

DRAFT MINUTES
TOWN OF APEX
REGULAR TOWN COUNCIL MEETING
TUESDAY, MARCH 28, 2023
6:00 PM

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6 The Apex Town Council met for a Regular Town Council Meeting on Tuesday, March 28, 2023 at
7 6:00 pm in the Council Chambers at Apex Town Hall, located at 73 Hunter Street in Apex, North
8 Carolina.

9
10 This meeting was open to the public. Members of the public were able to attend this meeting in-
11 person or watch online via the livestream on the Town's YouTube Channel. The recording of this
12 meeting can be viewed here: <https://www.youtube.com/watch?v=b3Bm5N3Pjpg>

13
14 **[ATTENDANCE]**

15
16 Elected Body

17 Mayor Jacques K. Gilbert (presiding)
18 Mayor Pro-Tempore Audra Killingsworth
19 Councilmember Brett Gantt
20 Councilmember Ed Gray
21 Councilmember Terry Mahaffey
22 Councilmember Arno Zegerman
23 Absent: None

24
25 Town Staff

26 Town Manager Catherine Crosby
27 Deputy Town Manager Shawn Purvis
28 Assistant Town Manager Demetria John
29 Assistant Town Manager Marty Stone
30 Town Attorney Laurie Hohe
31 Town Clerk Allen Coleman
32 Deputy Town Clerk Ashley Gentry
33 Planning Director Dianne Khin
34 Planner II Shelly Mayo
35 Long Range Planning Manager Shannon Cox
36 Current Planning Manager Amanda Bunce
37 All other staff members will be identified appropriately below

38
39 **[COMMENCEMENT]**

40 **Mayor Gilbert** opened the meeting by recognizing the diversity in the community. He then
41 spoke on the tragedy of the school shooting in Tennessee recently, and said how important it was to
42 take community safety seriously. He asked that everyone join him in a moment of silence to signify
43 unity.

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1 **Mayor Gilbert** then led Council and those in attendance in the reciting of the Pledge of
2 Allegiance.

3 4 **[CONSENT AGENDA]**

5
6 **Mayor Gilbert** noted that Councilmember Zegerman had requested to move Consent Item 3
7 to New Business, and that staff had requested the addition of Consent Item 8.

8
9 A **motion** was made by **Councilmember Brett Gantt**, seconded by **Councilmember Ed**
10 **Gray**, to adopt the Consent Agenda, as amended, with Consent Item 3 moved to New Business and
11 Consent Item 8 Added.

12 **VOTE: UNANIMOUS (5-0)**

13 14 **CN1 Agreement - Interlocal Agreement with Town of Cary - 5925 Farmpond Rd - Water** 15 **Service**

16 Council voted to approve an Interlocal Agreement (ILA) with the Town of Cary to provide water
17 service to a single-family residence located at 5925 Farmpond Rd. (REF: CONT-2023-065)

18 **CN2 Appointment - Board of Adjustment (BOA)**

19 Council voted to appoint one (1) alternate member to the Apex Board of Adjustment (BOA) to an
20 unexpired term effective the date of appointment (March 28, 2023) and expiring February 28, 2026:
21 William Hollenbeck, 3rd Alternate Member of the Apex Board of Adjustment (BOA) - Corporate
22 Limit.

23 ~~**CN3—Construction Contract Award/Budget Ordinance Amendment No. 15/Capital Project**~~ 24 ~~**Ordinance Amendment No. 6 - Fred Smith Co. - Middle Creek Greenway PHI and PHII-B**~~ 25 ~~**(including Spur B)**~~

26 This item was moved to New Business (NB1)

27 **CN4 Council Meeting Minutes - March 14, 2023**

28 Council voted to approve meeting minutes from the following meetings:

29 March 14, 2023 - Regular Town Council Meeting Minutes.

30 **CN5 Ordinance Amendment - Temporary Modification of Chapter 14: Offenses and** 31 **Miscellaneous Provisions, Section 14**

32 Council voted to adopt an ordinance to temporarily modify Chapter 14: Section 14 of the Apex
33 Town Code of Ordinance to accommodate alcohol on Town of Apex property on April 14 & 15,
34 2023 for the following special event: Bone Suckin' Peak City Pig Fest. (REF: ORD-2023-031)

35 **CN6 Resolution - Authorizing Execution of Opioid Settlements**

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1 Council voted to approve a Resolution authorizing execution of opioid settlements and approving
2 the supplemental agreement for additional funds between the state of North Carolina and local
3 governments on proceeds relating to the settlement of opioid litigation. (REF: CONT-2023-067 and
4 RES-2023-023)

CN7 Veridea Environmental Enhancement Plan - Statement

5 Council voted to approve a Statement of the Apex Town Council pursuant to G.S. 160D-605(a)
6 addressing action on the Veridea Environmental Enhancement Plan approved on February 28, 2023.
7 (REF: OTHER-2023-029)

CN8 ADDED - Agreement - Renewal of GoApex Agreement with Town of Cary and MV 10 Transportation - July 1, 2023 through June 30, 2024

11 Council voted to approve, and to authorize the Town Manager to sign and execute, an amendment
12 to the GoApex Agreement with Town of Cary and MV Transportation. (REF: CONT-2023-076)
13

PRESENTATIONS

PR1 Proclamation - Child Abuse Prevention Month - April 2023

14
15
16
17 **Mayor Gilbert** welcomed employees from the Western Wake Human Service Center who
18 were present to receive the proclamation: Karen Morant, Jocelyn Williams, Sandy Windham, Kelly
19 McNeil Wilhelm, Julie Masterson, and Allison Thompson. He noted that that were all wearing blue in
20 recognition of Child Abuse Prevention Month. He and Council then read the Child Abuse Prevention
21 Month 2023 Proclamation in unity.
22

23 **Karen Morant, Director of the Western Wake Health and Human Services Center** gave a
24 few comments:

25 "Indeed it is a privilege to greet you and to thank you, Mayor Gilbert, the Women and Men of the
26 Council, Town Manager Crosby, and to the staff and the residents of the Town of Apex, to be here
27 on behalf of County Manager David Ellis, Director Nannette Bowler the Director of Health and
28 Human Services. I am Karen Morant, the Director of the Western Health and Human Services Center,
29 it's at the service of Apex, Cary, and Morrisville. It is a privilege to stand here and publicly, in this
30 public forum, acknowledge the partnership of over 5 years that we have had with the Town of Apex.
31 Your stellar staff, I see Director Dianne back there, who has led the way in this partnership, made the
32 connection as we are endeavored to increase access to equitable services to health and human
33 services in this region. Your partnership continues to be one that is stellar, and leading the pathway
34 as we address collectively the issues around affordable housing, food security, employment and
35 transportation. Town Manager, I thank you for your leadership on your representation on our county
36 community advisory committee. I cannot say enough about Danica who's here, who's navigated this
37 time and this place and continued to be a champion for all things Public Services as well as Officer

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1 Ragland, who is the gateway to our work here in food security, so again we thank you and we're
2 proud to be in partnership with you, as this is a great day and we celebrate next month as Child
3 Abuse Prevention Month. Thank you."

4
5 **Mayor Gilbert** thanked Ms. Morant for her comments.

6 7 **[REGULAR MEETING AGENDA]**

8
9 **Mayor Gilbert** asked Councilmembers had amendments to the proposed regular meeting
10 agenda.

11 **Mayor Pro Tempore Killingsworth** said she would like to add a Close Session Item pursuant
12 to NCGS §143-318.11.

13 **Mayor Gilbert** asked for any other changes for the meeting agenda.

14
15 A **motion** was made by **Councilmember Arno Zegerman**, seconded by **Councilmember Ed**
16 **Gray**, to approve the Regular Meeting Agenda with the addition of a second Closed Session item.

17 **VOTE: UNANIMOUS (5-0)**

18 19 **[PUBLIC FORUM]**

20
21 First to speak was **Pamela Thomas**:

22
23 "Good evening, Pamela Thomas, almost 6-month resident of Apex, North Carolina, the Peak of
24 Good Living. I relocated here from Holly Springs, was there, I don't know, 9 months, and had to
25 remove myself from a situation. A place I shouldn't have been, but nonetheless, I became a female
26 veteran in distress very quickly. I did I guess what you call hotel hopping for about 4 months. Then I
27 had to ask for help, which was difficult, it was very challenging to ask for help. 57 years old, and was
28 very active in the community, active in my church, member of the Marine Corps League, I have dual
29 memberships, Member of the Marine Corps League Auxiliary, serving as the Department of North
30 Carolina Senior Vice President, working with the ministry at my church, the women's ministry in
31 particular, and trying to maintain the legacy of baby sister, she went home 9 years ago to be with the
32 Lord, and I had to ask for help. So, I called Paul Berry, retired Sergeant Major, "hey Paul Berry it's
33 Pamela, I got to report a female veteran in distress Paul and it's me. I got a lot of plastic bags in my
34 Highlander and the second row and the third row, and I'm tired, I'm tired." He said can you get to I
35 had served as volunteer for a veteran's VA Live, the VIAC when the VA comes into the community so
36 I was familiar with that, I had already attended it for April in Cary, and I had been a Volunteer so he
37 said can you get to the VIAC in Charlotte in August? I called Paul Berry August 15th, he said can you
38 get there on the 20th, which is a Saturday by this time. God has said, you know what, daughter, this is
39 what you're going to do, because you're not in a shelter, you had a little cushion financially, so you
40 gonna go up in them hotels, you're going to tell them who you are, you're going to ask them if they
41 got good breakfast, because the truth will set you free. So that's what you're going to do daughter,
42 you're going to let all your pride and so I said okay yeah, if I can find a good hotel, if there's a hotel
43 nearby. I was able to get into Charlotte VIAC was conducted a lot different than Cary. So, Cary is kind
44 of like a mass, mass influx of veterans, they come from all over, all over. Charlotte was more

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1 managed and maintained at a church, the first 5 veterans went in, and then 5 more. I was one of the
2 first 5, Paul Berry had just grabbed me, he just grabbed me, it helped me, and then Crystal Miller
3 they said "you're not going to leave, until we get you 100%", and I'm free in 2023. I'm free to grow,
4 free to love, and free to heal my disability rating, it's military sexual trauma - PTSD. MST-PTSD. So, I
5 became a 100% service connected veteran, unemployable and I realized after I got all my stuff
6 September 14th, and my Marine brothers helped me, and I got a resident apartment in Apex. I had to
7 stay the course, I had to remain prayerful, I had to seek God's will, because the Bible is good enough
8 for my ancestors and it is good enough to me. Especially perilous, terrible times we live in. I've got to
9 keep my chin up, I've got to keep my eyes forward, my shoulders back, I've got to straighten my
10 crown because I did win a pageant that honored women veterans in 2016 age 50 and older, and I've
11 got to strut like I belong because God loves me, God rescued me, God saved me, God qualifies me.
12 And I started a non-profit called Liberty Nest ppt Ministry. Liberty is God, and the spirit is the spirit of
13 the Lord is there's liberty, that comes from God, God first. Nest is your home, your dwelling. Nest is
14 people. So, Liberty is God, Nest is people, ppt is my initials PowerPoint he said put your initials
15 lowercase because it ain't about you. Ministry is nothing but helping people, and I change my
16 mission statement, and I was running to bring it to Mr. Gray, because it was supposed to about just
17 empowering people. But I had to add a statement, because I met a couple in my neighborhood with
18 a 4-year-old little boy who's deaf in his right ear, and she's here by herself, she's got 3 boys, he just
19 had a tube removed, 4 years old. I got 7 grandchildren, I'm Gigi of the year, I got a 9-year-old,
20 almost 13, 7, 5, my twins are 3, Serenity and Harmony, and Faith is the youngest, I said this kid he
21 could be mine. So, he showed, he lifted his shirt up and he showed me where the tube was
22 removed, the scar on his heart was he had heart surgery and he's just running around. His name is
23 Johnny. And now Johnny calls me Gigi, and I spent 4 hours with Carrie and Johnny, and I went in her
24 house and I said they shouldn't put you in here, this is unsafe. First, I said you know what I'll get the
25 Marines, we're coming in, we're going to help you unpack. Husband is still up north, and she's got 4
26 boys. Johnny is 4 with the disabilities, the challenges and she has a 13 and a 15-year-old, they're
27 very helpful because they've got their brother with these issues, and I said "nah" I went into the
28 neighborhood, I went into the new apartments they should have put her in, because it's unsafe,
29 there's a section of the floor that is so fragile that I jumped. I said "oh, okay, alright, they threw a rock
30 at the right warrior". Because I'm going to take some pictures of the new building they should have
31 put you in and I'm going to send them some information to let them know. I keep this binder y'all, I
32 started doing stickers, my grandchildren love it, especially my twins. "Gigi get those stickers off
33 Gigi's window", and butterflies. I couldn't find matching for my name. The Lord said that's because
34 you were so scrambled in hotels, you were scared, you were embarrassed, plastic bags in the
35 second row, third row in my Highlander, I became a bag lady. He said but then I sent you to Apex.
36 So, this is straight. I sent you to Apex September 29th, Ian came September 30th, so while he was
37 sending a storm, because that's what he does, while he was sending a storm he brought me peace
38 and Apex, oh fantily he said daughter I gave you a message, you've got to spread it, because liberty
39 nest is something my ancestors didn't have. They stayed bound, I've got this postcard Alcatraz. But
40 liberty nest, oh my goodness daughter, you tried, you tried to have a women veteran gathering, you
41 just wanted a relaxed and informal pillow bring your blanket, your coloring book, your doll baby let's
42 just try to be sisters okay. God told me I'm a sister keeper, I know you can't replace my sister but
43 Liberty Nest ppt Ministry I added this today after I met. I said we have to advocate for orphans,
44 widows, the elderly, the poor, and the oppressed to ensure their home, or their nest, is safe as well

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1 as suitable for any physical disabilities, adequate living space, and empower them to use their voice
2 to address injustices and/or lack of corrective actions taken on their behalf. I don't know I'm like that
3 came from me, Kymella must have just told me "sister this is what you write". The original mission
4 was to provide conferences, gatherings, and workshops that inspire strength and provoke us to
5 begin again with unwavering faith that Matthew 7:13-14 is the best road to travel, entering in at the
6 straight gate, for wide is the gate and broad is the way that leads to destruction and many gold
7 therein, straight is the gate, narrow is the way that leads to life, and few there be that find it. I'm
8 telling you, I was one of the female Veterans I said you know what, I mean I'm just me. I grew up on a
9 dirt road with the tobacco, I don't have no degree, I was a single mother, I just wanted to protect my
10 baby girl."

11
12 **Mayor Gilbert** told Ms. Thomas that they loved her, and that she found the right place for her
13 here in Apex. He said they are going to help take care of her. He said he would have staff get more
14 information from her later, and that he wanted to speak with her personally soon.

15
16 Next to speak was Elizabeth Stitt of 3113 Friendship Road:
17 "Elizabeth Ray Stitt, 3113, Mayor, Town Council, good evening. On March 17th, my neighbors and I
18 received letters from the town stating that more workers would be coming onto our property in
19 regard to the big branch force main. So, the first thing I do is just shoot an email over, they know
20 that's automatically what I'm going to do to say nobody comes on my property without emailing me
21 first and scheduling time, just because my property is not set up for other people to come on. But
22 that wasn't the case with some of my neighbors, and so when you read the letter it has two
23 companies that are listed, CJS Conveyance and Hazen and Sawyer so the assumption was one of
24 these two companies would show up at your door. Well that's not what happened. My neighbors
25 reported to me in our email thread that we keep going and our every two-week phone call that
26 random people showed up and as you all know, that's the oldest scam in the world. You don't have
27 people show up at your door and say hey I'm here to do x, y, or z because if you didn't schedule the
28 appointment, or you have no way of verifying that individual, we've all been taught for the last 30
29 years, you don't let that person on your property. So, my neighbors turned away these individuals
30 from coming on their property to do work, and as the story was relayed to me one of my neighbors
31 called in and complained and said, hey you know this is not okay, and instead of the reaction being
32 okay hey let's figure out to work out better together, it was we're going to send out the Apex Sheriff
33 with these people the next time. So, we have a little bit of a sense of humor where we are, first and
34 foremost there's no such thing as the Apex Sheriff, it's Apex Police or Wake County Sheriff's
35 Department, so we had a good little giggle over that. The next little giggle was in our community on
36 one of our roads there's a 34-year retired Sheriff, and we know our rights and we know that Wake
37 County Sheriff is just not going to come out and escort these people onto our properties. And so,
38 part of my ask tonight is I shouldn't have to raise my hand every time to say, hey I got a letter let me
39 email, please schedule an appointment, please pass my information along, I would like the Council
40 to put some kind of process together for the town to follow. If someone is coming on my property,
41 give me heads up, I need them to schedule it with me, it is not okay to send random men onto my
42 property. Secondly, I have horses and animals that could hurt these people, and thirdly I know I'm
43 running out of time seeing the button turn yellow here, is we have a really bad coyote problem. We
44 talked with you guys about that before, made some comments about how I can't stand to shoot

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1 them they had to be trapped and removed and we have a neighbor that's a legal trapper and he
2 traps and removes them, but you can you imagine one of these guys walking through our property
3 and stepping in a trap? What it would do to their ankle. So, instead of us having to always react, if we
4 could get some kind of process in place, we would appreciate your support. Thank you.

5 6 **[PUBLIC HEARINGS]**

7
8 **Mayor Gilbert** closed public forum with no more sign ups, and moved the meeting on to
9 public hearings.

10 11 **PH1 Annexation No. 748 - The Townes at Chapel Ridge - 18.613 acres**

12
13 **Dianne Khin**, Planning Director, gave the following presentation and said staff
14 recommended approval.

15 **Councilmember Zegerman** asked if this was in preparation for a future development.

16 **Ms. Khin** said that the development had already been approved, this was just for it to be able
17 to get water and sewer.

18
19 With no sign ups for public hearing, **Mayor Gilbert** brought it back to Council for discussion
20 and a possible motion.

21
22 A **motion** was made by **Mayor Pro Tempore Audra Killingsworth**, seconded by
23 **Councilmember Terry Mahaffey**, to adopt Annexation Ordinance No. 748 - The Townes at Chapel
24 Ridge. (REF: ORD-2023-027)

25
26 **Councilmember Gantt** wanted to note that this was a senior only townhome development
27 that was approved in 2022, for Councilmember Zegerman's awareness. He said the developers
28 proposed a senior living arrangement in response to concerns over school capacity issues.

29
30 **VOTE: 5-0 (UNANIMOUS)**

31 32 **PH2 Annexation No. 747 - Apex Light Industrial - 21.246 acres**

33 **AND**

34 **PH3 Rezoning Case No. 22CZ21 Apex Light Industrial - Ordinance**

35
36 **Lauren Staudenmaier**, Planner II, gave the following presentation for Public Hearings 2 and
37 3 combined. She offered to answer any questions.

38
39 **Councilmember Gantt** asked how they would evaluate a site plan if Lowell Road was the
40 main thoroughfare in the future, but not currently. He said currently he imagines the entrance will
41 currently be off of 64, but not forever if the other road ends up getting a connection.

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1 **Shannon Cox** said they don't have a slide showing what future Lowell Road might be like,
2 and that was a tough question to answer because they would actively be working with the developer
3 on improving connectivity throughout the site.

4 **Councilmember Gantt** asked if the development would have buildings fronting Lowell when
5 they are built, even it won't be the main entrance in the beginning. He said he's confused how this
6 will change and be appropriate in the future.

7 **Ms. Staudenmaier** said her understanding was that the site plan would be providing
8 buildings from the north to the south and the east to the west.

9 **Councilmember Gantt** said he hopes this looks good in 20 years and not just in 5 if it is
10 passed. He said he had another question, which was if staff would have given a stronger approval if
11 the plan involved more properties.

12 **Ms. Staudenmaier** said that establishing connectivity would have likely been easier if the
13 applicant had kept the number of properties at the higher point they were at originally. She said she
14 could get in touch with the applicant on if they have plans to expand to future areas and if they're
15 had discussions with adjacent property owners. She said staff still does recommend approval.

16 **Jason Barron**, on behalf of the applicant, gave a presentation. He also wanted to touch on
17 Councilmember Gantt's prior question. He said the east to west connection of Lowell Road would be
18 a public street. He said the developers are viewing Lowell as the primary access point from day 1. He
19 said they understand the role of that road, and that they pride themselves on the design of their
20 projects. He said what it looks like in 20 years is a principle concern to the developers as well,
21 considering they lease the buildings rather than sell them. He said regarding the properties to the
22 east, there would have been a donut hole created if the project had expanded east at this time, as
23 there was one property owner in the middle of that area who was not ready to sell or agree on a
24 price with the developer. He said donut holes are much more difficult to work around in the future
25 for uses like this.

26 **Councilmember Zegerman** asked if Mr. Barron had images of the full site plan with him.

27 **Mr. Barron** said he did not.

28 **Councilmember Zegerman** said in the site plan he saw earlier, there was a much larger
29 building towards the back of the property. He wanted to know what the intended use for that
30 building was.

31 **Mr. Barron** said the site plan at this stage is only committed to things as far as the right of
32 way line. He said other than the things mentioned in the conditions, such as the Lowell Road
33 connection, all of the site plans are ideas. He said currently they don't have a specific plan in mind
34 for use of the back side of the property, but he says for phase 1 the general idea is what has been
35 shown (REF: OTHER-2023-030). He said in an ideal world, they would have a similar use of the
36 backside of the property as what is being observe in phase 1 with the tech flex buildings. He said
37 there is room in the conditions for a larger footprint use, and that there were conversations about
38 wholesale and distribution uses.

39 **Councilmember Gantt** was wondering if there was concern around road connections
40 potentially getting blocked off because of other developments happening ahead of schedule.

41 **Mr. Barron** said the state would have to provide them access whether it was through Lowell
42 Road or another way in that situation. He said he is not concerned that NCDOT would condemn
43 right of way to 64 that exists today, without providing another access point to 64.

44 **Councilmember Gantt** asked if the list of uses was the same as they were on the application.

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1 **Mr. Barron** said yes. He said the condition allowing the use of gasoline sales that
2 Councilmember Gantt was concerned about is not something that the developer typically does with
3 their projects, but that they want to have the flexibility to do that considering the expectation that
4 many trucks would be coming into the development to serve the properties.

5 **Councilmember Gray** asked what the expectation was regarding the impact to traffic of
6 trucks coming to and from the development on that portion of 64.

7 **Mr. Barron** said they have done a traffic study, which was not a requirement of the rezoning
8 case, and they would be working on how to design the site based on those results. He said the
9 developers are just as invested in making sure that trucks can adequately access their site as
10 anybody, since this is the backbone of what they do as a business. He said that is a big deal across all
11 of their sites, including this one.

12
13 **Mayor Gilbert** opened up public hearing for comment. The only person to sign up, Jeff
14 Roach, declined to speak, so Mayor Gilbert brought it back to Council for discussion and a possible
15 motion.

16 **Councilmember Zegerman** said he is principally in favor of having commercial use in this
17 area. He said he did have concerns about some of the allowable uses, which included wholesale and
18 distribution centers. He noted that Councilmember Gantt also had concerns about the potential for
19 gas sales. He said lots of the areas around Apex are running out of ability to attract high-end office
20 developments. He said Apex has several of these large parcels that can be used for those kinds of
21 things. He said he would like to take some of the conditions off the allowable uses in the rezoning to
22 encourage more of the higher-end commercial development. He said he asked the developer to
23 strike conditions he had mentioned regarding wholesale and building supplies, and that those
24 requests were politely declined.

25 **Councilmember Gray** said he felt this was the right location for this kind of project. He said
26 he believes the uses are consistent with the land use map and what is consistent with what is needed
27 along that particular corridor.

28 **Councilmember Zegerman** said he feels wholesale and distribution uses can be pushed
29 further down into Chatham, since they do not require the same type of plumbing that an office
30 building would need.

31 **Councilmember Gray** said he felt there was a limit to how much government should be
32 getting into a private entities desire to do something consistent with what they have already said. He
33 said it's consistent with the land use map. He said the land map could be changed, but he wouldn't
34 like going to a developer and telling them not to do things that were consistent with the desires put
35 in place by the government for that area already.

36 **Councilmember Zegerman** asked if that was the purpose of conditional zoning.

37 **Councilmember Gray** said he agreed, but he feels there is a limit to that if its consistent with
38 the current zoning.

39 **Councilmember Gantt** said he also believed the needs of a wholesale facility would be more
40 than simply septic, as there would be more people to support than something like RV sales.

41 **Councilmember Zegerman** said that was a fair point, but that Council had just approved a
42 90,000 square foot limit for wholesale distribution centers as part of the Apex Gateway project
43 conditions. He said he wants to reserve the land they have while it's still available for some higher
44 paying jobs.

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1 **Councilmember Mahaffey** said he was wondering what land use would be most applicable
2 to what Councilmember Zegerman was referring to. He said he envisions tech flex as something
3 bridging to employment. He said these are the standard tech flex uses.

4 **Councilmember Gray** said EnviroFlight, the company that makes pet food out of bugs, is
5 situated in a similar tech envisioned land use plan. He said he feels the government shouldn't be
6 limiting the entrepreneurial opportunities that the developer wants to take.

7
8 A **motion** was made by **Councilmember Ed Gray**, seconded by **Councilmember Brett**
9 **Gantt**, to adopt Annexation Ordinance No. 747 - Apex Light Industrial, and to approve Rezoning
10 Case No. 22CZ21 - Apex Light Industrial, including revised condition number 5. (REF: ORD-2023-
11 028)

12
13 **Councilmember Mahaffey** said he wanted to add that he would also love to have high-end
14 biotech uses in Apex. He said Apex wasn't able to get some of the multi-billion-dollar projects that
15 have landed in the surrounding area, but that the tech flex areas that have been popping up recently
16 are looking to provide support and resources to these massive projects. He said this is the demand,
17 and is good commercial zoning and a good commercial tax base. He said he would love to look at
18 the land use map and see if there were ways to "catch those big fish". He said this project was filling
19 a need and bringing it to Apex.

20 **Mayor Pro Tempore Killingsworth** said she agreed with Councilmember Zegerman that
21 having higher paying jobs is important, but so is the need that this project would be filling to support
22 other companies coming up in the area.

23 **Councilmember Zegerman** said there was no identified tenant for this project yet, and so
24 the option is still being left open. He said his concern isn't about a 300,000 square foot building, but
25 rather that wholesale and/or distribution centers would provide a lot of trucks, a lot of empty space,
26 and not as many jobs, and that the jobs it does create are not well-paying jobs. He said he is for what
27 has been proposed for phase one with the 5 tech flex buildings, but he wants to protect the town by
28 removing some of these uses.

29 **Mayor Gilbert** said offered his thanks to the developers from his position as the economic
30 development committee chair, saying that Apex needs this.

31
32 **VOTE: 4-1, Councilmember Zegerman dissenting.**

33 **PH4 Transportation Plan Amendments - Elevate 64 West PUD**

34 **Shannon Cox**, Long Range Planning Manager, gave a presentation regarding the
35 transportation amendments.

36 **Councilmember Gantt** asked about the category of street side greenway, and was
37 wondering if what was proposed here was similar to that categorization or different in some way.

38 **Ms. Cox** said street side greenway is typically a designation reserved for the rural area. She
39 said it's meant to give a fuller greenway feel in places where full greenways aren't being proposed.
40 She said this will be more of a side path look and feel.

41 **Councilmember Gantt** asked if it would make more sense to just designate this as a side
42 path from a financial perspective.
43

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1 **Ms. Cox** said she couldn't speak to financial components, but that designating it as a
2 greenway allows it to more in line with the town's goals, and means it has different maintenance
3 roles, and other amenities along the path that a typical side path wouldn't.

4
5 **AND**

6 7 **PH5 Rezoning Case No. 22CZ22 Elevate 64 West PUD**

8
9 **Amanda Bunce**, Current Planning Manager, gave a presentation regarding Rezoning No.
10 22CZ22 Elevate 64 West PUD.

11 **Mayor Gilbert** asked a question regarding how emergency services would be able to access
12 portions of the property, since some of it involves future road connections.

13 **Ms. Bunce** said the pavement width would be wider in this type of project versus a
14 residential area, so emergency equipment would be able to access the property in an easier
15 manner.

16 **Councilmember Gantt** mentioned the difficulty people had reported having when
17 attempting to cross Richardson Road in this area, and asked if the greenway connection would be
18 looked at to be not at grade, so pedestrians could avoid having to cross the road.

19 **Ms. Cox** came up and said it would be a 60-foot right of way, 2 lane road, major collector.
20 She said they currently don't have any grade separated crossings for things other than thoroughfares
21 and highways. She said Richardson was classified as a thoroughfare.

22 **Mayor Pro Tempore Killingsworth** asked if there would be signs put up or lines on the road
23 in a crossing area such as this.

24 **Ms. Cox** said that would be evaluated at the site plan stage and typically after development.
25 She said they do have a pedestrian crossing analysis process to help determine how they would
26 need to mark the area. She said with a greenway, it typically means they would have an enhanced
27 crossing.

28 **Councilmember Gantt** asked if Vision Zero suggested they had problems at pedestrian
29 crosswalks on collectors and roads like that, and if tunnels or bridges would be beneficial in more
30 places.

31 **Councilmember Mahaffey** said he didn't think that was a component of Vision Zero.

32 **Ms. Cox** said that yes, that was not a specific component of Vision Zero.

33 **Councilmember Mahaffey** noted the amount of times that there have been incidents of
34 pedestrians getting hit or having close calls, and Council thinking that tunnels would be really nice in
35 those locations. He said it always come back around to how expensive it would be to build a tunnel
36 in locations where a road already exists. He said during the construction of new road, like this, would
37 be the time to push for a tunnel to be constructed preemptively.

38 **Mayor Pro Tempore Killingsworth** said her preference would be overdoing the visibility of
39 the crosswalk to be as safe as possible and avoid even close calls.

40 **Councilmember Mahaffey** asked about the decision on whether extra visibility would
41 include a flashing beacon or extra striping, wanting to know if it was an Apex standard or as part
42 traffic

DRAFT MINUTES

1 **Senior Traffic Engineer** Russell Dalton said there was a process to determine how they
2 handle crossings. He said in instances like this, they may find the need to go ahead and mark and
3 sign a crossing before the road opens, and he said greenways are typically marked and signed. He
4 said rapid flash beacons wouldn't typically be recommended from the beginning in locations like
5 this one, but that it could be evaluated later. He said typically on this kind of street there would be
6 good visibility, high visibility signs from both directions, and that the town follows the latest
7 guidance on that. He added that he also likes grade separations for crosswalks, but those are
8 typically used in cases like a thoroughfare or a railroad. He said it is very difficult to figure out grade
9 separation even during the planning process. He said people will also cross at-grade even in
10 situations where there is grade separated option.

11 **Councilmember Zegerman** asked if there were speed reduction measures that could be
12 taken coming into the area of the crossing on a major collector.

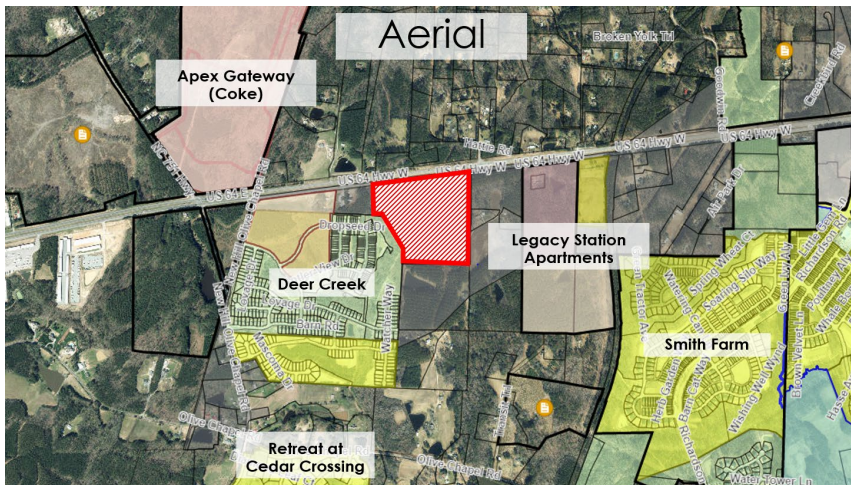
13 **Mr. Dalton** said the UDO recommends against traffic calming on major collector streets,
14 since they are designed at 35 miles an hour, but that the warnings for the crosswalks do provide
15 advanced notice.

16
17 **Matthew Carpenter** of Parker Poe, on behalf of the applicant, gave the following
18 presentation, and offered to answer any questions.



Rezoning Elevate 64 West PUD PUD-CZ

31 [SLIDE 1]

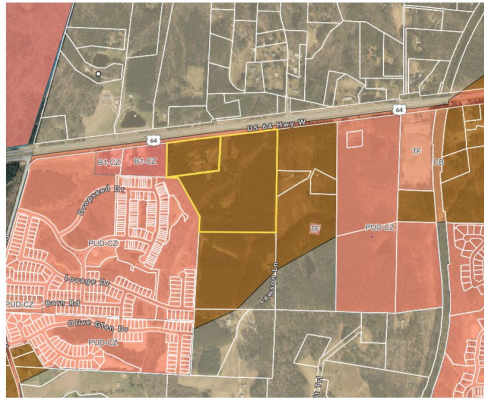


32 [SLIDE 2]

32
33

DRAFT MINUTES

Current Zoning = Rural Residential (RR)
Proposed Zoning = Planned Unit Development (PUD-CZ)



1

[SLIDE 3]

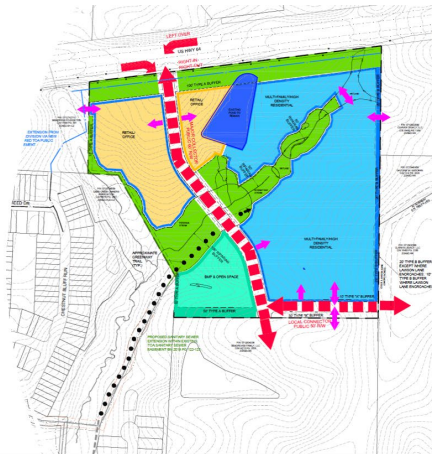
LUM = High Density Residential/Commercial
Services/Office Employment



2

[SLIDE 4]

**Concept
Plan**



3

[SLIDE 5]

DRAFT MINUTES

Affordable Housing

- 20 affordable housing units at 80% AMI
- 1 Person Household AMI = \$74,900
- 80% of 1 Person AMI = \$59,920
- 2 Person Household AMI = \$85,600
- 80% of 2 Person AMI = \$68,480

Job	Starting Salary	Average or Median Salary
Apex Police	\$58,911	\$60,100
Wake County Teacher	53,000	55,300
Apex Fire	51,500	59,333
Registered Nurse	51,500	102,398
Amazon Warehouse	27,000	35,000
School Librarian		55,930
Costco Retail Worker		52,000

1

[SLIDE 6]

Site Access – UDO

UDO Section 7.5.4 – Streets

(E) Public Access Requirements

Any residential development exceeding 300 residential units shall provide at least 3 points of access to the public street system. **Construction of a Major Collector or Thoroughfare on the *Advance Apex: The 2045 Transportation Plan* can provide opportunities for additional points of access when the existing roadway frontage cannot provide those opportunities.**

2

[SLIDE 7]

Site Access – Fire Code

D107.1 – One or two family dwelling residential developments

Developments of one or two-family dwellings where the number of dwelling units exceeds 30 shall be provided with ***two separate and approved fire apparatus access roads.***

Exceptions:

1. Where there are more than 30 dwelling units on a single public or private fire apparatus access road and ***all dwelling units are equipped throughout with an approved automatic sprinkler system*** in accordance with Section 903.3.1.1, 903.3.1.2 or 903.3.1.3 of the International Fire Code, ***access from two directions shall not be required.***

3

[SLIDE 8]

DRAFT MINUTES

1

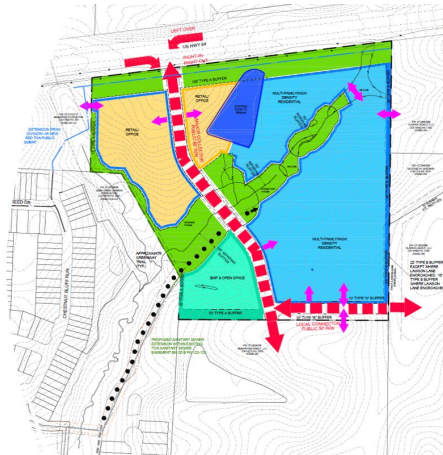
Environmental Conditions

- A minimum 7.5-kilowatt solar PV system shall be installed to offset electric consumption of common area and pool. Over the system's 30-year life, will reduce or offset 446,000 pounds of CO2 emissions.
- 5% of parking spaces as EV charging spaces
- Existing pond will remain
- Minimum of 10 pet waste stations
- 75% of landscaping will be native species
- Stormwater infrastructure to accommodate 100-year storm

2

[SLIDE 9]

Concept Plan



[SLIDE 10]

3

4

5

Mayor Gilbert opened up public hearing for comment, and with no sign ups brought it back to Council for discussion.

7

Councilmember Mahaffey asked about if there was any clarity on if Lawson Lane could be used in the case of an emergency.

9

Mr. Carpenter said currently it was a private gravel driveway, and that he doesn't think it could be called a public right of way, but that he would defer to staff regarding that. He said that trucks are going to use whatever road they need to in the case of an emergency.

12

Councilmember Gantt asked if there was going to be a median at the intersection onto 64, to where an accident wouldn't block both lanes.

14

Ms. Bunce said it would be a place where a left turn wasn't allowed, so there would be some kind of barrier put up there to prevent that from happening, creating a median.

16

Councilmember Gantt asked if a firetruck would just drive on the wrong side of the road for a bit if there was an accident blocking the right turn access in the case of a crash there.

18

Ms. Bunce said yes.

19

Mayor Gilbert asked if there was anything staff could do to try and work with a private driveway owner to come to an agreement with them regarding access for emergency purposes.

21

Ms. Bunce said she wasn't sure what staff could do in that situation, other than potentially sending them a letter asking them to work with the developer on that issue.

22

DRAFT MINUTES

1 **Mr. Carpenter** said the developers they can make the first initial contact and start discussions
2 with nearby property owners regarding potential access through their roads.

3 **Councilmember Mahaffey** said the only real issue here was the access and the way the road
4 network works in this area. He said there are currently several developments coming up in this area
5 that are currently disconnected. He said someone has to be the first one to build, even if the
6 connections at that point are awkward. He said he had requested to look at access to a property
7 from the west, but the property owner was not amenable to that at the time. He said it appears that
8 this development seems to be the best candidate in the area to begin first, as 64 can take the influx
9 of traffic the best before the internal connections are established.

10 **Mayor Pro Tempore Killingsworth** said this plan has a little bit of everything as far as
11 residential and commercial needs, as well as addressing affordable housing and environmental
12 concerns.

13 **Councilmember Mahaffey** said it was cool that the developer did 5% of the units at 80%
14 AMI just from them asking.

15 **Councilmember Zegerman** said that didn't stop him from asking for more, but noted that
16 the kinds of housing being built here are typically more affordable in general than other types
17 anyway.

18 **Councilmember Mahaffey** also thanked the developers for hitting all of the EAB
19 recommendations, he said usually developers try to opt out of at least one or two.

20
21 A **motion** was made by **Councilmember Brett Gantt**, seconded by **Mayor Pro Tempore**
22 **Audra Killingsworth**, to approve the Transportation Plan Amendments related to Elevate 64 West
23 PUD, and to approve Rezoning No. 22CZ22 - Elevate 64 West PUD. (REF: ORD-2023-029)

24
25 **VOTE: UNANIMOUS (5-0)**

26 27 **PH6 Unified Development Ordinance (UDO) Amendments - March 2023**

28
29 **Ms. Bunce**, gave the following presentation regarding the Amendments to the
30 Unified Development Ordinance of March 2023

31 **Councilmember Zegerman** said it was a good thing for residents to have more
32 communication regarding developments.

33 **Councilmember Mahaffey** asked if the change meant they didn't have to include setting the
34 public hearing anymore on the consent agenda.

35 **Ms. Bunce** said that was correct.

36 **Councilmember Mahaffey** said he also wanted to note that meetings could be done
37 virtually, and so weren't a big logistical hassle. He added that the change to the one-hour
38 requirement was so developers didn't have to sit around for two hours if nobody was showing up to
39 the meeting, but that he would fully expect that they wouldn't cut meetings short if people still
40 wanted to stick around and discuss or ask questions.

41 **Mayor Pro Tempore Killingsworth** added that she was sure Council would hear about it if
42 developers started doing that.

DRAFT MINUTES

1 **Councilmember Zegerman** asked what problem was being solved with the second
2 proposed amendment.

3 **Ms. Bunce** said that it was originally because of someone unique a developer had proposed
4 a long time ago, and that it really doesn't serve much of a purpose anymore. She said this specific
5 amendment applied to a unique situation that has only occurred once in Apex.

6 **Ms. Khin** added that transportation staff had asked for it to be removed.

7
8 **Mayor Gilbert** opened up public hearing for comment, with nobody signed up to speak he
9 brought it back to Council for discussion to lead to a possible motion.

10 A **motion** was made by **Mayor Pro Tempore Audra Killingsworth**, seconded by
11 **Councilmember Terry Mahaffey**, to adopt the proposed amendment to the Unified Development
12 Ordinance. (REF: ORD-2023-030).

13
14 **VOTE: 5-0 (UNANIMOUS)**

15 16 [NEW BUSINESS]

17
18 **NB1 Construction Contract Award/Budget Ordinance Amendment No. 15/Capital Project**
19 **Ordinance Amendment No. 6 - Fred Smith Co. - Middle Creek Greenway PHI and PHII-B**
20 **(including Spur B) - Originally CN3 on the agenda.**

21
22 **Councilmember Zegerman** explained that his reasoning for wanting this item to be heard as
23 new business was because the bid came back \$2.2 million higher than was originally budgeted, and
24 he felt that was too high a cost to be passed on consent. He said he wanted there to be a bit of
25 conversation about it. He said if the total project cost was going to come out to be \$3.7 million after
26 money coming in from Wake County, was this the project that Council really wanted to spend that
27 money here, or if another gap in the greenway system would be a better use of it.

28 **Mayor Gilbert** asked Craig Setzer, Director of Parks and Recreation, what would happen to
29 the \$1.5 million in Wake County money they had committed to contribute to this if the Council
30 decided to not do it.

31 **Mr. Setzer** said they would be able to do whatever they wanted to do with it. He said if
32 Council decided to push this project's timeline down the road, the county would have the right to
33 change the original agreement and potentially pull out their commitment. He said if the scope of the
34 project changed, it would potentially have to be re-bid, and Wake County grant funding would also
35 have to assess the changes and then decide what they wanted to do with their funding.

36 **Councilmember Gantt** said it was his understanding that the county typically funded
37 greenway projects that offered connections between towns or to some of the larger trails such as the
38 American Tobacco Trail.

39 **Mr. Setzer** said Wake County sees this greenway as a priority corridor. He said this is part of
40 the "Great State Trails Plan", and serves as a large regional connection from a state perspective.

41 **Councilmember Zegerman** said there was still development that would need to be done,
42 and this project was only connects to the south and doesn't connect to the north.

43 **Mr. Setzer** highlighted some of the key background points of the Middle Creek Greenway, at
44 the request of Councilmember Gray.

DRAFT MINUTES

1 **Councilmember Zegerman** asked if the town knew what the timeline was for the northern
2 connection of the greenway to Ten-Ten Road.

3 **Mr. Setzer** said they are currently in the process of a feasibility study for that portion of the
4 project, which the town got a grant for from NCDOT. He said there isn't a timeline for that portion of
5 the project.

6 **Councilmember Gantt** asked about what are this study covered.

7 **Mr. Setzer** said this study covers the end of Phase IIB near Colby Chase Drive all the way up
8 to Swift Creek near Ten Ten Road.

9 **Councilmember Gantt** wanted to clarify that the study wasn't to the point of studying the
10 Ten-Ten to Regency connection.

11 **Mr. Setzer** said that was correct, but that ultimately that was the plan.

12 **Councilmember Gray** asked if it was true to say that if Council decided not to spend the
13 money on this, then the Wake County money would go away.

14 **Mr. Setzer** said that was possible, but would be what he considered likely. He said any
15 changes to the plan they would need to be notified of and then they would have a chance to
16 respond.

17 **Councilmember Gray** asked if Mr. Setzer could speak to why the bid came back higher than
18 expected.

19 **Mr. Setzer** said it was like everything else, where the construction costs have increased
20 drastically over the past 2 years for essentially all materials. He said labor cost has also increased.

21 **Councilmember Gray** asked if delaying the project would be likely to increase the cost of the
22 project in the future.

23 **Mr. Setzer** said he couldn't say for sure, but he would say that the project cost increasing was
24 probable

25 **Councilmember Zegerman** wondered if a delay to the project would allow a chance for
26 supply chain issues to be resolved a bit and for materials prices to stabilize.

27 **Councilmember Mahaffey** said he appreciated Councilmember Zegerman bringing this up
28 as New Business to help highlight the challenges Council is facing on these projects and
29 implementing the Capital Improvement Plan. He said he feels this situation will not be unique, where
30 bids will come back higher than expected. He said considering this passed in the 2017 bond
31 referendum, he feels an obligation to get this specific project over the finish line. He said delaying
32 until next year risks losing the Wake County money, which he said offsets a good chunk of the
33 increased bid. He added how difficult it was to get projects to the point this one was at, so he was
34 ready to get this one done.

35 **Councilmember Gray** said he agreed, and that this project was a great example of one that
36 the public has a desire to do and that there are identified funding source for. He said they always
37 have to balance increasing costs with other goals of Council and the town. He said he agrees with
38 Councilmember Mahaffey that the public desire for this project means they should do everything
39 they can to get it done.

40
41 A **motion** was made by **Councilmember Brett Gantt**, seconded by **Councilmember Ed**
42 **Gray**, to award a construction contract to Fred Smith Co., authorize the Town Manager to execute
43 and approve corresponding, and to approve Budget Amendment No. 15 and Capital Project
44 Ordinance Amendment 2023-6. (REF: ORD-2023-025, ORD-2023-026, and OTHER-2023-028).

DRAFT MINUTES

Councilmember Zegerman said he wanted to offer his final thoughts. He said he understood why they wanted to not delay, seeing as this was a project voters strongly favored. He wanted to bring up that projects that had a substantial cost increase such as this one should at least have a conversation before Council approval.

VOTE: UNANIMOUS (5-0)

CLOSED SESSION

A **motion** was made by **Mayor Pro Tempore Audra Killingsworth**, seconded by **Councilmember Arno Zegerman**, to enter into closed session for the two scheduled items.

VOTE: UNANIMOUS

Council entered into closed session at 7:59 p.m.

CS1 Allen Coleman, Town Clerk

NCGS §143-318.11(a)(1):

"To prevent the disclosure of information that is privileged or confidential pursuant to the law of this State or of the United States, or not considered a public record within the meaning of Chapter 132 of the General Statutes."

CS2 ADDED - Audra Killingsworth, Mayor Pro Tempore

NCGS § 143-318.11(a)(6):

"To consider the qualifications, competence, performance, character, fitness, conditions of appointment, or conditions of initial employment of an individual public officer or employee or prospective public officer or employee; or to hear or investigate a complaint, charge, or grievance by or against an individual public officer or employee."

Council returned to open session at 9:54 p.m.

[ADJOURNMENT]

Mayor Gilbert declared the meeting adjourned at 9:55 p.m.

Jacques K. Gilbert
Mayor

Allen Coleman, CMC, NCCCC
Town Clerk to the Apex Town Council

Submitted for approval by Town Clerk Allen Coleman and approved on _____