

Regular Meeting of the Town Council  
November 17, 2009  
Minutes & General Account

Regular Meeting of the Town Council November 17, 2009, Council Chambers, Town Hall

Council Members Present: Mayor Volz, Council Members Thomas, Nixon-Roney, Gray & Lain

Ragsdale High School Town Council Representative – Denzell Faison

Staff Present: Kathryn Billings, Matthew Johnson, Chuck Smith, Martha Wolfe, Beth Koonce, Town Attorney

Visitors Present: Aubry Burroughs, Deborah McMahon, Thomas & Marie Manor, James McMahon, Billy Edwards, Angel & Julie Vasquez, Tim & Karen Amos, Carol Brooks of the Jamestown News, Jennifer Pruitt, Robert & Peggy Corey, Linda Causby, Donna Caldwell, Debbie & Bob Averett, Rick Anderson, Tamra & Ben Bingham, Hazel Howard, Mary Ann Hodgin, Kenny Caldabaugh, Bob Caldabaugh, Joe Humble, H. C. Stewart, Terry & Margie Haynes, Doris Porter, Vic Gilliland, Lynette Hodgin, Dot Perdue, Kim Morgan, Andy Morgan, Brenda Smith, Richard Smith, Angi Matthews, James Matthews, James Breedlove, Rhonda Reagan, Helen Hall, Kevin Jones, & Lynda Burroughs

1. Call to Order – Mayor Volz called the meeting to order.
2. Invocation – Mayor Volz asked everyone to please remember our Firefighters that had a tough week. We had two big fires in Jamestown and our Firefighters responded well and thank to them no one was hurt.

Mayor Volz also announced that Jeff Thomas, our Fire Chief, has been promoted to Deputy Fire Chief for the district.

Mayor Volz then asked for a moment of silent prayer.

The Mayor invited everyone to look at the collage prepared by the Jamestown Golf Pro, Michael Hutcheon. These pictures were taken during the Wyndham events at the Jamestown golf Course last August. The collage will be displayed at the Jamestown Park Clubhouse.

Mayor Volz stated there was a nice distinction to a Town employee this week. He called Town employee, Jeff Greeson forward. Mayor Volz announced that Greeson was awarded the American Water Works Association Distribution Operator of the Year Award for 2009. Greeson was presented this award at their annual conference in Raleigh, N.C. This award is given to full time employees of Superintendent Grade or below who have exhibited outstanding knowledge and innovation in the continuing operation of a water distribution system.

Greeson serves as Public Service Operation Manager. He has proven to be a huge asset to the Town over the last 19 years. His knowledge of operations and history of the water system have proven beneficial to the Town and fellow employees time and time again. He is very dedicated, well liked and respected in the community. Jeff has been instrumental in developing strategies to improve all facets of the Town's water distribution system. Jeff's leadership and work ethic

impels the staff around him to give the extra effort needed to ensure quality workmanship. He continuously demonstrates his ability to effectively supervise and train staff while maintaining a good working relationship with them. He is honest and trustworthy.

Mayor Volz concluded by saying – He is proud of Jeff for receiving this **Operator of the Year Award**. We are fortunate to have someone with his integrity serving the Town of Jamestown.

Jeff Greeson said he was shocked at receiving this award and was an honor to accept it. He thanked Chuck Smith for nominating him for the award. Greeson said he has always had a good feeling working for the Town and working with the outstanding group of individuals the Town has employed over the years. It is a privilege to represent Jamestown and the State of North Carolina for this special award. He feels truly blessed to serve the good folks of Jamestown. Thank you-

Greeson received a round of applause from the audience.

3. Approval of minutes from the October 20, 2009 regular meeting and the October 20, 2009 special meeting. Council Member Lain made a typo correction to the minutes. Council Member Gray made a motion to approve the minutes as amended. Council Member Thomas made a second to the motion. The motion passed by unanimous vote.
4. Resolution Honoring Peggy Corey – Mayor Volz called Peggy Corey forward. He read and presented her with a Resolution honoring her for 13 years of service on the Planning Board.

(Insert Resolution)

Peggy Corey commented the pay was not good, but the rewards were great. It has been a joy to serve the Town. There's no place like Jamestown.

5. Public Hearing to consider a Resolution to Close on Existing Street and Abandon the Right-A-Way of Hermitage Drive. Matt Johnson stated the parcel in question is an unopened portion of public right-a-way between the Matthews & McKelvie property off of Jefferson Park Drive. This property is located in the Town's Extra-Territorial Jurisdiction. This property accesses a section of property owned by the George W. Taylor heirs. There are other locations of unopened right-a-way in order to access the Taylor property.

The process for closing the right-a-way is to split the area equally between both of the owners. Each would property owner will retain ownership of half of that unopened right-a-way property. The Town of Jamestown has requested a 20' public utility easement centered over the center line of that street. This is in the event the Taylor property needs to be served with water & sewer in the future.

Mayor Volz opened up the Public Hearing to anyone present that wished to speak in favor of the Resolution.

James Matthews, 4522 Abbotts Loop – Matthews stated he would like to see this right-a-way closed. This closure will allow him to install a driveway. This area in question has been dirt for 35 – 40 years. He would like to be able to have a driveway and not drive in the mud.

Mayor Volz asked if there was anyone present that was opposed to the Resolution. No one spoke.

Mayor Volz asked the Council if they had any questions. Council Member Nixon-Roney asked if we had notified the Taylor Heirs. The Town Clerk did send written notification to all parties as well as publish the appropriate notice in the newspaper.

Council Member Nixon-Roney made a motion to accept the Resolution to Close an Existing Street & Abandon the right-a-way. Council Member Gray made a second to the motion. On a roll call vote,

Council Member Thomas voted aye  
Council Member Nixon-Roney voted aye  
Council Member Gray voted aye  
Council Member Lain voted aye

The motion passed by unanimous vote.

(Insert Resolution)

6. Public Hearing to consider a rezoning request from Single Family Residential (SFR) to Conditional Zoning Single Family Residential (CZ-SFR) Cluster Development for the property located at 300-399 Lee Street Case # 2009-04 – Matthew Johnson said he will present some comments about the case. Then the applicant will speak. We will then hear statements from those present speaking for or against the case.

Johnson stated the property is located at 300-399 Lee Street. The parcel consists of two lots under the one application. The proposed rezoning is from Single Family Residential (SFR) to Conditional Zoning Residential (CZ-SFR). The property consists of approximately 7.08 acres. The applicant voluntarily requested to add the following condition.

1. Will adhere to the CDO (Cluster Development Overlay) District standards.

The most important item from the Cluster Development Overlay is that a minimum of 40% of the land must remain as “open space”.

Johnson said in a recent development, the Town received a letter dated November 12, 2009 from Attorney, Tom Terrell, which stated the applicant offered the following additional conditions to the rezoning application. First Choice of the Carolinas Inc. will:

- i. Construct a six foot opaque fence along or near the property’s northern boundary where it abuts properties plated # 10, 11 & 12.
- ii. Shall repair or resurface Moore Street to the extend Moore Street is damaged by equipment or trucks during construction.
- iii. Any internal parking lot island shall be constructed as a “pocket park” with no fewer than two park benches and landscaping.
- iv. Shall construct internal sidewalks and a sidewalk along its property on the southwest side of Lee Street and the southeast portion of Moore Street.

- v. Shall dedicate to the Town of Jamestown at least 50 feet as measured from the center line of the creek that crosses the eastern boundary of the property. The dedication shall be for public use as a greenway.
- vi. Shall not substantially depart from the illustrative site plan presented to the Town Council on November 17, 2009.
- vii. The total number of dwelling units allowed on this approximate 7.08 acre tract not to exceed 40 units.
- viii. A Homeowners Association shall be established to maintain all common areas.
- ix. Each townhome building façade shall be constructed of no less than 60% brick. This is the front of each building not each unit.
- x. Shall develop an internal landscaping plan that exceeds the Town of Jamestown landscaping requirements.

Johnson advised the Council they may:

- Choose to accept these conditions
- Suggest new conditions
- Can suggested new conditions that are site specific
- Conditions must be agreed to by developer and the owners voluntarily to be legally binding.

Johnson stated the property is located at Oakdale & Moore Street. The property is primarily vacant land. There is a single family house on one lot. The property is bordered to the North by SFR, East by Bull Run Creek and Yorkshire subdivision which is SFR, to the West by SFR and South by SFR on large lots.

The property is located in the Town's future growth area of the 2020 Land Development Plan on the growth strategy map. The site is currently located within the "Suburban Residential" district of the future land use map. This means the property is in close proximity to the Town's public water and sewer system. It would be a requirement of site plan approval for the developer to connect to the public water/sewer system.

Per Johnson the conditional zoning is established to provide for flexibility in the development of property while ensuring that the development is compatible with neighboring uses. The conditional zoning affords a degree of certainly in land use decisions not possible when rezoning to a general use district. Additional standards and regulations may be attached to a proposed development to ensure compatibly with the surrounding uses and with applicable adopted plan in accordance with the requirements of the Development Ordinance. The applicant is requesting this rezoning to build townhomes.

Kenny Caldabaugh, President of the First Choice of the Carolinas, addressed the Council and public. He stated his company is a construction company located in High Point, NC. As previously stated, he is requesting a rezoning for conditional use to build townhomes. Caldabaugh assured the Council that he has the financial capabilities to construct this project. They have the cash to purchase the land, build the roads, water & sewer and the buildings.

Caldabaugh stated he had been looking for some property to development for some time. He walked this property and then talked to the Town's Planning Director. It was suggested he wait to request a rezoning until the Town's new Land Use Ordinance was adopted. This Ordinance

would include a Cluster Development Zoning Overlay district, which might be good for the subject project.

First Choice hired Davis-Martin-Powell Civil Engineer, Joe Humble, to survey the land. The engineers did topography studies and core drilling over the entire area. The Modlins disclosed that years ago there was a land fill on a part of this property. The engineers did core drilling to be sure the property was suitable.

First Choice then conducted a Neighborhood/Community meeting. Letters were sent out to the people in the neighborhood. First Choice presented this proposed project. The next step was a meeting with the Planning Board and now the Public Hearing with the Town Council. Caldabaugh addressed items of concern from residents.

- Caldabaugh said the ingress and egress for the development will be off Oakdale Road onto Moore Street and onto Lee Street.

Some residents have asked for another access off of Oakdale Rd. One factor is the cost of purchasing the extra lot. The other reason he feels that the State would not allow another access since there is already one a few hundred feet away.

- The next concern was traffic.

Per Caldabaugh, the 2007 traffic studies for the corner of Oakdale & Main Street are about 14,800 vehicles per day. The proposed project consists of 40 units. If you assume each unit will have 1.5 cars and assume each will travel 2 trips a day; that equates to 240 trips per day. This is an increase of only 1.6%.

- Traffic on Moore Street

There are about 6 homes on Moore Street. Caldabaugh referred to a similar situation on Yorkleigh. There are about 60 apartments and 50 homes in that area. These 110 vehicles exit onto Main St. via a 2-lane road.

- Appearance of the Townhomes

Caldabaugh displayed pictures of townhome models. He said the units he plans on building will be no less than 60% brick front façade. The buildings will be offset so the units will not look alike.

- Changes in the neighborhood

His thought is that neighborhoods are always changing.

- Buffer zone

First Choice will dedicate 50' plus he would like to dedicate at least 100' to the Town of Jamestown.

- Homeowners Association

The HOA will be responsible for the roads, streets, lighting, grounds and the exterior of the buildings.

Mr. Caldabaugh submitted a typed list of the conditions he added to the rezoning to the Town Clerk to be include in the minutes of the meeting.

Caldabaugh said at the Planning Board meeting the statement was made that this project does not fit with the growth management policy and is inconsistent with our vision. Per Caldabaugh, this type project is consistent with the Town's Ordinance. Instead of spreading out single family homes and using up all the land, cluster them together and leave buffer zones. Caldabaugh said a fence would go along Lee St. The fence would go up first to provide protection for the property owners during construction.

Mr. Caldabaugh said the Planning Board commented they saw no advantage to building cluster homes at this location. Caldabaugh said the advantage is to use the same amount of space, but leaving the natural area intact.

The Modlins have owned this property for a long time. They have been trying to sale this property for a long time. They are paying \$6000.00 a year in taxes on this property.

Per Caldabaugh, the alternative to building these Townhomes is to develop the property as single family lots. If this is the case, he would develop the other piece of property as well. This project would extend Moore Street into a cul-de-sac with lots on either side. This would not require a rezoning request as this land is zoned SFR. He is going to develop this land. He feels it is unfair to anyone to think this land will remain undeveloped and the Modlins continue to pay taxes on it.

Caldabaugh said the Town will gain 40 new water/sewer customers. The developer will install the water/sewer lines. The town will gain the tax revenue from this property. He feels the project presented is exactly what the vision is as written in the Ordinance. The cluster is a better option than the SFR development.

Caldabaugh displayed pictures of the homes on Moore Street. He feels his proposed project will improve the neighborhood. He would like to build cluster homes as it will only develop half of the land. He will put in buffer zones especially for Yorkleigh Subdivision. It is doing exactly what the vision is which actually encourages this type development. He feels it will be a good fit for the community. If he does it the other way, he will probably rent the houses for 10 years, then sale to amortize his money. He will probably ask for Section 8 housing.

He realizes this is a passionate thing for the neighbors. He did complement the community on the polite, civil and mannerly way each person has conducted themselves.

Mayor Volz opened up the Public Hearing and asked if there was anyone that wished to speak in favor of this project.

Doris Porter, 108 Cottonwood Drive stated she works for Coldwell Banker and is the listing agent for this property. She has known the Modlins all her life. She is familiar with the property stating there is a

steep hill at the back of this property. She has had several people interested in purchasing this property but due to the topography was not able to develop. The property has been listed for several years. The Modlins have been paying taxes on the property; \$6000.00 a year with a total over the years of \$120,000.00. Every individual property owner has the right to sell their property. They have a well qualified buyer with financial backing to build nice townhomes. This will be an asset to the community with affordable homes and excellent location. This will increase tax revenue in Jamestown. She urged the Council to approve this request for rezoning.

There was no one else to speak in favor of this rezoning request.

Mayor Volz opened up the Public Hearing to anyone that wished to speak against the rezoning request.

Kim Morgan, 206 Moore Street – The residents and neighbors have gathered here this evening because they sincerely care about Jamestown. They strongly oppose the townhome development request. After attending the neighborhood meeting held by the developer and the Planning Board public hearing, she heard many legitimate concerns of the community.

In addition, she reviewed the letter submitted by Attorney, Tom Terrell, on behalf of the developer. The letter indicates conditions Caldabaugh is willing to implement. However, with these conditions, the development will have no better outcome. Some of the conditions are already required in the Land Development Ordinance. The true concerns of the community have not been addressed. It appears the developer has not researched the market to see if there is actually a need for this project. They are proposing 40 two-story 900 sq. ft. units, priced at \$100,000.00. They state they are marketing to seniors and young people even though the median age for Jamestown is 40.2 years. Currently there are 35 townhomes and condos for sale in Jamestown. With this market, there is a significant risk of these units being rental properties. We do not need another Jamestown Village.

The neighborhood is worried about property value decrease and increase in traffic volume along Oakdale Rd., the RR crossing and Moore Street. Moore St. is a short narrow dead end street. There are 4 occupied homes on this street. (Homes not units) There are 8 vehicles and based on 2 vehicles per household, the proposed development will increase traffic volume 1000%. They are also concerned the effect the project will have on the wildlife, waterways and the environment. The topography is very steep. We need to ask ourselves – How will this project enhance the historic value of this area? The properties along Oakdale Rd. and the homes adjacent to the development hold a significant value. They are essential to keeping the historic small town charm and character of our community. If the proposal is approved, we may forever lose another piece of our town's distinctness. Although the proposal is consistent with the Land Development Ordinance the development is not compatible with the surrounding area. No matter what conditions are placed on this multi-family development, it will not fit the character of our community.

Rick Anderson – 103 Lee Street – Anderson said that Lee St & Moore St is a very narrow street. Within the last month, when the Oakdale RR tracks were closed, we saw the inconvenience of the traffic as it was re-routed through Lee St. & Moore St. The traffic volume on Lee St has increased due to homes built on Jackson St. If you travel Oakdale Rd. at 4:30 – 5:30pm traffic is backed up. It will cause a traffic hazard at Moore, Lee & Oakdale Rd. He has lived on Lee St. for 21 years. He said getting out of Lee St. & Moore St. onto Oakdale Rd., in the morning is a horrendous chore. He strongly asked the members of the Council to reject this cluster as it is presented.

Jennifer Pruitt – 207 Lee St. – She thanked the Council for allowing our voices to be heard. She is not opposed to something being built in this area. Change does come. The Town needs new residents that do bring tax value into the Town. It brings business into the downtown area. However, she has reservations concerning this particular piece presented. She does not understand why the State would not suggest another entrance from Oakdale Rd. When you leave Moore St. one cannot see to the right side. She feels another solution to the Moore St. access would be better.

Forty units add a lot of vehicles for a small area. The roads were designed for local traffic. First Choice said they wanted to maintain property values in this area. She believes as part of the vision is it not enough to maintain certain values, you have to add to them in order to maintain that area. She said Oakdale Rd. properties have been referred to as “the other side of the tracks”. The vision for Jamestown in the Comprehensive Land Use Plan does say to enhance and bring quality and value to the area. In order to do this in the area, it has to be brought up not maintained.

Pruitt said she understands the owner wanting to sale the property. I would not want the sale of the property to be the reason for making a decision. Jamestown has a lot to offer. Pruitt stated she has an interest in the success of the area. She lives and works here. She does not feel this property actually fits into what the Town had in mind when it approved the Land Development Plan.

If you decide in favor of this project, she feels you sale yourself short of possibly increasing the area verses maintaining the area. She does not want to see the Oakdale area be the anchor that sinks Jamestown. The developer said the project is geared toward retirees and lower income individuals and families. She stated in her line of work, she sees retirees are moving into Town from the North. The two bedrooms are limiting. Families will not purchase a unit if they are looking toward expanding their family. Retirees are interested in the Riverwalk Townhomes. They do not want units with all the bedrooms on the second floor.

The area has great potential. Pruitt is also concerned about the selling price. If listed at \$100,000.00 then possible sale price could be \$85,000 - \$90,000.00. They have a lower re-sale value than a quality home like Riverwalk or a single family home. When these units are sold, after each owner they continue to decline. She feels we need to add quality to the area. We rely on the Town to fulfill its commitment to bring value to the area.

Pruitt referred to the letter written to the Town on behalf of First Choice, the letter states First Choice will purchase and develop this property in one form or another. She hopes this Town recognizes they are dealing with a developer so intent on developing the land that he hasn't listened to the concerns of the community. Pruitt ended by saying, we only have one opportunity to get this right; to help us grown and add to the community.

Rick Smith – 204 Jackson St. – Mr. Smith handed out a sketch he drew demonstrating where the population lives in this area. Smith stated he moved here from Charlotte 19 years ago. It is a quiet area with abundant wildlife. His main concern is dumping this volume of traffic at the head of the subdivision. He has asked the developer if he could approach the Modlins for a different access. Smith went onto the State NCDOT website and found that subdivision guidelines are 75' between access streets. There are 3 lots on Oakdale Rd., so he feels another access is a possibility. This would keep a lot of traffic out of an area that can't handle it. There is always an alternative unless you have a mindset that you don't want to look at it. There needs to be a separate access.

Angel Vasquez – 200 Jackson St. – Stated he has lived here for 2 years. He too is concerned about the traffic. He was a truck driver for 3 years. You cannot see going out of the street onto Oakdale Rd. You will add more traffic coming out which will increase accidents. There have been 2 accidents in the area in the last 6 months. He is concerned about the traffic that will enter on Moore St., it literally cannot sustain two vehicles side by side, and it is too narrow. Think about the construction equipment and vehicles traveling this area, it would be a dangerous situation. He felt the presentation given here was either this cluster built or the other homes built. He took this in a negative manner, saying it was going to be done either way.

Mike McMahon – 536 Oakdale Rd. – There mill houses in this area are 50 years old. What will these townhomes look like in 50 years? He asked if the townhome units do not sale will they become Section 8 Housing. He does not feel Section 8 Housing is appropriate for this area. McMahon said the developer threatened to building Section Housing if this property is not approved. McMahon does not see how Section 8 Housing will help Jamestown grow.

Linda Burroughs – 510 Havershire Drive – stated she lives at the bottom of the hill. Last week when we had significant rain, she almost had a flood in her backyard. If these dwellings are built, this will add to the amount of water entering the stream. It is really important that studies are done to check the water run-off. If this development is done it will add pavement and steep roofs. When it rains water will pour off of these areas into the stream increasing stream size. This runoff is a personal concern for those living at the bottom of the hill. If you take off a large portion of the bank, then you will decrease the amount of land that can absorb rain water. Another point is that there are some things that money can't buy, like habitat. At present we have wild turkeys, deer and raccoons. We owe the wildlife some consideration. We should not look at it in terms of just dollars and cents. Her concern is the eco-system. She begged Council to look thoroughly into these concerns.

Billy Edwards 310 Jackson St. – Mr. Edwards stated many residents feel dumped on that live on the other side of the tracks. We are voicing our opinion; please do not dump on us again. Edwards expressed concern of the water tower which is an eye sore. They have no sidewalks or trails on Oakdale.

Edwards said he lived in the area for a long time. He has walked over a larger portion of this property. The area at the end of Moore St drops into a huge crevice. A large portion of this property is unbuildable. It was a stump dump at one time. Now it appears the Town will allow a slum neighborhood on that side of Town. Please do not dump something like this on us. Edwards would like to see a good quality single family neighborhood adjoining us. He does not see how they can get 40 units without putting in an easement or right-a-way to Oakdale Rd. so the traffic will not come through the existing neighborhood. This existing neighborhood does not need the traffic of 40 more homes.

The developer proposes to give to the Town the land along Bull Run Creek as a barrier or greenway. This land is totally undevelopable. It is a cliff at the Creek. There will be huge grading costs.

Proposing putting 900 sq. ft. (per Edwards apartments) in this neighborhood with 2 bedrooms upstairs will not target retired people. There are lots of townhomes and condos already for sale. The developer has already said he will rent these if they do not sale. Basically this would be allowing apartments.

Edwards said he does not oppose if the developer wants to build single family residents. He would like to see an improvement to our side of Town. However, this project is a detriment to everybody on this

side of town. Please look at putting sidewalks or a Park on this side of Town. Some beautiful trails could be built along Bull run Creek using the current sewer right-a-way. This property is ideal for a Park. He does not believe the proposed project is the best use for the land. Please look at this property for some other use than 40 apartments.

Elliott Ward Jr. – lives along Bull Run Creek in the Yorkshire subdivision. The Bull Run Creek actually crosses the back of his property. Last week, the heavy rains flooded the entire sewer area. That area is not developable. He said provided this project is approved, the development could go one of three ways. It can be wildly successful, a huge failure or somewhere in between. He heard on channel 2 & 8 news that there was a condo project in Greensboro where 14 condos did not sale. The Greensboro Housing Authority purchased the 14 units in bulk. These units are going to be used for subsidized housing. This could happen here.

Aubrey Burroughs – 510 Havershire Drive – He stated cluster development is not inheritably bad. It is a widely used and efficient use of land. The important thing is context; where and when it is used. What we have here, in his opinion, is context. If this is approved, in essence it imposes upon the residents something which they obviously do not want. It is a serious matter when people lose their freedom of choice, particularly when it concerns where they live. There are many cluster developments and many people voluntarily buy these properties and love it. Oakdale area is one of the major entrances to Jamestown. We need to consider future development there. If these units are placed there is that going to encourage people to build nice homes 1000 ft. down the road. Burroughs said we have no way of knowing if these units will sale. If they are not sold what are the consequences. In his opinion the simple point is that you are changing the character of the area if this is permitted. You are discouraging people who might otherwise build nice single family units. Most all the people here tonight say no to this request. In the long run, it would be beneficial to the Town of Jamestown not to approve this. Jamestown is a great place to live and he hopes we keep it that way.

Mayor Volz closed the Public comment period of the hearing. He stated now is the time for the applicant's rebuttal.

Kenny Caldabaugh, applicant, stated he is confused about the traffic issue. There are 5 houses on Moore St. This traffic will come out of Moore St. and the other people will come out of Jackson St. He feels the people on Lee Street will exit out of Jackson Street. He does not feel the traffic will be a problem.

The water runoff will be controlled by a bio-cell. All of the drainage from the development will go to a bio cell before it goes into the Creek.

We can still have wildlife with cluster development. But on the other hand, it is unfair to ask the Modlins to pay \$6000.00. in taxes so that other people can enjoy the deer.

Caldabaugh said he and the engineer have looked at this property and it is developable. This property is almost exactly like Jackson Street extension. Joe Humble, engineer, said the property is buildable.

Matt Johnson said when the Council makes this decision they have to consider the facts and the land Development Plan and make their decision based on those policies. There are several **growth management policies** that apply as follows:

- Continue to value, preserve and enhance existing residential uses in neighborhoods to maintain the unique small town character of Jamestown.
- Infill development is encouraged to efficiently use the existing infrastructure however; new building and renovation should fit the scale and character and add value to the existing neighborhoods.
- Encourage new residential units that strike balance between quality and affordability , provide pedestrian friendly neighborhoods that are well connected to the community through sidewalks and greenways and provide appropriate use of housing in appropriate location
- Encourage opportunities for adequate affordable attractive quality housing by providing for residents and renovation of existing older homes and a building of a balanced mixture of housing types to match a range of life styles and income levels.
- Encourage open space, parks and squares to be a part of every new neighborhood

### **Community Appearance Policy**

- Maintain a strong sense of community place and pride as each new neighborhood fits into over vision for the future adding quality and value enhancing community character and quality of life.
- Carefully consider appearances of design and site development to ensure a good fit. Maintain and improve appearances of our community and create a greater sense of harmony and compatibility among various uses throughout the community.

### **Quality of Life**

- Provide diverse open space with a parks and recreation system with abundant variety of opportunities throughout the community for neighborhood parks, playgrounds, walking, biking, trails and greenways connecting these elements together.

Johnson went on to say this land is mostly vacant. In 2007 there was a request for apartments which was withdrawn by the applicant due to neighborhood concern. Currently the applicant did hold a neighborhood meeting on August 6, 2009. Most of the residents' concerns centered around unit size, price points, rental vs. sales, traffic impact, building materials and the number of units.

Per Johnson, price point may not be considered by the Council. The Council must consider all potential land uses that are allowed in SFR. The owner can build single family units by right, but not townhomes which is the reason for the rezoning request. The Planning Director said that single family homes may be built; the Town cannot limit them to size or quality. They may build any type single family home they desire. The Council may consider appearance standards, building materials, amenities such as sidewalks or open space, street repairs and other items that are associated with development.

The staff has worked with the applicant to seek a zoning district that will allow maximum flexibility for both the applicant and the community. The conditional zoning district was selected that allows conditions to be placed on the rezoning to ensure the project confirms to the desire of the community and helps meets the goals of the Land Development Plan.

The first condition that was requested was the development overlay standard for the cluster development that does include a reservation of a minimum of 40% for open space. From a land use aspect this proposed project is residential in nature and will be built amongst a residential neighborhood. This is quite logical and that could easily be grounds for approval of this rezoning request. Clustering development makes for a more efficient use of land, reduces required infrastructure and lessens environmental impact of development.

However, there are some adjacent property owners that are concerned with building materials, appearance and the feel of the project and how it is going to fit into their existing neighborhood. Based on all the information contain in the staff report, the Planning Department did recommend approval but highly encouraged Planning Board, the Council and the residents to request conditions be placed on the rezoning that would ensure quality development which would complement surrounding neighborhoods.

The Planning Board did not review the additional conditions; the only condition presented at the Planning Board was the cluster development overlay district requirements. That being the case, the Council can remand that back to the Planning Board for future consideration. But the Council can rule on the case as is. The Council can consider conditions up to the point of the vote. The Planning Board voted unanimously on October 1, 2009 to recommend denial to the Town Council.

Johnson gave staff's opinion of the new zoning conditions as follows:

#### Conditions

1. Construct a 6' opaque fence along or near the property's northern boundary where it abuts tax parcels 15-94-7039-H-0952-00010, 15-94-7039H-095-200011 & 15-94-7039H-0952-00012.

**Johnson** – This is appropriate however; Council should discuss with the adjacent property owners to determine the feasibility of this. Similar results could come from requesting a 35' undisturbed buffer or a combination of undisturbed and a fence.

2. Repair or resurface Moore St to the extent Moore St. is damaged by equipment or trucks during construction.

**Johnson** – This is an appropriate request but should also include Lee Street to the intersection of Moore Street.

3. Any internal parking lot island shall be constructed as a "pocket park" with no fewer than 2 park benches and landscaping.

**Johnson** – This is probably appropriate but is illogical. Parking island are great places for landscaping but typically not classified as a park.

4. Shall construct internal sidewalks and sidewalks along its property on the southwest side of Lee St. and the southeast portion of Moore St.

**Johnson** – This is already required by the Ordinance

5. Shall dedicate to the Town of Jamestown at least 50' as measured from the center line of the creek that crosses the eastern boundary of the property. The dedication shall be for public use as a greenway.

**Johnson** – The Ordinance requires a minimum portion of the land be retained for open space. This does not mean that it must be dedicated to the Town. Greenways may not be built within the first 50' of the stream buffer. This is an undisturbed area by law. This condition should be restated.

6. Shall not substantially depart from the illustrative site plan presented to the Town Council on November 17, 2009.

**Johnson** – Plans often change in staff technical review. Also – how do you define substantial? This is probably not fair to both the developer and the Town.

7. The total number of dwelling units allowed on this approximately 7.08 acres tract shall not exceed 40.

**Johnson** – This is completely appropriate. Council or applicant can limit the number of developable units on the property.

8. Homeowners association shall be established to maintain all common areas.

**Johnson** – This is a little misleading, of course they will have townhomes with a HOA.

9. Each building front façade shall be constructed of no less than 60% brick.

**Johnson** – To clarify, 60% or more of each of the front façade shall be brick. For example – If there are 3 units in one building, 2 out of the 3 will have brick fronts up to 60%.

10. Shall develop an internal landscaping plan that exceeds Town of Jamestown landscaping requirements.

**Johnson** – Since this is a single family base district, there are no requirements for additional landscaping around the buffers. Any type of landscaping they add will be exceeding the requirements.

Johnson did advise the Council that a valid protest petition was filed for this rezoning. Due to this petition, it will require the Council meet a  $\frac{3}{4}$  super majority vote before passing any amendments to the zoning ordinance.

Johnson asked the developer how many units were planned for the single family project. Caldabaugh stated the preliminary plan is a rough draft, however, they plan 17 units on the 300-399 Lee St. which is the property requested for rezoning and approximately 11 units on the additional property which is not under consideration for rezoning. This property could be purchased and developed by right as single family.

Mayor Volz stated to the Council that we have heard from both sides and the results of the Planning Board meeting and he opened the hearing to the Council for discussion.

Council Member Nixon-Roney disclosed that she did speak in person and by phone to Kim Morgan and Atty. Tom Terrell. Council Member Thomas stated that Tom Terrell called him and came by his office as well as conversations with residents. Per Johnson, it is his understanding that Tom Terrell is no longer representing the applicant.

Council Member Gray stated he has heard from residents of the community about their concerns. He had not spoken with Tom Terrell. Council Member Lain stated he too has heard from residents of the community but he has not spoken with Tom Terrell.

Council Member Thomas directed to Mr. Caldabaugh that he mentioned he felt the project fit in with our Land Development Plan. However, the plan states a project should “maintain a strong sense of place and community pride.” Based on what he has heard, the project does not fit into that criterion of the plan. This is one area where the project seems to fail.

Council Member Thomas said he does work in this area on a personal and professional basis. Based on his personal experience the traffic is a concern, it is a tight area. The 40 units would definitely increase the traffic and create potential problems.

Council Member Thomas stated the runoff to Bull Run Creek is a concern. His house backs up to Bull Run Creek. In the heavy rains of last week, it flooded in the area behind his house. If we put in a development that scrapes away a lot of land and adds more dwellings with water runoff from the roofs, it will create a problem.

Council Member Nixon-Roney stated she felt both sides made some excellent points. Everyone was well spoken and prepared. She commended Mr. Caldabaugh for adding additional conditions to the rezoning. She is unclear if the residents are totally against the project or if a separate access to the project would make the development agreeable. She stated Billy Edwards went on the record tonight as saying he would be agreeable to single family houses.

She is trying to keep an open mind. She realizes there are a lot of issues with the project. However, do we want to go into the possibility of single family homes with no restrictions or do we try to put restrictions on this project that would make adjacent property owners happy and improve the Town. The sq. footage and the 2 story floor plan do not seem to be consistent with the claimed target market.

Council Member Gray saw 2 key issues. One is the additional traffic. He knows this street and has traveled it before. Eight cars are considered an active traffic pattern for this neighborhood. The street will not support the potential for 80 more vehicles.

The other issue is that the quality of Bull Run Creek can be compromised by the runoff of the construction as well as additional vehicle and human impact. Council Member Gray said he is very concerned about these 2 issues if this project was to move forward.

Council Member Lain stated he has a concern of the living conditions of the bedrooms planned for upstairs. This plan is not conducive to senior citizens. He knows of a 3 bedroom townhome in another neighborhood that stayed on the market for a long time because of that reason. The neighborhood

basically leaned toward senior citizens. That particular unit with 3 bedrooms upstairs and none on the main level was much a much larger unit than these planned and it did not sale easily. Council Member Lain felt the proposed sq. footage was very small.

Also he questioned why another entrance could not be added although that would not change the whole picture. If the citizens are concerned about the whole development, adding an entrance is not going to change much. The project will still have traffic impact on Moore & Lee Street. Runoff is a concern even with a bio pond it will not control all of the runoff due to the lay of the land.

Mayor Volz said it sounds to him that there is not anything with the development that has a lot of merit. The development has a lot of questions as to aesthetics and how it will fit into the area. He has not heard any good points in support of the project from the Council.

Council Member Gray stated he does not see that changing the zoning and allowing this to go forward will be an enhancement to this neighborhood. He stated we should leave the zoning as it is written and if that allows the development to proceed as single family then that is what we must do.

Council Member Nixon-Roney stated she understands that point, but with no restrictions on the single family dwellings the results may not be pretty. Johnson stated the property can be developed by right as single family. The Courts tell us we cannot limit style, size or price points. They can develop in any manner they wish as long as it meets the technical aspects of the Ordinance. Earlier the developer showed a sketch demonstrating how many units they could build. Johnson said he cannot speculate how many units could be built on the piece of property at the end of Moore St. This is new information. He does not know if this would be feasible, he does not know the purchase price so there are a lot of questions.

Council Member Nixon-Roney just wants to be sure we can make an informed decision. She stated seventeen 1000 sq. ft. houses made out of the cheapest building material and possibility zero landscaping could be the reality of what is built. She wants to make sure the neighbors understand that possibility.

Council Member Thomas stated we have 3 options; change the zoning, reject the request or continue the public hearing. He said Council Member Nixon-Roney's comment is a legitimate concern. The residents may not know that possibly this is an either/or situation. He would like to know if this changes anyone's opinion on the project. If Council can do what is right for the community by asking for additional conditions to this project, would that change any of the resident's mind about the development.

Council Member Nixon-Roney asked the Planning Director if there was a required distance along Bull Run Creek in which building is not allowed. Johnson said the buffer from Bull Run Creek is 100'. There is certain developing that can happen within the buffer depending upon the buffer zone. He has not had an opportunity to look at the sketch of single family homes which was presented at this meeting.

Johnson said regarding a single family development, there would be stormwater requirements, public streets, sidewalk requirements that will take up part of the developable area of land. As far as the quality of the houses, there is nothing the Council can do to regulate that. Council Member Nixon-Roney stated the cluster development as presented is not acceptable to the neighbors or her vision for

Jamestown. However, be careful what you ask for, the prospect of a single family unregulated project is concerning.

Council Member Thomas said he understands that the Planning Board was not privy to the 10 conditions offered by the developer. Johnson said the Council may add conditions to the property up to the time of the vote. Council Member Thomas said we can request that this case go back to the Planning Board along with these considerations and any additional conditions Council places on the property. The case would then come back to the Council for a vote.

Council Member Nixon-Roney wanted more input on the case. Mayor Volz asked for clarification if the Council wanted to send this back to the Planning Board and they would work with the residents and the builder as to what would be acceptable. Council Member Nixon-Roney said she is just trying to determine what could happen if we voted it down unilateral without thinking about what could happen in the future. She would like more information. She felt if Council is going to send this case back to the Planning Board, we should discuss some further conditions. Some of the conditions presented are already requirements of the Town's ordinance.

Council Member Gray stated based on his review of the Planning Board meeting, they all opposed the change in zoning. Based on what he read from the Planning Board and what he had heard tonight, we should either accept or reject the change in zoning or keep the Public Hearing open and refer back to Planning Board on this plan B that appeared tonight.

Council Member Thomas said he is interested to know by a show of hands in the audience are they so opposed to the cluster homes that no conditions placed on the project will make it acceptable. He does not want to make a decision that will have an adverse effect later.

A member of the audience asked – it was stated that the Town has no control over the single family dwelling, but want the market dictate what is acceptable? Johnson said that is true to some extent; however he wants everyone to understand the reality of the situation. A single family home can be rental property.

Council Member Gray said the 40 townhomes could be rental units. Council Member Nixon-Roney stated the market right now is low income, so these single family dwellings can be built as Section 8 Housing. She just wants to do what is right for the community. She is concerned if we unilateral vote this down the developer could build 17 cracker box houses with all rented as Section 8 housing. She would hate to have to say it would have been better to construct the cluster homes with additional conditions. Johnson said there are certain technical requirements for single family homes such as a minimum of 10,000 sq. ft. lot size, must be built on Public Street, and setback requirements.

Council Member Thomas asked again of the audience by a show of hands, are you willing to accept the possibility of Section 8 or single family residence.

Kim Morgan asked Mr. Caldabaugh if he had purchased the land. He said he has not purchased the land. Morgan said then maybe the Modlins will reconsider; neither proposal is good for Jamestown. Caldabaugh said he does have an option on the property and he can purchase it.

Another member of the audience said the developer will have to build streets, storm drains, water/sewer and grading. These costs will affect the price of the dwellings that are built. Once the

grading is done and the units built as a single family subdivision, the developer will be locked in as to what price it will be. He does not think that will meet section 8 criteria.

Caldabaugh said the cost of roads and sewer/water on the one piece of property is actually less for single family than it is for the development as it is priced now.

Another member of the audience said the proposed 40 units could be built as section 8 housing.

Joe Humble, 3836 Johnson Street, High Point said one thing no one has brought into consideration is that we did this cluster development because Jamestown has it in their ordinance that this is the best way to develop this land. We are saving over 60% of the trees on this site. If we develop the project as a single family project, most of the trees will be gone. As the engineer, I am required by law to do a pre and post runoff as far as Bull Run Creek is concerned, which I will do. We are trying to develop this land the way the Town's Planning Department helped us do. This was straight from the Town's Ordinance. We are asking you to look at your Ordinance again. If you are not going to do the Cluster Development, please do not allow it in your Ordinance.

Council Member Gray made a motion that we deny the request for the rezoning case # 2009-04 from Single Family Residential to Conditional Zoning Single Family Residential. Council Member Thomas made a second to the motion. On a roll call vote,  
Council Member Thomas voted aye  
Council Member Nixon-Roney voted aye  
Council Member Gray voted aye  
Council Member Lain voted aye  
The motion passed by unanimous vote and the property remains single family residential zoning. Mayor Volz thanked everyone for coming.

7. Public comment period – No one registered to speak

8. Update on estimate of extension of Colonial Street lighting – Mayor Volz said at the last meeting a resident asked for colonial lights in her neighborhood and other neighborhoods. At present, the subdivision has Cobra lights. Mayor Volz said over the years he has had many citizens tell him the Colonial lighting looks great in the day time, but does not give off good lighting. The Cobra lighting is much better.

Mayor Volz said he would like to ask the resident to petition her neighborhood and others to gather signatures of actual residents that would like for the Council to consider a change. Per Mayor Volz, the dollar amount is not a whole lot. The issue is once we take out the cobra lighting, it cannot be replaced. He is concerned once the residents see how poor the colonial style lighting is, they will be displeased. The Council directed Kathryn Billings to write a letter asking the resident to take a look at neighborhoods and have her neighbors do the same, then submit a petition if that is what they really want. Billings said the dollar amount is approximately \$2600.00 for a 3 year agreement. Billings will draft a letter.

9. Update on Nuisance Abatement Evaluation 214 Oakdale Rd. – Matthew Johnson said at the last meeting we presented the complaint regarding the Oakdale Rd. water tower. He just received a contract signed by the property owner, Mr. Andy, with D. H. Griffin to remove the water tower. So they have complied with the Council request. The contract stated they will begin work in one week. He will follow up, but we should see activity soon.

10. Change December meeting time – Mayor Volz said the requested time change is 6:00 pm. Council Member Thomas made a motion to change the December 15, 2009 meeting time to 6:00 pm. Council Member Nixon-Roney made a second to the motion. The motion passed by unanimous vote.

Martha Wolfe reminded the Council that the photographer will be here at 5:00 pm to take Council's pictures.

11. Budget amendment – Judy Gallman was absent due to illness. Kathryn Billings presented the budget amendment #5. This is to amend the general fund budget for pass-thru grant from Guilford County to the Jamestown Public Library in the amount of \$50,000.00. This was sent directly to the Jamestown Library.

The second portion of the general fund amendment deals with a vacant position due to retirement. Rather than fill that spot, with a permanent employee, it will be filled with a temporary worker who will work mainly on the Golf Course. This amendment is in the amount of \$17,500.00.

In fund #30, we are requesting funds to replace a vehicle. We have a truck that is no longer capable of service. We request a budget amendment in the amount of \$30,000.00 to replace a utility truck. The other truck will be sold. Council Member Gray made a motion to accept the budget amendment #5 as presented. Council Member Thomas made a second to the motion. The motion passed by unanimous vote.

(Insert budget amendment)

12. Financial statement – Billings presented the financial statement for the month ending October 31, 2009. Council had in their packet a summary of cash balances and summary of debt balances. Gallman does a good job of providing these reports.

Billings stated on the detailed financial statement, Gallman added comments of items she felt were of interest. She added we are fortunate to have Judy in this position.

13. Public comment period – No one registered to speak.

14. Other business – Denzell Faison thanked Council Members Nixon-Roney and Lain for attending the ceremony at Ragsdale High School last week.

Council Member Thomas made a motion to adjourn. Council Member Nixon-Roney made a second to the motion. The motion passed by unanimous vote. The meeting ended at 9:25 pm.