

**STATEMENT OF THE APEX TOWN COUNCIL PURSUANT TO G.S. 160A-383
ADDRESSING ACTION ON ZONING PETITION #20CZ12**

Wake County Board of Education, owner/applicant (the "Applicant"), submitted a completed application for a conditional zoning on the 28th day of October 2020 (the "Application"). The proposed conditional zoning is designated #20CZ12.

The Planning and Community Development Director for the Town of Apex, Dianne Khin, caused proper notice to be given (by publication and posting) of a public hearing on #20CZ12 before the Planning Board held on the 8th day of March 2021.

The Apex Planning Board held a public hearing on the 8th day of March 2021, gathered facts, received public comments and formulated a recommendation regarding the application for conditional zoning #20CZ12. A motion was made at the Apex Planning Board to recommend approval; the motion passed unanimously for the application for #20CZ12.

Pursuant to G.S. §160A-384 and Sec. 2.2.11(E) of the Unified Development Ordinance, the Planning and Community Development Director caused proper notice to be given (by publication and posting), of a public hearing on #20CZ12 before the Town Council on the 23rd day of March 2021.

The Apex Town Council held a public hearing on the 23rd day of March 2021. Shelly Mayo, Planner II, presented the Planning Board's recommendation at the public hearing.

All persons who desired to present information relevant to the application for #20CZ12 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.

The Town Council, following a 24-hour public comment period, on the 25th day of March 2021 by a vote of 3 and 2 approved Application #20CZ12 rezoning the subject tract located at 8550 Stephenson Road from Medium Density Residential – Conditional Zoning (MD-CZ #12CZ14) to Medium Density Residential – Conditional Zoning (MD-CZ).

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 School. 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.

**STATEMENT OF THE APEX TOWN COUNCIL PURSUANT TO G.S. 160A-383
ADDRESSING ACTION ON ZONING PETITION #20CZ12**

The Apex Town Council finds that the approval of the rezoning is reasonable and in the public interest in that: The rezoning will permit the construction of a high school needed to support the growing residential development in this area. The rezoning will encourage compatible development of the property and increase the tax base.

Jacques K. Gilbert
Mayor

ATTEST:

Donna B. Hosch, MMC, NCCMC
Town Clerk

Date

ORDINANCE AMENDING THE OFFICIAL ZONING DISTRICT MAP OF THE TOWN OF APEX TO CHANGE THE ZONING OF APPROXIMATELY 68.06 ACRES LOCATED AT 8550 STEPHENSON ROAD FROM MEDIUM DENSITY RESIDENTIAL – CONDITIONAL ZONING (MD-CZ) TO MEDIUM DENSITY RESIDENTIAL – CONDITIONAL ZONING (MD-CZ)

#20CZ12

WHEREAS, the application of Wake County Board of Education, petitioner, for the rezoning of lands hereinafter described was duly filed with the office of the Director of Planning and Community Development and thereafter public hearing was held hereon on the 8th day of March 2021 before the Planning Board. Thereafter, the Planning Board submitted its final report to the Town Council recommending approval of said application for the rezoning of the lands hereinafter described, all in accordance with the requirements of the Town of Apex Unified Development Ordinance and the provisions of Chapter 160A, Article 19, of the North Carolina General Statutes. A public hearing was held on the 23rd day of March 2021, before the Town Council. All public hearings were held pursuant to due notice mailed and published pursuant to G.S. § 160A-384; **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.”

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 – Conditional Zoning (MD-CZ) to Medium Density Residential – Conditional Zoning (MD-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.

- 1. School, public or private
- 2. Wireless communication facility
- 3. Wireless support structure
- 4. Church or place of worship
- 5. Communication tower, camouflage stealth (S)
- 6. Communication tower, public safety (S)

Zoning Conditions:

- 1. This project shall preserve trees measuring 18-inches in diameter at breast height or greater to the maximum extent reasonably possible.

Ordinance Amending the Official Zoning District Map #20CZ12

2. In compliance with the UDO and to optimize survival of landscaping, an extension of up to 6 months' time may be provided for installation of landscaping after a Certificate of Occupancy would otherwise be issued.
3. To support re-establishment of forest, a reforestation seed mix shall be used in disturbed areas with slopes of 3:1 or less, and not located within RCAs or SCMs. To expedite growth and avoid erosion, a slope stabilizing mix with conservation seed mix shall be used to slopes greater than 3:1 but less than 2:1 and not located within RCAs or SCMs.
4. This project shall dedicate a 20-foot on-site public greenway easement and within it provide a 10-foot greenway path and/or 10-foot sidewalk connection from the driveway connection at Thriftwood Drive to the western property line.
5. This project shall also provide off-site a combined greenway and sanitary sewer easement to accommodate future greenway construction by others. To comply with Section 900 of the Town's Standard Specifications, the combined public utility and greenway easement shall be recorded providing no less than 30 feet in width, or 10 feet beyond the minimum required for the sanitary sewer, whichever is greater. The public greenway easement shall extend from the western boundary of the site, across the landfill site (Wake Co. PIN 0750-44-1182) to the landfill's western boundary.
6. The Vehicular Use Area Shading described in UDO Section 8.2.5.C is not required in the area between the parking deck and parking lot near the site's eastern boundary. Instead, the same number of trees required to meet this standard will be planted elsewhere on the site. The remainder of the site shall meet the requirements of UDO Section 8.2.5.C. to the maximum extent reasonably possible.
7. The 2045 Transportation Plan shows a future north-south Minor Collector along the eastern property line starting at Derry Downs Lane extending to the northern site boundary. This project shall provide half of the required 60-foot right-of-way as shown on the plan.
8. Improvements to the existing streets known as Thriftwood Drive and Derry Down Lane (identified as public streets having a 60' right of way on the Briarwood Farms-COSD subdivision map recorded in Book of Maps 1986-2149, Wake County Registry, and as accepted by Wake County for use by the general public by instrument recorded in Book 7714 at Page 404, Wake County Registry) shall be provided to satisfy such NCDOT requirements made upon review of the traffic study for the project which are minimally necessary to provide adequate public access as state-maintained roadways to Stephenson Road. Consequently, the existing streets known as Thriftwood Drive and Derry Down Lane are not proposed for upgrades to meet Town of Apex standards nor are they proposed for dedication to the Town of Apex.
9. The northern perimeter buffer shall be a 20-foot Type B buffer, except where segmental retaining wall tie-backs would encroach. In those areas, it shall be no less than a 15-foot Type A buffer.
10. Cast-in-place retaining walls shall be permitted within the western 20-foot Type B buffer, as long as sufficient landscaping is planted around and on top of the walls to meet the requirements of the 20-foot Type B buffer.

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 #20CZ12

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

Attachment A:

Town of Apex Rezoning Legal Description: PIN 0750-54-5646

(WCPSS: Felton Grove High School, 8550 Stephenson Road, Apex, NC 27539)

BEGINNING AT AN IRON SHANK AT THE NORTHEASTERN MOST CORNER OF THE SUBJECT PROPERTY; THENCE, S 00°52'15" W A DISTANCE OF 2337.40' TO AN IRON PIPE; THENCE, S 86°51'34" W A DISTANCE OF 1224.63' TO AN IRON PIPE WITH CAP AND TACK; THENCE, N 02°01'22" W A DISTANCE OF 632.89' TO A 36" OAK STUMP; THENCE, N 01°19'50" E A DISTANCE OF 1795.11' TO AN IRON PIPE; THENCE, S 88°56'30" E A DISTANCE OF 1239.18' TO THE **POINT OF BEGINNING**, CONTAINING 68.06 ACRES MORE OR LESS.