

ORDINANCE AMENDING THE OFFICIAL ZONING DISTRICT MAP OF THE TOWN OF APEX TO CHANGE THE ZONING OF APPROXIMATELY 2.1 ACRES LOCATED ON 2524 & 2604 KELLY ROAD FROM RURAL RESIDENTIAL (RR) TO MIXED OFFICE-RESIDENTIAL-RETAIL-CONDITIONAL ZONING (MORR-CZ).

#19CZ23

WHEREAS, the application of Brian Griffith petitioner, for the rezoning of lands hereinafter described was duly filed with the office of the Planning Director and thereafter public hearings were held hereon on the 8th day of June 2020 before the Planning Board and the 16th day of June 2020, before the Town Council, respectively, pursuant to due notice mailed and published pursuant to G.S. § 160A-384. Thereafter, the Planning Board submitted its final report to the Town Council recommending approval of said application for the rezoning of the lands hereinafter described, all in accordance with the requirements of the Town of Apex Unified Development Ordinance and the provisions of Chapter 160A, Article 19, of the North Carolina General Statutes; **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 Mixed Office-Residential-Retail-Conditional Zoning (MORR-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:

Zoning Conditions:

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.

Permitted Uses:

- | | |
|-------------------------------------|--------------------------------------|
| 1. Accessory Apartment | 16. Office, business or professional |
| 2. Day care facility | 17. Barber and beauty shop |
| 3. Church or place of worship (P/S) | 18. Book store |
| 4. Government service | 19. Convenience store |
| 5. School, public or private | 20. Dry cleaners and laundry service |
| 6. Utility, minor | 21. Financial institution |
| 7. Tailor shop | 22. Floral shop |
| 8. Pet services | 23. Greenhouse or nursery, retail |
| 9. Botanical Garden | 24. Grocery, specialty |
| 10. Greenway | 25. Health/fitness center or spa |
| 11. Park, active | 26. Newsstand or gift shop |
| 12. Park, passive | 27. Personal service |
| 13. Restaurant, drive through | 28. Pharmacy |
| 14. Restaurant, general | 29. Studio for art |

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15. Medical or dental clinic or office 30. Retail sales, general

For uses utilizing the existing structures the following shall apply:

1. Only existing structures may be used for residential uses.
2. Parking shall be provided to the side or rear of the principal building.

For future uses, the following shall apply:

1. The use "Accessory apartment" shall be permitted only on floors above nonresidential uses in new construction.

Non-Residential / Mixed-use new construction Design Guidelines:

1. Buildings shall be arranged to define, create and activate edges and public places.
2. No more than (1) double-loaded parking bay shall be provided between any building and thoroughfares as identified on the Apex Transportation Map.
3. Drive-thru lanes, pick-up windows, and other like functions shall not be permitted along any thoroughfare or collector street as identified on the Apex Transportation Plan. Landscaping and/or other architectural features should be used to create screenings for these types of uses.
4. Elevations of corner buildings shall utilize design features such as variations in wall plane, variation in building mass, and window placement to generate street interest.
5. Architectural treatments such as varying roof forms, façade articulation, breaks in roof, walls with texture materials, and ornamental details as well as landscaping shall be incorporated to add visual interest.
6. Facades shall not have blank side walls creating a false front appearance.
7. Buildings shall have vertical proportions with no blank walls exceeding sixty (60) feet in width without being interrupted with an architectural feature such as, but not limited to, a column, recess in or projection from the facade.
8. Windows shall be divided to be square or vertical in proportion so each section of glass is taller than it is wide.
9. Differences of roof height, pitch, ridgelines, and materials shall be used to create visual interest and avoid repetition.
10. Vehicular and pedestrian cross access shall be provided to adjacent properties.
11. Public street access shall be by one of the three (2) methods below.
 - a. Abutting, within ten (10) feet of the shared property line of 2524 and 2604 Kelly Road or further south on 2604 Kelly Road property as a shared access easement in either case.
 - b. To existing West Village development streets.

Non-residential / mixed used exteriors shall incorporate variation in materials. The primary (front) façade of the main buildings to be considered may include:

1. Brick and/or stone masonry
2. Decorative concrete block (integral color and/or textured)
3. Stone accents
4. Aluminum storefronts with anodized or pre-finished window colors
5. EIFS cornices, and parapet trim
6. EIFS or synthetic stucco shall not be used in the first four feet above grade and shall be limited to 25% of each building façade

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- 7. Precast concrete
- 8. Roof features may include flat roofs with parapet, hip roofs or awnings with metal or canvas material
- 9. Soffit and fascia materials to be considered include EIFS with crown trim elements
- 10. Cementitious siding

Exterior materials not allowable as a part of the development are as follows:

- 1. Vinyl siding
- 2. Painted, smooth faced concrete block
- 3. Metal walls

Section 4: 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 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 _____ 2020.

TOWN OF APEX

Mayor

ATTEST:

Town Clerk

APPROVED AS TO FORM:

Town Attorney