

STATEMENT OF TOWN COUNCIL AND ORDINANCE AMENDING THE OFFICIAL ZONING DISTRICT MAP OF THE TOWN OF APEX TO CHANGE THE ZONING OF APPROXIMATELY 3.08 ACRES LOCATED AT 3075 LUFKIN ROAD FROM PLANNED COMMERCIAL (PC) & PLANNED COMMERCIAL-CONDITIONAL USE (PC-CU #94CU21 & #98CU14) TO LIGHT INDUSTRIAL-CONDITIONAL ZONING (LI-CZ)

#21CZ20

WHEREAS, Lufkin Leased Fee, LLC./Wigeon Capital, LLC., owner/applicant (the “Applicant”), submitted a completed application for a conditional zoning on the 1st day of September 2021 (the “Application”). The proposed conditional zoning is designated #21CZ20;

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 #21CZ20 before the Planning Board on the 13th day of December 2021;

WHEREAS, the Apex Planning Board held a public hearing on the 13th day of December 2021, gathered facts, received public comments and formulated a recommendation regarding the application for conditional zoning #21CZ20. A motion was made by the Apex Planning Board to recommend approval; the motion passed by a vote of 6 to 1 for the application for #21CZ20;

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 #21CZ20 before the Apex Town Council on the 25th day of January 2022;

WHEREAS, the Apex Town Council held a public hearing on the 25th day of January 2022. Amanda Bunce, Current Planning Manager, presented the Planning Board’s recommendation at the public hearing;

WHEREAS, all persons who desired to present information relevant to the application for #21CZ20 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 will amend the 2045 Land Use Plan to Industrial Employment: The 2045 Land Use Map designation of Industrial Employment is consistent with the zoning district Light Industrial-Conditional Zoning (LI-CZ). The Apex Town Council has further considered that the proposed rezoning to Light Industrial-Conditional Zoning (LI-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 rezoning will permit the development of this parcel with industrial uses that are most compatible with the nearby commercial uses and bring the entire property under one zoning district; and

WHEREAS, the Apex Town Council by a vote of 5 to 0 approved Application #21CZ20 rezoning the subject tract located at 3075 Lufkin Road from Planned Commercial (PC) & Planned Commercial-Conditional Use (PC-CU #98CU14 & #94CU21) to Light Industrial-Conditional Zoning (LI-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 Planned Commercial (PC) & Planned Commercial-

Ordinance Amending the Official Zoning District Map #21CZ20

Conditional Use (PC-CU #98CU14 & #94CU21) to Light Industrial-Conditional Zoning (LI-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:

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. Self-service storage | 8. Pet services |
| 2. Medical or dental office or clinic | 9. Automotive accessory sales and installation |
| 3. Office, business or professional | 10. Automotive parts |
| 4. Artisan studio | 11. Car wash or auto detailing |
| 5. Repair services, limited | 12. Woodworking or cabinetmaking |
| 6. Studio for art | 13. Manufacturing and processing, minor |
| 7. Upholstery shop | 14. Utility, minor |

Zoning Conditions:

1. Provide minimum 10-kW rooftop solar PV system on rooftop to offset energy use.
2. This project shall preserve existing tree canopy within the required perimeter buffers and RCA as required by the UDO. Any supplemental landscaping within those buffers shall be native plant species.
3. In order to reduce irrigation and chemical use, this development shall plant warm season grasses where turf grass is called for on the landscaping plans. All other required landscaping shall consist of drought tolerant native plants.
4. In order to meet International Dark Sky Association standards, all outdoor lighting and parking lot lighting fixtures shall be LED fixtures in a full-cutoff style and with a color temperature of 3000K or less.

The following are architectural conditions for the building façade:

1. The predominant exterior building materials shall be high quality materials, including:
 - a. Brick masonry
 - b. Decorative concrete block (either integrally colored or textured)
 - c. Stone accents
 - d. Cementitious Siding
 - e. Aluminum storefronts with anodized or pre-finished colors.
 - f. EIFS cornices, and parapet trim
 - g. Precast concrete
2. EIFS or synthetic stucco shall not be used in the first forty inches above grade.
3. The building exterior shall have more than one material color.
4. The building shall have more than one parapet height.
5. A self-service storage building shall have a maximum height of 3 stories above grade or 40-feet.
6. The main entrance to the building shall be emphasized.
7. Only full cut-off lighting fixtures and fixtures with external house-side shields shall be allowed where non-residential properties are adjacent to residential properties.

Ordinance Amending the Official Zoning District Map #21CZ20

- 8. Interior Doors will only be visible on 15% of the façade of each floor facing Lufkin Road and only 5% of the façade on each floor facing Ten-Ten Road in a self-service storage building. Interior doors shall not be visible facing US Highway 1. Spandrel glass shall be used for the remaining windows, except those at the entrance.
- 9. The use of high intensity colors or fluorescent colors shall be prohibited on interior doors visible from exterior windows.

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:

Title: _____

APPROVED AS TO FORM:

Town Attorney

AFFIDAVIT OF OWNERSHIP: EXHIBIT A – LEGAL DESCRIPTION

Application #: 21CZ20

Submittal Date: 9/1/2021

Insert legal description below.

Beginning at a control corner, being a concrete monument, with North Carolina grid coordinates NAD83 (NSRS 2007) of N= 718,108.455 and E= 2,052,828.106; thence N87°55'01"E 101.72' to a concrete monument; thence S65°26'26"E 86.65' to an iron pipe found; thence along a curve to the right having a radius of 932.21', a length of 125.48', a chord bearing of S61°35'00"E and a chord distance of 125.38' to an iron pipe set; thence S00°38'48"E 67.86' to an iron pipe set; thence S54°40'15"W 36.42' to an iron pipe set; thence along a curve to the right having a radius of 513.50', a length of 196.47', a chord bearing of S65°37'54"W and a chord distance of 195.27' to an iron pipe set; thence along a curve to the right having a radius of 513.50', a length of 100.90', a chord bearing of S79°55'50"W and a chord distance of 100.73' to an iron pipe set; thence along a curve to the right having a radius of 517.50', a length of 310.73', a chord bearing of N75°00'02"W and a chord distance of 306.08' to an iron pipe set; thence N57°47'56"W 191.43' to an iron pipe set; thence along a curve to the left having a radius of 517.50', a length of 66.62', a chord bearing N61°29'20"W and a chord distance of 66.57' to an iron pipe set; thence along a curve to the right having a radius of 1085.92', a length of 54.72', a chord bearing S87°50'28"E and a chord distance of 54.71' to an iron pipe set; thence S86°23'50"E 218.38' to an iron pipe found; thence along a curve to the left having a radius of 378.31', a length of 277.53', a chord bearing N72°27'09"E and a chord distance of 271.45' to the point of beginning and containing approximately 3.079 acres more or less and labeled as Lot 3 according to a map prepared by EDR Engineering entitled EASEMENT DEDICATION AND EXEMPT SUBDIVISION PLAT prepared for LUFKIN LEASED FEE L.L.C. dated 3/28/2012 and recorded at the Wake County Register of Deeds in book of maps 2012 pages 584-585.