

**ORDINANCE AMENDING THE OFFICIAL ZONING DISTRICT MAP OF THE TOWN OF APEX TO CHANGE THE ZONING OF APPROXIMATELY 6.69 ACRES LOCATED AT 7825 & 7809 JENKS ROAD FROM RURAL RESIDENTIAL (RR) TO NEIGHBORHOOD BUSINESS-CONDITIONAL ZONING (B1-CZ)
#21CZ06**

WHEREAS, Daniel Shultz, Peak 360, LLC, applicant (the “Applicant”), submitted a completed application for a conditional zoning on the 1st day of March 2021 (the “Application”). The proposed conditional zoning is designated #21CZ06;

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 #21CZ06 before the Planning Board on the 10th day of May 2021;

WHEREAS, the Apex Planning Board held a public hearing on the 10th day of May 2021, gathered facts, received public comments and formulated a recommendation regarding the application for conditional zoning #21CZ06. A motion was made by the Apex Planning Board to recommend approval; the motion passed unanimously for the application for #21CZ06;

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 #21CZ06 before the Apex Town Council on the 25th day of May 2021;

WHEREAS, the Apex Town Council held a public hearing on the 25th day of May 2021. Liz Loftin, 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 #21CZ06 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 Mixed Use: High Density Residential/Office Employment/Commerical Services. This designation on the 2045 Land Use Map includes the zoning district Neighborhood Business-Conditional Zoning (B1-CZ) and the Apex Town Council has further considered that the proposed rezoning to Neighborhood Business-Conditional Zoning (B1-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: it will provide an opportunity for non-residential uses to serve the surrounding area. It will also encourage compatible development of the property, increase the tax base and accommodate the growth in population, economy, and infrastructure consistent with that contemplated by the 2045 Land Use Map; and

WHEREAS, the Apex Town Council by a vote of 5 and 0 approved Application #21CZ06 rezoning the subject tract located at 7825 & 7809 Jenks Road from Rural Residential (RR) to Neighborhood Business-Conditional Zoning (B1-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 #21CZ06

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 to Neighborhood Business-Conditional Zoning (B1-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 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.

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| 1. Day care facility | 16. Floral shop |
| 2. Drop-in or short term day care | 17. Greenhouse or nursery, retail |
| 3. Veterinary clinic or hospital | 18. Grocery, specialty |
| 4. Vocational school | 19. Health/fitness center or spa |
| 5. Utility, minor | 20. Newsstand or gift shop |
| 6. Botanical garden | 21. Personal services |
| 7. Entertainment-indoor | 22. Printing and copying services |
| 8. Greenway | 23. Real estate sales |
| 9. Park, active | 24. Retail sales, general |
| 10. Park, passive | 25. Studio for art |
| 11. Youth or day camps | 26. Tailor shop |
| 12. Medical or dental office or clinic | 27. Upholstery shop |
| 13. Barber and beauty shop | 28. Pet Services |
| 14. Book Store | 29. Microbrewery |
| 15. Financial institution | |

Zoning Conditions:

- Per the Environmental Advisory Board, the site shall meet the following conditions
 - Two pet waste stations shall be installed on the property (one near the existing pond and one near the proposed SCM).
 - Evaluation for possible landscaping installation around the existing pond.
- EIFS or synthetic stucco shall not be used in the first forty inches (40”) above grade.
- The building exterior shall have more than one material color.
- The main entrance to the building shall be emphasized.
- Only full cut-off lighting fixtures and fixtures with external house-side shields shall be allowed where non-residential properties are adjacent to residential properties.
- The existing pond onsite shall be retained if engineering studies confirm the dam is structurally sound and meets all regulatory requirements.
- Developer shall provide public vehicular and pedestrian access between Haybeck Lane and Jenks Road, with construction of a public street extension and/or private driveway connection within a public access easement.

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- 8. The parcels shall be served exclusively by a single full movement intersection at Jenks Road. The intersection shall be aligned with White Oak Grove Way, and the developer shall provide a westbound left turn lane on Jenks Road subject to approval by the Town of Apex and NCDOT. The full movement intersection shall be the only point access added to Jenks Road.
- 9. A 30' Type 'B' landscape buffer shall be provided along the property frontage on Sunset Meadows Drive.
- 10. An 8' wood screen fence shall be installed along the N/F Reder property (PIN 0722-88-9451) in addition to the 20' Type 'B' buffer required by the UDO. Where a fence is not installed, a 30' Type 'B' buffer shall be provided. The fence shall be installed from the southeast corner of the N/F Hobbs property (PIN 0722-88-6419) along the common property line with the N/F Reder property to the southeast corner of the N/F McMains property (PIN 0722-88-8770).
The fence may meander through the buffer to avoid the removal of existing vegetation as identified during the Minor Site Plan and Construction Document review process.
- 11. Sidewalk will not be constructed along the property frontage of Sunset Meadows Drive.
- 12. All non-residential buildings shall provide a solar conduit for the future installation of rooftop solar panels

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 _____ 2021.

TOWN OF APEX

Mayor

ATTEST:

Town Clerk

APPROVED AS TO FORM:

Town Attorney