

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

**DATE:** March 8, 2022  
**TIME:** 4:30 PM  
**PLACE:** Historic Train Depot, 115 S. Dickerson Street  
**BOARD MEMBERS PRESENT:** Mayor Olivia Dawson  
Mayor Pro-tem Wilfred Robbins  
Bill George, James Malloy, Vernon Harrell, Jan Dawson  
**STAFF PRESENT:** James Gantt, Town Manager  
Kristin J. Wells, Town Clerk  
Zachary Rivenbark, Town Attorney  
Wendy Pope, Finance Officer  
Kimberly Rivenbark, Deputy Town Clerk  
Jim Hock, Police Chief  
Alan Moore, Public Works Director  
Jessica Gray, Permitting Technician  
Tiffany Byrd, Deputy Finance Officer  
Cody Suggs, Parks & Recreation Director  
Andrea Correll, Planning Director  
**MEDIA PRESENT:** None  
**INVOCATION:** Reverend Nick Smith  
**PLEDGE OF ALLEGIANCE:** All

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

Mayor Dawson recognized Pete Cowan to take a moment to commend officers with the Burgaw Police Department on a job well done regarding a recent incident.

**Approval of Agenda**

Mayor Dawson requested to amend the agenda by adding a proclamation to proclaim Americorps Senior Week 2022. Commissioner Dawson made a motion to approve the agenda as amended. The motion was seconded by Commissioner Robbins and carried by unanimous vote.

**Approval of Consent Agenda**

Commissioner Harrell made a motion to approve the consent agenda as presented. The motion was seconded by Commissioner Robbins and carried by unanimous vote. *Ordinance and resolution on file in the Clerk's office.*

- A. Approval of the February 8, 2022 Regular Meeting Minutes
- B. Approval of the February 8, 2022 Closed Session Minutes
- C. Ordinance 2022-07 Amending the FY 2021-2022 budget to reflect payment to Cape Fear Community College as a sponsor for the "Cape Fear Community College Day" event
- D. Resolution 2022-10 Authorizing the disposal of two (2) Public Works vehicles and one (1) law enforcement vehicle as surplus property

**SPECIAL PRESENTATIONS/REQUESTS**

**Americorps Senior Week 2022 Proclamation – Mayor Dawson**

Mayor Dawson read the proclamation aloud and presented it to Cathy Guidry, RSVP Director.

**Arbor Day Proclamation – Mayor Dawson and Cody Suggs, Parks & Recreation Director**

Mr. Suggs advised the board of this year's plan for planting trees and informed everyone of the upcoming Arbor Day Celebration tree giveaway to be held on March 18, 2022. Mayor Dawson read aloud the Arbor Day Proclamation.

**Pender Spring Festival Request – Ross Harrell, Pender Spring Festival Committee**

Ross Harrell advised the 2022 Spring Festival will be held on May 7, 2022 with the Street Dance the evening before, on May 6, 2022. He requested the board of the following items listed in the letter sent in the agenda packets:

- Public Safety: street closing, traffic control, and police assistance the evening before at the street dance, family fun run morning of the festival, and during the festival.
- Trash collection and removal; fifteen (15) rolling trash carts and five (5) recycling carts
- Venue set up: Public Works set up stages and picnic tables
- Two (2) portable toilets, one being wheelchair accessible
- Electricity
- Use of the depot dock in the event of rain for the street dance on May 6, 2022

Mr. Harrell also requested the board to consider appropriating money in the upcoming budget for the 2023 Spring Festival. There was discussion regarding the stage. Commissioner Robbins made a motion to approve all of the requests listed above, as well as waiving fees for use of the stage. The motion was seconded by Commissioner Dawson and carried by unanimous vote. Commissioner Robbins also made a motion to waive the cleaning fee in association with use of the depot dock in the event of rain. The motion was seconded by Commissioner Dawson and carried by unanimous vote.

**DEPARTMENTAL ITEMS**

**Parks, Recreation & Tourism Department – Cody Suggs, Parks & Recreation Director**

**Resolution 2022-11 Adoption of the West Side Trail & Parks Plan**

Mr. Suggs commented there was information included in the agenda packets to the board provided by a citizen in regards to the plan. Commissioner Harrell said he believes it is a good addition to the plan and he thinks we could use more than one area for art.

After Mr. Suggs gave an overview of the plan by a Power Point presentation, Commissioner Dawson made a motion to approve Resolution 2022-11 as presented. The motion was seconded by Commissioner Harrell and carried by unanimous vote. Mr. Suggs gave the board an update on the PARTF grant submittal process.

**RESOLUTION 2022-11  
ADOPTING OF PHASE II WEST SIDE OF OSGOOD CANAL GREENWAY & URBAN  
TRAIL DEVELOPMENT PLAN**

**WHEREAS**, the Town of Burgaw Parks, Recreation and Tourism department requests the Town adopt the Town of Burgaw Phase II West Side of Osgood Canal Greenway & Urban Trail Development Plan,

**WHEREAS**, the Town of Burgaw Board of Commissioners reviewed the Town of Burgaw Phase II West Side of Osgood Canal Greenway & Urban Trail Development Plan at their March 8<sup>th</sup>, 2022, meeting and unanimously support of the master plan, and found the Plan and Implementation to be reasonable, and in the public interest; and

**NOW THEREFORE BE IT RESOLVED BY THE TOWN OF BURGAW BOARD OF COMMISSIONERS THAT** the proposed Town of Burgaw Phase II West Side of Osgood Canal Greenway & Urban Trail Development Plan, is consistent with the Town of Burgaw 2030 Comprehensive Plan, the 2015 Town of Burgaw Bicycle and Pedestrian Plan, the Town of Burgaw Parks and Recreation Master Plan, and the Town of Burgaw Board of Commissioners Ten Year Capital Improvement Plan by increasing connectivity, expanding parks and trails, and preserving natural areas.

Adopted this 8<sup>th</sup> day of March 2022.

**Finance Department – Wendy Pope, Finance Officer**

**Resolution 2022-12 Approving financing terms for the renovation of the EMS building**

Commissioner Malloy made a motion to approve Resolution 2022-12 as presented. The motion was seconded by Commissioner Dawson. Commissioners Malloy, Dawson and Robbins in favor; Commissioners Harrell and George opposed. Motion carried. Commissioner Harrell said he is still in favor of the building being used for public use, but feels a million and a half dollars is more than he wants to spend on the building.

**RESOLUTION 2022-12  
Resolution Approving Financing Terms**

**WHEREAS**, the Town of Burgaw (“Borrower”) has previously determined to finance the 2022 Installment Financing Agreement (the “Project”), and the Finance Director has now presented a proposal for the financing of such Project.

**BE IT THEREFORE RESOLVED, as follows:**

1. The Borrower hereby determines to finance the Project through Truist Bank (“Lender”) in accordance with the proposal dated January 21, 2022, or as such proposal may be supplemented or amended by Lender and the Borrower verbally or in writing. The amount financed shall not exceed \$1,500,000.00, the annual interest rate (in the absence of default or change in tax status) shall not exceed 2.68%, and the financing term shall not exceed twenty (20) years from the date of closing.

2. All financing contracts and all related documents for the closing of the financing (the “Financing Documents”) shall be consistent with the foregoing terms. All officers and employees of the Borrower are hereby authorized and directed to execute and deliver any Financing Documents, and to take all such further action as they may consider necessary or desirable, to carry out the financing of the Project as contemplated by the proposal and this resolution. The Financing Documents shall include a Financing Agreement and Deed of Trust and such other documents as Lender may request. Pursuant to the Financing Agreement and Deed of Trust, (a) Lender will advance moneys to the Borrower to pay the costs of the Project and the financing costs related thereto, and the Borrower will repay such advance in installments, and (b) the Borrower will grant a lien on the site of the Project, or portions thereof, together with all fixtures and improvements located thereon, to Lender as security for such advance.

3. The Finance Director is hereby authorized and directed to hold executed copies of the Financing Documents until the conditions for the delivery of the Financing Documents have been completed to the Finance Director’s satisfaction. The Finance Director is authorized to approve changes to any Financing Documents previously signed by Borrower officers or employees, provided that such changes shall not substantially alter the intent of such documents or certificates from the intent expressed in the forms executed by such officers. The Financing Documents shall be in such final forms as the Finance Director shall approve, with the Finance Director’s release of any Financing Document for delivery constituting conclusive evidence of such officer’s final approval of the Document’s final form.

4. The Borrower shall not take or omit to take any action the taking or omission of which shall cause its interest payments on this financing to be includable in the gross income for federal income tax purposes of the registered owners of the interest payment obligations. The Borrower hereby designates its obligations to make principal and interest payments under the Financing Documents as “qualified tax-exempt obligations” for the purpose of Internal Revenue Code Section 265(b)(3).

5. The Borrower intends that the adoption of this resolution will be a declaration of the Borrower’s official intent to reimburse expenditures for the Project that are to be financed from the proceeds of the Lender financing described above. The Borrower intends that funds that have been advanced, or that may be advanced, from the Borrower’s general fund or any other Borrower fund related to the Project, for costs of the Project may be reimbursed from the financing proceeds.

6. All prior actions of Borrower officers in furtherance of the purposes of this resolution are hereby ratified, approved, and confirmed. All other resolutions (or parts thereof) in conflict with this resolution are hereby repealed, to the extent of the conflict. This resolution shall take effect immediately.

**Approved this 8th day of March, 2022**

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

Attorney Rivenbark stated he did not have any items.

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

**Update on current town projects**

Mr. Gantt advised there are no major updates; he and staff are working heavily on the upcoming budget. Mr. Gantt said he recently met with the county in regards to the property tax collection process.

Commissioner Robbins asked Mr. Gantt if he has met with the county regarding the request for the fire tax increase. Chief Taylor is working on this and there is a meeting already scheduled.

**ITEMS FROM MAYOR AND BOARD OF COMMISSIONERS**

**Ordinance 2022-08 Approving the amendment to the Town of Burgaw Code of Ordinances to reflect the creation of a Landscaping & Beautification Committee**

Mr. Gantt said if the board is in agreement with the ordinance reflecting the creation of the committee, the board needs to decide how many members and who should serve. Commissioner Robbins suggested a Public Works employee and a Parks, Recreation & Tourism employee serve as the two staff members. Commissioner Harrell said he would like at least two (2) members from the community on the committee. After some discussion, it was agreed upon to have two (2) board members, two (2) staff, two (2) community members, one (1) TDA member. The clerk will serve as the secretary for the committee and will be a non-voting member. The community members should be residents residing within the town limits.

Commissioner Robbins made a motion to approve Ordinance 2022-08 with the abovementioned member types and amending the name of the committee to “Beautification Committee”. The motion was seconded by Commissioner Harrell and carried by unanimous vote.

**ORDINANCE 2022-08  
APPROVING THE AMENDMENT TO THE TOWN OF BURGAW CODE OF  
ORDINANCES TO REFLECT THE CREATION OF A  
BEAUTIFICATION COMMITTEE**

**WHEREAS**, the Town wishes to create a Beautification Committee; and

**WHEREAS**, this committee shall consist of seven (7) members who shall appoint a chairman, vice-chairman, and secretary consisting of their respective membership; and

**WHEREAS**, the Beautification Committee shall have the primary responsibility of recommending action on all projects designed to maintain and improve the appearance of public areas within the Town, including but not limited to, public beautification projects, planting plans, streetscape plans and improvements, community appearance programs, and organize town cleanup and adopt-a-block initiatives; and

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

**SECTION 1:** The Town of Burgaw Code of Ordinances shall be amended to reflect the creation of the Beautification Committee as described in the document attached.

**SECTION 2:** This amendment becomes effective immediately upon adoption on this, the 8<sup>th</sup> day of March 2022.

**Other items from Mayor and Board of Commissioners**

Mayor Dawson asked the board if they would like to move forward with hosting the Pender County Municipal Association annual meeting and social. The board agreed to host the event on April 8, 2022 with the doors opening at 6:00 PM and the program starting at 6:30 PM.

Commissioner Harrell commented on the Adopt-A-Tree program and the possibility of implementing Johnny Westbrook's tree plan on the courthouse square. Mr. Suggs will look into this request with the county. Commissioner Robbins suggested to wait and plant trees in the fall.

Commissioner Dawson asked how the engineering is going with the basketball and volleyball courts at Rotary Park. Mr. Suggs said the soil samples for testing is completed and a contract with a design company has been signed to do the layouts, etc. There was discussion regarding the funding from the donors, stone and sand under the courts, etc.

Commissioner Dawson asked about the easements on Whrens Streets regarding the drainage issue. Attorney Rivenbark stated all the easements have been signed and is waiting for a check from finance.

#### **BREAK 5:23 PM-5:35 PM**

#### **PUBLIC FORUM**

Johnny Westbrook, 410 East Fremont Street, said he is absolutely disappointed the board is going to spend a million and a half dollars on a building that should be torn down. Mr. Westbrook commented on the public comment period and suggested it be at the beginning of the meeting so voices can be heard prior to making decisions.

Ross Harrell thanked the town for having the façade grant. He said the program was successful and asked the board to consider increasing the amount for the façade grant program so others can participate.

Jaliese Blackburn, NC Blueberry Festival, said a list of street closures were provided to the board and requested the board to consider closing same for the upcoming festival. She said the festival committee has consulted with Police Chief Hock prior to making this request. There was discussion regarding the county not allowing food trucks on the courthouse square any longer. Therefore, this requires the festival to close a couple of the streets earlier than in the past due to the food trucks setting up, etc. Commissioner Robbins asked the festival to put up signs around downtown showing the list of street closures a couple of weeks prior to the festival. Commissioners Malloy and Harrell asked if it was possible to include the downtown restaurants on the sign, as well as "Businesses are open". There were comments regarding placement of food trucks and the concern of emergency personnel access in the downtown area. Mr. Gantt said a special event application will be submitted and staff will review for safety concerns. Commissioner Harrell made a motion to approve the street closure requests with the review of staff for safety concerns. The motion was seconded by Commissioner Robbins and carried by unanimous vote.

Ralph Gardner commented on the EMS Building and said it should not be demolished. He said it has sustained hurricanes in the past and we might want to keep it.

#### **PUBLIC HEARINGS**

##### **Public Hearing #1 – Andrea Correll, Planning Director – Verbatim Minutes for Major Special Use Permit**

**Consideration of a Major Special Use Permit requested for one multi-family building containing four two-bedroom apartments to be located at 404 S. McRae Street on a 0.28 acre tract totally 12,258 sq. ft. The property is further identified as tax reference number 3229-21-7380-0000.**

*Referenced attachments are on file in the Clerk's office.*

Mayor Dawson declared the public hearing open at 6:02 PM.

Andrea Correll: Thank you Madam Mayor and members of the town board. We do have quite a few people signed up so I think we're going to need Zach to swear in. Um, Madam Mayor can we borrow your public hearing list so we make sure we get everybody. I'll give it back, I promise. *Ms. Correll called upon those listed below.*

Attorney Rivenbark: You can just come up. I'm not going to everybody touch the Bible at the same time, but if we can just come up. Is there anybody else that wishes to speak on the major special use permit? This is a quasi-judicial hearing so anybody that testifies has to give expert testimony. It is up to the board to determine what is expert

testimony so I will swear you all in if you will... "I, state your name, do solemnly swear to tell the truth, the whole truth and nothing but the truth, so help you God, or if you affirm."

- Sylvia Simpson, PO Box 1803, Burgaw NC
- Nicki Richmond-Groce, 411 S. Dudley Street, Burgaw NC
- Kenny Groce, 411 S. Dudley Street, Burgaw NC
- William Dilynn Richardson, McRae Street, Burgaw NC
- Andrew Smith, 715 Hughes Road, Hampstead NC
- Gary Pope, Wilmington NC
- Andrea Correll, Planning Director, Town of Burgaw

Andrea Correll: I'm going to start out and set the tone for the evening. This is consideration of a Major Special Use Permit requested for one multi-family building containing four two-bedroom apartments to be located at 404 South McRae Street on 0.28-acre tract totaling 12,258 square feet. The property is further identified as tax reference number 3229-21-7380. The applicant/owner Andrew Smith is requesting a Major Special Use Permit to enable the construction of a multi-family building containing four two-bedroom apartments located at 404 S. McRae St. The Unified Development Ordinance in Section 8.13 Dimensional Requirements establishes the standard and the proposed lot size of 12,000 square feet meets the required lot size. Section 8.14 the Table of Permitted Uses requires a major special use permit for the development of multi-family in the R-7 Zoning District as well as a Major Special Use Permit to develop a Residential Planned Building Group. You all remember we did the bed and breakfast in November and they asked for two things. They asked for the bed and breakfast and outdoor venue. You considered them both at the same time. So this is just dealing with multi-family. But that is two points that I have to make. The property is located in the R-7 Zoning District (Figure 1). The 2030 Town of Burgaw Comprehensive Land Use Plan depicts the parcels referenced as High Density Residential which is in keeping with the request (Exhibit 6). The property is identified in the 2030 Future Land Use Map as High Density Residential. *Ms. Correll showed the attached map and pointed out the property location.* The zoning map identifies it as R-7. R-7 is single family, two-family and multi-family with a special use permit. So the engineer is here tonight that designed the site plan. We did take it to the technical review committee. There is a buffer required on three sides that you will see...the Leyland Cypress and Elaeagnus. I guess Mayor Pro-tem Robbins can tell you that Elaeagnus grow large. There are four proposed flood lights on the four corners. I do want to ask they be the cutoff luminary type of lighting so that it only points down at that point and doesn't splash back into the yards of the neighbors. The building elevation is at the top of this drawing with the side and rear also shown. Alright, these are the interior and we later, will go over the findings of fact and go over each question for you to consider. So I am going to go back to the location map and step back. Normally, the applicant speaks next but what is the pleasure of the board?

Mayor Dawson: We will let the applicant speak first.

Andrea Correll: Mr. Smith.

Andrew Smith: Thank you all for having me here tonight. Obviously as Ms. Andrea went through, the proposed is a multi-family R-7 zoning. So, we took, obviously in consideration of the future land use map for 2030, that does protect this property and all of the surrounding properties adjacent to this would apply. This is proposed for a two-story four (4) unit building, roughly 1,000 square feet for each unit. That would be a two-bed, one-bath. The goal here is to help supply affordable housing for the residents, obviously of the town. There's a high demand...I'm in a real estate firm...there is a high demand for housing here and that is the end goal, was ultimately try to present something that would be in harmony. What we try to do is take into consideration the surrounding properties so before we put a buffer all the way around that property as Andrea depicted. I think that was super important because whenever you're looking at some of the surrounding areas, it would obviously help with creating some privacy. In addition to that, the building is designed itself... which I know is super hard to see guys, what we have done is, from a safety standpoint, we're putting a fire hydrant on the property itself and we are going to do a fire suppression system in the building. So, obviously you're going to have your fire walls between each and every unit but then we're taking it one step further and doing a fire suppression system. Taking into account, the TRC review, we went ahead as far as the trash can corrals and for having the recycling bins, we have developed something in the back of the property to take in account that. The zoning for this requires 1.5 parking spaces per unit. We have designed them with two just so there will be no parking on the streets. I thought that was really important. We still have enough greenspace so that the residents can still come out and use the back of the property or the sides of the property. From a safety standpoint, we took into consideration developing the building so that the interior staircase would be accessible from the sides as opposed to having an external staircase, so from a noise side of things and the safety of the residents coming and going, they would be coming and going from the inside of the building as opposed to external staircase system. So, um, you know, we will be using high-end building materials that will be up to code

with today's standards. So, you know, we will take [inaudible] So, when you look at the availability of housing and what is available in today's area, and the greater Burgaw, there's really no new construction options really available and most of the units you do find and typically smaller units so we tried to increase the size of the unit itself to just to under 1,000 square feet. Again, with an open floor plan, which will be very favorable for a lot of towns and people, for what they're looking for. And that's the design; it's going to be a split floorplan, front and back bedrooms, and then obviously kitchen with island and everything (pointing to the design on the Power Point).

Commissioner Dawson: Mr. Smith, what is the exterior?

Andrew Smith: [inaudible comment] fiber cement siding. Then it will be architectural 30-year shingles.

Commissioner Robbins: What do you estimate the cost per unit, rental, will be?

Andrew Smith: So I usually use Southeastern Real Estate with Vicki. She manages all of our properties today. Um.

Commissioner Robbins: Just a ballpark.

Andrew Smith: Based on what I know, kind of for the area, somewhere around \$700 per unit.

Commissioner Malloy: That is monthly rent?

Andrew Smith: Yes, sir. Per unit. For a two-bedroom, one-bath, that would be brand new, updated. Again, larger in size than you typically see for a lot of the other locations that are available for rent.

Mayor Dawson: Any additional questions for Mr. Smith?

Attorney Rivenbark: Mr. Smith, looking at exhibit 9, which is our four criteria that we have to meet, are you testifying as an expert on any of those issues or in any capacity, and if so, which areas?

Andrew Smith: I mean, my expertise is in that I own a real estate firm and so at the end of the day, I'm not here to make judgement on anything above what I know as my profession. Um, ultimately I do know that there is high demand for housing in this area, as there is in a lot of other areas. Um, I have other properties in the area that I know whenever they come available, we have more tenants asking to move in than we have availability. Um, so ultimately I think at the end of the day I would be happy to testify on whatever I can in regards to what I presented.

Mayor Dawson: Any further questions?

Commissioner Harrell: Actually, I have a question for Andrea. Um, just to make sure you guys, we're all on the same page, this, other than the special use permit, which he has applied for, essentially a use by right for this [inaudible comment], is this correct?

Andrea Correll: No, R-7 is single-family by right. R-7 is duplex by staff approval. Multi-family is in the table of special uses. This requires a major special use permit. That's why I did adjacent property owners and posted the property for this public hearing. So, one of the issues that I have professionally, is, I keep talking to you about the land use plan. The land use plan identifies a lot of the downtown neighborhood as high density. We have discussed this at retreats in the past and zoning in North Carolina is based on your land use, your future land use. So, you know, this is the beginning of a trend. If you don't agree with this trend, we need to go back and revise the land use plan, the future land use map, because that is what zoning in North Carolina is legally based on.

Commissioner Harrell: So, in this instance, because this is part of our 2030 plan, we are pretty much tied into allowing this to happen.

Andrea Correll: Well, I mean, I'm sure Zach can defend you, but it's not...

Commissioner Harrell: But it would be a serious circumstance if...

Andrea Correll: It would be a serious circumstance, yes sir.

Attorney Rivenbark: If all four of the criteria are met with what you deem to be adequate expert testimony.

Commissioner Harrell: Sure. Okay. Thank you.

Commissioner George: Emergency exits.

Andrea Correll: Um, that is at the building design phase with Louis. We haven't gotten that far. But if you look at the house, right here (pointing)...

Andrew Smith: You'll have front entrances for the bottom units and obviously on the back. Front and back doors on the bottom units. There will be side entrances for the top units and then there will be a porch off the back for each of the top units as well.

Commissioner George: Well, it's not shown on here.

Andrew Smith: On the bottom design, on elevation, what you see underneath the A-frame gable, that will be the porches on the top floor and then underneath would be, technically, a concrete pad, underneath that for the bottom.

Commissioner George: Only one way out of each apartment, though?

Andrew Smith: Yes, sir.

Commissioner George: Okay.

Andrew Smith: Well, the bottom units technically have two because it's on the ground floor.

Commissioner George: It has windows, I know that. There's one exit.

Andrew Smith: The bottom unit has two, technically, on ground floor level. Front door, back door, and then top units have a side door and a deck technically.

Andrew Smith: (pointing to design) This will be the top floor and this will be the bottom floor, which is doors going directly to the outside. This is the side entry way, again, the side entry way you can see.

Mayor Dawson: Any additional questions or comments?

Andrew Smith: Thank you guys.

Comments from those who signed up to speak during the Public Hearing:

Mayor Dawson: So we will call up Ms. Sylvia Simpson.

Sylvia Simpson: Good evening everyone. My name is Sylvia Simpson. I am a resident of 400 South McRae Street, which is right next door to the property in question. It's my understanding that you all are getting, or already have a copy of my letter of objection. So I'm going to refer to that if you don't mind because I'm a little nervous. (*Letter on file with Public Hearing documents in the Clerk's office.*) I've never done this before so... Um, as mentioned, I'm writing to express my strong opposition to the above planned application. I'm very familiar with [inaudible comment], especially my family, for many, many years. I moved over there in year 2000 and up until it was purchased the first time, I maintained the property and I actually use the property. I had a volleyball net there, I had a basketball goal there. I even parked cars up in that area, because it belonged to some family members that lived in New Jersey. They lost the property and someone bought it and it goes from there. Um, my opinion is that this structure will cause unnecessary traffic, noise, loss of privacy, and safety, just to name a few. The property that's [inaudible comment] integrity of the neighborhood, as the multi-family dwelling across the street. There have been numerous families that have moved in and out across the street, and they would have dogs that would come across the street and defecate in my yard. I work two jobs and the noise from the vehicles and construction and even new tenants would be unbearable. The people that are building this structure, don't live here and they won't have to put up with the disruptions and the strange people that would be moving in and out. In addition to structure, they would be right on top of me. As mentioned previously, I have been in my home going on 22 years now. Prior to moving here, city of Burgaw, [inaudible comment] and gave me permission to have my own place [inaudible comment]. They're the ones who decided how far over to the left or right that my home should be, where the ditches should be, where the driveway should be. However, it was my choice and which side the driveway would be on, [inaudible comment] each where my front doors are located on my home. I spent money on gravel. I have brick columns at the end of my driveway and just to go back, to the nice building that these gentlemen are planning to build there, I just feel that the increase of traffic will be a problem, the motion lights at my bedroom is right next to that property. This site is also proposing trees. There are no trees there for the simple fact that when we have hurricanes, the ground gets real saturated and the trees that were there have toppled over. My concern was always the one across the street on the corner that they would hit my house. Our last hurricane, it didn't hit my house, but it fell right to my front door and just missed my roof. Another reason I don't have trees there is that I don't want to rake any leaves up. We all know we can't judge the way the wind will blow but then that will mean there will be debris in my yard. I think this structure will be compromising the character of the neighborhood and the future [inaudible comment]. I sincerely hope that you can take my objection in consideration when coming to your decision. I truly hope you disapprove this proposal, this proposed special use permit. That's all I have to say. That's my home and I've been there since 2000 and I feel like I'm being pushed out. I'm going to have strange people in and out, and I'm there by myself. And again, I mentioned, I work two jobs, when will I sleep, when will I get rest. How will I enjoy my home. I don't have anything future to say. Thank you for your continued service and support in our communities.

Mayor Dawson: Thank you.

Commissioner Harrell: Thank you, Ms. Simpson.

Mayor Dawson: Can we have Mr. Richmon Groce?

Andrea Correll: You and Nicki are next.

Kenny Groce: Hi, I'm Kenny Groce. Thank you for letting me speak. We live on South Dudley Street, behind the property. We own three properties in a row. We live at 407 South Dudley. We feel like...we have some concerns with the noise and privacy. I feel like it is too big of a building for that lot. We don't like the multi-family. There was...building on the same block as us...bring down property value for our properties. Sorry, I wasn't really prepared to speak tonight. I just learned about this the other day. Just wanted to voice opposition to it and hope you vote against it. I do have a question for Andrea. Is she still here? The high density, is R-7 single family [inaudible comment] qualify as high density.

Andrea Correll: It's what you call a [inaudible comment] development.

Kenny Groce: Okay.



Andrea Correll: In the land use plan, [inaudible comment] properties downtown are identified as high density. So, that...

Kenny Groce: My question is, if it is R-7 and all single family, no multi-families, still qualify as high density.

Andrea Correll: Yes, that's the issue. So, in the future, people could... I'm trying to find the land use map. There it is. So, this pink-red color in the land use map is high density. So, it is all on the southwest part of the town, northeast of downtown, north part of town.

Kenny Groce: I guess my point is, do you need multi-family to still be high density? It doesn't sound like it. It sounds like it can be single-family.

Andrea Correll: You can always pass [inaudible comment]. The problem is the law in North Carolina zoning, such as special use permits, are based on the future land use. You have to abide by the land use. If you don't, then you're not consistent with [inaudible comment].

Kenny Groce: Okay.

Andrea Correll: So, if this land use needs to be revised, to redo that. But the issue is before, it has to legally follow the land use for decisions.

Attorney Rivenbark: Mr. Groce, I have a question, you brought up a phrase that you may or may not be aware of that's sort of a magic phrase in this hearing, regarding property values. Are you expressing your own personal opinion that your property values would decrease or are you asking the board to consider you as an expert on property values or real estate evaluation.

Kenny Groce: I am a real estate agent and I have done a lot of evaluation work.

Attorney Rivenbark: Okay. You have a North Carolina real estate license?

Kenny Groce: I do.

Attorney Rivenbark: Okay. It will be up to the board rather or not they want to consider that as a [inaudible comment]. Thank you.

Kenny Groce: I think that is all I have. Thank you.

Mayor Dawson: Thank you. Does Mrs. Groce want to speak?

Nicki Richmond: It is international woman's day and I'll be heard. My name is Nicki Richmond. I am a middle school teacher here in Burgaw. I live here in Burgaw and raising my son in Burgaw. We enjoy being part of this community and I echo everything this nice lady (Ms. Simpson) said. I would like to see the land use map modified. I don't think it looks very equitable that way it is laid out at the moment. I am very opposed to multi-family [inaudible comment] being built on such a small lot. The piece of land that is behind it seems landlocked. I'd like to know what the plan is for that and the easement between all of those properties with the dead trees...I believe that has been discussed and I know that there was some survey work happening behind the properties, but I'm not sure what is to become of a lot of these overgrown dead trees that could fall. That is my take on the matter and thank you for hearing me tonight. Have a great rest of the evening.

Commissioner Harrell: Thank you.

Mayor Dawson: Mr. William Richardson.

William Richardson: Hey everybody. My name is Dilynn Richardson and I own the property across the street, a duplex and a single family house there. Couple things I have is, people [inaudible comment]. One, I'd like to know how far off the street that the face of the building is.

Andrea Correll: [inaudible comment] Do you know what the plan is for that?

Andrew Smith: 39 feet off the right-of-way, about 29 feet from edge of pavement.

William Richardson: Okay. We've got 39 feet.

Andrea Correll: Uh-huh.

William Richardson: (referring to the picture on the presentation) you got that picture there of the building lot with the tree and two sidewalks. What I think of when I look at that is eight cars parked there. Eight sets of tail lights, eight sets of trashcans that will be out there, probably, two days a week. That is what that will look like. Do we want to park eight cars in front of that building? I mean...

Andrea Correll: Right there in front.

William Richardson: Okay...So, [inaudible comment] that's what it will look like. You said they would make arrangements for trashcans or something?

Andrew Smith: In the rear of the property.

William Richardson: Okay, so an enclosure and on trash day they will pull around there? Okay, that's good. Because we all realize there is no parking on the street in Burgaw, no parking. So, you've got four apartments and you've got two people living in each one, anybody that shows up, they are parking on the street. And, it's R-7, single-family, duplex by right. Anything else requires a vote from y'all, yay or nay. So if it gets built, it's built by y'all's "yay." I'd also like to remind the board about twelve years ago I submitted a very similar plan at Hayes and Bodenheimer,

same stuff, R-7, y'all turned me down. So, the [inaudible comment] of the board is not to do this, you know. I'm not against development. I'm a contractor and I own rental properties in Burgaw. I love Burgaw. I just think this is on a too small of lot. You know. People are pretty dense around there. The lots are small. This is going to set a precedent. And if you did it, I've got [inaudible comment] down the road, I can do the same thing. Seriously consider it. We go over there about every three months and pick up the trash along the street. That is part of what we do. We will be picking up more because there will be more people. That is the way it is, you know. [inaudible comment] duplex there. But, somebody said there is too much housing, too small of a lot, you know. I don't know what the width of the lot is or the building, but that's going to be pretty tight around there. You've got two sidewalks cause you got the doors that come out from the sides. You're going to have to pave all in front. I don't see how you can park any cars in front of the building without getting on the sidewalk. [inaudible comment].

Mayor Dawson: Thank you. We have Mr. Gary Pope, is that right?

Gary Pope: I'm just here to answer any questions.

Andrea Correll: He is the engineer to answer any questions.

Mayor Dawson: Okay. Do we have any additional questions?

Commissioner Dawson: Andrea, I've heard people mention property values. Has an appraiser done any work, as far as trying to determine if it will affect adjoining property owners and their values?

Andrea Correll: These are the applicant's questions. Just as Mr. Richmond said he is a real estate agent, he is also a real estate agent. You can request a sealed appraisal from certified appraiser for testing them. So, the burden of proof is on the applicant. The findings in section D, let's see, the use of the property as proposed will not affect adjoining or abutting property values. The applicant has answered these questions, but he is not a certified real estate appraiser. So, it is your role to [inaudible comment] when you need more information or different method. So, would y'all like to discuss that before we go on to the other aspects of the findings?

Commissioner Robbins: I've got one question. I don't know who to direct it to, but somebody said something about the land behind it being land locked. What comes into play there? How does this land lock...

Commissioner Malloy: [inaudible comment]

Andrea Correll: Yea, the property is owned by Ms. Sylvia and she owns the piece that her house is on and she also owns the piece caddy corner over here, right? (pointing to the map)

Sylvia Simpson: Yes.

Andrea Correll: And those are both her properties. When she bought it, it was landlocked.

Commissioner Robbins: Oh, okay.

Attorney Rivenbark: The opinion there, without giving anybody other than the board, legal advice, is that the state of North Carolina generally does not favor owning landlocked property. So, I would encourage the property owner to have a consultation with an attorney to see if there are easements or any other access to that piece of property.

Andrea Correll: Do y'all have any questions for Ms. Sylvia?

James Gantt: There is a town right-of-way that runs beside the property. Right here (pointing to the map) is the town owned right-of-way.

Commissioner Malloy: So, there is access to the property right now?

Commissioner Robbins: Is that along the alley? How far does that alley go? All the way to Williams?

Commissioner Harrell: Oh, okay. Now I understand. That is where the trees are that you are concerned about?

Sylvia Simpson: The trees that I'm concerned about are the ones they are planning on planting.

Commissioner Harrell: Oh, okay. I see.

Sylvia Simpson: (referring to the map) Where the red box is, that building next to the line, is how close it will be to my house. As a mentioned before, I got permission and was permitted to put it there and turn it that way. I actually wanted my house to face Hayes Street, but it was too big so I had to face McRae Street.

Commissioner Dawson: How long ago was that?

Sylvia Simpson: 2000.

Commissioner Malloy: There's a question I have. The way the driveway is going in, according to the red box (on the map), that driveway is on that piece of property.

Andrea Correll: The driveway that you see in the aerial is on this property you are hearing tonight.

Attorney Rivenbark: Has that been surveyed, Madam Planner, by a surveyor?

Andrew Smith: I have a survey in hand.

Andrea Correll: Where is the survey?

Attorney Rivenbark: Is the applicant's survey testifying that the driveway is on the applicant's property?

Andrea Correll: Yes. It is part of the deed in the meets and bounds.

Commissioner George: Ms. Simpson owns the house on the corner and that other house, between her house and the alleyway.

Andrea Correll: She owns this house (pointing to the map) and this lot abutting the alleyway.

Commissioner George: She doesn't own... okay.

Andrea Correll: Do y'all have anymore questions for Ms. Simpson?

Mayor Dawson: Any questions or comments? Would you like to move forward?

Commissioner Harrell: I do have a question about whether it will affect the value of the neighbors' properties. This has been a question of two of the neighbors, so I do have a question about that. How are we to judge whether this will affect the value of their property in a negative fashion.

Andrew Smith: I'm more than happy to have a certified appraisal done and if we need to table this until next month, I'm happy to do so. That will solidify value for everyone, even the people that have question.

Commissioner George: How much open space are you going to have on your lot?

Andrew Smith: In terms of... so, the building sits 36 feet off these property lines. It is meeting all required setbacks, actually more than is required. We've got off the back of the property, a 20 foot buffer off the back of the property. There again it sits 39 feet from the street. I know from a parking standpoint, I know that was a concern, the design here, it is hard for you guys to see here (pointing to the map), I have a print out that is a little bit bigger. Technically by code, you're only required one and a half units, parking space per unit. Where we have developed more so there wasn't an issue with parking on the street or anything. The goal here, obviously, with the location, trying to do this within the town limits is great walkability. There needs to be access from going to school, to restaurants and businesses.

Commissioner Harrell: So, I do want to ask him for the appraisal.

Mayor Dawson: So you want to make that a motion to continue the public hearing to the next meeting.

Commissioner Harrell: Yes, so moved.

Mayor Dawson: Do we have a second?

Commissioner George: Second.

Mayor Dawson: All in favor?

Board members: All in favor. Motion carried.

Commissioner Malloy: I would like to walk the grounds. I'm going to be honest with you. I really would like to visualize how it would look in that area. I understand the concerns that everybody has made and what it would take away or what it would add.

Attorney Rivenbark: Mr. Smith, would you allow Mr. Malloy or any other town staff or commissioners to walk on the property.

Andrew Smith: I would prefer to be there when they do.

Attorney Rivenbark: Sure.

Andrew Smith: There is a lot of voiced concern about multi-family. There's multi-family across the street from this property, but other [inaudible comment] generally on the corner, yes there are multiple single-family rentals, but this property itself has multi-family on it. So, the concerns that are being raised about multi-family...two of the people here tonight have been [inaudible comment], so I just voice that because in reality I'm not the only and first applicant that proposed this. This is already [inaudible comment] around the property from two of the people here tonight. If you would like to visit, I'm more than happy to meet you guys there and we can go through exactly what I'm proposing. An appraisal first, I think that is a big concern, I would like [inaudible comment].

James Gantt: I do want to remind everybody this is quasi-judicial. No ex parte communication is allowed, so meeting with the applicant, meeting with the property owners in the area, is no allowed. It has to be evidence presented that is in this hearing and only evidence considered in this hearing.

Attorney Rivenbark: True, but he has the right to be present while somebody is trespassing on his property, as long as they don't discuss it.

James Gantt: Correct, there cannot be any communication.

Andrew Smith: Is this a typical process you guys have done in the past?

Andrea Correll: It is a legal process.

Andrew Smith: No problem at all.

Andrea Correll: It's a North Carolina thing.

James Gantt: Are you talking about visiting the property or the ex parte communication?

Andrew Smith: No, this being the property [inaudible comment].

James Gantt: Yea, that is up to the board members if they want to visit the property.

Commissioner Malloy: I'm not asking to walk on the property. I can stand on the street.

Andrew Smith: I respect that and I don't see an issue with it. I was just, at the end of the day, you know, if he was planning on going out there, I don't mind [inaudible comment].

Mayor Dawson: So we have a motion and approved to continue until the April meeting. Thank you.

Andrew Smith: Thank you for the consideration and appreciate everyone's time.

**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 6:46 PM.

---

G. Olivia Dawson, Mayor

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