

STATEMENT OF TOWN COUNCIL AND ORDINANCE AMENDING THE OFFICIAL ZONING DISTRICT MAP OF THE TOWN OF APEX TO CHANGE THE ZONING OF APPROXIMATELY 3.62 ACRES LOCATED AT 0 LAURA DUNCAN ROAD FROM PLANNED UNIT DEVELOPMENT-CONDITIONAL ZONING (PUD-CZ #17CZ11) TO PLANNED UNIT DEVELOPMENT-CONDITIONAL ZONING (PUD-CZ) #21CZ25

WHEREAS, Curteis Calhoun with Enclave Holdings, LLC., owner/applicant (the “Applicant”), submitted a completed application for a conditional zoning on the 1st day of September 2021 (the “Application”). The proposed conditional zoning is designated #21CZ25;

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 #21CZ25 before the Planning Board on the 8th day of November 2021;

WHEREAS, the Apex Planning Board held a public hearing on the 8th day of November 2021, gathered facts, received public comments and formulated a recommendation regarding the application for conditional zoning #21CZ25. A motion was made by the Apex Planning Board to recommend approval; the motion passed unanimously for the application for #21CZ25;

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 #21CZ25 before the Apex Town Council on the 23rd day of November 2021;

WHEREAS, the Apex Town Council held a public hearing on the 23rd day of November 2021. Shelly Mayo, 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 #21CZ25 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 Mixed Use: High Density Residential/Medium Density Residential/Office Employment/Commercial Services. This designation on the 2045 Land Use Map includes the zoning district Planned Unit Development-Conditional Zoning (PUD-CZ). The proposed rezoning is consistent with the Apex Downtown Master Plan and Parking Study because it seeks to provide a vertical mixed use building, which will add residential units and commercial space within a 10 minute walk to downtown. The Apex Town Council has further considered that the proposed rezoning to Planned Unit Development-Conditional Zoning (PUD-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 encourage infill development and mixed use development where Town services are present as well as encouraging walkability. The proposed increase in height is mitigated by the preservation of existing wetlands. The rezoning will encourage compatible development of the property and increase the tax base; and

WHEREAS, the Apex Town Council by a vote of 4 to 1 approved Application #21CZ25 rezoning the subject tract located at 0 Laura Duncan Road from Planned Unit Development-Conditional Zoning (PUD-CZ #17CZ11) 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 #21CZ25

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 Planned Unit Development-Conditional Zoning (PUD-CZ #17CZ11) to Planned Unit Development-Conditional Zoning (PUD-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 the conditions in Attachment "B" Villages of Apex PUD Amendment 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 _____ 2021.

TOWN OF APEX

Mayor

ATTEST:

Town Clerk

APPROVED AS TO FORM:

Town Attorney

Attachment A:

Smith & Smith Surveyors, P.A.
P.O. Box 457
Apex, N.C. 27502
(919) 362-7111
Firm License No. C-0155

Lying and being in Town of Apex, White Oak Township, Wake County, North Carolina and described more fully as follows to wit:

BEGINNING at an iron pipe set at the northern public right of way of Hunter Street located South $26^{\circ} 51' 01''$ East, 255.74 feet from a control existing iron pipe #2 bearing NAD 83 (2011) coordinate values of North 722,604.05 feet, East 2,045,781.07 feet (B.M. 2017, PG. 707); thence South $56^{\circ} 29' 51''$ East, 271.13 feet to an existing iron pipe; thence North $81^{\circ} 02' 24''$ East, 63.21 feet to an existing iron pipe at the western public right of way of Laura Duncan Road (NCSR 1308); thence North $39^{\circ} 08' 49''$ East, 215.00 feet to an iron pipe set; thence a curve to the left North $29^{\circ} 47' 45''$ East, 490.16 feet (chord), 1761.82 feet (radius) to an iron pipe set at the western public right of way of Laura Duncan Road; thence leaving the western public right of way of Laura Duncan Road South $49^{\circ} 25' 18''$ West, 350.11 feet to an iron pipe set; thence North $79^{\circ} 37' 44''$ West, 169.41 feet to an iron pipe set; thence South $75^{\circ} 09' 54''$ West, 183.13 feet to an iron pipe set; thence South $15^{\circ} 37' 53''$ West, 216.16 feet to the BEGINNING, containing 3.6242 total acres more or less (157,870 square feet more or less) as shown on a map prepared by Smith & Smith Surveyors, P.A. entitled "Major Subdivision Final Plat Villages Of Apex South, Phase 1 ~ Section 3A ~ Lots 1, 167-168, 177-188, & 204-211", dated June 5, 2015, recorded in B.M. 2017, PG. 707.

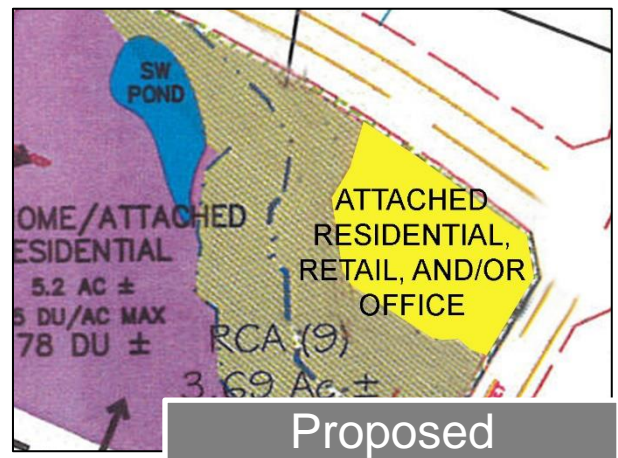
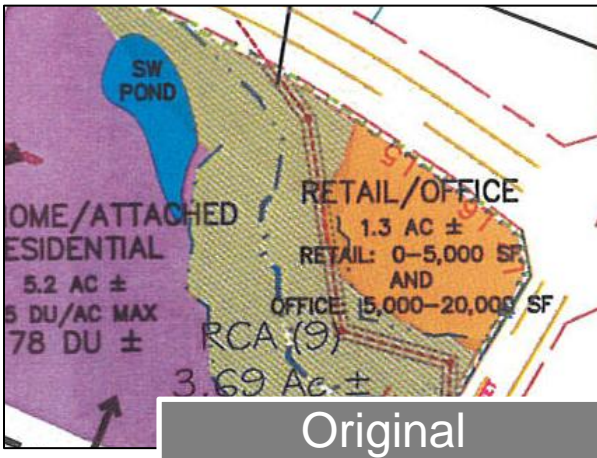
Attachment B:

September 1, 2021

To Whom It May Concern:

This application proposes to amend Rezoning Case #17CZ11 Trackside PUD in the following ways:

1. From Rezoning Case #17CZ11 Attachment B, Site Layout Plan sheets C2.1 and C2.3 are amended to designate this property as Attached Residential, Retail, and/or Office.



2. Any multi-family units shall have a maximum of 2 bedrooms.
3. The parking and loading requirements on page 8 of the "PD Plan for PUD-CZ Trackside Development" are amended to state:
 - a. Notwithstanding the foregoing, the parking and loading requirements applicable to the attached residential section of Trackside South shall be calculated at 1.5 spaces per residential unit. This shall not apply to townhomes.
4. The project shall install light timers, motion sensors, or other smart lighting technology for all lighting within the parking lot.
5. The maximum height for mixed-use buildings with a combination of residential and non-residential uses shall be 5 stories (65').
 - a. Please see Attachment A for sample architectural elevations.
6. First floor residential shall be prohibited along Hunter Street and Laura Duncan Road.
7. At least 5 apartments shall be rented to and initially occupied by low income households earning up to 60% of the Raleigh, NC Metropolitan Statistical Area's Area Median Income as published by the U.S. Department of Housing and Urban Development for at least 4 years.
8. Parks and Recreation condition #7 is removed. It stated: "A section of public greenway at the corner of Hunter and Laura Duncan will be constructed within the existing 20' sewer easement. A building credit will be provided to the developer as part of the recreation requirement." This will comply with the current Bicycle and Pedestrian System Plan Map and Parks and Recreation Master Plan Map.
9. The project commits to planting only native plants. Landscaping shall be coordinated with and approved by the Planning Department at site or subdivision plan review.
10. Based on a review of the Traffic Impact Analysis update, the following conditions are proposed:
 - o Along Laura Duncan Road and proposed site drive:
 - Restripe Laura Duncan Road to provide a two-way left turn lane from the signalized intersection up to the site driveway,
 - Provide the northbound left turn lane with a 75-foot taper and 50 feet of storage.

- Maintain the existing storage and taper length for the southbound left turn lane at the signalized intersection.
- Provide the southbound right turn lane with 50 feet of storage and appropriate deceleration length and taper per NCDOT guidance.

11. The site shall be exclusively served by a single driveway access to Laura Duncan Road.

No further changes are proposed.

Sincerely,

A handwritten signature in blue ink, appearing to read "Curteis Calhoun", is written over a light blue rectangular background.

Curteis Calhoun
Managing Partner, Enclave Holdings

Attachment A:

NEW DEVELOPMENT PROPOSED STYLE

