

STATEMENT OF TOWN COUNCIL AND ORDINANCE AMENDING THE OFFICIAL ZONING DISTRICT MAP OF THE TOWN OF APEX TO CHANGE THE ZONING OF APPROXIMATELY 0.53 ACRES LOCATED AT 202 SOUTH SALEM STREET OFFICE & INSTITUTIONAL (O&I) TO MIXED OFFICE-RESIDENTIAL-RETAIL-CONDITIONAL ZONING (MORR-CZ)

#24CZ13

WHEREAS, Wilkinson Properties of North Carolina/La Farm Bakery, owners/applicant (the “Applicant”), submitted a completed application for a conditional zoning on the 3rd day of June 2024 (the “Application”). The proposed conditional zoning is designated #24CZ13;

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 #24CZ13 before the Planning Board on the 12th day of August 2024;

WHEREAS, the Apex Planning Board held a public hearing on the 12th day of August 2024, gathered facts, received public comments and formulated a recommendation regarding the application for conditional zoning #24CZ13. A motion was made by the Apex Planning Board to recommend approval; the motion passed unanimously for the application for #24CZ13;

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 #24CZ13 before the Apex Town Council on the 27th day of August 2024;

WHEREAS, the Apex Town Council held a public hearing on the 27th day of August 2024. Liz Loftin, Senior Planner, presented the Planning Board's recommendation at the public hearing;

WHEREAS, all persons who desired to present information relevant to the application for #24CZ13 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 Medium Density Residential/ Office Employment. This designation on the 2045 Land Use Map includes the zoning district Mixed Office-Residential-Retail-Conditional Zoning (MORR-CZ) and the Apex Town Council has further considered that the proposed rezoning to Mixed Office-Residential-Retail-Conditional Zoning (MORR-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: it will allow for a vacant building downtown to be redeveloped. This will work to accomplish one of the top ten recommendations in the Downtown Plan to attract five new restaurants/bars/breweries to Salem Street; and

WHEREAS, the Apex Town Council by a vote of 5 to 0 approved Application #24CZ13 rezoning the subject tract located 202 South Salem Street from Office & Institutional (O&I) to Mixed Office-Residential-Retail Conditional Zoning (MORR-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.”

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 Office & Institutional (O&I) to Mixed Office-Residential-Retail- Conditional Zoning (MORR-CZ) District, subject to the conditions stated herein.

Ordinance Amending the Official Zoning District Map #24CZ13

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. An “S” indicates that a use category or specific use type is allowed only if reviewed and approved in accordance with the procedures and standards of Sec. 2.3.5 *Special Use*.

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|---------------------------------------|---------------------------|
| 1. Restaurant, general | 8. Newsstand or gift shop |
| 2. Medical or dental office or clinic | 9. Personal service |
| 3. Book store | 10. Pharmacy |
| 4. Convenience store | 11. Retail sales, general |
| 5. Financial institution | 12. Studio for art |
| 6. Floral shop | 13. Pet services |
| 7. Grocery, specialty | 14. Utility, minor |

Zoning Conditions:

1. The predominant exterior building materials shall be high quality materials, including: brick masonry, decorative concrete block, stone accents, aluminum storefronts with anodized or pre-finished colors, EIFS cornices and parapet trim, precast concrete, or other similar materials as defined in the UDO Section 9.3.
2. The main entrance should be emphasized and the exterior shall be more than one color.

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 _____ 2024.

Ordinance Amending the Official Zoning District Map #24CZ13

TOWN OF APEX

Jacques K. Gilbert
Mayor

ATTEST:

Allen Coleman, CMC, NCCCC
Town Clerk

APPROVED AS TO FORM:

Town Attorney