

**STATEMENT OF TOWN COUNCIL AND ORDINANCE AMENDING THE OFFICIAL ZONING DISTRICT MAP OF THE TOWN OF APEX TO CHANGE THE ZONING OF APPROXIMATELY 0.233 ACRES LOCATED AT 309 N SALEM STREET FROM MIXED OFFICE-RESIDENTIAL-RETAIL-CONDITIONAL ZONING (MORR-CZ #08CZ10) TO MIXED OFFICE-RESIDENTIAL-RETAIL-CONDITIONAL ZONING (MORR-CZ) #25CZ03**

**WHEREAS**, Barry Simmons, applicant (the “Applicant”), submitted a completed application for a conditional zoning on the 29<sup>th</sup> day of January 2025 (the “Application”). The proposed conditional zoning is designated #25CZ03;

**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 #25CZ03 before the Planning Board on the 12<sup>th</sup> day of May 2025;

**WHEREAS**, the Apex Planning Board held a public hearing on the 12<sup>th</sup> day of May 2025, gathered facts, received public comments and formulated a recommendation regarding the application for conditional zoning #25CZ03. A motion was made by the Apex Planning Board to recommend approval; the motion passed unanimously for the application for #25CZ03;

**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 #25CZ03 before the Apex Town Council on the 27<sup>th</sup> day of May 2025;

**WHEREAS**, the Apex Town Council held a public hearing on the 27<sup>th</sup> day of May 2025. Joshua Killian, 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 #25CZ03 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 Mixed Use: Medium Density Residential/Office Employment/Commercial Services. 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;

**WHEREAS**, the Apex Town Council finds that the approval of the rezoning is reasonable and in the public interest in that: The proposed zoning district and conditions allow the property to be used in a manner that is consistent with the mixed use character of the Downtown area; and

**WHEREAS**, the Apex Town Council by a vote of 5 to 0 approved Application #25CZ03 rezoning the subject tract located at 309 N Salem Street from Mixed Office-Residential-Retail-Conditional Zoning (MORR-CZ #08CZ10) 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 Mixed Office-Residential-Retail-Conditional Zoning

## Ordinance Amending the Official Zoning District Map #25CZ03

(MORR-CZ #08CZ10) to Mixed Office-Residential-Retail-Conditional Zoning (MORR-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. Permitted Uses:                  | c. Real estate sales                                    |
| a. Single-Family                    | d. Heath/fitness center or spa (limited to 850 sq. ft.) |
| b. Office, business or professional |   |

### Zoning Conditions:

1. All structures listed as "contributing" to the National Register Historic District shall follow the latest edition of the "Secretary of Interior Standards for Rehabilitation and Guidelines for Rehabilitating Historic Buildings".

**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 \_\_\_\_\_ 2025.

**TOWN OF APEX**

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Jacques K. Gilbert  
Mayor

**Ordinance Amending the Official Zoning District Map #25CZ03**

**ATTEST:**

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Allen Coleman, CMC, NCCCC  
Town Clerk

**APPROVED AS TO FORM:**

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Town Attorney