

**STATEMENT OF TOWN COUNCIL AND ORDINANCE AMENDING THE OFFICIAL ZONING DISTRICT MAP
OF THE TOWN OF APEX TO CHANGE THE ZONING OF APPROXIMATELY 4.067 ACRES LOCATED AT 2228
KELLY ROAD FROM RESIDENTIAL AGRICULTURAL (RA) TO MEDIUM DENSITY RESIDENTIAL-
CONDITIONAL ZONING (MD-CZ)**

#24CZ05

WHEREAS, Matthew Carpenter, Parker Poe, owners/applicant (the “Applicant”), submitted a completed application for a conditional zoning on the 1st day of March 2024 (the “Application”). The proposed conditional zoning is designated #24CZ05;

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 #24CZ05 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 #24CZ05. A motion was made by the Apex Planning Board to recommend approval; the motion passed unanimously for the application for #24CZ05;

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 #24CZ05 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. Lauren Staudenmaier, 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 #24CZ05 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 Density Residential. This designation on the 2045 Land Use Map includes the zoning district Medium Density Residential-Conditional Zoning (MD-CZ) and the Apex Town Council has further considered that the proposed rezoning to Medium Density Residential-Conditional Zoning (MD-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 proposed rezoning will provide stricter environmental conditions than the UDO requires, architectural conditions to encourage development that is compatible with the surrounding development, and appropriate transportation improvements based on the type of future use; and

WHEREAS, the Apex Town Council by a vote of 4 to 0 approved Application #24CZ05 rezoning the subject tract located at 2228 Kelly Road from Residential Agricultural (RA) to Medium Density Residential-Conditional Zoning (MD-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

Ordinance Amending the Official Zoning District Map #24CZ05

zoning classification of the “Rezoned Lands” from Residential Agricultural (RA) to Medium Density Residential-Conditional Zoning (MD-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.

Permitted Uses:

- | | |
|-------------------------------|----------------------------------|
| 1. Church or place of worship | 6. Townhouse, detached |
| 2. Accessory apartment | 7. Greenway |
| 3. Duplex | 8. Park, active |
| 4. Family care home | 9. Park, passive |
| 5. Single-family | 10. Recreation facility, private |

Zoning Conditions:

1. There shall be a maximum of nineteen (19) residential units on the property.
2. The following architectural conditions shall apply to development of new non-residential buildings on the property:
 - a. Each building exterior shall have more than one material and/or color.
 - b. The predominant exterior building materials shall be high quality materials, including, but not limited to:
 - i. Brick masonry
 - ii. Decorative concrete block
 - iii. Stone accents
 - iv. EIFS cornices and parapet trim
 - v. Precast concrete
 - vi. Fiber-reinforced concrete (FRC)
 - c. Exterior Materials as follows: Vinyl siding, painted smooth face concrete block, and metal walls shall not be allowed. Decorative concrete blocks are acceptable.
 - d. 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.
 - e. 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, window, or 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.
 - f. The main entrance to each building shall be emphasized.
3. The following architectural conditions shall apply to development of new single-family and detached townhouse units on the property:
 - a. Vinyl siding is not permitted; however, vinyl windows, decorative elements and trim are permitted.
 - b. The roof shall be pitched at 5:12 or greater for 75% of the building designs.

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- c. Eaves shall project at least 12 inches from the wall of the structure.
 - d. Garage doors shall have windows, decorative details or carriage-style adornments on them.
 - e. For single-family units, the garage shall not protrude more than 1 foot out from the front façade and front porch.
 - f. For single-family units, garages on the front façade of a home that faces the street shall not exceed 40% of the total width of the house and garage together.
 - g. The visible side of a home on a corner lot facing the public street shall contain at least 3 decorative elements such as, but not limited to, the following elements:
 - i. Windows
 - ii. Bay window
 - iii. Recessed window
 - iv. Decorative window
 - v. Trim around the windows
 - vi. Wrap around porch or side porch
 - vii. Two or more building materials
 - viii. Decorative brick/stone
 - ix. Decorative trim
 - x. Decorative shake
 - xi. Decorative air vents on gable
 - xii. Decorative gable
 - xiii. Decorative cornice
 - xiv. Column
 - xv. Portico
 - xvi. Balcony
 - xvii. Dormer
 - h. A varied color palette shall be utilized on homes throughout the subdivision to include a minimum of three color families for siding and shall include varied trim, shutter, and accent colors complementing the siding color.
 - i. For single-family units, entrances for units with front-facing single-car garages shall have a prominent covered porch/stoop area leading to the front door.
 - j. The rear and side elevations of the units that can be seen from the right-of-way shall have trim around the windows.
 - k. Front porches shall be a minimum of 6 feet deep.
 - l. No more than 25% of single-family lots may be accessed with J-driveways. There shall be no more than 3 such homes in a row on any single block. Any lots eligible for a J-driveway home shall be identified on the Final Plat.
4. The following architectural conditions shall apply to development of new duplex units on the property:
- a. Vinyl siding is not permitted, however vinyl windows, decorative elements and trim are permitted.
 - b. All units shall have a crawl space or a raised foundation which at a minimum, rises at least 20 inches from average grade across the front of the house to the finished floor level at the front door.
 - c. Garage doors must have windows, decorative details, or carriage style adornments on them.
 - d. Garages cannot protrude more than 1 foot from the front façade or front porch.
 - e. The width of the garage doors shall be no more than 60% of the total width of the house and garage together.
 - f. The rear and side elevations of the units that can be seen from the right of way shall have trim around the windows.
 - g. Eaves shall project at least 12 inches from the wall of the structure.
 - h. The visible side of a home on a corner lot facing the public street shall contain at least 3 decorative elements, such as, but not limited to, the following:
 - i. Windows
 - ii. Bay window
 - iii. Recessed window
 - iv. Decorative window
 - v. Trim around the windows
 - vi. Wrap around porch or side porch
 - vii. Two or more building materials
 - viii. Decorative brick/stone

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- ix. Decorative trim
 - x. Decorative shake
 - xi. Decorative air vents on gable
 - xii. Decorative gable
 - xiii. Decorative cornice
 - xiv. Column
 - xv. Portico
 - xvi. Balcony
 - xvii. Dormer
- i. The roofline must be broken up vertically between each unit.
 - j. All rear elevations shall include the following:
 - i. A change in roofline plus an additional projection on the rear façade such as, but not limited to, a bay window, cantilever, fireplace, or enclosed porch.
 - k. All units shall be two stories.
 - 5. The project shall install one (1) sign per Stormwater Control Measure to prohibit fertilizer in a location that is publicly accessible, such as adjacent to a sidewalk.
 - 6. At least 75% of newly installed plants shall be native or nativar species of North Carolina. Landscaping will be coordinated with and approved by the Planning Department at site or subdivision review.
 - 7. New landscaping shall include warm season grasses.
 - 8. If residential uses are developed on the property, the project shall install at least one pet waste station.
 - 9. Homeowner Association covenants shall not restrict the construction of accessory dwelling units.
 - 10. If residential uses are developed on the property, the project shall include a stub street to PIN 0731260620.
 - 11. If the property is developed for residential uses, driveway access shall be right-in/right-out only and driveway(s) shall be located a minimum distance of 250 feet from the intersection of Kelly Road and Holland Road, subject to Town of Apex and NCDOT approval.
 - 12. If a site plan and/or change of use application is filed to use the existing residential structure as a church or place of worship, site access may be:
 - a. from the existing driveway on Kelly Road and no road improvements shall be required; or
 - b. from a new full movement driveway on Holland Road subject to NCDOT approval of a driveway permit, and the existing driveway on Kelly Road shall be closed.
 - 13. If site plans are filed for a building 10,000 sf or greater in size, a full movement driveway shall be permitted on Holland Road, and development shall include the following:
 - a. Construction of an eastbound left turn lane on Holland Road starting west of the proposed site driveway and extending to the Holland Road/Kelly Road intersection, with a 100-foot taper, 100-foot full width lane, and break for the proposed site driveway.
 - b. Right of way dedication at the intersection of Holland Road and Kelly Road for a future 2x1 roundabout, subject to Town of Apex and NCDOT approval.
 - c. Roadway frontage widening for the length of the property's Holland Road frontage consistent with the 3-lane roadway section recommended by the Apex Transportation Plan.
 - d. Roadway frontage widening for the length of the property's Kelly Road frontage consistent with the 4-lane roadway section recommended by the Apex Transportation Plan.
 - 14. If site plans are filed for a building 10,000 sf or greater in size, the owner shall construct an opaque fence with a minimum height of 6 feet within the buffer along PIN 0731266382 adjacent to an existing or proposed parking lot.

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.

Ordinance Amending the Official Zoning District Map #24CZ05

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