

**STATEMENT OF TOWN COUNCIL AND ORDINANCE AMENDING THE OFFICIAL ZONING DISTRICT MAP OF THE TOWN OF APEX TO CHANGE THE ZONING OF APPROXIMATELY 81.9 ACRES LOCATED AT 0, 0, and 0 TINGEN ROAD FROM RESIDENTIAL AGRICULTURAL (RA) AND HIGH DENSITY SINGLE-FAMILY RESIDENTIAL (HDSF) TO PLANNED UNIT DEVELOPMENT-CONDITIONAL ZONING (PUD-CZ)  
#23CZ13**

**WHEREAS**, Barnett Properties, LLC (the “Applicant”), submitted a completed application for a conditional zoning on the 3rd day of July 2023 (the “Application”). The proposed conditional zoning is designated #23CZ13;

**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 #23CZ13 before the Planning Board on the 8<sup>th</sup> day of January 2024;

**WHEREAS**, the Apex Planning Board held a public hearing on the 8<sup>th</sup> day of January 2024, gathered facts, received public comments and formulated a recommendation regarding the application for conditional zoning #23CZ13. A motion was made by the Apex Planning Board to recommend approval; the motion passed by a vote of 5 to 4 for the application for #23CZ13;

**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 #23CZ13 before the Apex Town Council on the 23<sup>rd</sup> day of January 2024;

**WHEREAS**, the Apex Town Council held a public hearing on the 23<sup>rd</sup> day of January 2024. June Cowles, 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 #23CZ13 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/High Density Residential, High Density Residential, and Office Employment and approval of this rezoning will automatically amend the 2045 Land Use Map to Medium Density Residential, Medium/High Density Residential, High Density Residential, Office Employment and Commercial Services. This designation on the 2045 Land Use Map includes the zoning district Planned Unit Development-Conditional Zoning (PUD-CZ) with a maximum number of 800 residential units. The rezoning to Planned Unit Development-Conditional Zoning (PUD-CZ) will provide commercial services and flexibility to accommodate the growth in population 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 includes widening of the Apex Peakway along the project frontage to the ultimate section width; widening of Tingen Road along the project frontage with a roundabout, bike lanes, a 10 foot wide side path on the western side and a 5 foot wide sidewalk on the eastern side; Greenway construction completed and accepted prior to 50% of the units west of Tingen Road being permitted; if warranted by NCDOT, traffic signal will be provided at Apex Peakway and Tingen Road; permitted commercial uses that are limited to those that are more compatible with surrounding proposed residential land use; and reduced building height and increased buffer opacity between apartments and existing adjacent residential land use; and

**WHEREAS**, the Apex Town Council by a vote of 3 to 2 approved Application #23CZ13 rezoning the subject tract located at 0, 0, and 0 Tingen Road from Residential Agricultural (RA) and High Density Single-Family Residential (HDSF) to Planned Unit Development-Conditional Zoning (PUD-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 #23CZ13**

**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 Residential Agricultural (RA) and High Density Single-Family Residential (HDSF) to Planned Unit Development-Conditional Zoning (PUD-CZ), 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 in Attachment "B" Seymour Mixed Use PUD which are imposed as part of this rezoning:

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

**TOWN OF APEX**

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

**ATTEST:**

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

**APPROVED AS TO FORM:**

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