



TOWN OF APEX PLANNING BOARD MEETING MINUTES

Meeting Date: December 12, 2022

The Planning Board held their regular meeting on December 12, 2022 at 4:30 p.m. at the Apex Town Hall Campus, 73 Hunter Street, Apex North Carolina, 2nd Floor Council Chambers, Members present were, Chair Reginald Skinner, Vice-Chair Tina Sherman, Board Members, Tim Royal (ETJ Member), Keith Braswell, Jeff Hastings (Historical Society Member) and Ryan Akers (Wake County Member), Steven Rhodes, Sarah Soh, Alyssa Byrd, and Daniel Khodaparast.

Chair Skinner called the meeting to order at 4:30 p.m.
Chair Skinner gave the Invocation and led the Pledge of Allegiance.

ITEMS OF INFORMATION

Dianne Khin, Planning Director, offered that there would be a special presentation at Town Council for the S-line update for the DOT project looking at passenger rail being extended from Sanford through Apex up to the North Carolina-Virginia line. Interested parties can tune to the live streamed video starting at 6 PM.

Introduction of Lauren Sisson, Planning Tech for Apex Planning.

PUBLIC FORUM

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

CONSENT

Item #1 – Minutes from the November 14, 2022 regular meeting. Chair Skinner called for a motion. Vice-Chair Sherman motioned to recommend approval. Member Khodaparast seconded. Motion carried with a unanimous vote.

PUBLIC HEARING

Item #1

Shelly Mayo, Planner II, presented Rezoning Case #22CZ20 The Preserve on Holt-The applicant, EarthCentric Engineering Inc., seeks to rezone approximately ±4.9263 acres from Rural Residential (RR) to Medium Density Residential-Conditional Zoning (MD-CZ). The proposed rezoning is located at 1305 Holt Road. Planner Mayo provided an overview of the location and surrounding area and proposed uses. The applicant is proposing four (4) lots. Staff recommends approval with the conditions provided by the applicant.

The applicant, Phil Coch with EarthCentric Engineering, stated that more than half of this parcel is taken up with buffers, sewer, and greenway placement. There is currently an existing drive off Holt Road to the existing house. They will work with DOT to upgrade the permit to allow that drive to be used for construction traffic.

Chair Skinner asked Transportation Manager Dalton about the option of coming off of Holt Road. Transportation has reviewed the proposed access through Elk River Dr and expansion, ending in a cul-

de-sac. He stated that if the road was connected to Holt Rd, it would likely be right-in, right-out only and would not be able to align with Howell Dr. He shared that NCDOT stated they preferred not to have another connection to Holt Rd. The applicant, explained that the current configuration on Elk River Drive is considered a temporary turnaround so the addition of a cul-de-sac will make it safer and easier for fire trucks.

Member Sherman asked about safety concerns from fire and police. Planning Director Khin reminded the Board, that Fire and Police representatives are on the Technical Review Committee (TRC) for every project and they did review this zoning case.

Member Royal asked if the existing turnaround would be replaced with a cul-de-sac. Planner Mayo said that generally the cul-de-sac would just be added to the existing street. Member Royal also asked if the four units would be tied to the existing HOA for Courtyards on Holt. The applicant said they would be developing their own HOA. Where there is public access, that has to be honored by all groups.

Member Khodaparast asked if these homes would have their own consolidated mailbox. The applicant said a separate mail kiosk would be covered by the HOA and it is a condition of the rezoning.

Member Soh asked for confirmation of the construction access to the site and the sidewalk along Holt Road. The applicant stated the intent is to upgrade the existing driveway permit to a temporary construction entrance. This development would be providing a public tie into the future greenway. They would provide a roadway easement, not a sidewalk.

Member Akers asked about stream flow direction and the greenway fee in lieu for this project. The applicant says that the developer is providing a greenway easement and the greenway will be built in part from the development's Parks and Recreation fee in lieu payment. The developer had to incorporate the section of the greenway and count it towards their impervious surface limit.

Member Sherman asked if it is possible to have this HOA be duplicative of the current Courtyards on Holt HOA. The applicant responded that this is a small development that will not be an active 55+ community.

Chair Skinner opened the public hearing for anyone to speak in favor or opposition of the rezoning.

Planner Mayo put up a slide with the names of all those who had sent in an email regarding the project.

Chuck Mattina, 1328 Elk River Dr., asked those in attendance for this project to raise their hands. Many people in the audience raised their hands. The Courtyards on Holt neighbors are not in favor of this development and ask that the board not approve the current rezoning case.

There are some things the neighbors would like included in the conditional zoning:

- The EAB suggested condition that trees greater than 12 inches in diameter that are removed as part of the building process be replaced with a 1½ inch caliper tree.
- The buffer on the side of the Preserve on Holt be the full 20' so that the overall buffer is a full 30' when the 10' buffer from Courtyards on Holt is added.
- Remove the option of an accessory dwelling unit (ADU) from the approved list of uses.
- The current privacy fence be maintained by the Preserve at Holt and any damage to the fence would be responsibility of the developer.
- They are requesting the build time to be less than planned eighteen (18) months for the four houses.

In addition, extending Elk River Dr. will forever physically connect four homes that have no obligation to look like or act like the other 89 homes they are connecting to. They are being built by a developer without a known track record so they have concerns.

Chair Skinner asked why we need another entrance on Holt given the three access points that already in place. Planner Mayo said the addition of another entrance would mean 4 entrances out onto Holt Rd in roughly 300 feet of roadway. The conclusion is that it is safer to extend Elk River another 100 feet or so than add another connection out on to Holt Rd.

Member Byrd pointed out that developers regularly connect to other subdivisions.

Member Braswell thought connectivity was required. Planner Mayo said it is required and they will have to connect to Elk River Dr.

Armando Garr, 1339 Elk River Dr., spoke about the greenway connection provided by the developer. It will not be built by the developer or by the Town of Apex for many years. Mr. Garr questioned whether the exemption in the Unified Development Ordinance (UDO) due to the size of the development applies in this case. The proposed greenway will connect to the North Beaver Creek Greenway that is in The Courtyards on Holt.

Planner Mayo stated that per the UDO, developments this size will provide a fee in lieu so that is not a requirement that can be waived. Town Council could request the construction of the greenway but the developer would have to agree to it. If the developer does not go through with the rezoning and builds one single family residence, they would not be required to provide any of the easements they are proposing with this project.

Chair Skinner closed the public hearing.

Member Akers commented this is very low density but we are not getting the interconnectivity for pedestrians. This rezoning has 12% impervious area which is good.

Member Byrd says this is the best solution for minimal impact.

Member Braswell thinks an access point on to Holt Rd would likely increase traffic on Elk River Rd. not decrease the traffic.

Chair Skinner called for a motion. Member Sherman made a motion to deny Rezoning Case #22CZ20, Member Soh seconded. A vote was taken. There were no other votes to deny the rezoning, the motion failed.

Chair Skinner requested a second motion. Member Byrd motioned to approve Rezoning Case #22CZ20. Member Rhodes seconded. Members Byrd and Royal wanted to include verbiage that Town Council look into the compatibility of the aesthetic characteristics between the land to be rezoned and The Courtyards on Holt. The motion passes 7-2. Dissenting members were Sherman and Soh.

Member Sherman thinks it is a good project but not quite there. She would like to hear what NCDOT has to say about adding another entrance to Holt Rd.

Member Soh concurs with the connectivity elements and it seems there are some items that need to be addressed between the residents of Courtyards on Holt and the developer.

Item #2

Shelly Mayo, Planner II, presented Rezoning Case #21CZ27 Tingen Road Residential-The applicant, Jeff Roach Peak Engineering & Design, PLLC, seeks to rezone approximately ±2.27 acres from Residential Agriculture (RA) to High Density Multi-Family-Conditional Zoning (HDMF-CZ). The proposed rezoning is located at 1010 Tingen Road. Planner Mayo provided an overview of the location, surrounding area and proposed uses. In addition, the applicant is proposing these units to be 100% Affordable Housing for purchase to buyers making less than 100% of the Raleigh AMI, with a minimum affordability period of no less than 10 years. Staff recommends approval with the conditions shown by applicant.

Member Soh asked if the new townhome community will have connections to any of the adjacent existing communities. Planner Mayo explained that the existing community to the south does not have any stubbed streets to connect to. A street will be stubbed to the west that will generally line up with Owlsmoor Lane in Salem Village.

The applicant, Jason Barron, Morningstar Law Group spoke on behalf of the owner and developer Joey Iannone. This is a great opportunity for a high-density development close to downtown and currently on a GoApex route. The property to the north is now owned by the applicant and will be rezoned later and folded into this project.

Member Akers asked the project engineer, Jeff Roach from Peak Engineering about sewer capacity in the area. Mr. Roach thinks this has changed recently and there has been improvements. They will get to specifics at the Master Subdivision Plan.

Chair Skinner opened the public hearing for anyone to speak in favor or opposition of the rezoning.

Marty Tanis, lives in Westhaven Townhomes. The Westhaven HOA requested a few considerations of the developer and he did not see them mentioned in the application. They are primarily looking at storm water runoff and want the storm water issue to be addressed. They also requested a fence added into the 10' buffers so there is extra separation between the communities.

Phil Welch, Chair of Apex Housing Board and the Western Region Affordable Housing Action Groups Advocacy Team. Apex has projected to add 1,900 jobs with incomes below \$75,000 over the next decade. This will further contribute to the town's affordable housing needs. The Housing Advisory Board is recommending a minimum of 20-year affordability term. Mr. Welch strongly supports the approval of this rezoning case.

Chair Skinner closed the public hearing.

Member Akers asked Mr. Roach if there would be a stormwater feature included. Mr. Roach showed on the map where the stormwater feature will be located. Mr. Roach anticipates this will be a fairly quick build out for the anticipated 20 units so they should be able to get the stormwater controls in quickly.

Member Sherman asked about the fence. At this time, they are committing to an upgraded Type A buffer. They anticipate filling in the buffer if needed to make it a Type A buffer. They prefer a natural buffer here and are not committing to a fence.

Member Byrd asked if they would consider a 20-year affordability term. Mr. Barron said they are trying to keep it open to as many potential suitors to build the site. Some of them do a 20-year affordability term.

Member Khodaparast asked if the potential addition of the new lot at some point would add additional affordable units. The applicant, Mr. Iannone says that lot will be affordable as well. Chair Skinner asked why the lot was not included for this rezoning. Mr. Barron points out that they were pretty far into this rezoning when the additional lot became available. Additional discussion amongst the board members was had on percentages of Area Median Income that should be considered.

Mr. Iannone has a letter of intent from Habitat for this project and feels that 20 affordable units is a great step for the community. He wants to do what Habitat wants to do, however that will structure out.

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

Item #3

Shelly Mayo, Planner II, presented Rezoning Case #22CZ12 Hatcher Property-The applicant, Joseph Iannone, JVI Building and Development, Inc., seeks to rezone approximately ±28.34 acres from Wake County Residential-80W (R-80W) to Rural Residential-Conditional Zoning (RR-CZ). Planner Mayo provided an overview of the location, surrounding area and proposed uses. The proposed district limits the development to an average of one (1) unit per acre. The proposed rezoning is located at 0 & a portion of 3100 Olive Chapel Rd. Planning staff recommends approval.

As a part of this development the applicant will be realigning Transit Trail. They will be taking it from a private road to a public road throughout their frontage. There are two sets of zoning conditions; one set for the small portion that will be for two homes, one for the applicant and another for his daughter. The larger portion will be constructed and sold as most subdivisions are sold. Both zones have very similar architectural conditions. All units will have solar conduits and similar setbacks, maximum built upon area and building heights.

Member Khodaparast asked if there will be access to the American Tobacco Trail (ATT). Planner Mayo says this is not a Town of Apex issue. The group that maintains the ATT is very restrictive about how many connections you can have to the trail. It is accessible nearby off of Olive Chapel Road.

Member Soh asked for clarification of the buffer lines and distances.

The applicant, Patrick Kiernan, Jones and Cnossen, wanted to bring up two additional points. There is not an affordable housing option included with this development. This rezoning case and the previous rezoning that was 100% Affordable housing, would move along together. The second point, is this project will complete about 75% of Transit Trail. The applicant expects that more than two buyers will choose solar in this neighborhood. They would like interested parties to have the option of choice in lot and solar installation. They anticipate more than two homes will choose a solar option.

Member Akers asked about the proffer of the 25-year basin. Mr. Kiernan said they were going with the EAB recommendation.

Chair Skinner opened the public hearing for anyone to speak in favor or opposition of the rezoning. There were no public comments. Chair Skinner closed the public hearing.

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

Item #4

Shelly Mayo, Planner II, presented Rezoning Case #22CZ17 The Townes at the Station PUD-The applicant, Charm City Developers, LLC., seeks to rezone approximately ±16.39 acres from Wake County Residential-40W (R-40W) to Planned Unit Development-Conditional Zoning (PUD-CZ). The proposed rezoning is located at 0 Richardson Road and 0 & 3261 Olive Farm Road. Planner Mayo provided an overview of the location, surrounding area and proposed uses. Planning staff recommends approval.

Chair Skinner asked for a review of the affordability. Planner Mayo said the developer will sell at least four townhome lots to an affordable housing provider at cost, leaving that affordability standard up to the housing developer. The builder is providing four solar systems out of the approximately 75 units.

The applicant, Patrick Kiernan, Jones and Cnossen Engineering, stated that originally the plans were for 18' wide townhomes. The smaller footprint allowed for about 90 townhomes. Market research indicated a larger 22' wide townhome was the trend in the market so it reduced the number of units that will fit to about 75 units. This should feel like an extension of the Friendship Station development.

Chair Skinner opened the public hearing for anyone to speak in favor or opposition of the rezoning. No one came forward. Chair Skinner closed the public hearing.

Chair Skinner called for the motion. Member Soh motioned to recommend approval to Town Council. Member Braswell seconded. Motion carried with a unanimous vote.

NEW BUSINESS

Item #1

Dianne Khin, Planning Director

Amendments to the Unified Development Ordinance requested by Planning Staff.

Amendments to 4.2.2 *Use Table*; 4.3.5 *Use Classifications, Commercial Uses* and 4.3.6 *Use Classifications, Industrial Uses* in order to create the use "Warehousing fulfillment center" change definitions of "truck terminal and "Warehousing, general, and to change the use "Wholesaling, general" to "Wholesaling distribution center".

Amendment to Sec. 6.1 *Watershed Protection Overlay Districts* in order to change all references to "Environmental Engineering Manager" to "Stormwater Engineering Manager".

Amendments to Sec. 6.1.11 *Riparian Buffers* and 6.1.13 *Modifications by Variance* in order to modify the single-family residential riparian buffer requirements and riparian buffer variance standards, and to provide updated references to state law.

Member Sherman motioned to approve the amendments. Member Braswell seconded. Motion passed unanimously.

Item #2

Dianne Khin, Planning Director

Planning Board recommendation for 2023 Chair to the Mayor and Town Council

Member Akers motioned to recommend current Chair, Mr. Reginald Skinner for 2023 Chair. Member Braswell seconded. Motion passed unanimously.

Item #3

Dianne Khin, Planning Director

Planning Board recommendation for 2023 Vice-Chair to the Mayor and Town Council

Member Akers motioned to recommend current Vice-Chair, Ms. Tina Sherman for 2023 Vice-Chair.

Member Soh seconded. Motion passes unanimously.

Member Soh motioned to adjourn. Member Braswell seconded.

There being no further business, the meeting adjourned at 8:00 p.m. The foregoing minutes are approved this, the 9th day of January, 2023.



Reginald Skinner
Chair



Jeri Pederson
Lead Planning Technician