



## MINUTES - REGULAR TOWN COUNCIL MEETING

MARCH 8, 2022 AT 6:00 PM

COUNCIL CHAMBERS – APEX TOWN HALL, 73 HUNTER STREET

### WELCOME AND COMMENCEMENT

The regular meeting of the Apex Town Council was called to order by Mayor Gilbert. The Mayor began the meeting with a welcome and invocation saying

“The Town of Apex values and celebrates diversity and inclusion. We see diversity as a strength that binds the community together. Inviting members from different faith communities to deliver an invocation at the beginning of our council meetings supports this unity, recognizes that not everyone practices the same traditions, we welcome you to have a private moment of silence. I would like to reflect on something that affects our entire community, nation and world. As we reflect on recent events and the crisis in the Ukraine, let us amplify our message of unity showing respect, love and prayers for Ukrainians impacted, even here in our community, and showing we stand in solidarity with them. At this time to show our support, please join in a moment of silence.”

The mayor asked that all attending join him in the Pledge of Allegiance. He also asked that members of the audience wishing to speak to please use the signup sheet in the front of the room.

#### *Town Council and Administration:*

In attendance were Mayor Jacques K. Gilbert, Mayor Pro Tem Audra M. Killingsworth, and Council Members Brett D. Gantt, Terry Mahaffey, Cheryl F. Stallings and Edward Gray. Also, in attendance were Town Manager Catherine Crosby, Assistant Town Managers Shawn Purvis and Marty Stone, Interim Town Clerk Julie Reid, and Town Attorney Laurie L. Hohe.

### CONSENT AGENDA

Items CN5 and CN9 were removed from the consent agenda. A motion was made to approve the revised consent agenda. (Motion: Mayor Pro Tem Killingsworth, second: Council Member Gant) Approved 5-0).

**Item CN1      Approval for one “Police Officer” badge, one handgun, and one motorcycle helmet be declared “surplus,” that the price for such handgun and helmet be set at \$1.00 (One Dollar), and the badge, handgun, and helmet be awarded to Retiring Police Officer Darrell L. Roberson**

**Item CN2      Approval of the Minutes of the February 18, 2022 Budget Retreat Meeting and the February 22, 2022 Regular Town Council Meeting as presented.**

**Item CN3      Approval of the Statement of the Apex Town Council pursuant to G.S. 160D-605(a) addressing action on the Unified Development Ordinance (UDO) Amendments of February 22, 2022.**

Amendments approved on February 22, 2022, were:

1. The amendment to UDO Secs. 4.2.2 Use Table and 4.4.2 Supplemental Standards, Public and Civic Uses require a neighborhood meeting to be held prior to the submittal of any Minor or Major Site Plan for the use “School, public or private” to allow nearby owners and residents a chance to review the proposed plan and offer comments to the applicant prior to submittal.

2. The amendment to UDO Sec. 2.1.9 Apex Environmental Advisory Board removes a reference to the Environmental Committee of Town Council which was dissolved in December 2021.

3. The amendment to UDO Sec. 4.3.5 Use Classifications, Commercial Uses expands the definition of glass sales to allow for a wholesale business option in addition to retail sales.

4. The amendment to UDO Sec. 8.2.8.B.1 Screening Methods, Dumpsters allows wood as a material for the gates of dumpster enclosures associated with Wake County Landmark or other historic structures so that the material may be consistent with the historic nature of the property.

5. The amendments to UDO Sec. 8.2.6.C.4 General Buffering Requirements, No Development Within the Required Buffer corrects a typographical error to a section reference and require buffers along Fully- and Limited-Controlled Access Highways that contain a public utility easement to have a minimum 20-foot-wide planting area consistent with the requirement for Thoroughfare and Street front buffers.

**Item CN4      Approval to Set a Public Hearing for March 22, 2022 Town Council meeting.**

Rezoning Application #21CZ32

From Rural Residential (RR) to Planned Unit Development- Conditional Zoning (PUD-CZ)

Name of Development: Chapel Ridge Towns PUD.

Applicant: Toll Brothers, Inc

Location: 1412 Olive Chapel Road; 1400, 1401, 1408, 1409 Barnside Lane and Barnside Lane right-of-way (approximately 21.60 acres) PINs 0732333570, 0732337537, 07323470080, 0732345135, 0732430661 and Barnside Lane right-of-way

**Item CN5      Removed from the Consent Agenda**

**Item CN6      Approval of Resolution Number 2022-0308-3 to Abandon certain portions of existing greenway easements, located in Sweetwater Subdivision upon dedication of new greenway easements also located in Sweetwater Subdivision.**

- Item CN7** Approval of an encroachment agreement between the Town and property owners Christopher Adkins and spouse Christina Adkins to install a private driveway that will encroach 575 square (SF) onto the Town's Public Utility Easement and authorize the Town Manager to execute the same. The location of the Public Utility Easement is on a residential lot know as 1861 Blue Jay Point (also known as Wake County Pin # 0721-34-8491, Book of Maps 2016, Page 00542).
- Item CN8** Approval and authorization for the Town Manager to execute Contract Amendment #3 for GMP 4 with Construction Manager at Risk, J M Thompson, in the amount of \$4,234,090.53 for the new Pleasant Park Project and approve corresponding Capital Project Ordinance Amendment No. 2022-03.
- Item CN9** Removed from the Consent Agenda

#### **PRESENTATIONS**

- PR1** Mayor Gilbert and members of the Council read a Proclamation declaring March 18, 2022 Arbor Day in the Town of Apex. The Town Council and members of the Tree Citizen Advisory Panel will commemorate Arbor Day by planting seven trees at Hunter Street Park on March 18, 2022. The seven trees represent the seven years Apex has been designated as a Tree City USA.
- PR2** Mayor Gilbert and members of the Council read a Proclamation declaring March 2022 as Women's History Month. The Mayor called upon all citizens to celebrate the numerous contributions women have made to our community, state, nation and the world.

#### **REGULAR MEETING AGENDA**

##### **PUBLIC FORUM**

There were no requests to speak on this item.

##### **PUBLIC HEARINGS**

- Item PH1** Rezoning Request #21CZ14 Public Hearing and Possible Action  
From Rural Residential (RR) to Planned Unit Development- Conditional Zoning (PUD-CZ)  
Name of Development: Holland Road Mixed Use Assembly PUD  
Applicant: Gebo Ray, LG Investments Inc.  
Location: 7528 Humie Olive Road, 2236 Old US 1 Highway, 1001, 1004, 1005 Red Cardinal Lane, 3104, 3116 Holland Road (approximately 28.68 acres) PINs 0720992587, 0720998487, 070095707, 0731001087, 0791003359, 0731004075, 0730091779)

Staff member, Amanda Bunce, gave a briefing to the Council. Information regarding surrounding land uses (largely residential) and existing use of the site (two residential structures, out buildings and the remainder wooded). The staff reviewed the existing 2045 land use designations for the site. Permitted uses within the proposed development were reviewed. The proposed design controls were also reviewed, including maximum density, height, setbacks, buffers built upon area and Resource Conservation Area (RCA). She noted that the developer has requested a reduction in the RCA to 25% for the entire site.

**2045 LAND USE MAP:**

The 2045 Land Use Map designates the subject properties as Medium Density Residential, Medium/High Density Residential, and Commercial Services. The proposed rezoning to Planned Unit Development-Conditional Zoning (PUD-CZ) is generally consistent with those Land Use Map designations. The proposed rezoning includes a mix of residential uses and commercial uses. If the properties are rezoned as proposed, the 2045 LUM will automatically be amended to remove the Medium/High Density Residential area, expand the Medium Density Residential area and reduce the Commercial Services area per NCGS 160D-605(a).

**Reviews and coordination**

**Wake County Public School (WCPSS) coordination:** WCPSS indicates there is insufficient capacity for elementary, middle school and high school students within the current assignment area. Further, they indicated that transportation would be required. They did indicate that School expansion or construction within the next five years would address concerns at the elementary and high school levels.

**Public Facilities:** The project's construction will consist of the extension of public facilities to serve the site. All public facilities and infrastructure shall comply with the Town of Apex Sewer and Water Master Plans and the Town of Apex Standards and Specifications.

**Stormwater Management:** The development shall meet all stormwater management requirements for quality and quantity treatment per Section 6.1.7 of the Uniform Development Ordinance.

**Affordable Housing:** The applicant met with Senior Planner Sarah Van Every and Housing Program Manager Christopher "C.J." Valenzuela to discuss possible options to contribute to affordable housing and has proposed the following:

At least two (2) residential restricted median-income affordable housing townhome ownership units (Affordable Housing Units) shall be constructed on-site and sold at a mutually agreeable maximum affordable housing median-income ownership initial sales price (includes unit price and lot price) that is calculated based upon the one-hundred percent (100%) of the Raleigh, NC Metropolitan Statistical Area (MSA) Area Median Income (AMI) as published by the U.S. Department of Housing and Urban Development (HUD).

**Apex Transportation Plan/Access and Circulation:** Based on the recommendation of the Transportation (TIA and approval by Town Staff and the NCDOT, the final transportation improvement zoning conditions shall be provided:

1. Developer shall widen Holland Road along the project frontage as development occurs based on a minimum 41-foot curb and gutter roadway section with 5-foot sidewalk and

- dedication based on a minimum 80-foot right-of-way.
2. Developer shall propose a maximum of two (2) access points to Holland Road. A full-movement access shall be located approximately 950 feet north of Old US 1. A right-in/right-out access shall be located approximately 350 feet north of Old US 1 with right-turn channelization designed according to Apex and NCDOT standards.
  3. Developer shall provide additional frontage widening along Holland Road to extend the exclusive southbound right turn lane at Old US 1 to the right-in/right-out access when that right-in/right-out access is constructed for an approximate total length of 350 feet.
  4. Developer shall propose a maximum of one (1) access point to Old US 1. The right-in/right-out access point shall be proposed approximately 275 feet west of Holland Road and restricted by installation of a concrete median along the center of Old US 1, based on NCDOT standards.
  5. Developer shall widen Old US 1 at the time the access point is constructed by adding a second westbound through-lane starting at Holland Road and terminating at the westbound right-turn lane at Humie Olive Road, and a 6-foot paved shoulder for a future bike lane, with a 5-foot sidewalk, and dedication based on a minimum 110-foot right-of-way.
  6. Developer shall widen Humie Olive Road along the project frontage as development occurs based on a minimum 41-foot curb and gutter roadway section with 10-foot side path and dedication based on a minimum 80-foot right-of-way.
  7. Developer shall propose a maximum of one (1) access point to Humie Olive Road. The full-movement access point shall be proposed approximately 600 feet west of Old US 1 Highway and Developer shall provide additional widening to construct a westbound right turn lane with 75 feet of storage and an eastbound left-turn lane with 175 feet of storage, plus applicable full-width deceleration and taper length.
  8. Developer shall provide separate left- and right-turn lanes exiting the access point with 150 feet of internal protected storage, measured from the edge of Humie Olive Road to the first crossing internal access.
  9. Developer shall extend the eastbound left-turn lane on Old US 1 at Humie Olive Road to provide a minimum of 225 feet of storage plus applicable full-width deceleration and taper length prior to the first certificate of occupancy in the commercial phase.
  10. Developer shall extend the northbound left-turn lane on Friendship Road at Old US 1 to provide a minimum of 150 feet of storage plus applicable full-width deceleration and taper length prior to the first certificate of occupancy in the commercial phase.

**Environmental Advisory Board:** Met on April 15, 2021 and the following conditions were discussed:

The Apex Environmental Advisory Board (EAB) held a pre-application meeting for this rezoning on April 15, 2021. The zoning conditions suggested by the EAB are listed below along with the applicant's response to each condition.

EAB Suggested Condition	Applicant's Response
Increase design storm for retention basins in flood-prone areas. Option 2: Increase design storm pre- and post-attenuation requirement to the 25-year storm.	Added

Install signage near environmental sensitive areas in order to: Reduce pet waste near SCM drainage areas; and Eliminate fertilizer near SCM drainage areas.	Added
Increase biodiversity: Plant pollinator-friendly flora Plant native flora (Refer to the Apex Design & Development Manual for approved native species).	Added
Improve soil quality to be amenable for a variety of native and non-invasive plantings	Added condition for native plantings
Install pet waste stations in neighborhoods	Added
Include solar conduit in building design	Added
Install timers or light sensors or smart lighting technology for exterior lighting.	Added
Include International Dark Sky Association compliance standards. Outdoor lighting shall be shielded in a way that focuses lighting to the ground. Lighting that minimizes the emission of blue light to reduce glare shall be used.	Added
Incorporate natural lighting techniques into building design whether residential or non-residential.	Added
Maintain connections between RCAs to preserve habitat if possible.	Added
Move play area to residential side (north side) for better accessibility of open green space.	Added

*Parks, Recreation, and Cultural Resources Advisory Commission:* The Commission made a unanimous recommendation for a fee-in-lieu of dedication with a credit for construction of a greenway trail if an opportunity is identified at the time of the Master Subdivision Plan review and approval. The recommendation is based on the 2022 rates and proposed maximum lot county provided:

Single-family detached Units:	$\$3,753.89 \times 10 = \$37,538.90$
Single-family attached Units:	$\$2,528.25 \times 100 = \$252,825.00$
Total residential fee in lieu per current unit count:	$\$290,363.90$

Staff note: The fee-in-lieu rate is based on the date of the PUD approval, not on the date of the Commission's recommendation.

## MEETINGS

A neighborhood meeting was held on April 27, 2021. After meeting with the neighborhood, the developer agreed to install 30-foot type E buffers along the roadways and along Holland Road in the residential areas and would increase to a type B buffer. Along the western boundary a 10-foot type B buffer is proposed and continues as the property line turns west to Humie Olive Road. The applicant agreed to place a 20-foot type A or type B buffer or a 30-foot type A buffer at different

locations along the northern boundary. All buffers the applicant agreed to exceed the requirements of the USO.

**RECOMMENDATIONS:**

**Planning and Community Development Department:** Recommends approval with the additional conditions offered by the applicant. The additional conditions include:

1. To increase the width of the Thoroughfare Buffers the two roads
2. To conduct a signal warrant analysis, and install a traffic signal if warranted
3. To provide two homes at 100% of the Wake County AMI.

**Planning Board Recommendation:** Recommends approval with the additional conditions offered by the applicant. A public hearing was held by the Planning Board on February 14, 2022.

The additional conditions include:

1. To increase the width of the Thoroughfare Buffers along two roads.
2. To conduct a signal warrant analysis, and install a traffic signal if warranted
3. To provide two homes at 100% of the Wake County AMI.

**ANALYSIS STATEMENT OF THE REASONABLENESS OF THE PROPOSED REZONING:**

This Statement will address consistency with the Town’s comprehensive and other applicable plans, reasonableness, and effect on public interest:

The 2045 Land Use Map designates the site as Medium Density Residential, Medium/High Density Residential, and Commercial Services. The proposed PUD is generally consistent with that land use classification. The proposed rezoning includes a mix of residential uses and commercial uses. If the properties are rezoned as proposed, the 2045 LUM will automatically be amended to remove the Medium/High Density Residential area, expand the Medium Density Residential area, and reduce the Commercial Services area per NCGS 160D-605(a).

Approval of the rezoning is reasonable and in the public interest because the petition provides a transition between housing types and lower and higher residential densities, provides for a mix of neighborhood-level non-residential uses to develop along the three thoroughfares that will serve existing development, provides two units of median-income affordable housing, and provides pedestrian accommodations.

**PUBLIC HEARING**

The Mayor declared the Public Hearing opened and asked for comments. Public comment received via email had been distributed to Council members. Several speakers had prepared handouts illustrating their issues. The following individuals asked to address the Council:

Jeff Roach                      1125 Peakway

Jodi Clarke	2219 Vasari Drive
Nidaa Hossenlopp	2212 Vasari Drive
Melissa McGurk	2216 Vasari Drive
Kerry Joyce	2140 Vecchio Lane
Kenton Kaplan	2208 Vasari Drive
Rynal Stephenson	Farrington Place, Raleigh

There were questions about the housing set aside. Mr. Valenzuela reviewed the agreement and explained how the formula for establishing the cost of units was calculated. In response to a question whether 2 units was a “big deal”, he compared the cost benefits of the requirements versus the two units. He also referred to NCGS 157-3 relating to requirements where actual funds are contributed by the Town, which is not the case with this development. He also explained how the Town would assist in the provision of a list of qualified buyers.

There were questions about the offset intersection at the corner of this development, the configuration of streets within the development, and the improvements that will be made to adjacent roads. There was concern expressed that there was no plan for the land created between this development and the new Holland Road alignment. There were also concerns expressed about the proximity of the school and the traffic generated at certain times of the day. Mr. Dalton addressed many of these questions. The developer indicated he has asked for a mini round about at the south end of Vasari Drive to be included in the design.

Concerns were expressed about commercial traffic and new residents using Vasari Drive. A citizen reminded the developer that he had committed to a two-car garage and additional two car parking for each housing unit.

Concern was expressed that a homeowner’s association, in charge of storm water improvement maintenance, might hire an unqualified company. Further, that as residents of Vasari Drive, they have no influence on the Home Owner’s association maintenance. There was discussion about the possible use of Bioretention cells, wet pond with fencing or wetlands with mosquito control. Ms. Bolin explained the requirements for storm water structures, the required quarterly inspections and maintenance of them. She also explained the enforcement tools available to the Town.

There was discussion of increasing the height of the berms adjacent to Bella Casa to 5 feet. The developer explained that for each foot in rise there must be an increase in the width of the base. There is not enough room for an increase in the base. He expressed his belief that the density of plantings would resolve the issue.

A comparison was made between the Humie Olive Development Concept based on the Apex 2045 plan and the proposed development. The older plan incorporated the realignment of Holland Road, lower density residential development and smaller commercial area. The Council was asked to reduce the density of the development by incorporating more single-family homes and decreasing the number of town homes.

The developer discussed the request for reduction in the RCA. He explained there were no streams, no valuable vegetation and the northern part of the site had been previously cleared. He said they have purchased a second piece of land and will use it as offsite RCA. He said the conservation quality would be much better on the offsite parcel.



The developer was asked to delete daycare and nursing homes from his permitted uses. He agreed that a full-time daily daycare not be allowed, but a drop in (short term) day care be allowed. He agreed to drop the nursing care.

The developer was commended for continuing to work with the neighborhood and staff throughout the process.

There being no further comment, the public hearing was closed.

A motion was made to approve Rezoning Application # 21CZ14 Holland Road Mixed Use Assembly PUD as amended and agreed to by the applicant:

1. A signal warrant analysis for the intersection of Holland Road and Old US 1HWY shall be performed by the developer prior to the platting of the 100th lot within the development and developer shall install a traffic signal if permitted by NCDOT at that time. If a traffic signal is not permitted by NCDOT at that time then the developer shall pay a fee in lieu for the anticipated signal design and construction costs based upon an engineer's estimate for the same, excluding any potential right-of-way acquisition costs.
2. the developer shall construct and install a sidewalk from the westernmost edge of the property's Humie Olive Road frontage to Friendship Village. In the event there is not sufficient right-of-way for the sidewalk, then the developer shall pay a fee-in-lieu for such construction
3. To demonstrate the project's commitment to preserving and re-establishing tree canopy in our region, the developer seeks to replant and restore existing tree canopy that is removed from those portions of the property that are anticipated to contain single family and townhome lots. Prior to recording the first subdivision plat for the property, the developer will provide a donation of \$5,500 to a local non-profit organization with a mission towards tree preservation and replacement.
4. Every residential dwelling shall have a minimum two car garage.
5. Remove nursing home/convalescent use

and finds the PUD-CZ designation demonstrates compliance with the standards Section 2.3.3.F. (Motion: Mayor Pro Tem Killingsworth / Second: Councilmember Gray/ Vote: 5-0)

#### **OLD BUSINESS**

No old business was brought before the Council.

#### **UNFINISHED BUSINESS**

No unfinished business was brought before the Council.

#### **NEW BUSINESS**

Items 5 and 9 had been removed from the Consent Agenda and placed in the New Business.

Item CN5 Submitted by Amanda Bunce, Current Planning Manager

Motion to set Public Hearing for the March 22, 2022 Town Council meeting regarding Rezoning Application #22CZ02 Project Real and Ordinance. The applicant, Maggie Houston, Beacon Development, seeks to rezone approximately 132.11 acres from R1 (Chatham County) to Light Industrial-Conditional Zoning (LI-CZ). The proposed rezoning is located at 104 NC Hwy 751, NC Hwy 751, 106 Off NC Hwy 751, Off NC Hwy 751.

AND

CN9 Amanda Bunce, Current Planning Manager

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 March 22, 2022, on the Question of Annexation – Apex Town Council’s intent to annex Peggy G. Gray property containing 35.22 acres and Reginald and William Mills property containing 96.88 acres located off NC Hwy 751, Annexation #726 into the Town’s corporate limits

A motion was made to set a public hearing for March 22, 2022 regarding Rezoning Application #22CZ02 Project Real and 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 March 22, 2022, on the Question of Annexation – Apex Town Council’s intent to annex Peggy G. Gray property containing 35.22 acres and Reginald and William Mills property containing 96.88 acres located off NC Hwy 751, Annexation #726 into the Town’s corporate limits. (Motion: Mayor Pro Tem Killingsworth / Second: Councilmember Gant/ Vote: 5-0)

#### **UPDATES BY TOWN MANAGER**

The Town Manager introduced the new Diversity, Equity and Inclusion Director, Linda Jones. She was welcomed by Council.

Ms. Crosby stated that Apex Day is April 30, 2022. She said there was lots of opportunities to volunteer in the community on that day. Anyone wishing to volunteer can sign up on the Town website.

She also said the video of the State of the Town presentation by the Mayor will be available March 10, 2022 after he presents the address to the Chamber of Commerce. It will be on the Town’s website.

She also said we have received information about the Wake County Property Tax Relief for 65+ and veterans. In order to spread the word, residents will be able to see the information on our website and information will be included with the April utility bills.

She said a virtual question and answer session regarding the Downtown Festival District will be held on March 22, 2022. Amanda Bunce will be primary contact on that. More information will be forthcoming.

She asked Mr. Purvis to brief the Council on a grant opportunity to participate with the NCDOT and the Virginia DOT to purchase railroad right-of-way to develop potential inner city and commuter rail including Apex. This is a very large transportation grant. They will be looking for a commitment from Apex for \$30,000. The project has been worked on for several years.

The Town Manager introduced the Interim Town Clerk, Julie Reid.

Ms. Crosby then discussed the first Art Reception held in the lobby of Town Hall just this evening. She said that Lisa Raschke has been working with area schools to highlight art exhibits.

Friday, we held one of the final steps for the Strategic Planning process which will be included in the budget. Sixteen staff members from across the organization met with Zealous to operationalize the priorities set by Council. We are really eager to share that with you.

#### **CLOSED SESSION**

A motion was made to enter a closed session. (Motion: Council member Gant /Second: Councilmember Stalling/ Vote: 5-0)

CS1 Steve Adams, Real Estate & Public Utilities

Possible motion to go into closed session pursuant to NCGS 143-318.11(a)(5) to discuss the town's negotiating position with respect to acquisition of real property.

CS2 Joanna Helms, Economic Development Director

Possible motion to go into Closed Session pursuant to NCGS 143-318.11(a)(4) to discuss matters related to the location or expansion of business in the area.

#### **WORK SESSION**

There was no work session.

#### **ADJOURNMENT**

With no further business and no objections for the Council, Mayor Gilbert adjourned the meeting.

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Julie A. Reid, Interim Town Clerk

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ATTEST:

Jacques K. Gilbert, Mayor