

STAFF REPORT

Amendments to the Unified Development Ordinance

November 19, 2019 Town Council Meeting



Requested by Town Council:

1. **Amendments to Sec. 2.2.18.B.5 *Conduct of Public Hearing, Continuance of Public Hearing* in order to remove the provision allowing an applicant the right to request and be granted one continuance.**

2.2.18 Public Hearing Procedures

...

B) *Conduct of Public Hearing*

...

5) *Continuance of Public Hearing*

- a) The body conducting the public hearing may, on its own motion or at the request of any person, continue the public hearing to a fixed date, time, and place. ~~An applicant shall have the right to request and be granted one continuance; however, a~~ All subsequent continuances shall be granted at the discretion of the body conducting the public hearing only upon good cause shown.

...

Requested by Planning Staff:

2. **Amendments to Sec. 4.5.5.G *Home Occupation, No External Evidence* in order to update the standard to add websites or social media as places that the street address of a home occupation cannot be advertised.**

4.5.5 Home Occupation

...

G) No External Evidence

Signs shall be limited to those permitted by Sec. 8.7.1.B *Home Occupation Signs*. No further external evidence or sign shall advertise, display, or otherwise indicate the presence of the home occupation, nor shall the street address of the home occupation be advertised through signs, billboards, television, radio, ~~or~~ newspapers, websites, or social media;

...

3. **Amendments to Sec. 4.6.1.C.9 *Temporary Uses and Structures, Uses Allowed, Other Temporary Uses* in order to update the wording of the standard to be consistent with the general standard recently adopted in Sec. 4.6.1.B *Temporary Uses and Structures, General Regulations*.**

4.6.1 Temporary Uses and Structures, Permit Required

...

C) Uses Allowed

...

- 9) *Other temporary uses*. The Planning Director may approve other temporary uses and activities or special events if it is determined that such uses would not

jeopardize the public health, or safety, ~~or general welfare~~, or be injurious or detrimental to properties adjacent to, or in the vicinity of, the proposed location of the activity.

4. Amendments to Sec. 9.1.2.B *Design Standards, General, Applicability* in order to clarify that the design standards do not apply to one- and two-family dwellings per State law.

9.1.2 Design Standards, General, Applicability

- A) These design standards shall be applicable to all nonresidential development under this UDO.
- B) These design standards shall also be applicable to residential development, with the exception of one- and two-family dwellings, in the PUD-CZ, SD-CZ, and TND-CZ planned development districts and the MORR district.

5. Amendments to Sec. 6.3.1.I *Small Town Character Overlay District, Adaptive Reuse of Historic Residential Structures* in order to increase the distance between a use and shared parking from 300' to 600' to be consistent with the distance approved for all other locations as found in Sec. 8.3.9 *Off-Street Parking Alternatives*.

6.3.1 Small Town Character Overlay District

- ...
 - l) Adaptive Reuse of Historic Residential Structures
 - ...
 - 2) Applicability
 - ...
 - d) Parking shall be provided according to regulations of the UDO, Sec. 8.3 *Off-Street Parking and Loading*. Striped on-street parking, shared parking agreements, and municipal parking lots may be utilized to meet all or part of the parking requirements, provided that said parking is located not more than ~~300~~**600** feet from the subject lot or parcel. The expected use of on-street parking shall not be such that it would cause undue negative impact upon other uses within the immediate vicinity that may rely upon the availability of such parking. If parking must be provided on site, the following shall apply:
 - ...

PLANNING STAFF RECOMMENDATION:

Planning staff recommends approval of the proposed UDO amendments.

PLANNING BOARD RECOMMENDATION:

The Planning Board heard these amendments at their November 12, 2019 meeting. The Planning Board unanimously recommended approval of Items 2-5 and unanimously recommended denial of Item 1 for the following reasons:

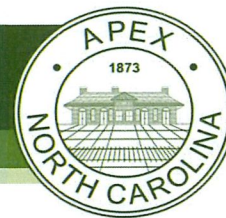
1. Need for there to be ample time to respond to unforeseen conditions or changes.
2. In the spirit of communication, developer needs the ability to continue to work with others/neighbors.

3. Planning Board needs ability to grant continuance as issues come up for the first time at Planning Board frequently. Recommend the continuance remain as is for all bodies conducting public hearings in the spirit of good communication.
4. There's not a high percentage of these types of requests; therefore the liberty is not being taken advantage of.

PLANNING BOARD REPORT TO TOWN COUNCIL

Rezoning #19CZ19 3605 & 3700 Old US 1 Hwy

November 12, 2019 Planning Board Meeting



Report Requirements:

Per NCGS 160A-387, all proposed amendments to the zoning ordinance or zoning map shall have a written report provided from the Planning Board to the Town Council within 30 days of referral of the amendment to the Planning Board, or the Town Council may proceed in its consideration of the amendment without the Planning Board report. Furthermore, in no case is the Town Council bound by the recommendations, if any, of the Planning Board.

Per NCGS 160A-383, the Planning Board shall advise and comment on whether the proposed zoning amendment is consistent with all applicable officially adopted plans, and provide a written recommendation to the Town Council that addresses plan consistency and other matters as deemed appropriate by the Planning Board, but a comment by the Planning Board that a proposed amendment is inconsistent with the officially adopted plans shall not preclude consideration or approval of the proposed amendment by the Town Council.

PROJECT DESCRIPTION:

- Acreage:** +/- 4.33
PINs: 0721432558, 0721433444, 0721435322, 0721434156 & 0721424940
Current Zoning: Wake County Highway Commercial (HC) and Wake County Residential-40W (R-40W)
Proposed Zoning: Mixed Office-Residential-Retail-Conditional Zoning (MORR-CZ)
2045 Land Use Map: Office Employment/Commercial Services
Town Limits: In Wake County (Annexation required at the time of rezoning)

Applicable Officially Adopted Plans:

The Board must state whether the project is consistent or inconsistent with the following officially adopted plans, if applicable. Applicable plans have a check mark next to them.

2045 Land Use Map
 Consistent Inconsistent Reason: _____

Apex Transportation Plan
 Consistent Inconsistent Reason: _____

Parks, Recreation, Open Space, and Greenways Plan
 Consistent Inconsistent Reason: _____

PLANNING BOARD REPORT TO TOWN COUNCIL

Rezoning #19CZ19 3605 & 3700 Old US 1 Hwy

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Legislative Considerations:

The applicant shall propose site-specific standards and conditions that take into account the following considerations, which are considerations that are relevant to the legislative determination of whether or not the proposed conditional zoning district rezoning request is in the public interest. These considerations do not exclude the legislative consideration of any other factor that is relevant to the public interest.

1. *Consistency with 2045 Land Use Map.* The proposed Conditional Zoning (CZ) District use's appropriateness for its proposed location and consistency with the purposes, goals, objectives, and policies of the 2045 Land Use Map.

Consistent Inconsistent Reason: _____

2. *Compatibility.* The proposed Conditional Zoning (CZ) District use's appropriateness for its proposed location and compatibility with the character of surrounding land uses.

Consistent Inconsistent Reason: _____

3. *Zoning district supplemental standards.* The proposed Conditional Zoning (CZ) District use's compliance with Sec. 4.4 Supplemental Standards, if applicable.

Consistent Inconsistent Reason: _____

4. *Design minimizes adverse impact.* The design of the proposed Conditional Zoning (CZ) District use's minimization of adverse effects, including visual impact of the proposed use on adjacent lands; and avoidance of significant adverse impacts on surrounding lands regarding trash, traffic, service delivery, parking and loading, odors, noise, glare, and vibration and not create a nuisance.

Consistent Inconsistent Reason: _____

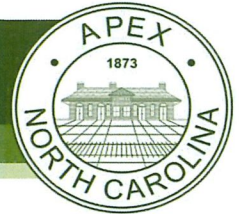
5. *Design minimizes environmental impact.* The proposed Conditional Zoning District use's minimization of environmental impacts and protection from significant deterioration of water and air resources, wildlife habitat, scenic resources, and other natural resources.

Consistent Inconsistent Reason: _____

PLANNING BOARD REPORT TO TOWN COUNCIL

Rezoning #19CZ19 3605 & 3700 Old US 1 Hwy

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6. *Impact on public facilities.* The proposed Conditional Zoning (CZ) District use's avoidance of having adverse impacts on public facilities and services, including roads, potable water and wastewater facilities, parks, schools, police, fire and EMS facilities.

Consistent Inconsistent Reason: _____

7. *Health, safety, and welfare.* The proposed Conditional Zoning (CZ) District use's effect on the health, safety, or welfare of the residents of the Town or its ETJ.

Consistent Inconsistent Reason: _____

8. *Detrimental to adjacent properties.* Whether the proposed Conditional Zoning (CZ) District use is substantially detrimental to adjacent properties.

Consistent Inconsistent Reason: _____

9. *Not constitute nuisance or hazard.* Whether the proposed Conditional Zoning (CZ) District use constitutes a nuisance or hazard due to traffic impact or noise, or because of the number of persons who will be using the Conditional Zoning (CZ) District use.

Consistent Inconsistent Reason: _____

10. *Other relevant standards of this Ordinance.* Whether the proposed Conditional Zoning (CZ) District use complies with all standards imposed on it by all other applicable provisions of this Ordinance for use, layout, and general development characteristics.

Consistent Inconsistent Reason: _____

PLANNING BOARD REPORT TO TOWN COUNCIL

Rezoning #19CZ19 3605 & 3700 Old US 1 Hwy

November 12, 2019 Planning Board Meeting



Planning Board Recommendation:

Motion: To recommend approval as proposed.

Introduced by Planning Board member: Reginald Skinner

Seconded by Planning Board member: Michael Marks

Approval: the project is consistent with all applicable officially adopted plans and the applicable legislative considerations listed above.

Approval with conditions: the project is not consistent with all applicable officially adopted plans and/or the applicable legislative considerations as noted above, so the following conditions are recommended to be included in the project in order to make it fully consistent:

As proposed by applicant.

Denial: the project is not consistent with all applicable officially adopted plans and/or the applicable legislative considerations as noted above.

With 6 Planning Board Member(s) voting "aye"

With 0 Planning Board Member(s) voting "no"

Reasons for dissenting votes:

This report reflects the recommendation of the Planning Board, this the 12th day of November, 2019.

Attest:

Margo J. Bills
Margo Bills, Planning Board Chair

Dianne F. Khin
Dianne Khin, Planning Director



TOWN OF APEX

POST OFFICE BOX 250
APEX, NORTH CAROLINA 27502
PHONE 919-249-3426

PUBLIC NOTIFICATION OF PUBLIC HEARING

AMENDMENTS TO THE UNIFIED DEVELOPMENT ORDINANCE (UDO)

Notice is hereby given of a public hearing before the Town Council of the Town of Apex for the purpose of soliciting comments relative to the following amendment(s) to the Unified Development Ordinance:

Requested by Town Council:

1. Amendments to Sec. 2.2.18.B.5 *Conduct of Public Hearing, Continuance of Public Hearing* in order to remove the provision allowing an applicant the right to request and be granted one continuance.

Requested by Planning Staff:

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Public Hearing Location: Apex Town Hall
73 Hunter Street, Apex, North Carolina
Council Chambers, 2nd Floor

Town Council Public Hearing Date and Time: November 19, 2019 7:00 PM

The UDO can be accessed online at: <http://www.apexnc.org/233>.

Dianne F. Khin, AICP
Planning Director



TOWN OF APEX

POST OFFICE BOX 230
APEX, NORTH CAROLINA 27502
PHONE 919-249-3426

PUBLIC NOTIFICATION OF PUBLIC HEARING

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Notice is hereby given of a public hearing before the Town Council of the Town of Apex for the purpose of soliciting comments relative to the following amendment(s) to the Unified Development Ordinance:

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Public Hearing Location: Apex Town Hall
73 Hunter Street, Apex, North Carolina
Council Chambers, 2nd Floor

Town Council Public Hearing Date and Time: November 19, 2019 7:00 PM

The UDO can be accessed online at: <http://www.apexnc.org/233>.

Dianne F. Khin, AICP
Planning Director

Published Dates: October 28-November 19, 2019