

Planning Board Meeting
January 12, 2015
6:30 pm

Council Chambers

Minutes & General Account

Planning Board Members Present: Kerry Miller, Chair; Art Wise, Vice Chair; Sarah Glanville, Dot Perdue, Eddie Oakley, John Capes Alternate, Richard Newbill and Ted Johnson ETJ Members.

Council Representative – Lynn Montgomery

Staff Present: Chuck Smith, Cy Stober, PTRC and Martha Wolfe

Visitors: Carrie Spencer, Carol Brooks of the Jamestown News, Glen Fesko, Michael Fesko, Cheryl Fesko, Kandis Holyfield, and Patrick Holyfield

1. Call to Order – Kerry Miller called the meeting to order. The Planning Board agreed to move item # 3 to # 5 on the agenda.
2. Approval of minutes from the November 19, 2014 meeting - Art Wise made a motion to approve the minutes as amended. Richard Newbill made a second to the motion. The motion passed by unanimous vote.
3. Discussion regarding Hookah Cafes and Vapor Lounges as permitted uses – Chuck Smith informed the Planning Board that with Matthew Johnson leaving, the Town had plans in place to continue our planning services by contracting with Piedmont Triad Regional Council. Jamestown is a member of the regional council. They are providing planning services for the Town in the interim while the Town Planner position is open. The Town Manager, Public Service Director, & Town Clerk have been working with PTRC. Cy Stober, PTRC, was present to give the presentation tonight. He has prepared some options for the Planning Board to discuss.

Stober said this presentation is in regard to the use and sale of e-cigarettes and vapor lounges. This is a growing business across the state, especially in the younger generation. There has been data showing vapor lounges can lead to other criminal activity, similar to issues associated with electronic gaming use. Their intended use is not always their actual use. While the Town does not wish to limit entrepreneurial growth, it is important to do so by appropriate planning.

Stober stated that NC law prohibits tobacco use in most establishments that affects minors, and prohibits it where alcohol and food are primary sales. Basically, limits tobacco use to stores that are used only for smoking and smoking lounges. Tobacco and e-cigarettes can be sold (retail) anywhere.

Stober said almost every municipality in the State has a Nuisance Ordinance similar to the Town of Jamestown. We do permit tobacco stores in Town. There is not a distinction between the types of tobacco (tobacco or smokeless tobacco).

The Nuisance Ordinance limits where any tobacco/vaping lounge can go. All these activities emit fumes or odors that are prohibited under the Nuisance Ordinance. This ordinance often limits these uses to isolated buildings that are not adjacent to any other buildings. The Nuisance Ordinance refers to smoking uses not retail (sale) of the tobacco or e-cigarette.

Stober researched other municipalities and what ordinances they have in place. City of Fayetteville has a large military presence and they have a lot of tobacco shops. Fayetteville adopted their ordinance about a year ago. Fayetteville developed 3 classes of tobacco for retail; 1) tobacco products (cigarettes, cigars, chewing tobacco) 2) smoked & smokeless tobacco products (includes tobacco, e-cigarettes and shisha) 3) tobacco products and accessories (pipes, etc.). There are density restrictions for each of these shops. All 3 of these must be located a specific distance away from educational facilities, parks & libraries. Distances range from 500' to 1500'. These uses cannot be near minors.

The Town of Jamestown currently has an Adult Use Ordinance in place. This Adult Use Ordinance does not address tobacco and the different type of tobacco use. The ordinance allows adult uses only in the industrial zoning district. There is a restriction on proximity to schools and churches of ¼ mile. Basically, the Town of Jamestown has a fair amount of land that qualifies for the Adult Use business.

Stober presented examples of maps using different scenarios permitting the use of Tobacco Stores. Currently, Tobacco Stores (retail use) are permitted in the following zoning districts: Main St., Main St. Periphery, Commercial Main Street Transitional, Commercial, Bypass and Traditional Neighborhood District. Stober listed the schools that are located within ¼ mile on the map. This scenario yields 53 acres or 70 parcels where tobacco stores are permitted by right.

If the Town of Jamestown Adult Use Ordinance is used as a model, there is a ¼ mile buffer from schools. The industrial zoning district would be the permitted district. Using this scenario for smoking lounges would yield 60 parcels and 247 acres. Tobacco stores would be defined as strictly a retail use. This scenario would be more comparable to the Town's current LDO and permitted use table.

The current Vapor Lounge located on W. Main St. was opened as a retail Tobacco Store. The existing business could not expand to smoking lounges. An expansion would constitute a new use.

Stober also researched a Hybrid Scenario to define a new use for "smoking lounge" to permit in Industrial and Commercial zones. Still prohibit the use from areas where minors might congregate; parks, libraries, churches. To open up and allow smoking lounges in Industrial and Commercial zones would yield 28 parcels and 110 acres.

Stober stated the following are options:

- Do nothing (vulnerable to have smoking lounges where retail tobacco currently exists)
- Fayetteville Model with 3 tier approach
- Jamestown Adult Use Model (Industrial district allowed)
- Prohibit tobacco sales
- Hybrid approach (Commercial & Industrial districts)

Staff said the concern is that this is a new business growing in the area. The Town should have appropriate planning in place for the permitted use.

According to Stober, the Town's current Nuisance Ordinance limits where potential smoking lounges could go in the Town. Any smoking lounge must adhere to the current Nuisance Ordinance. Such as vibrations, fumes and odors that overlaps the whole Town.

Smith said tonight is just a recommendation if the Planning Board wants to move this item forward. The next step would be to define what we want to have in the ordinance. Staff needs direction from the Planning Board on how to proceed.

Miller said he sees this as 2 steps:

1. Get a recommendation to proceed by the Planning Board
2. What the ordinance would include.

Sarah Glanville made a motion to recommend proceeding with a draft of an ordinance regarding Hookah Cafes and Vapor Lounges. Art Wise made a second to the motion. The motion passed by unanimous vote.

Miller said we need to discuss what we would like to see in the ordinance.

Stober said the hybrid approach would buffer schools and all civic properties within ¼ mile. The Town's Nuisance Ordinance includes that such use must be in a free standing building. No use shall emit fumes, gases or odors, vibrations or noise. The Hybrid approach would allow more flexibility in use by allowing smoking lounges in Industrial and Commercial zones.

If the Adult Use method was preferred, language could be added to the ordinance to use the civic buildings as a buffer. Miller felt this was an Adult Use Business because it is regulated by age. Stober said that smoking lounges is a use most communities do not want to have near places where minors congregate.

Miller asked if there was anyone present that would like to speak to please come forward at this time.

Glen Fesko, 403 Circle Place, Thomasville – Mr. Fesko stated that he is the co-owner of Vapor Lounge, 702-D W. Main St., Jamestown, NC and owner of Vapor Lounge in Thomasville. He has owned an electronic cigarette lounge for a year. He stated in his experience, he has not seen any gaming machines in the establishments. He stated any odor from the electronic cigarette stays in the building it does not go into other parcels. The odor does not linger.

As far as the combined usage, he feels you shouldn't combine smoking tobacco with vaping. With vaping there is no tobacco involved. Hookah Cafes involve the smoking of flavored tobacco. He feels the Hybrid Model Ordinance discussed is a little extreme for the electronic cigarette use. It does not give entrepreneurs the opportunity to help expand businesses in Jamestown.

Fesko explained that Hookah Lounges have the flavored tobacco that is smoked. The Vapor Lounges have the e-cigarette which is non-tobacco use. Vaping is age-sensitive.

The Planning Board discussed zoning of retail verses the activity of smoking. It could be hard to distinguish between retail sale of vaping lounges due to customers must try (smoke) different flavors of e-cigarettes before they make a purchase.

Smith said a first step may be to define these uses. Stober said he will be glad to draft a definition of smoking lounges. Also, draft an ordinance using the Hybrid Model and the Jamestown Adult Use Ordinance, adding the buffers to the Adult Use Model. Plans are to bring this back to the Planning Board at the February 9th, 2015 meeting.

4. Consider recommendation for ETJ Representative – Eddie Oakley made a motion to recommend approval of Steve Monroe as an ETJ Representative to the Planning Board. Richard Newbill made a second to the motion. The motion passed by unanimous vote. This nomination will be presented to the Town Council at their January meeting.

The Town Clerk stated that Daniel McRae has resigned as an ETJ representative. He has 3 small children and just does not have the time to devote to the Planning Board. So, we have another ETJ opening. If you have anyone interested, please contact the Town Clerk.

5. Appointment of Chair and Vice-Chair - Miller said it is time for him to step down as Chair of the Planning Board. Kerry Miller made a motion to nominate Sarah Glanville as the Vice-Chair. There were no other nominations. Richard Newbill made a second to the motion. The motion passed by unanimous vote.

Sarah Glanville made a motion to appoint Art Wise as the Chair of the Planning Board. There were no other nominations. Dot Perdue made a second to the motion. The motion passed by unanimous vote.

6. Public Comment Period – None

7. Other Business – Art Wise asked if there was a regulation of the numbers of cars that can be parked in a person's front yard. Stober said Article 2 – General Provisions, Section 2.10-6 "Off Street Parking" states it would be a violation to park within the front setbacks of the yard. Therefore, the parking of cars in the yard would not be allowed.

Art Wise made a motion to adjourn. Richard Newbill made a second to the motion. The meeting ended at 7:50 pm.