



AGENDA | BOARD OF COMMISSIONERS REGULAR MEETING

April 9, 2024 at 4:30 PM

Burgaw Town Center
108 E Wilmington St

- 1. Call to Order**
- 2. Invocation**
- 3. Pledge of Allegiance**
- 4. Approval of Agenda**
- 5. Approval of Consent Agenda**

*Items under Consent are generally of a routine nature. The Board may take action to approve/disapprove all items in a single vote. Any item may be withheld from a general action, to be discussed and voted upon separately at the discretion of the Board.

 - A. Approval of the February 13, 2024 Regular Meeting Minutes**
 - B. Approval of the February 13, 2024 Closed Session Minutes**
 - C. Ordinance 2024-09 Amending the FY 2023-2024 budget to reflect the purchase of an easement**
- 6. Special Requests/Presentations**
 - A. National Small Business Week Proclamation - Mayor Dawson**
- 7. Departmental Items**
 - A. Public Works Department**
Alan Moore, Public Works Director
 - B. Fire Department**
Jim Taylor, Fire Chief

C. **Facilities & Grounds Department**
Damon Stanley, Facilities & Grounds Director

D. **Parks, Recreation & Tourism Department**
Cody Suggs, Parks & Recreation Director

I. **Chamber of Commerce Agreement**

II. **Public Funding Request - NC Blueberry Festival**

III. **Street Closure Request - NC Blueberry Festival**

E. **Planning Department**
Kimberly Rivenbark, Interim Planning Director

F. **Building Inspections Department**
Louis Hesse, Building Code Administrator

G. **Finance Department**
Wendy Pope, Finance Officer

H. **Police Department**
Jim Hock, Police Chief

8. **Public Forum**

9. **Public Hearing**

A. **Text Amendment Request**
Jessica Gray, Community Development Coordinator
Consideration of a text amendment to the Unified Development Ordinance requested by Nathan Tew to Section 10.23 D Access to allow an existing lot of record with no road frontage one recorded access easement.

I. **Resolution 2024-10 Statement of Consistency**
Adopting a statement of consistency regarding a text amendment to the Town of Burgaw Unified Development Ordinance requested by Nathan Tew to amend Section 2.3.5 nonconforming lots of record to allow no more than one existing lot of record with no road frontage to be accessed by a recorded easement

II. **Ordinance 2024-10 Text Amendment**
A text change amendment to the Town of Burgaw Unified Development Ordinance requested by Nathan Tew to amend Section 2.3.5

nonconforming lots of record to allow no more than one existing lot of record with no road frontage to be accessed by a recorded easement

10. Items from Assistant Manager

- A. **Conflict of Interest Policy**
- B. **Other items to be announced**

11. Items from Manager

- A. **Update on current town projects**
- B. **Other items to be announced**

12. Items from Attorney

- A. **To be announced**

13. Items from Mayor and Board of Commissioners

- A. **Beautification Committee Updates**
- B. **Other items to be announced**

14. Closed Session

- A. **Pursuant to NC GS 143-318.11(a)(3) Attorney/Client Privilege**

15. Adjournment

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

DATE: February 13, 2024
TIME: 4:30 PM
PLACE: Burgaw Town Center
108 E Wilmington St

BOARD MEMBERS PRESENT:

Mayor Olivia Dawson
Mayor Pro-tem James Malloy
Commissioner Jan Dawson
Commissioner Bill George
Commissioner Michael Pearsall
Commissioner William Rivenbark

BOARD MEMBERS ABSENT:

1. Call to Order

The meeting was called to order by Mayor Dawson.

2. Invocation

The invocation was led by Reverend Nick Smith.

3. Pledge of Allegiance

The Pledge of Allegiance was said by all.

4. Approval of Agenda

Mayor Dawson requested the board consider removing item #6DIV "Public Funding Request: Burgaw Area Chamber of Commerce-Christmas Parade." Commissioner Pearsall made a motion to approve the agenda as amended. The motion was seconded by Commissioner Malloy and carried by unanimous vote.

5. Approval of Consent Agenda

*Items under Consent are generally of a routine nature. The Board may take action to approve/disapprove all items in a single vote. Any item may be withheld from a general action, to be discussed and voted upon separately at the discretion of the Board.

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

- A. **Approval of the December 12, 2023 Regular Meeting Minutes**
- B. **Approval of the December 12, 2023 Closed Session Minutes**
- C. **Approval of the January 16, 2024 Regular Meeting Minutes**
- D. **Approval of the January 16, 2024 Closed Session Minutes**
- E. **Resolution 2024-04: Opposing the NC Rate Bureau's Request for Homeowners' Insurance Rate Increase**

6. Departmental Items

A. Public Works Department

Alan Moore, Public Works Director

Mr. Moore advised he has no new updates. Mayor Dawson commented on the recent concern with a sidewalk issue on South Walker Street. Staff will take a look at the issue and see if it is a town or NC DOT issue.

Commissioner Malloy spoke about the trash and debris policy, as well as whole house clean outs. Mr. Moore said he gave recommendations on policy amendments to Mr. Gantt. After brief discussion, the board agreed to look at updating the debris policy.

B. Fire Department

Jim Taylor, Fire Chief

Chief Taylor advised he recently attended the chief's conference in Concord. He also said the department continues to bring on volunteers.

C. Facilities & Grounds Department

Damon Stanley, Facilities & Grounds Director

Mr. Stanley advised his crew has been busy picking up trash around town. There has also been a lot of upgrades done to the park facilities.

D. Parks, Recreation & Tourism Department

Cody Suggs, Parks & Recreation Director

Mr. Suggs advised we are currently accepting "Requests for Qualifications" for the West Side Trail and Parks Project.

Mr. Suggs commented on the Chamber of Commerce agreement for the use of the depot. He suggested the board consider reviewing the agreement soon for any needed updates. The board agreed for staff to review the document and propose any recommended changes.

I. Fee Waiver Consideration: Boy Scouts of America

Mr. Suggs advised the Cape Fear Council Boy Scouts of America has requested a waiver of the rental fee for use of the depot on March 27, 2024. Mr. Suggs said this request is the same as last year that was approved by the board. The organization understands they would pay the cleaning fee. Commissioner George made a motion to approve the fee waiver request. The motion was seconded by Commissioner Rivenbark and carried by unanimous vote.

II. Public Funding Request: Downtown Business Association - Mainstreet Conference

Mr. Suggs advised the Downtown Business Association has requested the town to pay for the registration of two Downtown Business Association members, in the amount of \$225 each, to attend the NC Mainstreet Conference to be held March 12-14, 2024. After brief discussion, Commissioner George made a motion to approve the funding request. The motion was seconded by Commissioner Malloy and carried by unanimous vote.

III. Public Funding Request: Burgaw Area Chamber of Commerce - Mainstreet Conference

This item was discussed along with the previous item regarding the town paying the registration fees for the NC Mainstreet Conference. Commissioner George made a motion to approve the funding request. The motion was seconded by Commissioner Malloy and carried by unanimous vote.

IV. Policy Consideration: Burgaw Incubator Kitchen Culinary Classes

Mr. Suggs advised staff is requesting amendments to the Entrepreneur Agreement for the Burgaw Incubator Kitchen. The policy presented will allow for approved tenants to use the Incubator Kitchen to conduct culinary classes. After brief discussion, Commissioner Pearsall made a motion to approve the amendments as presented. The motion was seconded by Commissioner Rivenbark and carried by unanimous vote.

V. Discussion: Digital Sign Board for Burgaw Town Center

Mr. Suggs reviewed three proposals and pricing for a digital outdoor sign at the Burgaw Town Center. After discussion, the board agreed to discuss this item further during the FY 2024-2025 budget process.

VI. Survey Results: Parks & Recreation Master Plan Update

Mr. Suggs reviewed the results of the Parks & Recreation Master Plan survey that has been published for several months for the public's input. After the presentation and discussion, the board asked the survey be pushed more for an attempt at additional responses to the survey. Commissioner Pearsall said he would help with surveys on the west side of town. This item will return to the board for further discussion at the April or May meeting.

E. Planning Department
Gilbert Combs, Planning Director

I. Discussion: Rules of Procedure for the Planning Board

Mr. Combs said there is currently not an official "Rules of Procedure" policy for the Planning Board. He briefly explained the need for the policy and the proposed process for appeals. After discussion, the board was in agreement for staff to compile a "Rules of Procedure" policy for the Planning Board and present it to the board at a future meeting for consideration.

F. Building Inspections Department
Louis Hesse, Building Code Administrator

Mr. Hesse said all projects are progressing smoothly. Commissioner Malloy asked about the old house at the end of North Wright Street. Mr. Hesse said there are many heirs to the property, but a contractor should be demolishing the house soon.

G. Finance Department
Wendy Pope, Finance Officer

Ms. Pope advised she is working on the upcoming budget, the new time clock conversion is complete, and she has recently included a new section on the monthly

finance dashboard.

H. Police Department

Jim Hock, Police Chief

Chief Hock advised he has sent off two certificates to the state for Officer Bogan (intermediate certification) and Officer Padgett (advanced certificate).

I. Discussion: Town of Burgaw Golf Cart Ordinance

Chief Hock advised we are seeing more golfcarts in town and have received numerous calls from the public about them. He reminded the board this was previously discussed but there was not a vote to put an ordinance in place at that time. After discussion, the board was in agreement to allow staff to bring back a proposed ordinance with suggestions from Attorney Rivenbark.

II. Discussion: Running at Large Ordinance

Chief Hock explained the following amendments to the current "Running at Large" section of the town code. After discussion, the board was in agreement to allow staff to bring back a proposed ordinance with suggestions from Attorney Rivenbark.

Section 4-1 - Running at Large

"(a) It shall be unlawful for any owner of a dog, other animal, or fowl, to permit them to run at large or be off the premises of its owner and not under the restraint of a competent person. Restraint of a competent person shall be a leash in the physical control of such person and not exceed twenty (20) feet in length. An electronic collar may be utilized if in proper working order. Having a trained dog under voice command/control will not be considered as a restraint.

(b) Upon an officer observation of a dog running at large or off the premises of its owner and not under the control of a competent person, the officer may, at their discretion, impound the dog, per the county's Animal Control Policy, or return it to its owner.

(c) Upon the receipt of a complaint that a dog is running at large or is off the premises of its owner and not under the control of a competent person, the officer shall investigate the complaint and, upon a finding that there is probable cause that a violation has occurred, the officer may issue a citation or a warning or take any other action provided for by ordinance or state law as the circumstances may require."

7. Public Forum

Prior to Public Forum, Mayor Dawson called for a break between 5:20 PM and 5:37 PM.

John Westbrook, 410 E Fremont Street, spoke about the parking spaces that have recently been eliminated next to his building downtown and expressed his opposition. He gave a handout to the board of his ideas. He requested the town reach out to NC DOT to make this area of Wilmington Street a 25 MPH speed limit zone.

Larry Owens, owner of The Pender House, spoke about the parking along Dickerson Street that has been eliminated by NC DOT when they repaved the street recently. He requested 45 feet of the town's right-of-way on the side of the property along Satchwell Street to add parking spaces. Attorney Rivenbark asked Mr. Owens if he understood this would be done at the owner's expense and the parking would be available to the public since it would be within the town's right-of-way. Mr. Owens stated he understood and agreed; he added that landscape timbers would outline the parking area. Attorney Rivenbark said the parking spaces could not be within 25 feet of the stop sign at the intersection of Satchwell Street and Dickerson Street. After discussion, Commissioner George made a motion to allow 45 feet of gravel and landscape timbers to be installed at the owner's expense in the town's right-of-way at least 25 feet away from the stop sign. The motion was seconded by Commissioner Rivenbark and carried by unanimous vote. Mr. Gantt will see that an encroachment agreement is completed.

Leo Andrades, 1793 Penderlea Highway, spoke on behalf of Penderline, LLC in regard to the Ivy Grove Townhome rezoning request that was recently denied by the board. He asked the board to reconsider the rezoning for the project; the number of units in the project has been reduced to thirty (30) instead of forty (40), which was a concern voiced during the previous public hearings. There were comments by the board to reconsider the project. Attorney Rivenbark suggested to notify the neighboring property owners if the board wishes to reconsider the project. After much discussion and the Attorney explaining the process of the public hearing being reconsidered, Commissioner Dawson made a motion to reopen the public hearing and reconsider the project with a new plan presented by Penderline, LLC. The motion was seconded by Commissioner Malloy. Commissioners Dawson, Malloy, Rivenbark and Pearsall voted "aye". Commissioner George voted "nay". Motion carried.

Karen Harding, 318 South Walker Street, spoke against the idea of public toilets in Dees Park.

Eugene Mulligan, 318 South Walker Street, said he did not see the meeting minutes from December on the town's website. Ms. Wells advised the December minutes were approved during this meeting and will be posted online the next morning. Mr. Mulligan also commented about the property on the corner of Wright Street and Fremont Street that the town once purchased and sold; he asked if this property was declared surplus. In addition, Mr. Mulligan said he is concerned with the way the town is spending tax payer money on parking in a private lot.

Vernon Harrell, 108 North McRae Street, reminded the board about hosting a meeting regarding the 2030 Future Land Use Plan. He also thanked the town and Public Works Department for fixing the drainage issues.

Steve Pruitt, 101 South Wright Street, said he has a business on the second floor of Burgaw Antiqueplace and voiced his concern with the parking issue that was previously spoken about by Mr. Westbrook.

8. Public Hearing

A. UDO Text Amendment

Gilbert Combs, Planning Director

Consideration of a text amendment to the Unified Development Ordinance requested by Camille Teuben of D.R. Horton to amend Section 9.27 Landscaping Requirements, Subsections 1.(B).(9).(c) and 3.(C).(2), to modify language related to the definition of regulated trees and to modify survey methods for projects exceeding 40 acres in size.

Mayor Dawson declared the public hearing open at 6:24 PM.

Mr. Combs explained the request as described in Ordinance 2024-01.

Amanda Johnson, an environmental consultant, explained the benefits of amending the Unified Development Ordinance regarding tree surveys.

There being no questions by board, Mayor Dawson declared the public hearing closed at 6:36 PM.

I. Resolution 2024-01: Statement of Consistency

Adopting a statement of consistency regarding text amendments of the Town of Burgaw Unified Development Ordinance requested by Camille Teuben of D.R. Horton to amend Chapter 9. Development Design Standards and Processes, Section 9.27.1.(B).(9) Regulated Tree and Section 9.27.3.(C) Tree Survey to modify the definition of regulated trees and to modify survey methods for projects exceeding 40 acres in size.

Commissioner George made a motion to approve Resolution 2024-01 as presented. The motion was seconded by Commissioner Rivenbark and carried by unanimous vote.

II. Ordinance 2024-01: Text Change Amendment

A text change amendment to the Town of Burgaw Unified Development

Ordinance requested by Camille Teuben of D.R. Horton to amend Chapter 9. Development Design Standards and Processes, Section 9.27.1.(B).(9) Regulated Tree and Section 9.27.3.(C) Tree Survey to modify the definition of regulated trees and to modify survey methods for projects exceeding 40 acres in size.

Commissioner Malloy made a motion to approve Ordinance 2024-01 as presented. The motion was seconded by Commissioner Pearsall and carried by unanimous vote.

B. UDO Text Amendment

Gilbert Combs, Planning Director

Consideration of a text amendment to the Unified Development Ordinance requested by staff to amend Section 8.14 Table of Permitted Uses, Special Uses and Special Requirements, to develop a process for temporary construction and use for a limited time, where the temporary use would be permitted by right in the underlying zoning district.

Mayor Dawson declared the public hearing open at 6:37 PM.

Mr. Combs explained the request as described in Ordinance 2024-02.

Speakers:

Leo Andrades, 1793 Penderlea Hwy, asked for clarification on the proposed amendment. Mr. Combs and Attorney Rivenbark briefly explained. The proposed amendment would allow proposed projects that would be permitted by right on a property and that have been given conditional zoning release through the Technical Review Committee (TRC) process the ability to utilize the property for the same use as proposed and for a limited period with temporary facilities.

Everette Durham, 208 South Walker Street, said Burgaw is getting ready to change. He asked the board to consider establishing the way we do things for the people and by the people. He said he wants the board and staff to agree to make things happen the best way they can for people.

There being no questions by the board, Mayor Dawson declared the public hearing closed at 6:53 PM.

I. Resolution 2024-02: Statement of Consistency

Adopting a statement of consistency regarding text amendments of the Unified Development Ordinance requested by staff to amend Chapter 8 Zoning, Section 8.14 Table of Permitted Uses, Special Uses and Special Requirements and Section 8.15 Use Standards to add a use that would allow a temporary setup for projects already approved for conditional zoning release.

Commissioner Malloy made a motion to approve Resolution 2024-02 as presented. The motion was seconded by Commissioner George and carried by unanimous vote.

II. Ordinance 2024-02: Text Change Amendment

A text change amendment to the Unified Development Ordinance requested by staff to amend Chapter 8 Zoning, Section 8.14 Table of Permitted Uses, Special Uses and Special Requirements and Section 8.15 Use Standards to add a use that would allow a temporary setup for projects already approved for conditional zoning release.

Commissioner Malloy made a motion to approve Ordinance 2024-02 as presented. The motion was seconded by Commissioner Pearsall and carried by unanimous vote.

C. Rezoning: Pender County Health and Human Services Project

Gilbert Combs, Planning Director

Consideration of a conditional district rezoning from O&I, Office and Institutional, to O&I (CZ), Office & Institutional Conditional District for a two-story facility located near the intersection of Industrial Drive and Progress Drive Extension for the Pender County Health and Human Services project.

Mayor Dawson declared the public hearing open at 6:54 PM.

Mr. Combs explained the request as described in Ordinance 2024-03. Commissioner Rivenbark asked if a sidewalk is required for the project. Mr. Combs advised it is not included as a condition, but the board can include this as a condition if they wish. Commissioner Rivenbark said he thinks there needs to be a sidewalk. Mayor Dawson said a bicycle rack should be included as well. Andy Speck, with Bobbitt Construction, gave verbal consent to include the sidewalk and bicycle rack as a condition for the project.

Speaker:

Chris Linton, 506 Jasmine Way, voiced his concern with the east parking area that will be next to his property in Creekside, as well as drainage concerns. Mr. Speck advised the project is proposed to meet all buffer requirements, including vegetative buffer and a fence. Michael House with Cape Fear Engineering spoke about the stormwater design. Mr. Linton asked about the parking lot lighting. An architect advised nightsky lighting will be installed so there will not be any light outside of the property.

There being no questions by the board, Mayor Dawson declared the public hearing closed at 7:04 PM.

I. Resolution 2024-03: Statement of Consistency

Adopting a statement of consistency regarding an amendment of the official zoning map of the Town of Burgaw requested by Andrew Speck of Bobbitt Construction on behalf of Carolyn Moser of Pender County Health & Human Services to rezone property located on Progress Drive (PIN 3229-60-0564-0000, 3229-60-0024-0000, 3228-59-9798-0000) from O&I, Office and Institutional to O&I (CZ), Office and Institutional Conditional Zoning for the Pender County Health and Human Services project.

Commissioner Dawson made a motion to approve Resolution 2024-03 including the conditions to install a sidewalk and bicycle rack. The motion was seconded by Commissioner Rivenbark and carried by unanimous vote.

II. Ordinance 2024-03: Zoning Map Amendment

A map amendment of the official zoning map of the Town of Burgaw requested by Andrew Speck of Bobbitt Construction on behalf of Carolyn Moser of Pender County Health & Human Services to rezone property located on Progress Drive (PIN 3229-60-0564-0000, 3229-60-0024-0000, 3228-59-9798-0000) from O&I, Office and Institutional to O&I (CZ), Office and Institutional Conditional Zoning for the Pender County Health and Human Services project.

Commissioner Dawson made a motion to approve Ordinance 2024-03 as presented with the conditions to install a sidewalk and bicycle rack. The motion was seconded by Commissioner Malloy and carried by unanimous vote.

9. Items from Assistant Manager

A. Update: Public Works Expansion Project

Chief Hock gave an update on the Public Works building expansion.

10. Items from Manager

A. Town Center Parking Lot

Mr. Gantt advised he has received the bid from the engineer for the parking lot at the Burgaw Town Center. He said it came back for \$178,773, which includes drainage work, sidewalk work and paving the gravel area. Commissioner Dawson said it needs to be done. After brief discussion, Commissioner Dawson made a motion to

appropriate \$180k for the project. The motion was seconded by Commissioner Pearsall and carried by unanimous vote.

B. FY 2024-25 Budget Update

Mr. Gantt advised he and staff are working on the budget and hopes to have the CIP complete soon.

C. Information Technology Discussion

Mr. Gantt advised he and staff have looked at options for information technology for the town. He recommended to the board to hire a full-time IT position. After brief discussion, the board was in agreement this was the best solution. This will be discussed at the budget retreat.

11. Items from Attorney

Attorney Rivenbark only had items for closed session.

12. Items from Mayor and Board of Commissioners

Commissioner George commented on the need for a stoplight at the intersection of Wright Street and Wilmington Street.

Commissioner Rivenbark asked if there was a way the town could fill in some area on the edge of the street with rock in front of the Pender County Historical Museum. Mr. Gantt will look at this and see about getting this taken care of.

Commissioner Rivenbark commented on a culvert issue at the Casey house on Cowan Street. There is also an issue with the pipe in the right-of-way near the driveway. Staff will look at this and see what can be done about it.

Commissioner Dawson voiced her concern about several houses that have junk in the yards. She said she has noticed one on Wallace Street, Bridgers Street and Smith Street. She requested staff see if there are any violations. Mr. Gantt will look into this.

Commissioner Rivenbark said there is a street light out on the corner of Wright Street and Wilmington Street.

Mayor Dawson advised Commissioner Rivenbark is serving on the Cape Fear Rural Transportation Planning Organization (RPO).

There was discussion about the 2030 Land Use Plan, as mentioned during the Public Forum. Mr. Gantt advised the updating of the 2030 Land Use Plan needs to be handled by an outside firm. Commissioner Pearsall said he did a survey in the fall of 2023 and will send the results to the board for review. After discussion, it was decided

to discuss this further at the budget retreat.

13. Closed Session

A. Pursuant to NC GS 143-318.11(a)(3) Attorney/Client Privilege and NC GS 143-318.11(a)(6) Personnel

Commissioner Rivenbark made a motion to go into closed session at 8:14 PM. The motion was seconded by Commissioner Malloy and carried by unanimous vote.

Commissioner Dawson made a motion to go back into open session at 8:43 PM. The motion was seconded by Commissioner Malloy and carried by unanimous vote.

14. Adjournment

Commissioner George made a motion to adjourn the meeting at 8:43 PM. The motion was seconded by Commissioner Rivenbark and carried by unanimous vote.

ORDINANCE 2024-09

AMENDING FISCAL YEAR 2023-2024 ANNUAL BUDGET Increasing Revenues and Expenditures

WHEREAS, the Town of Burgaw Board of Commissioners passed an ordinance adopting a budget for FY 2023-2024 on June 6, 2023; and

WHEREAS, the Board of Commissioners would like to continue with various projects such as improving and expanding sewer services within the town; and

WHEREAS, the Board has agreed to move forward with the purchase of easements; and

WHEREAS, a water/sewer fund appropriation is necessary to fund these expenses.

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

The FY 2023-2024 budget be altered to reflect the following changes:

INCREASE BUDGETED REVENUE

<u>Account Number</u>	<u>Account Description</u>	<u>Amount</u>
30-3900-91-900	Water/Sewer Appropriation	\$ 4,500

INCREASE BUDGETED EXPENDITURE

<u>Account Number</u>	<u>Account Description</u>	<u>Amount</u>
30-8000-91-570	Miscellaneous	\$ 4,500

Adopted this the 9th day of April, 2024.

Attest: _____
Kristin J. Wells, Town Clerk

Signed: _____
G. Olivia Dawson, Mayor

National Small Business Week 2024 Proclamation

WHEREAS America's strongest economic growth in almost 40 years has been driven by the resilience of our small businesses that, despite a worldwide pandemic, continue to pioneer innovative solutions to our country's greatest challenges and create opportunities for families and workers; and

WHEREAS small businesses remain the heartbeat of our communities and the American economy, employing more than half of our Nation's workers, inventing and innovating to launch new technologies and create new American-led industries, enriching our Main Streets, making parts and products in America to fuel our supply chains, and building our Nation's infrastructure; and

WHEREAS historic investments made through the President's American Rescue Plan, Infrastructure Investment and Jobs Act, CHIPS and Science Act, and Inflation Reduction Act will ensure small businesses have access to federal capital support, technical assistance, contracting opportunities, and other resources to help lead the way as we rebuild America's roads and bridges and build a clean energy economy for the future; and

WHEREAS when we support small businesses, jobs are created, and local communities preserve their unique culture; and

WHEREAS entrepreneurship continues to be one of the best pathways to the American Dream, evidenced by the remarkable small business boom, with more than 10.5 million Americans applying to start a business since January 20, 2021 — more than in any other two-year period in American history; and

WHEREAS by renewing our commitment to supporting small businesses, we can maintain our global competitiveness and build a stronger Nation where everyone can succeed - from the bottom up and middle out; and

WHEREAS the President of the United States has proclaimed National Small Business Week every year since 1963 to highlight the programs and services available to entrepreneurs through the U.S. Small Business Administration and other government agencies; and

WHEREAS the Town of Burgaw supports and joins in this national effort to recognize the contributions of small businesses to the American economy and their importance to ensuring that our local communities remain as vibrant tomorrow as they are today.

NOW, THEREFORE, I, Olivia Dawson, Mayor of the Town of Burgaw, do hereby proclaim April 28 through May 4, 2024, as

NATIONAL SMALL BUSINESS WEEK

Dated the ninth day of April, 2024

G. Olivia Dawson, Mayor



**Town of Burgaw
ITEM REPORT**

Item: 7DI

DATE OF MEETING: April 9, 2024 DEPARTMENT OF ORIGIN: Parks, Recreation, & Tourism	DATE SUBMITTED: 04/03/2024 SUBMITTED BY: Kristin Wells, Town Clerk
AGENDA ITEM DESCRIPTION: Chamber of Commerce Agreement	
SUMMARY STATEMENT: Staff has worked with Chamber of Commerce staff and board members to update the rental agreement for the Burgaw Train Depot. Edits have been presented to the Town Attorney for guidance. Draft document attached with the agenda packet. Further discussion will be had at the board meeting.	
STAFF RECOMMENDATION AND REQUESTED ACTION:	
FINANCIAL IMPACT INCLUDING FUNDING SOURCE:	
FINANCE DIRECTOR COMMENTS:	
ATTACHMENTS (IF ANY): Chamber Agreement 2024	

Agreement Between Town of Burgaw and Burgaw Area Chamber of Commerce Regarding Office Space and Building Oversight Obligations Related to the Historic Burgaw Depot

THIS AGREEMENT made on this the ____ day of _____, 2020 **2024**, between the Town of Burgaw, a North Carolina municipal corporation, (hereafter referred to as “Town”) and the Burgaw Area Chamber of Commerce (hereafter referred to as “Chamber”) in regard to the Historic Burgaw Depot (hereafter referred to as “premises”, “leased premises”, and Depot”).

1. **Scope of Agreement:** In regard to the Historic Burgaw Depot, the scope of this agreement includes all applicable real and personal property consisting of the Depot facility and grounds located at 115 South Dickerson Street, except for the use of Burgaw Incubator Kitchen.
2. **Term:** The term of this agreement shall be for a period of ~~one (1) year~~ **five (5) years** commencing on the execution date listed above and shall automatically be extended ~~annually~~ for an additional year **five years**, unless written notice is given by either party thirty (30) days prior to anniversary date. If the Chamber remains in possession of the leased premises after the expiration the original term, then such occupancy shall not be deemed or construed to be a renewal or extension of this Agreement, but shall operate to create a month to month tenancy under the conditions of this Agreement, so far as applicable.
3. **Event Space Provided Pursuant to Agreement:**
 - A. The Town shall provide Non-Exclusive use of the Banquet Room for Chamber related events approved by the Town. If approved, the Chamber shall be responsible to pay the cleaning fee as listed in the Town fee schedule. **All partnered events with outside organizations shall be reported and approved by the Town prior to allowing usage of the Banquet Room.**
 - B. **The Chamber shall have Non-Exclusive access to the Burgaw Incubator Kitchen if using a licensed catering company providing General Liability Insurance listing the Town of Burgaw as additionally insured on the policy. All activities occurring the kitchen must be pre-approved by the Parks and Recreation Director and Pender County Health Department.**

~~The Chamber is approved to conduct the following events inside the Banquet Room at the cleaning rate listed inside the Town fee schedule.~~

- ~~• Annual Shrimparoo~~
- ~~• Annual Business Dinner~~
- ~~• Business Expo~~

● ~~Administrative Assistants Day~~

~~All events not listed must be pre-approved by Town staff to be eligible to use the building at the cleaning fee listed in fee schedule.~~

C. **Office Space Provided Pursuant to Agreement:** The Town shall provide the Chamber with the use of the following areas of the Depot facility pursuant to this agreement. All Chamber related events must be approved by the Parks & Recreation Director for the Town;

- A. Non-exclusive use of the office located between the museum gallery and banquet room. Chamber will be responsible for conducting their own bi-weekly cleaning of the museum and office area.
- B. Non-exclusive use of the small boardroom located at the southeast corner of the Depot shall be provided to the Chamber boards, committees, and offices as part of official Chamber business, **all meeting dates must be reported to the Town in order to be placed on the calendar.**
- C. Non-exclusive use of the common areas including restrooms facilities and kitchenette located on the south end of the building;
- D. Non-exclusive use of the Town's railroad boxcar located at the southern end of the depot facility, so long as such use does not conflict with the Town's storage needs regarding the railroad boxcar.

D. **Responsibilities of Town Pursuant to Agreement:** The Town hereby agrees to the following terms as consideration for the Chamber handling the duties covered in this agreement;

- A. The Town will pay for all charges assessed against the Depot during the term of this Agreement for water & sewer, electricity and liquid petroleum gas. In the event that the Chamber installs any equipment resulting in an increase in the demand for electricity, Chamber shall pay the additional cost of such electricity as additional rent with such rent to be determined by the Town and such rent shall be due on the first (1st) day of the month after the Chamber as received a billing invoice from the Town. In the event that any telephone, computer, or other communications equipment or lines are installed in excess of those existing upon the commencement of this agreement, the Chamber shall be responsible for paying directly to the service provider, when due, all such phone and data line installation charges and monthly service and usage charges.

E. **Alterations and Additions:** The Chamber shall make no alterations or improvements to the Depot without first obtaining the written consent of the Town. The Chamber hereto agrees that the Town shall have complete control over all aspects of such alterations and improvements. Any alterations or improvements made by the

Chamber, or on behalf of the Chamber, shall become the property of the Town at the termination of this agreement without cost of the Town unless the Town in its sole discretion directs the Chamber to remove such alterations, improvements, or additions and restore the Depot to its condition immediately prior to the alteration or improvements with such restoration to be Chamber's sole cost and expense. In the event that Chamber fail to remove such alteration or improvement upon the request of Town, Town may, at its option, remove such alteration and improvements with the costs and expenses of removal and restoration being assessed as additional rent with such rent being due and payable within fifteen (15) calendar days from the date that Town sends an invoice to Chamber for such additional rent from the Town.

F. **Moveable Furniture and Equipment:**

- A. All moveable furniture and equipment installed by the Chamber shall be removed at the expiration or earlier termination of this or subsequent Agreement provided that in the event of such removal, the Chamber shall repair any and all damages incurred to the Depot caused by removal and promptly restore the premises and/or the to its original condition.
- B. Any such furniture or equipment not removed at or prior to termination of this Agreement shall become the property of the Town.
- C. The Chamber shall not install any furniture or equipment at the Depot or make any alterations to the premises which may require any change in heating, air conditioning, electrical, water or sewer systems without the prior written approval of the Town.

- G. **Maintenance and Repairs:** The Town shall keep in good repair the lease premises, common areas, roof, walls, all electrical, heating, cooling and plumbing systems, gutters, downspouts, and exterior painting. In addition, the Town will maintain the grounds of the property including snow removal and grass cutting. However, the Town shall not be liable (and shall assess the costs thereof to the Chamber) when any repair is made necessary by the negligent or willful acts or omission of the Chamber, its agents, invitees or employees, reasonable wear and tear excepted. The Chamber shall have the responsibility to inform the Town in a timely manner of required non-routine maintenance and repairs observed on leased premises, in common areas, or on property.

- H. **Indemnification and Insurance:** Chamber shall indemnify and hold the Town harmless from and against all costs, damages, claims, liabilities and expenses (including attorney's fees) suffered by or claimed against the Town, directly or indirectly, based on, arising out of, or resulting from (a) use and occupancy of the leased premises, (b) repair or maintenance of the leased premises which are the obligations of Chamber, (c) any act or omission by Chamber or Chamber's employees, agents, assignees, subtenants, contractors, licensees or invitees, or (d)

any breach or default in the performance or observance of Chamber's covenants or obligations under the lease. A copy of the insurance policies or certificates showing the same to be in full force and effect shall be provided to the Town upon commencement of this Agreement. The Chamber shall be responsible for any damages it, its employees, agents, representatives or invitees may cause to the Depot or to any personal or other property belonging to the Town that may be on such premises. Any insurance purchased by the Town covering the Depot or its contents will not provide any coverage for any property belonging to the Chamber. If the Chamber wishes such coverage for its property or for loss of premises as a result of fire or other casualty, then Chamber will be solely responsible for purchasing same. Chamber agrees that it will, at all times during the original term hereof, at its own expense, maintain and keep in force public liability insurance against claims for bodily injury, death or property damage occurring in or on or about the premises with such amount of public liability insurance being at least one million & 00/100 dollars (1,000,000.00). Chamber, at the commencement of this lease, shall provide to Town a Certificate of Insurance that names the Town as an additional insured under Chamber's public liability insurance policy. In the event that Chamber's public liability insurance is canceled or lapses during the Original Term hereof, then Town shall cause notice to send Chamber requesting Chamber to acquire public liability in the amount set forth above within five (5) business days from the date of such notice. Should Chamber fail to obtain public liability insurance within the afore-stated time period, then Town may terminate the lease of the Depot and request Chamber to vacate the premises. In the event that Town terminates the lease, Chamber shall not be entitled for a proration of the annual rental payment. Additionally, Chamber shall give to Town thirty (30) days advance notice prior to the cancellation of any public liability insurance policy required hereunder.

- I. **Release:** Town and its employees and agents shall not be liable to Chamber, Chamber's employees, agents, assignees, or to any other person or entity for any damage (including indirect and consequential damage), injury, loss, compensation or claim whatsoever, including but not limited to claims for the interruption of or loss to Chamber's business, based on, arising out of or resulting from any cause whatsoever (except as otherwise provided in this Agreement), including but not limited to the following: repairs of any portion of the Depot, interruption in the use of the Depot or any equipment therein, any accident or damage resulting from the use or operation (by Town, Chamber, or any other person or entity) of the following services: heating, cooling, electrical, sewage, water, communications, data transmission, plumbing equipment or apparatus; the termination of this Agreement arising in connection with the destruction of the leased premises; any fire, robbery, theft, vandalism, mysterious disappearance and/or any other casualty; the actions of any other tenants of the Depot or of any other person or entity; and any leakage in any part or portion of the leased premises, or from water, rain, ice, or snow that may leak into or flow from any

part of the Depot, or from drains, pipes or plumbing fixtures in the Depot. It further is understood and agreed that any failure or inability to furnish any services by Town shall not be considered an eviction, actual or constructive, of Chamber from the leased premises and shall not entitle Chamber to terminate this Agreement or to an abatement of any rent payable hereunder. Any goods, property, or personal effects stored or placed by Chamber, its employees or agents in or about the leased premises and any data regardless of how stored (including but not limited to data stored magnetically or electronically) shall be at the sole risk of Chamber, and the Town shall not in any manner be held responsible therefor. In the event that Chamber shall have a claim against the Town, the Chamber shall not have the right to set off or deduct the amount owed or allegedly owed to Chamber from any Rent or other sums payable to the Town, it being understood that the Chamber's sole remedy for recovering upon a claim shall be to institute a civil action against the Town.

J. **Access to Premises:** At any reasonable time, the Town may enter the Depot to inspect for its own purposes and/or make repairs necessary under the terms of this Agreement to ensure that the Chamber is complying with the provisions of this Lease. Town will provide the Chamber with keys and/or electronic codes which provide access to the leased premises in accordance with the rules and regulations of the Town, which rules and regulations may be amended at the Town's sole discretion from time to time. The Town reserves the right to change locks and/or electronic access codes and provide new keys and/or electronic access codes to Chamber on an as needed basis when changed. In the event the Chamber loses or misplaces keys to the Depot, then Chamber will pay the Town an amount equal to cover the cost of changing locks and obtaining and providing replacement keys when required. Chamber shall provide Town with a list of all individuals who have an access key to the Depot or receive an electronic access code to the premises.

K. **Cancellation or Modification of Lease by the Town or the Chamber:** In the event that the Chamber or Town desires to terminate this Agreement, at least sixty (60) days prior written notification shall be provided.

L. **Rules and Regulations:** The Town shall have the right from time to time to promulgate and enforce rules and regulations with respect to the use and operation of the premises, property, and common areas and to amend such rules and regulations from time to time. The Chamber shall faithfully observe and comply with these rules and regulations.

The Chamber recognizes the rights of other tenants in the facility and will not disrupt, impede or otherwise interfere with the rights of other tenants in and to the facility by noise, objectionable use, disregard for safety and cleanliness or any other action or behavior which might be objectionable, in the Town's sole discretion, to other tenants.

The Chamber understands that the Depot facility and grounds are a public building, and as such, the Chamber shall be respectful of the public's ability and right to tour and inspect all areas of the facility except the Chamber's office as covered under this agreement.

M. **Notice:** Wherever this lease requires notice to be served on the Chamber or the Town, notice shall be sufficient if by actual delivery or if mailed by first class mail with postage fully prepaid to the following addresses and persons:

To Town: Town of Burgaw

c/o Parks & Recreation

109 N. Walker St.

Burgaw, NC 28425

To Chamber: Burgaw Area Chamber of Commerce

Post Office Box 1096

Burgaw, NC 28425

Proper notice may also be given through the use of electronic means via the following email addresses:

To Town: csuggs@burgawnc.gov

To Chamber: info@burgawchamber.com

Any informal communications between the Town and Tenant for the scheduling of facilities or any matter unrelated to this Agreement may be made pursuant to any oral, written communication, inclusive of electronic mail, between the Town and Chamber.

N. General.

- a. The laws of the State of North Carolina shall govern this Agreement.
- b. The Chamber acknowledges that it has read this Agreement, understands it, and agrees to be bound by its terms. Further, Chamber agrees that this agreement constitutes the entire agreement between the parties and supersedes all proposals, oral and written, and all negotiations, conversation, or discussion had between the Chamber and Town related to the subject matter of this agreement.
- c. The Tenant further acknowledges that it has inspected the premises and

accepts them "as is" for the purposes of the Chamber's use during the term of its lease. If at any time, the facility is no longer sufficient for the requirements of the Chamber, this Agreement may be terminated upon thirty (30) days written notice to the Town.

- d. This Agreement may be terminated without cause by the mutual agreement of the parties.
- e. Chamber consents to the courts within the County of Pender, State of North Carolina as being the proper venue for any civil action to be filed arising from any breach of the terms of this Agreement or any other action related to this Agreement.
- f. If any part of this agreement shall be held to be invalid by any court, such part shall be deemed severable and remaining portions shall remain enforceable.

IN WITNESS WHEREOF, the parties have hereunto set their hands and seals, the day and year first above written.

Town of Burgaw

By: _____
Olivia Dawson, Mayor

This instrument has been preaudited in the manner required by the Local Government Budget and Fiscal Control Act

By: _____
Finance Officer, Town of Burgaw

Burgaw Area Chamber of Commerce

By: _____
Jimmy Smith, President



Town of Burgaw Public Funding Request Form

Parks, Recreation & Tourism
109 North Walker Street
Burgaw, NC 28425
(910) 300-6401
Fax: (910) 259-6644
recreation@burgawnc.gov

Instructions

This application is for operating assistance only. To be considered for grant funding, the organization must complete the application in its entirety.

Successful grant applicants must sign an agreement with the Town of Burgaw subsequent to the award of grant funding. A draft copy of this agreement is provided for your review. A finalized agreement will be prepared and signed once the appropriation is approved and the Town budget has been formally adopted.

Please be sure the application is signed certifying that you have read and agree with the contract.

Applicants will be given the opportunity to present a five-minute presentation to the Town of Burgaw Board of Commissioners in March or April. Please provide contact information if your organization would like to participate. These presentations will be recorded at the meeting for filing.

The deadline for submitting applications is March 1st of each fiscal year. Applications submitted after March 1st are to be considered late and may potentially not be funded.

Return the application and attachments in one of 4 ways:

1. Electronically via email to recreation@burgawnc.gov
2. Fax to (910) 259-6644
3. Mail to Parks, Recreation and Tourism (109 N. Walker Street, Burgaw, NC 28425)
4. Drop off at Town Hall (109 N. Walker Street, Burgaw, NC 28425)

Application Attachments

1. *Optional/Required:* If available, submit a copy of your previous year's financial statement. This is not mandatory but may be requested by the Town of Burgaw Board of Commissioners before funding is approved.

Required Documents

1. If selected for funding, applicants will be required to submit to the Town of Burgaw an invoice in the amount approved and a copy of the organizations W9.
2. The organization will be required to submit copies of receipts on how funds were used within 60 days of the conclusion of the project/event. Failure to submit receipts may result in the denial of future fund requests.



Town of Burgaw Public Funding Request Form

Parks, Recreation & Tourism
109 North Walker Street
Burgaw, NC 28425
(910) 300-6401
Fax: (910) 259-6644
recreation@burgawnc.gov

Please fill out the application in its entirety to be considered for funding from the Town of Burgaw.
Additional information may be requested.

Project Information			
Project/Event Title: 2024 North Carolina Blueberry Festival			
Project/Event Funding Year: 2023-2024			
Project/Event Dates: June 14th and 15th			
Organization: North Carolina Blueberry Festival Association, Inc			
Street Address: 106 East Wilmington Street			
City: Burgaw	State: North Carolina	Zip Code: 28425	
Phone Number: (910) 259-2007	Email: info@ncblueberryfestival.com		
Project Sponsor (person with legal authority to sign a contract with the Town):			
Street Address: 106 East Wilmington Street			
City: Burgaw	State: North Carolina	Zip Code: 28425	
Phone Number: (910) 250-2007	Email: info@ncblueberryfestival.com		
Sponsor is (please check one): ☒ Non-Profit ☐ Public Agency ☐ Other			
Amount Requested:	\$ 2,800.00		
Match:	\$ 6,250.00		
Total Project Budget:	\$ 9,050.00		
Project Summary			
Please provide a summary of the project:			
The North Carolina Blueberry Festival is Burgaw's annual community celebration. Founded in 2003, the Blueberry Festival has become Burgaw's premier event. Held on the third Saturday in June, the NC Blueberry Festival provides an opportunity for people to enjoy a full day of family entertainment while experiencing the southern hospitality of a small town. More than 40,000 people are now estimated to attend the annual one day event. The festival is a great source of local pride, with the entire community involved in promoting Burgaw. More than 100 volunteers are required to stage over 20 events ranging from live entertainment to car show, a street fair, recipe contest, barbecue cook-off, a 5k run, kids' activities, special exhibits, and a variety of other events.			



Town of Burgaw Public Funding Request Form

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Please provide a breakdown of how the received funds will be used:

Funds recieved will be used towards live entertainment that will be hosted on the mainstage. Funding will be used specifically to cover the rising cost of entertainment travel and performance time.

Have you requested Town funds in the past? If so, how much and how were those funds used?

The Festival has requested assistance from the Town each fiscal year. Monetary donations have been allocated to the Festival in the form of fee waivers, waiver of staffing overtime, and coverage of cost for external items.

Please provide any additional information you would like to share about this project. If applicable, attach any flyers from this or previous events and pictures.

All advertising materiels can be found on the Festival website or Facebook page. The Town of Burgaw will be listed as a key sponsor of the Festival regardless of funds being allocated this fiscal year.

Our Board thanks the Town for their continued support of our endeavors.

Requested funding is not guaranteed. Once funds are received, copies of receipts of how funds were used are required to be submitted to the Town within 60 days of the conclusion of the project/event. Failure to submit receipts may result in the denial of future funds requests. Notification to the Town is required if a project/event is postponed. In the event of cancellation, all granted funds shall be returned to the Town.

Applicant/Responsible Party Signature:

Date: 04/03/2024

Internal Use:

☐ Application Approved - Date: _____ Funds Awarded: \$ _____

☐ Application Denied – Date: _____
Reason for Denial: _____



Town of Burgaw Funding Agreement

Parks, Recreation & Tourism
109 North Walker Street
Burgaw, NC 28425
(910) 300-6401
Fax: (910) 259-6644
recreation@burgawnc.gov

Funding Agreement

This AGREEMENT made and entered into this ____ day of _____ 20XX, by and between Town of Burgaw, North Carolina, hereinafter referred to as the "TOWN", and _____ hereinafter referred to as the "AGENCY".

WITNESSETH:

WHEREAS, the AGENCY has requested certain funds from the TOWN to carry out its programs and activities as presented in the application for funding and

WHEREAS, in response to such request, the Board of Town Commissioners has appropriated the sum of \$_____ for the period July 1, 20XX through June 30, 20XX to support this purpose; said sum being derived from TOWN funds, and

WHEREAS, it is desirable and necessary to enter into this AGREEMENT in order to set forth the terms and conditions for receiving said funds from the TOWN

NOW THEREFORE, in consideration of the following, the parties hereto do mutually agree as follows:

1. AGENCY agrees and understands that the amounts appropriated by the Board of Town Commissioners may change at any time and therefore TOWN is not obligated to provide to the AGENCY all or any of the funds set forth in this AGREEMENT.
2. The AGENCY agrees to use the funds appropriated and provided by the TOWN in the manner and for the purposes as stated on the Grant forms submitted to the TOWN or as otherwise approved by the Town, which are incorporated by reference into this AGREEMENT.
3. The TOWN shall be entitled to conduct program evaluations of the AGENCY's activities particularly as it relates to the accomplishments of established goals and objectives and the quality and impact of services being delivered. Further, the TOWN shall have authority to review AGENCY'S previous year financial statements. AGENCY agrees to promptly reply with any such request by the TOWN.
4. As a condition of receiving funds from the TOWN, the AGENCY agrees to fully indemnify and hold harmless the TOWN, its officers, agents and employees from and against any and all claims, demands, payments, suits, actions, costs, recoveries and judgments of every kind and description brought out of or occurring in connection with, directly or indirectly, activities funded in part or in whole with funds made available under this AGREEMENT.
5. Applicants will be required to submit an invoice in the amount approved and a copy of the organization's W9 to the TOWN prior to the TOWN releasing any funds. The organization



Town of Burgaw Funding Agreement

Parks, Recreation & Tourism
109 North Walker Street
Burgaw, NC 28425
(910) 300-6401
Fax: (910) 259-6644
recreation@burgawnc.gov

will be required to submit copies of receipts on how funds were used within 60 days of the conclusion of the project/event. Failure to submit receipts may result in the denial of future fund requests.

6. Notification to the TOWN is required if a project/event is postponed. In the event of cancellation, all granted funds shall be returned to the TOWN no later than 10 calendar days following the date of the originally scheduled event.
7. This AGREEMENT may only be amended by written mutual agreement by and between the TOWN and AGENCY.
8. This agreement shall be interpreted in accordance with North Carolina law.
9. TOWN and AGENCY stipulate and agree that Pender County is the proper Court venue in the event of any litigation arising out of or connected to this agreement.

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be executed in their names by their duly authorized officers, their seals to be hereto affixed the day and year first above written.

ATTEST

TOWN OF BURGAW

Town Manager

This agreement has been pre-audited in the manner required by the Local Government Budget.

Town Finance Officer

ATTEST

AGENCY

Authorized Agency Member



CASE SUMMARY

Board of Commissioners

UDO Text Amendment

April 9, 2024

Jessica Gray, 910-663-3452, jgray@burgawnc.gov

Staff Recommendation	Approval
Planning Board	03/21/2024; Recommended Approval
Board of Commissioners	Scheduled 04/09/2024

Request

<i>Code Section(s)</i>	Amend Section 2.3.5 Nonconforming Lots of Record	
<i>Request</i>	To allow no more than one existing lot of record with no road frontage to be accessed by a recorded access easement	
<i>Applicant</i>	Nathan Tew 1276 Penderlea Hwy	Nate.w.tew@gmail.com 910-262-3428

APPLICANT REQUEST

The requested text amendment to the Unified Development Ordinance (UDO) would make the following changes to the design standards for lots:

- Allow existing lots of record with no road frontage to have access from a recorded easement

STAFF PROPOSED REQUEST

After reviewing the applicant's request, staff suggested to the applicant an amendment to a different section of the ordinance that would still meet the intent of the applicant's petition. The staff requested text amendment to the UDO would make the following changes to residential development exemptions for nonconforming lots of record:

- Establish a date lots must be recorded before to be exempt
- Allow no more than one existing lot of record with no road frontage to be accessed by a recorded access easement

1. History/Background

Rationale for Staff Proposed Request

Chapter 10 of the UDO outlines subdivision standards and processes. Land subdivisions are regulated by the Town for many reasons, mainly to protect public health and safety, and to



facilitate orderly growth. Subdivision of land has long-term impacts on the community and the town regulations help to ensure access to adequate infrastructure and services.

Section 10.23 of the subdivision ordinance establishes design standards for lots. These include conforming to zoning requirements of the district in which they are located, allowing for opening of future streets when subdividing larger parcels, prohibiting flag lots, requiring lots to front an approved street, and prohibiting access to new lots from an easement.

These standards apply to new subdivisions of land. The applicant requested the text amendment to allow access to an existing lot of record that has no road frontage with no plans for division of the property. For the purposes of the text amendment request's intent, the changes to the UDO are more appropriate in Section 2.3.5 Nonconforming Lots of Record, rather than in the Subdivision Ordinance.

Current Regulations

Chapter 8 of the UDO outlines the Town of Burgaw zoning regulations. Development within the Town's jurisdiction must follow the standards set by the current UDO. This includes new construction, subdivision of land, as well as expansion of existing structures.

Dimensional requirements are defined in Section 8.13 of the UDO for each zoning district and intended use of the property, differentiating between residential and commercial. A table in Section 8.13 outlines required minimum lot size, minimum area in square feet, minimum square feet per dwelling unit, and minimum frontage in feet. The dimensional requirements also outlined in the table are maximum structure height in feet and minimum yard regulations, or minimum setbacks from the property line.

There are few exemptions to the current dimensional standards that allow development that deviates from the UDO. There are many lots that were subdivided and recorded under the regulations of past ordinances that do not meet the dimensional requirements of today's UDO. Most of these lots do not meet the minimum area or width for their zoning district. Of the lots that do not meet the minimum width, which is measured in the Section 8.13 table by frontage in feet, few lack frontage to a public or private street.

Section 2.3.5 Nonconforming Lots of Record currently has two provisions that allow for residential development on lots that do not conform to the lot area and lot width of the zoning district in which they are located. One is that the lot is located in a district where the use is permitted. The second is that the development meet the dimensional standards of the applicable zoning district with the exception of lot area and lot width.



Benchmarks

The benchmark communities the Town of Burgaw staff has identified vary in their lot requirements and access allowances. It is the general consensus that new subdivision of land requires road frontage. Of the few ordinances that had exceptions for access allowance, the ordinance still had provisions that must be met to meet the exception.

Public safety is always considered in planning and implementing zoning regulation and each community reviewed incorporated language to ensure adequate access for emergency management.

2. Proposed Amendment

The proposed amendment to the UDO adds an additional exception that allows residential development on an existing lot of record.

Following is the proposed amendment to the Unified Development Ordinance. Additions are underlined and deletions are in ~~striketrough~~.

Section 2.3.5 Nonconforming Lots of Record

(A) Development Prohibited: No use or structure shall be established on a lot of record, existing before [Ordinance 2024-## date of approval], which does not conform to the lot area and lot width requirements established in this Ordinance for the zoning district in which it is located, except as otherwise set forth in (B) below.

(B) Residential Use: Notwithstanding the limitation in Subsection (A) above, a nonconforming lot may be used provided that:

- (1) The lot is located in a district for which the use is permitted;
- (2) Development of the lot will be in compliance with dimensional requirements of the applicable zoning districts with the exception of minimum lot size and minimum lot width. All other dimensional criteria must be met, with the exception of 2.3.5.(B)(3).
- (3) Existing lots of record with no road frontage may be accessed with a single recorded easement that provides a minimum width of 20 feet for emergency vehicles. No more than one property may be accessed by this easement.

CONSISTENCY WITH APPROVED PLANS

Town of Burgaw Comprehensive Land Use Plan

The proposed amendment is consistent with the policy intent of the Town of Burgaw Comprehensive Land Use Plan and the need for clarification within the text of the UDO derives from the vision statement and goals. The Burgaw 2030 Vision Statement reads:

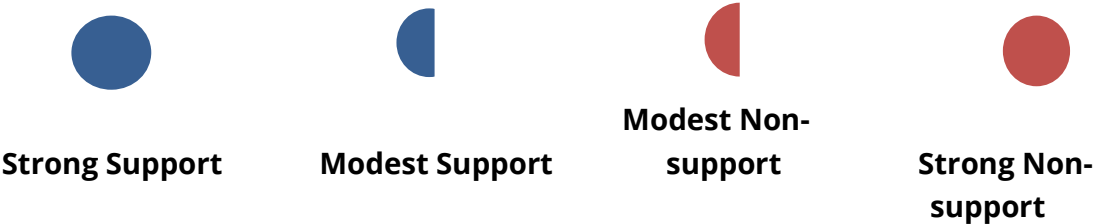
The Town of Burgaw is a vibrant community of engaged citizens who have created a safe, healthy, and secure environment for all of its residents. Burgaw combines its agricultural assets, technical



capability, and historical heritage with a strong work ethic to establish a diverse and thriving economy. The town’s rich history, recreational opportunities, and attractive neighborhoods and shopping districts enrich the lives of its citizens and attract new residents and visitors alike. The town recognizes the value of Burgaw’s present resources and recognizes that its future prosperity depends on protecting those assets.

The text of the Plan introducing the vision and goals indicates that they were developed using the 1997 vision statement and citizen response, putting into words the community's preferred future, and providing a benchmark to guide policy that achieves that desired future.

Policies that are most pertinent to the proposed amendment are below. Not all policies carry equal weight and may depend on the specifics of the proposal. The following symbology is employed:



LAND USE	
Goal 1: To promote infill development and revitalization of areas with existing infrastructure	
Encourage development in areas where the necessary infrastructure—roads, water, sewer, etc.—are available, planned, or can be most cost effectively provided and extended to serve existing and future development	
Goal 3: To encourage quality and controlled growth that enhances and maintains the community’s character	
Apply development standards to ensure that new developments are human scaled, pedestrian friendly, and physically integrated with the surrounding area	



PUBLIC HEALTH AND SAFETY

Goal 2: To reduce risks to the community from natural and manmade hazards

Consider fire protection and prevention as part of the review process for all development plans and proposals



CONCLUSIONS AND RECOMMENDATION

The Town of Burgaw has had zoning regulations in place for years. These regulations have continued to change over time and are intended to protect the community and guide its growth in a responsible manner. As of today, there are few properties within the Town's jurisdiction where this additional provision allowing residential development on a nonconforming lot of record would apply. The additional text also safeguards the community from further creation and development of nonconforming lots of record by encouraging quality and controlled growth. Planning staff recommends **approval** of the proposed amendment to the UDO and the Planning Board unanimously recommended **approval** of the requested text amendment to Section 2.3.5 Nonconforming Lots of Record to allow no more than one recorded access easement to an existing lot of record with no road frontage.

NEIGHBORHOOD CONTACT

	Planning Board	Board of Commissioners
<i>Advertisement Date(s)</i>	03/07/2024, 03/14/2024	03/28/2024, 04/04/2024
<i>Other – Contact(s)</i>		

ACTIONS TO DATE

<i>Planning Board</i>	03/21/24; Recommended Approval
<i>Board of Commissioners</i>	Scheduled

Attachments

1. Application
2. Applicant acceptance of staff modifications to request
3. Benchmarking
4. Consistency statement
5. Resolution
6. Ordinance



PETITION FOR TEXT CHANGE AMENDMENT

DATE: 1/17/2023

FEE: 200

APPLICANT INFORMATION

NAME: Nathan Tew

PHONE: 910.262.3428

EMAIL ADDRESS: nate.w.tew@gmail.com

MAILING ADDRESS: 1276 Penderlea Hwy Burgaw, NC 28425

TEXT CHANGE AMENDMENT REQUEST

SECTION OF UDO APPLICANT IS REQUESTING BEING AMENDED: 10.23 - D - Access

SPECIFIC TEXT APPLICANT IS REQUESTING BEING AMENDED: No new lots can
can be accessed by an easement

REQUESTED TEXT AMENDMENT(S): The allowance of an easement of an existing lot
from road frontage, to a 2nd tier lot behind primary road frontage lot.

AS THE PETITIONER, I/WE: Nathan Tew request the Town
of Burgaw Planning Board recommend to the Town of Burgaw Board of Commissioners to amend the
Unified Development Ordinance (UDO) of the Town of Burgaw as outlined above.

PLEASE RETURN COMPLETED PETITION FOR TEXT CHANGE AMENDMENT TO:

TOWN OF BURGAW
PLANNING DEPARTMENT
109 NORTH WALKER STREET BURGAW,
NC 28425

Rec'd 1/17/24 GC
SCHEDULED PB 3/21/24

Existing lots of record that have no road frontage may be accessed with a recorded easement. No more than one existing lot of record may be accessed by this easement.

Jessica Gray

From: Nathan Tew <nate.w.tew@gmail.com>
Sent: Thursday, March 14, 2024 2:22 PM
To: Jessica Gray
Cc: Planning
Subject: [External] Re: Staff suggested changes to text amendment request

CAUTION: This email originated from outside of the organization. Do not click links or open attachments unless you recognize the sender and know the content is safe.

Hey Jessica,

Thank you for this and following up on the revisions that seem to be better suited. Yes this looks great to me and I look forward to hearing about their decision.

Thank you,

On Thu, Mar 14, 2024 at 11:52 AM Jessica Gray <jgray@burgawnc.gov> wrote:

Hi Nate,

As I discussed with you yesterday over the phone, planning staff would like to recommend a modified version of the text amendment requested in your application that would achieve the same outcome if approved. I have attached a draft of the staff report that has the suggested text amendment and explains the reasoning behind the recommended changes to your request. Please take a look and let me know if you are okay with the changes to the requested text to be amended.

Jessica Gray, CFM, CZO

Community Development Coordinator



Town of Burgaw

109 N. Walker St.

Burgaw, NC 28425

910.663.3452

jgray@burgawnc.gov

Benchmark Ordinances	
Ayden	
Code Language	510.020 D – Street Access No building shall be erected on a lot which does not abut a street or have access to a street, provided that in a planned development, a building may be erected adjoining a parking area or dedicated open space which has access to a street used in common with other lots.
	710.080 Lot Standards F. Street Frontage & Access: All lots shall front upon a public street right-of-way (publicly dedicated or privately maintained). In no case shall a lot have less than 25 feet of frontage on a public street right-of-way. G. Flag lots shall be prohibited except where required due to extreme environmental and/or topographical circumstances or site conditions. A flag lot shall contain only one single- family dwelling with a flagpole maximum length of 300 feet. The minimum width of the flagpole shall be 25 feet.
Troutman	
Code Language	11.4.2 STANDARDS Adjacent Nonconforming Lots: A nonconforming vacant lot shall not be developed if it can be combined with an adjacent lot (sharing a property boundary) which is owned by the same person or entity and fronts the same street to create a conforming lot. This paragraph shall not apply to a nonconforming lot if the majority of the developed lots located on either side of the street where the lot is located and within 500 feet of the lot are also nonconforming.
Nashville	
Code Language	Sec 18-55 – Lot accessibility Every building erected or moved shall be on a lot adjacent to a street right-of-way; and all structures shall be so located as to provide safe and convenient access for servicing, fire protection and required off-street parking.
Wallace	
Code Language	6.6 C. New lot requirements 2. New building lots shall not have appendages less than 20 feet in width and more than 20 feet in length created to provide street access or to enable the lot to meet minimum lot size or frontage requirements. 3. Lots in residential zoning districts must have at least 30 feet of frontage on a public or private street the lot uses for access.

Surf City	
Leland	
Wilmington	
Code Language	Section 18-174 c: The lot widths may be reduced if no access or shared access provisions are included in the recorded plats and/or deeds for new lots to be created and upon the granting of a variance by the board of adjustment containing such access conditions.
	Section 18-551 Access. Every structure hereafter erected or moved within the city limits shall be on a lot adjacent to a street which meets one (1) of the following conditions: 1. A street which has been accepted by the City of Wilmington as a public street; 2. A proposed dedicated, but unopened street provided such street, as approved, will meet or exceed the minimum city standards for design and construction, and further provided a surety has been approved and accepted in accordance with the subdivision regulations of the City of Wilmington; or 3. A private street or private access easement provided such street or easement meets or exceeds the requirements of section 18-397 of the subdivision regulations of the City of Wilmington.
Whiteville	
Code Language	§ 154.087 LOTS AND SETBACKS. (C) Access. Every lot shall abut a public street which has a minimum right-of-way width of at least 50 feet.
Holly Ridge	
Code Language	Section 7-9-1 Street Access No building shall be erected on a lot which does not abut a public street or private street, or have access to a public street or private street, by a written or otherwise enforceable easement or agreement, provided that in a business district or in a planned project in a residential district, a building may be erected adjoining a parking area or other dedicated open space which has access to a street used in common with other lots.
Edenton	
Code Language	Section 14.2 Access to Lots.

	Every lot shall have access to it that is sufficient to afford a reasonable means of ingress and egress for emergency vehicles as well as for all those likely to need or desire access to the property in its intended use.
Reidsville	
	Section 5. Public Access to Property Every building or structure hereafter erected shall be located on a lot and said lot shall abut a public street, highway, road or other public way unless such structure is contained within a planned residential development or other comprehensively planned development in which private drives are expressly approved as required by the Zoning Ordinance or the Subdivision Ordinance.

[North Carolina General Statutes](#)



Agenda Item 1

Request: To allow no more than one existing lot of record with no road frontage to be accessed by a recorded access easement

Hearing Date: 04.09.2024

Board of Commissioners Consistency Statement

(To be read into the record as a motion, seconded and voted upon)

____ Approval – this request is consistent with the goals and policies of the following plan(s) adopted by the Town of Burgaw:

() Burgaw 2030: Town of Burgaw Comprehensive Land Use Plan

() Other: _____

The Planning Board considers its approval to be reasonable and in the public interest because: (Please provide reasons which can be found in the staff report)

The proposal encourages quality and controlled growth that enhances and maintains the community's character.

____ Rejected – this request is not consistent with the goals and policies of the following plan(s) adopted by the Town of Burgaw:

() Burgaw 2030: Town of Burgaw Comprehensive Land Use Plan

() Other: _____

The Board of Commissioners considers its rejection to be reasonable and in the public interest because:

The proposal is inconsistent with the desires of the town. Therefore, The Board of Commissioners recommends rejection of this request.

Comments:

This report reflects the recommendation of the Town of Burgaw Board of Commissioners, this the 9th day of April 2024.

Attest:

Town of Burgaw Mayor

RESOLUTION 2024-10

ADOPTING A STATEMENT OF CONSISTENCY REGARDING A TEXT AMENDMENT TO THE TOWN OF BURGAW UNIFIED DEVELOPMENT ORDINANCE REQUESTED BY NATHAN TEW TO AMEND SECTION 2.3.5 NONCONFORMING LOTS OF RECORD TO ALLOW NO MORE THAN ONE EXISTING LOT OF RECORD WITH NO ROAD FRONTAGE TO BE ACCESSED BY A RECORDED EASEMENT

WHEREAS, the Applicant, Nathan Tew, has requested the Town amend the Town of Burgaw Unified Development Ordinance to amend Section 2.3.5 Nonconforming Lots of Record to allow no more than one existing lot of record with no road frontage to be accessed by a recorded access easement and has presented those findings to the Town of Burgaw Planning Board; and

WHEREAS, Planning Staff has reviewed the proposed text change amendments 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 Board, at their March 21, 2024, 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 April 9, 2024, meeting and found the proposed text change amendments 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 amendments are consistent with the Town of Burgaw 2030 Comprehensive Plan by encouraging quality and controlled growth that enhances and maintains the community's character.

Adopted this 9th day of April 2024.

Attest: _____
Kristin J. Wells, Town Clerk

Signed: _____
G. Olivia Dawson, Mayor

ORDINANCE 2024-10

A TEXT CHANGE AMENDMENT TO THE TOWN OF BURGAW UNIFIED DEVELOPMENT ORDINANCE REQUESTED BY NATHAN TEW TO AMEND SECTION 2.3.5 NONCONFORMING LOTS OF RECORD TO ALLOW NO MORE THAN ONE EXISTING LOT OF RECORD WITH NO ROAD FRONTAGE TO BE ACCESSED BY A RECORDED EASEMENT

WHEREAS, applicant, Nathan Tew, has requested the Town amend the Town of Burgaw Unified Development Ordinance to amend Section 2.3.5 Nonconforming Lots of Record to allow no more than one existing lot of record with no road frontage to be accessed by a recorded access easement and has presented those findings to the Town of Burgaw Planning Board; and

WHEREAS, the Town of Burgaw Planning Board, at their March 21, 2024, meeting, recommended the adoption of the proposed text amendments to the Board of Commissioners of the Town of Burgaw with a unanimous vote; and

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 April 9, 2024, 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 the proposed Unified Development Ordinance text amendments are consistent with the Town of Burgaw 2030 Comprehensive Plan by encouraging quality and controlled growth that enhances and maintains the community's character.

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

Section 2.3.5 Nonconforming Lots of Record

(A) Development Prohibited: No use or structure shall be established on a lot of record, existing before [Ordinance 2024-10], which does not conform to the lot area and lot width requirements established in this Ordinance for the zoning district in which it is located, except as otherwise set forth in (B) below.

(B) Residential Use: Notwithstanding the limitation in Subsection (A) above, a nonconforming lot may be used provided that:

- (1) The lot is located in a district for which the use is permitted;
- (2) Development of the lot will be in compliance with dimensional requirements of the applicable zoning districts with the exception of minimum lot size and minimum lot width. All other dimensional criteria must be met, with the exception of 2.3.5.(B)(3).

(3) Existing lots of record with no road frontage may be accessed with a single recorded easement that provides a minimum width of 20 feet for emergency vehicles. No more than one property may be accessed by this easement.

SECTION 2. These amendments become effective immediately upon adoption of this ordinance on this, the 9th day of April 2024.

Attest: _____
Kristin J. Wells, Town Clerk

Signed: _____
G. Olivia Dawson, Mayor

DRAFT



**Town of Burgaw
ITEM REPORT**

Item: 10A

DATE OF MEETING: April 9, 2024 DEPARTMENT OF ORIGIN: Administration	DATE SUBMITTED: 04/03/2024 SUBMITTED BY: Kristin Wells, Town Clerk
AGENDA ITEM DESCRIPTION: Conflict of Interest Policy	
SUMMARY STATEMENT: The Office of State Budget and Management has a process in order for the town to receive the Directed Grant for the fire and police equipment approved in the 2023-2024 state budget. One of the requirements is to have an established Conflict of Interest Policy. Although we have a policy on Ethics, it does not directly address the conflict of interest when it comes to state funding. I am asking for all elected officials to read and sign the Conflict of Interest Policy, recommended. I will present to the board at the April meeting and ask for the policy to be adopted. A signed copy will need to be on file for each elected official, as well as the signed resolution. This policy, once adopted, will be provided to all full-time staff that has control over funds. If there are any questions or concerns prior to the meeting, feel free to reach out.	
STAFF RECOMMENDATION AND REQUESTED ACTION:	
FINANCIAL IMPACT INCLUDING FUNDING SOURCE:	
FINANCE DIRECTOR COMMENTS:	
ATTACHMENTS (IF ANY): Conflict of Interest for State Grant 2024	

Town of Burgaw

Conflict of Interest Policy

The purpose of the following policy and procedures is to prevent the personal interest of staff members, employees, and commissioners of the Town of Burgaw from interfering with the performance of their duties to the Town of Burgaw, or resulting in personal financial, professional, and/or political gain on the part of such persons at the expense of the Town of Burgaw.

Definitions: Conflict of Interest (also Conflict) means a conflict, or the appearance of a conflict between the private interests and official responsibilities of a person in a position of trust. Persons in a position of trust include staff members, employees, and commissioners of the Town of Burgaw. Governing Board (also board) means the board of commissioners. Commissioner means an individual member of the board of commissioners. Staff member means a person who receives all or part of his/her income from the payroll of the Town of Burgaw.

Policy:

1. Full disclosure, by notice in writing, shall be made by the interested parties to the full Board of Commissioners in all conflicts of interest, including but not limited to the following:
 - a) A commissioner is related to another commissioner.
 - b) A commissioner is related to a staff member.
 - c) A commissioner is also a staff member.
 - d) A staff member in a supervisory capacity is related to another staff member whom he/she supervises.
 - e) A commissioner or staff member receives payment from the Town of Burgaw for any contract, subcontract, goods, or services other than as part of his/her regular job responsibilities or as reimbursement for reasonable expenses incurred as provided in the bylaws and board policy.
 - f) A commissioner or staff member is a member of the governing body of a contributor to the Town of Burgaw.
 - g) A commissioner or staff member may have personal, financial, professional, or political gain at the expense of the Town of Burgaw.
 - h) A commissioner or staff member engages in activities that may cause a loss of public credibility in the Town of Burgaw or create a public impression of impropriety.
2. Following full disclosure of a possible conflict of interest or any condition listed above, the board of commissioners shall determine whether a conflict of interest exists and, if so, the board shall vote to authorize or reject the transaction and/or condition. Both votes shall be by a majority vote without counting the vote of any interested commissioner, even if the disinterested commissioners are less than a quorum, provided that at least one consenting commissioner is disinterested.
3. An interested commissioner, employee, or staff member shall not participate in any discussion or debate of the board of commissioners, or of any committee thereof, in which the subject of discussion is a contract, transaction, or situation in which there may be a conflict of interest.
4. No commissioner, employee, or staff member shall participate in the selection, award, or administration of a procurement transaction in which federal or state funds are used, where to his/her knowledge, any of the following has a financial interest in that transaction: (1) the staff member, employee, or commissioner; (2) any member of his/her immediate family; (3) his/her partner; (4) an organization in which any of the above is an officer, director, or employee; or (5) a person or organization with whom any of the above is negotiating or has any arrangement concerning prospective employment.
5. Existence of any of the above-listed conditions shall render a contract or a transaction voidable unless full disclosure of personal interest is made in writing to the board of commissioners and such transaction was approved by the board in full knowledge of such interest.
6. The disinterested commissioners are authorized to impose by majority vote other reasonable sanctions as necessary to recover associated costs against a commissioner, employee, or staff member for failure to disclose a conflict of interest as described in Paragraph 1 or for any appearance of a conflict.

7. Appeal from sanctions imposed pursuant to Paragraph 5 and 6 above shall be prescribed by law in those courts of the State of North Carolina with jurisdiction over both the parties and the subject matter of the appeal.
8. In the event that the Town of Burgaw has incurred costs or attorney fees as a result of legal action, litigation, or appeal brought by or on behalf of an interested commissioner or staff member due to a conflict of interest and consequent sanctions and in the event that the Town of Burgaw prevails in such legal action, litigation, or appeal, the Town of Burgaw shall be entitled to recover all of its costs and attorney fees from the unsuccessful party.
9. A copy of this policy shall be given to all commissioners, employees, and staff members upon commencement of such person's relationship with the Town of Burgaw. Each board member, employee, and staff member shall sign and date the policy at the beginning of his or her term of service or employment and each year thereafter. Failure to sign does not nullify the policy.

Signed:

(signature)

(name printed)

(date)

To ensure the policy is being regularly enforced and monitored for compliance, the Town Manager shall remind board and staff members of the policy annually by email and shall require board and staff members to disclose annually any interests that may give rise to conflict.

Use the section below to disclose any interests that may give rise to conflict:

Adopted this the 9th day of April, 2024.

Attest: _____
Kristin J. Wells, Town Clerk

Signed: _____
G. Olivia Dawson, Mayor