

**North Carolina Office of the State Fire Marshal
Engineering and Building Codes Division in the Department of Insurance**

RE: Appeal of the October 8, 2025,	)	
Decision of the Fire Marshal of	)	
the Elon Fire Department to	)	
prohibit a tile paver system	)	
with the trademarked name	)	OSFM DECISION
"GrassPave2" for use on new	)	
fire apparatus access roads on	)	
the campus of Elon University.	)	

In accordance with N.C.G.S. §160D-1127, Elon University c/o Womble Bond Dickinson (US) LLP has appealed the decision of the Elon Fire Department to prohibit a tile paver system with the trademarked name "GrassPave2" for use on new fire apparatus access roads on the campus of Elon University.

N.C.G.S. § 160D-1127 allows appeals from any order, decision, or determination by a member of a local inspection department pertaining to the North Carolina State Building Code or other State building laws to the State Fire Marshal or his designee.

PARTIES

Appellant: Elon University c/o Womble Bond Dickinson (US) LLP
555 Fayetteville Street, Suite 1100
Raleigh, NC 27601

Appellee: Elon Fire Department
219 S. Williamson Avenue
P.O. Box 595
Elon, NC 27244

BACKGROUND

On October 8, 2025, the appellee issued a letter to the appellant noting that the "Town of Elon Fire Marshal's Office has identified significant deficiencies with the fire apparatus access roads serving multiple residential and academic buildings. Many of these roads, constructed with a plastic tile paver system, have not been installed and/or not maintained to manufacturer specifications and do not meet the requirements of the North Carolina Fire Code, Section 503 and Appendix D. As a result, access to many campus buildings is either inadequate or nonexistent, creating serious life safety concerns and liability for both the University and the Town." In an additional undated letter during this discussion, the appellee notified the appellant that "the use of geo tile for fire access roads will no longer be allowed or accepted."

citing maintenance and emergency response concerns of the existing paver fire apparatus access roads not being installed and maintained per the manufacturer's instructions and specifications.

On October 17, 2025, in accordance with N.C.G.S. §160D-1127, the appellant appealed to the North Carolina Office of the State Fire Marshal (OSFM) the decision of the appellee to prohibit a tile paver system with the trademarked name "GrassPave2" for use on new fire apparatus access roads on the campus of Elon University.

The appeal investigation by OSFM remained on hold for several months after filing pending periodic discussions between the appellee and appellant to resolve this issue independently of the appeal process.

On June 25, 2026, the appellant issued a letter to the appellee again requesting use of the tile paver system with the trademarked name "GrassPave2" for use on new fire apparatus access roads on the campus of Elon University. As of the date of this letter, the appellee has not responded to this request of the appellant.

Acknowledging this impasse between the appellee and appellant, OSFM proceeded with the investigation and decision in this appeal.

ISSUE RAISED IN APPEAL

The appellant is appealing the appellee's decision to prohibit a tile paver system with the trademarked name "GrassPave2" for use on new fire apparatus access roads on the campus of Elon University.

The appellants' appeal reads in most relevant part as follows:

'As explained more fully in the attached Exhibit 1, a formal interpretation is necessary to clarify whether GrassPav2 may be used for fire access lanes and reversal of the Fire Marshal's decision is necessary for many reasons.'

FINDINGS

Based on information submitted by the appellant and ensuing investigation, the undersigned makes the following findings:

Code sections noted in this letter refer to the 2018 edition of the NC Fire Code (NCFC) unless otherwise noted. See attachments for relevant documents to this appeal.

Code Analysis: Section 503.2.3 notes that fire apparatus access roads shall be designed and maintained to support the imposed loads of fire apparatus and shall be surfaced so as to provide all-weather driving capabilities. The fire code official is granted the authority under Sections 104.1, 104.7 and 104.7.2 to determine acceptable materials used for the surfaces of fire apparatus access roads.

....

503.2.3 Surface. Fire apparatus access roads shall be designed and maintained to support the imposed loads of fire apparatus and shall be surfaced so as to provide all-weather driving capabilities.

....

[A]104.1 General. The *fire code official* is hereby authorized to enforce the provisions of this code and shall have the authority to render interpretations of this code, and to adopt policies, procedures, rules and regulations in order to clarify the application of its provisions. Such interpretations, policies, procedures, rules and regulations shall be in compliance with the intent and purpose of this code and shall not have the effect of waiving requirements specifically provided for in this code.

....

[A]104.7 Approved materials and equipment. Materials, equipment and devices approved by the *fire code official* shall be constructed and installed in accordance with such approval.

....

[A]104.7.2 Technical assistance. To determine the acceptability of technologies, processes, products, facilities, materials and uses attending the design, operation or use of a building or premises subject to inspection by the *fire code official*, the *fire code official* is authorized to require the owner or owner's authorized agent to provide, without charge to the jurisdiction, a technical opinion and report. The opinion and report shall be prepared by a qualified engineer, specialist, laboratory or fire safety specialty organization acceptable to the fire code official and shall analyze the fire safety properties of the design, operation or use of the building or premises and the facilities and appurtenances situated thereon, to recommend necessary changes. The *fire code official* is authorized to require design submittals to be prepared by, and bear the stamp of, a registered design professional.

....

CONCLUSIONS

Based on the forgoing findings of fact, the following conclusions are made:

1. The fire code official has the discretion to approve or deny surface materials used for new fire apparatus access roads under the authority granted in Section 104.1, 104.7 and 104.7.2. The performance of existing fire apparatus access road surface materials may be considered in that approval or denial decision. The performance requirements the fire code official deems necessary for the fire personnel, apparatus vehicles and equipment using those fire apparatus access roads within their jurisdiction to adequately respond to emergency situations also may be considered in that approval or denial decision.
2. Typically, hard surfaces such as pavement and concrete are used and widely acceptable in satisfying the performance requirements of Section 503.2.3 since those surfaces are consistent in meeting acceptable performance requirements over time and require little to no maintenance.
3. Use of gravel and pavers may be used in satisfying the performance requirements of Section 503.2.3 when approved at the discretion of the fire code official under the authority granted in Section 104.1, 104.7 and 104.7.2 as those surfaces are more susceptible to not meeting acceptable performance requirements over time due to exposure to weather conditions and lack of maintenance, which may negatively impact an adequate emergency response.

APPEAL DECISION

Based on the above findings and conclusions of the information considered in this appeal, the appellee's decision to prohibit a tile paver system with the trademarked name "GrassPave2" for use on new fire apparatus access roads on the campus of Elon University is UPHELD.

This 10th day of September 2026.



David Rittlinger, PE, LEED AP
Division Chief – Codes & Interpretations
North Carolina Office of State Fire Marshal

FURTHER APPEAL RIGHTS

The appellant and appellee have the right to appeal this decision to the NC Building Code Council or Wake County Superior Court. Please refer to N.C.G.S. § 143-140, N.C.G.S. § 143-141 and the NC Administrative Code and Policies, Section 202.9 for further appeal rights. In accordance with N.C.G.S. § 143-141, you have 30 days in which to appeal this decision to the NC Building Code Council or Wake County Superior Court.

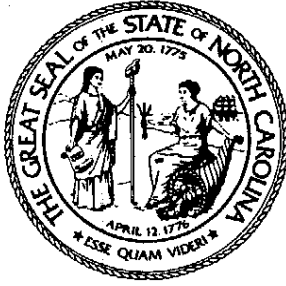
Cc:

Brian Graves, Fire Marshal, Elon Fire Department, bgraves@elon.gov

Nathan Childs, NCDOJ, counsel for NC Building Code Council, nchilds@ncdoj.gov

Nicki Shaffer, NCDOJ, counsel for NC Residential Code Council, wshaffer@ncdoj.gov

Kyle Heuser, NCOSFM, Assistant General Counsel, kyle.heuser@ncdoi.gov



**APPENDIX E
APPEALS
NORTH CAROLINA
BUILDING CODE COUNCIL**
1429 Rock Quarry Road, Suite 105
Raleigh, North Carolina 27610
(919) 647-0008
david.rittlinger@ncdoi.gov

APPEAL TO NCDOI/NCBCC		Hearing Date ____ / ____ / ____	
GS 153A-374, GS 160A-434	☒	GS 143-140, GS 143-141	☐
Formal Interpretation by NCDOI	☒	Appeal of Local Decision to NCBCC	☐
Appeal of Local Decision to NCDOI	☒	Appeal of NCDOI Decision to NCBCC	☐

APPELLANT Elon University **PHONE** (919) 755 - 2192 x ____
REPRESENTING Elon University is represented by Womble Bond Dickinson (US) LLP
ADDRESS c/o John Cooke, 555 Fayetteville Street, Suite 1100
CITY Raleigh **STATE** NC **ZIP** 27601
E-MAIL john.cooke@wbd-us.com; beth.jones@wbd-us.com; zach.buckheit@wbd-us.com **FAX** (____) ____ - ____

North Carolina State Building Code, Volume 5 - Section 503

REQUEST ONE: ☒ Formal Interpretation by NCDOI ☐ Appeal of Local Decision to NCBCC
☒ Appeal of Local Decision to NCDOI ☐ Appeal of NCDOI Decision to NCBCC

Type or print. Include all background information as required by the referenced General Statutes and the attached policies. Attach additional supporting information.

Please see attached Exhibit 1 for Elon University's explanatory letter in support of this appeal.

REASON:

As explained more fully in the attached Exhibit 1, a formal interpretation is necessary to clarify whether GrassPav2 may be use for fire access lanes and reversal of the Fire Marshall's decision is necessary for many reasons.

Signature <u>John C. Cooke</u> Digitally signed by John C. Cooke Date: 2025.10.17 15:29:40 -04'00'		DATE: <u>10/17/25</u>	APPEAL TO NCDOI/NCBCC FORM 3/14/17
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202.9 Appeals

202.9.1 Engineering Division. A written technical interpretation shall be provided as specified in Section 203.2.1.2. Any person may appeal in writing an order, decision, or determination pertaining to the code or any state building law by filing written notice with the Commissioner of Insurance or his designee within ten (10) days after the order, decision, or determination. A copy of the appeal shall be furnished to each party.
(General Statutes 143-140, 153A-374 and 160A-434)

203.2.1 Interpretations

203.2.1.1 Informal Interpretations. The Engineering Division shall provide informal interpretations on code related matters either by e-mail, letter or telephone. These informal interpretations may be accepted by the local code enforcement official or party requesting the interpretation. Either party may request a formal interpretation of the code.

203.2.1.2 Formal Interpretations. Any person may request in writing a formal interpretation of the code. The request shall be addressed to the Chief Code Consultant for the Department of Insurance. The request shall be specific and shall reference the code sections in question. All formal interpretations shall be in writing. A formal interpretation shall be binding on all parties unless appealed to the Building Code Council as specified in Section 201.9.2. Formal interpretations determined to be of a general nature may be posted on the Department website. (General Statute 143-140)

203.2.2 Appeals. Any person may appeal in writing an order, decision, or determination of a code enforcement official pertaining to the code or any state building law. The appeal shall be addressed to the Chief Engineer for the Department of Insurance by filing written notice within ten (10) days after the order, decision, or determination. The appeal shall contain the type and size of the building in question, the location of the building, and shall reference the code sections in question. The decision shall be in writing and shall set forth the facts found. The decision rendered shall be based on the technical provisions of the code, public health and safety and shall be construed liberally to those ends. A decision shall be binding on all parties unless appealed to the Building Code Council as specified in Section 201.9.2. A copy of the appeal and written decision shall be furnished to each party. (General Statutes 153A-374 and 160A-434)

202.9.2 Building Code Council. The Building Code Council shall hear appeals from the decisions of State enforcement agencies relating to any matter related to the code. Any person wishing to appeal a decision of a State enforcement agency to the Building Code Council shall give written notice of appeal as follows:

202.9.2.1 Twenty one (21) copies including an original of the Notice of Appeal shall be filed with the Building Code Council c/o NC Department of Insurance, Engineering Division, 325 North Salisbury Street, Room 5_44, Raleigh, NC 27603 and one (1) copy shall be filed with the State enforcement agency from which the appeal is taken.

202.9.2.2 The Notice of Appeal shall be received no later than thirty (30) days from the date of the decision of the State enforcement agency.

202.9.2.3 The Notice of Appeal shall be legibly printed, typewritten or copied and shall contain the following:

- (1) Name, address of the party or parties requesting the appeal.
- (2) The name of the State enforcement agency, the date of the decision from which the appeal is taken, and a copy of the written decision received from the enforcement agency.
- (3) The decision from which the appeal is taken shall be set forth in full in the Notice of Appeal or a copy of the decision shall be attached to all copies of the Notice of Appeal.
- (4) The contentions and allegations of fact must be set forth in full in a clear and concise manner with reference to the sections of the code in controversy.
- (5) The original Notice of Appeal shall be signed by the party or parties filing appeal.
- (6) The Notice of Appeal shall be received by the first day of the month prior to the Building Code Council's quarterly scheduled meeting in order to be placed on the agenda for that meeting. The Chairman may schedule a special meeting to hear an appeal.

202.9.2.4 Upon the proper filing of the Notice of Appeal, the Building Code Council Secretary shall forward one (1) copy of the Notice of Appeal to each member of the Building Code Council. The Chairman may appoint a Hearing Committee to hear appeals. The Secretary shall send notice in writing to the party or parties requesting an appeal and to the Building Code Council Hearing Committee members at least fifteen (15) days prior to the Hearing Committee meeting. A written decision of the Hearing Committee meeting shall be provided to all Building Code Council Members. The actions of the Hearing Committee shall be final, unless appealed to the full Building Code Council in writing within 30 days of the Hearing Committee's action. If a Hearing Committee consists of at least seven Council members, it will constitute a quorum of the full Council. Further appeals shall be as specified in Section 202.9.3.

202.9.2.5 The Building Code Council shall, upon a motion of the State enforcement agency or on its own motion, dismiss appeals for the following reasons:

- (1) Not pursued by the appellant or withdrawn;
- (2) Appeal not filed in accordance with these rules; or
- (3) Lack of jurisdiction.

202.9.2.6 When the Building Code Council finds that a State enforcement agency was in error in its interpretation of the code, the Building Code Council shall remand the case to the agency with instructions to take such actions as the Building Code Council directs. When the Building Code Council finds on appeal that materials or methods of construction proposed are equivalent to those required by the code, the Building Code Council shall remand the case to the State enforcement agency with instructions to permit the use of such materials or methods of construction. The Building Code Council shall immediately initiate procedures for amending the code to permit the use of such materials or methods of construction.

202.9.2.7 The Building Code Council shall provide a written decision setting forth the findings of fact and the Building Code Council's conclusions to each party or parties filing the appeal and to the State enforcement agency from which the appeal was taken.

202.9.3 Superior Court. Whenever any person desires to appeal a decision of the Building Code Council or a decision of a State or local enforcement agency, he may appeal either to the Wake County Superior Court or the Superior Court of the county in which the proposed building is to be situated in accordance with the provisions of Chapter 150B of the General Statutes.
(General Statute 143-141(d))

EXHIBIT 1

David Rittlinger, PE
Division Chief of Codes and Interpretations
Deputy Commissioner of Engineering

Appeal by Elon University of decision by the Town of Elon's Fire Marshal dated October 8, 2025 and Request for a Formal Interpretation

Dear Mr. Rittlinger,

Introduction

With regret, Elon University (the "University") appeals the decision by the Town of Elon's Fire Marshal dated October 8, 2025 (the "Decision"). A copy of the Decision is attached Exhibit A. The University requests Mr. Johnson's informal interpretation shown on Exhibit B be adopted as a formal interpretation by the Office of State Fire Marshal ("OSFM").

The University requested through the Town of Elon's Town Attorney for the Decision to be withdrawn to avoid this appeal. The Town of Elon Fire Marshal declined the University's request to withdraw the Decision. Attached as Exhibit C is the email the University received from the Town Attorney three days ago. The University files this appeal now because it must in order to preserve its rights to appeal the Decision.

Grounds for Requesting a Formal Interpretation

Mr. Johnson, OSFM's Chief Fire Code Consultant, provided an informal interpretation that GrassPav2, or "Geo Tile" could be used for fire access lanes. *See Exhibit B*. Mr. Graves, the Elon Fire Marshal, has not withdrawn or modified his order that Geo Tile cannot be used at the Health EU project. *See, Exhibit C*.

A formal interpretation will bring clarity and certainty as to whether GrassPav2 satisfies North Carolina codes on the University and elsewhere in North Carolina. It should be noted that GrasPav2 is not a novel material and has been approved by other local code qualified officials.

Grounds for Appeal

The actions by the Fire Marshal and Fire Chief of the Town of Elon are (1) in excess of their authority under law, (2) arbitrary or capricious, (3) overly broad and vague, (4) retaliatory and calculated to inflict financial harm on the University (5) impugn the integrity of others who are licensed by the State of North Carolina and by OSFM

and (6) undermine public confidence in the administration of state building and safety codes.

Summary of Relevant Facts

Background

The University is a responsible institutional citizen of North Carolina. The University is committed to fire safety.

For improvements made to the University's campus, the University retains design professionals licensed by the State of North Carolina to prepare construction plans in accordance with all North Carolina building and safety codes. These plans are submitted to the Town and Alamance County (the "County") Department of Inspections for review to ensure these plans comply with all North Carolina building and safety codes. Following the County's review, and only upon the County's confirmation that the building plans comply with all North Carolina building and safety codes, the County issues building permits. To construct improvements on its campus, the University retains general contractors licensed by the State of North Carolina. The University also retains licensed professional design firms to monitor the construction of improvements on the University's campus. Finally, when the construction of an improvement is complete, the completed improvement is inspected County building inspectors and approved.

For a long time, Alamance County (the "County") Department of Inspections provided Building and Fire Code review of construction plans, construction inspections, issuance of certificates of occupancy, and enforcement of the Fire Code on the University's campus.

In 2024, the Town's Fire Chief Landon Massey ("Mr. Massey") publicly began asserting that the County was not enforcing the Fire Code in the Town. The University believes Mr. Massey is not a qualified as a code official by OFSM. Mr. Massey advocated a split of jurisdiction where the County handled all building code matters, and his department enforced the Fire Code. The attached news article, Exhibit D is provided to OFSM as background information concerning Mr. Massey's statements and desire to gain jurisdiction over Fire Code matters.

Mr. Massey hired Mr. Brian Graves to be the Town's part-time Fire Marshal. Based upon information available to the University, Mr. Graves is a full-time employee of the City of Durham.

Since Mr. Graves' hiring, Mr. Massey and Mr. Graves have repeatedly questioned the previous decisions of the County and the work of the licensed professionals the University retained to design, review, construct, and monitor improvements on the University's campus. To try to satisfy Mr. Massey and Mr. Graves, the University

provided a Geo Tech study and report of two existing drive access lanes prepared by Southern Engineering. A copy of Southern Engineering report is attached as Exhibit E. Mr. Massey and Mr. Graves were dismissive of the geo-tech study and report.

If the State Building Code and North Carolina law authorizes Mr. Massey and Mr. Graves' conduct under these circumstances (which the University believes it does not), then these accused licensed design professionals, licensed general contractors and licensed code officials should have an opportunity to defend their decisions and work. At all times, the University retained licensed professionals and proceeded in accordance with law. The University relied and continues to rely on these decisions to ensure the campus is compliant with all fire protection standards and requirements under the Fire Code.

The Decision

The University retained Stimmel Associates, PA ("SAPA") to prepare final civil/site construction plans for the University's new Health EU building (the "Improvement") in accordance with all applicable safety and building codes. SAPA represented to the University that its construction plans for the Improvement satisfied all applicable safety, building and fire codes and submitted those plans to the County's Inspections Department. The County's Inspections Department approved the plans and issued a building permit to the University. GrassPav2 was shown on the drawings submitted to and approved by the Town's Technical Review Committee, of which the Town's Fire Department has a representative as a reviewer.

Mr. Graves later issued an undated letter threatening to issue a stop work order on the Improvement and forbidding the installation and use of Geo-tile (the "Stop Work Threat"). A copy of Stop Work Threat is attached as Exhibit F.

In response to the Stop Work Threat, SAPA sought and received an informal interpretation and opinion from Mr. Johnson, Chief Fire Code Consultant of the OFSM. The opinion and interpretation by Mr. Johnson is that GrassPav2 can be used for fire access drives (the "DOI Interpretation") if applied in accordance with the manufacturer's prescribed method 2 can support the weight of responding apparatus and is properly maintained. See Exhibit B.

SAPA provided a copy of the DOI Interpretation to Mr. Graves and Mr. Massey in the hopes it would resolve any confusion over the propriety of the use of GrassPav2 on the Improvement. Despite the DOI Interpretation stating that GrassPav2 may be used on the Improvement, Mr. Graves has not withdrawn or modified the Stop Work Threat. Neither Mr. Graves nor Mr. Massey has agreed to honor DOI's Interpretation. To the contrary, Mr. Massey asserts his views of OFSM's informal interpretation and views about the code. While we believe Mr. Massey is qualified to fight fires, the

University is unaware of Mr. Massey being a qualified code official. A copy of Mr. Massey's email (the "Massey email") is attached as Exhibit G.

Given the foregoing, and again seeking to resolve this matter at the local level, counsel for the University contacted the Town Attorney and requested clarification. A copy of this email is attached as Exhibit H (the "University Counsel Email"). Before the University received a response from the Town Attorney, Mr. Graves issued the Decision. The University now appeals that Decision.

Grounds for Appeal

1. The Decision is in excess of authority, arbitrary, capricious, overly broad, vague, retaliatory and calculated to inflict financial costs on the University.

- a. The Decision contradicts the professional decisions made by many others over many years, including other code qualified officials. The Town Fire Marshal exceeded his authority. The University has statutory and common vested rights established by law through permits and approvals issued by other governmental officials for existing fire access lanes. *See, e.g. Town of Midland v. Wayne*, 368 N.C. 55 (2015) (Town's interference with vested rights); Kirby v. North Carolina Department of Transportation, 368 N.C. 847 (2016) (publication of a map is a taking because it interferes with property rights).
- b. The Decision states it is based upon review of a campus map. The University requested the Town Attorney to provide all written information and inspection reports possessed by the Town that supports the Decision. The University has not received any written information supporting the Decision from the Town and is unaware of any such written information and inspection reports.

Further, the Decision does not reflect any consideration of the extensive Geo-Tech report already provided to the Town showing that two of the existing fire access lanes satisfy safety codes. *See Exhibit E*. The Decision is accordingly arbitrary or capricious.

- c. The Decision is overly broad and vague. The Decision does not identify which specific fire access lanes are subject of the Decision. The Decision does not identify the provisions in the Fire Code under which these fire access lanes are deficient. This is contrary to North Carolina law, which makes clear that "[i]f local governments adopt ordinances that interfere with property rights, they owe it to the property owners to use plain

language” and all “well-founded doubts” must be resolved “in favor of the free use of property.” Schooldev East, LLC v. Town of Wake Forest, 386 N.C. 775, 789 (2024). This rule and requirement is “no arbitrary canon of construction,” but rather reflects “our state’s longstanding public police favoring the ‘free and unrestricted use and enjoyment of land’” and arises from the guarantees of the North Carolina Constitution. Id.

The Decision states “Immediate Attention Required” but all fire access drives have been designed by licensed professionals, built by licensed professionals and inspected and approved by code qualified professionals. The only fact that changed was Mr. Massey and Mr. Graves becoming aware of the OFSM’s informal interpretation. Thus, the Decision seems to be retaliation for SAPA seeking an informal opinion from OFSM.

- d. Mr. Graves and Mr. Massey’s conduct evidences a misuse of authority. Instead of accepting the professional opinions of qualified experts, like SAPA and Mr. Johnson, Mr. Massey and Mr. Graves ignore relevant and appropriate data and information.

2. The Decision seeks to supplant the decisions of the licensed professionals hired by the University and is an unwarranted attack on those professionals’ work.

- a. As discussed above, all significant improvement construction, repair, and modifications that take place on the University’s campus, including those relative to the Improvement, are done via professionals licensed by the State of North Carolina and OFSM.
- b. The Decision cites NCFC Section 104.7.2 and requires a third-party “Fire Protection engineering evaluation” and a “corrective action plan.” NCFC Section 104.7.2 exists to “determine the acceptability” of technologies, processes, products, facilities, materials and uses attending the design, operation or use of a building or premise.
 - i. The term “Fire Protection engineering evaluation” does not appear in NCFC Section 104.7.2 and the plain purpose of the section is to evaluate new matters, such as materials, to be used on new projects. Mr. Graves and Mr. Massey have already received evaluations from Mr. Johnson of the OFSM, Southern Engineering and plans sealed by SAPA evaluating materials.

- ii. Nothing in NCFC Section 104.7.2. authorizes directing a property owner to develop “corrective action.” Indeed, the Decision assumes Mr. Massey and Mr. Graves will reject, as they have the geo-tech report and the informal interpretation, any evaluation that conflicts with the Decision.
 - iii. The University believes that all existing fire access lanes were designed, built, inspected and approved by licensed professional and qualified code officials.
 - iv. Mr. Massey’s and Mr. Grave’s attacks on decisions made by other licensed professionals and code officials undermine the public confidence in public officials. There is no code violation at issue here. Citizens are complaining to the General Assembly about similar abuses by local Fire Marshals and conduct like Mr. Massey’s and Mr. Graves’ is the source of these concerns.
- c. The University, as a property owner that is being subjected, on one side, to a set of officials (Mr. Graves and Mr. Massey) asserting “substantial deficiencies” in “multiple” fire access lanes on campus, and on the other side, has licensed professionals and code qualified officials representing that those same fire access lanes are appropriate, is caught in a vise. The Decision places the University in this vise is accordingly both perplexing and concerning. The University (nor the public) know which professionals are correct.

The University’s Request to the OFSM

The University respectfully requests that OFSM:

1. Intervene and exercise all authority to necessary to resolve all questions of uncertainty created by Mr. Graves and Mr. Massey. In particular:
 - a. Reverse the Decision and direct Mr. Graves withdraw the Decision immediately with prejudice.
 - b. Render a formal and final interpretation consistent with Mr. Johnson’s interpretation and the geo-tech report already provided to the Town which shows that the existing fire access lanes are sufficient to satisfy safety code standards.

- c. Reverse the Stop Work Order Threat and direct Mr. Graves to withdraw it with prejudice and direct him to abide in action and spirit with the formal interpretation.
- d. If necessary, in OFSM's judgment, have OFSM conduct a field investigation with the University and its representations to provide helpful and collaborative guidance as to maintenance of fire access lanes on campus.
- e. Take such other and further steps OFSM deems appropriate and necessary to address the actions by Mr. Massey and Mr. Graves.

Reservation

The University reserves its right to amend this appeal based upon its further investigation into the facts and proceed in other venues to protect its rights.

Conclusion

The University appreciates OFSM's careful and kind consideration of its appeal. OFSM is always welcomed on the University's campus. Please let us know if you require additional information to consider this appeal.

Sincerely,



John Cooke

Attachments

EXHIBIT A



Elon Fire Department
Fire Prevention Division
Fire Marshal
Brian Graves



Subject: Fire Apparatus Access Road Compliance – Immediate Attention Required

October 8, 2025

Dear Mr. Moore,

Upon review of Elon University's campus map, the Town of Elon Fire Marshal's Office has identified significant deficiencies with the **fire apparatus access roads** serving multiple residential and academic buildings. Many of these roads, constructed with a plastic tile paver system, have not been installed and/or not maintained to manufacturer specifications and do not meet the requirements of the **North Carolina Fire Code, Section 503 and Appendix D**. As a result, access to many campus buildings is either inadequate or non-existent, creating serious life safety concerns and liability for both the University and the Town.

Pursuant to **NCFC Section 104.7.2**, Elon University will be required to provide a **third-party Fire Protection engineering evaluation** of all such access roads and a **corrective action plan** to bring these areas into compliance. This includes identifying non-compliant roads and proposing solutions such as properly designed access roads or the installation of standpipes where roads cannot be constructed.

We will follow with a detailed formal letter outlining the required corrective actions and timelines. In the meantime, please acknowledge receipt of this notice and be prepared to engage a qualified design professional to begin the compliance process.

Regards,

Brian Graves, Fire Marshal
O (336) 584-9190
F (336) 584-5574
Elon Fire Department
219 S. Williamson Ave. • P.O. Box 595 • Elon, NC 27244
www.townofelon.com



EXHIBIT B

Kimberly Barb

From: Johnson, Charlie E <charlie.johnson@ncdoi.gov>
Sent: Tuesday, September 9, 2025 8:54 AM
To: Kimberly Barb
Cc: Yip, Pak
Subject: FW: [External] GrassPave 2 Fire Lanes
Attachments: GrassPave2 Fire Lane.pdf; gp2techspec24.pdf

Follow Up Flag: Follow up
Flag Status: Flagged

Kimberly,

According to Section 3.6 – Installation of Grass, in the attached technical specification, it appears to me that the manufacturer has prescribed option #2 as an approved method to use sod over the sand rings if applied in accordance with the following prescribed method:

2. Install thin sod directly over sand filled rings, filled no higher than the top of the rings. Sod strips should be placed with very tight joints. Sodded areas must be fertilized and kept moist during root establishment (minimum of 3 weeks). DO NOT DRIVE ON SYSTEM: Sodded areas must be protected from any traffic, other than emergency vehicles, for a period of 3 to 4 weeks, or until the root system has penetrated and established well below the Grasspave2 units.

Furthermore, Section 503.2.3 of the NC Fire Code states:

Fire apparatus access roads shall be designed and maintained to support the imposed loads of fire apparatus and shall be surfaced so as to provide all-weather driving capabilities.

All-weather driving capabilities is commonly a paved or hard surface but interlocking grass pavers could be an acceptable alternative if it supports the weight of responding apparatus and is properly maintained.

Please let me know if additional assistance is needed.

Charlie Johnson
Chief Fire Code Consultant



North Carolina
Office of State Fire Marshal
1202 Mail Service Center
Raleigh, NC 27699-1202
919.647.0094

Codes may be viewed for free at: <https://codes.iccsafe.org/codes/north-carolina>
Approved Amendments to these codes: <https://www.ncosfm.gov/codes/codes-current-and-past>
NCDOI Web Interpretations: <https://www.ncosfm.gov/interpretations>

From: Yip, Pak <pak.yip@ncdoi.gov>
Sent: Tuesday, September 9, 2025 8:25 AM
To: Kimberly Barb <kbarb@stimmelpa.com>

Cc: Johnson, Charlie E <charlie.johnson@ncdoi.gov>

Subject: FW: [External] GrassPave 2 Fire Lanes

Good morning, Kimberly,

Thank you for your inquiry regarding paving requirement for the fire lane. Since your question pertains to the NC Fire Code, I am forwarding it to Charlie Johnson, our Chief Fire Code Consultant, for further review and action.

Should you have any additional questions or require further assistance, please feel free to contact me.

Best regards,

Pak Keung Yip, P.E.
Chief Code Consultant



North Carolina
Office of State Fire Marshal
1202 Mail Service Center
Raleigh, NC 27699-1202
919.647.0007

From: Kimberly Barb <kbarb@stimmelpa.com>

Sent: Monday, September 8, 2025 6:47 PM

To: Yip, Pak <pak.yip@ncdoi.gov>

Subject: [External] GrassPave 2 Fire Lanes

CAUTION: External email. Do not click links or open attachments unless verified. Report suspicious emails with the Report Message button located on your Outlook menu bar on the Home tab.

Hi Pak,

We have used the Invisible Structures GrassPave2 product on a number of projects, from healthcare to senior housing and higher education sites for Fire Lane access on sites across the state.

<https://invisiblestructures.com/products/grasspave2/>

<https://invisiblestructures.com/applications/fire-lanes/>

Recently we have had push back on the seed/sod placement onto the GrassPave2 cells, not being acceptable per these comments:

- The use of sod over geo tile does not comply with the manufacturer's guidelines in any way.
- Inadequacy of the grass surface, which fails to provide an appropriate driving surface during rain, frozen conditions, or other adverse weather.

This is an objection of grass or sod placed on the Grass Pavers, do you have insight about this objection?

Thanks,



LANDSCAPE ARCHITECTURE | CIVIL ENGINEERING | LAND PLANNING

KIMBERLY M. BARB PLA, ASLA, LEED AP BD+C

Partner | Senior Project Manager

P (336) 723-1067 x1102

M (336) 817-4952

601 North Trade Street Suite 200

Winston-Salem, NC 27101

stimmelpa.com



EXHIBIT C

From: Nick Tosco <NTosco@poynerspruill.com>
Sent: Tuesday, October 14, 2025 8:52 PM
To: Cooke, John
Subject: RE: Appeal
Attachments: Fire Access roads 10-8-25.pdf

Caution: External (ntosco@poynerspruill.com)

Sensitive Content [Details](#)

Never send money without first confirming orally – via phone or in person – that the payment is to be made.

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John,

The Fire Marshal concurs with your position that G.S. § 160D-1127 applies to any appeal of the attached order. He does not plan to withdraw his decision/order, so if your client wishes to appeal, that is their prerogative.

However, the Fire Marshal (and Fire Chief) have asked if we could setup a meeting with everyone, including you and me, to go over the decision/order and see if we can work together to discuss this matter and the plan of action going forward.

Please let me know if your client would agree to that and when you think we could schedule such a meeting. I will be out of the state for the IMLA conference in New Orleans from Friday-Tuesday (and returning to the office on Wednesday).

Thanks,

Nick



Nick Tosco (He/Him)
Partner | Licensed in NC

Poyner Spruill^{LLP}
ATTORNEYS AT LAW

D: 704.342.5275 | **F:** 704.342.5264

301 S. College St., Suite 2900
Charlotte, NC 28202



From: Cooke, John <John.Cooke@wbd-us.com>
Sent: Monday, October 13, 2025 12:31 PM
To: Nick Tosco <NTosco@poynerspruill.com>
Subject: Appeal

Nick,

I am following up on our conversation last Friday.

I believe that you might have been referencing N.C.G.S. § 143-141 as the appeal statute applicable to the Town's Fire Marshall's decision. This statute provides 30 days to appeal and governs appeals from a state agency to the Building Code Council.

The Town of Elon proceeded in an unusual matter. Building permit and construction services are handled by Alamance County and the Fire Code is handled by Town's Fire Department. So, the Town's Fire Marshall is not associated with a local inspection department. But for that unusual Town decision, N.C.G.S. § 160D-1127 seems to apply and provides a 10-day appeal period.

If you are referring to another appeal statute, we are happy to review it, but we believe that the University should appeal no later than Friday, October 17, 2025, unless the Fire Marshall withdraws his decision.

John

John Cooke
Partner
Womble Bond Dickinson (US) LLP

d: 919-755-2192
m: 919-236-3522
e: John.Cooke@wbd-us.com

555 Fayetteville Street
Suite 1100
Raleigh, NC 27601



womblebond dickinson.com



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EXHIBIT D



Elon Town Council discusses fire inspectors, changes to fire lanes

Elon business owners to pay individually for fire inspections instead of using town-funded inspectors

By [Miles Hayford](#) | 4/29/24 9:36pm



Photo by [Miles Hayford](#) | Elon News Network

Elon Town Council Member Randy Orwig raises concerns about enforcement of a change in the distance between fire hydrants and parked cars on April 29.

The Elon Town Council met on April 29 and focused on changes to the fire department and new policies the department will be enforcing.

The council voted to approve a fire district tax rate and an ordinance that would extend boundaries of the town to allow for an extension of corporate limits in the town of Elon. Both were unanimously approved by the council.

The council also allowed Town of Elon Fire Chief Landon Massey to speak. He introduced the town's new fire marshal, Brian Graves.

Previously, inspections were done by county inspectors at no cost. However, Elon is implementing a new method to directly hire inspectors.

Along with Graves and Massey's input, the council discussed the impact of hiring fire inspectors for the town. While this was already approved, the council discussed how this might impact citizens of Elon — particularly for citizens who own businesses.

The council discussed how this could impact Elon citizens that own businesses, who will now need to pay for fire inspections out of their own pockets. Council member Randy Orwig expressed his concerns, and asked Massey what the benefits of this change are and how he can defend the change to citizens who might not want to pay for these inspections.

According to Massey, the fire department did this to streamline the inspection process under one roof.

"So when things happen that are dangerous to the fire department and to the public, there's not a break in the communication coming out of the office," Massey said.

Massey said the town will be implementing a tiered system of charging inspections, which is currently being utilized by Durham's fire departments.

Elon Poll finds North Carolinians concerned about public safety following recent incidents

Elon University Poll, Knight Commission of Intercollegiate Athletics finds NCAA worried over House settlement

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EXHIBIT E



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🌐 www.southernengineeringpc.com

SE&T PROJECT NO.: 24-1032 | December 3, 2024

Report of Subsurface Exploration & Geotechnical Engineering Evaluation

Elon University Grass Paver Fire Lane Investigation | Elon, North Carolina

PREPARED FOR:

Elon University
2060 Campus Box
Elon, NC 27244



December 3, 2024

David L. Haught, AIA, NCARB
Elon University
2060 Campus Box
Elon, NC 27244

**Report of Subsurface Exploration
and Geotechnical Engineering Evaluation**
Elon University Grass Paver Fire Lane Investigation
Elon, North Carolina
SE&T Project No.: 24-1032

Southern Engineering and Testing, P.C. (SE&T) has completed the geotechnical engineering evaluation for the project referenced above. This report describes the field exploration and presents the results of our engineering evaluation along with geotechnical related recommendations for this project.

We appreciate the opportunity to provide this engineering service during this phase of the project.

Sincerely,

SOUTHERN ENGINEERING AND TESTING, P.C.

NC License No. C-4167; SC Certificate of Authority 5297

Dillon Nance, P.G.
Project Manager

Brian Glidewell, P.E. 12/3/24
Senior Vice President / Principal

TABLE OF CONTENTS

1	SCOPE OF SERVICES	1
2	FIELD AND LABORATORY PROCEDURES.....	1
	2.1 Field Exploration	1
3	SITE AND SUBSURFACE CONDITIONS	2
	3.1 Site Location and Description.....	2
	3.2 Subsurface Conditions	2
	3.2.1 Ground Cover.....	2
	3.2.2 Fill Soil	3
	3.2.3 Groundwater.....	3
4	ENGINEERING ASSESSMENT AND RECOMMENDATIONS.....	3
	4.1 Suitability of TT24 – Tuff Track Permeable Grass Pavers as Fire Lane for Heavily Loaded Vehicles.....	3

Appendix A

Site Vicinity Map

Boring Location Plans

Appendix B

Boring Logs

Appendix C

Site Photographs

1 SCOPE OF SERVICES

The scope for the geotechnical engineering services discussed in this report was outlined in SE&T Proposal No.: 24-21583 dated October 14, 2024. Authorization to perform these services was provided by means of Purchase Order P0108819 dated November 12, 2024.

The primary objectives of our services were to document the as built conditions at each fire lane location and determining if the fire lanes were constructed in a manner sufficient to support fully loaded tanker engines. More specifically, this study included the following objectives:

- (1) Evaluate the existing subsurface conditions within the area of the two existing grass paver fire lanes selected by Elon University.
- (2) Provide discussion regarding the sufficiency of the existing paver system to support heavy loads such as fire trucks and emergency vehicles.

The scope of this study does not include an environmental assessment or testing and sampling the soil, water, or air for the presence of hazardous materials.

2 FIELD AND LABORATORY PROCEDURES

2.1 Field Exploration

The geotechnical exploration consisted of 2 hand auger borings (HA-1 and HA-2). The boring layout is illustrated by Figures 2A and 2B in [Appendix A](#) of this report. The borings were advanced to an approximate depth of 3.4 to 3.9 feet below the current ground surface. The borings were performed by Southern Engineering with hand equipment.

At selected intervals within the hand auger borings, we performed the Dynamic Cone Penetrometer (DCP) test to evaluate density and strength. The DCP test procedure involves first seating the conical point of the penetrometer 2 inches into the bearing materials. The conical point is then driven in 1 ¾-inch intervals using a 15-pound weight falling from a height of 20 inches. The penetrometer reading is the number of blows required to drive the conical point 1 ¾ inches following the initial seating and the penetrometer reading is recorded as number of blows per 1 ¾ inch increment (bpi). When properly evaluated, the penetrometer test results can provide an index for estimating soil strength and relative density.

The soil samples obtained during the hand auger borings were visually-manually classified in the field in general accordance with ASTM D2488 and logged by a member of Southern

Engineering's geotechnical engineering staff. Typed boring logs are included in [Appendix B](#) of this report.

All boreholes were backfilled with soil cuttings and the pavers replaced and covered with soil or sod.

3 SITE AND SUBSURFACE CONDITIONS

3.1 Site Location and Description

The sites are existing grass paver fire lanes installed at East Neighborhood Commons at 519 E Haggard Avenue and Lindner Hall at 310 E Lebanon Avenue in Elon, North Carolina. Please see Figure 1 in [Appendix A](#) for a site vicinity map. The sites are currently relatively flat grass covered areas along the west sides of both of the existing buildings.

3.2 Subsurface Conditions

The following is a subsurface description of a generalized nature, provided to highlight the major soil strata encountered. The stratification of the subsurface materials illustrated on the Boring Logs represents the conditions at the actual test locations. Stratigraphy boundaries only represent the approximate depth/elevation of a noticed material change but the transition between material types is typically gradual. The soil types are based on the Unified Soil Classification System (USCS).

The ground surface elevations at each boring location were estimated using Alamance County GIS topographic data. These elevations are reported on the logs and should be considered approximate.

3.2.1 Ground Cover

A thin veneer of heavily organic-laden soil (topsoil) was encountered at the ground surface in the hand auger borings approximately 2 to 6 inches thick. The 1.5-inch HDPE pavers were installed in both locations underlying the topsoil, underlain by approximately 8 to 10 inches of base #57 stone.

3.2.2 Fill Soil

Fill soil was encountered beneath the base stone in the hand auger borings, extending to approximate termination depths ranging from 3.4 feet to 3.9 feet beneath the existing ground surface. The fill material primarily consisted of medium stiff Silty Lean CLAY (CL). DCP values ranging from 6 to 20 blows per increment (bpi) were recorded in the fill stratum suggesting that it is moderately to well compacted.

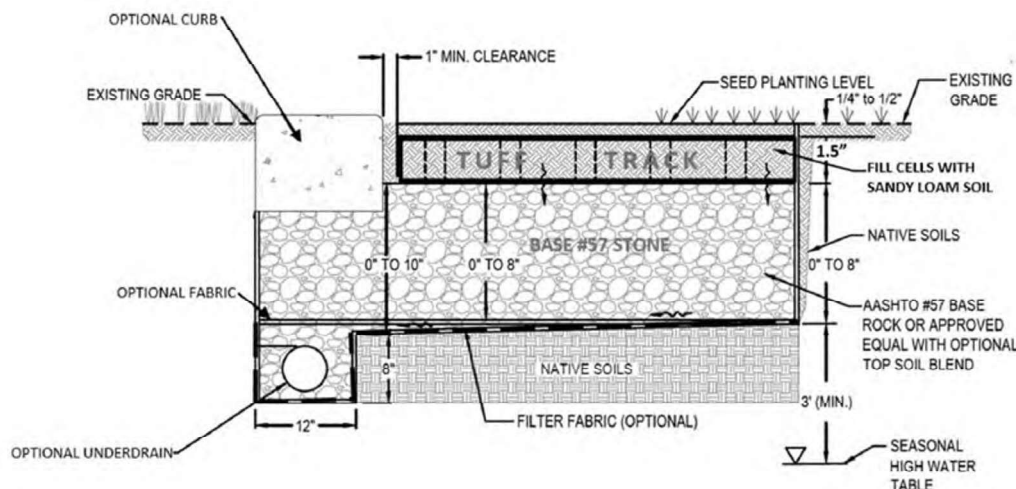
3.2.3 Groundwater

At the time of drilling, groundwater was not encountered in the borings to the depths explored.

4 ENGINEERING ASSESSMENT AND RECOMMENDATIONS

4.1 Suitability of TT24 – Tuff Track Permeable Grass Pavers as Fire Lane for Heavily Loaded Vehicles

We understand the previously installed grass paver systems consist of NDS Tuff Track TT24 HDPE pavers and were required to be constructed based on the cross section shown below:



The thickness of stone is specified as follows from note 7 on page 2 of the NDS specification sheets:

7. THICKNESS OF AGGREGATE LAYER IS AS FOLLOWS: NO BASE REQUIRED FOR EROSION CONTROL AND PEDESTRIAN-ONLY LOADS (COMPACTION OF NATIVE SOIL RECOMMENDED FOR SLOPES UP TO 3%); 4 INCHES FOR LIGHT LOADS (GOLF CARTS); 6 INCHES FOR MEDIUM LOADS (CARS AND PICKUP TRUCKS); 8 INCHES FOR HEAVY LOADS (FIRE TRUCKS).

The details require 8 inches of base #57 stone and a subgrade soil compacted to 90% to 95% standard Proctor density for heavy loads.

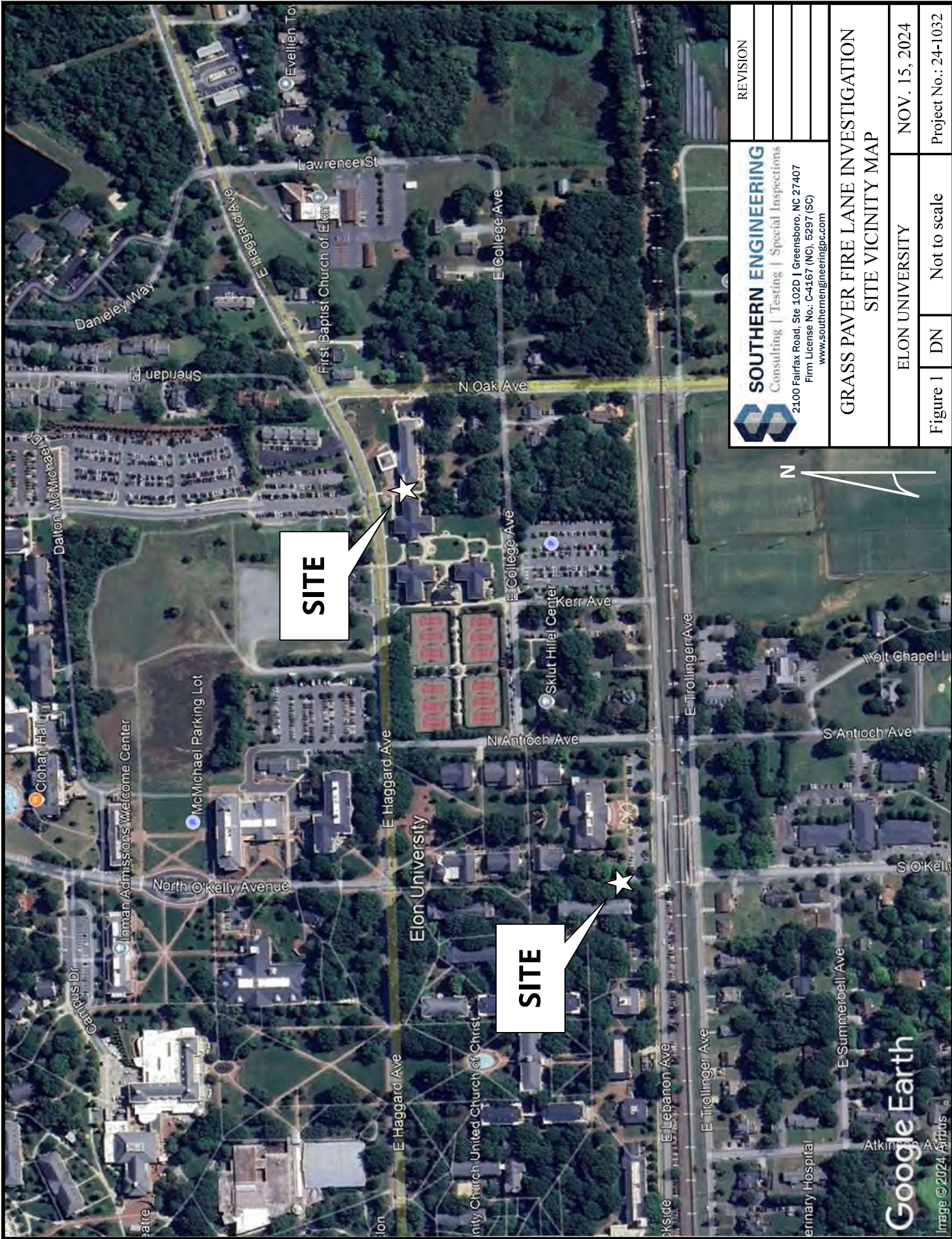
Elon Fire Department provided data to David Haught with Elon University for a new fire engine that will be purchased. The provided documentation indicates a GVWR of 78,000 pounds for the heaviest ladder truck that would potentially access the sites and assumed maximum point loads of 45,000 pounds for deployed outriggers.

The paver systems as constructed at both sites meet the cross section and design parameters provided by NDS relative to infill material and stone depth beneath the TT24 pavers. The underlying subgrade soils meet or exceed the required density for heavy loads.

Based on the cross section data, soil subgrade strength, and the data provided on the new fire engine, the paver systems as constructed at these locations should provide the necessary support for the anticipated loading.

APPENDIX A

SITE VICINITY MAP
BORING LOCATION DIAGRAM



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GRASS PAVER FIRE LANE INVESTIGATION
SITE VICINITY MAP

ELON UNIVERSITY		NOV. 15, 2024
Figure 1	DN	Not to scale
		Project No.: 24-1032



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GRASS PAVER FIRE LANE INVESTIGATION BORING LOCATION PLAN		
ELON UNIVERSITY	NOV. 15, 2024	
Figure 2A	DN	Not to scale Project No.:24-1032

LEGEND
 -Approx. hand auger boring location



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GRASS PAVER FIRE LANE INVESTIGATION BORING LOCATION PLAN			
ELON UNIVERSITY		NOV. 15, 2024	
Figure 2B	DN	Not to scale	
		Project No.:24-1032	

LEGEND	
	-Approx. hand auger boring location

APPENDIX B

BORING LOGS

HAND AUGER BORING LOG: HA-1

PAGE 1 OF 1

PROJECT ELON UNIVERSITY GRASS PAVER FIRE LANES CLIENT ELON UNIVERSITY
PROJECT NUMBER 24-1032 LOCATION ELON, NC

DATE 11/18/24 LOGGED BY D. NANCE, LG NOTES:
GROUND ELEVATION 717 ft BORING DEPTH 3.9 ft GSE INTERPOLATED FROM ALAMANCE COUNTY GIS TOPOGRAPHIC
WL AT TIME OF AUGERING DRY METHOD HAND AUGER DATA AND SHOULD BE CONSIDERED APPROXIMATE.
BOREHOLE BACKFILLED IMMEDIATELY AFTER DRILLING

DEPTH (ft)	USCS SYMBOL	MATERIAL DESCRIPTION	ELEVATION (ft)	GWL (ft)	MOISTURE CONTENT (%)	ATTERBERG LIMITS		FINES CONTENT (%)	DCP BLOW COUNTS	⊙ AVG DCP ⊙
						LIQUID LIMIT	PLASTICITY INDEX			
		TOPSOIL								5 10 15 20
0.5			716.5							
0.7		TUFF TRACK PAVER	716.4							
		BASE #57 STONE UNDERLAIN BY GEOTEXTILE FABRIC								
1.5			715.5							
		FILL ORANGE RED, MOIST, SILTY LEAN CLAY WITH GRAVEL							9 10 11	10
	CL								8 12 20	16
3.9			713.1						10 20 20	20

BORING TERMINATED

HAND AUGER BORING LOG: HA-2

PAGE 1 OF 1

PROJECT ELON UNIVERSITY GRASS PAVER FIRE LANES CLIENT ELON UNIVERSITY
 PROJECT NUMBER 24-1032 LOCATION ELON, NC

DATE 11/18/24 LOGGED BY D. NANCE, LG NOTES:
 GSE INTERPOLATED FROM ALAMANCE COUNTY GIS TOPOGRAPHIC
 GROUND ELEVATION 708 ft BORING DEPTH 3.4 ft DATA AND SHOULD BE CONSIDERED APPROXIMATE.
 WL AT TIME OF AUGERING DRY METHOD HAND AUGER
 BOREHOLE BACKFILLED IMMEDIATELY AFTER DRILLING

DEPTH (ft)	USCS SYMBOL	MATERIAL DESCRIPTION	ELEVATION (ft)	GWL (ft)	MOISTURE CONTENT (%)	ATTERBERG LIMITS		FINES CONTENT (%)	DCP BLOW COUNTS	⊙ AVG DCP ⊙
						LIQUID LIMIT	PLASTICITY INDEX			
0.2		TOPSOIL	707.8							
0.4		TUFF TRACK PAVER	707.7							
		BASE #57 STONE								
1.1			706.9						11 8 8	8
		FILL ORANGE RED, MOIST, SILTY LEAN CLAY WITH GRAVEL								
	CL								9 6 7	6
3.4			704.6						10 7 8	7

BORING TERMINATED

APPENDIX C

SITE PHOTOGRAPHS



Photograph 1: HA-1 boring location west of Lindner Hall.



Photograph 2: HA-2 boring location west of East Neighborhood Commons.

EXHIBIT F



**Elon Fire Department
Fire Prevention Division
Fire Marshal
Brian Graves**



Subject: Fire Access Road Compliance – Use of Geo Tile

Mr. Moore,

This is to formally notify you that the use of geo tile for fire access roads will no longer be allowed or accepted by the Elon Fire Department.

Currently, none of the university's existing fire access roads meet applicable fire code requirements. While deficiencies vary, such as signage and lines of delineation, the most significant issue is the surface. Specifically, the use of sod over geo tile does not comply with the manufacturer's guidelines in any way.

This issue was previously brought to your attention and has not been addressed. Regarding the East Campus project, you provided me with stamped engineer drawings for the installation, and the manufacturer's representative even followed up directly with me by phone and email. However, the installation was not completed in accordance with those approved and stamped drawings. During a live consultation with the same manufacturer's representative, it was confirmed that the installation did not meet specifications.

Rather than correcting the installation, the university engaged a separate firm to provide an opinion. That opinion stated the installs "should" hold the weight of fire apparatus. As you are aware, the term "should" is not a definitive engineering standard and does not ensure compliance. Furthermore, this opinion did not address the inadequacy of the grass surface, which fails to provide an appropriate driving surface during rain, frozen conditions, or other adverse weather. Fire access roads must remain usable under all conditions and must be treated no differently than any other road surface during inclement weather.

Accordingly:

1. The planned installation at the Health EU project will not be approved with geo tile. Failure to comply will result in a stop work order and the failure of certificate of occupancy.
2. Revised drawing shall be submitted with this correction illustrated.

Respectfully,

Brian Graves, Fire Marshal

O (336) 584-9190

F (336) 584-5574

Elon Fire Department

219 S. Williamson Ave. • P.O. Box 595 • Elon, NC 27244

www.townofelon.com



EXHIBIT G

From: Landon Massey <lmasey@elon.gov>
Sent: Thursday, October 2, 2025 1:51 PM
To: Kimberly Barb <kbarb@stimmelpa.com>; Brian Graves <BGraves@elon.gov>
Cc: Brad Moore <bmoore6@elon.edu>
Subject: [EXT] Re: Fire Lane GrassPave2 - Elon University

External Message

Dear Kimberly,

Thank you for your time and attention to this matter and for providing the additional information and map, which will assist us as we move forward. We value the continued collaboration with Elon University and your design team.

While we are well versed in the code, I would like to point out several considerations that have shaped our decision regarding GrassPave2:

1. **Authority Having Jurisdiction** – As you noted, the State Fire Marshal’s consultant stated that GrassPave2 “can” be an acceptable substitute. The reason this language is used rather than “is” acceptable is because the local Authority Having Jurisdiction (AHJ) ultimately makes that determination.
2. **Maintenance History** – Our office has encountered a history of neglected maintenance on fire access roads across campus. This directly impacts our evaluation of products such as GrassPave2, as the long-term safety and accessibility of these roads depends heavily on consistent upkeep.
3. **Installation Concerns** – Shortly after installation of the pavers at East Neighborhood Commons, we engaged with the manufacturer. Through both photos and a video conference held on site, the manufacturer confirmed that the system was not installed correctly. This experience has further influenced our approach to evaluating new requests.

That said, we are actively working toward solutions and have already agreed that, if certain conditions are met, GrassPave2 may be considered at Health EU. Your updated map will help guide us in that process and ensure we have a clear and coordinated path forward.

We appreciate your efforts to keep communication open and look forward to continuing our shared goal of maintaining the highest level of safety and compliance across Elon University.

Respectfully,

Landon Massey, Fire Chief

O (336) 584-9190

F (336) 584-5574

Elon Fire Department

219 S. Williamson Ave. • P.O. Box 595 • Elon, NC 27244

www.townofelon.com



From: Kimberly Barb <kbarb@stimmelpa.com>
Sent: Wednesday, October 1, 2025 2:53 PM
To: Brian Graves <BGraves@elon.gov>; Landon Massey <lmasey@elon.gov>
Cc: Brad Moore <bmoore6@elon.edu>
Subject: Fire Lane GrassPave2 - Elon University

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Good Afternoon Gentlemen,
Elon University let us know of Fire Marshal Graves' recent ruling that GrassPave2 is now prohibited for Elon University projects.

After learning of this new local ruling, we sent an email inquiry to the State Fire Marshal's office on 09.08.25, for clarification as we have used this product on various hospital campuses, senior living and higher education sites throughout the state of North Carolina.

The email received from Chief Charlie Johnson on 09.09.25 (attached) appears to conflict with the local decision, confirming that GrassPave2, when used with sod (Option 2), is an approved method if installed per manufacturer specifications and will comply with the necessary safety and regulatory standards.

Could you review the attached letter, email correspondence and current campus fire lane map and let us know your thoughts in further considering this fire land paving option.
We sincerely appreciate your time and consideration.
Best,



LANDSCAPE ARCHITECTURE | CIVIL ENGINEERING | LAND PLANNING

KIMBERLY M. BARB PLA, ASLA, LEED AP BD+C

Partner | Senior Project Manager

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EXHIBIT H

From: [Cooke, John](#)
To: ntosco@poynerspruill.com
Subject: Elon
Date: Monday, October 6, 2025 6:34:37 PM
Attachments: [image343185.png](#)
[image949722.png](#)
[image546239.png](#)
[image683861.png](#)
[Geo Tile.docx](#)
[09.09.25 Email from State Fire Marshall.pdf](#)
[FW EXT Re Fire Lane GrassPave2 - Elon University.msg](#)

Hi Nick,

I hope all is well.

I left you a message earlier today. I hope you can help clarify/resolve this matter.

We represent Elon University. I received some information suggesting the Town's Fire Marshall issued an undated "order" broadly rejecting "geo tile" as acceptable material, saying its installation at the Health EU project will not be approved. Attached is a copy of the document.

Elon's outside design professional asked DOI about the material specified for Health EU project and DOI indicated the material could be used. The design professional sent DOI's email to the Town's Fire Marshall and Town officials. The email from the Office of State Fire Marshall is attached.

The Town's Fire Chief responded saying that the Town has jurisdiction, there is a history of neglected maintenance of fire access roads across campus and pavers at another University project was not installed correctly. But later in the same communication the Fire Chief referenced "actively working toward solutions." A copy of this email is attached.

Here are my questions:

1. Has the order been withdrawn or modified? Will the order be withdrawn?
2. If the Fire Marshall does not withdraw the order, I think the University needs to appeal to the State Fire Marshall. When does our appeal period begin to run?
3. The assertion of neglected maintenance on fire access roads across campus is not referenced in the order. I am told this assertion is new to the University. Can we get to the bottom of this assertion quickly?
4. The assertion of "installation concerns" is not referenced in the order. I would like to know more about it.

Many thanks for your help.

John

John Cooke

Partner

Womble Bond Dickinson (US) LLP

d: 919-755-2192

m: 919-236-3522

e: John.Cooke@wbd-us.com

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