

**STATEMENT OF TOWN COUNCIL AND ORDINANCE AMENDING THE OFFICIAL ZONING DISTRICT MAP OF THE TOWN OF APEX TO CHANGE THE ZONING OF APPROXIMATELY 0.27 ACRES LOCATED AT 0 HERBERT STREET FROM MEDIUM DENSITY RESIDENTIAL (MD) TO NEIGHBORHOOD BUSINESS-CONDITIONAL ZONING (B1-CZ)**

**#23CZ17**

**WHEREAS**, RV International Properties, LLC/ Salem Street Realty, LLC, owner/applicant (the “Applicant”), submitted a completed application for a conditional zoning on the 1<sup>st</sup> day of August 2023 (the “Application”). The proposed conditional zoning is designated #23CZ17;

**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 #23CZ17 before the Planning Board on the 12<sup>th</sup> day of February 2024;

**WHEREAS**, the Apex Planning Board held a public hearing on the 12<sup>th</sup> day of February 2024, gathered facts, received public comments and formulated a recommendation regarding the application for conditional zoning #23CZ17. A motion was made by the Apex Planning Board to recommend approval; the motion passed unanimously for the application for #23CZ17;

**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 #23CZ17 before the Apex Town Council on the 27<sup>th</sup> day of February 2024;

**WHEREAS**, the Apex Town Council held a public hearing on the 27<sup>th</sup> day of February 2024. Liz Loftin, 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 #23CZ17 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 Plan and other adopted plans in that the 2045 Land Use Map designates this area as Medium Density Residential and approval of this rezoning will automatically amend the 2045 Land Use Map to Commercial Services. The Apex Town Council has further considered that the proposed rezoning to Neighborhood Business-Conditional Zoning (B1-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 rezoning will expand the area available for non-residential development, restrict vehicular access on Herbert Street, and provide a 6’ tall privacy fence between the commercial development and residential lots. The rezoning will encourage compatible development of the property and increase the tax base; and

**WHEREAS**, the Apex Town Council by a vote of 5 to 0 approved Application #23CZ17 rezoning the subject tract located at 0 Herbert Street from Medium Density Residential (MD) to Neighborhood Business-Conditional Zoning (B1-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 #23CZ17

**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 Medium Density Residential (MD) to Neighborhood Business-Conditional Zoning (B1-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.

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|--|----------------------------------|
| 1. Government service                  | 17. Book store                   |
| 2. Veterinary clinic or hospital       | 18. Convenience store            |
| 3. Vocational school                   | 19. Farmer’s market              |
| 4. Utility, minor                      | 20. Financial institution        |
| 5. Wireless support structure          | 21. Floral shop                  |
| 6. Wireless communication facility     | 22. Grocery, general             |
| 7. Botanical garden                    | 23. Grocery, specialty           |
| 8. Entertainment, indoor               | 24. Health/fitness center or spa |
| 9. Greenway                            | 25. Newsstand or gift shop       |
| 10. Park, active                       | 26. Personal service             |
| 11. Park, passive                      | 27. Pharmacy                     |
| 12. Restaurant, general                | 28. Printing and copying service |
| 13. Medical or dental office or clinic | 29. Real estate sales            |
| 14. Office, business or professional   | 30. Retail sales, general        |
| 15. Artisan studio (SUP)               | 31. Tailor shop                  |
| 16. Barber and beauty shop             |                                  |

### Zoning Conditions:

1. The predominant exterior building materials shall be high quality materials, including: brick masonry, decorative concrete block, stone accents, aluminum storefronts with anodized or pre-finished colors, EIFS cornices and parapet trim, precast concrete, or other similar materials as defined in UDO Section 9.3.
2. The main entrance should be emphasized and the exterior shall be more than one color.
3. A privacy fence will be erected between the commercial development and the residential lots. The privacy fence will be at a minimum 6 feet tall.
4. No vehicular access will be allowed from Herbert Street, except for emergency vehicles.

**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.

**Ordinance Amending the Official Zoning District Map #23CZ17**

**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 \_\_\_\_\_ 2024.

**TOWN OF APEX**

\_\_\_\_\_  
Jacques K. Gilbert  
Mayor

**ATTEST:**

\_\_\_\_\_  
Allen Coleman, CMC, NCCCC  
Town Clerk

**APPROVED AS TO FORM:**

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