

STATEMENT OF TOWN COUNCIL AND ORDINANCE AMENDING THE OFFICIAL ZONING DISTRICT MAP OF THE TOWN OF APEX TO CHANGE THE ZONING OF APPROXIMATELY 28.842 ACRES LOCATED AT 0 OLIVE CHAPEL ROAD AND 1901 & 1911 TRANSIT TRAIL FROM RURAL RESIDENTIAL-CONDITIONAL ZONING (RR-CZ #22CZ12) TO RURAL RESIDENTIAL-CONDITIONAL ZONING (RR-CZ)

#23CZ09

WHEREAS, Patrick Kiernan, from Jones & Cnossen Engineering, PLLC, owner/applicant (the “Applicant”), submitted a completed application for a conditional zoning on the 3rd day of April 2023 (the “Application”). The proposed conditional zoning is designated #23CZ09;

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 #23CZ09 before the Planning Board on the 12th day of June 2023;

WHEREAS, the Apex Planning Board held a public hearing on the 12th day of June 2023, gathered facts, received public comments and formulated a recommendation regarding the application for conditional zoning #23CZ09. A motion was made by the Apex Planning Board to recommend denial; the motion passed unanimously for the application for #23CZ09;

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 #23CZ09 before the Apex Town Council on the 27th day of June 2023;

WHEREAS, the Apex Town Council held a public hearing on the 27th day of June 2023. Shelly Mayo, 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 #23CZ09 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 Rural Transition 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 Apex Town Council finds that the approval of the rezoning is reasonable and in the public interest in that: The proposed rezoning is reasonable and in the public interest because it will require valuable local interconnectivity without compromising the Town’s ability to protect environmental features and permit the future Major Collector to be constructed to a reduced standard that is roughly proportional to the size of the proposed residential development. The rezoning will encourage compatible development of the property and increase the tax base; and

WHEREAS, the Apex Town Council by a vote of 3 to 2 approved Application #23CZ09 rezoning the subject tract located at 0 Olive Chapel Road and 1901 & 1911 Transit Trail from Rural Residential-Conditional Zoning (RR-CZ #22CZ12) to Rural Residential-Conditional Zoning (RR-CZ).

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

Ordinance Amending the Official Zoning District Map #23CZ09

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-Conditional Zoning (RR-CZ #22CZ12) to Rural Residential-Conditional Zoning (RR-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 all of the following conditions which are imposed as part of this rezoning:

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.

- | | |
|------------------------|------------------|
| 1. Single-family | 4. Greenway |
| 2. Accessory apartment | 5. Park, active |
| 3. Utility, minor | 6. Park, passive |

Zoning Conditions:

The applicant has broken the rezoning into two separate areas with separate conditions for each.

Zone A:

Architectural Conditions:

1. Vinyl siding is not permitted; however, vinyl windows, decorative elements and trim are permitted.
2. Eaves shall project at least 12 inches from the wall of the structure.
3. Garage doors shall have windows, decorative details or carriage-style adornments on them.
4. A varied color palette shall be utilized throughout the subdivision, to include a minimum of three (3) color families for siding and shall include varied trim, shutter and accent colors complementing the siding color.
5. House entrances for units with front-facing single-car garages shall have a prominent covered porch/stoop area leading to the front door.
6. Front porches shall be a minimum of 6 feet deep.

Additional Conditions:

1. The maximum built-upon area per lot shall be 60%, the maximum height shall be 40 ft, and the minimum building setbacks shall be as follows:

a. Front – 25 ft;	c. Corner side – 15 ft;
b. Side – 8 ft. min/20 ft. total;	d. Rear – 25 ft.
2. All homes shall include solar conduit in the building design to facilitate future rooftop solar

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installations.

3. All garages shall be wired with a 220-volt outlet inside the garage to facilitate charging of electronic vehicles.
4. A maximum total of two private driveway access points onto Transit Trail shall be allowed.
5. Construction shall be restricted to Monday – Saturday, to allow for a reprieve from construction noise on Sundays.
6. Developer shall construct Transit Trail according to the Apex Thoroughfare and Collector Street Plan on 60' public right-of-way from Olive Chapel Road to the northernmost property boundary, to be dedicated prior to the first plat of the subdivision. The developer shall construct a 24-foot wide section of asphalt (a 6' reduction from the Major Collector Street typical section) and shall not be required to construct curb and gutter on the west side of Transit Trail. The east side of Transit Trail shall be constructed with:
 - a. curb and gutter
 - b. a 5-foot sidewalk from Olive Chapel Road to the entrance of the future Master Subdivision Plan, and
 - c. a 10-foot side path from the entrance of the future Master Subdivision Plan to the northernmost extent of the property.
7. For the existing residences that have access to the existing Transit Trail private street, a temporary access drive shall be provided and maintained throughout the duration of construction of Transit Trail as a public street. Once Transit Trail is recorded as public right-of-way, and the road is made open to the public, the temporary drive may be abandoned.

Zone B:

Architectural Conditions:

1. Vinyl siding is not permitted; however, vinyl windows, decorative elements and trim are permitted.
2. Eaves shall project at least 12 inches from the wall of the structure.
3. Garage doors shall have windows, decorative details or carriage-style adornments on them.
4. 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.
5. The visible side of a home on a corner lot facing the public street shall contain at least 3 decorative elements such as, but not limited to, the following elements:

• Windows	• Decorative shake
• Bay window	• Decorative air vents on gable
• Recessed window	• Decorative gable
• Decorative window	• Decorative cornice
• Trim around the windows	• Column
• Wrap around porch or side porch	• Portico
• Two or more building materials	• Balcony
• Decorative brick/stone	• Dormer
• Decorative trim	
6. A varied color palette shall be utilized throughout the subdivision to include a minimum of three (3) color families for siding and shall include varied trim, shutter, and accent colors complementing the siding color.
7. House entrances for units with front-facing single-car garages shall have a prominent covered porch/stoop area leading to the front door.
8. The rear and side elevations of the units that can be seen from the right-of-way shall have trim around the windows.
9. Front porches shall be a minimum of 6 feet deep.

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Additional Conditions:

1. For stormwater management, post-development peak runoff shall not exceed pre-development peak runoff conditions for the 1 year, 10 year, and 25 year 24-hour storm events.
2. This development shall provide a maximum density of 1.0 units per acre (including open space and R/W).
3. The minimum average lot size shall be ½ acre.
4. The maximum built-upon area for this development shall be 60%, the maximum height shall be 40 ft, and the minimum building setbacks shall be as follows:
 - a. Front – 25 ft;
 - b. Side – 8 ft. min/20 ft. total;
 - c. Corner side – 15 ft;
 - d. Rear – 25 ft.
5. Signage shall be provided in HOA areas surrounding SCMs, regarding the need to eliminate and reduce fertilizer and pet waste near SCMs.
6. Developer shall install pollinator-friendly and native flora within SCM planting areas.
7. At least 75% of the plant species used in the landscape design shall be native species.
8. Perimeter buffers, SCMs, and other HOA maintained areas may be planted with clover or warm season grasses for drought resistance.
9. In order to reduce water consumption and promote pollinator friendly habitat and biodiversity, Homeowner Association covenants shall permit clover lawns throughout the neighborhood.
10. A minimum of one pet waste station shall be installed in HOA common area.
11. Homeowners Association covenants shall not restrict the construction of accessory dwelling units.
12. Any outdoor lighting within HOA maintained areas shall utilize full cutoff fixtures that have a maximum color temperature of 3000K.
13. All homes shall include solar conduit in the building design to facilitate future rooftop solar installations. Developer shall emphasize the availability of solar by providing the statement “Solar Options Available” on the development sign at the front of the subdivision.
14. All garages shall be wired with a 220-volt outlet inside the garage to facilitate charging of electronic vehicles.
15. Developer shall construct Transit Trail according to the Apex Thoroughfare and Collector Street Plan on 60’ public right-of-way from Olive Chapel Road to the northernmost property boundary, to be dedicated prior to the first plat of the subdivision. The developer shall construct a 24-foot wide section of asphalt (a 6’ reduction from the Major Collector Street typical section) and shall not be required to construct curb and gutter on the west side of Transit Trail. The east side of Transit Trail shall be constructed with:
 - a. curb and gutter
 - b. a 5-foot sidewalk from Olive Chapel Road to the entrance of the future Master Subdivision Plan, and
 - c. a 10-foot side path from the entrance of the future Master Subdivision Plan to the northernmost extent of the property.
16. For the existing residences that have access to the existing Transit Trail private street, a temporary access drive shall be provided and maintained throughout the duration of construction of Transit Trail as a public street. Once Transit Trail is recorded as public right-of-way, and the road is made open to the public, the temporary drive may be abandoned.
17. A 50’ Type A buffer shall be provided along the eastern boundary line where adjacent to the American Tobacco Trail. A 10’ Type A streetscape buffer shall be provided along the east side of Transit Trail. A 10’ Type B buffer shall be provided along the northern and southern boundary lines. A perimeter landscape buffer shall not be provided along the southeastern boundary line, adjacent to the land owned by USACE. Instead, a split-rail wooden fence shall be provided along

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the project boundary to provide a physical barrier between the USACE property and the cleared and maintained Town of Apex utility easements which run parallel to the project boundary.

- 18. Construction shall be restricted to Monday – Saturday, no later than 7pm, to allow for a reprieve from construction noise in the evenings and on Sundays.
- 19. If a street stub cannot be provided per UDO Sec. 7.2.1.A.2.c, then the branching cul-de-sac length shall not exceed 1,450 linear feet.

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