

**ORDINANCE AMENDING THE OFFICIAL ZONING DISTRICT MAP OF THE TOWN OF APEX TO CHANGE THE ZONING OF APPROXIMATELY 18.737 ACRES LOCATED ON 0 AND 8633 HUMIE OLIVE ROAD FROM WAKE COUNTY RESIDENTIAL-40W (R-40W) TO LOW DENSITY RESIDENTIAL-CONDITIONAL ZONING (LD-CZ)**

**#20CZ13**

**WHEREAS**, the application of Bill Zahn, Humie Olive Associates, petitioner, for the rezoning of lands hereinafter described was duly filed with the office of the Planning Director and thereafter a public hearing was held hereon on the 11<sup>th</sup> day of January 2021 before the Planning Board and on the 13<sup>th</sup> day of January 2021 the Planning Board voted. Thereafter, the Planning Board submitted its final report to the Town Council recommending approval of said application for the rezoning of the lands hereinafter described, all in accordance with the requirements of the Town of Apex Unified Development Ordinance and the provisions of Chapter 160A, Article 19, of the North Carolina General Statutes. A public hearing was held on the 26<sup>th</sup> day of January 2021, before the Town Council. All public hearings were held pursuant to due notice mailed and published pursuant to G.S. § 160A-384; **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.

**Section 3:** The "Rezoned Lands" are subject to all of the following conditions which are imposed as part of this rezoning:

**Zoning Conditions:**

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
2. Family care home
3. Accessory apartment
4. Utility, minor
5. Park, active
6. Park, passive
7. Greenway
8. Recreation facility, private

**Conditions:**

1. The project density will not exceed 3.00 dwelling units/acre. Maximum number of units is 56 dwelling units. Minimum lot size shall be 5,865 sq.ft.
2. The project will provide a minimum of two (2) points of access if over fifty (50) residential lots are proposed. Project shall be accessed on Humie Olive Road, and a stub provided to the N/F Edward & Deborah Peart property (PIN 0720-09-3139), consistent with the location of the stub streets approved in the Heelan PUD, or as agreed upon with the Town of Apex Planning and Transportation staff during Master Subdivision Plan review and approval.
3. All homes shall have a crawl space or raised foundation which at a minimum rises 20 inches from average grade across the front of the house to the finished floor level at the front door. Zero-entry homes without the 20-inch rise are permitted if 1<sup>st</sup>- floor owner suite is provided. Lots permitted as “zero-entry” shall be noted on the Final Plat.
4. Setbacks shall be as follows to correspond with the approved Heelan PUD:
  - Front: Reduce from 25’ minimum to 20’ minimum
  - Side: Reduce from 8’ minimum with a 20’ aggregate to a 5’ minimum
  - Rear: Reduce from 25’ minimum to 15’ minimum
  - Corner side: Reduce from 18’ minimum to 15’ minimum
5. The project will provide sidewalk on both sides of all internal streets.
6. Vinyl siding is not permitted; however, vinyl windows, decorative elements and trim are permitted.
7. Eaves shall project at least 12 inches from the wall of the structure.
8. 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 or Decorative window
  - Trim around the window
  - Wrap around porch or side porch
  - Two or more building materials
  - Decorative brick/stone
  - Decorative trim
  - Decorative shake
  - Decorative gable
  - Decorative air vents on gable
  - Decorative cornice
  - Column
  - Portico
  - Balcony
  - Dormer
9. A varied color palette shall be utilized on homes throughout the subdivision, to include a minimum of three (3) color families for siding and shall include varied trim, shutter and accent colors complementing the siding color.
10. House entrances for units with front-facing single-car garages shall have a prominent covered porch/stoop area leading to the front door. Front façades and porches may encroach up to 5-feet into front setback provided the garage is located no closer than 20-feet from the right-of-way.
11. Garage may protrude up to 5-feet from the front façade or front porch. Garage doors shall have windows, decorative details, or carriage-style adornments on them. Garage may protrude more than 5-feet with J-drives or courtyards for side entry doors.
12. All homes shall be pre-configured with conduit for a solar energy system.
13. Homeowners Association covenants shall not restrict construction of any accessory dwelling unit.

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14. The roof shall be pitched at 5:12 or greater for 75% of the building designs.
15. 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.
16. The rear and side elevations of the units that can be seen from the right-of-way shall have trim around the windows.
17. Front porches shall be a minimum of 6 feet deep.
18. Existing deciduous trees greater than 18" in diameter that are removed by site development shall be replaced by planting a 1.5" caliper native tree from the Town of Apex Design and Development Manual either on-site or at an alternative site location approved by Town Planning Staff, above and beyond standard UDO requirements.
19. The existing overhead electric easement along Humie Olive Road shall be counted towards the required RCA and buffer standards as identified within various UDO sections. The buffer is proposed to be an average width buffer of 50'. The buffer shall be planted to a Type 'B' buffer standard along the Humie Olive Road frontage.
20. Left turn lane(s) meeting NCDOT requirements shall be provided on Humie Olive Road for each proposed point of access where left turn movements are proposed if permitted by NCDOT.
21. Prior to recordation of the first Final Plat for the property, the developer shall provide a donation to the Town of Apex's Affordable Housing Fund (the "FUND") in the amount of \$215/dwelling unit. If at the time of the first Final Plat, the FUND is yet to be established, the developer shall contribute said funds to a non-profit organization participating in the development and construction of affordable housing units. The developer will work with the Town of Apex to identify a mutually acceptable non-profit organization to receive these funds.

For purposes of this condition, affordable housing is defined as housing that on average is affordable to a household with an annual income that is no greater than 80% of the Area Median Income for the respectively-sized household in the Raleigh, NC MSA, as determined by the United States Department of Housing and Urban Development (HUD).

22. The buffer along the western property line may be reduced from a 20' Type B buffer to a 10' Type B buffer to the extent deemed necessary by the Director of Public Works and Transportation, or designee, to assist with the alignment of public street access to Humie Olive Road and minimize impacts to the opposing driveway that serves 8724 and 8720 Humie Olive Road. If the buffer reduction extends more than 275 feet as measured from the current Humie Olive Rd right-of-way, then the buffer type provided shall be a Type A.

**Section 4:** 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 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 \_\_\_\_\_ 2021.

**TOWN OF APEX**

\_\_\_\_\_  
Mayor

**ATTEST:**

\_\_\_\_\_  
Town Clerk

**APPROVED AS TO FORM:**

\_\_\_\_\_  
Town Attorney