



# VIRTUAL REGULAR TOWN COUNCIL MEETING

November 23, 2021 at 6:00 PM

Council Chambers - Apex Town Hall, 73 Hunter Street

The meeting will adjourn when all business is concluded or 10:00 PM, whichever comes first

## Town Council and Administration

Mayor: Jacques K. Gilbert | Mayor Pro Tem: Nicole L. Dozier

Council Members: Brett D. Gantt; Audra M. Killingsworth; Cheryl F. Stallings; Terry Mahaffey

Town Manager: Catherine Crosby | Assistant Town Managers: Shawn Purvis and Marty Stone

Town Clerk: Donna B. Hosch, MMC | Town Attorney: Laurie L. Hohe

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

## COMMENCEMENT

Mayor Gilbert called the meeting to order, roll called attendance, and led the pledge of the allegiance.

## PRESENTATIONS

PR1 Apex Consolidated Alumni and North Forgotten History Committee

These two groups wish to present their thanks to the Town Council for approval of the Apex Consolidated Schools Historical Marker which will be located at Apex Elementary School

The NC Forgotten History Committee expressed thanks to Council for the approval of the Apex Consolidated Schools Historical Marker. The President of the Apex Consolidated School thanked Council as well for the approval of the marker, and the assistance to help share and maintain the history of the school. The NC Forgotten History Committee expressed a special thanks to Liz Loftin for her assistance through this process. Council expressed appreciation for all the work the committee has accomplished.

PR2 Jacques K. Gilbert, Mayor

Mayor Gilbert to present proclamation for Small Business Saturday 2021.

Mayor Gilbert read the proclamation for Small Business Saturday 2021. Staff stated there are 47 business participating in Small Business Saturday and that residents can find additional information

about Small Business Saturday at apex [Economic Development | Apex, NC - Official Website \(apexnc.org\)](http://EconomicDevelopment|Apex,NC-OfficialWebsite.apexnc.org).

## CONSENT AGENDA

- CN1 Jacques K. Gilbert, Mayor  
Re-appoint Michael J. Wilson as Board of Adjustment Chair, Lisa Carley as Board of Adjustment Vice-Chair, and Tracy Taylor as Board of Adjustment Alternate 1.
- CN2 Dianne Khin, Director of Planning and Community Development  
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 December 14, 2021 on the Question of Annexation - Apex Town Council's intent to annex Belinda Woodard Harris property containing 1.97 acres located at 2924 Evans Road, Annexation #713 into the Town's corporate limits.
- CN3 Russell Dalton, Traffic Engineering Manager  
Temporary closure of the on-street angled parking spaces and sidewalk along the parcel frontage of 76 Hunter Street and establishing a signed sidewalk detour route along Grand Central Station, Chessie Station, and Metro Station in effect Monday through Friday between the hours of 7:00 a.m. to 5:30 p.m. for the purpose of staging a crane and vertical building construction activity starting the week of November 22, 2021 and terminating August 1, 2022.
- CN4 Russell Dalton, Traffic Engineering Manager  
Ordinance amending Section 20-163 subsection (b), reserving the first eight (8) parking spaces on the south side of Hunter Street east of Grand Central Station for a GoApex bus layover area on Monday through Saturday between the hours of 5:30 a.m. and 10:00 p.m when designated by signs indicating said reservation.
- CN5 Dianne Khin, Director of Planning and Community Development  
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 December 14, 2021 on the Question of Annexation - Apex Town Council's intent to annex Matthew & Michelle Michela and Justin & Maryann Michela (Hudson Landing) property containing 10.54 acres located at 7517 Roberts Road, 2310 Pollard Place, & 2000 Cabin Cove Road, Annexation #718 into the Town's corporate limits.
- CN6 Liz Loftin, Senior Planner  
Revised Statement of the Town Council and Ordinance for Rezoning Case #21CZ13 Evans Road PUD in order to provide a revised Attachment A - Legal Description.

- CN7 Marty Stone, PE, Assistant Town Manager  
Budget Ordinance Amendment No. 10 which appropriates funds to pay amounts due under the second amendment to the Utility Infrastructure Reimbursement Agreement with Meritage Homes of Carolinas, Inc.
- CN8 Tesa Silver, Deputy Town Clerk  
Minutes of the October 26, 2021 Regular Council Meeting
- CN9 Russell Dalton, Traffic Engineering Manager  
Infrastructure Reimbursement Agreement with the Triad Math and Science Academy Company for installation of sidewalk and curb and gutter along Dropseed Drive for actual costs incurred not to exceed \$50,000.00, authorize Town manager to execute same and approve corresponding Budget Ordinance Amendment 11 and Capital Project Ordinance Amendment 2022-03.
- CN10 Catherine Crosby, Jason Armstrong, Laurie Hohe  
Ordinance amendment to multiple town code sections providing that certain violations of the Town Code are punishable as misdemeanors.
- CN11 Colleen Merays, Downtown & Small Business Development Coordinator  
Co-sponsored Apex Farmers' Market request to amend their approved schedule and add an additional market day on Saturday, December 18, 2021 in the Depot Parking Lot.
- CN12 Vance Holloman, Finance Director  
Resolution accepting American Rescue Plan Act Funds.
- CN13 Vance Holloman, Finance Director  
A vendor agreement between the Town and Wake County which will enable eligible Apex utility customers to receive assistance under the Low-Income Water Assistance Program (LIHWAP) and authorize the Finance Director to execute the agreement.
- CN14 Mary Beth Manville, Human Resources Director  
Additional Sick Leave Policy for Town employees, effective January 10, 2021.
- CN15 Laurie Hohe, Town Attorney  
Ordinance amendment to Sections 6-13 and 13-85 of the Town of Apex Code of Ordinances.
- CN16 Steve Maynard, Purchasing & Contracts Manager  
Member Cooperative Bid Agreement for Joint Purchasing of Utility Materials, Supplies, and equipment.
- CN17 Steve Maynard Purchasing & Contracts Manager  
Report of award of contract to Wesco Distribution for purchase of single phase pad mount transformers.

CN18 Steve Adams, Real Estate & Public Utilities

Deed of 23% interest in property recently purchased by Town of Cary as part of the Cary Apex Water Treatment Facility and authorize Town Manager to execute any documents related to the transfer.

CN19 Steve Adams, Real Estate & Public Utilities

Town of Cary moving forward with the recombination of the parcel Wake County PIN 0722-58-5884, into the larger parcel Wake County PIN 0722-48-4517 to become part of the Cary Apex Water Treatment Facility and authorize Town Manager to execute all related documents for the recombination plat.

CN20 Keith McGee, Fire Chief

Five-year agreement between the Town of Apex and HAAS Alert to provide automated vehicle safety alerts on fire apparatus that are motionless with warning lights in operation.

CN21 Jacques K. Gilbert, Mayor

Re-appoint Veronika Maynard-Simon and Mary Miskimon and to appoint Steven Mikes and Elizabeth O'Brien to the Tree Citizens Advisory Panel (TreeCAP).

Assistant Manager Purvis stated that the date in Consent Item 14 should read 2022 and not 2021.

Mayor Gilbert called for a motion to approve the Consent Agenda.

Mayor Pro Tem Dozier made the motion to approve the consent agenda with the stated change;

Council Member Gantt seconded the motion.

The motion carried by a 5-0 roll call vote.

#### REGULAR MEETING AGENDA

Mayor Pro Tem Dozier requested that an item be added to New Business to discuss concerns related to Wake County Main EMS Station.

Mayor Gilbert called for a motion to approve the Regular Agenda.

Council Member Killingsworth made the motion to approve the agenda with the requested change to add on as New Business 1;

Council Member Stallings seconded the motion.

The motion carried by a 5-0 roll call vote.

## PUBLIC FORUM

Caroline Pugh expressed concerns about the recent bond passage, and the development and expansion of the Apex Peakway now and in the future.

Jacob Perry asked Council to consider increasing the number of EV Charge Stations in Apex.

Tina Sherman expressed concerns regarding the Wake County Apex Main EMS Station. She stated that the minor site plan had deficiencies regarding buffers, stormwater drainage, lighting, and grading. She also expressed traffic and safety concerns regarding the stub street at Ellerview Drive. Ed and Cindy Sienkiewicz, Elliot Tyson, Herb Curkin, Imran and Mariya Aukhli, Jennifer Tyson, Jim and Margaret Kuhn, Jodi Kleiber, John Sherman, Lovely Jose, Marty Pease, Niyati Doshi, Robyn Pecora, Sebastian Dennison, Thomas Pecora, and Viswanada Bommepalle also expressed these same concerns.

## PUBLIC HEARINGS

PH1 Amanda Bunce, Current Planning Manager

Ordinance on the Question of Annexation - Apex Town Council's intent to annex Mian Lin property containing 1.14 acres located at 5921 Farmpond Road, Annexation #719 into the Town's corporate limits.

Staff oriented Council to the site, stated that the request is due to the need for water services, and staff is recommending approval.

Mayor Gilbert declared the Public Hearing Opened. With no comments, Mayor Gilbert declared the Public Hearing closed.

Mayor Gilbert called for a motion.

Mayor Pro Tem Dozier made the motion to  
approve the annexation;

Council Member Killingsworth seconded the motion.

The motion carried by a 5-0 roll call vote.

PH2 Amanda Bunce, Current Planning Manager

Ordinance on the Question of Annexation - Apex Town Council's intent to annex Linderman Properties, LLC (Triangle Math & Science Academy) property containing 20.083 acres located at 351 New Hill Olive Chapel Road, Annexation #720 into the Town's corporate limits.

Staff oriented Council to the site and staff is recommending approval. Council questioned if notifications were sent to surrounding residential property owners, and staff explained the current process.

Mayor Gilbert declared the Public Hearing opened. With no comments, Mayor Gilbert declared the Public Hearing closed.

Mayor Gilbert called for a motion.

Council Member Killingworth made the motion to  
approve the annexation;

Council Member Gantt seconded the motion.

The motion carried by a 5-0 roll call vote.

PH3 Lauren Staudenmaier, Planner II

Rezoning Application #21CZ21 Beauregard Place at Weddington. The applicant, AG Wimberly LLC., seeks to rezone approximately 3.30 acres from Rural Residential (RR) to Low Density Residential-Conditional Zoning (LD-CZ). The proposed rezoning is located at 0 Wimberly Road.

Staff oriented Council to the site. The Environmental Advisory Board held a preapplication meeting on July 15, 2021 and provided suggested zoning conditions. The Town received a letter of impact from Wake County Public School System and have anticipated insufficient capacity. The application is consistent with the 2045 Land Use Plan, the Planning Board recommended approval and Planning Staff recommend approval.

John Woodlief with Bass, Nixon, & Kennedy, Inc., representing the applicant, stated that this is a low-density, low impact development and that they are anticipating a total of 5 lots. The development is extending the existing Beauregard Place and will use existing infrastructure. Mr. Woodlief stated that the applicant is proposing to reserve 1.68 acres as RCA, which is roughly 50 % of the overall site. The applicant agreed to conditions proposed by the Environmental Advisory Board related to tree preservation, stormwater mitigation, and pet waste disposal.

Council stated that the Environmental Advisory Board expressed a lot of concern regarding the environmental sensitivity of this site. Council questioned how this development would make the community stronger, and why the area wasn't developed with Weddington. Mr. Woodfield reiterated

that it is a low impact development and stated that the subdivision is a separate subdivision from Weddington.

Mayor Gilbert declared the Public Hearing opened. With no comments, Mayor Gilbert declared the Public Hearing closed.

Council Member Mahaffey made the motion to go into Closed Session to consult with the Town Attorney;

Council Member Gantt seconded the motion.

The motion carried by a 5-0 roll call vote.

Council Member Stallings made the motion to

return to Open Session;

Council Member Killingsworth seconded the motion.

The motion carried by a 5-0 roll call vote.

Mayor Gilbert called for a motion.

Council Member Gantt made the motion to

deny the rezoning;

Council Member Mahaffey seconded the motion.

The motion carried by a 5-0 roll call vote.

PH4 Lauren Staudenmaier, Planner II

Rezoning Application #21CZ22 Old Ivey Road. The applicant, Ranjeet Agarwala, Estates at White Oak LLC., seeks to rezone approximately 8.82 acres from Rural Residential (RR) to Low Density Residential-Conditional Zoning (LD-CZ). The proposed rezoning is located at 1516 Old Ivey Road and 7620 McQueens Road.

Staff oriented Council to the site. The site is consistent with the 2045 Land Use Map, and a neighborhood meeting was held on August 26, 2021. The Environmental Advisory Board held a preapplication meeting on August 18, 2021 and provided suggested zoning condition to the applicant. A letter of impact was received from Wake County Public School System and schools at all grade levels are anticipated to have sufficient capacity for future students.

Jeff Roach with Peak Engineering, representing the applicant, stated that the development will have a maximum of 26 lots. He stated that the applicant agreed to all the proposed zoning conditions.

Council expressed the need to provide solar homes within the development. Staff proposed a zoning condition that at least 2 solar PVC systems be installed within the development, that all solar installation shall be completed or under construction prior to 90% of the building permits being issued and that the lots on which these homes are located on be identified on the master subdivision plat. Mr. Roach stated that the applicant would accept the condition.

Mayor Gilbert declared the Public Hearing opened. With no comments, Mayor Gilbert declared the Public Hearing closed.

Mayor Gilbert called for a motion.

Council Member Mahaffey made the motion to  
approve the rezoning with the additional proposed condition;

Council Member Killingsworth seconded the motion.

The motion carried by a 5-0 roll call vote.

PH5 Sarah Van Every, Senior Planner

Rezoning Application #21CZ23 Scotts Ridge Office and Veterinary Hospital. The applicant, Jeff Roach, Peak Engineering and Design, LLC., seeks to rezone approximately 1.45 acres from Residential Agricultural (RA) to Neighborhood Business-Conditional Zoning (B1-CZ). The proposed rezoning is located at 0 & 6633 Apex Barbecue Road.

Staff oriented Council to the site. The rezoning request is not consistent with the land use classification, however the uses proposed are compatible with the area and the current uses. The Environmental Advisory Board provided 7 suggested zoning conditions and those conditions have been incorporated by the applicant with the exception of the installation of the solar panels. Installing solar panels may cause problems with the existing tree canopy, and that any possible installation will be evaluated during building and design to preserve as much tree panel as possible. The Planning Board and Planning Staff recommend approval.

Jeff Roach, Peak Engineering, representing the applicant, stated the development would yield a low volume of traffic during peak times for the schools. He stated that the site would most likely be a



veterinary hospital. He also stated that the applicant did not look at solar as an option for the site, the applicant wanted to save as many of the large oak trees located on the property as possible.

Mayor Gilbert declared the Public Hearing opened. With no comments, Mayor Gilbert declared the Public Hearing closed.

Mayor Gilbert called for a motion.

Council Member Mahaffey made the motion to approve the rezoning;

Council Member Stallings seconded the motion.

The motion carried by a 3-2 roll call vote.

Council Members Stallings, Killingsworth, and Mahaffey voted in the affirmative;

Mayor Pro Tem Dozier and Council Member Gantt voted against.

PH6 Shelly Mayo, Planner II

Rezoning Application #21CZ25 Villages of Apex PUD Amendment. The applicant, Curteis Calhoun with Enclave Holdings, LLC, seeks to rezone approximately 3.62 acres from Planned Unit Development-Conditional Zoning (PUD-CZ #17CZ11) to Planned Unit Development-Conditional Zoning (PUD-CZ). The proposed rezoning is located at 0 Laura Duncan Road.

Staff Oriented Council to the site. The amendment to the PUD development is consistent with the 2045 land use map. A neighborhood meeting was held on August 25, 2021. A letter of impact was received from Wake County Public School System anticipating insufficient capacity, however the capacity may be addressed within the next 5 years. The rezoning was previously approved and this is to ensure the rezoning complies with the Downtown Master Plan. The Planning Board recommended approval, however, they recommended that the building be regulated to 4 stories, and that the first floor be regulated to non-residential use only. Planning staff recommended approval.

Council expressed concern about only having 2 years of subsidized housing available, questioned how the 2 years of subsidized housing was established, and staff explained how the number of years was determined.

Curteis Calhoun with Enclave Holdings, provided a brief presentation of the project. Mr. Calhoun addressed concerns on traffic congestion, parking availability and use, lighting, building height, affordability, and school capacity.

After continued discussion about affordable housing the applicant agreed to the recommended zoning conditions: At least 5 apartments shall be rented to and initially occupied by low income households earning up to 60% of the Raleigh NC Metropolitan Statistical Area (MSA) Area Median Income as published by the U.S. Department of Housing and Urban Development for at least 4 years. First floor residential will be prohibited along Hunter Street and Laura Duncan Road. The maximum height for mixed use buildings with a combination of residential and non-residential uses shall be 5 stories (65').

Mayor Gilbert declared the Public Hearing opened.

Staff stated that one comment was received from Mark and Sylvia Burleigh and Council received the comment.

Mayor Gilbert declared the Public Hearing closed.

Mayor Gilbert called for a motion.

Council Member Killingsworth made the motion to approve the rezoning with the recommended changes;

Council Member Gantt seconded the motion.

The motion carried by a 4-1 roll call vote.

Mayor Pro Tem Dozier and Council Members Gantt, Killingsworth, & Stallings voted in the affirmative; Council Member Mahaffey voted against.

#### OLD BUSINESS

There were no Old Business items for consideration.

#### UNFINISHED BUSINESS

There were no Unfinished Business items for consideration.

#### NEW BUSINESS

NB1 Mayor Pro Tem Nicole Dozier, Stub Extension (Add on)

Wake County Main EMS Station

Mayor Pro Tem Dozier stated a community meeting needed to be held where all the stake holders were present to have a facilitated discussion about the details of the project. She felt that the project should be held until the stakeholders had the opportunity to meet, and then decisions could be

based on that discussion. Mayor Pro Tem Dozier stated that she would like to direct staff to hold a community meeting and for no decisions to be made until after that meeting had taken place. Council agreed with holding the meeting. Town Attorney Hohe requested to go into Closed Session for Council to consult with the Town Attorney.

Council Member Stallings made the motion to  
go into Closed Session;

Mayor Pro Tem Dozier seconded the motion.

The motion carried by a 5-0 roll call vote.

Council Member Killingsworth made the motion to  
return to Open Session;

Council Member Stallings seconded the motion.

The motion carried by a 5-0 roll call vote.

Mayor Pro Tem Dozier made the motion to  
direct staff to lead and organize a community meeting  
with stakeholders that includes the County, the Town, the most impacted neighbors and  
elected officials, and to work with the applicant  
so that the meeting is held before minor site approval;

Council Member Killingsworth seconded the motion.

The motion carried by a 5-0 roll call vote.

#### UPDATES BY TOWN MANAGER

Town Manager Crosby stated that the Annual Holiday Lights information was posted on the Town's website and social media platforms. The holiday parade will be held on December 4, 2021 starting at 5:00 p.m. in downtown Apex. She wished everyone a Happy Thanksgiving.

#### CLOSED SESSION

CS1 Steve Adams, Real Estate & Public Utilities

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

Council Member Stallings made the motion to  
go into Closed Session;

Council Member Killingsworth seconded the motion.

The motion carried by a 5-0 roll call vote.

Council Member Killingsworth made the motion to  
return to Open Session;

Council Member Gantt seconded the motion.

The motion carried by a 5-0 roll call vote.

#### WORK SESSION

There was no Work Session.

#### ADJOURNMENT

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

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Tesa Silver, CMC, Deputy Town Clerk

ATTEST:

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Jacques K. Gilbert, Mayor