

STATEMENT OF TOWN COUNCIL AND ORDINANCE AMENDING THE OFFICIAL ZONING DISTRICT MAP OF THE TOWN OF APEX TO CHANGE THE ZONING OF APPROXIMATELY 6.40 ACRES LOCATED AT 1211 OLD RALEIGH ROAD FROM RESIDENTIAL AGRICULTURAL (RA) TO MEDIUM DENSITY RESIDENTIAL-CONDITIONAL ZONING (MD-CZ)

#25CZ07

WHEREAS, Dan Morse, ODG 87, LLC, owners/applicant (the “Applicant”), submitted a completed application for a conditional zoning on the 2nd day of June 2025 (the “Application”). The proposed conditional zoning is designated #25CZ07;

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 #25CZ07 before the Planning Board on the 11th day of August 2025;

WHEREAS, the Apex Planning Board held a public hearing on the 11th day of August 2025, gathered facts, received public comments and formulated a recommendation regarding the application for conditional zoning #25CZ07. A motion was made by the Apex Planning Board to recommend approval with an additional condition to limit the density to three residential lots total; the motion passed by a vote of 9-1 for the application for #25CZ07;

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 #25CZ07 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. Lauren Staudenmaier, Planner III, presented the Planning Board's recommendation at the public hearing;

WHEREAS, all persons who desired to present information relevant to the application for #25CZ07 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 zoning district and conditions allow the property to be developed in a manner that is consistent with the residential character of the area and limits the allowable density consistent with the subdivision to the north. The proposed rezoning includes environmental conditions that exceed the standard Unified Development Ordinance requirements and dedicates right-of-way along the parcel's frontage consistent with the Apex Transportation Plan. Additionally, the proposed rezoning will require the development to complete frontage widening improvements along the proposed residential lots' frontage consistent with the Apex Transportation Plan; and

WHEREAS, the Apex Town Council by a vote of 3 to 2 approved Application #25CZ07 rezoning the subject tract located at 1211 Old Raleigh 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 #25CZ07

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.

1. Single-family
2. Accessory apartment

Zoning Conditions:

Site, Environmental, and other conditions:

1. A maximum of three residential lots shall be permitted.
2. A minimum of 30% of the gross parcel area will be preserved as Resource Conservation Area (RCA).
3. To reduce irrigation requirements, the project shall select and plant only warm season grasses.
4. The project shall install one (1) sign per SCM to reduce pet waste and prohibit fertilizer, in locations that are publicly accessible, such as adjacent to amenity centers, sidewalks, greenways, or side paths.
5. To preserve and protect existing wildlife species, existing ponds shall be preserved if structurally sound. The pond will be evaluated by a geotechnical engineer prior to subdivision plan approval.
6. No single species of native or adaptive vegetation shall constitute more than 20% of the plant material of its type within a single development site.
7. Homeowner Association covenants shall not restrict the construction of accessory dwelling units.
8. Developer shall dedicate public right-of-way 55 feet from roadway centerline for the entirety of the parcel frontage along Old Raleigh Road based on the total ultimate section of 110 feet in the Apex Transportation Plan.
9. Developer shall complete frontage widening based on the 4 lane median divided typical section with bike lanes and 10' side path in the Apex Transportation Plan only for the frontage of the project proposed for residential lots. The remainder of the frontage not being developed for residential lots can remain as interim section with sidewalk until such time a project funded by others proposes to widen Old Raleigh Road.
10. In the event the developer proposes a public street to access the lots, the developer will be required to include a stub street to the parcel at the west.
11. No development, other than utilities, shall be allowed north or east of the riparian buffer.
12. All homes shall be preconfigured with conduit for a solar energy system.

Architectural Conditions:

1. Vinyl siding is not permitted, however vinyl windows, decorative elements, and trim are permitted.
2. The roof shall be pitched at 5:12 or greater for 75% of the building designs.
3. Eaves shall project at least 12 inches from the wall of the structure.
4. Garage doors shall have windows, decorative details, or carriage style adornments on them.
5. The garage shall not protrude more than 1 foot out from the façade or front porch. Living space above a garage shall not be considered part of the front façade.

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6. 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.
7. The visible side of a home on a corner lot facing the public street shall contain at least 3 decorative elements, including, but not limited to, the following elements:
 - Windows
 - Bay Window
 - Recessed Window
 - Decorative Window
 - Trim around Windows
 - Wrap around porch or side porch
 - Two or more building materials
 - Decorative brick/stone
 - Decorative Trim
 - Decorative Shake
 - Decorative air vents on gables
 - Decorative gable
 - Decorative cornice
 - Columns
 - Portico
 - Balcony
 - Dormer
8. House entrances for units with front facing single-car garages shall have a prominent covered porch/stoop area leading to the front door.
9. The rear and side elevations of the units that can be seen from the right-of-way shall have trim around the windows.
10. Front porches shall be a minimum of 6 feet deep

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