

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

DATE: February 09, 2016
TIME: 4:00 PM
PLACE: Burgaw Municipal Building
BOARD MEMBERS PRESENT: Mayor Eugene Mulligan
Mayor Pro-tem Howard Walker
Commissioner Jan Dawson, Commissioner Bill George
Commissioner Red Robbins (arrived at 6PM)
BOARD MEMBERS ABSENT: Commissioner Vernon Harrell
STAFF PRESENT: Chad McEwen, Town Manager
Sylvia W. Raynor, Town Clerk
Robert Kenan, Town Attorney
Anthony Colon, Assistant Director of Public Works
Bill Fay, Director of Public Works
Louis Hesse, Building Inspector
Jim Hock, Chief of Police
Wendy Pope, Finance Officer
Rebekah Roth, Planning Administrator
Kristin Wells, Deputy Clerk
Allen Wilson, Fire Administrator
MEDIA PRESENT: Bill Walsh, Star News
INVOCATION: Nick Smith, Chaplain
PLEDGE OF ALLEGIANCE: All

The meeting was called to order by Mayor Eugene Mulligan at 4:00PM.

Approval of Agenda

Mayor Mulligan advised that Pender Arts Council has requested to remove their item (Item 7) from the agenda. They will be presenting a different item next month. Mayor Mulligan also advised that Commissioner Harrell has requested to postpone the discussion regarding the results of the January 26th Policy/Finance meeting (Item 15A) until the March 8th regular meeting when the full board can be present for the discussion. There being no further requests for amendments to the agenda, Commissioner Dawson made a motion to approve the agenda as amended. The motion was seconded by Commissioner George and carried by unanimous vote.

Approval of Consent Agenda

A. Approval of minutes of regular and closed session of January 12, 2016

Commissioner Dawson made a motion to approve the consent agenda as presented. The motion was seconded by Commissioner Walker and carried by unanimous vote. The minutes of the January 12, 2016 regular session and closed session were approved as presented.

SPECIAL PRESENTATION/REQUEST

Presentation of Plaque of Appreciation to Four County Electric Membership – *Mayor Mulligan*

Mayor Mulligan presented a plaque of appreciation to Four County Electric Membership Corporation for their years of generous contributions and continuous support of the Town of Burgaw. The plaque was graciously accepted by Jimmy Smith, Director of Economic and Community Development for Four County Electric Membership Corporation.

DEPARTMENTAL ITEMS

Planning

Tagline for Town-Wide Marketing and Branding Campaign – *Rebekah Roth, Planning Administrator*

Ms. Roth advised last year, the Board budgeted funds for graphic design work that would create a logo and tagline that could be used on marketing materials in the 2016-2017 budget year. She said in order to complete this work this fiscal year and in hopes of coordinating the tagline with the CGI videos, staff has been working with the Promotions & Special Events committee to narrow down the possible taglines so the Board can decide on one to use for the campaign. She presented the following recommendations:

Staff Recommendations. Staff prepared the following taglines for the Promotions & Special Events Committee to consider:

- Live the Life in Burgaw, NC! (original tagline presented to the Board)
- Burgaw, NC—Welcome Home
- Burgaw, NC—Small Town, Big Life
- Make Life Happen in Burgaw, NC

Promotion & Special Events Committee. The Promotions & Special Events Committee discussed the following taglines:

- Visit. Enjoy. Stay.
- Come for a day, stay for a lifetime.
- Small Town, Big Heart
- Community. Family. Belonging.

Mayor Mulligan commented that Commissioner Harrell had included in his email a request to consider using “Good Town Year Round” as the tagline. This is the tagline that was used for many years in the past.

Commissioner George said he too would like to recommend “Good Town Year Round”. He advised that tagline has been around since the early 1960’s and was first started by the Jaycees. Commissioner Dawson agreed it has a nice sound and it sort of rhymes. Commissioner Walker was also in agreement and said it is a good slogan that has been around a long time. Mayor Mulligan said he also thinks the tagline fits Burgaw and asked if it is the recommendation of the Board to use this particular tagline. Commissioner George made a motion to use “Good Town Year Round” as the tagline for the town. The motion was seconded by Commissioner Walker and carried by unanimous vote.

ITEMS FROM ATTORNEY – *Robert Kenan, Attorney*

None at this time.

ITEMS FROM MANAGER – *Chad McEwen, Town Manager*

Sponsorship for Chamber

Mr. McEwen advised we have a request from the Chamber to sponsor the annual banquet. He advised last year the town sponsored the banquet in the amount of \$500 which is normally taken out of non-departmental reserve. He advised the only sponsorship budgeted for the Chamber in this year was the Christmas parade so the Board will have to approve this item.

Commissioner George made a motion to approve the sponsorship of the annual Chamber banquet in the amount of \$500.00 to be taken from non-departmental reserves. The motion was seconded by Commissioner Dawson and carried by unanimous vote.

Letter from Pender Career Center – request for use of facility

Mr. McEwen advised we have received a letter from Pender Career Center requesting use of our board meeting room for a job recruitment event for Acme Smoked Fish on February 20 between the hours of 8:00AM and 11:00AM. This event will be held during the hours of the Blueberry Pancake Breakfast which will be held in the fire

bay. There was concern regarding whether responsible parties would be on site at all times. Pete Cowan advised there will be several members of the executive staff as well as human resources staff here at all times.

Commissioner George made a motion to allow Acme Smoked Fish to use the board meeting room during the hours of 8:00AM to 11:00AM for a job fair with the requirement that their staff remains in the room at all times during the event. The motion was seconded by Commissioner Dawson and carried by unanimous vote.

Letter from Pender Adult Services – request for parking lot striping

Mr. McEwen advised we have received a request from Pender Adult Services (PAS) to stripe their parking lot. He advised Wes Davis, Executive Director of PAS is present for questions. Mr. McEwen advised Mr. Davis when he was approached regarding this request that this is beyond the scope of town services and that request would have to be directed to the Board of Commissioners. Mr. McEwen said he needs guidance from the Board regarding this issue. He said in 2009 there was a similar request made by Mr. Davis on behalf of PAS and the town did the work for PAS. Mayor Mulligan asked if a cost has been established for this service. Mr. McEwen said we have not established a cost. Mayor Mulligan asked what criteria are you going to set up for this project and will it be done for other establishments. He said now is the time to decide because we are setting precedent. Mr. McEwen suggested the best way to handle this may be to make a contribution to PAS instead of actually doing the work. Bill Fay commented that a ballpark figure on doing the work would probably be somewhere between \$500 and \$700. Mr. McEwen expressed concern about using town forces to do the work because they are spread thin now because of the workload. He also had concerns about asking town employees to do this work on the weekend. He said if the town contributes the money and work is done by an independent contractor they will be working directly with PAS.

Commissioner George made a motion to contribute \$750.00 payable out of departmental reserves to Pender Adult Services for the purpose of striping the parking spaces in their parking lot. The motion was seconded by Commissioner Dawson and carried by unanimous vote.

Special Events Permit Application – Pender Adult Services

Mr. McEwen advised Wes Davis has also submitted a special events permit application to hold a 5K/10K race to be held on March 26th between 9AM and 11AM that will involve some street closure or intermittent traffic control on South Walker Street and Progress Drive. He also advised Mr. Davis has met with Chief Hock and worked out all the logistics. Mr. McEwen said at this point all Mr. Davis needs is the Board's approval.

Commissioner Dawson made a motion to approve Mr. Davis' request for approval of the special events application to hold a 5K/10K race on March 26th. The motion was seconded by Commissioner Walker and carried by unanimous vote.

Chamber of Commerce request to use depot for candidate's forum

Mr. McEwen advised the Chamber of Commerce has requested use of the depot in conjunction with the Pender Post Voice for a candidate's forum on Thursday, March 3 from 7PM to 9PM. They are requesting use of the depot at no charge for this event. There was much discussion as to why we should allow use of our facility for a county election. Commissioner Dawson asked if this is a chamber function. Mr. McEwen said it is a chamber function in conjunction with the Pender Post Voice. Mr. McEwen said his understanding is that Mr. Pettigrew asked Emily Baker at the Chamber to sponsor the debate enabling the Pender Post Voice to utilize use of the depot for free through the Chamber's contract.

Commissioner George made a motion to allow the Chamber of Commerce to use the depot as requested. The motion was seconded by Commissioner Dawson and carried by unanimous vote.

The Knot Magazine

Mr. McEwen referenced the chain of emails in their packet regarding the "Knot" magazine which is a booking entity for wedding venues. He advised this was brought to his attention yesterday as seen by the emails from the Special

Events and Promotions committee requesting that the Town Board approve the advertisement within the Knot. Mr. McEwen advised that Mr. Fouche sent an email today saying that their request to enter into the contract was based on legal review which Attorney Kenan has done and has outlined some issues with the contract. He said we have not had time to present these amendments that Attorney Kenan came up with. Mayor Mulligan asked if this is imminent. Mr. McEwen said he just learned about this yesterday and he doesn't think it is imminent. Mayor Mulligan suggested that this item be sent back to the Promotions/Special Events committee for further review. Attorney Kenan asked if the Promotions/Special Events committee has met about this item and made a recommendation. Mr. McEwen said probably so because the original email states that the committee has requested that this item move forward with the Board of Commissioners. Mayor Mulligan requested that this item go back to the Promotions/Special Events Committee for further review and that they present information to the Town Board for the March agenda packet for review by the Board before the meeting. He also requested that someone from the committee be present at the March meeting to answer questions regarding this item. The Board members were in agreement with Mayor Mulligan's suggestion.

ITEMS FROM MAYOR AND BOARD OF COMMISSIONERS

A. Discussion regarding results of Policy Finance meeting on January 26th (discussion delayed until March 08 regular meeting)

B. Discussion regarding results of Infrastructure Board meeting on February 2nd

Discussion regarding taking over infrastructure at Teal Briar

The Infrastructure Board is recommending a two-step process to accept water/sewer and streets in Teal Briar. Water and sewer will be accepted first as it is. Once we have accepted the w/s without accepting the legal responsibility for the streets, the HOA as part of this process is bound to step up and take care of the drainage issues. At that point the town accepts maintenance of the streets.

Mayor Mulligan asked who is responsible for maintaining the drains and if the stormwater permit is being followed in accordance with state requirements. Attorney Kenan said the developer of Teal Briar is responsible for the drainage and is the holder of the permit; it will only become the responsibility of the Home Owners Association (HOA) if/when they assume responsibility of the stormwater permit. He advised currently the HOA has no responsibilities for drainage or anything else. Attorney Kenan said the HOA wants the town to take over the maintenance of the infrastructure and drainage but the town cannot take care of drainage because stormwater management is not in the town's purview. Attorney Kenan advised his recommendation as part of the infrastructure board's recommendation is that if you were to take over the actual streets before those streets are taken over there should be an agreement in place between the town and the HOA that they (HOA) would have to maintain the stormwater system, they would have to hire a contractor to periodically maintain the swales and the stormwater retention pond in accordance with whatever state standards are in place. Attorney Kenan then advised if it comes to a point that the HOA does not maintain the stormwater system, then the town would have the right pursuant to the agreement to withdraw the maintenance of the streets meaning it would fall back to the HOA's responsibility to maintain those streets.

Commissioner Dawson advised she has no problem with approving the recommendation by the Infrastructure Board. She said that their recommendation is to first take over the water and sewer and she feels that can be taken care of now.

Commissioner Dawson made a motion to approve the recommendation as presented by the infrastructure board to take over Teal Briar's water and sewer. The motion was seconded by Commissioner George and carried by unanimous vote.

Mayor Mulligan said in regards to the streets we should write a letter, but who do we write it to? Attorney Kenan said since the HOA is a non-profit corporation, they have a registered agent and a registered office and a certified letter would be sent to them with whatever the Board proposes.

Mr. McEwen suggested requiring the developer, as part of us accepting the water and sewer, to address the stormwater issues by having a couple of guys go out there and clean the mouths of the swales at the street to see what that does to get water off the street. He said he doesn't think it is unreasonable for the town to request that action given the responsibility that the town will be taking on. This will put the HOA in a position to maintain the swales by getting them at an acceptable level initially.

Attorney Kenan said that Mr. McEwen's proposal is to have Teal Briar Properties take as a condition of accepting the water and sewer infrastructure is to clean out the swales so the HOA does not have the initial responsibility of cleaning. It was suggested that the first fifteen feet of each swale be cleaned out by Teal Briar Properties in order to move this process along and this puts the burden on the developer to take care of that condition. Mayor Mulligan requested Attorney Kenan to write this in the form of a motion and bring it back at the end of the meeting for approval. (Motion is printed at end of minutes.)

Discussion regarding request for cross walks on Satchwell Street at Pender Memorial Hospital

The Infrastructure Board is recommending placement of two cross walks on Satchwell Street by the PMH parking lot as requested.

Mr. McEwen advised if this item is approved he would like to have the crosswalks put in at the same time we have the striping done on Fremont. Mayor Mulligan asked when that will be done. Mr. McEwen said he feels we are easily in the six month time frame.

There being no further discussion, Commissioner Dawson made a motion to approve the recommendation by the Infrastructure Board to put in two crosswalks on Satchwell Street in front of Pender Memorial Hospital as requested. The motion was seconded by Commissioner George and carried by unanimous vote.

Discussion regarding concerns at intersection of Fremont and Campbell Streets and the intersection of Fremont and McNeil Streets

Fremont and Campbell Street issue: Two accidents have occurred at the intersection recently. The plan is to improve lighting at the intersection. Reflectors have been placed on the turn radius.

Fremont and McNeil Street issue: The issue was the fact that the street narrows after passing the hospital and the sheriff's department heading east. Drivers drift over into the parking area on the right and suddenly realize they are off the street. Mr. McEwen advised the fog lines can be painted along the side across those parking areas when Fremont Street is repaved. The short term solution recommended is to paint the stop bars at the intersection.

No action was taken on the above items since the Fremont/Campbell issue is currently being worked on and the Fremont/McNeil issue will be taken care of during the paving.

BREAK – Mayor Mulligan called for a break at 5:15PM.

MEETING RECONVENED – The meeting reconvened at 5:30PM.

PUBLIC FORUM

There were no speakers for public forum.

PUBLIC HEARINGS

Public Hearing 1

Consideration of a Capital Project Ordinance related to the Town of Burgaw Water System Rehabilitation Project – Chad McEwen, Town Manager

The public hearing was opened at 5:31PM. Chad McEwen, Town Manager was sworn in for testimony by Attorney Robert Kenan.

Mr. McEwen briefly reviewed the attached ordinance which establishes the required capital project ordinance for the water system rehabilitation project. He advised the ordinance outlines the anticipated expenditures (by category) as well as the funding source. Mr. McEwen further advised these expenditures are being funded by a loan/grant package from the NC Clean Water State Revolving Fund Loan Program. The loan is principal only and if all proceeds from the loan are utilized the annual principal payment will be \$69,360. Mr. McEwen noted that we anticipate the meter replacement portion of the project will generate additional revenues based on the current rate structure due to inaccurate meters currently in place. The majority of these additional revenues will come from commercial and industrial users.

Mr. McEwen also advised in addition, the capital project ordinance includes the required notice prior to construction recently approved by the NC General Assembly. This notice requires the town to notify the public in an open meeting prior to the commencement of the construction project.

The public hearing was closed at 5:34PM.

Commissioner George made a motion to approve Ordinance 2016-02 as presented. The motion was seconded by Commissioner Dawson and carried by unanimous vote.

ORDINANCE 2016-01
ADOPTION OF CAPITAL PROJECT ORDINANCE FOR TOWN OF BURGAW WATER DISTRIBUTION SYSTEM
REHABILITATION PROJECT

BE IT ORDAINED by the Town of Burgaw Board of Commissioners that pursuant to Section 13.2 of Chapter 159 of the General Statutes of North Carolina, the following capital project ordinance is hereby adopted:

Section 1. The project authorized is the replacement of approximately 7,200 LF of water main, a new emergency generator at a well site, and the conversion of the Town's water meter system to an AMI system to be financed by State Revolving Fund Loan

Section 2. The officers of this unit are hereby directed to proceed with the capital project within the terms of the grant documents and the budget contained herein.

Section 3. The following amounts are appropriated for the project:

Engineering (McGill and Associates)	\$49,500
Construction – Contract 1 (ELJ)	\$689,950
Construction – Contract 2 (Vanguard)	\$123,130
Equipment (Meters, Setters, Gateways, and Supplies)	\$407,132*
Contingency	<u>\$117,480</u>
	\$1,387,200

*Includes \$25,744 of sales tax that will be reimbursed to Town

Section 4. The following revenues are anticipated to be available to complete this project:

NC Clean Water State Revolving Fund Loan	\$1,387,200
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Section 5. The Finance Officer is hereby directed to maintain within the Capital Project Fund sufficient detailed accounting records to satisfy the requirements of the grantor agency, the grant agreements and state regulations.

Section 6. Funds may be advanced from the General Fund for the purpose of making payments as due. Reimbursement requests should be made to the grantor agency in an orderly and timely manner.

Section 7. The Finance Officer is directed to report, on a quarterly basis, on the financial status of each project element in Section 3 and on the total grant revenues received or claimed.

Section 8. The Budget Officer is directed to include a detailed analysis of past and future costs and revenues on this capital project in every budget submission made to this Board.

Section 9. Copies of this capital project ordinance shall be furnished to the Clerk to the Governing Board, and to the Budget Officer and the Finance Officer for direction in carrying out this project.

Section 10. Pursuant to North Carolina General Statute 160A-499.4, the Town of Burgaw, by way of this capital project ordinance, provides the required public notice prior to construction as required in NCGS 160A-499.4 (b) (4)

Section 11. All prior expenditures, including engineering services and the purchase of the meters and associated supplies, will be reimbursed to the Town utilizing loan proceeds.

Adopted this ninth day of February, 2016.

Public Hearing 2

Consideration of a conditional use permit application for a “Restaurant, Full Service” use to be located at 200 Hwy 117 South. Applicant Myra Hudson has applied for a conditional use permit for a restaurant to be located on a property (PIN 3229-74-3072- 0000) at 200 Hwy 117 South within the Town of Burgaw corporate limits – Rebekah Roth, Planning Administrator

The public hearing was opened at 5:36PM. Myra Hudson, Applicant and Rebekah Roth, Planning Administrator were sworn in for testimony by Attorney Robert Kenan.

Mayor Mulligan asked for Board disclosure of site visits, ex-parte communications, specialized knowledge, bias or conflict of interest. Commissioner Dawson advised she has driven through the parking lot.

Rebekah Roth, Planning Administrator presented the following information:

- The applicant is applying for a conditional use permit for a full-service restaurant with outdoor seating to be located at 200 US Hwy 117 South, the location of the former Realty World office, and the site of an existing commercial structure with parking lot.
- The property is zoned B-2, Highway Business, and the Town of Burgaw Unified Development Ordinance lists restaurant uses as conditional in this zoning district.
- In order for a permit to be issued, the Unified Development Ordinance requires that
 - The use will not materially endanger the public health, safety, or general welfare if located where proposed and developed according to the plan as submitted and approved;
 - The use meets all required conditions and specifications;
 - The use will not adversely affect the use of or any physical attribute of adjoining or abutting property or the use is a public necessity; and
 - The location and character of the use, if developed according to the plan as submitted and approved, 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.
- A conditional use permit to allow “Automobile Sales, New and Used” was issued by the Board of Commissioners on September 8, 2015, and, if approved, this permit would supersede that approval.
- The subject property is bordered to the east and south by the Walgreen’s property and to the north by a vacant tract. Across Hwy 117 to the west, all properties are commercially used and zoned.

Facts Pertaining to Standard 1

- The submitted site plan shows lighting in the northwest corner of the property, as well as attached to the front and rear of the building, allowing clear view of the parking area.
- Lighting is not proposed for customers using the outside seating.
- Staff recommends that the board apply a condition that would allow additional lighting for the outdoor seating area to be installed if required to ensure that if the light on back of building is insufficient for outdoor patrons, the applicant will be able to install the lighting without further approval of the board.
- The subject site is not located in a flood plain.
- The building inspector has found that any potential health and safety issues regarding the building or proposed grill house are addressed by building code, fire code, and environmental health regulations.
- The applicant has not provided information as to how the outside seating area will be accessed by patrons.
- The applicant proposed fencing on the north and rear lot lines, but direct access to the Walgreen’s parking lot is possible along the property line to the south.
- Staff recommends that the board apply a condition that would require a privacy fence to be installed along the Walgreen’s parking area to the south to prevent unfettered access across properties in order to protect the safety of patrons of both businesses and to discourage unauthorized use of the restaurant’s outdoor seating area.

Facts Pertaining to Standard 2

- The existing structures are nonconforming. They do not meet side setback requirements on the south side of the building.
- The applicant has proposed a 12' x 21' grill house along the back of the existing building. A general location has been indicated near the southern property line.
- Staff recommends that the board apply a condition to specify that no portion of the proposed grill house shall be closer to the property line than the existing building to ensure that the addition will comply with the nonconforming structure setback requirements of the ordinance.
- The applicant has indicated that indoor seating capacity is 20-25 and is proposing 4 outside tables, which would require 8 parking spaces.
- The site plan shows 16 parking spaces.
- Existing spaces along the front of the building and by the road are only 16' in depth, not the 19' required by the ordinance. Parking stops decrease the depth of spaces in front of the building to 13' of usable depth.
- No spaces along the northern property line are currently marked.
- Existing parking spaces on the side of the building include a handicapped-accessible space with direct access to a wheelchair ramp.
- Staff recommends that the proposed parking spaces be reconfigured to retain existing spaces along the side of the building and that parallel spaces sufficient to meet the minimum parking requirements be required along the northern property line to ensure that the restaurant has sufficient handicapped-accessible parking and to prohibit the obstruction of the driveway by 90 degree parking spaces along the northern property line.
- The applicant is proposing to install a 25' tall pole sign structure on the northwest corner, which is allowed in the B-2 zoning district.
- The proposed location will meet setback requirements from the edge of pavement, but meeting setback requirements from the right-of-way may be difficult.
- Staff recommends that the board place a condition that specifies that the freestanding sign may be of any type that meets the standards of the Unified Development Ordinance and shall require a sign permit in order to ensure that if the pole sign cannot meet requirements, the applicant may install a different type of freestanding sign without further board approval.
- According to the submitted site plan, there will be sufficient area landscaped to meet the 8% landscaping requirement.
- The minimum number of 6 shrubs listed on the Town of Burgaw Tree and Vegetation List are proposed. Shrubs in addition to these have also been proposed.
- No canopy tree species listed on the Tree and Vegetation List has been proposed, but one tree at least 8' in height is required by ordinance.
- Staff recommends that the board apply a condition that will require that a canopy tree, of a species listed on the Town of Burgaw Tree and Vegetation List, at least 8' in height, shall be installed in addition to or in lieu of any one tree on the proposed landscaping plan to bring the proposed plan into compliance with landscaping standards.
- No lot lines adjoin residences, churches, elementary or secondary schools, or public parks.
- No drive-through has been proposed.
- The applicant has proposed placing a dumpster on the existing paved parking lot.
- All dumpster and/or refuse receptacles are required to be screened in accordance with Unified Development Standards.
- Staff recommends that the dumpster be moved to its own concrete pad because of potential conflicts with parking spaces if located as proposed and that it be screened in accordance with ordinance requirements.

Facts Pertinent to Standard 3

- The subject site is the location of an existing commercial building and parking lot.
- The site was used as a restaurant in the past.

- The applicant proposes fencing on the north and rear lot lines, but direct access to the Walgreen's parking lot along the south property line is possible.
- Staff recommends that the board apply a condition that would require a privacy fence to be installed along the Walgreen's parking area to the south to prevent unfettered access across properties in order to protect the safety of patrons of both businesses, to discourage unauthorized use of the restaurant's outdoor seating area, and to screen potential light and noise from the restaurant area.

Facts Pertinent to Standard 4

- The site for the proposed business is currently zoned Highway Business and is designated as Commercial Growth in the Burgaw 2030 Comprehensive Land Use Plan.
- 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.
- The submitted site plan does not include bicycle parking facilities, in conflict with the Land Use Plan's goal to increase the use and effectiveness of alternative transportation modes, such as walking, bicycling, etc.
- Staff recommends that the board apply a condition requiring a bicycle rack be installed in a location approved by the planning administrator to provide a safe place to park bicycles and to encourage bicycle transportation in accordance with the recommendations of the land use plan.

Discussion

Commissioner Walker asked for the seating capacity. Ms. Roth advised Ms. Hudson has estimated it will allow 20 to 25 seats indoors and they are proposing four picnic tables outside.

Commissioner Dawson stated a portion of the property which will be Ms. Hudson's upon purchase is the Walgreens parking lot. Ms. Hudson said the realtor will negotiate with Walgreens for a land exchange.

Mayor Mulligan asked if the fence on the south side of the building will run the full length of that side. Ms. Roth advised they are proposing fence on the other three sides and she is recommending fence along this side as well so there will not be any free flow of people back and forth from the two properties. Ms. Roth advised any fencing will need to surround any outdoor seating area.

Myra Hudson, Applicant commented that she feels that Burgaw lacks southern cuisine or home cooking. She advised her food will be smoked or grilled and all healthy. She said she wanted to bring this to Burgaw and she thinks it is a great idea for the community.

Mayor Mulligan closed the public hearing at 5:55PM.

Mayor Mulligan advised at this time the Board will review the finding of facts to finalize their decision.

Findings of Fact

1. The proposed "Restaurant, Full Service" 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, given the following conditions:
 - a. Additional lighting for the outdoor seating area may be installed if required.
 - b. A privacy fence shall be installed along the Walgreen's parking area to the south to prevent unfettered access across properties.

Commissioners Walker, Dawson and George voted "yes" with conditions as presented and to include an amendment to condition b. to state that the privacy fence shall be installed to surround the outdoor seating area behind the restaurant

2. The proposed "Restaurant, Full Service" use meets all required conditions and specifications, given the following conditions:

- a. No portion of the proposed grill house shall be closer to the property line than the existing building.
- b. Proposed parking spaces shall be reconfigured to retain existing spaces along the side of the building; sufficient parallel spaces to meet minimum parking requirements shall be required along northern property lines.
- c. The proposed freestanding sign may be of any type that meets the sign standards of the Unified Development Ordinance and shall require a sign permit.
- d. A canopy tree, of a species listed on the Town of Burgaw Tree and Vegetation List, at least 8' in height, shall be installed in addition to or in lieu of any one tree on the proposed landscaping plan.
- e. If required, a dumpster shall be installed on a new concrete pad behind the existing parking lot and must be enclosed as required by the Unified Development Ordinance.

Commissioners Walker, Dawson and George voted “yes” with conditions as presented.

3. The proposed “Restaurant, Full Service” use will not adversely affect the use or any physical attribute of adjoining or abutting property, given the following condition:
 - a. A privacy fence shall be installed along the Walgreen’s parking area to the south to prevent unfettered access across properties.

Commissioners Walker, Dawson and George voted “yes” with condition a. being amended to state that the privacy fence shall be installed to surround the outdoor seating area behind the restaurant.

4. The location and character of the proposed “Restaurant, Full Service” 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, given the following condition:
 - a. A bicycle rack must be installed in a location approved by the Planning Administrator.

Commissioners Walker, Dawson and George voted “yes” with condition as presented.

Motion: Commissioner Dawson made a motion to accept the conditional use for a restaurant as presented with conditions as amended. The motion was seconded by Commissioner George and carried by unanimous vote.

Public Hearing 3

Consideration of an application for a conditional use permit for an expansion to the “School; Elementary, Junior High, and High School” use for Burgaw Middle School, located at 500 S. Wright St. Applicant Phil Norris, P.E. has applied for a conditional use permit for an expansion to Burgaw Middle School located at 500 S. Wright St. (PIN 3229-30-8908-0000) – *Rebekah Roth, Planning Administrator*

The public hearing was opened at 5:59PM. Jody Bland, Applicant’s representative and Rebekah Roth, Planning Administrator were sworn in for testimony by Attorney Robert Kenan.

Mayor Mulligan asked for Board disclosure of site visits, ex-parte communications, specialized knowledge, bias or conflict of interest. There were no disclosures.

(Commissioner Robbins arrived at 6:00PM.)

Rebekah Roth, Planning Administrator presented the following information:

In General

- The applicant is applying for a conditional use permit for an expansion (new 10, 400 square foot classroom building) to the “School; Elementary, Junior High, and High School” use for Burgaw Middle School, located at 500 S. Wright St.

- The property is zoned R-12, and the Town of Burgaw Unified Development Ordinance designates grade school uses as conditional in this zoning district.
- In order to for a permit to be issued, the Unified Development Ordinance requires that
 - The use will not materially endanger the public health, safety, or general welfare if located where proposed and developed according to the plan as submitted and approved;
 - The use meets all required conditions and specifications;
 - The use will not adversely affect the use of or any physical attribute of adjoining or abutting property or the use is a public necessity;
 - 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; and
 - No access points or loading and unloading areas are located so as to hinder or congest traffic movement on a public street.
- The subject property is bordered to the north by residential properties and the American Legion Post, to the east and south by Rotary Park and Cape Fear Community College, and to the west by the railroad right-of-way.

Facts Pertaining to Standard 1

- The subject property is currently the location of Burgaw Middle School and has had the existing site configuration since at least 1998, according to aerial photographs.
- The 10,400 square foot proposed structure is planned to be located on top of a town force main and water line, limiting the ability of the town to repair and maintain public infrastructure necessary for the health of the town's residents.
- Staff recommends that the board apply a condition that would require all public utility lines and meters to be field verified and that any public utilities located under the proposed structure must be relocated as approved by the Town of Burgaw Public Works Director to ensure that the town would be able to repair the utilities if there were ever any issues.
- Staff recommends that the board apply a condition that the plan for the relocation of public utilities be approved prior to issuance of a building permit to ensure all approvals are in place before construction begins.
- Staff recommends that the board apply a condition that requires the Pender County Board of Education to provide maintenance easements to town utility lines prior to issuance of a certificate of occupancy to ensure the town will be able to maintain the utilities.
- Existing after dark activities take place near the gym, which is lit by three lights.
- One street light is shown on the W. Williams St. portion of the site (452 linear feet), meeting the town's street lighting policy (Resolution 2007-45) of a minimum of one street light every 500 feet.
- The Town of Burgaw Police Chief had been sent the plans and has no comments or concerns regarding the project.
- The Town of Burgaw Fire Marshal has reviewed the plans and has noted that the fire hydrant behind the proposed building will have to be relocated. The hydrant must be retained in order to meet the standards of the most recent fire code, and its placement will depend on the relocation of water lines.
- Staff recommends that the board apply a condition that would require the fire hydrant located behind the proposed building be relocated, subject to the approval of the Town of Burgaw Fire Marshal, to provide adequate fire safety for the site.

Facts Pertaining to Standard 2

- All dimensional requirements, including building height are met.
- The parking spaces in the reconfigured parking lot, along W. Williams St., and in a portion of the teacher/employee parking lot do not meet the required stall depth.
- The proposed site plan provides sufficient number of parking spaces to meet town requirements, even with the change in parking outlined in Exhibit 17.
- Staff recommends that the board apply a condition that would require the parking spaces in the reconfigured parking lot to meet all dimensional standards of the Unified Development Ordinance,

including the required 19 feet of stall depth so the required number of spaces will meet dimensional specifications.

- No curbing is proposed to separate the new parking area from the student walkway immediately adjacent to it.
- The applicant has asserted that the student walkway will be raised and will not be at the same grade as the parking area.
- All town driveway requirements are met.
- No new signs are proposed, and based on the submitted site plan and site photographs, signs meet all requirements or are grandfathered.
- The demolition plan shows the planned removal of 5 regulated trees: a 16" caliper magnolia, 18" sycamore, 6" holly, 10" pecan, and 8" crape myrtle. These trees are located squarely in the location of the proposed building and, unless the building is relocated to another portion of the site, could not be saved.
- Staff recommends that, to bring the proposal into compliance with the requirements of the ordinance, the board apply a condition that the regulated trees slated for removal shall be replaced with one magnolia, one holly, one pecan, one crape myrtle, and one hardwood shade variety listed on the Town of Burgaw Approved Tree and Vegetation List, that all replacement trees shall be a minimum of 2" caliper in size, and that the location of these trees must be approved by the Planning Administrator prior to planting.
- The required perimeter parking lot landscaping strip is not planned, but the existing 5 large crape myrtles adjacent to the parking area will be retained.
- Staff recommends that, to bring the proposal into compliance with requirements of the ordinance, the board apply a condition that would require a perimeter parking landscaping strip be planted along the existing row of crape myrtles adjacent to the parking area and must include at least 6 evergreen shrubs at least 18 inches in height and a combination of live green vegetation, groundcover, grass, trees, and/or shrubs to a width of 12 feet, with all vegetation used being included in the Town of Burgaw Approved Tree and Vegetation List.
- Both S. Dickerson St. and W. Williams St. are classified as thoroughfares.
- The site meets access point requirements.
- Vegetation and/or fencing is installed along all side and rear lot lines.
- Currently, the school uses the parking lot that will be reduced in size by the proposed building for bus parking and drop-off.
- Pender County Schools has provided information showing that the existing car loading and unloading area will remain the same, and bus parking and drop-off will be located on the parking lot currently used by school employees. Employees will use several remaining spaces and the parking lot near the gym.
- While not shown on the site plan or existing conditions drawing, staff can testify that at least two dumpsters are located on site, neither of which are screened, which is required whenever a new zoning permit is issued.
- Staff recommends that the board place a condition that will specify that the existing and future dumpsters shall be screened in accordance with the requirements of the Unified Development Ordinance, as required by town standards.
- The current student loading and unloading area is sufficient to meet unloading space standards.
- No sidewalk is proposed to connect the S. Dickerson St. sidewalk with the sidewalk in front of the proposed building.
- Staff recommends that the board place a condition that will require a sidewalk be installed along W. Williams St. connecting the S. Dickerson St. sidewalk to the sidewalk in front of the proposed building, as authorized by the ordinance, to ensure the new building ties into the existing pedestrian transportation network.
- The applicant has asserted that locating the sidewalk behind the existing drainage ditch will limit the impact on stormwater management.
- A cargo storage container that is not allowed in the zoning district and not permitted is located on the east side of the property.
- Staff recommends that the board apply a condition to specify that the unlawful cargo storage container must be removed in order to bring the property into compliance with the ordinance.
- The site survey shows a public right-of-way for the portion of W. Williams St. that does not align with the roadway. The town has no information in the vault regarding the status of this street.

- The town attorney has indicated that a title report for the property is needed prior to Board of Commissioners review to clarify issues with property lines, easements, and road right-of-way.
- The driveways along S. Dickerson St. are subject to NCDOT driveway permits, but these driveways are not being altered based on the submitted site plan.

Facts Pertinent to Standard 3

- No application or any other evidence presented indicates that there would be a change to the impact on the use or any physical attribute of adjoining or abutting property based on the proposed expansions.
- The subject property has functioned as a school for many years, and the town has no record of complaints or other concerns from adjacent property owners.

Facts Pertinent to Standard 4

- The submitted site plan shows the removal of five regulated trees, in contrast to the plan's goal to preserve and enhance the tree canopy.
- The submitted site plan does not show a connection between the sidewalk in front of the proposed building with the sidewalk along S. Dickerson St., which would connect in with the Osgood Canal Greenway and Trail, a proposed sidewalk link to Pender Memorial Park where the school's athletes practice, and neighborhoods to the west side of the railroad right-of-way.
- No bicycle racks are located on site or are proposed.
- The subject property is designated as Mixed Use Transition in the Burgaw 2030 Comprehensive Land Use Plan, which recommends educational uses and lists the provision of pedestrian connections to multi-use pathways as a development guideline.
- The Burgaw 2030 Comprehensive Land Use Plan includes goals to encourage and protect citizens' health and well-being through a well-connected system of trails, sidewalks, and neighborhoods; to promote land use patterns and transportation systems that encourage physical activity, promote healthy living, and reduce risk for chronic illness; and to increase the use and effectiveness of alternative transportation modes, such as walking, bicycling, etc.
- Staff recommends that the board apply a condition to require the installation of a sidewalk along W. Williams St. connecting the S. Dickerson St. sidewalk to the sidewalk in front of the propose building to bring the site plan into conformity with the recommendations of the Land Use Plan and to protect the safety of pedestrians.
- Staff recommends that the board apply a condition requiring a bicycle rack be installed in a location approved by the planning administrator to provide a safe place to park bicycles and to encourage bicycle transportation in accordance with the recommendations of the land use plan.
- The site is not covered by the NC Hwy 53 Corridor Study.
- The subject property is immediately adjacent to civic and educational/institutional uses to the north, east, and south. This has been the site of Burgaw Middle School for many years.

Facts Pertinent to Standard 5

- Currently, the school uses the parking lot that will be reduced in size by the proposed building for bus parking and drop-off.
- Pender County Schools has provided information showing that the existing car loading and unloading area will remain the same, and bus parking and drop-off will be located on the parking lot currently used by school employees. Employees will use the parking lot near the gym and several remaining spaces.
- The current student loading and unloading area by the gym is sufficient to meet unloading space standards.
- Decisions about areas for student drop-off and bus unloading are usually made at the school level by the principal.
- Staff recommends that the board apply a condition that before any future changes to bus parking and unloading and student drop-off and pick-up are made, the Town of Burgaw Police chief must approve the plan to provide the school with flexibility to adjust their procedures if necessary while allowing the town to ensure these activities will not hinder or congest traffic movement on a public street.

Discussion:

Commissioner Walker asked if there will be any kind of connection between the new building and the existing buildings. Ms. Roth advised there will be student walkways that connect the new building to the existing structures. Commissioner Walker asked how this project is being funded. Ms. Roth said she understands this is part of the school bonds.

Commissioner Robbins asked Bill Fay, Public Works Director about the drainage problem at the end of Williams Street and South Dickerson; he advised water stands in that area at all times regardless of weather conditions. He asked if this has been taken into consideration. Ms. Roth advised the proposed plan does show stormwater improvements. She advised there are some improvements that will be done but she doesn't know if those improvements will have an effect on the public sidewalk along South Dickerson Street. Chad McEwen asked if there could be a catch basin placed there to alleviate the problem. Jody Bland advised they have not looked at this particular issue but will be happy to check into the situation to see if they can do something about the problem.

Mayor Mulligan asked if the new sidewalk will be intersecting with the existing sidewalk. Ms. Roth said that is what we are recommending and the applicant has started working on revising plans based on conversations with staff and the Planning Board. Mr. McEwen asked if the sidewalk is only connecting with the sidewalk on Dickerson Street, not the sidewalk on the east side of South Wright Street. Ms. Roth advised the proposed sidewalk will connect South Dickerson Street along West Williams Street behind the drainage ditch, it will stop at the driveway to the revised parking area and then there will be a walkway/sidewalk that runs in front of the new proposed building that connects into the existing sidewalk/walkway in front of the administrative building. She said that will pretty much connect South Wright Street with South Dickerson Street. Ms. Roth reviewed the drawings depicting the location of the new sidewalk. Mayor Mulligan said he does not believe the proposed plan will alleviate the current drainage problem and that may need to be looked at by the infrastructure board at some point in time.

Commissioner Walker asked what curriculum will be held in the new building. Mr. Bland advised he does not know the answer to that question at this time.

Mayor Mulligan asked Mr. Bland if he has anything further to add to Ms. Roth's presentation. Mr. Bland advised they are willing to comply with all the requests as presented.

Commissioner Robbins advised he has one other issue regarding the replacing of the trees. He said he would like to recommend that if the applicant takes five huge trees out, they should go back with at least seven 4 inch caliper trees to replace the huge trees being removed.

Commissioner Dawson asked about the requirement for the title report. Ms. Roth advised the survey report was requested because staff wanted to make sure it met set back requirements. She said it shows West Williams Street to actually be on the school's property. She also advised there is still the question as to where the right of way of West Williams Street is located. She said that is probably the reason the attorney requested the title report because we have no accurate information on the location of the right of way. Attorney Kenan added that based on the deeds there are at least eight or nine deeds that comprise the site. He said in looking at those deeds you cannot determine whether the town or the school board or whoever owns the particular right of way where Wright Street is, so we definitely want to have that taken care of as part of this process. He advised he does not have a problem if the Board continues on with approval of the site plans, only that he would like to get the title report and the road right of way resolved before a permit is issued for any kind of construction.

There being no further comments, Mayor Mulligan closed the public hearing at 6:30PM.

Mayor Mulligan advised at this time the Board will review the finding of facts to finalize their decision.

Findings of Fact

1. The proposed "School; Elementary, Junior High, and High School" 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, given the following conditions:

- a. All public utility lines and meters shall be field verified, and any public utilities located under the proposed structure shall be relocated as approved by the Town of Burgaw Public Works Director.
- b. The utility relocation plan shall be approved prior to issuance of a building permit.
- c. The fire hydrant located behind the proposed building shall be relocated, subject to the approval of the Town of Burgaw Fire Marshal.
- d. The Pender County Board of Education shall be required to provide maintenance easements to town utility lines prior to issuance of the certificate of occupancy.

Commissioners Walker, Robbins, Dawson and George voted “yes” with conditions as presented.

2. The proposed “School; Elementary, Junior High, and High School” use meets all required conditions and specifications, given the following conditions:

- a. The parking spaces in the reconfigured parking lot must meet all dimensional requirements of the Unified Development Ordinance, including the required 19 feet of stall depth.
- b. The regulated trees to be removed shall be replaced with one magnolia, one holly, one pecan, one crape myrtle, and one hardwood shade variety listed on the town of Burgaw Approved Tree and Vegetation List. All replacement trees shall be a minimum of 2” caliper in size, and the location of these trees shall be approved by the Planning Administrator prior to planting.
- c. A perimeter parking landscaping strip shall be planted along the existing row of crape myrtles adjacent to the parking area and shall include at least 6 evergreen shrubs at least 18 inches in height and a combination of live green vegetation, groundcover, grass, trees, and/or shrubs to a width of 12 feet. All vegetation used shall be included in the Town of Burgaw Approved Tree and Vegetation List.
- d. A sidewalk along W. Williams St. connecting the S. Dickerson St. sidewalk to the sidewalk in front of the proposed building shall be required. This sidewalk will be allowed to be located behind the existing drainage ditch.
- e. Existing and future dumpsters shall be screened in accordance with the requirements of the Unified Development Ordinance.
- f. The cargo storage container located on the property must be removed

Commissioners Walker, Robbins, Dawson and George voted “yes” with conditions as amended to reflect the following changes:

b. replacement trees shall be a minimum of 4” caliper in size for a total of seven trees

g. A title report for the property must be submitted to the attorney, and the right-of-way issues must be resolved prior to issuance of a building permit.

3. The proposed “School; Elementary, Junior High, and High School” use will not adversely affect the use or any physical attribute of adjoining or abutting property.

Commissioners Walker, Robbins, Dawson and George voted “yes” as presented.

4. The location and character of the proposed “School; Elementary, Junior High, and High School” 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, given the following conditions:

- a. A sidewalk along W. Williams St. connecting the S. Dickerson St. sidewalk to the sidewalk in front of the proposed building shall be required. This sidewalk will be allowed to be located behind the existing drainage ditch.
- b. A bicycle rack shall be installed at a location approved by the Planning Administrator.

Commissioners Walker, Robbins, Dawson and George voted “yes” with conditions as presented.

5. No access points or loading and unloading areas of the proposed “School; Elementary, Junior High, and High School” use are located so as to hinder or congest traffic movement on a public street, given the following condition:

- a. Before any future changes to bus parking and unloading and student drop-off and pick-up are made, the Town of Burgaw Police Chief must approve the plan to make sure these activities will not hinder or congest traffic movement on a public street.

Commissioners Walker, Robbins, Dawson and George voted “yes” with conditions as presented.

Commissioner Robbins made a motion to approve the conditional use as amended for the expansion to the Burgaw Middle School. The motion was seconded by Commissioner Dawson and carried by unanimous vote.

AGENDA ITEM 15B CONTINUED

Attorney Kenan read the following motion that he drafted in accordance with the board’s previous discussion regarding taking over of infrastructure in the Teal Briar Subdivision.

A motion made by Commissioner _____ to send a letter to Teal Briar Properties LLC and Teal Briar POA, Inc. via certified U. S. mail that:

- 1) *The Town of Burgaw has voted to accept the water and sewer infrastructure that is currently constructed and located within Teal Briar Subdivision as of February 9, 2016 subject to the subdivision’s developer cleaning the swales for the first fifteen feet from the edge of pavement so that stormwater will flow from the street into the swales and continue through the stormwater system located in the subdivision.*
- 2) *That the Town of Burgaw is willing to accept the paved streets within Teal Briar subject to the following conditions:*
 - a. *Teal Briar Properties, LLC agrees to transfer the NCDENR issued stormwater permit to Teal Briar POA, Inc.*
 - b. *Teal Briar POA, Inc. consents to the transfer of the NCDENR issued storm water permit from Teal Briar Properties, LLC.*
 - c. *Teal Briar POA, Inc. agrees to enter into a written agreement with the Town that it will hire a contractor to maintain the stormwater system located in the subdivision on a quarterly basis and provide to the Town documentation on a quarterly basis that the stormwater system is being maintained by Teal Briar POA, Inc.’s contractor. In the event that Teal Briar POA, Inc. fails to maintain the stormwater system in accordance with the written agreement, then Town shall have the right to withdraw its acceptance and maintenance of the paved streets within the subdivision.*
- 3) *That Teal Briar Properties, LLC and Teal Briar POA, Inc. shall each have until April, 30, 2016 to notify the Town whether they respectively agree to accept the terms as set forth within this motion.*

Seconded by Commissioner _____

Mayor Mulligan asked the Board if it was their understanding that the condition of cleaning the swales was associated with taking over the water and sewer. They advised yes. Mayor Mulligan asked Attorney Kenan to read the first part of the motion again. Attorney Kenan read the first part of the proposed motion again.

Commissioner George agreed to approve the above written motion as read by the attorney. The motion was seconded by Commissioner Dawson and carried by unanimous vote.

Items from Commissioner Robbins

Commissioner Robbins requested to bring up a couple of items since he was not present for the earlier part of the meeting. He asked Mr. Fay if he would get the Burgaw sign at Johnson Park pressure washed and cleaned. He also requested that the crape myrtles and willow oaks on North Wright Street need maintenance such as pruning and fertilizing. He advised those particular trees have not had any maintenance in a while.

Mayor Mulligan asked Mr. Fay if there is any plan to teach town employees the correct manner of pruning trees. He asked him to check with the extension office because there is a new employee on staff that is an arborist that may be willing to train some of our employees to prune trees.

ADJOURNMENT

There being no further business, Commissioner Dawson made a motion to adjourn. The motion was seconded by Commissioner Robbins and carried by unanimous vote.

Eugene Mulligan, Mayor

Attest: _____
Sylvia W. Raynor, Town Clerk