

**STAFF REPORT**  
**Rezoning #22CZ19 The Heights PUD**

February 28, 2023 Town Council Meeting



All property owners, tenants, and neighborhood associations within 300 feet of this rezoning have been notified per UDO Sec. 2.2.11 *Public Notification*.

**BACKGROUND INFORMATION:**

**Location:** 406 S. Salem St, 0 Harwood St, 0 First St  
**Applicant:** Charm City Developers, LLC  
**Authorized Agent:** Patrick Kiernan, Jones & Cnossen Engineering, PLLC.  
**Owners:** KC2 Holdings LLC; FMR Investments LLC; Anfield Enterprises LLC

**PROJECT DESCRIPTION:**

**Acreage:** +/- 1.33 acres  
**PINs:** 0741390442, 0741299306, and a portion of 0741298458  
**Current Zoning:** High Density Single Family (HDSF)  
**Proposed Zoning:** Planned Unit Development-Conditional Zoning (PUD-CZ)  
**Current 2045 Land Use Map:** Office Employment and Medium Density Residential  
**2045 LUM if rezoning approved:** High Density Residential  
**Town Limits:** Inside Corporate Limits

**ADJACENT ZONING & LAND USES:**

	Zoning	Land Use
<b>North:</b>	Neighborhood Business (B1)	Harwood Street; Repair and maintenance, general
<b>South:</b>	High Density Single Family (HDSF)	Single-family residential; Vacant
<b>East:</b>	Neighborhood Business (B1)	S. Salem St; Church or place of worship; Barber and beauty shop; Vacant
<b>West:</b>	High Density Single Family (HDSF); Conservation Buffer (CB)	Single-family residential; Vacant; West Street Park

**EXISTING CONDITIONS:**

The site consists of three parcels totaling +/- 1.33 acres. The Heights PUD is located south of Harwood Street, generally southwest of the intersection of E. Williams Street and S. Salem Street. This project is within the Small Town Character Overlay District and is within a 10-minute walk of downtown. The lots are primarily vacant and wooded with a few cleared areas and part of a stream.

**NEIGHBORHOOD MEETING:**

The applicant conducted a neighborhood meeting on August 30, 2022. Acreage was later added, which required another neighborhood meeting which was held on December 15, 2022. Both neighborhood meeting reports are attached to the staff report.

**2045 LAND USE MAP:**

The 2045 Land Use Map designates the site as Office Employment and Medium Density Residential. This designation does not support the residential uses proposed with The Heights PUD. If the properties are rezoned as proposed, the 2045 Land Use Map will automatically be amended to High Density Residential per NCGS 160D-605(a). Specific land use recommendations from the Apex Downtown Master Plan and Parking Study are addressed in the next section.

**APEX DOWNTOWN MASTER PLAN AND PARKING STUDY:**

The proposed project is a part of the 2.5 square mile area within the Apex Peakway that was studied by the 2019

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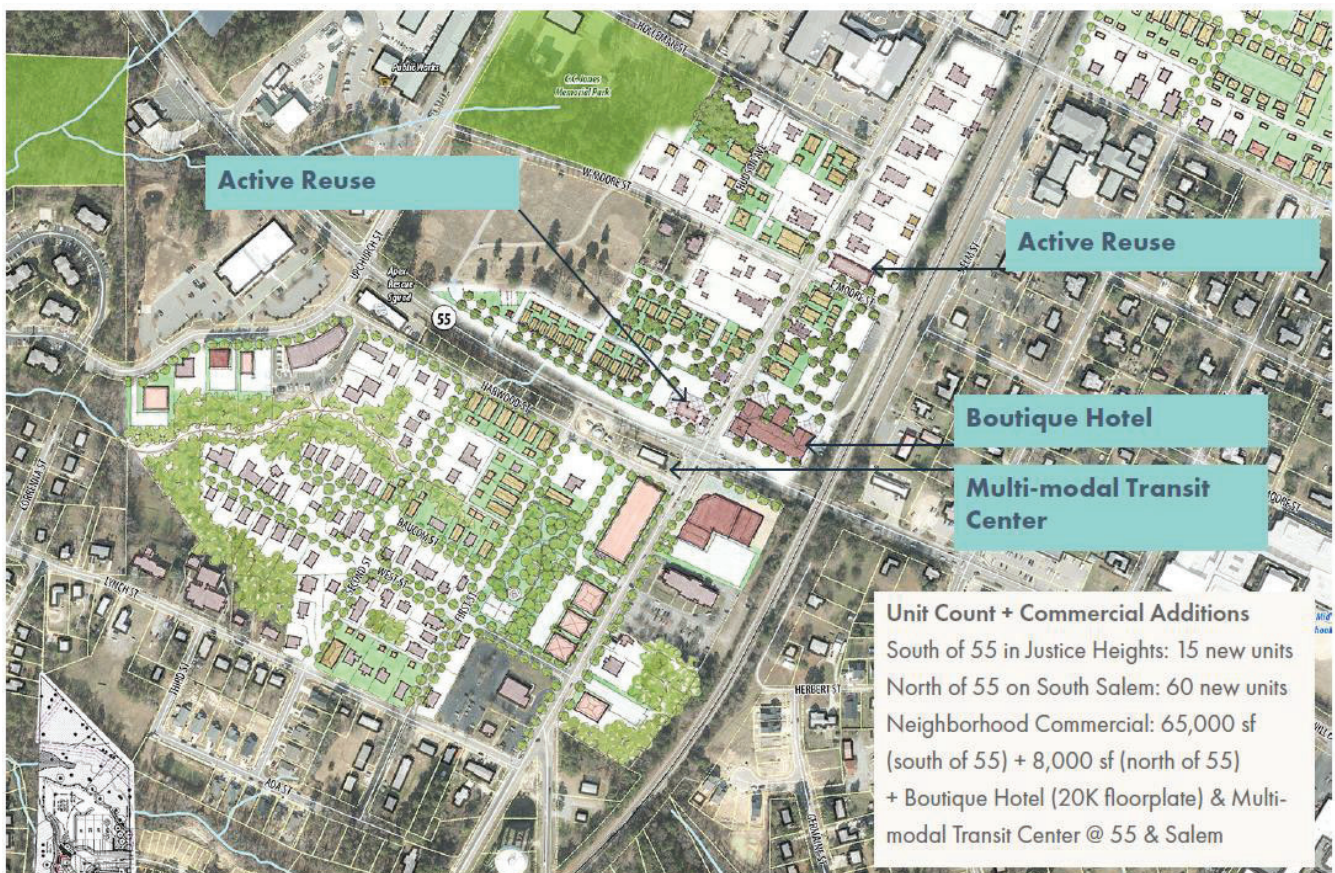
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Apex Downtown Master Plan and Parking Study (Downtown Plan). The housing study completed for the Downtown Plan recommended increasing the number and mixture of housing units within the Peakway and anticipated that, over the next five (5) years, the study area could absorb 515-720 total new residential units of all types.

This project is within the Justice Heights and South Salem portion of the study area, which was more closely analyzed in the Downtown Plan in order to be sensitive to its history as a historically African American neighborhood. The Downtown Plan anticipated adding only about 15 dwelling units in this area. The intent is to preserve existing housing and fill interior blocks with appropriate historically-scaled housing. The Downtown Plan envisioned the addition of neighborhood commercial and employment opportunities along South Salem Street, that would provide convenient, walkable, commercial uses and space for small business without the barrier of crossing NC 55.

This property is within 0.5 miles of downtown and the rezoning proposes to add a maximum of 49 units of multi-family apartments or condominiums along South Salem Street. This proposal supports the overall housing goals of the Downtown Plan, but does not include the recommended commercial uses along this portion of South Salem Street.



**▲ Conceptual Opportunity**

**WCPSS COORDINATION:**

A Letter of Impact from Wake County Public School System (WCPSS) was received for this rezoning and is included in the staff report packet. WCPSS indicates that elementary, middle and high schools within the current assignment area for this rezoning/development are anticipated to have insufficient capacity for future students;



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transportation to schools outside of the current assignment area should be anticipated. School expansion or construction within the next five years may address concerns at the elementary and high school level. Possible long-term solutions may include capping students out to schools with available seats (not very proximate), reassignments, or calendar changes.

#### PLANNED UNIT DEVELOPMENT PLAN:

The applicant is proposing a Planned Unit Development with uses and development standards as follows:

##### Proposed Uses:

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.

- Condominium
- Multi-family or Apartment
- Greenway
- Recreation Facility, private
- Park, active
- Park, passive
- Utility, minor

##### Architectural Conditions:

The architectural standards for this project shall comply with Section 6.3.1, Small Town Character Overlay District of the Town of Apex UDO, unless specifically noted otherwise in this document. The building scale and mass for this multi-family residential building shall be compatible with the established character of traditional Downtown Apex architecture. Building materials to be used for the project shall include a variety and diversity of colors, textures, and features; details of which shall be provided at the time of Minor Site Plan. The building shall not be required to comply with Section 6.3.1.G.4 of the Town of Apex UDO regarding the width of the façade. Instead, the scale of the building will be appropriate to the building type and will also relate appropriately to the long-term vision for this neighborhood, as outlined in the Town of Apex Downtown Plan. Building elevations shall comply with Section 6.3.1.H, Residential Architectural Character, of the Town of Apex UDO for all multi-family requirements (this does not include conditions pertaining to single family architectural standards).

##### Durable Materials

New building façades along publicly accessible rights-of-way shall include durable materials in keeping with surrounding buildings - brick/masonry (no concrete block), hard coat stucco (no EIFS), cementitious or wood siding (no vinyl), and assorted trim elements of quality construction such as wood, aluminum storefront, and similar systems. Furthermore, at the ground floor along public rights-of-way and pedestrian pathways, exterior structural building elements including structured parking will be clad with brick and/or traditional hard coat stucco, cementitious siding, and/or high-quality metal trim and screening.

##### Structured Parking

Structured parking below or adjacent to new development will be screened with elements that carry architectural features of primary structures. Openings in structures will be designed to be in scale with window fenestration of occupied space on the same facade of the building and will be softened with architectural screening such as metal lattices, mullions matching building patterns, or similar features. No unimproved concrete or steel structures visible from any right of way are permitted. Exterior building materials will conform to the standards in the above "Durable Materials" section.



**PROPOSED DESIGN CONTROLS:**

	<b>PUD</b>	<b>UDO</b>
Overall Maximum Density:	40 units/acre	n/a
Maximum Residential Units:	49	n/a
Maximum Building Height:	60 ft & 4 stories	36 ft
Maximum Built-Upon Area:	75%	60%
Minimum Lot Width:	None	60 ft
Front Building Setback:	Min: 0 Ft; Max: 25 ft	20 ft
Side Building Setback:	10 Ft	10 ft
Rear Building Setback:	15 Ft	15 ft

Note: Balconies, patios, decorative features, or other accessory structures may encroach into the S. Salem Street Right of Way with appropriate encroachment permission from Town of Apex Development Services.

In response to neighbor concerns about lighting, the applicant has also added the following condition:

Light poles within the parking lot shall be limited to 18-feet in height and shall be full cut-off fixtures.

**PARKING AND LOADING:**

Parking and loading requirements shall be based on the rate of 1.3 parking spaces per dwelling unit for 1- and 2-bedroom units. This ratio is in keeping with Town of Apex staff recommendation, based on comparable projects in Town.

All other parking design standards, including requirements for accessible parking, bicycle parking, and electric-vehicle charging stations, shall comply with Section 8.3, Off-street Parking and Loading, of the Town of Apex UDO.

**PROPOSED RCA & BUFFERS:**

Per UDO Sec. 6.3.1.D exempts projects within the Small Town Character Overlay District from providing Resource Conservation Area or perimeter buffers. There are no known historic structures on this project.

**AFFORDABLE HOUSING:**

The Affordable Housing condition for this project may be applied in one of two ways, depending on the proposed use of the building at the time of Minor Site Plan. The specific floor plan selection, including unit size and number of bedrooms, shall be chosen at the discretion of the developer at the time of Minor Site Plan.

A. Rental product scenario (Multi-family or Apartment)

A minimum of two (2) residential units (as shown at the time of Minor Site Plan) shall be designated as restricted low-income affordable housing rental units (the “Affordable Units”) for a minimum affordability period of twenty (20) years starting from the date of issuance of the first residential Certificate of Occupancy (the “Affordable Restriction Period”). The Affordable Units shall be occupied by low-income households earning no more than eighty percent (80%) of the Raleigh, NC Metropolitan Statistical Area (MSA) Area Median Income (AMI), adjusted for family size, as most recently published by the U.S. Department of Housing and Urban Development (HUD). The Affordable Units shall either be 1-bedroom or 2-bedroom units and rented to low-income households during the Affordable Restriction Period at maximum rent limits per bedroom size, no greater than eighty percent (80%) of the Raleigh, NC MSA AMI as most recently published by the HUD and stipulated by the most recently published North Carolina Housing Finance Agency (NCHFA) Low-Income Housing Tax Credit (LIHTC) Multifamily Tax Subsidy Program (MTSP) income and rent limits for the Wake County Metropolitan Area. Prior to issuance of the first

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residential Certificate of Occupancy, a restrictive covenant between the Town and property owner shall be executed and recorded in the Wake County Registry to memorialize the affordable housing terms and conditions. During the Affordable Restriction Period, either the property owner or management company shall be responsible for performing all property management and administration duties to ensure compliance with this affordable housing condition and shall submit annual compliance reports to the Town verifying compliance with this affordable housing condition. Following expiration of the Affordable Restriction Period, this affordable housing condition shall expire, and the property owner shall be relieved of all obligations set forth in this affordable housing condition, and the Affordable Units may freely be marketed and leased at market-rate rents.

#### B. Ownership product scenario (Condominium)

Of the permitted residential condo dwellings, at least two (2) restricted median income affordable housing condo ownership units (Affordable Housing Units) shall be constructed on-site and sold at a mutually agreeable maximum affordable housing median-income ownership sales price that is calculated based upon the one-hundred percent (100%) of the Raleigh, NC Metropolitan Statistical Area (MSA) Area Median Income (AMI) as most recently published by the U.S. Department of Housing and Urban Development (HUD). The Affordable Housing Units shall be occupied by households earning no more than one hundred percent (100% - Median-Income) of the Raleigh, NC MSA AMI, adjusted for family size as most recently published by HUD. The two (2) Affordable Housing units shall be identified on the Condominium Final Plat, which may be amended from time to time. A restrictive covenant (i.e. unit reservation agreement) shall be recorded against the two (2) Affordable Housing units prior to the Condominium Final Plat, and a separate restrictive covenant (i.e. resale deed restriction) with a minimum affordability period of ten (10) years shall be recorded against each of the Affordable Housing units at purchase closing to memorialize the affordable housing terms and conditions of the approved zoning condition.

#### **PUBLIC UTILITIES & STORMWATER:**

The Heights PUD will be served by Town of Apex water, sanitary sewer, and electrical systems. The utility design will be finalized at Minor Site Plan review. A conceptual Utility Plan is included in the PUD Plan for reference, which shows public sanitary sewer and public water are available within S. Salem Street as well as Harwood Street. Precise locations of utility service connections will be determined at the time of Minor Site Plan submission. The ultimate design for the utilities shall meet the current Town of Apex Master Water and Sewer Plans for approval.

The Heights PUD will meet all applicable requirements and standards as described in Section 6.1, Watershed Protection Overlay Districts, of the Town of Apex UDO. This project will meet all stormwater reduction requirements including limiting the post-development stormwater flows to not exceed the pre-development stormwater runoff for the 1-year and 10-year 24-hour storm events.

The Heights PUD will use approved devices to control the stormwater and sediment runoff. These devices may include detention ponds, retention ponds, bioretention areas or any other approved SCM stormwater control. Stormwater control devices shall be landscaped and constructed to be an amenity to the development.

This project proposes to abandon the existing 30' public drainage easement on the northeast corner of the property, with the understanding that an alternate stormwater design will need to be approved by the Water Resources Director at Minor Site Plan and constructed by the developer. There is also an existing public storm drain that is internal to the project that was installed without a public drainage easement. This pipe would also be subject to re-alignment with this PUD proposal. Abandonment of any public stormwater easements would follow the Town's typical easement abandonment process. Any additional public drainage easements will be recorded at the time of Site Plan Final Plat.

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- This project is located in the Upper Beaver Creek drainage basin which is in the Cape Fear Basin. This project currently falls within the Secondary Watershed Protection Overlay District as shown on Town of Apex Watershed Protection Overlay District Map.
- There is no FEMA mapped floodplain within these parcels as shown on FEMA FIRM Map #3720074100J, dated May 2, 2006.
- It has been determined that there are no jurisdictional streams, wetlands or riparian buffers located on this project.

#### APEX TRANSPORTATION PLAN/ACCESS AND CIRCULATION:

The Apex Bicycle and Pedestrian System Plan Map shows 5-foot sidewalks along South Salem Street and Harwood Street. South Salem Street is shown as Bike Highway with proposed bicycle lanes on both the north and south of the street. Sidewalk circulation will be provided around all sides of the building, including connections made directly to S. Salem Street and Harwood Street. Where sidewalk already exists within the S. Salem Street or Harwood Street rights-of-way, additional, parallel sidewalks shall not be required to achieve the circulation around the building.

Roadway improvements are subject to modification and final approval by the Town of Apex and NCDOT as part of the Minor Site Plan review and approval process. Per the Apex Thoroughfare and Collector Street Plan map, South Salem Street is designated as an existing 3-lane Thoroughfare. A 10' right-of-way dedication shall be provided along the S. Salem Street frontage, to complete ½ of the full 80' right-of-way for this section of South Salem Street.

As shown on the PUD Layout Plan, all access points and planned vehicular circulation are conceptual and will be finalized at the time of Development Plan review and approval.

This project shall provide and construct one public bus stop along S. Salem Street within the project boundaries, with the exact location to be determined at the time of Minor Site Plan. The bus stop shall meet the approved Town of Apex bus stop standard construction specifications ("Town standards"), and be contained within the Town's public right-of-way if at all possible (and otherwise an easement shall be dedicated for maintenance of the bus stop into the future). The scope shall be dependent on the following conditions:

- If a bus route is in operation to service the stop at the time of site plan approval, the developer shall be responsible for concrete site work and the purchase and installation of a bench, trash can, and two bike racks. All sitework and amenities shall comply with Town standards.
- If no such bus service is in operation at the time of site plan approval, the developer shall only be responsible for concrete site work which shall comply with Town standards. No installed amenities (bench, trash can, bike racks) shall be required by the Town.
- However, if the developer chooses to do so, they may purchase and install a bench and trash can even if no bus service will serve the stop at the time of site plan approval. In this case, the bench and trash can may be used to satisfy the UDO's public amenity requirement. All site work and amenities must comply with Town standards.

#### ENVIRONMENTAL ADVISORY BOARD:

Per UDO Sec. 2.1.9, this project was exempt from review by the Environmental Advisory Board because it is located within the Small Town Character Overlay District. Despite that, the following standard, EAB-recommended conditions have been added to this project:

1. At least 75% of the plant species used in the landscape design shall be native species.
2. Warm season grasses and landscaping that requires less irrigation and chemical uses shall be planted to facilitate drought resistance.

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3. A minimum of two (2) pet waste stations shall be installed within the development.
4. Electric vehicle charging spaces shall be provided at a rate of 5% of all required motor vehicle parking spaces, an increase from Table 8.3-9 of the Town of Apex UDO.

#### **PARKS, RECREATION, AND CULTURAL RESOURCES ADVISORY COMMISSION:**

The Heights PUD was reviewed by the PRCR Advisory Commission at the November 30, 2022 meeting. The Advisory Commission unanimously recommended a fee-in-lieu of dedication for the project. Staff presented the concept of a sidewalk connection from West Street Park to the project, and it was supported with the location to be determined at the time of the site plan approval. The current rate of the fee-in-lieu at this time is \$2,381.87 per multi-family, apartment, or condominium unit.

#### **PLANNING STAFF RECOMMENDATION:**

Planning staff recommends approval of Rezoning #22CZ19 The Heights PUD as proposed.

#### **PLANNING BOARD RECOMMENDATION:**

Planning Board held a public hearing at their regularly scheduled meeting on February 13, 2023. By a vote of 7 to 1, Planning Board voted to recommend approval of Rezoning Case #22CZ19 The Heights PUD. The dissenting opinions are included in the Planning Board Report to Town Council.

#### **ANALYSIS STATEMENT OF THE REASONABLENESS OF THE PROPOSED REZONING:**

This Statement will address consistency with the Town's comprehensive and other applicable plans, reasonableness, and effect on public interest:

The 2045 Land Use Map designates the site as Office Employment and Medium Density Residential. This designation does not include the residential uses proposed with The Heights PUD. If the properties are rezoned as proposed, the 2045 Land Use Map will automatically be amended to High Density Residential per NCGS 160D-605(a). The proposed rezoning generally complies with the Town's Downtown Master Plan and Parking Study by providing up to 49 new residential dwelling units within a 10-minute walk of downtown, even though it does not include the Plan's specific use recommendations for this parcel. The proposed rezoning to Planned Unit Development-Conditional Zoning (PUD-CZ) will also 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.

The proposed rezoning is reasonable and in the public interest because it will encourage infill development, provide two (2) affordable housing units, construct a bus stop, and encourage walkability in a way that is consistent with the 2019 Downtown Master Plan and Parking Study.

#### **PLANNED UNIT DEVELOPMENT DISTRICT AND CONDITIONAL ZONING STANDARDS:**

##### ***Standards***

In return for greater flexibility in site design requirements, Planned Development (PD) Districts are expected to deliver exceptional quality community designs that preserve critical environmental resources; provide high quality community amenities; incorporate creative design in the layout of buildings, Resource Conservation Area and circulation; ensure compatibility with surrounding land uses and neighborhood character; provide high quality architecture; and provide greater efficiency in the layout and provision of roads, utilities, and other infrastructure. The Planned Development (PD) Districts shall not be used as a means of circumventing the Town's adopted land development regulations for routine developments.





1. *Planned Unit Development (PUD-CZ) District*

In approving a Planned Development (PD) Zoning District designation for a PUD-CZ, the Town Council shall find the PUD-CZ district designation and PD Plan for PUD-CZ demonstrates compliance with the following standards:

- a) *Development parameters*
  - (i) The uses proposed to be developed in the PD Plan for PUD-CZ are those uses permitted in Sec. 4.2.2 *Use Table*.
  - (ii) The uses proposed in the PD Plan for PUD-CZ can be entirely residential, entirely non-residential, or a mix of residential and non-residential uses, provided a minimum percentage of non-residential land area is included in certain mixed use areas as specified on the 2045 Land Use Map. The location of uses proposed by the PUD-CZ must be shown in the PD Plan with a maximum density for each type of residential use and a maximum square footage for each type of non-residential use.
  - (iii) The dimensional standards in Sec. 5.1.3 *Table of Intensity and Dimensional Standards, Planned Development Districts* may be varied in the PD Plan for PUD-CZ. The PUD-CZ shall demonstrate compliance with all other dimensional standards of the UDO, North Carolina Building Code, and North Carolina Fire Code.
  - (iv) The development proposed in the PD Plan for PUD-CZ encourages cluster and compact development to the greatest extent possible that is interrelated and linked by pedestrian ways, bikeways and other transportation systems. At a minimum, the PD Plan must show sidewalk improvements as required by the Apex Transportation Plan and the *Town of Apex Standard Specifications and Standard Details*, and greenway improvements as required by the Town of Apex Parks, Recreation, Greenways, and Open Space Plan and the Apex Transportation Plan. In addition, sidewalks shall be provided on both sides of all streets for single-family detached homes.
  - (v) The design of development in the PD Plan for PUD-CZ results in land use patterns that promote and expand opportunities for walkability, connectivity, public transportation, and an efficient compact network of streets. Cul-de-sacs shall be avoided unless the design of the subdivision and the existing or proposed street system in the surrounding area indicate that a through street is not essential in the location of the proposed cul-de-sac, or where sensitive environmental areas such as streams, floodplains, and wetlands would be substantially disturbed by making road connections.
  - (vi) The development proposed in the PD Plan for PUD-CZ is compatible with the character of surrounding land uses and maintains and enhances the value of surrounding properties.
  - (vii) The development proposed in the PD Plan for PUD-CZ has architectural and design standards that are exceptional and provide higher quality than routine developments. All residential uses proposed in a PD Plan for PUD-CZ shall provide architectural elevations representative of the residential structures to be built to ensure the Standards of this Section are met.
- b) *Off-street parking and loading*. The PD Plan for PUD-CZ shall demonstrate compliance with the standards of Sec. 8.3 *Off-Street Parking and Loading*, except that variations from these standards may be permitted if a comprehensive parking and loading plan for the PUD-CZ is submitted as part of the PD Plan that is determined to be suitable for the PUD-CZ, and generally consistent with the intent and purpose of the off-street parking and loading standards.
- c) *RCA*. The PD Plan for PUD-CZ shall demonstrate compliance with Sec. 8.1.2 *Resource Conservation Area*, except that the percentage of RCA required under Sec. 8.1.2 may be reduced by the Town Council by no more than 10% provided that the PD Plan for PUD-CZ includes one or more of the following:





- (i) A non-residential component; (ii) An overall density of 7 residential units per acre or more; or (iii) Environmental measures including but not limited to the following:
  - a. The installation of a solar photovoltaic (PV) system on a certain number or percentage of single-family or townhouse lots or on a certain number or percentage of multifamily, mixed-use, or nonresidential buildings. All required solar installation shall be completed or under construction prior to 90% of the building permits being issued for the approved number of lots or buildings. For single-family or townhouse installations, the lots on which these homes are located shall be identified on the Master Subdivision Plat, which may be amended;
  - b. The installation of a geothermal system for a certain number or percentage of units within the development; or
  - c. Energy efficiency standards that exceed minimum Building Code requirements (i.e. SEER rating for HVAC).
- d) *Landscaping.* The PD Plan for PUD-CZ shall demonstrate compliance with the standards of Sec. 8.2 *Landscaping, Buffering and Screening*, except that variations from these standards may be permitted where it is demonstrated that the proposed landscaping sufficiently buffers uses from each other, ensures compatibility with land uses on surrounding properties, creates attractive streetscapes and parking areas and is consistent with the character of the area. In no case shall a buffer be less than one half of the width required by Sec. 8.2 or 10 feet in width, whichever is greater.
- e) *Signs.* Signage in the PD Plan for PUD-CZ shall demonstrate compliance with Sec. 8.7 *Signs*, except that the standards can be varied if a master signage plan is submitted for review and approval concurrent with the PD plan and is determined by the Town Council to be suitable for the PUD-CZ and generally consistent with the intent and purpose of the sign standards of the UDO. The master signage plan shall have design standards that are exceptional and provide for higher quality signs than those in routine developments and shall comply with Sec. 8.7.2 *Prohibited Signs*.
- f) *Public facilities.* The improvements standards and guarantees applicable to the public facilities that will serve the site shall comply with Article 7: *Subdivision* and Article 14: *Parks, Recreation, Greenways, and Open Space*.
  - (i) The PD Plan for PUD-CZ demonstrates a safe and adequate on-site transportation circulation system. The on-site transportation circulation system shall be integrated with the off-site transportation circulation system of the Town. The PD Plan for PUD-CZ shall be consistent with the Apex Transportation Plan and the *Town of Apex Standard Specifications and Standard Details* and show required right-of-way widths and road sections. A Traffic Impact Analysis (TIA) shall be required per Sec. 13.19.
  - (ii) The PD Plan for PUD-CZ demonstrates a safe and adequate on-site system of potable water and wastewater lines that can accommodate the proposed development, and are efficiently integrated into off-site potable water and wastewater public improvement plans. The PD Plan shall include a proposed water and wastewater plan.
  - (iii) Adequate off-site facilities for potable water supply, sewage disposal, solid waste disposal, electrical supply, fire protection and roads shall be planned and programmed for the development proposed in the PD Plan for PUD-CZ, and the development is conveniently located in relation to schools and police protection services.
  - (iv) The PD Plan shall demonstrate compliance with the parks and recreation requirements of Sec. Article 14: *Parks, Recreation, Greenways, and Open Space* and Sec. 7.3.1 *Privately-owned Play Lawns* if there is a residential component in the PUD-CZ.

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- g) *Natural resource and environmental protection.* The PD Plan for PUD-CZ demonstrates compliance with the current regulatory standards of this Ordinance related to natural resource and environmental protection in Sec. 6.1 *Watershed Protection Overlay District*, Sec. 6.2 *Flood Damage Prevention Overlay District*, and Sec. 8.1 *Resource Conservation*.
- h) *Storm water management.* The PD Plan shall demonstrate that the post-development rate of on-site storm water discharge from the entire site shall not exceed pre-development levels in accordance with Sec. 6.1.7 of the UDO.
- i) *Phasing.* The PD Plan for PUD-CZ shall include a phasing plan for the development. If development of the PUD-CZ is proposed to occur in more than one phase, then guarantees shall be provided that project improvements and amenities that are necessary and desirable for residents of the project, or that are of benefit to the Town, are constructed with the first phase of the project, or, if this is not possible, then as early in the project as is technically feasible.
- j) *Consistency with 2045 Land Use Map.* The PD Plan for PUD-CZ demonstrates consistency with the goals and policies established in the Town's 2045 Land Use.
- k) *Complies with the UDO.* The PD Plan for PUD-CZ demonstrates compliance with all other relevant portions of the UDO.
- l)

### Legislative Considerations

The Town Council shall find the Planned Unit Development-Conditional Zoning (PUD-CZ) designation demonstrates compliance with the following standards. 2.3.3(F):

The applicant shall propose site-specific standards and conditions that take into account the following considerations, which are considerations that are relevant to the legislative determination of whether or not the proposed conditional zoning district rezoning request is in the public interest. These considerations do not exclude the legislative consideration of any other factor that is relevant to the public interest.

- 1) *Consistency with 2045 Land Use Map.* The proposed Conditional Zoning (CZ) District use's appropriateness for its proposed location and consistency with the purposes, goals, objectives, and policies of the 2045 Land Use Map.
- 2) *Compatibility.* The proposed Conditional Zoning (CZ) District use's appropriateness for its proposed location and compatibility with the character of surrounding land uses.
- 3) *Zoning district supplemental standards.* The proposed Conditional Zoning (CZ) District use's compliance with Sec 4.4 *Supplemental Standards*, if applicable.
- 4) *Design minimizes adverse impact.* The design of the proposed Conditional Zoning (CZ) District use's minimization of adverse effects, including visual impact of the proposed use on adjacent lands; and avoidance of significant adverse impacts on surrounding lands regarding trash, traffic, service delivery, parking and loading, odors, noise, glare, and vibration and not create a nuisance.
- 5) *Design minimizes environmental impact.* The proposed Conditional Zoning District use's minimization of environmental impacts and protection from significant deterioration of water and air resources, wildlife habitat, scenic resources, and other natural resources.
- 6) *Impact on public facilities.* The proposed Conditional Zoning (CZ) District use's avoidance of having adverse impacts on public facilities and services, including roads, potable water and wastewater facilities, parks, schools, police, fire and EMS facilities.
- 7) *Health, safety, and welfare.* The proposed Conditional Zoning (CZ) District use's effect on the health, safety, or welfare of the residents of the Town or its ETJ.

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- 8) *Detrimental to adjacent properties.* Whether the proposed Conditional Zoning (CZ) District use is substantially detrimental to adjacent properties.
- 9) *Not constitute nuisance or hazard.* Whether the proposed Conditional Zoning (CZ) District use constitutes a nuisance or hazard due to traffic impact or noise, or because of the number of persons who will be using the Conditional Zoning (CZ) District use.
- 10) *Other relevant standards of this Ordinance.* Whether the proposed Conditional Zoning (CZ) District use complies with all standards imposed on it by all other applicable provisions of this Ordinance for use, layout, and general development characteristics.