

1                                   **NEW BERN BOARD OF ADJUSTMENT**  
2   **MINUTES**

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4                                   **May 12th, 2014**

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6   The New Bern Board of Adjustment held special called meeting on Monday, May 12th, 2014 at  
7   6:30 pm in the City Hall Courtroom, 2nd floor, 300 Pollock Street.

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9   **Members Present:**                           Ms. Sarah Afflerbach – Chair  
10   Mr. Peter Adolph  
11   Mr. Barry Evans  
12   Mr. Kenneth Brown  
13   Mr. Benjamin Beasley  
14   Ms. Lois Jamison  
15   Mr. Jeffrey Midgette  
16   Ms. Renee Murphy  
17   Ms. Beth Walker  
18   Mr. PJ Walker

19  
20   **Members Excused:**                       Mr. David Herndon  
21   Mr. John Murrell  
22   Mr. Willie Newkirk, Sr.

23  
24   **Members Absent:**                       None

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26  
27   **Staff Present:**               Mr. Greg McCoy, Land & Community Development Administrator  
28   Mr. Kevin Robinson, City Planner, HPC Administrator

29  
30   Chair Sarah Afflerbach called the meeting to order.

31  
32   Roll call was taken and a quorum declared.

33  
34   **Minutes:**       Reading of the minutes from the previous meetings was waived by unanimous  
35   consent. Minutes from January 27<sup>th</sup> 2014 and April 28<sup>th</sup>, 2014 were approved with a motion by  
36   Mr. Barry Evans. Mr. Beasley seconded. Minutes were approved by unanimous vote of the  
37   Board.

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40   **New Business:**

- 41  
42       A. **Consideration of a Special Use Permit Application to construct two multifamily**  
43       **buildings totaling 110 apartments for the elderly on 6.14 acres located on Gaston**  
44       **Boulevard. (Ward 2)**

45  
46 **Board Comments:**  
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48 Chair Afflerbach stated this is a Quasi-Judicial hearing and as such anyone that would like to  
49 speak would have to be sworn in. Several individuals were sworn in by Chair Afflerbach.  
50

51 **Staff Comments:**

52 Mr. McCoy presented the item to the Board. He stated this is for consideration of a Special Use  
53 Permit Application for the Gaston Boulevard Project, Phase 1. This project includes the  
54 construction of buildings totaling 110 apartments for the elderly; 36 two bedroom units and 74  
55 one bedroom units. Developments that exceed two acres and multifamily residences with five or more  
56 units must obtain a Special Use Permit. This project went before the City's Departmental Site Plan  
57 Review Committee on April 11<sup>th</sup>, 2014, several concerns were addressed and revisions to the plans  
58 have been made. He stated that at this time the plan does meet the General Ordinance  
59 requirements. The density for the site is 6000 for the first unit and 2000 for each additional. The  
60 property is zoned R-6 and does meet the General Density requirements of Section 15-181.  
61

62 **Applicant Comments:**

63 Mr. Darryl Hemminger, Laurel Street Residential (developers of the project), stated that Mr.  
64 McCoy did an excellent job explaining the general project and he would like to present more  
65 information on the background & history of the project. It is intended to serve the elderly, as well  
66 as provide affordable housing for the elderly. The mechanism for financing this project is a  
67 program called the Low Income Housing Tax Credit in the State of North Carolina, administered  
68 through an agency named North Carolina Housing Finance Agency, which takes advantage of a  
69 provision within the IRS tax code section 42 that provides for a tax benefit to people who invest  
70 in affordable housing. The developers are, therefore putting income restrictions on the property  
71 which will remain in effect over 30 years. In exchange for those restrictions, the investor is given  
72 a tax credit associated with the cost of building the project and that is what is used to subsidize  
73 the construction of the project.  
74

75 Mr. Hemminger explained that this is not a HUD or Public Housing. It is not a direct subsidy  
76 from the government, it's a private investment. The asset itself will be privately owned and  
77 privately managed by Laurel Street Residential.  
78

79 When the City of New Bern submits their Choice Implementation Grant Application, this project  
80 and the entire cost of development (approx. \$12 million) will count as leverage toward the  
81 master plan.  
82

83 Ms. Jamison asked if there will be anyone else beside the elderly that will be allowed to live  
84 there. Mr. Hemminger replied that there will be strict age requirements (55+), as well as income  
85 requirements, background checks and in some cases, employment verification. Units will be  
86 specifically set aside for those who make 60%, 50% and 40% of the area median income. For a  
87 40% unit the cost will start at just under \$400 per month.  
88

89 Ms. Walker asked if the funding for this project has been awarded. Mr. Hemminger explained

that the initial funding will be financed through a construction loan as a bridge to the equity. The application for the Tax credit will be submitted this week and they will be notified in September if they are awarded the Tax credit. If they are not awarded, they will apply again. He feels this application has a very good chance of being awarded, but there is no guarantee.

**Board Comments:**

There was discussion about the property being in a flood zone, but Mr. Hemminger assured the Board that it is not in a flood zone.

Mr. Hemminger explained accessibility of the project per the requirements of ADA standards, Fair Housing and the NC Housing Finance Agency has additional handicap accessibility requirements. Ms. Walker asked for more information on vehicle accessibility. Mr. Hemminger showed the 2 access points on the overhead projector to the Board. Several Board members stated their concerns for the access points and sizes of roads not being able to handle the traffic loads.

Mr. Brown questioned Mr. Robinson about concerns Staff noted and he responded that the Applicant has gone through Departmental Review; any concerns Staff had have been addressed and he planned to address the Board in more detail after public comments.

Ms. Jamison expressed her concern for traffic loads on the proposed entrance points. Applicant stated that the proposed access points for ingress and egress were suggestions from City Staff.

**Public Comments:**

*Ms. Della Moser, adjacent property owner*, asked the Board to consider requiring a more substantial buffer than small shrubs and trees surrounding the parking lot and retention pond. She stated her concern for run off onto her acreage as well.

*Mr. Clyde Johnson* asked how this will impact adjacent property values. Mr. Hemminger explained that this is not public housing; the property is professionally maintained with fairly high standards and typically will increase surrounding property values. There will be full time property management staff and security lighting in the parking lot to help ensure the property runs smooth. Currently there is not a complete security plan drawn up, but there will be building access controls as well as security cameras inside and out.

Mr. Dillahunt stated his concern for water run-off. He asked what will happen if the Board denies his application. Chair Afflerbach explained that the Applicant most likely will not be able to apply for the Tax Credit and therefore would not move forward with the project. He stated his concerns regarding buffering around the retention pond, as well as his concern for the impact on traffic in the area.

Chair Afflerbach closed the public comments.

**Board Review:**

At Chair Afflerbach's request, the applicants Engineer explained in more detail the plans for storm water drainage and how the proposed retention/storm water pond works.

Ms. Walker asked if fencing the retention pond is a City requirement. Applicants Engineer responded that it was his own requirement for safety reasons.

Mr. McCoy explained the shrubbery buffer. Mr. Robinson explained that they have asked the Applicants to work with the City on the development of the project, including building a bridge over the drainage ditch for residents to have access to Stanley White Recreation Center.

**Finding of Facts:**

1. The requested permit is within the Board of Adjustment's jurisdiction according to the table of permissible uses; **Motion Mr. Adolph ; Second Mr. Evans**  
Motion passed by unanimous vote

2. The application is complete; **Motion Mr. Walker; Second Mr. Brown**  
Motion passed by unanimous vote

3. If completed as proposed in the application, the development will comply with all the requirements of this ordinance. **Motion Mr. Midgette ; Second Ms. Murphy**  
Motion passed by unanimous vote

4. The use will not materially endanger the public health or safety if located where proposed and developed according to the plan as submitted;  
**Motion Mr. Evans; Second Mr. Adolph**  
Motion passed by unanimous vote

5. The use will not substantially reduce the value of adjoining or abutting property, or that the use is a public necessity; **Motion Mr. Walker; Second Mr. Brown**  
Motion passed by unanimous vote

6. The location and character of the use, if developed according to the plan as submitted and approved, will be in harmony with the area in which it is to be located and in general conformity with the plan of development of the city;  
**Motion Ms. Walker; Second Mr. Evans**  
Motion passed by unanimous vote

**Conditions:**

1. That the applicants create at minimum, a ten foot wide multi-use path and bridge (bridge will be located at the rear of the property) meeting staff criteria for routing, design, construction, and maintenance in connecting this site to Henderson Park and Third Avenue.

2. Implementation of a fence and shrubbery around the retention pond.

Ms. Jamison proposed a condition that the applicant perform a traffic impact study and work

180 with the City on this.

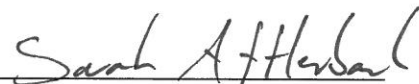
181 *Mr. Jeff Ruggieri, Director of Development Services*, stated the Board of Adjustments can  
182 require the applicant conduct a traffic impact study for this project. City Staff will review the  
183 applicants plans as with all proposed projects, to be sure that it meets City standards. A traffic  
184 impact study would deal with safety as far as traffic loading, turning movements and pedestrian  
185 access in the area. A traffic impact study is done by a certified transportation professional.


186  
187 **Motion(s):**  
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189 Ms. Jamison made a motion to do the traffic impact study for safety and traffic flow. Mr. Beasley  
190 Seconded. There was further discussion regarding the exact wording for the condition and the  
191 necessity of this condition. Mr. Hemminger stated to the Board before they take a vote on the 3<sup>rd</sup>  
192 condition requiring a traffic impact study that they consider the negative effect this will have on  
193 his application package. He is required to show evidence that he has zoning to complete the  
194 project, but if that zoning is contingent on the lengthy process of a traffic impact study he will  
195 lose his window of opportunity to complete the project this year. Ms. Walker stated that she  
196 does not think a traffic impact study would be beneficial to this project at this time. Chair  
197 Afflerbach confirmed this was the general consensus of the Board. No vote was taken.

198  
199 Mr. Adolph moved to issue a Special Use Permit. Mr. Evans seconded. Motion passed by  
200 majority vote as follows: Members; Mr. Adolph, Mr. Brown, Mr Beasley, Mr. Evans, Mr.  
201 Midgette, Ms. Murphy, Ms. Walker, Mr. Walker and Chair Afflerbach voted YES. Ms. Jamison  
202 voted NO.

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205 With no further discussion, meeting adjourned.  
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211 Sarah Afflerbach, Chair

  
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Greg McCoy, Board Clerk

