

**TOWN OF BURGAW BOARD OF COMMISSIONERS
REGULAR MEETING**

DATE: July 14, 2020
TIME: 4:00 PM
PLACE: Historic Train Depot, 115 S. Dickerson Street
BOARD MEMBERS PRESENT: Mayor Kenneth Cowan
Mayor Pro-tem Wilfred Robbins
Commissioners Jan Dawson, Bill George, Vernon Harrell, James Murphy
STAFF PRESENT: James Gantt, Town Manager
Kristin J. Wells, Town Clerk
Wendy Pope, Finance Officer
Andrea Correll, Planning Director
Cody Suggs, Parks & Recreation Director
STAFF PRESENT REMOTELY: Zachary Rivenbark, Town Attorney
Kimberly Rivenbark, Deputy Town Clerk
Alan Moore, Public Works Director
Louis Hesse, Building Code Administrator
Jim Hock, Police Chief
Jim Taylor, Fire Chief
Tiffany Byrd, Deputy Finance Officer
MEDIA PRESENT: Unknown
INVOCATION: Reverend Nick Smith
PLEDGE OF ALLEGIANCE: All

The meeting was called to order by Mayor Cowan at 4:00 PM and the invocation was led by Reverend Nick Smith.

Approval of Agenda

Commissioner Dawson made a motion to approve the agenda as presented. The motion was seconded by Commissioner George and carried by unanimous vote.

Approval of Consent Agenda

Commissioner Robbins made a motion to approve the consent agenda as presented. The motion was seconded by Commissioner Murphy and carried by unanimous vote.

A. Approval of the May 12, 2020 Special Meeting Minutes

SPECIAL REQUESTS/PRESENTATIONS

USDA Rural Business Development Grant – *Larry Sampson*

Larry Sampson was in attendance by phone and explained the USDA Rural Business Development Grant that has been awarded to the town in the amount of \$49,600 for downtown revitalization projects. Commissioner Harrell made a motion to approve the document presented. The motion was seconded by Commissioner George and carried by unanimous vote.

Request for memorial plaque on the Veterans bench at the Burgaw Cemetery – *Michael Raab*

Michael Raab asked the board if he could have a plaque, in honor of his parents, placed on the bench at the Veterans Memorial at the Burgaw Cemetery. He stated his parents are buried close to the memorial and his father was a Veteran. Commissioner Robbins commented the memorial area was placed in honor of all Veterans in the entire cemetery. He feels like the area is for all Veterans in the cemetery and stated he has no problem at all with placing a bench anywhere in the town with Mr. Raab's parents' names on it. Commissioner George asked if another bench could be placed in the area dedicated to the parents. Commissioner Robbins stated that would have to go before the

board because the cemetery ordinance prohibits benches placed throughout the cemetery due to maintenance issues, etc. There were some comments made on the cemetery ordinance and reiteration that the Veterans area is in memory of all Veterans. Mayor Cowan commented there are some names of Veterans not listed on the memorial that needs to be added. Commissioner George, Dawson and Murphy voiced they are in agreement with Commissioner Robbins. Commissioner Harrell asked Mr. Raab if he would consider another location for the bench in town. Mr. Raab asked who decides on a location. The board directed Mr. Raab to speak with the town's Parks & Recreation Director, Mr. Suggs, on working together to find a location for the bench.

DEPARTMENTAL ITEMS

Finance Department – Wendy Pope, Finance Officer

Ordinance 2020-11 Amending the FY 20-21 budget to provide funding for payoff to First Bank

Ms. Pope explained a couple years ago the town purchased a fire truck and the town was attempting to go through the USDA REDG Revolving Loan program with Four County to finance \$300k for the purchase of the fire truck. Ms. Pope advised two years later, the town received approval from Four County. Initially, the town had to finance the \$300k with First Bank, and now this ordinance is to amend the budget so the town can pay off the loan with First Bank and transition into the zero percent financing loan with Four County. There being no questions from the board, Commissioner George made a motion to approve Ordinance 2020-11. The motion was seconded by Commissioner Harrell and carried by unanimous vote.

ORDINANCE 2020-11 AMENDING FISCAL YEAR 2020-2021 ANNUAL BUDGET Increasing Revenues and Expenditures

WHEREAS, the Town of Burgaw Board of Commissioners passed an ordinance adopting a budget for FY 2020-2021 on June 9, 2020; and

WHEREAS, included in current fiscal year annual budget is an amount equal to current year's principal and interest payment for the Fire Engine loan with First Bank in the amount of \$34,500; and

WHEREAS, the Town of Burgaw would like to pay off the outstanding balance to First Bank with respect to Loan # 630045940, in the amount of \$305,788.36 so that title can be cleared; and

WHEREAS, after title is received, the process to accept the USDA REDG Revolving Loan through a financing agreement with Four County in the amount of \$300,000 for ten years at 0% interest can be completed, and

WHEREAS, a General Fund fund balance appropriation is necessary to pay off the loan with First Bank. When loan proceeds are received from Four County, this fund balance appropriation will be refunded.

NOW THEREFORE, BE IT ORDAINED BY THE TOWN OF BURGAW BOARD OF COMMISSIONERS THAT:

Section 1: The FY 2020-2021 budget be altered to reflect the following changes:

INCREASE BUDGETED REVENUE

<u>Account Number</u>	<u>Account Description</u>	<u>Amount</u>
10-3900-00-900	Fund Balance Appropriation	\$305,788.36

INCREASE BUDGETED EXPENDITURE

<u>Account Number</u>	<u>Account Description</u>	<u>Amount</u>
10-5300-10-992	Installment Purchase	\$305,788.36

Adopted this the 14th day of July 2020.

Ordinance 2020-12 Amending the FY 20-21 Schedule of Fees to reflect the addition of “Professional Engineering Review-Direct Cost Recovery”

Ms. Pope advised she received a request from Ms. Correll to amend the FY 2020-2021 fee schedule to add in “Professional Engineering Review-Direct Cost Recovery” under the appropriate zoning fees. After some comments from Ms. Correll, Commissioner Harrell asked who and when a determination is made to hire an engineer. Ms. Correll advised it is based on infrastructure needs at the site and is determined by herself, Mr. Gantt and Mr. Moore. Commissioner Harrell made a motion to approve Ordinance 2020-12. The motion was seconded by Commissioner Dawson and carried by unanimous vote.

**ORDINANCE 2020-12
AMENDING FISCAL YEAR 2020-2021 ANNUAL BUDGET
Change to Schedule of Fees**

WHEREAS, the Town of Burgaw Board of Commissioners passed an ordinance adopting a budget for FY 2020-2021 on June 9, 2020; and

WHEREAS, the request to amend the Schedule of Fees is to include the pass through of costs associated with professional engineering review of plans when necessary for development including sub division, plan unit developments and site plans; and

WHEREAS, the Schedule of Fees in the budget ordinance will need to be amended to reflect these changes in the Zoning section.

NOW THEREFORE, BE IT ORDAINED BY THE TOWN OF BURGAW BOARD OF COMMISSIONERS THAT:

The FY 2020-2021 Schedule of Fees be altered to reflect the following changes as attached.

Adopted this the 14th day of July 2020.

Parks & Recreation Department – Cody Suggs, Director

Adopt-A-Park Program - Discussion

Mr. Suggs advised the board directed him to look into the possibility of an Adopt-A-Park program for the town. He included some examples from other towns in the agenda packet for review by the board. Mr. Suggs explained how the program would be created based on the town’s needs. Mr. Suggs advised organizations could do planting, painting, cleaning up trash, trimming trees, etc. He said it would be activities/maintenance directed by the town. There was discussion regarding maintenance of the parks and what the organizations would be doing. Mr. Suggs advised the town would continue to mow grass and continue maintenance as usual, but the organizations could set a special day to plant flowers, install benches, etc. as their service to the town under the Adopt-A-Park program. After further discussion, it was the consensus of the board to direct Mr. Suggs to create guidelines specific to Burgaw and bring back to the board.

ITEMS FROM THE ATTORNEY – Zachary Rivenbark, Town Attorney

Easement Update

Attorney Rivenbark stated Public Works staff and himself met with Horace Thompson regarding the easement area that runs from North Bickett Street to US Highway 117 behind Center Court. Mr. Thompson had a map from 2007 when this discussion came up years ago. Attorney Rivenbark stated Mr. Thompson is drafting legal descriptions for the easements and as soon as they are complete, he will place in the deed and approach the property owners. There may be an issue with one property owner regarding the removal of a couple of trees in the ditch/easement area. Attorney Rivenbark also commented that Mr. Moore would like the town to obtain an easement for the ditch that

runs from North Bickett Street to North McNeil Street behind the one residence that is on Pullen Street. Mr. Moore said he believes it would be in the best interest of the town to go ahead and get an easement for this area as well. Commissioner Robbins commented he would like Attorney Rivenbark and Mr. Moore to work on obtaining an easement at this location in addition to the one running to US Highway 117. It was the consensus of the board to direct Attorney Rivenbark and Mr. Moore to move forward with obtaining the above mentioned easements.

ITEMS FROM THE MANAGER – *James Gantt, Town Manager*

EMS Building Renovation Project Update

Mr. Gantt gave an update to the board regarding the EMS Building renovations. He advised plans have been submitted by Mr. Guidry and are being reviewed by Mr. Hesse. Once they have been reviewed, the next stage will be to bid the project out. Commissioner Robbins commented he had been asked by someone concerning the ceiling; he asked if the ceiling was going to be dropped. Mr. Gantt advised the ceiling would not be dropped and it would be as high as we could get it to allow room for duct work, etc. between the ceiling and the roof.

US Highway 117 Sewer Regional Pump Station & Force Main Project Update

Tony Boahn was present at the meeting to take any questions regarding the project at this point. Commissioner Robbins asked why the preliminary design fee is more expensive than anything else. Mr. Boahn advised it is because there is so much upfront work associated with surveying and obtaining easements. Commissioner Harrell asked about the mention of “CFPUA” (Cape Fear Public Utility Authority) within the project documents. Mr. Boahn advised that is a typo and it should state “Town of Burgaw.” Mayor Cowan asked about the timeframe of the project. Mr. Boahn advised it would be about 18 months. Mayor Cowan asked Mr. Boahn if there was any foreseeable problems that stand out about the project. Mr. Boahn stated easements will be the biggest issue. There being no further discussion, Commissioner Harrell made a motion to approve continuation of the project. The motion was seconded by Commissioner George and carried by unanimous vote. Ms. Pope will bring back a budget ordinance amendment at the next meeting for the transfer of funds to cover the first phases of the project.

CARES Act Discussion

Mr. Gantt advised Pender County has received funding from the CARES Act. They are required to disperse 25% of the funds to the municipalities within the county. Mr. Gantt said this would give us funding to pay for personal protective equipment, anything purchased or needing to be purchased relating to the COVID-19 pandemic, etc. Mr. Gantt commented he had a meeting, along with other municipalities, with the county regarding the dispersing of the funds. He advised as of right now it would be based off of the same formula as our sales tax. Nothing has been finalized with the dispersing of funds yet, but Mr. Gantt will keep the board updated when the county has made a determination.

ITEMS FROM MAYOR AND BOARD OF COMMISSIONERS

Appointment of Planning & Zoning Board Members

Mayor Cowan and Ms. Correll commented there are two vacancies on the Planning and Zoning Board that need to be filled. Commissioner Harrell commented he liked Matthew Boney’s qualifications, but has a concern with his residential address since a post office box is listed on his application. Ms. Correll advised he lives in the old Western Auto building downtown. After brief discussion, Commissioner Harrell nominated Mr. Boney to fill one of the vacancies. Commissioner Murphy stated he liked Sam Guidry. Commissioner Dawson commented she liked Patrick Rivenbark. Commissioner George seconded Commissioner Harrell’s nomination for Matthew Boney. Commissioner Robbins seconded Commissioner Dawson’s nomination for Patrick Rivenbark. Commissioner Robbins seconded Commissioner Murphy’s nomination for Sam Guidry. Mayor Cowan called for a vote on each nomination. Matthew Boney received a vote from Commissioners Harrell, George, and Murphy. Sam Guidry received a vote from Commissioners Robbins, Murphy, and George. Patrick Rivenbark received a vote from Commissioner Robbins and Dawson. With Patrick Rivenbark only receiving two votes, Matthew Boney and Sam Guidry both received three votes each; therefore, Mr. Boney and Mr. Guidry have been appointed to fill the vacancies on the Planning and Zoning Board. Mayor Cowan thanked the other applicants for their interest to the Planning and Zoning Board.

Other items from the Mayor and Board of Commissioners

Commissioner Robbins commented he received a couple of complaints regarding food trucks. He said there seems to be some discontent with the brick and mortar establishments in town with us allowing food trucks without permits. Commissioner Robbins said the trucks are setting up on streets and said we need to address this before it gets out of hand. Mr. Gantt advised the food trucks do apply through Parks & Recreation to get a permit for events, etc. He also said they go through the Planning Department to get verification, etc. Attorney Rivenbark said he believes Commissioner Robbins is referring to the town allowing food trucks and purchasing a permit. Attorney Rivenbark and Ms. Correll discussed food trucks are only allowed in town on private property in B-1 and B-2 zoning jurisdiction. Commissioner Harrell asked Attorney Rivenbark if it was possible for the town to charge a substantial fee for a permit. Attorney Rivenbark stated we can charge a reasonable fee, but according to the town's ordinance, food trucks must be on private property. Commissioner Harrell asked if it was possible to regulate food trucks on private property. Attorney Rivenbark stated he can do research on the fee and regulations if the board would like for him to. There was much discussion on this matter. Commissioner Robbins commented we need to come up with a happy medium so both brick and mortar establishments and food trucks can exist. He suggested maybe have one day set aside just for food trucks to come in. Ms. Correll reiterated the zoning regulation on this matter. Commissioner Harrell said he is not trying to create a situation where we are keeping out food trucks, but is absolutely against the food trucks having the advantage of not paying for the service of the town. He feels like the food trucks need to pay their fair share for the services they receive from the town, just like the brick and mortar establishments that pay their fees and taxes. Commissioner Harrell stated he believes the food trucks need to be treated the same. Commissioner Robbins agreed with Commissioner Harrell. Commissioner Harrell also asked who regulates the sales tax for the food trucks. Mr. Gantt and Attorney Rivenbark both stated this is completely up to the food trucks to report it. After much discussion, Mr. Gantt will research this and bring back more information to the board at the next meeting.

Commissioner Robbins asked about the maintenance of the town entrance signs. Mr. Gantt and Mr. Moore will look at the signs to see if there is any maintenance needed.

Commissioner Dawson thanked for the mosquito spraying in her neighborhood.

Commissioner Harrell asked about the 65 meter re-readings on the monthly report. Mr. Moore advised this number varies month to month due to tampering, vehicles parked over them, etc. Mr. Gantt advised it is not unusual to have re-reads.

Commissioner Harrell asked Mr. Moore if the town performed the 811 locates. Mr. Moore advised the town does; Commissioner Harrell asked if the town received payment for doing the locates. Mr. Moore commented the town pays a fee to do the locates for town facilities.

BREAK 5:22 PM-5:38 PM

PUBLIC FORUM

Public attendance in person

Frances Burns, 1663 Lake Road, Watha, owner of Old Carolina Eatery, voiced her concerns regarding food trucks in town. During the recent pandemic, her business has slowed down. Ms. Burns said she is not against food trucks, but one in town every day is excessive and thinks they need to be limited. Mayor Cowan commented on the prior discussion earlier in this meeting and advised Ms. Burns the manager will be researching this issue and bring back recommendations to the board in the future.

Public attendance by phone

Rochelle Whiteside, 315 West Bridgers Street, Burgaw, commented on the plans for the remodeling of the Old EMS Building and voiced her concerns with dropping the ceiling to cover the beams in the building. She said the beams are very useful for the arts with hanging lights, etc. Ms. Whiteside said there are other concerns she has and

would like to meet with someone before approving the final plan. Commissioner Robbins asked Mr. Gantt to have the architect meet with Ms. Whiteside.

PUBLIC HEARINGS

Public Hearing #1 (A) – Andrea Correll, Planning Director

Consideration of an amendment to the official Town of Burgaw Zoning Map, rezoning a 13.2 acre portion of property located at 1406 Penderlea Highway from R-12 to RA. Mr. Richardson is requesting a rezoning from R-12 to RA for 13.2 acre portion of parcel 3219-75-1913-0000.

Mayor Cowan opened the public hearing at 5:50 PM.

Ms. Correll advised William Delynn Richardson is requesting down-zoning of his property from R-12 to RA at 1406 Penderlea Highway to enable construction of a barn with two conex storage boxes incorporated into the structure behind his home. The property is bounded at the back by several large tracts, zoned RA, totaling several hundred acres. After Ms. Correll explained in detail the request, Mr. Richardson briefly spoke in regards to the request. There were no questions by the board.

Mayor Cowan closed the public hearing at 5:57 PM.

Resolution 2020-07 Adopting a statement regarding the consistency of the Richardson rezoning request with the Burgaw 2030 Comprehensive Land Use Plan.

Commissioner George made a motion to approve Resolution 2020-07 as presented. The motion was seconded by Commissioner Robbins and carried by unanimous vote.

RESOLUTION 2020-07 ADOPTING A STATEMENT REGARDING THE CONSISTENCY OF THE RICHARDSON REZONING REQUEST WITH THE BURGAW 2030 COMPREHENSIVE LAND USE PLAN

WHEREAS, William Delynn Richardson requests an amendment to the official Town of Burgaw Zoning Map, rezoning a 13.2 acre portion of property located at 1406 Penderlea Highway (parcel 3219-75-1913-0000) from R-12 to RA.

WHEREAS, Town of Burgaw planning staff have reviewed the proposed rezoning for consistency with the Burgaw 2030 Comprehensive Land Use Plan and presented their findings to the Town of Burgaw Planning Board and Town of Burgaw Board of Commissioners; and

WHEREAS, the Town of Burgaw Planning and Zoning Board voted at their February 20, 2020 meeting to recommend the adoption of a draft consistency statement to the Board of Commissioners; and

WHEREAS, the Town of Burgaw Board of Commissioners reviewed the staff report and draft consistency statement at their July 14, 2020 meeting and find the requested rezoning with proposed conditions to be consistent with the intent of the Burgaw 2030 Comprehensive Land Use Plan, reasonable, and in the public interest;

NOW THEREFORE BE IT RESOLVED BY THE TOWN OF BURGAW BOARD OF COMMISSIONERS THAT *while the proposed rezoning is not in conformity with the Future Land Use Map designation of Traditional Neighborhood Residential, which includes the medium – density residential land use classification, which are intended for single - family residential and two-family residential development. This property is abutting the rural character area and was further identified as vacant/agricultural in the 2009 existing land use assessment shown. The board also finds that the proposed rezoning of this property is reasonable because of their immediate proximity to existing RA zoned properties, and down-zoning the property from a 12,000 square foot lot*

scenario to one lot of 13.2 acres is not inconsistent with surrounding land uses in the area.

Adopted this 14th day of July, 2020.

Ordinance 2020-13 Approving an amendment to the Town of Burgaw zoning map rezoning a 13.2 acre portion of parcel 3219-75-1913-0000 located at 1406 Penderlea Highway from R-12 to RA.

Commissioner Dawson made a motion to approve Ordinance 2020-13 as presented. The motion was seconded by Commissioner Harrell and carried by unanimous vote.

**ORDINANCE 2020-13
APPROVING AN AMENDMENT TO THE TOWN OF BURGAW ZONING MAP
REZONING A 13.2 ACRE PORTION OF PARCEL 3219-75-1913-0000 LOCATED
AT 1406 PENDERLEA HIGHWAY FROM R-12 TO RA.**

WHEREAS, the Town of Burgaw is a municipal corporation organized under the laws of North Carolina, invested with the powers enumerated in Chapter 160A of the North Carolina General Statutes; and

WHEREAS, the Town of Burgaw Board of Commissioners adopted the Unified Development Ordinance (UDO) and official zoning map on December 12, 2000; and

WHEREAS, applicant William Delynn Richardson is requesting the rezoning of a rezoning a 13.2 acre portion of property located at 1406 Penderlea Highway from R-12 to RA. Mr. Richardson is requesting a rezoning from R-12 to RA for 13.2 acre portion of parcel 3219-75-1913-0000.

WHEREAS, the Town of Burgaw Planning and Zoning Board voted at their April 20, 2017 meeting to recommend the requested rezoning subject ; and

WHEREAS, the Town of Burgaw Board of Commissioners finds that the rezoning is consistent with the Burgaw 2030 Comprehensive Land Use Plan because it is consistent with the intent of the plan and the proposed downzoning is consistent with abutting RA property adjoining this property and the development pattern in the area.

WHEREAS, the Town of Burgaw Board of Commissioners finds that the proposed rezoning is reasonable and in the public interest because of the immediate proximity to existing RA zoned properties, and down-zoning the property from a 12,000 square foot lot scenario, to one lot on 13.2 acres is not inconsistent with surrounding land uses in the area.

NOW THEREFORE BE IT ORDAINED BY THE TOWN OF BURGAW BOARD OF COMMISSIONERS THAT:

SECTION 1: The Town of Burgaw Official Zoning Map be amended and the parcels referenced above is hereby rezoned to RA as described in the attached zoning district map prepared by planning staff;

SECTION 2: This amendment to the Town of Burgaw Official Zoning Map becomes effectively immediately upon adoption of this ordinance on this, the 14th day of July, 2020.

Public Hearing #1 (B) – Andrea Correll, Planning Director

Request by William Delynn Richardson for a Conditional Use Permit to enable develop of a barn with conex boxes as part of the interior structure on a 13.2 acre portion of the property located at 1406 Penderlea Highway further identified as tax reference number 3219-75-1913-0000.

Mayor Cowan opened the public hearing at 5:59 PM.

Town Clerk Kristin Wells administered the oath to the following individuals in order to present evidence during this hearing:

- Andrea Correll, Planning Director
- William Delynn Richardson, Applicant

Ms. Correll explained Mr. Richardson is requesting a conditional use permit for two “cargo storage containers” (to be used in the construction of a barn) in the RA zoning district to be located at 1406 Penderlea Highway within the Town of Burgaw corporate limits. Ms. Correll reviewed each standard and advised all standards have been met.

Mayor Cowan closed the public hearing at 6:05 PM.

Commissioner Robbins made a motion the board votes in the affirmative for standards 1, 2, 3, and 4 and grant the applicant a conditional use permit as presented. The motion was seconded by Commissioner Harrell and carried by unanimous vote.

A CONDITIONS USE PERMIT #2020-01-3219-75-1913 TO ALLOW TWO CONEX BOXES TO BE USED IN THE CONSTRUCTION OF A BARN, TO BE LOCATED AT 1406 PENDERLEA HIGHWAY WITHIN THE TOWN OF BURGAW CORPORATE LIMITS.

On July 14, 2020, the Town of Burgaw Board of Commissioners held a public hearing at the Town of Burgaw Train Depot located at 115 S. Dickerson Street to consider an application for a conditional use permit submitted by William Delynn Richardson. The applicant petitioned the town to allow the use of two conex boxes in the interior structure of a barn on land zoned RA.

The following witnesses submitted testimony to the board of Commissioners during the course of the hearing:

- Andrea Correll, Town of Burgaw Planning Director
- William Delynn Richardson the applicant and owner

In making the findings of fact and reaching the conclusions of law below, the board has considered, in addition to arguments offered at the hearing, the following documents, exhibits, and reports:

- Original Application (Exhibit 1)
- Building Plan (Exhibit 2)
- Aerial Map (Exhibit 3)
- Zoning Map (Exhibit 4)
- 2009 Land Use Comparison Map (Exhibit 5)
- Future Land Use Map (Exhibit 6)

And thereby finds the following facts:

Findings of Fact

In General:

The applicant is applying to the town to allow development of a barn with conex storage boxes included in the interior structure of the Barn.

- The property is zoned RA, Residential Agriculture, and the Town of Burgaw Unified Development Ordinance lists the use of conex storage boxes as a conditional use in this zoning district.
- In order for a permit to be issued, the Unified Development Ordinance requires that
 - The use will not materially endanger the public health, safety, or general welfare if located where proposed and developed according to the plan as submitted and approved;
 - The use meets all required conditions and specifications;
 - The use will not adversely affect the use of or any physical attribute of adjoining or abutting property or the use is a public necessity; and

- The location and character of the use, if developed according to the plan as submitted and approved including condition #3 conditional use permit to allow a gravel parking lot instead of paved parking from the right of the building to the dumpster and it will be used for off-street loading and unloading, will be in harmony with the area in which it is to be located and in general conformity with the Town of Burgaw Unified Development Ordinance, Burgaw 2030 Comprehensive Land Use Plan.

Standard 1: The use will not materially endanger the public health, safety, or general welfare if located where proposed and developed according to the plan as submitted;

- The applicant has proposed two conex boxes to be used in the interior structure of his barn and used to house equipment to maintain the property.
- The subject site is not located in a flood plain.

Staff recommended conditions:

- The applicant shall meet all requirements of the North Carolina State Building Code and North Carolina State Fire Code.

Standard 2: The use meets all required conditions and specifications;

- The applicant's proposal of two conex boxes to be used in the interior structure of his barn meets the standards and requirements of the Unified Development Ordinance.
- The applicant shall meet all requirements of the North Carolina State Building Code and North Carolina State Fire Code.

Standard 3: The use will not adversely affect the use of or any physical attribute of adjoining or abutting property, or the use is a public necessity;

- The use is not a public necessity.
- The subject site abuts over 200 acres zoned RA at the rear of the property.
- The proposed barn will be over 900 feet from the Penderlea Highway behind the house. It is 100 feet from the rear property and 190 feet from neighboring property.

Standard 4: The location and character of the use, if developed according to the plan as submitted and approved, will be in harmony with the area in which it is to be located and in general conformity with the Town of Burgaw Unified Development Ordinance, Burgaw 2030 Comprehensive Plan, and NC Hwy 53 Corridor Study.

- The site for the proposed barn is currently zoned R-12 Single Family Residential and designated *Traditional Neighborhood Residential in the Future Land Use map, which includes the medium – density residential land use classification, which are intended for single - family residential and two-family residential development. This property is abutting the rural character area and was further identified as vacant/agricultural in the 2009 existing land use assessment shown on slide 6 and entered in the record.*
- The downzoning of this property to RA with a lot size of 13.2 acres has no impact of the neighboring tracts.

As a result of this information, staff finds the following condition must be met:
The applicant shall meet all requirements of the North Carolina State Building Code and North Carolina State Fire Code.

Conclusions of Law

Based on the above Findings of Fact, the Town of Burgaw Board of Commissioners makes the following Conclusions of Law and Decision:

1. **The use will not materially endanger the public health, safety, or general welfare if located where proposed and developed according to the plan as submitted.**
2. **The use meets all required conditions and specifications.**
3. **The use will not adversely affect the use of or any physical attribute of adjoining or abutting property.**
4. **The location and character of the use, if developed according to the plan as submitted and approved, will be in harmony with the area in which it is to be located and in general conformity with the Town of Burgaw Unified Development Ordinance, Burgaw 2030 Comprehensive Plan.**

Based on the foregoing findings of fact and conclusions of law, it is hereby adjudged, decreed, and ordered as follows:

That the applicant's conditional use permit request to use two conex boxes in development of a barn is approved.

Adopted and entered on this the 14th day of July, 2020

Public Hearing #2 – *Andrea Correll, Planning Director*

Request by Burgaw Presbyterian Church for a Conditional Use Permit to enable development of a columbarium located accessory to the church at 204 E. Fremont Street further identified as tax reference number 3229-33-7372-0000.

Mayor Cowan opened the public hearing at 6:06 PM.

Town Clerk Kristin Wells administered the oath to the following individuals in order to present evidence during this hearing:

- Andrea Correll, Planning Director
- Bob Corbett, Representative of Burgaw Presbyterian Church
- Cheryl Woodell, Representative of Burgaw Presbyterian Church

Ms. Correll explained the request submitted by the Burgaw Presbyterian Church. After the presentation, Mr. Corbett briefly spoke and requested the board to approve the conditional use permit. There being no questions from the board, Ms. Correll reviewed each standard and all standards were approved in the affirmative by each board member.

Mayor Cowan closed the public hearing at 6:10 PM.

Commissioner Dawson made a motion to approve the conditional use permit as presented. The motion was seconded by Commissioner Robbins and carried by unanimous vote.

A CONDITIONAL USE PERMIT #2020-02-3229-33-8122 TO ALLOW DEVELOPMENT OF A COLUMBARIUM ATTACHED TO THE BURGAW PRESBYTERIAN CHURCH WITHIN THE TOWN OF BURGAW CORPORATE LIMITS.

On July 14, 2020, the Town of Burgaw Board of Commissioners held a public hearing at the Town of Burgaw Train Depot located at 115 S. Dickerson Street to consider an application for a conditional use permit submitted by Burgaw Presbyterian Church. The applicant petitioned the town to allow development of a columbarium attached to the existing church.

The following witnesses submitted testimony to the board of Commissioners during the course of the hearing:

- Andrea Correll, Town of Burgaw Planning Director

- Robert H. Corbett, attorney at law, and Cheryl Wooddell, a church member and chair of the committee working on the columbarium project

In making the findings of fact and reaching the conclusions of law below, the board has considered, in addition to arguments offered at the hearing, the following documents, exhibits, and reports:

- Application (Exhibit 1)
- Site/Location of the Proposed Columbarium (Exhibit 2)
- Plot Plan (Exhibit 3)
- Aerial Map (Exhibit 4)
- Niche Location (Exhibit 5)
- Zoning Map (Exhibit 6)
- Future Land Use Map (Exhibit 7)

And thereby finds the following facts:

Findings of Fact

In General:

The applicant is applying to the town to allow development of a columbarium attached to the existing church.

- The property is zoned B-1. The Town of Burgaw Unified Development Ordinance allows a conditional use when the use is not specifically listed in the Unified Development Ordinance.
- In order for a permit to be issued, the Unified Development Ordinance requires that
 - The use will not materially endanger the public health, safety, or general welfare if located where proposed and developed according to the plan as submitted and approved;
 - The use meets all required conditions and specifications;
 - The use will not adversely affect the use of or any physical attribute of adjoining or abutting property or the use is a public necessity; and
 - The location and character of the use, if developed according to the plan as submitted and approved, will be in harmony with the area in which it is to be located and in general conformity with the Town of Burgaw Unified Development Ordinance, Burgaw 2030 Comprehensive Land Use Plan.

Conclusions of Law

Based on the above Findings of Fact, the Town of Burgaw Board of Commissioners makes the following Conclusions of Law and Decision:

- 5. The use will not materially endanger the public health, safety, or general welfare if located where proposed and developed according to the plan as submitted.**
- 6. The use meets all required conditions and specifications.**
- 7. The use will not adversely affect the use of or any physical attribute of adjoining or abutting property.**
- 8. The location and character of the use, if developed according to the plan as submitted and approved, will be in harmony with the area in which it is to be located and in general conformity with the Town of Burgaw Unified Development Ordinance, Burgaw 2030 Comprehensive Plan.**

Standard 1: The use will not materially endanger the public health, safety, or general welfare if located where proposed and developed according to the plan as submitted;

- The Applicant has proposed a columbaria accessory to their church
 - There is a need for church members to place family ashes meeting all NC laws on the subject.

- The subject site is not located in a flood plain.

This standard has been met in the staff's judgement.

Standard 2: The use meets all required conditions and specifications;

- The purposed request will have to meet all local regulations and any applicable NC laws.

This standard has been met in staff's judgment.

Standard 3: The use will not adversely affect the use of, or any physical attribute of, adjoining or abutting property, or the use is a public necessity;

- The use is not a public necessity.
- The site is located in the middle of church property.
- The garden like design with brick fences will further assure that there will be no adverse effect on adjacent properties.

This standard has been met in staff's judgment.

Standard 4: The location and character of the use, if developed according to the plan as submitted and approved, will be in harmony with the area in which it is to be located and in general conformity with the Town of Burgaw Unified Development Ordinance, Burgaw 2030 Comprehensive Plan, and NC Hwy 53 Corridor Study.

- The columbarium, located in a walled garden in the middle of church property, will be in harmony with the area and conform to the Unified Development Ordinance and submitted plans.

This standard has been met in staff's judgment.

Based on the foregoing findings of fact and conclusions of law, it is hereby adjudged, decreed, and ordered as follows:

That the applicant's Conditional Use Permit request to develop a columbarium is approved.

Adopted and entered on this the 14th day of July, 2020

Annexation Request – Kristin Wells, Town Clerk

Clerk's Certification – Petition for Voluntary Annexation received from Myra and James F. McDuffie

Ms. Wells stated she has verified the petition for the annexation and certifies the petition is accurate.

Public Hearing #3 – Andrea Correll, Planning Director

Request for Voluntary Annexation by Myra and James F. McDuffie for a one acre tract further identified as tax reference 3229-67-9814-0000 located east of NC Highway 53.

Mayor Cowan opened the public hearing at 6:13 PM.

Ms. Correll explained the voluntary annexation request submitted by Myra and James McDuffie. There were no questions from the board.

Mayor Cowan closed the public hearing at 6:16 PM.

Ordinance 2020-14 Approving the amendment of the Town of Burgaw Zoning Map to reflect the annexation of a one acre tract further identified as tax reference 3229-67-9814-0000 located east of NC Highway 53.

Commissioner Robbins made a motion to approve Ordinance 2020-14 as presented. The motion was seconded by Commissioner Dawson and carried by unanimous vote.

**ORDINANCE 2020-14
APPROVING THE AMENDMENT OF THE TOWN OF BURGAW MAP**

WHEREAS, the Board of Commissioners has been petitioned under G.S. 160A-31 to voluntarily annex the area described below into the corporate limits of the Town of Burgaw; and

WHEREAS, Myra F. and James F. McDuffie (applicants) are petitioning for approximately one acre tract of land located adjacent to their property fronting NC Highway 53 to be voluntarily annexed into the corporate limits of the Town of Burgaw. This requested tract is further identified as parcel ID numbers 3229-67-9814-0000; and

WHEREAS, the Town Clerk has certified the sufficiency of the petition and a public hearing on the question of this annexation was held at the Burgaw Train Depot at approximately 5:30 PM on July 14, 2020, after due notice by publication on July 2, 2020 and July 9, 2020; and

WHEREAS, the Board of Commissioners finds that the petition meets the requirements of G.S. 160A-31; and

WHEREAS, the Board of Commissioners have adopted the Certificate of Sufficiency; and

NOW THEREFORE BE IT ORDAINED BY THE TOWN OF BURGAW BOARD OF COMMISSIONERS THAT:

SECTION 1. The Town of Burgaw municipal boundary is hereby amended and the following parcels are voluntarily annexed:

SECTION 2. Upon and after July 14, 2020 the above described territory and its citizens and property shall be subject to all debts, laws, ordinances and regulations in force in the Town of Burgaw and shall be entitled to the same privileges and benefits as other parts of the Town of Burgaw. Said territory shall be subject to municipal taxes according to G.S. 160A-58.10.

SECTION 3. The Mayor of the Town of Burgaw shall cause to be recorded in the office of the Register of Deeds of Pender County within 6 months of the passage of this ordinance, and in the office of Secretary of State at Raleigh, North Carolina an accurate map of the annexed territory, described in Section 1 above, together with a duly certified copy of this ordinance. Such a map shall also be delivered to the Pender County Board of Elections, as required by G.S. 163-288.1.

Adopted this fourteenth day of July, 2020.

Public Hearing #4 – Andrea Correll, Planning Director

Request for a UDO text amendment by Clarence David Futch for a Country General Store in Light Industrial (I-1). The Definition of General Country Store added to Section 6-2 of the Unified Development Ordinance and amending Section 8-2: Table of Permitted Uses adding Country General Store in Light Industrial (I-1).

Mayor Cowan opened the public hearing at 6:17 PM.

Ms. Correll explained the request for the text change amendment submitted by Clarence David Futch. After reviewing the application, Mr. Futch briefly spoke in regards to his request. He stated the store would sell seafood, produce, general country store merchandise. Commissioner Harrell asked Mr. Futch when he hopes to have the store opened. Mr. Futch advised he hopes it could be open by fall and would probably open a little at a time to eventually make it a good store.

Mayor Cowan closed the public hearing at 6:21 PM.

Resolution 2020-08 Adopting a statement regarding the consistency of the text amendment request for general country store with the Burgaw 2030 Comprehensive Land Use Plan.

Commissioner Harrell made a motion to approve Resolution 2020-08 as presented. The motion was seconded by Commissioner George and carried by unanimous vote.

**RESOLUTION 2020-08
ADOPTING A STATEMENT REGARDING THE CONSISTENCY OF THE
TEXT AMENDMENT REQUEST FOR GENERAL COUNTRY STORE WITH
THE BURGAW 2030 COMPREHENSIVE LAND USE PLAN**

WHEREAS, David Futch requests a text amendment to enable location of a general country store at Rooks Farm.

WHEREAS, Town of Burgaw planning staff have reviewed the proposed text amendment for consistency with the Burgaw 2030 Comprehensive Land Use Plan and presented their findings to the Town of Burgaw Planning Board and Town of Burgaw Board of Commissioners; and

WHEREAS, the Town of Burgaw Planning and Zoning Board voted at their June 18, 2020 meeting to recommend text amendment and adoption of a draft consistency statement to the Board of Commissioners; and

WHEREAS, the Town of Burgaw Board of Commissioners reviewed the staff report and draft consistency statement at their July 14, 2020 meeting and find the text amendments to be consistent with the intent of the Burgaw 2030 Comprehensive Land Use Plan, reasonable, and in the public interest;

NOW THEREFORE BE IT RESOLVED BY THE TOWN OF BURGAW BOARD OF COMMISSIONERS THAT *the proposed amendments are consistent with the Town of Burgaw 2030 Comprehensive Plan by specifically identifying the use of a general country store, it will enable redevelopment of Rooks Farm, and support existing businesses and attract new businesses that will enhance the economic health and livability of the town while keeping standards encouraging quality and controlled growth that enhances and maintains the community's character.*

Adopted this 14th day of July, 2020.

Ordinance 2020-15 Approving a text change amendment to Article 6 – Adding a definition for general country store to section 6.2, section 8-2: Table of Permitted Uses adding general country store as a permitted use in light industrial (I-1).

Commissioner Harrell made a motion to approve Ordinance 2020-15 as presented. The motion was seconded by Commissioner George and carried by unanimous vote.

**ORDINANCE 2020-15
APPROVING A TEXT CHANGE AMENDMENT TO ARTICLE 6 – ADDING A
DEFINITION FOR GENERAL COUNTRY STORE TO SECTION 6.2, SECTION
8-2: TABLE OF PERMITTED USES ADDING GENERAL COUNTRY STORE AS
A PERMITTED USE IN LIGHT INDUSTRIAL (I-1)**

WHEREAS, the Town of Burgaw is a municipal corporation organized under the laws of North Carolina, invested with the powers enumerated in Chapter 160A of the North Carolina General Statutes; and

WHEREAS, the Town of Burgaw Board of Commissioners adopted the Unified Development Ordinance (UDO) and zoning map on December 12, 2000; and

WHEREAS, this text amendment will support revitalization of the Rooks Farm Store building; and

WHEREAS, at the Town of Burgaw's Planning and Zoning Board meeting on June 18, 2020, the Board voted to recommend approval of these text change amendments;

NOW THEREFORE BE IT ORDAINED BY THE TOWN OF BURGAW BOARD OF COMMISSIONERS THAT:

SECTION 1: The Unified Development Ordinance is amended as attached.

SECTION 2. This amendment to the Unified Development Ordinance (UDO) becomes effective immediately upon adoption of this ordinance on this, the 14th day of July 2020.

CLOSED SESSION – 6:22 PM

Commissioner Robbins made a motion to go into closed session pursuant to NC GS 143-318.11(a)(3) Attorney/Client Privilege. The motion was seconded by Commissioner Harrell and carried by unanimous vote.

OPEN SESSION – 6:35 PM

Commissioner Harrell made a motion to go back into open session. The motion was seconded by Commissioner Robbins and carried by unanimous vote.

ADJOURNMENT

Commissioner Harrell made a motion to adjourn. The motion was seconded by Commissioner Robbins and carried by unanimous vote.

The meeting was adjourned at 6:35 PM.

Kenneth T. Cowan, Mayor

Attest: _____
Kristin J. Wells, Town Clerk