

**Lowell City Council  
Regular Meeting  
Tuesday, January 3, 2023 at 7:00 p.m.**

**Lowell City Hall – Multi-Purpose Room  
70 N. Pioneer St., Lowell, OR 97452**

**Members of the public are encouraged to provide comment or testimony through the following:**

- Joining in person or by phone, tablet, or PC. For details, click on the event at [www.ci.lowell.or.us](http://www.ci.lowell.or.us).
  - In writing, by using the drop box at Lowell City Hall, 107 East Third Street, Lowell, OR 97452.
  - By email to: [admin@ci.lowell.or.us](mailto:admin@ci.lowell.or.us).
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### **Regular Meeting Agenda**

#### Call to Order/Roll Call/Pledge of Allegiance

Councilors: Mayor Bennett \_\_\_ Harris \_\_\_ Stratis \_\_\_ Weathers \_\_\_ Murray \_\_\_

#### Approval of Agenda

#### Oath of Office

1. The City Recorder will administer the oath of office to newly elected City Councilors

#### Election of Officers

1. Election of Mayor – Discussion/ Action
2. Election of Council President – Discussion/ Action

#### Consent Agenda

Council members may request an item be removed from the Consent Agenda to be discussed as the first business item of the meeting.

The meeting location is accessible to persons with disabilities. A request for an interpreter for the hearing impaired or other accommodations for persons with disabilities must be made at least 48 hours before the meeting to City Clerk Sam Dragt at 541-937-2157.

## City Council Meeting Agenda

### Public Comments

Speakers will be limited to three (3) minutes. The Council may ask questions but will not engage in discussion or make decisions based on public comment at this time. The Mayor may direct the City Administrator to follow up on comments received. When called, please state your name and address for the record.

Direct all comments to the Council through the Mayor. All speakers are expected to be polite, courteous, and respectful when making their comments. Personal attacks, insults, profanity, and inflammatory comments will not be permitted.

### Council Comments (three minutes per speaker)

### Staff Reports

### Public Hearings

### Old Business

1. Second reading and approval of Ordinance #307, "An ordinance to amend sections 2.505, 2.506, 2.507, and 2.634 of the Lowell Revised Code relating to the Lowell public library concept of operations and power and duties of the Library Committee." – Discussion/ Possible action
  - a. Second reading in full of Ordinance #307
  - b. The public hearing is now open at \_\_\_\_ (state time)
  - c. Staff report – City Administrator Jeremy Caudle
  - d. Public comment
  - e. The public hearing is now closed at \_\_\_\_ (state time)
  - f. Vote to approve Ordinance #307
  
2. Second reading and approval of Ordinance #308, "An ordinance to amend section 5.106 of the Lowell Revised Code relating to open burning." – Discussion/ Possible action
  - a. Second reading in full of Ordinance #308
  - b. The public hearing is now open at \_\_\_\_ (state time)
  - c. Staff report – City Administrator Jeremy Caudle
  - d. Public comment
  - e. The public hearing is now closed at \_\_\_\_ (state time)
  - f. Vote to approve Ordinance #308

### New Business

## City Council Meeting Agenda

1. Motion to approve Resolution #797, "A resolution adopting guiding principles for the City Council." Discussion/ Possible action  
Council sponsor: Don Bennett
2. Motion to approve an "Agreement for improvements" with Jerry and Julie Valencia, pursuant to the conditions of approval in land use application 2022-02, and to authorize the Mayor to sign. – Discussion/ Possible action

### Other Business

1. Reminder of annual goal-setting session to take place Saturday, January 21 at 9:00 am. The location is the 70 N. Pioneer St. conference room.

### Mayor Comments

Community Comments: Limited to two (2) minutes if prior to 9:30 P.M.

Recess the Regular Meeting. Executive Session to follow.

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### **Executive Session Agenda (estimated 15 minutes)**

Executive Sessions are closed to the public. Representatives of the news media and designated staff may attend Executive Sessions. Representatives of the news media are specifically directed not to report on any of the deliberations during the Executive Session, except to state the general subject of the session as previously announced. No decision will be made in this executive session. At the end of the executive session, we will return to open session and welcome the audience back into the room.

### Call to Order/Roll Call

Councilors: Mayor Bennett \_\_\_ Harris \_\_\_ Stratis \_\_\_ Weathers \_\_\_ Murray\_\_\_

### Executive Session:

This executive session is being held pursuant to ORS 192.660(2)(i), to review and evaluate the employment-related performance of an employee or staff member.

### Adjourn the Executive Session

## **City Council Meeting Agenda**

### Reconvene the Regular Meeting

Upon returning to the Regular Meeting, the City Council may act on the following item:

1. Library Director salary adjustment based on the results of the 6-month performance review. – Discussion/ Possible action

### Adjourn the Regular Meeting

# Agenda Item Sheet

## City of Lowell City Council

Type of item:	Other
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**Item title/recommended action:**

Election of Officers  
Election of Mayor – Discussion/ Action  
Election of Council President – Discussion/ Action

**Justification or background:**

Chapter III, Sec. 9 of the city charter states: "At the first meeting of each odd numbered year the council shall choose from its membership a Mayor. The Mayor's term of office will be two years." Chapter IV, Sec. 18 of the city charter states: "... at its first meeting of each odd-numbered year, the council shall elect a council president from its membership by approval of a majority of its incumbent members. In the mayor's absence from a council meeting, the council president shall preside over it. Whenever the mayor is unable to perform the functions of his/her office, the president shall act as mayor, and shall sign proceedings, ordinances, bonds, licenses, contracts, or proposals under Section 20 in the mayor's absence." Staff have placed these items on the agenda to comply with the city charter's requirements.

**Budget impact:**

N/A

**Department or Council sponsor:**

City Council

**Attachments:**

N/A

Meeting date:	01/03/2023
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# Agenda Item Sheet

## City of Lowell City Council

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Type of item:	Other
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**Item title/recommended action:**

Oath of Office  
The City Recorder will administer the oath of office to newly elected City Councilors

**Justification or background:**

The terms of office for 4 city councilor positions start with the January 3, 2023 meeting. Chapter VI, Sec. 25 of the city charter states: "[B] efore entering upon the duties of his/her office, each officer shall take an oath or shall affirm that he/she will support the constitutions and laws of the United States and of Oregon and that he/she will faithfully perform the duties of his/her office. The city recorder or other notary public shall administer the oath of office." The oath of office provided here is the model from the League of Oregon Cities.

**Budget impact:**

N/A

**Department or Council sponsor:**

City Council

**Attachments:**

Oath of office

Meeting date:	01/03/2023
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P.O. Box 490 Lowell, OR 97452  
Phone: 541-937-2157  
Fax: 541-937-2936

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## Oath of Office

I, [insert name of oath taker], do solemnly swear and affirm that I support the Constitution and laws of the United States and the State of Oregon, and of the charter, ordinances, resolutions, and rules of procedures for the City of Lowell, and that I will faithfully and honorably perform the duties of the office for which I am about to assume.

**DATED** this 3rd day of January 2023.

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**SWORN** this 3rd day of January 2023.

**ATTEST:**

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Jeremy Caudle - City Recorder

**Agenda Item Sheet**  
City of Lowell City Council



Type of item:	Ordinance
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**Item title/recommended action:**

Second reading and approval of Ordinance #307, "An ordinance to amend sections 2.505, 2.506, 2.507, and 2.634 of the Lowell Revised Code relating to the Lowell public library concept of operations and power and duties of the Library Committee." – Discussion/ Possible action

- a. Second reading in full of Ordinance #307
- b. The public hearing is now open at \_\_\_\_ (state time)
- c. Staff report – City Administrator Jeremy Caudle
- d. Public comment
- e. The public hearing is now closed at \_\_\_\_ (state time)
- f. Vote to approve Ordinance #307

**Justification or background:**

This is a second and final reading, followed by a recommended vote to approve, of Ordinance 307. As stated in the agenda item sheet for this item at the 12/6/22 meeting, this ordinance would amend sections of the Lowell Revised Code relating to the library "concept of operations," as well as the powers and duties of the library committee. A summary of changes includes: replacing the term "volunteer librarian" with "Library Director"; clarifying the powers and duties of the Library Committee; and clarifying staffing expectations regarding the library concept of operations.



**Agenda Item Sheet**  
City of Lowell City Council



Type of item:	Ordinance
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Budget impact:

N/A
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Department or Council sponsor:

Library
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Attachments:

Ordinance 307
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Meeting date:	01/03/2023
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CITY OF LOWELL, OREGON

ORDINANCE 307

AN ORDINANCE TO AMEND SECTIONS 2.505, 2.506, 2.507, AND  
2.634 OF THE LOWELL REVISED CODE RELATING TO THE  
LOWELL PUBLIC LIBRARY CONCEPT OF OPERATIONS AND  
POWER AND DUTIES OF THE LIBRARY COMMITTEE.

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**The City of Lowell ordains as follows:**

**Section 1.** That Sec. 2.505(a) of the Lowell Revised Code is amended to read as follows.

**(a) A Library Director will staff the library with the assistance of volunteers.**

**Section 2.** That Sec. 2.505(c), Sec. 2.505(e), and Sec. 2.507 of the Lowell Revised Code are amended to replace the phrase “volunteer librarian” with the phrase “Library Director.”

**Section 3.** That Sec. 2.505(d) of the Lowell Revised Code is amended to delete the following sentence: “During regular City Hall office hours, when volunteer library staff are not available, normal City staff may assist library patrons time permitting.”

**Section 4.** That Sec. 2.506 of the Lowell Revised Code is amended to read as follows.

**The Library Committee may recommend to the City Council rules, regulations and procedures required of patrons for use of the library. Said rules, regulations and procedures require approval by the City Council and shall be in writing and available to all library patrons.**

**Section 5.** That Sec. 2.634(c) of the Lowell Revised Code is amended to read as follows.

**(c) Powers and duties. The Library Committee assists in operating the library, recommends policy for use of the library, and advises the City Council on the use and funding of the library.**

*[This section left intentionally blank.]*

**Adopted by the City Council of the City of Lowell this \_\_\_\_ day of \_\_\_\_\_ 2022.**

AYES: \_\_\_\_\_

NOES: \_\_\_\_\_

APPROVED:

\_\_\_\_\_  
Don Bennett, Mayor

ATTEST:

\_\_\_\_\_  
Jeremy Caudle, City Recorder

First reading: \_\_\_\_\_

Second reading: \_\_\_\_\_

Adopted: \_\_\_\_\_

Signed: \_\_\_\_\_

Effective date: \_\_\_\_\_

**Agenda Item Sheet**  
City of Lowell City Council



Type of item:	Ordinance
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**Item title/recommended action:**

Second reading and approval of Ordinance #308, "An ordinance to amend section 5.106 of the Lowell Revised Code relating to open burning." – Discussion/ Possible action

- a. Second reading in full of Ordinance #308
- b. The public hearing is now open at \_\_\_\_ (state time)
- c. Staff report – City Administrator Jeremy Caudle
- d. Public comment
- e. The public hearing is now closed at \_\_\_\_ (state time)
- f. Vote to approve Ordinance #308

**Justification or background:**

This is a second and final reading, followed by a recommended vote to approve, of Ordinance 308. As stated in the agenda item sheet for this item at the 12/6/22 meeting, this ordinance implement recommendations from Lowell Rural Fire Protection District Chief Lon Dragt. The changes have to do with: (1) setting limits on recreational fires; (2) regulating religious ceremonial fires; and (3) specifying the residential outdoor burning season and associated restrictions.

**Agenda Item Sheet**  
City of Lowell City Council



Type of item:	Ordinance
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Budget impact:

N/A
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Department or Council sponsor:

Library
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Attachments:

Ordinance 308
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Meeting date:	01/03/2023
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CITY OF LOWELL, OREGON

ORDINANCE 308

AN ORDINANCE TO AMEND SECTION 5.106 OF THE LOWELL  
REVISED CODE RELATING TO OPEN BURNING.

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The City of Lowell ordains as follows:

**Section 1.** That Sec. 5.106(b)(2) of the Lowell Revised Code is amended to read as follows.

**(2) Recreational fires no larger than three feet in diameter and two feet in height using manufactured logs or clean, dry, natural firewood as fuel. This is limited to fires in chimineas, patio fireplaces, fire pits, or other similar devices on private property.**

**Section 2.** That Sec. 5.106(b)(3) of the Lowell Revised Code is amended to read as follows.

**(3) Religious ceremonial fires that burn legal materials in a controlled outdoor fire. A LRAPA permit and LRFD authorization are required if the religious ceremonial fire is larger than three feet in diameter and two feet in height.**

**Section 3.** That Sec. 5.106(b)(4) of the Lowell Revised Code is amended to read as follows.

**(4) The residential outdoor burning season is October 1 through June 15, with the following restriction:**

- A. Residential outdoor burning is allowed only on LRAPA approved burning days. The start and end times for burning vary and are set as part of the daily burning advisory by LRAPA.**
- B. Outdoor burn piles must be extinguished by the end time set by LRAPA.**
- C. The total fuel area must be no more than four feet in width by four feet in length by four feet in height.**
- D. Open flames are prohibited on or within twenty-five feet of any structure or within fifteen feet of a fence.**

- E. Vegetation must be cleared a minimum of six feet around piles prior to burning.
- F. A garden hose connected to a water supply must be readily available to extinguish the fire.

**Adopted by the City Council of the City of Lowell this \_\_\_\_ day of \_\_\_\_\_ 2022.**

AYES: \_\_\_\_\_

NOES: \_\_\_\_\_

APPROVED:

\_\_\_\_\_  
Don Bennett, Mayor

ATTEST:

\_\_\_\_\_  
Jeremy Caudle, City Recorder

First reading: \_\_\_\_\_

Second reading: \_\_\_\_\_

Adopted: \_\_\_\_\_

Signed: \_\_\_\_\_

Effective date: \_\_\_\_\_

# Agenda Item Sheet

## City of Lowell City Council

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Type of item:

Resolution

Item title/recommended action:

Motion to approve Resolution #797, "A resolution adopting guiding principles for the City Council." -- Council Sponsor Don Bennett -- Discussion/ Possible action

Justification or background:

The City Council has adopted "Guiding Principles" each January for several years now. The Guiding Principles set forth expectations for respect, transparency, other other values. Staff present these principles here to continue with that tradition.

Budget impact:

N/A

Department or Council sponsor:

Mayor Don Bennett

Attachments:

N/A

Meeting date:

01/03/2023



**CITY OF LOWELL, OREGON**

**RESOLUTION 797**

**A RESOLUTION ADOPTING GUIDING PRINCIPLES FOR THE CITY COUNCIL.**

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**BE IT RESOLVED, by the City Council of the City of Lowell, Oregon as follows:**

**Section 1.** The “Guiding Principles” shown in Exhibit A are adopted.

**Section 2.** The City Council pledges to review and update the “Guiding Principles” in January of each year.

**Section 3.** This resolution supersedes all previous resolutions relating to the adoption of “Guiding Principles.”

**Adopted by the City Council of the City of Lowell this 3<sup>rd</sup> day of January, 2023.**

AYES: \_\_\_\_\_

NOES: \_\_\_\_\_

APPROVED:

\_\_\_\_\_  
Don Bennett, Mayor

ATTEST:

\_\_\_\_\_  
Jeremy Caudle, City Recorder

## **EXHIBIT A**

### **Lowell City Council Guiding Principles January 3, 2023**

To be an effective City Council that represents and conducts City business to the highest levels of excellence, we, the Lowell City Council do hereby commit to live by a set of guiding principles. These principles are not used as grounds for censure, but are created to help us respect each other, work in an open and transparent fashion, and include and seek the views of our entire community.

These principles will be used by the current Council. Future Councils will review, update, and confirm during the first regular meeting of each year. Staff will be made aware of these Guiding Principles for use in their daily activities.

#### **Respect**

We commit individually and collectively to respect the opinions, abilities, and perspectives of our colleagues, city staff, partners, and the public. We will be a model of respectful behavior that brings honor to the City of Lowell.

#### **Transparency**

We will conduct our work for the community in a manner that is open and inclusive. Unless prevented by Oregon law, we will deliberate and make decisions in full view of the community.

#### **Inclusion and Promotion of Meaningful Public Participation**

Regardless of the size of an issue, we value inclusion and will make all reasonable efforts to include others and listen to and respect their contributions. We value the opinions of all stakeholders. We will reach out to stakeholders that have not been involved in the past.

#### **Integrity and Personal Conduct**

We will hold ourselves to the highest standard of ethical behavior as a Council and as individuals. At all times we will model behavior that sets a positive example for the community. We will work to benefit all community stakeholders, respecting both the views of the majority and the minority. At all times we will act in an honest and truthful manner.

#### **Collaboration and No Surprises**

We recognize that community improvement requires partnerships with organizations beyond City Hall. We will work in a collaborative manner with partners – cooperatively, professionally, and objectively – to achieve community improvements. We will avoid surprising our colleagues, staff, partners, and the community by using agreed upon processes to raise proposals or concerns to the full Council.

**Fairness**

Decisions will be made objectively with the best interest of community stakeholders as the primary objective.

**Teamwork and Accountability**

We will work to ensure that each Council action has a clearly discernible rationale and a positive impact on the community. We will operate in an efficient manner consistent with our guiding principles by being on time, being prepared, being fully engaged, and fulfilling our commitments. Decisions made by the Council will be respected by all members of the Council, but the views of the minority will always be heard, respected, and considered, and where needed or possible included in the Council records. Members will work to resolve any personal conflicts that arise.

**Collective Wisdom**

We recognize that each member brings a unique set of talents and life experiences. In our work, we will value the thoughts and perspectives of each member. We will ensure each member has equal opportunities to share his/her abilities and perspective to inform and enhance our decision-making.

**Confidentiality**

We will adhere to all laws regarding the confidentiality of non-public information.

# Agenda Item Sheet

## City of Lowell City Council

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Type of item:	Contract
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**Item title/recommended action:**

Motion to approve an "Agreement for improvements" with Jerry and Julie Valencia, pursuant to the conditions of approval in land use application 2022-02, and to authorize the Mayor to sign. – Discussion/ Possible action

**Justification or background:**

The Planning Commission approved a site plan application for land use file #2022-02. This is for a mixed-use development on North Shore Drive. Condition of approval #14 requires the developer to enter into a development agreement with the City. The agreement sets forth the public improvements that the developer must construct, bonding and insurance requirements, and requirements to reimburse the City for engineering review expenses. Staff recommend that City Council approve the attached "agreement for improvements."

**Budget impact:**

N/A

**Department or Council sponsor:**

Planning

**Attachments:**

Agreement for improvements; "Final Order," incorporated into the agreement in Exhibit A

Meeting date:	01/03/2023
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## AGREEMENT FOR IMPROVEMENTS

This agreement is entered between the City of Lowell, P.O. Box 490, Lowell, Oregon 7452, hereafter referred to as “**City**” and Jerry and Julie Valencia, 11 North Alder, Lowell, OR 97452, hereafter referred to as “**Developer**”. This agreement is for public improvements for North Pioneer Street, adjacent Assessor’s Map #19-01-14-23, Tax Lot 09700.

**WHEREAS, Developer** made application for, and the **City** approved, with conditions, a site plan review for a mixed-use development, identified as File LU 2022 02; and

**WHEREAS,** Condition #14 of the Decision of the Lowell Planning Commission and LDC Section 9.805 require the **City** and **Developer** to enter into an agreement for public improvements required by the **City** in the final decision, and to be provided by **Developer**; now therefore,

### THE PARTIES AGREE AS FOLLOWS:

1. **Developer** will comply with all conditions for approval listed in the Decision of the Lowell Planning Commission for LU 2022-02, dated November 7, 2022, located as **Exhibit A** to this agreement, and by this reference incorporated herein, unless the **City** agrees in writing to modifications of the conditions.
2. **Developer** will pay all costs for design and construction of frontage improvements along North Pioneer Street to include 6’ sidewalk, 4’ planting strip, and 8’ parallel parking stall and street trees. Said improvements are memorialized as Condition of Approval #1 and depicted visually on Image 4 of **Exhibit A**. Improvements shall be designed and constructed in accordance with the City of Lowell Public Works Construction Standards, February 2003 Edition, and the Lowell Downtown Master Plan, unless modifications are approved in writing by **City**. Improvements shall not be deemed “completed” under this agreement until: 1) all work, including punch list items, has been finished and passed inspections and all tests; 2) the **City** has performed a final walk through inspection; 3) as-built record drawings have been submitted by the **Developer**; 4) final construction cost tallies for the improvements have been submitted by the **Developer**; and 5) the **City** has accepted the improvements by motion of the City Council.
3. The following public improvements must be completed by **Developer** prior to issuance of Certificates of Occupancy, unless bonded for completion as provided in Section 4 of this agreement.
  - a. 6’ wide sidewalk along the frontage of the subject property on North Pioneer Street;
  - b. 4’ planting strip in between the street and sidewalk;
  - c. 8’ on-street parallel parking stall along the frontage of the subject property on North Pioneer Street; and
  - d. Street trees placed in the 4’ wide planting strip along the frontage of the subject property on North Pioneer Street.

4. **Developer** may submit for Certificates of Occupancy approval before completion of some or all the above-required public improvements if the following requirements are met:
  - a. Construction plans for the above-required public improvement have been submitted by **Developer** and approved by the **City**; and
  - b. **Developer** has provided a surety bond in accordance with LDC 9.806 – Security, in the amount of 150% of the mutually agreed upon estimated construction cost of the above-required public improvements that remain uncompleted, as shown on the approved plans.
5. The **City**, through its City Engineer or other designated representative or agency, will review all plans and inspect construction of all public improvements identified in Section 3 above. **Developer** shall pay actual costs of all engineering review and inspection costs of the above required improvements. City will bill the Developer actual costs of invoices received from the City’s contracted Civil Engineering firm for review and inspection costs. The estimated construction costs shall be completed by the **Developer** and approved by the **City**. In the event **Developer** requests application of standards other than those required by established **City** standards, **Developer** agrees to reimburse **City** for any additional costs associated with review and decision on such requests. If **Developer** submits significant design changes after previously submitted plans have been approved by the **City**, **Developer** shall reimburse the **City** for all additional costs to process the design changes. Fees for additional costs will be the actual hourly billed costs it takes to process and review the design changes.
6. **Developer** shall pay all fees required by any other agency for permits that may be required to complete the development.
7. **Developer** shall warrant any public improvements constructed under this agreement free of defects due to workmanship or materials for a period of one (1) year from the date of final **City** acceptance of the improvements described herein. If, within the warranty period, repairs are required in connection with the work, the **Developer** shall promptly, without expense to the **City**, place in satisfactory condition all guaranteed work, and correct any damage caused by the repair work.
8. **Developer** or their prime contractor shall provide proof of liability insurance in the amount of \$1,000,000 per occurrence, naming the City of Lowell as an additional insured, for any liability that may arise from construction of public improvements, by **Developer** or any contractor or service provider under contract to **Developer**, required under this agreement.
9. Any amendment to this agreement shall be in writing, signed by both parties and attached to the original signed agreement.

10. If arbitration, mediation, court or other proceeding is sought to enforce or interpret any of the terms of this agreement, the party not prevailing shall pay the prevailing party's attorney fees, costs and disbursements, and such other sums as the arbitrator, mediator or court may determine to be reasonable for the prevailing party in the case.
11. This agreement shall automatically terminate upon final payment of all charges and fees required by this agreement, completion of all public improvements required by this agreement and expiration of the accompanying one (1) year warranty period required by Section 7.

Accepted and executed this \_\_\_\_\_ day of \_\_\_\_\_, 2022.

For **City of Lowell**

For **Jerry and Julie Valencia**

\_\_\_\_\_  
By: Don Bennett, Mayor

\_\_\_\_\_  
By:

Attest:

\_\_\_\_\_  
By: Jeremy Caudle, City Administrator

\_\_\_\_\_  
By:

Exhibit A: Decision of the Planning Commission, LU 2022-02, dated November 7, 2022



# EXHIBIT A

**FINAL ORDER**  
**Site Plan Review Application**  
**Mixed-Use Development on North Shore LU 2022 02 (Phase 1)**  
**November 3, 2022**

**Date of Completeness: July 29, 2022**

**120<sup>th</sup> Day: November 26, 2022**

**Notice sent: August 9, 2022**

**First Planning Commission hearing: September 7, 2022**

**Planning Commission continued hearing to: November 2, 2022**

**Property Owner: North Shore, LLC**

**Applicant: Jerry Valencia, North Shore, LLC**

**Applicant's Representative: Rex Prater, AIA**

- 1. PROPOSAL.** The Planning Commission is being asked to review and render a decision on an application for site plan review for Phase 1 of construction of a new three-story building that will contain 3,600 square feet of commercial space on the ground floor and residential units on floors two and three. Per the applicant's narrative letter, submitted for the LU 2021-11, the residential units will be a combination of 1–3-bedroom units and there will be 10 units in total. The proposal will include a 20 off-street parking spaces. All off-street parking will be located behind the new building and take access from North Pioneer Street. Landscaping features will be placed along the edge of the property line abutting the right-of-way on North Pioneer Street and North Shore Drive.

The subject property is zoned C-1 General Commercial and is located within the boundary of the Downtown Regulating Plan, as such, the proposed development must be consistent with the Lowell Downtown Master Plan.

- 2. BACKGROUND.** The Planning Commission held a public hearing on the proposal on September 7, 2022. After receiving the staff report and hearing the applicant's presentation, the Planning Commission passed a motion to continue the hearing to November 2 because additional information was required of the applicant prior to the Planning Commission being able to formulate a decision. As part of the continued review of the proposal, the Planning Commission agreed to narrow the scope of its review upon the continued hearing. In other words, Planning Commission is only reviewing specific items that were requested of the applicant at the previous hearing. The Planning Commission found all other criteria met and issues to be resolved but for:

- A preliminary grading plan in accordance with Grading standards of Section 9.527 and Lowell Ordinance 227, Section 2, Excavation and Grading Building Code.
- Exterior lighting plan in accordance with Section 9.529

- Landscaping Plan in accordance with Section 9.528. Landscaping plan should also detail landscaping that is proposed along North Shore Drive and address the landscape buffer/fencing along the rear property line because of the residential uses.
- Updated Site Plan, to include a clear depiction of the off-street parking spaces, circulation and landscaping.
- In consultation with the applicant and the applicant’s representative, since the Planning Commission last saw the proposal, a few items have changed:
  - The number of off-street parking spaces have been recalculated. This is due to an adjustment of the layout of subsequent phases of the development. The applicant is now proposing to provide 20 off-street parking spaces. This is a reduction of two spaces from what was previously proposed. 15 of the 20 spaces would be available for residents of the proposed dwelling units. The remaining five would be for commercial uses. The five spaces include one ADA space.
  - Existing trees along North Shore Drive will be impacted by the development. The applicant is proposing to remove several of the trees to accommodate Phase 1 of the development. The applicant will be re-planting trees along the frontage of North Shore Drive, in accordance with the Downtown Master Plan.
  - The boundaries of Phase 1 have been reduced in size. However, the proposal remains the same; mixed-use development with ground-floor commercial and upper-floor residential.
- Attachments included in this staff report are limited to those materials submitted by the applicant following the first Planning Commission hearing.

### 3. AGENCY REFERRAL COMMENTS.

**City Engineer:** The City Engineer has reviewed the preliminary plans submitted by the applicant. The City Engineer noted that the location of a new storm drain line has been added to the site plan, but the plan (nor any plan) contains grading detail. There may still be some unresolved issues around fire hydrant locations and the adequacy of the waterline connection. Further, the City Engineer expressed concerns about the right-of-way, that were brought up during the previous application involving development on the subject property (that application was ultimately withdrawn by the applicant).

The City Engineer requests detail as to how that area will be graded and drainage dealt with. Overall, the City Engineer finds the preliminary site plan/sketches submitted by the applicant acceptable for completeness but are not adequate for construction or the issuance of building permits. The City Engineer has reviewed the revised grading plan (dated 10/20/2022). The grading plans shows conceptual grading of the parking lot and is overlaid with the elevations of the catch basins. The grading plan is acceptable to show the grading standards can be feasibly met. The City will require a detailed and final grading plan to be submitted and reviewed by the City Engineer prior to the issuance of building permits. This will be a condition of approval. Staff will further discuss grading standards later on in this staff report.

**Lane County Transportation:** Lane County Transportation Planning commented that it's not entirely clear what is being proposed within the North Shore right-of-way. In discussions with the applicant Lane County has reiterated that there is currently a setback sidewalk along the frontage and a notable elevation drop from the curb line to the property line with an open drainage ditch between the sidewalk and property; filling in sidewalks in this area may require piping and filling to address grade issues and maintain drainage.

Because of these issues, Lane County will require the applicant to address drainage and demonstrate compliance with other applicable standards during the Lane County Facility Permit process. Any work conducted within the Lane County right-of-way will require an approved Facility Permit from the Public Works division. See **Attachment F** for comments.

- 4. APPROVAL CRITERIA.** Lowell Development Code (LDC) *LDC, Section 9.204* lays out which items are required as part of an application for site plan review request. The applicant has submitted a site plan review application. A site plan review requires a “limited land use review” by the Planning Commission, and *LDC, Section 9.250* contains the decision criteria the Planning Commission shall consider in making their decision for approval or denial. Additionally, this specific proposal may involve criteria related to *LDC, Section 9.520, Storm Drainage, and Section 9.514, Off-Street Parking Requirements, and LDC Section 9.529 Exterior Lighting, Section 9.527 Grading, Section 9.528 Landscaping, Section 9.517 Street, Section 9.518 Sidewalks. In addition, the development must be consistent with the Lowell Downtown Master Plan.*

**5. STAFF REVIEW OF APPLICABLE APPROVAL CRITERIA.**

*(b) Decision Criteria. After an examination of the Site and prior to approval, the Planning Commission must make the following findings:*

*(1) That the proposed development complies with the Zoning District standards.*

**FINDING:** For a discussion of compliance with the Zoning District standards, staff introduce a discussion of the C-1 permitted uses and development standards, as listed in Section 9.421 of the LDC. The zone of the subject property is C-1 General Commercial. The purpose of the C-1 zone is to provide areas appropriate for the full range of commercial activities to serve the needs of area residents and employees. The C-1 zone allows for mixed-use development, in which residences are located on the second story, above a ground floor commercial use. The proposal involves ground floor commercial with residential above.

In the C-1 zone, there are no required side yard setback, except for when abutting a residentially zoned property, which is not the case with the proposal. There are no required front yard setbacks and development is allowed to build to the property line. There is a required 10-foot rear setback when abutting residentially zoned property. The proposed structure for Phase 1 is more than 10-feet from the rear setback line, however, the rear property line will be required to be landscaped or fenced with opacity to provide appropriate screening. Landscaping standards will apply to the proposal and will be discussed further in this staff report. Staff find this criterion met.

***Section 9.421(d)(6) Access shall be designed to cause a minimum interference with traffic and may be subject to review and approval of the County Engineer or State Department of Transportation. The dedication of additional right-of-way and construction of street improvements by the applicant may be required in order to facilitate traffic circulation.***

**FINDING:** The subject property contains frontage on both North Pioneer Street and North Shore Street. The subject property is confined within the boundary of the Lowell Downtown Master Plan and accompanying Regulating Plan. The aforementioned Plan does include right-of-way improvements for North Shore Drive and North Pioneer Street.

At this time the City is not requiring the applicant to sign a waiver of remonstrance for future improvements of North Shore Drive. This is because North Shore is already built and existing and there are no quantifiable impacts from Phase 1.

The applicant will be proposing access to the site from North Pioneer Street. The Lowell Downtown Master Plan does envision improvements for this portion of North Pioneer Street. North Pioneer Street contains a 60' right-of-way, which matches what's shown in the Downtown Master Plan, so no additional right-of-way dedication is necessary. A further discussion of improvements for North Pioneer will be addressed later in this report.

***(2) That the proposed development complies with applicable provisions of city codes and ordinances.***

**FINDING:** As discussed and found in this staff report and associated findings, the applicant has shown that they can meet or feasibly meet all of the applicable approval standards with conditions. The proposed mixed-use development is consistent with the Lowell Downtown Master Plan. A further discussion of the approval criteria weighed against the proposed development will be addressed in this staff report. Criterion met.

***(3) That the proposed development will not cause negative impacts to traffic flow or to pedestrian and vehicular safety and future street rights-of-way are protected.***

**FINDING:** As seen on Sheet AS-002, the development will take access from a curb cut along North Pioneer Street, approximately 70-feet from the southwest corner of the property. The entirety of the proposed buildings and landscape features (including those adjacent to North Shore) are fully contained within the property or right-of-way.

The proposed development is not such that the future rights-of-way plans for North Shore as envisioned in the Lowell Downtown Plan would be precluded. The entrance into the site will occur via one driveway that accommodates two-way traffic. Sheets AS-001 & 002 show two-way vehicular traffic circulation.

The Lowell Downtown Master Plan allows for and encourages structures to be built up to the property line to increase pedestrian interaction with the built environment. This is what the applicant is proposing, therefore the proposal is consistent with the Lowell Downtown Master Plan in this regard.

On-site traffic will be limited to AM and PM residents and a limited number of commercial trips for business purposes. The success of the site is somewhat dependent on pedestrian mobility, meaning that pedestrians arriving by means other than vehicles will be vital to the success of the proposed mixed-use development.

In addressing pedestrian and vehicular safety, the inclusion of urban street improvements along the frontage of North Pioneer Street (image 1), adjacent to the site, will facilitate the movement of pedestrians from the right-of-way, across the sidewalk and to the proposed mixed-use development. The inclusion of on-street parking adjacent to the site will free up off-street parking spaces designated for residents and employees of the mixed-use development. Additionally, on-street parking is a central theme of the Lowell Downtown Master Plan that creates active streets and encourages the built form to interact with pedestrians. Further, on-street parking encourages other by-passing vehicles to reduce driving speed because drivers are wary of traffic and adjacent users.

With the inclusion of a pedestrian sidewalk connection from North Shore to the site and urban street improvements, the proposed development will not cause negative impacts to traffic flow or to pedestrian and vehicular safety and future street rights-of-way are protected. Criterion met conditionally with the condition of urban street improvements along the frontage of the site along North Pioneer Street as seen in Image 1 below.

3C; 3D - Street Section for 60 foot right-of-way (Pioneer Street)

Note: The 60-foot street section for Pioneer Street differs from other in Lowell because it is owned by Lane County, and the County requires a minimum 12 foot travel lane.

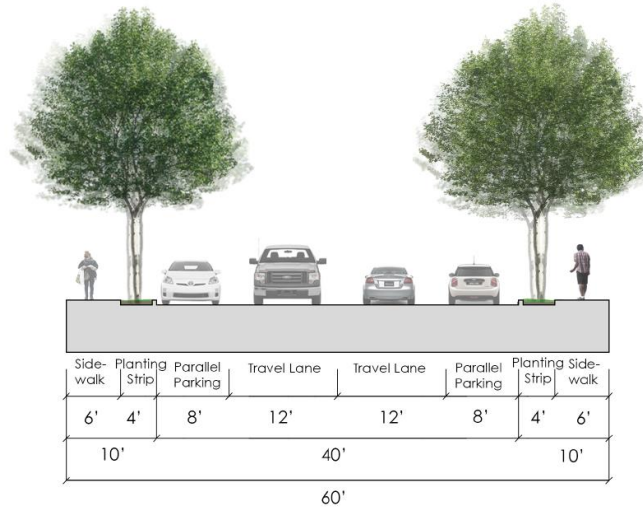


Image 1. North Pioneer Street Section as seen in the Downtown Master Plan

**Condition of Approval #1:** Applicant shall submit plans for review and approval by the City Administrator or their designee for the construction of urban street improvements along the frontage of North Pioneer Street, consistent with the Lowell Downtown Master Plan to include a 6’ sidewalk, 4’ planting strip, 8’ parallel parking stall, and street trees to facilitate the movement of pedestrians from North Shore to Phase 1 of the proposed development. The plans shall be approved, before the issuance of building permits.

**(4) That proposed signs or lighting will not, by size, location or color, interfere with traffic, limit visibility or impact on adjacent properties.**

**FINDING:** The applicant has submitted revised sites plans depicting the exterior lighting standards of Section 9.529 on the site plans. Staff find by the applicant listing the exterior lighting standards on the site plan is enough to establish feasibility for compliance with the lighting standards of Section 9.529. The exterior lighting of the site is subject to the following conditions:

- Exterior lighting shall be provided in parking lots and may be provided elsewhere.
- Up-lighting is prohibited. Externally lit signs, displays, building and aesthetic lighting must be lit from the top and shine downward. The only exception to this requirement is for lighting of a flagpole. The lighting must be shielded to prevent direct glare and/or light trespass. The lighting must also be contained to the target area.
- All exterior lights shall be designed, located, installed and directed in such a manner as to prevent glare across the property lines.
- All exterior building lighting for security or aesthetics will be full cut-off or shielded type, not allowing any upward distribution of light.
- For purposes of exterior lighting definitions:

- Glare means light that causes annoyance, discomfort, or loss of visual performance and ability.
- Up-lighting means any light source that distributes illumination above a 90-degree horizontal plane.
- Pre-existing non-conforming lighting may be required to be brought into compliance upon a determination by the City Administrator that such non-conforming lighting is a nuisance.
- All exterior lighting shall be shown on the final plat to be submitted by the applicant in conjunction with the building permit review process. Lighting shall be clearly identified on the site plan and in conformance with Section 9.529.

**Condition of Approval #2:** Prior to the issuance of building permits, the applicant shall submit to the City Administrator or their designee, for review and approval, a final site plan detailing all exterior lightings in conformance with Section 9.529.

*(5) That proposed utility connections are available, have the capacity to serve the proposed development and can be extended in the future to accommodate future growth beyond the proposed land division.*

**FINDING:** Presently, the site is vacant and is not connected to City services. The applicant will tap into and extend the existing water and sewer mains located behind the property in First Street. See Sheet AS-003 for connection points. The applicant has submitted a basic site plan that shows an existing storm sewer tie in located in First Street where the applicant is proposing to tie into new water and sanitary sewer connections. A possible storm water tie in is shown on the site plan, with on the tie in leading out towards the right-of-way on North Shore Drive. Proposed catch basin locations have also been noted on the site plan.

The site has no major issues with respect to availability and adequacy of utility connections. There are a few remaining issues that require further review by the City Engineer and Public Works, but those issues can be resolved during the building phase.

The Fire Chief has issued emailed comment on June 23,2022, stating “right now we should be good with hydrants in the area.”

In terms of capacity, the Public Works Director has issued comment that the City has plenty of capacity to serve the proposed mixed-use development in terms of water, sewer and stormwater. See **Attachment G** for the Public Works Director’s comments.

Based on the site plan submitted (AS-003), and the Public Works Director’s comments contained in **Attachment G**, staff find it feasible that proposed utility connections are available. Staff recommend a condition of approval for the final site plan/construction plans to show adequacy of the waterline connection. This issue has been raised by the City Engineer in email comments

dated June 7, 2022, and September 24, 2022.

Subsequent development will spur additional extension and creation of new water and sewer lines to accommodate future phases of the development. Engineering specific plans for water and sewer extensions shall first be reviewed and approved by the City Engineer, prior to the issuance of building permits. This will be a condition of approval.

**Condition of Approval #3:** Prior to the issuance of building permits, the applicant shall submit engineering plans for the extension and construction of water and sewer lines to the City Engineer and Public Works for review and approval.

*(6) That the proposed development will not cause negative impacts to existing or proposed drainage ways including flow disruptions, flooding, contamination or erosion.*

**FINDING:** Staff have reviewed the LWI map for Lowell. The map indicates no wetland or significant water ways on the subject property. Further, staff sent City referral notice to the Department of State Lands (DSL) for review and comment. DSL responded to the notice and indicated that the proposal for Phase 1 is likely to avoid impacts to jurisdictional wetlands, therefore no state permit is required.

With respect to storm drainage, per Section 9.520(a), it is the obligation of the property owner to provide proper drainage and protect all runoff and drainage ways from disruption or contamination; on-site and off-site drainage improvements may be required. According to the site plan the applicant is proposing two catch basins for storm water; both proposed catch basins are located in the parking lot.

Further, the applicant has shown illustratively, on the site plan, where a possible storm drain connection tie in could be made with the City's existing storm drain system. The applicant will be required to address drainage of the bioswale located between the curb of North Shore and the property line (see applicant's illustrative site plan Sheet AS 000-3, "culvert under to existing BIO swale." Lane County will require this area to be addressed, in terms of drainage, as part of a Lane County Facility permit.

The applicant has submitted a drainage memo from a civil engineer which states based on an impervious surface of 10,000 square feet, the existing gravel area will produce a runoff of 0.20 cubic feet per second (cfs). The proposed impervious surfaces will produce a runoff of 0.36 cfs. Staff finds this technical drainage memo is adequate for addressing feasibility to address storm water drainage criteria. See **Attachment M** for drainage memo.

Storm water drainage details/plans will be required of the applicant as part of the building/construction permit process. LDC 9.520 is applicable to the development and the



applicant will be required to adhere to the storm drainage requirements of LDC 9.520 as a condition of approval. Stormwater drainage will be addressed further in this report under Section 9.520, Storm Drainage.

***(7) That the proposed development will not cause negative impacts, potential hazards or nuisance characteristics as identified in Section 2.140, Item 21 of the Application Site Plan consistent with the standards of the Zoning District and complies with the applicable standards of all regulatory agencies having jurisdiction.***

**FINDING:** Potential nuisance characteristics identified are lighting, visual and auditory. Nuisance characteristics will primarily be felt by the residential properties located to the rear of the subject property. Visual and noise nuisances will be mitigated through the implementation of a required landscaped buffer as indicated in LDC 9.528(b)(2). Lighting nuisances can be addressed through adherence to the exterior lighting standards of Section 9.529 and the implementation of the required visual landscape buffer or fence along the rear property line.

To address visual and noise nuisances, the applicant is proposing to add plastic vertical slates into the existing fence along the rear of the property. Staff find this acceptable to meet the requirement of Section 9.528(b)(2), if the slates create an opacity of 75%. Staff will add this as a condition of approval under the landscaping section of this staff report.

With respect to health and safety, the applicant has indicated an FDC fire suppression system will be installed but has not submitted plans detailed enough to show the location or specifications of the fire suppression system. The applicant has indicated the FDC fire suppression location will be determined during the building permit submittal process. This will be a condition of approval to protect health and safety.

**Condition of Approval #4:** Prior to the issuance of building permits, applicant shall submit FDC fire suppression systems plans, detailed enough to show the location or specifications of the fire suppression system. Plans shall be reviewed by the City Administrator or their designee, with review and comment by the Fire Chief or State Fire Marshall, if necessary.

***(8) That development within Lowell’s Downtown, as defined by the Regulating Plan included in the Lowell Downtown Master Plan, are consistent with the policies of the Lowell Downtown Master Plan.***

**FINDING:** The applicant will be responsible for the required improvements for proper access, functionality, and pedestrian and vehicular safety of the site. These improvements include, but are not limited to, adequate drainage of the site, including a pedestrian sidewalk entrance from North Shore Drive to the ground floor of the proposed commercial uses, addressing drainage beneath the bioswale that exists between the curb and property line, landscaping and sidewalk, curb and gutter along North Pioneer Street, consistent with the Downtown Master Plan, and

landscaping along North Shore for the portion that fronts Phase 1. The City is requiring the improvements, as seen in Image 1, below, for the following reasons:

- Section 9.422(e)(5) of the Lowell Development Code states that “*development within the Downtown area may be conditioned upon an agreement to comply with reasonable exterior building modifications and street and sidewalk standards established as part of a future Downtown Development Plan.*” The Plan contains adopted street and sidewalk standards for the exact portion of North Pioneer that abut the subject property. The proposed development is contained within the confines of the Regulating Plan, therefore establishing the subject property as an “downtown area,” even though the zoning of the property is General Commercial District C-1.
- The applicant is already proposing frontage improvements along North Pioneer Street. The precise details of the improvements are not clear to staff as the site plan just shows a general landscaping detail, new asphalt, a sidewalk of uncertain width, and trees/brushes. Since improvements are already being made to this section of North Pioneer, they should conform to the adopted standards of the Downtown Master Plan for that specific section of North Pioneer Street. The Lowell Development Code, in Section 9.422(e)(5) backs up the City’s imposition of these improvements.
- The subject development will take direct access from North Pioneer Street. As was the case of all previous development proposals in the City of Lowell, the City has always required half-street improvements (sidewalk, curb and gutter) for all development proposals in Lowell or accepted a waiver of remonstrance from property owners for future improvements, consistent with Sections 9.517(a) and Section 9.518.
- For proper access, functionality and pedestrian and vehicular safety of the site.

3C; 3D - Street Section for 60 foot right-of-way (Pioneer Street)

Note: The 60-foot street section for Pioneer Street differs from other in Lowell because it is owned by Lane County, and the County requires a minimum 12 foot travel lane.

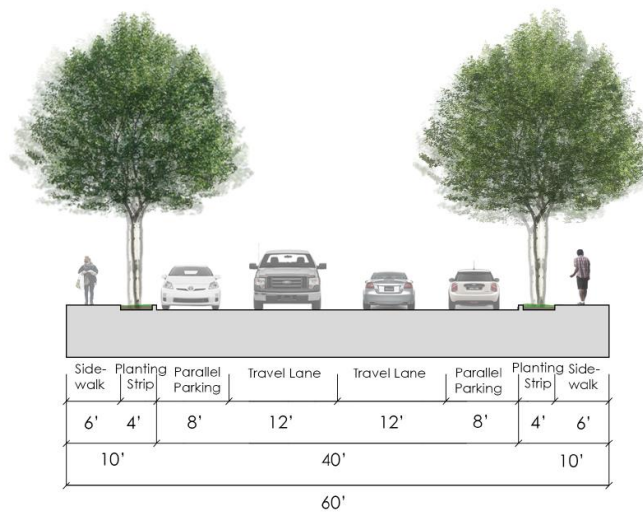


Image 2. North Pioneer Street section from Lowell Downtown Master Plan.

***1.4 On-street parking – Place parallel parking spaces of at least eight feet wide and 20 feet long along the edge of all streets in the downtown area.***

**FINDING:** On-street parking is available on North Shore but does not include parking stalls or signage. North Shore Drive is a Lane County Facility. Lane County has commented that no improvements, including the inclusion of on-street parking stalls, are required at this time. On-street parking may be reviewed later with subsequent phases under a Lane County Facility Permit. The Downtown Master Plan shows an 8’ wide on-street parking stall for North Pioneer Street. With the inclusion of an 8’ parking stall on the portion of North Pioneer that abuts the property, the proposal is in conformance with this policy.

***1.5 Off-street parking – Off-street parking in the downtown area shall be placed behind new commercial and residential development, with clear passages linking the parking to entries and the front of the buildings. Only where there is no ability for parking to be located behind the building, it shall be placed to the side of the building, setback ten feet from the public right-of-way and adjoining properties. Appropriate landscaping or seating should be placed on the street facing side in order to shape the public realm.***

**FINDING:** Off-street parking in the downtown shall be placed behind new commercial and residential development. The applicant is proposing to place off-street parking behind the new propose commercial and residential buildings. The proposal is in conformance with this policy.

***1.6 Planting Strips – Place planting strips on both sides of the street to absorb stormwater between street curbs and sidewalks.***

**FINDING:** In addition to absorbing stormwater, planting strips also aide in beautification of streetscapes. As seen on Sheet AS-003 and L-2, the applicant is proposing landscaped features along the frontages of North Pioneer Street and North Shore Drive. Consistent with the improvements, as seen in the Lowell Downtown Master Plan, North Pioneer Street will have a 4’ planting strip. Other landscaping improvements are proposed along North Shore Drive, but a planting strip is not being required by the City.

***1.7 Street Trees – Place deciduous canopy trees at regular intervals, approximately 25 feet on center, both sides of the street in the space between the curb and the sidewalk. Street trees shall align with local landscape standards and should be placed a minimum of 10-feet from fire hydrants and 20 feet from stop signs.***

**FINDING:** Street trees will be required. In a phone conversation with the applicant’s architect, a few of the existing street trees along North Shore Drive will be impacted by the development and are proposed for removal. The applicant shall re-plant street trees in accordance Policy 1.7 of the Downtown Master Plan. This policy also applies to the frontage along North Pioneer

Street.

**Condition of Approval #5:** Deciduous canopy trees shall be placed at regular intervals, approximately 25' in the space between the curb and the sidewalk. Street trees shall align with local landscape standards and should be placed a minimum of 10' from fire hydrants and 20' from stop signs. The areas applicable to this policy are the frontage along North Shore Drive and the frontage along North Pioneer Street. Applicant shall submit site development plans that show placement of street trees in accordance with Policy 1.7, prior to the issuance of building permits. Street tree removal and planting along North Shore Drive will be controlled by Lane County Public Works through a Facility permit. Street trees shall be in-place prior to the issuance of certificates of occupancy.

***3.1 Mixed-Use Buildings – a mix of commercial and residential uses should be encouraged in downtown. Mixed-use buildings support active town centers by allowing for a mix of uses in a small footprint. Buildings along main streets shall have ground floor commercial, or retail uses with offices or residential units above. Ground-floor retail fronts that face the street shall have large, clear windows, especially around entries, to encourage transparency and a sense of place along the pedestrian realm.***

**FINDING:** The proposal is for precisely a mix of commercial and residential uses, with ground floor commercial and residential above. The proposal is consistent with this policy.

***3.3 Multi-Story Buildings – Plan for a minimum of two to three-story buildings along North Shore Drive in the downtown area to maximize land use efficiencies.***

**FINDING:** The proposal is for a three-story building, mixed-use building.

***3.4 Covered Entries and Frontages – Buildings along main streets in downtown shall have covered front entries using canopies, awnings, roofs, or similar. Frontages facing the street should have awnings or overhangs to provide pedestrians protection from the elements.***

**FINDING:** As seen on Sheet AS-003, the entrances along the frontage of North Shore Drive will have covered entries. The proposal is consistent with this policy.

***5.2 Wide Sidewalks – Design sidewalks at least six feet in width, such as Moss Street, and 15 feet in width in commercial areas, such as the north side of North Shore Drive. See the street sections of downtown for more detail.***

**FINDING:**As seen in Images 1 and 2, above, the sidewalk design for North Pioneer Street is 6' in width.

*(c) Natural drainageways. Open natural drainageways of sufficient width and capacity to provide for flow and maintenance are permitted and encouraged. For the purpose of this Section, an open natural drainageway is defined as a natural path which has the specific function of transmitting natural stream water or storm water run-off from a point of higher elevation to a point of lower elevation. Significant natural drainageways shall be protected as a linear open space feature whenever possible and shall be protected from pollutants and sediments. A 15-foot setback is required from the centerline of any significant drainageway.*

**FINDING:** The subject property does not contain and natural drainageways. Not applicable.

*(d) Easements. Where a land division is traversed by a water course, drainageway, channel or stream, there shall be a provided public storm water easement or drainage right-of-way conforming substantially with the lines of such water course and such further width as the City determines will be adequate for conveyance and maintenance. Improvements to existing drainageways may be required of the property owner. The property owner is also responsible for the continuing maintenance and protection of natural drainageways.*

**FINDING:** Land division is not proposed. Water courses, drainageways, channels or streams are not present on the property. Criterion not applicable.

*(h) NPDES Permit Required. A National Pollutant Discharge Elimination System (NPDES) permit must be obtained from the Department of Environmental Quality (DEQ) for construction activities (including clearing, grading, and excavation) that disturb one or more acres of land.*

**FINDING:** The applicant has indicated to staff in an August 30, 2022, email that at this time, Phase 1 will not involve the disturbance of one or more acres of land.

**Section 9.514 Off-Street Parking Requirements**

**SECTION 9.514 OFF-STREET PARKING REQUIREMENTS**

<u>USE</u>	<u>SPACE REQUIREMENT</u>	
<b>(a) Residential</b>		
(1) One and two family dwellings	Studio	Space for one car per unit
	1 Bedroom	Space for one car per unit
	2 Bedroom	Space for two cars per unit
	3+ Bedroom	Space for two cars per unit
(2) Multiple family dwellings	1.5 Spaces per unit.	
(3) Rooming or boarding house, Transient Lodging	Spaces equal to 80% of the number of guest accommodations <u>plus</u> one additional space for each owner, <u>manager</u> or employee.	

<b>(d) Commercial</b>		<input type="checkbox"/>
(1) Retail stores except as otherwise specified below	One space per 300 s/ft. of floor area designated for retail sales	
(2) Service or repair shop, retail store exclusively handling bulky merchandise such as automobiles and furniture.	One space per 600 s/ft. of floor area	
(3) Banks and Offices	One space per 400 s/ft. of floor area	
(4) Medical and dental clinic	One space per 300 s/ft. of floor area plus one space per two employees	
(5) Eating or drinking establishment	One space per 100 s/ft. of customer access area	

**FINDING:** The applicant have indicated to staff via a phone conversation on October 25, 2022, that the proposal will include 20 off-street parking spaces for Phase 1. This is a reduction in two off-street parking spaces from what was presented at the first public hearing.

For the residential portion of the project the applicant is proposing 1.5 spaces per unit; a total of 15 spaces. The additional fives spaces will be utilized for the ground-floor commercial/retail spaces; included in the five spaces is one ADA space.

The LDC does not adequately address the parking requirement for mixed-uses. Further, the exact type of commercial/retail uses to lease space in the building are not known at this time. It's possible the commercial use could be more retail focused or service and office focused. It's because of these reasons, Staff suggest that Planning Commission review the parking proposal and determine if 20 off-street parking spaces are adequate for the proposed mixed-use development. Staff note that the applicant will be required to implement the urban street improvements along North Pioneer Street, which include on-street parking stalls. Staff find the applicant's proposal for 20 off-street parking spaces, with the inclusion of on-street parking available on North Shore Drive and Pioneer Street to be acceptable.

***Section 9.517 Streets. (a) Urban public street improvements including curbs, gutters and storm drainage are required for all land divisions and property development in the City of Lowell. Urban street improvements may be deferred by the City if there is not existing sidewalk or storm drain system to which connection can be made, conditional upon the responsible party agreeing to an irrevocable waiver of remonstrance to a future assessment at the time of construction of a sidewalk which is otherwise required to be constructed.***

**FINDING:** Urban street improvements including curbs, gutters and storm drainage are require for all property development in Lowell. Section 9.517 applies to the present proposal because the property fronts a portion North Pioneer Street. The portion of North Pioneer Street that fronts the property presently does not contain urban public street improvements (see image 4 below); urban street improvements, consistent with the Lowell Downtown Master Plan will be required.

The specific improvements required for this portion of North Pioneer Street are shown in Images 1-3 of this report, which are the adopted street section for North Pioneer Street. Urban street improvements, consistent with the Lowell Downtown Master Plan and as seen in images 1-3 in this report has been appropriately conditioned as **Condition of Approval #1.**



Image 3. Frontage of North Pioneer Street abutting the site. No urban street improvements currently exist.

3C; 3D - Street Section for 60 foot right-of-way (Pioneer Street)

Note: The 60-foot street section for Pioneer Street differs from other in Lowell because it is owned by Lane County, and the County requires a minimum 12 foot travel lane.

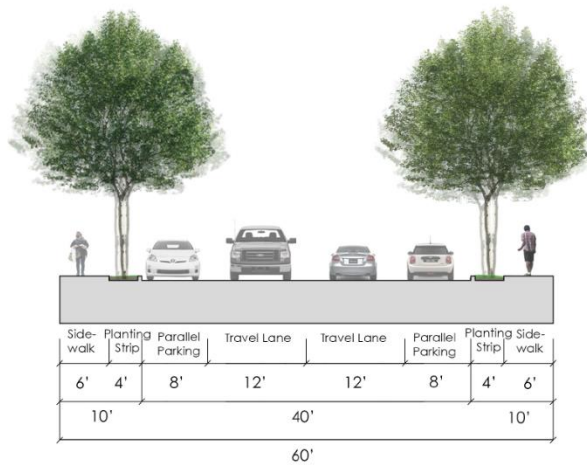


Image 4. North Pioneer Street details as adopted in the Lowell Downtown Master Plan.



*(b) The location and grade of streets shall be considered in their relation to existing and planned streets, topographical conditions, public convenience and safety, and to the proposed use of land to be served by the streets. The street system shall assure an adequate traffic circulation system with intersection angles, grades, tangents and curves appropriate for the traffic to be carried considering the terrain. The arrangement of streets shall either:*

*(1) Provide for the continuation or appropriate extension of existing principal streets in the surrounding area; or*

**FINDING:** Staff do not find subsection (1), above relevant to the proposal because North Pioneer Street is already existing and requires no continuation or extension.

*(2) Conform to a plan for the neighborhood approved or adopted by the City to meet a particular situation where topographical or other conditions make continuance or conformance to existing streets impractical.*

**FINDING:** Staff find the above provision of subsection (2), above relevant to the proposal and the urban street improvements planned for North Pioneer. While the arrangement of streets may not be relevant to the proposed development, the improvements as contained in a “*plan of the neighborhood approved or adopted by the City,*” are. North Pioneer Street has specific adopted improvements that are contained in a plan for the neighborhood. The “*plan*” being the *Lowell Downtown Master Plan* and the “*neighborhood*” being Downtown Lowell as encapsulated in the Regulating Plan. Staff further cite this provision as a reason why the City is requiring urban street improvements, consistent with the Lowell Downtown Master Plan, along the portion of North Pioneer that abuts the subject property.

**FINDING:** The provision contained in Section 9.517(b) (1-2) says the location and grade of streets shall be considered in their relation to existing and planned streets, topographic conditions, public convenience and safety, and to the proposed use of land to served by the streets. The provision further clarifies that the arrangement of streets shall either provide for the continuation or appropriate extension of existing principal streets in the surrounding area or conform to a plan for the neighborhood approved or adopted by the city to meet a particular situation where topographic or other conditions make continuance or conformance to existing streets impractical. Because the provision above may be less than clear, staff will attempt to break down the many parts of the provision and provide an analysis of each element and if appropriate, relate them to the proposed development.

***The location and grade of streets shall be considered in their relation to existing and planned:***

***Streets*** – The location and grade of streets are not contemplated with the proposed development. North Pioneer Street is an existing street with a known location and a certain grade.

**Topographical conditions** – Staff are not aware of any topographical conditions that would necessitate specific improvements to accommodate certain topographic conditions such as steep slopes.

**Public convenience and safety** – Staff find this particular provision to be particularly relevant to the proposed development and to the urban street improvements contemplated in the Downtown Master Plan for North Pioneer Street. Staff arrive at this conclusion because the portion of North Pioneer Street that abuts the subject property does not presently contain any urban public improvements to facilitate the movement of pedestrians from the right-of-way to the proposed mixed-use development. There are no sidewalks or planter strips to separate pedestrians from vehicular traffic on North Pioneer Street, thus bringing into question the safety aspect contemplated in the provision. A mixed-use development proposal that contains no urban public improvements, in which pedestrian interaction with the built environment hinges heavily on, is not in the convenience of the public. Public convenience and safety can be addressed with the condition of approval requiring urban street improvements along North Pioneer Street as seen in images 1-4 in this report.

**SECTION 9.518 SIDEWALKS.** *Public sidewalk improvements are required for all land divisions and property development in the City of Lowell. Sidewalks may be deferred by the City where future road or utility improvements will occur and on property in the rural fringe of the City where urban construction standards have not yet occurred. The property owner is obligated to provide the sidewalk when requested by the City or is obligated to pay their fair share if sidewalks are installed by the City at a later date. An irrevocable Waiver of Remonstrance shall be recorded with the property to guarantee compliance with this requirement.*

**FINDING:** Similar to the response for Section 9.517 Streets, above, the applicant is proposing development adjacent to the City right-of-way and thus, per Section 9.518, public sidewalks are required for all property development in Lowell. The specific sidewalk plans for North Pioneer Street are contained in this report as images 1-3 and are taken from the Lowell Downtown Master Plan. No immediate sidewalk improvements are required for North Shore Drive other than a new pedestrian sidewalk connection point from the existing sidewalk, across the bioswale, to the proposed ground-floor mixed use development and landscaping, including street trees.

**Condition of Approval #6:** Applicant shall construct a pedestrian sidewalk connection from North Shore Drive to the ground-floor commercial businesses of Phase 1. Sidewalk construction plans shall be submitted to the City Administrator for review and approval, prior to the issuance of building permits. Coordination of review and approval may be required between the City and Lane County Public Works.

**SECTION 9.519**                      **BIKEWAYS**

*Bikeways are required along Arterial and Major Collector streets. Currently the only Bikeway requirements are those required by the County as a part of the County owned*

***Major Collector streets within the City. Future requirements for Bikeways may be addressed at such time that a Transportation System Plan (TTSP) is completed for the City., but until specific Bikeway requirements are adopted, travel lanes of all streets that do not require Bikeways are approved for joint use with bicycles.***

**FINDING:** The Lowell Downtown Master Plan does call for a 5-foot-wide bike lane along the north side of North Shore Drive. However, at this time and with North Shore Drive in its current paved width, the addition of a 5-foot bike lane, in addition to on-street parking is not feasible. Lane County will not be requiring any immediate improvements along the frontage of North Shore outside of addressing drainage, the bioswale, landscaping, any removal of trees and the addition of a sidewalk connection point from the existing sidewalk to the ground-floor of the proposed mixed-uses. As development progresses in phases, Lane County and the City will re-evaluate the need for bike lanes and possible requirements from the developer or waivers of remonstrances. Criterion not applicable.

## **SECTION 9.520                      STORM DRAINAGE**

***Until completion of a Storm Drainage Master Plan for the City of Lowell, Section IV, of the Standards for Public Improvements and the following shall apply. In the event of a conflict, the following takes precedence.***

***(a) General Provisions. It is the obligation of the property owner to provide proper drainage and protect all runoff and drainage ways from disruption or contamination. On-site and off-site drainage improvements may be required. Property owners shall provide proper drainage and shall not direct drainage across another property except as a part of an approved drainage plan. Paving, roof drains and catch basin outflows may require detention ponds or cells and discharge permits. Maintaining proper drainage is a continuing obligation of the property owner. The City will approve a development request only where adequate provisions for storm and flood water run-off have been made as determined by the City. The storm water drainage system must be separate and independent of any sanitary sewerage system. Inlets should be provided so surface water is not carried across any intersection or allowed to flood any street. Surface water drainage patterns and proposed storm drainage must be shown on every development plan submitted for approval. All proposed drainage systems must be approved by the City as part of the review and approval process.***

***(g) Drainage Management Practices. Developments within the City must employ drainage management practices approved by the City. The City may limit the amount and rate of surface water run-off into receiving streams or drainage facilities by requiring the use of one or more of the following practices:***

- (1) Temporary ponding or detention of water to control rapid runoff;***
- (2) Permanent storage basins;***

- (3) *Minimization of impervious surfaces;*
- (4) *Emphasis on natural drainageways;*
- (5) *Prevention of water flowing from the development in an uncontrolled fashion;*

**FINDING:** On September 1, 2022, the applicant submitted additional evidence in the form of a Drainage Memo. The memo was drafted by Mr. Anthony J. Favreau, PE, of The Favreau Group. The memo states that the proposed impervious surface is approximately 10,000 square feet. The proposal will include a parking lot surface over an existing compacted gravel surface and a newly constructed mixed-use building. The applicant is proposing to utilize the existing 12” storm drain crossing North Shore Drive.

According to Mr. Favreau’s calculations the existing gravel area will produce a runoff of 0.20 cfs. The proposed impervious surfaces will produce a runoff of 0.36 cfs.

It is the opinion of Mr. Favreau that the runoff from the proposed impervious area can adequately be discharged to the existing 12” storm drain.

The drainage memo outlines the amount of impervious surfaces and the amount of runoff those surfaces will generate and a reasonable method to deal with that runoff. The Planning Commission should take the drainage memo into consideration when determining if the applicant has feasibly shown that stormwater drainage/runoff standards can be met by the applicant. If so, then a condition of approval delegating final review and approval of a full-detailed drainage study to the City Engineer is appropriate. It’s staff opinion that the drainage memo does address the feasibility staff are looking for so that a final drainage plan can be delegated to the City Engineer.

The applicant will be required to address drainage of the bioswale located between the curb of North Shore and the property line (see applicant’s illustrative site plan Sheet AS-0003, “culvert under to existing BIO swale.” Lane County will require this area to be addressed, in terms of drainage, as part of a Lane County Facility permit.

**Condition of Approval #7:** Prior to the issuance of building permits, the applicant shall submit to the City Administrator, or their designee, a final stormwater drainage plan. The plan is subject to revision, review and approval by the City Administrator, or their designee. The final stormwater drainage plan shall adhere to the standards of Section 9.520. Coordination of review and approval may be required between the City and Lane County Public Works.

**SECTION 9.527 GRADING**

***General grading shall conform to Lowell Ordinance 227, Section 2, Excavation and Grading Building Code, and the following standards unless engineered and approved by the City.***

***(a) Cut slopes shall not exceed one and one-half feet horizontally to one foot vertically.***

***(b) Fill slopes shall not exceed two feet horizontally to one foot vertically.***

***(c) The type and characteristics of imported fill soils shall be the same or compatible with the existing soils on the site.***

***(d) Fills for streets and building sites shall be engineered and approved by the City.***

***(e) All sites shall be graded to direct storm water to City storm sewers or to natural drainage ways.***

**FINDING:** The applicant has submitted a revised preliminary grading plan as seen on Sheet AS-002. The applicant has listed the grading standards on the plan itself. Staff find the preliminary plan submitted is sufficient to establish feasibility that grading standards can be met. Further, staff also cite evidence as to the site's slope characteristics. The site (seen below in Image 5) is relatively flat. The site does not contain any slopes in excess of 15%. Therefore, based on the revised preliminary grading plan and the fact that the site is flat, staff find it's feasible for the applicant to meet the grading standards of Section 9.527 and Ordinance 227, Section 2. A final grading plan can be delegated to the City Engineer for review and approval. This will be a condition of approval.



Image 5. Visual showing negligible slopes of the subject property.

**Condition of Approval #8:** Prior to the issuance of building permits, the applicant shall submit a final grading plan, in conformance with Section 9.527, to the City Administrator or their designee for review and approval.

**SECTION 9.528 LANDSCAPING**

*All yard setbacks and parking areas shall be landscaped in accordance with the following requirements:*

*(a) General Provisions.*

*(1) Landscaping shall primarily consist of ground cover, trees, shrubs or other living plants with sufficient irrigation to properly maintain all vegetation. Decorative design elements such as fountains, pools, benches, sculptures, planters, fences and similar elements may be placed within the area.*

**FINDING:** As seen on Sheet AS-003 and the Low Screen Landscape Sheet (L-2), the applicant is proposing landscaping throughout the site. The applicant has listed the landscaping approval standards on Sheet AS-003. The landscaping will consist of ground cover, trees, shrubs and other plants with sufficient irrigation to properly maintain vegetation. Staff find this is sufficient for feasibility so that a final landscape plan can be delegated to the City Administrator for final review and approval.

**Exceptions:** *Undeveloped properties or the undeveloped portion of large properties exceeding 4,000 square feet in area are exempt from the landscape requirements specified*

*herein provided the lot or area is maintained so weeds and wild vegetation does not adversely affect adjacent developed properties. Removal of noxious weeds and vegetation will be enforced through the City's Nuisance Ordinance.*

**FINDING:** The area associated with Phase 1 will be landscaped. Subsequent phases will also be required to be landscaped in accordance with the Lowell Development Code.

*(2) Provisions for landscaping, screening and maintenance are a continuing obligation of the property owner. All required landscaped areas shall be cleared of unwanted vegetation and weeds at least once a year prior to July. Dead landscape plantings shall be replaced by April of the following year.*

**FINDING:** Landscaping, screening and maintenance shall be a continuing obligation of the property owner. All required landscaped areas shall be cleared of unwanted vegetation and weeds at least once a year prior to July. Dead landscape plantings shall be replaced by April of the following year. This shall be a condition of approval.

**Condition of Approval #9:** All required landscaped areas shall be cleared of unwanted vegetation and weeds at least once a year prior to July. Dead landscape plantings shall be replaced by April of the following year.

*(3) Landscape plans for proposed new industrial, commercial or residential developments shall be included with the site plans submitted to the City for approval. Trees exceeding 10 inches in diameter, plantings and special site features shall be shown on all submitted plans and shall clearly indicate items proposed to be removed and those intended to be preserved.*

**FINDING:** As seen on Sheet AS-003 and the Low Screen Landscape Sheet (L-2), the applicant is proposing landscaping throughout the site. The applicant has listed the landscaping approval standards on Sheet AS-003. The landscaping will consist of ground cover, trees, shrubs and other plants with sufficient irrigation to properly maintain vegetation. In a phone conversation with the applicant's architect on October 25, 2022, staff were informed that several existing trees along the frontage of North Shore Drive would be impacted by the development. As such, the applicant is proposing to remove several trees along the frontage of North Shore. The trees will be replaced consistent with Policy 1.7 of the Downtown Master Plan. Staff find this is sufficient for feasibility so that a final landscape plan can be delegated to the City Administrator for final review and approval. A final landscaping plan, in conformance with Section 9.528, shall be submitted to the City Administrator or their designee, prior to the issuance of building permits.

**Condition of Approval #10:** Applicant shall submit a final and complete landscaping plan detailing all landscaping features for the entire site. Plan shall be reviewed by the City Administrator or their designee, prior to the issuance of building permits.

*(b) Yard Setbacks and Open Space.*

***(1) All required street facing exterior yard setbacks in each land use district and the entire open space of all commercial, and multiple-family dwelling sites exclusive of walks, drives, parking areas and buildings shall be landscaped and permanently maintained.***

**FINDING:** The subject property's eastern side yard faces North Pioneer Street. As seen on Sheet AS-003, landscaping is proposed to face North Pioneer Street. See Sheet AS-003. The side-yard of the site that faces North Pioneer Street will be landscaped as will the frontage along North Shore Drive. Staff note that the urban public improvements are required along North Pioneer Street. Those improvements will include landscaping and a planting strip.

***(2) Commercial and industrial developments abutting residential properties shall have their yard setbacks landscaped and/or fenced to protect the abutting residential properties.***

**FINDING:** The subject property abuts residential properties to the rear. As such, the rear yard setback shall include a landscape buffer. A condition of approval relating to this standard will be implemented below under the Fences section.

***(c) Fences:***

***(1) Residential fences, hedges and walls may be located within yard setbacks. Height is limited to 6 feet in required side, rear or interior yards, 3 feet in any required front yard or 4 feet if the top 1 foot of the fence is 75% open, and 3 feet in height in a Vision Clearance Area. Commercial or industrial properties may have 8-foot-high fences except in a street facing front yard setback.***

***(2) Materials. Residential fences and walls shall not be constructed of or contain any material which would do bodily harm such as electric, barbed or razor wire, broken glass, spikes, or any other hazardous or dangerous materials. Commercial or industrial properties may have barbed wire at the top of fences over 6 feet in height.***

***(3) Sight-obscuring fences, walls or landscaping may be required to screen objectionable activities as part of the City's review and approval process. Sight-obscuring means 75% opaque when viewed from any angle at a point 25 feet away. Vegetative materials must be evergreen species that meet this standard year-round within 3 years of planting.***

***(4) Maintenance. Fences shall be structurally maintained in a safe condition of repair and shall not lean over an adjoining property or sidewalk, have missing sections or slats, or broken supports.***

**FINDING:** There is an existing fence along the rear of the property. The applicant is proposing to add wave slates to make the fence sight-obscuring. A fence that is sight-obscuring is an acceptable method to screen objectionable uses and mitigate nuisances between the mixed-use development and the existing residential uses in the vicinity.



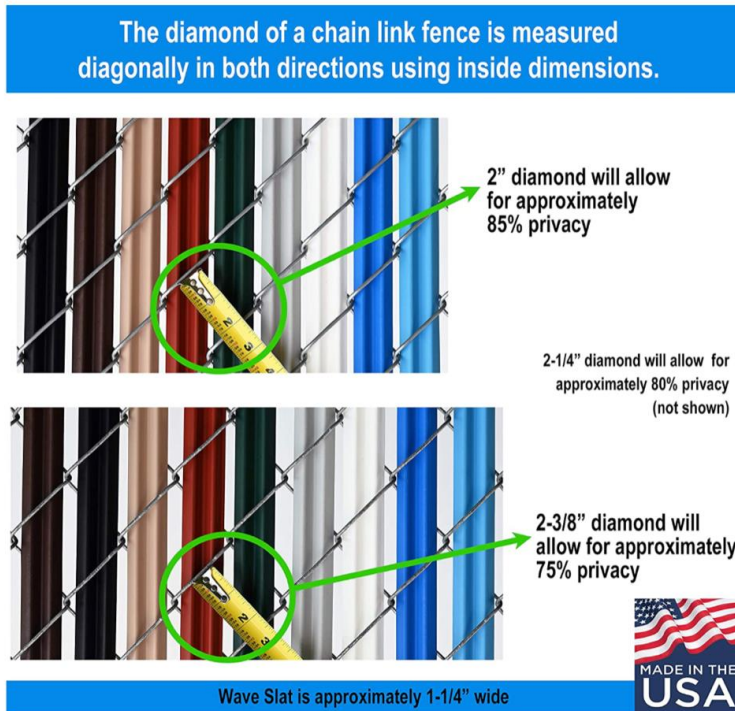


Image 6. Applicant's proposal to make the existing fence sight-obscuring. Image provided by applicant's architect.

**Condition of Approval #11:** Prior to the issuance of certificates of occupancy, the fence along the rear of the property line shall be made to be at least 75% opaque as proposed by the applicant.

**(d) Parking Areas:**

**(1) Parking lots shall be screened from abutting residential districts by a combination of fences, walls, and landscaping adequate to screen lights, provide privacy and separation for the abutting residential districts.**

**FINDING:** The proposed parking lot will be required to be screened consistent with the finding above and Section 9.528(c). Criterion addressed.

**(2) Parking lots shall have curbed landscaped islands and trees at the ends of parking rows to facilitate movement of traffic and to break large areas of parking surface. The minimum dimension of the landscaped area excluding the curbs shall be 3 feet and the landscaping shall be protected from vehicular damage by wheel guards.**

**FINDING:** As seen on Sheet AS-001, dated 10/20/2022, the parking lot contains one curbed landscape island at the end of the row of parking spaces associated with Phase 1. Another landscaped island is located near the entrance to the parking lot, adjacent to the first proposed off-street parking space. The minimum dimension of the landscaped area excluding the curbs shall be 3 feet and the landscaping shall be protected from vehicular damage by wheel guards. Criterion met.

***(3) Parking lots containing more than 20 parking spaces shall have a minimum of 5 percent of the area devoted to vehicular circulation and parking areas in landscaping and trees. Landscaping shall be evenly distributed throughout the parking lot and long rows of parking spaces shall be interrupted by landscaped islands. The 5 percent landscaping shall be within or abutting the parking area and shall be in addition to the required landscaped yard setbacks.***

**FINDING:** The applicant's architect has indicated to staff in a 10/25/2022 phone conversation that the number of off-street parking spaces, for Phase 1, has been reduced by two, for a total of 20. As such strict adherence to the 5% minimum is not required. However, as seen on Sheet AS-001, the applicant is proposing landscaped features within the parking lot. The area between the street and parking lot will contain landscaped features. In addition, there is one landscaped island located at the end of the row of parking spaces associated with Phase 1. To the extent that this standard applies, staff find it has been satisfied.

***(e) Service Facilities:***

***Garbage collection areas and service facilities located outside the building shall be screened from public view and landscaped.***

**FINDING:** As seen on Sheet AS-003, the applicant is proposing a recycling enclosure at the far western side of Phase 1 see "recycle enclosure" on site plan. The plans do not show how the recycling enclosure will be screened from public view and landscaped. This will be a condition of approval.

**Condition of Approval #12:** Prior to the issuance of building permits, the applicant shall submit plans to the City Administrator, for review and approval, detailing how the recycling enclosure will be screened from public view and landscaped.

#### ***SECTION 9.529 EXTERIOR LIGHTING.***

***Exterior lighting should be provided in parking lots and may be provided elsewhere. All exterior lighting shall be designed and installed to the following standards:***

***(a) Uplighting is prohibited. Externally lit signs, displays, building and aesthetic lighting must be lit from the top and shine downward. The only exception to this requirement is for lighting of a flagpole. The lighting must be shielded to prevent direct glare and/or light trespass. The lighting must also be contained to the target area.***

***(b) All exterior lights shall be designed, located, installed and directed in such a manner as to prevent glare across the property lines.***

***(c) All exterior building lighting for security or aesthetics will be full cut-off or shielded type, not allowing any upward distribution of light.***

*(d) For purposes of this subsection:*

*(1) “Glare” means light that causes annoyance, discomfort, or loss of visual performance and ability.*

*(2) “Uplighting” means any light source that distributes illumination above a 90-degree horizontal plane.*

*(e) Pre-existing non-conforming lighting may be required to be brought into compliance upon a determination by the City Administrator that such non-conforming lighting is a nuisance.*

**FINDING:** The applicant has addressed the feasibility of exterior lighting on Sheet AS-001, dated 10/20/2022. The applicant has included the exterior lighting standards on Sheet AS-001. Staff find this is sufficient to address feasibility so that a final exterior lighting plan can be delegated to the City Administrator for final review and approval. The applicant will be required to submit a final exterior lighting plan in accordance with Section 9.529 as a condition of approval. The final exterior lighting plan shall address and contain all of the elements and criteria as listed in Section 9.529. The exterior lighting plan shall be reviewed and approved, prior to the issuance of building permits. All exterior lighting shall be in-place and operative before the issuance of certificates of occupancy. This will be a condition of approval.

**Condition of Approval #13:** A final exterior lighting plan shall be submitted to the City Administrator or their designee for review and approval. The plan shall address and contain all the elements and criteria as listed in Section 9.529. The exterior lighting plan shall be reviewed and approved, prior to the issuance of building permits. All exterior lighting shall be in-place and operative before the issuance of certificates of occupancy.

#### **SECTION 9.805 IMPROVEMENTS AGREEMENT**

*Before City final approval of a development, site plan or land division, the developer or land divider shall file with the City an agreement between developer or land divider and the City, specifying the period within which required improvements and repairs shall be completed and providing that, if the work is not completed within the period specified, the City may complete the work and recover the full cost and expense, together with court costs and attorney fees necessary to collect said amounts from the developer or land divider. The agreement shall also provide for reimbursement of the City's cost of inspection in accordance with Section 9.801 (f).*

#### **SECTION 9.806. SECURITY**

*(a) The developer or land divider shall file with the agreement, to assure full and faithful performance thereof, one of the following:*

*(1) A surety or performance bond executed by a surety company authorized to transact business in the State of Oregon in a form approved by the City Attorney; or*

*(2) A personal bond co-signed by at least one additional person together with evidence of financial responsibility and resources of those signing the bond*

*sufficient to provide reasonable assurance of ability to proceed in accordance with the agreement to the satisfaction of the City Council; or*  
(3) *A cash or negotiable security deposit.*

(b) *Such assurance of full and faithful performance shall be for a sum approved by the City as sufficient to cover the cost of the improvements and repairs, including related engineering and incidental expenses, and to cover the cost of City inspections and other costs.*

(c) *Prior to acceptance of required public improvements, the developer or land divider shall file one of the above listed assurances with the City, in an amount equal to 20% of actual construction costs, as a warranty towards defects in materials and workmanship identified for a period of no less than one year after City acceptance of the public improvements. The City may agree to a longer warranty period in lieu of the above required assurances.*

**FINDING:** Because there are urban public improvements involved which will be constructed within the City's right-of-way, specifically, the urban improvements along the frontage of North Pioneer Street, an improvement agreement for said improvements shall be entered into between the applicant/developer and City. A surety or performance bond shall also be issued for the public improvements. The public improvements shall be conducted under the auspices of Section 9.801, Improvement Procedures.

**Condition of Approval#14:** Prior to the issuance of certificates of occupancy, the applicant and the City shall enter into an improvement agreement for the required public improvements and connections to public facilities involved with development of Phase 1. The public improvements shall be conducted in accordance with Section 9.801, Improvement Procedures.

## **6. RECOMMENDATION**

Staff recommend the Planning Commission **approve** the requested Site Plan Review for Phase 1, subject to the recommended findings and conditions of approval.

## **7. INFORMATIONAL ITEM**

Development proposals that disturb one or more acres of land shall first obtain, a NPDES permit prior to the commencement of any earth-disturbance activities.

Coordination and review of various technical plans and permits may be required between the developer, the City of Lowell and Lane County Public Works as the development involves a Lane County roadway facility.

Applicant is advised that public works facilities permit may be required to perform work with the right-of-way in the City of Lowell and on Lane County facilities. Applicant is advised to work with the Public Works Director of the City of Lowell and Becky Taylor with Lane County

Transportation and Public Works.

Max Baker, Public Works  
541-937-2776  
mbaker@ci.lowell.or.us

Becky Taylor, Lane County  
becky.taylor@lanecountyor.gov

## **8. CONDITIONS OF APPROVAL**

**Condition of Approval #1:** Applicant shall submit plans for review and approval by the City Administrator or their designee for the construction of urban street improvements along the frontage of North Pioneer Street, consistent with the Lowell Downtown Master Plan to include a 6' sidewalk, 4' planting strip, 8' parallel parking stall, and street trees to facilitate the movement of pedestrians from North Shore to Phase 1 of the proposed development. The plans shall be approved, before the issuance of building permits.

**Condition of Approval #2:** Prior to the issuance of building permits, the applicant shall submit to the City Administrator or their designee, for review and approval, a final site plan detailing all exterior lightings in conformance with Section 9.529.

**Condition of Approval #3:** Prior to the issuance of building permits, the applicant shall submit engineering plans for the extension and construction of water and sewer lines to the City Engineer and Public Works for review and approval.

**Condition of Approval #4:** Prior to the issuance of building permits, applicant shall submit FDC fire suppression systems plans, detailed enough to show the location or specifications of the fire suppression system. Plans shall be reviewed by the City Administrator or their designee, with review and comment by the Fire Chief or State Fire Marshall, if necessary.

**Condition of Approval #5:** Deciduous canopy trees shall be placed at regular intervals, approximately 25' in the space between the curb and the sidewalk. Street trees shall align with local landscape standards and should be placed a minimum of 10' from fire hydrants and 20' from stop signs. The areas applicable to this policy are the frontage along North Shore Drive and the frontage along North Pioneer Street. Applicant shall submit site development plans that show placement of street trees in accordance with Policy 1.7, prior to the issuance of building permits. Street tree removal and planting along North Shore Drive will be controlled by Lane County Public Works through a Facility permit. Street trees shall be in-place prior to the issuance of certificates of occupancy.

**Condition of Approval #6:** Applicant shall construct a pedestrian sidewalk connection from North Shore Drive to the ground-floor commercial businesses of Phase 1. Sidewalk construction plans shall be submitted to the City Administrator for review and approval, prior to the issuance of building permits. Coordination of review and approval may be required between the City and Lane County Public Works.

**Condition of Approval #7:** Prior to the issuance of building permits, the applicant shall submit to the City Administrator, or their designee, a final stormwater drainage plan. The plan is subject to revision, review and approval by the City Administrator, or their designee. The final stormwater drainage plan shall adhere to the standards of Section 9.520. Coordination of review and approval may be required between the City and Lane County Public Works.

**Condition of Approval #8:** Prior to the issuance of building permits, the applicant shall submit a final grading plan, in conformance with Section 9.527, to the City Administrator or their designee for review and approval.

**Condition of Approval #9:** All required landscaped areas shall be cleared of unwanted vegetation and weeds at least once a year prior to July. Dead landscape plantings shall be replaced by April of the following year.

**Condition of Approval #10:** Applicant shall submit a final and complete landscaping plan detailing all landscaping features for the entire site. Plan shall be reviewed by the City Administrator or their designee, prior to the issuance of building permits.

**Condition of Approval #11:** Prior to the issuance of certificates of occupancy, the fence along the rear of the property line shall be made to be at least 75% opaque as proposed by the applicant.

**Condition of Approval #12:** Prior to the issuance of building permits, the applicant shall submit plans to the City Administrator, for review and approval, detailing how the recycling enclosure will be screened from public view and landscaped.

**Condition of Approval #13:** A final exterior lighting plan shall be submitted to the City Administrator or their designee for review and approval. The plan shall address and contain all the elements and criteria as listed in Section 9.529. The exterior lighting plan shall be reviewed and approved, prior to the issuance of building permits. All exterior lighting shall be in-place and operative before the issuance of certificates of occupancy.

**Condition of Approval #14:** Prior to the issuance of certificates of occupancy, the applicant and the City shall enter into an improvement agreement for the required public improvements and connections to public facilities involved with development of Phase 1. The public improvements shall be conducted in accordance with Section 9.801, Improvement Procedures.

**Condition of Approval #15:** Applicant shall be responsible for charges incurred as a result of technical engineering review of plans as part of the building permit and construction review phase of the project.

## **9. ATTACHMENTS**

Attachment A: Applicant's application

Attachment B: Supplemental materials submitted by applicant (including Planning Response Letter)

Attachment C: Notice

Attachment D: Completeness letters

Attachment E: City Engineer comments (from this application and the previous application)

Attachment F: Lane County Transportation comment (from this application and the previous application)

Attachment G: Public Works Director's comments

Materials submitted by the applicant after first Planning Commission hearing

Attachment H: North Shore Cover Page, submitted September 13, 2022

Attachment I: North Shore Parking, submitted September 13, 2022

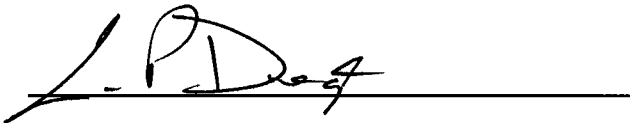
Attachment J: North Shore, Grading Plan, submitted October 20, 2022

Attachment K: One North Shore Development Plan, submitted October 19, 2022

Attachment L: One North Shore Grading Plan, submitted October 18, 2022

**These FINDINGS accepted a basis for approval with conditions.**

Signed this 7 day of **November 2022**



Mr. Lon Dragt, Chair, Lowell Planning Commission