

Welcome and Call to Order by Mayor O. Stanhope Anthony III

Invocation

Pledge of Allegiance

A. Approval of Agenda

Discussion and revision of the proposed agenda, including consent agenda; adoption of an agenda.

- 1) Motion to adopt the agenda as proposed or amended

B. Public Comment:

1

In accordance with City Council's policy, public comment is only taken at the second regular meeting each month. Any citizen who wishes to address Council must register with the City Clerk prior to 6:00 p.m. on the meeting night. The Mayor will call upon each individual during this portion of the meeting and will allow three (3) minutes to speak.

C. Public Hearing:

- 1) Consideration of a proposed ordinance amending the zoning map of the City of Shelby, North Carolina: Ordinance No. 26-2020 2

D. Consent Agenda:

Prior to approval and adoption of the agenda, a Council Member may move an item from the Consent Agenda to the regular agenda. Items remaining on the Consent Agenda will be considered collectively through a single motion and vote.

- 1) Approval of the Minutes of the Regular Meeting of August 3, 2020 14
- 2) Approval of a resolution authorizing termination of lease agreements: Resolution No. 37-2020 22
- 3) Approval of a resolution awarding the contract for the City of Shelby Stormwater Infrastructure Assistance Program Project at 110 Shady Ridge Lane in Shelby, North Carolina: Resolution No. 38-2020 25

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|---|----|
| 4) Approval of a Notice of Cancellation in the Regular Meeting Schedule of Shelby City Council | 41 |
| E. Unfinished Business: None | 43 |
| F. New Business: None | 43 |
| G. City Manager's Report | 44 |
| H. Council Announcements and Remarks | 44 |
| I. Adjournment: | |
| <i>To adjourn a meeting of City Council, a majority of the Council Members must vote for a motion to adjourn.</i> | |
| 1) Motion to adjourn | 44 |

City of Shelby
Agenda Item Summary
August 17, 2020
(via electronic meeting)

B. Public Comment:

In accordance with City Council's policy, public comment is only taken at the second regular meeting each month. Any citizen who wishes to address Council must register with the City Clerk prior to 6:00 p.m. on the meeting night. The Mayor will call upon each individual during this portion of the meeting and will allow three (3) minutes to speak.

City of Shelby
Agenda Item Summary
August 17, 2020
(via electronic meeting)

C. Public Hearings:

Agenda Item: Legislative Hearing Item C-1

- 1) Consideration of a proposed ordinance amending the zoning map of the City of Shelby, North Carolina: Ordinance No. 26-2020

(Presenting, Walter Scharer, Planning and Development Services Director)

Summary of Available Information:

- Memorandum dated August 12, 2020 from Walter Scharer, Planning Director to Rick Howell, City Manager
 - General Application
 - Staff Report including location, zoning and area land use maps
 - Certified Recommendation
 - Planning and Zoning Board Minutes
 - Notice of Public Hearing
 - Ordinance No. 26-2020
-

City Manager's Recommendation / Comments

This time is scheduled on the agenda for City Council to conduct the required public hearing in accordance with the NC General Statute 160A-364. Following the conclusion of the hearing the Council may not immediately act on the item under consideration. Under a recently adopted provision (S.L. 2020-3, SB 704) of the NC General Statutes the City Council may not act on the subject matter following the close of the public hearing. It must receive public comment on the issue at hand for at least 24 hours following the close of the hearing. Consideration of the adoption of Ordinance No. 26-2020 may take place at your next regularly scheduled meeting to be held on September 21, 2020.

The following excerpt from the NC General Statutes is provided as a reminder as to the statutory guidance provided to Council when considering changes in zoning and development regulations.

§ 160A-383. Purposes in view.

Zoning regulations shall be made in accordance with a comprehensive plan. When adopting or rejecting any zoning amendment, the governing board shall also approve a statement describing whether its action is consistent with an adopted comprehensive plan and any other officially adopted plan that is applicable, and briefly explaining why the board considers the action taken to be reasonable and in the public interest. That statement is not subject to judicial review.

Ordinance No. 26-2020 will be placed on the City Council agenda of Monday, September 21, 2020 for consideration under old business. Council may take action at that time.



Memorandum

To: Rick Howell - City Manager
From: Walter Scharer – Planning Director
Date: August 12, 2020
Subject: Requested zoning map amendment from R20 to R6-CU at Wease Drive

Executive Summary of Issue – Background

Eric Little is proposing a zoning change on this property in order to construct a Group Home.

Review and Comments

The Comprehensive Land Use Plan for this area designates the site as Low Density Residential.

Recommendation

This proposed zoning map amendment is inconsistent with the Comprehensive Land Use Plan. The Planning and Zoning Board recommends this proposed zoning amendment due to the property's proximity to the Hickory Creek sewer line.

Please schedule a legislative public hearing for this proposed zoning amendment at the next City Council meeting on August 17, 2020.

Due to the North Carolina COVID law, when City Council holds a virtual meeting with a public hearing, action may not be taken on immediately. Public comment is required to be accepted at a minimum of 24 hours after the scheduled meeting. Although, this is a Conditional Use Zoning Map Amendment only the legislative hearing for this proposal will take place on August 17, 2020 City Council may take action at the next available City Council meeting. If the zoning map amendment is approved City Council may then proceed with the Quasi-Judicial Public Hearing for the proposed use associated with this Conditional Use Map Amendment. Approval of the Zoning Map Amendment does not approve of the Conditional Use, this may only take place following a Quasi-Judicial Public Hearing.

Attachments: Application, Staff Report, Zoning Map, Notice of Public Hearing, Planning and Zoning Board July 16, 2020 minutes, Certified P&Z Recommendation, and Ordinance



City of Shelby
Planning and Development Services Department

General Application

Address of Subject Property:

22 acres on Wease Drive (28152)

Applicant(s) Name: Eric Little

Address: 5936 Monroe Road, Charlotte, NC 28212

Email: Eric.Little@LBJcpa.com

Phone: 704-458-7189

Owner(s) Name: Gilkey Properties, LLC

Email: 2250 US Hwy 221 N, Rutherfordton, NC 28139

Phone:

Relationship to Property: Owner Developer, Contractor, etc. Other: Future Owner

Request for (Check all that apply):

- Annexation (Contiguous & Satellite)
- Change in Tenant/Building Use
- Site Plan Review & Zoning Permit
- Street Name Change
- Street/ROW Closing
- Conditional Use Permit or Special Use Permit
- UDO Text Amendment
- Zoning Map Amendment
- Conditional Use Map Amendment
- Zoning Permit or Home Occupation Permit

Project Information (Fill in applicable information):

Parcel Number: 7925, 27924 and 27933

Proposed Zoning: Multi-Family

Proposed Land Use: Multi-Family

Previous Use: Raw Land

Approx. Building Sq. Ft.: 13,000

Approx. Project Acreage: 4 acres

Business Name: Horizons Kids LLC

Construction Sq. Ft.: 13,000

Valuation: \$2,500,000

Provide a detailed description of the proposed project. Attach additional pages or documentation if necessary.

We are looking to build 3 Group Facilities on 22 acres of land that would house 36 adolecants (12 per facility)

Oath: By signing, I hereby certify that all information that I have provided in this application is correct and complete to the best of my knowledge. I understand that providing false or incomplete information may be grounds for denial of my request or may result in future action by the City Council to revoke the permit.

Eric Little

6/22/20

Signature of Applicant

Date

Received by:

Date

Staff Report



To: Shelby Planning & Zoning Board
From: Alan Toney
Planner

Date: July 2, 2020
Meeting:
File: #1122

OWNER: Gilkey Properties, LLC

APPLICANT: Eric Little

LOCATION: Wease Drive

PARCEL ID #s: 27925, 27924, and 27933

PRESENT ZONING: R20

REQUESTED ZONING: R6-CU

SURROUNDING ZONING: **North:** R20 **South:** R20 **East:** R20 **West:** R20

UTILITIES: **Water:** Yes **Sewer:** Yes **Floodplain:** Partial **Watershed:** No

ANALYSIS: The 22-acre property is currently undeveloped. However, only 4 total acres of the property is being developed under this proposal. Land uses in the area include single-family dwelling, duplexes, and undeveloped land.

The R20 Residential District is primarily intended to accommodate very low-density single-family detached dwellings, two-family dwellings, and manufactured homes on individual lots in areas that generally do not have access to public water supplies and are dependent upon septic tanks for sewage disposal. Maximum densities within the R20 District are approximately 2 dwelling units per gross acre.

The R6 Residential District is primarily intended to accommodate a variety of high-density single-family detached dwellings, apartments, townhomes, and condominiums. Maximum densities within the R6 District range from 7 dwelling units per acre for single-family dwellings and 19 dwelling units per acre for multi-family dwellings. Public water and sewer service are generally available in areas zoned as R6.

Conditional Use Districts are circumstances where a general zoning designation allowing a use by right would not be appropriate for a particular property even though the use itself could, if properly planned, be appropriate for the property consistent with the objectives of the UDO and the City of Shelby Comprehensive Land Use Plan. The conditional use district process was established to address situations when a particular use may be acceptable but the general zoning district, which would allow that use would not be acceptable. It allows the City Council to approve a proposal for a specific use with reasonable conditions to assure compatibility of the use with the surrounding properties.

The Conditional Use for this property will be for a Group Care Facility and is subject to the site plan submitted with the application.

STAFF COMMENTS: The Comprehensive Land Use Plan for this area designates the site as Low Density Residential (LDR). The low-density residential classification is for single-family detached residential land uses which are 2 units or less per acre, where sewer is not available. In this case the Hickory Creek Trunk is adjacent to this property and can serve this proposed development with sewer. Annexation is required to access the sewer line.

The proposed development consists of 3 buildings with a total of 18 bedrooms.

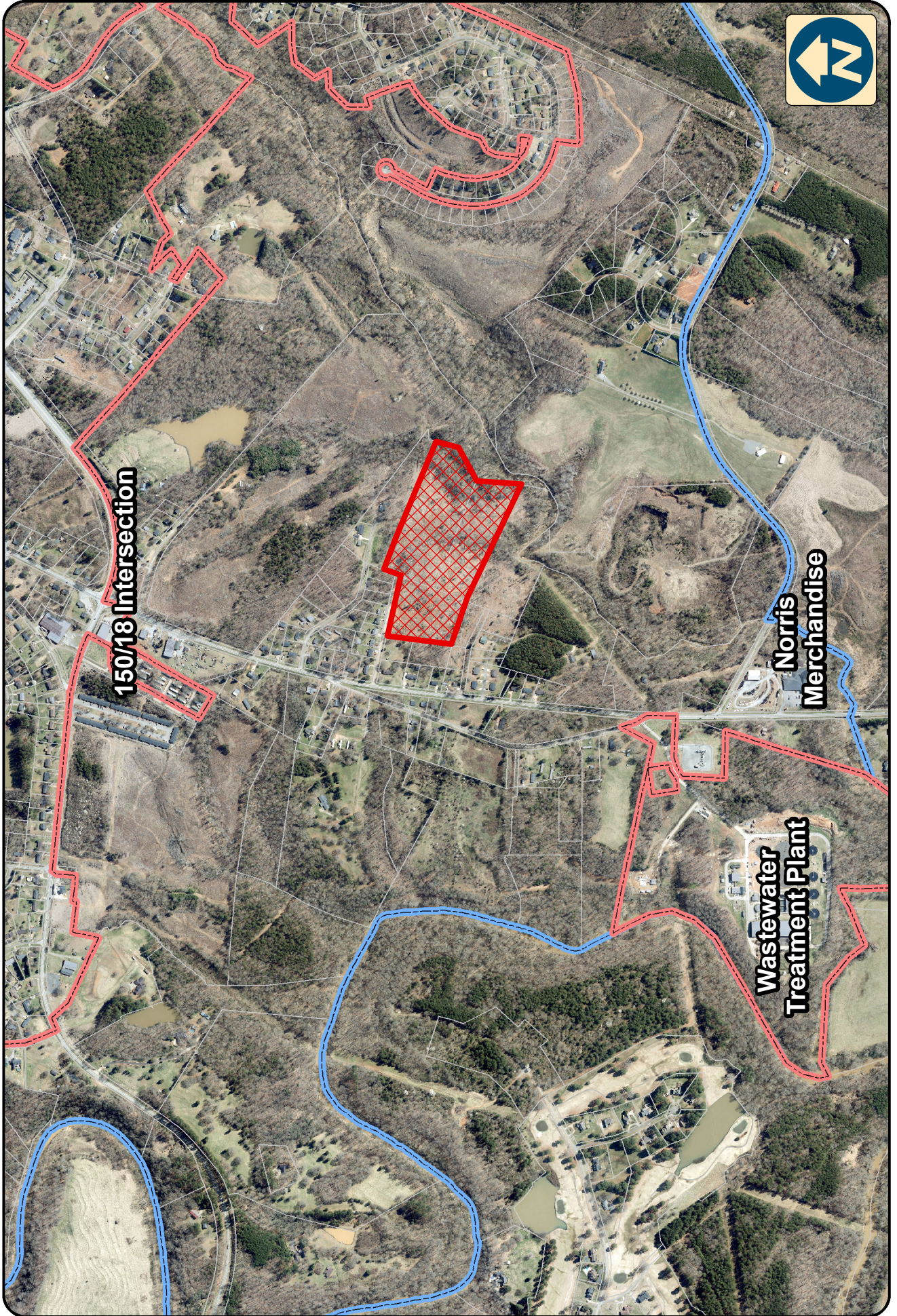
Staff recommends the following conditions on the district:

- Greenway Connection for any future greenway construction
- Greenway Construction in lieu of sidewalk requirements



Location Map Wease Drive

Map Information:
Datum: NAD 1983
Coordinate: State Plane
North Carolina (Meter)
Projection: Lambert Conformal Conic
US National Grid
Grid Zone Designation (GZD): 17S
100,000m Square ID: MWNU



Scale 1:12,000 1 inch = 1,000 feet

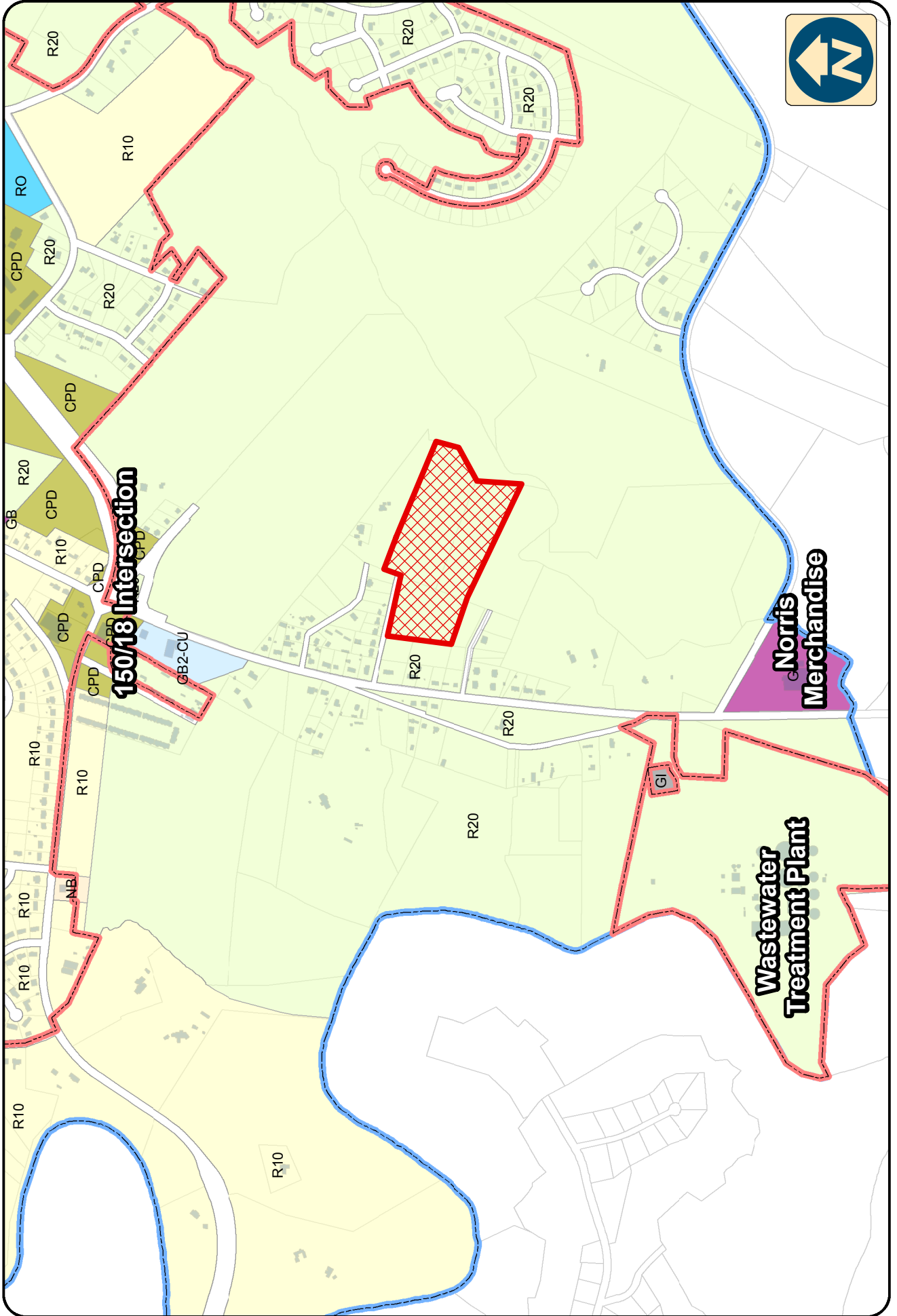
0 500 1,000 2,000 Feet

Date: 7/8/2020



Zoning Map Wease Drive

Map Information:
Datum: NAD 1983
Coordinate: State Plane
North Carolina (Meter)
Projection: Lambert Conformal Conic
US National Grid
Grid Zone Designation (GZD): 17S
100,000m Square ID: MWNU



Scale 1:12,000 1 inch = 1,000 feet

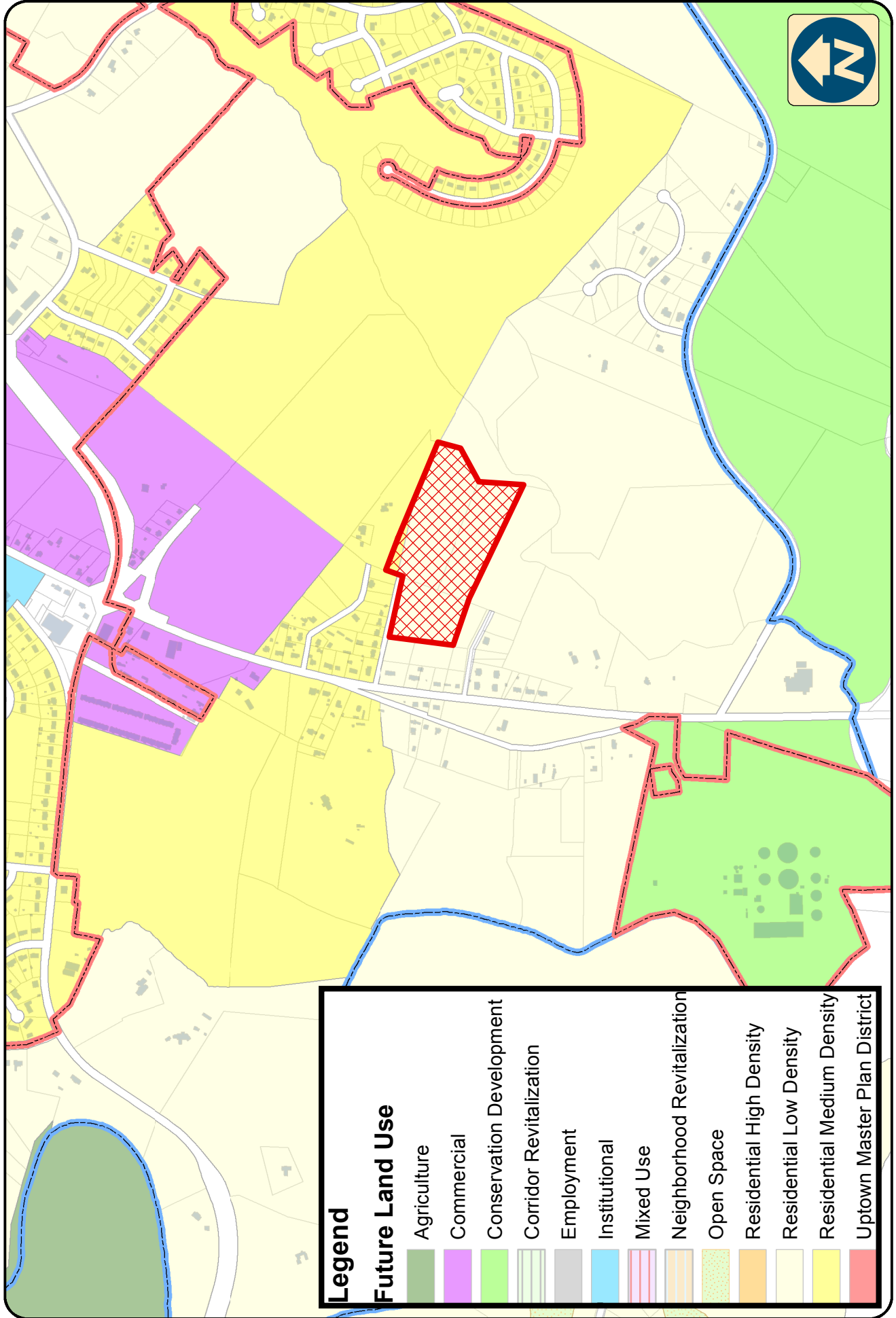


Date: 7/8/2020



Area Land Use Map Wease Drive

Map Information:
Datum: NAD 1983
Coordinate: State Plane
North Carolina (Meter)
Projection: Lambert Conformal Conic
US National Grid
Grid Zone Designation (GZD): 17S
100,000m Square ID: MWNU



| Legend | |
|-----------------|-----------------------------|
| Future Land Use | |
| | Agriculture |
| | Commercial |
| | Conservation Development |
| | Corridor Revitalization |
| | Employment |
| | Institutional |
| | Mixed Use |
| | Neighborhood Revitalization |
| | Open Space |
| | Residential High Density |
| | Residential Low Density |
| | Residential Medium Density |
| | Uptown Master Plan District |

Scale 1:12,000 1 inch = 1,000 feet

0 500 1,000 2,000 Feet

Date: 7/8/2020



CITY OF SHELBY PLANNING AND ZONING BOARD MINUTES

June 16, 2020

Zoom Virtual Meeting

Item 1. Call to Order/Roll Call

Vice-Chair Washburn called the meeting to order at 12:21PM and noted that a quorum was present.

Board Present: Marlene Peeler, Rick Washburn, Mark Carter, Bob Cabaniss, Charles Hamrick, Greg Taylor, Michael Royster, Scott Bankhead, Jim Martin, and Emanuel Hunt Jr.

Staff Present: Walt Scharer (Planning Director), Alan Toney (Planner), and Hatteras Stella (Planner)

Item 2. Approval of the May 21, 2020 Minutes

Vice-Chair Washburn asked if there were any questions or comments about the May 21, 2020 minutes. The minutes were approved as submitted.

Item 3. Proposed Zoning Map Amendment - Wease Drive

Mr. Scharer presented this proposed zoning map amendment. The subject property is zoned R20 and is currently undeveloped. The applicant wishes to develop this property into a Group Care Facility. Other land uses in the area include single-family dwellings, duplexes, and undeveloped land.

The R20 Residential District is primarily intended to accommodate very low-density single-family detached dwellings, two-family dwellings, and manufactured homes on individual lots in areas that generally do not have access to public water supplies and are dependent upon septic tanks for sewage disposal. Maximum densities within the R20 District are approximately 2 dwelling units per gross acre.

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Conditional Use Districts are circumstances where a general zoning designation allowing a use by right would not be appropriate for a particular property even though the use itself could, if properly planned, be appropriate for the property consistent with the objectives of the UDO and the City of Shelby Comprehensive Land Use Plan. The conditional use district process was established to address situations when a particular use may be acceptable but the general zoning district, which would allow that use would not be acceptable. It allows the City Council to approve a proposal for a specific use with reasonable conditions to assure compatibility of the use with the surrounding properties.

Motion: Mr. Cabaniss made the motion to recommend approval of this proposed zoning map amendment

Second: Mr. Bankhead

Action: This motion passed unanimously.

Item 4. 160 D Update

Mr. Scharer gave updates concerning the 160D timeline and schedule.

Item 5. Announcements

Mr. Scharer gave updates concerning the uptown streetscape project.

Item 6. Motion to adjourn.

Vice-Chair Washburn adjourned the meeting at 12:34 pm.



Certified Recommendation

City of Shelby Planning & Zoning Board

Case File: 1122

Amendment: A Zoning Map Amendment for property located on Wease Drive with PIN #'s: 27925, 27924, & 27933 from Residential 20 (R20) zoning district to Residential 6 - Conditional Use (R6-CU) zoning district.

Recommendation: **The Planning and Zoning Board recommends approval of the proposed zoning map amendment for property located on Wease Drive with PIN #'s: 27925, 27924, & 27933 from Residential 20 (R20) zoning district to Residential 6 - Conditional Use (R6-CU) zoning district.**

Findings &

Reasons: 1. The proposed zoning map amendment is inconsistent with the Comprehensive Land Use Plan.

Motion: Mr. Cabaniss made the motion to recommend approval of this proposed zoning map amendment from Residential 20 (R20) zoning district to Residential 6 - Conditional Use (R6-CU) zoning district.

Second: Mr. Bankhead

Action: This motion passed unanimously.

Signatures: Walter Scharer
Planning and Development Director

Marlene Peeler
Planning and Zoning Board Chair

Date: 7/16/2020

Date: 7/16/2020

**NOTICE OF PUBLIC HEARING
APPLICATION #: 1122-2020
ZONING MAP AMENDMENT**

The City Council of Shelby, North Carolina will conduct a legislative public hearing during its regular meeting at 6:00 p.m., Monday, August 17, 2020 via Zoom. City Council will consider a proposed zoning map amendment from Residential 20 (R20) Zoning District to Residential 6 Conditional Use (R6-CU) Zoning District for property located on Wease Drive with the Cleveland County Parcel Numbers 27925, 27924, & 27933. If the proposed zoning map amendment passes, then City Council will hold a quasi-judicial hearing for the proposed use of a Group Care Facility.

A more detailed description and map of this property are available for public inspection in the Planning and Development Services Department located at 315 South Lafayette Street, Shelby, North Carolina, during regular business hours, 8:00 AM until 5:00 PM. Also, you can call (704) 484-6829 for more information.

The City Council may change the existing zoning classification of the entire area covered by the petition or any part thereof, without the withdrawal or modification of the petition or further publication of notice.

Persons interested in being heard on this matter are invited to comment on the proposed rezoning at the hearing, whether for or against. Comments may be presented orally at the hearing, in writing prior to the hearing, or both.

Members of the public with special needs wishing to attend this meeting should call the City Clerk (704 484-6800) at least 24 hours prior to the meeting to request assistance.

Bernadette A. Parduski, NC-CMC, IMC-MMC
City Clerk

The Shelby Star:

Please publish this notice as a legal line ad on Thursday, August 6, 2020 and again on Tuesday, August 11, 2020.

Mail invoices with affidavits to Walter Scharer, City of Shelby, PO Box 207, Shelby, NC 28151. Thank you.

ORDINANCE NO. 26-2020

**A PROPOSED ORDINANCE AMENDING THE ZONING MAP OF
THE CITY OF SHELBY, NORTH CAROLINA**

WHEREAS, the City of Shelby has received an application requesting the rezoning of property located within the City or its Area of Extraterritorial Jurisdiction; and,

WHEREAS, the Shelby Planning and Zoning Board has reviewed said application for a zoning change and has made its findings and recommendations to City Council; and,

WHEREAS, the Shelby Planning and Zoning Board found that the zoning change is inconsistent with the Comprehensive Land Use Plan; and,

WHEREAS, in accordance with GS 160A-364, a public hearing on this proposed rezoning was held by City Council on August 17, 2020 after due publication of said hearing as required by law; and,

WHEREAS, after hearing all who wished to be heard on this matter and upon review of the findings and recommendations of the Planning and Zoning Board, City Council now desires to act on this matter.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF SHELBY, NORTH CAROLINA:

Section 1. This zoning change is inconsistent with the City of Shelby Comprehensive Land Use Plan.

Section 2. In accordance with Chapter 160A, Article 19 of the North Carolina General Statutes, as amended, the Shelby Unified Development Ordinance and Shelby Zoning Map (Appendix A of the Shelby City Code), Wease Drive is hereby amended from R20 Zoning District to R6-CU Zoning District. Said area of zoning is more fully described as the parcels listed by the Cleveland County Tax Office as Parcel Identification Numbers 27925, 27924, & 27933.

Section 3. The City Clerk of the City of Shelby is hereby authorized and directed to cause the provisions of Section 2 of this ordinance to be properly codified, and the City Clerk is further authorized and directed to cause her official records and the Official Zoning Map of the City of Shelby to be properly amended to reflect the approved zoning changes.

Section 4. This ordinance shall become effective upon its adoption and approval.

ADOPTED AND APPROVED this the 21st day of September 2020.

O. Stanhope Anthony III
Mayor

ATTEST:

Bernadette A. Parduski, NC-CMC, IIMC-MMC
City Clerk

APPROVED AS TO FORM:

Martha R. Thompson
Interim City Attorney

City of Shelby
Agenda Item Summary
August 17, 2020
(via electronic meeting)

D. Consent Agenda

Prior to approval and adoption of the agenda, a Council Member may move an item from the Consent Agenda to the regular agenda. Items remaining on the Consent Agenda will be considered collectively through a single motion, second, and vote.

Agenda Item: D-1

- 1) Approval of the Minutes of the Regular Meeting of August 3, 2020

Consent Agenda Item: (Bernadette Parduski, City Clerk)

Summary of Available Information:

Please read and offer changes as you deem necessary.

- Minutes of the Regular Meeting of August 3, 2020

City Manager's Recommendation / Comments

Approve the minutes as presented or as amended by the Mayor and City Council via the Consent Agenda.

MINUTES

Regular Meeting – Electronic Meeting
City Hall and Don Gibson Theatre

August 3, 2020
Monday, 6:00 p.m.

Present: Mayor O. Stanhope Anthony III, presiding; Council Members Eric B. Hendrick, David Causby, Violet Arth Dukes, Charles Webber, and Andrew Hopper, Sr.; City Manager Rick Howell, MPA, ICMA-CM, Assistant City Manager Justin S. Merritt, MPA, Interim City Attorney Martha R. Thompson, City Clerk Bernadette A. Parduski, Director of Finance Elizabeth B. (Beth) Beam, Assistant Director of Finance/Customer Services Manager Sam Clark, Director of Water Resources David W. Hux, Police Chief Jeffrey H. (Jeff) Ledford, Fire Chief William P. Hunt, MPA, EFO, Director of Parks and Recreation Charlie Holtzclaw, Director of Planning and Development Services Walter (Walt) Scharer, AICP, Public Information and Communications Officer Chip Nuhrah, Jennipher H. Harrill, Social Media Manager, Blue Eyes Social Media Connections, and Stan Lowery, Executive Director, Don Gibson Theatre

Absent: Council Member David W. White

Mayor Anthony called the meeting to order at 6:00 p.m. and certified a quorum was present. It was noted a location for public access to the meeting was established at the Don Gibson Theatre and monitored by Mr. Lowery. A maximum of ten (10) persons would be allowed to attend.

The Mayor called for a moment of silence and reflection. Afterwards, he delivered an invocation.

A. Approval of agenda:

- 1) Motion to adopt the proposed agenda

ACTION TAKEN: Upon a motion made by Mr. Hendrick, City Council voted unanimously to approve the agenda as presented.

B. Consent Agenda:

Mayor Anthony presented the consent agenda. Mr. Hopper moved to approve the consent agenda and the following item was unanimously adopted:

- 1) Approval of the Minutes of the Regular Meeting of July 20, 2020

C. Unfinished Business:

1) Consideration of a resolution and order permanently closing an unopened right of way for Chesterfield Drive: Resolution No. 31-2020

Mr. Howell noted that after full and complete consideration of the matter and after having granted full and complete opportunity for all interested persons to appear and register any objections that they might have with respect to the requested closure/abandonment of the Chesterfield Drive right-of-way as displayed on the plat submitted, Resolution No. 31-2020 is presented for Council's consideration. If approved, it would permanently close this unopened and unimproved right-of way, returning ownership to the abutting property owner. In this case it is a single property owner, Dale Short.

ACTION TAKEN: Upon a motion made by Mrs. Arth Dukes, City Council voted unanimously to approve and adopt Resolution No. 31-2020 entitled, "A RESOLUTION AND ORDER PERMANENTLY CLOSING AN UNOPENED RIGHT OF WAY FOR CHESTERFIELD DRIVE".

2) Consideration of a resolution and order permanently closing the north end of Pere Street from West Dale Street to West Marion Street: Resolution No. 32-2020

Mr. Howell noted that after full and complete consideration of the matter and after having granted full and complete opportunity for all interested persons to appear and register any objections that they might have with respect to the requested closure/abandonment of Pere Street as displayed on the plat submitted, Resolution No. 32-2020 is presented for Council's consideration. If approved, it would permanently close this short street segment right-of way, returning ownership to the abutting property owner. In this case it is a single property owner, Thompson, Gordon and Shook (TGS) Engineers.

ACTION TAKEN: Upon a motion made by Mr. Hendrick, City Council voted unanimously to approve and adopt Resolution No. 32-2020 entitled, "A RESOLUTION AND ORDER PERMANENTLY CLOSING THE NORTH END OF PERE STREET FROM WEST DALE STREET TO WEST MARION STREET".

3) Consideration of a resolution and order permanently closing West Stadium Street: Resolution No. 33-2020

Mr. Howell noted that after full and complete consideration of the matter and after having granted full and complete opportunity for all interested persons to appear and register any objections that they might have with respect to the requested closure/abandonment of West Stadium Street as displayed on the survey submitted, Resolution No. 33-2020 is presented for Council's consideration. If approved, it would permanently close this short street segment right-of way, returning ownership to the abutting property owner. In this case it is a single property owner, Cleveland County Schools.

ACTION TAKEN: Upon a motion made by Mr. Hopper, City Council voted unanimously to approve and adopt Resolution No. 33-2020 entitled, “A RESOLUTION AND ORDER PERMANENTLY CLOSING WEST STADIUM STREET”.

4) Consideration of appointments to City advisory boards and commissions:

a. Shelby Housing and Redevelopment Advisory Board

Mrs. Parduski reported the terms of two incumbents, Keith Hawkins and Sharon Leigh, concluded March 2020. Both incumbents wish to continue their service on this board. There is also a vacancy for a new term concluding March 2023.

The applications on file in the Clerk’s Office include the following:

- Juan Cherry
- Peter Potemkin
- Tanzy Wallace

Mr. Hopper nominated the incumbents, Keith Hawkins and Sharon Leigh, for reappointment.

Mr. Webber nominated Tanzy Wallace for appointment.

ACTION TAKEN: Upon a motion made by Mr. Hendrick, City Council voted unanimously to close the nominations and accept the nominees by acclamation.

b. Alcoholic Beverage Control Board

Mrs. Parduski reported the terms of two incumbents, Gerald Weathers and Sallie Craig, concluded April 2020. Both incumbents wish to continue their service.

The applications on file in the Clerk’s Office include the following:

- Darrell Gerald
- James Martin
- Peter Potemkin
- James Phillip Reid
- Jeffrey Yates

Mr. Causby nominated the incumbents, Gerald Weathers and Sallie Craig, for reappointment.

ACTION TAKEN: Upon a motion made by Mr. Hendrick, City Council voted unanimously to close the nominations and accept the nominees by acclamation.

D. New Business: None

F. City Manager's Report:

1) Mr. Howell mentioned several agenda items related to policy and Code amendments are under review by staff and the City Attorney prior to being brought forward for Council's consideration. These items may be better discussed during a face-to-face Council meeting when appropriate.

Mr. Howell also reminded Council a quasi-judicial public hearing is scheduled for their next meeting on August 17, 2020, proposing a face-to-face meeting if there is a consensus to do so.

2) Regarding the Brookwood Water, Sewer, and Street Improvement Project, Mr. Howell stated the work is ongoing. The water line and valve work are mostly complete. The contractor is working on the roadway work to repair the sunken segments related to the sewer lines that were installed many years ago. The work should be completed within several weeks, weather permitting.

3) Regarding the Water Treatment Plant Modernization Project, Mr. Howell reported this project is nearing completion with only minor items remaining and the plant now operational. He previously reported to Council that the older clear well tanks constructed in the 1950s were leaking an estimated 500,000 gallons per day. Now that the new tanks are in operation, it has been determined this loss was much higher. It is more accurately estimated that treated water loss was as much as 800,000 gallons per day. This is significant because it will result in operational savings, which will be monitored over the next several months to verify cost reductions. It is hoped a formal ribbon cutting for this facility can be held in September 2020.

4) Regarding the Wastewater Treatment Plant Biosolids Project, Mr. Howell reported the building portion of the project is complete. Equipment delivery, installation, and testing is the bulk of the remaining work. It is anticipated the initial start-up will begin sometime in late September or early October and the entire project is expected to be complete by the end of 2020. Mr. Howell said a formal ribbon cutting for this facility will also be held with a date to be determined.

- 5) Mr. Howell reminded Council an air curtain burner was budgeted for purchase in Fiscal Year 2019-2020. This equipment will provide the City with an alternative way to dispose of collected wood and yard waste now that the biosolids compost process no longer needs it. The only other alternatives were to landfill the material and pay tipping fees to Cleveland County or to continue to grind it up. Neither option made financial or operational sense. The air burner to be installed at the Wastewater Treatment Plant has been ordered and is expected to be delivered next month. In addition, the Department of Environmental Quality air permit and land storage permit are in process. Mr. Howell stated the payback on the capital cost is less than two years.
- 6) Mr. Howell explained Governor Roy Cooper's Executive Orders 124 and 142, which prohibited municipal utilities from charging late fees and/or disconnecting utility customers for non-payment, has expired. The City will be moving forward with disconnections for those bills due after the July 29, 2020 expiration date. He stated there are approximately 2,000 accounts that are past due with roughly 600 of these having made payment arrangements. This number is expected to climb since the City has opened Customer Service operations at City Hall to the public. He added the City will follow the guidance from the Governor's Office and the Attorney General's Office on customer payment plans under the Executive Orders 124 and 142.
- 7) Regarding the Norfolk Southern Rail Corridor, Mr. Howell stated the contractor for Norfolk Southern has removed a significant portion of the rails on the segment from Sunset Cemetery south but very few crossties have been removed. He has been in touch with his contact at Norfolk Southern about the slowness of the process and received assurances the contractor will be held accountable for leaving the corridor in good condition. However, Mr. Howell prefers the contractor complete the removal on the segment from Sunset Cemetery south rather than start the segment in the Washburn Switch corridor or the northern section. He may consider charging the contractor with trespass if the removal is underway in the Washburn Switch corridor prior to completing the Sunset Cemetery segment.
- 8) Regarding the Job Ready Industrial Shell Building No. 3 Project, Mr. Howell reported the construction activities are progressing ahead of schedule and may be completed by December 2020, weather permitting.
- 9) Regarding the Uptown Shelby Streetscaping Project, Mr. Howell reported Sealand Contractors will continue with asphalt milling of the Uptown streets in preparation for resurfacing and paving, weather permitting. The

remaining construction activities will follow with completion anticipated in early September 2020.

10) Mr. Howell mentioned the City will receive a credit from a rate case with Transco recently decided by federal regulators. The matter related to what the City pays for the transportation of natural gas through the Transco pipeline. Transco proposes the rate increase for customers like the City to the Federal Energy Regulatory Commission (FERC) and they can begin charging the increased fee while their rate case is being heard. Once the federal regulator rules on the rate case then a credit or refund is due to the customer. This dates to August 2018. The new rate tariff went into effect on March 1, 2019. The case was settled and approved by FERC on March 24, 2020. The new tariff went into effect on June 1, 2020 at much less than Transco had proposed. A refund of the difference in the final settled tariff and what Transco proposed was calculated with interest and returned to the City in the amount of \$499,933.75.

11) Mr. Howell informed Council that consultants, Rummel, Klepper & Kahl (RK&K) LLP of Charlotte, North Carolina, have completed their Natural Gas System Assessment Project and they are ready for a report presentation at a future Council meeting. RK&K will provide a summary of the assessment's findings and recommendations.

G. Council Announcements and Remarks:

1) Mayor Anthony announced the re-opening of City Hall on a limited basis as of today. City Hall opened to the public without appointment for utility payments and payment arrangement requests. Customers can schedule an in-person appointment for certain City services such as starting a new service or transferring an existing service. The Mayor added all business is being handled at the Customer Service counter on the first floor while the Customer Service Center on the second floor of City Hall will remain closed to the public at this time.

Mr. Howell stated further access to City Hall, including Administration, Finance, and Human Resources, is by appointment only. He also stated the City has purchased and will install a payment kiosk for the further convenience of its utility customers.

2) Mayor Anthony discussed the upcoming quasi-judicial public hearing scheduled for August 17, 2020 and the possibility of holding this City Council meeting in person. The majority preferred to continue to meet via remote participation. The Mayor stated Council and staff will proceed with caution.

H. Adjournment:

1) Motion to adjourn

ACTION TAKEN: Upon a motion made by Mr. Hendrick, City Council voted unanimously to adjourn the meeting at 6:50 p.m.

Respectfully submitted,

**Bernadette A. Parduski, NCCMC, MMC
City Clerk**

**O. Stanhope Anthony III
Mayor**

Minutes of August 3, 2020

DRAFT

City of Shelby
Agenda Item Summary
August 17, 2020
(via electronic meeting)

Agenda Item: D-2

- 2) Approval of a resolution authorizing termination of lease agreements: Resolution No. 37-2020

Consent Agenda Item: (Rick Howell, City Manager)

Summary of Available Information:

- Resolution No. 37-2020

City Manager's Recommendation / Comments

Resolution No. 37-2020 is presented for City Council consideration via the Consent Agenda. As has been mentioned to City Council previously at the time of the acquisition of the 11.85 mile railroad corridor from Norfolk Southern there were four lease agreements assigned by the seller to the City. These four are listed in the resolution. One is held by the City and the other three by private businesses. Norfolk Southern could only provide copies of two of the three of these leases. If approved this resolution would authorize the termination of these leases effective June 30, 2020 allowing for a month to month lease thereafter. It would also provide a 60 day notice thereafter by either party.

This timetable is proposed to allow the City flexibility. If the City is awarded either the NCPARTF grant (expected announcement in September 2020) and/or the USDOT BUILD grant (expected announcement September 15, 2020) it will be necessary to access these leased sites in mid to late 2021. Termination of the current leases does not mean that the City could not agree to a month to month lease thereafter. It is intended to give both businesses adequate time to plan for relocation or to make other arrangements.

It is my recommendation that Resolution No. 37-2020 be adopted and approved by City Council via the Consent Agenda at this time.

A RESOLUTION AUTHORIZING TERMINATION OF LEASE AGREEMENTS

WHEREAS, the City of Shelby acquired ownership and control of an 11.85 mile segment of the rail line corridor from Norfolk Southern Railway Company on December 19, 2019; and

WHEREAS, Norfolk Southern Railway Company as part of the purchase and sale agreement assigned, without warranty or representation, all leases, licenses, and other third-party agreements to the City of Shelby at closing, including without limitation, the following:

1. Lease between Norfolk Southern Railway Company and Shelby Farm and Garden Store, Inc. dated June 5, 2009;
2. Lease between Norfolk Southern Railway Company and B&S Properties dated April 27, 1993;
3. Lease between Norfolk Southern Railway Company and J.B. Ellis Locksmith, Inc. dated July 1, 1999
4. Lease between Norfolk Southern Railway Company and City of Shelby dated February 14, 2018; and,

WHEREAS, it is the intent of the City of Shelby to design and construct a bicycle and pedestrian rail trail along the old rail line corridor in the near future, and:

WHEREAS, the City has applied for grant funding that would allow for the design and construction of the rail trail and, if awarded, construction of the project could begin as early as the fourth quarter of 2021; and,

WHEREAS, the City will need access to the buildings and properties referenced previously as currently being under lease in order to begin work on the project; and,

WHEREAS, these leased properties are in need of evaluation and maintenance to stabilize an existing building, clear away vegetative overgrowth, as well as to conduct more in-site analysis.

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF SHELBY, NORTH CAROLINA:

Section 1. The City Manager is authorized to notify the listed lessees that the City will terminate the current lease effective June 30, 2021 with a month-to-month lease thereafter with not less than a 60-day termination notice by either party.

Section 2. This resolution shall become effective upon its adoption and approval.

Adopted and approved this the 17th day of August 2020.

O. Stanhope Anthony III
Mayor

ATTEST:

Bernadette A. Parduski, NC-CMC, IIMC-MMC
City Clerk

City of Shelby
Agenda Item Summary
August 17, 2020
(via electronic meeting)

Agenda Item: D-3

- 3) Approval of a resolution awarding the contract for the City of Shelby Stormwater Infrastructure Assistance Program Project at 110 Shady Ridge Lane in Shelby, North Carolina: Resolution No. 38-2020

Consent Agenda Item: (Ben Yarboro, Director of Engineering Services)

Summary of Available Information:

- Memorandum dated August 11, 2020 from Ben Yarboro, Director of Engineering Services to Rick Howell, City Manager
- Memorandum dated August 7, 2020 from Tyler Brooks, Stormwater/Engineering Coordinator to Ben Yarboro, Director of Engineering
- Storm Drain layout and profile of Shady Ridge Lane
- Bid Tabulation sheet
- Letter from Odom Engineering to Tyler Brooks
- Stormwater Infrastructure Assistance Agreement
- Resolution No. 38-2020

City Manager's Recommendation / Comments

Resolution No. 38-2020 is presented for City Council consideration at this time via the Consent Agenda. If approved this resolution would award a contract in the amount of \$23,576.17 to Cleveland Contractors, Inc. for the construction of stormwater system improvements at 110 Shady Lane. This project qualifies for assistance through the City's stormwater infrastructure assistance program which allows the City to share costs with a private property owner under certain circumstances spelled out in policy. The City will shoulder 80% of this project with the property owner paying 20%. The City's portion of this project is paid through revenue generated from existing stormwater fees. A maximum of \$75,000 is budgeted annually for this off right of way assistance program.

The attached memos from Mr. Yarboro and Mr. Brooks both provide more detail as to the specific project. The City does follow a first come first served application process. Property owners must agree within a reasonable period of time to the terms or the City moves on to the next project on the list. Ultimately the goal of the program is to complete as many high value off right of way stormwater improvements as possible so as to reduce and/or prevent property damage that may occur as a result of stormwater run off from up stream properties and public roadways.

It is my recommendation that Resolution No. 38-2020 be adopted and approved by City Council via the Consent Agenda at this time.



Memorandum

To: Rick Howell, City Manager

From: Ben Yarboro, Director of Engineering Services *BYg*

RE: Stormwater Infrastructure Assistance
Construction Contract Award for 110 Shady Ridge Lane

Date: August 11, 2020

Summary

As outlined in the attached memo from Tyler Brooks (City Stormwater Coordinator), the City Stormwater Division received an application for Stormwater Infrastructure Assistance for stormwater improvements on private property located at 110 Shady Ridge Lane. After determining that the project was eligible for assistance, a design was completed by Odom Engineering and the project was advertised and bid. This project consists of the replacement of approximately 215 LF of 24" stormwater piping and catch basin that ties into a City maintained 24" stormwater pipe carrying runoff from Lafayette Street and Washington Street.

This project had an Engineer's Estimate of \$47,795.00 and the low bidder for this project was Cleveland Contractors Inc. with a bid of \$23,576.12. This bid has been reviewed by the consulting engineer, This cost will be funded 80% by the City and 20% by the property owner. After reviewing this bid with the property owner, the owner desires to proceed with the project. As defined in the City of Shelby Stormwater Infrastructure Assistance Program, the award of this contract requires Council approval due to the bid amount exceeding \$10,000. Funding for this project is available via the adopted FY21 Stormwater budget.

Recommendation

City Staff recommends approval of the resolution awarding the construction contract for the Stormwater Infrastructure Assistance project at 110 Shady Ridge Lane to Cleveland Contractors, Inc for the bid amount of \$23,576.17.

Attachment

Memorandum

To: Ben Yarboro, Director of Engineering Services

From: Tyler Brooks, Stormwater/Engineering Coordinator

RE: 110 Shady Ridge Lane – Stormwater Infrastructure Assistance Program Project Approval Recommendation

Date: August 7, 2020

Background

In February 2016, the City of Shelby implemented a Stormwater Infrastructure Assistance Program to assist property owners with the costs of repairing and/or replacing stormwater infrastructure causing stormwater issues on their private property. Per City ordinance, the City does not have maintenance responsibilities outside of the public rights-of-way. Funding for such projects in excess of \$10,000 shall be presented to the Shelby City Council for consideration before awarding contracts.

Review

In September 2018, the property owner at 110 Shady Ridge Lane applied for Stormwater Infrastructure Assistance to address failing stormwater infrastructure on the property. The owner reported a sinkhole at the edge of Shady Ridge Lane (a private road). After evaluating the current stormwater system on the property, the catch basin next to the road was failing causing the sinkhole. In addition to the sinkhole, the engineer determined the current system was undersized which carries runoff from Lafayette St. and Washington St.

In July 2020 agreements were signed between the City and Owner, and a third-party consultant was asked to provide a design for replacing the infrastructure on the property. The plans call for larger 24” pipes to be laid in place of the existing 15” and 18” pipes and the failing catch basin to be replaced. Bids were submitted on August 5, 2020. At that time contractors were notified that costs had to be approved by the property owner and City Council before starting construction. The low bidder for this project is Cleveland Contractors Inc. with a bid of \$21,432.65 with \$2,143.47

in contingency for a total project bid of \$23,576.12. The property owner desires to proceed with the project.

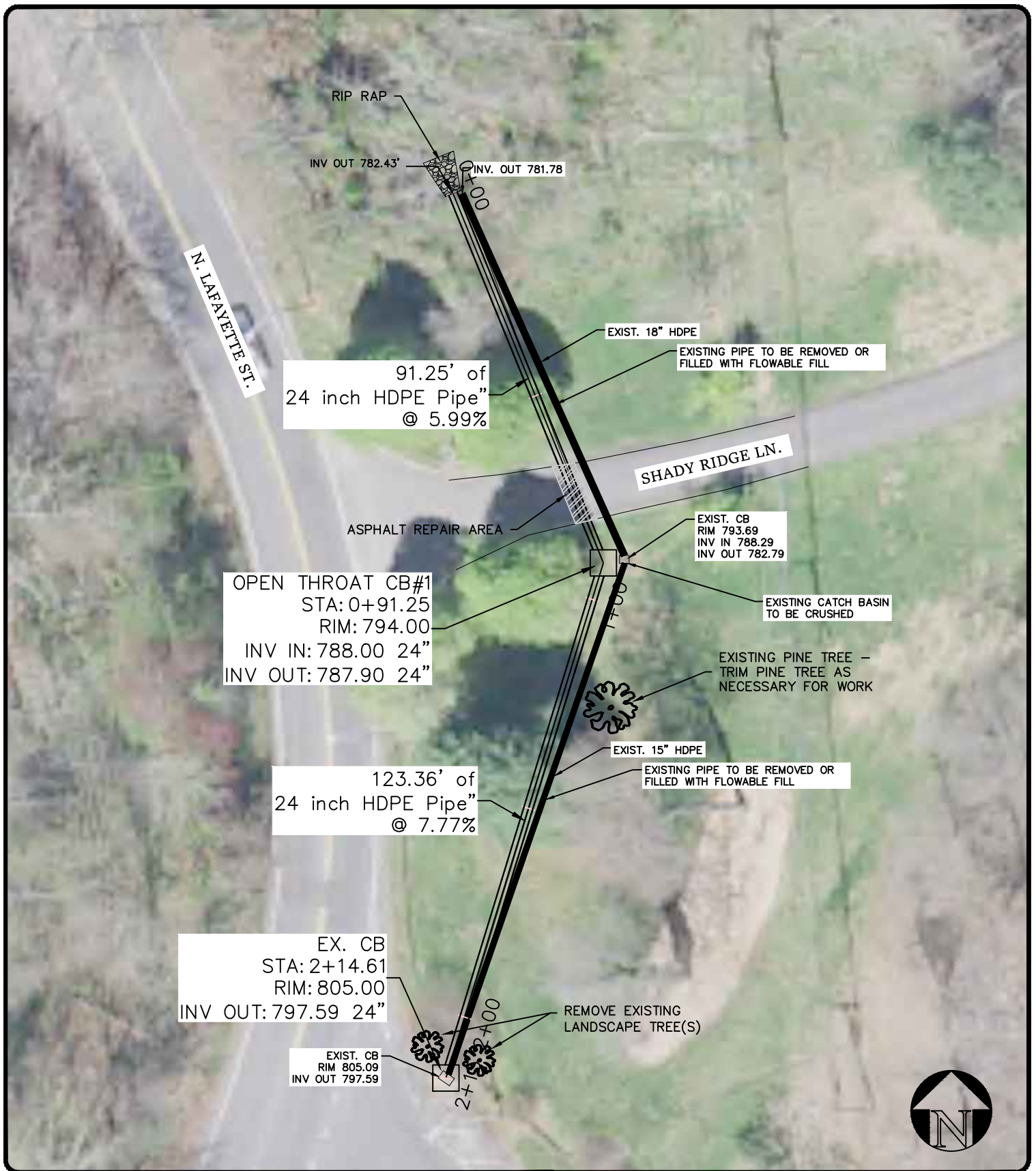
Recommendation

City Staff recommends that the Shelby City Council approve the resolution awarding the bid for the Stormwater Infrastructure Assistance Program project located at 110 Shady Ridge Lane for Don and Emily Yelton to the lowest responsive bidder, Cleveland Contractors Inc. for the bid price of \$23,576.12. This engineer's estimate for this project was \$47,795.00. Funding for this construction contract is available via Stormwater Utility funding.

Please advise if you have any questions or need additional information.

Attachments:

- Plans Prepared by Odom Engineering
- Bid Tabulation
- Contractor Recommendation Letter
- Copy of signed Stormwater Infrastructure Assistance Agreement



Odom
Engineering
PLLC

169 Oak Street, Forest City, N.C. 28043
ph: 828.247.4495 fax: 828.247.4498
NC Firm#: P-0880

STORM DRAIN PLANS FOR
SHADY RIDGE LAND

SHELBY CLEVELAND COUNTY

STORM DRAIN LAYOUT

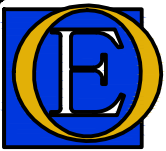
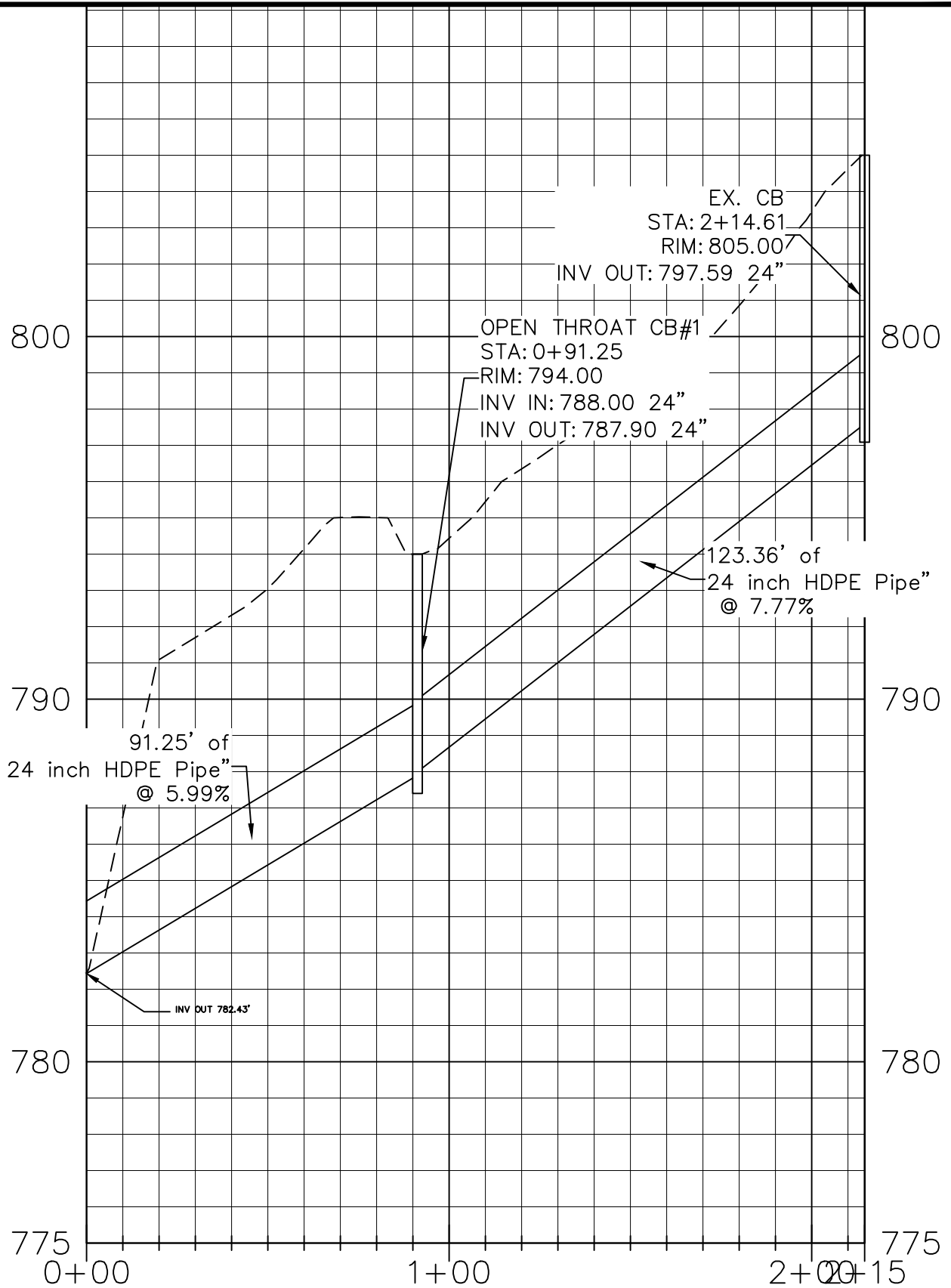
SCALE: 1" = 30'

DATE: 07/15/2020

DRAWN BY: MJG

PROJECT MCB, DWO





Odom
 Engineering
 PLLC

169 Oak Street, Forest City, N.C. 28043
 ph: 828.247.4495 fax: 828.247.4498
 NC Firm#: P-0880

STORM DRAIN PLANS FOR
SHADY RIDGE LAND

SHELBY CLEVELAND COUNTY

STORM DRAIN PROFILE

SCALE: 1" = 40'

DATE: 07/15/2020

DRAWN BY: MJG

PROJECT MGR: DWO



| BID TABULATION City of Shelby - Shady Ridge Lane Drainage Project Bids Received: August 5, 2020 | | | | | | | | | | | | | | | | | | |
|---|-----|------|-----------------------------|--------------------|-------------------------------|--------------------|---------------------------|--------------------|----------------------|--------------------|-----------------------------|--------------------|---------------------------|--------------------|-----------------------|---------------------|-------------------|---------------|
| DESCRIPTION | QTY | UNIT | CLEVELAND CONTRACTORS, INC. | | CLARK LEDBETTER GRADING, INC. | | MARVIN HOYLE CONSTRUCTION | | SOUTHEASTERN ASPHALT | | TWO BROTHERS UTILITIES, LLC | | A & A GRADING AND HAULING | | NHM CONSTRUCTORS, LLC | | LAWDALE SAND, LLC | |
| | | | UNIT PRICE | TOTAL | UNIT PRICE | TOTAL | UNIT PRICE | TOTAL | UNIT PRICE | TOTAL | UNIT PRICE | TOTAL | UNIT PRICE | TOTAL | UNIT PRICE | TOTAL | UNIT PRICE | TOTAL |
| 1 MOBILIZATION | 1 | LS | \$3,000.00 | \$3,000.00 | \$2,000.00 | \$2,000.00 | \$4,000.00 | \$4,000.00 | \$2,200.00 | \$2,200.00 | \$2,400.00 | \$2,400.00 | \$3,000.00 | \$3,000.00 | \$13,255.00 | \$13,255.00 | | |
| 2 NEW OPEN THROAT CATCH BASIN | 1 | EA | \$3,000.00 | \$3,000.00 | \$4,000.00 | \$4,000.00 | \$3,000.00 | \$3,000.00 | \$2,915.00 | \$2,915.00 | \$3,450.00 | \$3,450.00 | \$3,600.00 | \$3,600.00 | \$3,810.00 | \$3,810.00 | | |
| 3 24" HDPE PIPE | 215 | LF | \$45.71 | \$9,827.65 | \$50.00 | \$10,750.00 | \$116.00 | \$24,940.00 | \$72.38 | \$15,561.70 | \$105.72 | \$22,729.80 | \$50.00 | \$10,750.00 | \$24,940.00 | \$24,940.00 | | |
| 4 CONNECT TO EXISTING CATCH BASIN | 1 | LS | \$200.00 | \$200.00 | \$1,000.00 | \$1,000.00 | \$2,000.00 | \$2,000.00 | \$550.00 | \$550.00 | \$1,600.00 | \$1,600.00 | \$800.00 | \$800.00 | \$13,448.00 | \$13,448.00 | | |
| 5 CRUSH EXISTING CATCH BASIN | 1 | LS | \$500.00 | \$500.00 | \$500.00 | \$500.00 | \$1,000.00 | \$1,000.00 | \$550.00 | \$550.00 | \$1,650.00 | \$1,650.00 | \$600.00 | \$600.00 | \$1,950.00 | \$1,950.00 | | |
| 6 FLOWABLE FILL | 100 | CY | \$31.25 | \$3,125.00 | \$20.00 | \$2,000.00 | \$100.00 | \$10,000.00 | \$137.50 | \$13,750.00 | \$181.50 | \$18,150.00 | \$200.00 | \$20,000.00 | \$22,000.00 | \$22,000.00 | | |
| 7 ROCK | 5 | CY | \$176.00 | \$880.00 | \$100.00 | \$500.00 | \$10.00 | \$50.00 | \$1.10 | \$5.50 | \$100.00 | \$1,000.00 | \$200.00 | \$2,000.00 | \$625.00 | \$3,125.00 | | |
| 8 REMOVE/TRIM TREES | 1 | LS | \$100.00 | \$100.00 | \$1,500.00 | \$1,500.00 | \$2,000.00 | \$2,000.00 | \$1,650.00 | \$1,650.00 | \$2,900.00 | \$2,900.00 | \$4,000.00 | \$4,000.00 | \$5,915.00 | \$5,915.00 | | |
| 9 ASPHALT REPAIR | 8 | SY | \$100.00 | \$800.00 | \$312.50 | \$2,500.00 | \$100.00 | \$800.00 | \$330.00 | \$2,640.00 | \$135.00 | \$1,080.00 | \$400.00 | \$3,200.00 | \$338.00 | \$2,704.00 | | |
| | | | SUBTOTAL | \$21,432.65 | SUBTOTAL | \$24,750.00 | SUBTOTAL | \$37,890.00 | | \$39,822.20 | | \$54,459.80 | | \$55,950.00 | | \$91,147.00 | | \$0.00 |
| | | | CONTINGENCY (10%) | \$2,143.47 | | \$2,475.00 | | \$3,789.00 | | \$3,982.22 | | \$5,445.98 | | \$5,595.00 | | \$9,114.70 | | \$0.00 |
| | | | TOTAL PROJECT BID | \$23,576.12 | | \$27,225.00 | | \$41,679.00 | | \$43,804.42 | | \$59,905.78 | | \$61,545.00 | | \$100,261.70 | | NO BID |
| LOW BIDDER: CLEVELAND CONTRACTORS, INC. | | | | | | | | | | | | | | | | | | |

August 6, 2020

Mr. Tyler Brooks
Storm water/Engineering Coordinator
City of Shelby
PO Box 207, 824 W Grover St.
Shelby, NC 28150

RE: Contractor Recommendation for the Shady Ridge Lane Drainage Project

Dear Tyler:

Bids were received on Wednesday, August 5, 2020 at 5:00 p.m. via email for the Shady Ridge Lane Drainage Project.

| | <u>BID AMOUNT</u> |
|-----------------------------------|-------------------|
| • Cleveland Contractors, Inc. | \$23,576.12 |
| • Clark Ledbetter Grading, Inc. | \$27,225.00 |
| • Marvin Hoyle Construction, Inc. | \$41,679.00 |
| • Southeastern Asphalt | \$43,804.42 |
| • Two Brothers Utilities, LLC | \$59,905.78 |
| • A & A Grading and Hauling | \$61,545.00 |
| • NHM Constructors, LLC | \$100,261.70 |
| • Lawndale Sand, LLC | No Bid |

Below are the contractors that were invited but did not respond in the invitation bid.

- Kennedy Concrete & Utilities, Inc.
- Double R Utilities, Inc.
- Piedmont Utility Group, Inc.
- Steppe Construction, Inc.
- Apple, Tuck & Associates
- Botts Grading
- Dobbins Grading
- BWC Contracting

The low bidder was Cleveland Contractors, Inc. with a bid amount of **\$23,576.12**. We recommend awarding the contract to **Cleveland Contractors, Inc.** in the amount of **twenty-three thousand, five hundred seventy-six dollars and 12/100 (\$23,576.12)** to complete the project.

Sincerely



David Odom, P.E.

STATE OF NORTH CAROLINA

COUNTY OF CLEVELAND

**CITY OF SHELBY
STORMWATER INFRASTRUCTURE ASSISTANCE AGREEMENT**

THIS AGREEMENT, is made and entered into this 20th day of July, 2020 by and between the City of Shelby, a municipal corporation of the State of North Carolina, hereinafter referred to as the CITY, party of the first part, and Don and Emily Yelton of Shelby (city), North Carolina (state), hereinafter referred to as the OWNER(S), party of the second part.

BACKGROUND

The CITY, pursuant to City Council Resolution No.3-2016, has adopted a formal policy for providing City assistance for upgrades and repairs to stormwater drainage systems on private property. The OWNER(S), pursuant to this policy, have petitioned the CITY to participate in stormwater drainage improvements within the boundaries of their property, based upon a sharing of costs for such work. These agreements and undertakings are in consideration of the sums agreed to be paid for such work by the OWNER(S), the benefit therefrom according to the public, and the mutual terms and conditions set forth below.

The CITY as specified in Resolution No.3-2016, will perform or contract for improvements as indicated in plans developed by the CITY for the infrastructure improvement project described below:

Stormwater system replacement to fix a sinkhole

WHEREAS, the Common Law Doctrine known as the "rule of reasonable use" which has been formally adopted by the North Carolina Supreme Court with respect to surface water drainage allows reasonable alteration of the flow of storm water runoff which may cause harm to properties; and

WHEREAS, there are locations throughout the City of Shelby where the altered flow of storm water runoff through private property interferes with the safety, comfort, welfare, and/or convenience of property owners or the general public; and

WHEREAS, the City, in most cases does not have legal authority to make drainage improvements on private property; and

WHEREAS, the City is willing to award assistance to promote the improvement of drainage facilities on private property and to correct illicit discharges and/or illicit connections on private property in accordance with the City of Shelby Stormwater Infrastructure Assistance Program;

NOW, THEREFORE, in consideration of the promises and mutual covenants herein contained, the parties agree as follows:

1. The CITY agrees to share in the cost of upgrades or repairs to the stormwater system on or along the property of the OWNER(S) as set forth in, those project plans identified as Shady Ridge Lane. (This work shall be referred to herein as "the Project"). The CITY agrees to pay a pro-rata share representing 80 percent (residential property) or 50 percent (commercial property) of the actual construction costs of the Project for the most feasible, cost efficient solution determined by the CITY for a project on private property. The CITY agrees to pay 100 percent of design costs for a third-party consulting engineer if deemed necessary by the CITY.

2. The OWNER(S) agree to pay their pro-rata share representing 20 percent (residential property) or 50 percent (commercial property) of the actual construction cost of the Project. OWNER(S) shall pay their share of the cost by depositing with the CITY a minimum amount equal to 50 percent of the preliminary estimated share of the OWNER(S). The remainder of the OWNER(S) share is due at the time of written notification from the CITY of Project completion and total construction costs of the CITY. The OWNER(S) costs will not exceed their pro-rata share of the actual construction costs, and any payment in excess of actual cost will be refunded to the OWNER(S). Should the OWNER(S) choose not to complete the project following a design by a third-party consulting engineer, the OWNER(S) shall pay 50 percent of the engineering design fee.

OWNER(S) may choose to participate in the special assessment payment option, as evidenced by the attachment to this Agreement of a properly executed Note and Instrument Payment Agreement and Deed of Trust. The Project may proceed upon proper execution and submittal to the CITY of the Agreement, Note and Deed of Trust.

OWNER(S) participating in the special assessment payment option are subject to the following conditions:

- a. Applications for installment payments shall be submitted with a non-refundable \$200 application fee to cover credit checks, appraisals, and other costs associated with a special assessment.
- b. A first or second position lien in an amount no greater than 80% of the unencumbered property value will be considered sufficient security for the assessment.
- c. After determination that income, credit history, security, and other normal requirements for the assessment have been met, the application for installment payments will be approved by the City.
- d. The applicant shall submit a deposit at least equal to 10% of the actual construction cost and an executed agreement to pay the remainder in equal payments over a time period not to exceed 5 years. The first payment will be due one year after notification of Project completion by the City.
- e. The minimum assessment amount will be \$1,000.

3. The total project cost shall not exceed \$50,000.

4. The construction contract for the construction of the improvements to the residential or commercial property located at 110 Shady Ridge Ln. and described in Deed Book 14X Page 437 at the Cleveland County Register of Deeds shall be let for bids and awarded in accordance with Article 8 of Chapter 143 of the North Carolina General Statutes, and specifically including the requirement that any contract be awarded to the lowest responsible bidder. All obtained bids shall be provided to the OWNER(S) for review. The CITY reserves the right to refuse any and/or all bids. The total CITY share of the Project will be 80 percent (residential property) or 50 percent (commercial property) of the actual construction cost of the improvements for the most feasible, cost efficient solution determined by the CITY for the Project on private property. The OWNER(S)' share of cost of the project shall not exceed 20 percent (residential property) or 50 percent (commercial property) of the actual construction cost of the improvements for the most feasible, cost efficient solution determined by the CITY for the project. The work will be undertaken only if CITY funds are available.

5. The CITY shall obtain all temporary construction easements from neighboring property owners. Costs associated with acquiring easements will be included in the total Project costs shared by the CITY and OWNER(S). OWNER(S) shall grant a temporary construction easement to the CITY at no cost.

6. The Stormwater Division reviews and approves the design plans and specifications prior to bid solicitation.

7. The work shall conform to City standards and other applicable local, state, and federal requirements.

8. The CITY, or a third party delegated by the CITY, shall provide construction oversight and inspections to ensure that the Project is completed in substantial conformance with the proposal.

9. In consideration for the CITY's undertaking stormwater drainage improvement assistance on private property, the OWNER(S) hereby agree to discharge, release, and hold harmless the CITY, its agents, employees, and officers, for liability for personal injury or property damage, or both, arising under this Agreement or the work to be performed hereunder. The OWNER(S) hereby agree to discharge, release, and hold harmless the CITY's contractor or contractors for liability for personal injury or property damage, or both, to the extent such are not covered by the contractor's liability insurance.

10. The OWNER(S) acknowledge and agree that no action taken or work performed by the CITY pursuant to this Agreement or the official City of Shelby Stormwater Infrastructure Assistance Program shall constitute a taking or appropriation of the stream, ditch, water course, or drainage way on or along their property as part of the CITY's stormwater drainage system. Further, the OWNER(S) acknowledge and agree that the CITY has assumed no liability over, or responsibility for, their property, the drainage way, or any drainage improvements located on their property. The OWNER(S) agree to be responsible for the future maintenance and repair of all drainage facilities and improvements located on their property.

11. The undertaking of the Project by the CITY shall be conditioned upon full participation in this Agreement and undertaking by all property owners abutting the Project. The OWNER(S) understand and acknowledge that, in the event any of the Project participants fail to make full payment for the cost of the work, or fail to execute all required documents and agreements, the final approval of the Project will be withheld by the CITY, and this Agreement shall be void and of no effect.

12. The CITY and/or the OWNER(S) may withdraw participation in the Project if the actual construction bids exceed the preliminary cost estimate or available City funding.

13. These provisions represent the entire Agreement between the parties and may not be modified by oral representations. As used herein, the plural designation may indicate the singular, where applicable.

14. The OWNER(S)' share of the funding as outlined above must be paid to the CITY following the completion of design plans and bidding, but prior to the execution of any construction contracts.

15. The Project must be expected to have a life cycle of more than five (5) years, therefore the OWNER(S) shall commit to a higher level of maintenance than may have previously been conducted (i.e. maintaining vegetation and/or removing debris from ditches) for a period of five (5) years. The CITY will complete annual inspections during this five (5) year period and notify the OWNER(S) of maintenance issues that exist if any are present.

NOW, THEREFORE, in consideration of the City's willingness to enter into the Agreement, the undersigned agrees that the Agreement shall be governed by the laws of the State of North Carolina and venue for any civil action between the parties shall be Cleveland County Civil Superior Court.

This Agreement shall be binding on the heirs, personal representatives, successors and assigns of the parties with reference to the subject matter of this Agreement.

IN WITNESS WHEREOF, the OWNER(S) have set their hands the date above written.

OWNER(S):

Don Yelton
Print Name: Don. Yelton
Title: _____

Emily B. Yelton
Print Name: Emily B. Yelton
Title: _____

ATTEST: _____

(Seal if appropriate)

STATE OF NORTH CAROLINA

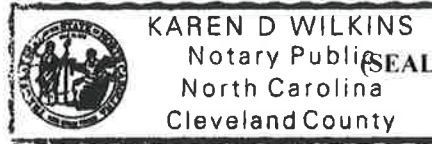
COUNTY OF Cleveland

I, Karen D Wilkins, a Notary Public of the County of Cleveland and State of North Carolina, do hereby certify that Don + Emily Yehon personally appeared before me this day and acknowledged the due execution of the foregoing Stormwater Infrastructure Assistance Agreement, together with attached addendum/addenda (if applicable).

WITNESS my hand and official seal this 20 day of July, 20 20.

Karen D Wilkins
Notary Public

My Commission Expires: 9/21/2023



STATE OF NORTH CAROLINA

COUNTY OF _____

I, _____, a Notary Public of the County of _____ and State of North Carolina, do hereby certify that _____ personally appeared before me this day and acknowledged the due execution of the foregoing Stormwater Infrastructure Assistance Agreement, together with attached addendum/addenda (if applicable).

WITNESS my hand and official seal this ____ day of _____, 20 ____.

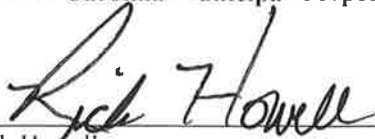
Notary Public

My Commission Expires: _____

(SEAL)

CITY OF SHELBY,

A North Carolina Municipal Corporation

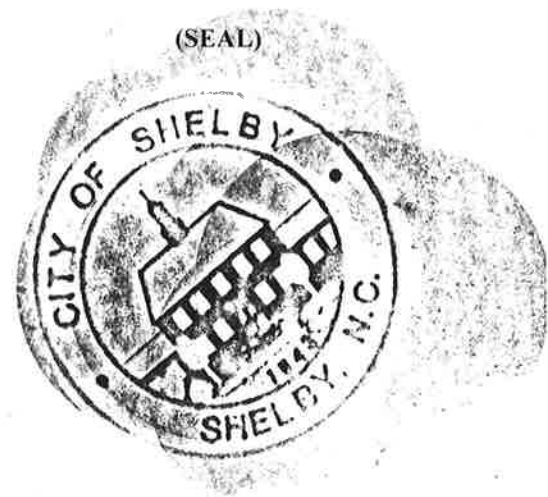


Rick Howell
City Manager

ATTEST:



Bernadette Parduski, NCCMC, MMC
City Clerk



RESOLUTION NO. 38-2020

**A RESOLUTION AWARDING THE CONTRACT FOR THE CITY OF SHELBY
STORMWATER INFRASTRUCTURE ASSISTANCE PROGRAM PROJECT
AT 110 SHADY RIDGE LANE IN SHELBY, NORTH CAROLINA**

WHEREAS, the City of Shelby established a Stormwater Infrastructure Assistance Program via Resolution No. 3-2016; and,

WHEREAS, the City of Shelby received an application for assistance from Don and Emily Yelton at 110 Shady Ridge Lane in Shelby, North Carolina to address failing stormwater infrastructure that crosses their private property and connects to the public right-of-way; and,

WHEREAS, the City of Shelby Engineering Department has reviewed the proposed project application and determined that the project meets the requirements of the Stormwater Infrastructure Assistance Program; and,

WHEREAS, a third party engineer evaluated and designed the replacement of the failing infrastructure; and,

WHEREAS, the City of Shelby in accordance with applicable provisions of GS 143-129, as amended, has accepted proposals for the project located at 110 Shady Ridge Lane in Shelby, North Carolina in accordance with priorities heretofore established by City Council; and,

WHEREAS, bids for this proposed work have been tabulated and contract award recommended for this project to the lowest responsive bidder, Cleveland Contractors, Inc., for a total bid of \$23,576.12; and,

WHEREAS, per Resolution No. 3-2016, the City agrees to pay 80% of the construction costs and the property owner agrees to pay 20% via a legal agreement; and,

WHEREAS, City Council now desires to proceed with award of construction contract as recommended by staff.

**NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE
CITY OF SHELBY, NORTH CAROLINA:**

Section 1. The contract for the Stormwater Infrastructure Assistance Program project at 110 Shady Ridge Lane in Shelby, NC, as outlined in the bid specifications for this offering, is hereby awarded to Cleveland Contractors, Inc. for a bid price of \$23,576.12 as stated in their official proposal for this bidding, and in accordance with the City's official bid specifications for this project.

Section 2. The City Manager of the City of Shelby or his designee is hereby authorized and directed to execute the applicable contracts and any change orders as specified in Section 1 of this resolution.

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Section 3. This resolution shall become effective upon its adoption and approval.

Adopted and approved this the 17th day of August 2020.

O. Stanhope Anthony III
Mayor

ATTEST:

Bernadette A. Parduski, NC-CMC, IIMC-MMC
City Clerk

City of Shelby
Agenda Item Summary
August 17, 2020
(via electronic meeting)

Agenda Item: D-4

- 4) Approval of a Notice of Cancellation in the Regular Meeting Schedule of Shelby City Council

Consent Agenda Item: (Bernadette A. Parduski)

Summary of Available Information:

- Notice of Cancellation

City Manager's Recommendation / Comments

After reviewing with staff the upcoming agenda schedule and any upcoming items requiring action by City Council it is my recommendation that the regular meeting slated for Monday, September 7, 2020 be cancelled via the Consent Agenda. As a matter of practice agenda items are scheduled and planned weeks in advance for most items to allow the appropriate review process to occur. I would note that in the event an issue arises that would require immediate action by City Council a special meeting could be called in accordance with the NC General Statutes. If approved by City Council your next regularly scheduled meeting would be held on Monday, September 21, 2020.

**Notice of Cancellation
in the
Regular Meeting Schedule
of
Shelby City Council**

This notice is to inform the general public and the media, and is conducted in accordance with the mandates of North Carolina General Statutes 160A-71 and 143-318.12 (a), that the regularly scheduled September 7, 2020 meeting of the Shelby City Council has been cancelled in observance of the City's Labor Day holiday. The regular meeting schedule, as adopted by the Council, remains in place for all other regular meetings of the Council and will resume:

**Monday, September 21, 2020, at 6:00 p.m.
City Hall Council Chamber
300 South Washington Street
Shelby, North Carolina**

Dated: August 17, 2020

**O. Stanhope Anthony III
Mayor**

City of Shelby
Agenda Item Summary
August 17, 2020
(via electronic meeting)

Unfinished Business

None

New Business

None

City of Shelby
Agenda Item Summary
August 17, 2020
(via electronic meeting)

Agenda Item: G

City Manager's Report

I will update Council on various projects and issues at this time.

Agenda Item: H

Council Announcements and Remarks

I. Adjournment

To adjourn a meeting of City Council, a majority of the Council members must vote for a motion to adjourn.

Motion to adjourn