



**CITY OF LOWELL
COUNCIL MEETING AGENDA
TUESDAY, MAY 10, 2022, 6:00 P.M.**

- 1. CALL TO ORDER** – Mayor Sandy Railey
- 2. INVOCATION / PLEDGE OF ALLEGIANCE**
- 3. ADOPTION OF AGENDA FOR THIS MEETING**
- 4. PUBLIC COMMENTS**
- 5. APPROVAL OF MINUTES**
 - A. Minutes from Council Meeting Held April 12, 2022 (p. 1-7)
- 6. UNFINISHED BUSINESS**
 - A. Public Hearing for consideration of LDO Text Amendment to add “Blood Plasma Facility” to Article 8, Table 8.1 Table of Uses, Section 1 with supplemental regulations to the Lowell Zoning District of C-74. (p. 8-10)
 - B. Public Hearing for Approving the Sale of Real Property at 615 Phillips Street (Parcel ID#) and Consideration of Economic Development Agreement pursuant to 158-7.1 (p. 11-45)
- 7. NEW BUSINESS**
 - A. Presentation by Withers Ravenel of the Lowell Water and Sewer CIP and Consideration of Resolution# RS2-2022 Resolution to Adopt the City of Lowell Water and Sewer Capital Improvement Plan (CIP) (p. 46-47)
 - B. Presentation of the Draft Fiscal Year 2022-2023 Budget (p. 48)
 - C. Set Public Hearing for Adoption of the City of Lowell Fiscal Year 2022-2023 Budget Ordinance (p. 49)
 - D. Set Public Hearing for Consideration of LDO Map Amendment (Rezoning) for Parcel ID#'s: 225354, 128306, 128316, 128315, 128304, 128305, 128307, 128928, 128999, 128318, 225350, 128321, 128322, 128333, 128334, 225352. From the Main Street (MS) Zoning District to the Mixed Use-2 (MU-2) Zoning District. Case# RZ22-02 (p. 50-58)
 - E. Discussion and Consideration of Possible Text Amendment for LDO Article 7-7.1 Development Agreement (p. 59-65)
 - F. Set Public Hearing for System Development Fee (SDF) Update per SDF study completed by Willdan Financial Services (p. 66-67)

G. Consideration of Renewal of the Gastonia/Gaston County Consortium for Participating in the HUD "HOME" Program Interlocal Agreement (p. 68-73)

8. STAFF REPORTS

- A. Public Works Report (p. 74)
- B. Finance Department Report (p. 75-77)
- C. Police Department Report (p. 78-79)
- D. Parks and Recreation Report (p. 80-81)

9. CITY ATTORNEY REPORT

10. CITY MANAGER REPORT

11. MAYOR AND CITY COUNCIL GENERAL DISCUSSION

12. CLOSED SESSION

- A. To Discuss Matters Regarding Personnel Pursuant to NCGS 143-318.11(a)(6)

13. ADJOURN

MINUTES

Lowell City Council

Regular Meeting

Tuesday, April 12 2022, 6:00 P.M.

I. CALL TO ORDER – Mayor Sandy Railey

Mayor Railey called the meeting to order at 6:00p.m. Those attending in-person were Mayor Pro-Temp Travis Smith, Councilmembers Phil Bonham, Candy Funderburk, Thomas Gillespie, and Joanna Fulbright. City staff included City Manager Scott Attaway, City Attorney John Russell Jr, Interim Police Chief and Captain Carl Moore, Finance Director, Lisa Nolen, Public Works Director, Thomas Shrewsbury, Parks and Recreation Director Cristy Cummings and City Clerk Cheryl Ramsey. A quorum was determined at the beginning of the meeting. The meeting was teleconferenced to the public and the agenda and meeting materials were made available on the city's website. Members of the public were also present.

II. INVOCATION / PLEDGE OF ALLEGIANCE

Councilmember Gillespie gave the invocation and led everyone in the pledge of allegiance.

III. ADOPTION OF AGENDA FOR THIS MEETING

Councilmember Candy Funderburk made a motion to accept the agenda, seconded by Councilmember Thomas Gillespie. The vote was unanimously in favor.

IV. PUBLIC COMMENTS

- A. Fire Chief Robbie Cunningham spoke about Gaston County Fire Protection serving the city instead of the City of Lowell and why he is for the potential change.
- B. Larry Simonds of 1603 Power Drive, Lowell, NC spoke about his agreement with the Fire Department to be under Gaston County. He also mentioned his issues with the Public Works Department.
- C. Ed Jackson spoke about the NorthPoint connector and the impact it will create for the citizens. He stated it needed to be planned better so trucks will operate efficiently. He stated that Lowell and Gaston County should be happy that the development is coming in that it will create jobs and a tax base for the city but a proper connection is critical where it aligns with Kenworthy. He believes NorthPoint should complete the end of Kenworthy to prevent bottlenecking.
- D. John Kato of 109 Walnut St, Lowell, NC stated he is against the NorthPoint development and the city is building up too much and tearing the community up.

V. APPROVAL OF MINUTES

- A. Minutes from Council Meeting held March 8, 2022 (p. 1-10)

Councilmember Funderburk wanted to make a correction on page 7 regarding a discussion she had with Randi Gates and stating Ms. Gates was not aware of the road that is projected to come in the Aberdeen Extension and S. Main Street. She said she spoke with Ms. Gates and wanted to correct the statement acknowledging that Ms. Gates did in fact know about the road from NorthPoint to exit 22 and that the City Manager had been in the meetings with the developer, and she (Ms. Gates) had not. She apologized for misspeaking. Mayor Railey also made a correction regarding who seconded a motion at the April 6 City Council work session. Councilmember Funderburk was listed for both motion and second. Mayor Pro Temp Smith made a motion to approve the minutes with corrections, seconded by Councilmember Gillespie. The vote was unanimously in favor.

VI. SPECIAL PRESENTATION

- A. Presentation of the Final Draft Conceptual Master Plan for 1602 N. Main Street (Crompton Knowles Chemical Plant) (p.11). Presented by Scott Attaway. Creech and Associates Architecture have determined a 5th of the site will be for the new Public Works facility and the rest for recreation and amenities. Environmental analysis has been completed. The City intends to keep one building. One building is expected to remain and a loading dock will be kept as a potential stage. Considering all ages when planning for people to utilize the amenities is important, including play areas, educational programs, obstacle courses, volleyball area, an amphitheater, skate park, dining scattered around food truck parking areas, accessible overlooks to the river and walkways, and a possible zip-line. The idea is to not repeat anything that is currently at Poston Park.

Estimated cost provided by Creech and Associates is 10.5 million for all of the development. The City is still looking for more up-to-date estimates. The City has received \$2 million from the NC SCIF Grant and will pursue many other grants to help with the costs. Other funding opportunities are being pursued as well including private donations.

Councilmember Funderburk asked if this property has been named the same as the proposal, Lowell River Front Master Plan? Mr. Attaway said it has not been named. She asked about bathrooms. Mr. Attaway showed her the maps where they will be located. He stated Council will vote on this once draft plans are finalized with citizen feedback.

VII. UNFINISHED BUSINESS

- A. Public Hearing for consideration of Zoning Text Amendment for Article 12, Section 12.10 (p. 12-13). Mayor Railey asked for a motion to go into public hearing. Councilmember Funderburk made the motion, seconded by Councilmember Bonham. The vote was unanimously in favor. Scott Attaway presented the amendment to the LDO regarding RV's and commercial vehicles parked in front yard/driveways. Current wording of the LDO states, in part, RV's "shall not be parked or stored on the street in residential districts. RV's shall be licensed motor vehicles in order to be occupied and remain on a lot for up to ninety (90) days, but not more than twice per year." Under the proposed wording recommended by the Lowell Planning Board, it states, in part, RV's "shall neither be parked/stored on the street nor forward of any point twenty-five (25)

feet behind the front building line of the condition space of any dwelling in residential districts. RV's shall be licensed motor vehicles in order to be occupied and remain on a lot for up to thirty (30) days, but not more than twice per year. He said medical issues would be interpreted as occupying the RV, as the person is not occupying the dwelling and therefore according to the LDO, it would not be relevant. Occupying would be considered if you are living in the dwelling during the listed time periods. Councilmember Funderburk said there is no way some citizens can get their RV in the back of his home. Mr. Attaway also stated the LDO can go back to the original wording if council chooses where it wouldn't matter where the RV is parked or a text amendment would need to be done to change the current wording. Other city ordinances were reviewed, and the Planning Board recommended the current wording to council. Councilmember Funderburk recommended keeping the original wording because she doesn't believe it's fair for citizens to not have adequate access to their backyards if forced to park their RV's back there.

Mayor Railey then allowed the public to speak regarding the matter. Larry Simonds had a complaint about the Master Plan and building a \$10 million dollar project but that the City does not have adequate sidewalks and citywide issues. Mayor Railey told him he was out of order. Mr. Simonds continued speaking about changes in a small town that will upset a lot of people.

Councilmember Funderburk made a motion to go out of public hearing, seconded by Mayor Pro Temp Smith. The vote was unanimously in favor. Councilmember Funderburk then made a motion that we stay with the current wording, seconded by Councilmember Fulbright. John Cato asked to also speak again. Attorney Russell said that the Mayor could suspend the current motion to allow him to speak. Mayor Railey allowed him to speak. Mr. Cato said he knows Council is talking about Spencer Mountain but he wanted to use this as an example and proceeds to make a complaint about the Parks and Recreation activities including the lack of participation and staff specifically. Mayor Railey stopped him and told Interim Chief Moore that if he makes any other outburst then to escort him out. The unanimous vote was allowed to stand.

VIII. NEW BUSINESS

- A. Budget Amendment #4 & #5 (p.16). Mr. Attaway reviewed printouts handed to Council relating to ARPA funds to be moved over to general funds. Mayor Railey asked for two separate votes. Councilmember Bonham made a motion to approve budget amendment #5 for funds to be moved over for usage, seconded by Councilmember Gillespie. The vote was unanimously in favor. Councilmember Bonham made a motion approving budget amendment #5, seconded by Councilmember Funderburk. The vote was unanimously in favor.
- B. Set Public Hearing for consideration of LDO Text Amendment to add "Blood Plasma Facility" to Article 8, Table 8.1 Table of Uses, Section 1 with supplemental regulations (p.17-18). Mr. Attaway elaborated on the application received. He said the applicants appealed the City's denial that the request is more extensive than a regular office and should be allowed as they state it is in fact a medical office. The appeal would go before the Board of Adjustments. Last year, the General Assembly approved the 160D statute stating that if something like this is denied by staff and then brought to the Board of Adjustments where they uphold the staff decision, the applicant can appeal it to the court. If the courts find that the City is wrong and they rule in favor

of the applicant, then the City would have to pay all the applicant's legal fees. He recommends the land use be amended to add to the LDO because it is a legal land use and not an illegal business you have to provide a zoning district within your limits. The C-74 district is what was utilized for potential adults only areas and is the district the applicant is requesting a permit for. Two supplemental conditions were proposed to the applicant, which is comparative to other municipalities

1. Shall be located at least 500 linear feet from residential homes, elementary, middle, or high school, church or other house of worship and

2. Hours of operation shall be between 6am and 8pm only.

Councilmember Funderburk asked if the trampoline park is 500 feet away since kids go there. Mr. Attaway said that can be added to the conditions when it goes to the public hearing at the next council meeting if the Council chooses.

Councilmember Funderburk made a motion to set a public hearing on May 10 at 6pm for consideration of the LDO Text Amendment to add "Blood Plasma Facility", seconded by Councilmember Fulbright. The vote was unanimously in favor.

- C. Review and Consideration of Master Sign Application for 4290 E. Franklin Blvd. Parcel ID #128628 (p.19-27). Mr. Attaway presented where the LDO allows a deviation of the sign ordinance. The Lowell Planning Board recommended approval at their April 5, 2022 meeting. Councilmember Bonham moved to approve the application of the sign, seconded by Councilmember Gillespie. The vote was unanimously in favor.
- D. Approval of Planning Director Salary Range Adjustment (p. 28-29) – Based on the salary study performed Mr. Attaway explained his position for a salary increase from grade 17 to grade 21. Mayor Pro Temp Smith made a motion to approve the Planning Director's salary rate adjustment, seconded by Councilmember Bonham. The vote was four yays and one nay by Councilmember Funderburk.
- E. Discussion of FY23 Budget Highlights – Mr. Attaway presented highlighting new employees, including Accounting Technician, Athletics Maintenance Supervisor, Stormwater GIS position, projects for bike-PED plan, McCarthy Family Park renovations stormwater projects, demolition of the old chemical plant, downtown master planning, City Hall expansion, zoning/code enforcement vehicle, and K-9 program. The budget is due to the council by May 11, 2022. Councilmember Funderburk did not understand why an Athletics Maintenance Supervisor was needed. Cristy Cummings, Director of Parks and Recreation explained what the need is and other staffing needs. Councilmember Fulbright asked if we would keep the two part time and get a full time person? Mr. Attaway said this can be discussed and we would try to work through that. Councilmember Funderburk also wants to look further at the K-9 program more in depth. Mayor Pro Temp Smith asked if another work session could be scheduled. It was agreed to have another budget session on May 6, 2022 at 3pm. Councilmember Funderburk made a motion to approve the Budget Amendment #3, seconded by Mayor Pro Temp Smith. The vote was unanimously in favor.
- F. Consideration of Resolution to include the City of Lowell within the Gaston County Fire Protection Service Tax District (p.31-32). Mr. Attaway presented giving options for considering or not considering. He mentioned this is a county contract where they would provide Fire Protection for the City of Lowell. He stated there would be a standardized tax by the county to the citizens of Lowell to fund the Volunteer Fire Department. Attorney John Russell suggested

the city prepare a termination agreement for the City Manager to work on. Councilmember Funderburk thought the topic should be tabled to a later date as she was concerned about an increase of taxes to the Lowell citizens. Mr. Attaway said yes that it could be tabled but Gaston County has to have time to incorporate it into their budget in a timely manner. He said the County tax increase would be between \$.10 - \$.11 cents in addition to what the council applies for tax rates. Councilmember Bonham understood their position but also asked what direction we want to go in as a city and how can we operate in the future. Councilmember Fulbright stated she thinks the County fire tax would be a better place before we add taxes. After further discussion, Mr. Attaway stated he would provide more information during the May 6th meeting. Councilmember Fulbright asked for a more in-depth breakdown of the budget by each department for clarification.

Mayor Pro Temp made a motion to go ahead with the Fire department going to the county and the City of Lowell to hash out the tax rate, seconded by Councilmember Bonham. Councilmember Funderburk asked if the county would ever increase their rate. Mr. Attaway said it is capped at .15. Councilmember Gillespie asked the Fire Department Chief if he had issues with it going to the county and would be in the best interest of the City of Lowell. He stated he had no issues with it going to the county but was also concerned about the tax rate increasing. Mr. Attaway said the county will likely vote on whether to take on Lowell in their April 26th meeting. With no other questions, the motion was unanimously in favor.

Councilmember Bonham then made a motion to give the City Manager, the authority to terminate the current contract for the City of Lowell Fire Department upon acceptance of this agreement by the County effective June 30th, seconded by Councilmember Funderburk. The vote was unanimously in favor.

- G. Consideration of LCC By-Laws Revision (p.33)- presented by Cristy Cummings to remove the term limits for LCC members because of the low interest. They currently have in their by-laws to serve for two terms only and would like this to be eliminated because they have a hard time filling this volunteer roles. Mr. Attaway said they will still have to reapply and be approved by City Council. Mayor Pro Temp made a motion to make the revision to the LCC By-laws, seconded by Councilmember Funderburk. The vote was unanimously in favor.
- H. Discussion of Harold Rankin Park and Bob Bolick Park Master Plans (p.34-35) -- presented by Cristy Cummings. She has recommended the City to contract with Withers Ravenel to develop the master plan for the parks in order to pursue grant opportunities. This request does not require Council action as it was just to bring council up-to-date.

IX. STAFF REPORTS

- A. Public Works Department Report (p.36) –Thomas Shrewsbury reported:
He spoke of the water leaks around the city and that some of them have been fixed. They are also working on Spring cleaning. The department is still using two part-time inmates and one full-time inmate to help; however, they are still down one full-time employee and a recycling attendant
- B. Finance (p.37) – Lisa Nolen presented. She stated Sue Lowe is still working with MeterSys and updating the meter database with our system. Sue is continuing with her reports and getting the remaining meter readings together for Mr. Shrewsbury. Sue is also working on a manual of her

job duties. Bank recs are completed through the month of March. 2021 year-end entries are done. An Accounting Tech has been interviewed and the offer letter has been sent. Mr. Attaway stated Lisa has done some training with Southern Software and hopes she will be bringing some new ideas she learned.

- C. Police Department Report (p. 38-39)– Interim Chief/Captain Carl Moore reported
1. Neighborhood meeting from March– primary concern with residents is speeding.
 2. Retention goals are in place with officers. Councilmember Bonham asked if they are still down an officer. Captain Moore said yes.
 3. Officer Anderson had a drug bust charging juveniles with 17.5 oz of marijuana, seized \$1400 in cash and a gun was confiscated off Stowe St. Councilmember Funderburk asked about the homeless camp and if that had been straightened out. Captain Moore said they are still working on it. Two people were charged last week around Harold Rankin Park. They are working with Mr. Dixon at Woodlawn Church and Mr. Culbertson to try to fix the problem.
- D. Fire Department Report (p. 40) - Incident Reports were attached to the packet.
- E. Parks & Recreation (p.41-42) – presented by Cristy Cummings discussed the recent kids Easter Egg Hunt, even though it was windy. They had over 250-300 kids show up in spite of the weather. There will be a Senior Easter Egg Hunt coming up. They also will have a Mother and Me Yoga event before Mother’s Day of which you do not have to be a mother to attend; May 27th there will be a Memorial Day event at Edgewood Cemetery at 10am; and the first t-ball game was held tonight. Councilmember Funderburk asked if Movies in the park is scheduled. Mrs. Cummings said not currently but she will look into it.

X. CITY ATTORNEY REPORT – No updates

XI. CITY MANAGER REPORT

1. Gaston County Library completed. NCDOT has submitted for a crosswalk to be painted across from McAdenville. No City of Lowell monies were submitted for it.
2. Additional NCDOT updates
3. CDBG-NR and CDBG-I updates- A bid packet was advertised and sent out to contractors last month to update the Community Center, but no quotes were received. He and Thomas Shrewsbury are working on re-writing the scope. Bathrooms and kitchen are priority. Manhole replacements will be done with any extra money by changing the scope.
4. 2023 Property Value re-appraisal by Gaston County. Asked the City of Lowell to schedule community events to allow citizens to interact and ask questions.
5. River Falls HOA-Carolina Thread Trail measure failed and other routes are being pursued. They will look at it again in a couple years.
6. NCDEQ Pre Construction Planning Grant was recommended to be pursued instead of the Regionalization Grant for the Wastewater Treatment Plant.

XII. MAYOR AND CITY COUNCIL GENERAL DISCUSSION – Mayor asked council if they had any further comments. Councilmember Funderburk said she still has issues with the NorthPoint project and has called the Senator. With no further discussion Mayor thanked everyone for coming.

A five-minute recess was requested by the Mayor before the closed session at 8:13pm and returned at 8:17.

XIII. CLOSED SESSION – Councilmember Bonham made a motion to go into closed session, seconded by Mayor Pro Temp Smith. The vote was unanimously in favor.

A. To discuss the Acquisition of Real Property Pursuant to NCGS 143-318.11(a)(5), NCGS 158-7.1(d)

B. To Discuss Matters Regarding Personnel Pursuant to NCGS 143-318.11(a)(6)

Councilmember Funderburk made a motion to come out of closed session and adjourn, seconded by Councilmember Bonham. The vote was unanimously in favor. Adjourned at 10:13 p.m.

XIV. TAKE ACTION ON ITEMS DISCUSSED DURING CLOSED SESSION

A. Discussion of Salary for Council Appointed Position

B. Determination of Setting Public Hearing for Economic Development Agreement

ATTEST:

Sandy Railey, Mayor

Cheryl Ramsey, City Clerk

AGENDA ITEM INFORMATION

AGENDA ITEM #: 6-A

DESCRIPTION: PUBLIC HEARING FOR CONSIDERATION OF LDO TEXT AMENDMENT TO ADD "BLOOD PLASMA FACILITY" TO ARTICLE 8, TABLE 8.1 TABLE OF USES, SECTION 1 WITH SUPPLEMENTAL REGULATIONS TO THE LOWELL ZONING DISTRICT OF C-74

Please see the attached memo.



To: Lowell Mayor and City Council

From: Scott Attaway, City Manager

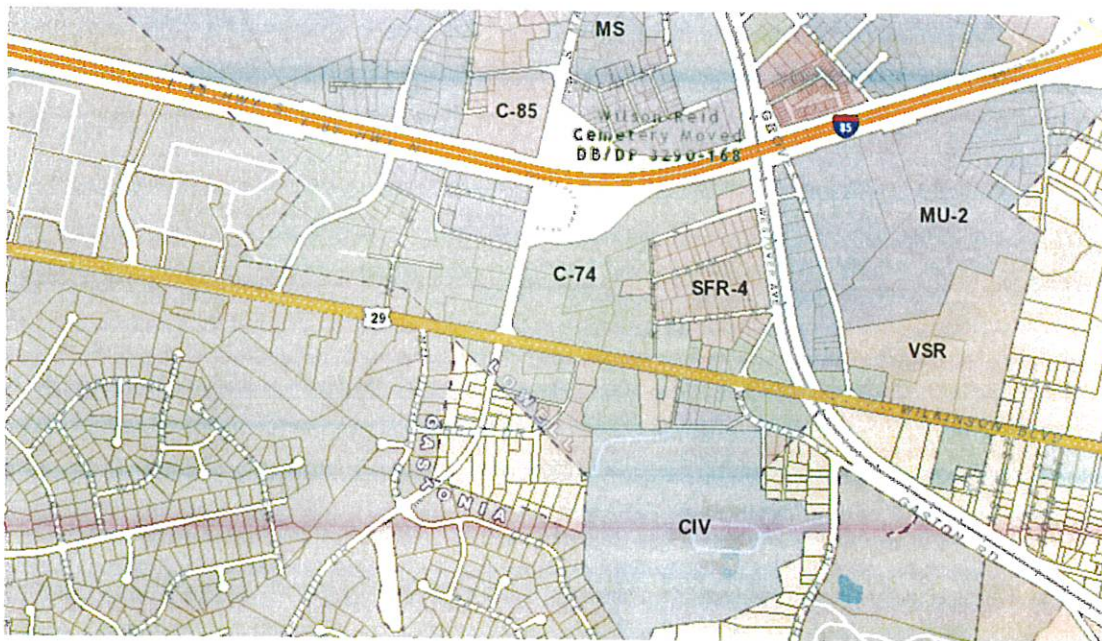
Date: May 6, 2022

Re: Consideration of LDO Text Amendment to add Blood Plasma Facility to Article 8, Table 8.1 Table of Uses, Section 1; C-74 Zoning District w/ supplemental regulations

It has been brought to our attention that Article 8; Table 8.1 does not include the land use of Blood Plasma Facility. Staff does not believe the land use fits with “medical offices” and should be a specific land use listed only in the C-74 Zoning District with supplemental regulations. Below is a staff-initiated text amendment to add this land use to the LDO with supplemental regulations. The Planning Board has recommended approval.

Proposed Supplemental Regulations:

- 1) Shall be located at least five hundred (500) linear feet away from any single-family residential use; elementary, middle, or high school facility; church or other house of worship facility.
- 2) Hours of operations for Blood Plasma Facilities shall be between 6:00 a.m. and 8:00 p.m. only.



Ad Preview

Notice of Public Hearing
The City of Lowell's City Council will hold a Public Hearing at their regularly scheduled meeting on Tuesday, May 10, 2022, at 6:00 pm, at City Hall, 101 West First Street, Lowell, North Carolina, 28098.

The purpose of this Public Hearing will be for a proposed zoning text amendment for consideration of adding Blood Plasma Facility as an allowable land use with supplemental regulations in the C-74 Zoning District within Article 8, Table 8.1 Table of Uses, Section 1, of the Lowell Unified Development Ordinance. Case# ZTA22-01
Link and directions for joining meeting remotely.
<https://meet.goto.com/524752573>

You can also dial in using your phone.
United States: +1 (571) 317-3112

Access Code: 524-752-573
For further information please call Scott Attaway, City Manager, at 704-824-3518.

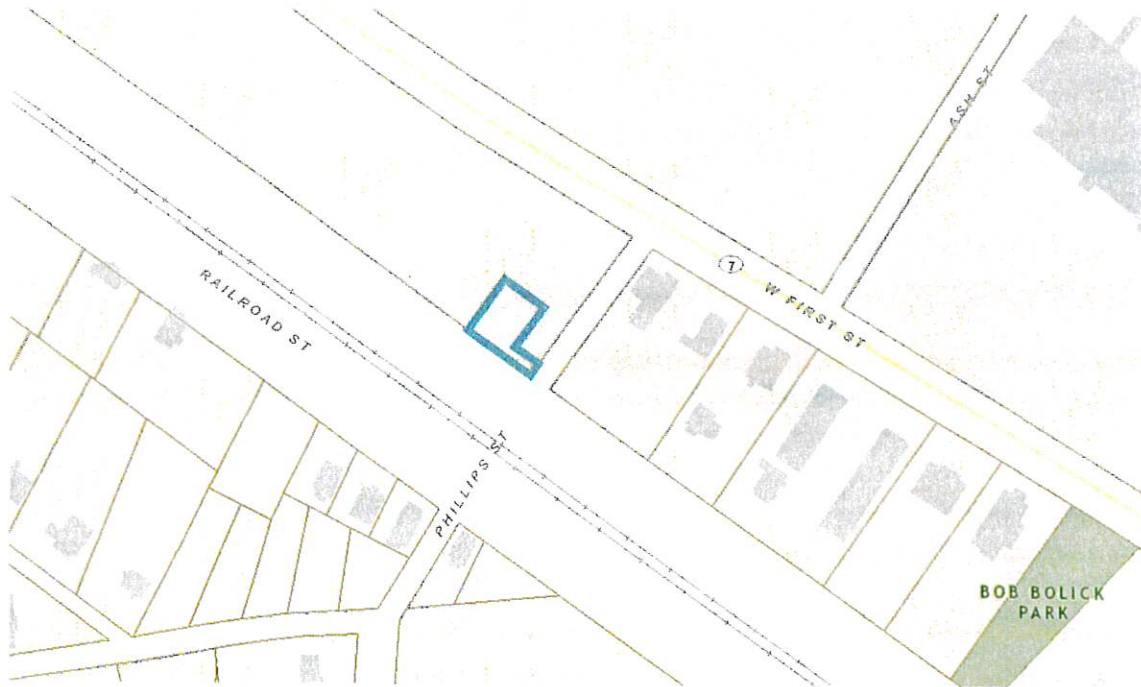
Apr. 27, 2022 #7216411

AGENDA ITEM INFORMATION

AGENDA ITEM #: 6-B

DESCRIPTION: PUBLIC HEARING FOR APPROVING THE SALE OF REAL PROPERTY AT 615 PHILLIPS STREET (PARCEL ID#127737) AND CONSIDERATION OF ECONOMIC DEVELOPMENT AGREEMENT PURSUANT TO 158-7.1

In accordance with NCGS 158-7.1, the City of Lowell may consider selling city-owned property privately thru an Economic Development Agreement (EDA). Attached is a letter of intent from Mr. Robert Pressley requesting to purchase 615 Phillips Street (Parcel ID# 127737) and the corresponding EDA.





**COLDWELL
BANKER
COMMERCIAL**

MECA

COLDWELL BANKER COMMERCIAL

MECA

2320 W. Morehead Street
Second Floor
Charlotte, NC 28208
(Phone) 704-971-2000

March 29, 2022

Scott Attaway
Town Manager
101 W. First Street
Lowell, NC 28098

Re: LOI- Lowell Water Tank Site

Dear Mr. Attaway,

I am pleased to present his non-binding letter of intent ("LOI") on behalf of my client. It is intended to (a) set forth proposed terms and conditions upon which **Lowell OZB, LLC** ("Buyer"), a North Carolina limited liability company, would consider purchasing the Property, as hereinafter defined, from **Town of Lowell** ("Seller"), a North Carolina municipality and (b) facilitate the negotiation of a mutually satisfactory purchase agreement ("Purchase Agreement").

If acceptable to the Seller, please have them execute and return to my attention. The Buyer will then promptly prepare a formal Purchase and Sale Agreement as called for in Paragraph 6 of this Agreement.

TERMS AND CONDITIONS

1. **Effective Date.** The effective date ("Effective Date") of this LOI shall be the date upon which Buyer receives a counterpart hereof signed by Seller.

2. **Property.** The Property ("Property") shall include that certain real property shown on Exhibit A and known as 615 Phillips Street, Lowell, NC 28098 (Gaston County Parcel ID: 127737), and shall include, without limitation, all land, buildings, improvements, fixtures, easements, permits and licenses and other personal property, whether tangible or intangible, related to or used in connection with all of the foregoing.

3. **Buyer/Assignment.** Prior to Closing, the Purchase Agreement is freely assignable by Buyer.

4. **Purchase Price.** The purchase price for the Property will be **\$7,431.00** payable as follows:

- (a) \$2,000.00 upon execution of the Purchase Agreement;
- (b) The balance in cash upon closing.

5. **Inspection Period.** (a) From the Effective Date of the Purchase Agreement through the date that is Sixty (60) Days later ("Inspection Period"), Buyer and its agents and representatives, at Buyer's own cost and expense, shall be and hereby are authorized to enter upon the Property at all reasonable times to conduct such inspections of and other due diligence with respect to the Property as Buyer may deem necessary or desirable to evaluate whether or not Buyer will proceed with the purchase. Such due diligence may include, without limitation, a Phase I environmental report, property condition assessments, a review of title and survey, an analysis of applicable laws, such as zoning and historical designations, litigation searches, and other legal and financial matters (b) Promptly after the Effective Date, Seller will provide Buyer with all title reports and policies, surveys, environmental reports, all other agreements relating to operation and management of the Property that are in the possession of Seller.

6. **Preparation of Purchase Agreement.** Promptly after the Effective Date, Buyer will prepare a Purchase Agreement and deliver to Seller. The Purchase Agreement will (a) be terminable by Buyer for any reason or no reason prior to the expiration of the Inspection Period, (b) contain customary representations, warranties, covenants, conditions and indemnifications, including a requirement that Buyer obtain title insurance at closing insuring that the Property is free and clear of all liens, encumbrances and other matters except those acceptable to Buyer in Buyer's sole discretion, (c) contain customary pro-rations (which shall be paid outside the closing) including, without limitation, pro-rations for real estate taxes, utility charges, employee wages and service contract expenses, and (d) provide that assessments and personal property taxes will be paid by Seller.

7. **Closing.** The closing shall take place at the office of Buyer's attorney or title insurance company Thirty (30) Days after the expiration of the Inspection Period.

8. **Transaction Costs.** (a) Seller shall pay (i) Seller's legal fees, (ii) the cost of deed prep and other recording documents, (iii) transfer, recordation or documentary taxes and (iv) one-half of any title company escrow charges. (b) Buyer shall pay (i) Buyer's legal fees, (ii) costs associated with Buyer's due diligence and inspections, (iii) one-half of any title company escrow charges, and (v) the cost of owner's title insurance policy. Any other transaction costs shall be borne by Seller and Buyer in such manner as is customary in the jurisdiction where the Property is located.

9. **Brokers.** Buyer shall be responsible for payment of brokerage commissions, if any, to Buyer's Broker. Buyer and Seller hereby represent to the other that they have not dealt with any broker other than Coldwell Banker Commercial MECA ("Buyer's Broker") who represents Buyer. Buyer and Seller agrees to indemnify, defend and hold the other harmless against any claims for brokerage commissions, fees or charges asserted by any broker, other than Buyer's Broker and Seller's Broker, claiming to have dealt with the other.

10. **Agency Disclaimer.** Buyer and Seller acknowledge the Buyer's Broker, Rob Pressley, is a Principal of CBC MECA. It is further disclosed that Rob Pressley is a partner in Lowell OZB, LLC.

11. **Non-Binding Effect.** This LOI is not intended to and does not create, any binding legal obligation or implied duty of good faith on the part of either party hereto or their representatives or affiliates, and is not intended to be construed as an offer, an agreement in principle, an agreement to agree, a contract or agreement by either party. The parties hereto further acknowledge and agree that the current discussions are preliminary in nature and may be terminated at any time by either party without liability.

12. **Termination.** This LOI will terminate automatically if the Purchase Agreement is not executed and delivered by Seller and Buyer within thirty (30) days after the Effective Date.

13. **Approvals.** The holders of 100 % of the voting interests of Buyer have approved this transaction and no further approvals are required.

14. **Confidentiality.** Seller and Buyer shall hold in strict confidence the terms and conditions of this LOI, the Purchase Agreement, if executed, and all documents and information concerning the other and its business and properties.

15. **Assignment.** Neither this LOI nor the rights or obligations of the parties hereunder are assignable or delegable in whole or in part by either party without the prior written consent of the other, except that Buyer may assign this LOI to a newly formed limited liability company wholly owned by Buyer, who will then be named as the buyer under the Purchase Agreement.

16. **Successors and Assigns.** This LOI shall be binding upon and inure solely to the benefit of the parties hereto, their permitted successors and assigns, and nothing herein, express or implied is intended to or shall confer upon any other person or entity any legal or equitable right, benefit or remedy of any nature whatsoever.

17. **Entire Agreement.** This LOI constitutes the entire agreement between the parties with respect to the subject matter hereof and supersedes all other prior agreements and understandings, oral or written, between the parties hereto with respect to the subject matter hereof.

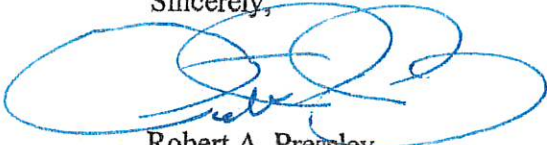
18. **Counterparts.** This LOI may be executed in one or more counterparts, each of which will be deemed to be an original copy of this LOI and all of which, when taken together, will be deemed to constitute one and the same agreement. This LOI shall be effective when signed below or in counterparts, and photocopy, facsimile, electronic (including email/PDF) or other copies shall have the same effect for all purposes as an ink-signed original.

LOI- Lowell Water Tank Site, cont...
March 23, 2022
Page 4

19. **Choice of Law.** This LOI shall be governed by and construed in accordance with the laws of the State in which the Property is located.

If Seller wishes to proceed to a definitive Purchase Agreement as contemplated by this LOI, please sign below and return this LOI to Buyer.

Sincerely,



Robert A. Pressley
President

CC: Ralph H. Falls, III

Accepted and Agreed

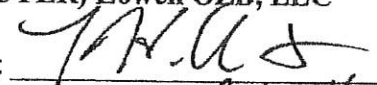
(SELLER) Town of Lowell

By: _____

Its: _____

Date: _____

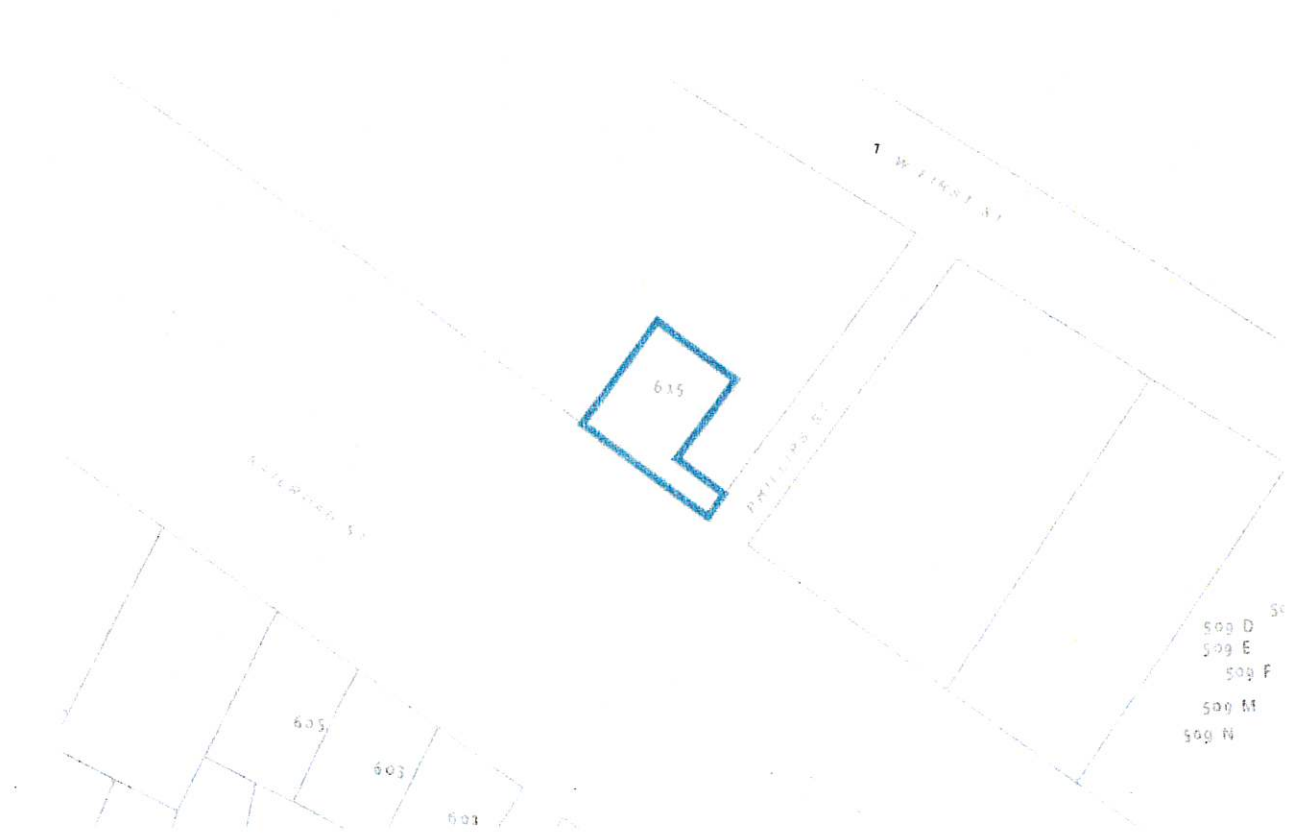
(BUYER) Lowell OZB, LLC

By:  _____

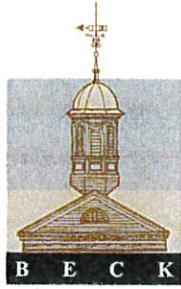
Its: Manager

Date: 3-29-22

**EXHIBIT A
(Property)**



Each Office Is Independently Owned And Operated



FRED H. BECK AND ASSOCIATES, LLC
*Real Estate Appraisers
& Consultants*

APPRAISAL REPORT

17.369 Acres of Vacant Land
700 & 701 W First Street
Lowell, Gaston County, North Carolina 28098
(The Fidelity Bank Loan #1168539)

PREPARED FOR

The Fidelity Bank
Attn: Pennie Holder
100 South Main Street
Fuquay-Varina, NC 27526

DATE OF REPORT

November 29, 2021

EFFECTIVE DATE OF APPRAISAL

"As Is" – November 15, 2021

APPRAISED BY

FRED H. BECK & ASSOCIATES, LLC
Fred H. Beck, Jr., MAI, CCIM
Mark A. Morgan
Michael T. Slattery



FRED H. BECK AND ASSOCIATES, LLC
Real Estate Appraisers
& Consultants

November 29, 2021

The Fidelity Bank
Attn: Pennie Holder
100 South Main Street
Fuquay-Varina, NC 27526

REFERENCE: 17.369 Acres of Vacant Commercial Land
700 & 701 West First Street
Lowell, Gaston County, North Carolina 28098
(The Fidelity Bank Loan #1168539)

Dear Mr. Stewart:

As requested, we have inspected the above-mentioned property for the purpose of providing an opinion of its market value(s). Based on our inspection and analysis of the information obtained, it is our opinion that the market values of the subject property are summarized as follows:

MARKET VALUE CONCLUSION			
Appraisal Premise	Interest Appraised	Date of Value	Value Conclusion
"As Is" Market Value	Fee Simple	November 15, 2021	\$1,075,000

This value conclusion is supported by the data and reasoning set forth in the attached narrative. Your attention is invited to the Assumptions and Limiting Conditions attached and made a part of this report. We certify that we have no present or contemplated future interest in the property appraised and that our fee for this assignment was in no way contingent upon the value conclusions supplied. This appraisal assignment was not based on a requested minimum valuation, specific valuation, or the approval of a loan.

The following report complies with the standards and regulations outlined in Title XI of the *Federal Financial Institutions Reform, Recovery, and Enforcement Act of 1989 (FIRREA)*. This report complies with the *Uniform Standards of Professional Appraisal Practice (USPAP)* including the ethics and competency provisions, as promulgated by the Appraisal Standards Board of The Appraisal Foundation. In addition, the report conforms to the *Federal Deposit Insurance Corporation (FDIC)* and *Office of the Comptroller of the Currency's (OCC)* appraisal standards.

The undersigned hereby acknowledges considerable input, investigation, and analysis by Mark A. Morgan and Michael T. Slattery, who both contributed to the information set forth in the attached narrative. Thank you for the opportunity to be of service and please let us know if you have any questions.

Respectfully Submitted,
FRED H. BECK & ASSOCIATES, LLC



Fred H. Beck, Jr., MAI, CCIM
State-Certified General R.E. Appraiser
N.C. Certificate No. A1329



Mark A. Morgan
State-Certified General R.E. Appraiser
N.C. Certificate No. A4554
(Review Appraiser)



Michael T. Slattery
State-Certified General R.E. Appraiser
N.C. Certificate No. A8532

8000 Corporate Center Drive, Suite 110, Charlotte, North Carolina 28226-4205

Phone: 704.544.4884 / Website: www.fredhbeck.com

INTRODUCTION

PROPERTY IDENTIFICATION

The property being appraised in this report consists of 17.369 acres of vacant commercial land located on the north and south sides of W First Street, in the City of Lowell, Gaston County, North Carolina 28098. The property address is 700 & 701 West Frist Street, Lowell, North Carolina 28098. It is identified as PIN # 127730. Various exhibits further describing and/or depicting the subject property are included throughout the body of this report and in the addenda. An aerial tax plat of the subject property is presented below. (Although the map below appears to be three individual parcels, the subject is only one parcel).



AERIAL TAX PLAT OF SUBJECT PROPERTY

George Mason Realty, LLC
839 Majestic Court, Unit 7
Gastonia, North Carolina 28054

Telephone 704-867-4471

Fax 704-867-2779

January 11, 2021

Mr. Scott Attaway
Town of Lowell
101 W. First Street
Lowell, NC 28098

RE: The property of the Town of Lowell being 615 Phillips Street, Lowell, NC 28098.

Dear Mr. Attaway:

In accordance with your instructions, I have personally inspected the above referenced property. The purpose of this appraisal is to estimate the market value "as is" of the subject property. The results of this appraisal are reported in a format which is intended to comply with the reporting requirements set forth under Standards Rule 2-2(a) of the Uniform Standards of Professional Appraisal Practice (USPAP). This appraisal is for the express use of the Town of Lowell to assist in establishing a market value for the future transfer of the subject property. The use of this report for any other reason is prohibited.

After careful consideration, using approved appraisal techniques and taking into consideration all features of the property and the factors affecting its valuation, it is my opinion that the market value "as is" of the subject property is as follows:

Market Value "As Is"
(January 7, 2021)

\$0.00

Please see the attached report for further detail and explanation of the results presented above. This report is subject to assumptions and limiting conditions which are associated with conducting this appraisal assignment. The reader is cautioned to review these as found in the Assumptions and Limiting Conditions section prior to employing this report for its intended use or making any decision reliant on its conclusions.

Thank you for the opportunity to serve you in this matter.

Respectfully Submitted,

Katherine M. Gallman

Katherine M. Gallman, MAI
State-Certified General Real Estate Appraiser



Ad Preview

Notice of Public Hearing
The City of Lowell's City Council will hold a Public Hearing at their regularly scheduled meeting on Tuesday, May 10, 2022, at 6:00 pm, at City Hall, 101 West First Street, Lowell, North Carolina, 28098.

The purpose of this Public Hearing will be to consider an economic development agreement between the City of Lowell and Lowell OZB, LLC, a North Carolina limited liability company, providing for the sale of real property held for purposes of economic development, specifically .12 acres located at 615 Phillips St., Lowell NC, to Lowell OZB pursuant to the provisions of N.C. General Statute 158-7.1. Link and directions for joining meeting remotely.
<https://meet.goto.com/524752573>

You can also dial in using your phone.
United States: +1 (571) 317-3112

Access Code: 524-752-573
For further information please call Scott Attaway, City Manager, at 704-824-3518.

Apr. 27, 2022 #7216384

Prepared by and return to:
John H. Russell Jr.,
Mullen Holland & Cooper P.A.,
Attorneys at Law
P.O. Box 488,
Gastonia, North Carolina 28053

ECONOMIC DEVELOPMENT AGREEMENT

by and between

THE CITY OF LOWELL
(a North Carolina Municipal Corporation)

and

LOWELL OZB, LLC
(a North Carolina Limited Liability Company)

This the _____ day of May 2022.

THE PROPERTY:

Gaston County Parcel Identifier Number: 127737
Primary Property Address: 615 Phillips Street, Lowell, NC 28098
Deed: Book 306 Page 79

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STATE OF NORTH CAROLINA

ECONOMIC DEVELOPMENT AGREEMENT

COUNTY OF GASTON

THIS ECONOMIC DEVELOPMENT AGREEMENT (hereinafter “**Agreement**”) is made in accordance with N.C. Gen. Stat. § 158-7.1 and Article 10 of Chapter 160D of the North Carolina General Statutes, and is hereby entered into this the ____ day of May 2022 (hereinafter “**Effective Date**”) by and between the CITY OF LOWELL, a North Carolina municipal corporation (hereinafter “**City**”), and LOWELL OZB, LLC (hereinafter “**Developer**”) (Developer and City may be referred to in this Agreement collectively as the “**Parties**” or each individually as a “**Party**”). This Development Agreement further provides as follows:

WHEREAS, pursuant to N.C. Gen. Stat. § 158-7.1(b)(2) (2021), the Developer has offered to purchase, and City is willing to sell a certain parcel of real property (hereinafter “**Property**”) which is more particularly described in Article 1 of this Agreement and **EXHIBIT A** attached hereto and incorporated herein by reference; and

WHEREAS, pursuant to § 158-7.1(b)(2) and (d), the City has the authority to convey interests in real property held by the City for economic development by private sale to a private party, such as Developer, for industrial or commercial use if the sold property will be used to provide jobs to city residents and the procedures and requirements of §158-7.1 are followed and/or met; and

WHEREAS, N.C. Gen. Stat. §160D-1001 (2021) further authorizes the City to enter into Development Agreements with developers, subject to the procedures and limitations as provided by Article 10 of Chapter 160D for various purposes which include but are not limited to creating community opportunities; promoting long term-commitment of private and public resources and capital; and carefully coordinating the planning, financing and construction of developments; and

WHEREAS, consistent with the foregoing, Section 160D-1001(b) and 160D-1003 of the North Carolina General Statutes expressly authorize local governments and agencies to enter into development agreements with developers pursuant to the procedures and requirements of Sections 160D-1001 through 160D-1012 of the North Carolina General Statutes, which procedures and requirements include approval of the development agreement by the governing body of the local government by ordinance after a duly noticed public hearing; and

WHEREAS, it is anticipated that the Developer’s purchase of and capital investment in the Property and the operations thereat will function as and create an economic and commercial hub for the City by (i) increasing commercial activity through new construction; (ii) generating new and/or additional ad valorem property tax, sales tax, and fees, which revenue sources constitute a material part of the financial basis for the City; (iii) creating jobs for City residents at or above a certain hourly wage rate as described herein; and (iv) maximizing private investment in the Property and surrounding parcels; and

WHEREAS, the Parties desire to enter into this Agreement for the purpose of establishing the terms of sale and the requirements for the development of the Property, and for other lawful purposes as provided by this Agreement; and,

WHEREAS, the formation of this Agreement has been approved by the City Council pursuant to a resolution authorizing the City Manager to sign this Agreement and the City at all relevant times has complied with all statutory notice requirements for such hearings and Agreements;

NOW, THEREFORE, for and in consideration of the mutual covenants, conditions and agreements contained herein, and for other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the Parties hereto agree as follows:

ARTICLE 1
PROPERTY

- 1.1. **PROPERTY.** The Property is located within the City Limits at 615 Phillips Street, Lowell, NC 28098, having Gaston County Parcel Identifier Number 127737 and being that property conveyed to the City by Deed recorded November 26, 1934 in Book 306 at Page 79 of the Gaston County Registry, containing .12 acres, more or less, and more particularly described in **EXHIBIT A** attached hereto and incorporated herein by reference.

ARTICLE 2
PURPOSE AND DEVELOPMENT OBLIGATIONS

- 2.1. **PURPOSE.** Subject to all of the terms and conditions of this Agreement, the City will convey the Property to Developer for economic development purposes, including but not limited to, the construction of commercial facilities that shall be used by businesses which shall provide jobs to city residents, generate ad valorem and sales taxes and fees, and encourage substantial private capital investments.
- 2.2. **DEVELOPMENT OBLIGATIONS.** Developer shall develop the Property in substantial compliance with the Development Proposal attached hereto and incorporated herein as **EXHIBIT B**, all applicable state and local laws and regulations, and generally in accordance with the design documents, photographs, or other representations and construction documents described in herein. Any substantial deviations from the Development Proposal shall not be accepted unless approved by the City in writing.
- 2.3. **COVENANTS RUNNING WITH THE LAND.** The Developer agrees for itself, its successors and assigns, that the Property, together with the surrounding parcels, shall be developed in accordance with the Development Proposal, that the Developer shall promptly begin and diligently complete the development through the construction of improvements. It is intended and agreed and the General Warranty Deed shall so expressly provide that these agreements and covenants shall be covenants running with the land, except as to those covenants which shall be deemed completed and removed upon filing of the Completion Certificate referenced herein and in the Deed Restrictions and binding for the benefit of the community and the City, and enforceable by the City

against the Developer, and its successors and assigns to or of the Property or any part of it or any interest in it.

2.4. **TRANSFER OF PROPERTY.** The Developer represents and warrants to City that it will not make or create, prior to the completion of the improvements as certified by the City, or suffer to be made, any sale, assignment, conveyance, or transfer in any form, of the Property, any part of or interest in the Property, or contract or agree to do any of the above mentioned acts, without the prior written approval of the City, except Developer may assign this Agreement to a single-purpose entity created specifically to own and to operate the Property without requiring the City's consent. Upon the completion of the development of the Property, which shall be in substantial compliance with the Development Proposal, the City promptly will execute a written document in recordable form that certifies the completion of the improvements (hereinafter the "Completion Certificate") and will provide it to Developer, who, upon receipt, is authorized to file and to record the Completion Certificate in the office of the Gaston County Register of Deeds. Any prohibition against Transfer will end upon the execution of the Completion Certificate.

2.4.1. **RESTRICTIONS NOT APPLICABLE TO MORTGAGEES.** Notwithstanding any of the provisions of this Agreement, including but not limited to those which are intended to be covenants running with the land, the holder of any mortgage authorized by this Agreement, including any holder who obtains title to the Property or any part of it as a result of foreclosure proceedings or action in lieu of foreclosure, but not including (a) any other party who afterward obtains title to the Property or part of it from or through the mortgage holder or (b) any other purchaser at foreclosure sale (other than the holder of the mortgage itself), shall not be obligated by the provisions of this Agreement to construct or complete the construction of the improvements or to guarantee such construction, or completion; nor shall any covenant or any other provision in the deed be construed to so obligate the mortgage holder. Nothing in this section or any other section or provision of this Agreement shall be deemed or construed to permit or authorize any holder of any mortgage to devote the Property or any part of it to any uses, or to construct any improvements on it other than those uses or improvements provided or permitted in the Redevelopment Proposal and this Agreement. However, in the event any Mortgagee or purchaser at any foreclosure sale shall come into possession of the Property prior to the filing or recording of the Completion Certificate, such Mortgagee or purchaser shall be bound only by such restrictions that are intended by the Parties to continue following the filing of the Completion Certificate, and may transfer, sell or convey the Property subject only to such restrictions.

ARTICLE 3
PURCHASE PRICE

3.1. **PURCHASE PRICE.** Subject to all of the terms and conditions of this Agreement, the City will sell the Property to the Developer for and the Developer agrees to purchase the

Property from the City for the sum of \$7,431.00 (hereinafter "**Purchase Price**") which shall be payable as provided in Section 1.2 of this Agreement.

- 3.2. **PAYMENT.** The Developer shall deposit with the City, the sum of \$2,000.00 upon the execution of this Agreement (hereinafter "**Deposit**"). The Developer shall pay the remaining balance of the Purchase Price in cash at closing.

ARTICLE 4 **FAIR MARKET VALUE**

- 4.1. **FAIR MARKET VALUE.** The fair market value of the City's interest in the Property has been determined from prospective tax revenues of the Property and appraisals obtained by the City and Developer. It is stipulated that the Fair Market Value is equal to or less than \$7,431.00. The City and Developer acknowledge and further agree that the consideration paid for the Property is not less than the fair market value of the Property.

ARTICLE 5 **CLOSING**

- 5.1. **CLOSING DATE.** The closing shall take place at the office of Developer's attorney or title insurance company thirty (30) days after the expiration of the Inspection Period (hereinafter "**Closing Date**"), or on such other date as the Parties may mutually agree to in writing.
- 5.2. **GENERAL WARRANTY DEED.** On the Closing Date, the City shall deliver a General Warranty Deed to the Property to the Developer.
- 5.3. **TITLE INSURANCE.** The Developer may, at its sole cost and expense, obtain title insurance at Closing insuring that the Property is free and clear of all liens, encumbrances, and other matters except those acceptable to Developer in Developer's sole discretion.
- 5.4. **COSTS, EXPENSES AND FEES.**
 - 5.4.1. **CITY.** City shall pay (i) City's legal fees; and (ii) the cost of preparing the General Warranty Deed.
 - 5.4.2. **DEVELOPER.** Developer shall pay (i) Developer's legal fees, (ii) the cost of any escrow charges; (iii) costs associated with Developer's due diligence and inspections; and (iv) the cost of Recording fees, including Revenue Stamps, for the General Warranty Deed or other documents recorded at Closing. Developer shall be responsible for payment of all brokerage commissions.
 - 5.4.3. **OTHER COSTS.** Any other transaction costs, including customary pro-rations of rents, taxes, utility charges, and service contracts, if any, shall be borne by City and Developer as is customary in the jurisdiction where the Property is located.
- 5.5. **FAILURE TO COMPLY.** If the Developer has failed to perform any obligations hereunder which are to be performed prior to the Closing Date, the City may terminate

this Agreement as hereinafter provided, and shall have no obligation to convey the Property.

ARTICLE 6
PROBABLE WAGES AND JOB CREATION

- 6.1. **PROBABLE WAGES AND JOB CREATION.** The City Council has determined, based upon good faith estimates provided by Developer, that the Development Proposal will result in the creation of ____ jobs for City residents, and that the probable average hourly wage to be paid to workers by the business to be located at the Property will be at least _____ per hour. Developer, its successors, heirs and assigns, shall take reasonable steps to ensure that all businesses located at or on the Property shall comply with the job creation and probable wage contained in this Article 6 of this Agreement. All leases or other related agreements executed by Developer, its successors, heirs, and assigns relating to the Property shall include a term for probable wages that requires any and all lessees or any other party operating a business at the Property to abide by the terms contained in this Article 6.

ARTICLE 7
REPRESENTATIONS AND WARRANTIES OF DEVELOPER

- 7.1. **DEVELOPER.** Developer represents and warrants that it is a valid limited liability company duly organized, validly existing and in good standing under the laws of the State of North Carolina. Developer is duly qualified to do business and is in good standing under the laws of the State of North Carolina. Developer represents and warrants that it has sufficient capital to perform all of its obligations under this Agreement.
- 7.2. **DEVELOPER'S AUTHORITY.** Developer represents and warrants to the City that Developer has the full right, power, and authority to enter into this Agreement and perform its obligations under this Agreement without the contravention of any obligation on the part of Developer, whether statutory, contractual or otherwise.
- 7.3. **COMPLIANCE WITH LAWS.** Developer represents and warrants that it will execute, deliver and perform this Agreement in accordance with all applicable laws and ordinances.
- 7.4. **COMPLIANCE WITH PLANS.** Developer hereby represents and warrants to the City that the materials and equipment furnished in accordance with this Agreement and the Development Proposal shall be of good quality, that the work will be free from significant defects, and that the work will substantially conform with the requirements of the Development Proposal.
- 7.5. **DEVELOPER'S EXPERTISE.** Developer represents and warrants to the City that Developer shall perform all work relating to this Agreement in accordance with the standard of care and expertise normally employed by development firms, consultants and contractors performing similar services in metropolitan areas in North Carolina, and that all duties under this Agreement shall be measured and interpreted in accordance with such standard of performance.

- 7.6. **DISCLAIMERS AND ACKNOWLEDGEMENT BY DEVELOPER.** The Developer expressly agrees and acknowledges that the Property shall be conveyed to the Developer “as is” with no warranties, express or implied, by the City as to conditions of soil, geology or topography, presence of asbestos, presence of lead paint or the presence of any other known or unknown faults, environmental or otherwise. It shall be sole responsibility of the Developer at Developer’s expense, to investigate and determine if any such conditions exist and to take any action necessary to place the Property in a condition suitable for its development. The Developer further acknowledges that the City did not design or otherwise create the Development Proposal or supply any plans or specifications with respect thereto, and that the City has not (a) made any recommendation, given any advice or taken any other action with respect to (1) the choice of any supplier, vendor or designer of, or any other contractor with respect to the development of the Property or any aspect thereof or rights relating thereto, or (2) any action taken or to be taken with respect to the development of the Property or any aspect thereof or any rights relating thereto at any stage of the construction thereof, and (b) made any warranty or other representation, express or implied, that the development of the Property or any aspect thereof or rights relating thereto (i) will not result in or cause injury or damage to persons or property, (ii) has been or will be properly designed, or will accomplish the results which the Developer intends therefore, or (iii) is safe in any manner or respect.
- 7.7. **PUBLIC RECORDS.** Developer acknowledges that its submissions to City pursuant to this Agreement may be “Public Records” subject to the North Carolina Public Records Act, N.C. Gen. Stat. § 132-1 et seq. (hereinafter the “Act”), except to the extent excluded from the disclosure requirements of the Act pursuant to N.C. Gen. Stat. § 132-1.2.
- 7.8. **REASONABLE EFFORTS.** The Developer represents and warrants that it shall cooperate and make reasonable efforts to expedite the subject matter hereof and acknowledges that successful performance of this Agreement requires the Developer’s continued cooperation.
- 7.9. **CONSENTS.** The Developer represents and warrants the holders of 100% of the voting interests of Developer have approved this transaction and that the execution, delivery, and performance of this Agreement does not require consent or approval of any person that has not been obtained.

ARTICLE 8
REPRESENTATIONS AND WARRANTIES OF CITY

- 8.1. **CITY.** City represents and warrants that it is a valid municipal corporation duly organized, validly existing and in good standing under the laws of the State of North Carolina.
- 8.2. **THE CITY’S COMPLIANCE WITH LAWS.** The City represents and warrants that it will execute, deliver and perform this Agreement in accordance with all applicable laws and ordinances.
- 8.3. **DISCLAIMERS BY CITY.** The City does not provide any express or implied warranty or representation of any kind whatsoever with respect to the construction and development of the Property, including but not limited to any warranty or representation

with respect to the merchantability or the fitness or suitability thereof for any purpose, and further including the design or condition thereof; the safety, workmanship, quality or capacity thereof; compliance thereof with the requirements of any law, rule, specification or contract pertaining thereto, except as otherwise provided herein; any latent defect; the Property's ability to perform any function; or any other characteristic of the Property, except as otherwise provided herein; it being agreed that the Developer is to bear all risks relating to the Property, the completion of the development thereof and the operations thereof for the purposes contemplated by the Developer, except as provided herein.

- 8.4. **REASONABLE EFFORTS.** The City represents and warrants that it shall cooperate and make reasonable efforts to expedite the subject matter hereof.

ARTICLE 9
DUTIES AND OBLIGATIONS OF THE DEVELOPER

- 9.1. **DUTIES AND OBLIGATIONS GENERALLY.** The Parties hereby acknowledge and agree that the City's agreement to perform and abide by the duties, covenants and obligations of the City set forth in this Agreement is a material consideration for Developer's agreement to perform and abide by its long-term duties, covenants and obligations, as set forth herein.
- 9.2. **PAYMENT OF ASSESSMENTS.** Developer shall promptly pay and discharge all property taxes, assessments or other governmental charges which may be lawfully levied against the Property.
- 9.3. **PAYMENT OF FEES.** Developer shall promptly pay all fees or other governmental charges which may be lawfully levied by City, including, but not limited to, tap fees, water and sewer fees, permit and application fees, and all construction-related permits.
- 9.4. **PERMITS, LICENSES, AND COMPLIANCE WITH LAWS.** Developer shall conform to, comply with, and obtain all required permits, consents, and licenses required by all restrictions, building laws, health codes, insurance policies, environmental safety regulations, safety rules, zoning and subdivision laws and regulations relating to the construction, development and operation of the Property and all structures thereon, and with any and all other applicable statutes, laws, ordinances, rules, and regulations of the United States, North Carolina, Gaston County, and Lowell or any other governmental division, board, or officer having jurisdiction over the Property.
- 9.5. **ENCUMBRANCES.** The Developer shall pay or cause to be paid the principal and interest on all indebtedness due and payable to any lenders secured by the Property and will observe, perform and discharge all covenants and obligations which are imposed upon it by any and all agreements evidencing encumbrance on the property.
- 9.6. **REASONABLE ASSURANCES.** Developer will deliver to City, within ten (10) days after any written request from City, such information as may be reasonably necessary to determine whether Developer is undertaking diligent efforts to comply with this Agreement or whether an event of Default has occurred.

9.7. **SUBMISSIONS.** Developer shall provide to City certain documents (hereinafter "**Required Documents**") no later than thirty (30) days prior to the Closing Date. Required Documents shall include:

9.7.1. **DEVELOPER'S FINANCES AND EXPERIENCE.** Prior to closing, members of the Developer shall have submitted evidence of their financial condition and experience. This evidence shall include financial statements for the previous three (3) years. In connection with the delivery of the evidence, members of the Developer will affirm that the evidence is correct and will acknowledge that the City is relying on the evidence in conveying the Property.

9.7.2. **CONSTRUCTION FINANCING.** Developer shall submit evidence satisfactory to the City as to the sources for equity capital and any commitment necessary for mortgage financing sufficient to complete construction of the improvements as set forth in Exhibit B. This shall include but not be limited to: accurate copies of all equity or loan commitments, for both interim and permanent loans, letters of credit, and such other evidence demonstrating sufficient funds are actually available to Developer to fully pay the costs of construction. Throughout the entire period of construction, City will be entitled to receive, at reasonable intervals, from Developer, progress reports as to the status of construction and payment of the costs of construction and other evidence reasonably satisfactory to the City that the above-described equity capital and financing commitments are available and sufficient to complete construction of all improvements.

9.8. **INSPECTIONS.**

9.8.1. **PROPERTY.** From the Effective Date of this Agreement through the date that is sixty (60) days later (hereinafter "**Inspection Period**"), Developer and its agents and representatives, at Developers own costs and expense, shall be and are hereby authorized to enter upon the Property at all reasonable times to conduct such inspections of and other due diligence with respect to the property as Developer may deem necessary or desirable to evaluate whether or not Developer will proceed with the purchase. Such due diligence may include, without limitation, a Phase I environmental reports, property condition assessments, a review of title and survey, an analysis of applicable laws, such as zoning and historical designations, litigation searches, and other legal and financial matters.

9.8.2. **RECORDS.** Subject to any applicable federal or North Carolina laws or regulations respecting employee privacy, the Developer agrees that any duly authorized representative of City shall, at all reasonable times and on reasonable notice of not less than five (5) days, have access to and the right to inspect, audit and examine all of the relevant books, records, or other documents relating to the development of the Property and the fulfillment of this Agreement for a period running from the Effective Date of this Agreement to one (1) year following the issuance of the Completion Certificate.

- 9.9. **INSURANCE.** Developer shall maintain liability and property damage insurance on the Property. All policies shall provide for thirty (30) days written minimum cancellation notice to the City.

ARTICLE 10
DUTIES AND OBLIGATIONS OF THE CITY

- 10.1. **PROTECTION OF VESTED RIGHTS.** To the maximum extent permitted by law, City shall take any and all actions as may be necessary or appropriate to ensure that the vested rights provided by this Agreement can be enjoyed by Developer and to prevent any laws and ordinances of the City from invalidating or prevailing over all or any part of this Agreement. City shall cooperate with Developer and shall undertake such actions as may be necessary to ensure this Agreement remains in full force and effect. City shall not support, adopt, or enact any law or ordinance, or take any other action which would violate the express provisions or intent of this Agreement.

10.1.1. **N.C. General Statute § 160D-1007.** The Parties hereby acknowledge that nothing in this Agreement shall constitute a waiver of Developer's vested rights pursuant to N.C. Gen. Stat. § 160D-1007.

- 10.2. **PERMITS.** City shall cooperate with Developer as is reasonably necessary for Developer to obtain such approvals, permits and certificates of occupancy pertaining to the Development Proposal and/or development of the Property pursuant to this Agreement.

- 10.3. **COORDINATION OF MEETINGS.** The City hereby agrees that all meetings of the City relating to the Development Proposal and/or development of the Property shall be coordinated and facilitated by the City and that all required notices for meetings of the City shall be provided by the City's Staff, in accordance with any and all applicable laws and local ordinances.

ARTICLE 11
DEFAULT, TERMINATION AND REMEDIES

- 11.1. **DEFAULT.** Except as otherwise provided in this Agreement, in the event of any default in or breach of the Agreement, or any terms or conditions, by either Party to this Agreement, or any assignee or successor to such Party, the Party (or assignee or successor) shall upon written notice from the other, proceed immediately to cure or remedy the default or breach, and, in any event, within thirty (30) days after receipt of such notice. In case action is not taken or not diligently pursued, or the default or breach shall not be cured or remedied within a reasonable time, the aggrieved Party may institute proceedings necessary or desirable in its opinion to cure and remedy the default or breach, including, but not limited to, proceedings to compel specific performance by the Party in default or breach of its obligations. If the defaulting or breaching Party is the Developer (or its assignee or successor), the City also shall give a copy of notice of the default or the breach that is given to the Developer (or its assignee or successor) to each person that has provided equity funding with respect to the Property and the improvements thereon (each hereinafter, an "**Equity Investor**") to the address of each Equity Investor provided subsequently to the City, and each Equity Investor has the right, but not any obligation,

to cure or to remedy the default or the breach, and, if an Equity Investor cures or remedies the default or the breach, the City will accept the cure or the remedy as if the Developer (or its assignee or successor) had made it.

11.1.1. **DEVELOPER.** In the event that prior to conveyance of the Property, the Developer fails to pay the purchase price and take title to the Property upon tender of conveyance by the City, or defaults in any other provision contained herein, then this Agreement and any rights of the Developer in this Agreement may, at the option of the City, be terminated by the City and the Deposit retained by the City as liquidated damages. Upon such termination, City shall be relieved of any obligation to convey the Property to Developer. In the event that the Developer defaults Article 6 of this Agreement, the City shall recapture all sums appropriated or expended by the City in connection with this Agreement.

11.1.2. **CITY.** In the event that the City fails to tender conveyance or possession of the Property under this Agreement, then this Agreement at the option of the Developer may be terminated. Upon termination by the Developer pursuant to this subsection, the Deposit held by the City shall be returned to the Developer.

11.1.3. **NO WAIVER OF DEFAULT.** Any delay by either Party in instituting or prosecuting any actions or proceedings or otherwise asserting its rights shall not operate as a waiver of its rights or to deprive it of or limit its rights in any way; nor shall any waiver, in fact, made by a Party with respect to any specific default by the other Party under this Agreement be considered or treated as a waiver of the rights of the first Party with respect to any other defaults by the other Party under this Agreement or with respect to the particular default except as specifically waived in writing.

11.2. **TERMINATION.**

11.2.1. **TERMINATION DURING INSPECTION PERIOD.** As provided herein, this Agreement shall be terminable by the Developer for any reason or no reason prior to the expiration of the Inspection Period, as defined above.

11.2.2. **MUTUAL TERMINATION.** After the Inspection Period has expired, this Agreement may only be terminated by the mutual consent of the Parties.

11.3. **ATTORNEYS' FEES.**

11.3.1. **CITY.** If any Default by the Developer occurs and is not waived by the City or cured within thirty (30) days after the first written notice of Default by the City, Developer agrees that it will, to the full extent permitted by law, pay to the City reasonable attorneys' fees associated with the enforcement of the terms of this Agreement.

11.3.2. **DEVELOPER.** If the Developer brings suit against the City to enforce the terms of this Agreement, if Developer is the prevailing Party, Developer shall be entitled to receive from the City reimbursement for all reasonable attorneys' fees associated with the enforcement of the terms of this Agreement.

ARTICLE 12
ASSIGNMENT

- 12.1. **ASSIGNMENT BY CITY.** The City may not assign, transfer or delegate its rights, duties and obligations under this Agreement without the written consent of Developer, which consent may be withheld in Developer's sole discretion.
- 12.2. **ASSIGNMENT BY DEVELOPER.** Prior to the issuance of the Completion Certificate, Developer shall not assign or transfer this Agreement or delegate any of its obligations or duties hereunder without the prior written consent of the City, which consent may be withheld in City's sole discretion, except that Developer may assign its rights, duties and obligations hereunder to any entity that it controls, that controls the Developer or that is under the common control of another with the Developer.

ARTICLE 13
MISCELLANEOUS

- 13.1. **PROVISIONS NOT MERGED WITH DEED.** No provision of this Agreement is intended to or shall be merged by reason of any deed transferring title to the Property from the City to the Developer or any assignee or successor in interest. Any such deed shall not be deemed to affect or impair the provisions and exhibits of this Agreement.
- 13.2. **BROKERS.** Developer and city hereby represent to the other that they have not dealt with any broker other than Coldwell Banker Commercial MECA (hereinafter "**Developers Broker**") who represents the Developer. Developer and City hereby agree to indemnify, defend and hold the other harmless against any claim for brokerage commissions, fees or charges asserted by any broker, other than Developers Broker, claiming to have dealt with the other. As provided herein, Developer shall be responsible for payment of all brokerage commissions.
- 13.3. **AGENCY DISCLAIMER.** Developer and City acknowledge that the Developer's Broker, Rob Pressley, is a principal of Coldwell Banker Commercial MECA. It is further disclosed and acknowledged that Rob Pressley is a member in Lowell OZB, LLC.
- 13.4. **NO PLEDGE OF FAITH AND CREDIT.** No provision of this Agreement shall be construed or interpreted as creating a pledge of the faith and credit of the City within the meaning of any constitutional debt limitation. The Parties acknowledge that the scope, term and duration hereof are in all events reasonable. No provision of this Agreement shall be construed or interpreted as delegating governmental powers or as a donation or a lending of the credit of the City within the meaning of the North Carolina Constitution. No provision of this Agreement shall be construed to pledge or to create a lien on any class or source of the City's funds. To the extent of any conflict between this Section and any other provision of this Agreement, this Section shall take priority.
- 13.5. **AGREEMENT TO COOPERATE.** In the event of any legal action instituted by a third Party or governmental entity or official challenging the validity of a provision of this Agreement, the Parties hereby agree to cooperate in defending that action; provided however that each Party shall retain the right to pursue its own independent legal defense.

- 13.6. **WAIVERS.** No waiver of any covenant, duty, obligation, agreement, stipulation or condition of this Agreement, nor failure to enforce strictly any provision herein, shall be construed to be a waiver of any succeeding breach of the same covenant, duty, obligation, agreement, stipulation or condition or any other covenant, duty, obligation, agreement, stipulation or condition nor prevent future strict enforcement of any provision.
- 13.7. **NO JOINT VENTURE.** This Agreement shall not be interpreted or construed to create an association, joint venture, or partnership between Developer and City, or to impose any partnership obligation or liability upon the Parties. Neither Developer nor City shall have any right, power or authority to enter into any agreement or undertaking for, or act on behalf of, or to act as or be an agent of, representative of, or to otherwise bind, the other.
- 13.8. **NOTICE.** All notices, requests, consents, demands and other communications required or which any Party desires to give under this Agreement shall be in writing and, unless otherwise specifically provided herein, shall be deemed sufficiently given or furnished if delivered by personal delivery, by nationally recognized overnight courier service, by registered or certified United States mail, postage prepaid, or by facsimile (with a confirmatory duplicate copy sent by first-class United States mail), addressed to the Party to whom directed at the addresses set forth below (unless changed by similar notice in writing given by the particular Party whose address is to be changed). Any such notice or communication shall be deemed to have been given either at the time of personal delivery or, in the case of courier or mail, as of the date of first attempted delivery at the address and in the manner provided herein, or, in the case of facsimile, upon receipt; provided, however, that service of a notice required by any applicable statute shall be considered complete when the requirements of that statute are met. Notwithstanding the foregoing, no notice of change of address shall be effective except upon actual receipt.

If to City:

Scott Attaway
 City Manager
 101 W First Street
 Lowell, NC 28098

If to Developer:

Robert A. Pressley
 Manager of Lowell OZB, LLC
 2320 W Morehead Street, 2nd Floor
 Charlotte, NC 28208

With a copy (which shall not constitute notice) to:

John H. Russell Jr.
 Mullen, Holland & Cooper
 PO Box 488
 Gastonia, NC 28053-0488

- 13.9. **GOVERNMENTAL IMMUNITY.** The City does not intend to waive its governmental immunity by reason of this Agreement.
- 13.10. **FORCE MAJEURE.** In the event City and Developer are unable, in whole or in part, by reason of Force Majeure to carry out its obligations under this Agreement, it is agreed that on giving notice of such Force Majeure as soon as possible after the occurrence of the cause relied upon, then the obligation of City or Developer, so far as each may be affected by such Force Majeure, shall be suspended from performance hereunder during

the continuance of any inability so caused, and such cause shall as far as possible, be remedied with all due speed.

The term "Force Majeure" shall mean acts of God, strikes, lockouts or other industrial disturbances, acts of public enemy, war blockades, riots, landslides, droughts, storms, floods washouts, arrests and restraints of governments and people, civil disturbances, explosions, unavoidable breakage, states of emergency, pandemics, mandatory restrictions and any other cause not within control of the City or Developer, as applicable, which by the exercise of reasonable diligence by City or Developer, as applicable, is not preventable; provided, that an event or condition shall not constitute "Force Majeure" hereunder to the extent such event or condition is the result of the negligence, gross negligence or willful misconduct of the Party which would benefit from such declaration of Force Majeure.

- 13.11. **SUCCESSORS AND ASSIGNEES BOUND.** This Agreement shall be binding upon and inure solely to the benefit of the Parties, their permitted successor and assigns, and nothing herein, express or implied is intended to or shall confer upon any other person or entity any legal or equitable right, benefit or remedy of any nature whatsoever.
- 13.12. **VENUE AND CHOICE OF LAW.** The Parties hereby designate the state courts of Gaston County, North Carolina as the courts of proper and exclusive subject matter and personal jurisdiction and venue of any and all actions and proceedings relating to this Agreement. This Agreement and the rights and obligations of the Parties hereunder shall be construed and interpreted in accordance with the laws of the State of North Carolina.
- 13.13. **RECITALS AND EXHIBITS.** The Recitals of this Agreement and the Exhibits attached hereto are integral and essential components of this Agreement. The following Exhibits are attached to this Agreement:
- EXHIBIT A:** Legal Description of the Property
EXHIBIT B: Lowell OZB, LLC Development Proposal
- 13.14. **DEFINED TERMS.** All capitalized terms in this Agreement shall have the meaning ascribed to them in this Agreement unless the context clearly indicates another meaning. All terms not defined in this Agreement shall have the usual and customary meaning ascribed to them and found in any modern English dictionary.
- 13.15. **TIME IS OF THE ESSENCE.** Time is of the essence in this Agreement.
- 13.16. **COUNTERPARTS.** This Agreement may be executed in any number of counterparts, each of which when so executed and delivered shall be deemed an original. Electronically transmitted copies of executed signature pages shall be deemed to be an original.
- 13.17. **AMENDMENT.** Pursuant to N.C. Gen. Stat. § 160D-1009, this Agreement may be amended by the mutual consent of the Parties. This Agreement may be amended only by an instrument in writing executed by both Parties hereto. It is expressly understood and acknowledged by both Parties that a lender and/or an investor may require modifications to this Agreement, and both Parties agree to work in good faith to accommodate such requests.

- 13.18. **SEVERABILITY.** In the event any provision contained in this Agreement shall, for any reason, be held invalid, illegal, or unenforceable in any respect, such invalidity, illegality or unenforceability shall not affect any other provision of this Agreement and the Agreement shall be construed as if such invalid, illegal or unenforceable provision had never been contained herein.
- 13.19. **SURVIVAL.** All representations, warranties and obligations of the Parties in this Agreement shall survive the consummation or performance of the various transactions contemplated in this Agreement
- 13.20. **NO DOCTRINE OF CONSTRUCTION AGAINST THE DRAFTERS.** Both Parties acknowledge and stipulate that this Agreement is the product of mutual negotiation and bargaining and that it has been drafted by Counsel for both City and Developer. As such, the doctrine of construction against the drafter shall have no application to this Agreement.
- 13.21. **CONSTRUCTION OF TERMS.** Whenever the context so requires, any gender is deemed to include any other gender, and the singular is deemed to include the plural, and conversely. The singular possessive ('s) is used exclusively and is deemed grammatically correct.
- 13.22. **HEADINGS.** The section captions contained in this Agreement are for convenience only and do not in any way limit or amplify any term or provision hereof.
- 13.23. **RECORDATION.** Pursuant to N.C. Gen. Stat. § 160D-1011, the Developer shall record this Agreement with the register of deeds in Gaston County within fourteen (14) days after City and Developer execute this Agreement. No development approvals may be issued until this Agreement has been recorded.
- 13.24. **ENTIRE AGREEMENT.** This Agreement, together with any exhibits attached or referenced herein, reflects and contains the entire and only agreement between the Parties relating to the subject matter herein. This Agreement supersedes and replaces all prior agreements, discussions and representations on all subjects relating to the development of the Property. Neither Party is entering into this Agreement in reliance on any oral or written promises, inducements, representations, understandings, interpretations or agreements other than those contained in this Agreement and the exhibits hereto.

[SIGNATURES ON FOLLOWING PAGE]

IN WITNESS WHEREOF, the Parties have caused this Economic Development Agreement to be executed in their names the day and year first above written.

ATTEST:

CITY OF LOWELL:

Clerk of the City of Lowell

By: _____
Sandy Railey, Mayor

LOWELL OZB, LLC

By: _____
Robert A. Pressley, Member-Manager

[SIGNATURES CONTINUE ON FOLLOWING PAGE]

IN WITNESS WHEREOF, the Parties have caused this Economic Development Agreement to be executed in their names the day and year first above written.

ATTEST:

CITY OF LOWELL:

Clerk of the City of Lowell

By: _____
Scott Attaway, City Manager

[SIGNATURES CONTINUE ON FOLLOWING PAGE]

This instrument has been pre-audited to the extent, and in the manner, required by the "Local Government Budget and Fiscal Control Act."

Pre-audit by City's Fiscal Officer:

By: _____
City Finance Director

City Attorney Approval as to Form:

By: _____
John H. Russell Jr., City Attorney

LIST OF ATTACHED EXHIBITS

Exhibit A: Legal Description of the Property

Exhibit B: Lowell OZB, LLC Development Proposal

EXHIBIT A
LEGAL DESCRIPTION OF THE PROPERTY

EXHIBIT B
LOWELL OZB, LLC DEVELOPMENT PROPOSAL

AGENDA ITEM INFORMATION

AGENDA ITEM #: 7-A

DESCRIPTION: PRESENTATION BY WITHERS RAVENEL OF THE LOWELL WATER AND SEWER CIP AND CONSIDERATION OF RESOLUTION# RS2-2022 RESOLUTION TO ADOPT THE CITY OF LOWELL WATER AND SEWER CAPITAL IMPROVEMENT PLAN (CIP)

Steve Miller with Withers Ravenel will give a presentation on the 2022 Water Sewer CIP and a resolution will be provided Tuesday night at the evening. The CIP is provided in the agenda as Attachment A.

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AGENDA ITEM INFORMATION

AGENDA ITEM #: 7-B

DESCRIPTION: PRESENTATION OF THE DRAFT FISCAL YEAR 2022-2023
BUDGET

The City Manager will provide the Draft FY 23 Budget and Presentation.

AGENDA ITEM INFORMATION

AGENDA ITEM #: 7-C

DESCRIPTION: SET PUBLIC HEARING FOR ADOPTION OF THE CITY OF
LOWELL FISCAL YEAR 2022-2023 BUDGET ORDINANCE

Please set the public hearing for the adoption of the FY 2022-2023 Budget for June 14,
2022 at 6:00 p.m.

AGENDA ITEM INFORMATION

AGENDA ITEM #: 7-D

DESCRIPTION: SET PUBLIC HEARING FOR CONSIDERATION OF LDO MAP AMENDMENT (REZONING) FOR PARCEL ID#'S: 225354, 128306, 128316, 128315, 128304, 128305, 128307, 128928, 128999, 128318, 225350, 128321, 128322, 128333, 128334, 225352. FROM THE MAIN STREET (MS) ZONING DISTRICT TO THE MIXED USE-2 (MU-2) ZONING DISTRICT. CASE# RZ22-02

Please see the attached memo.



To: Lowell Mayor Railey and City Councilmembers
From: Scott Attaway, City Manager
Date: May 6, 2022
RE: Agenda Item # 7-D; RZ22-02

Staff has received a rezoning application for Parcel ID#'s: 225354, 128306, 128316, 128315, 128304, 128305, 128307, 128928, 128999, 128318, 225350, 128321, 128322, 128333, 128334, 225352. To be changed from the Main Street (MS) Zoning District to the Mixed Use-2 (MU-2) Zoning District, Case# RZ22-02.



Existing Zoning Description:

The Main Street District (MS) provides for new development, revitalization, reuse, and infill development in Lowell's core downtown. A broad array of uses is listed to enable the needs of residents and visitors to be met. Allowed building/lot types in this district are Urban Workplace, Shop-front, Detached House, Attached House, Multi-family Building, and Civic Building. The development pattern seeks to integrate shops, restaurants, services, workplaces, civic, educational, and higher density housing in a compact, pedestrian-oriented environment. The Main Street District serves as the hub of the surrounding neighborhoods and of the broader community. The Main Street District may be expanded over time to meet the needs of the growing community for downtown facilities and services. Expansion of the Main Street District shall be contiguous and not separated from the primary district area.

Proposed Zoning Description:

The Mixed-Use Districts (MU-1 and **MU-2**) are established to provide opportunities for both compatible and sustainable re-development where underutilized commercial properties already exist as well as infill sites where site specific land planning of new development creates opportunities for businesses and various housing designs sharing community amenities and enhancements. Existing auto-oriented street, lot, and building designs can create uncomfortable pedestrian environments; however, with careful site planning these areas will allow a greater number of residents to walk or bike to businesses and services with an interconnected network of streets and sidewalks. Allowed building/lot types are Highway Commercial, Urban Workplace, Shop-front, Detached House, Attached House, and Multi-family. Dominant uses in this district are residential, retail and office. The Mixed-Use Districts are expected to serve Lowell residents as well as persons who travel from surrounding communities. The development pattern in this district acknowledges the role of the automobile, with parking and access provided to promote safety for the motoring public. Development standards in the Mixed-Use Districts promote the creation of a pleasant pedestrian-friendly auto-oriented environment while enabling a compatible transition to uses in adjacent neighborhood districts.

All uses listed in Article 8, Table 8.1, Sections 1-4 would be permissible. Those tables may be found here: <http://lowellinc.com/301/Lowell-Development-Ordinance>



**COLDWELL
BANKER
COMMERCIAL**

MECA

COLDWELL BANKER COMMERCIAL

MECA

2320 W. Morehead Street
Second Floor
Charlotte, NC 28208
(Phone) 704-971-2000

May 2, 2022

Scott Attaway
City Manager
City of Lowell, NC
101 W. First Street
Lowell, NC 28098

Re: Rezoning Application- Jackson Property

Dear Scott,

Please find the enclosed formal rezoning application for the +/-8 acres known as the Jackson Property located on S. Main Street between Reid Street and Branch Street in Lowell, NC.

If after review you believe I have made an error or you need additional information, please let me know.

As for submittal, is this email followed by hand delivery Wednesday sufficient?

Sincerely,

A handwritten signature in blue ink, appearing to read 'R. Pressley', enclosed in a blue oval.

Robert A. Pressley, CCIM

Enclosure
CC: Ralph Falls

APPLICATION FOR REZONING

TO: THE CITY OF LOWELL

APPLICATION #: RZ22-02
DATE FILED: 5/2/22
FEE PAID: \$350⁰⁰

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:

MS to MU-2

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

H. EDWARD JACKSON

as evidenced in Deed Book — Page SEE EXHIBIT of the 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: SEE EXHIBIT 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 EAST side of S. MAIN STREET between REID STREET and BRANCH STREET
(street) (street)

BRANCH STREET and further identified in Gaston County Tax Book _____, Map _____, Parcel(s) SEE EXHIBIT
Said Lot(s) has (have) a frontage of — feet and a depth of — feet, or +/- 8.1 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

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

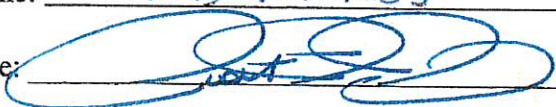
NAME	ADDRESS
<u>A&A Foods, LLC</u>	<u>110 BOYER Ct., CRAMERTON, NC 28032</u>
<u>Mt. CALVARY Baptist Church</u>	<u>P.O. Box 23, LOWELL, NC 28098</u>
<u>TERREY & CHERITHA BENSON</u>	<u>201 N. OAK St., LOWELL, NC 28098</u>
<u>JACQUEEN M. CURRENCE</u>	<u>502 W. 5th St., GASTONIA, NC 28052</u>
<u>JESSIE KEATON HEIRS</u>	<u>307 REID St., LOWELL, NC 28098</u>
<u>DEBORAH WILLIAMS LEEPER</u>	<u>538 SHADOW VIEW DR., GASTONIA, NC 28054</u>

- 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
<u>H. EDWARD JACKSON</u>	<u>P.O. BOX 24, GASTONIA, NC 28053</u>
_____	_____
_____	_____
_____	_____

- 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: JUNE LAKE, LLC (C/O ROB PRESSLEY)
Address: 2320 W. MOREHEAD St, 2ND FLOOR, CHARLOTTE, NC 28208
Telephone: (704) 904-4053

Applicant's Signature: 

City of Lowell
101 West First Street
Lowell, NC 28098

Telephone: 704 - 824 - 3518

EXHIBIT

OWNER	ADDRESS	TAX PARCEL	DEED BOOK	PAGE
H. EDWARD JACKSON	N/A	225354	2461	878
"	317 S. MAIN STREET	128306	2461	878
"	319 S. MAIN STREET	128316	2461	878
"	323 S. MAIN STREET	128315	2461	878
"	327 S. MAIN STREET	128304	2854	834
"	329 S. MAIN STREET	128305	2854	834
"	403 S. MAIN SREET	128307	2461	878
"	407 S. MAIN STREET	128298	2461	878
"	409 S. MAIN STREET	128299	3132	358
"	N/A	128318	2854	834
"	305 REID STREET	225350	3804	552
"	201 REID STREET	128321	4275	2154
"	N/A	128322	4275	2152
"	203 REID STREET	128333	4275	2152
"	301 REID STREET	128334	4275	2154
"	N/A	225352	2962	371



City of Lowell-Development Services Department

101 W. First Street Lowell, NC 28098

Phone: 704-824-3518 Web: lowellnc.com

Public Hearing Consent Form

To: City of Lowell Board of Adjustment / Planning Board / City Council

From: ROBERT A. PRESSLEY, MANAGER, JUNE LAKE, LLC
2320 W. MOREHEAD ST., 2ND FLOOR, CHARLOTTE, NC 28208
(704) 904-4053 / ROB.PRESSLEY@CBCMECA.COM

Subject:

consent for variance / conditional use / appeal / subdivision variance / watershed variance / rezoning

Date: 5-3-2022

I, H. EDWARD JACKSON, being the property owner of parcel(s) SEE ATTACHED EXHIBIT, give consent to JUNE LAKE, LLC to act on my behalf in applying for the **PUBLIC HEARING REQUEST** under consideration.

H. Edward Jackson 5-3-2022
Signature (owner) Date

North Carolina
Gaston County

I, TERESA T. WALKER, a Notary Public for the said County and State, do hereby certify that H. Edward Jackson personally appeared before me this day and acknowledged the due execution of the foregoing instrument.

Witness my hand and official seal, this 3rd of MAY, 2022.

Teresa T Walker
Notary Signature

My commission expires: 11-14-23



AGENDA ITEM INFORMATION

AGENDA ITEM #: 7-E

DESCRIPTION: DISCUSSION AND CONSIDERATION OF POSSIBLE TEXT
AMENDMENT FOR LDO ARTICLE 7-7.1 DEVELOPMENT
AGREEMENT

Please see the attached memo.



To: Lowell Mayor Railey and City Councilmembers
From: Scott Attaway, City Manager
Date: May 6, 2022
RE: Agenda Item # 7-E

The Lowell Development Ordinance (LDO) Article 7.7-1 discusses the development agreement process. Staff has recently begun the process of a development agreement process for a .48 acre, 8 unit development. Staff would like guidance from the Council on whether a text amendment to allow the Planning and Zoning Director to administer smaller development agreements/reviews. If so, what specific thresholds may allow that type of a review. Below I have prepared a summary of what development agreements are, what circumstances typically trigger development agreements, and the relevant NCGS Statute, and Article 7.7-1 of the Lowell LDO.

Development Agreements allow local governments to be strategic and address many concerns that arise in major projects. Here are the key advantages to both the local government (public) and the developer:

- lock in zoning so a project has the vested right beyond the conventional period
- define in detail how improvements will be made and when (e.g., a turn lane to be completed, etc.)
- defining a schedule for a specific project (e.g., phases, build-out, allocation needs for sewer/water, etc.)
- ability to define flexibility in a plan without a plan/plat revision process being triggered
- if a local government is to put capital or improvements into the project, when and how much (terms)

G.S. 160D authorizes these powers highlighted below:

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,

7.7 Site Development and Construction Plan Approval(s)

7.7-1 Site Development and Construction Plans.

- (A.) Purpose. The site development and construction plan review process is required for development projects located within the City of Lowell in order to prepare for expected impacts upon public services and facilities. This review process is established to assure that adequate services and facilities can be provided for these developments and to assure that they do not negatively impact the area in which they are proposed to be located or the City as a whole. Proposed developments involving new construction, additions, renovations, and changes of use which fall into one or more of the following categories are subject to the Site Development Plan review process:
- (1.) New construction and changes of use.
 - (a.) Non-residential buildings, structures, or developments with a gross floor area of more than 100 square feet;
 - (b.) Any residential development containing more than two (2) individual units; and/or
 - (c.) Any development where public streets are extended.
 - (2.) Additions to existing buildings increasing gross floor area by more than 100 square feet of *Floor Area (Gross)*.
 - (3.) Properties located within 1,500 feet of each other, under the same ownership and/or developed by the same developer over a period of three years or less shall be considered to be one development and reviewed as such.
- (B.) Exemptions. Projects within the City of Lowell involving new construction, additions, renovations, and changes of use which do not meet the minimum size requirements of the *Site Development Plan* review processes as set forth in subsection 7.7-1(A) above shall be reviewed as *Zoning Permit* in accordance with the provisions of Section 7.5 of this Article.
- (C.) Pre-application procedure. All applicants for Site Development Plan review are required to schedule a predevelopment conference with the *Planning, Zoning & Subdivision Administrator* prior to the preparation of development plans. This conference allows the applicant and *Planning, Zoning & Subdivision Administrator* an opportunity to discuss the review process, the requirements for completing the review schedule, contact persons for services and permits, and information regarding *Site Development Plans* and development requirements.

(D.) Site Development Plan submittal.

(1.) Application required. An application shall be required for all Site Development Plan review requests. This application shall contain pertinent information regarding the proposed project and shall be accompanied by a *Site Development Plan*. The *Site Development Plan* shall contain the following:

- (a.) Property boundaries with dimensions
- (b.) PIN for property
- (c.) Location of adjacent streets, right of ways, and utility easements
- (d.) Dimensioned footprint and setbacks of the existing and proposed structures with gross floor area indicated
- (e.) Dimensions of existing and proposed impervious surfaces
- (f.) Location and number of parking spaces
- (g.) Location and size of buffer and landscape areas
- (h.) Location of existing and proposed driveways and/or streets
- (i.) Location of all flood zones
- (j.) Location of adjoining properties and both the existing zoning designation and use of these properties
- (k.) Names and addresses of adjoining property owners
- (l.) Number of stories and overall height of all existing and proposed structures
- (m.) Location of proposed stormwater facilities
- (n.) Location of existing and proposed dumpster and recycling containers
- (o.) Generalized depiction or description of natural features on and immediately adjoining the site, including streams and other water bodies, steep slopes, areas covered by tree canopy, etc., and
- (p.) Other information determined by the *Planning, Zoning & Subdivision Administrator* as necessary to evaluate the request.

(2.) Preparation by professional. *Site Development Plans* for developments requiring Site Development Plan review shall be prepared by a registered architect, engineer, landscape architect, or land surveyor licensed in the State of North Carolina for the work in which they are trained and licensed to perform.

(E.) Staff review.

(1.) Planning Department staff review.

Plans for development requiring Site Development Plan review shall be reviewed by the *Planning, Zoning & Subdivision Administrator* for compliance with the requirements of this Article and standards and specifications of this Ordinance and the Technical Standards & Specifications Manual.

(2.) Submittal of plans to Planning, Zoning & Subdivision Administrator.

The *Planning, Zoning & Subdivision Administrator* reviews the *Site Development*

Plans for compliance with the applicable requirements of this Ordinance and other applicable Ordinances and laws, to which their respective jurisdiction applies. This review shall be made by the *Planning, Zoning & Subdivision Administrator* and by any other agencies or officials as requested by the *Planning, Zoning & Subdivision Administrator*.

(F.) Permit validity. Approval of *Site Development Plans* and *zoning permits* authorized by G.S. 160D-403 for developments requiring Site Development Plan review shall run with the land and constitute approval of a site-specific vesting plan in accordance with G.S. 160D-108(d) and be valid for two (2) years from the date of approval unless a greater timeframe is authorized by G.S. 160D-108. Failure to submit construction plans, initiate construction, or otherwise begin the permitted use, within this time shall render the Site Development Plan approval void. The *Planning, Zoning & Subdivision Administrator* may grant a single extension of this time period of up to three (3) years upon submittal by the applicant of sufficient justification for the extension. Multi-phased development containing 25 acres or more remains vested for a period of seven (7) years from the time a site plan approval is granted as authorized in G.S. 160D-108(f).

(G.) Site Construction Plans.

- (1.) Site Construction Plan required. A complete and comprehensive set of Site Construction Plans shall be required for all Site Development Plan review requests. This submittal shall contain pertinent information regarding the proposed project and shall be accompanied by the approved *Site Development Plan* per 7.7-1(E.) herein above illustrating any and all deviations from the approved Site Development Plan. The *Site Construction Plan* shall contain the following:
- (a.) Property boundaries with dimensions
 - (b.) Location of adjacent streets/roads including existing right-of-way and/or easement(s)
 - (c.) Location and design of proposed streets including cross-sections in accordance with the Lowell Technical Standards & Specifications Manual, centerline profile(s), and the proposed right-of-way
 - (d.) Location of existing and proposed utilities, including easements associated with both
 - (e.) A grading plan showing existing and proposed contours demonstrating both positive drainage characteristics and smooth grade transitions to avoid abrupt “v” ditches, swales and other disruptions to the landscape, particularly between buildings where open space enhancements for use by persons actively utilizing the landscape and/or yard area. The use of crawl-space construction techniques in detached residential structures and professional

landscape design is required to meet this characteristic of site development.

- (f.) Location of existing and proposed stormwater detention, retention, collection, and conveyance facilities
 - (g.) Dimensions of existing and proposed impervious surfaces
 - (h.) Location of existing structures and either proposed structures or proposed building envelopes
 - (i.) Location and number of existing and proposed parking spaces, including loading spaces, maneuvering areas, and fire lane(s)
 - (j.) Location and size of buffer and landscape areas
 - (k.) Location of existing and proposed driveways and/or streets
 - (l.) Location of all flood zones
 - (m.) Location of adjoining properties and both the current zoning designation and use of these properties
 - (n.) Names and addresses of adjoining property owners
 - (o.) Number of stories and overall height of all existing and proposed structures
 - (p.) Location of existing and proposed dumpster and recycling container area(s)
 - (q.) Generalized depiction or description of natural features on and immediately adjoining the site, including streams and other water bodies, steep slopes, areas covered by tree canopy, etc., and
 - (r.) Other information determined by the *Planning, Zoning & Subdivision Administrator* as necessary to evaluate the request.
- (2.) Preparation by professional. *Construction Plans* for developments requiring Site Development Plan review shall be prepared by a registered architect, engineer, landscape architect, or land surveyor licensed in the State of North Carolina for the work in which the professional is trained and licensed to perform.

7.7-2 RESERVED

7.8 **Special Use Approvals**

- 7.8-1 Purpose. Special uses are established to provide for the location of those uses which are generally compatible with other land uses permitted in a zoning district but which, because of their unique characteristics or potential impacts on the surrounding *Neighborhood* and the City of Lowell as a whole, require individual consideration of their location, design, configuration, and/or operation at the particular location proposed. Such individual consideration may also identify cause(s) for the imposition of individualized conditions in order to ensure that the use is appropriate at a particular location and to ensure protection of the public health, safety, and welfare. Any use identified in Section 10.2 of this Ordinance as a special use in a zoning district shall not be permitted without the approval of the *Board of Adjustment* in

AGENDA ITEM INFORMATION

AGENDA ITEM #: 7-F

DESCRIPTION: SET PUBLIC HEARING FOR SYSTEM DEVELOPMENT FEE (SDF) UPDATE PER SDF STUDY COMPLETED BY WILLDAN FINANCIAL SERVICES

System development fee is charge or assessment for service, including service provided pursuant to a wholesale arrangement between a water and sewer authority organized under Article 1 of Chapter 162A of the General Statutes and a local governmental unit, imposed with respect to new development to fund costs of capital improvements necessitated by and attributable to such new development, to recoup costs of existing facilities which serve such new development, or a combination of those costs, as provided in this Article. The term includes amortized charges, lump-sum charges, and any other fee that functions as described by this definition regardless of terminology.

Recently, Willdan Financial Services conducted a System Development Fee Study which has resulted in the following increases:

**EXHIBIT 6
SYSTEM DEVELOPMENT FEE ANALYSIS
SUMMARY OF PROPOSED SYSTEM DEVELOPMENT FEES
WATER & WASTEWATER SYSTEMS**

Line	Description	Meter-Based ERU Factor	Fees by System		Combined Fee
			Water	Wastewater	
EXISTING SDFs					
Meter Size:					
1	5/8 x 3/4 Inch	1.00	\$ 500	\$ 1,200	\$ 1,700
2	1.0 Inch	1.66	\$ 830	\$ 2,000	\$ 2,830
3	1.5 Inch	3.32	\$ 1,660	\$ 4,000	\$ 5,660
4	2.0 Inch	5.32	\$ 2,660	\$ 6,400	\$ 9,060
5	3.0 Inch	10.64	\$ 5,320	\$ 12,800	\$ 18,120
6	4.0 Inch	16.62	\$ 8,310	\$ 20,000	\$ 28,310
7	6.0 Inch	33.24	\$ 16,620	\$ 40,000	\$ 56,620
8	8.0 Inch	53.18	\$ 26,590	\$ 64,000	\$ 90,590
9	10.0 Inch	76.44	\$ 38,220	\$ 92,000	\$ 130,220
10	12.0 Inch	103.02	\$ 51,510	\$ 124,000	\$ 175,510

PROPOSED SDFs ⁽¹⁾

Meter Size:						
11	5/8 x 3/4 Inch	1.00	\$ 540	\$ 1,910	\$ 2,450	
12	1.0 Inch	2.50	\$ 1,350	\$ 4,775	\$ 6,125	
13	1.5 Inch	5.00	\$ 2,700	\$ 9,550	\$ 12,250	
14	2.0 Inch	8.00	\$ 4,320	\$ 15,280	\$ 19,600	
15	3.0 Inch	16.00	\$ 8,640	\$ 30,560	\$ 39,200	
16	4.0 Inch	25.00	\$ 13,500	\$ 47,750	\$ 61,250	
17	6.0 Inch	50.00	\$ 27,000	\$ 95,500	\$ 122,500	
18	8.0 Inch	80.00	\$ 43,200	\$ 152,800	\$ 196,000	
19	10.0 Inch	115.00	\$ 62,100	\$ 219,650	\$ 281,750	
20	12.0 Inch	225.00	\$ 121,500	\$ 429,750	\$ 551,250	

Below is a section of the Statute that discusses the required posting of the full study. This has been scheduled for May 7, 2022.

§ 162A-209. Adoption and periodic review. (a) For not less than 45 days prior to considering the adoption of a system development fee analysis, the local governmental unit shall post the analysis on its Web site and solicit and furnish a means to submit written comments, which shall be considered by the preparer of the analysis for possible modifications or revisions. (b) After expiration of the period for posting, the governing body of the local governmental unit shall conduct a public hearing prior to considering adoption of the analysis with any modifications or revisions. (c) The local governmental unit shall publish the system development fee in its annual budget or rate plan or ordinance. The local governmental unit shall update the system development fee analysis at least every five years. (2017-138, s. 1.)

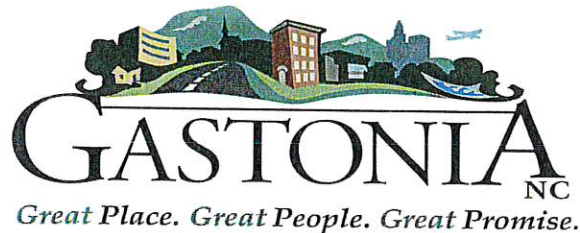
In accordance with the following, the City of Lowell will be eligible to schedule the public hearing after June 21st. Staff is asking the Council to provide the date for the public hearing on Wednesday, June 22. The exact time of the public hearing is flexible with staff.

AGENDA ITEM INFORMATION

AGENDA ITEM #: 7-G

DESCRIPTION: CONSIDERATION OF RENEWAL OF THE
GASTONIA/GASTON COUNTY CONSORTIUM FOR
PARTICIPATING IN THE HUD "HOME" PROGRAM
INTERLOCAL AGREEMENT

Please see the attached letter from Lana DuPont, City of Gastonia, Housing and
Neighborhoods, Grants Accounting Specialist



March 29, 2022

Mr. Scott Attaway, City Manager
City of Lowell
106 W. First Street
Lowell, NC 28098

Dear Mr. Attaway;

It is time to renew the Gastonia/Gaston County Consortium for participation in the US Department of Housing and Urban Development's (HUD) Home Investment Partnership (HOME) Program. HUD requires all consortiums to renew every three (3) years. The City of Gastonia and Gastonia/Gaston County Consortium carry out federal programs, with the City of Gastonia as the lead agency, addressing the housing and community needs of low- to moderate income households and persons with special needs. Enclosed you will find a copy of the Home Consortium Agreement.

HOME funds are directed on a project restrictive basis through the Consortium agreement outside of the city limits of the Gastonia, which include direct homeownership assistance for first time buyers and Tenant-Based Rental Assistance/Security Deposits, both are offered county-wide in order to further affirmative fair housing. Even through the pandemic and the volatile housing market, we have still assisted two families to become homeowners in Lowell from 2020- present. 100% of funds will be utilized within the areas stated within the agreement. *No match funds or administrative funds are required for continued participation, only your signature is needed.*

Your continued participation is requested and requires your acknowledgement. *Please return the enclosed acknowledgement form by Monday, April 18, 2022.* We urge you to continue your participation so we can continue to serve people across the entire county. **We ask that the Consortium Agreement be returned by Friday, May 25, 2022,** so we can submit to HUD in a timely manner. Please send back three (3) originals of both the acknowledgment and agreement for our records. If additional information is required, contact me at (704) 866-6906.

Respectfully,

Lana DuPont,
City of Gastonia, Housing and Neighborhoods
Grants Accounting Specialist

Enclosures: Agreement with signature pages, Acknowledgment form

**INTERLOCAL AGREEMENT
CREATING CONSORTIUM FOR PARTICIPATING
IN HUD "HOME" PROGRAM**

THIS AGREEMENT, made and entered into on this _____ day of _____, 2022, by and between the City of Gastonia, a municipal corporation organized and existing under and by virtue of the laws of the State of North Carolina, hereinafter referred to as "Gastonia"; the City of Belmont a municipal corporation organized and existing under and by virtue of the laws of the State of North Carolina, hereinafter referred to as "Belmont"; the City of Bessemer City, a municipal corporation organized and existing under and by virtue of the laws of the State of North Carolina, hereinafter referred to as "Bessemer City"; the City of Cherryville, a municipal corporation organized and existing under and by virtue of the laws of the State of North Carolina, hereinafter referred to as "Cherryville"; the Town of Cramerton, a municipal corporation organized and existing under and by virtue of the laws of the State of North Carolina, hereinafter referred to as "Cramerton"; the Town of Dallas, a municipal corporation organized and existing under and by virtue of the laws of the State of North Carolina, hereinafter referred to as "Dallas"; the City of Kings Mountain, a municipal corporation organized and existing under and by virtue of the laws of the State of North Carolina, hereinafter referred to as "Kings Mountain"; the City of Lowell, a municipal corporation organized and existing under and by virtue of the laws of the State of North Carolina, hereinafter referred to as "Lowell"; the Town of McAdenville, a municipal corporation organized and existing under and by virtue of the laws of the State of North Carolina, hereinafter referred to as "McAdenville"; the City of Mount Holly, a municipal corporation organized and existing under and by virtue of the laws of the State of North Carolina; the Town of Ranlo, a municipal corporation organized and existing under and by virtue of the laws of the State of North Carolina, hereinafter referred to as "Ranlo"; the Town of Stanley, a municipal corporation organized and existing under and by virtue of the laws of the State of North Carolina, hereinafter referred to as "Stanley"; and Gaston County, a body politic of the State of North Carolina, hereinafter referred to as "County" (Collectively the "Participating Units");

WITNESSETH:

THAT, WHEREAS, Article 20 of Chapter 160A of the General Statutes of North Carolina authorizes any unit of local government and any one or more other units of local government to enter into contracts or agreements with each other in order to execute any undertaking; and

WHEREAS, the United States Government, through the U.S. Department of Housing and Urban Development ("HUD") administers a program known as the HOME Program which was created pursuant to Title II of the National Affordable Housing Act of 1990; and

WHEREAS, the rules promulgated pursuant to said act contemplate the creation of consortia by units of local government to allow units that do not otherwise qualify for participation in the HOME Program due to their size to so qualify, by the creation of a consortium; and

WHEREAS, the parties hereto are contiguous units of local government and otherwise meet the definition of governmental units which can qualify for the HOME Program through a consortium created for that purpose; and

WHEREAS, the basic purpose of the HOME Program is to expand the supply of decent, safe, and affordable housing, both owner occupied and rental housing for low and very low income citizens;

WHEREAS, the parties hereto believe that it would be in their mutual best interest and in the best interest of their citizens to become eligible for this program and pursue available funding pursuant to the terms of the rules governing same.

NOW, THEREFORE, in consideration of the mutual covenants and conditions hereinafter set forth, the parties hereto do hereby covenant and agree as follows:

1. Purpose. The purpose of this agreement is to provide access to the HOME Program established by the National Affordable Housing Act of 1990 and administered by the United States Department of Housing and Urban Development and to comply with the rules promulgated by HUD pursuant to said act as found in 56 Federal Register, Page 65339, et. Seq.
2. Term. This agreement covers the period necessary to carry out all activities that will be funded from funds awarded for three federal fiscal years and the parties hereto will remain in the consortium for the entire period. The program year start date for the consortium is 2022, and all members of the consortium are on the same program year for CDBG, HOME, ESG and HOPWA.
3. Renewal. Unless otherwise terminated by agreement in writing of all parties hereto or by termination of the HOME program by HUD, this agreement shall automatically be renewed for successive three-year qualification periods under the same terms and conditions. The parties agree that this agreement shall be amended to incorporate any changes necessary to meet the requirements for consortia agreements set forth in the Consortia Qualification Notice for any subsequent three-year qualification period. Any Participating Unit shall have the right to withdraw from the consortium at the beginning of any renewal period by giving notice in writing to Gastonia. For each renewal period, Gastonia shall, by the date specified in HUD's consortia designation notices, notify each of the Participating Units in writing of its right not to participate for that renewal period and shall provide copies of all such notifications to HUD.
4. Participation. Gastonia, Belmont, Bessemer City, Cherryville, Cramerton, Dallas, Kings Mountain, Lowell, McAdenville, Mount Holly, Ranlo and Stanley shall only participate in the Down payment Assistance, which shall provide down payment assistance to the

residents and the Rehabilitation Loan Program which shall provide rehabilitation assistance to existing homeowners of said municipalities. Said municipalities shall not participate in any other programs or qualify for any other types of assistance available through the HOME Program.

5. Lead Entity. Gastonia shall be designated as the lead entity for purposes of the HOME Program and shall assume overall responsibility for ensuring that the HOME Program is carried out in compliance with the requirements of the HOME Program pursuant to the applicable rules promulgated by HUD and other requirements, including, but not limited to, the requirements concerning a consolidated plan in accordance with HUD regulations in 24 CFR Parts 91 and 92, respectively, and the requirements of 24 CFR 92.350 (a) (5).
6. Statement of Capacity. As an "entitlement city" under the HUD Community Development Block Grant Program, HUD has determined that the City has the capacity to execute the administration of the HOME Program.
7. Cooperation. The parties hereto shall cooperate in executing such documents and providing such information to HUD as may be required to qualify the consortium created hereby for participation in the HOME Program. Furthermore, the parties hereby certify that they will affirmatively further fair housing.
8. Policy Review Board. A policy review board shall be established by the parties which shall develop policies and procedures for the administration of this agreement and the HOME program.
9. Merger Clause. This agreement contains the entire agreement and understanding between the parties hereto and may be amended only by a subsequent written document executed by both parties. There are no oral understandings, terms or conditions between the parties that are not set forth herein and none of the parties has relied upon any representatives, expressed or implied, not contained in this agreement. Any prior agreements between the any of the parties hereto for the services provided for hereby are deemed merged into this agreement and shall not be enforced except as they may be consistent herewith.
10. Counterparts. This agreement may be simultaneously executed in sufficient counterparts, one of which being retained by each of the parties hereto and each of which so executed shall be deemed to be an original and shall together constitute but one in the same instrument.

IN WITNESS WHEREOF, the parties hereto have caused this agreement to be executed in their respective names by their duly authorized officers and to have their seals hereunto affixed, all on the day and year first above written.

CITY OF LOWELL

By: _____
Mayor

ATTEST:

CITY CLERK

STATE OF NORTH CAROLINA

COUNTY OF GASTON

I, _____, a Notary Public of the aforesaid State and County, do certify that _____ personally came before me this day and acknowledged that she is the City Clerk of the City of Lowell, a North Carolina Corporation, and that by authority duly given and as the act of the Corporation, the foregoing instrument was signed in its name by its Mayor, sealed with its corporate seal and attested by its City Clerk.

Witness my hand and official stamp or seal, this the ___ day of _____, 2022.

Notary Public

My commission expires: _____



To: Scott Attaway, City Manager

From: Thomas Shrewsbury, Public Works

Date: May 5, 2022

Re: Monthly report

April 2022 updates:

- Sewer Department crews cleared Right of Ways of fallen trees and tall grass. An elevated sewer charge in the Fair St sewer basin spurred a search for excess water entering the system. Valves and hydrants were checked as well as manholes and large water users.
- 2-inch leak on Wilkinson Blvd.
- Cut off leak at 607 S. Church Street.
- 2-inch water line break on Mitchell Ct.
- 2-inch water line break on Mill Street.
- Water tap was made on N. Elm Street
- 4-inch sewer tap was installed on N. Elm St.
- Street Dept staff worked to keep up with grass cutting duties.
- Street department Crews worked on ball field maintenance, helping to get dirt spread on the field and treating for fire ants.
- Staff worked with developers and contractors on new development taking place in Lowell.
- Water and Sewer Dept employees were busy this month with utility locates created by new construction.



To: Scott Attaway, City Manager

From: Lisa Nolen, Finance Director

Date: May 3, 2022

Re: Finance Update

Utility Billing:

Continuing to work with MeterSys staff to improve operations in MiNet and streamline flows to get more accurate system alerts.

Coordinating with Public Works to get the remaining digital meters installed.

Continuing to work on written instructions for all areas of operations in the Utility Billing Dept.

Finance:

Currently keying transactions from April 2022. Also working on reconciliation of balance sheet accounts. Continuing to work on CDBG grant transactions and reconciliation of those bank accounts.

City of Lowell, North Carolina
 FY 2022 Dashboard
 3/31/2022

Department	Budget	YTD thru 3/31/2022	Budget Remaining	Percent Remaining	Percent of FY22 Remaining
General Fund					
Administration	622,970.00	526,265.71	96,704.29	16%	25%
Public Safety	1,358,837.52	899,606.78	459,230.74	34%	25%
Public Works	276,078.00	178,400.52	97,677.48	35%	25%
Sanitation	264,547.00	206,260.74	58,286.26	22%	25%
Parks	183,225.00	94,763.61	88,461.39	48%	25%
Powell Bill	231,275.00	154,330.63	76,944.37	33%	25%
Total	2,936,932.52	2,059,627.99	877,304.53	30%	25%
Water/Sewer Fund					
Water/Sewer	1,093,520.00	818,450.11	275,069.89	25%	25%
Wastewater Treatment	291,081.00	157,058.69	134,022.31	46%	25%
Total	1,384,601.00	975,508.80	409,092.20	30%	25%
Stormwater Fund					
Stormwater	337,919.00	114,465.98	223,433.02	66%	25%
Total	337,919.00	114,465.98	223,433.02	66%	25%

Notes:
 None

City of Lowell, North Carolina
 FY 2022 Revenue Dashboard
 3/31/2022

Type	Budget	YTD thru 03/31/22	Budget Remaining	Percent Remaining	Percent of FY22 Remaining
General Fund					
General Fund	2,936,932.52	2,701,215.40	235,717.12	8%	25%
Water/Sewer Fund	1,384,601.00	1,013,568.17	371,032.83	27%	25%
Stormwater Fund	337,919.00	227,028.27	110,890.73	33%	25%
Total	4,659,452.52	3,941,811.84	717,640.68	15%	25%

Notes:
 None



To: Scott Attaway, City Manager

From: Carl Moore, Interim Police Chief

Date: May 6, 2022

Re: Police Department Update

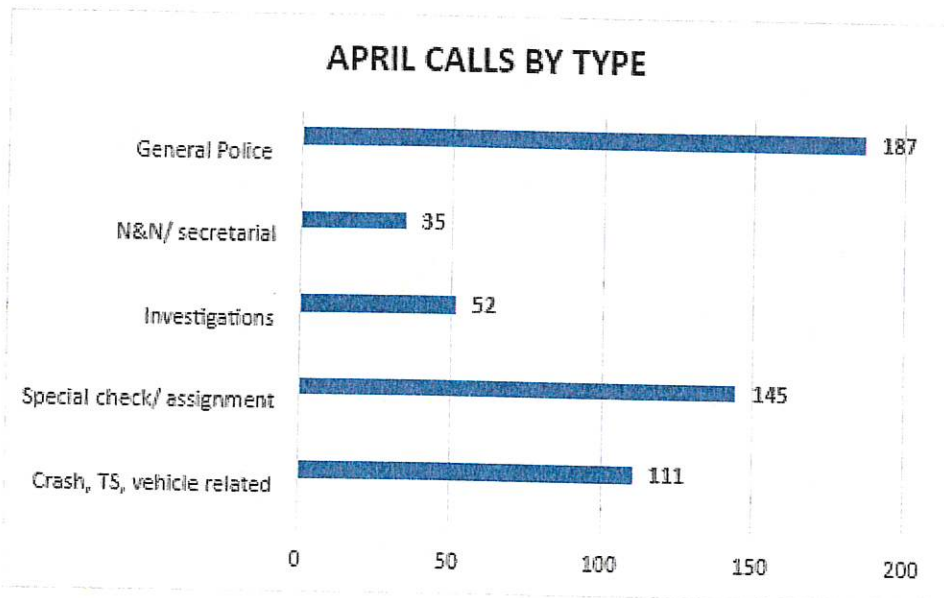
April was busy for the Police Department with only a slight increase in call volume from April 2021. Officers answered 544 calls for service last month compared to 508 in April 2021. Call types with the most volume were traffic stops, follow up to investigations, and special checks. Trespassing at the future North Main St Park has slowed down and very few charges were written there this month. Officer Stamey investigated a string of vehicle B&E and was able to make an arrest for those cases. Officer Stamey and Officer Fulbright combined to make arrests in multiple catalytic converted theft cases as well.

The Police Department received 3 ALCO-SENSORS as part of the NC Governors Highway Safety Program Steps grant. This tool will assist officers in conducting DWI investigations. Points acquired from the Police Department participating in checkpoints, holiday campaigns, and monthly reporting were used to receive these tools free of charge.

Interim Chief Moore, Sergeant Harrison, Sergeant Hoffman, and Officer Fulbright attended leadership/ supervisors training at Stanley County Community College. Officer Fulbright attended a front-line supervisor's course while Interim Chief Moore, Sergeant Harrison, And Sergeant Hoffman attended an advanced leadership class at the same location.

There are 2 new police officers at the Lowell Police Department! Officer Tinoco is a returning officer that comes to the LPD from Cherryville Police Department. Officer Tinoco started her law enforcement career with us and was a superior officer when employed. We are fortunate to have her back and expect great things out of her career with us. Officer Hollar is a reserve officer with us and is switching to full time employment. He also brings multiple years of law enforcement experience and is an

excellent drug investigator. Both these officers are fully trained, capable, and road ready to make a positive impact in our community.



Monthly calls April 2020-2022

2020	304
2021	508
2022	544

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