### CITY OF NEW BERN BOARD OF ALDERMEN MEETING APRIL 09, 2019 – 6:00 P.M. CITY HALL COURTROOM 300 POLLOCK STREET

- 1. Meeting opened by Mayor Dana E. Outlaw. Prayer Coordinated by Alderwoman Harris. Pledge of Allegiance.
- 2. Roll Call.
- 3. Request and Petition of Citizens.

### Consent Agenda

- 4. Consider Adopting a Resolution to Close the 200 Block of Change Street for the Historic District Resident's Association's Spring Social.
- 5. Consider Adopting a Resolution to Close the 600 Block of South Front Street for Tryon Palace Event.
- 6. Consider Approving a Proclamation for Boys & Girls Club Week.
- 7. Consider Approving a Proclamation for Earth Day.
- 8. Approve Minutes.

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- 9. Presentation of Reliable Public Power Award.
- 10. Presentation on Downtown Parking.
- 11. Presentation on a Possible Year-Round Calendar at J.T. Barber Elementary School.
- 12. Conduct a Public Hearing on the Rezoning of 1203 Simmons Street from R-10 Residential District to C-5 Office & Institutional District; and
  - a) Consider Adopting a Statement of Zoning Consistency; and
  - b) Consider Adopting an Ordinance Rezoning 1203 Simmons Street.
- 13. Conduct a Public Hearing to Rezone 703 Carolina Avenue from R-8/R-10 Residential District to C-3 Commercial District; and
  - a) Consider Adopting a Statement of Zoning Consistency; and
  - b) Consider Adopting an Ordinance Rezoning 703 Carolina Avenue.
- Conduct a Public Hearing and Consider Adopting an Ordinance to Annex Tax Parcel IDs 8-209-24000, 8-209-24001 and a Portion of 8-209-13001 Owned by Weyerhaeuser NR Company.

- 15. Consider Adopting a Resolution Approving the Execution of a General Warranty Deed for 814 West Street Between Habitat for Humanity of Craven County and Shenatta LaVerne Powell.
- 16. Consider Adopting a Resolution Approving a Water and Sewer Use Agreement for Property on Highway 55 West.
- 17. Consider Accepting a Petition to Annex Property at 846 Highway 55 West and Adopt a Resolution to Call for a Public Hearing on the Annexation.
- 18. Appointment(s).
- 19. Attorney's Report.
- 20. City Manager's Report.
- 21. New Business.
- 22. Closed Session.
- 23. Adjourn.

#### 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 A. Stephens, City Manager

Date: April 4, 2019

Re: April 9, 2019 Agenda Explanations

1. Meeting opened by Mayor Dana E. Outlaw. Prayer Coordinated by Alderwoman Harris. Pledge of Allegiance.

2. Roll Call.

3. Request and Petition of Citizens.

This section of the Agenda is titled Requests and Petitions of Citizens. This is an opportunity for public comment, and we thank you for coming to the Board of Aldermen meeting tonight to share your views. We value all citizen input.

Speaker comments are limited to a maximum of 4 minutes during the public comment period. At the conclusion of 4 minutes, each speaker shall leave the podium. Comments will be directed to the full board, not to an individual board member or staff member. Although the board is interested in hearing your comments, speakers should not expect any comments, action or deliberation from the board on any issue raised during the public comment period.

In the board's discretion, it may refer issues to the appropriate city officials or staff for further investigation. If an organized group is present to speak on a common issue, please designate one person to present the group's comment, which shall be limited to a maximum of 4 minutes.

### **Consent Agenda**

## 4. Consider Adopting a Resolution to Close the 200 Block of Change Street for the Historic District Resident's Association's Spring Social.

(Ward 1) Kelly Sorenson, Social Committee Chair for the Historic District Resident's Association ("HDRA"), has requested the 200 block of Change Street be closed to vehicular traffic on April 27, 2019 from 2 p.m. until 4 p.m. for HDRA's spring social. A memo from Foster Hughes, Director of Parks and Recreation, is attached.

## 5. Consider Adopting a Resolution to Close the 600 Block of South Front Street for Tryon Palace Event.

(Ward 1) Rebekah Hornek, Cultural Arts Coordinator for Tryon Palace, has requested the 600 block of South Front Street be closed to vehicular traffic on April 26, 2019 from 12 noon until 11 p.m. and on April 27, 2019 from 8 a.m. until 1 p.m. This is to facilitate the Palace's social event "An Evening with Diana Gabaldon". A memo from Foster Hughes is attached.

### 6. Consider Approving a Proclamation for Boys & Girls Club Week.

Taylor Shannon, Special Events & Marketing Coordinator for the Boys & Girls Club, has requested a proclamation observing April 8-12, 2019 as Boys & Girls Club Week.

### 7. Consider Approving a Proclamation for Earth Day.

Foster Hughes has requested a proclamation observing Earth Day on April 22, 2019. New Bern Parks and Recreation is collaborating with New Bern Now and other organizations to offer an Earth Day Celebration on April 20, 2019 from 1 p.m. until 4 p.m. at the "Talbot Lot" on the corner of Craven and South Front Streets. A memo from Foster Hughes is attached.

### 8. Approve Minutes.

Minutes from the March 26, 2019 regular meeting are attached for review and approval.

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### 9. Presentation of Reliable Public Power Award.

Charles Bauschard, Director of Public Utilities, will make a brief presentation on the Electric Department's Diamond designation as a Reliable Public Power Provider ("RP3") and will present the award.

### 10. Presentation on Downtown Parking.

Bill Faulkenbury, on behalf of the Downtown Parking Committee formed by Swiss Bear, and Danny Batten, on behalf of the Downtown Business Council, will provide an update on downtown parking.

## 11. Presentation on a Possible Year-Round Calendar at J.T. Barber Elementary School.

(Ward 5) Erica Phillips, Principal of J.T. Barber School, will share information about a possible year-round school calendar for J.T. Barber.

- 12. Conduct a Public Hearing on the Rezoning of 1203 Simmons Street from R-10 Residential District to C-5 Office & Institutional District; and
  - a) Consider Adopting a Statement of Zoning Consistency; and
  - b) Consider Adopting an Ordinance Rezoning 1203 Simmons Street.

(Ward 2) Tarheel Building Systems, on behalf of owner Michael Rice, requested to rezone an approximate 0.22-acre tract of land from R-10 Residential District to C-5 Office & Institutional District. The property is located at 1203 Simmons Street and is further identified as Tax Parcel #8-034-059. The Planning & Zoning Board unanimously recommended approval of the request at its March 5, 2019 meeting. This public hearing was duly noticed as required. After conducting the public hearing, the Board is asked to consider adopting the ordinance to rezone the property. A memo from Morgan Potts, City Planner, is attached.

- 13. Conduct a Public Hearing to Rezone 703 Carolina Avenue from R-8/R-10 Residential District to C-3 Commercial District; and
  - a) Consider Adopting a Statement of Zoning Consistency; and
  - b) Consider Adopting an Ordinance Rezoning 703 Carolina Avenue.

(Ward 2) Mosaic Development Group requested to rezone approximately 30.81 acres located at 703 Carolina Avenue from R-8/R-10 Residential District to C-3 Commercial District. The property is further described as Tax Parcel 8-044-011. The Planning & Zoning Board approved the request by a vote of 5-2 at its March 19, 2019 meeting. This public hearing was duly noticed as required. After conducting the public hearing, the Board is asked to consider adopting the ordinance to rezone the property. A memo from Mrs. Potts is attached.

# 14. Conduct a Public Hearing and Consider Adopting an Ordinance to Annex Tax Parcel IDs 8-209-24000, 8-209-24001 and a Portion of 8-209-13001 Owned by Weyerhaeuser NR Company.

By request dated March 13, 2019, Weyerhaeuser NR Company sought annexation of approximately 8.13 acres, which includes Lot 4 of Craven 30 West, West New Bern Parkway and Downey Drive, and a portion of Tax Parcel ID #8-209-13001 lying between West New Bern Parkway/Downey Drive and NC Highway 43. The Board of Aldermen accepted the petition at its March 26, 2019. Subsequently, this

public hearing was duly noticed as required. After conducting the public hearing, the Board is asked to consider adopting the ordinance to annex the property. A memo from Mrs. Potts is attached.

# 15. Consider Adopting a Resolution Approving the Execution of a General Warranty Deed for 814 West Street Between Habitat for Humanity of Craven County and Shenatta LaVerne Powell.

(Ward 1) At its March 8, 2016 meeting, the Board of Aldermen approved a Deed and a Transfer and Reversion Agreement with Habitat for Humanity for the property located at 814 West Street. A home has since been constructed on the property, and Habitat is now ready to convey the property to Shenatta LaVerne Powell. To facilitate this conveyance, the City's signature is needed on a general warranty deed to evidence that Habitat has complied with the terms and conditions of the Transfer and Reversion Agreement and that the reversion provisions of the Agreement are no longer applicable. A memo from Scott Davis, City Attorney, is attached.

## 16. Consider Adopting a Resolution Approving a Water and Sewer Use Agreement for Property on Highway 55 West.

The owners of 846 NC Highway 55 West are proposing to develop a single-family residence. The property is outside of the New Bern municipal limits. The proposed development will have a calculated average daily water and sewer demand of 360 gallons per day. To facilitate the proposed development, a standard water and sewer service connection can be provided to the property without the need for a main extension. Section 74-74 of the ordinance provides that a written water and sewer use agreement be entered into to outline the roles and responsibilities of both parties in establishing service for the proposed project. A memo from Jordan Hughes, City Engineer, is attached.

## 17. Consider Accepting a Petition to Annex Property at 846 Highway 55 West and Adopt a Resolution to Call for a Public Hearing on the Annexation.

Othella Clarence Best and Shelia Best have petitioned for their property at 846 NC Highway 55 West to be annexed into the city limits. The property is further identified as Tax Parcel ID 8-222-169. The Board is asked to consider accepting the petition and calling for a public hearing to be held on April 23, 2019 regarding the annexation. A memo from Morgan Potts, City Planner, is attached.

### 18. Appointment(s).

(a) Carol Williams' second term on the Planning and Zoning Board has expired, and she is ineligible for reappointment. Alderwoman Harris is requested to make a new appointment to fill this vacancy. The new appointee shall serve a three-year term.

- (b) Rose Williams' appointment on the New Bern Appearance Commission expired February 8, 2019. She is eligible for reappointment, or a new appointment can be made to allow others an opportunity to serve. Mayor Outlaw is asked to make an appointment to serve a three-year term. The ordinance provides appointees shall be residents of the City's planning and zoning jurisdiction and shall, when possible, have had special training or experience in a design field such as architecture, landscape design, horticulture, city planning, or a closely-related field.
- (c) Mattie Tatum's appointment on the New Bern Appearance Commission will expire February 22, 2019. She is eligible for reappointment, or a new appointment can be made to allow others an opportunity to serve. Alderman Bengel is asked to make an appointment to serve a three-year term. The ordinance provides appointees shall be residents of the City's planning and zoning jurisdiction and shall, when possible, have had special training or experience in a design field such as architecture, landscape design, horticulture, city planning, or a closely-related field.
- (d) Anne Schout resigned from her seat as an alternate on the Board of Adjustment effective March 1, 2019. Alderman Kinsey is asked to make an appointment to fill the remainder of Mrs. Schout's term, which will expire on November 12, 2021.
- (e) Nancy Mansfield has resigned from the Friends of the Firemen's Museum Board. Her term would have expired on April 22, 2019. It is requested Alderman Bengel make an appointment to be effective on or after April 22<sup>nd</sup> to fill Mrs. Mansfield's seat.
- (f) Mike Markham's seat on the Friends of the Firemen's Museum Board will expire on April 22, 2019. Mr. Markham has expressed interest in being reappointed. Alderwoman Harris is requested to reappoint him or to make a new appointment to serve a three-year term.
- (g) Dave Finn's seat on the Friends of the Firemen's Museum Board will expire on April 22, 2019. Mr. Finn has expressed interest in being reappointed. Alderman Aster is requested to reappoint him or to make a new appointment to serve a three-year term.
- 19. Attorney's Report.
- 20. City Manager's Report.
- 21. New Business.
- 22. Closed Session.
- 23. Adjourn.

### Agenda Item Title:

|   | hicle traffic from 2 | the 200 block of Change Street between East Front and 2:00 p.m. until 4:00 p.m. Saturday, April 27, 2019 for Historic Spring Social. |
|---|----------------------|--|
| Date of Meeting $\frac{4/4}{2}$                               | 9/2019               | Ward # if applicable <u>Ward 1</u><br>If multiple, list:   |
| Department Parks  | & Recreation         | Person Submitting Item: Mr. Foster Hughes  |
| Call for Public Hear  | ing <u>No</u>        | Date of Public Hearing   |
| Explanation of Item   | n:                   |  |
| Kelly Sorenson, Socia   | al Committee Cha     | air has requested to close a specific street to vehicle traffic<br>April 27, 2019 from 2:00 p.m. until 4:00 p.m.                     |
| Actions Needed by   | Board:               |  |
| Adopt the Resolution  | •                    |  |
| Is item time sensitive Will there be advoced Backup Attached: | _                    | s at the meeting? <u>Select</u>  |
| Resolution  |                      |  |
| Memos   |                      |  |
| Event application<br>Petition<br>Map                          |                      |  |
| Cost of Agenda Ite  | m; N/A               |  |
|   | s an expenditur      | re, has it been budgeted and are funds available and Select  |
| Additional notes:   |                      |  |
|   |                      |  |



#### Aldermen

Sabrina Bengel Iameesha Harris **Bobby Aster** Johnnie Ray Kinsey Barbara J. Best Jeffrey T. Odham

# Family, fitness and fun come together here.

Foster Hughes, CPRE Director of Parks & Recreation



Dana E. Outlaw Mayor

Mark A. Stephens City Manager

Mayor and Board of Aldermen Memo To:

Foster Hughes, CPRE, Director of Parks & Recreation, From:

Adopt the Resolution to close to vehicular traffic the 200 block of Change Street Re:

on April 27, 2019 from 2:00 p.m. until 4:00 p.m. for the Historic District Resident

Association (HDRA) Spring Social.

### **Background Information:**

Kelly Sorenson, Social Committee Chair has requested to close to vehicular traffic the 200 block of Change Street between East Front and Craven Streets on Saturday, April 27, 2019 from 2:00 p.m. until 4:00 p.m. for HDRA Spring Social.

### **Recommendation:**

The Parks and Recreation Department recommends approval and requests the Board adopt a Resolution approving the request.

If you have any questions concerning this matter, please call.

### RESOLUTION

THAT WHEREAS, the Historic District Resident Association ("HDRA") has requested the 200 block of Change Street be closed to vehicular traffic on April 27, 2019 from 2:00 p.m. until 4:00 p.m. for a spring social; and

WHEREAS, the Director of Parks and Recreation of the City of New Bern recommends the street be closed as requested.

## NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF ALDERMEN OF THE CITY OF NEW BERN:

That the 200 block of Change Street be closed to vehicular traffic from 2:00 p.m. until 4:00 p.m. on Saturday, April 27, 2019, for HDRA's spring social.

ADOPTED THIS 9th DAY OF APRIL 2019.

|                              | DANA E. OUTLAW, MAYOR |  |
|------------------------------|-----------------------|--|
|                              |                       |  |
| BRENDA E. BLANCO, CITY CLERK | _                     |  |

## Pre-Event or Permit Questionnaire





Thank you for choosing New Bern Parks & Recreation for your event or permit. The purpose of this form is to obtain information <u>before</u> the application or permit process is requested. All requests are to be returned to Parks & Recreation Administration; requests include, but not limited to parks, open spaces, ball fields, streets, festivals, parades, road races and rallies.

If requesting the use of a recreation center, complete and return to the facility of choice (contact facility at bottom of page); approval of application is at the discretion of the Center Supervisor.

Please note: When requesting the use of City facilities for event purposes, allow for a minimum of 60 days prior to the requested event date for consideration; for permits, allow for a minimum of 30 days prior to the requested permit date for consideration. Completing a pre-event or permit questionnaire does not quarantee approval

| permit questionnaire does not guarantee approval.  |
|--|
| Name: Kelly Sovenson Today's Date: March 25 2019   |
| Address: 41 Queen Street city: New Bern  |
| State: NC zip: 26560 Telephone: 478-973-8941 Ceff:   |
| E-mail address: <u>Kele Sovenson (agmail, Com</u>  |
| Facility Requested (check one):Stanley White Rec. CenterWest New Bern Rec. Center  |
| George St. Park Spray Ground New Bern Aquatics CenterAthletic FieldCity Park   |
| Other (example: Open Space/Ball Field/Street): Change Street   |
| Date of Event: Set April 27 Hours: From: 2pm To: 4pm   |
| Purpose of Event: HDRA (Historia Bistrict Resident Association) Spring Social  |
| Is this an ongoing event?YesNo (if yes, please explain, include dates & times:   |
| Are you requesting closure and/or use of State-owned streets/bridges in the City limits of New Bern?   |
| *If yes, a 90-day notice is required by DOT regulation to gain permission to use/close State roads/bridges. A Special Event Form must be completed and returned to NCDOT. If you require this form, please let our office know and we will supply one for you. Once the NCDOT Special Events Form is complete, attached the following: a map of the route: along with a certificate of insurance naming the City of New Bern and NCDOT as an additional insured. |
| Is event for fundraising purposes?YesNo (If yes, please provide non-profit or not-for-profit organization name and tax I.D.  |
| Number) Organization Name: #DRA ID #:  |
| Projected Attendance: 50 Will you be charging admission?YesNo (If yes, state how much \$)  |
| Note: Security may be required at the organizers expense, given the attendance and projected nature of the event.  |
| Recreation Center: please check the area(s) you are requesting   |
| Meeting RoomKitchenMulti-purpose RoomGame RoomFitness RoomGymnasium  |
| Park Name: Please check the area(s) you are requesting.  |
| ShelterOpen SpaceStageGazeboOther:   |
| Electricity?YesNo (Check one) Water?YesNo (Check one)  |
| Social Committee Chair 3-25-19   |
| Signature Title (if applicable) (Date)   |



Please sign below that you are aware of an event on Saturday, April 27, from 2-4 pm, that will close the street. Music, food, and games will be part of the event.

| <u> </u> | Name   | Address    |           |             |
|----------|--|------------|-----------|-------------|
| 206      | i a mara de  |            | 515 Vugin | ia H. Cause |
| 209      | Owner displaced - vacant                                     |            | O         |             |
| 212      | Peros Broadway - Man   |            |           |             |
| 214      | Leggs Broadway - Mar   | H          |           |             |
|          | dicalacid - 1/1/1824   |            |           |             |
| 217      | Bas w. Janeila office &                                      | <b>€</b> ~ |           |             |
| 218 0    | owner displaced - vacant<br>owner his placed - vacant        |            |           |             |
| 220 (    | owner Ms places vicasing but                                 | Area .     |           |             |
| 222      | Kan Whotmore agrand but                                      | •          | <b>.</b>  | BOUNEPS     |
| 226      | OWNER AIS PLACED - NACOUNT                                   |            | NAMICY    | BOWERS      |
| 229 B    | Sabara Thomas  |            |           |             |
| 231      | Sorbora Thomas Owner displaced - vacuat                      |            |           |             |
|          |  |            |           |             |
| E. Fro   | at Street - Jenny Caract                                     | RAP.       |           |             |
|          | At Street - Jenny Carder  [Diverays]  [Diverays]  [Diverays] |            | <u> </u>  |             |
|          | Victoria Price Victoria                                      | hie        |           |             |
|          | you St.  | -          |           |             |

### **Agenda Item Title:**

Consider Adopting Resolution to close to vehicular traffic the 600 block of South Front Street at Palace Point Commons, and the portion of South Front Street behind Tryon Palace South Lawn from 12:00 p.m. until 11:00 p.m. on Friday, April 26, 2019, and Saturday, April 27, 2019 from 8:00 a.m. until 1:00 p.m. for Tryon Palace event, An Evening with Diana Gabaldon.

| Date of Meetin  | <b>g</b> 4/9/2019                                      | Ward # if applicable <u>Ward 1</u> If multiple, list:  |
|---|--|--|
| Department <u>F</u>   | Parks & Recreation                                     | Person Submitting Item: Mr. Foster Hughes  |
| Call for Public   | Hearing <u>No</u>                                      | Date of Public Hearing   |
| Explanation of  | Item:  |  |
| Rebekah Hornel<br>Street at Palace                                    | k, Cultural Arts Coordina<br>Point Commons and the     | ator has requested to close the 600 block of South Front<br>be portion of South Front Street behind Tryon Palace South<br>Evening with Diana Gabaldon. |
| Actions Neede   | d by Board:  |  |
| Adopt the Resol   | lution.  |  |
| Will there be a  Backup Attach Resolution Memos Event application Map | ndvocates/opponents<br>ned:                            | at the meeting? Select   |
|   | quires an expenditure<br>e Finance Director : <u>S</u> | e, has it been budgeted and are funds available and select   |
|   |  |  |



#### Aldermen

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

Re:

## Foster Hughes, CPRE

Director of Parks & Recreation

Dana E. Outlaw Mayor

Mark A. Stephens City Manager



Memo To: Mayor and Board of Aldermen

From: Foster Hughes, CPRE Director of Parks and Recreation

Adopt the Resolution to close the 600 block of South Front Street at Palace Point Commons and the portion of South Front Street behind Tryon Palace South Lawn be closed to vehicle from 12:00 p.m. until 11:00 p.m. on Friday, April 26, 2019, and Saturday, April 27, 2019 from 8:00 a.m. until 1:00 p.m. for Tryon

Palace event, An Evening with Diana Gabaldon.

### **Background Information:**

Rebekah Hornek, Cultural Arts Coordinator has requested to close the 600 block of South Front Street at Palace Point Commons and the portion of South Front Street behind Tryon Palace South Lawn be closed to vehicle traffic from 12:00 p.m. until 11:00 p.m. on Friday, April 26, 2019 and Saturday, April 27, 2019 from 8:00 a.m. until 1:00 p.m. for Tryon Palace event, An Evening with Diana Gabaldon. Palace Point Commons will be used for guest to line-up and parking vehicles and/or equipment for vendors.

#### Recommendation:

The Parks and Recreation Department recommends approval and request the Board adopt a Resolution approving the request.

If you have any questions concerning this matter, please call

### RESOLUTION

THAT WHEREAS, Tryon Palace Commission has scheduled a social event, "An Evening with Diana Gabaldon" and has requested the 600 block of South Front Street be closed to vehicular traffic from 12:00 noon until 11:00 p.m. on Friday, April 26, 2019, and Saturday, April 27, 2019 from 8:00 a.m. until 1:00 p.m.

WHEREAS, the Director of Parks and Recreation of the City of New Bern recommends the street be closed as requested.

## NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF ALDERMEN OF THE CITY OF NEW BERN:

That the 600 block of South Front be closed to vehicular traffic from 12:00 noon until 11:00 pm on Friday, April 26, 2019 and Saturday, April 27, 2019 from 8:00 a.m. until 1:00 p.m. for the social event "An Evening with Diana Gabaldon".

ADOPTED THIS 9th DAY OF APRIL 2019.

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

april 26-27

## New Bern Parks, Recreation, & Cultural Resources Pre-Event or Permit Questionnaire



Thank you for choosing New Bern Parks & Recreation for your event or permit. The purpose of this form is to obtain information <u>before</u> the application or permit process is requested. All requests are to be returned to Parks & Recreation Administration; requests include, but not limited to parks, open spaces, ball fields, streets, festivals, parades, road races and rallies.

"An Evening w Drana Gabaldon"

If requesting the use of a recreation center, complete and return to the facility of choice (contact facility at bottom of page); approval of application is at the discretion of the Center Supervisor.

Please note: When requesting the use of City facilities for event purposes, allow for a minimum of 60 days prior to the requested event date for consideration; for permits, allow for a minimum of 30 days prior to the requested permit date for consideration. Completing a pre-event or permit questionnaire does not guarantee approval.

| belling date for continued and combined a big example of belling date and and see that a strict and  |
|--|
| Name: Robekah Harnek Today's Date: 3/14/19   |
| Address: 529 S. Front Street city: New Bern  |
| State: NC zip: 28512 Telephone: 1139-3545 Cell: 115-772-4337   |
| E-mail address: rebekeb. hornek encder. gov  |
| Facility Requested (check one):Stanley White Rec. CenterWest New Bern Rec. Center  |
| George St. Park Spray Ground New Bern Aquatics CenterAthletic FieldCity Park   |
| Other (example: Open Space/Ball Field/Street): MALL POINT (MMON)  Date of Event: 4/21 - 4/27 Hours: From: To:  |
| Purpose of Event: Social Went hosked by Trypo Palace on history Canaunas   |
| Is this an ongoing event? Yes No (if yes, please explain, include dates & times: Speaker on W21  |
|  |
| Are you requesting closure and/or use of State-owned streets/bridges in the City limits of New Bern?N  |
| "If yes, a 90-day notice is required by DOT regulation to gain permission to use/close State roads/bridges. A Special Event Form must be completed and returned to NCDOT. If you require this form, please let our office know and we will supply one for you. Once the NCDOT Special Events Form is complete, attached the following: a map of the route: along with a certificate of insurance naming the City of New Bern and NCDOT as an additional insured. |
| Is event for fundraising purposes?Yes No (if yes, please provide non-profit or not-for-profit organization name and tax I.D.   |
| Number) Organization Name:ID #: \$300~450  |
| Projected Attendance: Will you be charging admission? Ves No (If yes, state how much \$)   |
| Note: Security may be required at the organizers expense, given the attendance and projected nature of the event.  |
| Recreation Center: please check the area(s) you are requesting   |
| Meeting RoomKitchenMulti-purpose RoomGame RoomFitness RoomGymnasium  |
| Park Name: Please check the area(s) you are requesting.  |
| ShelterOpen SpaceStageGazeboOther:   |
| Electricity?YesNo (Check one) Water?YesNo (Check one)  |
| Signature Title (if applicable) (Date)   |

## This form must be submitted at least 60 days prior to event before approval can be determined NEW BERN PARKS, RECREATION & Cultural Services FACILITY AND EVENT APPLICATION

## FACILITY AND EVENT APPLICATION (Please complete this Event Package in its entirety)

#### Date of Reservation & AREA REQUESTED: 4/26/19 - Palace Point Commons Date of Application: \_ 03/14/2019 Time: 12 PM - 11 PM Name of Organization: Tryon Palace Email: rebekah.hornek@ncdcr.gov Contact Person(s): Rebekah Hornek Address: 529 South Front Street City: New Bern St: NC Zip: 28560 Work Number: 252-639-3545 Cell Number: 615-772-4337 Home Number: 615-772-4337 DESCRIBE IN DETAIL PURPOSE OF EVENT: "An Evening with Diana Gabaldon" is taking place on the South Lawn of Tryon Palace from 5 - 9 PM. 1,000 guests plus vendors. We anticipate guests will line up along Palace Point Commons, and vendors/service providers (with very large vehicles and equipment) will need the ability to park on Palace Point Commons, as well. The event is a social event planned by the Tryon Palace Commission. Additional Information: Do you have general liability/property damage insurance? State Yes \_\_\_\_\_No Upon submission of your application, a General liability/property damage insurance certificate, naming the City of New Bern as an additional insured, is required unless otherwise agreed to in writing. The insurance policy must be secured and a copy of the certificate must be presented before the application is approved. Are you a non-profit/not-for profit organization, or representing one? \_\_\_Yes \_X\_\_No if yes, include your federal ID number and the name of the organization (if different than above) \_\_ Are you requesting City Services? \_\_\_\_\_ Yes \_\_\_\_ No \*If yes, see attached Request For City Services Form; you may also view the City Services Fee Schedule at: www.newbern-nc.org go to "quick menu", then Fee Schedule. Number of persons expected to exceed 100?: X Yes \_\_\_\_\_No \*if yes, how many expected? 1,000+ Admission fee? X Yes No\* if yes, how much? \$300-\$450 (see rule #5) Attach a copy of the event site plan. Include on the map, the stage, other entertainment, activities, food and beverage booths, restrooms and port-a-johns, ticket booths, sponsor booths, fencing, etc. (REQUIRED) Will there be vendors? \_\_\_\_\_Yes \_\_\_\_\_No \*if yes see attached vendor requirements Will there be music? X Yes No What form? (Live or recorded) Live Are you requesting permission to have/serve alcohol beverages? \_\_\_\_\_\_Yes X\_\_\_No (\*if yes, see attached requirements for alcoholic beverages use.) Yes X \*\*Will there be amusement devices? No \* If yes, these devices require proof of general liability insurance before the application is approved, naming the City of New Bern as an additional insured; also, provide name of company and type of amusement rides (bounce house, mechanical rides, Etc. Facility Requested (check one): Stanley White Recreation Center \_\_\_\_\_\_West New Bern Recreation Center \_\_\_\_\_CRC \_ Other Please name: No facility required Indoor facility area requested (check all that apply) Meeting Room Multi-Purpose Room Other: Game Room Fitness Area Gym **SUMMARY OF ANTICIPATED USAGE:** Day(s) of the Week Takedown/ Set-up/ Start Time **Beginning Date Ending Date** End Time Total Hours Facility/Space (Monday-Sunday) 12 PM (Fri) & 8 AM (Sat) 11 PM (Fri) & 1 PM (Sat) 14 4/26 4/27 Palace Point Commons Friday, Saturday

For facility directory and amenities, please go to www.newbern-nc.org or call: 252-639-2901

REV: 5/5/16/16

Section I:

#### **NEW BERN PARKS AND RECREATION DEPARTMENT**

#### **FACILITY & EVENT RENTAL PROCEDURES**

- 1. If a pre-event application is viewed favorably, an application should be obtained from the New Bern Parks and Recreation, Administrative Office or appropriate recreation facility. Once the application is completed, return to the location where the application was obtained. If applicable, the Event Committee will approve or deny application within ten days of receipt of application.
- 2. a. The use of facility fee must be paid in full, within 10 days after confirmation of reservation from the New Bern Parks and Recreation
  - b. All other fees including but not limited to: vendor, police, utility services etc. are due at least 10 days prior to the event. If all fees are not paid in full within stated timeframe, event will be subject to cancellation. Please go to the City's website for the fee schedule. <a href="https://www.newbern-nc.org">www.newbern-nc.org</a>. Go to the Quick Menu Fee Schedule.
- Please make payment(s) at the appropriate location..... The New Bern Parks and Recreation Department, 1620 National Avenue., New Bern, NC 28560 or mailed to: New Bern Parks and Recreation, P.O. Box 1129, New Bern, NC 28563. Make checks/money orders payable to: City of New Bern.
- 4. Refund Policy:

## New Bern Parks and Recreation Department Facility use Cancellation/Refund Policy

Requests for refunds must be made in writing.

| Cancellation 30 days prior to event            | 100% refund |
|--|-------------|
| Cancellation less than 30 days, but 15 or more |             |
| Cancellation less than 15 days, but 7 or more  |             |
| Cancellation less than 7 days                  |             |

Note: "Same Day" cancellations, due to severe weather systems (storms, hurricanes, high winds, and cold) or facility damage/closure, will be rescheduled on the first available date of the customer's choice, or fee returned in full.

#### Facility Rules and Guidelines (as applicable)

- 1. Alcoholic beverages are not allowed on City property or inside any City facility. Sec. 50-30. For exception, see City Ordinance Sec 66-86.
- The City reserves the right to deny the use of alcoholic beverages at any event and any associated sponsorship relative to alcoholic beverages.
- 3. All signage must be approved through New Bern Parks and Recreation.
- 4. Park hours are 6:00 a.m. to 11:00 p.m.
- 5. User is responsible for any damages incurred during use/abuse of the facility.
- All trash, garbage, bottles, cans, paper, etc. must be disposed of in trash containers provided nearby. <u>User must leave facility clean.</u> Sec. 50-27
- 7. Fees for use of facility must be paid in advance.
- 8. New Bern Parks and Recreation reserves the right to required large groups to obtain extra security personnel.
- 9. City facilities may not be used for buying or selling of goods or services for profit. Sec 50-29
- 10. Any fee charged, including entry fees, must be fully explained.
- 11. Loud music and noise, which can be heard beyond the immediate area of the reserved area is prohibited. This includes radios, CD's, loudspeakers, amplifiers or persons playing musical instruments. Exemptions: parades & public assemblies, and sporting events. Sec. 50-42
- 12. Overnight camping permitted only with written permission from the Director of the Parks and Recreation Department.
- 13. Fire permitted only in grills and fireplaces. Sec. 50-53
- 14. Firearms are strictly prohibited in all City parks. Sec. 50-32
- 15. Parking permitted only in parking areas. Sec. 86-29
- 16. Use of Amusement Devices: The City of New Bern requires a certificate of general liability insurance (with the City listed as an additional insured on the certificate), Company name/address/telephone number, and an itemized list, when using amusement devices on or in City-owned property. This is required before final event, program, activity, or other agreement with the City is approved.
- 17. Owners must keep pets on a leash at all times, and clean up after them. Sec. 6-28 & 6-32
- 18. Moving, defacing, or destroying property in City parks is prohibited. (Signs, picnic tables, trash cans, grills, trees, shrubs, etc.) Sec. 50-26
- 19. Reserving a section of a park does not give you the authority to block thru-traffic or close the park to other visitors. Parks will remain open to other guests. Retain your Proof of Reservation during your function. It is proof that you have reserved a portion of the park.
- 20. Pursuant to 115C-524 of North Carolina General Statues, no liability shall be attached to The City of New Bern Parks and Recreation Department individually or collectively, for any injury to any person or persons resulting from the use of a facility or park. <a href="https://doi.org/10.1036/j.com/">The user may be held liable for injury to persons in attendance and damage to property and agrees to obtain public liability and property damage insurance naming the City of New Bern as the insured for each use.</a>
- 21. The user agrees to have a representative of the sponsoring organization on hand at all times when a facility or park is being used. This representative is responsible for making sure that all Parks and Recreation regulations are followed.
- 22. All fire regulations, including the number of occupants that are allowed in a building, must be followed.
- 23. The user must provide age-appropriate adult supervision at all times.

- 24. Uniformed security officers from the New Bern Police Dept. may be required during your event. The applicant will be responsible for scheduling official security and for taking such measures as needed to protect City property while in their possession. Upon acceptance of this agreement, documentation of an official security agreement must be presented to the Administrative Office of The Parks and Recreation Department no later than ten business days prior to the event.
- 25. Where applicable and prior to use, a member of the organization that is renting a facility will be provided a tour, with a facility supervisor or designee and note pre-event facility condition **on an approved checklist**. After the event, the same people will tour the facility and, (if applicable) a written damage report will be submitted to the renter, outlining the charges due for damage recovery.
- 26. Food/drinks in designated areas only.
- 27. No posters, signs, decorations, etc. may be attached by any means (including tape) to the walls of the facility.
- 28. Curtains in facilities cannot be moved or changed. Banners, decorations, etc. cannot be attached to the curtains with pins, glue or any other way. Nails, pins, tacks, glue etc. may not be used to secure scenery or decoration to floors, walls, etc.
- 29. Only Center personnel will be allowed in mechanical areas and control rooms
- 30. Center supervisor/or designee has discretion to deny or restrict use of rooms, areas, gymnasium or equipment that are deemed to be subject to possible use during rental activity.
- 31. For the use of indoor facilities, maximum of 10 hours per rental per day, including set-up and clean-up.
- 32. No street shoes will be allowed on the gym floor; participants must wear sneakers/athletic shoes.
- 33. Furniture or heavy objects on the gym floor may be used only by permission of the center supervisor.

The information I have provided on this application is true and complete. If this application is approved, I understand that I may be asked to pay a deposit as well as furnish a certificate of general liability insurance naming the City of New Bern as an additional insured. I agree to provide a notarized financial statement of event to the New Bern Parks and Recreation Department if requested to do so. I understand that a Parks and Recreation sponsored activity has precedence over the above schedule, and I will be notified of any conflicts (should any arise) in the adequate time to reschedule my event. I have read all rules and regulations and understand and promise to abide by all set forth.

| L. Rebekah Hornek SIGNATURE | Cultural Arts Coordinator | 03/14/19<br>DATE      |
|-----------------------------|---------------------------|-----------------------|
| SIGNATURE                   | TITLE (IF APPLICABLE      | DATE                  |
|                             | 500 055105 HOE            | OM V                  |
|                             | FOR OFFICE USE            | ONLY                  |
| REQUEST APPROVED:_          | UMattacks                 | DATE:                 |
| FEE:CLE                     | ANING DEPOSIT:S           | STAFFING NEEDED:YESNO |
| STAFF ASSIGNED:             |                           |                       |
| REQUEST DENIED:             |                           | DATE:                 |
| IF DENIED, STATE REASO      | DN:                       |                       |

Please return completed application to:

New Bern Parks & Recreation P.O. Box 1129 1307 Country Club Rd. New Bern, NC 28562 Telephone: 252-639-2901

Fax: 252-636-4138



| Department Head Signature (or designee)   Fire Department   Parks & Recreation (Please check on Tent Permit:   |                  |                        |                  | Name:        | Sponsors         | REF: Name:                                      |
|--|------------------|------------------------|------------------|--------------|------------------|---|
| City Services Request Form  Parks and Recreation: Facility:  |                  |                        |                  | ·            | Event Da         | Event Name                                      |
| Parks and Recreation: Facility: Clean up Services: Other services: Pee: Total Fees  Department Head Signature (or designee) Fire Department: Collection of fees:  Total Fees  Number of tents: Size(s): Other services: Fee: Total Fee  Bepartment Head Signature (or designee):  Police Department: Collection of fees: Police Department: Pee: Total Fees  Police Department: Pee: Total Fees  Department Head Signature (or designee):  Public Works Collection of fees: Pee: Total Fees  Popartment Head Signature (or designee):  Public Works Recreation (Please check one)  Barricade: Fees: Cother services: Fees: Total Fees: Pees: Pees: Total Fees: Pees:  |                  |                        |                  |              | Location of Even | Today's Date:                                   |
| Facility:  |                  |                        | m                | Request For  | City Services    |   |
| Other services: Fee: Total Fees  Department Head Signature (or designee) Fee: Total Fees  Number of tents: Size(s): Fee: Total Fees  Department Head Signature (or designee): Fee: Total Fees  Department Head Signature (or designee): Fee: Total Fees  Other services: Fee: Total Fees  Department Head Signature (or designee): Fee: Total Fees  Water: Fee: Total Fees  Services: Fee: Total Fees  Services: Fee: Total Fees  Department Head Signature (or designee): Fee: Total Fees  Services: Fee: Total Fees  Water: Fee: Total Fees  Services: Fee: Total Fees  Department Head Signature (or designee): Fee: Total Fees  Services: Fee: Total Fees  Services: Fee: Total Fees  Other services: Fee: Total Fees  Other services: Fee: Total Fees  Department Head Signature (or designee): Fee: Total Fees  Other services: Fee: Total Fees  Other services: Fee: Total Fees  Department Head Signature (or designee):   |                  |                        |                  | Fee:         |                  |   |
| Department Head Signature (or designee)  Fire Department: Collection of fees:  Fire Department  Parks & Recreation (Please check on Tent Permit:  Fee:  Total Fee:  Total Fee:  Total Fee:  Public Works Collection of fees:  Public Works Pee:  Fee:  Total Fee:  Total Fee:  Public Works Collection of fees:  Public Works Pee:  Total Fee:  Total Fee:  Total Fee:  Public Works Collection of fees:  Public Works Pee:  Total Fee:  Total Fee:  Total Fee:  Total Fee:  Fee:  Total F |                  |                        |                  | Fee:         |                  |   |
| Department Head Signature (or designee)   Fire Department   Parks & Recreation (Please check on Tent Permit:   |                  | <del>_</del>           |                  | Fee:         |                  | Other services:                                 |
| Tent Permit:   | ees:             | Total Fees:            |                  |              |                  | Department Head Signature (or designee)         |
| Number of tents: Size(s):  | one)             | lease check one)       | ecreation (Pleas | ☐ Parks & Re | Fire Department  | Fire Department: Collection of fees:            |
| Other services: Fee: Total Fermitian Department Head Signature (or designee): Fee: Total Fermitian Security: Fee: Fee: Total Fermitian Security: Fee: Total Fee: Fee: Total Fee: Total Fee: Total Fee: Fee: Total Fee: Total Fee: Fee: Total Fee: Total Fee: Total Fee: Fee: Total Fee: Total Fee: Total Fee: Total Fee: Total Fee: Fee:  |                  |                        |                  | Fee:         |                  | Tent Permit:                                    |
| Police Department: Collection of fees: Police Department Peaks & Recreation (Please che Security: Fee: Total Fee: Other services: Public Works Collection of fees: Public Works Parks & Recreation (Please check one)  Barricade: Pee: Total Fee: Total Fee: Public Works Collection of fees: Public Works Parks & Recreation (Please check one)  Barricade: Fee: Total Fee |                  |                        |                  |              |                  | Number of tents: Size(s):                       |
| Department Head Signature (or designee):  Police Department: Collection of fees:  Police Department  Parks & Recreation (Please che Security:  Fee:  Total Fee:  T | _                |                        |                  | Fee:         | ******           | Other services:                                 |
| Security:  | Fees:            |                        |                  | ·            |                  | Department Head Signature (or designee):        |
| Security:  | check one)       | tion (Please check one | s & Recreation   | nent 🛭 Parks | ☐ Police Depart  | Police Department: Collection of fees:          |
| Other services: Fee: Total Fe  Department Head Signature (or designee): Public Works Collection of fees:   |                  |                        |                  |              |                  | -   |
| Department Head Signature (or designee):  Public Works Collection of fees:  Public Works  Parks & Recreation (Please check one)  Barricade:  Fee:  Fee:  Total Fee:  Total Fee:  Parks & Recreation (Please check one)  Utility Services Collection of fees:  Utility Services  Parks & Recreation (Please check one)  List of items need for:  Voltage  Parks & Recreation (Please check one)  Electricity:  Voltage  Parks & Recreation (Please check one)  Water:  Fee:  Total Fee:  Total Fee:  Total I diditional items are needed, please complete on separate sheet of paper.  Total I Department Head Signature (or designee):  Total I Other services:  Fee:  Total I |                  |                        |                  |              |                  |   |
| Public Works Collection of fees:  Public Works  Parks & Recreation (Please check one)    Barricade:  | al Fees:         | Total Fees:            |                  |              |                  |   |
| Barricade: Fee:  |                  |                        |                  |              |                  |   |
| Road Closure: Fee: Total Fee: _   |                  | •                      |                  |              |                  |   |
| Other services: Fee: Total Fe  Department Head Signature (or designee): Utility Services   |                  |                        |                  |              |                  |   |
| Department Head Signature (or designee):   |                  |                        |                  | Fee:         |                  | Road Closure:                                   |
| Department Head Signature (or designee):   | al Fees:         | <br>Total Fees:        |                  | Fee:         |                  | Other services:                                 |
| List of items need for:    Number of prongs on plug.   | <u>.</u>         |                        |                  |              |                  | Department Head Signature (or designee):        |
| Water: Fee:   Services: Fee:   Services: Fee:   If additional items are needed, please complete on separate sheet of paper. Total     Department Head Signature (or designee): Total     Vendor fee: Fee:   Total     Other services: Fee:   | ne)              | sse check one)         | eation (Piease   |              | Utility Services |   |
| Water: Services: Services: If additional items are needed, please complete on separate sheet of paper.  Department Head Signature (or designee):  Vendor fee:  Fee:  Total I   |                  |                        |                  |              | Voltage          |   |
| Water: Services: Fee: Total   Services: Fee:  | _                |                        | Fee:             |              |                  |   |
| Services: Fee: Fee: Fee: Fee: Fee: Total I Department Head Signature (or designee): Vendor fee: Fee: Total I Other services: Fee: Fee: Total I Department Fee: Fee: Total I Department Fee: Fee: Total I Department Fee: Total I D   | _<br>otal Fees:  | Total Fees:            | Fee:             |              |                  | Water   |
| If additional items are needed, please complete on separate sheet of paper.  Department Head Signature (or designee):  Vendor fee:  Total I  Other services:  Fee:   |                  |                        | Fee:             |              | <del> </del>     |   |
| Department Head Signature (or designee):  Vendor fee: Fee: Total I  Other services: Fee:   | <del>.</del> . – |                        | Fee:             |              | <del></del> .    |   |
| Vendor fee: Fee: Total   Other services: Fee:  | tal Fees:        | Total Fees:            |                  | of paper.    | on separate shee | If additional items are needed, please complete |
| Total I Other services:  |                  |                        |                  |              |                  | Department Head Signature (or designee):        |
| Other services: Fee:   | atal Face:       |                        |                  | Fee:         |                  | Vendor fee:                                     |
| Total F€   | otal Fees:       |                        |                  | Fee:         |                  | Other services:                                 |
|  | il Fees:         | Total Fees:            |                  |              |                  |   |



To: Potential Event Applicants

FROM: New Bern Parks & Recreation

RE: Vendor Fees

Vendor fees, for both City sponsored and non-City sponsored events are:

\$25.00: non-food vendor service fee. \$35.00: food vendor service fee

For required Sanitation Permits, contact The Craven County Health Department at: 252-636-4920.

Please complete the form below to list vendors and appropriate vendor fees, if additional space is needed, please attach a separate list. Submit this form along with your fee for requested City services (if applicable) at least 10 days prior to your event.

The schedule of fees and events ordinance can be viewed on the City's website at: <a href="www.newbern-nc.org">www.newbern-nc.org</a>, go to "quick menu", then Fee Schedule.

|                           | Type of Vendor |          | Amount of | Amount of  |           |
|---------------------------|----------------|----------|-----------|------------|-----------|
|                           |                |          | Vendor    | Inspection | Total Fee |
| Vendor Name               | Food           | Non-food | Fee       | Fee        | Due       |
| 1                         |                |          |           |            |           |
| 2                         |                |          |           |            |           |
| 3                         |                |          |           |            |           |
| 4                         |                |          |           |            |           |
| 5                         |                |          |           |            |           |
| 6                         |                |          |           |            |           |
| 7                         |                |          |           |            |           |
| 8                         |                |          |           |            |           |
| 9                         |                |          |           |            |           |
| 10                        |                |          |           |            |           |
| 11                        |                |          |           |            |           |
| 12                        |                |          |           |            |           |
| 13                        |                |          |           |            |           |
| 14                        |                |          |           |            |           |
| 15                        |                |          |           |            |           |
| Total # of Vendors & Fees |                |          |           |            |           |

Thank you, New Bern Parks & Recreation Department

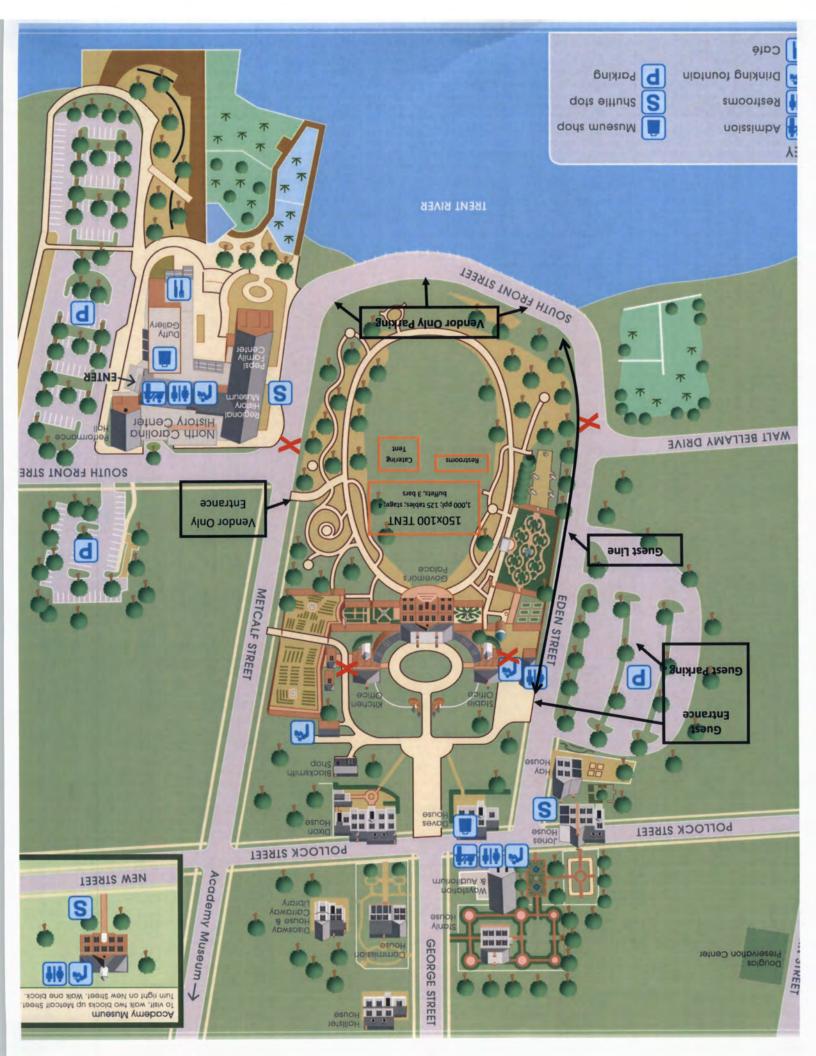
REV: 5/5/16

### <u>Alcohol</u>

Alcoholic beverages can be possessed, consumed, sold, or distributed at festivals upon the issuance of a public assembly alcohol permit, by adhering to all regulations, as stated in the City of New Bern Ordinances "Public Assembly and Parade Permits". The event applicant shall provide the City with all other state and local permits that allow the possession, consumption, sale, and distribution of alcoholic beverages. State permit(s) must be obtained from the State of North Carolina Alcoholic Beverage Control Commission. For further permit information, contact the State of North Carolina Alcoholic Beverage Control Commission at: 919-779-0700 or <a href="https://www.abc.nc.gov">www.abc.nc.gov</a>. Please attach a copy of the **permit and/or the license to the event application.** All permits relative to alcoholic beverages are required at least 10 days in advance of event occurrence. If the event location is on City property, a written request for the use of alcohol must be submitted to the City Manager or designee at least 60 days prior to the event, and after obtaining conditional approval for an event application by the Event Committee. Please send a copy of the written request to the Director of Parks and Recreation.

The event applicant is responsible for checking the identification of all persons being served alcohol, and for ensuring all persons acting as servers are age 21 or older. **All persons being served are to b e stamped or have a wrist band.** It is also the volunteer servers' responsibility to make sure that intoxicated persons are not served. If the event is a City of New Bern event or City of New Bern sponsored event, or it is held on City property, a list must be submitted with the names of the volunteer alcohol servers. In addition, those named on the list will be required to attend an education session conducted by local law enforcement prior to serving (additional cost may apply). Included in this session will be an overview of the alcoholic beverages laws, and the individual's liability in enforcing them. Even if the event is not on City property, not a City event, and not a City sponsored event, the educational seminar for servers is encouraged.

Note: Approval and issuance of all permits will be conditional upon the event applicant obtaining an insurance policy in the amount of one million dollars (\$1,000,000.00) showing general liability, liquor liability, and workers compensation, and which names the City as an additional insured for the general liability and liquor liability. The policy shall remain in effect for the entire time period of the event.



Consider Approving a Proclamation for Boys & Girls Club Week.

**Agenda Item Title:** 

| Date of Meeting 04/09/19 Ward # if applicable N/A   |
|---|
| Department City Clerk  Person Submitting Item: Brenda Blanco  |
| Call for Public Hearing Yes No Date of Public Hearing   |
| Explanation of Item: Taylor Shannon, Special Events & Marketing Coordinator, has requested a proclamation observing April 8-12, 2019 as Boys & Girls Club Week. |
| Actions Needed by Board: Consider approving proclamation  |
| Is item time sensitive?  Yes No   |
| Will there be advocates/opponents at the meeting? ☐ Yes ✓ No  |
| Backup Attached: Proclamation   |
|   |
| Cost of Agenda Item: \$0  |
| If this item requires an expenditure, has it been budgeted and are funds available and certified by the Finance Director : $\square Yes \ \boxed{V} No$         |
| Additional notes:   |



### MAYOR'S OFFICE PROCLAMATION

- WHEREAS, the young people of New Bern are tomorrow's leaders; and
- WHEREAS, many such young people need professional youth services to help them reach their full potential; and
- WHEREAS, the Boys & Girls Club in New Bern, North Carolina provides services to more than 295 young people annually; and
- WHEREAS, Boys & Girls Clubs are places where great futures start. They are at the forefront of efforts in academic success, healthy lifestyles, and good character and citizenship; and
- WHEREAS, Boys & Girls Club organizations in our state help ensure that our young people keep off the streets, offering them a safe and supportive place to go and providing them with quality programs; and
- WHEREAS, Boys & Girls Clubs of the Coastal Plain will celebrate National Boys & Girls Club Week, 2019 along with some 4,000 Clubs and more than two million young people nationwide.
- NOW, THEREFORE, I, Dana Outlaw, Mayor of the City of New Bern, on behalf of the New Bern Board of Aldermen, do hereby proclaim April 8-12, 2019 as

### **BOYS & GIRLS CLUB WEEK**

in New Bern. I call on all citizens to join with me in recognizing and commending the Boys & Girls Club in New Bern for providing comprehensive, effective services to the young people in our communities.

IN WITNESS THEREOF, I have hereunto set my hand and caused the Seal of New Bern, to be affixed to this Proclamation on the 9<sup>th</sup> day of April, 2019.



DANA E. OUTLAW, MAYOR

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

| Agenda Item Title:  |   |
|---|---|
| Consider Approving a Proclamation fo                                    | r Earth Day   |
| Date of Meeting 4/9/2019  | Ward # if applicable Ward 1   |
|   | If multiple, list:  |
| Department Parks & Recreation   | Person Submitting Item: Mr. Foster Hughes   |
| Call for Public Hearing No  | Date of Public Hearing  |
| Explanation of Item:  |   |
| 2019. In observance of Earth Day, Pa                                    | Proclamation for Earth Day, which falls on Monday, April 22, arks and Recreation is partnering with New Bern Now and other elebration on Saturday, April 20 from 1pm - 4pm at the Talbot th Front Street. |
| Actions Needed by Board:  |   |
| Consider approving the Earth Day Pro                                    | oclamation.   |
|   |   |
|   |   |
|   |   |
| Is item time sensitive? Yes   |   |
| Will there be advocates/opponent  | s at the meeting? No  |
| Backup Attached:  |   |
| Proclamation  |   |
|   |   |
|   |   |
| Cost of Agenda Item: N/A  |   |
|   |   |
| If this item requires an expenditure certified by the Finance Director: | re, has it been budgeted and are funds available and <u>Select</u>  |
| Additional notes:   |   |
|   |   |
|   |   |
|   |   |
|   |   |
|   |   |



#### Aldermen

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

## Foster Hughes, CPRE Director of Parks & Recreation



Dana E. Outlaw Mayor

Mark A. Stephens City Manager

Memo To: Mayor and Board of Aldermen

From: Foster Hughes, CPRE, Director Parks and Recreation

FH

Re: Consider approving a Proclamation for Earth Day 2019

### **Background Information:**

Parks and Recreation in partnership with New Bern Now and other organizations is requesting a Proclamation for Earth Day, which falls on Monday, April 22, 2019.

There will be an Earth Day Celebration at the Talbot's Lot, at the corner of Craven and South Front Street on Saturday, April 20<sup>th</sup>, from 1:00pm – 4:00pm.

### **Recommendation:**

Consider approving the Earth Day Proclamation.

If you have any questions concerning this matter, please let me know.



### MAYOR'S OFFICE PROCLAMATION

- WHEREAS, all species play a unique role in the complex web of life and contribute to the ecosystem services on which all life on Earth depends, and hence, protecting our species is crucial to the survival of this planet and its inhabitants; and
- WHEREAS, wild animal populations have declined on average by more than half and the Earth is facing an era of mass extinction; and
- WHEREAS, the loss of species is for the most part a result of human activity, including degradation of ecosystems, deforestation, pollution, and climate change; and
- WHEREAS, by 2050, between 60-70% of all people will live in cities and species provide important services to city dwellers such as generating oxygen and purifying the air; controlling other animals considered pests or that spread disease; pollinating plants and crops; providing recreation opportunities and well-being, etc.; and
- WHEREAS, many plants, wild animals, and pollinators live in urbanized landscapes, and cities thereby have a responsibility to examine the ecological impacts of expanding urban areas and how to protect biodiversity; and
- WHEREAS, it is understood that sustainability will only be achieved by meeting the needs of the present without compromising the needs of future generations; and
- WHEREAS, it is more important than ever to cooperate locally and internationally to defend the environmental progress that has been heretofore gained; and
- WHEREAS, it is essential to expand and diversify the global environmental movement to achieve maximum progress; and
- WHEREAS, Earth Day is an annual reminder of the constant need for environmental activism, stewardship commitments and sustainability efforts;
- NOW, THEREFORE, I, Dana E. Outlaw, Mayor of the City of New Bern, on behalf of the New Bern Board of Aldermen do hereby proclaim April 22, 2019 as

#### "EARTH DAY"

in the City of New Bern and encourage all of its inhabitants, businesses, and institutions to use EARTH DAY to celebrate the Earth and promote the wellbeing of the inhabitants of the city and the protection of their environment.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed the Seal of the City of New Bern this the 9th day of April in the Year of Our Lord Two Thousand and Nineteen.

DANA E. OUTLAW, MAYOR

Agenda Item Title:

Presentation of Reliable Public Power Award

| Date of Meeting 04/09/19  | Ward # if applicable N/A  |
|---|---|
| Department Electric   | Person Submitting Item: Charlie Bauschard   |
| Call for Public Hearing Yes [                                       | No Date of Public Hearing   |
| Association. One award is a ce                                      | y received two awards from the American Public Power rtificate of excellence in reliability, and the other is the ble Public Power Provider ("RP3"). Mr. Bauschard will pard. |
| Actions Needed by Board:<br>None                                    |   |
| Is item time sensitive? Yes   | ☑ No  |
| Will there be advocates/oppon                                       | ents at the meeting?□Yes ☑No  |
| Backup Attached:  |   |
| Cost of Agenda Item:  |   |
| If this item requires an expend<br>certified by the Finance Directo | iture, has it been budgeted and are funds available and or:  Yes No   |
| Additional notes:   |   |

### **Brenda Blanco**

From: Colleen Roberts

Sent: Wednesday, April 3, 2019 9:16 AM

**To:** Colleen Roberts

Subject: New Bern Receives Two Awards for Reliable Public Power

Attachments: RP3 Award 2019.jpeg; RP3 Full Logo 1c (002).jpg



FOR IMMEDIATE RELEASE Contact: Colleen Roberts Public Information Officer (252)639-2707

## CITY OF NEW BERN ELECTRIC DEPARTMENT RECEIVES TWO AWARDS FOR RELIABLE PUBLIC POWER

Diamond RP3® designation represents highest level of achievement

The City of New Bern Electric Department recently received two awards from the American Public Power Association (APPA); one is a Certificate of Excellence in Reliability and the other is the prestigious Diamond designation as a Reliable Public Power Provider (RP3).

The Certificate of Excellence recognizes electric utilities who have significantly exceeded the average reliability of all other U.S. electric utilities for a given year. New Bern received its certificate for the 2018 calendar year, which included the City's massive power outages and restorations associated with hurricane Florence. One of the qualifications for receiving an excellence award is a utility's participation in the e-Reliability Tracker program, which tracks power outages and restoration against national benchmarks.

The City's Electric Department also received the prestigious Diamond designation as a Reliable Public Power Provider. The RP3 award means the utility has followed industry standards and practices and has shown high proficiency in providing reliable and safe electric service. This designation lasts for three years and was last awarded to the City in 2015. Only 254 of the nation's 2,000 public power utilities have the RP3 designation. It focuses on four key disciplines: reliability, safety, workforce development, and system improvement. Criteria include sound business practices and a utility-wide commitment to safe and reliable delivery of electricity. New Bern was recognized

yesterday for its RP3 achievement at the APPA's Engineering and Operations Conference in Colorado Springs, CO. (See attached photo.)

The RP3 designation is comprised of gold, platinum and diamond levels. New Bern achieved a perfect score of 100%, which is the diamond level. It has only been awarded to 107 of the nation's 2,000 public power utilities during the three year application cycle from 2017-2019.

"Please join me in congratulating our electric utility staff," said Charles Bauschard, Director of Public Utilities. "We are lucky to have a team of talented, hard-working individuals who are committed to providing our customers with reliable electric service and who recognize that that reliability is an essential part of business."

### ###

Please see attached photo from yesterday's event in Colorado Springs, CO. Pictured (L-R) Aaron Haderle, Manager, Transmission & Distribution Operations, Kissimmee Utility Authority (Chair of APPA'S RP3 Review Panel); Charles Bauschard, Director of Public Utilities, City of New Bern; and Mike Hyland, APPA Vice President of Engineering Services. Attached you will also find the official RP3 logo.

| NOTE: Please be advised, City of New Bern email addresses changed to user@newbernnc.gov 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 also   |
| may contain information which is confidential within the meaning of applicable federal and state laws.  |

## **Agenda Item Title:** Presentation on downtown parking. Date of Meeting 4/9/2019 Ward # if applicable Ward 1 If multiple, list: Person Submitting Item: Matt Montanye **Department** Public Works Call for Public Hearing No **Date of Public Hearing Explanation of Item:** Bill Faulkenbury representing the Downtown Parking Committee formed by Swiss Bear, along with Danny Batten representing the Downtown Business Council, will be on hand to give the Board an update on downtown parking. **Actions Needed by Board:** None Is item time sensitive? No Will there be advocates/opponents at the meeting? $\underline{No}$ **Backup Attached:** None Cost of Agenda Item: None If this item requires an expenditure, has it been budgeted and are funds available and certified by the Finance Director: Select... Additional notes:

Presentation on Possible Year-Round Calendar at J.T. Barber Elementary School

Agenda Item Title:

Additional notes:

| Date of Meeting 04/09/19  | Ward # if applicable Ward 5   |           |
|---|---|-----------|
| <b>Department</b> Administration  | Person Submitting Item: Mark Stephens                                 |           |
| Call for Public Hearing $\square$ Yes   | No Date of Public Hearing   |           |
| Explanation of Item: Erica Phillips, Principal of J.T. Bayear-round school calendar for J | arber School, will share information about a poss<br>J.T. Barber.     | sible     |
| Actions Needed by Board:<br>None; informational only.                                     |   |           |
| Is item time sensitive? Yes   | ✓ No  |           |
| Will there be advocates/oppone  | ents at the meeting? Yes VNo  |           |
| Backup Attached:<br>None  |   |           |
|   |   |           |
| Cost of Agenda Item: \$0  |   |           |
| If this item requires an expend<br>certified by the Finance Directo                       | liture, has it been budgeted and are funds avail<br>or :  \[ Yes   No | lable and |

### Agenda Item Title:

To consider adopting a resolution to rezone Craven County Parcel ID #8-034-059 from R-10 Residential District to C-5 Office & Institutional District.

| Date of Meeting April 9, 2019 Ward # if applicable Ward 2  |
|--|
| Department Development Services Person Submitting Item: Morgan Potts   |
| Call for Public Hearing Yes No Date of Public Hearing 4/9/2019   |
| Explanation of Item:   |
| State statute and local ordinance requires the governing body to hold a public hearing to rezone Craven County Parcel ID #8-034-059, also known as 1203 Simmons St. The parcel consists of .22+/- acres, and is located near the intersection of Simmons St. & Neuse Blvd. The applicant has proposed to rezone the property R-10 Residential District to C-5 Office & Institutional District. |
| Actions Needed by Board:   |
| To holding a public hearing and consider approval or denial of the requested zoning map amendment, adopt a resolution and statement of consistency or inconsistency.   |
| Is item time sensitive? ✓ Yes □ No   |
| Will there be advocates/opponents at the meeting? ✓ Yes ☐ No   |
| Backup Attached:   |
| Memo, Analysis, Consistency & Inconsistency Statements, Site Map, Planning & Zoning Boa Minutes Excerpt, Application & Resolution.   |
| Cost of Agenda Item: <sup>0</sup>  |
| If this item requires an expenditure, has it been budgeted and are funds available and certified by the Finance Director : $\square$ Yes $\square$ No  |
| Additional notes:  |
| At the March 5, 2019 meeting of the Planning & Zoning Board, the board voted unanimously (9-0) to recommend approval of the proposed rezoning.   |



Development Services 303 First Street, P.O. Box 1129 New Bern, NC 28563 (252)639-7581

### MEMORANDUM

**TO:** Mayor Outlaw

City of New Bern Board of Aldermen

FROM: Morgan J. Potts, AICP

City Planner

**DATE:** April 4, 2019

SUBJECT: Rezoning request for 1203 Simmons Street from Residential District to C-5

Office & Institutional District.

### **Background**

The Board of Aldermen is requested to hold a public hearing to consider a request by Patrick Allen & Cameron Holton of Tarheel Building Systems, on behalf of owner Michael Rice, to rezone .22 +/- acres from R-10 Residential District to C-5 Office & Institutional District., located at 1203 Simmons Street. The property is further identified as Craven County Parcel ID #8-034-059. The site is located in Ward 2. The Planning & Zoning Board unanimously recommended approval to the Board of Aldermen at their March 5, 2019 meeting.

#### Recommendation

City staff recommends approval of the rezoning request by Patrick Allen & Cameron Holton of Tarheel Building Systems, on behalf of owner Michael Rice, to rezone .22 +/- acres from R-10 Residential District to C-5 Office & Institutional District., located at 1203 Simmons Street.

Please contact me at 639-7583 should you have questions or need additional information.

AN ORDINANCE TO AMEND THE ZONING MAP OF THE CITY OF NEW BERN SO AS TO CHANGE THE ZONING CLASSIFICATION OF PROPERTY OWNED BY MICHAEL L. RICE CONSISTING OF APPROXIMATELY 0.22 ACRES LOCATED AT 1203 SIMMONS STREET FROM THE ZONING CLASSIFICATION OF R-10 RESIDENTIAL DISTRICT TO C-5 OFFICE AND INSTITUTIONAL DISTRICT

THAT WHEREAS, Michael L. Rice owns approximately 0.22 acres, more or less, located at 1203 Simmons Street in the City of New Bern, and an application has been made to change the zoning classification of the subject property from R-10 Residential District to C-5 Office and Institutional District; and

WHEREAS, the Planning and Zoning Board unanimously recommended that said request be approved; and

WHEREAS, the Board of Aldermen of the City of New Bern conducted a duly advertised public hearing with respect to the proposed amendment on April 9, 2019, at which time all interested parties were given an opportunity to be heard; and

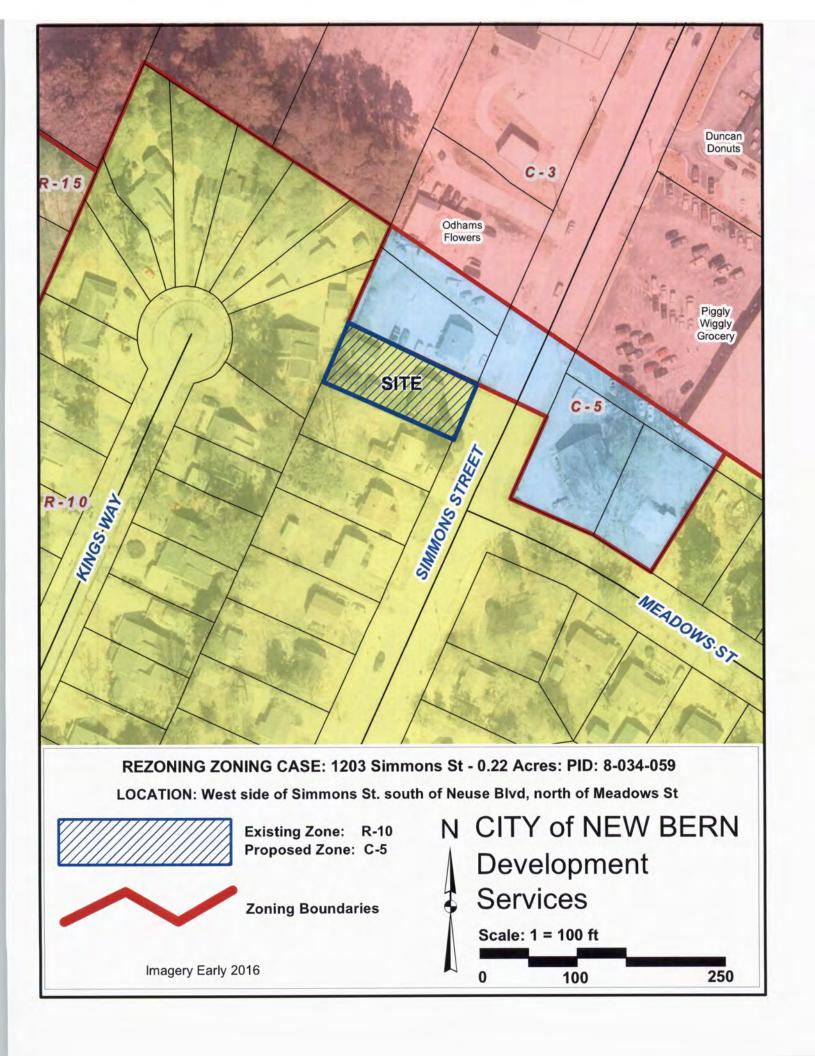
WHEREAS, the Board of Aldermen of the City of New Bern deems it advisable and in the public interest to effect said change, as the requested C-5 Office and Institutional District classification is consistent with the City's Land Use Plan and nearby land uses.

# NOW, THEREFORE, BE IT ORDAINED BY THE BOARD OF ALDERMEN OF THE CITY OF NEW BERN:

Section 1. That the zoning map of the City of New Bern be and the same is hereby amended by changing the zoning classification of the land owned by Michael L. Rice consisting of 0.22 acres, more or less, located at 1203 Simmons Street in the City of New Bern, from R-10 Residential District to C-5 Office and Institutional District as more specifically shown on the plat entitled "REZONING CASE: 1203 Simmons Street – 0.22 Acres: PID: 8-034-059" prepared by the Development Services Department of the City of New Bern, a copy of which is attached hereto and incorporated herein by reference.

Section 2. That the Board deems it in the public interest to rezone the subject property as the requested C-5 Office and Institutional District classification is consistent with the City's Land Use Plan and nearby land uses.

| Section 3.            | That this ordinan            | ce shall be in | full force | e and effect | from | and | after | its |
|-----------------------|------------------------------|----------------|------------|--------------|------|-----|-------|-----|
| adoption and publicat | ion as required by           | aw.            |            |              |      |     |       |     |
|                       |                              |                |            |              |      |     |       |     |
| ADOPTED T             | HIS 9 <sup>th</sup> DAY OF A | PRIL, 2019.    |            |              |      |     |       |     |
|                       |                              |                |            |              |      |     |       |     |
|                       |                              |                |            |              |      |     |       |     |
|                       |                              |                |            |              |      |     |       |     |
|                       |                              | DANA E.        | OUTLAW     | V, MAYOR     |      |     |       |     |
|                       |                              |                |            |              |      |     |       |     |
|                       |                              |                |            |              |      |     |       |     |
| BRENDA E. BLANC       | CO, CITY CLERK               |                |            |              |      |     |       |     |



### Craven County Parcel ID's #8-034-059

# STATEMENT OF ZONING CONSISTENCY WITH ADOPTED PLANS

The Board of Aldermen of the City of New Bern finds the action to rezone Craven County Parcel ID's 8-034-059 to C-5 Office & Institutional District reasonable and in the public interest, and consistent with the City Land Use Plans and nearby land uses. In that:

- 1. The C-5 Office & Institutional District is deemed to be compatible with the "Developed" designation indicated in the Future Land Use Map found in the 2010 CAMA Regional Land Use Plan.
- 2. The proposed C-5 Office & Institutional District is deemed to be compatible with adjacent zoning classifications.
- 3. The proposed C-5 Office & Institutional District is deemed to be compatible with existing uses.

### Craven County Parcel ID's #8-034-059

# STATEMENT OF ZONING INCONSISTENCY WITH ADOPTED PLANS

The Board of Aldermen of the City of New Bern finds the action to rezone Craven County Parcel ID's #8-034-059 to C-5 Office & Institutional District is not reasonable and is not in the public interest, and finds it to be inconsistent with the Regional Land Use Plan and nearby land uses in that the proposed C-5 Office & Institutional District is incompatible with the uses permitted on nearby properties, and other properties in the vicinity. And that:

1. The proposed C-5 Office & Institutional District would be incompatible with adjacent use and the Future Land Use Map found in the 2010 CAMA Regional Land Use Plan.



Development Services 303 First Street, P.O. Box 1129 New Bern, NC 28563 (252) 639-7581

February 26, 2019

TO:

Matt Montayne, Director of Public Works

FROM:

Morgan Potts, City Planner

SUBJECT:

Posting for Public Hearing

The Planning & Zoning Board of the City of New Bern, will review a request for a rezoning located at 1203 Simmons St., on Tuesday, March 5, 2019, at 5:30 pm in the City Hall Courtroom, located at 300 Pollock Street, New Bern, NC 28560. Please post the following information by February 27th at 8:00 a.m. at the below noted locations. Per the Land Use Ordinance, we must use a colored sign. Thank you in advance for your assistance and if you have any questions please call me at ext. 7583.

#### NOTICE OF PUBLIC HEARING

(Post sign #1 at the front yard of the parcel at 1203 Simmons St., as shown on map)

WHERE:

City Hall Courtroom, located at 300 Pollock Street

WHEN:

March 5, 2019 at 5:30 pm

**PURPOSE:** 

To consider a rezoning request from R-10 to C-5

Morgan Potts, AICP, City Planner



Development Services 303 First Street, P.O. Box 1129 New Bern, NC 28560 (252)639-7581

February 26th, 2019

#### NOTICE TO ADJACENT PROPERTY OWNERS AND APPLICANT

The Planning & Zoning Board of the City of New Bern will meet at 5:30 PM on Tuesday, March 5th, 2019 in the City Hall Courtroom, located at 300 Pollock Street, New Bern, NC, 28560, for a public hearing on a request to rezone 0.22 +/- acres from R-10 Residential District to C-5 Office and Institutional District, located at 1203 Simmons Street, New Bern, NC, 28560. The property is further identified as Craven County Parcel Identification Number 8-034-059. The public is invited to attend and comment. According to the Craven County Tax Records, you are the owner of property located within 100 feet of the subject area.

A copy of the rezoning application is available for public review during normal business hours in the Development Services office, located at 303 First Street. For further information contact the City of New Bern Development Services Department at (252) 639-7581.

Morgan J. Potts, AICP

City Planner

Individuals with disabilities requiring special assistance should call (252)639-7501 no later than 3:00 p.m. the date of the meeting.

MAPA-001682-2019

APPLICATION TO AMEND LAND USE ORDINANCE

Fee: \$375.00



Viorgan Potts (252) 639-7583

pottsm@newbernnc.gov

Fax: (252) 636-2146

Everything comes together here

| N.           | AME:              | Cameron Holton   |                          |                               |
|--------------|-------------------|--|--------------------------|-------------------------------|
| A            | DDRESS            | : 4527 U.S. Hwy. 17 S.   |                          |                               |
| C            | ELL: <u>(25</u> 2 | 2) 675-8632  | HOME/WORK: <u>(</u> 2    | 252) 633-3633                 |
| E            | MAIL: <u>ca</u>   | m@tarheelbuilding.com  | FAX: <u>(252) 633-</u>   | 6453                          |
| Z            | ONING (           | CHANGE REQUESTED   |                          |                               |
| A.           | . Amo             | endment to zoning classification, fro  | m R-10                   | to <u>C-5</u>                 |
| B.           | Ame               | endment to Land Use Ordinance tex  | t N/A: See table of P    | ermissable Uses.              |
|              |                   | re is no street address, list other mea<br>livision name, lot number highway r |                          | community or neighborhood     |
|              |                   |  |                          | community or neighborhood     |
| If 1         | rezoning i        | request, provide Metes and Bounds  | description of property: | N/A                           |
|              |                   | e sheet if necessary and attaché to  |                          |                               |
|              |                   | ining the Metes, Bounds and Dista  | ,                        | _                             |
|              |                   | volves property owned by persons o<br>et if necessary and attach to applicat   |                          | list names and addresses (use |
| 3 <b>C</b> J | Jatute Sile       | ct it necessary and attach to applicat   | ion.                     |                               |
|              |                   |  |                          |                               |
|              |                   | <u>NAME</u>  | ADDRE                    | SSS                           |
|              |                   |  |                          |                               |
|              |                   | Michael Rice   | 1203 Simmons S           | St.                           |
|              |                   | Michael Rice   | 1203 Simmons S           | St.                           |

| 6.         | If property owners listed in Item 5 have given consent to this request, attach copy(s) of their approval to this application.                 |
|------------|---|
| <b>7</b> . | Give concise statement of reasons why the proposed amendment would be in the public interest if change is granted.                            |
|            | If change is granted, rezoning would allow for the construction of a project that would be harmonious with similar zoned parcels in the area. |
|            |   |
|            |   |
|            |   |
|            |   |
|            | Signature of Applicant Date   |
|            |   |

Applications to be considered must be submitted 21 days before the Planning & Zoning Board meeting, which is held on the first Tuesday of each month.

# Petitioners requesting City of New Bern Board action on property not owned by them must have this form completed by the owner of the property.

### **OWNERS AUTHORIZATION**

| Dear Sir or Madame:   |
|---|
| I am the owner of the property located at:  |
| 1203 Simmons Street   |
| I hereby authorize Patrick Allan / Cameron Holton to appear with my consent, before the City of New Bern in order to request a rezoning for |
| 1203 Simmons Street   |
| I understand that the, if granted, is permanent and runs with the land.   |
| I authorize you to advertise and present this matter in my name as the owner of the property.   |
| If there are any questions, please contact me at the following address:   |
| 1203 Simmons Street Phone 252-288-7373  |
| Respectfully yours,   |
| Wher  |
| Sworn to and subscribed before me this  |
| Vuginia Ponders Notary Public:  |
| My commission expires: March 28,2019  |



Development Services 303 First Street, P.O. Box 1129 New Bern, NC 28563 (252) 639-7581

March 27, 2019

TO: Matt Montayne, Director of Public Works

FROM: Morgan Potts, City Planner

SUBJECT: Posting for Public Hearing

The Board of Aldermen of the City of New Bern, will review a request for a rezoning located at 1203 Simmons St., on Tuesday, April 9, 2019, at 6:00 pm in the City Hall Courtroom, located at 300 Pollock Street, New Bern, NC 28560. Please post the following information by March 29, 2019 at 5:00 p.m. at the below noted locations. Per the Land Use Ordinance, we must use a colored sign. Thank you in advance for your assistance and if you have any questions please call me at ext. 7583.

#### NOTICE OF PUBLIC HEARING

(Post sign #1 at the front yard of the parcel at 1203 Simmons St., as shown on map)

WHERE: City Hall Courtroom, located at 300 Pollock Street

WHEN: April 9, 2019, 6:00 pm

PURPOSE: To consider a rezoning request from R-10 to C-5

Morgan Potts, AICP, City Planner



Development Services 303 First Street, P.O. Box 1129 New Bern, NC 28560 (252)639-7581

March 27, 2019

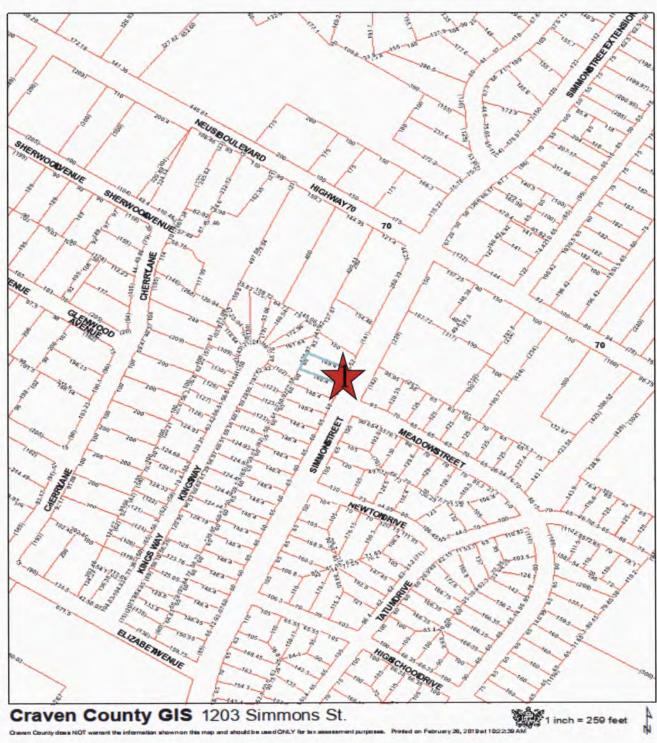
#### NOTICE TO ADJACENT PROPERTY OWNERS AND APPLICANT

The Board of Aldermen of the City of New Bern will meet at 6:00 PM on Tuesday, April 9, 2019 in the City Hall Courtroom, located at 300 Pollock Street, New Bern, NC, 28560, for a public hearing on a request to rezone an approximate .22 +/- acres from R-10 Residential District to C-5 Office & Institutional District, located at 1203 Simmons Street. The property is further identified as Craven County Parcel ID #8-034-059. According to the Craven County Tax Records, you are the owner of property located within 100 feet of the subject area.

A copy of the rezoning application is available for public review during normal business hours in the Development Services office, located at 303 First Street. For further information contact the City of New Bern Development Services Department at (252) 639-7581.

Morgan J. Potts, AICP City Planner

Individuals with disabilities requiring special assistance should call (252)639-7501 no later than 3:00 p.m. the date of the meeting.



Craven County GIS 1203 Simmons St.

#### Minutes of the New Bern Planning & Zoning Board March 5, 2019 - 5:30 P.M. New Bern City Hall - 303 Pollock Street

1 The regular meeting of the New Bern Planning and Zoning Board was held in the City Hall 2 3 Courtroom, 300 Pollock Street, on March 5, 2019 at 5:30 pm 4 5 **Members Present:** Raymond Layton, Chair 6 Sonny Aluzzo, Vice- Chair 7 Pat Dougherty 8 Jerry Walker 9 Haron Beatty 10 Jeffrey Midgett 11 Carol Williams 12 Don Black 13 Marshall Ballard (arrived at approximately 5:40) 14 15 Members Excused (E)/ Absent (A): Willie Newkirk Sr. 16 17 **Staff Present:** Morgan Potts, AICP, City Planner 18 19 **Others Present:** Jennifer Campbell, Recording Secretary 20 21 Roll Call 22 23 Staff Member Morgan Potts delivered the roll call of all members and quorum declared 24 25 **Approval of Minutes** 26 27 The minutes of the February 5, 2019 regular meeting were presented for approval. Having no 28 corrections or amendments Board Member Don Black made a motion to approve the 29 minutes and Board Member Heron Beatty seconded the motion. The motion passed 30 unanimously. 31 32 **New Business:** 33 34 A. Consideration of Major Subdivision Final Plan Approval, submitted by Robert 35 Chiles Engineering, is a proposed 12.44 +/- acre, 3-lot major subdivision located to 36

the west and east of Newman Road and to the south of Wellons Boulevard. The property is further identified as Craven County Parcel ID's 8-212-8010, 8-212-076,

and 8-212-8009. (Ward 6)

39 40

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42 **Staff Comments:** 

Staff Member Potts stated that staff recommends approval as presented. She went on to say that this is a very simple major subdivision and Mr. Chiles is present to answer any questions.

#### **Board Discussion:**

Board Member Jerry Walker asked if this would be the first plan approval. Chair Layton responded by stating that this would be the final plan approval and once this is approved it does not have to go back before this Board. He also said that final decision lies with this Board and will not go before the Board of Alderman. There was no further discussion, so Chair Layton opened the floor for public comment.

#### **Public Comment:**

There was no public comment, so Chair Layton closed the floor for public comment.

#### **Board Discussion:**

There was no further Board discussion, so Chair Layton entertained a motion. Board Member Don Black made a motion to approve the consideration of the major subdivision for planning approval submitted by Robert Chiles of the 12.44 +/- acre 3-lot major subdivision in Ward 6. Vice- Chair Sonny Aluzzo seconded the motion and the motion passed unanimously. (8-0)

B. Consideration of a request from Cole Jenest & Stone on behalf of the City of New Bern to rezone an approximate 9.5 +/- acre portion of 30.81 +/- acres from R-8/R-10 Residential District to C-3 Commercial District, located at 703 Carolina Avenue. The property is further identified as Craven County Parcel Identification Number 8-044-011. (Ward 2)

#### **Staff Comments:**

Staff Potts stated that all public requirements have been fulfilled and City staff advises the Planning and Zoning Board to recommend approval of the rezoning request to the Board of Alderman.

#### **Board Discussion:**

There was no discussion, so Chair Layton opened the floor for public comment.

#### **Public Comment:**

Mr. Michael Cole with Cole Jenest & Stone stepped forward and stated that he was representing Mosaic Development Company from Charlotte. He went on to explain that the project will be an eighty-four unit, three story apartment project with seven buildings just off Tryon Road. He stated that the company will be preserving all the wetlands, as well as, 100 feet and 50 feet buffers. The architect was identified as Tise-Kiester of Chapel Hill. Mr. Cole advised that he would be happy to answer any questions.

**O**ı

#### **Opposition Comments:**

Mr. Tommy Hughes of 1004 Park Drive in Trent Woods stepped forward and stated that based on GIS analysis his property was within 100 feet of the parcel in question. He explained that his concerns stem from questions that he had regarding this project. His first question was what specifically is proposed by the developer and the following concern is how it would affect his property with the amount of traffic and activity added to the area. He also desired to know if Carolina Avenue would be terminated before crossing into Trent Woods as it currently is.

The other part of his concerns was based on analysis and whether it had been done for the proposed project. He stated that in the New Bern GIS Strategic Plan he found two points that he believed were important to this Project. He asked if a GIS analysis had been approached on how the proposed project will affect the surrounding property values. He also questioned if a study had been done on affordable, multi-family unit housing, which analyzes crime rates and other problems that arise when there are a large group of people in a small area. He also mentioned his interest in reviewing the developer package, and more specifically the plans for the wetlands and buffering objectives. As a biologist he stated that he would find it very interesting and finished by reiterating his concerns and stated that he does not want to this project devalue his property, in which he has lived in for the last 30 years.

Trent Woods Mayor, Chuck Tyson stepped forward and stated that he was not here to speak for or against the proposed project but that he would like to share his concerns with the Board. His first question was in regard to the zoning change and why the City had decided to re-zone to a commercial property instead of a multi-family property. He followed this by saying that development regulations in Trent Woods specify that multi-family properties abutting residential areas must include a berm, fencing, and other items of that nature to separate the spaces. Mayor Tyson acknowledged Mr. Cole's earlier statement regarding buffers and requested some type of assurance that something more than a green space would be installed to delineate the space.

Mr. Stanton Fitzgerald stepped forward to speak on behalf of the company S.O.S Global Express and its owner. He stated that the property, 2803 Trent Road, is adjacent to the proposed project. He stated that his concern is in regard to zoning requirements and explained that the majority of apartment complexes around New Bern were zoned as R-8 and wanted to know why the Board felt it necessary for increased density so it will bring this property to a commercial zone. He also asked why there was a proposed commercial property planned in the middle of residential zones.

 Mrs. Myra Garner of 2302 Chestnut Avenue stepped forward and stated that she lives in the Pembroke community and had a question regarding the traffic pattern. She explained that she received a letter and wanted to know if the goal of the development was to make a traffic outlet on the Pembroke side and what is the plan as they are looking to acquire property in the Pembroke area.

Chair Layton asked if she received a notification due to her proximity. He continued by stating that the request before the Planning and Zoning Board has to do specifically with re-zoning. He explained the process being, if the re-zoning is approved, it will then go before the Board of

Alderman. If the Board of Alderman approve it, the developers will send a site plan for department review, which will go through a detailed checklist to make sure the plan is full and complete. He stated that although it was a really long answer to Ms. Garner's question, the application before the Board was strictly a re-zoning approval and her notification had to do specifically with proximity to the parcel.

Ms. Garner followed this by asking if the parcel was rezoned as commercial would they then be able to make new roadways. Chair Layton explained that the zoning was specifically for the parcel/parcels themselves and doesn't affect anything to do with roads. He stated that rezoning does not give the developer the right to extend any roads, but that they would need to go through the process with the City. There were no further public comments, so Chair Layton closed the floor for public comment.

#### **Board Discussion:**

Mr. Beatty asked if it were possible to keep the residential zone and still accomplish all the desires that a commercial zone would do. Mr. Cole stepped forward and stated that there was no issue with a multi-family zoning. He continued by stating that they were advised by staff that a C-3 zoning would be most appropriate and if there were an issue with the developer doing something that was not on the plan, then they could do a multi-family zone.

Mr. Beatty responded by saying that he was specifically asking Staff if there was a way to use a residential zoning and still accomplish all that was intended with a C-3 zoning. Staff Potts stated that there was a way, and the reason why staff counseled Mr. Cole to go with C-3 zoning, was because it was the path of least resistance. She stated that when looking at the table of permissible uses, there is not a specific category for multi-family zoning and would require the developer to take extra measures, such as another review period, going before the Board of Alderman, and then going before the Board of Adjustment, as well as, requiring a special use permit. She explained that doing so would generate extra time and steps for the developer.

Chair Layton stated that in accordance with the Land Use Plan, C-3 zones adjacent to residential zoning is acceptable and Staff Potts added that when the parcel is re-zoned it is re-zoned to all the options that are available in the table of permissible uses. Board Member Jerry Walker asked what other options are included in the C-3 zoning. Staff Potts identified hotels, nursing homes, childcare facilities, and group homes as some of the options for a C-3 zone. Mr. Walker followed this line of questioning by asking if, in the event the situation arises that the Board approves the rezoning to commercial zoning, and the development does not follow through for unforeseen reasons, is it open for any type of occupancy since it is now a C-3 zone, or is it contingent on the development. Staff Potts and Chair Layton stated that it was not contingent, and the City does not have contingency zoning. Staff Potts continued that if the Board agrees to rezone the parcel, it would go before the Board of Alderman and if they choose to approve the rezoning, the rezoning will stay. Chair Layton included that even if this specific development doesn't happen, this parcel would not revert and would need to come before the Planning and Zoning Board again to rezone it.

Mr. Black suggested introducing a new class of zoning to include multi-family units without any possibility of commercial businesses being inserted after approval. Chair Layton stated that it was a discussion to have with Staff. Mr. Black also acknowledged the problem for the developer to facilitate the construction and it is a loop hole that some development can be done differently and needs to be addressed. Chair Layton acknowledged Mr. Black's suggestion and stated that in his profession, he often choose zoning based on the ease of the process and the reason it makes sense that C-3 was suggested by staff was because it doesn't require any special use permits, where a R-type zoning would for this purpose. He also stipulated that as Mr. Walker stated earlier, if the Planning and Zoning Board approved the rezoning to C-3 and the Board of Alderman approved the C-3 rezoning, then it stands, whether the development happens or not, until it is rezoned again.

Vice-Chair Aluzzo also mentioned that even if these buildings were developed, one of the buildings could be taken over and renovated to whatever. Chair Layton acknowledge the possibility and requested the Board to remember that the decision before them tonight was the rezoning. He stated that it was nice to have the packet submitted by the developer, but once the parcel was rezoned, assuming it is approved, or the developer decides to go for a special use permit, the site plan will still need to go through department review. At that time, he stated, City staff will go through all the details to approve the site plan. He stated that what is before the Board is the application, the recommendation of City staff, and public comment to use in deliberation.

Board Member Jeffrey Midgett asked if there were other properties the Board could take into account when deliberating on this matter within the surrounding area. Chair Layton stated that when staff makes recommendations of zonings to the applicant, they use the Land Use Plan and C-3 abutting residential zoning is acceptable in the Land Use Plan.

Staff Potts, wanting to touch on previous commentary, stated that lighting and traffic concerns, buffers, and street widening would be addressed and resolved during the department review, if the project were approved. Mr. Midgett asked if the Board should also consider continuity of the area when deliberating and Chair Layton agreed with the consideration. Staff Potts stated that there was also a condominium complex in front of the parcel and it is zoned as R-8. Mr. Midgett asked the specific location and Staff Potts stated it was down Carolina Avenue approximately 300 to 400 feet.

Mr. Black included that a large amount of this land is not developable because it is wetlands. Staff Potts agreed with his assessment and referenced a land use map identifying the sections of wetlands around the parcel area. Vice-Chair Aluzzo asked staff if the developer could accomplish what they have proposed with the current zoning of the parcel. Staff Potts stated that the parcel was currently split zoned as R-8/R-10 and after looking at the table of permissible uses she stated that it would not be possible to do so at R-10. Vice-Chair Aluzzo asked what the parcel would need to be rezoned to. Staff Potts stated that it would need to go R-8 or R-6, which require special use permits by the Board of Adjustments. She also included that C-5, C-5A, C-1, C-2, C-3 are permitted by right, so after the Board of Alderman, the developer would apply for a zoning permit. C-4, I-1, A-5F are other options and Staff Potts stated that all rezoning requires a special use permit.

Mr. Beatty asked the Board if they as a Board are on a mission to make ease for a developer or better satisfy the people in a regional area. Vice-Chair Aluzzo responded by saying neither, but

they needed to look at the whole picture. Mr. Beatty stated he was in agreement, but it feels the Board is bending toward making it easier for the builder versus the peace of the people that live in this area. Chair Layton inserted that he thinks this is not the case, since the applicant could easily ask for the parcel to be rezoned to R-8 and file for a special use permit.

Vice-Chair Aluzzo stated that he is leaning in the direction of rezoning from R-10 to R-8 zoning and apply for special use permit and explained his reason being that if something were to change in the future, he wouldn't want to see something such as a nightclub open on this parcel. Mr. Walker stated his understanding in setting a precedent and having been on the other side he also sees that having requirements set for the developer and they connect the dots and meet the requirements and the overlook of all of this, is that the complex that is proposed to be placed in there is not a bad thing, but that the Board would reject it when it would fall within the R-8 or the C-3 and we would place more hurdles before the developer. Vice-Chair Aluzzo understood his concern and stated that his problem was not with the development, but with something changing and one of the buildings not becoming a residential unit. Mr. Walker responded that a precedent he doesn't want to set is to leap to C-3. Mr. Beatty agreed with his statement and included that he too was questioning the choice to rezoning to C-3 just to make it comfortable for the developer to develop the property and asked if the Board was looking out for greater interest for the city and families in this area. He also asked who the Board was looking out for; the individuals, the property development, or the developer.

Vice-Chair Aluzzo reminded Mr. Beatty that this would still need to go to the Board of Alderman and he would still not like to keep the path open for one of the buildings being used for something other than what is intended. Mr. Walker stated that he doesn't foresee this happening nor does he see C-3 begetting C-3, since it is attached to the corridor. Chair Layton agreed with Mr. Walker and that it is something the Board routinely approves, which is rezoning to be congruent with something that is in a corridor.

Mr. Black asked if Mr. Walker would support the amendment to the ordinance to address this issue, such as a different R-classification for this kind of development where it would preclude any type of commercial development within it. Mr. Walker responded saying in essence it was not a bad idea, but also in essence it would be the same thing to direct them to go back to an R-8 and it was about the same difference. Mr. Black stated that this would be for the future. He said he was not unhappy with this design but dislikes the open-endedness that they could possibly have some type of mini hotel established as an example. Vice- Chair Aluzzo agreed that this may need to be done and Chair Layton said this would be a discussion for a separate meeting or forum. Staff Potts stated that to do an ordinance change would take upwards of six months to a year, is cumbersome, and wouldn't be something that can be done quickly. Mr. Beatty asked if the Board desired to do something quickly or properly.

Chair Layton asked the Board to come back to the application at hand, and though the ordinance discussion is a good conversation to have at another time, it is probably not pertinent to what is before the Board at this meeting. He went on to state that what is before them tonight is the rezoning and said that the Board could choose to recommend disapproval for the reasons they have discussed and the opinion that R-8 would be more appropriate and a special use permit if that is

how the Board feels. He encouraged the Board to deal with this application and not have broader discussions about the ordinance.

Staff Potts stated the options going forward and what to think about when deciding. She stated that the options were to recommend denial or approval or continue. If the Board chooses to have the parcel go to R-8, Staff Potts stipulated that she would have to go through the entire process and renotification if that is the case. She also asked the Board to think about the purpose for throwing the additional hurdle before the developer and delaying them by a month and is it have an extra set of eyes. If this is the case, she mentioned that City staff at a staff level review analyzes site plans and application.

Mr. Black responded saying that Vice-Chair Aluzzo made it clear that the concern is the rezoning would be open ended and some parts could be made commercial and Mr. Black also has the same concern. Chair Layton stated that the way he understood the argument was C-3 and the uses by right within the zoning is the concern, and if the R-10 portion is rezoned to R-8 special use permit, it would be a very specific use that is being requested. He went on to say that they are not trying to introduce an additional hurdle or delay the process but trying to make the use that is requested specific.

Mr. Midgett added that they wanted to make sure it was appropriate within the zoning of R-10 to C-3. Chair Layton stated that if wasn't appropriate it would not be allowed. Mr. Midgett asked if it was up to the Board to make these distinguishing decisions about where to put a C-3 or R-10 and the city is looking to this Board for guidance. Chair Layton stated that he would reference them back to the Land Use Plan. Mr. Walker stated that the area to be rezoned is partially in the C-3 zone right now and with all the wetlands behind it. He restated his earlier concern about C-3 using it as a precedent and now with the wetlands in the area he no longer sees it as he earlier did. He also mentioned it was funny that it is zoned both ways and he doesn't see a problem with expediting the process, since he has seen that most developers connect the dots and reach this anyway. He also desired to keep this process in mind when looking at the way the property sits within close proximity to another C-3 zone and residential.

Chair Layton asked Staff Potts to state the options once again. Staff Potts stated that the Board could choose to continue, to recommend denial and recommend approval for the request of rezoning. Chair Layton asked if the Board recommends continuing, does the applicant have the option to withdraw the application and resubmit the application to rezone to R-8. Mr. Cole stepped forward and stated that the developer is comfortable with withdrawing and resubmitting and desired to make two things clear. One, he stated, that the City is asking for rezoning and the second the developer has to have zoning in place by May 10, 2019. He continued by saying that if they withdraw, would it be possible to get it rezoned by May 10. He then asked Staff Potts to quickly look over the calendar to see, if the developer went through the correct channels, is it possible to realistically get rezoned by the 10<sup>th</sup> of May. Staff Potts looked at appropriate schedules, and said it would be possible if they did not miss a window. Morgan also suggested calling a special meeting in March so the application could be placed on the April 9, 2019 Alderman meeting while simultaneously applying for the special use permit in late April. With this information, Mr. Cole stated that they were comfortable with withdrawing.

Staff Potts asked to clarify if the application was being withdrawn at this time. Chair Layton stated that at this time if the applicant is withdrawing, discussion would end, and the Board would wait for Staff to let them know about the special meeting. Staff Potts stated that the Board will possibly look at March 19, 2019 for the special meeting, but first wanted to clarify the notification requirements.

 Mr. Fitzgerald stepped forward and offered a suggestion to reference The Reserve at Glenburnie that holds a zoning of R-6 and may offer a frame of reference. Chair Layton stated that since the application has been withdrawn there would be no further public comment, but this application would come before this Board again and the public would have a chance to comment at that time. This concluded the discussion regarding this application.

C. Consideration of request from Tarheel Building Systems to rezone 0.22 +/- acres from R-10 Residential District to C-5 Office and Institutional District, located at 1203 Simmons Street, New Bern, NC 28560. The property is further identified as Craven County Parcel Identification Number 8-034-059. (Ward 2)

#### **Staff Comments:**

Staff Potts stated that all public notice requirements have been fulfilled and City Staff advises the Planning and Zoning Board to recommend approval of the rezoning request to the Board of Alderman. Staff Potts added that it makes sense since the area where is located is surrounded by a barber shop and a flower shop and are not anticipating any kind of traffic impacts. The zoning around the parcel are C-3 and C-5.

#### **Board Discussion:**

Board Member Jerry Walker asked if the parcel was being rezoned for office and institutional. Staff Potts confirmed that it was C-5, Office and Institutional. With there not being any further discussion, Chair Layton opened the floor for public comment.

#### **Public Comment:**

There was no public comment and Chair Lee closed the floor for public comment.

#### **Board Discussion:**

Mr. Walker asked if this was a recommendation that would go to the Board of Alderman. Chair Layton confirmed that this was the case and that rezonings will always go to the Board of Alderman as recommendations.

There was no further discussion, so Chair Layton entertained a motion. Board Member Don Black moved to recommend to the Board of Alderman to approve the rezoning request of the Simmons Street address. Board Members Pat Daugherty and Heron Beatty seconded the motion and it passed unanimously. (9-0)

| 363 | Adjourn                                     |  |
|-----|---|--|
| 364 |   |  |
| 365 | There was no further discussion amongst the | Board, so Chair Layton entertained a motion to |
| 366 | adjourn. Board Member Don Black move        | d to adjourn and Vice-Chair Sonny Aluzzo       |
| 367 | seconded the motion. The motion passed una  | nimously.                                      |
| 368 |   |  |
| 369 | The meeting was adjourned at 6:24 p.m.      |  |
| 370 |   |  |
| 371 |   |  |
| 372 | Date Approved:                              |  |
| 373 |   | Raymond Layton, Chair                          |
| 374 |   |  |
| 375 | Attest:                                     |  |
| 376 | Morgan Potts, Clerk to the Board            |  |
| 377 |   |  |
| 378 |   |  |
| 379 |   |  |
| 380 |   |  |
| 381 |   |  |
|     |   |  |





### City of New Bern

1203 Simmons St. Rezoning Request

### 1203 Simmons St. Rezoning Request

Applicant/Property Owner: Tarheel Building Systems/Michael Rice

Tax ID: 8-034-059

Requested Change: R-10 Residential District to C-5 Office & Institutional District

Size: .22+/- acres

Description of Property: Formerly Single-Family Residential

Adjacent Land Uses: North: Office & Institutional (C-5)

South: Single Family Residential (R-10) East: Office & Institutional (C-5) West: Single Family Residential (R-10)

### 1203 Simmons St. Rezoning Request

Reason for Request: To permit the storage of home flooring samples and an associated office space.

City Provided Services: All City services are available.

**2010 Regional Land Use Plan:** Consistent with the "Developed" designation. Generally, the character of the area is urban, and higher intensity uses require urban municipal or public services.

**Environment:** There are no known environmental hazards at the proposed site.

NEW BERN

### Rezoning Case 1203 Simmons St.

- .22 +/- acres.
- Currently zoned R-10 Single Family Residential
- Requested change to C-5 Office & Institutional.



NEW RERN

### 1203 Simmons St. Subject Site View



1203 Simmons St. Rezoning Request North View



NEW BERN

### 1203 Simmons St. Rezoning Request South View



NEW BERN

### 1203 Simmons St. Rezoning Request East View



### 1203 Simmons St. Rezoning Request West View



NEW BERN

### Staff Conclusions

- Proposed rezoning is consistent with City Plans.
- There is no expected adverse impact to the surrounding area.
- At the March 5, 2019 meeting, the Planning and Zoning Board unanimously recommended approval of rezoning this parcel to C-5 Office & Institutional District.
- City staff recommends approval of this rezoning request to C-5 Office & Institutional District.

#### **AGENDA ITEM COVER SHEET**

| To consider adopting a resolution to rezone Craven County Parcel ID #8-044-011 from R-8/R-10 Residential to C-3 Commercial  |
|---|
| Date of Meeting 04/09/2019 Ward # if applicable Ward 2  |
| Department Development Services Person Submitting Item: Morgan Potts  |
| Call for Public Hearing Ves No Date of Public Hearing 4/9/2019  |
| Explanation of Item:  State statute and local ordinance requires the governing body to hold a public hearing to rezone Craven County Parcel ID #8-044-011, also known as 703 Carolina Avenue. The parcel consists of 30 +/- acres, and is located in Ward 2. The applicant has proposed to rezone the property from R-8/R-10 Residential to C-3 Commercial. |
| Actions Needed by Board:  |
| To hold a public hearing and consider approval or denial of the requested zoning map amendment, adopt a resolution and statement of consistency or inconsistency.   |
| Is item time sensitive? Yes No  |
| Will there be advocates/opponents at the meeting? Yes No  |
| Backup Attached:  |
| Memo, Analysis, Consistency & Inconsistency Statements, Site Map, Planning & Zoning Board Minutes Excerpt, Application & Resolution.  |
| Cost of Agenda Item: 0  |
| If this item requires an expenditure, has it been budgeted and are funds available and  |

#### Additional notes:

certified by the Finance Director : Yes No

**Agenda Item Title:** 

The Planning & Zoning Board voted 5-2 to recommend approval of the proposed rezoning at their Special Called Meeting, held 3/19/2019.



Development Services 303 First Street, P.O. Box 1129 New Bern, NC 28563 (252)639-7581

#### **MEMORANDUM**

**TO:** Mayor Dana Outlaw

City of New Bern Board of Aldermen

**FROM:** Morgan J. Potts, AICP

City Planner

**DATE:** March 29, 2019

**SUBJECT:** Request to Rezone 703 Carolina Avenue

Mr. Michael Cole of ColeJenest & Stone & Mr. James Royster of the Mosaic Development Group, on behalf of the City of New Bern and the City of New Bern Housing Authority, have requested consideration of an application to rezone an approximate 30 +/- acre tract from R-8/R-10 Residential District to C-3 Commercial District, located at 703 Carolina Avenue. The property is further identified as Craven County Parcel Identification Number 8-044-011.

All public notice requirements have been fulfilled. City staff advises the Planning & Zoning Board to recommend approval of the rezoning request to the Board of Aldermen.

AN ORDINANCE TO AMEND THE ZONING MAP OF THE CITY OF NEW BERN SO AS TO CHANGE THE ZONING CLASSIFICATION OF PROPERTY OWNED BY THE CITY OF NEW BERN CONSISTING OF APPROXIMATELY 30.81 ACRES LOCATED AT 703 CAROLINA AVENUE, FROM THE ZONING CLASSIFICATION OF R-8/R-10 RESIDENTIAL DISTRICT TO C-3 COMMERCIAL DISTRICT

THAT WHEREAS, the City of New Bern owns approximately 30.81 acres, more or less, located at 703 Carolina Avenue in the City of New Bern, and an application has been made to change the zoning classification of the subject property from R-8/R-10 Residential District to C-3 Commercial District; and

WHEREAS, the Planning and Zoning Board recommended said request be approved, with five members voting in favor of the rezoning and two members voting against the rezoning; and

WHEREAS, the Board of Aldermen of the City of New Bern conducted a duly advertised public hearing with respect to the proposed amendment on April 9, 2019, at which time all interested parties were given an opportunity to be heard; and

WHEREAS, the Board of Aldermen of the City of New Bern deems it advisable and in the public interest to effect said change, as the requested C-3 Commercial District classification is consistent with the City Land Use Plans and nearby land uses.

# NOW, THEREFORE, BE IT ORDAINED BY THE BOARD OF ALDERMEN OF THE CITY OF NEW BERN:

<u>Section 1</u>. That the zoning map of the City of New Bern be and the same is hereby amended by changing the zoning classification of the real property owned by the City of New Bern consisting of 30.81 acres, more or less, located at 703 Carolina Avenue in the City of New Bern, from R-8/R-10 Residential District to C-3 Commercial District as more specifically shown on the plat entitled "REZONING CASE: 703 Carolina Ave. – Approximately 30 Acres: PID 8-044-011" prepared by the Development Services Department of the City of New Bern, a copy of which is attached hereto and incorporated herein by reference.

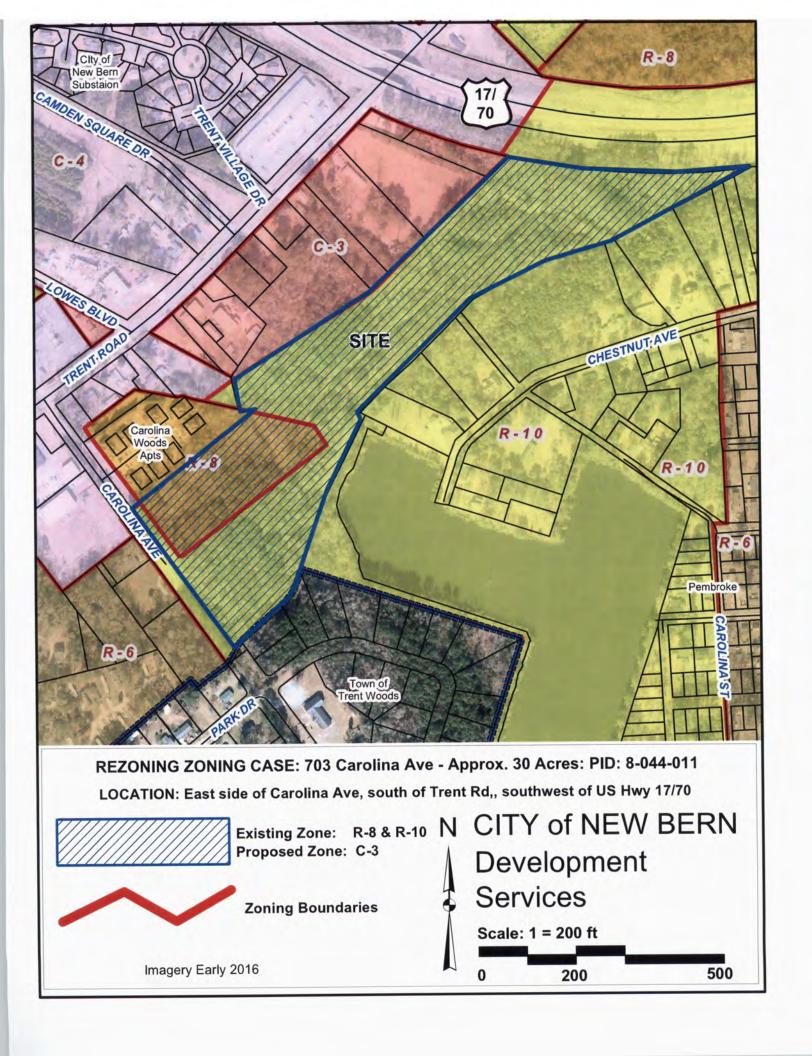
Section 2. That the Board deems it in the public interest to rezone the subject property as the requested C-3 Commercial District classification is consistent with the City Land Use Plans and nearby land uses.

Section 3. That this ordinance shall be in full force and effect from and after its adoption and publication as required by law.

ADOPTED THIS 9th DAY OF APRIL, 2019.

DANA E. OUTLAW, MAYOR

BRENDA E. BLANCO, CITY CLERK



### **Craven County Parcel ID's #8-044-011**

# STATEMENT OF ZONING CONSISTENCY WITH ADOPTED PLANS

The Board of Aldermen of the City of New Bern finds the action to rezone Craven County Parcel ID's 8-044-011 to C-3 Commercial District reasonable and in the public interest, and consistent with the City Land Use Plans and nearby land uses. In that:

- 1. The C-3 Commercial District is deemed to be compatible with the "Developed" designation indicated in the Future Land Use Map found in the 2010 CAMA Regional Land Use Plan.
- 2. The proposed C-3 District is deemed to be compatible with adjacent zoning classifications.
- 3. The proposed C-3 Commercial District is deemed to be compatible with existing uses.

This certifies the above statement of zoning consistency was adopted by the Board of Aldermen on April 9, 2019.

Brenda E. Blanco, City Clerk

### Craven County Parcel ID's #8-044-011

# STATEMENT OF ZONING INCONSISTENCY WITH ADOPTED PLANS

The Board of Aldermen of the City of New Bern finds the action to rezone Craven County Parcel ID's #8-044-011 to C-3 Commercial District is not reasonable and is not in the public interest, and finds it to be inconsistent with the Regional Land Use Plan and nearby land uses in that the proposed C-3 Commercial District is incompatible with the uses permitted on nearby properties, and other properties in the vicinity. And that:

1. The proposed C-3 Commercial District would be incompatible with adjacent use and the Future Land Use Map found in the 2010 CAMA Regional Land Use Plan.



Development Services 303 First Street, P.O. Box 1129 New Bern, NC 28563 (252) 639-7581

March 27, 2019

TO: Matt Montayne, Director of Public Works

FROM: Morgan Potts, City Planner

SUBJECT: Posting for Public Hearing

The Board of Aldermen of the City of New Bern, will review a request for a rezoning located at 703 Carolina Avenue, on Tuesday, April 9, 2019, at 6:00 pm in the City Hall Courtroom, located at 300 Pollock Street, New Bern, NC 28560. Please post the following information by March 29, 2019 at 5:00 p.m. at the below noted locations. Per the Land Use Ordinance, we must use a colored sign. Thank you in advance for your assistance and if you have any questions please call me at ext. 7583.

NOTICE OF SPECIAL CALLED MEETING & PUBLIC HEARING (Post sign #1 at the front yard of the parcel at 703 Carolina Ave., as shown on map)

WHERE: City Hall Courtroom, located at 300 Pollock Street

WHEN: April 9, 2019, at 6:00 pm

PURPOSE: To consider a rezoning request from R-6/C-4 to C-3

NOTICE OF SPECIAL CALLED MEETING & PUBLIC HEARING

(Post sign #2 at the corner of the parcel at Trent Road & Carolina Ave., as shown on map)

WHERE: City Hall Courtroom, located at 300 Pollock Street

WHEN: April 9, 2019, at 6:00 pm

PURPOSE: To consider a rezoning request approximately 550 feet to the SE of this sign

from R-6/C-4 to C-3

(CONTINUED)

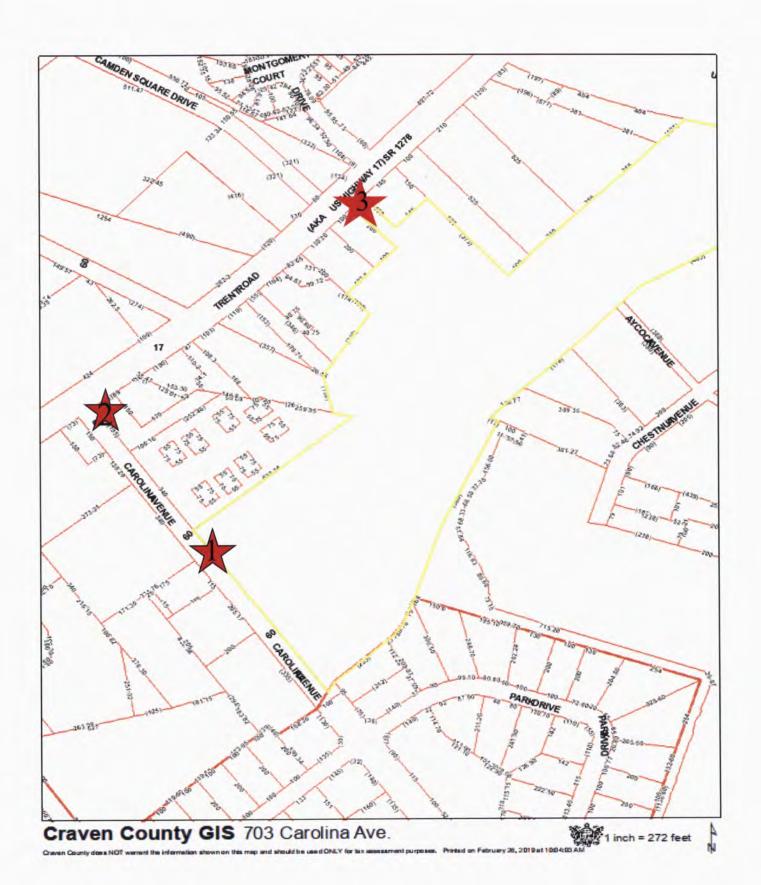
# NOTICE OF SPECIAL CALLED MEETING & PUBLIC HEARING (Post sign #3 between 2509 & 2603 Trent Road, as shown on map)

WHERE: City Hall Courtroom, located at 300 Pollock Street

WHEN: April 9, 2019, at 6:00 pm

PURPOSE: To consider a rezoning request for from R-6/C-4 to C-3

Morgan Potts, AICP, City Planner





Development Services 303 First Street, P.O. Box 1129 New Bern, NC 28563 (252) 639-7581

# City of New Bern 703 Carolina Ave. (Parcel ID# 8-044-011) Rezoning Request Analysis

Date: March 29, 2019

<u>Applicant:</u> ColeJenest & Stone/Housing Authority of the City of New Bern/Mosaic Development Group/City of New Bern

# Requested Change:

Existing: R-10 Residential District (10,000 sq. ft. lots) & R-8 (8,000 sq. ft. lots) Proposed: C-3 Commercial District (5,000 sq. ft. lots)

# Location:

The property is located at 703 Carolina Avenue and is further identified as Craven County Parcel ID# 8-044-011.

# Size:

The area to be rezoned is approximately 30 + - acres.

# Reason for Change:

The purpose of the proposed re-zoning request is to permit the construction of multifamily housing, which will assist in the implementation of the Choice Neighborhoods Initiative (CNI) Plan.

# History/Background:

The parcel is vacant woodland.

### Present Land Use:

The parcel is vacant woodland.

# Surrounding Land Uses and Zoning:

North: R-8 Residential District/C-4 Commercial District/C-3 Commercial District

South: R-10 Residential District East: R-10 Residential District

West: C-4 Commercial District/R-6 Single Family Residential

### City Provided Utilities and Services:

All city provided utilities and services are available to the general area.

# Comprehensive Plan:

# 2010 CAMA Regional Land Use Plan

The area is classified as "Developed", whereas mixed land uses are included in area. The intensity permitted varies depending on the zoning district and overlay standards specified in various zoning districts. Generally the character of the area is urban, and higher intensity uses require urban municipal or public services. Incompatible uses within this land class are industrial and agricultural land uses.

# 1993 Thoroughfare Plan/Traffic:

According to the 1993 Thoroughfare Plan Carolina Avenue is classified as a local street, however Trent Boulevard is classified as a Major Thoroughfare.

#### **Environment:**

According to the Regional Land Use Plan, the subject property has high suitability for development. There are no known environmental hazards.

### **Staff Comments:**

The proposal to rezone the subject property to C-3 Commercial District is consistent with the character of the adjacent land uses and zoning classifications. Approval of the rezoning will assist in the implementation of the Choice Neighborhoods Initiative (CNI) Plan. Staff has found the proposed rezoning to be in the public interest and is consistent with the CAMA Land use Plan, CNI Plan, and the Transportation Plan. Staff recommends approval of the requested rezoning.

Morgan Potts, AICP City Planner

# APPLICATION TO AMEND LAND USE ORDINANCE

Fee: \$375.00



Morgan Potts (252) 639-7583 pottsm@newbernnc.gov

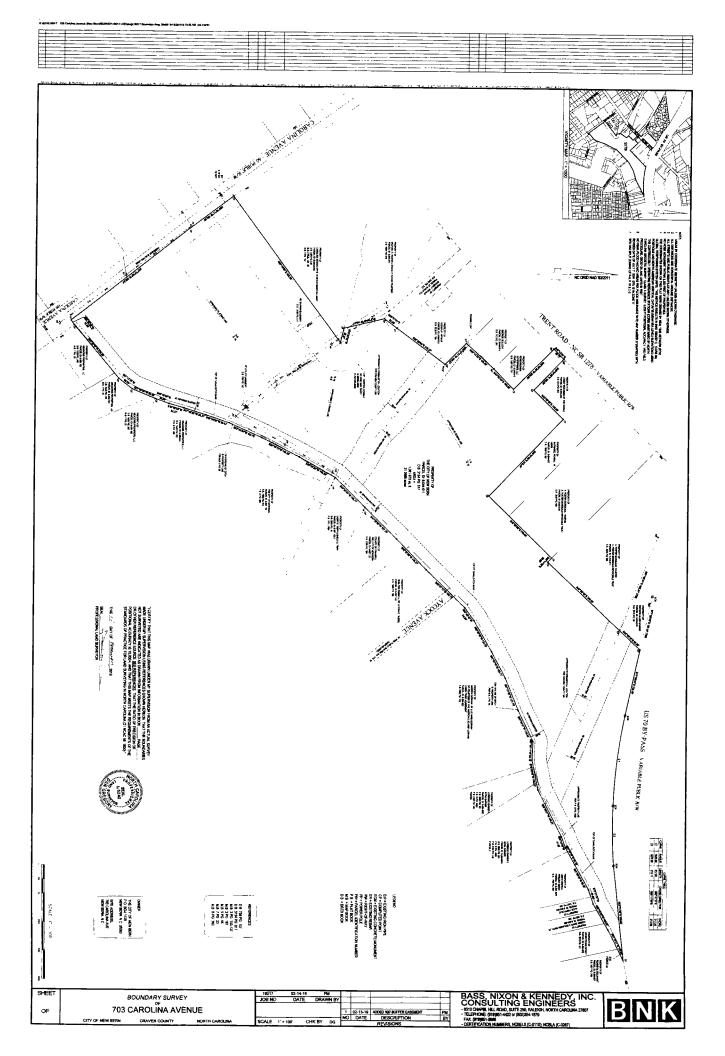
Fax: (252) 636-2146

# Everything comes together here

| 1. | NAME: Paul Medling - ColeJenest & Stone (owners representative)  Michael Cole - ColeJenest & Stone (owners representative)   |  | -              |
|----|--|--|----------------|
|    | ADDRESS: 131 1/2 S. Wilmington Street, suite 20  Paul Medling - (727) 743-7310  Michael Cole - (704) 564-9810  Paul Medling - pmedling@colejeneststone.com  Michael Cole - mcole@colejeneststone.com | 00, Raleigh, NC 27601  HOME/WORK: Paul Medling - (919) 645- Michael Cole - (919) 645- FAX: |                |
| 2. | ZONING CHANGE REQUESTED  |  |                |
|    | A. Amendment to zoning classification, from  | R-8 / R-10 to C-3  |                |
|    | B. Amendment to Land Use Ordinance text  | N/A  |                |
|    | Give section of City's Land Use Ordinance to be a N/A  | mended and attach explanation to ap  | plication.     |
| 3. | LOCATION OF PROPERTY 703 Carolina Avenue  Note: If there is no street address, list other means such as landmarks, community or neighborhood names, subdivision name, lot number highway number.     |  |                |
| 4. | 4. If rezoning request, provide Metes and Bounds description of property: <u>See attached Boundary S</u>   |  | oundary Survey |
|    | Use separate sheet if necessary and attaché to a (plat) containing the Metes, Bounds and Distance  | •  | urveyor's map  |
| 5. | If request involves property owned by persons other separate sheet if necessary and attach to application  |  | addresses (use |
|    | NAME   | <u>ADDRESS</u>   |                |
|    |  |  |                |
|    |  |  |                |

| 6. | If property owners listed in Item 5 have given consent to this request, attach copy(s) of their approval to this application.  |
|----|--|
| 7. | Give concise statement of reasons why the proposed amendment would be in the public interest if change is granted.   |
|    | Requesting rezoning approval to accommodate the development of a multifamily residential community on the site that would contain up to 84 dwelling units for families. The development addresses New Bern's need for additional high quality housing serving families at diverse price points as evidenced by Hurricane Florence. |
|    | Paul H. Medling (owners representative) 03.07.2019 Signature of Applicant Date   |

Applications to be considered must be submitted 21 days before the Planning & Zoning Board meeting, which is held on the first Tuesday of each month.





Development Services 303 First Street, P.O. Box 1129 New Bern, NC 28560 (252)639-7581

March 27, 2019

#### NOTICE TO ADJACENT PROPERTY OWNERS AND APPLICANT

The Board of Aldermen of the City of New Bern will meet at 6:00 PM on Tuesday, April 9, 2019 in the City Hall Courtroom, located at 300 Pollock Street, New Bern, NC, 28560, for a public hearing on a request to rezone an approximate 30 +/- acres from R-8/R-10 Residential to C-3 Commercial, located at 703 Carolina Avenue. The property is further identified as Craven County parcel ID #'s 8-044-011. The public is invited to attend and comment. According to the Craven County Tax Records, you are the owner of property located within 100 feet of the subject area.

A copy of the rezoning application is available for public review during normal business hours in the Development Services office, located at 303 First Street. For further information contact the City of New Bern Development Services Department at (252) 639-7581.

Morgan J. Potts, AICP City Planner

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#### Excerpt of Minutes of the New Bern Planning & Zoning Board 1 **Special Called Meeting** 2 March 19, 2019 3 4 The special called meeting of the New Bern Planning & Zoning Board was held in the City Hall 5 Courtroom, 300 Pollock Street, on Tuesday, March 19, 2019 at 5:30 PM. 6 7 8 Mr. Raymond Layton, Chair **Members present:** 9 Ms. Carol Williams Mr. Jerry Walker 10 Mr. Don Black 11 Mr. Marshall Ballard 12 13 Mr. Pat Dougherty 14 Mr. Haron Beatty (arrived approx. 5:35 p.m.) Mr. Jeffrey Midgett 15 Mr. Willie Newkirk, Sr. 16 17 18 Members absent: Mr. Don Black 19 Mr. Sonny Aluzzo 20 21 Members excused: 22 23 Ms. Morgan Potts, City Planner 24 **Staff present:** Mr. Bradleigh Sceviour, Land & Community 25 26 **Development Administrator** 27 28 Chair Layton called the meeting to order. 29 30 Roll call was taken and a quorum declared. \*\*\*\*\*\*\*\*\*\*\*\*\*\*\* 31 32 33 **New Business:** A. Consideration of a request to rezone 30.81 +/- acres from R-8/R-10 Residential 34 District to C-3 Commercial District, located at 703 Carolina Avenue. The 35 property is further identified as Craven County Parcel Identification Number 8-36 044-011. (Ward 2) 37 38 Staff Comments: City staff presented the proposed rezoning request. 39 40 Public Comment: Sheila Tripp (did not provide address) asked how the rezoning would impact 41 her home on Chesnutt Ave regarding increased traffic. 42 Mr. Dan Murphy, Commissioner of Trent Woods, stated that he thought that the Planning & 43 Zoning Board had heard the residents of the area and that the issue was over, and that he is not 44

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sure why this is being fast tracked to the board by the City. He asked that the Board revisit the idea of leaving the area as high density residential.

Mr. Stanton Fitzergald, 2803 Trent Road, asked if the density of the apartment complex is so dense, that it requires C-3 zoning, and why couldn't it be accomplished with residential zoning? He stated that it is his understanding that the majority of the parcel is wetlands that cannot be developed, and that the only reason this is being recommended as C-3 Commercial is because it is the less cumbersome route for the applicant. He asked if the proposed location of the multifamily complex had been moved? He stated that if the apartment complex isn't placed there, a commercial development would change the character of the neighborhood.

Mr. Thomas Hughes of 1004 Park Drive, stated he would like to see the area stay residential and they would like to have protection from commercial encroachment. He stated he was concerned over traffic and that Carolina Ave. should not open to Trent Woods. He asked if the increase of rezoned acreage had anything to do with the additional acreage for sale on Trent Blvd. He further said that he would like to see a vegetative buffer between the parcel and adjacent uses.

 **Board Discussion:** Mr. Jeff Midgett asked if as a Board, if they have the responsibility to listen and take into account what the adjacent property owners concerns are. Chair Layton said yes, however we are not the final say for rezonings. Chair Layton explained the rezoning process. Mr. Ballard asked if the owner could make the presentation, and Chair Layton stated that the City owns the property. Mr. Dougherty asked why the rezoned acreage was increased?

 Mr. Michael Cole of ColeJenest & Stone, stated that what they presented last time has changed at the direction of the City, who is the owner. He stated that the majority of the parcel is undevelopable, and C-3 is requested because New Bern does not have a multifamily zoning district. He stated they are on a very tight time frame and additional steps would be difficult, and they were advised by the City that the overall Land Use Plan for the City that C-3 is their recommendation.

Mr. Haron Beatty asked what income bracket the new apartments would be for, and Staff Potts stated that can't be a part of the discussion. Mr. Beatty stated that they don't have enough information to make a decision.

Staff Sceviour stated that the parcel in question is surrounded by Commercial uses and is in the Trent Road Corridor, and the reason why the City has requested to rezone the entire parcel is because split zoning a parcel isn't the best practice for land use, and that it becomes difficult to discern zoning for split parcels.

Mr. Ballard asked what traffic impacts have been taken into consideration, and Sceviour stated that the road can accommodate the proposed use as it is, however when the project comes before site plan review, that will be closely examined by the Fire Dept., Public Works, etc...

Mr. Sceviour also explained to the board that they are not contracting into the rezoning a specific project. He stated that the multifamily complex near the proposed site is considered a commercial site, therefore he considers the rezoning to be appropriate.

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| 91 | Much discussion followed.   |
|----|---|
| 92 |   |
| 93 | A motion was made to recommend approval by Mr. Dougherty and seconded by Mr. Midgett. A |
| 94 | roll call vote was taken. The motion passed 5-2 (Beatty & Williams nay).                |
| 95 |   |
| 96 | **************************  |
| 97 |   |
| 98 |   |
| QC | Raymond Layton Chair Morgan Potts, Clerk  |





# City of New Bern

703 Carolina Avenue Rezoning Request

# 703 Carolina Avenue Rezoning Request

Applicant/Property Owner: ColeJenest & Stone/Housing Authority of the City of New Bern/Mosaic Development Group/City of New Bern

Tax ID: 8-044-011

Requested Change: R-10 Residential District/R-8 Residential District to C-3 Commercial District

Size: 30 +/- acres

Description of Property: vacant, woodland

Adjacent Land Uses: North: Commercial/Residential (C-3/R-8)

South: Single Family Residential (R-10)

East: Residential (R-10)

West: Commercial/Residential (C4/R-6)

NEW BERN

# 703 Carolina Avenue Rezoning Request

**Reason for Request:** To allow for the construction of a multifamily housing.

City Provided Services: All City services are available.

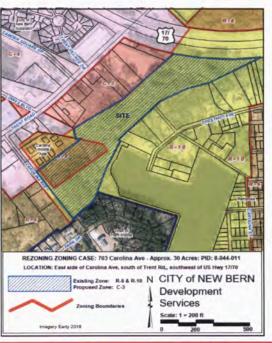
**2010 Regional Land Use Plan:** Consistent with the "Developed" designation. Generally, the character of the area is urban, and higher intensity uses require urban municipal or public services.

**Environment:** The parcel is not within the AE flood zone. No wetlands will be disturbed as a result of construction.

NEW BERN

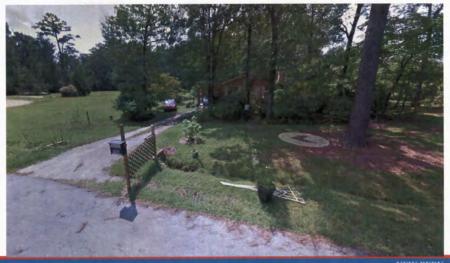
# Rezoning Case 703 Carolina Avenue

- 30 +/- acres
- Currently split zoned R-8/R-10 Single Family Residential
- Requested change to C-3 Commercial



NEW RERN

# 703 Carolina Avenue Rezoning Request West View



NEW BERN

# 703 Carolina Avenue Rezoning Request North View



NEW BERN

# 703 Carolina Avenue Rezoning Request North View



NEW BERN

# Staff Conclusions

- Proposed rezoning is consistent with City Plans, including the CNI & CAMA Land Use Plan.
- There is no expected adverse impact to the surrounding area.
- At a Special Called March 19, 2019 meeting, the Planning and Zoning Board recommended approval of rezoning this parcel to C-3 Commercial; vote was 5-2.
- City staff recommends approval of this rezoning request to C-3 Commercial.

NEW BERN

# **AGENDA ITEM COVER SHEET**

| Agenda item title:   |                          |                     |                  |
|--|--------------------------|---------------------|------------------|
| Ordinance annexing property own  | ed by Weyerhaeuser NR Co | mpany               |                  |
| Date of Meeting/Work Session   | Ward # if applicable4    |                     |                  |
| Department Dev. Services   | Person submitting item   | Scott Davis         |                  |
| Call for Public Hearing  | Date of Public Hearing   | April 9, 2019       |                  |
| Explanation of the item:   |                          |                     |                  |
| Ordinance annexing to the City property owned by Weyerhaeuser NR Company located at north of NC Highway 43 consisting of approximately 8.13 acres of Craven 30/Craven 30 West in Number Eight Township |                          |                     |                  |
| Actions needed by Board:   |                          |                     |                  |
| Adopt ordinance  |                          |                     |                  |
| Is item time sensitive? Yes  |                          |                     |                  |
| Will there be advocates/opponents at the meeting?  |                          |                     |                  |
| Backup attached:   |                          |                     |                  |
| Ordinance  |                          |                     |                  |
| Cost of Agenda Item N/A  | -                        |                     |                  |
| If this item requires an expenditure, the Finance Director?  |                          | are funds available | and certified by |
| Additional notes:  |                          |                     |                  |



Development Services 303 First Street, P.O. Box 1129 New Bern, NC 28563 (252)639-7581

# **MEMORANDUM**

**TO:** Mayor Outlaw and Board of Aldermen

**FROM:** Morgan Potts, AICP

City Planner

**DATE:** April 4, 2019

SUBJECT: Annexation Petition for Tax Parcel IDs 8- 209-24000, 8-209-24001 and a Portion

of 8-209-13001, owned by Weverhaeuser NR Company

The Board of Aldermen is requested to hold a public hearing and consider accepting a petition to Annex Tax Parcel IDs 8- 209-24000, 8-209-24001 and a Portion of 8-209-13001, owned by Weyerhaeuser NR Company at their April 9, 2019 regular meeting. The Tax Parcel IDs are 8-209-24000, 8-209-24001 and a Portion of 8-209-13001, and are located within (8) Township. The property consists of 8.13 acres, more or less, and includes Lot 4 of Craven 30 West (now Craven County parcel identification number 8-209-24000), West New Bern Parkway and Downey Drive (Craven County parcel identification number 8-209-24001), and that portion of Craven County parcel identification number 8-209-13001 lying between West New Bern Parkway/Downey Drive and NC Highway 43. All City Utilities and Services will be provided upon annexation.

Please contact me at 639-7583 should you have any questions or need additional information.

#### Prepared by:

Michael Scott Davis DAVIS HARTMAN WRIGHT PLLC 209 Pollock Street New Bern, NC 28560

AN ORDINANCE ANNEXING TO THE CITY OF NEW BERN PROPERTY OF WEYERHAEUSER NR COMPANY CONSISTING OF 8.13 ACRES, MORE OR LESS, LOCATED NORTH OF NC HIGHWAY 43 AT WEST NEW BERN PARKWAY/DOWNEY DRIVE IN NUMBER EIGHT (8) TOWNSHIP

THAT WHEREAS, Weyerhaeuser NR Company filed a petition requesting the annexation to the City of New Bern of property it owns, which is more particularly described on Exhibit A attached hereto and incorporated herein by reference, consisting of 8.13 acres, more or less, which said parcel includes Lot 4 of Craven 30 West (now Craven County parcel identification number 8-209-24000), West New Bern Parkway and Downey Drive (Craven County parcel identification number 8-209-24001), and that portion of Craven County parcel identification number 8-209-13001 lying between West New Bern Parkway/Downey Drive and NC Highway 43 in Number Eight (8) Township, Craven County, North Carolina, the boundaries of which are shown on a survey prepared by McKim & Creed, a copy of which is attached hereto as Exhibit B, and incorporated herein by reference; and

WHEREAS, said petition was referred to the City Clerk for an investigation as to the sufficiency thereof; and

WHEREAS, the City Clerk certified the sufficiency of the petition in writing to the Board of Aldermen; and

WHEREAS, the Board of Aldermen called for a public hearing on the question of annexation of said territory; and

WHEREAS, pursuant thereto, notice of a public hearing to be held at 6:00 p.m. on April 9, 2019, in the City Hall Courtroom was duly caused to be published as required by law in the *Sun Journal*, a newspaper having general circulation in the City; and

WHEREAS, on April 9, 2019, at 6:00 p.m., a public hearing on the question of annexation of the subject area was held by the Board of Aldermen of the City of New Bern, at which time all interested parties were given an opportunity to be heard; and

WHEREAS, it was then determined by the Board of Aldermen that the petition filed met the requirements of the General Statutes of North Carolina, and that the area described in the petition should be annexed.

NOW, THEREFORE, BE IT ORDAINED BY THE BOARD OF ALDERMEN OF THE CITY OF NEW BERN:

Section 1. That the subject petition meets the requirements of §160A-58.1(b) of the General Statutes of North Carolina.

Section 2. That the property owned by Weyerhaeuser NR Company, more particularly described on Exhibit A attached hereto and incorporated herein by reference, consisting of 8.13 acres, more or less, which said parcel includes Lot 4 of Craven 30 West (now Craven County parcel identification number 8-209-24000), West New Bern Parkway and Downey Drive (Craven County parcel identification number 8-209-24001), and that portion of Craven County parcel identification number 8-209-13001 lying between West New Bern Parkway/Downey Drive and NC Highway 43 in Number Eight (8) Township, Craven County, North Carolina, the boundaries of which are shown on a survey prepared by McKim & Creed, a copy of which is attached hereto and incorporated herein by reference as Exhibit B, be and the same is hereby annexed to the City of New Bern.

Section 3. That the effective date of annexation shall be midnight on April 9, 2019.

Section 4. That the area to be annexed be and the same is hereby made a part of Ward 4 of the City of New Bern.

Section 5. That this ordinance, together with a plat reflecting the area being annexed, shall be recorded forthwith in the Office of the Register of Deeds of Craven County.

ADOPTED THIS 9<sup>th</sup> DAY OF APRIL, 2019.

DANA E. OUTLAW, MAYOR

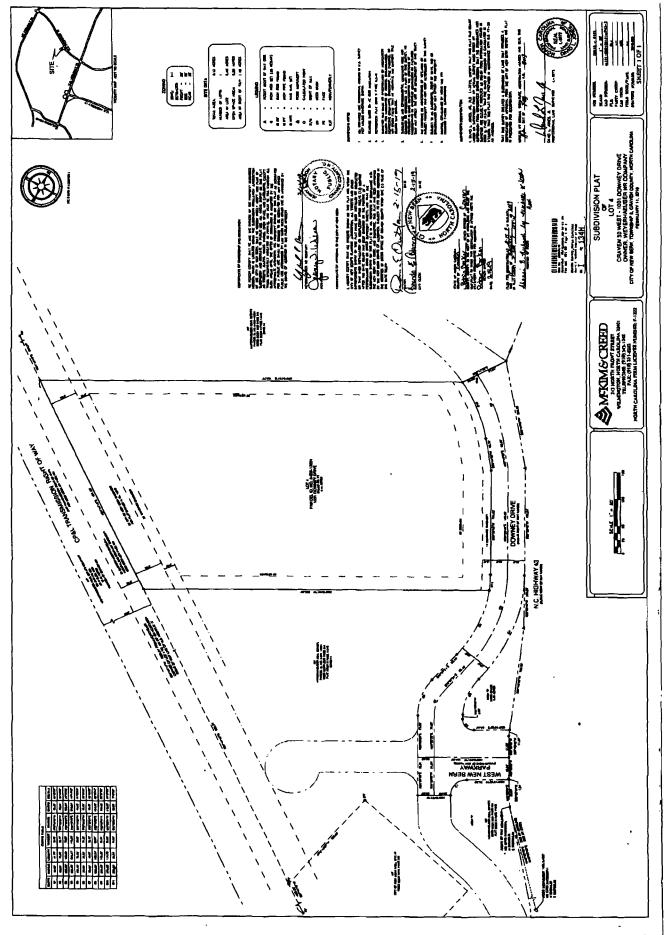
BRENDA E. BLANCO, CITY CLERK

# EXHIBIT A

All that certain tract or parcel of land lying and being situate in Number Eight (8) Township, Craven County, North Carolina, and being more particularly described as follows:

Being the following two (2) courses and distances from NCGS Monument "Voltage" (NC GRID NAD83/2011, N=506516.87, E=2557593.28): N 46° 33' 43" E 2827.69 feet to an NCDOT Right of Way Monument (NC GRID NAD83/2011, N=508460.71, E=2559646.30) and N 59° 05' 44" E 53.00 feet to an iron rod set, the point of BEGINNING; thence from said point of beginning N 30° 18' 32" W 75.26 feet to an iron rod set; thence on a curve to the left with a radius of 30.00 feet, a chord bearing and distance of N 75° 06' 27" W 42.28 feet, 46.91 feet to an iron rod set; thence N 29° 54' 21" W 60 feet to an iron rod set; thence N 60° 05' 39" E 152.27 feet to an iron rod set; thence on a curve to the right with a radius of 95 feet, a chord bearing and distance of S 81° 59' 04" W 70.84 feet, 72.59 feet to an iron rod set; thence S 76° 07' 31" E 65.16 feet to an iron rod set; thence on a curve to the left with a radius of 220.00 feet, a chord bearing and distance of N 86° 09' 56" E 133.84 feet, 136.00 feet to an iron rod set; thence N 29° 54' 21" W 626.38 feet to an iron rod set in the southeast margin of the CP&L Transmission Right of Way; thence with the right of way margin N 34° 44' 18" E 431.56 feet to an iron rod set; thence leaving said right of way margin and running S 29° 54' 21" E 763.77 feet to an iron rod set; thence South 56° 17' 28" E 87.89 feet to an iron rod set, passing a mag nail set at 30.22 feet; thence S 50° 44' 29" W 203.02 feet to an NCDOT Right of Way Disk; thence S 60° 39' 46" W 199.54 feet to an iron rod set; thence S 60° 39' 46" W 100.53 feet to an NCDOT Right of Way Disk; thence S 67° 40' 49" W 190.28 feet to an iron rod set; thence S 67° 40' 49" W 11.84 feet to an iron rod set; thence S 60° 03' 08" W 81.94 feet to an iron rod set; thence S 59° 05' 44" W 1.34 feet to the point of BEGINNING; being all of "West New Bern Parkway," "Area 'B' Open Space," and "Lot 4" as depicted on that map entitled "Subdivision Plat of Lot 4, Craven 30 West - 1001 Downey Drive" recorded in Plat Cabinet I, Slide 134H in the office of the Register of Deeds of Craven County.

ND: 4825-8794-6122, v. 1



# **AGENDA ITEM COVER SHEET**

| Agenda item title:  |
|---|
| Resolution to approve a General Warranty Deed between Habitat for Humanity of Craven Count NC, Shenatta LaVerne Powell, and the City involving property at 814 West Street  |
| Date of Meeting/Work Session April 9, 2019 Ward # if applicable 1   |
| Department Development Services Person submitting item Scott Davis  |
| Call for Public Hearing Date of Public Hearing  |
| Explanation of the item:  |
| To approve the City's execution of a general warranty deed for the conveyance of property at 81 West Street by Habitat to Shenatta Powell, to evidence that Habitat has complied with the terms and conditions of a Transfer and Reversion Agreement between the City and Habitat involving the property which was conveyed by the City to Habitat for development as low income housing, and that the reverter provisions of the Agreement no longer apply |
| Actions needed by Board:  |
| Adopt resolution  |
| Is item time sensitive? Yes   |
| Will there be advocates/opponents at the meeting?   |
| Backup attached:  |
| Resolution<br>Memo<br>Deed  |
| Cost of Agenda ItemN/A  |
| If this item requires an expenditure, has it been budgeted and are funds available and certified by the Finance Director?   |
| Additional notes:   |

# **MEMORANDUM**

TO: Mayor and Members of the Board

City Manager

FROM: Michael Scott Davis, City Attorney

RE: Property at 814 West Street conveyed by the City to Habitat for Humanity of

Craven County NC

DATE: April 1, 2019

In March of 2016, the City conveyed numerous properties, including property at 814 West Street (Craven County parcel identification number 8-007-251) to Habitat for Humanity of Craven County NC to be developed as affordable housing for persons of low and moderate income. This property is subject to the terms and conditions of a Transfer and Reversion Agreement. The property has now been developed as low income housing, and Habitat has requested that the City execute the deed to the buyer for the sole purpose of releasing any rights retained by the City by virtue of the Transfer and Reversion Agreement.

**RESOLUTION** 

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

That the General Warranty Deed by and between Habitat for Humanity of Craven County

NC, Shenatta LaVerne Powell, and the City of New Bern, 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 9<sup>th</sup> DAY OF APRIL, 2019.

DANA E. OUTLAW, MAYOR

BRENDA E. BLANCO, CITY CLERK

Prepared by: John W. King, Jr., Attorney at Law Stubbs Perdue, P.A. 310 Craven Street P.O. Box 1654 New Bern, NC 28563

The property herein conveyed DOES NOT include the primary residence of a Grantor.

Parcel Nos. 8-007- 0251 Revenue Stamps \$\_\_\_\_\_

NORTH CAROLINA CRAVEN COUNTY

# **GENERAL WARRANTY DEED**

THIS GENERAL WARRANTY DEED, dated the \_\_\_\_ day of April, 2019, is made by and between **Habitat for Humanity of Craven County**, ("Habitat") a North Carolina nonprofit corporation, whose address is 930 Pollock Street, New Bern, North Carolina 28560, (herein called the "Grantor"); **Shenatta LaVerne Powell**, whose address is 814 West Street, NC 28562, (herein called the "Grantee") and **The City of New Bern**, a North Carolina municipal corporation, whose address is P.O. Box 1129, New Bern, NC 28563, party of the third part (herein called the "City"), which joins in the execution of this deed for the sole purpose set out herein below.

The terms "Grantor" and "Grantee" as used herein shall mean and include the parties indicated, whether one or more, and their heirs, legal representatives, successors and assigns, and shall include singular, plural, masculine, feminine or neuter as required by the context.

# WITNESSETH:

WHERAS, City conveyed to Habitat the hereinafter described real property by Deed recorded in Book 3430, Page 830 of the Craven County Registry:, and,

WHEREAS, the conveyance by the City to Habitat was to enable Habitat to develop the subject property as affordable housing for persons of low and moderate income in the City of New Bern, as addressed in the Transfer and Reversion Agreement dated March 8, 2016, and recorded in Book 3420, Page 820 of the Craven County Registry.

NOW THEREFORE, Grantor, for a valuable consideration paid by Grantee, the receipt of which is hereby acknowledged, has and by these presents does grant, bargain, sell and convey unto Grantee in fee simple, real property in the City of New Bern, Township 8, Craven County, the following described real property; to wit:

All that certain tract or parcel of land lying and being situate in Number 8 Township, Craven County, North Carolina, and being more particularly described as follows:

Beginning at a point in the eastern right of way line of West Street, which point is located North 02° 51' 20" East 163.72 feet from where the eastern right of way line of West Street intersects the Northern right of way line of Cedar Street. THENCE FROM THIS POINT OF BEGINNING SO LOCATED running along and with the eastern right of way line of West Street North 03° 19' 40" East 52.15 feet to an iron pipe; thence South 87° 36' 40" East 109.00 feet; thence South 03° 19' 05" West 52.83 feet to a point; thence North 87° 15' 15" West 109.00 feet to the point and place of beginning. Said property being shown on a survey entitled, "Survey for: Habitat For Humanity of Craven County, NC, prepared by Southern Boundaries, dated January 10, 2018, a copy of which is attached hereto and incorporated herein by reference.

Said land being described as Tract 7 in the Deed recorded in Book 3430 at page 830 craven County Registry.

This conveyance is made **subject** to the restrictive and protective covenants which are attached hereto as **Exhibit A**.

The property hereinabove described was acquired by Grantor by deed recorded in Book 3430 Page 830, Craven County Registry.

TO HAVE AND TO HOLD the aforesaid real property and all privileges and appurtenances thereunto belonging to Grantee in fee simple.

And Habitat for Humanity of Craven County covenants with Grantee that Grantor is seized of the premises in fee and has the right to convey the same in fee simple, that the title is free and clear of all liens and encumbrances except as herein otherwise described, and that Grantor will warrant and defend the title against the lawful claims of all persons whomsoever.

The City of New Bern joins in the execution of this deed for the sole purpose of releasing any rights which it retained in the property being conveyed by this instrument by virtue of the Transfer and Reversion Agreement dated March 8, 2016, recorded in Book 3430 at Page 820 of the Craven County Registry.

IN WITNESS WHEREOF, Grantor and City have caused this instrument to be properly executed in such form as to be binding after proper authority having been given this the day and year first above written.

|  | Habitat for Humani<br>Carolina nonprofit  | ty of Craven County, a North corporation   |
|--|---|--|
|  | By:Richard Peebles  | (SEAL)<br>s-President  |
| NORTH CAROLINA<br>CRAVEN COUNTY  |   |  |
| me personally appeared Richard<br>North Carolina nonprofit corporati<br>of identification and voluntarily si<br>stated and in the capacity indicated | County, North Carolina, Peebles-President of Habitat for H ion, personally known to me or who gened the foregoing or attached instruction.  The personal this the day of April, 2 | lumanity of Craven County, a produced satisfactory evidence ument for the purposes therein |
|  | Notary Public<br>My Commission Expire   | es:  |

# City of New Bern A North Carolina Municipal Corporation

|   | By:  |
|---|--|
|   | Dana E. Outlaw, Mayor  |
| ATTEST:   |  |
| Brenda E. Blanco, City Clerk  | _  |
| STATE OF NORTH CAROLINA<br>COUNTY OF CRAVEN   |  |
| certify that on this day before me personally acquainted, who, being by E. BLANCO is the City Clerk for the and which executed the foregoing in corporation; that the seal affixed to to the municipal corporation was sub- | , a Notary Public for said county and state, do hereby bersonally appeared DANA E. OUTLAW, with whom I ame of me duly sworn, says that he is the Mayor and that BRENDA he City of New Bern, the municipal corporation described in astrument; that he knows the common seal of said municipal the foregoing instrument is said common seal; that the name oscribed thereto by the said Mayor; that the said common seal of Aldermen of said municipal corporation; and that the said is municipal corporation. |
| WITNESS my hand and offic   | cial stamp or seal, this the day of April, 2019.   |
|   | N. D.11  |
| ·   | Notary Public  |
| My Commission Expires:  |  |

#### **EXHIBIT A**

(Deed: Shenatta LaVerne Powell)

#### RESTRICTIVE AND PROTECTIVE COVENANTS AGREEMENT

This Restrictive and Protective Covenants Agreement, entered into this the \_\_\_\_\_ day of April, 2019, by and between Habitat for Humanity of Craven County NC, a North Carolina non-profit corporation (hereinafter called "Habitat"), and Shenatta LaVerne Powell, (hereinafter called "Buyer").

#### WITNESSETH:

WHEREAS, Habitat is the Craven County affiliate of Habitat for Humanity, an Ecumenical Christian Housing Ministry whose objective is to eliminate poverty housing from the world and to make decent shelter a matter of conscience; and,

WHEREAS, in accordance with its stated goal of providing affordable housing, Habitat agrees to build low cost homes for individuals or families, for no profit to Habitat and with no interest expense to the homeowner; and,

WHEREAS, because of the unique opportunity the Habitat program affords the homeowner, in order to protect the goals of Habitat it is necessary that certain restrictions be placed on the real property in this deed; and,

WHEREAS, Habitat has selected Buyer for whom Habitat has constructed a house; and,

WHEREAS, as a condition to the closing of this house Buyer has agreed to execute this Restrictive and Protective Covenants Agreement simultaneously with the delivery by Habitat of this deed and Buyer's receipt of said Deed in order to protect the interest of Habitat in the house and land.

NOW, THEREFORE, for valuable consideration, including without limitation the substantially below-market price and financing terms offered to Buyer, the receipt and disclosures of which are hereby acknowledged, Habitat and Buyer hereby agree as follows:

- 1. <u>DESCRIPTION OF PROPERTY.</u> The property which is the subject of this Restrictive and Protective Covenants Agreement is described in the Deed executed simultaneously with this Agreement and appended hereto and is hereinafter called "Property."
- 2. <u>PROMISSORY NOTE: DEED OF TRUST</u>. Buyer has executed a Promissory Note in favor of Habitat and Buyer has promised to execute a Deed of Trust on the Property. Reference is hereby made to that Offer to Purchase and Contract entered into by and between Habitat and Buyer

for documentation of the underlying promises herein cited. For so long as the Habitat Note is outstanding and unpaid, Buyer agrees to comply with the terms of the Habitat Note and the Habitat Deed of Trust. Buyer also agrees to execute a second Promissory Note and second Deed of Trust as further security for Habitat; a corresponding acknowledgment regarding this liquidated damages provision is documented in said offer to Purchase and Contract.

- 3. <u>RESTRICTION ON RENTAL USE AS PRINCIPAL RESIDENCE</u>. For so long as Buyer is indebted to Habitat for the Property, Buyer shall not lease or rent the property/or any part thereof to one or more third parties; and, so long as Buyer is indebted to Habitat, Buyer shall utilize the Property as Buyer's principal residence. A breach of this condition shall be a default under the terms of the Deed of Trust given to secure the loans to Habitat, which default would allow Habitat to foreclose without any other default being evident.
- 4. <u>FENCE RESTRICTION</u>. No fence shall be erected on the Property that does not comply with the City of New Bern zoning ordinances or historic overlay district restrictions, and no fence shall be erected that is chain link or wire mesh. No fence shall exceed four (4) feet in height and any fence that is allowed must be slatted such that there are visible gaps between pickets to be "see through".
- 5. <u>RIGHT OF FIRST REFUSAL.</u> So long as Buyer is indebted to Habitat, upon the receipt by Buyer of a bona fide offer to purchase the property, Buyer shall promptly deliver to Habitat a copy of said Notice and a letter indicating that Buyer desires to sell the Property for that price. Habitat shall have a period of thirty (30) days in which to notify Buyer that Habitat is exercising its right of first refusal in electing to purchase the Property. In the event that Habitat elects to purchase the Property, Habitat shall have the right to purchase the Property in accordance with the following price schedule:
- (a) If the contract from the third party is received within one (1) year of the date of recording of the Habitat Deed of Trust, (hereinafter called the "Acquisition Date"). Habitat shall be entitled to purchase the Property at the then outstanding amount of the Habitat Note.
- (b) If the third party offer is received more than one (1) year after the Acquisition Date, Habitat shall be entitled to purchase the Property for the then outstanding amount of the Habitat Note plus the following described percentage of the difference between the outstanding amount of the Habitat Note and the third party offering price:

Year Percentage

First anniversary to Second anniversary

6.6%

For each subsequent year through the 14th anniversary

add per year 6.6%

Fourteenth anniversary to Final Anniversary

93.4%

- (c) After the final anniversary of the Acquisition Date, the right of first refusal granted hereunder to Habitat shall terminate.
- (d) The right of first refusal granted hereunder shall remain in effect until the final anniversary, regardless of whether the Habitat Note shall have been prepaid in whole or in part prior to such final anniversary.
- (e) If Habitat shall elect to purchase the Property pursuant to this paragraph closing the sale to Habitat shall occur no later than sixty (60) days from the date of delivery by Habitat of the notice of its election to purchase, and the purchase shall be for cash. Habitat shall be entitled to credit against its purchase price any amount outstanding to Habitat by Buyer on the date of closing under the Habitat Note or otherwise.
- (f) In the event of the death of Buyer, Habitat shall be entitled to purchase the Property by giving written notice thereof to the executor or administrator of the estate within thirty (30) days from the date Habitat shall receive written notice of death. The purchase price to Habitat shall be equal to the outstanding amount owing to Habitat under the Habitat Note as of the date of death, plus a percentage of the difference between such outstanding amount and the fair market value of the Property at the date of death, which percentage shall be calculated in the same manner as hereinbefore provided in this section 4, as if the fair market value were identical to the third party offer. In order to determine the fair market value, Habitat shall appoint three (3) certified real estate appraisers, each of whom shall establish a value for the Property, and the fair market value shall be deemed to be the average of the three appraisals.
- 6. <u>SHARING OF SALE PROCEEDS.</u> If Habitat shall elect not to purchase the Property at the time of a third party offer, Buyer shall be entitled to sell the Property to such third party offeror, subject to the following terms and conditions. First, the purchase price shall be paid in cash or by official bank check at closing. Second, Habitat shall be entitled to receive a percentage of the proceeds of the sale, pursuant to the following schedule:
- (a) If the sale occurs prior to the first anniversary of the Acquisition Date, Habitat shall be entitled to receive an amount equal to the then outstanding principal amount of the Habitat Note on the date of closing plus one hundred per cent (100%) of the net excess proceeds. For purposes of this paragraph 5, "net excess proceeds" shall mean all proceeds, less all the payoff of the Habitat Note, less sales commission and less all other seller closing costs.

(b) If the sale shall occur after the first anniversary of the Acquisition Date Habitat shall be entitled to receive the outstanding principal amount of the Habitat Note on the date of closing, plus the following described percentage proceeds:

| Year                       | <b>Percentage</b> |
|----------------------------|-------------------|
| First anniversary to       |                   |
| second anniversary         | 93.4%             |
| For each subsequent year:  |                   |
| through the final          |                   |
| anniversary - subtract per |                   |
| year                       | 6.6%              |
| After final anniversary    | 0%                |

- (c) The prepayment of the Habitat Note, in whole or in part, shall not affect the right of Habitat to share proceeds as described above.
- 7. <u>DEFAULT.</u> The occurrence of any default or breach under this agreement shall constitute a default under the Habitat Note and the Habitat Deed of Trust, and shall entitle Habitat to accelerate the Habitat Note and foreclose upon the Property and pursue all other legal remedies provided under the Habitat Deed of Trust or otherwise available at law.
- 8. <u>SUCCESSORS AND ASSIGNS</u>. This agreement shall be binding upon, and inure to the benefit of, the parties hereto, and any subsequent owner of the property described herein.
- 9. <u>AMENDMENTS.</u> These restrictive and protective covenants may not be modified or amended without the prior or written consent of Habitat.
- 10. <u>ENFORCEMENT</u>. Enforcement of these restrictive and protective covenants shall be by any proceedings at law or at equity against any person or persons violating or attempting to violate any covenants or restriction contained herein, either to restrain violation or to recover damages, and against the land to enforce any lien created by these covenants; and failure by Habitat to enforce any covenant or restriction herein contained shall in no event be deemed a waiver of the right to do so thereafter.
- 11. <u>SEVERABILITY</u>. Invalidation of any one of these covenants or restrictions by judgment or court order shall not affect any of the provisions hereof, which shall remain in full force and effect.

12. <u>TERMINATION</u>. These restrictive and protective covenants shall terminate on the final anniversary hereof, said final anniversary being the date on which the debt is repaid in full.

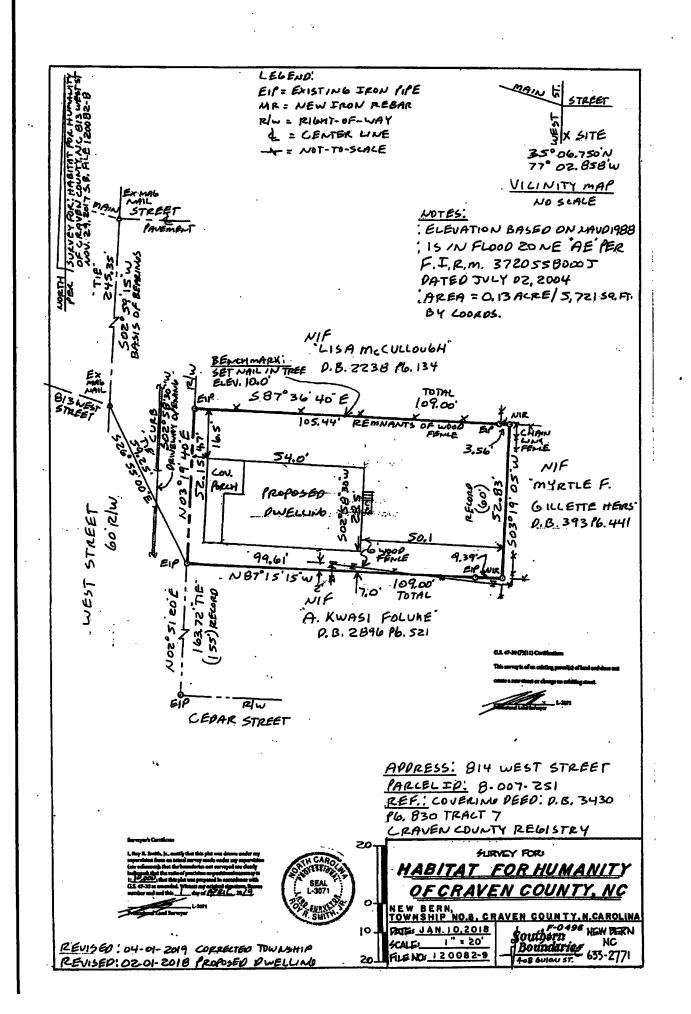
IN WITNESS WHEREOF, the parties hereto have caused this document to be executed in such form as to be binding as of the day and year first above written.

# **Habitat For Humanity of Craven County NC**

| By:  |   |
|--|---|
|  | Richard Peebles, President  |
|  | Typed or Printed Name and Title   |
|  | (SEAL)  |
|  | Shenatta LaVerne Powell   |
| NORTH CAROLINA<br>CRAVEN COUNTY  |   |
| this day before me personally apper<br>produced satisfactory evidence of | , County, North Carolina, do hereby certify that or eared <b>Shenatta LaVerne Powell</b> personally known to me or who identification and voluntarily signed the foregoing or attached a expressed and in the capacity indicated. |
| WITNESS my hand and or   | fficial stamp or seal, this theday of April, 2019.  |
|  |   |
|  | Notary Public   |
|  | My Commission Expires:  |

# NORTH CAROLINA CRAVEN COUNTY

| I, a Notary Public for                  | , County, North Carolina, do hereby certify  |
|---|--|
| that on this day before me personally a | appeared Richard Peebles, President of Habitat for   |
|   | personally known to me or who produced satisfactory y signed the foregoing or attached instrument for the acity indicated. |
| WITNESS my hand and official st         | camp or seal, this the day of April, 2019.   |
|   |  |
|   | Notary Public  |
|   | My Commission Expires:   |



# **AGENDA ITEM COVER SHEET**

| Agenda Item Title:   |   |
|--|---|
| Adopt Resolution to Approving Sewer Use Ag   | greement with Owners of 846 NC Highway 55 West.   |
|  |   |
|  |   |
| Date of Meeting 4/9/2019 Wa  | ard # if applicable <u>N/A</u>  |
|  | If multiple, list:  |
| <b>Department</b> Public Utilities <b>Pe</b>   | rson Submitting Item: Jordan Hughes   |
| Call for Public Hearing No   | Date of Public Hearing N/A  |
| -  | Date of Fublic flearing   |
| on the subject property, which is currently of<br>development will have a calculated average | e proposing to develop a single family, residential home outside of the New Bern municipal limits. The proposed daily water & sewer demand of 360 gallons per day ent, a standard water & sewer service connections can be or a main extension. |
| outside of the New Bern municipal limits req<br>enter into a written water and sewer use agi | ode of Ordinances, any proposed development located questing water and sewer capacity shall be required to reement with the City. The purpose of this agreement is ties of both, the City and the developer in establishing                     |
| Actions Needed by Board:   |   |
|  | greement with Owners of 846 NC Highway 55 West.   |
| Is item time sensitive? Yes  |   |
| Will there be advocates/opponents at the   | ne meeting? <u>No</u>   |
| Backup Attached:   |   |
| Memo from Jordan Hughes, copy of the water approving the agreement.                          | er & sewer use agreement and draft resolution for   |
| Cost of Agenda Item: n/a   |   |
| If this item requires an expenditure, has certified by the Finance Director: Select          | s it been budgeted and are funds available and t  |

Additional notes:

N/A



Department of Public Utilities Water Resources 527 NC Highway 55 West, P.O. Box 1129 New Bern, NC 28563 (252) 639-7526

#### **MEMORANDUM**

TO: Mayor and Board of Aldermen

FROM: Jordan B. Hughes P.E., City Engineer 3/3/

**DATE:** March 28, 2019

SUBJECT: Recommendation to Approve Water and Sewer Use Agreement

For 846 NC Highway 55 West

#### **Background Information:**

The owners of 846 NC Highway 55 West are proposing to develop a single family, residential home on the subject property, which is currently outside of the New Bern municipal limits. The proposed development will have a calculated average daily water & sewer demand of 360 gallons per day (GPD). To facilitate the proposed development, a standard water & sewer service connections can be provided to the property without the need for a main extension.

Per Section 74-74 of the City of New Bern Code of Ordinances, any proposed development located outside of the New Bern municipal limits requesting water and sewer capacity shall be required to enter into a written water and sewer use agreement with the City. The purpose of this agreement is to formally outline the roles and responsibilities of both, the City and the developer in establishing service for the proposed project.

#### **Recommendation:**

The sewer use agreement for this project has been prepared by City Attorney and executed by the owners. In order to allow the developer to proceed with the proposed construction, City Staff is recommending the Board of Aldermen approve the enclosed water & sewer use agreement.

Attached please find a copy of the sewer use agreement and a draft resolution for approving the agreement.

Please contact me if there are any questions or if additional information should be required.

# RESOLUTION

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

That the Agreement dated April 9, 2019 by and between the City of New Bern and Othella Clarence Best and wife, Shelia Deborah Best, a copy of which is attached hereto and incorporated herein by reference, be and the same is hereby approved, and the Mayor and the City Clerk are hereby authorized and directed to execute the same, in duplicate originals, for and on behalf of the City.

ADOPTED THIS 9<sup>TH</sup> DAY OF APRIL, 2019.

|                              | DANA E. OUTLAW, MAYOR |
|------------------------------|-----------------------|
|                              |                       |
|                              |                       |
|                              |                       |
| BRENDA E. BLANCO, CITY CLERK | _                     |

#### NORTH CAROLINA

## CRAVEN COUNTY AGREEMENT

THIS AGREEMENT ("Agreement") is made and entered into this 9<sup>th</sup> day of April, 2019, by and between the CITY OF NEW BERN, a North Carolina municipal corporation ("City"), and OTHELLA CLARENCE BEST and wife, SHEILA DEBORAH BEST ("Owner").

# WITNESSETH:

THAT WHEREAS, Owner owns a tract or parcel of land located within Craven County, North Carolina, and more specifically described in Exhibit A attached hereto and incorporated herein by reference (the "Property"); and

WHEREAS, Owner intends to use or develop the Property as a single-family residence requiring permitted water and sewerage treatment capacity of 360 gallons per day; and

WHEREAS, Owner desires to annex the Property into the City, and to connect to the City Water System and City Sewer System so that the City might provide such services to the Property, subject to certain terms and conditions contained herein; and

WHEREAS, the City and Owner 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 Owner as follows:

# 1. **Definitions**

- 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. "Owner" means OTHELLA CLARENCE BEST and wife, SHEILA DEBORAH BEST, citizens of Craven County, North Carolina.
  - 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 Owner located in 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. "Property Systems" means the Property Sewer System and the Property Water System.
- 1.1.9. "City Sewer System" means the unified system of pipes, conduits, lift stations, force mains, and appurtenances for collecting and transmitting sewage that are owned and maintained by the City of New Bern.
- 1.1.10. "City Water System" means the unified and independent system of pipes, lines, conduits and appurtenances for transmitting and distributing water that are owned and maintained by the City of New Bern.

- 1.1.11. "City Systems" means the City Sewer System and the City Water System.
- 1.1.12. "Connection Location" means the specific location and configuration as identified by the City, where the Owner shall cause for the Property Systems to be connected to the City Systems.
- 1.1.13. "NCDENR" means the North Carolina Department of Environment and Natural Resources.

#### 2. City Obligations

- 2.1. The City shall provide sewer and water service to the Property in an amount not to exceed 360 gallons per day (average monthly flow) of permitted water and sewer flow.
- 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 Owner. Owner shall have no ownership interest in the City's water or sewer treatment capacity, other than Owner's contract rights established herein.
- 2.3. The City shall allow for the connection of the Property Systems to the City Systems at the Connection Locations as identified below:
- 2.3.1 The Connection Location for water shall be a standard water service connection located along the northern right-of-way line of NC Highway 55 west.
- 2.3.2 The Connection Location for sewer shall be a standard air-vac sewer service connection located along the northern right-of-way line of NC Highway 55 west.
- 2.4. The City shall have no obligation to pay for, fund, or finance any portion of the construction of the Property Systems.
- 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. 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. Owner Obligations

- 3.1 Prior to performing any land disturbing activities on the Property, the Owner shall petition the Board of Alderman of the City of New for annexation of the Property. This action shall be performed by the Owner prior to obtaining a City of New Bern building permit and/or a City of New Bern sewer availability letter. (Section only for property outside of the City Limits)
- 3.2. Owner understands and agrees that all water and sewer users within the Property will pay user rates, user system development fees, user connection 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. Owner 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.

#### 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. Owner may not assign this Agreement without the express written consent of the 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 Owner 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:                      | Ву: | DANA E. OUTLAW, MAYOR |
|------------------------------|-----|-----------------------|
| BRENDA E. BLANCO, CITY CLERK | _   |                       |
| (CORPORATE SEAL)             |     |                       |

[Additional Signatures Appear on Page 6]

#### OTHELLA CLARENCE BEST

thella Claraca Best SHELIA DEBORAH BEST elle Deliverat Best NORTH CAROLINA GEORGIA CRAVEN COUNTY COBO COUNTY I, Deborah Brown, a notary public in and for said county and state, do hereby certify that on the 20th day of March, 2019, before me personally appeared DANA & OUTLAW with whom I am personally acquainted, who, being by me duly sworn, says that he is the Mayor and that BRENDA BLANCO 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 WITNESS my hand and notarial seal, this the 20 day of Mach, 2019.

deed of said municipal corporation.

My Commission Expires:

# NORTH CAROLINA CRAVEN COUNTY

| OUTLAW with whom I am per<br>the Mayor and that BRENDA<br>municipal corporation describe<br>the common seal of said munici-<br>said common seal; that the nam<br>Mayor; that the said common | , a notary public in and for said county and state, day of April 2019, before me personally appeared DANA E. rsonally acquainted, who, being by me duly sworn, says that he is a E. BLANCO is the City Clerk of the City of New Bern, the d in and which executed the foregoing instrument; that he knows ipal corporation; that the seal affixed to the foregoing instrument is ne of the municipal corporation was subscribed thereto by the said seal was affixed, all by order of the Board of Aldermen of said the said instrument is the act and deed of said municipal |
|--|---|
| •  | I notarial seal, this the day of April, 2019.   |
|  | NOTARY PUBLIC   |
| My Commission Expires:   |   |
|  |   |

# NORTH CAROLINA Georgia CRAVEN COUNTY COST COUNTY

I, De boxah Brow, Notary Public in and for said County and State, do hereby certify that OTHELLA BEST and wife, SHELIA DEBORAH BEST, personally appeared before me this day and acknowledged the due execution of the foregoing and annexed instrument for the purposes therein expressed.

WITNESS my hand and official seal this the 20 day of March 2019.

About 10 Location of March 2019.

My commission expires:

# **EXHIBIT A**

# 846 HIGHWAY 55 WEST CRAVEN COUNTY PARCEL ID: 8-222-169

All that certain tract or parcel of land lying and being situate in Number Eight (8) Township, Craven County, North Carolina, and bearing Craven County parcel identification number of 8-222-169.

# **AGENDA ITEM COVER SHEET**

Agenda item title:

**Additional notes:** 

| Petition to annex contiguous property located at 846 West NC Highway 55 and resolution to call for public hearing on annexation   |
|---|
| Date of Meeting/Work Session April 9, 2019 Ward # if applicable   |
| DepartmentDevelopment Services Person submitting item Morgan Potts  |
| Call for Public Hearing Yes Date of Public Hearing April 23, 2019   |
| Explanation of the item:  |
| Petition from Othella Clarence Best and Shelia Deborah Best for annexation of contiguous property located at 846 West NC Highway 55 and resolution to be adopted calling for a public hearing to consider the annexation. |
| Actions needed by Board:  |
| Adopt resolution calling for a public hearing to be held on April 23, 2019.   |
| Is item time sensitive? Yes   |
| Will there be advocates/opponents at the meeting?   |
| Backup attached:  |
| Petition to Annex<br>Certificate of Sufficiency<br>Resolution   |
| Cost of Agenda Item   |
| If this item requires an expenditure, has it been budgeted and are funds available and certified by the Finance Director?   |



Development Services 303 First Street, P.O. Box 1129 New Bern, NC 28563 (252)639-7581

# **MEMORANDUM**

**TO:** Mayor Outlaw and Board of Aldermen

**FROM:** Morgan Potts, AICP

City Planner

**DATE:** March 29, 2019

SUBJECT: Call for a Public Hearing Regarding Annexation Petition for 846 West NC

Highway 55

The Board of Aldermen is requested to consider holding a call for a public hearing at their April 9, 2019 meeting, to be held on April 23, 2019, to hear public comment and consider a request for the annexation of a property owned by Othella Clarence Best and wife, Shelia Deborah Best, located at 846 West NC Highway 55 in Number Eight (8) Township, which is further identified as Craven County Tax Parcel Identification Number #8-222-169. The property has approximately 80 liner feat of road frontage on NC Highway 55 East, and is located to the west of Pleasant Hill Road. City Utilities and Services will be provided upon annexation.

Please contact me at 639-7583 should you have any questions or need additional information.

#### **RESOLUTION**

THAT WHEREAS, the Board of Aldermen of the City of New Bern has received a petition from Othella Clarence Best and wife, Shelia Deborah Best, bearing date March 20, 2019, seeking annexation to the City of New Bern of a parcel of land consisting of 1.14 acres, more or less, which said parcel is located at 846 West NC Highway 55 in Number Eight Township, Craven County, more particularly identified on Exhibit A attached hereto and incorporated herein by reference; and

WHEREAS, the Board of Aldermen has caused the City Clerk to investigate the sufficiency of said petition and to certify the results of her investigation; and

WHEREAS, the Board of Aldermen has received the certification of the City Clerk attesting to the sufficiency of the petition; and

WHEREAS, the Board of Aldermen desires to conduct a public hearing on April 23, 2019, in the City Hall Courtroom at 6:00 p.m. on the question of annexing to the City of New Bern the above-described parcel of land owned by Othella Clarence Best and wife, Shelia Deborah Best.

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

Section 1. That a public hearing will be conducted by the Board of Aldermen of the City of New Bern on April 23, 2019, in the City Hall Courtroom at 6:00 p.m., or as soon thereafter as the matter may be reached, on the question of annexing to the City of New Bern the parcel of land owned by Othella Clarence Best and wife, Shelia Deborah Best, which said parcel is located at 846 West NC Highway 55 in Number Eight Township, Craven County, North Carolina, the boundaries of which are shown on Exhibit A attached hereto and incorporated herein by reference.

Section 2. That a notice of public hearing shall be published once in the *Sun-Journal* at least ten (10) days prior to April 23, 2019.

ADOPTED THIS 9th DAY OF APRIL, 2019.

DANA E. OUTLAW, MAYOR

BRENDA E. BLANCO, CITY CLERK



# **CERTIFICATE OF SUFFICIENCY**

I, BRENDA E. BLANCO, City Clerk of the City of New Bern, North Carolina, do hereby certify that I have investigated the sufficiency of the Petition of Othella Clarence Best and wife, Shelia Deborah Best, requesting annexation by the City of New Bern of a parcel of land located at 846 West NC Highway 55 in Number Eight Township, Craven County, which said Petition is dated March 20, 2019, and I do hereby certify that said Petition is in order in all respects.

THIS 9<sup>th</sup> DAY OF APRIL, 2019.

BRENDA E. BLANCO, CITY CLERK

## **PETITION TO ANNEX**

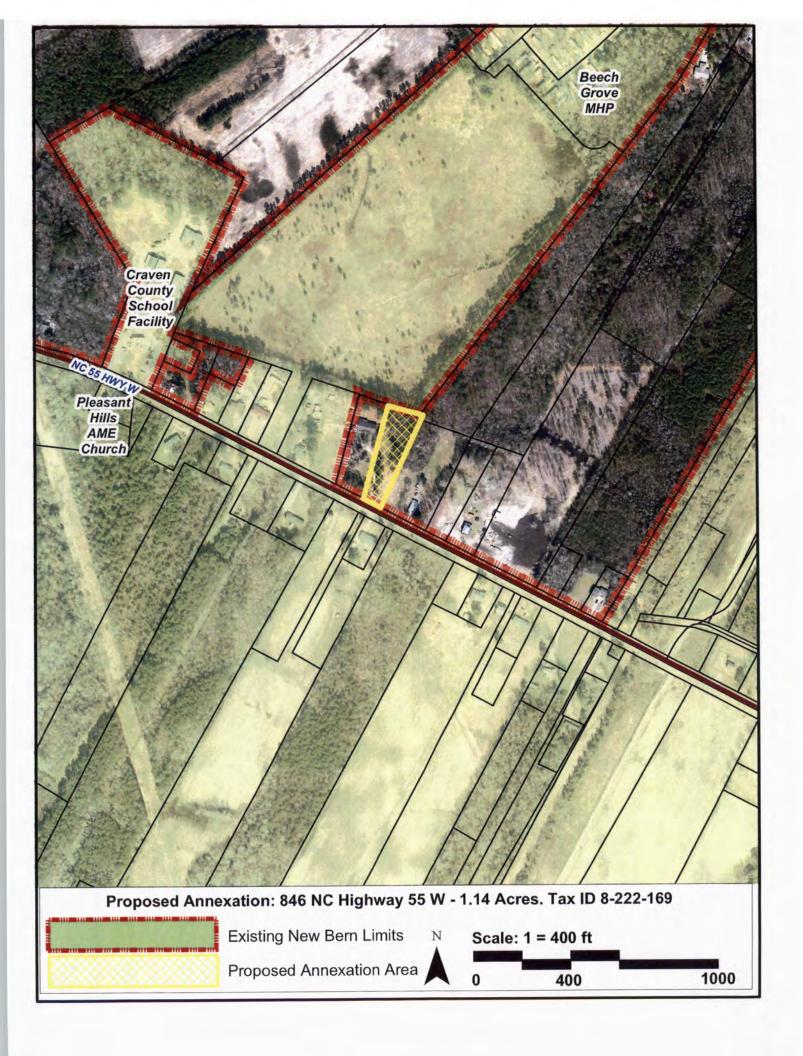
## TO: BOARD OF ALDERMEN OF THE CITY OF NEW BERN

- 1. We, the undersigned owners of real property, respectfully request that the area described in Paragraph 2 below be annexed to the City of New Bern.
- 2. The area to be annexed is contiguous to the City of New Bern, and the boundaries of such territory are more particularly described on Exhibit A attached hereto and incorporated herein by reference.

| OWNERS:              |               |       |
|----------------------|---------------|-------|
| Otrella C            | Gene Best     |       |
| Othella Clarence Bes |               |       |
| Shelia               | Ochonah Best  |       |
| Shelia Deborah Best  |               |       |
| Date: 3-             | 20-19         |       |
| Mailing Address:     | SODY LOGENS R | ,     |
|                      | Loannelle GA  | 30052 |

# EXHIBIT A

All that certain tract or parcel of land lying and being situate in Number Eight (8) Township, Craven County, North Carolina, and bearing Craven County parcel identification number of 8-222-169.





Development Services 303 First Street, P.O. Box 1129 New Bern, NC 28563 (252)639-7581

TO

Alderwoman Harris

FROM:

Morgan Potts, AICP

DATE:

February 7, 2019

SUBJECT: Planning and Zoning Board Appointment

#### Dear Alderwoman Harris:

Carol Williams' second term on Planning and Zoning Board has ended and is not eligible for reappointment at this time due to term limits. You are requested to nominate an appointee whose term will conclude June 30, 2021. Ms. Williams may continue to serve until an appointment has been made.

The duties of the Planning and Zoning Board are to conduct studies and make recommendations to the Board of Aldermen on matters concerning plans, goals and objectives relating to the growth, development and redevelopment of the City and the surrounding extra-territorial planning area. In addition, the Board makes recommendations on proposed conditional use permits, zoning and rezoning requests, subdivision plan approvals, and changes to the Land Use Ordinance.

The Land Use Ordinance requires that all Planning and Zoning Board members have demonstrated special interest, experience or education in banking, economics, environmental and land use policy, housing or other industry. Members must be able and willing to commit the necessary time and energy to carry out the responsibilities required for the office and must regularly attend meetings lasting 1-3 hours each month.

To appoint a person of your choosing, please provide the contact information to the City Clerk for inclusion on the Board's next meeting agenda. If you have anyone in mind or have any other questions or need information, please contact me at 639-7583.

Ald as as

Morgan/Potts, AICh

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 Sabrina Bengel

FROM: Brenda Blanco, City Clerk

DATE: February 8, 2019

SUBJECT: Appointment to New Bern Appearance Commission

Mattie Tatum's appointment on the Appearance Commission will expire February 22, 2019. She is eligible for reappointment, or a new appointment can be made to allow others an opportunity to serve. The appointee will serve a three-year term.

Appointees shall be residents of the City's planning and zoning jurisdiction and shall, when possible, have had special training or experience in a design field such as architecture, landscape design, horticulture, city planning, or a closely-related field. Members of the Appearance Commission serve a three-year term.

This commission is overseen by the Parks and Recreation Department. Please feel free to reach out to Foster Hughes, Director of Parks and Recreation, regarding any questions about the Commission.

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:

Mayor Dana Outlaw

FROM:

Brenda Blanco, City Clerk

DATE:

February 8, 2019

SUBJECT:

Appointment to New Bern Appearance Commission

Rose Williams' appointment on the Appearance Commission expires today. She is eligible for reappointment, or a new appointment can be made to allow others an opportunity to serve. The appointee will serve a three-year term.

Appointees shall be residents of the City's planning and zoning jurisdiction and shall, when possible, have had special training or experience in a design field such as architecture, landscape design, horticulture, city planning, or a closely-related field. Members of the Appearance Commission serve a three-year term.

This commission is overseen by the Parks and Recreation Department. Please feel free to reach out to Foster Hughes, Director of Parks and Recreation, regarding any questions about the Commission.

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: March 15, 2019

SUBJECT: Appointment to Board of Adjustment

On November 13, 2018, you appointed Anne Schout to an alternate seat on the Board of Adjustment. Mrs. Schout has tendered a resignation effective March 1, 2019. You are requested to appoint someone to fill the remainder of her seat, which will expire on November 12, 2021.

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 Sabrina Bengel

FROM: Brenda Blanco, City Clerk

DATE: March 29, 2019

SUBJECT: Appointment to Friends of Firemen's Museum Board

Nancy Mansfield resigned from the Friends of the Firemen's Museum Board effective March 1, 2019. Her term would have expired on April 22, 2019. It is requested you make an appointment to be effective on or after April 22<sup>nd</sup> to fill Mrs. Mansfield's seat.

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: Alderwoman Jameesha Harris

FROM: Brenda Blanco, City Clerk

DATE: March 29, 2019

SUBJECT: Appointment to Friends of Firemen's Museum Board

Mike Markham's term on the Friends of the Firemen's Museum Board will expire on April 22, 2019. Mr. Markham has expressed interest in being reappointed, and the Firemen's Museum Board endorses this request. You are asked to consider reappointing him or to make a new appointment to serve a three-year term.

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:

Alderwoman Bobby Aster

FROM:

Brenda Blanco, City Clerk

DATE:

March 29, 2019

SUBJECT:

Appointment to Friends of Firemen's Museum Board

Dave Finn's term on the Friends of the Firemen's Museum Board will expire on April 22, 2019. Mr. Finn has expressed interest in being reappointed, and the Firemen's Museum Board endorses this request. You are asked to consider reappointing him or to make a new appointment to serve a three-year term.