

STATEMENT OF TOWN COUNCIL AND ORDINANCE AMENDING THE OFFICIAL ZONING DISTRICT MAP OF THE TOWN OF APEX TO CHANGE THE ZONING OF APPROXIMATELY 132.11 ACRES LOCATED AT 104 NC HWY 751, 106 OFF NC HWY 751, AND OFF NC HWY 751 FROM CHATHAM COUNTY RESIDENTIAL DISTRICT 1 (R-1) TO LIGHT INDUSTRIAL-CONDITIONAL ZONING (LI-CZ)

#22CZ02

WHEREAS, Maggie Houston, Beacon Development, owner/applicant (the “Applicant”), submitted a completed application for a conditional zoning on the 1st day of January 2022 (the “Application”). The proposed conditional zoning is designated #22CZ02;

WHEREAS, the Director of Planning and Community Development for the Town of Apex, Dianne Khin, caused proper notice to be given (by publication and posting) of a public hearing on #22CZ02 before the Planning Board on the 14th day of March 2022;

WHEREAS, the Apex Planning Board held a public hearing on the 14th day of March 2022, gathered facts, received public comments and formulated a recommendation regarding the application for conditional zoning #22CZ02. A motion was made by the Apex Planning Board to recommend approval; the motion passed unanimously for the application for #22CZ02;

WHEREAS, pursuant to N.C.G.S. §160D-601 and Sec. 2.2.11.E of the Unified Development Ordinance, the Director of Planning and Community Development caused proper notice to be given (by publication and posting), of a public hearing on #22CZ02 before the Apex Town Council on the 22nd day of March 2022;

WHEREAS, the Apex Town Council held a public hearing on the 22nd day of March 2022. Amanda Bunce, Current Planning Manager, presented the Planning Board's recommendation at the public hearing;

WHEREAS, all persons who desired to present information relevant to the application for #22CZ02 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 Industrial Employment. This designation on the 2045 Land Use Map includes the zoning district Light Industrial-Conditional Zoning (LI-CZ) and the Apex Town Council has further considered that the proposed rezoning to Light Industrial-Conditional Zoning (LI-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: approval of the rezoning is reasonable and in the public interest because the proposed Light Industrial-Conditional Zoning (LI-CZ) district will allow for non-residential development in an area that anticipates non-residential uses, provides a dedication of right-of-way for the future interchange planned for US Hwy 64 and NC 751, and will allow development that will generate jobs and increase the tax base.; and

WHEREAS, the Apex Town Council by a vote of ___ to ___ approved Application #22CZ02 rezoning the subject tract located at 104 NC Hwy 751, 106 Off NC Hwy 751, Off NC Hwy 751 from Chatham County Residential District 1 (R-1) to Light Industrial-Conditional Zoning (LI-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.”

Ordinance Amending the Official Zoning District Map #22CZ02

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 Chatham County Residential District R-1 (R-1) to Light Industrial-Conditional Zoning (LI-CZ) District, subject to the conditions stated herein.

Section 3: The Director of Planning and Community Development 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:

Limitation of Uses:

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.

Permitted Uses and Limitations:

- | | |
|--|---|
| 1. Government Service | 18. Parking Lot, Commercial |
| 2. Communication Tower, Commercial (S) | 19. Glass Sales |
| 3. Communication Tower, Public Safety (S) | 20. Health/Fitness Center or Spa |
| 4. Utility, Minor | 21. Truck Terminal |
| 5. Wireless Support Structure | 22. Building Supplies, Wholesale |
| 6. Wireless Communication Facility | 23. Laboratory, Industrial Research |
| 7. Broadcasting Station (radio & television) | 24. Machine or Welding Shop |
| 8. Radio and Television Recording Studio | 25. Warehousing |
| 9. Commissary | 26. Woodworking or Cabinetmaking |
| 10. Restaurant, General | 27. Wholesaling, General |
| 11. Dispatching Office | 28. Brewery |
| 12. Medical or Dental Office or Clinic | 29. Distillery |
| 13. Medical or Dental Laboratory | 30. Manufacturing and Processing |
| 14. Office, Business or Professional | 31. Manufacturing and Processing, Minor |
| 15. Pilot Plant | 32. Microbrewery |
| 16. Research Facility | 33. Microdistillery |
| 17. Parking Garage, Commercial | |

Use Conditions:

1. Machine or welding shop: This use is allowed with the exception of welding associated with automobiles.
2. Building supplies, wholesale: This use shall not exceed 200,000 square feet and shall not include more than 15% of the building's square footage as outdoor storage.
3. The use Glass Sales shall be all indoors except what is stored on trucks. Outdoor truck parking must be fully screened from any public right-of-way.

Environmental Conditions:

1. Existing trees greater than 18” in diameter that are removed by site development shall be replaced by planting a 1.5” caliper native tree from the Town of Apex Design and Development Manual

Ordinance Amending the Official Zoning District Map #22CZ02

either on-site or at an alternative location approved by Town Planning Staff, above and beyond standard UDO requirements.

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 at least one (1) sign per SCM about not using fertilizer near an SCM drainage area. The sign(s) shall be installed in locations that are publicly accessible, such as adjacent to amenity centers, sidewalks, greenways, or side paths.
4. The project shall preserve a minimum of 15% of the existing tree canopy. Preserved areas may include, but are not limited to, RCA, perimeter buffers, riparian buffers, and/or common area in the development.
5. To improve energy efficiency, the project shall plant evergreen trees on the northern side of all buildings to act as a windbreak. This shall not apply where loading docks are proposed along a building facade.
6. To improve energy efficiency, a combination of large and small deciduous shade trees shall be planted on the southern side of any buildings. This shall not apply where loading docks are proposed along a building facade.
7. The project shall plant only drought tolerant native plants. Landscaping shall be coordinated with and approved by the Planning Department at the time of Site Plan or Master Subdivision Plan review.
8. At least (1) information sign or other marking shall be provided at the boundary of an area dedicated as Resource Conservation Area (RCA) indicating that the area beyond the sign is RCA and is not to be disturbed.
9. The project shall install light timers or other smart lighting technology on at least 50% of the fixtures in the parking lot so they are automatically turned off or reduced in level of lighting when the business is closed.
10. Outdoor lighting shall be shielded in a way that focuses lighting to the ground.

Architectural Conditions - Industrial

1. EIFS or synthetic stucco shall not be used in the first four feet above grade and shall be limited to only 25% of each building façade.
2. The building shall have more than one parapet height.
3. Windows and glazing shall be divided to be either square or vertical in proportion so that each section is taller than it is wide.
4. The main entry shall be human scaled and emphasized through the use of features such as, but not limited to, columns, piers, windows, recessed entries, sheltering elements, rooflines, trim, color change, material change and masonry patterns. Recessed arcades, entries flush with the building face and small entries without adjacent windows shall be avoided.

Architectural Conditions - Commercial

1. Buildings shall have vertical proportions. Expanses of blank wall shall not exceed sixty (60) feet in width without being interrupted with an architectural feature such as, but not limited to, a column, recess in or projection from the building façade. Permitted setbacks can be used to articulate bays of a building to break up its width. Architectural features such as, but not limited to, columns, piers, rooflines, and brick patterns can be used to divide and create vertical orientation on building facades. This would also include reveals in concrete tilt construction with integrated thin brick and contrasting paint colors, which add visual interest. The percentage of brick required on the facades will be 65 percent for a single story building, 50 percent for a two story building, and only the first floor for a three story building.
2. The main entry shall be human scaled and emphasized through the use of features such as, but not limited to, columns, piers, windows, recessed entries, sheltering elements, rooflines, trim, color

Ordinance Amending the Official Zoning District Map #22CZ02

- change, material change and masonry patterns. Recessed arcades, entries flush with the building face and small entries without adjacent windows shall be avoided.
3. Buildings on corners are to be treated as gateways with quality design.
 4. Corner buildings shall match or exceed the height of adjacent buildings.
 5. Corner buildings shall have two facades which maintain a relationship to each other although they do not need to be identical.
 6. The orientation of drive-thru lanes, pick-up windows, and other utilitarian building functions should not be oriented toward or located adjacent the street. If drive-thru lanes must be located adjacent to a street, they shall be screened through the use of low walls and/or landscaping. Pick-up windows shall be de-emphasized through screening and/or architectural elements.
 7. Each façade shall have a rhythm that is repeated through the pattern of wall and openings. The building façade shall have an identifiable base, body, and cap with horizontal elements separating these components. The body of the building shall constitute a minimum of 50% of the total building height. Buildings shall not have blank side walls creating a false front appearance.
 8. The street level of the facades shall provide human scaled entries including, but not limited to, recessed entries, sheltering elements and adjacent storefront windows. Facades shall incorporate a minimum of two (2) continuous details refined to the scale of twelve (12) inches or less within the first ten (10) feet of the building wall, measured vertically at street level. Recessed arcades, entries flush with the building face, and small entries without adjacent windows shall be avoided.
 9. Windows and storefront glazing shall be divided to be either square or vertical in proportion so that each section is taller than it is wide.
 10. Simple parapet roof edges with varying coping shall be used on most buildings. The roofline height shall vary from building to building as well as within buildings with wide street frontage.
 11. The building shall have more than one parapet height.
 12. Roof features may include hip roofs or awnings with metal or shingle roofs.
 13. Buildings shall be architecturally compatible by way of colors and use of materials. The building exterior shall have more than one material color.
 14. The exterior materials shall include a combination of building materials. The primary (front) façade of the main buildings to be considered include:
 - a. Brick masonry
 - b. Decorative concrete block (either integrally colored or textured)
 - c. Stone accents
 - d. Aluminum storefronts with anodized or pre-finished colors.
 - e. EIFS cornices and parapet trim.
 - f. Precast concrete
 - g. Concrete tilt with a base wall paint color in conjunction with varying complimentary accent paint colors and integral thin brick, with associative percentages as outlined in item 1 above.
 15. Exterior materials that shall not be allowed are as follows:
 - a. Vinyl siding
 - b. Painted, smooth faced concrete block (decorative blocks are acceptable)
 - c. Metal walls
 16. EIFS or synthetic stucco shall not be used in the first four feet above grade and shall be limited to only 25% of each building façade
 17. Soffit and fascia materials shall be EIFS, architectural metal panels (ACM), or tongue and groove wood.

Transportation Conditions

1. Development shall dedicate public right-of-way for the future interchange at US 64 and NC 751 consistent with the area shown in Exhibit 1. This area is based on the outermost limit of interchange concepts evaluated by the North Carolina Department of Transportation at the time of rezoning. This dedication shall be included in development plans and occur at the time of

Ordinance Amending the Official Zoning District Map #22CZ02

Subdivision Final Plat or Site Plan Final Plat, whichever occurs first, for any parcel(s) adjacent to US 64 and NC 751 as applicable. If NCDOT has approved an interchange design prior to the first Subdivision Final Plat or Site Plan Final Plat that is less than shown on Exhibit 1, the development shall only be required to dedicate the right-of-way shown in the approved interchange design.

- 2. Development shall dedicate a 60 foot right-of-way with 30' Public Road Construction Easement on each side for a public roadway extending from NC 751 to the eastern boundary of the rezoned parcels. The location of the connection to NC 751 is subject to NCDOT and Town review and approval. The terminus at the eastern edge of the rezoned parcels is subject to Town review and approval. The right-of-way and Public Road Construction Easement shall be directly adjacent to the highway buffer of the right-of-way dedicated accommodating the future interchange at US 64 and NC 751. The development shall contribute a \$1,000,000 payment-in-lieu for the future construction of the collector road.
- 3. All lots within the development shall have frontage on a public street. The development shall construct a minimum of two stub street connections to adjacent parcels that have no frontage along public streets or only have frontage along NC 751. The location of the stub streets shall be subject to Town review and approval.

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 _____ 2022.

TOWN OF APEX

Mayor

ATTEST:

Interim Town Clerk

APPROVED AS TO FORM:

Town Attorney