CITY OF NEW BERN BOARD OF ALDERMEN MEETING OCTOBER 23, 2018 – 6:00 P.M. CITY HALL COURTROOM 300 POLLOCK STREET

- 1. Meeting opened by Mayor Dana E. Outlaw. Prayer Coordinated by Alderman Aster. Pledge of Allegiance.
- 2. Roll Call.

Consent Agenda

- 3. Consider Approving a Proclamation for Coastal Plain's Lights On After School.
- 4. Approve Minutes.

- 5. Conduct a Public Hearing and Consider Adopting a Resolution Approving a Development Agreement with Weyerhaeuser NR Company for WEST New Bern.
- 6. Discussion on Redirecting Capital Funds Budgeted for in the Fiscal Year 2018-19 Electric Fund.
- 7. Consider Approving the 2019 Holiday Calendar.
- 8. Consider Approving the 2019 Board of Alderman Meeting Roster.
- 9. Appointment(s).
- 10. Attorney's Report.
- 11. City Manager's Report.
- 12. New Business.
- 13. Closed Session.
- 14. Adjourn.

INDIVIDUALS WITH DISABILITIES REQUIRING SPECIAL ASSISTANCE SHOULD CALL 639-7501 NO LATER THAN 3 P.M. THE DATE OF THE MEETING

Aldermen

Sabrina Bengel Jameesha Harris Robert V. Aster Johnnie Ray Kinsey Barbara J. Best Jeffrey T. Odham



300 Pollock Street, P.O. Box 1129 New Bern, NC 28563-1129 (252) 636-4000 Dana E. Outlaw Mayor

Mark A. Stephens
City Manager

Memo to: Mayor and Board of Aldermen

From: Mark Stephens, City Manager

Date: October 18, 2018

Re: October 23, 2018 Agenda Explanations

- 1. Meeting opened by Mayor Dana E. Outlaw. Prayer Coordinated by Alderman Aster. Pledge of Allegiance.
- 2. Roll Call.

Consent Agenda

3. Consider Approving a Proclamation for Coastal Plain's Lights On After School.

Taylor Shannon, Special Events and Marketing Coordinator for Boys & Girls Clubs of the Coastal Plain, has requested a proclamation acknowledging "Lights on Afterschool Day".

4. Approve Minutes.

Minutes from the October 9, 2018 regular meeting are provided for review and approval.

5. Conduct a Public Hearing and Consider Adopting a Resolution Approving a Development Agreement with Weyerhaeuser NR Company for WEST New Bern.

(Ward 5) Weyerhaeuser NR Company is developing an approximately 575-acre mixed-use development that will be known as WEST New Bern. A development agreement between the City and developer, Weyerhaeuser NR Company, will

establish responsibilities pertaining to utility delivery, phasing, and design standards during the construction of the property. A public hearing has been called for and properly noticed to receive public comments on the proposed agreement. After hearing those comments, the Board is asked to consider approving the development agreement. A brief memo from Jeff Ruggieri, Director of Development Services, is attached along with a copy of the agreement and information on the development.

6. Discussion on Redirecting Capital Funds Budgeted for in the Fiscal Year 2018-19 Electric Fund.

The adopted budget for FY2019 includes \$180,000 in the Electric Fund to replace a bucket truck. Charlie Bauschard, Director of Public Utilities, has expressed a greater need for a skid steer with accessories to clear heavily vegetated areas and a mini excavator to excavate hard-to-reach sites. The combined cost of these two items is less than the bucket truck with the skid steer estimated at \$107,000 and the mini excavator \$45,000. Board approval is sought to redirect the budgeted funds for the purchase of these two items. The intent is to request funding in the FY2020 to replace the bucket truck. A memo from J.R. Sabatelli, Director of Finance, is attached.

7. Consider Approving the 2019 Holiday Calendar.

In accordance with the Personnel Ordinance, the City of New Bern Holiday Schedule must be approved annually by the Board of Aldermen. The proposed schedule reflects the observance of 14 holidays during 2019. Of note, this schedule mirrors the holidays to be observed by Craven County.

8. Consider Approving the 2019 Board of Alderman Meeting Roster.

Each year, the Board approves an annual meeting roster. The City Charter provides for regular meetings to be held on the 2nd and 4th Tuesdays of each month beginning at 6 p.m. The proposed meeting dates are identified on the attached roster and include two scheduled budget work sessions. An annual retreat is not reflected on the roster, as that date is usually selected by the Board early in the calendar year.

9. Appointment(s).

- a) Kristen Culler resigned from her appointment to Allies for Cherry Point's Tomorrow. The Board is asked to make a new appointment to replace Mrs. Culler.
- **b)** Kenneth Brown's appointment on the Board of Adjustment has expired. He has served two consecutive terms and is ineligible to serve another term at this time. Alderman Best is asked to make an appointment to replace Mr. Brown.

- c) Lois Jamison's appointment on the Board of Adjustment has expired. She has served two consecutive terms and is ineligible to serve another term at this time. Alderman Kinsey is asked to make an appointment to replace Ms. Jamison.
- 10. Attorney's Report.
- 11. City Manager's Report.
- 12. New Business.
- 13. Closed Session.
- 14. Adjourn.

AGENDA ITEM COVER SHEET

Agenda Item Title:

Consider Approving a Proclamation for Boys & Girls Clubs of the Coastal Plains "Lights on Afterschool Day"

Date of Meeting 10/23/18	Ward # if ap	oplicable ^{N/A}	
Department City Clerk	Person Subr	mitting Item: Brenda I	Blanco
Call for Public Hearing Yes 🗸	No Date of	Public Hearing	
Explanation of Item: Taylor Shannon, Special Events & Coastal Plain, has requested a pro			
Actions Needed by Board: Consider approving proclamation.			
Is item time sensitive? Ves		ng?∐Yes ☑No	
Backup Attached: Proclamation and request.			
Cost of Agenda Item: \$0 If this item requires an expenditue certified by the Finance Director		budgeted and are fu	nds available and
Additional notes:			



MAYOR'S OFFICE PROCLAMATION

WHEREAS, the citizens of New Bern stand firmly committed to the Boys & Girls Clubs of the Coastal Plain and quality afterschool programs and opportunities because they:

Provide safe, challenging, engaging and fun learning experiences to help children and youth develop their social and academic skills;

Support working families by ensuring their children are safe and productive after the

regular school day;

Build stronger communities by involving students, parents, business leaders and adult volunteers in the lives of our young people, thereby promoting positive relationships among children, youth, families and adults;

Engage families, schools and diverse community partners in advancing the welfare of our

children; and

WHEREAS, the Boys & Girls Clubs of the Coastal Plain has provided significant leadership in the area of community involvement in the education and well-being of our youth, grounded in the principle that quality afterschool programs are key to helping our children become successful adults; and

WHEREAS, Lights On Afterschool, a national celebration of afterschool programs promotes the critical importance of quality afterschool programs in the lives of children, families and their communities; and

WHEREAS, more than 28 million children in the U.S. have parents who work outside the home, and 15.1 million children have no place to go afterschool; and

WHEREAS, many afterschool programs across the country are facing funding shortfalls so severe that they are being forced to close their doors and turn off their lights.

NOW, THEREFORE I, Dana E. Outlaw, Mayor of the City of New Bern, do hereby proclaim October 25, 2018, as "Lights On Afterschool Day" and enthusiastically endorse Lights On Afterschool and commit our New Bern community to engage in innovative afterschool programs and activities that ensure the lights stay on and the doors stay open for all children after school.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed the Seal of the City of New Bern this the 23rd day of October in the Year of Our Lord Two Thousand and Eighteen.



Dana E. Outlaw, Mayor

City Hall • New Bern, NC 28563 • (252) 636-4000

Brenda Blanco

From:

Dana E. Outlaw

Sent:

Wednesday, October 17, 2018 11:06 AM

To:

Brenda Blanco

Subject:

Fwd: Lights On After School Proclamation

Sent from my iPhone

Begin forwarded message:

From: Taylor Shannon < tshannon@bgccp.com > Date: October 17, 2018 at 10:39:13 AM EDT

To: "outlawd@newbern-nc.org" <outlawd@newbern-nc.org>

Subject: Lights On After School Proclamation

Good morning Mayor Outlaw,

I wanted to check in on Boys & Girls Clubs of the Coastal Plain's *Lights On After School* proclamation for the day of October 25, 2018.

This is a national initiative celebrating after-school programs and their important role in the lives of children, families, and communities in October. Now more than ever is when we need to come together for our kids. Please let me know if we can have your support for this special day.

If you have any questions, please don't hesitate to reach out!

For the kids,



Taylor Shannon

Special Events & Marketing Coordinator Boys & Girls Clubs of the Coastal Plain

p: 1-844-440-2717 Ex #233

a: 452 US Highway 70 W Havelock, NC, 28532

w: www.bgccp.com e: tshannon@bgccp.com



NOTE: Please be advised, City of New Bern email addresses will be changing to <u>user@newbernnc.gov</u> as of October 23rd. Please update your address book accordingly. Thank you for your assistance with this change.

______ If you

are not the intended recipient, you must destroy this message and inform the sender immediately. This electronic mail message and any attachments, as well as any electronic mail message(s) sent in response to it may be considered public record and as such subject to request and review by anyone at any time. It

AGENDA ITEM COVER SHEET

Agenda Item Title: Conduct a Public Hearing and Consider Adopting a Resolution Approving the West New Bern Development Agreement between the City of New Bern and Weyerhauser NR Company. **Date of Meeting** 10/23/2018 Ward # if applicable Ward 5 If multiple, list: Person Submitting Item: Jeff Ruggieri **Department** Develop. Services Date of Public Hearing 10/23/2018 Call for Public Hearing No **Explanation of Item:** In order to adopt the Development Agreement state statute requires the Board of Aldermen to conduct a public hearing. Actions Needed by Board: Conduct a Public Hearing to adopt the West New Bern Development Agreement between the City of New Bern and Weyerhauser NR Company. Is item time sensitive? Y / NWill there be advocates/opponents at the meeting? Select... **Backup Attached:** memeo, development agreement Cost of Agenda Item: If this item requires an expenditure, has it been budgeted and are funds available and certified by the Finance Director: No Additional notes:



MEMORANDUM

TO: Mayor Dana Outlaw, City of New Bern Board of Aldermen

FROM: Jeff Ruggieri, Director Development Services

DATE: 10/15/18

SUBJECT: West New Bern Development Agreement

Staff is requesting the Board approve a Development agreement between the City and Weyerhauser NR Company. City staff worked closely with representatives from Weyerhauser to create the agreement. The Development Agreement details Developer and City responsibilities pertaining to permitted uses and densities, utility delivery, phasing, and roadway design standards during the construction of the project.

A copy of the agreement is attached

RESOLUTION

BE IT RESOLVED BY THE BOARD OF ALDERMEN OF THE CITY OF NEW BERN:

That the Development Agreement by and between the City of New Bern and Weyerhaeuser NR Company, a copy of which is attached hereto and incorporated herein by reference, be and the same is hereby approved, and the Mayor and City Clerk are hereby authorized and directed to execute the same for and on behalf of the City.

ADOPTED THIS 23RD DAY OF OCTOBER, 2018.

	DANA E. OUTLAW, MAYOR	
BRENDA E. BLANCO, CITY CLERK		

DEVELOPMENT AGREEMENT

WEYERHAEUSER NR COMPANY AND CITY OF NEW BERN, NORTH CAROLINA

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ATTACHMENTS

Attachment A: Property Legal Descriptions

Attachment B: Existing Zoning

Attachment C: Master Development Plan

Attachment D: Road Cross Sections

Attachment E: Utility Agreement, dated September 28, 2010

Attachment F: City of New Bern Code of Ordinances, Sec. 15-79 Major Subdivision

Approval Process

This Development Agreement ("Agreement") is made and entered into this _____ day of ______, 2018 by and between the CITY OF NEW BERN, a North Carolina municipal corporation ("CITY"), and WEYERHAEUSER NR COMPANY ("DEVELOPER").

1.0 RECITALS

- 1.1 WEST New Bern (hereinafter referred to as "WNB" or the "PROJECT") is a mixed-use development of such magnitude and complexity that the PROJECT requires a long-term commitment of both public and private resources and the careful integration between the programming of public capital facilities and the phasing of development which can more adequately and efficiently be addressed between the DEVELOPER and the CITY with a development agreement.
- 1.2 After careful review and deliberation, the CITY has determined that the PROJECT is consistent with the CITY's Code of Ordinances and Future Land Use Plan. The CITY firmly believes that the PROJECT will further the CITY's land use planning objectives and policies as articulated in these documents, as well as enhance and secure the health, safety, welfare and economic well-being of residents of and visitors to the CITY.
- 1.3 The CITY has also determined that the development approval process established in this Agreement presents a unique opportunity for the CITY to secure quality planning and growth, to protect the environment, to strengthen the tax base and to mitigate the impacts of large-scale development.
- 1.4 The DEVELOPER and the CITY enter into this Development Agreement for the purpose of (1) establishing the development phasing sequences for the PROJECT; (2) establishing a Master Development Plan and development review process that can accommodate the timing, phasing and flexibility of the PROJECT; (3) coordinating the construction and design of infrastructure that will serve the PROJECT and the community at large; (4) confirming the dedication and/or provision of public amenities by the DEVELOPER as described herein; and (5) providing assurances to the DEVELOPER that it may proceed with the PROJECT in accordance with the approved original zoning and the terms of this Agreement without encountering future changes in ordinances, regulations, technical standards or policies that would affect its ability to develop the relevant parcels under the approved zoning and the terms hereof.

NOW, THEREFORE, in consideration of the mutual benefits of this Development Agreement and the actions and promises set forth herein it is mutually agreed by and between the City and Developer as follows:

2.0 PROJECT DESCRIPTION AND PURPOSE STATEMENT

The PROJECT includes a total of +/- 575 acres and is being planned as a large scale mixed-use development that will be designed, permitted, and constructed in multiple phases over a period of years. The PROJECT is located entirely within the land use jurisdiction of the CITY, with +/-301 acres inside the City Limits and the remaining +/- 274 acres within the CITY's extra-territorial jurisdiction (ETJ).

The PROJECT will include small neighborhoods, a walkable village area and connections to open space that will support and reinforce the City of New Bern as an attractive place to live, work and recreate. The size and scale of the PROJECT requires a long-term commitment of both public and private resources and requires careful integration between the programming of public capital facilities, the phasing of development and the development review and approval process. In addition to the minimum requirements established in state law for development agreements, the WEST New Bern Development Agreement also includes provisions for:

- 1) A Master Development Plan. This agreement establishes a Master Development Plan that illustrates the intent of the PROJECT and will facilitate the incremental review and approval of phases of the PROJECT to accommodate the timing, phasing and flexibility of the development. The Master Development Plan is supported by specific provisions of this agreement that will assure that the development processes and standards remain stable throughout the extended period of development.
- 2) Utility Agreement. This agreement modifies and amends the September 28, 2010 Agreement (the "UTILITY AGREEMENT") between the City of New Bern and Weyerhaeuser Real Estate Development Company regarding the provision of water and sewer utility services for Craven 30 North (now known as WEST New Bern) to address additional capacity requirements for the PROJECT. The DEVELOPER has fulfilled the obligations and commitments to construct the systems as required within the UTILITY AGREEMENT. A copy of this Agreement is included as Attachment E.
- 3) Future Annexations. This agreement establishes the timing for future annexations within the ETJ to be phased consistent with the phasing of development.

3.0 PROPERTY DESCRIPTION

3.1 Property Legal Description

The PROJECT is owned by DEVELOPER and includes approximately 575 acres (Craven County Parcel Identification Numbers 8-209-13001, 8-209-17000, 8-209-17001, 8-209-17002, 8-209-17003, 8-209-17004 and 8-209-1600) located on NC Hwy 43 in Craven County (the "Property"). The Property is more particularly described in Attachment A incorporated by this reference as though fully set forth herein.

3.2 Zoning Designation

The zoning designations for the PROJECT shall be unchanged for the duration of this Development Agreement. The subject property is zoned a mix of C-3, R-6 and I-1. The lands within the PROJECT that are located east of NC HWY 43 are designated as C-3 District and R-6 District. The lands within the PROJECT that are located west of NC HWY 43 are designated as I-1 District. The existing zoning designations for the property are more particularly described in Attachment B.

4.0 DEVELOPMENT USES PERMITTED; DEVELOPMENT SCHEDULE AND PHASING

4.1 Development Uses Permitted

WNB includes residential and non-residential uses as indicated in Table 4.1, "Development Uses Permitted".

Table 4.1: Development Uses Permitted

Uses Permitted per Adopted Zoning District ^A	Total Acres (+/-)	% of Total Acres	Maximum Density	Maximum Intensity
R-6	249.9	43.5%	22 du/ac	n/a
C-3	249.4	43.4%	20 du/ac	See footnote B
I-1	47.4	8.3%	n/a	See footnote B
A-5F	27.5	4.8%	n/a	See footnote B

4.2 Development Design & Dimensional Standards

4.2.1. General Design

WNB shall be consistent with the design and dimension standards of the applicable zoning districts and/or as otherwise permitted under the CODE. Portions of WNB shall be established as planned unit developments under Section 15-86 of the CODE in order to accommodate the form of development proposed for the PROJECT. Under the CODE, planned unit developments permit the establishment of alternative standards for minimum lot size, permissible yard coverage, yard dimensions, and setback requirements and will be designated for each portion of WNB in coordination with the applicable general plan for that area.

4.2.2 Road Design

The proposed road cross-sections for WNB are included in Attachment D and have been determined to be consistent with the requirements of the CODE.

4.2.3. Signage

DEVELOPER shall develop a signage plan for the PROJECT consistent with the current processes and procedures of the CITY. Any deviations from the signage requirements of the CODE as expressed in Section 15-330(c) of the CODE shall be reviewed, processed and granted or denied as permitted under the CODE and shall not be considered a modification to this Agreement.

4.2.4 Open Space

WNB shall comply with the City's requirement that a minimum of five percent (5%) of the total area of the Unified Project shall remain as usable open space per CODE Section 15-196, where, the term "Unified Project" refers to the entire PROJECT regardless of whether the development is constructed in phases or stages. Usable open space areas may include parks, conservation areas, stormwater ponds, and wetlands to the extent that such areas meet the requirements of CODE Section 15-196 including the requirement that the area is capable of being used and enjoyed for purposes of recreation and relaxation.

^A The lands within WNB may include any of the uses permissible by the CODE in the applicable zoning district. The DEVELOPER shall be allowed to develop up to twenty (20) acres within the C-3 District for multi-family use as permitted in the CODE.

^B The maximum intensity shall be consistent with the maximum intensity permitted within the applicable zoning district under the CODE.

4.3 Unified Project Schedule & Phasing

The PROJECT has commenced with the construction of the sanitary sewer and water systems as required within the UTILITY AGREEMENT and certain other infrastructure to serve the PROJECT.

The phasing schedule for development within the Unified Project that is associated with the infrastructure assessment and phasing described in Section 6 herein is provided in Table 4.3.

Table 4.3: Unified Project Program and Phasing

Land Use	YRS 1-5	YRS 6-10	YRS 11-15
Residential Units	500	500	500
Non-Residential	100,000	200,000	200,000
Square Feet			
Hotel Rooms	150	0	0
School private	10 acres	0	0

Based upon the maximum density and intensity permitted under the assigned zoning as described in Table 4.1, additional development program may be permitted for the PROJECT property that is above and beyond the development program describe in Table 4.3 Unified Project Program and Phasing. Any additional development program that is permitted consistent with the maximum density and/or intensities of the applicable zoning district through the development review and approval processes of the CODE shall be deemed as a minor modification to this development agreement.

5.0 WEST NEW BERN DEVELOPMENT APPROVAL PROCESS

5.1 Master Development Plan

To accommodate the timing, phasing and scale of WEST New Bern the City hereby adopts the WEST New Bern Master Development Plan as set forth in Attachment C. The WEST New Bern Master Development Plan shall serve as a generalized depiction of the land uses within the PROJECT consistent with the approved zoning.

As a phased master planned development, WNB shall submit a separate general plan and final plat for different portions of the PROJECT in phases over time in accordance with the development approval processes of the CODE. Portions of WNB shall be established as planned unit developments (PUDs) under Section 15-86 of the CODE in order to accommodate the form of development proposed

for the PROJECT. Planned unit developments will be designated for portions of WNB in coordination with the applicable general plan for that area. The land area governed by a general plan shall be interpreted as 'the development' for the purposes of establishing planned unit developments within WNB.

For the purposes of establishing PUDs within the PROJECT, the following interpretations of the CODE shall apply:

- a. Only one planned unit development permit shall be issued within the land area covered by each general plan;
- b. The nonresidential portions of any planned unit development may not be occupied until all of the residential portions of the land area covered by a specific general plan are completed or their completion is assured by any of the mechanisms provided in the CODE to guarantee completion.

The Master Development Plan includes the following information:

- a. Boundary of the subject property.
- b. Major natural features such as lakes, streams and wetland areas.
- c. Existing or proposed streets abutting the PROJECT.
- d. Proposed land use types and their locations.
- e. Gross densities and intensities.
- f. Anticipated internal major road network including collectors and sub collectors.

5.2 Development Approvals and Permits Required

The PROJECT shall comply with the Development Approval Process established in Sec. 15-79 of the CODE as it exists on the date of this Agreement, which is attached hereto and incorporated herein by reference, and shall require the following additional approvals:

- a. General Plan
- b. Final Plat

The following permits are required by local, state and federal laws:

- a. N.C. State Building Code permits for all matters within State Building Code purview
- b. 401 (state) and 404 (federal) permits
- c. Sedimentation and Erosion Control permits
- d. City of New Bern Stormwater Permits
- e. City of New Bern Water and Sanitary Sewer Approval
- f. NC DEMLR Stormwater Permit

- g. NC DEQ PWS Permit
- h. NCDOT Access and Encroachment Permits
- i. NC DEQ Sanitary Sewer Permits

The failure of this Agreement to address a particular permit, condition term or restriction does not relieve DEVELOPER from complying with the permitting requirements, conditions, terms or restrictions.

5.3 Binding Nature

This Agreement inures to the benefit of and is binding upon the Developer and all subsequent applicants for individual building permits and all other permits related to land or actions within WEST New Bern shall comply with the Master Development Plan in all material aspects.

6.0 INFRASTRUCTURE

6.1 General Infrastructure Assurances

6.1.1 Transportation

The DEVELOPER shall comply with all requirements as imposed by NCDOT regarding Transportation Infrastructure. The DEVELOPER shall:

- a. construct all on-site roadways.
- b. construct all required turn lanes and traffic signals at intersections on NC43 that provide direct access to the property.
- c. construct the section of the extension of Elizabeth Avenue within the Unified Project, to connect to NC43.

6.1.2 Stormwater

The DEVELOPER shall comply with all requirements for Stormwater Management as imposed by North Carolina Department of Environmental Quality and the City of New Bern.

a. PROJECT development east of NC HWY 43. The DEVELOPER shall construct the stormwater management system in its entirety, vegetated and operational for its intended use at the point when the PROJECT reaches more than 24% built upon area coverage for those lands east of NC HWY 43. Up to 24% built upon area the stormwater treatment will be achieved in accordance with the provisions of the existing stormwater permit.

b. PROJECT development west of NC HWY 43. Each parcel shall manage its own stormwater, draining to the outfall system along the western property line. Each parcel shall be permitted as high density.

6.2 Water & Sewer Commitments and Capacity Reservation

The UTILITY AGREEMENT dated September 28, 2010 is hereby modified to increase the sanitary sewer and water service to be provided to the PROJECT from 520,000 gallons per day (average daily flow) of permitted water and sanitary sewer flow to 636,000 gallons per day (average daily flow) of permitted water and sanitary sewer flow.

7.0 FUTURE ANNEXATIONS

Within 30 days of each final plat approval by the CITY, the DEVELOPER shall petition, and the CITY shall consider for voluntary annexation, property within the ETJ included within the approved final plat. If approved for annexation, the terms of this Agreement shall apply as provided herein to all portions of the PROJECT annexed. DEVELOPER will not convey lots pursuant to a specific approved final plat until the property depicted on that plat is annexed.

8.0 DEDICATIONS, RESERVATIONS AND PUBLIC AMENITIES

8.1 Dedications & Reservations

Dedications and Reservations for the PROJECT shall be made consistent with requirements of the CODE.

8.2 Public Amenities

8.2.1 Developer Commitments

DEVELOPER Commitments for Public Amenities for the PROJECT shall be made consistent with requirements of the CODE.

8.2.2 Ownership/Maintenance of Public Amenities

The ownership and maintenance of public amenities shall be determined during the development review and approval process established under the CODE and shall be owned and maintained by either the CITY or one or more owners' associations established for some or all of the PROJECT.

9.0 ADMINISTRATION

9.1 Duration

The term of this Agreement shall commence on the Date of Adoption. Subject to any subsequent agreements extending the original duration as provided by N.C. Gen. Stat. §160A-400.23, this Agreement shall expire twenty years from the Date of Adoption.

9.2 Law in effect at time of Agreement

Unless specifically and otherwise noted herein, the laws, resolutions, comprehensive plans, regulations, technical standards, policies, rules and ordinances of the CITY applicable to the PROJECT are those in force as of the Date of Adoption. Accordingly, the DEVELOPER and its successors in interest shall, for the duration of this Agreement, have a vested right to develop the PROJECT in accordance with the terms of this Agreement, the terms of the CODE and any applicable laws, resolutions, comprehensive plans, regulations, technical standards, policies, rules and ordinances as they exist as of the Date of Adoption during the entire term of this Agreement. Except as specifically referenced herein, the CITY may not apply subsequently adopted ordinances or development policies to the PROJECT during the term of this Agreement without the written consent of the DEVELOPER or its successors in interest. Approved major and minor modifications shall have no effect on the vested rights established herein, except to the limited extent that the requested modification(s) incorporates laws or regulations adopted subsequent to the date of this Agreement's adoption. Additionally, no future CITY development moratoria or CITY development impact fees shall apply to the PROJECT without the written consent of the DEVELOPER or its successors in interest. The DEVELOPER and the CITY shall each, for the duration of this Agreement, retain on file master copies of the CODE and all other applicable regulations and technical standards as they exist on the Date of Adoption.

9.3 Periodic Review

The City Manager or his or her designee shall conduct a periodic review at least every twelve (12) months (the "Periodic Review"), at which time the DEVELOPER shall be required to demonstrate good faith compliance with the terms of this Agreement. Failure by the CITY to detect noncompliance upon inspection shall not constitute waiver of any breach or noncompliance detected upon later inspection.

9.3.1 Notice of Breach

If, as a result of the Periodic Review or other review, the CITY finds and determines that the DEVELOPER has committed a material breach of the terms or conditions of the Agreement, the CITY shall serve notice upon the DEVELOPER in writing, within a reasonable time but not later than thirty (30) days after the determination of breach setting forth with reasonable particularity the nature of the breach and the evidence supporting the finding and determination, and providing the DEVELOPER a reasonable time in which to cure the material breach, which time shall not be less than sixty (60) days; provided if such cure reasonably takes longer than sixty (60) days to make, DEVELOPER shall not be in default hereunder if it has commenced such cure within the sixty (60) day period and at all times thereafter proceeds diligently to complete such cure. A "material breach" is defined as a failure to meet or comply with any of the negotiated terms or provisions herein that would require action of the Board of Aldermen to amend or change those terms or provisions.

The Development Program and Phasing is a planning tool and shall not be interpreted as mandating the development pace initially forecasted or preventing a faster pace of development if market conditions support a slower or faster pace. Failure to meet the commencement date or interim completion dates shall not, without other factors being considered, be a material breach of this Agreement.

9.3.2. Remedy for Material Breach

Termination or modification of this Agreement shall be available remedies only for violations that constitute a material breach. Specifically, failure to comply with terms of the N C. State Building Code or any terms of the CODE or other local regulations shall not give rise to termination or modification of this Agreement.

9.4 Major and Minor Modifications to Development Agreement

Major Modifications to this Development Agreement shall be amendments or modifications to this Agreement that require action and approval by the City of New Bern Board of Aldermen and shall not include changes to this Agreement that are categorized herein or under the CODE as "minor revisions." Major amendments shall refer to those rights and requirements under this Agreement that are created by this Agreement and were separately negotiated in the course of this Agreement's adoption. A major modification of the Agreement shall be required to follow the same procedures as required for initial approval of the Development Agreement. Examples of Major Modifications include: adding real property to the PROJECT; changes to any land use boundary that is not

consistent with the adopted zoning; changes to fundamental commitments entered into under this Agreement by either party; and extending the duration of this agreement.

Minor Modifications to this Development Agreement shall be any revisions which do not change the land uses or fundamental commitments of the PROJECT as described in this Agreement. Minor revisions may be approved by the City Manager or his or her designee. Examples of Minor Modifications include: changes to any land use boundary that is consistent with the adopted zoning; changes to the PROJECT schedule or phasing; and modifications to Table 4.3: Unified Project program and phasing that are permitted under the CODE within the applicable zoning district; and an agreement to comply with subsequently-amended provisions of the CODE applicable to the PROJECT if DEVELOPER so chooses.

9.5 Conflict with the Code of Ordinances and Other Laws

The terms of this Agreement shall be in addition to and not inconsistent with the CODE and other local, state and federal statutes and regulations, including the regulations and policies of the Utility Department. In the event of a conflict between the CODE and this Agreement, then the stricter document (as determined by the City Manager or his designee) shall control. However, the foregoing shall not apply (a) where the terms of this Agreement were consistent with the CODE or City policies on the Date of Adoption and the CODE or the City policies changed; or (b) where the original terms of the Master Plan or this Agreement were established within the authority of the City staff or Departmental Review Committee or Planning and Zoning Board to grant exceptions, waivers, variances or modifications to existing ordinances and policies.

10.0 DEFINITIONS

The words and terms listed below shall have the following meanings:

- 10.1 City Manager: The person who serves in the position as city manager for the City of New Bern and any person or group of persons designated to act in his or her stead, temporarily or permanently, to make administrative decisions or to perform administrative duties related to this Agreement. City manager also includes any person serving in that capacity on an interim basis.
- 10.2 **City of New Bern**: As used herein, references to the City of New Bern shall include the City acting in its sovereign or corporate capacity through its elected body, the City acting through its appointed boards or agencies, and the City

- acting through its employees, agents and consultants where the duties or prerogatives may be so delegated.
- 10.3 Code of Ordinances ("CODE"): The CODE means the City of New Bern's code of ordinances which consolidates all land development and land use regulations. References herein to code requirements are those requirements that exist on the Date of Adoption, unless later requirements are accepted in writing by an authorized officer of DEVELOPER in its sole discretion. The CODE as of the Date of Adoption is incorporated herein by reference as if fully set forth herein. Each party hereto shall maintain in its records a hard copy of the CODE as it exists on the Date of Adoption. For ease of reference, Section 15-79 of the CODE, relating to the Major Subdivision Approval process, is attached hereto as Attachment F.
- 10.4 Date of Adoption: The date of adoption shall be the date that DEVELOPER has signified its acceptance of the terms approved by the City of New Bern in this Agreement through its execution and recordation of this Agreement in the New Hanover County Register of Deeds. It shall be the date from which future extension and expiration dates shall be calculated.
- 10.5 Date of Approval: The date of approval shall be that original date that the City of New Bern votes to approve this Development Agreement or any modification thereof by ordinance. Major modifications of this Agreement that require the vote and approval of the City of New Bern shall be referred to as dates of modification.
- 10.6 **Development Agreement**: Development Agreement shall mean this Agreement approved pursuant to N.C. Gen. Stat. § 160A-400.20 et. seq. and any future modifications of this original Agreement that pertain to the approximately 546.7 +/- acres WEST New Bern development described herein.
- 10.7 **Development**: For the purpose of interpreting and conforming to the CODE as it relates to planned unit developments within the PROJECT, the term 'development' as used in the CODE shall apply to the portion of the PROJECT that is covered by each individual general plan or final plat.
- 10.8 **Extra-territorial jurisdiction (ETJ)**: The area outside of the City's corporate limits over which it has development approval authority pursuant to N.C. Gen. Stat. §160A-360.

- 10.9 Laws: When referring to laws enacted by or under the authority of the City of New Bern, laws shall be interpreted inclusive of all locally adopted ordinances, resolutions, regulations, comprehensive plans, land development regulations, policies and rules affecting the development of this PROJECT. The term "laws" shall also mean laws governing permitted uses of the PROJECT, density, design, and improvements. To the extent that DEVELOPER shall have a vested right to proceed under existing laws, "laws" shall be interpreted to mean the law as it existed on the Date of Adoption. If DEVELOPER secures additional vested rights pursuant to common law and subsequently loses its statutorily vested rights under this Agreement, then "laws" shall mean those ordinances, regulations, policies, etc. that existed on the date that DEVELOPER became vested as to those ordinances, regulations and policies under common law.
- 10.10 **Mixed Use:** A mixture of residential and non-residential uses within the PROJECT that may occur generally throughout the PROJECT through horizontal construction or that may occur by the vertical integration of uses within a building or structure.
- 10.11 **NCDOT**: NCDOT shall refer to the North Carolina Department of Transportation whether acting through the State of North Carolina Board of Transportation or its Division or Division Engineer or his or her designee.
- 10.12 **PROJECT**: Term used to refer to WEST New Bern, the commercial name assigned to the master-planned, +/- 575 acres development along NC Hwy 43 that is the subject of this Development Agreement.
- 10.13 Unified Project: The term Unified Project shall mean the total PROJECT described herein. It may be used synonymously with "PROJECT" or "WEST New Bern".
- 10.14 Utility Agreement (also Water and Sewer Utility Agreement): The September 28, 2010 Agreement between the City of New Bern and Weyerhaeuser Real Estate Development Company regarding the provision of water and sewer utility services for Craven 30 North.
- 10.15 WEST New Bern (WNB): WEST New Bern is the commercial name assigned to the master-planned, +/- 575 acres development along NC Hwy 43 that is the subject of this Development Agreement. This term also refers to any of the development amenities, parts or subparts within the PROJECT and any aspect of

the PROJECT for which DEVELOPER has a right to control the image, marketing or sales.

- 10.16 Wetlands: Wetlands shall refer to those portions of the Unified Project that have been delineated as wetlands for purposes of permitting under Section 404 of the Clean Water Act or that have been delineated as wetlands by the U.S. Army Corps of Engineers on maps officially and previously adopted by the Corps of Engineers.
- 10.17 Weyerhaeuser NR: Weyerhaeuser NR shall refer to Weyerhaeuser NR Company, a Washington C Corporation, and its successors and assigns or transferees in title. Where appropriate to the context, it shall also include property owners' associations established to exercise any of the duties of managing any portion or portions of WEST New Bern.

CITY OF NEW BERN

	Ву:
ATTEST:	MAYOR
CITY CLERK	
(CORPORATE SEAL)	
	WEYERHAEUSER NR COMPANY
	By:
	,, President
(CORPORATE SEAL)	

STATE OF NORTH CAROLINA	
COUNTY OF	
l,	, a Notary Public in and for said
County and State, do hereby certify that	t on the day of,
· · · · · · · · · · · · · · · · · · ·	DANA E. OUTLAW with whom I am personally
- ·	rn, says that he is Mayor and that BRENDA E.
	NEW BERN, the municipal corporation regoing instrument; that he knows the common
	the seal affixed to the foregoing instrument is
• •	municipal corporation was subscribed thereto
•	and Town Clerk subscribed their names thereto
	all by authority of the governing body of said
•	instrument is the act and deed of said municipal
corporation.	
Date:	
	Signature of Notary Public
	Notary's printed or typed name
	My commission expires:
(Official Seal)	
Netary cool or stome must appear within this be	av.
Notary seal or stamp must appear within this bo	JA.

STATE OF NORTH CAROLINA COUNTY OF	
	conally appeared before me this day, the foregoing document for the purpose(s) stated ein:
Date:	
	Signature of Notary Public
	Notary's printed or typed name
(Official Seal)	My commission expires:

Notary seal or stamp must appear within this box.

ATTACHMENT A

LEGAL DESCRIPTION

Tract One:

That certain tract or parcel of land lying and being in Number Eight (8) Township, Craven County, State of North Carolina; being the same real property described by deed recorded in Book 2687, Page 346 in the office of the Register of Deeds of Craven County; and being more particularly described as follows:

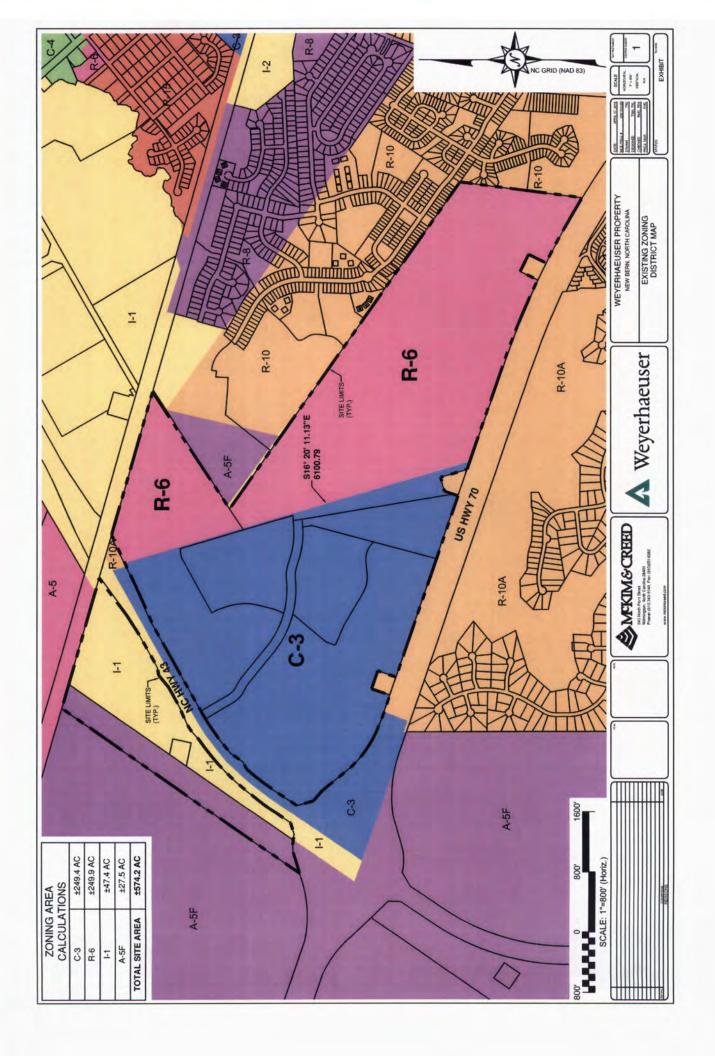
Being all of that certain tract or parcel of land containing 586.738 acres as the same is shown on that map dated November 3, 2006, revised December 3, 2007, prepared by Mayo and Associates, P.A., and identified by the following legend: "SURVEY FOR WEYERHAEUSER REAL ESTATE PORTION OF CRAVEN NO. 30". This map is of record in Plat Cabinet H, Slides 113G and 113H in the office of the Register of Deeds of Craven County, and reference is hereby made to said map for a more complete and accurate description of this property.

Tract Two:

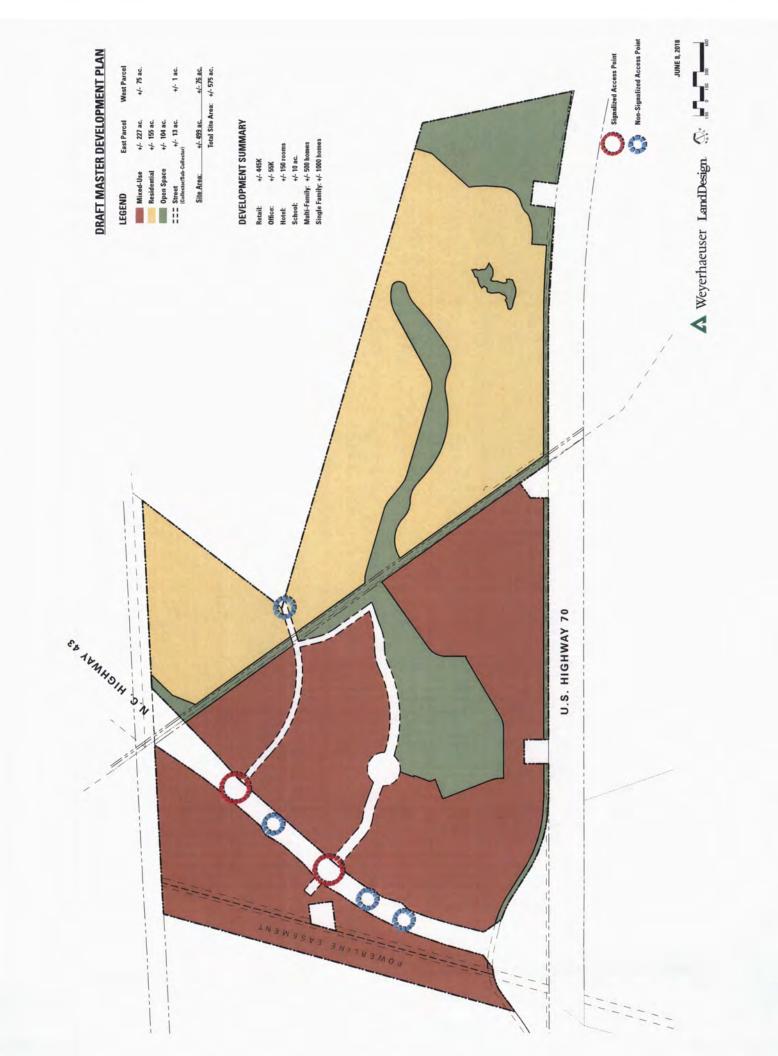
That certain tract or parcel of land lying and being in Number Eight (8) Township, Craven County, State of North Carolina; being the same real property described by deed recorded in Book 3044, Page 312 in the office of the Register of Deeds of Craven County; and being more particularly described as follows:

Being the tract depicted as "27.45 acres – Portion of Craven # 30 for Weyerhaeuser Real Estate Company" on a map recorded in Plat Cabinet H, Slide 198E in the office of the Register of Deeds of Craven County, reference to said map being hereby made for a more perfect description of said property.

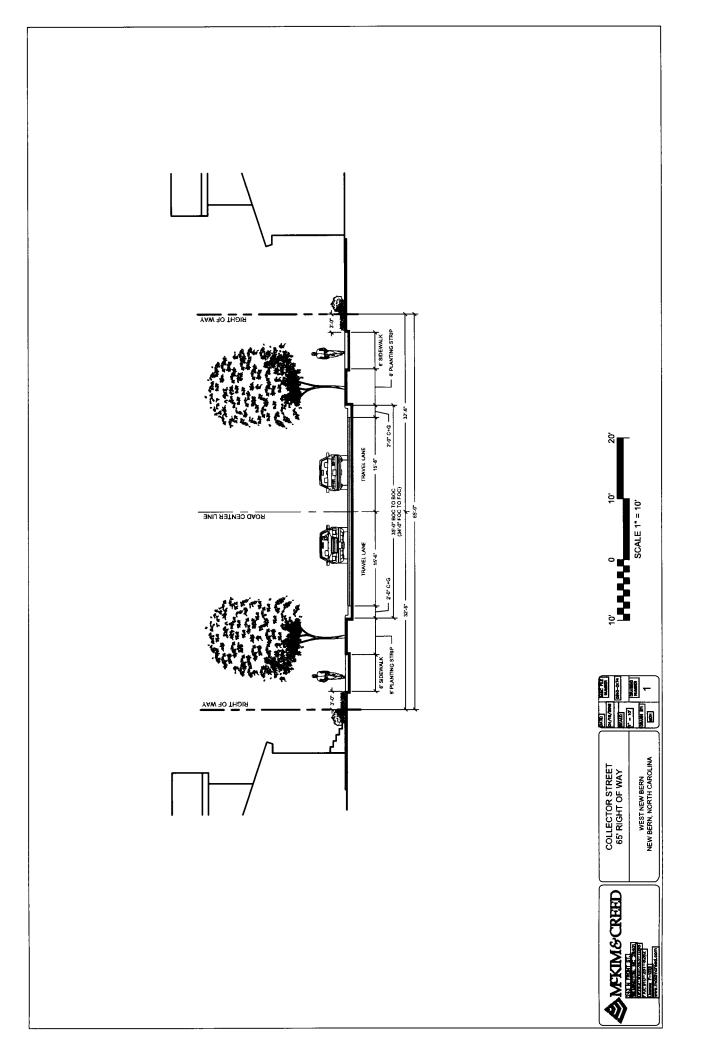
ATTACHMENT B EXISTING ZONING DESIGNATION

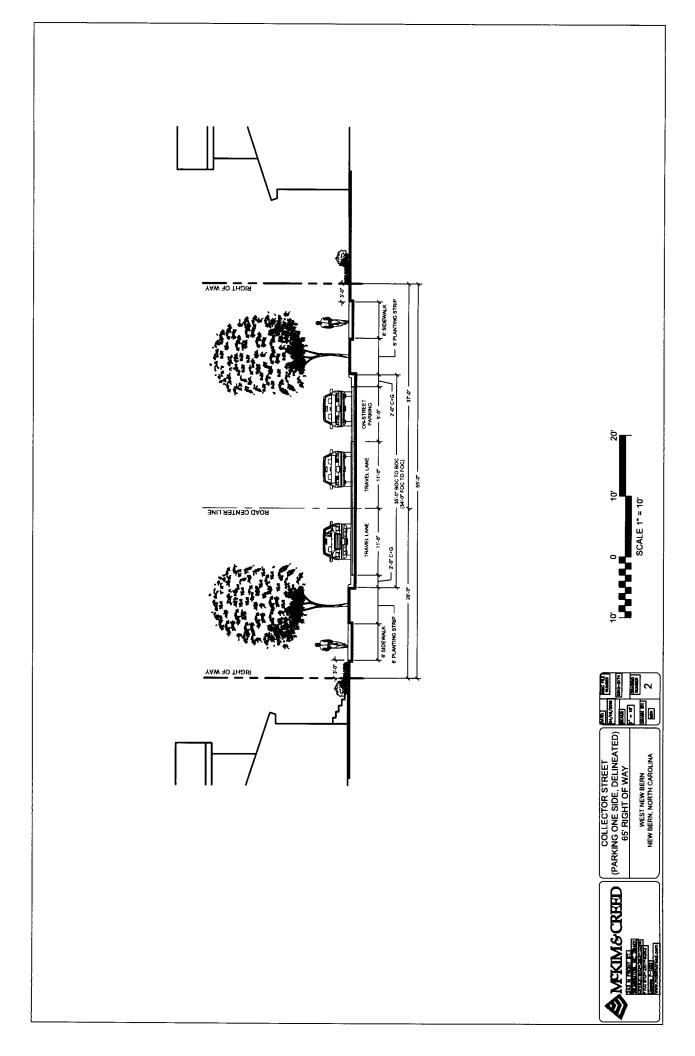


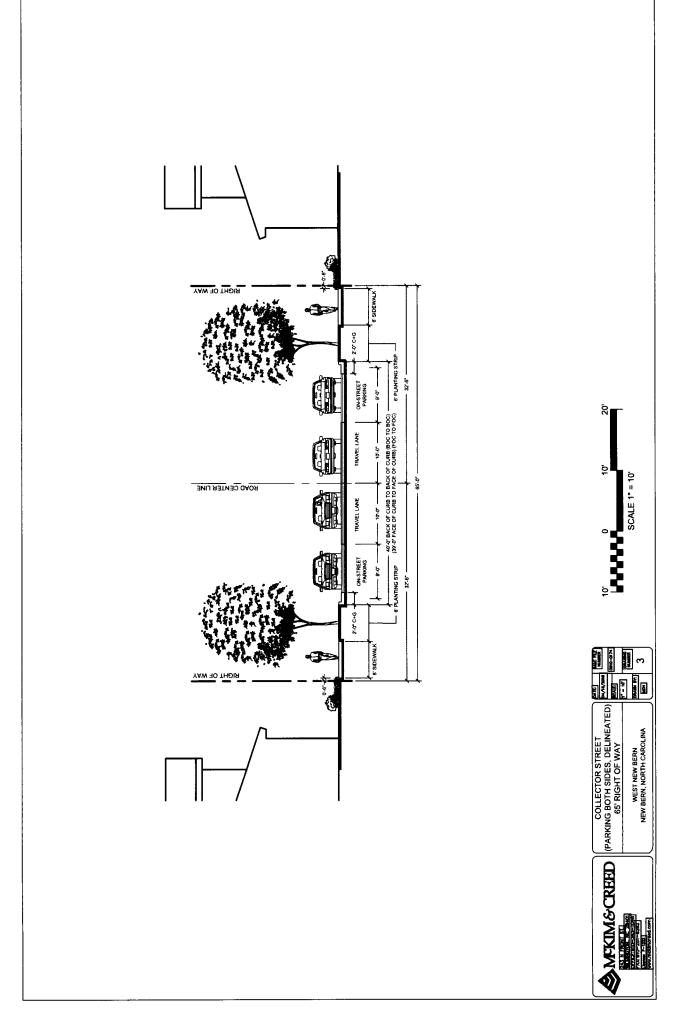
ATTACHMENT C MASTER DEVELOPMENT PLAN

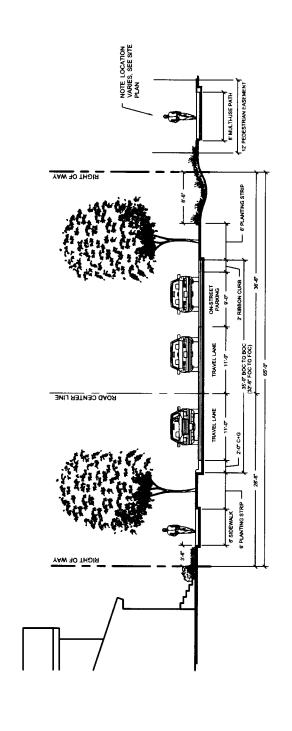


ATTACHMENT D ROAD CROSS SECTIONS





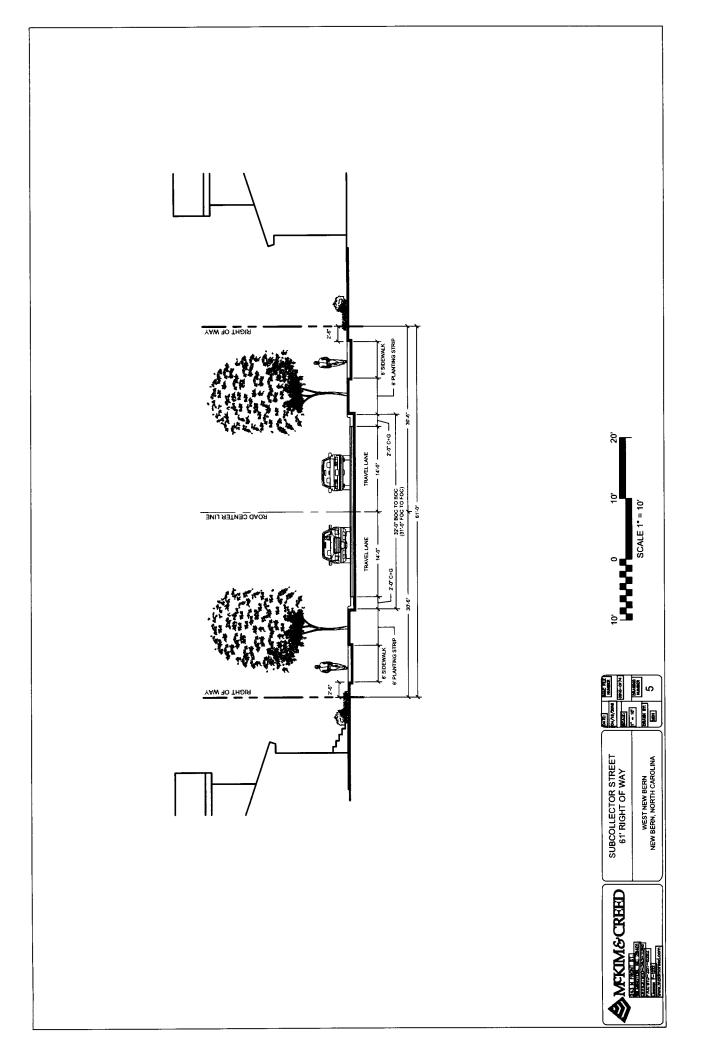


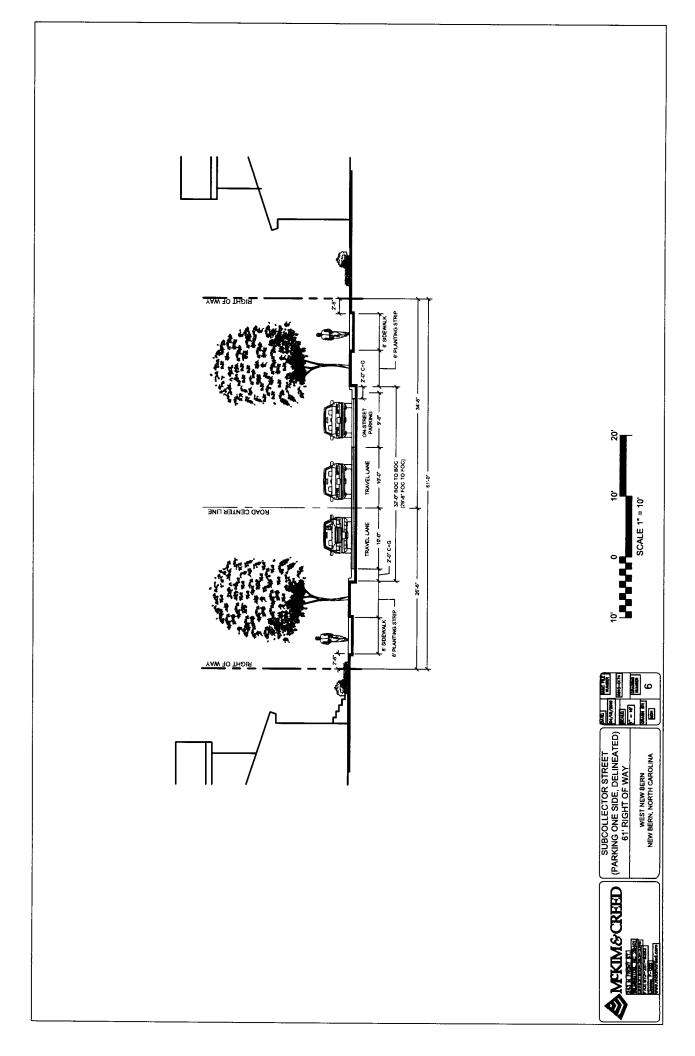


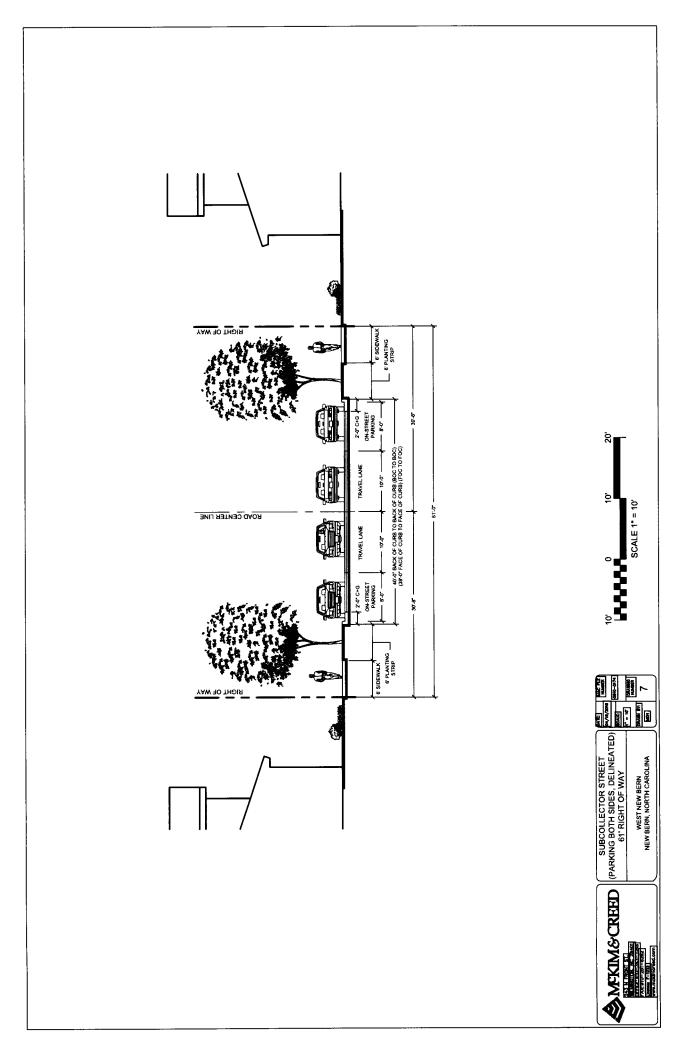


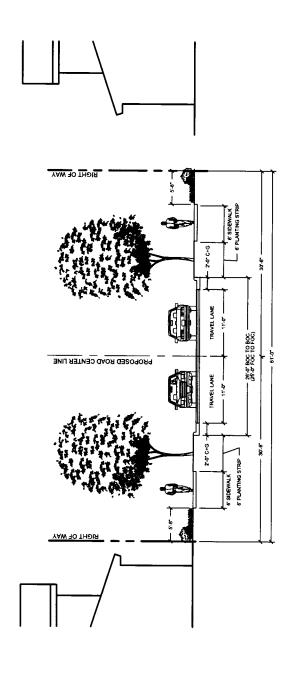








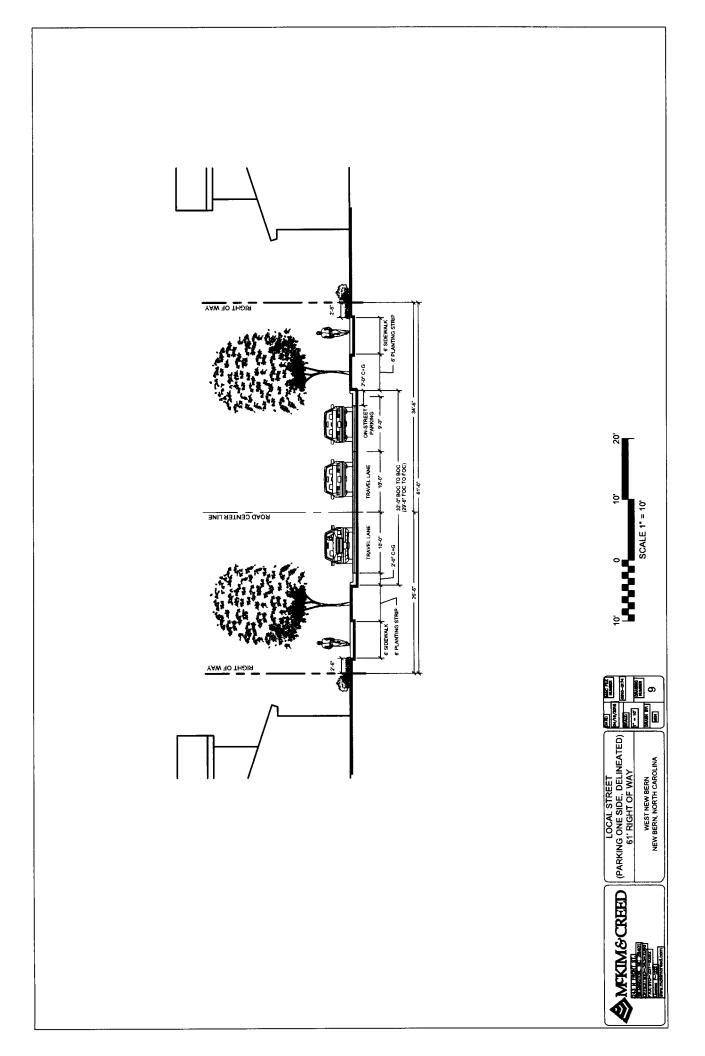


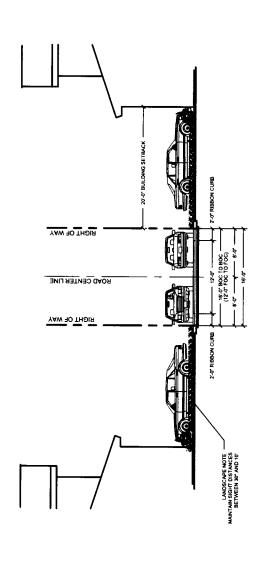




















ATTACHMENT E UTILITY AGREEMENT, DATED SEPTEMBER 28, 2010

NORTH CAROLINA

CRAVEN COUNTY

AGREEMENT

THIS AGREEMENT ("Agreement") is made and entered into this 28th day of September, 2010, by and between the CITY OF NEW BERN, a North Carolina municipal corporation ("City"), and WEYERHAEUSER REAL ESTATE DEVELOPMENT COMPANY ("Developer").

WITNESSETH:

THAT WHEREAS, Developer owns a tract or parcel of land located within the City's extraterritorial jurisdiction in Craven County, North Carolina, as shown on <u>Exhibit A</u> attached hereto and incorporated herein by reference (the "Property"); and

WHEREAS, Developer intends to develop the Property as a 586 acre mixed use development requiring permitted sewerage treatment capacity at full build out of approximately 520,000 gallons per day; and

WHEREAS, Developer desires over time to annex the Property into the City, and to connect to the City's water and sewer systems so that the City might provide such services to the Property, subject to certain terms and conditions contained herein; and

WHEREAS, the City and Developer have reached an agreement with respect to said provision of such utility services to the Property and wish to reduce said agreement to writing.

NOW, THEREFORE, IT IS MUTUALLY AGREED by and between the City and Developer as follows:

1. <u>Definitions</u>

- 1.1. Certain terms having specific definitions are used in this Agreement, and these terms and definitions, unless the context clearly indicates to the contrary, are as set forth in this Section 1. The defined terms appearing in this Section are set forth in the Agreement in the exact capitalized form as they appear between the quotation marks. When the same term is used in this Agreement with the meaning as assigned herein, it shall appear in the identical capitalized form. Otherwise, the meaning shall be as used in the context of the sentence in which it appears and not necessarily that as defined herein.
 - 1.1.1. "Agreement" means this Agreement between Developer and the City.

- 1.1.2. "Developer" means Weyerhaeuser Real Estate Development Company, a North Carolina business corporation.
- 1.1.3. "Force Majeure" means any delay or default in performing hereunder if such delay or default is caused by conditions beyond such party's control without its fault or negligence, including, but not limited to acts of god, government restrictions (including the denial or cancellation of any license or permit), wars, insurrections and/or any other cause beyond the reasonable control of the party whose performance is affected, provided that, as a condition to the claim of non-liability, the party experiencing the difficulty shall give the other prompt written notice, with full details following the occurrence of the cause relied upon. Dates by which performance obligations are scheduled to be met will be extended for a period of time equal to the time lost due to any delay so caused.
- 1.1.4. "City" means the City of New Bern, a municipal corporation duly established and existing pursuant to the laws of the State of North Carolina.
- 1.1.5. "Property" means the real property owned by Developer located in the City of New Bern, Craven County, North Carolina, more specifically described on Exhibit A attached hereto and incorporated herein by reference.
- 1.1.6. "Property Sewer System" means the unified system of pipes, conduits, lift stations, force mains, and appurtenances for collecting and transmitting sewage and other wastewater from residences, commercial establishments or any other buildings within the Property. It shall also include the rights-of-way, easements, and land parcels dedicated for the construction, operation, and maintenance of such system.
- 1.1.7. "Property Water System" means the unified and independent system of pipes, lines, conduits and appurtenances for transmitting and distributing water to residences, industrial establishments or any other buildings within the Property. It shall also include the rights-of-way, easements, and land parcels dedicated for the construction, operation, and maintenance of such system.
- 1.1.8. "Systems" means the Property Sewer System and the Property Water System.

2. City Obligations

2.1. The City shall provide sewer and water service to the Property in an amount not to exceed 520,000 gallons per day (average monthly flow) of permitted water and sewer flow.

For planning purposes, the parties contemplate that permitted water and sewer service for the Property will not exceed 100,000 gallons per day, per year until the Property is fully developed. Any individual water customer requiring more than 15,000 gallons per day shall be required to enter into a separate water service agreement with the City.

- 2.2. The City's obligation herein to provide sewer service to the Property is solely based upon permitted sewer flow, and not actual sewer flow. Additionally, the City's obligation to provide water and sewer service to the Property does not constitute a transfer or sale of the City's water or sewer treatment capacity to Developer. Developer shall have no ownership interest in the City's water or sewer treatment capacity, other than Developer's contract rights established herein, nor will Developer have any claim, interest or contract right to any remaining unused permitted water or sewer flow at the completion of the Developer's project, or any additional sewer flow resulting from the conversion of the permitted sewer flow to actual sewer flow. The Developer shall have the right to sell portions of the Property and to assign portions of the water and sewer treatment capacity granted hereunder along with such transfer of an interest in all or any portion of the Property, but no water or sewer treatment capacity granted hereunder may be transferred or assigned by Developer without a transfer of an interest in all or a portion of the Property.
- 2.3. The City shall have no obligation to pay for, fund, or finance any portion of the construction of the Systems.
- 2.4. Upon completion of each phase of construction of the Systems, Developer shall provide an engineer's certification that such phase is completely constructed to plan specifications and ready for use. Subsequent thereto, the City shall accept and own the same as part of the City's water system or City's sewer system as the case may be, consistent with the rules and regulations established in the Chapter 74 entitled "Utilities" of the Code of Ordinances of the City of New Bern.
- 2.5. The City represents and warrants that it shall reserve and guarantee sufficient water and sewer collection and treatment capacity to fulfill its obligations established herein pursuant to the terms and conditions contained herein, <u>SUBJECT ALWAYS</u> to a force majeure, and the rights of the State of North Carolina, or any agency or department thereof, to restrict or preclude the City's ability to comply with its obligations hereunder. In the event of a force majeure, or any limitation or moratorium imposed on the City by the State of North Carolina or

any agency or department thereof that limits or precludes the City's ability to comply with its obligations hereunder, the City shall use reasonable efforts and proceed in good faith to cure its inability to comply with the terms of this Agreement as promptly as reasonably possible.

- 2.6. The City reserves the right to require the Developer to increase the size and/or capacity of any component of the Systems, or any component required to connect the Systems to the City's water or sewer system, up until that date which is sixty (60) days from the execution of this Agreement. Should the City make such a request to the Developer pursuant to this Section 2.6, the Developer shall bid the construction for such work as the Developer originally proposed, AND as the City proposes. The City shall reimburse the Developer an amount equal to the City-required alternate bid less the Developer's original bid within thirty (30) days of the date of the City's acceptance of the work completed under such contract.
- 2.7. It is specifically understood and agreed between the Parties that every obligation assumed herein by the City is subject to the limitation "to the extent that it may legally do so."

3. Developer Obligations

- 3.1. Developer shall construct the Systems, or cause the same to be constructed, at its sole expense. After the Systems or any phase thereof is certified completed and ready for use, Developer shall convey the same to the City, together with necessarily related real property, utility easements and related facilities as are required by the City Code, free and clear of liens or encumbrances of any nature.
- 3.2. Developer understands and agrees that all water and sewer users within the Property will pay user rates, user tap fees, and any other applicable fees and charges established in the City Code as are established and fixed from time to time by the Board of Aldermen. Developer further understands and agrees that all water and sewer users within the Property will become City water and sewer customers subject to all of the rules and regulations applicable to City water and sewer customers as the same are established and fixed from time to time by the Board of Alderman of the City.
- 3.3. Developer shall apply, through the City, for NCDENR water and sewer permits within twelve (12) months of the date of this Agreement, and shall commence construction of the work authorized under the NCDENR permits within six (6) months of the issuance of the City's notice to proceed with the project. The City shall issue the notice to proceed to the Developer within 30 days of its receipt of the NCDENR permits for the project.

- 3.4. Developer understands and agrees that the Property Sewer System must be certified completed and ready for use within three (3) years of the date of the issuance of the City's notice to proceed with the construction of the Property Sewer System. The City shall extend the construction term for any remaining uncompleted phase of the Property Sewer System if (i) the Developer pays the sewer capacity fees (tap fees) in full prior to the expiration of the construction term for such remaining phase; or (ii) the Developer pays the minimum sewer charges for the remaining permitted capacity on a monthly basis. The minimum charge shall be the permitted daily flow, multiplied by the number of days billed, divided by 1,000, and multiplied by the "per thousand gallon charge" for the type of customer served. The sewer charges shall be the then existing fees as outlined in the sewer rate ordinance for the area served. If the Developer chooses not to extend the construction term for any remaining uncompleted phase of the Property Sewer System, the Developer may not re-apply for a new permit within six (6) months from the end of the construction term. The developer shall pay all processing expenses and fees associated with the expiration of, or reapplication for, any NCDENR sewer permit that expires. The intent and purpose of this Section 3.4 is to provide the Developer with an opportunity to pay the City sewer capacity fees, or pay on a monthly basis for wastewater treatment flow system capacity that is required by this Section 3.4 but not yet constructed in order to avoid losing the City's commitment to provide sewer service to Property beyond the phases that are permitted and constructed.
- 3.5. Developer understands and agrees that the Property Water System must be certified completed and ready for use within three (3) years of the date of the issuance of the City's notice to proceed with the construction of the Property Water System. The City shall extend the construction term for any remaining uncompleted phase of the Property Water System if (i) the Developer pays the water capacity fees (tap fees) in full prior to the expiration of the construction term for such remaining phase; or (ii) the Developer pays the minimum water charges for the remaining permitted capacity on a monthly basis. The minimum charge shall be the permitted daily flow, multiplied by the number of days billed, divided by 1,000, and multiplied by the "per thousand gallon charge" for the type of customer served. The water charges shall be the then existing fees as outlined in the water rate ordinance for the area served. If the Developer chooses not to extend the construction term for any remaining uncompleted phase of the Property Water System, the Developer may not re-apply for a new permit within six

(6) months from the end of the construction term. The developer shall pay all processing expenses and fees associated with the expiration of, or reapplication for, any NCDENR water permit that expires. The intent and purpose of this Section 3.5 is to provide the Developer with an opportunity to pay the City water capacity fees, or pay on a monthly basis for water capacity that is required by this Section 3.5 but not yet constructed in order to avoid losing the City's commitment to provide water service to Property beyond the phases that are permitted and constructed.

4. Miscellaneous

- 4.1. If any of the provisions of this Agreement shall be held by a court of competent jurisdiction to be unconstitutional or unenforceable, the decision of such court shall not affect or impair any of the remaining provisions of this Agreement, and the parties shall, to the extent they deem to be appropriate, take such actions as are necessary to correct any such unconstitutional or unenforceable provision. It is hereby declared to be the intent of the parties to this Agreement that this Agreement would have been approved and executed had such an unconstitutional or unenforceable provision been excluded therefrom.
- 4.2. This Agreement shall be enforceable by each party hereto by all remedies available at law or in equity, including but not limited to specific performance. Failure or delay to exercise any right, remedy or privilege hereunder shall not operate as a waiver of such right, remedy or privilege nor prevent subsequent enforcement thereof.
- 4.3. This Agreement shall be executed by the Parties hereto in duplicate originals, each of which, when executed, shall constitute one and the same Agreement and one of which shall be retained by each party.
- 4.4. This Agreement shall be governed in accordance with the laws of the State of North Carolina.
- 4.5. Each party agrees that from and after the date of execution hereof, each will, upon the request of the other, execute and deliver such other documents and instruments and take such other actions as may be reasonably required to carry out the purpose and intent of this Agreement.
- 4.6. This Agreement may not be modified or amended except by subsequent written agreement authorized and executed by each party.

- 4.7. This Agreement is solely for the benefit of the identified parties to the Agreement and is not intended to give any rights, claims, or benefits to third parties or to the public at large.
- 4.8. Developer may not assign this Agreement without the express written consent of the City. Notwithstanding anything to the contrary in the foregoing, the Developer may assign all or any portion of the sewer capacity allocation granted herein, along with a transfer of all or any portion of the Property, but not separate and apart from such a transfer, without the prior written consent of City.

IN TESTIMONY WHEREOF, the City has caused this instrument to be executed as its act and deed by the Mayor, and its corporate seal to be hereunto affixed, and attested by its City Clerk, all by the authority of its Board of Aldermen; and Developer has executed or caused this document to be executed by them, all as of the day and year first above written.

CITY OF NEW BERN

ATTEST:

Vursnia & Mattrib

(CORPORATE SEAL)

WEYERHAEUSER REAL ESTATE DEVELOPMENT COMPANY

KOR

By:_

, Vice President

NORTH CAROLINA CRAVEN COUNTY

I, Belrose, a notary public in and for said county and state, do hereby certify that on the 28 day of September, 2010, before me personally appeared LEE W. BETTIS, Jr. with whom I am personally acquainted, who, being by me duly sworn, says that he is the Mayor and that VERONICA E. MATTOCKS is the City Clerk of the City of New Bern, the municipal corporation described in and which executed the foregoing instrument; that he knows the common seal of said municipal corporation; that the seal affixed to the foregoing instrument is said common seal; that the name of the municipal corporation was subscribed thereto by the said Mayor; that the said common seal was affixed, all by order of the Board of Aldermen of said municipal corporation; and that the said instrument is the act and deed of said municipal corporation.

WITNESS my hand and notarial seal, this the 28 day of September, 2010.

Pamelo 3 Belioso NOTARY PUBLIC

My Commission Expires:

9-10-11

STATE OF Georgia COUNTY OF Morgan

I certify that the following person appeared before me this day, acknowledging to me that he signed the foregoing document for the purposes stated therein and in the capacity indicated:

James D. Bowling, as Vice President of Weyerhaeuser Real Estate Development Company

WITNESS my hand and notarial seal, this 12 day of october, 2010.

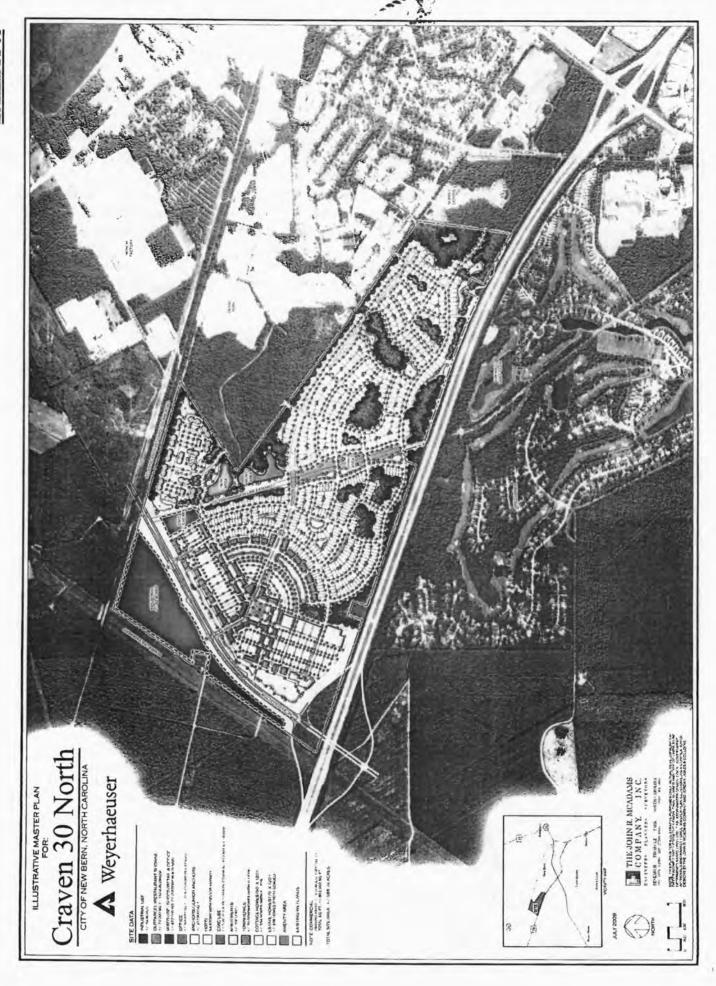
NOTARY PUBLIC

My commission expires:

Oct 13, 2012

NOTA

Page 8 of 8



ATTACHMENT F

CITY OF NEW BERN CODE OF ORDINANCES

SEC. 15-79 MAJOR SUBDIVISION APPROVAL PROCESS

Section 15-79. - Major subdivision approval process.

The planning and zoning board shall approve or disapprove major subdivision final plats in accordance with the provisions of this section. To obtain final plat approval, the subdivider shall undergo a two-step process:

- (a) General plan. In filing a general plan, the applicant desiring to subdivide within the City of New Bern shall comply with the requirements herein below set forth.
 - (1) The general plan shall contain the following information:
 - (a) Existing and platted property lines, streets, buildings, watercourses, sewers, water mains (existing and proposed), transmission lines, bridges, culverts, drain pipes, city and county lines, and any public utility easements.
 - (b) Boundaries of tract, showing bearings and distances.
 - (c) Site plan of existing conditions including wooded areas, marshes, and wetlands, if applicable.
 - (d) Names of all adjoining property owners.
 - (e) Zoning classifications both on land to be subdivided and adjoining land.
 - (f) Plans for proposed utilities, including water, gas, sanitary sewer, storm drainage, electric, telephone, and cable.
 - (g) Other proposed rights-of-way, easements.
 - (h) Proposed lot lines, lot numbers, building envelopes in the case of PUDs, and approximate dimensions.
 - (i) Proposed minimum setback lines.
 - (j) Contour map: one-foot intervals based on sea level datum.
 - (k) Proposed mini-parks, school sites, public open space, if applicable.
 - (I) Provisions for the preservation and maintenance of mini-parks and open space, including draft of conservation easement; if applicable.
 - (m) Proposed planting plan, including type and details of required screening, if applicable.
 - (n) Sketch vicinity plan.
 - (o) Name of owner, surveyor, and planner.
 - (p) Title, date, north point, and graphic scale.
 - (q) Verification of submission of stormwater management and sedimentation control plans, if applicable.
 - (r) Site data including acreage in total tract, mini-parks, open space, school sites, etc.; average lot size; total number of lots; lineal feet in streets.
 - (s) Profiles showing grades of streets, sewers, water lines, etc.
 - (t) Postal enumeration of each lot in the subdivision.
 - (u) Statement by developer/subdivider that wetlands are not present on the site or that appropriate permits have been sought.
 - (2) The applicant shall submit two print and one digital(in a format deemed acceptable by the Zoning Administrator) set of copies of the general plan and any supplementary material to the secretary of the planning and zoning board at least two weeks prior to the regularly scheduled meeting of the planning and zoning board of the City of New Bern. One set,

consisting of 14 copies, shall be used for department review purposes. The second set, consisting of 14 copies, shall be provided for members of the planning and zoning board. The general plan shall be of a scale of one inch equals 100 feet or larger and shall be of a sheet size of 18 inches by 24 inches or larger.

- (a) If the proposal of the subdivider/developer is a planned unit development (PUD), then and in that event the city shall cause signs to be placed on property proposed to be developed as a PUD at least seven days prior to the meeting of the planning and zoning board at which it will be considered. Notice shall be published one time in a newspaper of general circulation in the community at least ten and not more than 25 days prior to the meeting of the planning and zoning board.
- (3) The planning staff shall distribute copies of the proposed subdivision to appropriate departments for review, and any governmental agency or agencies having a specific interest in the subdivision for their recommendations. The planning staff shall consolidate such recommendations and present them, together with its own, to the planning and zoning board.
- (4) The general plan shall be reviewed by the planning and zoning board. During this review:
 - (a) The subdivider presents his plan and answers questions of the planning and zoning board and planning staff.
 - (b) The planning staff shall make recommendations to the planning and zoning board.
 - (c) The planning and zoning board makes its recommendations and may recommend additional conditions to its approval in writing if deemed advisable to protect the public health, safety, and welfare.
- (5) The planning and zoning board shall approve, approve conditionally, or disapprove the general plan.
 - (a) Approval of the general plan is authorization for the subdivider to proceed with the construction of the necessary improvements in preparation for the final plat.
 - (b) If approved conditionally, the conditions and reasons thereof shall be noted in the minutes and, if necessary, the planning and zoning board shall require the applicant to submit a revised plan.
 - (c) If the planning and zoning board should disapprove the general plan, the reasons for such action shall be noted in the minutes and recommendations made on the basis of which the proposed subdivision could be approved.
 - (d) Failure on the part of the planning and zoning board to act within 60 days after a completed general plan is submitted shall be deemed approval.
 - (e) The action of the planning and zoning board shall be noted on one copy of the general plan. This copy shall be retained in the permanent files of development services department.
 - (f) Approval of the general plan by the planning and zoning board establishes a vested right as provided in sections 15-67 through 15-70 of this ordinance.
- (b) Final plat. Upon completion of arrangement for the improvements shown on the approved general plan, the applicant shall submit a final plat of the area covered by such improvements.
 - (1) The applicant shall submit the original tracing, drawn in waterproof ink on a sheet(s) made of material that will be acceptable to the register of deed's office of Craven County for recording purposes, and three copies of the final plat to the development services department within 24 months after approval of the general plan by the planning and zoning board; otherwise, such approval shall become null and void unless an extension of time is applied for and granted by the planning and zoning board.

- (a) On application for final plat approval, the applicant shall pay an inspection fee of according to the fee scheduled found at the Development Services Department, to the city.
- (2) The final plat shall be at the same scale (one inch equals 100 feet or larger) and on the same sheet size as the general plan (18 inches by 24 inches or larger) and shall conform substantially to the general plan as approved. The applicant shall furnish fourteen 18 by 24 inch copies and one digital copy (in a format to be specified by the of the final plat to the planning staff for distribution to the planning and zoning board. The final plat shall constitute only that portion of the approved general plan which the applicant proposes to record and develop at the time, provided, however, that such portion conforms to all requirements of this ordinance. The final plat shall show:
 - (a) The lines of all streets and roads.
 - (b) Lot lines and lot numbers.
 - (c) Building envelopes in the case of PUDs.
 - (d) Reservations, easements, alleys, and any other areas to be dedicated to public use or for conservation purposes, or sites for other than residential use with notes stating their purpose and any limitations.
 - (e) Sufficient data to determine readily and reproduce on the ground, the location, bearing, and length of every street line, block line, and building line, whether curved or straight, and including true north point. This should include the radius, central angle, and tangent distance for the centerline of curved streets and curved property lines that are not the boundary of curved streets.
 - (f) All dimensions should be to the nearest one-tenth of a foot and angles to the nearest minute.
 - (g) Accurate location and description of all monuments and markers.
 - (h) The names and locations of adjoining subdivisions and streets, and the location and ownership of adjoining unsubdivided property.
 - (i) Title, date, name, and location of subdivision, graphic scale, and true north point.
 - (j) Name of owner, surveyor and land planner.
 - (k) Written approval by the Corps of Engineers with reference to wetlands, if applicable.
 - (I) Postal enumeration of each lot in the subdivision.
- (3) Supplementary materials for final plat:
 - (a) A draft of all restrictive covenants whereby the subdivider proposes to regulate land use in the subdivision and otherwise protect the proposed development.
 - (b) In subdivisions where limited access streets are constructed, the final plat shall show a restricted easement of access along the entire length of the street as it is to be constructed denoting all connections to the street allowed for ingress and egress to properties whether improved or reserved for future improvement.
- (4) The development services department shall review the final plat for compliance with the provisions of this ordinance and with the approved general plan.
 - (a) If the final plat is found to be in compliance, the development services department shall transmit the final plat, together with its recommendations, to the planning and zoning board for final action; or
 - (b) If the final plat is found not to be in compliance or if changes have been made from the approved general plan, [the development services department shall] transmit the

final plat, together with its recommendations thereon, to the planning and zoning board.

- (5) The final plat shall be reviewed by the planning and zoning board.
 - (a) The development services department shall make recommendations to the planning and zoning board.
 - (b) The planning and zoning board shall approve the final plat unless it finds that the plat or the proposed subdivision fails to comply with one or more of the requirements of this ordinance, or that the final plat differs substantially from the plans and specifications approved in conjunction with the general plan approval that authorized the development of the subdivision.
 - (c) If the final plat is approved, a statement of such fact shall be transcribed on the original and one reproducible copy of the plat. The tracing and reproducible copy shall be returned to the applicant. The applicant shall keep the original, record the reproducible copy with the register of deeds office of Craven County in a manner acceptable to that office, and provide one reproducible copy and seven copies (complete with all endorsements) to be distributed to city departments and placed in the city's permanent files.
 - (d) If the final plat is disapproved by the planning and zoning board, the applicant shall be furnished with a written statement of the reasons for the disapproval within 14 calendar days of the date of disapproval.
 - (e) Approval of a final plat is contingent upon the plat being recorded within one year after the approval certificate is signed by the mayor.
 - (f) Failure on the part of the planning and zoning board to act within 60 days after a submission of the completed final plat shall be deemed an approval.

(Ord. No. 2013-227, § 2, 8-27-13; Ord. No. 16-047, § 36, 9-13-16)

Page

: 1 of 1

10/09/2018 16:01:46

Order Number :

15495731

PO Number

Customer

89029 CITY OF NEW BERN

Contact **ACCOUNTS PAYABLE** Address1

Address2

PO BOX 1129

City St Zip Phone

NEW BERN NC 28563

(252) 639-2717 (252) 636-4108 Fax

Printed By **Entered By** Sharon Williams Sharon Williams

Keywords Notes Zones

DEVELOPMENT AGREEMENT 10/9/18 Proof/price to Peggy. ssw

Ad Number

Ad Key

16961387 SW - Sharon Williams

Salesperson **Publication**

New Bern Sun Journal Classifieds

Section **Sub Section** Category

Classifieds 015 Legal Notices 10/12/2018-10/19/2018

Dates Run Days

2 x 2.44, 22 lines Size

Words 204 Ad Rate L1 219.77 Ad Price : 0.00 **Amount Paid Amount Due** : 219.77

NOTICE OF PUBLIC HEARING

TAKE NOTICE that pursuant to NCGS §160A-400.24, the Board of Aldermen of the City of New Bern will conduct a public hearing on October 23, 2018, in the City Hall Courtroom located on the second floor of City Hall, 300 Pollock Street in New Bern, beginning at 6:00 p.m. or as soon thereafter as the matter may be reached, for the purpose of considering a Development Agreement between the City of New Bern and Weyerhaeuser NR Company with respect to property located on NC Highway 43 consisting of approximately 575 acres, and bearing Craven County tax parcel identification numbers 8-209-13001, 8-209-17000, 8-209-17001, 8-209-17002, 8-209-17003, 8-209-17004 and 8-209-1600. The subject property is zoned for mixed-use development, with a combination of zones R-6, C-3, I-1 and A-5F. The development use proposed on the subject property includes single and multi-family homes, retail and office space, a hotel, school, and a walkable village area. A draft copy of the proposed development agreement is available at the office of the City Clerk, 300 Pollock Street in New Bern. All interested parties will be given an opportunity to be heard.

This the 12th day of October, 2018.

BRENDA BLANCO, CITY CLERK

October 12, 19, 2018 (adv)

AGENDA ITEM COVER SHEET

Agenda	Item	Title:
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Discussion regarding capital purchases in the Electric Fund

Date of Meeting 10/23/2018	Ward # if applicable N/A
Department Finance	Person Submitting Item: JR Sabatelli, CPA, Director of Finance
Call for Public Hearing ☐ Yes ✔ No	Date of Public Hearing
Explanation of Item:	
Discuss redirecting Electric Fund cap new bucket truck to a skid steer and r	ital budgeted funds in the FY19 Adopted Budget from a mini excavator.
Actions Needed by Board: Discussion and consent on redirection	n, of capital funds.
Is item time sensitive? ☐ Yes ✓ No	
	at the meeting: res No
Backup Attached:	
Memo from Director of Finance	
Cost of Agenda Item: \$0	
If this item requires an expenditure, certified by the Finance Director :	, has it been budgeted and are funds available and ☐Yes ☐No
Additional notes:	



Office of the Director of Finance

TO: City Manager, Honorable Mayor and Members of the Board of Aldermen

FROM: Joseph R. Sabatelli, CPA - Director of Finance

DATE: October 12, 2018

RE: Discussion regarding redirection of capital budget – Electric Fund

Current

The FY19 adopted budget includes a capital purchase in the Electric Fund – Distribution O&M division for an \$180,000 replacement bucket truck funded through operating revenues. Charlie Bauschard, Director of Utilities, has identified a greater need for a skid steer w/ accessories (\$107,000) for clearing areas heavily vegetated with underbrush and vines and a mini-excavator (\$45,000) for excavating hard to reach sites. We would like to redirect the budgeted funds for the purchase of this equipment with the intent of adding the bucket truck to the FY20 capital request.

The cost of the skid steer and excavator are less than the approved budgeted amount for the bucket truck, therefore, no budget amendment is necessary.

Requested Action

The Board discuss and provide consent on the redirection of capital funds at its October 23, 2018 meeting.

AGENDA ITEM COVER SHEET

Agenda Item Title:

Consider Approving 2019 Holiday Schedule

Date of Meeting October 23, 2018	Ward # if applicable N/A
Department Human Resources	Person Submitting Item: Sonya Hayes
Call for Public Hearing ☐ Yes ✓ No	Date of Public Hearing
Explanation of Item:	•
, , , , , , , , , , , , , , , , , , ,	ale must be approved by the Board of Aldermen each dates the City of New Bern offices will be closed to the blidays.
Actions Needed by Board:	
Approval of 2019 Holiday Schedule.	
Is item time sensitive? ✓ Yes ☐ No	0
Will there be advocates/opponents a	at the meeting?□Yes ☑No
Backup Attached:	
Proposed 2019 Holiday Schedule and Resources.	d Memo from Sonya Hayes, Director of Human
Cost of Agenda Item:	has it been budgeted and are funds available and
certified by the Finance Director :	
Additional notes:	



NORTH CAROLINA 303 First Street, P.O. Box 1129 New Bern, NC 28563 (252) 639-7571 Fax (252) 639-7577

TO: Mayor and Board of Aldermen

FROM: Sonya H. Hayes

Director of Human Resources

DATE: October 23, 2018

SUBJECT: 2019 Holiday Schedule

Enclosed is a proposed 2019 Holiday Schedule for your review and consideration for approval.

Background Information

Each year, in accordance with the Personnel Ordinance, we are required to seek approval from the Board of Aldermen for our Holiday Schedule. This has allowed us to propose a holiday calendar consistent with that of Craven County and the State of North Carolina since they normally observe many of the same holidays.

The State of North Carolina and Craven County will be observing the same holidays in 2019 with the exception of New Year's Day and Independence Day. The State of NC will observe January 1st as New Year's Day. However, Craven County will observe December 31st (floating) and January 1st as New Year's Day. The State of NC will observe July 4th as Independence Day. However, Craven County will observe July 4th as Independence Day and July 5th (floating). In accordance with Craven County policy, the "floating holiday" will be used in conjunction with holidays observed on Tuesday or Thursday.

The State of NC Holiday Schedule reflects the observance of 12 holidays in 2019. The Craven County Holiday Schedule reflects the observance of 14 holidays in 2019.

Recommendation

It has been our practice to submit a proposed holiday schedule that aligns with Craven County's approved schedule. Therefore, we are requesting that the Board of Aldermen approve the proposed 2019 Holiday Schedule consistent with the Schedule approved by Craven County on August 6, 2018.

If you have any questions, please do not hesitate to contact me.

Enclosure

City of New Bern 2019 Holiday Schedule



Monday Tuesday	December 31, 2018 January 1, 2019	New Year's Day (Floating) New Year's Day
Monday	January 21, 2019	Martin Luther King, Jr. Day
Friday	April 19, 2019	Good Friday
Monday	May 27, 2019	Memorial Day
Thursday Friday	July 4, 2019 July 5, 2019	Independence Day Independence Day (Floating)
Monday	September 2, 2019	Labor Day
Monday	November 11, 2019	Veterans Day
Thursday Friday	November 28, 2019 November 29, 2019	Thanksgiving Day Day After Thanksgiving
Tuesday Wednesday Thursday	December 24, 2019 December 25, 2019 December 26, 2019	Christmas Holiday Christmas Holiday Christmas Holiday

Craven County



CRAVEN COUNTY 2019 HOLIDAY SCHEDULE

NEW YEAR'S DAY Monday, December 31, 2018 (Floating) Tuesday, January 1, 2019

MARTIN LUTHER KING, JR. DAY Monday, January 21, 2019

> **GOOD FRIDAY** Friday, April 19, 2019

MEMORIAL DAY Monday, May 27, 2019

INDEPENDENCE DAY Thursday, July 4, 2019 Friday, July 5, 2019 (Floating)

LABOR DAY Monday, September 2, 2019

VETERANS DAY Monday, November 11, 2019

THANKSGIVING Thursday, November 28, 2019 Friday, November 29, 2019

CHRISTMAS Tuesday, December 24, 2019

Wednesday, December 25, 2019 Thursday, December 26, 2019

Approved by the Craven County Board of Commissioners at the August 6, 2018 regularly scheduled meeting.

Amber M. Parker

Human Resources Director



NORTH CAROLINA Office of

State Human Resources

NC OSHR

Holidays

schedules in keeping with operational needs provided the employees are given the same number of holidays as approved by the State Human Resources Commission (/about-oshr/state-hr-commission). Such special holiday schedules must be filed with the State Human Resources. Institutions of higher education and agencies requiring a 24-hour operation may adopt varying holiday Note: These schedules shall be used by all state agencies operating under the policies, rules, and regulations of the Office of Office of State Human Resources.

observances rather than substitute weekdays when the observance occurs on Saturday or Sunday. This would be in keeping with It is recognized that some agencies may need to adopt an additional holiday schedule applicable to their employees working **on assigned shifts** to maintain a 24-hour operation; this schedule would designate as holidays the specific dates of the legal the purpose of the holiday premium pay policy. Click here to read the state's Holiday Policy (/policies-forms/leave/holidays)

2019 Holiday Schedule

		promote the second seco
Holiday	Observance Date	Day of Week
New Year's Day	January 1, 2019	Tuesday
Martin Luther King, Jr. Birthday	January 21, 2019	Monday
Good Friday	April 19, 2019	Friday
Memorial Day	May 27, 2019	Monday
Independence Day	July 4, 2019	Thursday
Labor Day	September 2, 2019	Monday
Veterans Day	November 11, 2019	Monday
Thanksgiving	November 28 & 29, 2019	Thursday & Friday
Christmas	December 24, 25 & 26, 2019	Tuesday, Wednesday & Thursday

AGENDA ITEM COVER SHEET

Consider Approving 2019 Board of Aldermen Meeting Roster

Agenda Item Title:

Date of Meeting 10/23/18	Ward # if applicable N/A
Department City Clerk	Person Submitting Item: Brenda Blanco
Call for Public Hearing ☐ Yes ✓ No	Date of Public Hearing
2nd and 4th Tuesdays of each month,	nual meeting roster. Regular meetings are held on the , and two budget work sessions are historically rd usually selects a Saturday for an annual retreat.
Actions Needed by Board: Consider approving the 2019 meeting	roster
Is item time sensitive? Yes V	o
Will there be advocates/opponents a	at the meeting? Yes INO
Backup Attached: 2019 Board of Aldermen Meeting Ros	ster
Cost of Agenda Item: N/A	, has it been budgeted and are funds available and
certified by the Finance Director :	
Additional notes:	

2019 CITY OF NEW BERN BOARD OF ALDERMEN MEETINGS

Meetings begin at 6 p.m. unless otherwise noticed

SCHEDULED BOARD MEETINGS

SCHEDULED WORK SESSIONS

*April 30, 2019

*May 1, 2019

January 8, 2019 January 22, 2019

February 12, 2019 February 26, 2019

March 12, 2019 March 26, 2019

April 9, 2019 *April 23, 2019

May 14, 2019 May 28, 2019

June 11, 2019 June 25, 2019

July 9, 2019 July 23, 2019

August 13, 2019 August 27, 2019

September 10, 2019 September 24, 2019

October 8, 2019 October 22, 2019

November 12, 2019 November 26, 2019

December 10, 2019

*FY2019-20 Budget:

April 23, 2019: April 30 & May 1, 2019: City Manager's overview and presentation of budget Budget workshops

Aldermen

Sabrina Bengel Jameesha S. Harris Robert V. Aster Johnnie Ray Kinsey Barbara J. Best Jeffrey T. Odham



300 Pollock Street, P.O. Box 1129 New Bern, NC 28563-1129 (252) 636-4000

Dana E. Outlaw Mayor

Mark A. Stephens City Manager

From: Kristen W. Culler, Assistant City Manager KW Culler & [15(18) To: New Bern Roard of Alders

New Bern Board of Aldermen

Subj: Resignation from Allies for Cherry Point's Tomorrow Board of Directors

I hereby resign as the New Bern Board of Aldermen's appointee on the subject board as of August 31, 2018.

Aldermen

Sabrina Bengel Jameesha Harris Robert V. Aster Johnnie Ray Kinsey Barbara J. Best Jeffrey T. Odham



300 Pollock Street, P.O. Box 1129 New Bern, NC 28563-1129 (252) 636-4000 Dana E. Outlaw Mayor

Mark A. Stephens City Manager

Memorandum

TO: Alderman Barbara Best

FROM: Brenda Blanco, City Clerk

DATE: October 18, 2018

SUBJECT: Appointment to Board of Adjustment

Kenneth Brown's appointment on the Board of Adjustment expired June 30, 2018. However, because of ongoing matters being discussed by the Board of Adjustment which required familiarity and knowledge, a new appointment was not desirous at that time. Those matters have now concluded.

Mr. Brown has served two consecutive terms and is not eligible for reappointment at this time. You are asked to make an appointment to fill this seat. Please feel free to contact Brad Sceviour, Planner II, to discuss citizen(s) who have expressed an interest in serving on this Board.

Thank you.

/beb

Aldermen

Sabrina Bengel Jameesha Harris Robert V. Aster Johnnie Ray Kinsey Barbara J. Best Jeffrey T. Odham



300 Pollock Street, P.O. Box 1129 New Bern, NC 28563-1129 (252) 636-4000 Dana E. Outlaw Mayor

Mark A. Stephens City Manager

Memorandum

TO: Alderman Johnnie Ray Kinsey

FROM: Brenda Blanco, City Clerk

DATE: October 18, 2018

SUBJECT: Appointment to Board of Adjustment

Lois Jamison appointment as an alternate on the Board of Adjustment expired June 30, 2018. However, because of ongoing matters being discussed by the Board of Adjustment which required familiarity and knowledge, a new appointment was not desirous at that time. Those matters have now concluded.

Ms. Jamison has served two consecutive terms and is not eligible for reappointment at this time. You are asked to make an appointment to fill this seat. Please feel free to contact Brad Sceviour, Planner II, to discuss citizen(s) who have expressed an interest in serving on this Board.

Thank you.

/beb