



APEX TOWN COUNCIL MEETING

TUESDAY, MARCH 17, 2015

William M. Sutton, Mayor
Eugene J. Schulze, Mayor Pro Tempore
William S. Jensen, Scott R. Lassiter, Nicole L. Dozier,
and Denise C. Wilkie, Council Members
Bruce A. Radford, Town Manager
Drew Havens, Assistant Town Manager
Donna B. Hosch, CMC, NCCMC, Town Clerk
Laurie L. Hohe, Town Attorney

The Regular Meeting of the Apex Town Council scheduled for Tuesday, March 17, 2015, at 7:00 p.m. was held in the Council Chamber of Apex Town Hall, 73 Hunter Street

In attendance were Mayor William M. Sutton, Mayor Pro Tem Eugene J. Schulze, and Council Members William S. Jensen, Scott R. Lassiter, Nicole L. Dozier, and Denise C. Wilkie
Also in attendance were Town Manager Bruce A. Radford, Assistant Town Manager Drew Havens, Town Clerk Donna B. Hosch, and Town Attorney Laurie L. Hohe

COMMENCEMENT

Mayor Sutton called the meeting to order, Mayor Pro Tem Schulze gave the Invocation, and Mayor Sutton led the Pledge of Allegiance.

PRESENTATIONS

There were no presentations to be made.

CONSENT AGENDA

- Consent 01 Minutes of the January 15, 2015 Special Meeting, the February 17, 2015 and March 3, 2015 Regular Meetings, the March 3, 2015 Closed Session (Closed Session Minutes recorded separately), and the February 18, 2015 Economic Development Committee Meeting
- Consent 02 Apex Tax Report dated 02/06/2015
- Consent 03 Budget ordinance amendment, and construction contract, and authorization for Town Manager to execute same for U-5530 AA Old Raleigh East Sidewalk. The Project consists of the completion of sidewalk gap to complete a continuous sidewalk along the south side of Old Raleigh Road (SR 1435) from Lake Pine Drive to Town of Cary corporate limits

- Consent 04 Construction contract and authorization for the Town Manager to execute same for U-5118 AD (Ten Ten Road Improvements). The project consists of roadway improvements along SR 1010 Ten Ten Road, Waterford Green Drive, and the US 1 ramp to provide a continuous right turn on eastbound Ten Ten between Schieffelin Rd and the US 1 southbound ramp, dual through lanes on westbound Ten Ten from the US 1 bridge to the Seagroves Farm entrance, dual left turns on the US 1 off-ramp, a dedicated right and left turn on Waterford Green Drive with a shifted island to enhance safety of left turn movements, and traffic signal modifications which include a protected left turn for Waterford Green Drive
- Consent 05 Budget amendment and municipal agreement with NCDOT to secure 80% of the project cost in federal funds, requiring 20% matching local (Town of Apex) funds, in order to add turning lanes at the intersection of Kelly Road at Olive Chapel Road and sidewalk along Kelly Road from Olive Chapel Road to Evening Star Drive in TIP Project No. U-5118 AF. Construction Authorization is anticipated in spring 2016.
- Consent 06 NCEMPA (North Carolina Eastern Municipal Power Agency) Retail Billing Services Agreement
- Consent 07 Amendments to Chapter 20 of the Town of Apex Code of Ordinances as provided in the proposed list of changes
- Consent 08 Statement of the Apex Town Council pursuant to G.S. 160A-383 addressing action on the Unified Development Ordinance (UDO) Amendments of March 3, 2015
- Consent 09 Statement of the Town Council for Rezoning Case #14CZ23, Alex Crow, Capital Properties, petitioner for the property located at the southwest quadrant of the intersection of Richardson Road and Olive Chapel Road
- Consent 10 Statement of the Town Council and Ordinance for Rezoning Case #14CZ31, Jones & Crossen Engineering, petitioners for the property located at 2625 & 2713 Olive Chapel Road
- Consent 11 Appoint Finance Director Vance Holloman as second alternate commissioner to the North Carolina Eastern Municipal Power Agency (NCEMPA) Board of Commissioners
- Consent 12 Transfer of Lot 137 Plot(s) C and D in the Apex Cemetery to William L and Renee M Sweeley
- Consent 13 Street closings in support of the 8th Annual Monarchs in Motion 5K Race on May 9, 2015
- Consent 14 Agreement regarding naming rights for the Skate Plaza

MAYOR SUTTON CALLED FOR A MOTION. MAYOR PRO TEM SCHULZE MADE THE MOTION TO ACCEPT
THE CONSENT AGENDA; COUNCIL MEMBER LASSITER SECONDED THE MOTION.
THE MOTION CARRIED BY A 5-0 VOTE.

REGULAR MEETING AGENDA

There were no changes requested to the Agenda.

PUBLIC FORUM

No one wished to speak during Public Forum.

PUBLIC HEARINGS

Public Hearing 01 : Brendie Vega, Principal Planner

Public Hearing and change to the 2030 Land Use Map for the Zeno Road properties from Mixed Use to Office Employment

Staff stated changes to the land use map were requested by Council in January. Staff oriented Council to the site, noting that Option A was what was originally going to be put before Council. However, after further analysis, staff came up with and explained their own recommendation.

The Planning Board held a public hearing. After hearing concerns from property owners, Option C was what they recommended unanimously. Staff found this to be acceptable, particularly because of public comments received.

Mayor Sutton declared the Public Hearing open.

Sandy Culpepper, Phil Fondville, Phillip Myers, Tom Graves, Brandon Toler, and owners of property identified as #1, #4, and #10 all stated they favored Option C. Property owners gave a brief history of the area and how the use of the road has changed. It was stated that several of the properties have contracts pending.

Mayor Sutton declared the Public Hearing closed.

MAYOR SUTTON CALLED FOR A MOTION. COUNCIL MEMBER JENSEN MADE THE MOTION TO APPROVE
THE CHANGE; COUNCIL MEMBER LASSITER SECONDED THE MOTION.
THE MOTION CARRIED BY A 5-0 VOTE.

Public Hearing 02 : Amanda Bunce, Planner

Public hearing and rezoning application #15CZ02 (N. Salem St. / US Hwy 64) to rezone 21.68± acres located on the Southwest quadrant of N. Salem Street and US 64 Highway from Residential Agricultural (RA), Neighborhood Business (B1), and Mixed Office-Residential-Retail Conditional Zoning (MORR-CZ #12CZ07) to Planned Commercial-Conditional Zoning

Staff oriented Council to the site and pointed out three corrections to the proposed uses. Staff briefed Council on the additional proposed uses by the applicant. The Planning Board and staff recommended approval. Two protest petitions were submitted but deemed invalid.

Staff answered questions from Council on buffer types and the meaning of 'light vehicles'. Learning that this may be a dealership, Council wanted to hear more about light pollution and the visibility of the business from residents' homes.

Bill Daniel, representing the property owner, emphasized condition 7. This is not a rezoning simply for an automobile dealership. Concerns at the neighborhood meeting were on buffers, traffic, and uses, with traffic being the most concerning. Mr. Daniel felt the Type B buffer was a responsible one. The uses they crafted were a result of concerns from the neighbors and staff, and Mr. Daniel outlined these. They felt that all legislative conditions had been met. Per request from Council, Mr. Daniel agreed to a minimum Type B rather than a Type E buffer along Salem Street.

Mayor Sutton declared the Public Hearing open.

Troy McDaniel stated 162 residents signed a petition which outlined their concerns which he detailed.

Dan Heiller stated his concern was for the number of conditional zoning uses that could possibly be on this site. He stated that with so many uses, it reduces the possibility of being able to work with developers at the outset. The neighbors discussed removing uses with the applicant, but only two items were removed.

John Daniel stated he was not in the reach of being notified about this issue, but he outlined his three concerns: how the use would look on Salem Street, the traffic study, and buffering as it relates to light and noise pollution.

A resident asked that large grocery stores be put on the strike list.

Patrick Seether stated his concern was for light and noise pollution.

Tom Coulhoun stated he was in favor of the rezoning and that it conformed to the Land Use Plan. This would bring employment to Apex, traffic concerns can be addressed, and he looked forward to the commercial use.

A resident stated he also wished to see the number of uses for this area reduced, and he spoke about traffic issues.

Mayor Sutton declared the Public Hearing closed.

Council discussed with the applicant uses for outside entertainment and arena/auditorium which might be removed.

MAYOR SUTTON CALLED FOR A MOTION. COUNCIL MEMBER LASSITER MADE THE MOTION TO APPROVE THE REQUEST ADDING ADDITIONAL BUFFERING AND THE TWO DISCUSSED USES; COUNCIL MEMBER DOZIER SECONDED THE MOTION.

There was further discussion about lighting pollution. The applicant proposed the additional condition of full cut-off light fixtures which staff stated is our standard.

THE MOTION CARRIED BY A 5-0 VOTE.

Public Hearing 03 : Brendie Vega, Principal Planner

Public Hearing and Rezone #15CZ04, Hempstead at Beaver Creek PUD Amendment, 24.31 acres located at 1950 Creekside Landing Drive, from Planned Unit Development Conditional Use (PUD-CU) to Planned Unit Development Conditional Zoning (PUD-CZ) to increase the maximum height from 36 feet to 39 feet 10 inches

Staff oriented Council to the site, stating the townhomes are currently under construction. A protest petition was received that was deemed invalid. The Planning Board recommended approval. Staff explained the three story product requested by the applicant.

Mayor Sutton declared the Public Hearing open.

Michael Davis, HOA president, talked about local and State ordinances and requirements and how the building height would be detrimental to the neighborhood.

Mayor Sutton declared the Public Hearing closed.

Council entered discussion about the requested additional height, staff explaining that this would improve roof pitch and provide a nicer appearance to the outside of the buildings. Jim Dasinske, applicant, stated all units are three-story townhomes. He explained the grading, how it varies, and how that affects the appearance of some of the units. Council stated it wished to see a buffer put in alongside the home along Chapel Ridge. The applicant stated this will be done as soon as practical. The applicant stated he requested meetings with Mr. Davis and his Board, and his requests were ignored. Mr. Davis responded that he wanted to speak with the applicant about stormwater; his Board did not wish to meet with the applicant.

MAYOR SUTTON CALLED FOR A MOTION. MAYOR PRO TEM SCHULZE MADE THE MOTION TO APPROVE THE REQUEST WITH THE ADDITIONAL CONDITION THAT A BUFFER ON THE WEST SIDE BE INSTALLED AS SOON AS REASONABLY POSSIBLE AND PLANTED BY PHASES AS PER PLAT APPROVAL. COUNCIL MEMBER LASSITER SECONDED THE MOTION. COUNCIL MEMBERS JENSEN, WILKIE, SCHULZE, AND LASSITER VOTED IN THE AFFIRMATIVE; COUNCIL MEMBER DOZIER VOTED IN THE NEGATIVE. THE MOTION CARRIED BY A 4-1 VOTE.

Mayor Sutton called for a ten minute recess.

Public Hearing 04 : Reed Huegerich, Senior Planner

Public Hearing continued from March 3, 2015 regarding rezoning application #14CZ21 (Sweetwater Planned Unit Development Plan) to rezone 164.7 acres located at 2216 and 2408 Olive Chapel Road and 3115, 3121, 3224, 3233 U.S. Hwy 64 West from Rural Residential (RR) to Planned Unit Development Conditional Zoning (PUD-CZ)

Staff oriented Council to the site and made a correction to the Staff Report regarding density. A neighborhood meeting was held, and there was substantial feedback. Staff recommended approval as presented. Regarding the transportation plan, there was excitement about the connection on Richardson Road which will alleviate traffic on Kelly Road. Staff responded to Council's questions about the turning patterns.

Mayor Sutton declared the Public Hearing open.

Speaking against, Charles Burger was concerned about the Olive Chapel traffic. He completed a DOT study in 2014 and felt there would be trouble with traffic backup on that road.

Javanna Taylor provided schooling stats and how students in Abbington are being routed out of the area instead of being able to attend school in the area. She was concerned about access on Bryan Pond Lane. Holly Catrino echoed Ms. Taylor's concerns.

Ray Catrino stated the problem of enough schools has been overlooked. Roads are a major concern as well as what type of development would go on historic Salem Street. He thanked Council for keeping an open mind and for doing what's in Apex's best interest.

Steve Obershon echoed the comments of his neighbors. The developers did a good job of addressing issues within their control. There would be problems with overcrowded schools and added traffic which would be a safety concern. We are not ready for this yet. Mr. Obershon stated he is not against growth; however, we need to take a more considered approach.

Joe Hiccoos stated the live/work/play concept will not work in this area because there is nowhere for anyone to work. Why not slow growth down a bit to give it more thought.

Speaking in favor of the request, Glenda Topp, developer, went over the proposed PUD and what they felt was good about Sweetwater and how it complies with the Land Use Plan. Densities were detailed along with infrastructure improvements, the greenway, and the design concept and what buyers are looking for. Meetings with Abbington residents resulted in items the neighbors wanted addressed, which were responded to. Ms. Topp discussed the economic benefits including a pump station which would

be removed. The Sweetwater plan is consistent with all plans and complies with standards of the UDO. It will be a premier, high-quality development in Apex and is a bit different than other developments.

Speaking in favor, Vivian Lamb, wondered what kind of development could go on the site with all the restrictions the Town has put on the property. She was impressed with the developers; they have been admirable to work with. She was extremely pleased with the plan.

Kevin McEnroy complimented Experience One and stated they have exceeded the expectations of many people.

Judy Jenks talked about past and future schooling issues in Apex. She and her family are for this.

Tripp Lloyd, Lloyd Builders, former resident of Abbingdon, stated they are in agreement with Experience One. It's exciting to have the opportunity to work with a quality builder.

Matt Hobbs asked for Council's support in the rezoning, as it will be a catalyst for commercial development.

Mayor Sutton declared the Public Hearing closed.

Staff addressed traffic patterns and delays and what the Richardson Road connection will mean for traffic flow. Council discussed what might be an alternate use of the land, i.e., a business park.

Council stated what it liked and did not like about the development. Council wished to see the infrastructure totally in place, except for final pavement, before the first house is shoveled. The applicant stated this was already planned. The Town Attorney stated these types of requests can be controlled and enforced through the building permit.

MAYOR SUTTON CALLED FOR A MOTION. COUNCIL MEMBER LASSITER MADE THE MOTION TO APPROVE
THE REQUEST. COUNCIL MEMBER WILKIE SECONDED THE MOTION.

Council stated this is a big and controversial request. It will be voted for because it could have been worse. And this will give us Richardson Road which we desperately need. Office space has been consistently fought for; but with so much space in the Triangle already, builders are not clamoring to come here to build.

Council stated if we look at this from the 30,000-foot elevation, this has the possibility of not working. We need a quality business park environment. We are heading more towards housing than business, and we're not looking to the future. We're rushing to vote this in.

Council stated everything was being done to help with property owner concerns and that this was not being rushed.

COUNCIL MEMBERS WILKIE, SCHULZE, AND LASSITER VOTED IN THE AFFIRMATIVE. COUNCIL MEMBERS JENSEN AND DOZIER VOTED IN THE NEGATIVE.
THE MOTION CARRIED BY A 3-2 VOTE.

OLD BUSINESS

Old Business 01 : Bruce Radford, Town Manager

Resolution requesting collaboration with the Wake County Public School System in reviewing the funding model for the School Resource Officer program in Wake County

Staff stated this has been discussed on several occasions, and we have been asked to work to come up with a resolution to the problem. This Resolution will assist with that.

MAYOR SUTTON CALLED FOR A MOTION. COUNCIL MEMBER LASSITER MADE THE MOTION TO ADOPT THE RESOLUTION; COUNCIL MEMBER WILKIE SECONDED THE MOTION.
THE MOTION CARRIED BY A 5-0 VOTE.

NEW BUSINESS

New Business 01 : Brendie Vega, Principal Planner

Parkside at Bella Casa, Phase 13 - Master Subdivision Plan - for the properties located at Blazing Trail and Humie Olive Road containing 9.7 acres and 56 lots

Staff oriented Council to the site, stating this the last phase of Bella Casa/Parkside. Rezoning approved 150 townhome lots; 56 will be built. The Planning Board recommended approval.

MAYOR SUTTON CALLED FOR A MOTION. COUNCIL MEMBER LASSITER MADE THE MOTION TO APPROVE THE PLAN; MAYOR PRO TEM SCHULZE SECONDED THE MOTION.
COUNCIL MEMBERS WILKIE, SCHULZE, AND LASSITER VOTED IN THE AFFIRMATIVE; COUNCIL MEMBERS JENSEN AND DOZIER VOTED IN THE NEGATIVE.
THE MOTION CARRIED BY A 3-2 VOTE.

New Business 02 : Shelly Mayo, Planner

Promenade at Beaver Creek Master Subdivision Plan for the property located at 1275 Haddon Hall Drive containing +/- 11.28 acres and 49 lots

Staff oriented Council to the site, which was approved as a PUD in January. This will be a mixture of townhomes and restaurants. The Parks and Rec Commission recommended a fee in lieu, the request meets all Plans, and a neighborhood meeting was conducted. The Planning Board and staff recommended approval.

MAYOR SUTTON CALLED FOR A MOTION. COUNCIL MEMBER LASSITER MADE THE MOTION TO APPROVE THE PLAN; COUNCIL MEMBER WILKIE SECONDED THE MOTION. COUNCIL MEMBERS WILKIE, SCHULZE, LASSITER, AND DOZIER VOTED IN THE AFFIRMATIVE; COUNCIL MEMBER JENSEN VOTED IN THE NEGATIVE. THE MOTION CARRIED BY A 4-0 VOTE.

CLOSED SESSION

There were no Closed Session items for consideration.

WORK SESSION

There were no Work Session items for consideration.

ADJOURNMENT

With there being no further business,

MAYOR SUTTON CALLED FOR A MOTION TO ADJOURN.
COUNCIL MEMBER WILKIE MADE THE MOTION; COUNCIL MEMBER DOZIER SECONDED THE MOTION.
THE MOTION CARRIED BY A 5-0 VOTE.

Donna B. Hosch, CMC, NCCMC
Town Clerk

ATTEST:

William M. Sutton
Mayor