

STATEMENT OF TOWN COUNCIL AND ORDINANCE AMENDING THE OFFICIAL ZONING DISTRICT MAP OF THE TOWN OF APEX TO CHANGE THE ZONING OF APPROXIMATELY 83.03 ACRES LOCATED AT 0 & 0 PRISTINE WATER DRIVE & 1251 BURMA DRIVE FROM LIGHT INDUSTRIAL-CONDITIONAL ZONING (LI-CZ #21CZ08) TO LIGHT INDUSTRIAL-CONDITIONAL ZONING (LI-CZ)

#23CZ01

WHEREAS, Apex Industrial Owner 3, LLC & Apex Industrial Owner 4, LLC/ Rockpoint Group, LLC & Oppidan, owner/applicant (the “Applicant”), submitted a completed application for a conditional zoning on the 1st day of February 2023 (the “Application”). The proposed conditional zoning is designated #23CZ01;

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 #23CZ01 before the Planning Board on the 10th day of April 2023;

WHEREAS, the Apex Planning Board held a public hearing on the 10th day of April 2023, gathered facts, received public comments and formulated a recommendation regarding the application for conditional zoning #23CZ01. A motion was made by the Apex Planning Board to recommend approval; the motion passed unanimously for the application for #23CZ01;

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 #23CZ01 before the Apex Town Council on the 25th day of April 2023;

WHEREAS, the Apex Town Council held a public hearing on the 25th day of April 2023. Amanda Bunce, Current Planning Manager, presented the Planning Board’s recommendation at the public hearing;

WHEREAS, all persons who desired to present information relevant to the application for #23CZ01 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. This designation on the 2045 Land Use Map includes the zoning district Light Industrial-Conditional Zoning (LI-CZ) and the Apex Town Council has further considered that the proposed rezoning to Light Industrial-Conditional Zoning (LI-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 rezoning will provide additional flexibility in the types of uses allowed, encourage compatible development of the property, and allow for uses that will generate jobs and increase the tax base; and

WHEREAS, the Apex Town Council by a vote of 4 to 0 approved Application #23CZ01 rezoning the subject tract located at 0 & 0 Pristine Water Drive & 1251 Burma Drive from Light Industrial-Conditional Zoning (LI-CZ #21CZ08) 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

Ordinance Amending the Official Zoning District Map #23CZ01

zoning classification of the “Rezoned Lands” from from Light Industrial-Conditional Zoning (LI-CZ #21CZ08) to Light Industrial-Conditional Zoning (LI-CZ), 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. Security or caretaker quarters
2. Government service
3. Heliport or helipad
4. Transportation facility
5. Utility, minor
6. Regional recreation complex
7. Broadcast station (radio and television)
8. Radio and television recording studio
9. Medical or dental office or clinic
10. Medical or dental laboratory
11. Office, business or professional
12. Pilot plant
13. Research facility
14. Laboratory, industrial research
15. Machine or welding shop
16. Woodworking or cabinetmaking
17. Wholesaling distribution center
18. Brewery
19. Distillery
20. Dry cleaning and dyeing plant
21. Laundry plant
22. Manufacturing and processing
23. Microbrewery
24. Microdistillery
25. Botanical garden
26. Building supplies, wholesale
27. Warehousing, general
28. Warehousing fulfillment center
29. Manufacturing and processing, minor
30. Retail sales, general (%)
31. Repair services, limited
32. Repair and maintenance, general
33. Monument sales, retail
34. Artisan studio
35. Contractor’s office and storage yard
36. Commissary

Zoning Conditions:

1. EIFS cornices and parapet trim may be used. EIFS and stucco shall not be used within four (4) feet of the ground and shall be limited to 25% of each building façade.
2. The front façade and any façade that faces a collector street shall be a minimum of 60% masonry. The remainder of such facades shall be high-quality aluminum composite metal panels or similar.
3. The developer shall dedicate 30’ of public right-of-way along the southern property line for future construction of Pristine Water Drive in accordance with the Apex Transportation Plan.
4. No buffer shall be required along major and minor collector streets.
5. A continuous 10’ Side Path within the public right-of-way or 10’ Greenway within a 20’ Public Greenway Easement shall be constructed from Burma Drive at the northern property boundary to future Production Drive at the southern property boundary.

Ordinance Amending the Official Zoning District Map #23CZ01

6. The minimum parking requirement shall either be in accordance with UDO Sec. 8.3.2 *Off-Street Parking Requirements* or 1 parking space per employee on the maximum shift plus 2% additional for visitors, whichever is greater.
7. With the exception of development on Lots 1 and 2, each development shall provide two (2) electric vehicle charging spaces. These spaces count toward minimum parking standards.
8. Greenhouses accessory to a Research facility shall be exempt from the following:
 - a. The building material and color standards of Sec. 4.5.3 *Accessory Structures, Non-Residential Zoning Districts*; and
 - b. The limitation on percent of yard area occupied and setback requirements of Sec. 5.2.7.B *Dimensional Standards for Detached Accessory Structures, Percentage of Required Yard Occupied and Required Setbacks*.
9. Outdoor storage shall be prohibited as a principal use.

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 _____ 2023.

TOWN OF APEX

Jacques K. Gilbert
Mayor

ATTEST:

Allen Coleman, CMC, NCCCC
Town Clerk

APPROVED AS TO FORM:

Town Attorney