

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

DATE: June 8, 2021
TIME: 4:30 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, James Murphy, Vernon Harrell
STAFF PRESENT: James Gantt, Town Manager
Kristin J. Wells, Town Clerk
Zachary Rivenbark, Town Attorney
Wendy Pope, Finance Officer
Tiffany Byrd, Deputy Finance Officer
Andrea Correll, Planning Director
Kimberly Rivenbark, Deputy Town Clerk
Jim Hock, Police Chief
Alan Moore, Public Works Director
Clay Jasper, Deputy Fire Chief
Cody Suggs, Parks & Recreation Director
MEDIA PRESENT: Unknown
INVOCATION: Nick Smith
PLEDGE OF ALLEGIANCE: All

The meeting was called to order by Mayor Cowan at 4:30 PM and the invocation was led by Reverend Smith.

Approval of Agenda

Mayor Cowan asked the board to consider amending the agenda by removing item #6 *NC Blueberry Festival Association*, as they will not be attending the meeting to present. Mayor Cowan also asked to amend the agenda by adding a closed session. Commissioner Dawson made a motion to approve the agenda as amended. The motion was seconded by Commissioner Harrell and carried by unanimous vote.

Approval of Consent Agenda

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

- A. Approval of the April 27, 2021 Special Meeting Minutes
- B. Approval of the May 11, 2021 Regular Meeting Minutes

DEPARTMENTAL ITEMS

Parks, Recreation & Tourism Department – Cody Suggs, Director

Adopt-A-Park Program Updates

Mr. Suggs advised the board there are currently three (3) parks adopted by local organizations. Burgaw Rotary Club has adopted Rotary Park, Safe Haven of Pender has adopted Hankins Park, and The Property Shop International of Burgaw has adopted the Pocket Park on South Wright Street. Mr. Suggs said the groups are very excited and have their own plans for planting seasonal flowers, decorating for holidays, etc. Mr. Suggs also showed the board a sign that was recently designed that would be placed in the adopted parks with the name of the organizations on them. Mayor Cowan said the parks are looking good and thanked Mr. Moore and the Public Works Department for their efforts. The board commended Mr. Suggs on a great job with the program.

ITEMS FROM THE ATTORNEY – Zachary Rivenbark, Town Attorney

Attorney Rivenbark said he had nothing for open session, but would speak on a matter during closed session.

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

Resolution 2021-07 Support Project R-5701 for traffic signal installation and intersection improvements along NC Highway 53 and US Highway 117 Business in the Town of Burgaw

Mr. Gantt advised this topic was brought up at the last board meeting. The board was in agreement for Mr. Gantt to draft a resolution showing support of the previously proposed NC DOT Project R-5701. Mr. Gantt said this project has been in the works for quite a few years, but due to recent funding issues with the state, this project has been pushed out until year 2027, which is the proposed construction time line. Commissioner Harrell made a motion to approve Resolution 2021-07 as presented. The motion was seconded by Commissioner Robbins and carried by unanimous vote.

**RESOLUTION 2021-07
RESOLUTION TO SUPPORT PROJECT R-5701 FOR TRAFFIC SIGNAL INSTALLATION &
INTERSECTION IMPROVEMENTS ALONG NC HIGHWAY 53 AND US HIGHWAY 117 BUSINESS IN THE
TOWN OF BURGAW**

WHEREAS, the Town of Burgaw Board of Commissioners support the safe and efficient movement of traffic for residents, visitors, and commerce; and

WHEREAS, the Town of Burgaw has been working with the North Carolina Department of Transportation to improve the safety and efficiency of the NC Highway 53 and US Hwy 117 Business corridor since 2006; and

WHEREAS, the North Carolina Department of Transportation has previously approved project R-5701 for signal installation and intersection improvements on NC Highway 53 and US Highway 117 Business; and

WHEREAS, construction on project R-5701 was scheduled for June 2020; and

WHEREAS, the Town of Burgaw was notified in October of 2019 that project R-5701 was delayed one (1) year with the new construction date in June of 2021; and

WHEREAS, in March of 2021, the Town of Burgaw was notified that, due to reprogramming of projects, project R-5701 was postponed to 2025 for right-of-way acquisition and to 2027 for construction; and

WHEREAS, project R-5701 involves the widening of turning lanes allowing for the safe movement of truck traffic through the only east and west truck route through town.

WHEREAS, project R-5701 involves the installation of a traffic signal at the intersection of NC Highway 53 and Wright Street, a congested intersection with increasing traffic incidents. Wright St is the direct path between C. F. Pope Elementary School and Burgaw Middle School and a highly traveled bus path for both schools.

WHEREAS, as traffic and incidents continue to increase, project R-5701 becomes a necessity and will improve the safety along a major North Carolina highway and truck route through our community.

NOW, THEREFORE, BE IT RESOLVED, that the Town of Burgaw Board of Commissioners hereby support the North Carolina Department of Transportation Project R-5701, NC Highway 53 & US Highway 117 Business Intersection Improvements, in order to promote the safety of our community while still allowing for commerce in our region and for the North Carolina Department of Transportation to consider any funding opportunities or options in order to expedite project R-5701.

This 8th day of June, 2021.

Commissioner Robbins asked Mr. Gantt to reach out to Senator Rabon regarding the project because it has been going on for twenty years and that is unacceptable. Mr. Gantt said he was planning to contact Senator Rabon. Commissioner Dawson asked about funding available since this project includes school traffic between the elementary and middle schools in town. Mr. Gantt said this is a regional project, not a state project, and due to funding issues, it was placed further down the priority list.

Update on current town projects

Mr. Gantt advised the second bid posting for the former EMS Building has expired and no bids were received. He said there has been a meeting scheduled with a contractor to discuss the plans and price for the project.

Mr. Gantt gave an update on the Highway 117 Sewer Project and said Attorney Rivenbark is working with McKim & Creed on the easements. Attorney Rivenbark said the maps are supposed to be recorded soon and once the final legal descriptions are complete, we will get easements done.

Mr. Gantt gave an update on the Emergency Watershed Protection Program. He said all of the information has been sent over to the state for reviewing alternatives for costs since the cost of the project has increased. They feel confident USDA will be willing to increase the budget amount. Once Mr. Gantt receives updates from them, he will update the board.

ITEMS FROM MAYOR AND BOARD OF COMMISSIONERS

Parks & Recreation Advisory Committee Reappointments

Mr. Suggs advised the two year term for the Parks & Recreation Advisory Committee members is up for reappointment. He said all of the current members have expressed interest in remaining on the board, except for Cameron Deal. Therefore, there would be one vacancy on the board. Commissioner Dawson made a motion to reappoint all of the current board members except for Ms. Deal and advertise for one vacancy. The motion was seconded by Commissioner George and carried by unanimous vote. The following Parks & Recreation Advisory Committee members were reappointed: Olivia Dawson, Jennifer Barefoot-Matthews, Trisha Newton, Daniel Price, and Jennifer Buttery.

Police Advisory Board Member Appointments

Chief Hock advised there has not been any additional applications received for the Police Advisory Board since the last time the board reviewed the applicants and asked for a re-advertisement. He said there were eight (8) applications received and there are seven (7) vacancies. Commissioner Dawson asked if all of the background paperwork has been returned by the applicants. Chief Hock said he did not receive the paperwork back from one applicant, Mr. James Moore, Sr. Mayor Cowan asked Chief Hock if he is excluding the eighth applicant. Chief Hock said he believes that is up to the board, but due to the involvement the board is planning on having with the community and children, he believes a background should be done on each applicant. Attorney Rivenbark advised the board not to consider the applicant without a background check due to liability. Mayor Cowan asked if Mr. Moore had been contacted about the paperwork. Chief Hock said Ms. Rivenbark with Human Resources sent out the initial letters to all applicants, police department staff also dropped off a copy of the letter at Mr. Moore's residence, and has called Mr. Moore and has not heard a response. Chief Hock clarified that the background checks have been done and are satisfactory for the other seven (7) applicants. Commissioner Dawson made a motion to appoint the seven (7) applicants to the Police Advisory Board. The motion was seconded by Commissioner Murphy and carried by unanimous vote. The following applicants were appointed to the Police Advisory Board: Kevin Kozak, Wayne Briley, James Malloy, Farris Leonard, D. Suzette Thompson-Dudley, Harold Ross Wilcox III, and Cathy Guidry.

Other items from the Mayor and Board of Commissioners

Commissioner Robbins commented on a recent incident that occurred the Saturday before the meeting and thanked Chief Hock and Captain Fuller on a job well done and reaching out to the family.

Commissioner Robbins said he and Commissioner Harrell met with Debbie Bradshaw to discuss the drainage issue on South Wright Street. Commissioner Robbins said the ditch is caving in, going back down towards the middle school. He said the area was surveyed a couple of years ago and asked Mr. Moore why it was surveyed. Mr. Moore said it was done to look at the easements behind Ross Harrell's business to replace a storm pipe. Since the surveyor was already in the area, the town got him to go all the way to the school so we would have record of the easements. Attorney Rivenbark asked if the drainage area is on the town's alleyway. Commissioner Robbins said that was the question. He said, according to Ms. Bradshaw, the town had instructed Stover Auctions to install a fence along their property line (behind Ms. Bradshaw's property), but it was never done. Commissioner Robbins said he is unsure about that. He commented there is a huge tree in the middle of the ditch and it appears everything is caving in.

Commissioner Harrell said it is a big culvert and there are two of them that come together at a ninety degree angle, so it is something we need to follow up on. He also asked if this area is part of a flood zone. *Mr. Gantt pulled up a map on the screen for the board to view during the discussion.* Mr. Gantt said the area at question is not in a flood zone. There was discussion on the way the drainage runs, etc. Mr. Gantt said he and Mr. Moore has walked the area. He said the complaint that was received was, if a fire truck had to get to the back of Ms. Bradshaw's house if needed, it would not be able to because the alleyway was not being maintained. Mr. Gantt said this has nothing to do with the alleyway and that Ms. Bradshaw does not own property adjacent to the alleyway. There was brief discussion about drainage in the area. Commissioner Harrell said his concern is the bank seems to be giving way next to the road. Mr. Gantt said he and staff will look into the concern with firetrucks getting behind Ms. Bradshaw's residence, as well as the drainage issues. Commissioner Robbins said Ms. Bradshaw has concerns with the fence that should have been installed years ago. Commissioner Robbins requested we look back in the past to see if there was any directive of Stover Auctions to install a fence. Attorney Rivenbark commented the area at discussion is not in a floodway right now but when the new flood maps are released, there is a possibility it could be. He suggested if the town needed to do any work, it needs to go ahead and be done.

Mayor Cowan requested an update from Mr. Gantt regarding the sewer line at the daycare near Ms. Bradshaw's property on South Wright Street. Mr. Gantt said he has not received the final report back from McKim & Creed.

Commissioner Harrell commented on a recent incident with Wallace regarding the sewer flow. He said the town was prepared to work with Wallace on stopping the flow at 2 AM and we had people there but then were notified from Wallace they were not ready to do it. Commissioner Harrell said Burgaw is getting as much of service fees as Wallace can put on us from the contract. He said if we are going to get that kind of raise in our rates, we ought to start pushing back a little bit and saying we deserve to have something like that not happen. Commissioner Harrell said he would be willing to give pushback for the 5% increase a year. Mr. Gantt said the parts Wallace received were not the right parts, according to what was told to Mr. Moore. Mr. Gantt said he was not pleased with what happened, but things happen; if it continues to happen, he will address the issue with Wallace. Commissioner Harrell said again, the town is getting the most increase it can get and a little pushback would not be a bad thing. Mr. Gantt said we have not been notified from Wallace of what the increase will be, but assumes it will be 5%.

Commissioner Harrell asked about the status of a couple of cars at the old waste water treatment plant. Chief Hock advised one has already been removed and the other one is under court direction and will hopefully be gone soon.

Mayor Cowan advised the Pender Landing Shopping Center has been sold. He has spoken to the group that purchased the shopping center and said they are going to be reroofing the entire center, resurfacing the parking lot within six months, and relandscape the property. The group also informed Mayor Cowan there are no more vacancies and the shopping center is full.

Mayor Cowan said there may be funding available to rehab the second floor of the Old Jail. He asked the board if anyone has a problem with pursuing this. There were no concerns voiced from the board.

Mayor Cowan asked Mr. Gantt for an update on the trash receptacles at fast food establishments. Mr. Gantt said he and the Attorney discussed the issue in depth. Attorney Rivenbark said we can not limit an ordinance to just fast food restaurants. He said if we were going to require restaurants in general to have trash receptacles outside, then we would have to require all restaurants to have them, including the downtown restaurants. Attorney Rivenbark said if this is what the board wants to do, that is fine, but believes we may have trouble singling out a specific type of restaurant. Attorney Rivenbark said he and Mr. Gantt discussed voluntarily asking the fast food establishments to place trash receptacles outside, but forcing them to do it, he said we would need to do an ordinance to require them for all food establishments.

Mayor Cowan said the Golden Leaf Foundation is coming down next month to look at various projects in the area. He said the foundation has funded farmers markets over time and this may be something to look into.

Arwyn Smith, Chamber of Commerce Director, was present and Mayor Cowan asked for her to speak prior to the break and public forum. Ms. Smith said she had come before the board the prior month with the idea of starting a "Third Thursday" event every month. She said the goal would be to keep the businesses open a little later and to bring in artisans. Ms. Smith requested a street closure on Wright Street between Courthouse Avenue and Fremont

Street to occur each month on the third Thursday, starting July 15 and running through September 2021. Ms. Smith said the event if from 5:00 PM to 8:00 PM and is requesting the street the be closed beginning at 4:00 PM and opened back up shortly after 8:00 PM. Ms. Smith said she would notify the businesses in the area of the street closure. Commissioner Harrell reminded Ms. Smith of one residence, owned by Eugene Mulligan. Commissioner Robbins made a motion to allow for the street closure and to make effort to contact the businesses and the residence. The motion was seconded by Commissioner Harrell and carried by unanimous vote. Commissioner George asked Ms. Smith to contact the Fire Marshall.

CLOSED SESSION – 5:15 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 Dawson and carried by unanimous vote.

Commissioner Harrell made a motion to return to open session. The motion was seconded by Commissioner Dawson and carried by unanimous vote.

OPEN SESSION – 5:30 PM

BREAK 5:30 PM – 5:37 PM

PUBLIC FORUM

No one signed up to speak during the Public Forum.

PUBLIC HEARINGS

Public Hearing #1 – James Gantt, Town Manager

Consideration of adoption of the FY 2021-2022 Budget for the Town of Burgaw

Mayor Cowan declared the public hearing open at 5:37 PM.

Mr. Gantt advised the board members had been given the budget packet prior to the meeting for review. He said the budget is balanced in all funds. Mr. Gantt gave an overview of the budget by a Power Point presentation. *Presentation on file in the Clerk's office.* Commissioner Dawson commended Mr. Gantt and Ms. Pope on a job well done with the budget preparations. Commissioner Robbins asked why there was a decrease in the Powell Bill fund. Mr. Gantt said it is based off of a formula provided by the state and it decreases a little each year. Ms. Pope said every year in the state's budget, a certain dollar amount is appropriated that would be shared throughout the state, so that number has been changing. She said it does seem to be going in a downward trend over the past couple of years. There was discussion about the street paving list. Commissioner Robbins said North Cowan Street needs to be addressed. Mr. Gantt went down the list of streets to be paved and North Cowan Street is included for this year's paving priorities. Mr. Gantt also commented on the funds to be received from the American Rescue Plan. He said, as of right now, these funds can only be used for water, sewer and drainage infrastructure. There was brief discussion on this. Commissioner Harrell asked about the new asset management software that is budgeted. Mr. Gantt said any infrastructure repairs done in the future, along with pictures, locations, etc. can be entered into the software to have for future reference and for applying for grants. Mr. Gantt said the software will house fleet information, maintenance information, etc.

Mayor Cowan declared the public hearing closed at 5:55 PM

Ordinance 2021-11 Adoption of the FY 2021-2022 Budget for the Town of Burgaw

Commissioner Harrell made a motion to approve Ordinance 2021-11 as presented. The motion was seconded by Commissioner Dawson and carried by unanimous vote. *Due to length, Ordinance 2021-11 is on file in the Clerk's office.*

Public Hearing #2 – Andrea Correll, Planning Director

Consideration of a UDO text amendment to Section 9.3.3 Applicability to amend the criteria for traffic impact studies to include, “In the downtown B-1 Zoning District where the infrastructure is already established a traffic impact analysis may be waived by the Town Manager and not required.”

Mayor Cowan declared the public hearing open at 5:56 PM.

Ms. Correll presented the text amendment request as described in the ordinance below.

Mayor Cowan declared the public hearing closed at 5:58 PM.

Resolution 2021-08 Adopting a statement of consistency regarding a requested text amendment of the Town of Burgaw Unified Development Ordinance clarifying traffic impact studies in the downtown B-1 zoning district may be waived by the Town Manager where the infrastructure is already established.

Commissioner Robbins made a motion to approve Resolution 2021-08 as presented. The motion was seconded by Commissioner Harrell and carried by unanimous vote.

**RESOLUTION 2021-08
ADOPTING A STATEMENT OF CONSISTENCY REGARDING A REQUESTED TEXT AMENDMENT OF
THE TOWN OF BURGAW UNIFIED DEVELOPMENT ORDINANCE CLARIFYING TRAFFIC IMPACT
STUDIES IN THE DOWNTON B-1 ZONING DISTRICT MAY BE WAIVED BY THE TOWN MANAGER
WHERE THE INFRASTRUCTURE IS ALREADY ESTABLISHED.**

WHEREAS, the applicant, Town of Burgaw Staff, has requested the Town amend the Town of Burgaw Unified Development Ordinance to amend Section 9.3.3 Applicability; and

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

WHEREAS, the Town of Burgaw Planning and Zoning Board, at their May 27th , 2021 meeting, recommended the adoption of the Draft Comprehensive Plan Consistency Statement to the Board of Commissioners; and

WHEREAS, the Town of Burgaw Board of Commissioners reviewed the staff report and Draft Comprehensive Plan Consistency Statement at their June 8th , 2021 meeting and found the proposed text change amendment to be consistent with the Town of Burgaw 2030 Comprehensive Land Use Plan, being reasonable, and in the public interest; and

NOW THEREFORE BE IT RESOLVED BY THE TOWN OF BURGAW BOARD OF COMMISSIONERS THAT the proposed Unified Development Ordinance text amendment is consistent with the Town of Burgaw 2030 Comprehensive Plan by specifically preserving and enhancing the livability of the Town, while keeping standards encouraging quality and controlled growth that enhances and maintains the community’s character.

Adopted this 8th day of June 2021.

Ordinance 2021-12 Approving a requested text change amendment of the Town of Burgaw Unified Development Ordinance clarifying traffic impact studies in the downtown B-1 zoning district may be waived by the Town Manager where the infrastructure is already established.

Commissioner Robbins made a motion to approve Ordinance 2021-12 as presented. The motion was seconded by Commissioner Harrell and carried by unanimous vote.

**ORDINANCE 2021-12
A REQUESTED TEXT CHANGE AMENDMENT OF THE TOWN OF BURGAW UNIFIED DEVELOPMENT
ORDINANCE CLARIFYING TRAFFIC IMPACT STUDIES IN THE DOWNTON B-1 ZONING DISTRICT
MAY BE WAIVED BY THE TOWN MANAGER WHERE THE INFRASTRUCTURE IS ALREADY
ESTABLISHED.**

WHEREAS, applicant, Town of Burgaw Staff, has requested the Town amend the Town of Burgaw Unified Development Ordinance to amend Section 9.3.3 Applicability, and has presented those findings to the Town of Burgaw Planning Board and the Town of Burgaw Board of Commissioners; and

WHEREAS, the Town of Burgaw Planning and Zoning Board, at their May 27th, 2021 meeting, recommended the adoption to the proposed text amendment to the Board of Commissioners of the Town of Burgaw amending the Unified Development Ordinance to add ability of the Town Manager to waive a traffic impact analysis in the downtown B-1 Zoning District where the infrastructure is already established.

WHEREAS, the Town of Burgaw Board of Commissioners reviewed the staff report, the proposed text amendments and the Draft Comprehensive Plan Consistency Statement at their June 8, 2021 meeting and found the proposed text change amendment to be consistent with the Town of Burgaw 2030 Comprehensive Land Use Plan, reasonable, and in the public interest; and

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

SECTION 1. The Town of Burgaw Unified Development Ordinance is amended as follows:

Section 9.3.3 Applicability

(A) A traffic impact study shall be required for all projects where the Town Planner has determined from the information submitted that the site generated traffic will have a significant impact on the transportation network. Determinations shall be based on the following criteria:

- (1) Special use permit. Estimated traffic generated by the permit exceeds 200 trips/day.
- (2) Single business. Estimated traffic generated by a single business exceeds 200 trips/day.
- (3) Single-family residential. Estimated traffic generated by the development exceeds 400 trips/day.
- (4) Office. Estimated traffic generated by a single business exceeds 200 trips/day.
- (5) Planned unit development and residential cluster development. Estimated traffic generated by the development exceeds 400 trips/day.
- (6) Apartments, condominiums, townhouses. Estimated traffic generated by the development exceeds 400 trips/day.
- (7) Manufactured home parks and subdivisions. Estimated traffic generated by the development exceeds 400 trips/day.
- (8) Miscellaneous Development. Estimated traffic generated by the development exceeds 200 trips/day.

*From time to time an engineering review may be needed for the Town's traffic engineer to review if the development will reach the threshold for a traffic impact study. The latest edition of the ITE Trips Generation Manual is the source for trip generation estimates on land uses. Documentation will be required to be submitted by the applicant's engineer if requested by the Town Planner to document for review that a traffic study is not warranted. **In the downtown B-1 Zoning District where the infrastructure is already established a traffic impact analysis may be waived by the Town Manager and not required.**

SECTION 2. These amendments become effective immediately upon adoption of this ordinance on this, the 8th day of June 2021.

Public Hearing #3 – Andrea Correll, Planning Director – Verbatim Minutes for Major Special Use Permit

Consideration of a Major Special Use Permit by Burgaw Now to allow a new brewery and restaurant to be located in the existing structure located at 103 S. Wright Street with outdoor seating for the new brewery/restaurant to be located in the open area at 105 S. Wright Street.

All supporting documents for the following public hearing are attached to the minutes for reference.

Mayor Cowan declared the public hearing open at 6:00 PM.

Attorney Rivenbark: We need to swear in anybody who is wishing to testify or speak about a Major Special Use Permit by Burgaw Now to allow a brewery; and you all don't need to put your hand on the Bible, if you just raise your hand and repeat after me, "I, state your name, do solemnly swear that the testimony you will give today will be the truth, the whole truth and nothing but the truth, so help you God, or affirm if you chose not to swear, if you will just say "I do."

Attorney Rivenbark swore in the following individuals:

- Andrea Correll, Planning Director, Town of Burgaw
- Leddell Casey, 105 W. Wilmington Street, Burgaw
- Kevin Kozak, 406 E. Fremont Street, Burgaw
- John Westbrook, 410 E. Fremont Street, Burgaw
- J. Clark Hipp, 228 N. Front Street, Wilmington

Attorney Rivenbark: If you will all just have a seat. When you come up to speak, if you will just state your name and address for the record. I will instruct the board that the applicant, an expert testimony is what is supposed to be

considered in these quasi-judicial hearings. Whether or not an adjacent property owner is an expert...I think an argument could be made to that, but that decision lies with the board.

Andrea Correll: Good evening, I'm Andrea Correll and I'm blessed to be your Planning Director in the Town of Burgaw. I am considered an expert because I have a Master's Degree in Planning from Georgia Tech. Thirty years of experience and I am a certified American Institute of Professional Planners. So, there we go. The application tonight is from the applicant owner of Burgaw Now. I know that in the fall of 2019, y'all hear a conditional use permit. I remember it well because it was my first day of employment. So, tonight you are hearing a Major Special Use Permit to allow a brewery and restaurant to be located at the existing structure, 103 Wright Street, and the open area in the back of 105 Wright Street. Both properties are owned by Burgaw Now. There is an exception in the ordinance that was also considered at the last proposal, which allows property in one ownership to utilize the property across the property line. So there is an outdoor seating area that will be [inaudible] from the architect, and that outdoor seating area is going kind of behind the barber shop next to the existing building. Okay. So, tonight, we've all been sworn in and the property is located in the B-1 zoning district, the 2030 Town of Burgaw Comprehensive Land Use Plan, depicts the parcels referenced as part of the Town's Center zoning, which is in keeping B-1 the downtown zoning district. This future land use includes the existing downtown business district and commercial properties adjacent. The zoning map identifies this as B-1 and the land use map identifies it as Town Center. You have all that in your papers. Under the requirements of the Burgaw Unified Development Ordinance, section 8.14 Table of Permitted and Special Uses identifies food, beverage and craft processing and production, as requiring a Major Special Use in the B-1 district. So, we are here tonight for you all to hear and consider approval of a Major Special Use Permit to enable a brewery restaurant consistent with our Unified Development Ordinance. But what you're hearing tonight is about land use and zoning. It's not about the details of the grease trap or the seating plan on the inside. It's about the use being appropriate at this location, for your consideration, based on the standards laid out in Section 4.71. Does anyone have any questions so far? *There were no questions.* The exhibits you all have...there are eleven (11) exhibits. The architect Clark Hipp has worked very diligently as the lead sealed professional to document everything required in our standards. There are deeds, meets and bounds descriptions, and if you're wondering why, the law requires us to record special uses when they are approved and to record them and reference the deeds and surveys. So that's why you have so many exhibits. A special use application requires a statement of anticipated water usage and one of the reasons that Kevin, the brewer, signed in, is he documented that [inaudible]. We will need for him to come up and talk about those. The detail of the plans and elevations and surveys and modeling is very unique and professionally done. Clark Hipp is going to take you through that process. So I am going to share the podium with Clark. Does anybody have any questions?

Attorney Rivenbark: Mr. Mayor and Board, I would ask you, that based on our...Ms. Correll's training expertise and experience, that she is an expert in the field of Planning and Zoning and on the Town of Burgaw's Unified Development Ordinance.

Andrea Correll: Thank you, sir. Now I will introduce Clark Hipp, Architect.

Clark Hipp: Hello Mr. Mayor, Commissioners, Staff, thank you. I am Clark Hipp, Architect with Hipp Architecture and Development in Wilmington. Our office is at 228 N. Front Street in downtown Wilmington. We do, as Ms. Correll mentioned, we are company owned by Burgaw Now. We were trying to bring new lighting and energy to the downtown area. I have with me tonight, the owner of Burgaw Now, Richard Johnson and Ms. Correll already mentioned Kevin Kozak, who is a brewer with thirteen (13) years of experience in downtown Wilmington. They're here to help address any questions that you may have. Kevin has significant experience with the brewing process and the restaurant business, so he's here to help us answer some of those questions. I am a licensed architect, licensed in North Carolina and South Carolina to practice architecture. I got my degree from NC State. I wanted to mention I have practiced for over thirty (30) and sort of specialized in rehabilitation projects. Over the last few years, we've completed four (4) similar projects, all of which happen to be in downtown Wilmington, but we are excited about the possibility of being in downtown Burgaw and we hope to see more projects in downtown Burgaw. As you've seen from our application, and Ms. Correll's presentation, we have attempted to demonstrate positive impacts of the brewery and the restaurant and we try to present to you the findings of fact that are required for the issuance of this special use permit. I won't go over the individual details. I had asked the Town Manager to put some of the slides up so we can go around and answer some of your questions. But in brief, the proposal is to rehabilitate the existing empty building into the brewery and restaurant and [inaudible] use of the downtown central business district, or Town Center as it's called in the future use plan. Along with resurrecting the historic building itself, the new use will create over thirty (30) jobs, provide new downtown destination for Burgaw, and offer the community a unique gathering place. The overall seating capacity, as designed, will be a little more than 150. The design includes an outdoor seating area as Ms. Correll mentioned, at the adjacent property, 105 S. Wright Street, as shown in our design. And again, both properties... *referencing slides on the screen...* there you go, that's looking at the back of

the building. That shows, it's a little washed out there, but you can see LeRoy standing in the courtyard. Yes, that's looking a little more from above. Wright Street is on your right in this photo, small alley to the back. So, I mentioned the outdoor seating, more than 150 seats. To engage the street, we don't show tables in this view, but we are taking store front, which is currently set back about seven (7) feet. We're proposing to set it back about ten (10) feet so three (3) more feet and provide potential for some outdoor seating, which will all be on Burgaw Now's property, but it would engage the street and provide active engaging destination, pull people into the building and into the downtown. So, in regards to the findings of fact, we did have one minor change (asked Ms. Correll to pass out document) to one of the items, I'll refer to that in a minute. We are handing that slight modification out to each of you this evening. So, in regards to the findings of fact, item A related to the compatibility of the uses, obviously downtowns are meant to have active engaging pedestrian oriented activity, so we feel this certainly meets that requirement. Restaurants and gathering spaces are made to be part of the vibrant downtowns. We also believe that this use fits with the future land use plan to be revised in Town Center designation. Item B, as proposed plan, does allow all current ordinances that we have identified in the town ordinance, including provisions for loading and screening and signage. On one of the slides, we showed a proposed new canopy with signage. We felt like all that complies with the current ordinances. Item C, regarding impact to neighboring properties, I have seen it and it's very obvious these types of renovations, vacant, under utilized properties into active, engaging, pedestrian friendly uses brings new light and activities to all downtown urban areas. And this is just another example of what can happen in the downtown Burgaw. So we feel like this type of activity will positively impact existing businesses and will certainly entice new businesses to start up in the downtown. Item D, regarding public safety, required by state law, the building design has to meet NC Building Codes, that's our specialty. It has to meet local ordinances. We are familiar with working in Burgaw. You have a fine permit review, Inspector in town, and so the construction would have to be reviewed and approved by permit, and have to be completed by licensed general contractors and would have to be reviewed and approved by your local inspectors. Again, this is our forte and very confident we can do that. Further tonight, mentioned there was discussion about traffic. We don't address that immediately, but in downtown areas that already have infrastructure, it makes sense to overlook some of the requirements for traffic because there is really nothing that can be done in downtown to improve traffic. Most of the traffic uses are pedestrian. These are people already parked at the courthouse and come over and have lunch, or they've had... tonight, after tonight's meeting, they're going to walk over and have a beer or a dinner. So it makes sense in downtown urban area not to focus too heavily on those things. So, based on this application, our documentation of the proposed renovations and our findings of fact, we do respectfully request that you grant the special use permit as requested and we are happy to answer any questions.

Attorney Rivenbark: Before we change there, Mr. Hipp, is that your seal?

Clark Hipp: That is my seal, I'm a licensed...

Attorney Rivenbark: And you seal your opinion?

Clark Hipp: Yes, sir.

Attorney Rivenbark: And you're testifying as an expert in the area of architecture tonight?

Clark Hipp: Yes, sir.

Attorney Rivenbark: I'd ask the board to consider Mr. Hipp to be an expert.

Clark Hipp: So, I'll answer any questions you've got. We can jump around the slides and that might help us if there are any specific questions.

Commissioner Harrell: Thought your presentation was a very good explanation of what's going on. Thank you.

Commissioner Murphy: What did you say the seating capacity is?

Clark Hipp: I think it's about 154, as designed. I'm doing this from memory, but that includes 132 inside, 25 outside in 105, and I think we included 8 in the front. I think if you do that math, it's 154.

Mayor Cowan: Based on your presentation, you've addressed all the five approvals?

Clark Hipp: Yes, sir.

Andrea Correll: We do have two other speakers to speak, Mr. Casey with some concerns. You want to give him the podium?

Clark Hipp: Yes, ma'am.

Leddell Casey: I'd prefer letting everybody else speak and my questions might be already answered.

Clark Hipp: I'll leave the podium and step back up if needed.

Andrea Correll: Kevin is here, the brewer. If you all have questions, he did, as an expert, supply a letter on the land use, which is a requirement, and also on the traffic, and how it was generated in Wilmington at his brewery there. So, if you have any questions of Kevin, on water or other, he's here and sworn in, if you would like to ask him anything.

Mayor Cowan: I hope we've addressed those by now, if you haven't. You have some folks signed up to speak, ma'am?

Andrea Correll: Yes, sir. Did Mr. Westbrook sign up?

Attorney Rivenbark: Yes, and he was sworn in as well.

Mayor Cowan: Mr. Casey, for the record, what's your address?

Leddell Casey: 105 West Wilmington Street is where I sleep. Good evening Mr. Mayor and town council people. My name is Leddell Casey and as I stated, I live at 105 West Wilmington Street. I'm not here as [inaudible] my mother or Howard Holly. I welcome the brewery. I think it will be an asset to Burgaw. But I do have some concerns. And that will be the smells that will be emitted and the noise. As I stated, I sleep at 105 West Wilmington Street and I hope you will not have excessive noise. Bands can be very loud. I don't know what the town ordinance is as far as noise. I think that probably would be another concern. Thank you.

Kevin Kozak: My name is Kevin Kozak and I'm a resident at 406 East Fremont Street, and also the brewer. I've been a brewer since 2003. In regards to the smells, it's nominal. This is not a production brewery, so we're not brewing the beer 24 hours a day, 7 seven days a week. We might brew a batch of beer once or twice a week. And the only really smell that's going to come out is [inaudible] from the kettle, which may be three times during that eight (8) hour brew session and it does a very faint vegetative steam vegetable smell, maybe five (5) minutes and then it dissipates fairly quickly. There's no major smells coming from the brew equipment. And for noise, there's no major noise coming from the equipment since it's all in the building anyway.

Leddell Casey: The noise, [inaudible comment, several people talking]

Kevin Kozak: We are just going to have the outdoor patio, so 25 people, but I don't expect there to be any major noise.

Commissioner Harrell: So the small, intermittent smell, would be entered through the roof?

Kevin Kozak: Yea, there will be a stack from the kettle where it will come out through the roof.

Commissioner Harrell: And just to bring us to an understanding, the noise ordinance in the town states after 10 o'clock.

Attorney Rivenbark: Mr. Kozak, your testimony is that any live music will be inside the building?

Kevin Kozak: That is correct.

Attorney Rivenbark: And not outside...

Kevin Kozak: That is correct.

Attorney Rivenbark: ...behind the barber shop in the grassy area?

Kevin Kozak: Yes, that's correct.

Attorney Rivenbark: And Burgaw Now, or Burgaw Brewing, since you signed as the brewmaster, you would, as your testimony here today, will comply with all ordinances, including noise ordinances.

Kevin Kozak: Yes, that is correct.

Mayor Cowan: The board have any questions for Mr. Kozak?

Leddell Casey: I have one, what about the foods being cooked. Will that be emitted through the roof stack?

Kevin Kozak: [inaudible- but believes to have said "through the roof stack"]

Mayor Cowan: Thank you, sir.

Kevin Kozak: Thank you.

John Westbrook: My name is John Westbrook and I live at 410 East Fremont Street and I reside most of the time at 101 South Wright Street, right next door. The main thing I want to say is I can't wait. I am very, very supportive of this use and Kevin actually happens to be my neighbor, so if anything goes wrong, I'm going to let him know. But if it's going right, we'll have a beer every once and a while. But I can't say enough about how much I think this means to the Town of Burgaw in general, but to Burgaw Antiqueplace and downtown particularly. Anything that I can do to help move along, whatever that is, as long as it's legal and allowed in the ordinance, I'm for it.

Commissioner Harrell: Mr. Casey, has the discussion we've had so far this evening give you any help with your concerns.

Leddell Casey: Yes, yes. As long as we abide by the noise ordinance, then I think we will be good neighbors. I look forward to drinking a good beer and eating food from there.

Mayor Cowan: Do you have anyone else to speak?

Andrea Correll: No. So I would like to enter the PowerPoint presentation in the record since we are quasi-judicial tonight. I would also like to enter the staff report and the findings that were presented to you tonight with the additional clarification on the land use plan from Clark Hipp, the architect. I think the best method is for us to go through the four (4) questions. We do not have to go through the traffic because of the text amendment. And for you all to vote on each of the four (4) questions that you are addressing. The statute says that if you vote in the affirmative for all four (4) of these questions, then you approve the special use permit. If one question is not

obtained, then you do not approve the special use permit, or you table it, or your one question can be further addressed, or additional testimony. So, does anyone have any questions?

Mayor Cowan: I will close the public hearing and do the findings of fact. *The public hearing was closed at 6:25 PM.*

Ms. Correll reviewed the “Burdens of Proof” Section 4.71(E) with the board, as described below. The following were the board’s responses from the process.

Section 4.71(E)a: The location and character of the special use, if developed according to the plan as submitted and approved, will be in harmony with the area in which it is located. The special use shall demonstrate conformance to the Land Use Plan or other plan in effect at the time and address impacts of the project.

The proposed brewery/restaurant is particularly well suited for the B-1 District, commonly called the Central Business District. Like many downtown areas, Burgaw CBD offers a variety of street level experiences, including shopping, dining, and professional/administrative offices. All these uses benefit from the other. For instance, shoppers often include dining as part of their downtown excursion; office workers look for easy dining options, especially if it avoids getting in their car, etc. This proposed business will offer another dining option and a unique hand-crafted beverage opportunity. As the name suggests, Burgaw Brewing, the Town of Burgaw and its surrounding area will be the theme of the new restaurant/brewery. This will highlight the connection between the owners and patrons, with the goal of promoting the area and its unique southern charm. This goal depends on maintaining a positive and harmonious In this case, it is the craft beverage production that appears to trigger the need for concern. In fact the brewing process is less impactful to the area than many restaurants. The entire brewing process is contained within sterilized containment vessels from preparation to pour. The process utilizes gas fired boilers which are properly vented through the roof, similar to many other gas appliances, i.e. furnaces, stoves, water heaters, etc. Other than water, raw products for brewing include hops, grains and malts that are all typically packaged in sacks and delivered in pallets. The only items discarded after brewing is the used malts and grains. These are most typically placed in barrels and shared with local farmers as feed for livestock. The proposed special use shall demonstrate conformance to the Land Use Plan or other plan in effect at the time and address impacts of the project. Figure 2 illustrates the Future Land Use Plan identifies this site as Town Center. The Special Use Permit application demonstrates conformity with the 2030 Land Use Plan and is keeping with the Land Use classification and adjacent commercial uses. The proposed façade improvements are in keeping with the suggested development guideline for façade articulation and the utilization of historic setbacks.

Commissioner Robbins: Yes.

Commissioner Murphy: Yes.

Commissioner George: Yes.

Commissioner Dawson: Yes.

Commissioner Harrell: Yes.

Section 4.71(E)b: The use is allowed pursuant to this ordinance and meets all the required conditions and specifications, including without limitation, those set out in this ordinance. As proposed the use of the facility meets all the requirements found within the town ordinance:

- *Parking - Per the Section 9.24.2 of the UDO off street parking requirements are not applied within the designated Central Fire District*
- *Loading – Per the Section 9.24.2 of the UDO loading requirements are not applied within the designated Central Fire District*
- *Screening – While the project does not abut residentially zoned property, a new 6’ wood fence is being proposed around the proposed outdoor seating and the dumpster area.*
- *Signs – The proposed 16” high, internally lit sign hanging from the new awning complies with the UDO.*
- *Landscaping – Per Section 9.27.5, landscaping requirements are not applied in the designated Central Fire District*

Commissioner Robbins: Yes.
Commissioner Murphy: Yes.
Commissioner George: Yes.
Commissioner Dawson: Yes.
Commissioner Harrell: Yes.

Section 4.71(E)c: The use of the property as proposed will not affect other adjoining or abutting property values.

Like many rural downtowns Burgaw has seen a slow retreat of retail, office and dining experiences in their downtown. Burgaw Now, LLC, owners of 103 and 105 S. Wright St, have made it their mission to promote the Town of Burgaw and the downtown in particular. The proposed brewery/restaurant will create a new "destination" in the downtown. It will draw new shoppers, diners, tourists, etc. to the area and will give them an opportunity to remain downtown for an extended period. This increase in activity and attention is certain to provide a positive impact to the Central Business District and ultimately the region. Also, as the new use will be within an existing vacant structure, it is not displacing an existing business or use, and provides a new "attraction" to the downtown. We strongly feel, as proposed, the new brewery/restaurant will bring new life to the Central Business District and create a positive impact to the region. These significant improvements to 103 and 105 S Wright St will increase the value of these two properties and will also clearly have a positive impact on the adjoining properties.

Commissioner Robbins: Yes.
Commissioner Murphy: Yes.
Commissioner George: Yes.
Commissioner Dawson: Yes.
Commissioner Harrell: Yes.

Section 4.71(E)d: The use will not materially endanger the public health or safety if located where proposed and developed according to the plan as submitted and approved.

As noted above the proposed uses are currently allowed, either by right or via a SUP, to be within the B-1 district, and therefore are considered to not endanger public health or safety if meeting required building codes and regulations. Plans and specifications for the proposed renovation will be designed and certified as compliant with the relevant North Carolina Building codes by licensed architects and engineers highly experienced with these types of projects. These design documents will be submitted for permitting by local building officials. Once permits are secured, the construction will be completed by qualified contractors with current NC GC licensing.

As the UDO allows for the individual uses proposed and the fact that permitting will require compliance with state building codes, we feel strongly that the proposed use will not endanger the public health or safety.

Commissioner Robbins: Yes.
Commissioner Murphy: Yes.
Commissioner George: Yes.
Commissioner Dawson: Yes.
Commissioner Harrell: Yes.

Ms. Correll said the board has approved the Special Use Permit. Mr. Hipp made final comments and thanked the board.

ADJOURNMENT

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

The meeting was adjourned at 6:32 PM.

Kenneth T. Cowan, Mayor

Attest: _____
Kristin J. Wells, Town Clerk