

AMENDMENT TO THE UNIFIED DEVELOPMENT ORDINANCE

Town of Apex, North Carolina



AMENDMENT TO THE UNIFIED DEVELOPMENT ORDINANCE APPLICATION: Applications are due by 12:00 pm on the first business day of each month.

AMENDMENT TO THE UNIFIED DEVELOPMENT ORDINANCE FEE: \$600.00

An amendment to the text of the Unified Development Ordinance may be proposed by the Town Council, the Planning Board, the Board of Adjustment, the Planning Director, by the owner, or any other person having a recognized interest in the land for which a development is proposed, or their authorized agent.

Standards:

The advisability of amending the text of the Unified Development Ordinance is a matter committed to the legislative discretion of the Town Council and is not controlled by any one factor. In determining whether to adopt or disapprove proposed amendments to the text of the Unified Development Ordinance, the Town Council shall consider the following factors:

1. *Compatible with surrounding uses.* Whether and the extent to which the proposed amendment is compatible with existing and proposed uses surrounding the subject land.
2. *Changed conditions.* Whether and the extent to which there are changed conditions that require an amendment.
3. *Effect on natural environment.* Whether and the extent to which the proposed amendment would result in significantly adverse impacts on the natural environment, including but not limited to water, air, noise, storm water management, wildlife, vegetation, wetlands, and the natural functioning of the environment.
4. *Community need.* Whether and the extent to which the proposed amendment addresses a demonstrated community need.
5. *Development patterns.* Whether and the extent to which the proposed amendment would result in a logical and orderly development pattern and not constitute spot zoning.
6. *Public facilities.* Whether and the extent to which the proposed amendment would result in development that is adequately served by public facilities (roads, potable water and sewage, schools, parks, police, and fire and emergency medical facilities).
7. *Consistency with 2045 Land Use Map.* Consistency with the 2045 Land Use Map.

APPLICATION INFORMATION

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

Application #: _____

Submittal Date: _____

Fee Paid \$ _____

Check # _____

Hard Copy Submittal Requirements:

- | | |
|--|--|
| <input checked="" type="checkbox"/> One (1) copy of Amendment to the Unified Development Ordinance Application | <input checked="" type="checkbox"/> Amendment to the Unified Development Ordinance fee |
|--|--|

Applicant Information

Applicant: Natelli Investments, LLC c/o Beth Trahos, Fox Rothschild, LLP

Address: 301 Hillsborough Street, Suite 1120

City: Raleigh State: NC Zip: 27603

Phone: 919-719-1276 Email: btrahos@foxrothschild.com

The applicant does hereby make application and does petition the Town Council to amend the Unified Development Ordinance of the Town of Apex for the following: **(Attach additional sheets as necessary)**

UDO Section(s): Please the attached.

(Example: Section 5.2.7(D) Dimensional Standards for Accessory Structures, Corner Lot)

Proposed Change(s):

Please see attached.

Describe how the proposed amendment(s) is compatible with existing uses surrounding the subject land.

Please see attached.

What changed or changing conditions justify the passage of the UDO amendment(s)?

Please see attached.

How will the proposed change(s) effect the natural environment?

Please see attached.

APPLICATION INFORMATION

Application #: _____

Submittal Date: _____

Will the proposed amendment(s) provide a community need?

☐

yes

☐

no

If yes, please describe Please see attached.

Will the proposed amendments provide an orderly development pattern?

Please see attached.

Describe whether the proposed amendment(s) will be adequately served by public facilities.

Please see attached.

Describe how the amendment is consistent with the 2045 Land Use Map.

Please see attached.

I hereby acknowledge that proposed amendments to the Unified Development Ordinance is a matter of legislative discretion of the Town Council. As the applicant, I am responsible for presenting the proposed amendments to the Planning Board and Town Council respectively.

Natelli Investments, LLC

By: *my Natelli*

Signature

August 27, 2025

Date

UDO AMENDMENT TO ALLOW DATA STORAGE FACILITY

Amend Article 4.2 to add Data Storage Facility use as follows:

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	
Industrial Uses																								
Industrial service																								
Building supplies, wholesale	4.3.6.A.1														P	P					**			
Contractor's office and storage yard	4.3.6.A.2														P	P					**			
Data Storage Facility	4.3.6.A.12														P						**	4.4.6.A.4		
Gas and fuel, wholesale	4.3.6.A.3														P						**	4.4.6.A.3		
Greenhouse or nursery, wholesale	4.3.6.A.4	P																			**	4.4.6.A.1		
Laboratory, industrial research	4.3.6.A.5														P	P		P			**			
Machine or welding shop	4.3.6.A.6														P	P					**	4.4.6.A.2		
Railroad facility	4.3.6.A.7														P						**			
Warehousing, general	4.3.6.A.8														P	P					**			

Amend Section 4.3.6.A, Industrial Uses, Industrial Service to add a definition of Data Storage Facility as follows:

- 12) ***Data Storage Facility:*** A facility, accessed only by employees or contractors, consisting of one or more buildings that house computer systems and associated components, related to the storage, management, processing, transmittal and receiving of information, including but not limited to, telecommunications systems, telecommunication and telephone switching systems, cloud storage systems and server farms along with any related accessory uses including without limitation office space, guard houses, general storage, water storage, fuel storage, service stations, cooling systems, substations, generators, battery storage, antennas, public utilities, communication, broadband, fiber optic and other private utilities, utility poles and towers.

Amend Section 4.4.6.A to add Data Storage Facility as follows:

4) ***Data Storage Facility.*** A Data Storage Facility shall comply with the following standards:

a. The proposed Data Storage Facility shall be located and buffered to ensure compatibility with surrounding land uses as follows:

i. the minimum area for a Data Storage Facility shall be 100 acres. This requirement may be satisfied by the combination of contiguous parcels that are planned and developed to function collectively as a single Data Storage Facility.

ii. except for freestanding guard house(s), access drives and utility infrastructure, no part of a Data Center Facility shall be located within one hundred feet (100') of a property line.

iii. A sixty foot (60') wide buffer yard planted to meet the Type A: Opaque requirements in Section 8.2.6.B.5.a shall be maintained along the outer perimeter of the parcel and shall extend to the parcel boundary line or right-of-way. No plantings shall be required at points of ingress and egress or where utility lines or other equipment cross the property.

b. No building or structure in a Data Storage Facility shall exceed a height of seventy-five feet (75').

c. The Data Storage Facility shall comply with the Town of Apex Noise Ordinance found in Chapter 12, Article II of the Town of Apex Code of Ordinances. Generator testing shall only be performed Monday through Friday between Daytime hours as defined in Article II, Sec 14-29.

d. If water-based cooling systems are implemented for a Data Center Storage Facility, non-potable water use should be prioritized. Potable water shall be permitted for all other uses and may be used for cooling if approved by the Town Utilities Department.

Legislative Considerations- UDO Amendment

Will the proposed amendment provide a community need?

Data Storage Facilities provide a community need by supporting the processing and storage requirements of the digital applications that Apex residents use every day. While Data Storage Facilities have historically been concentrated in certain geographic areas optimized for low-latency, advancements in artificial intelligence and technologies have broadened the markets where these facilities are feasible.

These facilities also create high paying technology jobs that broaden employment opportunities for the community and strengthen the technology eco-system for the region, attracting high-tech businesses that provide support services for on-going data center operations.

Will the proposed amendment provide an orderly development pattern?

The proposed UDO amendment will allow for logical and orderly development. Data Storage Facilities are permitted on large properties (at least 100 acres) in the Light Industrial zoning district. These requirements limit the potential locations that could accommodate Data Storage Facilities to those that are already zoned and designated for large-scale industrial development.

Describe whether the proposed amendment will be adequately serviced by public facilities.

Data storage facilities are modest users of most public facilities due to the relatively low employment numbers compared to other industrial uses. The domestic water and sewer requirements are therefore relatively low compared to other industrial uses allowed in the Light Industrial zone. Cooling water demand can be significant, but that demand can be served by non-potable water such that it does not stress the Town's potable water capacity.

Light Industrial zoned sites are generally located in areas where utility extensions are feasible, however water and sewer demands will need to be evaluated by the utility provider on a case-by-case basis.

Data Storage Facilities can be major users of electricity, which typically requires the user to request a "load study" from the utility provider to determine the feasibility of providing the requested electricity. Data Storage Facilities in the region typically get served directly from Duke Energy transmission and would therefore not seek connection into the Town's electric distribution network.

Describe how the amendment is consistent with the 2045 Land Use Map.

The proposed amendment defines Data Storage Facilities as a use that is approved exclusively in the Light Industrial zoning district, which is the most intense district in the Apex UDO. The corresponding land use designation shown on the 2045 Land Use Map is "Industrial Employment." The Light Industrial zone aligns with the Industrial Employment designation.

Describe how the proposed amendment is compatible with the existing uses surrounding the subject land.

The proposed UDO amendment is associated with the New Hill Digital Campus. In that case, the subject property is within the corridor designated for Industrial Employment growth between US-1 and Old US-1 Highways. The corridor is comprised predominantly of land that is part of the Shearon Harris Power Plant properties owned by Duke Energy. The New Hill Digital Campus is compatible with the power plant because it will be a major user of electricity and proposes to connect into power infrastructure originating from the plant.

The subject property is contiguous with the Duke Energy property and only one additional privately-owned property. The power plant itself is zoned Wake County Industrial-2 and the surrounding buffer area owned by Duke Energy is zoned Wake County Residential-80 and Residential-30. The portion of the power plant property and the additional property that are both contiguous with the subject property are zoned R-30.

Although R-30 land uses immediately surround the subject property today, the power plant dominates the local vicinity in numerous ways. For instance, the cooling tower is visible from many locations, including from the subject property. Sirens are installed within the Shearon Harris Emergency Planning Zone, which extends ten (10) miles around the nuclear power plant. Sirens are tested every Wednesday to ensure they are operational.

The Western Wake Regional Water Reclamation Facility property is located approximately 500' away from the subject property north of Shearon Harris Road. The property is within Apex's Residential Agricultural zoning district. The New Hill Digital Campus is compatible with the reclamation facility in that it can utilize the nearby sewer and reclaimed water infrastructure on the reclamation facility property.

The water reclamation facility and power plant are two major uses that have established an industrial backdrop for this area of Apex. The New Hill Digital Campus can build upon and leverage those existing uses in order to implement the vision for this area as an industrial employment corridor.

In addition, an active rail line runs parallel to Old US 1 Highway along the subject property's frontage and an existing cell tower is located on the subject property, which both add to the industrial characteristics of the area.

What changed or changing conditions justify the passage of the UDO amendment?

Advancements in artificial intelligence and technologies are broadening the demand for data storage facilities such as are proposed here.

How will the proposed change effect the natural environment?

Data storage facilities have similar impact to typical industrial users except that they require less parking compared with other typical industrial uses. This will allow for the facilities to be sited efficiently around environmentally sensitive areas without needing to provide extensive parking fields adjacent to buildings.