

STATEMENT OF TOWN COUNCIL AND ORDINANCE AMENDING THE OFFICIAL ZONING DISTRICT MAP OF THE TOWN OF APEX TO CHANGE THE ZONING OF APPROXIMATELY 5.37 ACRES LOCATED AT 3600 OLD US 1 HIGHWAY FROM WAKE COUNTY R-40W TO NEIGHBORHOOD BUSINESS-CONDITIONAL ZONING (B1-CZ)

#21CZ11

WHEREAS, Kalpesh Patel, Shri Varnie LLC, owner/applicant (the “Applicant”), submitted a completed application for a conditional zoning on the 1st day of April 2021 (the “Application”). The proposed conditional zoning is designated #21CZ11;

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 #21CZ11 before the Planning Board on the 13th day of September 2021;

WHEREAS, the Apex Planning Board held a public hearing on the 13th day of September 2021, gathered facts, received public comments and formulated a recommendation regarding the application for conditional zoning #21CZ11. A motion was made by the Apex Planning Board to recommend approval; the motion passed unanimously for the application for #21CZ11;

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 #21CZ11 before the Apex Town Council on the 28th day of September 2021;

WHEREAS, the Apex Town Council held a public hearing on the 28th day of September 2021. 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 #21CZ11 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 Office Employment and Commerical Services. This designation on the 2045 Land Use Map includes the zoning district Neighborhood Business-Conditional Zoning (B1-CZ) and 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 provide an opportunity for non-residential uses to serve the surrounding area, while providing flexibility for future development with the surrounding properties. The rezoning will encourage compatible development of the property and increase the tax base; and

WHEREAS, the Apex Town Council by a vote of ____ and ____ approved Application #21CZ11 rezoning the subject tract located at 3600 Old US 1 Highway from Wake County R-40W 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 #21CZ11

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 Neighborhood Business-Conditional Zoning (B1-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:

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. Convenience Store with gas sales | 11. Book Store |
| 2. Convenience Store | 12. Floral Shop |
| 3. Restaurant, general | 13. Pharmacy |
| 4. Restaurant, drive-thru | 14. Pet Services |
| 5. Retail Sales, general | 15. Studio for Art |
| 6. Grocery, general | 16. Printing and Copying Service |
| 7. Financial Institution | 17. Real Estate Sales |
| 8. Veterinary Clinic | 18. Auto Parts Store |
| 9. Medical and Dental Office or Clinic | 19. Barber/Beauty Shop |
| 10. Office, Business or Professional | 20. Health/Fitness Center or Spa |

Zoning Conditions:

1. Increase design storm pre-and post-attenuation requirement to the 25-year storm.
2. Plant deciduous shade trees on the southern side of buildings.
3. Include solar conduit in building design.
4. Outdoor lighting shall be shielded in a way that focuses lighting to the ground.
5. Lighting with a color temperature of 3000K or less shall be used for outside installations. If a color temperature of 3000K is unavailable, 3500K is acceptable.
6. Preserve native trees within the buffer, including the large existing trees along the southern property line, according to the standards in the UDO.
7. Predominant exterior building materials shall be high quality materials, including brick, wood, stacked stone, other native stone, or tinted/textured concrete masonry units.
8. EIFS or synthetic stucco shall not be used in the first four feet above grade and shall be limited to only 25% of each building façade.
9. The exterior materials for nonresidential buildings shall include a combination of building materials. The primary (front) façade of the main buildings to be considered include:
 - brick masonry
 - decorative concrete block (either integrally colored or textured)
 - stone accents
 - aluminum storefronts with anodized or pre-finished colors

Ordinance Amending the Official Zoning District Map #21CZ11

- EIFS cornices, and parapet trim. EIFS or synthetic stucco shall not be used in the first four feet above grade and shall be limited to only 25% of each building facade.
10. The building shall be located between Old US 1 and the gas pumps.

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 _____ 2021.

TOWN OF APEX

Mayor

ATTEST:

Town Clerk

APPROVED AS TO FORM:

Town Attorney