



Pelham

A path apart.

NOTICE

SPECIAL CITY COUNCIL MEETING AND SPECIAL WORK SESSION

The Pelham City Council will hold a special city council meeting and special work session at Pelham City Hall on Monday, April 24, 2023.

Special City Council Meeting – Council Chambers

Monday, April 24, 2023 at 4:00 p.m.

- Consideration of a Second Amendment to the Purchase & Sale Agreement and First Amendment for the acquisition and development of vacant, city-owned real property between HES Investments, LLC and the City of Pelham.
- Other business which may come before the City Council.

Special Work Session – Council Conference Room

Monday, April 24, 2023 at 4:15 p.m.

- Conduct interviews to fill the unexpired term of Place No. 2 on the Pelham City Council.
- Other business which may come before the City Council.

Tom Seale

Tom Seale, City Clerk/Treasurer

Posted: April 18, 2023

THE SPECIAL CITY COUNCIL MEETING AND SPECIAL WORK SESSION
ARE OPEN TO THE PUBLIC BUT ARE NOT A PUBLIC HEARING



CITY COUNCIL MEETING AGENDA

Pelham City Hall – Council Chambers

April 24, 2023 – 4:00 p.m.

SPECIAL MEETING

BY GENERAL CONSENT OF THE COUNCIL, AGENDA ITEMS MAY BE ADDED, REMOVED OR CONSIDERED OUT OF ORDER

Proper notice of the special scheduled meeting of the Pelham City Council was given in advance of such public meeting and the notice remained posted throughout the scheduled meeting.

- A. Call to Order
- B. Invocation
- C. Pledge of Allegiance
- D. Record of Attendance
- E. Consent Agenda

A consent agenda is presented by the presiding officer at the beginning of a council meeting. Items presented on the consent agenda are considered routine and/or non-controversial and are organized apart from the rest of the agenda and are adopted by general consent and vote by the city council without debate. Items may be removed from the consent agenda on the request of any one member. Removed items may be taken up either immediately after the consent agenda is approved or placed later on the agenda at the discretion of the presiding officer and City Council.

- 1. Approval of the April 24, 2023 City Council Agenda
 - 2. **Resolution 2023-04-24-01** for consideration to approve a Second Amendment to the Purchase & Sale Agreement and First Amendment for the acquisition and development of vacant city-owned real property between HCI Pelham Central LLC and the City of Pelham previously approved by Resolution 2022-06-27-06 and Resolution 2022-12-19-05 to convey real property to HCI Pelham Central LLC located along Pelham Parkway
- F. Public Hearing(s) – None
 - G. Mayor's Report/Comments – None
 - H. Proclamation(s) and Resolution(s) by the Mayor and Others – None

- I. Report of the City Manager – None
- J. Report of the City Attorney – None
- K. Request(s) to Address the Council – None
- L. Old Business / Resolutions / Ordinances / Orders and Other Business – None
- M. New Business / Resolutions / Ordinances / Orders and Other Business – None
- N. Public Comments
- O. City Council Comments – None
- P. Public Announcements – None
- Q. Adjournment

THE COUNCIL MEETING IS OPEN TO THE PUBLIC BUT IS NOT A PUBLIC HEARING

RESOLUTION 2023-04-24-01

Authorizing Amendment No. 2 to the Purchase & Sales Agreement Conveying Real Property to HCI Pelham Central LLC located along Pelham Parkway

WHEREAS, the City of Pelham adopted Resolution 2022-06-27-07 authorizing the execution of a Purchase and Sales Agreement (Agreement) and Resolution 2022-12-19-05 authorizing the amending of the Agreement conveying real property to HES Investments LLC located along Pelham Parkway, more specifically identified as approximately 3.29 +/- acres and as a portion of parcel 13-1-12-3-001-010.003, Pelham, Shelby County, Alabama; and

WHEREAS, on April 4, 2023 HES Investments LLC requested the City Council consider a 150-day extension to the current Due Diligence Period ending Friday, September 29, 2023, a reduction of the purchase price from \$1 million to \$350,000.00, and the new purchase entity, HCI Pelham Central LLC.

NOW, THEREFORE, BE IT RESOLVED, subject to the contingencies set forth in the Purchase & Sales Agreement and this Resolution and other contingencies relating to obtaining other necessary approvals, the City Council of the City of Pelham hereby approves the amendment to the Purchase & Sales Agreement and further authorizes the undertaking of all obligations set forth in said Purchase & Sales Agreement as evidenced by Exhibit A.

BE IT FURTHER RESOLVED by the Pelham City Council does hereby authorize the Mayor, on behalf of the city, to take all actions necessary to execute said amendment to the Purchase and Sales Agreement in order to further the process to convey, transfer to, execute and deliver and, where appropriate, cause to be filed or recorded of record, any and all documents on behalf of the City of Pelham as may be necessary or proper for the purpose of conveying, executing and delivering title from the City of Pelham to HCI Pelham Central LLC pursuant to the terms and conditions of the Purchase & Sales Agreement set forth in Amendment No. 1 and Amendment No. 2 plus any and all required closing costs and related expenses.

BE IT FURTHER RESOLVED the sale of property is contingent upon the Pelham City Council declaring said Seller's property as surplus and no longer need for municipal or public use through the adoption of an ordinance specifying said terms and conditions.

BE IT FURTHER RESOLVED the Purchase & Sales Agreement, all amendments and all Attachments shall become a permanent part of this Resolution.

THEREUPON _____, a councilmember moved and _____, a councilmember seconded the motion that Resolution 2023-04-24-01 be given vote. The roll call vote on said motion was as follows:

Maurice Mercer
Council President _____

David Coram
Council Member _____

Rick Wash
Council Member _____

Mildred Lanier
Council Member _____

Resolution 2023-04-24-01 passed by majority vote of all members of the Council and the Council President declared the same passed and adopted.

ADOPTED this 24th day of April 2023.

Maurice Mercer, President of the Council

[SEAL]

ATTEST

Tom Seale, MMC, City Clerk/Treasurer

I, the undersigned City Clerk/Treasurer of the City of Pelham, Alabama, do hereby certify that the above and foregoing is a true copy of a resolution lawfully passed and adopted by the City Council of the City named herein, at a special meeting of such Council held on the 24th day of April 2023 and that such Resolution is on file in the office of the City Clerk/Treasurer and that no action has been taken to rescind or modify said Resolution.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed the official seal of the City on this 24th day of April 2023.

Tom Seale, MMC, City Clerk/Treasurer

[SEAL]



Pelham

M E M O R A N D U M

To: Gretchen DiFante, City Manager
From: Michael Simon, Economic Development Director
Date: April 10, 2023
Attachments: Attachment I- Developer Provided Documentation
Subject: **Request for a Second Amendment to the Purchase & Sale Agreement between the City and HES Investments, LLC**

On April 4, 2023, the City received a request from HES Investments, LLC, requesting the Council's consideration for a Second Amendment to the original Purchase & Development Agreement and First Amendment for the acquisition and development of the City-owned vacant parcel located in front of the Public Library (see Attachment I). The items being requested under the Second are as follows:

Timing: Existing First Amendment Inspection Period: 120 days, expires on May 2, 2023.

Requested Second Amendment to the Inspection Period: HES is requesting an additional period for not less than 150-days or until such time as civil engineering plans ("Civil Plans") are approved by the City and ALDOT provides permitting for the proposed right-in, right-out onto Highway 31, and a Development Agreement & Project Declarations are agreed to with the City. Civil Plans, the proposed Development Agreement, and the Project Declarations are to be presented to the city within 75-days of this Amendment.

Purchase Price: HES is requesting the Council's consideration in a reduction of the Purchase Price from One Million Dollars (\$1,000,000) to Three Hundred Fifty Thousand Dollars (\$350,000) based upon the announcement of desired retailers moving to the Project, mutual considerations on the design of the Project, and consideration of identified utility easements and need for a detention feature.

Purchaser: HES is requesting an amendment to the name of the entity purchasing the property to the new purchaser entity, **HCI Pelham Central LLC** which is currently controlled by the same ownership as HES Investments LLC.

Item Background:

On December 20, 2022, the City Council approved a request made by HES Investments, LLC, to provide a one hundred twenty (120) day extension to the Agreement's initial one hundred eighty (180) day Inspection Period without financial consideration having to be paid. Under the terms of the Purchase and Sale Agreement, Purchaser may extend the Inspection Period an additional thirty (30) days, if and only if, Purchaser has not received permits needed from the Alabama Department of Transportation or any other governmental agency to construct the Right In/Right Out onto the Property from U.S. Highway 31 and/or construction permitting for at least two of the Purchaser's proposed buildings. In the event Purchaser exercises the right to extend the Inspection Period as set forth herein, Purchaser must make an "additional Earnest Money Deposit of Ten Thousand and no/100 Dollars (\$10,000.00)".

On June 20, 2022, the City Council approved entering into a Purchase & Development Agreement with HES Investments, LLC, for the City-owned vacant parcel located in front of the Public Library (see Attachment II). Key terms in the Agreement are as follows:

Project Description: an upper-scale, mixed-use development consisting of at least 7,500 square feet of restaurant and/or retail space, and a portion of the Property will be designed for direct public benefit and improvement.



Purchase Price: \$1 million

Condition of Closing: During the Inspection Period, the Seller and Purchaser shall work in good faith to memorialize terms and provisions respecting the development of improvements on the Property including, without limitation, provisions for (i) the City to receive and approve (using reasonable judgment) the plans and specifications and drawings respecting the Development, including facade renderings, elevation standards, dimensions and other physical attributes of each component of the Development, and a rendering of the overall Development (including front, back and entrance portions to the Development), (ii) provisions and agreements respecting the rights of the City in the event the Development does not contain at least 7,500 square feet of space of retail and restaurant use, and (iii) provisions for the Seller to make payments to the Purchaser as respects certain public infrastructure improvements to be made in connection with the Development (the "Development Agreement").

Please consider this for placement on the Council's Workshop and Regular meeting agenda at the earliest convenient time.

HES Investments LLC

Re: Pelham Park Plaza Development,
Amendment to Purchase Agreement for 3.29 Acre Library Plaza Property

Dear Pelham City Council:

After diligent cooperation with City staff, we have now reached mutual agreement on an overall conceptual site layout plan. In the process, we have also entered negotiations with some very desirable tenants for the project. These tenants should provide great energy to the proposed Pelham Park Plaza. All of this was necessary to accomplish prior to finalizing the civil design, which is now underway. Once design work is complete, we'll need adequate time to secure all permits, which includes a permit from ALDOT for the right-in-right-out access on Highway 31S. For these reasons, we are requesting an extension to the Inspection Period under the Agreement as detailed in the attached Amendment #2.

We're also requesting a modification of the sales price. This is required to attract the type of tenants that the city (and we) would like to fill out the project. Currently, we are finalizing contracts with Ellianos Coffee, Edgar's Bakery and Waldo's Chicken & Beer as anchors. This is a dynamite line-up that should attract other superior businesses and drive great energy to this area. To entice these tenants, we've needed to offer pricing or development concessions that make the economics unworkable given our current sales price with the city. The physical constraints of the property have also turned out to be more significant than originally anticipated. Specifically, there are many more easements to contend with, than initially known, reducing the amount of usable property being purchased. These constraints, together with the need for a master detention pond system, a divided entry road, and other desired features, drive the costs of the project higher while financing has also gotten more expensive, thus the request for reduction.

With these concessions, we now believe a mutually agreeable plan of attack would be in place for the long-term success of this Plaza.

Thank you for your consideration.

Sincerely,

W. Jordy Henson
President, HES Investments

Amendment #2
TO AGREEMENT OF PURCHASE AND SALE

Pelham Parkway Site

THIS AMENDMENT #2 TO AGREEMENT OF PURCHASE AND SALE (this “**Amendment**”) is made and entered into this ____th day of April, 2023, by and between **City of Pelham, Alabama**, an Alabama municipality with Shelby County, Alabama (“**Seller**”), and **HES Investments LLC**, an Alabama limited liability company, and/or its permitted assigns (“**Purchaser**” and together with Seller, the “**Parties**”). All terms defined in the Agreement shall have the same meaning when used in this Amendment.

RECITALS:

A. On June 27, 2022, Seller and Purchaser entered into that certain AGREEMENT OF PURCHASE AND SALE (the “**Agreement**”) for the purchase and sale of that certain 3.29 acre outparcel and improvements thereon, if any, located on Pelham Parkway adjacent to the Pelham Library in Pelham, Shelby County, Alabama (the “**Property**”). The Agreement was modified by that certain Amendment #1 to the Agreement dated December 19, 2022, which extended the deadline for the Initial Inspection Period, along with all dates and deadlines thereafter.

B. Seller and Purchaser desire to further amend the Agreement, as more fully set forth below.

AGREEMENT

For and in consideration of TEN AND NO/100 DOLLARS (\$10.00), and other good and valuable consideration, the receipt, adequacy and sufficiency of which are hereby acknowledged, the parties hereby agree as follows:

1. Timing. Seller and Purchaser agree to extend the Initial Inspection Period for not less than 150-days or until such time as civil engineering plans (“**Civil Plans**”) are approved by the City and ALDOT provides permitting for the proposed right-in, right-out onto Highway 31, and a Development Agreement & Project Declarations are agreed to with the City. Civil Plans, the proposed Development Agreement, and the Project Declarations to be presented to the city within 75-days of this Amendment.

2. Purchase Price. The Parties agree to a reduction of the Purchase Price to Three Hundred Fifty Thousand Dollars (\$350,000.00) based upon the announcement of desired retailers moving to the Project, mutual considerations on the design of the Project, and consideration of identified utility easements and need for a detention feature.

3. Purchaser. The new purchaser entity is HCI Pelham Central LLC which is currently controlled by the same ownership as HES Investments LLC.

All other terms and conditions of the Agreement remain as detailed therein.

[Signatures on Next Page]

IN WITNESS WHEREOF, the parties hereto set their respective hands on the day and year indicated below.

SELLER:

CITY OF PELHAM, ALABAMA

By: GARY W. WATERS

Its: MAYOR

Date: _____

PURCHASER:

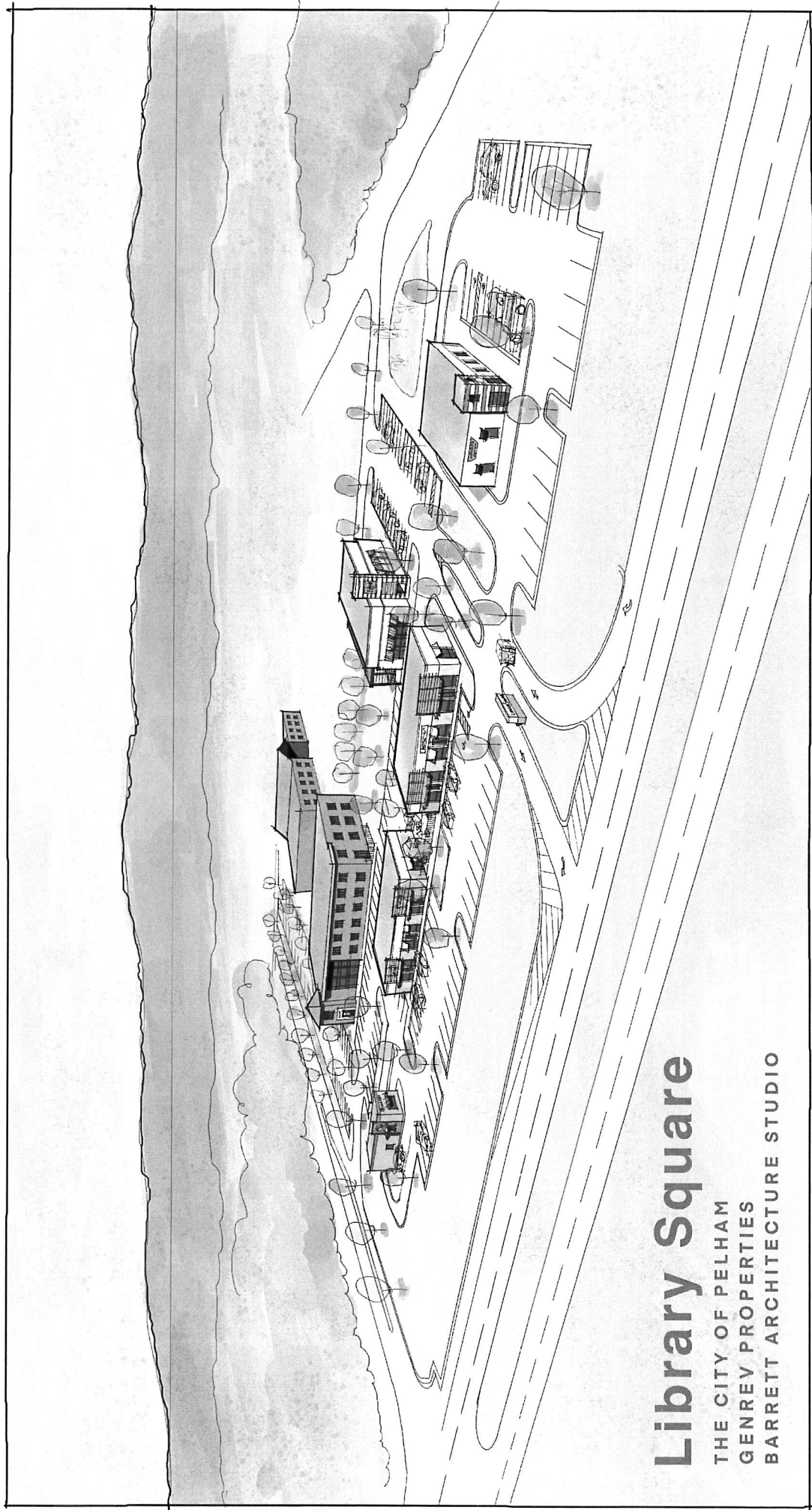
HES INVESTMENTS, LLC

By: _____

W. JORDY HENSON

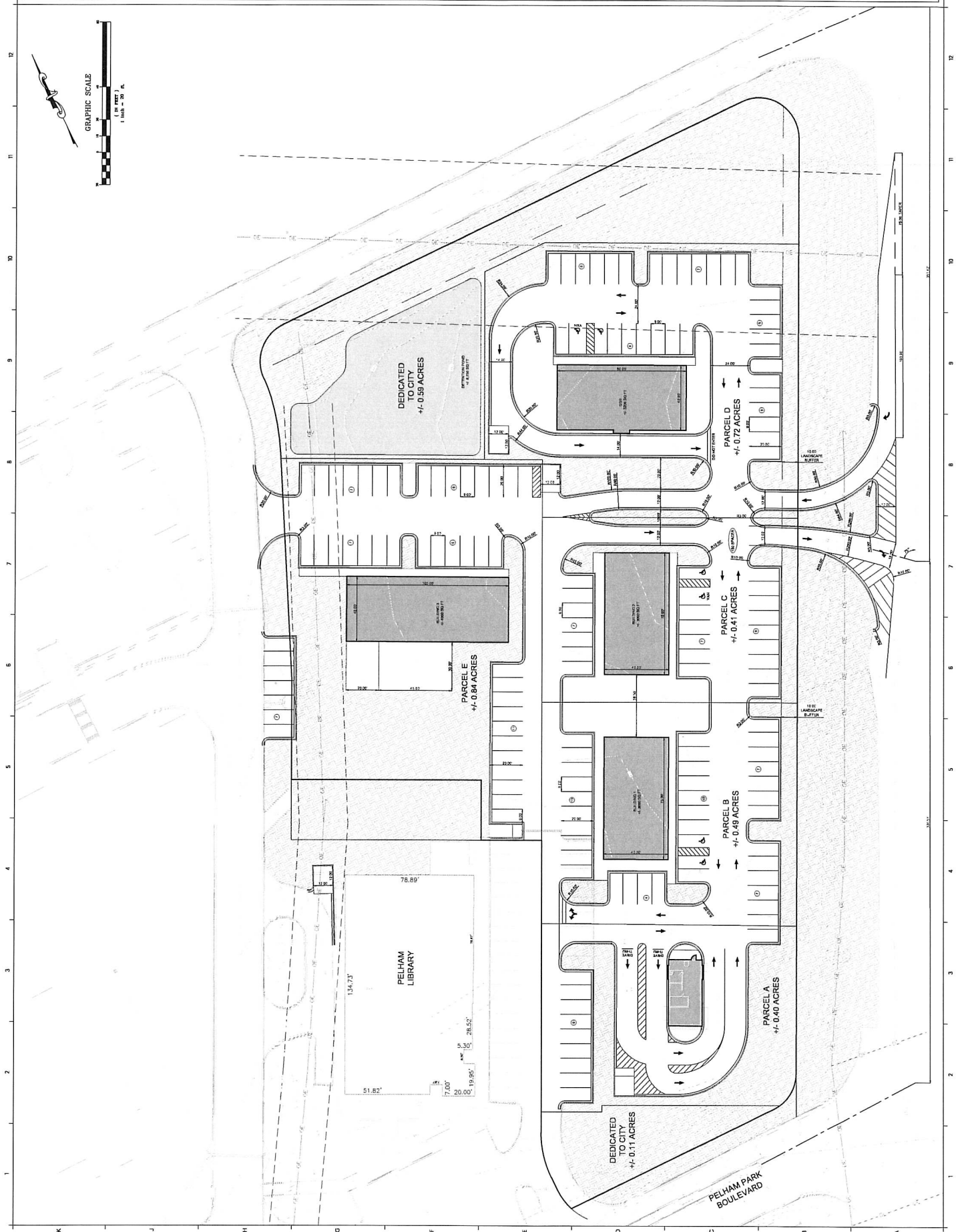
Its: Managing Member

Date: _____



Library Square

THE CITY OF PELHAM
GENREV PROPERTIES
BARRETT ARCHITECTURE STUDIO





CITY COUNCIL WORK SESSION AGENDA

SPECIAL WORK SESSION

Pelham City Hall – Council Conference Room

April 24, 2023 – 4:15 p.m.

**BY GENERAL CONSENT OF THE COUNCIL, AGENDA ITEMS
MAY BE ADDED, REMOVED OR CONSIDERED OUT OF ORDER**

Proper notice of the special work session of the Pelham City Council was given in advance of such public meeting and the notice remained posted throughout the scheduled meeting.

- A. Call to Order
- B. Record of Attendance
- C. Old Business – None
- D. New Business
 - 1. Interviews – Vacancy Pelham City Council Place No. 2
 - A. Rhett Barnett
 - B. Darius Foster
 - C. Ron Griggs
 - D. Tomeka Wilson
 - E. Jeff Zissette
 - F. Chad Leverett
- E. Adjournment

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