

**STATEMENT OF TOWN COUNCIL AND ORDINANCE AMENDING THE OFFICIAL ZONING DISTRICT MAP OF THE TOWN OF APEX TO CHANGE THE ZONING OF APPROXIMATELY 2.27 ACRES LOCATED AT 1010 TINGEN ROAD FROM RESIDENTIAL AGRICULTURAL (RA) TO HIGH DENSITY MULTI-FAMILY RESIDENTIAL-CONDITIONAL ZONING (HDMF-CZ)**

**#21CZ27**

**WHEREAS**, Joseph V. Iannone, 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 #21CZ27;

**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 #21CZ27 before the Planning Board on the 12<sup>th</sup> day of December 2022;

**WHEREAS**, the Apex Planning Board held a public hearing on the 12<sup>th</sup> day of December 2022, gathered facts, received public comments and formulated a recommendation regarding the application for conditional zoning #21CZ27. A motion was made by the Apex Planning Board to recommend approval; the motion passed unanimously for the application for #21CZ27;

**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 #21CZ27 before the Apex Town Council on the 10<sup>th</sup> day of January 2023;

**WHEREAS**, the Apex Town Council held a public hearing on the 10<sup>th</sup> day of January 2023. Shelly Mayo, 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 #21CZ27 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 Medium/High Density Residential. This designation on the 2045 Land Use Map includes the zoning district High Density Multi-Family Residential-Conditional Zoning (HDMF-CZ) and the Apex Town Council has further considered that the proposed rezoning to High Density Multi-Family Residential-Conditional Zoning (HDMF-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 provide affordable housing, consistent with the goals of Advance Apex and the Apex Affordable Housing Plan. The proximity of the site to schools, transit, and downtown make it an ideal location for affordable housing. The reduction in buffer width and change from 10-foot side path to 5-foot sidewalk is consistent with the draft Affordable Housing Incentive Zoning Manual. The proposed townhome use is consistent with the townhome development to the south. The rezoning will encourage compatible development of the property and increase the tax base; and

**WHEREAS**, the Apex Town Council by a vote of 4 to 0 approved Application #21CZ27 rezoning the subject tract located at 1010 Tingen Road from Residential Agricultural (RA) to High Density Multi-Family Residential-Conditional Zoning (HDMF-CZ).

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

## **Ordinance Amending the Official Zoning District Map #21CZ27**

**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 High Density Multi-Family Residential-Conditional Zoning (HDMF-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 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. Townhouse                 | 5. Park, passive                |
| 2. Multi-family or apartment | 6. Greenway                     |
| 3. Utility, minor            | 7. Recreation facility, private |
| 4. Park, active              |                                 |

### **Zoning Conditions:**

1. Residential architectural standards:
  - a. Vinyl siding is not permitted; however, vinyl windows, decorative elements and trim are permitted.
  - b. The roofline cannot be a single mass; it must be broken up horizontally and vertically between every unit.
  - c. For the homes, roof pitch shall be 5:12 or greater for 75% of the building designs.
  - d. Garage doors must have windows, decorative details or carriage-style adornments on them.
  - e. Front facades shall have horizontal relief achieved using recesses and projections.
  - f. A varied color palette shall be utilized on homes throughout the subdivision and shall include varied trim, shutter, and accent color complementing the siding color.
  - g. The rear and side elevations of the units that can be seen from the right-of-way shall have trim around the windows.
  - h. The visible side of a townhome on a corner lot facing the public street shall contain at least 3 decorative elements such as, but not limited to, the following elements:

• Bay window	• Wrap-around porch or side porch
• Recessed window	• Two or more building materials
• Decorative window	• Decorative brick/stone
• Trim around the windows	• Decorative trim

## Ordinance Amending the Official Zoning District Map #21CZ27

- Decorative shake
- Decorative air vents on gables
- Decorative cornice
- Column on gable
- Portico
- Balcony
- Dormer
- Decorative gable

2. A 10' Type A Landscape Buffer is proposed along adjacent property lines. A 30' Type B Town of Apex Throughfare Street buffer along Tingen Road is proposed.
3. The development shall include a minimum of two (2) signs identifying environmentally sensitive areas to discourage pet waste and chemical use in the vicinity.
4. The development shall provide diverse and abundant pollinator sources (i.e., larval host plants, nectar, pollen, berries, and blooming plants) that bloom in succession from spring to fall. Species shall be selected from the Design and Development Manual or otherwise approved by Planning staff.
5. The development shall provide warm season grasses throughout the development as listed in the Design and Development Manual or otherwise approved by Planning staff.
6. Each dwelling unit shall be pre-configured with conduit for a future solar energy system.
7. The developer shall provide at least two (2) pet waste stations within common open space.
8. Access to the property shall be provided by a right-in/right-out movement located approximately 150' north of Harbor Haven Drive as reviewed by the Town of Apex and NCDOT.
9. The project shall be one-hundred percent (100%) affordable housing through a partnership with an affordable housing provider. Said provider shall establish the housing affordability standards to provide residential units to buyers making less than one-hundred percent (100%) of the Area Median Income (AMI) for the Raleigh MSA. The Affordable Housing Units shall be occupied by low or median-income households earning no more than one-hundred percent (100%) of the Raleigh, NC MSA AMI, adjusted for family size as most recently published by the U.S. Department of Housing and Urban Development (HUD). The Affordable Housing Units shall include a minimum affordability period of no less than ten (10) years (the "Affordable Period"). Examples of an Affordable Housing Provider include, without limitation, Habitat for Humanity of Wake County, the White Oak Foundation, DHIC, or a similar entity identified prior to construction of the new residential units.
10. Existing sidewalk along Tingen Road is sufficient and construction and/or fee-in-lieu for the 10' Side Path identified on the Bicycle Pedestrian System Plan Map shall not be required.
11. Future stub street extensions shall be provided to the west (PIN 0741-26-1618) and to the north (PIN 0741-26-6820).

**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."

**Ordinance Amending the Official Zoning District Map #21CZ27**

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

This the \_\_\_\_ day of \_\_\_\_\_ 2023.

**TOWN OF APEX**

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Jacques K. Gilbert  
Mayor

**ATTEST:**

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Allen Coleman, CMC, NCCCC  
Town Clerk

**APPROVED AS TO FORM:**

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Town Attorney