

STATEMENT OF TOWN COUNCIL AND ORDINANCE AMENDING THE OFFICIAL ZONING DISTRICT MAP OF THE TOWN OF APEX TO CHANGE THE ZONING OF APPROXIMATELY 2.9 ACRES LOCATED AT 1529, 1531, AND 1535 SALEM CHURCH ROAD FROM RESIDENTIAL AGRICULTURAL (RA) TO MEDIUM DENSITY RESIDENTIAL-CONDITIONAL ZONING (MD-CZ)

#23CZ10

WHEREAS, Carl Helton, Sundance of NC, LLC, owner/applicant (the “Applicant”), submitted a completed application for a conditional zoning on the 28th day of April 2023 (the “Application”). The proposed conditional zoning is designated #23CZ10;

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 #23CZ10 before the Planning Board on the 10th day of July 2023;

WHEREAS, the Apex Planning Board held a public hearing on the 10th day of July 2023, gathered facts, received public comments and formulated a recommendation regarding the application for conditional zoning #23CZ10. A motion was made by the Apex Planning Board to recommend approval; the motion passed unanimously for the application for #23CZ10;

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 #23CZ10 before the Apex Town Council on the 8th day of August 2023;

WHEREAS, the Apex Town Council held a public hearing on the 8th day of August 2023. June Cowles, Senior Planner, presented the Planning Board’s recommendation at the public hearing;

WHEREAS, all persons who desired to present information relevant to the application for #23CZ10 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 Medium Density Residential. This designation on the 2045 Land Use Map includes the zoning district Medium Density Residential-Conditional Zoning (MD-CZ) and the Apex Town Council has further considered that the rezoning to Medium Density Residential-Conditional Zoning (MD-CZ) will allow development 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 implement stricter environmental conditions than the UDO requires and provide additional single-family homes that are compatible with those in the general vicinity; and

WHEREAS, the Apex Town Council by a vote of 4 to 1 approved Application #23CZ10 rezoning the subject tract located at 1529, 1531, 1535 Salem Church Road from Residential Agricultural (RA) to Medium Density Residential-Conditional Zoning (MD-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 Residential Agricultural (RA) to Medium Density Residential-Conditional Zoning (MD-CZ) District, subject to the conditions stated herein.

Ordinance Amending the Official Zoning District Map #23CZ10

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 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
2. Accessory apartment
3. Utility, minor

Zoning Conditions:

1. If there is a back roof that faces to the East, South and/or West, then there shall be a minimum 4-kilowatt (kW) solar PV system installed on one rooftop.
2. If a buffer is required along Salem Church Road, the buffer shall be a Type “B”.
3. The project shall preserve a minimum of 40% of the existing tree canopy.
4. The project shall include drought tolerant plants, of which 100% of the plants selected shall be native. Landscaping shall be coordinated with and approved by the Planning Department at subdivision review.
5. All homes shall include solar conduit in the building design to facilitate future installation of roof-mounted solar PV panels.
6. All garages shall be wired with a 220-volt outlet inside the garage to facilitate charging of electric vehicles.
7. The existing parcels are served by four driveways accessing Salem Church Road. Subdivision of the parcels shall not increase the total number of existing driveways.
8. Vinyl siding is not permitted; however, vinyl windows, decorative elements and trim are permitted.
9. The roof shall be pitched at 5:12 or greater for 75% of the building designs.
10. Eaves shall project at least 12 inches from the wall of the structure.
11. Garage doors shall have windows, decorative details or carriage-style adornments on them.
12. The front facade or front porch shall extend a minimum of 6 feet in front of the garage door for front loaded garage facades.
13. A varied color palette shall be utilized on homes 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.
14. House entrances for units with front-facing single car garages shall have a prominent covered porch/stoop area leading to the front door.
15. The rear and side elevations of the units that can be seen from the right-of-way shall have trim around the windows.
16. Front porches shall be a minimum of 6 feet deep.
17. No more than 25% of lots may be accessed with J-driveways. There shall be no more than 3 such homes in a row on any single block. Any lots eligible for a J-driveway home shall be identified on the Final Plat.

Ordinance Amending the Official Zoning District Map #23CZ10

18. A 20-foot permanent construction easement shall be provided along Salem Church Road for future sidewalk connection.

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. Subdivision plans for any development to be made pursuant to this amendment to the Official Zoning District Map shall be submitted for subdivision 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 _____ 2023.

TOWN OF APEX

Mayor

ATTEST:

Allen Coleman, CMC, NCCCC
Town Clerk

APPROVED AS TO FORM:

Town Attorney