



| SPECIAL TOWN COUNCIL MEETING

March 25, 2021 at 9:00 AM
Council Chamber at Apex Town Hall, 73 Hunter Street
THIS WAS HELD AS A VIRTUAL MEETING

Town Council and Administration

Mayor: Jacques K. Gilbert | Mayor Pro Tem: Nicole L. Dozier
Council Members: Brett D. Gantt; Audra M. Killingsworth; Cheryl F. Stallings; Terry Mahaffey
Interim Town Manager: Ralph Clark | Assistant Town Managers: Shawn Purvis and Marty Stone
Town Clerk: Donna B. Hosch, MMC | Town Attorney: Laurie L. Hohe

In attendance were Mayor Jacques K. Gilbert, Mayor Pro Tem Nicole L. Dozier, and Council Members Audra M. Killingsworth, Brett D. Gantt, Cheryl F. Stallings, and Terry Mahaffey. Also in attendance were Interim Town Manager Ralph Clark, Assistant Town Managers Shawn Purvis and Marty Stone, Town Clerk Donna B. Hosch, Deputy Town Clerk Tesa Silver, and Town Attorney Laurie Hohe.

COMMENCEMENT

Mayor Gilbert called the meeting to order and called a roll call attendance.

PUBLIC HEARINGS

PH1 Shannon Cox, Long Range Planning Manager

Public hearing and possible motion regarding proposed Transportation Plan amendments associated with Rezoning #20CZ12 Felton Grove High School.

Staff provided a brief summary of the amendments as they relate to Felton Grove High School.

Mayor Gilbert declared the Public Hearing Opened. There were no additional public comments. Mayor Gilbert declared the Public Hearing Closed.

Council Member Stallings made the motion to approve the proposed amendments;

Council Member Gantt seconded the motion.

The motion carried by a 5-0 roll call vote.

PH2 Shelly Mayo, Planner II

Public hearing and possible motion to approve Rezoning Application #20CZ12 Felton Grove High School. The applicant, Wake County Board of Education, seeks to rezone approximately 68.06 acres located at 8550 Stephenson Road from Medium Density Residential-Conditional Zoning (MD-CZ #12CZ14) to Medium Density Residential-Conditional Zoning (MD-CZ).

AND

PH3 Shelly Mayo, Planner II

Public hearing and possible motion to adopt an Ordinance on the Question of Annexation - Apex Town Council's intent to annex Wake County Board of Education (Felton Grove High School) property containing 68.06 acres located at 8550 Stephenson Road, Annexation #700 into the Town's corporate limits.

Staff provided a brief summary of the site and the applicant's purpose for rezoning. Betty Parker with Wake County Board of Education addressed the concerns that were brought up about cafeteria sizing, and parking spaces for the school. She also explained that the notices that were provided complied with the standards of the UDO. She stated that they are willing to help in any way that they can to address the concerns brought forth from the public.

Mayor Gilbert declared the Public Hearing Opened.

Staff summarized the five emails that were received within the 24-hour period. The emails addressed concerns of future evictions in a low-income neighborhood that has been impacted highly during the COVID-19 pandemic. The emails stated that there is a low volume of traffic in the neighborhood and are concerned about the potential for a heavy flow of traffic. Staff received a petition of 130 signatures against the project. The emails addressed construction impacts on the neighborhood and they requested a different entrance and exit of the school.

Mark Cumalander; stated that the school system has not been mindful of the neighbors. He stated that there is a lawsuit pending and that it would be premature for Council to act before the lawsuit is completed. He stated that the school system should have included the neighborhood in their meetings and their notices. He expressed that there is a safety risk for the children and families. He felt that the lower social economic neighborhood is being

exploited. He asked that Council deny or delay the decision so that the above matters could be addressed.

Mayor Gilbert declared the Public Hearing Closed.

Mayor Pro Tem Dozier expressed that there needed to be a more proactive plan to engage all stakeholders, with better access to information and notices. She felt that there needed to be an additional public meeting, that the process should be slowed down to ensure that all concerns are addressed and that the process is completed correctly.

Council Member Killingsworth expressed the need to engage the community in the process. She stated that the Town needed to review its practices and procedures so that in cases like these the Town is engaging the whole community.

Council Member Stallings asked staff to review the UDO to determine how the UDO could be updated to change how the process is handled in the future. She asked the applicant to have a translator present for future public meetings regarding this particular site and inquired if any homes would be moved. Ms. Parker assured her that the County currently has no plans to move any of the homes in the neighborhood, and that they are preparing to address all the concerns that have been brought forward by the public at the upcoming public meetings.

Council Member Mahaffey stated that he is committed to finding solutions to the short fallings that have been seen in this process.

Council Member Gantt stated that the current situation with overcapacity, and expensive and limited large parcels of land has driven the current process. He felt that the site was subpar and that the Town would continue to have problems with overcapacity and traffic at the school site for years to come.

Mayor Gilbert stated that he is too concerned, but understands the need for the school. He asked that key community leaders be included in the process moving further.

Council Member Stallings stated that she agreed with Council Member Gantt and that the conversation needed to continue to determine a long-term plan that will address the needs.

Council Member Gantt stated that he felt that a denial would ensure that those much-needed conversations would happen because a denial would create a sense of urgency.

Mayor Pro Tem Dozier reemphasized that both the Town and the school board could have done a better job with this process. She reiterated that the community's concerns need to be heard and that they need to be a viable part of the process. She stated until then she would not be supportive of the project. She proposed that before moving forward a meeting could be held with all the stakeholders and the school system to address the concerns that have been brought forth.

Ms. Parker stated that they are only seeking rezoning approval. She explained that the process to obtain a school site is objective; schools within the County are located in a variety of neighbors at varying economic levels. They intend to hold a site review plan meeting with the neighbors. The meeting would provide information as to how the development would really impact the community.

Council Member Killingsworth suggested that the school have a pantry for the school and families, and Mayor Pro Tem Dozier suggested that the pantry also include health and beauty items, that those in need are able to shop for themselves, and that they are allowed to privately access the pantry.

Council Member Killingsworth made the motion to approve with the understanding that there will be meetings held where the community will be engaged so that all their concerns are heard; Council Member Stallings seconded the motion. The motion carried 3-2 by a roll call vote. Council Members Killingsworth, Stallings, and Mahaffey voted in the affirmative.

Mayor Pro Tem Dozier and Council Member Gantt voted against.

PH4 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 Edwin A. Goodwin, Testamentary Trust/Judy G. Hackney, Trustee (Hackney Tracts) property containing 2.867 acres located at 2600 Olive Chapel Road, Annexation #701 into the Town's corporate limits.

AND

PH5 Liz Loftin, Senior Planner

Public Hearing and possible motion to approve Rezoning Application #20CZ14 Hackney PUD and Ordinance. The applicant, Brendie Vega, WithersRavenel, seeks to rezone approximately 79.79 acres located at 0, 2500, and 2600 Olive Chapel Road (PINs 0721492629, 0722406699, & 0722411102) from Rural Residential (RR) and Wake County R-80W to Planned Unit Development-Conditional Zoning (PUD-CZ).

Staff provided a brief summary of the site and the applicant's purpose for rezoning. Staff reviewed a new condition submitted by the applicant.

Mayor Gilbert declared the Public Hearing Opened.

Emily Cenis; asked that the site be rezoned low to medium density, and to conserve 60% of the trees on the property.

Mayor Gilbert declared the Public Hearing Closed

Rodney King, stated that he appreciated Council's consideration. He stated that the project fits well with the natural setting of the area, and that the townhomes and single-family homes would bring a variety of home buyers.

Council stated that they appreciated how the process had been handled however, they felt that they could not support this project due to issues with school capacity.

Ms. Vega asked if the case could be deferred to the April 13th or April 27th meeting to allow the applicant the time to reconsider options for the site and to try to address Council's concerns.

Council Member Killingsworth made a motion to defer Public Hearing 4 and 5 to the April 27th Regular Council Meeting; Council Member Gantt seconded the motion. The motion was denied 3-2. Council Members Killingsworth and Gantt voted in the affirmative, and Mayor Pro Tem Dozier and Council Members Stallings and Mahaffey voted against.

Planning Director Khin stated that the UDO states that the applicant has to be given one continuance.

Council Member Mahaffey made a motion to reconsider the previous motion; Mayor Pro Tem Dozier seconded the motion. The motion carried 5-0 by a roll call vote.

Mayor Gilbert called for a vote on the prior motion. The motion carried 5-0 by a roll call vote. Public Hearings 4 and 5 were continued to the April 27, 2021 Regular Council Meeting.

PH6 Liz Loftin, Senior Planner

Public Hearing and possible motion to approve Rezoning Application #21CZ02 Abbey Spring PUD. The applicant, Isabel Worthy Mattox, Mattox Law Firm, seeks to rezone approximately 5.01 acres located at 0 W. Williams Street (PIN 0742026247) from Planned Unit Development-Conditional Use (PUD-CU #02CU13) to Planned Unit Development-Conditional Zoning (PUD-CZ).

Staff briefly reviewed the site and the applicant's purpose for rezoning.

Mayor Gilbert declared the Public Hearing Opened. There were no additional public comments. Mayor Gilbert declared the Public Hearing Closed.

Council asked the applicant to address the concerns brought forth about age limit, the dumpster, the retainer wall, and the pedestrian connection.

The applicant addressed the concerns that were brought forth in regards to the age limits, the dumpster, and the retainer wall. There are currently no plans to create any type of pedestrian connection.

Council Member Killingsworth made the motion to approve the project with the amendment to remove the age restriction and striking the pedestrian connection.

Council Member Killingsworth then withdrew the motion.

Council Member Mahaffey made the motion to approve project as presented;

Council Member Stallings seconded the motion.

Council Member Killingsworth made an amendment to remove the lower age restriction;

Council Member Stallings seconded the motion.

Council clarified that they were only concerned with removing the age restriction in relation to a spouse and/or companion, so that seniors who are 55 and older were not restricted from housing based on the age of a spouse and/or companion. Town Attorney Hohe recommended that the definition for the age requirement come from Federal language and that the Town not define the age requirement or the terms of a relationship between two people.

Council Member Killingsworth stated that would like to see all future processes handled in the manner in which this one was handled, however, Council needed to also keep in mind what was best for the community as a whole. Council came to a consensus to follow the governmental definition for the age requirement.

The amendment carried 4-1 by a roll call vote.

Mayor Pro Tem Dozier and Council Members Killingsworth, Gantt, and Stallings voted in the affirmative; Council Member Mahaffey voted against.

Council Member Gantt asked the applicant if they would be willing to provide an easement for the future construction of a sidewalk. The applicant stated that they were fine with providing the easement as long it didn't prevent them from meeting any requirements for the project.

Council Member Gantt made a motion to strike the condition on connectivity;

Mayor Pro Tem Dozier seconded the motion. The motion carried 4-1 by a roll call vote.

Mayor Pro Tem Dozier and Council Members Killingsworth, Gantt, and Stallings voted in the affirmative; Council Member Mahaffey voted against.

Mayor Gilbert called for a vote on the original motion. The motion carried 5-0 by a roll call vote.

PH7 Amanda Bunce, Current Planning Manager

Public Hearing and possible motion regarding an amendment to the Unified Development Ordinance (UDO) related to variances from the standards of the Watershed Protection Overlay District.

Staff reviewed the amendment to the UDO.

Mayor Gilbert declared the Public Hearing Opened. There were no additional public comments. Mayor Gilbert declared the Public Hearing Closed.

Council Member Killingsworth made the motion to approve;

Council Member Gantt seconded the motion. The motion carried 4-1 by a roll call vote;

Mayor Pro Tem Dozier and Council Members Killingsworth, Gantt, and Stallings all voted in the affirmative; Council Member Mahaffey voted against.

NEW BUSINESS

NB1 Shawn Purvis, Assistant Town Manager

Possible motion to provide financial support to Evergreen Construction Company for the affordable housing project at Abbey Spring in the form of grants from the Affordable Housing Fund for Recreation Fees-in-lieu and a loan for construction contingent upon final project approval

Assistant Town Manager Purvis stated that this was a request from the Evergreen Construction Company for grant funding to offset recreation fees-in-lieu and loan funding for \$500,000 to

support the project in GAP financing. The funds would not be issued until Fiscal Year 2023 and an approval would help strengthen the project.

Mayor Pro Tem Dozier made the motion to provide financial support to Evergreen Construction Company for the affordable housing project at Abbey Spring in the form of grants from the Affordable Housing Fund for Recreation Fees-in-lieu and a loan for construction contingent upon final project approval;
Council Member Killingsworth seconded the motion.

The motion carried 5-0 by a roll call vote.

ADJOURNMENT

With no further business and without objection from Council, Mayor Gilbert adjourned the meeting.

Tesa Silver, CMC, Deputy Town Clerk

ATTEST:

Jacques K. Gilbert, Mayor

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