

DRAFT MINUTES

**TOWN OF APEX
REGULAR TOWN COUNCIL MEETING
TUESDAY, JUNE 25, 2024
6:00 PM**

The Apex Town Council met for a Regular Town Council Meeting on Tuesday, June 25th, 2024 at 6:00 PM in the Council Chambers at Apex Town Hall, located at 73 Hunter Street in Apex, North Carolina.

This meeting was open to the public. Members of the public were able to attend this meeting in-person or watch online via the livestream on the Town’s YouTube Channel. The recording of this meeting can be viewed here:

<https://www.youtube.com/watch?v=5xwFExiK0Ok&t=1521s>

[ATTENDANCE]

Elected Body

Mayor Jacques K. Gilbert (presiding)

Mayor Pro Tempore Ed Gray

Councilmember Audra Killingsworth

Councilmember Arno Zegerman (*arrived late; see note below*)

Councilmember Brett Gantt

Absent: Councilmember Terry Mahaffey

Town Staff

Town Manager Randy Vosburg

Deputy Town Manager Shawn Purvis

Assistant Town Manager Marty Stone

Town Attorney Laurie Hohe

Town Clerk Allen Coleman

Deputy Town Clerk Ashley Gentry

All other staff members will be identified appropriately below

[COMMENCEMENT]

Mayor Gilbert called the meeting to order and welcomed all who were in attendance and watching. He said Councilmember Zegerman would be joining the meeting shortly, and noted that Council was dressed down in a tropical Hawaiian shirt summer theme.

Mayor Gilbert then took a moment of silence for the invocation and then lead those in attendance in the Pledge of Allegiance.

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[CONSENT AGENDA]

A **motion** was made by **Councilmember Killingsworth**, seconded by **Mayor Pro Tempore Gray**, to approve the Consent Agenda as presented.

VOTE: UNANIMOUS (3-0), with Councilmember Zegerman and Councilmember Mahaffey absent.

CN1 2024 Town Council Meeting Calendar - Amendment No. 2 (REF: OTHER-2024-081)

Council voted to amend the 2024 Town Council Meeting Calendar.

CN2 Agreement Amendment No. 2 - Wake County Community Development Block Grant (CDBG) Contract - GoApex - July 1, 2024 through June 30, 2025 (REF: CONT-2024-159)

Council voted to approve Amendment No. 2 to extend the existing contract between the Town of Apex and Wake County, effective until June 30, 2025, for the GoApex Community Development Block Grant (CDBG) Bus Stops Improvement and Sidewalk Project, and to authorize the Town Manager, or their designee, to sign on behalf of the Town.

CN3 Agreement/Grant Award - United in Arts Council of Wake County - Arts for Towns Program - \$5,000 (REF: CONT-2024-160)

Council voted to award the United "Arts for Towns" Grant Agreement between United Arts of Council of Raleigh and Wake County, Inc and Town of Apex, effective July 1, 2024 through June 30, 2025, for a \$5000 grant that will fund Monica Linares painting workshops at The Halle Cultural Arts Center, and authorize the Town Manager, or their designee, to execute on behalf of the Town.

CN4 Agreement Renewal - Fleet Management Information Software (FMIS) - July 1, 2024 through June 30, 2026 (REF: CONT-2024-161)

Council voted to approve an Agreement Amendment No. 2 between Fleetio and Town of Apex, to renew terms and annual subscription costs for the modern fleet management software system, effective July 1, 2024 through June 30, 2026, and to authorize the Town Manager, or their designee, to execute on behalf of the Town.

CN5 Apex Cares Homeowner Rehabilitation Program Revisions (REF: PLCY-2024-006)

Council voted to approve modifications to the Apex Cares Homeowner Rehabilitation Program to increase the maximum assistance provided and establish three (3) additional rehabilitation assistance types and one (1) program to assist persons experiencing homelessness under the Apex Cares umbrella of programs.

CN6 Appointments - Housing Advisory Board (HAB)

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1 Council voted to appoint Patricia Birch to the Apex Housing Advisory Board (HAB) for a
2 partial term, effective June 26, 2024 through October 31, 2024. This partial term was created
3 by Valeria Cesanelli, Position No. HAB-2021-003.

4 **CN7 Appointments - Planning Board**

5 Council voted to appoint Jeff Hastings to the Voting, Wake County Non-Extra-Territorial
6 Jurisdiction (ETJ) and Non-Corporate Limits Position on Apex Planning Board for a partial
7 term, effective June 26, 2024 through December 31, 2024. This partial term was created by
8 Ryan Akers, Position No. PB-005.

9

10 **CN8 Appointments - Public Art Committee - Chair/Vice-Chair**

11 Council voted to confirm the following leadership position(s) on the Public Art Committee
12 (PAC) for fiscal year 2024-2025:

13 Tom Colwell, Chair of the Public Art Committee (PAC)

14 Sean Durham, Vice-Chair of the Public Art Committee (PAC)

15 **CN9 Appointments - Public Art Committee**

16 Council voted to reappoint Mr. Tom Colwell to the Public Art Committee (PAC) for a three-
17 year (3) term expiring June 30, 2027.

18 Council voted to reappoint Ms. Bethany Bryant to the Public Art Committee (PAC) for a three-
19 year (3) term expiring June 30, 2027.

20 **CN10 Budget Ordinance Amendment No. 18 and Capital Project Ordinance**

21 **Amendment No. 2024-22 - Year-End Budget and Capital Project Transfers (REF:**
22 **ORD-2024-050 AND ORD-2024-051)**

23 Council voted to approve Budget Ordinance Amendment 18 and corresponding Capital
24 Project Ordinance Amendment 2024-22 transferring allocations from operating funds to
25 respective Debt Service Funds and Capital Project Funds.

26 **CN11 Contract Multi-Year - Cameron Testing Services, Inc. - Required New**

27 **Development E-Coli Water Quality Testing - July 1, 2024 through June 30, 2024**
28 **(CONT-2024-162)**

29 Council voted to approve a Master Services Agreement (MSA) between Cameron Testing
30 Services, Inc. and the Town of Apex, effective July 1, 2024 through June 30, 2027, to perform
31 required Total Coliform and E. Coli water quality testing on new development, and to
32 authorize the Town Manager, or their designee, to execute on behalf of the Town.

33 **CN12 Contract Multi-Year - Pace Analytical Services, LLC - Required Quarterly**

34 **Disinfection Byproducts and Lead and Copper Analysis - July 1, 2024 through**
35 **June 30, 2027 (REF: CONT-2024-163)**

36 Council voted to approve a Standard Services Agreement (SSA) between Pace Analytical
37 Services, LLC., and Town of Apex, effective July 1, 2024 through June 30, 2027, for a
38 required analysis to collect quarterly water samples for Disinfection Byproducts and Lead and
39 Copper, and to authorize the Town Manager, or their designee, to execute on behalf of the
40 Town.

41 **CN13 Council Meeting Minutes - Various**

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1 Council voted to approve, as submitted or amended, Meeting Minutes from the following
2 meetings:

3 January 10, 2023 - Town Council Meeting Minutes Revised

4 May 28, 2024 - Town Council Meeting Minutes

5 **CN14 Human Resources (HR) Policy Revisions - Town's Personnel Policies (PLCY-2024-**
6 **007)**

7 Council voted to approve revisions to the Town's Personnel Policy Manual to include the
8 removal of the Additional Sick Leave policy and update to the Vacation Accrual policy

9 **CN15 Ordinance Amendment - Chapter 20 Traffic - Article V. Traffic Control Devices -**
10 **Traffic Schedules I & II, Stop & Yield - Annual Updates (REF: ORD-2024-052)**

11 Council voted to approve an Ordinance Amendment to Traffic Schedule I and Traffic
12 Schedule II of the Town of Apex Code of Ordinances in accordance with the provisions of
13 Sections 20-60.1, 20-68, 20-69, and 20-70.

14 **CN16 Ordinance Amendment - Chapter 20 Traffic - Article VIII. Parking - Section**
15 **165(a) Blazing Trail Dr & Parkside at Bella Casa On-Street Parking Restrictions**
16 **(REF: ORD-2024-053)**

17 Council voted to approve an Ordinance amending Section 20-165(a) with removal of the
18 references to the Knollwood and Brookfield Subdivisions and replacement with a reference
19 to the current list of streets in subsections (1) through (14), and the addition of subsections
20 (15) through (20) applying to six (6) additional streets in the Ananda and Parkside at Bella
21 Casa subdivisions where parking will be prohibited on school days between the hours of
22 10:00 a.m. to 2:00 p.m.

23 **CN17 Pay and Classification Plan - Fiscal Year 2024-2025 (REF: PLCY-2024-008)**

24 Council voted to approve the Fiscal Year 2024-2025 Pay Grades and Salary Ranges for the
25 Town's Pay and Classification Plan.

26 **CN18 Resolution - Abandon Existing Public Utility Easements - Old Mill Village (REF:**
27 **RES-2024-042)**

28 Council voted to approve a resolution titled "Resolution to Abandon Portion of Existing
29 Public Utility Easement" which will abandon areas shown on the attached exhibit at the North
30 Carolina II LP property (Old Mill Village).

31 **CN19 Resolution - Authorizing Execution of Kroger Opioid Settlement and Second**
32 **Supplemental Agreement for Additional Funds (REF: RES-2024-043 AND CONT-**
33 **2024-164)**

34 Council voted to approve a Resolution authorizing execution of Kroger opioid settlement and
35 approving the second supplemental agreement for additional funds.

36

37 **[PRESENTATIONS]**

38

39 **PR1 Proclamation - Parks and Recreation Month - July 2024 (REF: PRO-2024-022)**

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1 **Mayor Gilbert**, along with the rest of Town Council, read the Parks and Recreation
2 Month Proclamation. He invited the Parks and Recreation staff to accept the proclamation
3 and take a picture.
4

5 **[REGULAR MEETING AGENDA]**

6

7 **Mayor Gilbert** set the Regular Agenda and asked if there were any recommendation
8 meeting changes at this time.

9 **Councilmember Gantt** noted that several public hearing items that were originally
10 scheduled were being moved, as detailed in the agenda.

11 **Mayor Gilbert** said yes, and he would explain in more detail when they reached those
12 items.
13

14 A **motion** was made by **Councilmember Gantt**, seconded by **Mayor Pro Tempore**
15 **Gray**, to approve the Regular Meeting Agenda, with the continuation of Public Hearings 1
16 through 7 to the June 27th, 2024 Special Town Council Meeting (*See Clerk's Note Under*
17 *Public Hearing*).
18

19 **VOTE: UNANIMOUS (3-0), with Councilmember Zegerman and Councilmember**
20 **Mahaffey absent.**

21
22 **[PUBLIC FORUM] (NOTE: To view Public Forum and Public Hearing Sign-in Sheets, see**
23 **OTHER-2024-083)**
24

25 **Mayor Gilbert** opened up the Public Forum and invited the first speaker up.
26

27 First to speak was **Beth Bland** of 3724 Friendship Road:
28

29 "I'm still around, haven't been here in the last month or so, had senior graduation, lots of
30 sports, but I'm back, still around. I'm still wanting to discuss the Big Branch Force Main. Tom
31 and I are advocating for it to get moved to the south side. There's been lots of discussions
32 with NCDOT, Duke Energy, and the Town of Apex, Mike Deaton, I think everyone's on board
33 with trying to get this to happen. It makes a lot of sense and I think it should happen. So, I
34 also want to just do some bullet points just for our property so that you understand how it
35 affects us. We have one of the smaller properties that the force main is going to go through.
36 There is five acres. The Force main will take an acre, 20%. It's going to render our pasture
37 unusable and it's going to take every tree out of the pasture that we have. So, we have had an
38 arborist come and evaluate the trees that are going to be coming down and the appraiser
39 from the Town of Apex was out last week to look at it and he had comments about the trees
40 also, the size of them, the maturity of them, but we have 11 loblolly pines, one red oak, two
41 red maples, two white oaks, a hickory tree, and there are 45 eastern red cedar that Tom
42 planted when he built the house that are in the pasture that'll all come down and right now

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1 there's a redheaded woodpecker in there that lives, and there's numerous other birds. I can't
2 tell you all the birds we have on our property, and we also have a pair of fawns that momma
3 deer decided to be on our property, all this is going to disturb the wildlife that's there and I
4 can't even tell you, we are right on US1 and the noise when these trees come down, it's just
5 going to expose us even more. It will also expose us to Friendship Road and the traffic that's
6 going on there. So, there has not been one of you that have come out to the property to see
7 it, to understand why we're fighting so hard to make this happen. The force main will also
8 have air release valves on our property, so give me 30 seconds and I just want to make sure
9 that you understand our position and what this means to us and our livelihood and where we
10 live and how we live. It's going to disrupt us greatly. So, let's get this together and let's move
11 it to the other side. It's possible, it makes a lot of sense. Thank you."

12

13 **Mayor Gilbert** thanked Ms. Bland and called the next speaker.

14

15 Next speaker was **Phil Welch** of 1471 Big Leaf Loop Road:

16 "My name is Phil Welch. I live at 1471 Big Leaf Loop in Apex and I believe that everyone
17 deserves a safe, affordable home. I know this is a little bit out of order, but I wanted to
18 express some appreciation for the revisions to the Apex Cares Program and specifically to the
19 Housing Program staff for expanding the scope and the budget of the Apex Cares Program.
20 They split out specific subprograms for urgent repairs, for removing architectural barriers to
21 accommodate residents' accessibility needs, and provide weatherization upgrades. They're
22 now including owners of manufactured homes and rental units and specific instances, they're
23 increasing the project budget limits to reflect the recent increases in construction costs and
24 importantly to me, they provide the proposed revisions to the Housing Advisory Board with
25 plenty of time for us to take a look at that and have a good discussion at our June 4th meeting.
26 As a result, the board was able to discuss the revisions, relate them to other programs that
27 the members were familiar with, decide whether any further tweaks might be needed, and
28 then we voted unanimously to accept the revisions and send them to y'all today for approval.
29 So, just to put a little context around this, much of the Housing Advisory Board's work
30 focused during the last couple of years on providing incentives for builders to include
31 affordable housing in their new developments. I believe preserving and improving our
32 existing naturally occurring affordable homes are just as important. With median prices of
33 homes approaching \$600,000 around here, it's more cost-effective to spend up to \$40,000 to
34 repair an existing naturally occurring affordable home than to spend upwards of \$100,000 to
35 acquire a developable lot or pay \$400,000 or more to build a new home. I look forward to
36 hearing how the revised Apex Cares Program is doing an even more effective job at keeping
37 our more vulnerable residents housed, and I thank you for approving the revisions. Thank
38 you."

39 **Mayor Gilbert** thanked Mr. Welch.

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1 **Mayor Gilbert** thanks everyone that came out to speak. He closed the Public Forum
2 and moved to Public Hearings.

3
4 **[PUBLIC HEARINGS]**

5
6 ***CLERK'S NOTE:** *The public hearing resolutions associated with each of the below items*
7 *were approved on June 11 and scheduled for June 25, 2024. Proper public notice was*
8 *not provided in sufficient time in accordance with North Carolina General Statutes §*
9 *160A-58.2, therefore, these items are scheduled for consideration at special meeting*
10 *scheduled for June 27, 2024 at 4:30 PM. Only the items denoted below in a red*
11 *asterisk are being delayed.*

12
13 **Mayor Gilbert** noted that Public Hearings 1 - 7 would be held on Thursday, July 27th
14 at 4:30 p.m. in the Council Chambers.

15
16
17 **PH1* Annexation No. 780 - 7019 Roberts Road (Roberts Crossing Phase 2) - 11.42**
18 **acres**

19 *Dianne Khin, Director, Planning Department*

20 **PH2* Annexation No. 781 - 0 Dezola Street (Horton Road Amenity Parcel) - 3.95**
21 **acres**

22 *Dianne Khin, Director, Planning Department*

23 **PH3* Annexation No. 782 - Townes on Tingen - 2.4938 acres**

24 *Dianne Khin, Director, Planning Department*

25 **PH4* Annexation No. 784 - 1717 and 1713 Holt Road - 1.882 acres**

26 *Dianne Khin, Director, Planning Department*

27 **PH5* Annexation No. 786 - Tobacco Road Place (FKA: Beauregard Place) - 3.34 acres**

28 *Dianne Khin, Director, Planning Department*

29 **PH6* Annexation No. 783 - Castleberry Reserve - 0.672 acres**

30 *June Cowles, Senior Planner, Planning Department*

31 **AND**

32 **PH7* Rezoning Case No. 24CZ09 - Castleberry Reserve PUD Amendment**

33 *June Cowles, Senior Planner, Planning Department*

34 **PH8 Rezoning Case No. 24CZ05 - 2228 Kelly Road**

35 **Lauren Staudenmaier**, Planner II, gave the following presentation regarding
36 Rezoning Case No. 24CZ05 - 228 Kelly Road.

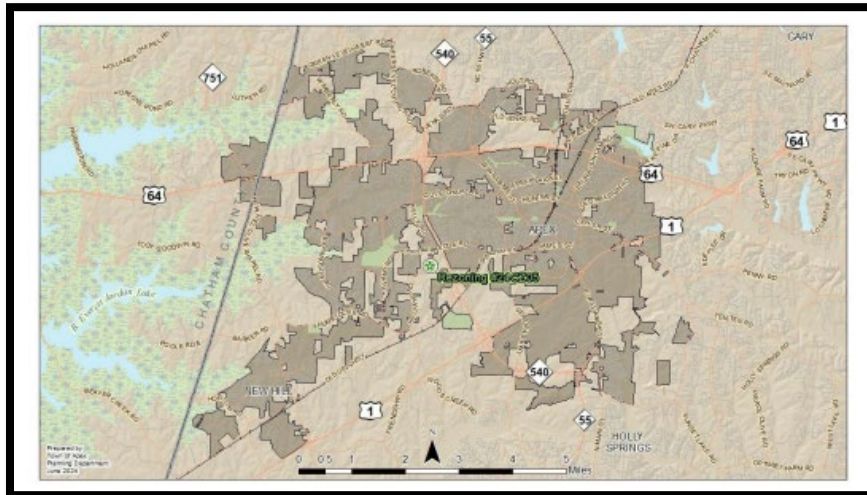
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5 [SLIDE 3]



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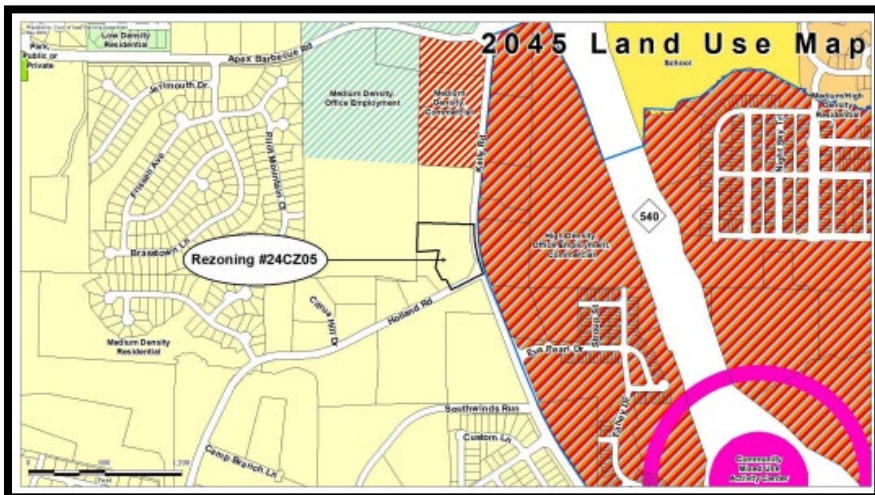
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3 [SLIDE 5]



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5 [SLIDE 6]




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1 [SLIDE 7]



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3 [SLIDE 8]



- 11. Residential uses: Driveway access shall be right-in/right-out only and driveway(s) shall be located a minimum distance of 250 feet from the intersection of Kelly Road and Holland Road, subject to Town of Apex and NCDOT approval.
- 12. Existing residential structure as a church or place of worship: Site access may be:
 - a. from the existing driveway on Kelly Road and no road improvements shall be required, or
 - b. from a new full movement driveway on Holland Road subject to NCDOT approval of a driveway permit, and the existing driveway on Kelly Road shall be closed.
- 13. Building 10,000 sf or greater in size: A full movement driveway shall be permitted on Holland Road, and development shall include the following:
 - a. Construction of an eastbound left turn lane on Holland Road starting west of the proposed site driveway and extending to the Holland Road/Kelly Road intersection, with a 100-foot taper, 100-foot full width lane, and break for the proposed site driveway.
 - b. Right of way dedication at the intersection of Holland Road and Kelly Road for a future 2x1 roundabout, subject to Town of Apex and NCDOT approval.
 - c. Roadway frontage widening for the length of the property's Holland Road frontage consistent with the 3-lane roadway section recommended by the Apex Transportation Plan.
 - d. Roadway frontage widening for the length of the property's Kelly Road frontage consistent with the 4-lane roadway section recommended by the Apex Transportation Plan.

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5 [SLIDE 9]



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2 **Mayor Gilbert** thanked **Ms. Staudenmaier** and asked if there were any questions.

3 **Councilmember Gantt** asked how the 10,000 square foot number if there was an
4 incentive based on the conditions to build just under this amount for the road frontage
5 improvement requirements.

6 **Ms. Staudenmaier** asked Russell Dalton, Traffic Engineering Manager, if he would
7 come up and address Councilmember Gantt’s question.

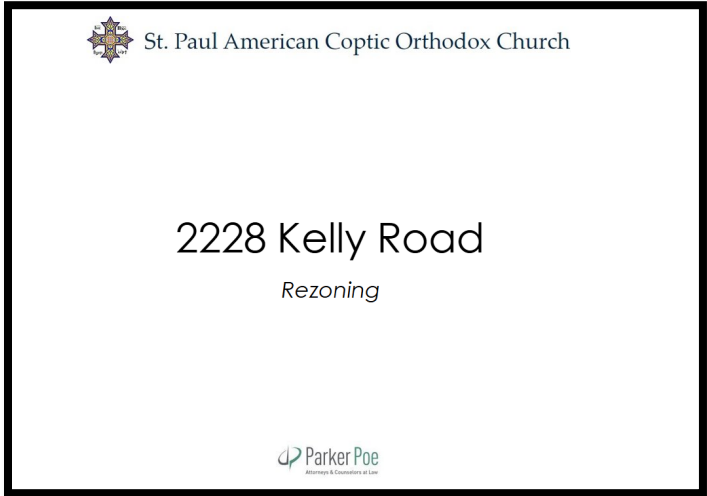
8 **Mr. Dalton** said that 10,000 sq feet is the cut off in the UDO, so this is the number that
9 is used. He said that they put that in because it was in line with the UDO.

10 **Councilmember Gantt** asked if there could be other requirements added for square
11 footages under 10,000.

12 **Mr. Dalton** said that this is just a rezoning plan and not a PUD, so this is already
13 complicated for what it is because of access concerns and the location of the property by a
14 major intersection. He said that could be something they asked for, and that may be
15 something Councilmember Gantt could discuss with the applicant if they wanted to move to
16 a stepwise approach.

17 **Matthew Carpenter** with Parker Poe, gave a presentation on behalf of the applicant
18 and the property owner, St. Paul American Coptic Orthodox Church. He said the Church was
19 excited for this property and the purpose was to use the existing structure for prayer
20 meetings and other Church offices.

21 **[PH8 APPLICANT PRESENTATION - SLIDE 1]**

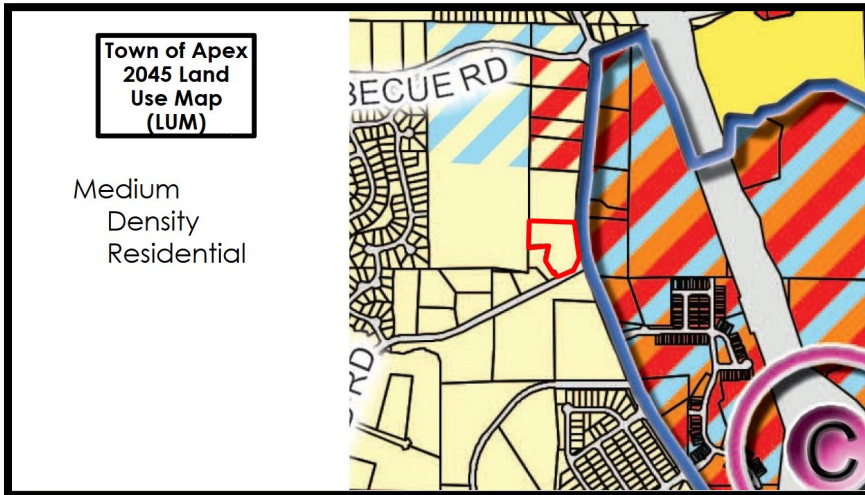


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1 [PH8 APPLICANT PRESENTATION - SLIDE 2]



2 [PH8 APPLICANT PRESENTATION - SLIDE 3]



4 [PH8 APPLICANT PRESENTATION - SLIDE 4]



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1 [PH8 APPLICANT PRESENTATION - SLIDE 5]

Proposed Rezoning Conditions

1. Only the following uses are permitted:
 1. Church or place of worship
 2. Accessory apartment
 3. Duplex
 4. Family care home
 5. Single-family
 6. Townhouse, detached
 7. Greenway
 8. Park, active
 9. Park, passive
 10. Recreation facility, private
2. Maximum of 19 residential units on the property
3. Non-residential architectural conditions
4. Residential architectural conditions
5. One sign per Stormwater Control Measure to prohibit fertilizer in a location that is publicly accessible
6. At least 75% of newly installed plants shall be native or nativar species of North Carolina
7. New landscaping shall include warm season grasses

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3 [PH8 APPLICANT PRESENTATION - SLIDE 6]



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5 [PH8 APPLICANT PRESENTATION - SLIDE 7]

**Proposed Rezoning Conditions
(Cont.)**

8. If residential uses developed on the property, project shall install at least one pet waste station
9. HOA covenants shall not restrict accessory dwelling units
10. If residential uses are developed, project shall include a stub street to PIN 0731260620
11. If residential development, driveway access shall be right-in/right-out
12. If existing structure used for a church, site access may be from the existing driveway on Kelly Road or from a new driveway on Holland Road
13. If Site Plans are filed for a building 10,000 sf or greater, a full movement driveway shall be permitted on Holland Road and development shall include:
 - Construction of eastbound left turn lane on Holland
 - Right of way dedication at intersection of Holland Road and Kelly Road for future traffic circle
 - Road widening on Holland Road frontage
 - Road widening on Kelly Road frontage

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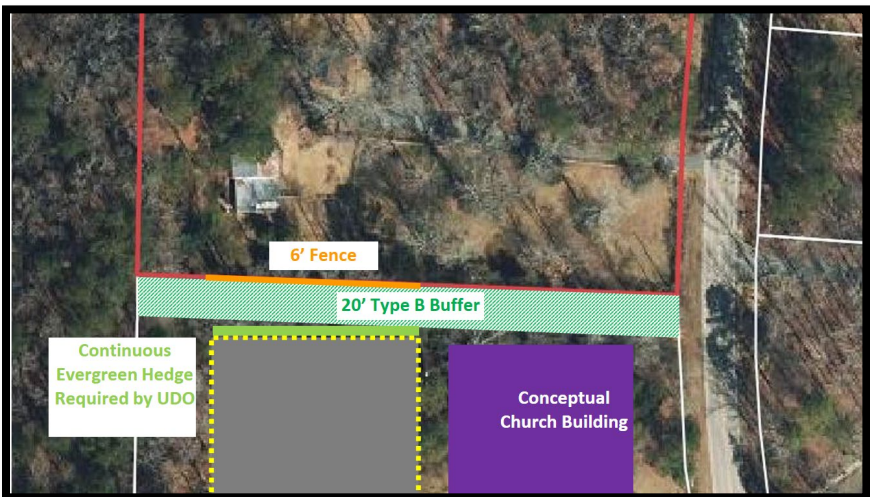
1 **[PH8 APPLICANT PRESENTATION - SLIDE 8]**



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3 **[PH8 APPLICANT PRESENTATION - SLIDE 9]**



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5 **[PH8 APPLICANT PRESENTATION - SLIDE 10]**



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1 [PH8 APPLICANT PRESENTATION - SLIDE 11]


UDO Section 8.6 – Exterior Lighting

- Detailed lighting plan required at Site Plan
- Max Horizontal Illuminance Average of 2.0 (for comparison, retail use standard is 4.0)
- Max Correlated Color Temperature of 3,500 kelvins
- Design Requirements:
 - Must be full cutoff, shielded lighting
 - Must prevent spillover of light onto adjacent properties
 - Must be shielded from adjacent properties using thick evergreen buffers; berms, walls, or a fence; directional lighting; lighting shields; timing; special fixtures; and/or shields
 - Max mounting height of 35'
 - Lights must be located at least 2' from any required buffer
 - Max illumination measured at the property line shall not exceed 0.3 footcandles
 - All fixtures shall be fully shielded, full cutoff type fixtures with a concealed lamp/light source

2
3 [PH8 APPLICAN PRESENTATION - SLIDE 12]

Rezoning is in the Public Interest

- Consistent w/ Medium Density LUM designation
- Staff recommends approval
- Allows adaptive re-use of existing structure
- Transportation infrastructure improvements
 - Road widening on Kelly and Holland
 - ROW dedication for future roundabout
 - Construction of turn lane
- Legalizes an existing non-conformity

 St. Paul American Coptic Orthodox Church

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5
6 **Mr. Carpenter** said that they respectfully requested Council approval and asked if
7 there were any questions.

8
9 **Councilmember Zegerman** arrived at **6:24 p.m.**

10
11 **Councilmember Gantt** asked if there could be a mix of housing and the Church.

12 **Mr. Carpenter** said that theoretically it could happen but it wouldn't be practical
13 because of the size of the site and the access considerations.

14 **Councilmember Zegerman** asked if the stub street would be to the property to the
15 north.

16 **Mr. Carpenter** said that it would be to the property to the west of the property.

17

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1 **Mayor Gilbert** asked if there were any other questions. He then opened the Public
2 Hearing on this item.

3
4 First speaker was **Robert Rose** of 2208 Kelly Road:

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6 “My wife Debbie is here with me also, and we live next door. I sent you all a letter about our
7 objections to the proposal, if y’all approve the fence frankly we got no objections anymore
8 and if you don’t approve the fence, then I guess I’m going to walk away and just be mad.
9 Frankly, I’ve got an electric fence, I don’t want people near it where they’ll mostly be is the
10 parking lot milling around and that’s why I want the fence. I mean yeah it probably will help
11 with like driving car lights but basically, I’m just worried about the electric fence. So, I really
12 do have no objections, neither one of us have any objections, we’ve worked with the Church,
13 they’ve removed the school use, they’re going to keep the trees there, as long as they don’t
14 build a Church, so if we get a fence, seriously I’m okay with this.”

15
16 **Mayor Gilbert** thanked Mr. Rose and closed Public Hearing for comments. He turned
17 the discussion back to Council.

18
19 **Councilmember Killingsworth** asked for clarity of the fence, if it was along the
20 entirety of the property line or was it the small piece.

21 **Mr. Carpenter** said yes it was the small piece. He said he had worked with staff on the
22 language today and he had it to hand out to staff. He said it would be the length of the
23 property line.

24 **Councilmember Zegerman** asked for clarification that the fence is part of the design
25 in case of any development of that site, to address Mr. Rose’s comment.

26 **Mr. Carpenter** said that is correct.

27
28 A **motion** was made by **Councilmember Killingsworth**, seconded by **Mayor Pro**
29 **Tempore Ed Gray**, to approve Rezoning Case No. 24CZ05 - 228 Kelly Road.

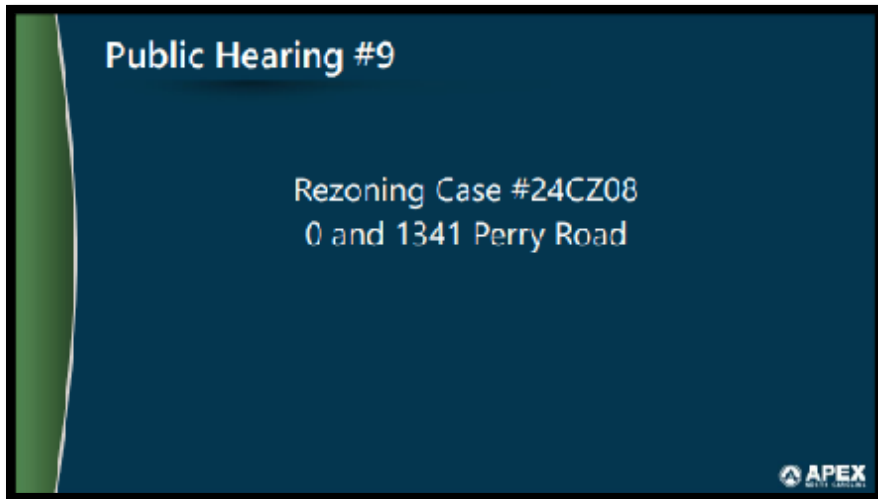
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31 **VOTE: UNANIMOUS (4-0), with Councilmember Mahaffey absent.**

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34 **PH9 Rezoning Case No. 24CZ08 - 0 and 1341 Perry Road**

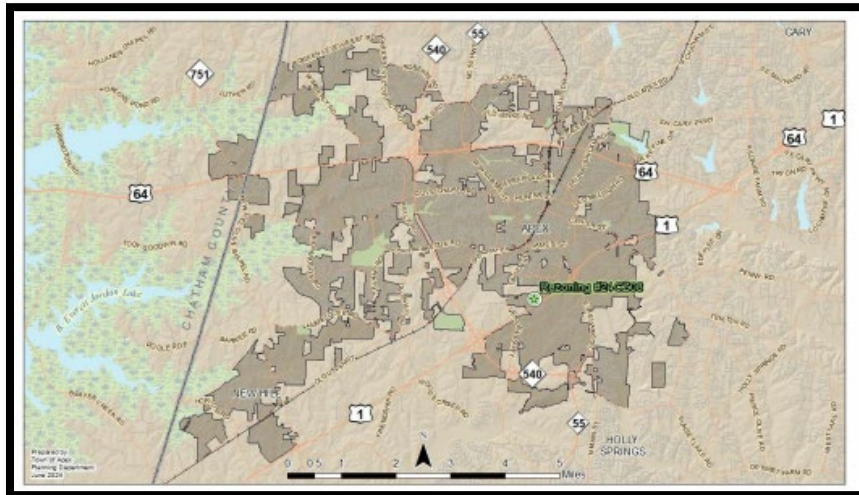
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36 **Shelly Mayo**, Planner II, gave the following presentation on Rezoning Case No.
37 24CZ08 - 0 and 1341 Perry Road.

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1 [SLIDE 10]



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3 [SLIDE 11]



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5 [SLIDE 12]



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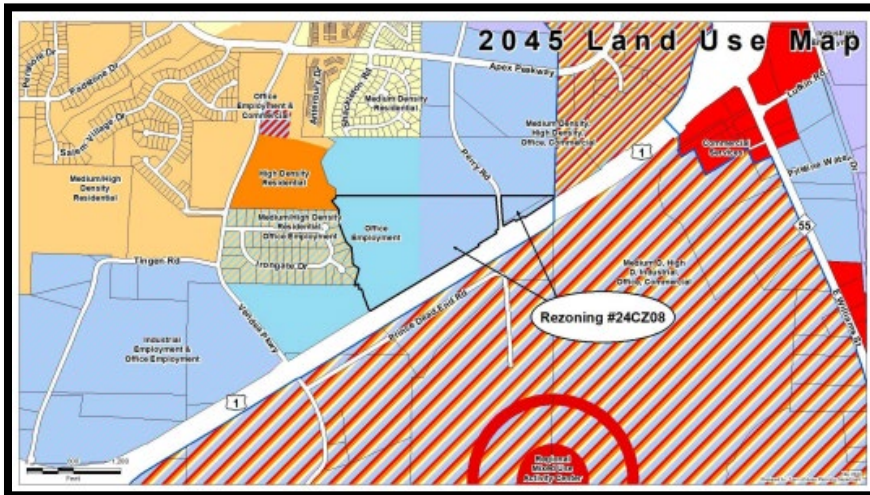
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3 [SLIDE 14]



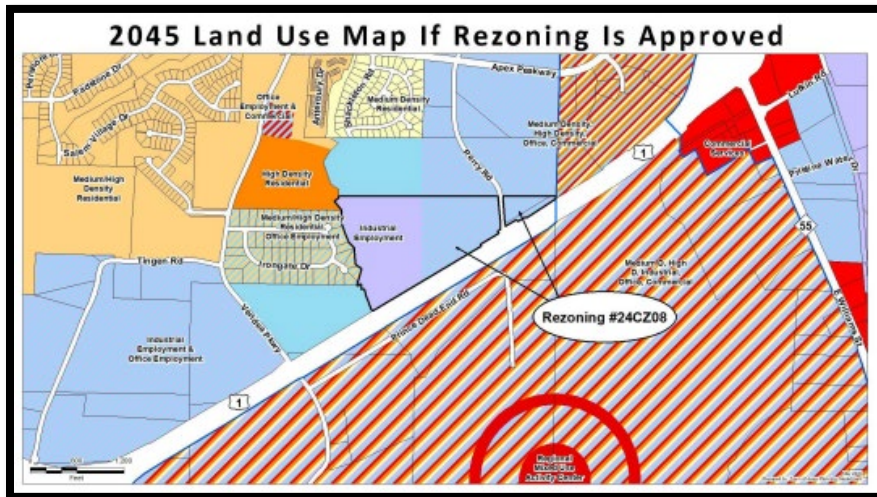
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5 [SLIDE 15]



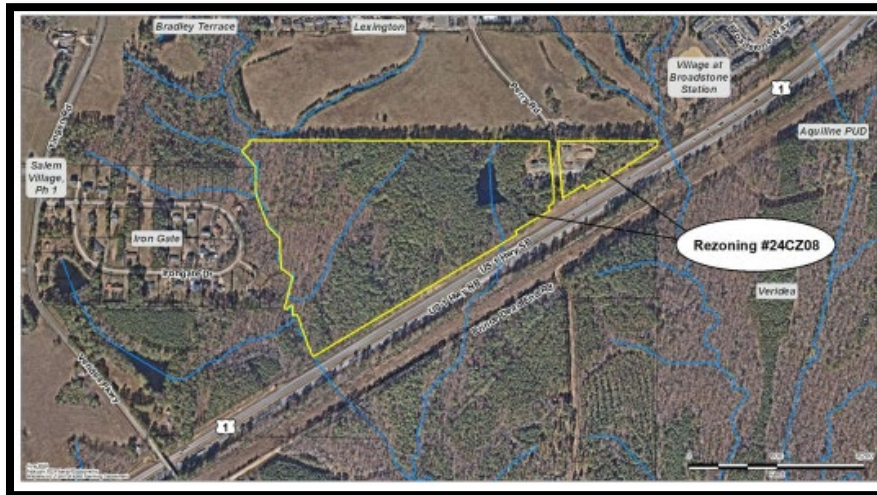
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DRAFT MINUTES

1 [SLIDE 16]



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3 [SLIDE 17]



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6 **Ms. Mayo** asked if there were any questions.

7 **Councilmember Zegerman** asked if there were conversations with the property
8 owner to the north of the property for the potential land swap to make this property a little
9 less pie shaped, and wondered if he was correct to assume that those conversations have
10 stalled.

11 **Ms. Mayo** said that she was not aware of the status of those conversations. She said
12 that it was her understanding that this facility was needed at this time and that even if there
13 was a future land swap there would be another rezoning at that time.

14 **Town Manager Vosburg** said it was his understanding that those conversations were
15 still ongoing.

16 **Mayor Gilbert** asked if there any other questions. He opened up for Public Hearing
17 and with no one signed up to speak, he closed Public Hearing. He said it was back to Council
18 for discussion and leading to a possible motion.

DRAFT MINUTES

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A **motion** was made by **Councilmember Killingsworth**, seconded by **Councilmember Gantt** to approve Rezoning Case No. 24CZ08 - 0 and 1341 Perry Road.

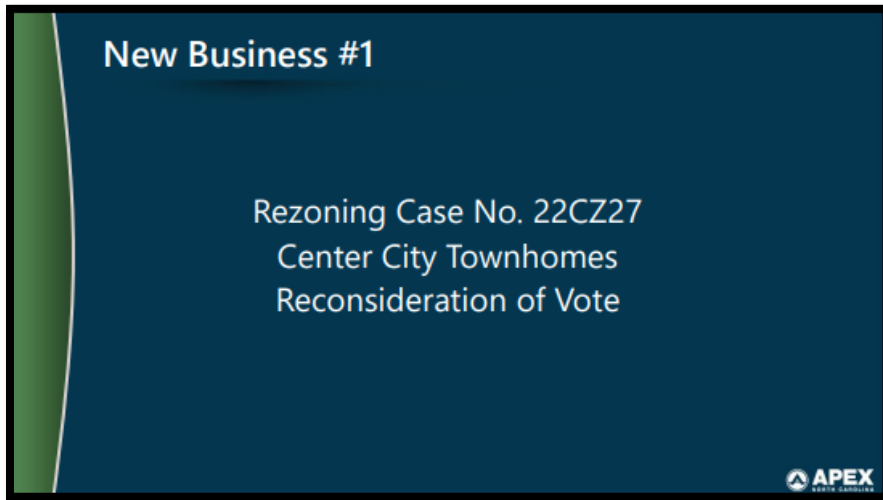
VOTE: UNANIMOUS (4-0), with Councilmember Mahaffey absent.

[NEW BUSINESS]

NB1 Rezoning Case No. 22CZ27 - Center City Townhomes - Reconsideration of Vote

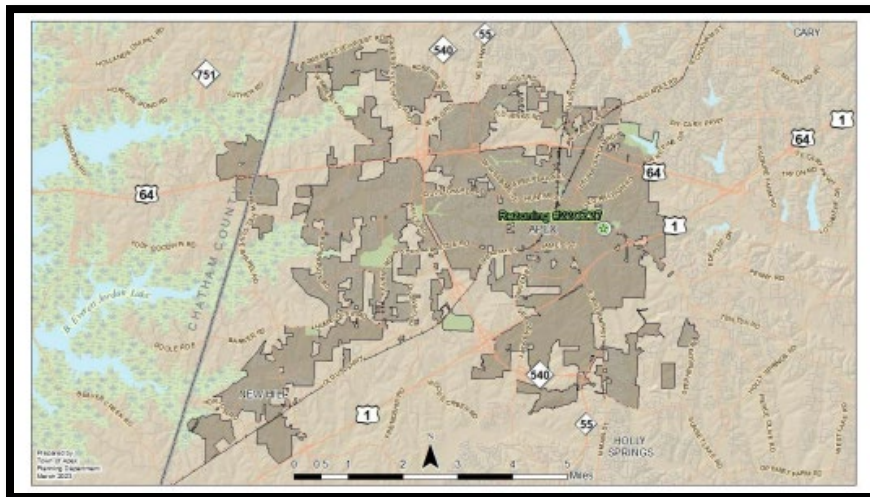
Lauren Staudenmaier, Planner II, Planning Department gave the following on Rezoning Case No. 22CZ27 - Center City Townhomes - Reconsideration of Vote.

[SLIDE 18]



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[SLIDE 19]



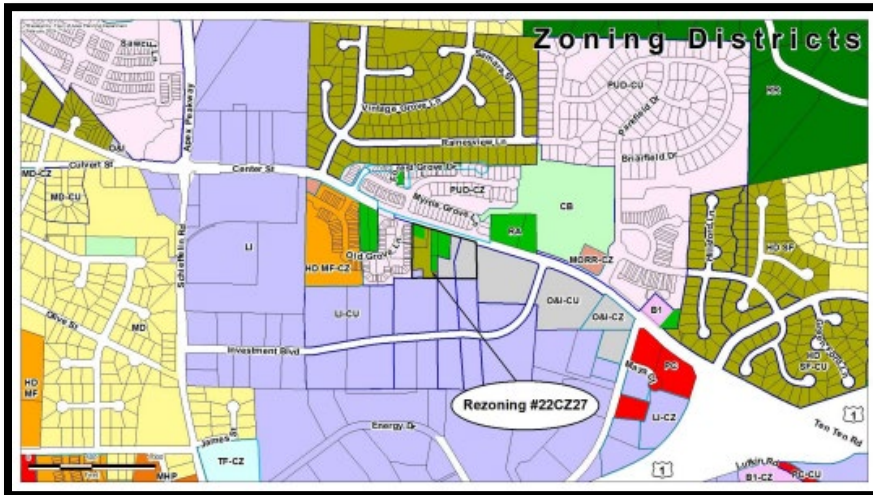
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DRAFT MINUTES

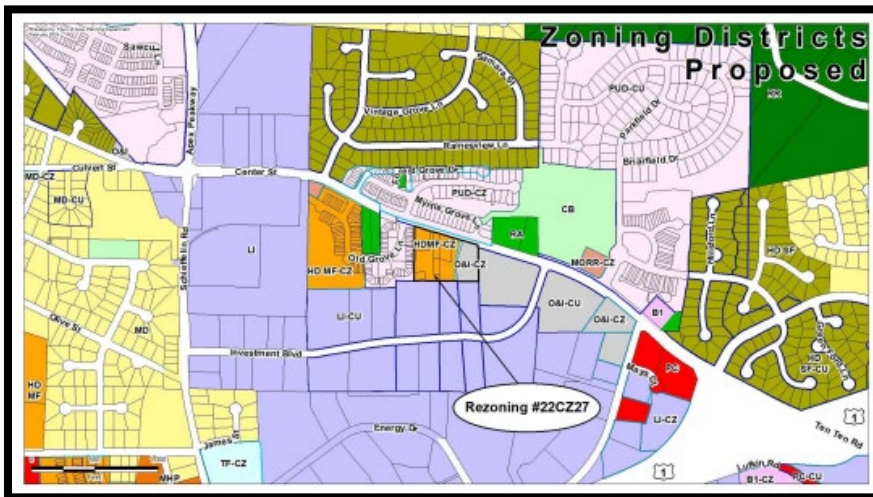
1 [SLIDE 20]



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3 [SLIDE 21]



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5 [SLIDE 22]



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1 [SLIDE 23]



2 [SLIDE 24]



4 [SLIDE 25]

Transportation Concerns

- Staff recommended the applicant dedicate right-of-way and easements consistent with the latest-available design of State Transportation Improvement Program (STIP) project U-5825, Improvements to Ten Ten Road. The applicant has addressed this recommendation with a proposal to reduce the buffer along Center Street.
- Applicant proposes that the cul de sac length may exceed that allowed by the UDO.
 - Additional access points to Center Street are not recommended by staff based on the available street frontage and are excluded from consideration by the proposed zoning conditions.
 - Access may be restricted to right-in/right-out when Center Street is widened and a median is constructed by NCDOT in STIP project U-5825.

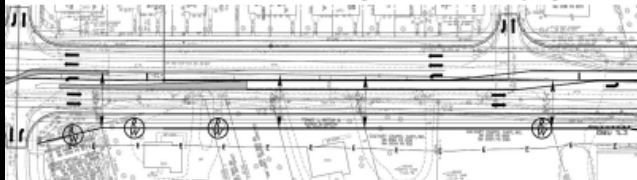


Exhibit Shows:

- Anticipated off sets from the centerline towards this property. The widest on the western side and close to 65'
- Median in the center- so no left-in/left-out for this development

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1 [SLIDE 26]

Recommendation for Denial of Rezoning #22CZ27 Center City Townhomes

- The HDMF-CZ district is not consistent with the 2045 Land Use Map.
- The change from Office Employment to High Density Residential affects the economic development potential of the area as it would reduce the amount of land available for Tech Flex and/or Office & Institutional near the Investment Boulevard office and industrial park.
- The residential properties would be adjacent to properties zoned Light Industrial and if the Light Industrial properties redeveloped in the future to a higher Light Industrial Land Use Class there could be potential issues and hazards.
- Reduced buffers when NCDOT widens Center Street.
- No connectivity to the residential development to the west.
- Future access will be right-in/right-out due to the future median location and cross access through the Calvary Church's parking lot to reach Investment Boulevard would be advantageous.

2
3 Jason Barron with Morning Star Law Group, on behalf of the applicant, gave the
4 remainder of the presentation.

5 [SLIDE 27]

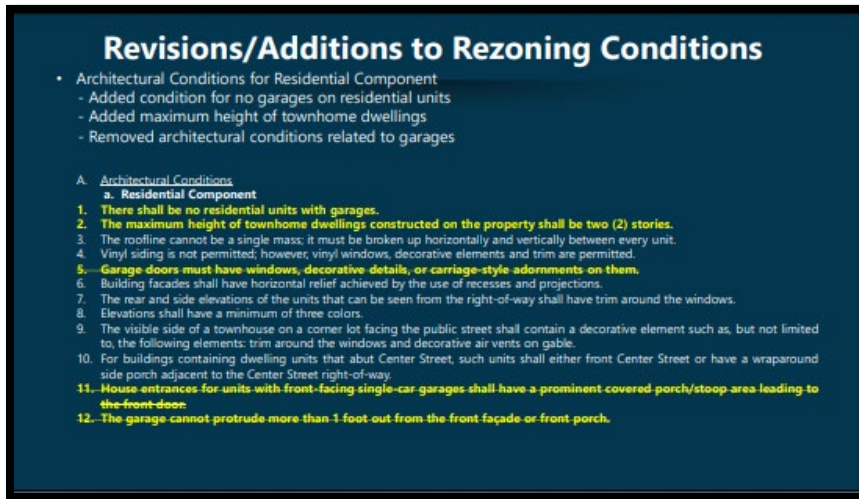
Revisions/Additions to Rezoning Conditions

- Zoning Condition #3 related to the Affordable Housing Condition
- If the property is developed for less than 30 townhome units, at least 1 affordable unit
- If the property is developed for 30 townhome units, then there will be 2 affordable units
- Removed: the affordable unit shall be identified on the Master Subdivision Plat

If the property is developed for less than thirty (30) townhome dwellings, Of the permitted townhouse dwellings: at least one (1) residential restricted median-income affordable housing townhouse ownership unit (Affordable Housing Unit) shall be constructed onsite 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 most recently published by the U.S. Department of Housing and Urban Development (HUD). The Affordable Housing Units shall be occupied by low or median-income households earning no more than one hundred percent (100%) of the Raleigh, NC MSA AMI, adjusted for family size as most recently published by HUD. A restrictive covenant (i.e. resale deed restriction) with a minimum affordability period of ten (10) years shall be recorded against the residential restricted median-income affordable housing townhouse ownership unit concurrently at the close of escrow upon the sale of the Affordable Housing Unit to memorialize the affordable housing terms and conditions. ~~The one (1) Affordable Housing Unit lot shall be identified on the Master Subdivision Final Plat, which may be amended from time to time.~~ A restrictive covenant (i.e. affordable housing agreement) between the Town and Applicant shall be recorded against the one (1) Affordable Housing Unit lot prior to the issuance of a building permit for such lots to memorialize the affordable housing terms and conditions of the approved zoning condition. Final Affordable Housing Unit floor plan selection which includes the unit size and bedroom size will be at the discretion of the developer. **If the property is developed for 30 townhome dwellings, then there shall be two (2) Affordable Housing Units.**

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1 [SLIDE 28]



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3 **Mr. Barron** asked if there were any questions and he respectfully asked Council for
4 approval.

5 **Mayor Gilbert** thanked Mr. Barron and asked if there were any questions. He asked
6 Mr. Dalton if he would come up and explain about the access over at Calvary Chapel.

7 **Mr. Dalton** explained the development of the future site would have cross access with
8 commercial development that would provide the ability to get onto Investment Boulevard
9 through the site if or when that is developed in the future.

10 **Councilmember Zegerman** asked Mr. Barron if there had been conversations with
11 the seller about the accommodation of an easement in the future.

12 **Mr. Barron** said that the easement will exist because of the Town's ordinance. He said
13 that he had shared the information with his client and that he believed that information had
14 been communicated.

15 **Mayor Gilbert** said to keep in mind staff's recommendations of denial of the rezoning
16 and brought the discussion back to Council.

17 **Councilmember Zegerman** said he appreciated the applicant bringing back this
18 item. He said his concern was still ingress and egress of the traffic. He said he still wasn't in
19 favor of this project at this time. He said he thinks there would still be traffic danger posed
20 with this development. He said he liked the development proposal with smaller units and
21 smaller price points, but he still couldn't support this specific project.

22 **Councilmember Gantt** said he agreed with Councilmember Zegerman and valued
23 staff's input. He said there had not been changes to connectivity that he was concerned with.
24 He said the lack of knowledge that he has with the connectivity, he is still opposed to this
25 project.

26 **Mayor Pro Tempore Gray** said this is still the best mix that could possibly be. He said
27 that it does increase the inventory for affordable housing. He said that with the UDO that
28 there is access to the stub. He said it was not a perfect solution but does help with one of the
29 concerns for the residents with affordable housing, and this does so by increasing inventory.

DRAFT MINUTES

1 He said this inventory in this location provides a good solution at this time. He said that he
2 was in support of this project.

3 **Councilmember Killingsworth** said that she would agree with Mayor Pro Tempore
4 Gray. She said that having affordable housing is in the right place for this project and this this
5 transition makes sense. She said that she would support this.

6 **Mayor Gilbert** said that in the past he had an issue with the access, which is why he
7 was against it before, but with Mr. Dalton’s information on the ordinance and considering the
8 lack of inventory of affordable housing he will support this.

9
10 A **motion** was made by **Councilmember Killingsworth**, seconded by **Mayor Pro**
11 **Tempore Ed Gray** to approve Rezoning Case No. 22CZ27 - Center City Townhomes.

12
13 **VOTE: 2-2, with Councilmember Gantt and Councilmember Zegerman**
14 **dissenting, and Councilmember Mahaffey absent.**

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16 Pursuant to the Town of Apex Town Charter, **Mayor Gilbert** voted in the affirmative in
17 order to break the tie. Motion passed.

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20 **[UPDATES BY TOWN MANAGER]**

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22 **Town Manager Vosburg** said the Fireworks Frenzy will be on July 3rd, 5 p.m. – 10
23 p.m. around Hunter Street Park with activities and food vendors. He said that the Old
24 Fashioned Fourth in Downtown on July 4th. He read an email from a resident applauding the
25 work of the Apex Electric Utilities Department in restoring a recent power outage.

26 **Mayor Gilbert** thanked Town Manager Vosburg for the updates.

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29 **[CLOSED SESSION]**

30
31 A **motion** was made was made by **Councilmember Zegerman**, seconded by
32 **Councilmember Gantt** to move into closed session pursuant to NCGS §143-318.11(a)(1),
33 NCGS §143-318.11(a)(3), and NCGS §143-318.11(a)(6).

34
35 **VOTE: UNANIMOUS (4-0), with Councilmember Mahaffey absent**

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37 Council entered into Closed Session at **7:03 PM.**

DRAFT MINUTES

1 **CS1 ADDED: Laurie Hohe, Town Attorney**

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NCGS § 143-318.11(a)(3)

"To consult with an attorney employed or retained by the public body in order to preserve the attorney-client privilege between the attorney and the public body."

7 **CS2 Allen Coleman, Town Clerk**

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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."

13 **CS3 Randy Vosburg, Town Manager**

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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."

20 Council returned to open session at **7:50 PM.**

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[ADJOURNMENT]

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Mayor Gilbert adjourned the meeting at **7:51 p.m.**

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Jacques K. Gilbert
Mayor

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

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

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