

STATEMENT OF TOWN COUNCIL AND ORDINANCE AMENDING THE OFFICIAL ZONING DISTRICT MAP OF THE TOWN OF APEX TO CHANGE THE ZONING OF APPROXIMATELY 8.82 ACRES LOCATED AT 1516 OLD IVEY ROAD & 7620 MCQUEENS DRIVE FROM RURAL RESIDENTIAL (RR) TO LOW DENSITY RESIDENTIAL-CONDITIONAL ZONING (LD-CZ)

#21CZ22

WHEREAS, Ranjeet Agarwala, Estates at White Oak 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 #21CZ22;

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 #21CZ22 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 #21CZ22. A motion was made by the Apex Planning Board to recommend approval; the motion passed by a vote of 5 to 0 for the application for #21CZ22;

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 #21CZ22 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. Lauren Staudenmaier, 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 #21CZ22 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 Low Density Residential. This designation on the 2045 Land Use Map includes the zoning district Low Density Residential-Conditional Zoning (LD-CZ) and the Apex Town Council has further considered that the proposed rezoning to Low Density Residential-Conditional Zoning (LD-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 proposed rezoning is reasonable and in the public interest because it permits single-family residential development consistent and compatible with the existing development to the east and south. The rezoning would also allow for development that will extend Vining Branch Way to Old Ivey Road.; and

WHEREAS, the Apex Town Council by a vote of 5 to approve Application #21CZ22 rezoning the subject tracts located at 1516 Old Ivey Road & 7620 McQueens Drive from Rural Residential (RR) to Low Density Residential-Conditional Zoning (LD-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 #21CZ22

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. Single-family | 5. Park, active |
| 2. Accessory apartment | 6. Park, passive |
| 3. Greenway | 7. Utility, minor |
| 4. Recreation facility, private | |

Zoning Conditions:

1. The project density will not exceed 3.00 dwelling units/acre. Maximum number of units is 26 dwelling units. All lots shall be greater than 6,000 SF.
2. Setbacks shall be as follows within this development:
 - Front: Reduce from 25’ minimum to 20’ minimum
 - Side: Reduce from 8’ minimum with a 20’ aggregate to a 5’ minimum
 - Rear: Reduce from 25’ minimum to 15’ minimum
 - Corner side: Reduce from 18’ minimum to 15’ minimum
3. Vinyl siding is not permitted; however, vinyl windows, decorative elements and trim are permitted.
4. Eaves shall project at least 12 inches from the wall of the structure.
5. The visible side of a home on a corner lot facing the public street shall contain at least 3 decorative elements such as, but not limited to, the following elements:

• Windows	• Decorative shake
• Bay window	• Decorative gable
• Recessed or Decorative window	• Decorative air vents on gable
• Trim around the window	• Decorative cornice
• Wrap around porch or side porch	• Column
• Two or more building materials	• Portico
• Decorative brick/stone	• Balcony
• Decorative trim	• Dormer
6. A varied color palette shall be utilized on homes throughout the subdivision, to include a minimum of two (2) color families for siding and shall include varied trim, shutter and accent colors complementing the siding color.
7. House entrances for units with front-facing single-car garages shall have a prominent covered porch/stoop area leading to the front door. Front façades and porches may encroach up to 5-feet into front setback provided the garage is located no closer than 20-feet from the right-of-way.

Ordinance Amending the Official Zoning District Map #21CZ22

8. Garage may not protrude more than 5-feet from the front façade or front porch. Garage doors shall have windows, decorative details, or carriage-style adornments on them. Garage may protrude more than 5-feet with J-drives or courtyards for side entry doors.
9. All homes shall be pre-configured with conduit for a solar energy system.
10. Homeowners Association covenants shall not restrict construction of any accessory dwelling unit.
11. The roof shall be pitched at 5:12 or greater for 75% of the building designs.
12. The rear and side elevations of the units that can be seen from the right-of-way shall have trim around the windows.
13. Front porches shall be a minimum of 5 feet deep.
14. The overhead Duke Energy electric easement from Jenks Road to Old Ivey Road shall be counted towards the required RCA and buffer standards as identified within various UDO sections.
15. Vining Branch Way shall remain closed to construction traffic until dedicated to the Town of Apex.
16. Prior to recordation of the first Final Plat for the property, the developer shall provide a donation to the Town of Apex's Affordable Housing Fund (the "FUND") in the amount of \$215/dwelling unit.
17. A solar PV system shall be installed on at least 2 homes within the development. All solar installation required by this condition shall be completed or under construction prior to 90% of the building permits being issued for the development. The lots on which these homes are located shall be identified on the Master Subdivision Plat, which may be amended from time to time.

The following conditions are provided as a result of the Environmental Advisory Board (EAB) meeting and have been incorporated in the rezoning request for the development:

1. The Development shall meet Apex UDO standards for post-development stormwater runoff rates. In addition, the post-development runoff for the 25-year stormwater event shall be mitigated to the pre-development rate.
2. SCMs shall not be permitted within riparian buffers. Tree clearing and grading shall only be permitted within riparian buffers if it is necessary to install public infrastructure, including but not limited to water, sewer, and greenways.
3. The Development shall install at least one (1) sign identifying environmental sensitive areas and/or at least one (1) pet waste station to discourage pet waste and chemical usage near RCA and SCMs.
4. A minimum of 50% of the required landscaping outside of RCA and perimeter buffers and all supplemental landscaping within RCA and perimeter buffers shall be native species listed in the Design & Development Manual or approved by staff to increase the native diversity to reduce irrigation and chemical use. This shall not apply to turf grass.
5. Native flora shall be used within the development, a minimum of 50% of the plantings for each planting group (tree, shrubs, etc.).
6. Warm season turf grasses shall be planted where turf grass is proposed.
7. Outdoor lighting shall be full cut-off and shielded to prevent glare and light spillover to minimize the impact on neighboring residential properties. LED fixtures shall be used and the lighting temperature shall be a maximum of 3,000K.
8. A minimum of three (3) native hardwood tree species shall be planted within the development.

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 #21CZ22

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