

STATEMENT OF TOWN COUNCIL AND ORDINANCE AMENDING THE OFFICIAL ZONING DISTRICT MAP OF THE TOWN OF APEX TO CHANGE THE ZONING OF APPROXIMATELY 2.0 ACRES LOCATED AT 1013 OLIVE CHAPEL ROAD FROM RESIDENTIAL AGRICULTURAL (RA) TO MEDIUM DENSITY RESIDENTIAL-CONDITIONAL ZONING (MD-CZ)

#23CZ22

WHEREAS, Ashwini Kumar Reddy Yalala, Srikanth Nalla, Rajanikanth Chippa, and Gurudath Munimakula, owners/applicant (the “Applicant”), submitted a completed application for a conditional zoning on the 1st day of November 2023 (the “Application”). The proposed conditional zoning is designated #23CZ22;

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 #23CZ22 before the Planning Board on the 8th day of April 2024;

WHEREAS, the Apex Planning Board held a public hearing on the 8th day of April 2024, gathered facts, received public comments and formulated a recommendation regarding the application for conditional zoning #23CZ22. A motion was made by the Apex Planning Board to recommend approval; the motion passed unanimously for the application for #23CZ22;

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 #23CZ22 before the Apex Town Council on the 23rd day of April 2024;

WHEREAS, the Apex Town Council held a public hearing on the 23rd day of April 2024. Joshua Killian, Planner I, presented the Planning Board’s recommendation at the public hearing;

WHEREAS, all persons who desired to present information relevant to the application for #23CZ22 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 is reasonable and in the public interest because it will implement stricter environmental conditions than the UDO requires and provide additional single-family homes that are compatible with those in the general vicinity; and

WHEREAS, the Apex Town Council by a vote of 3 to 2 approved Application #23CZ22 rezoning the subject tract located at 1013 Olive Chapel Rd 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 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.

Ordinance Amending the Official Zoning District Map #20CZ12

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*
3. Utility, minor

**Homeowners Association covenants shall not restrict the construction of accessory dwelling units.*

Zoning Conditions:

1. A Solar PV system shall be installed on 100% of the homes within the development with a minimum of 6 kilowatts per system.
2. All homes shall be equipped with a 220V outlet for electric vehicle charging.
3. Development shall meet all stormwater requirements listed in UDO Section 6.1.12, including but not limited to limiting the post-development stormwater flows to not exceed pre-development rates. In addition, the post-development peak runoff rate shall be limited to the predevelopment peak runoff rate for the 2-year, 24-hour, the 10-year, 24-hour and the 25-year, 24- hour storm events.
4. Existing trees greater than 18” in a diameter that are removed by site development shall be replaced by planting a 1.5” caliper native tree from the Town of Apex Design and Development Manual either on-site or at an alternative location approved by Town of Planning Staff, above and beyond standard UDO requirements.
5. Development of the site shall include planting of warm season grasses.
6. Prior to the approval of Master Subdivision Final Plat, a minimum 6’ tall fence consisting of wood or vinyl shall be installed along the common property line of 1101 Olive Chapel Road (PIN 0732730167).
7. Homeowner Association covenants shall not restrict the construction of accessory dwelling units.
8. Vinyl siding is not permitted; however, vinyl windows, decorative elements and trim are permitted.
9. Garage doors shall have windows, decorative details or carriage-style adornments on them.
10. 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:
 - a. Windows
 - b. Bay window
 - c. Recessed window
 - d. Decorative window
 - e. Trim around the windows
 - f. Wrap around porch or side porch
 - g. Two or more building materials
 - h. Decorative brick/stone
 - i. Decorative trim
 - j. Decorative shake
 - k. Decorative air vents on gable

Ordinance Amending the Official Zoning District Map #20CZ12

- l. Decorative gable
 - m. Decorative cornice
 - n. Column
 - o. Portico
 - p. Balcony
 - q. Dormer
11. The rear and side elevations of the units that can be seen from the right-of-way shall have trim around the windows.
 12. Access to Olive Chapel Road shall be provided by a single right-in/right-out intersection on the west side of the parcel, located approximately 350-400 feet west of Caley Road.
 13. Development of the site will include a single stub street to the property located to the east (PIN 0732733089).
 14. Olive Chapel Road Frontage widening and right of way dedication shall be provided based on a 4-lane median divided section on 110-foot right of way as identified in the Transportation Plan.

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