

**STATEMENT OF TOWN COUNCIL AND ORDINANCE AMENDING THE OFFICIAL ZONING DISTRICT MAP OF THE TOWN OF APEX TO CHANGE THE ZONING OF APPROXIMATELY 56.59 ACRES LOCATED AT 3720 OLD US 1 HIGHWAY AND 0 NEW HILL OLIVE CHAPEL ROAD FROM WAKE COUNTY RESIDENTIAL-40W (R-40W) AND WAKE COUNTY RESIDENTIAL-80W (R-80W) TO PLANNED UNIT DEVELOPMENT-CONDITIONAL ZONING (PUD-CZ)**

**#22CZ09**

**WHEREAS**, Thurm Bowen, KB Home, Inc. Carolinas Division, owner/applicant (the "Applicant"), submitted a completed application for a conditional zoning on the 2<sup>nd</sup> day of May 2022 (the "Application"). The proposed conditional zoning is designated #22CZ09;

**WHEREAS**, the Director of Planning and Community Development for the Town of Apex, Dianne Khin, caused proper notice to be given (by publication and posting) of a public hearing on #22CZ09 before the Planning Board on the 10<sup>th</sup> day of October 2022;

**WHEREAS**, the Apex Planning Board held a public hearing on the 10<sup>th</sup> day of October 2022, gathered facts, received public comments and formulated a recommendation regarding the application for conditional zoning #22CZ09. A motion was made by the Apex Planning Board to recommend approval; the motion passed unanimously for the application for #22CZ09;

**WHEREAS**, pursuant to N.C.G.S. §160D-601 and Sec. 2.2.11.E of the Unified Development Ordinance, the Director of Planning and Community Development caused proper notice to be given (by publication and posting), of a public hearing on #22CZ09 before the Apex Town Council on the 8<sup>th</sup> day of November 2022;

**WHEREAS**, the Apex Town Council held a public hearing on the 8<sup>th</sup> day of November 2022; Lauren Staudenmaier, 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 #22CZ09 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 Low Density Residential and Low Density Residential/Office Employment. This designation on the 2045 Land Use Map includes the zoning district Planned Unit Development-Conditional Zoning (PUD-CZ) and the Apex Town Council has further considered that the proposed rezoning to Planned Unit Development-Conditional Zoning (PUD-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 allow development for single-family residential uses in a manner to be generally consistent with the surrounding properties. The proposed rezoning also provides additional environmental conditions and a minimum of two affordable housing units; and

**WHEREAS**, the Apex Town Council by a vote of \_\_\_ to \_\_\_ approved Application #22CZ09 rezoning the subject tract located at 3720 Old US 1 Highway and 0 New Hill Olive Chapel Road from Wake County Residential-40 W (R-40W) and Wake County Residential-80W (R-80W) to Planned Unit Development-Conditional Zoning (PUD-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."

**Ordinance Amending the Official Zoning District Map #22CZ09**

**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-40W (R-40W) and Wake County Residential-80W (R-80W) to Planned Unit Development-Conditional Zoning (PUD-CZ) District, subject to the conditions stated herein.

**Section 3:** The Director of Planning and Community Development 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 the conditions in Attachment "B" Utlely Farms PUD which are imposed as part of this rezoning.

**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 \_\_\_\_\_ 2022.

**TOWN OF APEX**

\_\_\_\_\_

Mayor

**ATTEST:**

\_\_\_\_\_  
Allen Coleman, CMC, NCCCC  
Town Clerk

**APPROVED AS TO FORM:**

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