

STATEMENT OF TOWN COUNCIL AND ORDINANCE AMENDING THE OFFICIAL ZONING DISTRICT MAP OF THE TOWN OF APEX TO CHANGE THE ZONING OF APPROXIMATELY 6.22 ACRES LOCATED AT 1201 CHAPEL RIDGE ROAD FROM RURAL RESIDENTIAL (RR) TO PLANNED COMMERCIAL-CONDITIONAL ZONING (PC-CZ)

#25CZ02

WHEREAS, Rev. Michael S. Merker, owner/applicant (the “Applicant”), submitted a completed application for a conditional zoning on the 2nd day of January 2025 (the “Application”). The proposed conditional zoning is designated #25CZ02;

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 #25CZ02 before the Planning Board on the 14th day of July 2025;

WHEREAS, the Apex Planning Board held a public hearing on the 14th day of July 2025, gathered facts, received public comments and formulated a recommendation regarding the application for conditional zoning #25CZ02. A motion was made by the Apex Planning Board to recommend approval; the motion passed unanimously for the application for #25CZ02;

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 #25CZ02 before the Apex Town Council on the 12th day of August 2025;

WHEREAS, the Apex Town Council held a public hearing on the 12th day of August 2025. Joshua Killian, 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 #25CZ02 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. This designation on the 2045 Land Use Map includes the zoning district Planned Commercial-Conditional Zoning (PC-CZ) and the Apex Town Council has further considered that the proposed rezoning to Planned Commercial-Conditional Zoning (PC-CZ) will maintain the character and appearance of the area and provide the flexibility to accommodate the growth in economy, infrastructure, and commercial services 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 proposed zoning district and conditions will restrict vehicular access to Beaver Creek Commons Drive and require dedication of a 30’ public sewer easement to facilitate the construction of public infrastructure as described on the Sewer System Master Plan; and

WHEREAS, the Apex Town Council unanimously approved Application #25CZ02 rezoning the subject tract located at 1201 Chapel Ridge Road from Rural Residential (RR) to Planned Commercial-Conditional Zoning (PC-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 #25CZ02

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 Rural Residential (RR) to Planned Commercial-Conditional Zoning (PC-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. Church or place of worship | 10. Communication tower, public safety (s) |
| 2. Nursing or convalescent facility | 11. Wireless support structure |
| 3. Assembly hall, nonprofit | 12. Wireless communication facility |
| 4. Assembly hall, for-profit | 13. Park, active |
| 5. Daycare facility | 14. Park, passive |
| 6. Drop-in or short term day care | 15. Youth or day camp |
| 7. Communication tower, commercial (s) | 16. Office, business or professional |
| 8. Communication tower, constructed stealth (s) | 17. Bookstore |
| 9. Communication tower, camouflage stealth (s) | 18. Health, fitness center or spa |
| | 19. Personal service |

Zoning Conditions:

1. The predominant exterior building materials shall be high quality materials including no fewer than 3 of the following:
 1. Brick masonry
 2. Decorative concrete block (either integrally colored or textured)
 3. Stone accents
 4. Aluminum storefronts with anodized or pre-finished colors
 5. EIFS cornices, and parapet trim
 6. Precast concrete
 7. Metal panel system
 8. Fiber cement siding
2. EIFS or synthetic stucco shall not be used in the first forty inches above grade.
3. The building exterior shall have more than one material color.
4. The building shall have more than one parapet height.
5. The main entrance to the building shall be emphasized.
6. Only full cut-off lighting fixtures and fixtures with external house-side shields shall be allowed where non-residential properties are adjacent to residential properties.
7. The new construction will include solar conduit.
8. No driveway shall be allowed on Beaver Creek Commons Drive.
9. The minimum planting area required when any public easement overlaps a required perimeter buffer shall be 10 feet.

Ordinance Amending the Official Zoning District Map #25CZ02

10. Any areas disturbed for the construction of Chapel Ridge Road along the northern property line may be designated as Resource Conservation Area if the area is replanted to meet the standards of UDO Sec. 8.1.2.B.1.i.
11. In consideration of the dedication of the onsite 30' public sewer easement along the western portion of the site and consisting of approximately 19,000 square feet, and due to related site constraints, grading and replanting shall be allowed in the east and south property buffer yards in addition to previously approved grading in the buffer yards for the Chapel Ridge North Apartment project needed to construct roads and drain a pond. The disturbed area within the east buffer shall be replanted to the 30' Type D buffer standard and the disturbed area along the south buffer shall be replanted to the 15' Type A buffer standard as required by UDO Sec. 8.2.6.B.5. Such areas shall qualify to be dedicated as Resource Conservation Area. The previously approved grading by Chapel Ridge North is 37.6% of the east buffer yard and 16.1% of the south buffer yard. The additional grading and replanting areas requested are 24% of the east buffer yard and 3% of the south buffer yard. This results in a total disturbance of 61.6% of the east buffer yard including the Chapel Ridge North project and the total disturbance of 19.1% of the south buffer yard including the Chapel Ridge North project. The above described easement shall be dedicated at the earlier of 6 months after zoning approval or at the time of site plan submittal.
12. The project shall ensure that 70% of the landscaping shall be native species in the perimeter buffers.

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