



Apex Town Council Meeting

Tuesday, January 15, 2019

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, January 15, 2019, 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, read a section of a Native American prayer written by Blue Turtle, called for a moment of silent reflection, and led the Pledge of Allegiance.

PRESENTATIONS

There were no Presentations to be made.

CONSENT AGENDA

- Consent 01 Minutes of the Council Workshop of January 3, 2019 and the Regular Town Council Meeting of January 3, 2019
- Consent 02 Apex Town Council Legislative Goals and direct staff to send same to delegation to the North Carolina General Assembly
- Consent 03 Interlocal agreement between with Cary and Morrisville establishing expectations and requirements related to Cary serving as the primary public-safety answering point for Apex
- Consent 04 Apex Tax Report dated 12/06/2018
- Consent 05 Assignment and estoppel of Option and Ground Lease Agreement for cellular tower located at Kelly Road Park from Durham Tower, LLC to SBA Towers X, LLC and authorization for the Town Manager to execute the due diligence letter and Assignment document upon presentation

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
JENSEN MADE THE MOTION; COUNCIL MEMBER DOZIER SECONDED THE MOTION.
THE MOTION CARRIED BY A 5-0 VOTE.

PUBLIC FORUM

Walter Manthey stated he sent an email to DOT regarding the 64 improvement project on which he cc'd Council. He thanked Council Members Jensen and Olive for their response. Mr. Manthey spoke about his being a child and his bike riding experiences, transitioning to his being older and being a driver. He asked for decisions to be made based on the perspective of Shepherds Vineyard residents. Mr. Manthey spoke about why they want a part of their neighborhood to remain intact. Stripping out the trees and putting in a concrete drive will affect their property values. He stated that Chimney Hill Drive would be used as a cut through by students which will affect the safety of their neighborhood. He stated the specific asks for Council consideration.

Ed Purchase spoke about the peaceful living in his neighborhood. He embraced the changes to 64, but the "tunnel" would change this and cost the public millions. It is not an appropriate entrance to a neighborhood. Mr. Purchase stated there would be no way to prevent people from speeding through and that this would be a safety hazard.

Harvey Richmond stated he wished to present a new business resolution. He hoped it would be endorsed and gave an outline of his professional background. The resolution would educate people about climate change and greenhouse emissions. These are real, and Mr. Richmond asked Council to support the resolution and follow up with concrete steps.

Charles Gatlette stated he owned the land to be discussed in the Unfinished Business item. He wanted Epcon to be able to buy the property and gave background on his family's Apex residency. They want to sell because it is very expensive to live in Wake County. Before his mother passed, she stated the family

might want to sell some of the land. His intent is to leave an inheritance for his children and to take care of his family.

Harlan Stafford talked about enjoying the benefits of living in Wake County and Apex. He agreed 64 needs some improvements, but also agreed with those who spoke this evening about reconsidering the current plans. He asked Council to consider all neighbors and do what could be done to not cause impact to the library.

Lesley White stated she was representing 78 neighbors and her children. She spoke about it not being totally safe or accessible to sidewalks, and the original design for the neighborhood. They did not want the tree buffer removed to put in a sidewalk; they wanted the Town to put in curb and gutter instead. She asked for their sound protection to be maintained.

Reid Davidson stated he and wife didn't want the sidewalk completion project. It would lower property value and increase noise and light projections. He didn't see benefit of installing curb and gutter. This would also negatively impact the stormwater system. There are other options for connecting the sidewalks.

Mayor Olive asked the Town Manager and staff to take the comments presented into consideration. It could possibly be a conversation for the upcoming retreat. Staff noted that DOT owns the 64 project and the highway. Opinions and thoughts would need to go through them at their January 28th meeting. The Town would not be voting on this project.

PUBLIC HEARINGS

Public Hearing 01 : Shelly Mayo, Planner II

Rezoning Application #18CZ33 (7800 Secluded Acres Road). The applicants, Jeffrey & Lindy Morris, sought to rezone approximately 5.61 acres located at 7800 Secluded Acres Road from Rural Residential (RR) to Low Density-Conditional Zoning (LD-CZ).

Staff oriented Council to the site. A neighborhood meeting was held. Staff recommended approval. Staff responded to Council questions regarding street properties, sidewalks, greenways, and accessory apartments.

Jeff Morris, applicant and property owner, stated they don't have a buyer for the property as yet. He was in attendance to answer any Council questions. He was asking for the rezoning because he saw it as the best usage of the property to benefit his family's future.

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 KILLINGSWORTH MADE THE MOTION
TO APPROVE THE REZONING; COUNCIL MEMBER GANTT SECONDED THE MOTION.
THE MOTION CARRIED BY A 5-0 VOTE.

Public Hearing 02 : Shannon Cox, Long Range Planning Manager

Amendment to remove a future Minor Collector street from the Thoroughfare and Collector Street Plan map in the vicinity of the proposed Trinity Apex Planned Unit Development

Staff detailed the proposed amendment. Planning staff recommended approval as did the Planning Board. Staff answered Council questions related to connectivity.

Jason Barron, Morningstar Law Group and representing the applicant, stated he was in attendance to support the request.

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 AMENDMENT; COUNCIL MEMBER MOYER SECONDED THE MOTION.
THE MOTION CARRIED BY A 5-0 VOTE.

Public Hearing 03 : Shelly Mayo, Planner II

Rezoning Application #18CZ32 Old Mill Village Lot 1 PUD Amendment. The applicant, Jones & Cnossen Engineering, PLLC, sought to rezone approximately 2.82 acres located at 400 & 450 N. Mason Street from Planned Unit Development-Conditional Zoning (PUD-CZ) to Planned Unit Development-Conditional Zoning (PUD-CZ) to update allowed uses and development requirements

Staff oriented Council to the site and gave background on past changes to the property and why this rezoning was being requested. A neighborhood meeting was held. Staff clarified the specifics of each of the proposed uses and to what the applicant was agreeable to provide in relation to uses. Planning recommended approval as did the Planning Board. Staff answered Council questions related to past decisions regarding the property, possible parking, and traffic.

Staff detailed the trip generation table related to the current and proposed zoning and at what point a traffic impact analysis would be conducted.

Peter Cnossen, Jones and Cnossen Engineering, representing the applicant, expressed appreciation to staff. He presented a brief history of the owner who wished to construct a day care center on this

property. Mr. Crossen and the owner believed this would be a good use for the area. Mr. Crossen encouraged the rezoning, hoping that Council would see this as a positive. He answered questions from Council regarding the feasibility of further decisions about the property being made this evening and a privacy fence.

Mayor Olive declared the Public Hearing open.

Lynnette Cardillo did not want the property rezoned for day care, and she gave her reasons why. She wanted the property developed as originally planned.

Lori Kemeny, founding parent of Primrose, spoke about how Primrose did not have a choice in moving its location. Primrose provides a high level of education. She understood the concern about parking, but felt this use would be a benefit vs. retail and its traffic.

Kerry Stockman, owner of Primrose, spoke about having to shift gears after finding out the school had to move. They needed to get a new school quickly. The effect of how this could affect their employees was addressed along with event parking and fire alarms not being distracting.

Content Truelove, consultant at Primrose, spoke about the accredited curriculum, revenue stream, employees, and students.

Beth Tsai stated she was opposed to the daycare, asking what responsibility the Town has to those already living in the area. She wanted to have what was promised them.

Mike Chirico was opposed, stating that he bought his home with the previous plan as mixed use/retail in mind. He spoke about Council's past zoning decisions, the impact of traffic, and their having a right to have a say in what is built on the land.

Brad Kelly stated his son attends Primrose and that it's above and beyond the place to go. He spoke about what they focus on that other day cares don't. More walkability would be helpful. Mr. Kelly stated Primrose would not have traffic seven days a week as would some of the other uses. He supported this great place that cares about the kids and the community.

Karin Cleary stated she was also representing her mother. She talked about Apex being a great place, noting her concern about places for the elderly to live without stairs. She encouraged Council to help bring in elderly and older housing and to keep the original plan for condos, if possible.

Kathryn Morgan spoke about why she chose to move to Apex, the live/work concept being one of the reasons. She read from the advertising material which outlined the original uses. She opposed the day care zoning and talked about parking.

Lori Pfister stated the idea of three preschools within a short distance was not a problem because of those moving into the area who need the service. She was a friend of Primrose, and empathetic to the owners and all they're going through. She did not feel the noise of the fire alarm was as loud as a leaf blower.

Barbara Collins, a Primrose grandparent, would love for Primrose to stay in Apex. The business of Council was to find the best use for the property. She spoke about how other commercial/retail spaces are all vacant.

Cathy East stated her concern was about parking.

Teri Nelson did not want Council to make a hasty decision on this. The original plan was why they purchased their home, and Council was asked to stick to that plan. They love the downtown and go there every week.

Eric Rifkin, Halle Companies, stated the original plan was not buildable now because of building code changes. Primrose was only three years old, and already they were being asked to move. He spoke about specifics of the site and supported Primrose even in relation to all the concerns that had been expressed this evening. Primrose is an early education center, not just day care.

Mayor Olive declared the Public Hearing closed.

Staff answered Council questions related to traffic flow. Mr. Cnossen agreed to two entrances to the site. Mr. Rifkin answered Council questions related to the choice of this location vs. another location and parking spaces. Staff responded to a sidewalk question.

Council felt the day care would not significantly increase traffic. Stated was how the retail is market driven and way bigger than we are. This was an opportunity to do something right for a local small business who did not know this was going to happen to them. This exception needed to be made.

Council was very impressed when the day care first opened. This would be a very hard decision; but based on people's expectations, there could not be support for the request. This nonsupport decision did not make Council happy.

Council felt Primrose would be good for the area, but neighbors expected the original plan. Council did not intend to support the request.

MAYOR OLIVE CALLED FOR A MOTION. COUNCIL MEMBER MOYER MADE THE MOTION TO APPROVE
THE REZONING; COUNCIL MEMBER KILLINGSWORTH SECONDED THE MOTION.

Staff reminded this would be with conditions stated on this evening. There was further discussion about the privacy fence and buffers. The Mayor stated there was probably a better place for this business based on neighbors' expectation of mixed use as originally stated.

COUNCIL MEMBERS MOYER, KILLINGSWORTH, AND JENSEN VOTED IN THE AFFIRMATIVE;
COUNCIL MEMBERS DOZIER AND GANTT VOTED IN THE NEGATIVE.
THE MOTION CARRIED BY A 3-2 VOTE.

Mayor Olive called for a five-minute recess.

With no objections from Council, Mayor Olive stated the ending item on the Agenda would be deferred in order to go into Closed Session with a clear mind [in view of the late time].

Public Hearing 04 : Amanda Bunce, Current Planning Manager

2030 Land Use Map amendment and rezoning application #16CZ32 Trinity Apex PUD. The applicants - Page Two Holdings, LLC and Rodessa, LLC - proposed to amend the 2030 Land Use Map from Medium-High Density Residential/High Density Residential to Medium-High Density Residential/High Density Residential/Office Employment/Commercial Services and to rezone ±25.5 acres located at 0 & 1709 E. Williams Street from Residential Agricultural (RA) to Planned Unit Development-Conditional Zoning (PUD-CZ)

Staff detailed the amendment and oriented Council to the site. A neighborhood meeting was held. Planning was in support of the amendment in the context it was being proposed. The Parks, Recreation, and Cultural Resources Commission recommended a fee in lieu. Planning and the Planning Board recommended approval.

Staff answered Council questions related to road construction and buffers.

Jason Barron, Attorney at Morningstar Law Group, representing the applicant, further detailed the specifics of the PUD. They were of the belief this was a good Plan for the site with public benefits into the future. They had agreed to a condition related to solar.

Mayor Olive declared the Public Hearing open.

Ingrid and Joel Toy, sellers, pulled together 23 family members to get this accomplished. They worked with the developer every step of the way and had done everything that was asked of them. The property had been in their family 78 years, and they were excited to be part of something that would give new life to 55. Council was asked for their support and approval.

Mayor Olive declared the Public Hearing closed.

MAYOR OLIVE CALLED FOR A MOTION. COUNCIL MEMBER MOYER MADE THE MOTION TO APPROVE THE AMENDMENT AND REZONING WITH THE SOLAR CONDITION; COUNCIL MEMBER KILLINGSWORTH SECONDED THE MOTION.
THE MOTION CARRIED BY A 5-0 VOTE.

Public Hearing 05 : Amanda Bunce, Current Planning Manager
Various amendments to the Unified Development Ordinance

Staff oriented Council to the five proposed amendments and answered questions related to lighting.

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 GANTT SECONDED THE MOTION.

Council expressed concern about the angle of signage. Staff will let Council know if this becomes problematic.

THE MOTION CARRIED BY A 5-0 VOTE.

OLD BUSINESS

There were no Old Business items for consideration.

UNFINISHED BUSINESS

Unfinished Business 01 : Amanda Bunce, Current Planning Manager

Rezoning application #18CZ29 Courtyards on Holt PUD. The applicant, EPCON Communities, sought to rezone approximately ±28.839 acres - for the properties located at 305 & 313 Catlette Street and 0, 1345, 1313, & 1337 Holt Road - from Rural Residential (RR) to Planned Unit Development-Conditional Zoning (PUD-CZ)

Staff oriented Council to the site. The applicant added two solar conditions. Staff defined 'age restricted' and felt this would be enforced by the HOA. Jason Barron, Attorney with Morningstar Law Group, stated the HOA would have to file with the federal government compliance with the age restrictions.

MAYOR OLIVE CALLED FOR A MOTION. COUNCIL MEMBER GANTT MADE THE MOTION TO APPROVE
THE REZONING; COUNCIL MEMBER MOYER SECONDED THE MOTION.

Council asked for consideration of the applicant's wishes related to not being able to afford the high taxes on this property. Council expressed unhappiness related to the sidewalk.

COUNCIL MEMBERS GANTT, MOYER, AND JENSEN VOTED IN THE AFFIRMATIVE; COUNCIL
MEMBERS DOZIER AND KILLINGSWORTH VOTED IN THE NEGATIVE.
THE MOTION CARRIED BY A 3-2 VOTE.

NEW BUSINESS

New Business 01 : Council Member Bill Jensen

Resolution Supporting the Goals of the Paris Climate Change Agreement

Council Member Jensen stated he was in agreement with this item being continued to the February 5th meeting.

CLOSED SESSION

Closed Session : Joanna Helms, Economic Development Director and Laurie Hohe, Town Attorney

Closed Session (1) to discuss the location or expansion of business or industry in the Town of Apex, and (2) to meet with the Town Attorney to discuss the handling of the matter of Upright Builders v. Town of Apex

MAYOR OLIVE CALLED FOR A MOTION TO GO INTO CLOSED SESSION. COUNCIL MEMBER KILLINGSWORTH
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.

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 declared the meeting adjourned.

Donna B. Hosch, MMC, NCCMC
Town Clerk

ATTEST:

Lance Olive, Mayor



Joint Conversational Meeting with Holly Springs Tuesday, January 29, 2019

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 Joint Conversational Meeting scheduled for Tuesday, January 29, 2019, at 6:00 p.m. was held at the Halle Cultural Arts Center, 237 N. Salem Street, Apex

In attendance from Apex were 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

In attendance from Holly Springs were Mayor Dick Sears, Mayor Pro Tem Tom O'Brien, and Council Members Cheri Lee, Peter Villadsen, Dan Berry, and Christine Kelly

Also in attendance were Town Manager Randy Harrington, Assistant Town Manager Daniel Weeks, Assistant Town Manager J. Scott Chase, and Town Clerk Linda McKinney

Note: this was an informal, joint conversational, dinner meeting with the Town of Holly Springs, geared towards both Councils becoming better acquainted and to share ideas on those things which would enhance both communities. All discussion was candid and presented on an informational basis only.

Mayor Pro Tem Dozier welcomed everyone to the meeting. Each person identified themselves, stated their day job, and gave a one-word descriptor of their town.

Conversation touched on projects in which both towns could partner, balancing the needs and wants of the citizens, investing in elements that would enhance the downtowns, the current presence of regionalism and its positive effects, Apex's Community Center and Skate Park, location of parks, the school systems and resulting traffic issues, public swimming pools, purchase of park land, Veridea, the landfill in Holly Springs, environmental and noise issues with trains, Council committees and their purpose, and Retreat formats.

Council Members gave one word descriptors as to how they felt after the discussion.

Town Manager Havens thanked everyone for attending and spoke about the benefits of the kind of dialog that was expressed this evening. Town Manager Harrington thanked all for their participation and expressed his views on the positives of joint dialogs.

Donna B. Hosch, MMC, NCCMC
Town Clerk

ATTEST:

Nicole Dozier, Mayor Pro Tem