

STATEMENT OF TOWN COUNCIL AND ORDINANCE AMENDING THE OFFICIAL ZONING DISTRICT MAP OF THE TOWN OF APEX TO CHANGE THE ZONING OF APPROXIMATELY 3.08 ACRES LOCATED AT 1405 AND 1407 ZENO ROAD FROM RESIDENTIAL AGRICULTURAL (RA) TO OFFICE AND INSTITUTIONAL-CONDITIONAL ZONING (O&I-CZ)

#23CZ24

WHEREAS, East West Partners Management Co, applicant (the “Applicant”), submitted a completed application for a conditional zoning on the 21st day of November 2023 (the “Application”). The proposed conditional zoning is designated #23CZ24;

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 #23CZ24 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 #23CZ24. A motion was made by the Apex Planning Board to recommend approval; the motion passed unanimously for the application for #23CZ24;

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 #23CZ24 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. Joshua Killian, Planner I, presented the Planning Board's recommendation at the public hearing;

WHEREAS, all persons who desired to present information relevant to the application for #23CZ24 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 Office Employment/Commercial Services. This designation on the 2045 Land Use Map includes the zoning district Office and Institutional-Conditional Zoning (O&I-CZ) and the Apex Town Council has further considered that the proposed rezoning to Office and Institutional-Conditional Zoning (O&I-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 zoning conditions will allow complimentary development adjacent to existing healthcare facilities while also providing provisions for future access to adjacent properties to the west and south; and

WHEREAS, the Apex Town Council by a vote of 5 to 0 approved Application #23CZ24 rezoning the subject tract located at 1405 and 1407 Zeno Road from Residential Agricultural (RA) to Office and Institutional-Conditional Zoning (O&I-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 Residential Agricultural (RA) to Office and Institutional-Conditional Zoning (O&I-CZ) District, subject to the conditions stated herein.

Ordinance Amending the Official Zoning District Map #23CZ24

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. Medical or dental office or clinic | 6. Real estate sales |
| 2. Medical or dental laboratory | 7. Health/fitness center or spa |
| 3. Office, business or professional | 8. Barber/beauty shop |
| 4. Pharmacy % | 9. Tailor shop |
| 5. Personal service % | 10. Restaurant, general % |

Zoning Conditions:

1. The project shall comply with the following architectural conditions
 - a. The predominant exterior building materials shall be high quality materials, including:
 - i. Brick masonry;
 - ii. Decorative concrete block (either integrally colored or textured);
 - iii. Stone accents;
 - iv. Aluminum storefronts with anodized or pre-finished colors;
 - v. EIFS cornices, and parapet trim; and/or
 - vi. Precast concrete
 - b. EIFS or synthetic stucco shall not be used in the first forty (40) inches above grade.
 - c. The building exterior shall have more than one material color.
 - d. The building shall have more than one parapet height.
 - e. The main entrance to the building shall be emphasized.
 - f. 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.
2. Post development peak runoff shall not exceed pre-development peak runoff for the 24- hour, 1-year, 10-year, and 25-year storm events in accordance with the Unified Development Ordinance.
3. The project shall install a minimum of 1 Low Impact Development Techniques as defined and approved by the NC Department of Environmental Quality. The specific type of LID technique shall be reviewed and approved by the Water Resources Department at site or subdivision plan review.
4. The project shall increase biodiversity within perimeter buffers, common owned open space, and other landscape areas by providing a variety of native and adaptive species for the canopy, understory and shrub levels. A minimum of 50% of the species selected shall be nativar or a native of North Carolina.
5. No invasive species shall be permitted. No single species of tree or shrub shall constitute more than 20% of the plant material of its type within a single development site.
6. To reduce irrigation requirements, the project shall select and plant only warm season grasses.
7. The project shall install signage adjacent to wooded or natural condition Resource Conservation Area. The signage shall indicate that the area is RCA and is to be preserved in perpetuity and not disturbed.
8. The project shall provide no less than 2 electric vehicle charging spaces.
9. The exterior lighting for all commercial buildings and parking lots will consist entirely of LED fixtures.

Ordinance Amending the Official Zoning District Map #23CZ24

10. On the lighting plan, the average footcandle measurement for parking, building lighting and driveways shall be at least 0.5 footcandles lower than the UDO requires.
11. The project shall provide for a vehicular access easement to the south for future access to Olive Chapel Road, subject to Apex engineering staff review and approval at the time of site plan submittal.
12. Each building constructed with heated floor area shall be pre-configured with conduit for solar PV systems.
13. Site development of the rezoned land shall construct frontage widening along Zeno Road based on a 3-lane 41' back-to-back curb and gutter roadway. Access to Zeno Road shall be a 27' back to back private access driveway within a public access easement; the public access easement shall be wide enough to encompass the access road and sidewalk. Access to Zeno Road shall be located approximately 330 feet west of Healthplex Way and stub to the western property boundary aligned with a future extension of Grande Maison Drive, subject to Apex engineering staff review and approval at the time of site plan submittal.
14. A cross access easement to 1409 Zeno Road shall be allowed through the buffer with the location subject to Apex engineering staff review and approval at the time of site plan submittal of the subject property.

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.

TOWN OF APEX

Jacques K. Gilbert
Mayor

ATTEST:

Allen Coleman, CMC, NCCCC
Town Clerk

APPROVED AS TO FORM:

Town Attorney