

STATEMENT OF TOWN COUNCIL AND ORDINANCE AMENDING THE OFFICIAL ZONING DISTRICT MAP OF THE TOWN OF APEX TO CHANGE THE ZONING OF APPROXIMATELY 51.82 ACRES LOCATED AT 0 E WILLIAMS ST FROM RESIDENTIAL AGRICULTURAL (RA) TO LIGHT INDUSTRIAL-CONDITIONAL ZONING (LI-CZ) AND MEDIUM DENSITY RESIDENTIAL-CONDITIONAL ZONING (MD-CZ)

#25CZ09

WHEREAS, Gray Harrell, Beacon Development; applicant (the “Applicant”), submitted a completed application for a conditional zoning on the 27th day of June 2025 (the “Application”). The proposed conditional zoning is designated #25CZ09;

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 #25CZ09 before the Planning Board on the 8th day of September 2025;

WHEREAS, the Apex Planning Board held a public hearing on the 8th day of September 2025, gathered facts, received public comments and formulated a recommendation regarding the application for conditional zoning #25CZ09. A motion was made by the Apex Planning Board to recommend approval; the motion passed unanimously for the application for #25CZ09;

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 #25CZ09 before the Apex Town Council on the 23rd day of September 2025;

WHEREAS, the Apex Town Council held a public hearing on the 23rd day of September 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 #25CZ09 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/Office Employment and Medium Density Residential. These designations on the 2045 Land Use Map includes the zoning districts Light Industrial-Conditional Zoning (LI-CZ) and Medium Density Residential-Conditional Zoning (MD-CZ);

WHEREAS, the Apex Town Council finds that the approval of the rezoning is reasonable and in the public interest in that: The proposed will allow development of the property in a manner consistent with development to the North and allow for uses that will generate jobs and increase the tax base. This rezoning will limit development within environmentally sensitive areas and while providing areas closest to existing and anticipated residential areas of Horton Park as Resource Conservation Area; and

WHEREAS, the Apex Town Council by a vote of 4 to 1 approved Application #25CZ09 rezoning the subject tract located at 0 E Williams St from Residential Agricultural (RA) to Light Industrial-Conditional Zoning (LI-CZ) and 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 zoning classification of the “Rezoned Lands” from Residential Agricultural (RA) to Light Industrial-Conditional Zoning (LI-CZ) and 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.

Proposed Uses – Light Industrial-Conditional Zoning (LI-CZ)

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| 1. Government services | 29. Health/fitness center or spa |
| 2. Transportation facility | 30. Repair services, limited |
| 3. Veterinary clinic or hospital | 31. Retail sales, bulky goods |
| 4. Vocational school | 32. Retail sales, general (%) |
| 5. Utility, minor | 33. Studio for art |
| 6. Wireless support structure | 34. Upholstery shop |
| 7. Wireless communication facility | 35. Pet services |
| 8. Botanical garden | 36. Automotive Accessory Sales and Installation |
| 9. Entertainment, indoor | 37. Automotive paint or body shop |
| 10. Laboratory, industrial research | 38. Automotive parts |
| 11. Greenway | 39. Automotive service station |
| 12. Park, active | 40. Repair and maintenance, general |
| 13. Park, passive | 41. Truck terminal |
| 14. Broadcasting station (radio and television) | 42. Vehicle sales and rental, heavy |
| 15. Radio and television recording studio | 43. Building supplies, wholesale |
| 16. Commissary | 44. Contractor’s office and storage yard |
| 17. Restaurant, general | 45. Machine or welding shop |
| 18. Dispatching office | 46. Warehousing, general |
| 19. Medical or dental office or clinic | 47. Warehousing fulfillment center |
| 20. Medical or dental laboratory | 48. Woodworking or cabinetmaking |
| 21. Office, business or professional | 49. Wholesaling distribution center |
| 22. Research facility | 50. Brewery |
| 23. Parking garage, commercial | 51. Distillery |
| 24. Parking lot, commercial | 52. Manufacturing and processing |
| 25. Parking lot, public | 53. Manufacturing and processing, minor |
| 26. Artisan Studio | 54. Microbrewery |
| 27. Funeral home | 55. Microdistillery |
| 28. Glass sales | |

Proposed Uses – Medium Density Residential-Conditional Zoning (MD-CZ)

1. Utility, minor
2. Greenway

Environmental Conditions:

1. 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.

2. On site stormwater treatment shall also include Green Stormwater Infrastructure measures within the project limits. At least two of the following Green Stormwater Infrastructure measures shall be utilized in the project: bio-retention area; permeable pavement systems; and rainwater harvesting (cisterns). Educational signage will be displayed where Green Stormwater Infrastructure devices are located, and such locations shall be open to the public and community groups for educational purposes.
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 25% of the existing tree canopy.
5. Existing trees greater than 24" in diameter that are removed by site development shall be replaced by planting 1.5" caliper native tree from the Town of Apex Design and Development Manual either on-site or at an alternate location approved by Town Planning Staff, above and beyond UDO requirements.
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 ensure that 100% of the landscaping shall be native species. Landscaping shall be coordinated with and approved by the Planning Department at site or subdivision review.
8. No invasive species shall be permitted. No single species of tree or shrub shall constitute more than 20% of the plant material of its type within a single development site.
9. 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.
10. Outdoor lighting shall be shielded in a way that focuses lighting to the ground.
11. There shall be no tree clearing within the perennial stream riparian buffer zones with the exception of required Town of Apex utilities, storm drainage outfalls, greenways, and public street connections.
12. Any required public road crossing within a riparian buffer shall be narrowed to the greatest extent possible, subject to Town of Apex design requirements and staff approval, in order to limit environmental impacts.
13. The project shall install (2) publicly accessible pet waste stations in the development.
14. The installation of EV charging spaces shall not reduce the width of adjacent sidewalks to less than 5 feet.
15. EV charging spaces shall be located such that the cords shall not cause a trip hazard.
16. The MD-CZ zoning district will be allocated for Resource Conservation Area, except for areas dedicated for greenway and utility, minor use. This RCA area will be shown at the first Site Plan submittal.

Architectural Conditions – LI-CZ:

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 buildings shall have more than one parapet height.
3. 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.

Transportation Conditions:

1. Developer shall apply for all necessary state permits to allow for the construction of the public greenway across the subject property to connect to the existing public greenway near Gladsong

Drive. If the state permits are approved, the Development shall construct and dedicate the greenway through the entirety of the subject property. If the state permits are not approved, the Development shall construct and dedicate the greenway through the LI-CZ acreage and terminate the greenway within 150 linear feet of the MD-CZ zoning boundary and the development shall dedicate a greenway easement through the MD-CZ acreage.

2. Developer shall pay a fee in lieu for any portion of Jessie Drive that cannot be completed within the boundaries of the parcel due to physical constraints subject to review and approval by Town of Apex and based on an engineer's estimate.
3. Site access to the south of Jessie Drive shall be limited to one full movement intersection and one right in / right out access point. The right in / right out access point shall be located a minimum of 350 feet from the centerline of the Production Drive and Horton Park Drive Intersection. The full movement access point shall be located a minimum of 900 feet from the centerline of the Production Drive and Horton Park Drive Intersection.
4. A vehicular cross- access driveway or public street with 5-foot sidewalk shall be stubbed to the western boundary at the time of site plan(s) on both the north and south sides of Jessie Drive providing access to the aforementioned full movement intersection on Jessie Drive.

Use Conditions LI-CZ:

1. Development shall construct and dedicate the greenway through the LI-CZ acreage and terminate the greenway within 150 linear feet of the MD-CZ zoning boundary. The development shall dedicate a greenway easement through the MD-CZ acreage.
2. The following uses shall be prohibited within 300' east of PINs: 0751311392, 0751217546, and 0751209246: Machine or welding shop; Manufacturing and processing; Laboratory, industrial research; Manufacturing and processing, minor; Brewery; Distillery.
3. The following uses shall be prohibited within 300' east of PIN: 0751209246: Machine or welding shop; Manufacturing and processing; Laboratory, industrial research; Building supplies, wholesale; Manufacturing and processing, minor; Glass sales; Brewery; Distillery; Warehouse, general; Warehousing fulfillment center; Wholesaling distribution center.
4. The uses Transportation facility; and Truck terminal shall conform to the following conditions South of Jessie Drive:
 - All repair and maintenance activities shall be conducted within a fully enclosed structure.
 - Outside storage areas must be fully screened from off-site view by a solid fence and landscaping on the outside of the fence and comply with the outdoor storage standards of UDO Sec. 4.1.2 and buffer standards of UDO Sec. 8.2.6.
 - No service bay door shall be oriented towards any adjacent public street, or located within 300' of east of PINs: 0751311392, 0751217546, and 0751209246.
5. The use Vehicle Sales and Rental, Heavy shall conform to the following conditions:
 - All repair and maintenance activities shall be conducted within an enclosed structure and screened from the view of adjacent lands by solid fencing, dense vegetative buffers, earthen berms, and/or other effective screening
 - Outside storage areas must be fully screened from off-site view by a solid fence and landscaping on the outside of the fence and comply with the buffer standards of Sec. 8.2.6.
 - No service bay door shall be oriented towards any adjacent public street, or located within 300' of east of PINs: 0751311392, 0751217546, and 0751209246.
 - No display of vehicles for sale shall be located within 300' of PINs 0751311392, 0751217546, and 0751209246 nor within 300' of the Jessie Drive right-of-way.

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

Jacques K. Gilbert
Mayor

ATTEST:

Allen Coleman, CMC, NCCCC
Town Clerk

APPROVED AS TO FORM:

Town Attorney