



Apex Town Council Meeting Tuesday, March 20, 2018

Lance Olive, Mayor
Nicole L. Dozier, Mayor Pro Tempore
William S. Jensen, Wesley M. Moyer, Audra M. Killingsworth, and
Brett D. Gantt, Council Members
Drew Havens, Town Manager
David Hughes, Assistant Town Manager
Shawn Purvis, Assistant Town Manager
Donna B. Hosch, MMC, NCCMC, Town Clerk
Laurie L. Hohe, Town Attorney

The Regular Meeting of the Apex Town Council scheduled for Tuesday, March 20, 2018, at 7:00 p.m. was held in the Council Chamber of Apex Town Hall, 73 Hunter Street

In attendance were Mayor Lance Olive, Mayor Pro Tem Nicole L. Dozier, and Council Members William S. Jensen, Wesley M. Moyer, Audra M. Killingsworth, and Brett D. Gantt

Also in attendance were Town Manager Drew Havens, Assistant Town Manager Shawn Purvis, Town Clerk Donna B. Hosch, and Town Attorney Laurie L. Hohe

COMMENCEMENT

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

PRESENTATIONS

There were no Presentations to be made.

CONSENT AGENDA

- Consent 01 Budget Amendment No. 20 to provide funding for capital outlay in the Electric Fund beyond the amount initially anticipated in the budget
- Consent 02 Minutes of the March 6, 2018 Regular Town Council Meeting
- Consent 03 Encroachment Agreement and authorization for the Town Manger to execute the same for a concrete driveway to encroach upon the Town Public Utility Easement
- Consent 04 Encroachment Agreement and authorization for the Town Manger to execute the same for a private storm drain, sidewalk and curb easements to encroach upon portions of the Town Public Utility Easements

- Consent 05 Resolution Directing the Town Clerk to Investigate Petition Received, Certificate of Sufficiency by the Town Clerk, and Resolution Setting Date of Public Hearing on the Question of Annexation – Apex Town Council’s intent to annex Pulte Home Company, LLC (portion of Greenmoor open space and Brook Pine Trail R-O-W) property containing 0.164 acres located at Brook Pine Trail; west of NC540, Annexation #628_ into the Town’s corporate limits
- Consent 06 Set the Public Hearing on April 3, 2018 to designate the Baucom-Olive House located at 206 South Salem Street as a Historic Landmark in compliance with North Carolina General Statute § 160A-400.1 through § 160A-400.15
- Consent 07 Set the Public Hearing on April 3, 2018 to designate the Upchurch-Williams House located at 7213 Roberts Road as a Historic Landmark in compliance with North Carolina General Statute § 160A-400.1 through § 160A-400.15
- Consent 08 Findings of Fact, Conclusions of Law, and Decision approving the Pleasant Park Major Site Plan

MAYOR OLIVE CALLED FOR A MOTION TO APPROVE THE CONSENT AGENDA. COUNCIL MEMBER
KILLINGSWORTH MADE THE MOTION; COUNCIL MEMBER GANTT SECONDED THE MOTION.
THE MOTION CARRIED BY A 5-0 VOTE.

REGULAR MEETING AGENDA

MAYOR OLIVE CALLED FOR A MOTION TO APPROVE THE REGULAR AGENDA. COUNCIL MEMBER
MOYER MADE THE MOTION; COUNCIL MEMBER DOZIER SECONDED THE MOTION.
THE MOTION CARRIED BY A 5-0 VOTE.

PUBLIC FORUM

Doris Grose, speaking for a group at Regency at White Oak Creek, expressed objection to the Eagle’s project convenience store. The site was rezoned in 2016, and Ms. Grose described what the store would encompass. This would be the worst kind of business across from the high school and surrounded by residential homes. Her concerns were the safety of the children, noise, light pollution, and environmental pollution. Who would clean up the road since it’s a State and not a County road. Ms. Grose stated some statistics on the crime rates at these types of stores. She added that the neighborhood does not need the services of this business.

Ms. Grose stated that in 2016, only two neighbors attended the neighborhood meeting. Most people living in the area now were not there at the time. They only became aware of this two weeks ago. She asked that Council delay their decision until June to give the neighbors time to have a say in what type of business should be in the area. The store is not compatible with and will have a negative impact on the neighborhood.

Syleswarom Sukumarom stated strong objection to the Eagle Project. There was a signed partition against it. They only learned of the project two weeks ago. His primary concerns were the safety of the children, noise pollution, and increased traffic. He was not living there in 2016, and asked that Council reconsider to give them time to have a say in what type of business should go on the site.

Lee Purser expressed concern about the long construction time on the Peakway. He has witnessed dangerous situations at the intersection and would like Council to try to nudge along the completion.

Venky Krisunan stated he was a 20 year Wake County resident. He spoke about trying to manage growth and how this was handled when he lived in Morrisville. He urged Council to delay a decision on the Eagle project.

Mayor Olive complimented staff for keeping up with and distributing information related to the Eagle project. The owner has a right to build as desired within the zoning. It would be difficult, if not impossible, for Council to take this right away from the owners. Staff will ensure the zoning conditions are met. This is a correct use, and a pedestrian crossing will provide safe crossing for students.

As for the Peakway and 55 project, the Mayor stated that there was a problem with water mains in the ground and that this caused the delay. It is necessary to wait until the asphalt plants reopen to finish the road.

While not the normal order of business, the Mayor felt a monologue was necessary to help with neighbor concerns. The convenience store would provide alternatives for lunch for students and alternate shopping convenience for citizens. The Planning Department has a long history with these types of projects, and the Mayor believed this project would work out well.

Matthew Myers asked for amendment of the denial to relocate the Apex Tattoo Factory as well as to amend the UDO on tattoo and piercing parlors. He stated tattoos were classified as an adult use but that piercings are allowed for the younger youth. He spoke about the history of the Factory and how after the running of a story on them by the newspaper, then Mayor Weatherly visited their shop and told them they had nothing to worry about. They would be grandfathered in as long as they didn't shut down for more than 30 days.

Mr. Myers stated their shop is unique and that they received number one status of all tattoo shops in the Triangle in 2013 and have maintained that status since. He spoke about their contributions to several

charities. They work with the Art From Stars group which helps women with breast cancer to cover up their scars.

David Lukefahr stated that Mr. Myers has become very successful. Now that he needs more space, Mr. Lukefahr did not see why Mr. Myers would not be able to expand his business. He spoke about the business being family friendly and his wanting to see the business expand and continue to contribute to charities.

Kasey Carter stated he had been working at the Tattoo Factory for five years, there being no complaints. They get a lot of business, and he felt Mr. Myers should be able to move to expand in the same shopping center. He added that their shop had nothing to do with any of the noise issues.

Tony Luparello stated he was a beneficiary of the Tattoo Factory's support. He realized decisions are based on rules, but things have changed. If people were to take a closer look, they would see a different side to this parlor. He talked about the charities that Mr. Myers supports. He was in agreement for Council to take a closer look so that Mr. Myers can expand his business. They are really great guys and he could not say enough good things about them.

Council was in agreement for the matter of tattoo parlors to go before the Planning Committee for review with staff.

PUBLIC HEARINGS

Public Hearing 01 : Liz Loftin, Planner II

Rezoning application #18CZ02 Friendship Station PUD Amendment. The applicant, Jones & Crossen Engineering, on behalf of Friendship Station, LLC, seeks to rezone approximately 203.7± acres located at 0, 3113, 3136, 3148, and 3232 Olive Farm Rd; 0, 0, 8004, 8025, 8109, 8105, 8129, 8132, 8021, and 8116 Humie Olive Road; 0, 0, 2804, 2816, 2908, and 2916 Richardson Road; 2705 and 2712 Butterfinger Lane, 0 Macintosh Wood Drive; and parts of 2800 Richardson Road from Planned Unit Development - Conditional Zoning (#17CZ04) to Planned Unit Development - Conditional Zoning, to change conditional zoning conditions.

Staff oriented Council to the site. A neighborhood meeting was held. The Planning Board recommended approval of the request. Staff stated this was back before Council because of a misunderstanding between staff and the developers. The amendment would provide a more logical phasing into the development, staff explaining how the phasing would work. Staff answered Council questions related to traffic signals and cost shifting for the developer.

Mayor Olive declared the Public Hearing open.

Stuart Jones, Jones and Crossen Engineering, thanked staff for working with them to clarify phasing. This involved the same road improvements, they would just time them out so they would make more sense moving forward.

Council stated she remained concerned about this project. Coming back from a work audit, she almost got hit. She was concerned about the safety of those children who cannot ride the bus and have to walk to school. Mr. Jones stated the DOT reviewed the TIA, and he talked about their decisions regarding turning lanes.

Council asked about adding solar to the houses and the resulting tax credits to those purchasing an equipped house. Council wanted one out of five homes to be committed to a solar PV system as well as some of the commercial buildings.

Mr. Jones stated he was in attendance to talk about transportation conditions since the plan was already approved. He developer was not willing to commit to solar PV but he would commit to conduits for solar. Council asked for a commitment from the applicant to make improvements off schedule if problems or issues arise.

Staff spoke to the traffic analysis and it being consistent with the development plan, under what conditions we would do a study, and how increased traffic does not necessarily warrant a traffic signal. Mr. Jones spoke to their commitment to a sidewalk connection. Council stated why she could not support the request – the lack of safety for the children.

Mayor Olive declared the Public Hearing closed.

Mayor Olive called for a three minute recess.

MAYOR OLIVE CALLED FOR A MOTION. COUNCIL MEMBER MOYER MADE THE MOTION TO APPROVE THE AMENDMENT WITH THE CONDITIONS AGREED TO BY THE APPLICANT; COUNCIL MEMBER GANTT SECONDED THE MOTION.

COUNCIL MEMBERS MOYER, GANTT, AND KILLINGSWORTH VOTED IN THE AFFIRMATIVE;

COUNCIL MEMBERS DOZIER AND JENSEN VOTED IN THE NEGATIVE.

THE MOTION CARRIED BY A 3-2 VOTE.

Public Hearing 02 : Lauren Staudenmaier, Planner I

Rezoning application #18CZ03 (Peakway Village PUD Amendment). The applicant, Robert Seymour III, on behalf of Peakway RES Office, LLC, seeks to rezone approximately 1.58± acres located at 1001 Olive Chapel Road from Planned Unit Development-Conditional Use (#03CU17) to Planned Unit Development-Conditional Zoning (to change a zoning condition).

Staff oriented Council to the site. A neighborhood meeting was held. Planning recommended approval as did the Planning Board with conditions proposed by the applicant. Staff answered Council questions related to a public art easement and road access.

Mayor Olive declared the Public Hearing open.

Robert Seymour, applicant, stated rezoning would allow him to complete the subdivision. The homeowners fully supported this and felt it would benefit their neighborhood. Mr. Seymour answered Council questions related to public art, stating he could not promise an easement would take place tonight. The developer was on board to doing this but couldn't completely commit until the end user tenant approved the easement. Council offered to speak off line with the developer about solar PB. Mr. Seymour answered Council questions related to traffic.

Mayor Olive declared the Public Hearing closed.

MAYOR OLIVE CALLED FOR A MOTION. COUNCIL MEMBER JENSEN MADE THE MOTION TO APPROVE
THE APPLICATION; COUNCIL MEMBER MOYER SECONDED THE MOTION.
THE MOTION CARRIED BY A 5-0 VOTE.

Public Hearing 03 : Shannon Cox, Senior Transportation Planner

Multiple amendments to the Transportation Plan's Bicycle, Pedestrian, and Equestrian Plan map. If approved, these changes would also be reflected on the Parks, Recreation, Greenways, and Open Space Master Plan.

staff oriented Council to the seven amendments. Staff answered questions related to a multi-use path and greenways. The Parks, Recreation, and Cultural Resources Advisory Commission and the Planning Board recommended approval.

Mayor Olive declared the Public Hearing open. With no one wishing to speak, Mayor Olive declared the Public Hearing closed.

MAYOR OLIVE CALLED FOR A MOTION. COUNCIL MEMBER GANTT MADE THE MOTION TO APPROVE
THE AMENDMENTS; COUNCIL MEMBER DOZIER SECONDED THE MOTION.
THE MOTION CARRIED BY A 5-0 VOTE.

Public Hearing 04 : Amanda Bunce, Planning Manager

Various amendments to the Unified Development Ordinance

Staff oriented Council to the amendments and stated the Planning Board recommended approval.

Mayor Olive declared the Public Hearing open. With no one wishing to speak, Mayor Olive declared the Public Hearing closed.

MAYOR OLIVE CALLED FOR A MOTION. COUNCIL MEMBER JENSEN MADE THE MOTION TO APPROVE THE AMENDMENTS; COUNCIL MEMBER DOZIER SECONDED THE MOTION.
THE MOTION CARRIED BY A 5-0 VOTE.

OLD BUSINESS

There were no Old Business items for consideration.

UNFINISHED BUSINESS

There were no Unfinished Business items for consideration.

NEW BUSINESS

New Business 01 : Liz Loftin, Planner II

Friendship Station Section 7 Master Subdivision Plan located at 8132, 8021, and 8116 Humie Olive Road; 0, 2804, 2816, Richardson Road; parts of 2800 Richardson Road containing ±14.22 acres and 82 townhomes

Staff oriented Council to the site. A neighborhood meeting was held. The Parks and Recreation Advisory Commission recommended for a land dedication onsite or off site to be the focus of the project. The developer is working with staff on land acquisition prior to the option of paying a fee in lieu at the time of the first plat. The Planning Board recommended approval. Staff answered Council questions related to transportation improvements. Stuart Jones, Jones and Clossen Engineering, stated they worked with DOT related to shifting a road in the future and the repairing of a curb.

MAYOR OLIVE CALLED FOR A MOTION. COUNCIL MEMBER MOYER MADE THE MOTION TO APPROVE THE PLAN; COUNCIL MEMBER GANTT SECONDED THE MOTION.
COUNCIL MEMBERS MOYER, GANTT, AND KILLINGSWORTH VOTED IN THE AFFIRMATIVE;
COUNCIL MEMBERS DOZIER AND JENSEN VOTED IN THE NEGATIVE.
THE MOTION CARRIED BY A 3-2 VOTE.

New Business 02 : Liz Loftin, Planner II

Grey's Landing Master Subdivision Plan located at 7124 & 0 Apex Barbecue Road containing ±6.89 acres and 14 single family lots

Staff oriented Council to the site. A neighborhood meeting was held and a fee in lieu was proposed. Staff and the Planning Board recommended approval. The developer proposed additional conditions. Staff answered Council questions related to roads, safety concerns, and pedestrian crossings.

Council stated she was not going to support the request based on the nature and quality of the road.

MAYOR OLIVE CALLED FOR A MOTION. COUNCIL MEMBER MOYER MADE THE MOTION TO APPROVE THE PLAN;
COUNCIL MEMBER GANTT SECONDED THE MOTION. COUNCIL MEMBERS MOYER, GANTT,
JENSEN, AND KILLINGSWORTH VOTED IN THE AFFIRMATIVE; COUNCIL MEMBER DOZIER VOTED IN THE NEGATIVE.
THE MOTION CARRIED BY A 4-1 VOTE.

New Business 03 : Shelly Mayo, Planner II

Holleman Hills Master Subdivision Plan located at 3024 & 3028 New Hill Holleman Road, 0 Garris Road, and 5112 Church Road containing ±23.97 acres and 71 single family lots

Staff oriented Council to the site. A neighborhood meeting was held. The Parks and Recreation Advisory Commission recommended a fee in lieu. Planning staff and the Planning Board recommended approval. Staff answered questions related to turning lanes, lack of attendance at the neighborhood meeting, and stage grading. Mike Foley, developer, stated one of the conditions was to prewire the homes for solar.

MAYOR OLIVE CALLED FOR A MOTION. COUNCIL MEMBER MOYER MADE THE MOTION TO APPROVE
THE PLAN; COUNCIL MEMBER GANTT SECONDED THE MOTION.
THE MOTION CARRIED BY A 5-0 VOTE.

CLOSED SESSION

Closed Session 01 : To consult with the Town Attorney

MAYOR OLIVE CALLED FOR A MOTION TO GO INTO CLOSED SESSION. COUNCIL MEMBER GANTT
MADE THE MOTION; COUNCIL MEMBER MOYER SECONDED THE MOTION.
THE MOTION CARRIED BY A 5-0 VOTE.

MAYOR OLIVE CALLED FOR A RETURN TO OPEN SESSION WITH NO OBJECTION FROM COUNCIL.
THE MOTION CARRIED BY A 5-0 VOTE.

WORK SESSION

There were no Work Session items for consideration.

ADJOURNMENT

With there being no further business and with no objection from Council, Mayor Olive adjourned the meeting.

Donna B. Hosch, MMC, NCCMC
Town Clerk

ATTEST:

Lance Olive
Mayor