN3 Encroachment Agreement - 931 Baldwin Ridge Rd Lot 215 (REF: CONT-2023-131)

Council voted to approve an encroachment agreement between the Town and property owner Taylor Morrison of Carolinas, Inc., located at 931 Baldwin Ridge Road Apex, NC 27523, Lot 215, to install a driveway that will encroach 11 square feet (SF) onto the Town of Apex 20' Public Storm Drainage Easement and authorize the Town Manager to execute the agreement.

CN4 Encroachment Agreement - 935 Baldwin Ridge Rd Lot 214 (REF: CONT-2023-132)

Council voted to approve an encroachment agreement between the Town and property owner Taylor Morrison of Carolinas, Inc., located at 935 Baldwin Ridge Road Apex, NC 27523, Lot 214, to install a driveway that will encroach 27 square feet (SF) onto the Town of Apex 20' Public Storm Drainage Easement and authorize the Town Manager to execute the Agreement.

CN5 Encroachment Agreement - 1701 Chestnut Street Lot 38 (REF: CONT-2023-133)

Council voted to approve an encroachment agreement between the Town and property owners Alexandria D. Carter and Kevin B. Rice, located at 1701 Chestnut Street Apex, NC 27502, Lot 38, to install a fence that will encroach 210 linear feet (LF) onto the Town of Apex 20' Sanitary Sewer Easement and authorize the Town Manager to execute the Agreement.

CN6 Lease Agreement Amendment - CSX Transportation - Downtown Parking Improvements (REF: CONT-2023-135)

Council voted to approve a lease agreement amendment with CSX Transportation for the parking improvements in downtown area and authorize the Town Manager to execute the agreement.

CN7 Ordinance Amendment - Chapter 20 Traffic - Section 100(7) - Richardson Road Speed Limit (REF: ORD-2023-041)

Council voted to adopt an Ordinance amending Chapter 20-100 subsection (7) with the addition of text referring exclusively to the town-maintained portion of Richardson Road south of Humie Olive Road, in order to specify the 45 miles per hour speed limit in subsection (7) no longer applies to the portion north of Olive Chapel Road.

APPROVED

**CN8 Resolution - Approving Amended Charter Resolution of Central Pines Regional Council
(REF: RES-2023-031)**

Council voted to adopt a resolution ratifying, accepting, and approving the amended charter resolution of Central Pines Regional Council, formerly Triangle J Council of Governments (TJCOG).

CN9 Resolution - Records Retention Schedule (REF: RES-2023-032)

Council voted to adopt the 2021 Record Retention and Disposition Schedule for General Records, the 2021 Record Retention and Disposition Schedule for Program Records, and the corresponding resolution.

[PRESENTATIONS]

PR1 Apex Public School Foundation - Quarterly Peak S.T.A.R. Awards

Councilmember Terry Mahaffey introduced the Peak S.T.A.R Award, which is the “Staff, Teachers, and Administration Recognition” Award, presented quarterly through a joint effort between the Apex Town Council and the Apex Public School Foundation. He then invited Michelle Woods, Board Members of the Apex Public School Foundation, to deliver some remarks.

Ms. Woods talked about how the Apex Public School Foundation is a non-profit organization dedicated to serving the more than 19,000 students in the Apex-area public schools. She said the award recognizes one principal nominated staff member from a local public school for their hard work in serving the students of Apex. She said tonight, they would be honoring Christopher Colosi, a third-grade teacher from Oak View Elementary. She invited Michael Sutton, Assistant Principal at Oakview Elementary, to share some words of appreciation for Mr. Colosi.

Mr. Sutton said Mr. Colosi positivity, enthusiasm, and joy to students and staff at Oak View Elementary. He said he is an incredibly passionate teacher, and that his love of teaching manifests itself through his encouragement of his students. He said it his honor to serve alongside Mr. Colosi, and thanked the Town of Apex for supporting education.

Mr. Colosi said he appreciated the award, and he’s happy that his passion shows through his teaching.

PR2 Proclamation - Foster Care Awareness Month - May 2023 (REF: PRO-2023-017)

Mayor Gilbert, along with the entire Council, read the Foster Care Awareness Month 2023 Proclamation in unity. Mayor Gilbert then spoke about how important this issue was to him, and thanked Shield NC for all they do in supporting foster care and helping prevent human trafficking.

Nicole Bernard of Shield NC thanked the Mayor and Council. She said foster care workers do tremendous work in helping prevent human trafficking. She said they do the work to ensure the children in our town are given the love and support they deserve, and are protected against human trafficking. She recognized several families in attendance who provided foster care.

APPROVED

PR3 Proclamation - LGBTQIA+ Pride Month - June 2023 (REF: PRO-2023-018)

Mayor Gilbert, along with the rest of Council, read the LGBTQIA+ Pride Month 2023 Proclamation in unity. Mayor Gilbert then invited DeAnna Conard and the members of Apex Pride to accept the Proclamation.

Ms. Conard thanked the town for recognizing June as Pride Month and for supporting Apex Pride and the LGBTQIA+ community. She thanked the town, and particularly Mayor Pro Tempore Killingsworth, for increasing representation for the LGBTQIA+ community in Apex. She said Apex Pride is looking forward to celebrating its third Annual Pride Fest on June 10th, and other events throughout the year. She said Apex Pride’s goal is to ensure all residents of the town feel represented, included, and affirmed.

PR4 Proclamation - Juneteenth - June 19, 2023 (REF: PRO-2023-019)

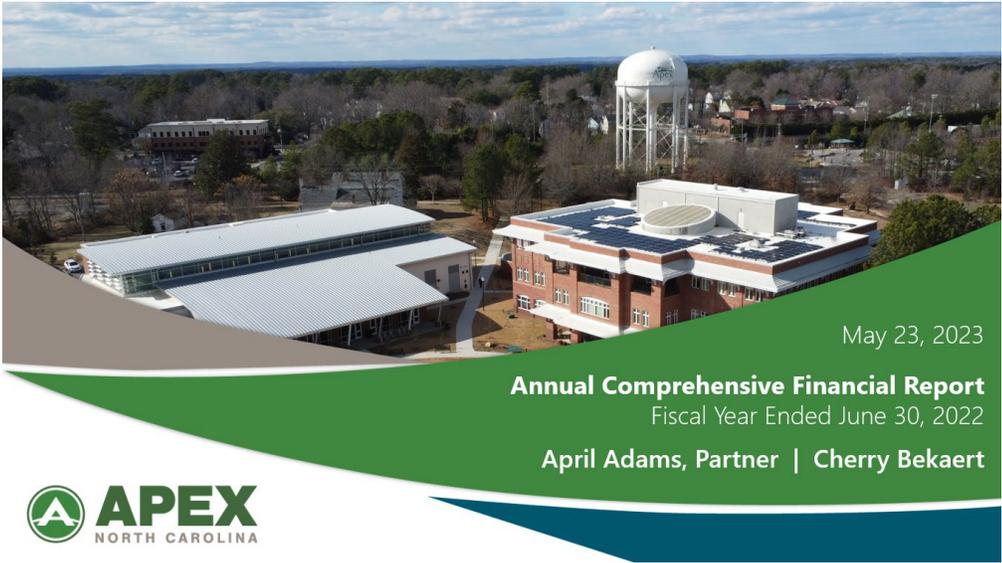
Mayor Gilbert, along with the rest of Council, read the Juneteenth 2023 Proclamation in unity.

Tyler Evans, Chair of the Juneteenth Festival subcommittee, thanked the town for 3 years of partnership on the Juneteenth event. He said one of his main goals is to provide education around what Juneteenth is and what it means. He added that education will be a big part of this year’s Juneteenth event, and for every event moving forward. He invited everyone in the community to join in the celebration on June 17th for the Juneteenth Festival.

PR5 FY 2022 Audit - Annual Comprehensive Financial Report (ACFR)

April Adams, of Cherry Bakaert, gave a presentation regarding the FY 22 External Audit of the town’s finances.

[AUDIT - SLIDE 1]



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[AUDIT - SLIDE 2]

Purpose:

- o Receive results of required annual external audit

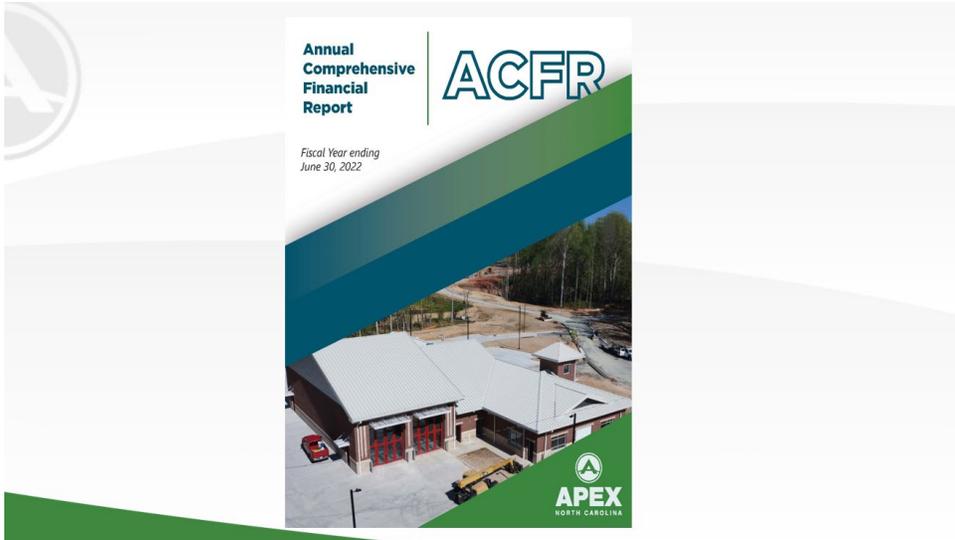
Requested Action:

- o No action necessary

[AUDIT - SLIDE 3]



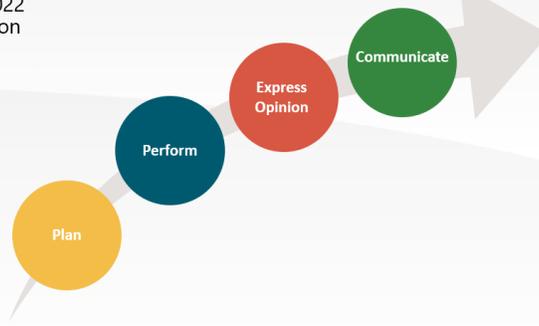
1 **[AUDIT - SLIDE 4]**



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3 **[AUDIT - SLIDE 5]**

Results of the Audit

- We have audited the financial statements of the Town of Apex “the town” for the year ended June 30, 2022 and we have issued our report thereon date May 19, 2023.
- We have issued the following unmodified opinions:
 - Financial Statements
- We have also issued the following reports:
 - Yellow Book
 - Federal Single Audit
 - State Single Audit



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6 **[AUDIT - SLIDE 6]**

Single Audit

• Federal Major Program

- Coronavirus State and Local Fiscal Recovery Funds (ALN 21.027)

• State Major Program

- Powell Bill (DOT-4)

APPROVED

1 **Councilmember Mahaffey** asked if these programs were chosen at random out of all the
2 grants the town has, or if there was a process.

3 **Ms. Adams** said there was a process that is followed to determine what must be included.
4 She said the Coronavirus program is deemed "high-risk" because it's new, and the Powell Bill
5 provides necessary coverage on the state side.

6 **[AUDIT - SLIDE 7]**

Internal Control Communications

- In planning and performing our audit, we considered internal control over financial reporting ("internal control") as a basis for designing audit procedures that are appropriate in the circumstances for the purpose of expressing our opinion on the financial statements, but not for the purpose of expressing an opinion on the effectiveness of the Town's internal control. Accordingly, we do not express an opinion on the effectiveness of the Town's internal control.
- Our consideration of internal control was for the limited purpose described in the preceding paragraph and was not designed to identify all deficiencies in internal control that might be material weaknesses or significant deficiencies and, therefore, material weaknesses or significant deficiencies may exist that were not identified. In addition, because of inherent limitations in internal control, including the possibility of management override of controls, misstatements due to error or fraud may occur and not be detected by such controls.
- A deficiency in internal control exists when the design or operation of a control does not allow management or employees, in the normal course of performing their assigned functions, to prevent, or detect and correct, misstatements on a timely basis.

7
8 **[AUDIT - SLIDE 8]**

Internal Control Communications

Material Weakness

▶ A material weakness is a deficiency, or a combination of deficiencies in internal control, such that there is a reasonable possibility that a material misstatement of the Town's financial statements will not be prevented, or detected and corrected, on a timely basis.

Significant Deficiency

▶ A significant deficiency is a deficiency, or a combination of deficiencies, in internal control that is less severe than a material weakness, yet important enough to merit attention by those charged with governance.

We did not note deficiencies that we believe to be material weaknesses.

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1 [AUDIT - SLIDE 9]

Internal Control Communications

Other Control Deficiencies

- Lack of segregation of duties for certain areas within the payroll function (some compensating controls were noted)
- Lack of documentation of the review of journal entries by someone other than the preparer (some compensating controls were noted)

2

3

Councilmember Mahaffey asked if the segregation of duties within payroll was an issue for towns of all sizes.

4

5

Ms. Adams said it's typically more difficult for small towns, but Apex is at the size now where it can adopt these practices.

6

7

Councilmember Zegerman wanted to confirm that even though these practices are not in place, the compensating controls are still deemed sufficient.

8

9

Ms. Adams said yes, this can include monthly reviews of financial information, but adding people to put in payroll from different departments would increase the chances of issues being caught.

10

11

12

13 [AUDIT - SLIDE 10]

Corrected and Uncorrected Misstatements

Professional standards require us to accumulate all misstatements identified during the audit, other than those that are clearly trivial, and communicate them to the appropriate level of management.

Corrected Misstatements

- ▶ None noted.

Uncorrected Misstatements

- ▶ \$175,000 of contributions were recorded in central depository (pooled cash) but were not actually deposited into the OPEB Trust Account until FY23.
- ▶ \$133,897 of ABC Profit Distribution related to FY22 included in the FY23 revenues and fund balance/net position (General Fund / Governmental Activities)

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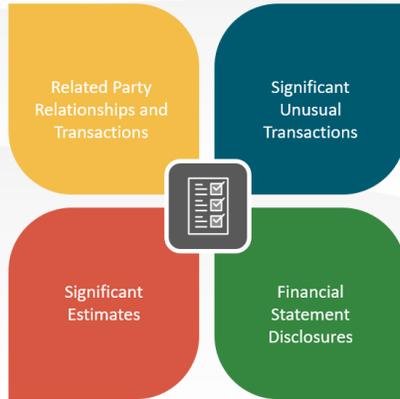
1 [AUDIT - SLIDE 11]

Qualitative Aspects of Accounting Practices

Management is responsible for the selection and use of appropriate accounting policies. The significant accounting policies used by the Town are described in Note 1 to the financial statements.

The Town adopted GASB 87, *Leases*, effective July 1, 2021. Most prominent among the changes in the standard is the recognition of lease receivable and deferred inflows of resources for lease payments to be received in the future in the Water and Sewer Fund.

We noted no inappropriate accounting policies or practices.



2
3 [AUDIT - SLIDE 12]

Independence Considerations

Nonattest Services

- ▶ We will complete the appropriate sections of and sign the data collection form
- ▶ For all **nonattest** services we perform, you are responsible for designating a competent employee to oversee the services, make any management decisions, perform any management functions related to the services, evaluate the adequacy of the services, and accept overall responsibility for the results of the services.

Independence Conclusion

- ▶ We are not aware of any other circumstances or relationships that create threats to auditor independence.
- ▶ We are independent of the Town and have met our other ethical responsibilities in accordance with the relevant ethical requirements relating to our audits.

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6 [AUDIT - SLIDE 13]

Other Required Communications and Matters

- ▶ Difficulties encountered
- ▶ Disagreements with management
- ▶ Auditor consultations
- ▶ Management representations
- ▶ Management consultations
- ▶ Other findings or issues
- ▶ Fraud and illegal acts
- ▶ Going concern

Supplementary Information

Required Supplementary Information (MD&A)

1 [AUDIT - SLIDE 14]

LGC Performance Indicators

- **One** financial performance indicator of concern noted
- Audit was not submitted within five (5) months from fiscal year-end
- **Requires Response to Local Government Commission (within 60 days)**

2
3 **Councilmember Zegerman** asked if staff turnover in the Finance Department was essentially
4 the only reason the audit was late this year

5 **Ms. Adams** replied that yes, it was. She felt the town would be completely fine going forward
6 on its timelines for these things.

7 **Councilmember Gray** asked if there were any more findings or impacts related to the
8 turnover of staff.

9 **Ms. Adams** said this was the only material finding related to that. She said the people who
10 left kept things in a good condition to be picked up with new staff.

11 [AUDIT - SLIDE 15]

Upcoming Financial Reporting Changes

These standards will be effective for the Town in the upcoming years and may have a significant impact on the Town's financial reporting.

We would be happy to discuss with management the potential impacts on the Town's financial statements and how we may be able to assist in the implementation efforts.

GASB 94 – *Public-Private and Public-Partnerships and Availability Payment Arrangements*

GASB 96 – *Subscription-Based Information Technology Arrangements*

GASB 100 – *Accounting Changes and Error Corrections*

GASB 101 – *Compensated Absences*

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13 **Antwan Morrison**, Finance Director, then gave a presentation about the town's Financial
14 Performance Highlights from 2022.

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1 **[FINANCIAL PERFORMANCE - SLIDE 1]**



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3 **[FINANCIAL PERFORMANCE - SLIDE 2]**

Property Taxes (page 131)

- Assessed Valuation = \$11.1 billion – June 30, 2022
 - Compared to – \$10.4 billion - June 30, 2021
- Current year Ad Valorem Tax collections totaled - \$43.5 million – an increase of \$4.1 million from the prior year
- 99.9% of levy collected
- Total statewide average (units with electrical systems) – 98.95%
 - Total statewide average for all population groups – 99.13%

4
5 **[FINANCIAL PERFORMANCE - SLIDE 3]**

Fund Balance and Net Position (non-GAAP)

Net change in fund balance (net position) for the past five fiscal years are as follows:

	2022	2021	2020	2019	2018
General Fund	\$ 10,630,653	\$ 6,364,091	\$ 2,430,163	\$ 4,996,441	\$ 6,999,287
Electric Fund	126,057	2,906,873	69,928	835,385	(654,924)
Water and Sewer Fund	2,932,175	3,566,147	3,722,551	2,405,353	1,683,973

6
7 **Councilmember Zegerman** wanted to clarify that the fund balance would generally increase
8 over time, to allow the town to essentially save up for big projects such a large sewer extension.

1 **Director Morrison** said that was correct.

2 **[FINANCIAL PERFORMANCE - SLIDE 4]**

General Fund – Fund Balance

- Policy – unassigned fund balance 25% of General Fund adopted budgeted expenditures for subsequent year (FY 2023)
- Fund Balance Calculations:
 - Town policy – 25% or \$22,800,375
 - FY 2022 Unassigned Fund Balance – 35.4% or \$32,320,435
 - Total amount above FY 2022 policy limit - \$9,520,060
 - FY 2022 – Purchase Order Carry Forward - \$6.8M
 - FY 2023 – Appropriated Fund Balance – Adopted Budget - \$3.6M
 - FY 2023 – Appropriated Fund Balance – Amended Budget - \$11.5M

3
4 **[FINANCIAL PERFORMANCE - SLIDE 5]**

Debt Position

<p>DEBT OVERVIEW</p> <ul style="list-style-type: none"> • Debt issuance: <ul style="list-style-type: none"> ◦ \$8.7 million – Mason Street Building and Fire Station #6 – 1.5% for 15 years • Total Outstanding Debt - \$137 million <ul style="list-style-type: none"> ◦ General Government: \$82.8 million ◦ Proprietary Funds: \$54.2 million • Total applicable to limitation: <ul style="list-style-type: none"> ◦ \$160.8 million (includes authorized but unissued GO Bonds) <ul style="list-style-type: none"> - 2015 - \$7 million unissued – Transportation Bonds - 2021 - \$42 million unissued – Transportation Bonds 	<p>DEBT COMPLIANCE</p> <ul style="list-style-type: none"> • Percentage of debt to valuation – 1.44% <ul style="list-style-type: none"> ◦ Town Policy – 2.5% (\$278,691,692) ◦ State Statute – 8% (\$891,813,415) ◦ Legal Debt Margin – \$730,964,534 (see Table 14) • Debt Service Ratio – 11.09% <ul style="list-style-type: none"> ◦ Town Policy – 12%
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5
6 **Councilmember Mahaffey** said it was strange that the debt service ratio was close to town
7 policy, while the debt to valuation percentage was not.

8 **Director Morrison** said that was a good thing about having the policy set in a good spot. He
9 said it could be brought closer to it if needed, but the financing works out so they don't need to get
10 closer to those numbers.

11 **Councilmember Gantt** said he believes these numbers were set when properties in Apex
12 were much less valuable.

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1 **[FINANCIAL PERFORMANCE - SLIDE 6]**

Planned Debt Issuance

Subsequent Fiscal Year

- **General Obligation Bonds:**
 - \$17.5 million – Transportation Projects
 - \$ 15.5 million – Apex Peakway Southwest Connector
 - 1.0 million – Pavement Improvements
 - 1.0 million – Safe Routes to Schools

- **Two-Thirds Bonds:**
 - \$3.4 million – Mason Street Building

- **Installment Financing Contracts**
 - \$1.4 million – Rolling Stock (Vehicle and Equipment)

2
3 **Councilmember Mahaffey** asked if there was a policy around trying to get the two-thirds
4 debt, he said it’s an attractive source for many municipalities.

5 **Director Morrison** said it is used if the town goes to the market, which isn’t in every case.

6 **Councilmember Gantt** asked if these bonds can be stopped at any time before they are
7 issued, in case of large interest rate changes.

8 **Director Morrison** said it could be done, but that it wouldn’t be advisable. He said there
9 would need to be a reasonable amount of time given before pulling back.

10 **Councilmember Mahaffey** noted that it was important to maintain a AAA bond rating due to
11 rising interest rates.

12 **Director Morrison** said maintaining the AAA rating is very important, and keeps the debt
13 issuance attractive.

14 **[FINANCIAL PERFORMANCE - SLIDE 7]**

Key Takeaways

- Benefit of Wake County
 - Property Tax collection rates
 - Sales Tax

- Strong financial reserves

- Credit rating
 - Standard and Poor’s (S&P) – AAA
 - Moody’s – Aaa

- Solid unrestricted cash balance
 - General Fund: \$40.2 million
 - Water and Sewer Fund: \$50.2 million
 - Electric Fund: \$15.4 million

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1 **[FINANCIAL PERFORMANCE - SLIDE 8]**

Other Items

- Certificate for Achievement of Excellence in Financial Reporting from the GFOA
 - Awarded FY 2021
 - Will apply for FY 2022
- Special thanks to Finance Department staff members, as well as Administration and Budget
- Questions/Discussion

2
3 **Councilmember Gray** asked about the new efforts being made to make the finance and
4 accounting process for the town more electronic and automated.

5 **Director Morrison** said that is actively being worked on. He said he does not like using
6 paper. He said they are working through implementing new processes and software.

7 **Mayor Gilbert** thanked Director Morrison and his team.

8 **Town Manager Crosby** thanked Director Morrison and his team as well, and specifically
9 thanked Keisa Arrington for her work in helping the town navigate through staff transitions. She also
10 thanked Director Grogan and the Budget staff for their support, as well as Deputy Town Manager
11 Shawn Purvis.

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17 **[REGULAR MEETING AGENDA]**

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19 A **motion** was made by **Mayor Pro Tempore Killingsworth**, seconded by **Councilmember**
20 **Gantt**, to approve the Regular Meeting Agenda as presented.

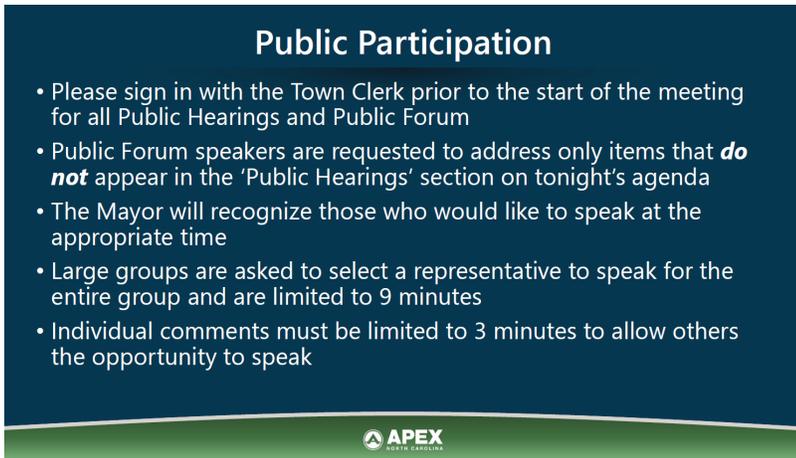
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22 **VOTE: UNANIMOUS (5-0)**

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1 **[PUBLIC FORUM]**

2 **[SLIDE -1]**



Public Participation

- 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



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4

5 First to speak was **Phil Welch**, of 1471 Big Lead Loop:

6

7 "Good evening, Mayor, Mayor Pro Tem, Councilmembers, and Professional Staff, my name is Phil
8 Welch, I live at 1471 Big Leaf Loop in Apex. I'll start by thanking all of you for your support for the
9 recent home repair fair, without your support the fair would not have been possible. So, thank you. I
10 come tonight to encourage all of you to take advantage of properties, including land and buildings,
11 offered to the town for affordable housing by our faith communities. I have given several overviews
12 of Apex's affordable housing plans to members of our faith congregations, at the end of each talk, I
13 have listed the ways in which those congregations could become part of the solution to Apex's
14 continuing need for safe, decent, affordable homes for our neighbors. In addition to sending
15 volunteers and funding to non-profits such as Habitat, some of our local congregations are now
16 stepping up and offering properties, for sale or lease, for redevelopment into mixed-uses, including
17 affordable housing. Here are some local examples that I am aware of: First, the White Oak
18 Foundation is building a mix of for-sale and for-rent townhomes for families of essential workers.
19 Their plans include a daycare center to provide reasonable priced daycare for the children of these
20 families. Second, Greenwood Forest Baptist Church in Cary is exploring leasing some of its property
21 to the Caring Place for the construction of up to 30 affordable apartments for families transitioning
22 back into the housing market. Third, and I think most impressive, Care First Christian Church has
23 ambitious plans to replace their Church building with a multi-use structure, which will include flex
24 space of the ground floor with a senior center, church offices, and worship space, and senior
25 affordable apartments on the upper floors. I know some Councilmembers are advocating for the use
26 of federal ARPA funds to purchase property and make it available for affordable housing, I strongly
27 support that initiative. I'm also aware some church-owned property has recently been offered to the
28 town for purchase. Please seriously consider this purchase, and the multiple opportunities it
29 presents. We need creative solutions to the town's critical need for affordable homes for our
30 vulnerable seniors, veterans, essential workers, and others. We're all aware that the price of land and
31 buildings continues to skyrocket here, we need to take advantage now of properties offered for sale
32 and prime locations. As always, I stand ready to work with all of you to envision, plan, and implement
33 creative, new affordable housing possibilities. Thank you."

34

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1 **Mayor Gilbert** thanked Mr. Welch for his comments, and for his continued advocacy in the
2 community.

3
4 Next to speak was **Robyn Roehm**, of 2300 Pilot Mountain Court:

5
6 "Hi, thank you for having me, my name is Robin Roehm, I am on the Board of the Crockett Ridge
7 Homeowner's Association, and I am here to urge the town to prioritize the construction of the
8 sidewalk along the south side of Apex Barbecue, between Kelly Road and Brasstown. Currently,
9 there is no sidewalk there, there is some construction happening, but as of right now there's no way
10 for the kids in our neighborhood and the neighborhood's surrounding to walk to the Elementary
11 School down the street right there. It's a dangerous road, it has some higher speeds, there's also
12 some curves there, so biking is not possible for the kids either, or bikers in general. We've been told
13 that it has been requested, but it's not even a possibility until year 2028-2029, I could be wrong on
14 that, but as of right now it would take 10 minutes, maybe a little more, for kids to walk, to bike, to this
15 area, whereas the carpool lane would take 30 minutes, and a bus ride for literally a 2 minute drive
16 down the street is an hour for the kids. And so, on behalf of the HOA, we would like to ask that the
17 town prioritize the continuation of the sidewalk."

18
19 **Mayor Gilbert** thanked Ms. Roehm for her comments.

20
21 Next to speak was **Elizabeth Ray Stitt** of 3113 Friendship Road:

22
23 "Mayor and Town Council, good evening. Tonight, I brought you a screenshot of eCourts, the free,
24 online website hosted by North Carolina Courts that enables the public to search the town's lawsuits
25 by typing "Apex, Town of" in the search box. I'm interested in the town's eminent domain lawsuits,
26 since this Council has threatened to take my property, and that of my neighbors. The town and this
27 Council have tried to reassure us that we'll be treated fairly. The process has not been fair, and
28 based on public records on eCourts, we're not encouraged. Eminent domain statute 40a-64 requires
29 that the town pay fair market value for property the town condemns. Yet, the court filings in front of
30 you, and that you can download and read at your convenience this weekend, shows that the town is
31 trying to take both the Lund property and the Mills property at 20% of the market value. How is 20%
32 of the market value fair? Even worse, the court filings show that when negotiations between the town
33 and the property owners failed, both owners accepted multi-million-dollar contracts from a
34 developer. The very next day, the town staff advised this Council, and you voted to authorize the
35 town to take both properties via eminent domain. Perhaps the timing is coincidental, but there's a
36 strong appearance of "Oh, we didn't get our way. We're going to retaliate by condemning your
37 property. We're going to stop you from selling your property to the developer, and harass you by
38 dragging you through the courts, costing you thousands of dollars, and tying up months of your life.
39 Whoever advised you on the property value gave you really bad advice, as 20% is categorically
40 unfair. Would you sell your property at 20% of what it's worth? eCourts is a valuable tool providing
41 much-needed transparency into how the town handles disputes, and is leveling the playing field by
42 putting court-sworn facts into our fingertips. So, when we point out concrete evidence that the town
43 is not being fair, because we are the expert of our own properties, don't discount us. Pause, take a
44 moment, take the blinders off. Consider those that advised you to date probably gave you their best

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1 guidance. But that guidance may miss the mark, and in the case of Lund and Mills, if you read the
2 affidavits, the town is literally offering 20% of what the developer is offering. You cannot be fair if you
3 continue to only consider one side, as you've been doing. Thank you for your time and
4 consideration."

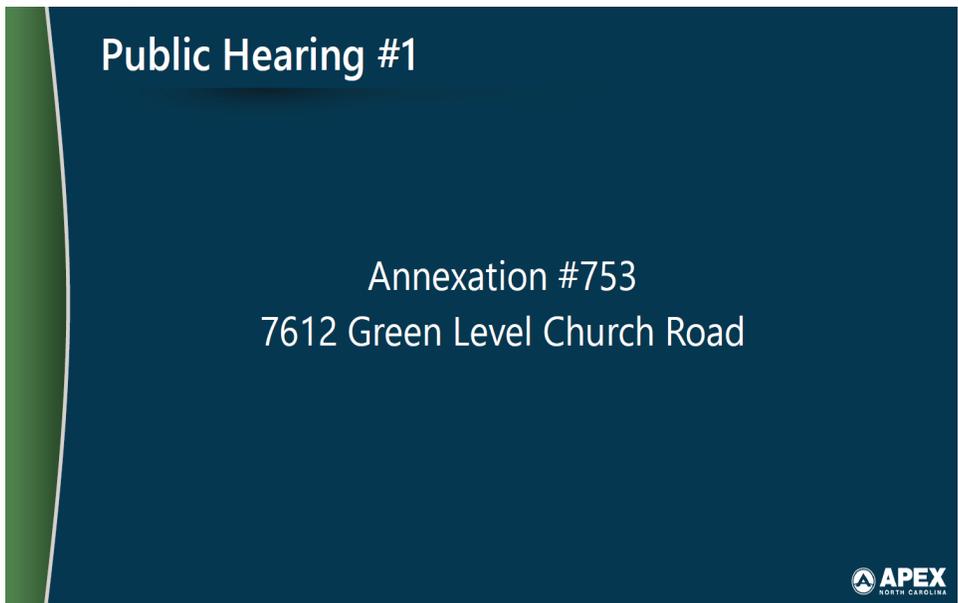
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6 **Mayor Gilbert** thanked Ms. Stitt for her comments. With no more sign ups, he closed public
7 forum and opened public hearing.

8
9 **[PUBLIC HEARINGS]**

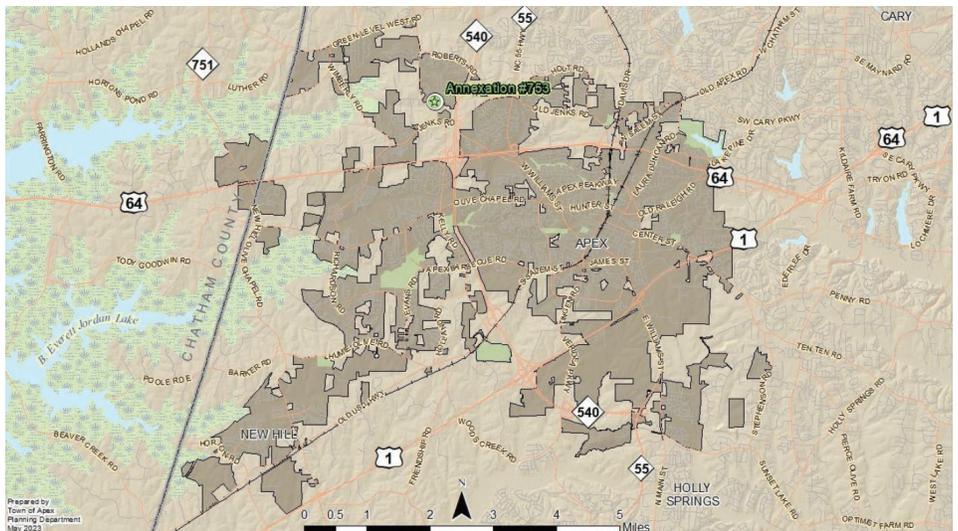
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11 **PH1 Annexation No. 753 - 7612 Green Level Church Road - 1.74 acres (REF: ORD-2023-042)**

12 **Dianne Khin**, Planning Director, gave the following presentation regarding Annexation No.
13 753.

14 **[SLIDE-2]**



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16 **[SLIDE-3]**



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[SLIDE-4]



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[SLIDE-6]



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Mayor Gilbert opened up public hearing for this item. With no one signed up, he closed public hearing, and brought discussion back to Council.

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A **motion** was made by **Councilmember Mahaffey**, seconded by **Councilmember Gray**, to adopt Annexation No. 753 - 7612 Green Level Church Road.

VOTE: UNANIMOUS (5-0)

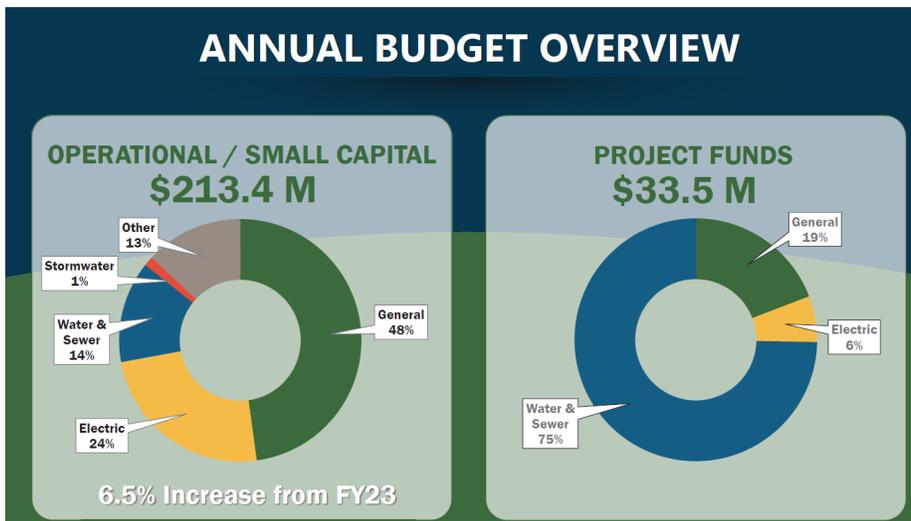
PH2 Fiscal Year 2023-2024 - Annual Operating Budget and Capital Investment Plan

Amanda Grogan, Budget and Performance Management Director, gave the following presentation regarding the Annual Operating Budget and Capital Investment Plan.

[SLIDE-7]

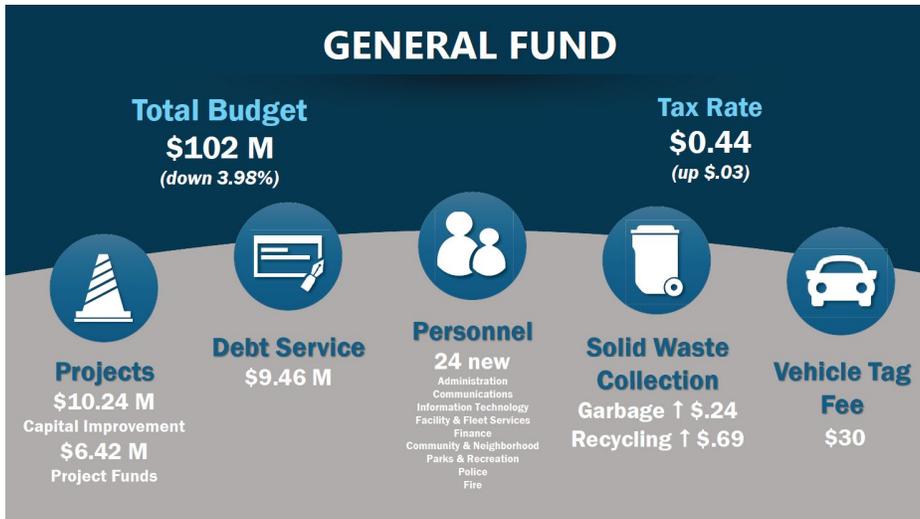


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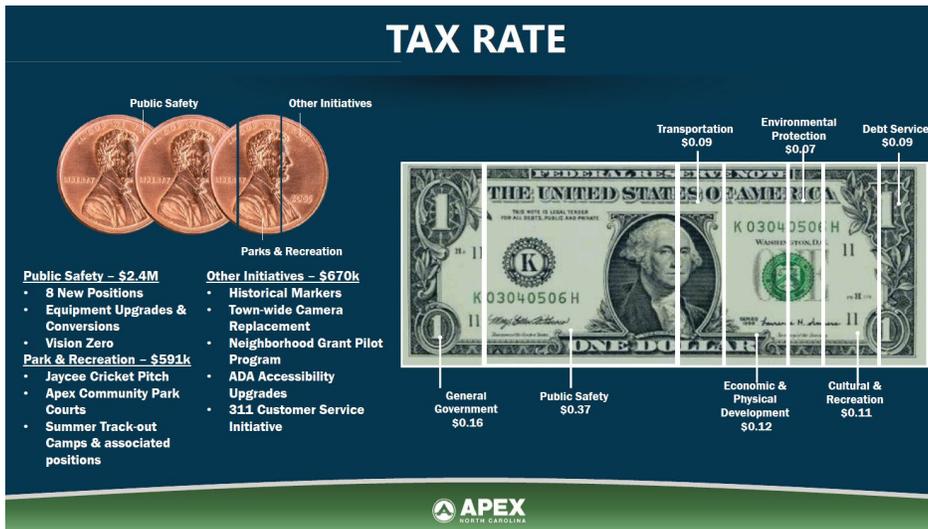
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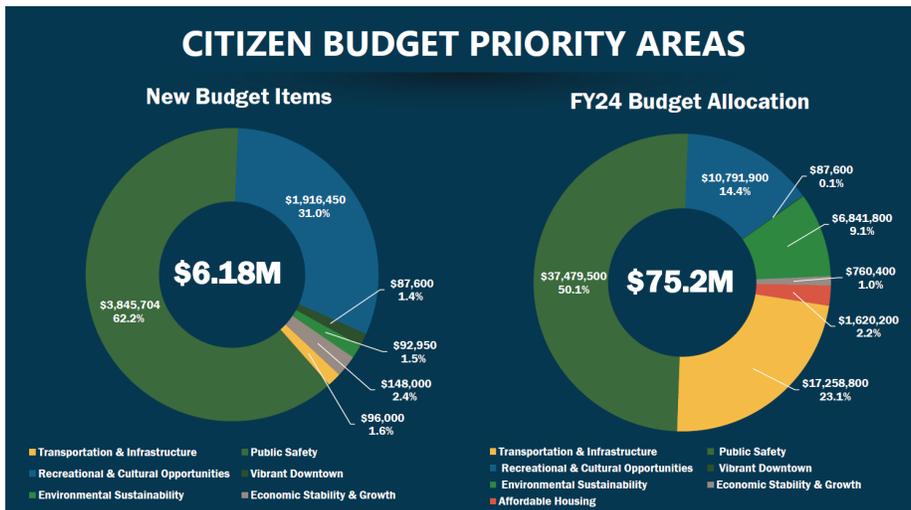
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[SLIDE-11]



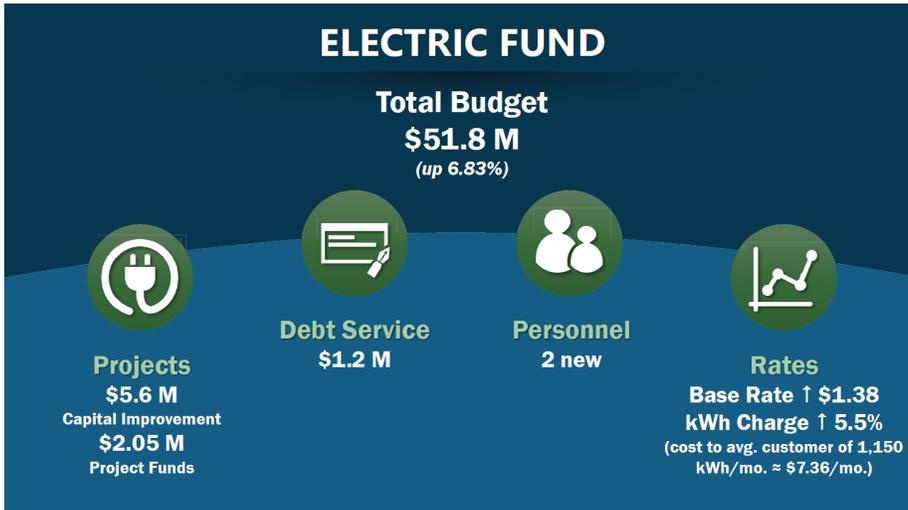
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Mayor Gilbert asked if the town presents the number of people who participate in the budget priority survey.

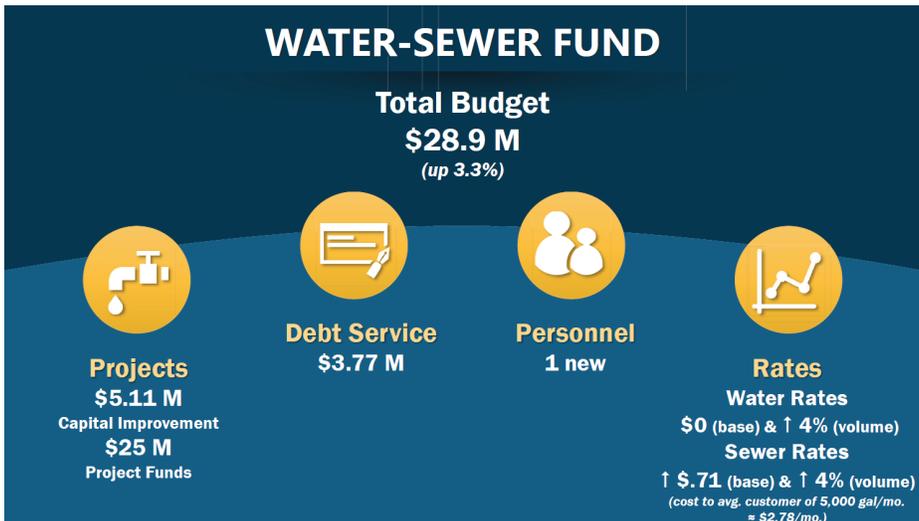
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1 **Director Grogan** replied staff does, and that a memo is released which includes
2 demographic and geographic breakdown of respondents.

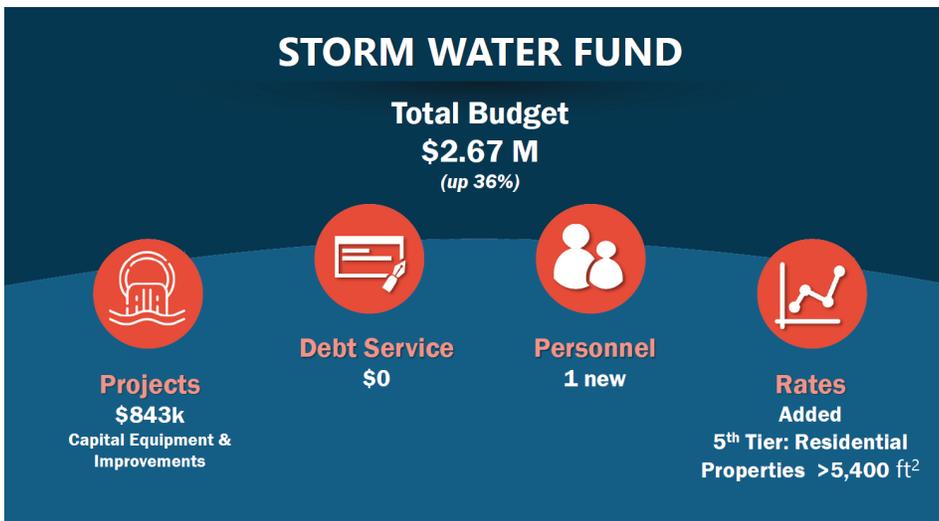
3 **[SLIDE-12]**



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5 **[SLIDE-13]**

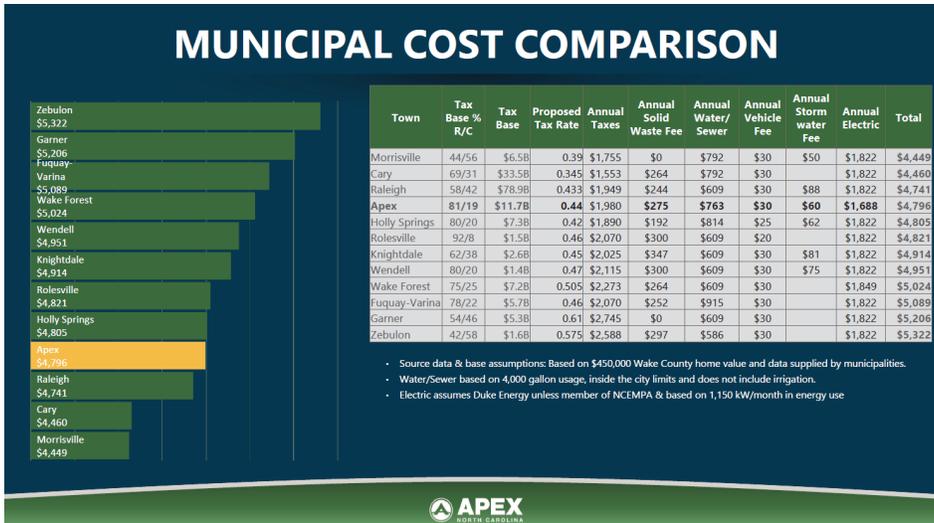


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7 **[SLIDE-14]**



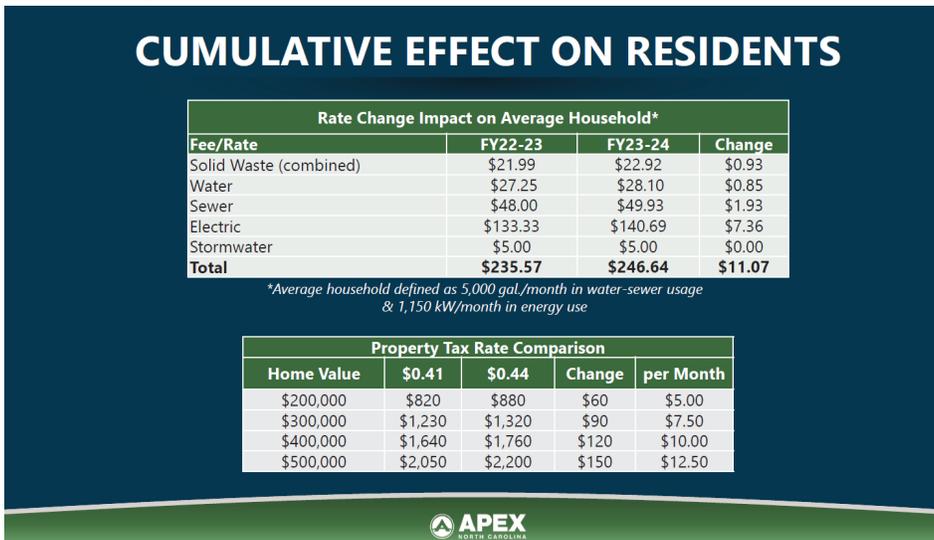
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1 [SLIDE-15]



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[SLIDE-16]



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Councilmember Gantt asked if staff had done a comparison between the residential densities of the communities.

5

Director Grogan replied they had not, but that they would add it to the analysis.

6

Councilmember Gantt said that would be useful, as providing services to less dense places are generally more difficult.

7

Mayor Gilbert and Council expressed their gratitude to Director Grogan and staff for their work and effort on explaining the budget and making it accessible for residents.

8

Mayor Gilbert opened up public hearing for this item.

9

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

10

“So, a year ago, I showed up thinking, hey I could get turn lanes for Friendship Road, couldn’t be that difficult, I thought I’d start a couple months in advance and I could get it, and last year it was like “oh, nope, too late it was already pre-baked.” So I said OK, I’ll try it again, I went through the entire budget process with you guys, I was the only person at the first finance meeting, I was one of three at

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1 the second finance meeting, I could not make the workshop, but I watched it online twice because
2 it's hard to listen when you're multi-tasking at home. And I shared this out with my network, with a lot
3 of people. And what I was really surprised was even though I kept taking information they were like,
4 "it doesn't matter." And, it does matter. And to what you were saying, Amanda and the team have
5 done a lot of work, you guys have done a lot of work. People don't feel like when they raise their
6 hands that it matters. I don't have my turn lanes, the neighborhood doesn't have their sidewalk, last
7 meeting there was a neighborhood I'm drawing a blank on that doesn't have their greenway. When
8 you look at the general fund balance, there is money there. And in your budget document from last
9 year and proposed this year, it states that money can be used. Maybe don't use a lot of it, maybe use
10 a portion of it to offset the tax increase, maybe do some of these small projects, but at some point,
11 what do you do to get people engages? Or is the goal not to have people engaged? I know that you
12 guys want people engaged, you've got to do something different if you want people to show up. I
13 should not be the only person on this list, I should not have been the only person at that finance
14 meeting, and one of three at the second, and I don't even pay Apex taxes, but yet I'm invested to
15 what happens to my community because you guys are my community, even though I'm not in the
16 town limits, I'm in your ETJ, and what you do impacts all of us. So, I'm more than happy to try and
17 figure out how we get the word out more, but I should not be here standing alone tonight. Not with
18 all the work that you guys have done the past year. People simply don't think you guys care, I know
19 you do. So, I would like for it to be a goal, despite the fact that we have a lot of things we're working
20 on, I would like to try to try to figure out how to actually get people engaged this coming year, to
21 where people really start feeling like they are a part of this community, that they have a say in what's
22 happening. And that's all I have, thank you."

23
24 **Mayor Gilbert** thanked Ms. Stitt for her comments. He said he would like to see more people
25 engaged in what Council is doing, and that it is still a work in progress. He said, however, this is
26 particularly important before they decide, so he does agree with that assessment.

27 **Councilmember Mahaffey** said he is trying. He said on his social media, he's made 70-80
28 posts about the budget, and goes through it page by page trying to spark an interest. He thought
29 maybe one project or line people would care about. He said that it's tough, and something they
30 should still work on.

31 **Mayor Pro Tempore Killingsworth** said part of the engagement process is the survey, and
32 they get a lot of guidance through that. She said even though it is not officially a part of the yearly
33 budget process, it's helpful to know what people's priorities are.

34 **Councilmember Gray** said it's important to think of the budget not as a single document, but
35 as part of a larger process. He said he talked to a resident last week about when he watches or
36 attends to Council Meetings, the rezonings are very boring. He said he would somewhat agree, but
37 that in those rezonings it is where the details really matter., He said in the structure of the budget,
38 2/3 is going to public safety, but the public input indicated they wanted it going more towards parks,
39 greenways, and things like that. He said the cost for things like greenways and trees are being borne
40 by the applicants in these rezonings, so that Council can use more of that money on things they have
41 neglected for a while. He said the public safety increases means they will be able to address issues
42 such as Richardson Road safety from last meeting's discussion, putting SROs into schools, ensuring
43 proper fire response, and more. He said it's a difficult balance to ensure "the dollar" is being used
44 appropriately. He said they also recognize that there are people in the town struggling check to

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1 check, so even increasing tax rate by a penny, they recognize that it is painful. He said they would all
2 like to see more participation, and they should continue to press for it. He added the voices of
3 residents makes a huge difference when talking about how to best maintain their standard of living,
4 safety, water, power, trash, and our community. He said democracy is hard, but that it is a
5 participation sport.

6 **Councilmember Mahaffey** wanted to add participation was multi-modal. He said they've
7 been at several of the festivals and offering cool merchandise in exchange for thoughts or requests
8 regarding the budget. He said he wants people to know Council Meetings are not the only way they
9 are trying to receive input, and they are open to suggestions.

10 **Mayor Pro Tempore Killingsworth** said they wanted to be at festivals in order to have more
11 interaction with the public and find out what they want. She added she wants people to come speak
12 to them, and to share their thoughts.

13 **Councilmember Gantt** said he is happy they have established some metrics for safe routes
14 to schools and a master plan for parks and rec, and that these utilize objective measures to analyze
15 projects. He said in theory, this helps some of the objectively best projects get funded, and is in
16 some ways better than hearing a lot of people speak about a more moderate project, in comparison
17 to nobody speaking about a more high-impact project. He thinks both of these should be balanced,
18 and that the high-impact project should be chosen 9 out of 10 times. He said he likes the metrics,
19 and consistently looks at them to evaluate if they are the best way to analyze these projects. He
20 added he thinks it has helped the town put their dollar in the best places possible.

21 **Councilmember Mahaffey** said for sidewalks, there is 90-100 million dollars' worth of
22 projects backlogged, already scored and organized, and they typically base which ones they choose
23 each year on that scoring analysis. He said routes to school is a huge bonus of scoring. He said there
24 is a potential for development along the south of Apex Barbecue, and the developer would build
25 the sidewalk in that case.

26 **Councilmember Gantt** said that is why they went ahead and did the Kelly Road project,
27 because development had already occurred. He said staff has done a great job establishing the
28 ranking system.

29 **Councilmember Zegerman** said there was a backlog of projects coming up on 200 million
30 dollars. He said they only have so many millions a year to put towards capital projects, so it's walking
31 a tightrope for what the town wants to do and can do, and the potential tax increase that would go
32 along with it. He said they felt strongly that a 3-cent increase was the maximum they wanted, and
33 they have to consider those who have difficulty making ends meet. He said it also limits what can be
34 done in terms of capital expenditures. He said he thinks they are getting better at getting resident
35 input, but there could still be more done.

36 **Mayor Gilbert** said he wanted to see more information on number of people who were
37 delinquent on water and power bills, in order to understand the hardships people in town may face
38 when analyzing the potential tax rates.

39 **Councilmember Mahaffey** said something that concerns him is re-connection fees. He says
40 sometimes people fall behind, have to catch up, and then have to pay an extra fee on top of all of
41 that. He said that may be an important thing to look at in the future. He said he doesn't like things
42 that force a negative reinforcement loop.

43 **Councilmember Gantt** said that Western Wake Crisis Ministries still had funds in their utility
44 assistance program, and if people are struggling in that aspect he encouraged them to reach out.

APPROVED

Councilmember Zegerman said the town also has the Apex Cares program to help people maintain their properties.

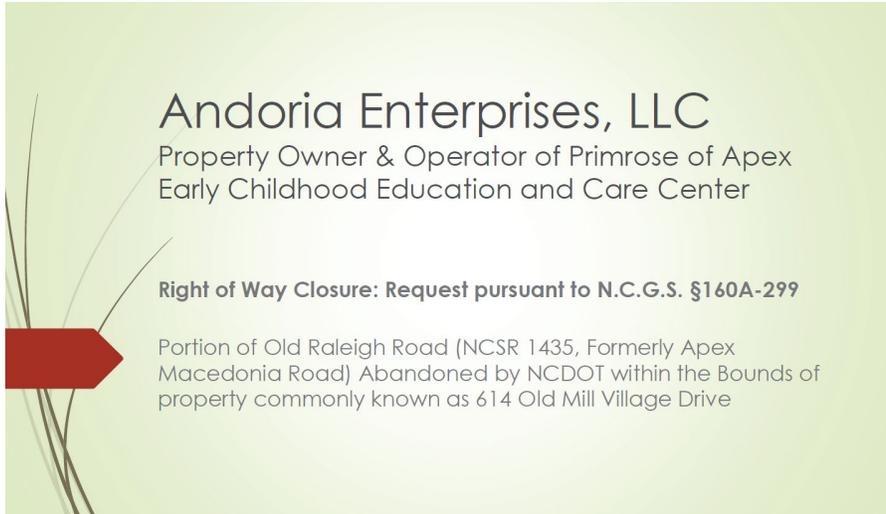
Mayor Gilbert moved the meeting to Public Hearing 3, with no further discussion on this item.

PH3 Right-of-Way (ROW) Road Closure Request - Portion of Old Raleigh Road (REF: OTHER-2023-048)

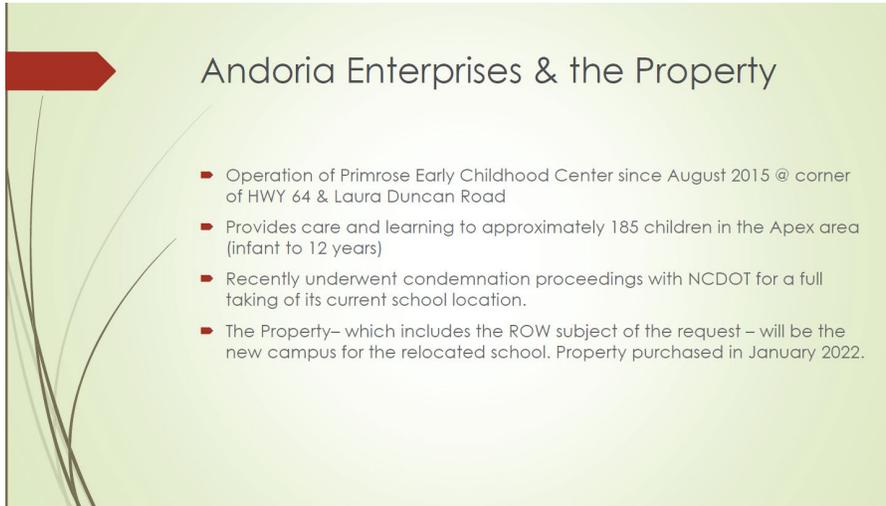
Allen Coleman, Town Clerk, gave a presentation regarding the Right-of-Way road closure request for the portion of Old Raleigh Road.

Jessica Vickers, Counsel for Andoria Enterprises, gave the following presentation:

[ANDORIA SLIDE 1]



[ANDORIA SLIDE 2]



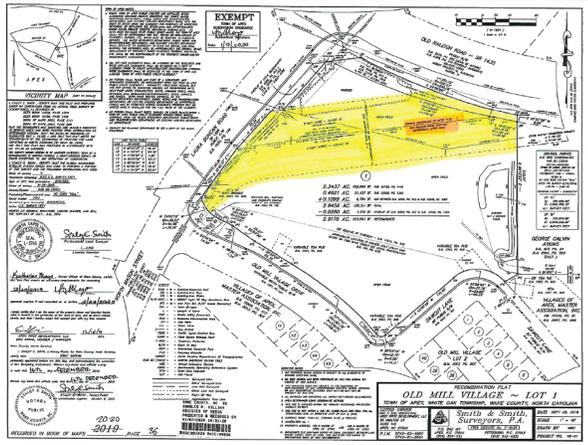
1 [ANDORIA SLIDE 3]

Location: Wake County GIS – PIN 0742-61-2827



2
3 [ANDORIA SLIDE 4]

Survey: 1/9/2020 – NCDOT Abandoned 1993



4
5 [ANDORIA SLIDE 5]

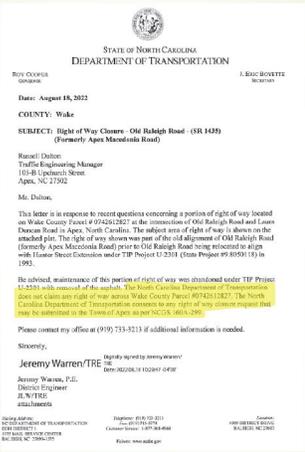
Conditions: No pavement, asphalt or other infrastructure remains on property.



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1 [ANDORIA SLIDE 6]

NCDOT Consent to Closure



The image shows a letter from the North Carolina Department of Transportation (NCDOT) regarding a consent to closure. The letter is dated August 18, 2022, and is addressed to the Town of Apex. The subject is the Right of Way Closure for Old Raleigh Road (SR 1428), formerly Apex Macedonia Road. The letter is signed by Jeremy Warren, Director of Engineering, and includes contact information for the NCDOT office in Raleigh, NC.

2
3 [ANDORIA SLIDE 7]

Andoria's Request

- Expected completion date for new school is July 2023.
- ROW closure is necessary to . . .**
 - satisfy bank financing requirements for the school construction (i.e., clean title); and
 - ensure longevity of this school for the Apex community.
- No evidence that closing would be detrimental to the public interest or the property rights of any individual. (See N.C.G.S. §160A-299)**
 - Roads surrounding property have been reoriented for more than 30 years and this ROW has not been used for more than 30 years.
 - The ROW does not tie into anything which might necessitate that the Town continue to maintain the ROW.
- The Town of Apex has issued permits to Andoria for construction of the new school over the old, abandoned right of way.

4
5 [ANDORIA SLIDE 8]

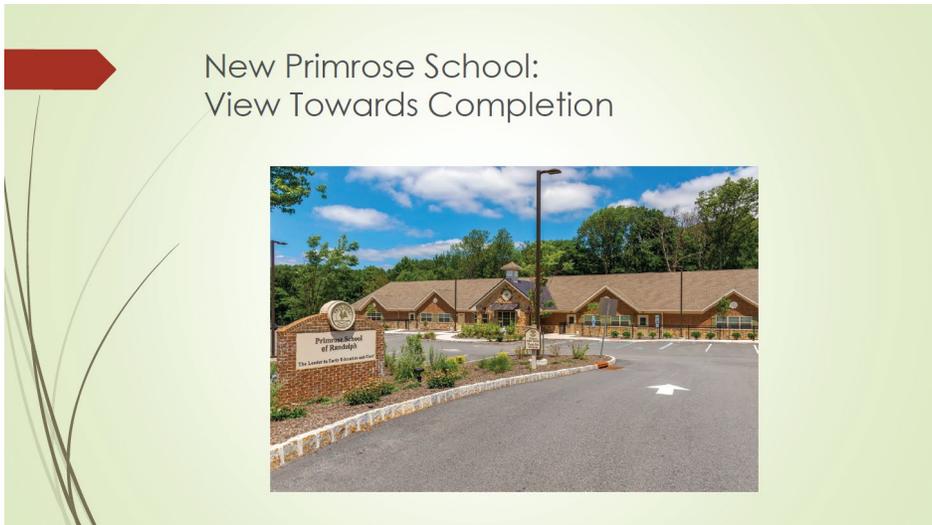
New Primrose School: Current Snapshot



The image shows a photograph of the new Primrose School building. The school is a large, modern structure with a red brick facade and a grey roof. It is surrounded by a paved parking lot and landscaped grounds with trees and shrubs. The sky is blue with some clouds.

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1 **[ANDORIA SLIDE 9]**



2

3 **Councilmember Mahaffey** asked how this got here, if this was missed during due diligence
4 or if it was believed to be a non-issue, for example.

5 **Ms. Vickers** said it was a bumpy process buying this property with this hanging over it, but it
6 was worth the chance to ensure a new school could be rebuilt in close proximity. She said that's why
7 this is happening after closing.

8 **Councilmember Mahaffey** asked why specifically this was coming to the town. He is
9 wondering if this is an NCDOT right of way and NCDOT consented to its closing.

10 **Ms. Vickers** said it was because it was in the town limits and was abandoned by the NCDOT
11 it had to be approved by the town.

12 **Councilmember Zegerman** asked if the town needed to go to the NCDOT, or if this was the
13 last step.

14 **Ms. Vickers** said this was the last step.

15

16 **Mayor Gilbert** opened up public hearing for comment. With no one signed up, he brought
17 action back to Council.

18

19 A **motion** was made by **Councilmember Gray**, seconded by **Councilmember Mahaffey**, to
20 approved the Right-of-Way Road Closure Request for a Portion of Old Raleigh Road.

21

22 **Councilmember Mahaffey** said if the town wanted to maintain the right of way, it would
23 have happened a lot earlier. He said you don't see many of these kinds of cases. He was just curious
24 about how the process worked.

25

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

27

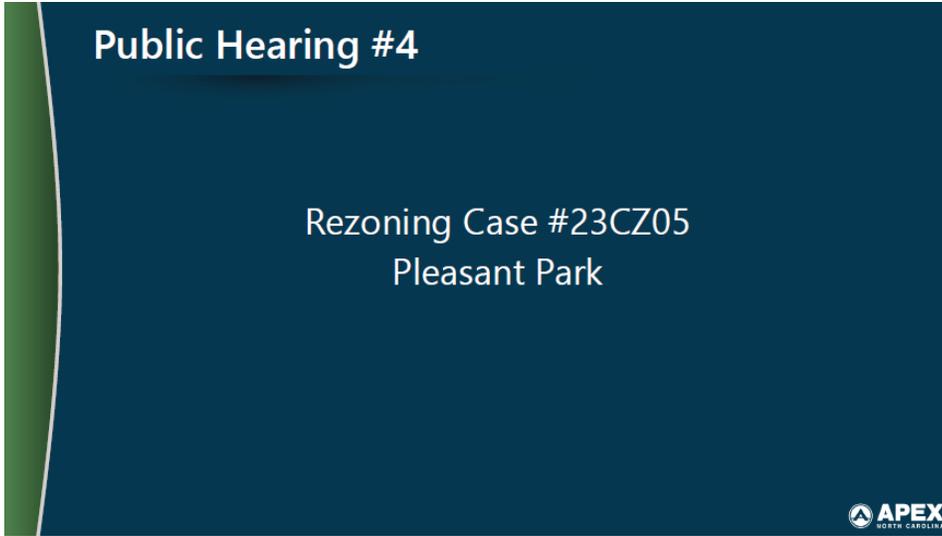
28 **PH4 Rezoning Case No. 23CZ05 - Pleasant Park**

29 **June Cowles**, Senior Planner, gave the following presentation regarding Rezoning Case No.
30 23CZ05 - Pleasant Park:

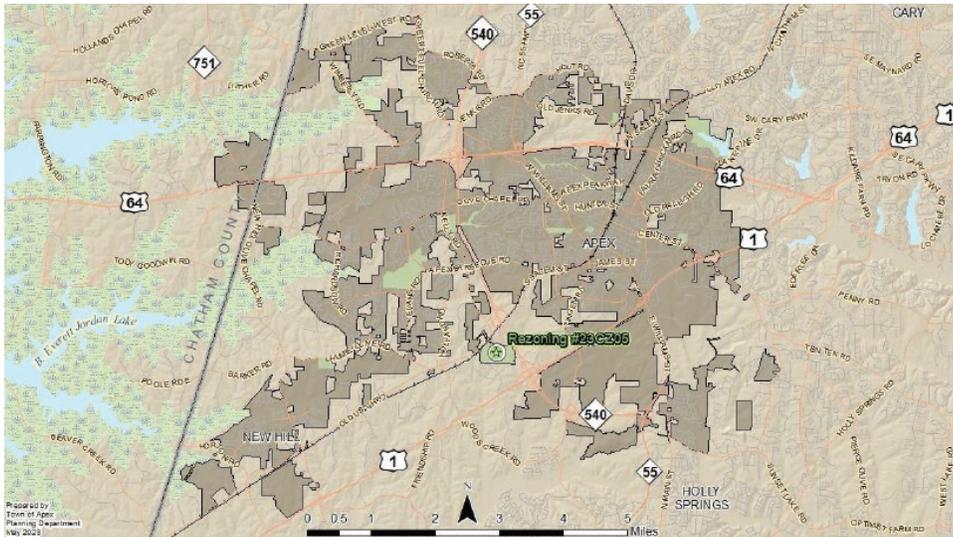
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1 [SLIDE 18]



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3 [SLIDE 19]

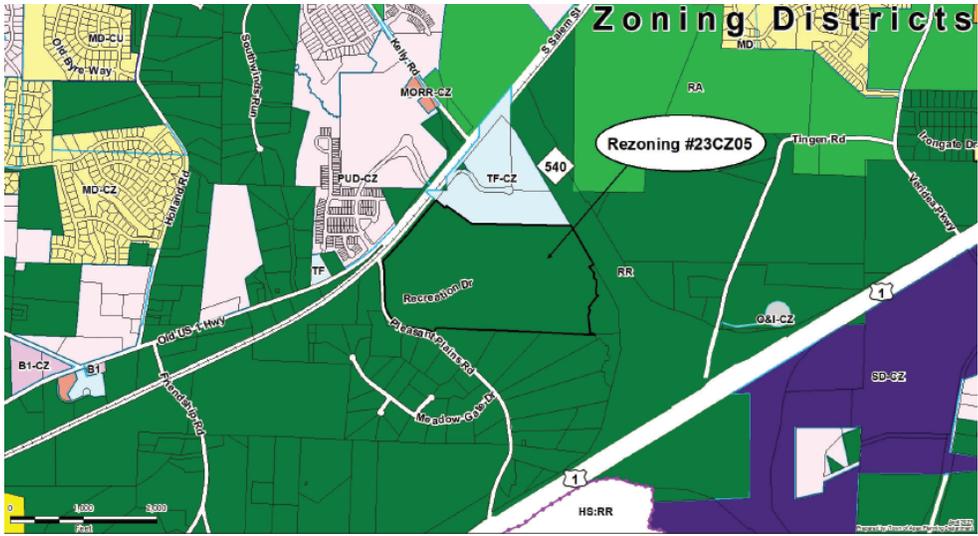


4
5 [SLIDE 20]

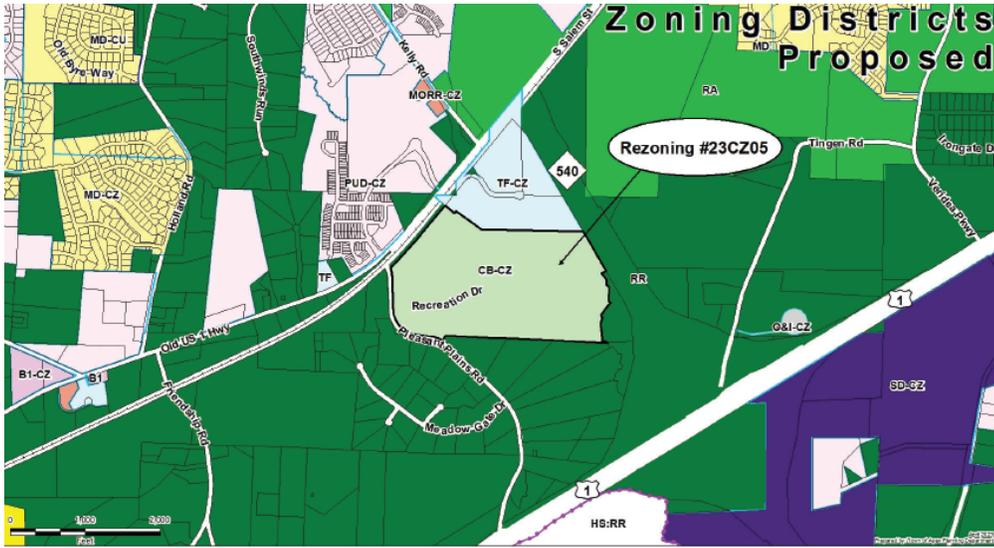


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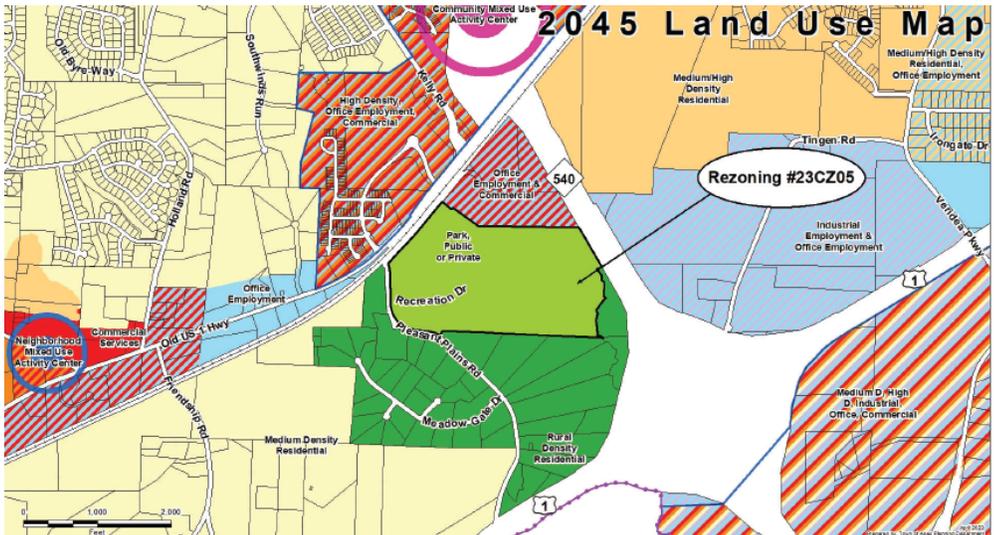
1 [SLIDE 21]



2 [SLIDE 22]

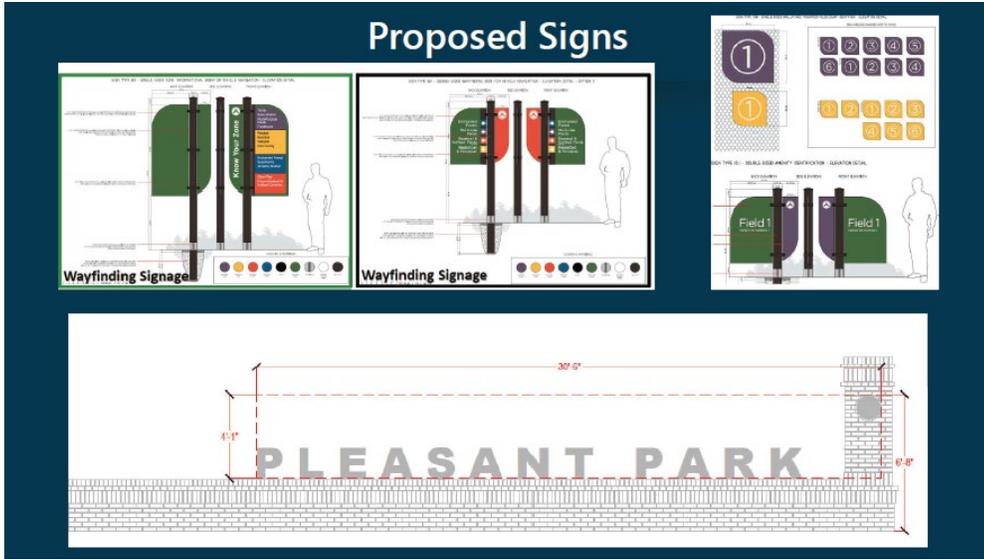


4 [SLIDE 23]



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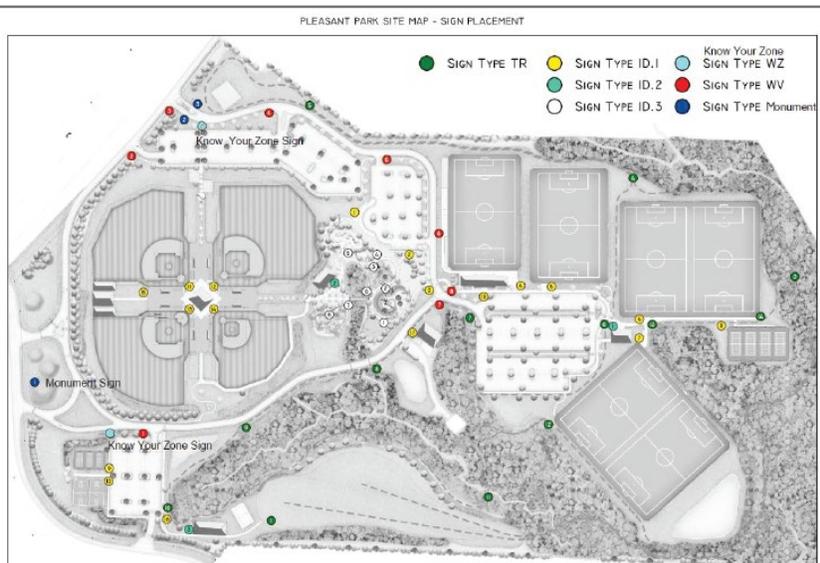
1 [SLIDE 24]



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3 [SLIDE 25]



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5 [SLIDE 26]



APPROVED

1 **Councilmember Gantt** asked about if there was any follow-up to the conversation about the
2 parcel to the east from the community meeting.

3 **Angela Reincke** said they have requested information about the value of the property and
4 what the town may be able to do.

5
6 **Mayor Gilbert** opened up public hearing for this item. With no one signed up, he closed
7 public hearing, and brought discussion back to Council.

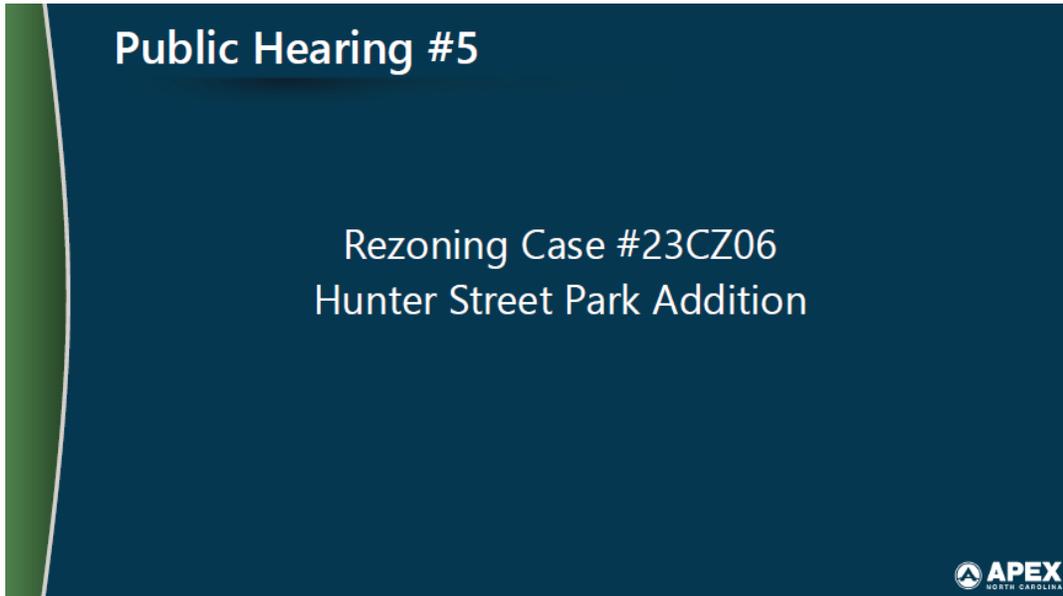
8
9 A **motion** was made by **Mayor Pro Tempore Killingsworth**, seconded by **Councilmember**
10 **Gantt**, to approve Rezoning Case No. 23CZ05.

11
12 **VOTE: UNANIMOUS (5-0)**

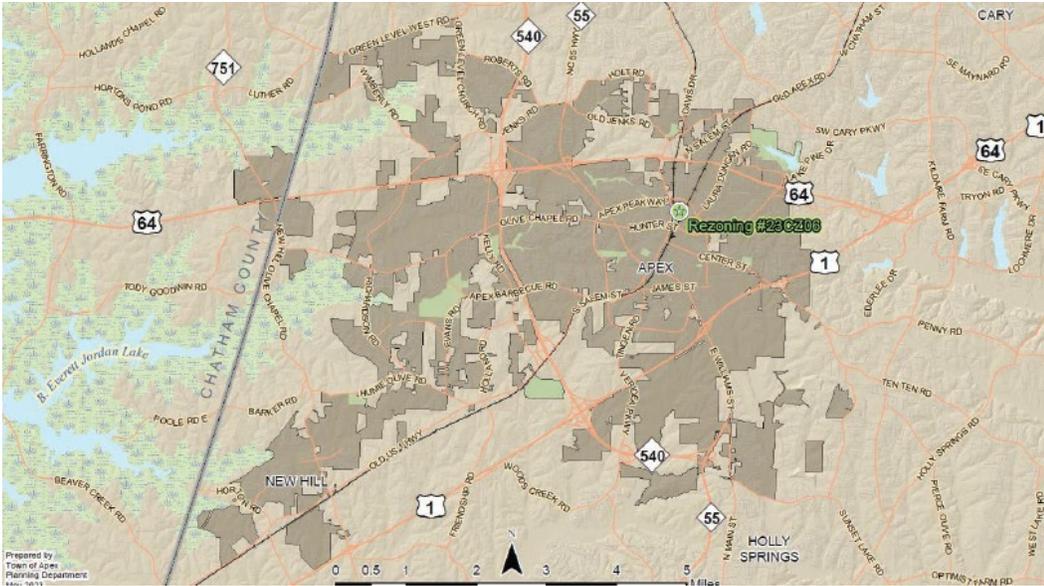
13
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15
16 **PH5 Rezoning Case No. 23CZ06 - Hunter Street Park Addition**

17 **Joshua Killian**, Planner I, gave the following presentation regarding Rezoning Case No.
18 23CZ06 - Hunter Street Park Addition:

19 **[SLIDE 27]**



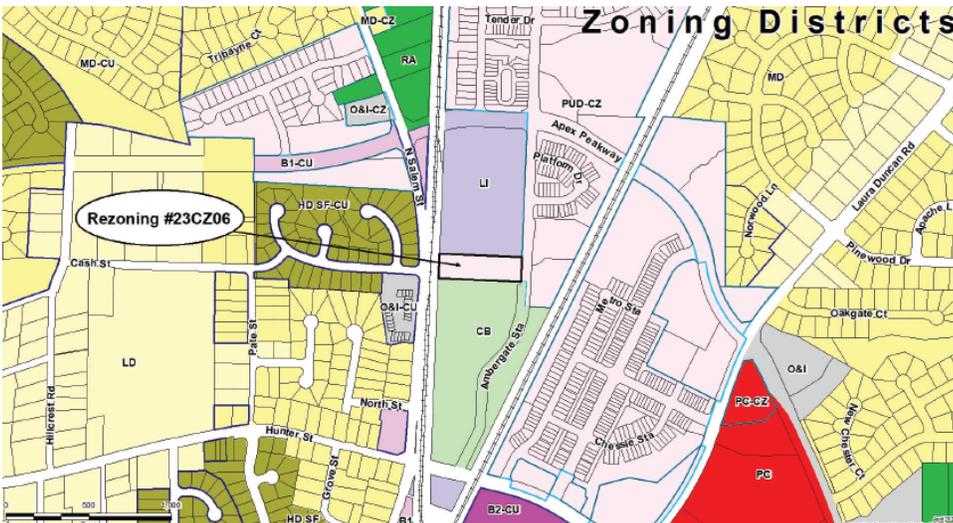
1 [SLIDE 28]



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3 [SLIDE 29]



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5 [SLIDE 30]



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APPROVED

1 **Councilmember Zegerman** said nearby residents had expressed concerned over potential
2 unauthorized crossing of Salem Street, and wondered if staff had looked at mitigating options, such
3 as fencing.

4 **Mr. Killian** said fencing would be part of the site plan approval process. He said the town is
5 looking to provide a 50-foot buffer between the park and the railroad.

6 **Councilmember Gantt** wanted to confirm if sidewalks were being put in the area between
7 Amber Gate and Salem Street.

8 **Mr. Killian** said yes, the Downtown Safe Routes to School Program is currently reviewing that
9 to put in those sidewalks.

10 **Councilmember Gantt** said that should help with unauthorized crossings in the future.

11
12 **Mayor Gilbert** opened up public hearing, with no one signed up, he closed it and brought
13 discussion back to Council.

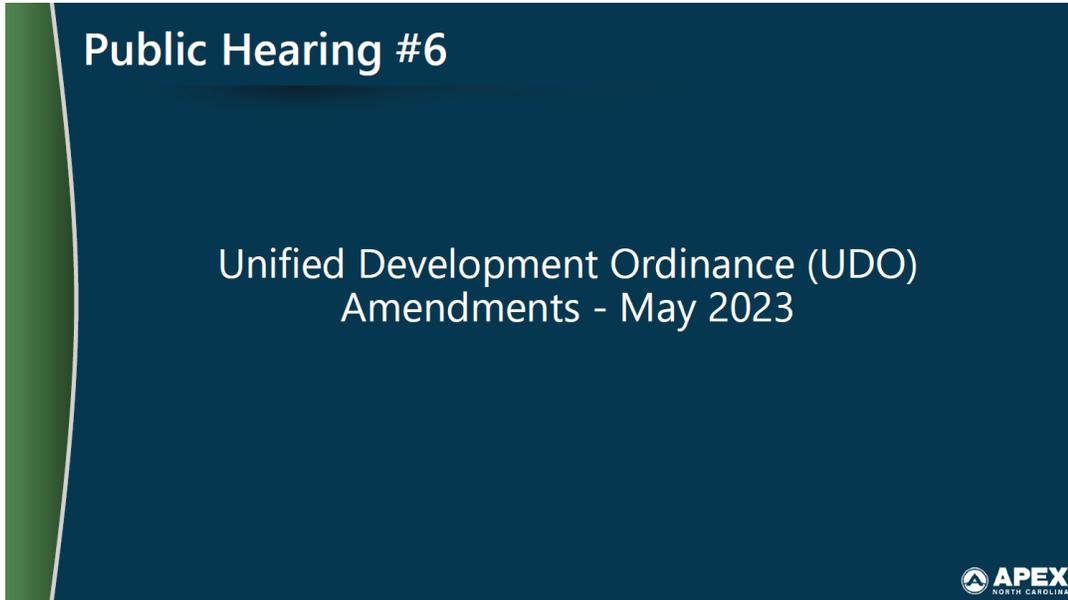
14
15 A **motion** was made **Councilmember Arno Zegerman**, seconded by **Mayor Pro Tempore**
16 **Killingsworth**, to approve Rezoning Case No. 23CZ06.

17
18 **VOTE: UNANIMOUS (5-0)**

19
20 **PH6 Unified Development Ordinance (UDO) Amendments - May 2023 (REF: ORD-2023-043)**

21 **Dianne Khin**, Planning Director, gave the following presentation regarding the first
22 proposed amendment to the UDO:

23 **[SLIDE 34]**



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1 **[SLIDE 35]**

Amendment #1

Requested by Town Council

1. **Amendments to Secs. 4.2.2 Use Table and 4.4.4 Supplemental Standards, Recreational Uses** in order to require a double gate for dog parks in private recreation areas.

Use Type	Definition Section	Zoning Districts																Standards						
		Residential						Business						Planned Development		Other								
		R A	R R	L D	M D	H D	H M	M H	M P	M O	O & I	B 1	B 2	P C	L I	T F	M E		T N	P U	C B	S D	S T	C
Recreational Uses																								
Recreation facility, private	4.3.4.N	P	P	P	P	P	P	P	P								P	P	P					4.4.4.D; 6.3

4.4.4 Supplemental Standards, Recreational Uses

- D) *Reserved* **Recreation facility, private**
If a private recreation facility includes a dog park, a double gate shall be installed at any entrance into the dog park.



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Jenna Shouse, Senior Long-Range Planner, gave the following presentation regarding the second proposed amendment to the UDO

10 **[SLIDE 36]**

Amendment #2

Requested by Planning Committee of Town Council and Planning Staff

2. **Amendments to Sec. 8.3.11 Electric Vehicle Charging Spaces** in order to increase the amount of required Electric Vehicle (EV) charging spaces for apartments as requested by the Planning Committee of Town Council. Additional amendments to this section are proposed by Planning Staff in order to increase the amount of required EV charging spaces and EV-Ready parking spaces for certain uses and to modify the standards for EV charging spaces.

8.3.11 *Electric Vehicle Charging Spaces*

Multi-family or apartment projects with average rents that are affordable to a household with an annual income that is not greater than 80% of the Area Median Income for the respectively-sized household in the Raleigh, NC MSA, as determined by the United States Department of Housing and Urban Development, are exempt from all electric vehicle charging space requirements.



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[SLIDE 37]

Amendment #2

Requested by Planning Committee of Town Council and Planning Staff

A) *Electric Vehicle Parking Requirements*

~~Unless otherwise expressly stated in this Ordinance, e~~Electric vehicle charging spaces shall be provided in accordance with Table 8.3-9, **except for subsections 1 and 2 below**, ~~for any use requiring 50 or more motor vehicle parking spaces.~~

- 1) If less than ~~11~~ **10** motor vehicle spaces are required, no electric vehicle charging spaces or EV-Ready space are required.
- 2) If ~~11~~ **10** to ~~49~~ **19** motor vehicle spaces are required, one (1) EV-Ready space is required **except for Commercial Uses as noted in Table 8.3-9**.
- 3) ~~No more than 10 electric vehicle charging spaces shall be required within a single development (as defined in Sec. 12.2 Terms Defined).~~



[SLIDE 38]

Table 8.3-9: Electric Vehicle Charging Space Requirements

Use	Minimum Number of Required EV-Ready Spaces	Minimum Number of Required Electric Vehicle Charging Spaces
Multi-family or apartment	10% of all required motor vehicle spaces	0% 10% of all required motor vehicle spaces
Government Service	15% of all required motor vehicle spaces	3% of all required motor vehicle spaces
Commercial Uses	15% of all required motor vehicle spaces	3% of all required motor vehicle spaces, provided if the minimum motor vehicle parking requirement is at least 100 spaces. One (1) EV-Ready space is required if 11 to 49 motor vehicle spaces are required. Two (2) EV-Ready spaces are required if 50 to 99 motor vehicle spaces are required.
Office, business or professional	15% of all required motor vehicle spaces	3% of all required motor vehicle spaces
Office: Coworking Space	15% of all required motor vehicle spaces	3% of all required motor vehicle spaces
Office: Call Center	15% of all required motor vehicle spaces	3% of all required motor vehicle spaces
Hotel or motel	15% of all required motor vehicle spaces	0% of all required motor vehicle spaces
Industrial Uses	15% of all required motor vehicle spaces	3% of all required motor vehicle spaces
Park, active or passive	15% of all required motor vehicle spaces	2% of all required motor vehicle spaces
Parking Structure	15% of all provided motor vehicle spaces	3% of all provided motor vehicle spaces
Parking Structure (School, public or private: Elementary, Junior, or Senior)	-	2 spaces
School, public or private: Elementary or Junior	-	3% of all required spaces that are provided in an off-street surface lot
School, public or private: Senior	-	1% of all required spaces that are provided in an off-street surface lot



[SLIDE 39]

B) *Accessible Electric Vehicle Charging Spaces*

~~Unless otherwise expressly stated in this Code,~~ **Accessible** electric vehicle charging spaces shall be sized **designed** but not marked **signed** as exclusively accessible in accordance with Table 8.3-10.

Table 8.3-10 Accessible Electric Vehicle Charging Spaces

Total Provided Electric Vehicle Charging Spaces	Minimum Number of Accessible Charging Spaces	Minimum Number of Van-Accessible Charging Spaces
1-25	1	1
26-50	2	1



1 [SLIDE 40]

C) *Electric Vehicle (EV) Charging Space Standards*

- 1) Installation of a Level 2 or DC Fast Charging electric vehicle charging space may count as one (1) community amenity for sites that require less than 50 motor vehicle spaces.
- 2) Electric vehicle charging spaces shall be utilized to meet the minimum motor vehicle parking requirements.
- 3) All electric vehicle charging spaces shall be installed outside of the public right-of-way.
- 4) All required electric vehicle charging spaces shall be Level 2 or DC Fast Charging.
- 5) Electric vehicle charging equipment shall be placed outside of the critical root zone for any preserved tree.
- 6) Electric vehicle charging equipment shall be placed at least 40 5 feet from a newly planted tree.
- 7) Electric vehicle charging spaces shall be posted with signage.
- 8) In surface lots, a wheel stop, bollards, or other barrier shall be placed between the electric vehicle charging space and the electric vehicle charging equipment. Alternatively, there shall be a minimum distance of two (2) feet between the curb and the electric vehicle charging equipment.
- 9) The Town does not restrict property owners from collecting a service fee for the use of an electric vehicle charging station.
- 10) The outer edge of the electric vehicle charging equipment shall not be illuminated.
- 11) For the use "Multi-family or apartment", electric vehicle charging spaces and EV-Ready spaces shall be dispersed near building(s) on the site.



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Councilmember Zegerman asked where the percentages chosen came from.

Ms. Shouse said from several places. She said Holly Springs had recently adopted EV standards like this, and the American Planning Association released guidance on addressing upcoming EV challenges. She said staff used this information along with context regarding what would be appropriate for Apex to come to this decision.

Councilmember Zegerman asked how the Holly Springs policy compared to the nationwide study conducted by the American Planning Association.

Ms. Shouse said Apex had a similar framework to Holly Springs for this. She said they divide it up into Residential and all other uses. She said in the all other uses category they require 10% to be EV-ready in a development with 20-50 spaces, and developments with 50 or more require 5% of spaces to have EV chargers, and an additional 15% would be EV-ready. She said in several categories, Holly Springs has a 5% requirement for EV spaces, while this proposal puts many at 3%.

Councilmember Zegerman asked why the percentage of EV-enabled spaces was kept at 3%, rather than being raised to 5% or more.

Ms. Shouse said staff had discussed that cost of enabling EVs was a factor in that decision, and that adding a requirement to install EV-ready infrastructure allowed flexibility for more to be built in the future if people wanted to take on that cost, or wanted to meet demand for a new influx of EVs to their business or residence. She said this was to help avoid making the cost even higher in the future if they had to be retrofit instead of installed on ready spaces.

Director Khin said they increased the EV enabled requirement to 10% at multi-family or apartment sites and not commercial uses, because their research showed that people tended to charge most often overnight, which would be at their residences.

Councilmember Zegerman said he doesn't think this is aggressive enough. He said in ten years the majority of vehicles sold will be EV, and that this area is more likely to have a higher percentage of EVs than a national averaged due to a higher per-capita income. He said he would like the EV-ready requirement to be increased much higher than 15% to account for this future expectation. He said he understands the cost issues with increasing EV-enabled spaces, but he would like to see that higher than 3% for commercial uses as well.

Councilmember Gantt said he presented in Planning Committee that there would be more EVs in ten years, but that presumably they would be able to go much farther on a single charge. He

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1 said this would decrease the need for short-duration charging, and was much less important than
2 having more spaces at residential properties.

3 **Councilmember Zegerman** said he agreed with overnight stays being more of a priority to
4 have higher levels of EVs, but he didn't believe the 3% for commercial was far enough.

5 **Councilmember Mahaffey** said he agrees with Councilmember Zegerman. He said in
6 Planning Committee, he expressed a similar concern, and this was the sort of compromise they
7 came to. He said he advocated for a more across the board increase.

8 **Councilmember Gantt** asked Town Attorney Hohe if Council had authority for this kind of
9 increase from the State.

10 **Town Attorney Hohe** said she would need to do more research on that specifically, and that
11 she could not give legal advice in open session.

12 **Councilmember Gantt** said presumably more municipalities doing it was a good sign.

13 **Councilmember Gray** said as an EV driver, he liked the increase at residential and overnight
14 properties a lot. He said people likely wouldn't buy an EV if they lived in an apartment complex
15 without much charging capacity, and wouldn't choose a complex without if they already had one. He
16 said this was a step in the right direction, even if he would like to see the percentage much higher.

17 **Mayor Pro Tempore Killingsworth** said she would like to see the requirement increase for
18 multifamily, apartment, and hotel/motel uses. She said they were the most important areas. She
19 added there a lot of EVs available for purchase, but they aren't getting bought as much as desired
20 because Apex doesn't have the necessary infrastructure to support such an increase.

21 **Ms. Shouse** wanted to confirm which of the EV requirement categories she was referring to.

22 **Mayor Pro Tempore Killingsworth** said she was referring to both EV-enabled and EV-ready
23 requirement being increased for developments for residential or hotel/motel developments.

24 **Director Khin** said planning wouldn't have any additional recommendations, as this was the
25 result of their research. She said any numbering changes would need to be based on what Council
26 wished to see.

27
28 A **motion** was made by **Mayor Pro Tempore Killingsworth**, seconded by **Councilmember**
29 **Mahaffey**, to increase the required EV-ready spaces at residential developments to 20%, and
30 increase the required EV-enabled spaces to 15%, also, to increase the number of required EV-ready
31 spaces at hotels/motels to 20%, and to increase the amount of EV-enabled spaces to 10% for those
32 developments.

33
34 **Mayor Gilbert** opened up Public Hearing for this item. With no one signed up to speak, he
35 returned discussion to Council.

36
37 A **motion** was made by **Councilmember Mahaffey**, to approve the Unified Development
38 Ordinance Amendments, as additionally amended or not amended

39
40 **Councilmember Mahaffey** said he believed it would be best to have the vote for the
41 proposed amendment to the UDO requirements be separate from the vote on the overall UDO
42 amendments, in case somebody wanted to vote against the proposed increase to staff's
43 recommendation, but still vote for to adopt these changes to the UDO.

APPROVED

1 **Town Attorney Hohe** suggested voting on the motion from Mayor Pro Tempore
2 Killingsworth first, then moving on to the motion from Councilmember Mahaffey.

3
4 A **motion** was made by **Councilmember Zegerman**, seconded by **Mayor Pro Tempore**
5 **Killingsworth**, to amend the earlier motion made by Mayor Pro Tempore Killingsworth, to increase
6 the requirement of EV-ready spaces at apartment and hotel/motels to 30%, while keeping the
7 proposed increases to EV-enabled spaces from that motion the same.

8
9 **Councilmember Gantt** said this proposal had been researched, and the market will
10 theoretically help provide for an increase of EVs if ownership continues rising. He said currently the
11 town is ahead of the market, though maybe that wouldn't last for long. He asked what the cost of
12 implementing EVs was.

13 **Ms. Shouse** said the average cost for a level II EV charger, not including installation costs,
14 was about \$8,500.

15 **Councilmember Zegerman** asked if this would serve one or multiple vehicles at one time.

16 **Ms. Shouse** replied that these chargers would serve two vehicles.

17 **Councilmember Gantt** said the more they increase this, the more concerned he gets that the
18 state may not allow them to do it. He said incremental changes would minimize the likelihood of the
19 state undoing authority Council has on this matter. He said they were fortunate authority wasn't
20 taken away at a state level, and that if they increasing costs on developers, it may make its way into a
21 state bill after people talk about it. He said the original motion to up the requirement of 10% EV-
22 enabled space to 15% is where he is concerned, and that the state may take more notice in this case.

23 **Councilmember Zegerman** said he doesn't see much of an issue in imposing these
24 requirements that would add thousands of dollars onto multi-million-dollar developments.

25 **Councilmember Gantt** said lots of developments have been having several hundred parking
26 spaces, so that would add a lot more as an overall cost.

27 **Councilmember Zegerman** replied that these developments were already spending much
28 more, so proportionally it is still a "drop in the bucket".

29 **Councilmember Gantt** said he agreed, but he wasn't sure how builders would feel. He thinks
30 they may take this concern to a state level with an increase like this.

31 **Councilmember Zegerman** said he was willing to take that risk.

32 **Mayor Gilbert** requested that Councilmembers share any proposed changes for items they
33 have before a meeting to staff ahead of time.

34 **Councilmember Gray** said the proposal from staff could be adjusted down the road, and
35 that he thinks they shouldn't be making these increases to the percentage requirement without a
36 little more research on the potential costs and effects of this. He thinks it is a good goal, but he is
37 uncomfortable with changing these recommended numbers from staff without having some
38 research done. He said he would be voting against the amendments to the proposed amendments.

APPROVED

1 *The following motion was made previously, as noted above, and is included again here along with*
2 *the vote for clarity:*

3
4 A **motion** was made by **Councilmember Zegerman**, seconded by **Mayor Pro Tempore**
5 **Killingsworth**, to amend the earlier motion made by Mayor Pro Tempore Killingsworth, to increase
6 the requirement of EV-ready spaces at apartment and hotel/motels to 30%, while keeping the
7 proposed increases to EV-enabled spaces from that motion the same.

8
9 **VOTE: 3-2, Councilmember Gantt and Councilmember Gray dissenting.**

10
11 *The following motion was made previously, as noted above, and is included again here along with*
12 *the vote for clarity. This motion was also amended by the previous vote:*

13
14 A **motion** was made by **Mayor Pro Tempore Killingsworth**, seconded by **Councilmember**
15 **Mahaffey**, to increase the required EV-ready spaces at residential and hotel/motel developments to
16 30%, and also to increase the number of required EV-enabled parking spaces at residential
17 developments to 15%, and to increase the amount of EV-enabled spaces at hotel/motel
18 developments to 10%.

19
20 **VOTE: 3-2, Councilmember Gantt and Councilmember Gray dissenting.**

21
22 A **motion** was made by **Councilmember Mahaffey**, seconded by **Councilmember**
23 **Zegerman**, to approve the amendments to the Unified Development Ordinance, with amendment 2
24 amended to require 30% of parking spaces at residential and hotel/motel developments to be EV-
25 ready, to require 15% of parking spaces at residential developments to be EV-enabled, and to
26 require 10% of parking spaces at hotel/motel developments to be EV-enabled.

27
28 **VOTE: 4-1, Councilmember Gantt dissenting.**

29
30 **[UPDATES BY TOWN MANAGER]**

31
32 **Town Manager Katy Crosby** said it was Public Works Week, and thanked the town’s public
33 works staff for all of their work. She said she thinks a lot of people don’t understand how much Public
34 Works does and how much their efforts help to keep the town beautiful. She added that Monday
35 was Memorial Day, and invited people to the Memorial Day Celebration Downtown at 9 AM, hosted
36 by the American Legion.

37
38
39 **[CLOSED SESSION]**

40
41 A **motion** was made by **Councilmember Gray**, seconded by **Councilmember Gantt**, to
42 enter into Closed Session pursuant to NCGS § 143-318.11 (3) and NCGS § 143-318.11 (5).

43
44 **VOTE: UNANIMOUS (5-0)**

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Council moved into closed session at 8:32 p.m.

CS1 Laurie Hohe, Town Attorney, Legal Department

NCGS §143-318.11(a)(3):

"To consult with an attorney employed or retained by the public body in order to preserve the attorney-client privilege between the attorney and the public body."

CS2 Steve Adams, Utilities Acquisition Specialist, Transportation and Infrastructure Dept.

NCGS §143-318.11 (5):

"To instruct staff concerning the acquisition of real property."

Council returned to open session at 9:31 p.m.

[ADJOURNMENT]

Mayor Gilbert adjourned the meeting at 9:32 p.m.

Jacques K. Gilbert
Mayor

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

Submitted for approval by Town Clerk Allen Coleman and approved on June 13, 2023 (CN8).

APPROVED
TOWN OF APEX
REGULAR TOWN COUNCIL MEETING
TUESDAY, JUNE 13, 2023
6:00 PM

The Apex Town Council met for a Regular Town Council Meeting on Tuesday, June 13, 2023 at 6:00 PM in the Council Chambers at Apex Town Hall, located at 73 Hunter Street in Apex, North Carolina.

This meeting was open to the public. Members of the public were able to attend this meeting in-person or watch online via the livestream on the Town’s YouTube Channel. The recording of this meeting can be viewed here: <https://www.youtube.com/watch?v=OV1Flh78eL0>

[ATTENDANCE]

Elected Body

- Mayor Jacques K. Gilbert (presiding)
- Mayor Pro-Tempore Audra Killingsworth
- Councilmember Brett Gantt
- Councilmember Ed Gray
- Councilmember Terry Mahaffey
- Councilmember Arno Zegerman
- Absent: None

Town Staff

- Town Manager Catherine Crosby
- Deputy Town Manager Shawn Purvis
- Assistant Town Manager Marty Stone
- Town Attorney Laurie Hohe
- Town Clerk Allen Coleman
- Deputy Town Clerk Ashley Gentry
- All other staff members will be identified appropriately below

[COMMENCEMENT]

Mayor Gilbert called the meeting to order, and thanked all in attendance for engaging in the town business as a community.

Mayor Pro Tempore Killingsworth then offered a statement acknowledging the importance of diversity and tolerance, and recognized that there are many different faiths represented in Apex. She invited everyone to take a personal moment of silence.

Mayor Gilbert then invited Elder Creason from the Church of Jesus Christ of Latter-Day Saints to offer the invocation.

Elder Creason offered words of thanks, and asked for strength to be given to Council as they work to make decisions that can better the lives of those in the community.

Mayor Gilbert then led those in attendance in the pledge of allegiance.

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1 **[CONSENT AGENDA]**

2 **Mayor Gilbert** announced that Old Business Items 1 and 2 would be continued to the June
3 27th Regular Town Council Meeting. He said Council would be holding an additional Public Hearing
4 on June 27th, in order to receive additional input from the community on the Annual Operating
5 Budget and Capital Investment Plan.

6
7 **Mayor Gilbert** asked if there were any requested alterations to the Consent Agenda.

8
9 **Councilmember Zegerman** requested that Consent Item 10 be moved to New Business.

10
11 A **motion** was made by **Councilmember Arno Zegerman**, seconded by **Mayor Pro**
12 **Tempore Audra Killingsworth**, to approve the Consent Agenda, with the removal of Consent Item
13 10 to New Business One (1).

14
15 **VOTE: 5-0 (UNANIMOUS)**

16
17 **CN1 Agreement Amendment - Renewal of ADA Paratransit Service Agreement with Wake**
18 **County - FY2023-24 (REF: CONT-2023-142)**

19 Council voted to approve an Amendment to the Americans with Disabilities Act (ADA) Paratransit
20 Services Agreement with Wake County, effective July 1, 2023 through June 30, 2024; and to
21 authorize the Town Manager to execute on behalf of the Town.

22 **CN2 Annexation No. 757 - Alderwood Pond - 0.67 acres (REF: RES-2023-033, RES-2023-**
23 **034, and OTHER-2023-051)**

24 Council voted to adopt a Resolution Directing the Town Clerk to Investigate Petition Received, to
25 accept the Certificate of Sufficiency by the Town Clerk, and to adopt a Resolution Setting the Date of
26 a Public Hearing for June 27, 2023, on the Question of Annexation - Apex Town Council's intent to
27 annex 0.67 acres Alderwood Pond, Annexation No. 757 into the Town Corporate limits.

28 **CN3 Annual Operating Budget and Capital Improvement Plan FY 2023-2024 - Schedule 2nd**
29 **Public Hearing**

30 Council voted to schedule a second budget public hearing for June 27, 2023 on the Annual
31 Operating Budget and Capital Improvement Plan (CIP) for fiscal year 2023-2024.

32 **CN4 Budget Ordinance Amendment No. 18 - Electric System Expansion (REF: ORD-2023-**
33 **044)**

34 Council voted to adopt Budget Ordinance Amendment 18 to appropriate funds for electric system
35 expansion.

36 **CN5 Capital Project Ordinance Amendment No. 2023-08 - Town Wayfinding Project and**
37 **Hunter Street Bike Track Project (REF: ORD-2023-045)**

38 Council voted to approve a Capital Project Ordinance Amendment No. 2023-08 to transfer
39 appropriate funds for the Town Wayfinding Project and Hunter Street Bike Track Project.

APPROVED

CN6 Contract Amendment Multi-Year - CDM Smith, Inc. - leadCAST - July 1, 2023 through June 30, 2026 (REF: CONT-2023-143)

Council voted to approve an Amendment to Task Order No. 2, effective July 1, 2023 through June 30, 2026, with CDM Smith, Inc. under a Master Services Agreement for On-Call Professional Services (No. 2019-0025) approved on September 4, 2018, for implementation of the data management solution, leadCAST, and migration of the Lead Service Line (LSL) data into an inventory file within the leadCAST platform; and authorize the Town Manager to execute the agreement on behalf of the Town.

CN7 Contract Multi-Year - Axon Enterprises Inc. - Technology and Software Support - July 1, 2023 through June 30, 2026 (REF: CONT-2023-144)

Council voted to approve a Master Services Agreement (MSA), effective July 1, 2023 through June 30, 2026, with Axon Enterprises Inc. for technology and software support for the following in the Apex Police Department (APD): Body Worn Cameras (BWC), Mobile Video Recorders (MVR), and Taster 7 Electronic Control Weapons (ECW); and authorize the Town Manager to execute the agreement(s) on behalf of the Town.

CN8 Council Meeting Minutes - Various

Council voted to approve, as submitted or amended, Meeting Minutes from the following meetings:
May 16, 2023 - Town Council Work Session Meeting Minutes
May 23, 2023 - Regular Town Council Meeting Minutes

CN9 Encroachment Right-of-Way (ROW) Agreement - NCDOT - GoApex Bus Stop Sidewalk Art Project (REF: CONT-2023-145)

Council voted to approve a right-of-way (ROW) encroachment agreement with North Carolina Department of Transportation (NCDOT) to allow the Town to paint art on the public right-of-way at select GoApex bus stops (Attachment No.2) as part of the GoApex Bus Stop Sidewalk Art Project; and to authorize the Town Manager to execute the agreement on behalf of the Town.

CN10 Interlocal Agreement with Wake County Board of Education (BOE) - Infrastructure Provision to Support Public School Facilities - Felton Grove High School Project - Thriftwood Drive and Derry Down Lane

Russell Dalton, Traffic Engineering Manager, Transportation and Infrastructure Dev. Dept.

Consent Item 10 was pulled from consent and moved to New Business 1, by request of Councilmember Zegerman.

CN11 Resolution to Collect Taxes - Chatham County (REF: RES-2023-035)

Council voted to adopt a Resolution authorizing the Chatham County Tax Administrator to collect taxes on behalf of the Town of Apex.

CN12 Resolution to Collect Taxes - Wake County (REF: RES-2023-036)

Council voted to adopt a Resolution authorizing the Wake County Revenue Director to collect taxes on behalf of the Town of Apex.

CN13 Rezoning Case No. 23CZ05 - Pleasant Park - Statement and Ordinance (REF: ORD-2023-046)

APPROVED

1 Council voted to approve the Statement of the Town Council and Ordinance for Rezoning
2 Application No. 23CZ05, Town of Apex, petitioner, for Pleasant Park, property located at 3400
3 Pleasant Plains Road (PIN 0731407544).

4 **CN14 Rezoning Case No. 23CZ06 - Hunter Street Park Addition - Statement and Ordinance**
5 **(REF: ORD-2023-047)**

6 Council voted to approve the Statement of the Town Council and Ordinance for Rezoning
7 Application No. 23CZ06, Town of Apex, petitioner, for Hunter Street Park Addition, located at 1250
8 Ambergate Station (portion of PIN 0742531455).

9 **CN15 Tax Report - April 2023 (REF: OTHER-2023-052)**

10 Council voted to approve the Apex Tax Report dated May 18, 2023.

11 **CN16 Town Standard Specifications & Standard Details - Revisions (REF: OTHER-2023-053)**

12 Council voted to approve revisions to the Town Standard Specifications and Standard Details.

13 **CN17 Unified Development Ordinance (UDO) Amendments - May 2023 - Statement (REF:**
14 **OTHER-2023-054)**

15 Council voted to approve the Statement of the Apex Town Council pursuant to G.S. 160D-605(a)
16 addressing action on the Unified Development Ordinance (UDO) Amendments of May 23, 2023.

17
18 **[PRESENTATIONS]**

19
20 **PR1 Proclamation - Apex High School "Lady Cougars" Softball Team - NCHSAA 4A State**
21 **Champions (REF: PRO-2023-020)**

22 **Mayor Gilbert** and the rest of Town Council read the proclamation honoring the Apex High
23 School Softball State Champions in unity.

24 Each member of the team then received individual recognition from Mayor Gilbert and
25 Council, and were each given a copy of the proclamation.

26 **Mayor Gilbert** shared a story from Game 2 of the Championship series, when an opposing
27 fan asked him which one of the players was his daughter. Mayor Gilbert said he replied that the
28 whole team was his family. He thanked the team for bringing the championship back to the Peak,
29 and said it was a big thing for the community. He said the championship convoy through Salem
30 Street reminded him of a scene from Remember the Titans, and thanked the team for representing
31 Apex so well.

32 After taking a group picture, **Mayor Gilbert** once again congratulated the team on their
33 accomplishment, and thanked Town Clerk Allen Coleman, Deputy Town Manager Shawn Purvis, and
34 all other staff members involved in putting together the celebration.

35
36 **PR2 Proclamation - Apex Public Works Week 2023 (REF: PRO-2023-021)**

37 **Mayor Gilbert** and the rest of Town Council read the Public Works Week 2023 Proclamation
38 in unity.

39 **John Mullis**, Public Works Director, and other Public Works employees, accepted the
40 proclamation and took a picture with the Mayor and Council.

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PR3 Proclamation - Year of the Trail 2023 (REF: PRO-2023-022)

Mayor Gilbert and the rest of Town Council read the Year of the Trail 2023 Proclamation in unity,

Craig Setzer, Director of Parks, Recreation, and Cultural Resources, and other Parks staff members, accepted the proclamation and took a picture with the Mayor and Council.

[REGULAR MEETING AGENDA]

Mayor Gilbert noted that Old Business Items 1 and 2 were requested to be continued to June 27th, 2023, and Consent Item 10 was requested to be moved to New Business 1.

A **motion** was made by **Councilmember Brett Gantt**, seconded by **Councilmember Terry Mahaffey**, to approved the Regular Meeting Agenda, with the continuance of Old Business 1 and 2, and the adoption of Consent Item 10 as New Business 1.

VOTE: UNANIMOUS (5-0)

[PUBLIC FORUM] (To view Public Forum sign-up sheets, see **OTHER-2023-055**)

Mayor Gilbert opened Public Forum, and invited the first person signed up to speak, William Gentry.

First to speak was **William Gentry** of 8528 Raegan Road. (To view Mr. Gentry's handout, see **OTHER-2023-056**)

"Good evening, ladies and gentlemen of the Town Council. My name is William Gentry, and I live at 8528 Raegan Road, west of Apex out on the Lake Jordan game lands. First. I want to thank you for the hard work you guys are doing in helping shepherd Apex into becoming a progressive and dynamic city, and at the same time, protecting private property owner's rights. I know that can get kind of sticky sometimes, and that's one of the things I wanted to talk about. In front of you, you'll see a little map I drew. There's a project the planning department is working on to extend the greenway. When the development of Stillwater was developed a year or so ago, the developers promised residents access to the American Tobacco Trail. Well, the developers are long gone, but the residents still don't have access. So they petitioned the town Planning Board to give them access, and from the Planning Board, there is an existing pathway this far up into Stillwater, Planning Board wants to continue down Raegan Road, and go right through the middle of my property. That is the old roadhead for Raegan Road, but when the corps of engineers bought all that land, they closed off the secondary roads, and the DOT gave me documents that said we are abandoning the roadway at the edge of your property. So that's the end of Raegan Road right there, so now the town planners feel like they're going to go through my property again, and through the corps of engineer's property, to connect to the trail. That's marked in green, they've got two routes. One over on Richard Jenks' property off of Richardson Road, and the other one coming through my property. I proposed to the planners a couple of alternate routes that won't have that kind of impact, and there's even a third one that they can consider, which is go along the present course, along the property lines of

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1 Stillwater. And that will connect them to the trail. And I forgot to mention that we're a historic
2 property, and we can't make changes to the property or the house without the historic commission's
3 permission, so I'd like to ask the Town Council to really take a serious look at this, and try to help me
4 maintain my property in the form that it's in. If this trail were to go through it, it would probably cost
5 about a half million dollars in property valuation to me, so thank you for your time."

6 William Gentry's wife Kathy added a few comments: "We just feel very passionately that, we
7 came her 30 years ago, and we restored an 1890's farmhouse, it's on the state, local, and national
8 registries, and it has protections against this kind of invasion. It's just a group of people who would
9 like access to the trail, that live up the road from us. 3 years, we've been longtime residents and I find
10 this very disheartening, and I hope you will do the right thing. Thank you."

11
12 **Mayor Gilbert** thanked them for their comments.

13
14 Next to speak was **Darren Hoch** of 1931 Gray Meadow Drive. (To view Mr. Hoch's handout,
15 see **OTHER-2023-057**)

16
17 "City Council, Mayor Gilbert, residents of Apex, thanks for allowing us to speak, we're here
18 representing Woodall Estates Community and would like to share some ideas on how we could
19 make Woodall Crest Drive safer after the unfortunate death of Ayan, which you can imagine has
20 been very difficult for the parents, for any parent who has children and likes the spaces of Apex. I'll
21 be the first of 4 speakers, and I'd like to spend my time sharing our history of concerns about the
22 safety of Woodall Crest Drive. As our subdivision filled from 2017 to 2020, and more cars exited the
23 subdivision, it became clear that we started to see some safety risks then. Never mind the future, we
24 saw it a couple years ago. The first thing we noticed, as we all know, is that Woodall Crest Drive is a
25 1,000 yard straightaway collector road, and despite everyone's best intentions, no matter what we
26 do, it's a 1,000 yard road, and people are going to want to go fast on it. The other thing we noticed
27 as a community of having a lot of children is that there were no crosswalks between Gray Meadow or
28 Meadow Mill, which are the two streets that are adjacent to the sidewalk that leads to Scott's Ridge
29 Elementary. We noticed there's not a well-marked across Apex Barbecue, and there's really no safe
30 way to get over to Scott's Mill from our side. The other thing we noticed is that on the street there is
31 no real rules there about parking, so people can park there creating blind spots, and as we all know,
32 all these conditions culminated in what happened a few weeks ago. We attended a bunch of public
33 hearings in 2020 with Lennar, and we learned about mixed-use development, and our takeaway
34 from that was that there wasn't anything that could be done. There was no way to do speed bumps,
35 there was no way to do stop signs, roundabouts, and I think we as a community kind of left
36 disheartened, and since then, I've shared with you some packets of some correspondence, members
37 of the board and certain residents have had with the town and with Lennar. We did a traffic study, it
38 did result in a reduction of the speed limit, it went down to 25. I think there's still some concern that
39 we haven't done enough yet, so I think really, the others will give some solutions here, so in
40 conclusion, we're not trying to point fingers or assign blame, I think none of use were surprised that
41 this happened, we saw it in the making over the years, and it's extremely unfortunate. Since that
42 happened, no kids are out playing. Everyone is scared to death now. So, we just want to see if we
43 can figure out here and over the next couple months, we talk about it, right, we've gotta figure out a
44 way to make that stretch safe for the 30 kids that are inevitably going to spill there, and then

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1 inevitably for the couple hundred or thousands behind us that are also going to use that road. So
2 thank you for the time.”

3
4 **Mayor Gilbert** thanked Mr. Hoch for his comments.

5
6 Next to speak was **Chris Chandler** of 1936 Gray Meadow Drive: (To view Mr. Chandler’s handout,
7 see **OTHER-2023-058**)

8
9 “Thank y’all again very much, we just want to touch base on some things. One of the things I
10 want to bring up is through studies from the national highway association and federal transportation,
11 roads in the past have been designed to move cars down the road, move them fast. That has been
12 changing for the last decade, according to national transportation. There’s a lot of studies, a lot of
13 groups, some of the handouts I handed you will show you some of that, I’m not going to go through
14 that we don’t have the time. They are now trying to redesign for the pedestrians and the people
15 moving around in the communities like we do in Apex. It’s not about the traffic anymore, because
16 deaths in ‘21, 7,388 pedestrians were killed. That’s one every 71 minutes. Some of the other people
17 that this is affecting is also the drivers, we’re all pedestrians at some point. A child’s brain is not
18 always developed. They’re still growing. One thing I gave you, in ‘23 the average height of a car or
19 small SUV is 5 to 6 foot. I’m 6 foot. You’ll see on that paper, an 8-year-old is 47 inches to 54 inches.
20 For a full-size truck or SUV, 6 to 7 foot. You’ve still got an 8-year-old that’s at 48 inches. Cargo vans,
21 Amazon, FedEx, they’re 9 foot plus. With cars on the side, kids travelling, kids playing, they’re much
22 smaller than the traffic passing each other, creates a lot of blind spots. One of the things is about
23 speed reductions in all neighborhoods, one of these studies is showing as you’re slowing speed
24 down, which is not always everything, you’re going to hear about a lot of electric vehicles now for
25 kids at play. So if you’ve got a car that’s driving 25 miles an hour or 30, and one of these electric
26 vehicles, scooters or bikes at 15 or 20, that impact now is higher. And you’ll see in the study from the
27 national transportation, it will talk about the speed and impact the rate of death at 30 miles an hour
28 impact, 40% are going to die. 40 miles an hour, here’s an electric scooter at 15, now you’re even
29 higher than that, 73% are going to die. So we’ve got to change form where we used to be to accept
30 a lot of new things kids are doing, and adults ride. We have been travelling places, and we’ll get on
31 those electric scooters and bikes that will get you around at 15 miles an hour. 18 in some places. But
32 that now has created an impact that is at a higher speed and runs the death rate up. Plus, in the
33 study, you’ll also see in one of them I handed you, the demographic, a lot of them, the Black,
34 American Indian, Alaskan Native children and adults are even at some of the greater risk, so this
35 impacts all of us in all aspects. And there’s a walkability checklist I handed you that comes from the
36 national transportation, there’s things that we can do as a community for all of Apex, not just ours,
37 but all of Apex, and we want to see our kids and all the rest of the kids growing up to be the next
38 Apex High School State Champions, or Friendship, where our 20-year-old had went. I want to see all
39 those go up and do that, and make Apex even bigger and brighter, and I thank y’all for y’all’s time.”

40
41 **Mayor Gilbert** thanked Mr. Chandler for his comments.

42
43 Next to speak was **Karen Davis** of 1914 Woodall Crest Drive:
44

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1 "We moved from Cary to Apex in 2018 because of how Apex was developing into a walkable,
2 bikeable community with so much to offer. We enjoyed the location of our home, where we can walk
3 to Wake Zone at Publix Pointe on a Saturday morning for coffee, or bike to downtown for the
4 sculpture walk, lunch, shopping. But we had to strategize in order to do this safely, in order to go out
5 of our way in some case to safely reach a place to cross the street to get to a greenway trail. We're
6 healthy adults, and we can easily go out of our way to reach a crosswalk to cross the street safely, but
7 this isn't the case for everyone. I'm excited about the future plans for Apex, but with our small part of
8 town slated to be anchored by two elementary schools, additional greenway trails, potential
9 commercial space on Salam Street between Apex Barbecue and the 540 interchange, and additional
10 housing, we're sure to see an uptick in all kinds of traffic. Drivers, walkers, bikers alike all want to
11 have safe access to all the things that are being offered to us in Apex. So we're asking that the Town
12 Council take some serious consideration into making proactive decisions for moving around our
13 town efficiently and safely on foot or by car. One step to this end is to add designated and marked
14 crosswalks with stripes, specifically across Woodall Crest Drive at Apex Barbecue, Gray Meadow,
15 and Aspen River Drives, there are already curbside cutouts at these intersections, and ideally these
16 crosswalks could be raised. We would love to limit parking on Woodall Crest Drive's non-residential
17 section by adding bike lanes, and see a three-way stop at one intersection on Woodall Crest Drive,
18 but for now our priority is to have clearly designated crosswalks and bike lanes to provide visual cues
19 to drivers to be mindful of pedestrians, bikes, and scooters. I should say that I have addressed this
20 Council at two meetings in 2020 about safety concerns, and I thank engineers and all of you for
21 reevaluating and reducing the speed limit to 25 miles an hour on Woodall Crest Drive in the past.
22 We hope safety is at the forefront of your minds when you are contemplating decisions about
23 continued growth and development in our town. The engineers have done a remarkable job at
24 planning a road system that efficiently gets cars from one place to another, but communities are
25 changing, people are moving towards other priorities when it comes to getting around. To promote
26 walkability, pedestrian safety cannot end at the curb. Pedestrians of all ages need to be able to cross
27 the street safely. Thank you."

28
29 **Mayor Gilbert** thanked Ms. Davis for her comments.

30
31 Next to speak was **Tabitha Smith** of 1936 Gray Meadow Drive: (To view Ms. Smith's handout, see
32 **OTHER-2023-059**)

33
34 "So, I'm the final speaker here today. In summary, we're here to represent our neighborhood,
35 we have other neighborhoods that are represented who will speak as well. We are advocating for
36 our neighborhood, and some safety that involved our children. While we understand the accident
37 that occurred in our neighborhood, our aim is to figure out how to keep our kids safe as we move
38 forward. We are asking to put in a raised crosswalk that would be marked, there's a map on the map
39 that I've indicated there's only one marked crosswalk that our kids can use to safely get to school.
40 Everybody in the Woodall Estates neighborhood is not allowed to be bussed, they do have to walk.
41 We would like to see a marked crosswalk that they have in place that, like Karen said, will draw
42 attention to the fact that there are parents, kids, adults, we all use that and walk. We would like to ask
43 for a bike lane to be put on Woodall Crest Drive to help with traffic, with parking. We do find that
44 parking does aid in blocking and creating blind sights for both people who are walking/biking, and

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1 the cars who are using the roads. In regards to safe neighborhoods, we're just respectfully asking
2 for a review of the 25 mile an hour speed limit that is currently in neighborhoods. We are
3 appreciative of it being brought down from 35 to 25, but we are also recognizing that there is a lot of
4 electric bike use, scooters, skateboards, other speed propelling devices that kids and adults are
5 using that are now evident on our streets. The combined speeds, coupled with 25 miles an hour,
6 does increase injury and death rates. So, we are asking for just consideration for all neighborhoods
7 here in Apex to reconsider whether 25 is actually safe. Thank you for your time."

8
9 **Mayor Gilbert** thanked Ms. Smith for her comments.

10
11 Next to speak was Tanya Jeter of 2775 Jordan Pointe:

12
13 "Before I get started I have to say this because it's Pride, my first time getting in front of a
14 Town Council was 1997, in Colorado Springs, Colorado. And my high school had, someone had
15 written an article for the school about being gay, and they didn't put their name on it but the whole
16 town was upset about it. Like "they shouldn't be in our school", so I came out in front of a whole
17 room of angry people that I was gay and I appreciated the article. So anyways, since it's Pride it just
18 made me think of that and I just wanted to bring that up. Moving on. It's funny, our neighborhood
19 has the same concerns, and has gone through the same process where we have reached out to
20 engineering, I'm in Jordan Pointe, we were given a study about traffic and where we are right now
21 it's a 35 mile an hour zone, and just an example, 35 miles an hour goes through, and then in Jordan
22 Pointe there's a two-sided sidewalk, double sidewalk, that the whole community uses to ride bikes,
23 to walk their dogs, and when it gets to this Horton Ridge Road it goes to a single, and there's no sign
24 telling you when you're coming into the neighborhood or that you're about to cross a very busy
25 street. And even for myself, I've seen my 5-year-old just take off in his little ride-about thing without
26 looking both ways. I've seen my dog cross there, and as we're talking about solutions, really just
27 having a sign of kids playing, that would be an easy thing to do that would make an immediate
28 impact to get people to slow down. Also, I love the idea of the crosswalk. You know, our community
29 on our Facebook we're talking about it too, we're worried as well, and I wanted to show my support
30 for this community and also just say that it is a big issue that we're all aware of. Thanks a lot."

31
32 **Mayor Gilbert** thanked Ms. Jeter for her comments.

33
34 Next to speak was **Tim Ruscher** of 3457 Barn Road

35
36 "My name is Tim Ruscher and I live in the Deer Creek community at 3457 Bar Road, just right
37 next to the new TMSA building out there. Our community had brought up with the city engineers a
38 couple different times, and now a third time that we're trying to address with them again in terms of
39 traffic in our neighborhood, it doesn't connect to anywhere, there's us, there's the Retreat at Cedar
40 Crossing, and the TMSA. The first concern we had brought up to them is that when they were
41 developing The Retreat at Cedar Crossing, they made the entrance to their neighborhood a right-in-
42 right-out, so that you can't turn left in to their neighborhood, sending all of their traffic down Barn
43 Road. What we had asked for them to do was, why don't you make there's the left team, we'll take
44 the right-in-right-out because we can always use the other entrance to our neighborhood if that's not

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1 convenient for us. And frankly we were actually literally laughed at by the City engineer for making
2 those suggestions or thinking that our input was important. The second time we conversed with
3 them was when the development at TSA was starting, and concerns over traffic routing and how that
4 was going to work. One of the main concerns was we were worried people were going to come
5 down Barn Road because of the way there's a weird triangle there, and you have to turn in off of 64
6 and then practically make a U-turn to get around there or whatever, and we were asking can they
7 make a left cut-across on 64 so that all the people that would invariably be coming from the eastern
8 direction, would be able to just cut across 64 and go scoot right in and stay off of Barn Road, and
9 again he said well we have nothing to do with that, that would be NCDOT, but you'll never get them
10 to approve something like that. Next day, called NCDOT and of course, they had been contacted by
11 the school that had requested that, and it was already in process, it was literally like the next week
12 that it was starting to be built and it's great, without that I think it would be a disaster, the disaster is
13 just over on their side and not really in our neighborhood which is good. But with the candor we
14 experienced in conversing with the engineers, and that I know our friends over in Woodall Estates
15 has had, it's condescending, it's smug, and it's dismissive. Every single time that we interact with the
16 City traffic engineers. Couple that with the fact that the federal highway administration and the
17 documents you have in front of you have common recommendations that are out there. And a quick
18 Google search, you don't even need to print that or go into the PDF, it's right on the summary page
19 that in residential neighborhoods, such as where there is not a center line or where there are houses
20 on either side, they federally recommend that that be no higher of a speed limit than 20 miles an
21 hour, and I know you're just operating on the recommendations of the engineers and what they're
22 telling you is that every residential road nationwide is 25 miles an hour across the country. Well I
23 moved here from Minneapolis, a lot of people have moved here from other places, and it's
24 laughable that they would try and insist that that's still the case. I mean there's people from
25 everywhere in Apex, and that's simply not true. Default speeds where I moved from are 15 miles an
26 hour in a residential neighborhood, and so like they've been saying, things can be done, more
27 things can be done, what I would request and what I would recommend is that perhaps it's time for a
28 change in staffing, because they're not in tune with what's being federally recommended, they're
29 being dismissive and lying to the media about how much they're being contacted by the residents,
30 they're also lying to you by not conveying the concerns we all have, and maybe they're just not the
31 right people for the job. Thanks."

32

33 **Mayor Gilbert** thanked Mr. Ruscher for his comments.

34

35 Next to speak was **Marvin Hymanson** of 2907 Sunflower Road:

36

37 "Good evening Mayor and Councilmembers, thank you for the opportunity for me to speak,
38 my name is Marvin Hymanson, and I live at 2907 Sunflower Road, Apex, North Carolina, 27502. I will
39 be brief. I am inquiring about the backlog of construction projects that are delayed, such as the
40 Peakway Bridge, Pleasant Park, and the turn lanes for Friendship Roads. Additionally, the lack of
41 businesses towards New Hill, and much needed transportation projects for our growing community
42 haven't been completed. How does the Council plan to address this backlog? I provided my email
43 on the sign-up sheet for response, and I am also here to support the next speaker, Ms. Ray Stitt.
44 Thank you very much, Council, for allowing me this opportunity,"

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1
2 **Mayor Gilbert** thanked Mr. Hymanson for his comments.

3
4 Next to speak was **Elizabeth Ray Stitt** of 3113 Friendship Road:

5
6 "Mayor, Town Council, good evening. So, you've heard from a lot of speakers tonight about
7 the needs to improve the safety of our roads. I've been in front of you guys many times saying hey,
8 your budget survey from January of last year said transportation was the number 2 priority. This
9 year's budget survey said transportation was the number 1 community priority. The economic
10 development report that was presented to you in December said transportation was the number 1
11 concern for economic development. We all know from the truck study done back in 2016 with
12 Pleasant Park that Friendship Road is rated at a level of service of F, which is the lowest level of
13 service you can have. I have to thank a couple of people here tonight for helping us get our stop
14 sign back up and our street sign put back up, and I know there's been some contact with the DOT.
15 But our turn lanes are still slated out for 2026, even though you know that we have a level of service
16 of F. So, when everybody talks about the concerns, we know that transportation needs to be funded
17 as number 1, currently in the budget last year it wasn't funded as number 1, this year it's budgeted
18 as number 1 priority, I know there's not a lot of time between now and June 27th to tweak numbers,
19 but the turn lanes for Friendship Road are listed at \$250,000, and if you look at the general fund
20 fund balance there are monies there that you could prioritize the safety of adding the street
21 crossings that they're talking about, putting bumps in the road, putting in our turn lanes, we do need
22 to prioritize the safety of our people more than bringing more people in, and I feel like the focus in
23 on the Big Branch. The Big Branch Force Main was listed at \$26 million dollars in last year's budget,
24 and this year it's at 40 million, and I have yet to see any discussion of why it jumped 14 million in one
25 year. We need to put that on the backburner and prioritize our people who are here, we do not
26 need anybody else getting hurt, so I ask you to please do what you can in the next two weeks, to try
27 to accommodate some of the requests we have. Thank you."

28
29 **Mayor Gilbert** thanked Ms. Stitt for her comments.

30
31 Next to speak was **Ashutosh Bahaduk** of 1941 Melta Mill Lane

32
33 "Good evening House members, I'm the President of Woodall Estates. Just like my fellow
34 neighbors here, we're shocked by two weeks ago the horrible incident in our community. Ayan was
35 hit by a car and died, and we were all shocked, I have an 8-year-old who goes to Scott's Ridge, and
36 we're kind of afraid to cross now, Woodall Crest Drive from Melta Mill Lane. And just like all the
37 residents here, we request more crosswalks, so we can cross safely from Melta Mill Lane to go to
38 Scott's Ridge, and maybe a speed bump at the intersection of Woodall Crest Lane, and Melta Mill
39 Lane and Woodall Crest, and Gray Meadow and Woodall Crest, that would help more people to
40 slow down when they're crossing. And another thing I've seen is people coming taking a left turn
41 from Apex Barbecue towards Woodall Crest, and they're trying to beat the oncoming traffic and
42 make a very fast left turn coming inside the community, so maybe a traffic light would help, you
43 know that would slow down people coming in and they get their own turn to make a left turn. So, all
44 in all, I'm in the same sentiment that my neighbors have expressed, that we need some plan to make

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1 Woodall Estates safer for our kids. I thank you very much for your service, I really enjoy staying in
2 Apex, thanks for that, but I sincerely believe this will help address our concern. Thank you very much,
3 have a good evening.”
4

5 **Mayor Gilbert** thanked Mr. Bahaduk for his comments.
6

7 With no sign ups remaining, **Mayor Gilbert** closed public forum. He emphasized that he and
8 Council is listening, and that he invited several of the speakers tonight in order to hear concerns and
9 information in front of Council and staff. He said they are taking this seriously. Mayor Gilbert then
10 invited everyone to join him in a moment of silence for Ayaan Vachery.

11 After the moment of silence, **Mayor Gilbert** said they had been listening and taking notes,
12 and will be communicating with staff throughout the process moving forward. He invited members
13 of Council to share their thoughts.

14 **Councilmember Gray** thanked the community for coming out and talking. He said it helps
15 provide Council with the necessary details. He said incidents like this necessitate a deep dive into all
16 of the factors. He said the town has failed in its “Vision Zero” goal. He said the town should look hard
17 at this incident in order to learn lessons to prevent them in the future. He added that all options are
18 back on the table. He said that he believes, and all others on Council agree, that the death of one
19 child is one too many, and the same goes for the injury of one. He said often the strategy the town
20 uses is looking at traffic safety standards, but Vision Zero enables them to look at how things can be
21 fixed and move away from status quo. He said community comments and suggestions are important
22 in putting together the best and safest plan. He said Council would be instructing staff to provide
23 details and data regarding potential solutions, including ones suggested by community members
24 tonight, and that it would be discussed in a future Work Session.

25 **Mayor Gilbert** noted that there were other requests made tonight, and that staff would be
26 directed to follow up on those as well.

27 **Mayor Pro Tempore Killingsworth** said they were all devastated when they heard the news,
28 and the biggest thing they can do is to get the right information that can help make decisions that
29 ensure this doesn't happen again. She said they will be working hard to achieve this. She said staff is
30 good at reassessing concerns like this.

31 **Councilmember Gantt** said a focus on safety was a priority of this Council. He said the town
32 has made first of their kind safe routes to school investments in the past several years. He said the
33 Council has the most control over are the new neighborhoods, and how they are able to direct
34 developers through rezoning. He said he has noticed that a lot of these traffic and pedestrian safety
35 concerns have come from developments that preceded everyone on the current Council. He said he
36 hopes they are able to apply these unfortunate lessons in new neighborhoods moving forward. He
37 said they will still be looking at ways to invest in traffic safety across town, and that reducing
38 pedestrian injury and deaths is a quantifiable metric to indicate efficient spending.

39 **Councilmember Zegerman** said he spoke to some residents before the meeting, and he
40 appreciates all of their input. He reiterated the importance of investments in sidewalks and
41 pedestrian safety. He said it was important to recognize that the usage of town roads are changing,
42 and alternate forms of personal transportation are becoming more popular. He said a lot of the
43 roads in town are not built to accommodate that. He said there is work still to be done on filling in
44 the gaps there. He added that it was important to note that this was a town-wide issue, and would

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1 impact the use of future funds. He said he appreciated all of their comments, and that the death of a
2 child hits home.

3 **Councilmember Mahaffey** thanked his fellow Councilmembers for their comments, and said
4 Councilmember Gray’s description of what needed to be done was on point. He said it was
5 important to acknowledge that this was a failure, because a child in the community died. He said he
6 can’t explain what he felt when he heard the news, or how he is feeling now. He said he wished there
7 was an easy solution to this, but that they had to analyze the systems that led to this. He said it
8 involve retrofitting older communities, designing new communities differently in the future, and
9 considering new forms of transportation. He said all the speakers were brave for coming out and
10 speaking about something that hurts and is difficult to talk about, and he promised this wouldn’t be
11 the last time they discussed this.

12 **Councilmember Gray** added that one system that hasn’t been discussed is a change in
13 mindset. He said the town has to change how they think about roads. He said it’s shocking that some
14 people would stop in the street to let geese cross, but not give 4 feet of space when passing a
15 bicycle. He said the speakers tonight give him hope that there is a potential for mindset change, and
16 asked them to continue telling their story, and that the Council will shout it.

17 **Mayor Gilbert** once again thanked all of those who came out tonight, and moved the
18 meeting on to public hearings

19
20 **[PUBLIC HEARINGS]** (To view public hearing sign ups, see **OTHER-2023-055**)

21
22
23 **PH1 Right-of-Way (ROW) Road Closure Request - Portion of Burma Drive**

24 **Mayor Gilbert** noted that the public notice requirements were not fully met for this item, so
25 staff was requesting it to be moved to the August 8, 2023 Regular Town Council Meeting.

26
27 A **motion** was made by **Mayor Pro Tempore Audra Killingsworth**, seconded by
28 **Councilmember Ed Gray**, to be continued to the August 8, 2023 Regular Town Council Meeting.

29
30 **VOTE: UNANIMOUS (5-0)**

31
32 **PH2 Water and Sewer System Fee Analysis and System Development Fees**

33 **Michael Deaton**, Water Resources Director, introduced Ms. Elaine Vazquez to give a
34 presentation.

1 **[SLIDE 1]**

SYSTEM DEVELOPMENT FEE ANALYSIS

June 13, 2023

2
3 **[SLIDE 2]**

System Development Fee Analysis

- ▶ Must be prepared in accordance with Article 8 of GS 162A-8 as amended by HB 436 and modified by HB 344
- ▶ The Town's Analysis was prepared by Raftelis Financial Consultants, Inc.
 - ▶ Served as a consultant to local governments in NC and across the US since 1993
 - ▶ General Statutes require the Analysis be prepared by a financial or licensed engineering professional qualified to do so by their experience, training and education
- ▶ The analysis must document the facts and data used, application of the costing methods to the facts and data, all assumptions and any limiting conditions
- ▶ Use a 5 to 20-year time horizon

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1 [SLIDE 3]

System Development Fee Analysis

- ▶ Prior to adoption of the Analysis and the Fee, the provider must post the Analysis to its website for a period of 45 days
 - ▶ A means for readers to comment to the unit must be provided
 - ▶ All comments must be shared with the professional who prepared the Analysis
 - ▶ All comments must be evaluated to determine if a change in the Analysis or Fee is necessary
 - ▶ *No comments were received*
- ▶ Also, a public hearing must be held by the unit prior to adoption of the Analysis and Fee
- ▶ The Analysis and Fee must be reviewed and updated at least once every 5 years.

2
3 [SLIDE 4]

System Development Fees

- ▶ One time fees charged to new customers, developers or builders to recover a share of the cost of providing service availability and capacity
- ▶ HB 436 creates uniform ability for all public water and sewer providers to charge system development fees
- ▶ All system development fees charged on and after July 1, 2018 must be calculated in accordance with HB 436
- ▶ The Analysis must document the fee per service unit and include a table for various level of demand or an equivalent unit costs per unit of demand
- ▶ Fees are determined using one of three costing methods, the Buy-In Approach, the Incremental Cost Approach or the Combined Approach

4
5 [SLIDE 5]

Water System Development Fee Cost Method

- ▶ The Water Development Fee was determined using the Buy-In Method
 - ▶ The capacity for current and future customers during the 5- year planning horizon has already been constructed
- ▶ Based upon fixed assets in place on June 30, 2022
 - ▶ The depreciated value is adjusted to the replacement costs new less depreciation (RCNLD)
- ▶ Adjustments to the RCNLD
 - ▶ Add construction in progress and developer reimbursements
 - ▶ Deduct contributed assets and outstanding principal
- ▶ Costs per gallon per day are determined based upon treatment capacity and the adjusted RCNLD

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1 **[SLIDE 6]**

Water System Development Fee

Buy-In Method	Water
Adjusted RCNLD	\$90,038,989
Total Treatment Capacity (gallons)	12,880,000
Costs per Gallon per Day (GPD)	\$6.99
GPD per ERU (1)	256
Calculated Fee per ERU	\$1,788
Existing Fee per ERU	\$1,783

(1) Based on information provided in the Service Area Planning Forecast Technical Memorandum: Long Range Water Resources Plan prepared by HDR in October of 2022.

2
3 **[SLIDE 7]**

Sewer System Development Fee Cost Method

- ▶ The Sewer System Development Fee was determined using the Combined Method, a combination of the Buy-In and Incremental Cost Methods
 - ▶ Big Branch 2 pump station and force main is needed over the next 5 years to serve new sewer customers
- ▶ The Buy-In Method calculation was prepared in the same manner as was used for the Water Development Fee calculation
- ▶ The Incremental Costs Method used the costs of assets whose construction was in progress or would begin during the 5-year planning horizon.
 - ▶ Incorporate 25% for a debt/revenue credit as required by HB 436
- ▶ The costs and capacity are then combined and an average cost per day calculated.

4
5 **[SLIDE 8]**

Sewer System Development Fee

Sewer Fee	Buy-In Method	Incremental Cost	Combined
Adjusted RCNLD/Cost of Improvements	\$133,316,000	\$36,720,000	\$170,036,040
Less: Debt/Revenue Credit	-\$39,982,689	-\$2,526,321	-\$42,509,010
Net Cost	\$93,333,351	\$34,193,679	\$127,527,030
Treatment Capacity (1)			8,920,000
Weighted Average Cost per Day			\$14.30
GPD per ERU (2)			300
Calculated Fee			\$4,290
Current Fee			\$3,675

(1) The Big Branch 2 pump station will provide additional pumping capacity of 1.44 MGD but will not add any additional treatment capacity.

(2) Reflects the amount of permitted capacity required by the state of North Carolina Department of Environmental Quality (NCDEQ) for planning and engineering design purposes and the sewer permitting flow reduction authorized by NCDEQ.

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1 [SLIDE 9]

Comparison of Proposed System Development Fees to Other Local Governments

Local Government	Water Development Fee	Sewer Development Fee	Combined
Apex (proposed)	\$1,788	\$4,290	\$6,078
Cary (1)	\$2,548	\$3,581	\$6,129
Holly Springs (2)	\$6,162	\$5,538	\$11,700
Fuquay-Varina (3)	\$3,912	\$3,891	\$7,803
Chatham County	\$3,431	Not Applicable	
Harnett County	\$2,000	\$2,500	\$4,500
Hillsborough	\$3,864	\$3,243	\$7,107

(1) Source: Town of Cary FY 2024 Recommended Budget - Schedule of Fees and Charges
 (2) Source: Town of Holly Springs FY 2024 Recommended Budget - Fee Schedule
 (3) Source: Town of Fuquay-Varina FY 2024 Recommended Budget - Fee Schedule

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3

4 **Councilmember Zegerman** asked how an average unit could create more sewage than tap
5 water it takes in.

6 **Ms. Vazquez** said on the sewer side of things, state guidelines have a requirement over
7 what is necessary to avoid overflows. She said it looks at what the system is designed rather than at
8 overall water use.

9 **Councilmember Zegerman** asked if developers understand this distinction.

10 **Ms. Vazquez** said that most are familiar with state guidelines, and that they cite the sources
11 in the report. She added that the standard specifications also mention the 300 gallons per day.

12 **Councilmember Mahaffey** said he was assuming they should choose the one that calculates
13 the highest fee. He was wondering if they didn't have multiple options in certain circumstances.

14 **Ms. Vazquez** said they do have discretion, but in their report, they used what they felt was
15 most appropriate, factoring in project timelines.

16 **Councilmember Mahaffey** wondered if the fees wouldn't be calculated based on the town's
17 plan to build a new water tower or something similar.

18 **Ms. Vazquez** said yes, they looked at projects planned for the next 5 years, and there were
19 no water projects with significant capacity planned in that timeframe.

20 **Councilmember Zegerman** asked if the planned water tower by Pleasant Park was included.

21 **Director Deaton** said that was already funded, so it was not included in the current CIP. He
22 said they are in the design process for that now.

23 **Councilmember Mahaffey** asked if there was an explanation for the water development fees
24 for Apex being so much lower than the surrounding areas it was compared to.

25 **Ms. Vazquez** said it depends on what is in their CIP and the denominators used.

26 **Councilmember Mahaffey** said he thought the town used the same system as Cary.

27 **Ms. Vazquez** said the treatment system was the same, but all of the other factors are where
28 the differences are.

29 **Councilmember Mahaffey** asked if the GPD per ERU value was something they could set,
30 and they could just set it at 300 gallons.

31 **Ms. Vazquez** said per the legislation, it needs to be what is used for planning and
32 engineering purposes.

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1 **Councilmember Mahaffey** said they could tell everyone to plan and engineer for 300
2 gallons.

3 **Councilmember Gantt** said this would open the town up to potential lawsuits, and that
4 something like this has happened before.

5 **Councilmember Mahaffey** said he just thinks that people should have adequate access to
6 water.

7 **Ms. Vazquez** said engineering studies and state guidelines typically inform what the gallons
8 per day is set at.

9 **Councilmember Mahaffey** wanted to know where the 256 gallons per day came from.

10 **Ms. Vazquez** said it was based on the master plan, looking at multiple factors, and these
11 numbers are the most current for water as the master plan was released in October 2022.

12 **Councilmember Mahaffey** asked Director Deaton where the number came from.

13 **Director Deaton** said the consultant group who did the study came up with the number
14 using raw water usage data, number of units, and population. He said on the sewer side, the 300 is a
15 permitting number. He said new developments have to have sewer capacity for 300 gallons a day.
16 He said the state requirement is 360 gallons per day, but around 2000, the town got a reduction to
17 300 based on flow data. He said the number is 250 for condo and apartment units.

18 **Councilmember Zegerman** asked if the CIP included the Western Wake Reclamation Plant.

19 **Director Deaton** replied that it was outside the 5-year timeframe.

20 **Councilmember Zegerman** wondered why this wouldn't be accounted for now, since it is a
21 major project in the future and one that would need a lot of funding. He said he was concerned
22 about this skyrocketing fees on the next revision of this in 5 years, since it would all be accounted for
23 in a shorter timeframe. He said the town may want to use a 10-year timeframe, since that is allowed
24 by the legislation, in order to account for this project.

25 **Ms. Vazquez** said they could change the timeframe, but they chose to look at a 5-year time
26 period since projects in the future have a higher likelihood of shifting their timeframes.

27 **Councilmember Zegerman** said it would still be prudent to start collecting money for a
28 major project like this earlier, rather than having to do something like taking out a bond in the future.

29 **Ms. Vazquez** said system development fees collected could still go towards projects outside
30 of the 5-year scope.

31 **Councilmember Zegerman** asked if the project was anticipated to be fully covered by the
32 fees that are collected and saved up, or if debt was anticipated in order to fund it. He said if the plan
33 was to take on debt, then the current fee proposal was too low.

34 **Ms. Vazquez** said customers would continue to connect even after these 5 years, and would
35 offset any cost of potential debt incurred at the beginning of a project.

36 **Councilmember Zegerman** asked if that analysis has been done. He said it feels like it would
37 be a decision made with incomplete information without it.

38 **Director Deaton** said the CPI takes into account the Long-Range Water Resources planning
39 process.

40 **Councilmember Zegerman** said his question was if the future CIP needs were adequately
41 covered based on the fees recommended.

42 **Director Deaton** said he didn't have that answer.

43 **Transportation and Infrastructure Director Johnson** said they didn't know the cost of it yet.

44 **Councilmember Zegerman** said they could estimate it, and that it should still be considered.

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1 **Councilmember Gantt** said he wondered if the request should be to extend to a 10-year
2 CIP. He said he usually thinks 5 is too long, but in this case, it makes sense.

3 **Councilmember Zegerman** said he feels this analysis should include a 10-year timeframe in
4 order to capture the Western Wake Reclamation facility, since it is such a large project.

5 **Mayor Pro Tempore Killingsworth** said Councilmember Zegerman has a good point, and
6 that it may be a good idea to plan for that large expansion now rather than in 5 years.

7 **Councilmember Mahaffey** said growth in Apex is starting to slow down, and looking at the
8 projections and the fees over the next 5 years, he believed it would result in lost revenue. He said he
9 is concerned the homes connecting in 5 years wouldn't be able to compensate for the increase in
10 the fee, if it was adjusted then to include the Western Wake project.

11 **Councilmember Zegerman** said he agreed, and said not accounting for it now may
12 jeopardize the possibilities of it coming to fruition.

13 **Town Manager Crosby** asked if there was a way to do the analysis accounting for 10 years
14 down the road.

15 **Ms. Vazquez** said yes, but there would be questions about the process for advertising and
16 republishing a new report.

17 **Councilmember Mahaffey** wanted to confirm that this could be revised annually, and that a
18 different analysis could be used for next year's budget.

19 **Ms. Vazquez** said yes.

20 **Mayor Pro Tempore Killingsworth** said it would be much better to fund it than to take on
21 new debt.

22 **Mayor Gilbert** opened public hearing for this item. With no one signed up, he closed public
23 hearing and moved discussion back to Council.

24 **Councilmember Gray** said that knowing they could change this annually, it would be good
25 to approve this now, and allow staff a year to do a new report for the next budget. He said he was
26 concerned about looking as if there was an arbitrary increase in fees simply just to increase revenue.
27 He said it's important to have a reason for it, which could be found in an analysis including the future
28 projects farther down the road.

29 **Councilmember Zegerman** said he would want this process next year to start earlier, so they
30 aren't having to discuss these things 2 weeks before passing the budget.

31 **Councilmember Mahaffey** said he wanted to have a broader discussion regarding the
32 slowing growth of the town. He said they need to plan for how to manage that, as fee revenue across
33 the board will be decreasing. He said he wanted to know if staff could look at the impact on the
34 budget over the next few years of this projected growth. He said a work session on that topic would
35 be good. He said he agreed that they should pass this tonight, since staying with last year's fees
36 would be lower than this.

37
38 A **motion** was made by **Councilmember Ed Gray**, seconded by **Councilmember Terry**
39 **Mahaffey**, to approve the Water and Sewer System Development Fees.

40
41 **VOTE: UNANIMOUS (5-0)**
42

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OLD BUSINESS

~~OB1—Fiscal Year 2023-2024 - Annual Operating Budget and Fee Schedule Adoption~~

Amanda Grogan, Director, Budget and Performance Management Department

This item was pulled and placed on June 27, 2023 Regular Council Meeting.

~~OB2—Fiscal Year 2023-2024/2027-2028 - Capital Improvement Plan (CIP)~~

Amanda Grogan, Director, Budget and Performance Management Department

This item was pulled and placed on June 27, 2023 Regular Council Meeting.

[NEW BUSINESS]

NB1 Interlocal Agreement with Wake County Board of Education (BOE) - Infrastructure Provision to Support Public School Facilities - Felton Grove High School Project - Thriftwood Drive and Derry Down Lane

Councilmember Zegerman said this was the item he requested to be moved to new business. He said he wanted to pull this from consent mostly for the sake of transparency. He said it was important to discuss items with costs this high. He said either way they would have to fund this, because of state law requiring them to fund road improvements near new school developments. He said the allocations have already been made, and he just wanted to be transparent about 2.25 million dollars, and how they didn't have a choice in spending it.

Councilmember Mahaffey said he would never pass up an opportunity to complain about this law. He said it's a terrible law, and essentially it means state dollars for school construction cannot go to surrounding and supporting roads and infrastructure. He said towns have to build the roads. He said it's the same process as roads being constructed as part of a development, but at the end the town has to pay for it rather than a developer. He said this isn't the first time it has happened, and it won't be the last. He said there will likely be improvements needed with any new school. He added that the state would be incentivized to make better choices if the cost of the infrastructure was also connected to the cost of the land for the school for them. He said it also encourages town to avoid new schools, and that some towns can't afford the requirements new schools bring for this. He said the cost fully falls on the municipality the school is physically in, even if it serves students from other municipalities.

Councilmember Gantt said he agreed about Councilmember Mahaffey's point regarding incentives, and led to a divided vote on the Council for the school in 2020. He said he felt the school was in a poor location, and that he was on the losing side of that vote in voting against in for that reason.

Councilmember Gray said he didn't think this was that bad. He said it was good that they would be able to control the street. He said he trusts the town's traffic engineers more than the states. He said this was a cost he didn't mind.

Councilmember Zegerman said this was 2.25 million dollars that could have been spent elsewhere. He said the school is in the very southeast of the municipality, and would mostly support

APPROVED

1 students from Cary and Holly Springs. He reiterated they didn't have a choice here, but wanted to
2 discuss for transparency.

3
4 A **motion** was made by **Councilmember Ed Gray**, seconded by **Councilmember Terry**
5 **Mahaffey**, to approve the Interlocal Agreement with Wake County Board of Education for
6 Infrastructure Provisions for Felton Grove High School

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

9
10 **[UPDATES BY TOWN MANAGER]**

11
12 **Town Manager Crosby** said Pride Weekend was great, and she enjoys events being at the
13 town campus. She said she was looking forward to the Juneteenth event this Saturday from 11-6.
14 She said the town would be closed Monday, June 19th in recognition of Juneteenth. She gave a
15 shout out to Shannon Cox, who was recognized as a "mover and shaker" in Cary Magazine.

16
17 **[CLOSED SESSION]**

18
19 A **motion** was made by **Councilmember Gray**, seconded by **Councilmember Arno**
20 **Zegerman**, to enter into Closed Session for the two items as noted below (CS1 and CS2).

21
22 **VOTE: UNANIMOUS (5-0)**

23
24 Council moved into closed session at 7:52 p.m.

25
26 **CS1 Laurie Hohe, Town Attorney, Legal Department**

27 **NCGS §143-318.11(a)(3):**

28 *"To consult with an attorney employed or retained by the public body in order*
29 *to preserve the attorney-client privilege between the attorney and the public body."*

30
31 **CS2 Audra Killingsworth, Mayor Pro-Tempore**

32 **NCGS §143-318.11(a)(3):**

33 *"To consult with an attorney employed or retained by the public body in order*
34 *to preserve the attorney-client privilege between the attorney and the public body."*

35
36 Council returned to open session at 8:41 p.m.

37
38 **Councilmember Gray** said he wanted to ask Personnel Committee to look at the process for
39 how town employees can bring up grievances or concerns to the proper level. He said this may can
40 include the use of someone like an inspector general. He said he thinks this should also be
41 something that is available to immediate former employees as well.

APPROVED

1 **[ADJOURNEMENT]**

2 **Mayor Gilbert** adjourned the meeting at 8:43 p.m.
3
4
5

6 Jacques K. Gilbert
7 Mayor
8
9

10
11 Allen Coleman, CMC, NCCCC

12 Town Clerk to the Apex Town Council
13

14 Submitted for approval by Town Clerk Allen Coleman and approved on June 27, 2023 (CN7).

APPROVED

**TOWN OF APEX
REGULAR TOWN COUNCIL MEETING
TUESDAY, JUNE 27, 2023
6:00 PM**

The Apex Town Council met for a Regular Town Council Meeting on Tuesday, June 27, 2023 at 6:00 PM in the Council Chambers at Apex Town Hall, located at 73 Hunter Street in Apex, North Carolina.

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

[ATTENDANCE]

Elected Body

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

Town Staff

- Town Manager Catherine Crosby
 - Deputy Town Manager Shawn Purvis
 - Assistant Town Manager Demetria John
 - Assistant Town Manager Marty Stone
 - Town Attorney Laurie Hohe
 - Town Clerk Allen Coleman
 - Deputy Town Clerk Ashley Gentry
 - Budget and Performance Management Director Amanda Grogan
 - Finance Director Antwan Morrison
 - Planning Director Dianne Khin
- All other staff members will be identified appropriately below

1 **[SLIDE 1]**



2 **[COMMENCEMENT]**

3

4 **Mayor Gilbert** called the meeting to order, and led those in attendance in a brief moment of
5 silence. He then invited everyone to join him in a recitation of the Pledge of Allegiance.

6

7 **[CONSENT AGENDA]**

8

9 **Mayor Gilbert** noted that there was a staff request to remove Consent Item 9 -
10 Encroachment Agreement - 1251 Burma Drive.

11

12 A **motion** was made by **Councilmember Mahaffey**, seconded by **Councilmember**
13 **Zegerman**, to approve the Consent Agenda, with Consent Item 9 removed.

14

15 **VOTE: UNANIMOUS (4-0), with Mayor Pro-Tempore Killingsworth absent**

16

17 **CN1 Annexation No. 752 - Castleberry Assemblage - 89.90 acres (REF: RES-2023-038, RES-**
18 **2023-039, and OTHER-2023-060)**

19 Council voted to adopt a Resolution Directing the Town Clerk to Investigate Petition Received, to
20 accept the Certificate of Sufficiency by the Town Clerk, and to adopt a Resolution Setting the Date of
21 a Public Hearing for August 8, 2023, on the Question of Annexation - Apex Town Council's intent to
22 annex 90.24 acres Castleberry Assemblage, Annexation No. 752 into the Town Corporate limits.

23 **CN2 Budget Ordinance Amendment No. 19 and Capital Project Ordinance Amendment No.**
24 **2023-15 - Reedy Branch Greenway (REF: ORD-2023-048, ORD-2023-049, and CONT-**
25 **2023-175)**

26 Council voted to approve a Master Agreement for On-Call Professional Services for Reedy Branch
27 Greenway Project (Sweetwater), and to approve corresponding Budget Ordinance Amendment No.
28 19 and Capital Project Ordinance Amendment 2023-15, and to authorize the Town Manager to
29 execute the agreement on behalf of the Town.

APPROVED

CN3 Budget Ordinance Amendment No. 21 and Capital Project Ordinance Amendment No. 2023-16 - Capital Project Grant Allocations and Annual Shop-With-A-Cop Program Allocation (REF: ORD-2023-050 and ORD-2023-051)

Council voted to approve a Budget Ordinance Amendment No. 21 for Grant Allocations and Capital Project Ordinance Amendment No. 2023-16 for Shop-With-A-Cop Program.

CN4 Contract Multi-Year - Flock Safety Inc. - License Plate Reader Technology - July 1, 2023 through June 30, 2025 (REF: CONT-2023-176)

Council voted to approve a Master Services Agreement (MSA), effective July 1, 2023 through June 30, 2025, with Flock Safety Inc. for technology and software support for the following in the Apex Police Department (APD): FlockOS, Flock Safety Falcon, Flock Safety Falcon Flex , Flock Safety Advanced Search and authorize the Town Manager to execute the agreement(s) on behalf of the Town.

CN5 Contract Multi-Year - HT Stormwater Management - Monthly Maintenance All Town-Owned Stormwater Control Measures (SCMs) - July 1, 2023 through June 30, 2026 (REF: CONT-2023-177)

Council voted to approve a Master Services Agreement (MSA) between the Town of Apex and HT Stormwater Management for monthly maintenance of all Town-owned Stormwater Control Measures (SCMs) for a three-year period, effective July 1, 2023 through June 30, 2026, with the option to approve two additional one-year contract extensions after that date and authorize the Town Manager to execute on behalf of the Town.

CN6 Contract Multi-Year - IPKeys Power Partners Inc. - Meter Data Management System (MDMS) - July 1, 2023 through June 30, 2028 (REF: CONT-2023-183)

Council voted to approve an Agreement for IPKEYS Meter Data Management System (MDMS) between the Town of Apex and IPKeys Power Partners, Inc., effective July 1, 2023 through June 30, 2028 for professional services with the meter data management system (MDMS) that supports the meter system upgrade (MSU), and to authorize the Town Manager to execute the agreement on behalf of the Town.

CN7 Council Meeting Minutes - Multiple

Council voted to approve, as submitted or amended, Meeting Minutes from the following meetings:
June 13, 2023 - Town Council Regular Meeting
June 20, 2023 - Town Council Work Session

CN8 Debt Service Fund Ordinances - General, Electric, and Water & Sewer (REF: ORD-2023-052, ORD-2023-053, ORD-2023-054, and ORD-2023-055)

Council voted to adopt ordinances which establish Debt Service Funds for General Government, Electric, and Water and Sewer; and approve Budget Ordinance Amendment No. 22 associated with this new fund structure.

~~CN9 Encroachment Agreement - 1251 Burma Drive~~

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

CN10 Encroachment Agreement - 2210 Winston Circle, Lot 3. (REF: CONT-2023-179)

Council voted to approve an Encroachment Agreement between the Town of Apex and Swigart Construction, Inc. to install a driveway located at, 2218 Winston Circle, that will encroach 199 square feet (SF) onto the Town of Apex 30' Public Utility Easement (Sewer) and authorize the Town Manager to execute the agreement on behalf of the Town.

APPROVED

CN11 Humie Olive Place - Fee-In-Lieu (FIL)

Council voted to approve a fee-in-lieu for Humie Olive Place with the original 4 lots for a total of 8 duplex units paying a fee of \$2,157.44 per each unit and 2 additional lots with a total of 4 duplex units paying a fee of \$2,705.23 per each unit.

CN12 Memorandum of Agreement (MOA) between Central Pines Regional Council (formerly Triangle J Council of Governments (TJCOG) - Solid Waste Consortium - Fiscal-Year 2023-24 (REF: CONT-2023-180)

Council voted to approve a Memorandum of Agreement (MOA) between Central Pines Regional Council (formerly Triangle J Council of Governments (TJCOG) and Town of Apex, effective July 1, 2023 through June 30, 2024, for the purpose of participating in the Solid Waste Consortium and to authorize the Town Manager to execute the agreement on behalf of the Town.

CN13 Ordinance Amendment - Incorporating Local Acts into Charter (ORD-2023-056)

Council voted to approve an Ordinance Amendment to incorporate local acts into the Town Charter.

CN14 Position Authorization List Update - Fiscal Year 2024

Council voted to approve the Fiscal Year 2024 Position Authorization List and the Fiscal Year 2024 Job Title and Market Range Inventory for the Town of Apex.

CN15 Resolution - Public Utility Easement Abandonment (REF: RES-2023-040)

Council voted to approve a resolution entitled "A Resolution to Abandon Portions of Existing Public Utility Easements", located in the Reams Gove Subdivision.

[PRESENTATIONS]

PR1 Proclamation - Parks and Recreation Month - July 2023 (REF: PRO-2023-027)

Mayor Gilbert and Town Council the Parks and Recreation Month Proclamation in unity.

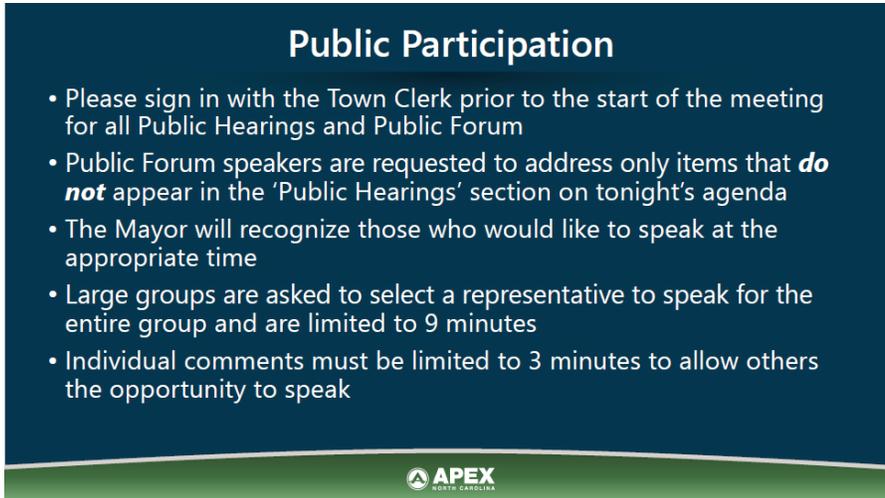
Craig Setzer, Director of Parks, Recreation, and Cultural Resources, and other staff members, accepted the proclamation and took a photo with the Mayor and Council.

[REGULAR MEETING AGENDA]

A **motion** was made by **Councilmember Gantt**, seconded by **Councilmember Mahaffey**, to approve the Regular Meeting Agenda as presented.

VOTE: UNANIMOUS (4-0)

1 [SLIDE 2]



Public Participation

- 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



2

3 [PUBLIC FORUM] (NOTE: To view Public Forum and Public Hearing Sign-up Sheets, see **OTHER-**
4 **2023-062**)

5

6 First to speak was **Chris Chandler** of 1936 Gray Meadow Drive: (To see Mr. Chandler's
7 handouts, see **OTHER-2023-064**)

8 "Evening Council, thank y'all, Chris Chandler from 1936 Gray Meadow Drive, Woodall Estates. Come
9 again just to speak, share some information, as we all know why I'm here. One of the handouts that
10 you're getting is one that just came out recently, US pedestrian deaths in '22 is the highest number in
11 more than 40 years. This handout will explain a lot of that and what's going on, and different reasons
12 why. This was out of 49 states in the district, only Oklahoma didn't send there's but they have about
13 92 deaths a year, pedestrian involvement. One of the other things you'll have is a handout from the
14 FHWA guide on why crosswalk marking designs matter. In there I highlighted a couple spots. One of
15 the is "the question isn't whether to mark, but how we mark it." You'll see in there about how visibility
16 makes a big difference with cars travelling, people walking, it lets us pedestrians walking know "hey
17 remember, crosswalk ahead, stop and look, make eye contact." But sometimes when we're making
18 eye contact with vehicles, there's more than one person in there. I have kids, like a lot of people do,
19 sometime you have to speak to your kids. You may take your eye off the person standing on the
20 sidewalk who's trying to draw attention to say "hey, there's a crosswalk, I'm getting ready to walk." So
21 there's so many different ways that we can make these high visibility. One of the other things in here
22 about the different designs and how they improve, and with high visibility crosswalks, it will slow a lot
23 of people down when coming to these areas versus a traditional non-marking crosswalk, not high
24 visibility. And when I say all of this, there's no one bullet. Slowing the speed is not going to make
25 100% difference. Improving the crosswalk is not going to make 100%. It takes a combination of all of
26 them, and this is a lot of what I'm learning as long as our community is working also, I'm growing in
27 this from the things I'm learning. And the other handout you'll see, it talks about a lot of different
28 factors in these, and one of the things that we've heard a lot is that you can't do crosswalks too close.
29 But a lot of what we're learning in these studies as I continue and I bring to you, and as I'm learning,
30 but a lot of times a crosswalk is 200 foot a city block, is the recommendation. Now I know we don't
31 want to put them every 200 foot, but I hope we can grow, and encourage, and be better about that

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1 in looking at this. When we come back in August, one of the things our community will be doing, is
2 we're going to do a community assessment of the walking feasibility study, and I shared that the last
3 time I came, so we'll be doing that next month to see how our community ranks in that. And thank
4 y'all again so much for your time."

5
6 **Mayor Gilbert** thanked Mr. Chandler for his comments.

7
8 Next to speak was **Diane Long** of 1308 Salem Church Road:

9 "I'm going to speak to two concerns I have, one is speeding on Hunter Street, and the other one is
10 these little ducks we have in town over near the WakeMed center. And we have a lot of people that
11 come down Hunter Street, and I don't know what to tell anybody to do about it, I think the Police
12 Department here does a great job. But when the school opens back up, it always concerns me, that
13 people speeding down Hunter Street may hit a child. But anyway, what has happened is my
14 daughter lives at about the 3rd house after you turn off of 55. She has lost her cat. She came crying to
15 my house, and the cat she took her to the vet, and it had died. And then cats that we don't even
16 know about, or who they belong to, they get run over, so a lot of animals are getting run over on the
17 end next to 55 highway, and I don't know what you can do about it. They're certainly very very fast,
18 the cars are, certainly not within the speed limit, but there is a speeding problem, especially on that
19 end I think, more so than North Salem Street because of the way it's designed. But anyway, if you
20 could have someone look into it, I would really appreciate it. And we did find a place that, it's near
21 Crabtree Valley, it will take any kind of an animal, now I'm going to talk about these ducks. I have
22 passed by that street where those ducks cross in road, I have stopped and let those ducks go by.
23 And anyway, my daughter was out again, and this couple had stopped, five of those little ducks were
24 run over and killed, and then the mama of these ducks apparently had a broken leg, and one of
25 those little ducks kept coming back to the mama trying to soothe it, and be concerned for its mother.
26 And we didn't know, when my daughter came over to the house we got a map out, and we looked
27 and we found a place that will take any kind of an animal, and they'll take care of it, and pay for it if
28 you give them a donation, so we're going to look into that. Anyway, I know we go over to the
29 WakeMed facility for different reasons, and those ducks are not hurting anybody, and I don't know
30 how many times I have stopped myself to let those little ducks go by. So anyway, I just think we need
31 to be more careful, people need to be more careful, and the thing about it, nobody stops. Nobody
32 stops to see if they have hurt the animal or anything when they get killed. So anyway, we just need to
33 do something about this situation. The speed and taking care of our animals, thank you."

34 **Mayor Gilbert** thanked Ms. Long for her comments, and said it was always good to see her.

35
36 Next to speak was **Phil Welch** of 1471 Big Leaf Loop: (To view Mr. Welch's Handout, please
37 see **OTHER-2023-065**)

38 "Good evening Mayor, Councilmembers, my name is Phil Welch, I live at 1471 Big Leaf Loop in
39 Apex. I wanted to give a couple comments to Council on the first version of the Affordable Housing
40 Incentive Zoning Policy Procedures Manual, that's New Business item 1. I'm speaking today as an
41 advocate for affordable housing in Apex, not as the chair of the Housing Advisory Board. I do,
42 however, request all of the hard work and intense discussion that went into this policy over the past
43 year and a half. What you see in that policy reflects a consensus and a whole bunch of compromises.
44 I think it's a reasonable start, I'm look forward to hearing from the staff how it's working in their

APPROVED

1 negotiations with developers and so forth. I expect that the Housing Advisory Board will be
2 considering some adjustments to this when it's reviewed a year from now, here's some possible
3 adjustments I hope to see as an affordable housing advocate. The minimum percentage of
4 affordable housing in the policy is 5%, we've heard from staff that developers are now coming to
5 them with offers of 5% affordable housing even before incentives are offered, so that's good news.
6 Hopefully with incentives, that minimum percentage might be pushed up a bit, which we
7 desperately need. And 5% of the development can either be affordable homes or developable lots.
8 My preference would be for affordable homes, because that's the ultimate objective here, we don't
9 expect people to pitch tents on lots. If it is lots, hopefully the staff might be able to negotiate for, and
10 the builders agree to, a little higher percentage than the 5%, because they're a little less expensive
11 to the developers. The minimum affordability periods for ownership homes are 20 years, and that's a
12 great minimum for long-term affordability. The minimum affordability period for the rental
13 developments are negotiable, I hope eventually we'll have a standard of at least 20 years of
14 affordability for rental developments too, because they're important as well. The maximum
15 affordable are median income percentages for owner-occupied homes is 135%, there's a lot of
16 discussion about that. As a point of reference, HUD recently published \$117,000 as this year's area
17 median income for households in the Raleigh-Metro statistical area, so 135% of \$117,000 is about
18 \$158,000. I will stop at that point, thank you very much, and I encourage you to approve the policy."

19 **Mayor Gilbert** thanked Mr. Welch for his comments.

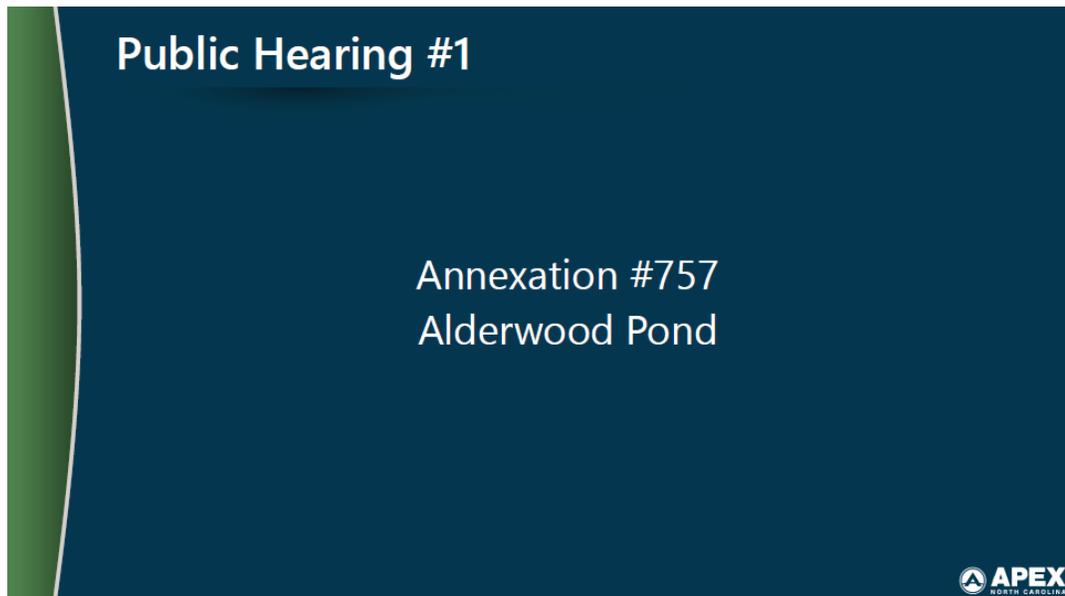
20
21 With no more signups for Public Forum, **Mayor Gilbert** moved the meeting on to Public
22 Hearings.

23
24 **[PUBLIC HEARINGS]**

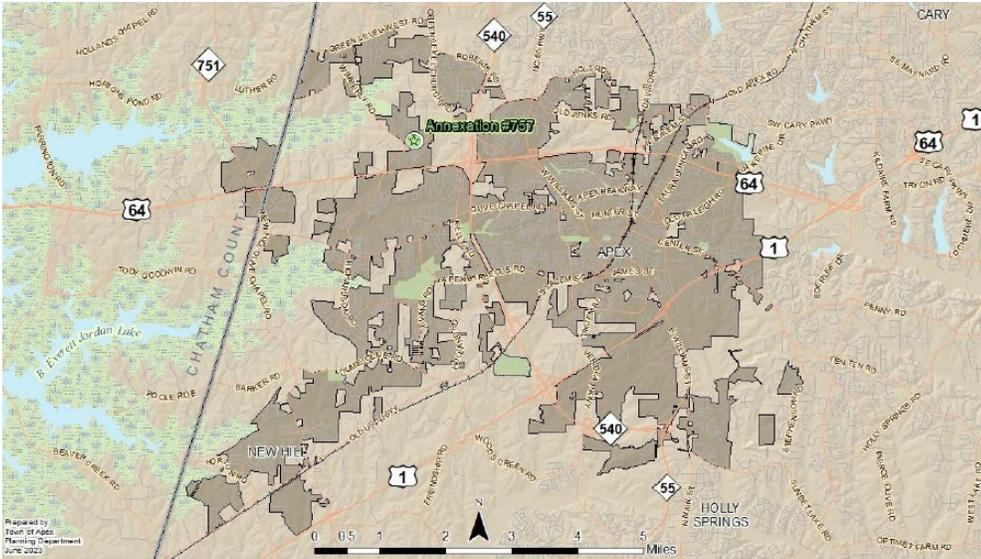
25 **PH1 Annexation No. 757 - Alderwood Pond - 0.67 acres (REF: (ORD-2023-057))**

26 Planning Director **Dianne Khin** gave the following presentation regarding Annexation No.
27 757 - Alderwood Pond.

28 **[SLIDE 3]**



1 [SLIDE 4]



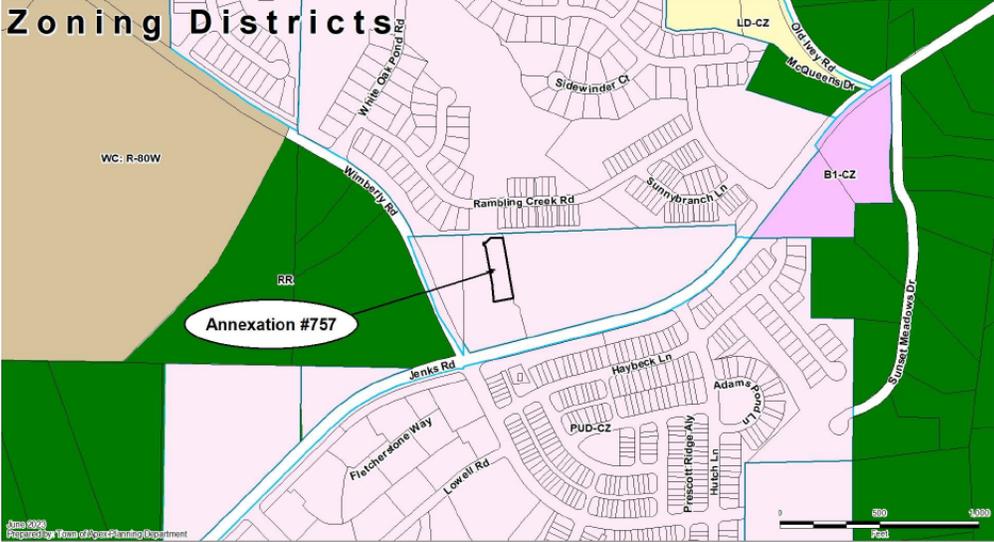
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3 [SLIDE 5]



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5 [SLIDE 6]



1 [SLIDE 7]



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Mayor Gilbert opened up Public Hearing. With no signups, he closed Public Hearing and brought discussion back to Council.

Councilmember Gray said he appreciated the clarification from staff on this annexation.

A **motion** was made by **Councilmember Gray**, seconded by **Councilmember Zegerman**, to approved Annexation No. 757 - Alderwood Pond.

VOTE: UNANIMOUS (4-0), with Mayor Pro-Tempore Killingsworth absent

PH2 Fiscal Year 2023-2024 - Annual Operating Budget and Fee Schedule Adoption (REF: ORD-2023-058) (NOTE: Public Hearing 2 was opened simultaneously with Public Hearing 3)

Budget and Performance Management Director **Amanda Grogan** gave the following presentation regarding the 2023-2024 Annual Operating Budget:

1 [SLIDE 8]

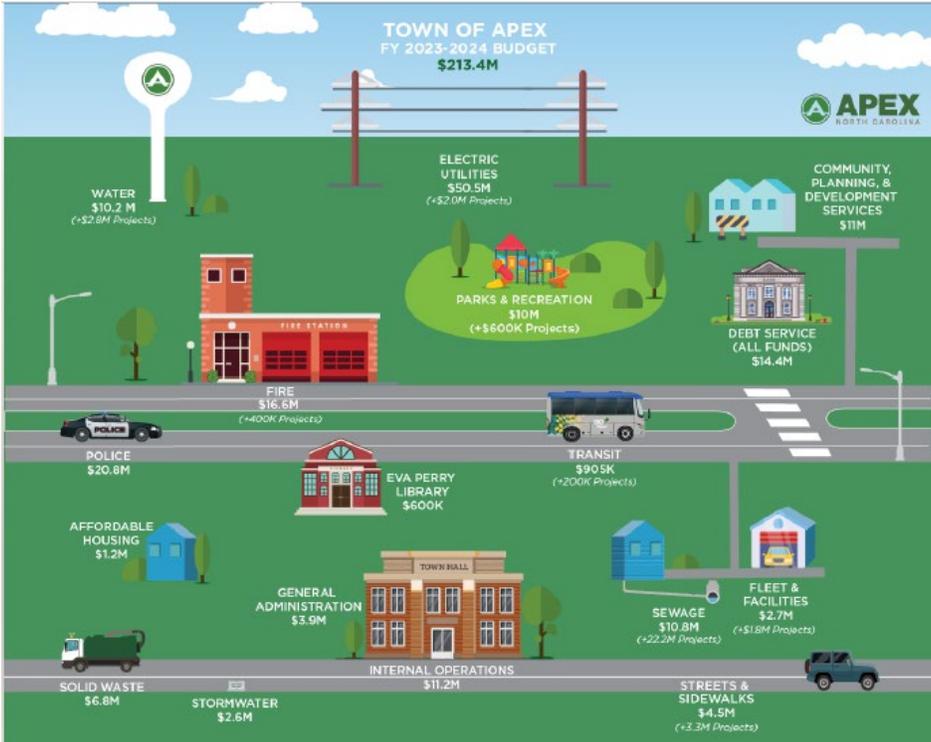
Public Hearing #2 & #3

Fiscal Year 2023-2024
Annual Operating Budget and
Fee Schedule Adoption
&
Fiscal Year 2023-2024/2027-2028
Capital Improvement Plan (CIP)



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[SLIDE 9]



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Town Clerk **Allen Coleman** gave the following presentation regarding the Elected Officials Compensation Survey:

1 [SLIDE 1]

Public Hearing No. 2

Apex Elected Official Compensation Survey Results



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[SLIDE 2]

Historical – Mayor and Council Annual Compensation (Salary and Stipend)

Position and Stipend	Fiscal Year 2022-23	Fiscal Year 2021-22	Fiscal Year 2020-21	Fiscal Year 2019-20	Fiscal Year 2018-19	Fiscal Year 2017-18	Fiscal Year 2016-17	Fiscal Year 2015-16	Fiscal Year 2014-15	Fiscal Year 2013-14
Mayor Annual Salary	\$10,834	\$10,834	\$10,834	\$10,834	\$10,622	\$10,159	\$10,159	\$10,159	\$9,859	\$9,859
Mayor's Stipend Annual <i>Distributed Biweekly</i>	\$1,800	\$1,800	\$1,800	\$1,800	\$1,800	\$1,800	\$1,800	\$1,800	\$1,800	N/A
Mayor Total Annual Compensation	\$12,634	\$12,634	\$12,634	\$12,634	\$12,422	\$11,959	\$11,959	\$11,959	\$11,659	\$9,859
Mayor Pro-Tempore (MPT) Annual Salary	\$8,621	\$8,621	\$8,621	\$8,435	\$8,270	\$7,909	\$7,909	\$7,909	\$7,696	\$7,696
MPT Stipend Annual <i>Distributed Biweekly</i>	\$1,200	\$1,200	\$1,200	\$1,200	\$1,200	\$1,200	\$1,200	\$1,200	\$1,200	N/A
MPT Stipend Total Annual Compensation	\$9,821	\$9,821	\$9,821	\$9,635	\$9,470	\$9,109	\$9,109	\$9,109	\$8,896	\$7,696
Councilmember Annual Salary	\$8,621	\$8,621	\$8,621	\$8,435	\$8,270	\$7,909	\$7,909	\$7,909	\$7,696	\$7,696
Councilmember Stipend Annual <i>Distributed Biweekly</i>	\$840.00	\$840.00	\$840.00	\$840.00	\$840.00	\$840.00	\$840.00	\$840.00	\$840.00	N/A
Councilmember Stipend Total Annual Compensation	\$9,461.00	\$9,461.00	\$9,461.00	\$9,275.00	\$9,110.00	\$8,749.00	\$8,749.00	\$8,749.00	\$8,536.00	\$7,696

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1 [SLIDE 3]

Historical – Conclusion

- No Annual Salary Increase/change – 2019
 - Mayor
- No Annual Salary Increase/change – 2020
 - Mayor Pro-Tempore and Councilmembers
- No Annual Stipend Increase/change – 2014
 - Originally Established

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[SLIDE 4]

Elected Official Compensation Survey

- **Town Compensation Study** – Completed - October 2022.
- **Elected Official Compensation Study** – 22 responses
 - Neighboring Municipalities (Wake County)
 - Comparable Municipalities (North Carolina)
 - Population Count (2023)
 - Organizational Structure (Budget/CIP, Employees to Resident Ratio, Number of Elected Positions, Infrastructure (e.g. Electric))
 - Economic Development Priorities
- **Survey Questions** – Data Collection (18 Questions)
 - Budget/Organizational Structure
 - Annual Salary/Stipend
 - Benefits Offered/Office Space
 - Travel/Training Budget
 - Issued Technology Equipment

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1 [SLIDE 5]

Survey Results – Comparable Municipalities Mayor and Council Annual Compensation (Salary and Stipend)

Municipality	Population	Mayor Annual Salary	Mayor Annual Stipend	Mayor Pro-Tempore Annual Salary	Mayor Pro-Tempore Annual Stipend	Councilmember Annual Salary	Councilmember Annual Stipend
Kannapolis	59,956	\$21,832	\$3,800	\$15,990	\$3,300	\$15,375	\$3,300
Chapel Hill	62,841	\$35,550	N/A	\$24,990	N/A	\$24,990	N/A
Burlington	65,546	\$12,380	\$2,000	\$9,129	\$1,000	\$8,428	\$1,000
Huntersville	68,711	\$21,000	N/A	\$15,000	N/A	\$14,000	N/A
Apex	74,546	\$10,834	\$1,800	\$8,621	\$1,200	\$8,621	\$840
Jacksonville	76,622	\$10,200	\$2,500	\$7,200	\$1,800	\$7,200	\$1,500
Gastonia	83,022	\$19,029	\$4,653	\$16,373	\$4,653	\$16,373	\$4,653
Greenville	91,991						
Asheville	94,293	\$25,875	\$6,195	\$21,474	\$4,475	\$19,010	\$4,475
Concord	108,533	\$18,257	N/A	\$11,849	N/A	\$10,649	N/A
High Point	114,475	\$26,649	\$4,200	\$20,307	\$3,600	\$20,307	\$3,600
Wilmington	120,695	\$23,794	\$3,500	\$17,509	\$3,000	\$17,509	\$3,000
		\$214,566	\$26,848	\$159,821	\$21,828	\$153,841	\$21,528
		\$21,645.00	\$3,835.43	\$15,982.10	\$3,118.29	\$15,384.10	\$3,075.43

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[SLIDE 6]

Survey Results – Wake County Municipalities Mayor and Council Annual Compensation (Salary and Stipend)

Municipality Alphabetically	Population	Mayor Annual Salary	Mayor Annual Stipend	Mayor Pro-Tempore Annual Salary	Mayor Pro-Tempore Annual Stipend	Councilmember Annual Salary	Councilmember Annual Stipend
Apex	74,546	\$10,834	\$1,800	\$8,621	\$1,200	\$8,621	\$840
Cary	177,222	\$15,090	\$7,500	\$13,922	\$5,600	\$12,610	\$5,600
Fuquay Varina	36,736	\$12,355	\$2,421	\$9,270	N/A	\$9,270	N/A
Garner	31,935	\$10,712	\$1,200	\$8,216	N/A	\$8,216	N/A
Holly Springs	43,524	\$14,856	\$3,600	\$8,749	N/A	\$8,407	N/A
Knightdale	19,576	\$13,600	\$3,000	\$10,300	N/A	\$9,800	N/A
Morrisville	31,278	\$13,864	REIMB*	\$11,689	REIMB*	\$11,689	REIMB*
Raleigh	469,124	\$36,511	\$9,000	\$32,236	\$4,000	\$29,848	\$4,000
Rolesville	10,047	\$12,878	REIMB*	\$9,174	REIMB*	\$5,942	REIMB*
Wake Forest	49,657	\$10,500	\$5,000	\$8,400	\$3,328	\$8,400	\$3,328
Wendell	11,914	\$8,000	REIMB*	\$6,000	REIMB*	\$6,000	REIMB*
Zebulon	9,550	\$12,663	\$3,833	\$5,371	\$2,833	\$5,371	\$2,833
		\$161,029	\$35,554	\$123,327	\$15,761	\$115,553	\$15,761
		\$14,639.00	\$4,444.25	\$11,211.55	\$3,940.25	\$10,504.82	\$3,940.25

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1 [SLIDE 7]

Elected Official Compensation – Options

- **OPTION A:** Adopt Recommended Compensation Results from Comparable Municipalities
 - Mayor Salary/Stipend Annually: \$21,645/\$3,835
 - Mayor Pro-Tempore Salary/Stipend Annually: \$15,982/\$3,118
 - Councilmember Salary/Stipend Annually: \$15,384/\$3,075
 - **TOTAL FINANCIAL IMPACT (NET INCREASE):** **\$57,931/\$61,376 (FICA)**
- **OPTION B:** Adopt Recommended Compensation Results from Wake County Municipalities
 - Mayor Salary/Stipend Annually: \$14,639/\$4,444
 - Mayor Pro-Tempore Salary/Stipend Annually: \$11,212/\$3,940
 - Councilmember Salary/Stipend Annually: \$10,505/\$3,940
 - **TOTAL FINANCIAL IMPACT (NET INCREASE):** **\$22,416/\$23,483 (FICA)**
- **OPTION C:** Recommend Compensation Amounts
 - Mayor Salary/Stipend Annually: \$ _____ / \$ _____
 - Mayor Pro-Tempore Salary/Stipend Annually: \$ _____ / \$ _____
 - Councilmember Salary/Stipend Annually: \$ _____ / \$ _____
 - **TOTAL FINANCIAL IMPACT (NET INCREASE):** **\$ _____ / \$ _____**

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Mayor Gilbert thanked Town Clerk Coleman for the hard work in putting together all of this research.

Mayor Gilbert then opened up public hearing. With no sign ups, he close public hearing and moved discussion back to Council.

Councilmember Gray said he sees Apex has not had salary increases for elected officials in several years, and this was an effort in 2020-2021 by the Council in solidarity with residents struggling financially. He said since moving out of COVID, things have been moving in the right directions, with increased employment opportunities, the scope of duties for Council becoming larger because of the size of the town, but urged the Council to look at this from a different perspective. He said he felt this increase should be pushed back another year. He said there is still a lot of fiscal challenges ahead. He said they are just coming out of an inflationary recession, and housing rates are climbing in Apex. He said there are still folks struggling in the community, and so he urges the Council to take the same steps the Council did in the pandemic, to use themselves as an example of using the potential additional funds to help those in need. He said he would be voting against any compensation increase at this time. He said he understands that he is saying this from the "comfy chair", and that some members of the community may not be able to run for the office of Town Council because the salary is cost prohibitive for them. He said that today, however, he would rather use the funding that could be used for this Council towards services within the community.

Mayor Gilbert asked Councilmember Gray how many hours a week he devotes towards his role as a Councilmember.

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1 **Councilmember Gray** said somewhere around 15-17 hours, and that he knows that pales in
2 comparison to the number of hours Mayor Gilbert puts in. He said it's fair to assess the Mayor's
3 compensation and Council's compensation separately. He said Mayor Gilbert is an excellent
4 example of a Mayor who puts in a very high level of time, effort, and care into his role. He said his
5 objection wasn't around how much or how hard Mayor Gilbert or any Councilmember works, but
6 rather that it would be a statement, like in 2020, to say they aren't going to pay themselves, but
7 rather town staff and town programs. He said recognizing and compensating people properly for
8 the work they do is incredibly important. From his time in the military, he said one of the things that
9 he learned was that officers eat last. He said he views this the same way.

10 **Mayor Gilbert** said there was always the option for Councilmember Gray not to accept his
11 increased salary if that was the direction Council decided to move in. He said he covers a lot of
12 ground in his role, and that he does appreciate Councilmember Gray discussing what the Council
13 did in 2020, since he wasn't here then. He said there was never a perfect time to discuss an increase.
14 He said it was the right thing to do to compensate people for the work they are doing. He said this
15 was difficult, but that this was a market rate adjustment. He said it was important to look at the future
16 Mayors and Council, and ensure they are taken care of. He said it should be looked at annually or
17 every 3 years. He said it was difficult, as someone on a fixed income, to provide his services to the
18 town. He said he understood that going in, and that he loves doing it and that he will continue giving
19 his all no matter what the decision is, but he feels an increase is the right direction to go in. He says
20 they have taken care of staff very well, and that this is about service to the community. He said he
21 would support an increase.

22 **Councilmember Mahaffey** said he concurs with the Mayor. He said it's important for people
23 to understand why this discussion was happening. He said by statute, a change in compensation for
24 the elected officials has to be done in the annual budget, and they wanted to have the conversation
25 publicly. He said that's why their awkward conversation is happening right now. He said it was
26 important to understand what Council compensation was for. He said he didn't think it was an
27 incentive to serve, like compensation in the private sector, but rather to remove barriers to serving
28 for community members. He said a situation with a low level of compensation that hasn't changed in
29 about a decade means there are lots of people who simply cannot afford to serve in that role. He
30 said the current compensation structure only allows people to run who have flexible working
31 arrangements, a large enough savings, or a high enough level of income to be able to devote 20-40
32 hours a week for minimal compensation. He said the compensation shouldn't be an incentive for just
33 anyone to make it a career, but rather be high enough that people who have a desire to serve are
34 able to pay their bills through the role. He said many elected bodies have this problem, and many
35 people who were great in their role as an elected official either found they couldn't afford the
36 additional burden or didn't think it was worth it to try. He wanted to ask what kind of talent the town
37 has not been able to harness because the role does not compensate well. He said he would support
38 an increase close to that of the comparable municipalities.

39 **Councilmember Zegerman** said he thinks he finds himself somewhere in the middle on this.
40 He said he understands and appreciates the symbolism in Councilmember Gray's comments about
41 paying themselves last, but that the reality is that the pay is low, and even with proposed increases it
42 is not the equivalent of the salary for a job, even though the commitment is sometimes similar. He
43 said the compensation should also be enough to cover expenses such as travel for their work in the
44 community. He said some of the outliers, like Raleigh, that will be much larger than Apex for the

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1 foreseeable future somewhat skew the number a bit. He said he would feel very awkward paying
2 themselves more than what the state legislature pays them. He agreed that the elected body needed
3 to be pooled from a broader population, but an increase of a couple thousand dollars is not going
4 to make a big difference in those who that enables to run. He said he does support a modest
5 increase in terms of compensation and stipend, but he is not comfortable going as high as some of
6 the comparisons put forth.

7 **Councilmember Gantt** said he was ready to vote, and that he had no comment.

8 **Councilmember Mahaffey** asked how modest Councilmember Zegerman’s proposal was.

9 **Councilmember Zegerman** said his proposal was \$10,000 a year in compensation for
10 Councilmembers, \$11,000 a year for Mayor Pro Tempore, and \$12,500 a year for the Mayor, with
11 stipends of \$200 a month for Councilmembers, \$250 a month for Mayor Pro Tempore, and \$300 a
12 month for the Mayor.

13 **Mayor Gilbert** asked Councilmember Zegerman how he came up with these numbers.

14 **Councilmember Zegerman** said he took some of the outliers that he didn’t think should be
15 included in the comparison, such as Raleigh and Cary. He said the stipends were pretty consistent
16 across the market even with the outliers.

17 **Councilmember Mahaffey** said Raleigh was a big outlier in part because they had a similar
18 debate just last year, and arrived at their new compensation package. He said Zebulon has also
19 recently increased their compensation structure as well. He said he was concerned that this
20 proposed increase would not removed the barriers that are in place. He said they would still have
21 people who couldn’t afford to do it, and that it would be more of a minor salary adjustment rather a
22 shift in thinking surrounding what the salary was in place for. He said even the numbers he was
23 thinking, which are close to those from Option A, doesn’t get them to where he wants to be, but is
24 defensible based on the data that they have. He said he doesn’t want to have Council only be
25 available to people who are fortunate enough to have significant outside income.

26 **Mayor Gilbert** asked Town Clerk Coleman what the increase of Councilmember Zegerman’s
27 recommendation would be on the total budget.

28 **Town Clerk Coleman** said it would be just shy of \$20,000.

29 **Councilmember Mahaffey** said he wanted to point out that the town’s budget is nearly a
30 quarter of a billion dollars, and that increases of \$20,000 or \$50,000 would not make a meaningful
31 increase in the service the town is able to provide, but it may make a meaningful difference in what
32 the Council looks like in the future.

33 **Mayor Gilbert** asked Councilmember Zegerman if he was in support of looking at this
34 annually.

35 **Councilmember Zegerman** said he would be in support of that, to keep the process in line
36 with how the town reviews employee compensation.

37 **Councilmember Mahaffey** said there were multiple things to decide, the actual increase in
38 compensation, the policy on how to review it going forward, and a discussion around potential
39 benefits that he feels would also help remove barriers. He said discussing these separately would be
40 the best way they can go about it.

41 **Councilmember Gantt** said growing up in Asheville, he saw what the low salaries in the
42 General Assembly led to as far as who was able to represent the area in the State Legislature. He
43 said the western part of the state only sent rich people, or people who were retired, because the
44 area was so far away from Raleigh. He said he sees the barriers in that situation, but he doesn’t see

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1 them to the same degree here. He said they meet at night, don't have to travel as much, and the
2 overall financial impact isn't the same as communities sending representatives to the state.

3 **Councilmember Mahaffey** said it was about time, and not distance. He said they struggle to
4 stay on top of their full-time jobs with the responsibilities of Council, and the Mayor is unable to hold
5 a full-time job with how much he puts into his role. He said if someone is in a position where they
6 need to ensure the income, Council is not an option.

7 **Councilmember Gray** said he recognizes the barriers, and that looking at the Mayor's daily
8 schedule, there's really no chance for him to be able to hold a secondary job.

9 **Councilmember Mahaffey** said that on the topic of benefits, he said from the information
10 given to them by staff, it seemed that a lot of municipalities do offer their Council health insurance.
11 He said he personally would not need health insurance from the town, but that could be a
12 consideration preventing a retiree or a senior citizen from running. He said his parents have retired
13 from their own careers, but are in a gap before they can qualify for Medicare/Medicaid, so they had
14 to get a job just to provide them health insurance. He said it would be great to have this included, so
15 the town could benefit from the experience of its seniors. He said that isn't something he thinks
16 should be included in this budget, but that it should be something that is investigated for the future.
17 He said it would make sense to allow Town Councilmembers to join the same health plan the
18 employees are on, which would be his suggestion.

19 **Councilmember Gray** said he had no objection to that.

20 **Councilmember Zegerman** asked if not coming to a consensus on this issue would hold up
21 the budget.

22 **Councilmember Gantt** said the budget has to be passed tonight.

23 **Councilmember Mahaffey** said since it has to be done as part of the budget, if they don't
24 make changes today, the next opportunity they would have to discuss this would be during next
25 year's budget process.

26 **Councilmember Zegerman** said he understands that the money spent on a potential
27 increase is a drop in the bucket compared to the overall budget, but it's really about how they want
28 to look at the role of Council as it relates to being a job, versus keeping things how they are now.

29 **Councilmember Mahaffey** said it would be important to know what the public perception of
30 this was. He said he bet that people in town would be surprised to learn that the Mayor only makes
31 \$10,000 a year, and that Councilmembers make \$8,000 a year. He said he thinks the perception
32 already is that the salary is much higher than it actually is. He said the difference between these
33 numbers in the end is splitting hairs.

34 **Mayor Gilbert** agreed, and said they should decide. He asked Town Clerk Coleman if Mayor
35 Pro Tempore Killingsworth left any of her thoughts on this with him.

36 **Town Clerk Coleman** said that Mayor Pro Tempore Killingsworth said she was supportive of
37 Option B at minimum, and would be willing to support it rising closer to Option A if that is what
38 Council wanted to do.

39 **Councilmember Mahaffey** asked if the discussion had changed anything about
40 Councilmember Zegerman's position. He said that for the record, he was wanting something closer
41 to Option A, which would be roughly \$21,000 a year for the Mayor, \$16,000 for the Mayor Pro
42 Tempore, and \$15,000 for Councilmembers.

43 **Councilmember Zegerman** said that he likes the argument of making Council more
44 accessible. He said he agreed with Councilmember Gray that they were looking at this from a

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1 privileged position, and that opening up the capability of serving on Council to more people is good
2 for the spirit of democracy. He said that the prohibitive nature of the compensation wouldn't change
3 if they only increased it by \$1,500, so in order to do that they would need to do something more
4 drastic. He said he wasn't sure if adding \$50,000 this year to increase compensation would fully
5 remove the barrier, but that it would set them up to make more changes in the future, especially as
6 they look at potentially reevaluating this on an annual basis. He said he would be supportive of
7 either Option A or Option B.

8
9 A **motion** was made by **Councilmember Mahaffey**, seconded by **Councilmember**
10 **Zegerman**, to adopt the annual salary for the following elected officials as outlined in Option A (see
11 below), and to amend the 2023/2024 Annual Operating Budget to reflect this change.

12
13 Option A:

- 14 - Mayor Annual Salary: \$21,645.00
- 15 - Mayor Pro Tempore Annual Salary: \$15,982.00
- 16 - Councilmember Annual Salary: \$15,384.00

17
18 **VOTE: 2-2, Councilmember Gray and Councilmember Gantt dissenting**

19
20 Pursuant to the Town of Apex Town Charter, **Mayor Gilbert** voted in the affirmative to break
21 the tie. Motion passed.

22
23 A **motion** was made by **Councilmember Mahaffey**, seconded by **Councilmember**
24 **Zegerman**, to adopt the annual stipend amount for the following elected officials as outlined in
25 Option A (see below), and to amend the 2023/2024 Annual Operating Budget to reflect this change.

26
27 Option A:

- 28 - Mayor Annual Stipend: \$3,835.00
- 29 - Mayor Pro Tempore Annual Stipend: \$3,118.00
- 30 - Councilmember Annual Stipend: \$3,075.00

31
32 **VOTE: 2-2, Councilmember Gray and Councilmember Gantt dissenting**

33
34 Pursuant to the Town of Apex Town Charter, **Mayor Gilbert** voted in the affirmative to break
35 the tie. Motion passed.

36
37 A **motion** was made by **Councilmember Zegerman**, seconded by **Councilmember**
38 **Mahaffey**, to adopt the Annual Operating Budget for Fiscal Year 2023-2024, as amended.

39
40 Before the vote, **Councilmember Zegerman** thanked staff for their hard work in crafting the
41 budget, and said it was a wonderful product.

42 **Councilmember Gray** said he was also very appreciative of the hard work that went into this.
43 He said he was proud that a lot of money was going towards Public Safety, and that he was also

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1 happy that money was in the budget to support organizations that help fill in gaps where the Police
2 and Fire Departments can't service, such as Western Wake Crisis Ministries and Interact. He said it
3 doesn't fix every road, but that is an exercise in fiscal responsibility. He applauded Director Grogan,
4 Deputy Town Manager Purvis, Town Manager Crosby, the Finance Department, and the rest of town
5 staff for getting the right mix of things in the budget, and doing right by the people who live here.
6 He said he enthusiastically supports the budget.

7 **Councilmember Gantt** said the budget was an indication of priorities, and he views each
8 budget year as a collection of small choices that will help make the town better, and he thinks they
9 are doing that in this budget.

10
11 **VOTE: UNANIMOUS (4-0), with Mayor Pro-Tempore Killingsworth absent**

12
13 **AND (NOTE: Public Hearing 2 and Public Hearing 3 were opened simultaneously)**

14 **PH3 Fiscal Year 2023-2024/2027-2028 - Capital Improvement Plan (CIP) (REF: ORD-2023-**
15 **059, ORD-2023-060, ORD-2023-061, ORD-2023-062, and ORD-2023-063)**

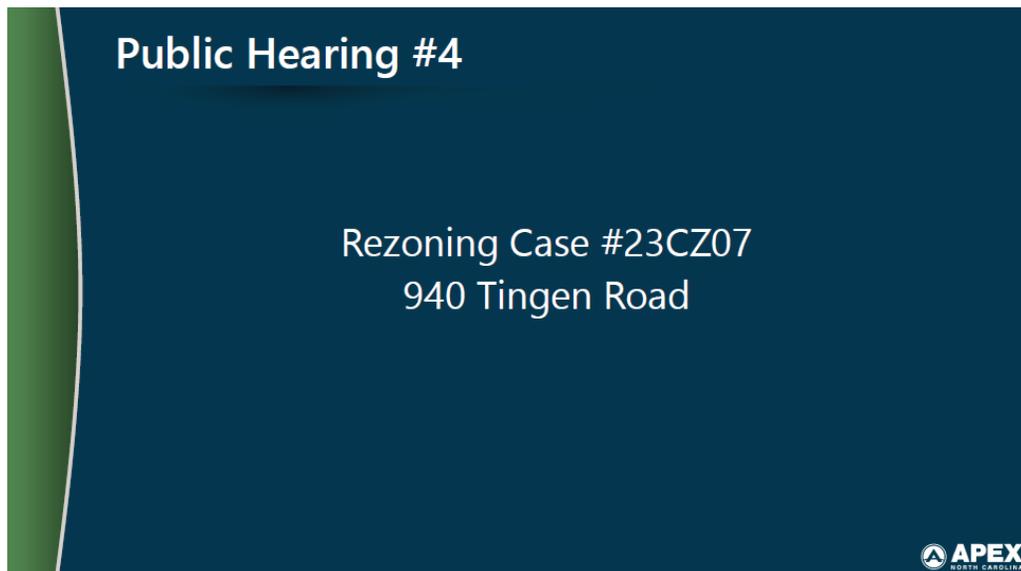
16
17 A **motion** was made by **Councilmember Gray**, seconded by **Councilmember Gantt** to
18 approve the 2023-2024/2027-2028 Capital Improvement Plan, as presented.

19
20 **VOTE: UNANIMOUS (4-0), with Mayor Pro-Tempore Killingsworth absent**

21
22 **PH4 Rezoning Case No. 23CZ07 - 940 Tingen Rd**

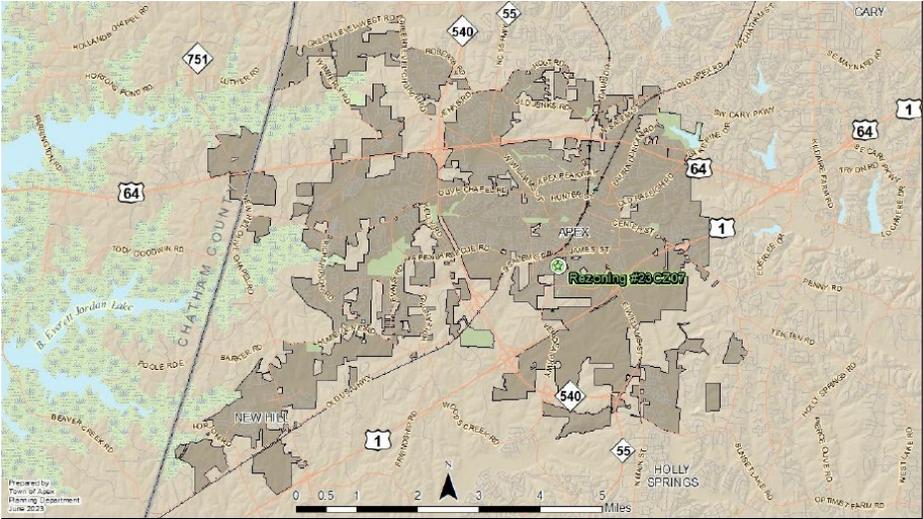
23 Senior Planner **Liz Loftin** gave the following presentation regarding Rezoning Case No.
24 23CZ07 - 940 Tingen Road:

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Councilmember Gantt said he watched the Planning Board meeting for this Rezoning, and said that a lot of the comments made had to do with the previous Zoning conditions of the main development this was a part of, which he felt was inappropriate. He wanted to ensure that this Rezoning was following all of the same stormwater and traffic controls as the main development.

Ms. Loftin said that was correct.

Jeff Roach, on behalf of the applicant, was present to answer questions.

Councilmember Gantt asked if the stormwater on this rezoning would be running off into the drainage pond, and what the overall stormwater impact would be.

Mr. Roach said all of the water from the site would be draining to the pond, and they also looking at the water coming from the school going over their property. He said they would ensure that there would not be negative impacts downstream through this rezoning, and are working with town stormwater staff to figure out and mitigate the issues.

Councilmember Gantt wanted to clarify what they were doing with the water that came from the school.

Mr. Roach said they were diverting the water from the school property, but ensuring they took care of all the water that came from their property into their pond, and to go above and beyond Planning Board recommendations to ensure they never get a call about downstream flooding from a neighbor.

Councilmember Gantt asked if they had considered looking at a higher storm level than a 10 year.

Mr. Roach said it was deeper than a 10 year normally was, but that doing a 25-year was not always more beneficial. He said in this case, slowing the stormwater down on their property could cause the school water to catch up to it, leading to more total water going downstream. He said committing to a 25-year storm level might not be the best thing to do, but they would be working with staff to go above and beyond, and that they would do a 25-year if that was what was determined to be the best option.

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1 **Councilmember Gantt** asked if the overall intent was to have this connect through the west
2 to the Salem Village subdivision.

3 **Mr. Roach** said yes, that was always the goal. He said on the Master Subdivision Plan they will
4 see if they have a left a stub on the western part of the property for that potential future connection.
5

6 With no further questions, **Mayor Gilbert** opened up the public hearing for this item.

7 First to speak was **Patricia Fritts** of 206 Harbor Haven Drive:

8 "Hello, my name is Patricia Fritts, I live in the West Haven Townhomes in a building that borders the
9 properties at 940 Tingen Road. We are hoping that the town departments who are reviewing these
10 site plans, the Towns on Tingen Project, make themselves cognizant of the impact developing this
11 property will have on the townhomes, mostly stormwater, and also some of the sediment that's
12 washing down from the stream and creek into our drainage area. We are hoping and we would like
13 to see stormwater control measures, that would exceed the current up to 10-year floodplain plan.
14 Also, the traffic is a little bit of a concern, because there's a curve at the entrance to the townhomes
15 on Harbor Haven Drive, and with the right-in-right-out, I mean it's hard now to see the cars coming
16 around that curve, but it's going to make it a little difficult if we have more cars coming at us. Thank
17 you."

18 **Mayor Gilbert** thanked Ms. Fritts for her comments. With no further sign ups, he closed
19 public hearing for this item, and moved discussion back to Council.
20

21 **Councilmember Mahaffey** said that as he has said before, if a property is having an issue
22 with stormwater, it may seem counterintuitive, but it would be beneficial for properties upstream to
23 develop, as there is an opportunity for a solution to be engineered that could help them as well. He
24 said the ordinance says things cannot be made worse by a development based on the Ordinance, or
25 there will be consequences. He said what they are considering tonight is a small addition, and
26 there's no reason not to go with it since this is the only thing they would ever be able to get out of
27 this property anyway. He said developments should be cohesive and logical, and seeing as this one
28 is to him, he said he would support it.

29 **Councilmember Gray** thanked Ms. Fritts for the emails that she had sent, and he said those
30 kinds of things help them get a better understanding of what is going on for a development. He
31 agreed with Councilmember Mahaffey that this gives an opportunity to fix some of these issues. He
32 said given how the developer and staff are working on this, hopefully it can be made into an overall
33 better situation. He said it would be something they would be looking at going forward should this
34 get approved, in order to hold the applicant and Mr. Roach accountable for the commitments they
35 have made.

36 **Councilmember Zegerman** said like Councilmember Mahaffey mentioned, the problem
37 cannot be made worse, and so it wasn't just taking the applicant and Mr. Roach at their word. He
38 said they would be on the hook if any problems were created or made worse from their
39 development.

40 **Mayor Gilbert** asked Mr. Roach to thank Mr. Iannone for his contribution to affordable
41 housing.
42

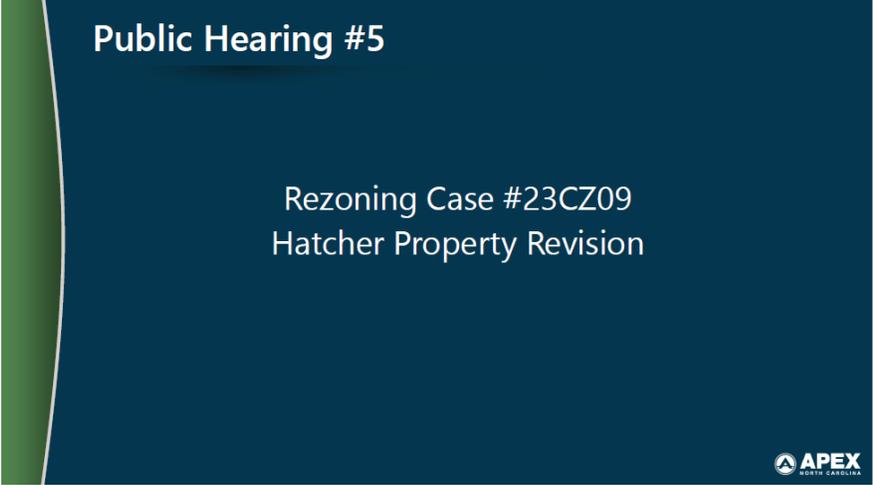
43 A **motion** was made by **Councilmember Gantt**, seconded by **Councilmember Gray**, to
44 approve Rezoning Case No. 23CZ07 - 940 Tingen Road.

VOTE: UNANIMOUS (4-0), with Mayor Pro-Tempore Killingsworth absent

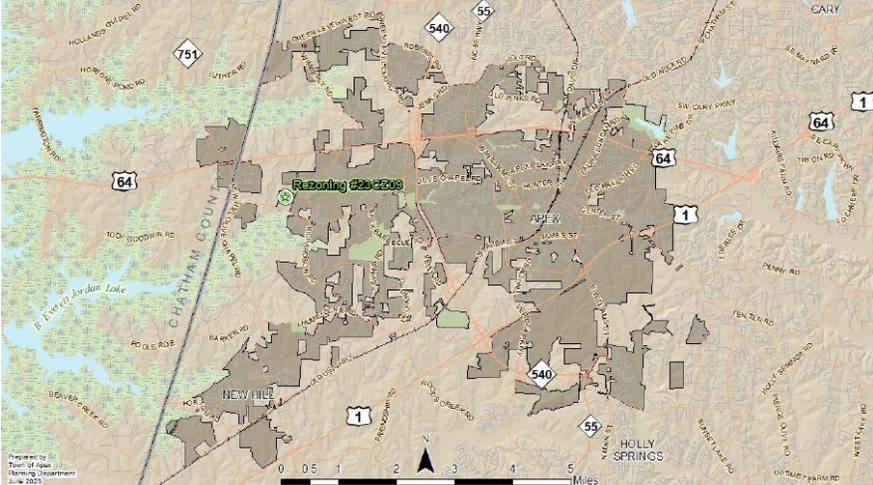
PH5 Rezoning Case No. 23CZ09 - Hatcher Property Revision

Planner II **Shelly Mayo** gave the following presentation regarding Rezoning Case No. 23CZ09 - Hatcher Property Revision:

[SLIDE 17]



[SLIDE 18]



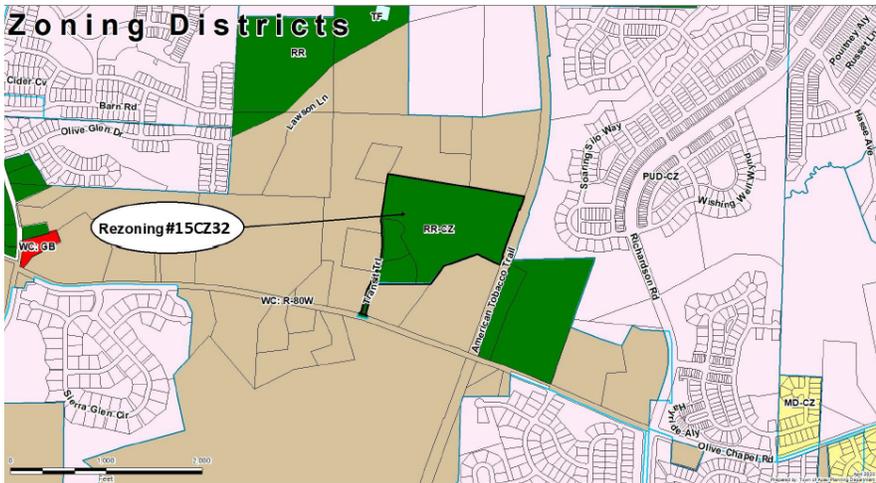
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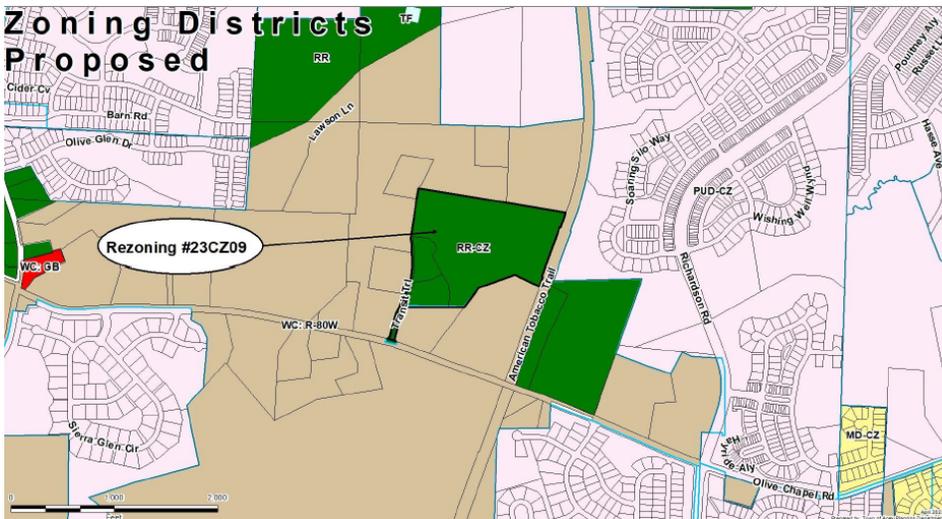
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4 [SLIDE 24]

Applicant's proposed changes:

- **Condition #4:** The maximum built-upon area per lot for this development shall be 60%, the maximum height shall be 40 ft, and the minimum building setbacks shall be as follows:

Front – 25 ft	Side – 8 ft. min/20 ft. total
Corner side – 15 ft	Rear – 25 ft.
- **Analysis:**
 - The change is consistent with how UDO calculates impervious surface.

1 [SLIDE 25]

Applicant's proposed changes:

- Condition #15: The developer shall construct Transit Trail according to the Apex Thoroughfare and Collector Street Plan on 60' public right-of-way from Olive Chapel Road to the northernmost property boundary, to be dedicated prior to the first plat of the subdivision. The developer shall construct a 24-foot wide section of asphalt (a 6' reduction from the Major Collector Street typical section) and shall not be required to construct curb and gutter on the west side of Transit Trail. The east side of Transit Trail shall be constructed with:
 - curb and gutter
 - a 5-foot sidewalk from Olive Chapel Road to the entrance of the future Master Subdivision Plan, and
 - a 10-foot side path from the entrance of the future Master Subdivision Plan to the northernmost extent of the property.



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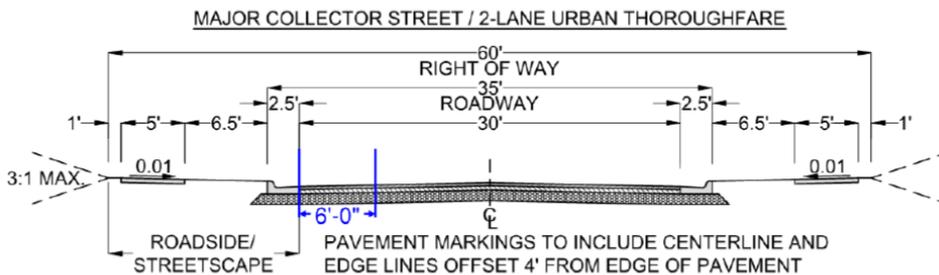
Analysis: Condition #15

- Staff opposed the original rezoning that removed the curb, gutter and sidewalk from west side of Transit Trail.
- Staff opposes additional deviation from the standard spec.
- Negative consequences:
 - Project will be held to a lower standard than others.
 - Can't be striped per Town specs. Future widening requires all stripes to be relocated.
 - Shoulder on west side reduced from 4' to 2'.
 - Potential for uneven widening on west as development occurs & Town may need to fill in gaps.
 - Drivers & adjacent owners will be disrupted in future for widening & curb & gutter.



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[SLIDE 27]



Town of Apex Major Collector Street Typical Section

7

1 **[SLIDE 28]**

Applicant's proposed changes:

- Condition #19: If a street stub cannot be provided per UDO Sec. 7.2.1.A.2.c, then the branching cul-de-sac length shall not exceed 1,450 linear feet.
- Analysis:
 - Per the UDO, the max length for a branching cul-de-sac is 1,200 feet.
 - No connection option to south (Army Corps land) or east (American Tobacco Trail)
 - Provides flexibility if a stub street can't be built to north



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[SLIDE 29]

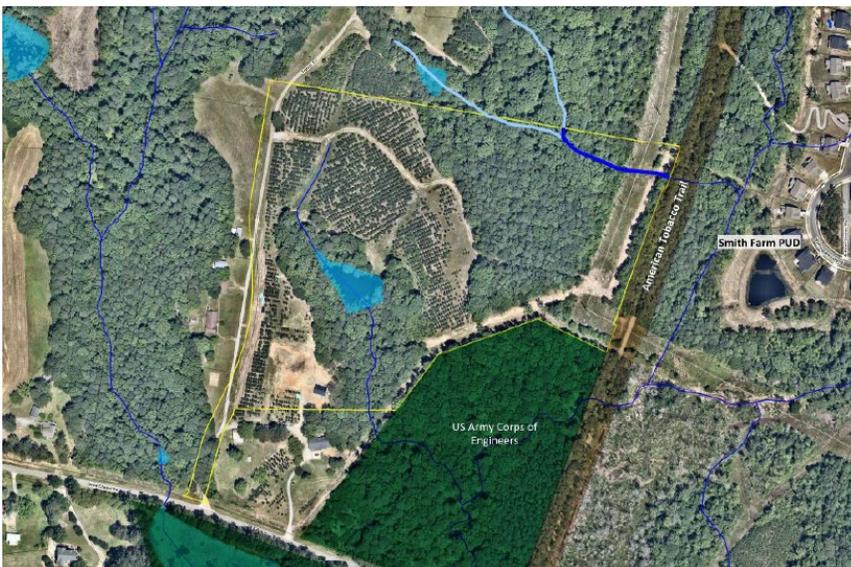
Applicant's proposed changes:

- Condition #20: This development shall not be required to construct a street stub to the northern boundary line (specifically PIN # 0722-02-6366) due to potential future environmental impacts on that adjacent parcel.
- Analysis:
 - Would remove any possible connection to street stub in Legacy Station PUD.
 - Wake Co. doesn't consider stream to be buffered,
 - Staff hasn't received a complete stream buffer analysis.
 - Staff requested an analysis of missing streams and hasn't received it.
 - UDO Sec. 7.2.1.A.2.c allows the Planning Director and Water Resources Director to remove stub street if environmental feature is found.



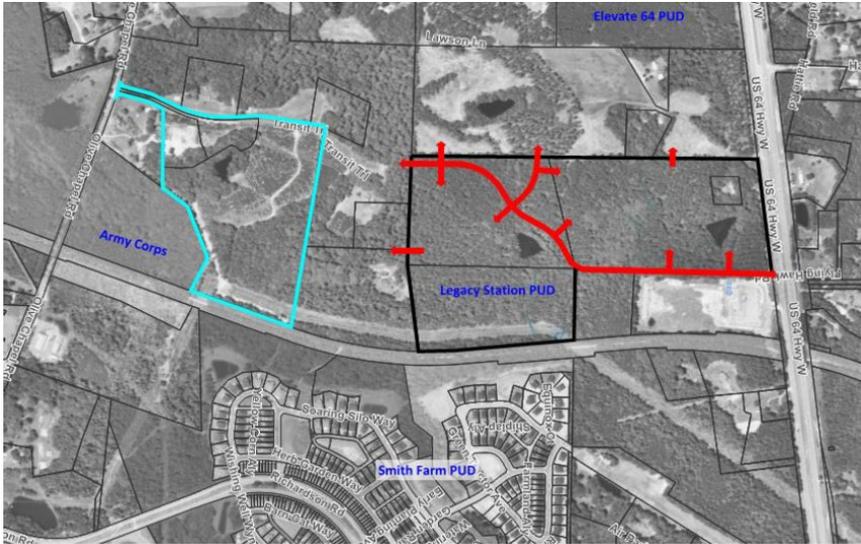
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[SLIDE 30]



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1 [SLIDE 31]



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[SLIDE 32]

Staff Recommendation:

Approve:

- Condition #4: correct maximum built upon area
- Condition #19: increase max length for branching cul-de-sac

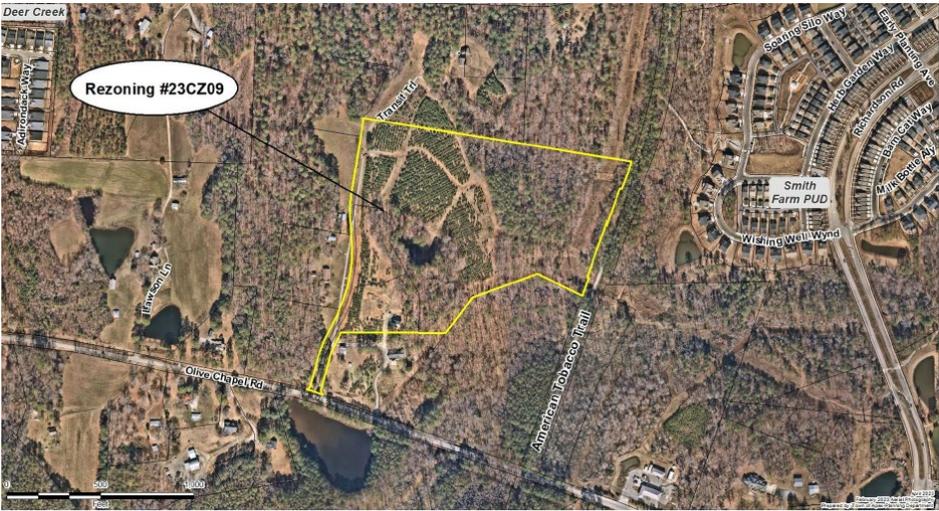
Deny:

- Condition #15: reduction of typical street section
- Condition #20: no street stub to north



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[SLIDE 33]



7

APPROVED

1 **Councilmember Mahaffey** asked if Transit Trail were a public road, would the developers
2 only be responsible for increasing the frontage on their side of the road.

3 **Ms. Mayo** said that was correct.

4 **Councilmember Mahaffey** said he thinks this is being held to a lower standard because it is
5 the construction of a new road, and not the expansion of an existing road.

6 **Councilmember Zegerman** mentioned that if the road was built at 24 feet wide, but then
7 extended to 30 feet wide in the future, the grading of the road would be asymmetrical.

8 **Councilmember Mahaffey** said what was the way it worked when developers expanded
9 their frontage on existing roads.

10 **Ms. Mayo** said there is a regulation in the UDO that states a property owner who is
11 constructing a new road, and owns the land on either side of the road, has to develop the road
12 based on the standards outlined in the UDO, unless the traffic level created would not require it at
13 that time. She said if the road is existing and they only own one side, they only have to expand that
14 side. She said this situation is unusual, as the developer is building a new road and owns both sides
15 of it, and there is not existing right of way. She said that is why this is being discussed as a zoning
16 condition, and not just following a section of the UDO.

17 **Councilmember Zegerman** asked if conditions 19 and 20 were related.

18 **Ms. Mayo** said one of the cul-de-sacs is where the street stub would be, and that including
19 condition 19 would allow the development to potentially be expanded in the future. She said
20 condition 19 is considered a back-up plan in case they provide information to not have to provide a
21 street stub in the future.

22 **Councilmember Zegerman** asked if the applicant would need to come back either way if
23 they gave the information to not have to provide a future street stub.

24 **Ms. Mayo** said they would not have to if condition 19 was approved.
25

26 **Patrick Kiernan**, of Jones and Cnossen Engineering, on behalf of the applicant, gave
27 comments to Council. He said their environmental consultant had scored the stream in question as
28 an intermittent stream, just above the minimum threshold for doing so. He said Wake County's
29 determination was that it was not considered a stream. He said if a street stub was proposed, the
30 Army Corps of Engineers would need to do an analysis in order to determine if it was a stream or not
31 in their official opinion. He said if they put in a street stub, the Army Corps could potentially classify it
32 as a stream, and then the permit may be denied because of the potential impacts. He also said they
33 do not believe having a street to the north with potentially 2 stream crossing is the right thing to do.
34 He said they were mainly here tonight for the condition regarding lowering the width of Transit Trail
35 to 24 feet. He said he believed that was understood as part of the original rezoning in January. He
36 said he felt it would be a huge ask for a development of 24 lots to construct a full 30-foot-wide major
37 collector, as they would not be responsible for that if it were an existing road and that the cost would
38 be extremely high.

39 **Councilmember Gantt** asked if the school and property to the north developed years before
40 the property on the west.

41 **Ms. Mayo** said it depends, she said if the town required the road connection to
42 accommodate the school, they would have to pay for it. She said if the property in the middle
43 develops, that developer would have to provide the road connection. She said the road widening
44 would only need to occur if the property on the other side of the road developed.

APPROVED

1 **Councilmember Mahaffey** said lots of schools are not on major collectors.

2 **Ms. Mayo** added that many schools in Wake County are on residential streets, even though
3 that was not the ideal situation.

4 **Councilmember Mahaffey** said the school was likely in the distant future, possibly a decade.
5 He said in the time between, the connecting property may be developed and the connection would
6 already be there on their dime.

7 **Councilmember Zegerman** asked Mr. Kiernan what his objection was to the street stub,
8 given that it would be similar in terms of what they would need to do, pending more information on
9 the potential stream. He asked if there was a big difference for them between the two.

10 **Mr. Kiernan** said they feel based on their discussions with their environmental consultant that
11 if a street stub is required, there would be unnecessary stream crossings. He said this condition
12 could be pulled if Council chose to, rather than going to a vote of denial. He said the main reason
13 they were here was the discussions for requirements on Transit Trail.

14 **Councilmember Zegerman** said he thought they wouldn't necessarily have to require a
15 street connection to that stub in the future if development came up to the north, but it was
16 determined there would be too much of an environmental impact.

17 **Councilmember Mahaffey** said he thinks they would definitely determine if there was an
18 environmental feature before building a street stub.

19 **Councilmember Zegerman** asked then why this was a big timing issue now, and why things
20 could not wait for a few months from now when the information that is unknown could be
21 determined about the potential stream.

22 **Mr. Kiernan** said it was down to time and money. He said they could spend a few months
23 designing the stub just to find out it wouldn't be put in, and then possibly have to go back the
24 master subdivision plan as well.

25 **Ms. Mayo** said if they built a stub street, it may require them to have to go close to the water
26 feature, and could trigger additional impacts even without the street being expanded over it.

27 **Councilmember Zegerman** asked if it was a question of money or of environmental impact.

28 **Ms. Mayo** said time and money were the pressing factors, and that the developer would like
29 to start on Transit Trail and the subdivision plans as soon as possible. She said the next opportunity
30 to bring this back would be in August, but that the applicant and staff did also have environmental
31 concerns.

32 **Mr. Kiernan** said timing was the most important thing, and if this became an issue that would
33 end up pushing things back a lot, they could pull the condition and go forward with the street stub.
34 He said no matter the official determination of the stream, he believed a street stub would still
35 coincide with additional stream impacts and/or wetland impacts.

36 **Councilmember Zegerman** asked Russell Dalton, Traffic Services Manager, if that street stub
37 was on the Apex Transit Master Plan.

38 **Mr. Dalton** said this would be a neighborhood street stub, which is typically required per the
39 UDO, but not shown on the transportation plan.

40 **Councilmember Mahaffey** asked if the property to the north did a recombination, could the
41 plan with a street stub be approved then.

42 **Ms. Mayo** said connectivity would still need to be pursued, but it wouldn't necessarily have
43 to point at the landlocked parcel, and there would need to be a second one no matter what. She

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1 said that requirement of the UDO could be waived if one or more of the potential streams was
2 identified as being buffered.

3 **Councilmember Mahaffey** asked if condition 20 were approved, would the UDO still require
4 a second street stub, just not pointing towards the PIN listed.

5 **Ms. Mayo** said that if Condition 20 were approved, then no street stub to the north would be
6 required.

7 **Councilmember Mahaffey** asked if approving Condition 20 wouldn't still leave open the
8 possibility of a street stub to the PIN adjacent to the property.

9 **Director Khin** said it would make more sense to just say "the northern boundary", and not
10 include a PIN, as the point of the request is to not have to involve the Army Corps.

11 **Councilmember Zegerman** said it seemed they were asking for an exception based on a
12 "might be" scenario with the stream.

13 **Councilmember Zegerman** asked if the easement for the road was entirely on the
14 developer's property.

15 **Mr. Kiernan** said yes.

16 **Councilmember Zegerman** asked then if a developer to the west would be required to
17 develop a portion of road that was not on their property.

18 **Mr. Dalton** said the issue would be if the improvements were not constructed, and what the
19 development to the west would end up being. He said the town could require widening and curb
20 and gutter, but that the development could be exempt from those requirements, meaning it may not
21 be done.

22 **Councilmember Zegerman** said that was his concern. He said granting an exemption to
23 what was already approved, based on a mistake by the developer in what was included, would be
24 setting a bad precedent. He said any widening or improvements for this road would then need to be
25 made through condemnation if the property to the west had exemptions when it developed, and it
26 would be at the cost of the town. He said he doesn't believe the town has a responsibility to
27 accommodate misunderstandings between what is presented and said in words and what is officially
28 documented. He said his responsibility as a Councilmember was ensuring future connectivity, not
29 ensuring ease and cost for developers if they make mistakes. He said continuing to make exceptions
30 to standards would not be the right call in the future. He understands the 30-foot road was a big ask,
31 but he said that was what was documented in January, and he isn't here to maximize developer
32 profit, he is here to maximize transit opportunities in town. He said he does not like the removal of
33 Condition 20, and does not like the amendment of Condition 15.

34 **Councilmember Mahaffey** asked if the developer would consider putting in sprinkler
35 systems on homes that are beyond existing maximum length in those cul-de-sacs, related to
36 Condition 19.

37 **Mr. Kiernan** said he couldn't make that commitment right now. He said the developer may
38 prefer to just put the street stub in from a cost standpoint. He said he wasn't sure how much the
39 additional sprinkler request would add to home construction, and the developer could not be here
40 tonight.

41
42 **Mayor Gilbert** opened up Public Hearing for this item. With no sign ups, he closed Public
43 Hearing, and moved discussion back to Council.

APPROVED

1 **Councilmember Zegerman** said if Condition 20 was removed, Condition 19 would be as
2 well, and that he was not in favor of Condition 15. He said the Condition requiring 60% was
3 reasonable, but the other 3 he was not in favor of.

4 **Councilmember Mahaffey** said he thought they had approved it back in January with
5 Condition 15 already included. He said if it were an existing road, what they are proposing is what
6 would be required. He said he feels he can't change his mind now regarding that condition. He said
7 the built upon area condition was fine. He added that he was torn on the condition regarding the
8 street stub, but that it would set a bad precedent to accept an exception to the street stub
9 requirements based on a possibility of a stream, without proper documentation.

10 **Mr. Kiernan** said that based on the discussion, he would ask Condition 20 to be removed.
11 He said he believed Condition 19 should still be included, as it may cause future problems if both
12 were removed and it was determined in the future that a street stub was not feasible if the body was
13 determined to be a stream.

14 **Councilmember Gray** said he agrees with the exclusion of Condition 20. He said it was also
15 his understand that Condition 15 was included in the original rezoning as well, and he would have a
16 hard time going back on that.

17 **Councilmember Gantt** said he voted against this rezoning last time because he didn't feel it
18 met the threshold for changing the land use for the area, mostly because of transportation relate
19 issues. He said he didn't realize the extent of the changes for Transit Trail, and he think this is worse,
20 so he is still not in favor.

21
22 A **motion** was made by **Councilmember Gray**, seconded by **Councilmember Mahaffey**, to
23 approve Rezoning No. 23CZ09 - Hatcher Property Revision, with all Conditions except Condition 20.
24

25 **VOTE: 2-2, Councilmember Gantt and Councilmember Zegerman dissenting**

26
27 Pursuant to Town of Apex Town Charter, **Mayor Gilbert** voted in the affirmative in order to
28 break the tie. Motion passed.

29
30 **Mayor Gilbert** declared a 10-minute recess at 8:15 PM.

31
32 Council reconvened at 8:25 PM.

33
34 **PH6 Rezoning Case No. 23CZ11 - Smith Farm Phase 5 PUD Amendment**

35 **Ms. Mayo** gave the following presentation regarding Rezoning Case No. 23CZ11 - Smith
36 Farm Phase 5 PUD Amendment:

37
38 **[SLIDE 34]**

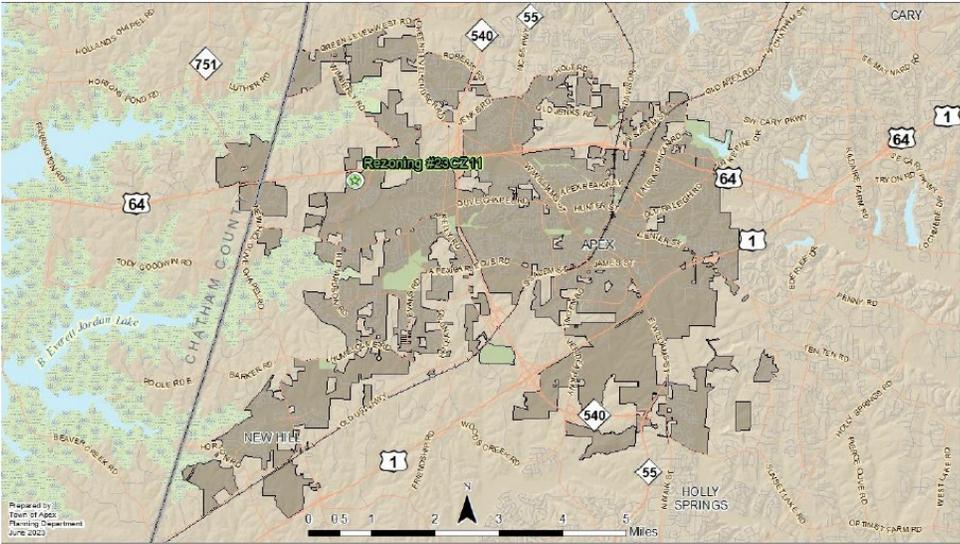
Public Hearing #6

Rezoning Case #23CZ11
Smith Farm Phase 5 PUD Amendment



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[SLIDE 35]



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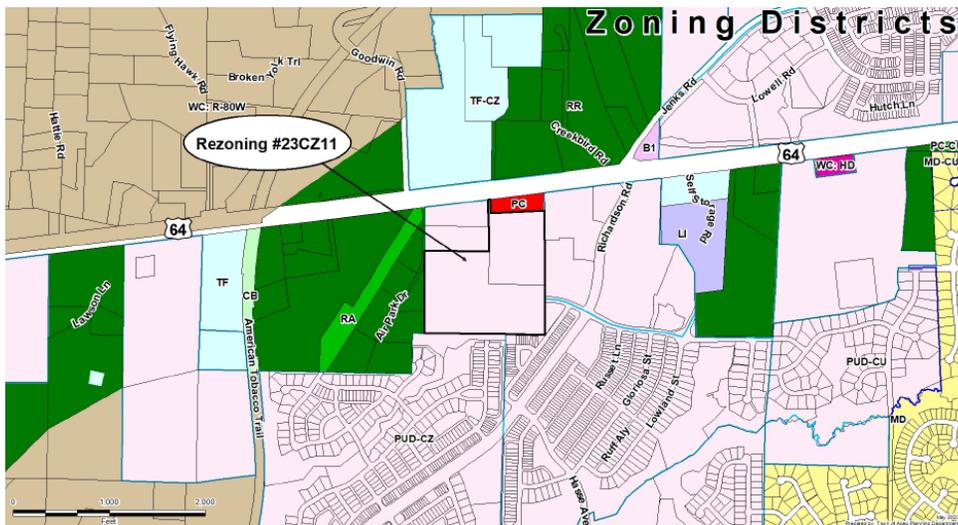
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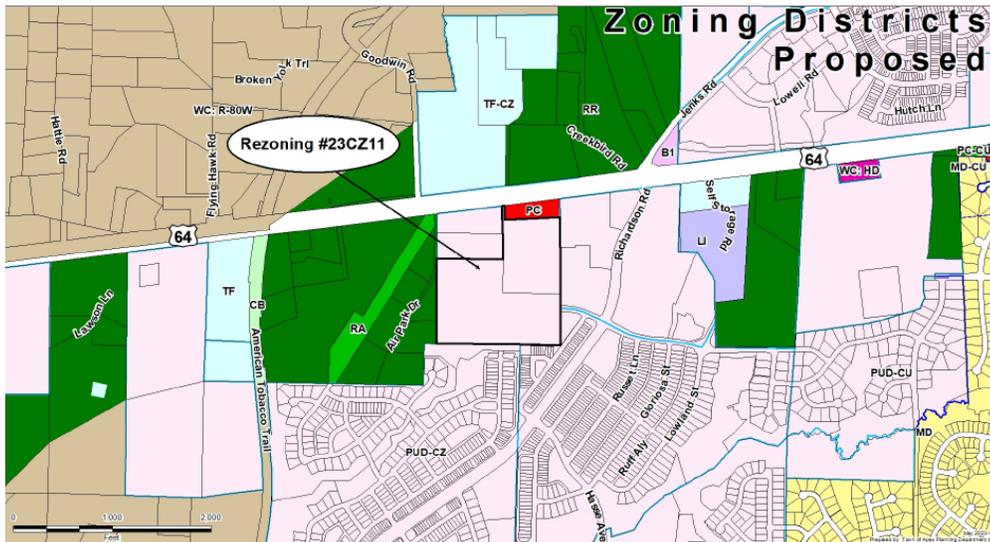
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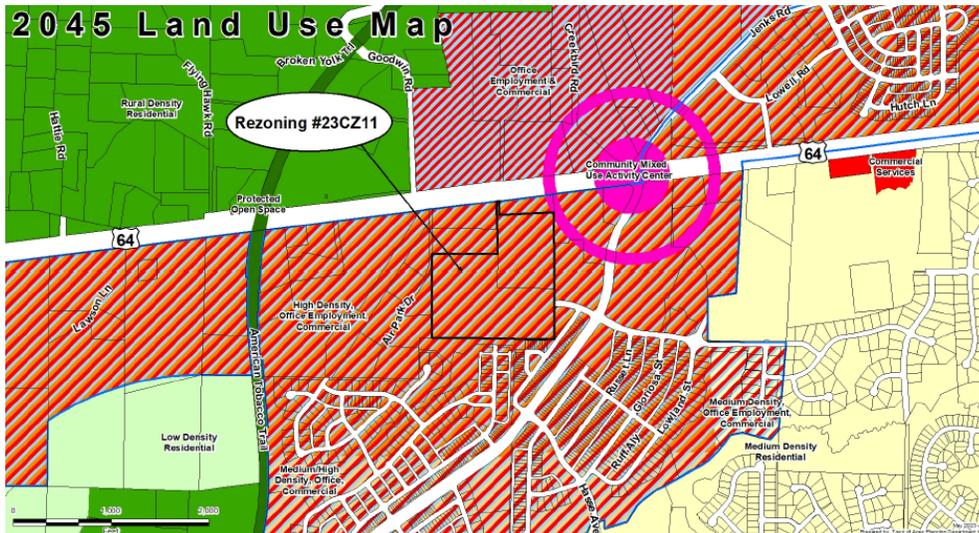
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[SLIDE 38]



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[SLIDE 39]



- 7

1 [SLIDE 40]

Site Layout



2

3 [SLIDE 41]

Proposed PUD Amendment

The current wording in Rezoning Case #15CZ32 Smith Farm PUD Section G: Design Controls under Buffers states:

"All perimeter buffers shall be provided in accordance with the Apex UDO".

The applicant is proposing the following amendment to that section:

The Owner's requests that the Perimeter Buffers be amended to include the following:

"To address the physical challenges with providing connectivity between Smith Farm and Sweetwater that primarily involve topography, the PUD shall permit the eastern perimeter buffer adjacent to PINs 0722454406 and 0722443942 to be graded. Such buffer shall be replanted at the time of development and still count as RCA if a future land use requires a perimeter buffer under Unified Development Ordinance (UDO) Sec. 8.2.6 Table 1 as amended. The buffer type shall be in accordance with the Town of Apex UDO Sec. 8.2.6 Table 1 and in no case shall such buffer exceed 20 feet in width. The seed/plant species used to stabilize the disturbed graded area and replanting, if required, shall be in accordance with the Town of Apex Design Development Manual."



4

5 [SLIDE 42]

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1
2 **Councilmember Gray** asked if the staff recommendation included the EAB's
3 recommendation for immediate planting.

4 **Ms. Mayo** said no, their recommendation was as presented by the applicant, she said
5 because of the uncertainty of the types of buffer between this and whatever develops nearby.

6 **Councilmember Mahaffey** asked if it would still count as an RCA if there were no buffer for
7 Smith Farm.

8 **Ms. Mayo** said no, it would not. She said this would exempt RCA only on this parcel and only
9 on its eastern side.

10
11 **Peter Cossen**, of Jones and Cossen engineering, gave comments to Council. He said they
12 were approached by Sweetwater's team about this in order to help accommodate their site plan. He
13 said they have no issues with replanting as required by the UDO. He said he believes Sweetwater
14 also used to have a buffer on their site, and got it removed through a rezoning as well.

15 **Ms. Mayo** and **Director Khin** confirmed that was true. Director Khin said Planning staff
16 encouraged the developers for Sweetwater and Smith Farm to work together to help ensure
17 continuity and cohesions. She said the area needs to be graded in this area in order for the
18 topography to work.

19
20 **Mayor Gilbert** opened up Public Hearing for this item.
21 First to speak was **George Bickel**, of 1616 Airpark:

22 "Our concern is on the other side, not on the Sweetwater side, but we live on Airpark Drive, which is
23 on the runway. Our concern is what kind of a buffer are we going to have on this side?"

24 **Ms. Mayo** said this Rezoning would not be going all the way to the edge of the parcel, and
25 therefore would not be impacted at this time. She said she couldn't speak to what may come up on
26 that parcel, but she would be surprised if there wasn't a buffer.

27 **Councilmember Gantt** wanted to confirm that there was a default buffer between different
28 types of uses.

29 **Director Khin** said the UDO controlled what buffers were required as part of a rezoning, and
30 that there definitely be a buffer between Mr. Bickel's property and any development that came up

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1 there. She said more intense zoning uses require larger buffers between residential zones, but she
2 couldn't be sure exactly what buffer the development would have to that property at this time.

3 **Ms. Mayo** said the developer does not currently have plans for the western portion of the
4 property at this time.

5 **Mr. Bickel** said he was just concerned they would start taking down trees.

6 **Ms. Mayo** said there had been no plans shared with her that the developer had any plans for
7 that property when they last spoke.

8 **Mr. Cnossen** said he would speak to the developer and confirm that as well.
9

10 With no more signups, **Mayor Gilbert** closed Public Hearing and brought discussion back to
11 Council.

12 **Councilmember Zegerman** said he wanted to make a few comments, since he was present
13 at the Environmental Advisory Board meeting when this item was discussed there. He said there was
14 no grading plan available then, and there was discussion about keeping the grading along that
15 property line as minimal as possible. He said tonight they heard a significant portion of the property
16 line would be regraded and a lot of vegetation removed, which he said was not known at the time of
17 the EAB meeting. He said there was also discussion at that meeting regarding being done
18 immediately, rather than simply grassing over it and doing it completely later.

19 **Councilmember Mahaffey** said he was uncomfortable to this without some assurance that
20 the buffer type would be something substantial.

21 **Councilmember Zegerman** said it was discussed as being replanted as a Type B buffer.

22 **Councilmember Mahaffey** asked Mr. Cnossen if he could consider committing to a Type B
23 buffer.

24 **Mr. Cnossen** said they were committing to replant what the UDO required based on the use.
25 He said he cannot agree to plant a buffer if it isn't required at this time. He said this is an owner who
26 is trying to be a good neighbor and accommodate a site plan, and that is their approach and goal.

27 **Councilmember Zegerman** said he felt it was weird that the developers for Sweetwater were
28 not here, as it was them who were going to be doing the regrading.

29 **Mr. Cnossen** said the issue was the extension of Ingold Drive and the retaining wall, which
30 were the changes needed in order to accommodate their request.

31 **Councilmember Zegerman** said it seemed like Sweetwater was seeking to do more
32 regrading than what was initially understood as part of their request. He said without Sweetwater
33 representatives here to articulate their plan, it was difficult for him to vote on this.

34 **Councilmember Mahaffey** asked if Sweetwater for be paying for this project.

35 **Mr. Cnossen** said he had no knowledge of the agreements that have been made, and that
36 the owners are currently discussing them. He said he is here in order to get the permission to grade
37 within the buffer in order to remove the retaining wall for the cross-access.
38

39 A **motion** was made by **Councilmember Gray**, seconded by **Councilmember Gantt**, to
40 approve Rezoning Case No. 23CZ11 - Smith Farm Phase 5 PUD Amendment.
41

42 **VOTE: 2-2, Councilmember Mahaffey and Councilmember Zegerman dissenting**
43

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Pursuant to Town of Apex Town Charter, **Mayor Gilbert** voted in the affirmative in order to break the tie. Motion passed.

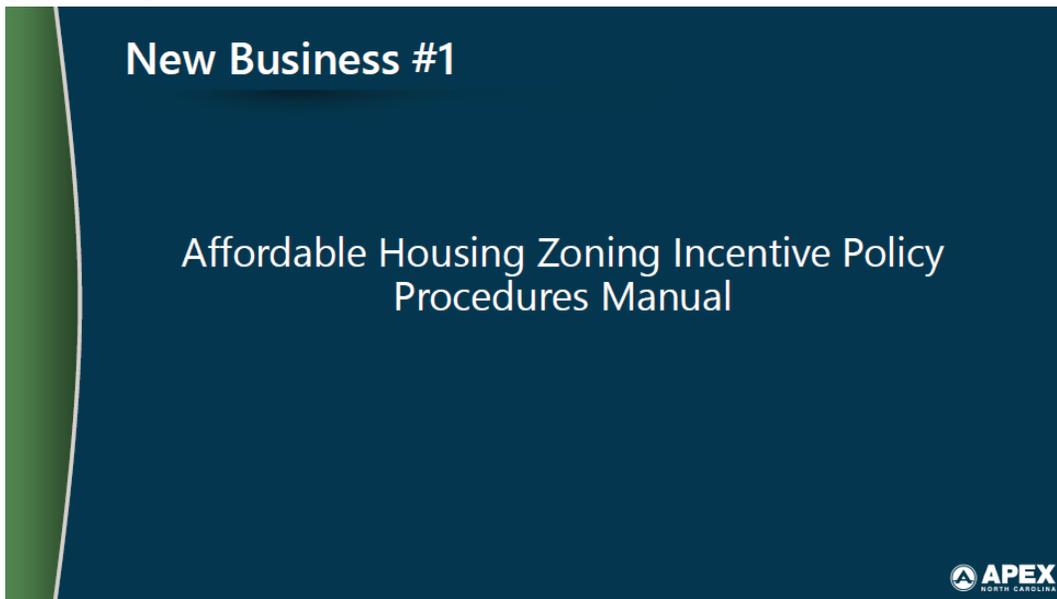
Councilmember Gray said he hoped all of the people who believe the Council all thinks the same way were watching tonight's meeting.

[NEW BUSINESS]

NB1 Affordable Housing Zoning Incentive Policy Procedures Manual

Assistant Town Manager Demetria John introduced the item and **Aaron Sorrell**, consultant for the town on this project. Mr. Sorrell gave information to Council regarding the policy.

[SLIDE 43]



Councilmember Gantt said he hated the section on sidewalks, and views sidewalks as beneficial to a community just like affordable housing. He asked if that trade-off was developer initiated, since he didn't see only putting sidewalks on one side of the road as something that would save a lot of money for developers anyway.

Director Khin said that was a staff recommendation, as Council had approved that measure in cases in the past for cost-saving.

Councilmember Gantt said that was usually in cases where there weren't already existing sidewalks to connect to.

Director Khin said it would essentially be the same case in a Rural Transition area. She said developers would be required to put sidewalks on both sides of all collectors and thoroughfares, and one side of residential streets.

Councilmember Gantt said his second question was about the stacking of incentives, and whether developers would already have a high level of affordable housing in mind, and simply game the system by using all of the incentives to save money. He asked if it had been considered to require more and more affordable units for each incentive.

Mr. Sorrell said there were two approaches when looking at analyzing things like that. He said one approach was an objective scoring system, where they assigned different things, such as sidewalks, a different "score". He said Apex has very unique topography, and no two sites are really

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1 the same. He said he then decided to craft a more flexible approach for developers to do the types
2 of things that would make the most sense for their development and their property. He said there
3 will be a negotiation process. He said as it evolves, there will be expectations for certain things that
4 need to be done in order for each incentive to be granted.

5 **Councilmember Gantt** wanted to clarify that staff was the safeguard between developers
6 using the stacking of incentives in an undesirable way. He was wondering what kind of information
7 staff would need in order to evaluate whether certain tradeoffs and incentives were worth it.

8 **Mr. Sorrell** said it was appropriate for staff to ask for the numbers and the justification for
9 why developers wanted a certain incentive to be able to weigh the costs of those versus the
10 proposed gain in affordable housing.

11 **Councilmember Gantt** said it wouldn't be good for a project to get all the way to them, and
12 then they deny it at the last minute, potentially losing out on affordable housing units.

13 **Mr. Sorrell** said Council would be able to give direction to staff regarding what they would
14 deem acceptable, and anything outside of those parameters would be given more critical review.

15 **Councilmember Zegerman** asked if there would be training and guidelines for staff on how
16 to evaluate the tradeoffs and costs associated with these incentives, since this isn't something that
17 they are doing now.

18 **Mr. Sorrell** said there has been an administrative guide drafted, which will be revised based
19 on Council's final decision, that will help staff and developers operationalize the incentive process.

20 **Councilmember Mahaffey** said this formalizes the process that is essentially already
21 happening with each rezoning, which he said was a good thing, but his concern was that this doesn't
22 directly outline what certain incentives would require or the tradeoff costs within each one. He said
23 recently, lots of rezonings have been ending up with 5% affordable housing units without any of
24 these incentives attached. He said he wanted the percentage of affordable units to be higher to offer
25 incentives not constructing sidewalks completely. He said he wants 5% to be more like the baseline
26 for any development, as it has been recently. He said he wants to see some clarity for what would
27 need to be done in order to get some of those larger affordable housing percentages. He said he
28 didn't want to see 5% affordable housing proposals that were being given incentives come to
29 Council, since they have been going through with that level without incentives, and so he would not
30 approve those.

31 **Councilmember Zegerman** said this was a step forward in terms of having something
32 concrete and documented for future Councils to use in terms of getting affordable housing projects.
33 He said he also doesn't like some of the numbers, such as being able to get incentives with 5%
34 affordable housing. He said the bar should be higher for that, and that 135% AMI for ownership still
35 feels too high to him. He said they have to start somewhere.

36 **Town Clerk Coleman** read **Mayor Pro Tempore Killingsworth's** remarks on this policy that
37 she sent in:

38 "I apologize that I am not able to be there at this meeting. You will soon vote on the Apex
39 Affordable Housing incentive policy as part of the affordable housing plan. The Housing Affordable
40 Board, consisting of developers, nonprofits, community members, advocates, a planning board
41 member, and a council member, has worked steadily and hard to make sure this policy is as detailed
42 and suitable as possible for Apex. There was compromise on behalf all people on the board. We
43 know there will need to be ongoing analysis and updates to the policy. We know it's not perfect, but
44 we also know the work by the staff, contractors, and board has been amazing, and we expect this

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1 policy will encourage built affordable housing. That has always been my focus. Build affordable
2 housing in Apex, as housing prices continue to escalate. I encourage you to vote in favor of this
3 policy, as I would if I was there.”

4 **Councilmember Gray** said he wanted to comment that the table indicated that the 5% is the
5 minimum level if a developer was involved with this program.

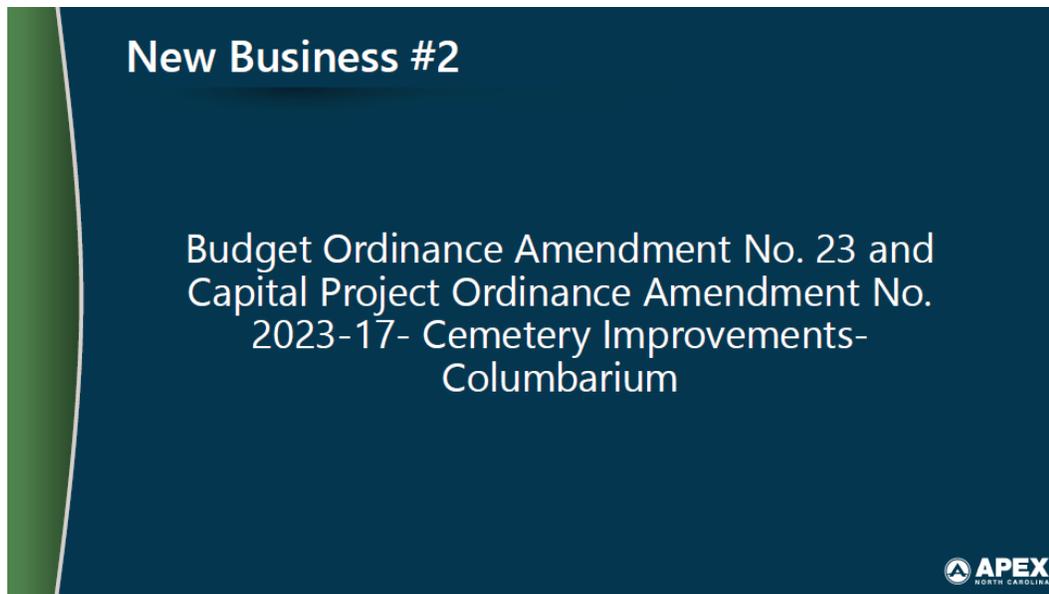
6
7 A **motion** was made by **Councilmember Zegerman**, seconded by **Councilmember Gray**, to
8 approve the Affordable Housing Zoning Incentive Policy Procedures Manual.

9
10 **VOTE: UNANIMOUS (4-0), with Mayor Pro-Tempore Killingsworth absent**

11
12 **NB2 Budget Ordinance Amendment No. 23 and Capital Project Ordinance Amendment No.**
13 **2023-17 - Cemetery Improvements - Columbarium (REF: ORD-2023-064 and ORD-**
14 **2023-065, and CONT-2023-181)**

15 **Deputy Town Manager Shawn Purvis** gave the following presentation regarding the
16 Columbarium Cemetery Improvements and associated budget and capital project ordinance
17 amendments:

18 **[SLIDE 44]**



19
20 **[SLIDE 45]**

Cemetery Improvements and Columbarium Project Options

- **Delay the project until a future date**
 - No additional cost to the Town at this time
 - Unknown effect on the future cost of the project
- **Complete the Base Bid and Alternate 3**
 - Cost for the Base Bid and Alternate 3 would be \$621,000 and require additional funding of \$76,000
 - Cemetery Fund can absorb the additional allocation
- **Complete the entire project**
 - Cost for the Base Bid and all alternates would be \$1.435M and require additional funding of \$890,000
 - Funds needed from General Fund and Cemetery Fund at \$445,000 each

1
2 **Councilmember Gantt** asked if it was meant to be half and half to start with in terms of the
3 parking and the cemetery cost.

4 **Deputy Town Manager Purvis** said he wasn't prepared to answer that, as he wasn't sure if it
5 was around half and half with the original bid.

6
7 A **motion** was made by **Councilmember Zegerman**, seconded by **Councilmember Gray**, to
8 approve Option 2 - Choose the Base Bid and Alternate 3, which uses \$621,000 from the cemetery
9 fund to move forward with parking improvements, and authorize an addition \$76,000 from the
10 cemetery fund for parking and sidewalk site improvements.

11
12 **Councilmember Mahaffey** said his preference was to complete the entire project. He asked
13 Council to oppose this motion, and he would offer another motion to complete the whole thing.

14 **Councilmember Gantt** said he would prefer not to do this project at all right now. He said he
15 wanted to build sidewalks and focus on the downtown, and with the increased cost of this project,
16 he said the money could be better spent elsewhere.

17 **Mayor Gilbert** said he was split between alternate 3 and completing the entire project.

18 **Deputy Town Manager Purvis** said that any money for this project coming from the
19 cemetery fund could only be used for the cemetery, other than a situation in which a sidewalk or
20 other infrastructure was built in support of the cemetery.

21 **Councilmember Gantt** said option 2 used \$600,000 from the general fund, and then the
22 cemetery fund was the rest.

23 **Deputy Town Manager Purvis** said that was incorrect, and that all the money in Option 2, of
24 completing the base bid and alternate 3, was from the cemetery fund. He said Option 3, of
25 completing the entire project, would require \$445,000 from the general fund.

26 **Councilmember Mahaffey** said it was important to note that some of the costs would be
27 recovered.

28 **Deputy Town Manager Purvis** said yes, some of the cost would be recovered through the
29 sale of the columbarium.

APPROVED

Councilmember Gantt said that would be in 20 years. He clarified with Deputy Town Manager Purvis which funds were used for each option.

Town Clerk Coleman mentioned that there is a waiting list of over 60 people for slots in either the cemetery or the future columbarium.

Councilmember Zegerman asked what the capacity of the columbarium would be.

Deputy Town Manager Purvis said it would be 780 niches, but niches could hold 2 urns. He said there would need to be a discussion about fees if that were to be the case. He said the purpose for the columbarium project was concerns about capacity at the cemetery. He said the individual niches would have to be purchased through the general fund, as the cemetery fund can be used for enhancements, but not for expansion. He said when the time comes, they would set the fees in part based on the recovery of capital costs and costs for the niches.

Councilmember Zegerman asked if the fees charged would go back into the cemetery fund.

Deputy Town Manager Purvis said yes, they would have to. He said the cost wouldn't be recovered directly into the general fund, but it would be put back into the cemetery fund.

Mayor Gilbert noted there was still a motion with a second on the table that needed a vote.

Councilmember Mahaffey said he would be opposing this motion, but not because he opposed doing the project. He wanted to fund it in its entirety.

The following motion was made previously, as noted above, and is included again here along with the vote for clarity:

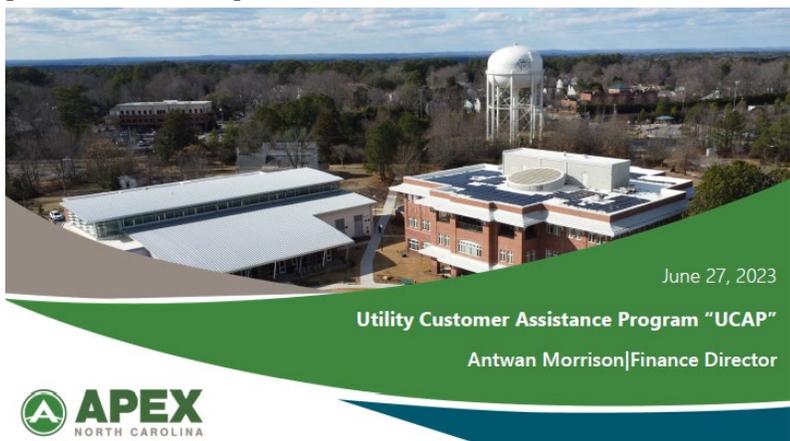
A **motion** was made by **Councilmember Zegerman**, seconded by **Councilmember Gray**, to approve Option 2 - Choose the Base Bid and Alternate 3, which uses \$621,000 from the cemetery fund to move forward with parking improvements, and authorizes an addition \$76,000 from the cemetery fund for parking and sidewalk site improvements.

VOTE: 3-1, Councilmember Mahaffey dissenting

NB3 Utility Customer Assistance Program (CAP) Update (REF: ORD-2023-067 and CONT-2023-182)

Finance Director Antwan Morrison and **Sherry Presnall**, of Western Wake Crisis Ministries, gave the following presentation regarding the Utility Customer Assistance Program (CAP) Update:

[UCAP - SLIDE 1]



1 **[UCAP - SLIDE 2]**

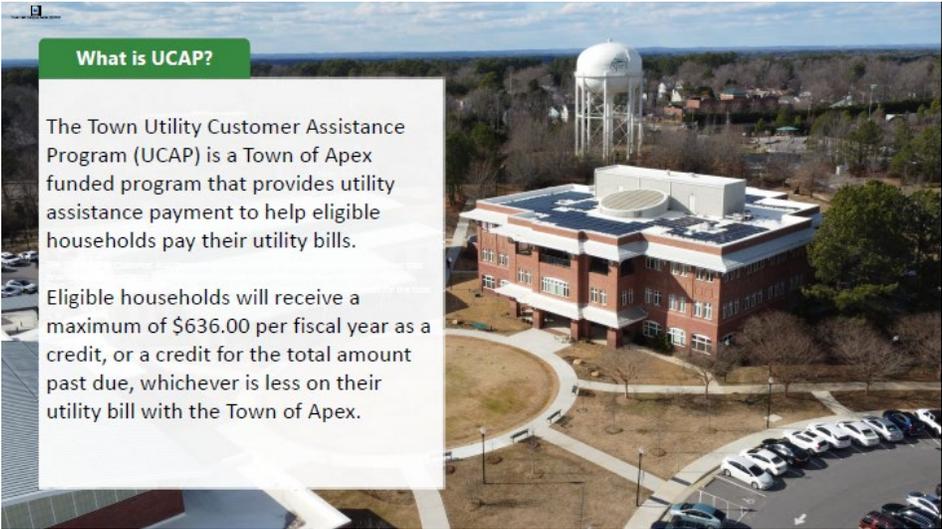
Purpose:

- o Provide update on UCAP program and make minor adjustments to agreement with agency

Requested Action:

- o Motion to accept recommended changes to program
- o Motion to approve budget amendment for FY 2023

2
3 **[UCAP - SLIDE 3]**



What is UCAP?

The Town Utility Customer Assistance Program (UCAP) is a Town of Apex funded program that provides utility assistance payment to help eligible households pay their utility bills.

Eligible households will receive a maximum of \$636.00 per fiscal year as a credit, or a credit for the total amount past due, whichever is less on their utility bill with the Town of Apex.

4
5 **[UCAP - SLIDE 4]**

Past Due Accounts as of May 31, 2023

	Residential
General (Refuse)	\$ 39,986
Electric	518,208
Water & Wastewater	188,126

May 31, 2021	Residential
General (Refuse)	\$ 157,227
Electric	1,503,015
Water & Wastewater	605,632

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1 **[UCAP - SLIDE 5]**

Delinquent Accounts as of May 31, 2023

	Residential	Commercial	Total
Amount Delinquent	\$ 42,083	\$ 6,824	\$ 48,907
Number of Accounts	299	19	315
Average Balance	\$141	\$359	

May 31, 2021	Residential	Commercial	Total
Amount Delinquent	\$ 1,234,716	\$ 106,226	\$ 1,340,942
Number of Accounts	1,871	76	1,947
Average Balance	\$660	\$1,398	

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[UCAP - SLIDE 6]

Utility Customer Assistance Program

A) Eligibility Standards and Determination

B) Approvals by Poverty Level

HUD Area Median Income Raleigh Metro Statistical Area	Number of Approvals
0 to 40% (\$30,620)	212
41 to 50% (\$38,275)	25
51 to 60% (\$45,930)	11
61 to 70% (\$53,585)	7
71 to 80% (\$61,240)	2

*Based on family of four
*Since change in eligibility standards April 2022

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[UCAP - SLIDE 7]

Summary of CAP Applications and Approvals

	As of May 31st
Number of applications	673
Number of accounts qualify for assistance	514
Number received assistance	493
Assistance provided*	\$ 188,134
Average assistance per approval	\$ 382

	2021	2022	2023
Accounts received assistance	27	264	202
Total amount of assistance	\$ 14,847	\$ 112,340	\$ 60,947

-information per WWCM schedule
*amounts for May and June not reported yet

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[UCAP - SLIDE 8]

Available Funds to Date

	Original Appropriation	Awarded/Expended	Percentage Awarded/Expended
Customer Assistance	\$ 506,000	\$ 234,870	46.4%
Eligibility Determinations	43,675	23,503	53.8%
Total	\$ 549,675	\$ 258,373	

[UCAP - SLIDE 9]

Observations

- ▶ Not as many customers have taken advantage of program
- ▶ Resolved outside of program
 - ▶ Personal funding
 - ▶ Other helps programs
 - ▶ (i.e. Wake County DSS, Neighbors Helping Neighbors, WWCM, White Oak, etc.)
- ▶ Program participants have been frequent appliers

Recommendations

- ▶ Allow customers to access multiple times up to the maximum limit for fiscal year (cap @ \$636)
- ▶ Reduce agency PT eligibility specialist to one staff member – four days a week and five hours a day
- ▶ Communication campaign
- ▶ Review annual limit calculation
- ▶ Review payment plan practices

[UCAP - SLIDE 10]

Questions/Discussion

APPROVED

1 **Councilmember Gantt** asked if the town would be able to write off some of the past due
2 money.

3 **Director Morrison** said yes, they would have to, it is just a matter of how much it ends up
4 being.

5 **Councilmember Zegerman** asked if he credited this program from the reduction.

6 **Director Morrison** said yes, it is a good program, but that it can be made even more
7 impactful.

8 **Councilmember Gantt** said they weren't cutting off power and water at all, until around May
9 of 2021.

10 **Councilmember Gray** said it looked like the town had a policy regarding people either
11 being citizens or lawfully present in the United States to qualify for the program. He asked if Western
12 Wake could legally still make the payments for those that were not, or was it only a town policy
13 stopping that.

14 **Ms. Presnall** said it was just a town policy. She added that at Western Wake they check
15 whether customers are residents of Wake County, through utility bills, licenses, or potentially even a
16 letter from a landlord.

17 **Councilmember Gantt** asked how the income was checked.

18 **Ms. Presnall** said that was the challenge, because they do require 3 paystubs. She said they
19 don't have to have that to qualify for food or other services.

20 **Councilmember Mahaffey** wondered what the rationale was for requiring citizenship or
21 legal residency status as part of the policy requirements when it was made in 2021.

22 **Ms. Presnall** said if the funding was related in any way to the CARES Act, then that would
23 have been a requirement.

24 **Councilmember Mahaffey** wanted to know the things that the CARES money went to help
25 reimburse.

26 **Town Manager Crosby** said she would look into that.

27 **Councilmember Gantt** asked if the Neighbors Helping Neighbors fund money was being
28 used first. He said he has been giving 10 dollars a month to that fund since April 2020.

29 **Ms. Presnall** said that money goes to Western Wake and they put it into direct client
30 assistance. She added that the main change they were looking at for this program was that clients
31 would be able to access funds more than once during a fiscal year, provided they do not reach the
32 lifetime maximum.

33 **Town Manager Crosby** said she believed last year Council voted to allow the Manager to
34 make changes to the terms, so that wouldn't be something they needed to vote on.

35 **Councilmember Mahaffey** said his desire was that this program was mentioned on
36 disconnect letters.

37 **Councilmember Gantt** said he thought that already was the case.

38 **Director Morrison** said the goal was to get information about the program out there as much
39 as possible.

40 **Ms. Presnall** said the information was definitely on a regular bill.

41 A motion was made by **Councilmember Gray**, seconded by **Councilmember Mahaffey**, to
42 approve FY 22-23 Budget Amendment No. 20 for the Utility Customer Assistance Program.

43
44 **VOTE: UNANIMOUS (4-0), with Mayor Pro-Tempore Killingsworth absent**

APPROVED

[UPDATES BY TOWN MANAGER]

Town Manager Crosby said next week was the Fourth of July, and the town was excited to put on its second fireworks show on July 3rd. She said as she told Councilmember Gray, Apex has the best fireworks in the area. She said the town would be closed Tuesday, July 4th, and there would be the Old-Fashioned Fourth of July Parade that day. She said that on July 19th, from 6-7 PM, there would be a discussion with representatives with CSX at the Halle, which is open to residents to come ask questions and share concerns about the railroad. She acknowledged Parks and Rec Month, and thanked the whole Parks and Rec staff, and there would be some activities to celebrate, including Summer Slam at Salem Pond Park on July 12th, and then a Chalk Walk on July 13th. She congratulated the Housing Team and the HAB on the Housing Policy. She also recognized 3 Peak Performers from the town, Mark Griffin in IT, Jimmy McClure in Water Resources, and Kylie Rays in Economic Development. She said the Peak Performer award is a recognition from peers. She also said the town’s Pride and Juneteenth Festivals went very well.

[CLOSED SESSION]

A **motion** was made by **Councilmember Mahaffey**, seconded by **Councilmember Gray**, to enter into Closed Session pursuant to NCGS §143-318.11(a)(3).

VOTE: UNANIMOUS (4-0), with Mayor Pro-Tempore Killingsworth absent

Council entered into Closed Session at 9:44 p.m.

Council will enter into closed session pursuant to:

CS1 Laurie Hohe, Town Attorney, Legal Department (REF: RES-2023-041)

NCGS §143-318.11(a)(3):

“To consult with an attorney employed or retained by the public body in order to preserve the attorney-client privilege between the attorney and the public body.”

Council returned to open session at 9:58 p.m.

A **motion** was made **Councilmember Mahaffey**, seconded by **Councilmember Gray**, to approve a Resolution Authorizing Eminent Domain Related to the Laura Duncan Sidewalk Project for the Improvement of the Apex Street System. **(REF: RES-2023-041)**

VOTE: UNANIMOUS (4-0), with Mayor Pro-Tempore Killingsworth absent

APPROVED

1 **[ADJOURNEMENT]**

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3 **Mayor Gilbert** adjourned the meeting at 9:59 p.m.

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Jacques K. Gilbert

7

Mayor

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9

10 Allen Coleman, CMC, NCCCC

11 Town Clerk to the Apex Town Council

12

13 Submitted for approval by Town Clerk Allen Coleman and approved on August 20, 2023 (CN20).

14

15

APPROVED
TOWN OF APEX
REGULAR TOWN COUNCIL MEETING
TUESDAY, AUGUST 8, 2023
6:00 PM

The Apex Town Council met for a Regular Town Council Meeting on Tuesday, August 8, 2023 at 6:00 PM in the Council Chambers at Apex Town Hall, located at 73 Hunter Street in Apex, North Carolina.

This meeting was open to the public. Members of the public were able to attend this meeting in-person or watch online via the livestream on the Town's YouTube Channel. The recording of this meeting can be viewed here: <https://www.youtube.com/watch?v=6CLFPpjuJPw>

[ATTENDANCE]

Elected Body

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

Town Staff

Interim Town Manager Shawn Purvis
Assistant Town Manager Demetria John
Assistant Town Manager Marty Stone
Town Attorney Laurie Hohe
Town Clerk Allen Coleman
Deputy Town Clerk Ashley Gentry
Finance Director Antwan Morrison
Planning Director Dianne Khin
All other staff members will be identified appropriately below

[COMMENCEMENT]

Mayor Gilbert opened the meeting, and asked all Town Employees to stand. He acknowledged their leadership and thanked them for their service. He invited the audience to join him in a round of applause. He additionally applauded the Electric Utilities staff, who helped get 4,000 power outages from the storm fixed the night before, and the first responders who assisted with emergencies caused by the storm.

APPROVED

Mayor Gilbert then acknowledged a group of Wake County Educators, and asked the audience to join him in applauding them as well. He also recognized the members of the Mayor's Internship Program who were also in attendance.

Mayor Gilbert then asked the audience to join him in observing a moment of silence. He then led everyone in a recitation of the Pledge of Allegiance.

[SLIDE 1]



[SLIDE 2]

Public Participation

- 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



[CONSENT AGENDA]

Mayor Gilbert asked if there were any proposed changes to the Consent Agenda. Hearing none, he asked for a motion.

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

VOTE: UNANIMOUS (5-0)

APPROVED

CN1 Annexation No. 756 - Yellowbridge Capital - 52.375 acres (REF: RES-2023-042, RES-2023-043, and OTHER-2023-069)

Council voted to adopt a Resolution Directing the Town Clerk to Investigate Petition Received, to accept the Certificate of Sufficiency by the Town Clerk, and to adopt a Resolution Setting the Date of a Public Hearing for August 22, 2023, on the Question of Annexation - Apex Town Council's intent to annex 52.375 acres Yellowbridge Capital, Annexation No. 756 into the Town Corporate limits.

CN2 Annexation No. 758 - Estates at White Oak - 9.186 acres (REF: RES-2023-044, RES-2023-045, and OTHER-2023-070)

Council voted to adopt a Resolution Directing the Town Clerk to Investigate Petition Received, to accept the Certificate of Sufficiency by the Town Clerk, and to adopt a Resolution Setting the Date of a Public Hearing for August 22, 2023, on the Question of Annexation - Apex Town Council's intent to annex 9.186 acres, Estates at White Oak, Annexation No. 758 into the Town Corporate limits.

CN3 Annexation No. 759 - 5925 Farmpond Road - 2.747 acres (REF: RES-2023-046, RES-2023-047, and OTHER-2023-071)

Council voted to adopt a Resolution Directing the Town Clerk to Investigate Petition Received, to accept the Certificate of Sufficiency by the Town Clerk, and to adopt a Resolution Setting the Date of a Public Hearing for August 22, 2023, on the Question of Annexation - Apex Town Council's intent to annex 2.747 acres, located at 5925 Farmpond Road, Satellite Annexation No. 759 into the Town Corporate limits.

CN4 Annexation No. 760 - 2633 Whistling Quail Run - 3.806 acres (REF: RES-2023-048, RES-2023-049, and OTHER-2023-072)

Council voted to adopt a Resolution Directing the Town Clerk to Investigate Petition Received, to accept the Certificate of Sufficiency by the Town Clerk, and to adopt a Resolution Setting the Date of a Public Hearing for August 22, 2023, on the Question of Annexation - Apex Town Council's intent to annex 3.806 acres, located at 2633 Whistling Quail Run, Annexation No. 760 into the Town Corporate limits.

CN5 Appointment(s) - Parks, Recreation, and Cultural Resources Advisory Board- Chair/Vice-Chair

Council voted to confirm the following leadership positions on the Parks, Recreation, and Cultural Resources (PRCR) Advisory Board for fiscal year 23-24.

Darryl Lanier, Chair of the Parks, Recreation, and Cultural Resources (PRCR) Advisory Board

Matt Carusona, Vice-Chair of the Parks, Recreation, and Cultural Resources (PRCR) Advisory Board

CN6 Appointment(s) - Parks, Recreation, and Cultural Resources Advisory Board

Council voted to reappoint Ms. Mary Lee Blatchford to the Parks, Recreation, and Cultural Resources (PRCR) Advisory Board for a three-year (3) term expiring June 28, 2026.

Council voted to reappoint Mr. Thomas Colwell to the Parks, Recreation, and Cultural Resources (PRCR) Advisory Board for a three-year (3) term expiring June 28, 2026.

Council voted to appoint Jeremy Croom to the Parks, Recreation, and Cultural Resources (PRCR) Advisory Board for a three-year (3) term expiring June 28, 2026.

CN7 Appointment(s) - Public Art Committee - Vice-Chair

Council voted to confirm the following leadership position(s) on the Public Art Committee (PAC) for fiscal year 2023-2024:

Bethany Bryant, Vice-Chair of the Public Art Committee (PAC).

APPROVED

CN8 Appointment(s) - Public Art Committee

Council voted to reappoint Mr. Sean Durham to the Public Art Committee (PAC) for a three-year (3) term expiring June 30, 2026.

Motion to reappoint Mr. Lafayette Trawick to the Public Art Committee (PAC) for a three-year (3) term expiring June 30, 2026.

Motion to appoint Kim Elliott as an alternate, non-voting, member to the Public Art Committee for a three-year (3) term expiring June 30, 2026 (see details).

CN9 Agreement - Construction Agreement - CSX Transportation, Inc - Apex Peakway Bridge - South Salem Street and Closure of Tingen Road (REF: CONT-2023-213)

Council voted to approve a Construction Agreement with CSX Transportation, Inc., requiring payment in the amount of \$763,056.00 for contracted and administrative engineering services and flagging services for construction of the Apex Peakway bridge over South Salem Street and closure of the Tingen Road grade crossing, and to authorize the Interim Town Manager, or their designee, to execute on behalf of the Town.

CN10 Agreement - North Carolina Department of Transportation (NCDOT) - Tingen Road Bicycle and Pedestrian Bridge Design and Capital Project Ordinance Amendment No. 2024-1 (REF: ORD-2023-068 and CONT-2023-214)

Council voted to approve an Agreement between the North Carolina Department of Transportation (NCDOT) and the Town of Apex to be eligible for up to \$550,000 in federal funds reimbursement toward a total estimated cost of \$687,500 in design, environmental documentation and right-of-way (ROW) acquisition for project BO-2416, SR 1153 (Tingen Road) Bicycle and Pedestrian Bridge, requiring a minimum 20% local cost match of \$137,500, and to adopt Capital Project Ordinance Amendment 2024-1, and to authorize the Interim Town Manager, or their designee, to execute the Agreement on behalf of the Town.

CN11 Agreement - North Carolina Department of Transportation (NCDOT) - Saunders Street and Hinton Street Sidewalk Project - Capital Project Ordinance Amendment No. 2024-4 (REF: CONT-2023-215) (Clerk Note: Capital Project Ordinance Amendment No. 2024-4 was not included in the motion; therefore, it was placed on Consent for approval 08.22.2023)

Council voted to approve an Agreement between the North Carolina Department of Transportation (NCDOT) and the Town of Apex to be eligible for up to \$1,075,200 in federal funds reimbursement toward a total estimated cost of \$1,344,000 in utility relocation and construction of BL-0095, Saunders Street and Hinton Street Sidewalk project, requiring a minimum 20% local cost match of \$268,800, and to authorize the Interim Town Manager, or their designee, to execute the Agreement on behalf of the Town.

CN12 Agreement - P&A Administrative Services Inc. - Peak Lifestyle Account Management (REF: CONT-2023-216)

Council voted to approve an agreement between P&A Administrative Services, Inc, and the Town of Apex for administration of the Town's Lifestyle Reimbursement Account for Town employees, effective July 1, 2023, and to authorize the Interim Town Manager, or their designee, to execute the Agreement on behalf of the Town.

CN13 Agreement - Town of Cary - Remix Transit Planning Software Cost Reimbursement (REF: CONT-2023-217)

APPROVED

Council voted to approve an agreement between the Town of Cary and the Town of Apex for Remix Transit Planning software cost reimbursement, to assist with long range transit planning, not to exceed \$11,250, effective for one (1) year ending July 31, 2024, and to authorize the Interim Town Manager, or their designee, to execute the agreement on behalf of the Town.

CN14 Agreement Amendment - Wake County - Municipal Fire Protection (REF: CONT-2023-218)

Council voted to approve an Agreement Amendment between Wake County Government and the Town of Apex, for municipal fire protection for the unincorporated areas of Apex Fire district (Hipex District) ending June 30, 2025, and to authorize the Interim Town Manager, or their designee, to execute the agreement on behalf of Town.

CN15 Budget Ordinance Amendment No. 3 - Facilities Master Plan Study and Downtown Parking Lease Extension (REF: ORD-2023-069)

Council voted to adopt Budget Ordinance Amendment No. 3 appropriating funds for Town Facilities Master Plan Study and lease extension for downtown parking.

CN16 Budget Ordinance Amendment No. 4 - Debt Service Funds Transfer (ORD-2023-070)

Council voted to adopt Budget Ordinance Amendment No. 4 transferring budgeted Debt Service payments from the operating fund to respective Debt Service Funds.

CN17 Budget Ordinance Amendment No. 5 and Capital Project Ordinance Amendment 2024-3 - ARPA Capital Project Fund (REF: ORD-2023-071 and ORD-2023-072)

Council voted to adopt Budget Ordinance Amendment No. 5 and Capital Project Ordinance Amendment 2024-3 allocating funds to the ARPA Capital Project Fund.

CN18 Construction Contract - North Carolina Department of Transportation (NCDOT) - Beaver Creek Greenway (Phase 1, Phase 1A, and Phase 2) - Budget Ordinance Amendment No. 2 and Capital Project Ordinance Amendment No. 2024-02 (REF: ORD-2023-073, ORD-2023-074 and CONT-2023-219)

Council voted to award a construction contract with North Carolina Department of Transportation (NCDOT) for EB-6021 Beaver Creek Greenway (Phase I, Phase 1A and Phase 2) construction and adopt Budget Ordinance Amendment No. 2 and Capital Project Ordinance Amendment 2024-02, and to authorize the Interim Town Manager, or their designee, to execute the contract on behalf of the Town.

CN19 Contract Multi-Year - J & D Tree Pros, Inc. - Tree Trimming and Stump Grinding Services - August 1, 2023 through June 30, 2026 (REF: CONT-2023-220)

Council voted to approve a Master Services Agreement (MSA), effective August 1, 2023 through June 30, 2026, with J&D Tree Pros, Inc, for tree trimming, removal and stump grinding services, and to authorize the Interim Town Manager, or their designee, to execute the agreement on behalf of the Town.

CN20 Council Meeting Minutes - Various

Council voted to approve, as submitted or amended, Meeting Minutes from the following meetings:
June 27, 2023 - Regular Town Council Meeting Minutes
July 28, 2023 - Emergency Town Council Meeting Minutes

CN21 Encroachment Agreement - 3588 Lovage Drive, Lot 41 (REF: CONT-2023-221)

Council voted to approve an encroachment agreement between the Town of Apex and property owners Suresh Reddy Thati and spouse, Navya Beeravelli to install a fence that will encroach 66

APPROVED

linear feet (LF) onto the Town of Apex Public Drainage Easement and authorize the Interim Town Manager, or their designee, to execute the agreement on behalf of the Town.

CN22 Encroachment Agreement - 3592 Lovage Drive, Lot 40 (REF: CONT-2023-222)

Council voted to approve an encroachment agreement between the Town of Apex and property owners Shabbir Shaik and spouse, Reshma Shaik to install a fence that will encroach 63 linear feet (LF) onto the Town of Apex Public Drainage Easement and authorize the Interim Town Manager, or their designee, to execute on behalf of the Town.

CN23 Encroachment Agreement - Regency at White Oak Creek (REF: CONT-2023-223)

Council voted to approve an encroachment agreement between the Town of Apex and White Oak Creek Homeowners Association, Inc. to install a private retaining wall, of which forty-nine (49) Linear Feet will encroach into the Town's Right of Way (ROW) and authorize the Interim Town Manager, or their designee, to execute the agreement on behalf of the Town.

CN24 Encroachment Agreement - 2941 Rise and Shine Road (REF: CONT-2023-224)

Council voted to approve an encroachment agreement between the Town of Apex and property owner Lennar Carolinas, LLC, to install a driveway that will encroach 65 square feet (SF) onto the Public Drainage Easement and 1 square foot (SF) onto the Public Utility Easement and authorize the Interim Town Manager, or their designee, to execute the agreement on behalf of the Town.

CN25 Hatcher Property - Fee-In-Lieu (FIL)

Council voted to approve a payment of fee-in-lieu of dedication for the Hatcher Property.

CN26 Ordinance Amendment - Chapter 14 - Section 14 - Alcohol Consumption (REF: ORD-2023-075)

Council voted to approve an Ordinance Amendment amending Chapter 14 -Section 14 of the Code of Ordinances for the Town of Apex, as it pertains to alcohol at special events.

CN27 Ordinance Amendment - Chapter 20 Traffic - Section 61(a) - Laura Duncan Road, No U-Turns (REF: ORD-2023-076)

Council voted to approve an Ordinance Amendment to Chapter 20 Traffic - Section 61 subsection (a) with the addition of part (3) prohibiting U-turns along Laura Duncan Road from 300 feet south of the intersection at US 64 to the southernmost Apex High School driveway, both directions of travel.

CN28 Ordinance Amendment - Chapter 20 Traffic - Section 164 - Homestead Park Drive and Evening Star Drive; No Parking (REF: ORD-2023-077)

Council voted to approve Ordinance Amendment for Chapter 20 Traffic - Section 164 subsection (38) with the allowance of parking along the inside tangent curb lines of the landscaped medians of Sunny Creek Lane and Windy Creek Lane, addition of subsection (40) prohibiting parking along the east and south side of Evening Star Drive for its entire length, and addition of subsection (41) prohibiting parking along the west side of Homestead Park Drive from Olive Chapel Road to Evening Star Drive, along the north side of Homestead Park Drive from Evening Star Drive to the Homestead Park Drive loop, and along the inner curb line for the entire length of the Homestead Park Drive loop.

CN29 Ordinance Amendment - Chapter 20 Traffic - Article V. Traffic Control Devices - Traffic Schedules I & II, Stop & Yield Updates (REF: ORD-2023-078)

Council voted to approve an Ordinance Amendment to Traffic Schedule I and Traffic Schedule II of the Town of Apex Code of Ordinances in accordance with the provisions of Chapter 20 Traffic - Section(s) 60.1, 68, 69, -70.

APPROVED

CN30 Real Property Acquisition - 215 Templeton Street and Budget Ordinance Amendment No. 1 (REF: ORD-2023-079)

Council voted to approve the purchase of real property located at, 215 Templeton Street in Apex, NC, and approve Budget Ordinance Amendment No. 1, and to authorize the Interim Town Manager, or their designee, to execute all necessary documents related to this property acquisition on behalf of the Town.

CN31 Rezoning Case No. 23CZ07 - 940 Tingen Road - Statement and Ordinance (REF: ORD-2023-080)

Council voted to approve Statement of the Town Council and Ordinance for Rezoning Application No. 23CZ07, Peak Engineering and Design, PLLC, petitioner, for property located at 940 Tingen Road (PIN 0741266614).

CN32 Rezoning Case No. 23CZ09 - Hatcher Property Revision - Statement and Ordinance (REF: ORD-2023-081)

Council voted to approve Statement of the Town Council and Ordinance for Rezoning Application No. 23CZ09 for Hatcher Property Revision. The applicant is Patrick Kiernan, from Jones & Clossen Engineering, PLLC, for the properties located at: 0 Olive Chapel Rd; 1901 & 1911 Transit Trail.

CN33 Rezoning Case No. 23CZ11 - Smith Farm Ph 5 PUD Amendment - Statement and Ordinance (REF: ORD-2023-082)

Council voted to approve Statement of the Town Council and Ordinance for Rezoning Application No. 23CZ11, Smith Farm Phase 5 PUD Amendment. The applicants are Andrew Clark TR & Staley Smith; and Staley Smith, Aaron Smith Jr. & Haley Hoffler for the properties located at: 3223 US 64 Hwy West & 0 Air Park Dr.

CN34 Tax Report - May 2023 (REF: OTHER-2023-067)

Council voted to approve the Wake County Tax Administration Tax Report for the Town of Apex dated June 01, 2023.

CN35 Town Council Meeting Calendar Amendment(s) - 2023 (REF: OTHER-2023-073)

Council voted to amend the 2023 Town Council Meeting Calendar.

[PRESENTATIONS]

PR1 Apex Public School Foundation - Quarterly Peak S.T.A.R. Awards

Councilmember Mahaffey introduce the quarterly Peak S.T.A.R award, explaining that it was given in partnership with the Apex Public School Foundation in honor of an educator or school staff member who has made a difference in student's lives.

Jack Roloff, Board Member of the Apex Public School Foundation, talked about the mission of the Foundation. He introduced the recipient of this quarter's award, Sue Kelly from Scott's Ridge Elementary, who has been an educator for 24 years. Mr. Roloff introduced Derrick Evans, Principal at Scott's Ridge Elementary School, to speak more about Ms. Kelly.

Principal Evans spoke about Ms. Kelly's career, and her belief that all students can achieve and learn a great deal if they are given support. She said they are excited to celebrate her tonight, and excited to celebrate her retirement with her as well.

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Ms. Kelly said a thank you to everyone, and gave a shout out to the staff at Scott's Ridge. She then took a picture with Councilmember Mahaffey, Mayor Gilbert, and the rest of Council to receive her award.

[REGULAR MEETING AGENDA]

A **motion** was made by **Councilmember Zegerman**, seconded by **Councilmember Gantt**, to approve the Regular Meeting Agenda as presented.

VOTE: UNANIMOUS (5-0)

[PUBLIC FORUM] (NOTE: To view Public Forum and Public Hearing sign-up sheets, see **OTHER-2023-079**)

First to speak was **Kurt Fletcher**:

"Good evening, thank you very much for the opportunity to speak. First of all, I'd like to thank Dianne and her staff for putting together what I hope to speak about tonight, and that's the workshop for the Friendship area community. If it wasn't for this, we probably wouldn't be having discussions, or things would just be placed in our laps. I'm sure you all have gotten emails about this event coming up, I'm extending an invitation. And I think it's imperative that you come and meet my neighbors. Come and talk to them. Don't just wait for the report. Don't just look at pie charts and graphs and read little paragraphs about what it all means. Come and listen to the people. Feel their emotion when they're telling you things. It's one thing to have a questionnaire on a table somewhere that says how do you feel about transportation 1 through 5. Well I may say 1, transportation is very important to me. But it's not because I want more roads, it's because I want the roads we got fixed. That doesn't get into those reports. You have to talk to the people. That's all I've got to say, I hope to see you. Thanks."

Mayor Gilbert thanked Mr. Fletcher for his comments.

Next to speak was **Elizabeth Stitt** of 3113 Friendship Road:

"Good evening, Elizabeth Ray Stitt, 3113 Friendship Road. I want to talk about Consent Item Number 30 that's on tonight's agenda. I was really hoping with baited breath that somebody would pull that out. But I decided to sit back and just wait to kind of see what happens. That particular item is an appropriation of 675,000 dollars out of the budget that we just approved on June 28th. So, we haven't even gone one meeting where the budget has been intact. It's already been changed, there was no discussion, and 675,000, and over the last year with all the work I've seen the staff have and all the information given out to the public, an item that is 675,000 dollars deserves to have some type of conversation around it. It did come out of what I am going to call the "slush fund". I was not happy that the money in the fund balance wasn't better utilized. I've talked to you guys about Friendship Road turn lanes. It's on the forecast in the future for 250,000 dollars. So, every day I play chicken at that intersection, I know my safety, the price tag on it is 250,000. So, when I read through

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the 899 pages in the packet today, I understand there was a lot in there and it was easy to miss it, but my safety should not be a price tag of 250,000 dollars, and then I just see an appropriation of 675,000 with no discussion. So, I bring this up because we're early. If you're amending the budget as you just did for 675,000, I'm going to ask you for 250,000, and I'm going to keep asking you for 250,000, but that's my safety, that's my neighbor's safety. You have the traffic studies, you know we have poor service with that intersection. So, I would like for you to please consider that, and just be prepared for me to keep asking. Thank you."

Mayor Gilbert thanked Ms. Stitt for her comments.

Next to speak was Michael Kolsar:

"Good Evening Mr. Mayor, members of the Town Council, and Interim Town Manager, my name is Michael Kolsar, and I own and reside in a townhome at 106 Fanwood Court in the Bradley Terrace Development. A portion of this development abuts the town's green space, located over at Apex Peakway. Another border abuts properties along Shackleton Drive, and I believe property owned by the Mayor. First, I would like to thank you for this opportunity to address all of you. In my younger days, was an elected representative of the people, and served on the governing board of that municipality, albeit in a different state. On August 1, 2022, I hand delivered a letter to most of you on behalf of myself and my neighbor Mark Mohabir, who is here tonight, about the spread of kudzu in this green space, and the possibility of its impact on the viability and stability of trees that are near to our residences. Neither of us have had any response to that communication from anybody associated with the town. I resubmitted this letter prior to tonight to the designated email address public.forum@apexnc.org. Recently a tall tree on this property snapped and fell towards a building on Bradley Terrace. Fortunately, it missed, but not by much. The trees that we are concerned about are much closer to our property. I have submitted photographs of this as part of tonight's presentation. I also alerted the town, through the online form, about this fallen tree. With any property or issue we believe we should propose a solution. The town may not agree, but at least you understand our thinking. Number 1, we request an immediate evaluation and inspection of the trees in this area. The results will no doubt indicate next steps. Number 2, we request the town take steps to at least cut back the existing kudzu, especially as it impacts surrounding properties. I would note that Section 10-1 of the Town Code states, in part, it shall be unlawful for any person to allow the uncontrolled growth of noxious weeds and grass. And, section 10.5 indicates that all weeds and noxious growth should be cut at least twice a year. Number 3, we believe that there are federal grant funds available for remediation efforts to control kudzu, and we recommend that the town pursue this approach in coordination with our elected members of Congress in both the Senate and House of Representatives. I am available to meet with any individual regarding these concerns, and being retired I am very flexible in that regard. That initial meeting shouldn't take as much as 5 minutes for someone to grasp the situation. Over 50 years ago our country called and drafted me to serve in the United States Army, at the height of the Vietnam Conflict. I answered that call, and went where the Army sent me, and did what was asked. I only ask the town to now remove the uncertainty that hangs over my head, and my property. Thank you for listening, and while we may not engage in dialogue tonight, I understand the rules, I welcome the opportunity to do so in the future."

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Mayor Gilbert thanked Mr. Kolsar for his comments, and for his service. Additionally, he asked Town Clerk Coleman and Interim Town Manager Purvis ensure that the town follows up with Mr. Kolsar's concerns.

Next to speak was **Mark Mohabir**:

"Good evening, my name is Mark Mohabir, Michael's neighbor, 108 Fenwood Drive in the Bradley Terrace area. There isn't much that I have to add, but I am just coming up here to, it is important for me to support what Michael has just said. We got together, him and me, and we wrote this letter that was sent to you guys, every single member of the Council and the Mayor, got a copy of it. Last year. I would've expected, at least, a response. So, all I am asking is that everything that Michael just mentioned, and Mr. Mayor I know you have indicated that the Council should follow up on this, I hope this happens in short order, and I thank you all, that we'll see a solution that will put down what has happened here. I'd also like to thank Michael. Michael was retired, he did a lot of the lifting, right, and I am just here to support him. Thank you very much."

Mayor Gilbert thanks Mr. Mohabir for his comments.

Next to speak was **Russia Naranjo**:

"Good evening everyone, I've never been to a Town Council meeting before, so I just wanted to introduce myself, and I wanted to talk a little bit more about the Mayor's Internship Program, it's these first couple rows up here. I'm sure you're all familiar with this. I forgot to introduce myself, my name is Russia Naranjo, and I'm the Senior Ambassador/Founder for the Mayor's Internship Program. And I remember, I think it was in the middle of my sophomore year at Apex Friendship where I attend, I'll be a rising senior this fall, called the Student Political Awareness Club. I attended that club because politics and government has always been my passion, and there was this one meeting where Mayor Gilbert was going to be attending and pretty much give his whole spiel about how passionate he is about being Mayor and how he got to where he is today. Throughout his whole speech, I remember how in awe I was about his whole story, and how he said there would be two things he would never do in his life when he was younger, that he would never go into politics or go down the line of being a police officer, and he ended up being both. And it was super inspiring, hearing everything about him, and I talked to him after that meeting, and I pretty much gave him my whole spiel after that about how I've always been so passionate about politics, and how everyone has the opportunity to make a change that they want to. And so, I told him that, I told him about how I wanted to become a lawyer and down the line become a politician, and he told me about his idea for the Mayor's Internship Program. And this was about January of 2022, and I thought that idea was amazing, and we followed up with it, and we had a team of what are now called Senior Ambassadors, and we were able to found this program. And this year we were able to put it all together and coordinate interviews and have people who were interested in that, and so I guess the purpose of me coming up here for this public forum, is expressing my gratitude for that program, and I'd just like to thank anyone who has ever crossed paths with the Mayor's Internship Program, put anything into it, I just really wanted to express my gratitude, because I feel like it's just so inspiring to see this huge group of people who have the same passion I do, and I know we're on the

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road to make this next upcoming term, because we all have about 2 years on our term for the internship program, so I just really wanted to express my gratitude, so thank you to everyone, thank you all very much.”

[PUBLIC HEARINGS] (NOTE: To view public forum and public hearing sign up sheets, please see OTHER-2023-079)

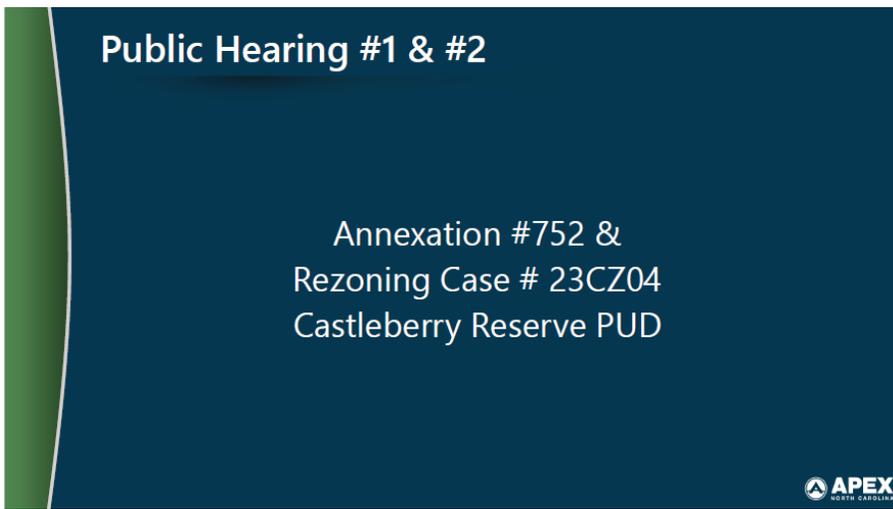
PH1 Annexation No. 752 - Castleberry Assemblage - 90.24 acres

AND

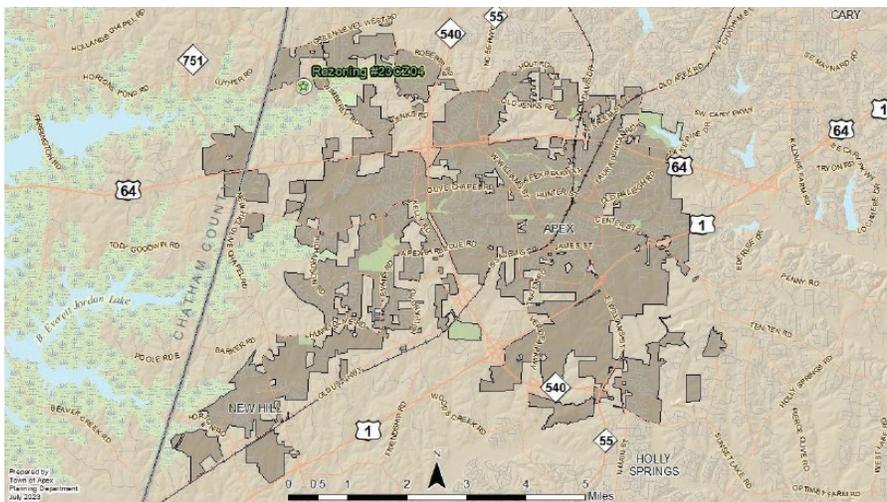
PH2 Rezoning Case No. 23CZ04 - Castleberry Reserve PUD

June Cowles, Senior Planner, gave the following presentation regarding Annexation No. 752 - Castleberry Assemblage, and Rezoning No. 23CZ04 - Castleberry Reserve PUD

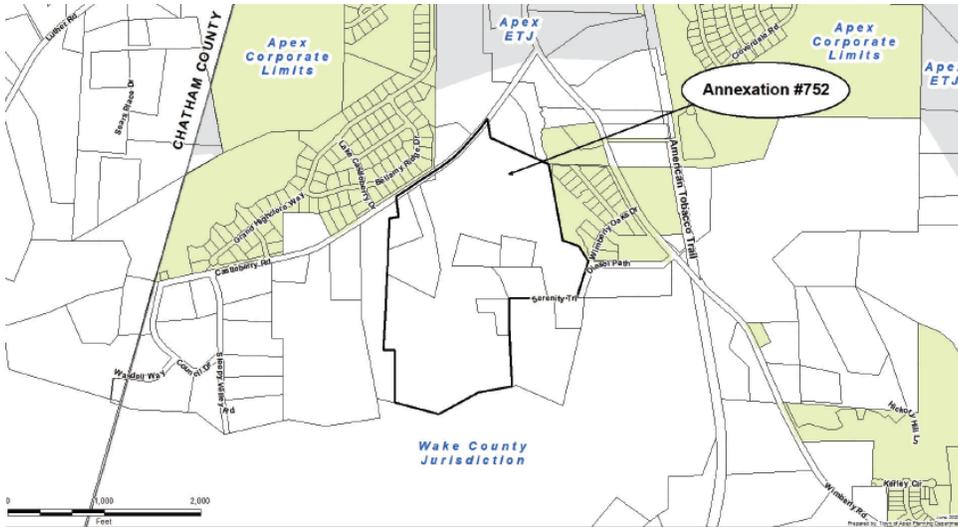
[SLIDE 3]



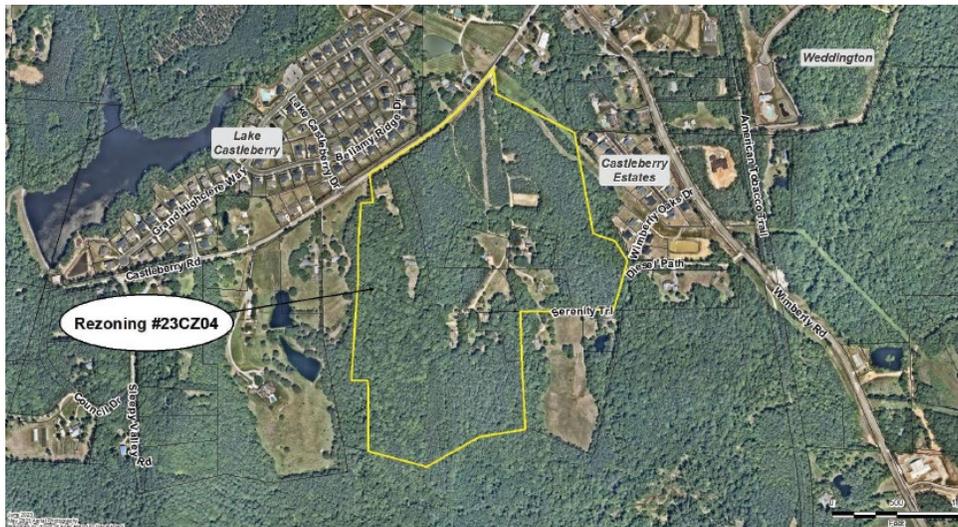
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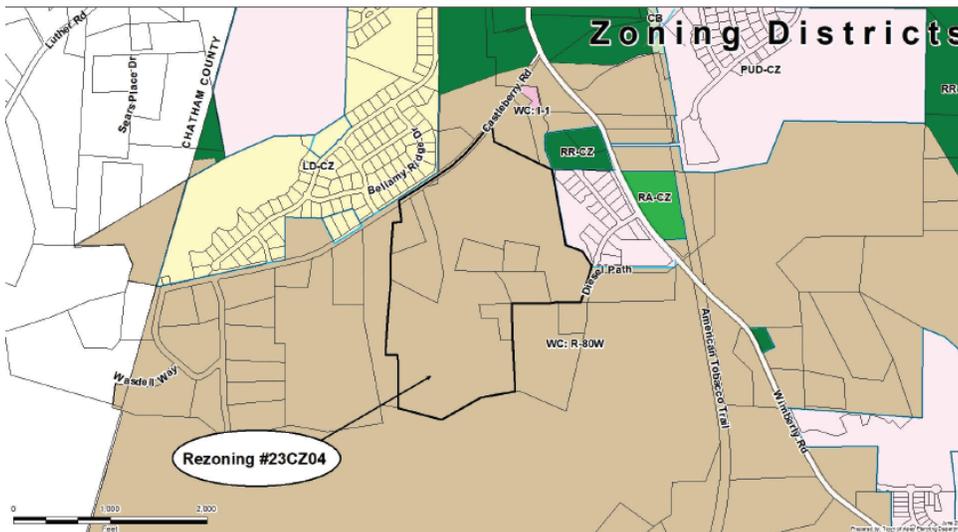
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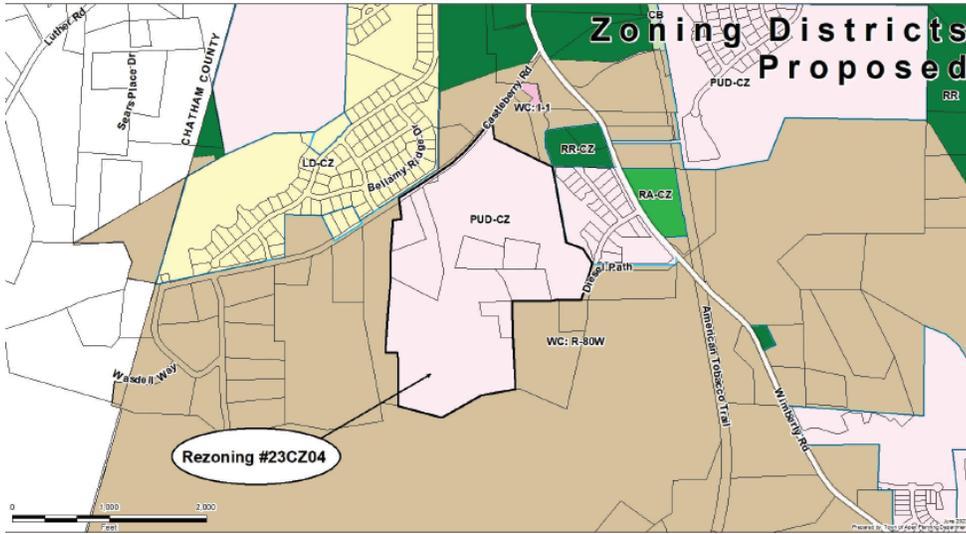
[SLIDE 6]



[SLIDE 7]

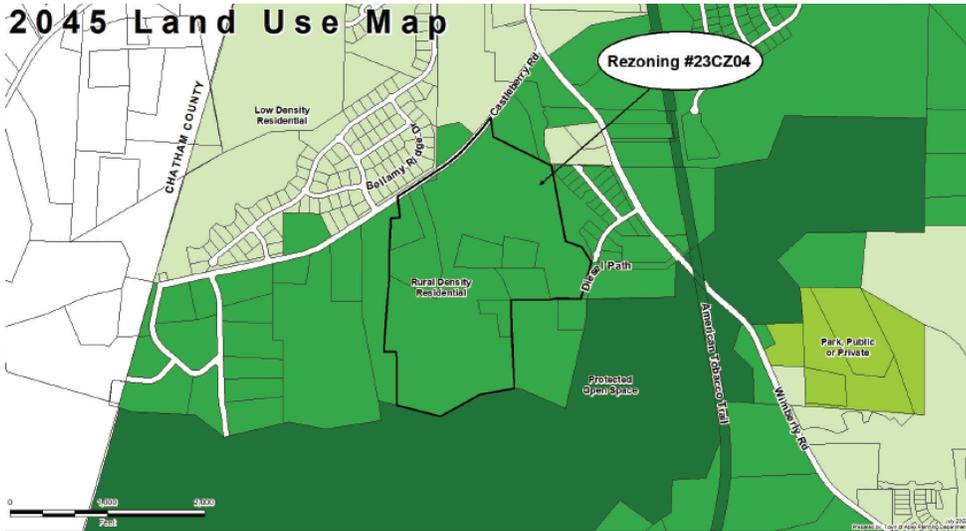


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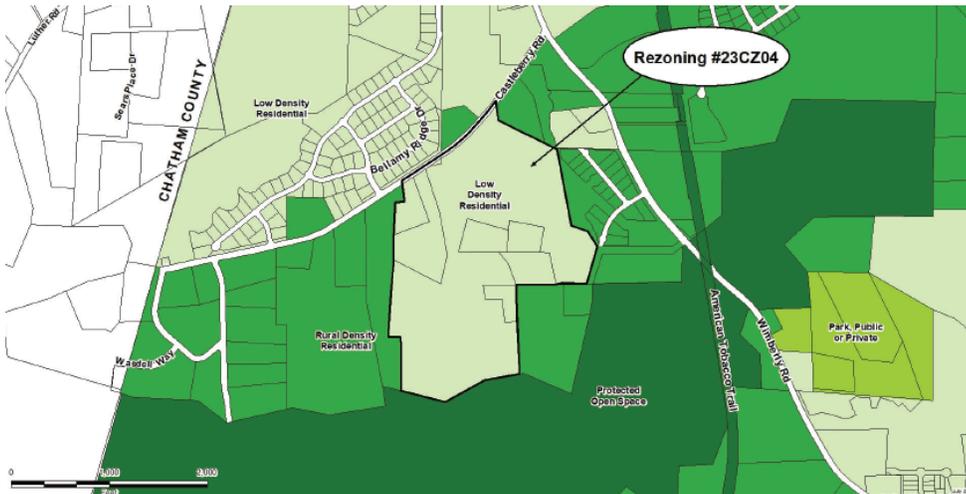


[SLIDE 9]

2045 Land Use Map



[SLIDE 10]



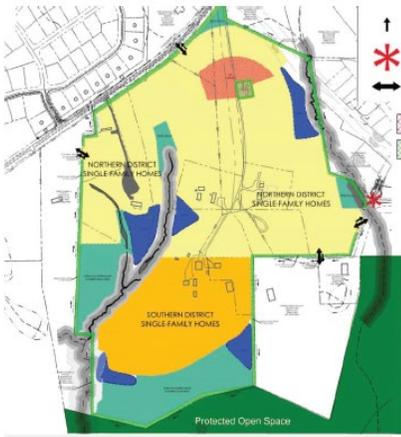
[SLIDE 11]

Existing Conditions



[SLIDE 12]

Proposed PUD Plan Site Layout



Lot Dimensions:

Section	Minimum Lot Width	Minimum Lot Size
Northern	50 ft	6,000 sf
Southern	75 ft	10,000 sf

Setbacks:

		Proposed Minimum Setbacks	
Northern District Single-family Detached	Front	10'	
	Front (garage)	20'	
	Side	5'	
	Rear	10'	
	Corner Side	8'	
		Minimum from Buffer/RCA	10' for buildings 5' for parking areas
Southern District Single-family Detached	Front	10'	
	Front (garage)	20'	
	Side	5'	
	Rear	10'	
	Corner Side	8'	
		Minimum from buffer/RCA	10' for buildings 5' for parking areas
Recreation Facility, Private	Front	10'	
	Side	10'	
	Rear	10'	
			Minimum from Buffer/RCA

[SLIDE 13]

Environmental Advisory Suggested Conditions

EAB Suggested Condition	Applicant's Response
To the greatest extent practicable, include a 150-yard (450-foot) NC Game Land safety buffer along the exterior of the property adjacent to the US Army Corps lands.	Not Added
Implement low impact development (LID) techniques as defined by the NC Department of Environmental Quality.	Not Added
Stormwater re-use application	Not Added
<ul style="list-style-type: none"> Integrate irrigation from the SCM (wet pond) on site 	Not Added
<ul style="list-style-type: none"> Preserve tree canopy and prioritize medium to large, healthy, desirable species. Preserve existing trees (percentage-based) Existing hardwood trees of 18" diameter or larger which are removed by development shall be replaced by 1.5" caliper native trees, either on site or at an alternate location. Tree species shall be chosen from the DCM or in conjunction with Planning Staff. 	Not Added
<ul style="list-style-type: none"> Implement green infrastructure. Provide diverse and abundant pollinator and bird food sources (e.g. nectar, pollen, and berries from blooming plants) that bloom in succession from spring to fall, which should be 100% native for birds and 75% for pollinators Provide and allow for undisturbed spaces (e.g. leaf piles, unmown fields, tall trees) for nesting and overwintering for native pollinators and wildlife. 	Not Added
Install community gardens and native pollinator demonstration gardens	Not Added

EAB Suggested Condition	Applicant's Response
<ul style="list-style-type: none"> Plant warm season grasses for drought-resistance 	Not Added
Install a minimum of four (4) pet waste stations in neighborhoods	Added
Include solar conduit in building design	Added
<ul style="list-style-type: none"> Include International Dark Sky Association compliance standards. Outdoor lighting shall be shielded in a way that focuses lighting to the ground Lighting that minimizes the emission of blue light to reduce glare shall be used Lighting with a color temperature of 3000K or less shall be used for outside installations 	Added
Install a minimum of a 4-kw solar PV system to a minimum of 20 homes, including 5 homes with solar before 40% of building permits are approved, 10 homes before 65% of building permits are approved, and 20 homes before 90% of building permits are approved	Added with 4-kw and shall be installed on a minimum of 5 homes
Stormwater control devices shall be designed and constructed so that post-development peak runoff does not exceed pre-development peak runoff conditions for the 24-hour, 1-year, 10-year, and 25-year storm events	Added
Landscaping shall include at least four (4) native hardwood tree species throughout the development	Added
No clearing or land disturbance shall be permitted within the riparian buffer, except the minimum necessary to install required road and utility infrastructure and SCM outlets. The SCM water storage and treatment shall not be permitted within the riparian buffer. Sewer infrastructure shall be designed to minimize impacts to riparian buffers.	Added
<ul style="list-style-type: none"> Install signage near environmentally sensitive areas in order to: Reduce pet waste near SCM drainage areas Eliminate fertilizer near SCM drainage areas 	Added
<ul style="list-style-type: none"> Increase biodiversity. Plant pollinator-friendly flora. Plant 75% native flora (Refer to the Apex Design & Development Manual (DDM) for approved native species). 	Added
Include landscaping that requires less irrigation and chemical use.	Added

[SLIDE 14]

Conceptual Building Elevations



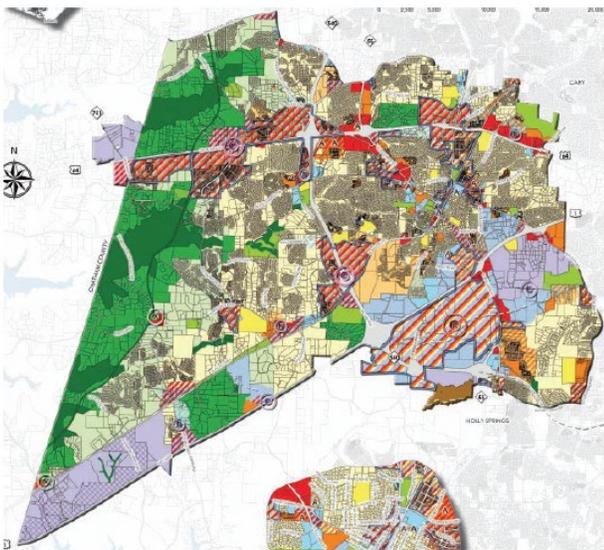
[SLIDE 15]

**Recommendation for Denial of
Rezoning Castleberry Reserve PUD**

- 1. The Rezoning is not consistent with the current 2045 Land Use Map Classification.**
- 2. The Rezoning is not consistent with the NC Wildlife Resource Commission Protected Open Space and TOA Environmental Advisory Board Buffer recommendation.**
- 3. The Rezoning is not Consistent with the surrounding neighborhood character.**



[SLIDE 16]

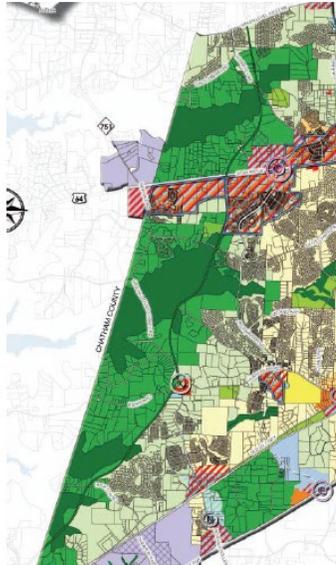


2045 Land Use Map

[SLIDE 17]

Protected Open Space

- Water Quality
- Animal Habitat Protection
- Game Land Hunting Safety



[SLIDE 18]

Protected Open Space Buffer

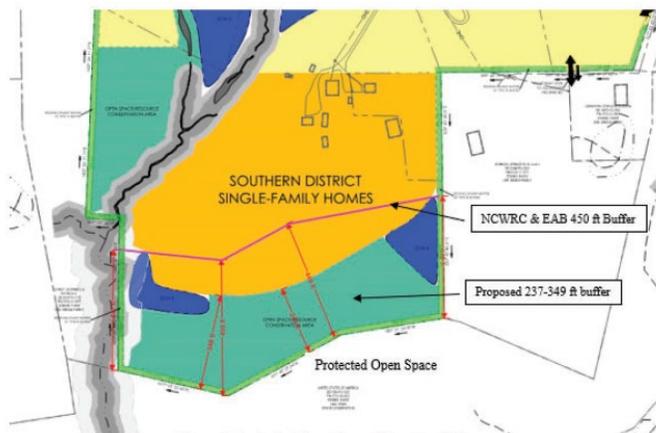
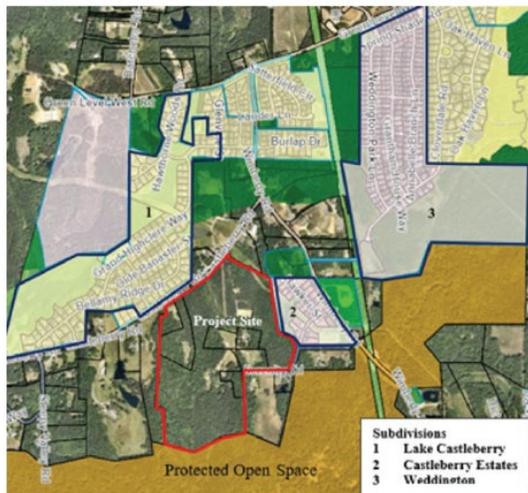


Figure 1: Protected Open Space/Game Land Map

[SLIDE 19]

Surrounding Neighborhoods



[SLIDE 20]

**Castleberry Reserves Project
Comparison to Adjacent Neighborhoods**

Castleberry Reserves:

- The highest density;
- The smallest lot size;
- The smallest rear (10 ft), front (10 ft), side (5 ft), and corner (8 ft) yard setbacks; and
- The narrowest buffer area to the Protected Open Space at 237 feet.

Subdivision	Density	Min Lot Size	Setbacks		Minimum Distance to Protected Open Space
			Front: Garage: Side: Corner: Rear:	10 ft 20 ft 5 ft 8 ft 10 ft	
Proposed Castleberry Reserves	2.0	6,000 (northern area) 10,000 (southern area)	Front: 10 ft Garage: 20 ft Side: 5 ft Corner: 8 ft Rear: 10 ft	10 ft 20 ft 5 ft 8 ft 10 ft	237 ft
Lake Castleberry (1)	1.28	10,000	Front: 25 ft Side: 10 ft Corner: 15 ft Rear: 20 ft	25 ft 10 ft 15 ft 20 ft	1,471 ft
Castleberry Estates (2)	0.98	12,000	Front: 15 ft Garage: 20 ft Side: 8 ft Corner: 15 ft Rear: 15 ft	15 ft 20 ft 8 ft 15 ft 15 ft	386 ft
Weddington (3)	1.48	8,000	Front: 20 ft Side: 5 ft, aggregate 15 ft Corner: 10 ft Rear: 15 ft	20 ft 5 ft, aggregate 15 ft 10 ft 15 ft	650 ft

[SLIDE 21]

Recommendation for Denial of Rezoning Castleberry Reserve PUD

1. The Rezoning is not consistent with the current 2045 Land Use Map Classification.
2. The Rezoning is not consistent with the NC Wildlife Resource Commission Protected Open Space and TOA Environmental Advisory Board Land Buffer recommendation.
3. The Rezoning is not Consistent with the surrounding neighborhood character.

Councilmember Zegerman asked if the off-site sidewalk improvement along Wimberly Road was 270 feet of sidewalk.

Ms. Cowles said that was correct.

Councilmember Gantt asked what density staff was willing to recommend approval, if not 1 per 5 acres.

Ms. Cowles said staff was wanting something closer to the density of Lake Castleberry.

Councilmember Gantt said he feels the Lake Castleberry subdivision looks suburban rather than rural. He asked when it was worth saving the rural character versus doing a more normal development. He said in his opinion, the seal has broken in this area as far as rural character, and how staff feels about that.

Director Khin said the Lake Castleberry lots are twice as large as what is being proposed here.

Councilmember Gantt said there were minimal trees on the Lake Castleberry lots, which goes against the idea of the rural character to him.

Director Khin said that Lake Castleberry was not on the rural density district, and that it was on the other side of the road. She said staff would support a rezoning from rural density to rural transition, rather than a full transition to rural residential.

APPROVED

Matthew Carpenter, of Parker Poe, 301 Fayetteville Street, on behalf of the applicant, gave the following presentation.

[APPLICANT PRESENTATION - SLIDE 1]

Castleberry Reserve

PUD-CZ

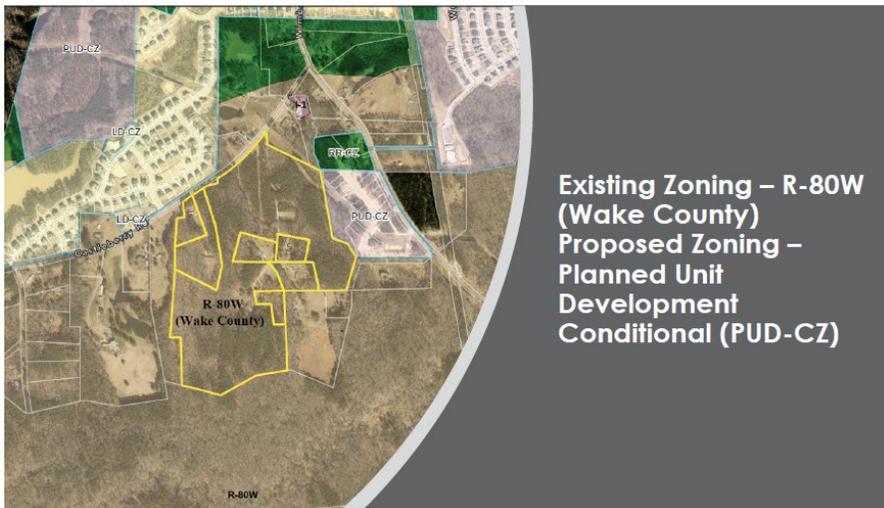


[APPLICANT PRESENTATION - SLIDE 2]

- 8 Parcels
- 89.90 total acres
- Frontage on Castleberry Road
- Army Corps property adjacent to south

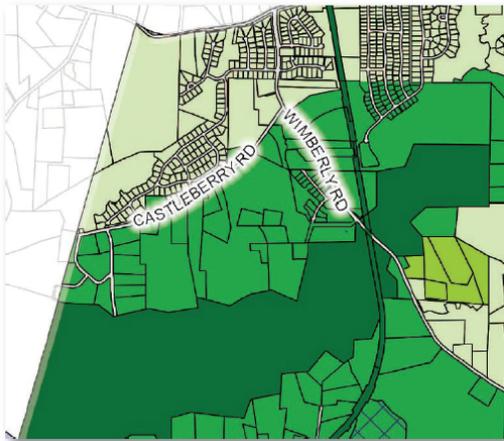


[APPLICANT PRESENTATION - SLIDE 3]



[APPLICANT PRESENTATION - SLIDE 4]

Land Use Map (LUM)



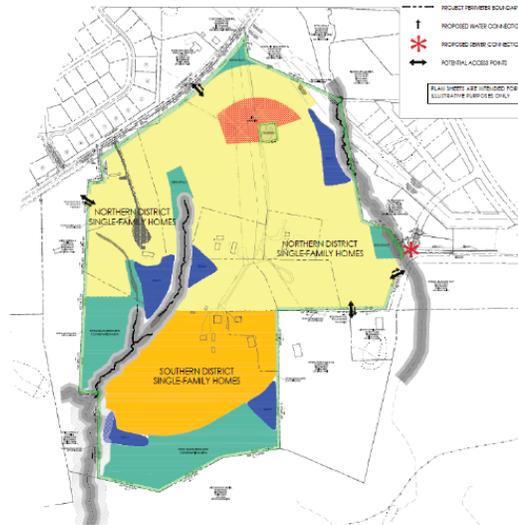
RURAL RESIDENTIAL

- Rural Residential is intended to protect and enhance the rural character of the western-most and southwestern portions of the study area. The land is to remain minimally developed with single-family residential uses at very low densities.
- The area is characterized by homestead properties, defined as one home on more than ten acres, and large tracts of agricultural lands.
- Rural Residential provides a transition from the Protected Open Spaces around Jordan Lake and Shearon Harris Reservoir to Low Density Residential.

[APPLICANT PRESENTATION - SLIDE 5]

Concept Plan

- Single-Family Detached
- Max of 2 units/acre
- Max built-upon area of 45% (UDO maximum of 70%)
- Cemetery Preserved in Place
- Connection to American Tobacco Trail
- Close Castleberry Road sidewalk gap
- Southern District – lower density adjacent to Corps property



[APPLICANT PRESENTATION - SLIDE 6]

American Tobacco Trail Connection



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[APPLICANT PRESENTATION - SLIDE 7]



[APPLICANT PRESENTATION - SLIDE 8]

Affordable Housing

- 2 for sale affordable housing units at 135% AMI
- Affordability period of 30 years

100% AMI at 2022 Interest Rates Est. 4 Bedroom Affordable Initial Sales Prices	135% AMI at 2023 Interest Rates Est. 4 Bedroom Affordable Initial Sales Prices
\$413,000 3.5% Int. Rate	\$418,000 7.2% Int. Rate (Current 30-year fixed rate)

[APPLICANT PRESENTATION - SLIDE 9]



INTRODUCTION AND SUMMARY

Welcome to The Green Growth Toolbox, a cooperative, non-regulatory effort led by the Habitat Conservation Division of the North Carolina Wildlife Resources Commission. The Toolbox provides North Carolina towns, cities, and counties with tools, land use planning methods, and case studies to conserve wildlife and natural resources as they grow.

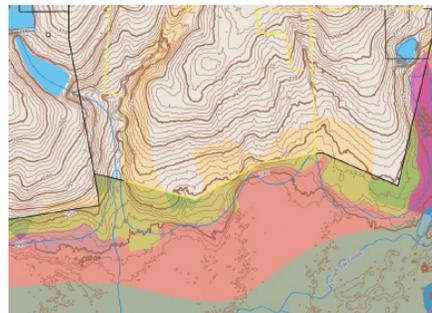
Game Land Hunting Safety Buffers

- Conflicts can arise between Game Land users and residents who live close to Game Lands, such as disturbance to homeowners and limits to hunting on Game Lands. To minimize such conflicts, we recommend establishing a 150 yard hunting safety buffer* around Game Lands in your jurisdiction, especially in areas where Game Lands are narrow.
- The hunting safety buffer map layer displays this recommended 150 yard buffer.

• GIS Shapefile: gml_buffer
• Original Source: NCWRC

Game Lands Regulations

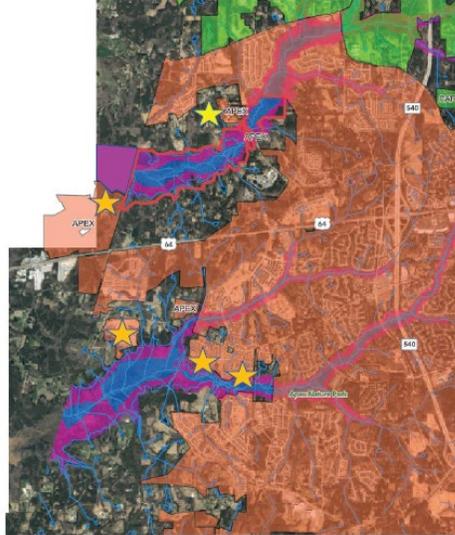
- Unlawful to discharge any weapon within 150 yards (450 feet) of any residence located on or adjacent to game lands.
- In accordance with Code of Federal Regulations, Title 36, Chapter III, Part 327, Section 327.13; the possession of firearms is prohibited on Jordan game lands, unless:
 - In the possession of a law enforcement officer;
 - Being used for hunting or fishing, with devices being unloaded when transported to, from or between hunting and fishing sites;
 - Being used at authorized shooting ranges; or
 - With written permission from the District Commander.



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[APPLICANT PRESENTATION - SLIDE 10]

- Two large permanently protected Open Space areas in western Wake County – White Oak Creek (North) and Beaver Creek (South)
- Existing and approved projects adjacent to both



[APPLICANT PRESENTATION - SLIDE 11]



[APPLICANT PRESENTATION - SLIDE 12]

Army Corps Property Buffer Comparisons

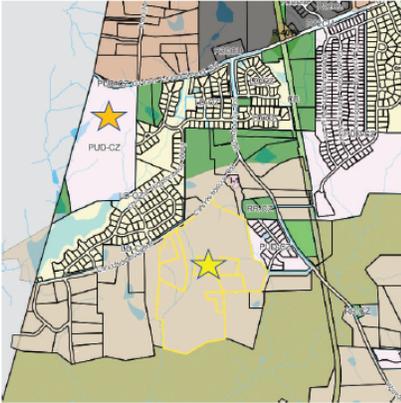
Project/Subdivision	Year Zoning Approved	Max Density Permitted	Max Built Upon Area	Buffer/RCA Adjacent to Army Corps Property (Narrowest Point)
Apex Gateway Phase 1	2023	1,000,000+ sf Industrial	70%	40' Type A Buffer
Willow Mills Subdivision	2018	1 unit/acre	50%	75'
Saddlebrook Subdivision	2015	1.63 units/acre	70%	25'
Arcadia Subdivision	2015	3 units/acre	70%	150' (Utility Easements run through RCA)
Buckhorn Preserve Subdivision	2016	2.83 units/acre	70%	0'
Weddington Pool	2015			100'
Weston Subdivision	2023	1 unit/acre	60%	0' (utility easements adjacent to Open Space)
Castleberry Reserve	TBD	2 units/acre	45%	237' – 349'



APPROVED

[APPLICANT PRESENTATION - SLIDE 13]

Williams Farm PUD Approved June 2021



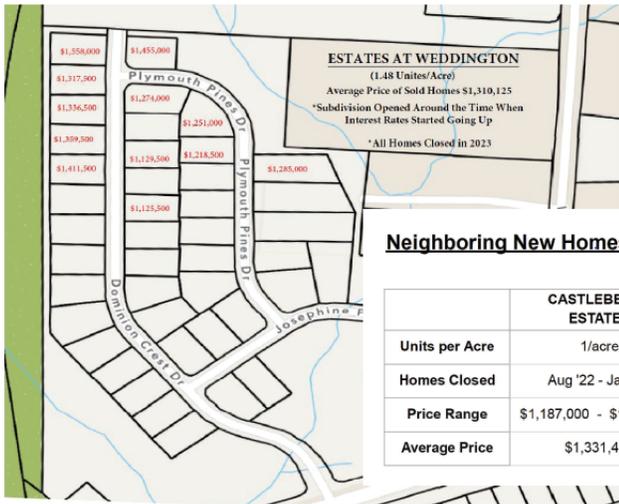
PUD Commitment	Williams Farm	Castleberry Reserve
Acreage	62	90
Max Density	2.89 units/acre; 179 units	2 units/acre; 179 units
Minimum Lot Size	5,000 SF	6,000 SF (northern area) 10,000 SF (southern area)
Affordable Housing	Donation of \$50,000	2 for Sale Affordable Units at estimated cost of \$800,000 + to developer/builder
Pedestrian Connectivity	5' Sidewalks Throughout and Along Frontage	2 off-site sidewalk commitments to improve pedestrian circulation and connect to American Tobacco Trail
Stormwater	25- year storm; treatment for 1 inch of rainfall will provide 85% removal of Total Suspended Solids	25- year storm; nitrogen export shall be reduced to less than 10 lbs/ac/yr
Max Built-Up Area	70% (per UDO)	45% (PUD Condition)

[APPLICANT PRESENTATION - SLIDE 14]

PUD Elevations



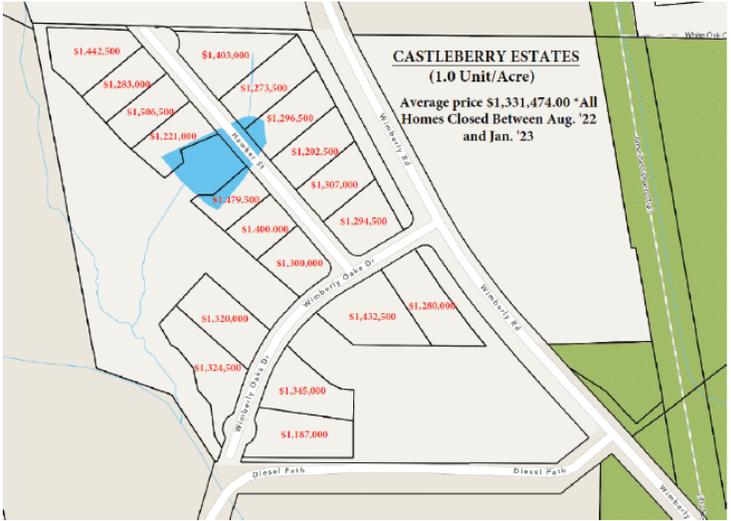
[APPLICANT PRESENTATION - SLIDE 15]



Neighboring New Homes Sold (Aug '22 - May '23)

	CASTLEBERRY ESTATES	ESTATES AT WEDDINGTON
Units per Acre	1/acre	1.48/acre
Homes Closed	Aug '22 - Jan '23	Jan '23 - Present
Price Range	\$1,187,000 - \$1,506,500	\$1,129,500 - \$1,558,000
Average Price	\$1,331,474	\$1,310,125

[APPLICANT PRESENTATION - SLIDE 16]

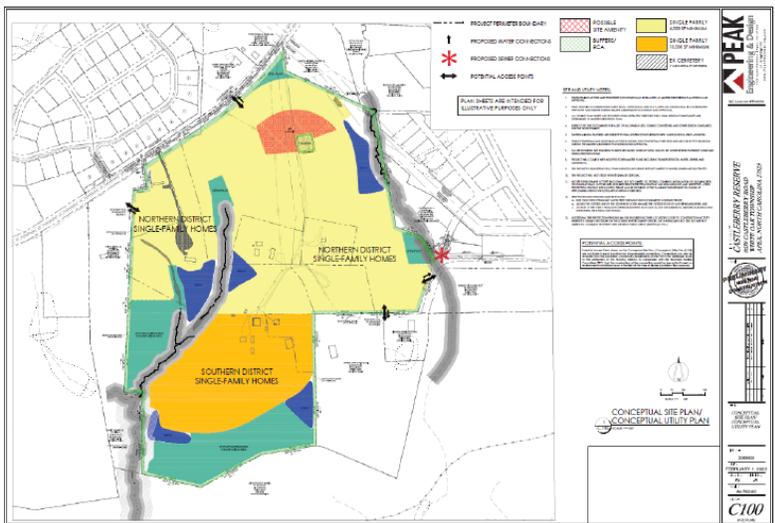


[APPLICANT PRESENTATION - SLIDE 17]

Consistent w/ Peak Plan 2030

Peak Plan Policy	Case Commitment
“Protection of environmental and natural resources”	<ul style="list-style-type: none"> • Large RCA to buffer Corps property • Treat stormwater quality to reduce nitrogen • 5 homes constructed with solar panels • Max built upon area of 45% (70% required) • Max density of 2 units/acre • Lower density and larger lot sizes adjacent to Corps land
“A variety of housing types available to a range of incomes”	<ul style="list-style-type: none"> • 2 affordable housing units • Additional homes add to housing supply
“A well-connected pedestrian and bicycle network”	<ul style="list-style-type: none"> • Fill a gap in pedestrian connectivity by construction off-site sidewalk to connect to American Tobacco Trail and to connect sidewalk gap left by Lake Castleberry • Castleberry Road speed limit reduction
“Preservation of historic places and cultural resources”	<ul style="list-style-type: none"> • Preservation of the historic cemetery in its current location

[APPLICANT PRESENTATION - SLIDE 18]



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Councilmember Zegerman asked Mr. Carpenter how many Apex residents were involved in designing this plan.

Mr. Carpenter said they held 2 neighborhood meetings where 20-35 people were at each meeting. He said there were changes made based on neighbor input, such as the moving of a proposed driveway that would have been directly across from an existing home. He said the main design of the plan has been from Jeff Roach.

With no further questions for Mr. Carpenter, **Mayor Gilbert** opened up Public Hearing for these two items. With no one wishing to speak, he closed public hearing and brought it back to Council for discussion.

Councilmember Zegerman said he found it frustrating that there was a developer telling them what was good for the Town of Apex, without much input for residents. He said the land use map was there for a reason, and was the result of months of effort by staff, workshops with residents, and reflects what the town wants to look like in the future. He said some of the comparisons made are from different zoning districts, and so they are null and void to him. He said he appreciates the improvement the applicant is offering, but that it was not enough to approve this plan. He said there were some proposals that were so much different from the requirements that they were frankly laughable. He said he doesn't see much about this plan that he likes.

Councilmember Gray said he agreed that the Lake Castleberry really does not look rural/ He said it does not fit the tone of what the Land Use Plan was trying to do. He said this is a situation of finding balancing, where the developer is giving them a lot of what they are asking for, some affordable housing, though adding he has questions on whether a half million-dollar home could really be considered affordable housing, and whether 2 units are sufficient to meet the goals Council has identified in their affordable housing plan. He said there was a value of the land use map, where land closer to Jordan Lake was meant to be less occupied. He wondered if what the developer is offering is enough to justify the tradeoff of encroaching upon the land and diminishing the looks.

Councilmember Zegerman said if they gave a pass for this property, all the neighboring properties would come in wanting the same thing. He said Council would have nothing to stand on in order to deny those requests in that case.

Councilmember Gray said there would still be ground to deny, but it would be harder to do so. He said he understood his point. He added he likes the idea that driving in from Jordan Lake looks much more rural, and then progressively becomes more compact and suburban. He said he's wondering if the tradeoff is worth losing some of that wooded land and changing the intent of the land use plan. He said he's not sure if he is ready to do that. He does appreciate the effort in the developer trying to give them things they are looking for, however.

Councilmember Gantt said he wanted to speak about the Land Use Map. He said he was proud of the rural residential designation when it was passed. He said he does not see a lot of value for Apex in having expensive houses on large lots with just grass and no trees. He said it does nothing ecologically. He's wondering if the prices of the homes and lack of trees is good for Apex, even with the low density of the development. He said the middle ground approach staff is recommending may not be the best thing for the community. He said he may want to do with the Land Use Map moving forward is have very little development on the deep green areas and increase density in other places.

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Councilmember Mahaffey mentioned Councilmember Gray's comment about not quite being convinced about this project. He said was not at that point either, and for him is was not close. He added he thinks people do want trees in their yard, and there is a demand for existing trees to be kept. He said it speaks to potentially eliminating mass grading entirely. He thinks lots with trees would be in strong demand if they ever came back.

Councilmember Gantt said eliminating mass grading wouldn't prevent them from cutting down all the trees, it would just prevent them from doing so all once.

Councilmember Mahaffey said yes, they could still cut them down individually, but there are more options there and people may choose to let some trees remain.

Councilmember Gray said the Council will need to have a bigger conversation on whether a \$500,000 home is filling the goal of what they want to do with affordable housing.

Councilmember Zegerman said he also wasn't sure basing it on 135% AMI is something that is affordable.

Councilmember Gray said that was exactly what he was trying to get at.

Councilmember Mahaffey said the developer's offer of homes at 135% AMI corresponds to a donation of \$800,000. He wondered if gaining these two units would be the best use of \$800,000. He said money like that could be used to provide 10 affordable homes in a project somewhere else.

Mr. Carpenter said they would be more than happy to look at what the options were for what they could do with affordable housing and other commitments to help address some of Council's concerns.

Councilmember Zegerman said the \$800,000 dollars was not an actual cost to the developer, it was just money "left on the table" from the potential future sales price.

Councilmember Gray asked if Mr. Carpenter wanted Council to consider a motion to continue this item.

Mr. Carpenter said yes.

Mayor Pro Tempore Killingsworth said she was concerned about this project getting close to game land, and about the difference in offer for the buffer size and what is recommended. She said safety is a big concern of hers in regards to hunters in the area and how close they are able to be to residential areas. She said there could be conversation about the value of 2 affordable units out of 180 homes. She did appreciate the offer to have some homes pre-installed with solar panels. She said they could discuss the density, but she agrees with Councilmember Zegerman that allowing a departure from requirement here could compromise their intent moving forward.

Councilmember Zegerman said he understands the argument about previously approved plans. He said they can't change those, but they can listen to the feedback from residents, and how they want to be careful about density and expanding the town. He said they are here to talk about the future, and not about things that happened in the past.

Councilmember Gantt said he wanted to talk about Castleberry Road. He said residents would want to be able to drive through a rural road, but in this case, nobody would be driving through this road. He said preserving a rural thoroughfare should be something that connects to something else. He said there isn't much west of this property.

A **motion** was made by **Councilmember Gray**, seconded by **Mayor Pro Tempore Killingsworth**, to continue Public Hearing Number 1 and Public Hearing Number 2 to the September 12, 2023 Regular Town Council Meeting.

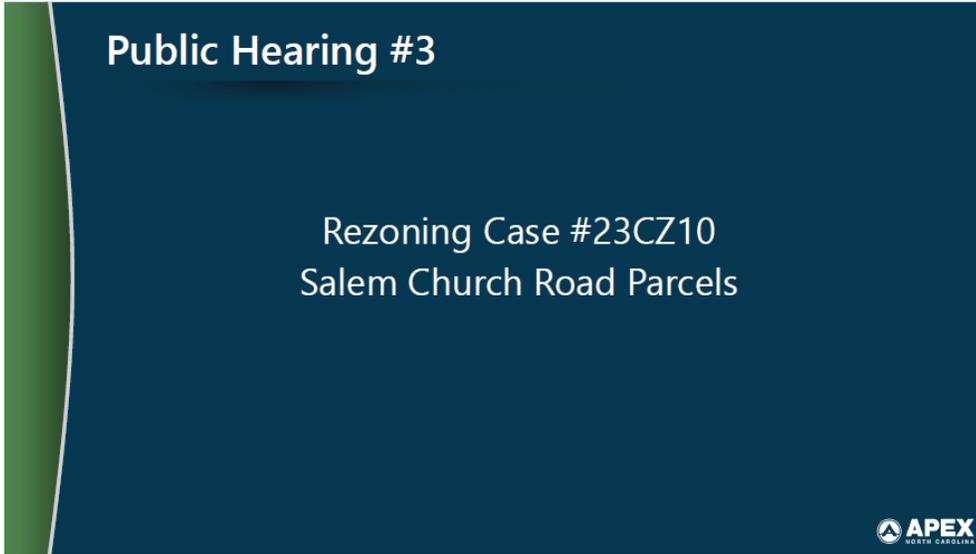
VOTE: 4-1, Councilmember Zegerman dissenting

PH3 Rezoning Case No. 23CZ10 - Salem Church Road Parcels

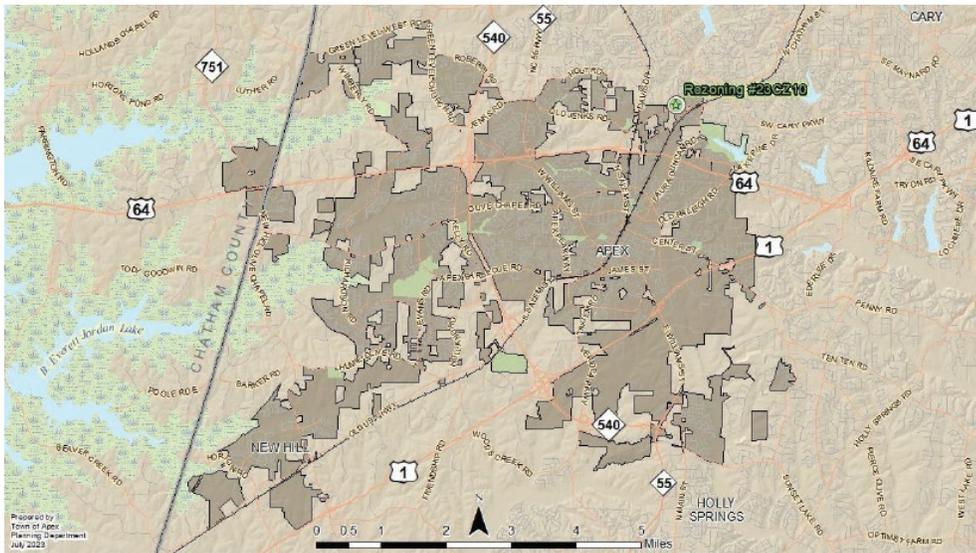
Ms. Cowles gave the following presentation regarding Rezoning Case No. 23CZ10 - Salem Church Road Parcels.

Russell Dalton, Traffic Engineering Manager, also gave some remarks.

[SLIDE 22]



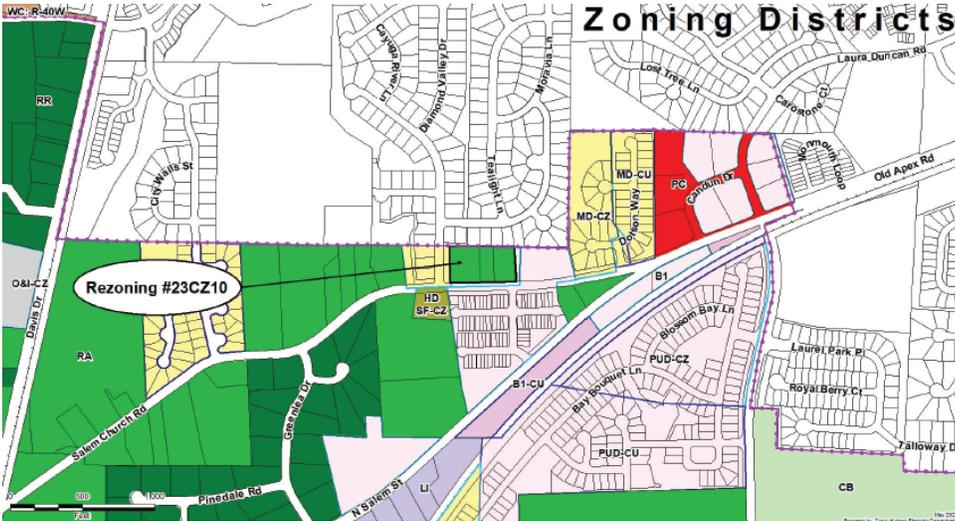
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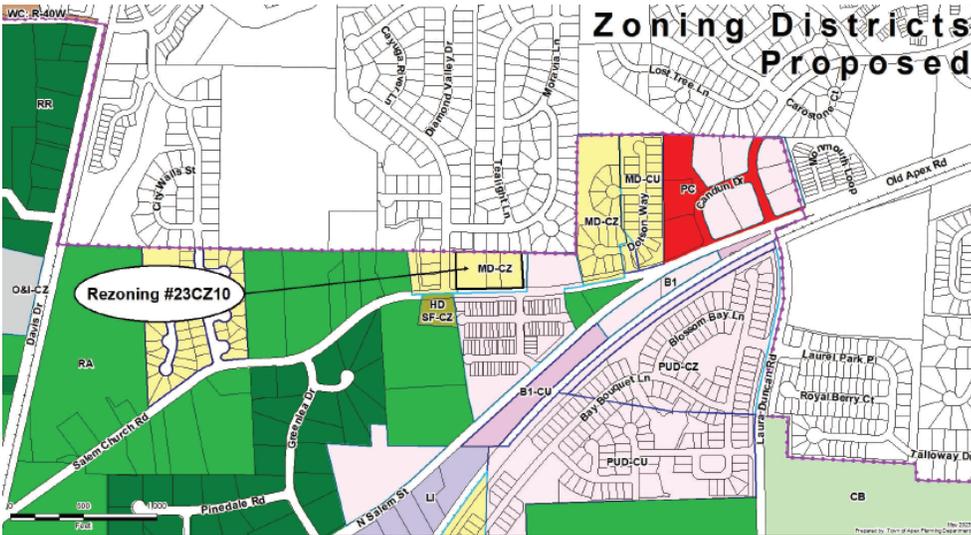
[SLIDE 24]



[SLIDE 25]



[SLIDE 26]

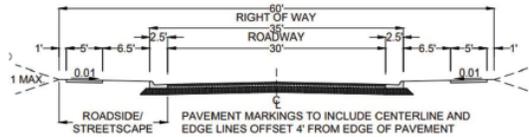


[SLIDE 27]



[SLIDE 28]

Figure 1: 2-Lane Urban Thoroughfare



*The orange lines represent the Salem Pointe Townhome PUD portion that paid a fee in lieu in May 2017 for road widening, curb & gutter, and sidewalk.

Figure 2: Salem Church Road Aerial

Location	Sidewalk	Curb and Gutter
West of the project site	Yes	At Tahoe Glen Place intersection
East of the project site	Sidewalk installed 400 feet from project site	At Dotson Way intersection
South side of Salem Church Rd	No	At Olde Salem Way intersection

[SLIDE 29]

Salem Church Road Parcels Rezone #23CZ10

In order to provide continuous infrastructure consistent with the Apex Transportation Plan along Salem Church Road, staff recommended that the applicant add a condition to install sidewalk, curb and gutter as follows:

- Developer shall provide roadway frontage improvements along Salem Church Road consistent with a 35-foot back-to-back typical section with 5-foot sidewalk on a 60-foot right-of-way.

[SLIDE 30]

*Yellow bold line represents existing continuous direct sidewalk location to destinations.
 *Yellow minor lines represent existing sidewalk within the Town of Apex.



[SLIDE 31]

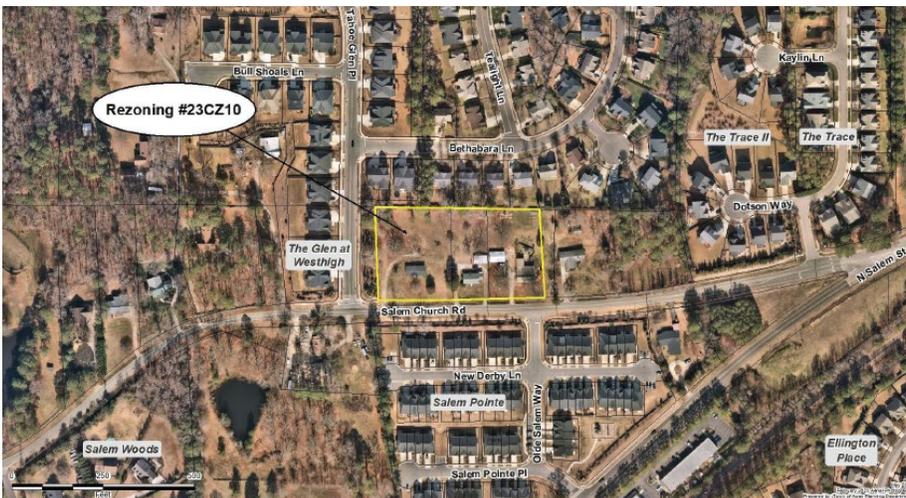
*Yellow bold line represents existing continuous direct sidewalk location to destinations.
 *Yellow minor lines represent existing sidewalk within the Town of Apex.



Transportation Infrastructure Fee in Lieu:

- The fee is usually lower than the actual cost of construction;
- Residents will be disrupted when the Town makes future improvements;
- Residents will not benefit from the infrastructure until an unknown time with the Town moves the road frontage improvement project forward;
- Construction as a municipal project will be more costly and have a higher staff burden than construction with development.

[SLIDE 32]



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Councilmember Mahaffey asked what the rule was for certain cases to be exempt like this one is.

Amanda Bunce, Current Planning Manager, said State Law allows lots that are two acres or less to make no more than 3 lots with the exempt plat process, if the projects meet the standards of the ordinance. She said there could be a recombination first, then a subdivision of lots, so there is a way to create 8 lots and avoid the Master Subdivision Plan process.

Councilmember Gantt asked if this applied to stormwater as well.

Ms. Bunce said stormwater would still be regulated if they disturbed more than an acre. She said the lots would be individually permitted. She said they need a rezoning to lower the minimum lot width and area.

Councilmember Mahaffey wanted to clarify if it was the size of the lots, rather than the size of the property, that could determine exempt status.

Director Khin said Tunstall Square is an example of this. The project did not have to do curb and gutter or make road improvements or right of way dedication because they used creative platting. She said once the lots are two acres each they can be divided again.

Ms. Bunce added that the lot size requirements of the district still needed to be met, so a rezoning was still necessary in this case.

Councilmember Gantt asked if the driveways seemed undesirable to be connected to the main portion of the road, especially if the traffic in this area increases as other road connections are made.

Mr. Dalton said they are undesirable, but since they are existing driveways, part of the conditions for the rezoning was that there would be 8 units using 4 driveways, rather than the 4 units that are using them now.

Peter Cossen, of Jones and Cossen engineering, 221 North Salem Street, on behalf of the applicant, gave some remarks.

Councilmember Gantt asked how they should think about the impact of exempting this site plan, since the land would be rezoned, and theoretically a different developer could purchase it afterwards and build expensive homes with increased profit since there would be no improvement requirements on this site.

Mr. Cossen said the Mr. Helton has been in Apex for a long time, and has worked and built here and is a good person. He said he trusts him in his vision for these lots and what he wants to bring to Apex.

Councilmember Gantt said there was no guarantee that he would be the one to actually develop the land.

Mr. Cossen said that if Mr. Helton tells you it will be him, it will be him.

Mr. Helton spoke about his vision for the property, and how we wanted to try to keep it similar to the other properties in that area and keep costs down as well. He said he couldn't promise that he would build all 8 homes himself, since he was 79 years old. He said all he can stand on is his word and reputation, and he thinks he has proven that.

Councilmember Gray said construction easements were mentioned earlier, and asked if Mr. Helton was okay with allowing the town those easements on the frontage in the case they wanted to add in improvements in the future to road and curb and gutter.

Mr. Helton asked if there could be limitations. He said he could give a 10-foot easement for that future construction.

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Councilmember Mahaffey asked if he was offering for curb and gutter as well, or just the sidewalk.

Mr. Helton said just for the sidewalk.

Mr. Cnossen said the curb and gutter will be built along the right of way.

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

A **motion** was made by **Councilmember Gray**, to approve the Rezoning without the proposed additional conditions.

Councilmember Gray said he felt the conditions would essentially make it so a sidewalk would pop out of nowhere. He said he knows they usually ask for them, but it isn't a great fit in this case.

Mayor Gilbert asked if Tunstall Square was allowed to proceed without the conditions.

Director Khin said without the proposed conditions by staff, the road frontage would likely look similar to Tunstall Square.

Mayor Pro Tempore Killingsworth seconded the **Councilmember Gray's** motion, listed above.

Councilmember Mahaffey said he was not quite there for no additional conditions, he said he would be okay with it if there was a condition added to give the town construction easements in case they want to add in sidewalks or curb and gutter in the future. He said he was struggling with how to treat sites that could qualify as exempt. He was wondering how Council should go about those projects, and if some rules should be changed, or if allowing construction easements would be sufficient.

Councilmember Zegerman asked if the town was still asking for a fee-in-lieu.

Councilmember Mahaffey said it didn't think so, and it was not being offered. He said they need to be consistent with exempt site plans moving forward, and he thinks getting a construction easement would be a good deal. He asked what staff would need for this condition, and if it would be something that would need to be done now or in the future. He said he wants the town to be able to have everything it needs in order to build infrastructure on these sites in the future and not have to go through another process.

Chris Johnson, Director of Transportation and Infrastructure Development, said that giving a flat number would be difficult without knowing all of the information. He said he didn't think the grade difference in the lots was much different. He said he assumes 15 feet of construction easement along the frontage would probably cover it.

Councilmember Gantt said he respects Mr. Helton and what he has done for the town and the county, but said if the developer proposing this was out-of-state, they wouldn't even consider it. He said it's important to separate the person from the project. He thinks they have passed some things where emotion got the best of them. He said the word "affordable" does not appear in the application, even though it was said by the applicant. He said he bases his decision based on what is on paper. He said he doesn't think this is a good project, and he doesn't like the four driveways. He said he believes

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they will need a sidewalk in this area, as it will be growing and there is a greenway to the north. He said he cares about sidewalks so much because they are for everybody. He said he believes there is emotion getting involved based on the people that are part of the project.

Councilmember Mahaffey said he disagrees. He said his perspectives are based on the size of the project and the fact that it could be exempt, and what would be fair for a plan like that. He said he would say the same thing if it was an out-of-state developer. He said he is trying to craft a fair policy for these kinds of projects, and he thinks having the ability to build that infrastructure if they want is good. He said he thinks there should be a sidewalk there, especially because of its proximity to the school. He said he thinks there needs to be some sidewalk built in the areas close by first, but hopefully they are able to get all of that done at once when it becomes more of a priority.

Councilmember Gray said he feels it makes no sense to build a portion of sidewalk in an area where people would have to walk a quarter or a half of a mile through dirt to get to the next portion of sidewalk. He said he understands that the town is going to have to pay for them, but he doesn't think the residents are opposed to that being a use of public money. He said in these smaller lots that can qualify for the exemptions, the typical requirement of building sidewalks and other things causes much more strain on them. He said the question for him was of fairness. He was wondering how they could ask a developer on one side of the street to pay for a sidewalk, but not the developer on the other side of the street.

Councilmember Gantt said they paid a fee-in-lieu.

Councilmember Gray said yes, but that was because of the size.

Councilmember Gantt said the fee-in-lieu would cover sidewalk connection to the east, so they have money available to build a connecting sidewalk.

Councilmember Gray said yes, but it was paid because of the size.

Councilmember Zegerman said there was nothing they could do about that, since it was approved before any of them were on the Council. He said he was worried in this case that if they don't approve this, the developer will go for the exempt status and the town would get nothing.

Councilmember Mahaffey said they would still need to rezone the property either way, he said it's important to be consistent based on what they are supposed to do.

Councilmember Zegerman said he agrees, and that he is good with not including the sidewalk condition if they get the construction easement.

Councilmember Gantt said there was a lot of need for sidewalks, and there were a lot of sidewalk gaps. He said it may be longer than they think before they would go back and put in these sidewalks, as there are 25 or so projects worthier of taxpayer investment right now.

Mr. Roach said they would add a condition that stated "A 20-foot construction easement shall be provided along Salem Church Road for future sidewalk connection."

Councilmember Gray said he agrees with the added condition and withdrew his previous motion.

A **motion** was made by **Councilmember Gray**, seconded by **Mayor Pro Tempore Killingsworth**, to approve Rezoning No. 23CZ10 with the additional condition of, "A 20-foot construction easement shall be provided along Salem Church Road for future sidewalk connection".

VOTE: 4-1, Councilmember Gantt dissenting

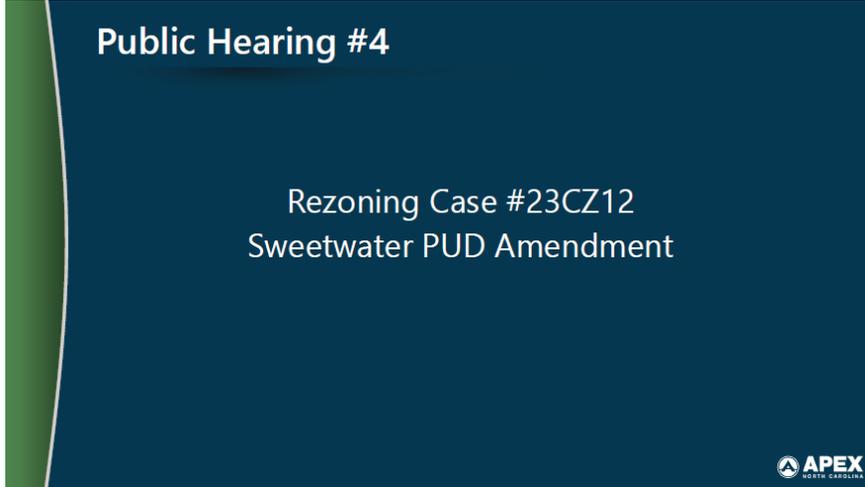
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NOTE: To view the additional zoning conditions documents, please see **OTHER-2023-078**.

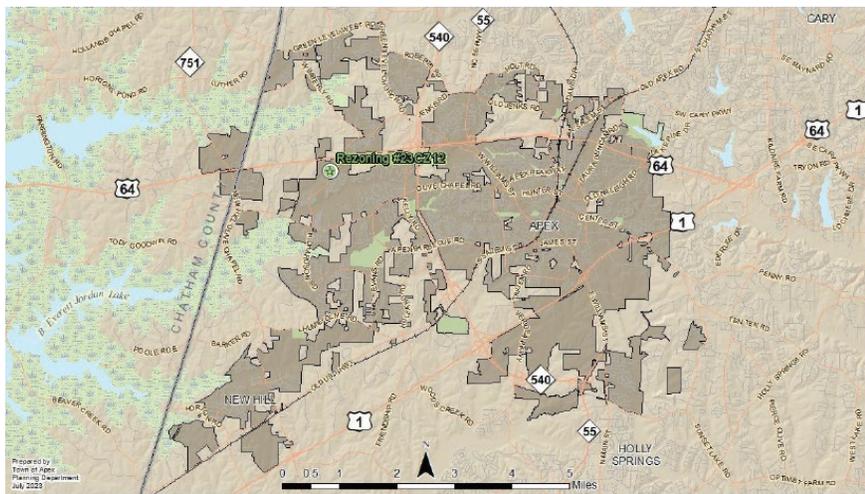
PH4 Rezoning Case No. 23CZ12 - Sweetwater PUD Amendment

Ms. Bunce gave the following presentation regarding Rezoning No. 23CZ12 - Sweetwater PUD Amendment.

[SLIDE 33]



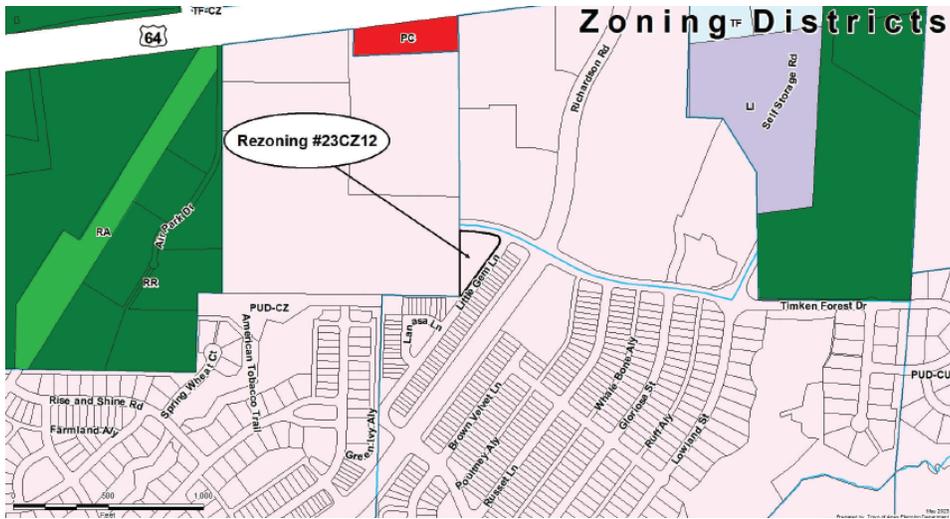
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[SLIDE 35]



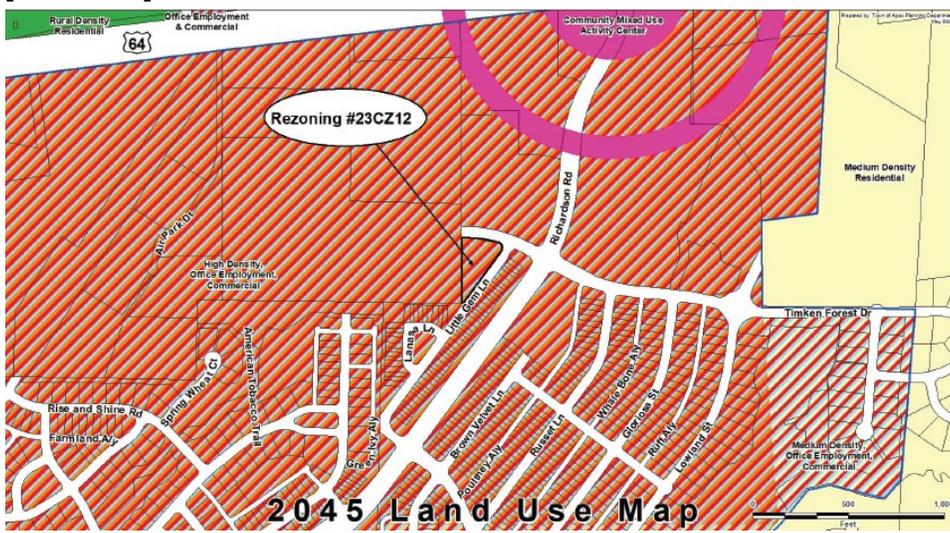
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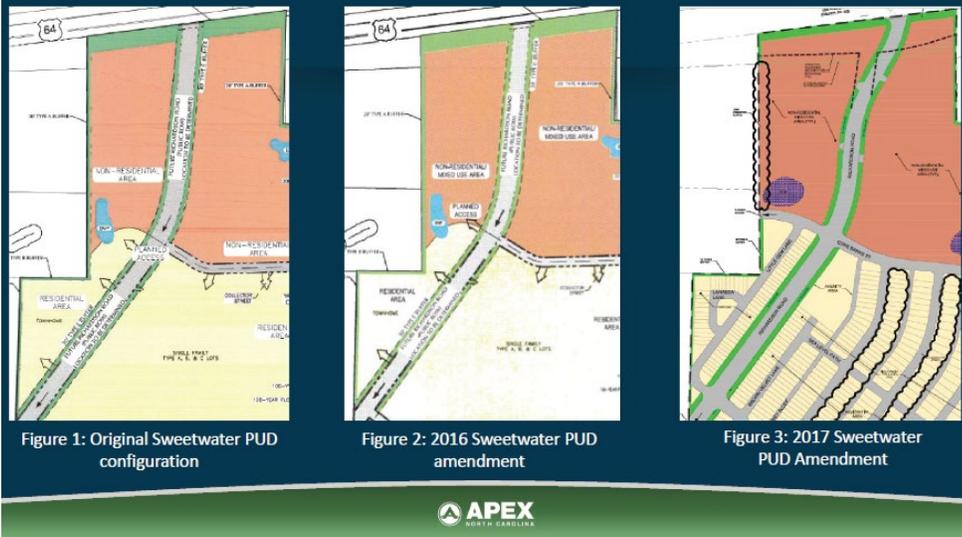
[SLIDE 37]



[SLIDE 38]



[SLIDE 39]



[SLIDE 40]

Proposed Changes #1
Changes to Section 5: Permitted Uses

Table 1	Residential	Non-residential/ Mixed Use	PINs 0722-44-1499 0722-44-1386
Residential Uses			
Accessory Apartment	P		P
Single-Family	P		
Townhouse	P		
Apartment (2nd Story and above only)		P	
Public & Civic Uses			
Assembly hall, non-profit		P	
Church or place of worship		P/S	
Daycare facility		P	P
Drop-in or short-term daycare		P	P
Government Service		P	
School, public or private		P	
Veterinary clinic or hospital		P	P
Vocational school		P	
Utilities			
Utility, minor		P	
Recreational Uses			
Entertainment, indoor		P	
Greenway	P	P	P
Park, active	P	P	P
Park, passive	P	P	P
Recreation facility, private	P	P	P
Food & Beverage Service			
Restaurant, drive-through		P	
Restaurant, general		P	P
Office & Research			
Dispatching office		P	P
Medical or dental office or clinic		P	P
Medical or dental laboratory		P	P
Office, business or professional		P	P
Publishing office		P	P
Research facility		P	P
Public Accommodation			
Hotel or motel		P	

Table 1	Residential	Non-residential/ Mixed Use	PINs 0722-44-1499 0722-44-1386
Retail Sales & Service			
Barber & beauty shop		P	P
Bookstore		P	P
Building supplies, retail		P	
Convenience store		P	
Convenience store with gas sales		P	
Dry-cleaners & laundry service		P	P
Farmer's market		P	P
Financial institution		P	
Florist shop		P	P
Furniture home		P	
Gas & fuel, retail		P	
Greenhouse or nursery, retail		P	
Grocery, retail		P	
Grocery, specialty		P	
Health/fitness center or spa		P	
Kennel, indoor		P	P
Lawn/maintenance		P	
Newsstand or gift shop		P	
Personal service		P	P
Photography		P	
Printing & copying service		P	
Real estate sales		P	P
Repair services, limited		P	
Retail sales, bulky goods		P	
Retail sales, general		P	P
Studio for art		P	P
Tailor shop		P	
Tire store		P	
Trailer services		P	P
Vehicle Repair or Service			
Automotive parts		P	
Car wash or auto detailing		P	
Vehicle inspection center		P	
Industrial Uses/Industrial Service			
Laboratory, industrial research		P	
Production			
Manufacturing		P	P

[SLIDE 41]

Proposed Changes to Section 6: Design Controls

The applicant is proposing a reduced height for these parcels from the height allowed in the nonresidential/mixed-use areas north of Core Banks Street. The applicant is also proposing to reduce the required buffer adjacent to vacant property from a 20' Type A to a 10' Type A. **Proposed changes are shown in bold below.**

NONRESIDENTIAL/MIXED-USE AREAS:

Building Height:

Maximum Height: 62 Feet (5 Story)

39 Feet (2 Story) – PINs 0722-44-1499 & 0722-44-1386

Buffers (Refer to PUD Amendment Exhibit):

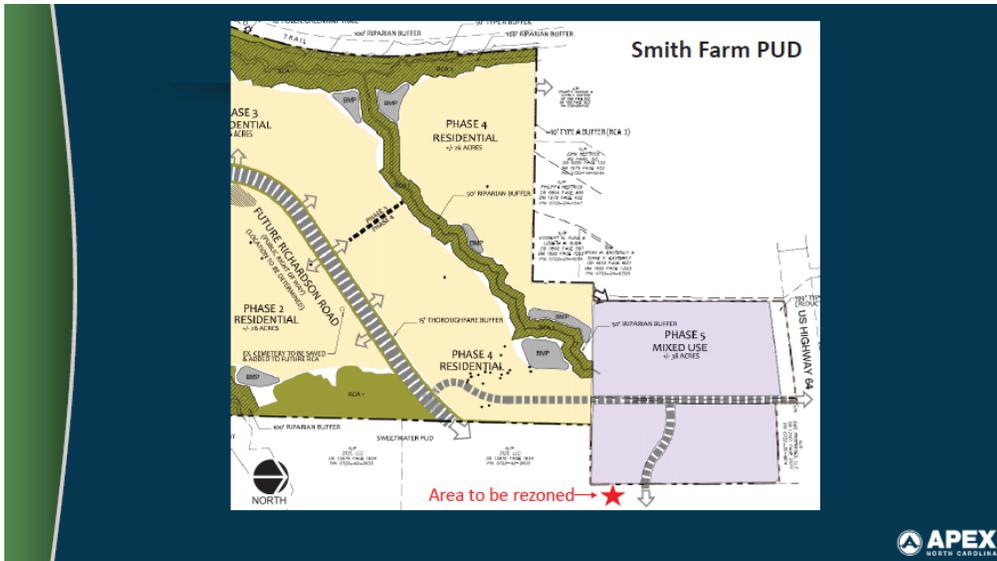
Perimeter Buffers

Adjacent to Vacant Property: **10-foot Type A buffer: If a buffer is required by UDO Section 8.2.6, it shall not exceed 10' in width.**



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[SLIDE 42]



[SLIDE 43]



Mitch Craig, of the CE Group, 301 Glenwood Avenue, on behalf of the applicant, also provided information.

Councilmember Mahaffey asked if he had any idea on what the orientation of the buildings would be.

Mr. Craig said he did not know at this point.

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

A **motion** was made by **Mayor Pro Tempore Killingsworth**, seconded by **Councilmember Gray**, to approve Rezoning No. 23CZ12.

Councilmember Mahaffey said he liked it. He was in favor of the height restriction and he thinks this is something that could be of use to the neighbors, once things from the list of uses come in.

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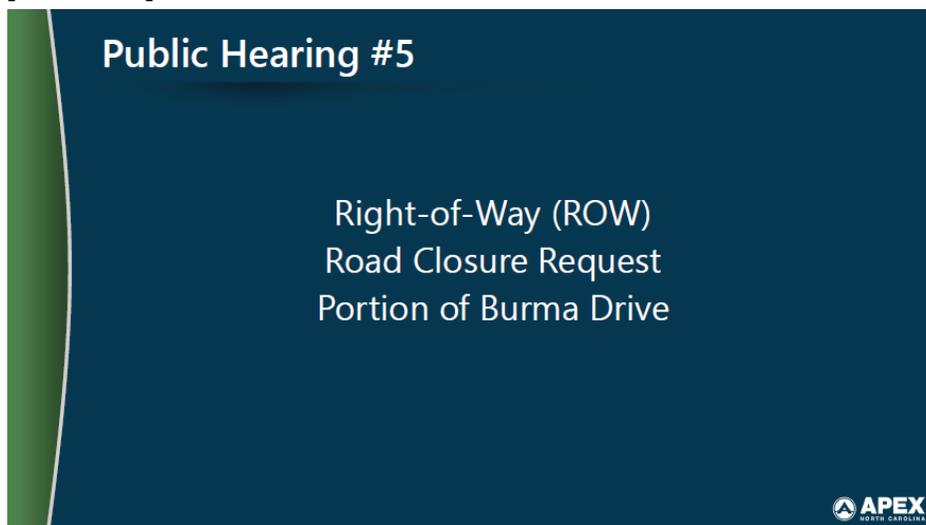
Councilmember Zegerman said it makes sense to him, he was just unsure about the asterisk around potentially removing the buffer. He said he would like to see that buffer remain in place, even if Smith Farm builds commercial there too. He said there may be a bit of timing issue on this one, but he sees no reason not to approve.

VOTE: UNANIMOUS (5-0)

PH5 Right-of-Way (ROW) Road Closure Request - Portion of Burma Drive (REF: OTHER-2023-061)

Town Clerk Coleman gave a presentation regarding the Right-of-Way (ROW) Road Closure Request - Portion of Burma Drive.

[SLIDE 44]



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

A **motion** was made by **Councilmember Gantt**, seconded by **Councilmember Zegerman**, to approve the Right-Of-Way Road Closure Request - Portion of Burma Drive.

VOTE: UNANIMOUS (5-0)

Mayor Gilbert called for a 15-minute recess at 8:01 p.m.

Council returned to open session at 8:16 p.m.

PH6 Transportation Plan Amendments - Jenks Road and Goodwin Road, US 64

Shannon Cox, Long Range Planning Manager, gave the following presentation regarding the Transportation Plan Amendments - Jenks Road and Goodwin Road, US 64.

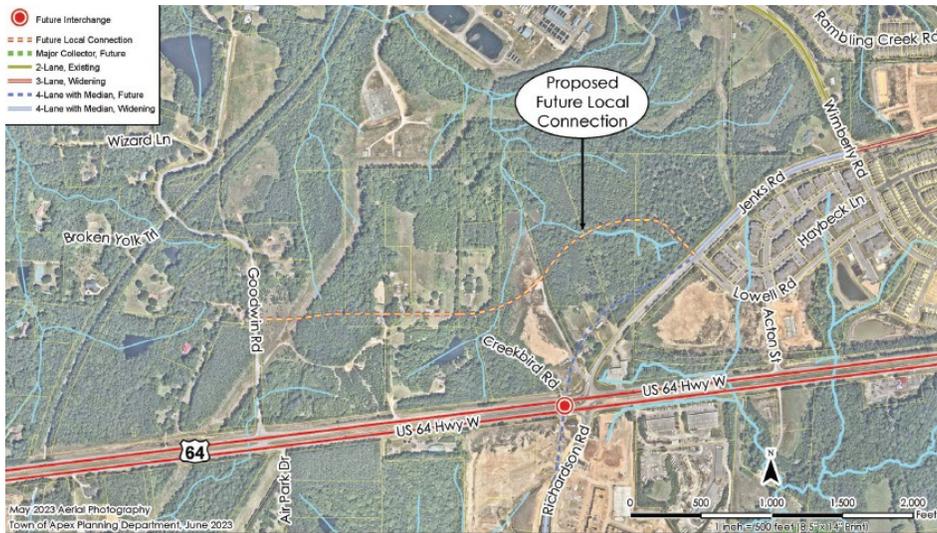
[SLIDE 45]

Public Hearing #6

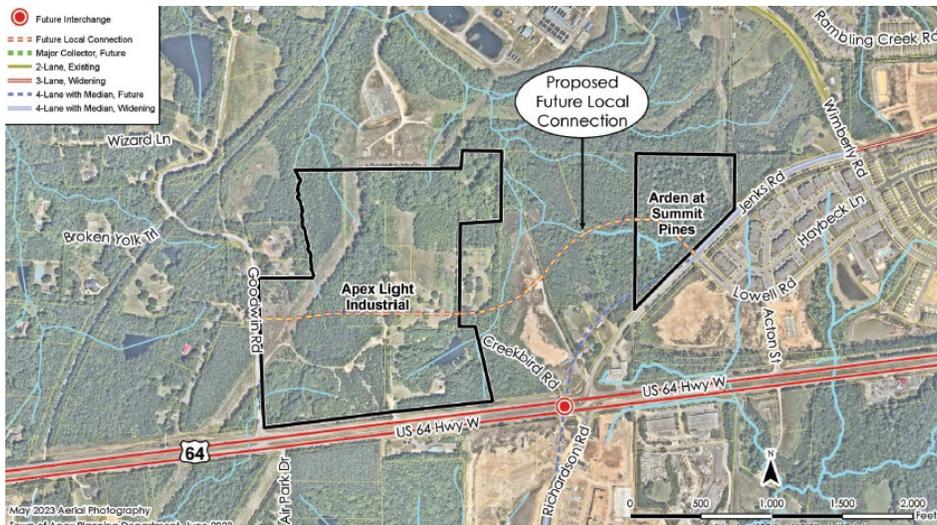
Transportation Plan Amendments Jenks and Goodwin Road, US 64



[SLIDE 46]



[SLIDE 47]



[SLIDE 48]



Councilmember Mahaffey asked if this was talked about during the rezoning for Apex Light Industrial.

Ms. Cox said a commitment was made to them to build this road. This would just officially add it to the plan.

Councilmember Zegerman asked if one the charts was our view or from NCDOT.

Ms. Cox said it was the US 64 corridor study from NCDOT. She said the town has added interchange sections on their plan to reflect this corridor study.

Councilmember Zegerman asked if the construction cost for this would be carried by the NCDOT or by the Town of Apex.

Ms. Cox said this plan is not necessarily something that would be constructed. She said if it was, it would be a joint effort through land use, local roadway planning, and NCDOT.

Councilmember Zegerman asked if this shifts the connector road to the north.

Ms. Cox said this doesn't change the commitment to Apex Light Industrial, and there is some flexibility on where connections actually end up compared to the transportation plan. She said these change a bit in design sometimes. She said the portion Councilmember Zegerman was referring to would be essentially taking the role of the road in the corridor study. She said the town would not necessarily need to do exactly what was in the corridor study, because it was from 2011, and is now being used as an example of how to build the infrastructure as the development occurs.

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

A **motion** was made by **Mayor Pro Tempore Killingsworth**, seconded by **Councilmember Gantt**, to approve the Transportation Plan Amendments - Jenks Road and Goodwin Road, US 64.

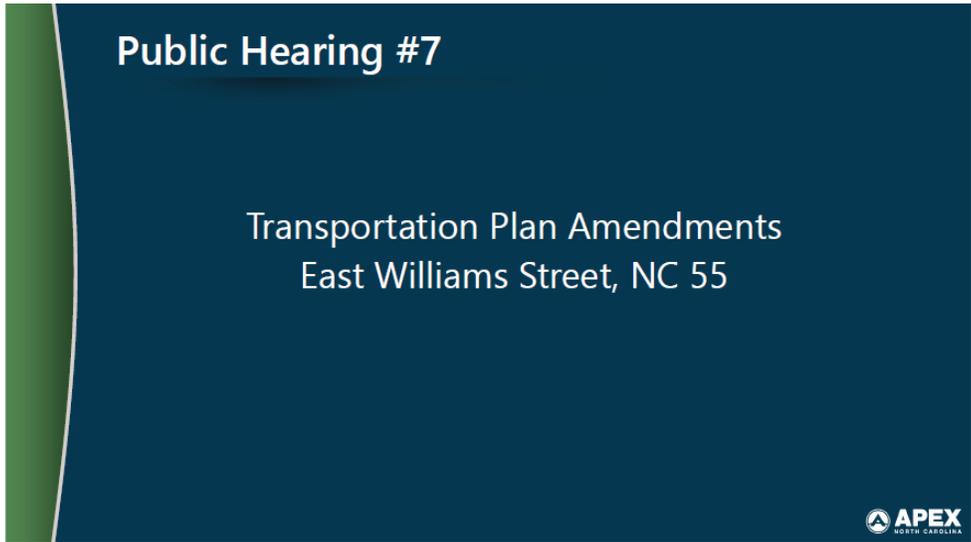
VOTE: UNANIMOUS (5-0)

PH7 Transportation Plan Amendments - East Williams Street, NC 55

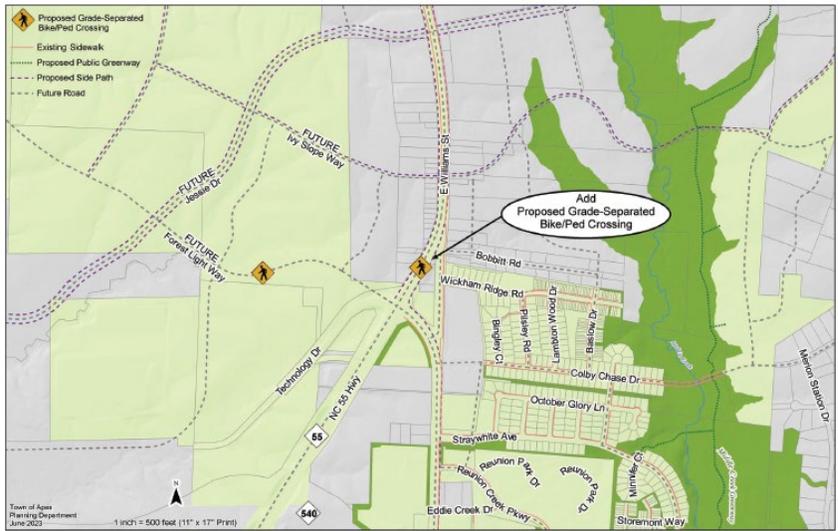
APPROVED

Ms. Cox gave the following presentation regarding the Transportation Plan Amendments - East Williams Street, NC 55

[SLIDE 49]



[SLIDE 50]



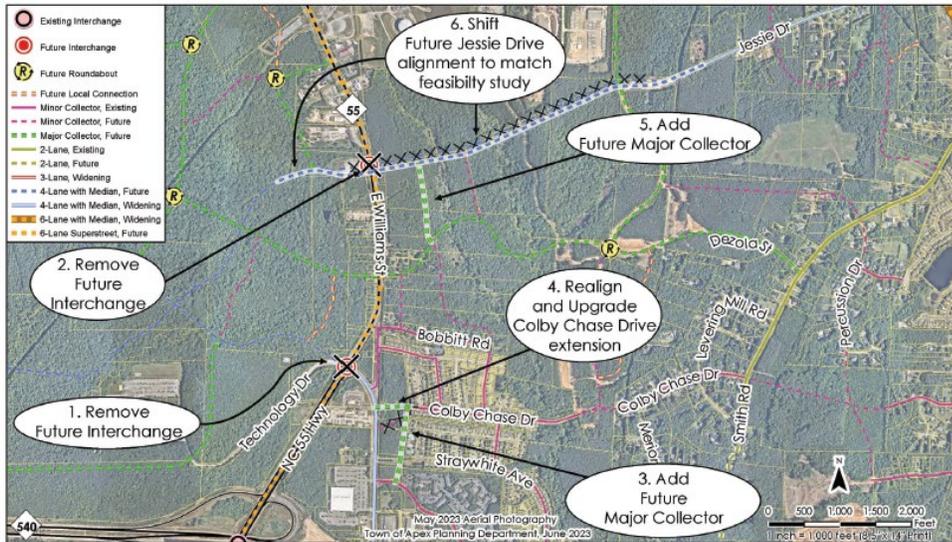
Councilmember Gantt asked if there was an opportunity to add Bike/Ped crossing when it's being built.

Ms. Cox said not as part of the NCDOT project.

Councilmember Gantt said he thought they may have second thoughts about that.

Ms. Cox said they will try to accommodate pedestrians as much as possible, and they are currently reviewing the building plans. She said there would not be any grade-separated crossings.

[SLIDE 51]



[SLIDE 52]

Updated Staff Recommendation

Updated Staff Recommendation:
Continue the public hearing for the proposed removal of the future interchange at East Williams and Jessie Drive to September 12, 2023. Approve all other amendments.



Councilmember Gantt asked if there was an opportunity to add Bike/Ped crossing when it's being built.

Ms. Cox said not as part of the NCDOT project.

Councilmember Gantt said he thought they may have second thoughts about that.

Ms. Cox said they will try to accommodate pedestrians as much as possible, and they are currently reviewing the building plans. She said there would not be any grade-separated crossings.

Councilmember Zegerman asked if they could approve all except Number 2, and continue that one.

Ms. Cox said yes, and that she has updated the staff recommendation to say that.

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Councilmember Zegerman asked if Numbers 3 and 4 were because NCDOT limiting left turns onto certain streets. He asked if they would be funding any improvements so that residents would have a place to go.

Ms. Cox said those improvements would not come from NCDOT. She said they are using the whole budget for the project on the Technology Drive modification.

Councilmember Mahaffey asked if there had been any contacts with NCDOT since the last time they had spoke about this, and if they had any thoughts on the town wanting to get these improvements.

Ms. Cox said they had submitted comments in that regard, and NCDOT essentially responded that it would not be included because of the budget available for this project.

Councilmember Mahaffey asked if it would be feasible for this major collector to be built through development, or would it more likely be something the town has to build at some point.

Ms. Cox said she could not say for sure. She said it would be on the plan, but they would work with developers if they needed flexibility, and she isn't sure what developers would come to this area. She said it may be a future municipal project.

Councilmember Mahaffey asked if it lower-grade road would make it more likely to happen.

Ms. Cox said staff would not recommend that, as it would then open up the possibility to have single-family residential driveways on a road with significant traffic.

Councilmember Zegerman asked if Colby chase was a minor collector.

Ms. Cox said yes.

Councilmember Zegerman asked if they were adding that small section of major collector so that more driveways wouldn't be built.

Ms. Cox said that was correct.

Councilmember Zegerman said he was very frustrated with NCDOT for not giving people another option out.

Ms. Cox said the only full movement with a left-out would be at Reedy Creek Parkway.

Councilmember Gray asked if Amendment 6 was there because the money was already put aside for it.

Ms. Cox said yes, this one is mostly clean up.

Mayor Gilbert opened up the Public Hearing for this item.

First to speak was **Jason Barron**, of Morningstar Law Group, on behalf of ALA Commercial:

"Good evening Mayor, Council, Jason Barron of Morningstar Law Group on behalf of ALA Commercial, they're the owners of property along the east side of Highway 55, essentially where Jessie Drive would plug in. We support the staff's recommendation in its entirety. Obviously, ALA Commercial is owners of property where the proposed interchange would go, with respect to amendment number 2, they're concerned about the developability of their site, especially given the financial impact we've learned with respect to other interchanges, or grade-separated interchanges that were examined along 55 have similar concerns as we've expressed, just about the financial feasibility. With that said, we understand the town has to make data-driven decisions with respect to traffic, and we appreciate the staff's willingness to work with our consultants as well as well as NCDOT to review this information. I'll come back to you all in September, hopefully with data that

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supports our position, but be that as it may we recognize the data has to control, so thank you very much.”

Mayor Pro Tempore Killingsworth asked if September 12th would be long enough to gather that information.

Mr. Barron said yes, and the process of doing so has already been started. He said they hope to have a draft to the town within a couple weeks. He said he believes that could then be turned around within 2 weeks, so they feel good about September 12th.

Councilmember Zegerman asked if there was a development in mind for that property.

Mr. Barron said not currently.

Councilmember Zegerman asked what the traffic study would be based on if there was no development plan there.

Mr. Barron said the growth in the area. He said it was looking at ensuring the traffic in the area could be handled independent of any individual development.

Councilmember Gantt asked how they are evaluating the factors of the development to a possible major intersection coming in there in the farther future, which may decrease the attractiveness of whatever goes in there.

Mr. Barron said he couldn't speak to any specifics, since there was no development plan, but commercial developers would be more concerned about that than residential developers. He said he thinks this property is zoned for commercial and will likely be developed as that. He said any developer would have concerns, and would want any transportation development to work in the near term as well as the long term.

Town Attorney Hohe advised that the public hearing for Amendment 2 be continued, if the Council was planning on continuing that portion of the item.

A **motion** was made by **Mayor Pro Tempore Killingsworth**, seconded by **Councilmember Gray**, to continue the Public Hearing for Amendment 2 to September 12th, 2023.

VOTE: UNANIMOUS (5-0)

Mayor Gilbert closed the Public Hearing for the remaining Transportation Plan Amendments in this item.

A **motion** was made by **Councilmember Mahaffey**, seconded by **Councilmember Zegerman**, to approve the Transportation Plan Amendments - East Williams Street, NC 55, except for Amendment 2.

VOTE: UNANIMOUS (5-0)

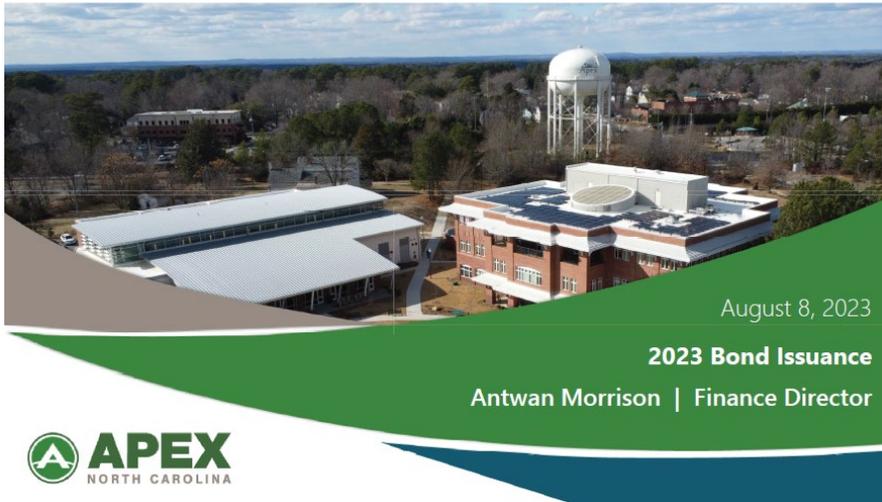
[NEW BUSINESS]

NB1 Resolution - Authorizing Public Improvement Bonds (REF: RES-2023-050, OTHER-2023-074, and OTHER-2023-075)

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Director Morrison gave the following presentation regarding a Resolution Authorizing Public Improvement Bonds.

[BONDS - SLIDE 1]



[BONDS - SLIDE 2]

General Obligation Bonds Issuance:

- A) 2015 Authorization – remaining \$7M
- B) 2021 Authorization - \$17.5M of \$42M

2/3 Bonds issuance - \$3,460,000

- A) Resolution findings and determinations and ratify filing application with LGC
- B) Introduction of bond order and call for public hearing
- C) Sworn Statement of Debt
- D) Statement of Disclosure "Estimated Interest"

[BONDS - SLIDE 3]

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Calendar of Events

- August 8th – Introduce Bond Order and Call for Public Hearing
- August 11th – Notice of Public Hearing advertised
- August 15th – Rating Agency meetings
- August 16th – Local Government Commission due diligence meeting
- August 22nd – Public Hearing and Adoption of Bond Order
- September 12th – Approval of issuance of 2/3 bonds and General Obligation Bonds
- October 3rd – Bond Sell Date
- October 24th and 25th – Close on Bonds

[BONDS - SLIDE 4]

Requested Actions

1. Motion to approve resolution making certain findings and determinations and authorizing and ratifying the filing of an application with Local Government Commission (LGC) in connection with the proposed issuance of General Obligation (GO) Bonds
2. Motion to approve the introduction of the bond order
3. Motion to approve the call for the public hearing to be held on August 22, 2023

Councilmember Mahaffey asked if it was typical for municipalities to take advantage of the 2/3 bonds every year.

Director Morrison said it is done when needed. He said they do not have to take it to a vote, and there would probably be a better bid environment for this.

Councilmember Mahaffey asked if this is accounted for in the prior information they have seen about debt the town issues, and if this puts the town above their stated limit of 12%.

Interim Town Manager Purvis said this was accounted for in the most recent information they have been given. He said they have been planning for this, and that the town is still within the targets that they were shown as part of the CIP.

Councilmember Zegerman wanted to clarify that 12% was the internal policy for debt service as a percentage of the budget.

Director Morrison said yes.

A **motion** was made by **Mayor Pro Tempore Killingsworth**, seconded by **Councilmember Zegerman**, to approve the resolution making certain findings and determinations and authorizing

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and ratifying the filing of an application with Local Government Commission (LGC) in connection with the proposed issuance of General Obligation (GO) bonds.

VOTE: UNANIMOUS (5-0)

A **motion** was made by **Councilmember Gantt**, seconded by **Councilmember Gray**, to approve the introduction of the bond order.

VOTE: UNANIMOUS (5-0)

A **motion** was made by **Councilmember Zegerman**, seconded by **Councilmember Mahaffey**, to approve the call for the public hearing to be held on August 22, 2023.

VOTE: UNANIMOUS (5-0)

Jeff Hastings of 3601 Friendship Road gave some comments to Council.

"Jeff Hastings, 3601 Friendship Road, here tonight on behalf of the Wake County Historical Commission, I'm the vice-chair. Fortunately, today, I was the presiding chair where we authorized the Town of Apex a certificate of appropriateness for the rehabilitation, reconstruction of the Tunstall House. The moving of the two accessory buildings, the turn lane for the fire truck, it's been 12 years in my work. I am elated this Town Council saw fit to move forward, and I want to say from the Historical Society I appreciate it, from the Historical Commission, y'all did a bang-up job with clearscapes, and had all your ducks in a row. There were no questions, there were no objections, and it passed unanimously, so thank you very much, and we look forward to getting over the next hurdle with the Tunstall House in the next 8 months, thank y'all very much."

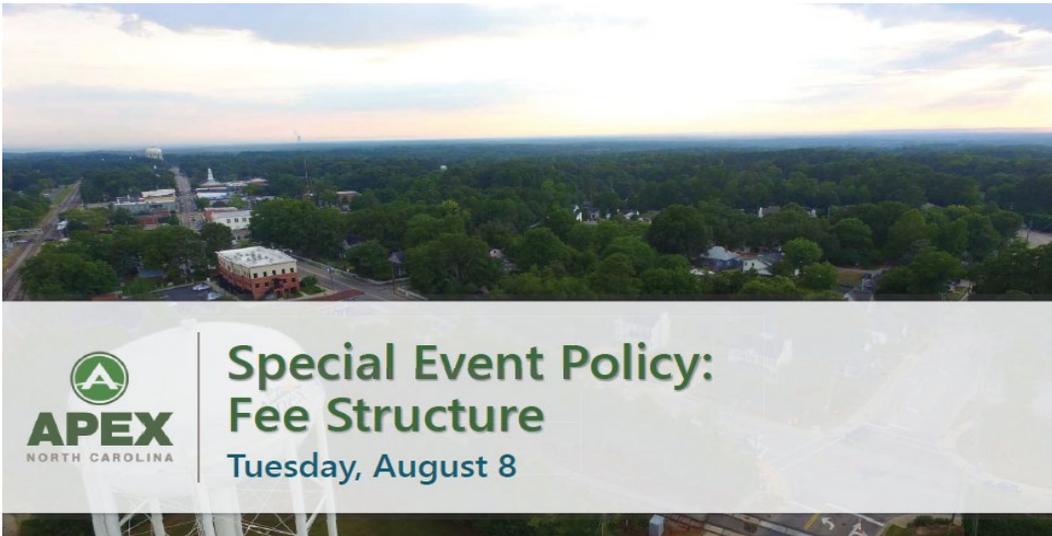
Councilmember Mahaffey said he appreciated Mr. Hastings thanking him, but they have only been here for a few years, and Mr. Hastings has been fighting for this for the past 12 years, and he appreciated his diligence and advocacy in this matter.

NB2 Special Events Policy - Addendum A: Fee Structure

Taylor Wray, Special Events Coordinator, gave the following presentation regarding Special Events Policy - Addendum A: Fee Structure.

[EVENT FEES - SLIDE 1]

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[EVENT FEES - SLIDE 2]

Purpose

- Increase in Events
- Consistency
- Application Procedure

APEX
NORTH CAROLINA

[EVENT FEES - SLIDE 3]

What are the Big Changes?

- Community Event & Town Event Language
 - Removing "Co-sponsorship" Language
- Tier System
- Due Dates
- Review Process

APEX
NORTH CAROLINA

[EVENT FEES - SLIDE 4]

Fee Structure Breakdown

Public Safety	Event Services	Location Usage
<ul style="list-style-type: none"> Large Blockade Vehicle or Police Vehicle Police Personnel 	<ul style="list-style-type: none"> Application Fee Water Barricades A-Frame Barricades Electrical Power Water Trash Cans Utility Sinks Public Works Personnel Parks Operations Personnel 	<ul style="list-style-type: none"> Saunders Street Lot Templeton Street Lot Town Hall Lot Community Center Gazebo Lot Community Center ATM Lot Senior Center Lot Town Arc Lot Park Parking Lots The Depot Lot and Plaza Town Campus Courtyard

[EVENT FEES - SLIDE 5]

Payment Formula

NON-PROFIT	For-Profit
<p>Events after July 1, 2024: All event organizers are required to pay 50% of their net profit (but not to exceed 50% of the Town Fee cost). Eligible donations will be considered to reduce the total fees.</p>	<p>Events after July 1, 2024: All event organizers are required to pay 100% of their Town Fee cost.</p>
<p><i>Fees are to be collected within 120 days post event. The event may be subject to Off-Duty Police costs. Fee schedule is reviewed annually.</i></p>	
<p>ELIGIBLE DONATION This is a charitable sum of money given to a non-profit organization that serves Apex.</p> <ul style="list-style-type: none"> Donation documentation will be required to be submitted to the Special Event Coordinator within 90 days post event. This documentation will be reviewed by Town Administration for consideration for reduction of fees. An extension to this documentation can be requested beyond the 90 day period and will be considered by the Town in circumstances where non-profit awards grants beyond this timeframe. 	

[EVENT FEES - SLIDE 6]

Non-Profit Fee Examples

<table border="1" style="width: 100%; border-collapse: collapse; background-color: #2980b9; color: white;"> <thead> <tr style="background-color: #2980b9; color: white;"> <th colspan="2" style="padding: 2px;">EXAMPLE #1</th> </tr> </thead> <tbody> <tr><td style="padding: 2px;">Organizer Revenue</td><td style="padding: 2px;">\$40,000</td></tr> <tr><td style="padding: 2px;">Organizer Expenses</td><td style="padding: 2px;">\$10,000</td></tr> <tr><td style="padding: 2px;">Organizer Profit</td><td style="padding: 2px;">\$30,000</td></tr> <tr><td style="padding: 2px;">Town Fee</td><td style="padding: 2px;">\$10,000</td></tr> <tr><td colspan="2" style="padding: 2px;"> </td></tr> <tr><td style="padding: 2px;">Organizer Donations to Community</td><td style="padding: 2px;">\$20,000</td></tr> <tr><td style="padding: 2px;">Organizer Profit (after donations)</td><td style="padding: 2px;">\$10,000</td></tr> <tr><td style="padding: 2px;">Town Fee</td><td style="padding: 2px;">\$10,000</td></tr> <tr><td style="padding: 2px;">50% of town fee</td><td style="padding: 2px;">\$5,000</td></tr> <tr><td colspan="2" style="padding: 2px;"> </td></tr> <tr><td style="padding: 2px;">Total Fee for organizer to pay</td><td style="padding: 2px;">\$5,000</td></tr> </tbody> </table> <p style="font-size: small; margin-top: 5px;">EXAMPLE #1: Organization who makes a profit from their event, Town fees match their profit, and their donations are significant in summation.</p>	EXAMPLE #1		Organizer Revenue	\$40,000	Organizer Expenses	\$10,000	Organizer Profit	\$30,000	Town Fee	\$10,000			Organizer Donations to Community	\$20,000	Organizer Profit (after donations)	\$10,000	Town Fee	\$10,000	50% of town fee	\$5,000			Total Fee for organizer to pay	\$5,000	<table border="1" style="width: 100%; border-collapse: collapse; background-color: #f1c40f;"> <thead> <tr style="background-color: #f1c40f;"> <th colspan="2" style="padding: 2px;">EXAMPLE #2</th> </tr> </thead> <tbody> <tr><td style="padding: 2px;">Organizer Revenue</td><td style="padding: 2px;">\$0</td></tr> <tr><td style="padding: 2px;">Organizer Expenses</td><td style="padding: 2px;">\$1000</td></tr> <tr><td style="padding: 2px;">Organizer Profit</td><td style="padding: 2px;">-\$1000</td></tr> <tr><td style="padding: 2px;">Town Fee</td><td style="padding: 2px;">\$3,000</td></tr> <tr><td colspan="2" style="padding: 2px;"> </td></tr> <tr><td style="padding: 2px;">Organizer Donations to Community</td><td style="padding: 2px;">\$0</td></tr> <tr><td style="padding: 2px;">Organizer Profit (after donations)</td><td style="padding: 2px;">\$0</td></tr> <tr><td style="padding: 2px;">Town Fee</td><td style="padding: 2px;">\$3,000</td></tr> <tr><td style="padding: 2px;">50% of net profit</td><td style="padding: 2px;">\$0</td></tr> <tr><td colspan="2" style="padding: 2px;"> </td></tr> <tr><td style="padding: 2px;">Total Fee for organizer to pay</td><td style="padding: 2px;">\$0</td></tr> </tbody> </table> <p style="font-size: small; margin-top: 5px;">EXAMPLE #2: Organization who makes no profit from their event, Town fees are minimal but existent, and no donations to the community.</p>	EXAMPLE #2		Organizer Revenue	\$0	Organizer Expenses	\$1000	Organizer Profit	-\$1000	Town Fee	\$3,000			Organizer Donations to Community	\$0	Organizer Profit (after donations)	\$0	Town Fee	\$3,000	50% of net profit	\$0			Total Fee for organizer to pay	\$0
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Total Fee for organizer to pay	\$0																																																

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[EVENT FEES - SLIDE 7]

Non-Profit Fee Examples	
EXAMPLE #3	EXAMPLE #4
Organizer Revenue	Organizer Revenue
Organizer Expenses	Organizer Expenses
Organizer Profit	Organizer Profit
Town Fee	Town Fee
Organizer Donations to Community	Organizer Donations to Community
Organizer Profit (after donations)	Organizer Profit (after donations)
Town Fee	Town Fee
50% of net profit	50% of net profit
Total Fee for organizer to pay	Total Fee for organizer to pay
EXAMPLE #3: Organization who donates 100% of their profits.	EXAMPLE #4: Organization who donates 60% of their profits.

[EVENT FEES - SLIDE 8]

Upcoming Dates

- Policy Public Release
 - August 9, 2023
- Next Event Organizer Meeting
 - August 16, 2023
- Fees Begin
 - July 1, 2024



Councilmember Gantt asked if she was aware of any events in Apex that do not donate their entire profit.

Ms. Wray said there are events in town that do not donate their entire profit, but that for most of those events, the funds go back to the next event.

Councilmember Gantt asked if those groups would be the ones to pay the 50%.

Ms. Wray said yes, depending on the equation.

Mayor Gilbert wanted to note that for Juneteenth, there are volunteers that put in their own time for the event. He wanted to acknowledge the time and commitment of volunteers who help put on such great events. He said it's a great thing to bring the community together. He said he reached out to the Rotary Club to get an estimate of volunteer hours for their Christmas parade, and they said 1,000. He said if the Rotary Club was no longer willing to do this, it would be 1,000 hours that staff would have to take on in order to put on the event. He said many other organizations put in a lot of time and effort for other events such as Pig Fest and Peak Fest. He said he thinks putting the fee

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back on non-profits in not productive, because they are already giving a lot to the community. He said there would also have to be more staff time dedicated into tracking and managing the new fees, which he feels would also be counterproductive. He said he wants to see non-profits continue to do well and pour into the community, and he sees this fee structure as an additional burden.

Mayor Pro Tempore Killingsworth said she agreed with the Mayor. She says she has seen how much effort non-profits put into these events, and that by adding a financial burden to them, it could place that effort back on the town. She said there would be a potential for the time having to put the event on, or the event not happening at all. She said this would add a lot more responsibility to town staff. She said her preference would be that non-profits do not have to participate in this formula. She said the rest of it was acceptable.

Councilmember Zegerman said the original intent of the fee structures was to offset the consumption of town resources in putting on the event. He said it doesn't make sense to have to increase payment enforcement, potentially having to hire new police officers to fulfill that. He said that it was also not reasonable to try to determine the amount of money made by a non-profit, and how much of that money goes back into the community, or to require them to adopt another layer of accounting. He agreed with Mayor Gilbert and Mayor Pro Tempore Killingsworth that non-profits should be exempt from the fee structure.

Councilmember Mahaffey said he understands the intent of the concerns, but he said it used to be that non-profits would submit the costs to the town before the event, and Council would approve it with an in-kind payment for town services. He said completely exempting them from this process would eliminate the other possible check on the kind of spending the town is approving. He said the incentive of the policy is for the event organizers to not spend above what is needed. He said since the town no longer approved the spending prior to the event like before, not having something like this in place would be like "cutting a blank check." He said this would provide incentives for organizers to look at potentially utilizing other options than town services for things like dumpsters and security.

Councilmember Zegerman asked if these two things were really mutually exclusive. He wondered if they could still have a review and approval process.

Ms. Wray said the events are approved by Town Administration, but the budget will remain with Town Council.

Councilmember Mahaffey said he wanted to be clear that he does not want to do anything that would endanger any of their current events. He said he's just trying to think about from a policy perspective, and what they are trying to do with it.

Mayor Gilbert said they were told several times that the original intent was about staff capacity. He said he doesn't understand how that capacity could be addressed with a fee. He said maybe there should be a workload study to determine what load staff would have to take on to then need to charge fees for things going beyond that. He said he appreciates the presentation and that staff has done a great job, but something like that would help him justify fees.

Mayor Pro Tempore Killingsworth said she feels like staff does a great job at managing these events, and working with organizers to plan things. She said if they want to go above what the town's recommendation would be, then it would be appropriate for them to need to contribute. She said as long as it falls within what is necessary, then non-profits should not have to be part of this fee schedule.

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Councilmember Mahaffey said that works, but there is still no incentive to find a more efficient way of doing something.

Mayor Gilbert said there was no way they were going to bring in private security, and that has already been discussed.

Craig Setzer, Director of Parks, Recreation, and Cultural Resources, said the issue is physical capacity. He said the ability to provide staff is stretched thin, especially from April through July. He said this also impacts many other departments in the town. He said that this policy does not account for the staffing component as much. He said there should be a volunteer coordinator coming on board around January, and the hope is that person can assist with building a network for these special events. He said he has also discussed having different types of things to block off streets other than officers and blockades with Chief Armstrong. He said that could relieve some personnel burden. He added that the fees would potentially deter people from wanting to bring special events to Apex from a cost perspective if they were not allowed to bring back those funds into the community like they are proposing. He said nobody else in the area is proposing that in the fee structures. He asked if Council would like him to take the policy back and look at it, or how they would like them to move forward.

Councilmember Gray asked if the charges assisted with the staffing problem, or if the charges were only there to help pay the staff for the services provided.

Director Setzer said it speaks to personnel, police, bathrooms, and other things of that nature. He said it would essentially be getting the town's money back.

Councilmember Gray said this tells non-profits that the town now wants them to pay for things that the town has previously been doing.

Councilmember Gantt said it seems like the status quo is not working. He said exempting non-profits would be exempting most of the organizers for events and festivals, so the status quo would be maintained. He said the rotary club makes sure its donations stay in Apex, and he thinks that would be a good requirement. He said donating to the broader organization may do a lot of good, but it may not be in Apex. He said he supports the policy.

Mayor Gilbert went back to hours that put into it by community members. He reiterated that if organizers pulled out, staff would be required to fill that gap.

Mayor Pro Tempore Killingsworth said the cost estimate is priceless when there are so many hours going into putting on these events for the town. She said if the town was required to put in 1,000 hours to put on the Christmas parade, it would not happen this year.

Councilmember Zegerman said the Councilmember Gantt's point, right now Council has no control over where the money gets donated, so they wouldn't be losing anything there.

Councilmember Gantt asked if the plan had a requirement for charitable contributions to be made toward Apex organizations.

Ms. Wray said a charitable donation is defined as a donation that is to a non-profit organization that serves Apex.

Councilmember Gantt said they have no control now, but they would with this, and that would be desirable.

Mayor Pro Tempore Killingsworth said they could remove the non-profits from this structure and still maintain that requirement to donate profits to an organization that serves Apex.

Councilmember Gantt asked what the lever would be if there were no fee structure.

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Councilmember Zegerman said there could be a waiver system, where there is a process to have the fee waived, rather than a blanket exemption.

Councilmember Gantt said the policy would be the waiver, if they decided to donate to Apex.

Councilmember Zegerman said that added to the administrative requirement for the staff and non-profits to take on in order to track and enforce that.

Councilmember Gantt asked if the organization they were giving the donation to was information gathered as part of the application.

Ms. Wray said no, that information is provided 90 days after the event.

Councilmember Mahaffey said the reason they are version 21 is that there has been a lot of input from the same organizations they are talking about. He said he had heard they are in support of the current version of the plan.

Ms. Wray said that was correct.

Mayor Gilbert said they are likely in support of what he has presented tonight as well.

Councilmember Zegerman asked how much "profit" a non-profit would be taking away from an Apex event, realistically. He asked under what circumstances would a non-profit not either donate those proceeds or reinvest those funds into a future iteration of the event.

Mr. Hastings said the Festival Commission is on board with what has been presented. He said if a non-profit in the third or fourth year is not generating enough income to pay their own bills, then they need to re-examine what they are doing. He said they need to delve into what kind of non-profit is being discussed. He said some non-profits have no paid staff, while some have a lot of it. He said there is no cut and dry answer when looking at a non-profit putting on the event. He said some events in Apex may need to be grandfathered in, but that organizations coming in the future wanting to host events should know they need to qualify as a 501c3 or 4 to be truly non-profit. He said it wouldn't be inappropriate for the town to ask for them to show that they are giving money back to the town. He said the town needs to make sure the organizers are holding up their end of the bargain as far as the use of town resources. He said everything he has seen about this goes along with what the Festival Commission is trying to do for the Town of Apex.

Councilmember Mahaffey asked if it would be permissible for them to exempt certain festivals that are already standing and adopt this as a policy for new festivals and other festivals moving forward.

Mayor Gilbert said he was good with that.

Councilmember Gantt said he really hates that. He said that would be treating them differently.

Councilmember Mahaffey said they already do, since Town-sponsored events are different.

Councilmember Gantt asked if that was clarified as part of this new policy.

Councilmember Mahaffey said yes, but this could be a new category.

Town Attorney Hohe said generally people and groups have to be treated equally, unless there was some legal basis for there to be exceptions. She said she could not say anything about the legal specifics in this juncture.

Mayor Gilbert asked if there have been any issues with how organizations have presented events.

Director Setzer said not to his knowledge. He said one of the biggest issues has been having an inconsistent process for applications and working with organizations.

APPROVED

Mayor Pro Tempore Killingsworth asked if they could direct Town Attorney Hohe to investigate if the town could do “exempt events”, and then bring it back to them with a recommendation.

Councilmember Gray said he understands Mr. Hastings comments about not wanting to “bankrupt” the town for these events, and the fact that the Festival Commission was on board with this was very compelling. He said he was wondering about the concept of “grandfathering”, because there are a lot of newer events hosted now that would not have happened in Apex in the recent past, such as Juneteenth, Pride, and Latino Festival. He said a lot of the things they already had were things that were already going to be there. He said they recognize that bringing in a new festival can bring new things to Apex, and sometimes it works and sometimes it doesn’t. He said to him he thinks that profit-generating entities should pay for the use of town services. He said he doesn’t see a problem with giving an exemption to non-profits who primarily work to make the community better. He said he wanted to go on record to say he wanted to increase the budget for Parks, Recreation, and Cultural Resources. He said he wasn’t sure if he was willing to put that increased burden on non-profits right now, since they work to make the town better. He said he would support exempting them.

Councilmember Gantt wanted to clarify what Councilmember Gray meant by what part is making the community better.

Councilmember Gray said he assumed that non-profits in Apex put on these events in order to make Apex better. He said that’s different from putting their money into Apex, and that some organizations but the investment in through time. He said he wanted to encourage more non-profits to be in Apex to help make them better. He said there may be a time where a non-profit was not acting as one, and then they should have to reimburse the town.

Councilmember Zegerman asked how they would make that distinction under the policy. He wondered if it could be made part of the application process, and they could use that as their basis.

Councilmember Gray said he wasn’t worried about that. He said he doesn’t want to create problems that aren’t there. He said he just wants to exempt non-profits, and address issues in the future if necessary.

Councilmember Mahaffey said this goes back to his main concern of accountability, and if organizations were looking at being efficient. He said they may could add an option to appeal the decision of the Council.

Councilmember Gray argued that an efficient event is one where people show up.

Mayor Gilbert said he feels like this is about partnerships. He said their effort is bringing people together in Apex. He said it is not a difficult decision, as non-profits do so much for the Town.

A **motion** was made by **Councilmember Gray**, seconded by **Mayor Pro Tempore Killingsworth** to approve the addendum, with the exemption of non-profits organizations from the fee schedule.

Interim Town Manager Purvis wanted to confirm that the desire of Council was to still have non-profits pay for additional police presence for events with alcohol.

Mayor Gilbert indicated yes.

APPROVED

VOTE: 3-2, Councilmember Gantt and Councilmember Mahaffey dissenting

[UPDATES BY INTERIM TOWN MANAGER]

Interim Town Manager Purvis said the electric staff did a great job returning the power after a strong storm the night before. He said the town found out today the electric department would be receiving the strength in public power and customer service innovation awards by Electricities. He said this Sunday is the fitness festival, and that track out camps are coming, with the first coming in October. He said the Western Big Branch Area Plan has open houses coming up, and will be the outreach for the long-range area plan. He said the community police academy is open for registration and closes August 18th. He said Chief Armstrong has been chosen as a part of the inaugural class of the Obama Foundation's Leadership USA, as part of a class of 100 rising leaders in the Country, and congratulated him.

A recess was called at 9:45p.m.

Council returned from the recess at 9:50p.m.

[CLOSED SESSION]

Mayor Gilbert recognized Senior Pastor of Apex United Methodist Church (UMC), Laura Katherine Stern.

Pastor Laura Katherine Stern said her appearance was in relation to the town's potential purchase of 206 and 210 South Hughes Street. Pastor Stern said two documents were being handed out by the Town Clerk which provided an overview of how Apex UMC supports the work of Fiesta Cristiana. To view the handouts provided by Pastor Stern, reference **OTHER-2023-076** and **OTHER-2023-077**.

A **motion** was made by **Mayor Pro Tempore Killingsworth**, seconded by **Councilmember Zegerman** to enter into Closed Session pursuant to NCGS §143-318.11(a)(5), NCGS §143-318.11(a)(3), and NCGS §143-318.11(a)(6) - see below.

VOTE: UNANIMOUS (5-0)

Council entered into Closed Session at 9:55p.m.

CS1 Steve Adams, Utilities Acquisition and Real Estate Specialist

NCGS §143-318.11(a)(5):

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

APPROVED

CS2 Laurie Hohe, Town Attorney, Legal Department

NCGS §143-318.11(a)(3):

"To consult with an attorney employed or retained by the public body in order to preserve the attorney-client privilege between the attorney and the public body."

CS3 Jacques K. Gilbert, Mayor

NCGS §143-318.11(a)(6):

"To consider the qualifications, competence, performance, character, fitness, conditions of appointment, or conditions of initial employment of an individual public officer or employee or prospective public officer or employee; or to hear or investigate a complaint, charge, or grievance by or against an individual public officer or employee."

Council returned to open session at 11:20p.m.

[ADJOURNMENT]

Mayor Gilbert adjourned the meeting at 11:20p.m.

Jacques K. Gilbert
Mayor

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

Submitted for approval by Town Clerk Allen Coleman and approved on September 12, 2023 (CN4).

APPROVED MINUTES
TOWN OF APEX
SPECIAL TOWN COUNCIL WORK SESSION
TUESDAY, AUGUST 15, 2023
4:30 P.M.

The Apex Town Council met for a work session on Tuesday, August 15, 2023 at 4:30 p.m. at the Apex Town Hall located at 73 Hunter Street in Apex North Carolina.

This meeting was open to the public. Members of the public were able to attend this meeting in-person or watch online via the livestream on the Town's YouTube Channel:

<https://www.youtube.com/watch?v=lx5qz3N67wM>

[ATTENDANCE]

Elected Body

Mayor Jacques K. Gilbert (presiding)
Mayor Pro-Tempore Audra Killingsworth
Councilmember Brett Gantt
Councilmember Ed Gray
Councilmember Terry Mahaffey
Councilmember Arno Zegerman
Absent: None

Town Staff

Interim Town Manager Shawn Purvis
Assistant Town Manager Demetria John
Assistant Town Manager Marty Stone
Town Attorney Laurie Hohe
Town Clerk Allen Coleman
Water Resources Director Michael Deaton
All other staff members will be identified appropriately below.

[COMMENCEMENT]

Mayor Gilbert called the meeting to order at 4:30p.m. and led the Pledge of Allegiance.

Interim Town Manager Purvis said there would be an update on the Big Branch project, and also a discussion on the broader picture and how everything ties together.

APPROVED MEETING MINUTES | TOWN OF APEX | AUGUST 15, 2023

Councilmember Gantt asked how much of the update of Big Branch Force Main has been shared with the residents in that area.

Director Deaton said it has been on the website.

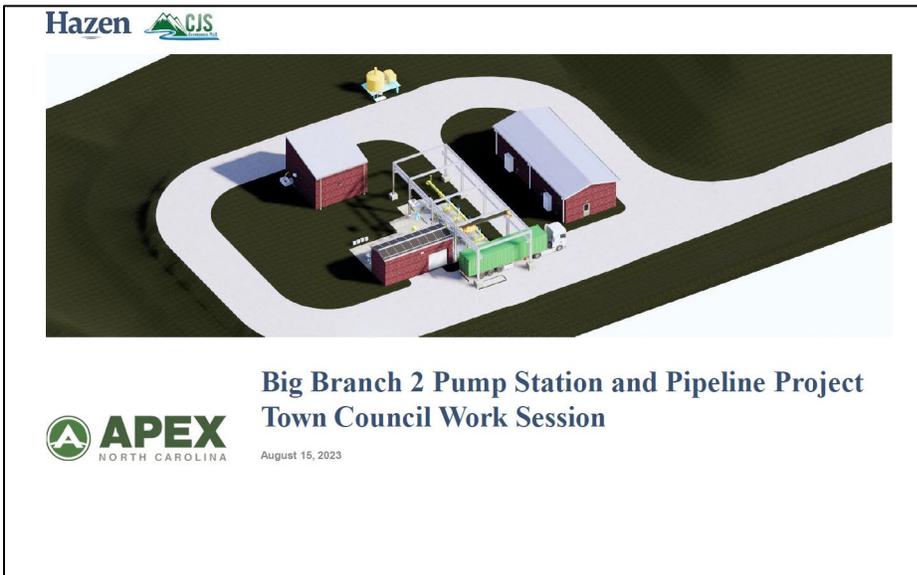
Assistant Town Manager Stone said all plans have been made available to the public.

[ITEM NO. 1 - BIG BRANCH FORCE MAIN (BB2) UPDATE]

Michael Deaton, Water Resources Director, introduced representatives who will be presenting; Brian Porter-Senior Associate, Hazen and Sawyer, Steve Brown P.E.-Senior Consultant, HDR, and Stephen Leitch-Managing Member of CJS Conveyance, PLLC.

Brian Porter, gave an overview presentation of the Big Branch Force Main project.

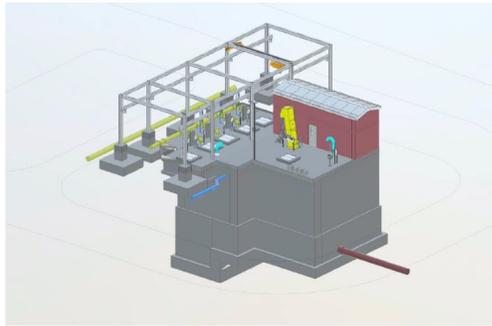
[Slide 1]



[Slide 2]

Agenda

- Project History
- PER Study
- Pump Station Design Update
- Force Main Design Update
- Communications
- Q&A



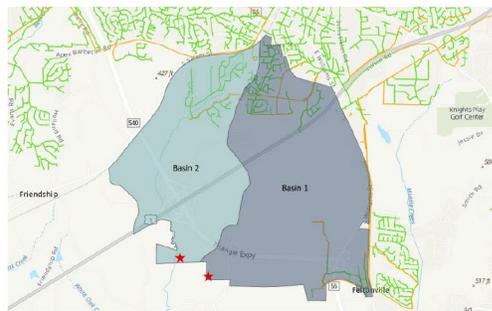
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Project History

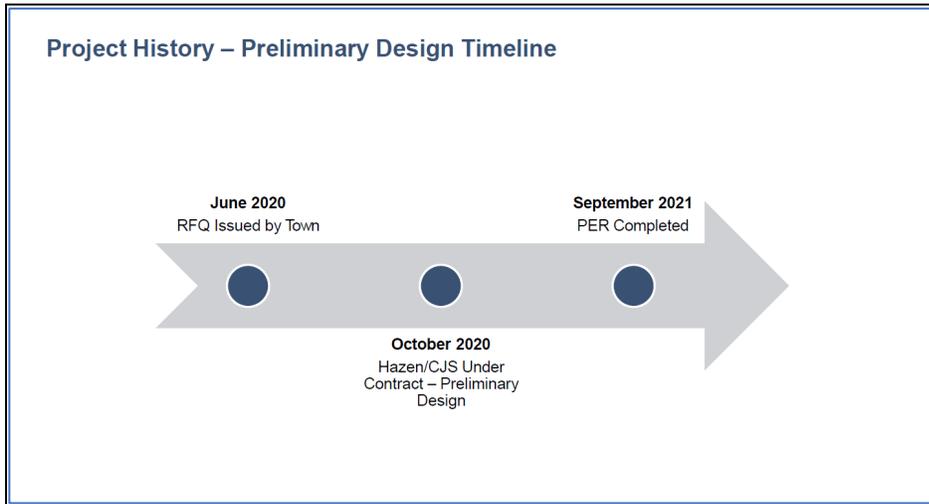
[Slide 4]

Project History – Purpose

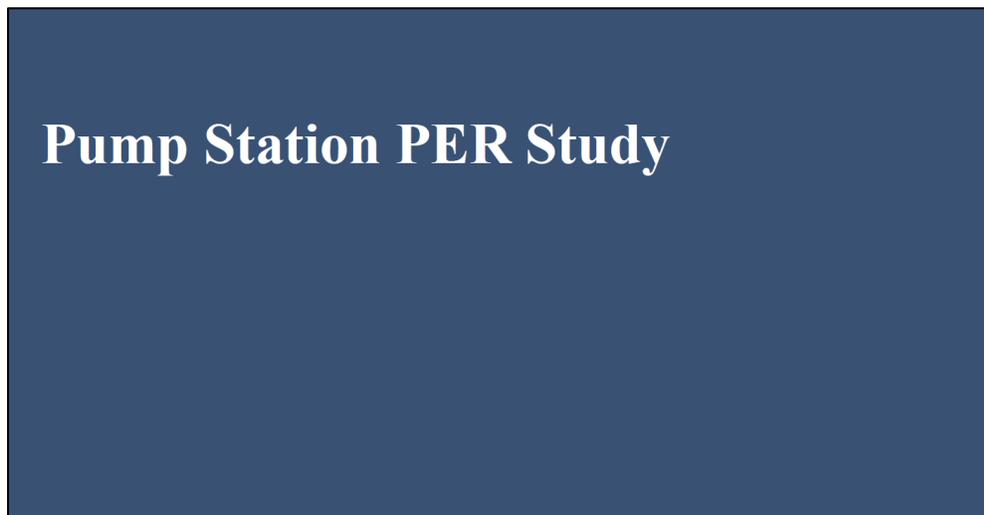
- Need for regional sewer solution for the Big Branch Basin
- Avoids an inter basin transfer (IBT)
 - The Town is heavily invested in Western Wake WRF
- Economic development potential
- Eliminate older, less-reliable pump stations per the Town's master plan



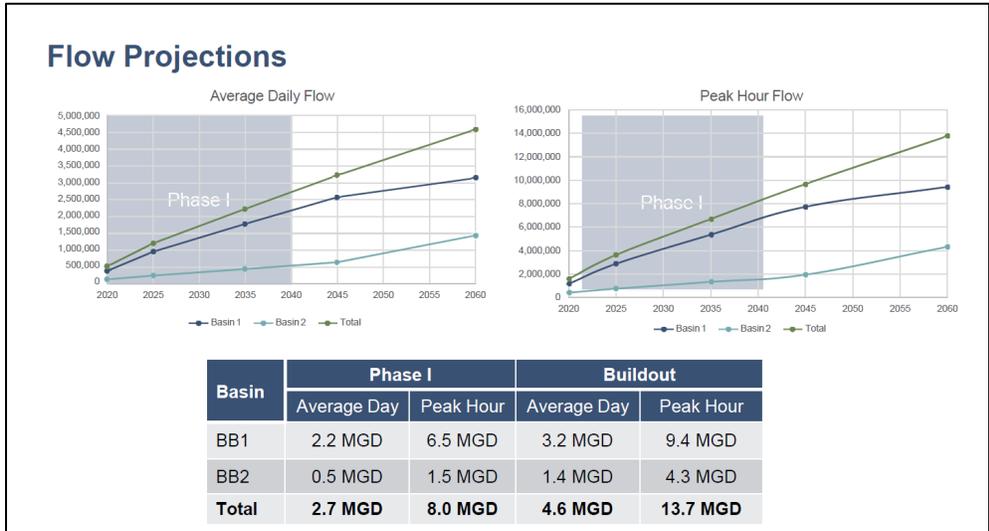
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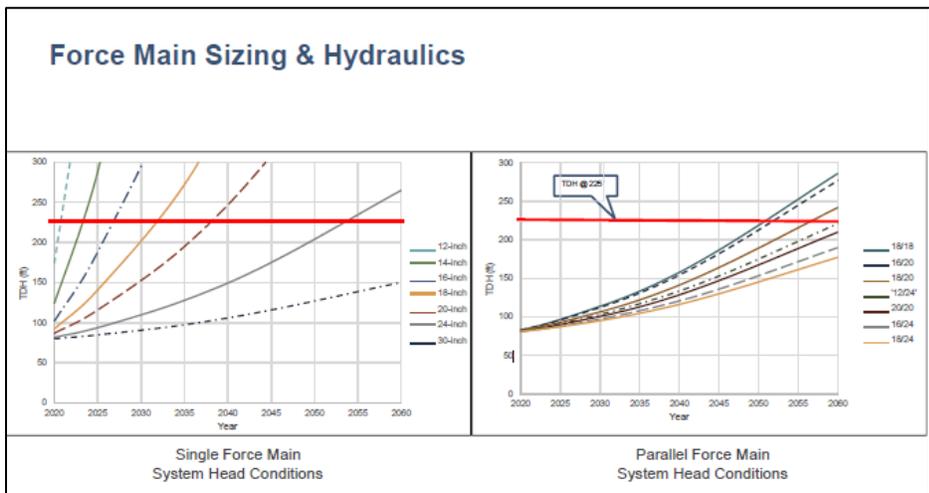
[Slide 7]



Councilmember Zegerman asked Mr. Porter to explain “peak flows during wet weather.”

Mr. Porter said some indirect storm water does drain into sewer because they are not 100 percent water tight.

[Slide 8]



Councilmember Mahaffey asked on a general scale what size project this is.

Mr. Porter said it is not an overly large pump station compared to others built in Apex, but big enough to look at things like pump protection and local odor control.

Councilmember Mahaffey asked if this main had a long distance.

Mr. Porter said it was not unusually long. He said this one is only having to manifold into one pump station.

Councilmember Zegerman asked if the flow rates are both pump stations combined, or just one pump station.

Mr. Porter said they were individual.

Assistant Town Manager Stone said these would be Apex's largest pump stations.

Mr. Porter said they try to make sure velocity is kept up during lower flow conditions to prevent to reduce issues such as odors.

[Slide 9]



Councilmember Zegerman asked if the systems are redundant, so that grinding happens regardless or if the other system fails.

Mr. Porter said they are both designed to the full capacity of the pump station, and the grinder can handle the whole battery.

Mayor Pro Tempore Killingsworth asked will this happen automatically or does someone have to manually do it.

Mr. Porter said it's automatic.

[Slide 10]

Pump Station Recommendations (cont.)

- Odor Control
 - Vapor Phase (For Onsite Odors)
 - Dry Media Adsorber
 - Liquid Phase (For Force Main Air Release Valves)
 - Biocide
- Electrical Generator
- VFDs
 - w/ bypass starters
 - Housed in electrical building



[Slide 11]

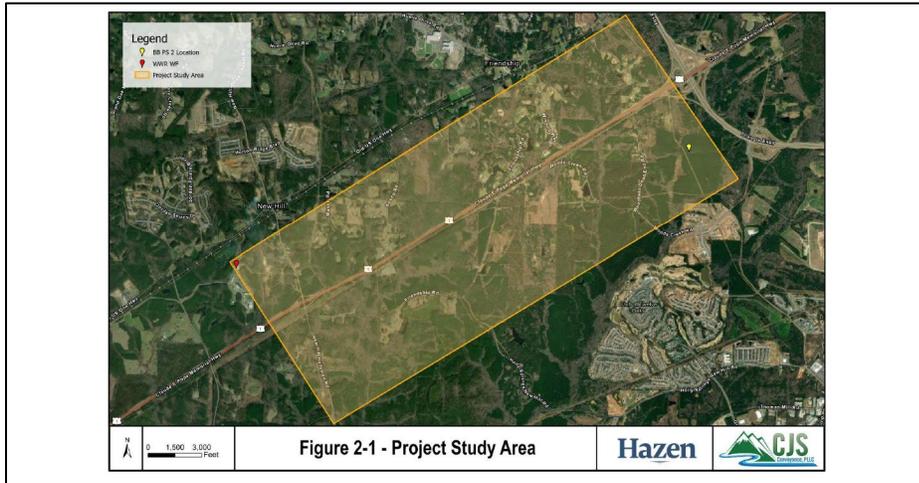
Pipeline PER Study

[Slide 12]

General Force Main Routing Process

1. Identify Begin and End Points Required by Project
2. Identify the Routing Study Area
3. Identify Critical Features within Study Area
 - Areas that could support routing
 - Areas where routing is undesirable/not allowed
4. Develop Multiple Routes for Consideration
5. Assess Developed Routes to Determine Most Suitable Option

[Slide 13]



[Slide 14]

Considerations for Development of Force Main Routes

- Municipal Boundary
 - North of US 1 is predominantly Town of Apex and Wake County
 - South of US 1 is predominantly Town of Holly Springs and Wake County
- Out of Jurisdiction Coordination Complexity
- Avoid Bisecting Parcels
- Approved and Pending Developments
- Minimize Environmental Impacts
- Utilize Existing Road/Easement Corridors Where Possible

[Slide 15]

Road / Easement Routing Considerations

- Secondary Road Encroachment is Possible
- Encroachment in US 1 Not Allowed (controlled access)
- Parallel Installation in Gas Easements Not Allowed
- Parallel Installation in Duke Transmission Easements Not Allowed

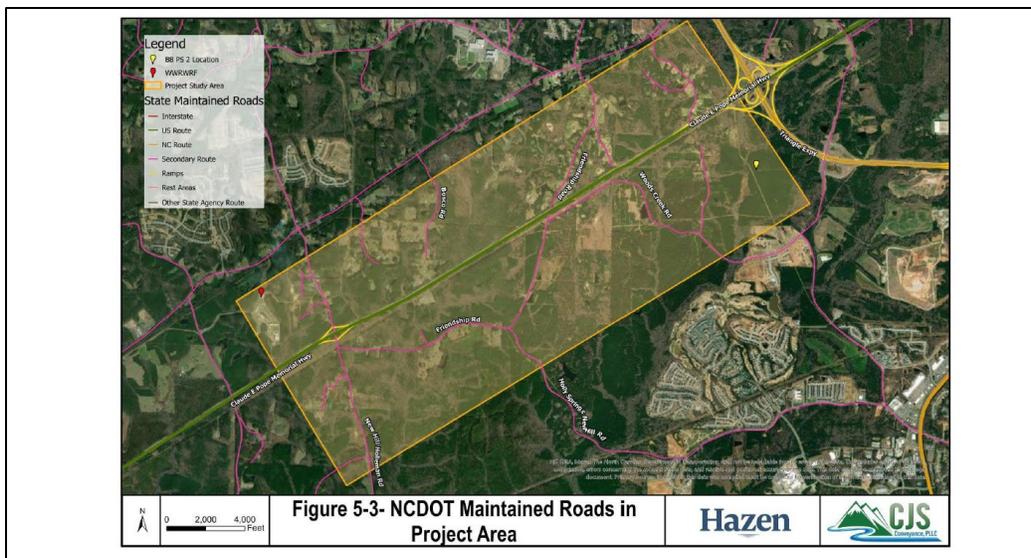
Councilmember Zegerman stated “not allowed” might be policy, but would there be exceptions from NCDOT to those polices.

Mr. Leitch said the exceptions could be made by someone within NCDOT, but as a policy there are not exceptions.

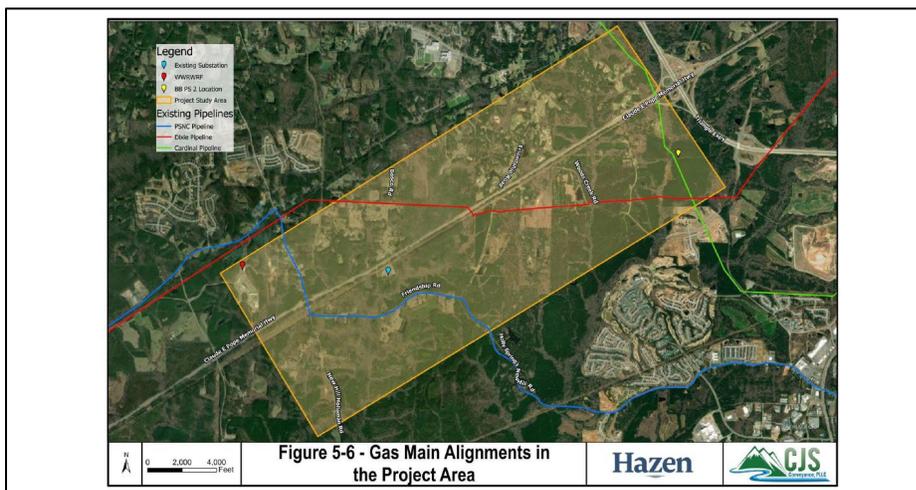
Councilmember Zegerman said he has seen examples where there have definitely been exceptions.

Mr. Leitch said he agreed they do happen, but every time he has tried he has not been able to get them.

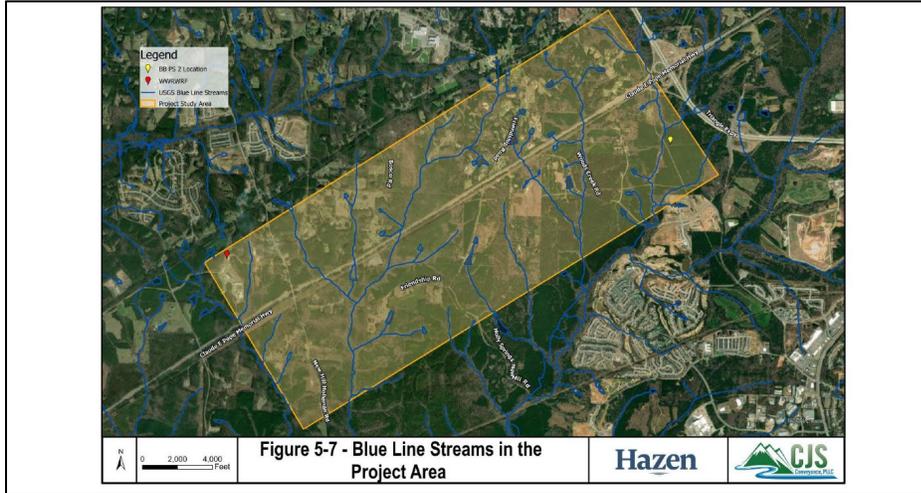
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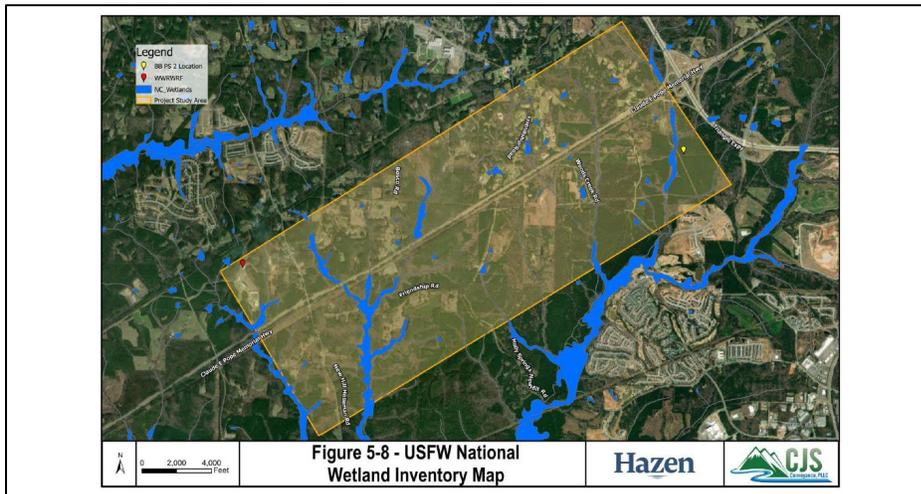
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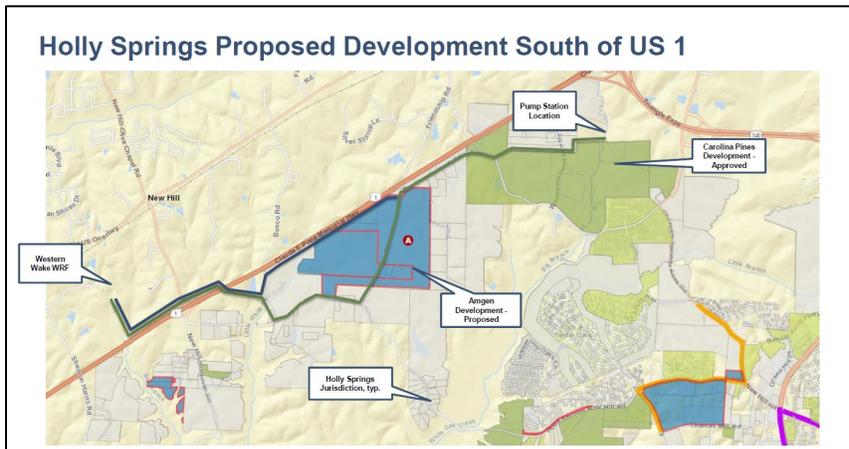
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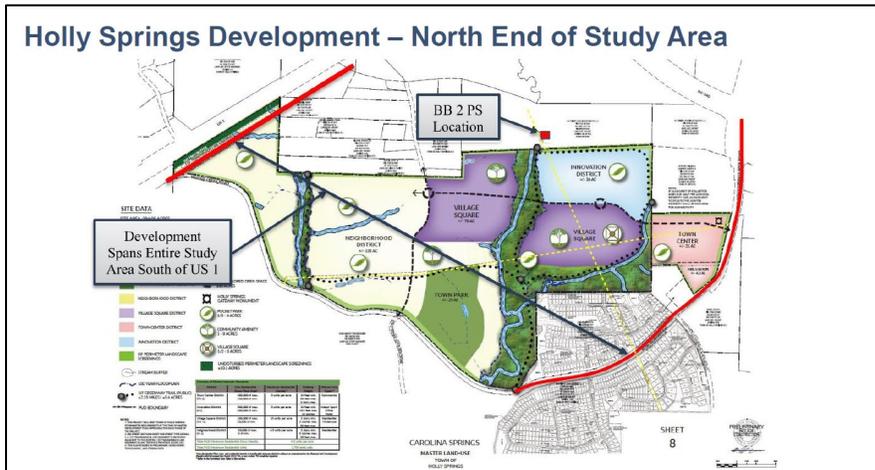
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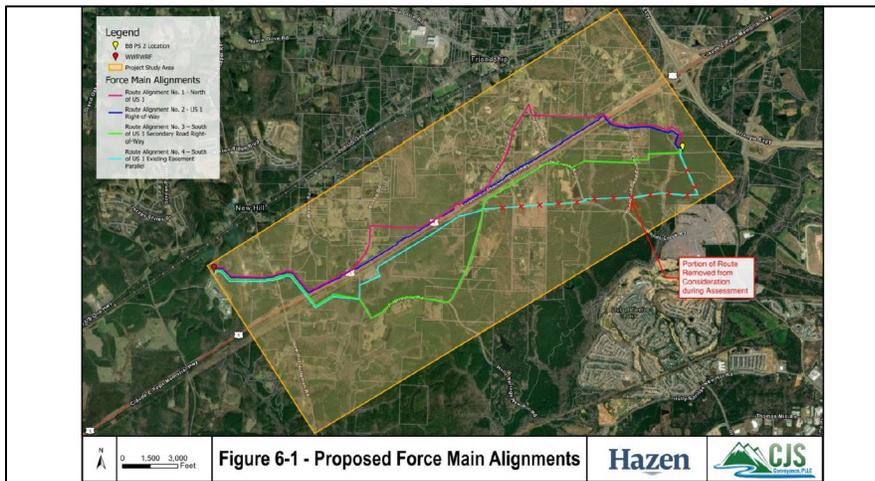
[Slide 20]



[Slide 21]



[Slide 22]



Councilmember Zegerman asked about a hybrid of the purple and blue connections going up US1.

Mr. Porter said if that did happen, it would require an easement in other people's front yards, that's why they chose the route away from that option.

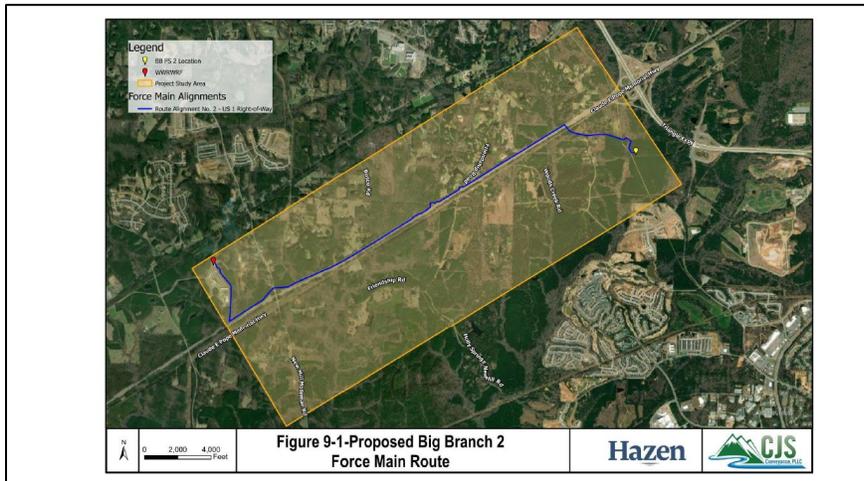
Assistant Town Manager Stone said there's going to be at least three pump stations in the future that could serve the corridor between Old US 1 and US 1 to get to the plant, eventually, they will need to tie into that force main on the south side.

[Slide 23]

Force Main Alignment Option Highlights

- **Alignment 1**
 - Predominantly on West Side of US-1
 - Uses a Mix of Roadways, Cross-Country and Adjacency to US-1 Right-of-Way
 - Entirely Within the Town of Apex
- **Alignment 2**
 - Adjacent to US 1 Right-of-Way Corridor
 - No Impact to Carolina Springs / Avoids Holly Springs Impacts
- **Alignment 3**
 - Maximizes Parallel of Existing Roadways
 - Impacts Holly Springs, perimeter of Carolina Springs
- **Alignment 4**
 - Maximized Parallel of Existing Easements
 - Most impact to Holly Springs parcels
 - Crosses Carolina Springs, Proposed School Parcels, and Amgen

[Slide 24]



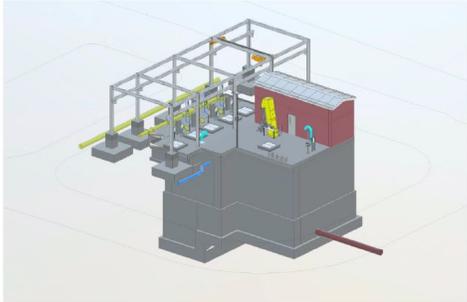
[Slide 25]

Pump Station Design Update

[Slide 26]

Final Design Pump Station Arrangement & Appurtenances

- 4.3 MGD Firm Capacity
 - Four (4) 135 HP submersible pumps
 - Three Duty/One Standby
- Odor Control
 - Dry media (carbon) adsorption system (vapor phase treatment)
 - Bioxide chemical feed system (liquid phase treatment)
- Pump Protection
 - Primary Channel – Multi-rake Mechanical Screen
 - Bypass Channel – Channel Grinder
- Backup Power
 - 800 kW standby generator



Assistant Town Manager Stone asked if BB1 and BB2 will be dedicated to one force main or will be able to split off and go the other way.

Mr. Leitch aid that's how force mains are built, to be split off and go the other way.

Councilmember Zegerman asked how often does a pump need to be collected and how the odor control would work, if it was an open container or sealed.

Mr. Leitch said the dumpster itself is an open container, but it's within an enclosed garage area. He said there is a constant of pulling air out of there the entire time it's running. He said potentially there could be some localized odor but its just when it gets pulled out from dumping it and putting it back in. He said it could be every 2 weeks, but that timeframe is variable.

Councilmember Zegerman asked where the waste goes once it is collected.

Mr. Leitch said it would go to the landfill.

Councilmember Gray asked if the macerator will operate at the same time to catch anything that has gone through.

Mr. Leitch said it's in separate channel that is isolated. He said at some point a plan is to add some programming to allow a periodically shift so it's not sitting still for six months.

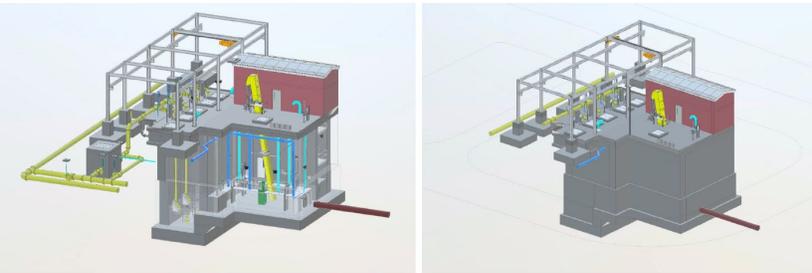
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Site Overview



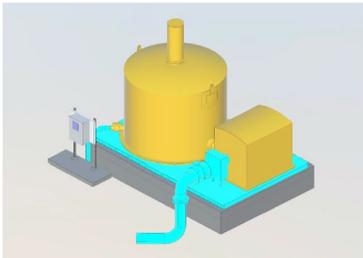
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Pump Station Design Update

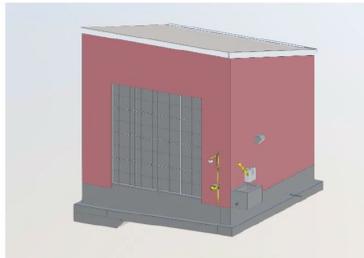


[Slide 29]

Odor Control Measures



Vapor Phase Treatment
Carbon Scrubber



Liquid Phase Treatment
Chemical Tank Facility (Bioxide)

[Slide 30]



[Slide 31]



[Slide 32]

Evolution of NCDOT US 1 Encroachment

1. Initial Design – All Outside of R/W per NCDOT Policy
2. Requested Installation Into R/W at Constrained Locations
 - *Request Denied, Subsequent Appeal Denied*
3. Meeting w/ NCDOT and Veridea to Request Encroachments
 - *Request approved for encroachments at Moore, Hastings, and Williams properties*
4. Request for Expanded Encroachments at Williams, Olive, and Hastings
 - *Request denied*

Councilman Zegerman asked is there a better way of accessing easements.

APPROVED MEETING MINUTES | TOWN OF APEX | AUGUST 15, 2023

Mr. Leitch said other properties would be accessed from a different location. He said there would have to be gates along the easement for access.

Mayor Gilbert asked if Veridea representatives were at the NCDOT meeting.

Mr. Leitch said he believes they were, and there was a follow-up meeting a week ago with the District Engineer where they tried to ask for more encroachments.

[Slide 33]

Evolution of NCDOT US 1 Encroachment

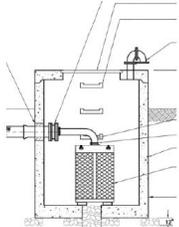
1. Initial Design – All Outside of R/W per NCDOT Policy
2. Requested Installation Into R/W at Constrained Locations
 - Request Denied, Subsequent Appeal Denied
3. Meeting w/ NCDOT
 - Request approved

Approved Encroachments	
Hastings Property	- 992 Linear Feet
Moore Property	- 296 Linear Feet
Williams Property	- 1,115 Linear Feet
4. Request for Expansion
 - Request denied

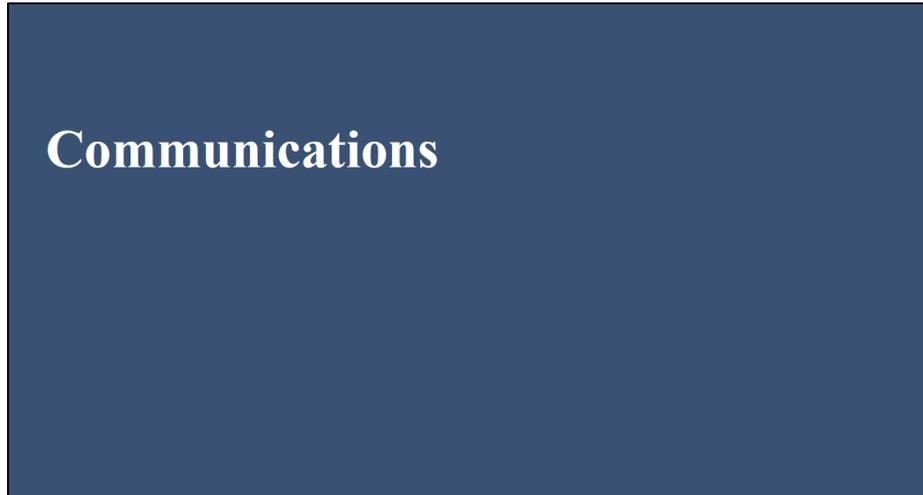
[Slide 34]

Force Main Odor Control

- Provisions for Odor Control will be Provided at All Air Release Valves
- Provide Options for Exterior or Interior Odor Control
- Size is Dependent Upon Anticipated Exhaust Rate



[Slide 35]



[Slide 36]

Communication

- Town Website
- Property Owner Coordination
- Neighborhood Meetings
- Weekly Updates

The screenshot shows a webpage from the Town of Apex. The header includes the Apex logo and navigation links: GOVERNMENT, SERVICES, DOING BUSINESS, OUR COMMUNITY, HOW DO I... and a search bar. The main content area features a green sidebar with links for 'Bidding and Requests for Qualification', 'Capital Improvement Projects', and 'Big Branch Pump Station and Force Main'. The main text area is titled 'Big Branch Pump Station and Force Main' and includes a 'Project Overview' section. The 'Project Overview' text states: 'In 2021, the Town of Apex hired a study to determine a regional sewer solution to serve over 2,700 acres of undeveloped and partially developed land known as the Big Branch basin. The project had two main goals – determine the most cost-effective way to provide the service and meet future-mandated treatment standards requirements. The study recommended creation of two regional pump stations and a force main alignment that followed along the US-1 corridor. In 2022, Apex began designing one of the two recommended regional pump stations, Big Branch #1 (Townwide Pump Station and Force Main). The Big Branch basin shown on the map below is partially developed and is served by four smaller pump stations. All developmental areas, these pump stations will be replaced only directly adjacent to the new recommended Big Branch pump stations. The Town of Apex ongoing design project includes: • One wastewater pumping station with a capacity of 1.44 MGD • A 6.0 miles of dual 36-inch wastewater force main along the US-1 corridor from Big Branch #1 (B&B) pump station to the Western Wake Regional Water Reclamation Facility.

CONTACT US
Mike Deaton, PE
Water Resources Director
919.249.3453
mdeaton@apexnc.gov

Related Information
• P&ID, Executive Summary
• Project Schedule
• SCL Access Plans
• Force Main
• SCL Access Plans
• Force Main
• SCL Access Plans
• Pump Station

Councilmember Zegerman asked if the area is determined a stream location, would that change the conversation with NCDOT where they would pay.

Mr. Porter said the town would have to get a 414 Permit through them, and the town would then have to pay for mitigation credits.

Councilmember Gray asked for a breakdown of how this is going to be communicated to the property owners.

Mr. Porter said depends on the way they requested to be contacted. He said previously letters were initially sent to let property owners know, with additional letters with more in-depth investigations. He said they have tried to adhere to property owner's requests wherever they can.

Councilmember Gray asked if anyone has refused to communicate.

APPROVED MEETING MINUTES | TOWN OF APEX | AUGUST 15, 2023

Mr. Porter said there has been a few throughout the process of not wanting to communicate, most have been accommodating.

Councilmember Gray asked if there was anything they are doing after the fact to let property owners know what was done at their property.

Mr. Porter some property owners have requested to know what was done. He said some property owners have requested flagging, other has requested painting and some are not concerned at all. He said it's all a case-by-case basis as they are different.

Councilmember Gray asked if there are any procedures that can be used for the property owners if there's damage to the property that the owner wants the town to know about.

Mr. Porter said they have all the contact information and nothing to his knowledge has he seen damage nor has anyone tried to contact them asking for said conversation. He said they try to be thorough in explaining what they will be doing and what may need to be moved/cleared.

Councilmember Gray asked Director Deaton and Assistant Town Manager Stone confirming if the town did not have a claim process built in.

Assist Town Manager Stone said if anyone had concerns they would just contact the town. He said he does not recall of any projects that someone has contacted the town.

[Slide 37]

Evolution of NCDOT US 1 Encroachment

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4. Request for Expanded Encroachments at Williams, Olive, and Hastings
 - *Request denied*

[Slide 38]



Councilmember Gray asked which of the recommendations for the main are they pursuing.

Mr. Leitch said alignment two.

Councilmember Mahaffey asked when the process of getting acquisitions from all the property owners.

Mr. Leitch said that could start soon, some alignments may need to be adjusted but most shouldn't change at this point.

Councilmember Zegerman asked what the approximate cost for digging up along US-1.

Mr. Leitch said it depends on the size, approximately six to eight hundred dollars a foot. He said 400 feet was a general rule of thumb.

Councilmember Zegerman asked how is the 800 dollars a foot compare to digging in a 30-foot trench and laying a pipe.

Mr. Leitch said for an eight-inch pipe around 80 dollars, but it carries a lot more risk. He said if you hit rock you would have to start over.

[ITEM NO. 2 - LONG-RANGE WATER AND SEWER CAPACITY DISCUSSION]

Steve Brown, of HDR, gave the following presentation.

[SLIDE 1]



**Town of Apex
Long Range Water Resources Plan
(LRWRP)**

Town Council Work Session
August 15, 2023



[Slide 2]

Agenda

- . What is a Long Range Water Resources Plan?
- . Why does the Town of Apex need one?
- . What types of data were evaluated?
- . What were the results?
- . What are the Town of Apex's future capacity needs?
- . Questions

[Slide 3]

What is a Long Range Water Resources Plan?

- Gain an updated understanding of the Town's customer water use and wastewater flows
- Develop strategies to meet future water and wastewater capacity requirements
- Identify tactical steps to advance the Town's LRWRP



[Slide 4]

Why does the Town of Apex need a LRWRP?

- Assurance that capacity will be available to meet growth needs
 - Water supply – Jordan Lake
 - Water treatment
 - Wastewater treatment
 - Interlocal agreements
 - Regional partnerships
- Ability to effectively plan financing to meet those needs

[Slide 5]

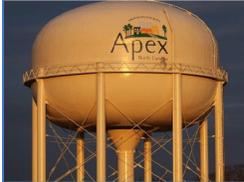
LRWRP Project Approach



[Slide 6]



[Slide 7]



Data analysis included:

- Water distribution and wastewater collection systems
 - Existing facilities
 - Capital Improvement Plan
 - GIS
- Water and Wastewater Operations
 - Geospatial water meter data
 - CAWTF demands
 - MCWRF and WWRF flows
- Land Use Planning
 - Advance Apex
 - CAMPO CommunityViz
 - Planning Staff – near term growth perspective

[Slide 8]

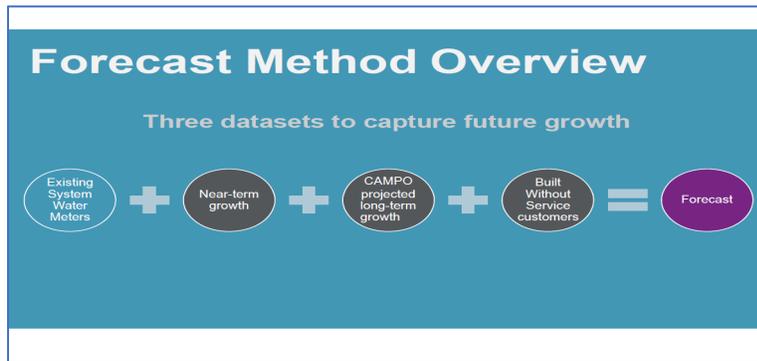
Takeaways from recent history (2016 to 2021)

- Water demand is increasing at a lower rate than population is
 - Population + 55% Residential demand + 50% Finished water supply + 34%
 - Residential per capita water use continues to decrease, down 4.2%
 - Annualized growth rate = 9.1%
- Single family residential is the primary driver of increased demand
- Flows are increasing primarily in the western service areas
- Little change in irrigation demand
- New development is more water efficient than older development was

Councilmember Zegerman asked how does 34 percent and 50 percent residential differ in increased water supply.

Mr. Brown said it's the finished water supply. He said there are more uses besides just residential. There is also commercial, institutional and schools, shopping center, commercial development office buildings, he said your finished water supply only increases at 34 percent compared to the population increases at 75, and residential increase at 50 percent, which is driving the use of water.

[Slide 9]



Councilmember Gantt asked if there is an average kind of water supply for land use.

Mr. Brown said there has been a development of unit of flow factors for residential per person and industrial is by square footage of building space, and commercial buildings is by square footage of building plus employees, he says there are different units you can apply.

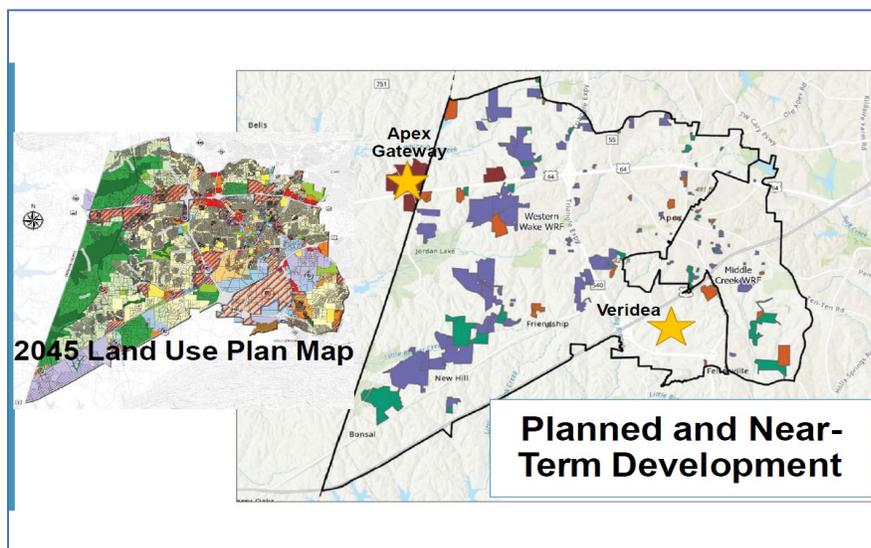
Councilmember Gantt asked will a report entail certain uses within the land use that maybe should be avoided. He wondered about the tradeoff between economic growth and water usage, and if some usages could be supplied by this properly.

Assistant Town Manager Stone said it's better to look at how to get water to jobs, rather than the other way around. He said the plan does not consider extremely heavy water uses that would not be considered typical for the town in the future.

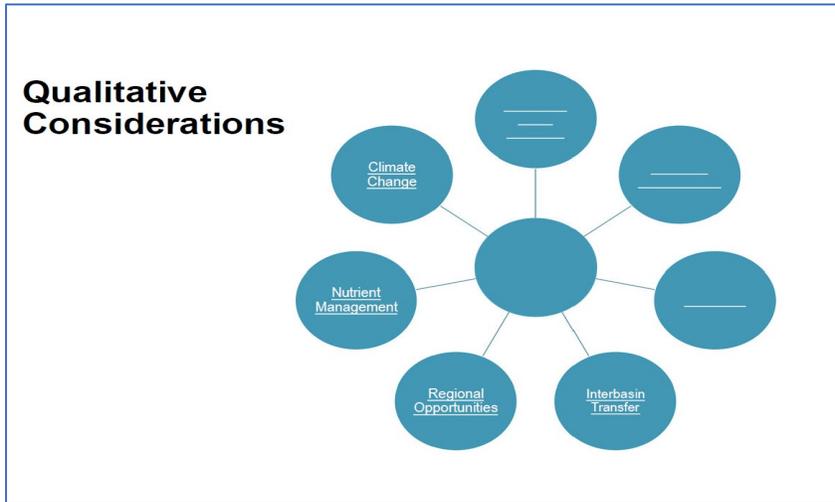
Councilmember Gantt said he assumes that every municipality deals with this issue, so, he says if the town can handle a big water user it might be an advantage.

Assistant Town Manager Stone said for this report would give the town a good idea of an impact that may have.

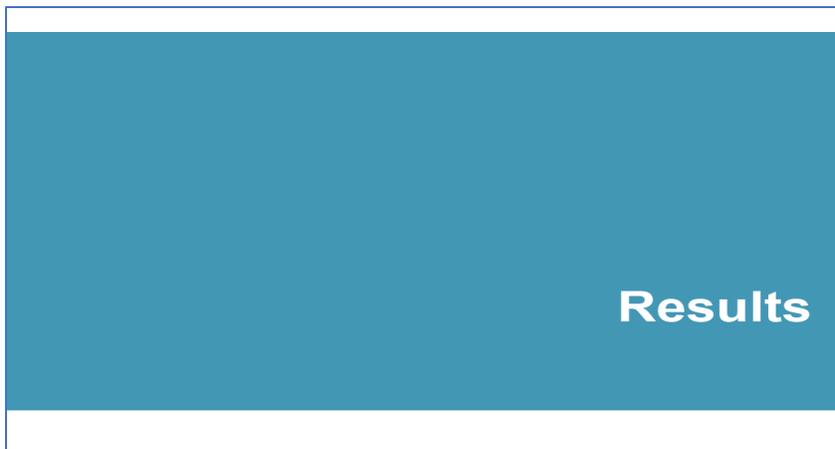
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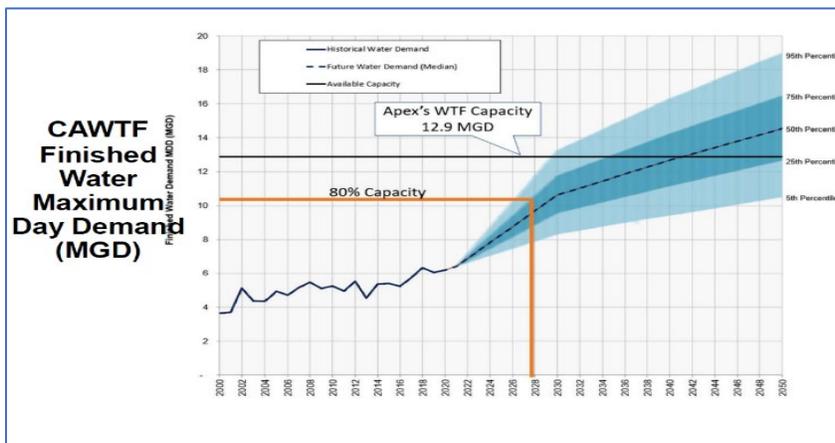
[Slide 11]



[Slide 12]



[Slide 13]



APPROVED MEETING MINUTES | TOWN OF APEX | AUGUST 15, 2023

Councilmember Zegerman asked what's happening in 2030 to make projections change.

Mr. Brown said the growth of the town will build and then level off. He said there is a projected slower linear increase from 2030-2050

Councilmember Zegerman said he understand there's a mark difference between now and 2030 and wants to understand the direction of the model.

Assistant Town Manager Stone said the line until 2030 reflects the town's near term and all the things that are already set and planned, and everything beyond 2030 there is nothing to project definitively. He said you have to go back to historic data to try to project from 2030 onwards what the growth may look like.

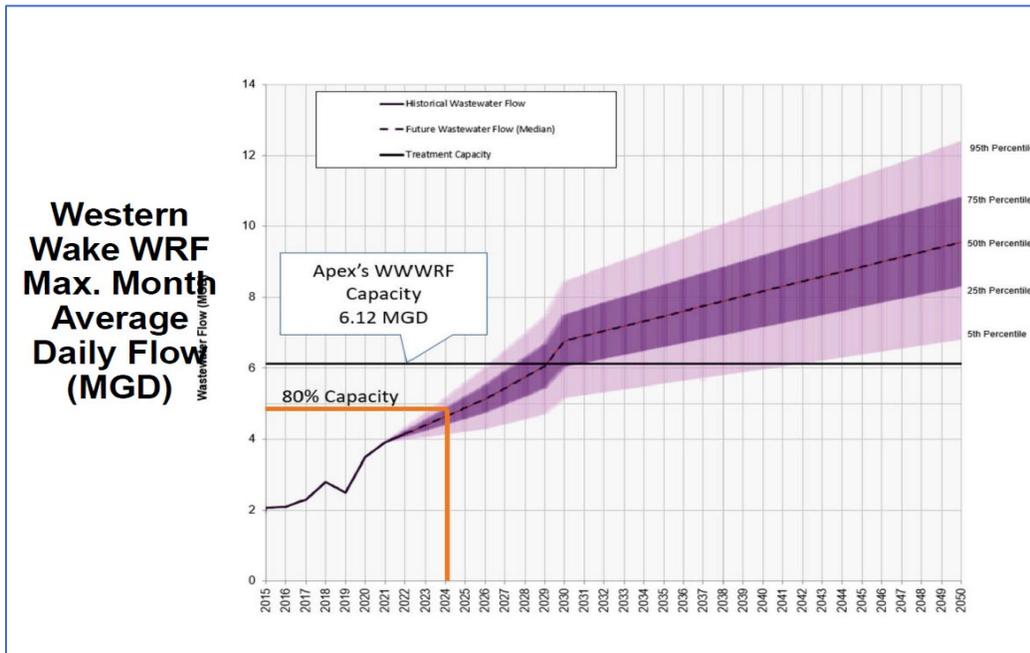
Mr. Brown said there's less opportunity for future growth.

Councilmember Zegerman asked where the increase demand is going to come from.

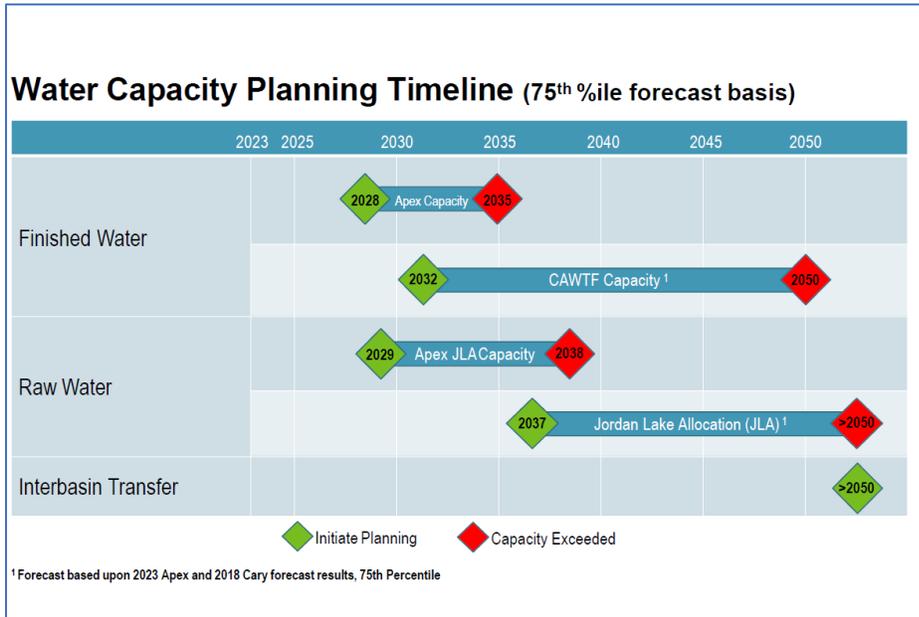
Councilmember Gray said the model looks like it considered the statistical raise between 2000 and 2020.

Mr. Brown said there is some variability in what can happen.

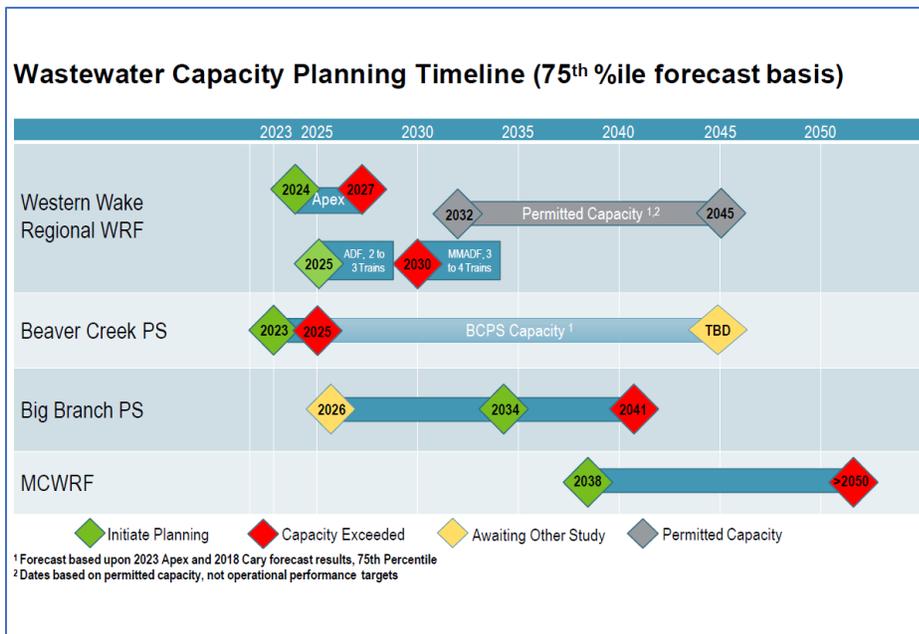
[Slide 14]



[Slide 15]



[Slide 16]



Councilmember Zegerman said the allocation is good until 2050 but asked if the two allocations between Town of Cary and Town of Apex is a rebalancing of the two.

Mr. Brown said the overall amount is good for Cary’s impacts past 2030. He said Cary’s forecast was done in 2018.

Councilmember Gray asked how long can the town operate at exceeding full capacity.

APPROVED MEETING MINUTES | TOWN OF APEX | AUGUST 15, 2023

Assistant Town Manager Stone said that the pump station has plenty of capacity, and the town is good in that regard.

Councilmember Zegerman asked what the financial impact is in terms of the cost share model.

Assistant Town Manager Stone said the energy cost is based on the usage, so the town is already paying for that cost. He said it may change if the town decides it needs a larger percentage, because the purchase of that would have to be worked out with the Town of Cary.

Councilmember Gantt asked if the reason for the close dates because the developments in that are need it.

Assistant Town Manager Stone said the town should own 34% of the pump station, but because of things that happened in the past they had had to cut it down to 21.3%. He said there are some provisions that can allow Apex to get back to that 34%, and staff is looking into that. He said the Town of Cary is paying more of the fixed cost than is proportional to the usage, so they are being very good to Apex.

Councilmember Gantt asked if there are policies or grants to help encourage more water savings for our residents.

Mr. Brown said that's some of the concerns already. He said at seasonal peak the water demands are usually the highest and dealing with the tier rate system. He said other programs might help would be time frames.

Councilmember Zegerman said the town may can look into investing into community water efficiency upgrades rather than expanding the capacity in some cases.

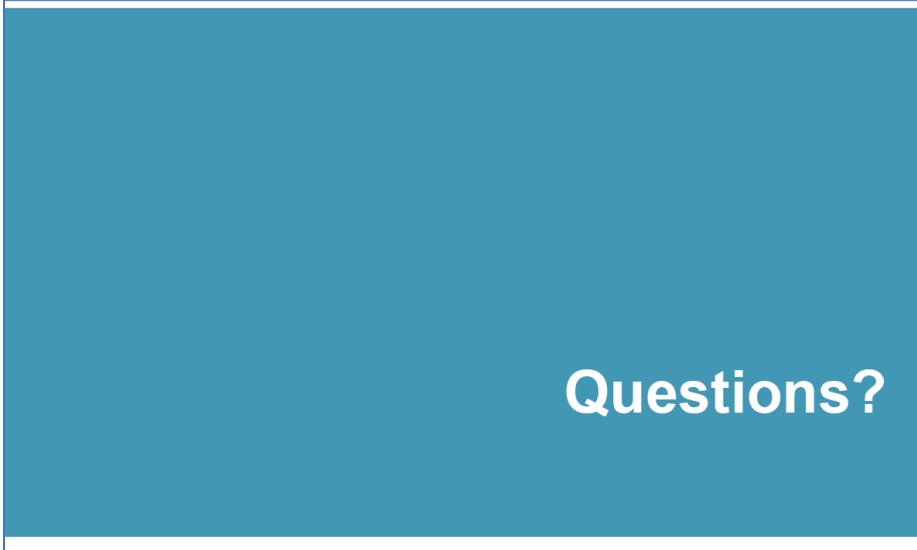
[Slide 17]

Key LRWRP Takeaways:

- It is time for Apex to initiate water and wastewater capacity allocation conversations with Cary
 - 2023: Beaver Creek PS (2025)
 - 2024: Western Wake WRF (2027)
 - 2027: CAWTF Finished Water (2035)
 - 2029: Raw Water Allocation (2038)
- Interbasin Transfer is adequate > 2050



[Slide 18]



[ADJOURNEMENT]

Mayor Gilbert adjourned the meeting at **6:17p.m.**

Jacques K. Gilbert
Apex, Mayor

Allen Coleman, CMC, NCCCC
Apex, Town Clerk

Submitted for approval by Apex Town Clerk Allen Coleman.

Minutes approved on 12th of September, 2023 (CN4).

APPROVED MINUTES
TOWN OF APEX
REGULAR TOWN COUNCIL MEETING
TUESDAY, AUGUST 22, 2023
6:00 PM

The Apex Town Council met for a Regular Town Council Meeting on Tuesday, August 22, 2023 at 6:00 PM in the Council Chambers at Apex Town Hall, located at 73 Hunter Street in Apex, North Carolina.

This meeting was open to the public. Members of the public were able to attend this meeting in-person or watch online via the livestream on the Town's YouTube Channel. The recording of this meeting can be viewed here: <https://www.youtube.com/watch?v=pQUnr8fy0Mk>

[ATTENDANCE]

Elected Body

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

Town Staff

Interim Town Manager Shawn Purvis
Assistant Town Manager Demetria John
Assistant Town Manager Marty Stone
Town Attorney Laurie Hohe
Town Clerk Allen Coleman
Deputy Town Clerk Ashley Gentry
Finance Director Antwan Morrison
Planning Director Dianne Khin
Transportation and Infrastructure Director Chris Johnson
All other staff members will be identified appropriately below

[SLIDE 1]



[COMMENCEMENT]

Mayor Gilbert called the meeting to order. He acknowledged Officer Mellenberg in attendance and thanked him for ensuring everyone’s safety.

Mayor Pro Tempore Killingsworth read a statement regarding the importance of diversity, and encouraged people to observe a private moment of silence in their own tradition.

Mayor Gilbert welcomed Minister William F. Ball III, co-founder of Unity in the Community. He spoke about the issues of student and senior homelessness and poverty in Wake County. He said the organization also works to improve relations between the Police Departments in the area and their communities. He said the organization will be hosting a community event this Saturday which will provide school supplies, vaccines, health screenings, mental health support, and a mock traffic stop. He thanked the Town of Apex and David Bohm, the Executive Director of the Apex Chamber of Commerce, for their support.

Minister Ball provided the invocation for the evening.

Mayor Gilbert then led Council and those in attendance in the Pledge of Allegiance.

[CONSENT AGENDA]

A **motion** was made by **Councilmember Zegerman**, seconded by **Mayor Pro Tempore Killingsworth**, to approve the Consent Agenda as presented.

VOTE: UNANIMOUS (5-0)

CN1 2023 Revised Council Meeting Calendar (REF: OTHER-2023-080)

Council voted to amend the 2023 Town Council Meeting Calendar.

CN2 Agreement - Installment Purchasing Agreement (IPA) and Resolution - Equipment and Vehicles (REF: CONT-2023-250 and RES-2023-051)

Council voted to approve an Installment Purchase Agreement (IPA) between Pinnacle Bank and the Town of Apex, with an interest rate of 3.90% for a four (4) year term, and adopt a Resolution

APPROVED MEETING MINUTES | TOWN OF APEX | AUGUST 22, 2023

approving an installment financing and security agreement to finance motor vehicles and providing for certain other related matters.

CN3 Annexation No. 761 - Calyx Senior Living of Apex (Kobra LLC) - 7.259 acres (REF: RES-2023-052, RES-2023-053, and OTHER-2023-081)

Council voted adopt a Resolution Directing the Town Clerk to Investigate Petition Received, to accept the Certificate of Sufficiency by the Town Clerk, and to adopt a Resolution Setting the Date of a Public Hearing for September 12, 2023, on the Question of Annexation - Apex Town Council's intent to annex 7.259 acres, Calyx Senior Living of Apex (Kobra LLC), Satellite Annexation No. 761 into the Town Corporate limits.

CN4 Annexation No. 762 - The Summit (FKA Holland Road Mixed Use) - 29.4692 acres (REF: RES-2023-054, RES-2023-055, and OTHER-2023-082)

Council voted to adopt a Resolution Directing the Town Clerk to Investigate Petition Received, to accept the Certificate of Sufficiency by the Town Clerk, and to adopt a Resolution Setting the Date of a Public Hearing for September 12, 2023, on the Question of Annexation - Apex Town Council's intent to annex 29.4692 acres, The Summit (formerly known as (FKA) Holland Road Mixed Use, Annexation No. 762 into the Town Corporate limits.

CN5 Budget Ordinance Amendment No. 6 - Purchase Order Carryovers Fiscal Year 2023 (REF: ORD-2023-086)

Council voted to adopt Budget Ordinance Amendment No. 6 for the purchase order carryovers from Fiscal Year 2023.

CN6 Budget Ordinance Amendment No. 7 - Moore Street Parking (REF: ORD-2023-087)

Council voted to adopt Budget Ordinance Amendment No. 7 appropriating funds to construct a gravel parking lot and pedestrian improvements on Moore Street.

CN7 Budget Ordinance Amendment No. 8 - Deer Creek Reimbursement (REF: ORD-2023-088)

Council voted to adopt Budget Ordinance Amendment No. 8 that appropriates funds to pay amounts due under the second amendment to the Utility Infrastructure Reimbursement Agreement with Meritage Homes of Carolinas, Inc. and authorizes a transfer of funds from the Water Sewer HB 463 Capital Fund to fund the payment.

CN8 Capital Project Ordinance Amendment No. 2024-4 - Saunders Street and Hinton Street Sidewalk Project (REF: ORD-2023-085)

Council voted to adopt Capital Project Ordinance Amendment No. 2024-4 for up to \$1,075,200 in federal funds reimbursement toward a total estimate cost of \$1,344.00 for utility relocation and construction of South Saunders Street and Hinton Street Sidewalk, requiring a minimum 20% local cost match of \$268,800.

CN9 Capital Project Ordinance Amendment No. 2024-5 - Southwest Peakway Project (REF: ORD-2023-089)

Council voted to adopt Capital Project Ordinance Amendment No. 2024-5 appropriating \$10M in supplemental grant funds for Apex Peakway construction at South Salem Street and CSX railroad tracks.

CN10 Council Meeting Minutes - August 8, 2023

Council voted to approve, as submitted or amended, Meeting Minutes from the following meeting: August 8, 2023 - Regular Town Council Meeting Minutes

APPROVED MEETING MINUTES | TOWN OF APEX | AUGUST 22, 2023

CN11 Ordinance Amendment - Chapter 20 Traffic - Section 164(42) - Wirks Worth Circle, No Parking (REF: ORD-2023-090)

Council voted to adopt an Ordinance amending Chapter 20 Traffic - Section 164 subsection (42) prohibiting parking around the perimeter of the median island at the terminus of Wirks Worth Circle, except within designated parking spaces.

CN12 Resolution - Walden Road Abandonment (REF: RES-2023-056)

Council voted approve a Resolution Supporting Abandonment of a Portion of Walden Road (SR 1148, Wake County) by the North Carolina Department of Transportation.

CN13 Rezoning Case No. 23CZ10 - Salem Church Road Parcels - Statement and Ordinance (REF: ORD-2023-091)

Council voted to approve Statement of the Town Council and Ordinance for Rezoning Application No. 23CZ10, Salem Church Road Parcels, Carl Helton, Sundance of NC, LLC, petitioner, for the properties located at 1529, 1531, 1535 Salem Church Road (PINs 0743818238, 0743819289, 0743911218).

CN14 Rezoning Case No. 23CZ12 - Sweetwater PUD Amendment - Statement & Ordinance (REF: ORD-2023-092)

Council voted to approve Statement of the Town Council and Ordinance for Rezoning Application No. 23CZ12, Sweetwater PUD Amendment, David Schmidt, ExperienceOne Homes, LLC, petitioner, for the properties located at, 0 Core Banks St and 0 Little Gem Ln (PINs 0722441499 and 0722441386).

CN15 Speed Limit Concurrence - North Carolina Department of Transportation (NCDOT) - James Street West of S. Hughes Street, 25mph (OTHER-2023-083)

Council voted to approve a North Carolina Department of Transportation (NCDOT) Certification of Municipal Declaration to Enact Speed Limits and Request for Concurrence for a 25-mph speed limit on SR 1157 (James St) between 0.14 mile west of SR 1153 (Tingen Rd) and SR 1158 (S Hughes St) within Apex municipal limits.

CN16 Tobacco Road Place - Fee-In-Lieu (FIL)

Council voted to recommend a Fee-In-Lieu (FIL) of dedication for Tobacco Road Place.

[REGULAR MEETING AGENDA]

A **motion** was made by **Councilmember Gray**, seconded by **Councilmember Mahaffey**, to approve the Regular Meeting Agenda as presented.

VOTE: UNANIMOUS (5-0)

[PUBLIC FORUM] (NOTE: To view Public Forum and Public Hearing sign in sheets, please see OTHER-2023-084)

First to speak was **Kurt Kuechler** of 2721 Silver Stirrup Lane:

"I just wanted to start off by thanking the Town Council and the Mayor again for allowing me to speak and say what's on their mind, issues they feel are important. But also, I'd like to thank everyone that attended the workshop a couple weeks ago at the high school. It was much appreciated that

APPROVED MEETING MINUTES | TOWN OF APEX | AUGUST 22, 2023

you showed up and listened to some folks. Hopefully you had a great time, hopefully you learned something, but I'm not done with you yet, there's another one coming up on the 30th, a little over a week from now, come again. There may be new people there, there may be the same people you talked to before and you want to flesh out discussions you may have had at the time, but please if you've come once, come again. Now, those of you that didn't come the first time. I was talking to Jacques the other day and I gave him a pass, and I'm quick to give out free passes. I'm not so quick to give out a second. So please, if you didn't show up, please come again. I know y'all have a very tough job. You're always sitting up here every meeting, every week, every month, trying to solve everybody's problems, trying to make everybody happy, right. I'm most concerned tonight about development. As issues of development come up, Jeff's here, happens almost every meeting, you're faced with decision to be made about development. My viewpoint is you have two playbooks. One is the Land Use Map, the other is the UDO. Those are your guiding principles. The workshop is what's helped guide potential revisions to the current land use map. But the UDO is something, it's a big thick document, there's lots of sections in there, there's lots of detail, how wide a road should be, how tall a sign can be, all sorts of detail. But throughout the UDO, there's sections where it states purpose, why this portion of the UDO exists. Hopefully Allen, you guys got all the papers, I'll give you a second to read that, but you'll notice I underlined the word "incompatible". I think we all know the definition of incompatible, that's easy. It's when you put it into use, when you're starting to evaluate two items, whether something is compatible or incompatible. There's two ways to do that in my opinion. One is your own personal bias. You just have a raw feeling. The other is to show up in the community and talk to people and hear what their issues are. Thank you."

Mayor Gilbert thanked Mr. Kuechler for his comments.

Next to speak was **Lucas Downen** of 512 Wanderview Lane:

"First and foremost, I want to thank the leadership for what you guys have done. For those who don't know me, I'm Lucas Downen, I'm one of the MIP Ambassadors for the Mayor's Internship Program. On August 8th, Russia did a phenomenal job talking about it. But why I joined is because I feel like this is a great opportunity for me to work with the Mayor and everyone else. But I'm going to be a Senior at Middle Creek High School, if you guys don't know who I am. But first I want to thank everyone for being here, this is important to me for all you guys to be here, especially everyone who wants to listen to what's going on in the town. I wanted to thank Allen Coleman for letting us come back since August 8th. Thank you everyone for being here, and I'm looking forward to working with you guys soon. I know you guys have seen us at Juneteenth before, but I'm looking forward to working you guys this Saturday or whenever, and I want to thank everybody for being here, and let's have a good time this weekend, have a good Town Council Meeting, thank you."

Next to speak was **Mark Mohabir** of 108 Fanwood Court.

"Good evening, honorable Councilmembers and our distinguished Mayor Gilbert. My name is Mark Mohabir, 1080 Fanwood Court. I was at the last regular Town Council session on August 8th, I was here before you with my neighbor Michael Kolsar to ask this body for your help to rectify a kudzu infestation problem that is stifling tall trees behind our houses, and threatening to weaken them and

APPROVED MEETING MINUTES | TOWN OF APEX | AUGUST 22, 2023

make them susceptible to storms and high winds, which can cause them to fall on our houses. In fact, one of these trees actually did fall, a few short feet from another house, a few days before we appeared before you. This evening though, I'm here to applaud the rapid response from you, Mayor Gilbert, and your Council, to send a team down to view the situation, and the next day they returned with machinery to cut the kudzu around the roots of the trees, thus preserving them, and causing the kudzu vines that had already arrived at the top of the canopy, to begin to die. Your actions, as small and relatively insignificant this may be to some of the other big things that you do, it has instilled confidence in a new transplant like my wife and me, to Apex. And it shows that the process works, when an issue is presented before this Council by the citizenry, I have more confidence now that it will be assessed immediately and resolved quickly. Having seen this, I thought it was important to share my experience, and to thank you all in person. Thank you."

Mayor Gilbert asked Town Clerk Coleman which staff members were responsible for the response.

Town Clerk Coleman said Dianne Khin and Shawn Purvis, among others.

Interim Town Manager Purvis said Joe Assistant Town Manager Stone worked with Joe Curtin, Phillip Barnes, and Eddie Vaughan and the town handled the issue on their property, and Mr. Curtin worked with the HOA to address the issue on their property.

Mayor Gilbert led a round of applause for those that assisted.

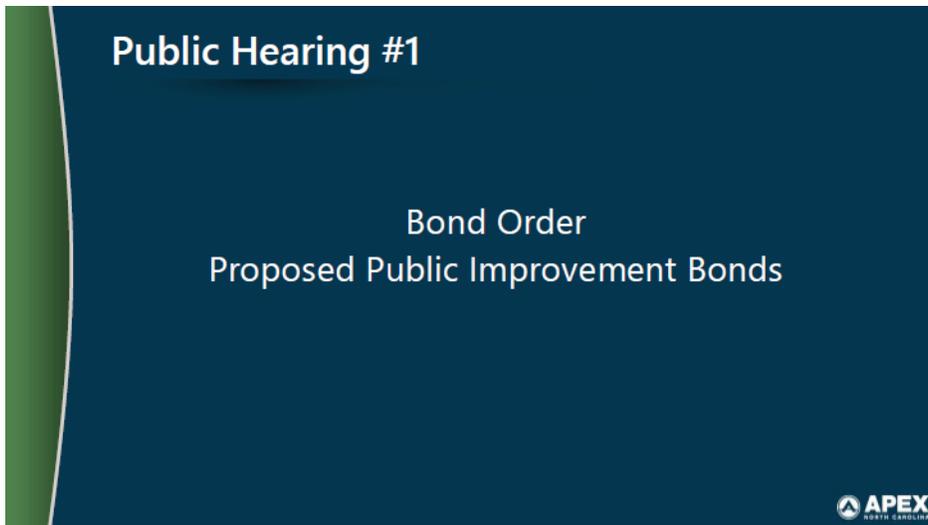
With no more signups, **Mayor Gilbert** closed Public Forum.

[PUBLIC HEARING]

PH1 Bond Order - Proposed Public Improvement Bonds (REF: ORDER-2023-003)

Director Morrison gave information regarding the purpose of holding a public hearing for this item.

[SLIDE 2]



Councilmember Gray wanted to clarify that this was presented and discussed at the last meeting as New Business, so that's why there was not a full presentation tonight.

Director Morrison said that was correct.

APPROVED MEETING MINUTES | TOWN OF APEX | AUGUST 22, 2023

Mayor Gilbert opened Public Hearing for this item. With no one signed up, he closed Public Hearing.

A **motion** was made by **Mayor Pro Tempore Killingsworth**, seconded by **Councilmember Zegerman**, to adopt the Bond Order for Proposed Public Improvement Bonds.

VOTE: UNANIMOUS (5-0)

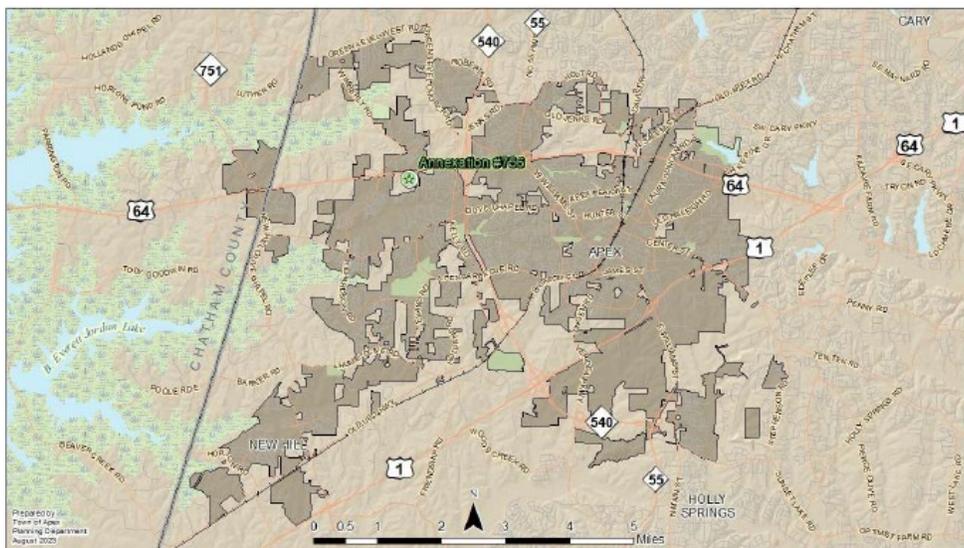
PH2 Annexation No. 756 - Yellowbridge Capital - 52.375 acres (REF: ORD-2023-093)

Director Khin gave the following presentation regarding Annexation No. 756 - Yellowbridge Capital.

[SLIDE 3]

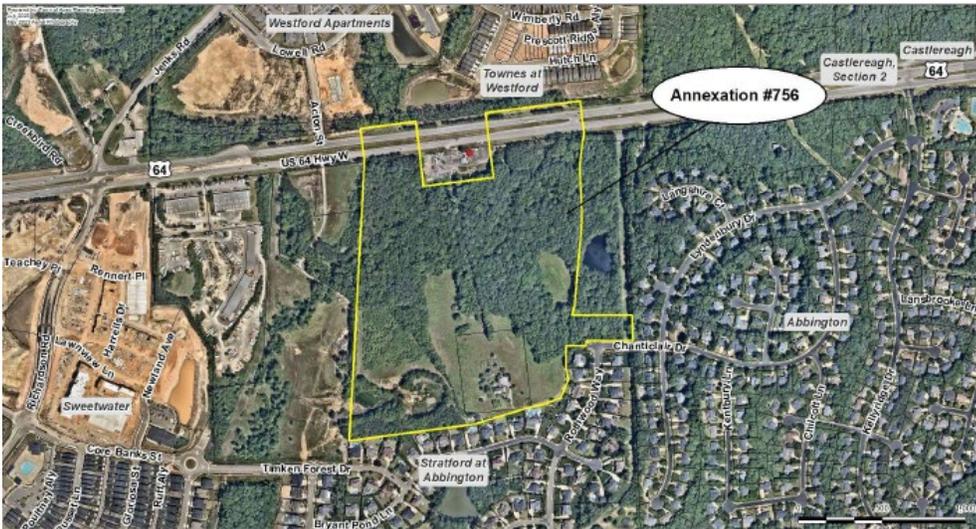


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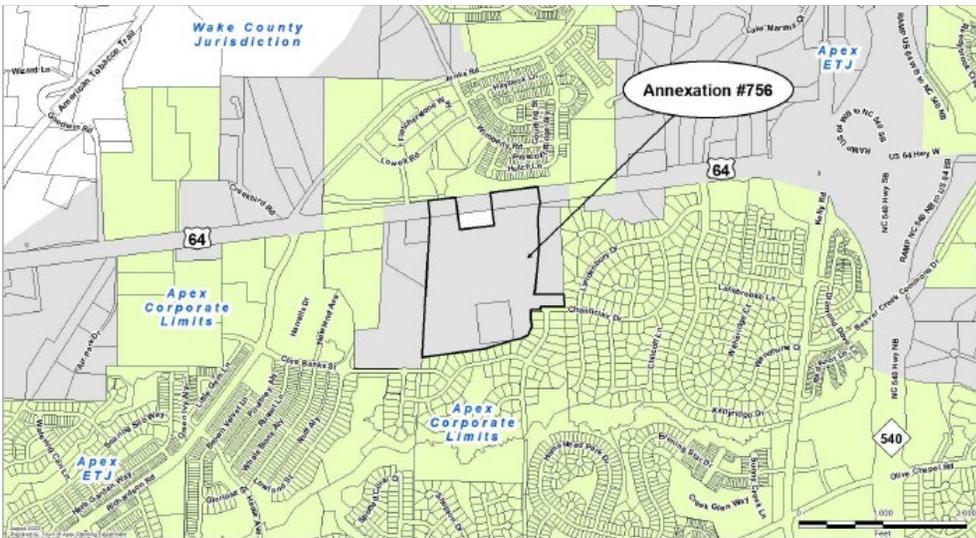


[SLIDE 5]

APPROVED MEETING MINUTES | TOWN OF APEX | AUGUST 22, 2023



[SLIDE 6]



[SLIDE 7]



Councilmember Mahaffey asked if the issue with the portion of the road had been resolved.

APPROVED MEETING MINUTES | TOWN OF APEX | AUGUST 22, 2023

Ms. Khin she was not sure, but that it would be between the two property owners. She said they would not sign a final plat until it was resolved, since the structure could not be built until then.

Councilmember Mahaffey wanted to ensure that wouldn't be a huge issue, since that one area had been annexed with the other development.

Ms. Khin said that was correct.

Mayor Gilbert opened up Public Hearing for this item. With no one signed up, he closed Public Hearing.

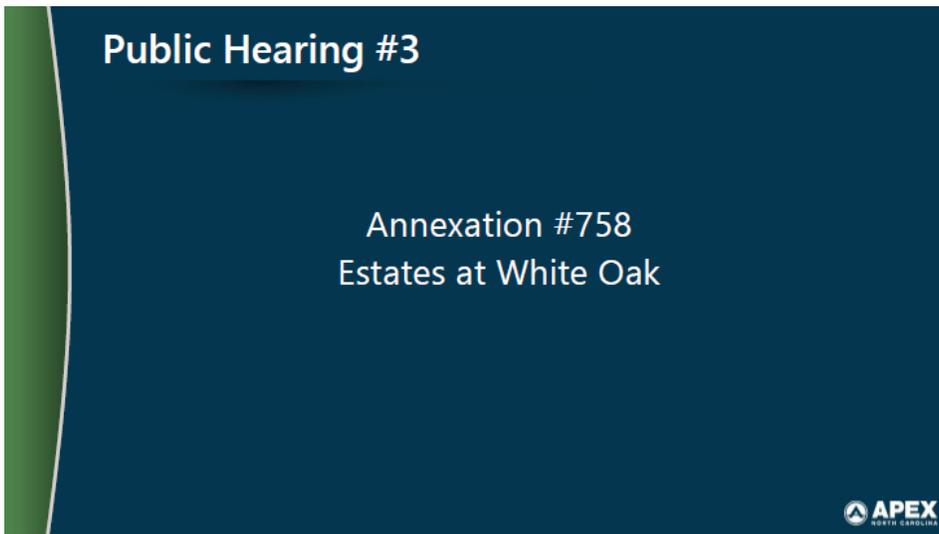
A **motion** was made by **Councilmember Gantt**, seconded by **Councilmember Gray**, to approve Annexation No. 756 - Yellowbridge Capital.

VOTE: UNANIMOUS (5-0)

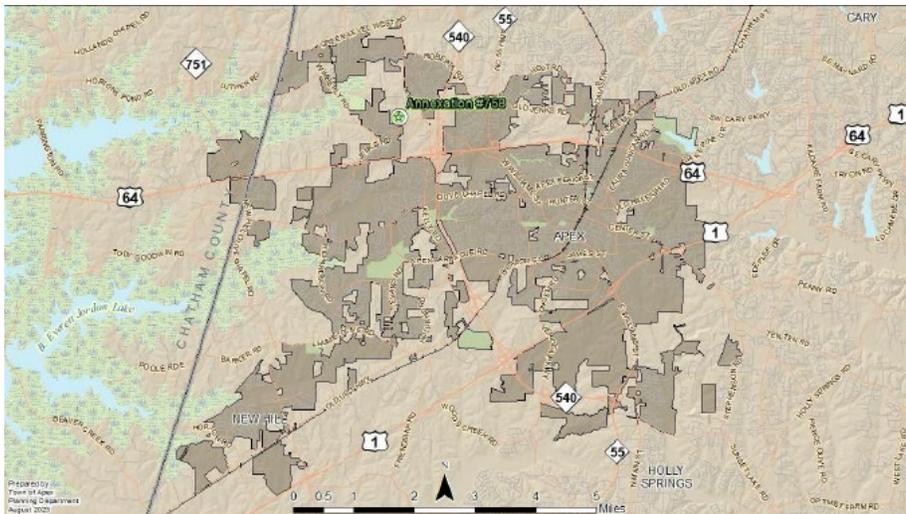
PH3 Annexation No. 758 - Estates at White Oak - 9.186 acres (REF: ORD-2023-094)

Director Khin gave the following presentation regarding Annexation No. 758 - Estates at White Oak.

[SLIDE 8]



[SLIDE 9]



[SLIDE 10]



[SLIDE 11]



[SLIDE 12]



APPROVED MEETING MINUTES | TOWN OF APEX | AUGUST 22, 2023

Mayor Gilbert opened up Public Hearing for this item. With no one signed up, he closed Public Hearing.

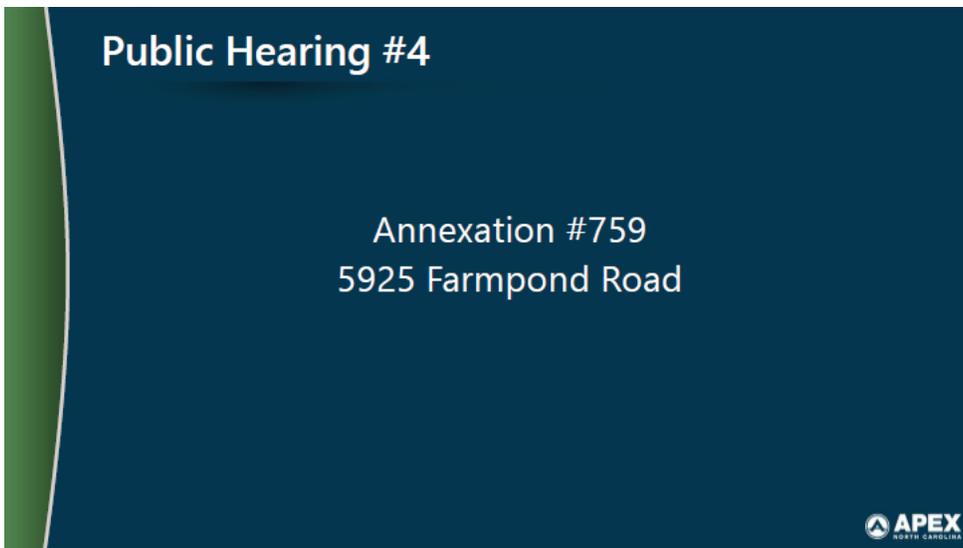
A **motion** was made by **Councilmember Zegerman**, seconded by **Councilmember Mahaffey**, to approve Annexation No. 758 - Estates at White Oak.

VOTE: UNANIMOUS (5-0)

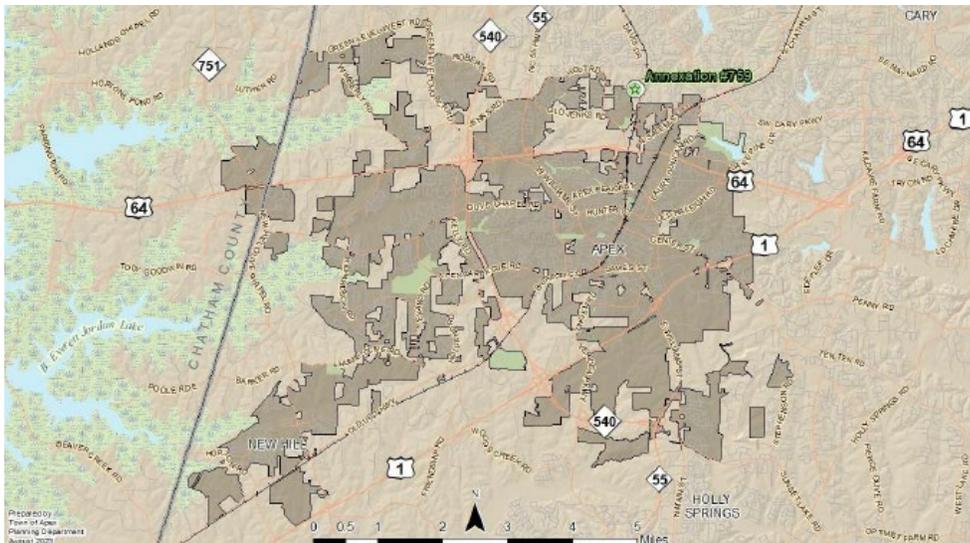
PH4 Annexation No. 759 - 5925 Farmpond Road - 2.747 acres (REF: ORD-2023-095)

Director Khin gave the following presentation regarding Annexation No. 759 - 5925 Farmpond Road.

[SLIDE 13]



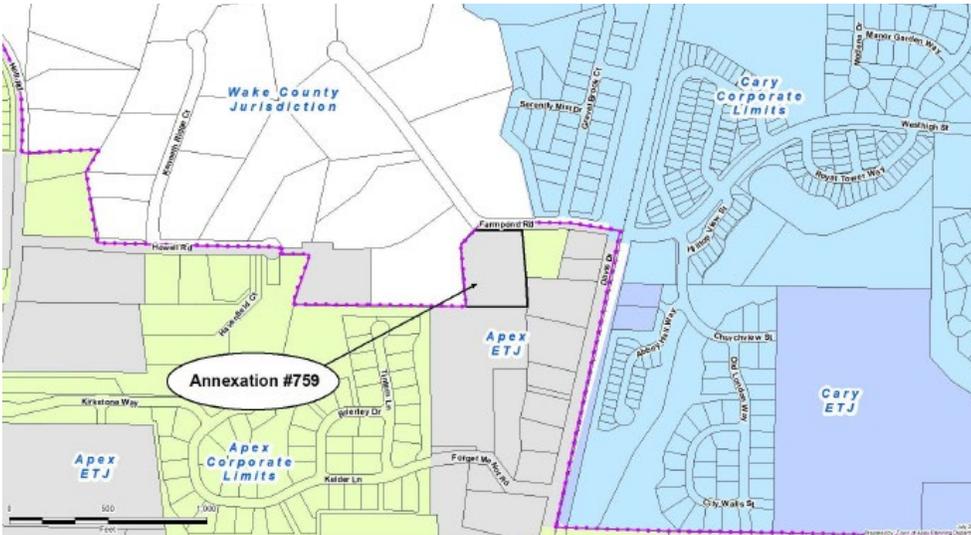
[SLIDE 14]



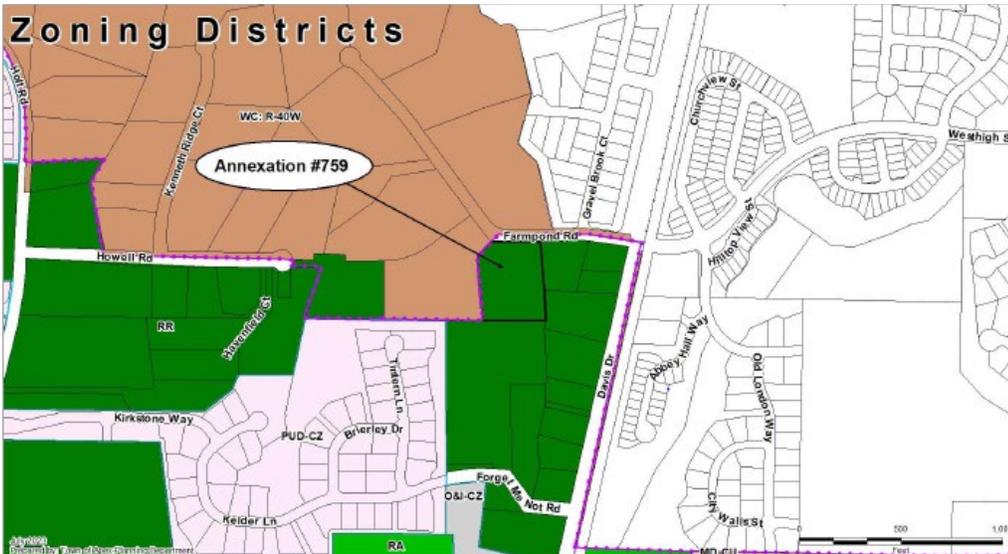
[SLIDE 15]



[SLIDE 16]



[SLIDE 17]



APPROVED MEETING MINUTES | TOWN OF APEX | AUGUST 22, 2023

Mayor Gilbert opened up Public Hearing for this item. With no one signed up, he closed Public Hearing.

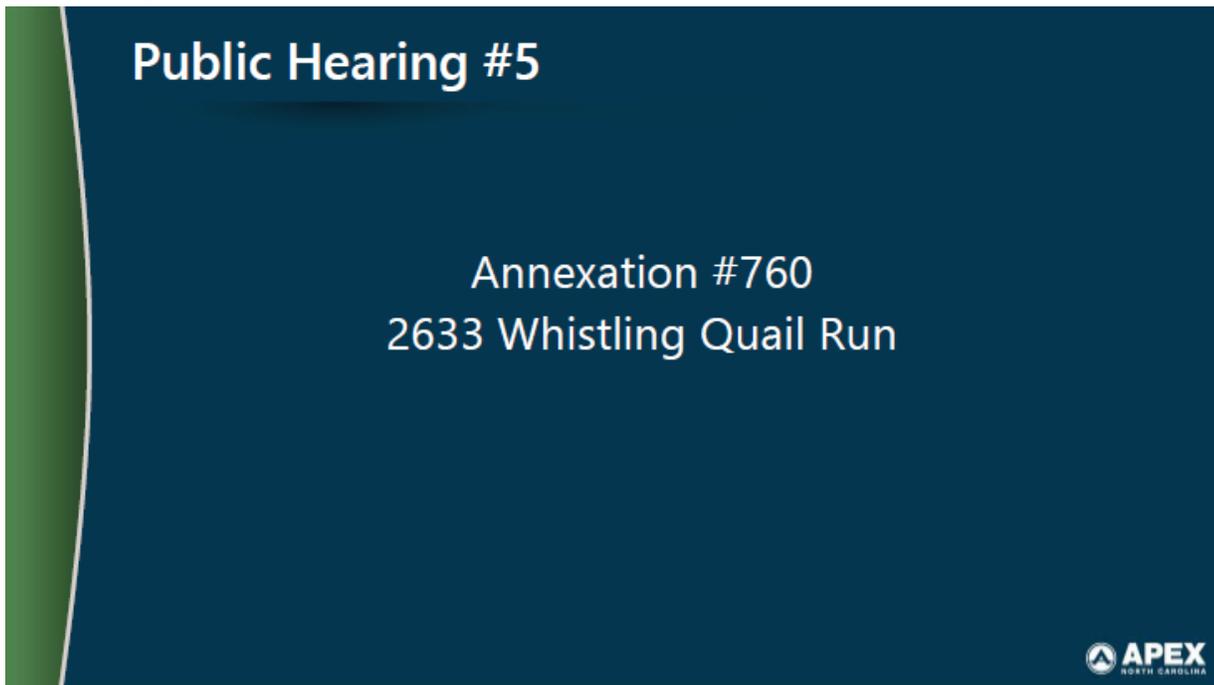
A **motion** was made by **Councilmember Gray**, seconded by **Councilmember Zegerman**, to approve Annexation No. 759 - 5925 Farmpond Road.

VOTE: UNANIMOUS (5-0)

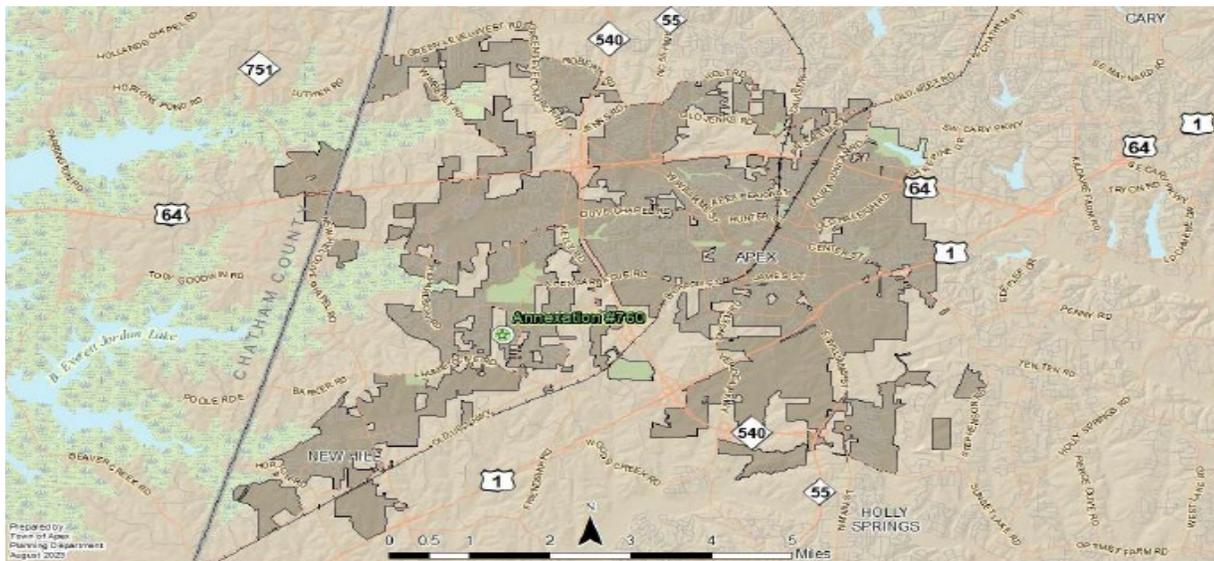
PH5 Annexation No. 760 - 2633 Whistling Quail Run - 3.806 acres (REF: ORD-2023-096)

Director Khin gave the following presentation regarding Annexation No. 760 - 2633 Whistling Quail Run.

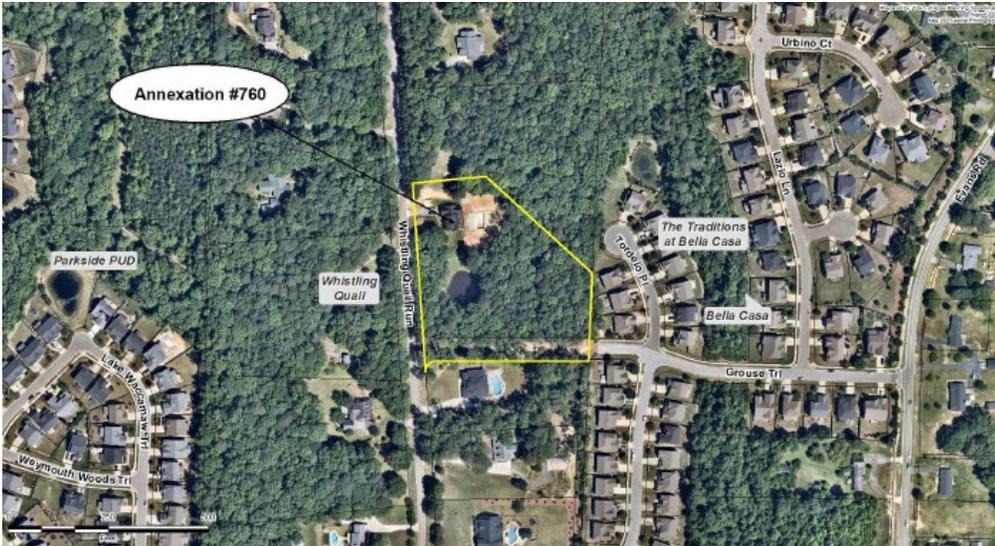
[SLIDE 18]



[SLIDE 19]



[SLIDE 20]



[SLIDE 21]



[SLIDE 22]



APPROVED MEETING MINUTES | TOWN OF APEX | AUGUST 22, 2023

Councilmember Gantt said these residents are always nervous about approaching development, and was wondering if this annexation would further that or if this would be more an administrative thing.

Director Khin said this would not trigger a road connection. She said this property could potentially do an exempt subdivision plan, but planning has no knowledge of that being planned.

Councilmember Gantt if there was a road easement on the bottom of this.

Director Khin said it was a paver road, she said it was not accepted by NCDOT, so it was never built, it is just on a map.

Councilmember Gantt asked if there was a stub on the other side.

Director Khin said yes.

Mayor Gilbert opened up Public Hearing for this item. With no one signed up, he closed Public Hearing.

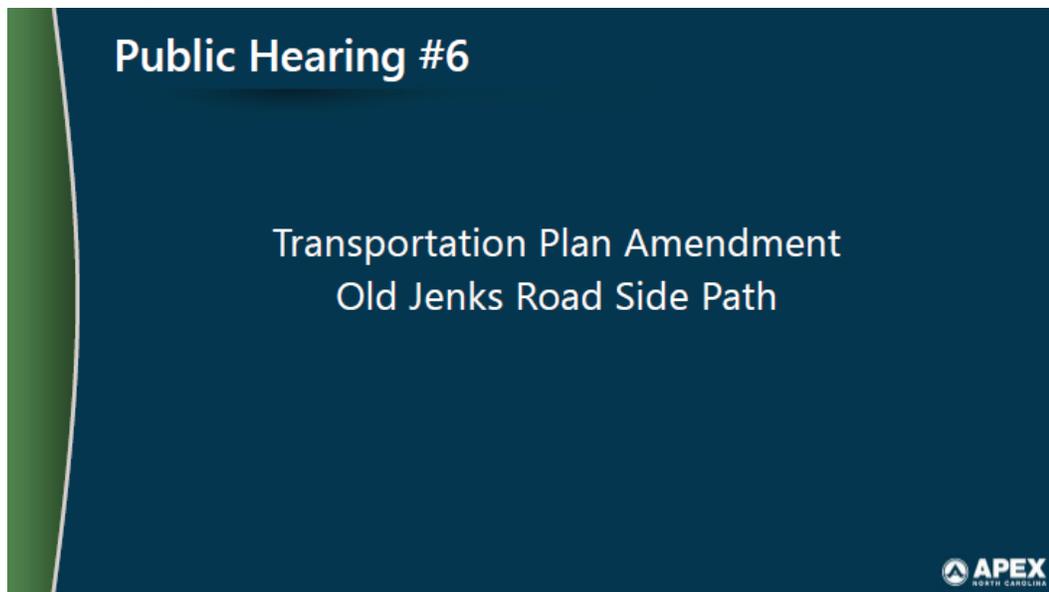
A **motion** was made by **Councilmember Mahaffey**, seconded by **Councilmember Gantt**, to approve Annexation No. 760 - 2633 Whistling Quail Run.

VOTE: UNANIMOUS (5-0)

PH6 Transportation Plan Amendment - Old Jenks Road Side Path

Jenna Shouse, Senior Long-Range Planner, gave the following presentation regarding the Transportation Plan Amendment for Old Jenks Road Side Path.

[SLIDE 23]



[SLIDE 24]



Councilmember Zegerman asked if this was part of the Capital Improvement Plan yet.

Ms. Shouse said no, right now it was just adding to the Bicycle and Pedestrian Plan Map.

Councilmember Gantt said it could be part of one of the school projects, but it would not fall within the price threshold to be its own project. He asked if this was included in the rankings.

Ms. Shouse said yes, and it would be changed to have a side path included rather than a sidewalk.

Councilmember Mahaffey asked if staff has heard from the principals of the schools about the need for this bigger connection.

Ms. Shouse said she has met with both principals, and most people who walk or bike to school take the route to the side of the school, but this would give additional route on the front. She said she has not heard a recent request from the principal.

Mayor Gilbert opened up Public Hearing for this item. With no one signed up, he closed Public Hearing.

A **motion** was made by **Mayor Pro Tempore Killingsworth**, seconded by **Councilmember Gantt**, to approve the Transportation Plan Amendments for the Old Jenks Road Side Path.

VOTE: UNANIMOUS (5-0)

PH7 Transportation Plan Amendment - Transit Trail Side Path

Ms. Shouse gave the following presentation regarding the Transportation Plan Amendment for the Transit Trail Side Path.

[SLIDE 25]



[SLIDE 26]



Mayor Gilbert opened up Public Hearing for this item. With no one signed up, he closed Public Hearing.

Councilmember Zegerman said he does have some heartburn over this, as he expressed at the June 27th meeting. He said he doesn't like giving one developer a pass, and moving the trail to the other side of the road to make it someone else's problem. He said he does not like the placement of this side path with the sidewalk. He said for the sake of consistency with his previous position, he would be voting against this amendment.

A **motion** was made by **Councilmember Mahaffey**, seconded by **Mayor Pro Tempore Killingsworth**, to approve the Transportation Plan Amendment for the Transit Trail Side Path.

VOTE: 4-1, Councilmember Zegerman dissenting

PH8 Transportation Plan Amendment - Utley Farms Local Connector and Side Path

Ms. Shouse gave the following presentation regarding the Transportation Plan Amendment for Utley Farms Local Connector and Side Path.

[SLIDE 27]

Public Hearing #8

Transportation Plan Amendments Utley Farms Local Connector and Side Path



[SLIDE 28]



[SLIDE 32]



Councilmember Zegerman asked how set staff was on this particular route, and could an alternate route be considered, considering planned future development and resident concerns.

Ms. Shouse said when the property is developed, the alignment likely wouldn't be this exact configuration as the developer would have to connect the stubs. She said avoiding existing structures in the proposed path gets to the point that the structures are unlikely to be there if it redevelops in the future.

Councilmember Zegerman wanted to clarify that the town wants a road and side path between the two stubs, but the exact path would depend on the development that comes in.

Ms. Shouse said that was correct.

Councilmember Mahaffey said it was typical for transportation plan amendments to come with redevelopments.

Councilmember Zegerman said he just wanted to make sure they weren't being oblivious to the concerns of the residents.

Councilmember Mahaffey said this route could only be built in the residents in question allowed the path to be built on their property. If they didn't want to do it, it couldn't happen. He said sometimes property owners get scared and think something is coming soon, but this plan is more about the long-range.

Mayor Gilbert opened up Public Hearing for this item. With no one signed up, he closed Public Hearing.

A **motion** was made by **Councilmember Gray**, seconded by **Councilmember Mahaffey**, to approve the Transportation Plan Amendments for the Utley Farms Local Connector and Side Path.

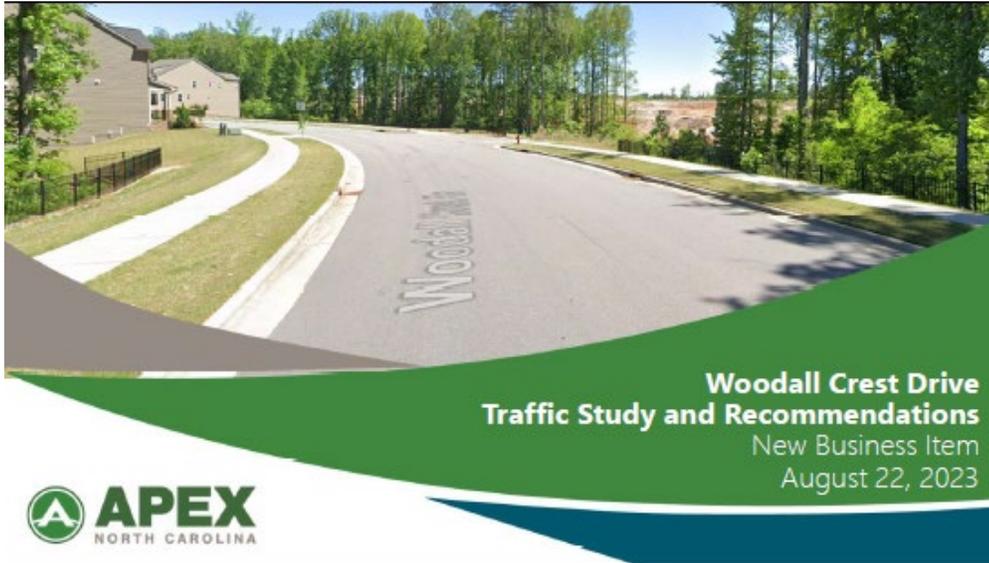
VOTE: UNANIMOUS (5-0)

[NEW BUSINESS]

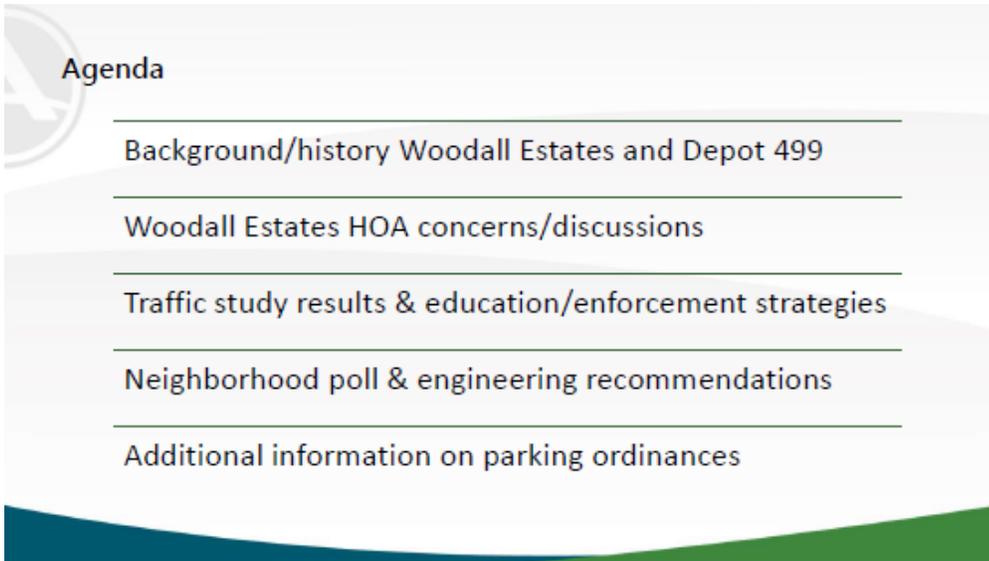
NB1 Traffic Safety - Woodall Crest Drive

Chris Johnson, Director of Transportation and Infrastructure Development, and **Russell Dalton**, Traffic Engineering Manager, gave the following presentation regarding traffic safety on Woodall Crest Drive.

[SLIDE 33]

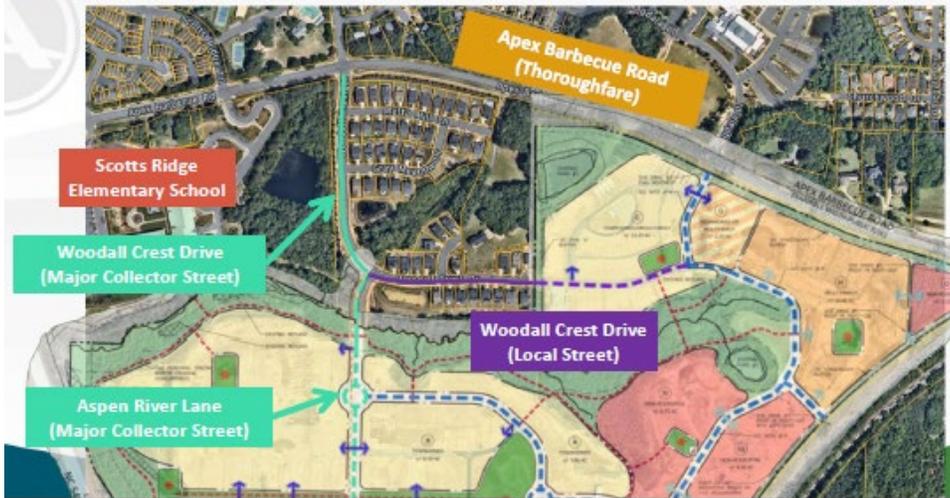


[SLIDE 34]



[SLIDE 35]

Woodall Estates & Depot 499



[SLIDE 36]

Woodall Crest Drive (2020-2021)

- Depot 499 proposed to extend Aspen River Lane south and Woodall Crest Drive east to fulfill connectivity requirements
- Woodall Estate residents expressed concerns about future increased traffic impacts on ped/bike activity and intersection operations
- Resident requested to reconsider the 35 mph speed limit for short Woodall Crest Drive Major Collector Street segment
 - Following review, staff reduced to 25 mph for all of Woodall Crest Drive

[SLIDE 37]

Woodall Crest Drive (2023)

- Woodall Estates HOA requested changes along Woodall Crest Drive (Major Collector Street) following accident at Metta Mill Lane. Items discussed included:
 - Striped bike lanes
 - Parking restrictions
 - More marked crosswalks
 - Lower speed limits
 - Traffic calming
- Staff reviewed existing/future conditions and resident requests
- Staff conducted speed study of Woodall Crest Drive (pre-connection to Depot 499)

[SLIDE 38]

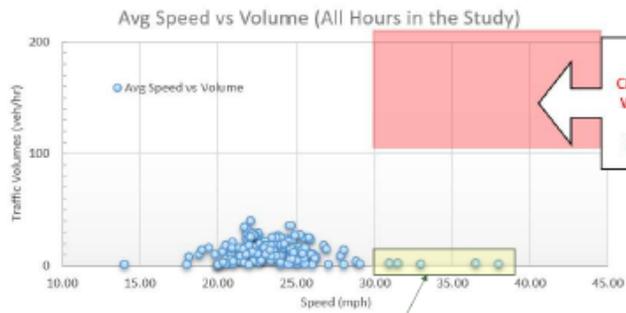
Woodall Crest Drive Speed Study (6/7-6/16/23)

- Average of 269 vehicles/day
- Average speed 23.5 mph
- 85th-percentile speed 29 mph
- 11.4% of vehicles > 30 mph
 - (5.1% of these are trucks)
- Follow-up study recommended within a year of streets being opened to Depot 499



[SLIDE 39]

Woodall Crest Drive Speed Study (6/7-6/16/23)



Note:
Major
Collector
Street not
eligible for
traffic
calming
devices

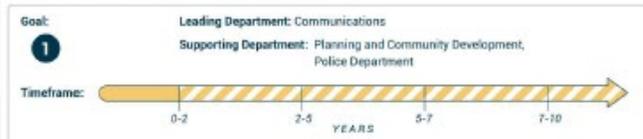
Education and enforcement measures recommended for small sample of higher speeds

[SLIDE 40]

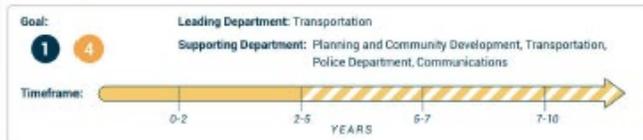


Vision Zero
Education
Strategies

Create a social media campaign with appropriate traffic messages that targets the following 5 most relevant concerns identified through public input: (1) Speeding and Traffic Calming, (2) Pedestrian and Bicycle Safety, (3) Distracted Driver / Behavior Programs, (4) Safe Routes to School, (5) Young Driver / Passenger Safety.



Create a safety education team that will engage in traffic safety outreach and education to community groups (schools, churches, HOAs, and Town staff), and will be supported by the social media campaign and safe traffic messaging.



[SLIDE 41]



Vision Zero Enforcement Strategies

Target enforcement on the high injury network, and target the most dangerous driving behavior.

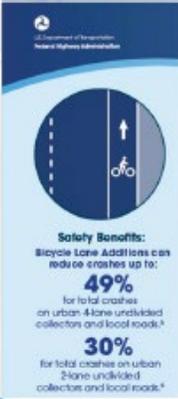
Goal: 3

Leading Department: Police Department
Supporting Department: Transportation

Timeframe: 0-2, 2-5, 5-7, 7-10 YEARS

[SLIDE 42]

Woodall Crest Drive Bike Lanes




Woodall Estates HOA Poll

- 25 of 51 households responding
- 17 in favor of bike lanes (68%)
- 8 not in favor (32%)

Major Collector Street Lane With/Without Bike Lane Symbols

[SLIDE 43]



Engineering Recommendations

- Designate bike lanes along Woodall Crest Drive between Apex Barbecue Road and Aspen River Lane with planned Major Collector Street lane markings
- ★ Add stop bars & crosswalks at existing stopped approaches to Woodall Crest Drive and Aspen River Lane
- ★ Add high-visibility signed & marked crosswalk across Woodall Crest Drive
- ★ Enhance Shared Use Path crosswalk to high visibility at existing stopped approach to Apex Barbecue Rd



[SLIDE 44]

Parking Ordinances

- The Apex Code of Ordinances prohibits various parking behaviors, such as parking closer than 30 feet from intersection or leaving less than 10 feet from the side of the parked vehicle the marked street centerline
- However, the ordinances do not specifically prohibit parking in bike lanes, so an ordinance amendment may be needed in certain instances to enforce parking that happens to occur within a bike lane

Councilmember Gantt asked if there was also no state law saying parking in bike lanes was illegal.

Mr. Dalton said that was correct.

Councilmember Mahaffey asked if no parking signs would need to be put up at all the bike lanes if they decided to do that.

Mr. Dalton said lots of town-wide no parking ordinances do not use no parking signs. He said no parking signs are typically for special areas where parking is prohibited.

Councilmember Gray asked if there was any data on people parking in bike lanes.

Mr. Dalton said Apex does not have many miles of bike lanes, and he is not aware of a current issue. He said it may be something to look at in the future, and can be done on a case by case basis. He said some communities prohibit parking in bike lanes during peak hours, and allow it in off peak.

Councilmember Zegerman said it may be good to prohibit it now, so that they don't build a habit that they have to later break. He asked if there was a larger lesson learned that they can use for future developments and avoid tragic incidents like this.

Mr. Dalton said staff is looking at opportunities to work with developers to put in bike lanes on major collectors that are coming in.

Councilmember Gantt asked if neighborhoods are asking for bike lanes to be put in rather parking on the street.

Mr. Dalton said there is plenty of room for bike lanes on a Major Collectors, but smaller roads would be much more difficult to do, seeing as they may not have enough space to do so and remain compliant with fire code.

Councilmember Mahaffey said he wondered if there was a concern that adding bike lanes instead of parking would make the road feel faster, and contribute to increasing speeds.

Mr. Dalton said major collectors are pretty wide, and there isn't consistent on street parking. He said on a street like this, he would not expect bike lanes to impact actual traffic speeds in that way.

Councilmember Zegerman asked if the study would be run again when the development finishes nearby in the future.

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Mr. Dalton said yes, but he would expect the volume to increase, but not speeds. He said this was lowered to 25 mph because it was a shorter route than most major collector streets. He said they would not recommend traffic calming because of it being a major collector, but they would work with police to see if measures were necessary.

Councilmember Mahaffey asked what the stop sign configuration would be at the interst

Mr. Dalton said Aspen River Lane would stop, and he said they talked about having high visibility sign at that intersection. He said they would be looking at if an all-way stop was warranted in the future, but that is not currently expected.

Mayor Gilbert asked if cyclists were required to travel in the designated bike lanes.

Mr. Dalton said no, and that was why communities had different perspectives on bike lanes and parking.

Councilmember Zegerman said cyclists typically don't ride more than 2 side by side, and busier streets they typically go one wide.

Councilmember Mahaffey thanked staff for all the work they have put into these recommendations.

Mr. Dalton said staff was planning to move forward with all of these recommendations, and Council could share any other recommendations they may have with them as well.

Mayor Pro Tempore Killingsworth said they do need to look at prohibiting parking in bike lanes and be consistent across town.

Councilmember Gray said he agreed, and that he appreciated staff for seeing this as a psychological issue. He said seeing a bike lane heightens awareness for drivers. He said it's a very creative solution to deal with a lot of these problems. He said he agrees they should see how they can apply this across town.

Councilmember Zegerman asked if electric scooters were allowed in bike lanes.

Mr. Dalton said they are not prohibited from using the bike lane, but he said in some cases the lines are getting a bit blurred with new technology in transportation. He said this goes back to reviewing ordinances.

Councilmember Zegerman asked about the definition of vehicles for these modes of transportation.

Mr. Dalton said bikes are still a vehicle in crosswalks, and are at all times. He said it was about educating people.

Councilmember Zegerman asked if a scooter was considered a vehicle.

Mr. Dalton that requires more research to look into that.

Councilmember Mahaffey said there was an article talking about how municipalities are struggling with these definitions and modes of transportation and how to keep people safe through ordinances.

Councilmember Gray said maybe they should look at age restriction. He said this wouldn't be simple because of all the various types of technology. He said the question is how old is too young for someone to be to be operating what would be classified as a vehicle, depending on the scenario.

Councilmember Zegerman said they need to recognize traffic patterns are changing.

Interim Town Manager Purvis said Assistant Town Manager John and Town Attorney Hohe are already looking at this issue.

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Councilmember Gantt said at the next planning committee meeting he would like to talk about parking in the bike lane and what other municipalities are doing.

[UPDATES BY INTERIM TOWN MANAGER]

Interim Town Manager Purvis said federal funding for the sewer projects in the old Cash Corporate Center area development was approved. He said the IT team has been awarded a \$100,000 grant to improve cybersecurity. He said the "Plant the Peak" program application opens September 1st, and will be full quickly. He said this has been a successful program to help the town expand its tree canopy, and the town is looking at expanding this plan and things like it. He said on Saturday, September 9th, Fire Station 1 will be having an open house as part of the 150th celebration. He said there will be tours, demonstrations, and photo galleries.

[CLOSED SESSION]

A **motion** was made by **Councilmember Zegerman**, seconded by **Mayor Pro Tempore Killingsworth**, to enter into Closed Session pursuant to NCGS §143-318.11(a)(3) and NCGS §143-318.11(a)(6).

VOTE: UNANIMOUS (5-0)

Council entered into Closed Session at **7:07 p.m.**

Council will enter into closed session pursuant to:

CS1 Laurie Hohe, Town Attorney, Legal Department

NCGS §143-318.11(a)(3):

"To consult with an attorney employed or retained by the public body in order to preserve the attorney-client privilege between the attorney and the public body."

CS2 Jacques K. Gilbert, Mayor

NCGS §143-318.11(a)(6):

"To consider the qualifications, competence, performance, character, fitness, conditions of appointment, or conditions of initial employment of an individual public officer or employee or prospective public officer or employee; or to hear or investigate a complaint, charge, or grievance by or against an individual public officer or employee."

CS3 Jacques K. Gilbert, Mayor

NCGS §143-318.11(a)(6):

"To consider the qualifications, competence, performance, character, fitness, conditions of appointment, or conditions of initial employment of an individual public officer or employee or prospective public officer or employee; or to hear or investigate a complaint, charge, or grievance by or against an individual public officer or employee."

APPROVED MEETING MINUTES | TOWN OF APEX | AUGUST 22, 2023

Council returned to open session at **8:42 p.m.**

[ADJOURNEMENT]

Mayor Gilbert adjourned the meeting at **8:43 p.m.**

Jacques K. Gilbert
Mayor

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

Submitted for approval by Town Clerk Allen Coleman and approved on September 12, 2023 (CN4).

APPROVED MINUTES
TOWN OF APEX
REGULAR TOWN COUNCIL MEETING
TUESDAY, SEPTEMBER 12, 2023
6:00 PM

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

This meeting was open to the public. Members of the public were able to attend this meeting in-person or watch online via the livestream on the Town's YouTube Channel. The recording of this meeting can be viewed here: https://www.youtube.com/watch?v=31j_nWswKo0

[ATTENDANCE]

Elected Body

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

Town Staff

Interim Town Manager Shawn Purvis
Assistant Town Manager Demetria John
Assistant Town Manager Marty Stone
Town Attorney Laurie Hohe
Town Clerk Allen Coleman
Deputy Town Clerk Ashley Gentry
Planning Director Dianne Khin
All other staff members will be identified appropriately below

[COMMENCEMENT]

Mayor Gilbert called the meeting to order, and invited those who were able to stand for the presentation of colors by American Legion Apex Post 124.

Mayor Gilbert then invited everyone to join in a moment of silence. He then led those in attendance in the Pledge of Allegiance.

Mayor Gilbert noted that anyone who wished to speak in Public Forum or Public Hearing should sign in with the Town Clerk.

[SLIDE 1]



[CONSENT AGENDA]

Mayor Gilbert requested that Consent Item 5 – Report of Separation Agreement and Release, be removed from the Consent Agenda tonight and continued to the September 26, 2023 Regular Council Meeting. He said they would be adding a Closed Session item for that tonight when they set the Regular Meeting Agenda.

A **motion** was made by **Councilmember Zegerman**, seconded by **Councilmember Gantt**, to approve the Consent Agenda, with the continuation of Consent Item 5 to September 26, 2023.

VOTE: UNANIMOUS (4-0)

CN1 Annexation No. 764 - Pleasant Plains Elementary School - 30.047 acres (REF: RES-2023-057, RES-2023-058, and OTHER-2023-087)

Council voted to adopt a Resolution Directing the Town Clerk to Investigate Petition Received, to accept the Certificate of Sufficiency by the Town Clerk, and to adopt a Resolution setting the Date of a Public Hearing for September 26, 2023, on the Question of Annexation – Apex Town Council’s intent to annex 30.047 acres, Pleasant Plans Elementary School, Annexation No. 764 into the Town Corporate Limits.

CN2 Contract Multi-Year - ITpipes Opco, LLC - July 1, 2023 through June 30, 2026 - ITpipes Mobile Units CCTV Condition Assessment and Data (REF: CONT-2023-274)

Council voted to approve a Standard Services Agreement with ITpipes Opco LLC., and the Town of Apex, for software support for ITpipes Mobile CCTV platform, effective July 1, 2023 through June 30, 2026, and to authorize the Interim Town Manager to execute on behalf of the Town.

CN3 Contract Multi-Year - Ferguson Enterprises, LLC and Sensus USA Inc. - October 1, 2023 through September 30, 2038 - Advanced Metering Infrastructure (AMI) System (REF: CONT-2023-275)

APPROVED MEETING MINUTES | TOWN OF APEX | SEPTEMBER 12, 2023

Council voted to approve a Master Services Agreement (MSA) between the Town of Apex and Ferguson Enterprises, LLC and Sensus USA Inc., for a meter system upgrade, effective October 1, 2023 through September 30, 2038, and authorize the Interim Town Manager to execute on behalf of the Town.

CN4 Council Meeting Minutes - Various

Council voted to approve, as submitted or amended, Meeting Minutes from the following meetings:
August 15, 2023 - Work Session Minutes
August 22, 2023 - Regular Town Council Minutes

CN5—Report of Separation Agreement and Release

Continued to September 26, 2023 Regular Town Council Meeting, per Council vote.

CN6 Resolution - Approve Sell and Issuance of \$3,460,000 Two-Third Public Improvement Bonds, Series 2023A and \$24,500,000, General Obligation (GO) Transportation Bonds, Series 2023B (REF: RES-2023-059)

Council voted to approve a Resolution providing sell and issuance of \$3,460,000 Two-Third Public Improvement Bonds, Series 2023A and \$24,500,000 General Obligation (GO) Transportation Bonds, Series 2023B.

CN7 Resolution - Public Utility Easement Abandonment (REF: RES-2023-060)

Council voted to approve a resolution titled "Resolution to Abandon Portion of Existing Public Utility Easement" which will abandon areas shown on the attached exhibit, more specifically property located at 1000 Vision Drive (Home Depot).

CN8 Surplus Badge and Service Weapon - Retiring Police Officer Jeff Antonsen

Council voted to declare one (1) badge and (1) service weapon (Glock Model 17 9mm handgun, Serial Number XTA-781) as surplus property; and, award to Retiring Officer Jeff Antonsen who retired from the Apex Police Department.

CN9 Tax Reports - June and July 2023 (REF: OTHER-2023-090 and OTHER-2023-091)

Council voted to approve the Wake County Tax Administration Tax Report for the Town of Apex dated July 04, 2023 and the Wake County Tax Administration Tax Report for the Town of Apex dated August 05, 2023.

[PRESENTATIONS]

PR1 Proclamation - Hispanic Heritage Month - September 15 through October 15, 2023 (REF: PRO-2023-024)

Mayor Gilbert and the rest of Council read the Hispanic Heritage Month Proclamation in unity.

Linda Graham Jones, DEI Director, Celeste Sherer, DEI Coordinator, and representatives from La Fiesta Cristiana received the proclamation and took a picture with the Mayor and Council.

A representative from La Fiesta Cristian spoke about how Hispanic Heritage Month recognizes diversity in the community. He said it also recognizes the achievements of Latinos in building prosperous and healthy communities everywhere. He thanked Apex DEI and Parks and Rec Departments for working with La Fiesta Cristiana and other groups to organize and celebrate Hispanic Heritage Month. He said a few years ago, there were no events planned, but that now there are six. He invited people to join in celebrating Hispanic and Latino culture through these events. He

APPROVED MEETING MINUTES | TOWN OF APEX | SEPTEMBER 12, 2023

commended Chief Armstrong for partnering with them in the ID program they had put together. He thanked the town for the proclamation, and said they are building trust by building community. He said it was his honor to accept the proclamation on behalf of Apex's Hispanic and Latino community.

PR2 Proclamation - Indigenous Peoples Day - October 9, 2023 (REF: PRO-2023-025)

Mayor Gilbert and the rest of Council read the Indigenous Peoples Day Proclamation in unity.

Representatives of the Triangle Native American Society, Jesalyn Keziah, JB Wynn, JD Freeman, And Ryan Stan, received the Proclamation and took a picture with the Mayor and Council.

Ms. Keziah thanked the town for celebrating with them, and said town leadership was setting an example across the triangle for what is possible when people come together. She said the Native community in this area loves it, and they have had a relationship with this land, its people, and its communities for a long time. He said Native people are still here and are a part of the community in everyday life. She invited all to attend community events that Triangle Native American Society hosts. She said North Carolina is home to the largest Native Population on the East Coast, and added that there are about 13,000 Native people in the Triangle. She said the community is excited to be here and appreciates all of the support.

Mr. Freeman said he wanted to thank the town for its support and for the indigenous peoples day celebrations. He said it is great to be in Apex, and he said he hopes to see citizens of Apex at the upcoming celebration.

PR3 Proclamation - Patriot's Day, Honoring and Remembering - September 11, 2023 (REF: PRO-2023-026)

Mayor Gilbert and the rest of Council read the Patriot's Day, Honoring and Remembering Proclamation in unity.

Representatives from American Legion, Fire Chief Tim Herman, Police Chief Jason Armstrong, and other police officers accepted the proclamation and took a photo with the Mayor and Council.

PR4 Proclamation - Party in the Peak Day 2023 - Saturday, September 23, 2023 (REF: PRO-2023-027)

Mayor Gilbert the rest of Council read the Party in the Peak Day proclamation in unity.

Communications Coordinator Kerrin Cox and other event planning staff received the proclamation and took a picture with the Mayor and Council.

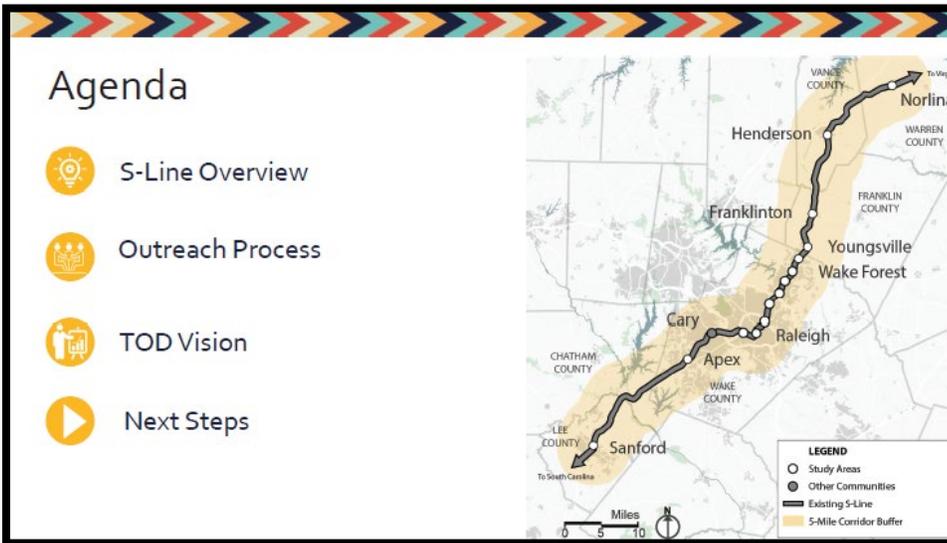
PR5 S-Line Transit Oriented Development (TOD) Study - Final Report

Ryan Brumfield, PE, Director, Integrated Mobility Division, NCDOT, and Jason Orthner, PE, Director, Rail Division, NCDOT gave the following presentation regarding the S-Line Transit Oriented Development Study Final Report.

[PR5 - SLIDE 1]



[PR5 - SLIDE 2]



[PR5 - SLIDE 3]

NC Corridor ID Program Opportunities

- Awards will be announced Fall 2023
- 12 Corridors Submitted
 - Salisbury to Asheville
 - Charlotte to Washington, DC
 - Wilmington to Raleigh
 - Charlotte to Kings Mountain
 - Greenville to Raleigh
 - Winston-Salem to Raleigh
 - Hamlet to Raleigh
 - Morehead City to Raleigh
 - Fayetteville to Raleigh
 - Winston-Salem to Charlotte
 - Weldon to Raleigh
 - Atlanta, GA to Charlotte

Map showing 12 proposed rail corridors across North Carolina. Legend: Existing Service (blue), Increased Service (orange), New Service (red). Corridors include routes from Asheville to Salisbury, Charlotte to Washington, DC, Wilmington to Raleigh, Charlotte to Kings Mountain, Greenville to Raleigh, Winston-Salem to Raleigh, Hamlet to Raleigh, Morehead City to Raleigh, Fayetteville to Raleigh, Winston-Salem to Charlotte, Weldon to Raleigh, and Atlanta, GA to Charlotte.

[PR5 - SLIDE 4]

S-Line Project Overview

- Critical missing network link
- Intercity, freight and regional rail opportunities
- Future funding opportunities

Map of the Southeast Corridor showing S-Line routes between Virginia (VA) and North Carolina (NC). Legend: S-Line Track Active (orange), S-Line Transit-Oriented Development Study Limits (green), S-Line Track Removed (red), Other Rail Routes (blue). Key locations include Washington, DC, Richmond, Petersburg, VA, and Raleigh, NC. A quote reads: "The S-Line—the Missing Link to the Southeast Corridor".

[PR5 - SLIDE 5]

S-Line Richmond to Raleigh

- NEPA complete
- Corridor acquisition underway
- Corridor photogrammetry/survey underway
- Broad community engagement ongoing
- FY 21 FRA Grant for 30% engineering underway
 - PEF onboarding
 - Detailed design to begin
- Submitted grants
 - CRISI '21 – 60% engineering/ROW
 - Fed-State Partnership '23 – Raleigh to Wake Forest construction
 - Corridor ID
- Upcoming grants – '24 Fed-State

Map of the Southeast Corridor showing S-Line routes between Virginia (VA) and North Carolina (NC). Legend: Federally Designated Southeast Corridor with Existing Passenger Service (orange), Federally Designated Southeast Corridor without Existing Passenger Service (red), Existing Passenger Service not on Federally Designated Corridor (blue), Potential Passenger Service not on Federally Designated Corridor (dotted blue), Existing Passenger Service on other Federally Designated Corridors (grey).

[PR5 - SLIDE 6]

\$109M....and counting!

SECURED GRANTS:

- **\$47.5M CRISI grant**
 - Purchase CSX ROW
- **\$57.9M CRISI grant**
 - Land surveying, NEPA, preliminary engineering
- **1.4M FTA TOD Study grant**
 - TOD Study
- **\$3.4M RAISE grant**
 - Mobility Hub Plan




[PR5 - SLIDE 7]

There are a lot of partners....



[PR5 - SLIDE 8]

What is TOD?

- Creates compact development with a mix of housing, office space, retail, civic spaces, and neighborhood amenities within walking distance of a mobility hub.
- Study Goals
 - Plan the "place" around transit
 - Proactively plan context-driven TOD
 - Corridor-wide Conversation
 - Local Implementation




[PR5 - SLIDE 9]

Vision for the Corridor

The development and infrastructure associated with each TOD vision seeks to support the communities' individual goals.....

- 1 Improve Mobility & Access:** Maintain or improve multimodal access and infrastructure within the study area.
- 2 Increase and diversified housing:** Provide for a variety of housing typologies based on the local context and market within each community.
- 3 Support downtown vibrancy:** Support or create vibrant, walkable station areas that enhances local business opportunities, especially in downtown environments.
- 4 Create workforce opportunities:** Support development scenarios that support new business opportunities in study areas.
- 5 Maintain equitable access to opportunities:** Consider how existing communities will be able to access new development and employment opportunities created by the S-Line
- 6 Support opportunities for upward mobility:** Develop scenarios that support access to employment an minimize involuntary displacement.

[PR5 - SLIDE 10]

Community Outreach

[PR5 - SLIDE 11]

Engagement Across the S-Line Communities

TIMELINE OF ENGAGEMENT MILESTONES

- 1 Understanding Community Values:** Community Pop-Ups (December 2021)
- 2 Creating the TOD Vision:** Community Design Workshops (June/July 2022)
- 3 Present the Final TOD Vision:** Community Pop-Ups (December 2022/January 2023)

[PR5 - SLIDE 12]

Apex Public Outreach

Interactions (all stages of outreach)	300+
Key Input Theme	Support a vibrant and growing downtown while preserving established single-family neighborhoods
Top Priorities	<ul style="list-style-type: none"> Providing new transportation options within the region (multimodal connections) Preserving rural and natural areas Supporting existing and new small businesses (including mixed use developments)

COMMUNITY DESIGN WORKSHOP

JOIN US!

Discover opportunities for transit oriented development around the S-Line in your community.

APEX NORTH CAROLINA

S-LINE
TRANSIT-ORIENTED DEVELOPMENT STUDY

Thursday JUNE 9

Apex Town Hall
73 Hunter Street

Workshop
1 - 4 p.m.

Public Open House
6:30 - 7 p.m.

[PR5 - SLIDE 13]

TOD Vision

[PR5 - SLIDE 14]

- 700 units**
(No-Build = 65 units)
- 230,000 sq. ft.**
(No-Build = 170,000 sq. ft.)
- 65,000 sq. ft.**
(No-Build = 55,000 sq. ft.)
- 0 rooms**
(No-Build = 0 rooms)

VISION
Support a vibrant and growing downtown with new transit opportunities and high-density development that preserves and enhances Apex's existing neighborhoods and character.

[PR5 - SLIDE 15]

Community Playbooks

- Built Form & Development
- Station Planning, Design, & Construction
- Infrastructure
- Policy
- Funding

Catalytic TOD Sites



Built Form & Development Recommendations - Apex

Area	Recommendation	Priority
...
...
...

Priority Infrastructure Projects



[PR5 - SLIDE 16]

Upcoming Grant Opportunities

- Reconnecting Communities and Neighborhoods (RCN)
 - Application due 9/28/23
 - \$3.3 Billion available
- Capital Construction Grant
- Mobility Hub Program – get communities shovel-ready
 - NEPA
 - Preliminary Engineering
 - Final Design
 - Construction

COMMUNITY	PRELIMINARY DESIGN	NEPA	FINAL DESIGN	ROW	CONSTRUCTION
SANFORD	+	+	+	+	+
APEX			+	+	+
WAKE FOREST			+	+	+
YOUNGVILLE	+	+	+		
FRANKLINTON			+		
HENDERSON			+	+	+
NORLINA			+	+	+

[PR5 - SLIDE 17]

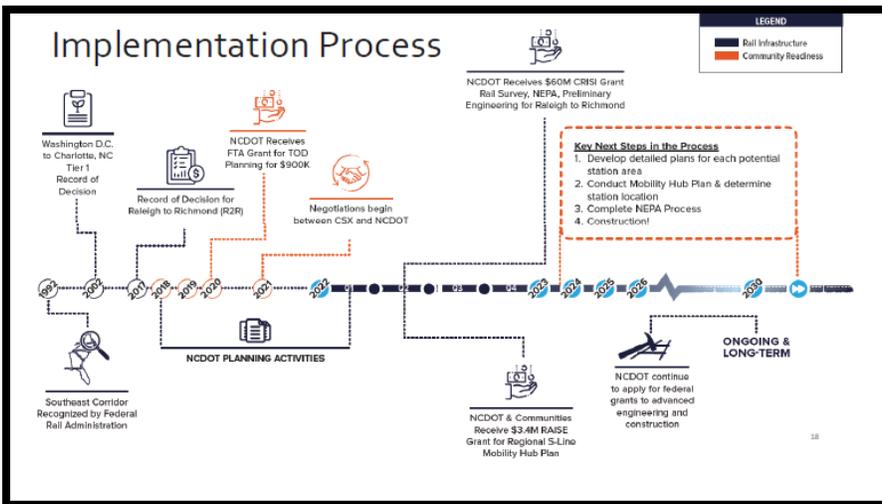
Next Steps

- **S-Line Coalition** – empowered to provide updates on the project to your community
- **Rail Infrastructure Design**
 - Environmental Screening
 - Rail
 - Roadway
- **Mobility Hub Implementation**
 - Feasibility Studies
 - NEPA Compliance
 - Preliminary Engineering
- **Pursue additional grant opportunities**



17

[PR5 - SLIDE 18]



[PR5 - SLIDE 19]

<https://www.ncdot.gov/divisions/rail/s-line-projects/>

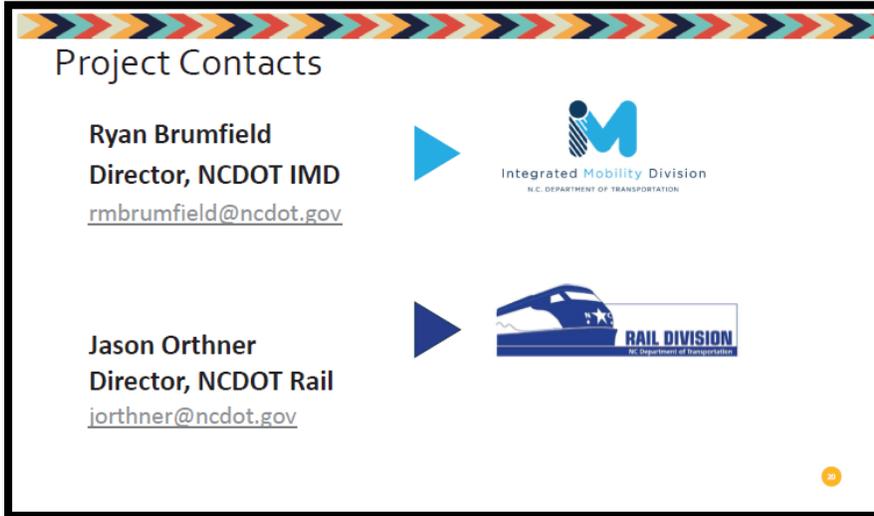
S-Line Projects

The Future of Railway Transportation

Projects & Studies

- What is the S-Line?
- Raleigh to Richmond Project
- S-Line Transit-Oriented Development Study

[PR5 - SLIDE 20]



Councilmember Gantt said it was an honor to be a part of this process, and he said staff members Dianne Khin and Shannon Cox were an important part of those meetings and actually working with NCDOT on behalf of the town. He said it has been great to take advantage of the funding opportunities available to build transit options that aren't just roads.

Councilmember Gray said this was a huge undertaking, and this project was Council was thinking about Apex in 20-30 years from now. He thanked Councilmember Gantt and staff for their leadership and hard work on this project.

Interim Town Manager Purvis said there was still lots of work to be done on this project. He said NCDOT is seeking a grant on the next phase of work. He said he would like to provide information on this and how Apex can participate. He requested that this item be added onto the next Council Work Session, September 19, 2023. He said the funding application for that grant is September 28.

[REGULAR MEETING AGENDA]

Councilmember Zegerman requested that New Business Item 2 be removed, since Councilmember Mahaffey was not present tonight, and for it to be continued until the next Regular Council meeting on September 26, 2023.

A **motion** was made by **Mayor Pro Tempore Killingsworth**, seconded by **Councilmember Zegerman**, to approve the Regular Meeting Agenda, with the continuation of New Business Item 2 to September 26, 2023 and the addition of a Closed Session item (NCGS§ 143-318.11(a)(3)).

VOTE: UNANIMOUS (4-0)

[PUBLIC FORUM]

[SLIDE 2]

Public Participation

- 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



First to speak was **Dawn Cozzolino** of 3632 Bosco Road:

"Dawn Cozzolino, 3632 Bosco Road. I'm here tonight to voice my concerns about our rural New Hill Community, provide awareness of how critical our farm and land assets are, they do good for the environment, and they fight climate change. This is a turning point for the Town Council and future generations. Our number 1 industry is agriculture, yet we are second worst in the country, just behind Texas, for farm land preservation. We love where we live. These are photos of our farm. Jenna will share comments on why this saying is true as she presents her comments on open house meetings. We are a rural community, we want to keep it rural, we don't want a Starbucks on every corner. For the Western Big Branch and Force Main, I didn't hear any other feasible options proposed that would not interfere with our community. They are out there, but I'm not hearing about them. Take a look at these photos, these are photos of similar structures proposed for the Force Main and the Big Branch. It's not hidden, it's not underground. They're huge, permanent buildings with razor wire, cement risers, venting, even with filtration for smell. And that will impact property values and a lot of other things. Heat map, we're in the grey area, Apex is in the red area surrounding us. This is called sprawl. By definition it is expansion into the countryside in a manner that is disorganized and unattractive. Tree canopy study monetized, \$2,800 per person, and that's including vulnerable communities by tree removal. Wake County's tree canopy is valued at 3.2 billion dollars. Apex was number 1 for losing the most acres, 2,180, and 15% out of Wake County. That's a 10-year study by the way, and it's three years old already. Talking about changing canopy loss, we're in the green as a gain, and Apex is in the yellow as a loss. This is Jordan Lake, this is our major water supply, there's only 8.8% allocated. The urban heat index is 4 degrees higher going 3.5 miles in 6 minutes from Bosco Road into Apex, Apex has too many goals, too far, too unsustainable and by looking at where we are going with things you're going to be changing your name to "the peak of good living has peaked" if we keep up with the sprawl. It's not unforeseeable that this would happen, and this is what progress looks like in Chatham County and Durham County, this is water protection that's just been blatantly violated. Thank you very much."

Mayor Gilbert thanked Ms. Cozzolino for her comments.

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Next to speak was **Donald Braden** of 1321 Elk River Drive:

"Thank y'all for having us, Mayor, Council. I don't really need to tell you what a quasi-judicial meeting is, but I wrote the definition on here and it says "a hearing body to determine facts" and it says the commission is supposed to consider facts, competent substantial evidence that is under testimony, and complete evidence. The town commission are also required to be neutral in decisions, not allowing people to talk for or against applications when applying for a hearing, they must not disclose the conversations before public hearing. I'm talking about, we had a BOA meeting on August 15 on Preserves on Holt, and when I went back and read all of my information here it says "in order to approve a variance permit the BOA must find all of the following standards are being met, which included unnecessary hardship, hardship results and particular conditions not resolved by applicant consistent with the UDO variance, is consistent with the purpose and intent of the ordinance, that safety and substantial justice is achieved. Number 1, there was a traffic model that was presented at the meeting, but it was not evidence, it was a model and not an actual traffic study, so that was not hard evidence. Number 2, they said it was a hardship getting in and out of the property, the property currently has an access road off of Holt, and at the Council Meeting, from the Council notes, it states on Page 53 that there is access to the property off of Holt Road, and it does not have to come off of Elk River Drive. It says that a variance permit is supposed to require all of the standard to be met. And I think particularly on the first standard and for the 4th standards, those areas were not met. Town Council has the scope to appeal this decision, and they had a vote on this with hearsay, and not all the facts and findings that are supposed to be in the process. And I know the Town Council are able in scope to appeal this decision to Superior Court, and we hope you will consider doing that for us. We also are considering a formal complaint to the NC Bar Association for the way that the BOA conducted meetings and voted on a lot of hearsay information, and not actual evidence. Thank you."

Next to speak was **Armando Garr** of 1339 Elk River Drive:

"Hello, my name is Armando Garr, 1339 Elk River Drive in the Courtyard on Holt. This is also regarding the quasi-judicial hearing from the BOA, and at that time, the applicant had some expert witnesses, a group of engineers, and one of them testified that the town staff and himself had checked with the DOT, and in no uncertain terms, access to Holt Road would not be allowed. However, he had nothing in writing to show these uncertain terms, it was just hearsay. Later he said that the DOT had said that there would be no access to Holt, and again there was no evidence of this. He was asked later if the right-in right-out driveway would be an acceptable option, and he said that in his experience it would not be approved. Again, it was his opinion, not facts. The BOA was sold on the fact that the DOT had denied access to Holt road. This land can access directly to Holt Road or through our neighborhood, by the way of a 55+ neighborhood. And again, the BOA was sold on the concept that access to Holt was denied already. So, I called the NCDOT, and I was told for a single-family home, no permit is required. No question, this would be the end of it. By the way, the applicant, for a few weeks, had a listing in the real estate website for a single house that was 2 million dollars, and they never sold, so then they went back to the idea of 3 homes. So, they are now

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trying to get 3 homes in the neighborhood. So, I asked the DOT if it's more than 2 houses, what happens? They say the owner would need to request a permit to the DOT and the DOT would conduct a study, and from that study they would determine if access to Holt Road would be acceptable. At that time a few weeks ago, this request hadn't been submitted yet. So, they hadn't even tried to find out if the access would be accepted or not. I also ask in our specific case, this 1305 lot, what is the status, and I was told if the Town of Apex accepts access through our community, through Elk Rover Drive, then the DOT sees no need to have a secondary access to Holt. So, this is critical, because the BOA was sold on the concept that access to Holt Road was already denied. Again, DOT said if Apex grants the access then there's no need for access to Holt Road. So, I just want you to make that distinction, because lawyers tend to get those confused you know? Thank you."

Next to speak was **Chuck Mattina** of 1328 Elk River Drive:

"Chuck Mettina, 1328 Elk River Drive. I want to talk a little bit about an actual document that was filed at the Board of Adjustment. This is the Finding of Fact that was submitted on 08.15.2023. I have one copy, if you'd like I'd be happy to share. Basically, it says on page 1 it says that "all persons who desired to present evidence relevant to the variance on 1305 Holt Road were allowed the opportunity to present evidence." That is factually untrue. We had to obtain standing, and only one of residents obtained standing and that was Don Braden. So, the idea that all people who desired to speak were given the opportunity to speak is factually not true. That should make this whole finding null and void right there. It is signed by Chairman Carmac, by the way. You heard other people talk about the fact that the whole idea of was their decision based on NCDOT fact or hearsay. There was no evidence presented on that. Realistically, as Armando said, they can build one home on that lot. So, this is not necessarily, the hardship is coming from the fact that they want to build three homes. And the reason they do not want to come off of Holt is not about the road, it's what's underneath the road. If they come in off of Holt, that property has a septic system which can only support one home. So, in order to build 3 homes, they need to come in off of Elk River Drive to have access to water and sewer. So, I think the whole variance is kind of an end around to get water and sewer, so they can build the 3 homes. The last thing I wanted to kind of talk about is that this other thing is in the 4th criteria, which is consistent with the regulation, the UDO, such that public safety is secured. One of the things we represented to the board that they summarily ignored is the fact that one Elk River Drive there's 21 homes. 7 residents on Elk River Drive suffer from health issues, including cerebral palsey, Parkinson's, a gentleman who is blind in one eye, someone who is relegated to an electric wheelchair, and someone with Alzheimer's. There study, as Armando just said, which is based on opinion, on a model, will only have 25 percent more traffic coming down on our road. So, they're going to put 25% more traffic down a road that has 7 homes with some serious health issues, again we're a 55+ community, so that's to be expected. So, we feel like that was not addressing the idea of public safety being secured. That's putting the public safety "of the three homes" over the public safety of the 21 homes on Elk River Drive. So again, we fell like what was put into this and signed by the Chair and signed by a planner is factually untrue, and should not be submitted as evidence of fact. Thank you."

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

Again, I appreciate the opportunity to come before the Board and Council to speak tonight. We, the members of the Courtyards on Holt, 85 households strong, are heartened to learn that Mayor Gilbert has scheduled an Apex Town Council Meeting this Tuesday, and later we believe there will be a discussion about the recent Apex Board of Adjustment's approval of Variance #23VAR01, 1305 Holt Road. The Courtyards on Holt, to remind you all, even though I know we came before the same body in January, we're a 55+ HOA managed community off Holt Rd in Apex. In truth, we are a 70+ year old community with many of whom suffering the ravishes of time and fate with significant issues such as dementia, Parkinson's and various visual, hearing and mobility issues. A 30% increase in traffic, which the aforementioned Variance represents, was an unacceptable risk to our aged and vulnerable residents. On January 10th, 2023, Public Hearing #7, Rezoning Case 22CZ20, the Applicant came before the Apex Town Council seeking rezoning of a parcel of land identified as 1305 Holt Rd with a subsequent connection to a new 4 home development via Elk River, one of the more heavily populated roads in the Courtyard on Holt. These to be built homes would replace a recently demolished home that had a driveway on Holt to Holt at 1305. The COH residents and our selected speakers on that night expressed our case for outright rejection of this arbitrary connection via Elk River Drive and encouraged the Applicant to use the existing driveway at 1305 Holt Road for their development. One of the most cogent remarks that evening was from one of the Town Council members, and I apologize I do not remember which one of you it was, and I noticed that Councilman Mahaffey isn't here this evening, but one of you asked, "does anyone know anywhere in the area of a new development artificially grafted onto an existing 55+ community?" The answer that night, and the answer tonight, is still the same. It's a resounding no. The Apex Town Council, after careful consideration of both parties' point of view, voted unanimously to reject the application on the grounds of incompatibility of the two developments. By the way that's an incompatibility that still exists to this day. The Courtyard on Holt quietly celebrated the fairness and transparency of the January decision, and honestly in April we even breathed a sigh of relief when 1305 Holt Rd was posted on numerous websites for sale as a single spec home with a Holt Road driveway priced at just under 2 million dollars. Unfortunately, we were naive and ignorant, because simultaneously the Applicant and his legal counsel, Morningstar Law Firm, whom I recognize is present in this room tonight, in conjunction with the Apex Planning Department were engaged in some legal Jiu-Jitsu to subvert the Apex Town Council January meeting and January decision via a variance request to the Apex Board of Adjustment. At the first BOA meeting over 100 Courtyards on Holt residents attended the meeting and successfully argued for a continuance to allow us time to secure legal representation. We were given 30 days which we thought would be adequate, not fully understanding that the landscape, in terms of legal representation and expert witnesses is almost exclusively tilted in favor of developers. We were repeatedly denied representation. Developers are the bread and butter for many law firms and multiple firms simply did not wish to be associated with any case perceived as anti-developer. After numerous declinations, we found an attorney willing to take our case. At the next BOA meeting the COH ranks swelled to over 120 residents and despite what we thought was adequate legal representation, and as other speakers have spoken about already, multiple hearsay statements referencing DOT opinions or directives made by the Applicant's expert witnesses, their legal counsel Morningstar, were allowed to be entered as facts.

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And let's make sure we understand, in terms of hearsay, any statement made or linked to an NCDOT opinion or rulings on this without it being in writing or you being an NCDOT official, were classic forms of hearsay. And yet they were allowed to be entered as fact. The Minutes of the meeting, are quite frankly, I would probably be in a position to give you specific examples of hearsay, however the minutes of the meeting are in dispute, and therefore I am not able to give you more than what I've said which is any statement alluding to NCDOT is hearsay. As a result, when you allow that much hearsay evidence, that's a gross violation of a quasi-judicial hearing. And some of those statement may have inadvertently tripped over into perjury, which is a class 1 misdemeanor. Additionally, a BOA member, Mr. Pai, failed to acknowledge his association with the Applicant despite acknowledging said association at the first BOA meeting, depriving our attorney the fundamental right to probe the nature of that association, an association that might have compromised or biased the BOA's members' questions and eventual decision. Furthermore, it appeared to our community that several BOA members were predisposed to a stub road connection and had fixed and hard opinions, insusceptible to change, or on egress from the immediate onset of the BOA meeting. Such fixed opinions are an anathema to a proper and legal BOA meeting, and are against BOA structure and standings. The BOA meeting was never made aware of the Apex Town Council's decision on the Applicant's basically same request in January 2023 during the public BOA meeting. Is it unreasonable to assume that such knowledge may have impacted the Board's thinking, line of questioning, and subsequent decision? Why was this information not shared and to what purpose? Was this more legal sleight of hand? The BOA voted that night 4 to 1 to approve the Applicant's request allowing the Applicant to build 3 homes attached to our Senior community exclusively via Elk River Drive. The only no vote was Board of Adjustment member Tracy Taylor. The residents of COH, comprised of over 170 voters who annually pay in excess of \$350,000 in property taxes, respectfully request that the Mayor joined by the members of the Town Council and Ms. Hohe reject this flawed BOA decision, replete with multiple legal and ethical violations/ issues made by a panel of unelected and therefore unaccountable officials, and dismiss this BOA decision and the Applicant's case with prejudice. I repeat, I'm requesting it to be done with prejudice. After all, who runs the Town of Apex? We believe that the elected Mayor and the elected Town Council have the final say which allows the voters the opportunity to eventually at election time demonstrate their support or disapproval. Apex is no longer a sleepy little town where deals can be made in dark rooms by influential, well connected people against the collective will of the people using the cloak of a quasi-judicial proceeding to mask an ugly reality. Good governance requires forthright transparency guided by the firm hand of justice in fairness to all. At this point the Courtyard on Holt residents are a marginalized group of seniors deprived due process by an abuse of power and an abuse of authority. We ask the Mayor and Town Council to right this wrong. Thank you very much.

Next to speak was **Elizabeth Stitt** of 3113 Friendship Road:

"Mayor, Town Council, good evening. Since I have a few extra minutes, I'm going to say a couple thank you's to start with. Because generally, three minutes doesn't give you time to raise an issue and say thank you, so since I've got that I wanted to mention a couple of things. Friendship Road is going to be closed tomorrow, September 13th and 14th, to finally be repaired. There is a section of road that's been marked since December, and I wanted to thank the Mayor, he allowed

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me to go on a ride along with a DOT official. He stopped and looked down the side and he could see how unsafe it was. So, this particular work order that's been in place since December I believe is happening because of that so I appreciate the fact that you didn't have control of the road, but by helping me make connections, it's allowing our community to have a safe road. The second thank you I want to say is to Dianne and the planning staff for coming out to our two community open houses, it's really hard for us to get into town, today there was actually a major accident on the 540 bridge because the traffic has been, new traffic lanes, so there were people who got here late because they had to drive around different directions. But coming out to our community meeting, making it easier to engage is greatly appreciated. And I've got a third thank you, the final thank you before I get into the meat of what I wanted to talk about is to Interim Town Manager Shawn Purvis, I just want to say thank you for the email you sent. I raised some concerns today that each of you were copied on, didn't expect a response that quickly, so I just wanted to say thank you, it's a pleasurable change. Tonight, I love the fact that tonight was Indigenous Peoples night, because they love our trees. We love our trees, and we want to honor the legacy of their heritage in our Friendship community, but also the rest of us who live out there also value our trees, and I think that's reflected in the tree canopy study, and you're going to hear much more about trees so I'm not going to go into a lot of depth around that. But I do want to point out an obvious, blaring elephant in the room. The town is going to do the Big Branch Force Main, and it is going to remove 18 acres of trees through our communities, and there's no mitigation plan. There's no intent to replant a single tree back because you need that easement open. Somehow, someway, we need to have 18 acres of trees. We don't want to lose a single one of those. We need a different strategy for Friendship and New Hill. Our communities have distinct cultures, we're not meant to look like Apex. We respect Apex, we are part of the greater community, but what we bring in terms of diversity is very important. We want to enable our communities to look like our communities, we don't want to look like Apex. So hopefully through this whole strategy of working with the town and coming up with a land use map, we're able to come up with something that really reflects our communities, and not making us look like the rest of Apex. A part of that is protecting our roads. Our roads are overcrowded based on the Apex process. Something in our transportation studies need to change. Is it the rate of background projects and the growth rate need to be changed? Something need to be done differently for our communities. We don't want the repeat of what we're fighting with right now. But I do think we're at a tipping point, I think there's a lot of social media happening right now, where people are saying enough is enough, that there's this feeling that we just hit too much. One of the individuals with me tonight did a posting on Next-door, and he just said, hey I'm hearing a lot of concerns about development, I'd like to get your thoughts. He had over 269 comments to just a simple question. So out of that, there is a group that has started, and it involves Apex residents, the ETJ, Wake County, members and we invite anyone what wants to come to some of those meetings to start talking about community solutions and what we can bring to you. We don't expect the town to come up with all the ideas, we'd like to present our ideas to say "this is what's meaningful to us, this is what we want." I'm also hosting a meeting with Cheryl Stallings, Wake County Commissioner, your former fellow Council member, to talk about what's unique about Wake County, we're all Wake County out there. And Wake County's priority are the voluntary ag district to preserve farmland, if you go and look at the GIS maps and you turn on the voluntary ag district map, you'll see that we just recently got 118 acres under that program, we have another 38 that should be in that program, so

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150 acres within a couple of months. We're reaching out to some of the other large property owners to consider going under that program. And what that says is we are pledging a commitment for at least 10 years not to develop our property. Because we recognize the importance of our farms to the overall community. That's going to have an impact on the plans you make for 2045. Because you've got properties that are committing to stay and protect what we have. Wake County is also dealing with wells going dry. There is a number of resources they provided I plan to share that when you develop communities around farmland and you carry off stormwater, that stormwater does not go back into the ground, and so you start drying out the land around it. The trees start dying off, the grass starts dying off, people's well start going dry. We don't want our wells to go dry so I will be forwarding that information to you. Obviously, I've got a large group with a couple of different focuses, we're going to start aligning., and showing up more, because we realize that's what it takes to get change. So, I ask that you take the time to seriously have conversations with us. Coming to the town meetings where you have a 3-minute monologue, and yeah, I know I come on a regular basis, and there's not a need to respond to me every single time, but there's people who come and don't feel like they're heard, or that it's making a difference. And so, it's taken me a while to get my community to say "look guys, I keep showing up." There's a joke about me being a stormtrooper, and I actually have a cardboard cutout, I need to open it up and take a picture of me, to have the stormtroopers behind me to say look if I can keep showing up so can you, and we together can have a better outcome. The one thing I want to close with is, it's just not all on Apex. We know our community is impacted by Holly Springs. So I plan to meet with Holly Springs about a couple things but right now, Holly Springs has 2 potential rezoning cases that was going to be heard on September 19, it's been pushed out to October 17, where Anjem and those different properties are going to be increasing their density, which means they had new traffic studies, and their original traffic study had money allotted to extend the turn lanes on Old US 1 and Friendship Road, that initially the town was going to build and then extend. And then of course the various properties, Holland Road Mixed Use Assembly was going to have some money, and we have included Paul Miller in those conversations because he owns the corner and he knows he's going to have to do something. So, we are looking beyond just the Town of Apex, and this is where collaborative working with each other is very important. And so, I'm going to circle back to where I started, where the Mayor had helped me get in touch with Brandon Jones at the DOT. I would have never met him on my own. We're getting a safer road, and I think we can get a better outcome if we keep making connections and working together, versus 3-minute monologues, hey I did talk 9 minutes imagine that! So long story short, I will share Dawn's presentation and her slides on the next time I come, so thank you."

Next to speak was **Pamela Thomas** of 507 Fantell Lane:

"As of September 29, it will be my one-year anniversary in Apex, North Carolina. So yes, I ain't going to mess up like I did last time, oh my goodness. To God be the glory, y'all. Since March public forum, I had an unexpected impromptu experience here that was a little traumatic, but it was real. It was very real. And it was evidence of the trauma, however I'm still free in 2023, free to grow, free to love, and free to heal in Apex, North Carolina, okay so again, one-year anniversary coming up. I am blessed by the best to announce that the non-profit vision God gave me has been offered 7 figures.

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That non-profit is Liberty Nest PPT Ministry, we advocate for orphans, widows, elderly, poor, oppressed, to ensure their home, or nest, is safe as well as well as suitable for any physical disabilities, adequate living space, and empower them to use their voice to address injustices and/or lack of corrective actions taken on their behalf. We facilitate specialty gatherings that will inspire strength and provoke us to begin again with unwavering faith, that Matthew 17: 13-14 is the best road to travel, we were talking a lot about roads here, enter at the straight gate. And because wide is the gate and broad is the way that leads to destruction. I am the founder, Pamela Patrice Thomas, or PPT, of Liberty Nest PPT Ministries, United States Navy Veteran, while serving my country I supported the chaplain corps, a religious program specialist, I also supported active reserve status of the Marine Corps, Semper Fidelis, yes I sure did, I am now a member of the local American Legion Post, I transferred my membership, so when it comes to Liberty Nest PPT Ministries, it is a faith-based meeting od need ministry God gave me during a national pandemic, the Bible, the inspired word of God, our road map for living was good enough for our ancestors, it's still good enough for me, and it helps fuel my passion to make a difference in the lives of others. This vision quickly expanded March of 2023 from a desire for a monthly women veteran gathering to reach out to touch the world, with a constant reminder that Matthew 25 and 40 is the wisest way to live, and the king shall answer and say unto them, verily I say unto you, inasmuch as you have done it to one of the least of these my brethren, you have done it unto me. I remain humble and honored to share my journey that led me to declare that I am free in 2023, free to grow, free to love, and free to heal. And I'm committed to making a difference in the lives of others. I do have some handouts. I thank you for your attention."

Next to speak was **Dylan Hale** of 202 Nottingham Walk:

"I don't know how I'm going to follow that but I'm going to do my best. Anyway, I'm Dylan Hale of 2020 Nottingham Walk, and as most of you know, I'm sure the Town Council is aware, I'm actually a candidate for Town Council coming up in the election in November. I'm not coming to you as a candidate tonight, I'm coming to you as a 13-year resident of Apex. And if I was coming to you speaking as a candidate, I'd probably be jumping for joy right now over this ball you guys have dropped on the ground with the Town Manager. And you can tell from my demeanor, I'm not jumping for joy. I'm fairly upset about it, and I think a lot of people in this town are too, as evidenced by the group here. And I'd like to also, before I go into this separation agreement, I got the details of it here in case anybody doesn't know, but I'd also like to voice my support for the Courtyards at Holt, the people in New Hill, and the people in downtown Apex, whose land you seem to disregard. As a realtor, property rights are vitally important to me, and I don't like to see this threat of eminent domain being thrown around without the respect of private property ownership of Apex citizens. So anyway, let's get into this settlement agreement. So, the Town Manager, if anybody doesn't know, had resigned according to this agreement. The town accepts her resignation. So, when you guys hired her, it's my understanding, you brought in a company, Developmental Associates, and did a nationwide search to find the Rockstar person that was going to come in and put our town back on the top list of best places to live in America where we were a few years ago. Now we're not in Money Magazine's top 100. So, we're looking for somebody to do that, and what we found was someone who worked for 2 years and then resigned apparently, although I'm a little skeptical of that assessment of the situation. Part of her resignation package, you've got a severance package paying

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her 231,000 dollars for this upcoming year, that she's not working. I'm curious if you couldn't find anybody in Apex that would take that job, and maybe do a good enough job that you wouldn't have to do a mutual resignation agreement after 2 years. I would think that there's some people in this room that would love to have a 231,000 dollar a year job serving the town that they love. She's got health and dental insurance for the next year. She's got 40 hours of paid leave that she's going to accrue, over the next year that she's not working. She's paid 281 hours, is that right, of paid leave that she's already accrued, retirement benefits? For a woman who worked here for 2 years, and now you're paying her for another year. All told it comes up to about 750,000 dollars of Apex taxpayer's money. I don't think that you would hire me to be your realtor, or somebody to cut your grass and enter into a contract with them, that says hey if you don't like the way I'm cutting your grass, or if I come to you at any point and say I'm going to retire from cutting your grass, I'm going to pay you to cut that grass for the next year. And the reason you hired this person is because it's our money you're spending and not yours, and I challenge you to make a change and do better. If you want somebody to pay 231,000 dollars to next year, there's your guy right there. Look inside of Apex, look at people who live here, who have passion for this community, who actually want to be here, look internally, look at Parks and Rec, look at some of the people that already work for the town, and afford them opportunities for these great positions, instead of going on a headhunt to find somebody who is not qualified for the job. That's all I got. Thank you."

Mayor Gilbert thanked Mr. Hale for his comments.

[PUBLIC HEARINGS]

PH1 Annexation No. 752 - Castleberry Assemblage - 90.24 acres (continued from August 8, 2023) (REF: ORD-2023-083)

AND

PH2 Rezoning Case No. 23CZ04 - Castleberry Reserve PUD (continued from August 8, 2023) (REF: ORD-2023-084)

June Cowles, Senior Planner, gave the following presentation regarding Annexation No. 752 - Castleberry Assemblage and Rezoning No. 23CZ04 - Castleberry Reserve PUD.

[SLIDE 3]

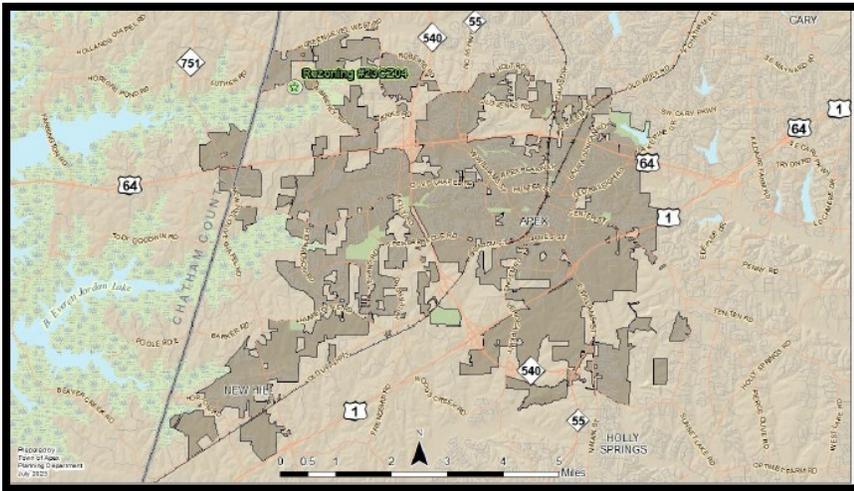
Public Hearing #1 & #2

Annexation #752 &
Rezoning Case # 23CZ04
Castleberry Reserve PUD

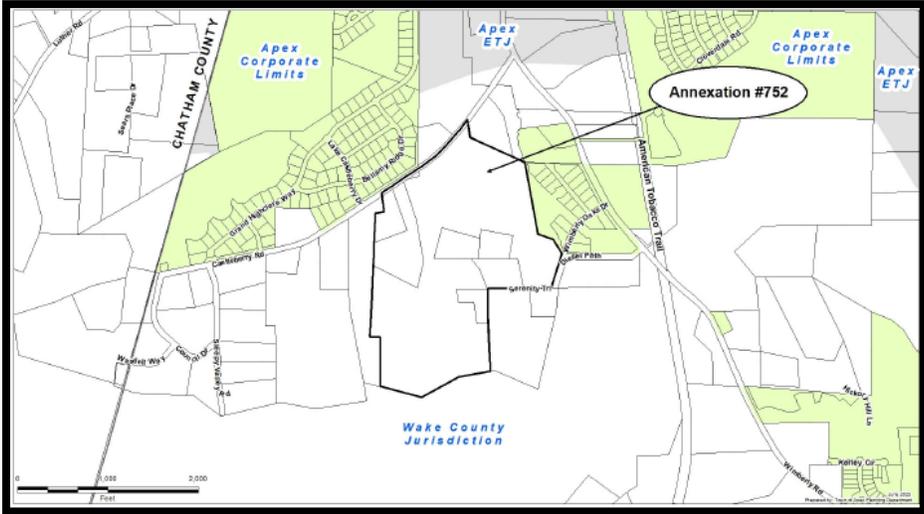
** Continued from August 8, 2023*



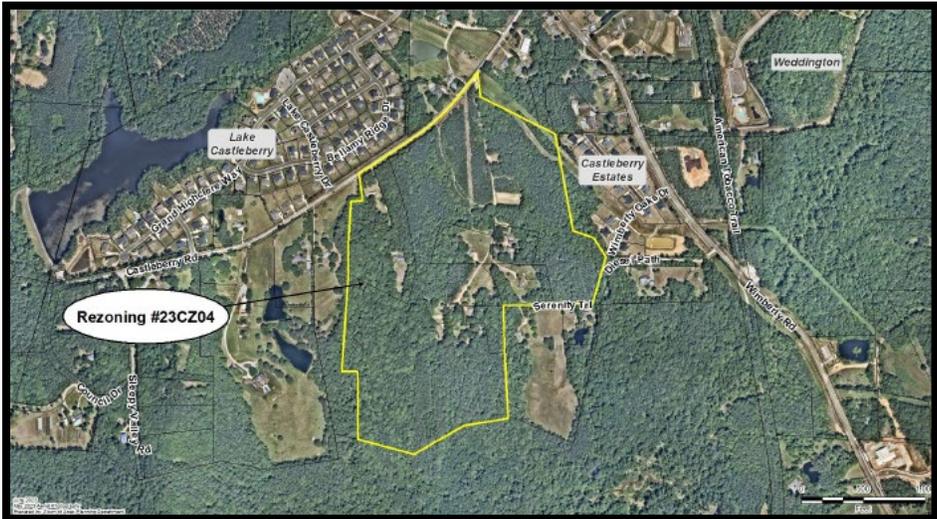
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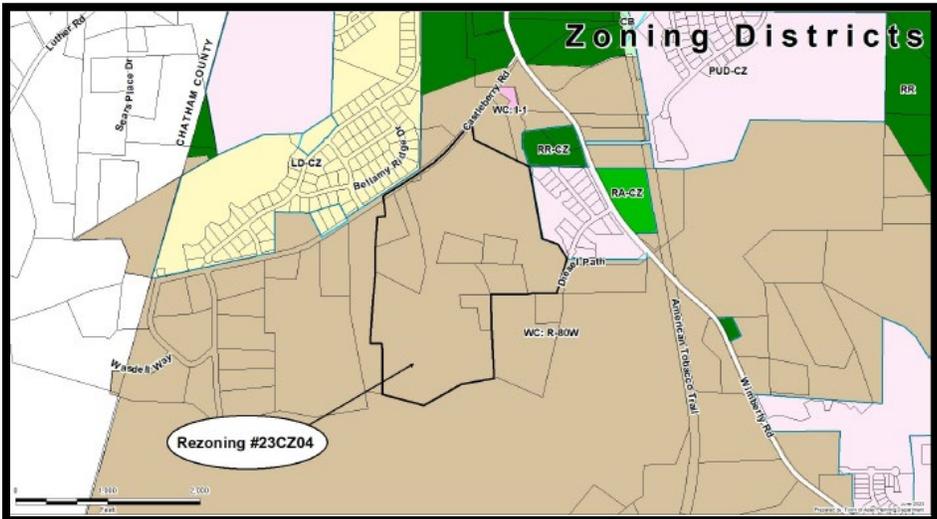
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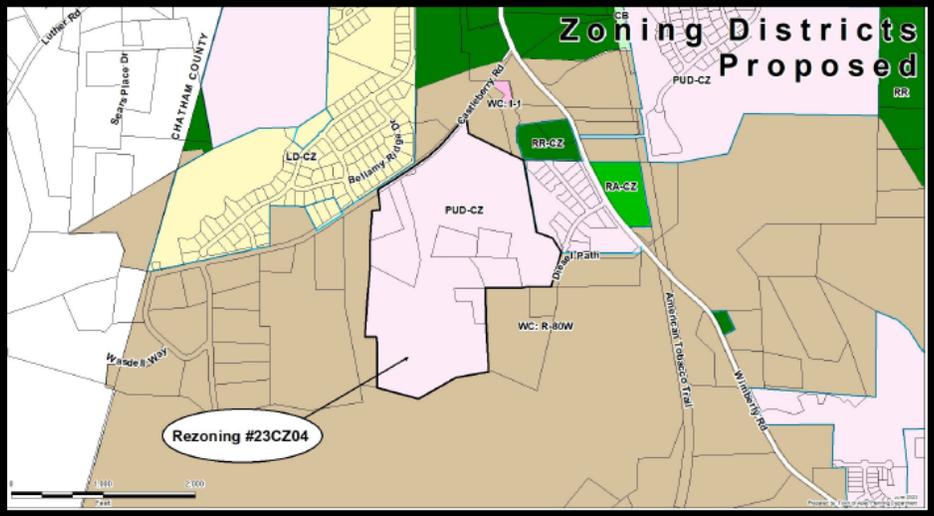
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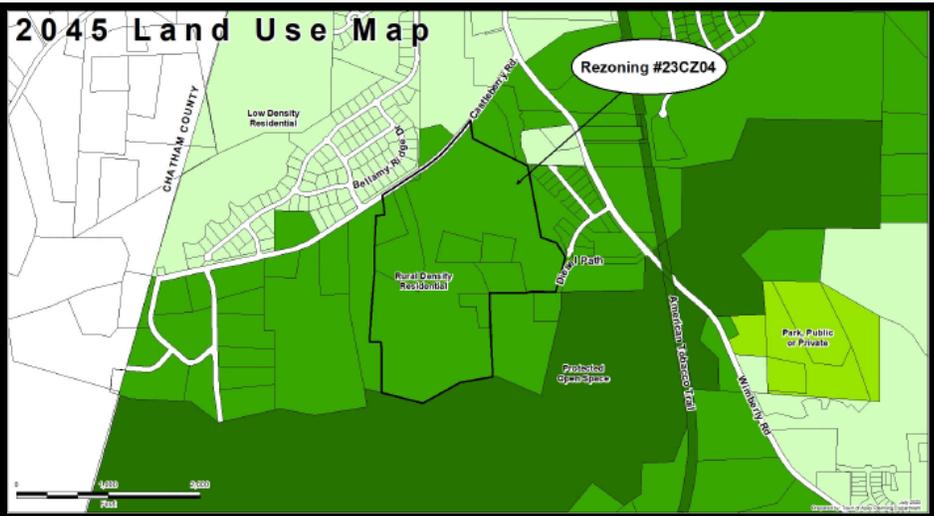
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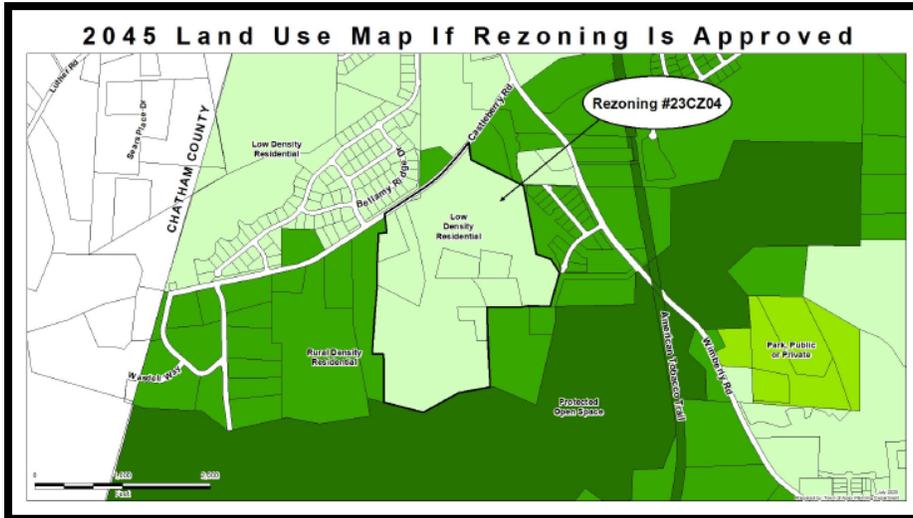
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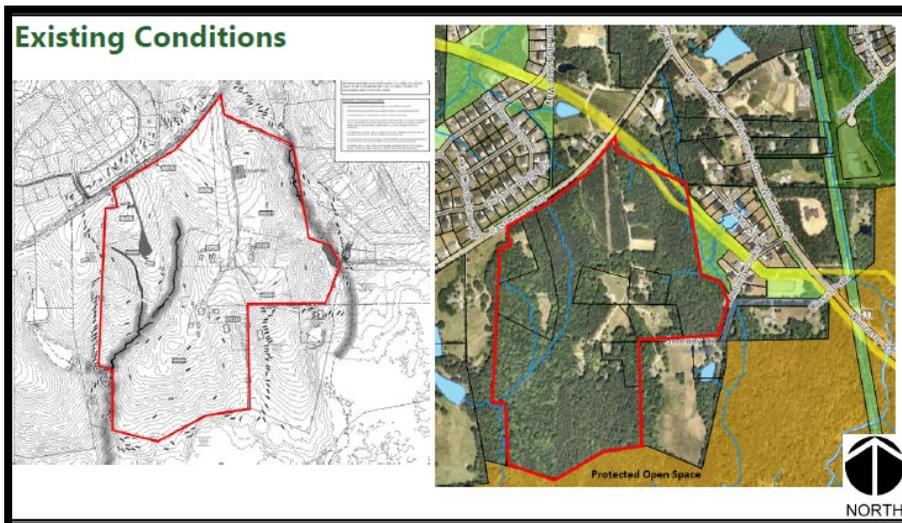
[SLIDE 9]



[SLIDE 10]



[SLIDE 11]



[SLIDE 12]

August 8, 2023 Town Council Meeting

Town Council expressed the following concerns:

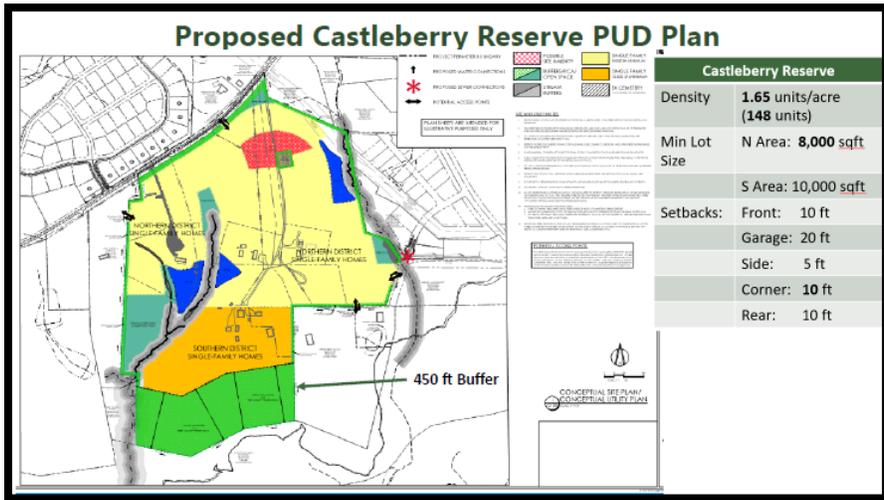
- The 2045 Land Use Classification and Density
- The lack of a 450 foot buffer to the Protected Open Space/Game Land
- Grading and Tree Preservation
- Affordable Housing

[SLIDE 13]

Proposed Revised Planned Unit Development Plan

- Reduced max density from 2 units/acre (179 units) to 1.65 units/acre (148 units)
- Included 450-foot buffer adjacent to Army Corps Protected Open Space property.
- Preserve 25% existing tree canopy
- Increased Castleberry Road streetscape buffer from 30 feet to 40 feet.
- Increased Northern District lot size from 6,000 sq ft to 8,000 sq ft.
- Increased Northern District minimum lot width from 50 feet to 60 feet.
- Increased solar commitment from 5 homes to 20 homes.
- Included a condition limiting the width of garages to no more than 50% of the total width front façade of the house.
- Included 2 affordable units and a donation of \$148,000 to the Town of Apex Affordable Housing Fund.

[SLIDE 14]



[SLIDE 15]

Proposed Buffers

Perimeter Buffers:	UDO Required	Proposed
Along the Property's Castleberry Road frontage	30 ft. Type B	40 ft. Type B
Along the Property's westernmost boundary adjacent to PIN 0722001857*	20 ft. Type B	20 ft. Type B
Along the Property's southernmost boundary adjacent to PIN 0722090422	20 ft. Type B	20 ft. Type B
Along the Property's shared property line with PIN 0722117077*	20 ft. Type B	20 ft. Type B
Along the Property's shared property line with PIN 0722210504*	20 ft. Type B	20 ft. Type B
Along the Property's shared property line with PIN 0722221515	20 ft. Type B	20 ft. Type B
Along Diesel Path	20 ft. Type B	20 ft. Type B
Along the Property's shared property line with PIN 0722136582	20 ft. Type B	20 ft. Type B
Along the Property's shared property line with PIN 0722134513	20 ft. Type B	20 ft. Type B
Along the Cemetery (as defined below) boundary	20 ft. Type B	10 ft. Type B
Along the Cemetery's Road Frontage	10 ft. Setback	0 ft. Buffer
Along the Property's southernmost property line adjacent to PIN 0722090422		450 ft. Undisturbed (the "Game Lands Buffer")**

*As shown on the Concept Plan, except where located adjacent to RCA, riparian buffers, or stormwater ponds, these buffers may be reconfigured and/or reduced if adjacent tracts are redeveloped.

**The Game Lands Buffer shall remain undisturbed in its current natural state and shall not be cleared or graded other than for necessary tree/forestry maintenance and/or installation of passive recreation amenities such as unpaved trails, benches, and natural areas. The Game Lands Buffer shall not require any supplemental plantings.

[SLIDE 16]

Environmental Advisory Suggested Conditions	
EAB Suggested Condition	Applicant's Response
To the greatest extent practicable, include a 150-yard (450-foot) NC Game Land safety buffer along the exterior of the property adjacent to the US Army Corps lands.	Added
Preserve tree canopy and prioritize medium to large, healthy, desirable species. <ul style="list-style-type: none"> Preserve existing trees (percentage-based) Existing hardwood trees of 18" diameter or larger which are removed by development shall be replaced by 1.5" caliper native trees, either on site or at an alternate location. Tree species shall be chosen from the DDM or in conjunction with Planning Staff. 	Added (Preserving 25% of Tree Canopy)
Install a minimum of a 4-kw solar PV system to a minimum of 20 homes, including 5 homes with solar before 40% of building permits are approved, 10 homes before 65% of building permits are approved, and 20 homes before 90% of building permits are approved.	Added (4-kw and shall be installed on a minimum of 20 homes)
Stormwater control devices shall be designed and constructed so that post-development peak runoff does not exceed pre-development peak runoff conditions for the 24-hour, 2-year, 10-year, and 25-year storm events.	Added

EAB Suggested Condition	Applicant's Response
Landscaping shall include at least four (4) native hardwood tree species throughout the development.	Added
No clearing or land disturbance shall be permitted within the riparian buffer, except the minimum necessary to install required road and utility infrastructure and SCM outlets. The SCM water storage and treatment shall not be permitted within the riparian buffer. Sewer infrastructure shall be designed to minimize impacts to riparian buffers.	Added
Install signage near environmentally sensitive areas in order to: <ul style="list-style-type: none"> Reduce pet waste near SCM drainage areas Eliminate fertilizer near SCM drainage areas 	Added
Increase biodiversity. <ul style="list-style-type: none"> Plant pollinator-friendly flora. Plant 75% native flora (refer to the Apex Design & Development Manual (DDM) for approved native species) 	Added
Include landscaping that requires less irrigation and chemical use. <ul style="list-style-type: none"> Plant warm season grasses for drought-resistance 	Added
Install a minimum of four (4) pet waste stations in neighborhoods.	Added
Include solar conduit in building design.	Added
Include International Dark Sky Association compliance standards. <ul style="list-style-type: none"> Outdoor lighting shall be shielded in a way that focuses lighting to the ground Lighting that minimizes the emission of blue light to reduce glare shall be used Lighting with a color temperature of 3000K or less shall be used for outside installations 	Added

[SLIDE 17]

Environmental Advisory Suggested Conditions	
EAB Suggested Condition	Applicant's Response
Implement low impact development (LID) techniques as defined by the NC Department of Environmental Quality.	Not Added
Stormwater re-use application <ul style="list-style-type: none"> Integrate irrigation from the SCM (wet pond) on site 	Not Added
Implement green infrastructure. <ul style="list-style-type: none"> Provide diverse and abundant pollinator and bird food sources (e.g. nectar, pollen, and berries from blooming plants) that bloom in succession from spring to fall, which should be 100% native for birds and 75% for pollinators Provide and allow for undisturbed spaces (e.g. leaf piles, unmown fields, fallen trees) for nesting and overwintering for native pollinators and wildlife. 	Not Added
Install community gardens and native pollinator demonstration gardens	Not Added

[SLIDE 18]

Affordable Housing

- Proposing 2 affordable units
- Provide a \$148,000 donation to the Town of Apex Affordable Housing Fund

Additional Architecture Condition

- Garages on the front façade of homes that face the street shall not exceed 50% of the total width of the house and garage together.

Conceptual Building Elevations



[SLIDE 19]

Off-Site Bicycle and Pedestrian Improvements



- Extend sidewalk along Wimberly Road
- Upgrade existing crossing with High visibility crosswalk markings and signs
- Install push button rapid-flashing crosswalk beacon system

[SLIDE 20]

Off-Site Bicycle and Pedestrian Improvements



- Install 5 foot wide sidewalk across from Lake Castleberry entry, along the south side of Castleberry Road to the Castleberry Reserve sidewalk

[SLIDE 21]



[SLIDE 22]

**Castleberry Reserve Project
Comparison to Adjacent Neighborhoods**

Subdivision	Density	Min Lot Size	Setbacks		Minimum Distance to Protected Open Space
Proposed Castleberry Reserves	1.65	8,000 (northern area) 10,000 (southern area)	Front: Garage: Side: Corner: Rear:	10 ft 20 ft 5 ft 10 ft 10 ft	450 ft
Lake Castleberry (1)	1.28	10,000	Front: Side: Corner: Rear:	25 ft 10 ft 15 ft 20 ft	1,471 ft
Castleberry Estates (2)	0.98	12,000	Front: Garage: Side: Corner: Rear:	15 ft 20 ft 8 ft 15 ft 15 ft	386 ft
Weddington (3)	1.48	8,000	Front: Side: Corner: Rear:	20 ft 5 ft, aggregate 15 ft 10 ft 15 ft	650 ft

[SLIDE 23]

Recommendation for Approval of Rezoning Castleberry Reserve PUD

While not consistent with the current Rural Density Residential classification on the 2045 Land Use Map, staff is able to support the rezoning for the following reasons:

- Reduction in density by almost 18% to a point that is more consistent with Lake Castleberry subdivision to the north.
- Increased buffer along the Protected Open Space to 450 feet as recommended by the NC Wildlife Resource Commission and TOA Environmental Advisory Board.
- Increased lot size, lot width, corner side setback and the buffer along Castleberry Rd and the additional architectural condition for garages make the rezoning generally consistent with the surrounding neighborhood context.



[SLIDE 24]

Recommendation for Approval of Rezoning Castleberry Reserve PUD

- Increased commitment to Affordable Housing and provision of solar panels.
- Addition of condition to protect 25% of existing tree canopy.
- Commitment to off-site pedestrian improvements along Castleberry Rd and Wimberly Rd.



Matthew Carpenter, of Parker Poe, on behalf of the applicant, gave the following presentation.

[CASTLEBERRY APPLICANT - SLIDE 1]

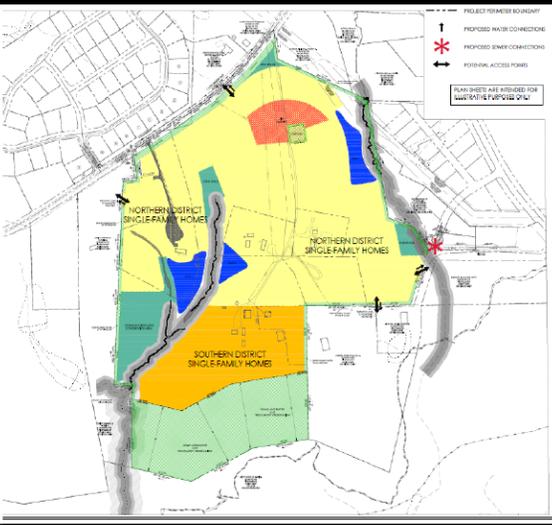
Castleberry Reserve
PUD-CZ



[CASTLEBERRY APPLICANT - SLIDE 2]

Concept Plan

- Single-Family Detached
- Max of **2 1.65 units/acre**
- Max built-upon area of 45% (UDO maximum of 70%)
- Cemetery Preserved in Place
- Connection to American Tobacco Trail
- Close Castleberry Road sidewalk gap
- Southern District – lower density adjacent to Corps property
- **450' game lands buffer**
- **40' Castleberry Road streetscape buffer**
- **Preserve 25% of existing tree canopy**



[CASTLEBERRY APPLICANT - SLIDE 3]

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Council/Staff Concern	Change to Case
Consistency w/ 2045 LUM Designation. More specifically, density is too high.	<ul style="list-style-type: none"> Reduced maximum density from 2 units/acre to 1.65 units/acre.
Rezoning is not consistent with the 450-foot Game Lands Buffer recommended by the North Carolina Wildlife Resource Commission and the EAB.	<ul style="list-style-type: none"> Committed to 450-foot Game Lands Buffer. No grading within the buffer, but buffer may be used for passive recreational activities such as unpaved trails.
Minimum lot sizes and minimum lot widths are smaller than existing neighborhoods in the area.	<ul style="list-style-type: none"> Increased minimum lot size in the Northern District to 8,000 sf. Minimum lot size in the Southern District is 10,000 sf. Increased minimum lot width in the Northern District to 60 ft.
Tree Coverage and existing rural character along Castleberry Road.	<ul style="list-style-type: none"> Committed to preserving 25% of existing tree canopy. Widened streetscape buffer along Castleberry Road to 40 ft.
Affordable Housing. Are two for sale affordable units at 135% AMI the best use of funds?	<ul style="list-style-type: none"> Committed to a donation of \$148,000 to the Affordable Housing Fund <i>in addition</i> to the 2 affordable units.
Environmental Conditions	<ul style="list-style-type: none"> Increased solar commitment from 5 homes to 20 homes (as recommended by the EAB).

[CASTLEBERRY APPLICANT - SLIDE 4]

Consistent w/ Peak Plan 2030	
Peak Plan Policy	Case Commitment
“Protection of environmental and natural resources”	<ul style="list-style-type: none"> Large RCA to buffer Corps property Treat stormwater quality to reduce nitrogen 5 homes constructed with solar panels Max built upon area of 45% (70% required) Max density of 2-units/acre 1.65 units/acre Lower density and larger lot sizes adjacent to Corps land 450' Game Lands Buffer Preserve 25% of existing Tree Canopy 20 homes with solar Castleberry Rd. streetscape buffer widened to 40'
“A variety of housing types available to a range of incomes”	<ul style="list-style-type: none"> 2 affordable housing units Additional homes add to housing supply \$148,000 donation to affordable housing fund
“A well-connected pedestrian and bicycle network”	<ul style="list-style-type: none"> Fill a gap in pedestrian connectivity by construction off-site sidewalk to connect to American Tobacco Trail and to connect sidewalk gap left by Lake Castleberry Castleberry Road speed limit reduction
“Preservation of historic places and cultural resources”	<ul style="list-style-type: none"> Preservation of the historic cemetery in its current location

[CASTLEBERRY APPLICANT - SLIDE 5]

Army Corps Property Buffer Comparisons				
Project/Subdivision	Year Zoning Approved	Max Density Permitted	Max Built Upon Area	Buffer/RCA Adjacent to Army Corps Property (Narrowest Point)
Apex Gateway Phase 1	2023	1,000,000+ sf Industrial	70%	40' Type A Buffer
Willow Mills Subdivision	2018	1 unit/acre	50%	75'
Saddlebrook Subdivision	2015	1.63 units/acre	70%	25'
Arcadia Subdivision	2015	3 units/acre	70%	150' (Utility Easements run through RCA)
Buchhorn Preserve Subdivision	2016	2.83 units/acre	70%	0'
Weddington Pool	2015			100'
Weston Subdivision	2023	1 unit/acre	60%	0' (utility easements adjacent to Open Space)
Castleberry Reserve	TBD	2-units/acre; 1.65 units/acre	45%	332' - 349'; 450'

[CASTLEBERRY APPLICANT - SLIDE 6]



[CASTLEBERRY APPLICANT - SLIDE 7]

Williams Farm PUD
Approved June 2021

PUD Commitment	Williams Farm	Castleberry Reserve
Acreage	62	90
Max Density	2.89 units/acre; 179 units	2 units/acre; 179 units 1.65 units/acre; 148 units
Minimum Lot Size	5,000 SF	6,000 SF (northern area) 8,000 SF (northern area) 10,000 SF (southern area)
Affordable Housing	Donation of \$50,000	2 for Sale Affordable Units at estimated cost of \$800,000+ to developer/builder \$148,000 donation to Affordable Housing Fund
Pedestrian Connectivity	5' Sidewalks Throughout and Along Frontage	2 off-site sidewalk commitments to improve pedestrian circulation and connect to American Tobacco Trail
Stormwater	25- year storm; treatment for 1 inch of rainfall will provide 85% removal of Total Suspended Solids	25- year storm; nitrogen export shall be reduced to less than 10 lbs/ac/yr
Max Built-Up Area	70% (per UDO)	45% (PUD Condition)

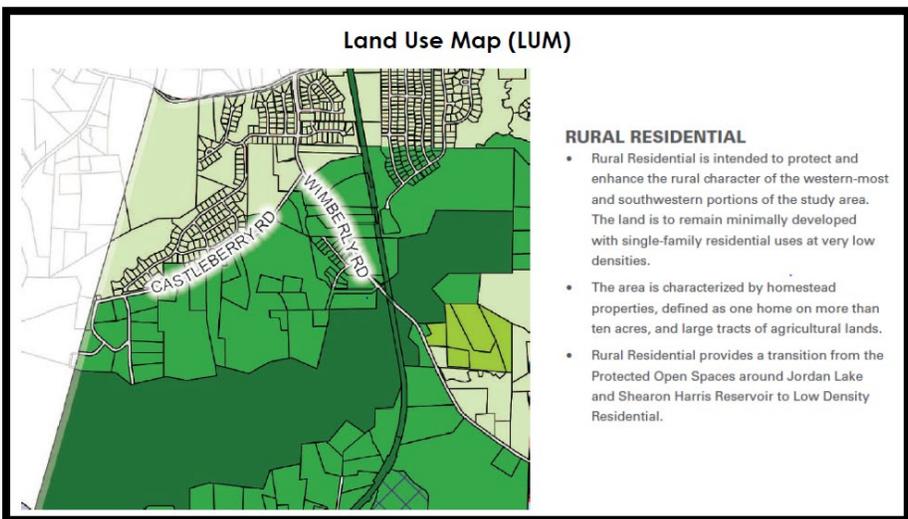
[CASTLEBERRY APPLICANT - SLIDE 8]



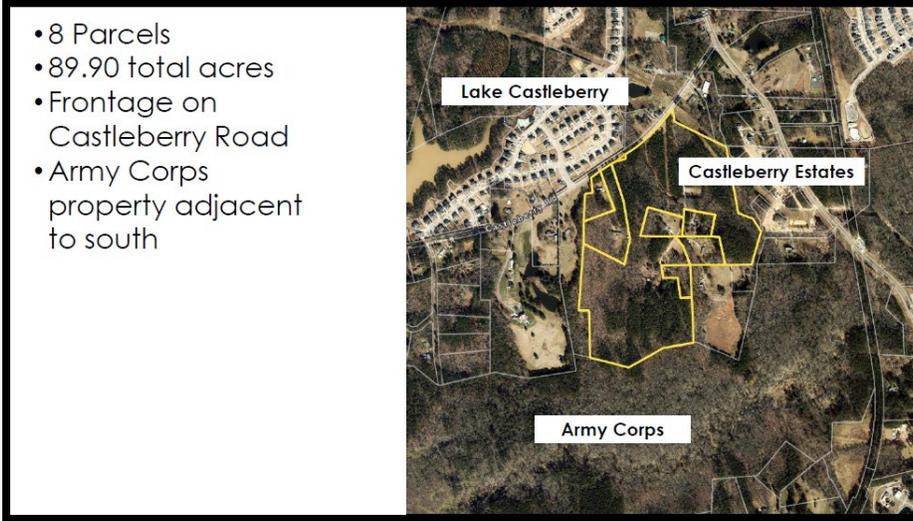
[CASTLEBERRY APPLICANT - SLIDE 9]



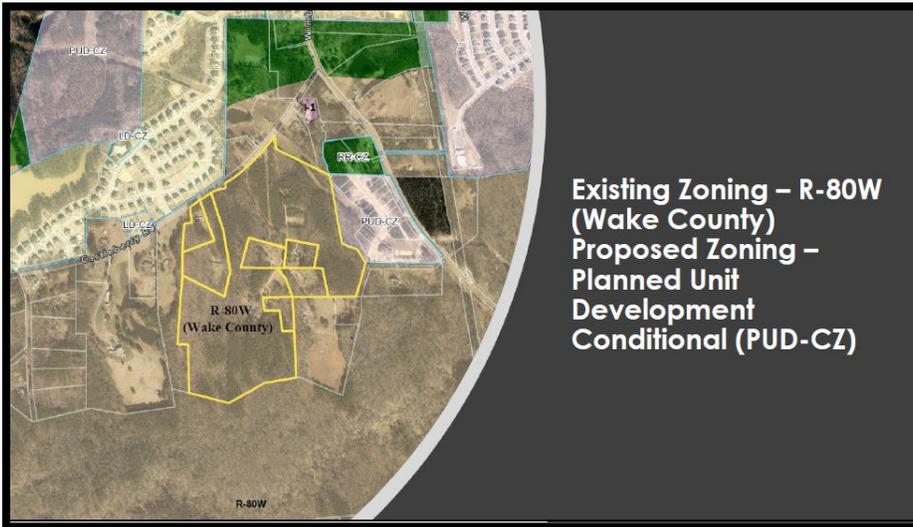
[CASTLEBERRY APPLICANT - SLIDE 10]



[CASTLEBERRY APPLICANT - SLIDE 11]



[CASTLEBERRY APPLICANT - SLIDE 12]



Councilmember Gantt said he thinks a lot of these updates address concerns raised in the last meeting, but that there are tradeoffs to these changes. He said it's likely that the cost of these changes has increased the cost of the development, which would either reduce developer profit or increase home prices. He asked for an estimate on how much home prices have gone up as a result of these changes.

Mr. Carpenter said he doesn't have an exact value, but the way he described the tradeoff was generally correct. He said lower density costs more, and a lot of it has to do with land costs in the area. He said he thinks it is a valid consideration in these cases to look at how lowered density affects home prices.

Councilmember Zegerman asked if he had an estimate of the average sales price of the homes.

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Mr. Carpenter said they don't know yet. They had looked at some of the surrounding neighborhoods, and those prices were around 1.3-1.4 million. He said the goal was to stay below that, but there are still other phases of approval for this project and it may be more than 2 years before any homes are built.

Councilmember Gantt said he was glad they included the 450-foot buffer to the southern lands, but that if they extended that to the other adjacent properties it would cut into their developable land greatly. He asked what the outreach has been to the neighboring properties.

Mr. Carpenter said they haven't talked to the property owners to the west specifically, but each rezoning that comes in is looked at on a case by case basis. He said Council could consider something like if those owners came in with a well-designed project and had a 375-foot-buffer. He said they haven't notified them about this change because it does not encumber their property legally in any way. He said they did have 2 neighborhood meetings, and at that time the buffer was around 250-300 feet.

As the Public Hearing had remained open from the August 8th Council meeting, and nobody signed up to speak additionally, **Mayor Gilbert** closed Public Hearing and moved into discussion.

Councilmember Gray said in looking at these applications, the balancing point is a difficult one. He said he likes the idea of maintaining as many rural properties as possible, but by law and the NC Constitution, there are only so many limitations they can place on a person for selling their land. He said he couldn't tell Councilmember Zegerman not to do anything with his own driveway, even if he really liked the way it was. He said it's about finding the balance of allowing people to do what they want with their land, and the Council having the ability to place reasonable restrictions on what those things can be. He said as long as things fall within the land use map and town ordinances, it is very difficult to tell someone who wants to sell their land that they can't do that. He said that would be overstepping as a government, and opening up a lawsuit for the town. He said in this case, the balance was struck very well by the steps that were taken since the August 8th meeting. He said they are getting trees, lower density as this is farther from the center of town, sidewalks, more solar, and an affordable housing donation. He said with all of this, it is then Council's job to see if this is meeting the needs of the public. He said this project is bringing a lot of things for residents with it, whether they are near Castleberry or not. He said they are doing what they can to preserve land and trees, providing infrastructure improvements, providing sidewalks, and it is done in a reasonable way and with goodwill from the developer. He said however, he would love to be in a position where this property owner was wanting to keep their property vacant, but there being growth and development is a blessing that very few communities have. He said they are doing better when they take these opportunities for the benefit of everybody. He says he is more than in favor of this, and he thanked the applicant for the work they did to address their prior concerns.

Mayor Pro Tempore Killingsworth said they have addressed all of the concerns brought forth by the Council, so she was also in favor.

Councilmember Zegerman said he did want to recognize the applicant for making the concessions, and that they were significant and meaningful. He said he is stuck on the density. He said this an area where residents have asked them to build lower density developments, and previous Councils and staff have been deliberate about picking future designations for this land. He

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said 1 unit per 5 acres would not really be realistic, but that there was still a big difference in that and 1.65 units per acre. He said they are still not hitting that mark of what residents have asked them to do here. He said gathering feedback from residents, and combining that with analysis and expertise from staff is important, and that it is not the right to do to not honor that or come as close as possible to doing so based on what they concluded with the future land maps. He said because of that, he would not be in support of this rezoning.

Councilmember Gantt said almost none of the rezonings they have approved since he and Mayor Pro Tempore Killingsworth have been on Council have been built yet. He said most of the construction between 2010 and 2020 was executive housing, which he considers this to be as well. He said he believes there are stronger ordinances now for things like tree preservation and mass grading. He said the effort to maintain trees and things like game land buffers were not present in the former developments. He said compared to the 5 years prior to him and Mayor Pro Tempore Killingsworth being on Council, the 5 years they have been on Council have seen a 50% reduction in the amount of land that has been rezoned, with 80% of people. He said he thinks there needs to be a compelling reason to not go 1 per 5 acres, and he said that was aspirational more than optimistic to achieve that. He said he is seeing a lot of features in this project that make it compelling to vote for and to change the land use map.

A **motion** was made by **Mayor Pro Tempore Killingsworth**, seconded by **Councilmember Gray**, to approve Annexation No. 752 - Castleberry Assemblage **AND** Rezoning No. 23CZ04 - Castleberry Reserve PUD.

Before the vote, **Mayor Gilbert** thanked the applicant for their efforts and for working with staff to address Council concerns. He said he was not optimistic at the last meeting they would get to this point, but they have and he was happy about that.

VOTE: 3-1, Councilmember Zegerman dissenting

PH3 Annexation No. 761 - Calyx Senior Living of Apex (Kobra LLC) - 7.259 acres (REF: ORD-2023-097)

Dianne Khin, Planning Director, gave the following presentation regarding Annexation No. 761.

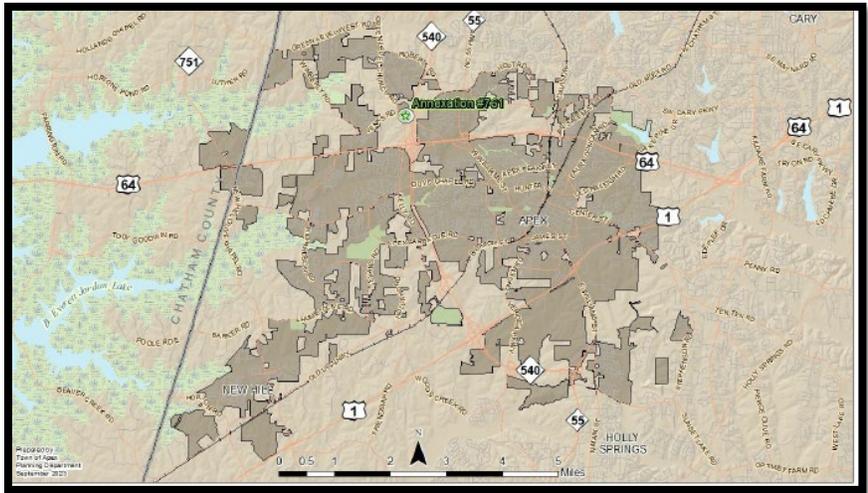
[SLIDE 25]

Public Hearing #3

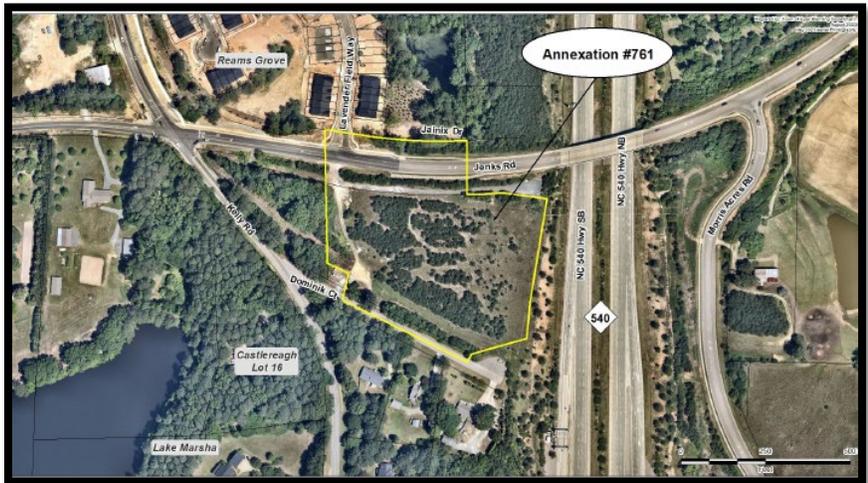
Annexation #761
Calyx Senior Living of Apex
Kobra LLC



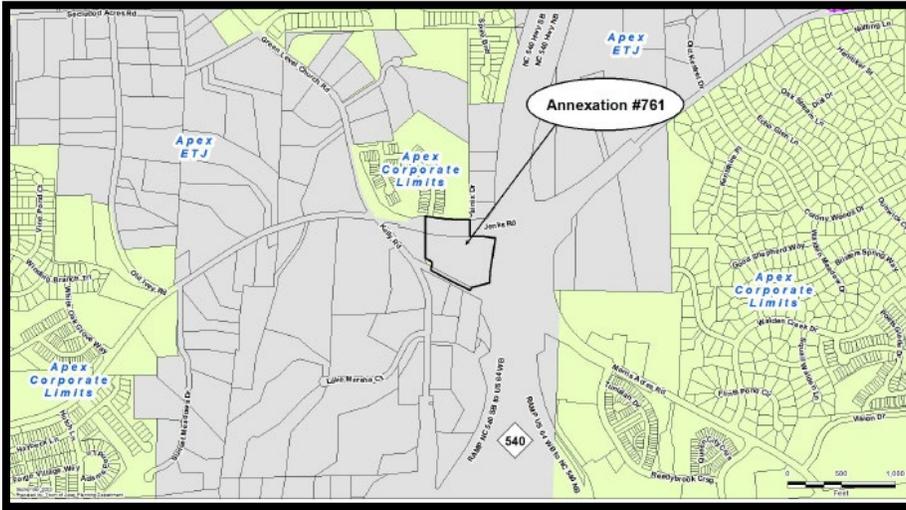
[SLIDE 26]



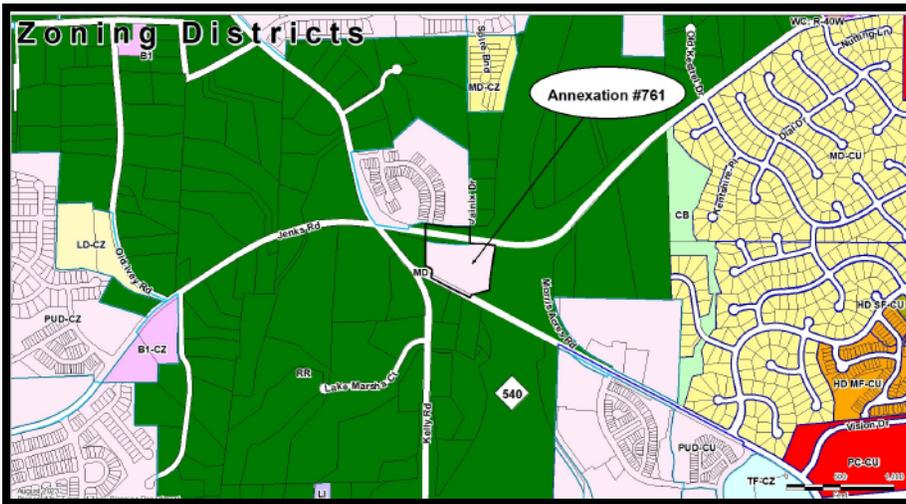
[SLIDE 27]



[SLIDE 28]



[SLIDE 29]



Mayor Gilbert opened up Public Hearing for this item.

First to speak was **Pam Porter** of TMT TLA Associates:

“Thank you, Dianne, for the presentation, Pam Porter with TMT TLA Associates, we’re working on the site plan and CDs for Kalyx, I have nothing to add I’m just here to answer any questions, and Frederick Faison is also here if you have questions for him as well.”

Councilmember Gantt asked if there was an off-site sidewalk connecting to Kelly Road for this rezoning, and if so is that part of the site plan.

Ms. Porter said it was a part of the rezoning, but cannot recall if it was part of the site plan.

Councilmember Gantt said he thinks that would be a crucial connection.

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With no further sign ups, **Mayor Gilbert** closed public hearing and brought discussion back to Council.

A **motion** was made by **Councilmember Gray**, seconded by **Councilmember Gantt**, to approve Annexation No. 761 - Kalyx Senior Living of Apex (Kobra LLC)

VOTE: UNANIMOUS (4-0)

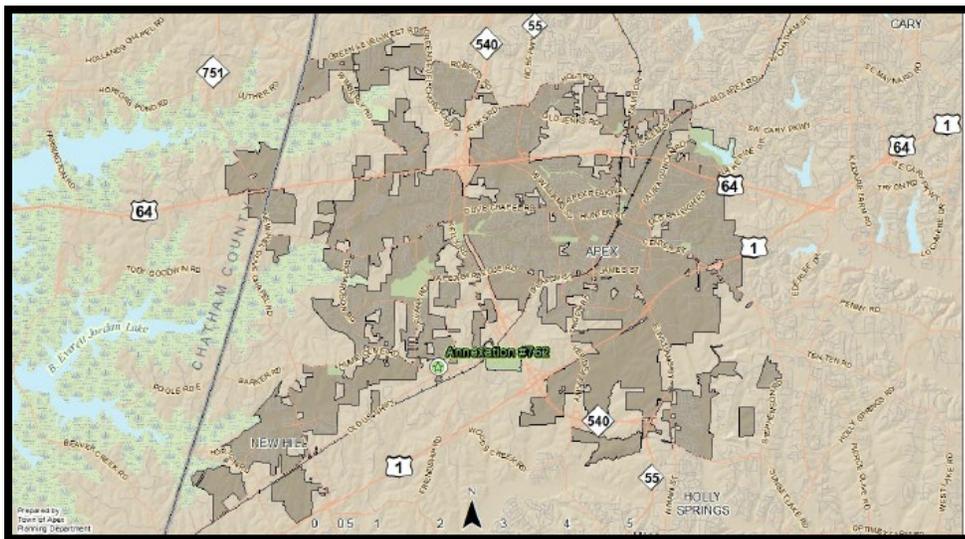
PH4 Annexation No. 762 - The Summit (FKA Holland Road Mixed Use) - 29.4692 acres (REF: ORD-2023-098)

Director Khin gave the following presentation regarding Annexation No. 762 - The Summit (FKA Holland Road Mixed Use).

[SLIDE 30]



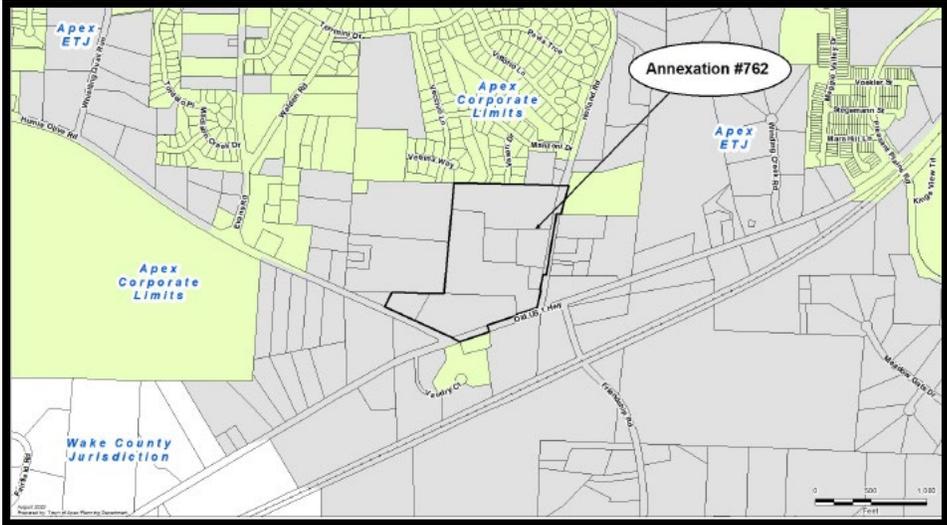
[SLIDE 31]



[SLIDE 32]



[SLIDE 33]



[SLIDE 34]



Mayor Gilbert opened up public hearing for this item. With no one signed up to speak, he closed public hearing and brought discussion back to Council.

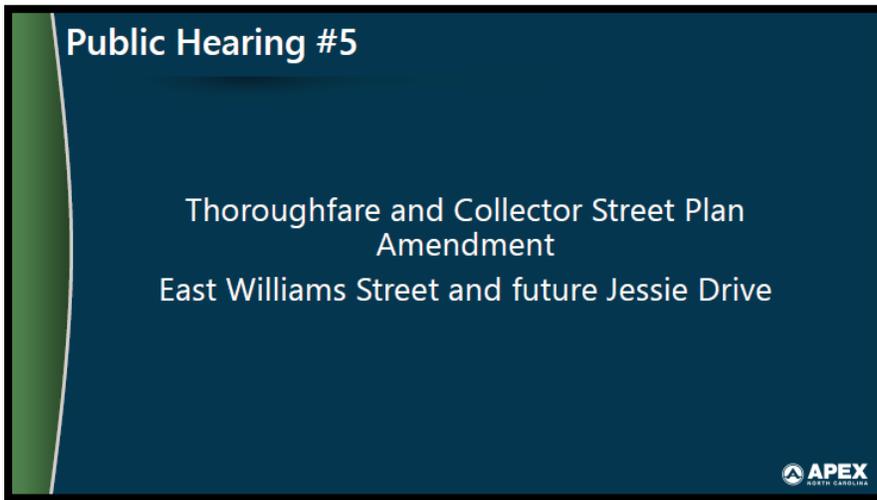
A **motion** was made by **Councilmember Gantt**, seconded by **Mayor Pro Tempore Killingsworth**, to approve Annexation No. 762 - The Summit (FKA Holland Road Mixed Use).

VOTE: UNANIMOUS (4-0)

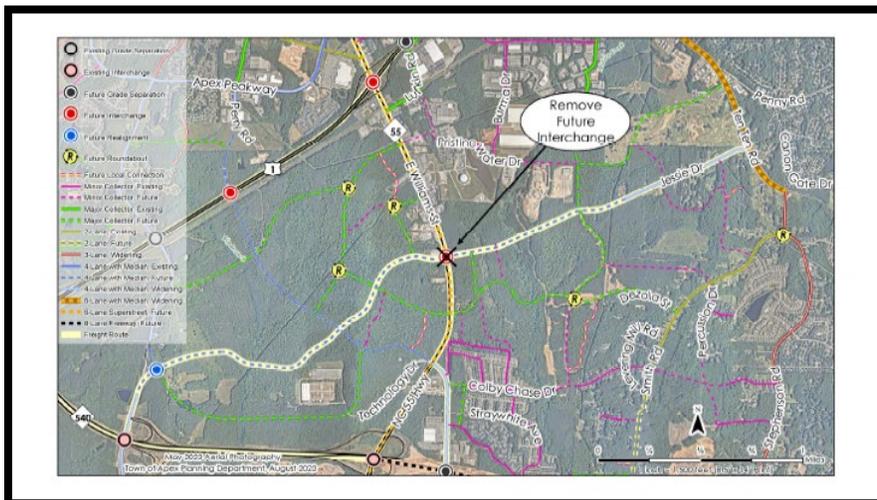
PH5 Thoroughfare and Collector Street Plan Amendment - East Williams Street and future Jessie Drive (continued from August 8, 2023)

Shannon Cox, Long-Range Planning Manager, gave the following presentation regarding the Thoroughfare and Collector Street Plan Amendment - East Williams Street and future Jessie Drive.

[SLIDE 35]



[SLIDE 36]



[SLIDE 37]

Overview of Concepts Considered



Interchange



Grade Separation



Reduced Conflict Intersection (RCI)



Thru-Cut
(concept from VDOT)



[SLIDE 38]

2045 Build Scenario – Level of Service

Location	RCI (AM/PM)	Thru-Cut (AM/PM)
NC 55 & Jessie Drive		C/C
NC 55 Northbound & Jessie Drive	D/C	
NC 55 Southbound & North U-turn	B/D*	A/C
NC 55 Southbound & Jessie Drive	C/C*	
NC 55 Northbound & South U-turn	D/C*	C/A



*At least one approach would operate at LOS E or F.

Take-away: There is an at-grade concept that would operate acceptably based on the latest model. Further coordination with NCDOT and design work would ultimately be needed for any option.



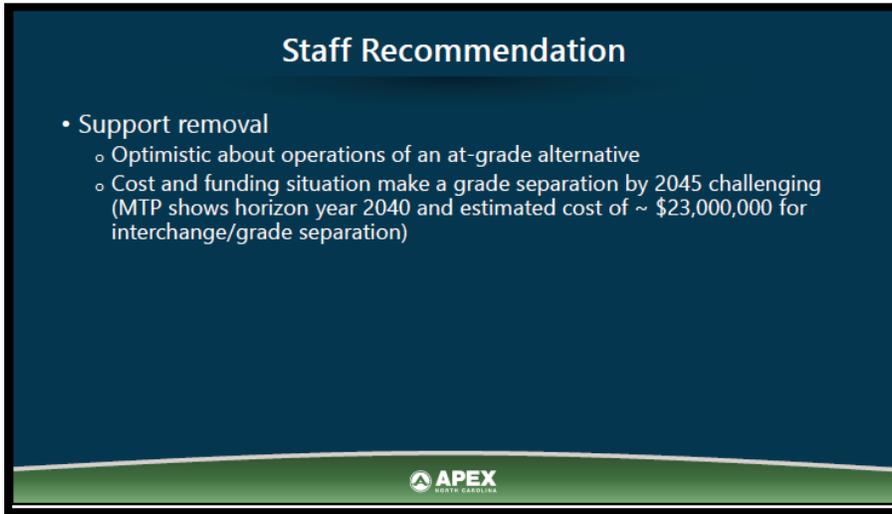
[SLIDE 39]

Qualitative Comparison

Factor	Interchange	Grade Separation	At-Grade Intersection
Cost	Worst	Average	Best
Direct access to adjacent land uses (& Transit access)	Worst	Average	Best
Traffic flow – NC 55 (& Transit mobility)	Best	Average	Worst
Traffic flow – Jessie Dr to NC 55	Best	Worst	Average
Traffic flow – Jessie Dr across NC 55	Average	Best	Worst
Bike/Ped Conflicts – NC 55	Worst	Best	Average
Bike/Ped Conflicts – Jessie Dr	Average	Best	Worst



[SLIDE 40]



Councilmember Zegerman asked if they removed this, but by 2045 there was a different option, would that be a viable alternative or would this be locking the town in.

Ms. Cox said there isn't a development to look at, so it is difficult to say how the land would develop, and restrict roadway options in the future. She said any project looks for connectivity along Williams, and may want to consider showing additional connectivity on the long-range plan.

Councilmember Zegerman asked if turbo roundabouts could potentially a viable option for this location in the future.

Ms. Cox said there would be a detailed study and all options would be considered if the project moved forward. She said her understanding is that the traffic would be far too great for a roundabout style solution, but an alternative study could look at that.

Councilmember Zegerman asked who bear the cost for the intersection, and would it be the developer if that land gets developed.

Ms. Cox said there is no DOT or town project to fund it at this time, and any development would go through the zoning and traffic impact process to determine what level they would be required to build this project.

Councilmember Gantt asked if they had considered how traffic may flow differently in the future from different roads. He is wondering if Jessie would be a 55 connector or more of an East-West connector.

Ms. Cox said they would be losing the Jessie Drive connection if grade separation or an interchange is not built, but funding is also a factor.

Councilmember Gantt said he thinks the transit plan has a bus in this area.

Ms. Cox said that is correct.

Councilmember Gantt asked if that would have to be changed if this was approved.

Ms. Cox said they don't know how this would impact the future planned routes yet.

Kevin Dean, 300 South Main Street Holly Springs, said they would lose the direct connection across 55 from Jessie Drive, but there are benefits of there being additional access points through Veridea and south of Jessie Drive. He said this will bring opportunities to gets people west through the Veridea development. He said this is a balance of network efficiency and safety.

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Councilmember Gantt asked if Jessie Drive was considered a way to get east to west in Wake County.

Mr. Dean said with the future opening of 540, it would take a lot of demand for that east to west travel off of the more local roads.

Councilmember Zegerman asked if there was any way for more bike/pedestrian connections from Veridea across 55.

Mr. Dean said in the plan there are already a couple areas of at-grade crossings with pedestrian and bike accommodations, including a center refuge. He said the one like this in Holly Springs has not had any pedestrian-related traffic incident in the 3.5 years of data that has been collected.

Councilmember Zegerman asked if there was data regarding how many bikes and pedestrians are crossing there.

Mr. Dean said he does not have that data available.

Councilmember Gantt said it likely isn't many because people don't feel safe.

Jason Barron, of Morningstar Law Group, on behalf of the applicant, gave some information to Council. He thanked the staff and Council for working with them. He said their preference would be one of the at-grade options.

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

Councilmember Zegerman said there were two things he was stuck on. He said they don't know what is going to develop east of 55, and how those uses can be connected with Veridea. He added that there was virtually no accommodation for bikes and pedestrians if they removed grade separated crossings. He said only one pedestrian crossing in and out of Veridea is not enough. He said he is hesitant to remove the requirement at this point, because he doesn't think it would serve the entire community.

Councilmember Gray said at the current cost of the intersection, it doesn't seem like there is really a perfect solution. He said they don't know exactly how many people use an at-grade crossing. He said he feels this is a good solution for a project that would be coming in 2045 at the earliest. He said he thinks the staff recommendation gives a good amount of flexibility. He said he likes the idea of roundabouts, but the hurdle is to convincing drivers in North Carolina of that mode of transport. He said they are popping up in more rural areas in places, and that people will eventually come around them as a more efficient form of intersection.

Councilmember Zegerman asked where he was getting that timeline from. He said the land owner is trying to get these going now, and if a rezoning came in within the next 2 years, this intersection would need to be a part of that. He doesn't think it would be a 20-30-year timeline for this to get built.

Councilmember Gray said he was noting where the slides referred to it as 2045 building scenario.

Councilmember Gantt said it would likely be closer to 2045 if they kept the grade separation.

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Councilmember Zegerman said it would cost town money and time to add in another pedestrian bridge, if they had to in order to overcome poor design of an intersection.

Ms. Cox said it was possible to still keep a grade separation or interchange on the plan, with the intersection being initially built at-grade. She said that was the most likely scenario.

Councilmember Zegerman asked who would be paying for that.

Ms. Cox said most likely public funds.

Councilmember Gantt said that would likely increase the cost as that land would have already been developed at that point.

Ms. Cox said the right-of-way needed would not have been planned for with this type of intersection.

Mayor Pro Tempore Killingsworth said she was all for whatever they could do to facilitate the building of Jessie Drive and the connectivity in this area. She said there needs to be alternatives from the major corridors, and this would help that happen. She said they are asking for flexibility in design, and that's what she sees here. She said they know NCDOT does not take pedestrians into account much with their plans, so the town has to compensate that. She said she would support a bike/pedestrian bridge in this area.

Councilmember Zegerman asked if they were talking about flexibility, then why not leave in the grade separated crossing, and then potentially negotiate down as part of a potential rezoning when there is a better sense of traffic impact. He said he would rather negotiate down if the impact was not too high versus trying to negotiate up to a grade separated crossing if it was deemed to be necessary for the development.

Councilmember Gray said he understands, but he thinks this is the high point for negotiation, because they have the additional flexibility.

Mayor Pro Tempore Killingsworth said they know NCDOT does not have this on their plan.

Councilmember Zegerman said yes, and then it becomes a town problem, and that is what makes him cagey about this.

Councilmember Gray said this given flexibility and help give a starting point in a conversation with a developer, and that he was in favor.

Councilmember Gantt said no developer would likely be willing to build a bridge at all, and that his understanding was that this area had already been rezoned.

Councilmember Zegerman said nothing has been proposed yet for development, so they don't yet know the traffic impact. He said he agrees with Mayor Pro Tempore Killingsworth that they need the Jessie Drive connection. He said he thinks they should wait until they see what develops in this area to have this conversation.

A **motion** was made by **Councilmember Gray**, seconded by **Mayor Pro Tempore Killingsworth**, to approve the Thoroughfare and Collector Street Plan Amendment - East Williams Street and future Jessie Drive.

Before the vote, **Councilmember Gantt** said he would argue that development in this area was desirable, because the neighborhoods in that area feel isolated. He said he has heard they feel like the town ignores them. He thinks this would enhance the developability of this area.

VOTE: 3-1, Councilmember Zegerman dissenting

Mayor Gilbert called for a recess break at 8:27p.m.

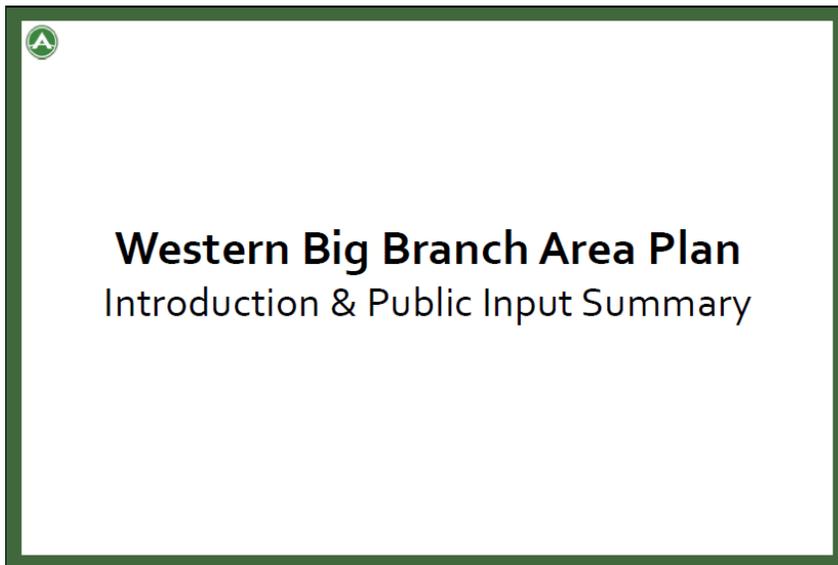
Mayor Gilbert returned from recess at 8:37p.m.

[NEW BUSINESS]

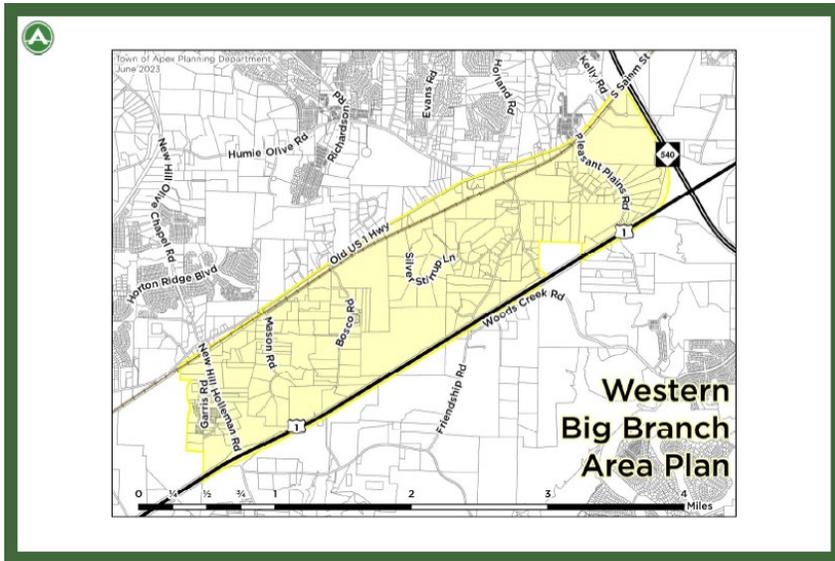
NB1 Western Big Branch Area Plan Update

Jenna Shouse, Senior Long-Range Planner, gave the following presentation regarding the Western Big Branch Area Plan Update.

[NB1 - SLIDE 1]



[NB1 - SLIDE 2]

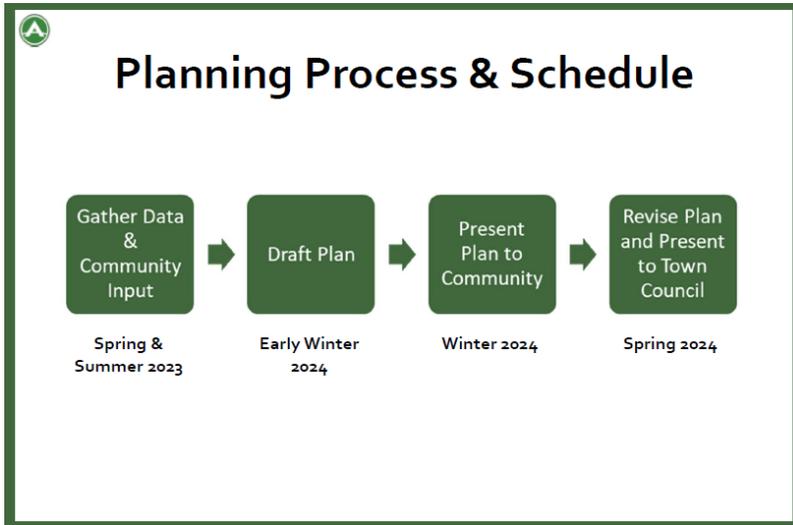


[NB1 - SLIDE 3]

Plan Considerations & Outcomes

- Considerations
 - Substantial development around the study area
 - Property owners and residents request for involvement
 - Big Branch Pump Station and Force Main project
- Outcomes
 - Inform possible revisions to the 2045 Land Use Map and 2045 Transportation Plan

[NB1 - SLIDE 4]



[NB1 - SLIDE 5]

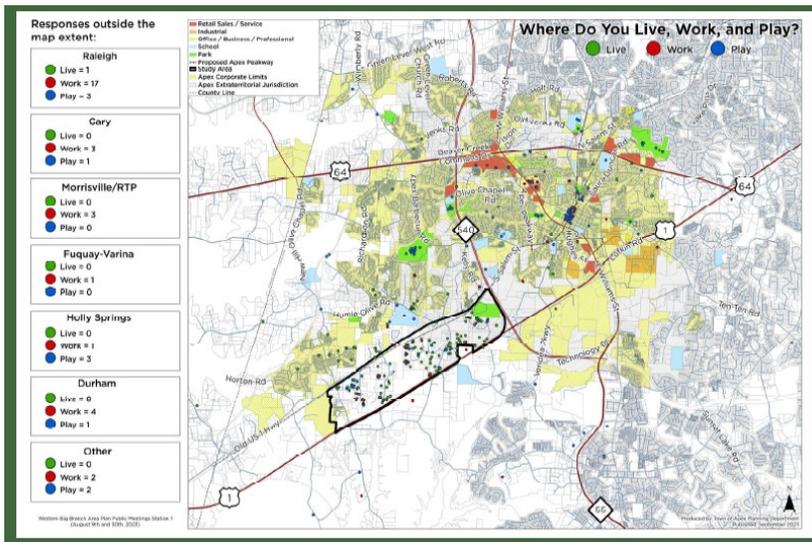
August 2023 Open Houses

- August 9th at Apex Friendship High School
 - 106 attendees
- August 30th at New Hill Community Center
 - 85 attendees

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    graph LR
      S1[Station 1: Sign-in & Live, Work, and Play Map] --> S2[Station 2: Land Use & Development Preferences]
      S2 --> S3[Station 3: Existing and Planned Water and Sewer & Watershed Protection]
      S3 --> S4[Station 4: Transportation Needs]
      S4 --> S5[Station 5: Vision & Goals]
  
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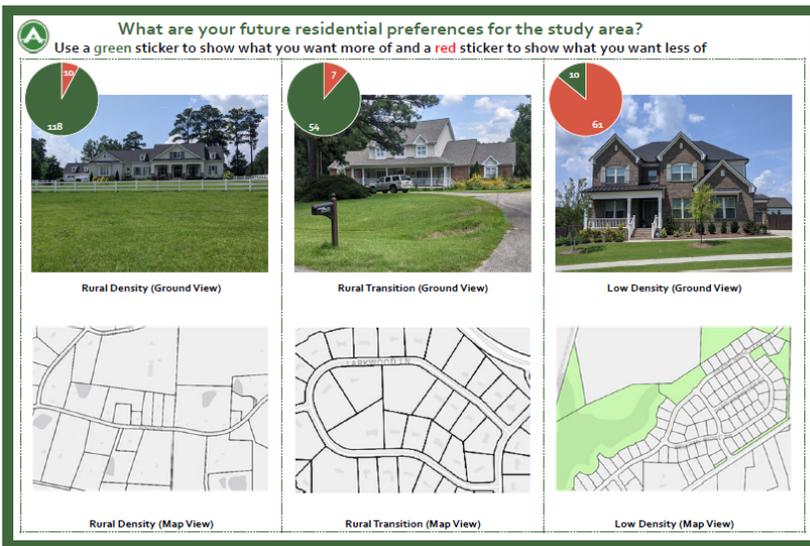
[NB1 - SLIDE 6]



[NB1 - SLIDE 7]



[NB1 - SLIDE 8]



[NB1 - SLIDE 9]

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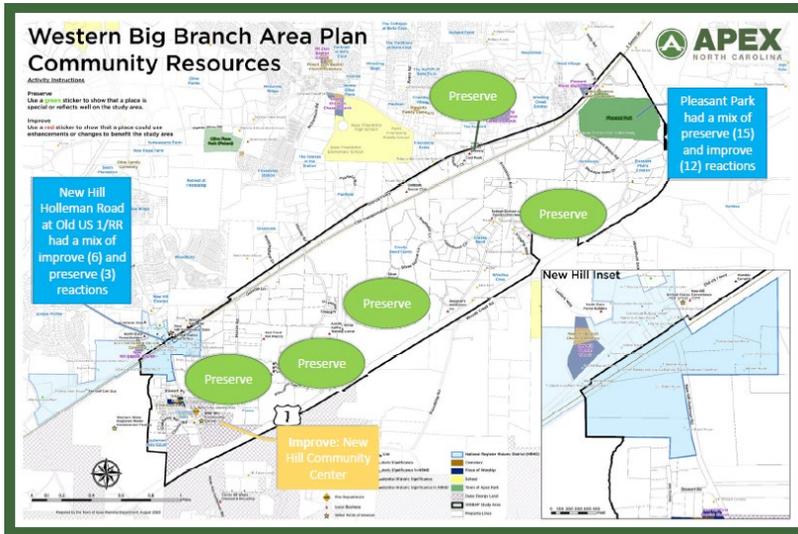
[NB1 - SLIDE 10]



[NB1 - SLIDE 11]



[NB1 - SLIDE 12]



[NB1 - SLIDE 13]



[NB1 - SLIDE 14]

Western Big Branch Area Plan 2045 Transportation Plan

Activity Instructions

- 1. Blue circle indicates an activity location with traffic flow in the direction of the arrow.
- 2. Green circle indicates an activity location with traffic flow in the opposite direction of the arrow.
- 3. Yellow circle indicates an activity location with traffic flow in the opposite direction of the arrow.
- 4. Red circle indicates an activity location with traffic flow in the opposite direction of the arrow.
- 5. Blue circle indicates an activity location with traffic flow in the opposite direction of the arrow.
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- 20. Green circle indicates an activity location with traffic flow in the opposite direction of the arrow.
- 21. Blue circle indicates an activity location with traffic flow in the opposite direction of the arrow.
- 22. Yellow circle indicates an activity location with traffic flow in the opposite direction of the arrow.

Vehicular Comments

1. Safety & congestion on Friendship Rd at Old US 1
2. Congestion along Friendship Rd or against Friendship Rd widening
3. Close or convert Friendship Rd bridge to bike/ped bridge
4. Congestion on Old US 1
5. Congestion on New Hill Holleman Rd at US 1
6. Congestion & safety at New Hill Holleman Rd at Friendship Rd
7. For or against Richardson Rd extension
8. Congestion & safety at Evans Rd/Humie Olive Rd
9. Against new connections to Pleasant Plains Rd
10. Congestion & safety on Pleasant Plains Rd at Old US 1
11. For or against Pleasant Plains Rd extension
12. Congestion along New Hill Olive Chapel Rd
13. Congestion at Old US 1/New Hill Holleman Rd
14. Congestion on Bosco Rd at Old US 1
15. Against Bosco Rd collector
16. Congestion along US 1
17. Congestion on Friendship Rd at Holly Springs Rd
18. Safety at Humie Olive Rd/Richardson Rd
19. Safety at Holland Rd/Old US 1
20. Add grade separation at Old US 1 and Pleasant Park/Boyette St
21. Add traffic signal at Kelly Rd and Old US 1
22. Add access to Pleasant Park from NC 540

[NB1 - SLIDE 15]

Western Big Branch Area Plan 2045 Transportation Plan

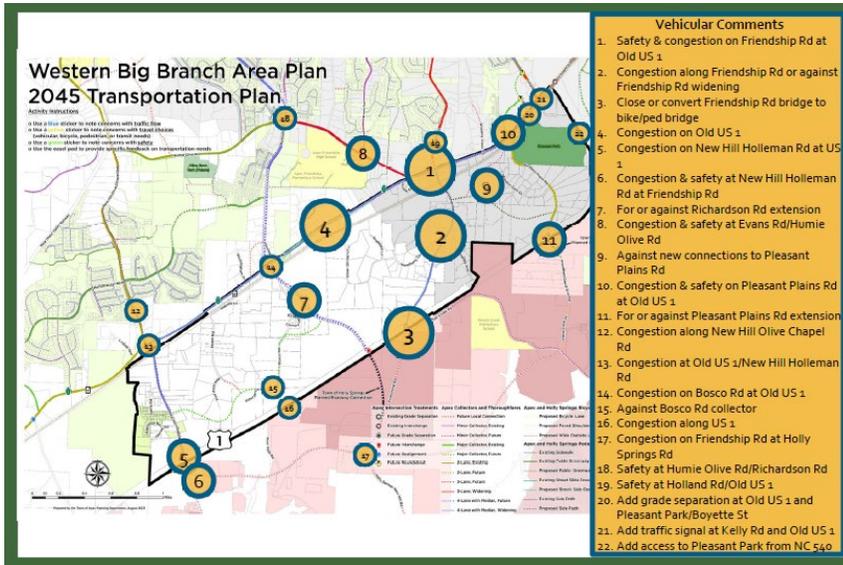
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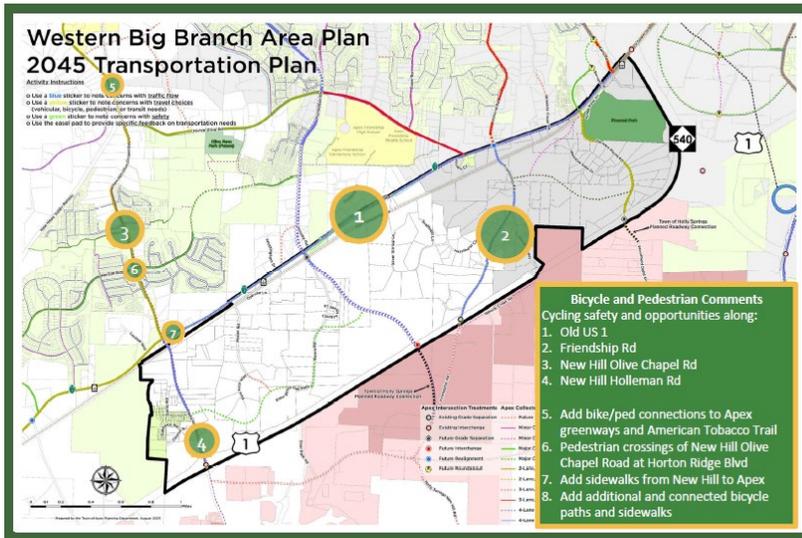
Vehicular Comments

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20. Add grade separation at Old US 1 and Pleasant Park/Boyette St
21. Add traffic signal at Kelly Rd and Old US 1
22. Add access to Pleasant Park from NC 540

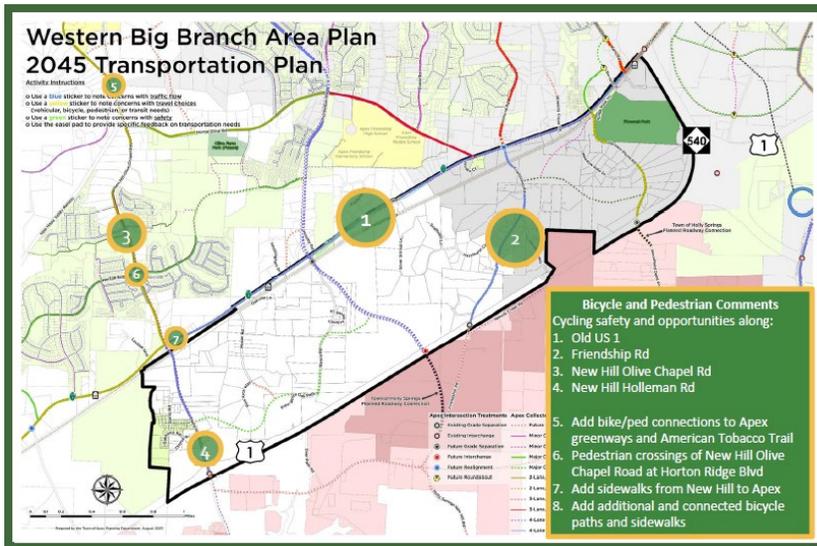
[NB1 - SLIDE 16]



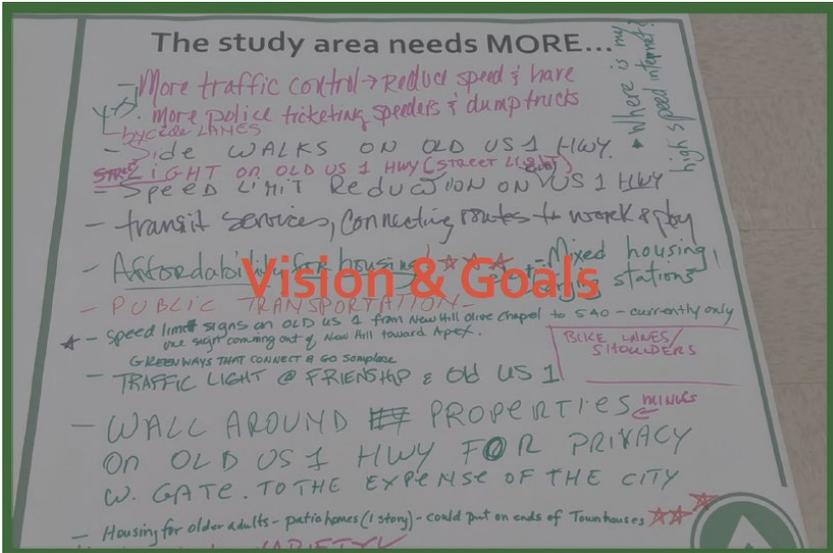
[NB1 - SLIDE 17]



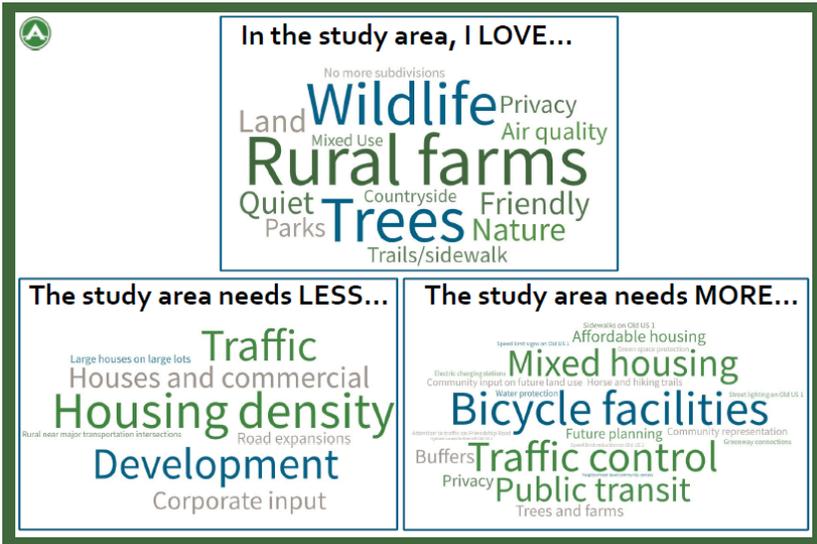
[NB1 - SLIDE 18]



[NB1 - SLIDE 19]



[NB1 - SLIDE 20]



[NB1 - SLIDE 21]

Thought Wall				
Future Land Use	Transportation	Quality of Life	Environment	History
Preserve/more rural land & open space	Roadway maintenance (Friendship Rd)	Maintain/enhance rural character/privacy	No Clear Cutting/ Maintain Trees	Maintain historic feel/historic homes/farms
Slow/stop development	Traffic issues/increase roadway capacity	More affordable housing / mixed housing	Protect Water Resources	Replace Friendship Community signs/ Provide additional signs/markers
Fewer townhomes	Provide bicycle lanes (Old US 1)	Attract activity-based businesses	Protect Private Properties & Farms	Acknowledge Friendship & New Hill Communities
Move Force Main to other side of US 1	Provide turn lanes at Old US 1/Friendship Rd	More senior housing	Limit Development	
Allow for income diversity	Close Friendship Rd bridge to cars	Change land use along Silver Stirrup to Rural Residential Density	Maintain Historic Properties	
Provide sewer and water to residents	More public transit	Limit Friendship Rd widening		
For & against mixed use		Traffic signal at Old US 1/Friendship Rd		
More low density housing				
Concentrate density at intersections				
Limit road expansion				
Grocery store needed				

[NB1 - SLIDE 22]

Next Steps

- Open Houses
 - Post/share graphic summary
 - Prepare and post/share FAQs
 - Schedule meetings with regional and state partners to share feedback received

Councilmember Gantt asked if at the booth people were thinking about they wanted for their own property, or what they wanted their neighbors to do.

Ms. Shouse said according to Director Khin, both responses were heard.

Mayor Pro Tempore Killingsworth thanked Ms. Shouse for the presentation. She said one of the difficult things was that they were getting opinions on opposite ends of things from people at this event it seems like. She said that can make planning out in this area more difficult, but she appreciates that this area got the opportunity to give their input.

Councilmember Gray asked if there was an opportunity for people in this area to give their input in a virtual format if they were unable to attend the event in person.

Ms. Shouse said that was not an option this time. She said it was considered, but these stations were very involved, and would be difficult to do in a virtual environment.

Councilmember Gray said he was concerned about not capturing a potential silent majority whose views may not have been reflected in this environment. He said it may be good to assess this

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through a bit broader lens and include other nearby communities. He said he appreciates the work done on this and the open houses were great.

Councilmember Gantt asked if where people were from was considered in the pie chart data of what kinds of housing and developments people preferred.

Ms. Shouse said no.

Councilmember Gantt said he didn't see evidence of a lot of tradeoffs for these things. He said he was wondering if they would trade more traffic and housing in order to get the downtown that seems to be highly desired. He said for there to be investment, there has to be some density in order to support a downtown and commercial interests. He said highly rural environments cannot support that. He said there's no reason to put more transit options or sidewalks in if so few people live there, as other parts of town would be more benefitted by those investments.

Director Khin said she spoke to people about where they would like to see these things come in. She said they would like to see a downtown area come in where Vicious Fishes is. She said a grocery store they would like in an area that is already zoned commercial. She said there is a disconnect between density and intensity of uses they want in the area and transportation improvements they want. She said it may be difficult but they will try to work with it.

Councilmember Gantt said it seems like unless a change would be very special or unique, there is a lot of inertia to keep things more in line with how they already are.

Director Khin said she isn't totally sure, but there is a group that wants to be moved from low density to rural density residential. She said it isn't unprecedented for a rural density area to want to remain that way, even if they are surrounded by corporate limits.

Councilmember Zegerman said he agreed with Councilmember Gray that an online component to this would be good. He said he attended both sessions and they were great, and got great feedback from the community. He said it's difficult to determine some things because where people live is not captured in what they are wanting to see. He said he would support adding in an online component to these kinds of events moving forward.

Ms. Shouse said they could look at adding an online component before they revise it and send it back out to the community in the winter.

Councilmember Zegerman said it would be great to be able to overlay an individual's residential area with the types of things they were wanting to see.

Mayor Gilbert asked if Ms. Shouse could explain the state and local partners that were referenced and what the timeline could be like for those.

Ms. Shouse said today they met with Holly Springs staff and CAMPO, and are planning to meet with NCDOT as well to discuss what they have heard.

Mayor Gilbert asked how they should go about navigating those decisions with Holly Springs, since these issues in this area could be political.

Councilmember Gray said there may be a good opportunity to do a joint Work Session with Holly Springs. He said even other than this, there are good examples of things where there is interoperability with them. He said that would be a good way to come together and think about these things in a more critical way. He said it would be easier to evaluate the political concerns if they got together with them and worked to understand things from their perspective.

Councilmember Zegerman said he liked the idea of a joint Work Session, as Apex and Holly Springs are working together on lots of things and are close to many of the developments they are

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both bringing in. He said the joint Collaboration Sessions are good for establishing relationships, but it would also be beneficial to do a joint Work Session as the next step and discuss these topics.

Councilmember Gray said it may be in their interest to establish a standing committee between Holly Springs and Apex to act as an interface when they identify things where the town is doing something that may impact the other.

Councilmember Zegerman added that it would be also be good to help identify opportunities. He said they could work together on things like grants, and work together to help bring money for projects into the Western Wake region.

Councilmember Gantt said this is worth discussing, but they need to acknowledge that this may come with a loss of control for the town that they may not end up liking.

Councilmember Gray said he agreed, and it was like a mini CAMPO. He said it doesn't necessarily have to be giving concessions to each other, but rather to look at what the realistic limitations and concerns are. He said even if these things don't come with concessions, it could still help them make decisions.

Town Clerk Coleman said staff would research those options and get back to them.

~~NB2 Unified Development Ordinance (UDO) Possible Amendments – Increase Resource Conservation Area (RCA) requirement and Solar Panels~~

Continued to September 26, 2023 Regular Town Council meeting, per Council vote earlier in the meeting.

[UPDATES BY INTERIM TOWN MANAGER]

Interim Town Manager Shawn Purvis said Councilmember Zegerman had mentioned a young resident who had a fascination with solid waste vehicles, and wanted to thank Public Works staff and GFL for helping give him a special birthday celebration on September 1. He said the Lake Pine Drive project was finished, and it was a big project involving Cary and the state as well. He extended thanks to Russell Dalton and Adam Stephenson for their work throughout the project. He said they are in final stages of inspection with Public Safety Station 6, and if all goes well, everything should be running and open with it around mid-October. He added that Pleasant Park was also in its final stages before opening, but the splash pad would not be ready for opening yet. He said the Communications team won their first National award for their work on the text outage reporting system with Electric Utilities. He also reminded everyone of Party in the Peak on Saturday, September 23 from 10-5 at the Apex Town Hall Campus, and encouraged people to come out and celebrate the 150th.

[CLOSED SESSION]

A **motion** was made by **Councilmember Gantt**, seconded by **Mayor Pro Tempore Killingsworth**, to enter into Closed Session pursuant to NCGS §143-318.11(a)(3) and NCGS §143-318.11(a)(6).

VOTE: UNANIMOUS (4-0)

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Council entered into open session at 9:10 p.m.

CS1 Laurie Hohe, Town Attorney, Legal Department

NCGS §143-318.11(a)(3):

"To consult with an attorney employed or retained by the public body in order to preserve the attorney-client privilege between the attorney and the public body."

CS2 **ADDED Jacques K. Gilbert, Mayor, Governing Body**

NCGS §143-318.11(a)(3):

"To consult with an attorney employed or retained by the public body in order to preserve the attorney-client privilege between the attorney and the public body."

CS3 Allen Coleman, Town Clerk

NCGS §143-318.11(a)(6):

"To consider the qualifications, competence, performance, character, fitness, conditions of appointment, or conditions of initial employment of an individual public officer or employee or prospective public officer or employee; or to hear or investigate a complaint, charge, or grievance by or against an individual public officer or employee."

Council returned to open session at 11:20 p.m.

Mayor Gilbert adjourned the meeting at 11:21 p.m.

Jacques K. Gilbert
Mayor

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

Submitted for approval by Town Clerk Allen Coleman and approved on September 26, 2023 (CN5).

APPROVED MINUTES
TOWN OF APEX
TOWN COUNCIL WORK SESSION
TUESDAY, SEPTEMBER 19, 2023
3:30 P.M.

The Apex Town Council met for a work session on Tuesday, September 19, 2023 at 3:30 p.m. at the Apex Town Hall located at 73 Hunter Street in Apex North Carolina.

This meeting was open to the public. Members of the public were able to attend this meeting in-person or watch online via the livestream on the Town's YouTube Channel: <https://www.youtube.com/watch?v=3W5fcSjWifI>

[ATTENDANCE]

Elected Body

Mayor Jacques K. Gilbert (presiding)
Mayor Pro-Tempore Audra Killingsworth
Councilmember Brett Gantt
Councilmember Ed Gray
Councilmember Terry Mahaffey
Councilmember Arno Zegerman
Absent: None

Town Staff

Interim Town Manager Shawn Purvis
Assistant Town Manager Demetria John
Assistant Town Manager Marty Stone
Town Attorney Laurie Hohe
Town Clerk Allen Coleman
Deputy Town Clerk Ashley Gentry
Electric Utilities Director Eric Neumann
Budget and Performance Director Amanda Grogan
Finance Director Antwan Morrison
All other staff members will be identified appropriately below.

[COMMENCEMENT]

Mayor Gilbert called the meeting to order at 3:38 p.m. and led the Pledge of Allegiance.

[SLIDE-1]



[AGENDA ITEM NO. 1 - NORTH CAROLINA DEPARTMENT OF TRANSPORTATION (NCDOT) RECONNECTING COMMUNITIES AND NEIGHBORHOODS GRANT - S-LINE RAIL CORRIDOR - MOBILITY HUB FUNDING MATCH]

Shannon Cox, Long-Range Planning Manager, gave an overview of the funding. She added this was presented to Council at the September 12, 2023 Town Council meeting. She said the requested motion before Council is to approve a Resolution of Support and Letter of Commitment, that would authorize 20% match for the grant, totaling 460,000 thousand dollars and to authorize the Interim Town Manager to execute on behalf of the Town.

Councilmember Zegerman asked if 460,000 thousand dollars came out of reserves.

Ms. Cox said NCDOT indicated that the town can spread the funding out over multiple budget years.

Interim Town Manager Purvis said the town doesn't have plans for the funding this year. He stated this commitment would include this project on the CIP moving forward.

Mayor Gilbert said the motion has been presented.

A **motion** was made by **Councilmember Gantt**, seconded by **Councilmember Zegerman**, to approve a Resolution to Support Development of the S-Line Rail Corridor and to Provide Local Funding to Match a Federal Grant Opportunity for Mobility Hub Design and Project Development Activities, and to authorize the Interim Town Manager to sign the Letter of Commitment.

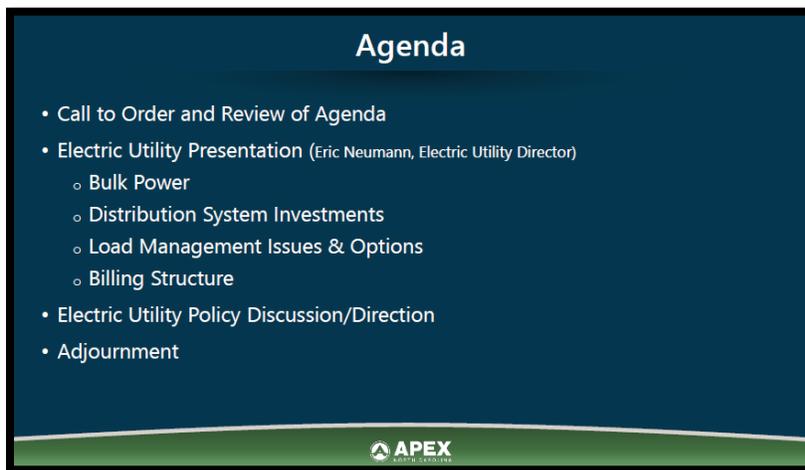
VOTE: UNANIMOUS (5-0)

[ITEM NO. 2. ELECTRIC UTILITY PRESENTATION] (REF: RES-2023-061 and OTHER-2023-092)

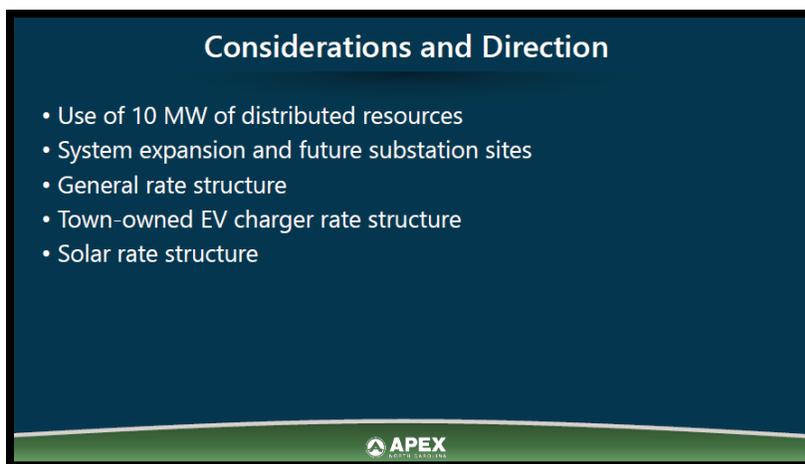
Interim Town Manager Shawn Purvis stated it's important to be prepared for the future and to make sure the town is planning for growth. He stated not just the physical growth of the town but also how the demand on the electric system is growing. He stated direction will be asked of Council and stated these items will be reflected in the next budget.

Eric Neumann, Electric Utilities Director, gave an overview presentation of electric utilities bulk power, distribution system investments, load management issues & options, and a discussion on EV Charger usage.

[SLIDE-2]



[SLIDE-3]



[SLIDE-4]

Bulk Purchase from Duke

- 2/3 of monthly bill is demand, 1/3 is energy
- Town recoups cost through our rates, which is generally based on energy usage profiles
- June 2023 bill

MEMBER	BILL DATE	DUE DATE	FOR SERVICE	TOTAL DUE
APEX	07/10/23	07/20/23	06/01/23 - 06/30/23	\$3,170,089.99

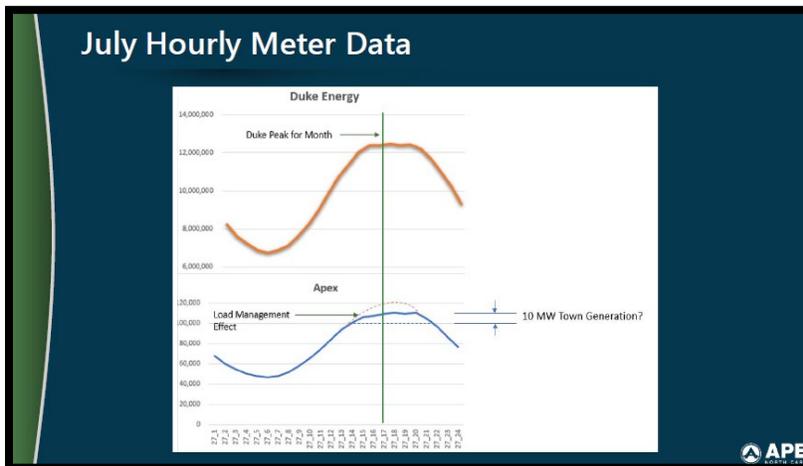
Wholesale Power Service Schedule FR-8

DESCRIPTION	RATE	QTY	AMOUNT
Demand Charges:			
All Demand	\$21.17/kW	96,782	2,048,874.94
Energy Charges:			
Monthly Energy Charge	\$0.02673/kWh	37,672,000	1,066,972.56

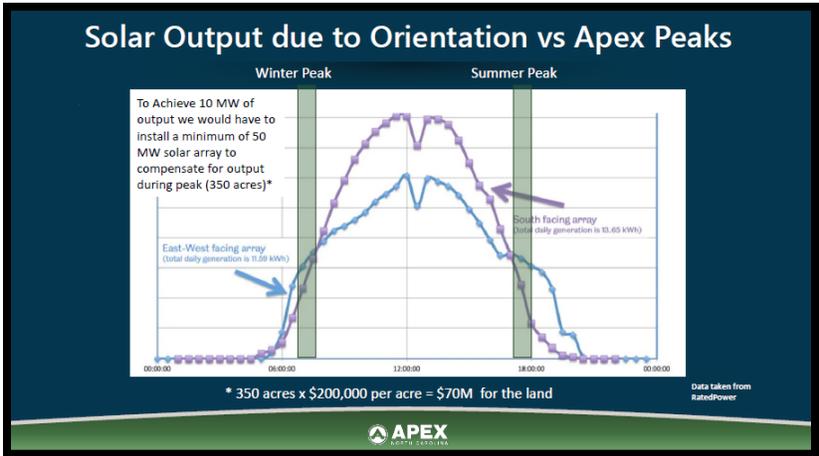
NCEMPA: DEP BILLING PEAK: 06/26/2023@18:00, 11,371 MW (09:19grd/mj)

APEX
NORTH CAROLINA

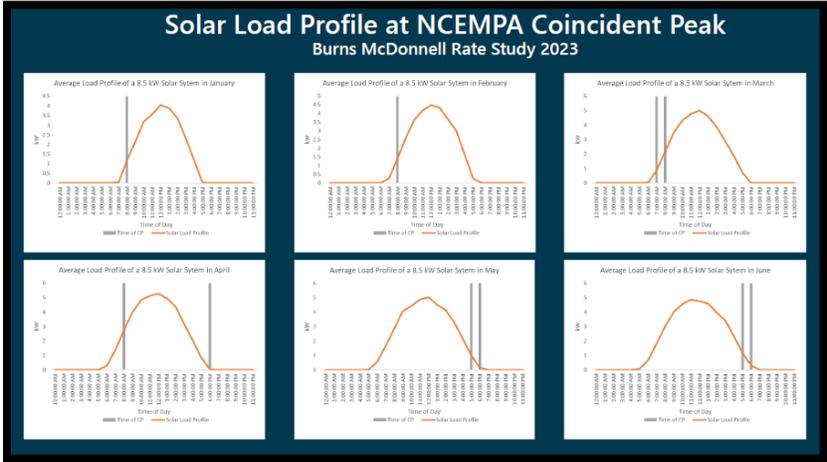
[SLIDE-5]



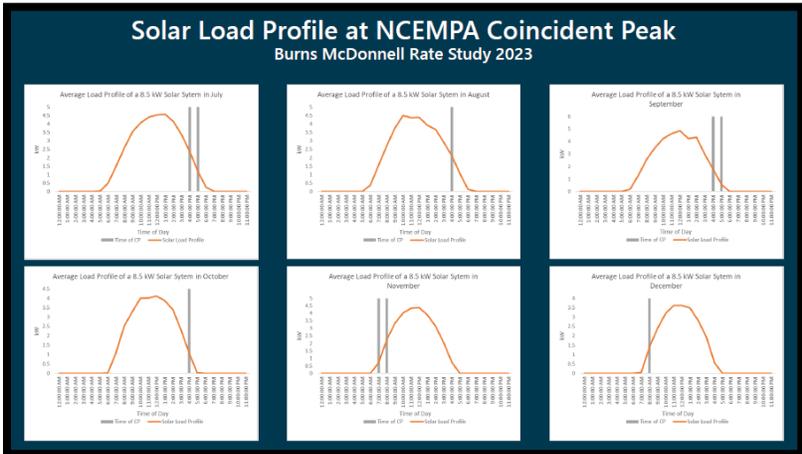
[SLIDE-6]



[SLIDE-7]



[SLIDE-8]



[SLIDE-9]

Distributed Resources- Allocation of 10 MW

- Recent change with Full Requirements contract* allows Apex to install Approximately 10 MW of generation that can be used to offset peak demand. This number will be adjusted annually and will go up over time.
- How does Apex intend to use this allocation?
- Monthly savings = \$230,000 based on 10 MW @\$23/kW

*The Full Requirements contract with Duke guarantees supply of power at the agreed upon price. Apex is mostly shielded from any rolling blackouts to help with high energy demand periods.



[SLIDE-10]

Generation Options*

- Battery Storage \$15M + fuel cost
- Natural Gas Generators \$10M + fuel cost
- Gas Turbine Generators \$7M + fuel cost
- Sell / Lease credits (not feasible at this time)



* Note: Solar is non-dispatchable and would not meet intent to reduce peak demand (a utility scale 10 MW of solar would occupy minimum 70 acres, @ 20% output you would need 350 acres minimum to hit 10 MW at peak)

<https://www.enr.com/resources/slideshows/557312/installed-natural-gas-generator-construction-cost-in-the-us-by-type/>



[SLIDE-11]

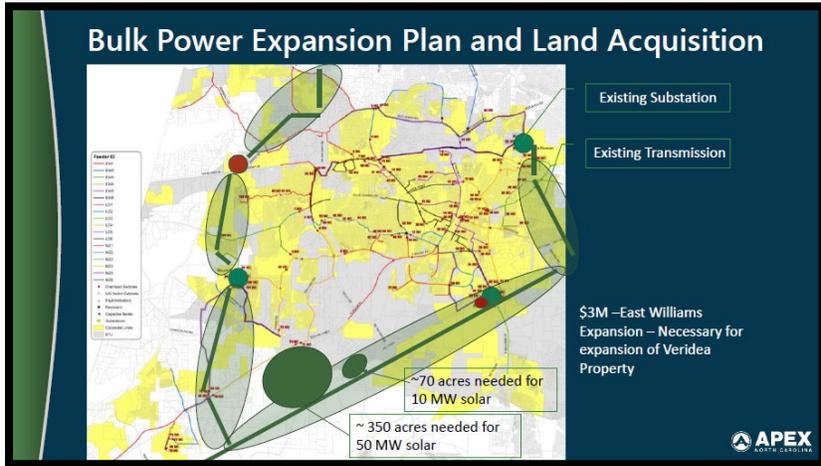
Battery Storage

- Solution is dispatchable and reliable
- Could structure contract w/vendor to finance/maintain/operate (extends payback period)
- Could couple w/solar array to recharge (part or all) batteries (no payback possible)
 - Cost to recharge from Duke approx. \$600 each cycle
 - Cost to recharge from Solar
 - Partial charge 1 MW system (\$1.5M for solar array*, \$1.4M for 7 acre land purchase + cost to top off batteries from Duke < \$600)
 - Full charge (6 Hr recharge) est. 10 MW system (\$15M for solar array*, \$14M for 70 acre land purchase @\$200,000 per acre)

*Cost estimates from Colwell Solar and GTM (Greentech Media) Research



[SLIDE-12]



[SLIDE-13]

Substation Maintenance

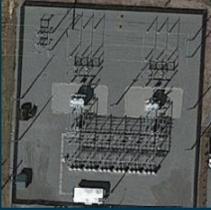
Laura Duncan (\$660K+)

- Replace Recloser HV Units 2023 (\$150K)
- Integrate Regulators into SCADA (\$10K)
- Replace High Voltage Breakers / Relays (\$500K)



Mt Zion (\$230K+)

- Replace Regulator Controls 2024 (\$100K)
- Overhaul 18 Regulators 2024 (\$120K)
- Integrate Regulators into SCADA (\$10K)



The slide features three images: an aerial view of a substation, a photograph of a high voltage breaker, and a photograph of a regulator control panel. The APEX logo is at the bottom center.

[SLIDE-14]

General Construction / Maintenance Costs

- Current rates cannot support material price increases
- Material cost increases:
 - Transformers (200% or 3x)
 - Wire (300% or 4x)
 - Lighting fixtures (100% or 2x)
 - LED changeout program originally estimated in 2019 @\$1.5M is now estimated @ over \$3M
- Material delivery dates still excessive (over 1 year in some cases)

The APEX logo is at the bottom center.

[SLIDE-15]

Time Dependency of Usage

- TOU Rates
 - Not all kW-hours created equal
 - Pass savings on to customers for off peak usage
 - Accurately charge users on peak their share of bulk purchase
 - Drives usage behaviors that allow us to control costs and pass savings on appropriately
- Transition Plan
 - Requires AMI to implement (approx. 2 years out)
 - Consider displaying 2 bills for 1 year : standard rate (flat kWhr) and TOU rate (on/off peak)
 - Would allow customers to alter usage without any impact to bill for 1 year period
 - Develop interim rate and refine as AMI data becomes available
- Option - Move towards unbundled rate structure- 100% fixed costs recouped via fixed charge



[SLIDE-16]

Potential Successful Behavioral Changes (TOU)

- Customers shift discretionary load off-peak reducing the largest component of our Duke Energy bill
- Revamp load management program to reduce peak demand charge and eliminate payments to residences signed up for load control (avoided costs for peak energy will provide compensation)
- TOU may eliminate issue with EV charging on peak without spending money and time to implement control mechanism



[SLIDE-17]

EV Charger Concerns

- Charging on peak impacts our cost
- System cannot support level 3 fast chargers
- Level 2 chargers need to be throttled during peak
- Commercial
 - Cost recovery for the required infrastructure to support
 - Chargers installed under general meter



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Councilmember Mahaffey asked if these would be town-owned EV chargers.

Director Neumann said yes, these would be town-owned chargers.

Councilmember Zegerman asked how an EV charger would be throttled without load management.

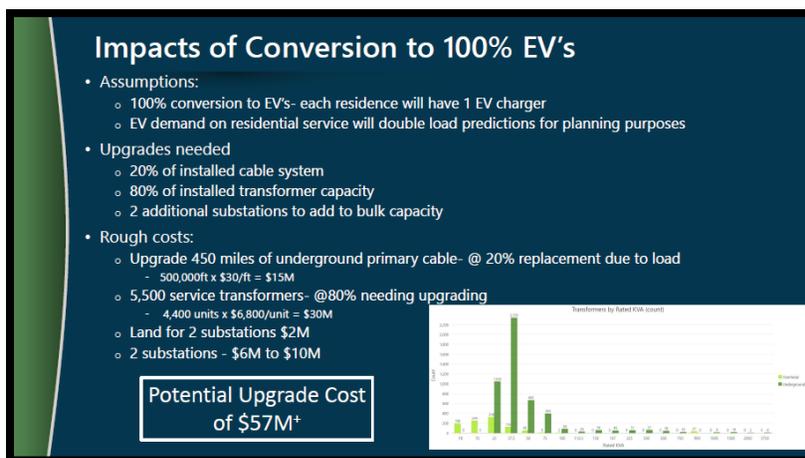
Director Neumann said a lot of them were programmable, so the town could program them to work that way.

Interim Town Manager Purvis said residential or commercial customers who installed EV chargers would have to do that and pay for it on their own.

Councilmember Zegerman asked if it would only cover 1/3 of the power bill.

Director Neumann said yes, they just have to make sure they are able to cover their rates.

[SLIDE-18]



Councilmember Gantt asked if transformers are stressed by the amount of power that's flowing through them. He said he assumes people are charging the EV's at night which is low peak, which would help to even things out more.

Director Neumann said with EV charging increasing and the work in promoting certain behavior, everyone is going to plug in at the same time, and the town has more diversity in times when vehicles are charged now.

Councilmember Zegerman asked if not every car will be plugged in at the same time because not every car will need to be charged.

Assistant Town Manager Stone said the issue is the town can't control when someone is going to plug it in, unless there is an Ordinance in place. He said it's a matter of being able to serve your customer whenever they plug their EV in, and ensure the maximum amount is available.

[SLIDE-19]

EV Charging Rates Study

- Background
 - Developed modeling with Electricities
 - Based on number of factors
 - E.g. installation & maintenance costs
- Assumptions
 - 10 Level 2 Chargers

	Level 1	Level 2	Level 3
Type of Current	AC	AC	DC
Voltage	120V	240V	480V
Connector Type	J1772	J1772	CCS1
Average Charge Time (from empty)*	11-20 hours	3-8 hours	30-60 minutes
Average Miles Per Hour Charged*	5	12-80	75-1200
Use	Slow	Fast	Faster

*Average charge time and miles per hour charged is dependent on the individual car's occupancy rate and the power output of the charging station.

Paul Broussard, Budget and Performance Analyst, gave an overview on the cost estimates for proposed EV chargers.

[SLIDE-20]

If we charge for EV Charger usage...

- We expect to need to generate \$700-\$800 a month per charger to break even over next 10 years (with no limits).

Variable Costs	
Expected kWh	2,519
Monthly Charges	63
Monthly kWh	2,569
Cost per kWh	\$ 0.20
Energy Cost	\$ 512.52
Network Premium	10%
Fixed Cost	
Charger Install	\$ 20,000
Monthly Capital Recovery	\$ 166.67
Total Monthly Cost	\$ 730.43

[SLIDE-21]

If we charge for EV Charger usage...

- Low end: \$.327 per kWh
- High end: \$.555 per kWh
- This could be reduced to a little over \$.10 per kWh by restricting charging during peak hours (assuming high load factor).

Retail Energy Charge per kWh	Charger Replacement per kWh	Total Unit Charge Rate per kWh	Total Unit Charge Rate per kWh Including Network Premium
\$0.7177	\$0.9160	\$1.634	\$1.797
\$0.4184	\$0.4837	\$0.902	\$0.592
\$0.3112	\$0.3289	\$0.640	\$0.704
\$0.2659	\$0.2490	\$0.505	\$0.655
\$0.2222	\$0.2003	\$0.423	\$0.465
\$0.1995	\$0.1976	\$0.397	\$0.404
\$0.1832	\$0.1441	\$0.327	\$0.360
\$0.1709	\$0.1263	\$0.297	\$0.327
\$0.1536	\$0.1013	\$0.255	\$0.280
\$0.1421	\$0.0846	\$0.227	\$0.249
\$0.1338	\$0.0726	\$0.206	\$0.227
\$0.1275	\$0.0636	\$0.191	\$0.210
\$0.1227	\$0.0566	\$0.179	\$0.197
\$0.1188	\$0.0510	\$0.170	\$0.187

[SLIDE-22]

Recommended

- We recommend setting initial rate of \$.139 per kWh and either not allowing or heavily throttling charging during peak hours.
- If we do not restrict charging during peak hours, we recommend setting an initial rate of \$.505 per kWh, and adjusting down when we have a better idea of load factor.

[SLIDE-23]

No charge - EV Charging

- If Town provides EV Charging at no cost to the consumer:
 - \$95,000-\$105,000 expense over the 10 year life cycle per charger
 - Restricting charging during peak hours, we can reduce this cost to between \$25,000-\$35,000 per charger over 10 years.

Recommendation: throttle charge capacity or restrict charging to off peak times; with only 10 charging station to start, this could save hundreds of thousands of dollars over the next decade.

Variable Costs	
Expected kWh	2,519
Monthly Charges	63
Monthly kWh	2,569
Cost per kWh	\$ 0.05
Energy Cost	\$ 128.13
Network Premium	0%
Fixed Cost	
Charger Install	\$ 20,000
Monthly Capital Recovery	\$ 166.67
Total Monthly Cost	\$ 294.80

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Councilmember Zegerman asked if the cost would be one hundred thousand dollars per year per charger.

Mayor Pro-Tempore Killingsworth said it's over a lifetime.

Councilmember Zegerman confirmed that it's a hundred thousand dollars per charger over 10 years, which potentially would be a hundred-thousand-dollar subsidy a year.

Councilmember Mahaffey said he was glad it was coming from charging during the peak window.

Councilmember Gantt asked if the length of that was an hour per day.

Interim Town Manager Purvis said it depends on when the peak time is set, but they don't know when that will be. He said there is a window of about 4-6 hours where the peak could be.

Mayor Pro-Tempore Killingsworth asked if the town trying to restrict four to six hours of use randomly to address the problem.

Director Neumann said it's predictable by season. He said if the town had a control mechanism, they could potentially use it to dynamically identify when those periods would be.

Director Grogan said the town can typically narrow it down to a specific window.

Councilmember Mahaffey said he thinks its important to keep consistency so the users know. He said it would be good if they understood that Apex chargers wouldn't work between 5 and 6 PM, or whatever the window may be.

Director Neumann said most of the EV chargers are programmable to throttle, so someone can connect during the highest hours and still get a limited charging rate if that's what they chose to do instead of cutoff.

Councilmember Gray asked if the town is incorporating the price of who would be managing the program, and whether it's high-end or low-end.

Director Grogan said that's part of the analysis and the cost is captured.

Mayor Pro-Tempore Killingsworth said she would prefer to adjust the rates, since the times would be inconsistent across the year, to minimize confusion.

Councilmember Gray said the time of day will reflect how much the charge will be. He said it would show what the price was when somebody would be wanting to plug in.

Interim Town Manager Purvis said that would be time of use, and the town does have the technology to be able to implement that.

Councilmember Zegerman asked if the town still needed to manage the time depending on conditions, or if it would be able to be programmed up front.

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Director Neumann said the companies he has talked to, that's part of the contract where they build the programming and it's highly flexible. He said the structure can be changed throughout the day or seasonally.

Mr. Broussard said one thing they would need to look out for if they offered it for free at point of service to the consumer would be expected demand. He said the model built in an assumed 15% demand increase for that scenario. He said this would need to be monitored and adjusted over time.

Interim Town Manager Purvis said the town is more likely to be installing more EV's than other municipalities, based on their own UDO requirements. He said he has seen citizens come and try to charge at Town Hall or other town facilities. He said his recommendation would be if the Town moves towards a time to charge, he said there's a system mechanism for capturing that charge. He said this would help with not having to put up signs or having to deter the public from charging. He said it would actually open up to the public, where if a citizen wants to charge their EV and they're willing to pay, then the Town would not be fighting back and forth. He said this might increase the number of charges and EV chargers available.

Assistant Town Manager Stone said could create issues for certain departments as more town cars transition to electric, if the public was using up a town vehicle charger that an employee would plug the car into to have it ready for the next morning. He said it's important to ensure town services can still be consistently provided.

Mayor Pro-Tempore Killingsworth said her preference is not to offer for free but to use time of use.

Councilmember Mahaffey said he was concerned about the time of use, because it was a variable rate, and he wasn't sure if that would accomplish their goal.

Councilmember Zegerman said he liked the idea of throttling during peak hours, so the town wouldn't see a big bill on the back end.

Councilman Mahaffey said it seems unavoidable to throttle during that time because the costs are so high. He said he prefers to be consistent so people don't have to guess if the charge would be throttled at varying times. He said it would be good to be able to narrow it down to a smaller window of time, such as 15 or 30 minutes. He said the town's contract with ElectriCities dictates a lot of the policy choices they can make.

Councilmember Zegerman said Director Neumann mentioned the 23 dollar raise with Duke, and asked how long that price was locked in for.

Director Neumann said he has five-year projections.

Interim Town Manager Purvis said the town has two more years on the current contract. He said renegotiations will be starting very soon as it's a long process. He said the town just got a 53 million dollar true-up.

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Councilmember Mahaffey asked if that charge was because the town did not use enough energy.

Assistant Town Manager Stone said it was fuel adjustment.

Interim Town Manager Purvis said the true-up was an additional month for the town.

Councilmember Mahaffey asked when the contracts are renegotiated, if more costs would be passed onto the town, such as 30 percent from Duke Energy.

Interim Town Manager Purvis said it's likely. He said what would likely get better would be the resources that the town is allowed to have. He said they may can expand the capacity,

Councilmember Mahaffey asked if Duke is wanting to incentivize the town to have that capacity.

Interim Town Manager Purvis said they did not want the town to have that capacity. He said that is money out of their pocket.

Councilmember Zegerman asked to what extent town solar capacity can offset or generate additional the 10 mW that is needed.

Interim Town Manager Purvis said commercial or residential solar only goes back to that building and doesn't contribute to the system.

Councilmember Zegerman asked if that was giving back to the grid.

Councilmember Mahaffey said only if there is more generated than is used.

Interim Town Manager Purvis said a large amount is needed to make an impact.

Councilmember Mahaffey said time is the issue as well, such as where the peak comes in.

Councilmember Zegerman asked if the results of the study are in regarding terms of division of solar revenue.

Assistant Town Manager Stone said he should have something in a couple weeks to share.

Mayor Gilbert asked about the EV police vehicles being taken home and what is the plan for that.

Interim Town Manager Purvis said that's next on the list, but public safety and other large vehicles present complications, and the technology isn't fully there yet for an overall electric transition.

Mayor Gilbert said the town could offer compensation to staff who charge vehicles at home.

Interim Town Manager Purvis said those are the things they know will have to tackle.

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Director Grogan said one of the priorities is to map out what a time-frame looks like for where infrastructure needs to be, then look at if there is infrastructure that needs to be upgraded in order to support a long-term plan.

Interim Town Manager Purvis said the staff needs to know what kind of billing model. He said it's not happening right now, at least two years out, but there needs to plan to know how to set up a system and set up communications plans to encourage behaviors.

Mayor Pro-Tempore Killingsworth asked if there any other energy that could generate some sort of electricity other than solar energy.

Interim Town Manager Purvis said wind and hydro are not an option here. He said there is a difference between renewable and clean energy, and most of the town's energy comes from the nuclear plant, which is considered clean energy.

Councilmember Zegerman asked why wind was not an option.

Councilmember Gantt said Apex is in the least windy part of the state.

Mayor Pro-Tempore Killingsworth said there is always technologies that are coming out.

Interim Town Manager Purvis said the town would be open to new technologies. He said battery storage is another clean option since the energy comes from clean energy.

Assistant Town Manager Stone said the town is working to drive down the peak. He said on a really hot week, they may do load management on several days a week because they don't know what Duke would select as the peak.

Mayor Pro-Tempore Killingsworth said there is technology out there, such as something that can be put in a road and when someone drives over it, it produces electricity. She said there are things out there that can be explored.

Interim Town Manager Purvis said they are open to exploring any options, but the cost-effectiveness of things is also important to consider.

[SLIDE-24]

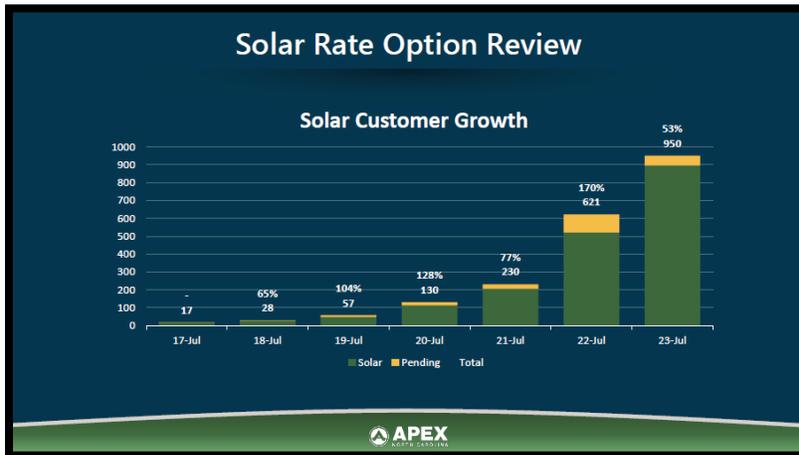
Duke Solar

INC Residential Net Metering

	Net Metering Rider NM	Net Metering Bridge Rider NMB	Residential Solar Choice Rider RSC
Dates	<ul style="list-style-type: none"> Closed to new participants on 10/1/23 Grandfathering for 15 years on Riders NM/NMB 	<ul style="list-style-type: none"> Available 10/1/23, subject to annual capacity limits 	<ul style="list-style-type: none"> Available 10/1/23
Description	<ul style="list-style-type: none"> Full retail net metering Excess energy carried over month to month Unused excess energy reset annually 	<ul style="list-style-type: none"> Full retail net metering Excess energy credited at avoided cost each month Non-bypassable charge and minimum bill, with exception for certain low-income customers 	<ul style="list-style-type: none"> Requires service under time-of-use (TOU) rate with critical peak pricing Full retail net metering within each TOU period Excess energy credited at avoided cost each month Non-bypassable charge, grid access fee above 15 kW-DC and minimum bill

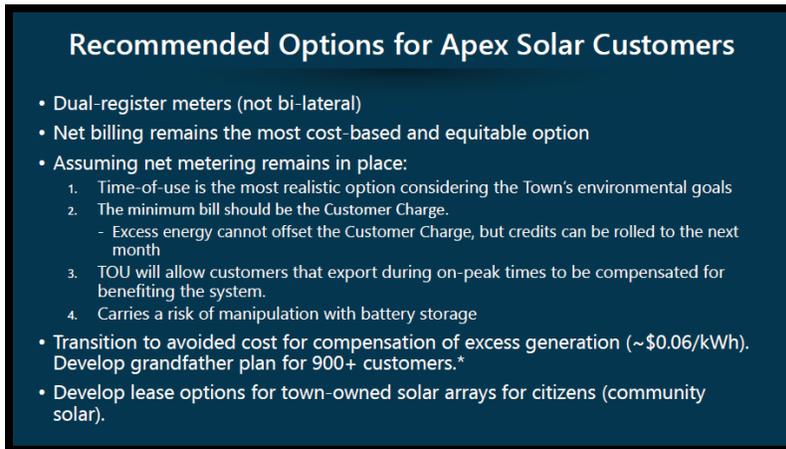
 

[SLIDE-25]



Director Grogan said this includes solar and pending, and that as of July the town has 975 solar customers.

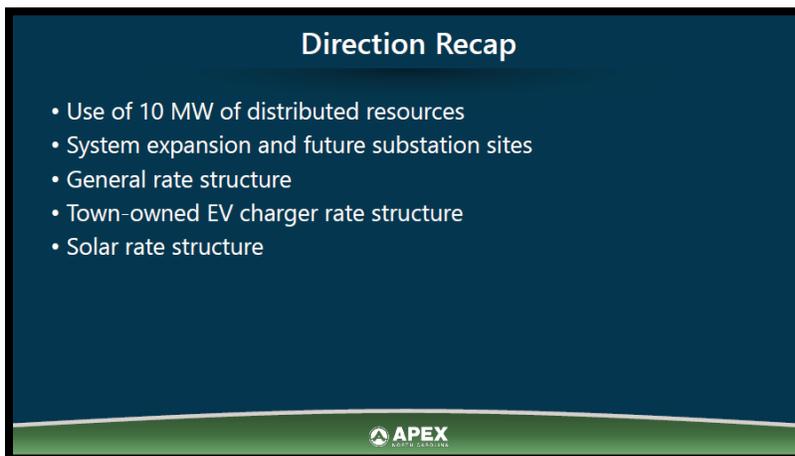
[SLIDE-26]



Recommended Options for Apex Solar Customers

- Dual-register meters (not bi-lateral)
- Net billing remains the most cost-based and equitable option
- Assuming net metering remains in place:
 1. Time-of-use is the most realistic option considering the Town's environmental goals
 2. The minimum bill should be the Customer Charge.
 - Excess energy cannot offset the Customer Charge, but credits can be rolled to the next month
 3. TOU will allow customers that export during on-peak times to be compensated for benefiting the system.
 4. Carries a risk of manipulation with battery storage
- Transition to avoided cost for compensation of excess generation (~\$0.06/kWh). Develop grandfather plan for 900+ customers.*
- Develop lease options for town-owned solar arrays for citizens (community solar).

[SLIDE-27]



Direction Recap

- Use of 10 MW of distributed resources
- System expansion and future substation sites
- General rate structure
- Town-owned EV charger rate structure
- Solar rate structure



Councilmember Gantt asked if we could decide today about the battery, and said he thinks there's at least three votes to get it passed. He asked if Council agreed.

Councilmember Zegerman asked what is the useful life on the battery.

Director Neumann said upwards to 20 years. He said there are guarantees and full maintenance on the battery, and that there would be several options.

Assistant Town Manager Stone said staff is looking for direction to pursue one of the options.

Councilmember Gray asked if the town needs to have additional land purchases for the placement.

Director Neumann said he does not know, and that it is still in discussion. He said he would like to try and put them next to one of the town's substations, particularly the Mt. Zion substation. He said the reason for that is that's where staff is housed so they can monitor it

APPROVED MEETING MINUTES | TOWN OF APEX | SEPTEMBER 19, 2023

easily. He said there is storage area in the back, but they are unsure of the size of the footprint.

Interim Town Manager Purvis said even batteries with a 10-year life could have a payback within 6 years.

A **motion** was made by **Mayor Pro-Tempore Killingsworth**, seconded by **Councilmember Gantt**, to pursue battery storage options.

VOTE: UNANIMOUS (5-0)

Director Neumann said that will help him, and he will come back to them with plenty of options. He discussed system expansion and possible future substation sites. He said the town needs to get some land for the fourth subsite as soon as possible, and it needs to be close to a transmission line. He also discussed that if the town is going to more EV's, then the town needs more land. He said Perry Road could be one site. He said another sub site could be purchased and have land be turned back over to the town for other purposes.

Councilmember Zegerman asked about the pump station on Perry Road that is meant to be removed.

Assistant Town Manager Stone said if the town has almost 50 acres of land and put a substation in which puts a line across US-1.

Councilmember Zegerman said there is a sewer pump station there that needs to be moved.

Assistant Town Manager Stone said it's not being moved. He said they have enough land at Perry Road, and that it's the most logical place to split the transmission. He also said the facility is doing a plan study looking at how the town could use the road site over the next 20 years.

Mayor Pro-Tempore Killingsworth asked if a decision is being asked of Council to decide to expand or not to expand.

Interim Town Manager Purvis said any actual decision would come from Council. He said if Council doesn't want to expand the system and instead look for other options that can be explored.

Mayor Pro-Tempore Killingsworth said its more reasonable to look for property for this purpose, because it would severely limit the town if they don't. She said she doesn't see why it wouldn't be a good idea.

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Mayor Gilbert said he understands strategically staff is looking at areas for expansion and making sure they don't have to travel long distances, he said there are other priorities in place for land acquisition, such as for affordable housing. He asked is this being looked at as well in order to make sure things are not being overlooked.

Interim Town Manager Purvis said that those would be looked at separately.

Councilmember Zegerman asked if there were any worries about having enough funds for both.

Interim Town Manager Purvis said they are financially in two separate buckets, but if they found land that would be suitable for either, they could come back and evaluate the options with Council.

Councilmember Mahaffey said he really liked the slide about the EV's and the cost. He said land is not getting cheaper, the demand is up, and he fully supports this.

Mayor Pro Tempore Killingsworth said she liked the idea of the transition over to the time of use model.

Councilmember Zegerman said he thought the town had a time of use option today.

Director Neumann said they do, but nobody wants it.

Councilmember Zegerman asked why that was the case.

Director Neumann said people don't like change, and the system is very punitive right now, and people are scared of the on-peak rate. He said lots of people don't want to think that much about when they are using energy.

Councilmember Zegerman said instead of waiting two years for an AMI to come in and then beginning to educate, maybe they should review the rate structure and bring them closer together so that the on-peak rate isn't so scary. He said the education and communication process could be started now.

Director Neumann said the problem was that they system that is currently in place has problems which make it more difficult to work with time of use. He said there is a high risk right now, because they don't have extra collectors and they would have to do some manual readings if one of them went down.

Mayor Pro-Tempore Killingsworth asked if he wanted a vote on this or needed direction.

Interim Town Manager Purvis said a general direction would be good, and he said staff would be going to come back to Council with the structures and then a vote. He said the town does want to start the communication and education piece.

Director Neumann said there would be a heavy education component, and staff is going to be communicating to customers about the whole thing. He said it would be a win-win, and most people would get on it once they learn about it.

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Councilmember Zegerman said he would agree to explore it.

Mayor Pro-Tempore Killingsworth said that she agreed.

Interim Town Manager Purvis said that would give the ability to start looking at what the town's rate structures are now, in order to potentially help soften what the transition would be like so it wouldn't be as scary to customers.

Councilmember Zegerman said they could also have rate changes over time. He said the rates could potentially be closer initially, and then expanded once people got used to it.

Director Neumann said Fayetteville Electric mandated time of use all at once 5-6 years ago. He said it didn't drive any behavior change, but it took several years for the rates to drive behaviors. He said the town will be counting on this more from the beginning to help offset the effects from residential.

Councilmember Zegerman said the town may need to recover all of the costs on the front end of this.

Director Neumann said he wasn't saying the rates aren't going to be super high, but a time of use rate would be lower than a flat rate.

Councilmember Zegerman said he doesn't want to set that expectation. He said the bill on either may not be lower because rates could be set higher to help offset costs from additional infrastructure. He said he wants to be careful about how things like that are messaged to residents.

Mayor Pro-Tempore Killingsworth asked what to do in regards to giving direction on EV chargers.

Interim Town Manager Purvis said it would be good to know, because the town will need to replace the chargers at town hall, and there will be new chargers installed at the Mason Street building and at the cemetery. He said it would be good to know what they would want billing to look like to help inform what chargers they get. He said they don't need an exact number, just an idea of what structure they want to do.

Councilmember Mahaffey said all of the above.

Councilmember Zegerman said they needed the options. He said a system needs to be set up for billing.

Councilmember Mahaffey recommended time of use with a throttle, because even the high rates at-peak wouldn't recover the costs. He said he wants to ensure that it's consistent so that EV users are able to know when it is not a good hour to plug into town chargers.

Mayor Gilbert asked for a motion.

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A **motion** was made by **Councilmember Mahaffey**, seconded by **Mayor Pro Tempore Killingsworth**, to direct staff to pursue the time-of-use with on-peak throttling model for town-owned EV chargers, and to ensure that there is consistency regarding when people would know the best hours not to charge.

VOTE: UNANIMOUS (5-0)

Interim Town Manager Purvis said that staff is looking to get direction around these topics, since they will be setting up the new ERP and they know what AMI can do. He said they don't want to do education after everything is set up. He said almost 4% of the town's customers were solar, and Dukes is only around one percent. He said the town has more solar customers than all of the Eastern Electricities combined. He said there other ways to incentivize, such as rebate programs, to help push toward the benefit. He said there is a base charge in order to make sure the lines are functional and power can get to someone's house if their solar is not working.

Councilmember Mahaffey said he views the time of use as a sort of compromise solution there. He's not opposed to smaller changes to the pricing model which might recover some of the costs. He added that he views going from retail costs to avoided costs as a pretty big change. He said he would like a continuous update on the actual costs once they come in.

Councilmember Zegerman said he agrees, but thinks that there should be a minimum system charge to offset the infrastructure. He said there is a cost, and he thinks this is fair, but the system also needs to allow for a buyback rate.

Mayor Pro-Tempore Killingsworth said it would be like a monthly fee.

Councilmember Mahaffey asked if everyone agreed to offset usage and still pay the monthly rate or rollover indefinitely.

Director Grogan said eventually it would have to stop.

Director Neumann said the thing about rollovers is that is zero's it out and doesn't get transferred to the new owner. He said managing and keeping track of that would be an administrative burden. He said the system should not be designed to sell it back to the town. He said it has viewed that if people produce additional energy, they would be able to store it with the town for their own use if needed. He said he wants to ensure people know that the town wants them to use everything that they generate, but if not, that issue has been alleviated with battery storage.

Director Grogan said Apex's system is much larger than the state or national average, which is because the system can be oversized to get a return on investment much quicker.

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Mayor Gilbert asked what is the recommendation.

Director Neumann said he would zero it out at whatever period it is, rather than adding on keeping track of rollover credit and keeping track of it.

Councilmember Zegerman asked if there is a system in place where the town does an annual estimate of electric usage and smooth that out over a 12-month period so customers don't get hit with a bill.

Director Grogan said there is a budget billing component for utility customers, but it's not something that's done for every customer, but customers can sign up.

Councilmember Zegerman said the town already has that mechanism in place.

Mayor Gilbert asked where Council is at in this discussion.

Councilmember Zegerman said the town should buy back at retail rates.

Councilmember Mahaffey said time of use would then make that more efficient for everybody.

Interim Town Manager Purvis said any credit would go towards the base charge.

Councilmember Zegerman said he was okay with buying back at retail rates, and they could see over time how time of use changes things. He said to keep the price attractive and to put solar on a roof, he said a twenty-five-dollar contribution for infrastructure is reasonable.

Director Grogan said the base charge would be \$26.38.

Councilmember Gray said he's unsure if the town is dis-incentivizing solar by requiring some of the costs of the infrastructure to be paid. He said psychologically, he doesn't believe that is the case.

Councilmember Zegerman asked out of the 900 plus solar customers that the town has, how many are actually getting money back because of over production.

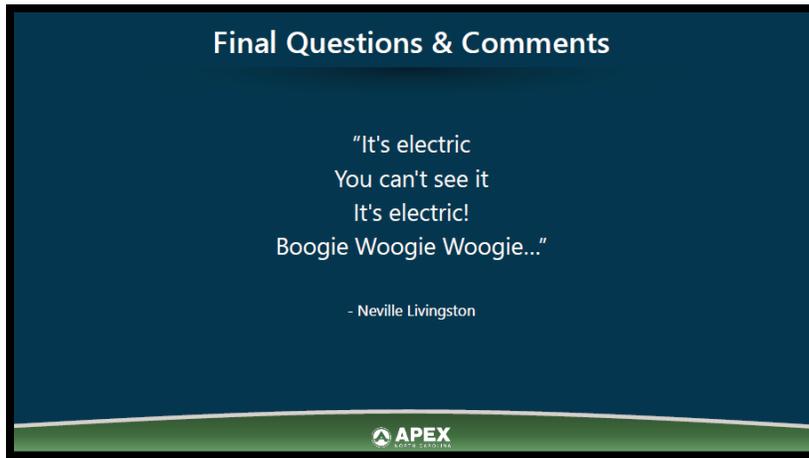
Assistant Town Manager Stone said that report hasn't been run in a while, but a rough estimate would be twenty-percent. He said they could run it again for a current number.

Mayor Pro-Tempore Killingsworth said she agrees with the base charge, and then they could adjust rates as they AMI comes in.

Director Grogan said to be clear, base charge doesn't go negative and a fixed rate that's designed to carry distribution and buy back at retail.

Interim Town Manager Purvis said the credit would be held for a year and it would zero out.

[SLIDE-28]



[ADJOURNMENT]

Mayor Gilbert adjourned the meeting at **5.41p.m.**

Jacques K. Gilbert
Apex, Mayor

Allen Coleman, CMC, NCCCC
Apex, Town Clerk

Submitted for approval by Apex Town Clerk Allen Coleman.
Minutes approved on 10th of October, 2023 (CN5).

APPROVED MINUTES
TOWN OF APEX
REGULAR TOWN COUNCIL MEETING
TUESDAY, SEPTEMBER 26, 2023
6:00 PM

The Apex Town Council met for a Regular Town Council Meeting on Tuesday, September 26, 2023 at 6:00 PM in the Council Chambers at Apex Town Hall, located at 73 Hunter Street in Apex, North Carolina.

This meeting was open to the public. Members of the public were able to attend this meeting in-person or watch online via the livestream on the Town's YouTube Channel. The recording of this meeting can be viewed here: https://www.youtube.com/watch?v=x0LA_v-nss8

[ATTENDANCE]

Elected Body

Mayor Jacques K. Gilbert (presiding)
Mayor Pro Tempore Audra Killingsworth
Councilmember Brett Gantt
Councilmember Ed Gray
Councilmember Arno Zegerman
Councilmember Terry Mahaffey
Absent: None

Town Staff

Interim Town Manager Shawn Purvis
Assistant Town Manager Demetria John
Assistant Town Manager Marty Stone
Town Attorney Laurie Hohe
Town Clerk Allen Coleman
All other staff members will be identified appropriately below

[COMMENCEMENT]

Mayor Gilbert called the meeting to order, and thanked everyone for coming out, and thanked Yunjun Jung of the town's Information Technology (IT) Department for helping keep the livestream of the Council Meeting running.

The Invocation for the meeting was offered by **Pastor Adam King** of Family Church, Apex.

Mayor Gilbert then led a recitation of the Pledge of Allegiance.

[SLIDE 1]



[CONSENT AGENDA]

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

VOTE: UNANIMOUS (5-0)

CN1 Budget Ordinance Amendment No. 9 - White Oak Creek Consortium Reimbursement (REF: ORD-2023-099)

Council voted to adopt Budget Ordinance Amendment No. 9 which appropriates funds to pay amounts due under the first amendment to the Utility Infrastructure Reimbursement Agreement with Pulte Home Company, LLC, Standard Pacific of the Carolinas, LLC, and Taylor Morrison of Carolinas, Inc. and which authorizes a transfer of funds from the Water Sewer HB 463 Capital Fund to fund the payment

CN2 Construction Contract Award - Carolina Civilworks, Inc. - Sunset Hills Pump Station Improvement Project (REF: CONT-2023-286 and OTHER-2023-097)

Council voted to award the construction contract with Carolina Civilworks, Inc. for the Sunset Hill Pump Station Improvement project and to authorize the Interim Town Manager, or their designee, to execute the contract on behalf of the Town.

CN3 Construction Contract Award - Lanier Construction Company Inc. - Apex West Greenway and Capital Project Ordinance Amendment No. 2024-6 (REF: CONT-2023-287 and OTHER-2023-094 and ORD-2023-100)

Council voted to award the construction contract with Lanier Construction Company, Inc., for Apex West Greenway construction project and adopt Capital Project Ordinance Amendment 2024-6, and authorize the Interim Town Manager, or their designee, to execute on behalf of the Town.

CN4 Construction Contract Technical Amendment - Fred Smith Co. - Beaver Creek Greenway (Phase 1, Phase1A, and Phase 2) (REF: CONT-2023-288 and OTHER-2023-095)

APPROVED MEETING MINUTES | TOWN OF APEX | SEPTEMBER 26, 2023

Council voted to award a construction contract, upon NCDOT concurrence, for EB-6021 Beaver Creek Greenway (PH1, 2 and 1A) construction which amends the previous action by Town Council on August 8, 2023, to ensure compliance with Locally Administered Project funding requirements, and to authorize Interim Town Manager, or their designee, to execute the contract on behalf of the Town.

CN5 Council Meeting Minutes - Various

Council voted to approve, as submitted or amended, Meeting Minutes from the following meeting: September 12, 2023 - Regular Town Council Minutes

CN6 Design-Build Delivery Method for Construction Projects and Design-Build of a Bike Park Facility at Hunter Street Park (REF: PLCY-2023-008)

Council vote to approve the establishment of criteria for a Design-Build delivery method for Construction Projects and for the Design-Build of the Bike Park Facility at Hunter Street Park.

CN7 Fee-In-Lieu (FIL) of Land Dedication - Townes on Tingen

Council voted to approve a fee-in-lieu of dedication for the Townes on Tingen.

CN8 Ordinance Amendment Chapter 20 - Section 150(13) - No Parking in a Bike Lane (REF: ORD-2023-101)

Council voted to adopt an Ordinance Amendment to Chapter 20 Traffic - Section 150 with the addition of subsection (13) prohibiting parking in a bike lane, except that a driver may stop temporarily during the actual loading and unloading of passengers or materials unless deliveries are otherwise prohibited.

CN9 Resolution - Abandon Existing Utility Easements (REF: RES-2023-062)

Council voted to adopt a Resolution entitled "A Resolution to Abandon Existing Utility Easements" for multiple Dry Utility Easements (DUE) located at The Park at Wimberly.

CN10 Resolution - Water Shortage Response Plan (REF: RES-2023-063 and PLCY-2023-009)

Council voted to adopt a Resolution entitled "A Resolution Approving Water Shortage Response Plan" to implement water conservation measures to respond to drought or other water shortage conditions as set out in the Water Shortage Response Plan (WSRP).

[PRESENTATIONS]

PR1 Proclamation - Cyber Security Awareness Month - October 2023 (REF: PRO-2023-028)

Mayor Gilbert, along with the rest of Council, read the Cyber Security Awareness Month Proclamation in unity.

Erika Sacco, Information Technology (IT) Director, and **Conrad Sain**, Information Technology (IT) Security Administrator, were present to receive the Proclamation.

Mr. Sain thanked Council for lending their voice to why Cyber Security is important. He said this is the 7th year of the town's security awareness program, and they are continuing to add to it each year. He said this is a very relevant concept and prioritizes communities over individuals. He said they will continue to work with local organizations and leaders to promote the good of the community.

PR2 Proclamation - Hindu Heritage Month - October 2023 (REF: PRO-2023-029)

APPROVED MEETING MINUTES | TOWN OF APEX | SEPTEMBER 26, 2023

Mayor Gilbert, along with the rest of Council, read the Hindu Heritage Month 2023 Proclamation in unity.

Members of the Triangle Region Hindu Community, and Celeste Sherer, DEI Coordinator, accepted the Proclamation.

Sameer Ponshe, on behalf of the Hindu Community in the Triangle Region, thanked the Mayor and Council for having them, and said it was a moment of great pride for them. He said Hindus around the world believe in one philosophy, translated to say "the whole world is one community."

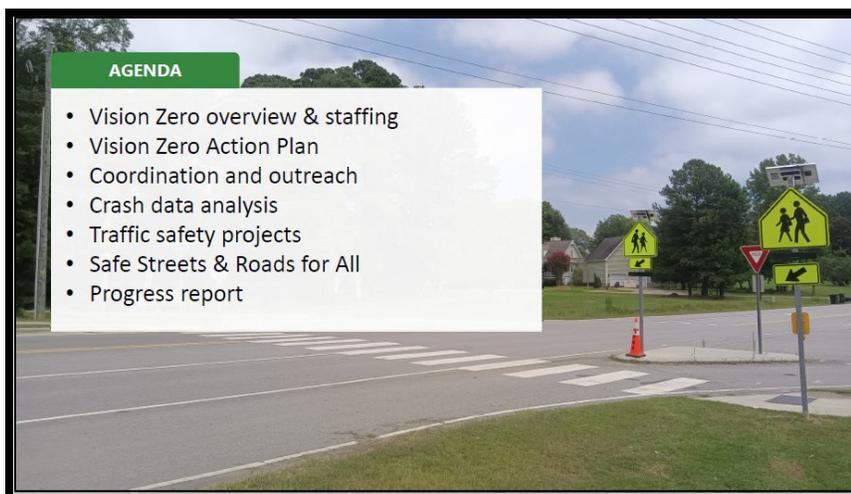
PR3 Vision Zero Traffic Safety Program - One (1) Year Update

Russell Dalton, Traffic Engineering Manager, and **Sajid Hassan**, Traffic Safety Engineer, gave the following presentation regarding the One Year Update for the Vision Zero Traffic Safety Program.

[PR3 - SLIDE 1]



[PR3 - SLIDE 2]



[PR3 - SLIDE 3]

What is Vision Zero?

TRADITIONAL APPROACH	VISION ZERO
Traffic deaths are INEVITABLE	Traffic deaths are PREVENTABLE
PERFECT human behavior	Integrate HUMAN FAILING in approach
Prevent COLLISIONS	Prevent FATAL AND SEVERE CRASHES
INDIVIDUAL responsibility	SYSTEMS approach
Saving lives is EXPENSIVE	Saving lives is NOT EXPENSIVE

VS

[PR3 - SLIDE 4]

Vision Zero Timeline in Apex

- August 2022**
Plan Adoption
- September 2022**
Safe Streets & Roads for All Grant Application
- June 2023**
Vision Zero Leadership Institute
- July 2023**
Safe Streets & Roads for All Grant Application (Round 2)
- August 2023**
Calendar Year 2018-2022 Crash Data Analysis & Mapping

[PR3 - SLIDE 5]

Traffic Safety Engineer

- Sajid Hassan, PE (hired March 2023)
 - 15+ Years of transportation engineering experience
 - Formerly with NCDOT and other NC municipalities
- Manages:
 - Vision Zero Program
 - Traffic Calming Program
 - Traffic Safety Studies
 - Pedestrian Studies

[PR3 - SLIDE 6]

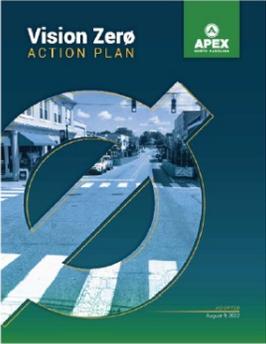
Vision Zero Task Force

- Traffic Services
- Long Range Planning/Transit Planning
- Police
- Communications
- Diversity, Equity & Inclusion
- Public Works Street Operations
- Fire Department

Interdepartmental and multi-disciplinary approach to traffic safety

[PR3 - SLIDE 7]

The Vision Zero Action Plan is the Town's roadmap to reaching zero traffic-related fatalities and severe injuries by 2035



[PR3 - SLIDE 8]

FIVE "E" APPROACH

Engineering Education Encouragement Enforcement Evaluation

GOALS

- 1 Promote a culture of traffic safety that prioritizes equity and inclusion.
- 2 Address collisions through infrastructure investments.
- 3 Enhance Town policies, processes, and evaluation to incorporate Vision Zero tenets.
- 4 Create and leverage partnerships to improve traffic safety and awareness.

[PR3 - SLIDE 9]

28 Actionable Strategies under the Five E's

<ul style="list-style-type: none">Engineering (7)Education (5)Encouragement (6)Enforcement (4)Evaluation (6)	<p><i>Each Strategy identifies which of the 4 Goals are met, a Leading Department, Supporting Department(s), and a Timeframe</i></p>
--	--

[PR3 - SLIDE 10]

Statewide Program **NC VISION ZERO**

- Facilitated by UNC Highway Safety Research Center (HSRC)
- Funded through Governor's Highway Safety Program (GHSP)
- Wilmington, Knightdale & Leland are current assigned community partners with Apex
- Quarterly meetings with all NC Vision Zero communities

[PR3 - SLIDE 11]

Leadership Institute

The NC Vision Zero Leadership Institute is team training resource for North Carolina communities that have or are planning to start a Vision Zero initiative.

- Key takeaways (2023)
 - Encourage participation
 - Expand traffic safety/traffic calming countermeasures toolbox
 - Utilize modular pilots
 - Promote Safe Routes to School

[PR3 - SLIDE 12]

Apex Vision Zero Website

Background **Programs & Initiatives** **Stakeholders** **Progress**

The Resolution to Support Vision Zero Apex was approved by the Apex Town Council on July 21, 2020 affirming the Town's commitment to eliminating traffic deaths and serious injuries. It also provided a framework for Town departments and community stakeholders to work together to achieve this goal.

Vision Zero started in Sweden in the 1990s. It has been adopted by many countries around the world and cities within the United States. North Carolina adopted the Vision Zero program in 2015, and launched NC Vision Zero as a resource for municipalities.

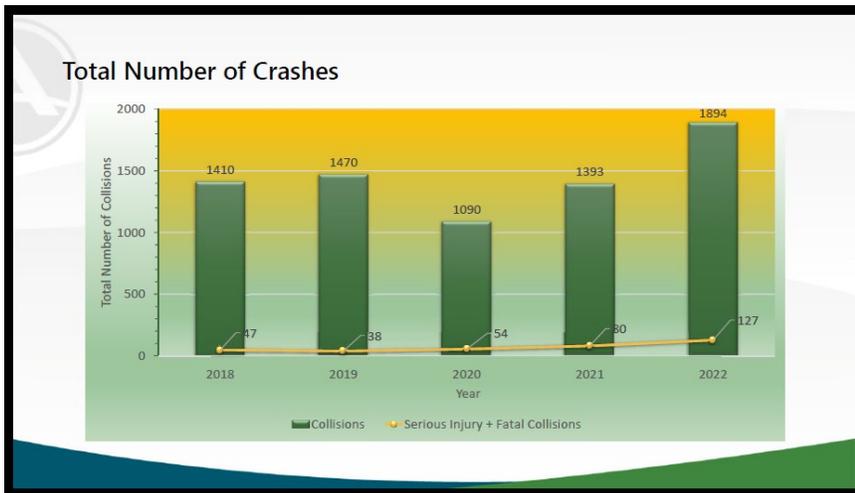
Approximately 6,709 motor vehicle-related crashes occurred in Apex over a 5-year period from 2015-2019 resulting in 237 severe injury crashes and 4 fatalities. Crash data analysis and mapping will be updated and published annually as part of implementation of the Actionable Strategies outlined in the Action Plan.

[PR3 - SLIDE 13]

Crash Data Analysis

- Action Plan crash data was based on fiscal year (July 1-June 30)
- Timeframe was later revised to comply with calendar year grant application requirements
- Current 5-year crash data as of September 2023 is calendar year 2018-2022

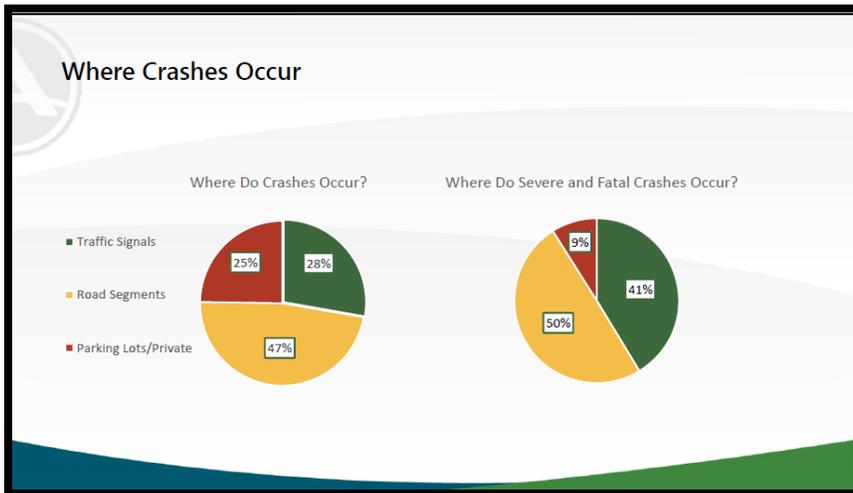
[PR3 - SLIDE 14]



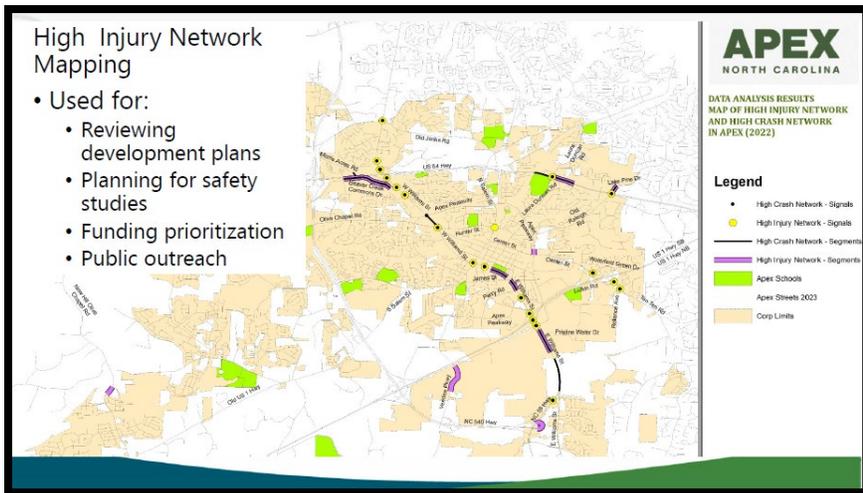
[PR3 - SLIDE 15]



[PR3 - SLIDE 16]



[PR3 - SLIDE 17]



[PR3 - SLIDE 18]

NC 55 at Hughes St Pedestrian Safety Project

Engineering Education Encouragement Enforcement Evaluation

- Pilot study with UNCC (LIDAR unit & data processing)
 - Implemented Leading Pedestrian Interval
 - Adjusted Red Clearance Intervals
 - Installed turning vehicle yield to pedestrians signs
 - Restriped crosswalks and stop bars
 - Red light running violations highest on Fridays between 11 AM – 1 PM; targeted enforcement
 - Recommended Watch 4 Me NC and Safe Routes to School outreach at Apex Middle School

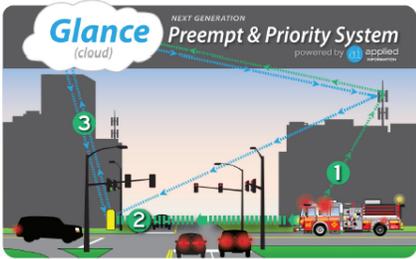


NC 55 at Hughes St (2023)

[PR3 - SLIDE 19]

GPS Cellular Emergency Vehicle Preemption (EVP) Phase 1 Project

- Installation of equipment
 - Install at 10 traffic signals on NC 55 and Salem St
 - Five (5) other traffic signals have equipment pre-installed
 - Install equipment in fire trucks
 - Interoperability with Cary EVP
- VHB selected for signal design
- Next steps: NCDOT approval & equipment installation



[PR3 - SLIDE 20]

Corridor Safety Studies (FY23)

- Two high injury network corridors
 - Beaver Creek Commons Drive, NC 55 to Creekside Landing Drive
 - Ten Ten Road, US 1 to Reliance Avenue
- RK&K selected to perform studies
- Preliminary recommendations include:
 - Signs and markings
 - Signal phasing and timing
 - Modifications to driveway access
 - Maintenance/clearing of vegetation
- Next steps: finalize reports late 2023 and conduct outreach



Beaver Creek Commons Dr at Zeno Rd (2023)



Ten Ten Rd at US 1/Lufkin Road (2023)

[PR3 - SLIDE 21]

Safe Streets and Roads for All (SS4A) Grant Program



- Submitted grant application for FY24 grant funding (July)
 - Six (6) Supplemental Planning, Analysis & Demonstration Projects
 - 19 Implementation Projects
- Six (6) of the 19 implementation projects address Low-Cost/High-Impact Improvements on the High Injury Network
 - Roadside issues/strike hazards
 - Advance warning signs, overhead signs and supplemental signs
 - Advance warning systems and driver information displays
 - Geometric design and pavement marking countermeasures
- Awards to be announced in December 2023

[PR3 - SLIDE 22]

Engineering ★★★★★★



- 7 Actionable Strategies
- Progress on 6 out of 7
- Work toward a performance evaluation process for prioritizing projects based on safety needs
- Notable activities:
 - Crosswalk lighting standards
 - Safety studies on the High Injury Network
 - Updated standards for ADA-PROWAG compliance
 - Multiple Safe Routes to School Projects



North Salem Street Sidewalk (2023)

[PR3 - SLIDE 23]

Education ★★★★★★



- 5 Actionable Strategies
- Progress on 5 out of 5
- Notable activities:
 - Traffic Safety Presentation Outreach Programs
 - Power of Youth Educational Programs
 - Governor's Highway Safety Program & Watch for Me NC
 - Traffic Safety Campaigns
 - Dynamic Message Boards & Radar Speed Signs
 - Defensive Driving Cornerstone Modules





[PR3 - SLIDE 24]

Encouragement ★★★★★

- 6 Actionable Strategies
- Progress on 6 out of 6
- Notable activities:
 - Walk to School events & materials
 - Safe Routes to School and Vision Zero outreach at events
 - Vision Zero webpage and progress updates
 - Vision Zero Leadership Institute
 - Statewide Vision Zero coordination




Walk to School Day, Olive Chapel ES (2023)

[PR3 - SLIDE 25]

Enforcement ★★★★★

- 4 Actionable Strategies
- Progress on 4 out of 4
- Notable activities:
 - Watch for Me NC targeted enforcement
 - Data-driven enforcement initiatives
 - Governor's Highway Safety Program DWI Grant Officer
 - "Move over" enforcement on US 1 & US 64
 - Training on biased policing issues




BAT mobile

[PR3 - SLIDE 26]

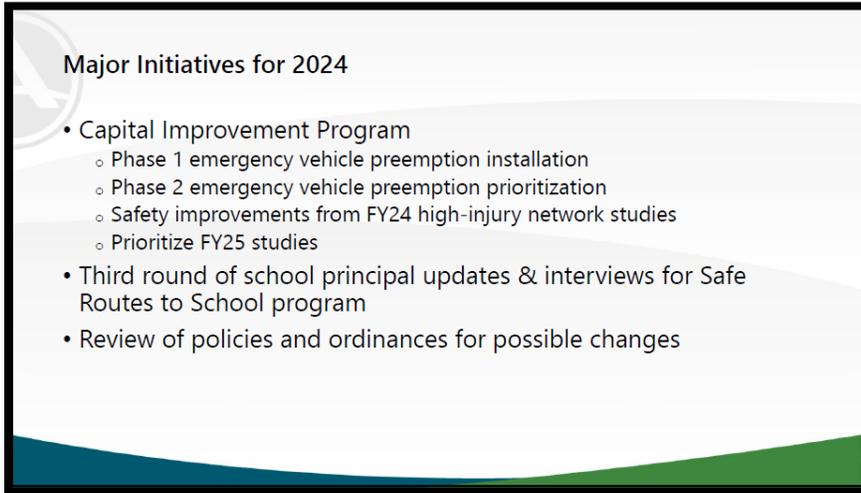
Evaluation ★★★★★☆

- 6 Actionable Strategies
- Progress on 5 out of 6
- Work to establish performance measures for traffic enforcement campaigns
- Notable activities:
 - Draft policy and prioritization for bus stop improvements
 - Municipal speed limit and traffic calming policy review
 - 2018-2022 crash data analysis
 - Monthly Task Force meetings
 - Traffic Safety Engineer

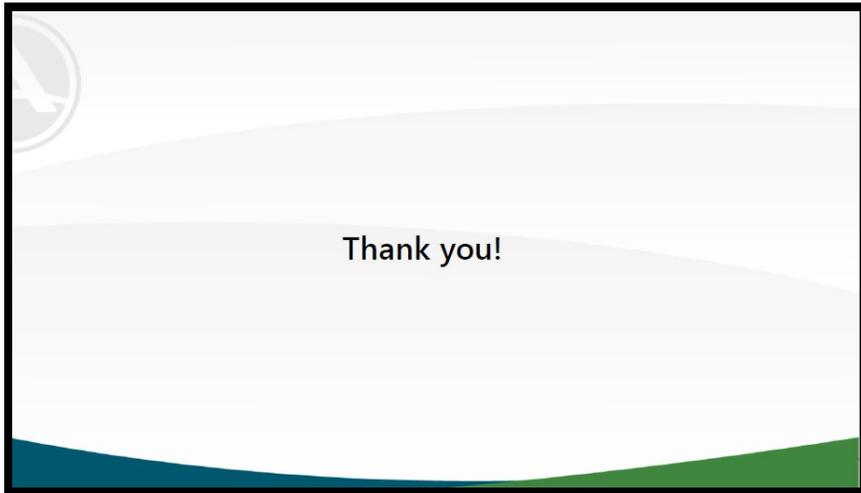



Hughes St at NC 55 Bus Stop (2023)

[PR3 - SLIDE 27]



[PR3 - SLIDE 28]



Mayor Gilbert thanked Mr. Dalton and Mr. Hassan for the report, and welcomed Mr. Hassan to Apex.

Councilmember Zegerman asked if he was interpreting the chart correctly to say out of the 1,894 crashed, 20 of them involved pedestrians or cyclists, meaning only about 1 percent of crashes involved pedestrians or cyclists.

Mr. Dalton said that was correct.

Councilmember Zegerman said that much less than he thought. He asked if any modular pilots have been conducted yet, or if that would be an item to be discussed and tested in the future.

Mr. Hassan said they have not tested any yet, but they have planned some areas for them to be tested.

Councilmember Zegerman asked about signal timings from when lights turn red versus turning green, and asked if they are working to address that, or if it they were there for a reason.

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Mr. Hassan said that is one of the countermeasures, and it allows intersections with sides with pedestrian crossing and without to operate independently. He said the delay is caused by the leading pedestrian interval.

Councilmember Zegerman asked if the interval between one side turning red and the other turning green was there intentionally to allow for the intersection to clear.

Mr. Dalton said that was correct, and there are engineering standards regarding that interval time.

Councilmember Gantt asked how they look at the data in regards to balancing offering safer ways to walk, such as sidewalks, with the increased pedestrian population along and across roadways they bring.

Mr. Dalton said that is a concern when looking at the data, but the idea is always to make the infrastructure as safe as possible when it gets put in. He said this also speaks to the education and enforcements components of Vision Zero, to ensure drivers and pedestrians are aware of safe roadways practices and behaviors.

Councilmember Gantt asked if engineers typically expect an uptick in incidents originally, and then a lower rate as time goes by.

Mr. Dalton said in many cases pedestrian and bicycle incidents are random, so providing more infrastructure may cause the data to show more incidents total, but if there was not infrastructure provided, people who do walk along roadways would do so in a much less safe manner. He said they try to add infrastructure in places where people already walk or want to walk to enhance the safety of doing so.

Councilmember Gray thanked Mr. Dalton and Mr. Hassan, and said the Transportation Department booth at Party in the Peak was well-received. He said it was good letting residents know that they were the most important component in this process, and he appreciates the flexibility in their approach.

Councilmember Mahaffey said traffic calming requests are one of the things he hears most often from residents, and was wondering what "expanding the toolbox" for this meant.

Mr. Hassan said this could be things like increasing road signs and marking, narrowing roadways to encourage people to slow down, mechanisms to reduce cut-through traffic, and reducing conflict with motorists, pedestrians, and cyclists. He said there are many examples of this in other Traffic Calming Policies in the state, and they can provide that information as they gather it to include in the town's own policy.

Councilmember Zegerman asked if North Carolina Department of Transportation (NCDOT) was receptive to those conversations, and potentially designing roadways with more traffic calming measures and separating vehicles and pedestrian/bicycle traffic.

Mr. Hassan said North Carolina Department of Transportation (NCDOT) is willing to listen, but when looking at implementation, they want to spend more time looking at their own standards and seeing what fits in within their policies and structures.

Mayor Pro Tempore Killingsworth said in her experience it was, "yes, as long as you pay for it".

Mayor Gilbert asked if having a Vision Zero program in place helped with things like grant funding or project scoring, and if there have been conversations with the surrounding communities to join in with Vision Zero.

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Mr. Hassan said they work with Raleigh and other Vision Zero communities in Wake County, as well as Capital Area Metropolitan Planning Organization, who are working to bring Vision Zero to the whole region.

Councilmember Gantt asked if there has been an uptick in Vision Zero communities because of the Federal Government Planning grant.

Mr. Hassan said that funding was for creation of the action plan, which Apex already had. He said Apex and Charlotte were the only two communities with that already in place, and Charlotte got the last round of funding available for that.

Councilmember Gantt asked if that meant those communities would have Vision Zero implemented in the next few years.

Mr. Hassan said yes, since the funding went to the implementation of the action plan.

PR4 Wake County Land Cover Analysis & Tree Canopy Assessment

Timothy Maloney, Director, Wake County Planning, Development, & Inspections, and **Bill Shroyer**, Senior GIS Analyst, Wake Council Department of Planning, Development, & Inspections, gave the following presentation regarding the Wake County Land Cover and Tree Canopy Assessment.

[PR4 - SLIDE 1]



[PR4 - SLIDE 2]

Funding

- American Rescue Plan Act (ARPA) funding
 - \$5.7 billion directly available to North Carolina
 - \$217 million in State and Local Fiscal Recovery Funds (SLFRF) to Wake County
- Wake County's goals for ARPA funding
 - Primary = Public health needs
 - Secondary
 - Economic impacts spurred by the pandemic
 - Systemic community challenges
 - Planning and preparation for future events



WAKE COUNTY
2

[PR4 - SLIDE 3]

Emphasis on Public Health

1. Environmental benefits
2. Mental and emotional benefits

}

Diversity,
equity and
inclusion

Wake County Board Goals

- Community Health and Vitality
- Economic Strength
- Education
- Great Government
- Growth and Sustainability
- Public Safety

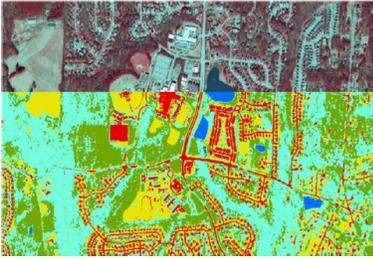


WAKE COUNTY
3

[PR4 - SLIDE 4]

Purpose and Scope

- Produce a robust measurable Land Cover dataset.
- Quantify the reality of tree loss within Wake County from 2010-2020.
- Identify priority planting areas to support environmental, social and health benefits.
- Provide actionable data and deliverables for all core municipalities within Wake County.



WAKE COUNTY
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[PR4 - SLIDE 5]

Collaboration

-  Consultant
 - o Davey Resource Group (DRG)
-  Project team
 - o Staff – Planning, Environmental Services and Facilities Design & Construction
 - o Municipal partners – Cary, Morrisville and Raleigh
-  Representatives from the twelve core municipalities.

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[PR4 - SLIDE 6]

Land Cover Analysis

WAKE COUNTY

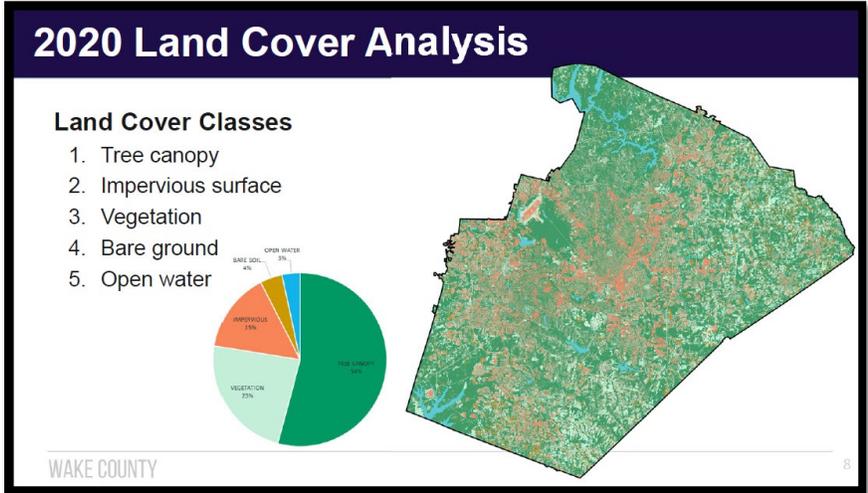
[PR4 - SLIDE 7]

Method

- Procure the best available aerial imagery.
 - o National Agriculture Imagery Program (NAIP 2010 & 2020)
- Conduct an analysis of the total Land Cover dataset for Wake County.
 - o Impervious surface
 - o Tree canopy
 - o Water bodies
 - o Barren land areas
- Differentiate forest health and measurable tree canopy.
- Identify tree cover benefits and possible health related impacts.
 - o Urban heat island
 - o Stormwater
 - o Social equity

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[PR4 - SLIDE 8]



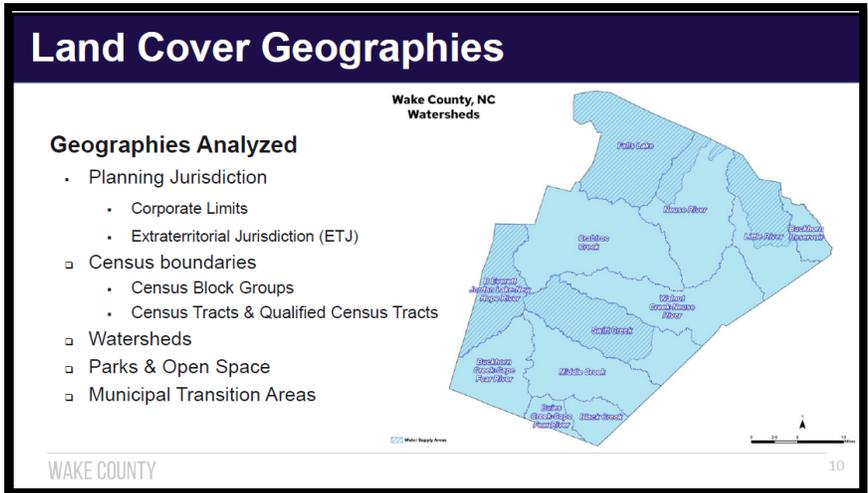
[PR4 - SLIDE 9]

Land Cover Data

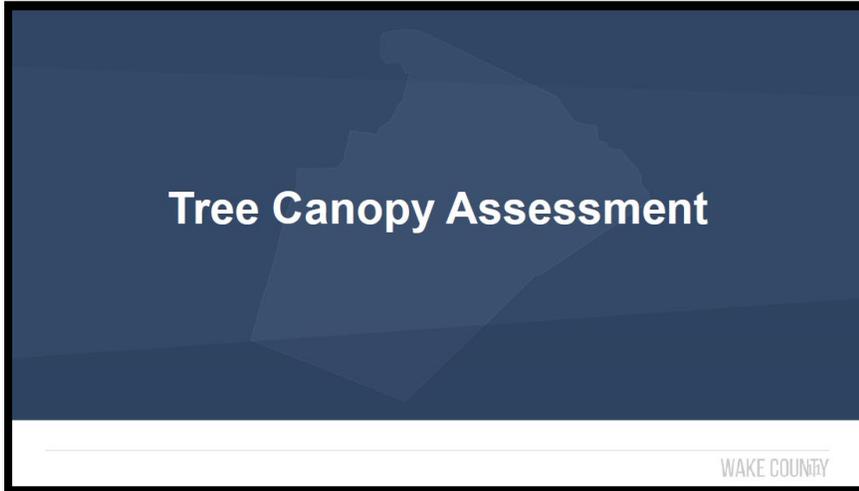
JURISDICTION	ACRES	CANOPY	IMPERVIOUS	VEGETATION	BARE GROUND	OPEN WATER
Apex	24,199	50%	20%	23%	5%	1%
Cary	43,817	49%	26%	19%	2%	3%
Fuquay Varina	29,386	45%	14%	29%	9%	2%
Garner	25,290	56%	16%	23%	3%	1%
Holly Spring	20,456	55%	14%	22%	7%	1%
Knightdale	16,121	52%	14%	28%	4%	1%
Morrisville	6,304	34%	38%	23%	4%	1%
Raleigh	116,191	51%	26%	21%	2%	1%
Rolesville	8,157	52%	11%	29%	7%	2%
Wake Forest	14,449	46%	24%	26%	4%	1%
Wendell	10,062	50%	11%	30%	7%	2%
Zebulon	8,849	50%	12%	27%	10%	2%
Unincorporated	220,257	60%	6%	24%	4%	6%

WAKE COUNTY 9

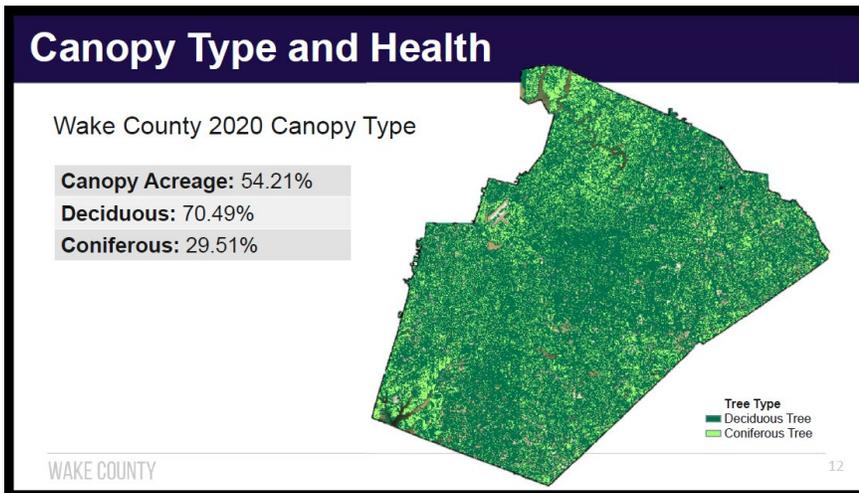
[PR4 - SLIDE 10]



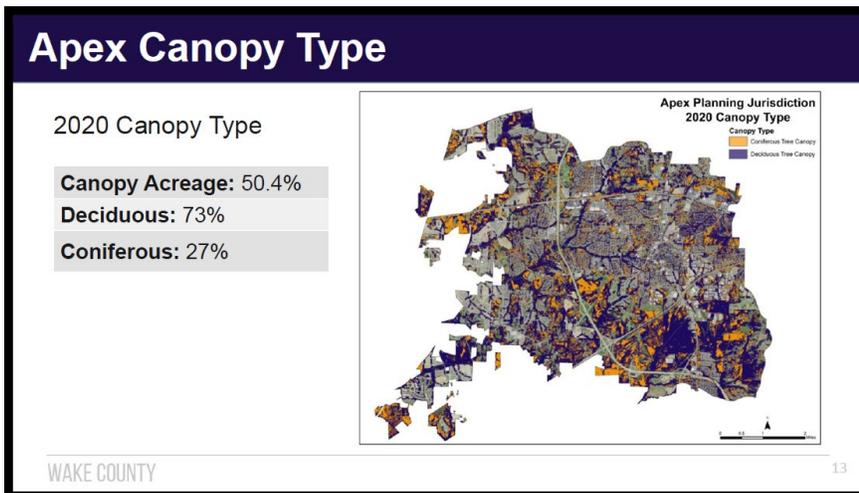
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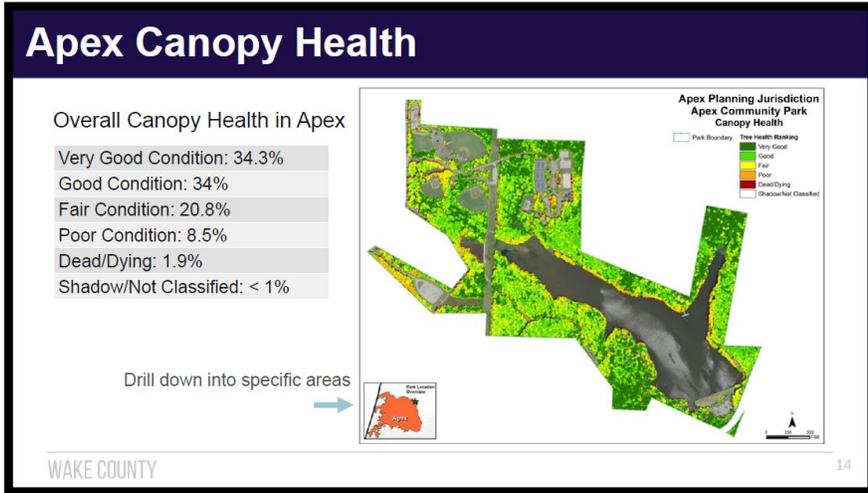
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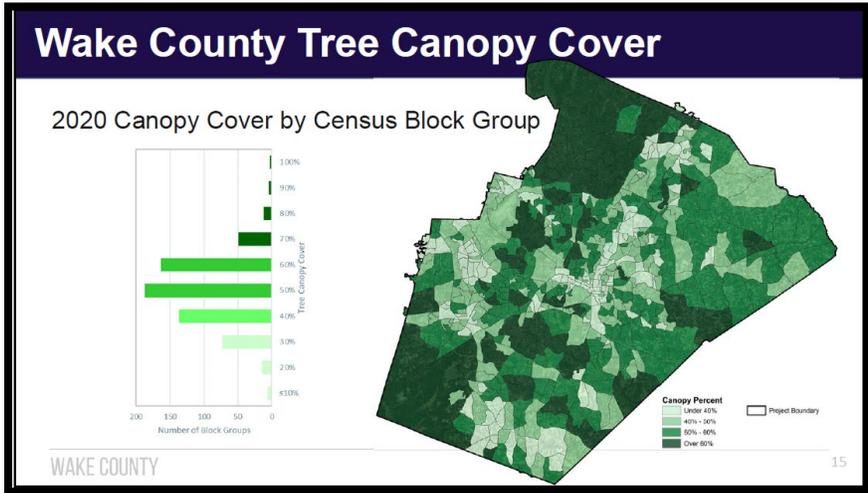
[PR4 - SLIDE 13]



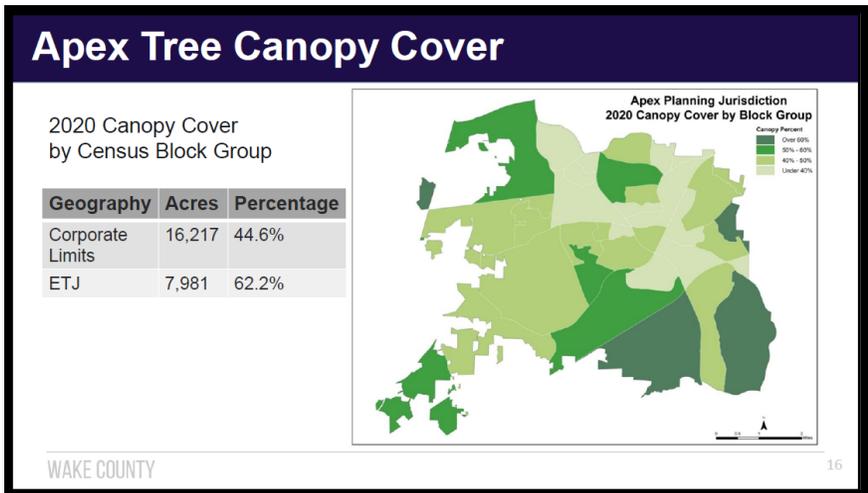
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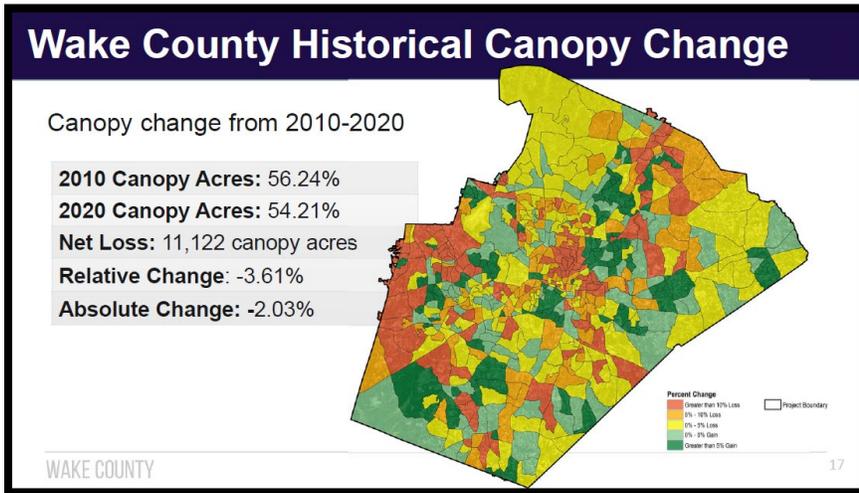
[PR4 - SLIDE 15]



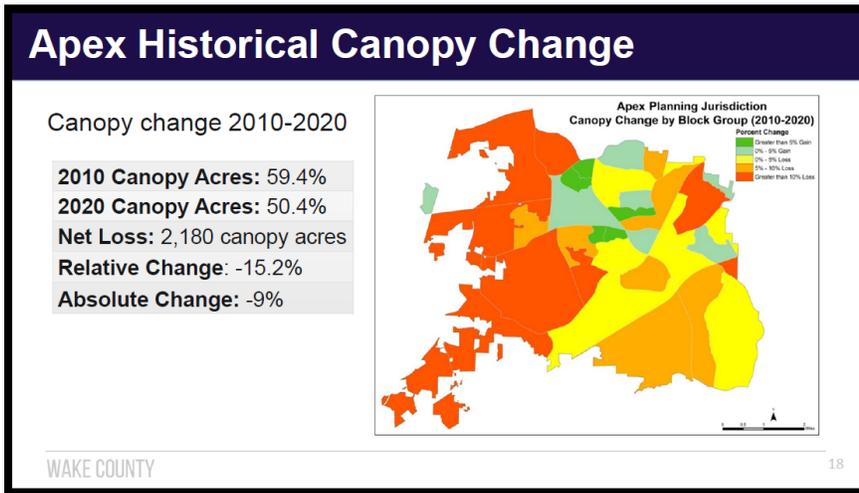
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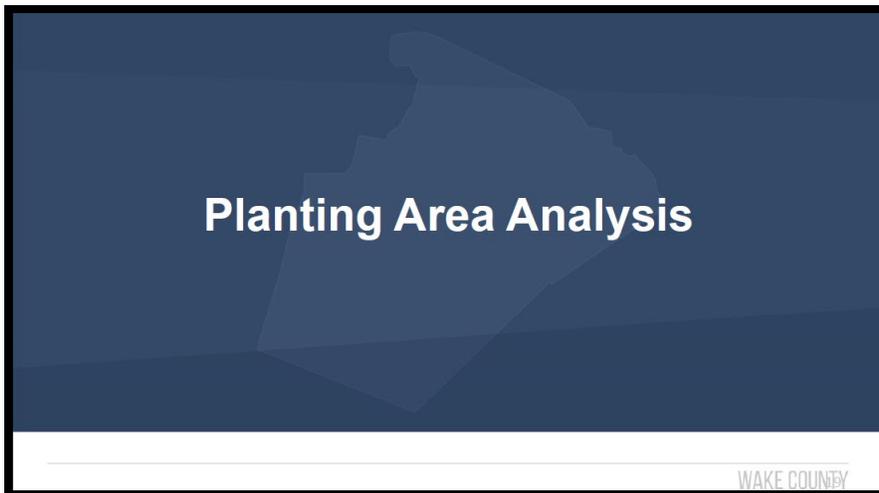
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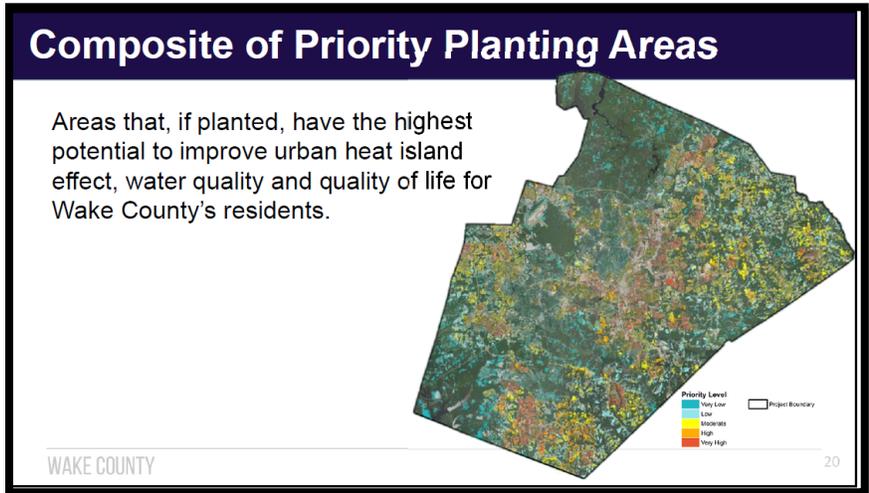
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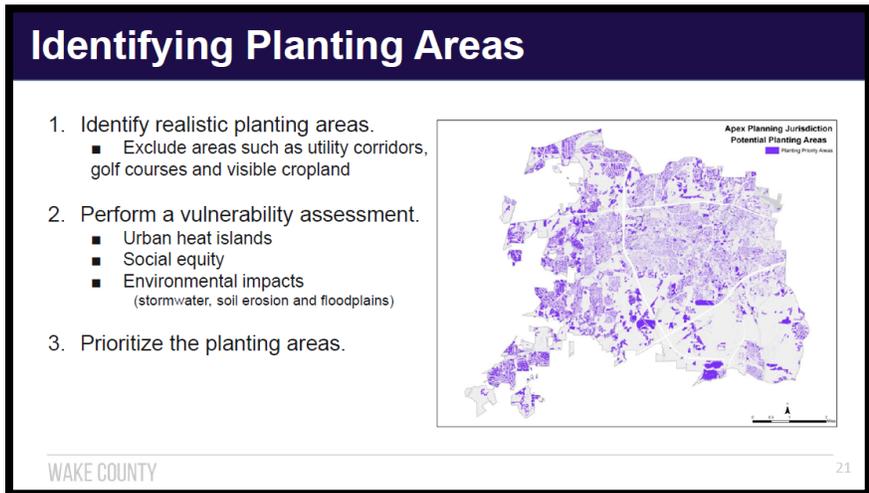
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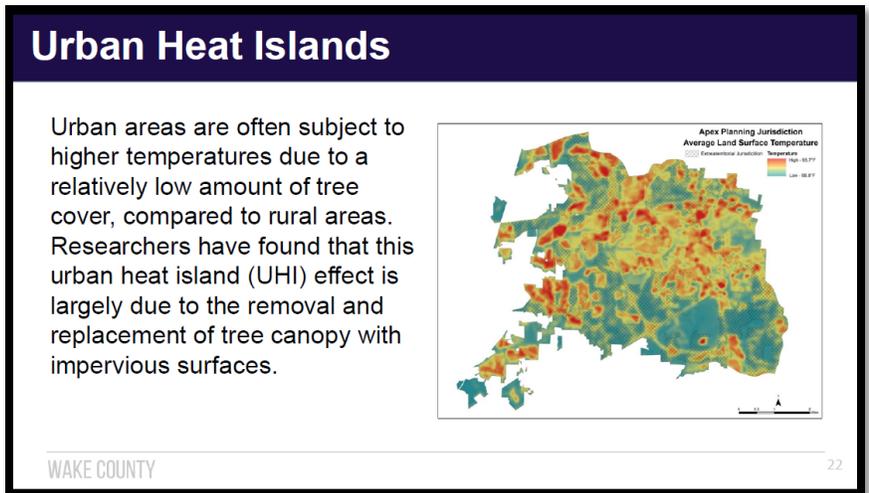
[PR4 - SLIDE 20]



[PR4 - SLIDE 21]



[PR4 - SLIDE 22]



[PR4 - SLIDE 23]

Composite of Priority Planting Areas

Areas where tree canopy can be expanded to maximize benefits that will have the most impact on human health, economics and wellbeing.

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WAKE COUNTY

[PR4 - SLIDE 24]

Tree Placement Modeling

TABLE 3.3 TREE PLACEMENT MODEL CROWN SIZE & SPACING PARAMETERS

Tree Placement Model Tree Spacing		
Planting Site Size	Mature Crown Diameter	No Other Trees Placed Within:
Small	20 Feet	10 Feet
Medium	30 Feet	15 Feet
Large	40 Feet	20 Feet

TABLE 3.4 SEYMOUR ATHLETIC FIELDS: PRIORITY TREE PLANTING SITES (2020)

MATURE CROWN SIZE	PLACEMENT SITE PRIORITY		
	MODERATE	LOW	TOTAL
Small	20	98	118
Medium	12	22	34
Large	26	160	186
Total	58	280	338

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WAKE COUNTY

[PR4 - SLIDE 25]

Canopy Benefits and Next Steps

WAKE COUNTY

[PR4 - SLIDE 26]

Canopy Benefits

"Wake County's trees have collectively removed more than 10 million tons of carbon from the atmosphere, valued at \$1.7 billion..."
- Davey Resource Group

Benefits and Value of Apex's Tree Canopy

Trees have been the backbone of our communities since the early 1800s and continue to provide a variety of benefits. Through their natural biological and ecological functions, trees provide critical community infrastructure. The oxygen and air quality benefits of trees are well-documented and well-understood. The canopy and air quality benefits of trees are well-documented and well-understood. The canopy and air quality benefits of trees are well-documented and well-understood.

THE TOTAL VALUE OF APEX'S TREE CANOPY IS \$131 MILLION

Carbon Storage = \$719,444,271

Trees are able to absorb CO₂ from the atmosphere and convert it into glucose, which is used as food for the tree. The leftover carbon is then stored within tree tissues, including the trunk, branches, leaves and roots.

Over their lifecycles, Apex's trees are estimated to have collectively removed and stored **one million tons** of carbon from the atmosphere.

Total Annual Benefits = \$19,714,865

The benefits analysis measured and valued three specific ecosystem services/functions of the canopy: air purification, carbon sequestration and temperature regulation.

EACH YEAR, APEX'S TREES:

- 

REMOVE 451 TONS OF POLLUTANTS FROM THE AIR

Additional, this quantifiable canopy benefits include, but are not limited to:

 - Increased property values
 - Improved physical health
 - Shade and cooler air in the summer
 - Improved mental well-being
 - Energy conservation
 - Increased biodiversity and habitat
- 

ABSORB 16,084 TONS OF CARBON DIOXIDE
- 

INTERCEPT 31.8 MILLION GALLONS OF STORMWATER

SPENDING TIME AROUND TREES AND LOOKING AT TREES REDUCES STRESS, LOWERS BLOOD PRESSURE AND IMPROVES MOOD.

\$29.28
PER SQUARE FOOT OF CANOPY

\$4.27
PER SQUARE FOOT OF CANOPY

\$588.00
PER SQUARE FOOT OF CANOPY

\$719.44
PER SQUARE FOOT OF CANOPY

\$1,321.31
PER CAPITA BENEFIT VALUE*

What do your community's trees do for you?

These benefits are valued based on the quality of the Apex's residents. The ecosystem services provided to the community by the tree canopy infrastructure can be quantified and valued as an individual benefit.

Over their lifecycles, Apex's trees have stored an estimated amount of 4,222 tons of carbon per resident, translating to a per capita carbon storage value of \$1,792. For context, Apex's tree canopy annually removes one pound of air pollution, carbon dioxide, for an annual per capita value of \$652.22.

The combined per capita benefit value of Town of Apex's tree canopy is estimated to be \$1,321.31.

*The value refers to the average value per Apex resident. As of 2020, Apex had a resident population of 16,760. The canopy value is specific to the population of 17,760.

WAKE COUNTY

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[PR4 - SLIDE 27]

Operationalizing Data







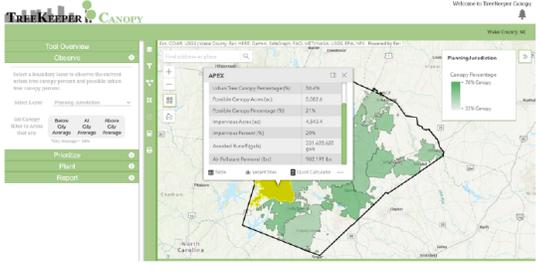


WAKE COUNTY

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[PR4 - SLIDE 28]

TreeKeeper Canopy Software



- Make data observations quickly and easily.
- Share the benefits of your tree canopy and promote the value of community trees.

WAKE COUNTY

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[PR4 - SLIDE 29]

Tree Canopy Visualization

Planned Trees	Estimated Cost	Estimated Benefit
100	\$1,000	\$1,000
200	\$2,000	\$2,000
300	\$3,000	\$3,000
400	\$4,000	\$4,000
500	\$5,000	\$5,000
600	\$6,000	\$6,000
700	\$7,000	\$7,000
800	\$8,000	\$8,000
900	\$9,000	\$9,000
1,000	\$10,000	\$10,000

- Prioritize and plan tree plantings using environmental and social equity data.
- Make data-driven decisions that can fuel program budgets and encourage support of your sustainability programs.
- Create custom tree canopy goals and projections.

WAKE COUNTY 29

[PR4 - SLIDE 30]

Next Steps

- Present the report findings to stakeholders.
- Implement the communications plan.
 - Public engagement kicked off on Sept. 5.
 - Public education campaign focusing on canopy benefits over the next several months.
- Continue working with stakeholders on operationalizing data.
 - Example: DOT pilot planting project.
- Consider a follow-up analysis in five to ten years.

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[PR4 - SLIDE 31]

Discussion

WAKE COUNTY

APPROVED MEETING MINUTES | TOWN OF APEX | SEPTEMBER 26, 2023

Councilmember Mahaffey thanked Mr. Maloney and Mr. Shroyer for the report. He said trees have been a focus for Apex for a while, and it was great to see it quantified. He said what was important would be how it was acted upon. He said Apex has been sincere in its approach to increasing trees, but has done so on a more “ad-hoc” basis. He said he would like to have some rules on the books that operationalize canopy preservation and re-plantings. He said a big step forward would be rebuilding some of the lost canopy using the data provided in the report. He wondered how the County-wide approach would look, and said it would be good to have a set of model ordinances that could be adopted by the County and its municipalities. He added there were several projects that haven’t fully got going that would decrease this number more without additional measures. He said it is important to increase the overall canopy amount, but also targeted increases in places that could lessen the impact of the urban heat island effect. He said he would be digging into the data from the report, and he encouraged town and county staff to work together to come up with an operationalized plan to respond to this.

Councilmember Gantt said as someone with background using GIS, he really enjoyed looking at this study. He said when he saw Apex had the highest amount of canopy loss, he thought about blaming past Councils for approving more low-density developments, but he looked at the map closer and saw that a lot of the canopy loss was from the construction of 540. He said if 540 was not included, Apex would not have the highest canopy loss. He said there are also Civic uses that contributed to the loss, such as the Apex Friendship Campus, Scott’s Ridge, and the Western Wake Water Reclamation Facility. He was wondering their thoughts on the policy implications of balancing canopy preservation with still doing projects that benefitted residents of the town.

Mr. Maloney said those were policy questions for local governments to look at and address. He said the Town of Morrisville had the lowest tree canopy percentage and the most impervious surface percentage, and they had worked with a consultant to check the most recent year’s data as well. He said their policies for preservations and plantings with development have been starting to show some benefit in the last few years.

Mayor Gilbert said it was important to bring everyone to the table when looking at policy decisions, including developers.

Councilmember Gray said he appreciated being able to have the data. He said they have been working to balance tree preservation with landowner’s ability to do what they wanted to with their property. He said this data could be used to help drive UDO changes that they have been discussing that didn’t have a data-driven approach to back it before. He said he tried to use the Tree Keeper program, but was not having much success.

Mr. Maloney said they would be putting tutorials out that showed how to utilize the program. He said it was important to be patient with it, because there was so much data behind it.

Councilmember Zegerman said he agrees this gives data to back their positions on the importance of tree canopy. He said the data indicated some priority areas in places that he did not expect them. He said it takes personal preference more out of the conversation, and uses data that backs all of it up. He thanked Mr. Maloney and Mr. Shroyer for their work.

Mayor Pro Tempore Killingsworth said she did recall some data from a study the town did just after she got on Council, but not to the detail that this study provided.

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Shelly Mayo, Planner II, said that study was looking at a smaller timeframe of data, and was also looking at how trees could mitigate stormwater. She said there was some tree canopy information included, and looking back at those studies is worthwhile.

Councilmember Mahaffey asked specifically what the next steps were. He asked if town staff could work with the County to get some operational plans in place for this in the next few months.

Councilmember Zegerman added they could also expand existing programs, such as the Plant Apex program, to help drive canopy growth. He said priority areas from this report could be expanded.

Councilmember Mahaffey agreed, and said it was interesting to be able to have data that could inform where the program may have the most impact.

Mayor Gilbert asked if there were any concerns from staff about moving in that direction.

Interim Town Manager Purvis said staff would need time to fully review the information in the report, and then to engage the Environmental Advisory Board on this as well and get their input. He said after staff and the EAB has had time to review and look at option, they could come with options or hold a Council workshop. He said he knows this is a Council priority and is part of their environmental leadership goal.

Councilmember Zegerman asked if there could be any target dates on that.

Interim Town Manager Purvis said he doesn't think something before the end of the year would be feasible, but he will work with staff to determine a goal for getting things put together for Council.

Councilmember Gray said he would recommend the first step to be a Work Session to get everybody in the same room and be able to ask the right questions.

Councilmember Gantt said he estimated about 580 acres in Apex were taken up by Highway 540, and said with other DOT projects he had seen trees come back naturally, yet slowly. He was wondering if what Morrisville did expedited that process for them.

Mr. Maloney said there are likely circumstances where DOT maintains areas without trees in situations where they don't need to be maintained, and that planting seedlings would accelerate the natural process of trees spreading.

Councilmember Gantt asked if there were any plans to do this on the middle parts and not just the on/off ramp areas.

Mr. Maloney said no, that is likely off-limits by the DOT. He said they use more land than they need for the highway to keep things safe for vehicular traffic. He said they recognize there is room to get closer with trees on those main portions of highway. He said hopefully the pilot project can demonstrate low-cost, low-maintenance options, and in the future, they could potentially replant in places that were overly cleared.

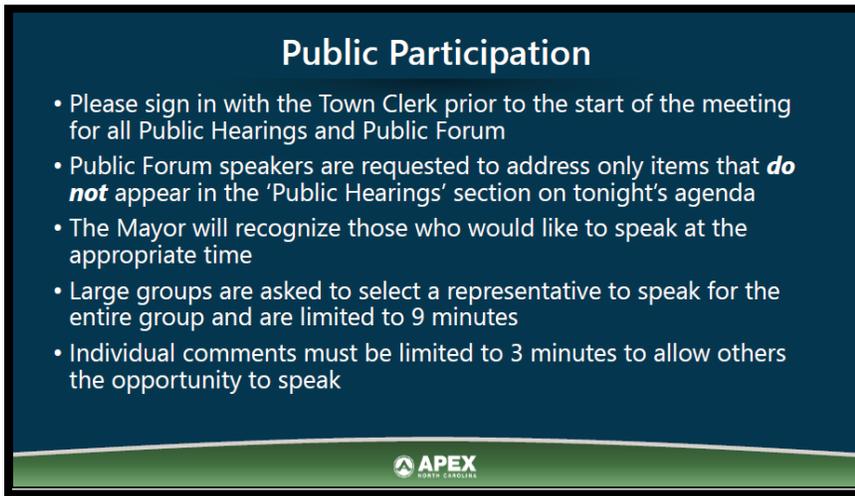
[REGULAR MEETING AGENDA]

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

VOTE: UNANIMOUS (5-0)

[PUBLIC FORUM] (NOTE: To view Public Forum and Public Hearing sign-up sheets, see OTHER-2023-096)

[SLIDE 2]



First to speak was **Kurt Kuechler**, of 2721 Silver Stirrup Lane:

"I had in mind what I was going to talk about tonight, but I'm going to go on the fly because it hasn't been said, and I think it should be. Unfortunately, probably a lot of the staff who were responsible for it aren't here tonight, but thanks to them for the quick transition on Saturday from outside events to inside events, transforming the Community Center and Senior Center, and you still had a great event. So those people need to be applauded. The other thing I wanted to talk about, obviously it goes without saying, this tree canopy study, and what's going to become of a potential amendment to RCA, obviously one helps the other. It's a fantastic thought, I wish it was an even higher percentage increase, and I'd also like to have you consider separating the solar aspect from the RCA aspect. They're both great programs, both great ideas, but I think it's kind of unfair to hurt the RCA just because you're doing something good with solar. Keep 'em separate, award efforts to solar, award efforts to RCA. That's all I've got, thanks."

Mayor Gilbert thanked Mr. Kuechler for his comments.

Next to speak was **Beth Bland**, of 3724 Friendship Road:

"I wanted to make you aware of something concerning Holly Springs plans, and their innovation park. We received a notice, Tom and I did, from the Timmons Group, that they're rezoning, and they're adding residential into their Innovation Park. Including the possibility of a 7-story high apartment building with over 600 residents, at 2 different places. One would be Friendship Road and the New Hill Holly Springs Road, and the other I believe is closer to Woods Creek and Friendship Road. You know, it's the Timmons Group, Trustwell Properties, Helix Properties, they're all part of this huge conglomerate that is working the park, buying more property,

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so my question to you is, is there any way you can work more closely with Holly Springs. With what their plans are, and what Apex's plans are, because I feel like there's a really big disconnect. With what they're going to do with the Innovation Park, it's going to bring more traffic onto Friendship Road, which is already a problem. They have done a traffic study, it's 575 pages, so I briefly went through it, but basically, they show they do include the Friendship Road and Old US 1 intersection, and the grade they have for it is an F. And they don't really have the infrastructure in place to handle the additional rezoning that they're wanting to do in this Innovation Park. And then we have Veridea that's coming up here, we have, you know, the Force Main, which this is off on a tangent, but in my mind, we just heard about the canopy study, the other side of the road, the trees are already gone. The trees that are going to be affected on our property, we have 80-foot-tall pine trees, and we have a stand of cedar trees, and they're coming down. A lot of them. So, it just seems like the two towns are interconnected, but not working together. And I was concerned, from the last Board Meeting, when Councilman Gray and Councilman Gantt, Councilman Gray mentioned getting together with Holly Springs, then there was a conversation about well, if we ask them for something then they're going to ask us for something, and I think you should be able to work through that better. So, all I'm asking is, please consider having the two towns work a little more closely together with what the plans are."

Mayor Gilbert thanked Ms. Bland for her comments.

Next to speak was **Elizabeth Stitt** of 3113 Friendship Road:

"I was joking with staff earlier that I might start using some of my other addresses just to keep things lively. So, Beth and I went to the Holly Springs Town Council meeting last Tuesday, and fortunately they are on the first and third Tuesdays, and you guys are second and fourth, so Tuesday nights are going to be Town Council meetings. But we made the same ask of Holly Springs, to please start talking with Apex. I'm going to take what Beth shared one step further. When you look at their TIA, they included 8-10 background developments that were 2-4 miles away from Amga and what they're wanting to do. But within 2 miles, across our side of Apex, we have multiple projects that were not included. And so, I'm looking at this TIA, and it's under scoped, because our traffic goes back and forth, their traffic is coming back and forth. So, then I looked at the Pleasant Park TIA, I looked at Holland Road Mixed Use Assembly, I looked at the Sears PUD, I looked at West Village. We aren't including any of their plans with Amga, and with this current rezoning that they're looking for, it is taking it to unlimited commercial space, plus an addition of 1200 apartments. And you go their TIA, and their TIA is only estimating traffic on 2.1 million square feet of commercial, and only 1,000 apartments, so it's under scoped from the very beginning, and they haven't even come up with the list of what the developer is going to do. So, here's what's going to happen: their TIA is under scoped, it's going to dump much more traffic over onto Friendship Road. That is going to make it very congested so those businesses at Holland Road Mixed Use Assembly, people aren't going to shop there. They're going to go elsewhere, where it's easier to get to. It is going to hurt the economic benefits of that development. It's going to hurt people trying to get to Pleasant Park, because they can't get through Friendship Road because GPS is sending them that way, and they're getting stuck. So, this is this is more than about hey let's have conversation, this is going to hurt your

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business community. And as more development tries to happen in our area, the cost of those road improvements are going to be greater on Apex businesses and property owners, because Amga is under scope. So, this is more than you know hey, we're tired of the traffic, this is one of those watershed moments where you've got to stop and say what is happening there, what are the implications. So, I'm going to be going back and forth, I'm going to talk to them, I'm going to talk to you, I don't want to be your go-between. But I feel like I have to be, because it's clearly acknowledged in their meeting that they haven't talked to you, and it's clear you guys haven't talked to them. So, I will be that intermediary, and unless you want me representing both towns, please have those conversations with each other."

Mayor Gilbert thanked Ms. Stitt for her comments.

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

"So, I wanted to talk about safety tonight, in our area. And when I think of government, I think of the things that they can do, and one of them is security, safety, protections. So, when I looked at the Hazen group, this is the schematic, of this Force Main, it's a huge building right, there's a tractor-trailer pulling in there. Okay, in the document, there was preference made by this Town Council to only look at north of US 1, so it's suggesting in the document that no other options were considered, and you're going to be destroying people's land, their livelihoods, their tree canopy, their environment, when if the approach was taken differently, or different discussions were taking place, it could be done in an area that does not interfere with that. So, I wanted to say that about safety, protecting that. I also wanted to say about these documents, you know, when you get a nice schematic, which I looked at, it looks good on paper but some things in life don't always work out as planned. There's no contingencies in here, there's no audit, I haven't seen anything about an audit that helps me feel confident in the commitments that are being made. So that makes me feel unsafe. There's adverse events in life. And one of those was just reported 9/14. So, a million people, wastewater treatment, there was a dumping into the Haw River, a million people are infected with their water. Okay what does this mean? There's no controls over that company that's dumping, and you know how it works with the sewer system right, it goes in one end, comes out the other, and that's your drinking water. They can't treat all the chemicals, this is one for Dioxane, can't treat them all. So that's hazardous safety, that's effecting people's safety. And I bring this up to, because if there's another case, how are you going to control and audit this? And I brought up Durham County and Chatham County about the dumping and about the water. So, is enough, enough? First to take a stand. You want the legacy to be that you just looked the other blind eye to environment and risk to people and just, you know, it's like a third world country, they have to go down and pick up water in osmosis systems. They have to bring their own containers, it's a third-world country. And this is right in our hometown. In our beautiful North Carolina. And I appreciate your time, but this is getting serious."

Mayor Gilbert thanked Ms. Cozzalino for her comments.

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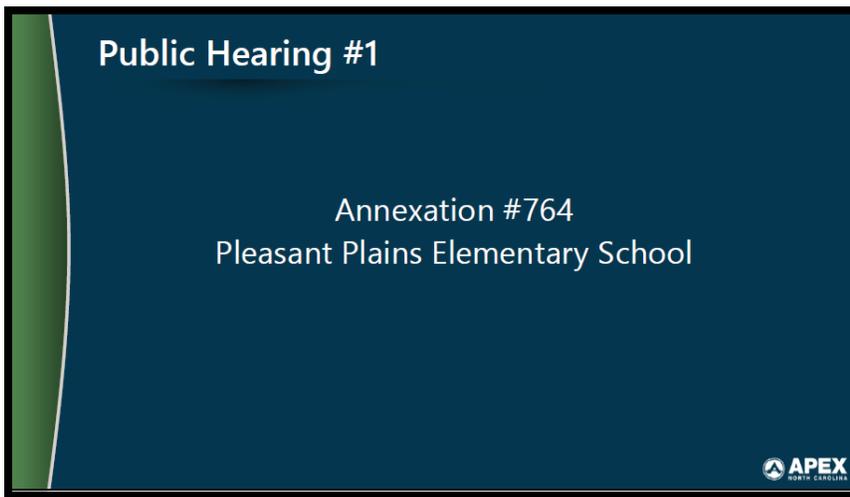
With no further sign ups, **Mayor Gilbert** closed Public Forum and moved the meeting to Public Hearings.

[PUBLIC HEARINGS]

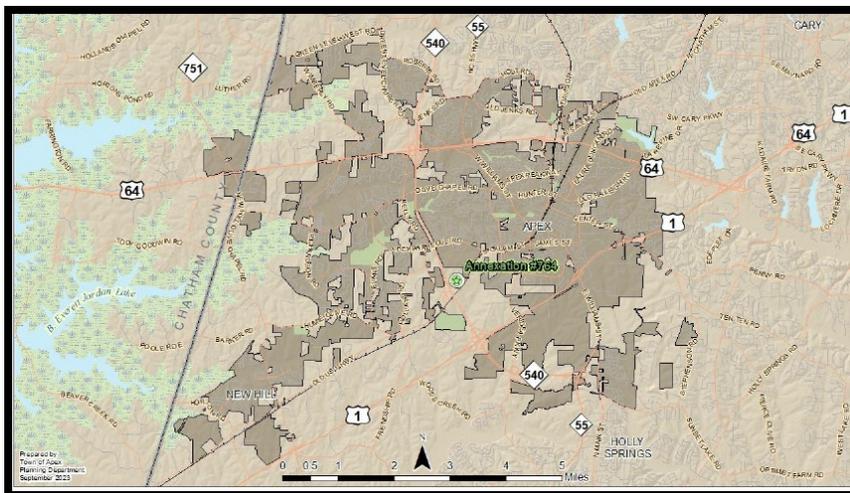
PH1 Annexation No. 764 - Pleasant Plains Elementary School - 30.047 acres

Amanda Bunce, Current Planning Manager, gave the following presentation regarding Annexation No. 764 - Pleasant Plains Elementary School.

[SLIDE 3]



[SLIDE 4]



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Mayor Gilbert opened Public Hearing for this item. With no one signed up to speak, he closed Public Hearing.

A **motion** was made by **Mayor Pro Tempore Killingsworth**, seconded by **Councilmember Gray**, to approve Annexation No. 764 - Pleasant Plains Elementary School.

VOTE: UNANIMOUS (5-0)

PH2 Unified Development Ordinances (UDO) Amendments - September 2023

Ms. Bunce gave the following presentation regarding the proposed UDO Amendments for September 2023.

[SLIDE 8]



[SLIDE 9]

Amendment #1
Requested by Planning Committee of Town Council

1. Amendments to Secs. 4.2.2 Use Table and 4.4.5 Supplemental Standards, Commercial Uses in order to change the use "Tattoo parlor and body piercing" from a Special Use to a Permitted Use where the use is currently allowed except for within the Small Town Character Overlay District and to remove the supplemental use standards related to signage for this use since the same standards exist in Sec. 8.7 Signs.

Use Type	Definition Section	Zoning Districts														Standards Section(s)		
		Residential						Business				Planned Development	Other	S				
		R A	R L	R M	R D	H M	H D	M H	M P	O R	B I	B Z	B P		L T		M T	P U
Adult Use																		
Tattoo parlor and body piercing	4.3.5.A.4																	

4.4.5.A Supplemental Standards, Commercial Uses, Adult Use

4) ~~Tattoo parlor and body piercing.~~ Tattoo parlors shall comply with the following standard: Except for freestanding and façade-mounted signs permitted pursuant to Sec. 8.7 Signs, no other advertisements, displays, or other signs or other promotional materials shall be visible to the public from sidewalks, walkways, or vehicular use areas.

Councilmember Zegerman asked why it was considered a special use in the first place.

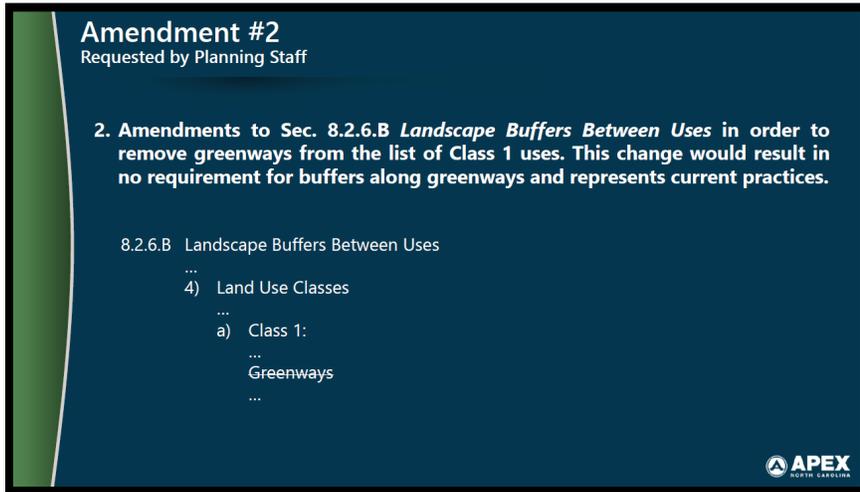
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Ms. Bunce said communities change over time, and historically this was not seen as a beneficial use, and now people's opinions about tattoos and piercings are different.

Councilmember Gantt said at one point it was not permitted at all, then got changed to special use, and now it's changing incrementally again to be more flexible with this use.

Mayor Pro Tempore Killingsworth said a local business owner had reached out and said it was very difficult to find other places because of this.

[SLIDE 10]



Councilmember Zegerman asked if this would mean if they wanted to install a greenway where one did not exist, that they could go right up against a property line.

Ms. Bunce said theoretically they could if that was the desire, and often times they need flexibility with where greenways are installed, because they are kept closer to sewer easements or riparian buffers, but she is not saying that would necessarily be the standard practice of the town.

Councilmember Zegerman asked her to give him an example of how this was consistent with current use.

Ms. Bunce said generally greenways are not against property lines. She said greenways are also not planned near residential property lines, because they are often near riparian buffers from streams.

Councilmember Zegerman said they did a new greenway update a few months ago, and there are greenways on that that would go through existing neighborhoods. He said he would be uncomfortable removing the buffer requirement because it may mean homeowners who bought property near a conservation area may see a trail right on their property line.

Councilmember Gantt said the Beaver Creek Greenway that he jogs every day functions perfectly fine as far as he can tell, but the houses knew that they were buying next to a greenway.

Councilmember Zegerman asked if the greenway was already there when the houses came in.

Councilmember Gantt said he thinks the greenway had already been planned before the houses were built.

Councilmember Zegerman said he was more concerned about houses being there and then putting a greenway right on people's property lines without a buffer requirement.

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Councilmember Gantt said he was just saying the Beaver Creek Greenway works fine right up against the property lines.

Councilmember Zegerman said he is sure this would function fine, but it is the optics of clearing a piece of land that was previously RCA.

Ms. Bunce shared that Director Khin said in some cases the buffer requirement may mean that there is no room for a greenway, so that is something for Council to consider as they talk about where to put greenways, and keeping them far enough away from residential areas while also preserving trees and providing additional greenway access.

Councilmember Zegerman said he would rather work this through a variance process than a blanket no buffer scenario.

Ms. Bunce said the variance process is not the route to go for this because there has to be hardship in the area shown and meet 4 standards required by the state, and justifying a variance in these situations could be very difficult based on the state standards.

Councilmember Zegerman said he thinks giving the town the blanket right to do this would be the wrong way to go.

[SLIDE 11]

Amendment #3
Requested by Planning Staff

3. Amendments to Secs. 4.4.1 *Supplemental Use Standards, Residential Uses* and 8.2.8.B *Screening, Screening Methods* in order to change references to dumpster enclosure screening standards from the *Town of Apex Design and Development Manual* to the *Town of Apex Standard Specifications and Standard Details*. Amendments to 6.1.11.1 *Notification on Site Plan and Subdivision Plan and Recording of Information* in order to change a reference from the *Town of Apex Design and Development Manual* to the *Site Plan Final Plat* or *Master Subdivision Final Plat* application and to make other edits to simplify the wording of the standard.

4.4.1 *Supplemental Use Standards, Residential Uses*

A) *Condominium*

...

2) The overall enclosure design must comply with the standards found in the *Town's Design and Development Manual* *Town of Apex Standard Specifications and Standard Details*.

...

G) *Multi-Family or Apartment*

...

2) The overall enclosure design must comply with the standards found in the *Town's Design and Development Manual* *Town of Apex Standard Specifications and Standard Details*.

[SLIDE 12]

Amendment #3
Requested by Planning Staff

8.2.8.B *Screening, Screening Methods*

1) *Dumpsters*

...

d) The overall enclosure design must comply with the standards found in the *Town's Design and Development Manual* *Town of Apex Standard Specifications and Standard Details*.

6.1.11 *Riparian Buffers*

l) *Notification on Site Plan and Subdivision Plan and Recording of Information*
Where required, riparian buffers shall be shown on all site plans and subdivision plans approved pursuant to Sec. 6.1.4 of this Ordinance. A certificate in the form established in the *Town of Apex Design and Development Manual* *Site Plan Final Plat* or *Master Subdivision Final Plat application* shall be lettered *placed* on the face of the *Site Plan Final Plat* or the recorded subdivision map *Master Subdivision Final Plat*. *Prior* to approval of a *the Final Plat* (with respect to a subdivision), issuance of a certificate of occupancy (with respect to a site plan), or commencement of a use, a developer shall first cause all information pertaining to required riparian buffers to be shown on the Final Plat for the property.

...

[SLIDE 13]

Amendment #4
Requested by Planning Staff

4. Amendments to Sec. 2.3.8.D Variance Permit, Standards in order to change the word "ordinance" to "regulation" in accordance with State law.

2.3.8 Variance Permit
...
D) Standards
In order to approve an application for a variance permit, the Board of Adjustment shall find the following:

- 1) *Unnecessary Hardship.* Unnecessary hardship would result from the strict application of the ordinance **regulation**. It shall not be necessary to demonstrate that, in the absence of the variance, no reasonable use can be made of the property.
- ...
4) *Consistency with the UDO Regulation.* The requested variance is consistent with the spirit, purpose, and intent of the ordinance **regulation**, such that public safety is secured, and substantial justice is achieved.



[SLIDE 14]

Amendment #5
Requested by Planning Staff

5. Amendments to Sec. 4.4.2 Supplemental Standards, Public and Civic Uses in order to remove supplemental standards for the uses "Day Care Facility" and "Drop-In or Short-Term Child Care" in the Downtown Business (B2) zoning district as those uses are no longer permitted uses in that district.

4.4.2 Supplemental Standards, Public and Civic Uses
...
C) Day Care Facility
...
2) ~~Day-care facilities in the B2 Downtown Business District shall not be located on North Salem Street between Center Street and West Chatham Street, and shall not be located on Commerce Street.~~

...
F) Drop-In or Short-Term Child Care
...
2) ~~Drop-in or short-term child care located in the B2 Downtown Business District shall have no outdoor play areas and shall have hours of operation typical to other adjacent downtown businesses.~~



[SLIDE 15]

Amendment #6
Requested by Planning Staff

6. Amendments to various sections of the UDO in order to reflect changes to department titles and responsibilities due to the division of the former Public Works and Transportation Department into the Public Works Department and Transportation & Infrastructure Development Department; move floodplain administrator duties to the Water Resources Department; and add Water Resources Department to the list of departments included in the Technical Review Committee. Sections affected include the following:

• 2.1.7.B	• 7.1.7	• 7.5.14	• 8.3.6.G
• 2.3.7	• 7.2.1	• 7.5.16	• 13.16.1
• 6.2.13.A	• 7.5.12		

2.1.7 Technical Review Committee
...
B) Membership
The TRC shall consist of a staff member, designated by the department head, from each of the following departments: Planning, Public Works, and Transportation, **Transportation & Infrastructure Development, Water Resources, Building Inspections and Permitting, Parks, Recreation & Cultural Resources, Police, and Fire.**



[SLIDE 16]

Amendment #6
Requested by Planning Staff

2.3.7 Subdivision
...

D) Master Subdivision Plan
...

4) Minor Deviations
The Planning Director, with the consent of the Public Works and Transportation & Infrastructure Development Director, and Water Resources Director, may approve a minor deviation to a Master Subdivision Plan. A minor deviation shall be limited to technical or engineering considerations first discovered after Master Subdivision Plan approval which have no material effect on the character of the approved Master Subdivision Plan. Minor deviations shall be limited to slight relocation of lot lines, greenways, streets and utilities, and minor changes to grading and stormwater infrastructure.

...

F) Master Subdivision Final Plat
1) General
...

b) The Master Subdivision Final Plat shall constitute only that portion of the Master Subdivision Plan that the subdivider proposes to record and develop at the time. The Master Subdivision Final Plat shall contain no fewer than 15 lots except in the case of one of the following:
...

(iii) When approved by the Planning Director, with the consent of the Public Works and Transportation & Infrastructure Development Director and Water Resources Director.



[SLIDE 17]

Amendment #6
Requested by Planning Staff

6.2.13 Flood Damage Prevention Overlay District
A) *Designation of Local Administrator*
The Town's Public Works and Transportation Water Resources Director or a designee is appointed to administer and implement the provisions of this Flood Damage Prevention Overlay District.

7.1.7 Substitution of Fees in Lieu of Public Improvements
Where, because of topographical features or other conditions peculiar to the site, strict adherence to the provisions of this Article requiring public improvements would cause an unnecessary hardship or provide an unwarranted or unrealistic result, the Town Council may authorize that the reasonable cost of such improvement if made be paid into the Town treasury in lieu of the improvement so long as same can be done without materially altering the intent of this Article; provided, however, the amount of such fee paid in substitution of the public improvement shall reasonably relate to the applicant's fair share of the cost of such public improvements as determined by the Public Works and Transportation & Infrastructure Development Director and the Water Resources Director or some other professional engineer approved by the Town; and provided, further, that the Town Council may in its discretion, use said fee to construct some other public improvement calculated to be of significant benefit to the said property of the applicant either directly or indirectly. Any such substitution authorized as aforesaid shall be recorded in the minutes of the Town Council with a statement of the reasoning justifying the substitution.



[SLIDE 18]

Amendment #6
Requested by Planning Staff

7.2.1 Streets
...

F) Intersections
...

4) Street jogs with centerline offsets of less than 100 feet shall be prohibited when the jog lies wholly within the subdivision, except when approved by the Public Works and Transportation & Infrastructure Development Director, and shall be avoided on the exterior boundary of the subdivision, except where external access would otherwise be denied.

...

L) Traffic Calming
...

2) All new residential developments shall provide for the installation for traffic calming measure(s) on each residential street within the development where the length of the public street exceeds 1,000 feet. The location and type of traffic calming measure(s) shall be determined by the Planning Department and Public Works and Transportation & Infrastructure Development Department. Traffic calming measure(s) include but are not limited to traffic circles, roundabouts, curb extensions, chicanes, splitter islands, and designated on-street parking. Speed humps are only allowed as traffic calming measures in existing neighborhoods that meet the criteria in Sec. 7.2.1.L.3 of this Ordinance.

...

3) ...
After all of the criteria have been satisfied, the Town Council will make the final decision whether to approve the proposed installation/removal project. The Town Council reserves the right to deny any request for installation/removal of traffic calming devices on Town-maintained streets, in its sole discretion. After the project has been approved by the Town Council and submitted to the Town's Public Works and Transportation & Infrastructure Development Director, the street will be rated for priority, and then scheduled for installation/removal of traffic calming devices in accordance with the approved sketch plan.



[SLIDE 19]

Amendment #6
Requested by Planning Staff

7.5.13 Performance Guarantee in Lieu of Construction Prior to Acceptance of Final Plat
...
C) Such guarantee shall be in an amount of not less than 125% of the estimated cost of the construction of the required improvements. The developer shall submit an estimate of this amount subject to review, modification, and approval, which shall be by the Water Resources Director or Public-Works and Transportation & **Infrastructure Development** Director, as appropriate.

D) Performance guarantees shall run for a period of one (1) year unless otherwise determined by the Water Resources Director or Public-Works and Transportation & **Infrastructure Development** Director, as appropriate.

E) All required construction of improvements, less the final lift of asphalts and adjustments, shall be completed within one (1) year from approval of the Final Plat unless otherwise determined by the Water Resources Director or Public-Works and Transportation & **Infrastructure Development** Director, as appropriate.
...



[SLIDE 20]

Amendment #6
Requested by Planning Staff

7.5.14 Defects Guarantee
...
B) This guarantee shall be in the amount determined by the Water Resources Director or Public Works and Transportation & **Infrastructure Development** Director, as appropriate.

7.5.16 Final Plat Approval Contingent on Execution of Guarantees
No Final Plat will be approved by the Planning Director, Water Resources Director, or Public-Works and Transportation & **Infrastructure Development** Director unless such plat is in compliance with Sec. 14.1.5.C and Secs. 7.5.12 through 7.5.15.

8.3.6.G Cross-Access and Driveway Construction Easement
1) ...
d) The location of the cross-access and driveway construction easement and connection shall be reviewed and approved by the Public-Works and Transportation & **Infrastructure Development** Director based on the following factors which include but are not limited to:
...
...



[SLIDE 21]

Amendment #6
Requested by Planning Staff

f) Additional driveway access to the thoroughfare shall be avoided, except in cases where additional access is reviewed and approved by the Public-Works and Transportation & **Infrastructure Development** Director upon finding that such access meets the following minimum distancing requirements between driveways along the thoroughfare:
(i) 250 feet may be allowed for right-in/right-out direct access in addition to cross-access;
(ii) 500 feet may be allowed for full movement to a minor thoroughfare for direct access in addition to cross-access, and/or
(iii) 1,000 feet may be allowed for full movement to a major thoroughfare for direct access in addition to cross-access.
The Public-Works and Transportation & **Infrastructure Development** Director may reduce the minimum spacing separation above by no more than 10% upon review of site constraints and a traffic impact analysis, when required.

2) Exceptions to the cross-access requirements may be granted by the Public-Works and Transportation & **Infrastructure Development** Director based on site-specific constraints that make it impractical to dedicate such cross-access and driveway construction easements and connections, including but not limited to:

13.16 Developer Agreements
...
13.16.1 the estimated cost of the road improvement, based on the approved bidding process and using the lowest bid approved by the Public-Works and Transportation & **Infrastructure Development** Director;



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Mayor Gilbert opened up Public Hearing for this item. With no one signed up, he then closed Public Hearing for this item.

Councilmember Gray said it appears they likely to vote per amendment on this, based on the conversation.

Councilmember Gantt suggested grouping amendments 1 and 3-6 together, and discussion amendment 2 separately.

Councilmember Gray said that would be a good way to resolve it.

A **motion** was made by **Councilmember Gray**, seconded by **Councilmember Mahaffey**, to approve Amendments 1, 3, 4, 5, and 6 to the Unified Development Ordinance.

VOTE: UNANIMOUS (5-0)

A **motion** was made by **Councilmember Zegerman** to deny Amendment 2 to the Unified Development Ordinance.

Without a second, **Councilmember Zegerman's** motion failed.

A **motion** was made by **Councilmember Gantt**, seconded by **Councilmember Gray**, to approve Amendment 2 to the Unified Development Ordinance.

VOTE: 3-2, Councilmember Mahaffey and Councilmember Zegerman dissenting

[OLD BUSINESS]

OB1 Report of Separation Agreement and Release

Mayor Gilbert said this item was one that he removed from the last meeting's agenda to ensure the entire elected body could be present. He added that this was a matter of transparency for him, as he will be voting tonight based on Senate Bill 9. He thanked Senator Adcock and Representative Paré for working together to provide this opportunity for him to cast this vote. He said there a lot of things he wants to say that he cannot say. But he wanted the community to know that transparency is important to him. He said as they move forward with these kinds of things, they need to make sure the community understands and sees everything that they do. He reiterated he wants to make sure that members of the community understand that transparency is important to him.

A **motion** was made by **Councilmember Gray**, seconded by **Mayor Pro Tempore Killingsworth**, to accept the Report of Separation Agreement and Release.

VOTE: 5-1, Mayor Gilbert dissenting

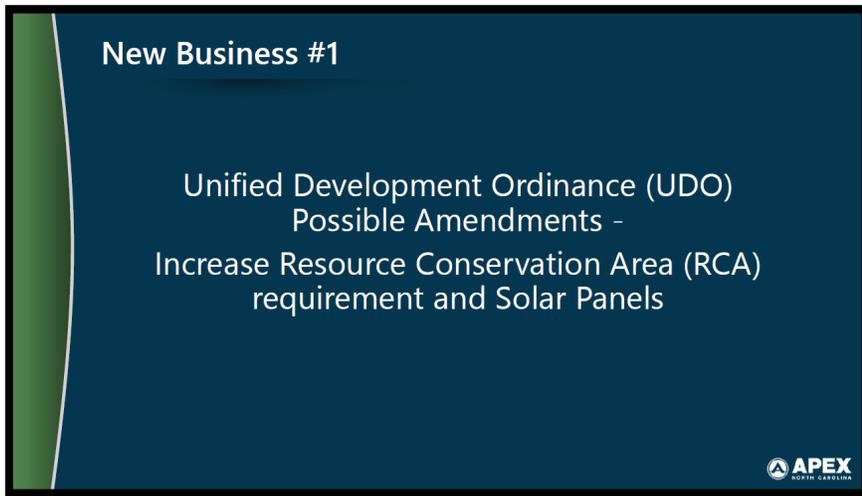
CLERK Note: North Carolina General Assembly Session Law No. 2023-112 authorizes the Apex Town Council and Mayor to make appointments and vote on certain matters regarding the appointees of the Town Manager, Town Attorney, and Town Clerk for the Town of Apex.

[NEW BUSINESS]

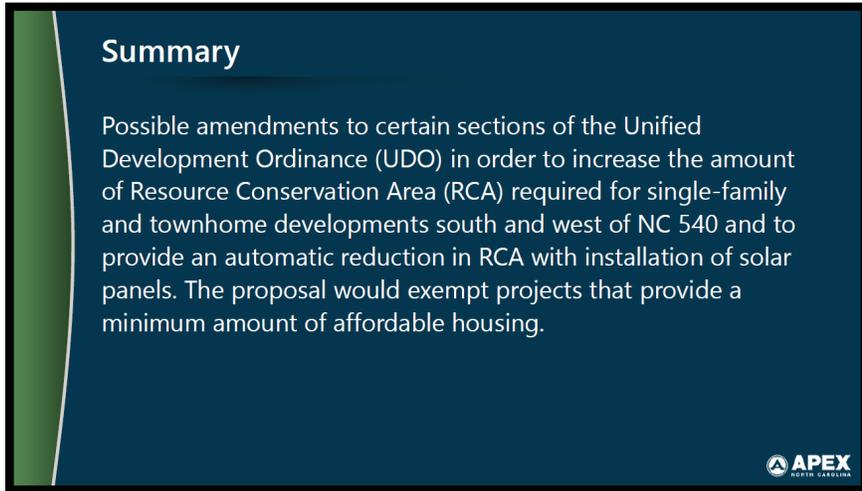
NB1 Unified Development Ordinance (UDO) Possible Amendments - Increase Resource Conservation Area (RCA) requirement and Solar Panels

Ms. Bunce gave the following presentation regarding possible UDO Amendments - Increase Resource Conservation Area (RCA) requirement and Solar Panels.

[SLIDE 22]



[SLIDE 23]



[SLIDE 24]

Proposed amendments:

- For single-family and townhome developments located south and west of NC 540, increase the required amount of buffers and RCA from 30% to 50%;
- Provide for an automatic 1% reduction in required RCA for every 1% of homes built with a solar photovoltaic system installed with a maximum reduction of 20%; and
- Provide an automatic exemption from the increase with the provision of a certain amount of affordable housing. The number of affordable units and affordability level will need to be determined.



[SLIDE 25]

Planning Committee

- Reviewed at the March 2, 2023 meeting. Committee was not unanimous in bringing this forward
- The following points were discussed:
 - Potential to increase cost of housing both by requiring the installation of solar and possibly reducing the lot yield for new development.
 - Does not reduce demand for housing and may lead to the desire to develop more land or a shift to apartments/condos.
 - May trigger further changes to state law.
 - Criteria for affordability exemption



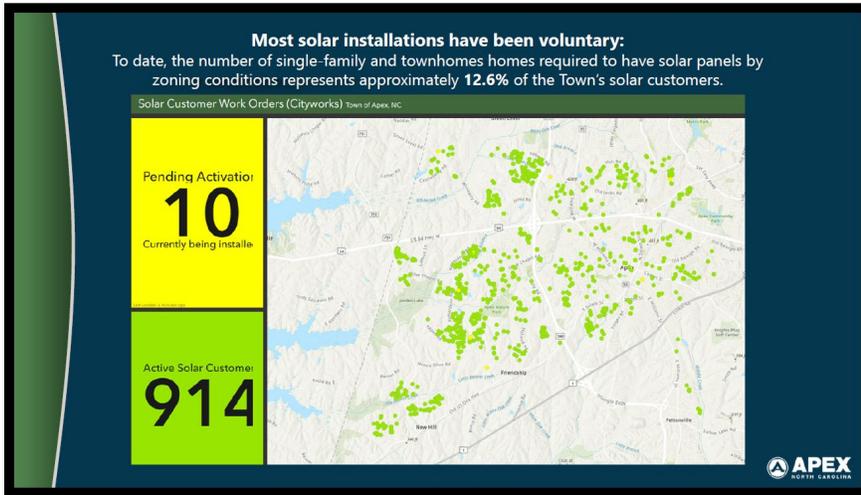
[SLIDE 26]

Affordability Exemption Options

- Discussion focused on using the same requirements from the Affordable Housing Policy that qualifies a development to get reduced fees which is at least 20% of the housing units being affordable to households earning no more than 60% of the Area Median Income (AMI) for the Raleigh, NC Metropolitan Statistical Area (MSA).
- Staff research has found other incentives/exemptions based on affordability include the following:
 - In order to utilize the Affordable Housing Zoning Incentive Policy to reduce RCA by up to 10%, a development must provide at least 5% of the units as affordable with the AMI being 100% for rental and up to 135% for ownership. The affordability period varies for rental, but must be at least 20 years for ownership.
 - The UDO exempts multi-family developments with rents that are affordable to a household with an annual income that is not greater than 80% of the AMI for the Raleigh, NC MSA from the requirement to provide EV-Ready and EV Charging Spaces.



[SLIDE 27]



Councilmember Mahaffey said this was a discussion, and nothing would be approved tonight. He said in the past few years, there have been multiple rezonings where solar panel requirements were proposed and discussed. He said the issue that came up was that there was no policy in place to specify what they were doing, which led to inconsistent requirements and inconsistent requests. He said there was no incentive involved, and there was pushback. He said he has felt for a few years that there was a sense of trying to codify this and put it in a policy, to settle the question of what happens when you offer these things with solar. He said he proposed raising the RCA requirement, which they can do by ordinance, and provide incentive for developers to provide solar panels, which are a desirable feature of their single-family rezonings. He said it would put it at a level where if a lot of solar panels were provided, it would all work out. He said the levels could be discussed. He said his proposal would raise the levels required by 20%, and provide up to a 20% incentive if there was a commitment to provide solar panels on homes. He said he brought it to the planning committee earlier the year, and that reception was mixed, with at least one person in the room favorable. He said with the split decision, he would like to hear the thoughts of his colleagues.

Councilmember Gantt said when he joined Town Council in 2017, he talked to the Town Attorney about codifying something related to solar panels in rezonings. He said he was told that could not be done because of state law. He said when he and Mayor Pro Tempore Killingsworth joined the Council, this area of Apex had an RCA requirement of 25% and mass grading penalty of 2%. He said this was likely what was the case when the developments came in that effected that canopy. He said now the RCA is at 30%, and the mass grading penalty is at 5% in this area. He said he saw Apex had the highest RCA in Wake County. He said his concern was regarding state law. He said this discussion had been before a supermajority was in the State House, and he has fears that this could be used as an example of further limiting municipalities in their ability to enforce tree preservation. He said he imagines a scenario where people talk to legislators and tell them what Apex is doing, which could potentially stop that and all of that across the state. He said he also didn't feel the 1:1 with trees was not appropriate, since trees do a lot more than just CO2 reduction. He said those reasons were why he did not agree with the amendment at the time.

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Councilmember Zegerman said he appreciates the objective. He said they have been successful working with developers with solar in some cases, but not in others. He said this is very similar to affordable housing, which they just adopted a policy regarding in order to codify things, whether than having projects 5 months down the road be asked for different things. He said something to guide those conversations is a valuable objective. He said it is not a secret that he wants to see more trees preserved during development, and he likes the idea of raising the RCA standard. He added he also likes the idea of some give-back if the developer is displaying the right types of behaviors in terms of other desirable impacts such as solar, EV charging, and affordable housing. He said they can discuss the numbers, but nothing was being voted on at this point. He said he was in favor of moving in this direction, but he does want to acknowledge Councilmember Gantt's concern about the General Assembly and their recent demonstrations of retaliating against specific municipalities, or putting things in the state budget such as "you cannot outlaw Styrofoam in your municipality." He said there is a risk of that, but eliminating something like this at the state level would invoke an outcry from the League of Municipalities and every municipality that has a vested interest in this. He said to his observation, the risk of that currently is very small. He said he isn't sure if that should be the sole factor in their decision to not go with it.

Mayor Pro Tempore Killingsworth said she wanted to acknowledge that this is trying to address the amount of mass grading happening and the amount of bare land that they end up with. She said she was quite sure she agreed with the solar versus tree canopy issue. She added with the affordable housing policy, there were things behind it such as a study that done and a plan put in place. She said there is some data on trees and preserving them, but they don't quite have that on solar. She said that doesn't mean it can't come in the form of some environmental initiative that they study in the future. She wondered if an increased penalty for mass grading would be useful to address this instead of doing 1:1 with solar and RCA. She said potentially a 10 or 15% mass grading penalty.

Councilmember Gantt said that would be coming to the Council at some point, in addition to this.

Councilmember Mahaffey asked if that was a split decision as well.

Councilmember Gantt said yes. He said that it would be a few months away.

Councilmember Mahaffey said he would be wanting to remove the penalty for mass grading, because he would want to remove mass grading altogether.

Councilmember Gray said he had been pondering some comments from public forum about whether they should decouple solar and RCA. He said that may be a solution set around him. He said it was a laudable goal, and one thing that they should never do as a Council is break the law. He said there are places they come close to the law, and some cases in which they should be a vanguard and take a leadership approach on things. He said he draws a hard line at not breaking the law. He said he does like the idea of increasing RCA, and the tree canopy study is a great data point on that. He said he would love to get the same data on solar. He said he likes encouraging solar, but there should be consideration given to decoupling RCA from solar.

Councilmember Mahaffey said the reason he was talking about them coupled, is because they have been advised that they cannot make a rule saying that developers have to do a certain amount of solar, that it has to be incentive-based. He said it's a fact that solar panels do not work

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very well in the shade. He said that is the context around creating an incentive, in order to comply with the laws and also advance the possibility of more solar.

Councilmember Gray said he thinks increasing solar is a great goal that they should pursue, and this was a great first step in looking at creating that incentive, and he isn't sure if there is something other than RCA that should be the incentive. He appreciates that this is a conversation that has been started and will be continuing. He said he can understand why this was split in planning committee, because this was not an easy decision.

Councilmember Zegerman said there are several things at play here, and they may need to look at this more holistically. He said if they eliminate mass grading entirely, should it be looked at in this context, and what should come in in its place. He said there is also the affordable housing policy, which was not in place when this conversation occurred. He wanted to make sure they were aligned with that policy with what gets proposed here. He said he is seeing that there is differing views on if solar vs. RCA is the right mechanism, and if it isn't solar, then what is. He said this may be a place to send it back to staff to research and gather further information.

Mayor Pro Tempore Killingsworth said this is the right conversation to have, but they are not quite there yet.

Councilmember Zegerman asked who was going to take the next action on this.

Mayor Pro Tempore Killingsworth asked what would happen if this went back to Planning Committee.

Councilmember Mahaffey asked if the rest of Council had direction on how they should proceed, rather than just sending it back as is since it was already split.

Mayor Pro Tempore Killingsworth said she would like to consider other options to decouple the solar and RCA issue. She added that she was interested in hearing Councilmember Mahaffey's mass grading proposal.

Councilmember Gray said he agrees with that. He said the mass grading proposal was something out of the box.

Councilmember Zegerman asked if they maintained more RCA, which would aid in stormwater retention, would there be a potential to decrease other stormwater requirements on developers.

Councilmember Mahaffey said to him, the focus was thinking about the goals of a rezoning, and what dials are available to them in order to achieve them. He said a system of rules where "this equals this", is better than ad-hoc negotiations. He said he acknowledges everybody agrees with that, and said there could be debate about the specifics and the values. He said people in the development community have said they don't like it when they have to have these ad-hoc discussions regarding these things. He said to his point about stormwater, it could potentially be done as part of it.

Ms. Bunce said stormwater rules are heavily regulated by the state, and they can't do whatever they want, such as how they used to plant around stormwater ponds, but now the state standards are for it to just be grass.

Councilmember Mahaffey said he thinks Councilmember Zegerman was referring for the stormwater event that developments would have to cover.

Councilmember Zegerman said yes, and there are cases where a shorter time period may suffice as a tradeoff.

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Councilmember Gantt said he's hearing a desire to have an environmental incentive document like they now have for affordable housing, and that there could be an issue as sometimes affordable housing and environmental demands conflict. He asked if they would like to ask the EAB and Planning Committee to discuss the framework of an environmental incentive policy.

Mayor Pro Tempore Killingsworth said yes. She would like them to potentially have a discussion and make some recommendations, then bring that back to Planning Committee for discussion.

Mayor Gilbert asked who was present at the Planning Committee Meetings, and if there are members of the development community there.

Ms. Bunce said they have had members of the development community show up, but generally it is staff and Planning Committee members. She said there was a commitment made at the last meeting to coordinate with the development community regarding mass grading standards and get their input before they take anything to Planning Board or Town Council. She said the goal would be to write an amendment that would reflect the concerns of Council, staff, and the development community.

Mayor Gilbert said he has heard from members of the development community, and they want to be involved in this work, but they want to have some structure around it as well.

Ms. Bunce said that makes sense, but in some cases a context-based solution is best. She said predictability was great, but sometimes it wouldn't lead to the best results. She said it's about finding the right balance between the two.

Mayor Pro Tempore Killingsworth said there are cases outside of the core area of Apex that the environmental incentives may be a better choice for people, whereas towards the center of Apex they want to look at more affordable options. She said there is some mix, but these areas would generally benefit from those priorities the most.

Councilmember Gantt asked if she was suggesting combining those two types of incentives into one document.

Mayor Pro Tempore Killingsworth said not necessarily.

Councilmember Zegerman said it was worth noting that the area this was proposed for is outside of the 540 boundary, so closer to Jordan Lake, where there is a deliberate reduction in density because of the watershed. He said the resource preservation aspect plays really well into that.

Councilmember Gantt said the reason the increase from 25% RCA to 30% happened was because of the desire to protect that part of town. He said this was west of 540.

Councilmember Mahaffey commented that RCA was reduced more toward the center of Apex to encourage greater density.

Mayor Pro Tempore Killingsworth said she appreciated them having this conversation and bringing it to Council, because sometimes more ideas can pop up.

Councilmember Zegerman asked if the next step was for this to go back to the Environmental Advisory Board (EAB).

Ms. Bunce said it had not been reviewed by the Environmental Advisory Board (EAB).

Councilmember Mahaffey said he thought the idea was for the EAB to review on a more holistic environmental incentive policy, rather than being specific to this, because of a seeming

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desire to separate the issue from solar. He said the idea would be to essentially explore having an environmental incentive policy.

Councilmember Gantt asked if the direction was to table this now and go the incentive route. He said that would slow things down imminently.

Mayor Pro Tempore Killingsworth said she thinks that's fair.

Councilmember Mahaffey said what he heard from Council was to not have this exact proposal but something like it. He said the question would be what else could they do more broadly, and maybe some good ideas could come out of additional discussion. He said he isn't opposed to getting other people's ideas on how to write the policy.

[UPDATES BY INTERIM TOWN MANAGER]

Interim Town Manager Purvis said the Party in the Peak was a wonderful event despite the weather. He wanted to recognize a non-exhaustive list of people who helped make the 150th Party in the Peak such a success: Kerrin Cox, Barbara Belicic, Will Brown, Stacie Galloway, Kendall Hart, Randall Haskins, Linda Graham Jones, Colleen Merays, Taylor Wray, David Wood, Lisa Raschke, Marie Neal, and Maren Ward. He said the 150th year party is still going on, and this Sunday there would be the first ever Love Local event in downtown. He said there are 56 small businesses across Apex that would be participating. He said last week was a very busy week with Work Sessions and Committee meeting, and thanked them for their direction. He said last Friday the extended leadership team of about 70-75 people had a strategic retreat, which included a large list of a year-in-review of what they accomplished. He said they are looking to share that along with the department's strategic plan at Council's Strategic Planning Retreat. He added Saturday he would be leaving for annual conference, and would be gone from Saturday through Wednesday. He said he and Demetria would be attending that, but Marty would be in town. He said he would be checking emails and can step out in an emergency. He said Capital Area Preservation recognized the town in their awards, for the town's interactive maps for the communities they had in and around Apex. He said Will Brown, Jenny Jessen, and Kerrin Cox worked to put this project together, and Capital Area Preservation was very impressed by the technical expertise of the project, which was all done in-house. He said this is a great way to look at the Past, Present, and Potential of Apex.

[CLOSED SESSION]

A **motion** was made by **Councilmember Mahaffey**, seconded by **Councilmember Gantt**, to enter into Closed Session for Closed Session items 1 and 2 pursuant to NCGS §143-318.11(a)(6).

VOTE: UNANIMOUS (5-0)

Council entered into closed session at 8:12 p.m.

CS1 Jacques K. Gilbert, Mayor

NCGS §143-318.11(a)(6):

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“To consider the qualifications, competence, performance, character, fitness, conditions of appointment, or conditions of initial employment of an individual public officer or employee or prospective public officer or employee; or to hear or investigate a complaint, charge, or grievance by or against an individual public officer or employee.”

CS2 Allen Coleman, Town Clerk

NCGS §143-318.11(a)(6):

“To consider the qualifications, competence, performance, character, fitness, conditions of appointment, or conditions of initial employment of an individual public officer or employee or prospective public officer or employee; or to hear or investigate a complaint, charge, or grievance by or against an individual public officer or employee.”

Council returned to open session at 11:12 p.m.

[ADJOURNEMENT]

Mayor Gilbert adjourned the meeting at 11:12 p.m.

Jacques K. Gilbert
Mayor

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

Submitted for approval by Town Clerk Allen Coleman and approved on October 10, 2023 (CN5).

APPROVED MINUTES
TOWN OF APEX
SPECIAL TOWN COUNCIL MEETING | APPOINTED PERSONNEL EVALUATIONS
TUESDAY, OCTOBER 3, 2023
4:30PM

The Apex Town Council met for a Special Meeting on Tuesday, October 3, 2023 at 4:30 pm in the Executive Conference Room on the 2nd Floor at Apex Town Hall, located at 73 Hunter Street in Apex, North Carolina.

The purpose of the Special Town Council meeting was to enter into closed session pursuant to North Carolina General Statutes NCGS § 143-318.11(a)(6) - quoted below:

NCGS §143-318.11(a)(6):

"To consider the qualifications, competence, performance, character, fitness, conditions of appointment, or conditions of initial employment of an individual public officer or employee or prospective public officer or employee; or to hear or investigate a complaint, charge, or grievance by or against an individual public officer or employee."

This meeting was open to the public.

[ATTENDANCE]

Elected Body

Mayor Jacques K. Gilbert (presiding)
Mayor Pro-Tempore Audra Killingsworth
Councilmember Brett Gantt
Councilmember Ed Gray
Councilmember Terry Mahaffey
Councilmember Arno Zegerman
Absent: None

Appointed Staff

Town Attorney Laurie Hohe
Town Clerk Allen Coleman

Mayor Gilbert called the meeting to order at 4:33 p.m. and stated the purpose of the special town council meeting was to enter into closed session pursuant to NCGS § 143-318.11(a)(6) and conducted annual performance reviews for the Town Attorney and the Town Clerk.

[CLOSED SESSION]

A **motion** was made by **Mayor Pro-Tempore Audra Killingsworth**, seconded by **Councilmember Arno Zegerman**, to enter into closed session pursuant to NCGS § 143-318.11(a)(3) and NCGS § 143-318.11(a)(6).

VOTE: 5-0 UNANIMOUS

Council moved into closed session at 4:33 p.m.

Mayor Gilbert left the meeting at 5:56 p.m.

Council returned to open session at 6:28 p.m.

[ADJOURNMENT]

Mayor Pro-Tempore Killingsworth announced the meeting adjourned at 6:28 p.m.

Jacques K. Gilbert
Mayor

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

Submitted for consideration and approval by Apex Town Clerk Allen Coleman.

Minutes approved on the 10th day of October 2023 (CN5).

APPROVED
TOWN OF APEX
REGULAR TOWN COUNCIL MEETING
TUESDAY, OCTOBER 10, 2023
6:00 PM

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

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

[ATTENDANCE]

Elected Body

- Mayor Jacques K. Gilbert (presiding)
- Mayor Pro Tempore Audra Killingsworth
- Councilmember Brett Gantt
- Councilmember Ed Gray
- Councilmember Arno Zegerman
- Councilmember Terry Mahaffey
- Absent: None

Town Staff

- Interim Town Manager Shawn Purvis
 - Assistant Town Manager Demetria John
 - Assistant Town Manager Marty Stone
 - Deputy Town Attorney Brian Meyer
 - Town Clerk Allen Coleman
 - Deputy Town Clerk Ashley Gentry
- All other staff members will be identified appropriately below

[COMMENCEMENT]

[SLIDE 1]



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1
2 **Mayor Gilbert** called the meeting to order, and said he was glad everyone was here. He then
3 welcomed Sameer Ponshe and others with the Apex Chapter of Hindu Swayamsevak Sangh, who
4 presented the Mayor and Council with Rakhis.

5 **Mr. Ponshe** said the Rakhis represented well-wishes to the person the Rakhis is tied around
6 from the person who ties the bracelet. He said they were fortunate to be tying the Rakhis to the
7 Mayor and Council, and they will be working to continue their community involvement with their
8 support.

9 **Mayor Gilbert** then led those in attendance in a recitation of the Pledge of Allegiance.

10
11
12 **[CONSENT AGENDA]**

13
14 A **motion** was made by **Councilmember Zegerman**, seconded by **Mayor Pro Tempore**
15 **Killingsworth**, to approve the Consent Agenda as presented.

16
17 **VOTE: UNANIMOUS (5-0)**

18
19 **CN1 2023 Revised Town Council Meeting Calendar (REF: OTHER-2023-098)**

20 Council voted to amend the 2023 Town Council Meeting Calendar.

21 **CN2 Budget Ordinance Amendment No. 10 - Position Reclassifications (Building Inspections**
22 **and Permitting and Community Development and Neighborhood Connections) (REF:**
23 **ORD-2023-105)**

24 Council voted to adopt Budget Ordinance Amendment No.10 for position reclassifications in the
25 Building Inspections and Permitting Department and the Community Development and
26 Neighborhood Connections Department.

27 **CN3 Community Special Event Policy (REF: PLCY-2023-010)**

28 Council voted to approve Draft No. 25 of the Community Special Event Policy.

29 **CN4 Construction Contract Award - North American Pipeline Management Inc. - Sewer**
30 **Rehabilitation Project - Lawrence Crossing Sewer Outfall Replacement and Capital**
31 **Project Ordinance Amendment No. 2024-7 (REF: CONT-2023-291 and ORD-2023-106)**

32 Council voted to award the construction contract with North American Pipeline Management, Inc., for
33 Lawrence Crossing Sewer Outfall Placement Project, and adopt Capital Project Ordinance
34 Amendment No. 2024-7 and to authorize the Interim Town Manager, or their designee, to execute the
35 contract on behalf of the Town.

36 **CN5 Council Meeting Minutes - Various**

37 Council voted to approve, as submitted or amended, Meeting Minutes from the following meeting:
38 September 19, 2023 - Work Session Meeting Minutes
39 September 26, 2023 - Regular Town Council Meeting Minutes
40 October 3, 2023 - Special Town Council Meeting Minutes - Appointed Personnel Evaluations

41 **CN6 Encroachment Agreement - 1822 Porch Swing Way, Lot 10 (REF: CONT-2023-292)**

42 Council voted to approve an encroachment agreement between the Town of Apex and property
43 owner Lennar Carolinas, LLC to install a driveway that will encroach 28 square feet (SF) onto the

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1 Public Drainage Easement and authorize the Interim Town Manager, or their designee, to execute
2 on behalf of the Town

3 **CN7 Encroachment Agreement - 1842 Porch Swing Way, Lot 18 (REF: CONT-2023-293)**

4 Council voted to approve an encroachment agreement between the Town of Apex and property
5 owner Lennar Carolinas, LLC to install a driveway that will encroach 18 square feet (SF) onto the
6 Public Drainage Easement and authorize the Interim Town Manager, or their designee, to execute
7 on behalf of the Town.

8 **CN8 Human Resources (HR) Policy Updates - Town's Paid Parental Leave, Paid Caregiver
9 Leave, and Tuition Reimbursement (REF: PLCY-2023-011)**

10 Council voted to approve updates to the Town's Paid Parental Leave, Paid Caregiver Leave, and
11 Tuition Reimbursement personnel policies.

12 **CN9 Tax Report - August 2023 (REF: OTHER-2023-100)**

13 Council voted to approve the Wake County Tax Administration Tax Report for the Town of Apex
14 dated September 10, 2023.

15 **CN10 Unified Development Ordinance (UDO) Amendments - Statement - Sept. 2023 (REF:
16 OTHER-2023-101 and OTHER-2023-102)**

17 Council voted to approve the Statement(s) of the Apex Town Council pursuant to G.S. 160D-605(a)
18 addressing action on the Unified Development Ordinance (UDO) Amendments (Items 1 & 3-6) and
19 (Item 2) on September 26, 2023.

20
21 **[PRESENTATIONS]**

22
23 **PR1 Proclamation - Fire Prevention Week - October 8, 2023 through October 14, 2023
24 (REF: PRO-2023-030)**

25 **Mayor Gilbert**, along with the rest of Council, read the Fire Prevention Week 2023
26 proclamation in unity.

27 **Fire Chief Tim Herman**, and other members of the Apex Fire Department, were present to
28 receive the proclamation.

29
30 **PR2 ADDED - Proclamation - Down Syndrome Awareness Month - October 2023 (REF: PRO-
31 2023-031)**

32 **Mayor Gilbert**, along with the rest of Town Council, read the Down Syndrome Awareness
33 Month 2023 proclamation in unity.

34 **Cheryl Byrne** and several Apex community members, accepted the proclamation.

35 **Ms. Byrne** thanked the Mayor, Town Council, and Town Clerk Coleman, as well as thanks to
36 people she will be meeting in the future. She said their good are good days and bad days in taking
37 care of children, but today is a great day for her and all of them. She said she was very happy she
38 moved to Apex, and that it is a great place for her family and for her child with special needs.

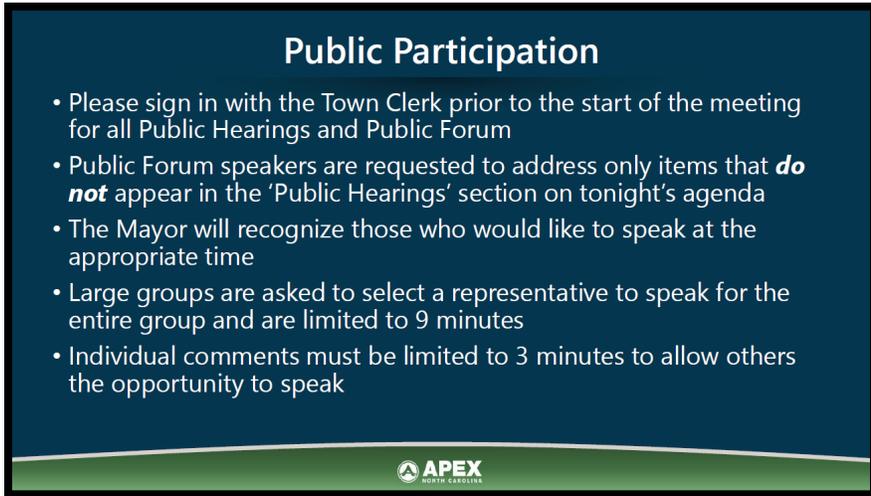
39
40 **[REGULAR MEETING AGENDA]**

41
42 A **motion** was made by **Councilmember Gantt**, seconded by **Councilmember Gray**, to
43 approve the Regular Meeting Agenda as presented.

VOTE: UNANIMOUS (5-0)

[PUBLIC FORUM] (NOTE: To view Public Forum and Public Hearing sign in sheets, please see OTHER-2023-103)

[SLIDE 2]



First to speak was **Martha Geer** of 3729 Bosco Road:

"Good evening and thank you for allowing me to speak. Mr. Mahaffey, one of your signs is posted at the end of Bosco Road right now. There are none of your signs a couple miles to the south or a couple miles to the north. Some think it's a "thumb in your nose" move, I prefer it to be "I hear you, and you can believe in my platform, I'm extending trust, transparency, and trees to Apex's planning jurisdiction." Trust, on your platform you say, citizens need advocates. Is that including us? With DOT and Duke Energy, some people think it does. Transparency, are you going to be open and honest with us about what the plans are and why for the force main project and basically anything that happens in the planning jurisdiction. Trees, are you going to do what you can to protect our trees too? And I want to talk about Rick and Jeannie Stone. The current force main plan is to take their trees, that shield them from US 1. Rick is a retired detective with the Wake County Sheriff's Department, Drug Division, DEA, he put his life on the line, literally. With the exception of perhaps the Mayor, none of you did. This is their retirement farm. You're stripping out their trees without considering other options, some of you are not considering other options. So that gets me to politics. Rick and Jeannie, bless them, are die-hard Democrats. You all probably think there aren't any political consequences to the force main plan, and the things that are done in the planning jurisdiction, because you're elected in Apex, that's a Democrat stronghold, you're naïve. Mr. Mahaffey, I think you got elected last time by under 4,000 votes. I got elected in a horrible year for Democrats by more than a million votes. I was the only Democrat to win statewide, I was the only Democrat to win Wake County, among other counties. And what happened that year is the public decided Democrats don't care about them, so they voted Republican, including Democrats. They went right down the line on the Republican side, they crossed over for me. I won't bore you with why they believed in me, but I will say that 8 years later, in another horrible year for Democrats, I won by 20 points. And part of it was because I married a

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1 dynamite political strategist, but I also learned that people, what they told me, is that people cared
2 what I stood for and the fact that I did what I stood for. So for you, all of you, in 2024 and 2025, people
3 may not remember the names of any of you, but they will remember that you were Democrats, and
4 you didn't care about them outside of the Town of Apex, and they're going to spread the word. So the
5 consequences are the people that will get especially burned politically because of what you do will
6 be the people running in 2024. Like legislators, how many votes will you deliver to these folks to make
7 up for the votes that you're going to cost them? They're going to need those votes, votes they had two
8 years ago, it's real. I've seen it. You haven't. All you have to do is what Mr. Mahaffey's platform says,
9 Mr. Mahaffey if you'll do that and if everybody else here does that, then we may be okay. Thank you."

10
11 **Mayor Gilbert** thanked Ms. Geer for her comments.

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

14
15 "So this is the development plan that's on Apex's website, it's even more sprawl coming in the heat
16 map. And why is that important to my topic tonight, because we love where we live, and this impacts
17 where we live. This is the beauty of Friendship and New Hill communities. So I was interested in
18 transportation and accidents and things that kill or hurt or damage people's property and cause them
19 physical or economic harm. So I thought, we're a densely developing area, so why don't I compare
20 our traffic information to that of the State of New Jersey. Okay, so that's a densely populated state.
21 The whole state of New Jersey is 9.2 million people, this Town of Apex is 71,000. Now square miles,
22 we're less than a percent of New Jersey, population we're less than a percent of New Jersey, one
23 percent. However accidents, 291% higher than the entire state of New Jersey. That's a very disturbing,
24 alarming statistic, because it continues to go up. The whole state of New Jersey has 650 accidents,
25 and there 1,894, I mean you can do the math on the statistics all you want, but the more and more cars
26 that come in that corridor, the more than number is going to jack up. So what the heck are you guys
27 going to do about it? Because inviting more development is not going to help the problem, it's going
28 to make conditions here dangerous. Not only that, the tree canopy that was mentioned. The
29 unincorporated area gave you your good numbers, okay. So you forget about that when you do the
30 report, oh 540 and all this. No, we were the ones that gave you the good healthy tree numbers, and
31 by the way you can't just plant trees anywhere you want, because they won't grow healthy. The ones
32 you should be doing is saving the ones we have today. And then lastly, so this was an accident on
33 Bosco Road, just a couple of weeks ago, 3-car crash, okay, this shouldn't be happening. Because
34 people are flooring it all over the place, and you know the town's Holly Spring, Chatham I see them
35 you know there's just log trucks going all over the highways which is just saddening to me. Those
36 developments are happening in Chatham, so it's getting squeezed, and squeezed, and squeezed.
37 Okay and vehicles are the only ways to commute in this area, there is nothing else. Thank you."

38
39 **Mayor Gilbert** thanked Ms. Cozzalino for her comments.

40
41 Next to speak was **Elizabeth Stitt** of 3113 Friendship Road:

42
43 "Mayor, Town Council, good evening. At the last Town Council meeting there was discussion
44 about increasing the Resource Conservation Area to 50% with the opportunity for developers to

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1 reduce that requirement by offering solar. And in that conversation, there was a statement made that
2 you can't have solar with trees. I guess presumably because the trees are going to throw shade on
3 solar panels on people's roofs. So I am here to debunk that myth. It's really important that you know
4 that we can have trees in the same place where there are solar panels. Case in point, if you look at
5 pages 8-10 of the Apex Design and Development Manual put together, you will see there are 66
6 species of trees that max out at a mature height of 30 feet. So what does that mean? So if you are a 1-
7 story house with the average roof line at 15 feet with solar panels, there is 15 trees on there that you
8 could plant that would never throw shade on the roof. If you are a 2-story house with a roof line of 25
9 feet, there are 65 trees on this list that would not throw shade on your house. And if you're a 3-story
10 townhouse, which we're building a lot of in town, none of these trees will grow tall enough to hit solar
11 panels on top. So, when we talk about good public policy, it's important to understand that tree
12 strategy and solar strategy both can occur in the same place, and so while we definitely need to
13 increase the RCA, it should not be coupled with solar. It should be paired with solar to say you need
14 to do both if you're going to go down that road, and never to say we can't have trees with solar. When
15 you say that, you're repeating a myth that the arbor society, a lot of us tree lovers, we all just kind of
16 cringe at it because it's like do you really understand your trees. If you do, you know there is plenty of
17 options for shorter trees. Yes, they're never going to be telephone poles, but they're equally valuable.
18 And the one thing that I really love about what the staff has done on this report, is if you look on the
19 far right, it talks about late flowers, early flowers, bird friendly, pollinator friendly, all the things that it
20 brings to our communities in addition to providing some shade. So as you drive through some of
21 these neighborhoods, I know you may not have approved all of these original plans, but when you're
22 looking at planting trees, understand we can do this in addition to solar. Thank you.

23
24 **Mayor Gilbert** thanked Ms. Stitt for her comments. With no further sign ups, he closed Public
25 Forums and moved the meeting on to Public Hearings.

[PUBLIC HEARING]

PH1 Thoroughfare and Collector Street Plan Map Amendment - Schieffelin Road Upgrade

30
31 **Jenna Shouse**, Senior Long-Range Planner, gave the following presentation regarding the
32 Thoroughfare and Collector Street Plan Amendment - Schieffelin Road Upgrade.

[SLIDE 3]



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[SLIDE 4]



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5 **Councilmember Mahaffey** said he was surprised this was a Minor Collector before, since
6 there was a call for a grade-separated crossing at this intersection.

7 **Ms. Shouse** said that is what made it jump out, and it made sense to extend bike lanes as
8 well.

9 **Councilmember Zegerman** asked if there were no plans for the grade-separated crossing
10 there yet.

11 **Ms. Shouse** said that was correct, there was no funded project.

12 **Councilmember Gantt** said if that ever happens, there would likely be less cars than there
13 are today because the Peakway would take some of the traffic. He asked if the major collector would
14 be undone if the Schieffelin/US 1 overpass never happens.

15 **Ms. Shouse** said that was a good question. She said it would be needed if they wanted bike
16 lanes and didn't want residential driveways. She said they are planning ahead in case the overpass is
17 funded. She said they would have to see how things play out to determine if they would revert it in
18 that case.

19 **Councilmember Mahaffey** wanted to clarify that none of this was currently funded.

20 **Ms. Shouse** said that was correct.

APPROVED

1 **Councilmember Gantt** said the Peakway would likely happen decades before the
2 intersection happened.

3 **Councilmember Mahaffey** said DOT could eventually build it.

4 **Councilmember Gantt** said maybe, but he was skeptical.

5 **Councilmember Mahaffey** said maybe if they had a project for US 1.
6

7 **Mayor Gilbert** opened public hearing for this item. With no one signed up, he closed public
8 hearing and moved discussion back to Council.
9

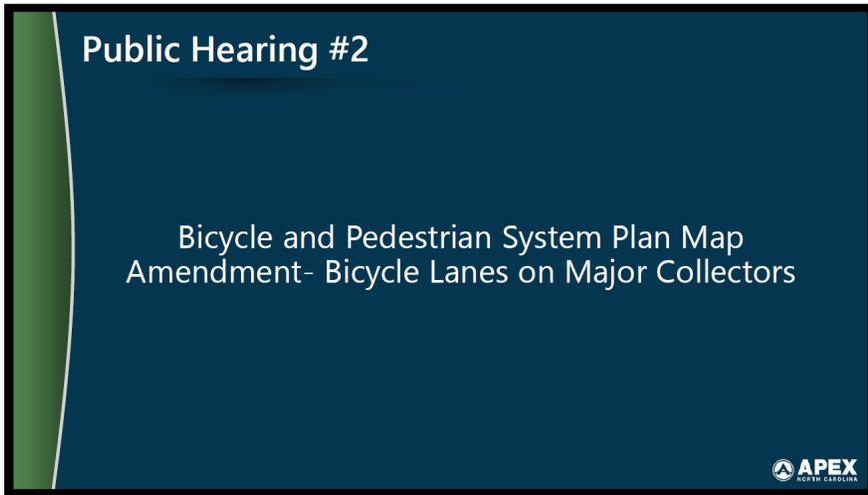
10 A **motion** was made by **Mayor Pro Tempore Killingsworth**, seconded by **Councilmember**
11 **Gantt**, to approve the Thoroughfare and Collector Street Plan Map Amendment - Schieffelin Road
12 Upgrade.
13

14 **VOTE: UNANIMOUS (5-0)**
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18 **PH2 Bicycle and Pedestrian System Plan Map Amendment - Bicycle Lanes on Major**
19 **Collectors**

20 **Ms. Shouse** gave the following presentation regarding the Bicycle and Pedestrian System
21 Plan Map Amendment - Bicycle Lanes on Major Collectors.

22 **[SLIDE 5]**



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1 [SLIDE 6]

Background

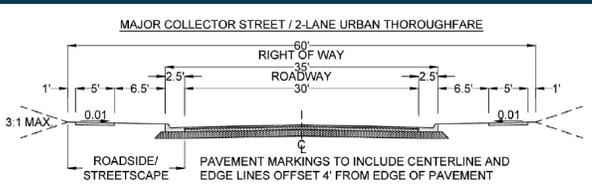
- Major Collectors on the adopted Transportation Plan were reviewed for the addition of bicycle lanes or shared lane markings to expand the Town's bicycle network
- Table 1 in the legal ad and staff report includes a list of the proposed amendments and corresponds with the exhibit of proposed amendments



2
3 [SLIDE 7]

Initial considerations

- Current Major Collector standard specification can accommodate 4' bicycle lanes without additional widening or right-of-way
- Proposed amendments guide how existing and future roadways already on the Transportation Plan would be striped and signed to accommodate cyclists



4
5 [SLIDE 8]

Review of Major Collectors for bicycle lanes

- The following elements were considered:
 - Roadway status
 - Roadway width
 - Presence of curb and gutter or shoulder and ditch section
 - Presence of striping per the current Major Collector standard
 - Planned or existing side path OR parallel planned or existing bicycle facilities
 - Bicycle or pedestrian crash
 - Presence of on-street parking
 - Land uses
 - Proposed and approved development plans
 - Proposed and approved rezoning cases
 - Existing or future bus routes



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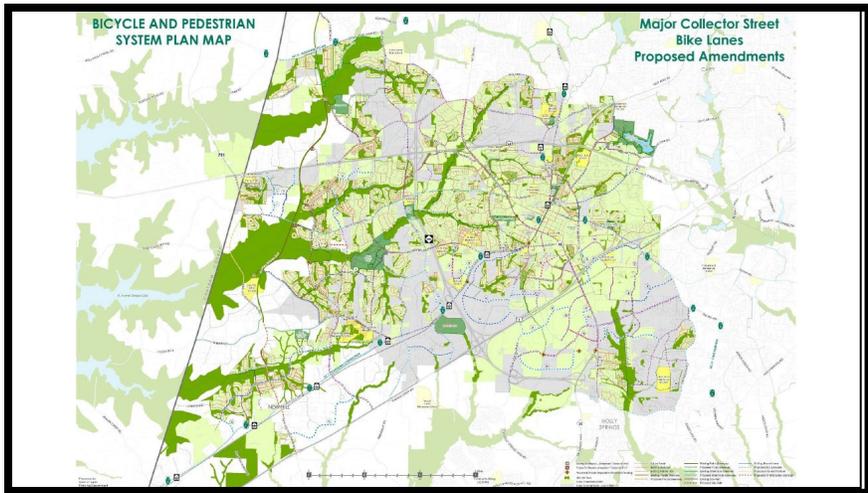
1 [SLIDE 9]

Recommendations

- Planning Board: Approve amendments as shown with the exception of Map IDs 11-13 in response to public comment
- Staff recommendation: Concur with Planning Board's recommendation
- Public comment to remove Transportation Plan amendments in the Western Big Branch study area until the small area plan is complete
- Map IDs 11-13
 - 11: Bosco Road collector from New Hill Holleman Road to Richardson Road extension
 - 12: Future collector street from Friendship Road to Pleasant Plains Road
 - 13: Pleasant Plains Road from Old US 1 to US-4 **Boyette Street**



2
3 [SLIDE 10]



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6 **Councilmember Gantt** asked if the public comment was opposing the amendments, or
7 asking to delay until the study was done.

8 **Ms. Shouse** said the person who gave the public comments was going to speak tonight, but
9 her understanding was that the recommendation was to hold off on these, after a public meeting
10 with a draft plan early next year. She said it didn't seem like the recommendation was to remove
11 them, but rather to look at them holistically as part of the small area plan.

12 **Councilmember Gantt** asked if there was a risk to not getting bike lanes by delaying this.

13 **Ms. Shouse** said if there was a development proposed along these roadways in the
14 meantime, the town could require bicycle lanes, but there could be a transportation plan
15 amendment associated with that development, but it would be a request at that point.

16 **Planning Director Dianne Khin** said it was discussed at Planning Board about making it a
17 zoning condition. She said they could ask for that, and if they didn't want to do it then staff would not
18 support it. She said there isn't anything out there at this time because of the lack of sewer.

19 **Councilmember Gantt** asked if planning would suggest developers not to submit anything
20 until the big branch study was done.

APPROVED

1 **Director Khin** said there are a few people who want to submit and may submit before that
2 time, but they are aware and have attended the open houses.

3 **Councilmember Zegerman** asked if the proposal as it stands was just striping off the four-
4 foot lanes. He asked if on major collector if it would just be striping used to create a bike lane.

5 **Ms. Shouse** said the plan is to add bike lanes along all those roadways. She said there was
6 no currently funded project to expand the roadway to a major collector standard.

7 **Councilmember Zegerman** asked if there was any consideration given to physically
8 separating bike lanes from motorists.

9 **Ms. Shouse** said with current standard it would be a tight fit, but they have discussed along
10 thoroughfares having a buffer or some separation. She said they could look at that more closely in
11 design process, but with the current collector street design, it would only be striping.

12 **Councilmember Zegerman** said he was referring to more new roads having the physical
13 separation, and that is very common in other places in the world. He said that could be a safer
14 solution overall. He said it may widen the road, but they may could do some tree separations in
15 those areas as well.

16 **Councilmember Mahaffey** said any physical separation was good. He said the proposal is to
17 update the Major Collector Street design, and asked if that was something that they could do.

18 **Chris Johnson, Director of Transportation and Infrastructure Development**, said major
19 collectors here would typically be speed limits of 25-35 miles per hour maximum, and lots of times
20 they do separated facilities on major thoroughfares, and the industry standard for the speed limit of
21 these collectors would be the limit of where striped bike lanes would still be.

22 **Councilmember Gantt** asked to clarify if there were existing or planned side paths on many
23 of the town's thoroughfares.

24 **Ms. Shouse** said that was correct.

25 **Councilmember Zegerman** said he thinks there is some middle ground between a major
26 collector and a thoroughfare. He said with new roads, they could start separating different modes of
27 traffic. He said he was for this amendment, he is just asking for more with future roadway designs.

28 **Councilmember Mahaffey** said this is in response to something they asked staff to look at a
29 month ago, and they already put this together and are bringing it to them.

30 **Ms. Shouse** said they started it earlier this summer.

31 **Councilmember Mahaffey** asked if they should be asking for an initial right of way
32 dedication for minor collectors, in case they found it necessary in the future to add bike lanes.

33 **Ms. Shouse** said the right of way requirement was the same for major and minor collectors,
34 both 60 feet, the roadway width is what differs.

35 **Councilmember Mahaffey** said they would probably be upset if they increased the
36 pavement width, because there would be no difference in a minor and major collector then. He
37 asked if the town got right of way on a minor collector, if they could come in and add pavement as a
38 project.

39 **Councilmember Zegerman** said for major collectors the town has sidewalks on both sides,
40 so for a minor collector there could still be a separated bike lane, with both directions on one side of
41 the road.

42 **Councilmember Mahaffey** said he thought there were minor collectors on both sides of the
43 road as well.

APPROVED

1 **Ms. Shouse** said they do, and it's a narrower utility strip on the major collector, since it is a
2 wider roadway.

3 **Councilmember Mahaffey** asked what it would look like to implement some of these things.
4 He said they were likely relatively cheap compared to some other projects. He asked if there was a
5 plan to identify the highest usage areas for bicyclists. He also asked if they didn't do it proactively,
6 would the next time be when the road was re-paved in the next 15-20 years.

7 **Councilmember Gantt** said there was a South Salem bike way on the CIP that costs more
8 than he thinks it should.

9 **Councilmember Mahaffey** said he doesn't understand that either. He said some of these
10 were just re-striping and it wouldn't be a big deal.

11 **Director Johnson** said they could do this through a resurfacing program if it would be safe
12 to add them, as some neighborhoods with major collectors already have the edge lines in place,
13 they just do not have the bicycle symbols. He said the minor collector streets are narrower, and in
14 most of those situations there would either be no bike accommodations, or they would just be
15 sharing the road. He said all of these roads were 25 miles-per-hour.

16 **Councilmember Mahaffey** said he thinks it should always be the town's policy to do bike
17 lanes when they re-pave, but he would also like to have some budget to identify some of the high-
18 traffic areas and go out and re-stripe them early without having to wait for re-paving.

19 **Ms. Shouse** said they noted in their review that was something they could ask developers for,
20 and the next step would be to ask for funding to stripe road locations that are ready for those
21 markings.

22 **Councilmember Mahaffey** said he would give her the funding through Council.

23 **Councilmember Gantt** asked why the cost of the South Salem Bikeway was so expensive.

24 **Interim Town Manager Purvis** said widening would have to occur with that project, and it
25 was a bit more complicated because of the railroad and other factors.

26 **Councilmember Zegerman** asked if it would be a new path or just striping.

27 **Interim Town Manager Purvis** said he was not sure if that was part of the bike plan.

28 **Ms. Shouse** said there isn't a design for the bike lane yet, but she imagines that it will be
29 buffered in the higher speed areas.

30 **Director Johnson** said he was not sure if they would be buffered, but there are plans for
31 them to be on-street. He said some areas may be side pathed.

32 **Councilmember Zegerman** asked if there were plans to extend the multi-use path from
33 Depot 499.

34 **Ms. Shouse** said not on the north because of 540, but there are plans for connections on the
35 south side. She said bike lanes would be along the entire corridor.

36 **Councilmember Gantt** said it would be striped without a connection, which would be
37 annoying. He said if they had already done this the developers would have done that one.

38 **Director Johnson** said that would require DOT approval as a state road, and they typically
39 don't like marking roads unless there are connections.

40
41 **Mayor Gilbert** opened up Public Hearing for this item.

42
43 First to speak was **Elizabeth Stitt** of 3113 Friendship Road:
44

APPROVED

1 "So I was the one that made the public comment yesterday. You know, all of this happened really
2 fast. I signed up for public notices and all. I don't get them all of the time for various reasons,
3 sometimes it goes spam folder, and I declassify them to go back etc. So, if you look at this particular
4 case, it shows up on Planning Board agenda on Wednesday of last week for a vote on Monday, and
5 then it showed up on the Town Council agenda technically Friday for tonight. So, it went for a vote in
6 front of Planning Board last night, and then a vote tonight for a vote in front of the Town Council, and
7 I ask for these three roads to be pulled out partly because we have the study area being done, and
8 most of my neighbors, I did a quick telephone call to various ones and they're like, they were
9 surprised, because their assumption was we have the open houses, we saw the plans, we thought
10 there wouldn't be any changes to the plans in our area until something was brought back, so some
11 people were not paying attention. And so, having the little extra caution of making sure that we don't
12 have the wrong impression, I asked if they could be removed, it's not necessarily an objection to it,
13 but that's what people were thinking the open houses were, saying hey here's where we're starting,
14 we're going to go back in a couple months and we're all going to have this conversation. And so that
15 was the overall reason for the ask. And I bring up the Wednesday to Tuesday, there is a perception,
16 there is a perception that anything that goes from Wednesday to Tuesday, in less than a week, in
17 front of two boards for a vote, that it's getting rammed through. Now this is low risk, if it had been
18 rammed, okay, nobody is going to be really upset. But it's case in point of where people get
19 frustrated, they're like they don't even want us to get involved, they set up the process so quick and
20 so tight there's no way to get involved. And that's one of those things I've been trying to tell my
21 community, is you have to get involved, but when it's this tight, it just kills people's morale. So I put
22 my to come and all that tonight, and I'm very grateful that Dianne and Planning Board and
23 everybody pulled it off and understood that. But when it's this tight, we need more time for the
24 public to respond, I happen to work from home, I have a global job which means sometimes I work
25 at night, because my teams are global, so I have flex time and I was able to break free yesterday and
26 show up here and talk for my community, because a lot of my neighbors can't. But we need more
27 time. Even for me, a week is difficult, and I can't just totally clear my schedule and make my life all
28 about Town Council and Planning Board meetings. So, if there's a way we can add a little more time
29 to the process it would be helpful, thank you."

30
31 **Mayor Gilbert** thanked Ms. Stitt for her comments. He then moved discussion back to
32 Council.

33
34 A **motion** was made by **Councilmember Zegerman**, seconded by **Councilmember**
35 **Mahaffey**, to approve the Bicycle and Pedestrian System Plan Map Amendment for Bicycle Lanes on
36 Major Collectors with the removal of Map IDs 11-13.

37
38 **Councilmember Gantt** said it was worth noting they don't do back-to-backs for Public
39 Hearings because they can be controversial, but he supposes this one was not. He said there isn't
40 much of an anti-bike movement in Apex. He added they don't typically do the process this way, but
41 this one was something more non-controversial.

42
43 **VOTE: UNANIMOUS (5-0)**

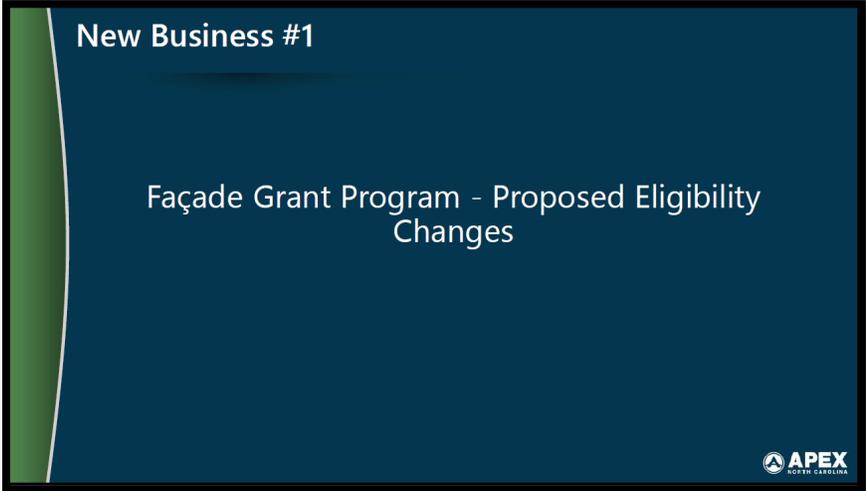
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1 **[NEW BUSINESS]**

2
3 **NB1 Façade Grant Program - Proposed Eligibility Changes**

4 **Planning Director Dianne Khin** gave the following presentation regarding Façade Grant
5 Program - Proposed Eligibility Changes.

6 **[SLIDE 11]**

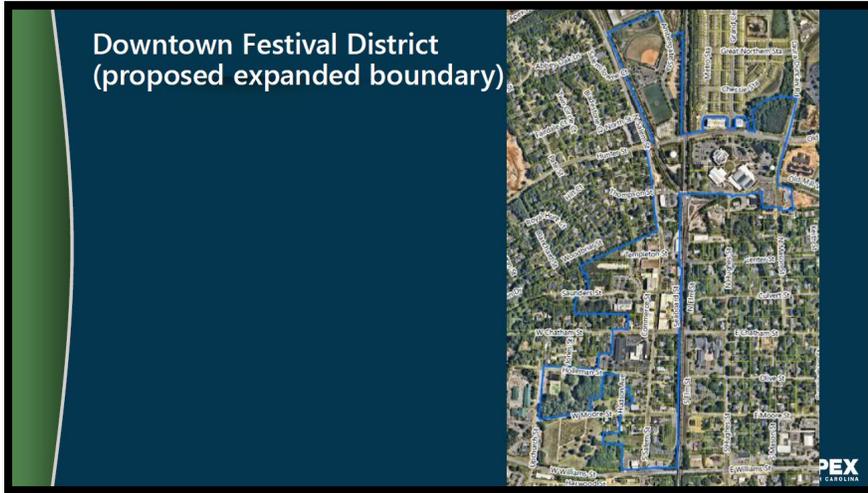


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8 **[SLIDE 12]**



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1 [SLIDE 13]



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4 **Councilmember Mahaffey** asked if the proposed expanded boundary is the existing
5 downtown festival district.

6 **Director Khin** said yes.

7 **Councilmember Mahaffey** asked if she has gotten any feedback from business owners
8 about this.

9 **Director Khin** said they someone on Chatham Street that will applying as soon as this is
10 approved. In the past, the town had been asked about the Tap Station. She said properties need to
11 be there for three years to request.

12 **Councilmember Mahaffey** said there was concern expressed that Apex Baptist is in this
13 area, but there are two other churches nearby that are just outside of the boundary.

14 **Director Khin** said they can specify that churches are not eligible. She said these are
15 supposed to be businesses.

16 **Councilmember Mahaffey** asked if a church would not qualify.

17 **Director Khin** said it's an economic development project, and they can clarify that it's only
18 businesses that are eligible.

19 **Councilmember Mahaffey** said he wanted to express the feedback that only one church was
20 in this area.

21 **Director Khin** said that was not the intent.

22 **Councilmember Zegerman** asked how many new businesses would be eligible, and how
23 many of those are in historical structures. He said these boundaries include brand new buildings,
24 and he doesn't think this fund was meant to address that. He said he feels like they are
25 overcorrecting a bit.

26 **Director Khin** said they have to be there for three years before they can request funds. She
27 said there is already one business in the Central Business District that will be requesting funds when
28 they are eligible. She added that the other issue is that it has to be a very defined boundary. She said
29 they don't have anything in between.

30 **Councilmember Zegerman** asked if they could make the program more attractive by
31 covering more of the cost and keeping it in the area they want to target, like the downtown areas

APPROVED

1 and some of the Chatham properties. He said expanding to this range and including brand new
2 properties was not the intent of this plan.

3 **Councilmember Gantt** asked if the intent was to make downtown look more appealing, not
4 just for older buildings.

5 **Director Khin** said it is for any buildings.

6 **Councilmember Mahaffey** said they could debate percentages, but it is important for
7 property owners to have some skin in the game.

8 **Councilmember Zegerman** said he agrees.

9 **Councilmember Mahaffey** said they want to invest in the downtown appearance to enhance
10 the economy of the town. He said the money is not getting out there.

11 **Councilmember Gantt** said this was a first step to expand the area, and if the utilization was
12 still too low, they could look at other ways to address it.

13 **Councilmember Mahaffey** said they may find out they get too many applications from
14 expanding it. He asked if there was a process in place to determine where the funds would go if
15 there were too many applications.

16 **Director Khin** said it's first come first served, but so far this year there have been zero
17 applicants.

18 **Councilmember Mahaffey** asked how they rated them.

19 **Director Khin** said they don't, they review them for compliance, and they get turned down if
20 they don't meet all the standards.

21 **Mayor Gilbert** asked how far south of 55 this overlaid.

22 **Director Khin** said it ends at West Williams Street.

23 **Mayor Gilbert** said there are businesses south of 55 that could really use this grant. He asked
24 why those wouldn't be included.

25 **Director Khin** said they would have to do a completely different district.

26 **Councilmember Zegerman** said this boundary was already recognized as a district so it is
27 easier to transport over.

28 **Mayor Gilbert** said he understands that, but they have an opportunity to bring more people
29 in, and there are many businesses they could help south of 55.

30 **Councilmember Mahaffey** asked if he was talking about 55 down South Salem.

31 **Mayor Gilbert** said yes.

32 **Councilmember Gantt** said 55 needs a lot of work, but said that was the plan at some point.

33 **Mayor Gilbert** said he just wants to think about how they can help the businesses south of
34 55.

35 **Mayor Pro Tempore Killingsworth** said she agreed with the Mayor. She thinks this needs to
36 be expanded south.

37 **Councilmember Gantt** said there would be the 55 widening that may cause some of the
38 investments to be lost.

39 **Councilmember Gray** asked about the amount and kinds of questions staff had received
40 from businesses outside the current façade grant district.

41 **Director Khin** said they have been asked if there are grants available for those properties.
42 She said specifically there was one property outside of the current central business district.

43 **Councilmember Mahaffey** asked why the small-town character site plan was necessary.

APPROVED

1 **Director Khin** said that is a pretty simple process that staff can assist with, and applicants
2 don't need to hire any external help.

3 **Councilmember Mahaffey** was trying to look at other barriers to the application.

4 **Director Khin** said usually this is just some simple drawings or picture comparisons. She said
5 this was usually awnings.

6 **Councilmember Mahaffey** asked if they could draw a map right now, or if it would need to
7 come back.

8 **Director Khin** said they couldn't draw it right now, because there were legal issues.

9 **Deputy Town Manager Purvis** said grants have to be very narrowed and tailored to ensure
10 the town meets statutory guidelines. He said this is typically tied with economic development
11 purposes, and there almost always has to be defined districts. He said getting out of the downtown
12 area may become a broader program, and may not be allowed to use grants. He said they also have
13 to consider resources limitations. He added that arbitrary guidelines do not work. He said it
14 essentially has to be downtown or everybody, and they would need to look at what program they
15 could develop for that. He said this more of an incremental step for downtown, but it does not
16 improve other small business improvement programs.

17 **Mayor Pro Tempore Killingsworth** requested to include the area of the First Baptist Church
18 in the Downtown Festival District, expanding south of West Williams Street all the way down to
19 potentially St. Mary's Church.

20 **Director Khin** said they wanted an UDO Amendment to change the boundaries of the
21 Downtown Festival District instead of changing the façade grant program.

22 **Councilmember Gray** said that may not be necessarily the request. He said it seems they are
23 trying to expand the applicant pool, but there are other businesses they could add to that. He said
24 they wanted to expand what was in the small-town overall district. He would like to see a criterion for
25 review of these proposals. He said he doesn't think they should have only the downtown be a part of
26 the downtown character. He said expanding it would be an equitable way of addressing it.

27 **Councilmember Mahaffey** said the small-town character overall district was different, and it
28 had its own statutory implications. He said some of the property owners may not want to be in the
29 small-town overlay district. He said this would be matching it to the festival district, and some
30 property owners may have some feedback about being included in that.

31 **Director Khin** is mainly for businesses to have special events for private property.

32 **Councilmember Mahaffey** said they have to have boundaries for this program, and the
33 festival district would expand the currently used map for this program. He said he thinks they should
34 expand the festival district and make it a selling point that it would be included in the façade
35 program as well.

36 **Councilmember Gray** said they could maybe make a third map that would allow properties
37 included to apply for façade grants. He said they are making decisions based on reasoning and
38 study, but it seems they could make maps to accommodate a grant they aren't getting enough
39 applications for, and they have places that can't access those funds that could use them.

40 **Director Khin** said there would need to be a study done for those areas. She said those
41 studies would take years for the area south of 55. She said this was an interim thought.

42 **Councilmember Zegerman** said they look at the festival district first, then look at that district
43 and see if it was the right district.

APPROVED

1 **Director Khin** said they should look at the festival district before making decisions on this
2 matter.

3 **Deputy Town Manager Purvis** said he recommends they table this, and they bring this back
4 after looking at the potential of expanding the festival district. He said there needs to be a reason for
5 all the things to do with grant money.

6 **Mayor Pro Tempore Killingsworth** said she sees a lot of historic Black businesses and
7 churches south of the area that needs to be included in the festival district.

8 **Councilmember Mahaffey** asked if they wanted to keep this coupled with the festival district
9 or not.

10 **Mayor Pro Tempore Killingsworth** said she would suggest that they follow Deputy Town
11 Manager Purvis' recommendation of looking at the festival district, and then bringing this back.

12 **Councilmember Gantt** said the bad part about that would be the businesses that want it now
13 are not going to be able to get it.

14 **Councilmember Mahaffey** asked why wouldn't they approve this tonight, if they know what
15 they ultimately wanted to do would be a superset of this. He said there are people waiting to apply
16 having watched this develop.

17 **Deputy Town Manager Purvis** said they could approve this as-is, and then direct staff to still
18 look at the festival district.

19 **Mayor Gilbert** said he is good with that, and to go ahead and approve this. He said he is
20 good as long as staff then looks at expanding the festival district.

21 **Councilmember Gray** said he thinks it is not a good look to have properties north and south
22 of Williams Street looked at differently.

23 **Director Khin** said a whole plan in place needs to be in place for those areas before looking
24 at expanding the façade grant into them. She said these things have been on the list for a while. She
25 added that the widening of 55 being delayed has been an issue as well.

26 **Mayor Pro Tempore Killingsworth** said to go straight down Salem for now, and they can
27 talk further when they know more information.

28
29 A **motion** was made by **Councilmember Mahaffey**, seconded by **Councilmember Gray**, to
30 approved the Façade Grant Program Eligibility Changes as presented, and to direct staff to look at
31 potentially expanding the Downtown Festival District and present proposals to Council.

32
33 **VOTE: UNANIMOUS (5-0)**

34
35 **[UPDATES BY INTERIM TOWN MANAGER]**

36
37 **Interim Town Manager Purvis** said they recently had their Love Local event downtown
38 which went very well. He said they are looking at that being an annual event. He said last night was
39 also the Indigenous People's Day celebration which was very well attended. He said last week they
40 went to the bond market for about 20 million in bonds, mostly for the Peakway project. He said they
41 will close on those in about 2 weeks. He said next week there is a finance Work Session, and then a
42 Strategic Planning update on the 27th. He said they want to get ahead on the budget process with
43 things. He said the West Street Park RFP is posted. He added that November 4th would be the ribbon
44 cutting for Pleasant Park at 10 AM.

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Mayor Gilbert recognized a member of the scouts in attendance, as well as some members of the Mayor’s Internship Program. He said Diwali 2023 would be happening at the Koka Booth Amphitheater on Saturday, and Councilmember Gantt would be dancing.

Councilmember Gantt said he was not very good, but it would be fun and there would be plenty of good food.

[ADJOURNMENT]

Mayor Gilbert adjourned the meeting at 7:33 p.m.

Jacques K. Gilbert
Mayor

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

Submitted for approval by Town Clerk Allen Coleman and approved on October 24, 2023 (CN2).

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

7 The Apex Town Council met for a Regular Town Council Meeting on Tuesday, October 24, 2023 at
8 6:00 PM in the Council Chambers at Apex Town Hall, located at 73 Hunter Street in Apex, North
9 Carolina.

10
11 This meeting was open to the public. Members of the public were able to attend this meeting in-
12 person or watch online via the livestream on the Town's YouTube Channel. The recording of this
13 meeting can be viewed here: <https://www.youtube.com/watch?v=kwkgoJQ2rqE>

14
15 **[ATTENDANCE]**

16
17 Elected Body

18 Mayor Jacques K. Gilbert (presiding)
19 Mayor Pro Tempore Audra Killingsworth
20 Councilmember Brett Gantt
21 Councilmember Ed Gray
22 Councilmember Arno Zegerman
23 Councilmember Terry Mahaffey
24 Absent: None

25
26 Town Staff

27 Interim Town Manager Shawn Purvis
28 Assistant Town Manager Demetria John
29 Assistant Town Manager Marty Stone
30 Deputy Town Attorney Brian Meyer
31 Town Clerk Allen Coleman
32 Deputy Town Clerk Ashley Gentry
33 Planning Director Dianne Khin
34 Fire Chief Tim Herman
35 Deputy Fire Chief David Dillon
36 All other staff members will be identified appropriately below

37
38 **[COMMENCEMENT]**

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

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

43
44 **[SLIDE 1]**



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[CONSENT AGENDA]

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

VOTE: UNANIMOUS (5-0)

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

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

CN2 Council Meeting Minutes - October 10, 2023

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

CN3 Fee Schedule Amendments - Fiscal Year 2023-2024

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

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

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

[PRESENTATIONS]

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

APPROVED

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]**

Public Participation

- 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

APEX NORTH CAROLINA

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APPROVED

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

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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

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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

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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

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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

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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

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

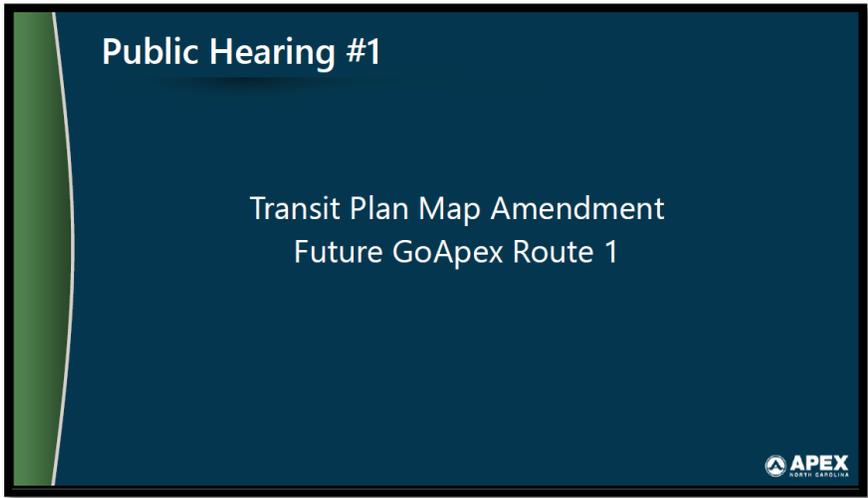
Mayor Gilbert thanked Mr. Wagner for his comments, and for all the work he is doing in transit for the community.

[PUBLIC HEARING]

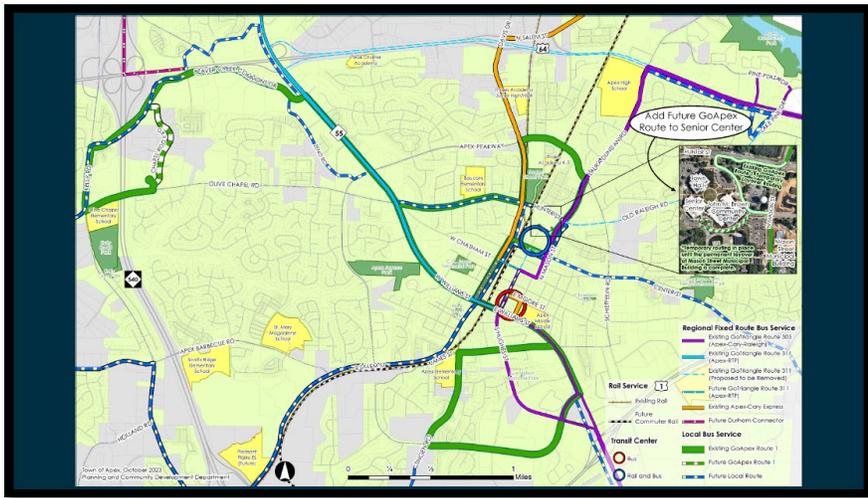
PH1 Transit Plan Map Amendment - Future GoApex Route 1

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

[SLIDE 3]



[SLIDE 4]



[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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APPROVED

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)**

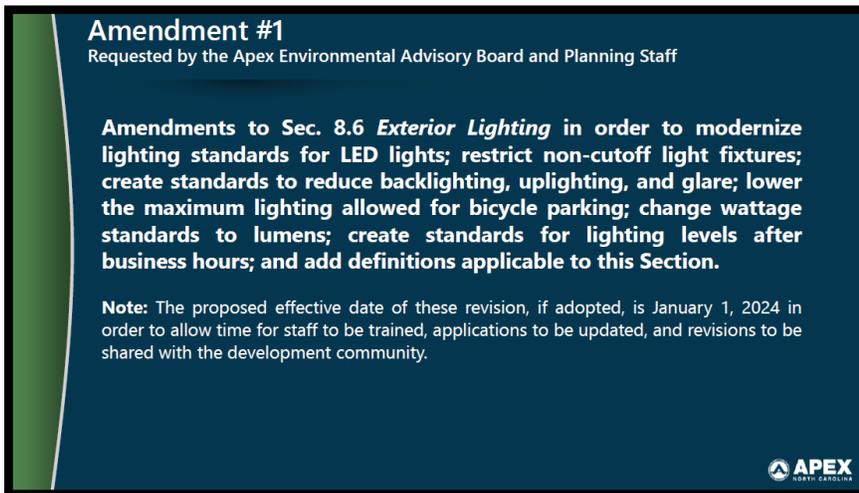
11
12 **PH2 Unified Development Ordinance (UDO) Amendments - October 2023 (REF: ORD-2023-**
13 **108)**

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.



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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.

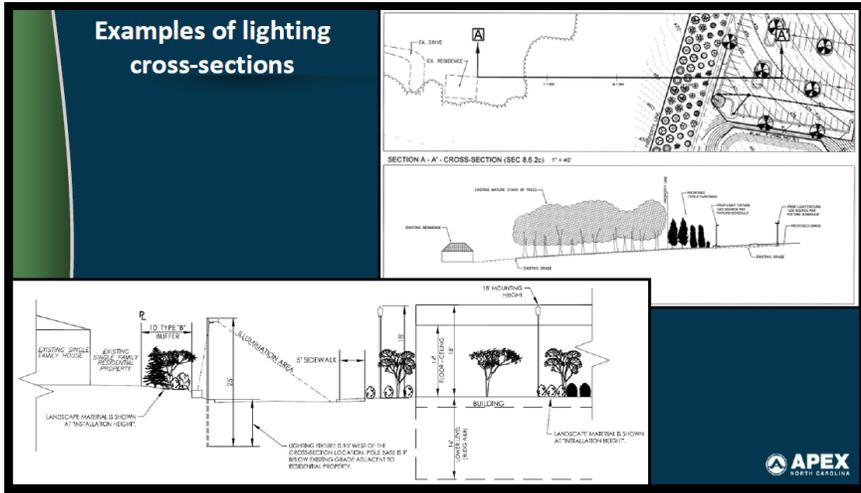


3
4 [SLIDE 12]

- 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
Vehicular 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.

3
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.**
- 3) **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).**

Full Cutoff Pole Mounted Fixture
Figure 8.6.4.A Mounting Height for Pole Mounted Fixture

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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.

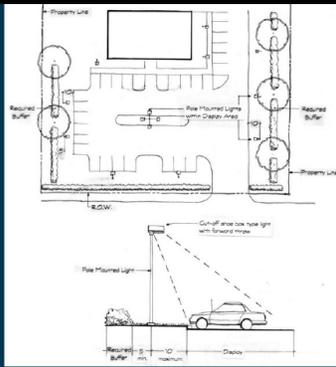


Figure 8.6.4.B Location/Lighting for Outdoor Display



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2 [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.**



3
4 [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.

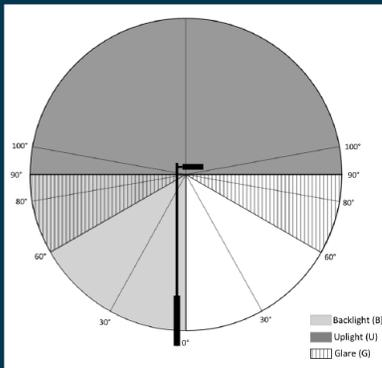


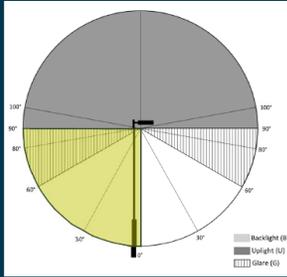
Figure 8.6.4.D BUG Rating Zones



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8 [SLIDE 19]

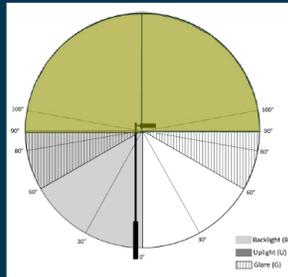
a) **Backlight (B)** creates light trespass onto adjacent sites. The B rating accounts for the amount of light 0 to 90 degrees vertical from the ground in the direction opposite from the area intended to be lit. Except as otherwise stated in this Section, the maximum permitted backlight (B) rating shall 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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2 [SLIDE 20]

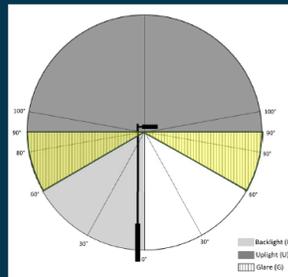
b) **Uplight (U)** contributes to artificial sky glow. The U rating defines the amount of light into the upper hemisphere 90 to 180 degrees vertical from the ground. Except as otherwise stated in this Section, the maximum permitted uplight (U) rating is 0, since all fixtures should be full cutoff.



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4 [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.



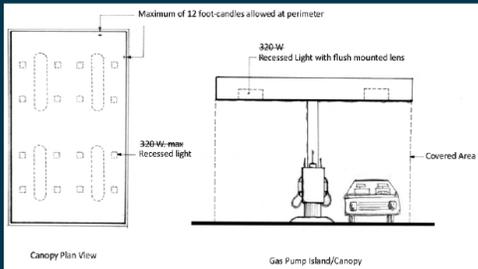
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8 [SLIDE 22]

- D) **Wattage/Lumens**
Lamps for non-cutoff 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 sSection shall not apply to:

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



1
2 [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.



3
4 [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".

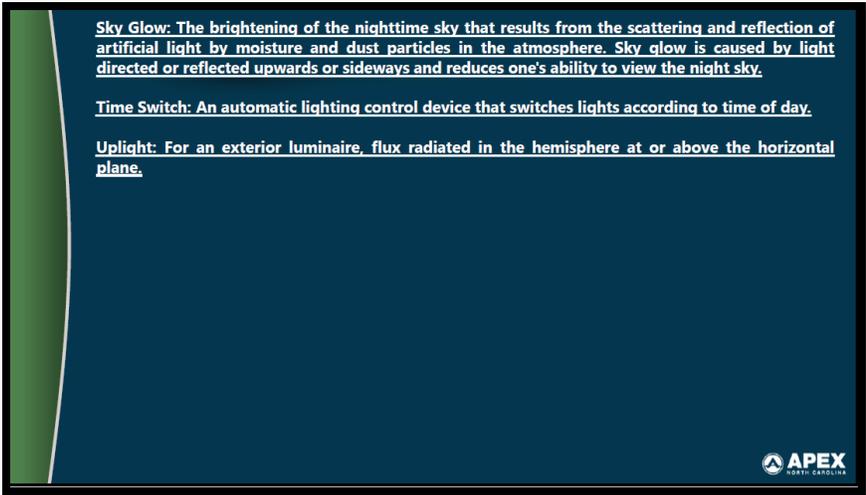
Lighting Equipment: Equipment specifically intended to provide gas or electric illumination, including but not limited to, lamp(s), luminaire(s), ballast(s), poles, posts, lens(es), and related structures, electrical wiring, and other necessary or auxiliary components.

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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8 [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.

APPROVED

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)**
9

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11 **[NEW BUSINESS]**

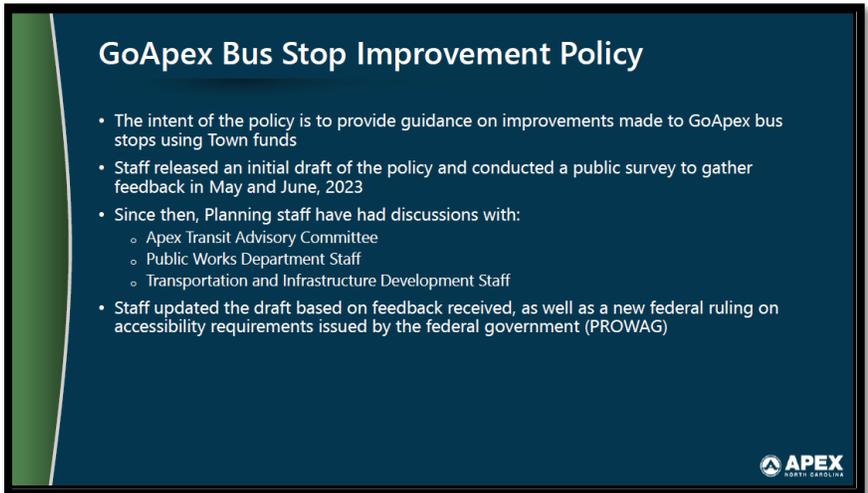
12
13 **NB1 GoApex Bus Stop Improvement Policy (REF: PLCY-2023-013)**

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

16 **[SLIDE 32]**



17
18 **[SLIDE 33]**



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"> • GoApex bus stop sign • Concrete or asphalt landing pad and amenity pad • Adequate lighting • Bench • Post-mounted Information box with route schedule and map 	<p><i>GoApex stops would be subject to qualification and prioritization for:</i></p> <ul style="list-style-type: none"> • Covered shelter with seating • Bicycle racks 	<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"> • Trash receptacles • Bicycle, pedestrian, or roadway infrastructure improvements • Enhanced information and connectivity • Public art • Alternative bus stop designs, landscaping and/or enhanced public spaces



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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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APPROVED

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

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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.

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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.

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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.

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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

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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.

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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 30th.
44 He said staff is out at Pleasant Park now and testing everything, and they are on track for the

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1 November 4th 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 November 14, 2023 (CN8).
36

37

APPROVED
TOWN OF APEX
REGULAR TOWN COUNCIL MEETING
TUESDAY, NOVEMBER 14, 2023
6:00 PM

The Apex Town Council met for a Regular Town Council Meeting on Tuesday, November 14, 2023 at 6:00 PM in the Council Chambers at Apex Town Hall, located at 73 Hunter Street in Apex, North Carolina.

This meeting was open to the public. Members of the public were able to attend this meeting in-person or watch online via the livestream on the Town's YouTube Channel. The recording of this meeting can be viewed here: https://www.youtube.com/watch?v=BL_J0CyUrMM

[ATTENDANCE]

Elected Body

Mayor Jacques K. Gilbert (presiding)
Mayor Pro Tempore Audra Killingsworth
Councilmember Brett Gantt
Councilmember Ed Gray
Councilmember Arno Zegerman
Councilmember Terry Mahaffey
Absent: None

Town Staff

Interim Town Manager Shawn Purvis
Assistant Town Manager Demetria John
Assistant Town Manager Marty Stone
Town Attorney Laurie Hohe
Town Clerk Allen Coleman
Deputy Town Clerk Ashley Gentry
Planning Director Dianne Khin
All other staff members will be identified appropriately below

[COMMENCEMENT]

Mayor Gilbert called the meeting to order the Regular Council Meeting, and thanked those joining in person or by live streams.

Mayor Pro Tempore Killingsworth read a statement acknowledging the importance of diversity in culture and faith. She invited everyone to join in a private moment of silence.

Mayor Gilbert said he wanted to speak a bit about Thanksgiving. He said he was thankful for his family and for this community. He said he wanted to go around to the rest of Council and have them share what they are thankful for.

APPROVED MINUTES - NOVEMBER 14, 2023
APEX TOWN COUNCIL

Councilmember Zegerman said he was thankful for the country we live in and its democracy, and was thankful for the residents of Apex electing him to serve a full term. He was thankful for the support from his family, and expressed the gratitude he had for food, shelter, and other things that are often taken for granted.

Councilmember Gantt said he was thankful he will be in Turkey for Turkey Day, and all the jokes he will be able to tell that day will be amazing.

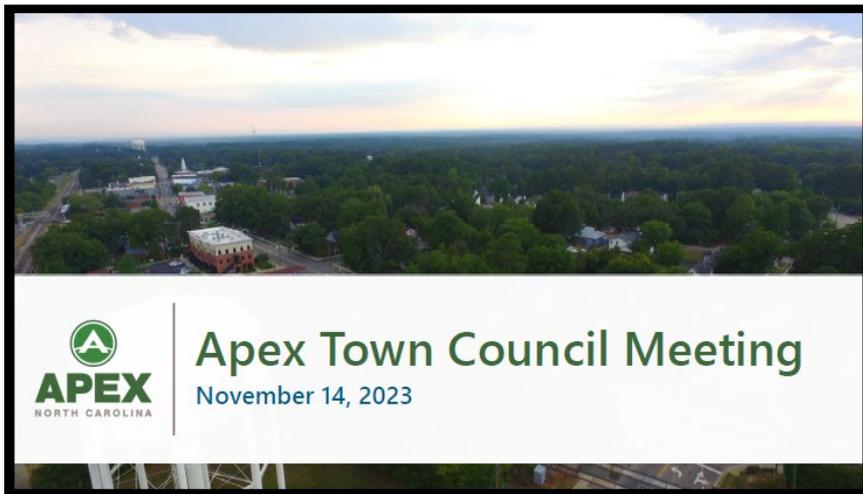
Mayor Pro Tempore Killingsworth said she was thankful for her family, friends, and the Apex community. She said it is amazing and supportive, and she wouldn't be who she is without that collective group of people.

Councilmember Mahaffey said he was thankful for his family and his health. He said he was thankful for the people of Apex for trusting him for another 4 years, and that it was humbling to go through that experience. He said he was also thankful to be able to travel to see some additional family.

Councilmember Gray said he would be here all night if he shared everything he was thankful for. He said he was thankful for his family, and was thankful for one of the attendees tonight, Children's Home Society, who help make their family a family through adoption. He said he grateful for the opportunity to serve, as they are doing on Council.

Mayor Gilbert thanked them for their comments, and for everyone being at the meeting. He said he was thankful for the town staff at Apex, which he said are the best in the world. He said the only certainty is that "God's will is good". He then led a recitation of the Pledge of Allegiance.

[SLIDE 1]



[CONSENT AGENDA]

Councilmember Gantt said he felt that the most important sidewalk gap to fill in the town was the one between Hunter Street Park and South Salem Street, so he was glad Consent Item 2 would do that. He thanked Adam Stephenson for his work on this.

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

APPROVED MINUTES - NOVEMBER 14, 2023
APEX TOWN COUNCIL

VOTE: UNANIMOUS (5-0)

CN1 2024 Town Council Meeting Calendar (REF: OTHER-2023-110)

Council voted to adopt the Town Council meeting schedule for calendar year 2024.

CN2 Agreement - Construction Agreement - CSX Transportation, Inc - Hunter Street Sidewalk (REF: CONT-2023-317)

Council voted to approve a Construction Agreement with CSX Transportation, Inc and the Town of Apex, for Hunter Street sidewalk connecting to the existing railroad crossing surface, and to authorize the Interim Town Manager, or their designee, to execute on behalf of the Town.

CN3 Agreement - Fire Protection Equipment Mutual Aid Agreement - Equipment Sharing - with Town of Cary, Town of Morrisville and Town of Apex (REF: REF-2023-318)

Council voted to approve a Fire Protection Equipment Mutual Aid Agreement between the Town of Cary, Town of Morrisville and the Town of Apex, effective from the date of execution until July 1, 2024, and, thereafter shall renew automatically on July 1 of each subsequent year for twenty (20) years, for the sharing of equipment, and to authorize the Interim Town Manager, or their designee, to execute on behalf of the Town.

CN4 Annexation No. 765 - Alderwood - Two Remaining Parcels - 5.226 acres (REF: RES-2023-066, RES-2023-067, and OTHER-2023-111)

Council voted to adopt a Resolution Directing the Town Clerk to Investigate Petition Received, to accept the Certificate of Sufficiency by the Town Clerk, and to adopt a Resolution Setting the Date of a Public Hearing for November 28, 2023, on the Question of Annexation - Apex Town Council's intent to annex 5.226 acres, located in Alderwood (two remaining parcels), Annexation No. 765 into the Town Corporate Limits.

CN5 Annexation No. 766 - Veridea No. 1 (Tracts One through Six) - 111.02 acres (REF: RES-2023-068, RES-2023-069, and OTHER-2023-112)

Council voted to adopt a Resolution Directing the Town Clerk to Investigate Petition Received, to accept the Certificate of Sufficiency by the Town Clerk, and to adopt a Resolution Setting the Date of a Public Hearing for November 28, 2023, on the Question of Annexation - Apex Town Council's intent to annex 111.02 acres, located at Veridea No. 1 (Tracts One through Six), Annexation No. 766 into the Town Corporate Limits.

CN6 Annexation No. 768 - 9613 Horton Road - 17.41 acres (REF: RES-2023-070, RES-2023-071, and OTHER-2023-113)

Council voted to adopt a Resolution Directing the Town Clerk to Investigate Petition Received, to accept the Certificate of Sufficiency by the Town Clerk, and to adopt a Resolution Setting the Date of a Public Hearing for November 28, 2023, on the Question of Annexation - Apex Town Council's intent to annex 17.41 acres, located at 9613 Horton Road, Annexation No. 768 into the Town Corporate Limits.

CN7 Construction Contract Award - Browe Construction Company - Laura Duncan Sidewalk Project (REF: CONT-2023-319)

Council voted to award a construction contract with Browe Construction Company and the Town of Apex, for the construction of a sidewalk on the east side of Laura Duncan Road (from Pinewood Dr to

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Knollwood Dr), and to authorize the Interim Town Manager, or their designee, to execute on behalf of the Town.

CN8 Council Meeting Minutes - Various

Council voted to approve, as submitted or amended, Meeting Minutes from the following meeting:
October 19, 2023 - Town Council Work Session Meeting Minutes
October 24, 2023 - Regular Town Council Meeting Minutes
October 27, 2023 - Town Council Strategic Planning Work Session Meeting Minutes

CN9 Encroachment Agreement - 2915 Alderson Court - Lot 258 (REF: CONT-2023-320)

Council voted to approve an encroachment agreement between the Town of Apex and property owner Guoqiang Zhang and spouse Jin Gan, to install a fence that will encroach 116 linear feet (LF) onto the Sanitary Sewer Easement and authorize the Interim Town Manager, or their designee, to execute on behalf of the Town.

CN10 Ordinance Amendment - Chapter 13 Occupational Licenses, Taxes and Regulations, Article III, Subsection 54 Exemptions - Pleasant Park Concessions (REF: ORD-2023-109)

Council voted to adopt an ordinance amending Chapter 13, Article III, Subsection 54 of the Town of Apex Code of Ordinances to provide a permit exemption to persons contracted with the Town to provide concession services on Town property and who would otherwise meet the definition of park concessioner under this article.

CN11 Tax Report - September 2023 (REF: OTHER-2023-114)

Council voted to approve the Wake County Tax Administration Tax Report for the Town of Apex dated October 10, 2023.

CN12 Vehicle Lease - 2014 Freightliner Leaf Truck (REF: CONT-2023-321)

Council voted to approve a Vehicle Lease between the Town of Holly Springs and the Town of Apex, for a 2014 Freightliner M2 106 Vacuum Leaf Truck, effective until February 28, 2024, and to authorize the Interim Town Manager, or their designee, to execute on behalf of the Town.

[PRESENTATIONS]

PR1 Apex Public School Foundation - Quarterly Peak S.T.A.R. Awards

Councilmember Mahaffey introduced the award, and said it was done along with the Apex Public School Foundation to a Staff, Teacher, or Administrator in Apex who has done great work in public education.

Laura Conroy, President of the Apex Public School Foundation, said announcements on a public school grant award will be coming in early 2024. She said the Foundation appreciated being able to partner with Apex to present these awards to educators in Apex. She introduced the Peak S.T.A.R Award recipient Josh Gurkin, Science Teacher at Apex High School. Mr. Conroy emphasized that Mr. Gurkin is a servant to the community, and serves in many capacities at Apex High.

Councilmember Mahaffey presented the award to Mr. Gurkin,

Mr. Gurkin thanked the Mayor, Council, and Apex Public School Foundation for their support of public education. He said all students, regardless of their economic status, deserve a good public school to be available to them.

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Ms. Conroy said the APSF was hosting “Are You Smarter Than An Apex Student” on Thursday, November 16 at Apex high.

PR2 Proclamation - Adoption Awareness Month - November 2023 (REF: PRO-2023-037)

Mayor Gilbert, along with the whole Council, read the Adoption Awareness Month 2023 Proclamation in unity.

Mayor Gilbert presented the proclamation to Kim Adcock, Permanency Planning Social Worker at Wake County Human Services, and to representatives from the Children’s Home Society.

Darius Moore, Family Recruitment Specialist with the Children’s Home Society, thanked the Mayor and Council. He said currently there are about 12,000 children in the State of North Carolina who need a place to stay. He said he invites anyone with the space in their home to apply to become a foster parent. He said becoming a foster parent is the best gift anyone can give to a child in this holiday season. He spoke about the importance of community, and how dependent everyone is on the work of other people for things they use every day. He invited people to find ways to give back to the community, and open up their homes.

PR3 Proclamation - Geographic Information Systems (GIS) Day - Wednesday, November 15, 2023 (REF: PRO-2023-038)

Mayor Gilbert, along with the entire Council, read the Geographic Information Systems (GIS) Day Proclamation in unity.

Mark Griffin, GIS Administrator, and Erika Sacco, IT Director accepted the proclamation.

Mr. Griffin thanked the Mayor and Council, and said there were many people in the town who utilized GIS for their roles. He said he was proud to work for the town, and he is sure they are too.

PR4 Proclamation - Small Business Saturday 2023 - Saturday, November 25, 2023 (REF: PRO-2023-039)

Mayor Gilbert, along with the rest of Council, read the Small Business Saturday 2023 Proclamation in unity.

Papa Fall, Owner of Yagg Sii Tenn, and Kyrone Nebolisa, Owner of Kwench Juice Café, accepted the proclamation.

Mr. Nebolisa said Small Business Saturday was a lifeline for small businesses, and invited people to come out and support them. He said his business, Kwench Juice Café, will have special discounts that day, and he welcomed anyone to come.

PR5—Western Wake Ministry Presentation

This scheduled presentation did not occur, as the presenter was not in attendance.

[REGULAR MEETING AGENDA]

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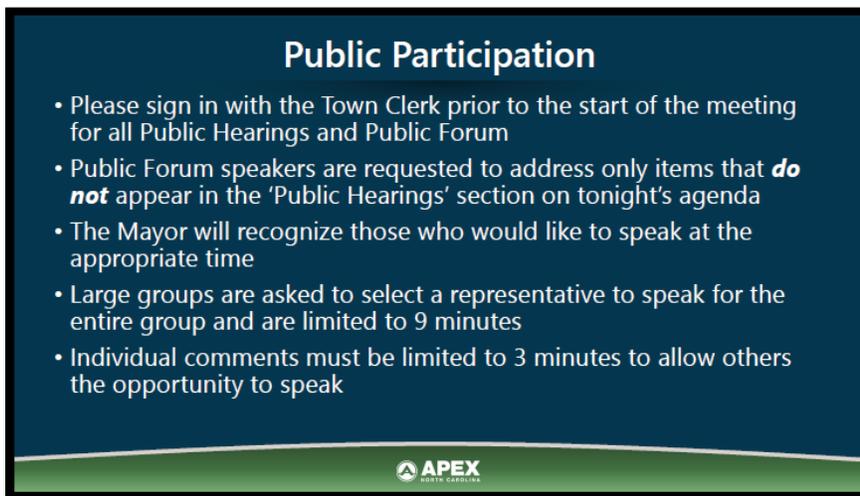
Councilmember Mahaffey said he would like to approve the agenda, with the removal of Old Business 1, as he had heard from members of the community that they would like additional discussion on that item.

A **motion** was made by **Councilmember Mahaffey**, seconded by **Mayor Pro Tempore Killingsworth**, to approve the Regular Meeting Agenda, with the removal of Old Business 1.

VOTE: UNANIMOUS (5-0)

[PUBLIC FORUM]

[SLIDE 2]



First to speak was **Laura Wyatt** of 300 Benoit Court

"Wester Wake Tennis is a non-profit organization whose mission is to promote the spirit and growth of tennis in Western Wake County, which includes Apex. I'm here tonight also with my board president, Shareen Halco, and I'm going to introduce these two people in just a minute. But I'm here tonight because we got an award, because of a program that you run in your community. Each year, USTA North Carolina gives out awards, and we received the adaptive tennis award, and that's given to a person or an organization who promotes or runs or supports adaptive tennis. Adaptive tennis is tennis for intellectually disabled athletes. Several years ago, Ally Prelaske asked Caroline who she should talk to, they referred her to me, and we helped her get the abilities tennis program started. And, it's grown, and she's done an amazing job working with pros and scheduling and everything, and now each spring and each fall, you run two back-to-back programs, eight weeks in the spring, eight weeks in the fall, and we provide the volunteers. In fact, we won this award because of the very large volunteer program that we run because of this program that you run, and also we work with the Town of Cary. In 2022, we filled 475 volunteer hours, in 2023 it's going to be 600. So, it's pretty awesome. What you're doing with that population is amazing, because they get more exercise in

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that one hour than they do in really several days. Then they have to focus, they have to watch the ball, they have to move and all that. And then they get the social benefits, and basically, it's a party. It's a happy, happy thing. In fact, when I leave my cheeks hurt from smiling. So that's awesome, but I'm going to take it a step further, because what you're also doing, because we need to provide the volunteers, here's a couple of the volunteers, this is Samantha and her father Brad. We have volunteers that are teenagers, most of them are tennis players but not all, teenagers, adults, families that volunteer together, National Charity League mothers and daughters, young men's service organizations, mothers and sons, they get out and they volunteer, and they see what tennis does in a community, and they see what you all are doing in the community. That's huge. We actually took it one step farther because we ended up, one of your clinics has some athletes that really needed more, where they do the clinics but then they're like now what's next. So thanks to your Parks, Rec, and Cultural Resources Department, and in this case was Jason Simpson, we started unified doubles. Sam is one of our unified partners, and she plays tennis with an intellectually disabled athletes, and they rally and they serve and it's really quite amazing. In fact, we do that and we're going to have another match Thursday night at Apex Community Park, 2200 Laura Duncan Road. It's amazing what you've done through tennis, and we are so grateful for our partnership with the Town of Apex, specifically Parks, Rec, and Cultural Resources, we've missed Ally since she's been out, I understand she's back, but she got this started. And then we worked with Jason, and Jason I actually work with for our league play opportunities and our low-cost beginner programs, and you're providing the same benefits to those people as well, physical, social, and mental benefits. So, we are thankful for the partnership, we love what you're doing through tennis, we're certainly excited about Pleasant Park, I don't know if you have any questions, if you want to ask our volunteers any questions about the program, I don't if this is the time for that or not."

Mayor Gilbert said he just wanted to say thank you for all that she does. He said the program is wonderful, and also thanked Samantha and Brad. He said Ally Prelaske and Craig Setzer were in attendance, and thanked them as well.

Next to speak was **Dawn Cozzalino** of 3632 Bosco Road (To view Ms. Cozzalino's handout, see **OTHER-2023-123**):

"Tonight, I'm going to bring you the sights and sounds of the Friendship/New Hill community. Notice in the pictures, there's abundance of wildlife, there's blue Carolina skies, there's tall, colorful trees, and water features. Especially take a look at the two photos over there that I'm pointing to, of the bald eagles, which are seen on two different farm properties on Bosco Road. These are still a protected species, and there's also many more endangered species we've seen as well. Peaceful, very rural. This isn't a place for sewer infrastructure, sewer easements. This is the place for the Western Big Branch Force Main. This is the other side of US 1. It's a perfect location. There's no trees, there's no wildlife, there's already an easement there, and you can see that it's a straight spread right on that border of US 1. I want to add to that as well. It would be lower cost, and no eminent domain. So, I'd like us to work together, I just want to share some of the sounds of why it's perfect. This is by US 1. So, I'd like us to work together on this solution. I think it would be great to preserve our rural landscape, and be a community in the process. Thank you very much."

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Mayor Gilbert thanked Ms. Cozzalino for her comments.

Next to speak was **Elizabeth Stitt** of 3113 Friendship Road:

"Mayor and Town Council, I was not able to make the last Town Council meeting, but I watched it on the YouTube replay, so I wanted to call that out to anybody who is watching or anybody who is listening to know that they can go see these meetings on YouTube. I'm starting to have watch parties, to try to get more people involved. And I have to say, we found the last meeting a little disturbing. When the fire sprinkler proposal was presented, we found it disturbing on a couple levels. First and foremost, when you go to the town's website, it says the Town Council is responsible to the citizens. This fire proposal was put out by the Council, it was not citizen-driven. And it was done in a process that specifically denied citizen input. It did not allow for any community engagement. That is disturbing. It also excluded the town staff. It didn't even have a town staff report to talk about the need. I am all for preventing home deaths, but when you go for the National Safety Council website and you look at how many fire deaths occur in the home, it's 2.4% of all deaths. 87% of deaths are from poisoning and falls. But there was no mention about the majority of deaths that occurred. It was about the 2.4%, if you're lucky enough or privileged enough to live in a new house. I found that offensive, because I would love to wrap my family in bubble wrap based on some things that happen in this community. We have our fire and rescue, we have our EMS, going and helping people who are dying every day in our community. But in the 20 months that I have come to these meetings, I have not seen proposals put forth to stop other types of deaths. I was just offended, the people with me were offended. I am all about putting proposals out there, but it needs to include the public, so in the theme of being thankful, I'm thankful it got removed off the agenda tonight, I'm thankful there may be an opportunity for the community to be more involved in policies going forward, and I'm thankful to have opportunity to say that we live in the United States. Our constitution starts with "we, the people." And that should come down to Apex. We, the people, should have a say in what the town does. Thank you."

Mayor Gilbert thanked Ms. Stitt for her comments.

Next the speak was Dr. Tracy Taylor of 2004 Baysdale Lane:

"I come to you with concerns and ask the town to please write and enact UDO's and regulations to address what happened at the Board of Adjustment hearing in July, regarding the 1305 Holt Road Variance. This is the first case in 5 years with such contention resulting in a 5-hour quasi-judicial hearing. Board members were not adequately prepared. I'm concerned about the processes that I believe weren't followed. It feels like we were used to rubber stamp and pass this variance where we were not given all information to make a ruling. We were given information that has proven to be false, as I discovered through my records request for all materials submitted to the record regarding this variance. I'm concerned with this decision setting a precedent moving forward, since the Town Council denied the applicant's zoning request, and then the Board overturned the elected Town Council's decision. In mid-October Ms. Cowles sent Board Members a letter that a Courtyards on

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Holt resident sent to the town for each of us. This letter addressed ex-parte communication that was perceived by this resident. At the last Town Council meeting Mr. James Jesserer stated in public comment that Attorney Hohe told him that he represents the Board and we are her client. Was she more concerned about pacifying the applicant out of fear of the town being sued? We, the town and Board, were threatened with being sued at the variance hearing if we did not pass this variance. The applicant's attorney stated multiple times, and the town agreed, that the NCDOT said that access to Holt Road was denied, but we did not receive evidence backing this claim, and there was no DOT expert witness to testify for the applicant. Through my records request, I learned that since last year discussions between NCDOT and town staff, including Russell Dalton, yielded that the town and DOT never said that DOT won't grant access off of Holt Road. NCDOT said that if a variance for a cul-de-sac was allowed, then DOT wouldn't grant access to Holt Road. In March of this year, the NCDOT asked what was decided by the Town Council because quote, if the connection was allowed to Elk River Drive, then DOT won't allow connection to Holt Road. You see, the applicant asked NCDOT what his options were and he asked if he could connect to Holt Road using a shared driveway or a cul-de-sac for 3 homes. Mr. Dalton replied that the applicant's zoning request was denied, and that the applicant quote, needs a variance to allow for extension of Elk River Drive, which would avoid the requirement for connectivity to Holt Road. Why wasn't any of this information shared with Board Members prior to the hearing? Since there was no expert witness at that meeting, and there was no written evidence backing the claims, and the Town Council voted against the zoning, I voted against the variance. But it still passed, 4-1. I would ask maybe for just 30 more seconds if that's possible please. I ask that the Town Council please do the two following things. Pass a UDO or other regulations to give the board a separate, blinded attorney to the variance brought forth to represent the quasi-judicial process, to advise the board of our options in real time, to avoid bias or the appearance thereof. We had no counsel to disregard the hearsay evidence, and the threat of being sued. I'd argue that these weighed heavily in the variance decision by my fellow board members. Please also pass a UDO or other regulation so that the Board can't overturn or circumvent Town Council zoning decisions through the variance process. I fear that the precedent that was set by passing the variance and overturning your zoning denial. Thank you."

Mayor Gilbert thanked Dr. Taylor for her comments.

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

"I'm a little stunned by what we just heard, and I thank you Dr. Taylor for your courage that you just displayed in your statement, because in your statement you confirmed just about every single thing I said to the board two weeks ago. I was prepared to give a presentation, it's over. I'm actually a little stunned by what we've just heard. Based on Dr. Taylor's remarks, I am requesting an immediate independent investigation of the BOA's decision rendered in July on 1305 Holt Road. We have just heard a BOA member say that they were provided false or misleading information at this meeting, that they were bamboozled and intimidated by a slick attorney, and they were provided little or no legal counsel on the part of Town Council. That's a very ugly picture that just got painted for all of us. I am sorry, I'm a little disappointed in what we've just heard. Obviously, Dr. Taylor got records released to her. We also asked for a Freedom of Information Act, but we just got it today at 1 O

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Clock, so we're not prepared to discuss our findings. But we'll be back here in 2 weeks. And instead of 8 people in this audience, we'll have over 100 in this audience, and we'll share our findings of what we find in those bits of information. Apex can and must do better than this. We are requesting, again I'll repeat myself, an immediate investigation, independent investigation, into this July BOA meeting, and we are asking for suspension of that decision, that BOA decision, I'll repeat myself, we are asking the Town Council to suspend that July decision based on the information that was just shared by Dr. Taylor. This is completely surprising so I apologize for not being able to give a decent presentation. We must do better, I thank you and thank everyone, I particularly thank and salute Dr. Taylor who has displayed amazing courage in coming tonight and telling her story, thank you very much Dr. Taylor, you're an inspiration to the rest of the community. Thank you."

Mayor Gilbert thanked Mr. Jesserer for his comments.

Next to speak was **Donald Braden** of 13 Elk River Drive:

"I was given standing at the BOA meeting, the July BOA meeting. I was given standing based on my proximity to the 1305 property that impacts the development. It impacts the development because it would have a major impact on my wife, who I have talked to y'all about before, who suffers from dementia and wanders around the neighborhood. We paid a premium of \$30,000 extra for that lot that we thought was going to be a cul-de-sac lot, and I believed it would provide the minimum security for my wife, so I was willing to go ahead and do that. Based on Dr. Taylor's extraordinary presentation, the discussion was pre-determined advised, and I am disgusted, and I second James' motion requesting that the investigation of the BOA decision, and that the Town Council do whatever it can to immediately suspend and undo this flawed BOA decision. Thank you, and most of all, thank you Dr. Taylor. I did receive some information from Mr. Coleman today and I do have some documentation I brought with me. I'm not ready to share it, we'll talk about that at the next meeting, but it does state in there that the DOT did not deny access off of Holt Road, and it's in the minutes of the notes at the BOA meeting, and we will share that with you at the next meeting. Thank you very much for your time."

Mayor Gilbert thanked Mr. Braden for his comments. He told him he would have somebody reach out regarding the request. With no further sign ups, he closed Public Forum and moved the meeting to Public Hearing.

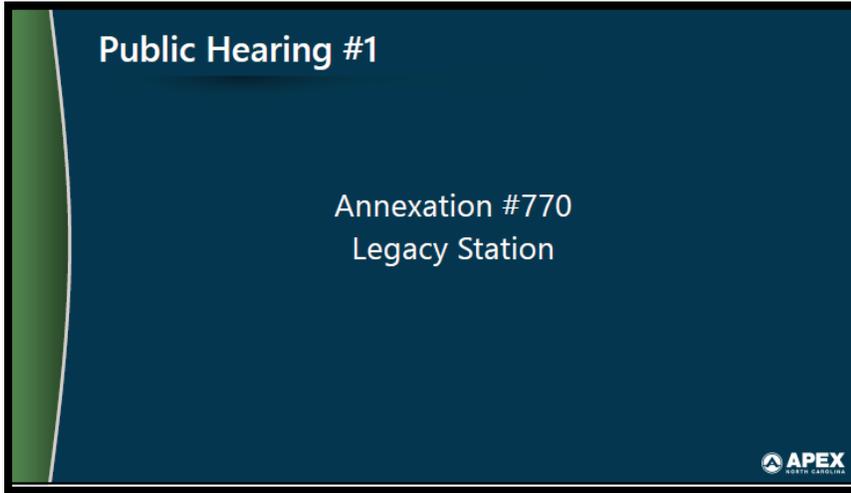
[PUBLIC HEARING]

PH1 Annexation No. 770 - Legacy Station - 26.63 acres (REF: ORD-2023-111)

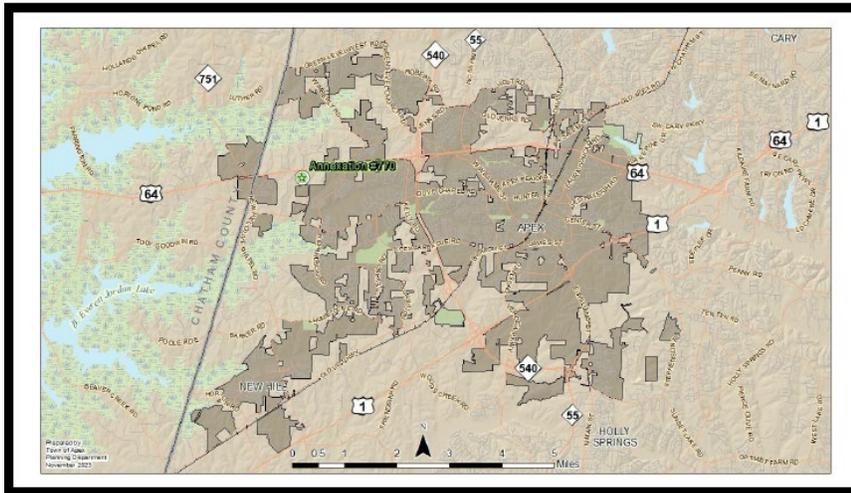
Dianne Khin, Planning Director, gave the following presentation regarding Annexation No. 770 - Legacy Station.

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[SLIDE 3]



[SLIDE 4]

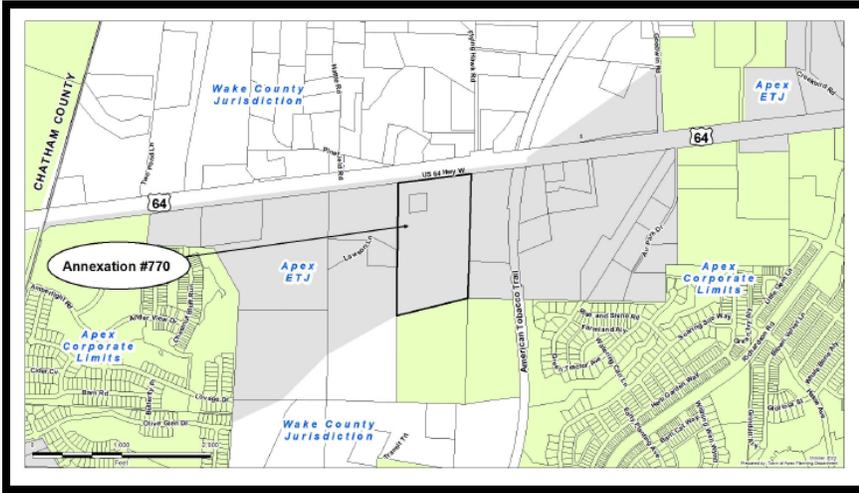


[SLIDE 5]

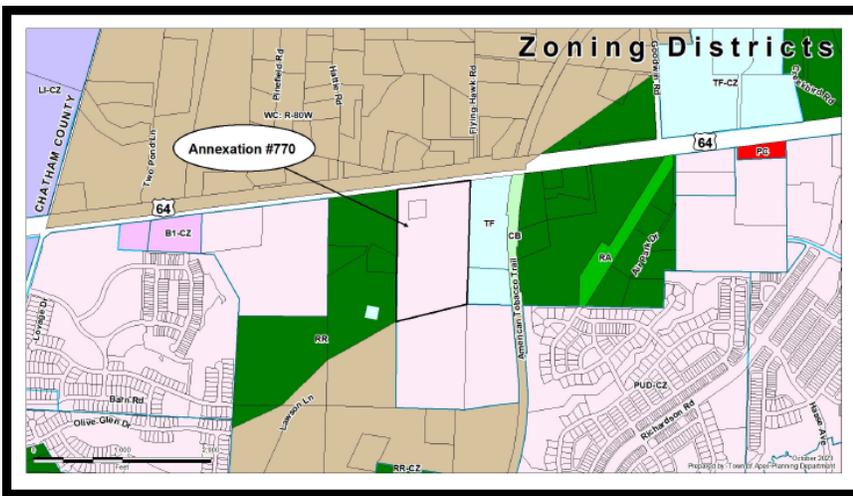


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[SLIDE 6]



[SLIDE 7]



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

A **motion** was made by **Mayor Pro Tempore Killingsworth**, seconded by **Councilmember Gray**, to approve Annexation No. 770 - Legacy Station.

VOTE: UNANIMOUS (5-0)

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[OLD BUSINESS]

~~**OB1 Ordinance Amendment - Chapter 5 - Article 1 - Section 5 - Automatic Fire Sprinkler System Requirements (2nd Reading)**~~

CLERK Note: This item was removed from tonight's agenda per the vote setting the Regular Meeting Agenda.

[UPDATES BY INTERIM TOWN MANAGER]

Interim Town Manager Purvis said the opening of Pleasant Park on November 4th went well, and in the first week of the park's opening, it averaged between 8,000-10,000 people per day. He said the Skate Plaza is now fully lit with LED lights, and thanked the electric staff for getting those changed out. He said the pickleball courts at Apex Community Park will be open in the next week after being resurfaced. He said the Holiday Lights are up Downtown, and he will be keeping them updated with events. He wished everyone a safe and wonderful Thanksgiving holiday, and expressed his appreciation to town employees who will be working through Thanksgiving.

Mayor Gilbert thanked Interim Town Manager Purvis for his service, Officer Patel for being in attendance to oversee the meeting, and the Apex Youth Council for being in attendance.

[CLOSED SESSION]

Town Attorney Hohe requested that Council add a third item to the Closed Session Agenda to preserve the attorney-client privilege.

A **motion** was made by **Councilmember Gray**, seconded by **Councilmember Zegerman**, to enter into Closed Session pursuant to NCGS §143-318.11(a)(3) and NCGS §143-318.11(a)(6).

VOTE: UNANIMOUS (5-0)

Council entered into Closed Session at **6:53 p.m.**

CS1 Laurie Hohe, Town Attorney

NCGS § 143-318.11(a)(6):

consider the qualifications, competence, performance, character, fitness, conditions of appointment, or conditions of initial employment of an individual public officer or employee

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or prospective public officer or employee; or to hear or investigate a complaint, charge, or grievance by or against an individual public officer or employee."

CS2 Allen Coleman, Town Clerk

NCGS § 143-318.11(a)(6):

consider the qualifications, competence, performance, character, fitness, conditions of appointment, or conditions of initial employment of an individual public officer or employee or prospective public officer or employee; or to hear or investigate a complaint, charge, or grievance by or against an individual public officer or employee."

CS3 ADDED - Laurie Hohe, Town Attorney

NCGS §143-318.11(a)(3):

"To consult with an attorney employed or retained by the public body in order to preserve the attorney-client privilege between the attorney and the public body."

Council returned to open session at **9:56 p.m.**

A **motion** was made by **Mayor Pro Tempore Killingsworth**, seconded by **Councilmember Gray**, to officially appoint Allen Coleman as the Town Clerk for the Town of Apex, and to approve the associated employment contract.

VOTE: UNANIMOUS (6-0)

CLERK Note: North Carolina General Assembly Session Law No. 2023-112 authorizes the Apex Town Council and Mayor to make appointments and vote on certain matters regarding the appointees of the Town Manager, Town Attorney, and Town Clerk for the Town of Apex.

[ADJOURNMENT]

Mayor Gilbert adjourned the meeting at **9:58 p.m.**

Jacques K. Gilbert
Mayor

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

Submitted for approval by Town Clerk Allen Coleman and approved on December 12, 2023 (CN2).

APPROVED
TOWN OF APEX
REGULAR TOWN COUNCIL MEETING
TUESDAY, NOVEMBER 28, 2023
6:00 PM

The Apex Town Council met for a Regular Town Council Meeting on Tuesday, November 28, 2023 at 6:00 PM in the Council Chambers at Apex Town Hall, located at 73 Hunter Street in Apex, North Carolina.

This meeting was open to the public. Members of the public were able to attend this meeting in-person or watch online via the livestream on the Town's YouTube Channel. The recording of this meeting can be viewed here: <https://www.youtube.com/watch?v=NHRU1IsUzOc>

[ATTENDANCE]

Elected Body

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

Town Staff

Interim Town Manager Shawn Purvis
Assistant Town Manager Demetria John
Assistant Town Manager Marty Stone
Town Attorney Laurie Hohe
Town Clerk Allen Coleman
Deputy Town Clerk Ashley Gentry
Planning Director Dianne Khin
All other staff members will be identified appropriately below

[SLIDE 1]



APPROVED

[COMMENCEMENT]

Mayor Gilbert called the meeting to order, and welcomed all those in attendance and those watching on livestream. He then led everyone in observing a moment of silence.

Mayor Gilbert then led those in attendance in a recitation of the Pledge of Allegiance. He then reminded anyone who wished to speak during Public Forum to sign up with the Town Clerk.

[CONSENT AGENDA]

Mayor Gilbert noted that there was a staff request to add a Consent Item 7 - Amendment to the 2023 Town Council Calendar. He also noted that there was a staff request for Consent Item 5 to be removed.

A **motion** was made by **Councilmember Zegerman**, seconded by **Mayor Pro Tempore Killingsworth**, to approve the Consent Agenda, with the removal of Consent Item 5, and the addition of Consent Item 7.

VOTE: UNANIMOUS (4-0)

CN1 Agreement - Amended and Restated Full Requirements Power Sales Agreement between North Carolina Eastern Municipal Power Agency and the Town of Apex (REF: CONT-2023-324 and OTHER-2023-117)

Council voted to adopt an ordinance determining that it is in the best interests of the Town of Apex to Approve and Authorize the Execution and Delivery of the Amended and Restated Full Requirements Power Sales Agreement Between the Town of Apex and North Carolina Eastern Municipal Power Agency, and authorize the Mayor, Town Attorney, Town Clerk, and Finance Director to execute the necessary agreement and certification documents.

CN2 Construction Contract Award - Pacos Construction Company, Inc - Bridge Preservation - Various Locations (REF: CONT-2023-325)

Council voted to award construction contract with Pacos Construction Company, Inc for Bridge Preservation maintenance to seven (7) locations (listed below) and to authorize the Interim Town Manager, or their designee, to execute on behalf of the Town.

CN3 Contract Multi-Year - Enpira, Inc - Technology and Software Support for Utility Data - November 30, 2023 through June 30, 2026 (REF: CONT-2023-326)

Council voted to approve a Master Services Agreement (MSA), effective November 30, 2023 through June 30, 2026, with Enpira, Inc for technology and software support for utility data and authorize the Interim Town Manager, or their designee, to execute the agreement on behalf of the Town.

CN4 Contract Multi-Year - Microsoft Corporation - Enterprise Enrollment - November 1, 2023 through November 30, 2026 (REF: CONT-2023-327)

Council voted to approve a multi-year contract, effective November 1, 2023 through November 20, 2026, with Microsoft Corporation enterprise enrollment for volume licensing, and to authorize the Interim Town Manager, or their designee, to execute on behalf of the Town.

APPROVED

CN5 Resolution - Accepting American Rescue Grant Funds from NC Division of Water Infrastructure (DWI) and Capital Project Ordinance Amendment 2024-8

Council voted to adopt a Resolution accepting American Rescue Plan (ARP) grant funds from the NC Division of Water Infrastructure (DWI) to complete Asset Inventory and Assessment (AIA), and approve Capital Project Ordinance Amendment 2024-8, and to authorize the Interim Town Manager, or their designee, to execute on behalf of the Town.

CN6 Unified Development Ordinance (UDO) Amendments - October 24, 2023 - Statement (REF: OTHER-2023-118)

Council voted to approve the Statement of the Apex Town Council pursuant to G.S. 160D-605(a) addressing action on the Unified Development Ordinance (UDO) Amendments of October 24, 2023.

CN7 ADDED 2023 Town Council Meeting Calendar Amendment (REF: OTHER-2023-122)

Council voted to amend the 2023 Town Council Meeting Calendar to revise the start time for the Town Council Organizational Meeting on Wednesday December 6, 2023 to start at 6:00 p.m., and add two closed session meetings related to the Town Manager recruitment process to be held on Tuesday, December 5, 2023 and Tuesday, December 19, 2023 both with start times of 5:00 p.m. and to be held at Apex Town Hall located at 73 Hunter Street in Apex, North Carolina.

[PRESENTATIONS]

PR1 Recognition - Apex Friendship High School Students - Women's Tennis Double State Champions

Mayor Gilbert there were champions in Town Hall tonight. He invited Julianne Izod and Caroline Izod up to be recognized for winning their second consecutive Women's Tennis Doubles State Championship. He then presented them with Letters of Honor, and they took a picture with him and the rest of Council.

Ms. Izod spoke about she was thankful that the Mayor and Council did this for them a second year in a row. She said she is proud to call Apex home, and that it is special to have won it with her little sister.

Her Sister commented about how she was lucky to be able to play with her older sister, and she was happy to win this with her sister in her senior year.

Mayor Gilbert noted that he has a tennis ball signed by the Izod sisters, and he would keep it in his office and treasure it.

~~PR2 - REMOVED - Western Wake Ministry Presentation~~

This presentation will be moved to a future Council meeting date.

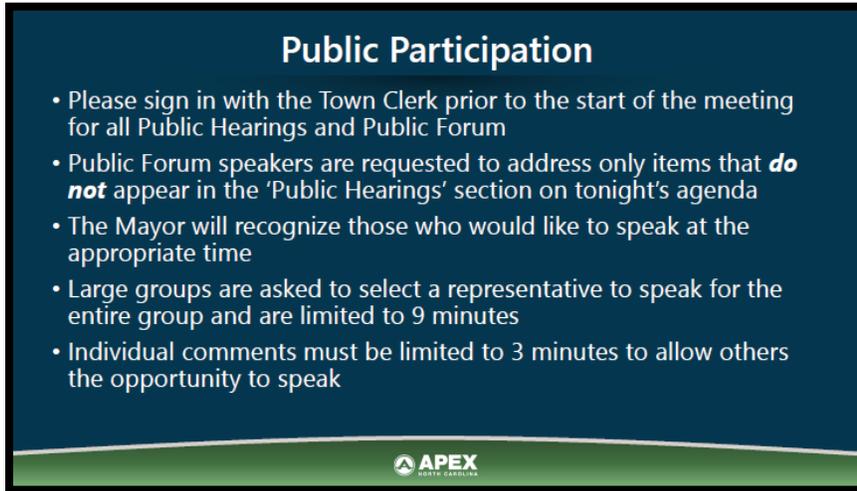
[REGULAR MEETING AGENDA]

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

VOTE: UNANIMOUS (4-0)

[PUBLIC FORUM] (NOTE: To view Public Forum and Public Hearing sign-up sheets, see OTHER-2023-120)

[SLIDE 2]



Mayor Gilbert said this was a time to present concerns or ideas. He said there quite a few people signed up to speak, so he asked speakers to respect the time limits and to watch for repetitive comments. He said he and Council would not be responding, but would be listening and taking notes, and that a member of the team would be reaching out to discuss their concerns.

First to speak was **Marvin Hymanson** of 2907 Sunflower Road:

"It's going to be a tough act to follow tennis champs, but I'll give them my three minutes. Good evening Mr. Mayor and Council Members, I am hopeful the Council will work to represent all residents of Apex, whether they voted for you, didn't vote for you, or didn't participate at all. I'd like to point out that the Suburban Living Apex magazine just ran an article on the Town Council's improvement plan, and provided a link to this year's budget entitled FY 25 Budget Priorities survey public input. The survey is very limiting. You must rank every item suggested by the town versus giving residents the opportunity to state how we want our tax dollars to be spent. For example, as a former cycling enthusiast, many roads are just not that safe for anything besides vehicles, especially one lane each way. I would like to know the progress being made on bike lanes and sidewalks in Apex. I would like to know how to make sure my tax dollars are spent on these improvements, I want to know that you are representing my interests that I'm sharing here tonight versus relying on a very limited survey. Thank for your time, and have a good evening. Happy Holidays."

Mayor Gilbert thanked Mr. Hymanson for his comments.

Mayor Pro Tempore Killingsworth said there was an email address where residents could share their budget priorities with the Council throughout the year. She asked if Interim Town Manager Purvis could share that.

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Interim Town Manager Purvis said the survey was to help them categorize things. He said they would be holding multiple Public Hearings for the budget to allow for input to be received. He said the email for budget input year-round was annual.budget@apexnc.org

Next to speak was **Chuck Mattina** of 1328 Elk River Drive (To view Mr. Mattina's handout, please see **OTHER-2023-124**):

"I'm going to talk to you about fraud tonight. By definition, fraud is an intentional perversion of the truth, an act of deceiving or misrepresenting, or something that is not what it seems or is represented to be. The reason we are talking about fraud is that we have learned that the Board of Adjustment may reverse a decision after a Public Hearing, if the approval was obtained by fraud. We contend that there were two instances of gross misrepresentation - or fraud - committed during the variance hearing. One involves the assertion that NCDOT would not allow any connection off Holt Road, and the other is the UDO requires a connection to Elk River Drive no matter how the property is developed. So let's start with what Jason Barron said at the variance hearing. Attorney Barron said that his client would not have applied for a variance if there was any chance that NCDOT would grant a cu'-de-sac or a single driveway for 3 homes off of Holt Road. During the variance meeting, Vice Chair Johnson asked, do we know beyond doubt that NCDOT would not permit a curb cut on Holt Road. Mr. Adams, an expert for the applicant, said correct, Town staff asked, we have asked, and NCDOT said in no uncertain terms, that no driveway access from Holt Road would be allowed. But upon questioning by Mr. Kuhn, the attorney for Courtyard on Holt, Mr. Adams refuted his own testimony, saying that the DOT would likely not permit a driveway, but I don't know whether they would do that here or not. Mr. Kuhn said you didn't ask NCDOT about a driveway, and Mr. Adams said no, I did not. Board Member Taylor asked, if staff is presenting that NCDOT won't make the driveway connection, who on staff talked with NCDOT because we haven't seen that. Traffic Engineering Manager Russell Dalton said he had email correspondence with NCDOT and that he could enter it into evidence if the Board would like. Mr. Barron said the applicant entered it into evidence in the staff report. Chair Carmac said they had the report, but not the correspondence between the town and the NCDOT. Ms. Taylor said she had a hard time making a decision based on testimony about conversations someone said they had with NCDOT when that was not entered into evidence. Russell Dalton's comments should have been stricken as they are not in the record. And in allowing Mr. Dalton's comments without objection, Town Attorney Hohe contributed to the fraud. As you know, we submitted a FOIA request for all information and correspondence related to the variance request, and here is a sample of some of that correspondence. In December 2022, Serge Grebenshikov, who is an Apex traffic engineer, wrote to Jeremy Warren who is NCDOT, and Russell Dalton, "we never said NCDOT will not grant access off Holt Road." Russell Dalton responded to Jeremy Warren, it appears this project will have a public hearing on Monday in front of our Planning Board. Unless you say otherwise, I assume the applicant could explore the possibility of right-in-right-out access instead of a cul-de-sac. Jeremy Warren responded, you are correct, they could apply for either. Fast forward to March 2023, the property owner wrote to Jeremy Warren of NCDOT, I'm the owner of the property at 1305 Holt Road. We are going to request a variance to connect the property to Elk River Road. I just want to understand the alternative options for me if I

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am forced to connect to Holt Road. Currently, there is one driveway connecting the property to Holt Road. Can I connect 2 or 3 lots using a shared driveway or a right-in-right-out connection? Can I build a cul-de-sac and connect that to Holt Road? This will also require one right-in-right-out connection. We didn't see a reply to that property owner in our FOIA request, Russell Dalton wrote back to Jeremy Warren, the original rezoning case was denied. They have come back with an exempt subdivision for 3 lots and need a variance to allow the extension of Elk River Drive as a cul-de-sac in excess of 600 feet, which would avoid the requirement for connectivity to Holt Road. If the Department does not permit the connectivity to Holt Road, the applicant can provide that information in writing to the Board of Adjustment as justification for the variance. Russell Dalton, again, contributed to fraud by asking NCDOT to basically disallow any potential connection to Holt Road so the applicant could make a case for the variance. The second act of fraud was in the misrepresentation of the UDO, which began with Jason Barron's variance request submitted on March 30, 2023. In it, he said the owner is required by UDO section 7.2.1.A.2.c.ii to connect with the Elk River stub street. You know, the thing is, Jason Barron said it and it became fact, and it was never challenged by the Town Attorney. What that UDO section specifically says, and I quote, "stub street connections shall be provided to all existing and planned stub streets on adjacent properties." The specific section cited by Jason Barron deals with the connection of one stub street to another stub street. For example, Gilwood Drive in Middleton was a stub street. When Courtyard on Holt was built, we connected to Gilwood through a stub street. This is exactly the intention of the UDO standard because it creates real interconnectivity between two developments. But the Preserve on Holt is not building a stub street, let's be clear about that. This is not what their variance is about. They want to extend the cul-de-sac, which is entirely different. The UDO standard does not apply, but in misrepresenting the standard, Jason Barron technically committed fraud. I want to play it a little further. Ms. Shapiro, a Morningstar attorney, said the heart of this request is a required connection to the Elk River Drive stub street required connection, and the town's UDO requirement related to the maximum length of the cul-de-sac. She went on to say that the NCDOT will not permit access from the subject property directly to Holt - which we now know is not true. She said that the result is that the only vehicular connection that can be provided to the property is by the extension of Elk River Drive into the site terminating into a cul-de-sac on the subject property. But she also said that if the Board does not approve this variance, the applicant will have no alternative but to seek inverse compensation action against the town, seeking compensation. Vice Chair Johnson asked for clarity if there would be no use of the property if it could not connect to Elk River Drive, and Mr. Adams said he didn't think that was accurate. He said that the DOT said for a single residence, you do not have to have a driveway permit. So, the applicant own expert just clearly contradicted what Ms. Shapiro claimed. Mr. Kuhn asked Mr. Roach, another expert for the applicant, if the stub street had to be extended, and Mr. Roach said, probably not. Mr. Kuhn asked if 1305 Holt Road could be developed as a single-family home on that lot with no subdivision, and Mr. Roach confirmed that is his understanding. Mr. Kuhn asked if that were the case, DOT could not reject the driveway, and Mr. Roach agreed. Clearly, the property can be developed without connecting to Elk River Drive, but Mr. Barron and Ms. Shapiro engaged in fraud by misrepresenting the UDO. Again, Town Attorney Hohe's silence on the issue contributed to the fraud. So in summary, there was gross misrepresentations of the NCDOT and the UDO, both of which influenced the Board's decision and neither of which were corrected by the Town Attorney. We're asking the Town Council to compel the

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Board of Adjustment to formally review the variance decision. If the Board has any ethical or moral compass, they should reverse the decision since approval was obtained by fraud. Thank you.”

Mayor Gilbert thanked Mr. Mettina for his comments.

Next to speak was **Donald Perlmutter** of 1362 Elk River Drive:

“You have just heard in detail a recounting by my colleague Chuck Mettina of the numerous discrepancies and contradictions between official public testimony at the July Board of Adjustment quasi-judicial hearing, and private communications by those same parties. It’s clear from this recounting that the Board based their decision to grant the applicant’s request for variance on false and misleading information. An unjust decision has been rendered that injures the interests and safety of many residents of Courtyards on Holt. Do we have to just accept and live with this? I’d say the answer is no. To that end, we were able to obtain the training manual for the Apex Board of Adjustment quasi-judicial hearings. I will now identify for you the points in this document that are relevant to our argument that this decision cannot stand. The first one, under quasi-judicial rules, “boards should make factual findings to support its decision, and those findings should be based on the competent evidence in the record.” There was no competent evidence in the record that NCDOT prohibited access to Preserves at Holt by Holt Road. The second, under standards of evidence, “the burden of proof for each standard is met if it’s supported by competent, material, and substantial evidence. At not time was the Board provided with written documentation that NCDOT would expressly prohibit access to Preserves on Holt via Holt Road. In fact, in private communications as revealed by FOIA, we have learned that NCDOT’s language on this subject was not prohibitive at all. And third point, under evidence notes on hearsay, “decisions should not be made based on hearsay testimony.” It’s our contention that the statement by Russell Dalton, Apex Traffic Engineer, at the July hearing, that NCDOT would not allow access to the proposed development from Holt Road was hearsay, in that he could not provide email documentation from NCDOT to substantiate his statement. In fact, the FOIA materials reveal that the email he referenced to support his statement did not even exist. Board of Adjustment accepted this hearsay as fact, and it contributed to their decision to grant the variance. Now that we’ve demonstrated that the Board of Adjustment violated its own rules of procedure, what’s to be done? The answer lies in my final offering from the procedural manual for the Board of Adjustment, under reversal of decision. “The board may reverse decision after public hearing in the following situations: approval was obtained by fraud, and use for which approval was given is detrimental to public health or safety, or constituted a nuisance. The critical word here is safety. From the beginning, the compelling reason for our opposition to this variance has been the concern for the safety of our more fragile residents. We’re asking Town Council to set in motion a process which forces Board of Adjustment to revisit this erroneous decision.”

Mayor Gilbert thanked Mr. Perlmutter for his comments.

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

"I bet you're fed up listening to me. And tonight, with the voice I have, it will get worse. Tonight, the residents and voters of Courtyards on Holt have presented the results of our FOIA request on 1305 Holt Road. We've shared emails of Apex town officials pertaining to us and the NCDOT opinion on allowing Holt Road access to the proposed development, which specifically contradicts some of their sworn testimony, or the testimony of expert witnesses of the July BOA. The fraudulent testimony informed, motivated, and directed the final BOA decision on 1305 Holt Road. I will remind you of Dr. Taylor's presentation just 2 weeks ago where shared, "we were not given all information to make a ruling. We were given information that proved to be false. As a result of Dr. Taylor's presentation and our FOIA request, we have, however, shared the truth reflected in the emails from town employees Russell Dalton, June Cowles, Serge Grebenshikov, versus their testimony, and the testimony of the applicant's sworn experts. The only town voice we did not hear in our FOIA request is perhaps the town's most powerful employee. Sorry Mayor, that's not your voice. And Town Council, that's not your voice either. The voice we did not hear, and apparently the most powerful person in Apex, is Town Attorney Hohe. We asked in our FOIA for all correspondences on 1305 Holt Road, including those of Ms. Hohe. Yet we received only 2 completely non-consequential email communications from Ms. Hohe, one to our attorney, and one to Jason Barron informing him that his client's application was approved by the BOA. Why? In Ms. Hohe's letter to Chuck Mettina, Ms. Hohe made it clear that her conversations, communications were protected by attorney-client privilege. And I quote, the BOA was her client. And therefore, Ms. Hohe was under no requirement to share those communications regardless of any FOIA request. Per UNC School of Government Dr. Jim Joyce, the Town Attorney can assume attorney-client privilege, however, only for legal advice. Additionally, there can be no conflict or potential conflict between the governing board. In this case, the Town Council and the BOA. Ms. Hohe knew that the BOA was acting in conflict with the Town Council. And yet, Ms. Hohe stated that she represented the BOA. How exactly is that possible? Ms. Hohe should have been protecting the expressed interest of the Apex Town Council and their January decision, yet Ms. Hohe failed to even inform the BOA members of the January decision on 1305 Holt Road. Ms. Hohe, how did you think you could serve both Town Council and BOA, when the groups were across purposes? Ms. Hohe should have recused herself on this BOA decision and appointed another attorney to advise the BOA because the Town Council should have been her exclusive legal responsibility in this matter. Instead, Ms. Hohe failed both of her clients, and is now hiding both of her failures behind attorney-client privilege. Why not disclose now, Ms. Hohe? The BOA decision has been rendered. It's past the time to see that the Courtyards on Holt can appeal to the NC Superior Court. What are you hiding Ms. Hohe? We are left to wonder. Did you orchestrate this BOA decision as an end-around the January Town Council decision to avoid the town being sued by the applicant and their legal firm Morningstar, who publicly threatened to sue the town? In her presentation to Town Council two weeks ago, Dr. Taylor asked if Ms. Hohe "was more concerned with pacifying the applicant out of fear the town would be sued?" Does Ms. Hohe help guide the town planners in their responses? Did she directly discuss the issue with Morningstar? Lots of questions, and thanks to you hiding behind attorney-client privilege we have no answers. Again, per Dr. Joyce, determination to disclose attorney-client communication is, and I quote, in the first place left to the attorney's ethics and professional judgement. By your failure to disclose Ms. Hohe, you're

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sending a clear message to the Mayor, the Town Council, and the Town of Apex. Two weeks ago we asked for an independent investigation into the July decision on 1305 Holt Road. The Town Council declined that request, and might have gotten hung up on the word investigation. Therefore, we the residents of Courtyards on Holt, are asking for an independent review, under the guidance of Mayor Gilbert, of the July Board of Adjustment decision on 1305 Holt Road, and that Apex not approve any further actions on 1305 Holt Road until the review is completed. An Apex BOA decision based on fraudulent information can be rendered null and void by the BOA Board itself, which is perhaps informing Ms. Hohe's advice to Town Council, and her attempt to sweep this under the rug. We ask you to confront the BOA with the fraudulent information that informed, motivated, and directed the BOA decision, so that the BOA can reverse their July decision on this variance given to the applicant on 1305 Holt Road. And in closed Session, which we know you'll be in, I suggest that the Town Council summon the courage displayed by Dr. Taylor at this very same podium two weeks ago, and I suggest you take your legal counsel from another resource besides the Town Attorney, who it appears, at least on this issue, to have pulled the strings of the Town Council like an amateur puppeteer. Thank you."

Next to speak was **Beth Bland** of 3724 Friendship Road:

"I wanted to come tonight to make sure the Town Council is aware that the efforts that were being made to help control the traffic on Friendship Road, things like the Fix Friendship Road petition that was written by Elizabeth Stitt, and then we have attended numerous Town of Holly Springs Council Meetings also, and we have met with the developer of Friendship Innovation Park, and it's made a difference. So the developer told us he heard our concerns during our meeting, and they made a change to their plan with the traffic analysis that was done, and they specifically changed what was for Friendship Road and Old US 1, they moved it from Phase 3, which is the end of their project, which would be 7-10 years out, to Phase 1, and they're also doing a fee-in-lieu of over \$133,000. So let's hope that that will help us a lot with trying to get us off of Friendship Road onto Old US 1 and vice versa. The road itself is just crumbling, as far as the trucks that are going through, it's getting worse and worse. There were blue lights on Friendship Bridge last night, I don't know really know what it was, I don't know if it was a car accident, I don't know if it was a bicyclist, but at least this is something, and hopefully it can be something that can happen sooner than later as far as getting a signal at that intersection. Definitely the Town of Holly Springs was instrumental in having the developer meet with us, so I just want to make sure you are aware of what their part of that was, and hope that you can continue a relationship with the Town of Holly Springs and the Town of Apex with all of the new building that's going on that US 1 corridor that's going to happen. There's one other comment that I need to make, and Councilmember Mahaffey, so you ran for your position with trees on your sign, and it was a lot about the canopy, etc. So back to the Force Main, I'm having a hard time understanding, with all of the trees that are going to come down for this Force Main to come through our properties, why you aren't on board with trying to look at moving it to the other side of the road. And I had another comment for Councilmember Gantt, but he's not here tonight so I'll save that for next time. Thank you."

Mayor Gilbert thanked Ms. Bland for her comments.

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Next to speak was **Elizabeth Stitt** of 3113 Friendship Road:

"Mayor, Town Council, good evening. As Beth previously shared, we've been working with Holly Springs. Holly Springs actually connected us with Matthew Nofo at DOT, and had some really good conversation with him about what is happening with our intersection and the traffic. That connection is huge, because now he understands our concerns. He was very appreciative of those concerns. And as many times as I've come before the Council and the town knows what we're trying to do, I would like to town to think through what other connections Apex can help us make, because if you're staff doesn't have time to advocate for the road, we absolutely will. So, we're going to maintain those relationships with DOT, we have established relationships with CAMPO, and we're going to continue to advocate there, we're going to continue to show up at Holly Springs Town Council meetings and working with them. There is another development that Holly Springs just approved within a half-mile of the Friendship Innovation Park. It also contains a fee-in-lieu for our intersection. I don't know what the dollar amount is, but what they're doing on their side of the bridge is huge and significant. We have not been able to get to the bottom of how much traffic is coming our way. Normally, a TIA has the total average daily trips. For some reason, they chose not to include that in the TIA. So, we've requested that information. We've asked the Town of Apex, Russell and Serge, if they could help get the information. Nobody has been willing to help us get that information. So that would be something very meaningful if Apex Transportation could reach out to Holly Springs Transportation and see how much traffic is coming. So, they are building over 1,500, between the two developments, homes right at that intersection, and they have unlimited commercial square feet. So just envision how much traffic that's coming on our road. I think they aren't disclosing it because they don't want us to know how much, but they wouldn't be all of a sudden dropping all this money, fee-in-lieu, if we weren't onto something. Developers don't do that. So, I believe there's much more, and I would like you to direct the staff to get more involved with Holly Springs on this particular intersection. I would love to have a neighborhood conversation, where Apex does some research and comes back to us and say, okay here's what our vision is. Because according to CAMPO, they have a vision, according to DOT they have a different vision, Holly Springs has a third, and Apex apparently has a fourth. Which version is actually going to happen? My understanding is that it's in your jurisdiction, and so ultimately, we need you to take some leadership. Thank you."

Mayor Gilbert thanked Ms. Stitt for her comments.

Next to speak was **Ivania Gutierrez**:

"Good Afternoon, my name is Ivania Gutierrez, the Executive Director of a new non-profit organization with a 501c. Paula is one of my Board Members, she is translating for some people who do not speak English. So I'm going to divide my 9 minutes into 3 parts, connecting community story, what is our story and our experience working with a community, what is the connecting community and what is the ask we are going to do, and announcements. So, I'm not new at serving the community, I've been working for 3 years in different initiatives with a group called Zumba camp. We have been doing a lot of awareness for different causes, for different non-profits, and in this

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experience, we have realized that there's so many things good in the community happening. There's so many non-profits that are doing a great job in the community, but people don't know where to go when they need something. A single mom doesn't know where to go when she needs diapers. And there is an amazing non-profits called NC Diapers that is working for those single moms. So, in that experience, we realized also that there is a concept called social determinants of health that is very well-known by the North Carolina Health Department, so that's why this organization is not going to focus on one area. This is going to be an approach that is going to be looking at different non-profits in different areas. Like education, health, social support, housing, transportation, so that's why this organization is going to bring non-profit from different areas, and it's going to bring the people who might be interested in those non-profits, and we're going to create spaces that are fun, where people are going to feel included, and they're not going to feel stigmatized. So we're going to be doing fun events, one of the things we are going to be doing, this Sunday we have a soccer class where 20 families of Apex are going to come, and the kids are going to be coached by a bilingual coach, and the families are going to find out about different organizations. So the Town of Apex is invited to go, to tell the families what is available from the town for them. So that's what connecting community is. I'm a mom of 2 teenagers, and for the young populations, I see that there's not many things to do in the town, like my daughter always asks me to go shopping, I would like to see more live spaces where young people are doing more things for the community, for example, increasing the visibility of the transportation, the kids can do that. They can do TikToks, they can do wonderful things, explaining to the world the resources in the Town of Apex by doing that. My ask is a meeting with the transportation department to see how my organization can help to increase the visibility of the transportation, and maybe bring those young people in the town to increase the visibility. So, my organization can help increase the visibility of the services you are providing, making them more efficient. So, that's one of the asks. And then I teach a program every Friday called Siclo Danca, which is for people with wheelchairs. I have two of them, Dan, who is over there with the caregivers. This program is a movement program not only for the people in wheelchairs, but also for the caregivers. It's very inclusive and represents all the barriers that sometimes have that doesn't have to relate to transportation but also with a language barrier sometimes. These families have so many things that that's going to allow them to try. So the other ask is to meet with a person in charge of inclusion, I would like that Apex take the lead of disability, I think that is the population that is not seen, people that they know about, about the different barriers that these families have, and I would like to help the Town of Apex to take the lead of inclusion. Inclusion for this program, we can bring all the non-profits that are doing a great job for different kinds of disability, and we can take the lead and say we are an inclusive town. So, Connecting Community can help with that as well, so I am requesting a meeting with the person in charge of DEI, I had a meeting with Linda Jones and I would like to keep collaborating with her, and help the town to take the lead on that. That's basically what I wanted to say. Coming up, I have two big events planned for women and young populations, we are going to bring different non-profits that are assisting with awareness of domestic violence, single moms, different populations. We are calling all the single moms, we are going to take it from the offer, all the different non-profits that are working for the women groups in this event, and then we're going to bring an inclusive space for them. So, that's coming up, and then I'm going to use the North Carolina Museum, so Town of Apex is invited already to present things over there in that coming up event, and then for other people I want to do the same, bring all the wonderful non-profits, mental health, leadership classes for the young generations and do a second round of a big

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event for them. So, that’s basically what is Connecting Community, and we are happy to collaborate with the Town of Apex, as a mom, a resident of Apex, I am proud of this town. Thank for listening and thank you everybody.”

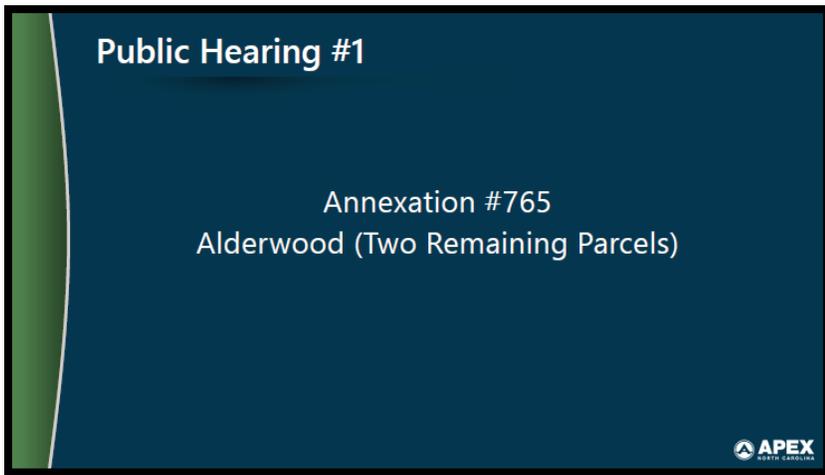
Mayor Gilbert thanked Ms. Gutierrez for all she does for the community. He then closed Public Forum with no sign ups remaining.

[PUBLIC HEARING]

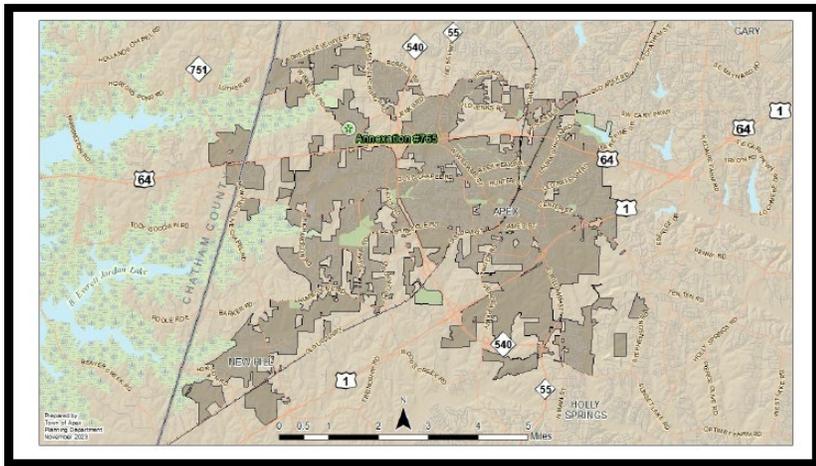
PH1 Annexation No. 765 - Alderwood - Two Remaining Parcels - 5.226 acres (REF: (ORD-2023-114))

Dianne Khin, Planning Director, gave the following presentation on Annexation No. 765 - Alderwood - Two Remaining Parcels.

[SLIDE 3]



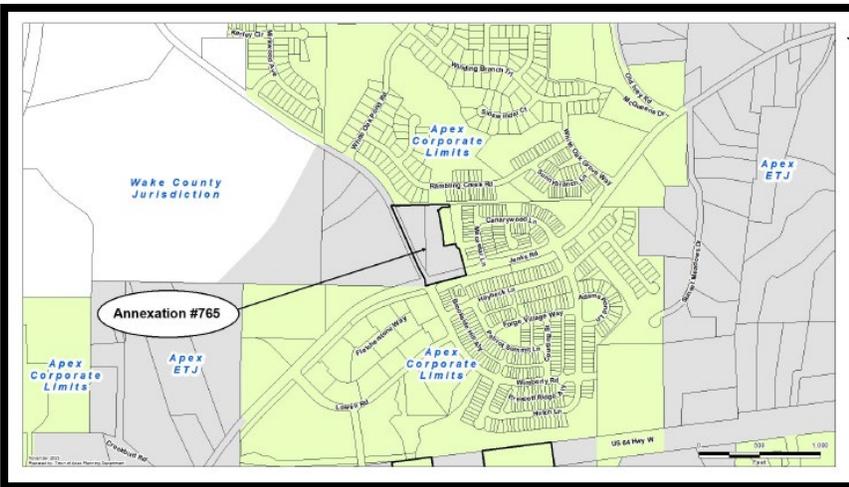
[SLIDE 4]



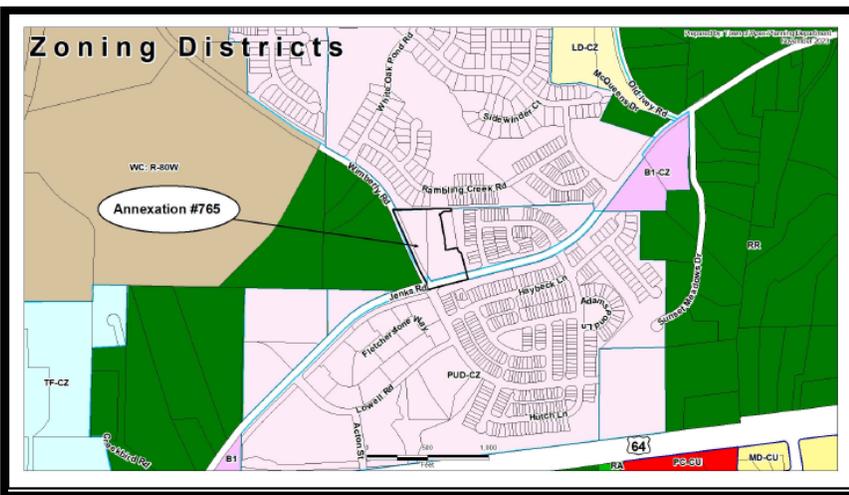
[SLIDE 5]



[SLIDE 6]



[SLIDE 7]



Mayor Gilbert opened up public hearing for this item. With nobody signed up to speak, he closed public hearing and moved discussion back to Council.

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A **motion** was made by **Mayor Pro Tempore Killingsworth**, seconded by **Councilmember Zegerman**, to approve Annexation No. 765 - Alderwood - Two Remaining Parcels.

VOTE: UNANIMOUS (4-0)

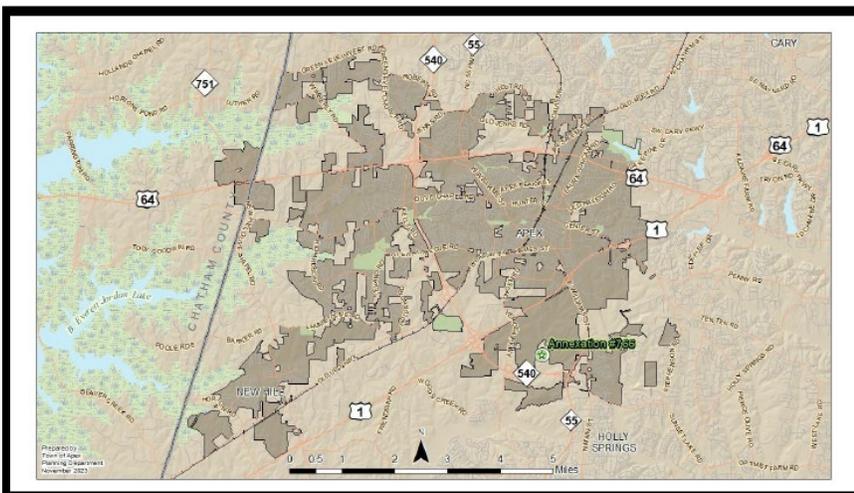
PH2 Annexation No. 766 - Veridea No. 1 (Tracts One through Six) - 111.02 acres (REF: ORD-2023-115)

Director Khin gave the following presentation regarding Annexation No. 766 - Veridea No. 1 (Tracts One through Six)

[SLIDE 8]



[SLIDE 9]



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Councilmember Zegerman asked if this is a clean up because the properties were not previously included.

Director Khin said they were not owned or annexed at the time of the rezoning.

Mayor Gilbert opened up public hearing for this item. With nobody signed up to speak, he closed public hearing and moved discussion back to Council.

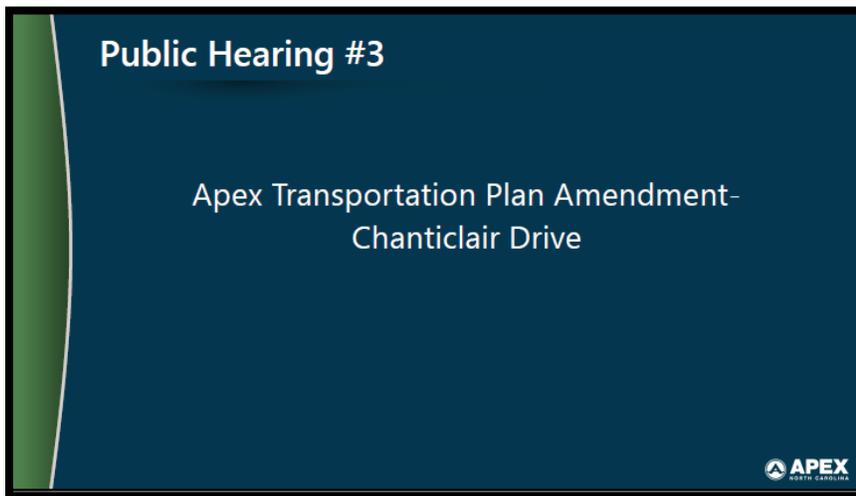
A **motion** was made by **Councilmember Gray**, seconded by **Mayor Pro Tempore Killingsworth**, to approve Annexation No. 766 - Veridea No. 1 (Tracts One through Six).

VOTE: UNANIMOUS (4-0)

PH3 Apex Transportation Plan Amendment - Chantclair Drive

Shannon Cox, Long-Range Planning Manager, gave the following presentation regarding the Apex Transportation Plan Amendment - Chantclair Drive.

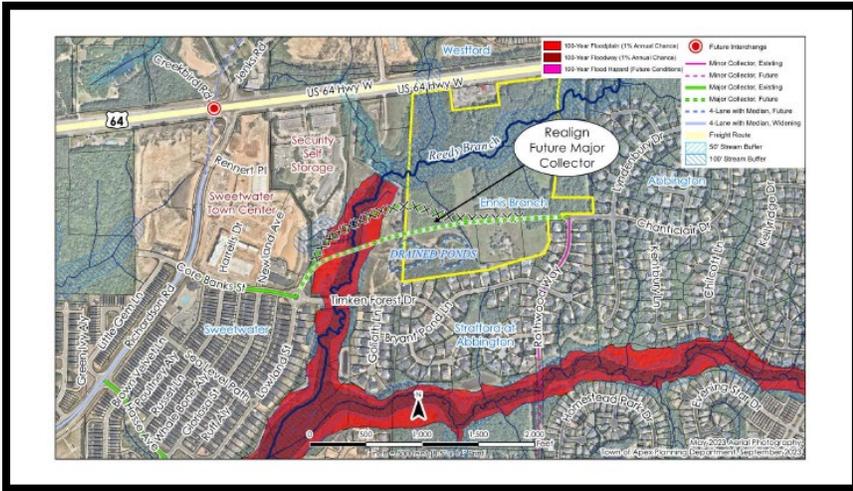
[SLIDE 13]



[SLIDE 14]



[SLIDE 15]



Mayor Gilbert opened up public hearing for this item. With nobody signed up to speak, he closed public hearing and moved discussion back to Council.

A **motion** was made by **Councilmember Zegerman**, seconded by **Councilmember Gray**, to approve the Apex Transportation Plan Amendment - Chantclair Drive.

VOTE: UNANIMOUS (4-0)

PH4 Annexation No. 768 - 9613 Horton Road - 17.41 acres (REF: ORD-2023-116)

Shelly Mayo, Planner II, Planning Department

AND

PH5 Rezoning Case No. 23CZ18 - 9551 and 9613 Horton Road (REF: ORD-2023-117)

Shelly Mayo, Planner II, gave the following presentation regarding Annexation No. 768 and Rezoning No. 23CZ18.

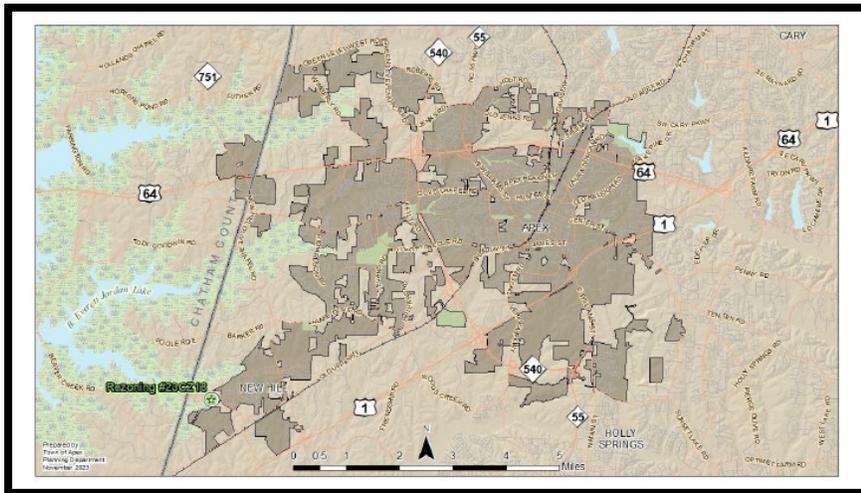
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Public Hearing #4 & #5

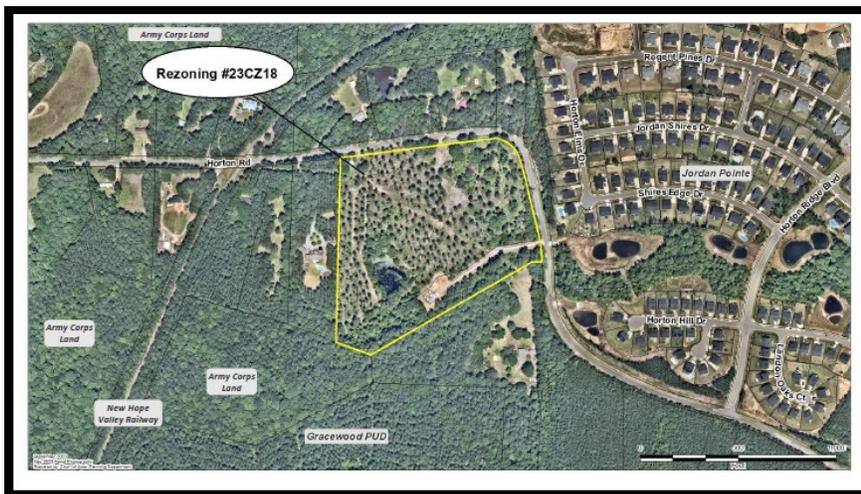
Annexation #768 &
Rezoning Case #23CZ18
Horton Road



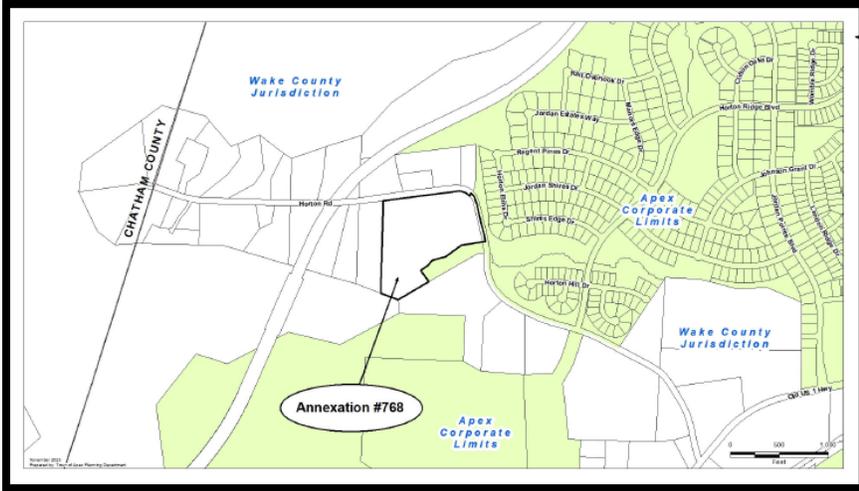
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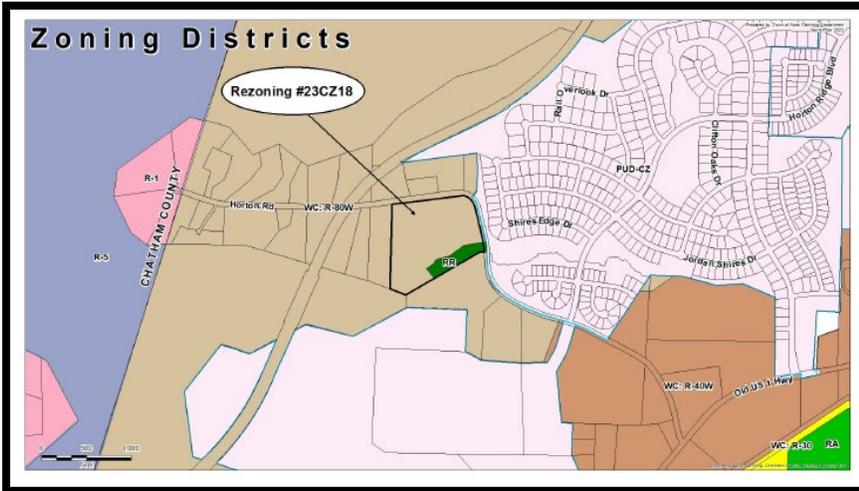
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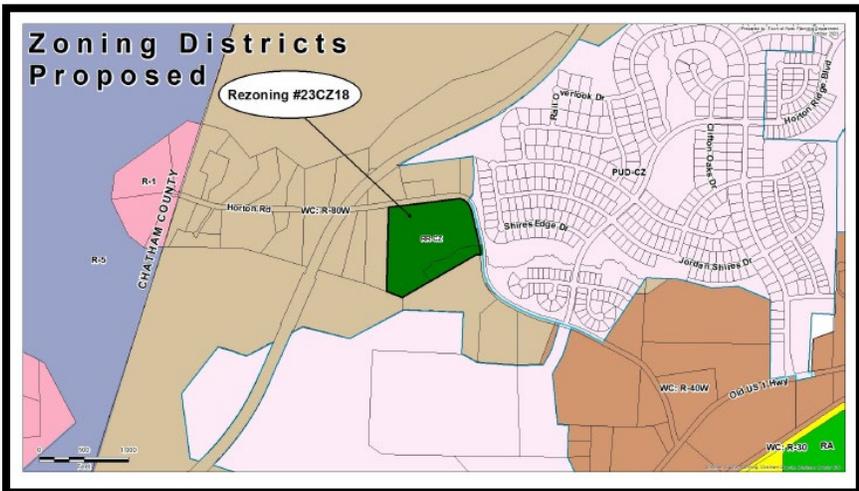
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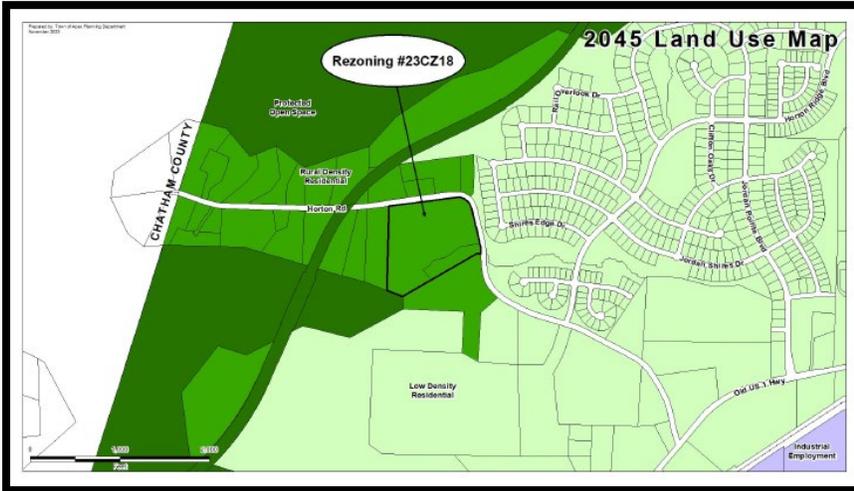
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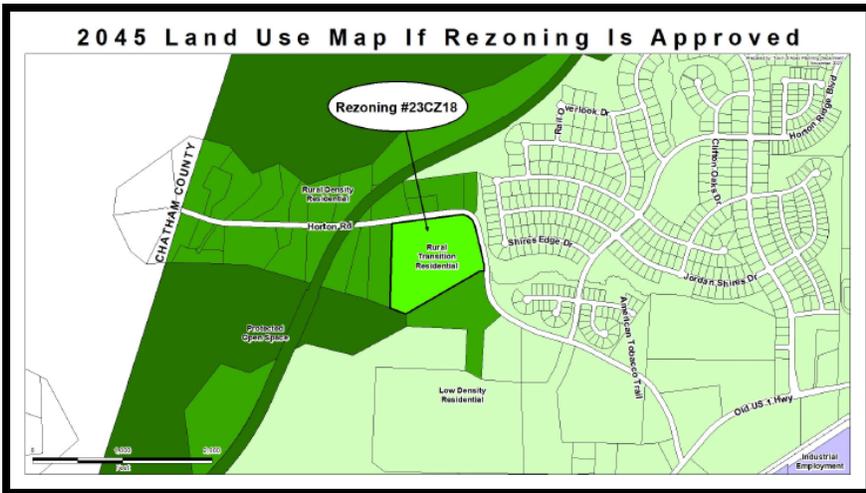
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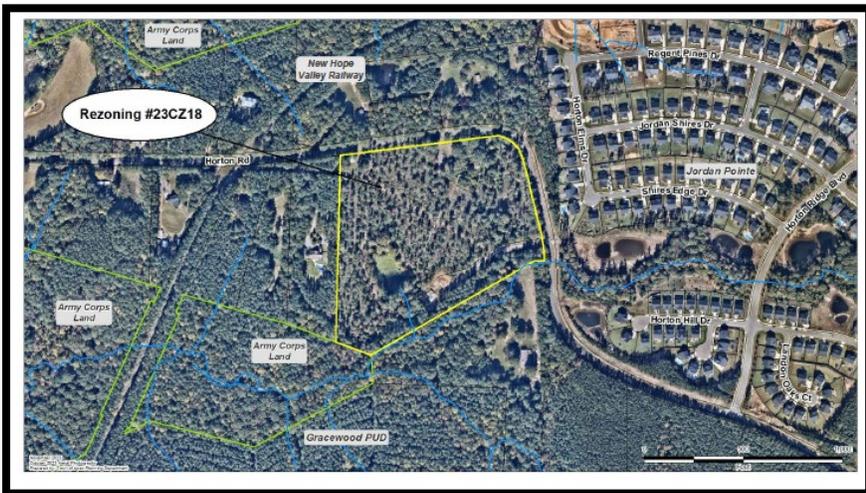
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Councilmember Zegerman asked if this was the first rezoning in a series, and properties to its west would come in with the same zoning.

Ms. Mayo said it was possible, but she said staff may not recommend that because of proximity to army land. She said it would have to be on a case-by-case basis.

Councilmember Zegerman asked if that would have already been incorporated into the 2045 Land Use Map.

Ms. Mayo the last update was when they added the Rural Residential Density Designation. She said the 1 unit per 5 acres is much lower than what Wake County allows. She said the Rural Transition was added in order to address places that need something in between. She said she would think properties would likely come in south of this if that was proposed, but she could not be sure.

Councilmember Zegerman asked if the buffer between army corps land was supposed to be 450 feet.

Ms. Mayo said that was not a UDO requirement, but was a wildlife and game lands recommendation. She said that was a recommendation for hunting safety. She said this development got as close to that recommendation as possible to make the subdivision work.

Councilmember Zegerman asked why a 400-foot buffer would be enough in this scenario.

Ms. Mayo said this was a smaller parcel than a lot of their others. She said when staff looked at the situation and the other things this property would offer, they felt it would be sufficient.

Patrick Kiernan, of Jones and Clossen Engineering, on behalf of the applicant, gave some comments regarding this development. She said the property owners have lived in Apex for a long time, and have been good stewards of the community. He said they worked with the town to put the Jordan Point Sewer Pump Station on this property, providing critical infrastructure to the town. He said they feel the requested change is reasonable based on the 2045 Land Use Map. He said this would preserve the character and provide a good density transition in this area. He said they are proposing a variable buffer along the western and southern portions of the property. He showed where the 400-foot buffer would be, and said it would be along a pond as well as a physical barrier. He offered to answer any questions.

Councilmember Mahaffey asked if there was a grading plan for the property, and if it was known how many stages it would have.

Mr. Kiernan said they are not near development. He said their intent is to follow the UDO, which would allow up to 50% of the lots to be graded. He said they don't plan on doing anything that would be unnecessary to putting in the infrastructure.

Councilmember Mahaffey asked if he would describe the topography as challenging.

Mr. Kiernan said no, it was relatively flat, and they do not anticipate any issues.

Councilmember Mahaffey said he would like to see more old-style developments, which put in infrastructure and graded lots individually. He said what they are proposing isn't quite stage grading but is a step towards it. He said the term for this within the town would need to be created at some point in the future.

Mr. Kiernan said that is essentially the intent here. He said there may need to be certain lots that are gone about differently, but he anticipates it going this way for most of them.

Councilmember Gray said this is continuing the legacy of the applicant in the care it is taking in regards to the buffers. He thanked the applicant for their considerations.

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Mayor Gilbert opened up public hearing for this item. With nobody signed up to speak, he closed public hearing and moved discussion back to Council.

Councilmember Zegerman said he also appreciated the staged buffers and taking care of the neighbors. He said his main concern was that this proposal does not honor the density that is outlined in the Land Use Map. He said the units would end up being denser because of the buffers and topography on the property. He said this is inconsistent with the plan and with what residents have said they wanted in this area. He said this would set a precedent for density in this area and would make it harder for them to uphold the land use plans, and would cause more density to get close to army corps lands and the Jordan Lake water supply. He said this is similar to the Castleberry development as well. He said he appreciates the efforts on this, but he cannot be in support of this at this point.

Councilmember Gray said he thinks the concern about the domino effect is valid, but that Council are the people who control the dominoes. He said he thinks these things are best done with a case-by-case analysis. He said he likes the use of creating these buffers, and this process was done with consideration and care for neighbors. He said he would like to see a set of conditions for controlling the dominoes in this area and keeping this approach. He said this project gives good things in the conditions, and had creative steps by the applicant. He said he feels very good about supporting this, and hoped it would be a model for other developments down the road.

Councilmember Zegerman said he agreed that they are in control of the dominoes falling over, but he said this is the first domino they would knock over. He said if they don't do this, they wouldn't put themselves in a position to potentially deny a similar request to this in the area in the future.

Councilmember Gray said he thinks that is a fair statement. He said they are still in control of the dominoes and would have to make a case-by-case analysis of each one. He said he does not see this as the thing that would trigger everything else down the road. He said all he can do is look at what is in front of them right now, and can't look at what may come down the road. He said they get a lot out of this rezoning. He said he doesn't see it as setting precedent, but if it is, he likes the precedent that is being set with regard to the conditions.

Councilmember Mahaffey said he was between them. He said this was not the first domino, and was the third or fourth to make a denser zoning in this scenario. He said they have not been clear with developers on what the criteria is to get denser zoning in critical areas. He said if they keep approving them without saying anything like that, the 1 per 5 acres designation is essentially just a 1 per 1-acre designation anyways. He said he thinks they need to articulate what specifically the conditions are that can allow to get the upgrade in density, if that's why they like these rezonings. He said he doesn't like continuing to do these kinds of rezonings "ad-hoc." He said he does like the conditions on this, but would like the grading to be a little more explicit. He said setting a precedent of individually grading lots is one he would like to set, and something he thinks would be worthy of a density upgrade. He added he wished it also included a solar panel system. He said he also thought they may could add a UDO requirement regarding buffers to army corps land so it didn't have to be a condition every time. He said he may would be in favor of tabling this for now and seeing if they could tweak some of the language. He also added he thinks they should have two meetings for every rezoning.

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Mayor Pro Tempore Killingsworth said she thinks a lot of the conditions are great. She said she is in favor of having 1 unite per 1 acre in this area. She said she is loving some of the EAB suggestions as well. She said she does not have a problem with this one.

Councilmember Zegerman said he doesn't want to take away from the conditions offered, he thinks they are great. He said this is more of a question of principle, and the precedent this may set for them and future Councils.

Councilmember Mahaffey said they need to update to 2045 Land Use Map to reflect some properties that have the rural transitions designation sooner rather than later. He said he feels like the floodgates have opened with this kind of designation.

Councilmember Zegerman asked what the next planned date was for updating the Land Use Map.

Director Khin said there is no timeline for it, but it is on the list of things to do. She said if they changed the Land Use Map to this designation, there may be less leverage for Council during the rezoning process. She said it may be difficult to determine which areas they would to keep as rural versus changing to rural transition. She said it would be easier to make those determinations within the context rezoning.

Councilmember Zegerman said that's fair, but he agrees with Councilmember Mahaffey that they need some predictability and standards for these scenarios. He said it would be fairer.

Mayor Gilbert asked Mr. Kiernan if he would like to move forward tonight, in light of Councilmember Mahaffey's suggestion to possibly table this item.

Mr. Kiernan said yes, they would like to move forward.

Councilmember Mahaffey said he was not there yet.

Mr. Kiernan said they would be willing to add a condition for one solar rooftop, but they would like to call for a vote tonight.

Councilmember Mahaffey asked if they could commit to individually grading the lots beyond the stage grading measures that are currently included.

Mr. Kiernan said he was not sure how that could be written to be enforceable.

Ms. Mayo said that if they put in a condition for individual zoning at this point, before they have created a zoning plan, they would need to come back to Council for a change in conditions if they had to do more grading for certain lots depending on circumstances.

Director Khin said doing individual lots is very difficult in areas with difficult topography and geographic features such as streams. She said they would not be able to craft a zoning condition that would be both valuable and enforceable for any project for this, as they would not have enough information.

Councilmember Zegerman asked how Salem Village Phase I was done, because those lots were done individually or two at a time.

Ms. Mayo said that was a very different setup at the time. She said that project was developed under an old set of constraints with a different UDO. She said to her recollection, that project graded 5-6 or more lots at a time. She said they look as good as they do now because they have had 10-15 years to grow back in.

Councilmember Zegerman said if individual grading is not feasible, maybe they can take a cue from the past with how those were done. He said they may could be graded in pods.

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Ms. Mayo said they could not make a condition for tonight, and that in her opinion, that would require having a more detailed grading plan up-front from the applicant. She said they do not have a topographical survey at this point so it would be more difficult to determine.

Director Khin added that Salem Village was done on much easier topography such as farm fields.

Mayor Gilbert said he appreciated all of the input, and that it was time for a vote.

A **motion** was made by **Councilmember Gray**, seconded by **Mayor Pro Tempore Killingsworth**, to approve Annexation No. 768 - 9613 Horton Road and Rezoning No. 23CZ18 - 9551 and 9613 Horton Road, with the additional condition of a minimum 4kW Solar PV System being installed on 1 single-family home within the development. (*Clerk's Note: See **OTHER-2023-121** for the complete additional zoning condition.*)

VOTE: 2-2, Councilmember Mahaffey and Councilmember Zegerman dissenting

Mayor Gilbert thanked staff and the applicant for working together on this rezoning, and thanked the property owners for all they have done for the community over the years.

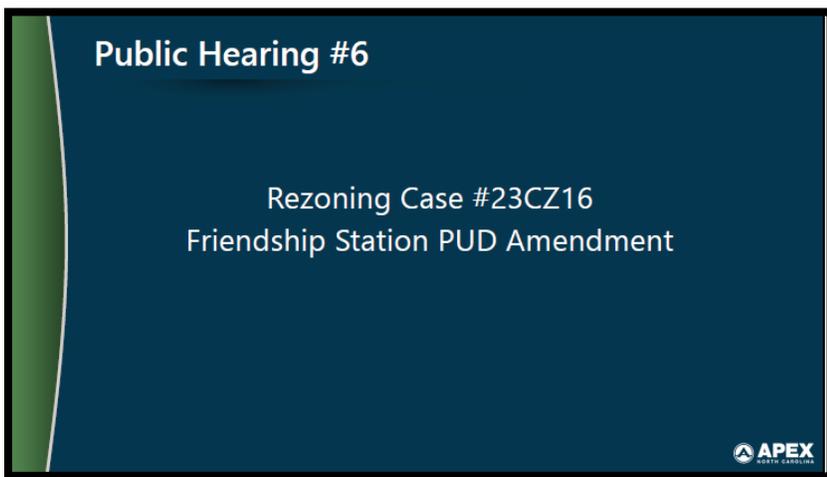
Pursuant to Town of Apex Charter, **Mayor Gilbert** voted in the affirmative in order to break the tie.

Motion Passed, 3-2.

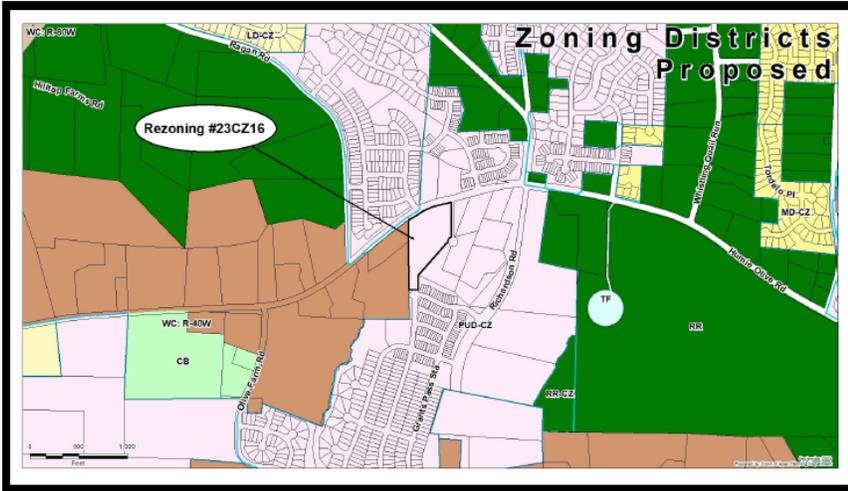
PH6 Rezoning Case No. 23CZ16 - Friendship Station PUD Amendment

Amanda Bunce, Current Planning Manager, gave the following presentation regarding Rezoning No. 23CZ16 - Friendship Station PUD Amendment.

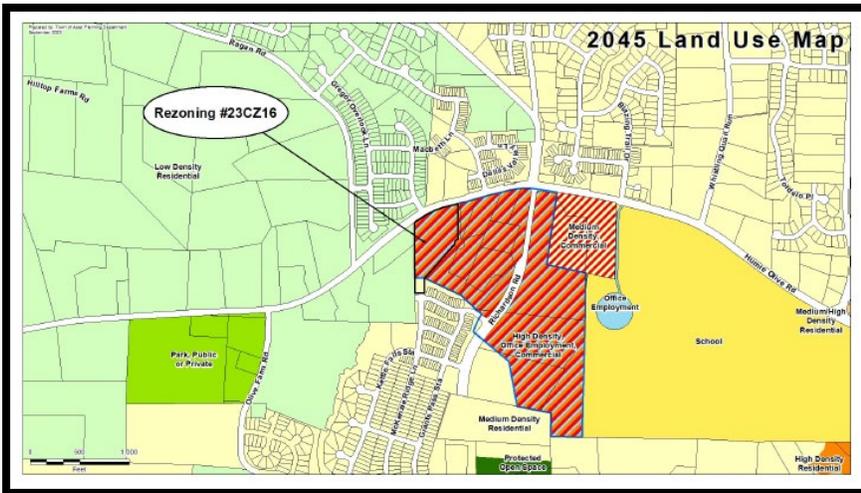
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[SLIDE 29]



[SLIDE 30]



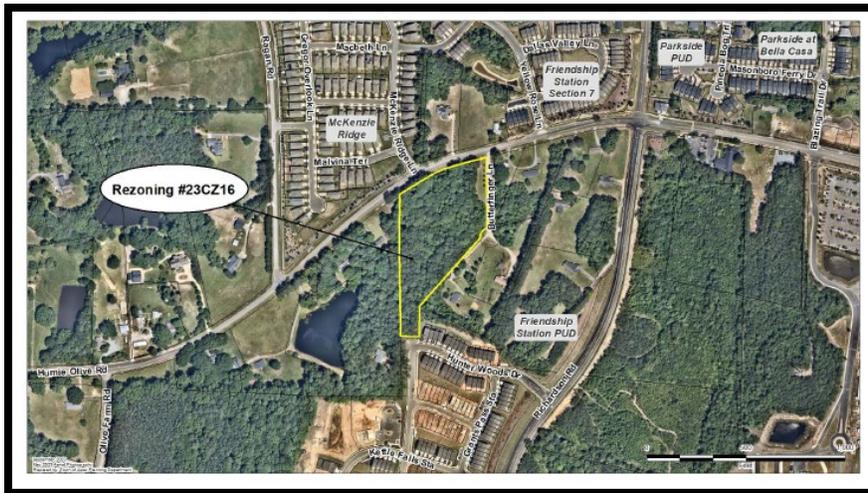
[SLIDE 31]



[SLIDE 32]



[SLIDE 33]



Mayor Gilbert opened up public hearing for this item. With nobody signed up to speak, he closed public hearing and moved discussion back to Council.

A **motion** was made by **Mayor Pro Tempore Killingsworth**, seconded by **Councilmember Gray**, to approve Rezoning No. 23CZ16 - Friendship Station PUD Amendment.

VOTE: UNANIMOUS (4-0)

[UPDATES BY TOWN INTERIM TOWN MANAGER]

Interim Town Manager Purvis said trimming has started where the Peakway Bridge is going to be put in. He said for the Peakway Bridge, environmental permits have been approved, CSX Agreement has been fully executed and the deeds will be recorded this week, all plans and encroachment packages are done and submitted to DOT, and all they are waiting on are DOT and FHA approval to continue. He said the bid would be posted after that, which is hopefully going to be

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in January. He said there was a Work Session on November 30, and a tree lighting event on December 1st, then the Christmas Parade on December 2nd.

Mayor Gilbert said he wanted to commend Electric Utilities for installing new light poles on Tingen Road.

[CLOSED SESSION]

Town Attorney Hohe asked if a closed session item could be added to discuss the handling of the matter of Town of Apex v. CJS Assemblage.

A **motion** was made by **Councilmember Zegerman**, seconded by **Councilmember Mahaffey**, to enter into Closed Session for Consent Items 1 and 2, pursuant to **NCGS § 143-318.11(a)(5)** and **NCGS § 143-318.11(a)(3)**.

VOTE: UNANIMOUS (4-0)

Council entered into closed session at **7:37p.m.**

CS1 Steve Adams, Real Estate and Utilities Acquisition Specialist

NCGS § 143-318.11(a)(5)

"To establish, or to instruct the public body's staff or negotiating agents concerning the position to be taken by or on behalf of the public body in negotiating (i) the price and other material terms of a contract or proposed contract for the acquisition of real property by purchase, option, exchange, or lease."

CS2 ADDED - Town of Apex v. CJS Assemblage

NCGS §143-318.11(a)(3):

"To consult with an attorney employed or retained by the public body in order to preserve the attorney-client privilege between the attorney and the public body."

Council returned to open session at **8:27p.m.**

[ADJOURNMENT]

Mayor Gilbert adjourned the meeting at **8:28p.m.**

Jacques K. Gilbert
Mayor

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

Submitted for approval by Town Clerk Allen Coleman and approved on January 12, 2024 (CN7).

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**MINUTES
TOWN OF APEX
TOWN COUNCIL WORK SESSION
THURSDAY, NOVEMBER 30, 2023
3:30 P.M.**

The Apex Town Council met for a work session on Thursday, November 30, 2023 at 3:30 p.m. at the Apex Police Department located at 205 Sanders Street in Apex North Carolina.

This meeting was open to the public. Members of the public were able to attend this meeting in-person or watch online via the livestream on the Town's YouTube Channel:

<https://www.youtube.com/watch?v=XUmqlsr1Xc8>

[ATTENDANCE]

Elected Body

Mayor Jacques K. Gilbert (presiding)
Mayor Pro-Tempore Audra Killingsworth (late arrival)
Councilmember Brett Gantt
Councilmember Ed Gray
Councilmember Terry Mahaffey
Councilmember Arno Zegerman
Absent: None

Town Staff

Interim Town Manager Shawn Purvis
Assistant Town Manager Demetria John
Assistant Town Manager Marty Stone
Town Attorney Laurie Hohe
Town Clerk Allen Coleman
Police Chief Jason Armstrong
All other staff members will be identified appropriately below.

[COMMENCEMENT]

Mayor Gilbert called the Work Session to order, and led in a recitation of the Pledge of Allegiance. He noted that Mayor Pro Tempore Killingsworth would be arriving in about 15 minutes.

Interim Town Manager Purvis said they are at a point where they need some direction from Council on some ordinances they are working on.

[AGENDA ITEM NO. 1 - PUBLIC SAFETY BI-ANNUAL UPDATES - APEX POLICE DEPARTMENT (APD)]

Chief Armstrong said one of the things they were going to talk about today was e-bikes and e-scooters, and looking at how other places handles those things. He said they were looking to review how they defined those things and what they have on the books in regards to them. He gave the following presentation:

[SLIDE 1]



[SLIDE 2]



[SLIDE 3]

North Carolina Definitions

Vehicle. – Every device in, upon, or by which any person or property is or may be transported or drawn upon a highway, excepting devices moved by human power or used exclusively upon fixed rails or tracks; provided, that for the purposes of this Chapter bicycles and electric assisted bicycles shall be deemed vehicles and every rider of a bicycle or an electric assisted bicycle upon a highway shall be subject to the provisions of this Chapter applicable to the driver of a vehicle except those which by their nature can have no application.

Motor Vehicle. – Every vehicle which is self-propelled and every vehicle designed to run upon the highways which is pulled by a self-propelled vehicle. Except as specifically provided otherwise, this term shall not include mopeds or electric assisted bicycles.

Motorcycles. – Vehicles having a saddle for the use of the rider and designed to travel on not more than three wheels in contact with the ground, including autocycles, motor scooters, and motor-driven bicycles, but excluding tractors and utility vehicles equipped with an additional form of device designed to transport property, three-wheeled NC General Statutes - Chapter 20 10 vehicles while being used by law-enforcement agencies, electric assisted bicycles, and mopeds as defined in subdivision d1. of this subdivision.

[SLIDE 4]

North Carolina Definitions

Electric Assisted Bicycle. – A bicycle with two or three wheels that is equipped with a seat or saddle for use by the rider, fully operable pedals for human propulsion, and an electric motor of no more than 750 watts, whose maximum speed on a level surface when powered solely by such a motor is no greater than 20 miles per hour.

Motor-driven bicycle. – A vehicle with two or three wheels, a steering handle, one or two saddle seats, pedals, and a motor that cannot propel the vehicle at a speed greater than 20 miles per hour on a level surface. This term shall not include an electric assisted bicycle as defined in subdivision (7a) of this section.

Moped. - A vehicle, other than a motor-driven bicycle or electric assisted bicycle, that has two or three wheels, no external shifting device, a motor that does not exceed 50 cubic centimeters piston displacement and cannot propel the vehicle at a speed greater than 30 miles per hour on a level surface. The motor may be powered by electricity, alternative fuel, motor fuel, or a combination of each.

Councilmember Zegerman asked if these e-bikes not covered would classify as motorcycles.

Chief Armstrong said it depends. He said some of them have a classification that only accounts for the speed that can be reached by the engine only without pedal assist.

[SLIDE 5]

E-Bike Class System

- o **Class 1:** e-Bikes that are pedal-assist only, with no throttle, and have a maximum assisted speed of 20 mph.
- o **Class 2:** e-bikes that also have a maximum speed of 20 mph, but are throttle -assisted.
- o **Class 3:** e-Bikes that are pedal-assist only, with no throttle, and a maximum assisted speed of 28 mph. **(Not covered within State Law)**

[SLIDE 6]

Apex Local Ordinances

Sec. 20-3. - Protective helmets required.

Every person less than 16 years of age operating or riding a bicycle, moped, inline skates, roller skates, skate board, scooter, or other similar vehicle or device on a public street, sidewalk, greenway, or other right-of-way or on any property owned or controlled by the town shall wear a protective helmet on his head, with the chin strap securely fastened under the chin. Such helmet shall be fitted to the size of the wearer and shall meet or exceed the standards for bicycle helmet use and wear asset by ANSI (American National Standards Institute) or the Snell Memorial Foundation. Riding a vehicle or device includes riding as a passenger. No parent or guardian of any juvenile shall knowingly allow such juvenile to violate this section.

Sec. 20-143. - Riding bicycles, scooters and skateboards on sidewalk.

No person shall ride a bicycle, scooter or skateboard on any public sidewalk without due caution and shall yield the right-of-way to all pedestrians and persons on other permitted devices using said sidewalks. Speed shall be limited to ten miles per hour on sidewalks and paths of five feet or less in width and when crossing the intersection of a public street or driveway along any sidewalk or path. No person shall ride a bicycle, scooter or skateboard on the sidewalks along North Salem Street between Chatham Street and Templeton Street or along Chatham Street between Seaboard Street and [unclear] Street.

Councilmember Zegerman asked about e-bikes that went faster than 20 miles per hour.

Chief Armstrong said in his research, there weren't instances of those in other place's ordinances that classified those as e-bikes. He said most were classified as motorcycles.

Councilmember Zegerman said there were a lot of cases of bike modification that could make things go faster than the base limits.

Chief Armstrong said that makes it all become a different animal. He said the e-bike community outlines things a bit differently to help capture that, and that it caps out at about 28 miles per hour. He said above 30 miles per hour it really gets to be a motor vehicle.

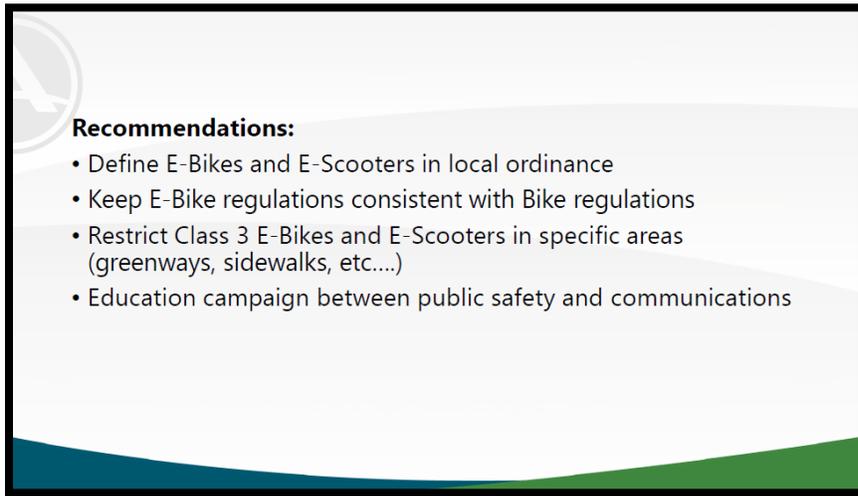
Councilmember Gray said his understanding was that the class system was based on what was allowed in New York City. He said lots of place don't allow the sale or operation of Class 3's, but with modifications other ones can get to that range.

Chief Armstrong said most that are sold are around the 20 mile per hour range, sometimes up to 22. He said less are 28, but they do exist.

Councilmember Zegerman said it was still important to look at classifying ones that get to 28 miles per hour.

Chief Armstrong said that would be coming in the recommendation piece of his presentation later.

[SLIDE 7]



Councilmember Zegerman said there should be a cutoff at a certain speed when they are classed as motorcycles.

Chief Armstrong said the cut-off miles per hour should be 20 miles per hour (MPH), and that's what it is in state law. He said that would be his recommendation, and anything faster would not be allowed on sidewalks/greenways, or require an additional license.

Councilmember Gantt said he thought this conversation was going to be about kids, not about the industry of E-Bikes and E-Scooters.

Chief Armstrong said this will encompass everyone and not just kids. He said the E-Bike and Bikes are not being split up and keeping the same regulations. He said there will be some additional conditions and protections for kids, but in general they are consistent.

Councilmember Mahaffey asked why the town couldn't make a distinction between the two.

Chief Armstrong said the elected body could do that if Council chooses. He said from what he has seen, there is a line where it becomes parental jurisdiction rather than the role of Council. He said kids are going to ride bikes, and often they aren't going to know the rules. He said there is going to be a large education campaign for parents, and that additional ordinances likely won't change how kids behave on bikes.

Councilmember Mahaffey asked are there enforcement concerns if such ordinance were to exist.

Chief Armstrong said yes. He said this would take away from their other concerns, and some kids may not even have IDs. He said they can't give a 13-year-old a ticket, it would go to the parent. He said the Education Campaign is to help with these concerns as well as

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parental control. He added that overall there is not a high frequency of incidents of kids on bikes. He believes there is not a need to enact an ordinance on how old a kid needs to be to ride a bike.

Mayor Gilbert said the District Attorney's (DA) office would need to weigh in.

Chief Armstrong said yes. He said the DA's office may go against the ordinance, but they are not going to govern how the town enforces the laws.

Councilmember Gray said there is an element of soft enforcement that is still very important to define exactly what is a scooter and a bike. He said the town is going to run into the same problem that parents are thinking their kids are on scooters but may actually be motorcycles by definition. He said having certain things on the books allows a justification for why behaviors should be encouraged, such as requiring a helmet.

Chief Armstrong said the biggest objective in the Education Campaign is informing people on the new laws and rules, and communicating on the front end with the community.

Mayor Gilbert said he wants to revisit the conversation of the DA's office. He said when you take a case to the DA's office, he said they will count that. He said that needs to be factored in before making ordinances.

Councilmember Mahaffey asked how many cases were taken to the DA's office about kids wearing helmets.

Mayor Gilbert said the town can't write a 13-year-old a ticket for not wearing a helmet on a bike. He said the skate park doesn't have an enforceable helmet rule. He said making it more enforceable moves away from the community policing principles.

Councilmember Zegerman said something needs to be on the books, and they can also do positive reinforcements.

Councilmember Gray asked what is the vision for how the Education Campaign will unfold.

Chief Armstrong said the first one is being able to post on social media. He said he has received some positive feedback on digital videos that are being posted, and changes can be included in those. He said as a light enforcement, police can do a campaign with the Traffic Unit. He said if he starts to see more violations in certain areas then they would get out in the community with the helmet tickets, ice cream tickets, and get people to stop in and look at the education piece. He said this will help people understand what the ordinances are and understand some of the dangers and concerns that some of the devices have especially for young people. He said he would also like to look at other community entities to partner with and do different initiatives for neighborhoods.

Assistant Town Manager John said a question came up during a meeting is how could the Police Department partner with the schools.

Councilmember Zegerman said it's important to have definitions laid out in the ordinance to know what kind of vehicle goes where in the regulations and lanes. He said the other issue is there aren't really separations for different modes of transportation, it's all within roads that include cars.

Councilmember Gantt said presumably if they were these scooters were not allowed on sidewalks and greenways, they would have to use roads, which would make it much less

safe for them, while making it safer for walkers. He asked about the framework for this concern.

Chief Armstrong said some of the concerns are already built into the ordinance. He said most people have not read the towns ordinance and they go out and ride. He said that's where the education component comes in at. There needs to be a way to get people to follow the rules to preserve safety.

Councilmember Gantt said he feels unsafe on his personal scooter on the road in downtown Apex. He uses the sidewalk until downtown, then switches to the road to follow the rules. He said he feels safer on a bike than a scooter on busy roads.

Chief Armstrong said he thinks it's more dangerous for bikes and scooters to be on roads from all the cars, open car doors, and other factors than trying to govern those vehicles on sidewalks along with pedestrians.

Councilmember Mahaffey said the difference between the E-Bikes and regular bikes is E-Bikes have throttles and that's what makes them different. He said the throttles are hard to control for someone who is inexperienced and it makes it more dangerous. He said to Chief Armstrong that he had emailed regarding the road access for E-Bikes in Durham being restricted to only ages 16 and up.

Chief Armstrong said to Councilmember Mahaffey that the statute was specific to the rental bike system.

Councilmember Mahaffey said there is an interpretation of state law that it's restricted to 16 and over on the road. He said in GS § Chapter 20 - Section 4.01 - Sub Paragraph 49 it talks about Vehicles. He read the paragraph and asked if that means they need a driver's license.

Chief Armstrong said he does not think so. He said there is a difference in definition of vehicle and motor vehicle.

Councilmember Gray said the town could make a similar statute that would govern all class two's if they wanted to. He said Class one, two and three, or even non-classifications is not anywhere in the North Carolina statutes. He said the town could create the definitions of e-bikes and e-scooters, regular bikes, etc. and that would make it a lot easier to regulate within each one of those classes.

Mayor Gilbert asked Council what their direction is in this recommendation.

Mayor Pro-Tempore Killingsworth said she would like to have a really thorough definition of bikes, e-bikes, scooters and e-scooters, so residents know exactly what it means. She said it seems like the North Carolina General Statute (NCGS) is due for an update.

Chief Armstrong said the North Carolina General Statute (NCGS) in 2019 or 2020 where legislation introduced to address stand up scooters but it never made it into law.

Mayor Pro-Tempore Killingsworth said it's to the town's benefit to define each one thoroughly and break down the different classes. She said the throttle on the e-scooters and e-bikes need to be pointed out because it's worth restricting in certain areas.

Councilmember Mahaffey said his question was related to the email he sent Chief Armstrong was ages 16 and under on roads who may not know the rules of the road and provide higher danger on throttles compared to ages 16 and over.

APPROVED

Mayor Gilbert asked to hear from legal on this subject.

Town Attorney Hohe said there are some regulations under state law. She said Council will want to make sure that whatever definitions that the town is applying are still consistent with state law. She said they don't want to try to outlaw something that is lawful under state law. She asked Councilmember Mahaffey to his point of e-bikes on sidewalks and not roadways, what would happen if the e-bike came to an intersection.

Chief Armstrong said there is a state law provision, even for kids they can cross over the roadway just like pedestrians.

Councilmember Zegerman asked wouldn't the town have the exact same situation there because of pedestrians because they are not allowed technically in the roadway.

Chief Armstrong said when we talk about kids and their knowledge based on if they are allowed to ride in the roadway at various places potentially is a dangerous deal.

Councilmember Mahaffey said he's still processing the idea, so it's just a question he had asked in the email. He said it makes sense to him that the throttles are different and that's what's creating the danger. He said his concern is specifically the rules of the road and someone younger than 16 who hasn't gone through the licensing procedure may not know when to stop or when to turn.

Councilmember Zegerman said it looks like everyone agrees that better definitions are needed. He asked to get a proposed set of definitions and then lay that out against a grid of different types of roadways where the town could allow bicycles, versus a class one e-bike, versus a class two e-bike, etc. to determine which one is more prevalent and more important for the town to account for.

Councilmember Mahaffey said many other towns are also struggling with the same question because of the safety concerns that are being created. He said it's really only the past couple years that this has been an issue and new ground for all of us.

Interim Town Manager Purvis asked was the focus of defining definitions with locations was for 16 and under.

Mayor Pro-Tempore Killingsworth said council should lay out everything.

Interim Town Manager Purvis said Council is looking at all ages and said to look at type and location.

Councilmember Zegerman asked for part of it to be where would we see the users of the vehicles in the town when the new definitions are created.

Councilmember Gantt said instead of regulating type, just regulate speed on the Greenways.

Councilmember Mahaffey said his primary concern is a vehicle hitting a bicyclist or other similar vehicle. He said he's not interested in restrictions for adults or those over 16.

Councilmember Gantt said adults need to be driving slower on greenways if they're using those kinds of vehicles.

Councilmember Mahaffey said he would be fine with a speed limit on greenways if one didn't exist.

APPROVED

Councilmember Gantt said that could also apply to all sidewalks so that people didn't have to get onto and off of roadways in areas like downtown. He said it may need to be 5 mph in downtown.

[SLIDE 8]



[SLIDE 9]

Apex Local Ordinance

Sec. 14-29. - Noise; definitions.

Construction means on-site erection, fabrication, installation, alteration, repair, demolition or removal of any structure, facility or addition thereto, including all related activities including, but not restricted to, clearing of land, earth moving, blasting and landscaping. Construction does not include owner occupied residential projects completed solely by the property owner and which do not require a building permit.

Sec. 14-31. - Sound emission standards and limitations.

Unless otherwise specifically indicated, it shall be unlawful during the daytime or nighttime hours for any person to cause or allow the emission of sound from any source or sources which when measured pursuant to [section 14-30](#), exceed the maximum decibel limits specified in table 1 more than ten percent of any measuring period, which shall be the length of time to take 100 readings at consecutive ten-second intervals.

[SLIDE 10]

Apex Local Ordinance

Sec. 14-33. - Other prohibited noises.

The following acts are specifically declared to be unreasonably loud, annoying, frightening, loud or disturbing noise, the emission of which shall be unlawful:

15. The collection of garbage, recyclables and yard waste between the hours of 11:00 p.m. and 6:00 a.m. This prohibition shall not apply to industrial facilities located in industrial zoning districts including LI (light industrial) and TF (tech/flex) as defined by the unified development ordinance

Sec. 14-35. - Inference in prosecution for noise violation.

The complaints of two or more persons, at least one of whom resides in a different home from the other complaining person or persons, or the complaint of one or more persons, when combined with the complaint of a duly authorized investigating person, shall be prima facie evidence that such sound is a loud and annoying, frightening, loud and disturbing, or unreasonably loud noise.

[SLIDE 11]

Recommendations:

- Define “loud and excessive” noise
- Restrict specific construction noise (nail gun, hammering/banging, machine operating noise, vehicle noise)
- Remove “loud and excessive” as a requirement for construction noise during set time periods

Councilmember Gantt asked regarding a particular neighborhood and if it actually was excessive or if they oppose the development they’re using this as a way to go against it.

Chief Armstrong said he doesn’t think they are not opposed to it because they bought one of the new houses that had just been built.

Councilmember Zegerman said the construction noise isn’t realistic if someone is laying down a floor on a Sunday inside of a closed house using a nail gun, he asked if the town really want to restrict that, and that it seemed excessive.

Chief Armstrong said there are some things that can be restricted such as outdoor verses indoor construction.

Mayor Pro-Tempore Killingsworth said this particular noise ordinance would be by defining outside construction noise.

Chief Armstrong said Council can make it as specific as they choose.

Councilmember Mahaffey said this ordinance was just written in 2021. He said at that time there was a conversation about the definition of excessive noise. He said there is a

difference between commercial needs and the quality of life for people living in subdivisions. He said its what people who live their think is loud and excessive noise. He said having two people that need to be part of a complaint is a good rule because it gives balance between the neighbors and the construction noise. He said the original proposal was more restrictive as far as the times.

Mayor Gilbert asked when the police officers respond, do they decide that's it's an excessive noise.

Chief Armstrong said he would have to go back and review what those interactions looked like to be better equipped to answer the question. He said what would also need to be taken into consideration is the backing up of vehicles and the various alarms that are set for safety measures.

Mayor Gilbert said he received several calls in the past year about modified exhausts, and asked if the Chief had received anything information about that topic.

Chief Armstrong said he recalls about two incidents, and he would send an officer out in the neighborhoods in question to catch the individuals doing this activity.

Councilmember Mahaffey asked if historically only one person was calling and complaining about noise. He said if you get multiple people complaining it wouldn't be an issue to investigate because multiple parties would be reporting the same issue.

Chief Armstrong said that was correct. He said for the Linden Property, the developers have restrictions, and they have issued fines to various work crews which are higher than what the town would do.

Councilmember Gantt asked if the time or day of the week was more of the problem verses the various types of construction types (commercial vs. personal).

Chief Armstrong said both. He said sometimes it's the various vehicles reversing [backing up] noise from people parking at sites before seven in the morning, but not actually beginning work until later.

Mayor Pro-Tempore Killingsworth said her preference would be to define outside construction noise so we have a specific set of rules to go by for working outside of the house.

Chief Armstrong asked if that included the 100 readings.

Mayor Pro Tempore Killingsworth said yes.

Councilmember Mahaffey said that 100 readings thing has come up in other properties. He said this can be used in other scenarios other than construction as well.

Councilmember Gray asked Town Attorney Hohe in regards to loud and excessive noise, is the recommendation that one definition applies throughout all aspects of the ordinance.

Town Attorney Hohe said loud and excessive was added in 2020 when there was a change regarding the hours and it's not in the definition section. She said council would definitely want to make sure that the definition is going to be consistently applied.

Councilmember Mahaffey asked if the definition of two people complaining is part of the excessive noise complaint rule.

APPROVED

Chief Armstrong said what he is referencing is prima facia [first impression] evidence of a violation and that would be separate from a loud and excessive definition.

Councilmember Gray said the closest that we have to a definition of loud and excessive is in the Town's Code of Ordinances Section 14.31 and that means 100 readings.

Chief Armstrong said that's correct.

Councilmember Gantt asked if Chief was suggesting to get rid of the readings entirely.

Councilmember Gray said he would remove the 100 readings.

Town Attorney Hohe said the County just proposed an amendment to their noise ordinance which removes the decimal readings requirement.

Chief Armstrong said other jurisdictions consider noise violations if they are heard from a defined distances away.

Councilmember Mahaffey said it would be good to review what Wake County just adopted and look at adopting similar standards. He said this would help to ensure noise definitions were consistently applied to the unincorporated areas as well as the Town's corporate limits.

Councilmember Gantt asked if Wake County's noise ordinance was triggered or related to gunshot complaints.

Town Attorney Hohe said it appears they are overhauling their entire noise ordinance substantially.

Councilmember Mahaffey said he said he worries about specifics that are prohibited, because the noise could apply to other items too.

Councilmember Gray said he agrees that it's probably easier to figure out a loud and excessive definition.

Councilmember Mahaffey said he found the Wake County ordinance and it defined their standards as a reasonable person and unreasonable noise and have definitions for both. He said the standard will either be subjective or objective. He said if it isn't decibels, it will be somewhat subjective. He said the Town couldn't specifically outlaw construction so a noise ordinance was developed with the intention being that outside construction would have a set period of time for work and if someone wanted to work inside on a Sunday they could.

Councilmember Gray said the intention of the noise ordinance was to provide a day where no outside construction noise would occur, but the ordinance revision didn't say that.

Mayor Pro-Tempore Killingsworth asked if the Chief needed more specific direction from council.

Interim Town Manager Purvis said this information was helpful and, if Council was good with the general discussion, staff would proceed with preparing an ordinance amendment for future consideration.

Chief Armstrong and Councilmembers said yes.

[SLIDE 12]



[SLIDE 13]

National Incident Based Reporting System (NIBRS)

An "incident" is defined for NIBRS reporting purposes as one or more offenses committed by the same offender, or group of offenders acting in concert, at the same time and place. "Acting in concert" requires offenders actually commit or assist in the commission of the crime(s). The offenders must be aware of, and consent to, the commission of the crime(s); or even if nonconsenting, their actions assist in the commission of the offense(s). This is important because all of the offenders in an incident are considered to have committed all of the offenses in the incident. If one or more of the offenders did not act in concert, then there is more than one incident involved.

"Same time and place" means that the time interval between the offenses and the distance between the locations where they occurred were insignificant. Normally, the offenses must have occurred during an unbroken time duration and at the same or adjoining location(s). However, incidents can also be comprised of offenses which by their nature involve continuing criminal activity by the same offender(s) at different times and places, as long as the activity is deemed to constitute a single criminal transaction.

[SLIDE 14]

Public Dashboards

- [Crime Dashboard](#)
- [Community Policing Dashboard](#)

APPROVED

Councilmember Gantt asked about the tracking of incidents in the system.

Chief Armstrong explained that certain crimes have to be tracked separately with separate incident reports, even if they occurred at the same time and place. Some crimes may start as a group robbery, but expand into an individual committing different crimes at the scene.

Mayor Gilbert asked what is the process of navigating through the varying reports crime and reports over the years.

Chief Armstrong said Crime Analyst Jennifer Conley will put a remark in there to explain the transition from year to year and how it's being reported. He said Jennifer Conley is still working on how to pull victim information to highlight that aspect of the report. He said a tab to the dashboard so people in the community can have some insight to the reports.

Mayor Gilbert asked if UCR is different to FBI at how they look at areas geographically as far as where crimes occur. He asked is that victim based or is it incident based.

Chief Armstrong said it is incident based at well. He said this is a part of the transition as the difference in reporting and tracking made crime look different. He said it looks like there is more crime as NIBRS tracks things differently than incident based.

Mayor Gilbert asked what is the definition of adjoining locations.

Chief Armstrong said it doesn't give a definition. He said a parking lot will have more incidents in the same location than a subdivision, because they are different properties, even though they may be similar absolute distances apart.

Councilmember Gray said with NIBRS that it's much more of an educational piece. He said the tool will help the public to understand where these clusters keep happening, but there is less clarity on what is within the cluster.

Chief Armstrong said NIBRS focuses on capturing the criminal act.

Mayor Gilbert asked how do we get the message out to the community regarding these crimes and the people they are impacting.

Chief Armstrong said there are multiple ways. He said there is an internal tracking event log that report information out and is shared internally. He said this report is sent out twice a day and updated every shift. He said the police department doesn't have any real public component other than a dashboard that residents can go and open a link and read things. He said what he's looking at with this moving forward is the community to have the information at their fingertips so they have the same information as the police department and can see what's going on in Apex.

Councilmember Zegerman said a concern is that data from 2018 is not comparable to 2023 because there were different things being applied.

Mayor Gilbert said yes. He asked if there were 15 break-ins, is the suspect is being charged with 15 counts or charged for one incident.

Chief Armstrong said it's still 15 counts for the suspect. He said the charge is based off the victims and the number of victims doesn't change with how the reports are done.

Councilmember Gray said this is just an aggregation.

APPROVED

Mayor Gilbert said we report crime in 2023 and it's being compared to previous years. He asked when did the NIBRS reporting change.

Jennifer Conley, Apex Police Crime Analyst, said the town has been doing incident base reporting since 2006.

Councilmember Zegerman said there needs to be historical data comparable on how to bridge the old data linked to the new data, which will help to be more transparent on how the numbers are presented to the community.

Councilmember Mahaffey asked what was the change that was made.

Chief Armstrong said when he first started with Apex his assessment was different than previously before so he changed how police were doing reports and incidents.

Councilmember Mahaffey said it's always been incident based, it's a matter of what counts as one incident, and how that is reported.

Mayor Gilbert asked if police were doing separate reports for one incident.

Chief Armstrong said yes, until he started as Police Chief.

Councilmember Mahaffey asked does the NIBRS alter our reporting data.

Chief Armstrong said looking at the number of incidents or number of victims does not give you your crime rate because you have to factor in population.

Councilmember Zegerman said the concern is we how we now view our crime rate or incident statistics by changing the separate reports to one report.

Councilmember Mahaffey said its more complicated this is all happening roughly at the same time as the pandemic which had a massive impact on crime rates.

Chief Armstrong said one thing has never changed is the number of victims and how that's reported.

Councilmember Mahaffey asked will we have that data out to the public.

Chief Armstrong said that's what he's working on building that out right now.

Mayor Gilbert said he appreciate what is being done but he does get a lot of calls about the crime rate.

Interim Town Manager Purvis said we have the data and now it's figuring out how to get the data out there and updating it regularly, in order to provide an "apples to apples" comparison.

Councilmember Zegerman said he would like to see an assessment of change from the past few years and how that has impacted the overall data.

Interim Town Manager Purvis said if you put it out there you would have to state the changing of methodology and its important to have transparency. He said to Councilmember Zegerman about building data, he said the data is all there and can be looked into. He said methodology is important because that's the source of the data.

Councilmember Gray said it's important that Council is communicating that the idea of crime rate and safety is much more complicated than it seems on the surface. He said different crimes become more prevalent over time as well.

Mayor Gilbert asked if this also includes crimes that are found within an existing traffic stop.

APPROVED

Jennifer Conley said this dashboard is just crime so it's going to be case report information.

Councilmember Zegerman said if data is going to be out there then the town needs to have a description of what the data tells us.

Councilmember Gray said the tough part when it comes to the national reporting's and trying to do the tracking and identify a number that is necessarily not a binary question.

Chief Armstrong said laws change as people get into legislative positions. He said something that's going to be in the crime data 5 years ago could be completely void today.

Councilmember Mahaffey asked are there any public facing dashboards from the FBI or NIBRS or is it only local agencies have to pull data and make their own dashboards.

Chief Armstrong said NIBRS reports a public facing dashboard.

Jennifer Conley said the state does one too and after the month is complete everybody sends their data to the state and you can go on the state's website and look at different counties and sometimes different agencies.

Councilmember Mahaffey asked is the state pulling from NIBRS too.

Jennifer Conley said we send it to the state and then the states pushes it to the federal government.

Interim Town Manager Purvis asked Council do they want a map on the public facing dashboard, or are there certain categories they want to see, or if they want to have full access to seeing the numbers for the different types of crimes. He said the map cannot be changed and can be zoomed in on to see detailed locations.

Councilmember Zegerman asked if they could simply group them into a higher-level category and to not make the crimes so specific.

Jennifer Conley said they could do crimes against property, or crimes against persons, and crimes against society, and just have those three categories. She said that would eliminate residents from seeing specific information on what crime was committed near them. She also suggested to have a static map of the last 30 days of crime.

Councilmember Zegerman asked how is the map the police are using different from the Lexus Nexus map that we are already have publicly.

Jennifer Conley said both are very similar except one is kind of a contour map and the other states individual points and it can also do a density map as well. She said she didn't think rapes were on the report.

Mayor Pro-Tempore Killingsworth asked there are zones up right now.

Jennifer Conley said yes, they group things by zones.

Councilmember Zegerman asked if rapes and sexual assaults are on the map.

Jennifer Conley said they don't report sexual assaults on the map to protect the integrity of the victim's information.

Councilmember Zegerman asked if it could be included as a filter.

Jennifer Conley said it doesn't map to their specific address.

Councilmember Gray said its important for residents to know if there is a crime spree going on around town.

APPROVED

Councilmember Gantt said the EPA reports on neighborhoods that are polluted, and it impacts property values, even though they are working on it.

Councilmember Mahaffey said there is a balance between the right of the public to know what's going on and the rights of the victim of the crimes to not have their information on the map.

Chief Armstrong said the map can be taken out if Council chooses too.

Councilmember Mahaffey said he likes the idea of the map but having broader categories but still being able to filter on the charts.

Councilmember Zegerman said he liked the look of the bar charts and grids for the dashboard.

Mayor Gilbert said the map wasn't what he was looking for but thanked them for providing the map. He said he is more into the numbers.

Interim Town Manager Purvis said he has consensus from council to move the map but continue to work with police on building a map for the transparent piece to be aggregated into the dashboard.

Councilmember Zegerman asked from the community dashboard if he can see a police officer is patrolling certain neighborhoods on Monday, Wednesday and Fridays and never on Tuesday and Thursday.

Chief Armstrong said what he sees is not all the movement. He said these categories are things we have identified that falls under that umbrella. He said officers are not able to track every street they drive down or doing. He said they are targeting things that are related to crime or related for specific purposes. He said at the end of the day, this is the way officers get credit for their work because were able to see it and quantify it.

Councilmember Mahaffey asked what happens on Tuesday's shift.

Chief Armstrong said Tuesdays is when the most people are on shift and that's why Tuesdays have the highest number.

Mayor Gilbert asked about DWI.

Chief Armstrong said DWI would be on the crime dashboard.

Councilmember Mahaffey asked is there an overlap between the Crime Dashboard and the Community Dashboard.

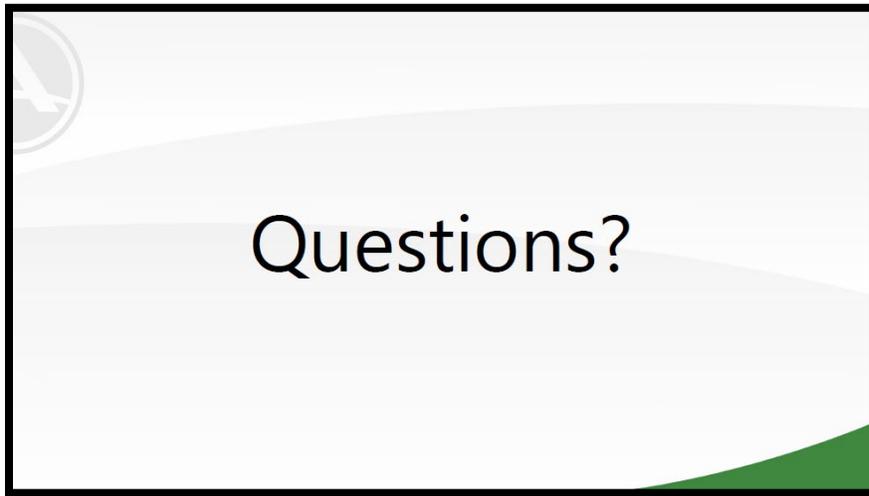
Chief Armstrong said it depends on the situation and the crime. The community dashboard shows what a police officer is doing when not responding to a specific incident, which would be tracked on the crime dashboard.

Councilmember Gray said he appreciates the data gathering and finds it useful. He said his concern is about police officers not policing and inputting in data. He asked will this interfere from them doing their job.

Chief Armstrong said it's all at the police officers' fingertips by a click of a button. He said they do not have to type anything in with this.

Mayor Pro-Tempore Killingsworth said she really likes the community policing board and it's showing what we're doing and how we're responding to the community.

[SLIDE 15]



Councilmember Zegerman asked for a follow-up on what's going on with the Civilian Advisory Committee.

Town Clerk Coleman said he sent an email about that earlier this week.

[ADJOURNMENT]

Mayor Gilbert thanked everyone and adjourned the meeting at 5:26 p.m.

Jacques K. Gilbert
Apex, Mayor

Allen Coleman, CMC, NCCCC
Apex, Town Clerk

Submitted for approval by Apex Town Clerk Allen Coleman.

Minutes approved on 12th of January, 2024 (CN7).

APPROVED
TOWN OF APEX
REGULAR TOWN COUNCIL MEETING
TUESDAY, DECEMBER 12, 2023
6:00 PM

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

This meeting was open to the public. Members of the public were able to attend this meeting in-person or watch online via the livestream on the Town's YouTube Channel. The recording of this meeting can be viewed here: <https://www.youtube.com/watch?v=PvGF9xx6jyQ>

[ATTENDANCE]

Elected Body

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

Town Staff

Interim Town Manager Shawn Purvis
Assistant Town Manager Demetria John
Assistant Town Manager Marty Stone
Town Attorney Laurie Hohe
Town Clerk Allen Coleman
All other staff members will be identified appropriately below

[COMMENCEMENT]

Mayor Gilbert called the meeting to order, and invited all to join him in a moment of silence, highlighting the transition into the Holiday Season.

Mayor Gilbert then invited everyone to join him in a recitation of the Pledge of Allegiance.

[CONSENT AGENDA]

APPROVED

A **motion** was made by **Mayor Pro Tempore Gray**, seconded by **Councilmember Killingsworth**, to approve the Consent Agenda as presented.

VOTE: UNANIMOUS (5-0)

CN1 Capital Project Ordinance Amendment No. 2024-9 - Apex Cemetery Columbarium Project - Phase 2 (REF: ORD-2023-118)

Council voted to approve Capital Project Ordinance Amendment 2024-9 allocating funding for Phase 2 - Landscape Architecture and Civil Engineering for the Apex Cemetery Columbarium project.

CN2 Council Meeting Minutes - November 14, 2023

Council voted to approve Meeting Minutes from the following meeting:
November 14, 2023 - Town Council Regular Meeting Minutes

CN3 Position Authorizations - New FTEs - Water Resources and Parks, Recreation, and Cultural Resources

Council voted to approve the following new position authorizations:

One (1) Full-Time, Benefited Water Resources Specialist Position [Water Resources Dept.]

Two (2) Full-Time, Benefited Park Attendant Positions [Parks, Recreation, and Cultural Res. Dept.]

Two (2) Part-Time, Benefited Park Attendant Positions [Parks, Recreation, and Cultural Res. Dept.]

CN4 Tax Report - October 2023 (REF: OTHER-2023-126)

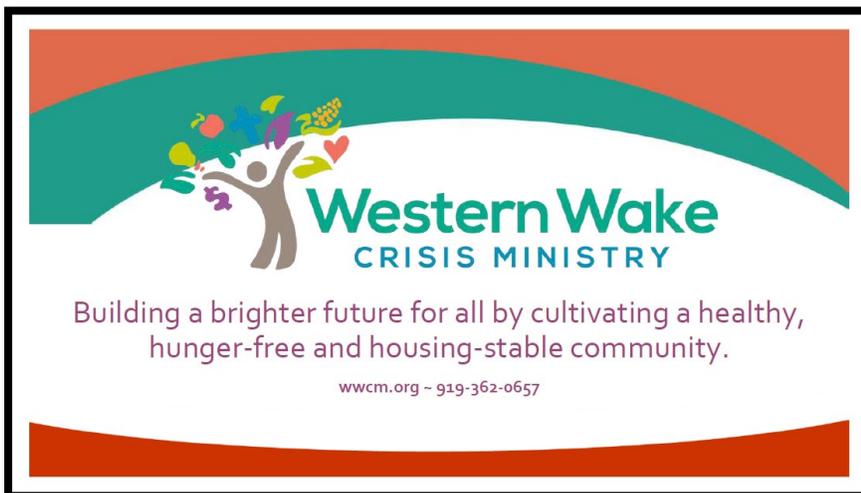
Council voted to approve the Wake County Tax Administration Tax Report for the Town of Apex dated November 6, 2023.

[PRESENTATIONS]

PR1 Western Wake Crisis Ministry Presentation

Seaira Green, Executive Director of Western Wake Crisis Ministries (WWCM) gave the following presentation:

[WWCM - SLIDE 1]



[WWCM - SLIDE 2]



Vision: A brighter future for all by cultivating a healthy, hunger-free and housing-stable community.

Mission: Partnering with those in crisis, helping them gain stability through basic supports for food, financial/housing assistance, education, and opportunity.

Values: Compassion, Community, Equity, Optimism, Relationship, Vision, and Impact

[WWCM - SLIDE 3]



Services

<h4>FOOD SECURITY</h4> <ul style="list-style-type: none">• Curbside Pickup & Open-Air Market – weekdays (M-Th)• Saturday Distribution (monthly)• Latinx/Hispanic Outreach• Home Delivery (monthly)• Emergency Food Support	<h4>HOUSING SECURITY</h4> <ul style="list-style-type: none">• Rental Assistance• Utility Assistance Program• Short-term Case Management• Resource Assistance
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[WWCM - SLIDE 4]



WWCM & Covid Response

- Curbside food distribution & home delivery
- Limited volunteers & staff in building
- Monthly meat & produce distribution to all Wake County
- Resource Assistance provided virtually or by appointment outside
- Collaboration with Emergency Meal Program, Local Agencies & Churches

[WWCM - SLIDE 5]

Operational Snapshot

- Serve Approximately 400 families per month with food assistance
- Serve Approximately 55+ families per month with financial support (rent & utilities), Receives approximately 330 calls for screening
- Partnered with Town of Apex to assist customers with past due utility bills
- WWCM only has 5 employees, 2 of which are part-time
 - Approximately 100 regular volunteers
 - Interdependent relationships with volunteers
 - Numerous donors and partners that support the overall operations of WWCM including the Interfaith Food Network, Food bank of NC, Food Lion, United way, Apex Chamber of Commerce and Wake County.

[WWCM - SLIDE 6]



[WWCM - SLIDE 7]

What's Happening at WWCM

- Several food collection drives for Thanksgiving Meal-Goal is to serve 300 families
- Holidays and Beyond campaign to combat food security past the holidays
- Collaboration with Apex Police Department to support a family that actively fleeing domestic violence
- Hiring additional support staff to meet the needs of the community.
- Working directly with landlords, hotels, property managers to facilitate housing
- Hosting Coffee & Chat sessions, community tours and Lunch and Learns

[WWCM - SLIDE 8]

A presentation slide with a white background and a decorative header and footer in shades of green and orange. The title "What can Groups Do?" is in a teal font. A list of four bullet points is on the left. On the right, there is a stylized tree icon with various symbols like a heart, a cross, and a bunch of grapes as leaves. The footer is a solid orange shape.

What can Groups Do?

- Food and/or Fund Drives
- Distribute information about WWCM via newsletter, social media
- Volunteer
- Invite WWCM to speak or present at events

[WWCM - SLIDE 9]

A presentation slide with a white background and a decorative header and footer in shades of green and orange. The title "Where to Find Us" is in a teal font. Contact information is listed on the left. On the right, there are social media icons for Facebook, Instagram, and Twitter, each with a corresponding handle. A large, stylized tree icon with various symbols as leaves is in the background. The footer is a solid orange shape.

Where to Find Us

1600 Olive Chapel Road, Suite 408 (540 Flex), Apex, NC 27502

919-362-0657

WWCM.ORG

@westernwakecrisisministry
@westernwakecrisisministry
@wwcm2017

Mayor Gilbert said Western Wake Crisis Ministries has been around for 40 years, and is a great organization for the community. He asked if she could speak about her background.

Ms. Green said she has worked in non-profits for 16 years, having worked in Orange and Durham Counties, and the Greater Wake County Area, running many kinds of programs. She said she was a therapist after college, but felt she could make more of a difference in the lives on families through life and family coaching, and working with families as a unit. She said it's a pleasure to serve the community, and the outpouring of support and donations has been overwhelming.

Councilmember Zegerman asked about the overall financial health of the organization in terms of balancing donations with the current demand and need in the community.

Ms. Green said she just started in September, and has not seen a crunch like that in this "season of giving". She said the support has been generous through finances and tangible items, but she would like to continue going on "Holidays and beyond" to help donations come in during less prevalent times.

APPROVED

Councilmember Zegerman said a volunteer he had spoken said the pantry seemed emptier than it had in previous years, so he was wanting to gauge what the status currently is.

Mayor Pro Tempore Gray thanked Ms. Green for the work she is doing. She said this is an embodiment of what it means to be a member of the community. He said it's important to remember that the need does not end on January 1st.

[REGULAR MEETING AGENDA]

A **motion** was made by **Councilmember Gantt**, seconded by **Councilmember Zegerman**, to approved the Regular Meeting Agenda as presented.

VOTE: UNANIMOUS (5-0)

[PUBLIC FORUM] (Note: To view public forum and public hearing sign in sheets, please see OTHER-2023-125)

First to speak was **Dawn Cozzalino** of 3632 Bosco Road:

"I have two themes tonight for the Town Council. Be an advocate for Apex taxpayers, this is a checkbook, they've trusted you with fiscal responsibility, to make planning choices that are the least costly, and provide the best benefit to the people, community, and the least impact to the environment. There're two pictures here but they're actually the same. One's just a map and one's a satellite view, and we're talking about the Western Big Branch Force Main tonight. You can see that above the US-1 line, it's all New Hill and Bosco and Friendship and those communities of farms, and people's lands and buildings, you can see that in the map on the satellite. You can see US-1, then you see below it, there is an existing utility easement. There's really nothing here, it kind of looks like a trail. It's already an easement for electric, it's already cleared, there's no trees in the way, just a little grass, and the cost would be minimal for choosing that, upfront cost and the maintenance cost ongoing, than looking at doing a project with eminent domain in the New Hill/Friendship community. The next theme, be an environmental exponent. This is where you can really invest in a win/win situation. And what I mean by that is for the Apex Town and the Apex citizens that are taxpayers, that this is going to help lower costs, it's going to also help in protecting our environment, our tree canopy, lowering our urban heat island, all the things that are so detrimental and so confusing in this time with climate change. So, I ask you to consider the big picture, and I've showed this before, please consider this. There's an existing easement. It's already there, you can see it by the lower pictures, you can see at the ground view very easy to access. Already there. Thank you."

Mayor Gilbert thanked Ms. Cozzalino for her comments.

Next to speak was **Judy Ives** of 3413 Pleasant Plains Road:

"My father, Willard Pleasant, bought the farm that is now Pleasant Park in 1967. I was a teenager then, and although our family lived in Raleigh, I loved my parent's rural roots and my father and grandfather's love of the land. And I loved the Apex farm we affectionally called "the 100-acre

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wood”, after the Winnie the Pooh stories. Because so much of it was woodland. In the early 80’s my sister and her husband renovated the old farmhouse and I followed them by building my little house in the woods in 1983, thus putting down my own rural roots. But, with all of the development and 540, my sister and brother-in-law decided they just couldn’t stay anymore, so that left me to fend off developers and make Pleasant Park happen. I was up against 3 sisters who all just wanted their money. So, I will say that I was a little misinformed about what this park was going to be in the beginning, and I’m not going to go into that now because I don’t have time, but I do want to say that it is a beautiful park, and as wonderful as it is, it has hit me really hard. When I built my house Pleasant Plains was a dirt road, so I built my house at the front of the property, now cars stream by my house day and night, and cars leaving the park at night shine their headlights on their house as they leave the park. And sometimes cars back up in the park to the curb where their lights shine in my house, all the way out to old US-1 and the railroad, and the stoplight. So, I might have 6 or 7 cars standing in line at a standstill, to leave the park, all shining at the front of my house. I talked to Angela Reincke yesterday about the problem with the headlights, and she said she going to work on it, and I really do appreciate that. I would also like to say that the noise from the park is much more than I expected, and I cringe when I think about the baseball diamonds right across the street from me. I hope I can work with Angela and the town to resolve the issues that arise from further development of the park. Today, the 100-acre wood is down to the 4 and a half acres I call home. Please be respectful of what I have done and don’t let this park spoil my beautiful home.

Mayor Gilbert thanked Ms. Ives for her comments.

Next to speak was **Dean Krupa** of 2001 Simco Court:

“I’d like to continue the theme of speaking about trees. Recently, in my neighborhood, I drive up Olive Chapel Road and there was a large tree removal happening right before me, and I guess it was a 55 and over community being put in there. Those trees were right against the sidewalk, and it was just sickening to be driving through there, and see the sawdust and the construction vehicles, and just like that mature trees coming down. My heart sunk. I went on social media, and there was a lot of comments about it, and it’s too bad those folks can’t come here and voice their sorrow over that incident. It’s happening all over my neighborhood, there’s big developments going on right now. A few months ago, we had the tree canopy study, which was very informing, there was some great conversation around that. I really liked the questions by the Council on that study. It was disappointing that Apex was number 1 in tree loss over the 10-year study period, we lost 23% of our canopy, and almost 2,200 acres. So, the study had some good recommendations as far as strengthening the ordinances, preventing the mass tree-cutting that I know was talked about here. But also planting, re-planting perhaps on sidewalks, schools, HOAs, freeways, parks. And how do we better account for developers doing this removal and making sure that they’re staying with the RCA ordinance. So, I’m working with a group to become more active and vocal with the Town Council, we’re trying to get the citizens mobilized from social media into this forum. We just got engaged with the Tree CAP, and we look forward to getting more engaged with this Council and the staff. But I encourage us not to just have these three-minute dialogues, and have a back and forth conversation at Town Hall. Some type of community outreach. I watched the acceptance speeches of the candidates, Mayor Gilbert yours I especially liked when you said we need to work together. On

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this issue specifically, we need to work together. And I like forward to working with all of you, thank you.”

Mayor Gilbert thanked Mr. Krupa for his comments.

Next to speak was **Elizabeth Stitt** of 3113 Friendship Road:

“So, I have been coming to these meetings now for 20 months. Talking about all kinds of concerns for my community, but always circling back to why the Big Branch Force Main should not be on our side of US-1. But I’ve been holding back on one of the reasons, because I always end up in tears, but we are going to go there tonight, so you may have to bear with me for a few moments while I gather myself at certain points. If you’re lucky enough to get to my age, where I have outlived my father and many of the people in my family, you start realizing that money isn’t everything. I’ve held onto my property for 32 years, and I could have timbered my trees twice, in the time that I’ve been there, but I haven’t, because some things are more important than the money. Some things can not be replaced. Once it’s gone, it’s gone. The portion of my property that you want to take has been frozen in time. I don’t talk about it much, because this is where I am going to get very upset. This small little 5-acre tract has been landlocked for 6-7 decades. You don’t know what my struggles were to eventually get it. You don’t know how beautiful and gorgeous it is, because you haven’t walked down there. Not only has it been landlocked for 6-7 decades, there has never been a timber deed on it, so I suspect it’s never been logged. On it, there are massive trees, that are 8, 9, and 10 feet in circumference. When you calculate the age of these trees, they’re all over 160 and 170 years old. You don’t see these kinds of trees in Wake County. When you construct the force main, there is no protection for these trees. You will be clear-cutting a 30-foot strip, and then there will be another 10 feet cut for a temporary construction easement. And based on how far these roots go, I’m going to realistically lose another 15 on either side, so probably a total of 70 feet of trees. I am losing hundreds of mature trees in that 70 feet, but that number of these massive trees I’m losing, is something that keeps me awake at night. These trees will not grow in my lifetime, in my kid’s lifetime, or my grandchildren’s lifetime. And it feels so incredibly unjust, where I can stand and look across the highway, and see trees that are only 20 or 30 years, that have volunteered itself. The town preserved historical homes, you preserve the town’s history, the town’s been around for 150 years. But there is nothing to preserve these trees. I don’t know how we can call this the Peak of Good Living and destroy something that will never come back, never. And I will have to say the town has offered to maybe re-route the force main on my property, but there’s nowhere to re-route it on my property, that’s what these 5 acres are. So, I would like to host any of you, and bring your children, bring your neighbor’s children, watch them run down there, they will see things that they’ve never seen. And I’ve been encouraged to tell you guys this before, but I don’t want to stand up here and cry, I shouldn’t have to. All the reasons why it should be on the other side should be on the other side. But if you guys need to see me cry, fine I’ll cry. But come see the trees, they’re magical, I’m never going to cut them. I mean this is something that needs to be preserved for all of Apex. Once you cut it down, you put the force main through, there may be some left, but you’re going to have these ugly concrete massive things running through the property. You’ll destroy it, and we won’t get it back. So, thank you for your patience, I apologize for the emotion, but this keeps me up at night, and I will keep coming back. Thank you.”

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Mayor Gilbert thanked Ms. Stitt for her comments, and for all community members who spoke tonight.

With no further signups, Mayor Gilbert closed Public Forum and continued the meeting along.

[UPDATES BY TOWN MANAGER]

Interim Town Manager Purvis said last week was the Employee Awards Ceremony and the Public Safety Awards, and thanked everybody for their support and recognition of town staff. He gave a special shoutout to Kerrin Cox, who was the 2023 recipient of the Apex Employee of the Year Award. He said earlier today, the Apex Police Department children's book was featured on Good Morning America, which highlight Apex's Community Connections. He added that there will be a way to highlight the many cultural events the town does, as a news-style program from Lisa Raschke and Celeste Sherer. He said the budget survey was online on the town's webpage, and is for residents to help prioritize the budget at a high level.

[ADJOURNMENT]

Councilmember Gantt said Mayor Gilbert did a great job speaking about the expansion on the S-Line from Raleigh to Richmond, which is a project that helps Apex extend its goal of commuter rail.

Mayor Gilbert said it was good to be there with Governor Cooper and Secretary Buttigieg, and it help moves the region forward. He said growing up here, he never thought passenger rail was something that would be considered in Apex, but that it was something that was needed. He also thanked Councilmember Gantt for his work on this over the years.

Councilmember Gantt said that passion is something that has been shared among Council and staff.

Mayor Gilbert thanked Yunjun Jung for providing IT Service, and Corporal Steward for Police Service.

Mayor Gilbert adjourned the meeting at **6:36 p.m.**

Jacques K. Gilbert
Mayor

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

Submitted for approval by Town Clerk Allen Coleman and approved on January 12, 2024 (CN7).