

STATEMENT OF TOWN COUNCIL AND ORDINANCE AMENDING THE OFFICIAL ZONING DISTRICT MAP OF THE TOWN OF APEX TO CHANGE THE ZONING OF APPROXIMATELY 15.94 ACRES LOCATED AT 8608, 8612, AND PORTION OF 8620 HUMIE OLIVE ROAD FROM WAKE COUNTY RESIDENTIAL-40W (R-40W) TO LOW DENSITY RESIDENTIAL-CONDITIONAL ZONING (LD-CZ)
#24CZ12

WHEREAS, JVI Building & Development, Inc, applicant (the “Applicant”), submitted a completed application for a conditional zoning on the 3rd day of June 2024 (the “Application”). The proposed conditional zoning is designated #24CZ12;

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 #24CZ12 before the Planning Board on the 9th day of September 2024;

WHEREAS, the Apex Planning Board held a public hearing on the 9th day of September 2024, gathered facts, received public comments and formulated a recommendation regarding the application for conditional zoning #24CZ12. A motion was made by the Apex Planning Board to recommend approval; the motion passed unanimously for the application for #24CZ12;

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 #24CZ12 before the Apex Town Council on the 8th day of October 2024;

WHEREAS, the Apex Town Council held a public hearing on the 8th day of October 2024. 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 #24CZ12 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. This designation on the 2045 Land Use Map includes the zoning district Low Density Residential-Conditional Zoning (LD-CZ) and the Apex Town Council has further considered that the proposed rezoning to Low Density Residential-Conditional Zoning (LD-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 proposed density and uses are consistent with adjacent developments while providing continued growth of available housing within Apex; and

WHEREAS, the Apex Town Council by a vote of __ to __ approved Application #24CZ12 rezoning the subject tract located at 8608, 8612, and portion of 8620 Humie Olive Road from Wake County Residential-40W (R-40W) to Low Density Residential-Conditional Zoning (LD-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.”

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) to Low Density Residential-Conditional Zoning (LD-CZ) District, subject to the conditions stated herein.

Ordinance Amending the Official Zoning District Map #24CZ12

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.

- | | |
|------------------------|------------------|
| 1. Single-family | 4. Greenway |
| 2. Accessory apartment | 5. Park, active |
| 3. Utility, minor | 6. Park, passive |

Zoning Conditions

1. Vinyl siding is not permitted; however, vinyl windows, decorative elements and trim are permitted.
2. Eaves shall project at least 12 inches from the wall of the structure.
3. Garage doors shall have windows, decorative details or carriage-style adornments on them.
4. Garages on the front façade of a home that faces the street shall not exceed 50% of the total width of the house and garage together.
5. The visible side of a home on a corner lot facing the public street shall contain at least 3 decorative elements such as, but not limited to, the following elements:
 - Windows
 - Bay window
 - Recessed window
 - Decorative window
 - Trim around the windows
 - Wrap around porch or side porch
 - Two or more building materials
 - Decorative brick/stone
 - Decorative trim
 - Decorative shake
 - Decorative air vents on gable
 - Decorative gable
 - Decorative cornice
 - Column
 - Portico
 - Balcony
 - Dormer
6. A varied color palette shall be utilized throughout the subdivision to include a minimum of three-color families for siding and shall include varied trim, shutter, and accent colors complementing the siding color.
7. House entrances for units with front-facing single-car garages shall have a prominent covered porch/stoop area leading to the front door.
8. The rear and side elevations of the units that can be seen from the right-of-way shall have trim around the windows.
9. Front porches shall be a minimum of 6 feet deep.

Additional Zoning Conditions

10. The minimum average lot size shall be 7500 sf. and the maximum gross density will be 3 units per acre.
11. Signage or information brochures shall be provided by any homeowner's association areas regarding the need to eliminate and reduce fertilizer and pet waste near SCMs.
12. Developer shall install pollinator-friendly and native flora within SCM planting areas.
13. At least 75% of the plant species used in the landscape design shall be native species to the eastern U.S.
14. Perimeter buffers, SCMs, and other HOA maintained areas may be planted with clover or warm season grasses for drought resistance.
15. In order to reduce water consumption and promote pollinator friendly habitat and biodiversity, Homeowner Association covenants shall permit clover lawns throughout the neighborhood.

Ordinance Amending the Official Zoning District Map #24CZ12

16. A minimum of two pet waste stations shall be installed in HOA common area.
17. Homeowners Association covenants shall not restrict the construction of accessory dwelling units.
18. Any required outdoor lighting shall utilize full cutoff fixtures that have a maximum color temperature of 3000K. (to apply only to signage and other common owned elements.)
19. All garages shall be wired with a 220-volt outlet inside the garage to facilitate charging of electronic vehicles.
20. Stormwater design shall meet the 25-year storm for pre- and post- attenuation requirements.
21. All homes shall include solar conduit in the building design to facilitate future rooftop solar installations.
22. No single species of vegetation shall constitute more than 20% of the plant material of its type within a single development site, not including lawns.
23. In order to support wildlife and pollinators, HOA covenants shall not require that fallen leaves or dormant plants be removed during the winter on areas without turf grass, including individual homes and HOA owned common areas.
24. Construction shall be restricted to Monday – Saturday, no later than 7pm, to allow for a reprieve from construction noise in the evenings and on Sundays.
25. Developer shall dedicate right-of-way and construct minimum improvements along the Humie Olive Road property frontage based on a Rural 2-lane Thoroughfare on 110-foot right-of-way according to the Apex Transportation plan with 5-foot sidewalk along the north side of Humie Olive Road. Additionally, the eastern access point shall provide full movement aligned with Field Poppy Drive with an eastbound left turn lane to be constructed by the developer, and the western access point if proposed or required shall be constructed as right-in/right-out only, subject to review and approval by Apex and NCDOT.

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 _____ 2024.

TOWN OF APEX

Jacques K. Gilbert
Mayor

ATTEST:

Allen Coleman, CMC, NCCCC
Town Clerk

APPROVED AS TO FORM:

Town Attorney