

TOWN OF APEX
PLANNING BOARD ACTION MINUTES
Meeting of February 8, 2010

The Planning Board held its regular meeting on February 8, 2010 at 4:30 p.m. at the Apex Town Hall Campus, 73, Hunter Street, 2nd Floor, Apex, North Carolina. Members present were Sheryl Bynum, Tommy Morgan, Graham Wilson, Tom Colhoun, Lisa Carley, Terry Rowe, Margo Bills and David Hooks.

- Call to order
- Invocation
- Pledge of Allegiance
- Approval of minutes from the January 11, 2010 regular meeting.
- Items of information.

PUBLIC HEARINGS

Item #1 – Rezoning Case #10CZ01 – Lowes Food Stores, Inc., owner, is seeking to rezone from B1-CU (Neighborhood Business Conditional Use) district classification to PC-CZ (Planned Commercial Conditional Zoning) district classification for the property located at 5400 Apex Peakway containing .66 acres. The subject property is identified on Wake County Tax Maps as a portion of PIN# 0732937143. Brendie Vega, Principal Planner presented this item. After discussions, Tommy Morgan motioned to continue this item to the March 8, 2010 meeting at 4:30 in the 2nd Floor Council Chambers. Terry Rowe seconded. The motion passed unanimously.

[Staff report and vicinity map attached](#)

NEW BUSINESS

Item #1 – Villages of Apex, Charleston Homes. The applicant proposes an amendment to the master subdivision plan for Villages of Apex North; adding 40 additional lots. June Cowles, Senior Planner presented this item. After discussions, Tommy Morgan motioned to recommend approval to Town Council. Margo Bills seconded. The motion passed unanimously.

[Staff report and vicinity map attached](#)

Item #2 - Water Quality Training Module – Presentation by June Cowles, Senior Planner.
No action taken.

There being no further business, the meeting adjourned at 6:15 PM.

Prepared by: Bonnie Brock, Development Specialist
Planning & Community Development Department

The purpose of the public hearing is to consider the facts and receive public comment in order to formulate a recommendation for the Town Council.

All residents within three hundred (300) feet of this rezoning by ordinance have been notified.

STAFF REPORT

Rezoning Case # 10CZ01 Lowes Fuel Center

BACKGROUND INFORMATION:

Location: 5400 Apex Peakway (Olive Chapel Village)
Applicant: Lowes Food Stores, Inc. – Trey Moser
Owner: Sandwick Apex, LLC

PROJECT DESCRIPTION:

Acreage: .66 Acres
PIN #: 0732-93-7143 (portion)
Current 2025 Land Use Classification: Commercial
Current Zoning: B1-CU – Neighborhood Business Conditional Use
Requested Zoning: PC-CZ – Planned Commercial Conditional Zoning
Town Limits: Yes

Adjacent Zoning & Land Uses:

	Zoning	Land Use
North	O & I-CZ	Wake Med Healthplex
South	HDSF-CU. PUD-CZ. O&I	Single Family/proposed medical office
East:	PC-CU	Haddon Hall Commercial, Peakway Market Square
West:	O & I-CU, RR	Vacant office, Rural Residential

ATTACHMENTS

- Vicinity map
- Rezoning petition

APPLICANT’S PROPOSAL

The applicant is requesting to rezone 0.66 acres from Neighborhood Business – Conditional Use (B1-CU) to Planned Commercial – Conditional Zoning (PC-CZ). The objective of the rezoning is to rezone a portion of the Olive Chapel Village shopping center to accommodate a subdivision for a fuel center for Lowes Foods.

PERMITTED USES:

The applicant has proposed to permit the following uses in the Planned Commercial – Conditional Zoning to be allowed:

1. Gas and Fuel, Retail (A proposed fuel center with multiple fuel dispensers, underground storage tanks and a kiosk building).

RESTRICTIONS/CONDITIONS PROPOSED BY APPLICANT:

The proposed fuel center’s architecture shall be compatible with the shopping center architecture.

CONSISTENCY WITH 2025 LAND USE PLAN:

The rezoning request is consistent with the 2025 Land Use Plan.

STAFF RECOMMENDATION

Staff recommends denial. The proposed use does not fit well with the already established shopping center. The addition of a fuel center would further diminish the access in the parking lot of the Lowes Food Center.

ANALYSIS STATEMENT OF THE REASONABLENESS OF THE PROPOSED REZONING

Olive Chapel Village Shopping Center has been fully built out since February 10, 2005 in accordance with its approved development plans. The original and current layout at the Olive Chapel Village Shopping Center does not lend itself to the inclusion of an additional development lot which would reduce the number of current parking spaces. In staff’s opinion, the layout of the parking lot does not currently flow well and the addition of a fuel center would further diminish the quality of circulation and access. The shopping center was built out without any additional future development locations in mind or shown on or in any of the approved plans, and the proposed addition of a fuel center in the parking lot does not fit in well. The original project’s zoning was governed by the old zoning code, but the approved project has been fully built out. Consequently, at a minimum, substantial changes or additions to the original project are controlled by the current UDO. The present zoning, does not allow a “Gas and fuel, retail” use in this location being zoned as B1-CU. For the above reasons, in staff’s opinion, it is reasonable to deny the proposed rezoning to PC-CZ and Staff recommends denial.

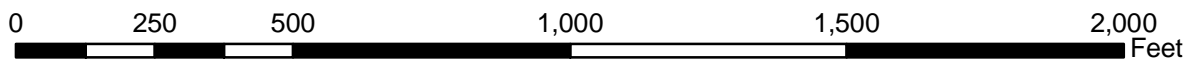
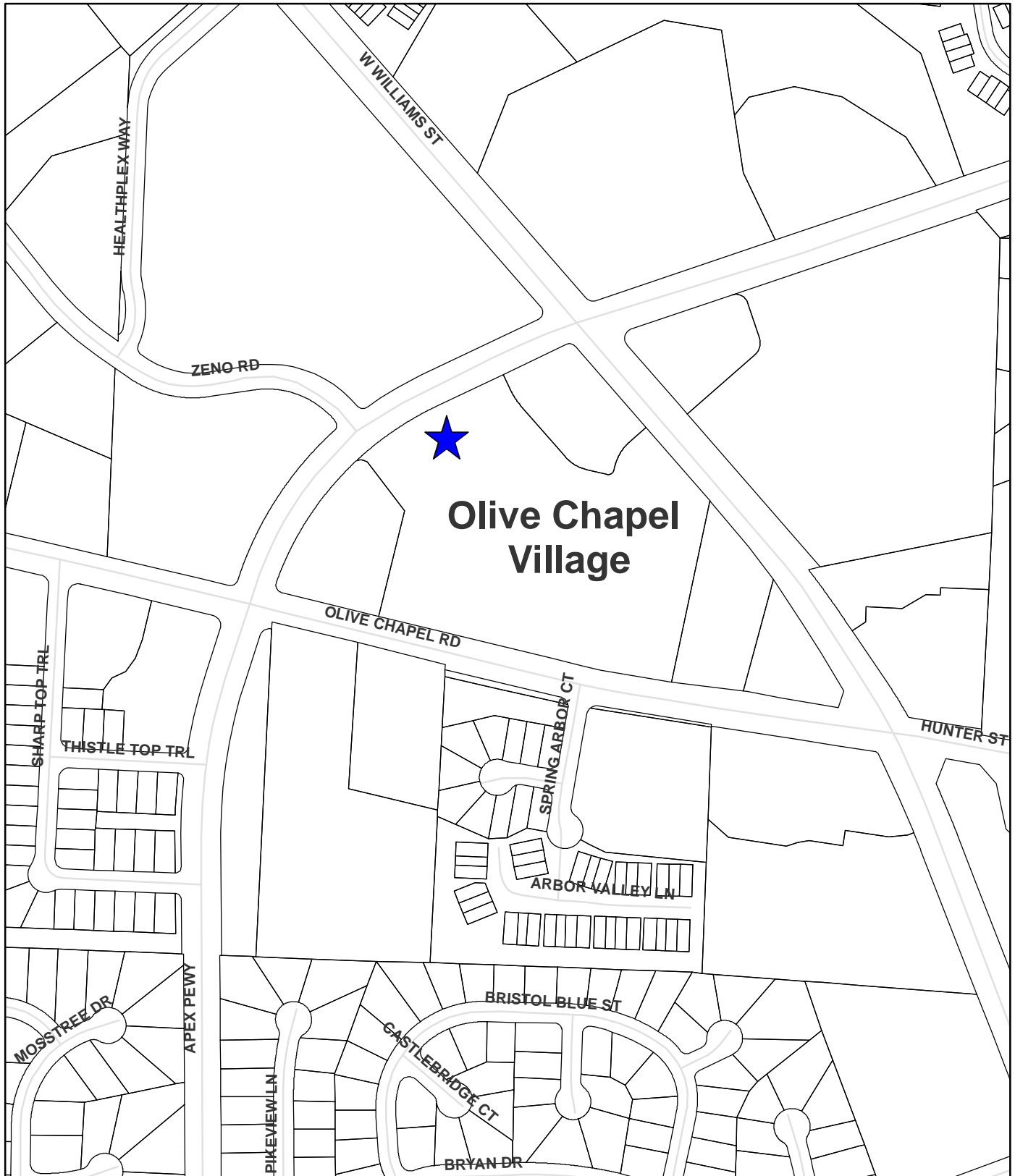
STANDARDS:

The applicant shall propose site-specific standards and conditions that take into account the following considerations, which are considerations that are relevant to the legislative determination of whether or not the proposed conditional zoning district rezoning request is in the public interest. These considerations do not exclude the legislative consideration of any other factor that is relevant to the public interest.

- 1) *Consistency with 2025 Land Use Plan.* The proposed Conditional Zoning (CZ) District use’s appropriateness for its proposed location and consistency with the purposes, goals, objectives, and policies of the 2025 Land Use Plan.
- 2) *Compatibility.* The proposed Conditional Zoning (CZ) District use’s appropriateness for its proposed location and compatibility with the character of surrounding land uses.

- 3) *Zoning district supplemental standards.* The proposed Conditional Zoning (CZ) District use's compliance with Sec 4.4, *Supplemental Standards*, if applicable.
- 4) *Design minimizes adverse impact.* The design of the proposed Conditional Zoning (CZ) District use's minimization of adverse effects, including visual impact of the proposed use on adjacent lands; and avoidance of significant adverse impacts on surrounding lands regarding trash, traffic, service delivery, parking and loading, odors, noise, glare, and vibration and not create a nuisance.
- 5) *Design minimizes environmental impact.* The proposed Conditional Zoning District use's minimization of environmental impacts and protection from significant deterioration of water and air resources, wildlife habitat, scenic resources, and other natural resources.
- 6) *Impact on public facilities.* The proposed Conditional Zoning (CZ) District use's avoidance of having adverse impacts on public facilities and services, including roads, potable water and wastewater facilities, parks, schools, police, fire and EMS facilities.
- 7) *Health, safety, and welfare.* The proposed Conditional Zoning (CZ) District use's affect on the health, safety, or welfare of the residents of the Town or its ETJ.
- 8) *Detrimental to adjacent properties.* Whether the proposed Conditional Zoning (CZ) District use is substantially detrimental to adjacent properties.
- 9) *Not constitute nuisance or hazard.* Whether the proposed Conditional Zoning (CZ) District use constitutes a nuisance or hazard due to traffic impact or noise, or because of the number of persons who will be using the Conditional Zoning (CZ) District use.
- 10) *Other relevant standards of this Ordinance.* Whether the proposed Conditional Zoning (CZ) District use complies with all standards imposed on it by all other applicable provisions of this Ordinance for use, layout, and general development characteristics.

Rezoning Case #10CZ01 - Lowe's Fuel Center



Legend

Prepared by:
Town of Apex
Planning Department
January 2010

STAFF REPORT

Villages of Apex Charleston Lot Subdivision Plan

BACKGROUND INFORMATION:

Location: Villages of Apex North

Applicant: Jones & Crossen Engineering, PLLC

Owner: Apex First Development, LLC

PROJECT DESCRIPTION:

Acreage: 93.25

PIN #: 0742-55-5349

Current Zoning: PUD CZ (Planned Unit Development Conditional Zoning)

2025 Land Use: Mixed Use Medium and High Density Residential, Office, and Commercial

Town Limits: Inside

Adjacent Zoning & Land Uses:

North	PUD CZ (single family lots and townhome lots)
South:	PUD CZ (single family lots and townhome lots)
East:	PUD CZ (single family lots)
West:	PUD CZ (single family lots)

Attachments:

1. Vicinity Map
2. Approved Subdivision Plan
3. Proposed Subdivision Plans and Plot Plans
4. Neighborhood Meeting Notes
5. Traffic Impact Analysis

BACKGROUND:

The Villages of Apex/Trackside North Subdivision Plan was approved on May 17, 2007. The subdivision and site plan included a combination of townhomes, apartments, and single family lots for a total of 638 residential units (Please see attached Approved Subdivision Plan Attachment 2).

EXISTING CONDITIONS:

The site has been graded and infrastructure is in place with streets, curb and gutter.

PROJECT IMPACT ON NEIGHBORING PROPERTIES:

Adverse impacts on neighboring properties could reasonably be expected in terms of increased traffic, light, and noise. However, these impacts will be mitigated by road improvements, utility and infrastructure improvements, the conservation and provision of buffers and natural areas, and compliance with the current lighting standards of the UDO.

SUBDIVISION PLAN:

The applicant, Jones & Cnossen, is proposing to increase the single family lots in an area of the Trackside North from 40 lots to 80 lots. The proposal includes a lot width reduction from the approved 40-foot and 50-foot wide single family lots to 24.5 foot wide lots. Below is a chart showing approved and proposed lot numbers and density;

Trackside North is 93.25 acres with a maximum of 638 total lots at 6.84 units/acre.

Trackside North Plan	Proposed Trackside North Plan
208 Apartments (Village Summit)	208 Apartments (Village Summit)
95 Townhomes	95 Townhomes
185 single family (40' and 50' wide lots)	145 single family (40' and 50' wide lots)
	80 single family (24.5' wide lots)
Total: 488 units (5.23 units/ac)	Total: 528 (5.66 units/ac)

*Future Phases include 85 townhome lots

Resource Conservation Area:

The Resource Conservation Area (RCA) is 22.5 percent of the overall site (37.78 acres in Trackside North and South) which is consistent with the Unified Development Ordinance (UDO) and includes existing streams with buffers, street buffers, and required land use buffers.

Park and Recreation

At the February 28, 2007 meeting, the Parks, Recreation, and Cultural Resources Advisory Commission unanimously recommended the following;

- The developer would dedicate 12.98 acres for a public park as shown on the site layout presented to the Park, Recreation, and Cultural Resources Advisory Commission.
- The developer would receive credit for the equivalent of 454 units for that dedication based on 12.98 x 35 units per acre. That calculation would be 454 units x \$899.04 per unit - \$408,164.16.
- \$408,164.16 would be subtracted from \$982,650.72 and the estimated balance for Public Park / greenway development would be \$574,486.56.
- The developer would use the pro-rated fee in lieu money to build a public park and associated public greenways as approved by the Town of Apex.
- The agreed upon public recreation amenities would be in place by the time 50% of residential units of the project receive their Certificates of Occupancy per the UDO.

If the additional 40 single family units are approved, a fee in lieu would be \$899.04 per a unit.

Access and Circulation

Ramey & Kemp, Traffic Engineers, prepared the Traffic Impact Report for the Villages of Apex/Trackside North. Please see Attachment 5 for the Traffic Impact Analysis for the Charleston Lots subdivision.

Landscape

The proposed 24.5 foot wide lots landscape plan includes trees on every residential lot and two trees on every corner lot.

Utilities

The proposed project will utilize Town of Apex water and sewer facilities. Water and sewer lines are in place for the 40 lots. The applicant will need to install new water and sewer lines to accommodate the additional 40 lots. Please see below Conditions of approval #1, #2, and #3.

Grading

The site has been graded and as stated earlier, infrastructure is in place.

Stormwater

The proposed project shall meet all applicable requirements of the UDO, which require that the post-development rate of on-site stormwater discharge from the entire site will not exceed predevelopment levels.

CONSISTENCY WITH 2025 LAND USE PLAN:

The 2025 Land Use Plan identifies the proposed site for Mixed Use High Density Residential, Medium Density Residential, Commercial, and Office and Institutional uses. The uses proposed for Villages of Apex North includes single-family units, apartments, townhouse units, and private recreation facility. The uses proposed for Villages of Apex South includes townhouse units, attached residential, mixed use, retail sales, and office.

UNIFIED DEVELOPMENT ORDINANCE

Town Council approved an Ordinance on February 2nd 2010 that amended Section 5 *Measurements* to require minimum lot widths and minimum side setbacks for single family, detached townhouses and attached townhouses. All pending subdivision applications are exempt from the Ordinance with conditions as follows;

Conditions:

1. **Sanitary Sewer:** For each lot, a new 4-inch sewer clean out must be installed directly to the Town maintained 8-inch sewer main or manhole (Town Standard Specifications and Standard Details - Section 7.01(G)). According to Barry Herzberg with the NC Division of Water Quality, the current proposed sewer design for two 4-inch services tied together to a single "Town" maintained 4-inch sewer line is not allowed per 15A NCAC 02T .0303(1)(2). By State 2T rules, the minimum size "public sewer" line is 8 inches. The minimum "private sewer" line is 6 inches.
2. **Water:** All individual lots shall have water meters and must be connected to Town water main per Town specifications. Existing water meter connections and meters will not be allowed to cross private property to gain usage.
3. **Electric:** All electric services and reconnections shall be performed or installed to new lots. All costs associated with electric installations shall be paid to the Town prior to receiving plat signatures.

4. Provide additional marked guest parking spaces in the amount of approximately one space per unit, which could be as low as 0.8 spaces per unit. On street spaces using the existing streets or spaces served by the alleys would not be counted due to the type of streets that were built and the current residential product being proposed.
Options for doing this are: (1) provide a private guest parking lot for each of the four main areas, two on Shoofly Path and two on Branch Line Lane, by removing enough residential lots mid-block; (2) widen the street frontage along Shoofly Path and Branch Line Lane to add marked parallel spaces abutting the existing sidewalk (niche spaces); (3) remove future residential lots across the street from the proposed units mid-block to provide either 90-degree private spaces along the street front or private guest parking lots; and (4) add private parking spaces in the median island on Ambergate Station.
5. All private parking will need to be HOA-maintained and managed. Combinations of (1) through (4) would be acceptable pending staff review. Parking should be spread out so that it meets the need for safe and convenient guest parking for all proposed units. In the future, parking may be limited to one side of the public street(s) if accessibility issues occur.
6. Provide mail kiosks only; no individual mailboxes or grouped mailboxes shall be allowed due to narrow street frontage and on-street parking. Mail kiosks shall not be located within public rights-of-way, but rather shall be placed in easements on private property abutting public streets.
7. Maintenance easement required to provide sufficient cross access for maintenance.

Maintenance Conditions

The following items are to be included in the property owners' association documents:

8. Driveway maintenance shall be done by one entity. The driveways are located halfway into the alley, which is maintained by the property owners' association. Maintenance of the entire driveway should be the responsibility of either the property owner or the property owners' association (developer's choice).
9. Any HVAC units located in the side yards must be staggered and not lined up directly across from each other; otherwise the units would block fire department access, wouldn't allow proper air circulation, and would provide an inadequate work area for repairs/replacement.
10. Fencing in side yards shall have a gate to provide access for the maintenance of adjoining properties. Fencing shall be prohibited in side yards where HVAC units are located as fencing would be within inches of the HVAC units, which would not allow proper air circulation or an adequate work area for repairs/replacement.

The applicant for the Villages of Apex Charleston Lots has agreed to all the above conditions

TRANSPORTATION PLAN

The proposed Subdivision Plan is consistent with the Town of Apex Transportation Plan and the Villages of Apex/Trackside North Traffic Impact Report and recommended conditions.

STAFF RECOMMENDATION

Staff recommends the proposed Villages of Apex Charleston Lot Subdivision Plan be approved with conditions as follows;

Conditions:

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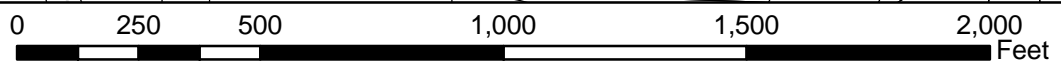
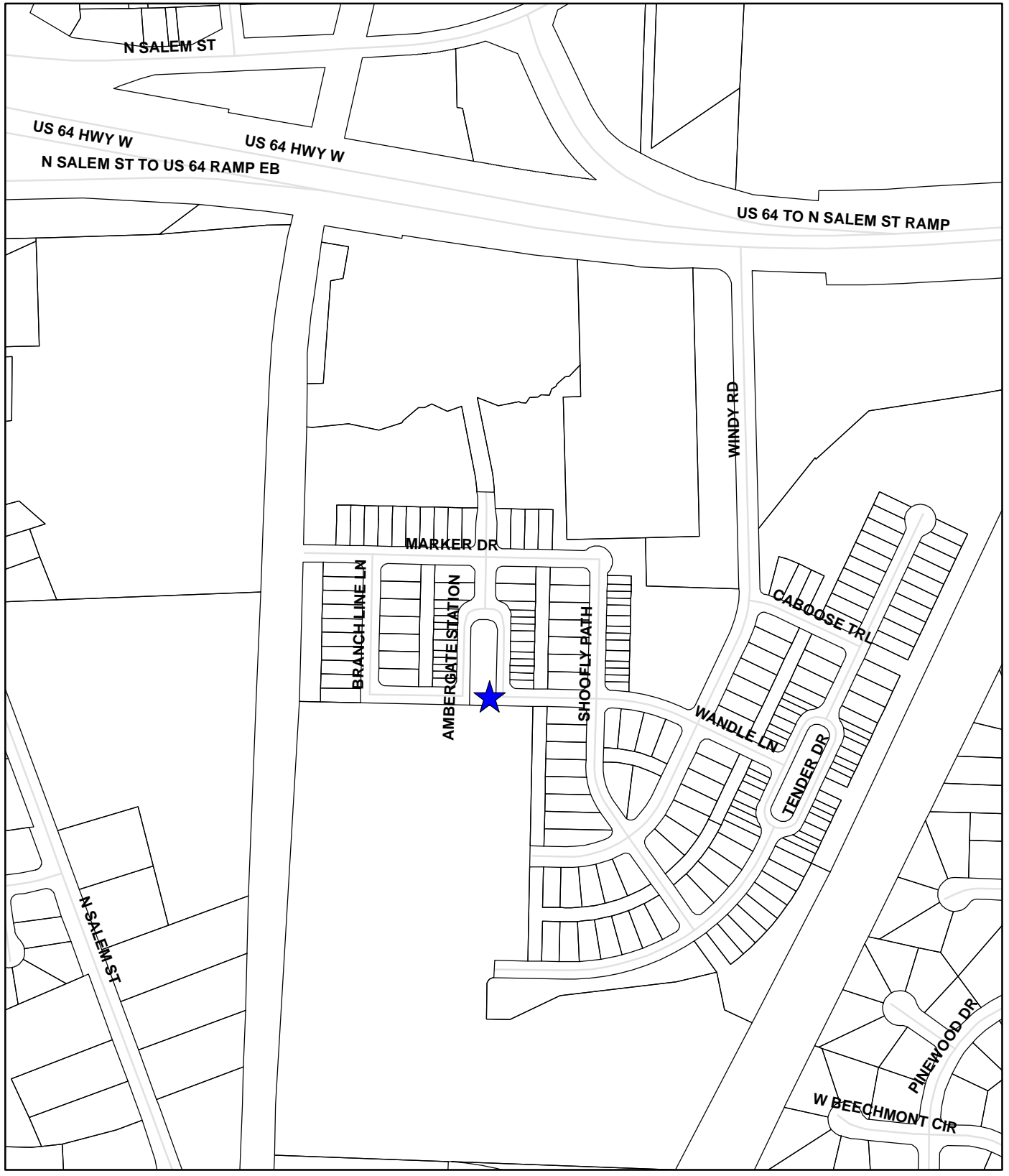
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STANDARDS:

To recommend approval of the Villages of Apex Charleston Lot Subdivision Plan, the Planning Board must find that the following standards are being met:

The Master Subdivision Plan complies with all the standards of the Unified Development Ordinance and Transportation Plan and all other relevant Town ordinances and regulations and the goals and policies of the 2025 Land Use Plan.

Trackside North (Villages of Apex North) Charleston Lots



Legend

Prepared by:
Town of Apex
Planning Department
December 2009