



**TOWN OF APEX
PLANNING BOARD MEETING MINUTES**

Meeting Date: May 13, 2024

The Planning Board held their regular meeting on May 13, 2024, at 4:30 p.m. at the Apex Town Hall Campus, 73 Hunter Street, Apex North Carolina, 2nd Floor Council Chamber. Members present were, Vice Chair Tim Royal (ETJ Member), Board Members, Sarah Soh, Keith Braswell, Jeff Hastings (Historical Society Member), Ryan Akers (Wake County Member), Steven Rhodes, Alyssa Byrd, Daniel Khodaparast and Preston Mitchell. Member absent was Chair Tina Sherman.

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

Member Braswell gave the Invocation and Vice-Chair Royal led the Pledge of Allegiance.

ITEMS OF INFORMATION

- Dianne Khin, Planning Director thanked Member Akers for his years of service on the Planning Board. He joined in 2020 as the Wake County Member and is moving to Texas.
- The Planning Department and Building Inspections Department have moved to the new Mason Street Municipal Building. Ribbon cutting is Friday, May 31, 2024, from 3 PM-4PM. Please join us if you are able.
- New Business item #1 is being moved ahead of the Public Hearings as there is information in that presentation that will be helpful in evaluating the first rezoning this evening.

PUBLIC FORUM

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

NEW BUSINESS

Item #1

Jenna Shouse, Senior Long Range Planner, presented a summary of the Western Big Branch Area Plan (WBBAP) input from the Spring 2024 public input summary. That input included three in-person meetings and online input. Planner Shouse reminded the audience of the boundaries of the plan area. Meeting attendees were asked to view a recorded presentation and review materials provided. An online opportunity was also provided. There were three scenarios presented. Planner Shouse provided an overview of the comments that were provided by the public for each of the scenarios along with a proposal from community members. The next steps in the process are to prepare and release a draft Plan Document for public comment and develop a Final Draft Plan and hold public hearings.

Vice-Chair Royal opened it up to questions from the Board for Planner Shouse.

Vice-Chair Royal asked how a citizens advisory committee as proposed by the community would be chosen and if this was already in practice in the town. Planner Shouse summarized the community's proposal for who would be involved. Currently, there's no similar committee in the Town.

Vice-Chair Royal asked how public participation compared for this round of meetings. Planner Shouse said there was less participation overall this time at the in person meeting. An online opportunity was offered this time.

Member Akers asked if staff has done an audit to see what density or scale makes sense. He asked if a fiscal analysis has been done and if we did want to annex property in this area could we adopt a substantial cluster development where we could preserve larger tracts of open space that is meaningful for the community. Planner Bunce said the opportunity for a cluster type development is available through rezoning to Planned Unit Development. Planner Shouse shared that our GIS staff is beginning to work on an analysis to compare value of land by land use and zoning category.

Member Mitchell asked if staff was recommending removal of the high density residential areas from the LUM in that area. Planner Shouse clarified that they are not making any staff recommendations at this time and that staff is just reporting what they have heard from the public through the study.

CONSENT

Item #1 - Minutes from the April 8, 2024 regular meeting. Vice-Chair Royal called for a motion. Member Byrd motioned to recommend approval. Member Mitchell seconded. Motion carried with a unanimous vote.

PUBLIC HEARING

Member Braswell motioned to recuse Member Akers from the first item. Member Byrd seconded. Motion carried with a unanimous vote.

Item #1

Shelly Mayo. Planner II presented Rezoning Case #24CZ03 New Hill Holleman Road-The applicant, TKC CCCXIX along with their agent, Matthew Carpenter, Parker Poe PLLC, seeks to rezone approximately ±25.39 acres from Wake County Highway District (HD) to Planned Commercial-Conditional Zoning (PC-CZ). The properties are located at 0 & 0 County Park Dr (Northwest corner of New Hill Holleman Road and US 1 Hwy). Planner Mayo presented a summary of proposed commercial uses along with a summary of the zoning conditions being offered. The rezoning is consistent with the 2045 Land Use Map. However, staff has concern with the wording of the condition for off-site road improvements for Church Rd. Currently, Church Rd is a narrow, substandard state-maintained road that provides the only access for this development. The zoning condition as worded would allow the applicant to pay a fee-in-lieu for road improvements if the developer was unable to acquire needed easements for construction. Planner Mayo provided photos of the road at different points to give perspective on the current and proposed width of Church Road. Planning and Transportation Staff recommend the denial of this rezoning as the condition offered would not ensure that the road could be adequately improved to serve future development.

Member Khodaparast agreed that this road is tight for the proposed uses and asked if there is an access point on New Hill Holleman Road. Planner Mayo shared that the frontage on New Hill Holleman Road for the parcel is only 30'-40' and it is extremely close to the ramps of US 1 Hwy.

Vice-Chair Royal recalled that there was talk at one time of a realignment of Church Rd. Long Range Planning Manager Shannon Cox said that there was an amendment to the Transportation Plan brought to Planning Board in the past to show the collector street on the north side of the New Hill Community Center. There were substantial concerns from the New Hill Community Center so staff removed that amendment prior to going to Town Council.

Member Mitchell said based on what he is seeing there is a 60' right-of-way (ROW) so why do we need easements, as theoretically we should be able to construct the road to service that development. Traffic

Engineering Manager Russell Dalton addressed that question. Staff is looking for the applicant to meet the minimum road section for this project.

The applicant, Mathew Carpenter, Parker Poe, along with the Bob Baker, Keith Corporation, presented the applicant's case to the board. The purpose of this case is to permit a YMCA on the property along with a range of other uses. The Keith Corporation has an agreement with the YMCA and they are excited to bring a new location to the area. In each of the scenarios presented earlier, this property is designated as office/commercial services. Currently this property is within Wake County's jurisdiction and zoned Highway District (HD). The idea is to annex and rezone it into Apex so that it is developed in Apex. Mr. Carpenter acknowledged the need for off-site road improvements. The developer's concern is if they are unable to obtain temporary construction easements from adjacent landowners and if the town is unable to acquire the easements. In that case, they would like to pay a fee-in-lieu, or redesign the off-site road improvements so that the easements are not required. The developers cannot force the landowners to convey those temporary construction easements. The applicant believes the Rezoning is in the Public Interest for the following reasons.

- Consistent with the office/commercial services Land Use Map designation.
- Consistent with the draft Western Big Branch Area Plan and stakeholder feedback.
 - Office/Commercial Services designation.
 - Removed currently permitted residential uses.
- Will add non-residential development to help balance the Town's tax base.

Member Khodaparast asked if there had been any efforts to acquire the adjacent property for access to New Hill Holleman Road. The applicant, Bill Baker, Keith Corporation said they had contacted the neighbors and there was no interest in selling any land for this project.

Member Braswell commented that it was a state-maintained ROW and a 60 foot ROW. The applicant confirmed that.

Member Mitchell asked if there were additional easements needed for the condition of a sidewalk on the South side of the road. Mr. Carpenter said they will be able to get the sidewalk in the existing 60' ROW.

Johnathan Balderson, McAdams Engineering has been working to find a modified street section that would work at this location. They would need to come down to a 22' back to back section to make that work with streetscape improvements. There would be no Temporary Construction Easements (TCE) with that street width. Even with Developer and Town of Apex agreeing to a modified street section there is no guarantee that the NCDOT would approve of the modification.

Member Mitchell asked what the TIA showed for trip generations and what they would be if the YMCA fell through. Kevin Dean, Kimley Horn, stated the YMCA would be about 1,874 daily trips. If a site was proposed with more traffic intense use, they would have to update the traffic study.

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

Member Soh thinks this is a missed opportunity for the area as the growing community could use this facility.

Member Khodaparast feels this is an underserved area but is concerned about the risks due to the road not being improved appropriately.

Member Mitchell asked how many linear feet it is from the onsite portion of the road up to New Hill Holleman and if anybody could share the per foot cost of a rural cross section type of road. Planner Mayo shared that it is about 1,200 feet for the section. He also asked if the board ever makes a recommendation for a single use like the YMCA? Planner Mayo said the applicant would need to consent to any changes to the proposed zoning conditions and staff would also need time to review any changes.

Member Byrd expressed concerns with a proposal to allow a different condition to apply to the proposed use because there's no guarantee that the use will be a YMCA. It could be a bigger facility that's open every day, 24 hours a day.

Member Rhodes added that we need to get the road safely constructed. We are talking about temporary construction easements. It may be tough to get them, but that needs to be worked out before we press forward on a rezoning. We need to plan for safety.

Vice-Chair Royal called for a motion. Member Braswell says this boils down to the temporary construction easements and does Planning Board go with staff's recommendations or the developer's recommendations on the wording. He likes the project a lot and it is what has been planned for that area.

Member Soh made a motion to approve the rezoning with the Staff recommended rewording of the conditions for the road development. Member Braswell seconded. The vote was three to four. Members Mitchell, Khodaparast, Byrd, and Rhodes voted against the motion. The motion failed.

Vice-Chair Royal wanted to make sure everyone was clear on what they voted on for this motion. We want to make sure that the staff recommendations of the road improvements happen prior to the project moving forward. That is the reason for dissent.

Member Mitchell made a motion to recommend approval of the rezoning with only the use Health fitness center or spa with the conditions recommend by staff and with a recommendation that the easements be acquired by the Town and not the applicant. Planning Director asked if the applicant wanted to amend their proposal. The applicant stated they were not willing to amend their application and preferred the Board vote on their request.

Planner Mayo reminded the Board of the wording of the off-site road improvement condition requested by staff to which the applicant did not agree.

Member Mitchell made a motion to recommend approval of the proposed rezoning with staff's recommend rewording of Condition 8 for the use Health fitness center or spa and that any other use would be subject to build a minor collector street. Traffic Engineering Manager provided clarification on the improvements required for Church Rd.

Planner Mayo explained that staff recommended denial based on the applicant's proposed wording of Condition 8 due to the fact that would require the Council to use condemnation authority to acquire the temporary construction easements if the applicant was unable in order to ensure a safe road was provided. Planning Director Khin stated that the Town typically only uses condemnation power if a road is on our Transportation Plan, which Church Road is not.

Member Byrd recommended the denial of the reasoning based on staff's recommendation. Member Rhodes seconded the motion. Motion passed unanimously.

Planning Director Khin said if there is a denial, the board will have to go through the legislative considerations. The board must state whether the project is consistent or inconsistent with the following officially adopted plans:

- Is it consistent with the 2045 Land Use Map? Consistent
- Is it compatible with the Apex Transportation Plan? The road is not on our Transportation Plan.
- Is it consistent with the Zoning Districts supplemental standards? Consistent
- Does the design minimize adverse impact? Consistent
- Does the design minimize environmental impact. Consistent
- Does this Impact on public facilities? Inconsistent (Road Section)
- Does this impact health, safety and welfare? Inconsistent (Road Section)
- Is the project detrimental to adjacent properties? Consistent

Member Khodaparast motioned to bring Member Akers back to the meeting. Member Mitchell seconded the motion. Motion passed unanimously.

Item #2

Joshua Killian, Planner I presented Rezoning Case #24CZ06 Humie Olive Place-The applicant Construction Masters, LLC seeks to rezone approximately ±2 acres from Medium Density Residential-Conditional Zoning (MD-CZ #22CZ18) to Medium Density Residential-Conditional Zoning (MD-CZ). The properties are located at 2155, 2157, & 0 Blazing Trail and 7996, 7994, 7990, 7988, 7984, & 7982 Humie Olive Road. This rezoning is to allow a single lot to be accessed by a public alley which is named Paradise Alley. This will allow Humie Olive Place to achieve the permitted density that was approved with the previous rezoning case. Staff recommends approval of this rezoning.

Member Mitchell asked if staff had considered making a UDO amendment that would allow this community wide. Planner Bunce said that the timeline for making a UDO amendment did not work for this applicant. Staff may continue those conversations in the future with other Town departments, but the rezoning was the quickest option for the applicant.

Member Akers asked if this could have been a shared driveway. Planner Bunce says the alley already exists and there is not room for a 20' public road frontage given what has already been built.

Peter Cnossen, Jones Cnossen Engineering for the applicant. Mr. Cnossen wanted to point out that the alley is constructed to residential street standard and will eventually be owned and maintained by the Town of Apex after the warranty period passes. A UDO amendment will come in the future, but it is not available at this time.

Member Mitchell asked if parking is prohibited in this size alley or street. Mr. Cnossen shared that there are three parking spaces in a lot off the alley.

Traffic Engineering Manager Dalton stated this was a reasonable request for this specific case and this was vetted by the Fire Department, they were OK with it.

Vice-Chair Royal opened the public hearing for anyone to speak in favor or opposition of the rezoning. No one came forward. Vice-Chair Royal closed the Public Hearing.

Member Akers motioned to approve. Member Braswell seconded the motion. The motion carried unanimously.

Member Akers motioned to adjourn. Member Mitchell seconded. Motion carried with a unanimous vote. There being no further business, the meeting adjourned at 6:56 p.m. The foregoing minutes are approved this the 10th day of June, 2024.



Tina Sherman
Chair



Jeri Pederson
Lead Planning Technician