



Town of Jamestown
Planning Board

Welcome to the Town of Jamestown Planning Board meeting. We appreciate your interest and we encourage public participation in our meeting. Your comments are important to our decision making process. Please note that there will be opportunities during the meeting for you to address the Board members. The first opportunity will come if there is a public hearing on the agenda, when the Chairman declares the hearing open for comment. The second opportunity to address the Board will come near the end of the agenda with the Chairman will inquire if anyone wishes to address the members of the Board. Anyone addressing the Board will approach the podium; give your first and last name and your complete physical address. Comments may be limited to three minutes.

TO: Planning Board Members

FROM: Matthew Johnson, AICP; Director of Planning

RE: **Regular Meeting**
Monday, May 14, 2018 – 6:30 PM
Jamestown Town Hall, Council Chambers

Items on the agenda:

1. Call to Order – Art Wise, Chair of the Planning Board
2. Roll Call – Matthew Johnson, Director of Planning
3. Approval of minutes from April 9, 2018, meeting – Art Wise, Chair of the Planning Board
4. **Public Hearings:**
*Procedure: Staff will present the case to the Board, followed by commentary from the applicant. The Chair will open the public hearing and request to hear from both those in favor and those opposed. If you wish to address the Board during the public hearing, please come to the podium and state your name and address for the record. Speakers may have up to 3 minutes to address the Board. Please note, this is not a time for dialogue or discussion and the Board may or may not engage with you at this time, even if direct questions are asked. **Once the public hearing is closed, no one may speak on the issue unless specifically requested by the Board Chair.***
 - A. **Ordinance Update 2018-01 – Updates to Article 2; Sec. 2.20-2 “Sidewalks Along New Streets” of the Land Development Ordinance.**
 - B. **Ordinance Update 2018-02 – Updates to Article 2; Sec. 2.23 “Regulations for Residential Detached Accessory Structures”.**
5. Update on previous month’s discussion of short-term rentals – Matthew Johnson, Director of Planning

6. Public Comment Period:

Procedure: The Board Chair will ask the Town Clerk if anyone has signed up to speak to the Board. It is advisable that if you wish to address the Board that you see the Town Clerk prior to the start of the meeting. Once you have been recognized by the Chair, please come to the podium and state your name and address for the record. Speakers may have up to 3 minutes to address the Board. Please note, this is not a time for dialogue or discussion and the Board may or may not engage with you, even if direct questions are asked.

7. Other business

8. Adjourn

9. Next regularly scheduled meeting will be June 11, 2018, at 6:30pm in the Council Chambers.

WORKING AGENDA

Items on the agenda:

1. **CALL TO ORDER**

- i. Welcome to the **May 14, 2018, regularly scheduled Planning Board meeting**. In order to allow for all attendees to be able to hear Board business, I would ask that at this time, members of the board and the audience please set your cell phones to “SILENT”. As a reminder, public comments are welcome during public hearings and during the “PUBLIC COMMENT” portion of the agenda. Speakers during that portion of the meeting will be limited to 3 minutes per speaker.

2. **ROLL CALL**

	Present	Absent
Art Wise	<input type="checkbox"/>	<input type="checkbox"/>
Sarah Glanville	<input type="checkbox"/>	<input type="checkbox"/>
Eddie Oakley	<input type="checkbox"/>	<input type="checkbox"/>
Ed Stafford	<input type="checkbox"/>	<input type="checkbox"/>
Russ Walker	<input type="checkbox"/>	<input type="checkbox"/>
Richard Newbill, ETJ	<input type="checkbox"/>	<input type="checkbox"/>
Steve Monroe, ETJ	<input type="checkbox"/>	<input type="checkbox"/>
Robert Lichauer, ETJ	<input type="checkbox"/>	<input type="checkbox"/>
Sherrie Richmond, ETJ	<input type="checkbox"/>	<input type="checkbox"/>
Rebecca Rayborn, Council Rep.	<input type="checkbox"/>	<input type="checkbox"/>

3. **Approval of Minutes: April 9, 2018, regular meeting – Art Wise, Chair of the Planning Board**

- a. **Request from Staff: Staff requests approval of minutes from April 9, 2018, regular meeting as presented.**

- i. **Motion:**
- ii. **Second:**
- iii. **VOTE:**

4. **Public Hearings**

- A. **Ordinance Update 2018-01 – Updates to Article 2; Sec. 2.20-2 “Sidewalks Along New Streets” of the Land Development Ordinance.**

- a. **Board Chair will *OPEN* the public hearing and ask the staff to present the case.**
- b. **Staff will present the case**

- c. Board Chair will ask if there is anyone who wishes to speak in favor of the request.
 - d. Board Chair will ask if there is anyone who wishes to speak in opposition to the request.
 - e. Board Chair will then ***CLOSE*** the public hearing.
 - f. Board Chair will ask the Board members for any further discussion. Once discussion is concluded, the Chair will entertain a motion on the item for recommendation to the Town Council.
 - g. **Request from Staff: Staff requests Planning Board recommend approval to the Town Council as presented.**
 - i. Motion:
 - ii. Second:
 - iii. VOTE:
- B. Ordinance Update 2018-02 – Updates to Article 2; Sec. 2.23 “Regulations for Residential Detached Accessory Structures”.**
- a. Board Chair will ***OPEN*** the public hearing and ask the staff to present the case.
 - b. Staff will present the case
 - c. Board Chair will ask if there is anyone who wishes to speak in favor of the request.
 - d. Board Chair will ask if there is anyone who wishes to speak in opposition to the request.
 - e. Board Chair will then ***CLOSE*** the public hearing.
 - f. Board Chair will ask the Board members for any further discussion. Once discussion is concluded, the Chair will entertain a motion on the item for recommendation to the Town Council.
 - g. **Request from Staff: Staff requests Planning Board recommend approval to the Town Council as presented.**
 - i. Motion:
 - ii. Second:
 - iii. VOTE:
5. Update on previous month’s discussion of short-term rentals – Matthew Johnson, Director of Planning
- a. *Reminder from Board Chair to audience: This will be a discussion between the staff and the Planning Board. Since this is not a public hearing, the audience may not participate. However, a public comment portion of the meeting will follow and the public may speak during that time. The purpose of this discussion is for the Planning Board to provide direction to the staff and a recommendation on how to move forward to the Town Council. Any ordinance changes in the future would, of course, require public hearings before both the Planning Board and the Town Council.*
 - b. **Request from Staff: Staff requests Planning Board make a recommendation on how they wish to proceed with this issue. That recommendation will be reported to the Town Council at their May 15, 2018, regular meeting.**
6. Public Comment
- a. *Reminder from Board Chair to audience: The Board Chair will ask the Town Clerk if anyone has signed up to speak to the Board. It is advisable that if you wish to address the Board that you see the Town Clerk prior to the start of the meeting. Once you have been recognized by the Chair, please come to the podium and state your name and address for the record. Speakers may have up to 3 minutes to address the Board.*

Please note, this is not a time for dialogue or discussion and the Board may or may not engage with you, even if direct questions are asked.

7. Other business

8. Adjourn

- a. **Motion to adjourn:**
- b. **Second:**
- c. **VOTE:**

9. Next regularly scheduled meeting will be June 11, 2018, at 6:30pm in the Council Chambers.

**Planning Board Meeting
4-9-18
Council Chambers
6:30 pm
Minutes & General Account**

Planning Board Member Present: Art Wise, Chair; Sarah Glanville, Vice Chair; Eddie Oakley, Ed Stafford, Russ Walker, Richard Newbill (ETJ), & Sherrie Richmond (ETJ)

Planning Board Members Absent: Robert Lichauer (ETJ) & Steve Monroe (ETJ)

Town Council Representative: Council Member Rayborn

Staff Present: Kenny Cole, Matthew Johnson, & Katie McBride

Visitors Present: Michael Brewer, Ronnie Hancock, Maggie Hancock, Kathryn Rogers, Kerry Miller, Dennis Rodgers, Marty Jones, Connie Dearman, & Carol Brooks.

1. **Call to Order-** Matthew Johnson, Planning Director, called the meeting to order.

2. **Roll Call-** Johnson took roll call as follows:

Art Wise- Present
Sarah Glanville- Present
Eddie Oakley- Present
Ed Stafford- Present
Russ Walker- Present
Richard Newbill- Present
Steve Monroe- Absent
Robert Lichauer- Absent
Sherrie Richmond- Present
Council Member Rayborn- Present

3. **Organizational Meeting-** Johnson explained that the rules and procedures of the Planning Board require that a Chair and Vice Chair be elected each year during their organizational meeting. He explained that staff would request that Planning Board Members nominate someone to be Chair. The new Chair would call for nominations for Vice Chair after they have been elected.

- Election of Chair- Johnson requested nominations for Chair of the Planning Board.

Stafford nominated Art Wise to be Chair of the Planning Board. There were no other nominations.

Stafford made a motion to elect Art Wise to be Chair of the Planning Board. Johnson called for a vote on the motion. The vote was unanimous.

- Election of Vice Chair- Wise called for nominations for Vice Chair of the Planning Board.

Oakley nominated Glanville to be Vice Chair of the Planning Board. There were no other nominations.

Oakley made a motion to nominate Glanville to be Vice Chair of the Planning Board. Wise called for a vote on the motion. The vote was unanimous.

- Introduction of Rebecca Mann Rayborn, Council Liaison- Johnson introduced Council Member Rayborn to the Planning Board. He noted that she was replacing Mayor Montgomery as the Council Liaison.
 - Introduction of Planning Board Member Russ Walker- Johnson introduced Russ Walker to the Board. He noted that Walker would be filling the unexpired term of John Capes.
 - Introduction of Planning Board Alternate, Lawrence Straughn- Johnson introduced Straughn to the Board.
4. **Approval of minutes from October 9, 2017-** Glanville made a motion to approve the minutes from the October 9, 2017 meeting. Stafford made a second to the motion. The motion passed by unanimous vote.

5. **Public Hearings:**

- A. **Master Sign Plan- Jamestown Presbyterian Church- 1804 Guilford College Rd. - Tax Parcel #0158762- request for master signage plan per Article 17; Sec. 17.10 of the Land Development Ordinance-** Johnson presented his staff report on the request. He stated that Jamestown Presbyterian Church operated a preschool and an afterschool program. He noted that the church would like to identify that they offer those programs by adding an additional sign on their property. Johnson stated that the ordinance currently limited the number of freestanding signs per road frontage to one. However, he said that the site did meet the requirements for a master signage plan. It would allow the church to define its sign needs separately from the ordinance. Johnson asked if there were any questions. There were none.

Wise called Kerry Miller forward and stated that Miller would be speaking on behalf of the Jamestown Presbyterian Church.

Miller stated that he was on the Administrative Committee and the Preschool Board for the church. He noted that he was there to answer any questions the Board may have about the sign. He said that the church was trying to draw attention to the programs that they offer. He asked if there were any questions.

There were none.

Wise opened the public hearing to anyone that would like to speak in favor of the master sign plan. No one wished to speak and Wise closed that portion of the public hearing.

Wise opened the public hearing to anyone that would like to speak against the master sign plan. No one wished to speak and Wise closed that portion of the public hearing.

Stafford stated that he believed it was a reasonable request.

Glanville made a motion to approve the master signage plan for Jamestown Presbyterian Church. Newbill made a second to the motion. The motion passed by unanimous vote.

6. **Discussion of short-term rentals-** Johnson stated that some information and a staff report on short-term rentals had been included in the packet. He noted that the Town had received complaints about citizens renting out their homes on Airbnb. He said that the current Land Development Ordinance (LDO) did not address short-term rentals.

Johnson stated that the Board had discussed the issue at their October meeting and had been hesitant to place new regulations on short-term rentals because of the potential negative repercussions on Furniture Market rentals. Johnson was seeking direction from the Board on how they wanted to move forward on the issue. He gave an overview of the potential legal options the Town had to address the problem.

The Board discussed the blog posts from the UNC School of Government that had been included in their packet.

Newbill was concerned about how new regulations would impact citizens that rent their homes during the Furniture Market.

Richmond wanted to explore options that would prevent people from utilizing their homes as a short-term rental business.

There was discussion about the possibility of capping the number of days that someone could rent their home for short-term rentals.

Board Members also discussed the possibility of instituting an occupancy tax.

They also spoke about the possibility of the neighborhood creating a Homeowners Association (HOA). The HOA could prevent any future members from utilizing their homes for short-term rentals.

Walker stated that he believed it was the kind of situation that needed patience. He felt that it would be best to observe how other towns were addressing the issue of short-term stays before any new regulation were recommended to Council.

There was discussion between Board Members and Johnson about the potential impacts of putting regulations on the number of parking spaces required for short-term rentals.

7. **Public Comment Period-**

- Ronnie Hancock, 605 Havershire Dr. - Hancock stated that he had previously addressed the Planning Board and the Town Council about the negative impacts of short-term rentals. He

said that there were several issues that could result from short-term stays that had not been discussed by the Board Members. He noted that the rentals were not defined by the Land Development Ordinance. He said that any property being rented out violated the current ordinance. Hancock was also concerned about the property value of homes near short-term rentals and the safety of others that lived in the neighborhood. He said that websites like Airbnb did not properly vet people that rent properties and that they could be criminals.

- Kathryn Rogers, 604 Havershire Dr.- Rogers stated that she had been living in her neighborhood for thirty years and used to be the principal at Ragsdale High School. She said that she had a great deal of respect for everyone serving the Town, but she felt that the staff commentary on the short-term rental issue was biased. She was concerned that an Airbnb was operating in her neighborhood and she considered that a business. She was worried about how short-term rentals could affect the future of Jamestown.
- Sandra Rodgers, 606 Havershire Dr.- Rodgers stated that she had no problems with the Furniture Market, however, she was concerned about the changes in the community within the areas zoned as Single Family Residential (SFR). She said that she had not planned to live next to a business when she initially bought her home. She was also concerned about how the short-term rental would affect the property value of her home.
- Marty Jones, 608 Havershire Dr.- Jones stated that he did rent his home on Airbnb occasionally, but that he also rented it during the Furniture Market. He noted that his family, friends, and business associates have also stayed in the home and that his neighbors could not determine if they were renters or his personal acquaintances.

8. Other Business-

Wise and Johnson had a brief discussion about including more information about the Town on water bills that were sent to citizens every month.

- 9. Adjournment-** Glanville made a motion to adjourn. Richmond made a second to the motion. The motion passed by unanimous vote.

The meeting ended at 7:44 pm.

AN ORDINANCE AMENDING THE LAND DEVELOPMENT ORDINANCE
OF THE TOWN OF JAMESTOWN, NORTH CAROLINA

Text Amendment 2018-01

WHEREAS, the Town of Jamestown, North Carolina pursuant to the authority conferred by the North Carolina General Statute §160A-364 enacted an Official Zoning Ordinance, also referred to as the Land Development Ordinance, for the Town of Jamestown, North Carolina;

WHEREAS, the Town of Jamestown, North Carolina pursuant to the authority conferred by the North Carolina General Statutes §160A-364 through §160A-366 and §160A-381 through §160A-392 may from time to time as necessary amend, supplement, change, modify or repeal certain of its zoning regulations and restrictions and zoned boundaries; and

WHEREAS, the Town Council of the Town of Jamestown, North Carolina pursuant to the authority conferred by the North Carolina General Statutes §160A-381 through §160A-394 does hereby recognize a need to amend the text of certain articles of the Town of Jamestown Land Development Ordinance.

WHEREAS, the Town Council finds that it is necessary to update the Land Development Ordinance to correct inconsistencies between permitted uses and permitted building types.

NOW, THEREFORE, IN ORDER TO PROTECT THE PUBLIC HEALTH, SAFETY AND WELFARE, BE IT ORDAINED BY THE TOWN COUNCIL OF THE TOWN OF JAMESTOWN, NORTH CAROLINA:

Part 1. That Article 2.20-2 "Sidewalks Along New Streets" is hereby amended by replacing the following language in that section:

2.20-2 Sidewalks Along New Streets. Sidewalks shall be required along ~~both sides~~ **one side** of new streets, ~~except streets in the Agricultural (AG) District, where sidewalks are required only on one side of the new street.~~ **except along major thoroughfares, where sidewalks shall be required on both sides of new streets. In the case of private streets, sidewalks shall be required on one side of new streets. Regardless of streets being public or private, the developer of new street networks may petition the Technical Review Committee (TRC) to waive the requirement for sidewalks along new streets for developments located in the Watershed Critical Area where additional built-upon area may be detrimental to water quality. The TRC shall apply an "equal or better" performance standard to the request and the developer shall be required to comply with conditions placed upon them by the TRC.**

Part 3. This Ordinance shall be effective immediately upon its adoption.

Adopted this the _____ day of _____, 2018.

Attest: Town Council
Town of Jamestown, North Carolina

Lynn Montgomery, Mayor

Katie McBride, Town Clerk

AN ORDINANCE AMENDING THE LAND DEVELOPMENT ORDINANCE
OF THE TOWN OF JAMESTOWN, NORTH CAROLINA

Text Amendment 2018-02

WHEREAS, the Town of Jamestown, North Carolina pursuant to the authority conferred by the North Carolina General Statute §160A-364 enacted an Official Zoning Ordinance, also referred to as the Land Development Ordinance, for the Town of Jamestown, North Carolina;

WHEREAS, the Town of Jamestown, North Carolina pursuant to the authority conferred by the North Carolina General Statutes §160A-364 through §160A-366 and §160A-381 through §160A-392 may from time to time as necessary amend, supplement, change, modify or repeal certain of its zoning regulations and restrictions and zoned boundaries; and

WHEREAS, the Town Council of the Town of Jamestown, North Carolina pursuant to the authority conferred by the North Carolina General Statutes §160A-381 through §160A-394 does hereby recognize a need to amend the text of certain articles of the Town of Jamestown Land Development Ordinance.

WHEREAS, the Town Council finds that it is necessary to update the Land Development Ordinance to correct inconsistencies between permitted uses and permitted building types.

NOW, THEREFORE, IN ORDER TO PROTECT THE PUBLIC HEALTH, SAFETY AND WELFARE, BE IT ORDAINED BY THE TOWN COUNCIL OF THE TOWN OF JAMESTOWN, NORTH CAROLINA:

Part 1. That Article 2 “General Provisions” is hereby amended by adding the following language in that section:

2.23. Regulations for Residential Detached Accessory Structures.

2.23-2 Purpose: In order to promote for the orderly development of residential properties, the Town of Jamestown may regulate accessory structures in areas of residential development. The following development guidelines shall be enforced in all zoning districts where detached residential dwelling uses are permitted. Individual accessory structures shall not be permitted within multi-family, townhome, duplex or condominium developments unless submitted as part of an overall site development plan.

2.23-2 Location: Accessory structures may not be located in the front yard unless the property is greater than 3 acres in size. On lots greater than 3 acres in size, the accessory structure must be a minimum of 150 feet from the edge of any street right-of-way. Accessory structures must be a minimum of five (5) feet from any side or rear property line and a minimum of five (5) feet from any principal structure. On corner lots, accessory structures shall be located a minimum of fifteen (15) feet from any street right-of-way.

2.23-3 Size: There is not a limit to the number of accessory buildings permissible on a lot. However, the cumulative square footage of all accessory buildings shall not exceed the size requirements listed below:

- a) Lots less than 1 acre in size: structure(s) may not exceed more than ½ of the heated square footage of the ground floor of the principal structure or eight hundred (800) square feet.
- b) Lots between 1 acre and 2.99 acres in size: structure(s) may not exceed more than ½ of the heated square footage of the ground floor of the principal structure or twelve hundred (1200) square feet.
- c) Lots 3 acres in size or larger: structure(s) may not exceed more than three times the heated square footage of the ground floor of the principal structure or three thousand (3000) square feet.
- d) Lots zoned for Agricultural use: there shall not be a restriction on the cumulative total of square footages of accessory buildings on property zoned for agricultural uses.
- e) No accessory building shall be permitted to be located within any easement.
- f) No accessory building shall be permitted to exceed the height of the principal structure.
- g) Exterior finishes cannot be of highly-reflective metal.

h) No accessory structure may be used as the location of a business, commercial enterprise, or otherwise non-residential use.

Part 3. This Ordinance shall be effective immediately upon its adoption.

Adopted this the _____ day of _____, 2018.

Attest:

Town Council
Town of Jamestown, North Carolina

Lynn Montgomery, Mayor

Katie McBride, Town Clerk



Planning Board Meeting Date: May 14, 2018

REQUEST:

From time to time, it becomes necessary to suggest edits to the Land Development Ordinance. Currently, there are two suggested updates (2018-01 and 2018-02) which are attached to this staff report. For the Board's review, I will separate each item under their respective headings for the purposes of this staff report. The staff respectfully request that the Planning Board recommend approval of the two updates to the Town Council for their May 15, 2018, meeting.

2018-01

This ordinance update would change the current ordinance language in Article 2.20-2 with respect to the requirement for sidewalks to be installed along both sides of new streets. It has been the experience of staff that such a requirement can be burdensome (both in costs to construct and in availability of land) to developers and to the Town itself. Many municipalities have a more reasonable approach to require sidewalks along at least one side of newly constructed streets, which we have proposed as the new standard. In addition, in areas which fall into the Watershed Critical Area (WCA), state laws require that we (the Town) make every effort to reduce built-upon-area (BUA) to help reduce stormwater runoff. A provision has been included to allow the Technical Review Committee (TRC) to apply some discretion to projects built in the WCA to forego sidewalks in exchange for additional stormwater control items (ex – additional landscape areas, larger stormwater control devices, or open space dedication, etc.) which would help to reduce BUA and protect water quality.

2018-02

This ordinance update would add new language to the Land Development Ordinance with respect to the placement and sizing of accessory buildings by adding a section to Article 2. Currently, there is not any specific language which would govern the overall size and placement of an accessory building. This new language would help to prevent the installation of accessory buildings in the future which may otherwise appear to be disproportional to the site on which it is located, or placed in a location which may cause aesthetic concerns within a particular neighborhood.

RECOMMENDATIONS OF THE 2020 LAND DEVELOPMENT PLAN:

2018-01

The 2020 LDP (Comp Plan) encourages pedestrian connections while balancing the inclusion of open space and the protection of environmentally sensitive areas. Specifically, the following Land Development Goals and Policies may apply:

Growth Management:

GOALS:

- A. Carefully manage growth, making smart growth decisions that maintain and enhance Jamestown's special community characteristics and heritage.
- B. Strategically locate new land development in the most appropriate places.
- C. Use infrastructure investments as efficiently as possible.
- D. Attract new businesses and jobs and a more diverse tax base.
- E. Preserve our natural, cultural & historic resources and open space as we grow.

Policies:

- 1.12 Encourage new residential land uses and neighborhoods that strike a balance between quality and affordability, and add to the livability and character of Jamestown by providing mixed-use, pedestrian-friendly neighborhoods that are well-connected to the community via sidewalks & greenways and provide a mixture of appropriate uses and housing types in appropriate locations.

- 1.14 Encourage open space, parks & squares to be a part of every new neighborhood, and encourage these amenities to be well-connected by greenways, sidewalks, and bike lanes, and to be added to existing neighborhoods whenever appropriate and feasible.
- 1.15 Carefully balance individual property rights with the good of the whole community by expecting new development to use the best design features of our favorite existing areas and by providing adequate buffers between incompatible uses.

Quality of Life:

GOALS:

Carefully preserve Jamestown's natural, cultural and historic resources as we grow.

Policies:

- 4.4 Maintain & improve water quality by carefully managing and restoring stream-banks, establishing minimum riparian buffer requirements along streams and creeks, encouraging cluster development to provide open space and avoid disturbance in riparian buffer areas, adopting low-impact design guidelines, implementing phase II storm water regulations, and by coordinating growth management efforts with the County and surrounding municipalities.

Public Services & Facilities:

GOALS:

Provide adequate public services as we grow, consistent with our ability to pay for them.

Policies:

- 5.4 Provide an adequate transportation system that supports new land development in the most appropriate places, keeps pace with the Town's growth, decreases congestion, increases mobility for people and goods, and provides a network of interconnected streets, sidewalks, greenways and bike lanes.
- 5.5 Create a multi-modal transportation system with a network of interconnected streets, sidewalks, greenways, bike lanes, designated bus stops and a train station - to provide better access and mobility for people of all ages and to support new land development in the most appropriate locations.
- 5.6 Carefully manage access along major thoroughfares and road entranceways, to protect public safety, road function, and community aesthetics.
- 5.9 Develop and maintain a Town-wide park, recreation and open space system that becomes an integral part of our community and provides a variety of active and passive recreation opportunities. Require each new neighborhood to provide common green space and connect neighborhoods to parks, schools, and other community-oriented uses through a network of greenway trails, bike lanes, and sidewalks. Partner with the County School Board to meet common educational and recreational goals. Continue to survey residents concerning their recreational needs and address on-going park maintenance issues.

2018-02

The 2020 LDP (Comp Plan) encourages us to carefully manage growth and to make smart decisions that maintain and enhance Jamestown's community characteristics and heritage. Having clear directions for property owners is the key purpose of the Land Development Ordinances. Specifically, the following Land Development Goals and Policies may apply:

Growth Management:

GOALS:

- A. Carefully manage growth, making smart growth decisions that maintain and enhance Jamestown's special community characteristics and heritage.
- B. Strategically locate new land development in the most appropriate places.
- C. Use infrastructure investments as efficiently as possible.
- D. Attract new businesses and jobs and a more diverse tax base.

E. Preserve our natural, cultural & historic resources and open space as we grow.

Policies:

- 1.11 Continue to value, preserve and enhance existing residential uses and neighborhoods, to maintain the unique small-town character of Jamestown. Infill development is encouraged to efficiently use existing infrastructure, however, new buildings and the renovation of existing buildings should fit the scale and character and add value to existing neighborhoods.
- 1.15 Carefully balance individual property rights with the good of the whole community by expecting new development to use the best design features of our favorite existing areas and by providing adequate buffers between incompatible uses.

Community Appearance:

GOALS:

Carefully preserve and enhance Jamestown's small-town character and community appearance as it grows.

Policies:

- 3.1 Value and preserve Jamestown's small-town feel.
- 3.3 Maintain a strong sense of place and community pride as each new land use fits into our vision for the future – adding quality and value and enhancing our community character and quality of life.
- 3.4 Carefully consider the appearance and design of new buildings and site development, to insure a good fit, and to maintain and improve the appearance of our community, and to create a greater sense of harmony and compatibility among various uses throughout our community.

RECOMMENDATION OF OTHER PLANS:

2018-01

The 2009 Pedestrian Master Plan also includes a general recommendation that new or rebuilt (ex – widened) streets be equipped with facilities to accommodate pedestrians, cyclists, and transit users where appropriate.

SUMMARY & STAFF RECOMMENDATION:

2018-01

When the Ordinance was originally written, language was included that all new streets should have pedestrian facilities (sidewalks) installed on both sides of the street – which is an admirable goal. However, upon implementation of the Ordinance from a **practical** standpoint, it is often cost-prohibitive and very difficult to include these facilities on both sides of the street (both from the developer's perspective and the Town's perspective). Staff strongly encourages the Planning Board and Town Council to provide some flexibility in the Ordinance by adopting the new language as proposed.

2018-02

The current Ordinance does not provide clear direction as to placement and size limitations for accessory buildings. In the recent past, staff have seen applications for accessory buildings which may include questionable placement and size issues. Therefore, staff felt that some language may be necessary to help guide property owners in the future. The language proposed here has been adapted from another municipality's ordinance. Staff respectfully request that the Planning Board and Town Council consider adopting the language as proposed.

WRITTEN RECOMMENDATION ADDRESSING COMPREHENSIVE LAND USE PLAN CONSISTENCY:

Effective October 1, 2017, state law has changed regarding the adoption of “consistency statements” when amending zoning ordinances. I have attached the UNC School of Government’s blog on the topic for your review. However, I thought I would pull some of the pertinent information out and place it below in a bulleted format:

- Boards are not required to take action that is consistent with an adopted Land Development Plan (aka – Comprehensive Plan or “Comp” Plan). They only need to consider what it says.
- The Council and Planning Board **must** adopt a statement that addresses plan consistency when considering zoning ordinance amendments.
- The adopted statement **may not be** something simple like “we find the request to be consistent/inconsistent with adopted policies”. Rather, it must say **how/why** the Council feels as it does.
- The consistency statement must include some modest discussion and explanation about the Planning Board and Council’s feelings on their actions. In other words, the statement should not be crafted beforehand by staff.
- The new law states that the Council must make their statement conform to one of three forms:
 - A statement approving the proposed zoning amendment and describing its consistency with the plan;
 - A statement rejecting the proposed zoning amendment and describing its inconsistency with the plan; or
 - A statement approving the proposed amendment and declaring that this also amends the plan, along with an explanation of the change in conditions to meet the development needs of the community that were taken into account in the zoning amendment.
- Each consistency statement **must** include an **explanation of why the board deems the action to be reasonable and in the public interest.**

All amendments must now follow this approach:

- 1) Consideration of the proposed zoning amendment and public hearing.
- 2) Deliberation by the Board.
- 3) Motion on consistency/inconsistency with the Land Development Plan (Comp Plan).
 - a. ***If the Board finds that the proposed amendment is inconsistent with the Comp Plan, but wishes to approve the amendment, it must also make a motion (separately) to amend the Comp Plan to conform to the amendment.*** The same is true if the Board finds that a proposed amendment is consistent with the Plan, yet wishes to deny the amendment.
- 4) Motion to approve/deny the zoning amendment.

A sample format is provided below:

MOTION

FINDING PROPOSED AMENDMENT CONSISTENT WITH COMP PLAN

I make a motion that the proposed zoning amendment **be approved** based on the following:

1. *The proposed zoning amendment is consistent with the adopted comprehensive plan of the Town of Jamestown.* The Planning Board further finds that the proposed zoning amendment is consistent with the comprehensive plan because:_____.

AND

2. *The proposed zoning amendment is reasonable.* The Planning Board considers the proposed zoning amendment to be reasonable because:

A. The report of the Town staff finding the proposed zoning amendment to be reasonable is adopted by reference.

B. The Planning Board further finds that the proposed zoning amendment is reasonable because:_____.

AND

3. *The proposed zoning amendment is in the public interest.* The Planning Board considers the proposed zoning amendment to be in the public interest because:

A. The report of the Town staff finding the proposed zoning amendment to be in the public interest is adopted by reference.

B. The Planning Board further finds that the proposed zoning amendment is in the public interest because:_____.

[Call for second etc .]

MOTION

FINDING PROPOSED AMENDMENT INCONSISTENT WITH COMP PLAN

I make a motion that the proposed zoning amendment **be rejected** based on the following:

1. *The proposed zoning amendment is not consistent with the adopted comprehensive plan of the Town of Jamestown.* The Planning Board finds that the proposed zoning amendment is inconsistent with the comprehensive plan because:_____.

AND/OR

2. *The proposed zoning amendment is not reasonable.* The Planning Board considers the proposed zoning amendment to be unreasonable because:

A. The report of the Town staff finding the proposed zoning amendment to be unreasonable is adopted by reference.

B. The Board further finds that the proposed zoning amendment is unreasonable because:_____.

AND/OR

3. *The proposed zoning amendment is in the public interest.* The Board considers the proposed zoning amendment to be against the public interest because:

A. The report of the Town staff finding the proposed zoning amendment to be against the public interest is adopted by reference.

B. The Board further finds that the proposed zoning amendment is against the public interest because:_____.

[Call for second etc .]

MOTION
TO APPROVE
ZONING AMENDMENT
(EVEN IF INCONSISTENT WITH COMP PLAN)

I make a motion that the proposed zoning amendment **be approved** based on the following:

1. *Even though the proposed zoning amendment is inconsistent with the adopted comprehensive plan of the Town of Jamestown, a change in conditions in meeting the development needs of the community has occurred since plan adoption.* These changes include:

_____.

Furthermore, the Board finds that the proposed zoning amendment meets the development needs of the community because:_____

AND

2. *The proposed zoning amendment is reasonable.* The Board considers the proposed zoning amendment to be reasonable because:

A. The report of the Town staff finding the proposed zoning amendment to be reasonable is adopted by reference.

B. The Board further finds that the proposed zoning amendment is reasonable because:_____.

AND

3. *The proposed zoning amendment is in the public interest.* The Council considers the proposed zoning amendment to be in the public interest because:

A. The report of the Town staff finding the proposed zoning amendment to be in the public interest is adopted by reference.

B. The Board further finds that the proposed zoning amendment is in the public interest because:_____.

AND

4. By approving this motion, the Board also recommends that the Town Council also hereby amend s the Town of Jamestown Land Development Plan (comprehensive plan) to reflect the approved zoning amendment.

[Call for second etc .]

Coates' Canons Blog: A Statutory Modification for Plan Consistency Statements

By David Owens

Article: <https://canons.sog.unc.edu/a-statutory-modification-for-plan-consistency-statements/>

This entry was posted on June 20, 2017 and is filed under Land Use & Code Enforcement, Legislative Decisions, Ordinances & Police Powers, Planning, Zoning

Cities and counties routinely consider proposals to amend their zoning ordinances. Amendments vary from the rezoning of a single parcel of land to major rewrites of the whole ordinance. The decision of whether or not to make a particular amendment is a legislative policy choice left to the good judgment and discretion of the elected governing board.

A variety of factors are considered by the governing board in making these decisions. For the past decade in North Carolina, one of the factors that must be considered is how the proposal relates to previously adopted plans. Under the General Statutes a zoning amendment is not required to be consistent with the plan, but both the planning board and governing board are required to consider the plan and to document that consideration with a written statement approved by the board. For the most part this has become a routine and noncontroversial step in the zoning amendment process. But there has been enough confusion about this requirement that the General Assembly has amended the plan consistency statement requirement, with the changes to take effect for zoning amendments made on or after October 1, 2017.

When a local government adopts development regulations, there must be a rational basis for determining what those regulations should be. Zoning regulates where various land uses can be located and at what density and intensity of use. To make rational and informed choices in adopting and later amending these regulations, there should be careful consideration of many factors, including what infrastructure is needed to support development, how the land uses relate to one another, what the community's goals, objectives, and vision for the future are, and so forth.

Plan Consistency Statement Requirement

It has always been presumed that a comprehensive plan or land use plan is an essential tool to produce the data analysis, community engagement, and policy direction needed to allow rational choices in applying zoning. From the earliest days of zoning, statutes across the country have required that zoning be undertaken "in accordance with a comprehensive plan." Some states, by statute or case-law, require zoning regulations to be in substantial compliance with an adopted plan.

That is not the case in North Carolina. Our courts have not mandated that zoning be consistent with a comprehensive plan. However, in 2005 the North Carolina planning statutes were amended to require that planning boards and the governing board review and consider any adopted plan when a zoning amendment is proposed. That plan consistency statement requirement is discussed in more detail in this 2011 [blog post](#).

The statute only requires that the plan be considered, not that it be followed. Some zoning ordinances make plan compliance a mandatory factor for individual permit decisions, typically for a special use permit. But when a legislative decision is being made on a proposed zoning amendment, the statutes are clear that the plan is advisory in nature. A zoning amendment that is inconsistent with an adopted plan is legal, so long as the governing board was aware of what advice and guidance the plan offers. The statutory requirement is that the governing board's awareness must be documented by a statement describing plan consistency that is approved at the time the zoning amendment is adopted.

Subsequent Litigation

One might think that a simple statutory requirement that planning boards and governing boards pull out their adopted plans and think about what, if any, useful guidance the plan provides before making a decision on a pending zoning amendment would be straight-forward and non-controversial. After all, the boards are not required to take action

consistent with the plan, only to know and consider what it says. In most instances that has indeed proven to be the case. But there has been confusion and controversy about plan consideration in a few high profile zoning disputes that led to litigation.

In the first case addressing the plan consistency statement requirement, the City of Kannapolis was considering a proposal to rezone a large recently annexed parcel from low-density residential to a district that would allow retail, office, and light industrial uses. The staff prepared an analysis of the compatibility of the proposed uses with the adjacent area and concluded the rezoning was consistent with the long-range goals of the city. The staff report was presented to the city council and the rezoning was approved.

Opposing neighbors challenged the rezoning. The court in Wally v. City of Kannapolis, 365 N.C. 449 (2012), sided with the neighbors. The court held the statutory requirement for the council to approve a statement addressing plan consistency is clear and mandatory. The fact that a staff analysis was available for the board's review is not the same as the governing board itself approving a statement on plan consistency. This case is discussed in more detail by my colleague Rich Ducker in this [blog post](#).

The Wally case makes the fairly simple point that when the statute says the board must approve a statement, it means the board must really approve a statement, not just have a staff report in its meeting packet. While the substance of the statement is not subject to judicial review, whether it was formally approved by the governing board is subject to review. If the statement did not exist or was not clearly approved by the board, the statute is violated and the zoning amendment is invalid.

The second case addressing the plan consistency statement requirement arose when Queens University in Charlotte sought a zoning amendment to facilitate construction of a parking deck. Adjacent residents in the Meyers Park neighborhood objected. The city's zoning commission found the proposed amendment to be consistent with city plans and recommended approval. The city council agreed and adopted a statement that "this petition is found to be consistent with adopted policies."

In Atkinson v. City of Charlotte, 235 N.C. App. 1 (2014), the court found this conclusory statement failed to meet the requirement of the statute that the governing board statement describe how the action is consistent with adopted plans and explain why it is reasonable and in the public interest. The case is discussed in more detail by my colleague Adam Lovelady in this [blog post](#).

These two cases confirm that the governing board must actually approve a statement when it amends a zoning ordinance and that statement must be more than a checklist conclusion – it must include some modest discussion and explanation.

New Statutory Requirements

In 2017 the General Assembly amended G.S. 153A-341 and 160A-383 to add more specificity to the law regarding the mandated plan consistency statements.

Section 2.4 of **S.L. 2017-10** amends the statutes and makes these new requirements applicable to all zoning amendment applications filed on or after October 1, 2017. This bill also made amendments to the subdivision statute, discussed by my colleague Adam Lovelady in this [blog post](#).

The amended statute still requires approval of a statement and the statement still must describe plan consistency and explain why the proposed action is reasonable and in the public interest. So the Wally and Atkinson cases noted above are still good law.

However, the form of the required statement is changing. As of October, the statement must take one of three forms:

1. A statement approving the proposed zoning amendment and describing its consistency with the plan;
2. A statement rejecting the proposed zoning amendment and describing its inconsistency with the plan; or
3. A statement approving the proposed amendment and declaring that this also amends the plan, along with an explanation of the change in conditions to meet the development needs of the community that were taken into account in the zoning amendment.

With each of these alternatives, the statement is also to include an explanation of why the governing board deems the action reasonable and in the public interest.

The statutory amendment also includes a rather curious provision that for the purposes of plan consistency, the “plan” includes a unified development ordinance as well as any other officially adopted plan that is applicable. A comprehensive or land use plan is rarely a part of a unified development ordinance. If a unified development ordinance exists, the zoning ordinance is a part of that ordinance. In that situation amending the zoning ordinance is an amendment in and of itself of the “unified development ordinance.” Given this near universal practice, this provision seems superfluous.

Implications

In some respects this amendment heightens the tie between the plan and zoning ordinances. If a proposed zoning amendment is consistent with the plan it may be approved and if it is inconsistent with the plan it may be rejected. But if the zoning amendment is inconsistent with the plan and the governing board wants to approve the amendment anyway, the plan is deemed amended and the governing board must set forth the “change in conditions” that led it to take that action.

The statute does not address a fourth possibility – that the board finds the amendment consistent with the plan but decides to reject the amendment anyway. Prior case law allows this to happen and given the advisory nature of the plan, that is likely still permissible. But the fact that it is not listed as an option in the new statute does give some pause to consider whether it is implied that this is no longer permissible. After all, the amended statutes uses mandatory language, saying the governing board “shall adopt one of the following statements.” To avoid a potential problem in this situation, it would be prudent for a governing board rejecting a zoning amendment that is consistent with its plan to concurrently amend the plan.

Presumably the discretion of the governing board is not substantially limited when it decides to approve a zoning amendment that is inconsistent with the plan. The board can decide which “changing conditions” to consider and whether they are sufficient. For example, there may have been changes in physical conditions on the site, on the infrastructure available, on the demand for new development, on the policies or priorities of the board, on the board’s assessment of neighborhood needs, or on a host of other potential “conditions.”

In any event, the lessons of the *Wally* and *Atkinson* cases noted above should continue to be carefully observed. The statutory requirement for consideration of plan consistency is not a legislative suggestion. A statement on plan consistency must be explicitly approved by the governing board at the time a zoning amendment decision is made. The statement must be more than a one-sentence conclusion. It must both describe plan consistency or inconsistency and it must explain the rationale of the decision. The statement is to take the form of one of the three options noted above.

That said, the statement does not need to be a long, complicated, legalistic document. The statement does not have to be supported by evidence in the record, as would be the case for a quasi-judicial decision. But it must be real, it must be approved by the board, and it must have a brief description of why the action is or is not consistent with the plan. Anything less risks judicial invalidation of the zoning amendment.

Links

- canons.sog.unc.edu/what-if-a-proposed-rezoning-is-inconsistent-with-our-plan/
- canons.sog.unc.edu/zoning-ordinance-amendments-and-plan-consistency-statements/
- canons.sog.unc.edu/consistently-inconsistent-considering-consistency-statements-for-zoning-amendments/
- canons.sog.unc.edu/subdivision-legislation-old-exemption-new-expedited-review/