

STATEMENT OF TOWN COUNCIL AND ORDINANCE AMENDING THE OFFICIAL ZONING DISTRICT MAP OF THE TOWN OF APEX TO CHANGE THE ZONING OF APPROXIMATELY 4.6 ACRES LOCATED AT 2132 TEN TEN ROAD FROM RESIDENTIAL AGRICULTURAL (RA) TO LIGHT INDUSTRIAL-CONDITIONAL ZONING (LI-CZ)

#21CZ17

WHEREAS, J National Capital V, LLC., owner/applicant (the “Applicant”), submitted a completed application for a conditional zoning on the 1st day of July 2021 (the “Application”). The proposed conditional zoning is designated #21CZ17;

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 #21CZ17 before the Planning Board on the 12th day of September 2022;

WHEREAS, the Apex Planning Board held a public hearing on the 12th day of September 2022, gathered facts, received public comments and formulated a recommendation regarding the application for conditional zoning #21CZ17. A motion was made by the Apex Planning Board to recommend approval; the motion passed by a vote of 7 to 0 for the application for #21CZ17;

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 #21CZ17 before the Apex Town Council on the 8th day of November 2022;

WHEREAS, the Apex Town Council held a public hearing on the 8th day of November 2022. Sarah Van Every, Senior Planner, presented the Planning Board's recommendation at the public hearing;

WHEREAS, all persons who desired to present information relevant to the application for #21CZ17 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 will amend the 2045 Land Use Plan to Industrial Employment: The 2045 Land Use Map designation of Industrial Employment is consistent with the zoning district Light Industrial-Conditional Zoning (LI-CZ);

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 development of non-residential uses that are consistent with surrounding properties, especially those on the south side of Ten Ten Road. It will also encourage compatible development of the property and increase the tax base; and

WHEREAS, the Apex Town Council by a vote of 5 to 0 approved Application #21CZ17 rezoning the subject tract located at 2132 Ten Ten Road from Residential Agricultural (RA) 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.”

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) District, subject to the conditions stated herein.

Ordinance Amending the Official Zoning District Map #21CZ17

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:

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:

Security of caretaker quarters	Health/fitness center or spa
Government Service	Kennel
Transportation facility	Monument Sales, retail
Veterinary clinic or hospital	Repair services, limited
Vocational school	Retail sales, bulky goods
Recycling center	Retail sales, general
Recycling collection station	Self-service storage
Utility, Minor	Studio for art
Waste or wastewater plant	Upholstery shop
Wireless support structure	Pet services
Wireless communication facility	Automotive accessory sale and installation
Botanical garden	Automotive paint or body shop
Entertainment, indoor	Automotive parts
Greenway	Automotive service station
Park, active (access only)	Car wash or auto detailing
Park, passive (assess only)	Repair and maintenance, general
Shooting range, indoor	Towing service
Broadcasting statin (radio and television)	Towing service storage
Radio and television studio	Truck terminal
Commissary	Vehicle sales and rental, heave (access only)
Restaurant, general	Building supplies, wholesale
Dispatching office	Laboratory, industrial research
Medical or dental office or clinic	Machine or welding shop
Medical or dental laboratory	Warehousing
Office, business or professional	Woodworking or cabinetmaking
Research facility	Wholesaling, general
Parking garage, commercial	Brewery
Parking lot, commercial	Distillery
Artisan studio	Manufacturing and processing
Funeral home	Manufacturing and processing, minor
Gas and fuel sales, retail	Microbrewery
Gas and fuel sales, wholesale	Microdistillery
Glass sales	

Special Uses:

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Airplane landing strip	Land clearing and inert debris landfill
Airport	Arena, auditorium or stadium
Chipping and mulching	Entertainment, outdoor
Communication tower, commercial	Regional recreation complex
Communication tower, constructed stealth	Adult establishment
Communication tower, public safety	Electronic gaming operations
Electrical power facility	Dry cleaning and dyeing plant
Incinerator	Laundry plant
Recycling plant	Wood or lumber processing
Sanitary landfill	

Zoning Conditions:

1. The developer proposes a 12' Type C buffer along the easternmost and westernmost boundaries of the area to be rezoned, with the additional condition that the planting of such buffers will include a minimum of three species of native hardwood canopy trees with a size at installation no smaller than 2.5" caliper. The buffer shall not preclude vehicular cross connections to adjacent properties pursuant to an approved site plan, nor shall it apply to a publicly dedicated street right-of-way pursuant to a duly approved subdivision plan.
2. Tower improvements substantially similar to or greater than those that serve as the basis for the zero-fall-zone letter submitted with the rezoning application shall be constructed, and a certification of the completion of construction of such improvements shall be submitted to the Town, prior to the approval of construction drawings.
3. For any building greater than 10,000 square feet, the building design shall include conduit for the future installation of solar PV panels and sufficient roof load-bearing capacity to support solar PV panels.
4. In the event that self-storage building(s) are constructed fronting Ten Ten Road, the following architectural conditions shall apply for the building façade of the use self-service storage:
 - a. The predominant exterior materials shall be high-quality materials, including:
 - i. Brick masonry
 - ii. Stone accents
 - iii. Cementitious siding
 - iv. Aluminum storefronts with anodized or pre-finished colors
 - v. Decorative concrete block (either integrally colored or textured)
 - b. The front façade facing Ten Ten Road shall have more than one parapet height.
 - c. The front façade facing Ten Ten Road shall include a combination (at least two (2)) of the building materials listed in condition #1 (for the use self-service storage).
 - d. The front façade facing Ten Ten Road may include EIFS cornices and parapet trim.
 - e. EIFS or synthetic stucco, if used, shall not be used in the first four feet (4') above grade.
 - f. Interior Doors shall be visible on only 15% or less of the facade of each floor facing Ten Ten Road.
 - g. Spandrel glass shall be used for windows, except those at the entrance.

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.

Ordinance Amending the Official Zoning District Map #21CZ17

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:

Title: _____

APPROVED AS TO FORM:

Town Attorney