



## APEX TOWN COUNCIL MEETING

TUESDAY, JANUARY 19, 2016

Lance Olive, Mayor  
Nicole L. Dozier, Mayor Pro Tempore  
Eugene J. Schulze, William S. Jensen, Denise C. Wilkie,  
and Wesley M. Moyer, Council Members  
Drew Havens, Interim Town Manager  
Tim Donnelly, Interim 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, January 19, 2016, at 7:00 p.m. was held in the Council Chamber of Apex Town Hall, 73 Hunter Street

### COMMENCEMENT

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

### PRESENTATIONS

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There were no Presentations to be made.

### CONSENT AGENDA

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- Consent 01 Minutes of the December 15, 2015 and January 5, 2016 Regular Council Meetings
- Consent 02 Apex Tax Report dated 12/04/2015
- Consent 03 Contract, not to exceed \$124,799, to Kimley-Horn and Associates for the design of Phase I of the Beaver Creek Greenway segment between Kelly Road Park (Kelly Road) and the Apex Nature Park (Barbecue Road), associated budget amendment, and authorization for the Interim Town Manager to sign all related documents
- Consent 04 Set a Public Hearing for Tuesday, February 2, 2016 at 7:00 p.m. to receive citizen input regarding the formulation of the Fiscal Year 2016-2017 Annual Budget
- Consent 05 Budget ordinance amendment for the supplemental municipal agreement with NCDOT to secure 80% of the project right of way and construction cost in federal funds, requiring 20% matching local funds, for Lake Pine Drive Improvements, TIP Project No. U-5537
- Consent 06 Budget amendment in the amount of \$862,400 for reimbursement of excessive prepaid sewer capacity fees (cause based) to Apex First Development
- Consent 07 Cooperative Purchasing Agreement (CPA) between the Town and Wake County concerning Disaster Debris Monitoring Services and a related CPA with HDR Engineering, Inc. of the Carolinas

Consent 08 Budget Amendment to fund the 2035 Land Use Map - Economic Study

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

## REGULAR MEETING AGENDA

Mayor Olive stated that for Public Hearing 01, the applicant wished a neighborhood meeting to hear citizen input. He asked Council if they wished to approve deferring the Public Hearing until the first meeting in March or if they wished to hold the Hearing this evening. Council stated this was postponed for same reason the last time. It wouldn't serve citizens well to postpone again. Council asked what happened to communication with the neighbors.

Glenda Topp, Topp and Associates, stated the applicant reached out to both HOA presidents; there was no communication with the single family community. This was difficult to arrange because of holiday timing. The applicant wished one more chance to sit down and talk during two or three meetings and get to the items which have not been addressed. They would then not be back with another postponement request. They have more information about which they'd like the opportunity to talk. It may not resolve all issues, but they felt it in the best interest of the neighbors and the Town to meet one more time. The first meeting in March would give them ample time to accomplish this.

Council stated he was willing to postpone if the citizens in attendance agreed. Most indicated they did not want a postponement; they wanted Council to vote this evening.

MAYOR OLIVE CALLED FOR A MOTION TO ADOPT THE REMAINDER OF THE AGENDA. COUNCIL MEMBER WILKIE MADE THE MOTION; COUNCIL MEMBER MOYER SECONDED THE MOTION.  
THE MOTION CARRIED BY A 5-0 VOTE.

## PUBLIC FORUM

Mayor Olive overviewed the protocol for people to speak. He stated that Council would only hear from the Committee on the Pleasant Park concept drawings.

## PUBLIC HEARINGS

Public Hearing 01 : Brendie Vega, Principal Planner

Continuation of public hearing from November 17, 2015 and motion on rezoning application #15CZ28 (West Williams Retail) to rezone 5.01± acres located on the west side of West Williams Street, south of Olive Chapel Road and north of Bryan Drive from Planned Unit Development (#02CU13) to Neighborhood Business-Conditional Zoning (B1-CZ)

Staff oriented Council to the site and answered Council questions on truck idling and the type of stream on the property. Related to the latter, staff stated a previous determination was made, and the stream is intermittent.

The applicant, Sam Costello of Weidel, expanded on this project being developer responsible. If their project fails Council vote, there are other developers waiting to build on the property. They have made concessions based on standards and requests, which make them a responsible development partner. They have the resources and commitment to this community to be responsible.

Glenda Topp, Topp and Associates, talked about the layout plan from several years ago. It was difficult to get uses to fit the boxes on the property. She spoke about the property characteristics and building on it. This developer added conditions that they don't typically add. Most similar stores don't have the types of conditions to which this developer has agreed. They believed this a good use for the site.

In favor, Frank Miller, Little Diversified, civil engineer on the project, stated that as for the UDO requirements for stormwater retention, the applicant is agreeable to going from a 10 year to a 25 year storm retention.

Michael Fendrick, traffic engineer, stated they completed a capacity analysis, and it showed minimal impact to various intersections. The applicant has added more, positive conditions. They looked at the existing zoning. He gave three scenarios for various types of buildings under the current zoning. In all cases, they came up with more trips than if property was developed as a supermarket. Mr. Fendrick stated that if he lived in the neighborhood, he would be more concerned what would come in if their project fails. There is more traffic by 30-50% with the existing zoning than the proposed zoning.

Mayor Olive declared the Public Hearing open.

Those speaking in opposition to the rezoning were Maggie O'Keeffe, Bruce Rifleman, Mark Wyman, Lisa Alfonso, Mike Herbert, Jane Seeger, Christy Ford, Paul Dewey, Dan Tilly, Nancy Rose, Nicole Rifleman, Scot Caulifer, Dianna Londano, Kevin Muzzilo, and Lori Hughes. Their concerns were as follows: there are nine supermarkets in a small area and two large discount supermarkets. Why do we need another one,

especially with the traffic concerns? Anything coming down off the wetlands will go into the yards. This company is a direct threat to American retailers. The stream is not intermittent anymore. This big box store will negatively impact property values, but the PUD is liked. Against the proposed 24-hour operation and 20' wall. Smaller businesses would not take up space all the way to home windows. Objection to noise disturbances. Will have smells; nothing put in writing about the fencing. Told resident concerns not valid and explanation was given as to why they are. Previous PUD would protect the neighborhoods. Benefits of smaller, non-commercial buildings were given. Primary food entrance behind Walgreens will bring loud noise disturbances from idling diesel tacker trailers in and out all through the night. Growth according to the PUD supported. Applicant should grow in Apex, just not in this location. The stream may run dry, residents have certain property rights, the courts say obstructing a stream affecting people downstream is a class 2 misdemeanor, no hydrological study has been done, whose rights are more important.

Mayor Olive declared the Public Hearing closed.

Council had a problem with the 30 foot wall which will be hard to buffer and there being a wetland that feeds the stream. The previous PUD did not have some of the teeth that would prevent another 30 foot wall. Council stated Lidl is a good company and would be an asset to Apex, but not on this spot.

Council stated she met with homeowners and her issue is the fairness of all this. People bought their houses related to the current PUD.

Council stated there is a PUD plan already associated with this, we'd need a compelling reason to change the plan, and this was not it. He likes Lidl; they are wanted in Apex, just not in this location. He reminded that this is America; and if you think you can do it, then you need to be able to do it. He did question what would happen in five years with the delivery restrictions. Traffic could be worse; but this would have had to go through site plan, and he doubted that staff would approve if it was. It's not fair to put a 24-hour operation beside residents.

Council stated she met with the residents and viewed the property. She thought this would be a great thing for Apex, but that it's the wrong location at the wrong time.

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

Mayor Olive addressed the audience, stating he appreciated everyone being involved in the government process which can be frustrating at times. He did not want to give the impression that Lidl was not welcome in Apex, just that Council believed there was a better area for it to be located. The proposed area is too close to a neighborhood and it's too high. Facts were brought out and not just emotions. He believed staff would be able to work with Lidl to help them find a suitable place.

**Public Hearing 02 : Dianne Khin, Planning Director**

The applicant has requested this item be continued until the February 2, 2016 meeting

**Public Hearing and possible motion to adopt an Ordinance on the Question of Annexation – Apex Town Council's intent to annex Smith Farm PUD properties containing 271.862 acres located on the north side of Olive Chapel Road, east of the American Tobacco Trail and north of Richardson Road, Annexation #562 into the Town's corporate limits**

Staff stated the continuance was in response to concerns raised at the Planning Board meeting. The applicant was in attendance and confirmed the request.

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

**Public Hearing 03 : Michael Clark, Senior Planner**

The applicant has requested this item be continued until the February 2, 2016 meeting

**Public hearing and possible motion regarding rezoning application #15CZ32 (Smith Farm) and Ordinance to rezone 23 parcels totaling 270.514± acres located south of US 64, east of the American Tobacco Trail, and north of Olive Chapel Road, from Rural Residential (RR) and R-80W to Planned Unit Development – Conditional Zoning (PUD-CZ)**

Staff stated the continuance was in response to concerns raised at the Planning Board meeting. The applicant was in attendance and confirmed the request.

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

Mayor Olive called a five minute recess.

**Public Hearing 04 : Shelly Mayo, Planner**

**Public hearing and rezoning application #15CZ36 (Kelly Road Retail). The applicant, Matt Kirkpatrick, Kirkpatrick & Associates is seeking to rezone from Neighborhood Business Conditional Use (B1-CU) to Neighborhood Business Conditional Zoning (B1-CZ). The 1.75 acre property is located at the northwestern quadrant of the intersection of Kelly Road and Olive Chapel Road**

Staff oriented Council to the site. A neighborhood meeting was held and there were no attendees. A second meeting was held. The applicant wished to place a veterinary clinic on this property and it's currently not allowed. Staff outlined the restrictions of the property. Staff and the Planning Board recommended approval. The school, which was also noticed, had not contacted staff with questions or concerns.

Mayor Olive declared the Public Hearing open.

In favor, Jay Gilleese, Gilleese and Associates, stated they wish to reduce the buffer and add one use.

Paul Schmidt, resident, stated low attendance could have been related to the first notice not being received and that there are a lot of renters in the area who aren't really concerned about this. Traffic was a concern for him. There is a plan to widen the road, but he has not seen anything that tells when. He stated he also did not get notice for Publix which came to the area.

Mayor Olive declared the Public Hearing closed.

Council stated Publix will have to make substantial improvements to the road; therefore, it will be much better managed with retail having a flat traffic pattern. Staff stated this use is a lower traffic generator. Road improvements will begin this Fall, and Council expounded on what would be done and the relief that would be provided. Staff, responding to question from Council, spoke on the right of way availability. Responding to Council on notifications, staff stated we get back 2-20 letters because property owners do not let the tax assessor know of changes in their addresses. Staff stated our notification area of 300 feet is triple what State law requires. Also, HOA presidents are notified. But if presidents change, sometimes the information is not passed on. This we can't control, and we do ask the HOAs to keep their information current with us.

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

Mr. Schmidt stated sending notice to owners and renters may help. The Mayor stated this was a topic that could be talked about in Committee.

Public Hearing 05 : Dianne Khin, Planning Director

Public Hearing and Ordinance on the Question of Annexation – Apex Town Council’s intent to annex Western Wake Ventures, LLC (Deer Creek) property containing 78.708 acres located at 401 New Hill-Olive Chapel Road and south of US 64 W Annexation #561 into the Town’s corporate limits

Staff oriented Council to the site and stated that it 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 SCHUZLE MADE THE MOTION TO ADOPT  
THE ORDINANCE; COUNCIL MEMBER WILKIE SECONDED THE MOTION.  
THE MOTION CARRIED BY A 5-0 VOTE.

Public Hearing 06 : Dianne Khin, Planning Director

Public Hearing and Ordinance on the Question of Annexation – Apex Town Council’s intent to annex Beth H. Rhew property (Deer Creek) containing 3.003 acres located at 417 and 425 New Hill-Olive Chapel Road, Annexation #565 into the Town’s corporate limits

Staff oriented Council to the site and 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 SCHUZLE MADE THE MOTION TO ADOPT  
THE ORDINANCE; COUNCIL MEMBER WILKIE SECONDED THE MOTION.  
THE MOTION CARRIED BY A 5-0 VOTE.

Public Hearing 07 : Dianne Khin, Planning Director

Public Hearing and Ordinance on the Question of Annexation – Apex Town Council’s intent to annex James and Tiffany Stopper property (single-family home) containing .8851 acres located at 1404 Salem Church Road, Annexation #563 into the Town’s corporate limits

Staff oriented Council to the site, stating it 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 MOYER MADE THE MOTION TO ADOPT  
THE ORDINANCE; COUNCIL MEMBER DOZIER SECONDED THE MOTION.  
THE MOTION CARRIED BY A 5-0 VOTE.

Public Hearing 08 : Dianne Khin, Planning Director

Public Hearing and Ordinance on the Question of Annexation – Apex Town Council’s intent to annex JVI Development II, Inc.(Manors Ph 8C) property containing 7.5585 acres located at 2919 Evans Road, 0, 2813 and 2817 Walden Road, Annexation #564 into the Town’s corporate limits

Staff oriented Council to the site, stating that staff 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 SCHUZLE MADE THE MOTION TO ADOPT THE ORDINANCE; COUNCIL MEMBER WILKIE SECONDED THE MOTION.  
THE MOTION CARRIED BY A 5-0 VOTE.

Public Hearing 09 – Quasi Judicial : Amanda Bunce, Planner II

Quasi-Judicial Public Hearing and Major Site Plan for The Flats at 540, a portion of 28.561 acres located at 2501 Creekside Landing Drive

*An audio recording of the following Quasi-Judicial Public Hearing made by the Town Clerk is incorporated into these Minutes by reference. The audio recording or transcript of the Hearing should be used as the verbatim record of the questions, testimonies, evidentiary rulings, and discussions that occurred at the Quasi-Judicial Hearing.*

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Mayor Olive read the introduction for the quasi-judicial hearing. All Council was provided a checklist to use to ensure that all standards were met.

Mayor Olive declared the Public Hearing open and stated all those wishing to speak would be sworn in. Those persons were sworn in by the Town Clerk. The Mayor recognized Beth Trahos on behalf of the applicant. There was no representation for opposition.

All Council members stated they had no conflicts or communications with the applicant in respect to this project.

**Opening Statement by Applicant** – Beth Trahos, Smith Moore Leatherwood, representing the applicant, named the witnesses she would present. She pointed to the notebook that was prepared for Council and asked that it be put into evidence. Ms. Trahos stated she was present to talk about the project site plan and detailed what section of the property was applicable for this evening. The notebooks were distributed to Council.

Speaking in opposition, Xingliang Zhou, stated he attended a previous hearing. He raised questions about connections. Mayor Olive explained that this part of the process was for criteria and not opinions. The Town Attorney explained Mr. Zhou could speak related to his experience as a resident. Mayor Olive stated Mr. Zhou would be called upon later to make his statements.

**Testimony of Staff** – Amanda Bunce stated her name and presented her credentials. She then oriented Council to the site. She stated zoning was approved in November; the location of the site was given. A neighborhood meeting was held, and the use was outlined. The Plan was in compliance with our Plans and Standards.

Council asked about the 30% residential and where it was located. Planning Director Dianne Khin stated her name and presented her credentials. She stated this request only involved Beaver Creek Crossing. The GIS analyst stated this is over 50% residential, which is more than what is required.

**Applicant Cross Examination of Staff** – Ms. Trahos asked for clarity of the major site plan standards – was the applicant in compliance with letters B, C, D, E, F, G, H. Staff stated they were in compliance.

**Opposition Cross Examination of Staff** – Mr. Zhou asked the cost and size of townhomes. Staff stated she was not allowed to answer that question. Ms. Trahos stated this was not a part of the standards. Mr. Zhou asked how many one and two bedroom units were there. Staff did not have that breakdown.

Mayor Olive asked Council if they had viewed the site. No Council Member had viewed the site. He asked the applicant if she had any questions for Council, and there were none. Mr. Zhou had no questions for Council.

**Presentation of Evidence by the Applicant** – Ms. Trahos called Jay Gilleese, Civil Engineer with Gilleese & Associates, stated his name and presented his credentials as an expert witness on engineering. He gave a summary of the project. The staff worked with them on the PUD to submit the site plan. This plan meets all requirements for Apex and the Department of Transportation (DOT).

Council asked if there was a similar type project in the area, to which staff replied nothing of this style that is not a senior only facility. Mr. Zhou had no cross questions.

Ms. Trahos called Christa Green, Traffic Engineer with Stantee, who stated her name and presented her credentials, qualifying her as an expert. Ms. Green spoke about the traffic study. The developer is willing to pay for traffic light improvements if necessary. The number of units was decreased during the zoning process.

Council requested the installation of a traffic signal written in as a condition, to which Ms. Trahos agreed. Mr. Zhou asked for an estimation of the number of drivers. Ms. Trahos stated they don't do number of drivers but number of trips, and she gave those numbers for the apartments. Mr. Zhou asked about connection to Green Level Church, and Ms. Green stated she studied the community and not the property.

Ms. Trahos called Michael Lattner, Land Planner with Cline Design Associates, who stated his name and presented his credentials. He stated they came up with a plan that they think works well for the community, and he detailed the site and amenities. The plan was compatible with the 2030 Land Use Plan and met ordinances and conditions. The homes are compatible with surrounding land uses.

Council asked if there was anything like this in the area, Mr. Lattner responding there was one in Raleigh and another one under construction with a bit larger density.

Ms. Trahos asked Mr. Lattner what made the project unique. He stated wonderful frontages, as this would be the front door to Apex. Responding to the structure of the units, Mr. Lattner explained the buildings are situated in a way so as to give a view or turned to face inward so that highways don't feel like they're in the backyard. They are compatible with existing land uses.

Council asked for an explanation of what looked like five floors. Mr. Lattner explained the extra level was a loft space. Mr. Zhou had no questions.

Ms. Trahos called Tom Hester, Appraiser, Hester & Company, who stated his name and presented his credentials. Mr. Hester stated that they looked at what was in Wake County. The site plan was compatible with uses in the area, not having a negative effect on the surrounding area.

There were no questions from Council. Mr. Zhou asked how the units will be appraised, and Mr. Hester explained this process. Mr. Zhou did not believe there were any comparables in the area, and Mr. Hester stated there were and gave reasons why his judgments were valid on this. He did not know the value of

the apartments, but the builder will get as much rent as he can. Ms. Trahos asked Mr. Hester to explain the compatibility of his appraisals, which he did.

Ms. Trahos stated this concluded this portion.

**Presentation of Evidence by Opponent** - Mr. Zhou presented himself as an expert resident in the nearby area, owning rental property. He did not have specific evidence, he was not saying the plan was bad, but he did want answers from the developers. He was comfortable with traffic questions but wanted answers as to how many one and two bedroom apartments there would be. He was concerned about the value of these properties. Mr. Zhou stated the witnesses were qualified to answer his question, but they didn't seem willing to do so. Mr. Zhou asked Council if it didn't know the value of the property, how could they approve the plan. There were no questions from Council.

**Cross Examination of Opposition by Applicant** – Ms. Trahos asked Mr. Zhou where we now lives, to which he responded Cary. They are going to sell their house there and move to Apex.

There were no rebuttal questions from staff or the applicant and no closing statement by staff.

**Closing Statement by Applicant** – Ms. Trahos went through each of the site plan standards and stated how each had been met.

**Closing Statement by Opposition** – Mr. Zhou stated that as a homeowner, he hoped he would get the requested information from the developers and that Council would keep the existing values of the surrounding homes.

Mayor Olive declared the Public Hearing closed.

Mayor Olive read the standards for response from Council as to if it felt each standard had been met. The amount of fee in lieu was stated.

MAYOR OLIVE CALLED FOR A MOTION. COUNCIL MEMBER SCHULZE MADE THE MOTION TO APPROVE  
THE PLAN; COUNCIL MEMBER WILKIE SECONDED THE MOTION.

The Town Attorney stated there was a previous condition and asked was this incorporated in the information presented this evening. Staff stated it was already approved and a part of the rezoning. Council stated it is not concerned with the price of the units but things such as roads.

Ms. Trahos asked if New Business 01 could be heard at this point. Mayor Olive, after explaining the timeslot of 11:00 p.m., asked Council if it wished to do this. After a bit of discussion, Council stated he wished to do New Business 01 now and then continue as planned even though this would go past 11:00. That way, a group of people wouldn't have to come back.

COUNCIL MEMBER SCHULZE REVISED HIS MOTION TO APPROVE THE PLAN, TO BREAK FROM THE AGENDA AND DEAL WITH NEW BUSINESS 01 NEXT, AND TO CONTINUE THE AGENDA AS WRITTEN UNTIL BUSINESS COMPLETED OR 11:00 P.M.; COUNCIL MEMBER MOYER SECONDED THE MOTION.  
THE MOTION CARRIED BY A 5-0 VOTE.

**New Business 01 : Amanda Bunce, Planner II**

**540 Townes - Master Subdivision Plan - for a portion of the property located at 2501 Creekside Landing Drive containing 28.561 acres and 73 lots**

Staff oriented Council to the site. Staff recommended approval.

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

Council stated he hoped there would be a place for all these new people to work. Council asked if all residents would be able to use the amenities. Ms. Trahos stated the apartments will be under separate ownership and management, so this would be difficult. There will, however, be a central open space, walking trails, possibly a dog park, and Lifetime Fitness can be walked to. She reminded Council that this use meets the UDO requirements and that the Planning Board recommended approval.

**Public Hearing 10 : Dianne Khin, Planning Director**

**Public Hearing and changes to Peak Plan 2030: The Apex Comprehensive Plan to reduce Medium Density Residential from 6 units per acre to 5 units per acre; and 2030 Land Use Map amendments**

Staff stated this was in response to a request from Council. This was discussed by Council this past Fall, and an Economic Development Committee meeting generated the map amendments. Staff outlined the proposed changes. The Planning Board voted 6-1 to recommend the changes and unanimously on the land use amendments. The Planning Board felt more study was needed. Why change this arbitrarily; there's been little input from citizens, etc.

Mayor Olive declared the Public Hearing open.

Steve Swamp supported the density change but felt the Plan needed a better definition of 'density', as this is an aggregate number. Ann Kane supported the reduction in density and would support further reduction as this would maintain the small town character of Apex.

Stewart Jones, Jones and Clossen Engineering, heard the Planning Board debate and wanted to support them. They brought up great points. On density, we couldn't get single family near the proposed number, only townhomes. Townhomes are the number one generator; and to cut the density, you'd just be hurting townhomes.

Tom Colhoun stated there were two sides to this issue. He was shocked to receive the map in the mail; he read the Economic Development Committee statement that was on that map. Staff explained why the statement was included. The majority of Council did not agree with that statement. Staff stated this was an error on its part and apologized. Mr. Colhoun stated he was concerned with the randomness of changes to specific areas. The Plan was worked on a year and a half and everyone had input. The map was embraced, and plans were made based on it. This was done only several years ago. Mr. Colhoun spoke about how mixed use was not enforced on another project heard on this evening. Everyone should have been brought together and asked for their opinions. Arbitrary changes are frustrating. The ETJ is where growth is going to go. He did not understand why this was driven by Council and not the property owners.

Mayor Olive declared the public hearing closed.

Council stated lowering density will raise the price of homes and not give us affordable housing or allow people who live in Apex to work in Apex. She wants the people she teaches and other teachers to be able to afford to live here. That won't happen the way things are going. If people can't live here, surely they are not going to do business here.

Council stated he was in favor and gave reasons why. This would only slightly increase the cost of housing. Council stated she would like to reach out to someone like Greg Warren. In reference to affordable housing, maybe Mr. Warren or someone similar who knows how to do affordable housing could tell us the right way to do it.

Council stated he didn't really see the change affecting what's coming across our desks. Even with the current densities, people can't afford to live here. Council stated that in reference to affordability, we need to look at things as a whole and not individually. She wished to have a larger discussion on this so as to be more connected.

MAYOR OLIVE CALLED FOR A MOTION. COUNCIL MEMBER MOYER MADE THE MOTION TO APPROVE, MODIFYING THE DEFINITION OF DENSITY FROM 6 TO 5 BUT TO FURTHER STUDY THE PROPOSED CHANGES TO THE LAND USE MAP AT A LATER TIME; COUNCIL MEMBER JENSEN SECONDED THE MOTION.

Discussion ensued on this being a huge mistake, we would be dictating to land owners what they can do with their properties, this has gotten out of control, there is little affordability for young people and senior citizens and folks trying to downsize, the UDO having a huge amount of public input from property owners, proposed developments coming in less than proposed, property owners following the rules, high density bringing in the most money, our needing to be aware of what we're putting out and how it will affect the next 30 years. Council stated she didn't think Council was ready to decide this and asked should we bring someone in. She asked that this be sent back to Committee.

COUNCIL MEMBER MOYER WITHDREW HIS ORIGINAL MOTION AND MADE THE MOTION TO SEND THIS BACK TO COMMITTEE.

Council stated we change the UDO all the time for property owners; and now that we're asking to do it as a whole, we don't want to. This came from the community, and Council ran on gentle growth and three people tonight asked for this. Staff stated this went to the Economic Development Committee because that Committee asked for it. It should have gone to the Planning Committee. The Planning Board wants to see this.

COUNCIL MEMBER JENSEN MADE AN ALTERNATE MOTION FOR THESE ISSUES TO GO TO THE PLANNING COMMITTEE; COUNCIL MEMBER DOZIER SECONDED THE MOTION.  
THE MOTION CARRIED BY A 5-0 VOTE.

Mayor Olive asked Council if it wished to continue in light of the time.

COUNCIL MEMBER WILKIE MADE THE MOTION TO CONTINUE ON WITH UNFINISHED BUSINESS 01 AND 02 AND THEN CHECK THE TIME TO SEE WHERE THEY WERE; COUNCIL MEMBER SCHULZE SECONDED THE MOTION.

Council member dozier asked not to cover Unfinished Business 02.

COUNCIL MEMBER WILKIE REVISED HER MOTION TO EXCLUDE UNFINISHED BUSINESS 02.  
THE MOTION CARRIED BY A 5-0 VOTE.

**Public Hearing 11 : Brendie Vega, Principal Planner**

**Public Hearing and various amendments to the Unified Development Ordinance**

This was heard further down on the Agenda.

## OLD BUSINESS

There were no Old Business items for consideration.

## UNFINISHED BUSINESS

**Unfinished Business 01 : Council Member Wesley Moyer and Council Member Denise Wilkie**

**Discussion and motion regarding design options for Pleasant Park**

The Mayor stated this went to Committee, and Council stated the initial meeting went well. The recommendation of Committee was Concept 1, and he stated the reasons why. Traffic needs to be addressed but in the future. The Committee only talked about the Park design and the good things about the property. Council stated there was a great amount of citizen input. So Concept 1 was recommended, and this is what the citizens seem to want as well. Council also talked about the multi-use fields, adequate parking, and intelligent walkways between areas.

MAYOR OLIVE CALLED FOR A MOTION. COUNCIL MEMBER MOYER MADE THE MOTION TO RECOMMEND  
CONCEPT 1; COUNCIL WILKIE SECONDED THE MOTION.

Council was reminded that one family recommended relocating the tennis courts or shift them over. Staff stated now that we have a concept, there are ways to work with this.

THE MOTION CARRIED BY A 5-0 VOTE.

Staff stated the next step will be to start talking to the Corps of Engineers for wetlands, CSX for traffic patterns, and moving things around to address neighbor concerns. We know traffic is an issue, but this can now go to DOT.

Mayor Olive asked Council did it wish to continue. Consensus was to move forward to Public Hearing 11.

**Public Hearing 11 : Brendie Vega, Principal Planner**

**Public Hearing and various amendments to the Unified Development Ordinance**

Staff oriented Council to the various proposed amendments.

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 DOZIER MADE THE MOTION TO APPROVE THE AMENDMENTS; COUNCIL MEMBER WILKIE SECONDED THE MOTION.  
THE MOTION CARRIED BY A 5-0 VOTE.

Mayor Olive asked Council if it wished to continue. The consensus was to continue on to New Business 02.

**Unfinished Business 02 : Stacie Galloway, Communications Manager**

**Continued discussion of logo entries**

Because of the time, Council consensus was to postpone this item to the next regular meeting.

## **NEW BUSINESS**

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**New Business 01 : Amanda Bunce, Planner II**

**540 Townes - Master Subdivision Plan - for a portion of the property located at 2501 Creekside Landing Drive containing 28.561 acres and 73 lots**

This was heard earlier in the meeting following Public Hearing 09.

**New Business 02 : Brendie Vega, Principal Planner**

**Regency at White Oak Master Subdivision Plan - for the properties located off Green Level Church Road near Roberts Road. This project consists of approximately 3.92 acres and proposes 4 new single-family lots and amenity center**

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

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

Council consensus was to continue on to the Closed Session items.

## CLOSED SESSION

Closed Session 01 : Closed Session to consult with the Town Attorney related to handling of the matter of the City of Fayetteville and the Public Works Commission of the City of Fayetteville v. NC Environmental Management Commission, NC Department of Environmental and Natural Resources, and the Town of Cary and the Town of Apex

Closed Session 02 : Closed Session to receive legal advice from the Town Attorney regarding possible eminent domain

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

Council Member Wilkie was excused at this juncture.

MAYOR OLIVE CALLED FOR A MOTION TO RETURN TO OPEN SESSION. COUNCIL MEMBER JENSEN MADE THE MOTION; COUNCIL MEMBER DOZIER SECONDED THE MOTION.  
THE MOTION CARRIED BY A 4-0 VOTE.

MAYOR OLIVE CALLED FOR A MOTION TO APPROVE THE RESOLUTION AUTHORIZING EMINENT DOMAIN PROCEEDINGS FOR THE IMPROVEMENT OF THE APEX SEWER, WATER, AND ELECTRIC SYSTEMS AND FOR THE MANAGER TO SIGN THESE AGREEMENTS. COUNCIL MEMBER MOYER MADE THE MOTION; COUNCIL MEMBER JENSEN SECONDED THE MOTION.  
THE MOTION CARRIED BY A 4-0 VOTE.

MAYOR OLIVE CALLED FOR A MOTION FOR UNFINISHED BUSINESS 02 TO GO TO THE FEBRUARY 02 REGULAR AGENDA. COUNCIL MEMBER SCHULZE MADE THE MOTION; COUNCIL MEMBER DOZIER SECONDED THE MOTION.  
THE MOTION CARRIED BY A 4-0 VOTE.

## WORK SESSION

There were no Work Session items for consideration.

## ADJOURNMENT

With there being no further business,

MAYOR OLIVE CALLED FOR A MOTION TO ADJOURN. COUNCIL MEMBER DOZIER MADE THE  
MOTION; COUNCIL MEMBER JENSEN SECONDED THE MOTION.  
THE MOTION CARRIED BY A 4-0 VOTE.

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Donna B. Hosch, CMC, NCCMC  
Town Clerk

ATTEST:

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Lance Olive  
Mayor