

STATEMENT OF TOWN COUNCIL AND ORDINANCE AMENDING THE OFFICIAL ZONING DISTRICT MAP OF THE TOWN OF APEX TO CHANGE THE ZONING OF APPROXIMATELY 50.55 ACRES LOCATED AT 0 & 1341 PERRY ROAD FROM LIGHT INDUSTRIAL (LI) TO LIGHT INDUSTRIAL-CONDITIONAL ZONING (LI-CZ)

#24CZ08 0 & 1341 PERRY ROAD

WHEREAS, Matt Wetherell, Town of Apex Facilities & Grounds Manager, owner/applicant (the “Applicant”), submitted a completed application for a conditional zoning on the 1st day of May 2024 (the “Application”). The proposed conditional zoning is designated #24CZ08;

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 #24CZ08 0 & 1341 Perry Road before the Planning Board on the 10th day of June 2024;

WHEREAS, the Apex Planning Board held a public hearing on the 10th day of June 2024, gathered facts, received public comments and formulated a recommendation regarding the application for conditional zoning #24CZ08. A motion was made by the Apex Planning Board to recommend approval; the motion passed unanimously for the application for #24CZ08;

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 #24CZ08 before the Apex Town Council on the 25th day of June 2024;

WHEREAS, the Apex Town Council held a public hearing on the 25th day of June 2024. 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 #24CZ08 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 rezoning is partially inconsistent with the 2045 Land Use Plan and other adopted plans in that: The 2045 Land Use Map designates the site as Office Employment and Office Employment/Industrial Employment. However, the applicant proposes a rezoning to the Light Industrial-Conditional Zoning (LI-CZ) district, which is consistent with the Office Employment/Industrial Employment Land Use Map designation, but not consistent with Office Employment designation. In rezoning the properties as proposed, the portion of the 2045 Land Use Map that is designated as Office Employment will automatically be amended to Industrial Employment per NCGS 160D-605(a). The zoning change 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 permit the Town to provide government services to residents with zoning conditions that provide flexibility in development standards to account for the context of the site. The rezoning will also provide an increase to the buffer width required along the westernmost property line that is closest to residential uses; and

WHEREAS, the Apex Town Council unanimously voted to approve Application #24CZ08 rezoning the subject tract located at 0 & 1341 Perry Road from Light Industrial (LI) to Light Industrial-Conditional Zoning (LI-CZ).

Ordinance Amending the Official Zoning District Map #24CZ08

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 Light Industrial (LI) to Light Industrial-Conditional Zoning (LI-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. An "S" indicates that a use category or specific use type is allowed only in accordance with the procedures and standards of UDO Sec. 2.3.5 Special Use Permit.

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| 1. Yard waste transfer station (S) | 4. Communication tower, commercial (S) |
| 2. Utility, minor | 5. Communication tower, public safety (S) |
| 3. Government service | 6. Greenway |

Zoning Conditions:

1. Along the western property line, there is an existing 100-foot Town of Apex Greenway and Utility Easement. A 30-foot Type A buffer shall be provided along the eastern edge of that easement.
2. A 60-foot Type A buffer will be provided along US HWY 1.
3. A variable width Type A buffer of no less than 10-foot and no greater than 60-foot will be provided along the common property line with 0 Tingen Rd (PIN 0741331566).
4. The yard waste pile shall have a 25-foot setback from 0 Tingen Rd (PIN 0741331566) and five (5) feet from the current right-of-way of Perry Road.
5. The yard waste pile shall be limited to 30-feet in height, with a slope no greater than 2:1.
6. The right-of-way improvements required by the UDO shall not be required along Perry Rd for access to this site.
7. If a tree located within the buffer has a portion of the critical root zone extending outside of that buffer, the Town shall not be required to protect the critical root zone outside the buffer.
8. No buffer along the current right-of-way of Perry Road shall be required.
9. No building shall be required for any use with outdoor storage.
10. Resource Conservation Area (RCA) within a perimeter buffer that is shown on a Minor or Major Site Plan may be relocated through a Site Plan revision to accommodate future development with adjoining properties.
11. Existing lighting shall be considered legally established non-conforming lighting and shall be

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allowed to remain until such time as the property is redeveloped.

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