



## TOWN OF APEX PLANNING BOARD MEETING MINUTES

Meeting Date: September 13, 2021

The Planning Board held their regular meeting on September 13, 2021 at 4:30 p.m. at the Apex Town Hall Campus, 73 Hunter Street, Apex North Carolina, 2<sup>nd</sup> Floor Council Chambers, Members present were, Chair Michael Marks, Vice Chair Reginald Skinner, Board Members, Tina Sherman, Tim Royal (ETJ Member), Keith Braswell, Jeff Hastings (Historical Society Member), Ryan Akers (Wake County Member) and Elaine Boyle. Members absent were Mark Steele and Tommy Pate.

Chair Marks called the meeting to order at 4:30 p.m.

Chair Marks gave the Invocation and led the Pledge of Allegiance.

Planning and Community Development Director Dianne Khin introduced new Housing Programs Manager Christopher "C.J." Valenzuela, provided his background information and experience.

### PUBLIC FORUM

Chair Marks opened the floor for citizens to speak on non-agenda items; no one came forward.

### CONSENT

Item #1 – Minutes from the August 9, 2021 regular meeting. Chair Marks called for a motion. Vice Chair Skinner motioned to recommend approval. Member Royal seconded. Motion carried with a unanimous vote.

### PUBLIC HEARING

#### Item #1

Liz Loftin, Senior Planner stated in Rezoning Case #21CZ11 Apex C-Store, the applicant, Kalpesh Patel, Shri Varni, LLC, is seeking to rezone approximately ±5.37 acres from Wake County (R-40W) to Neighborhood Business-Conditional Zoning (B1-CZ) located at 3600 Old US 1 Highway. Planner Loftin oriented those present as to the location of the subject property, existing land uses and zoning designations as well as uses and conditions proposed by the applicant. A neighborhood meeting was held on March 24, 2021; the report on that meeting is included in the agenda packet. The rezoning is consistent with the 2045 Land Use Map and planning staff recommends approval of the rezoning as proposed.

The applicant, Kalpesh Patel stated he has an existing store at the intersection of Olive Chapel and Kelly Road near Publix and wants to build a similar store without efface, but with brick and stonework in this area [Old US 1 Highway].

Chair Marks opened the public hearing for anyone to speak in favor or opposition of the rezoning. Dave Hepburn of 2537 Lashlee Way stated he is in support of Mr. Patel's proposal. He had concerns about sewer access for properties to the north.

Chair Marks closed the public hearing.

Some questions/comments from the Board:

- Is there an option for on-site septic for this commercial use? It would have to be coordinated with Wake County.
- What size is the buffer? Thirty (30) feet, and it will not be graded; the applicant will supplement plantings in existing vegetation.
- Where will the pumps be located? William Pugh of the Isaacs Group stated the gas pumps are on the inside of the property and with the landscaping; they will be hidden.
- Would the applicant consent to placing a condition that requires the building to be located between Old US 1 and the gas pumps? The applicant agreed to add this as a condition.
- Has the applicant talked with the Historic Preservation or CAP? It's not required but when staff gets the site plan, we can forward to CAP for comment.

Chair Marks called for the motion. Vice Chair Skinner motioned to recommend approval to Town Council with the conditions offered by the applicant. Member Sherman seconded. Motion carried with a unanimous vote.

#### Item #2

Shannon Cox, Long Range Planning Manager presented amendments to the Bicycle and Pedestrian Plan map and the Thoroughfare and Collector Street Plan map of the Transportation Plan for the area south of US 64 and west of Richardson Road associated with Rezoning Case #21CZ12 Legacy PUD which include:

- Realign proposed greenway on the north side of Legacy PUD property.
- Add a future major collector street (Transit Trail) from US 64 to Olive Chapel Road.
- A future roundabout along new Major Collector Street.
- Add a proposed side path along future Transit Trail.
- Add a future local connection from Lovage Drive to Transit Trail.
- Remove a proposed greenway and side path between Transit Trail and the American Tobacco Trail.

Planner Cox suggested to wait to vote on this item until after the next item (Rezoning Case #21CZ12) and staff recommends approval.

Chair Marks opened the public hearing for anyone to speak in favor or opposition of the amendments. No one came forward to speak.

#### Item #3

Shelly Mayo, Planner II stated in Rezoning Case #21CZ12 Legacy PUD – The applicant, Ryan Linker, GCI Acquisitions, LLC, is seeking to rezone approximately ±60.97 acres from Rural Residential (RR) and Wake County (R-80W) to Planned Unit Development-Conditional Zoning (PUD-CZ) located at 3601 and 3609 US 64 Highway West, 0 Olive Chapel Road. Planner Mayo oriented those present as to the location of the subject property, existing land use and zoning designations as well as some of the uses and conditions proposed by the applicant. The rezoning proposes a maximum of 400 multi-family units and 5.66 acres of non-residential uses. There are several streams and ponds on this site and an overhead power line. The rezoning is consistent with the 2045 Land Use Map. A neighborhood meeting was held on December 15, 2020; the report on that meeting is included in the agenda packet. A letter of impact was submitted by WCPSS stating elementary and high schools within the assignment area for this rezoning are anticipated to have insufficient capacity for future students. In an effort to alleviate the school shortage, the applicant has offered to sell the Low Density Residential portion of the development to

WCPSS as a future school site. WCPSS has indicated some potential interest the site. Some of the residential products are proposed to provide affordable housing types for this project. The applicant offers to install EV charging stations, LED lighting fixtures, pet waste stations and \$215 per unit for the affordable housing fund. The applicant has proposed architectural conditions for the different housing types. Thirty percent of the site is proposed to be RCA. Staff agrees to a majority of the traffic conditions proposed by the applicant.

Russell Dalton, Transportation Engineer summarized the traffic conditions. Access will be from a future major collector south of Flying Hawk Road. There will be U-turns available at Flying Hawk Road and Goodwin Road and there is an intersection at US 64 and Pinefield Road. The developer will be required to construct a 100 foot right-turn lane at the major collector road and US 64 in Phase 2. The developer has proposed a right-in driveway west of the Flying Hawk Road intersection. There are traffic signals anticipated at the major collector and US 64 as well as the U-turn at Goodwin Road. The applicant is in agreement with the conditions with the exception of the wording for the traffic signals. The town would collect a fee-in-lieu if traffic signals are not warranted by NCDOT.

The applicant, Glenda Toppe, of Glenda S. Toppe and Associates stated some key points about the project:

- The rezoning complies with the 2045 Land Use Plan.
- The southern portion is proposed for low density residential.
- They reached out to WCPSS; the property owner is willing to sell the low density portion to WCPSS for an elementary school.
- There are a number of conditions proposed with this rezoning with regard to the environment, parks and recreation greenways and the applicant has offered \$10,000 for the Tree Preservation program.

Travis Fluitt of Kimley-Horn stated the signals are not a slam-dunk and are not guaranteed to be warranted and will depend upon what the uses actually will be. Each signal will cost roughly \$250,000. They feel they have covered their obligation with a fee-in-lieu and there is no guarantee they will get this money back if the signals are not warranted.

Some questions/comments from the Board:

- What is the financial difference between a fee-in-lieu and a bond? A bond does not need Council approval, but a fee-in-lieu can be retained per Council discretion.
- Understand applicant's concern with the fee-in-lieu.
- Regarding the traffic count of the single-family units [for the low density area] vs if this were a school, how would we access the school if it's built and would this affect the traffic count? There may be a follow-up traffic analysis, the town would be responsible for paying for as well as a signal and, making any off- site traffic improvements.

Planner Mayo provided a comment received from Donny Shelton stating he was in complete support of this proposal and could not attend today's meeting.

Chair Marks opened and closed the public hearing; no one came forward to speak in favor of or opposition of the rezoning.

Discussion ensued regarding the fee-in-lieu for a traffic signal vs. a bond, when a traffic signal would be triggered and by whom, and the developer being reimbursed if a traffic signal is not warranted.

Chair Marks called for the motion on public hearing item #2 regarding amendments to the Bicycle and Pedestrian Plan map and the Thoroughfare and Collector Street Plan map of the Transportation Plan. Member Sherman motioned to recommend approval to Town Council. Member Braswell seconded. Motion carried with a unanimous vote.

Chair Marks summarized the conditions offered by the applicant. Chair Marks called for the motion on Rezoning Case #21CZ12 Legacy PUD. Member Sherman motioned to recommend approval with conditions as proposed by staff and would like staff and the applicant to work together on explicit language to allow the developer to get their fee-in-lieu returned if the signal is not warranted in a certain amount of time that is agreeable to both parties to Town Council. Member Akers seconded. Motion carried with a unanimous vote.

**NEW BUSINESS**

**Item #1**


Christopher "C.J." Valenzuela, Housing Programs Manager and Amanda Bunce, Current Planning Manager presented the following amendments to Unified Development Ordinance (UDO):

1. Add Sec. 2.1.10 to include provisions for the new Housing Advisory Board. The Housing Advisory Board will serve in the following capacity: 1) provide recommendations to the Mayor and Town Council regarding policies and funding recommendations related to affordable housing, 2) advise the Mayor, Town Council and Planning Board on housing advocacy efforts related to affordable housing and 3) assist in the creation of the annual housing report.
2. Sec. 8.3.11.B *Accessible Electric Vehicle Charging Spaces* in order to revise Table 8.3-10 to indicate that the number of accessible electric vehicle charging spaces is based on the number of provided charging spaces, not the number of required charging spaces.
3. Secs. 9.1 *General*, 9.2 *Building Aesthetics*, and 9.3 *Architectural Character* in order to revise architectural standards for buildings over a certain size that are located within a North Carolina Certified Site and in the Light Industrial (LI) zoning district.

Planning staff recommends approval.

Chair Marks called for the motion. Member Akers motioned to recommend approval to Town Council. Member Sherman seconded. Motion carried with a unanimous vote.

Vice Chair Skinner motioned to adjourn. Member Braswell seconded. Motion carried with a unanimous vote. There being no further business, the meeting adjourned at 6:26 p.m. The foregoing minutes are approved this the 11 day of OCTOBER, 2021.

  
 Michael Marks  
 Chair

  
 Bonnie J. Brock  
 Development Specialist