

STATEMENT OF TOWN COUNCIL AND ORDINANCE AMENDING THE OFFICIAL ZONING DISTRICT MAP OF THE TOWN OF APEX TO CHANGE THE ZONING OF APPROXIMATELY 5.33 ACRES LOCATED AT 0 SMITH ROAD FROM RURAL RESIDENTIAL (RR) TO MEDIUM DENSITY RESIDENTIAL-CONDITIONAL ZONING (MD-CZ)

#25CZ17

WHEREAS, Vimb LLC, applicant (the “Applicant”), submitted a completed application for a conditional zoning on the 30th day of September, 2025 (the “Application”). The proposed conditional zoning is designated #25CZ17;

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 #25CZ17 before the Planning Board on the 12th day of January 2026;

WHEREAS, the Apex Planning Board held a public hearing on the 12th day of January 2026, gathered facts, received public comments and formulated a recommendation regarding the application for conditional zoning #25CZ17. A motion was made by the Apex Planning Board to recommend approval; the motion passed unanimously for the application for #25CZ17;

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 #25CZ17 before the Apex Town Council on the 10th day of February 2026;

WHEREAS, the Apex Town Council held a public hearing on the 10th day of February 2026. Joshua Killian, 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 #25CZ17 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 Residential-Conditional Zoning (MD-CZ) and the Apex Town Council has further considered that the proposed rezoning to Medium Density Residential-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 Apex Town Council finds that the approval of the rezoning is reasonable and in the public interest in that: The proposed density and uses are consistent with the adjacent development to the west, at least 10% of the units shall be designated as affordable housing, and conditions are offered to address the proximity to the close Sorrell landfill; and

WHEREAS, the Apex Town Council by a vote of 5 to 0 approved Application #25CZ17 rezoning the subject tract located at 0 Smith Road from Rural Residential (RR) to Medium Density Residential-Conditional Zoning (MD-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 #25CZ17

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 Residential-Conditional Zoning (MD-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 |

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. 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
 - Bay window
 - Recessed window
 - Decorative window
 - Trim around the windows
 - Wrap around porch or side porch
 - Two or more building materials
 - Decorative brick/stone
 - Decorative trim
 - Decorative shake
 - Decorative air vents on gable
 - Decorative gable
 - Decorative cornice
 - Column
 - Portico
 - Balcony
 - Dormer
5. A varied color palette shall be utilized throughout the subdivision to include a minimum of three-color families for siding and shall include varied trim, shutter, and accent colors complementing the siding color.
6. House entrances for units with front-facing single-car garages shall have a prominent covered porch/stoop area leading to the front door.
7. The rear and side elevations of the units that can be seen from the right-of-way shall have trim around the windows.
8. Front porches shall be a minimum of 5 feet deep.

Ordinance Amending the Official Zoning District Map #25CZ17

Zoning Conditions

1. The number of resultant residential lots of this rezoning shall be limited to 17 single family units, equivalent to approximately 3.2 dwelling units per acre.
2. The perimeter landscape buffer along the northern property line shall be a 50' Type A buffer. All other perimeter buffers shall adhere to the widths and types that are established in UDO Sec. 8.2.6.
3. Signage shall be provided in HOA areas surrounding SCMs, regarding the need to eliminate and reduce fertilizer and pet waste near SCMs.
4. Developer shall install pollinator-friendly and native flora within SCM planting areas.
5. At least 75% of the plant species used in the landscape design shall be native species to the eastern U.S.
6. No single species of vegetation shall constitute more than 20% of the plant material of its type within a single development site, not including lawns.
7. Perimeter buffers, SCMs, and other HOA maintained areas may be planted with clover or warm season grasses for drought resistance.
8. In order to reduce water consumption and promote pollinator friendly habitat and biodiversity, HOA covenants shall not prohibit clover lawns throughout the neighborhood. Additionally, HOA covenants shall not require that fallen leaves or dormant plants be removed during the winter.
9. A minimum of one pet waste station shall be installed within HOA common area.
10. A minimum of ten percent (10%) of the total units shall be designated as affordable housing units. These units shall be for sale units and shall be indistinguishable from the market units. If the affordable units calculation results in a fraction between 0.50 and 0.99, the number of affordable units shall be rounded up to the nearest whole number. If the calculation results in a fraction between 0.01 and 0.49, the number of affordable units shall be rounded down to the nearest whole number. The affordable units shall be subject to the following terms and conditions:
 - a. The affordable units shall be occupied by low-income households earning no more than one-hundred and twenty percent (120%) of the Raleigh, NC Metropolitan Statistical Area (MSA) Area Median Income, adjusted for family size, as most recently published by the U.S. Department of Housing and Urban Development (HUD)(the "AMI") for a period of twenty (20) years starting from the date of issuance of the first residential Certificate of Occupancy (the "Affordability Period").
 - b. Following expiration of the Affordability Period, this affordable housing condition shall expire, the property owner shall be relieved of all obligations set forth in this affordable housing condition, and the affordable units may be freely marketed and leased at market-rate rents.
11. A minimum of two (2) homes shall be built with solar PV systems installed at the time of construction. All solar installation required by this condition shall be completed or under construction prior to 90% of the building permits being issued for the development. The lot(s) on which the home(s) is located shall be identified on the Master Subdivision Plat, which may be amended from time to time.
12. 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.
13. All garages shall be wired with a 220-volt outlet inside the garage to facilitate charging of electronic vehicles.
14. 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.
15. Developer shall extend Percussion Drive in accordance with the Apex Transportation Plan from the existing terminus west of the property boundary to the eastern property boundary as a Minor Collector Street, meaning the street shall be constructed within a 60' wide public right of way with a 27' wide curb and gutter section and 5' wide sidewalks on both sides.
16. Developer shall propose and install a traffic mini-circle or other horizontal deflection traffic calming feature subject to approval of Apex staff along Percussion Drive.

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17. All homes shall be designed and constructed with a permanently installed methane monitoring device. HOA covenants shall include a requirement that homeowners will maintain the methane monitoring device to ensure effective operation.
18. All homes shall be designed and constructed with a methane-resistant vapor barrier installed beneath the concrete slab or crawlspace. For homes constructed on slab foundations, a sub-slab ventilation system (passive or active) shall also be installed. Installation of the vapor barrier shall be documented by the builder and made available for inspection upon request by Town staff.
19. A note shall be included in the Master Subdivision Final Plat that summarizes the methane mitigation practices required for all residential lots within the development.

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 _____ 2026.

TOWN OF APEX

Jacques K. Gilbert
Mayor

ATTEST:

Allen Coleman, CMC, NCCCC
Town Clerk

APPROVED AS TO FORM:

Town Attorney