

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

Invocation

Pledge of Allegiance

A. Approval of Agenda

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

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

B. Public Comment:

1

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

C. Public Hearings:

- 1) Consideration of a proposed ordinance to amend the Unified Development Ordinance of the City of Shelby: Ordinance No. 39-2021 2
- 2) Consideration of a proposed ordinance amending the zoning map of the City of Shelby, North Carolina (2500-2506 Mid Street and 202-204 Beaver Dam Drive): Ordinance No. 40-2021 12
- 3) Consideration of a proposed ordinance amending the zoning map of the City of Shelby, North Carolina (2431 Kings Road Extension: Ordinance No. 41-2021 26

D. Consent Agenda:

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

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1) Motion to adjourn	89

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Don Gibson Theatre

B. Public Comment:

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

City of Shelby
Agenda Item Summary
October 18, 2021
Don Gibson Theatre

C. Public Hearing:
Agenda Item C-1:

- 1) Consideration of a proposed ordinance to amend the Unified Development Ordinance of the City of Shelby: Ordinance No. 39-2021

Presenting: (Walter Scharer, Planning Director)

Summary of Available Information:

- Memorandum dated October 11, 2021 from Walter Scharer, Planning Director to Rick Howell, City Manager
- Staff Report
- Planning and Zoning Board Minutes and Certified Recommendation
- Notice of Public Hearing
- Ordinance No. 39-2021

City Manager's Recommendation / Comments

This time on your agenda is scheduled for Council to conduct a legislative hearing on a proposed text amendment to the UDO. This amendment addresses greenway development. Mr. Scharer has provided the necessary background information for your consideration. This is a legislative hearing. The purpose of a legislative hearing is to secure public comment on the proposed action. Following the hearing City Council may take action either in favor or opposition to Ordinance No. 39-2021. Consideration should be given by City Council to the following section from the Unified Development Ordinance of the City Code when making decisions concerning amendments to the UDO whether they be text or map changes. The certified recommendation from the Planning and Zoning Board Chairperson is included in the agenda packet for your consideration.

Sec. 8-6. Ultimate issue before city council on amendments.

In deciding whether to adopt a proposed amendment to this ordinance, the central issue before the city council is whether the proposed amendment advances the public health, safety or welfare. All other issues are irrelevant, and all information related to other issues at the public hearing may be declared irrelevant by the chairman and excluded. When considering proposed map amendments:

(A) Except for rezoning requests submitted in accordance with section 8-7, the city council shall not consider any representations made by the petitioner that, if the change is granted, the rezoned property will be used for only one of the possible range of uses permitted in the requested classification. Rather, the city council shall consider whether the entire range of permitted uses in the requested classification is more appropriate than the range of uses in the existing classification.

(B) The city council shall not regard as controlling any advantages or disadvantages to the individual requesting the change, but shall consider the impact of the proposed change on the public at large.

After the conclusion of the public hearing City Council may act upon Ordinance No. 39-2021.



Memorandum

To: Rick Howell - City Manager
From: Walter Scharer – Planning Director
Date: October 11, 2021
Subject: Textual Amendment to the UDO for Greenways

Executive Summary of Issue – Background:

Although greenways have been part of City of Shelby Plans since 2007, the City has not yet incorporated any specific language in the UDO to address greenway development. This proposed amendment addresses greenway development in new commercial projects and subdivision projects.

Review and Comments:

City Planning Staff feels amendment is consistent with the Comprehensive Land Use Plan (2009), the Recreation Master Plan (2019), the Comprehensive Bicycle and Pedestrian Plan (2020) as well as the Carolina Thread Trail Plan for Cleveland County and Cleveland County Communities (2009).

The Planning and Zoning Board has reviewed this proposal and recommends the attached ordinance. Planning Staff will be giving a detailed presentation concerning this amendment prior to the public hearing.

Recommendation: Please schedule a public hearing for this proposed Text Amendment item for the next City Council meeting on October 18, 2021.

Attachments: Staff Report, Notice of Public Hearing, Planning and Zoning Board Minutes August 19, 2021, Certified Recommendation, and Ordinance

Staff Report



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

Date: August 12, 2021
Meeting: August 19, 2020

Proposal: To require the construction of Greenway paths on proposed developments that show a planned greenway on the property to be developed.

ANALYSIS:

The City of Shelby has several existing proposed greenway paths and plans. This proposal would require multi-family developments, major subdivisions, and commercial developments to build and connect a section of the greenway if the proposed greenway on The City of Shelby plans is on the developing property.

The following ordinance requires a developer to construct the greenway, it is similar the existing ordinance that requires sidewalk construction.

40-18.1 Greenway Paths Required

- (A) All new development except individual lot development of a single-family detached, duplex, or manufactured home dwellings on an existing lot (i.e., including subdivisions for such dwellings) shall be required to incorporate any greenway or sidepath called for across or adjacent to the development site called for by any comprehensive plans commissioned by The City of Shelby. Locations of any proposed greenways will be based upon any comprehensive plans approved by The City of Shelby. Such incorporation shall include, but not be limited to, installation of the path and recording of an associated pedestrian access easement.

40-18.2 Payments of Funds, or Funds in Lieu of Land Dedication, For Acquisition or Development of Greenways paths or sidepaths

- (A) If land to be dedicated does not meet the requirements of Section of 40-18.1 of this Ordinance, or is not suitable for public recreation purposes, or if the recreational needs of the proposed development can be met by other greenway facilities by The City of Shelby within reasonable proximity to the development. Recommendations regarding payment of funds in lieu of greenway construction will be made by The City of Shelby at the time of development approval.

(B)

STAFF COMMENTS:

Staff recommends approval of this amendment. If you have any questions, please contact me.



CITY OF SHELBY PLANNING AND ZONING BOARD MINUTES

August 19, 2021

Zoom Virtual Meeting

Item 1. Call to Order/Roll Call

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

Board Present: Marlene Peeler, Rick Washburn, Charles Hamrick, Jeff Aderholdt, Emmanuel Hunt Jr., Scott Bankhead, Mark Carter, and Jim Martin

Staff Present: Walter Scharer, Planning Director, Alan Toney, Planner, Hatteras Stella, Planner, and Chip Nuhrah, Public Information Officer

Applicants: Spencer Borders and Jeff Walsh

Item 2. Approval of the May 20, 2021, Minutes

Vice-Chair Washburn asked if there were any questions or comments about the May 20, 2021, minutes. The minutes were approved as submitted.

Item 3. Conditional Zoning Map Amendment – Hamrick Street

Mr. Toney presented this proposed conditional zoning map amendment. The R6 residential district is primarily intended to accommodate a variety of high density single-family detached dwellings, modular homes, apartments, townhomes, and condominiums. Maximum densities within the R6 district range from approximately seven dwelling units per gross acre for single-family detached dwellings to over 19 dwellings per gross acre for multifamily dwellings. Public water and sewer service is generally available in areas zoned as R6.

The conditional zoning districts are established to allow the City of Shelby City Council to consider proposed uses and tailor the zoning to accommodate those uses and promote innovative design while addressing anticipated problems that may arise from the establishment of the proposed uses. The conditional zoning district approval process allows the City Council to approve a proposal for a specific use with reasonable conditions to assure the compatibility of the use with surrounding properties. This is a voluntary procedure intended for firm development proposals. Uses that may be proposed and considered for a conditional zoning district shall be restricted to those uses permitted in the underlying general zoning district.

A lengthy discussion among board members and staff occurred. This discussion was focused on the proposed site plan and conditions and the reduced number of parking spaces and the reduced setback.

This discussion was focused on the conditions submitted by the applicant.

- (1) A reduced setback of 15-foot front, 5-foot side, and 15-foot rear setback.
- (2) An improved 15-foot-wide buffer screening from neighboring properties and W Dixon Boulevard.
- (3) Improved dumpster screening.
- (4) A 6–8-foot privacy fence on the southern property line.
- (5) Increase in density to 12 units
- (6) A reduction of parking requirements by 3 parking spaces

Motion: Mr. Hamrick made the motion to recommend disapproval of the proposed Conditional Zoning Map Amendment.

Second: Mr. Hunt **Action:** This motion passed 6-2.

Item 4. Conditional Zoning Map Amendment – Lithia Springs Road Extension

Mr. Toney presented this proposed zoning map amendment. This .5-acre site is currently undeveloped. Land uses in the area include single-family dwellings and commercial uses.

The GB2 business district is established as a district in which to accommodate a wide range of retail; business, professional, and personal services; office; and limited wholesale and warehousing uses. Areas zoned as GB2 are generally located on the fringe of the central business district and along major highway corridors. The GB2 general business district is established as a district in which the permitted uses are identical to the GB district except that billboard (outdoor advertising signs) is not permitted in the GB2 district

The conditional zoning districts are established to allow the City of Shelby City Council to consider proposed uses and tailor the zoning to accommodate those uses and promote innovative design while addressing anticipated problems that may arise from the establishment of the proposed uses. The conditional zoning district approval process allows the City Council to approve a proposal for a specific use with reasonable conditions to assure the compatibility of the use with surrounding properties. This is a voluntary procedure intended for firm development proposals. Uses that may be proposed and considered for a conditional zoning district shall be restricted to those uses permitted in the underlying general zoning district.

A discussion among board members and staff occurred. This discussion was focused on the proximity to the adjacent residential properties as well as the consistency with the land use plan. Mr. Borders answered questions from the Board concerning this development.

This proposed conditional zoning map amendment is so that the proposed warehouse is developed in accordance with the submitted site plan. The applicant is proposing the following conditions:

1. In lieu of sidewalks on the subject property, sidewalks will be installed on adjacent parcel (49781) along Fallston Rd.
2. Street yard trees (2) will be installed on the front.
3. Buffer 4 (15') installed along the sides with existing wooded area in lieu of rear buffer.
4. Paved access drive in front.
5. Approximately 9,000 SF storage building built to code.
6. Parking will be on adjacent parcel (49781).

Motion: Mr. Bankhead made the motion to recommend approval of the proposed conditional zoning map amendment.

Second: Mr. Hamrick **Action:** This motion passed 7-1.

Item 5. **Greenway Construction – Text Amendment**

Mr. Scharer presented this proposed text amendment. This text amendment would require construction of a Greenway as part of multi-family, major subdivision, industrial or commercial developments, where a proposed Greenway on any City of Shelby Plan, crosses, is adjacent to, or is on the property. Mr. Martin suggested the creation of standard details for Greenway types to be a part of the ordinance.

Motion: Mr. Hamrick made the motion to recommend approval of the proposed text amendment.

Second: Ms. Peeler **Action:** This motion passed unanimously.

Item 6. **Announcements.**

Mr. Scharer and Mr. Toney gave updates concerning future Planning and Zoning Board meetings and current applications.

Item 7. **Motion to adjourn.**

Vice-Chair Washburn adjourned the meeting at 1:08 pm.



Certified Recommendation

City of Shelby Planning & Zoning Board

Case File: 1146

Amendment: The City of Shelby has several existing proposed greenway paths and plans. This proposal would require multi-family developments, major subdivisions, and commercial developments to build and connect a section of the greenway if the proposed greenway on The City of Shelby plans is on the developing property.

Recommendation: **The Planning and Zoning Board recommends approval of the proposed text amendment as submitted by Staff.**

Findings &

Reasons:

1. The proposed text amendment is consistent with the Comprehensive Land Use Plan.
2. The proposed text amendment is consistent with the 2020 Bicycle and Pedestrian Comprehensive Plan

Motion: Mr. Hamrick made the motion to recommend to City Council approval of this proposed text amendment.

Second: Ms. Peeler

Action: This motion passed unanimously

Signatures: Walter Scharer
Planning and Development Director

Marlene Peeler
Planning and Zoning Board Chair

Date: 8/19/2021

Date: 8/19/2021

**NOTICE OF PUBLIC HEARING
APPLICATION #: 1140-2021
ZONING TEXT
AMENDMENT**

The City Council of Shelby, North Carolina will conduct a public hearing at 6:00 p.m., Monday, October 18, 2021. City Council will consider a proposed text amendment to create a Greenway Construction Ordinance.

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

The City Council may change the text covered by the petition or any part thereof, without the withdrawal or modification of the petition or further publication of notice.

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

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

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

The Shelby Star:

Please publish this notice as a legal line ad on Friday, October 1, 2021 and repeat the same ad on Friday, October 8, 2021.

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

ORDINANCE NO. 39-2021

**A PROPOSED ORDINANCE TO AMEND
THE UNIFIED DEVELOPMENT ORDINANCE OF THE CITY OF SHELBY**

Preamble

Pursuant to the authority conferred by G.S. 160A-381, as amended, and for the purpose of promoting the health, safety, morals, or general welfare of the inhabitants of the city,

**BE IT ORDAINED BY THE CITY COUNCIL OF
THE CITY OF SHELBY THAT THE UNIFIED DEVELOPMENT ORDINANCE OF
THE CITY OF SHELBY BE AMENDED AS FOLLOWS:**

Text Amendment

WHEREAS, The City of Shelby wishes to promote walking and bicycling to improve the health and wellbeing of the citizens of Shelby.

WHEREAS, The City of Shelby wishes to promote cycling and walking as a mode of transportation; and

WHEREAS, The City of Shelby wishes to reduce the number of bicycle and pedestrian crashes in line with Watch For Me NC, NC Vision Zero, and The City of Shelby 2020 Bicycle and Pedestrian Comprehensive Plan; and,

WHEREAS, the Shelby Planning and Zoning Board found that the text amendment is consistent with the Comprehensive Land Use Plan; and,

WHEREAS, in accordance with GS 160D-602, a public hearing on this proposed text amendment was held by City Council on October 18th, 2021 after due publication of said hearing as required by law; and,

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

9-11 Greenways

9-11.1 Greenways Definition

- A. Greenways – A multi-use path on existing street rights-of-way or on a completely separated right-of-way or easement or parks, schools, or other publicly owned lands where a path is designated for the shared use of bicycles and pedestrians. The parking of any through traffic by motor vehicles is prohibited. Crossflows by motor vehicles and pedestrians when necessary to gain access to and from a public *street* or alley and/or a private driveway or other entranceway are permitted.

9-11.2 Greenway Paths Required

- A. All new development: except individual lot development of a single-family detached, duplex, or manufactured home dwellings on an existing lot (i.e., including subdivisions for such dwellings) shall be required to incorporate any greenway or sidepath
 - a. called for,
 - b. across,
 - c. or adjacent to the development site on any plans adopted by The City of Shelby.
- B. Locations of any proposed greenways will be based upon any plans adopted by The City of Shelby. Such incorporation shall include, but not be limited to, installation of the path and recording of an associated pedestrian access easement.
- C. A fund in lieu will be required if the greenway or sidepath is not feasible or cannot be rerouted.
- D. All greenways or sidepaths must be constructed in accordance with The City of Shelby Standard Details.

9-11.3 Payments of Funds, or Funds in Lieu of Land Dedication, For Acquisition or Development of Greenways paths or sidepaths

- A. If land to be dedicated does not meet the requirements of Section of 9-11.2 of this Ordinance, or is not suitable for public recreation purposes, or if the recreational needs of the proposed development can be met by other greenway facilities by The City of Shelby within reasonable proximity to the development, then a fund in lieu may be submitted.
- B. The developer must demonstrate to the Planning Director that the required greenway qualifies for the fund in lieu program by:
 - a. Showing topographical or other environmental challenges that cannot currently be overcome
 - b. That the development is not currently connected to the greenway and pedestrian network and will not be connected in the future
 - c. Or, that the development is served by existing greenway or pedestrian facilities
- C. Recommendations regarding payment of funds in lieu of greenway construction will be made by The City of Shelby at the time of development approval. The fee amount will be calculated by The City Engineer.
- D. A pedestrian access easement will also be required to be submitted with the fund in lieu if the development qualifies for the fund in lieu of future greenway construction.

SECTION 1. Plan Consistency Statement.

The proposed text amendment is consistent with the City of Shelby Bicycle and Pedestrian Plan (2020) as it improves pedestrian and bicycle connections as an additional mode of transportation. The proposed text amendment is consistent with the Carolina Thread Trail Plan for Cleveland County Communities (2010). This proposed text amendment is also consistent with the City of Shelby Comprehensive Land Use Plan (2008).

SECTION 2. Conflicts With Other Provisions.

Whenever the text of this amendment conflicts with any provision of the ordinance or Code of Ordinances not herein amended or repealed, the more stringent provision or regulation shall prevail.

SECTION 3. Effective Date.

This Ordinance shall become effective upon its adoption and approval.

ADOPTED AND APPROVED this the 18th day of October 2021.

O. Stanhope Anthony III
Mayor

ATTEST:

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

APPROVED AS TO FORM:

Andrea Leslie-Fite
City Attorney

City of Shelby
Agenda Item Summary
October 18, 2021
Don Gibson Theatre

Agenda Item C-2:

- 2) Consideration of a proposed ordinance amending the zoning map of the City of Shelby, North Carolina (2500-2506 Mid Street and 202-204 Beaver Dam Drive): Ordinance No. 40-2021

Presenting: (Walter Scharer, Planning Director)

Summary of Available Information:

- Memorandum dated October 11, 2021 from Walter Scharer, Planning Director to Rick Howell, City Manager
 - General Application
 - Staff Report
 - Location Map, Zoning Map and Future Land Use Map
 - Planning and Zoning Board Minutes and Certified Recommendation
 - Notice of Public Hearing
 - Ordinance No. 40-2021
-

City Manager's Recommendation / Comments

This time on your agenda is scheduled for Council to conduct a legislative hearing on a proposed map amendment. This amendment addresses a proposed zoning district change to allow the subdivision of lots with existing homes. Mr. Scharer has provided the necessary background information for your consideration. This is a legislative hearing. The purpose of a legislative hearing is to secure public comment on the proposed action. Following the conclusion of the hearing the Council may act on the item under consideration. A certified recommendations from the Planning and Zoning Board is included as part of the packet. I would call attention to Mr. Scharer's memorandum noting that the zoning map amendment is consistent with the City's current land use plan but is recommended by staff and the Planning Board. I would further note that the recommendation of the Planning and Zoning Board is advisory in nature only and that as a legislative matter Council has broad discretion to take action it believes is in the best interests of the City. That being said City Council has adopted plans/standards and established an advisory board for the purposes of providing reasonable guidance in the decision-making process.

§ 160D-605. Governing board statement.

(a) Plan Consistency. – When adopting or rejecting any zoning text or map amendment, the governing board shall approve a brief statement describing whether its action is consistent or inconsistent with an adopted comprehensive plan. The requirement for a plan consistency statement may also be met by a clear indication in the minutes of the governing board that at the time of action on the amendment the governing board was aware of and considered the planning board's recommendations and any relevant portions of an adopted comprehensive plan. If a zoning map amendment is adopted and the action was deemed inconsistent with the adopted plan, the zoning amendment shall have the effect of also amending any future land-use map in the approved plan, and no additional request or application for a plan amendment shall be required. A plan amendment and a zoning amendment may be considered concurrently. The plan consistency statement is not subject to judicial review. If a zoning map amendment qualifies as a "large-scale rezoning" under G.S. 160D-602(b), the governing board statement describing plan consistency may address the overall rezoning and describe how the analysis and policies in the relevant adopted plans were considered in the action taken.

(b) Additional Reasonableness Statement for Rezonings. – When adopting or rejecting any petition for a zoning map amendment, a statement analyzing the reasonableness of the proposed rezoning shall be approved by the governing board. This statement of reasonableness may consider, among other factors, (i) the size, physical conditions, and other attributes of the area proposed to be rezoned, (ii) the benefits and detriments to the landowners, the neighbors, and the surrounding community, (iii) the relationship between the current actual and permissible development on the tract and adjoining areas and the development that would be permissible under the proposed amendment; (iv) why the action taken is in the public interest; and (v) any changed conditions warranting the amendment. If a zoning map amendment qualifies as a "large-scale rezoning" under G.S. 160D-602(b), the governing board statement on reasonableness may address the overall rezoning.

(c) Single Statement Permissible. – The statement of reasonableness and the plan consistency statement required by this section may be approved as a single statement. (2019-111, s. 2.4; 2020-3, s. 4.33(a); 2020-25, s. 51(a), (b), (d)).

After the conclusion of the public hearing City Council may act upon Ordinance No. 40-2021.



Memorandum

To: Rick Howell - City Manager
From: Walter Scharer – Planning Director
Date: October 11, 2021
Subject: Requested zoning map amendment Mid Street.

Executive Summary of Issue – Background

Applicant, Kenneth Blanton, is proposing a zoning change on this property to allow for a subdivision of several lots currently with single family dwellings.

Review and Comments

The property is currently zoned R20 and the applicant has proposed R10. The Comprehensive Land Use Plan for this area designates the site as a Medium Density Residential Area.

Recommendation

This proposed zoning map amendment is consistent with the Comprehensive Land Use Plan. The Planning and Zoning Board does not recommend this proposed zoning amendment due to the lack of sewer currently serving the property.

Please schedule a legislative public hearing for this proposed zoning amendment at the next City Council meeting on October 18, 2021.

Attachments: Application, Staff Report, Zoning Map, Location Map. Future Land Use Map, Notice of Public Hearing, Planning and Zoning Board September 16, 2021 minutes, Certified P&Z Recommendation, and Ordinance



City of Shelby
Planning and Development Services Department

General Application

Address of Subject Property:

2504 Mid Street, Shelby NC 28150 (ETJ)

Applicant(s) Name: Kenneth Blanton

Address: 3742 Artee Road, Shelby, NC 28150

Email: W4kxb@bellsouth.net

Phone: (704)472-4849

Owner(s) Name: Elizabeth Walker Estate (heirs are Kenneth Blanton and Jane Blanton Moor, Kenny has POA for Jane Blanton Moor)

Email: None

Phone: None

Relationship to Property: [X] Owner [] Developer, Contractor, etc. [] Other:

Request for (Check all that apply):

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

Project Information (Fill in applicable information):

Parcel Number: 28677, 28676, 28678

Proposed Zoning: R-10

Proposed Land Use: Current Use - Single Family Home

Previous Use: Same as Current Use - Single Family Home

Approx. Building Sq. Ft.: 867

Approx. Project Acreage: .23 Acres Each

Business Name: None

Construction Sq. Ft.: None

Valuation: Each Approx \$113,000 as Single Family Homes

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

Parcel has 2 existing homes, each with their own permitted Septic Systems. Owner desires to sell them separately.

No change to neighborhood use, or look. R-10 is for approximately 4 homes per acre. .23 Acres per home is approximately 4 homes per acre. The ETJ didn't exist, nor did County Zoning when these homes were built.

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

Signature of Applicant: Kenneth Blanton

Signature of Applicant

Date: 8-10-21

Date

Received by:

Date

Staff Report



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

Date: September 8, 2021
Meeting: September 16, 2021
File: #

OWNER: Elizabeth Walker Estate

APPLICANT: Kenneth Blanton

LOCATION: 2500-2506 Mid St 202-204 Beaver **PARCEL ID #s:** 28677, 28676, and 28678

PRESENT ZONING: R20

REQUESTED ZONING: R10

SURROUNDING ZONING:

North: R20 **South:** GB2 **East:** GB2 **West:** R20

UTILITIES:

Water: No **Sewer:** No **Floodplain:** No **Watershed:** No

ANALYSIS: This 2-acres in total site is currently home to 6 single-family dwellings. The property is currently zoned R20. The applicant is requesting all properties be rezoned to R10 so the applicant can subdivide the properties and subsequently sell each single-family dwelling unit. Land uses in the area include single-family dwellings and commercial uses.

The R20 Residential District is primarily intended to accommodate very low density single-family detached dwellings, modular homes, two-family dwellings, and manufactured homes on individual lots in areas that generally do not have access to public water supplies and are dependent upon septic tanks for sewage disposal. Maximum densities within the R20 District are approximately 2 dwelling units per gross acre for single-family and two-family dwellings. Manufactured home parks are permitted within the R20 District by conditional use permit. Nonresidential uses permitted within this district include customary accessory, recreational, educational, and institutional land uses that are compatible with the low-density residential character of the R20 District.

The R10 Residential District is primarily intended to accommodate low density moderate density single-family detached dwellings and modular homes at a maximum density of approximately 4 dwelling units per gross acre. Public water and sewer service is generally available in areas zoned as R10. Nonresidential uses permitted within this district include customary accessory, recreational, educational, and institutional land uses that are compatible with the low-density residential character of the R10 District.

STAFF COMMENTS: The Comprehensive Land Use Plan designates this site is in the medium density residential area. Medium density residential represents single-family detached development of approximately 4 units pr acre. This designation is typical of most of the residential subdivisions in Shelby and Cleveland County that are served by City/County water and sewer. Corresponding City of Shelby zoning classifications include R10 and R8. While the zoning map amendment designates this area as medium density residential, sewer and water are not readily available in this area.

Staff recommends disapproval of this zoning map amendment based on lack of water and sewer availability.



Location Map

Mid-Street Zoning Map Amendment

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



Scale 1:6,000 1 inch = 500 feet

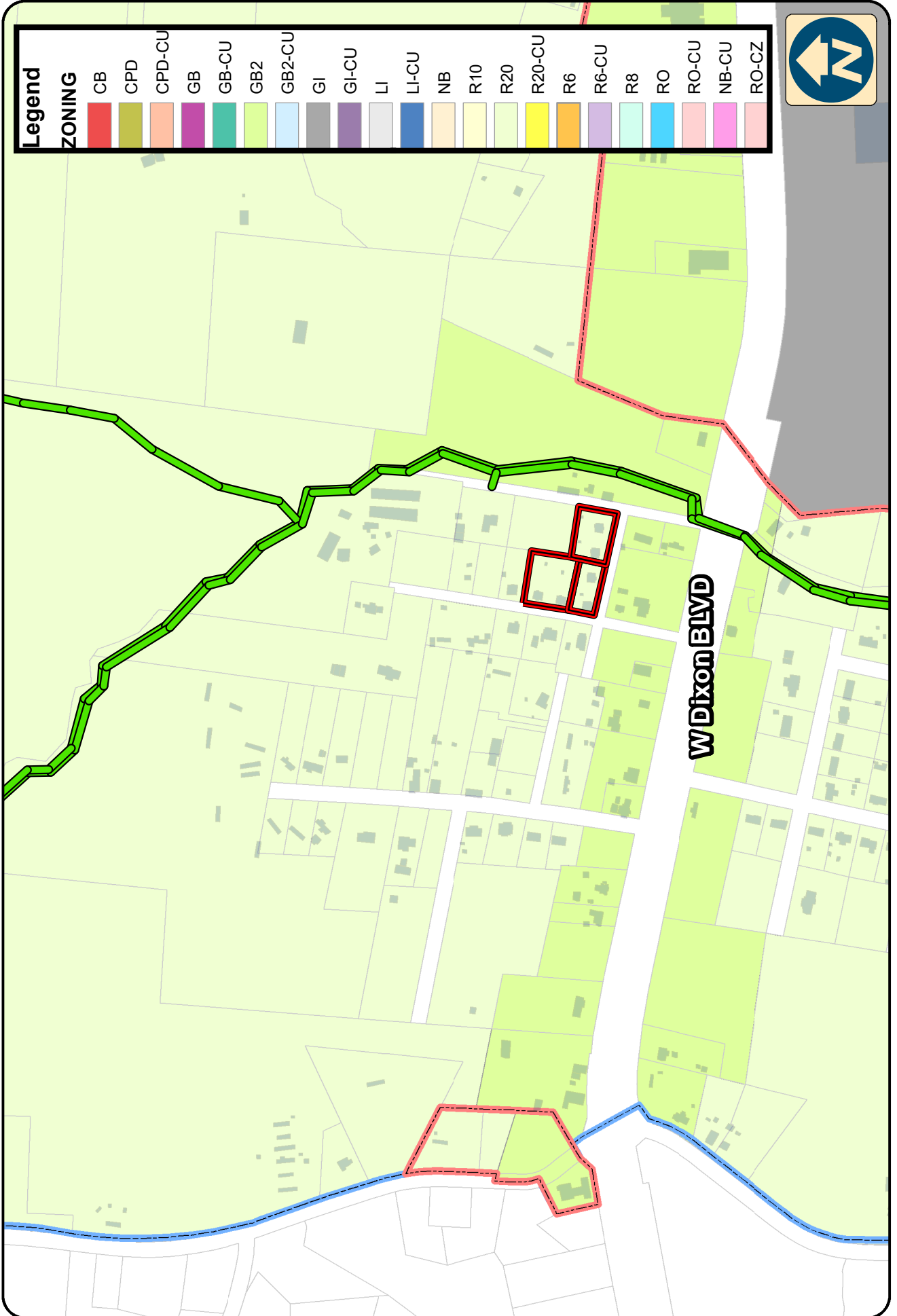


Date: 9/8/2021



Zoning Map Mid Street

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

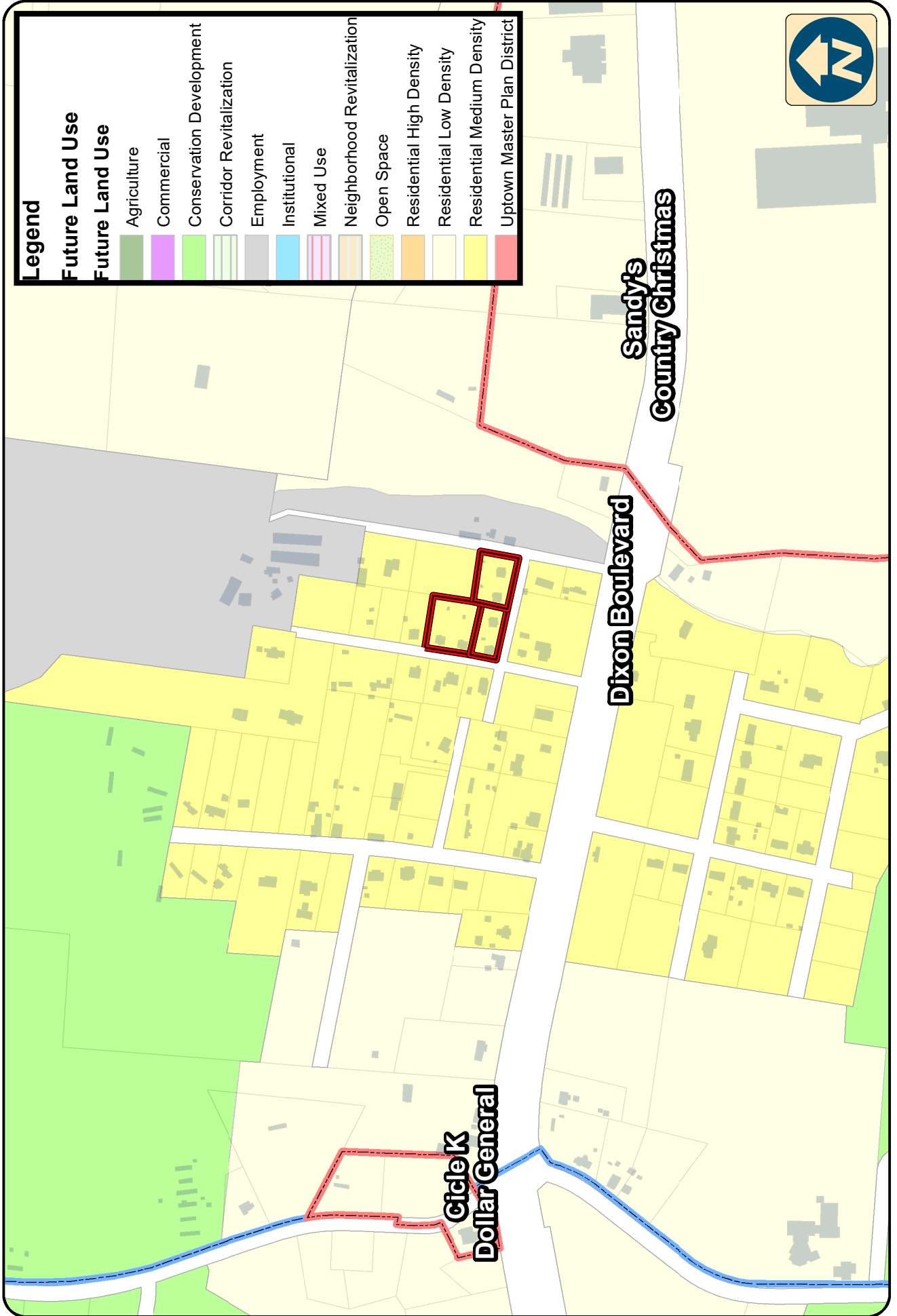




Future Land Use Map

Mid-Street Zoning Map Amendment

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



Scale 1:6,000 1 inch = 500 feet



Date: 9/8/2021



CITY OF SHELBY PLANNING AND ZONING BOARD MINUTES
September 16, 2021
Zoom Virtual Meeting

Item 1. Call to Order/Roll Call

Vice-Chair Washburn called the meeting to order at 12:15 PM and noted that a quorum was present.

Board Present: Rick Washburn, Charles Hamrick, Jeff Aderholdt, Emmanuel Hunt Jr., Bob Cabaniss, Mike Royster, and Jim Martin

Staff Present: Walter Scharer, Planning Director, Alan Toney, Planner, Andrea Fite, City Attorney, and Chip Nuhrah, Public Information Officer

Applicants: Benny Smith

Item 2. Moment of Silence – Marlene Peeler

Vice-Chair Washburn held a moment of silence for the late Marlene Peeler. Marlene Peeler passed away Thursday, September 2nd after a courageous battle with cancer. Marlene Peeler honorably served The City of Shelby and The Planning and Zoning Board for over 35 years.

Item 3. Approval of the August 19, 2021, Minutes

Vice-Chair Washburn asked if there were any questions or comments about the August 19, 2021, minutes. The minutes were approved as submitted.

Item 4. Zoning Map Amendment – Mid Street

Mr. Scharer presented this proposed zoning map amendment. This 2-acres in total site is currently home to 6 single-family dwellings. The property is currently zoned R20. The applicant is requesting all properties be rezoned to R10. Land uses in the area include single-family dwellings and commercial uses.

The R20 Residential District is primarily intended to accommodate very low density single-family detached dwellings, modular homes, two-family dwellings, and manufactured homes on individual lots in areas that generally do not have access to public water supplies and are dependent upon septic tanks for sewage disposal. Maximum densities within the R20 District are approximately 2 dwelling units per gross acre for single-family and two-family dwellings. Manufactured home parks are permitted within the R20 District by conditional use permit. Nonresidential uses permitted within this district include customary accessory, recreational, educational, and institutional land uses that are compatible with the low-density residential character of the R20 District.

The R10 Residential District is primarily intended to accommodate low density moderate density single-family detached dwellings and modular homes at a maximum density of approximately 4 dwelling units per gross acre. Public water and sewer service is generally available in areas zoned as R10. Nonresidential uses permitted within this district include customary accessory, recreational, educational, and institutional land uses that are compatible with the low-density residential character of the R10 District.

A lengthy discussion among board members and staff occurred. This discussion was focused on sewer availability in the area and the lot size requirements for lots with septic tanks.

Motion: Mr. Royster made the motion to recommend disapproval of the proposed Zoning Map Amendment due to sewer not being readily available in this area.

Second: Mr. Martin

Action: This motion passed unanimously.

Item 5. Zoning Map Amendment – 2431 Kings Road Extension

Mr. Toney presented this proposed zoning map amendment. This .39-acre site is currently home to a single-family dwelling. The applicant is requesting the property be zoned RO. Land uses in the area include single-family dwellings and institutional uses.

The R10 Residential District is primarily intended to accommodate low density moderate density single-family detached dwellings and modular homes at a maximum density of approximately 4 dwelling units per gross acre. Public water and sewer service is generally available in areas zoned as R10. Nonresidential uses permitted within this district include customary accessory, recreational, educational, and institutional land uses that are compatible with the low-density residential character of the R10 District.

The RO Residential-Office District is primarily intended to accommodate high density multifamily residences; offices; public and institutional; business, professional, and personal services; and limited support retail businesses.

A discussion among board members and staff occurred. This discussion was focused on the Community College and the necessary site improvements for the project to be compliant with The City of Shelby UDO.

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

Second: Mr. Hamrick **Action:** This motion passed unanimously.

Item 6. Zoning Map Amendment – 325-5 West Dixon Boulevard

Mr. Toney presented this proposed zoning map amendment. This 2.3-acres in total site is currently the site of garage. The property is currently zoned R6. The applicant is requesting all properties be rezoned to GB2. Land uses in the area include single-family dwellings and commercial uses.

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

The GB2 Business District is established as a district in which to accommodate a wide range of retail; business, professional, and personal services; office; and limited wholesale and warehousing uses. Areas zoned as GB2 are generally located on the fringe of the central business district and along major highway corridors. Residential uses are permitted at the same density and according to the same dimensional requirements as the R6 Residential District. The GB2 General Business District is established as a district in which the permitted uses are identical to the GB District *except* that billboard (outdoor advertising signs) are not permitted in the GB2 District.

A discussion among board members and staff occurred. This discussion was focused on the proximity to the adjacent residential properties as well as the drive locations.

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

Second: Mr. Aderholdt **Action:** This motion passed unanimously.

Item 7. On Site Building Conversions – Text Amendment

Mr. Scharer and Mr. Toney presented this proposed text amendment. A property owner and business owner in Shelby has come to staff with the proposal of a new business. The business, called On Site Building Conversions, takes existing shipping containers, storage buildings, etc. and turns them into homes, workshops, and even different kinds of storage buildings. The applicant proposes allowing this in GB and GB2 with development standards and in GI and LI.

The discussion amongst board members and staff was focused on the current proposed development standards and the need for more regulations concerning the storage of the containers and buildings being worked on.

Motion: Mr. Hamrick made the motion to table this text amendment until the October Meeting.

Second: Mr. Royster **Action:** This motion passed unanimously.

Item 6. **Announcements.**

Mr. Scharer and Mr. Toney gave updates concerning future Planning and Zoning Board meetings, The City of Shelby Rail Trail, and completion of commercial projects in The City.

Item 7. **Motion to adjourn.**

Vice-Chair Washburn adjourned the meeting at 12:49 pm.



Respectfully Submitted
Walter Scharer, Planning Director

DRAFT



Certified Recommendation

City of Shelby Planning & Zoning Board

Case File: 1141

Amendment: A Zoning Map Amendment for property located at 2500, 2502, 2504, and 2506 Mid Street and 202 and 204 Beaver Dam Drive with PIN #'s: 28677, 28676, and 28678 from Residential 20 (R6) zoning district to Residential 10 (R10) zoning district.

Recommendation: The Planning and Zoning Board recommends disapproval of the proposed zoning map amendment for property located at 2500, 2502, 2504, and 2506 Mid Street and 202 and 204 Beaver Dam Drive with PIN #'s: 28677, 28676, and 28678 from Residential 20 (R20) zoning district to Residential 10 (R10) zoning district.

Findings &

- Reasons:**
1. The proposed zoning map amendment is consistent with the Comprehensive Land Use Plan.
 2. Sewer is not available on these properties.
-

Motion: Mr. Royster made the motion to recommend disapproval of this proposed zoning map amendment from Residential 20 (R20) zoning district to Residential 10 (R10) zoning district.

Second: Mr. Martin

Action: This motion passed unanimously.

Signatures: Walter Scharer
Planning and Development Director

Rick Washburn
Planning and Zoning Board Chair

Date: 9/16/2021

Date: 9/16/2021

**NOTICE OF PUBLIC HEARING
APPLICATION #: 1141-2021
ZONING MAP AMENDMENT**

The City Council of Shelby, North Carolina will conduct a public hearing during its regular meeting at 6:00 p.m., Monday, October 18, 2021 at 318 South Washington Street. City Council will consider a proposed zoning map amendment from Residential 20 (R20) Zoning District to Residential 10 (R10) Zoning District for property located at 2500, 2502, 2504, and 2506 Mid Street and 202 and 204 Beaver Dam Drive with the Cleveland County Parcel Numbers 28677, 28676, and 28678.

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

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

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

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

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

The Shelby Star:

Please publish this notice as a legal line ad on Thursday, October 7, 2021 and again on Thursday, October 14, 2021.

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

ORDINANCE NO. 40-2021

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

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

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

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

WHEREAS, in accordance with GS 160D-602, a public hearing on this proposed rezoning was held by City Council on October 18, 2021 after due publication of said hearing as required by law; and,

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

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

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

Section 2. This zoning change is unreasonable and not in the public interest based on the lack of sewer availability in the area.

Section 3. In accordance with Chapter 160D, Article 6 and Article 7 of the North Carolina General Statutes, as amended, the Shelby Unified Development Ordinance and Shelby Zoning Map (Appendix A of the Shelby City Code), 2500, 2502, 2504, and 2506 Mid Street and 202 and 204 Beaver Dam Drive is hereby amended from R20 Zoning District to R10 Zoning District. Said area of zoning is more fully described as the parcel listed by the Cleveland County Tax Office as Parcel Identification Numbers 28677, 28676, and 28678.

Section 4. The City Clerk of the City of Shelby is hereby authorized and directed to cause the provisions of Section 2 of this ordinance to be properly codified, and the City Clerk is further authorized and directed to cause her official records and the Official Zoning Map of the City of Shelby to be properly amended to reflect the approved zoning changes.

Section 5. This ordinance shall become effective upon its adoption and approval.

Ordinance No. 40-2021

October 18, 2021

Page 2

ADOPTED AND APPROVED this the 18th day of October 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

City of Shelby
Agenda Item Summary
October 18, 2021
Don Gibson Theatre

Agenda Item C-3:

- 3) Consideration of a proposed ordinance amending the zoning map of the City of Shelby, North Carolina (2431 Kings Road Extension): Ordinance No. 41-2021

Presenting: (Walter Scharer, Planning Director)

Summary of Available Information:

- Memorandum dated October 11, 2021 from Walter Scharer, Planning Director to Rick Howell, City Manager
- General Application
- Staff Report
- Location Map, Zoning Map and Future Land Use Map
- Planning and Zoning Board Minutes and Certified Recommendation
- Notice of Public Hearing
- Ordinance No. 41-2021

City Manager's Recommendation / Comments

This time on your agenda is scheduled for Council to conduct a legislative hearing on a proposed map amendment. This amendment addresses a proposed zoning district change to allow the subdivision of lots with existing homes. Mr. Scharer has provided the necessary background information for your consideration. This is a legislative hearing. The purpose of a legislative hearing is to secure public comment on the proposed action. Following the conclusion of the hearing the Council may act on the item under consideration. A certified recommendations from the Planning and Zoning Board is included as part of the packet. I would call attention to Mr. Scharer's memorandum noting that the zoning map amendment is consistent with the City's current land use plan but is recommended by staff and the Planning Board. I would further note that the recommendation of the Planning and Zoning Board is advisory in nature only and that as a legislative matter Council has broad discretion to take action it believes is in the best interests of the City. That being said City Council has adopted plans/standards and established an advisory board for the purposes of providing reasonable guidance in the decision-making process.

§ 160D-605. Governing board statement.

(a) Plan Consistency. – When adopting or rejecting any zoning text or map amendment, the governing board shall approve a brief statement describing whether its action is consistent or inconsistent with an adopted comprehensive plan. The requirement for a plan consistency statement may also be met by a clear indication in the minutes of the governing board that at the time of action on the amendment the governing board was aware of and considered the planning board's recommendations and any relevant portions of an adopted comprehensive plan. If a zoning map amendment is adopted and the action was deemed inconsistent with the adopted plan, the zoning amendment shall have the effect of also amending any future land-use map in the approved plan, and no additional request or application for a plan amendment shall be required. A plan amendment and a zoning amendment may be considered concurrently. The plan consistency statement is not subject to judicial review. If a zoning map amendment qualifies as a "large-scale rezoning" under G.S. 160D-602(b), the governing board statement describing plan consistency may address the overall rezoning and describe how the analysis and policies in the relevant adopted plans were considered in the action taken.

(b) Additional Reasonableness Statement for Rezoning. – When adopting or rejecting any petition for a zoning map amendment, a statement analyzing the reasonableness of the proposed rezoning shall be approved by the governing board. This statement of reasonableness may consider, among other factors, (i) the size, physical conditions, and other attributes of the area proposed to be rezoned, (ii) the benefits and detriments to the landowners, the neighbors, and the surrounding community, (iii) the relationship between the current actual and permissible development on the tract and adjoining areas and the development that would be permissible under the proposed amendment; (iv) why the action taken is in the public interest; and (v) any changed conditions warranting the amendment. If a zoning map amendment qualifies as a "large-scale rezoning" under G.S. 160D-602(b), the governing board statement on reasonableness may address the overall rezoning.

(c) Single Statement Permissible. – The statement of reasonableness and the plan consistency statement required by this section may be approved as a single statement. (2019-111, s. 2.4; 2020-3, s. 4.33(a); 2020-25, s. 51(a), (b), (d)).

After the conclusion of the public hearing City Council may act upon Ordinance No. 41-2021.



Memorandum

To: Rick Howell - City Manager
From: Walter Scharer – Planning Director
Date: October 11, 2021
Subject: Requested zoning map amendment 2431 Kings Road Ext.

Executive Summary of Issue – Background

Applicant, Cleveland Community College, is proposing a zoning change on this property to allow for office space for the college.

Review and Comments

The property is currently zoned R10 and the applicant has proposed RO. The Comprehensive Land Use Plan for this area designates the site as a Medium Density Residential Area.

Recommendation

This proposed zoning map amendment is inconsistent with the Comprehensive Land Use Plan. The Planning and Zoning Board recommends this proposed zoning amendment due to the property's location and propensity for future redevelopment in the area.

Please schedule a legislative public hearing for this proposed zoning amendment at the next City Council meeting on October 18, 2021.

Attachments: Application, Staff Report, Zoning Map, Location Map. Future Land Use Map, Notice of Public Hearing, Planning and Zoning Board September 16, 2021 minutes, Certified P&Z Recommendation, and Ordinance



City of Shelby
Planning and Development Services Department

General Application

Address of Subject Property:

2431 KINGS RD. SHELBY, N.C. 28653

Applicant(s) Name: CLEVELAND COMMUNITY COLLEGE

Address: 137 SOUTH POST ROAD SHELBY, N.C. 28153

Email: FORM@CLEVELANDCC.EDU

Phone: 704-669-4175

Owner(s) Name: CLEVELAND COMMUNITY COLLEGE

Email: FORM@CLEVELANDCC.EDU

Phone: 704-669-4175

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

Request for (Check all that apply):

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

Project Information (Fill in applicable information):

Parcel Number: 0523-22199

Proposed Zoning: R0

Proposed Land Use: CLEVELAND COMMUNITY COLLEGE

Previous Use: _____

Approx. Building Sq. Ft.: 1200 SF

Approx. Project Acreage: 2 ACRES

Business Name: OFFICES CLEVELAND FOUNDATION

Construction Sq. Ft.: 1200 SF

Valuation: 50,000.00

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

NEW OFFICE SPACE FOR FOUNDATION OFFICES

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

William Mc Joy
Signature of Applicant

8/2/2021
Date

Received by: _____

Date: _____

Staff Report



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

Date: September 8, 2021
Meeting: September 16, 2021
File: #

OWNER: CCC

APPLICANT: CCC

LOCATION: 2431 Kings Rd Ext

PARCEL ID #s: 22199

PRESENT ZONING: R10

REQUESTED ZONING: RO

SURROUNDING ZONING: North: GB2 South: R10 East: GB2 West: RO

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

ANALYSIS: This .39-acre site is currently home to a single-family dwelling. The property is currently zoned R10. The applicant is requesting the property be zoned RO. Cleveland Community College proposes using this space for The Foundation Offices. Land uses in the area include single-family dwellings and institutional uses.

The R10 Residential District is primarily intended to accommodate low density moderate density single-family detached dwellings and modular homes at a maximum density of approximately 4 dwelling units per gross acre. Public water and sewer service is generally available in areas zoned as R10. Nonresidential uses permitted within this district include customary accessory, recreational, educational, and institutional land uses that are compatible with the low-density residential character of the R10 District.

The RO Residential-Office District is primarily intended to accommodate high density multifamily residences; offices; public and institutional; business, professional, and personal services; and limited support retail businesses. Permitted residential uses include single-family detached dwellings, modular homes, apartments, townhomes, and condominiums. Public water and sewer service is generally available in areas zoned as RO.

STAFF COMMENTS: The Comprehensive Land Use Plan designates this site is in the medium density residential area. Medium density residential represents single-family detached development of approximately 4 units pr acre.

This zoning map amendment is inconsistent with the comprehensive land use plan.



Location Map

2431 Kings Road Extension

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



Scale 1:6,000 1 inch = 500 feet



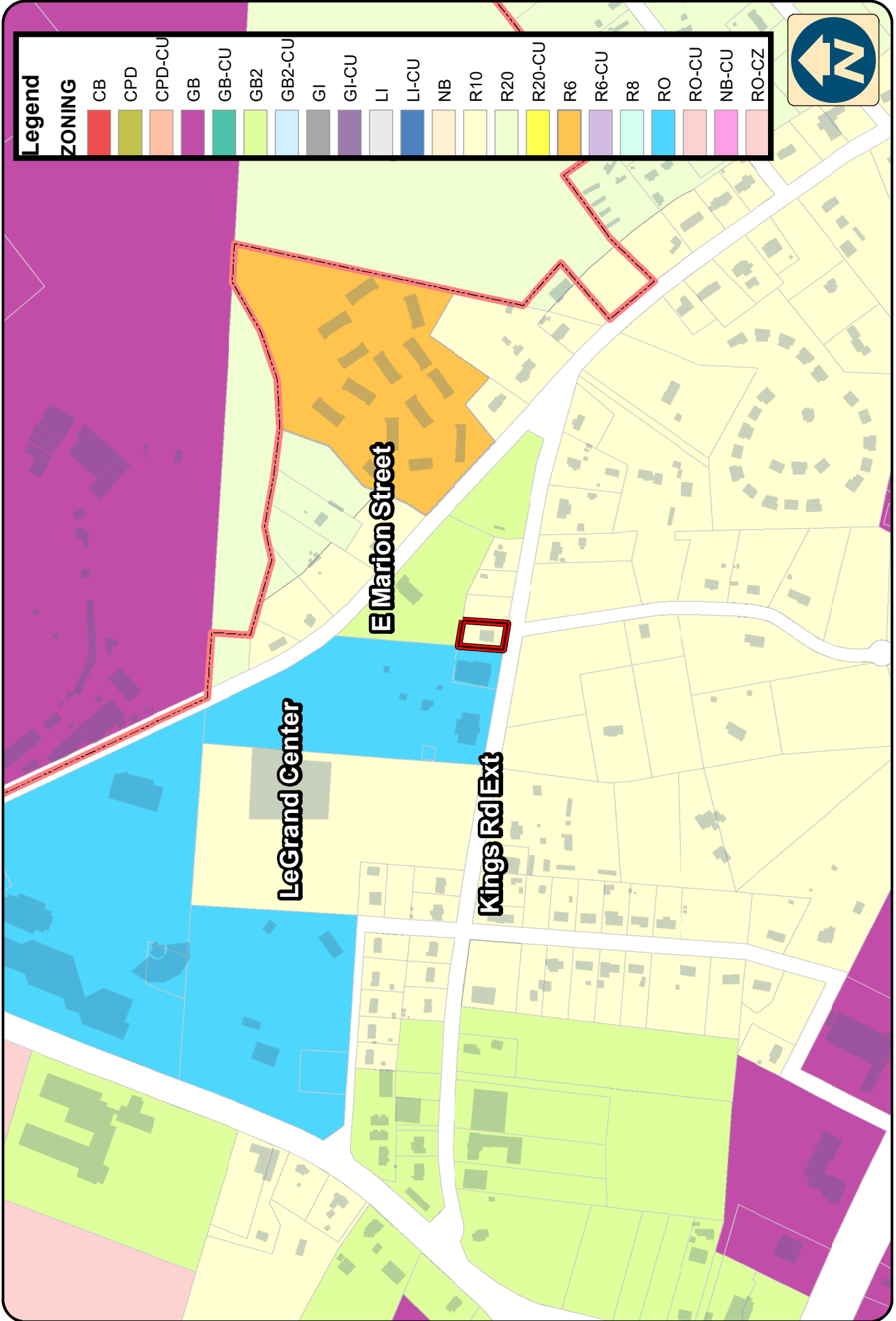
Date: 9/8/2021



Zoning Map

2431 Kings Road Extension

Map Information:
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 North Carolina (Meier)
 Projection: Lambert Conformal Conic
 US National Grid
 Grid Zone Designation (GZD): 17S
 100,000m Square ID: MV/MU



Legend	
ZONING	
CB	[Red]
CPD	[Olive Green]
CPD-CU	[Light Orange]
GB	[Purple]
GB-CU	[Teal]
GB2	[Light Green]
GB2-CU	[Light Blue]
GI	[Grey]
GI-CU	[Purple]
LI	[Light Grey]
LI-CU	[Blue]
NB	[Light Orange]
R10	[Yellow]
R20	[Light Green]
R20-CU	[Yellow]
R6	[Orange]
R6-CU	[Purple]
R8	[Light Green]
RO	[Light Blue]
RO-CU	[Light Orange]
NB-CU	[Purple]
RO-CZ	[Light Orange]



1,000 Feet

500

250

0

Scale 1:6,000 1 inch = 500 feet

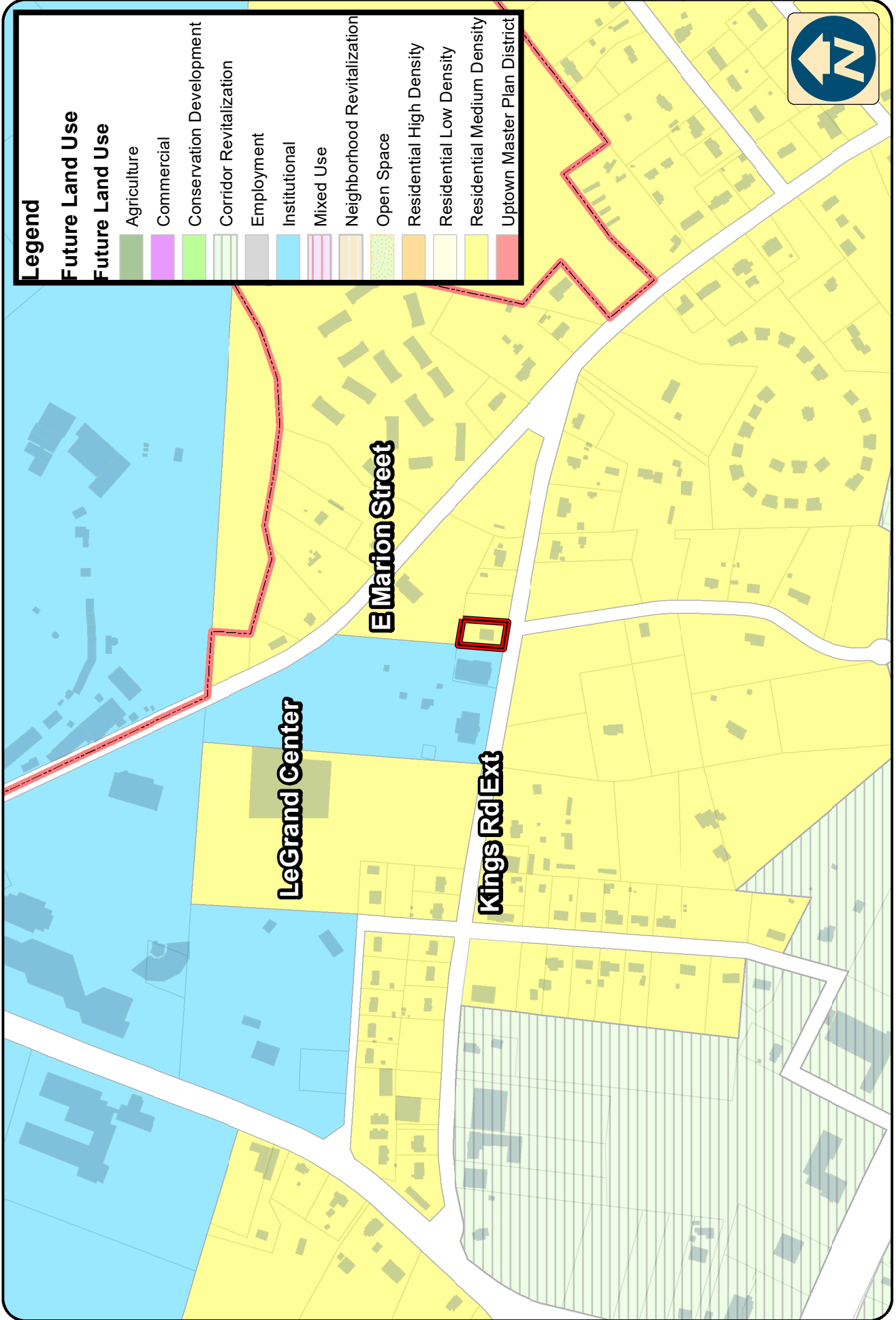
Date: 9/8/2021



Future Land Use Map

2431 Kings Road Extension

Map Information:
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 Coordinate: State Plane
 North Carolina (Meier)
 Projection: Lambert Conformal Conic
 US National Grid
 Grid Zone Designation (GZD): 17S
 100,000m Square ID: MV/MU



Scale 1:6,000 1 inch = 500 feet



Date: 9/8/2021



CITY OF SHELBY PLANNING AND ZONING BOARD MINUTES

September 16, 2021

Zoom Virtual Meeting

Item 1. Call to Order/Roll Call

Vice-Chair Washburn called the meeting to order at 12:15 PM and noted that a quorum was present.

Board Present: Rick Washburn, Charles Hamrick, Jeff Aderholdt, Emmanuel Hunt Jr., Bob Cabaniss, Mike Royster, and Jim Martin

Staff Present: Walter Scharer, Planning Director, Alan Toney, Planner, Andrea Fite, City Attorney, and Chip Nuhrah, Public Information Officer

Applicants: Benny Smith

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Vice-Chair Washburn held a moment of silence for the late Marlene Peeler. Marlene Peeler passed away Thursday, September 2nd after a courageous battle with cancer. Marlene Peeler honorably served The City of Shelby and The Planning and Zoning Board for over 35 years.

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Vice-Chair Washburn asked if there were any questions or comments about the August 19, 2021, minutes. The minutes were approved as submitted.

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A lengthy discussion among board members and staff occurred. This discussion was focused on sewer availability in the area and the lot size requirements for lots with septic tanks.

Motion: Mr. Royster made the motion to recommend disapproval of the proposed Zoning Map Amendment due to sewer not being readily available in this area.

Second: Mr. Martin

Action: This motion passed unanimously.

Item 5. Zoning Map Amendment – 2431 Kings Road Extension

Mr. Toney presented this proposed zoning map amendment. This .39-acre site is currently home to a single-family dwelling. The applicant is requesting the property be zoned RO. Land uses in the area include single-family dwellings and institutional uses.

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A discussion among board members and staff occurred. This discussion was focused on the Community College and the necessary site improvements for the project to be compliant with The City of Shelby UDO.

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

Second: Mr. Hamrick **Action:** This motion passed unanimously.

Item 6. Zoning Map Amendment – 325-5 West Dixon Boulevard

Mr. Toney presented this proposed zoning map amendment. This 2.3-acres in total site is currently the site of garage. The property is currently zoned R6. The applicant is requesting all properties be rezoned to GB2. Land uses in the area include single-family dwellings and commercial uses.

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The GB2 Business District is established as a district in which to accommodate a wide range of retail; business, professional, and personal services; office; and limited wholesale and warehousing uses. Areas zoned as GB2 are generally located on the fringe of the central business district and along major highway corridors. Residential uses are permitted at the same density and according to the same dimensional requirements as the R6 Residential District. The GB2 General Business District is established as a district in which the permitted uses are identical to the GB District *except* that billboard (outdoor advertising signs) are not permitted in the GB2 District.

A discussion among board members and staff occurred. This discussion was focused on the proximity to the adjacent residential properties as well as the drive locations.

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

Second: Mr. Aderholdt **Action:** This motion passed unanimously.

Item 7. On Site Building Conversions – Text Amendment

Mr. Scharer and Mr. Toney presented this proposed text amendment. A property owner and business owner in Shelby has come to staff with the proposal of a new business. The business, called On Site Building Conversions, takes existing shipping containers, storage buildings, etc. and turns them into homes, workshops, and even different kinds of storage buildings. The applicant proposes allowing this in GB and GB2 with development standards and in GI and LI.

The discussion amongst board members and staff was focused on the current proposed development standards and the need for more regulations concerning the storage of the containers and buildings being worked on.

Motion: Mr. Hamrick made the motion to table this text amendment until the October Meeting.

Second: Mr. Royster **Action:** This motion passed unanimously.

Item 6. **Announcements.**

Mr. Scharer and Mr. Toney gave updates concerning future Planning and Zoning Board meetings, The City of Shelby Rail Trail, and completion of commercial projects in The City.

Item 7. **Motion to adjourn.**

Vice-Chair Washburn adjourned the meeting at 12:49 pm.



Respectfully Submitted
Walter Scharer, Planning Director

DRAFT



Certified Recommendation

City of Shelby Planning & Zoning Board

Case File: 1143

Amendment: A Zoning Map Amendment for property located at 2431 Kings Road Extension with PIN #: 22199 from Residential 10 (R10) zoning district to Residential Office (RO) zoning district.

Recommendation: **The Planning and Zoning Board recommends approval of the proposed zoning map amendment for property located at 2431 Kings Road Extension with PIN #: 22199 from Residential 10 (R10) zoning district to Residential Office (RO) zoning district.**

Findings &

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

Motion: Mr. Cabaniss made the motion to recommend approval of this proposed zoning map amendment from Residential 10 (R10) zoning district to Residential Office (RO) zoning district.

Second: Mr. Hamrick

Action: This motion passed unanimously.

Signatures: Walter Scharer
Planning and Development Director

Date: 9/16/2021

Rick Washburn
Planning and Zoning Board Chair

Date: 9/16/2021

**NOTICE OF PUBLIC HEARING
APPLICATION #: 1143-2021
ZONING MAP AMENDMENT**

The City Council of Shelby, North Carolina will conduct a public hearing during its regular meeting at 6:00 p.m., Monday, October 18, 2021, at 318 South Washington Street. City Council will consider a proposed zoning map amendment from Residential 10 (R10) Zoning District to Residential Office (RO) Zoning District for property located at 2431 Kings Road Extension with the Cleveland County Parcel Number 22199.

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

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

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

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

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

The Shelby Star:

Please publish this notice as a legal line ad on Thursday, October 7, 2021 and again on Thursday, October 14, 2021.

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

ORDINANCE NO. 41-2021

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

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

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

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

WHEREAS, in accordance with GS 160D-602, a public hearing on this proposed rezoning was held by City Council on October 18, 2021 after due publication of said hearing as required by law; and,

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

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

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

Section 2. This zoning change is reasonable and in the public interest based on being consistent with the built environment.

Section 3. In accordance with Chapter 160D, Article 6 and Article 7 of the North Carolina General Statutes, as amended, the Shelby Unified Development Ordinance and Shelby Zoning Map (Appendix A of the Shelby City Code), 2431 Kings Road Extension is hereby amended from R10 Zoning District to RO Zoning District. Said area of zoning is more fully described as the parcel listed by the Cleveland County Tax Office as Parcel Identification Numbers 22199.

Section 4. The City Clerk of the City of Shelby is hereby authorized and directed to cause the provisions of Section 2 of this ordinance to be properly codified, and the City Clerk is further authorized and directed to cause her official records and the Official Zoning Map of the City of Shelby to be properly amended to reflect the approved zoning changes.

Section 5. This ordinance shall become effective upon its adoption and approval.

ADOPTED AND APPROVED this the 18th day of October 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

City of Shelby
Agenda Item Summary
October 18, 2021
Don Gibson Theatre

D. Consent Agenda:

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

Agenda Item: D-1

- 1) Approval of the Minutes of the Special Meeting of September 22, 2021

Consent Agenda Item: (Bernadette Parduski, City Clerk)

Summary of Available Information:

Please read and offer changes as you deem necessary.

- Minutes of the Special Meeting of September 22, 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

Special Meeting
City Hall Council Chamber

September 22, 2021
Wednesday, 12:00 Noon

Present: Mayor O. Stanhope Anthony III, presiding; Council Members Eric B. Hendrick, David W. White, David Causby, Violet Arth, Andrew L. Hopper Sr.; 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 Planning and Development Services Walter (Walt) Scharer, AICP, Chief Building Inspector Clint White, Building Inspector Fred Pritchard, Planner Alan Toney, Administrative Assistant Lacey Tindall, Professional Services Police Sergeant Mike Myers, and Division Fire Chief – Operations and Personnel David Vanhoy

Absent: Council Member Charles Webber

Mayor Anthony called the meeting to order at 12:00 noon.

Mr. Merritt introduced the matter as a hearing to the Appeal of the Order to Repair or Demolish related to 421 East Marion Street. The City's Chief Building Inspector Clint White inspected the building at 421 East Marion Street which led to the building being condemned on May 3, 2021. On June 3, 2021 an administrative hearing was held before Building Inspector Fred Pritchard to hear from the owners, David Wayne Allen, Kenneth Wayne Allen, and Jerry Lee Allen, to present arguments pertaining to the matter. Following the June 3, 2021 administrative hearing, Mr. Pritchard issued an Order to Repair or Demolish the building within fourteen (14) days for the reason that the building was an imminent danger to life and property. The property owners/appellants entered a Notice of Appeal on June 11, 2021.

Mr. Merritt stated City staff and the appellants have reached an agreement and a Consent Order has been drafted by Mrs. Fite.

Mrs. Fite presented the draft Order of Consent beginning with the Findings of Fact and continued with the agreement between the parties to repair the building, subject to the following conditions contained in Paragraph 14:

- a. Security fencing or effective barriers must be installed no later than September 24, 2021, to prevent access to unauthorized persons.
- b. The damage to the East exterior wall must be temporarily reinforced no later than September 24, 2021 to prevent further collapse.
- c. Construction and site plans must be submitted for review to City of Shelby Planning and Development Department by October 22, 2021,

and the proper permits must be secured no later than November 5, 2021.

- d. Must contract with a North Carolina licensed general contractor and use licensed sub- contractors as required by North Carolina law. These contractors must be listed on the permit at the time it is issued.
- e. Building must have rough-in inspections complete within 90 days and obtain a Certificate of Occupancy within 6 months. This includes meeting all Codes and local requirements. Permanent connections to utilities must also be made.
- f. If the Building Code or City ordinance requires intended use to maintain a fire sprinkler system, said system must be maintained in working condition and have the appropriate backflow protection installed.
- g. Notwithstanding the foregoing, Staff may allow for additional time for Appellants to comply with construction requirements upon documentation of good faith efforts to comply with the aforementioned timeline. Satisfactory documentation includes copies of written communication from vendors or contractors detailing the reason for delay and anticipated compliance.
- h. Appellants waive any and all rights of appeal arising from the requirements of and entry of this Order.

Mrs. Fite summarized the Conclusions of Law as follows:

1. The building poses an imminent threat of danger to life or property.
2. The Order to repair or demolish is reasonable and in the public's best interest.

The draft Consent Order is incorporated herein and made a part of these Minutes.

Mrs. Fite explained if the Consent Order is acceptable, she requested Council approve it as written. Any changes must be consented to by the property owners through their attorney, Tom Martin, appearing on behalf of the Allens.

Regarding Paragraph 14(b), Mr. Martin stated the property owners cannot assure that the wall can be temporarily and satisfactorily reinforced by September 24, 2021.

After taking his oath, Mr. White provided sworn testimony as to the wall in question. He stated the proposed condition provided for the wall to be temporarily braced or shored up, adding exterior sheathing to prevent access into the building as well as prevent any further collapse of that wall. Mr. White further stated this type of reinforcement could be completed by September 24, 2021 as opposed to a permanent repair to be completed during construction.

Mr. Martin then requested that Paragraph 14(g) continue to allow for additional time for the appellants to comply with construction requirements upon documentation of good faith efforts to comply with the aforementioned timeline. Mr. Martin added it is difficult to comply with a deadline in good faith during uncertain times particularly scheduling with contractors and dealing with the unavailability of materials in the supply chain.

Mrs. Fite responded that City staff was not concerned with the cosmetic issues of the property but with the hazards that exist, and written documentation of these scheduling or building material issues is required for clear communication between the parties. The City of Shelby has a duty for the safety of the public as related to the building code.

Mayor Anthony led the discussion to remove Paragraph 14(g) allowing the appellants additional time. Further discussion continued and ultimately led to a consensus among Council.

Mayor Anthony called for a recess at 12:27 p.m. to allow Mrs. Fite to confer with Mr. Martin. Mrs. Fite reported to Council that Mr. Martin agreed to Paragraph 14(a), and the removal of Paragraph 14(g). The meeting was reconvened at 12:28 p.m.

ACTION TAKEN: Mr. Hendrick made a motion to adopt the Consent Order with the removal of Paragraph 14 (g) to be amended by Mrs. Fite. The motion passed unanimously.

The fully executed Consent Order dated September 22, 2021 is incorporated herein and made a part of these Minutes.

A. Adjournment:

- 1) Motion to adjourn

ACTION TAKEN: Upon a motion made by Miss Arth, City Council voted unanimously to adjourn the meeting at 12:30 p.m.

Respectfully submitted,

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

**O. Stanhope Anthony III
Mayor**

Minutes of September 22, 2021

DRAFT

City of Shelby
Agenda Item Summary
October 18, 2021
Don Gibson Theatre

Agenda Item: D-2

2) Approval of the Minutes of the Regular Meeting of October 4, 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 October 4, 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

October 4, 2021
Monday, 6:00 p.m.

Present: Mayor O. Stanhope Anthony III, presiding; Council Members David W. White, David Causby, Violet Arth, 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, Police Chief Jeffrey H. (Jeff) Ledford, Fire Chief William P. Hunt, MPA, EFO, and Stan Lowery, Executive Director, Don Gibson Theatre

Absent: Council Member Eric B. Hendrick

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

Miss Arth led the Pledge of Allegiance.

A. Approval of agenda:

1) Motion to adopt the proposed agenda

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

B. Consent Agenda:

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

1) Approval of the Minutes of the Regular Meeting of September 20, 2021

2) Approval of Special Event Permit Applications:

- a. Shelby High School Homecoming Parade, requested date: October 15, 2021
- b. Cleveland County Veterans Parade, requested date: November 11, 2021
- c. Shining in Shelby 2022, requested dates: May 5 – May 6, 2022

- 3) Approval of a resolution supporting the City of Shelby's application for trail construction funds for the Carolina Thread Trail: Resolution No. 59-2021

C. Unfinished Business:

- 1) Consideration of approval of an Order authorizing the sale and issuance by the City of Shelby, North Carolina of a not to exceed \$12,000,000 combined enterprise system revenue refunding bond, Series 2021 and authorizing the execution and delivery of certain documents in connection therewith

Mr. Howell introduced the matter by stating Council previously approved Resolution No. 58-2021 which authorized the filing of an application with the North Carolina Local Government Commission seeking to refund certain City utility system debt. Council's approval of the Bond Order is also a necessary step in the refunding process as it sets forth the terms and provisions of the bond purchase and authorizes City staff to proceed with the execution of the required documents.

Next, Mr. Merritt further explained the Bond Order authorizes the sale and issuance of Series 2021 refunding bonds in accordance with two documents which were provided to Council for review:

- Tenth Supplemental Trust Agreement between the City of Shelby, North Carolina and U.S. Bank National Association – Mr. Merritt stated each time the City issues a revenue bond, the Supplemental Trust Agreement is updated, setting out the general terms and conditions and defining the roles of the respective parties.
- Bond Purchase Agreement among the City of Shelby, North Carolina and the Local Government Commission and Truist Bank – Mr. Merritt stated this agreement is essentially a contract between the issuer, the City of Shelby, and the underwriter/purchaser, Truist Bank, which defines the terms and conditions to be followed by the parties throughout the process.

Mr. Merritt reiterated the lending is a direct bank placement. A proposal from Truist Bank has been received and accepted for the Series 2021 Bond contingent on Local Government Commission approval of the transaction on October 5, 2021 with the closing to take place on November 1, 2021. As Mr. Merritt stated before, this refunding does not extend the terms of current Combined Utility Debt and does take advantage of favorable market interest rates. The City is estimated to realize total net present value savings of \$512,000 over the repayment period of the refunded bonds.

ACTION TAKEN: Mr. White moved to adopt an Order authorizing the sale and issuance by the City of Shelby, North Carolina of a not to exceed \$12,000,000 combined enterprise system revenue refunding bond, Series 2021 and authorizing the execution and delivery of certain documents in connection therewith. The vote was unanimous.

D. New Business: None

E. City Manager's Report:

- 1) Mr. Howell reported the natural gas system improvements needed to meet the needs of the new Ames Copper facility on Old Boiling Springs Road, which included the installation of 8-inch steel gas main along Highway 74 from Polkville Road to Old Boiling Springs Road and 6-inch steel gas main along Old Boiling Springs Road to the Ames Copper facility and the meter set for the facility, are nearing completion.
- 2) Mr. Howell reported the replacement project of the natural gas lines on Montrose Drive and Windsor Drive is largely complete. The section of gas lines on Montrose Drive from Montrose Circle to East Graham Street, originally installed in 1955, including the replacement of 2-inch steel gas main, and the tying in of seven services, is nearing completion.
- 3) Regarding the Shelby-Cleveland County Regional Airport T Hangar Building No. 4 Project, Mr. Howell stated the pre-construction meeting was held on August 17, 2021 and the Notice of Proceed is dated October 11, 2021. He noted a 20 to 24 week building order for the steel delivery and site work will begin in October or November 2021.
- 4) Regarding Shell Building No. 4, Mr. Howell stated the project is in the design phase with the architect who is determining the final dimensions and square footage of the building.
- 5) Regarding the Randolph Road Industrial Park Sewer Lift Station Project, Mr. Howell stated it supports the Shell Building No. 4 Project and will provide capacity to serve the surrounding areas as well. The City did receive a grant in the amount of \$750,000 awarded by the North Carolina Department of Commerce through the Industrial Development Fund Utility Account. However, the cost of the project has gone up to \$1.2 million. Mr. Howell has requested consideration for the additional funding from the North Carolina Department of Commerce.
- 6) Regarding US Department of Transportation Rebuilding American Infrastructure with Sustainability and Equity (RAISE) grants formerly known as BUILD and TIGER grants, Mr. Howell anticipates learning as soon as November 22, 2021 about this \$25 million grant award. This is a

very competitive federal grant with over 700 applications submitted and historically only 70 awarded.

F. Council Announcements and Remarks:

- 1) Mayor Anthony mentioned the City of Shelby Primary Election Day is October 5, 2021 and the City's bond referendum regarding the approval of the \$10 million Street and Sidewalk Improvement Bonds will be held on Election Day, November 2, 2021.
- 2) Council members collectively urged the public to exercise their right to vote on Primary Election Day, October 5, 2021.
- 3) Mayor Anthony and Council members discussed the referendum question which will appear on the November 2, 2021 ballot. Mr. Howell reminded all that the City cannot, by North Carolina law, spend any City resources to promote and encourage voters to pass the referendum. The City can educate and provide information and City staff will be so over the coming weeks. He added elected officials can individually promote and advocate for passage.

G. Adjournment:

- 1) Motion to adjourn

ACTION TAKEN: Upon a motion made by Mr. White, City Council voted unanimously to adjourn the meeting at 6:20 p.m.

Respectfully submitted,

Bernadette A. Parduski, NCCMC, MMC
City Clerk

O. Stanhope Anthony III
Mayor

Minutes of October 4, 2021

City of Shelby
Agenda Item Summary
October 18, 2021
Don Gibson Theatre

Agenda Item: D-3

3) Approval of Special Event Permit Application:

- a. Hannah and Nick Wedding, requested date: October 30, 2021

Consent Agenda Item: (Bernadette Parduski, City Clerk)

Summary of Available Information:

- Memorandum dated October 12, 2021 from Bernadette A. Parduski, City Clerk, to Rick Howell, City Manager
- Memorandum dated October 6, 2021 from Bernadette A. Parduski, City Clerk to Police Chief Jeff Ledford, Fire Chief William Hunt, Fire Marshal Phil Lane, Parks and Recreation Director Charlie Holtzclaw, Public Works Director Danny Darst, Assistant Director Public Works Scott Black, Planning and Development Services Director Walt Scharer, Director of Water Resources David W. Hux, Director of Engineering Services Ben Yarboro, Director or Energy Services Julie McMurry

City Manager's Recommendation / Comments

This event is in keeping with special event practices of the City. It is my recommendation that this item be approved by City Council at this time via the Consent Agenda.

Agenda Item: D-4

Memo

To: Rick Howell, City Manager
From: Bernadette A. Parduski, City Clerk
Date: October 12, 2021
Re: Special Event Permit Application

BACKGROUND:

A Special Event Permit Application has been submitted for the following:

- ✓ Hannah and Nick Wedding, requested date: October 30, 2021

REVIEW:

All responding City departments have received, reviewed, and approved the referenced application.

RECOMMENDATION:

Please place the attached Special Event Permit Application on the Consent Agenda of October 18, 2021 for Council's review and approval.

ATTACHMENT:

- A. Special Event Permit Application packet received October 6, 2021

Memo

To: Police Chief Jeff Ledford, Fire Chief William Hunt, Fire Marshal Phil Lane, Public Works Director Danny Darst, Assistant Director of Public Works Scott Black, Parks & Recreation Director Charlie Holtzclaw, Planning and Development Services Director Walt Scharer, Director of Energy Resources Julie McMurry, Director of Water Resources David Hux, and Director of Engineering Services Ben Yarboro

From: Bernadette A. Parduski, City Clerk

CC: Rick Howell, City Manager

Date: October 6, 2021

Re: Special Event Permit Application

All:

Attached you will find a Special Event Permit Application submitted by Kaley Geer and Angela Franklin of Uptown Indigo as follows:

- ✓ Hannah and Nick Wedding, requested date: October 30, 2021

Please carefully review the details of this application as it pertains to your department, and let me know of any anticipated problems/objections that you would like to bring to the attention of the City Council. If there are none, please let me know that as well. The event will be considered by City Council at the October 18, 2021 meeting and recommended for approval unless you advise otherwise. If I do not hear from you by October 13, 2021, it will be assumed that you agree with the application as presented.

As always, thanks for your attention and consideration.

Attachment

criminal in nature, shall be subject to the maximum penalty authorized by G.S. 14-4, as amended.



CITY OF SHELBY SPECIAL EVENT PERMIT APPLICATION

Each question must be legible and answered clearly and completely. Applications must be filed with the City Clerk not less than thirty (30) days before the date on which the event is to take place. A fee of \$20.00 will be due upon submission of the application form.

1. EVENT NAME:

Hannah + Nick wedding ceremony and reception

2. PURPOSE AND BRIEF DESCRIPTION OF EVENT:

For their reception they are having a food truck come in to serve their guests dinner and we need the street closed so they can park and keep guests safe.

3. LOCATION OF EVENT (ATTACH MAP):

Campbell Street from Lafayette Street to Washington Street (just that small section)

4. PLEASE INDICATE:

Approximately how many people will attend the event? 130 max

Approximately how many vehicles will be present? 2 (truck + food truck)

Approximately how many animals will be present? none

If the event is a parade, please indicate the amount of street that will be needed:

Single lane NA

All lanes in travel direction _____

Whole street _____

5. PLEASE LIST THE FOLLOWING PARTY (IES) RESPONSIBLE FOR THE EVENT:

Name: Kaley Geer

Address: 112 N. Lafayette Street Shelby, NC 28150

Phones: 704-1089-8725 (Daytime) 704-472-5796 (Evening)

Kaley@uptownindigo.com
E-mail address

Name: Angela Franklin

Address: 112 N. Lafayette Street Shelby, NC 28150

Phones: 704-1089-8725 (Daytime) 704-860-4745 (Evening)

Angela@uptownindigo.com
E-mail address

6. PLEASE LIST THE FOLLOWING:

Requested day(s) and date(s) Saturday, October 30, 2021

Alternate day(s) and date(s) N/A

Requested hours of operation, from 8 AM/ PM to 12 AM/ PM

7. EVENT NOTIFICATION TO RESIDENTS AND BUSINESSES: As an event planner, you are responsible for notifying the neighbors and businesses in the surrounding area of your event. The City requires notifying as many businesses and residents around the event site as possible as early as possible. Please provide your plan of notification at the time you submit your permit application.

8. SANITATION: Please attach your "Plan for Clean-Up." Please check Application Instruction sheet for details.

9. AVAILABILITY OF FOOD, BEVERAGES, AND/OR ENTERTAINMENT:

If there will be music, sound amplification, or any other noise impact, please describe on attached sheet, including the intended hours of the music, sound, or noise.

Will alcoholic beverages be served? NO

If yes, attach to the application a copy of your permit from the Cleveland County Alcoholic beverage Control Board. Alcohol may not be served without a permit.

Will food and/or no-alcoholic beverages be served? Yes

If yes, attach to the application a copy of your permit from the Cleveland County Department of Health Services.

10. SECURITY AND SAFETY PROCEDURES: Attach to this application a copy of your building permit(s) if you are installing any electrical wiring on a temporary or permanent basis and/or if you are building any temporary or permanent structures such as bleachers, scaffolding, a grandstand, viewing stands, stages, or platforms.

Attach a copy of your Shelby Fire & Rescue Department Permit or permits to this application if you will use parade floats; an open flame; fireworks; or pyrotechnics; vehicle fuel; cooking facilities; enclosures (and tables within those enclosures); tents; air-supported structures; and/or any fabric shelter.

Give name, address, and phone numbers of the agency or agencies, which will provide first aid staff and equipment. Attach additional sheets if necessary. 911

Name: _____

Address: _____

Phones: _____

Indicate medical services that will be provided for the event.

AMBULANCE: _____

DOCTOR (S): _____

PARAMEDICS: _____

11. CITY SERVICES/EQUIPMENT REQUESTED FOR THIS EVENT:

Nothing needed from the city, we have everything needed.

Event Power Request Form and Pricing

To utilize the event panels for power in Uptown Shelby, this form must be submitted with event application and payment made at time of application.

Please use the map below for event panel locations, circle the event panels that you need for your event. If you have questions about the electrical requirements for your event, please contact the Electric Superintendent at 704-669-6649.

NA

Name of Special Event: _____

Authorize Event/Vendor Coordinator: _____

Phone No.: _____ Mobile No.: _____

Email: _____

Event panel (EP) cost is \$15.00 per day per event panel.

Stage panel (STG PAN) cost is \$110.00 per day per stage panel.

Full Day Rentals only

Total Number of Event Panels:
_____ x \$15.00 x Number of Days _____ = \$ _____

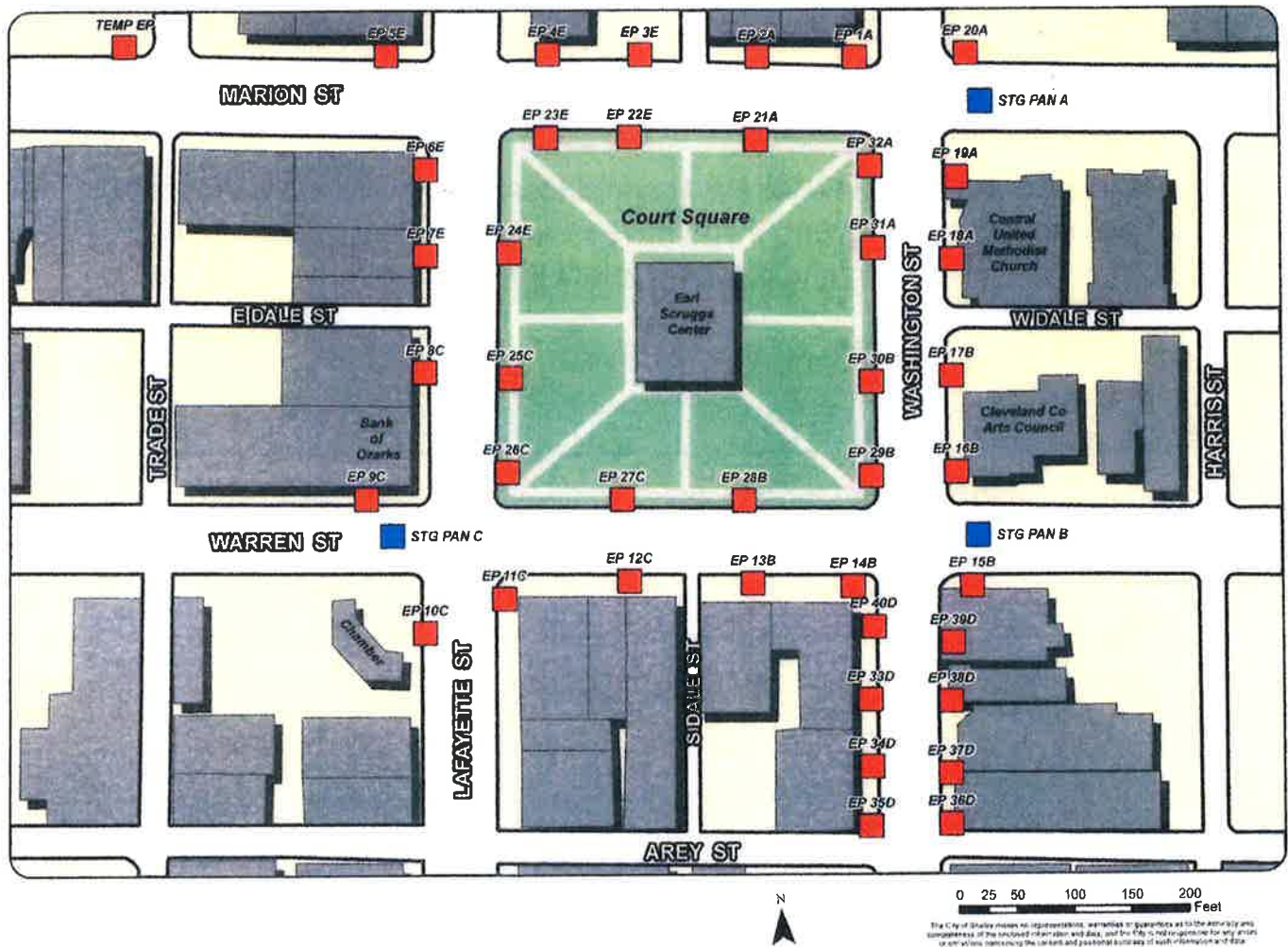
NA

Total Number of Stage Panels:
_____ x \$110.00 x Number of Days _____ = \$ _____

All fees must be paid at the time of event application.

Any event panel not requested and paid for in advance and requested the day of the event will be subject to an after-hours charge.

City of Shelby Uptown Event Panels



Legend

- Event Panel
- Stage Panel

City of Shelby
Agenda Item Summary
October 18, 2021
Don Gibson Theatre

Agenda Item: D-4

- 4) Approval of a resolution awarding the contract for the City of Shelby Stormwater Infrastructure Assistance Program Project at 602 Broad Street in Shelby, North Carolina: Resolution No. 60-2021

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

Summary of Available Information:

- Memorandum dated October 13, 2021 from Ben Yarboro, Director of Engineering Services, to Rick Howell, City Manager
- Memorandum dated October 8, 2021 from Tyler Brooks, Stormwater/Engineering Coordinator to Ben Yarboro, Director of Engineering Services
- Photo and Broad Street Drainage layout
- Bid Tab sheet
- Stormwater Assistant Agreement
- Resolution No. 60-2021

City Manager's Recommendation / Comments

Resolution No. 60-2021 is presented for City Council consideration at this time. If approved this resolution would award a contract in the amount of \$19,547 to Botts Brading, LLC for the construction of stormwater system improvements at 602 Broad Street. This project qualifies for assistance through the City's stormwater infrastructure assistance program which allows the City to share costs with a private property owner under certain circumstances spelled out in policy. The City will shoulder 80% (\$15,637.60) of this project with the property owner paying 20% (\$3,909.40). The City's portion of this project is paid through revenue generated from existing stormwater fees. The property owner(s) is required to pay 50% up front and the remaining balance upon notification of project completion or the owner may choose to participate in the special assessment payment option by entering into a legally binding agreement filed against the property to ensure payment to the City over a period of no more than five (5) years at 0% interest.

As a reminder the City budgets \$80,000 each fiscal year for these stormwater projects outside the public right of way to assist private property owner with drainage work that ultimately improves the flow of rain and floodwaters across both public and private property. There are approximately 8 properties on the waiting list at this time. The City has completed 13 of these projects across private property since the inception of the program in 2016.

It is my recommendation that Resolution No. 60-2021 be adopted and approved by City Council via the Consent Agenda at this time.

Memorandum

To: Rick Howell, City Manager

From: Ben Yarboro, Director of Engineering Services

RE: 602 Broad Street – Stormwater Infrastructure Assistance Program Project Approval Recommendation

Date: October 13, 2021

Background

As detailed in the attached memorandum from Tyler Brooks, Stormwater/Engineering Coordinator, the City received an application for Stormwater Infrastructure Assistance outside of the public right-of-way at 602 Broad Street in November 2017. The issue at this location is a sinkhole in the yard that have been a recurring problem that the owner has made the City aware of several times in recent years. The problem is caused by failing 15” and 24” concrete pipes crossing the property.

City staff reviewed the condition of the infrastructure at this location with Odom Engineering, PLLC and construction plans were designed to address the issues. This project was bid and Odom Engineering recommends award of the construction contract to the lowest responsive bidder, Botts Grading, LLC, in the amount of \$19,547.00. As a reminder, the Stormwater Infrastructure Assistance Policy (Resolution No. 3-2016) states that the City will be responsible for 80% of the construction cost and the private property owner will be responsible for the remaining 20% via a legal agreement. Further, the property owner will be responsible for ensuring that the improved stormwater system is properly maintained for a period of 5 years after completion of construction.

Recommendation

City Staff recommends that the Shelby City Council approve the resolution awarding the bid for the Stormwater Infrastructure Assistance Program project located at 602 Broad Street to the lowest responsive bidder, Botts Grading, LLC. for the bid price of \$19,547.00. The City will be responsible for 80% of this bid amount (\$15,637.60) and the property owner will be responsible for 20% (\$3,909.40). Funding for the City’s

portion of this construction contract is available in the existing Stormwater Utility budget.

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

Attachments:

- Memo from Tyler Brooks including:
 - Design Plans
 - Bid Tabulation
 - Recommendation of Award
 - Copy of Signed Stormwater Infrastructure Assistance Agreement

Memorandum

To: Ben Yarboro, Engineering Services Manager

From: Tyler Brooks, Stormwater/Engineering Coordinator

RE: 602 Broad St. – Stormwater Infrastructure Assistance Program
Project Approval Recommendation

Date: October 8, 2021

Background

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

Review

In November 2017, Ms. Sharon Crocker, owner of 602 Broad St., applied for Stormwater Infrastructure Assistance to address failing stormwater infrastructure on her property. Ms. Crocker contacted the Stormwater Division about a sinkhole that was forming under her driveway. After evaluating the current stormwater system on Ms. Crocker's property, it was determined that the 15" and 24" concrete pipes conveying a drainage ditch through her property were failing. During heavy rain events, water and debris washes up through the sinkhole. Currently the driveway is cracking and will collapse if the issue is not resolved.

In September 2018, agreements were signed between the City and Owner and a third-party consultant was asked to provide a design for replacing the infrastructure on her property. Bids were publically opened on November 29, 2018 but due to project costs the property owner didn't want to proceed. Two attempts were made to reduce project costs through reducing project scope, but neither were financially feasible at that time for the property owner. In July 2020 I was contacted by the property owner wanting to proceed, but funding wasn't available for the project until August 2021. New bids were electronically received on September 29, 2021 and

contractors were notified that costs had to be approved by the property owner and City Council before starting construction. The low bidder for this project is Botts Grading LLC. with a bid of \$17,770.00 with \$1,777.00 in contingency for a total project bid of \$19,547.00. The property owner has expressed interest in proceeding with the project.

Recommendation

City Staff recommends that the Shelby City Council approve the resolution awarding the bid for the Stormwater Infrastructure Assistance Program project located at 602 Broad St. for Ms. Sharon Crocker to the lowest responsive bidder, Botts Grading LLC. for the bid price of \$19,547.00. Funding for this construction contract is available via Stormwater Utility funding.

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

Attachments:

- Photographs
- Design Plans
- Bid Tabulation
- Stormwater Infrastructure Assistance Agreement



JOB NUMBER:
18125

BY	DATE	DESCRIPTION
BY	9/7/21	REVISIONS PER CITY OF SHELBY

REV	DESCRIPTION
1	
2	
3	
4	
5	
6	

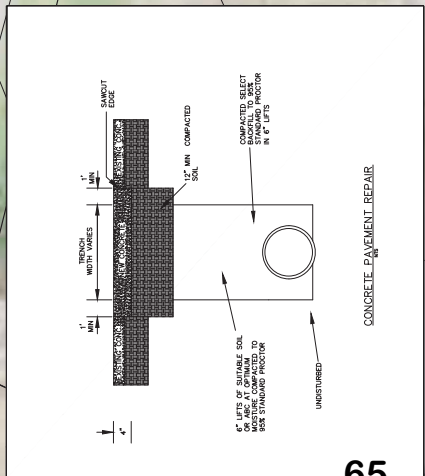
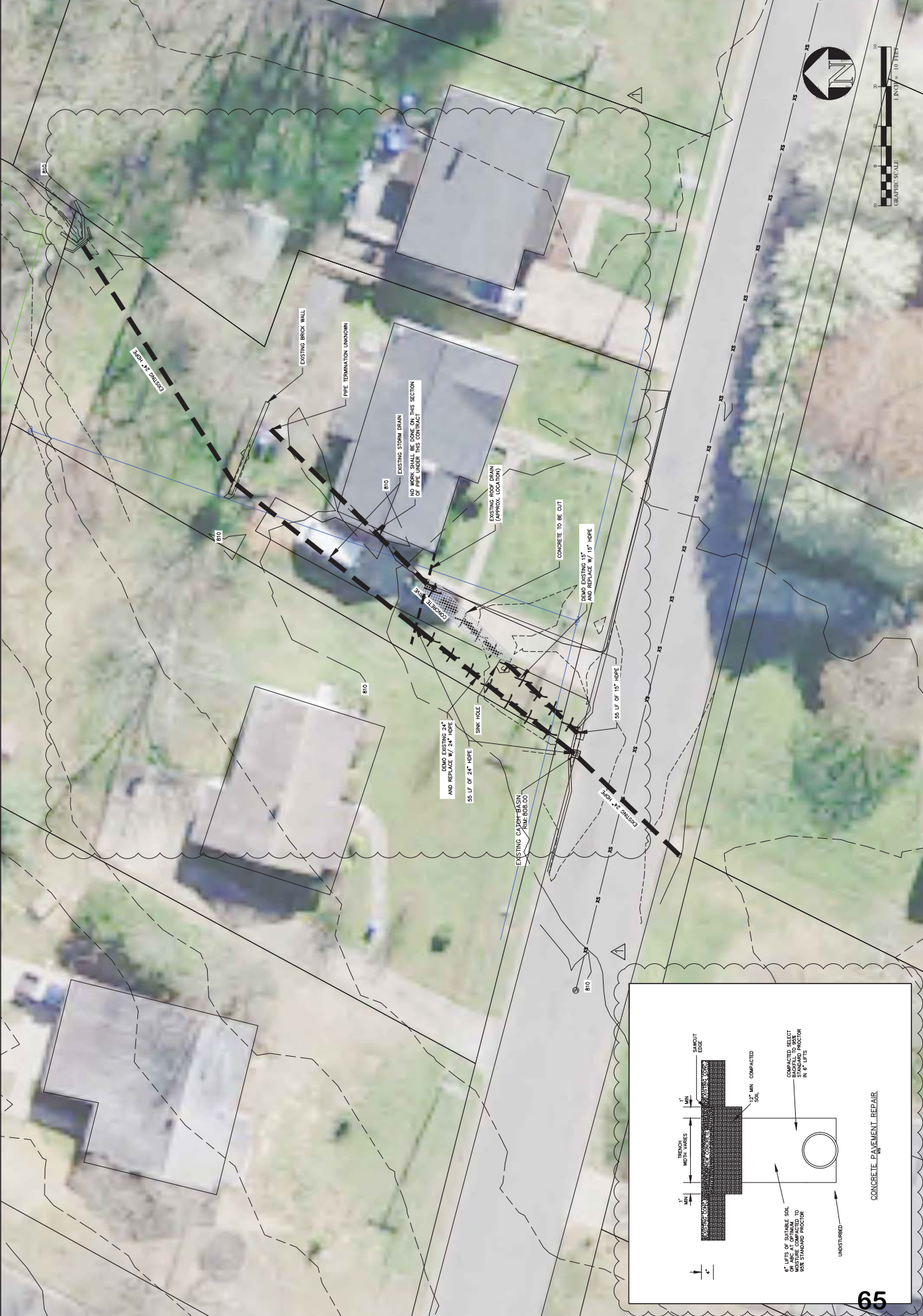
THESE PLANS AND SPECIFICATIONS HAVE BEEN PREPARED BY THE ENGINEER AND CONTRACTOR AND THAT THE CONTRACTOR SHALL BE RESPONSIBLE FOR OBTAINING ALL NECESSARY PERMITS AND APPROVALS FROM THE CITY OF SHELBY AND THE STATE OF TENNESSEE. THE CONTRACTOR SHALL BE RESPONSIBLE FOR OBTAINING ALL NECESSARY PERMITS AND APPROVALS FROM THE CITY OF SHELBY AND THE STATE OF TENNESSEE.

PLANS FOR
BROAD STREET DRAINAGE
CLEVELAND COUNTY, NC
SHELBY

STORM DRAINAGE LAYOUT



SCALE: 1" = 10'
DATE: 09/18/21
DRAWN BY: LCT
CHECKED BY: DWG
PROJECT NO.: DWG
SHEET: 2 OF 3



65



Post Office Box 207 · Shelby, NC 28151-0207

BID TAB

Project:

602 Broad St. Stormwater Infrastructure Assistance

Date:

9/29/2021

<u>Company Name</u>	<u>Submitted Bid</u>
Lawndale Sand, LLC.	"No Bid" submitted
A&A Grading, Inc.	\$28,809.00
Botts Grading, LLC.	\$19,547.00
Cleveland Contractors, Inc.	"No Bid" submitted
Marvin Hoyle Construction, Inc.	\$37,081.00
Kennedy Concrete & Utilities, Inc.	\$29,755.00
Clark Ledbetter Grading, Inc.	\$26,510.00

Bid Opening Attendees:

N/A Electronic

STATE OF NORTH CAROLINA

COUNTY OF CLEVELAND

**CITY OF SHELBY
STORMWATER INFRASTRUCTURE ASSISTANCE AGREEMENT**

THIS AGREEMENT, is made and entered into this 4 day of September, 2018, by and between the City of Shelby, a municipal corporation of the State of North Carolina, hereinafter referred to as the CITY, party of the first part, and Sharon Renee Crocker of _____ (city), Shelby, NC (state), hereinafter referred to as the OWNER(S), party of the second part.

BACKGROUND

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

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

Replace degraded stormwater infrastructure on the property that is causing sinkholes and redirect the stormwater infrastructure that is currently underneath the home.

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

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

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

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

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

1. The CITY agrees to share in the cost of upgrades or repairs to the stormwater system on or along the property of the OWNER(S) as set forth in, those project plans identified as 602 Broad St. Stormwater Project. (This work shall be referred to herein as "the Project"). The CITY agrees to pay a pro-rata share representing 80 percent (residential property) or 50 percent (commercial property) of the actual construction costs of the Project for the most feasible, cost efficient solution determined by the CITY for a project on private property. The CITY agrees to pay 100 percent of design costs for a third-party consulting engineer if deemed necessary by the CITY.

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

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

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

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

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

4. The construction contract for the construction of the improvements to the residential or commercial property located at 602 Broad St., Shelby, NC and described in Deed Book 1677 Page 1660 at the Cleveland County Register of Deeds shall be let for bids and awarded in accordance with Article 8 of Chapter 143 of the North Carolina General Statutes, and specifically including the requirement that any contract be awarded to the lowest responsible bidder. All obtained bids shall be provided to the OWNER(S) for review. The CITY reserves the right to refuse any and/or all bids. The total CITY share of the Project will be 80 percent (residential property) or 50 percent (commercial property) of the actual construction cost of the improvements for the most feasible, cost efficient solution determined by the CITY for the Project on private property. The OWNER(S)' share of cost of the project shall not exceed 20 percent (residential property) or 50 percent (commercial property) of the actual construction cost of the improvements for the most

feasible, cost efficient solution determined by the CITY for the project. The work will be undertaken only if CITY funds are available.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

OWNER(S): Sharon Crocker
Print Name: Sharon Crocker
Title: Owner

Print Name: _____
Title: _____

ATTEST: _____

(Seal if appropriate)

STATE OF NORTH CAROLINA

COUNTY OF CLEVELAND

I, Karen Dillemath Wilkins, a Notary Public of the County of Cleveland and State of North Carolina, do hereby certify that M. LAYNE OWEN personally appeared before me this day and certified to me under oath or by affirmation that he or she is not a grantee or beneficiary of the transaction, signed the foregoing document as a subscribing witness, and either (i) witnessed Sharon Renee Crocker sign the foregoing document or (ii) witnessed _____ acknowledge his or her signature on the already-signed document.

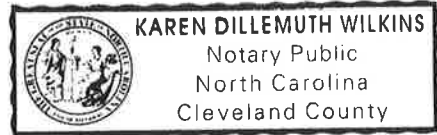
WITNESS my hand and official seal this 4 day of September, 2018.
Karen Dillemath Wilkins

Notary Public

9/21/2018

My Commission Expires:

(SEAL)



Subscribing Witness:

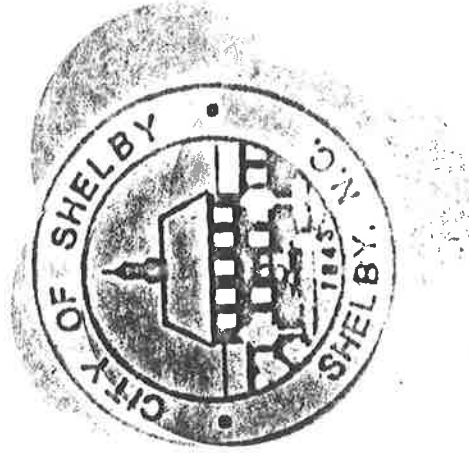
M. Layne Owen

CITY OF SHELBY,

A North Carolina Municipal Corporation



Rick Howell
City Manager



ATTEST:



Bernadette Parduski, NCCMC, MMC
City Clerk

(SEAL)

RESOLUTION NO. 60-2021

**A RESOLUTION AWARDING THE CONTRACT FOR THE CITY OF SHELBY
STORMWATER INFRASTRUCTURE ASSISTANCE PROGRAM PROJECT
AT 602 BROAD STREET IN SHELBY, NORTH CAROLINA**

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

WHEREAS, the City of Shelby received an application for assistance from Sharon Crocker at 602 Broad Street in Shelby, North Carolina to address failing stormwater infrastructure that crosses their private property and connects to the public right-of-way; and,

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

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

WHEREAS, the City of Shelby in accordance with applicable provisions of GS 143-129, as amended, has accepted proposals for the project located at 602 Broad Street in Shelby, North Carolina in accordance with priorities heretofore established by City Council; and,

WHEREAS, bids for this proposed work have been tabulated and contract award recommended for this project to the lowest responsive bidder, Botts Grading, LLC., for a total bid of \$19,547.00; and,

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

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

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

Section 1. The contract for the Stormwater Infrastructure Assistance Program project at 602 Broad Street in Shelby, NC, as outlined in the bid specifications for this offering, is hereby awarded to Botts Grading, LLC. for a bid price of \$19,547.00 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.

Resolution No. 60-2021

October 18, 2021

Page 2

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

Adopted and approved this the 18th day of October 2021.

O. Stanhope Anthony III
Mayor

ATTEST:

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

City of Shelby
Agenda Item Summary
October 18, 2021
Don Gibson Theatre

E. Unfinished Business

Agenda Item: E-1

- 1) Consideration of appointments to City advisory boards and commissions:
 - a. Shelby Zoning Board of Adjustment

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

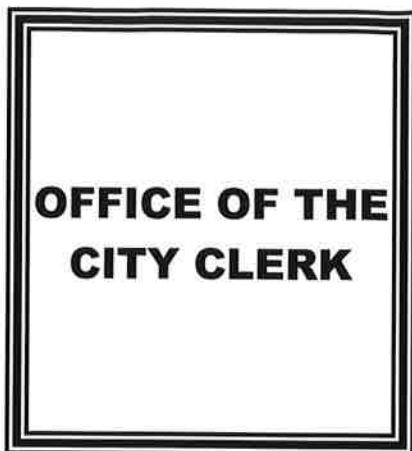
Summary of Available Information:

- Memorandum dated October 11, 2021 from Bernadette A. Parduski, City Clerk, to Rick Howell, City Manager
- Shelby Zoning Board of Adjustment Roster
- Letters from Cleveland County Clerk to the Board

City Manager's Recommendation / Comments

Volunteers are an essential part of the work the City performs each year. As always this is just a reminder that we all should work to recruit qualified and quality people to serve whenever possible. Solicitation of both qualified and interested citizens to serve on these important advisory boards remains a priority for 2021. I would challenge each of you to recruit viable candidates that possess the knowledge and willingness to serve during the coming months.

I cannot emphasize enough the importance of appointing quality people to these very important citizen boards and commissions. It is incumbent upon Council as the appointing authority to ensure members are responsible members of the community who will make decisions that reflect the established and recognized values of the City. These appointees after all reflect upon Council as the appointing authority as well as the City as they conduct business month to month.



Memo

To: Rick Howell, City Manager
From: Bernadette A. Parduski, City Clerk
Date: October 11, 2021
Re: Appointments to City Advisory Boards

BOARD REVIEW:

SHELBY ZONING BOARD OF ADJUSTMENT –

The terms of five incumbents, Morris Hudson (2021), David Beam (2020), Martha (Mot) Davis (2020), Bill McCarter (2020), and Henry Earle (2020), concluded July 2020 and July 2021, respectively. All the incumbents wish to continue their service.

There is one vacancy for an alternate position, which is an Extraterritorial Jurisdiction (ETJ) seat.

There are no applications on file in the Clerk's Office.

POSSIBLE ACTION:

SHELBY ZONING BOARD OF ADJUSTMENT –

Council can begin the nominating process or take appointive action for five new terms concluding July 2023 and July 2024, respectively.

Attachments:

- A. Shelby Zoning Board of Adjustment Roster
- B. Letters from Cleveland County Clerk to the Board dated July 16, 2021

ZONING BOARD OF ADJUSTMENT ROSTER 2021

BOARD MEMBER	ADDRESS	TERM EXPIRATION	PHONE NUMBER
Morris Hudson mHUDSON@leasingservicesinc.com	503 W. Marion Street Shelby, NC 28150	July 2021	704 482-9252
David Beam david@insulateamerica.com	437 Country Club Court Shelby, NC 28150	July 2020	704 484-2326
Martha (Mot) Davis motdavis@gmail.com	504 W. Warren Street Apt. A-1 Shelby, NC 28150	July 2020	C: 704 692-8345
Burel Harris, Chair	223 Country Club Road Shelby, NC 28150	July 2022	704 477-6863
Mike Philbeck mdphilbeck@carolina.rr.com	1805 Arbor Way Drive Shelby, NC 28150	July 2022	C: 704 692-2494 W: 704 481-2992
Thomas Martin Jr. tom@flowersmartin.com	200 Belvedere Avenue 212 S. Dekalb Street	July 2022	H: 704 484-3250 W: 704 482-4441 Ext 21
Bill McCarter, Alternate Mccarter61@gmail.com	107 Plantation Court Shelby, NC 28150	July 2020	C: 704 472-9134
Henry Earle, Alternate henry_earle@yahoo.com	108 Victoria Park Drive Shelby, NC 28150	July 2020	C: 704 473-6019 W: 704 484-4975

ETJ MEMBERS	ADDRESS	TERM EXPIRATION	PHONE NUMBER
VACANT Alternate Seat		July 2024	
Noel MacArthur noelmacarthur@hotmail.com	1414 Hubbard Terrace Shelby, NC 28152	July 2024	H: 704 484-3457 W: 704 692-4911
Roger Holland roger@h-harchitects.com	208 Deerp Chase Road Shelby, NC 28150	July 2024	704 487-4147

Meetings are held on the first Thursday of each month. Lunch: 11:45 a.m.; Meeting: 12:15 p.m.

Three (3) year appointments

City Council Liaison: Andrew Hopper – Ward 6
505 Monroe Street, Shelby, NC 28150
704 418-2121
E-mail: andrew.hopper@cityofshelby.com

Staffed by: Planning and Development Services Director Walt Scharer and Planner Alan Toney; 704 484-6829



Cleveland County
NORTH CAROLINA

July 16, 2021

Noel MacArthur
1414 Hubbard Terrace
Shelby, NC 28152

Dear Ms. MacArthur:

During their regular meeting on Tuesday, July 6, 2021, Commissioners voted unanimously to reappoint you to serve as a member of the City of Shelby Board of Adjustment (ETJ). The term of this appointment is for a period of three years, scheduled to conclude June 30, 2024.

The Board of Commissioners wish to extend their appreciation for your willingness to serve on this important board. The Board of Adjustment liason is Bernadette Parduski, Clerk to the Board. She can be reached at 704-669-6588 or via email at bernie.parduski@cityofshelby.com and will be contacting you regarding meeting time and location. If you are unable to serve on this board or have any questions, please do not hesitate to contact me at 704-484-4766 or via email at phyllis.nowlen@clevelandcountync.gov. Thank you again for serving Cleveland County.

Regards,

Phyllis Nowlen
Clerk to the Board
Cleveland County

Cc: Bernadette Parduski, Clerk to the Board
File



Cleveland County
NORTH CAROLINA

July 16, 2021

Roger Holland
208 Deerchase Road
Shelby, NC 28150

Dear Mr. Holland:

During their regular meeting on Tuesday, July 6, 2021, Commissioners voted unanimously to reappoint you to serve as a member of the City of Shelby Board of Adjustment (ETJ). The term of this appointment is for a period of three years, scheduled to conclude June 30, 2024.

The Board of Commissioners wish to extend their appreciation for your willingness to serve on this important board. The Board of Adjustment liason is Bernadette Parduski, Clerk to the Board. She can be reached at 704-669-6588 or via email at bernie.parduski@cityofshelby.com and will be contacting you regarding meeting time and location. If you are unable to serve on this board or have any questions, please do not hesitate to contact me at 704-484-4766 or via email at phyllis.nowlen@clevelandcountync.gov. Thank you again for serving Cleveland County.

Regards,

Phyllis Nowlen
Clerk to the Board
Cleveland County

Cc: Bernadette Parduski, Clerk to the Board
File

City of Shelby
Agenda Item Summary
October 18, 2021
Don Gibson Theatre

Agenda Item: E-2

- 2) Consideration of a resolution adopting the 2021 City of Shelby Central Services Cost Allocation Plan: Resolution No. 61-2021

Unfinished Business Item: (Beth Beam, Director of Finance)

Summary of Available Information:

- Memorandum dated September 21, 2021 from Beth Beam, Director of Finance, to Rick Howell, City Manager
- Resolution No. 61-2021
- Budget Expenditures for FY 22 will be placed at your seat – too large to include in packet

City Manager's Recommendation / Comments

Resolution No 61-2021 is presented for City Council consideration at this time. If approved this resolution would adopt the Central Services Cost Allocation Plan as presented. The primary purpose of this plan is to ensure that General Fund tax revenue is not used to subsidize the administrative and overhead costs of the enterprise funds (water, sewer, electric, natural gas and stormwater) and the housing fund.

A cost allocation plan was initially adopted in 2002 and has not been updated to date. This plan takes into account organizational changes and overhead costs since that original plan. In some cases there have been personnel reductions and increases when it comes to providing service to the mentioned funds. This plan will be reviewed every 5 years from here on out or if there are major organization changes made in the interim.

It is my recommendation that Resolution No. 61-2021 be adopted and approved by City Council at this time.



MEMORANDUM

To: Rick Howell, City Manager

From: Beth Beam, Director of Finance

RE: Cost Allocation Plan 2021 Update

Date: September 21, 2021

Background

For almost 20 years, the City has been utilizing a Cost Allocation Plan that was created in 2002 which was based on the actual costs during the fiscal year ending June 30, 2001. In February 2021, we solicited Requests for Proposals from firms who could provide a new plan for the City.

Review and Comments

We received proposals from 6 different consulting firms. A selection committee was formed to review the 6 proposals and Maximus Consulting Services, Inc. was selected and the contract began June 1, 2021. Maximus utilized the FY22 budget as the basis for the full cost plan. The purpose of a cost allocation plan is to identify the full overhead costs incurred in support of all departments, enterprise funds, capital/reserve funds and special revenue funds. The Cost Allocation plan is the methodology of determining the amount of administrative services that are provided to each of the Enterprise Funds by the General Fund departments and personnel for cost recovery purposes. The result is the accompanying 2021 Cost Allocation Plan document. It should also be noted that as a part of the contract with Maximus, two annual updates using the next two years' budgeted amounts will be produced at a minimal fee. This Cost Allocation Plan update will be used in the upcoming FY2023 budgeting process.

Staff Recommendation

I am recommending that City Council adopt the Resolution approving the 2021 Cost Allocation Plan prepared by Maximus Consulting Services, Inc. in order to update indirect costs in the upcoming budget.

RESOLUTION NO. 61-2021

A RESOLUTION ADOPTING THE 2021 CITY OF SHELBY
CENTRAL SERVICES COST ALLOCATION PLAN

WHEREAS, the City of Shelby completed a Central Services Cost Allocation Plan in March 2002; and

WHEREAS, the plan identified the full cost of providing specific City services including the direct costs of servicing a program and the administrative and overhead costs (indirect costs) which are assigned to each program using cost allocation formulas; and

WHEREAS, the City of Shelby has been using the cost estimates for the year ending June 30, 2001 through the current fiscal year; and

WHEREAS, there have been various changes in the City of Shelby's organizational structure and the City recognizes the need for an updated central services cost allocation plan utilizing current City data; and

WHEREAS, the 2021 Cost Allocation Plan was computed using the budget for FY 2021-2022 and reasonably reflects the full cost of City departments and personnel paid from the General Fund who provide specific City services to the Enterprise Funds; and

WHEREAS, the 2021 Cost Allocation Plan will be used by the City for various updates including:

- (i) Administration and overhead cost reimbursements from the utility and housing enterprise funds to ensure that the General Fund tax revenues are not used to subsidize utility service charges, and
- (ii) Presenting a transparent and consistent methodology for cost recovery purposes; and,

WHEREAS, City staff has reviewed the 2021 Cost Allocation Plan and recommends the City Council approve the 2021 Plan;

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

Section 1. The Mayor and City Council of the City of Shelby hereby approve the proposed 2021 City of Shelby Cost Allocation Plan.

Section 2. That this resolution be spread upon the permanent minutes of the City Council.

Resolution No. 61-2021

October 18, 2021

Page 2

Adopted and approved this the 18th day of October 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

City of Shelby
Agenda Item Summary
October 18, 2021
Don Gibson Theatre

Agenda Item: E-3

- 3) Consideration of a resolution authorizing the exercise of eminent domain as vested in the City pursuant to North Carolina General Statute Chapter 40A: Resolution No. 62-2021

Unfinished Business Item: (Andrea Leslie-Fite, City Attorney)

Summary of Available Information:

- Memorandum dated October 12, 2021 from Andrea Leslie-Fite, City Attorney, to Rick Howell, City Manager and David Hus, Director of Water Resources
- Cleveland County Property Card – 822 Jefferson Street
- Resolution No. 62-2021

City Manager's Recommendation / Comments

Resolution No. 62-2021 is presented for City Council consideration at this time. If approved this resolution would approve and authorize through the exercise of eminent domain (NCGS 40A) for the acquisition of parcel # 22963 located at 822 Jefferson Street adjacent to the North Water Tank.

The City, in good faith, attempted to acquire this property from the owner without success. The owner while a willing seller believes the property to be worth more than offered by the City. This process will ultimately allow for a market value to be established for the parcel to be paid to the owner and allowing the City to take possession of the lot. As noted by the City Attorney it is necessary to acquire this lot to allow for needed repairs and improvements to existing waterlines that cannot be completed without demolition of the existing single family home onsite.

It is my recommendation that Resolution No. 62-2021 be adopted and approved by City Council at this time.



To: Rick Howell, City Manager

Cc: David Hux, Director of Water Resources

From: Andrea Leslie-Fite, City Attorney

Date: October 12, 2021

Subject: Eminent Domain Proceedings: Cleveland County Parcel No. 22963

Background:

Chapter 40A of the North Carolina General Statutes authorizes municipalities to utilize eminent domain to acquire property for the improvement(s) of any public utility. Cleveland County Parcel No. 22963 (“Property”) contains a house which lies in proximity to the City of Shelby’s Grover Street Water Tank. There are three City water lines (one for overflow and two feeder lines) near the house with no recorded easements. The aforementioned lines need repair, and the necessary improvements will require the house to be torn down. In light of this, the City sought to acquire the Property.

The current owners were approached about purchasing the Property; however, their demand of One Hundred Thousand Dollars (\$100,000.00) greatly exceeds the current fair market value. The current tax value of the property is Four Thousand Five Hundred Dollars (\$4,500.00). The City secured an appraisal of the property in April of this year which provided appraised value of between Four and Fifteen Thousand dollars.

Eminent Domain is an authorized and necessary procedure to ensure the necessary repairs are completed and the public is served with water and sewer services.

Recommendation

It is recommended that City Council approve the Resolution Authorizing the Exercise of Eminent Domain Proceedings.

USER MATTCAPPS

FOR YEAR 2022

MONTGOMERY CHARLES D PARCEL ID.. 22963 PIN... S36 6 18
 MONTGOMERY RENEE LOCATION... 822 JEFFERSON ST SHELBY
 8713 HEATHER VIEW CT DEED YEAR/BOOK/PAGE.. 1986 19P 639 ASSESSMENT NONE .00 .00 .00
 PLAT BOOK/PAGE.. OWNER ID.. 15548841
 LEGAL DESC:822 JEFFERSON ST DISTRICT.. 6 CITY OF SHELBY

TOWNSHIP... 6 SHELBY
 NC 28216-1653 NBRHOOD... 273 S MAPS #6
 CHARLOTTE DESCRIPTION RESIDENTIAL

MAINTAINED.. 7/21/2021 BY MAYES VALUED.. 7/21/2021 BY MAYES
 VISITED..... 9/16/1998 BY ROUTING#..
 PARCEL STATUS... ACTIVE CATEGORY.. GROUP 100

----- SALES HISTORY -----

DEED BK/PAGE	SALE DATE	SALES INSTRUMENT	DISQUALIFIED	SALE AMOUNT	STAMP AMOUNT	DEED NAME
19P 639	1/01/1986	SALE	QUALIFIED		4.50	

----- LAND SEGMENTS -----

LND #	ZONE	STRAT CODE	LAND TYPE/CODE	LAND QTY	LAND RATE	DPT%	SHP%	LOC%	SIZ%	OTH%	TOP%	TOT ADJ	CURRENT FMV
1		02	FF F	75.000	60.00	100.00	.00	100.00	.00	.00	.00	.00	4,500
			DPTH..	145			OTHER ADJ...	.00	.00			.00	
			TOTAL ACRES..	.000								TOTAL LAND FMV..	4,500

----- IMPROVEMENT # 1 MAJOR IMPR-M -----

MAIN FIN AREA.. 928.00 ACT/EFF YR/AGE.. 1927 1967 54 VISITED.. BY
 STRAT..... 02 DESCRIPT.... SINGLE FAMILY DWELLING-WF MAINTAINED.. 7/21/2021 BY MAYES
 MAIN PERIM..... 136.00 MAIN GROUND SF.... 928.000
 LOCATION #..... 12934 822 JEFFERSON ST

COMPONENT	TYPE/CODE/DESC	PCT	UNITS	RATE	STR#	STR%	SIZ%	HGT%	PER%	CDS%	COST	%CPL
AC 06	COVERED PORCH	100	120.00	17.15			113.00					2,325
AC 08	ENCLOSED FRAME PORCH	100	120.00	25.56			125.00					3,834
MA 37W	SINGLE FAMILY DWELLI	100	928.00	77.00	1.00		102.00			100		72,885
EW 01	BRICK	100	136.00	32.49								4,418
- FD 04	PERIMETER FOOTING	100	928.00	.00								0
- HC 01	NONE	100	928.00	2.34-								2,171-
- PL R	RES PLUMB-EXTRA FIXT	100	5.00	889.08								0
	RCN...		PCT COMPLETE				100	x				81,291
	QUAL.. QG D3		D+-				85.00	x				69,097
	DEPR.. D8		54 YEARS OLD				99.00	-		68,405		68,405 T
	--FMV... MA 273		273 MARKET ADJ				75.00	x				519

DATE 8/23/21
TIME 16:31:41
USER MATTCAPPS

CLEVELAND COUNTY
PROPERTY CARD
FOR YEAR 2022

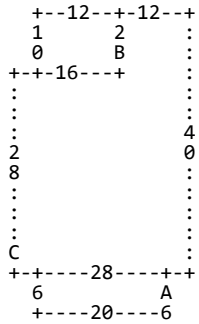
PAGE 2
PROG# AS2006

MONTGOMERY CHARLES D

PARCEL ID.. 22963

PIN... S36 6 18

----- IMPROVEMENT # 1 MAJOR IMPR-M -----



-----	AC 06	COVERED PORCH	-----	TRAVERSE	-----						
M R	24.00	D D	6.00	D L	20.00	D U	6.00	D R	20.00		
-----	AC 08	ENCLOSED FRAME PORCH	-----	TRAVERSE	-----						
M U	28.00	M R	16.00	D U	10.00	D L	12.00	D D	10.00	D R	12.00
-----	MA 37W	SINGLE FAMILY DWELLI	FLOOR:	1.00	-----	TRAVERSE	-----				
D U	28.00	D R	16.00	D U	12.00	D R	12.00	D D	40.00	D L	28.00

TOTAL PARCEL VALUES----	LAND /	OVR	IMPROVEMENTS /	OVR	TOTAL LAND/IMPROVE	2021 VALUE
FMV.....	4,500		519		5,019	5,019
APV.....	4,500		519		5,019	5,019

----- COMMENTS - -----

RESOLUTION NO. 62-2021

A RESOLUTION AUTHORIZING THE EXERCISE OF EMINENT DOMAIN AS VESTED
IN THE CITY PURSUANT TO N.C.G.S.§40A

WHEREAS, the City of Shelby (“City”) is a municipal corporation organized under the laws of the State of North Carolina which is authorized under Article 1, Section 40A-3 of the North Carolina General Statutes to exercise the power of eminent domain to take private property for public purpose upon payment of just compensation to the owner of said private property; and,

WHEREAS, Section 40A-3 of the North Carolina General Statutes establishes that public use includes the creation and functioning of public utilities; and,

WHEREAS, Article 3 of Chapter 40A of the North Carolina General Statutes further establishes the requirements and procedures by which a municipality shall exercise the power of eminent domain; and

WHEREAS, Cleveland County Parcel No. 22963 (hereinafter “the Property”) is located within close proximity to a City owned water tank; and

WHEREAS, there are three City water lines near the house in need of repair with no recorded easements; and

WHEREAS, necessary repairs of the aforementioned water lines would require significant intrusions upon the Property for which no easements are recorded; and

WHEREAS, the proposed development is intended to enhance the quality of life and services for citizens of the City of Shelby through the provision of quality water and/or sewer services; and

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

SECTION 1. The exercise of eminent domain is hereby approved and authorized to proceed for the acquisition of Cleveland County Parcel No. 22963 as shown on Exhibit A for City water and sewer operations and other related purposes.

SECTION 2. The City Manager is authorized to budget the fair market value of up to Ten Thousand Dollars (\$10,000.00) for deposit with the Clerk of Court as just compensation for the Property.

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

Adopted and approved this the 18th day of October 2021.

O. Stanhope Anthony III
Mayor

ATTEST:

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

City of Shelby
Agenda Item Summary
October 18, 2021
Don Gibson Theatre

F. New Business

None

Agenda Item: G

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: H

Council Announcements and Remarks

I. Adjournment:

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

- 1) Motion to adjourn