



## Planning, Development & Inspections

TEL (PLANNING) 919 856 6310  
TEL (INSPECTIONS) 919 856 6222

A Division of Community Services  
P.O. Box 550 • Raleigh, NC 27602  
[www.wakegov.com](http://www.wakegov.com)

**To:** Wake County Planning Board  
**From:** Tim Maloney, Director  
**Subject:** Unified Development Ordinance Text Amendment OA-03-22  
**Date:** March 1, 2023

### Request

That the Planning Board recommend approval to the Wake County Board of Commissioners the following amendments to the Wake County UDO:

1. Amend Section 8-42 *Lakes and Dams* to amend requirements for impoundments that are part of a subdivision; and move the requirements to a new section 14-23 *Impoundments and Dams*.
2. Amend Section 20-14-4 *Criminal Penalty* to repeal 'criminal penalties' as an enforcement action for violating the Unified Development Ordinance in accordance with recent changes to state law.

### Applicant

Wake County Planning Development and Inspections

---

***Amend Section 8-42 Lakes and Dams to amend requirements for impoundments that are part of a subdivision; and move the requirements to a new section 14-23 Impoundments and Dams. (Attachment A)***

### Background

Section 8-42 of the Wake County UDO includes standards and requirements for lakes/dams that are constructed or retained within any new subdivision, whether a minor, minor-limited, or regular subdivision. The standards require the lake and its dam be constructed or upgraded to accommodate the runoff from a 24 hour, 100-year frequency storm. Additionally, dams that are 25 feet in height or more, or has an impoundment capacity of 50-acre feet or more, must obtain State agency approval. The State also regulates dams whose failure could result in loss of life or significant damage to property regardless of height or capacity.

### Analysis

These requirements, which apply to any type of subdivision (regular, minor or minor-limited), are in place to ensure that newly constructed and existing dams meet certain safety standards and do not pose a threat to downstream properties. However, this requirement can be a costly and time consuming barrier for customers seeking a minor or minor-limited subdivision (3 lots or

fewer). Therefore, staff is proposing to provide a new option for minor and minor-limited subdivisions. The new option will allow the customer to forego the requirement to hire an engineer and make upgrades to the dam prior to the County issuing a permit to subdivide. Instead, the customer would obtain a jurisdictional/hazard determination from the NC Dam Safety Program. This would include an identification number for the dam that is placed on the recorded subdivision plat with a note identifying the responsible party for maintenance and repair of the dam. In the meantime, the County would issue the subdivision permit to the customer. This option will save time and money for the customer.

This amendment is also proposing to move the amended standards from Article 8 *Subdivision Design and Improvements* to a more appropriate section within Article 14 *Flood Hazard Areas*.

### **Overview of Changes**

1. Provide a new option for customers when required to assess an existing dam on a minor and minor-limited subdivision.
2. Require that the responsible party for maintenance and repair of the dam be recorded on a minor or minor-limited subdivision plat.
3. Move the proposed standards from Article 8 *Subdivision Design and Improvements* to Article 14 *Flood Hazard Areas*.

### **Staff Findings**

The proposed amendment:

1. Simplifies the process and reduces the cost to applicants when seeking a minor or minor-limited subdivision permit when a lake or dam is on the property.
2. The new option can save time and money for the customer.
3. Maintains protection of public health and safety as it pertains to hazardous dams.
4. Move the standards to a more appropriate section within the UDO.
5. The changes are supported by the Home Builders Association.

---

## ***Amend Section 20-14-4 Criminal Penalty to repeal ‘criminal penalties’ as an enforcement action for violating the Unified Development Ordinance. (Attachment B)***

### **Background**

Section 20-14-4 of the UDO authorizes the County to assess a criminal penalty for violation of the UDO. In 2021, the NC General Assembly decriminalized violations of land development ordinances pursuant to S.L. 2021-138, also referred to as SB 300.

### **Analysis**

Pursuant to S.L. 2021-138, criminal penalty can no longer be used as a punishment for violation of the UDO. UDO Section 20-14-4 Criminal Penalty is proposed to be removed. The County will still be authorized to enforce the UDO with fines, civil penalties and court action.

### **Overview of Changes**

1. UDO Section 20-14-4 Criminal Penalty is proposed to be removed.

### **Staff Findings**

The proposed amendment:

1. Aligns the UDO with recent State law changes as it pertains to violations of the UDO.
- 

**Staff Recommendation**

Staff recommends that, in the matter of OA-03-22, the Planning Board finds that the adoption of these proposed text amendments are consistent with the Wake County Comprehensive Plan and Wake County Unified Development Ordinance and are reasonable and in the public interest and hereby make a motion to recommend approval to the Wake County Board of Commissioners.

**Attachments**

1. UDO Text Amendments Attachments A and B
2. Motions Page
3. Presentation

## Article 8. Subdivision Design and Improvements

### **8-42 ~~Lakes and Dams. Reserved for Future Use~~**

**Editor's note—** [OA-03-22, adopted \_\_\_\_\_, 2023, moved to § 14-23.]

~~8-42-1 If a lake is proposed to be constructed or retained within a subdivision, the lake and its dam must be constructed or structurally upgraded to accommodate the runoff from a 24-hour, 100-year frequency storm.~~

~~8-42-2 Runoff computations must use [SCS] methods or other acceptable engineering standards.~~

~~8-42-3 Any lake with a dam that is 25 feet in height or more, or that has an impoundment capacity of 50-acre feet or more must obtain State agency approval in accordance with Article 21, Chapter 143 of the North Carolina General Statutes.~~

~~{Amended by OA-01-18 on 7/23/2018}~~

## Article 14. Flood Hazard Areas

### **14-23 Impoundments and Dams**

14-23-1 Any construction, repair, alteration, or removal of a jurisdictional dam shall obtain State Agency Approval in accordance with Article 21, Chapter 143 of the North Carolina General Statutes.

14-23-2 If an impoundment is proposed to be constructed or retained within any proposed subdivision, the following standards shall apply. These County standards are separate from and do not supersede any State Agency requirements.

(A) the impoundment and its dam shall be constructed or structurally upgraded to accommodate the runoff from a 24-hour, 100-year frequency storm.

(B) Runoff computations must use SCS methods or other acceptable engineering standards.

14-23-3 In lieu of 14-23-2 above, a proposed minor or minor-limited subdivision shall have the option to obtain a jurisdictional determination/hazard classification from the North Carolina Dam Safety Program. The Dam Safety State Identification Number shall be recorded on the subdivision plat, along with a note regarding responsibility for dam maintenance and repair.

---

## ATTACHMENT B

### 20-14 Penalties, Remedies and Enforcement Powers.

Wake County may utilize the following remedies and penalties to prevent, correct, or abate a violation of this ordinance. These remedies and penalties are not mutually exclusive.

**20-14-1 Permit Denial.** If a violation of this ordinance remains uncorrected, the Planning Director may deny or withhold approval of any permit provided for in this ordinance that is sought for the property on which the violation exists.

**20-14-2 Permit Revocation.**

- (A) In addition to initiation of enforcement actions under G.S. 160D-404 and in accordance with the provisions of 19-42-1(E) and the provisions of Article 20 of this Ordinance, the Planning Director may revoke any permit issued under this ordinance for failure to comply with the provisions of this ordinance or the terms and conditions of a permit or authorization granted under this ordinance.
- (B) The Planning Director shall follow the same development review and approval process required for issuance of the development approval, including any required notice or hearing, in the review and approval of any revocation of that approval.
- (C) Development or permit approvals shall be revoked for any substantial departure from the approved application, plans or specifications; for refusal or failure to comply with the requirements of any applicable standards of this Ordinance or any State Law delegated to Wake County Government for enforcement purposes in lieu of the State; or for false statements or misrepresentations made in securing the permit.
- (D) Any permit approval mistakenly issued in violation of this Ordinance may also be revoked.
- (E) The revocation of a development or permit approval by the Planning Director may be appealed pursuant to Section 19-41 of this Ordinance.

**20-14-3 Civil Penalty.**

- (A) Violation of this ordinance subjects the violator to a civil penalty in the amount of \$100.00 per day. The Planning Director imposes a civil penalty by giving the violator a written citation, either in person; by certified mail, return receipt requested; or by first class mail if the certified mail is refused or unclaimed. The citation must describe the violation, specify the amount of the civil penalty being imposed, and direct the violator to pay the civil penalty to the county within ten days of the date the citation is received or presumed to have been received. If the violator fails to either pay the civil penalty or correct the violation within this time limit, Wake County may institute a civil action in the nature of a debt in a court of competent jurisdiction to recover the civil penalty.
- (B) Each day's continuing violation is a separate and distinct offense.

**20-14-4 ~~Reserved for Future Use Criminal Penalty. Violation of this ordinance is punishable as set forth in NCGS 14-4.~~**

**20-14-5 Injunction and Abatement Order.** Wake County may institute a civil action for mandatory and prohibitory injunctions and order of abatement commanding the violator to correct or cease a violation of this ordinance. Pursuant to NCGS Section 153A-123 if the violator fails to comply with a court order and the county has to abate the violation, then the county shall have a lien on the property on which the violation occurred to cover the county's costs of abatement.

**20-14-6 Forfeiture and Confiscation of Signs.** Any illegal sign installed or placed on public property will be subject to forfeiture to the public and confiscation. In addition to other remedies and penalties of this section, the

---

county has the right to recover from the sign owner, or person who placed the sign, the full costs of sign removal and disposal.

20-14-7 **Other Equitable Relief.** In addition to the above remedies and penalties, Wake County may institute any other appropriate equitable action or proceeding in a court of competent jurisdiction to prevent, correct, or abate a violation of this ordinance.

[Amended 6/7/2021 by OA-01-21 ].

## **MOTION FOR CONSISTENCY (1<sup>ST</sup> MOTION)**

### **MOTION IF TEXT AMENDMENT IS CONSISTENT WITH THE COMPREHENSIVE PLAN AND UDO**

In the matter of OA-03-22, I move that the Planning Board adopt and offer to the Board of Commissioners the following recommended statements finding that the proposed text amendments are consistent with the Wake County Comprehensive Plan and Wake County Unified Development Ordinance (UDO). The purpose of the Wake County Comprehensive Plan and the Wake County UDO, as seen in Article 1-22, is to provide a guide for the physical development of the county, preserve and enhance the overall quality of life of residents, and establish clear and efficient development review procedures. The text amendments included herein accomplish this as described in the following statements.

1. Amendments to Section 8-42 *Lakes and Dams* modifies the County's requirements for assessing existing lakes or dams on proposed minor or minor-limited subdivisions (three lots or fewer). The amendment provides an option that eases requirements on these types of small subdivisions but require the existing lake/dam to be registered with the State of North Carolina Dam Safety Program for determination of high hazard risk. The amendment also moves the standards to a more appropriate location within Wake County UDO under the section titled Flood Hazard Areas. These changes are consistent with the Wake County Comprehensive Plan and the Wake County UDO by simplifying the requirements of this section and protecting the public health and safety.
2. Amendments to Section 20-14-4 *Criminal Penalty* are prompted by recent State law changes. Pursuant to S.L. 2021-138, also referred to as SB 300, violations of land development ordinances have been decriminalized. The amendments align the Wake County Comprehensive Plan and the Wake County UDO with State law.

## **MOTION FOR APPROVAL (2<sup>ND</sup> MOTION)**

In the matter of OA-03-22, I move that the Board finds that the adoption of this proposed text amendment is consistent with the Wake County Comprehensive Plan and Wake County Unified Development and is reasonable and in the public interest and hereby make a motion to recommend approval of this proposed text amendment to the Wake County Board of Commissioners.

# Wake County Unified Development Ordinance Amendment OA-03-22

**March 1, 2023**

Tim Maloney, Planning Development and Inspections Director



@wakegov    

wakegov.com



# Proposed Amendments

1. Amend requirements for impoundments and dams that are constructed or retained as part of a subdivision; and move the requirements to a new section in the Unified Development Ordinance.
2. Pursuant to state law changes, repeal “criminal penalties” as an enforcement action for violation of the Unified Development Ordinance.

# UDO Article 8-42 and 14-23 Impoundments and Dams



@wakegov



wakegov.com

# Background

- Section 8-42 of the UDO requires all proposed subdivisions with lakes or dams meet certain standards.
- The standards require any existing lake or dam be upgraded to accommodate runoff from a 24 hr. / 100-year frequency storm.
- This requirement can be cost prohibitive for applicants seeking a minor or minor-limited subdivision (three lots or fewer).
- Costs involve hiring a design professional to assess the dam and provide stormwater calculations to determine if it meets the County's standards.
- This can delay the process for a small subdivision request and sometimes be a barrier to achieving it.

# Purpose

- Ease the process and reduce the cost to applicants when seeking a minor or minor-limited subdivision permit when a lake or dam is on the property.
- Continue to protect public health and safety as it pertains to potentially hazardous dams.

# Proposed Amendments

1. Provide a new option for minor and minor-limited subdivisions that allow the customer to forego the requirement to hire an engineer and make upgrades to the dam prior to the County issuing a permit to subdivide.
2. Require a jurisdictional/hazard determination from the State Dam Safety Program for existing dams on minor and minor-limited subdivisions.
3. Require that the responsible party for maintenance and repair of the dam be recorded on the subdivision plat.
4. Move the proposed standards from Article 8 *Subdivision Design and Improvements* to Article 14 *Flood Hazard Areas*.

# Staff Findings

1. Simplifies the process and reduces the cost to applicants when seeking a minor or minor-limited subdivision permit when a lake or dam is on the property.
2. The new option can save time and money for the customer.
3. Maintains protection of public health and safety as it pertains to hazardous dams.
4. Move the standards to a more appropriate section within the UDO.
5. The changes are supported by the Home Builders Association.

# UDO Article 20-14-4 Criminal Penalty



@wakegov



wakegov.com

# Background

- The UDO authorizes the County to assess a criminal penalty for violation of the UDO.
- In 2021, the NC General Assembly decriminalized violations of land development ordinances pursuant to S.L. 2021-138, also referred to as SB 300.



# Purpose

To align the UDO with recent State law changes.

# Proposed Amendments

1. Eliminate UDO Section 20-14-4 that authorizes the County to assess a criminal penalty for violation of the ordinance.

# Staff Findings

1. Aligns the UDO with recent State law changes.

# Staff Recommendation

That the Wake County Planning Board:

1. Recommend that the Board of Commissioners adopt the statement of consistency for Ordinance Amendment 03-22 as presented;

and by separate motion

2. Recommend that the Board of Commissioners adopt Ordinance Amendment 03-22 as presented.

# Public Comment



@wakegov



wakegov.com



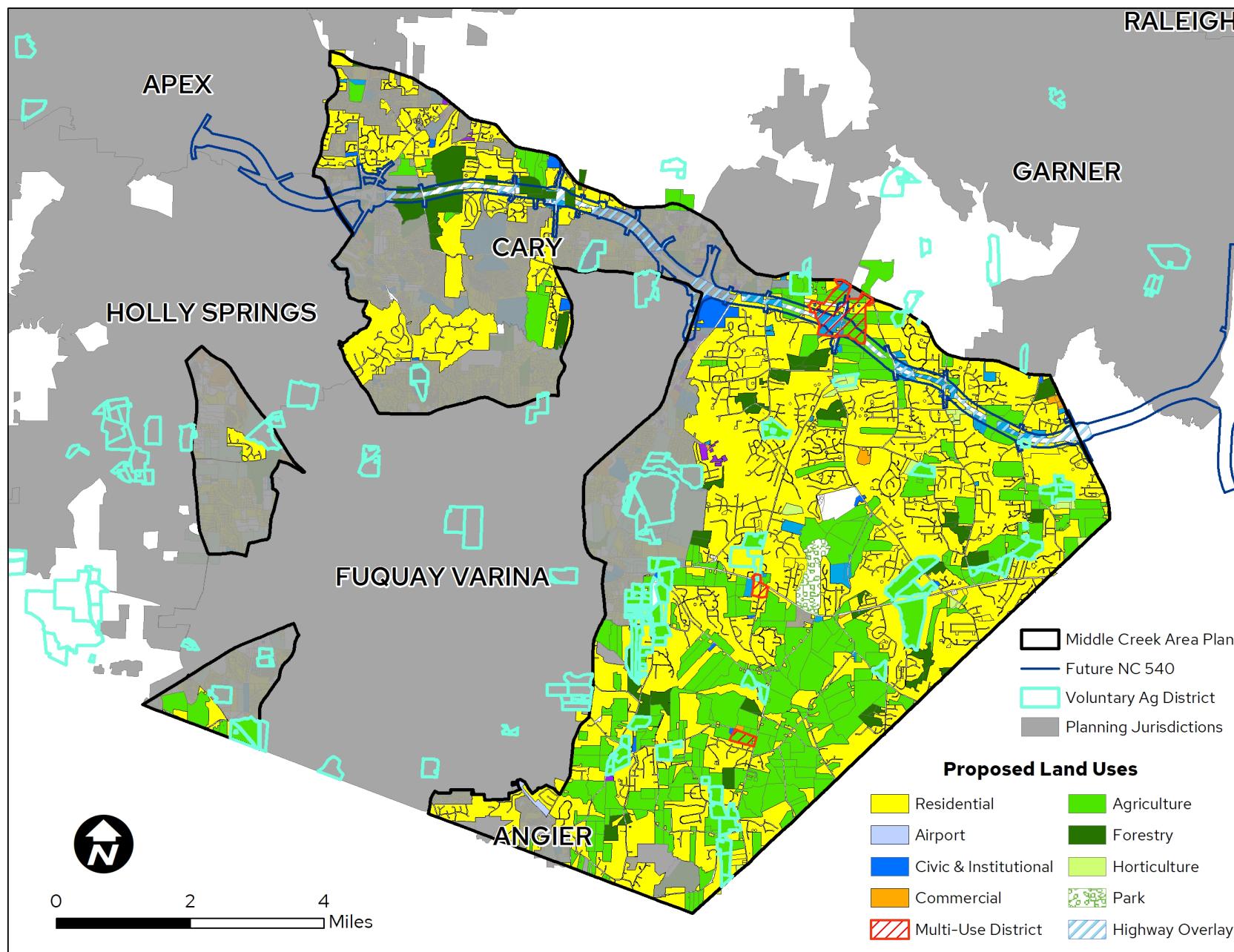
# MIDDLE CREEK

## AREA PLAN

# Middle Creek Area Plan

Wake County Planning Board  
March 1, 2023

Akul Nishawala, AICP - Planner III





# Community Workshop – Amplify Church

- February 16 @ 5:30–7:30PM
- Soil & Water Conservation District
- [WRAL News](#)







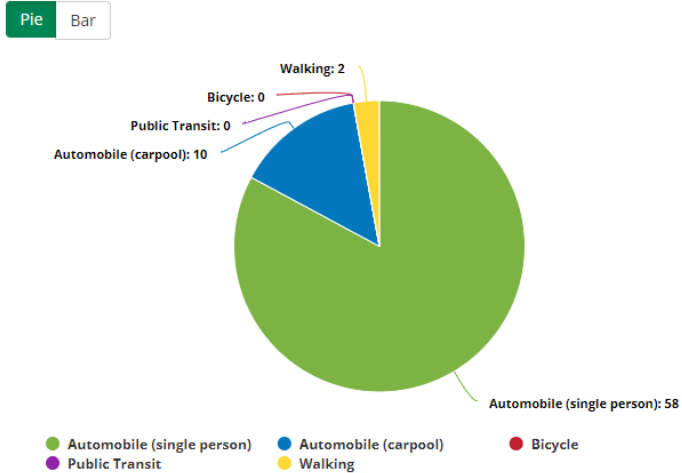




# Engagement - Surveys

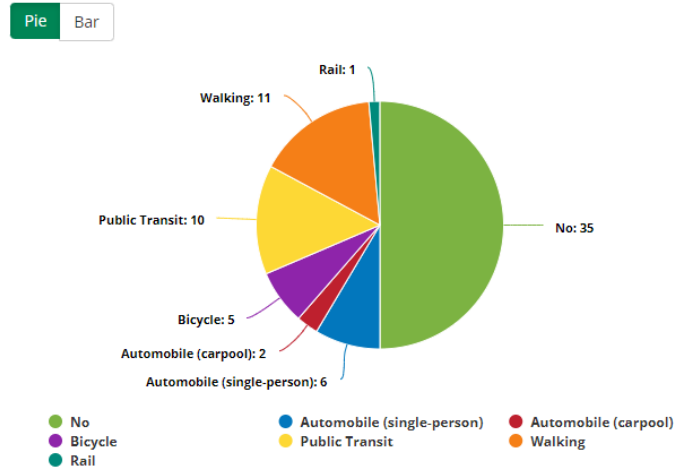
Q4. What is your main mode of transportation when NOT commuting to and from work?

70 answers



Q5. If it was safe and convenient to do so, is there a mode of transportation you'd prefer over your current one for either commuting or non-commuting trips?

70 answers



Q6. What would you need to consider your preferred mode to be safe and convenient? Please describe.

32 answers



Q6. What would you need to consider your preferred mode to be safe and convenient? Please describe.

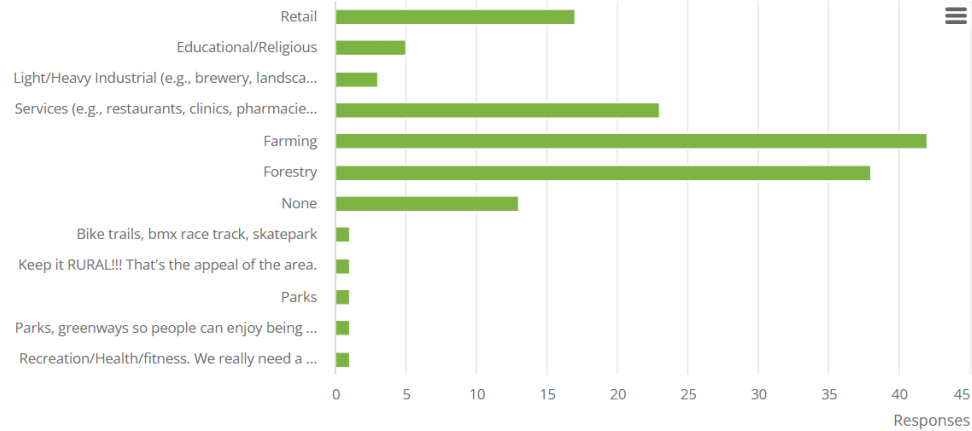


# Engagement - Surveys

Q9. What types of non-residential development would you like to see in your community?  
Select all that apply.

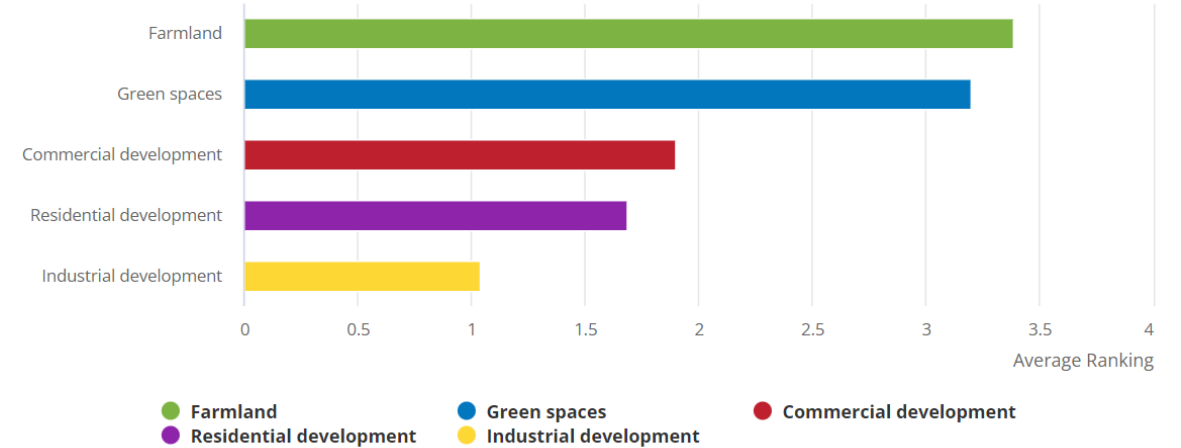
69 answers

Pie Bar



Q11. Please rank the following in the order you would prioritize them, with the first priority at the top and the lowest priority at the bottom.

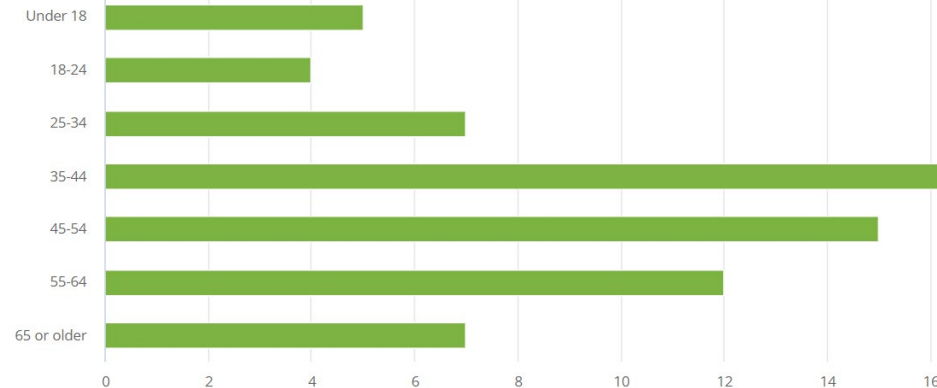
57 answers



Q12. What is your age?

69 answers

Pie Bar





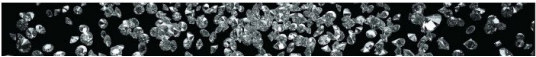
# Engagement



nearly 800 in North Carolina. The story of Rosenwald schools serves as an important reminder about the fight for equal rights and the importance of preserving



MIDDLE CREEK ZOOM LINK INFORMATION ID: 837 5632 8392  
PC 618880 #646-558-8656



# Timeline





# MIDDLE CREEK

AREA PLAN

## Questions

Email: [areaplan@wake.gov](mailto:areaplan@wake.gov)

Phone: 919-856-6310, press 8

Website: [wake.gov/MC](http://wake.gov/MC)



# **US 401 New Location Study**

**Wake County Planning Board**

**March 1, 2023**



# US 401 New Location Study

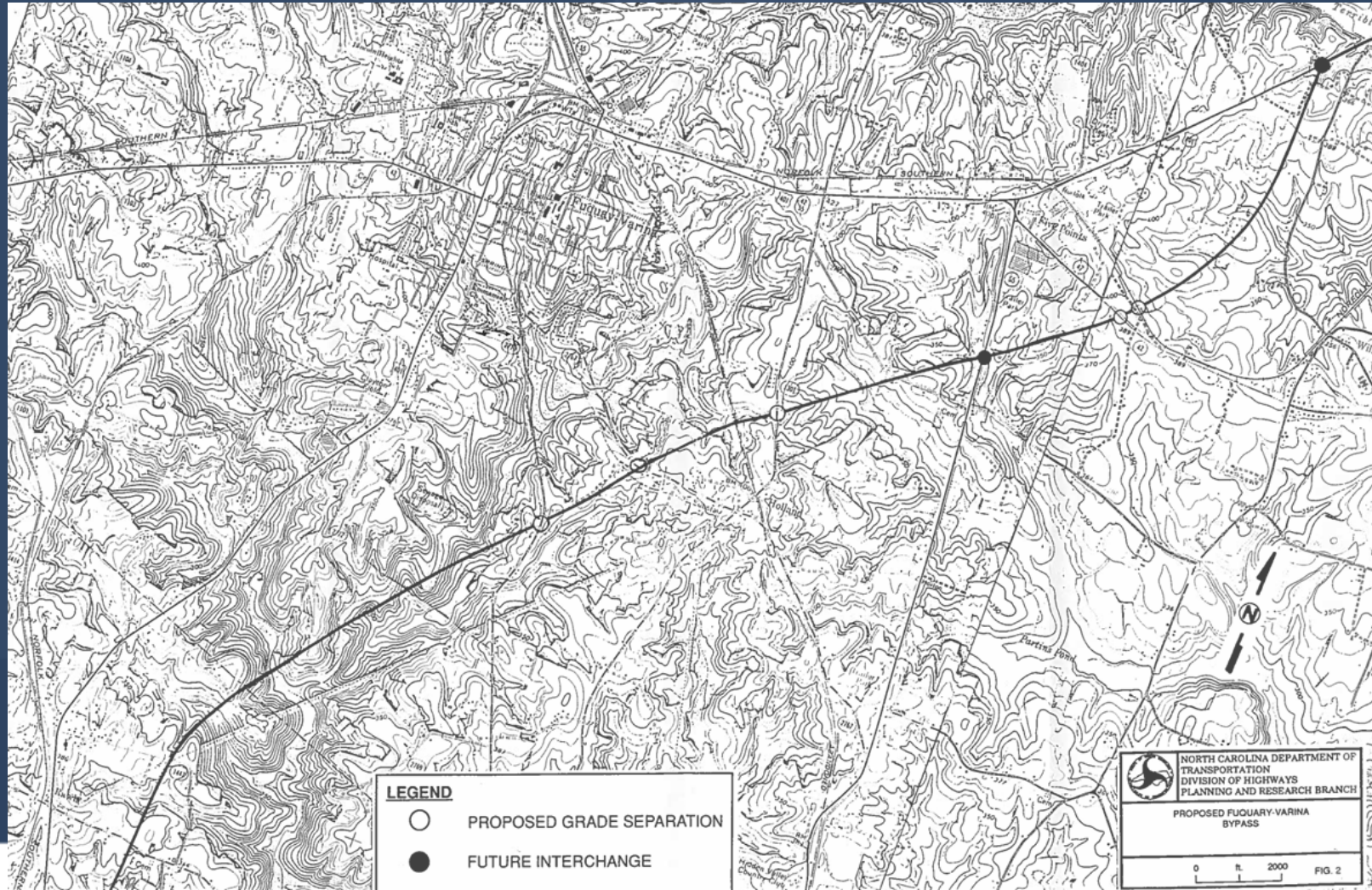
## Purpose of the Study

- **Develop roadway solutions that will meet future demand**
- **Manage development around the proposed facilities to limit future impacts**

## Related Issues

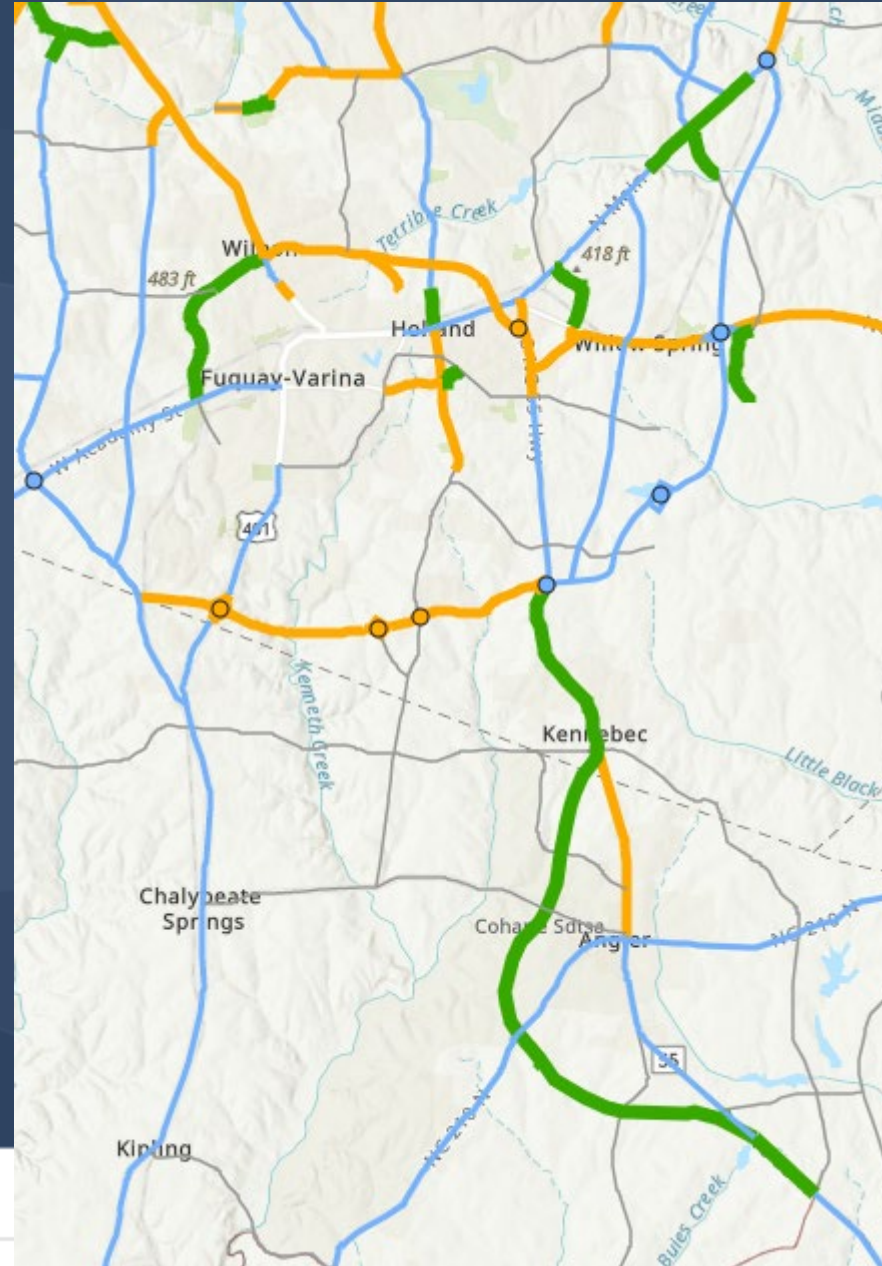
- **Where should impacts be located**
- **Relationship of major roadways to future development**

# Origin of Bypass Concept -





# Current Adopted MTP linework



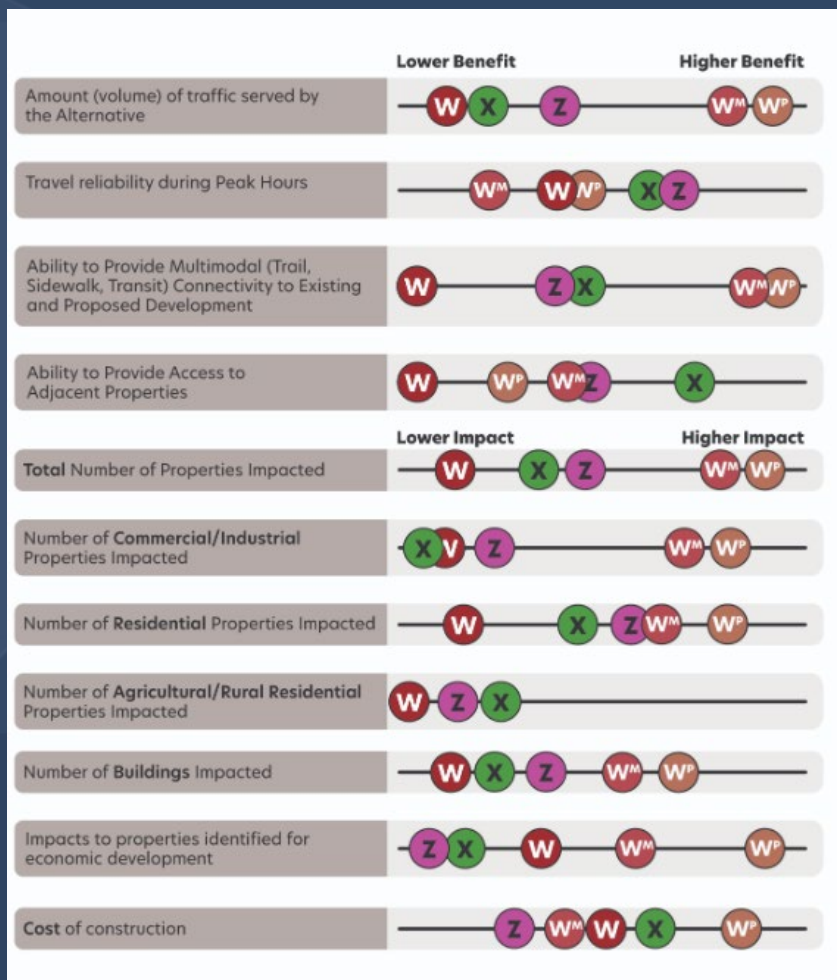
# Current Alignments Being Studied

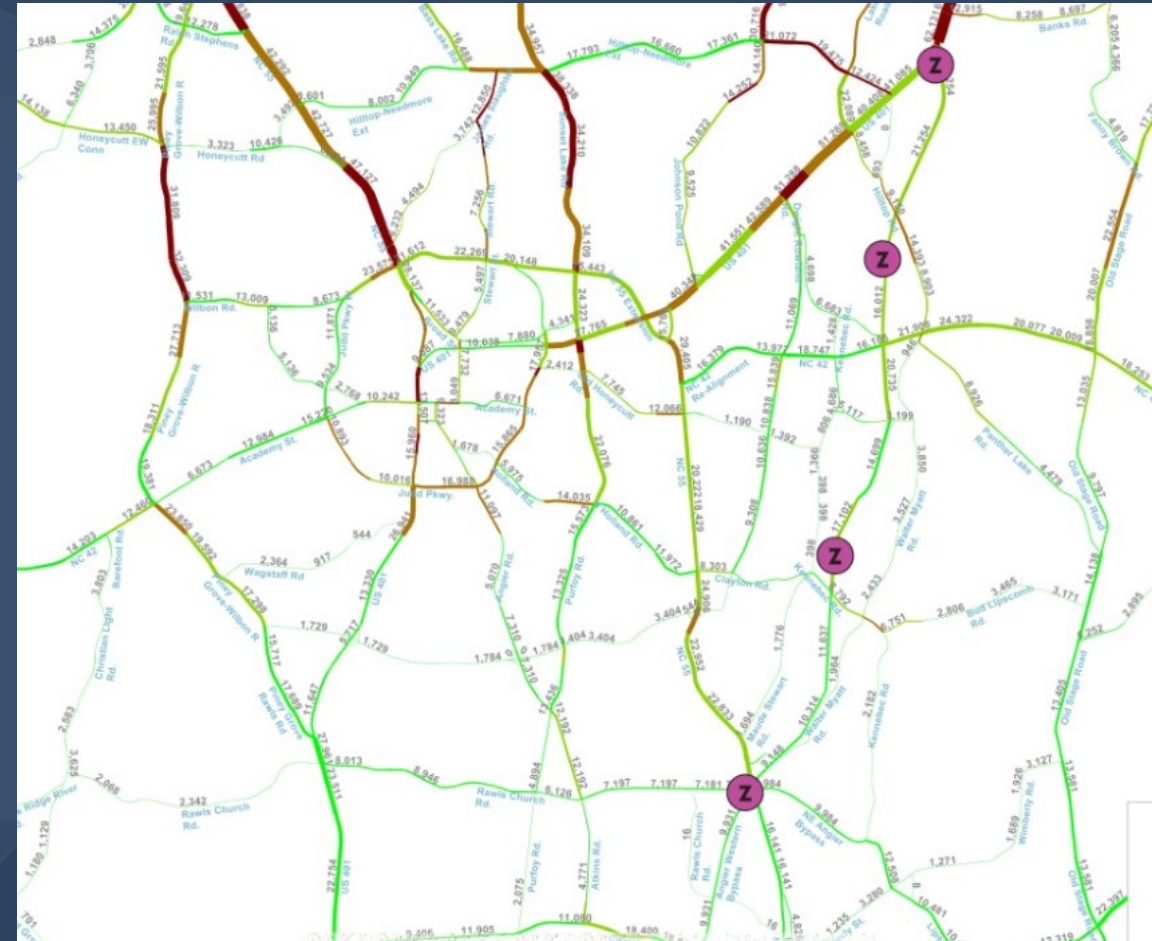
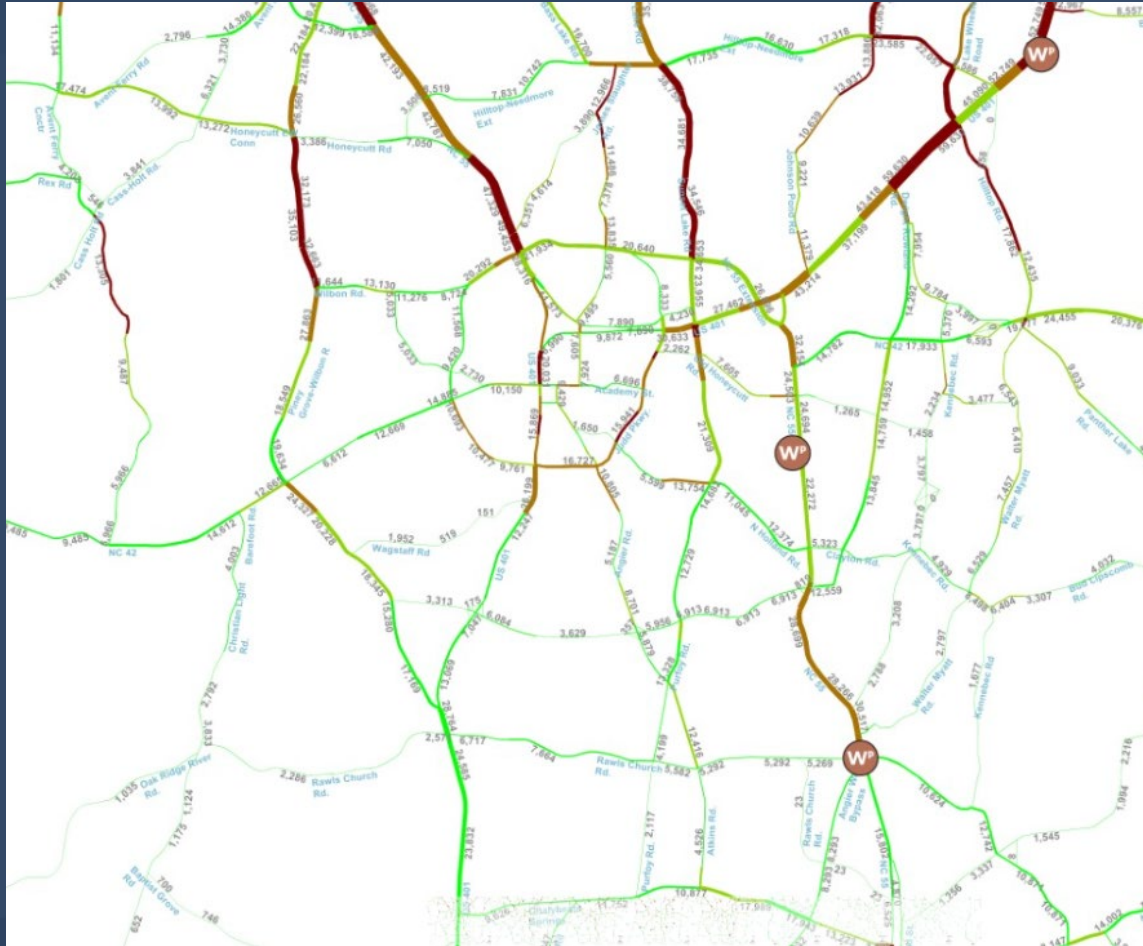


# Current Alignments Being Studied

Scenario	US 401	NC 55	Other
No Build	4 lanes at 50 mph	4 lanes at 45 mph	All other MTP projects included + Fuquay-Varina Eastern and Southern Parkways
Wm	6 lanes at 45 mph	4 lanes at 45 mph	All other MTP projects included + Fuquay-Varina Eastern and Southern Parkways
Wp	6 lanes at 55 mph	4 lanes at 55 mph	All other MTP projects included + Fuquay-Varina Eastern and Southern Parkways
$W = Wp - Wm$			
X	6 lanes at 45 mph	4 lanes at 45 mph	Alternative X + All other MTP projects + Eastern Parkway. (Southern Pkwy is a part of X)
Z	6 lanes at 45 mph	4 lanes at 45 mph	Alternative Z + All other MTP projects + Fuquay-Varina Eastern and Southern Parkways

# Current Alignments Being Studied





Existing Roadways (NC55/US 401 Widened) 2045

New Alignment Z 2045



# Relationship with Middle Creek Study

- **Location of the roadway related to where development occurs (new location could support new development)**
- **Location of the roadway may impact where development occurs (new location could encourage new development)**
- **Impact of new location on agricultural uses**