

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

**DATE:** September 10, 2019  
**TIME:** 4:00 PM  
**PLACE:** Burgaw Municipal Building  
**BOARD MEMBERS PRESENT:** Mayor Kenneth Cowan  
Mayor Pro-tem Wilfred Robbins  
Commissioners Jan Dawson, Bill George, Vernon Harrell, James Murphy  
**STAFF PRESENT:** James Gantt, Town Manager  
Kristin J. Wells, Town Clerk  
Zachary Rivenbark, Town Attorney  
Alan Moore, Public Works Director  
Louis Hesse, Building Code Administrator  
Jim Hock, Police Chief  
Clay Jasper, Deputy Fire Chief  
Wendy Pope, Finance Officer  
Tiffany Byrd, Deputy Finance Officer  
Kim Rivenbark, Deputy Clerk/Interim Planning Administrator  
Chad Staradumsky, Community Development Coordinator  
Cody Suggs, Parks & Recreation Director  
Andrea Correll, Planning Director  
**MEDIA PRESENT:** None  
**INVOCATION:** Reverend Nick Smith  
**PLEDGE OF ALLEGIANCE:** All

Prior to opening the meeting, Mayor Cowan recognized Mr. Gantt to introduce the new Planning Director, Andrea Correll. The meeting was called to order by Mayor Cowan at 4:00 PM.

**Approval of Agenda**

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

- A. Approval of the August 13, 2019 regular meeting minutes
- B. Approval of the August 13, 2019 closed session minutes
- C. Ordinance 2019-17 Amending FY 19-20 budget to receive insurance proceeds from NCLM Interlocal Risk Management Insurance and Enterprise leasing
- D. Ordinance 2019-18 Amending FY 19-20 budget to recognize loan proceeds for the purchase of a new fire engine

**ORDINANCE 2019-17  
AMENDING FISCAL YEAR 2019-2020 ANNUAL BUDGET  
Increasing Revenues and Expenditures**

WHEREAS, the Town of Burgaw Board of Commissioners passed an ordinance adopting a budget for FY 2019-2020 on June 11, 2019; and

WHEREAS, an officer with the Burgaw Police Department was involved in an accident on July 27, 2019; and

WHEREAS, the 2019 Dodge Ram 1500 Police Truck has been deemed a total loss by NCLM Interlocal Risk Management Insurance and Enterprise leasing; and

WHEREAS, the Town has been offered and will accept \$17,335.57 as loss settlement on equipment and up-fit within the vehicle as well as \$500 reimbursement of towing charges; and

WHEREAS, the Town of Burgaw would like to recognize \$17,835.57 from this settlement into the FY 19-20 budget, therefore, additional revenue and expenditure must be recognized; and

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

Section 1: The FY 2019-2020 budget be altered to reflect the following changes:

**INCREASE BUDGETED REVENUE**

| Account Number | Account Description   | Amount      |
|----------------|-----------------------|-------------|
| 10-3730-00-800 | Insurance Settlements | \$17,835.57 |

**INCREASE BUDGETED EXPENDITURE**

| Account Number | Account Description | Amount      |
|----------------|---------------------|-------------|
| 10-5100-10-740 | Capital Outlay      | \$17,335.57 |
| 10-5100-10-160 | M&R Vehicles        | \$500.00    |

Adopted this the 10<sup>th</sup> day of September 2019.

**ORDINANCE 2019-18  
AMENDING FISCAL YEAR 2019-2020 ANNUAL BUDGET  
Increasing Revenues and Expenditures**

WHEREAS, the Town of Burgaw Board of Commissioners passed an ordinance adopting a budget for FY 2019-2020 on June 11, 2019; and

WHEREAS, the Town of Burgaw approved a contract with C.W. Williams to construct a new fire engine; and

WHEREAS, financing for a portion of this purchase was provided through First Bank; and

WHEREAS, the terms of this financing are 10 years at 2.69% interest with annual payments of \$298,582; and

WHEREAS, the Town of Burgaw would like to recognize \$298,582 from loan proceeds into the FY 19-20 budget, therefore, additional revenue and expenditure must be recognized.

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

Section 1: The FY 2019-2020 budget be altered to reflect the following changes:

**INCREASE BUDGETED REVENUE**

| Account Number | Account Description | Amount    |
|----------------|---------------------|-----------|
| 10-3920-00-900 | Loan Proceeds       | \$298,582 |

**INCREASE BUDGETED EXPENDITURE**

| Account Number | Account Description | Amount    |
|----------------|---------------------|-----------|
| 10-5300-10-740 | Capital Outlay      | \$298,582 |

Adopted this the 10<sup>th</sup> day of September 2019.

## **SPECIAL PRESENTATION**

### **Pender County Sheriff's Department Updates – Sheriff Alan Cutler**

Sheriff Cutler spoke about his past law enforcement experience, as well as current programs and future plans of the Sheriff's Department. Mayor Cowan thanked Sheriff Cutler and his staff for a job well done during recent Hurricane Dorian. There was also brief discussion regarding the future of the county jail facilities.

### **Ghost Walk Street Closures Updated Request – Stephanie Key, Pender County Tourism**

Stephanie Key presented an updated street closure list for the annual Ghost Walk event. Commissioner Harrell made a motion to approve the below list of updated street closures. The motion was seconded by Commissioner Dawson and carried by unanimous vote.

- *Closure of Dickerson St. at 5:00pm from NC Hwy 53 to Freemont St.*
- *Closure of Wright St. at 5:30pm from Hwy 53 to Freemont St.*
- *Closure of Fremont St. at 5:30pm from Walker St. to Wright Street.*
- *Closure of Courthouse Ave. at 5:00pm from Wright St. to Dickerson St.*  
*Exit only traffic will be permitted to take the ally-way behind Freemont Antiques where they can turn left or right onto Hwy 53. The intersection of Courthouse Ave. and the Ally will be marked.*
- *Complete closure of the ally-way from Hwy 53 to Freemont St. will be at 5:45pm.*  
*We request the ally be barricaded at 5:45pm due to Ghost Walk Foot Traffic on Courthouse Ave.*

### **Christmas Parade Street Closures Request – Arwyn Smith, Chamber of Commerce Director**

Arwyn Smith presented the requested street closures for the annual Burgaw Christmas Parade. She stated the street closures remain the same as in years past and the line-up will begin at 5:30 PM with the parade starting at 6:30 PM on Saturday, December 14, 2019. Chief Hock commented the map shows closing the end of Progress Drive towards Dickerson Street. He said the police department has never closed that end before. It was determined not close this portion of Progress Drive as the map shows, but to close all other streets as like in years past. After brief discussion, Chief Hock and Ms. Smith will meet to review the street closures that have been done in the past since this is Ms. Smith's first time handling the parade. Mr. Gantt advised some of the streets that have been requested are state roads and must be approved by NC DOT. Ms. Smith will handle these requests through NC DOT. Commissioner Harrell made a motion to approve the requested town street closures for the parade. The motion was seconded by Commissioner Robbins and carried by unanimous vote. *Map showing street closures is on file in the Clerk's office.*

## **ITEMS FROM THE ATTORNEY – Zachary Rivenbark, Town Attorney**

### **Complimentary Use Policy for Pender County Arts Council**

Attorney Rivenbark stated he gave the board a draft copy of the Complimentary Use Policy between the town and the Pender County Arts Council for use of the former EMS Building. He advised Mr. Suggs and himself met with Rochelle Whiteside and James Malloy, members of the Pender County Arts Council, at the building to discuss facility needs. Attorney Rivenbark commented the use of the building will remain the same, except the scheduling of the building would be handled through Mr. Suggs. Commissioner Harrell asked how far in advance is the Arts Council allowed to reserve the building. Mr. Suggs said there is currently not a time frame, but once the building is renovated, there may be additional rules and regulations regarding reservations of the building at that time. Attorney Rivenbark stated there is no action needed on this document since the board approved to proceed with a Complimentary Use Policy at the July 9, 2019 Board of Commissioners Meeting. He stated he would reach out to the Arts Council to have the president sign the Complimentary Use Policy.

### **Other items from the Attorney**

Attorney Rivenbark stated he met with Carson Smith in regards to the possibility of increasing the number of Tourism Development Authority (TDA) members. He said Mr. Smith would research what other small communities have done around the state and would place on next year's short session. He also advised a resolution from the board may be necessary at that time. Attorney Rivenbark stated if the bed and breakfast facility, or another hotel, were to

open in town, the number of members would automatically increase since the local act states at least one third of the TDA members must be the occupancy tax collectors in town.

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

#### **Interlocal Agreement for Disaster Debris Services**

Mr. Gantt advised this is an agreement between Pender County and the Town of Burgaw regarding disaster debris clean up following Hurricane Florence. He advised since there were monitoring issues during Hurricane Florence, the county requested the town sign an agreement in regards to separate monitoring services so that FEMA can reimburse the correct organization and final paperwork can be completed.

Commissioner Harrell asked if this would be an agreement moving forward for future disasters. Mr. Gantt advised that it could be if we wanted it to be, but the county plans to have NC DOT maintain all of the public roads throughout the county. He said NC DOT would then contract out with a private organization following the disaster. Mr. Gantt commented this would not be a good solution for the town, so we would continue with a contract for these services. He said town employees can be the monitors regarding the amount of debris pick-up.

Commissioner Harrell made a motion to approve the interlocal agreement as presented. The motion was seconded by Commissioner Robbins and carried by unanimous vote. *Document on file in the clerk's office.*

#### **Other items from the Manager**

Mr. Gantt thanked all staff for their efforts during recent Hurricane Dorian.

Mr. Gantt advised he and staff are meeting with the engineer regarding the Osgood Canal Drainage Improvement Project on Wednesday, September 11, 2019 in regards to a list of items that need to be addressed.

Mr. Gantt commented the 'drive slow' signs Commissioner Robbins requested at a prior meeting have been ordered. He advised the Police Department plans to give the signs out during the upcoming Halloween in the Park event on October 19, 2019. Chief Hock advised 100 signs have been ordered, but more can be ordered if need be.

Mr. Gantt advised an engineering firm has been through Teal Briar subdivision to do a review of the streets and drainage in the area. He said the review is a lengthy document and will get copies to the board members. Mr. Gantt said the study was limited, and a more in depth study would cost around \$15k. There was brief comments about the current Teal Briar HOA. Mr. Gantt also advised the engineering firm will be doing a study soon in the Village on 18 subdivision as well.

### **ITEMS FROM MAYOR AND BOARD OF COMMISSIONERS**

**Mayor Cowan** commented the staff did a great job during recent Hurricane Dorian.

**Commissioner Robbins** asked the status of the bench he requested in a prior meeting. Mr. Moore advised the bench is complete and in front of the cleaners on South Wright Street.

**Commissioner Robbins** commented about the possibility of adding South Cowan Street to the list of paving projects. Mr. Gantt advised this issue will be discussed with the engineer during the meeting regarding the Osgood Canal Drainage Improvement Project, since some damage to the street was done by the contractors.

**Commissioner Robbins** commented on the recent repair on Bridgers Street between Dickerson Street and Wright Street. Mr. Moore advised this area will be patched/paved soon.

**Commissioner Robbins** requested the board to consider having a two hour work session prior to the next board meeting to concentrate on capital projects. He would like everything that may be a capital project to be discussed, regarding status, future plans, etc. It was the consensus of the board to schedule a special meeting for October 1, 2019 at 9:00 AM to discuss capital projects.

**Commissioner Dawson** commented about the dead trees at Johnson Park and the cemetery. Mr. Moore advised the tree at Johnson Park was cut down today, and the one at the cemetery has not been scheduled yet.

**Commissioner Dawson** requested Public Works to clean up the north side of the road on Clark Street. Mr. Moore advised the department has started debris clean up on that side of town and should get to Clark Street soon.

**Commissioner Dawson** asked Mr. Gantt to request the contractors with the Osgood Canal Drainage Improvement Project to clean up the weeds in the vegetative area around the canal. She also requested the erosion at the canal on Fremont Street to be fixed. Mr. Gantt advised these items will be discussed at the meeting with the contractor and engineer.

**Commissioner Dawson** asked the status on paving Giles Marshburn Road. Mr. Moore advised the grading crew was on the road today.

**Commissioner Dawson** asked Mr. Hesse to look into the unsightly yard at the blue house on South Walker Street.

**Commissioner Harrell** asked the status on the Courthouse Avenue project. Mr. Gantt advised he is moving forward with the RFQ.

**Commissioner Harrell** asked Ms. Correll to look into a tax incentive/grant program to encourage replacement of condemned buildings with new housing. This request was mentioned to staff prior to Ms. Correll starting with the town. Mayor Cowan commented Habitat is always looking for buildings like this. Mr. Gantt advised he has briefly looked into this request and we can offer a town tax incentive. There was some discussion regarding options for this type of incentive. Attorney Rivenbark suggested the board discuss this type of program at the special meeting on October 1, 2019.

**Commissioner Harrell** requested Ms. Correll to look into an ordinance regarding food trucks. He would like to encourage food trucks, but limit the number and make sure there is not an unfair advantage over businesses that pay tax on a regular basis. Ms. Correll will look into this request.

**Commissioner Harrell** commented about the guidelines for the new Police Department K-9. He would like to be able to review the guidelines and put them into an ordinance. He does not want the guidelines to be able to be changed easily. Commissioner Harrell stated his biggest concern with the K-9 was the dog is not be used for crowd control. Chief Hock advised Attorney Rivenbark, Mr. Gantt and himself will meet to discuss this matter. Mayor Cowan commented the definition of 'crowd control' needs to be very broad and narrow. Commissioner Harrell stated if a crowd gathers, the dog leaves. He said this is a very serious issue and does not want a dog involved with pushing people around. He said crowd control was his one stipulation for the dog when he agreed to approve it in the budget. Chief Hock advised the policy is not complete yet, but the wording for the dog contains "tracker, narcotics, demonstration for PR." Chief Hock advised there will be no training for the dog to be a bite dog.

**Commissioner Harrell** asked Mr. Moore about the status of a plan for relocating the generator at the wastewater treatment plant, should the bank at the canal continue to deteriorate. He asked if the generator is kept up and is it ever started. Mr. Moore advised it exercises every week. Commissioner Harrell asked if there was a different location that it could be put to use. Mr. Gantt and Mr. Moore advised the generator is currently being utilized in the location it is currently at, for pump station one.

**Commissioner Harrell** asked about the progress of the new personnel for the Fire Department. Deputy Chief Jasper advised the department is waiting for Chief Taylor to return from military leave.

**Commissioner George** thanked everyone for a job well done during recent Hurricane Dorian.

**Commissioner Robbins** asked for something to be done with the some of the dead liriopie in the triangle at the corner of Timberly Lane and Highway 53. He suggested we reach out to NC DOT to see what we can do with this area.

**Mayor Cowan** commented streets around town are deteriorating quicker than we can fix them. He said this would be one of the topics discussed at the special meeting on October 1, 2019.

**Mayor Cowan** asked Mr. Gantt about town residents purchasing solid waste stickers from the county. Mr. Gantt advised residents can request and pay for these stickers if they wish.

**Mayor Cowan** commented about Courthouse Avenue. He would like more discussion regarding placement of the utilities underground. Mr. Hesse commented he has spoken with Progress Energy and is in the process of getting cost estimates. There was also comments in regards to possible lighting and sidewalks in the area of US Highway 117 and NC Highway 53 coming towards Timberly Lane.

**Mayor Cowan** advised there is an event being planned by the NC Blueberry Festival and Burgaw Now on November 2, 2019 to have Chef Dean Neff and his staff come into the depot to provide a dinner using local foods, etc. Tickets would be sold for the event to raise money for Pender County Alliance for Teen Health.

**Commissioner Harrell** asked if there has been any contact from Cape Fear Community College regarding use of the incubator kitchen that was discussed at a previous board meeting. Staff has not heard anything from the college.

**Mayor Cowan** commented in regards to Steve Boehling, Plant Manager at GAF on Stag Park Road being present at the meeting. Mr. Boehling advised he and his company are trying to be engaged in the community. He asked if something could be done about the appearance of appliances on a property going towards the company. Mr. Gantt advised this property is located in the ETJ and town ordinance regarding solid waste only applies within the corporate limits. He advised this would be handled through the county and will reach out to them about this matter.

**BREAK 5:17 PM – 5:32 PM**

#### **PUBLIC FORUM**

*There was no one present to speak during public forum.*

#### **PUBLIC HEARING #1**

#### **Consideration of a Conditional Use Permit Application for an “Entertainment Establishment (with outdoor use)” Use to be located at 103/105 S Wright Street**

Mayor Cowan declared the public hearing open at 5:35 PM.

Attorney Rivenbark administered the oath to the following individuals in order to present evidence during this hearing:

- Kimberly Rivenbark, Town of Burgaw Interim Planning Director
- Louis Hesse, Town of Burgaw Building Code Administrator
- Andrea Correll, Town of Burgaw Planning Director
- Scott Odgen, Architect with B&O Design Studio
- Robin Hill, Owner of Burgaw Brewing
- Arthur Hill, Owner of Burgaw Brewing
- Katherine Stockhecker, Burgaw Now, LLC
- Delynn Richardson
- Johnny Westbrook

Ms. Rivenbark presented extensive background regarding this hearing including but not limited to the following.  
*The full document is on file in the clerk’s office.*

|                        |                                      |
|------------------------|--------------------------------------|
| <b>Applicant:</b>      | Burgaw Now, LLC                      |
| <b>Property Owner:</b> | Burgaw Now, LLC and Walter Rivenbark |
| <b>Site:</b>           | 103/105 S Wright Street              |

**Current Zoning:** B-1, Central Business District  
**Size:** 0.06 acres  
**Existing Land Use:** Commercial Structure

### **Summary**

The applicant is applying for a conditional use permit for an Entertainment Establishment (with outdoor use) to be located at 103/105 S Wright Street. Currently, the site is home to Ideal Barber Shop owned by Walter Rivenbark. The subject property is bordered to the north by Burgaw Antiqueplace owned by Making Places, LLC and former Tim's Heating and Air building now owned by Burgaw Now, LLC and future home of Burgaw Brewing. The adjacent property to the south is Harrell's Department Store owned by Wright Street Properties, LLC. The abutting property to the west is a residential structure owned by Machamp Realty, Inc.

### **General Information**

- The subject property where the outdoor entertainment proposes to be located is currently owned by Walter Ray Rivenbark.
- The property has a small commercial building located along Wright Street housing Ideal Barber Shop and the rear of the property is currently green space.
- Applicant, Burgaw Now, LLC, has applied for an Entertainment Establishment with outdoor use to be located in the rear portion of the subject property.
- Burgaw Now, LLC currently owns the adjacent building that was formerly owned by Tim's Heating and Air. This building will be home to Burgaw Brewing, a restaurant with accessory brewery.

Upon completion of the presentation and review of each standard by Ms. Rivenbark, the following individuals that signed up to speak were given the opportunity to speak.

Scott Ogden, Architect for B&O Design Studio, 4134 Glen Arbor Drive, Wilmington, advised he normally would have preliminary engineering completed at this level of review, and apologized for not having this done at the time of the hearing. He stated he wanted to make sure the project would be approved before getting into too much detail with the engineering.

Mr. Ogden said he has spoken with Ms. Rivenbark and Ms. Correll regarding some issues that came up during the staff TRC review, including security, egress and related issues. Mr. Ogden advised owners of Panacea Brewing Company in Wilmington, Arthur and Robin Hill, are present during the hearing and stated there is still a lot to be determined with the plans in the service yard located behind the proposed garden area. He stated the area would be used for delivery of goods, kegs, CO2, glycol systems, etc. Mr. Ogden stated he spoke to Ms. Rivenbark about placing an egress gate in the back of the garden/service area so that occupants can exit in the event of an emergency. The gate would have panic hardware installed. He advised there would also be the possibility of having a rear access coded entry gate for employees and staff only.

Mr. Ogden also spoke in regards to the fence behind the stage being seven feet versus six feet as required. He said the stage is planned to be twelve inches high, therefore putting the fence six feet high at the stage area. The seven foot fence would also allow more privacy to the storage area between the garden and the barber shop.

Commissioner Dawson asked Mr. Ogden how large the trucks would be coming in and out of the service area. Mr. Ogden stated the trucks probably would not turn around. He commented there are dumpsters in the area, two garage doors on the rear of the building so that forklifts can maneuver, etc. Commissioner Dawson voiced her concern regarding trucks backing out into a major highway (Wilmington Street/NC Highway 53). Mr. Ogden advised delivery trucks would normally only be accessing the building during early morning hours. Mr. Hill concurred and stated delivery times can be set. Mr. Ogden stated deliveries can also be made through the front doors as well. There were brief comments made regarding trucks backing into the alley way for deliveries. Commissioner Robbins asked about the accessibility from Courthouse Avenue. Commissioner Harrell commented the applicant doesn't own further than the space shown (on the plan). Mr. Ogden stated the applicant only has an easement for the space behind the barber shop.

Commissioner Dawson stated she is fine with the seven foot fence behind the stage area. She also voiced her concern with music on Sundays prior to noon since there are several downtown churches. She requested music not to start until after noon on Sundays.

Commissioner Harrell stated he is a neighbor to the property in discussion. He commented about the drain in the middle of the proposed service area. Commissioner Harrell said drainage occurs underground from his property to the drain located in the service area and wants to make sure this drain is accessible.

Commissioner Harrell commented there is a window behind the stage area that looks into his office at Harrell's Department Store.

Commissioner Harrell also advised there is a window air conditioning unit somewhere between the seven foot fence and the back wall of the barber shop. He wanted to make the applicant aware of the drainage from the air condition unit.

Commissioner Harrell commented about the out building in the rear of the property that is not in good repair. He wanted to make the applicant aware this will be something that needs to be addressed at some point.

Mr. Ogden commented about the space between the barber shop and the seven foot fence. He said the applicant had discussed enlarging this area due to a propane tank in the area, the air conditioning unit, etc. These type of details will come at a later date when final plans are complete.

Commissioner Dawson asked what type of surface would be in the garden area and service area. Mr. Ogden stated the applicant wants to make the garden area pervious and the service area impervious. The garden area would possibly be a mixture of pavers, decking, mulch, etc. He advised there would not be solid concrete or grass in the garden area.

Commissioner Harrell asked about the storage next to the seating area. Mr. and Ms. Hill advised this would be enclosed.

Commissioner George asked about the anticipated occupancy load in the garden area. Mr. Ogden advised due to the egress, it would be 49 and under. The area is meant to be for seating only, not standing room. There would be picnic tables and stools at the bar area. Commissioner George voiced his concerns with over 50 people in the area with the attraction of a band. Mr. Ogden advised someone would be a head counter if there were issues. Mr. Hill advised there would not be big bands; one-two person bands.

Commissioner Robbins asked if the applicant had a need for fencing higher than seven feet. Mr. Ogden advised no, and the only reason it was seven feet behind the barber shop was because of the stage being 12 inches high. He advised if there were issues with the window Commissioner Harrell referred to, the applicant could lower the stage/fence if need be.

Commissioner Harrell asked the applicant what they will be brewing in the facility. Mr. Hill advised it will be traditional brewing, including traditional pub food. Commissioner Harrell also asked how much seating would be inside. Mr. Hill advised there are three to four different floor plans, but are planning for around 65. The brewery will take up a third of the indoor space.

Commissioner George asked for clarification on the doors next to the brewing area. Mr. Hill advised the doors in question are leading to the garden area and they would be open during business hours. He also advised the outside bar would serve as a secondary bar, with maybe one to two bands a week, possibly Thursdays through Sundays.

Commissioner Harrell asked if there are any plans for major changes to the front façade. Mr. Hill advised there are a few ideas being considered, but have not yet decided. Mr. Ogden advised the front would be a historic look, but not as much glass as there is currently.

After questions from the board, the following individuals spoke:

John Westbrook, Burgaw Antiqueplace, advised he is a neighbor to the property of discussion and is delighted the brewing company is coming. He offered any help that he can to assist them on opening.

Arthur Hill, owner of Burgaw Brewing, said they are very excited to come to Burgaw to start this project. Mayor Cowan thanked him for his interest in Burgaw and stated we anticipate great things to come.

Katherine Stockhecker, Operations Manager with Burgaw Now, 4375 Blue Banks Loop Road NE, Leland, added comments regarding the entertainment. She stated the vision is to bring people together by providing small entertainment such as open mic, poetry reading, etc.

Mr. Westbrook asked to make an additional comment. Mayor Cowan allowed Mr. Westbrook to speak. Mr. Westbrook requested the board to look into improvements on the street scape on Wright Street during the special meeting called for October 1, 2019. Mr. Westbrook stated he has prior drawings of improvements if the town would like to use them. He also stated Courthouse Avenue could be phase one, but there needs to be a master plan.

Delynn Richardson, 1406 Penderlea Highway, advised he has been in Burgaw about two and a half years and loves it. He stated he has rental property around town and hopes to build more properties in the future. Mr. Richardson commented he is ecstatic about what is going on in Burgaw and with Burgaw Now. He stated there is a great opportunity for someone with vision and to help Burgaw out, to make it a better place. Mr. Richardson asked for everyone to research Hendersonville, NC and stated there were local people that came together to change their downtown. He said Hendersonville is the most vibrant downtown areas in North Carolina. Mr. Richardson stated he believes we have this in Burgaw and thinks the timing is right. He commented about the growth in surrounding counties.

Mayor Cowan closed the public hearing at 6:18 PM.

Mayor Cowan reviewed the finding of fact based on the public hearing and the evidence presented.

All Board members voted “yes” on all four findings of fact. (Findings below)

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

- The Applicant has proposed an outdoor area containing a stage, restaurant area style seating, bar and fencing. This outdoor area, “beer garden”, is proposed to be approximately 1,000 square feet.
- The hours of operation for the restaurant will be Sunday-Thursday 11AM to 9PM and Friday-Saturday 11AM to 11PM or Midnight. Per plans, no music after 10PM complying with ordinance requirements for Entertainment Establishments with outdoor use.
- The Applicant proposes new fencing to surround all sides not bordered by a wall with 6 and 7-foot fencing.
- The Applicant has stated on the plans that a more detailed lighting plan will be submitted for permits but all lighting will not be installed to shine directly on to adjacent parcels.
- The subject site is not located in a flood plain.
- Staff recommends the following conditions to bring the application into compliance with the ordinance:
  - The Applicant shall meet all requirements of the North Carolina State Building Code and North Carolina State Fire Code.
  - A solid waste plan shall be approved by the Planning Director prior to occupancy of the building.

**Standard 2: The use meets all required conditions and specifications.**

- The Applicant has proposed a 7-foot fence with gate directly behind Mr. Rivenbark’s barber shop and a 6-foot fence with gate to the rear of the proposed beer garden area with another 6 foot fence with gates closing in the service and loading yard at the rear of the property.
  - The max allowed height for a fence constructed in the rear or side yard is 6 feet.
- The proposed entertainment establishment and restaurant are exempt from the Off-Street Parking and Loading requirements.
- The Applicant proposes lighting fixtures (sconce/wall bracket) mounted around beer garden area, pendant light fixtures over bar area, as well as linear LED patio lights. The project notes state the lighting is

schematic in nature and a more detailed power and fixture plan will be submitted for permits and final approvals. Site lighting will not be installed to shine directly on to adjacent parcels. A photo example of lighting can be found on page S-3 of the submitted plans.

- The Applicant also proposes flood lights mounted on the rear of the building for the service and loading area and the driveway area.
- The Applicant proposes, per submitted plans, project notes 6 states any security/alarm system (coord. w/fires/smoke monitors) shall be coordinated with owners in future drawings.
- Applicant proposes that the beer garden space will be secured by fencing and gates.
- Mr. Ogden testified that the reason for the 7-foot fence along the rear of Mr. Rivenbark's barber shop is because the stage is proposed to be 1 foot of the ground making the fence only 5-foot tall at stage level.
- Mr. Ogden testified that music will most likely not be played in the outside area on Sunday's prior to 12 noon. Mr. Ogden agreed that music would not be outside prior to 12 noon on Sundays.
- Commissioner Harrell testified that there is a window air conditioner unit sticking out of a wall in the area of the beer garden and the unit drains in that area.
- Mr. Ogden testified that the beer garden is intended to be as pervious as possible. A mixture of pavers, mulch, gravel, or decking. The storage area is proposed to be impervious.
- Mr. Ogden testified that the anticipated occupancy load for the beer garden area will be 49 persons or under.
- Staff Recommends the following conditions to bring the application into compliance with the ordinance:
  - A Type II Bufferyard shall be required to surround the beer garden area constructed of a solid privacy fence with proposed heights. Materials and design shall be approved by the Planning Director and Building Inspector prior to installation.
  - Lighting plan shall be approved by the Planning Director and Chief of Police prior to building permit issuance. Lighting shall be designed as to not shine onto adjacent properties.
- Commissioners recommend the following condition to bring the application into compliance with the ordinance:
  - Music shall not be permitted in the outdoor space on Sundays prior to 12 noon.

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

- The use is not a public necessity.
- The subject site is the location of an existing commercial building.
- The site is directly behind a barber shop and adjacent to the proposed restaurant.
- The site is adjacent to a residential used property.
- Commissioner Harrell testified that the drain that drains his adjacent property has underground pipes that connect to the storm water drain in the rear of the subject property.
- Commissioner Harrell testified that his adjacent building has a window at the location where the stage is to be located.
- Commissioners recommend the following condition to bring the application into compliance with the ordinance:
  - Existing stormwater structures need to be maintained and any additional run off will be addressed comprehensively and reviewed and approved by the Town.

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

- The site for the proposed business is currently zoned Central Business (B-1) and is designated as Town Center in the Burgaw 2030 Comprehensive Land Use Plan.
  - Recommended Land Uses for Town Center designation: Small-scale commercial, office, educational, governmental, accessory residential, arts and culture, entertainment, small parks, bed and breakfasts.
- The site is not covered by the NC Hwy 53 Corridor Study.
- The site is adjacent to and across the street from existing commercial uses as well as adjacent to one residentially used property.
- Staff believes that the proposed project meets this standard.

Commissioner Robbins made a motion to approve the Conditional Use Permit as presented in the findings of fact. The motion was seconded by Commissioner Harrell and carried by unanimous vote.

**CLOSED SESSION**

Commissioner Dawson made a motion at 6:28 PM to go into closed session pursuant to NCGS 143-318.11 (a) (6) Personnel. The motion was seconded by Commissioner Murphy and carried by unanimous vote.

Commissioner Robbins made a motion at 6:41 PM to go back into open session. The motion was seconded by Commissioner George and carried by unanimous vote.

**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 6:45 PM.

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Kenneth T. Cowan, Mayor

Attest: \_\_\_\_\_  
Kristin J. Wells, Town Clerk