

**STATEMENT OF TOWN COUNCIL AND ORDINANCE AMENDING THE OFFICIAL ZONING DISTRICT MAP OF THE TOWN OF APEX TO CHANGE THE ZONING OF APPROXIMATELY 5.84 ACRES LOCATED AT 804 & 808 WIMBERLY ROAD FROM WAKE COUNTY RESIDENTIAL-80W (R-80W) TO RURAL RESIDENTIAL-CONDITIONAL ZONING (RR-CZ)**

**#22CZ04**

**WHEREAS**, Zak Shipman, Shipman Engineering, PLLC, owner/applicant (the “Applicant”), submitted a completed application for a conditional zoning on the 1st day of February 2022 (the “Application”). The proposed conditional zoning is designated #22CZ04;

**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 #22CZ04 before the Planning Board on the 11<sup>th</sup> day of April 2022;

**WHEREAS**, the Apex Planning Board held a public hearing on the 11<sup>th</sup> day of April 2022, gathered facts, received public comments and formulated a recommendation regarding the application for conditional zoning #22CZ04. A motion was made by the Apex Planning Board to recommend approval; the motion passed unanimously for the application for #22CZ04;

**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 #22CZ04 before the Apex Town Council on the 26<sup>th</sup> day of April 2022;

**WHEREAS**, the Apex Town Council held a public hearing on the 26<sup>th</sup> day of April 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 #22CZ04 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 Low Density Residential. This designation on the 2045 Land Use Map includes the zoning district Rural Residential-Conditional Zoning (RR-CZ) and the Apex Town Council has further considered that the proposed rezoning to Rural Residential-Conditional Zoning (RR-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 will permit single-family residential development consistent and compatible with the surrounding area. In addition, the proposed rezoning will allow the properties to connect to Town water and sewer services; and

**WHEREAS**, the Apex Town Council by a vote of \_\_\_ to \_\_\_ approved Application #22CZ04 rezoning the subject tract located at 804 & 808 Wimberly Road from Wake County Residential-80W (R-80W) to Rural Residential-Conditional Zoning (RR-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.”

**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

## Ordinance Amending the Official Zoning District Map #22CZ04

zoning classification of the “Rezoned Lands” from Wake County Residential-80W District (R-80W) to Rural Residential-Conditional Zoning (RR-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 imply that other sections of the UDO do not apply.

### Permitted Uses and Limitations:

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

### Conditions:

1. A maximum of 0.75 dwelling units per acre are permitted.
2. A minimum front setback of 65 feet from the current Wimberly Road right-of-way for all residences.
3. Outdoor lighting shall be full cut-off and shielded to prevent glare and light spillover to minimize the impact on neighboring residential properties. LED fixtures shall be used and the lighting temperature shall be a maximum of 3,000k.
4. The project shall install light timers, motion sensors, or other smart technology for all exterior lighting for the residences.
5. All single family detached homes shall be pre-configured with conduit for a solar energy system.
6. An additional 25 feet of riparian buffer shall be observed on the existing stream on the rear of the lot if it is intermittent, or 50 feet of buffer if it is ephemeral.
7. Vinyl siding is not permitted; however vinyl windows, decorative elements, and trim are permitted.
8. The roof shall be pitched at 5:12 or greater for 75% of the building designs.
9. Eaves shall project at least 12 inches from the wall of the structure.
10. Garage doors shall have windows or decorative details on them.
11. Garages on the front façade of a home that faces the street shall not exceed 40% of the total width of the house and garage together.
12. House entrances for units with front-facing single car garages shall have a prominent covered porch/stoop area leading to the front door.
13. The rear and side elevations of the units that can be seen from the right-of-way shall have trim around the windows.
14. Front porches shall be a minimum of 6 feet deep.
15. The number of private driveways accessing Wimberly Road shall not be increased from the existing two (2) driveways.
16. The visible side of a home on a corner lot facing the public street shall contain at least three decorative elements such as, but not limited to:
  - a. Windows
  - b. Shutters
  - c. Shutters
  - d. Shutters
  - e. Shutters
  - f. Shutters
  - g. Shutters
  - h. Decorative Shake

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- b. Bay Window
- c. Recessed Window
- d. Trim around the windows
- e. Two or more building materials
- f. Decorative Brick/Stone
- g. Decorative Trim
- i. Decorative air vents on gable
- j. Decorative gable
- k. Column
- l. Portico
- m. Dormer

**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 \_\_\_\_\_ 2022.

**TOWN OF APEX**

\_\_\_\_\_  
Mayor

**ATTEST:**

\_\_\_\_\_  
Interim Town Clerk

**APPROVED AS TO FORM:**

\_\_\_\_\_  
Town Attorney