

MINUTES

**Regular Meeting
City Hall Council Chamber**

**March 21, 2022
Monday, 6:00 p.m.**

Present: Mayor O. Stanhope Anthony III, presiding; Council Members David W. White, David Causby, Violet Arth, Charles Webber, Andrew L. Hopper Sr., and Emilie Bullock.; City Manager Rick Howell, MPA, ICMA-CM, Assistant City Manager Justin S. Merritt, MPA, Assistant City Manager of Utilities Benjamin (Ben) Yarboro, City Attorney Andrea Leslie-Fite, Interim City Clerk Carol Williams, Public Information and Communications Officer, Chip Nuhrah, Director of Human Resources Deborah (Deb) Jolly, Police Chief Jeffrey (Jeff) Ledford, Director of Planning and Development Services Walter (Walt) Scharer, AICP, and Jennipher H. Harrill, Social Media Manager, Blue Eyes Media Connections

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

Ms. Arth led the Pledge of Allegiance.

A. Approval of agenda:

- 1) Motion to adopt the proposed agenda**

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

B. Public Comment:

- 1) Burney Drake who resides at 1024 Hunter Valley Road, Shelby, North Carolina thanked Council for their years of support of Habitat for Humanity. He said it has been a good partnership and was appreciative of staff being so easy to work with, especially Director of Planning, Walt Scharer.**

C. Public Hearings:

- 1) Consideration of a proposed ordinance amending the zoning map of the City of Shelby, North Carolina (1712 South Lafayette St): Ordinance No. 12-2022**

Mr. Scharer introduced a zoning map amendment for property located at 1712 South Lafayette Street from R10 zoning district to General Business (GB2) zoning district to operate a halfway house in the existing structure.

Mr. Scharer stated that the amendment is inconsistent with the Shelby Comprehensive Land Use Plan but is reasonable with the other uses in the area. The Planning and Zoning Board and staff recommend approval of this proposed zoning map amendment.

Mayor Anthony sought clarification from Mr. Scharer that a change in zoning to General Business could allow many types of businesses to operate at that address in the future. Mr. Scharer stated that conceivably that could happen but there were other factors to consider. Mayor Anthony stated that if a change in zoning occurs then Council needs to understand that all the uses under General Business could apply.

Ms. Arth inquired as to why the applicant asked for such a broad rezoning. Mr. Scharer stated he would have to yield that question to the applicant.

Mayor Anthony opened the public hearing at 6:09 p.m. and invited comments from the public.

Bobby Houze who resides at 133 Mullinax Drive, Grover, North Carolina spoke in favor of the proposed rezoning amendment for the property located at 1712 South Lafayette Street. Mr. Houze was Cedric Dean's (the applicant) pastor for 25 years. The halfway house is vital to the community to aid released inmates and help them get back on their feet. Mr. Houze spoke of the many books Mr. Dean wrote while serving time in prison and mentioned the program Mr. Dean started while in prison called SAVE. Mr. Houze further stated that Mr. Dean has been a vital part of the Mecklenburg County community and had even gone to the State of the Union. Mr. Houze stated many people were in attendance tonight in favor of the rezoning. Mayor Anthony requested that those in favor of the rezoning to please raise your hand. Mr. Houze quoted a couple scriptures and asked the Council to consider the rezoning.

Mrs. Rachel Hamrick who resides at 2014 Poplar Circle, Shelby, North Carolina spoke against the rezoning. She stated she understood the need for a halfway house for men who have been released from prison. But she had a few questions about the location of this one. First, safety is an issue. Mrs. Hamrick stated within one mile of the proposed address there are two elementary schools, James Love and North Shelby which have playgrounds that are used daily. And the outdoor areas for Zoar Baptist Church back up to the property lines of 1712 South Lafayette Street. Mrs. Hamrick asked what safety precautions are in place to protect all these children? Secondly, Brittain Village is an established residential single-family neighborhood since

1965. Many families have small children. Mrs. Hamrick asked if the residents of the halfway house would be allowed to roam freely throughout the neighborhood? Thirdly, Mrs. Hamrick asked what will the impact of having this halfway house have on the property values of the surrounding neighborhoods? She asked Council to please give attention to these concerns before they make their decision.

Mayor Anthony reminded everyone that Council is considering all the uses of the GB2 classification, not here tonight to specifically address the halfway house. Council must decide on the zoning of this property as any of the uses of the General Business classification.

Pamela Switzer who resides at 836 East Main Street, Shelby, North Carolina spoke in opposition to the rezoning. Ms. Switzer stated that even before tonight's hearing the halfway house was in full operation with residents and even hosted an open house. She stated this is in violation of the current zoning. She further stated that the community does not need to be jeopardized again; not too long ago two large apartment complexes were built near this neighborhood which resulted in houses being broken into, cars being broken into and an increase in vandalism. She stated that the neighborhood was a peaceful place to live and has many senior citizen and young families that cannot afford to relocate. Ms. Switzer stated that sex offenders would be possible residents of the halfway house and she was concerned about the church and ballfield adjacent to this property. This would put children in harm's way. She asked Council to consider voting against the rezoning because it would do more harm than good to the community. Ms. Switzer concluded by saying that in North Carolina an inmate's chances of returning to prison is 40 percent.

Eddie Winecoff who resides at 200 Harbor Point Drive, Cherryville, North Carolina spoke as a representative of Zoar Baptist Church which adjoins 1712 South Lafayette Street. The church has had a longstanding relationship with the Ellis family who were the previous owners of the property. Mr. Winecoff stated that when the property was sold to Mr. Dean the church initially had their share of concerns as anyone would when new neighbors move in. The Deacon body of the church spent many hours researching Mr. Dean and his plans before meeting with him. Safety and protection of the congregation were the church's main concerns. Over the last month, the Deacons have met with Mr. Dean several times and they were able to tour the house; they gained knowledge of the plans Mr. Dean had in place; which include jobs for men, cameras on site, federal probation rules and regulations, and a supervised control environment for former inmates who are looking to transition their way back into society. Mr. Winecoff stated that Zoar is a mission minded church and that as a church they could not be followers of Christ and stand against anyone trying to better themselves when all they may need is a job, a warm bed and food to help them get back

on their feet. Mr. Winecoff concluded by stating that society needs to do all we can to stop the cycle of prison recall and supporting Cedric Dean is an important step in fulfilling that mission.

Krista Ford who resides at 112 Holly Hill Road, Shelby, North Carolina voiced her concerns with the property at 1712 South Lafayette Street. She stated that people walk daily in the neighborhood and will ask how people are and welcome new residents into the neighborhood. The residents look after each other's belongings and take care of each other and respect each other. The families are lower to middle class and are law abiding citizens. They don't live in a community that has a Homeowners Association or has 24/7 security. Ms. Ford stated that concern, fear and anxiety has set in. She feels as though her child can no longer play outside and she has to explain why. Ms. Ford stated that the community was not informed ahead of renovation of the property and now there are two sex offenders already living at the house before Council's approval. She further stated that she was concerned about the schools in the area, several nearby churches, and that residents might start moving away from the neighborhood. She asked if the halfway house was a necessity to our area or will it substantially reduce the safety and value of the homes. She asked Council to consider the people in the community and the lives they have built.

Mr. Cedric Dean (the applicant) who resides at 1712 South Lafayette Street stated that he respects and loves Jesus Christ, his neighbors, and himself. He stated that there are 356 sex offenders registered to Cleveland County with some registered to the Wal-Mart parking lot and one registered to City Hall. Mr. Dean stated he is trying to make this community safer by taking men in and giving them opportunities instead of them sleeping on the street.

Mayor Anthony reminded Mr. Dean to speak to Council instead of the audience because it was Council that was going to make the decision. Mayor Anthony also stated to Mr. Dean that the hearing was about the rezoning of the property and not Mr. Dean's character.

Mr. Dean stated that he could leave the halfway house and leave Cleveland County but that he would be back because there are men being failed by the City/Cleveland County. He praised Zoar Baptist Church for bringing the men to Jesus. Mr. Dean also praised Sandra Jenkins for helping the men get jobs. Mr. Dean concluded by stating that he has paid his debt to society and that he's trying to help other men reestablish themselves into society.

Ms. Charlene Henderson who resides at 6814 Hidden Forest Drive, Charlotte, North Carolina is in favor of the rezoning. She is running for City Council in Charlotte and is also the Vice-President of SAVE. Ms. Henderson encouraged Mr. Dean to open the house up for everyone to see what was going on and to hear about his plans. Ms. Henderson said people chose not to come look at

the facility. She is concerned about the homeless situation in Shelby. She asked Council and the community to give Mr. Dean the resources he needs to make sure this facility and others like it succeed.

Mayor Anthony reminded the audience again that Council is only voting on the zoning of the property not the specific uses of this property. Mayor Anthony stated that it sounds like a wonderful program Mr. Dean has established but the voting only relates to the zoning, not the merits of the program.

Ms. Tiawana Brown who resides at 8924 Inverness Bay Road, Charlotte, North Carolina stated that by the time she was 19 years old she had been arrested 28 times. She spent time in prison and unfortunately returned to prison because she had nowhere else to go. She eventually turned her life around and is the proud mother of two daughters, an entrepreneur, a college student at Johnson C. Smith University, and she's a candidate for City Council in Charlotte. She is proof that people can change. She further stated when you have spent time in prison and then turned your life around you want to help others do the same. This is what Cedric Dean is doing and she applauds his efforts and the churches and agencies that are also helping.

Mr. David Fairchild who resides at 1712 South Lafayette Street, Shelby, North Carolina stated he had just been released from jail four days ago. He was homeless due to the deaths of his parents and sister. He had nowhere to go. His counselor in prison recommended for him to go to a halfway house. If it weren't for the support of Cedric Dean, he wouldn't have a home. He supports Mr. Dean and others that are trying to help men stay out of the system.

Ms. Karla Haynes who resides at 796 Kenmore Street, Shelby, North Carolina spoke as a service provider. She works for Cleveland County Community Development Corporation (a United Way agency and a HUD housing counselor agency) which provides homebuyer education and financial education to anyone that requests this service. She stated that she would be able to help the men in the halfway house that have jobs learn how to manage their finances in order to be successful in society. This same program is also offered to the reentry program offered by the Chief of Police.

Ms. Rose Corry who resides at 111 Stone Street, Shelby, North Carolina spoke on behalf of Cedric Dean. Ms. Corry stated that God gave her a second chance. When someone has served their time, they deserve a second chance.

Ms. Cora Roseboro who resides at 110 Jeter Road, Grover, North Carolina is in favor of Cedric Dean housing program. Her grandson went to prison and

when he got out it was so hard for him to get a job. She applauds Cedric Dean's plans to help men so they can have another chance at life.

Mr. Gregory Johnson who resides at 1712 South Lafayette Street, Shelby, North Carolina is in favor of the rezoning. He currently lives at the halfway house and it's a secure, stable home. With the help of Sandra Jenkins, he has a job with STI. With the support group and no drugs or alcohol allowed at the home, he feels like he can live a normal life at the home.

Mr. Travis McClain who resides at 1712 South Lafayette Street, Shelby, North Carolina was recently released from federal prison. He lives at the halfway house. Upon release from prison, he was rearrested within 6 months on violations of his parole. He had fallen back into his old ways to provide for himself. But if he had a place to go like Cedric Dean's home then things would have been much different. He's appreciative of his placement at Cedric Dean's home this time and he hopes the rezoning is approved so he can continue to better himself.

Mr. Travas Murray who resides at 1712 South Lafayette Street, Shelby, North Carolina stated that he spent time in prison and when he was released he was homeless. He slept outside the unemployment office and the manager contacted Cedric Dean. Mr. Murray stated that men need another chance to better their life and they can do better if they are given the right opportunity. He stated that people change, and they shouldn't be judged by something they did years ago.

Ms. Shirley Brown who resides at 3007 Poplar Circle, Shelby, North Carolina had a couple questions concerning the proposed property. She stated that the outlined property on the map is only one parcel out of four parcels. There are three other parcels that are also being considered. One of these parcels is the entrance to Brittan Village. She stated that the rezoning brings in so many other possibilities. Ms. Brown is in favor of Cedric Dean's home and believes rehabilitation is necessary, but she wonders what happens when all the parcels are considered but the Cedric Dean house does not stay in operation. She asked that there be a stipulation that if the Cedric Dean house does not stay that this rezoning be readdressed.

Ms. Marlana Lovelace who resides at 3009 Poplar Circle, Shelby, North Carolina has lived at this residence since 1965. She stated it is a very safe community with good neighbors. Ms. Lovelace inquired about the application from Mr. Dean that shows he asked for a Special Use Permit. She read the stipulations for a Special Use Permit in North Carolina.

Mayor Anthony asked Mr. Scharer to clarify the zoning application. Mr. Scharer stated that Mr. Dean incorrectly marked Special Use Permit on the application. Mr. Scharer further stated that Mr. Dean's use will require a

Special Use Permit if the rezoning is approved but this hearing tonight is only for the zoning request.

Ms. Lovelace continued by stating that Realtor.com indicates when there is a homeless shelter in the neighborhood, property values decrease by 12 percent.

Ms. Sandy Rutzen who resides at 3010 Poplar Circle, Shelby, North Carolina declined to comment. She mistakenly signed the sheet.

Mr. Artie Swinton who resides at 1650 Beech Hill Drive, Huntersville, North Carolina stated that he is the Workforce Development and Reentry Specialist for the United States Probation office in the western district of North Carolina. He stated that he covers 32 counties out of 100 in North Carolina. He was also a police officer in Gaston County. Mr. Swinton stated that the need for transitional services is now greater than ever. Mr. Swinton supports Cedric Dean's home and its mission.

Mr. Scott Ellis who resides at 1407 Ellis Ferry Road, Shelby, North Carolina stated that Cedric Dean bought the property from the Ellis family. He stated that when they heard his plans for the house the family had their own questions and concerns. After hearing about the program details and what it can provide, they changed their opinion. Mr. Ellis stated that he owns the lumber business across the street, and he does not feel like the halfway house will affect his business or the community negatively. Mr. Ellis has hired men from a similar program, and it has produced one of his better employees. Mr. Ellis said he and his family are in favor of the rezoning request.

Mr. Randy Thurman who resides at 1309 Lackey Street, Shelby, North Carolina stated that he is in favor of the rezoning request.

Ms. Betty Baker who resides at 6037 Country Walk Drive, Charlotte, North Carolina stated that she is the mother of Cedric Dean and is in favor of the rezoning. She stated that when her son was in prison, he helped over 500 people obtain their GED, and he was an advocate for so many people in prison. Ms. Baker stated that she was a mentor to the young men and has helped her son with the renovations of the halfway house. Ms. Baker concluded by stating that we all need to help one another and understand that people need second chances.

Ms. Sandra Jenkins who resides at 235 Borders Road, Blacksburg, South Carolina stated that she is the HR Manager for STI in Kings Mountain. Ms. Jenkins is originally from Cleveland County. As HR manager her main job is recruitment. In 2019, STI decided to try a Work Release program; at the time the company had the same concerns as the neighbors do tonight. She stated

that the company realized that most of these men are dependable, hard-working employees. Ms. Jenkins stated that since 2019 STI has employed forty-five offenders and the company has been able to retain some of the offenders even after they are released from prison. Ms. Jenkins stated that there are so many resources available for these men if they truly want to change. Ms. Jenkins is in favor of the rezoning request.

Mr. Gary Leigh who resides at 922 Surry Drive, Shelby, North Carolina stated that he is the Executive Director of Trailhead Resources. Mr. Leigh stated that there is a team of people that are monitoring and mentoring these men. Mr. Leigh believes that because of the monitoring and help these men are obtaining the neighborhood may be even safer. Mr. Leigh believes that the property should be General Business because there are other businesses in the area. Mr. Leigh stated that he understands the neighborhood's concerns but it's just unsubstantiated fear.

Ms. Stephanie Ellis-Martin who resides at 1497 Lackey Street, Shelby, North Carolina stated that she is the granddaughter of the previous owners of 1712 South Lafayette Street. Ms. Ellis-Martin is a schoolteacher in Cleveland County and has served as a Guardian ad Litem for four years. Ms. Ellis-Martin has experience with homeless and incarcerated families through her work. She stated that without the support and resources that Mr. Dean is trying to provide our community can expect more of the same cyclical suffering in our community.

Mr. Terry Black who resides at 3018 Poplar Circle, Shelby, North Carolina stated that he has worked with homeless men, drug addicts and men out of prison for twenty years. He stated that Cleveland County doesn't have a lot of resources for this type of person. Mr. Black understands both sides of the hearing and he can relate to both sides. Mr. Black stated that Cedric Dean's home is much needed but he wonders if this neighborhood is the best place. Mr. Black stated that everyone needs to come together to find the best solution.

Mr. Scharer clarified the property that is shown on the map and indicated where the other three parcels were located.

Mayor Anthony asked how many people can live in the house as it is currently zoned. Mr. Scharer stated that a single-family dwelling is allowed on the property as it is currently zoned. The Unified Development Ordinance states that a family can consist of four unrelated people; therefore, as the house is currently zoned four men can live there. This is also true if zoned as General Business 2. Mr. Scharer further stated that if the property is used as a full-fledged halfway house, then the property owner would have to receive a Special Use Permit from the Zoning Board of Adjustment. Mayor Anthony

reiterated that four men can reside in the house as it is currently zoned. Mr. Scharer responded that is correct.

Mr. White confirmed with Mr. Scharer that the proposed zoning request (GB2) is inconsistent with the Land Use Plan. Mr. White also asked what other businesses are allowed in General Business zones. Mr. Scharer listed restaurants, banks, churches, medical facilities, parks, and almost any business is allowed in General Business 2.

Mr. Webber asked Mr. Scharer that the proposed zoning change (GB2) would still not allow more than four unrelated people to live in the house without a Special Use Permit. Mr. Scharer responded that is correct. Council is not considering the Special Use Permit tonight, only the zoning request.

Mr. Scharer stated that if the zoning is changed to GB2 but the property is no longer utilized as a halfway house, then the property could be redeveloped as a restaurant, Family Dollar, or a variety of businesses.

Mr. Howell reminded Council that they were provided with a list of permitted uses within GB2 and R10 districts for their information.

Mayor Anthony closed the public hearing at 7:18 p.m.

Mr. White stated that he appreciates Cedric Dean's program and it is much needed in this community; however, he has a responsibility to the City to do what's right for the future of the City. Mr. White expressed concern that if Mr. Dean moves his program to another location what is to become of that property.

Ms. Arth stated that she realizes the audience did not have the benefit of the exhaustive list of businesses allowed in GB2 that Council was provided but it is lengthy. She stated that she is concerned that the zoning change is so broad and something that can't be easily undone. Ms. Arth asked if there was another zoning classification that was not as broad. Mayor Anthony reiterated that question and asked Mr. Scharer if there is another zoning classification that could be considered. Mr. Scharer stated not for the applicant's proposed use as a halfway house. Mr. Scharer further stated that any applicant can request a conditional zoning on a property but that has to come from the applicant, the City of Shelby cannot impose conditional zoning.

Mr. Webber stated that he wanted to be clear that changing the zoning does not give Mr. Dean the opportunity to add more men to the residence at this particular time. Mr. Scharer stated that is correct. Ms. Arth added that if the property is changed to GB2 the future use of this property could be a hospital

with an unlimited number of people according to the list of businesses allowed in the GB2 classification.

Mr. Webber asked about the zoning of the surrounding area and Mr. Scharer stated that the neighborhood is R10 and a few businesses nearby are zoned GB2.

Mr. Webber stated that he is a pastor of a local church and has been involved in jail ministry for twenty years. He stated that he feels in the middle of this as well and if he votes against the zoning proposal, he is not voting against Mr. Dean's mission.

City Attorney Leslie-Fite addressed the Mayor and Council. She stated that it has been requested by the applicant to amend the zoning application and Mrs. Leslie-Fite advised that this is within the applicant's purview. She further stated that if the applicant expresses his interest in amending his application, she requests Council to hear him on that point. The applicant can decide to remove this matter from the agenda, make the amendment, and bring it back in front of Council at a later date.

Mayor Anthony stated for clarification that the applicant has implied his desire to amend his application and if he chooses to amend his application then he can return to Council at a later date with a new zoning application. Mrs. Leslie-Fite stated that this is correct.

Mayor Anthony called upon Mr. Dean to address the Council. Mr. Dean stated that he is willing to propose conditions on his application. He further stated that he believes the value of the property has increased to between \$500,000 to \$600,000 due to the investment that he has put into the property and the contribution the Ellis family put into the home. Mayor Anthony asked Mr. Dean if he is requesting to pull his application and make an amendment to the application. Mr. Dean responded that is correct.

City Attorney Leslie-Fite instructed the Mayor that Council can table this matter and take no action on Ordinance No. 12-2022 at this time.

ACTION TAKEN: Upon a motion made by Mr. White, City Council voted unanimously to table Ordinance No. 12-2022 entitled, "A PROPOSED ORDINANCE AMENDING THE ZONING MAP OF THE CITY OF SHELBY, NORTH CAROLINA".

Mr. Howell stated that any future zoning request from the applicant will require notice of a Public Hearing and notice will be given to adjoining property owners.

- 2) **Consideration of a proposed ordinance amending the zoning map of the City of Shelby, North Carolina (Washburn Switch Road): Ordinance No. 13-2022**

Mr. Scharer introduced a zoning map amendment for property located on Washburn Switch Road from R20 zoning district to Light Industrial (LI) zoning district. This is a 12-acre tract located just South of the interchange of the new bypass and is in close proximity to Shell Building #4 and the Foothills Commerce Center.

Mayor Anthony opened the public hearing at 7:30 p.m. and invited comments from the public.

Mr. Ed Howie who resides at 1775 Cox Road, Weddington, North Carolina stated he was Mayor of Weddington for five terms and his daughter just completed her second term as Mayor of Weddington; he blessed the Council for their service and commended them on the handling of the previous hearing.

Mr. Howie further stated that his wife, Barbara Bost Howie, is the trustee of this property. Her family operated Bost Bakery in Shelby. Mrs. Howie's father (Ned Bost) had goats and cattle on the property for years but recently it has been vacant. The family thought of selling the property to the City at one time which would provide a gateway to the industrial area the City is developing. Mr. Howie stated there are no plans to develop the property but would ask the City for guidance if it were rezoned Light Industrial as to the best use of the property.

Mrs. Barbara Bost Howie who resides at 1775 Cox Road, Weddington, North Carolina stated she supported the zoning request.

Mr. Jonathan Young who resides at 2230 Amber Lane, Shelby, North Carolina stated that the property is adjacent to his back yard. He stated he has lived there for over 20 years. He stated that Mr. Ned Bost put a fence up across the creek and onto his property years ago. Mr. Young told Mr. Bost that his horse needed the creek for water, Mr. Bost said his cattle needed water. Mr. Young and his neighbors would like to keep the area residential. He stated that most people don't know the neighborhood is there and it's quiet.

Mrs. Elizabeth Callis who resides in Weddington, North Carolina, thanked the Mayor and Council for their service. She stated that she supports the zoning request and that her family doesn't have plans at this time to develop the land.

Ms. Donna Wilson who resides at 2238 Amber Lane, Shelby, North Carolina stated that she was too late to sign up but that she is opposed to the zoning request.

Mayor Anthony closed the public hearing at 7:38 p.m.

Mayor Anthony asked City Attorney Leslie-Fite to remind Council on the statutory guidelines of Plan Consistency and Additional Reasonableness Statement for Rezoning. Mrs. Leslie-Fite stated that a legislative rezoning is a two-part process. The first part is to consider whether or not the proposed zoning is consistent with the Land Use Plan. This determination does not prohibit Council from changing zoning but is a guideline. The second part of the process is whether or not the request is reasonable. Mrs. Leslie-Fite directed Council to page 20 of their agenda packet which includes General Statute 160D-605 for reference. Within this statute are a list of reasonable factors Council may consider. Mrs. Leslie-Fite read the following 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

Mrs. Leslie-Fite stated Council can choose one or all of the factors to consider. She further stated that the Courts would look to see if you have considered these factors, but the Court does not tell you how you should decide.

Mayor Anthony stated that when Council is considering this rezoning it would be reasonable and appropriate to state that there is industrial development in this area. Mrs. Leslie-Fite stated that would coincide with the first factor listed in the General Statute.

Mr. Webber asked Mr. Scharer about the detriment to other properties if the zoning were changed. Mr. Scharer stated that he was not qualified to say what detriments could arise. He further stated that the Unified Development Ordinance does have development patterns built within it to protect the neighboring properties as much as possible with buffering and setbacks, and these provisions are in place. If the property is adjacent to a residential use property, then the maximum buffer is usually required.

Mrs. Leslie-Fite further advised that the detriments are to be determined by a certified expert, not a property owner.

Ms. Arth asked for clarification as to whether the creek mentioned earlier was on the property or not. Mr. Scharer stated that there is a creek in that area, and asked Mr. Howie for more explanation. Mr. Howie stated that it is more of a drainage ditch than a creek and it was not on the property owned by his family.

ACTION TAKEN: Upon a motion made by Mr. White, City Council voted 5-1 (Ms. Arth oppose) to approve and adopt Ordinance No. 13-2022 entitled, “A PROPOSED ORDINANCE AMENDING THE ZONING MAP OF THE CITY OF SHELBY, NORTH CAROLINA”.

- 3) Consideration of a proposed ordinance amending the zoning map of the City of Shelby, North Carolina (622, 624, 630 N. Post Road): Ordinance No. 14-2022

Mr. Scharer introduced a zoning map amendment for property located on N. Post Road (622, 624, and 630 N. Post Road) from R20 zoning district to General Business 2 zoning district. Mr. Scharer stated that the property is located between N. Post Road and the future 74 Bypass. The property is zoned R20 currently because it does not have sewer service and it is currently vacant. The long-range transportation plan lists this as a medium residential area but would need to have sewer to become that classification.

Mayor Anthony opened the public hearing at 7:43 p.m. and invited comments from the public.

The public offered no comments.

Mayor Anthony closed the public hearing at 7:44 p.m.

ACTION TAKEN: Upon a motion made by Mr. Webber, City Council voted unanimously to approve and adopt Ordinance No. 14-2022 entitled, “A PROPOSED ORDINANCE AMENDING THE ZONING MAP OF THE CITY OF SHELBY, NORTH CAROLINA”.

- 4) Consideration of a proposed ordinance amending the zoning map of the City of Shelby, North Carolina (Old Hallelujah Acres site): Ordinance No. 15-2022

Mr. Scharer introduced a zoning map amendment for properties located at the Old Hallelujah Acres site from Residential Office Conditional Zoning

(ROCZ) and General Business Conditional Zoning (CZ) zoning district to R6 zoning district. According to Mr. Scharer, when these properties were first developed, they were to be commercial development, but the current owner is requesting that they be zoned for single family dwellings.

The zoning request is inconsistent with the Land Use Plan but it is reasonable with the pattern of development in the area.

Mr. Hopper asked for clarification as to the location of the property. Mr. Scharer explained that this was originally the Hallelujah Acres property that was not developed as planned years ago. Mr. Howell further clarified that the original Pinnacle School is located across the street from this property, and it was formerly the Hallelujah Acres business that included a restaurant and retail store.

Mr. Scharer stated that the zoning request is for both of these properties to be amended to R6. One is currently ROCZ and the other is GBCZ.

Mayor Anthony opened the public hearing at 7:53 p.m. and invited comments from the public.

Mr. Judson Stringfellow who resides at 3515 Dovewood Drive, Charlotte, North Carolina stated that he is the owner of this property along with some of the adjacent properties. Mr. Stringfellow stated that previously this property was intended for high density stacked condominiums, a gift shop, a parking lot and amphitheater. The zoning amendment would allow for single-family homes to be built in this neighborhood.

Mayor Anthony closed the public hearing at 7:56 p.m.

ACTION TAKEN: Upon a motion made by Ms. Arth, City Council voted unanimously to approve and adopt Ordinance No. 15-2022 entitled, "A PROPOSED ORDINANCE AMENDING THE ZONING MAP OF THE CITY OF SHELBY, NORTH CAROLINA".

5) Consideration of a proposed ordinance to amend the Unified Development Ordinance of the City of Shelby: Ordinance No. 16-2022

Mr. Scharer stated the proposed text amendment would amend the watershed requirements. Mr. Scharer showed on the map that the Watershed IV is in the northern part of town and also showed the water intake out of the river. He further explained that the City of Shelby has the 10%/70% option which means up to 10% of the developable area can be constructed up to 70% impervious surface. To date, the City has only developed 0.074% of the available 10% area. Mr. Scharer stated further that currently the 10%/70%

option only specifies for nonresidential development. This text amendment will allow for any type of development to apply for and be approved under the 10%/70% option, assuming it is appropriate development. The 10%/70% option is another layer of the protection from the watershed.

Mayor Anthony opened the public hearing at 8:01 p.m.

The public offered no comments.

Mayor Anthony closed the public hearing at 8:02 p.m.

ACTION TAKEN: Upon a motion made by Mr. Hopper, City Council voted 5-1 (Ms. Arth oppose) to approve and adopt Ordinance No. 16-2022 entitled, “A PROPOSED ORDINANCE TO AMEND THE UNIFIED DEVELOPMENT ORDINANCE OF THE CITY OF SHELBY”.

- 6) Consideration of a proposed ordinance to extend the corporate limits of the City of Shelby, North Carolina: Ordinance No. 17-2022

Mr. Scharer stated that this property is located at 1351 South DeKalb Street and is contiguous to the existing city limits. In February 2022 Council approved a Certificate of Sufficiency resolution. Mr. Scharer also reminded Council that in 2021 they approved a Special Use Permit to construct a 312 multi-family complex at this site. Staff approved a site plan for this property last week.

Mayor Anthony opened the public hearing at 8:04 p.m.

The public offered no comments.

Mayor Anthony closed the public hearing at 8:05 p.m.

ACTION TAKEN: Upon a motion made by Mr. White, City Council voted unanimously to approve and adopt Ordinance No. 17-2022 entitled, “A PROPOSED ORDINANCE TO EXTEND THE CORPORATE LIMITS OF THE CITY OF SHELBY, NORTH CAROLINA”.

- 7) Consideration of a proposed resolution authorizing purchase of land pursuant to G.S. 158-7.1: Resolution No. 22-2022

Mr. Howell explained that a public hearing is required by the General Statute to notify the public that the City’s intent to acquire property is for economic development purposes. The property includes about 40 acres on Artee Road; it is the City’s intent to purchase this property and to develop it in the future for industrial development. The City can sell this property to a private entity or may decide to build a Shell Building on this site.

Mayor Anthony opened the public hearing at 8:07 p.m.

The public offered no comments.

Mayor Anthony closed the public hearing at 8:08 p.m.

ACTION TAKEN: Upon a motion made by Mr. Causby, City Council voted unanimously to approve and adopt Resolution No. 22-2022 entitled, “A PROPOSED RESOLUTION AUTHORIZING PURCHASE OF LAND PURSUANT To G.S. 158-7.1”.

8) Consideration of a proposed resolution granting a Special Use Permit to JDSI, LLC at Pinnacle Crossing: Resolution No. 23-2022

Mr. Scharer introduced Resolution No. 23-2022 and the proposed Special Use Permit request by the applicant, JDSI, LLC. The site is currently zoned GB2CZ, and the Future Land Use map has it listed as a residential high-density area so the approval of a Special Use Permit is consistent with Future Land Use plan.

Mr. Scharer stated that one of the conditions of the Special Use Permit is to install a greenway that connects the proposed sidewalk on Lynn Circle to the existing subdivision. The applicant plans to build 101 townhome units on approximately 16 acres.

Mayor Anthony opened the public hearing at 8:10 p.m. and sworn testimony was given as follows:

Mayor Anthony asked Mr. Scharer if the application is complete, within the jurisdiction, and it will not comply with one or more requirements of this Ordinance. Mr. Scharer responded affirmatively by stating that staff had certified those requirements.

Mayor Anthony further stated that the applicant must persuade Council on the following factors:

- The development will not materially endanger the public health or safety
- The development will not substantially injure the value of adjoining or abutting property
- Will be in harmony with the area in which it is to be located
- Will be in general conformity with the Comprehensive Land Use Plan or other plans officially adopted by Council

Van Durrett who resides at 159 Appian Way, Shelby, North Carolina stated that his property is the northern boundary of the proposed townhomes property. Mr. Durrett remembers when cows were in the property, then Hallelujah Acres tried to develop the property. Hallelujah acres developer found a pond on the property; they emptied the pond and built a berm between his property and Hallelujah Acres which Mr. Durrett states impounded all the water. His property started flooding. He submitted photos (Exhibit 1 – 4) to City Attorney Leslie-Fite.

Mr. Durrett concluded by stating that he is all for the development of the townhomes, he just hopes that the drainage issue is addressed during the planning process.

City Attorney Leslie-Fite asked Mr. Durrett the following questions regarding photographs he wished to show City Council:

- Q: When were the photographs taken?
- A: 2014.
- Q: Who took the photographs?
- A: I took the photographs.
- Q: Is it your representation to Council tonight that these photographs fairly and accurately depicted the property at that time?
- A: Yes (Nodded Yes)
- Q: Have you made any alterations to the photographs submitted?
- A: Mr. Durrett stated he had not.
- Q: Do you believe the photographs will help illustrate the testimony you are giving tonight?
- A: Yes
- Q: Is it Mr. Durrett's intent to submit these photographs to Council?
- A: Yes

City Attorney Leslie-Fite admitted the photographs as Exhibit 1 – 4 and they were presented to Council for consideration.

Mr. Judson Stringfellow who resides at 3515 Dovewood Drive, Charlotte, North Carolina stated that he is the applicant for the Special Use Permit. Mr. Stringfellow reiterated that the proposed property is the former Hallelujah Acres property that was rezoned in 2007 or 2008. He further stated that at that time the property was zoned for a hotel and retail businesses. Mr. Stringfellow stated that his company would go through the full development approval process which would include grading and stormwater plans. He stated that he has no knowledge of the situation with the flooding issues but that it would be addressed with the development process. Mr. Stringfellow commented that in his plans there is a greenway area behind the townhomes with a drainage area included in those plans. He stated that the bulk of the

runoff from this development would go into a retention pond to remove water from this site. Mr. Stringfellow stated that there would be an additional entrance into the development on N. Post Road. The layout design would be townhomes at the front of the neighborhood, then small lot single-family homes, and then the bigger lot single-family homes at the back with buffers in between each division. Mr. Stringfellow concluded that all development plans will be approved by the City during the planning phase.

Mayor Anthony asked how will the area be in harmony which is one of the criteria. Mr. Stringfellow stated that it is a residential area. The plan is for housing just different types of housing within the neighborhood and there are schools and businesses nearby which would be in harmony with a growing neighborhood.

Mr. Ambrose Downs who resides at 4010 Lynn Circle, North Carolina stated that his property is adjoining the proposed Special Use Permit property. He stated that Hallelujah Acres ruined that area when they developed years ago. He stated that all his cypress trees eventually fell down due to the water runoff from the Hallelujah Acres development. He further stated that the proposed road will come right up to his front yard.

Mr. Anthony asked for clarification as to the location of the road and Mr. Downs' property. Mr. Downs stated that he lives on a dead-end street and with the addition of the proposed street it will cause more traffic coming into his neighborhood.

Mayor Anthony closed the public hearing at 8:22 p.m.

Having heard all the evidence and arguments presented at the hearing, Council finds and determines the application is complete. Mayor Anthony read the four findings of fact that Council must consider:

- The development will not materially endanger the public health or safety
- The development will not substantially injure the value of adjoining or abutting property
- Will be in harmony with the area in which it is to be located
- Will be in general conformity with the Comprehensive Land Use Plan or other plans officially adopted by Council

ACTION TAKEN: Mr. White made a motion to approve a Special Use Permit at Pinnacle Crossing due to the fact that this project will not materially endanger the public health or safety, will not substantially injure the value of adjoining or abutting property, will be in harmony with the area in which it is to be located, and will be in general conformity with the Comprehensive Land

Use Plan or other plans officially adopted by Council. City Attorney Leslie-Fite asked Mr. White to incorporate Exhibit A which is the Findings of Fact and the Conclusions of Law into the Ordinance and Mr. White agreed to incorporate the Findings of Fact and Conclusions of Law.

City Council voted unanimously to approve and adopt Ordinance No. 23-2022 entitled, "A PROPOSED RESOLUTION GRANTING A SPECIAL USE PERMIT TO JDSI, LLC AT PINNACLE CROSSING".

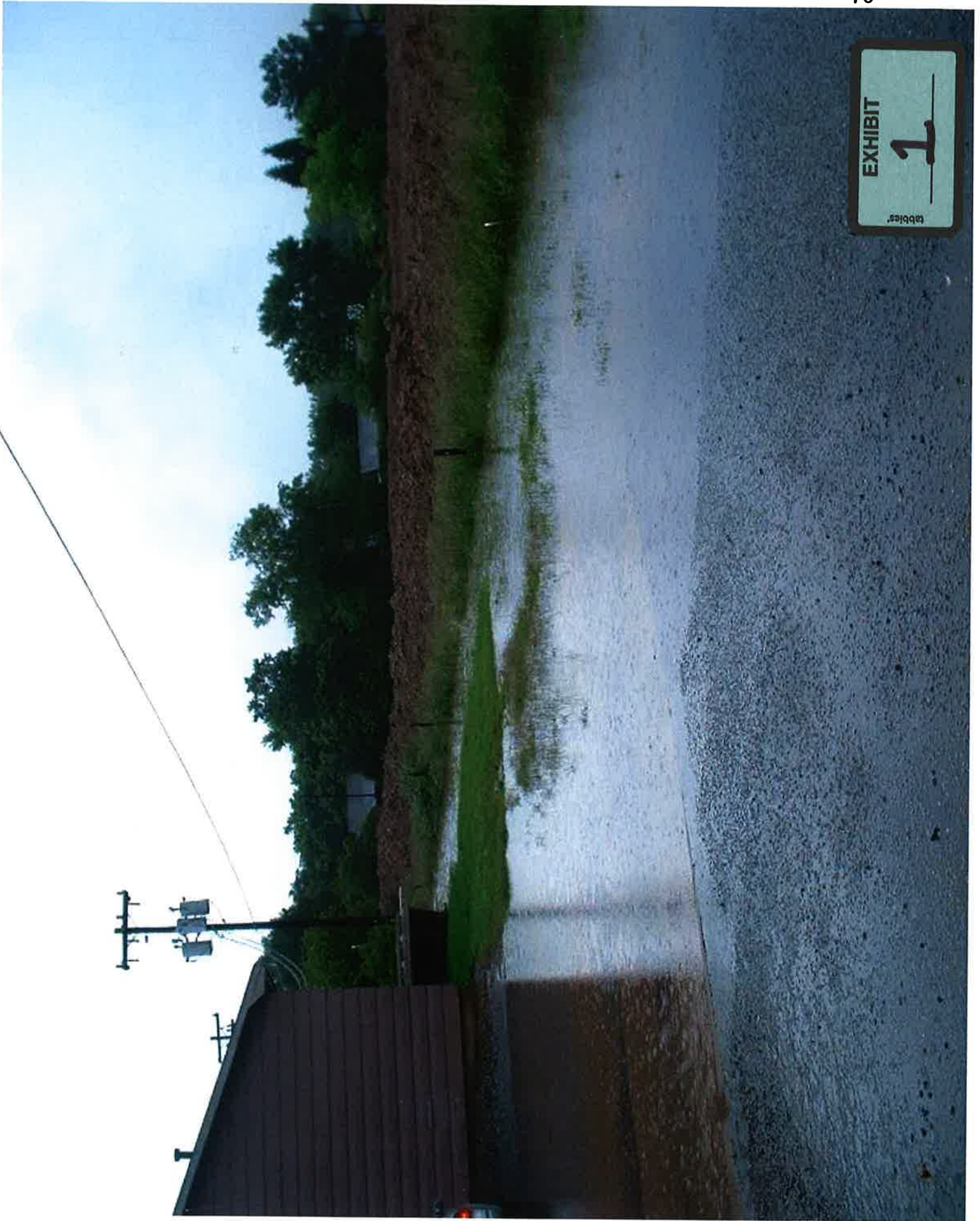


EXHIBIT
1
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EXHIBIT
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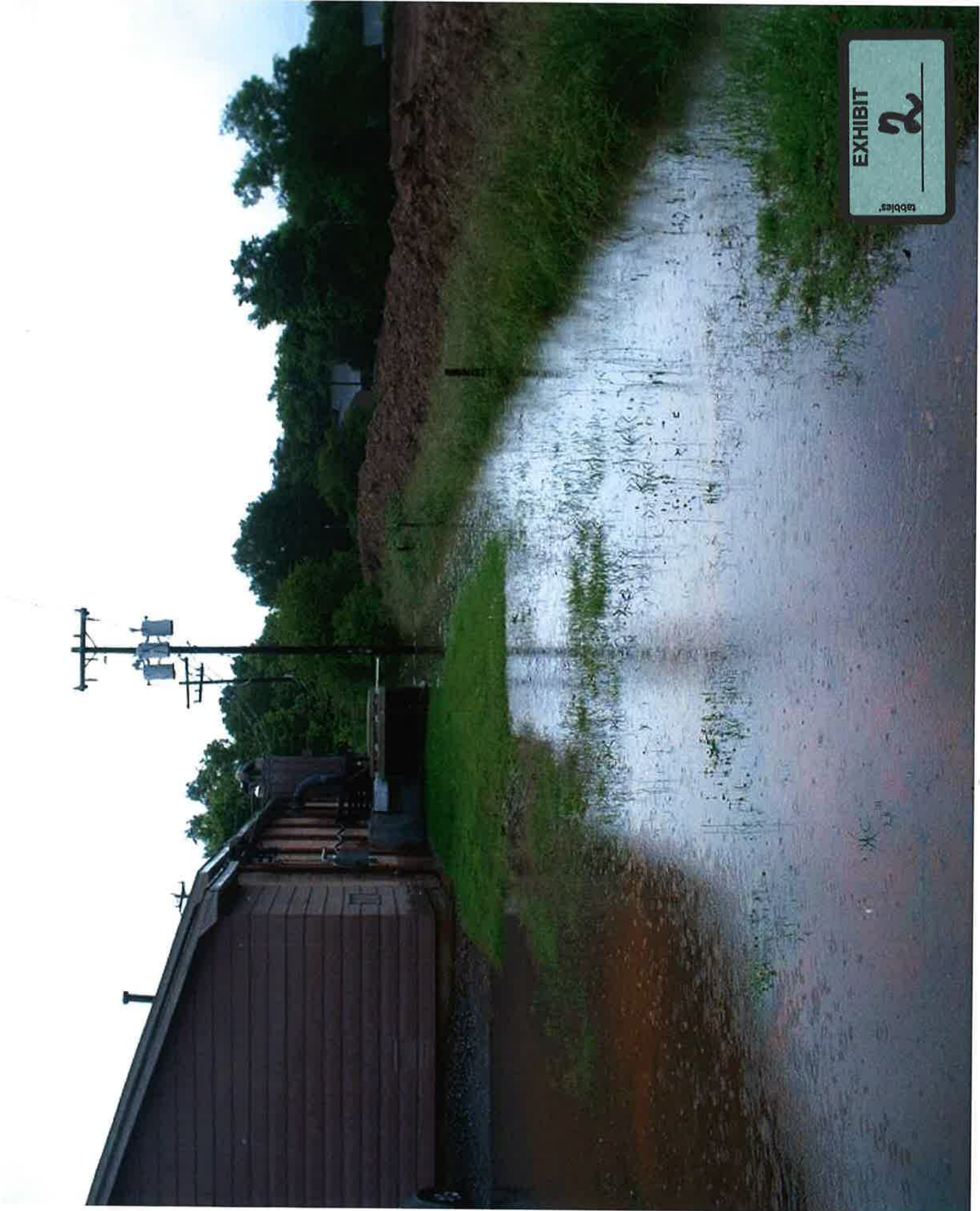


EXHIBIT
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Labbies





C. Consent Agenda:

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

- 1) Approval of the Minutes of the Regular Meeting of March 7, 2022**
- 2) Approval of a resolution authorizing the submittal of the City of Shelby's application for North Carolina Industrial Development Fund Utility Account (IDF) Grant for the Randolph Road Industrial Park Sewer Project: Resolution No. 24-2022**
- 3) Adoption of Fiscal Year (FY) 2021-2022 Budget Ordinance Amendment No. 8: Ordinance No. 18-2022**
- 4) Adoption of Fiscal Year (FY) 2021-2022 Budget Ordinance Amendment No. 9: Ordinance No. 19-2022**

C. Unfinished Business:

- 1) Approval of a resolution authorizing allocation of American Rescue Plan funding: Resolution No. 25-2022**

Mr. Howell introduced Resolution No. 25-2022 for Council's consideration. If approved this resolution adopts an outline of an allocation for the money provided by the American Rescue Plan. Mr. Howell stated this is a broad framework of how the \$6.3 million is proposed to be spent based on discussion from the Council Retreat and by staff recommendations. There are three categories including:

- 1) Unsewered Neighborhoods – Mr. Howell stated there is approximately \$2 million dollars allocated for this category. There are approximately 7 neighborhoods without sewer and other smaller isolated areas where gravity sewer is not available due to the topography of those areas. Mr. Howell stated that Clearbrook and Washington Heights are two neighborhoods that could be looked at for this project. Mr. Howell commented that he was not certain that the City could fund both of those neighborhoods.**
- 2) Existing Water and Sewer System Improvements – Mr. Howell stated there is approximately \$3 million allocated for this area. Mr. Hux, Water Resources Director, made a list of items which included: water treatment plant filtration improvements, sedimentation basin valving improvements,**

looping dead end waterlines, replacement of water distribution lines and replacement of sewer collection systems.

3) City Facility Improvements – Mr. Howell stated there is approximately \$1.3 million allocated for this area. The list of improvements include City Hall roof replacement and energy efficiency improvements, and renovation and repair of the city owned building located at 311 S. Lafayette Street which is the former Shelby Police Department building. The City plans to move the Planning Department, Code Enforcement, Building Inspections and Human Resources into that building.

Mr. Howell explained that approval of this resolution simply gives a plan to move forward. Mr. Howell further commented that the current policy for sewer extensions states that upon a petition from a neighborhood the City would provide a certain percent of funding that would not exceed 33% of the overall costs of the project. Mr. Howell stated that the City has found that even with 33% subsidy the property owners still cannot afford the sewer extension. Mr. Howell proposed that he would bring a policy to Council that would make exceptions to the percentage the City would provide which may be between 80% - 90%. Mr. Howell stated he believes the property owner should participate in the project and pay a portion due to the fact they are not sewer rate payers now and the rate payers pay for the sewer system. Mr. Howell reiterated the need for funding both the Water and Sewer improvements and the City facilities improvements, especially the roof at City Hall, which has only been repaired twice since 1939. Mr. Howell concluded by stating the old Shelby Police Department building has a good roof, windows and doors but would need interior work.

Mr. White inquired if the City was going to tear down the existing Planning Department building. Mr. Howell stated that would need to be determined.

ACTION TAKEN: Upon a motion made by Mr. Causby, City Council voted unanimously to approve and adopt Resolution No. 25-2022 entitled, “A RESOLUTION AUTHORIZING ALLOCATION OF AMERICAN RESCUE PLAN FUNDING”

H. City Manager’s Report:

Mr. Howell mentioned the City Vision conference slated for April 26 – 28 in Wilmington, North Carolina (formerly the North Carolina League of Municipalities annual conference). If anyone is interested in attending to please let him or the City Clerk know.

Mr. Howell stated that he will follow up with an email to Council with any additional updates.

I. Council Announcements and Remarks:

Mr. Hopper appreciated the City Manager for following up on the unsewered neighborhoods and hopes the project goes through.

Mr. Webber asked the City Manager if the City had an official historian. Mr. Howell stated we did not. Mr. Webber wondered if this was the longest meeting Council had ever had. Mr. Howell stated that no he did not think so.

J. Adjournment:

1) Motion to adjourn

ACTION TAKEN: Upon a motion made by Mr. White, City Council voted unanimously to adjourn the meeting at 8:37 p.m.

Respectfully submitted,

Carol S. Williams
Interim City Clerk

O. Stanhope Anthony III
Mayor

Minutes of March 21, 2022