



Apex Town Council Meeting Tuesday, March 19, 2019

Lance Olive, Mayor
Nicole L. Dozier, Mayor Pro Tempore
William S. Jensen, Wesley M. Moyer, Audra M. Killingsworth, and
Brett D. Gantt, Council Members
Drew Havens, Town Manager
David Hughes, Assistant Town Manager
Shawn Purvis, Assistant Town Manager
Donna B. Hosch, MMC, NCCMC, Town Clerk
Laurie L. Hohe, Town Attorney

The Regular Meeting of the Apex Town Council scheduled for Tuesday, March 19, 2019, at 7:00 p.m. was held in the Council Chamber of Apex Town Hall, 73 Hunter Street. T

In attendance were Mayor Lance Olive, Mayor Pro Tem Nicole L. Dozier, and Council Members William S. Jensen, Wesley M. Moyer, Audra M. Killingsworth, and Brett D. Gantt

Also in attendance were Town Manager Drew Havens, Assistant Town Manager Shawn Purvis, Town Attorney Laurie L. Hohe, and Marketing and Communications Specialist Kerrin Cox

Absent was Town Clerk Donna B. Hosch

COMMENCEMENT

Mayor Olive called the meeting to order, requested a moment of silent reflection, and led the Pledge of Allegiance.

PRESENTATIONS

Presentation 01 : Mayor Lance Olive

Presentation of the Proclamation declaring March 22, 2019 as Arbor Day in the Town of Apex

Mayor Olive read the Proclamation which would be presented to the Planning Department.

CONSENT AGENDA

Consent 01 Minutes of the Regular Town Council Meeting of February 19, 2019 and March 5, 2019

Consent 02 Ordinance amending Section 20-164 with the addition of subsection (33) to enforce a No Parking restriction along portions of Glaston Court

- Consent 03 Bid to purchase Town-owned property on the corner of Culvert Street and North Tunstall Avenue, PIN#0742-60-2371, in the amount of \$93,500 from Stephen Keith and Lisa Glover
- Consent 04 Budget Ordinance Amendment No. 12 to appropriate funds to pay administrative costs associated with legal issues concerning the Water and Sewer Fund
- Consent 05 Budget Ordinance Amendment No. 13 to appropriate funds to pay Towns of Apex's share of White Oak Creek Greenway Construction
- Consent 06 Revisions to the Town Standard Specifications and Details
- Consent 07 Statement of the Apex Town Council pursuant to G.S. 160A-383 addressing action on the various Unified Development Ordinance (UDO) Amendments of March 5, 2019
- Consent 08 Governmental Entity Commercial Card Agreement and the Terms and Conditions of that Agreement and authorize the Finance Officer to execute the Agreement
- Consent 09 Abandonment of the Permanent Drainage Easement containing 0.105 acres and a Slope Easement containing 0.187 acres, all as shown on the Deed recorded at Book 15935, Page 1826, Wake County Registry and Permanent Drainage Easement containing 0.091 acres and a Slope Easement containing 0.198 acres, all as shown on the Deed recorded at Book 15935, Page 1838, Wake County Registry
- Consent 10 Resolution accepting a non-warranty deed conveying property in fee simple to the Town

MAYOR OLIVE CALLED FOR A MOTION TO APPROVE THE CONSENT AGENDA. COUNCIL MEMBER
GANTT MADE THE MOTION; COUNCIL MEMBER DOZIER SECONDED THE MOTION.
THE MOTION CARRIED BY A 5-0 VOTE.

REGULAR MEETING AGENDA

Mayor Olive stated Public Hearings 03 and 04 were proposed to be continued to the April 2, 2019 Regular Meeting and New Business 01 was proposed to be removed from the Agenda. Mayor Olive introduced the addition of two Closed Session items.

MAYOR OLIVE CALLED FOR A MOTION TO APPROVE THE REGULAR AGENDA WITH THE PROPOSED MODIFICATIONS. COUNCIL MEMBER
JENSEN MADE THE MOTION; COUNCIL MEMBER MOYER SECONDED THE MOTION.
THE MOTION CARRIED BY A 5-0 VOTE.

PUBLIC FORUM

Cheryl Stallings of 209 Abby Knoll Drive, expressed concerns with traffic as a Haddon Hall resident. She mentioned Peark Charter Academy as a traffic issue.

Barbara Collins' of 901 Norwood Lane, concern was about quality of life. She read a summary of social media posts from Council members regarding construction. She expressed the desire to see managed growth. Ms. Collins agreed with Ms. Stallings, her neighbor.

PUBLIC HEARINGS

Public Hearing 01 : Shelly Mayo, Planner II

Rezoning Application #19CZ01 (Summit Church). The applicant, Heritage Leadership Academy, seeks to rezone approximately 8.31 acres located at 3000 Lufkin Road from Light Industrial and Planned Commercial-Conditional Use to Neighborhood Business-Conditional Zoning (B1-CZ).

Staff stated a Church is the primary use; Applicant wanted to add additional uses. Additional uses would provide opportunity to bring in additional funding. They are not the property owner; they are currently in a long term lease. Staff read some of the potential added uses. Staff and the Planning Board recommended approval.

Discussion:

Council expressed general concerns regarding traffic congestion which should be looked at while reviewing the Special Use Permits.

Mayor Olive declared the Public Hearing open.

The applicant, David Arnold, was in attendance. Council asked for history of Heritage Leadership Academy? Applicant responded that it was started by a mom who homeschooled her children. and was looking for a modified home school schedule.

Mayor Olive declared the Public Hearing closed.

MAYOR OLIVE CALLED FOR A MOTION. COUNCIL MEMBER MOYER MADE THE MOTION TO APPROVE
THE REZONING; COUNCIL MEMBER GANTT SECONDED THE MOTION.
THE MOTION CARRIED BY A 5-0 VOTE.

Public Hearing 02 : Sarah Rayfield, Senior Planner

Rezoning Case #18CZ35 – The applicants, ST Investments One, LLC/Anil K. Singh/Glenn Futrell/Kondapa Tammineni & Thanuja Puhakayala sought to amend the 2045 Land Use Map for a portion of the area to be rezoned from Low Density Residential and Office Employment/Low Density Residential to Office Employment and rezone approximately ±7.35 acres from Rural Residential (RR) and Low Density Residential-Conditional Zoning (LD-CZ #18CZ09) to Office & Institutional District-Conditional Zoning (O&I-CZ) and Low Density Residential-Conditional Zoning (LD-CZ) located at 8201, 8217, and portions of 8209 and 8233 Green Level Church Road

Discussion: Request was to clean-up this small part of 2045. Staff brought Exhibit B to the meeting and went through the newly proposed conditions. Staff recommended approval.

Gantt and Mayor expressed concern/wanted to ensure a u-turn can be made northbound on Green Level Church Rd ideally without going through the neighborhood.

Mayor Olive declared the Public Hearing open.

1. Anil Singh talked about basic conversations and traffic concerns that were addressed.
2. Glenn Futrell talked about making improvements to help both development and the significant improvement to the intersection.
3. Luis Lima of Silver Dew Ct, stated he was heavily concerned with traffic. Mr. Lima was concerned with new roads and continual road improvements. Stated that he had seen an increase in accidents in the area. Supports project.

Mayor Olive declared the Public Hearing closed.

MAYOR OLIVE CALLED FOR A MOTION. COUNCIL MEMBER KILLINGSWORTH MADE THE MOTION TO APPROVE
THE REZONING; COUNCIL MEMBER GANTT SECONDED THE MOTION.
THE MOTION CARRIED BY A 5-0 VOTE.

[Public Hearing 03](#)

Liz Loftin, Senior Planner

Public Hearing and possible motion to adopt an Ordinance on the Question of Annexation – Apex Town Council’s intent to annex John Norman, Randel and Janet Sink, Sandra Barefoot, Timothy and Lori McKinnish, Owen and Joann Wynne, Zachary and Christina Darden and Phillip and Cynthia Johnson (Olive Ridge PUD) properties containing 58.87 acres located at 2125, 2205, 2217, 2237 and 2301 New Hill Olive Chapel Road; 8836 and 8848 Twin Ponds Lane, Annexation #652, into the Town’s corporate limits

and

[Public Hearing 04](#)

Liz Loftin, Senior Planner

Public Hearing and possible motion regarding Rezoning Case #18CZ34 Olive Ridge PUD and Ordinance. The applicant, Weekley Homes, LLC, seeks to rezone approximately ±57.17 acres located at 2125, 2205, 2217, 2237, 2301 New Hill Olive Chapel Road; and 8836, 8848 Twin Ponds Lane from Wake County R-40W to Planned Unit Development-Conditional Zoning (PUD-CZ).

MAYOR OLIVE CALLED FOR A MOTION TO MOVE THESE TWO HEARINGS TO THE APRIL 2, 2019 REGULAR COUNCIL MEETING AS REQUESTED. COUNCIL MEMBER MOYER MADE THE MOTION; COUNCIL MEMBER GANTT SECONDED THE MOTION.
THE MOTION CARRIED BY A 5-0 VOTE.

Public Hearing 05 : Amanda Bunce, Current Planning Manager

Rezoning application #19CZ03, Broadstone Station PUD Amendment. The applicant, KRG Peakway @55, LLC, sought to rezone approximately ±19.95 acres located at 0 Apex Peakway from Planned Unit Development-Conditional Zoning (#10CZ10) to Planned Unit Development-Conditional Zoning (PUD-CZ) in order to amend uses and development standards.

Discussion: GIS analyst worked with data and this is the one site that meets all requirements. Planning recommends approval. There was an additional PUD condition handed out for 19CZ03.

1. Council asked if affordable housing requirements were in the report? Staff answered that requirements were on Page 2 of agenda.

The applicant, Greg Warren, President of DHIC, went through current properties. Phase 1 cost = \$13 million. \$8 million would be given back through businesses buying the grants.

Council expressed satisfaction in the project. Council asked if the buffer at N Hughes Street could be increased? Applicant stated that it could be reevaluated.–

Mayor Olive declared the Public Hearing open.

1. John Buck – Good comments about affordable housing. Appealed for Council support.
2. Beth Bordeaux - Executive Director of WWCM, asked for support of Council. 1-12 households per day are not meeting their monthly bills and seeking financial assistance. 1-4 are at a critical level.

MAYOR OLIVE CALLED FOR A MOTION. COUNCIL MEMBER DOZIER MADE THE MOTION TO APPROVE THE REZONING; COUNCIL MEMBER KILLINGSWORTH SECONDED THE MOTION.
THE MOTION CARRIED BY A 5-0 VOTE.

Public Hearing 06 : Amanda Bunce, Current Planning Manager

Ordinance on the Question of Annexation – Apex Town Council's intent to annex Bovestments, LLC (Crossroads Ford Truck Center) property containing 18.0558 acres located at 1402 North Salem Street, Annexation #655, into the Town's corporate limits

Discussion: Staff stated they were recommending approval.

COUNCIL MEMBER JENSEN MADE A MOTION TO GO INTO CLOSED SESSION. COUNCIL MEMBER MOYER SECONDED THE MOTION.
THE MOTION CARRIED BY A 5-0 VOTE.

MAYOR OLIVE CALLED FOR RETURN TO OPEN SESSION WITH NO OBJECTION FROM COUNCIL.

MAYOR OLIVE CALLED FOR A MOTION TO CONTINUE THIS HEARING TO THE APRIL 2, 2019 REGULAR COUNCIL MEETING. COUNCIL MEMBER KILLINGSWORTH MADE THE MOTION; COUNCIL MEMBER MOYER SECONDED THE MOTION.
THE MOTION CARRIED BY A 5-0 VOTE.

Public Hearing 07 : Amanda Bunce, Current Planning Manager

Various amendments to the Unified Development Ordinance related to subdivisions

Discussion: Staff stated this agenda item was originally presented to Council at Council Retreat regarding Master Subdivision Plan approval amendment to be at a staff level. Staff explained that when a project reaches the Master Subdivision Plan level, approval is established administratively not through a policy setting capacity. However, the PRCR Advisory Commission will still come before Council and before TRC staff approval. Planning Board and staff recommend approval of this UDO amendment.

1. Council stated for neighborhood meetings, they go over those concerns. How will this change? Staff stated they also go over them; and if they see an issue, they will further investigate to determine if it needs to be a UDO amendment.
2. Council asked if staff could add a button on the website regarding neighborhood meetings? The Town manager stated he would have a conversation with staff about that.
3. Council stated that since it would be giving up control, he would like to widen the filter of complaints to UDO that we as Council see. The Town Manager stated staff is quick recognize needed changes that are brought before Council.
4. Council stated he was not ready to give up control of Master Subdivision Plan.

Council stated this amendment had been a 3 year want and that zoning agenda items are when Council can place additional conditions on a project. Mayor Olive declared the Public Hearing open. With no one wishing to speak, Mayor Olive declared the Public Hearing closed.

MAYOR OLIVE CALLED FOR A MOTION. COUNCIL MEMBER KILLINGSWORTH MADE THE MOTION TO APPROVE THE AMENDMENTS; COUNCIL MEMBER MOYER SECONDED THE MOTION.
COUNCIL MEMBERS KILLINGSWORTH, MOYER, DOZIER, AND GANTT VOTED IN THE AFFIRMATIVE;
COUNCIL MEMBER JENSEN VOTED IN THE NEGATIVE.
THE MOTION CARRIED BY A 4-1 VOTE.

Public Hearing 08 : Amanda Bunce, Current Planning Manager

Various amendments to the Unified Development Ordinance

Discussion: 1 and 2 (of 3) proposed amendments were requested by the Planning Committee. The Planning Board and staff recommend approval.

1. Council stated they had requested proposed amendments 1 and 2. He felt like some were old

and some helped current businesses be in compliance.

Mayor Olive declared the Public Hearing open. With no one wishing to speak, Mayor Olive declared the Public Hearing closed.

MAYOR OLIVE CALLED FOR A MOTION. COUNCIL MEMBER KILLINGSWORTH MADE THE MOTION TO APPROVE
THE AMENDMENTS; COUNCIL MEMBER MOYER SECONDED THE MOTION.
THE MOTION CARRIED BY A 5-0 VOTE.

OLD BUSINESS

There were no Old Business items for consideration.

UNFINISHED BUSINESS

There were no Unfinished Business items for consideration.

NEW BUSINESS

[New Business 01](#)

Shelly Mayo, Planner II

Possible motion to approve the Old Mill Village Lot 5 Master Subdivision Plan located at 0 Old Mill Village Drive containing ±1.44 acres and 11 townhomes

This item was requested to be removed from the Agenda.

New Business 02 : Amanda Bunce, Current Planning Manager

Revised Pinnacle Park Center Non-residential Master Subdivision Plan located on Pinnacle Park Center Drive containing ±25.35 acres and 6 non-residential lots

Discussion: Proposed revision is regarding a traffic condition connected to the land use. Staff recommended approval.

1. Council stated that updating the type of uses would make it more suitable for traffic. If road improvements on Ten Ten are delayed, what will happen with this?

Staff – proposal would help applicant to not construct the dual left turn lane. Instead applicant has requested ae-in-lieu instead of doing the construction. Project will not see any more delays in the Ten Ten Road improvements. 2023 is as far as it can get

pushed.

2. Council – what could the fee be contributed to? Staff – it would be added to the TIP project which will end up with a dual left turn lane.
3. Council – what percentage of total business is out at Pinnacle Business Park, 110,000 square feet? Concerned with reducing this. Warehouses don't give us the jobs we want. Applicant wanted to go with 145,000 square feet and accept the fee in lieu.

MAYOR OLIVE CALLED FOR A MOTION. COUNCIL MEMBER JENSEN MADE A MOTION TO APPROVE THE REQUEST AS PROPOSED WITH THE STRIKE THROUGH OF 145,000 SQUARE FEET; COUNCIL MEMBER KILLINGSWORTH SECONDED THE MOTION.
THE MOTION CARRIED BY A 5-0 VOTE.

**New Business 03 : Council Member Audra Killingsworth
Resolution recognizing March as Women's History Month in Apex**

Discussion: Council Member Killingsworth discussed the item providing history and context to the resolution. 1648 was when women asked for the right to vote but didn't get it until 1920. Council Member Dozier continued and read the resolution.

MAYOR OLIVE CALLED FOR A MOTION. COUNCIL MEMBER KILLINGSWORTH MADE A MOTION TO ADOPT THE RESOLUTION; COUNCIL MEMBER DOZIER SECONDED THE MOTION.
THE MOTION CARRIED BY A 5-0 VOTE.

CLOSED SESSION

ADDED Closed Sessions items: Possible motion to go into Closed Session (1) to consider and establish the Town's negotiating position with respect to property acquisition; and (2) to consult with the Town Attorney regarding the matter of AB Goodrich Contracting, LLC v. Town of Apex and Stewart-Cooper-Newell Architects PA.

MAYOR OLIVE CALLED FOR A MOTION TO GO INTO CLOSED SESSION. COUNCIL MEMBER DOZIER MADE THE MOTION; COUNCIL MEMBER MOYER SECONDED THE MOTION.
THE MOTION CARRIED BY A 5-0 VOTE.

MAYOR OLIVE CALLED FOR A RETURN TO OPEN SESSION WITH NO OBJECTION FROM COUNCIL.

WORK SESSION

There were no Work Session items for consideration.

ADJOURNMENT

With there being no further business and with no objection from Council, Mayor Olive declared the meeting adjourned.

Kerrin Cox
Marketing and Communications Specialist

ATTEST:

Lance Olive, Mayor

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