

STATEMENT OF TOWN COUNCIL AND ORDINANCE AMENDING THE OFFICIAL ZONING DISTRICT MAP OF THE TOWN OF APEX TO CHANGE THE ZONING OF APPROXIMATELY 0.46 ACRES LOCATED AT 1039 IRONGATE DRIVE FROM RURAL RESIDENTIAL (RR) TO MEDIUM DENSITY-CONDITIONAL ZONING (MD-CZ)

#22CZ16

WHEREAS, Aaron Robertson/A-Man's Property Services, LLC., owner/applicant (the "Applicant"), submitted a completed application for a conditional zoning on the 1st day of July 2022 (the "Application"). The proposed conditional zoning is designated #22CZ16;

WHEREAS, the Director of Planning and Community Development for the Town of Apex, Dianne Khin, caused proper notice to be given (by publication and posting) of a public hearing on #22CZ16 before the Planning Board on the 12th day of September 2022;

WHEREAS, the Apex Planning Board held a public hearing on the 12th day of September 2022, gathered facts, received public comments and formulated a recommendation regarding the application for conditional zoning #22CZ16. A motion was made by the Apex Planning Board to recommend approval; the motion passed unanimously for the application for #22CZ16;

WHEREAS, pursuant to N.C.G.S. §160D-601 and Sec. 2.2.11.E of the Unified Development Ordinance, the Director of Planning and Community Development caused proper notice to be given (by publication and posting), of a public hearing on #22CZ16 before the Apex Town Council on the 27th day of September 2022;

WHEREAS, the Apex Town Council held a public hearing on the 27th day of September 2022. Lauren Staudenmaier, Planner II, presented the Planning Board's recommendation at the public hearing;

WHEREAS, all persons who desired to present information relevant to the application for #22CZ16 and who were residents of Apex or its extraterritorial jurisdiction, or who owned property adjoining the property for which the conditional zoning is sought, were allowed to present evidence at the public hearing before the Apex Town Council. No one who wanted to speak was turned away;

WHEREAS, the Apex Town Council finds that the approval of the rezoning is consistent with the 2045 Land Use Plan and other adopted plans in that: The 2045 Land Use Map designates this area as Medium Density Residential. This designation on the 2045 Land Use Map includes the zoning district Medium Density-Conditional Zoning (MD-CZ) and the Apex Town Council has further considered that the proposed rezoning to Medium Density-Conditional Zoning (MD-CZ) will maintain the character and appearance of the area and provide the flexibility to accommodate the growth in population, economy, and infrastructure consistent with that contemplated by the 2045 Land Use Map;

WHEREAS, The proposed rezoning is reasonable and in the public interest because it resolves the nonconformity associated with the current placement of the foundation for the single-family dwelling. The existing foundation was poured in the front setback of the current zoning district causing a compliance issue with UDO Section 5.1.1 *Table of Intensity and Dimensional Standards, Residential Districts*. The proposed rezoning conditions also ensure that the lot cannot be further subdivided so that it remains consistent with the lot sizes in the neighborhood; and

WHEREAS, the Apex Town Council by a vote of 4 to 1 approved Application #22CZ16 rezoning the subject tract located at 1039 Irongate Drive from Rural Residential (RR) to Medium Density-Conditional Zoning (MD-CZ).

Ordinance Amending the Official Zoning District Map #22CZ16

NOW, THEREFORE, BE IT ORDAINED BY THE TOWN COUNCIL OF THE TOWN OF APEX

Section 1: The lands that are the subject of the Ordinance are those certain lands described in Attachment "A" – Legal Description which is incorporated herein by reference, and said lands are hereafter referred to as the "Rezoned Lands."

Section 2: The Town of Apex Unified Development Ordinance, including the Town of Apex North Carolina Official Zoning District Map which is a part of said Ordinance, is hereby amended by changing the zoning classification of the "Rezoned Lands" from Rural Residential (RR) to Medium Density-Conditional Zoning (MD-CZ) District, subject to the conditions stated herein.

Section 3: The Director of Planning and Community Development is hereby authorized and directed to cause the said Official Zoning District Map for the Town of Apex, North Carolina, to be physically revised and amended to reflect the zoning changes ordained by this Ordinance.

Section 4: The "Rezoned Lands" are subject to all of the following conditions which are imposed as part of this rezoning:

Limitation of Uses:

The Rezoned Lands may be used for, and only for, the uses listed immediately below. The permitted uses are subject to the limitations and regulations stated in the UDO and any additional limitations or regulations stated below. For convenience, some relevant sections of the UDO may be referenced; such references do not indicate that other sections of the UDO do not apply.

Permitted Uses and Limitations:

1. Single-family (P)
2. Accessory apartment (P)

Conditions:

1. The minimum lot width shall be 90 feet.
2. The front setback shall be at least 25.5 feet.
3. No permitted encroachments within the required front setback shall be allowed with the exception of eaves.

Section 5: The "Rezoned Lands" shall be perpetually bound to the conditions imposed including the uses authorized, unless subsequently changed or amended as provided for in the Unified Development Ordinance. Site plans for any development to be made pursuant to this amendment to the Official Zoning District Map shall be submitted for site plan approval as provided for in the Unified Development Ordinance.

Section 6: This Ordinance shall be in full force and effect from and after its adoption.

Motion by Council Member _____

Seconded by Council Member _____

With ____ Council Member(s) voting "aye."

With ____ Council Member(s) voting "no."

Ordinance Amending the Official Zoning District Map #22CZ16

This the ____ day of _____ 2022.

TOWN OF APEX

Mayor

ATTEST:

Allen Coleman, CMC, NCCCC
Town Clerk

APPROVED AS TO FORM:

Town Attorney