



| REGULAR TOWN COUNCIL MEETING

March 23, 2021 at 6:00 PM
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 roll call for attendance. Mayor Gilbert acknowledged recent events that occurred in Boulder, CO and Atlanta, GA and held a moment of silence. He led the pledge.

PRESENTATIONS

There were no presentations.

CONSENT AGENDA

- CN1 Donna Hosch, Town Clerk and Tesa Silver, Deputy Town Clerk
Motion to approve Minutes of the February 23, 2021 Regular Council Meeting, the February 25, 2021 Special Council Meeting, the March 9, 2021 Regular Council Meeting, and the March 11, 2021 Special Council Meeting
- CN2 Donna Hosch, Town Clerk
Motion to approve the Apex Tax Report dated 02/01/2021
- CN3 Amanda Bunce, Current Planning Manager

Motion to approve the Statement of the Apex Town Council pursuant to G.S. 160D-605(a) addressing action on the Unified Development Ordinance (UDO) Amendment of March 11, 2021.

CN4 Amanda Bunce, Current Planning Manager

Motion to set the Public Hearing for the April 13, 2021 Town Council meeting regarding various amendments to the Unified Development Ordinance.

CN5 Dianne Khin, Director of Planning and Community Development

Motion to adopt a resolution Directing the Town Clerk to Investigate Petition Received, to accept the Certificate of Sufficiency by the Town Clerk and to adopt a Resolution Setting Date of Public Hearing for April 13, 2021 on the Question of Annexation - Apex Town Council's intent to annex Jordan Lutheran Church property containing 6.22 acres located at 1201 Chapel Ridge Road, Annexation #708 into the Town's corporate limits.

CN6 Dianne Khin, Director of Planning and Community Development

Motion to adopt a resolution Directing the Town Clerk to Investigate Petition Received, to accept the Certificate of Sufficiency by the Town Clerk and to adopt a Resolution Setting Date of Public Hearing for April 13, 2021 on the Question of Annexation - Apex Town Council's intent to annex MFW Investments, LLC (portion of PIN #0751 21 6689 located at 0 East Williams Street), Trinity Apex North 100, LLC (portion of PIN #0751 32 3228 located at 5125 Jessie Drive) and Horton Park MF, LLC (portion of PIN #0751 31 9308) located at 5101 Jessie Drive) properties (Horton Park PUD), as recorded in Book of Maps 2021 Pages 128-134 containing ±1.139 acres, Annexation #709 into the Town's corporate limits.

CN7 Megan Pendell, Sustainability Coordinator

Motion to approve Sai Pranathi Sana as a new member on the Environmental Advisory Board (EAB).

CN8 Russell Dalton, Sr. Transportation Engineer

Motion to approve a reimbursement agreement between the Town and NCDOT for construction of TM-0026, bus stops to serve GoApex Route 1, and authorize the Interim Town Manager to execute the same.

CN9 Adam Stephenson, Engineering Supervisor

Motion to approve revisions to the Town Standard Specifications and Details.

CN10 Mary Beth Manville

Motion to approve the authorization of one (1) full-time Housing Program Manager position, salary grade 26, and Budget Amendment 16, to fund associated costs.

Mayor Gilbert called for a motion to adopt the Consent Agenda.

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

REGULAR MEETING AGENDA

Mayor Gilbert stated that New Business 3, Possible motion to terminate an existing access easement presented by Planning Director Dianne Khin needed to be added to the Agenda.

Mayor Gilbert called for a motion to adopt the Regular Meeting Agenda. Council Member Gantt made the motion with the stated change; Council Member Stallings seconded the motion. The motion carried by a 5-0 roll call vote.

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 reviewed the proposed amendments associated with the rezoning. The Planning Board recommended approval.

Mayor Gilbert declared the Public Hearing Opened. There were no public comments. Mayor Gilbert declared the Public Hearing Closed. Mayor Gilbert stated no decision would be made tonight, and that Council would vote on this Public Hearing on Thursday, March 25, 2021 at 9:00 a.m.

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 oriented Council to the site and stated the applicant's purpose for rezoning. Staff recommended approval with the additional condition of a 100 ft riparian buffer. The Planning Board recommended approval with the requested additional condition.

Betty Parker with Wake County Board of Education stated that construction would tentatively start in February of 2022 and that the school would open in 2024. She stated that 2,240 seats would be created in the new high school to address overcrowding and the rapid growth seen in the area. She stated that they would decline to offer the requested condition of the riparian buffer. The conditions listed within the application are compliant with the requirements found within the Town's UDO.

Mayor Gilbert declared the Public Hearing Opened.

Tonya and Mark Cumalander; requested that the rezoning be declined based on the impact it would have on the Briarwood neighborhood. They stated that traffic would affect the public safety and welfare of the residents. The landfill located near the site has loads that go above the tree line and the noise associated with the machinery used would cause a distraction in a school setting. They asked for an opportunity for all stakeholders to be present to discuss the project before an approval was granted.

Maria Martinez; concerned about the traffic and how it will affect the safety of the children who play in the neighborhood. She wanted more information about the project and requested a neighborhood meeting.

Benita Serapio; against the rezoning and expressed concern that the residents would have to leave their homes.

Alejandro Soto, Alejandrina Badillo, Claudia Medel, and Nallely Chavez, were all concerned about the impact of the school's construction on the neighborhood. They are concerned that they may be forced to move from their homes.

Mayor Gilbert declared the Public Hearing Closed. Mayor Gilbert stated no decision would be made tonight, and that Council would vote on this Public Hearing on Thursday, March 25, 2021 at 9:00 a.m.

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 oriented Council to the site and stated the applicant's purpose for rezoning. The Parks & Recreation Advisory Commission recommended approval for the construction of the greenway. The Planning Board recommended approval with the proposed conditions. Staff recommended approval with the proposed conditions.

Glenda Toppe, representing the applicant, thanked staff, Council, and the neighbors for their input that has allowed the applicant to make positive changes. The development is expected to have 279 units based on the acreage with 60% being townhomes and 40% being single family homes. She stated that the project is consistent with the land use plan and she provided an overview of the environmental amenities that are planned for the development.

Mayor Gilbert declared the Public Hearing Opened.

Melinda Dyk and 28 residents of Smith Farm; are against the rezoning. Stated that new citizens are often overwhelmed with schools being over capacity and place the blame on the Town. By approving the rezoning Council will continue to support the problem. Traffic would be increased within the joining neighborhoods and poses a safety concern for small children playing in the area. The group also expressed concerns about the environmental affects that would be caused from developing the area.

Nathan Cenis; expressed concern over the density of the development. He asked Council to consider the rezoning so that it is less dense or to redesign the development to keep townhomes off the main road.

Mayor Gilbert declared the Public Hearing Closed. Mayor Gilbert stated no decision would be made tonight, and that Council would vote on this Public Hearing on Thursday, March 25, 2021 at 9:00 a.m.

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 oriented Council to the site and stated the applicant's purpose for rezoning. The Environmental Advisory Board reviewed the application and recommended approval with

adjusted zoning conditions. The applicant agreed to the recommended zoning conditions. The Parks & Recreation Advisory Commission recommended approval. The Planning Board recommend approval. Staff recommended approval with the proposed conditions.

Isabel Mattox, representing the applicant, explained that the development will be ideally located for affordable housing as it will be located near retail, amenities, and by the future transit stop. Tim Morgan with Evergreen Construction, provided a brief overview about the company and showcased several senior housing projects within their portfolio. He briefly reviewed the plan for the housing project for Apex. Rick Baker with the Timmons Group explained some of the challenges that have been overcome for the project. Ms. Mattox stated that numerous changes have been made based on feedback received from the neighbors. She stated that the proposal is reasonable and the development will be a benefit to the town.

Mayor Gilbert declared the Public Hearing Opened

Phil Welch; supported the rezoning. He stated several benefits for the Town to approve the rezoning, and that it would be ideal to begin implantation of Apex's Affordable Housing Plan.

Diana Londono; expressed concerned that if the rezoning is approved but the developer is unsuccessful in securing funding that it could leave the property open for development not related to affordable housing. She also expressed concern over the environmental impacts of the potential development.

Jane Seeger; thanked the developer for their collaborative work with the neighbors. She expressed concern over the location of the dumpster and expressed that environmental measures be taken to address the impact the development will have on the environment.

Wake League of Women Votes and its Affordable Housing Committee, Beth Bordeaux, the West Regional Affordable Housing Group, Julie Barnes, Paul Baumann, Laura Holley, Andrea Haynes, Paula Tilley, Cathy & Frank Cheney, Angeles Martinez de Carvajal, Alice Burrows, Nancy Tamms, Karen Gower, and Nancy Plath were all in favor of an approval of the rezoning.

Mayor Gilbert declared the Public Hearing Closed. Mayor Gilbert stated no decision would be made tonight, and that Council would vote on this Public Hearing on Thursday, March 25, 2021 at 9:00 a.m.

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 oriented Council to the amendment. Staff recommended approval and the Planning Board recommended approval.

Mayor Gilbert declared the Public Hearing Opened.

Kristen and Grant Cain; requested that Council vote to remove Section 6.1.12.E.2. of the UDO. They stated that the rules within the section are inconsistent within their neighborhood and the Town.

Mayor Gilbert declared the Public Hearing Closed. Mayor Gilbert stated no decision would be made tonight, and that Council would vote on this Public Hearing on Thursday, March 25, 2021 at 9:00 a.m.

PUBLIC FORUM

Maria DeJesus; expressed gratitude to the Apex Police Department and the Mayor, in how they helped her. She requested Council provide all information in regards to the racial allegations being brought against the police department.

Cathy & Frank Cheney; expressed support of the Eco Park Project.

OLD BUSINESS

There were no Old Business items.

UNFINISHED BUSINESS

There were no Unfinished Business items.

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 asked that this item be continued to the Thursday meeting, when Council votes on the rezoning.

Council Member Mahaffey made the motion to continue New Business 1 to Thursday, March 25, 2021; Mayor Pro Tem Dozier seconded the motion.

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

NB2 Joanna Helms, Director

Possible Motion to approve a Development Agreement with The Crown Companies, LLC and to authorize the Town Manager to execute the same.

Staff explained that the Town entered into an agreement at Cash Corporate Center to develop the area for economic development purposes. The Town has been working with a developer who would like to purchase the remainder of the property. The developer would place turn-key ready buildings on the site to expedite recruiting new businesses. This agreement would release the Cash family from the current agreement, and the developer would continue to work with the Town on developing the property for the purposes of economic development.

Mayor Gilbert called for a motion to approve a development agreement with The Crown Companies, LLC and to authorize the Town Manager to execute the same.

Council Member Mahaffey made the motion; Council Member Killingsworth seconded the motion. The motion carried by a 5-0 roll call vote.

NB3 Dianne Khin, Planning Director

Possible motion to terminate an existing access easement.

Staff stated that the easement was conveyed over to the Town in 2017 when the Town purchased property. The Town has no need for the easement. It has been requested that the Town terminate the easement for a closing of a property. Staff asked for approval to terminate the easement and to give the Town Manager the authorization execute the agreement.

Council Member Mahaffey made the motion to authorize the Town Manager to enter into an agreement and to terminate the easement; Council Member Gantt seconded the motion.

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

UPDATES BY TOWN MANAGER

Interim Town Manager Clark stated that the employees who have worked from home due to COVID-19 are expected to return to work on July 1, 2021. Each director will provide an outline of if their employees will return to the office, work from home or a hybrid of the two. The Town will continue to follow the mask guidelines determined by the CDC. He received the inspection report from NCDEQ and thanked staff for their work. He stated that the report is one of the best he had ever seen and found the Town with no errors. He stated that water flushing would continue through April. He stated that he is still involved in discussions to determine the outcome for early voting for the November election.

CLOSED SESSION

There was no Closed Session.

WORK SESSION

There was no Work Session.

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

This page left blank intentionally.