

**STATEMENT OF TOWN COUNCIL AND ORDINANCE AMENDING THE OFFICIAL ZONING DISTRICT MAP OF THE TOWN OF APEX TO CHANGE THE ZONING OF APPROXIMATELY 89.90 ACRES LOCATED AT 8633, 8635, 8637, 8639, 8649, 8705, 8709, and 8717 CASTLEBERRY ROAD FROM WAKE COUNTY RESIDENTIAL-80W (R-80W) ZONING TO PLANNED UNIT DEVELOPMENT-CONDITIONAL ZONING (PUD-CZ)
#23CZ04**

WHEREAS, Matthew Carpenter, Parker Poe/Inspire Commercial, LLC and Jeff Roach, Peak Engineering, applicant (the "Applicant"), submitted a completed application for a conditional zoning on the 2nd day of February 2023 (the "Application"). The proposed conditional zoning is designated #23CZ04;

WHEREAS, the Planning Director for the Town of Apex, Dianne Khin, caused proper notice to be given (by publication and posting) of a public hearing on #23CZ04 before the Planning Board on the 10th day of July 2023;

WHEREAS, the Apex Planning Board held a public hearing on the 10th day of July 2023, gathered facts, received public comments and formulated a recommendation regarding the application for conditional zoning #23CZ04. A motion was made by the Apex Planning Board to recommend approval; the motion passed by a vote of 5 to 3 for the application for #23CZ04;

WHEREAS, pursuant to N.C.G.S. §160D-601 and Sec. 2.2.11.E of the Unified Development Ordinance, the Planning Director caused proper notice to be given (by publication and posting), of a public hearing on #23CZ04 before the Apex Town Council on the 8th day of August 2023;

WHEREAS, the Apex Town Council held a public hearing on the 8th day of August 2023 and the 12th day of September 2023. June Cowles, Senior Planner, presented the Planning Board's recommendation at the public hearing;

WHEREAS, all persons who desired to present information relevant to the application for #23CZ04 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 not consistent with the 2045 Land Use Map, and other adopted plans in that: the 2045 Land Use Map designates this area Rural Density Residential and approval of this rezoning will automatically amend the 2045 Land Use Map to Low Density Residential. This rezoning includes the zoning district Planned Unit Development-Conditional Zoning (PUD-CZ) with a maximum density of 1.65 units per acre. The rezoning to Planned Unit Development-Conditional Zoning (PUD-CZ) will provide the flexibility to accommodate the growth in population and infrastructure consistent with that contemplated by the 2045 Land Use Map.

WHEREAS, the Apex Town Council finds that the approval of the rezoning is reasonable and in the public interest in that: the Planned Unit Development-Conditional Zoning (PUD-CZ) rezoning includes the 450-foot buffer along the protected open space recommended by the North Carolina Wildlife Resources Commission and the Environmental Advisory Board, preserves 25% of the existing tree canopy, and two (2) affordable housing units. The rezoning is compatible with the surrounding neighborhood character, as it includes comparable lot sizes, lot widths, and setbacks. Furthermore, the PUD Plan includes off-site pedestrian improvements that will improve pedestrian safety along Castleberry Road and Wimberly Road and provide an improved connection to the American Tobacco Trail.

WHEREAS, the Apex Town Council by a vote of __ to __ approved Application #23CZ04 rezoning the subject properties located at 8633, 8635, 8637, 8639, 8649, 8705, 8709, and 8717 Castleberry Road from Wake County Residential-80W (R-80W) to Planned Unit Development-Conditional Zoning (PUD-CZ).

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."

Ordinance Amending the Official Zoning District Map #23CZ04

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 Wake County Residential -80W (R-80W) to Planned Unit Development-Conditional Zoning (PUD-CZ) District, subject to the conditions stated herein.

Section 3: The Planning Director 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 the conditions in Attachment "B" Castleberry Reserve PUD which are imposed as part of this rezoning.

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."

This the ____ day of _____ 2023.

TOWN OF APEX

Jacques K. Gilbert
Mayor

ATTEST:

Allen Coleman, CMC, NCCCC
Town Clerk

APPROVED AS TO FORM:

Town Attorney