

**STATEMENT OF TOWN COUNCIL AND ORDINANCE AMENDING THE OFFICIAL ZONING DISTRICT MAP OF THE TOWN OF APEX TO CHANGE THE ZONING OF APPROXIMATELY 16.51 ACRES LOCATED AT 2525, 2529, 2537, 2625, & 2701 NEW HILL OLIVE CHAPEL RD FROM WAKE COUNTY RESIDENTIAL-40 WATERSHED (R-40W) TO MEDIUM DENSITY RESIDENTIAL-CONDITIONAL ZONING (MD-CZ #25CZ06)  
#25CZ06**

**WHEREAS**, Mark Altman, Davidson Homes, LLC, owner/applicant (the “Applicant”), submitted a completed application for a conditional zoning on the 3<sup>rd</sup> day of March 2025 (the “Application”). The proposed conditional zoning is designated #25CZ06;

**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 #25CZ06 before the Planning Board on the 9<sup>th</sup> day of June 2025;

**WHEREAS**, the Apex Planning Board held a public hearing on the 9<sup>th</sup> day of June 2025, gathered facts, received public comments and formulated a recommendation regarding the application for conditional zoning #25CZ06. A motion was made by the Apex Planning Board to recommend approval; the motion passed unanimously for the application for #25CZ06;

**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 #25CZ06 before the Apex Town Council on the 24<sup>th</sup> day of June 2025;

**WHEREAS**, the Apex Town Council held a public hearing on the 24<sup>th</sup> day of June 2025. Bruce Venable, 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 #25CZ06 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, Medium Density Residential/Commercial Services, and Office Employment/Commercial Services and approval of this rezoning will automatically amend the 2045 Land Use Map to 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 rezoning will allow for the development of residential development, including affordable units, consistent with the character of the development to the north, which supports the continued residential growth in this area. Additionally, the rezoning will promote compatible development with surrounding land uses and contribute to an increased tax base; and

**WHEREAS**, the Apex Town Council by a vote of \_\_\_\_ to \_\_\_\_ approved Application #25CZ06 rezoning the subject tract located at 2525, 2529, 2537, 2625, & 2701 New Hill Olive Chapel Rd From Wake County Residential-40 Watershed (R-40W) 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.”

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**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 R-40W 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 detached | 3. Utility, Minor |
| 2. Accessory Apartment    |                   |

### **Zoning Conditions:**

1. Vinyl siding is not permitted; however, vinyl windows, decorative elements and trim are permitted.
2. Garage doors shall have windows, decorative details or carriage-style adornments.
3. 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:
  - Window;
  - 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 cornice;
  - Column;
  - Portico;
  - Balcony; or
  - Dormer
4. The rear and side elevations of the units that can be seen from the right-of-way shall have trim around the windows.

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5. A varied color palette shall be utilized on homes 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. Primary building materials shall be brick, stone, and fiber cement siding.
7. Entrances for units with front-facing single-car garages shall have a prominent covered porch/stoop area leading to the front door. 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 6 feet deep.
9. The front façade of any front loaded garage shall not protrude further than five (5) feet forward beyond (i) the front façade of the dwelling unit, or (ii) the front porch of the dwelling unit, whichever is closer to the right of way from which the dwelling unit is addressed. Living space above garage shall not be considered part of the front façade.
10. The project shall install one (1) sign per SCM to reduce pet waste and prohibit fertilizer, in locations that are publicly accessible, such as adjacent to amenity centers, sidewalks, greenways, or side paths.
11. To reduce irrigation requirements, the project shall select and plant only warm season grasses.
12. The project shall install at least two (2) pet waste stations per 20 residential units throughout the community in locations that are publicly accessible, such as adjacent to amenity centers, SCMs, sidewalks, greenways or side paths.
13. The project shall install signage adjacent to wooded or natural condition Resource Conservation Area. The signage shall indicate that the area is RCA and is to be preserved in perpetuity and not disturbed.
14. Building setbacks shall be as required by Article 5 of the Unified Development Ordinance except the minimum side setback shall be five (5) feet.
15. Developer shall widen New Hill Olive Chapel Rd and dedicate public right of way along the entire project frontage based on a minimum two-lane 36-foot-wide 2-lane rural thoroughfare, inclusive of 12-foot-wide travel lanes and 6-foot-wide paved shoulders, roadside ditch, and construct 10-foot-wide Side Path on 110-foot-wide right of way. Additionally, developer shall construct a left turn lane meeting minimum NCDOT standards on New Hill Olive Chapel Rd for full movement access if/when proposed, subject to Apex and NCDOT review and approval.
16. A stub street shall be provided to the south, to PIN 0710932329, and to the east for future connectivity.
17. Subject to the Applicant obtaining necessary easements from property owners of PIN 0710836780, PIN 0710838911 and PIN 0710847161 at appraised fair market value; or, subject to approval of construction within the existing right of way, an off-site side path shall be constructed along New Hill Olive Chapel Road along the frontages of PIN 0710836780, PIN 0710838911 and PIN 0710847161.
18. Affordable Housing

The Development shall include a minimum of two (2) residential restricted affordable housing detached single-family median-income ownership units (the "Affordable Units"). The Affordable Units shall be constructed on-site and sold (includes unit price and lot price) at a mutually agreeable maximum affordable housing median-income ownership initial sales price (the "Initial Sales Price"). The Affordable Units shall be occupied by low or median-income households earning no more than one-hundred thirty five (135%) of the Raleigh NC Metropolitan Statistical Area (MSA), Area Median Income (AMI), adjusted for family size as most recently published by HUD (the "Income Limit"). For purposes of calculating the Initial Sales Price for the Affordable Units, affordable shall mean a reasonable down payment and monthly housing costs expected during the first calendar year of occupancy, including utilities or utility allowances, mortgage loan principal and interest, mortgage insurance, property taxes, homeowner's insurance, homeowner's association dues, if any, and all other property assessments, dues and fees assessed as a condition of property ownership, which does not exceed thirty percent (30%) times (x's) one-hundred thirty five percent (135%) times (x's) the annual median-income limit {135% AMI Category}, based on a family size that is equal to the

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actual number of bedrooms as the Affordable Units, applicable to the Raleigh, NC MSA as most recently published by the HUD.

19. Homeowners Association will not restrict the construction of accessory apartments.

**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 \_\_\_\_\_ 2025.

**TOWN OF APEX**

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

**ATTEST:**

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

**APPROVED AS TO FORM:**

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