

STATEMENT OF TOWN COUNCIL AND ORDINANCE AMENDING THE OFFICIAL ZONING DISTRICT MAP OF THE TOWN OF APEX TO CHANGE THE ZONING OF APPROXIMATELY 7.21 ACRES LOCATED AT 905 WIMBERLY ROAD FROM WAKE COUNTY RESIDENTIAL-80W (R-80W) TO RESIDENTIAL AGRICULTURAL-CONDITIONAL ZONING (RA-CZ)

#22CZ14

WHEREAS, Evan Bost, Bost Custom Homes/ Brad & Chelsea Hoffman, owner/applicant (the “Applicant”), submitted a completed application for a conditional zoning on the 1st day of June 2022 (the “Application”). The proposed conditional zoning is designated #22CZ14;

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 #22CZ14 before the Planning Board on the 8th day of August 2022;

WHEREAS, the Apex Planning Board held a public hearing on the 8th day of August 2022, gathered facts, received public comments and formulated a recommendation regarding the application for conditional zoning #22CZ14. A motion was made by the Apex Planning Board to recommend approval; the motion passed unanimously for the application for #22CZ14;

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 #22CZ14 before the Apex Town Council on the 23rd day of August 2022;

WHEREAS, the Apex Town Council held a public hearing on the 23rd day of August 2022. Lauren Staudenmaier, Planner II, presented the Planning Board's recommendation at the public hearing;

WHEREAS, all persons who desired to present information relevant to the application for #22CZ14 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 Rural Density Residential. This designation on the 2045 Land Use Map includes the zoning district Residential Agricultural-Conditional Zoning (RA-CZ) and the Apex Town Council has further considered that the proposed rezoning to Residential Agricultural-Conditional Zoning (RA-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 proposed rezoning is reasonable and in the public interest because it will permit one single-family residential dwelling, the size and physical conditions of which are consistent and compatible with the surrounding area. In addition, the proposed rezoning will benefit the landowner by allowing the property to connect to Town water and sewer services; and

WHEREAS, the Apex Town Council by a vote of ___ to ___ approved Application #22CZ14 rezoning the subject tract located at 905 Wimberly Road from Wake County Residential-80W (R-80W) to Residential Agricultural-Conditional Zoning (RA-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 #22CZ14

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-80W District (R-80W) to Residential Agricultural-Conditional Zoning (RA-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:

Limitation of 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 indicate that other sections of the UDO do not apply.

Permitted Uses and Limitations:

1. Single-family (P)
2. Accessory apartment (P)

Conditions:

1. Vinyl siding is not permitted; however, vinyl windows, decorative elements and trim are permitted.
2. The roof shall be pitched at 5:12 or greater.
3. Eaves shall project at least 12 inches from the wall of the structure.
4. Garage doors shall have windows, decorative details or carriage-style adornments on them.
5. House entrances for units with front-facing single-car garages shall have a prominent covered porch/stoop area leading to the front door.
6. The rear and side elevations of the units that can be seen from the right-of-way shall have trim around the windows.
7. Front porches shall be a minimum of 6 feet deep.
8. The home shall be sited such that it will preserve as many large specimen trees along the perimeter of the property and the southern third of the property as can reasonably be preserved.
9. Evergreen trees shall be planted along the northern side of the property, the species of which shall mature above 15' tall.
10. The final landscaping shall include tree, shrub, and perennial blooming species with special attention to providing pollinator friendly and bird food source species.
11. The final landscaping shall include a minimum of 50% native plants.
12. The final landscaping shall include warm season grasses in order to minimize the need for irrigation and chemical use.
13. The building shall be designed to incorporate passive daylighting techniques, including, but not limited to, southern building orientation, skylights, sun tunnels, and large windows in order to reduce electric light demand.
14. The home shall at minimum be pre-configured with conduit and wiring for rooftop photo-voltaic solar.
15. The minimum front building setback shall be 55 feet from the current right of way.

Ordinance Amending the Official Zoning District Map #22CZ14

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 _____ 2022.

TOWN OF APEX

Mayor

ATTEST:

Allen Coleman, CMC, NCCCC
Town Clerk

APPROVED AS TO FORM:

Town Attorney