

STATEMENT OF TOWN COUNCIL AND ORDINANCE AMENDING THE OFFICIAL ZONING DISTRICT MAP OF THE TOWN OF APEX TO CHANGE THE ZONING OF APPROXIMATELY 0.46 ACRES LOCATED AT 2913 EVANS ROAD FROM RURAL RESIDENTIAL (RR) TO MEDIUM DENSITY RESIDENTIAL-CONDITIONAL ZONING (MD-CZ)

#26CZ04

WHEREAS, Noah Holmes, Zion Land Management LLC, owners/applicant (the "Applicant"), submitted a completed application for a conditional zoning on the 27th day of March 2026 (the "Application"). The proposed conditional zoning is designated #26CZ04;

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 #26CZ04 before the Planning Board on the 13th day of July 2026;

WHEREAS, the Apex Planning Board held a public hearing on the 13th day of July 2026, gathered facts, received public comments and formulated a recommendation regarding the application for conditional zoning #26CZ04. A motion was made by the Apex Planning Board to recommend approval if an additional condition requested by staff was added; the motion passed unanimously for the application for #26CZ04;

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 #26CZ04 before the Apex Town Council on the 11th day of August 2026;

WHEREAS, the Apex Town Council held a public hearing on the 11th day of August 2026. June Cowles, 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 #26CZ04 were allowed to present evidence at the public hearing before the Apex Town Council. No one who wanted to speak was turned away;

WHEREAS, following the public hearing on August 11, 2026 a vote by the Town Council to approve the rezoning without the staff recommended condition failed on a 2 to 3 vote. In accordance with Section 2-36 of the Apex Town Code, the Town Council unanimously voted to reconsider the rezoning after the applicant offered an additional condition requiring the developer to dedicate public right-of-way along the Evans Road property frontage 30 feet from the roadway centerline, along with a 10 foot temporary construction easement for future curb and gutter and a five-foot sidewalk consistent with the minor collector street typical section.

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-Conditional Zoning (MD-CZ) and the Apex Town Council has further considered that the proposed rezoning to Medium Density-Conditional Zoning (MD-CZ) will maintain the character and appearance of the area while providing for one additional lot consistent with the development patterns of 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 provides stricter architectural conditions than the UDO requires and allows the property to be developed in a manner that is consistent with the residential character of the area; and

WHEREAS, following reconsideration, the Apex Town Council by a vote of 5 to 0 approved Application #26CZ04 rezoning the subject tract located at 2913 Evans Road from Rural Residential (RR) to Medium Density-Conditional Zoning (MD-CZ).

Ordinance Amending the Official Zoning District Map #26CZ04

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 Rural Residential (RR) to Medium Density-Conditional Zoning (MD-CZ) District, subject to the conditions stated herein.

Section 3: 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. Permitted Uses:
 - a. Single-Family
 - b. Accessory Apartment
2. Architectural:
 - a. Vinyl siding is not permitted; however, vinyl windows, decorative elements and trim are permitted.
 - b. Garage doors shall have windows, decorative details, or carriage-style adornments on them.
 - c. The rear and side elevations of the units that can be seen from the right-of-way shall have trim around the windows.
3. Developer shall dedicate public right-of-way along the Evans Road property frontage 30 feet from the roadway centerline, along with a 10-foot temporary construction easement for future curb and gutter and a five-foot sidewalk consistent with the minor collector street typical section.

Section 4: 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 5: 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.

Ordinance Amending the Official Zoning District Map #26CZ04

TOWN OF APEX

Jacques K. Gilbert
Mayor

ATTEST:

Allen Coleman, CMC, NCCCC
Town Clerk

APPROVED AS TO FORM:

Brian Meyer
Interim Town Attorney