

**STATEMENT OF TOWN COUNCIL AND ORDINANCE AMENDING THE OFFICIAL ZONING DISTRICT MAP OF THE TOWN OF APEX TO CHANGE THE ZONING OF APPROXIMATELY 103.42 ACRES LOCATED AT 8633, 8635, 8637, 8639, 8649, 8705, 8709, and 8717 CASTLEBERRY ROAD AND 8309 SERENITY TRAIL FROM PLANNED UNIT DEVELOPMENT-CONDITIONAL ZONING (PUD-CZ #23CZ04) AND WAKE COUNTY RESIDENTIAL-80W (R-80W) ZONING TO PLANNED UNIT DEVELOPMENT-CONDITIONAL ZONING (PUD-CZ)**

**#23CZ21**

**WHEREAS**, Matthew Carpenter, Parker Poe/Inspire Commercial, LLC, applicant (the “Applicant”), submitted a completed application for a conditional zoning on the 1st day of November 2023 (the “Application”). The proposed conditional zoning is designated #23CZ21;

**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 #23CZ21 before the Planning Board on the 11<sup>th</sup> day of March 2024;

**WHEREAS**, the Apex Planning Board held a public hearing on the 11<sup>th</sup> day of March 2024, gathered facts, received public comments and formulated a recommendation regarding the application for conditional zoning #23CZ21. A motion was made by the Apex Planning Board to recommend approval; the motion passed by a vote of 8 to 0 for the application for #23CZ21;

**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 #23CZ21 before the Apex Town Council on the 9<sup>th</sup> day of April 2024;

**WHEREAS**, the Apex Town Council held a public hearing on the 9<sup>th</sup> day of April 2024. June Cowles, 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 #23CZ21 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 Map and other adopted plans for the 89.90 acres Castleberry Reserve area and not consistent with the 2045 Land Use Plan and other adopted plans for the additional 13.86 acre parcel in that: the 2045 Land Use Map designates this additional 13.86 acre area Rural Density Residential and approval of this rezoning will automatically amend the 2045 Land Use Map to Low Density Residential. This rezoning includes the zoning district Planned Unit Development-Conditional Zoning (PUD-CZ) with a maximum density of 1.65 units per acre. The rezoning to Planned Unit Development-Conditional Zoning (PUD-CZ) will provide the flexibility to accommodate the growth in population 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 Planned Unit Development-Conditional Zoning (PUD-CZ) rezoning includes the 450-foot buffer along the protected open space to the south recommended by the North Carolina Wildlife Resources Commission and the Environmental Advisory Board, a variable 250-foot buffer along the eastern property line adjacent to the protected open space, preserves 25% of the existing tree canopy, and two (2) affordable housing units. The rezoning is compatible with the surrounding neighborhood character, as it includes comparable lot sizes, lot widths, and setbacks. Furthermore, the PUD Plan includes off-site pedestrian improvements that will improve pedestrian safety along Castleberry Road and Wimberly Road and provide an improved connection to the American Tobacco Trail.

**WHEREAS**, the Apex Town Council by a vote of \_\_ to \_\_ approved Application #23CZ21 rezoning the subject properties located at 8633, 8635, 8637, 8639, 8649, 8705, 8709, and 8717 Castleberry Road and 8309 Serenity Trail from Planned Unit Development-Conditional Zoning (PUD-CZ #23CZ04) and Wake County Residential-80W (R-80W) to Planned Unit Development-Conditional Zoning (PUD-CZ).

**Ordinance Amending the Official Zoning District Map #23CZ21**

**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 Planned Unit Development-Conditional Zoning (PUD-CZ #23CZ04) and Wake County Residential -80W (R-80W) to Planned Unit Development-Conditional Zoning (PUD-CZ) District, subject to the conditions stated herein.

**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 changes ordained the zoning by this Ordinance.

**Section 4:** The "Rezoned Lands" are subject to the conditions in Attachment "B" Castleberry Reserve PUD 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 \_\_\_\_\_ 2024.

**TOWN OF APEX**

\_\_\_\_\_  
Jacques K. Gilbert  
Mayor

**ATTEST:**

\_\_\_\_\_  
Allen Coleman, CMC, NCCCC  
Town Clerk

**APPROVED AS TO FORM:**

\_\_\_\_\_  
Town Attorney