

**STATEMENT OF TOWN COUNCIL AND ORDINANCE AMENDING THE OFFICIAL ZONING DISTRICT MAP OF THE TOWN OF APEX TO CHANGE THE ZONING OF APPROXIMATELY 1.7 ACRES LOCATED AT 1250 AMBERGATE STATION FROM PLANNED UNIT DEVELOPMENT-CONDITIONAL ZONING (PUD-CZ #07CZ05) TO CONSERVATION BUFFER-CONDITIONAL ZONING (CB-CZ)
#23CZ06**

WHEREAS, Angela Reincke, Parks Planning and Project Manager/Town of Apex, owner/applicant (the "Applicant"), submitted a completed application for a conditional zoning on the 1st day of March 2023 (the "Application"). The proposed conditional zoning is designated #23CZ06;

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 #23CZ06 before the Planning Board on the 8th day of May 2023;

WHEREAS, the Apex Planning Board held a public hearing on the 8th day of May 2023, gathered facts, received public comments and formulated a recommendation regarding the application for conditional zoning #23CZ06. A motion was made by the Apex Planning Board to recommend approval; the motion passed unanimously for the application for #23CZ06;

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 #23CZ06 before the Apex Town Council on the 23rd day of May 2023;

WHEREAS, the Apex Town Council held a public hearing on the 23rd day of May 2023. Joshua Killian, Planner I, presented the Planning Board's recommendation at the public hearing;

WHEREAS, all persons who desired to present information relevant to the application for #23CZ06 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 Park – Public or Private. This designation on the 2045 Land Use Map includes the zoning district Conservation Buffer-Conditional Zoning (CB-CZ) and the Apex Town Council has further considered that the proposed rezoning to Conservation Buffer-Conditional Zoning (CB-CZ) will maintain the character of the area and provide the flexibility to accommodate more offerings by the Town of Apex Parks, Recreation, and Cultural Resources 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 permit the expansion of a park serving the recreational needs of the citizens of Apex. The rezoning will encourage compatible development of the property; and

WHEREAS, the Apex Town Council by a vote of 5 to 0 approved Application #23CZ06 rezoning the subject tract located at 1250 Ambergate Station from Planned Unit Development-Conditional Zoning (PUD-CZ #07CZ05) to Conservation Buffer-Conditional Zoning (CB-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 #23CZ06

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 Planned Unit Development-Conditional Zoning (PUD-CZ) to Conservation Buffer-Conditional Zoning (CB-CZ) District, subject to the conditions stated herein.

Section 3: 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 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. Park, active | 4. Botanical garden |
| 2. Park, passive | 5. Utility, minor |
| 3. Greenway | |

Zoning Conditions:

1. All invasive species included in the Town of Apex Design and Development Manual shall be removed from the site.
2. The buffer along the northern property line shall be at least 10 feet wide. Where there is existing vegetation, it shall remain undisturbed except where invasive species will be removed. All areas with no existing vegetation and areas where invasive species are removed shall be planted to a 10-foot Type A buffer standard.
3. The buffer along the western property line shall be a minimum of 50 feet wide. Where there is existing is existing vegetation, it shall remain undisturbed except where invasive species will be removed. Any areas where invasive species are removed shall be planted to a Type B buffer standard.
4. A minimum 10-foot Type C buffer shall be planted along Ambergate Station.
5. Undeveloped portions of the property shall be planted with at least 75% native species, including drought tolerant ornamental grasses and shrub species.
6. A minimum of 2 bike racks shall be provided on site with the final location to be determined at the time of site plan submittal.

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 _____

Ordinance Amending the Official Zoning District Map #23CZ06

Seconded by Council Member _____

With 5 Council Member(s) voting "aye."

With 0 Council Member(s) voting "no."

This the 23rd day of May 2023.

TOWN OF APEX

Jacques K. Gilbert
Mayor

ATTEST:

Allen Coleman, CMC, NCCCC
Town Clerk

APPROVED AS TO FORM:

Town Attorney