

**STATEMENT OF TOWN COUNCIL AND ORDINANCE AMENDING THE OFFICIAL ZONING DISTRICT MAP OF THE TOWN OF APEX TO CHANGE THE ZONING OF APPROXIMATELY 7.69 ACRES LOCATED AT 0 & 7525 HUMIE OLIVE ROAD FROM RURAL RESIDENTIAL (RR) TO NEIGHBORHOOD BUSINESS-CONDITIONAL ZONING (B1-CZ)**

**#21CZ26**

**WHEREAS**, Jeff Roach, PE, Peak Engineering & Design, PLLC. /David Ray Powell/JVI Building & Development, owner/applicant (the "Applicant"), submitted a completed application for a conditional zoning on the 1<sup>st</sup> day of October 2021 (the "Application"). The proposed conditional zoning is designated #21CZ26;

**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 #21CZ26 before the Planning Board on the 11<sup>th</sup> day of April 2022;

**WHEREAS**, the Apex Planning Board held a public hearing on the 11<sup>th</sup> day of April 2022, gathered facts, received public comments and formulated a recommendation regarding the application for conditional zoning #21CZ26. A motion was made by the Apex Planning Board to recommend approval; the motion passed unanimously for the application for #21CZ26;

**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 #21CZ26 before the Apex Town Council on the 26<sup>th</sup> day of April 2022;

**WHEREAS**, the Apex Town Council held a public hearing on the 26<sup>th</sup> day of April 2022;. 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 #21CZ26 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 High Density Residential/Commercial Services. This designation on the 2045 Land Use Map includes the zoning district Neighborhood Business-Conditional Zoning (B1-CZ) and the Apex Town Council has further considered that the proposed rezoning to Neighborhood Business-Conditional Zoning (B1-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 compatible development of the property, increase the tax base and provide the flexibility to accommodate the growth in population, economy, and infrastructure consistent with that contemplated by the 2045 Land Use Map. It will also provide an opportunity for non-residential uses to serve the surrounding area, while providing flexibility for future development with the surrounding properties and will limit the number of points of access to the properties to address traffic safety concerns; and

**WHEREAS**, the Apex Town Council by a vote of 5-0 approved Application #21CZ26 rezoning the subject tract located at 0 & 7525 Humie Olive Commercial from Rural Residential (RR) to Neighborhood Business-Conditional Zoning (B1-CZ).

**NOW, THEREFORE, BE IT ORDAINED BY THE TOWN COUNCIL OF THE TOWN OF APEX**

## Ordinance Amending the Official Zoning District Map #21CZ26

**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 Rural Residential (RR) 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.

1. Accessory apartment (P)
2. Drop-in or short-term day care (P)
3. Government service (P)
4. Veterinary clinic or hospital (P)
5. Vocational school (P)
6. Utility, minor (P)
7. Wireless support structure (P)
8. Wireless communication facility (P)
9. Botanical garden (P)
10. Entertainment, indoor (P)
11. Greenway (P)
12. Park, active (P)
13. Park, passive (P)
14. Youth or day camps (P)
15. Bar, nightclub, wine bar, or taproom (S)
16. Restaurant, drive-through (P)
17. Restaurant, general (P)
18. Medical or dental office or clinic (P)
19. Medical or dental laboratory (P)
20. Office, business or professional (P)
21. Hotel or motel (P)
22. Artisan Studio (S)
23. Barber or beauty shop (P)
25. Book store (P)
26. Convenience store (P)
28. Dry cleaner and laundry service (P)
29. Farmer’s market (P)
30. Financial institution (P)
31. Floral shop (P)
32. Greenhouse or nursery, retail (P)
33. Grocery, general (P)
34. Grocery, specialty (P)
35. Laundromat (P)
36. Pharmacy (P)
37. Newsstand or gift shop (P)
38. Personal service (P)
39. Printing and copying service (P)
40. Real estate sales (P)
41. Repair services, limited (P)
42. Retail sales, general(P)
43. Studio for art (P)
44. Tailor shop (P)
45. Upholstery shop (P)
46. Pet services (P)
47. Microbrewery (P)

**Ordinance Amending the Official Zoning District Map #21CZ26**

**Zoning Conditions:**

1. The predominant exterior building materials shall be high quality materials per UDO § 9.3.5 and shall include brick, wood, stacked stone, other native stone, tinted/textured concrete masonry units, EIFS, aluminum storefronts with anodized or pre-finished colors.
2. EIFS or synthetic stucco shall not be used in the first forty inches (40”) above grade.
3. The building exterior shall be more than one material color.
4. The building shall have more than one parapet height.
5. No clearing or land disturbance shall be permitted within the riparian buffer, except the minimum necessary to install required sewer infrastructure and SCM outlets. The SCM water storage and treatment area shall not be permitted within the riparian buffer. The sewer shall be designed to minimize impacts to the riparian buffer.
6. One (1) sign prohibiting pet waste and reduced fertilization shall be installed near each environmentally sensitive area and SCM.
7. A minimum of 75% of the required landscaping will be selected from the Town’s Design and Development Manual for pollinator friendly and native flora throughout the project.
8. The developer shall provide solar conduit to facilitate future rooftop solar installations within all buildings.
9. One (1) pet waste station shall be installed within the common open space area.
10. The project shall plant warm season grasses in order to minimize the need for irrigation and chemical use.
11. At the time the development plans adjacent to PIN 0720896485 are submitted, a 20' Greenway Easement shall be provided along or within near proximity to the western property boundary of PIN 0720990292 as shown on the Parks, Recreation, Greenways and Open Space master plan map, north to connect to pedestrian improvements on Humie Olive Road in a location coordinated with Parks, Recreation and Cultural Resources staff.
12. The exterior lighting for all non-residential buildings and parking lots shall consist entirely of LED fixtures. The developer shall install light timers, motion sensors, or other smart lighting technology for all lighting within the parking lots.
  - a. The project shall use full cutoff LED fixtures that have a maximum color temperature of 3,000K or less for all exterior lighting, including, but not limited to, parking lot and building mounted fixtures.
13. The development shall record a cross-access agreement between parcels identified as PINS 0720-89-6485 & 0720-89-6050 prior to Site Plan Final Plat approval.
14. A maximum of a single point of access shall be provided to each of Humie Olive Road and Old US 1 Highway.

**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 \_\_\_\_\_

**Ordinance Amending the Official Zoning District Map #21CZ26**

With \_\_\_\_ Council Member(s) voting "aye."

With \_\_\_\_ Council Member(s) voting "no."

This the \_\_\_\_ day of \_\_\_\_\_ 2022.

**TOWN OF APEX**

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Mayor

**ATTEST:**

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Allen Coleman, CMC, NCCC  
Town Clerk

**APPROVED AS TO FORM:**

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Town Attorney