



**TOWN OF APEX  
PLANNING BOARD MEETING MINUTES**

Meeting Date: June 10, 2019

The Planning Board held their regular meeting on June 10, 2019 at 4:30 p.m. at the Apex Town Hall Campus, 73 Hunter Street, Apex North Carolina, 2<sup>nd</sup> Floor Council Chambers, Members present were, Chair Margo Bills, Vice Chair Michael Marks, Board Members, Beth Godfrey, Reginald Skinner, Mark Steele, Tina Sherman, Steve Tyburski and Tommy Pate.

Chair Bills called the meeting to order at 4:30 p.m. Member Skinner gave the Invocation and Chair Bills led the Pledge of Allegiance.

**PUBLIC FORUM**

Chair Bills opened the floor for citizens to speak on non-agenda items; no one came forward.

**CONSENT**

Item #1 – Minutes from the May 13, 2019 regular meeting. Chair Bills called for a motion. Member Marks motioned to recommend approval. Member Skinner seconded. Motion carried with a unanimous vote.

**PUBLIC HEARINGS**

**Item #1**

Sarah Rayfield, Senior Planner stated in Rezoning Case #19CZ06, the applicants, Benjamin T. III and Emily Brooks are seeking to rezone approximately ±0.86 acres from Wake County Highway Commercial (HC) to Mixed Office-Residential-Retail-Conditional Zoning (MORR-CZ) located at 3512 Old US 1 Hwy. Planner Rayfield oriented those present as to the location of the subject property, existing uses, zoning and land use designations. Neighborhood meetings were held on February 11 and May 6, 2019 and the reports on those meetings are included in the agenda packet. Rayfield summarized the proposed uses and conditions and staff recommends approval in that it will allow the property to maintain the single-family use while providing flexibility for future development. It will maintain the character and appearance of the area and provide flexibility to accommodate the growth in population, economy and infrastructure consistent with the 2045 Land Use Map.

The applicant, Benjamin Brooks stated he purchased the 1920 farmhouse for his daughter who recently graduated from graduate school and hopes she will be happy there.

Chair Bills opened the public hearing for anyone to speak in favor or opposition of the rezoning. Chair Bills closed the public hearing; no one came forward to speak.

Member Sherman stated she had concerns about the 2045 designation of office and commercial; this being a single-family home does not fit in. Member Godfrey stated everyone was given full notice [of the rezoning] and this is an existing structure. Member Skinner stated the owner may want to develop later, but for now may live here.

Chair Bills called for the motion. Member Marks motioned to recommend approval to Town Council with the conditions proposed by the applicant. Member Godfrey seconded. Motion carried with the vote of 7 to 1. Member Sherman voted nay due to the existing use is inconsistent with the 2045 Land Use Map.

#### Item #2

Lauren Staudenmaier, Planner I stated in Rezoning Case #19CZ08, the applicant, Mark Maletta is seeking to rezone approximately ±2.413 acres from Wake County Residential-30 (R-30) to Neighborhood Business-Conditional Zoning (B1-CZ) located at 3112 New Hill Holleman Road. Planner Staudenmaier oriented those present as to the location of the subject property, existing uses, zoning and land use destinations. A neighborhood meeting was held on March 21 & May 7, 2019; the report on that meeting is included in the agenda packet. Planner Staudenmaier summarized the uses proposed and pointed out the two transportation related conditions:

1. The parcel shall include a north-south cross-access driveway easement to provide connectivity to the adjacent parcels.
2. Direct access to New Hill Holleman Road shall require a northbound left turn lane unless access is provided to Church Road, in which case direct access to New Hill Holleman Road shall be constructed as a right-in/right-out only.

The rezoning is reasonable and in the public interest because it will allow non-residential uses within the area, while providing flexibility for future development with the surrounding properties and staff recommends approval.

The applicant, Jeff Roach of Peak Engineering & Design stated the rezoning will allow the owner to market the property. They don't have an end-user but are setting it up to gain one.

Chair Bills opened the public hearing for anyone to speak in favor or opposition of the rezoning. Chair Bills closed the public hearing; no one came forward to speak. Chair Bills called for the motion. Member Skinner motioned to recommend approval to Town Council with the conditions offered by the applicant. Member Marks seconded. Motion carried with a unanimous vote.

#### Item #3

Amanda Bunce, Current Planning Manager stated in Rezoning Case #19CZ11 Olive Chapel Professional Park, the applicants, Patrick Kiernan, Jones & Clossen Engineering, PLLC/Olive Chapel Professional Park, LLC are seeking to rezone approximately ±8.52 acres from Office & Institutional-Conditional Zoning (O&I-CZ #16CZ11) to Office & Institutional-Conditional Zoning (O&I-CZ). Planner Bunce oriented those present as to the location of the subject property, surrounding and surrounding existing uses. Bunce pointed out there were concerns from residents regarding the level of lighting on the property which is under development. Staff spent time reviewing the approved site plan with the electric utilities department and decided some light poles would be swapped out to reduce the glare. This property was originally rezoned in 2016; the applicant wants to add one use, "barber and beauty shop" to the list of permitted uses and none of the other uses or conditions are proposed to be changed. Staff recommends approval as the rezoning is consistent with the 2045 Land Use Plan; the rezoning is reasonable and in the public interest because the additional use proposed in this rezoning will provide a service that is beneficial to those working and living in the general area and is of an intensity similar to other uses already approved for this property. In addition, the proposed use can be accommodated by the already approved site plan.

Some questions and comments from the Board were:

- There are concerns with the traffic in the general area; will this rezoning affect it? Bunce stated there were no concerns from the town's transportation engineer given there are other similar uses already approved for this site and the improvements that have already been made.
- Why was this use left off with the original rezoning? Bunce stated the applicant didn't have it in there and you have to go through the whole process again to add it in.

Patrick Kearnan of Jones & Cnossen stated the developer is working closely with the town to mitigate the lighting and to clean up the entrance to the site, another phase is going to commence soon so they can't move everything away but they will at least make it presentable.

Chair Bills opened the public hearing for anyone to speak in favor or opposition of the rezoning.

The following residents came forward to speak:

Ken Bunn 1408 Barnside Lane     Anne Cain 1401 Barnside Lane     Rita Boykin 1500 Clark Farm Road

Some comments were:

- The proposed use was not left off the original proposal; a discussion was had with the developer to remove that use.
- They proposed to avoid retail uses except those to be needed by the office tenants.
- Council restricted the uses to 18 and limited the hours of operation for retail uses between 7 a.m. and 9 p.m.
- There are two other hair salons within 1 ½ miles of this site; we don't need another one.
- Concerned with multiple future rezoning requests to add uses to this site.
- The lighting, construction, water retention problems and pond pollution are just a few of the many problems.
- The unfinished construction site is an eyesore to their neighborhood.

Chair Bills closed the public hearing.

Further comments from the Board:

- This is a terrible history. Was staff involved with the original 2016 rezoning request? Bunce stated there were issues with the approved site plan that was reviewed by a planner no longer here. There were things left off and missing which is why there is excessive building lighting; the developer is diligently working with staff and it has been reduced. This is an on-going process until it meets the UDO. Statement regarding the ability to market and if the second phase is tied to this request are to be addressed by the developer.
- How long has the lighting issue resolution been in process? Bunce stated a few months now.
- Do we know if the residents have called the appropriate people from the neighborhood notices? Bunce stated most of the contacts are not through the Planning Department so she would not have knowledge of this. Planning Director Khin stated she has seen emails of varying issues that have gone out to other departments.
- Concerned with this coming back; cannot support the rezoning.
- Concerned this Board was not told the use "barber and beauty shop" was removed from the original petition because of residents were opposed to it. Planning Director Khin stated staff does not attend neighborhood meetings and would not be privy.
- What is the specific reason the residents do not want a barber or beauty shop here? Ken Bunn stated it is a bad precedent, the developer has been unresponsive. An example is the lighting issue that they had to come to the town to get it resolved. The use will create a lot more traffic.

- The additional use proposed will be a lot less traffic than other uses that are allowed here.
- A dentist or doctor's office will generate more traffic than a barber or beauty shop.
- This Board is charged with whether or not the rezoning meets the requirements, not emotions.

Planner Bunce stated from what she could see on the network, the use "barber and beauty shop" was not presented to staff as a use at the time of the original petition, it may have been introduced at the neighborhood meeting, but staff would not have that information.

Patrick Kearnan offered that this [additional use] was brought up at the recent neighborhood meeting as an oversight. The engineer that originally presented this rezoning is now retired. The developer thought barber and beauty shop was under the category "personal service". The developer has addressed issues brought to his attention and can't fix things he is not aware of.

Discussion ensued regarding developer responsibilities, history of the site, uses under personal service, processes, traffic and the Board's responsibility.

Chair Bills called for the motion. Member Tyburski motioned to recommend denial to Town Council. Member Sherman seconded. Motion defeated with a vote of 3 to 5. Member Godfrey made a motion to recommend approval to Town Council with the addition of barber and beauty shop and the limited hours of operation 7 a.m. to 9 p.m. as proposed by the applicant. Member Skinner seconded. Motion carried with a vote of 5 and 3. Members Tyburski, Steele and Sherman voted nay due to the use was taken out at the request of neighbors in 2016 and their concerns remain the same.

#### NEW BUSINESS

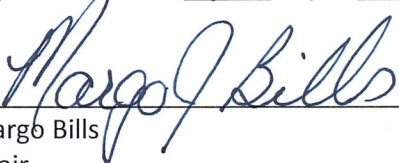
##### Item #1

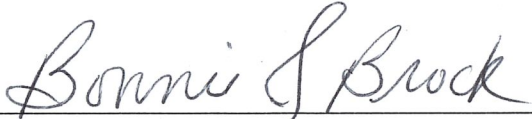
Amanda Bunce, Current Planning Manager presented the following amendments to the Unified Development Ordinance:

1. Amendment to Sec. 4.5.4 *Single-Family Recreational Accessory Use* in order to correct a section reference and a typographical error.
2. Amendments to Secs. 5.2.2.B *Setbacks, General*; 5.2.7.E *Dimensional Standards for Detached Accessory Structures, Encroachments into Setbacks*; and 12.2 *Defined Terms* in order to define solar energy systems and to add the same to the lists of permitted encroachments into setbacks.

Member Marks motioned to recommend approval to Town Council. Member Skinner seconded. Motion carried with a unanimous vote.

There being no further business, the meeting adjourned at 5:55 p.m. The foregoing minutes are approved this the 8<sup>th</sup> day of July, 2019.

  
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 Margo J. Bills  
 Chair

  
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 Bonnie J. Brock, CMC, NCCMC  
 Deputy Town Clerk