101 W. First Street Lowell, North Carolina 28098



Tuesday, April 2, 2024, 6:00 PM City Hall 101 W. First Street Lowell, North Carolina 28098

1: Call to Order

- 1A. Call to Order
- 1B. Determination of Quorom
- 1C. Pledge of Allegiance
- 1D. Approval of Agenda

2: Approval of Minutes

2A. March 5, 2024 Planning Board Meeting Minutes - DRAFT

3: Old Business

4: New Business

- 4A. Oath of Office Tamika Hopper and Natasha Shuford
- 4B. Spencer Ridge Subdivision Development Agreement Review
- 4C. Map Amendment (Rezoning) General Choice USA
- 4D. Planning Report

5: Adjournment

Date Posted: April 2, 2024



Planning Board Memorandum

Prepared By:

Call to Order

Meeting	Agenda Group	
Tuesday, April 2, 2024, 6:00 PM	Call to Order Item: 1A	
Reference File	Presented By	

The meeting is called to order



Planning Board Memorandum

Prepared By:

Determination of Quorom

Meeting	Agenda Group	
Tuesday, April 2, 2024, 6:00 PM	Call to Order Item: 1B	
Reference File	Presented By	

Determination of Quorom



Planning Board Memorandum

Prepared By:

Pledge of Allegiance

Meeting	Agenda Group	
Tuesday, April 2, 2024, 6:00 PM	Call to Order Item: 1C	
Reference File	Presented By	

Pledge of Allegiance



Planning Board Memorandum

Prepared By: Joe Gates

Approval of Agenda

Meeting	Agenda Group	
Tuesday, April 2, 2024, 6:00 PM	Call to Order Item: 1D	
Reference File	Presented By	

Changes to and Approval of Agenda



Planning Board Memorandum

Prepared By: Tyler Cobb

March 5, 2024 Planning Board Meeting Minutes - DRAFT

Meeting	Agenda Group	
Tuesday, April 2, 2024, 6:00 PM	Approval of Minutes	ltem: 2A
Reference File	Presented E	Зу
To: Scott Attaway From:		
Date:		
Re:		

placeholder for info here ...

Attachments

March 5, 2024 Planning Board Meeting Minutes-DRAFT.pdf

AgendaLink

** The following document is a draft of the minutes and the not the official approved minutes

Minutes for the Planning Board

101 W. First Street, Lowell, North Carolina 28098 March 5, 2024, 6:02 PM - March 5, 2024, 6:25 PM

Roll Call: (The following members were in attendance)

- •
- Tamika Hopper, Board Member
- Norris Lamb, Vice Chairman
- Heather Seay, Board Member
- Scott Wilson, Chair
- David Jennings, Board Member
- Troy Roberts, Board Member

1. Call to Order

1A. Call to Order- 6:02 PM

The Call to order was by Chairman Scott Wilson at 6:02 pm.

1B. Determination of Quorom- 6:02 PM

Attendees included Chairman Wilson, Board Members Jennings, Lamb, Roberts, Hopper, and Seay. Board Member Shuford was absent. Staff included Planning Director Joe Gates, Planner Tyler Cobb, Stormwater Administrator Jamie Watkins, and Cristy Cummings took the minutes for the City Clerk.

1C. Pledge of Allegiance- 6:02 PM

The Pledge of Allegiance was led by Chairman Scott Wilson.

1D. Approval of Agenda- 6:02 PM

The item was motioned To Approve by David Jennings and seconded by Norris Lamb with a passing result 5-0-0-1 Absent was Natasha Shuford

2. Approval of Minutes

2A. February 5, 2024 Planning Board Meeting Minutes - DRAFT- 6:03 PM

The item was motioned To Approve by Norris Lamb and seconded by Heather Seay with a passing result 5-0-1-1 Abstained by Scott Wilson Absent was Natasha Shuford

3. Old Business

4. New Business

4A. Proposed Text Amendments to LDO - Article 17- Sign Regulations- 6:06 PM

Presented by Joe Gates. Mr. Gates discussed the proposed text amendment allowing more sign area on wall signs for larger properties and buildings located in commercial and industrial districts. The amendment would also modify language for nonconforming signs to allow them to be replaced without meeting new or current standards. Lastly, the amendment would increase the amount of properties eligible for the Master Sign Plan. Staff recommends approval of the amendments. If approved, the revisions will be sent to City Council for final approval.

The item was motioned To Approve by Norris Lamb and seconded by David Jennings with a passing result 5-0-1-1 Abstained by Scott Wilson Absent was Natasha Shuford

4B. Monthly Planning Report- 6:18 PM

Presented by Joe Gates. Mr. Gates gave the Planning Board updates in the areas of code enforcement, zoning, and planning.

Mr. Gates also mentioned that he turned in his letter of resignation effective April 5, 2024. He will be at the April Planning Board meeting. He said he has really enjoyed working with this board and that Tyler Cobb would be available to help. The Board Members mentioned that he will be missed. Mr. Gates said he would like to set up some training for the new members and asked the members to contact him in the next week for items of discussion.

5. Adjournment

Board member Seay made a motion to adjourn, seconded by Board member Roberts. The vote was unanimously in favor.



Planning Board Memorandum

Prepared By:

Oath of Office - Tamika Hopper and Natasha Shuford

Meeting	Agenda Group	
Tuesday, April 2, 2024, 6:00 PM	New Business Item: 4A	
Reference File	Presented By	
To:		
From:		
Date:		
Re:		

placeholder for info here...



Planning Board Memorandum

Prepared By: Tyler Cobb

Spencer Ridge Subdivision - Development Agreement Review

Meeting	Agenda Group	
Tuesday, April 2, 2024, 6:00 PM	New Business Item: 4B	
Reference File	Presented By	

To: Planning Board
From: Tyler Cobb Planner
Date: 4/2/2024
Re: Spencer Ridge Subdivision Development Agreement

STAFF REPORT

Spencer Ridge Development Agreement Planning Board Meeting 4/2/2024

Overview:

As part of our ongoing efforts to foster responsible growth and development within our community, we have been in negotiations with LENNAR CAROLINAS, LLC regarding a proposed project within our jurisdiction. This project has reached a critical stage where a formal development agreement is necessary to outline the terms, conditions, and responsibilities of both the developer and the city.

Purpose:

The purpose of this development agreement is to establish a clear framework for the project, ensuring that it aligns with our community's values, goals, and regulatory requirements. By formalizing our expectations and commitments, we can effectively manage the development process and mitigate any potential risks or conflicts that may arise.

Key Components:

- 1. **Project Description:** The agreement will define the scope and nature of the proposed development, including the type of structures, their intended use, and any associated amenities or infrastructure.
- 2. **Timeline:** A detailed timeline for the project will be outlined, specifying milestones, deadlines, and key deliverables to ensure timely completion and adherence to established schedules.
- 3. **Responsibilities:** Clear description of responsibilities between the developer and the city will be established, covering areas such as construction, maintenance, compliance with regulations, and provision of necessary services.
- 4. **Compliance and Enforcement:** Provisions for monitoring, compliance, and enforcement mechanisms will be included to uphold the terms of the agreement and address any deviations or non-compliance issues.

Next Steps:

Carefully review the draft development agreement provided alongside this memorandum. Your input, feedback, and insights are invaluable as we work towards finalizing a mutually beneficial arrangement.

Attachments

Development Agreement - lowell.pdf 160D Article 10 - Development agreements.pdf Version 2.0 202022-08-30 - Spencer Mountain - Rezoning Plan.pdf Spencer Ridge - Development Agreement v5_BF comments (003).pdf

WHAT IS A DEVELOPMENT AGREEMENT?

An agreement between the City of Lowell and a developer pursuant to Article 10 of G.S. 160D for a large-scale development with a lengthy build-out period and having a public-private partnership component involving mutual financial interests.

7.15-1 Development Agreements: Authorization and Applicability

(A.) The North Carolina General Statutes authorize the use of Development Agreements for the development of land in accordance with the criteria and procedures established in sections G.S. 160D-1001 through G.S. 160D-1012.

(B.) In addition to any Development Agreement proposed for an eligible project, a Development Agreement, established pursuant to Sub-section 7.15-3 of this Ordinance, shall be required as part of all applications for the following:

(1.) Traditional Neighborhood Development Overlay (TNDO) District, Main Street (MS) District, and Mixed Use (MU-1 and MU-2) District and apply to all new development projects within the TNDO, MS, MU-1, and MU-2 Districts.

(2.) Major Subdivisions in any district where new street infrastructure will be developed.

7.15-2 Content of Development Agreement

(A.) The development agreement shall establish the period of time for completion of the development and construction of the project subject to the agreement.

(B.) The development agreement shall establish the property to which the agreement shall apply by metes and bounds description attached to the agreement as "Exhibit A".

(C.) The development agreement shall cite all terms and conditions applicable to the development of the land subject to the agreement including standards and/or specifications that differ from the provisions of this Ordinance.

(D.) The development agreement shall provide that the delivery date of such public facilities will be tied to successful performance by the developer in implementing the proposed development.

7.15-3 Procedures for Entering into Development Agreements

(A.) The development agreement shall be drafted in a format as directed by the Planning, Zoning & Subdivision Administrator. The development agreement <u>shall then be presented to the Planning Board for a formal recommendation at a regularly scheduled meeting</u>. Said meeting shall be held prior to notification for a legislative hearing by the City Council.

(B.) The development agreement and the Planning Board recommendation shall be published for public inspection and notification shall be made in accordance with the provisions of G.S. 160D-601.

(C.) The notice for the legislative hearing must specify the location of the property subject to the development agreement, the development uses proposed on the property, and must specify a place where a copy of the proposed development agreement can be obtained.

(D.) The development agreement <u>shall be presented</u> at a legislative hearing allowing an opportunity for the public to comment on the proposed development agreement. The information presented at the legislative hearing shall be considered by the City Council in formulating its decision on the approval of an ordinance authorizing approval of said agreement.

(E.) Upon finding that said agreement is in the best interest of the City of Lowell, the City Council may by adoption of an ordinance adopting the development agreement and authorizing it's execution by the Mayor, approve such agreement to be administered in full force and effect by the Planning, Zoning & Subdivision Administrator.

(F.) The development agreement shall be recorded in the office of <u>the Register of Deeds of the</u> <u>county in which the subject property is located within fourteen (14) days of execution and prior</u> <u>to the issuance of any development permits authorizing development activities to commence.</u>

7.15-4 Administration of Development Agreements and Termination for Material Breach

(A.) The development agreement shall run with the land obligating the parties to the agreement to any and all stipulations therein and may only be amended in accordance with the laws of North Carolina governing such agreements as stipulated in section 7.15-1 herein.

(B.) The Planning, Zoning & Subdivision Administrator shall conduct a periodic review at least every 12 months, at which time the developer is required to demonstrate good faith compliance with the terms of the development agreement. If, as a result of a periodic review, the Planning, Zoning & Subdivision Administrator finds and determines that the developer has committed a material breach of the terms or conditions of the agreement, the Planning, Zoning & Subdivision Administrator shall serve notice in writing, within a reasonable time after the periodic review, upon the developer setting forth with reasonable particularity the nature of the breach and the evidence supporting the finding and determination, and providing the developer a reasonable time in which to cure the material breach.

(C.) If the developer fails to cure the material breach within the time given, then the City of Lowell may unilaterally terminate or modify the development agreement. In accordance with G.S. D 160 appealed to the Board of Adjustment in the manner provided by G.S. 160D-405.

(D.) A development agreement adopted pursuant to this Section shall not exempt the property owner or developer from compliance with the State Building Code or State or local housing codes that are not part of this Ordinance.

	Phase 1: Project Evaluation
Conc	ept Plan/Application Submitted
Facili	itated City Technical Review of Proposed Development
plans	iderations: Submitted site plans, application, comprehensive land use plan, small area s, LDO, engineering data, public works data, fire/police/safety data, school enrollment c other data that staff feels is necessary to evaluate the project.
mana	Is Involved: Staff led technical review may include city planning staff, city engineer, cit ager, police chief, fire marshal office representative, public works department, legal sel, any other person(s) staff sees as necessary for review of the project.
	ome: Written comments/information provided to applicant to start discussion of lopment agreement.
	Phase 2: Staff Agreement Negotiations*
Staff	Level Negotiations with Applicant
-	n negotiation of an agreement for long-term trade-offs and benefits of a development Staff.
	iderations: Comments/Considerations from Phase 1, developers' comments/response e 1 requests, discussion of requested items/improvements
	Is Involved: Planning Staff, City Engineer, City Manager, Applicant, Legal Counsel and L Consultant as necessary
Outc	ome: Draft Development Agreement
*May	y require multiple meetings
	Phase 3: Planning Board Review
Planr	ning Board Level Negotiations with Applicant
Droce	entation of Draft Agreement to the Planning Board
FIESC	
	iderations: Draft Development Agreement
Cons Who	Iderations: Draft Development Agreement Is Involved: Planning Staff, City Engineer, City Manager, Applicant, Legal Counsel and I Consultant as necessary

Phase 4: City Council Sets Public Hearing (First Reading)

Presentation of Draft Agreement to entire Council. The council receives draft agreement and may have comments. If the Council decides to move forward, they will set the public hearing date to hear the Develop Agreement in a legislative hearing.

Who Is Involved: Entire City Council, Applicant, Planning Staff, City Manager, Legal Counsel and Land Use Consultant as necessary.

Outcome: Set public hearing date to vote on final draft of the proposed development agreement.

Phase 5: Public Hearing

Public Hearing/Council Decision

Presentation of Draft Agreement to entire Council. Council receives draft agreement and may negotiate directly with the applicant. Required public hearing held and negotiated agreement adopted by City Council.

Who Is Involved: City Council, Applicant, Planning Staff, City Manager, Legal Counsel

Outcome: Council Decision/Finalized Agreement

Additional Resources:

Article 7 Permits and Procedures

Act or the County Fiscal Control Act. (2019-111, s. 2.4; 2020-3, s. 4.33(a); 2020-25, s. 51(a), (b), (d).)

§ 160D-963. Receipt and expenditure of funds.

The commission may receive contributions from private agencies, foundations, organizations, individuals, the State or federal government, or any other source, in addition to any sums appropriated for its use by the governing board. It may accept and disburse these funds for any purpose within the scope of its authority as herein specified. All sums appropriated by the local government to further the work and purposes of the commission are deemed to be for a public purpose. (2019-111, s. 2.4; 2020-3, s. 4.33(a); 2020-25, s. 51(a), (b), (d).)

§ 160D-964. Reserved for future codification purposes.

§ 160D-965. Reserved for future codification purposes.

§ 160D-966. Reserved for future codification purposes.

§ 160D-967. Reserved for future codification purposes.

§ 160D-968. Reserved for future codification purposes.

§ 160D-969. Reserved for future codification purposes.

Article 10.

Development Agreements.

§ 160D-1001. Authorization.

- (a) The General Assembly finds the following:
 - (1) Development projects often occur in multiple phases over several years, requiring a long-term commitment of both public and private resources.
 - (2) Such developments often create community impacts and opportunities that are difficult to accommodate within traditional zoning processes.
 - (3) Because of their scale and duration, such projects often require careful coordination of public capital facilities planning, financing, and construction schedules and phasing of the private development.
 - (4) Such projects involve substantial commitments of private capital, which developers are usually unwilling to risk without sufficient assurances that development standards will remain stable through the extended period of the development.

- (5) Such developments often permit communities and developers to experiment with different or nontraditional types of development concepts and standards, while still managing impacts on the surrounding areas.
- (6) To better structure and manage development approvals for such developments and ensure their proper integration into local capital facilities programs, local governments need flexibility to negotiate such developments.

(b) Local governments may enter into development agreements with developers, subject to the procedures of this Article. In entering into such agreements, a local government may not exercise any authority or make any commitment not authorized by general or local act and may not impose any tax or fee not authorized by otherwise applicable law.

(c) This Article is supplemental to the powers conferred upon local governments and does not preclude or supersede rights and obligations established pursuant to other law regarding development approvals, site-specific vesting plans, or other provisions of law. A development agreement shall not exempt the property owner or developer from compliance with the State Building Code or State or local housing codes that are not part of the local government's development regulations. When the governing board approves the rezoning of any property associated with a development agreement executed and recorded pursuant to this Article, the provisions of G.S. 160D-605(a) apply.

(d) Development authorized by a development agreement shall comply with all applicable laws, including all ordinances, resolutions, regulations, permits, policies, and laws affecting the development of property, including laws governing permitted uses of the property, density, intensity, design, and improvements. (2019-111, s. 2.4; 2020-3, s. 4.33(a); 2020-25, s. 51(a), (b), (d).)

§ 160D-1002. Definitions.

The following definitions apply in this Article:

- (1) Development. The planning for or carrying out of a building activity, the making of a material change in the use or appearance of any structure or property, or the dividing of land into two or more parcels. When appropriate to the context, "development" refers to the planning for or the act of developing or to the result of development. Reference to a specific operation is not intended to mean that the operation or activity, when part of other operations or activities, is not development. Reference to particular operations is not intended to limit the generality of this item.
- (2) Public facilities. Major capital improvements, including, but not limited to, transportation, sanitary sewer, solid waste, drainage, potable water, educational, parks and recreational, and health systems and facilities. (2019-111, s. 2.4; 2020-3, s. 4.33(a); 2020-25, s. 51(a), (b), (d).)

§ 160D-1003. Approval of governing board required.

(a) A local government may establish procedures and requirements, as provided in this Article, to consider and enter into development agreements with developers. A development agreement must be approved by the governing board of a local government following the procedures specified in G.S. 160D-1005.

(b) The development agreement may, by ordinance, be incorporated, in whole or in part, into any development regulation adopted by the local government. A development agreement may be considered concurrently with a zoning map or text amendment affecting the property and development subject to the development agreement. A development agreement may be concurrently considered with and incorporated by reference with a sketch plan or preliminary plat required under a subdivision regulation or a site plan or other development approval required under a zoning regulation. If incorporated into a conditional district, the provisions of the development agreement shall be treated as a development regulation in the event of the developer's bankruptcy. (2019-111, s. 2.4; 2020-3, s. 4.33(a); 2020-25, s. 51(a), (b), (d).)

§ 160D-1004. Size and duration.

A local government may enter into a development agreement with a developer for the development of property as provided in this Article for developable property of any size. Development agreements shall be of a reasonable term specified in the agreement. (2019-111, s. 2.4; 2020-3, s. 4.33(a); 2020-25, s. 51(a), (b), (d).)

§ 160D-1005. Hearing.

Before entering into a development agreement, a local government shall conduct a legislative hearing on the proposed agreement. The notice provisions of G.S. 160D-602 applicable to zoning map amendments shall be followed for this hearing. The notice for the hearing must specify the location of the property subject to the development agreement, the development uses proposed on the property, and must specify a place where a copy of the proposed development agreement can be obtained. (2019-111, s. 2.4; 2020-3, s. 4.33(a); 2020-25, ss. 25, 51(a), (b), (d).)

§ 160D-1006. Content and modification.

- (a) A development agreement shall, at a minimum, include all of the following:
 - (1) A description of the property subject to the agreement and the names of its legal and equitable property owners.
 - (2) The duration of the agreement. However, the parties are not precluded from entering into subsequent development agreements that may extend the original duration period.
 - (3) The development uses permitted on the property, including population densities and building types, intensities, placement on the site, and design.
 - (4) A description of public facilities that will serve the development, including who provides the facilities, the date any new public facilities, if needed, will be constructed, and a schedule to assure public facilities are available concurrent with the impacts of the development. In the event that the development agreement provides that the local government shall provide certain public facilities, the development agreement shall provide that the delivery date of such public facilities will be tied to successful performance by the development in implementing the proposed development, such as meeting defined completion percentages or other performance standards.
 - (5) A description, where appropriate, of any reservation or dedication of land for public purposes and any provisions agreed to by the developer that exceed existing laws related to protection of environmentally sensitive property.

- (6) A description, where appropriate, of any conditions, terms, restrictions, or other requirements for the protection of public health, safety, or welfare.
- (7) A description, where appropriate, of any provisions for the preservation and restoration of historic structures.

(b) A development agreement may also provide that the entire development or any phase of it be commenced or completed within a specified period of time. If required by ordinance or in the agreement, the development agreement shall provide a development schedule, including commencement dates and interim completion dates at no greater than five-year intervals; provided, however, the failure to meet a commencement or completion date does not, in and of itself, constitute a material breach of the development agreement pursuant to G.S. 160D-1008 but must be judged based upon the totality of the circumstances. The developer may request a modification in the dates as set forth in the agreement.

(c) If more than one local government is made party to an agreement, the agreement must specify which local government is responsible for the overall administration of the development agreement. A local or regional utility authority may also be made a party to the development agreement.

(d) The development agreement also may cover any other matter, including defined performance standards, not inconsistent with this Chapter. The development agreement may include mutually acceptable terms regarding provision of public facilities and other amenities and the allocation of financial responsibility for their provision, provided any impact mitigation measures offered by the developer beyond those that could be required by the local government shall be expressly enumerated within the agreement, and provided the agreement may not include a tax or impact fee not otherwise authorized by law.

(e) Consideration of a proposed major modification of the agreement shall follow the same procedures as required for initial approval of a development agreement. What changes constitute a major modification may be determined by ordinance adopted pursuant to G.S. 160D-1003 or as provided for in the development agreement.

(f) Any performance guarantees under the development agreement shall comply with G.S. 160D-804.1. (2019-111, s. 2.4; 2020-3, s. 4.33(a); 2020-25, ss. 26, 51(a), (b), (d).)

§ 160D-1007. Vesting.

(a) Unless the development agreement specifically provides for the application of subsequently enacted laws, the laws applicable to development of the property subject to a development agreement are those in force at the time of execution of the agreement.

(b) Except for grounds specified in G.S. 160D-108(c) or G.S. 160D-108.1(f), a local government may not apply subsequently adopted ordinances or development policies to a development that is subject to a development agreement.

(c) In the event State or federal law is changed after a development agreement has been entered into and the change prevents or precludes compliance with one or more provisions of the development agreement, the local government may modify the affected provisions, upon a finding that the change in State or federal law has a fundamental effect on the development agreement.

(d) This section does not abrogate any vested rights otherwise preserved by law. (2019-111, s. 2.4; 2020-3, s. 4.33(a); 2020-25, ss. 27, 51(a), (b), (d).)

§ 160D-1008. Breach and cure.

(a) Procedures established pursuant to G.S. 160D-1003 may include a provision requiring periodic review by the zoning administrator or other appropriate officer of the local government, at which time the developer shall demonstrate good-faith compliance with the terms of the development agreement.

(b) If the local government finds and determines that the developer has committed a material breach of the agreement, the local government shall notify the developer in writing setting forth with reasonable particularity the nature of the breach and the evidence supporting the finding and determination and providing the developer a reasonable time in which to cure the material breach.

(c) If the developer fails to cure the material breach within the time given, then the local government unilaterally may terminate or modify the development agreement, provided the notice of termination or modification may be appealed to the board of adjustment in the manner provided by G.S. 160D-405.

(d) An ordinance adopted pursuant to G.S. 160D-1003 or the development agreement may specify other penalties for breach in lieu of termination, including, but not limited to, penalties allowed for violation of a development regulation. Nothing in this Article shall be construed to abrogate or impair the power of the local government to enforce applicable law.

(e) A development agreement shall be enforceable by any party to the agreement notwithstanding any changes in the development regulations made subsequent to the effective date of the development agreement. Any party to the agreement may file an action for injunctive relief to enforce the terms of a development agreement. (2019-111, s. 2.4; 2020-3, s. 4.33(a); 2020-25, s. 51(a), (b), (d).)

§ 160D-1009. Amendment or termination.

Subject to the provisions of G.S. 160D-1006(e), a development agreement may be amended or terminated by mutual consent of the parties. (2019-111, s. 2.4; 2020-3, s. 4.33(a); 2020-25, s. 51(a), (b), (d).)

§ 160D-1010. Change of jurisdiction.

(a) Except as otherwise provided by this Article, any development agreement entered into by a local government before the effective date of a change of jurisdiction shall be valid for the duration of the agreement or eight years from the effective date of the change in jurisdiction, whichever is earlier. The parties to the development agreement and the local government assuming jurisdiction have the same rights and obligations with respect to each other regarding matters addressed in the development agreement as if the property had remained in the previous jurisdiction.

(b) A local government assuming jurisdiction may modify or suspend the provisions of the development agreement if the local government determines that the failure of the local government to do so would place the residents of the territory subject to the development agreement or the residents of the local government, or both, in a condition dangerous to their health or safety, or both. (2019-111, s. 2.4; 2020-3, s. 4.33(a); 2020-25, s. 51(a), (b), (d).)

§ 160D-1011. Recordation.

The developer shall record the agreement with the register of deeds in the county where the property is located within 14 days after the local government and developer execute an approved

development agreement. No development approvals may be issued until the development agreement has been recorded. The burdens of the development agreement are binding upon, and the benefits of the agreement shall inure to, all successors in interest to the parties to the agreement. (2019-111, s. 2.4; 2020-3, s. 4.33(a); 2020-25, s. 51(a), (b), (d).)

§ 160D-1012. Applicability of procedures to approve debt.

In the event that any of the obligations of the local government in the development agreement constitute debt, the local government shall comply, at the time of the obligation to incur the debt and before the debt becomes enforceable against the local government, with any applicable constitutional and statutory procedures for the approval of this debt. (2019-111, s. 2.4; 2020-3, s. 4.33(a); 2020-25, s. 51(a), (b), (d).)

Article 11.

Building Code Enforcement.

§ 160D-1101. Definitions.

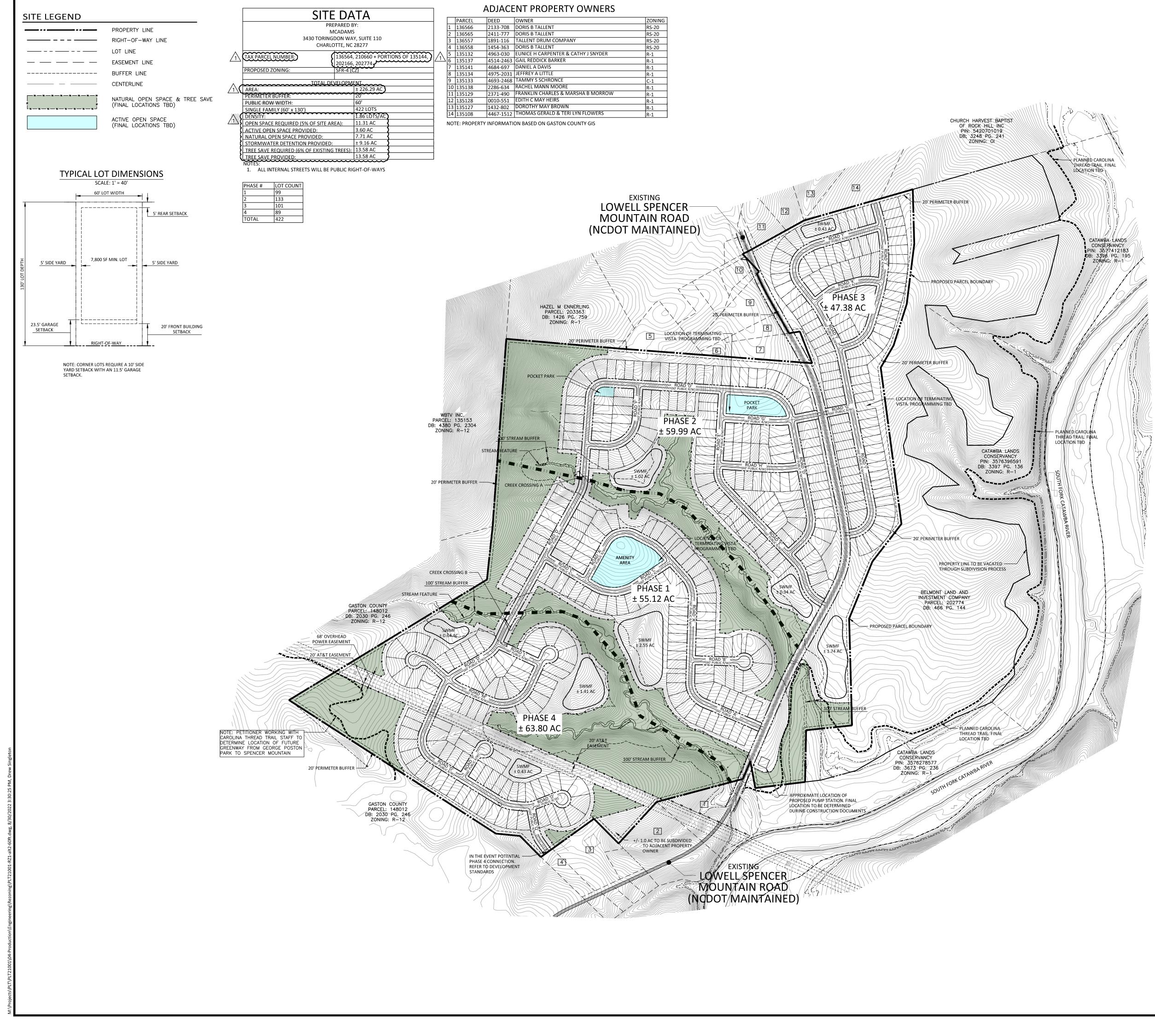
As used in this Article, the following terms shall have their ordinary meaning and shall also be read to include the following:

- (1) Building or buildings. Includes other structures.
- (2) Governing board or board of commissioners. Includes the Tribal Council of a federally recognized Indian tribe.
- (3) Local government. Includes a federally recognized Indian tribe, and, as to such tribe, includes lands held in trust for the tribe.
- Public officer. Includes the officer or officers who are authorized by regulations adopted hereunder to exercise the powers prescribed by the regulations and by this Article. (2019-111, s. 2.4; 2020-3, s. 4.33(a); 2020-25, s. 51(a), (b), (d).)

§ 160D-1102. Building code administration.

A local government may create an inspection department and may appoint inspectors who may be given appropriate titles, such as building inspector, electrical inspector, plumbing inspector, housing inspector, zoning inspector, heating and air-conditioning inspector, fire prevention inspector, or deputy or assistant inspector, or another title generally descriptive of the duties assigned. Every local government shall perform the duties and responsibilities set forth in G.S. 160D-1104 either by (i) creating its own inspection department, (ii) creating a joint inspection department in cooperation with one or more other units of local government, pursuant to Part 1 of Article 20 of Chapter 160A of the General Statutes, (iii) contracting with another unit of local government for the provision of inspection services pursuant to Part 1 of Article 20 of Chapter 160A of the General Statutes, or (iv) arranging for the county in which a city is located to perform inspection services within the city's jurisdiction as authorized by G.S. 160D-1104 and G.S. 160D-202.

In the event that any local government fails to provide inspection services or ceases to provide inspection services, the Commissioner of Insurance shall arrange for the provision of inspection



ED	OWNER	ZONING	
33-708	DORIS B TALLENT	RS-20	
11-777	DORIS B TALLENT	RS-20	
91-116	TALLENT DRUM COMPANY	RS-20	
54-363	DORIS B TALLENT	RS-20	
53-030	EUNICE H CARPENTER & CATHY J SNYDER	R-1	
14-2463	GAIL REDDICK BARKER	R-1	
34-697	DANIEL A DAVIS	R-1	
75-2031	JEFFREY A LITTLE	R-1	
93-2468	TAMMY S SCHRONCE	C-1	
36-634	RACHEL MANN MOORE	R-1	
71-490	FRANKLIN CHARLES & MARSHA B MORROW	R-1	
10-551	EDITH C MAY HEIRS	R-1	
32-802	DOROTHY MAY BROWN	R-1	
57-1512	THOMAS GERALD & TERI LYN FLOWERS	R-1	
ORMATION BASED ON GASTON COUNTY GIS			



The John R. McAdams Company, Inc. 3430 Toringdon Way Suite 110 Charlotte, NC 28277 phone 704. 527. 0800 fax 919. 361. 2269 license number: C-0293, C-187

www.mcadamsco.com

CLIENT

PULTE HOMES 11121 CARMEL COMMONS BLVD. SUITE 450 CHARLOTTE, NC 28226





REVISIONS

NO. DATE

1 07. 12. 2022 REVS PER SELLER COORDINATION

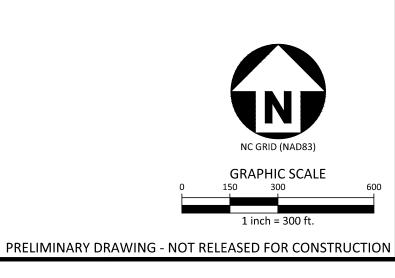
2 08. 30. 2022 PER CITY COMMENTS

PLAN INFORMATION

PROJECT NO.	PLT21001
FILENAME	PLT21001-RZ1
CHECKED BY	EM
DRAWN BY	JDS
SCALE	1" = 300'
DATE	12.10.2021
SHEET	

REZONING PLAN





Pulte Lowell Development Standards July 12, 2022 Spencer Mountain Rezoning Petition¹ **Post Planning Committee**

Post Adjusted Site Boundary

Site Development Data:

(--Acreage: ± 226.29 acres)

S--Tax Parcel #: 136564 and 210660

{--Tax Parcel #: 135144, 202166, and 202774 NOTE WHICH ARE "A PORTION OF" --Existing Zoning: SFR-3 and SFR-2

--Proposed Zoning: SFR-4(CZ)

-- Existing Uses: Vacant

--Proposed Uses: Up to 422 single-family detached dwelling units as allowed by right and under prescribed conditions in the SFR-4 zoning district as further described in Section 2 below.

General Provisions: 1.

a. Site Location. These Development Standards form a part of the Rezoning Plan associated with the Rezoning Petition filed by Pulte ("Petitioner") to accommodate the development of up to four hundred and twenty-two (422) single-family detached dwelling units as generally depicted on the Rezoning Plan. The proposed development will be on an approximately 226.29 acre site located on Spencer Mountain Road (the "Site").

b. Zoning Districts/Ordinance. Development of the Site will be governed by the Rezoning Plan as well as the applicable provisions of the Lowell Land Development Code (the "Ordinance"). Unless the Rezoning Plan establishes more stringent standards, the regulations established under the Ordinance for the SFR-4 zoning classification shall govern.

c. Graphics and Alterations. The schematic depictions lots, sidewalks, structures and buildings, building elevations, driveways, streets and other development matters and site elements (collectively the "Development/Site Elements") set forth on the Rezoning Plan should be reviewed in conjunction with the provisions of these Development Standards. The layout, locations, sizes and formulations of the Development/Site Elements depicted on the Rezoning Plan are graphic representations of the 2Development/Site elements proposed. Changes to the Rezoning Plan not anticipated by the Rezoning Plan will be reviewed and approved as allowed by Section 5.4-3(F) of the Ordinance.

Since the project has not undergone the design development and construction phases, it is intended that this Rezoning Plan provide for flexibility in allowing some alterations or modifications from the graphic representations of the Development/Site Elements. Therefore, there may be instances where minor modifications will be allowed per the Ordinance. These instances would include changes to graphics if they are minor and don't materially change the overall design intent depicted on the Rezoning Plan.

The Planning Director will determine if such minor modifications are allowed and if it is determined that the alteration does not meet the criteria described above, the Petitioner shall then follow the Ordinance; in each instance, however, subject to the Petitioner's appeal rights set forth in the Ordinance.

2. Permitted Uses & Development Areas:

a. The Site may be developed with up to four hundred twenty-two (422) single-family detached dwelling units to the west side of the ultimate drainage line. The ultimate drainage line location will be determined as part of the overall grading plan during the land development process.

Transportation and Connectivity: 3.

a. A Transportation Impact Analysis shall be provided if required by Ordinance. Any required improvements to Lowell Spencer Mountain Road shall be as required by NCDOT

b. In the event a direct connection is provided from Phase 4 to Lowell Spencer Mountain Road, Creek Crossing B may be eliminated.

c. The Petitioner shall improve Lowell Spencer Mountain Road to the Rural Cross Section per the most recently adopted version of the North Carolina Complete Streets Planning and Design Guidelines subject to the recommendations of the Traffic Impact Analysis and NCDOT approval.

Architectural Standards: 4.

a. The building materials used on the principal buildings constructed on Site will be a combination of portions of the following: brick, stone, precast stone, precast concrete, synthetic stone, cementitious fiber board, cementitious fiber shake, stucco, decorative block and/or wood.

b. Vinyl or Aluminum shall not be used as a primary siding material however it may be used on windows, soffits, fascia and/or similar roof overhang elements, handrails/railings, and/or other miscellaneous trim elements.

- c. The proposed roofing materials will be architectural shingles, slate, tile and/or metal.
- **d.** All residential units shall include the following garage door treatments:

i. wall sconce lighting on at least one side of the garage door or one large wall sconce above the garage door,

- ii. windows and/or a vent detail above the garage door,
- iv. a minimum of two siding materials on the façade, and
- vi. windows

Environmental Features and Open Space: 5.

a. The Site shall comply with the minimum Stormwater and Water Quality requirements as set forth in the Land Development Ordinance and municipal code.

b. The location of the proposed stormwater areas are conceptual in nature and the exact size and location of these areas are subject to change depending upon final layout, product allocation, and/or other site plan elements. The overall layout and unit count may be altered as a result of final stormwater locations.

c. The Petitioner shall implement the following design and post construction stormwater containment measures subject to the provisions set forth herein and subject to approval by Gaston County:

- i. 200 or 100-year floodplain (whichever is greater) buffer on surface waters.
- ii. A maximum built upon area (BUA) under 10% in the Protected Watershed.

iii. In areas where the BUA is greater than 10%, Stormwater Control Measures (SCMs) capable of

treating the greater 1.5" or the difference in stormwater runoff from pre-development and post development conditions for the one-year, twenty-four-hour storm.

iv. SCMs capable of limiting peak flow from the site at each point of discharge to the predevelopment conditions for the 1 and 10 years, twenty-four-hour storm events

- vi. SCMs capable of conveying the 25-year design storm.

responsible party.

viii. To the greatest extent possible, BUA and runoff should be minimized through site design and Low Impact Development (LID) measures such as downspout disconnection, permeable pavements, green roofs, planter boxes, etc.

d. The Petitioner shall implement the following active construction measures subject to the provisions set forth herein and subject to approval by Gaston County: The use of high hazard or double row silt fencing along surface water bodies. ii. Stop valves and additional filtration at the outlet discharges.

drawdown time.

- Installation of natural fiber matting on slopes greater than 10'.
- vi. Third party sediment and erosion control monitoring of the site.

vii. Implementation of devices downstream to numerically monitor turbidity during construction and provide alerts to regulators and site operators when turbidity levels exceed action levels.

v 111.	/ uumonai i	neasure	s suc	n as f	,
	Bathymetic				

document off-site sedimentation.

- One shall be located between lots on Road I or Road J.
- One shall be located along Spencer Lowell Mountain Road.

The exact location of the access easements shall be determined during the permitting process. It is understood the easements may be used to provide access to future amenities to be provided by others.

g. The Petitioner shall provide a minimum twenty (20) foot buffer behind the lots west of the drainage divide line. Such buffers shall be maintained by the homeowner's association. Land disturbance is permitted within the buffer during development of the site.

Miscellaneous Provisions 6.

a. The Petitioner shall provide a minimum of three license plate readers to be operated for a minimum of five years unless otherwise agreed to by the City Manager. The license plate readers shall be installed at the primary entrance for each phase prior to the last certificate of occupancy for the respective phase.

7. Amendments to the Rezoning Plan:

a. Future amendments to the Rezoning Plan (which includes these Development Standards) may be applied for by the then Owner or Owners of the applicable portion of the Site affected by such amendment in accordance with the provisions of the Ordinance.

Binding Effect of the Rezoning Application:

a. If this Rezoning Petition is approved, all conditions applicable to the development of the Site imposed under the Rezoning Plan will, unless amended in the manner provided under the Ordinance, be binding upon and insure to the benefit of the Petitioner and subsequent owners of the Site and their respective heirs, devisees, personal representatives, successors in interest or assigns.

v. A total phosphorus (TP) removal rate of at least 70% for all SCM(s) used.

vii. SCM Operation and Maintenance Agreements and Plans should be clearly explained to the

iii. Retention basins capable of conveying the 25-year storm with an outfall sized to maximize

iv. Installation of temporary seeding and slope drains within 7 days after grading.

viii. Additional measures such as polyacrylamides, proposed by the designers and owners.

samples of any downstream coves before and after construction to

e. The developer shall adhere to the LDO and only plant native plant materials on the Site.

f. A minimum of two (2) ten (10) foot wide access easements shall be provided as follows:



The John R. McAdams Company, Inc. 3430 Toringdon Way Suite 110 Charlotte, NC 28277 phone 704. 527. 0800 fax 919. 361. 2269 license number: C-0293, C-187

www.mcadamsco.com

CLIENT

PULTE HOMES 11121 CARMEL COMMONS BLVD SUITE 450 CHARLOTTE, NC 28226





REVISIONS

NO. DATE 1 07. 12. 2022 REVS PER SELLER COORDINATION

2 08. 30. 2022 PER CITY COMMENTS

PLAN INFORMATION

PROJECT NO. PLT21001 FILENAME PLT21001-RZ1 CHECKED BY ΕM JDS DRAWN BY SCALE DATE 12.10.2021 SHEET

REZONING NOTES



Revisions from previous documents have been accepted below; new comments from B Fisher 4/2/24

Drawn by and mail to:

St. Amand & Efird PLLC (JSE) Lincoln at Belle Grove 3315 Springbank Lane, Suite 308 Charlotte, North Carolina 28226

STATE OF NORTH CAROLINA COUNTY OF GASTON

DEVELOPMENT AGREEMENT

THIS DEVELOPMENT AGREEMENT ("Agreement"), is made and entered into this day of _____, 202___4 (the "Effective Date"), by and among LENNAR CAROLINAS, LLC, a Delaware limited liability company ("Lennar" or "Developer"), the COUNTY OF GASTON, a North Carolina County, a body politic and corporate (hereinafter sometimes also referred to as "Gaston County" or the "County") and THE CITY OF LOWELL, a municipal corporation, created, organized and existing under and by virtue of the laws of the State of North Carolina (the "City"). Developer, the County and the City may be collectively referred to herein as "Parties."

AUTHORITY

The North Carolina General Statutes ("<u>N.C.G.S.</u>") §160D-1001 through §160D-1012, as it exists on the Effective Date of this Agreement (the "<u>Development Agreement Act</u>"), enables cities and towns to enter into binding development agreements with entities intending to develop real property under certain conditions set forth in the Development Agreement Act.

N.C.G.S. §160D-1001(a)(l) provides that "Development projects often occur in multiple phases over several years, requiring a long-term commitment of both public and private resources."

N.C.G.S. §160D-1001(a)(3) provides that "Because of their scale and duration, such projects often require careful coordination of public capital facilities planning, financing, and construction schedules and phasing of the private development."

N.C.G.S. §160D-1001 (a)(4) provides that "Such projects involve substantial commitments of private capital, which developers are usually unwilling to risk without sufficient assurances that development standards will remain stable through the extended period of development."

N.C.G.S. §160D-1001 (a)(6) provides that "To better structure and manage development approvals for such developments and ensure their proper integration into local capital facilities programs, local governments need flexibility to negotiate such developments."

In view of the foregoing, N.C.G.S. §160D-1001 through §160D-1012 expressly authorize local governments and agencies to enter into development agreements with developers pursuant to the procedures and requirements of N.C.G.S. §160D-1001 through 1012.

In addition to the authority under the N.C.G.S, Sections 7.15-1 through 7.15-4 the Lowell Development Ordinance as adopted on May 11, 2021 (the "**LDO**") authorize and require the City to enter into development agreement for any development project (i) that will be classified as Traditional Neighborhood Development Overlay (TNDO) District, Main Street (MS) District, and Mixed Use (MU-1 and MU-2) District or (ii) Major Subdivisions in any district where new street infrastructure will be developed.

Section 7.15-2 of the LDO sets forth the contents of any development agreement entered into the by the City, in addition to any requirements under the N.C.G.S., including the time period for completion, the description of the property subject to the development agreement, all terms and conditions for development that differ from the LDO, and the delivery date of public facilities.

The City on April 13, 2021 adopted its comprehensive land use plan (the "<u>CUP</u>") to promote orderly growth within the City.

In addition to the CUP, on August 10, 2021 and later amended on March 14, 2023, the City adopted its policy for managing utility allocations and extensions to establish sound policy for the management of water and sewer capacity (the "<u>Utility Allocation Policy</u>"), the terms of which are attached hereto and incorporated herein as <u>Exhibit B</u>.

In addition to any force of law conferred upon this Agreement by North Carolina law related to local governments, the terms of this Agreement are also contractual in nature, are a result of good and valuable consideration and mutual covenants, and may be enforced as contractual terms.

WITNESETH:

WEIEREAS, Developer has entered into a purchase and sale agreement to acquire from Belmont' Land and Investment Company, LLC, a North Carolina limited liability company ("**BLIC**") that certain real property located in Gaston County, North Carolina as more particularly described on <u>Exhibit A</u> attached hereto (the "<u>Property</u>"). Following Developer's acquisition of the Property, Developer intends to develop the Property into a single-family residential community (the "<u>Intended Development</u>"), subject to Developer's receipt of all required permits and approvals from applicable governmental authorities (collectively, the "<u>Approvals</u>").

WHEREAS, the Property is zoned CZ (Conditional Zoning) and subject to those Zoning Conditions set forth in RZ22-03 which conditions were approved by the City Council for the City of Lowell following a public hearing on ______, and which, by the terms of the Conditional Zoning Approval, are binding upon and insure to the benefit of the Petitioner and subsequent owners of the Site and their respective heirs, devisees, personal representatives,

successors in interest or assigns. The Conditions of Approval in connection with the Conditional Zoning are attached hereto and incorporated herein as Exhibit _____.

WHEREAS, Developer intends to develop the Intended Development in phases (each a "<u>Phase</u>" and collectively the "<u>Phases</u>") according to the phase schedule attached hereto as <u>Exhibit</u> <u>B</u>.

WHEREAS, in connection with the Approvals, Developer has agreed to plan, engineer and construct an amenity center to serve the Intended Development (hereinafter, the "<u>Amenity</u> <u>Center</u>").

WHEREAS, in connection with the Approvals, Developer has agreed to plan, engineer and construct a landscape buffer around the Intended Development as required by the LDO (hereinafter, the "Landscape Buffers").

WHEREAS, in connection with the Approvals, Developer has agreed to plan, engineer and construct stormwater control measures within the Intended Development as required by the LDO (hereinafter, the "<u>SCMs</u>").

WHEREAS, in connection with the Approvals for Phase 4 (the "<u>Phase 4 Approvals</u>"), Developer has agreed to plan, engineer and construct a waterline to serve Phase 4 which will create a connecting loop of the City's water main system (hereinafter, the "<u>Phase 4 Waterline</u>").

WHEREAS, the Phase 4 Waterline requires an easement from the adjacent property owner, Gaston County (herein the "<u>County</u>") for the development and installation of the same.

WHEREAS, the Phase 4 Waterline requires the County grant Developer an easement for to allow for the extension of an existing waterline (the "Existing City Waterline") through Gaston County PID # 148012, commonly known as "George Poston Park."

WHEREAS, the County has agreed to grant Developer County Easement (as defined herein) as necessary for Developer to extend the Existing City Waterline.

WHEREAS, in connection with the Approvals, Developer has agreed to plan, engineer and construct a trail within an easement for access to the Carolina Thread Trail (the "<u>Trail</u>") within the Intended Development (hereinafter, the "<u>Trail Easement</u>").

NOW, THEREFORE, in consideration of the premises and the mutual covenants contained herein, it is mutually agreed as follows:

1. <u>Term</u>. The term of this Agreement shall commence on the later of (i) the date on which this Agreement is executed by the City and Developer or (ii) Developer's acquisition of the Property (the "<u>Commencement Date</u>"), and shall terminate on the date which is ___(_) years thereafter (the "<u>Term</u>"). Notwithstanding such termination date, provided that the Developer is not in default of this Agreement, Developer has pursued the Intended Development, and the Intended Development has not been completed, at the conclusion of five years from the Commencement Date the termination date of this Agreement shall automatically be extended for one (1) additional five (5) year term. At the conclusion of the initial five (5) year extension of the Term, provided that the Developer is not in default of this Agreement, Developer has pursued

development of the Property, and the Intended Development has not been completed, the termination date of this Agreement shall automatically be extended for a second and final additional five (5) year term.

2. <u>Construction of the Amenity Center</u>. Following Developer's acquisition of the Property and in connection with the development thereof, Developer shall complete the Amenity Center which shall include: (i) a pool and clubhouse and (ii) any required environment permits to complete the project (collectively, the "<u>Amenity Center Improvements</u>"). The construction of the Amenity Center Improvements shall occur in accordance with the plans approved in accordance with the Rezoning Plan (the "<u>Amenity Plans</u>") as prepared by Developer's project engineer ("<u>Project Engineer</u>"). Developer shall in good faith, subject to the terms of this Agreement, pursue the substantial completion of the Amenity Center Improvements prior to that date which is the earlier of (i) the date on which the two hundred fiftieth (<u>250</u>th) certificate of occupancy ("<u>CO</u>") is issued for the Intended Development or (ii) the date on which the first CO is issued for Phase 4(the "<u>Amenity Completion Deadline</u>"). The substantial completion of the Amenity Center Improvements shall be evidenced by Developer's delivery to City of the certification of substantial completion from the Project Engineer, certifying that the same are substantially complete in accordance with the Amenity <u>Plans</u>.

3. **Inst**allation of Landscape Buffers. Following Developer's acquisition of the Property and in connection with the development thereof, Developer shall install Landscape Buffers around the Property which shall include: (i) code required plantings and (ii) any required environmental permits to complete the same (collectively, the "Landscape Buffer Improvements") and (iii) any related rezoning conditions. The installation of the Landscape Buffer Improvements shall occur in accordance with the plans approved in accordance with the Rezoning Plan, (the "Buffer Plans") as prepared by the Project Engineer and approved/stamped by City Staff. Developer shall in good faith, subject to the terms of this Agreement, complete the Landscape Buffer Improvements prior to that date on which the final CO is issued for the respective Phase in which the Landscape Buffer Improvements are located (the "Buffer Completion Deadline"). The completion of the Landscape Buffer Improvements shall be evidenced by Developer's delivery to City of the certification of completion from the Project Engineer, certifying that the same are complete in accordance with the Buffer Plans. Following completion of the Landscape Buffer Improvements, and inspection by the City to confirm compliance with the LDO and all conditions of the Conditional Zoning Approval, Developer shall be permitted in accordance with the rezoning conditions and the Lowell Development Ordinance ("<u>LDO</u>") (see open space requirements and Article 2) the nvey its rights and obligations for the maintenance of the Landscape Buffer Improvements to a property owners association established for the ownership, maintenance, and upkeep of common area facilities located on the Property (the "Property Owners Association"). Upon such conveyance or designation, all duties and obligations of Developer hereunder shall transfer to the Property Owners Association and Developer shall be released from the rights, duties and obligations assigned immediately upon such assignment.

4. <u>Construction of Stormwater Control Measures</u>. Following Developer's acquisition of the Property and in connection with the development thereof, Developer shall install SCMs around the Property which shall include: (i) those stormwater control measures as designed and approved on the construction drawings for each Phase of the Intended Development (ii) any required environment permits to complete the same (collectively, the "<u>SCM Improvements</u>").

The installation of the SCM Improvements shall occur in accordance with the plans approved in accordance with the City, County and NCDEQ Requirements (the "SCM Plans") as prepared by the Project Engineer. Developer shall in good faith, subject to the terms of this Agreement, burgue the substantial completion of the SCM Improvements prior to that date on which is the later of (i) six (6) months following the issuance of the final CO for the respective Phase in which the SCM Improvements are located or (ii) six (6) months following the issuance of the final CO for the respective drainage area in which the SCM Improvements are located (the "SCM Completion Deadline"), provided that prior to the date of Substantial Completion, SCM's used as Erosion and sediment control measures during construction shall be properly maintained in accordance with the issued EC permit until successfully converted to the permanent SCM facility. The substantial completion of the SCM Improvements shall be evidenced by Developer's delivery to City of the certification of substantial completion from the Project Engineer, certifying that the same are substantially complete in accordance with the SCM Plans. Following completion of the city/plan approved SCM Improvements, Developer shall be permitted, in compliance with in compliance with the LDO Section xxx to convey its rights and obligations for the maintenance of the SCM Improvements to a Property Owners Association. An Operation and Maintenance Agreement for each SCM shall be recorded with the final plat for each phase of the development, which shall be completed prior to the Developer's conveyance of its rights and obligations for maintenance of the Upon such conveyance or designation, all duties and obligations of SCM Improvements. Developer hereunder shall transfer to the Property Owners Association and Developer shall be released from the rights, duties and obligations assigned immediately upon such assignment.

5. The Developer agrees to use good faith efforts to procure all offsite easements from the owners of Gaston County Parcel IDs# 136566, 136565, 136563, 136562, 136561, 136560, 136558, 136557 and 136559 as necessary for the installation of the utilities, including waterline extension through "George Poston Park" and water main and force main along Lowell Spencer Mountain Road to serve the Intended Development (collectively, the "<u>Offsite Easements</u>"). In the event that Developer successfully acquires all Offsite Easements, Developer shall notify the City and County in writing of the same (each an "<u>Easement Acquisition Notice</u>"). In the event that the Developer is unable to obtain any of the Offsite Easements within forty-five (45) days following recording of this Agreement (the "<u>Offsite Easement Deadline</u>") in the Office of the Gaston County Register of Deeds, the Developer shall notify the City and County in writing of the same (each an "<u>Offsite Easement Notice</u>").

6. Construction of Waterline Phase 1; Phase 4 Waterline; Extension of Utilities. Following Developer's acquisition of the Property and in connection with the development of Phase 1, Developer shall complete the following improvements: installation of approximately 6500 linear feet of 12" waterline along Lowell Spencer Mountain Road. In connection with the development of Phase 4, Developer shall complete the following improvements: (i) installation of utilities in accordance with either Section 6(a), 6(b) or 6(c), as applicable and (iii) any other encroachment or third party agreements as necessary along with any required environment permits to complete the Phase 4 Waterline (collectively, the four phases of construction are the "Waterline Improvements"). The construction of the Waterline Improvements shall occur in accordance with the plans approved in accordance with the City, County and NCDEQ Requirements (the "Waterline Plans") as the Project Engineer. Developer shall in good faith, subject to the terms of this Agreement, pursue the substantial completion of the Waterline Improvements, including acquisition of the County Easement, prior to that date on which the first (1st) CO is issued for each phase of development (the "Waterline Phase Completion Deadline"). The substantial completion of the Waterline Improvements shall be evidenced by Developer's delivery to Town of the certification of substantial completion and Final Approval from the NCDEQ Public Water Supply Section from the Project Engineer, certifying that the same are substantially complete in accordance with the Plans.

a. In the event that Developer acquires all the Offsite Easements prior to the Offsite Easement Deadline, as evidenced by Developer's delivery of the Easement Acquisition Notice, then within one (1) month of receipt of the Easement Acquisition Notice, the County shall grant and convey to Developer an easement over and upon the property of the County, including George Poston Park, as necessary for the construction of utilities, including without limitation, waterline and force main, as well as to tie into Existing County Waterline, together with all necessary temporary construction and grading easements to complete the utility work, as more particularly shown and depicted on that drawing entitled "" attached hereto as <u>Exhibit "D"</u> and incorporated herein by reference (collectively, "<u>County Easement Option A</u>").

b. In the event that Developer is unable to acquire all the Offsite Easements prior to the Offsite Easement Deadline, as evidenced by Developer's delivery of the Offsite Easement Notice, then within one (1) month of receipt of the Offsite Easement Notice, the County shall grant and convey to Developer an easement over and upon the property of the County, including George Poston Park, as necessary for the construction of utilities, including without limitation, multiple waterlines and force main, as well as to tie into Existing County Waterline, together with all necessary temporary construction and grading easements to complete the utility work, as more particularly shown and depicted on that drawing entitled "" attached hereto as <u>Exhibit "E"</u> and incorporated herein by reference (collectively, "<u>County Easement Option B</u>").

c. In the event that Developer acquires all the Offsite Easements prior to the Offsite Easement Deadline, and acquires record title to Gaston Parcel #136558, as evidenced by Developer's delivery of the Easement Acquisition Notice and recording of a deed vesting title in Developer for Gaston Parcel #136558, then within one (1) month of receipt of the Developer's written notice it has acquired Gaston Parcel #136558 and delivery of the Offsite Easement Notice, the County shall grant and convey to Developer a temporary construction easement and sight triangle easement over and upon the property of the County, including George Poston Park, as necessary for the construction of a right-of-way connection from the Intended Development to Lowell Spencer Mountain Road, as more particularly shown and depicted on that drawing entitled " " attached hereto as **Exhibit** "**F**" and incorporated herein by reference (collectively, "County Easement Option C")

7. <u>Grant of Trail Easement</u>. Following Developer's acquisition of the Property and in connection with the development thereof, Developer shall design and plan a location for access to the Trail (the **"Trail Construction Drawings"**), including having the Trail Easement surveyed or platted (the "<u>Trail Survey</u>"). Developer shall deliver a copy of the Trail Survey to the City for City's written approval and consent to the location, and City shall approve the location of the Trail Easement within ten (10) days of receipt of the Trail Survey, which approval shall not be unreasonably withheld. Following approval, the Parties shall enter into a written easement for the Trail Easement in the location as approved on the Trail Survey, and the Developer shall proceed with construction of the Trail and all neighborhood connectors as provided in the Trail

Construction Drawings The Parties agree that the Trail Easement shall be granted and the Trail Construction completed prior to that date on which the fiftieth (50th) CO is issued for the applicable Phase in which the Trail and Trail Easement are located (the "Easement Grant and Trail Construction Deadline"). The completion of the Trail Easement shall be evidenced by Developer's recording of an easement agreement in the Office of the Register of Deeds for Gaston County in favor of the City for access to the Trail. The completion of the Trail Construction Improvements shall be evidenced by Developer's delivery to City of the certification of completion from the Project Engineer, certifying that the same are complete in accordance with the Trail Construction Plans, and inspection by the City to confirm compliance with the LDO and all conditions of the Conditional Zoning Approval.

8. Provision of Potable Water by City. Subject to the Preliminary Capacity Assurance Review ("PCAR"), Full Capacity Assurance Review ("FCAR") and all applicable fees paid in association with the granting of the utility allocation with the required deadline stated in the City of Lowell Utility Allocation and Reservation Policy, as those procedures are described and detailed in the Utility Allocation Process, potable water will be supplied to the Property by the City upon request of the Developer and subject to the provisions of this Section 8. Developer will construct or cause to be constructed at Developer's cost all necessary water service infrastructure to, from, and within the Property per City specifications which will be maintained by City or the provider. The Developer shall be responsible for maintaining all related internal water infrastructure until offered to, and accepted by, the City for public ownership and maintenance. To the extent easements are required to connect the improvements within the Property to the City's existing improvements, the Developer will be responsible for providing such easements. Upon final inspection and acceptance by the City and Final Approval from the NCDEQ Public Water Supply Section, the Developer shall provide a twelve (12) month warranty period for all water infrastructure constructed to serve the Intended Development.

9. <u>Provision of Sewage Treatment and Disposal by City</u>. Subject to the PCAR and FCAR, as those procedures are described and detailed in the Utility Allocation Process, sewage treatment and disposal will be supplied to the Property by the City upon request of the Developer and subject to the provisions of this <u>Section 9</u>. Developer will construct or cause to be constructed at Developer's cost all necessary sewer service infrastructure to, from, and within the Property per City specifications which will be maintained by it or the provider. The Developer shall be responsible for maintaining all related internal sewer infrastructure until offered to, and accepted by, the City for public ownership and maintenance. To the extent easements are required to connect the improvements within the Property to the City's existing improvements, the Developer will be responsible for providing such easements. Upon final inspection and acceptance by the City and Final Approval from the NCDEQ, the Developer shall provide a twelve (12) month warranty period for all sewer infrastructure constructed to serve the Intended Development.

The City covenants that it has, will have, will construct or will acquire sufficient additional capacity so as to meet all reasonably foreseeable needs, of current and projected future customers of the sewage system, as reflected in or determined from the information provided by the Developer in its PCAR Application of [*insert date*].

10. <u>System Development Fees/</u>. Within forty-five (45) days following FCAR approval Developer shall pay all "<u>System Development Fees</u>" imposed by the City at the time of this

Agreement, or following the date of this Agreement, provided such fees are applied consistently and in the same manner to all similarly-situated property within the City limits. In particular, the Developer agrees that it shall not seek any exemptions for any portions of the Property from any current development impact fees (so long as such development impact fees are applied consistently and in the same manner to all similarly-situated property within the City limits) for any reason.

11. The delivery date of such public facilities as may be provided by Sections 8 and 9 above shall be conditioned on the successful performance by the Developer in implementing the proposed development and compliance with all terms of this Agreement.

12. <u>Sidewalks</u>. As a public benefit, Developer shall install a sidewalk, as required by the LDO, along Lowell Spencer Mountain Road in accordance with the approved site plan. Sidewalks installed within the margin of or within the North Carolina Department of Transportation maintained portion of Lowell Spencer Mountain Road, shall be dedicated to the City for maintenance.

13. Terms and Conditions that differ from the provisions of the LDO, provide however, that any plans or construction drawings once approved by the City shall be deemed to have met all applicable requirements, provided that all conditions of approval as contained in the Conditional Rezoning and set forth in RZ22-03 shall remain in effect and may not be altered without the approval of the City Council. In the event of any conflict between the provisions of this Agreement and the Conditional Zoning Approval, the Conditional Zoning Approval shall control. [We need a paragraph incorporating any additional terms set out in the conditional zoning approval.]

- a. Only the uses appearing in Table 8.1 of the Lowell Development Ordinance (LDO) shall be allowed in the "Single Family Residential 4 District Conditional Zoning" (SFR-4/CZ) created herein.
- b. Minimum lot widths shall not be less than sixty linear feet (60') in width as measured at the minimum required setback line per LDO Art./Sect. 8.4-2. This condition exceeds the minimum requirement of the LDO art. Sect. 8.4-2.
- c. All applicable standards and specifications of the LDO shall be met.
- d. Stormwater conditions for design and post construction stormwater containment on this project:
 - i. 200 Feet or 100-year Floodplain (whichever is greater) buffer on surface waters.
 - ii. For all projects with >10% BAU, Stormwater Control Measures (SCMs) capable of treating the greater of 1.5" or the difference in stormwater runoff from pre-development and post-development conditions for the 1-yr, 24-hour storm.
 - iii. SCMs capable of limiting peak flow from the site at each point of discharge to the predevelopment conditions for the 1- and 10-yr, 24hr storm events.

- iv. A total phosphorus (TP) removal rate of at least 70% for all SCM(s) used.
- v. SCMs capable of conveying the 25-yr design storm.
- vi. SCM Operation and Maintenance Agreements and Plans shall be clearly explained to the responsible party.
- vii. Developer shall use commercially reasonable efforts to minimize BUA and runoff through site design and Low Impact Development (LID) measures such as downspout disconnection.
- e. Stormwater conditions for active construction:
 - i. The use of high hazard and/or double row silt fencing along surface water bodies.
 - ii. Retention basins capable of conveying the 25-year storm with an outfall sized to maximize drawdown time.
 - iii. Installation of temporary seeding and slope drains per the approved Erosion Control Plan within 7 days after grading.
 - iv. Installation of natural fiber matting on slopes greater than 10' in height, regardless of slope gradient.
 - v. Third party sediment and erosion control monitoring of the site.
 - vi. Implementation of devices on the two main tributaries running through the property before they enter the South Fork River to numerically monitor turbidity during construction and provide alerts to regulators and site operators when turbidity levels exceed action levels.
 - vii. Additional measures such as polyacrylamides, proposed by the designers and owners, as needed.
- f. The general schematic development plan sheet RZ.01 appearing below establishes general layout and connectivity patterns.

14. <u>Cooperation</u>. The City agrees to cooperate with Developer in connection with the construction of the Improvements, including without limitation, including executing, within three (3) business days after Developer's written request therefor, any and all documents, easements, encroachment agreements, instruments and plats, which are required to be executed by the City.

15. Costs and Bond. Developer shall be solely responsible for the expenses to construct the Improvements, which shall include all items defined by this Agreement as "Improvements" including but not limited to the Trail Improvement and the Landscape Buffer Iomprovements. As guaranty and security for performance of its obligations under this Agreement, Developer shall deposit with the City a bond or letter of credit covering the estimated cost of the Improvements

("<u>Bond</u>") in accordance with the LDO Section xxx. This Bond shall be posted with the City within five (5) business days of the date on which the first plat of the Intended Development is recorded. The Bond may be used of pay for completion of the Improvements as the sole and exclusive remedy of the City in the event of default by Developer under this Agreement. The Bond shall auto-renew yearly.

16. <u>Engineers, Contractors and Consultants</u>. The parties acknowledge that Developer shall have the right to engage, consult and otherwise use engineers, contractors and consultants, including but not limited to the Project Engineer, without the consent or release of the City, in order to complete the Improvements.

17. <u>Development Standards</u>. Except as expressly provided in this Agreement, City acknowledges and agrees that Developer's completion of the Improvements in accordance with the Plans, shall be subject to all faults and defects and without any expressed, implied or statutory warranties or representations of any kind, and Developer hereby disclaims any such representations and warranties.

18. <u>Notices</u>. All notices required or desired to be given under this Agreement shall be in writing and either (a) hand-delivered, (b) sent by certified mail, return receipt requested, (c) sent via FedEx or similar overnight service, or (d) sent via electronic mail, so long as notice is also provided through either method (a), (b) or (c) as herein described. All notices shall be addressed to the party being noticed, and shall be deemed to have been given (i) when delivered, if by hand delivery, (ii) three (3) business days after deposit in a U.S. Post Office or official letter box, if sent by certified mail, (iii) one (1) business day after timely deposited in a FedEx or similar overnight service depository, or (iv) upon transmission by sender if sent via electronic mail. All notices shall be delivered or sent prepaid for the specified service by the party giving notice, and shall be addressed as follows:

CITY:

City of Lowell

COUNTY:	County of Gaston
LENNAR:	LENNAR CAROLINAS, LLC 6701 Carmel Road, Suite 425
	Charlotte, NC 28226
	Attn: Mark Henninger
	E-Mail: mark.henninger@lennar.com
Сору То:	LENNAR CORPORATION
	700 NW 107th Avenue - 4th Floor
	Miami, Florida 33172
	Attn: General Counsel
	E-Mail: <u>mark.sustana@lennar.com</u>
Сору То:	ST. AMAND & EFIRD, PLLC
	3315 Springbank Lane, Suite 308
	Charlotte, NC 28226
	Telephone No.: (704) 837-2670
	Attn: Scott Efird
	E-Mail: <u>sefird@stamand-efird.com</u>

19. <u>Other Approvals</u>. To the extent that any county or other local government, state or federal approvals are required in connection with the Improvements, City and County shall use reasonable efforts to assist Developer in obtaining such approvals.

20. <u>Inspection, Default and Remedies</u>. During the Term of this Agreement the City shall have the right to enter the premises in order to conduct reasonable inspections, including inspections necessary to confirm or assure Developer's compliance with the terms of this Agreement. In addition to any other remedies provided herein, the City shall have the right to withhold permit or other approvals in the event of material noncompliance with the terms of this Agreement. City shall take no action with respect to a default by Developer until the non-defaulting party has given written notice to the defaulting party and the defaulting party has failed to cure the default within thirty (30) days after receipt of such notice (the "Cure Period").

21. <u>Relationship of the Parties</u>. This Agreement creates a contractual relationship between the parties. This Agreement shall not be interpreted or construed to create the relationship of master/servant, principal/agent, association, partnership, joint venture, or any other relationship where one party may be held responsible for acts of the other party. This Agreement does not impose any partnership obligation or liability upon either party. Further, this Agreement is not intended to create, nor does it create, a relationship whereby the conduct of Developer constitutes "state action" for any purposes. The Parties agree and acknowledge that pursuant to N.C. Gen. Stat. § 160D-1006(c), the City will be responsible for the overall administration of the Agreement.

22. <u>Acquisition Contingency</u>. The Parties hereby acknowledge, affirm and understand that as of the Effective Date of this Agreement, Developer has not yet acquired the Property and is not the record owner thereof. As a result, the Parties hereby agree, covenant, and acknowledge that the obligations of the Parties hereunder shall be expressly conditioned upon Developer's acquisition of the Property and taking record title thereto. In the event that the purchase and sale agreement is terminated and Developer does not acquire the Property, then Developer shall deliver written notice to the County the City and upon delivery thereof, this Agreement shall automatically terminate and the Parties shall be released from any obligations hereunder and any Bond paid shall be promptly returned to Developer.

23. <u>Official Act</u>. This Agreement constitutes an official act of the County and the City and has been adopted following procedures required by applicable law.

24. Enforceability. The unenforceability or invalidity of any particular provision of this Agreement, in whole or in part, shall not affect the enforceability and validity of the remainder of this Agreement.

25. <u>Entire Agreement</u>. This Agreement, together with other writings signed by the parties expressly stated to be supplementary hereto and together with any instruments to be executed and delivered pursuant to this Agreement, constitutes the entire agreement between the parties and supersedes all prior understandings and writing, and may be changed only by a writing signed by the parties hereto.

26. <u>Applicable Laws</u>. This Agreement shall be governed and construed under the laws of the State of North Carolina.

27. <u>Binding Effect</u>. This Agreement shall run with title to the Property and shall be binding on all persons having any right, title or interest therein. ESTABLISH TIME PERIOD FOR COMPLETION AND CONSTRUCTION PER 7.15-2 (A)

28. <u>Estoppel</u>. Each party agrees, from time to time, within thirty (30) days after request of another party, to deliver to the requesting party or such party's designee, an estoppel certificate stating that this Agreement is in full force and effect, the unexpired term of this Agreement, and whether or not, to such party's knowledge, there are any existing defaults or matters which, with the passage of time, would become defaults under this Agreement. It is understood and agreed that the party's obligations to furnish such estoppel certificates in a timely fashion is a material inducement for execution of this Agreement.

29. <u>Assignment</u>. Notwithstanding the forgoing, the Parties agree that Developer, or any subsequent developer, shall be entitled to assign and delegate the rights and duties of the Developer under this Agreement (the "<u>Developer Rights</u>") to a subsequent purchaser of all or any portion of the Property. Such assignment shall be evidenced by a recorded assignment and assumption of development rights (the "<u>Assignment of Developer Rights</u>"), executed by the Parties and the subsequent purchaser, and shall be effective as the date of recording in the Office of the Register of Deeds for Gaston County. The Parties acknowledge and agree that any such assignment or transfer by the developer of the Developer Rights shall be non-recourse as to the assigning developer. From and after the effective date of the Assignment of Developer Rights, the assigning developer shall be released from all responsibility or liability under this Agreement.

30. <u>Waiver</u>. No waiver of any breach of any covenant or provision herein contained shall be deemed a waiver of any preceding or succeeding breach thereof, or of any other covenant or provision herein contained. No extension of time for performance of any obligation or act shall be deemed an extension of time for performance of any other obligation or act.

31. <u>Severability</u>. If any term, covenant or condition of this Easement Agreement or the application thereof to any person or circumstance shall, to any extent, be illegal, invalid or unenforceable, the remainder of this Easement Agreement shall not be affected thereby and shall be valid and enforceable to the full extent permitted by law.

32. <u>Force Majeure</u>. In the event that the performance by either party of any of its obligations hereunder is delayed by natural disaster, adverse weather, acts of God, terrorist activity, war, labor dispute, pandemic, epidemic, governmental delay or other matter beyond the control of such party, without such party's fault or negligence, ("<u>Force Majeure</u>") then the deadline for completion of such obligation shall be extended by a like number of days.

33. <u>Execution of Agreement</u>. This Agreement may be executed in multiple parts as originals or by facsimile or scanned copies of executed originals and may further be executed by counterpart signature pages.

30. Recordation. Pursuant to NCGS §160D- 1011 and Section 7.15-3(F) of the LDO, this Agreement shall be recorded by the Developer with the Gaston County Register of Deeds within 14 days of the date of execution by the Developer, the City and the County.

IN WITNESS WHEREOF, Developer has caused this Agreement to be duly executed and sealed pursuant to proper authority as of the day and year first above written.

LENNAR CAROLINAS, LLC,

a Delaware limited liability company

By:_____

Name: Mark Henninger Title: Vice President

STATE OF NORTH CAROLINA

COUNTY OF _____

I certify that the following person personally appeared before me this day, each acknowledging to me that he or she voluntarily signed the foregoing document for the purpose stated therein and in the capacity indicated: Mark Henninger as Vice President of Lennar Carolinas, LLC.

Date:_____

Official Signature of Notary Public

Notary printed or typed name

[OFFICIAL SEAL]

My commission expires:

IN WITNESS WHEREOF, the City caused this Agreement to be duly executed and sealed pursuant to proper authority as of the day and year first above written.

CITY OF LOWELL, NORTH CAROLINA	ATTEST	
BY:	BY:	
Name:	Name:	
Title:	Title:	

STATE OF NORTH CAROLINA COUNTY OF _____

Date:_____

Official Signature of Notary Public

Notary printed or typed name

[OFFICIAL SEAL/STAMP]

My commission expires:

IN WITNESS WHEREOF, the County caused this Agreement to be duly executed and sealed pursuant to proper authority as of the day and year first above written.

COUNTY OF GASTON

BY:	(SEAL)
PRINT NAME:	
Title:	
STATE OF)
COUNTY OF)

I, the undersigned Notary Public for _____ County, do hereby certify that _____, the _____ of the Gaston County Board of Commissioners, who is personally known to me, or who was proved to me on the basis of satisfactory evidence to be the person who executed the foregoing instrument, appeared before me this day and acknowledged the due execution of the foregoing instrument.

WITNESS my hand and official seal this _____ day of _____, 2023.

(affix notarial stamp below)

Notary Public

Print Name

My Commission Expires:_____

EXHIBIT A

PROPERTY

BEING ALL OF "<u>TRACT 1</u>" as shown on that plat entitled "SPENCER MOUNTAIN RECOMBINATION PLAT" prepared ty The John R. McAdams Company, Inc. , dated _____, 2023 and recorded _____, 2023 in Book ____, Page _____, in the Office of the Register of Deeds for Gaston County, North Carolina.

EXHIBIT B

PHASE SCHEDULE



EXHIBIT C

UTILITY ALLOCATION PROCESS

EXHIBIT D

COUNTY EASEMENT OPTION A

EXHIBIT E

COUNTY EASEMENT OPTION B

EXHIBIT F

COUNTY EASEMENT OPTION C



City of Lowell

Planning Board Memorandum

Prepared By: Tyler Cobb

Map Amendment (Rezoning) General - Choice USA

Meeting	Agenda Group	
Tuesday, April 2, 2024, 6:00 PM	New Business Item: 4C	
Reference File	Presented By	

To: Planning Board From: Tyler Cobb Planner Date: 4/2/2024 Re: File #ZMA24-01, General Rezoning Request, 603 Groves Street, Lowell, NC - Parcel 302742

STAFF REPORT Rezoning File # ZMA24-01 Planning Board Meeting 4/2/2024

OWNER(S): JPFJ LLC APPLICANT: JPFJ LLC PROPOSED ZONING ACTION: CHANGE TO INDUSTRIAL (IND) ZONING CLASSIFICATION LOCATION: (ADDRESS AND PID) 603 Groves St. Lowell, NC, Parcel 302742 TOTAL TRACT SIZE: 18.79 AREA TO BE REZONED: 5.03

EVALUATION:

The applicant has submitted a rezoning request to have the property rezoned from (MU-2) Mixed Use to (IND) Industrial . Industrial zoning is being requested to facilitate an expansion of the existing business.

Site Description and Background

The subject property includes one tax parcel, currently located in Lowell's jurisdiction, zoned MU-2 (Mixed Use) . A rezoning application has been filed by the applicant. The current site has two zoning districts. The front of the property is zoned IND. The back of the property is currently zone MU-2. The overall site of the property is 18.79 acres, the applicant is asking for a rezoning of 5.03 acres.

<u>Proposed Zoning Conditions (if applicable)</u> N/A.

Adjoining Properties and Land Use Trends

Adjoining properties are a combination SFR-3 (Single Family Residential), MU-2 (Mixed Use) and VSR (Vehicle Service and Repair).

Available Public Facilities

Public utilities (water & sewer) are existing on the site.

Consistency with Adopted Plans

The Future Land Use Map in the 2040 Land Use Plan indicates Employment/Manufacturing uses for the subject property

<u>Conclusion</u>

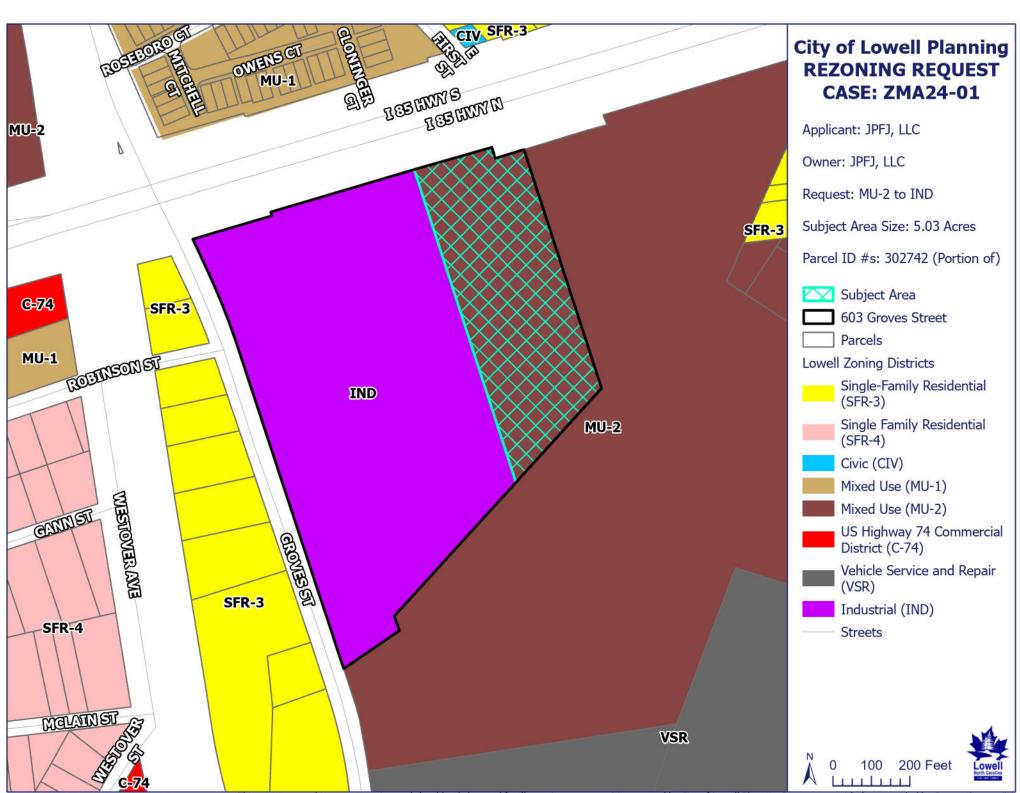
The request includes an rezoning and assignment of zoning from MU-2 to IND to facilitate an expansion of the existing business. . Based on the 2040 Land Use Plan, the submitted site plan, and proposed conditions, staff recommend approval of the request as presented.

Statement of consistency and reasonableness (motion to approve): The proposed zoning is consistent with the City of Lowell 2040 Comprehensive Land Use Plan and will result in the development of a IND. The Planning and Zoning Board considers an affirmative vote to be reasonable and in the public's interest.

<u>Statement of consistency and reasonableness (motion to deny)</u>: The Planning and Zoning Board considers an affirmative vote to not be reasonable and not to be in the public interest.

Attachments

Rezoning_ChoiceUSABeverageINC_2024March28.pdf Town of Lowell_20240328_100850.pdf



Loweley Sale was a start of the second se

APPLICATION FOR REZONING

TO: THE CITY OF LOWELL

APPLICATION #: ZMA24-01 DATE FILED: 103-11-2024 VES. \$ 1260.00 FEE PAID:

The undersigned does (do) hereby respectfully make application and request to the City of Lowell to amend the Zoning Ordinance and/or change the Zoning Map of the City of Lowell as hereinafter requested and in support of this application the following facts are shown:

1) It is requested that the real property hereinafter described be rezoned from:

Mixed Use (MU-2) to Industrial (IND)

2) The real property sought to be rezoned is owned in fee simple by:

JPFJ. LLC

as evidenced in Deed Book 5112, Page 25, Gaston County Register of Deeds Office. There are no restrictions or covenants of record appearing in the chain of title which would prohibit the property from being put to the use specified in Paragraph 1 of this application.

- 3) The address of the real property sought to be rezoned is: 603 Groves Street, Lowell, NC 28098 (portion of real property with this address) and / or a further legal description by metes and bounds of said realty is attached to this application.
- 4) The real property sought to be rezoned is located on the South side of I-85 between Groves Street and (street) (street) Ford Drive ____ further identified in Gaston County Tax Book 5112, Map 25, Parcel(s) 302742 (portion of) Said Lot(s) has (have) a frontage of 856.63 feet and a depth of 318.77 feet. or 5.03 acres.
- 5) The following are all the adjoining property owners who own land adjacent to all sides, front and rear, which shall include properties across the street from the property sought to be rezoned. The names and addresses listed below shall be determined

a a secondar a

by the most recent tax listing as recorded in the Gaston County Tax Office. (Use additional pages if necessary.)

NAME	ADDRESS
Lowell Townhome Land LLC	2649 Breckonridge Centre Drive Monroe, NC 28110
Magnolia Place Townhomes HOA Inc.	5001 A Roseboro Ct., Lowell, NC 28098
Town of Lowell	101 W 1 st Street Lowell, NC 28098
Dow E. Beatty	700 Bowden Drive Lowell, NC 28098
Cami Anne Maxwell and Ryan Bruce Maxwell	702 Bowden Drive Lowell, NC 28098-1747

- 6) The applicant understands that a letter stating the date, time and place for the Public Hearing for the rezoning of said property shall be mailed to each of the parties listed in Paragraph 5 at least ten (10) days prior to the said Public Hearing.
- 7) If the applicant is not the legal owner of the property sought to be rezoned, the legal owners names and addresses shall be listed below. Owners shall be determined by the most recent tax listing as recorded in the Gaston County Tax Office. (Use additional pages if necessary.)

NAME	ADDRESS
N/A	

8) A map or drawing identifying the real property requested to be rezoned and all attached properties with their designated zoning districts shown shall be attached to this application.

Applicant(s) Name: JPFJ, LLC	· · ·
Address: 603 Groves Street, Lowell, NC 28098	· ·
Telephone: 704-823-1651	
Applicant's Signature: Say Falls VI	and the second

City of Lowell 101 West First Street Lowell, NC 28098

Telephone: 704-824-3518

LEGAL DESCRIPTION

1

BEGINNING at a concrete monument in the southern margin of Interstate Highway 85, said point of Beginning being the northeastern corner of that property conveyed to JPFJ, LLC, by deed recorded in Book 3077, Page 283, Gaston County Registry, said point of Beginning being also situate the following three (3) courses and distances along the southern margin of Interstate Highway 85 from its intersection with the northeastern terminus of Groves Street: (1) North 73-35-09 East 212.52 feet to a point; (2) North 19-31-14 West 10.08 feet to a point; (3) North 73-30-16 East 385.83 feet to a concrete monument, control corner and the POINT OF BEGINNING; thence from said Point of Beginning along the southern margin of Interstate Highway 85 the following three courses and distances: (1) North 73-54-45 East 210.45 feet to an existing iron pin; (2) South 16-36-00 East 30.04 feet to an existing iron pin; (3) North 72-48-08 East, crossing an existing iron pin at 56.28 feet, a total distance of 78.28 feet to an existing iron pin; thence a new line South 18-10-34 East 653.41 feet to an iron pin set within the Duke Power Transmission Line right-of-way; thence South 42-06-58 West 331.30 feet to a concrete monument, control corner; thence with the easterly line of property conveyed to JPFJ, LLC, in Book 3077, Page 283, North 18-10-34 West 856.63 feet to the point and place of Beginning.

The foregoing description is taken from plat of survey entitled "Recombination Plat Smith Property" made by Tanner and McConnaughey, Registered Surveyors, dated February 19, 2020, last revised March 20, 2020, which plat of survey is recorded in Plat Book 90, Page 113 of the Gaston County Registry.

Being the same property conveyed to JPFJ, LLC, by deed recorded in Book 5112, Page 25, Gaston County Registry.



City of Lowell

Planning Board Memorandum

Prepared By: Tyler Cobb

Planning Report

Meeting	Agenda Group	
Tuesday, April 2, 2024, 6:00 PM	New Business Item: 4D	
Reference File	Presented By	

To: Scott Attaway, City Manager From: Joe Gates, Planning Director Date: Wednesday, April 5th, 2023 Re: Monthly Department Update

Code Enforcement: Multiple nuisance violation letters issued. 1 Minimum Housing Case Enforcement Action: Contracted nuisance case with Public Works

Zoning:

Processed (6) zoning permits in March.
Permit count (29) for calendar year 2024 to-date.
Meeting regarding Spencer Ridge development agreement.
Meeting regarding Spencer Ridge water/sewer.
Reviewed two recombination plats.
Reviewed Façade grants

Planning:

Attended Lowell Planning and Zoning meeting, 3/5/2024. Attended Lowell City Council Meeting, 3/12/2024. Attended Lowell Community Committee meeting 3/25/2023. Attended EDC meeting in Dallas

Other:

Attended monthly department head meeting. Attended Polimorphic Monthly update meeting. Attended Budget Meeting. Presented at Citizen Academy Attended Interlocal Agreement Meeting. Gaston County GCamp Attended Advocacy Agenda Meeting