



TOWN OF APEX PLANNING BOARD MEETING MINUTES

Meeting Date: January 10, 2022

The Planning Board held their regular meeting virtually on January 10, 2022 at 4:30 pm. Members present by roll call were, Chair Reginald Skinner, Vice Chair Mark Steele, Members Tommy Pate, Tim Royal (ETJ Member), Keith Braswell, Jeff Hastings (Historical Society Member) and Ryan Akers (Wake County Member) and Elaine Boyle.

Chair Skinner called the meeting to order at 4:37 pm; there was a slight delay due to a technical issue. Chair Skinner gave the Invocation. Member Tina Sherman joined the meeting at approximately 4:38 pm. Chair Skinner then led the Pledge of Allegiance. Chair Skinner gave an overview of the conduct of the meeting. Chair Skinner spoke to any public attendees that were listening and told the attendees that written public comments were allowed to be submitted by email. Planning and Community Development Director, Dianne Khin gave a couple of items of information to the board. Rezoning #21CZ17 Ten Ten Business Park was continued at the October 11, 2021 Planning Board meeting and the applicant has asked for a delay because their fall zone study on the tower was not complete and it is still not complete. The Planning Board allowed the extension; however, they have gone past the 60 days allowed by the UDO. We will start over once they are ready with their fall zone study. The second item was the introduction to our new Planning Board member Steven Rhodes. Member Steven Rhodes joined the meeting at approximately 4:45 pm.

PUBLIC FORUM

Chair Skinner asked if any comments were submitted from the public for non-agenda items; Amanda Bunce, Current Planning Manager stated none were received.

CONSENT

Item #1 – Minutes from the December 13 2021 regular meeting. Chair Skinner called for a motion. Member Steele motioned to recommend approval. Member Royal seconded. Motion carried with a unanimous vote.

PUBLIC HEARING

Item #1

Shelly Mayo, Planner II presented Rezoning Case #21CZ28 Retreat at Cedar Crossing PUD. The applicant, Peter Bellantoni, Toll Southeast LP Company, Inc., is seeking to rezone the properties from Planned Unit Development-Conditional Zoning (PUD-CZ #18CZ12) to Planned Unit Development-Conditional Zoning (PUD-CZ) located at 433 New Hill Olive Chapel Road; 0, 1310, 1311, 1314, 1315, 1318, 1319, 1322, 1323, 1328, 1332, 1336, 1340, 1346, 1350, 1354, 1358, 1362, 1366, 1361, 1357, 1353, 1349, 1345, 1341, 1335, & 1329 Mascoma Drive; 1212, 1220, 1216, 1208, 1204, 1201, 1205, & 1209 Blue Mist Court; 0, 0, 0, 3528, 3524, 3520, 3516, 3512, 3508, 3504, 3525, 3521, 3517, & 3500 Olive Glen Drive; & 0, 0, & 3510 Tuftonboro Lane. Planner Mayo described the location of the rezoning, existing land uses and zoning designations as well as uses and conditions proposed by the applicant. She stated that this is an age-restricted subdivision.

Neighborhood meetings were held on August 30, 2021 and December 20, 2021; the reports on those meetings are 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.

There are three proposed amendments to the existing conditional zoning.

1. Allowing the required play lawn to be developed as an active amenity provided that:
 - a. Mulch walking paths are incorporated into the design of the amenity;
 - b. A wildflower garden, community garden, or native pollinator demonstration garden is included within the amenity;
 - c. Within the amenity area, the developer shall select and install tree, shrub and perennial species, with special attention to providing diverse and abundant pollinator food and host plant sources, including plants that bloom in succession from spring to fall;
 - d. The amenity includes at least one (1) pet waste station;
 - e. Any lighting installed within the amenity area shall use full cutoff LED fixtures that have a maximum color temperature of 3000K and include light times, motion sensors, or other smart lighting technology;
 - f. No additional parking shall be required for the proposed amenity courts. The parking spaces at the mail kiosk may be used to access the proposed courts;
2. A change to the timing of the greenway construction in Section 12:
 - a. All approved public greenway trails must be completed at the point that fifty percent (50%) of the building permits for the total number of residential units in the Olive Glen PUD have been issued.
3. A change to the architectural conditions contained in Section 7 of the PUD but only modified for Lot 37 (1353 Mascoma Drive) of the subdivision:
 - a. The garage cannot protrude more than 1 foot out from the front façade or front porch, except with respect to Lot 37 (Wake County PIN # 0712-62-4275, 1353 Mascoma Drive) which shall not protrude more than 5 feet out from the front façade.

Planner Mayo offered some additional information to this proposal. For condition #1, during construction the developer decided that they would like to provide a more age appropriate amenity in lieu of the play lawn requirement and wanted to make this change to provide the amenity. For condition #2, they were almost done with construction of the greenway but it looked like it was going to be a slightly farther out so they wanted to increase the amount of building permits they were allowed prior to finishing the greenway. Parks and Recreation staff suggested the amendment. Condition #3 is as a result of building permits being approved in error for this lot.

The project went to the Environmental Advisory Board (EAB) in September 2021 and the applicant has added some of the zoning conditions recommended at that meeting. There were two conditions that the EAB recommended that staff could not support and are not included. The two conditions they wanted were: 1) all homes pre-wired for solar systems and a minimum of 20 homes have solar PV systems installed at min of 4 KW; and 2) recommending an average of a HERS index for all homes be a maximum of 60. Currently 9 homes are required by the existing zoning to have solar PV systems installed and all of them are required to be pre-wired. In addition, the proposed changes did not include changes to the residential areas at the time the EAB meeting was held. The amendment for Lot 37 was not required to return to the EAB as it is an exception allowed in the UDO.

Member Boyle had a couple of questions for Planner Mayo.

1. What is an active amenity? Planner Mayo answered with what we have reviewed with the applicant was provisions for a combination of options; gazebo, flower gardens with trails, ball

courts, along with a grassy areas. It will not be 100% ball fields. Staff will review this as an Exempt Site Plan to make sure all the elements are included.

2. As far as the neighborhood meeting goes do we include people who are “under contract” to the meetings? Planner Mayo stated only the residents who have already purchased are on the Town’s list. Since Toll Bros has a list of their buyers they could notify them for meetings. Planner Bunce stated that it is not a requirement of the Unified Development Ordinance or state law to notify buyers under contract for lots affected by potential rezonings. Staff does not have access to that information. Staff notifies those owners that are on record with Wake County, current residents, tenants as well as the HOA.

Nil Ghosh with Morningstar Law Group thanked Planner Mayo for her presentation of the case for rezoning. Mr. Ghosh explained that Lot 37 is included as the home is nearly finished and plans were approved with a feature that was against the original zoning conditions but they do not want a non-conforming lot.

The main purpose of the rezoning is to address the required play lawn. Applicant felt they could provide a more meaningful open space amenity for the age restricted community than just a play lawn. They are not seeking to reduce the size of the playfield. They are thinking of providing cutting gardens, bocce ball and pickleball courts, firepit etc. that would get more use than just a play field.

Chair Skinner asks if any members have any additional questions or comments. Member Akers stated that he does not like this play lawn provision because it is a one size fits all provision. He asked two questions: 1) Are the requirements of the play lawn like the 2% flatness still be enforced and 2) Moving forward can we as a Planning Board modify that provision in the UDO be more encompassing?

Planner Mayo says that the other provisions of a play lawn will not be enforced as this is replacing that section entirely. It will be in the same area as identified on the plans. There was more topography than originally expected at this site. Typically, age-restricted communities normally come to us as Conditional Zoning developments and as we get more age-restricted developments this is something we will look at more closely. Staff can also look at potential UDO amendments to address this.

Chair Skinner opened up the Public Hearing for any comments. There were no comments. Chair Skinner closed the Public Hearing.

Chair Skinner called for a motion. Member Akers motioned for approval. Member Sherman seconded the motion to approve. Motion carried with a unanimous vote.

NEW BUSINESS

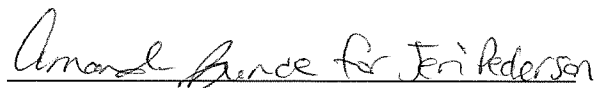
There were no items for consideration.

Member Royal motioned to adjourn. Member Steele seconded. Motion carried with a unanimous vote.

There being no further business, the meeting adjourned at 5:10 p.m. The foregoing minutes are approved this the 14th day of February, 2022.



Reginald Skinner
Chair



Jeri Pederson
Planning Technician