

STATEMENT OF TOWN COUNCIL AND ORDINANCE AMENDING THE OFFICIAL ZONING DISTRICT MAP OF THE TOWN OF APEX TO CHANGE THE ZONING OF APPROXIMATELY 3.62 ACRES LOCATED AT 3305 OLIVE CHAPEL ROAD FROM WAKE COUNTY RESIDENTIAL-80W (R-80W) TO RURAL RESIDENTIAL-CONDITIONAL ZONING (RR-CZ)

#26CZ05

WHEREAS, Patrick Kiernan, Jones & Cnossen Engineering, PLLC, applicant (the “Applicant”), submitted a completed application for a conditional zoning on the 30th day of April 2026 (the “Application”). The proposed conditional zoning is designated #26CZ05;

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 #26CZ05 before the Planning Board on the 10th day of August 2026;

WHEREAS, the Apex Planning Board held a public hearing on the 10th day of August 2026, gathered facts, received public comments and formulated a recommendation regarding the application for conditional zoning #26CZ05. A motion was made by the Apex Planning Board to recommend approval; the motion passed unanimously for the application for #26CZ05;

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 #26CZ05 before the Apex Town Council on the 25th day of August 2026;

WHEREAS, the Apex Town Council held a public hearing on the 25th day of August 2026. Marisa Smith, Planner II, presented the Planning Board's recommendation at the public hearing;

WHEREAS, all persons who desired to present information relevant to the application for #26CZ05 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 not consistent with the 2045 Land Use Plan and other adopted plans in that the 2045 Land Use Map designates this property as Rural Density Residential and approval of this rezoning will automatically amend the 2045 Land Use Map to Rural Transition Residential. This designation on the 2045 Land Use Map includes the zoning district Rural Residential-Conditional Zoning (RR-CZ). The Apex Town Council has further considered that the proposed rezoning to Rural Residential-Conditional Zoning (RR-CZ) will 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 it will allow for an existing single-family home to remain, and the proposed lot sizes will be generally consistent with those to the west. The proposed rezoning will provide roadway frontage dedication and a sidewalk along Olive Chapel Road. Furthermore, the proposed rezoning includes stricter architectural conditions than the UDO requires; and

WHEREAS, the Apex Town Council by a vote of ___ to ___ approved Application #26CZ05 rezoning the subject tract located at 3305 Olive Chapel Road from Wake County Residential-80W (R-80W) to Rural Residential-Conditional Zoning (RR-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 Wake County Residential-80W (R-80W) to Rural Residential-Conditional Zoning (RR-CZ), subject to the conditions stated herein.

Ordinance Amending the Official Zoning District Map #26CZ05

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:

Permitted uses

1. Single-family dwelling
2. Accessory Apartment
3. Utility, minor
4. Park, active
5. Park, passive
6. Greenway

Zoning Conditions

The following zoning conditions shall apply only to any new construction residence on the resultant RR-CZ parcel area. The existing home shall be exempt from the following conditions.

1. The number of resultant residential lots of this rezoning shall be limited to three single-family units, equivalent to approximately 0.8 dwelling units per acre.
2. The project proposes a minimum average lot size of 0.6 acres. However, pursuant to GS § 143-214.23A this lot acreage shall be calculated with the inclusion of area within the riparian buffer (an average of approximately 1.2 acres per lot). The area within the buffer will not be recorded as part of the residential lot.
3. This project shall be stage graded per UDO Section 7.2.5.C.
4. The maximum built-upon area per lot shall be 60%, the maximum height shall be 40 ft, and the minimum building setbacks shall be as follows:
(a) Front-25 ft; (b) Side-8 ft min/20 ft total; (c) Corner side-15 ft; (d) Rear-25 ft
5. At least 75% of the plant species used in the landscape design shall be native species.
6. All homes shall include solar conduit in the building design to facilitate future rooftop solar installations.
7. All garages shall be wired with a 220-volt outlet inside the garage to facilitate charging of electronic vehicles.
8. To reduce irrigation, HOA covenants shall not prohibit clover lawns or warm-season grasses throughout the neighborhood.
9. To support wildlife and pollinators, HOA covenants shall not require that fallen leaves or dormant plants be removed during the winter on areas without turf grass, including individual homes and HOA-owned common areas.
10. HOA covenants shall not restrict the construction of accessory dwelling units.
11. The driveway currently located on Olive Chapel Road shall remain as the primary access point for the existing residence at 3305 Olive Chapel Road. The proposed 30' streetscape buffer along Olive Chapel Road shall be owned and maintained by the HOA, with a private access easement covering the driveway crossing. The lot frontage shall still be considered along Olive Chapel Road even if not directly abutting the public R/W.
12. The existing residence located along the frontage of Olive Chapel Road shall be exempt from any and all Town ordinances or proposed conditions that would otherwise put the home out of compliance (including setbacks as stated in Condition #3). If the home is ever removed or demolished, any new structure built on said lot would be subject to all current ordinances and conditions. In this scenario, the access as defined in Condition #10 would still apply.

Ordinance Amending the Official Zoning District Map #26CZ05

13. 12. A 70' wide minimum undisturbed buffer shall be provided along the USACE property to the southeast. There is a 100' perennial stream buffer along the eastern boundary. All other perimeter buffers shall follow the Apex Buffer Table (UDO Sec. 8.2.6 Table 1).
14. Developer shall extend Snowbed Ridge Drive as a public residential street with 5-foot sidewalk on both sides in 50-foot public right of way and terminate the street in a cul-de-sac.
15. Developer shall dedicate right-of-way along Olive Chapel Road as necessary to achieve ½ of a 110' R/W section for a 2-lane Rural Thoroughfare. Developer shall also extend a 5' wide sidewalk across the project frontage of Olive Chapel Road, completing the sidewalk gap between the Willow Hills and the Estates at Olive Chapel developments.
16. Developer shall record a 30' wide Town of Apex public sewer easement along the southern boundary line, in order to provide a future public sewer connection to the undeveloped parcels east of PIN# 0712810293.

Architectural Conditions

The following architectural conditions shall apply only to any new construction residence on the resultant RR-CZ parcel area. The existing home shall be exempt from the following conditions.

1. Vinyl siding is not permitted; however, vinyl windows, decorative elements and trim are permitted.
2. Eaves shall project at least 12 inches from the wall of the structure.
3. Garage doors shall have windows, decorative details or carriage-style adornments on them.
4. 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.
5. House entrances for units with front-facing single-car garages shall have a prominent covered porch/stoop area leading to the front door.
6. Front entry garages cannot protrude more than one (1) foot out from the front façade and front porch.
7. 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
8. A varied color palette shall be utilized throughout the subdivision to include a minimum of three color families for siding and shall include varied trim, shutter, and accent colors complementing the siding color.

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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.
11. All single-family homes shall have a crawl space or have a raised foundation which at minimum rises at least 20 inches from average grade across the front of the house to the finished floor level at the front door.

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. Subdivision plans for any development to be made pursuant to this amendment to the Official Zoning District Map shall be submitted for subdivision 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 _____ 2026.

TOWN OF APEX

Jacques K. Gilbert
Mayor

ATTEST:

Allen Coleman, CMC, NCCCC
Town Clerk

APPROVED AS TO FORM:

Town Attorney