

**STATEMENT OF TOWN COUNCIL AND ORDINANCE AMENDING THE OFFICIAL ZONING DISTRICT MAP OF THE TOWN OF APEX TO CHANGE THE ZONING OF APPROXIMATELY 2.00 ACRES LOCATED AT 2157 & 0 BLAZING TRAIL AND 7994, 7988, AND 7982 HUMIE OLIVE ROAD FROM MEDIUM DENSITY RESIDENTIAL-CONDITIONAL ZONING (MD-CZ #16CZ27) TO MEDIUM DENSITY RESIDENTIAL-CONDITIONAL ZONING (MD-CZ)**

**#22CZ18**

**WHEREAS**, Construction Masters, LLC, owner/applicant (the "Applicant"), submitted a completed application for a conditional zoning on the 1<sup>st</sup> day of September 2022 (the "Application"). The proposed conditional zoning is designated #22CZ18;

**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 #22CZ18 before the Planning Board on the 14<sup>th</sup> day of November 2022;

**WHEREAS**, the Apex Planning Board held a public hearing on the 14<sup>th</sup> day of November 2022, gathered facts, received public comments and formulated a recommendation regarding the application for conditional zoning #22CZ18. A motion was made by the Apex Planning Board to recommend approval; the motion passed by a vote of 6 to 2 for the application for #22CZ18;

**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 #22CZ18 before the Apex Town Council on the 29<sup>th</sup> day of November 2022;

**WHEREAS**, the Apex Town Council held a public hearing on the 29<sup>th</sup> day of November 2022 and 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 #22CZ18 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 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 rezoning allows for a different housing type while maintaining the character of the adjacent single-family neighborhoods. Duplexes provide opportunities for people, including teachers and other school staff, to rent in an area where they otherwise may not be able to afford to live. It may also provide a home owner with the supplemental income needed to buy a home in an area that is otherwise not affordable. The rezoning will 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 #22CZ18 rezoning the subject tract located at 2157 & 0 Blazing Trail and 7994, 7988, and 7982 Humie Olive Road from Medium Density Residential-Conditional Zoning (MD-CZ #16CZ27) to Medium Density Residential-Conditional Zoning (MD-CZ).

## Ordinance Amending the Official Zoning District Map #22CZ18

### 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 Medium Density Residential-Conditional Zoning (MD-CZ #16CZ27) 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. An "S" indicates that a use category or specific use type is allowed only if reviewed and approved in accordance with the procedures and standards of Sec. 2.3.5 *Special Use*.

- |                        |                          |
|------------------------|--------------------------|
| 1. Single-family       | 4. Day care facility (S) |
| 2. Duplex              | 5. Utility, minor        |
| 3. Accessory apartment |                          |

#### Zoning Conditions:

1. Vinyl siding is not permitted, however vinyl windows, decorative elements and trim are permitted.
2. All single-family and duplex homes shall have a crawl space or have a raised foundation which at a minimum rises at least 20 inches from average grade across the front of the house to the finished floor level at the front door.
3. Garage doors must have windows, decorative details or carriage-style adornments on them.
4. The garage cannot protrude more than 1 foot out from the front façade or front porch.
5. The density for the parcel shall be limited to no more than 6 units per acre. The maximum number of units shall be 12.
6. The garages for duplex units shall be on opposite sides of the structure.
7. The width of the garage doors shall be no more than 60% of the total width of the house and garage together.
8. The rear and side elevations of the units that can be seen from the right-of-way shall have trim around the windows.
9. Eaves shall project at least 12 inches from the wall of the structure.

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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:
  - Windows
  - Bay window
  - Recessed window
  - Decorative window
  - Trim around the windows
  - Wrap around porch or side porch
  - Two or more building materials
  - Decorative brick/stone
  - Decorative trim
  - Decorative shake
  - Decorative air vents on gable
  - Decorative gable
  - Decorative cornice
  - Column
  - Portico
  - Balcony
  - Dormer
11. The roofline for duplexes must be broken up vertically between each unit.
12. All rear elevations for duplexes shall include the following:
  - A change in roofline plus an additional projection on the rear façade such as, but not limited to, a bay window, cantilever, fireplace, or enclosed porch.
  - Windows on at least 30% of the rear façade (not including the roof). The building plans shall include the calculation of the rear wall area and the percent of that area that is windows.
13. All duplex units shall be two stories.
14. One (1) new duplex building shall provide active PV solar for a total of two (2) systems.
15. The project shall install at least one (1) pet waste station in a location that is publicly accessible, such as a side path, sidewalk or SCM.
16. All RCA landscape plantings shall be native species. Landscaping shall be coordinated and approved by the Planning Department at site or subdivision review.
17. The Developer shall extend the 5’ wide sidewalk along the site frontage north along Blazing Trail Drive to complete the connection to the existing 5’ wide sidewalk at The Parkside at Bella Casa – Phase 13A common area to the north. This sidewalk connection is subject to approval and recording of a public access easement on HOA common Area by The Townes at Bella Casa Association, Inc.

**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."

**Ordinance Amending the Official Zoning District Map #22CZ18**

This the \_\_\_\_ day of \_\_\_\_\_ 2023.

**TOWN OF APEX**

\_\_\_\_\_  
Mayor

**ATTEST:**

\_\_\_\_\_  
Town Clerk

**APPROVED AS TO FORM:**

\_\_\_\_\_  
Town Attorney