

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. Special Presentation:

- 1) The City of Shelby Business Starter Guide – Rachel Taylor, Senior Analyst, NC Growth, Kenan-Flagler Business School, University of North Carolina at Chapel Hill 1

C. 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 April 19, 2021 25
- 2) Approval of a resolution honoring Thomas J. (Tommy) Forney, Jr. on the occasion of his retirement from employment with the City of Shelby: Resolution No. 24-2021 29
- 3) Approval of a resolution amending Resolution No. 6-2020: A resolution approving the conveyance of property to another unit of government in North Carolina pursuant to North Carolina General Statute 160A-274: Resolution No. 25-2021 31

D. Unfinished Business:

- 1) Consideration of appointments to City advisory boards and commissions:
 - a. Alcoholic Beverage Control Board 33

- 2) Consideration of a resolution opposing the passage of State Bill 349/House Bill 401 Increase Housing Opportunities in the General Assembly of North Carolina: Resolution No. 26-2021 38

E. New Business:

- 1) Consideration of a resolution awarding the contract for the City of Shelby Fiscal Year 2020-2021 Street Resurfacing Program: Resolution No. 27-2021 53
- 2) City of Shelby’s Job Ready Shell Building No. 4 Project 66
 - a. Consideration of an ordinance establishing a capital project ordinance and budgets for the City of Shelby’s Job Ready Shell Building No. 4 Project: Ordinance No. 18-2021 76
 - b. Consideration of a resolution authorizing selection of WHN Architects based on qualifications for professional architectural and civil engineering services for the design of an industrial site and a “Job Ready” Shell Building on Randolph Road in Shelby, North Carolina: Resolution No. 28-2021 78

F. City Manager’s Report 80

G. Council Announcements and Remarks 80

H. Adjournment:

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

- 1) Motion to adjourn 80

City of Shelby
Agenda Item Summary
May 3, 2021
Don Gibson Theater

B. Special Presentation:

Agenda Item B-1

- 1) The City of Shelby Business Starter Guide – Rachel Taylor, Senior Analyst, NC Growth, Kenan-Flagler Business School, University of North Carolina at Chapel Hill

Presenting: (Justin Merritt, Assistant City Manager)

- City of Shelby Business Starter Guide

City Manager's Recommendation / Comments

Several months ago I saw a post on LinkedIn showcasing a “Business Starter Guide” for Whiteville, NC. I clicked on the link and liked what I saw. It was a document designed to assist people wishing to start a business in that town. I asked Justin Merritt at that time to touch base with the folks in Whiteville to find out more. He reached out to them and now several months later I believe we have a “Business Starter Guide” that will in fact make it easier for a business to get started. Opening a business can be a daunting task especially for a first timer who does not know the typical steps that have to be taken in the process. Hopefully this will help.

Representatives from NC Growth will join us over Zoom to present the Shelby guide. A copy of the guide is included in your agenda packet. Mr. Merritt will introduce this item and our presenters.



CITY OF SHELBY

Business Starter Guide



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This packet was assembled by NCGrowth, an award-winning applied economic development university center with a goal of directly addressing inequality, poverty, underemployment, and other factors that keep people and communities from reaching their greatest potential. NCGrowth's team includes expert staff across the Carolinas, academic advisors from multiple universities, and hundreds of local partners. Learn more at ncgrowth.unc.edu.

So, you want to start a business...?

The City of Shelby is invested in your new business's success and would like to work with you to navigate the planning and permitting process. Whether you are thinking of opening a business from home, signing a lease in an established storefront, or even constructing a new building to house your venture, it is crucial to acquaint yourself with local and state regulations and ordinances before you begin.



This guide also provides contact information for additional resources to help you with other aspects of starting a business. Organizations like the Cleveland County Small Business Center, the Uptown Shelby Association, and the Cleveland County Minority Business Center provide programming and assistance to small business owners and entrepreneurs with steps like creating business plans and organizing your finances.

Home-Based Businesses

Shelby's residential zoning districts permit many home businesses. If your home-based business does not require renovations or alterations to your home, then you will not need a building permit. However, you will still need a zoning permit, and you will need to make sure your business meets the requirements for "[home occupations](#)."

If you have questions about starting a home-based business, please contact the City of Shelby Planning Department at (704) 484-6829.

Storefront Business and New Construction

If you are looking to operate your business from a storefront, this packet will be useful! The City of Shelby encourages you to review the steps outlined in this packet before signing your lease or hiring a contractor.

Fulfilling State Requirements

The State of North Carolina requires a series of legal steps before opening your business. While this packet exists to walk you through the process of starting a business in Shelby, it is also important that you complete the necessary state requirements. These can include but are not limited to registering your business, obtaining necessary occupational licenses, and employer requirements.

Information about North Carolina's statewide requirements can be found [here](#). Official business resource specialists are also available to answer your questions at 1-800-228-8443.

BUSINESS STARTER STEPS



I. Check Your Zoning & Land Use



II. Make Sure Your Building Is Up to Code



III. Obtain Your Permits for Construction, Alteration, Movement, & More



IV. Sign Your Lease



V. Get Your Building Inspected



VI. Establish Your Utility Accounts

Step I. Check Your Zoning & Land Use Designation



Your first step should be to verify that the location you are considering for your business has the proper land use and zoning designation for the type of business you are looking to open. Zoning regulations are designed to protect the community's welfare, conserve property values, and contribute to the City's development.

To determine whether your business is approved in a given zoning district, consult either the zoning map located in the appendix of this packet or the online [interactive map](#).

HOW TO USE THE INTERACTIVE MAP: First, click on the search bar in the upper left-hand corner of the screen and select search by address. Then type your proposed business address into the search bar to locate it on the map. From there, click into the shaded region in which the address is located to reveal its zoning district.

TIP: Double-check zoning for your business's location on the City of Shelby zoning map. For locations within the City, the city zoning map will be more up-to-date than the county zoning map. If you are unsure about your zoning, call the Planning Department at (704) 484-6829.



Once you identify your business zone, visit the [table of approved uses](#) to determine whether your business is permitted in that particular zone.

The table identifies five zoning designations:

- 1) **Unconditionally permitted** (also referred to as "Use by Right"): indicated by a "Z." If your use is unconditionally permitted, then you will still need to submit a general planning application and check the "Change in Tenant" box to secure a change in tenant permit, then you may move to the next step.
- 2) **Unconditionally permitted use, subject to development standards:** indicated by a "D." If your use is permitted by right subject to meeting additional development standards, then you will need to adhere to the development standards. You can find details about the process and regulations for development standards in the [unified development ordinances Article XI](#).
- 3) **Permitted as Special Use II:** indicated by "S-2." If your use is permitted as special use two, then you must apply for a [Special Use Permit](#). You must use the [General Planning Application](#) and attach the [Special Use Permit Checklist](#) along with the documents cited in the checklist. The Zoning Board of Adjustment must approve a special use two permit and may necessitate additional requirements. You can find details about the process and regulations for conditional use in [city ordinances](#).
- 4) **Permitted as Special Use I:** indicated by an "S-1." If your use requires a [special use permit](#), you must complete the [General Planning Application](#) and attach the [Special Use Permit Checklist](#) along with the documents cited in the checklist. Approval of a special use permit is the City Council's duty and may include additional requirements. You can find details about the process and a table of regulations for special use in [city ordinances](#).
- 5) **Prohibited:** indicated by a **blank**. If your potential business is prohibited in the chosen district, you need to consider a new location.

NOTE: If your specific use is not listed on the table of approved uses you cannot get a permit. However, please call the Planning Department at (704) 484-6829 to determine if they can help you update the terminology. For example, a vape shop may not be listed, but a tobacco shop may be approved.

Typical Zoning Districts for Small Businesses

RESIDENTIAL OFFICE (RO)

High density multifamily residences; offices; public & institutional; professional, and personal services; limited support retail.



NEIGHBORHOOD BUSINESS (NB)

Small, limited retail service providing goods & services to surrounding residential neighborhoods.

CENTRAL BUSINESS (CB)

Variety of commercial activities, particularly pedestrian-oriented activities; accommodates retail, offices, professional & personal services, entertainment, institutional, & living space.



GENERAL BUSINESS (GB)

Accommodates a wide range of retail; professional & personal services; office; limited wholesale & warehousing.

GENERAL BUSINESS 2 (GB2)

Permitted uses identical to GB, except that billboards are not permitted in this district.



CORRIDOR PROTECTION (CPD)

Promotes development compatible with a major highway corridor & enhances visual attractiveness of area.

Step II. Make Sure Your Building is Up to Code



After you determine that the building you plan to use is approved by the City of Shelby's zoning regulations, your next step is to determine whether the structure will require renovations to meet the [North Carolina State Building Code](#). The purpose of the State Building Code is to provide minimum standards to protect public safety, health, property, and general welfare.

The City recommends and in some cases requires that you work with a contractor or architect. When you submit an application, the department will help you determine whether your work requires a contractor or not. If your building is not up to code, working with a professional will help ensure that the proper renovations and updates are made to your building. This step is crucial for passing inspections further in the process. Failure to make certain that your building is up to code could result in penalties or fines.

NOTE: Many code requirements are based on the type of business that occupies a building. The Building Code calls this the occupancy classification of a business. Once the occupancy classification is established, then other portions of the code can be determined and applied. To learn more about the various building occupancy classifications, visit [Chapter 3](#) of the State Building Code.



Occupancy Classification Groups

NOTE: You need to know your occupancy classification to determine code ordinances to follow.



Assembly Group A

Spaces used for gathering of persons for civic, social, religious, or recreational purposes or for consumption of food or drink. Examples include theaters, restaurants, churches, fitness studios, or sporting areas.

Business Group B

Spaces used for office, professional or service transaction, or the storage of record and accounts. Examples include banks, beauty shops, dry cleaners, laboratories and professional offices.



Educational Group E

Spaces intended for educational purposes of 6 or more persons up to the 12th grade.

Factory Group F

Spaces used for assembling, disassembling, fabricating, finishing, manufacturing, packaging, repairing or processing operations.



Institutional Group I

Spaces where care or supervision is provided to people who are incapable of self-preservation without assistance, people detained for penal or correctional purposes, or liberty of the occupants is restricted. Examples include assisted living facilities, group homes, rehabilitation centers, and correctional centers.

Mercantile Group M

Spaces used for display and sale of merchandise and involves stocks of goods or merchandise accessible to the public. Examples include department stores, drug stores, motor fuel-dispensing facilities, and sales rooms.



Residential Group R

Spaces used for sleeping purposes but are not one- or two-family dwellings. Examples include boarding houses, hotels, apartments, dorms, live/work units and other residential care facilities.

Storage Group S

Spaces used for storage that is not classified as a hazardous occupancy.



Utility Group U

Building or structures not classified as any specific occupancy. Examples include agricultural buildings, carports, retaining walls, sheds, etc.

Step III. Obtain Your Permits



Applying for Building Permits

You must receive permits from the City of Shelby before proceeding with construction, reconstruction, alteration, repair, movement to another site, removal, or demolition of any building or structure. The types of permits you need will vary depending on the changes you intend to make to your building.



NOTE: If you are changing your building's occupancy classification (such as from Business use to Educational use), you will need to contact the Planning Department to receive the proper permits and paperwork.

You will first need to complete the [General Planning Application](#). For example, you will need to complete the application to secure a change in tenant permit and if you are making any expansion or alteration to the footprint of your building.

Part of the General Planning Application may include the submission of a site plan, if there is a change in use, an expansion, or alteration for example. Call the planning department to double check if your project requires a site plan. A site plan is a diagram that shows proposed improvements to your property. The plan includes structural elements and a civil drawing, showing information about grading, landscaping, and other property structural features. An official [site plan checklist](#) must be attached to the General Planning Application.

Aside from structural or floor plan changes, work requiring a permit could consist of installing, repair, or extending 1) plumbing, 2) heating or cooling systems, and 3) electrical wiring, devices, appliances, or equipment. If you do not make structural changes to your building but are doing work to the plumbing, heating/cooling, or electrical, you may apply for those permits individually. Please note that your General Planning Application *does not* include trade permits such as plumbing, heating/cooling, mechanical, or electrical.

You will need to apply for a change in tenant permit, state the work you need to do in your building, and then the Planning Department will work with the Building Inspections Division to provide the appropriate trade permits. In some cases, only a licensed trade professional can be awarded the permit. The City highly recommends you work with an architect or contractor to help determine occupancy classification, space layout, exiting requirements, and other requirements that may need to be addressed. Please contact the Planning Department at (704) 484-6829 if you have additional questions.

OTHER TYPES OF PERMITS: In conjunction with or in addition to any building permits, you may need other permits, approvals, or licenses to start your business. For example, if your business will serve alcohol, you will need to obtain a permit from the [North Carolina Alcoholic Beverage Control Commission](#). All eating establishments will also need to complete a [Plan Review Application](#) through [Cleveland County Environmental Health](#) and reach out to the [Wastewater Treatment Plant](#) regarding grease traps.

CHANGE IN TENANT PERMITS AND FIRE INSPECTIONS ARE ALWAYS REQUIRED: If you are moving into a storefront and making no changes or updates to your building, you will still need a [change in tenant permit](#) and [fire inspection](#). This is to ensure you are in compliance, even if a previous tenant may have made alternations. Please contact the Planning and Development Department to confirm that this exception applies to your building.

Call the Building Inspections Department at (704) 484-6805 if you have additional questions about necessary permits for your building.

Applying for Signage Permits

While thinking about signage for your business is typically one of the last steps of the process, the City encourages you to get ahead of the game and include this step within the larger permitting process. Whether or not you choose to design and install a sign, you will want to familiarize yourself with the City of Shelby's [sign regulations](#). There you will find information about the types of signs allowed in specific zoning districts, the material you may use for your sign, sign height restrictions, and much more.

The [Sign Permit Application](#) will ask you about the area of the sign, its general layout and design, and its method of illumination. If conditions warrant it, the Building Inspector may request additional information that is not in the application to ensure your sign conforms with the City's regulations.

The City highly recommends hiring a professional sign contractor to help you design, construct, and install your permanent sign(s). Questions regarding permanent signs should be directed to a professional sign contractor or the City of Shelby Planning Department at (704) 484-6829.

Permit Fees

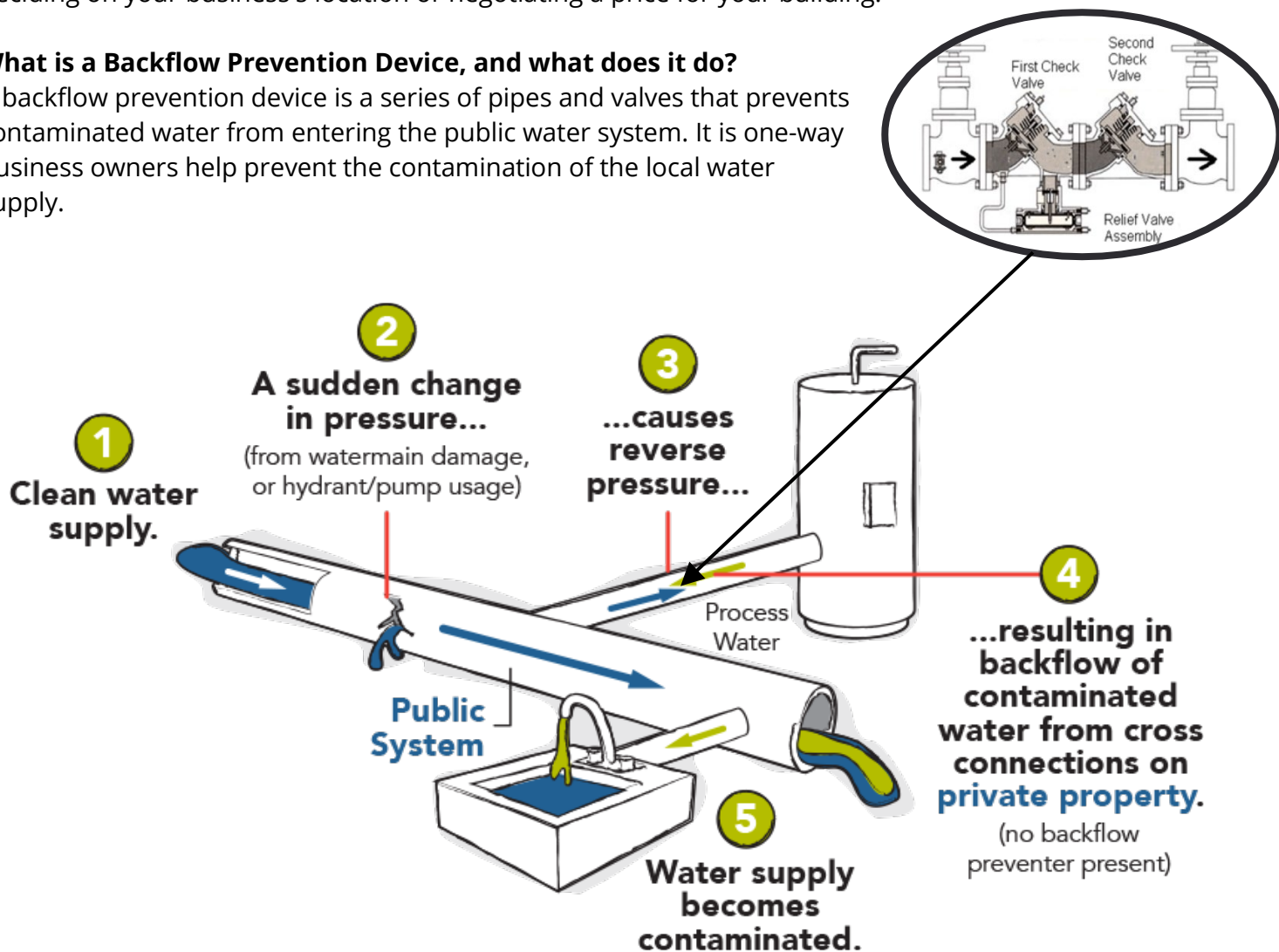
You can find the full schedule of fees for [planning and zoning](#) and [building and permit services](#) on the [Forms & Fees webpage](#). There you will find the cost associated with zoning permits, building permits, fire inspections, water services, and much more. Please contact the Planning and Development Department at (704) 484-6829 if you have additional questions.

Backflow Prevention Devices

The City of Shelby encourages you to determine whether your proposed business location has a backflow prevention device very early on in the permitting process. When looking at properties, ask about the device and make sure it is working correctly. You may want to consider the device's condition when deciding on your business's location or negotiating a price for your building.

What is a Backflow Prevention Device, and what does it do?

A backflow prevention device is a series of pipes and valves that prevents contaminated water from entering the public water system. It is one-way business owners help prevent the contamination of the local water supply.



Who Needs a Backflow Prevention Device?

The City of Shelby adopted a [Backflow Prevention and Cross Connection Ordinance](#) to ensure the community is provided with safe, high-quality drinking water. The City of Shelby's Backflow Prevention and Cross-Connection Ordinance requires ALL commercial and industrial water customers.

Testing

Backflow prevention devices are required by the federal Environmental Protection Agency and the State of North Carolina to safeguard water systems. They **must be tested annually** by a [State Certified Tester](#). The City of Shelby provides an approved list of testers found on the [backflow prevention device webpage](#). In addition to the approved list of State Certified Testers, the City of Shelby is an approved backflow tester. This service's rate is found in the [Water and Sewer Fee Schedule](#) and is automatically charged to your utility bill.

Step IV. Sign Your Lease



The City of Shelby recommends you complete the three steps discussed above before signing your lease. Once the steps are complete, you are ready to sign your lease!



STEP I: Before entering a contract for a commercial property, it is essential to verify that land use and zoning will allow you to operate your business in that location.



STEP II: Verify whether the building requires renovations to meet State Building Code based on its occupancy classification.



STEP III: Verify the presence and condition of your building's backflow prevention device.



STEP IV: Determine which permits are needed to begin the necessary work on your building.



STEP V: Apply for your permits and schedule an inspection.

Step V. Get Your Building Inspected



After the necessary renovations have been completed, you or your contractor will request a [building inspection](#) by calling the City of Shelby Building Services Department at (704) 484-6805. You will need to schedule inspections for any work requiring permitting, including plumbing, electrical, heating, cooling, etc.

To schedule a fire inspection, first, contact the Planning Department at (704) 484-6829. Once the Planning Department assesses your permitting and inspection progress and addresses any other concerns, they will contact the Fire Marshal on your behalf to schedule your fire inspection.

You must complete a building inspection before you can receive your Certificate of Occupancy. Failure to call for an inspection or proceeding without approval at each stage of construction is a violation of city ordinances.

Note: The City of Shelby recommends that you apply for the building permit(s) and schedule an inspection before fully signing the lease and committing to the location. This step ensures that you know the extent of the work and costs required to update the site before committing to the space. After you get your permits and know the extent of work required to update the building, you can sign your lease!



Step VI. Establish Your Utility Accounts



Unless your utilities are handled through a landlord or management company, you will need to establish services for the property. The City of Shelby is a [full utility community](#) and provides [water](#), [sewer](#), [electricity](#), and [natural gas](#) services.

The City provides different combinations of utilities based on which service area you are located. You will need to check which utilities are provided by the City at your location. For example, the Electric Department has the smallest service area, and buildings next to each other could have a different service provider. See the appendix for maps of electricity and natural gas service areas. If the gas and electricity have been off longer than one year, the meters will need to be tested by a licensed professional.

The City of Shelby provides garbage collection for up to 4 city-issued roll carts two times per week. If your business requires more than that, you will need to arrange a dumpster service. Call the Planning Department at (704) 484-6829 to learn about recommended dumpster service providers.

To establish these services, call Customer Services at (704) 484-6866.

Other utility services provided for the property will need to be established with the appropriate utility providers. For example, internet service providers include Spectrum, AT&T, and HughesNet.

Electric

City of Shelby – (704) 484-6866

Duke Energy – (800) 777-9898

Garbage & Dumpster

City of Shelby – (704) 484-6866

[Republic Service](#) – (704) 482-9573

Internet

Spectrum – (844) 901-2114

AT&T – (877) 684-5068

HughesNet – (844) 913-3097

Natural Gas

City of Shelby – (704) 484-6866

Water & Sewer

City of Shelby – (704) 484-6866

Cleveland County – (704) 538-9033

And that concludes the planning, permitting, and inspections processes. We're so glad you've decided to open your business in Shelby!

Helpful Resources for Supporting Your Business

Organization	Overview	Contact Information
<u>Cleveland County Chamber of Commerce</u>	The Chamber's mission is to strengthen Cleveland County businesses, promote economic development, & enhance community vitality. The Chamber strives to make Cleveland County an economic leader in western North Carolina & enhance members' success through advocacy, member benefits, & services.	Address: 200 S. Lafayette St., Shelby, NC 28152 Phone Number: (704) 487-8521 Email Address: info@clevelandchamber.org
<u>Visit Cleveland - Cleveland County Tourism</u>	The Cleveland County Visitor Center is the first point of contact for many guests, & newcomers.	Address: 311 E. Marion St. Shelby, NC 28150 Phone: (704) 484-4804 Email: Emily Epley - Emily.epley@clevelandcounty.com
<u>Cleveland County Community College - Small Business Center</u>	The Small Business Center at CCC provides workshops, seminars, counseling, information, & referral services for small business owners and operators in Cleveland County.	Address: 1800 E. Marion St. Shelby, NC 28152 Phone: (704) 699-4146 Email: Steve Padgett - padgetts@clevelandcc.edu
<u>Uptown Shelby Association</u>	Uptown Shelby's mission is to facilitate collaboration & growth, enrich the Uptown experience, & promote the district to strengthen Uptown Shelby & enhance the community's quality of life. They work to grow a stronger, more viable district through promotion, partnerships, economic restructuring, and design.	Address: 211 South Trade Street Shelby, NC 28150 Phone: (704) 484-3100 Email: Audrey Whetten Godfrey - awhetten@uptownshelby.com
<u>Cleveland County Minority Business Development Center (CCMBC)</u>	CCMBC supports entrepreneurship through capacity building, education, training, and networking. CCMBC provides programs and services like general business counseling, seminars, and leadership training.	Address: 7 North Lafayette Street. Ste. 1 Shelby, NC 28150 Phone: (704) 482-2232 Email: Richard Hooker, Jr. - rhooperjr@hotmail.com
<u>City of Shelby - Planning and Development Services</u>	Planning & Development Services is made up of three divisions: Planning, Building Inspections, & Code Enforcement. Each division handles a wide variety of long-range & day-to-day tasks.	Address: P.O. Box 207 Shelby, NC 28151 Phone Number: (704) 484-6829
<u>City of Shelby - Fire Code Enforcement</u>	Community fire & life safety education programs, fire cause & determination investigations, & fire code enforcement are coordinated through the Fire Marshal's Office.	Address: P.O. Box 207 Shelby, NC 28151 Phone: (704) 669-6605
<u>City of Shelby - Customer Services</u>	To set up your utility accounts, contact the Customer Services Department. The department's goal is to provide customers with courteous, responsive, &	Address: P.O. Box 207 Shelby, NC 28151

	accurate services, uniform procedures, rates, & charges, & treat all customers in a fair & indiscriminate manner.	Phone: (704) 484-6866
<u>City of Shelby – Utilities</u>	The City of Shelby is a full-service utility community. The Shelby utility system is municipally-owned & publicly operated & provides residential, commercial, & industrial customers with water, sewer, electric, & natural gas.	Address: P.O. Box 207 Shelby, NC 28151 Phone: (704) 484-6808
<u>Cleveland County Economic Development Partnership (CCEDP)</u>	The Cleveland County Economic Development Partnership (CCEDP) works to provide a seamless, expedient & confidential process for all businesses – from startups to Fortune 500 companies – looking to establish or expand their roots in Cleveland County	Address: 1800 E. Marion St. Shelby, NC 28152 Phone: (704) 669-4701 Email: Kristin Reese – kristin@ccedp.com
<u>Cleveland County Cooperative Extension Service</u>	The Cooperative Extension Service provides technical assistance & other community resources related to 4-H, Agriculture & Food, Health & Nutrition, and more.	Address: 130 S. Post Rd., Ste. 1 Shelby, NC 28152 Phone: (704)-482-4365
<u>Cleveland County Health Department</u>	The Cleveland County Health department's mission is to assure, enhance, & protect Cleveland County citizens' health through education & prevention.	Address: 200 S. Post Rd., Shelby, NC 28152 Phone Number: (980) 484-5100
<u>City of Shelby - Alcohol Beverage Control</u>	The Shelby Alcoholic Beverage Control Enforcement division of the Shelby Police Department provides permitting information & guidance for alcohol sales & distribution.	Address: P.O. Box 207 Shelby, NC 28151 Phone: (704) 484-7166
<u>Business Link North Carolina (BLNC)</u>	BLNC is a free service for anyone seeking to start a small business in North Carolina. BLNC offers one-on-one phone consultations to help navigate topics like regulatory requirements, licensing stipulations, small business training & more.	Phone Number: (800) 228-8443
<u>U.S. Small Business Administration (SBA)</u>	The SBA helps small business owners & entrepreneurs by providing counseling, capital, contracting expertise, & many resources for small businesses.	Steven White, Senior Area Manager for Western NC Phone: (828) 747-7727 Email: Steven.white@sba.gov
<u>U.S. Department of Agriculture – Rural Development (USDA-RD)</u>	USDA-RD offers loans, grants, & loan guarantees to help create jobs & support economic development & essential services such as housing; health care; first responder services & equipment; & water, electric & communications infrastructure.	Address: 844 Wallace Grove Rd. Shelby, NC 28150 Phone: (704) 471-0235 Email: kevin.oliver@nc.usda.gov
<u>North Carolina Department of Revenue – Business Registration</u>	NC Department of Revenue provides guidance & resources for registering a business.	Address: P.O. Box 25000 Raleigh, NC 27634 Phone: (877) 308-9103
<u>NC Growth & SmartUp</u>	NC Growth is a university center that helps businesses and communities create good jobs and equitable opportunities through applied research and technical assistance on economic development and entrepreneurship projects.	Address: Campus Box 3440, Kenan Center Chapel Hill, NC 27599 Phone: (919) 962-8201 Email: ncgrowth@unc.edu

ECONOMIC INCENTIVE PROGRAMS

Local Programs

[CITY OF SHELBY GAS AND ELECTRIC REBATE PROGRAM](#)

- Shelby Utilities and the City's wholesale supplier, North Carolina Municipal Power Agency Number 1, have joined together to offer rebates to current and new natural gas and electric customers, as well as building/developer, commercial, industrial accounts.
- Energy efficiency rebates are given for energy-efficient upgrades to building features such as windows, insulation, doors, refrigeration, hot water heating, etc. This rebate currently applies to buildings 50 years and older.
- The applications are allocated on a first-come, first-serve system. If your application is approved, the program will contribute up to 80% or \$20k of project costs for energy efficiency improvements and up to 50% of HVAC project costs.
- Gas rebates for commercial properties are allocated if the business meets the load amount. This rebate currently only applies to new businesses.

[CITY OF SHELBY COMMERCIAL AND INDUSTRIAL LIGHTING REBATE PROGRAM](#)

- This program provides a rebate for businesses upgrading from fluorescent to LED lighting. The rebate is calculated based on watts save.

For more information about the rebate programs and to see if you qualify, please visit the City of Shelby's [utility department website](#) or contact Cale Wright at (704) 669-2520.

[CLEVELAND COUNTY SMALL BUSINESS INVESTMENT GRANT PROGRAM](#)

- The Small Business Investment Grant Program provides a grant to businesses making new taxable investments between \$50,000 and \$1,000,000. Those who qualify will receive a portion of county property taxes paid for up to three (3) years. This includes all real property, property improvements, and business personal property, not including vehicles.
- **For more information, contact Cleveland County Tax Administration at (704) 484-4843.**

[UPTOWN SHELBY ASSOCIATION \(USA\) INCENTIVES AND PROGRAMS](#)

- **USA Façade Grant Program**
- Uptown Shelby Association offers modest grants to help finance improvements to windows, doors, exterior walls, and lighting. USA will reimburse the owner for a portion of their costs.
- **Request a copy of the Façade Improvement Grant application packet by calling Uptown Shelby Association at (704) 484-3100.**

State Programs

[HISTORIC REHABILITATION TAX CREDITS](#)

- **For more information on [historic tax credits](#), please consult the [N.C. Department of Natural and Cultural Resources](#) for information about state historic tax credit programs.**

Uptown Shelby Association



The Uptown Shelby Association is an award-winning 501(c)3 nonprofit that was incorporated in 1982 as one of the first thirty Main Street programs in the country. For nearly forty years, Uptown Shelby has worked to revitalize the Uptown Shelby district. It is an accredited member of the National Main Street Center and an active participant in the N.C. Main Street Program within the N.C. Department of Commerce. It works to facilitate collaboration and growth, enrich the Uptown experience, and promote the district in order to strengthen Uptown Shelby and enhance the community's quality of life and civic pride. Its work includes business development, marketing, placemaking, community partnerships, events, and historic preservation.

Business Resources

Uptown Shelby provides resources for existing businesses and those looking to open a business in the Uptown Shelby area. Resources include:

- COVID-19 resources for impacted workers, continuity planning, financial assistance, reopening businesses, and health and safety guidelines.
- "[Getting Started Guide](#)" provides resources, programs, and tips for opening a business in Uptown Shelby.
- Business Resource List provides links and contact information for city departments, local business assistance resources, and statewide programs for small businesses.

Other Activities and Resources

In addition to business resources, the Uptown Shelby Association provides information about activities, businesses, and events in the Uptown district. Uptown Shelby provides:

- Information on available properties located within the Uptown area
- Contact information for event facilities in Uptown Shelby
- Uptown Shelby business features and media highlights
- A guide to local attractions
- Calendar of events in Uptown Shelby



CONTACT US

City of Shelby

300 South Washington St.
P.O. Box 207
Shelby, NC 28151

City of Shelby Customer Services

(704) 484-6866

City Manager's Office

(704) 484-6801

Planning Director's Office

(704) 484-6829

Fire Marshal

(704) 669-6605

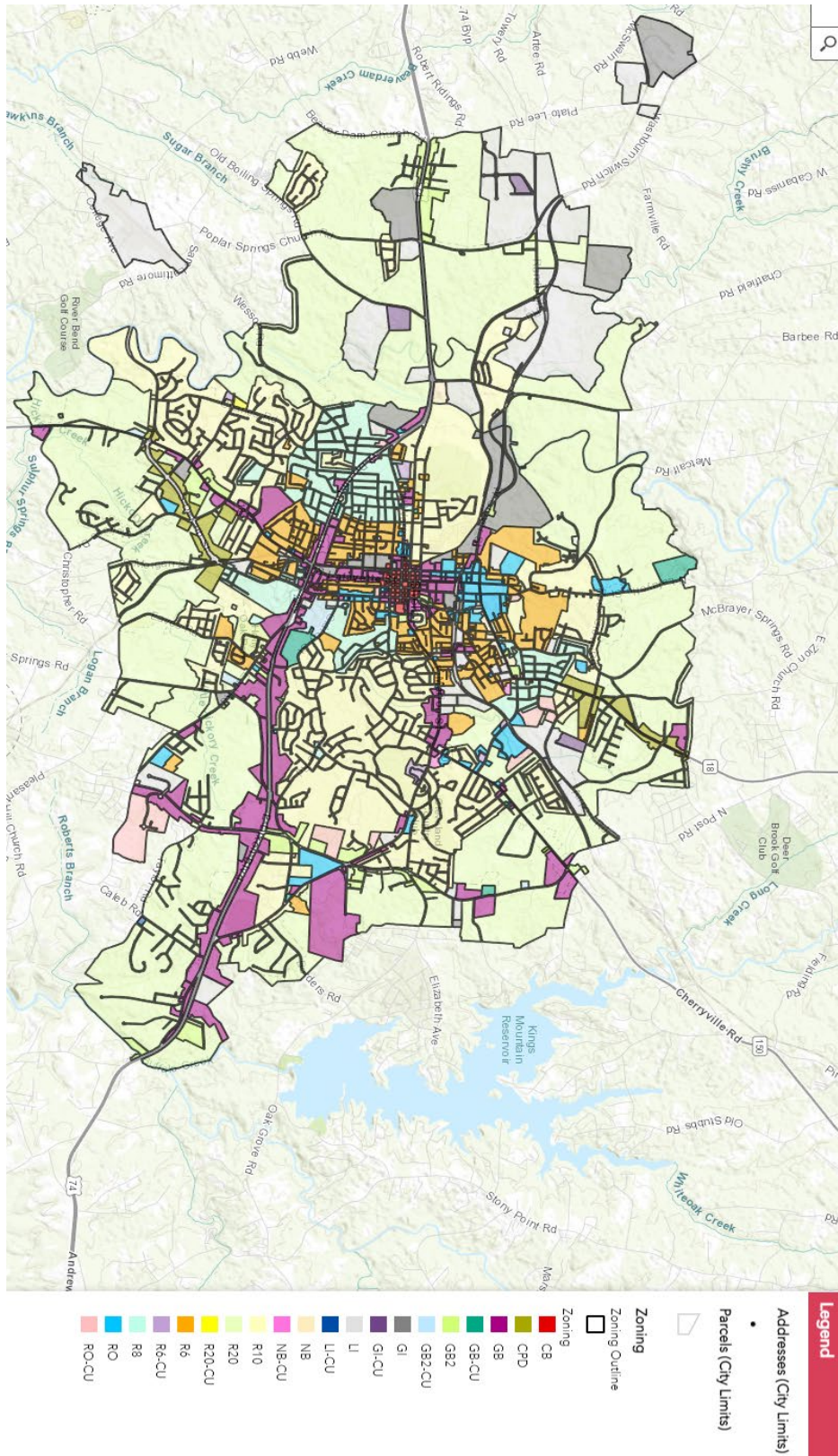
Building Inspector

(704) 484-6805



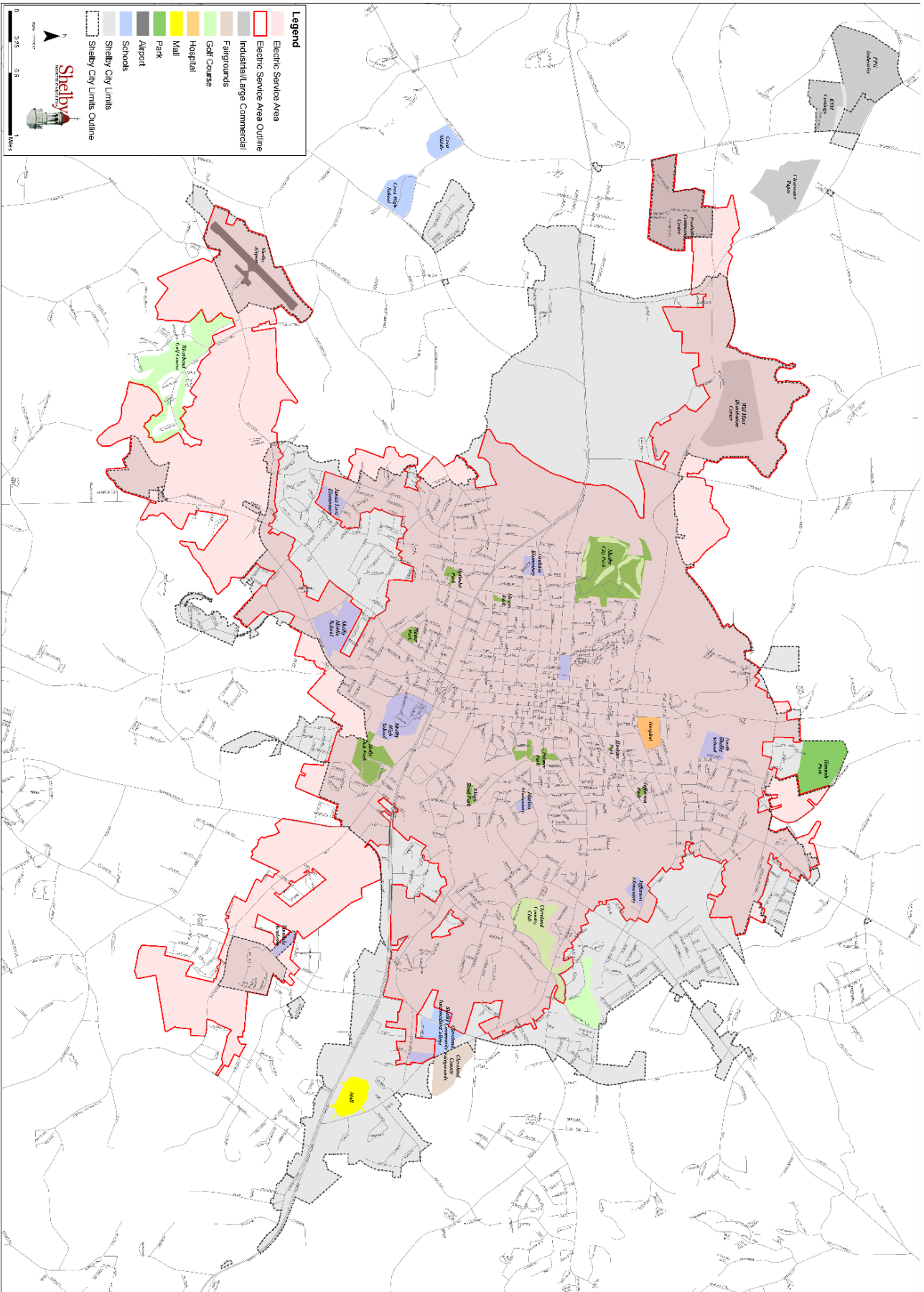
APPENDIX

Appendix A: City of Shelby Zoning Map



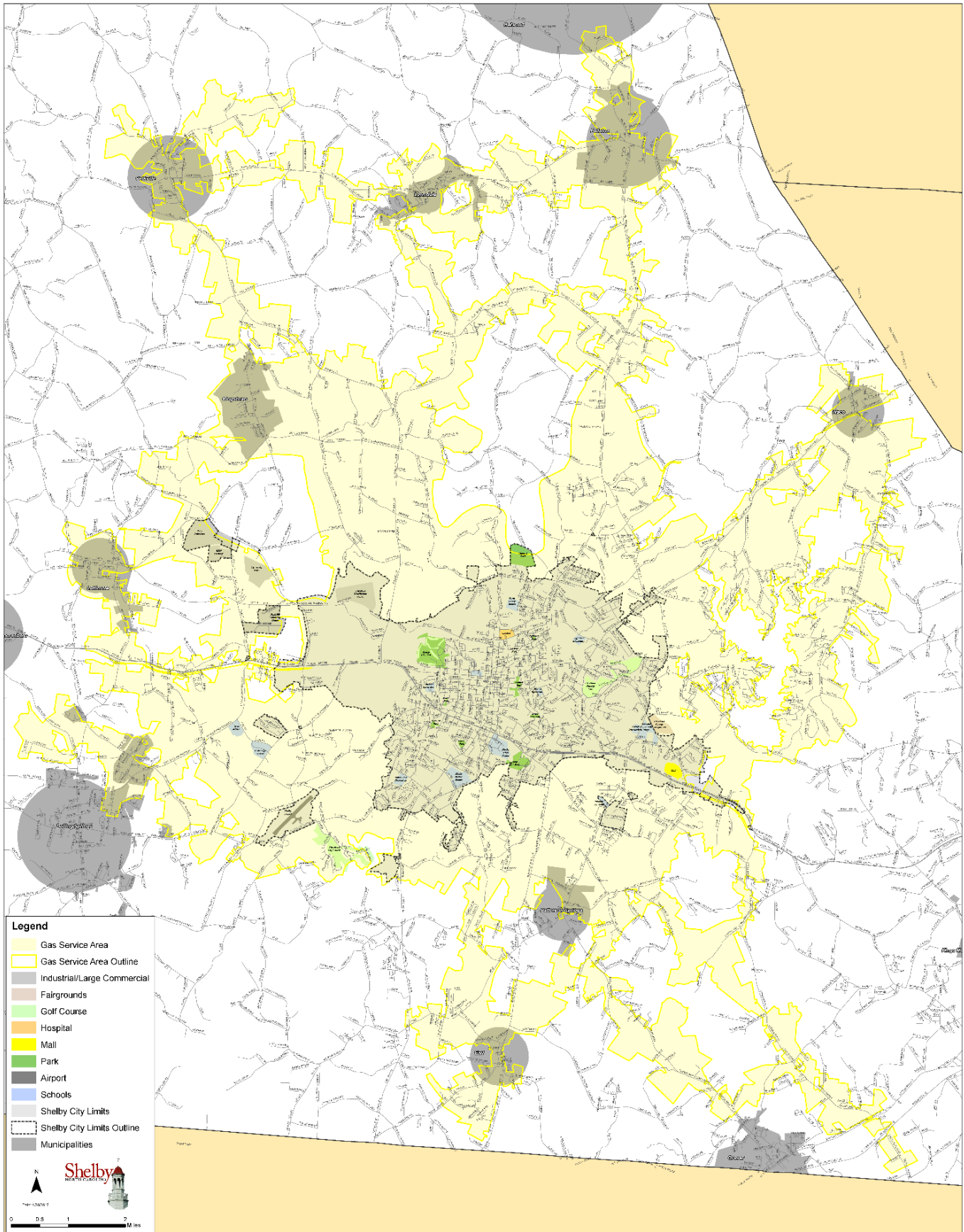
Appendix B: Electric Utility Service Area

Electric Utility Service Area



Appendix C: Gas Utility Service Area

Gas Utility Service Area



Appendix D: Map of Uptown Shelby



City of Shelby Municipal Service District

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: MVMU



Legend

- Municipal Service District
- Parcels

Scale 1:4,800 1 inch = 400 feet 0 200 400 800 Feet

City of Shelby
Agenda Item Summary
May 3, 2021
Don Gibson Theater

C. Consent Agenda:

Agenda Item: C-1

- 1) Approval of the Minutes of the Regular Meeting of April 19, 2021

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 April 19, 2021

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
Don Gibson Theatre

April 19, 2021
Monday, 6:00 p.m.

Present: Mayor O. Stanhope Anthony III, presiding; Council Members Eric B. Hendrick, David W. White, David Causby, Charles Webber, and Andrew Hopper, Sr.; City Manager Rick Howell, MPA, ICMA-CM, Assistant City Manager Justin S. Merritt, MPA, City Attorney Andrea Leslie-Fite, City Clerk Bernadette A. Parduski, Public Information and Communications Officer Chip Nuhrah, Director of Finance Elizabeth B. (Beth) Beam, CPA, Director of Human Resources Deborah C. (Deb) Jolly, Director of Planning and Development Services Walter (Walt) Scharer, AICP, Stan Lowery, Executive Director, Don Gibson Theatre; and Jennipher H. Harrill, Social Media Manager, Blue Eyes Social Media Connections

Absent: Council Member Violet Arth Dukes

Mayor Anthony called the meeting to order at 6:00 p.m. and delivered the invocation.

Mr. Causby led the Pledge of Allegiance.

A. Approval of agenda:

1) Motion to adopt the proposed agenda

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

B. Public Comment: None

C. Public Hearing:

1) Consideration of a proposed ordinance to amend the Unified Development Ordinance of the City of Shelby: Ordinance No. 16-2021

Mr. Scharer introduced Ordinance No. 16-2021 for Council's consideration, which proposes a text amendment to amend Conditional Use Permits and Special Use Permits in Article 4-7 within the City of Shelby Unified Development Ordinance. Specifically, he stated staff's proposal is to replace the Conditional Use Permits and Special Use Permits in Article 4-7 with Special Use Permits 1 and Special Use Permits 2 to be compliant with North Carolina General Statute 160D requirements. Mr. Scharer further stated the process to obtain these permits does not change.

Mayor Anthony opened the public hearing at 6:04 p.m. and invited comments from the public.

The public offered no comments.

Mayor Anthony closed the public hearing at 6:05 p.m.

ACTION TAKEN: Upon a motion made by Mr. Webber, City Council voted unanimously to approve and adopt Ordinance No. 16-2021 entitled, “A PROPOSED ORDINANCE TO AMEND THE UNIFIED DEVELOPMENT ORDINANCE OF THE CITY OF SHELBY”.

D. Consent Agenda:

Mayor Anthony presented the consent agenda. Mr. Hendrick moved to approve the consent agenda and the following items were unanimously adopted:

- 1) Approval of the Minutes of the Regular Meeting of April 5, 2021
- 2) Adoption of a budget ordinance amendment for the City of Shelby’s Rail Trail Corridor Project: Ordinance No. 17-2021

E. Unfinished Business: None

F. New Business: None

G. City Manager’s Report:

- 1) Mr. Howell expressed his appreciation to Mayor Anthony and Council members for their attendance and participation at the annual retreat held on Saturday, April 17, 2021. He was available to respond to their questions or address concerns.

H. Council Announcements and Remarks:

- 1) Mayor Anthony commended Chip Nuhrah for his work in bringing the new permanent Fallen Heroes Memorial sign in Raper Roark Park to fruition on April 14, 2021. This sign features a QR code, ultimately prompting you to open the link to a dedicated web page telling the story of each fallen hero.

Mr. White, who attended the dedication ceremony, was proud of the City for this accomplishment.

- 2) Mr. Hopper expressed his appreciation to all those involved in planning the well-run retreat of April 17, 2021 while Mr. Webber and Mr. Causby shared the same sentiments.

I. Closed Session:

- 1) To discuss matters relating to the location or expansion of industries or other businesses in the area served by City Council, including an agreement on a tentative list of economic development incentives that may be offered pursuant to North Carolina General Statute 143-318.11(a) (4)

ACTION TAKEN: Mr. White made a motion to enter a closed session pursuant to the appropriate North Carolina General Statute as cited. Mayor Anthony consulted with Mrs. Fite who advised the topic met the statutory requirements for a closed session. The Mayor invited all Council members present along with Mr. Howell, Mr. Merritt, Mrs. Fite, and Mrs. Parduski to attend. The motion passed unanimously, and Council moved into closed session at 6:11 p.m.

Council returned to the regular session at 6:26 p.m.

J. Adjournment:

- 1) Motion to adjourn

ACTION TAKEN: Upon a motion made by Mr. Causby, City Council voted unanimously to adjourn the meeting at 6:27 p.m.

Respectfully submitted,

Bernadette A. Parduski, NCCMC, MMC
City Clerk

O. Stanhope Anthony III
Mayor

Minutes of April 19, 2021

City of Shelby
Agenda Item Summary
May 3, 2021
Don Gibson Theater

Agenda Item: C-2

- 2) Approval of a resolution honoring Thomas J. (Tommy) Forney, Jr. on the occasion of his retirement from employment with the City of Shelby: Resolution No. 24-2021

Consent Agenda Item: (Charlie Holtzclaw, Director Parks and Recreation)

- Resolution No. 24-2021

City Manager's Recommendation / Comments

This time is scheduled on your agenda to consider a resolution recognizing Tommy Forney on the occasion of his retirement from employment. In keeping with policy Resolution No. 24-2021 will recognize him for having served the City faithfully for the past 30.5 years as a Shelby City Park employee. He is to be congratulated! Tommy Forney will be greatly missed by his fellow Park co-workers.

As is in keeping with current policy Tommy Forney will be presented with a framed resolution, a city lapel pin and a key to the City. It is customary and appropriate to recognize Tommy for his many years of service to the City. Tommy Forney's dedication to our Parks and Recreation Department, more specifically, the Carrousel and Rotary Train is to be admired. I think Tommy's commitment to the authentic restoration of the carrousel is well known but I do think it is worth pointing out his genuine interest and beyond the call of duty dedication he brought to the job.

Please join me in wishing him a healthy and happy retirement. He is scheduled to attend a future meeting of City Council for a formal presentation.

Retiring or Separating Employee Recognition - Employees leaving City employment in good standing will receive a plaque from the City Manager after they have attained at least their 20th anniversary of service with the City or have attained their 10th anniversary and are at least 60 years of age or over. Employees with 25 or more years of service will receive a key to the City, a framed Council resolution and City lapel pin upon retirement from the City. Separating employees who have attained at least five years of service and are leaving in good standing can be recognized on a Department level with a gift or some other form of recognition.

It is my recommendation that Resolution No. 24-2021 be adopted and approved by City Council via the Consent Agenda at this time.

RESOLUTION NO. 24-2021

**A RESOLUTION HONORING THOMAS J. (TOMMY) FORNEY, JR.
ON THE OCCASION OF HIS RETIREMENT
FROM EMPLOYMENT WITH THE CITY OF SHELBY**

WHEREAS, on the occasion of his retirement from employment on April 30, 2021, it is fitting and proper for the City Council to express its sincere appreciation to Thomas J. Forney, Jr. for his loyal, dedicated and committed service to the City of Shelby from September 5, 1990 until April 30, 2021; and,

WHEREAS, Mr. Forney began his employment with the Parks and Recreation Department part time in 1986 as Carrousel Restoration Worker with the specific responsibility to plan and oversee revival of the 1920's Carrousel or Merry-Go-Round, and in September 1990 was promoted to full time Parks Maintenance Laborer, and in August 1999 was promoted to Maintenance Laborer II, and in September 1999 was promoted to Amusement Equipment Operator, and in May 2008 was promoted to Amusement Supervisor; and,

WHEREAS, Mr. Forney worked with park staff, other city departments, and volunteers restoring figures, raising funds and awareness, and obtaining materials and equipment to refurbish the carrousel mechanism ultimately being housed in the beautiful Anne Dover Bailey Carrousel Pavilion; and,

WHEREAS, during Mr. Forney's career he supervised several other workers and many volunteers helped to form the Shelby City Park Carrousel Friends non-profit organization to connect with members of the community who contributed expertise, and specialized skills and who provided private support in partnership with the City; and,

WHEREAS, after completion of the restoration and grand reopening in October 1998 as project manager, Mr. Forney became responsible for day-to-day operations of the Carrousel as well as the Rotary Train in 2002 which together have provided over 20 years of unique recreation and tourism opportunities for young and old; and,

WHEREAS, Mr. Forney served many years as a member of the National Carousel Association (NCA), including serving as the Conservation Chairman and member of the Identification Group, and wrote articles for the NCA quarterly publication the Merry-Go-Roundup; and served as Keep Shelby Beautiful Coordinator from 2003 through 2008; and,

WHEREAS, during his tenure of service, Mr. Forney has been a loyal employee for the City of Shelby, and has been an outstanding example of the quality and dedication of an employee necessary to the development of the good of the City; and, helped create a winning attitude within the City of Shelby Parks and Recreation Department; and,

WHEREAS, the City of Shelby is most grateful for the devoted community and personal contributions Mr. Forney has given to all the citizens, organizations, and businesses within the greater Shelby community; and,

WHEREAS, the City Council of the City of Shelby wishes to acknowledge and express its appreciation to Mr. Forney for his 30½ years of dedicated and devoted duty in Parks and Recreation, noting that Mr. Forney will be missed both professionally and as a fellow co-worker.

NOW, THEREFORE, BE IT RESOLVED that the Mayor and City Council publicly express their sincere appreciation to Thomas J. Forney, Jr. for his performance of duty to the City of Shelby during the past 30½ years and extend the very best wishes for a successful retirement.

BE IT FURTHER RESOLVED that this Resolution be entered upon the permanent Minutes of the City Council.

IN WITNESS WHEREOF, I have hereunto set my hand and caused the Seal of the City of Shelby to be affixed this 3rd day of May 2021.

O. Stanhope Anthony III
Mayor

ATTEST:

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

City of Shelby
Agenda Item Summary
May 3, 2021
Don Gibson Theater

Agenda Item: C-3

- 3) Approval of a resolution amending Resolution No. 6-2020: A resolution approving the conveyance of property to another unit of government in North Carolina pursuant to North Carolina General Statute 160A-274: Resolution No. 25-2021

Consent Agenda Item: (Rick Howell, City Manager)

- Resolution No. 25-2021

City Manager's Recommendation / Comments

Resolution No. 25-2021 amends Resolution No. 6-2020 and simply corrects an oversight on my part regarding the transfer of property for economic development purposes between the City and County. The original resolution directed the transfer of the full 47 acre parcel on Plato Lee Road when it should have only authorized the transfer of the 19.407 acre site (Parcel # 64588) upon which Shell Building #3 sits. This is a technical correction to the previous resolution.

It is my recommendation that Resolution No. 25-2021 be adopted and approved by City Council via the Consent Agenda at this time.

RESOLUTION NO. 25-2021

A RESOLUTION AMENDING RESOLUTION NO. 6-2020: A RESOLUTION APPROVING THE CONVEYANCE OF PROPERTY TO ANOTHER UNIT OF GOVERNMENT IN NORTH CAROLINA PURSUANT TO G.S. §160A-274

WHEREAS, the City of Shelby, North Carolina owned property located between Washburn Switch Road and Plato Lee Road, which is approximately 19.407 acres and described as Cleveland County Parcel Identification Number 64588 and,

WHEREAS North Carolina General Statute §160A-274 authorizes a governmental unit in this State to exchange with, lease to, lease from, sell to, or purchase from any other governmental unit any interest in real or personal property upon such terms and conditions as the governmental unit deems wise, with or without consideration; and,

WHEREAS the City of Shelby determined that it was in the best interest of the City of Shelby to convey the above-mentioned property to Cleveland County and deems it wise to do so for Zero (\$0) consideration.

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

Section 1. The Shelby City Council hereby strikes Section 1 of Resolution No. 6-2020 and amends it as follows: “The City of Shelby hereby conveys to Cleveland County, North Carolina, a body of politic, the property described as of this writing as Cleveland County Parcel Identification Number 64588.”

Section 2. All remaining portions of Resolution No. 6-2020 remain in full force and effect.

Section 3. This Resolution amending Resolution No. 6-2020 is effective nunc pro tunc as of the 17th day of February 2020.

Adopted and approved this the 3rd day of May 2021 in Shelby, North Carolina.

O. Stanhope Anthony III
Mayor

ATTEST:

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

City of Shelby
Agenda Item Summary
May 3, 2021
Don Gibson Theater

D. Unfinished Business

Agenda Item D-1

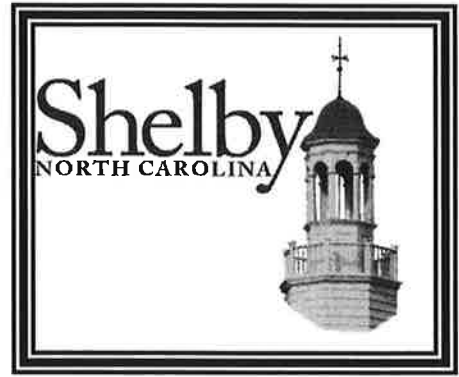
- 1) Consideration of appointments to City advisory boards and commissions:
 - a. Alcoholic Beverage Control Board

Unfinished Business Item: (Bernadette A. Parduski, City Clerk)

- Memorandum dated April 12, 2021 from Bernadette A. Parduski, City Clerk to Rick Howell, City Manager
- Alcoholic Beverage Control Board Roster 2021
- House Bill 1841

City Manager's Recommendation / Comments

House Bill 1841 states that City Council shall designate one member of the local board as Chair. Council can begin the nominating process or take appointive action to designate the Chair of the Shelby ABC Board.



Memo

To: Rick Howell, City Manager
From: Bernadette A. Parduski, City Clerk
Date: April 12, 2021
Re: Appointments to City Advisory Boards

BOARD REVIEW:

ALCOHOLIC BEVERAGE CONTROL (ABC) BOARD –

House Bill 1841, which increased the number of members on the Shelby ABC Board in 2006, reiterates the appointing authority, City Council, shall designate one member of the local board as Chair.

POSSIBLE ACTION:

Council can begin the nominating process or take appointive action to designate the Chair of the Shelby ABC Board.

Attachments:

- A. Alcoholic Beverage Control Board Roster
- B. House Bill 1841

ALCOHOLIC BEVERAGE CONTROL BOARD 2021

MEMBERS	ADDRESS	TERM	PHONE
David M. Schweppe david@lawshelby.com	104 Lynhurst Lane Shelby, NC 28150	April 2024	H: 704 472-9826 W: 704 487-7204
Gerald L. Weathers weathersgerald@yahoo.com	326 Woodside Drive Shelby, NC 28150	April 2023	704 487-8008
Sallie M. Craig scraig@nextlevelcpa.com	910 Meadowbrook Lane Shelby, NC 28150	April 2023	H: 704 484-2014 W: 704 487-5111
James Phillip (Phil) Reid philreid@bellsouth.net	1010 Kelly Circle Shelby, NC 28150	April 2022	C: 704 692-4994 H: 704 481-1213 W: 704 487-4677
Page D. Morgan page@pagedolyleymorgan.com	1225 Brookwood Drive Shelby, NC 28150	April 2022	H: 704 482-1027 W: 704 864-3482

Meetings are held on the fourth Monday of the month at 9:00 a.m., ABC Store, 824 West Warren Street, Shelby, NC

Three-year (3) appointments

City Council Liaison: Violet Arth Dukes – Ward 4
922 West Sumter Street
Shelby, NC 28150
C: 704 477-9577
E-mail: violet@cityofshelby.com

This Board was appointed by action taken by the City Council at a Special Meeting held on March 29, 1975. General Assembly of NC House Bill 1841 increased members on the Shelby ABC Board from three to five members beginning July 1, 2006.

Staffed by: Roland Webber, General Manager; Kelly Carpenter, Financial Officer, ABC Store, 824 West Warren Street, Shelby, NC 28150; 704 482-7921; dshelbyabcboar@carolina.rr.com

ABC Officer Detective Scott Hamrick, Shelby Police Department, 130 West Warren Street, Shelby, NC 28150, Office: 704 484-7166 or scott.hamrick@cityofshelby.com

**GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2005**

**SESSION LAW 2006-9
HOUSE BILL 1841**

AN ACT TO INCREASE THE NUMBER OF MEMBERS ON THE SHELBY ABC BOARD.

The General Assembly of North Carolina enacts:

SECTION 1. Section 9 of Chapter 832 of the 1969 Session Laws reads as rewritten:

"**Sec. 9.** In the event that a majority of the votes cast shall be for municipal liquor stores, the governing body of said municipality shall certify the results immediately to the State Board of Alcoholic Control and shall immediately create a municipal board of alcoholic control, to be composed of a chairman and two members who shall be well known for their character, ability, and business acumen. The members of the board shall be appointed by the governing body. At the time of the original appointments, one of said members shall be appointed for three years, one for two years, and one for one year, and as their terms expire their successors shall be appointed for terms of three years each. In the event any of the cities covered by this local act is allowed to increase the size of its Board, the governing body shall appoint the new members. The new members' terms shall begin on the same date, and their terms shall expire at the same time. Vacancies shall be filled by the governing body for the unexpired term. The board shall be known as the "~~(name of city) Board of Alcoholic Control~~," (name of city) Alcoholic Beverage Control Board". The governing body of the municipality shall designate one of the members of the Board to serve as chairman, and the compensation of the chairman and all members of the Board shall be fixed by the governing body."

SECTION 2. G.S. 18B-700(a) reads as rewritten:

"(a) **Membership.** – A local ABC board shall consist of ~~three~~five members appointed for three-year terms, unless a different membership or term is provided by a local act enacted before the effective date of this Chapter, or unless the board is a board for a merged ABC system under G.S. 18B-703 and a different size membership has been provided for as part of the negotiated merger. One member of the initial board of a newly created ABC system shall be appointed for a three-year term, one member for a two-year term, and one member for a one-year term. As the terms of initial board members expire, their successors shall each be appointed for three-year terms. The appointing authority shall designate one member of the local board as chairman."

SECTION 3. Section 2 of this act applies to the City of Shelby only.

SECTION 4. Notwithstanding Section 9 of Chapter 832 of the 1969 Session Laws, as amended by Section 1 of this act, the governing body of the City of Shelby shall appoint two additional members, as authorized by this act, to serve initial terms that will be effective on or after July 1, 2006. One additional member's term shall expire on April 1, 2007, and the other shall expire on April 1, 2008. At the expiration of these terms, each new member's term shall be for three-year terms thereafter. Members currently appointed to the board shall continue to serve their terms until the terms expire. In the event a member is removed or leaves the Board for any reason, the new member appointed to the Board shall fill the remainder of the unexpired term.

SECTION 5. This act is effective when it becomes law.
In the General Assembly read three times and ratified this the 12th day of
June, 2006.

s/ Marc Basnight
President Pro Tempore of the Senate

s/ James B. Black
Speaker of the House of Representatives

City of Shelby
Agenda Item Summary
May 3, 2021
Don Gibson Theater

Agenda Item D-2

- 2) Consideration of a resolution opposing the passage of State Bill 349/House Bill 401 Increase Housing Opportunities in the General Assembly of North Carolina: Resolution No. 26-2021

Unfinished Business Item: (Rick Howell, City Manager)

- House Bill 401
- Resolution No. 26-2021

City Manager's Recommendation / Comments

Resolution No. 26-2021 is presented for City Council consideration at this time. If approved this resolution would formalize opposition by City Council to Senate Bill 349 / House Bill 401 titled "Increase Housing Opportunities". As previously discussed this bill would eliminate statewide a local governing body's ability to limit any zoning district to single family housing only. House Bill 401 and its companion Senate Bill 349 (short titled: Increase Housing Opportunities) makes key changes to zoning enabling statutes. In particular I have highlighted in the attachment one that specifically prohibits local governments from excluding duplexes, triplexes, and quadplexes from any residential zoning district where single family dwellings are allowed. Currently the City of Shelby allows **duplexes** in all residential zoning districts except Residential 10 (R10) and Rural Residential (RR). The City allows triplexes and quadplexes in Residential 6 (R6) & Residential Office (RO) with some restrictions and in Neighborhood Business (NB), Central Business (CB), General Business (GB), General Business 2 (GB2) and Corridor Protection Districts (CPD). They are not permitted in R20, R10, or R8. It would also require local governments to allow "accessory dwelling units" in all residential zoning district. Now they are allowed but with some development standards. There are some other provisions as well but these are the two that drew my attention. This Bill would take authority away from local governing boards with the intent of "increasing housing opportunities" but without thoughtfully considering the impact on a single family homeowner (not protected by private covenants or within a National Register Historic District) and the single biggest equity investment they likely possess.

It is my recommendation that Resolution No. 26-2021 be adopted and approved by City Council at this time.

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2021

H

1

HOUSE BILL 401

Short Title: Increase Housing Opportunities. (Public)

Sponsors: Representatives D. Hall, Moffitt, Brody, and Richardson (Primary Sponsors).
For a complete list of sponsors, refer to the North Carolina General Assembly web site.

Referred to: State Government, if favorable, Local Government - Land Use, Planning and
Development, if favorable, Rules, Calendar, and Operations of the House

March 25, 2021

1 A BILL TO BE ENTITLED
2 AN ACT TO PROVIDE REFORMS TO LOCAL GOVERNMENT ZONING AUTHORITY TO
3 INCREASE HOUSING OPPORTUNITIES AND TO MAKE VARIOUS CHANGES AND
4 CLARIFICATIONS TO THE ZONING STATUTES.

5 The General Assembly of North Carolina enacts:

6
7 **PART I. AFFORDABLE HOUSING OPTIONS**

8 **SECTION 1.1.(a)** Article 7 of Chapter 160D of the General Statutes is amended by
9 adding a new section to read:

10 **"§ 160D-707. Middle housing use in residential zones.**

11 (a) **Definitions.** – As used in this section, the term "middle housing" means a residential
12 **dwelling that is one of the following, as defined by the North Carolina Building Code Council:**

13 (1) **A duplex.**

14 (2) **A triplex.**

15 (3) **A quadplex.**

16 (4) **A townhouse.**

17 (b) **Middle Housing in Residential Zones.** – A local government shall allow all middle
18 **housing types in areas zoned for residential use, including those that allow for the development**
19 **of detached single-family dwellings.**

20 (c) **Regulation and Scope.** – A local government may regulate middle housing pursuant
21 **to the provisions of this Chapter, provided that the regulations do not act to discourage**
22 **development of middle housing types through unreasonable costs or delay. In permitting middle**
23 **housing types, nothing in this section shall be construed to prohibit a local government from**
24 **permitting single-family dwellings in areas zoned to allow for single-family dwellings. Nothing**
25 **in this section affects the validity or enforceability of private covenants or other contractual**
26 **agreements among property owners relating to dwelling type restrictions. Any regulation adopted**
27 **pursuant to this section shall not apply to an area designated as a local historic district (i) pursuant**
28 **to Part 4 of Article 9 of this Chapter or (ii) on the National Register of Historic Places. This**
29 **section shall only apply to areas that are served, or through extension may be served, by one or**
30 **more of the following:**

31 (1) **A local government water system.**

32 (2) **A local government sewer system.**

33 (3) **A public water system.**



(4) A wastewater collection or treatment works, the operation of which is primarily to collect or treat municipal or domestic wastewater and for which a permit is issued under Part 1 of Article 21 of Chapter 143 of the General Statutes."

SECTION 1.1.(b) G.S. 160D-102 is amended by adding a new subdivision to read: "(28a) Single-family dwelling. – The term shall include all of the types of middle housing as defined in G.S. 160D-707(a)."

SECTION 1.1.(c) This section becomes effective October 1, 2021.

SECTION 1.2. The North Carolina Building Code Council (Council) shall adopt amendments to the North Carolina Residential Code for One- and Two-Family Dwellings (Code) to define and include regulation of triplex dwelling units and quadplex dwelling units in order to facilitate regulation of those units in areas zoned for residential use, including those that allow for the development of detached single-family dwellings. Upon adoption of the amendments, the Council and local governments enforcing the Code shall regulate triplex dwelling units and quadplex dwelling units being sited pursuant to G.S. 160D-707, as enacted in this act, under the new amendments to the Code.

SECTION 1.3.(a) Part 1 of Article 9 of Chapter 160D of the General Statutes is amended by adding a new section to read:

"§ 160D-917. Accessory dwelling units.

(a) A local government shall allow the development of at least one accessory dwelling unit which conforms to the North Carolina Residential Code for One- and Two-Family Dwellings, including applicable provisions from State fire prevention code, for each detached single-family dwelling in areas zoned for residential use that allow for development of detached single-family dwellings. For the purposes of this section, the term "accessory dwelling unit" means an attached or detached residential structure that is used in connection with or that is accessory to a single-family dwelling.

(b) Development and permitting of an accessory dwelling unit shall not be subject to any of the following requirements:

(1) Owner-occupancy of any dwelling unit, including an accessory unit.

(2) Minimum parking requirements or other parking restrictions.

(3) Conditional use zoning.

(c) In permitting accessory dwelling units under this section, a local government shall not do any of the following:

(1) Prohibit the connection of the accessory dwelling unit to existing utilities serving the primary dwelling unit.

(2) Charge any fee other than a building permit that does not exceed the amount charged for any single-family dwelling unit similar in nature.

(3) Establish development setbacks that differ from the development setbacks applicable for a similarly situated lot in the same zoning classification."

SECTION 1.3.(b) This section becomes effective October 1, 2021.

SECTION 1.4.(a) G.S. 42A-3 reads as rewritten:

"§ 42A-3. Application; exemptions.

(a) The provisions of this Chapter shall apply to any person, partnership, corporation, limited liability company, association, or other business entity who acts as a landlord or real estate broker engaged in the rental or management of residential property for vacation rental as defined in this Chapter. The provisions of G.S. 160A-424 and G.S. 153A-364 shall apply to properties covered under this Chapter.

(b) The provisions of this Chapter shall not apply to:

(1) Lodging provided by hotels, motels, tourist camps, and other places subject to regulation under Chapter 72 of the General Statutes.

- 1 (2) Rentals to persons temporarily renting a dwelling unit when traveling away
2 from their primary residence for business or employment purposes.
3 (3) Rentals to persons having no other place of primary residence.
4 (4) Rentals for which no more than nominal consideration is given.

5 **(5) Accessory dwelling units permitted pursuant to G.S. 160D-917."**

6 **SECTION 1.4.(b)** This section becomes effective October 1, 2021.

7 **SECTION 1.5.** Local governments shall adopt land use ordinances and regulations
8 or amend their comprehensive plans to implement the provisions in this Part no later than October
9 1, 2021.

10 **SECTION 1.6.** Except as otherwise provided, this Part is effective when it becomes
11 law.

12
13 **PART II. VARIOUS CHANGES AND CLARIFICATIONS TO THE ZONING**
14 **STATUTES FOR MORE HOUSING OPPORTUNITIES**

15 **SECTION 2.1.** G.S. 160D-108 reads as rewritten:

16 **"§ 160D-108. Permit choice and vested rights.**

17 (a) Findings. – The General Assembly recognizes that local government approval of
18 development typically follows significant investment in site evaluation, planning, development
19 costs, consultant fees, and related expenses. The General Assembly finds that it is necessary and
20 desirable to provide for the establishment of certain vested rights in order to ensure reasonable
21 certainty, stability, and fairness in the development regulation process, to secure the reasonable
22 expectations of landowners, and to foster cooperation between the public and private sectors in
23 land-use planning and development regulation. The provisions of this section and
24 G.S. 160D-108.1 strike an appropriate balance between private expectations and the public
25 interest.

26 (b) Permit Choice. – If a land development regulation is amended between the time a
27 development permit application was submitted and a development permit decision is made or if
28 a land development regulation is amended after a development permit decision has been
29 challenged and found to be wrongfully denied or illegal, G.S. 143-755 applies.

30 **(b1) Substantial Compliance. – A development permit application that substantially**
31 **complies with the provision of information required by ordinance or regulation shall be sufficient**
32 **to accept and process a request for a local or State development permit. Minor omissions in the**
33 **application shall not be a sufficient basis to make an application ineligible for vesting. A local**
34 **development regulation shall not condition the acceptance or processing of a development permit**
35 **application upon the application for or issuance of a State permit, nor shall a State development**
36 **regulation condition the acceptance or processing of a development permit application upon a**
37 **local permit, unless specifically authorized by statute.**

38 (c) Vested Rights. – Amendments in land development regulations are not applicable or
39 enforceable without the written consent of the owner with regard to any of the following:

- 40 (1) Buildings or uses of buildings or land for which a development permit
41 application has been submitted and subsequently issued in accordance with
42 G.S. 143-755.
43 (2) Subdivisions of land for which a development permit application authorizing
44 the subdivision has been submitted and subsequently issued in accordance
45 with G.S. 143-755.
46 (3) A site-specific vesting plan pursuant to G.S. 160D-108.1.
47 (4) A multi-phased development pursuant to subsection (f) of this section.
48 (5) A vested right established by the terms of a development agreement
49 authorized by Article 10 of this Chapter.

50 The establishment of a vested right under any subdivision of this subsection does not preclude
51 vesting under one or more other subdivisions of this subsection or vesting by application of

1 common law principles. A vested right, once established as provided for in this section or by
2 common law, precludes any action by a local government that would change, alter, impair,
3 prevent, diminish, or otherwise delay the development or use of the property allowed by the
4 applicable land development regulation or regulations, except where a change in State or federal
5 law mandating local government enforcement occurs after the development application is
6 submitted that has a fundamental and retroactive effect on the development or use.

7 (d) Duration of Vesting. – Upon issuance of a development permit, the statutory vesting
8 granted by subsection (c) of this section for a development project is effective upon filing of the
9 application in accordance with G.S. 143-755, for so long as the permit remains valid pursuant to
10 law. Unless otherwise specified by this section or other statute, local development permits expire
11 one year after issuance unless work authorized by the permit has substantially commenced. A
12 local land development regulation may provide for a longer permit expiration period. For the
13 purposes of this section, a permit is issued either in the ordinary course of business of the
14 applicable governmental agency or by the applicable governmental agency as a court directive.

15 Except where a longer vesting period is provided by statute or land development regulation,
16 the statutory vesting granted by this section, ~~section or common law vesting~~, once established,
17 expires for an uncompleted development project if development work is intentionally and
18 voluntarily discontinued for a period of not less than 24 consecutive months, and the statutory
19 vesting period granted by this section ~~or common law vesting~~ for a nonconforming use of
20 property expires if the use is intentionally and voluntarily discontinued for a period of not less
21 than 24 consecutive months. The 24-month discontinuance period is automatically tolled during
22 the pendency of any board of adjustment proceeding or civil action in a State or federal trial or
23 appellate court regarding the validity of a development permit, the use of the property, or the
24 existence of the statutory vesting period granted by this section. The 24-month discontinuance
25 period is also tolled during the pendency of any litigation involving the development project or
26 property that is the subject of the vesting.

27 (e) Multiple Permits for Development Project. – Subject to subsection (d) of this section,
28 where multiple ~~local~~-development permits are required to complete a development project, the
29 development permit applicant may choose the version of each of the ~~local~~-land development
30 regulations applicable to the project upon submittal of the application for the initial development
31 permit. ~~This~~ ~~Except as provided in subsection (f) of this section,~~ this provision is not applicable
32 ~~only~~ for those subsequent development permit applications filed ~~within~~ ~~after~~ 18 months of the
33 ~~latter of (i) the date following the approval of an initial~~ ~~of cessation of work related to the~~
34 ~~uncompleted development project or (ii) the date of issuance of the immediately preceding local~~
35 ~~development~~ permit. For purposes of the vesting protections of this subsection, an erosion and
36 sedimentation control permit or a sign permit is not an initial development permit.

37 (f) Multi-Phased Development. – A multi-phased development is vested for the entire
38 development with the land development regulations then in place at the time a site plan approval
39 is granted for the initial phase of the multi-phased development. A right which has been vested
40 as provided for in this subsection remains vested for a period of seven years from the time a site
41 plan approval is granted for the initial phase of the multi-phased development.

42 (g) Continuing Review. – Following issuance of a development permit, a local
43 government may make subsequent inspections and reviews to ensure compliance with the
44 applicable land development regulations in effect at the time of the original application.

45 (h) Process to Claim Vested Right. – A person claiming a statutory or common law vested
46 right may submit information to substantiate that claim to the zoning administrator or other
47 officer designated by a land development regulation, who shall make an initial determination as
48 to the existence of the vested right. The decision of the zoning administrator or officer may be
49 appealed under G.S. 160D-405. On appeal, the existence of a vested right shall be reviewed de
50 novo. In lieu of seeking such a determination or pursuing an appeal under G.S. 160D-405, a

1 person claiming a vested right may bring an original civil action as provided by
2 G.S. 160D-1403.1.

3 (i) Miscellaneous Provisions. – The vested rights granted by this section run with the
4 land except for the use of land for outdoor advertising governed by G.S. 136-131.1 and
5 G.S. 136-131.2 in which case the rights granted by this section run with the owner of a permit
6 issued by the North Carolina Department of Transportation. Nothing in this section precludes
7 judicial determination, based on common law principles or other statutory provisions, that a
8 vested right exists in a particular case or that a compensable taking has occurred. Except as
9 expressly provided in this section, nothing in this section shall be construed to alter the existing
10 common law.

11 (j) Definitions. – As used in this section, the following definitions apply:

12 (1) Development. – As defined in G.S. 143-755(e)(1).

13 (2) Development permit. – As defined in G.S. 143-755(e)(2).

14 (3) Land development regulation. – As defined in G.S. 143-755(e)(3).

15 (4) Multi-phased development. – A development containing 25 acres or more that
16 is both of the following:

17 a. Submitted for development permit approval to occur in more than one
18 phase.

19 b. Subject to a master development plan with committed elements
20 showing the type and intensity of use of each phase."

21 **SECTION 2.2.** G.S. 160D-702 reads as rewritten:

22 **"§ 160D-702. Grant of power.**

23 (a) A local government may adopt zoning regulations. Except as provided in subsections
24 (b) ~~and (c)~~ through (e) of this section, a zoning regulation may regulate and restrict the height,
25 number of stories, and size of buildings and other structures; the percentage of lots that may be
26 occupied; the size of yards, courts, and other open spaces; the density of population; the location
27 and use of buildings, structures, and land. A local government may regulate development,
28 including floating homes, over estuarine waters and over lands covered by navigable waters
29 owned by the State pursuant to G.S. 146-12. A zoning regulation shall provide density credits or
30 severable development rights for dedicated rights-of-way pursuant to G.S. 136-66.10 or
31 G.S. 136-66.11. Where appropriate, a zoning regulation may include requirements that street and
32 utility rights-of-way be dedicated to the public, that provision be made of recreational space and
33 facilities, and that performance guarantees be provided, all to the same extent and with the same
34 limitations as provided for in G.S. 160D-804 and G.S. 160D-804.1.

35 (b) Any regulation relating to building design elements adopted under this Chapter may
36 not be applied to any structures subject to regulation under the North Carolina Residential Code
37 for One- and Two-Family Dwellings except under one or more of the following circumstances:

38 (1) The structures are located in an area designated as a local historic district
39 pursuant to Part 4 of Article 9 of this Chapter.

40 (2) The structures are located in an area designated as a historic district on the
41 National Register of Historic Places.

42 (3) The structures are individually designated as local, State, or national historic
43 landmarks.

44 (4) The regulations are directly and substantially related to the requirements of
45 applicable safety codes adopted under G.S. 143-138.

46 (5) Where the regulations are applied to manufactured housing in a manner
47 consistent with G.S. 160D-908 and federal law.

48 (6) Where the regulations are adopted as a condition of participation in the
49 National Flood Insurance Program.

50 Regulations prohibited by this subsection may not be applied, directly or indirectly, in any
51 zoning district or conditional district unless voluntarily consented to by the owners of all the

1 property to which those regulations may be applied as part of and in the course of the process of
2 seeking and obtaining a zoning amendment or a zoning, subdivision, or development approval,
3 nor may any such regulations be applied indirectly as part of a review pursuant to G.S. 160D-604
4 or G.S. 160D-605 of any proposed zoning amendment for consistency with an adopted
5 comprehensive plan or other applicable officially adopted plan.

6 For the purposes of this subsection, the phrase "building design elements" means exterior
7 building color; type or style of exterior cladding material; style or materials of roof structures or
8 porches; exterior nonstructural architectural ornamentation; location or architectural styling of
9 windows and doors, including garage doors; the number and types of rooms; and the interior
10 layout of rooms. The phrase "building design elements" does not include any of the following:
11 (i) the height, bulk, orientation, or location of a structure on a zoning lot, (ii) the use of buffering
12 or screening to minimize visual impacts, to mitigate the impacts of light and noise, or to protect
13 the privacy of neighbors, or (iii) regulations adopted pursuant to this Article governing the
14 permitted uses of land or structures subject to the North Carolina Residential Code for One- and
15 Two-Family Dwellings.

16 Nothing in this subsection affects the validity or enforceability of private covenants or other
17 contractual agreements among property owners relating to building design elements.

18 (c) A zoning regulation shall not set a minimum square footage of any structures subject
19 to regulation under the North Carolina Residential Code for One- and Two-Family Dwellings.

20 (d) A local government shall not adopt or enforce an ordinance downzoning property, as
21 defined in G.S. 160D-601(d), that has access to public water or public sewer, unless the local
22 government can show a change in circumstances that substantially affects the public health,
23 safety, or welfare.

24 (e) A local government shall not adopt or enforce an ordinance that establishes a ban or
25 has the effect of establishing a ban on a use of land that is not an industrial use, a nuisance per
26 se, or that does not otherwise pose a serious threat to the public health, safety, or welfare.

27 (f) Nothing in this section shall be construed to limit the authority of a local government
28 to regulate adult establishments or other facilities as defined in Article 26A of Chapter 14 of the
29 General Statutes."

30 **SECTION 2.3.** G.S. 160D-703 reads as rewritten:

31 **"§ 160D-703. Zoning districts.**

32 (a) Types of Zoning Districts. – A local government may divide its territorial jurisdiction
33 into zoning districts of any number, shape, and area deemed best suited to carry out the purposes
34 of this Article. Within those districts, it may regulate and restrict the erection, construction,
35 reconstruction, alteration, repair, or use of buildings, structures, or land. Zoning districts may
36 include, but are not be limited to, the following:

- 37 (1) Conventional districts, in which a variety of uses are allowed as permitted uses
38 or uses by right and that may also include uses permitted only with a special
39 use permit.
- 40 (2) Conditional districts, in which site plans or individualized development
41 conditions are imposed.
- 42 (3) Form-based districts, or development form controls, that address the physical
43 form, mass, and density of structures, public spaces, and streetscapes.
- 44 (4) Overlay districts, in which different requirements are imposed on certain
45 properties within one or more underlying conventional, conditional, or
46 form-based districts.
- 47 (5) Districts allowed by charter.

48 (b) Conditional Districts. – Property may be placed in a conditional district only in
49 response to a petition by all owners of the property to be included. Specific conditions may be
50 proposed by the petitioner or the local government or its agencies, but only those conditions
51 approved by the local government and consented to by the petitioner in writing may be

1 incorporated into the zoning regulations. Unless consented to by the petitioner in writing, in the
2 exercise of the authority granted by this section, a local government may not require, enforce, or
3 incorporate into the zoning regulations any condition or requirement not authorized by otherwise
4 applicable law, including, without limitation, taxes, impact fees, building design elements within
5 the scope of G.S. 160D-702(b), driveway-related improvements in excess of those allowed in
6 G.S. 136-18(29) and G.S. 160A-307, or other unauthorized limitations on the development or
7 use of land. Conditions and site-specific standards imposed in a conditional district shall be
8 limited to those that address the conformance of the development and use of the site to local
9 government ordinances, plans adopted pursuant to G.S. 160D-501, or the impacts reasonably
10 expected to be generated by the development or use of the site. The zoning regulation may
11 provide that defined minor modifications in conditional district standards that do not involve a
12 change in uses permitted or the density of overall development permitted may be reviewed and
13 approved administratively. Any other modification of the conditions and standards in a
14 conditional district shall follow the same process for approval as are applicable to zoning map
15 amendments. If multiple parcels of land are subject to a conditional zoning, the owners of
16 individual parcels may apply for modification of the conditions so long as the modification would
17 not result in other properties failing to meet the terms of the conditions. Any modifications
18 approved apply only to those properties whose owners petition for the modification.

19 (c) **Uniformity Within Districts.** – Except as authorized by the foregoing, all regulations
20 shall be uniform for each class or kind of building throughout each district but the regulations in
21 one district may differ from those in other districts.

22 (d) **Standards Applicable Regardless of District.** – A zoning regulation or unified
23 development ordinance may also include development standards that apply uniformly
24 jurisdiction-wide rather than being applicable only in particular zoning districts.

25 (e) **Limitations.** – A local government shall not engage in any of the following practices:

- 26 (1) The adoption or enforcement of an ordinance that downzones property in
27 order to evade voluntary consent of landowners or petitioners or any other
28 requirements contained in subsection (b) of this section.
- 29 (2) Allow a particular land use only through conditional zoning.
- 30 (3) Establishing a threshold on square footage or the number of dwelling units,
31 where to exceed the threshold would require conditional zoning."

32 **SECTION 2.4.** Article 7 of Chapter 160D of the General Statutes is amended by
33 adding a new section to read:

34 **"§ 160D-703.1. Remedies for violations.**

35 (a) If a court finds that a local government has acted in violation of G.S. 160D-702 or
36 G.S. 160D-703(e), the court shall award reasonable attorneys' fees and costs to the party who
37 successfully challenged the actions of the local government.

38 (b) In the event that a court invalidates a regulation pursuant to this section, a permit
39 applicant may choose which zoning designation will apply to the permit and use of the building,
40 structure, or land indicated on the permit application from the following options:

- 41 (1) The zoning development regulation that existed most recently prior to the
42 invalidated regulation.
- 43 (2) The least restrictive development standards contained within the zoning
44 designation for the jurisdiction that is the most similar zoning designation to
45 the class of property use identified in the permit application.

46 (c) For the purposes of this section, the term "class of property use" means one of the
47 following major land-use groups:

- 48 (1) Commercial.
- 49 (2) Governmental.
- 50 (3) Industrial.
- 51 (4) Institutional.

1 (5) Residential."

2 SECTION 2.5. G.S. 160D-706 reads as rewritten:

3 "§ 160D-706. Zoning conflicts with other development standards.

4 (a) When regulations made under authority of this Article require a greater width or size
5 of yards or courts, or require a lower height of a building or fewer number of stories, or require
6 a greater percentage of a lot to be left ~~unoccupied, or impose other higher standards~~ unoccupied
7 than are required in any other statute or local ordinance or regulation, the regulations made under
8 authority of this Article govern. When the provisions of any other statute or local ordinance or
9 regulation require a greater width or size of yards or courts, or require a lower height of a building
10 or a fewer number of stories, or require a greater percentage of a lot to be left ~~unoccupied, or~~
11 ~~impose other higher standards~~ unoccupied than are required by the regulations made under
12 authority of this Article, the provisions of that statute or local ordinance or regulation govern.

13 (b) When adopting regulations under this Article, a local government may not use a
14 definition of building, dwelling, dwelling unit, bedroom, or sleeping unit that is inconsistent with
15 any definition of those terms in another statute or in a rule adopted by a State agency, including
16 the State Building Code Council.

17 (c) Except as provided in subsection (a) of this section, a local government shall not adopt
18 or enforce development regulations that alter the principle that ambiguities in land development
19 regulations are to be construed in favor of the free use of land, including any development
20 regulations that assert that a more restrictive rule or regulation is controlling.

21 (d) Subject to the provisions of Article 33 of Chapter 143 of the General Statutes, a local
22 government, through its governing board, is authorized to settle any litigation related to the
23 enforcement of or compliance with development regulations for a development or a development
24 permit applicant, including any quasi-judicial development permit."

25 SECTION 2.6. G.S. 160D-1402 reads as rewritten:

26 "§ 160D-1402. Appeals in the nature of certiorari.

27 (a) Applicability. – This section applies to appeals of quasi-judicial decisions of
28 decision-making boards when that appeal is in the nature of certiorari as required by this Chapter.

29 (b) Filing the Petition. – An appeal in the nature of certiorari shall be initiated by filing a
30 petition for writ of certiorari with the superior court. The petition shall do all of the following:

- 31 (1) State the facts that demonstrate that the petitioner has standing to seek review.
- 32 (2) Set forth allegations sufficient to give the court and parties notice of the
33 grounds upon which the petitioner contends that an error was made.
- 34 (3) Set forth with particularity the allegations and facts, if any, in support of
35 allegations that, as the result of an impermissible conflict as described in
36 G.S. 160D-109, or locally adopted conflict rules, the decision-making body
37 was not sufficiently impartial to comply with due process principles.
- 38 (4) Set forth the relief the petitioner seeks.

39 (c) Standing. – A petition may be filed under this section only by a petitioner who has
40 standing to challenge the decision being appealed. The following persons have standing to file a
41 petition under this section:

- 42 (1) Any person possessing any of the following criteria:
 - 43 a. An ownership interest in the property that is the subject of the decision
44 being appealed, a leasehold interest in the property that is the subject
45 of the decision being appealed, or an interest created by easement,
46 restriction, or covenant in the property that is the subject of the
47 decision being appealed.
 - 48 b. An option or contract to purchase the property that is the subject of the
49 decision being appealed.
 - 50 c. An applicant before the decision-making board whose decision is
51 being appealed.

- 1 (2) Any other person who will suffer special damages as the result of the decision
2 being appealed.
- 3 (3) An incorporated or unincorporated association to which owners or lessees of
4 property in a designated area belong by virtue of their owning or leasing
5 property in that area, or an association otherwise organized to protect and
6 foster the interest of the particular neighborhood or local area, so long as at
7 least one of the members of the association would have standing as an
8 individual to challenge the decision being appealed, and the association was
9 not created in response to the particular development or issue that is the
10 subject of the appeal.
- 11 (4) A local government whose decision-making board has made a decision that
12 the governing board believes improperly grants a variance from or is
13 otherwise inconsistent with the proper interpretation of a development
14 regulation adopted by the governing board.
- 15 (d) Respondent. – The respondent named in the petition shall be the local government
16 whose decision-making board made the decision that is being appealed, except that if the
17 petitioner is a local government that has filed a petition pursuant to subdivision (4) of subsection
18 (c) of this section, then the respondent shall be the decision-making board. If the petitioner is not
19 the applicant before the decision-making board whose decision is being appealed, the petitioner
20 shall also name that applicant as a respondent. Any petitioner may name as a respondent any
21 person with an ownership or leasehold interest in the property that is the subject of the decision
22 being appealed who participated in the hearing, or was an applicant, before the decision-making
23 board.
- 24 (e) Writ of Certiorari. – Upon filing the petition, the petitioner shall present the petition
25 and a proposed writ of certiorari to the clerk of superior court of the county in which the matter
26 arose. The writ shall direct the respondent local government or the respondent decision-making
27 board, if the petitioner is a local government that has filed a petition pursuant to subdivision (4)
28 of subsection (c) of this section, to prepare and certify to the court the record of proceedings
29 below within a specified date. The writ shall also direct the petitioner to serve the petition and
30 the writ upon each respondent named therein in the manner provided for service of a complaint
31 under Rule 4(j) of the Rules of Civil Procedure, except that, if the respondent is a
32 decision-making board, the petition and the writ shall be served upon the chair of that
33 decision-making board. Rule 4(j)(5)d. of the Rules of Civil Procedure applies in the event the
34 chair of a decision-making board cannot be found. No summons shall be issued. The clerk shall
35 issue the writ without notice to the respondent or respondents if the petition has been properly
36 filed and the writ is in proper form. A copy of the executed writ shall be filed with the court.
- 37 Upon the filing of a petition for writ of certiorari, a party may request a stay of the execution
38 or enforcement of the decision of the quasi-judicial board pending superior court review. The
39 court may grant a stay in its discretion and on conditions that properly provide for the security of
40 the adverse party. A stay granted in favor of a city or county shall not require a bond or other
41 security.
- 42 (f) Response to the Petition. – The respondent may, but need not, file a response to the
43 petition, except that, if the respondent contends for the first time that any petitioner lacks standing
44 to bring the appeal, that contention must be set forth in a response served on all petitioners at
45 least 30 days prior to the hearing on the petition. If it is not served within that time period, the
46 matter may be continued to allow the petitioners time to respond.
- 47 (g) Intervention. – Rule 24 of the Rules of Civil Procedure governs motions to intervene
48 as a petitioner or respondent in an action initiated under this section with the following
49 exceptions:
- 50 (1) Any person described in subdivision (1) of subsection (c) of this section has
51 standing to intervene and shall be allowed to intervene as a matter of right.

- 1 (2) Any person, other than one described in subdivision (1) of subsection (c) of
2 this section, who seeks to intervene as a petitioner must demonstrate that the
3 person would have had standing to challenge the decision being appealed in
4 accordance with subdivisions (2) through (4) of subsection (c) of this section.
5 (3) Any person, other than one described in subdivision (1) of subsection (c) of
6 this section, who seeks to intervene as a respondent must demonstrate that the
7 person would have had standing to file a petition in accordance with
8 subdivisions (2) through (4) of subsection (c) of this section if the
9 decision-making board had made a decision that is consistent with the relief
10 sought by the petitioner.

11 For intervention under subdivisions (2) and (3) of this subsection, a motion to intervene is
12 untimely and shall not be allowed if filed after the court has rendered a final judgment on the
13 underlying appeal.

14 (h) The Record. – The record shall consist of the decision and all documents and exhibits
15 submitted to the decision-making board whose decision is being appealed, together with the
16 minutes of the meeting or meetings at which the decision being appealed was considered. Upon
17 request of any party, the record shall also contain an audio or videotape of the meeting or
18 meetings at which the decision being appealed was considered if such a recording was made.
19 Any party may also include in the record a transcript of the proceedings, which shall be prepared
20 at the cost of the party choosing to include it. The parties may agree that matters unnecessary to
21 the court's decision be deleted from the record or that matters other than those specified herein
22 be included. The record shall be bound and paginated or otherwise organized for the convenience
23 of the parties and the court. A copy of the record shall be served by the local government
24 respondent, or the respondent decision-making board, upon all petitioners within three days after
25 it is filed with the court.

26 (i) Hearing on the Record. – The court shall hear and decide all issues raised by the
27 petition by reviewing the record submitted in accordance with subsection (h) of this section. The
28 court shall allow the record to be supplemented with affidavits, testimony of witnesses, or
29 documentary or other evidence if, and to the extent that, the petition raises any of the following
30 issues, in which case the rules of discovery set forth in the North Carolina Rules of Civil
31 Procedure apply to the supplementation of the record of these issues:

- 32 (1) Whether ~~a petitioner or an~~ intervenor has standing.
33 (2) Whether, as a result of impermissible conflict as described in G.S. 160D-109
34 or locally adopted conflict rules, the decision-making body was not
35 sufficiently impartial to comply with due process principles. A failure to
36 object at a hearing by a person with standing under subsection (c) of this
37 section shall not constitute a waiver of a right to assert impermissible conflict
38 involving any member of the quasi-judicial decision-making body.
39 (3) Whether the decision-making body erred for the reasons set forth in
40 sub-subdivisions a. and b. of subdivision (1) of subsection (j) of this section.

41 (j) Scope of Review. –

- 42 (1) When reviewing the decision under the provisions of this section, the court
43 shall ensure that the rights of petitioners have not been prejudiced because the
44 decision-making body's findings, inferences, conclusions, or decisions were:
45 a. In violation of constitutional provisions, including those protecting
46 procedural due process rights.
47 b. In excess of the statutory authority conferred upon the local
48 government, including preemption, or the authority conferred upon the
49 decision-making board by ordinance.
50 c. Inconsistent with applicable procedures specified by statute or
51 ordinance.

- 1 d. Affected by other error of law.
- 2 e. Unsupported by competent, material, and substantial evidence in view
- 3 of the entire record.
- 4 f. Arbitrary or capricious.
- 5 (2) When the issue before the court is one set forth in sub-subdivisions a. through
- 6 d. of subdivision (1) of this subsection, including whether the decision-making
- 7 board erred in interpreting an ordinance, the court shall review that issue de
- 8 novo. The court shall consider the interpretation of the decision-making board,
- 9 but is not bound by that interpretation, and may freely substitute its judgment
- 10 as appropriate. Whether the record contains competent, material, and
- 11 substantial evidence is a conclusion of law, reviewable de novo.
- 12 (3) The term "competent evidence," as used in this subsection, does not preclude
- 13 reliance by the decision-making board on evidence that would not be
- 14 admissible under the rules of evidence as applied in the trial division of the
- 15 General Court of Justice if (i) except for the items noted in sub-subdivisions
- 16 a., b., and c. of this subdivision that are conclusively incompetent, the
- 17 evidence was admitted without objection or (ii) the evidence appears to be
- 18 sufficiently trustworthy and was admitted under such circumstances that it
- 19 was reasonable for the decision-making board to rely upon it. The term
- 20 "competent evidence," as used in this subsection, shall, regardless of the lack
- 21 of a timely objection, not be deemed to include the opinion testimony of lay
- 22 witnesses as to any of the following:
- 23 a. The use of property in a particular way affects the value of other
- 24 property.
- 25 b. The increase in vehicular traffic resulting from a proposed
- 26 development poses a danger to the public safety. An approval by the
- 27 North Carolina Department of Transportation of a traffic impact
- 28 analysis for a development project shall be conclusive evidence that
- 29 the traffic related to the project will not pose a danger to the public
- 30 safety and will otherwise preclude using traffic as a basis for denying
- 31 a development permit.
- 32 c. Matters about which only expert testimony would generally be
- 33 admissible under the rules of evidence.
- 34 (j1) Action Not Rendered Moot by Loss of Property. – Subject to the limitations in the
- 35 State and federal constitutions and State and federal case law, an action filed under this section
- 36 is not rendered moot, if during the pendency of the action, the aggrieved person loses the
- 37 applicable property interest as a result of the local government action being challenged and
- 38 exhaustion of an appeal described herein is required for purposes of preserving a claim for
- 39 damages under G.S. 160D-1403.1.
- 40 (k) Decision of the Court. – Following its review of the decision-making board in
- 41 accordance with subsection (j) of this section, the court may affirm the decision, reverse the
- 42 decision and remand the case with appropriate instructions, or remand the case for further
- 43 proceedings. If the court does not affirm the decision below in its entirety, then the court shall
- 44 determine what relief should be granted to the petitioners:
- 45 (1) If the court concludes that the error committed by the decision-making board
- 46 is procedural only, the court may remand the case for further proceedings to
- 47 correct the procedural error.
- 48 (2) If the court concludes that the decision-making board has erred by failing to
- 49 make findings of fact such that the court cannot properly perform its function,
- 50 then the court may remand the case with appropriate instructions so long as
- 51 the record contains substantial competent evidence that could support the

1 decision below with appropriate findings of fact. However, findings of fact
 2 are not necessary when the record sufficiently reveals the basis for the
 3 decision below or when the material facts are undisputed and the case presents
 4 only an issue of law.

5 (3) If the court concludes that the decision by the decision-making board is not
 6 supported by competent, material, and substantial evidence in the record or is
 7 based upon an error of law, then the court may remand the case with an order
 8 that directs the decision-making board to take whatever action should have
 9 been taken had the error not been committed or to take such other action as is
 10 necessary to correct the error. Specifically:

11 a. If the court concludes that a permit was wrongfully denied because the
 12 denial was not based on competent, material, and substantial evidence
 13 or was otherwise based on an error of law, the court shall remand with
 14 instructions that the permit be issued, subject to any conditions
 15 expressly consented to by the permit applicant as part of the
 16 application or during the board of adjustment appeal or writ of
 17 certiorari appeal.

18 b. If the court concludes that a permit was wrongfully issued because the
 19 issuance was not based on competent, material, and substantial
 20 evidence or was otherwise based on an error of law, the court may
 21 remand with instructions that the permit be revoked.

22 c. If the court concludes that a zoning board decision upholding a zoning
 23 enforcement action was not supported by substantial competent
 24 evidence or was otherwise based on an error of law, the court shall
 25 reverse the decision.

26 (l) Effect of Appeal and Ancillary Injunctive Relief. — of Administrative Decision on a
 27 Permitted Use. —

28 (4) ~~If a development approval is appealed, appealed on the basis of a use not being~~
 29 ~~permitted by a development regulation, the applicant shall have the right to~~
 30 ~~commence work while the appeal is pending. However, if the development~~
 31 ~~approval is reversed by a final decision of any court of competent jurisdiction,~~
 32 ~~jurisdiction determines that the use is not allowed, the applicant shall not be~~
 33 ~~deemed to have gained any vested rights on the basis of actions taken prior to~~
 34 ~~or during the pendency of the appeal and must proceed as if no development~~
 35 ~~approval had been granted.~~

36 (2) ~~Upon motion of a party to a proceeding under this section, and under~~
 37 ~~appropriate circumstances, the court may issue an injunctive order requiring~~
 38 ~~any other party to that proceeding to take certain action or refrain from taking~~
 39 ~~action that is consistent with the court's decision on the merits of the appeal.~~

40 (1) Effect of Appeal of Quasi-Judicial Relief. —

41 (1) An appeal by a party with standing under subsection (c) of this section from
 42 the granting of a special use permit by a local board or other development
 43 permit issued pursuant to quasi-judicial proceedings shall be rendered moot if
 44 development authorized by the approved permit substantially commences
 45 prior to the issuance of an injunction by a court under subsection (o) of this
 46 section or under Rule 65 of the Rules of Civil Procedure with appropriate
 47 security.

48 (2) If a special use permit is issued by the applicable local board after remand
 49 from a decision of a court of competent jurisdiction and no injunction is
 50 otherwise in place to prevent the issuance of a permit, any appeal related to
 51 the subject matter of the permit is rendered moot.

1 (m) Joinder. – A declaratory judgment brought under G.S. 160D-1401 or other civil action
2 relating to the decision at issue may be joined with the petition for writ of certiorari and decided
3 in the same proceeding.

4 (n) Stays. – An appeal under this section is stayed as provided in G.S. 160D-405.

5 (o) Upon motion of a party to a proceeding under this section, and under appropriate
6 circumstances, the court may issue an injunctive order requiring any other party to that
7 proceeding to take certain action or refrain from taking action that is consistent with the court's
8 decision on the merits of the appeal. The court shall require the moving party to post an
9 appropriate bond set by the judge or clerk issuing the stay. A local government shall not be
10 required to post a bond under this subsection."

11 12 **PART III. LOCAL GOVERNMENT REPORTING ON GROWTH HAMPERING** 13 **DENIALS**

14 **SECTION 3.1.** Beginning October 1, 2021, every local government engaged in
15 development permitting review shall submit a semiannual report to the Joint Legislative
16 Committee on Local Government and the Fiscal Research Division. The report shall contain at
17 least all of the following:

- 18 (1) The number of development permit applications received.
- 19 (2) The number of development permit applications denied and the reason for
20 denial.
- 21 (3) The number of down-zoning ordinances enacted.

22 23 **PART IV. EFFECTIVE DATE**

24 **SECTION 4.1.** Except as otherwise provided, this act is effective when it becomes
25 law. Sections 2.1, 2.5, and 2.6 of this act clarify and restate the intent of existing law and apply
26 to permit applications filed and appeals taken before, on, and after the effective date.

RESOLUTION NO. 26-2021

A RESOLUTION OPPOSING THE PASSGE OF STATE BILL 349/HOUSE BILL 401
INCREASE HOUSING OPPORTUNITIES IN THE GENERAL ASSEMBLY
OF NORTH CAROLINA

WHEREAS, recognizing the importance of zoning to the peace and prosperity of North Carolina's municipalities, for generations the State of North Carolina has allowed municipalities to regulate land development; and,

WHEREAS, municipalities in the State of North Carolina have their own unique characteristics and challenges so that "one size" does not "fit all", and statewide zoning mandates thus may have unintended negative consequences for the residents of the State; and,

WHEREAS, the City of Shelby has responsibly exercised the zoning and land use authority granted to it by the State of North Carolina; and,

WHEREAS, many North Carolina cities, including the City of Shelby, have led the way when it comes to making investments and policy changes designed to encourage affordable housing options, but have done so with community involvement and neighborhood-appropriate measures.

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

SECTION 1. The City of Shelby opposes State Bill 349/House Bill 401 and requests that it not be approved and pledges to work with State legislators to find better ways to advance affordable and workforce housing opportunities.

SECTION 2. The City Manager is hereby authorized and directed to provide a copy of this resolution to our State representatives.

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

Adopted and approved this the 3rd day of May 2021.

O. Stanhope Anthony III
Mayor

ATTEST:

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

City of Shelby
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E. New Business

Agenda Item E-1

- 1) Consideration of a resolution awarding the contract for the City of Shelby Fiscal Year 2020-2021 Street Resurfacing Program: Resolution No. 27-2021

New Business Item: (Rick Howell, City Manager and Ben Yarboro, Director of Engineering Services)

- Memorandum dated April 26, 2021 from Ben Yarboro, Engineering Services to Rick Howell, City Manager and Justin Merritt, Assistant City Manager
- 2021 Street Resurfacing List and Scope of Work and Maps
- Resolution No. 27-2021

City Manager's Recommendation / Comments

Resolution No. 27-2021 is presented for consideration at this time. Adoption of this resolution would award the bid and contract for this annual project. The list submitted by Mr. Yarboro is based upon staff review and in accordance with 2013 Street Condition Survey conducted by McGill Engineers. This study conducted in 2013 and later incorporated as part of the Transportation Asset Management Plan provides an objective decision-making basis and contains an analysis and prioritization of city streets in need of repair and resurfacing. This in addition to consideration of maintenance costs and observations by the City engineer regarding safety assist with the development of these recommendations annually. It acts as a guide in identifying deficiencies in the system and provide estimates as to future cost of needed improvements.

As I have noted on many occasions the City's street maintenance program is funded only partially by Powell Bill revenue that is generated by a portion of the state gas tax and distributed to qualifying cities and towns based upon total eligible street mileage and population. Of the 121 miles of city streets we are only able to resurface 1.5 to 2.0 miles each year. This year we will spend down some of the Powell Bill fund balance to increase the total mileage resurfaced to 3.37 miles. As you can tell the funding does not allow an adequate timetable for resurfacing all of the City's streets. The staff has done a good job year in and year out developing the program with the goal of addressing the most significant needs.

It is recommended that Resolution No. 27-2021 be adopted by City Council at this time.



Memorandum

To: Rick Howell, City Manager
Justin Merritt, Assistant City Manager

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

RE: 2021 Street Resurfacing Program – Contract Award
Recommendation

Date: April 26, 2021

Background

Each year staff from the City Engineering Department develops the annual Street Resurfacing Program. The purpose of this project is to resurface a portion of our street system that is in need of repair or maintenance to provide for safe and smooth travel. City staff evaluates all city-maintained streets based on field observations, inspection data from the 2013 McGill Street Condition Survey, and the Shelby Strategic Growth Plan that was adopted by City Council. Policy 1.6 of the Strategic Growth Plan reads: “City streets shall be repaved in accordance with objective criteria that may include but not be limited to: condition of pavement, traffic volume carried, number of years since last paved, etc.”

Based on the aforementioned criteria and a project cost estimate, staff identified 3.37 miles of our City maintained street system for resurfacing. The scope of work will include milling the existing asphalt as required to reclaim curb and guttering and overlaying with 1.5 inches of asphalt. It should be noted that the asphalt milling that occurs with the annual resurfacing project is completed to maintain stormwater control and is funded via the stormwater utility fee revenue.

The detailed scope of work and maps for this project are included as an attachment to this memorandum.

The city-maintained streets included in this year’s project are as follows:

2021 Street Resurfacing List

STREET	BEG DESC	END DESC
E GRAHAM ST	BEAUMONDE AVE	HILLSIDE DR
E GRAHAM ST	HILLSIDE DR	MONTROSE DR
E GRAHAM ST	MONTROSE DR	CUL DE SAC
HILLSIDE DR	MONTROSE CIR	GRAHAM ST.
HILLSIDE DR.	BROOKDALE RD	MONTROSE CIR
HILL SIDE DR.	SUMMIT ST.	BROOKDALE RD
HILLSIDE DR.	FOREST HILL DR.	SUMMIT ST.
SUMMIT ST.	FOREST HILL DR.	HILLSIDE DR
MONTROSE Cir	HILLSIDE DR	MONTROSE DR.
MONTROSE DR	E GRAHAM ST.	MONTROSE CIR
MONTROSE DR	MONTROSE CIR	WINSOR DR
MONTROSE DR	WINSOR DR	DEADEND
WINDSOR DR	MONTROSE DR	PINECONE LN
WINDSOR DR	PINECONE LN	DEADEND
WINDSOR DR	MONTROSE DR	PEACH ST.
WINSOR DR	PEACH ST	DEADEND
PINKNEY ST	S DEKALB ST	JUAN PL
PINKNEY ST	JUAN PL	PATTON DR
PINKNEY ST	PATTON DR	LAMAR AVE
PINKNEY ST	LAMAR AVE	JENNIN ST.
LAMAR AVE	PINKNEY ST	CUL DE SAC
JUAN PL	E GRAHAM ST	PINKNEY ST
JUAN PL	PINKNEY ST	PATTON DR
JENNING ST.	PINKNEY ST.	CUL DE SAC
CHURCHILL DR	KINGS RD	FREEMONT ST
CHURCHILL DR	FREEMONT ST	KINGS RD
OXFORD CIR	COLLEGE AVE	DEADEND
Aladdin ST.	DELLINGER RD	SHARPTON DR
ARROWOOD ST	N MORGAN ST	END
DORTON ST	N MORGAN ST.	N TRADE ST
DORTON ST	N TRADE ST	N LAFAYETTE ST
N TRADE ST.	DORTON ST	W SUMTER ST.

The average age of the existing asphalt on the streets included in this project is 36.9 years, with several streets having asphalt as old as 47 years. The life expectancy of asphalt ranges from 20-35 years and depends on many factors such as traffic volumes, speed, drainage, quality of asphalt mix and level of routine maintenance.

Delays in the repair and overlay of these streets may result in more extensive and costly future repairs as roadway base and subgrade issues become more common as the asphalt surface deteriorates.

Review

Staff advertised the 2021 Resurfacing project in the Shelby Star and bid packages were provided to seven prospective bidders on March 31, 2021. At the bid opening on April 15, 2021, two completed bids and two “No Bid” letters were received. The bid tabulation for these bids is attached to this memorandum and depicts the lump sum bids and the unit prices that were received. The lowest responsive bidder was Asphalt Paving of Shelby, Inc. from Shelby, NC. The low bid by Asphalt Paving of Shelby, Inc. was a lump sum bid for the scope of work in the amount of \$466,820.00. Staff’s original estimate for this project was \$452,000 so the lowest bid received is 3.28% above the estimated cost. In preparing the cost estimate, staff must project future costs of oil/asphalt and since the preparation of the estimate, oil prices have increased slightly more than projected resulting in an increased asphalt price per ton.

In addition to the bid received by Asphalt Paving of Shelby, Inc., the Rogers Group Inc. submitted a bid of \$652,777.00. Blythe Construction, Inc. and Caldwell Construction Services, LLC submitted “no bid” letters stating they would not be submitting a bid due to current workload or scheduling conflicts.

Company Name	Submitted Bid
Blythe Construction, Inc	No Bid Letter
Caldwell Construction Services, LLC	No Bid Letter
Asphalt Paving of Shelby	\$466,820.00
Rogers Group Inc.	\$652,777.00

Recommendation

City Staff recommends that the Shelby City Council approve the resolution awarding the bid for the 2021 Resurfacing Project to the lowest responsive bidder, Asphalt Paving of Shelby, Inc., for the bid price of \$466,820.00. Funding for this construction contract is available via Powell Bill and Stormwater Utility funding.

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

Attachments:

- Scope of Work
- Street Resurfacing Maps
- Bid Tabulation

2021 STREET RESURFACING LIST (SCOPE OF WORK)

STREET	FROM	TO	STREET LENGTH (FEET)	STREET WIDTH (FEET)	MILLING (SY)	SUPERPAVE OVERLAY (SY)	DOUBLE YELLOW STRIPING STRENGTH	WHITE EDGE STRIPING LENGTH	THERMO-PLASTIC STOP BARS	THERMO-PLASTIC CROSSWALKS	THERMO-PLASTIC ARROWS	THERMO-PLASTIC PARALLEL PARKING (9'X 20')
E GRAHAM ST	BEAUMONDE AVE	HILLSIDE DR	1047	26	3025	3025	0	0	1	0	0	0
E GRAHAM ST	HILLSIDE DR	MONTROSE DR	363	26	1049	1049	0	0	0	0	0	0
E GRAHAM ST	MONTROSE DR	CUL DE SAC	1004	26	2900	2900	0	0	0	0	0	0
HILLSIDE DR	MONTROSE CIR	GRAHAM ST.	358	30	1193	1193	0	0	1	0	0	0
HILLSIDE DR.	BROOKDALE RD	MONTROSE CIR	208	30	693	693	0	0	0	0	0	0
HILL SIDE DR.	SUMMIT ST.	BROOKDALE RD	281	25	781	781	0	0	0	0	0	0
HILLSIDE DR.	FOREST HILL DR.	SUMMIT ST.	1310	25	3639	3639	0	0	0	0	0	0
SUMMIT ST.	FOREST HILL DR.	HILLSIDE DR	929	29	2993	2993	0	0	2	1	0	0
MONTROSE Cir	HILLSIDE DR	MONTROSE DR.	523	26	1511	1511	0	0	2	0	0	0
MONTROSE DR	E GRAHAM ST.	MONTROSE CIR	434	26	1253	1253	0	0	1	0	0	0
MONTROSE DR	MONTROSE CIR	WINSOR DR	523	26	1510	1510	0	0	0	0	0	0
MONTROSE DR	WINSOR DR	DEADEND	1240	29	3997	3997	0	0	0	0	0	0
WINDSOR DR	MONTROSE DR	PINECONE LN	613	29	1974	1974	0	0	1	0	0	0
WINDSOR DR	PINECONE LN	DEADEND	291	28	907	907	0	0	0	0	0	0
WINDSOR DR	MONTROSE DR	PEACH ST.	673	29	2167	2167	0	0	1	0	0	0
WINSOR DR	PEACH ST	DEADEND	297	20	660	660	0	0	0	0	0	0
PINKNEY ST	S DEKALB ST	JUAN PL	243	28	222	756	0	0	1	1	2	2
PINKNEY ST	JUAN PL	PATTON DR	481	22	1176	1176	0	0	1	1	2	0
PINKNEY ST	PATTON DR	LAMAR AVE	198	25	550	550	0	0	1	1	0	0
PINKNEY ST	LAMAR AVE	JENNIN ST.	326	25	906	906	0	0	0	0	0	0
LAMAR AVE	PINKNEY ST	CUL DE SAC	585	20	1300	1300	0	0	1	1	0	0
JUAN PL	E GRAHAM ST	PINKNEY ST	469	24	1251	1251	0	0	1	2	3	0
JUAN PL	PINKNEY ST	PATTON DR	368	24	981	981	0	0	1	1	0	3
JENNING ST.	PINKNEY ST.	CUL DE SAC	450	25	1250	1250	0	0	0	0	0	0
CHURCHILL DR	KINGS RD	FREEMONT ST	1106	23	2826	2826	0	0	1	0	0	0
CHURCHILL DR	FREEMONT ST	KINGS RD	751	23	1919	1919	0	0	1	0	0	0
OXFORD CIR	COLLEGE AVE	DEADEND	788	17	0	1488	0	0	1	0	0	0
Aladdin ST.	DELLINGER RD	SHARPTON DR	538	16	0	956	0	0	2	0	0	0
ARROWOOD ST	N MORGAN ST	END	400	21	0	933	0	0	1	1	0	0
DORTON ST	N MORGAN ST.	N TRADE ST	266	16	0	473	0	0	1	1	0	0
DORTON ST	N TRADE ST	N LAFAYETTE ST	257	25	0	713	0	0	1	1	0	0
N TRADE ST.	DORTON ST	W SUMTER ST.	490	20	0	1088	0	0	2	1	0	0

Notes:

1. All existing asphalt painting is to be re-painted as it is at the time of milling/paving unless specified.
2. All thermoplastic and painting shall meet NCDOT Standards and Specifications.

See five (5) street
maps on following
pages

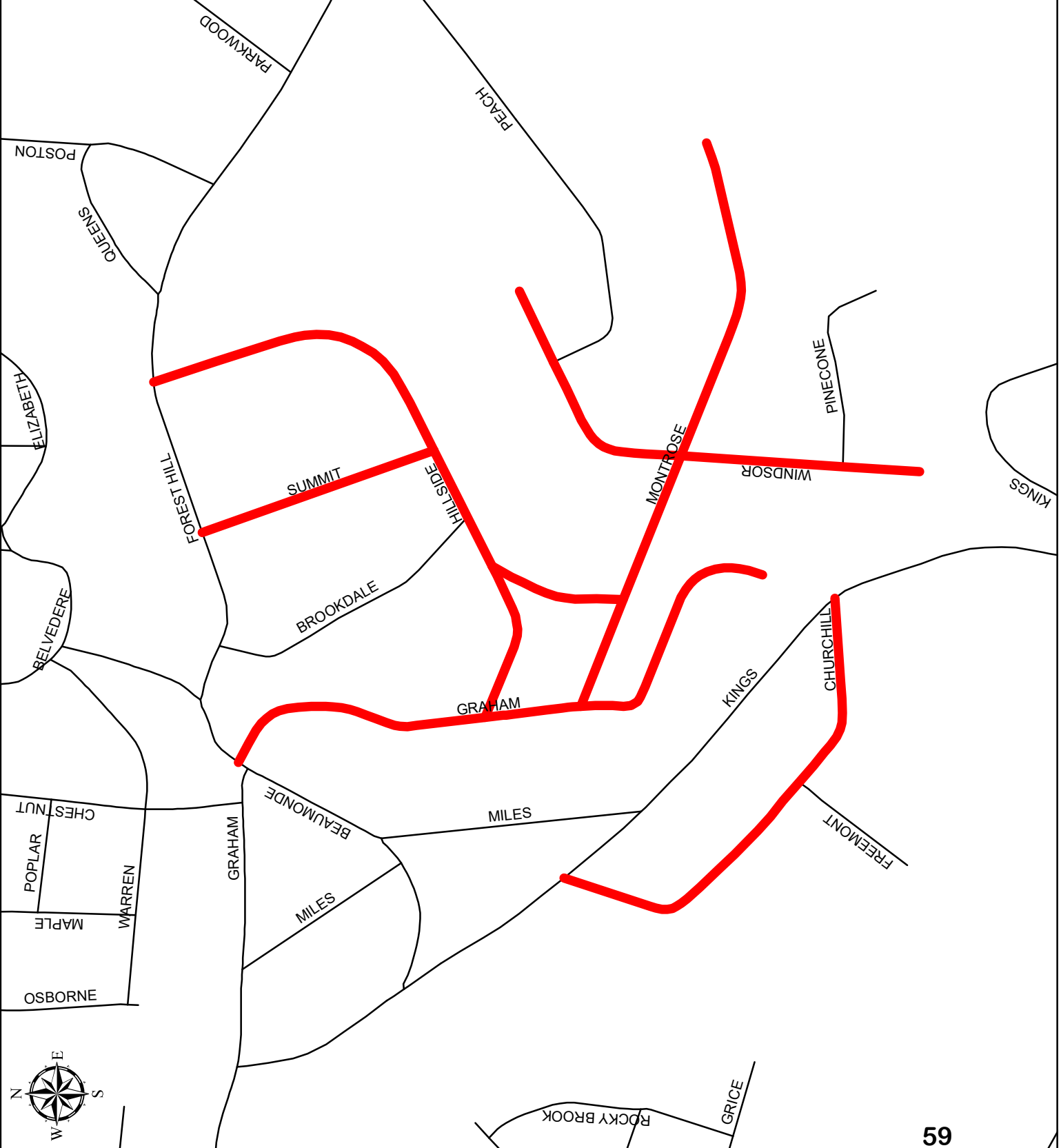


**2021 PROPOSED
STREET
RESURFACING**

MAP 1 OF 5



1 inch = 500 feet
(PRINTED 8.5" X 11")





2021 PROPOSED STREET RESURFACING

MAP 2 OF 5



1 inch = 250 feet
(PRINTED 8.5" X 11")



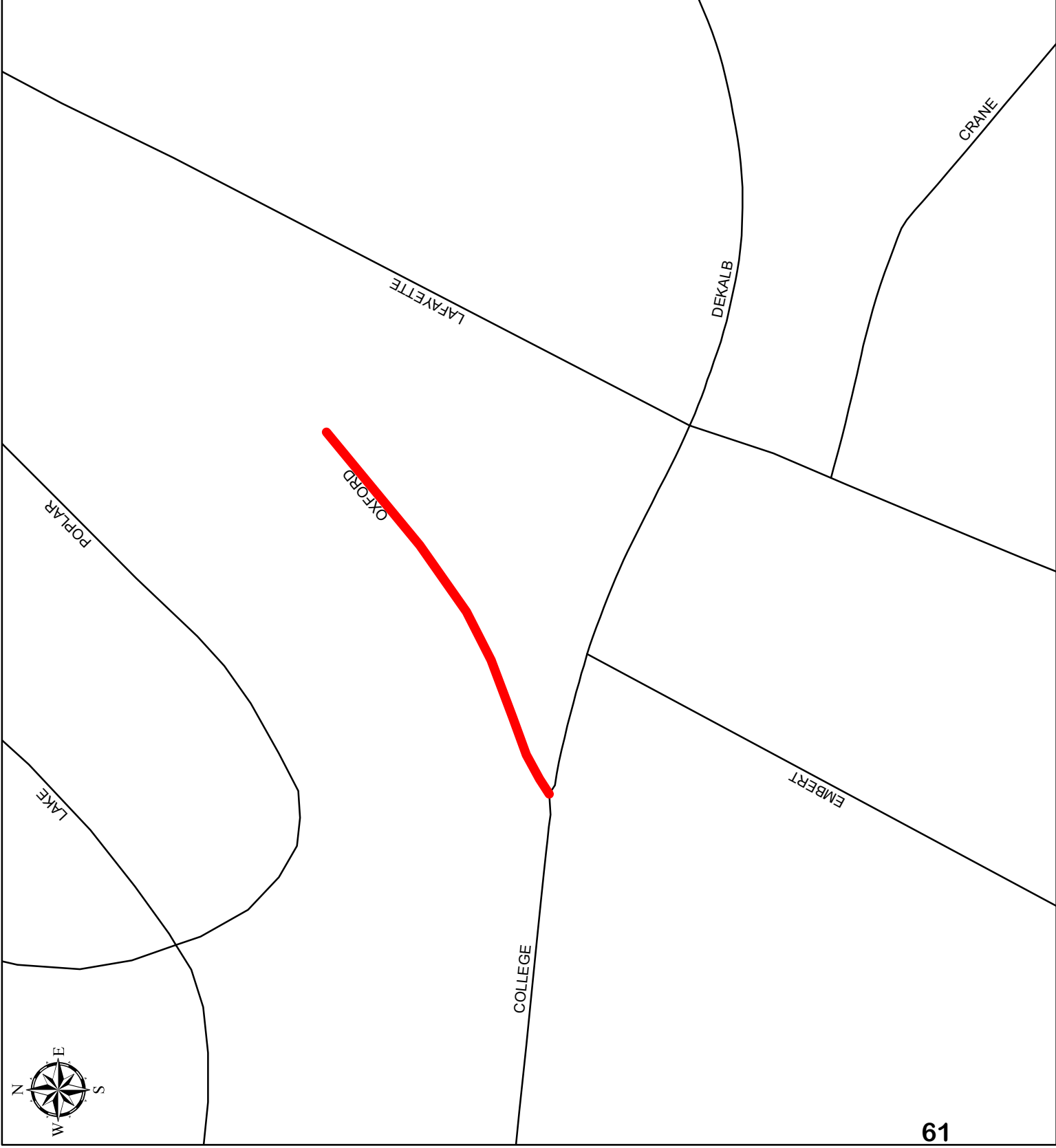


**2021 PROPOSED
STREET
RESURFACING**

MAP 3 OF 5



1 inch = 250 feet
(PRINTED 8.5" X 11")





**2021 PROPOSED
STREET
RESURFACING**

MAP 4 OF 5



1 inch = 250 feet
(PRINTED 8.5" X 11")



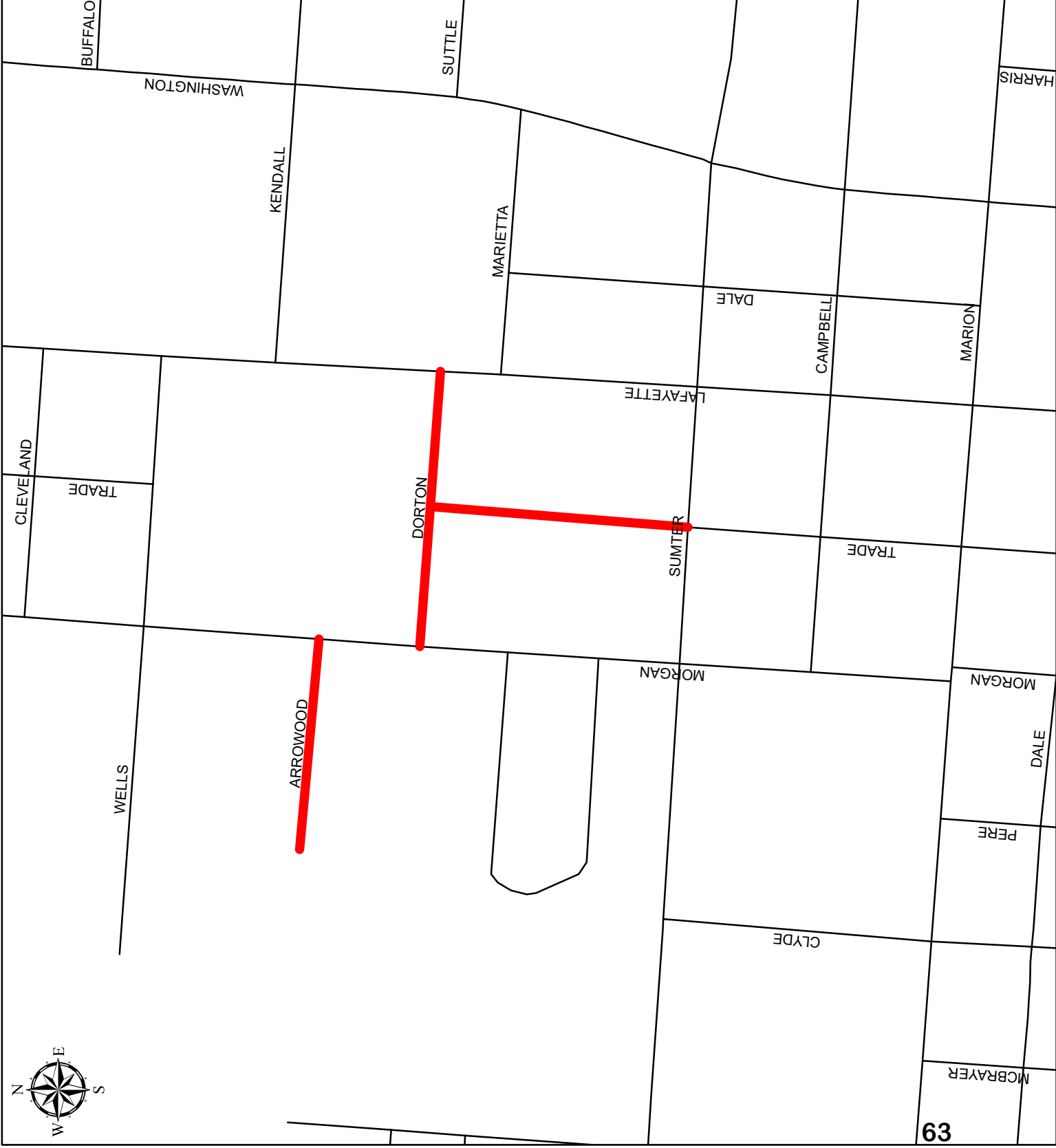


2021 PROPOSED STREET RESURFACING

MAP 5 OF 5



1 inch = 250 feet
(PRINTED 8.5" X 11")



City of Shelby
2021 Street Resurfacing Bid Tabulation



Date: April 15, 2021

		Blythe Construction, INC.	Caldwell Construction Services, LLC	Rogers Group, Inc.	Asphalt Paving of Shelby
1	Milling as required to recover the flow line and curb on those streets specified in the "Scope of Work", adjusting all manholes, catch basins and valve boxes to final grade (if necessary) (manhole and valve box risers to be provided by City); cleaning, placing tack coat, resurfacing with "Superpave S9.5B" asphalt the streets included in "The Scope of Work" to a minimum compacted thickness of 1 1/2" (unless otherwise specified) or whatever depth is necessary to achieve a smooth and functional riding surface. Paint 4" Double Yellow and/or 4" white edge lines if specified. Re-paint any existing paint markings on resurfaced streets unless specified to be thermoplastic in the scope of work. All work must meet NCDOT standards and specifications. Recycled Asphalt Pavement in the asphalt mix must be limited to 25% and contain only asphalt products.	No Bid Letter	No Bid Letter	\$ 652,777.00	\$ 466,820.00
	LUMP SUM				
2	Cost per square yard for resurfacing any added or deleted streets to the contract			\$ 9.85	\$ 7.00
3	Cost to adjust any added catch basins or manholes. (Frames and Grates/Lids to be provided by City)			\$ 350.00	\$ 1,500.00
4	Cost to adjust any added valve boxes. (Frames and Lids to be provided by City)			\$ 300.00	\$ 1,200.00
5	Cost per square yard to prepare and supply all stone and asphalt necessary to pave any added or deleted soil and gravel streets.			\$ 65.00	\$ 25.00
6	Cost per square yard for milling.			\$ 3.60	\$ 3.00
7	Cost per square yard for any added or deleted quantities of asphalt surface treatment (0.4 gallons of asphalt and 22 lbs. of No. 78M aggregate)			\$ 4.85	\$ 6.00
8	Cost per square yard for Full Depth Patches. (Includes removing existing asphalt and base and replacing with 6" stone base and 2" asphalt)			\$ 65.00	\$ 30.00
9	Cost per lineal foot for any added or deleted striping			\$ 0.75	\$ 2.00
	4" standard double yellow center line - reflective painting			\$ 0.75	\$ 2.00
	4" White edge line (both sides of road) - reflective painting			\$ 2.00	\$ 2.00
	4" standard double yellow center line - reflective thermoplastic			\$ 2.00	\$ 2.00
	4" White edge line (both sides of road) - reflective thermoplastic			\$ 300.00	\$ 200.00
	24" White stop bars - reflective thermoplastic			\$ 800.00	\$ 300.00
	8" White crosswalks - reflective thermoplastic			\$ 300.00	\$ 100.00
	9' x 20' Parking stall - reflective thermoplastic			\$ 300.00	\$ 100.00
	Directional arrows - reflective thermoplastic			\$ 300.00	\$ 100.00

Bid Opening Attendees:

- Justin Wright - City of Shelby
- Bryant Nodine - City of Shelby
- Todd Frasher - City of Shelby
- Ken Atwood - Roger Group Inc.

RESOLUTION NO. 27-2021

**A RESOLUTION AWARDING THE CONTRACT FOR THE CITY OF SHELBY
FISCAL YEAR 2020-2021 STREET RESURFACING PROGRAM**

WHEREAS, the City of Shelby Engineering Department has developed the proposed list of streets for the 2021 Street Resurfacing Program; and,

WHEREAS, the proposed list and subsequent project are consistent with the Visions and Goals as outlined in the Strategic Growth Plan as formally adopted by the City Council of the City of Shelby; and,

WHEREAS, the City of Shelby in accordance with applicable provisions of North Carolina General Statute 143-129, as amended, has accepted formal proposals for its Fiscal Year 2021 Street Resurfacing Program 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; and,

WHEREAS, City Council now desires to proceed with award of contracts as recommended and with the improvements anticipated by this action.

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

Section 1. The contract for the City of Shelby's Fiscal Year 2021 Street Resurfacing Program, as outlined in the bid specifications for this offering, is hereby awarded to Asphalt Paving of Shelby, Inc. for a bid price of \$466,820.00 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.

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

Adopted and approved this the 3rd day of May 2021.

O. Stanhope Anthony III
Mayor

ATTEST:

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

City of Shelby
Agenda Item Summary
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Agenda Item E-2

- 2) City of Shelby’s Job Ready Shell Building No. 4 Project
 - a. Consideration of an ordinance establishing a capital project ordinance and budgets for the City of Shelby’s Job Ready Shell Building No. 4 Project: Ordinance No. 18-2021
 - b. Consideration of a resolution authorizing selection of WHN Architects based on qualifications for professional architectural and civil engineering services for the design of an industrial site and a “Job Ready” Shell Building on Randolph Road in Shelby, North Carolina: Resolution No. 28-2021

New Business Item: (Rick Howell, City Manager and Ben Yarboro, Director of Engineering Services)

- Memorandum dated April 26, 2021 from Ben Yarboro, Engineering Services to Rick Howell, City Manager and Justin Merritt, Assistant City Manager
- RFQ for the Design of Shell Building 4
- Aerial photo of Parcel #28375 – Randolph Road Industrial Site
- Ordinance No. 18-2021
- Resolution No. 28-2021

City Manager’s Recommendation / Comments

- a.) Ordinance No. 18-2021 is presented for City Council consideration at this time. If approved this ordinance would appropriate funding in the amount of \$354,000 from fund balance and the economic development fund for this project as well as the county’s ½ share of cost for engineering, architectural and design costs associated with the site preparation (grading),and building design for Shell Building #4 to be constructed at 2215 Randolph Road (parcel #28375). This is currently a city owned parcel purchased in 2015. As a reminder this entire project is funded 50/50 between the City and County. The City is acting as the developer of the project and will collect a developer’s fee to offset City staff time and some overhead cost. WHN Architects will be the building designer if the below resolution is approved by Council.

City of Shelby
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- b) Resolution No. 28-2019 is presented for City Council consideration at this time. The selection committee voted to recommend WHN Architects as the most qualified firm to perform architectural and engineering design services for Shell Building #4. As is our routine and in accordance with the NC General Statute 143-31 the City follows a “Request for Qualifications” process. Submitting firms are vetted by a staff committee using an established scoring system. The field is narrowed and an interview process occurs. The staff committee then reviews their findings and recommendation with me. Please keep in mind that the statute requires us to select the most qualified firm and then and only then may we negotiate pricing. If we cannot agree to a price with the most qualified firm we can then negotiate with the next firm on the list. The City has contracted with McGill Associates in the past for site design on Shell buildings #1 and #2 as well as the pregraded sites within Foothills Commerce Center. All costs per our agreement will be shared equally by the City and Cleveland County.

It is my recommendation that Ordinance No. 18-2021 and Resolution No. 28-2021 be adopted and approved by City Council at this time.



Memorandum

To: Rick Howell, City Manager
Justin Merritt, Assistant City Manager

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

RE: Recommendation to Award Professional Architectural and Civil Engineering Services for the Design of an Industrial Site and "Job Ready" Shell Building #4 on Randolph Road in Shelby, NC

Date: April 26, 2021

Background

In an effort to continue to promote economic development within the City of Shelby, the City desires to complete the design of an industrial site and a "job ready" shell building on property owned by the City on Randolph Road. This property consists of 62.7 acres (Parcel ID #28375) and the proposed project will utilize approximately 30 acres of this property. To complete this project, the City must obtain expert architectural and civil engineering services for designing this industrial site and the 100,000 SF shell building that allows for a 100,000 SF expansion on Site A and a conceptual layout for Site B (see enclosed map for reference).

The professional services related to this economic development project are as follows:

- Civil site design
 - Site drainage
 - Stormwater management (NPDES Phase II permit compliance)
 - Parking lots
 - NCDOT driveway connections
- "Job Ready" shell building design
 - Structural
 - 100,000 SF building that allows for a future 100,000 SF expansion
 - Insulated Precast Concrete Walls
 - Architectural
 - Plumbing
 - Mechanical
 - Electrical
 - Fire protection
- Preparing a detailed cost estimate

- Obtaining all governmental and environmental permits required
- Provide construction administration and observation, if requested
- Complete the bidding process and providing a certified bid tabulation

As outlined in the Request for Qualifications (RFQ), the criteria for this qualifications based selection were:

- Technical Approach/Understanding of the Project
- Experience of Proposed Personnel
- Availability of Staff and Resources
- Familiarity with Local Development Requirements and Processes
- Relevant Site Development and Shell Building Design Experience
- Location of the Firm Relative to the Project

Review

On March 31, 2021, the City of Shelby advertised a Request for Qualifications for Professional Architectural and Civil Engineering Services for the Design of an Industrial Site and a "Job Ready" Shell Building on Randolph Road in Shelby, NC. The City received four (4) responses to this advertisement prior to the April 19, 2021 deadline. Responses were received from the following firms (listed in alphabetical order):

- KCI Associates of North Carolina, PA – Charlotte, NC
- McKim & Creed, Inc. – Charlotte, NC
- Thomas & Hutton – Columbia, SC
- WHN Architects, PA – Charlotte, NC

A review committee consisting of three (3) City staff was established to complete independent reviews and scoring of the four (4) responses that were received. After scoring was completed, the review committee discussed the results and unanimously determined that WHN Architects was the most qualified firm to perform the Professional Architectural and Civil Engineering Services for the Design of the Industrial Site and a "Job Ready" Shell Building on Randolph Road.

Recommendation

City Staff recommends that the Shelby City Council approve the resolution selecting WHN Architects as the firm to perform the Professional Architectural and Civil Engineering Services for the Design of an Industrial Site and a "Job Ready" Shell Building on Randolph Road. This resolution will authorize the City Manager to negotiate and execute an agreement that establishes the scope of work and fees associated with the professional services that are to be completed. Design of this project is anticipated to begin in May 2021 and plans finalized for bidding this project approximately 90 days after a contract is fully executed.

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

Enclosures

Request for Qualifications dated March 31, 2021
Randolph Rd. property site map

**REQUEST FOR QUALIFICATIONS STATEMENT FOR PROFESSIONAL
ARCHITECTURAL AND CIVIL ENGINEERING SERVICES FOR THE DESIGN
OF AN INDUSTRIAL SITE AND A “JOB READY” SHELL BUILDING ON
RANDOLPH ROAD IN SHELBY, NC**

Date: March 31, 2021

The City of Shelby is requesting Statements of Qualification from interested and qualified firms to provide architectural and civil engineering services for the design of an industrial site and a “job ready” shell building on Randolph Road in Shelby, North Carolina.

PURPOSE

The purpose of this Request for Qualifications is to obtain expert professional, technical, and advisory services for designing an industrial site and a “job ready” shell building on Randolph Road in Shelby, North Carolina. This project will consist of the development of the approximately 62.7 acre site and the design of a 100,000 SF shell building that allows for a future 100,000 SF expansion on Site A and a conceptual layout on Site B (see enclosed map for reference). The proposed site is located on Parcel ID #28375.

SCOPE OF WORK

Site A (30.1 acres)

- 1) Prepare and submit architectural and civil design plans and proposed schedule to City of Shelby for review and comment.
- 2) Incorporate the City’s comments and prepare construction/bidding documents.
- 3) Design of “Job Ready” shell building (minimum guidelines):
 - a. 100,000 SF building that allows for a future 100,000 SF expansion:
 - i. Structural
 1. Insulated Precast Concrete Walls
 - ii. Architectural
 - iii. Plumbing
 - iv. Mechanical
 - v. Electrical
 - vi. Fire Protection
 - b. Site Drainage and Stormwater control measures
 - c. NCDOT approved driveways for employees and trucks off Randolph Road
 - d. Employee parking lot(s)
 - e. Truck loading area
 - f. Site details (asphalt, concrete, sidewalks, etc)
- 4) Preparing a detailed cost estimate

- 5) Other professional services for the project may include, but are not limited to:
 - a. Surveying
 - b. NPDES Phase II Stormwater Management Permit compliance
- 6) Obtaining all associated governmental and environmental permits required.
- 7) Ability to provide construction administration and inspection, if requested.
- 8) Completion of bidding process and providing certified bid tabulation.
- 9) A preliminary geotechnical evaluation was completed in November 2015; however, if additional evaluation is needed it will be completed by the City under a separate agreement.

Site B (32.6 acres)

- 10) Prepare and submit conceptual grading plan for the above parcel to City of Shelby for review and comment. Site B will consist of 1-2 building pads and associated parking and driveways.
- 11) Preparing a detailed cost estimate
- 12) A preliminary geotechnical evaluation was completed in November 2015; however, if additional evaluation is needed it will be completed by the City under a separate agreement.

REQUIREMENTS

The selected consultant will be required to enter into an agreement with the City of Shelby. The types of services and expertise required for this solicitation are described below. Consultants offering expertise in the services described below are encouraged to submit statements of qualifications.

PROPOSAL CONTENT AND EVALUATION

Five (5) copies of your proposal must be received no later than 2:00 PM, April 19, 2021. The proposals must be addressed to:

City of Shelby
 Attn: Ben Yarboro, Engineering Services Director
 824 W. Grover St.
 Shelby, NC 28150

Include in your proposal the following specific items, which will assist in the evaluation of all proposals:

- 1) Project Approach:
 - a. Describe your team’s approach to successfully delivering the project. Provide details on how each task will be completed. Include any recommendations for maximizing effectiveness and efficiency.
- 2) Relevant Project Experience:
 - a. Provide a summary of your experience with similar projects, including location and client contact information. Specify the services provided, the office location from which the work was performed, and staff members’ responsibilities.
- 3) Project Team:
 - a. Provide an organizational chart identifying all staff assigned to the project, including any sub-contractors, defining roles, responsibilities, and task assignments for the duration of the project.
- 4) Qualifications of Personnel:
 - a. Provide relevant experience and qualifications of all personnel assigned to the project.
- 5) Scope of Work:
 - a. Provide an outline for keeping the project on schedule and within budget. Include projected workloads and staff availability, as well as a projected schedule for completion

- of significant milestones and the draft and final plan.
- 6) Insurance Certification:
 - a. Submit current insurance certificates for professional liability insurance, which indicates limits of liability. If selected, the successful firm shall provide certificates of insurance that also name City of Shelby as additional insured.
 - 7) References:
 - a. Provide contact information for at least three (3) references for clients familiar with similar work by your firm.

Proposals shall be limited to a maximum of fifteen (15) pages, not including a cover page or cover letter.

DO NOT INCLUDE A PRICED PROPOSAL

INQUIRIES

Questions that arise shall be submitted via email to Mr. Bryant Nodine at bryant.nodine@cityofshelby.com by 5:00 PM, April 9, 2021. Questions and answers will be provided to others receiving this request.

INCURRING COSTS

The City of Shelby is not liable for any cost incurred by the consultant in the preparation or presentation of a response to this request.

RIGHT OF AWARD OR REJECT

It is understood that all submittals will become part of the public's file on this matter, without obligation to the City. The City of Shelby reserves the right to accept and/or reject any and all submittals.

QUALIFICATIONS

All firms responding to this request must meet the following minimum qualifications:

- 1) Services shall be performed under the direction and supervision of qualified personnel and if required by law a licensed engineer or architect duly licensed and authorized to conduct a practice in the State of North Carolina.
- 2) Firm must have at least ten (10) years of relevant experience in the design of similar projects.
- 3) Firm must demonstrate their ability and knowledge of construction standards and design standards for this type of project.
- 4) Firm must be able to demonstrate their ability through verifiable experience in the design, bidding, and construction of public projects of similar size, scope, and function.
- 5) Firm must show experience related to the product type and experience in working in North Carolina.

STATEMENT OF INTEREST AND QUALIFICATIONS

Each submittal from a qualified consultant received in response to this request will be judged as a demonstration of the consultant's capabilities and qualifications. Only those consultants who supply complete information as required by this request will be considered for evaluation. The factors used to determine those to be considered are:

- 1) An understanding of the requirements of this request demonstrated by the organization, clarity, and completeness of the submittal.
- 2) The past performance record and qualifications of the firm and the individuals who will do the work, verifiable through references and resumes, and
- 3) The ability of the consultant to provide a timely response.

EVALUATION CRITERIA

The contract will be awarded to a qualified consultant. Minimum standards for qualifications are:

- 1) Technical Approach/Understanding of Project (20%)
- 2) Experience of Proposed Personnel (20%)
- 3) Availability of Staff and Resources (15%)
- 4) Familiarity with Local Development Requirements and Processes (20%)
- 5) Relevant Site Development and Shell Building Design Experience (20%)
- 6) Location of the Firm Relative to the Project (5%)

SELECTION

The City of Shelby will form a selection committee that will evaluate the submittals received. The City will review all requests, evaluate required criteria, select a consultant and enter into negotiations with the selected firm, or select a short list for interviews, then complete the process.

Each of the criteria listed in this outline will be evaluated on how fully each submittal meets the requirements, and each will be ranked. Particular emphasis will be placed on the consultant's past successful completion of similar projects shown by work summaries of the firm and individuals to do the work, and by references.

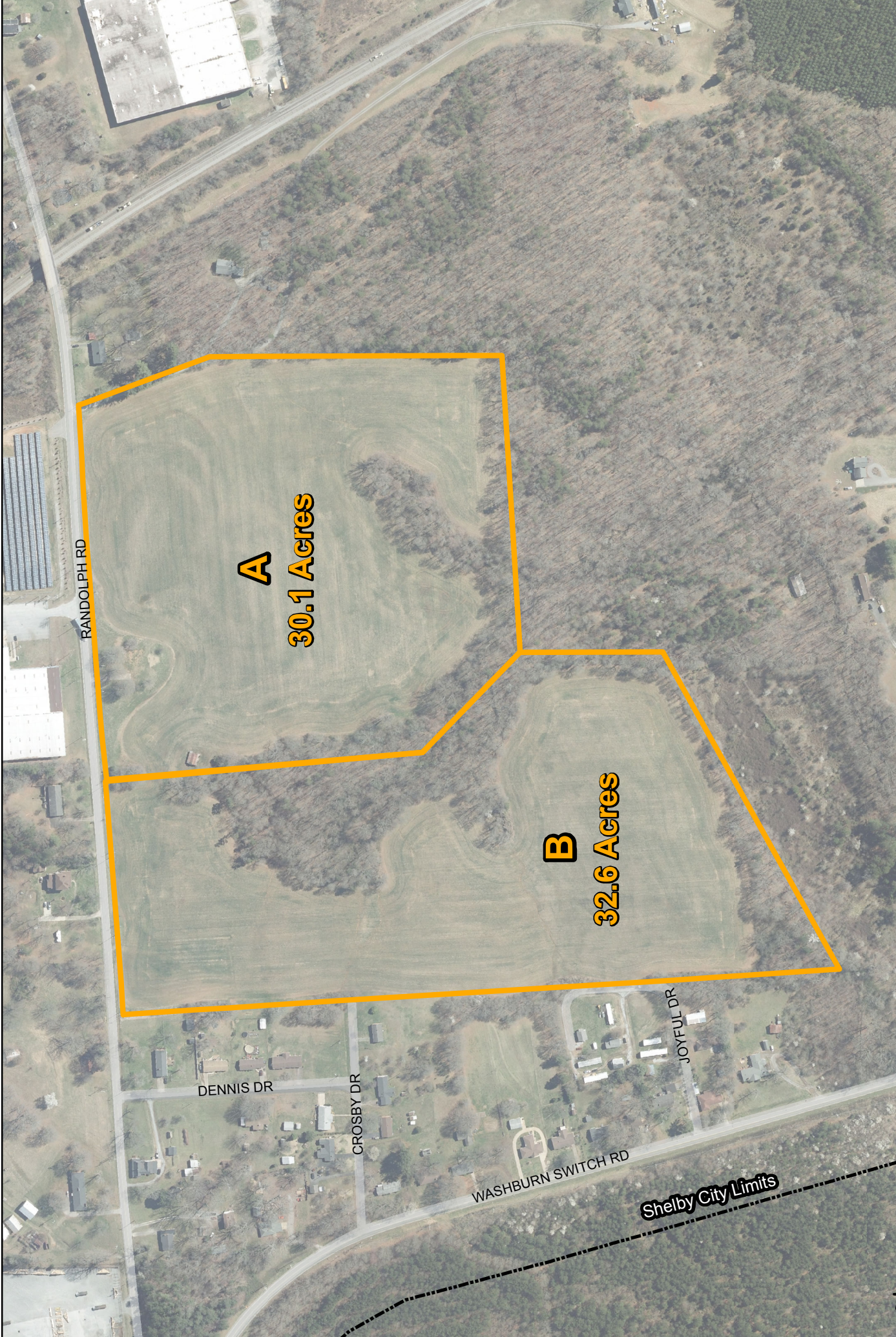
After selection of a consultant, a contract will be prepared based on a negotiated Scope of Services and final fee proposal. Should the negotiations be unsuccessful with the number one ranked firm, negotiations will cease with that firm, and negotiations will begin with the number two ranked firm. This process will continue until a satisfactory contract is completed.

CONTRACT REQUIREMENTS

The final consultant will be required to complete a Service Contract, which will incorporate the submittal and work schedule as a part of the contract. In addition, it will be necessary for the successful consultant to be covered by Workman's Compensation insurance, which will extend to the work done within the State of North Carolina.

NONDISCRIMINATION

The City of Shelby complies with all civil rights provisions of federal statutes and related authorities that prohibit discrimination in programs and activities receiving federal and state financial assistance. Therefore, the City of Shelby does not discriminate on the basis of race, sex, color, age, national origin, religion or disability, in the admission, access to and treatment in the City's programs and activities.



A
30.1 Acres

B
32.6 Acres

RANDOLPH RD

DENNIS DR

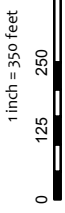
CROSBY DR

WASHBURN SWITCH RD

JOYFUL DR

Shelby City Limits

- Legend**
-  Randolph Road Site
 -  City Limits
 -  Parcels



Randolph Road Industrial Site

(Parcel #28375)

Coordinate System Information
 StatePlane: NAD 1983 StatePlane NC FIPS 3100 Feet
 Projection: Lambert Conformal Conic
 Units: Feet US

Prepared by City of Shelby GIS
 Date: 3/16/2021

The City of Shelby and its representatives, vendors or partners do not warrant the accuracy and completeness of the information shown on this map. The City of Shelby and its representatives or vendors do not warrant the accuracy and completeness of the information shown on this map.



ORDINANCE NO. 18-2021

AN ORDINANCE ESTABLISHING A CAPITAL PROJECT ORDINANCE AND BUDGETS FOR THE CITY OF SHELBY'S JOB READY SHELL BUILDING NO. 4 PROJECT

WHEREAS, in accordance with applicable provisions of the North Carolina Budget and Fiscal Control Act the City of Shelby finds it advisable and necessary to establish a capital project ordinance and budgets for the City of Shelby's Job Ready Shell Building No. 4 Project: and

WHEREAS, it is necessary for the City to establish a budget for this capital project and appropriate applicable funds needed for the administration and construction of this project in order to comply with applicable provisions of the North Carolina Local Government Budget and Fiscal Control Act; and

WHEREAS, G.S. 159-13.2 provides that a City may undertake the construction of a capital asset such as a shell building purposed for economic development by way of a capital project ordinance providing the necessary balanced budget and funding for the life of the project;

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

Section 1. The City of Shelby intends to construct an approximately 100,000 square foot job ready shell building, designed for light manufacturing, to be located on a portion of land owned by the City of Shelby and currently identified by Parcel Number 28375, and situated along Randolph Road in the City of Shelby.

Section 2. Accordingly, the following budget modifications are approved in accordance with the chart of accounts heretofore established for the City of Shelby:

Job Ready Shell Building No. 4

(1) Appropriating Revenues and Fund Balance:

Fund Balance Appropriated	23009000-39900	\$177,000
Transfer to ED Capital Projects	230590-49231	\$177,000

(2) The following Econ. Dev. Cap. Project Fund Revenues are amended by the City:

Transfer from ED Fund	23109000-39230-SHL#4	\$177,000
Cleveland County Grant	23109000-33500-SHL#4	\$177,000

(3) The following Econ. Dev. Cap. Project Fund Expenditures are amended by the City:

Professional Services	231590-42000-SHL#4	\$354,000
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Section 3. The provisions of this capital project ordinance shall be entered in the minutes of the Shelby City Council and copies filed with the City Manager as Budget Officer, the Finance Director, and the City Clerk for their direction and guidance in receiving revenues and expending the monies due thereunder.

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

Ordinance No. 18-2021
May 3, 2021
Page 2

Adopted and approved this the 3rd day of May 2021.

O. Stanhope Anthony III
Mayor

ATTEST:

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

APPROVED AS TO FORM:

Andrea Leslie-Fite
City Attorney

RESOLUTION NO. 28-2021

**A RESOLUTION AUTHORIZING SELECTION OF WHN ARCHITECTS
BASED ON QUALIFICATIONS FOR PROFESSIONAL ARCHITECTURAL
AND CIVIL ENGINEERING SERVICES FOR THE DESIGN OF
AN INDUSTRIAL SITE AND A “JOB READY” SHELL BUILDING
ON RANDOLPH ROAD IN SHELBY, NORTH CAROLINA**

WHEREAS, the City of Shelby desires to design a “Job Ready” shell building and an industrial site on Randolph Road with the primary objectives being to continue the success of industry in the area for many years to come and to help promote continued growth in the City of Shelby and Cleveland County; and,

WHEREAS, this project will consist of the design of an industrial site and a 100,000 SF shell building that allows for a 100,000 SF expansion on Parcel ID #28375 which is owned by the City of Shelby; and,

WHEREAS, the City of Shelby must contract with a licensed firm to provide the Architectural and Civil Engineering services needed for the design of the Randolph Road Industrial Site and “Job Ready” Shell Building; and,

WHEREAS, City staff issued a Request for Qualifications dated March 31, 2021 to architectural firms interested in providing Architectural and Civil Engineering services related to this project; and,

WHEREAS, four (4) proposals were received from architectural firms interested in performing the work associated with this project; and,

WHEREAS, City staff has reviewed the proposals and unanimously determined that WHN Architects is the most qualified firm to perform and perform the professional services as outlined in the Request for Qualifications.

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

Section 1. The City Council of the City of Shelby hereby desires for the City Manager to enter into negotiations with WHN Architects to negotiate a contract for the above referenced project.

Section 2. If a fair and reasonable fee cannot be negotiated with the best qualified firm, negotiations will be terminated and initiated with the next best qualified firm.

Section 3. The City Manager is hereby authorized to execute a contract with a firm after successful negotiations.

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

Resolution No. 28-2021
May 3, 2021
Page 2

Adopted and approved this the 3rd day of May 2021.

O. Stanhope Anthony III
Mayor

ATTEST:

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

City of Shelby
Agenda Item Summary
May 3, 2021
Don Gibson Theater

Agenda Item: F

City Manager's Report

I will report to Mayor and Council on a number of ongoing projects and issues. The projects and issues reported upon are intended to be for your information and do not necessarily require action by Council.

Agenda Item: G

Council Announcements and Remarks

H. Adjournment:

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

- 1) Motion to adjourn