



TOWN COUNCIL SPECIAL MEETING

TUESDAY, AUGUST 13, 2013

Keith H. Weatherly, Mayor
Eugene J. Schulze, Mayor Pro Tempore
Terry L. Rowe, Scott R. Lassiter,
William S. Jensen, and Lance Olive, Council Members
Bruce A. Radford, Town Manager
J. Michael Wilson, Assistant Town Manager
Donna B. Hosch, CMC, NCCMC, Town Clerk
Henry C. Fordham, Jr., Town Attorney

A Special Meeting of the Apex Town Council scheduled for Tuesday, August 13, 2013, at 7:00 p.m. was held in the Council Chamber of Apex Town Hall, 73 Hunter Street

In attendance were Mayor Keith H. Weatherly, Mayor Pro Tempore Eugene J. Schulze and Council Members Terry L. Rowe, Scott R. Lassiter, William S. Jensen, and Lance Olive. Also in attendance were Town Manager Bruce A. Radford, Assistant Town Manager J. Michael Wilson, Deputy Town Clerk Bonnie J. Brock, and Town Attorney Henry C. Fordham, Jr. Absent was Town Clerk Donna B. Hosch.

COMMENCEMENT

Mayor Weatherly called the meeting to order, gave the Invocation, and led the Pledge of Allegiance.

PUBLIC HEARINGS

Public Hearing 01: Dianne Khin, Planning Director

Continued from the June 18, 2013 and July 16, 2013 Council Meetings: Public Hearing and motion to adopt an Ordinance on the Question of Annexation: Apex Town Council's intent to annex Parkside Builders, LLC properties containing 12.08 acres located at 2533 Olive Chapel Road, Annexation #490, into the Town's corporate limits

and

Public Hearing 02: Lauren Simmons, Planner II

Continued from the June 18, 2013 and July 16 2013 Council Meetings: Public Hearing and motion regarding Rezone #13CZ08, 12.08 acres located at 2533 Olive Chapel Road from Wake County-R-80W and Rural Residential to Medium Density Residential Conditional Zoning

Mayor Weatherly declared the Public Hearing open.

Discussion ensued with the applicant and two residents regarding the 70 foot southern property line and the replacement of dead or dying trees. These residents wanted language added to condition numbers 13 and 14. Council expressed concern and suggested replacing dead, dying, or diseased trees with similar species and a minimum caliper of 4". Applicant Jeff Roach agreed to add the language.

Mayor Weatherly declared the Public Hearing closed.

MAYOR WEATHERLY CALLED FOR MOTIONS. COUNCIL MEMBER JENSEN MADE THE MOTION TO APPROVE ANNEXATION #490. MAYOR PRO TEMPORE SCHULZE SECONDED THE MOTION.
THE MOTION CARRIED BY A UNANIMOUS 5-0 VOTE.

COUNCIL MEMBER JENSEN MADE THE MOTION TO APPROVE REZONE #13Z08 WITH THE CONDITIONS OUTLINED IN THE REZONING PETITION AND WITH ADDITIONAL LANGUAGE IN NEW CONDITION #15A: PURSUANT TO CONDITION #'S 13 AND 14, ANY DEAD, DYING OR DISEASED TREES REMOVED ALONG THE PROPERTY LINE WILL BE REPLACED WITH 4" CALIPER TREES OF A SIMILAR SPECIES. COUNCIL MEMBER SCHULZE SECONDED THE MOTION.
THE MOTION CARRIED BY A UNANIMOUS 5-0 VOTE.

Public Hearing 03: Dianne Khin, Planning Director

Public Hearing and motion regarding an amendment to the Unified Development Ordinance

Staff stated this item was related to the next item under Old Business. Staff met with the Town Attorney, Fire Department, and the Transportation Engineer and all came to an agreement with the UDO language to allow a locked gate with a four foot opening for public access for pedestrians, bicycles, and non-motorized scooters. This was the best solution, it does not set a precedent for other developments, and can be re-addressed if necessary.

Mayor Weatherly declared the Public Hearing open.

A citizen commented they would like to be notified if this is evaluated in the future.

Mayor Weatherly declared the Public Hearing closed.

Discussion ensued regarding motorized vs. non-motorized scooters and motorcycles.

MAYOR WEATHERLY CALLED FOR A MOTION. COUNCIL MEMBER OLIVE MADE THE MOTION TO APPROVE THE UDO AMENDMENT IN ADDITION TO ALLOWING MOTORCYCLES THROUGH THE FOUR FOOT OPENING.

COUNCIL MEMBER JENSEN SECONDED THE MOTION.

THE MOTION CARRIED BY A 4-1 VOTE WITH COUNCIL MEMBERS JENSEN, ROWE, SCHULZE, AND OLIVE VOTING IN THE AFFIRMATIVE AND COUNCIL MEMBER LASSITER VOTING IN THE NEGATIVE

MAYOR PRO TEMPORE SCHULZE CALLED FOR A MOTION TO RECONSIDER THE PREVIOUS ACTION OF COUNCIL. COUNCIL MEMBER LASSITER SECONDED THE MOTION.

THE MOTION CARRIED BY A 3-2 VOTE WITH COUNCIL MEMBERS JENSEN, ROWE, AND SCHULZE VOTING IN THE AFFIRMATIVE AND COUNCIL MEMBERS OLIVE AND JENSEN VOTING IN THE NEGATIVE.

Council Member Lassiter questioned whether there would be a liability issue if an accident occurred involving a motorcycle at the opening. Council Member Jensen stated it will be difficult to enforce who goes through the four foot opening.

MAYOR WEATHERLY CALLED FOR A MOTION. COUNCIL MEMBER OLIVE MADE THE MOTION TO APPROVE THE UDO AMENDMENT AND TO ALLOW MOTORCYCLES THROUGH THE FOUR FOOT OPENING.

COUNCIL MEMBER JENSEN SECONDED THE MOTION.

THE MOTION CARRIED BY A 4-1 VOTE WITH COUNCIL MEMBERS JENSEN, ROWE, SCHULZE, AND OLIVE VOTING IN THE AFFIRMATIVE AND COUNCIL MEMBER LASSITER VOTING IN THE NEGATIVE.

Old Business 01: June Cowles, Senior Planner

Continued from the July 16, 2013 Council Meeting: Motion regarding Rezone #13CZ12, 40.85 acres that include 6 parcels located at 0 Old Jenks Road, 6613, 6633, 6609, and a portion of 6501 Old Jenks Road from Residential Agricultural Zoning and Medium Density Conditional Use to Medium Density Conditional Zoning

MAYOR WEATHERLY CALLED FOR A MOTION. COUNCIL MEMBER LASSITER MADE THE MOTION TO APPROVE THE REZONING WITH THE CONDITIONS PROPOSED BY THE APPLICANT. COUNCIL MEMBER OLIVE SECONDED THE MOTION.

THE MOTION CARRIED BY A UNANIMOUS 5-0 VOTE.

ADJOURNMENT

A resident came forward to acknowledge and congratulate the Town of Apex for receiving Money Magazines #9 ranking of "Best Places in America to Live".

With there being no further business,

MAYOR WEATHERLY CALLED FOR A MOTION TO ADJOURN.

COUNCIL MEMBER JENSEN MADE THE MOTION; MAYOR PRO TEMPORE SCHULZE SECONDED THE MOTION.

THE MOTION CARRIED BY A UNANIMOUS 5-0 VOTE.

Bonnie J. Brock
Deputy Town Clerk

ATTEST:

Keith H. Weatherly
Mayor