

Shelby City Council Agenda
Regular Meeting
June 20, 2022 at 6:00 p.m.

City Hall Council Chamber
300 South Washington Street
Shelby, North Carolina

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

Invocation

Pledge of Allegiance

A. Approval of Agenda

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

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

B. Special Presentation

- 1) City of Shelby 2022 Phase II Stormwater Annual Report Update – Ben Yarboro, Assistant City Manager, and Tyler Brooks, Stormwater/Engineering Coordinator 1 - 10

C. 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.

11

D. Public Hearings:

- 1) Consideration of a proposed ordinance amending the zoning map of the City of Shelby, North Carolina (301 N. Post Road): Ordinance No. 38-2022 12 - 26
- 2) Consideration of a proposed ordinance amending the zoning map of the City of Shelby, North Carolina (Philbeck Street): Ordinance No. 39-2022 27 - 41
- 3) Consideration of a proposed ordinance amending the zoning map of the City of Shelby, North Carolina (Seattle Street): Ordinance No. 40-2022 42 - 56

- 4) Consideration of a proposed ordinance amending the zoning map of the City Of Shelby, North Carolina (Mid Street): Ordinance No. 41-2022 57 - 71
- 5) Public Hearing for the proposed extension of the corporate limits of the City of Shelby, North Carolina (Eaves Rd) 72 - 76
- 6) Public Hearing for the proposed extension of the corporate limits of the City of Shelby, North Carolina (Rainbow Dr.) 77 - 81
- 7) Public Hearing for the proposed extension of the corporate limits of the City of Shelby, North Carolina (Artee Rd.) 82 - 85

E. Consent Agenda:

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

- 1) Approval of the Minutes of the Regular Meeting of June 6, 2022 86 - 92
- 2) Approval of a Resolution honoring Steven Maurice Seate, Jr. on the occasion of his retirement from employment with the City of Shelby: Resolution No. 45-2022 93 - 95
- 3) Approval of a resolution ratifying cancellation of a Deed of Trust recorded at Deed Book 934 at Pages 733-741: Resolution No. 46-2022 96 - 98
- 4) Approval of a resolution authorizing selection of TGS Engineers based on Qualifications for Professional Engineering Services for the County Home Road Reconstruction Project in Shelby, North Carolina: Resolution No. 47-2022 99 - 110
- 5) Approval of a resolution authorizing Destination By Design based on Qualifications for Professional Engineering Services for Shelby Depot Park Design, Bidding, And Construction Administration In Shelby, NC: Resolution No. 48-2022 111 - 116

- 6) Approval of a resolution approving and Accepting the revised City Of Shelby Stormwater Quality Management Program: Resolution No. 49-2022 117 - 120
- 7) Approval of a resolution authorizing disbursement of Travel and Tourism funding for Fiscal Year 2022-2023: Resolution No. 51-2022 121 – 123

F. Unfinished Business:

- 1) Shelby Rail Trail Phase IA Project:
 - a. Adoption of a Budget Ordinance amendment for the City of Shelby’s Rail Trail Corridor Project: Ordinance No. 42-2022 124 - 140
 - b. Approval of a resolution awarding the construction contract to TGS Engineers: Resolution No. 50-2022

G. New Business:

- 1) Approval of a resolution authorizing disbursement of Travel and Tourism funding to the Cleveland County Arts Council for Fiscal Year 2022-2023: Resolution No. 52-2022 141 - 143
- 2) Approval of a resolution authorizing disbursement of Travel and Tourism funding to the American Legion World Series for Fiscal Year 2022-2023: Resolution No. 53-2022 144 - 146

H. City Manager’s Report 147

I. Council Announcements and Remarks 147

J. Adjournment: 147

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

- 1) Motion to adjourn

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B. Special Presentation:

Agenda Item: B-1

- 1) City of Shelby 2022 Phase II Stormwater Annual Report Update – Ben Yarboro, Assistant City Manager, and Tyler Brooks, Stormwater/Engineering Coordinator

Presenting: (Tyler Brooks, Stormwater / Engineering Coordinator)

Summary of Available Information:

- Copy of PowerPoint slides

City Manager's Recommendation / Comments

This annual presentation is required based upon the City's adopted Comprehensive Stormwater Management Program. This program resulted when the State of North Carolina designated the City of Shelby as a Phase II stormwater community. I've scheduled this time for Tyler Brooks, Stormwater/Engineering Coordinator to update and review the Phase II Stormwater Program. The primary intent of the presentation is to promote awareness of the City Council and the public at large. Each year City staff must produce an annual Phase II Stormwater report for regulatory agencies and public information. This presentation is not meant to be all inclusive but rather outline and highlight the year's activities. A copy of the more comprehensive annual report is available and will be placed on the City's website following the meeting. Mr. Yarboro and staff have done an excellent job developing and implementing the program in a commonsense manner that limits the burdens on development to every reasonable extent possible.

Mr. Brooks and Mr. Yarboro will be available to answer questions after the presentation or at a later date should Council need more information. Acceptance of the report by City Council is all that is required.

STORMWATER ANNUAL UPDATE

PUBLIC EDUCATION AND

PUBLIC INVOLVEMENT AND PARTICIPATION

JUNE 20, 2022

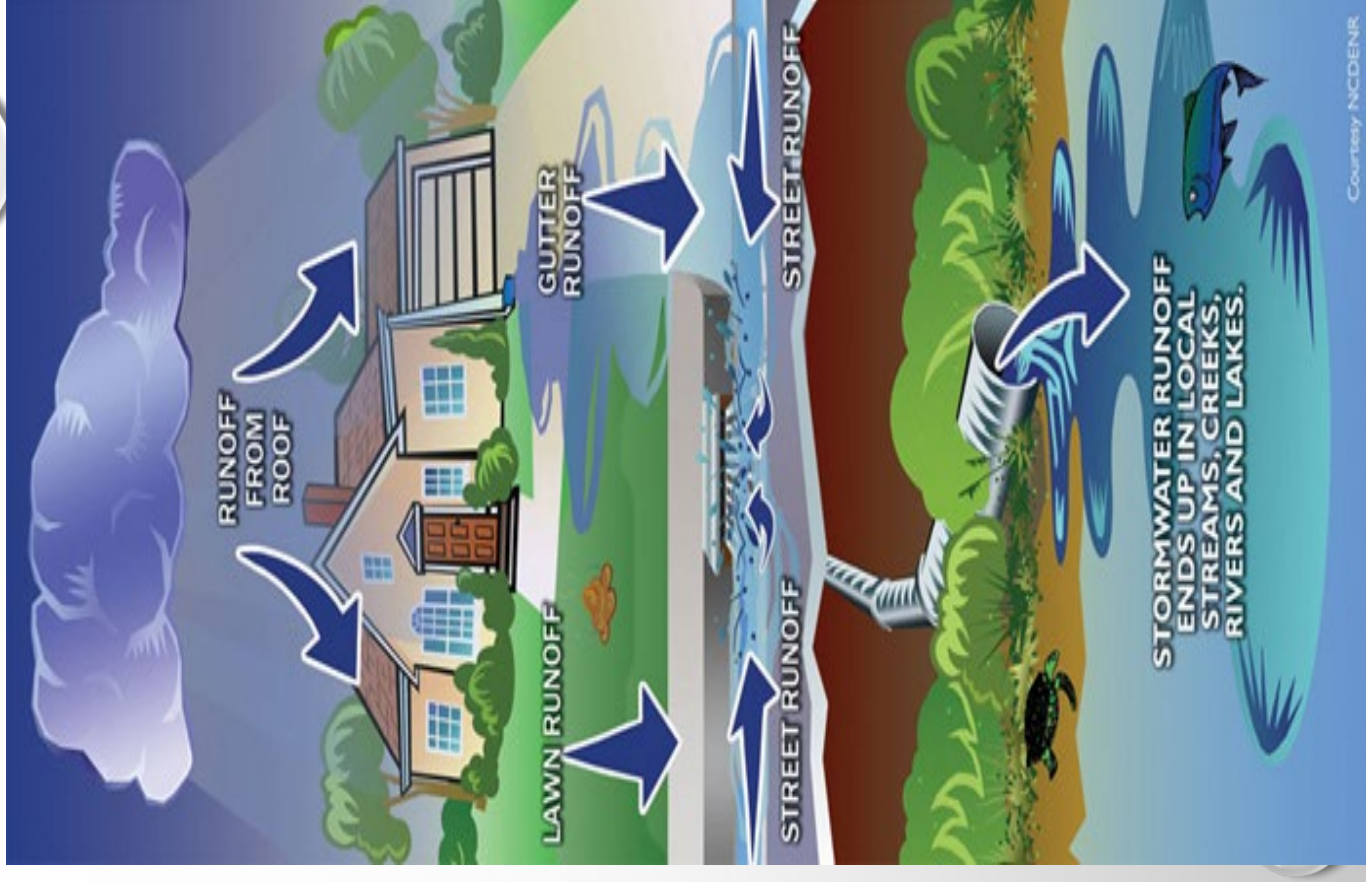


STORMWATER PROGRAM DEVELOPMENT

- CITY WAS DESIGNATED AS A PHASE II STORMWATER ENTITY ON JANUARY 14, 2010 (POPULATION GREATER THAN 10,000)
- CITY RECEIVED ITS FIRST PHASE II STORMWATER PERMIT DATED DECEMBER 1, 2012
- STORMWATER UTILITY FEE ESTABLISHED IN JULY 2014
- STORMWATER DIVISION ESTABLISHED WITHIN THE CITY ENGINEERING DEPARTMENT IN JUNE 2015
- CITY RENEWED IT PHASE II STORMWATER PERMIT FEBRUARY 1, 2018

WHAT IS STORMWATER?

- RAINWATER THAT HITS AN IMPERVIOUS SURFACE SUCH AS PARKING LOT, ROOF, STREET, ETC. IT CREATES STORMWATER RUNOFF.
- THIS RUNOFF MAY PICK UP POLLUTANTS, CAUSING POLLUTANTS TO DIRECTLY ENTER CREEKS AND STREAMS WITHOUT BEING TREATED.



SIX MINIMUM MEASURES OF PERMIT

- PUBLIC EDUCATION AND OUTREACH
- PUBLIC PARTICIPATION AND INVOLVEMENT
- ILLICIT DISCHARGE DETECTION AND ELIMINATION
- CONSTRUCTION SITE RUNOFF CONTROL
- POST-CONSTRUCTION RUNOFF CONTROL
- POLLUTION PREVENTION AND GOOD HOUSEKEEPING FOR MUNICIPAL OPERATIONS

PUBLIC EDUCATION

- EDUCATIONAL UTILITY BILL INSERTS MAILED EVERY MARCH AND OCTOBER
- DISTRIBUTE BROCHURES THROUGH CITY FACILITIES, HARDWARE STORES, PET STORES, PAINT STORES
- MAINTAIN STORMWATER WEBSITE WITH EDUCATIONAL INFORMATION
- SET UP STORMWATER EDUCATIONAL BOOTH AT COMMUNITY FESTIVALS
- FY21 (JULY 2020-JUNE 2021): 2,124 BROCHURES AND HANDOUTS DISTRIBUTED

PUBLIC EDUCATION

Merry Go Round Festival

- APRIL 23, 2022
- 6,000 EST. ATTENDANCE
- 258 ITEMS DISTRIBUTED



Carl Spangler Trail Dedication

- APRIL 30, 2022
- 50 EST. ATTENDANCE
- 14 ITEMS DISTRIBUTED



PUBLIC INVOLVEMENT EVENTS

N. Dekalb St. Creek Cleanup

- OCT. 2, 2021
- 0.3 MILE SECTION OF CREEK FROM HARDEE'S TO BUFFALO ST
- 12 VOLUNTEERS
- 400 POUNDS OF TRASH COLLECTED



Earth Day Litter Sweep

- APRIL 23, 2022
- TWIN TRESTLE TRAILHEAD
- 11 PARTICIPANTS
- 4 TIRES AND APPROXIMATELY 100 POUNDS OF TRASH



PUBLIC INVOLVEMENT EVENTS

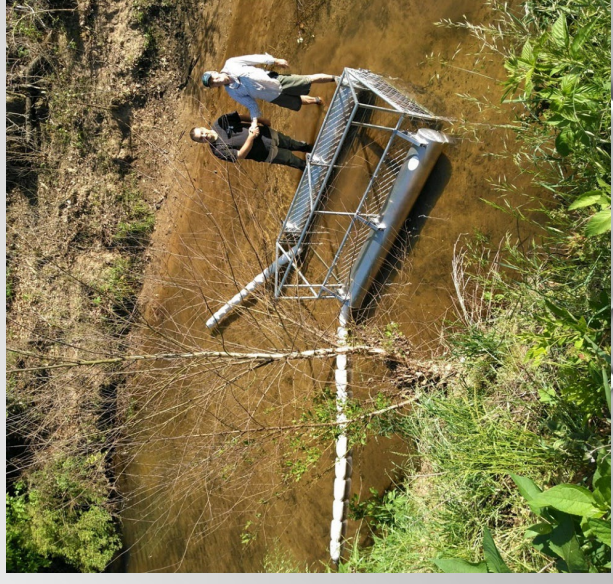
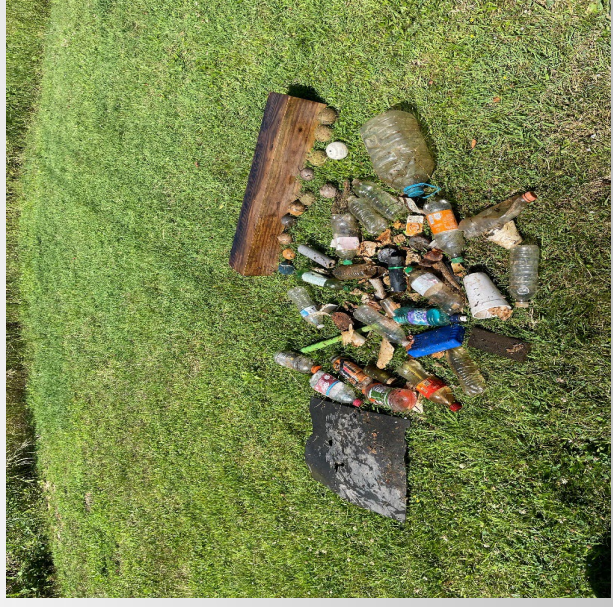
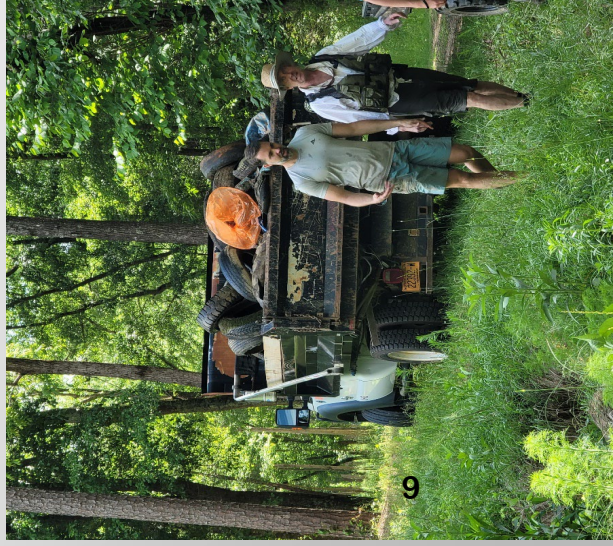
Rotary Club First Broad River Litter

Trash Trout

Sweep

- MAY 14, 2022
- 4 MILES OF FIRST BROAD RIVER FROM TWIN TRESTLE TRAILHEAD TO TWIN CHIMNEYS RD
- 40 PARTICIPANTS
- CITY ASSISTED WITH DISPOSAL OF 500 LBS OF TRASH AND 67 TIRES

- PARTNERED WITH BROAD RIVERKEEPER
- RECEIVED A GRANT TO STUDY MICROPLASTICS IN THE WATER
- INSTALLED MAY 10, 2022 AT KINGS RD PARK
- FIRST CLEANOUT- 50 LBS. OF TRASH INCLUDING 21 BOTTLES AND 12 BALLS



UPCOMING CREEK CLEANUP EVENT

- SATURDAY JUNE 25 10:00AM-1 2:00PM
- PALMER PARK
 - 418 E. WARREN ST.
- FOR MORE INFORMATION CONTACT
STORMWATER@CITYOFSHELBY.COM OR
704-669-2064



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C. 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.

A reminder that it has been past practice of City Council to only listen to public comment without reply except to refer citizens with requests and concerns to the Office of the City Manager so that they may be addressed in a timely fashion or included on a future agenda for consideration by Council. If this is warranted and directed by City Council.

City of Shelby
Agenda Item Summary
June 20, 2022
City Hall Council Chamber

D. Public Hearings:

Agenda Item: D-1

- 1) Consideration of a proposed ordinance amending the zoning map of the City of Shelby, North Carolina (301 N. Post Road): Ordinance No. 38-2022

Presenting: (Walter Scharer, Planning Director)

Summary of Available Information:

- Memorandum dated June 6, 2022 from Walter Scharer, Planning Director to Rick Howell, City Manager
- General Application
- Staff Report
- Location Map and Zoning Map of 301 N. Post Road
- Certified Recommendation
- Notice of Public Hearing
- Planning and Zoning Board Minutes
- Ordinance No. 38-2022

City Manager's Recommendation / Comments

This time is scheduled on the agenda for City Council to conduct the required public hearing in accordance with the NC General Statutes. 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. 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. City Council has adopted plans and established an advisory board for the purposes of providing reasonable guidance in the decision-making process.

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

See Next Page

City of Shelby
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City Hall Council Chamber

§ 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. 38-2022



Memorandum

To: Rick Howell - City Manager
From: Walter Scharer – Planning Director
Date: June 6, 2022
Subject: Requested zoning map amendment Elizabeth Baptist Church

Executive Summary of Issue – Background

Applicant, Gaston Christian School, is proposing a zoning change on this property to establish an elementary and secondary school.

Review and Comments

The property is currently zoned R10 and the applicant has proposed R10-CZ in order to relieve some of the setback requirements. No building footprint change is associated with this project. 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. In addition, the proposed zoning map amendment is consistent with the current land uses densities in the area. The Planning and Zoning Board recommends this proposed zoning amendment.

Please schedule a legislative public hearing for this proposed zoning amendment at the next City Council meeting on June 20, 2022.

Attachments: Application, Staff Report, Zoning Map, Location Map. Future Land Use Map, Notice of Public Hearing, Planning and Zoning Board May19, 2022 minutes, Certified P&Z Recommendation, and Ordinance



City of Shelby
Planning and Development Services Department

General Application

Address of Subject Property:

Elizabeth Baptist Church
301 N. Post Rd.
Shelby NC 28152

Applicant(s) Name: Gaston Christian School, Inc.

Address: 11625 Lowell Bethesda Rd.

Gastonia NC 28056

Email: mstout@gastonchristian.org

Phone: 704-349-5020

Owner(s) Name: Elizabeth Baptist Church

Email: rit@elizabethchurch.org

Phone: 704-482-6339

Relationship to Property: Owner Developer, Contractor, etc. Other: Tenant/Lessee

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: _____

Proposed Zoning: R10 C2

Proposed Land Use: School + Church

Previous Use: _____

Approx. Building Sq. Ft.: _____

Approx. Project Acreage: _____

Business Name: Gaston Christian School - shelby campus

Construction Sq. Ft.: N/A

Valuation: N/A

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

Gaston Christian School will lease classroom space, office space, storage and common areas to operate K-5 satellite campus on weekdays corresponding to the established school calendar. - See Attachment A -

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.

Marc Stewart
Signature of Applicant

4-19-22
Date

Received by: _____

_____ Date

(E) Screening

Screening shall be provided in accordance with the requirements of Article XIV, Section 14-10. However, if a berm is determined to be an adequate alternative screening method as provided for in Section 14-4.2(G)(4) the minimum height of the berm shall be six feet.

* 11-1.28 Elementary or Secondary School

(A) Where Development Standards Are Required

All districts.

(B) ~~Use Separation~~

Does Not Apply

~~Fifty feet minimum from any property line; three hundred feet minimum from any residence.~~

(C) Minimum Area

Minimum lot size shall be 3 acres.

(D) Access

Principal access shall be from a collector or higher capacity street. All unpaved areas shall be maintained in a manner which prevents dust from leaving the property.

(E) Screening

All off-street parking lots shall be screened from all adjoining single-family residential uses by a buffer yard. The required buffer yard shall comply with the requirements of Section 14-5.2.

(F) Dust

All unpaved parking and storage areas shall be maintained in a manner that prevents dust from adversely impacting adjacent properties.

11-1.29 Existing Detached Garage Apartment

(A) Where Development Standards Are Required

R20, R10, R8, R6, R0 districts.

(B) General

The detached garage apartment shall be on the same lot with a principal single-family dwelling unit. No detached garage apartment shall be permitted on the same buildable lot with a two-family dwelling, multi-family dwelling, or

* We agree to abide by the rules in Section 11-1-28
except for item B-

Arman Stewart

4-19-22

Staff Report



To: Shelby Planning & Zoning Board
From: Walter Scharer
Planning Director

Date: May 16, 2022
Meeting: May 19, 2022
File: #

OWNER: Elizabeth Baptist Church

APPLICANT: Gaston Christian School, Inc.

LOCATION: 301 North Post Road

PARCEL ID #s: 24146

PRESENT ZONING: R10

REQUESTED ZONING: R10 CZ

SURROUNDING ZONING: R10 & GB 2

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

ANALYSIS: The subject property is currently home to the Elizabeth Baptist Church. The applicant wishes to convert the existing family life center into an area for a school. However, according to the development standards for a school a 300 foot setback is required from any residence and a 50 foot setback from any property line. The current structure is 70 feet from the nearest residential structure. The applicant is requesting R10CZ designation that would eliminate setbacks found in the development standards. All other development standards will continue to apply. Water and Sewer is available.

The elementary or secondary school development standards are as follows:

- (A) **Where development standards are required.** All districts.
- (B) **Use separation.** Fifty feet minimum from any property line; 300 feet minimum from any residence.
- (C) **Minimum area.** Minimum lot size shall be three acres.
- (D) **Access.** Principal access shall be from a collector or higher capacity street. All unpaved areas shall be maintained in a manner which prevents dust from leaving the property.
- (E) **Screening.** All off-street parking lots shall be screened from all adjoining single-family residential uses by a buffer yard. The required buffer yard shall comply with the requirements of subsection 14-5.2.
- (F) **Dust.** All unpaved parking and storage areas shall be maintained in a manner that prevents dust from adversely impacting adjacent properties.

STAFF COMMENTS: The Comprehensive Land Use Plan designates this site as a medium-density residential area. This proposal is consistent with the Comprehensive Land Use Plan. Staff recommends this proposed zoning change.



Location Map

301 North Post Road

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

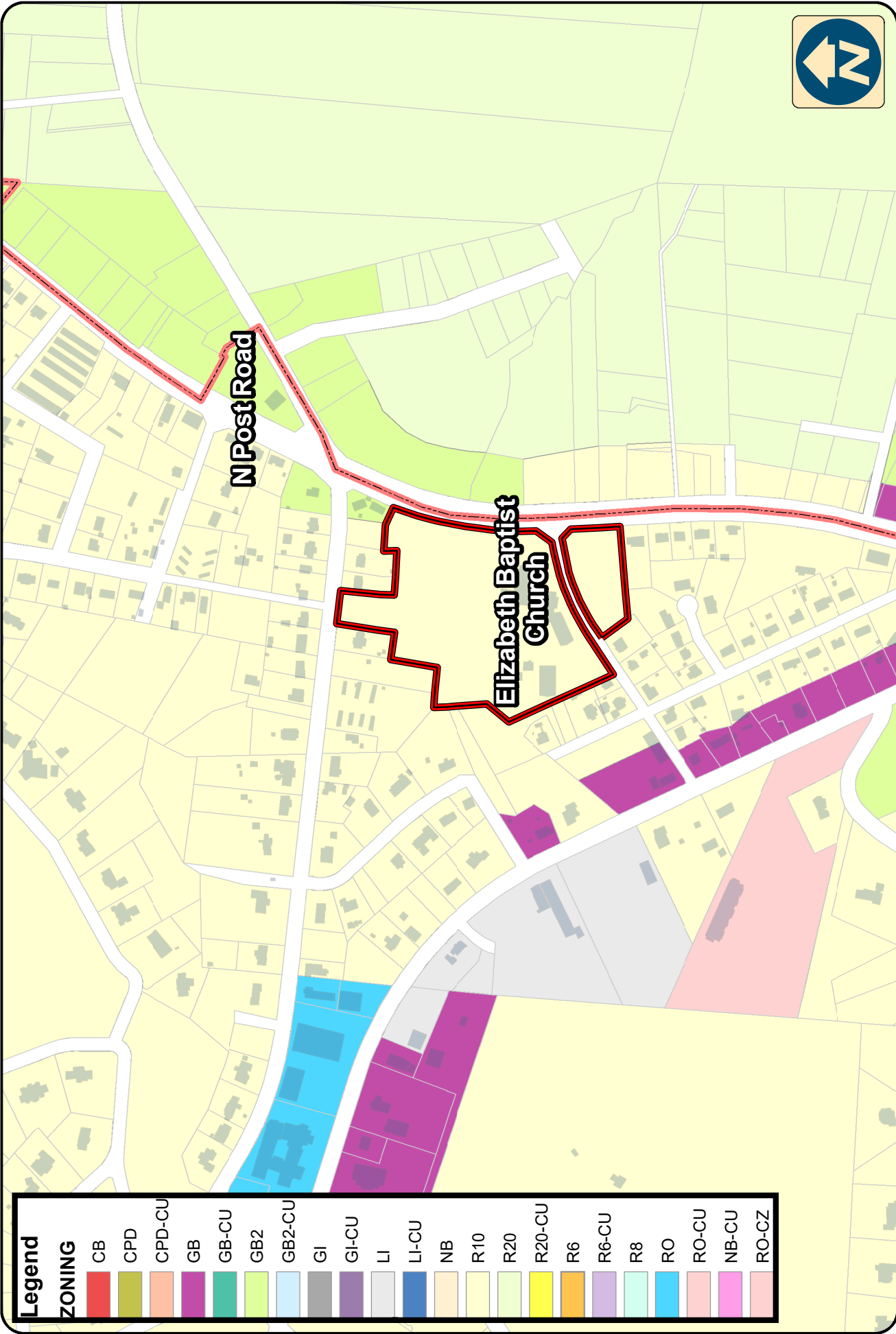


Date: 5/17/2022



Zoning Map 301 North Post Road

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



| 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-Blue] |
| LI | [Light Grey] |
| LI-CU | [Blue] |
| NB | [Light Orange] |
| R10 | [Light Yellow] |
| R20 | [Light Green] |
| R20-CU | [Yellow] |
| R6 | [Orange] |
| R6-CU | [Purple] |
| R8 | [Light Green] |
| RO | [Light Blue] |
| RO-CU | [Light Orange] |
| NB-CU | [Pink] |
| RO-CZ | [Light Orange] |



Scale 1:6,000 1 inch = 500 feet 0 250 500 1,000 Feet Date: 5/17/2022



Certified Recommendation

City of Shelby Planning & Zoning Board

Amendment: A Zoning Map Amendment for property located at 301 N Post Road PIN # 24146: from Residential 10 (R10) zoning district to Residential 10 Conditional Zoning (R10-CZ) zoning district.

Recommendation: **The Planning and Zoning Board recommends approval of the proposed zoning map amendment for property located at 301 N Post Road PIN # 24146: from Residential 10 (R10) zoning district to Residential 10 Conditional Zoning (R10-CZ) zoning district.**

Findings &

Reasons:

1. The proposed zoning map amendment is consistent with the Comprehensive Land Use Plan.
2. The proposed zoning map amendment does not injure neighboring properties.

Motion: Mr. Royster made the motion to recommend approval of this proposed zoning map amendment from Residential 10 (R10) zoning district to Residential 10 Conditional Zoning (R10-CZ) zoning district.

Second: Mr. Cabaniss

Action: This motion passed unanimously.

Signatures: Walter Scharer
Planning and Development Director

Mark Carter
Planning and Zoning Board Chair

Date: 5/19/2022

Date: 5/19/2022

NOTICE OF PUBLIC HEARING 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, June 20, 2022, at 300 South Washington Street. City Council will consider a proposed zoning map amendment from Residential 10 (R10) to Residential 10 Conditional Zoning (R10-CZ) Zoning District for property located at 301 N Post Road with the Cleveland County Parcel Number 24146.

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.

Carol Williams
City Clerk

The Shelby Star:

Please publish this notice as a legal line ad on Friday, June 10, 2022 and again on Friday, June 17, 2022.

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



CITY OF SHELBY PLANNING AND ZONING BOARD MINUTES
May 19, 2022
Shelby-Cleveland County Regional Airport

Item 1. Call to Order/Roll Call

Mr. Carter called the meeting to order at 12:15 PM and noted that a quorum was present.

Board Present: Emanuel Hunt, Charles Hamrick, Bob Cabaniss, Mike Royster, Scott Bankhead, David Causby and Mark Carter.

Staff Present: Walter Scharer, Planning Director and Alan Toney, Senior Planner

Item 2. Approval of the April 21, 2022, Minutes

The minutes were approved as submitted.

Item 3. Reasonableness Statement Discussion

Mr. Toney gave a presentation concerning Statements of Reasonableness from 160D, why they are important, and gave examples of how they are used in motions. A statement of reasonableness is a statement based upon one or more of 4 different factors which shows that any recommendation is appropriate. This shows if a rezoning is logical and appropriate, and it also helps the City Council understand why The Planning and Zoning Board recommends or does not recommend a zoning map amendment. The 4 factors are as follows:

- The size, physical conditions, and other attributes of the area proposed to be rezoned.
- The Benefits and Detriments to the landowners, neighbors, and the surrounding community.
- The relationship between the current actual and allowable development of the tract and adjoining areas and the development that would be allowed under the proposed amendment.
- If the rezoning is in the public interest.

Mr. Toney also fielded questions from the board.

Item 4. Philbeck Street – Conditional Zoning Map Amendment

Mr. Toney gave this presentation. The subject property is currently vacant and approximately 1.2 acres in size. The applicant wishes to rezone the property to R6 conditional zoning for a townhome development. Water and Sewer is available. Attached is the site plan for the proposed development with 25 proposed home sites. Mr. Toney reviewed the proposed concept plan and any potential upgrades to Philbeck Street to ensure safe traffic flow with the board.

The R6 District is primarily intended to accommodate a variety of high-density residential types. Public water and sewer service is generally available in areas zoned as R6. Nonresidential uses permitted within this district include customary accessory, recreational, educational, and institutional land uses that are compatible with the high-density residential character of the R6 District.

Motion: Mr. Hamrick made the motion to recommend approval of the proposed Zoning Map Amendment due to the size and physical conditions of the site.

Second: Mr. Bankhead **For:** Unanimous

Item 5. Seattle Street – Conditional Zoning Map Amendment

Mr. Toney gave this presentation. The current owner wishes to build a single-family subdivision. The subject property is currently vacant and approximately 31 acres in size. The applicant wishes to rezone the property to R6 conditional zoning for a high-density single-family subdivision. The proposed subdivision will be a cluster development for lots with a minimum lot size of 6,000 square feet. Water and Sewer is available. Attached is a site plan of the proposed development with 87 proposed home sites. If the new zoning is approved the subdivision will have to go through the major subdivision process. Mr. Toney reviewed the site and answered questions from the board.

The R6 District is primarily intended to accommodate a variety of high-density residential types. Public water and sewer service is generally available in areas zoned as R6. Nonresidential uses permitted within this district include customary accessory, recreational, educational, and institutional land uses that are compatible with the high-density residential character of the R6 District.

Motion: Mr. Royster made the motion to recommend approval of the proposed Zoning Map Amendment due to the size of the site that lends itself well for residential development.

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

Item 6. Elizabeth Baptist Church (Gaston Christian School) – Conditional Zoning Map Amendment

Mr. Toney gave this presentation. The subject property is currently home to the Elizabeth Baptist Church. The applicant wishes to convert the existing family life center into an area for an elementary and/or secondary school. However, according to the development standards for a school a 300-foot setback is required from any residence and a 50-foot setback from any property line. The current structure is 70 feet from the nearest residential structure. The applicant is requesting R10-CZ designation that would eliminate setbacks found in the development standards. All other development standards will continue to apply. Water and Sewer is available.

The elementary or secondary school development standards are as follows:

- (A) **Where development standards are required.** All districts.
- (B) **Use separation.** Fifty feet minimum from any property line; 300 feet minimum from any residence.
- (C) **Minimum area.** Minimum lot size shall be three acres.
- (D) **Access.** Principal access shall be from a collector or higher capacity street. All unpaved areas shall be maintained in a manner which prevents dust from leaving the property.
- (E) **Screening.** All off-street parking lots shall be screened from all adjoining single-family residential uses by a buffer yard. The required buffer yard shall comply with the requirements of subsection 14-5.2.
- (F) **Dust.** All unpaved parking and storage areas shall be maintained in a manner that prevents dust from adversely impacting adjacent properties.

Motion: Mr. Royster made the motion to recommend approval of the proposed Zoning Map Amendment due to the lack of negative impacts on the adjacent property owners.

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

Item 7. Lake George Drive – Major Subdivision

Mr. Toney gave this presentation. The 11.5 acre in total area is currently undeveloped. This is part of the former Hallelujah Acres Development. Mr. Toney reviewed the subdivision plan with the board members and answered questions from the board.

This is an RO-CU, which was originally part of the Hallelujah Acres Development and is part of the Kingsview Subdivision. This subdivision was the “Estate Lot” section of Hallelujah Acres and was originally 22 lots. The new developer would like to increase the number of lots from 22 to 37. This project uses existing streets installed during the Hallelujah Acres project; however, a sewer extension is required to serve lots 4, 15B, and 16. The developer will pay The City of Shelby to resurface Lake George Drive and install a greenway path on the lots designated “open space/greenway reservation area.”

Motion: Mr. Hunt made the motion to approve this major subdivision based on staff’s recommendation.

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

Item 8. **Announcements**

Mr. Toney gave a rundown on ongoing and future developments within The City of Shelby.

Item 9. **Motion to adjourn.**

Chair Carter adjourned the meeting at 12:55 pm.

Walter Scharer

Respectfully Submitted
Walter Scharer, Planning Director

DRAFT

ORDINANCE NO. 38-2022

**A PROPOSED ORDINANCE AMENDING THE ZONING MAP OF
THE CITY OF SHELBY, NORTH CAROLINA AT 301 N POST ROAD**

WHEREAS, the City of Shelby has received an application requesting the rezoning of property at 301 N Post Road 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 June 20th 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 reasonable due to the lack of negative impacts on adjacent properties.

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), 301 N Post Road is hereby amended from R10 Zoning District to Residential 10 Conditional Zoning District. Said area of zoning is more fully described as the parcel listed by the Cleveland County Tax Office as Parcel Identification Number 24146.

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. The parcels amended by this ordinance are subject to the following conditions:

1. **Minimum area.** Minimum lot size shall be three acres.
2. **Access.** Principal access shall be from a collector or higher capacity street. All unpaved areas shall be maintained in a manner which prevents dust from leaving the property.
3. **Screening.** All off-street parking lots shall be screened from all adjoining single-family residential uses by a buffer yard. The required buffer yard shall comply with the requirements of subsection 14-5.2.
4. **Dust.** All unpaved parking and storage areas shall be maintained in a manner that prevents dust from adversely impacting adjacent properties.

Section 6. This ordinance shall become effective upon its adoption and approval.

ADOPTED AND APPROVED this the 20th day of June 2022.

O. Stanhope Anthony III
Mayor

ATTEST:

Carol Williams
City Clerk

APPROVED AS TO FORM:

Andrea Fite
City Attorney

City of Shelby
Agenda Item Summary
June 20, 2022
City Hall Council Chamber

Agenda Item: D-2

- 2) Consideration of a proposed ordinance amending the zoning map of the City of Shelby, North Carolina (Philbeck Street): Ordinance No. 39-2022

Presenting: (Walter Scharer, Planning Director)

Summary of Available Information:

- Memorandum dated June 6, 2022 from Walter Scharer, Planning Director to Rick Howell, City Manager
- General Application
- Staff Report
- Location Map and Zoning Map of Philbeck Street
- Certified Recommendation
- Notice of Public Hearing
- Planning and Zoning Board Minutes
- Ordinance No. 39-2022

City Manager's Recommendation / Comments

This time is scheduled on the agenda for City Council to conduct the required public hearing in accordance with the NC General Statutes. 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. 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. City Council has adopted plans and established an advisory board for the purposes of providing reasonable guidance in the decision-making process.

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

See Next Page

City of Shelby
Agenda Item Summary
June 20, 2022
City Hall Council Chamber

§ 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. 39-2022



Memorandum

To: Rick Howell - City Manager
From: Walter Scharer – Planning Director
Date: June 6, 2022
Subject: Requested zoning map amendment on Philbeck Street

Executive Summary of Issue – Background

Applicant, Caleb Peeler, PE, is proposing a zoning change on this property to develop townhouses.

Review and Comments

The property is currently zoned R8 and the applicant has proposed R6-CZ. The Comprehensive Land Use Plan for this area designates the site as a mixed use area.

Recommendation

This proposed zoning map amendment is consistent with the Comprehensive Land Use Plan. In addition, the proposed zoning map amendment is consistent with the current land uses densities in the area. The Planning and Zoning Board recommends this proposed zoning amendment.

Please schedule a legislative public hearing for this proposed zoning amendment at the next City Council meeting on June 20, 2022.

Attachments: Application, Staff Report, Zoning Map, Location Map. Future Land Use Map, Notice of Public Hearing, Planning and Zoning Board May19, 2022 minutes, Certified P&Z Recommendation, and Ordinance



City of Shelby
Planning and Development Services Department

General Application

Address of Subject Property:

Philbeck Street

Applicant(s) Name: Caleb Peeler, PE
Address: 211 Patton Drive
Shelby, NC 28150
Email: caleb.peeler@protonmail.com
Phone: (704) 692-4212

Owner(s) Name: Huss Brothers Investments, Inc.
Email: hussboring@yahoo.com
Phone: (704) 300-2820

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

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

Project Information (Fill in applicable information):
Parcel Number: 23062
Proposed Zoning: R6-CZ
Proposed Land Use: Multifamily Development
Previous Use: Vacant
Approx. Building Sq. Ft.: 1,000
Approx. Project Acreage: 1.2 ac
Business Name: Huss Brothers Investments, Inc.
Construction Sq. Ft.: 25,000
Valuation:

Provide a detailed description of the proposed project. Attach additional pages or documentation if necessary.
The purpose of this project is to construct 25 apartment units on a 1.2 acre parcel previously vacant.

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.

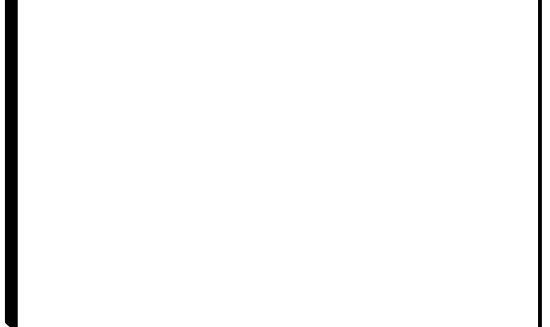
Caleb Peeler
Signature of Applicant

05/17/2022
Date

Received by:

Date

PELER ENGINEERING, PLLC
 704.892.4212
 211 Patton Drive
 Shelby, NC 28156

| REV | REVISION DESCRIPTION | DATE |
|-----|----------------------|------|
| | | |
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| | | |

| DATE | DESCRIPTION | DATE | DESCRIPTION |
|----------|-----------------|----------|-------------------|
| 04/28/22 | DESIGN BY: CLP | 04/28/22 | FOR PERMIT REVIEW |
| 04/28/22 | DRAWN BY: CLP | 04/28/22 | CLP |
| 04/28/22 | CHECKED BY: CLP | 04/28/22 | CLP |

PHILBECK STREET
 DEVELOPMENT
 CITY OF SHELBY, NORTH CAROLINA
 Site Plan

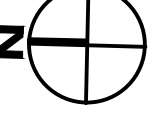
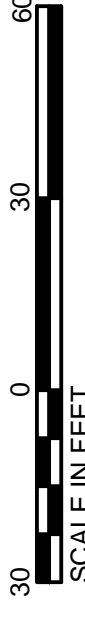


JOB NO: 0001005
 DATE: 04/28/2022
 SHEET C200

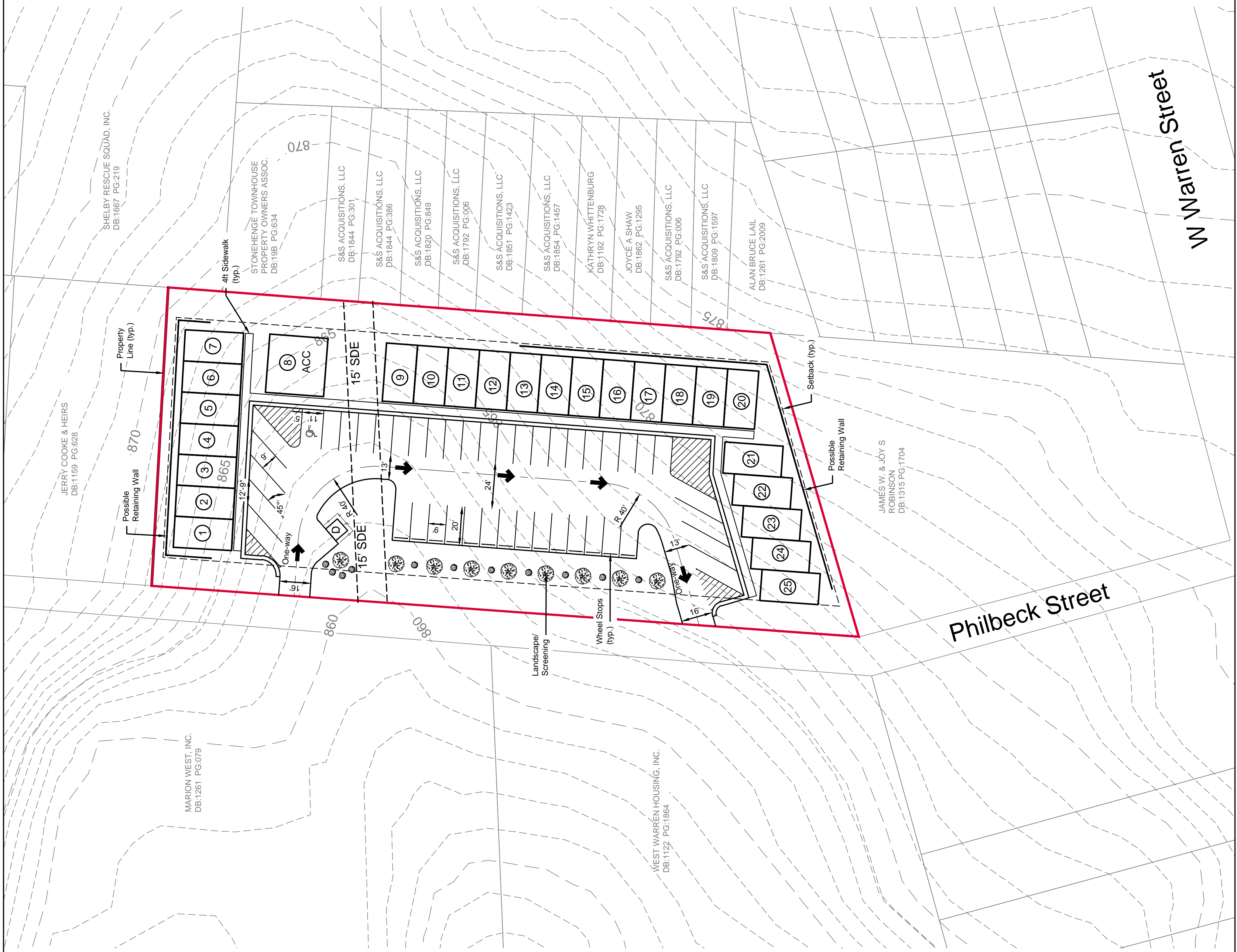
Development Data

Parcel Number: 23062
 PIN: 2537609799
 Deed Book/page: 1731/1890
 Site Area: 1.19 acres
 Proposed Disturbed Area: < 1.0 acres
 Proposed Impervious Area: 0.75 acres
 Existing Zoning: R8 Residential
 Existing Use: Vacant
 Proposed Use: R6-CZ
 Proposed No. of Units: 25
 Proposed Density: 21.0 d.u./ac
 Proposed Acc. Units: 1 (1-story)
 Parking Spaces Required: 44
 Parking Spaces Provided: 44
 Acc. Parking Provided: 1
 Vehicular Parking Area: 16,052 ft²
 Landscape Trees Required: 9
 Landscape Trees Provided: 9
 Additional Shrubs Provided: 11

Min. Building Setbacks:
 Front: 15
 Side: 5
 Corner: 15
 Rear: 15
 Max Building Height: 35 ft

SCALE IN FEET



Staff Report



To: Shelby Planning & Zoning Board
From: Walter Scharer
Planning Director

Date: May 16, 2022
Meeting: May 19, 2022
File: #

OWNER: Huss Brother Investment

APPLICANT: Caleb Peeler

LOCATION: Philbeck Street

PARCEL ID #s: 23062

PRESENT ZONING: R8

REQUESTED ZONING: R6 CZ

SURROUNDING ZONING: R6 and R6CZ

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

ANALYSIS: The subject property is currently vacant and approximately 1.2 acres in size. The applicant wishes to rezone the property to R6 conditional zoning for a townhome development. Water and Sewer is available. Attached is a the site plan for the proposed development with 24 proposed home sites.

The R6 District is primarily intended to accommodate a variety of high-density residential types. Public water and sewer service is generally available in areas zoned as R6. Nonresidential uses permitted within this district include customary accessory, recreational, educational, and institutional land uses that are compatible with the high-density residential character of the R6 District.

STAFF COMMENTS: The Comprehensive Land Use Plan designates this site as a medium-density residential area. This proposal is inconsistent with the Comprehensive Land Use Plan, however, the proposal is consistent with the development patterns in the area. Staff recommends this proposed zoning change.



Location Map

Philbeck 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



Scale 1:3,000 1 inch = 250 feet

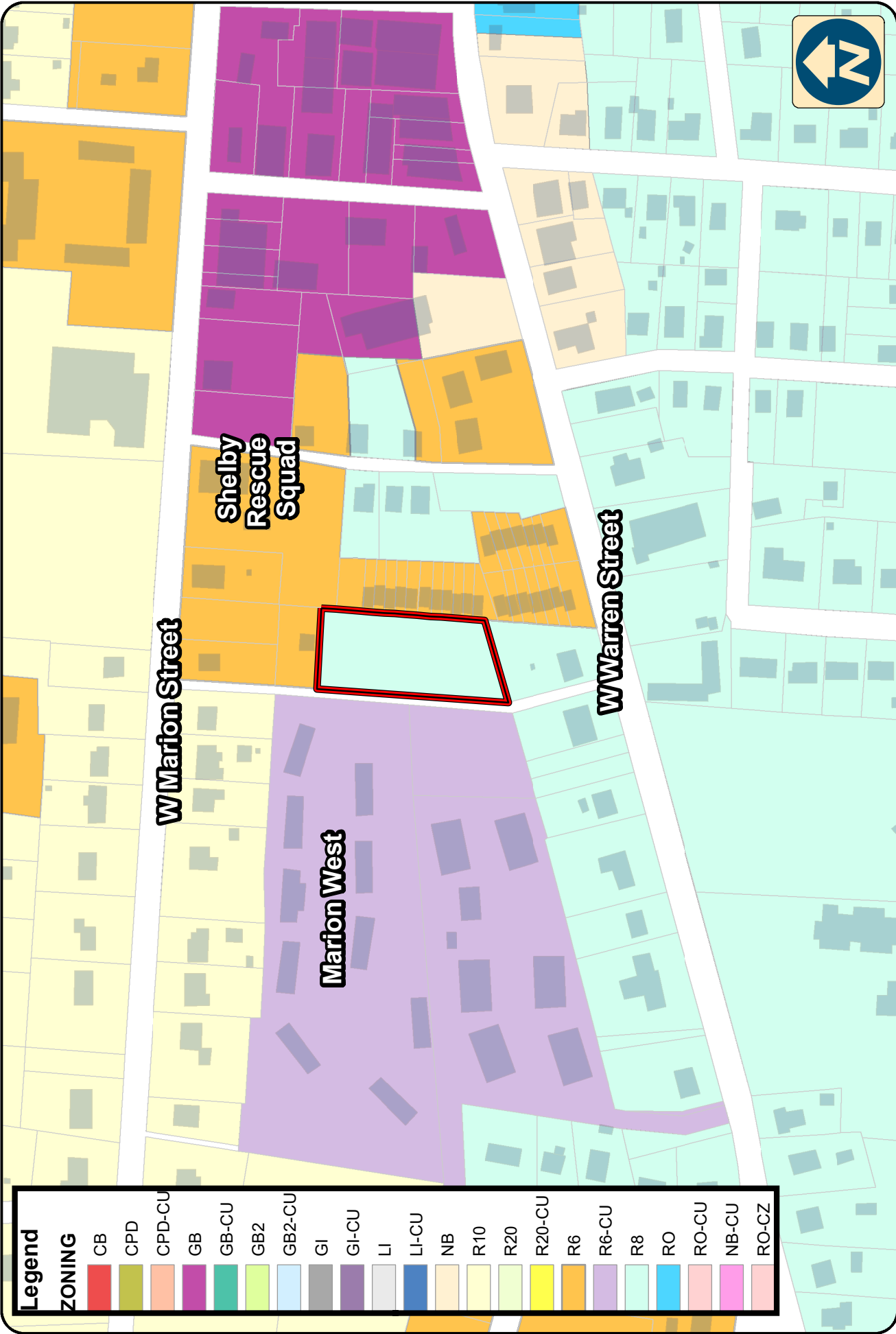


Date: 5/17/2022



Zoning Map Philbeck 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



| 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 | [Dark 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 | [Blue] |
| RO-CU | [Light Orange] |
| NB-CU | [Pink] |
| RO-CZ | [Light Orange] |



Date: 5/17/2022

500 Feet

250

0

1 inch = 250 feet

Scale 1:3,000



Certified Recommendation

City of Shelby Planning & Zoning Board

Amendment: A Zoning Map Amendment for property located on Philbeck Street with PIN # 23062: from Residential 8 (R8), to Residential 6 Conditional Zoning (R6-CZ) zoning district.

Recommendation: The Planning and Zoning Board recommends approval of the proposed zoning map amendment for property located on Seattle Street with PIN # 23062: from Residential 8 (R8), to Residential 6 Conditional Zoning (R6-CZ) zoning district.

Findings &

Reasons:

1. This proposed zoning map amendment is consistent with the Comprehensive Land Use Plan.
2. The proposed zoning map amendment is consistent with the current land uses densities in the area.

Motion: Mr. Hamrick made the motion to recommend approval of this proposed zoning map amendment from Residential 8 (R8), to Residential 6 Conditional Zoning (R6-CZ) zoning district. This zoning map amendment is reasonable due to the size of the site that lends itself well for residential development.

Second: Mr. Bankhead.

Action: This motion passed unanimously.

Signatures: Walter Scharer
Planning and Development Director

Mark Carter
Planning and Zoning Board Chair

Date: 5/19/2022

Date: 5/19/2022

NOTICE OF PUBLIC HEARING 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, June 20, 2022, at 300 South Washington Street. City Council will consider a proposed zoning map amendment from Residential 8 (R8) to Residential 6 Conditional Zoning (R6-CZ) Zoning District for property located on Philbeck Street with the Cleveland County Parcel Number 23062.

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.

Carol Williams
City Clerk

The Shelby Star:

Please publish this notice as a legal line ad on Friday, June 10, 2022 and again on Friday, June 17, 2022.

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



CITY OF SHELBY PLANNING AND ZONING BOARD MINUTES
May 19, 2022
Shelby-Cleveland County Regional Airport

Item 1. Call to Order/Roll Call

Mr. Carter called the meeting to order at 12:15 PM and noted that a quorum was present.

Board Present: Emanuel Hunt, Charles Hamrick, Bob Cabaniss, Mike Royster, Scott Bankhead, David Causby and Mark Carter.

Staff Present: Walter Scharer, Planning Director and Alan Toney, Senior Planner

Item 2. Approval of the April 21, 2022, Minutes

The minutes were approved as submitted.

Item 3. Reasonableness Statement Discussion

Mr. Toney gave a presentation concerning Statements of Reasonableness from 160D, why they are important, and gave examples of how they are used in motions. A statement of reasonableness is a statement based upon one or more of 4 different factors which shows that any recommendation is appropriate. This shows if a rezoning is logical and appropriate, and it also helps the City Council understand why The Planning and Zoning Board recommends or does not recommend a zoning map amendment. The 4 factors are as follows:

- The size, physical conditions, and other attributes of the area proposed to be rezoned.
- The Benefits and Detriments to the landowners, neighbors, and the surrounding community.
- The relationship between the current actual and allowable development of the tract and adjoining areas and the development that would be allowed under the proposed amendment.
- If the rezoning is in the public interest.

Mr. Toney also fielded questions from the board.

Item 4. Philbeck Street – Conditional Zoning Map Amendment

Mr. Toney gave this presentation. The subject property is currently vacant and approximately 1.2 acres in size. The applicant wishes to rezone the property to R6 conditional zoning for a townhome development. Water and Sewer is available. Attached is the site plan for the proposed development with 25 proposed home sites. Mr. Toney reviewed the proposed concept plan and any potential upgrades to Philbeck Street to ensure safe traffic flow with the board.

The R6 District is primarily intended to accommodate a variety of high-density residential types. Public water and sewer service is generally available in areas zoned as R6. Nonresidential uses permitted within this district include customary accessory, recreational, educational, and institutional land uses that are compatible with the high-density residential character of the R6 District.

Motion: Mr. Hamrick made the motion to recommend approval of the proposed Zoning Map Amendment due to the size and physical conditions of the site.

Second: Mr. Bankhead **For:** Unanimous

Item 5. Seattle Street – Conditional Zoning Map Amendment

Mr. Toney gave this presentation. The current owner wishes to build a single-family subdivision. The subject property is currently vacant and approximately 31 acres in size. The applicant wishes to rezone the property to R6 conditional zoning for a high-density single-family subdivision. The proposed subdivision will be a cluster development for lots with a minimum lot size of 6,000 square feet. Water and Sewer is available. Attached is a site plan of the proposed development with 87 proposed home sites. If the new zoning is approved the subdivision will have to go through the major subdivision process. Mr. Toney reviewed the site and answered questions from the board.

The R6 District is primarily intended to accommodate a variety of high-density residential types. Public water and sewer service is generally available in areas zoned as R6. Nonresidential uses permitted within this district include customary accessory, recreational, educational, and institutional land uses that are compatible with the high-density residential character of the R6 District.

Motion: Mr. Royster made the motion to recommend approval of the proposed Zoning Map Amendment due to the size of the site that lends itself well for residential development.

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

Item 6. Elizabeth Baptist Church (Gaston Christian School) – Conditional Zoning Map Amendment

Mr. Toney gave this presentation. The subject property is currently home to the Elizabeth Baptist Church. The applicant wishes to convert the existing family life center into an area for an elementary and/or secondary school. However, according to the development standards for a school a 300-foot setback is required from any residence and a 50-foot setback from any property line. The current structure is 70 feet from the nearest residential structure. The applicant is requesting R10-CZ designation that would eliminate setbacks found in the development standards. All other development standards will continue to apply. Water and Sewer is available.

The elementary or secondary school development standards are as follows:

- (A) **Where development standards are required.** All districts.
- (B) **Use separation.** Fifty feet minimum from any property line; 300 feet minimum from any residence.
- (C) **Minimum area.** Minimum lot size shall be three acres.
- (D) **Access.** Principal access shall be from a collector or higher capacity street. All unpaved areas shall be maintained in a manner which prevents dust from leaving the property.
- (E) **Screening.** All off-street parking lots shall be screened from all adjoining single-family residential uses by a buffer yard. The required buffer yard shall comply with the requirements of subsection 14-5.2.
- (F) **Dust.** All unpaved parking and storage areas shall be maintained in a manner that prevents dust from adversely impacting adjacent properties.

Motion: Mr. Royster made the motion to recommend approval of the proposed Zoning Map Amendment due to the lack of negative impacts on the adjacent property owners.

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

Item 7. Lake George Drive – Major Subdivision

Mr. Toney gave this presentation. The 11.5 acre in total area is currently undeveloped. This is part of the former Hallelujah Acres Development. Mr. Toney reviewed the subdivision plan with the board members and answered questions from the board.

This is an RO-CU, which was originally part of the Hallelujah Acres Development and is part of the Kingsview Subdivision. This subdivision was the “Estate Lot” section of Hallelujah Acres and was originally 22 lots. The new developer would like to increase the number of lots from 22 to 37. This project uses existing streets installed during the Hallelujah Acres project; however, a sewer extension is required to serve lots 4, 15B, and 16. The developer will pay The City of Shelby to resurface Lake George Drive and install a greenway path on the lots designated “open space/greenway reservation area.”

Motion: Mr. Hunt made the motion to approve this major subdivision based on staff’s recommendation.

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

Item 8. **Announcements**

Mr. Toney gave a rundown on ongoing and future developments within The City of Shelby.

Item 9. **Motion to adjourn.**

Chair Carter adjourned the meeting at 12:55 pm.

Walter Scharer

Respectfully Submitted
Walter Scharer, Planning Director

DRAFT

ORDINANCE NO. 39-2022

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

WHEREAS, the City of Shelby has received an application requesting the rezoning of property at Philbeck Street 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 June 20th 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 due to the size and physical conditions of the site in relation to neighboring properties.

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), Philbeck Street is hereby amended from R8 Zoning District to Residential 6 Conditional Zoning District. Said area of zoning is more fully described as the parcel listed by the Cleveland County Tax Office as Parcel Identification Number 23062.

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. The parcels amended by this ordinance are subject to the following conditions:

1. This site must be developed in accordance with the submitted site plan.

Section 6. This ordinance shall become effective upon its adoption and approval.

ADOPTED AND APPROVED this the 20th day of June 2022.

O. Stanhope Anthony III
Mayor

ATTEST:

Carol Williams
City Clerk

APPROVED AS TO FORM:

Andrea Fite
City Attorney

City of Shelby
Agenda Item Summary
June 20, 2022
City Hall Council Chamber

Agenda Item: D-3

- 3) Consideration of a proposed ordinance amending the zoning map of the City of Shelby, North Carolina (Seattle Street): Ordinance No. 40-2022

Presenting: (Walter Scharer, Planning Director)

Summary of Available Information:

- Memorandum dated June 6, 2022 from Walter Scharer, Planning Director to Rick Howell, City Manager
- General Application
- Staff Report
- Location Map and Zoning Map of Seattle Street
- Certified Recommendation
- Notice of Public Hearing
- Planning and Zoning Board Minutes
- Ordinance No. 40-2022

City Manager's Recommendation / Comments

This time is scheduled on the agenda for City Council to conduct the required public hearing in accordance with the NC General Statutes. 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. 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 and established an advisory board for the purposes of providing reasonable guidance in the decision-making process.

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

See Next Page

City of Shelby
Agenda Item Summary
June 20, 2022
City Hall Council Chamber

§ 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. 40-2022



Memorandum

To: Rick Howell - City Manager
From: Walter Scharer – Planning Director
Date: June 6, 2022
Subject: Requested zoning map amendment on Seattle Street

Executive Summary of Issue – Background

Applicant, Don Peeler Reality, is proposing a zoning change on this property to develop a subdivision.

Review and Comments

The property is currently zoned R10 and the applicant has proposed R6-CZ. The Comprehensive Land Use Plan for this area designates the site as a low-density residential area.

Recommendation

This proposed zoning map amendment is inconsistent with the Comprehensive Land Use Plan. However, the proposed zoning map amendment is consistent with the current land uses densities in the area. The Planning and Zoning Board recommends this proposed zoning amendment.

Please schedule a legislative public hearing for this proposed zoning amendment at the next City Council meeting on June 20, 2022.

Attachments: Application, Staff Report, Zoning Map, Location Map. Future Land Use Map, Notice of Public Hearing, Planning and Zoning Board May19, 2022 minutes, Certified P&Z Recommendation, and Ordinance



City of Shelby
Planning and Development Services Department

General Application

Address of Subject Property:

Seattle Street

Applicant(s) Name: Caleb Peeler, PE

Address: 211 Patton Drive
Shelby, NC 28150

Email: caleb.peeler@protonmail.com

Phone: (704) 692-4212

Owner(s) Name: Don Peeler Realty, Inc.

Email: Donpeelernc@aol.com

Phone: (704) 913-1033

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

Request for (Check all that apply):

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

Project Information (Fill in applicable information):

Parcel Number: 49682

Proposed Zoning: R6-CZ

Proposed Land Use: Residential Subdivision

Previous Use: Agricultural

Approx. Building Sq. Ft.: 2,000

Approx. Project Acreage: 31.4 ac

Business Name: LGI Homes-NC, LLC

Construction Sq. Ft.: 182,000

Valuation: ~ \$3,500,000

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

The purpose of this project is to construct a residential subdivision consisting of 91 individual lots on a 31.38 acre parcel previously vacant.

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.

Caleb Peeler (handwritten signature)

Signature of Applicant

04/21/2022

Date

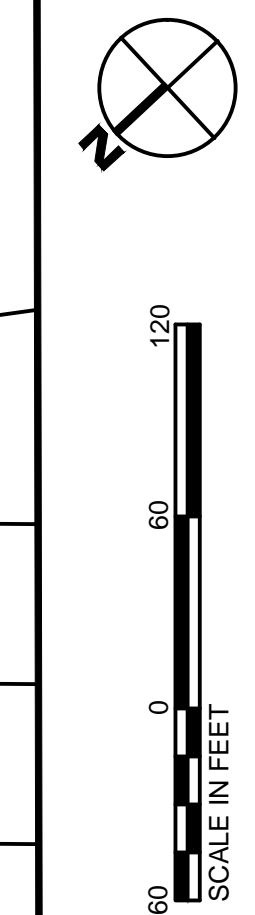
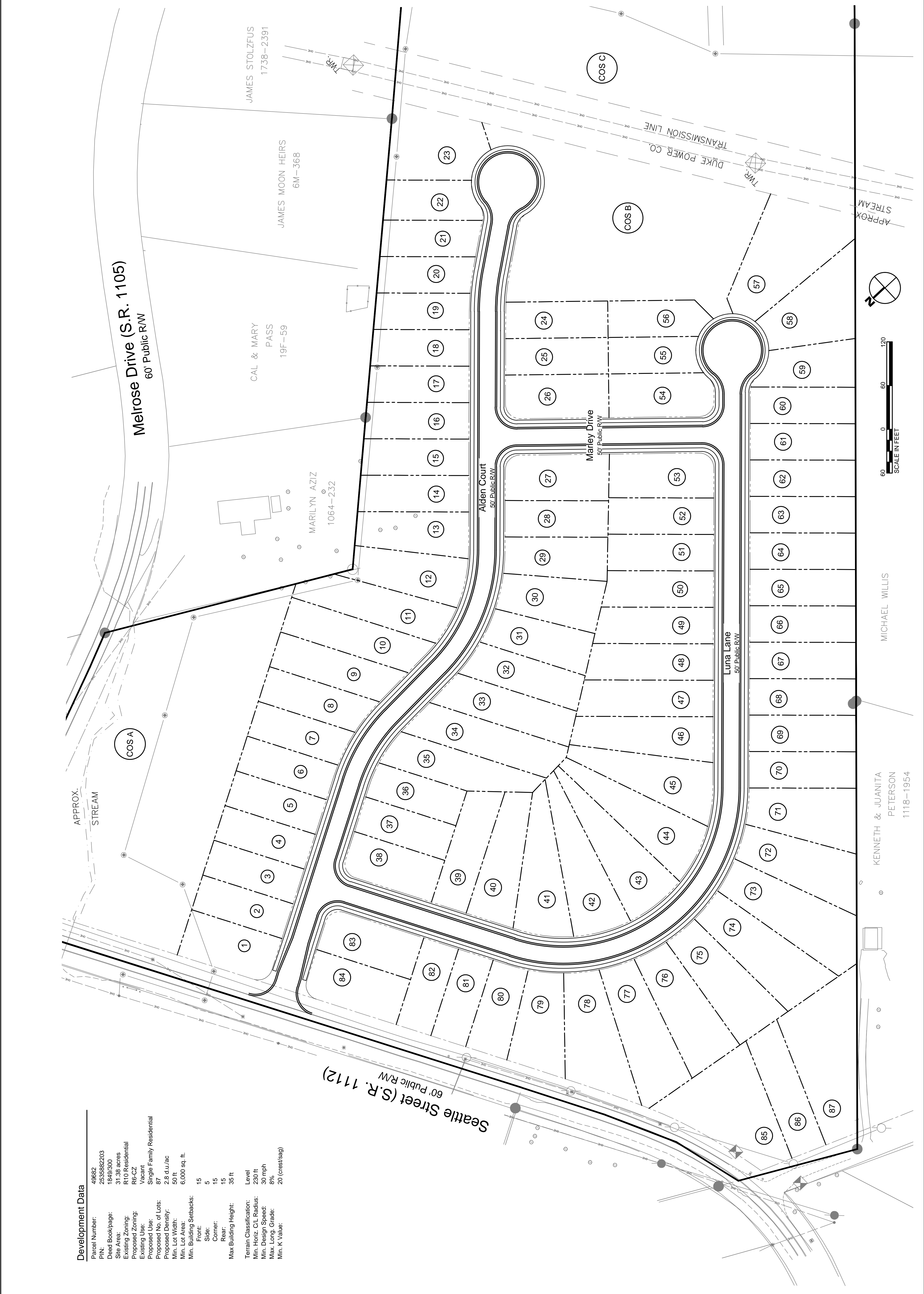
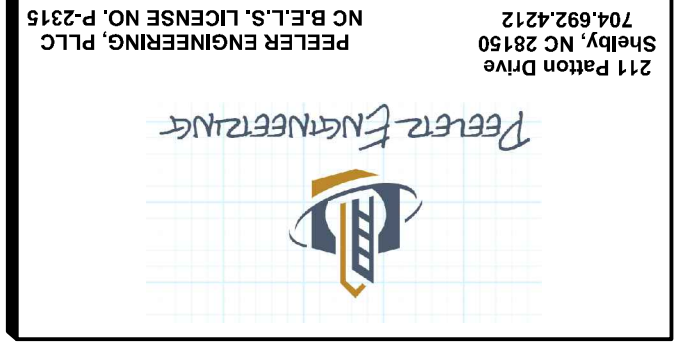
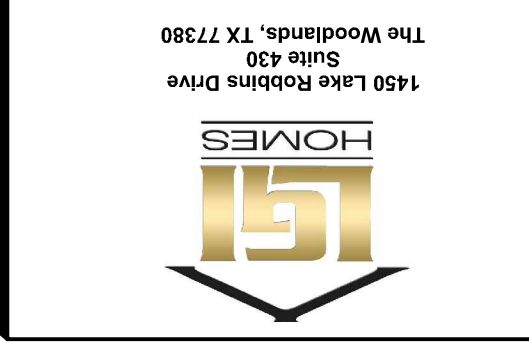
Received by:

Date

**SEATTLE CROSSING
 SUBDIVISION**
 CITY OF SHELBY, NORTH CAROLINA
 Site Plan

| DATE: | DESIGN BY: CLP | 06/16/22 |
|-------|-----------------------------------|----------|
| | DRAWN BY: CLP <td>05/16/22</td> | 05/16/22 |
| | CHECKED BY: CLP <td>06/16/22</td> | 06/16/22 |
| | | |

| ISSUE: | FOR PERMIT REVIEW | 04/07/22 | CLP | CLP |
|--------|---|-------------------------------------|------------------|-----|
| | ROADWAY LOOP <td>05/16/22 <td>CLP <td>CLP</td> </td></td> | 05/16/22 <td>CLP <td>CLP</td> </td> | CLP <td>CLP</td> | CLP |
| | | | | |



Development Data

Parcel Number: 49882
 PIN: 253582203
 Deed Book/page: 1849300
 Site Area: 31.38 acres
 Existing Zoning: R10 Residential
 Proposed Zoning: RP-CZ
 Existing Use: Vacant
 Proposed Use: Single Family Residential
 Proposed No. of Lots: 87
 Proposed Density: 2.8 d.u./ac
 Min. Lot Width: 50 ft
 Min. Lot Area: 6,000 sq. ft.
 Min. Building Setbacks:
 Front: 15
 Side: 5
 Corner: 15
 Rear: 15
 Max Building Height: 35 ft
 Level
 Terrain Classification: 230 ft
 Min. Horiz. C/I Radius: 30 ft
 Min. Design Speed: 30 mph
 Max. Long. Grade: 8%
 Min. K Value: 20 (crest/sag)

Staff Report



To: Shelby Planning & Zoning Board
From: Walter Scharer
Planning Director

Date: May 16, 2022
Meeting: May 19, 2022
File: #

OWNER: Don Peeler Realty

APPLICANT: Caleb Peeler

LOCATION: Seattle Street

PARCEL ID #s: 49682

PRESENT ZONING: R10

REQUESTED ZONING: R6 CZ

SURROUNDING ZONING:

R20 and RO

UTILITIES:

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

ANALYSIS: The subject property is currently vacant and approximately 31 acres in size. The applicant wishes to rezone the property to R6 conditional zoning for a high-density single-family subdivision. The proposed subdivision will be a cluster development for lots with a minimum lot size of 6,000 square feet. Water and Sewer is available. Attached is a site plan of the proposed development with 87 proposed home sites. If the new zoning is approved the subdivision will have to go through the major subdivision process.

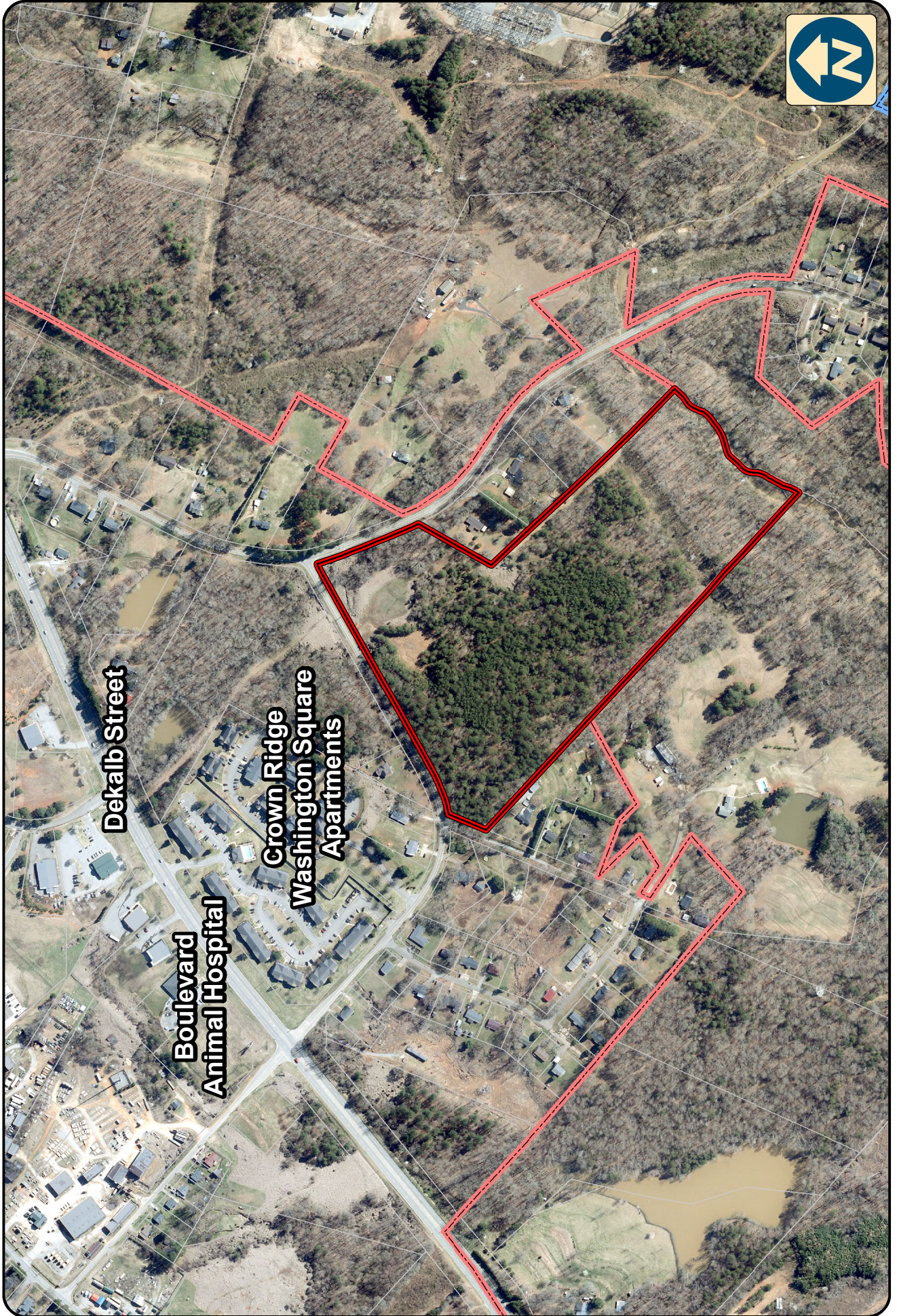
The R6 District is primarily intended to accommodate a variety of high-density residential types. Public water and sewer service is generally available in areas zoned as R6. Nonresidential uses permitted within this district include customary accessory, recreational, educational, and institutional land uses that are compatible with the high-density residential character of the R6 District.

STAFF COMMENTS: The Comprehensive Land Use Plan designates this site as a low-density residential area. This proposal is consistent with the Comprehensive Land Use Plan when tied to the proposed site plan. Staff recommends this proposed zoning change.



Location Map Seattle 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



Scale 1:6,000 1 inch = 500 feet

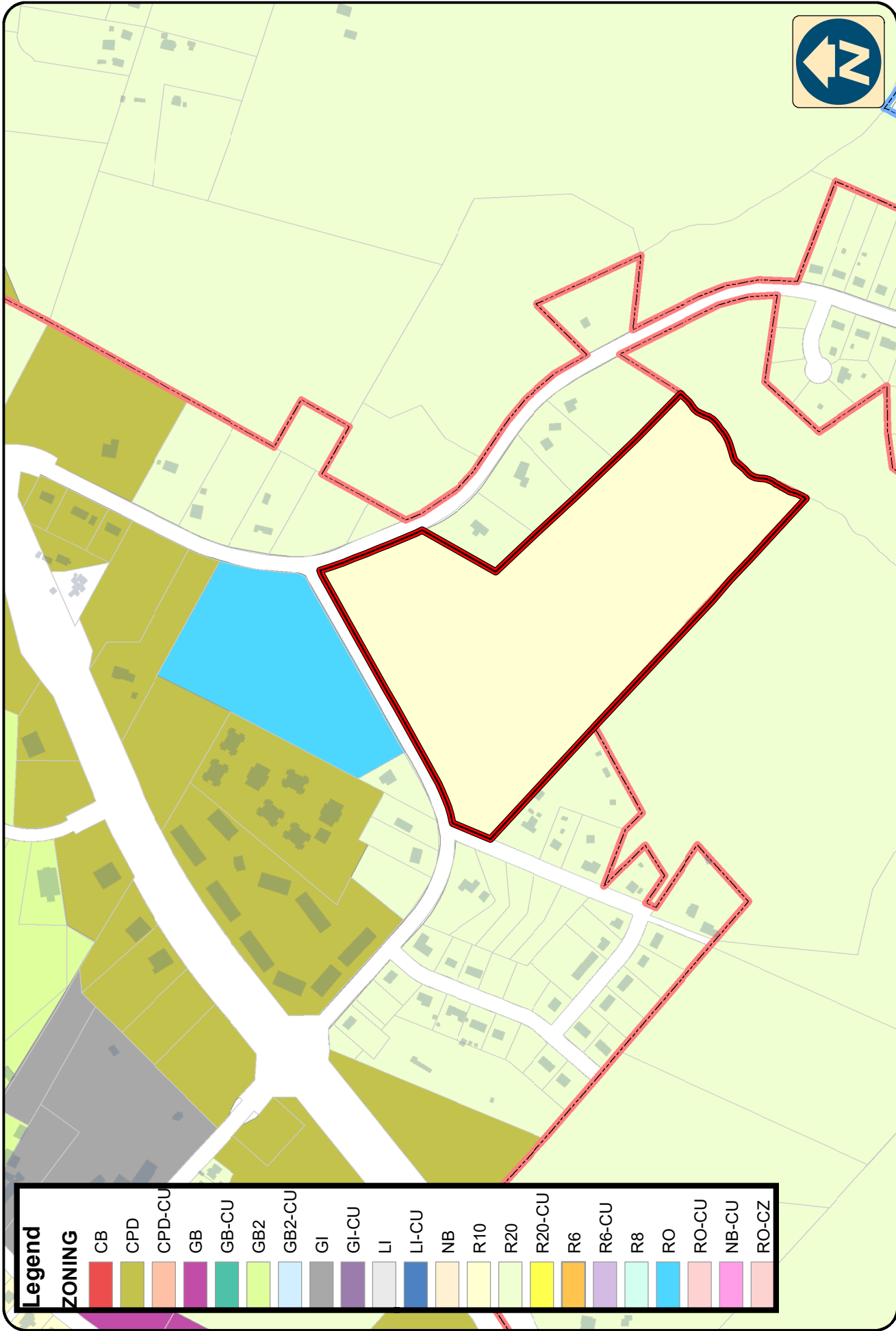


Date: 5/17/2022



Zoning Map Seattle 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



| 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] |

Date: 5/17/2022

1,000 Feet

500

250

0

Scale 1:6,000 1 inch = 500 feet

49



Certified Recommendation

City of Shelby Planning & Zoning Board

Amendment: A Zoning Map Amendment for property located on Seattle Street with PIN # 49682: from Residential 10 (R10), to Residential 6 Conditional Zoning (R6-CZ) zoning district.

Recommendation: The Planning and Zoning Board recommends approval of the proposed zoning map amendment for property located on Seattle Street with PIN # 49682: from Residential 10 (R10), to Residential 6 Conditional Zoning (R6-CZ) zoning district.

Findings &

Reasons:

1. This proposed zoning map amendment is inconsistent with the Comprehensive Land Use Plan. However, the proposal is consistent with the land use densities in the area.
2. The proposed zoning map amendment is consistent with the current land uses densities in the area.

Motion: Mr. Royster made the motion to recommend approval of this proposed zoning map amendment from Residential 10 (R10), to Residential 6 Conditional Zoning (R6-CZ) zoning district. This zoning map amendment is reasonable due to the size of the site that lends itself well for residential development.

Second: Mr. Bankhead.

Action: This motion passed unanimously.

Signatures: Walter Scharer
Planning and Development Director

Mark Carter
Planning and Zoning Board Chair

Date: 5/19/2022

Date: 5/19/2022

NOTICE OF PUBLIC HEARING 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, June 20, 2022, at 300 South Washington Street. City Council will consider a proposed zoning map amendment from Residential 10 (R10) to Residential 6 Conditional Zoning (R6-CZ) Zoning District for property located on Seattle Street with the Cleveland County Parcel Number 49682.

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.

Carol Williams
City Clerk

The Shelby Star:

Please publish this notice as a legal line ad on Friday, June 10, 2022 and again on Friday, June 17, 2022.

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



CITY OF SHELBY PLANNING AND ZONING BOARD MINUTES
May 19, 2022
Shelby-Cleveland County Regional Airport

Item 1. Call to Order/Roll Call

Mr. Carter called the meeting to order at 12:15 PM and noted that a quorum was present.

Board Present: Emanuel Hunt, Charles Hamrick, Bob Cabaniss, Mike Royster, Scott Bankhead, David Causby and Mark Carter.

Staff Present: Walter Scharer, Planning Director and Alan Toney, Senior Planner

Item 2. Approval of the April 21, 2022, Minutes

The minutes were approved as submitted.

Item 3. Reasonableness Statement Discussion

Mr. Toney gave a presentation concerning Statements of Reasonableness from 160D, why they are important, and gave examples of how they are used in motions. A statement of reasonableness is a statement based upon one or more of 4 different factors which shows that any recommendation is appropriate. This shows if a rezoning is logical and appropriate, and it also helps the City Council understand why The Planning and Zoning Board recommends or does not recommend a zoning map amendment. The 4 factors are as follows:

- The size, physical conditions, and other attributes of the area proposed to be rezoned.
- The Benefits and Detriments to the landowners, neighbors, and the surrounding community.
- The relationship between the current actual and allowable development of the tract and adjoining areas and the development that would be allowed under the proposed amendment.
- If the rezoning is in the public interest.

Mr. Toney also fielded questions from the board.

Item 4. Philbeck Street – Conditional Zoning Map Amendment

Mr. Toney gave this presentation. The subject property is currently vacant and approximately 1.2 acres in size. The applicant wishes to rezone the property to R6 conditional zoning for a townhome development. Water and Sewer is available. Attached is the site plan for the proposed development with 25 proposed home sites. Mr. Toney reviewed the proposed concept plan and any potential upgrades to Philbeck Street to ensure safe traffic flow with the board.

The R6 District is primarily intended to accommodate a variety of high-density residential types. Public water and sewer service is generally available in areas zoned as R6. Nonresidential uses permitted within this district include customary accessory, recreational, educational, and institutional land uses that are compatible with the high-density residential character of the R6 District.

Motion: Mr. Hamrick made the motion to recommend approval of the proposed Zoning Map Amendment due to the size and physical conditions of the site.

Second: Mr. Bankhead **For:** Unanimous

Item 5. Seattle Street – Conditional Zoning Map Amendment

Mr. Toney gave this presentation. The current owner wishes to build a single-family subdivision. The subject property is currently vacant and approximately 31 acres in size. The applicant wishes to rezone the property to R6 conditional zoning for a high-density single-family subdivision. The proposed subdivision will be a cluster development for lots with a minimum lot size of 6,000 square feet. Water and Sewer is available. Attached is a site plan of the proposed development with 87 proposed home sites. If the new zoning is approved the subdivision will have to go through the major subdivision process. Mr. Toney reviewed the site and answered questions from the board.

The R6 District is primarily intended to accommodate a variety of high-density residential types. Public water and sewer service is generally available in areas zoned as R6. Nonresidential uses permitted within this district include customary accessory, recreational, educational, and institutional land uses that are compatible with the high-density residential character of the R6 District.

Motion: Mr. Royster made the motion to recommend approval of the proposed Zoning Map Amendment due to the size of the site that lends itself well for residential development.

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

Item 6. Elizabeth Baptist Church (Gaston Christian School) – Conditional Zoning Map Amendment

Mr. Toney gave this presentation. The subject property is currently home to the Elizabeth Baptist Church. The applicant wishes to convert the existing family life center into an area for an elementary and/or secondary school. However, according to the development standards for a school a 300-foot setback is required from any residence and a 50-foot setback from any property line. The current structure is 70 feet from the nearest residential structure. The applicant is requesting R10-CZ designation that would eliminate setbacks found in the development standards. All other development standards will continue to apply. Water and Sewer is available.

The elementary or secondary school development standards are as follows:

- (A) **Where development standards are required.** All districts.
- (B) **Use separation.** Fifty feet minimum from any property line; 300 feet minimum from any residence.
- (C) **Minimum area.** Minimum lot size shall be three acres.
- (D) **Access.** Principal access shall be from a collector or higher capacity street. All unpaved areas shall be maintained in a manner which prevents dust from leaving the property.
- (E) **Screening.** All off-street parking lots shall be screened from all adjoining single-family residential uses by a buffer yard. The required buffer yard shall comply with the requirements of subsection 14-5.2.
- (F) **Dust.** All unpaved parking and storage areas shall be maintained in a manner that prevents dust from adversely impacting adjacent properties.

Motion: Mr. Royster made the motion to recommend approval of the proposed Zoning Map Amendment due to the lack of negative impacts on the adjacent property owners.

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

Item 7. Lake George Drive – Major Subdivision

Mr. Toney gave this presentation. The 11.5 acre in total area is currently undeveloped. This is part of the former Hallelujah Acres Development. Mr. Toney reviewed the subdivision plan with the board members and answered questions from the board.

This is an RO-CU, which was originally part of the Hallelujah Acres Development and is part of the Kingsview Subdivision. This subdivision was the “Estate Lot” section of Hallelujah Acres and was originally 22 lots. The new developer would like to increase the number of lots from 22 to 37. This project uses existing streets installed during the Hallelujah Acres project; however, a sewer extension is required to serve lots 4, 15B, and 16. The developer will pay The City of Shelby to resurface Lake George Drive and install a greenway path on the lots designated “open space/greenway reservation area.”

Motion: Mr. Hunt made the motion to approve this major subdivision based on staff’s recommendation.

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

Item 8. **Announcements**

Mr. Toney gave a rundown on ongoing and future developments within The City of Shelby.

Item 9. **Motion to adjourn.**

Chair Carter adjourned the meeting at 12:55 pm.

Walter Scharer

Respectfully Submitted
Walter Scharer, Planning Director

DRAFT

ORDINANCE NO. 40-2022

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

WHEREAS, the City of Shelby has received an application requesting the rezoning of property at Seattle Street 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 June 20th 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 reasonable and in the public interest based on the size of the site that lends itself well for residential development.

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), Seattle Street is hereby amended from R10 Zoning District to Residential 6 Conditional Zoning District. Said area of zoning is more fully described as the parcel listed by the Cleveland County Tax Office as Parcel Identification Number 49682.

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. The parcels amended by this ordinance are subject to the following conditions:

1. This site must be developed in accordance with the submitted site plan.

Section 6. This ordinance shall become effective upon its adoption and approval.

ADOPTED AND APPROVED this the 20th day of June 2022.

O. Stanhope Anthony III
Mayor

ATTEST:

Carol Williams
City Clerk

APPROVED AS TO FORM:

Andrea Fite
City Attorney

City of Shelby
Agenda Item Summary
June 20, 2022
City Hall Council Chamber

Agenda Item: D-4

- 4) Consideration of a proposed ordinance amending the zoning map of the City Of Shelby, North Carolina (Mid Street): Ordinance No. 41-20220

Presenting: (Walter Scharer, Planning Director)

Summary of Available Information:

- Memorandum dated June 6, 2022 from Walter Scharer, Planning Director to Rick Howell, City Manager
- General Application
- Staff Report
- Location Map and Zoning Map of Mid Street
- Planning and Zoning Board Minutes
- Certified Recommendation
- Notice of Public Hearing
- Ordinance No. 41-2022

City Manager's Recommendation / Comments

This time is scheduled on the agenda for City Council to conduct the required public hearing in accordance with the NC General Statutes. 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; however, the Planning and Zoning Board does not recommend this proposed zoning amendment due to the lack of sewer currently serving the property. 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 and established an advisory board for the purposes of providing reasonable guidance in the decision-making process.

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

See Next Page

City of Shelby
Agenda Item Summary
June 20, 2022
City Hall Council Chamber

§ 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. 41-2022



Memorandum

To: Rick Howell - City Manager
From: Walter Scharer – Planning Director
Date: June 6, 2022
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

On October 18, 2021, City Council rejected this proposal until which time Mr. Blanton secured the necessary approvals from the Health Department certifying there is enough septic repair area on the proposed parcels. Mr. Blanton has secured the necessary documentation. 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. In addition, staff does not recommend this proposed zoning map amendment.

Please schedule a legislative public hearing for this proposed zoning amendment at the next City Council meeting on June 20, 2022.

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: W4khh@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

Date: 8-10-21

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

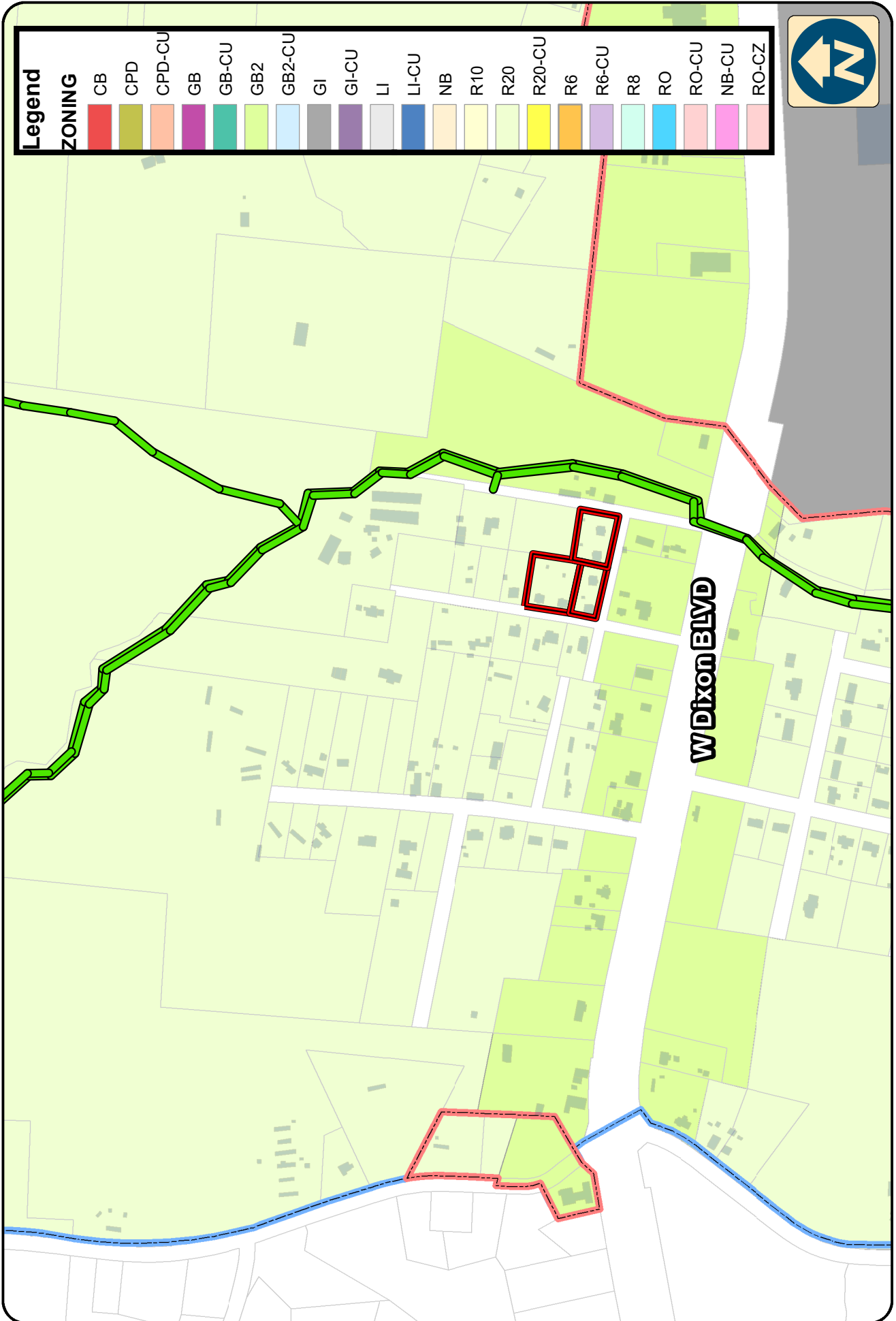


Date: 9/8/2021



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



Date: 9/9/2021

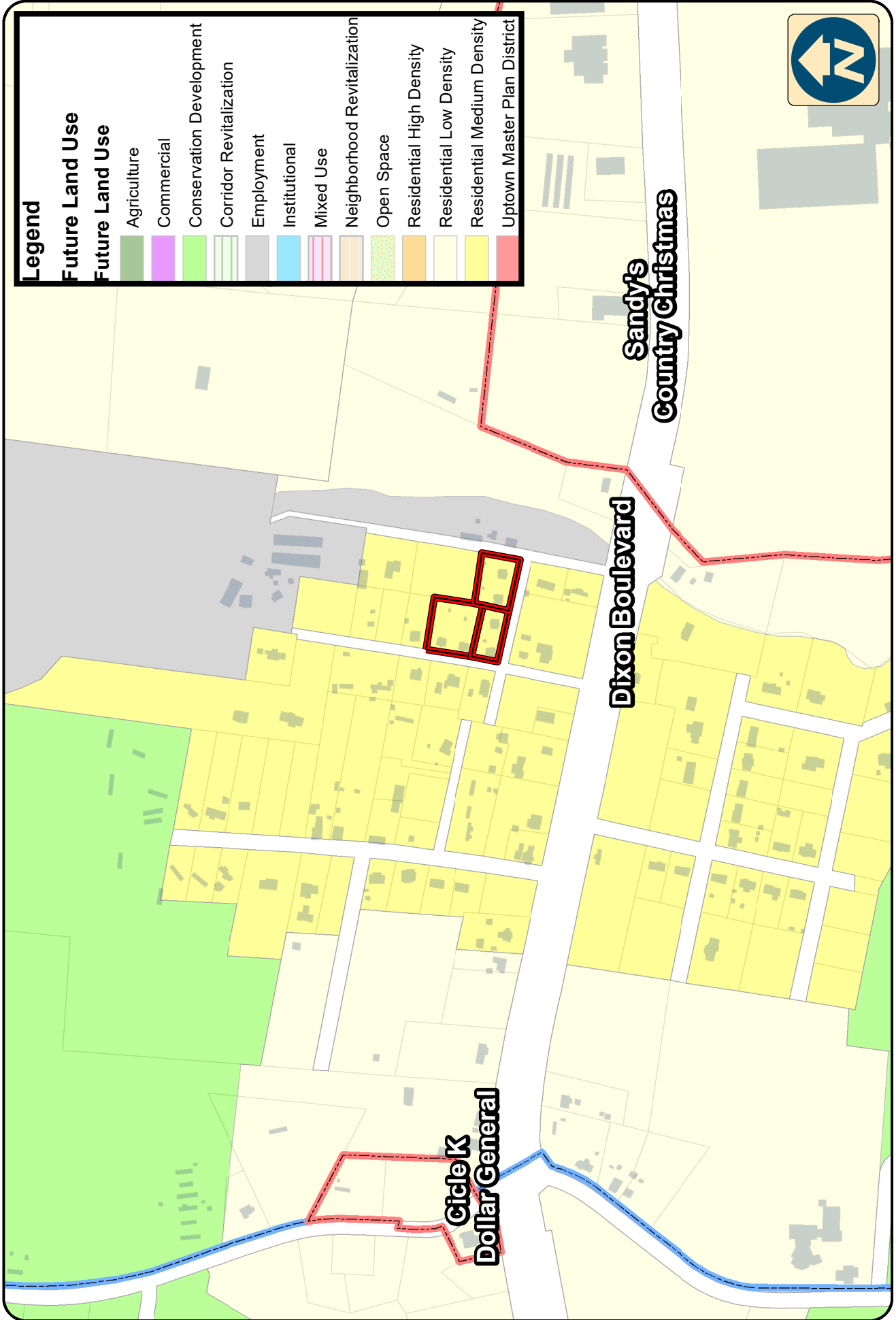
Scale 1:6,000 1 inch = 500 feet



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
ZONING MAP AMENDMENT
MID STREET**

The City Council of Shelby, North Carolina will conduct a public hearing during its regular meeting at 6:00 p.m., Monday, June 20, 2022 at 300 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.

Carol Williams
City Clerk

The Shelby Star:

Please publish this notice as a legal line ad on Friday, June 10, 2022 and again on Friday, June 17, 2022.

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

ORDINANCE NO. 41-2022

**A PROPOSED ORDINANCE AMENDING THE ZONING MAP OF
THE CITY OF SHELBY, NORTH CAROLINA
(MID STREET)**

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 June 20, 2022 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. 41 – 2022

June 20, 2022

Page 2

ADOPTED AND APPROVED this the 20th day of June 2022.

O. Stanhope Anthony III
Mayor

ATTEST:

Carol Williams
City Clerk

APPROVED AS TO FORM:

Andrea Fite
City Attorney

City of Shelby
Agenda Item Summary
June 20, 2022
City Hall Council Chamber

Agenda Item: D-5

- 5) Public Hearing for the proposed extension of the corporate limits of the City of Shelby, North Carolina (Eaves Rd)

Presenting: (Walter Scharer, Planning Director)

Summary of Available Information:

- Memorandum dated June 10, 2022 from Walter Scharer, Planning Director to Rick Howell, City Manager
- General Application
- Location Map
- Notice of Public Hearing

City Manager's Recommendation / Comments

This public hearing is being held in accordance with NCGS 160A-58.2. This property is approximately 70 acres in size. This is currently a vacant wooded site just across the street from Webb Cemetery. The property currently meets the statutory requirements for annexation and is contiguous with the primary corporate limits. This request was reviewed for compliance with city policy that along with state law requires the city to be able to serve the same services to the proposed annexation parcel as it provides within the existing city limits. In this case staff was asked to review and comment on this matter and found that the city is able to provide such services. The owner/developer of this property has proposed building a single-family housing neighborhood.

An ordinance extending the corporate limits for this parcel will be prepared and presented to City Council for consideration at your July 18 or August 1 regular meeting. Required land surveys have been delayed and are required for information to be included in the proposed ordinance.

If the council finds and determines that (i) the area described in the petition meets all of the standards set out in G.S. 160A-58.1(b), (ii) the petition bears the signatures of all of the owners of real property within the area proposed for annexation (except those not required to sign by G.S. 160A-58.1(a)), (iii) the petition is otherwise valid, and (iv) the public health, safety and welfare of the inhabitants of the city and of the area proposed for annexation will be best served by the annexation, the council may adopt an ordinance annexing the area described in the petition.



Memorandum

To: Rick Howell - City Manager
From: Walter Scharer – Planning Director
Date: June 10, 2022
Subject: Voluntary Annexation – Eaves Road

Executive Summary of issue – Background

Don Peeler Realty, applicant for property on Eaves Road, has submitted an annexation petition. This site is contiguous to the existing City Limits on Eaves Road.

Review and Comments

North Carolina General Statute 160A-58.2 states that upon receipt of a petition for annexation the City Council shall cause the city clerk to investigate the petition and certify the results of the investigation. If the clerk certifies that the petition appears to be valid, the council shall fix a date for a public hearing on the annexation.

Recommendation

The City Clerk has certified sufficiency of the voluntary annexation petition and staff recommends proceeding with the annexation of this property.

Please schedule a public hearing for this proposed annexation at the next City Council meeting on June 20, 2022. Please note, due to a variety of issues the necessary annexation survey has not been completed. The Annexation Ordinance will be forwarded to City Council for adoption when the survey is complete.

Attachments: Annexation Petition, Location Map, Notice of Public Hearing



City of Shelby
Planning and Development Services Department

General Application

Address of Subject Property:

70 ALBES EAVES ROAD, SHELBY, N.C.

Applicant(s) Name:

DON PEELER REALTY, INC.

Address:

101 APPLE HILL DRIVE

SHELBY, N.C. 28152

Email:

DONPEELER NC @ AOL.COM

Phone:

704-913-1033

Owner(s) Name:

KENNETH WAYNE ALLEN

Email:

KENALLEN28 @ HOTMAIL.COM

Phone:

704-692-3670

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:

5430

Proposed Zoning:

R-10

Proposed Land Use:

RESIDENTIAL DEVELOPMENT

Previous Use:

R-20 RESIDENTIAL

Approx. Building Sq. Ft.:

14-1500

Approx. Project Acreage:

70

Business Name:

DON PEELER REALTY, INC.

Construction Sq. Ft.:

14-1500 SQ. FT. NEW HOMES

Valuation:

#130+1 - NEW HOMES

@ \$300,000 EA. = \$39 MILLION PLUS

#3+ MIL

INFRASTRUCTURE

= \$42+ MILLION

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

130+ SINGLE FAMILY HOMES RESIDENTIAL DEVT.

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.

Don Peeler, Pres.
Signature of Applicant

APRIL 1, 2022
Date

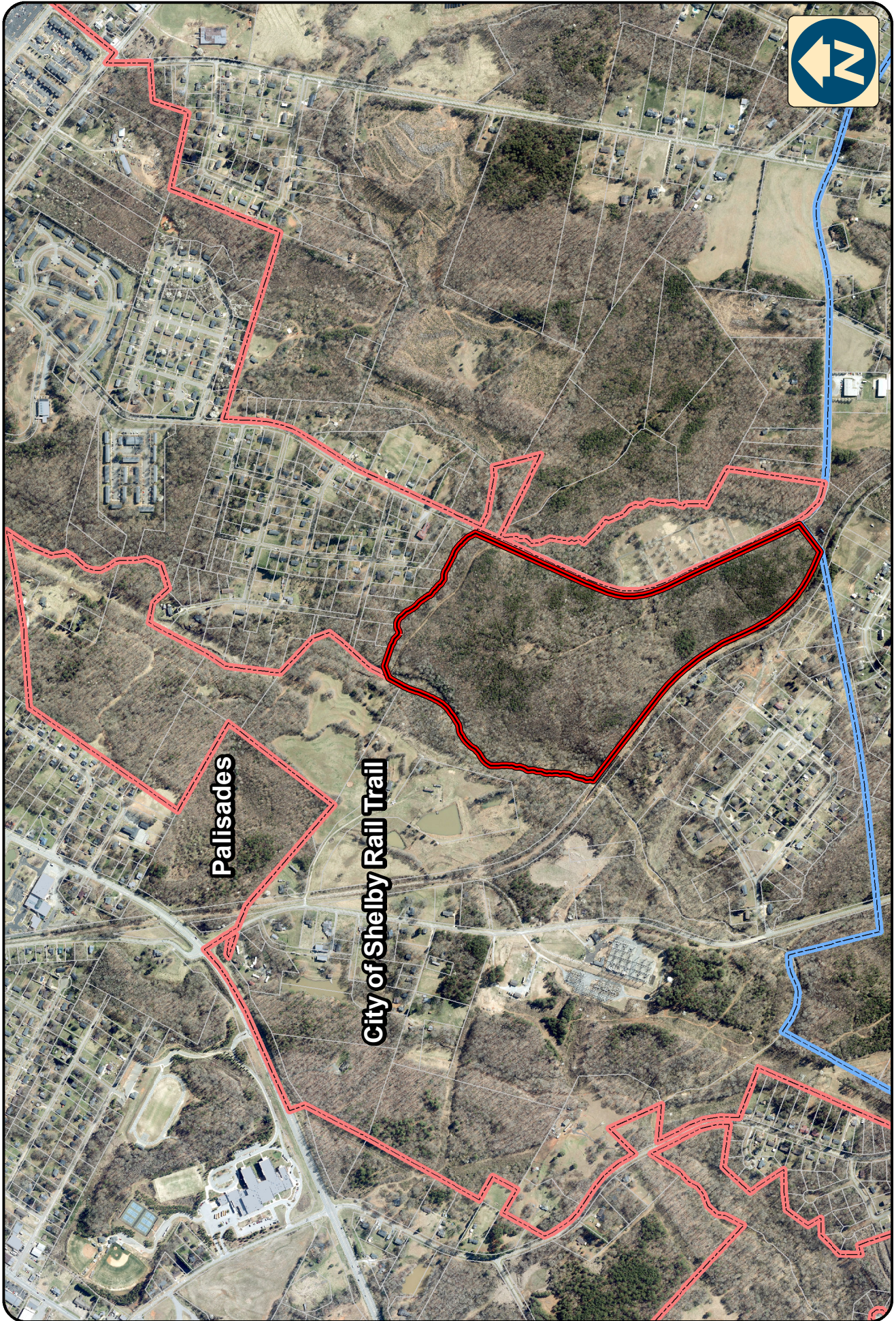
Received by:

Date



Location Map Eaves Road

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



Date: 4/5/2022

**NOTICE OF PUBLIC HEARING TO ANNEX
70 Acres at Eaves Road**

The public will please take notice that a public hearing will be conducted on the question of a proposed annexation of property owned by Kenneth Allen on June 20, 2022 at 6:00 p.m. at 300 South Washington Street in accordance with N.C.G.S. 160A-58.2. The area proposed for annexation is described as follows: Eaves Road with Cleveland County Tax Parcel Number 5430.

A map of the property is on file and available for inspection at the City of Shelby Planning & Development Services office, 315 South Lafayette Street, Shelby, North Carolina.

Persons interested in being heard on this matter are invited to comment on the proposed ordinance amendment 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.

Carol Williams
City Clerk

The Shelby Star:

Please publish this notice as a legal line ad on, Thursday, June 9, 2022, and Thursday, June 16, 2022

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

City of Shelby
Agenda Item Summary
June 20, 2022
City Hall Council Chamber

Agenda Item: D-6

- 6) Public Hearing for the proposed extension of the corporate limits of the City of Shelby, North Carolina (Rainbow Dr.)

Presenting: (Walter Scharer, Planning Director)

Summary of Available Information:

- Memorandum dated June 10, 2022 from Walter Scharer, Planning Director to Rick Howell, City Manager
- General Application
- Location Map
- Notice of Public Hearing

City Manager's Recommendation / Comments

This public hearing is being held in accordance with NCGS 160A-58.2. These property parcels are approximately 1.4 acres in size. These are currently vacant lots in a small neighborhood just west of Charles Road and located at the end of Rainbow Drive. The property currently meets the statutory requirements for annexation and is contiguous with the primary corporate limits. This request was reviewed for compliance with city policy that along with state law requires the city to be able to serve the same services to the proposed annexation parcel as it provides within the existing city limits. In this case staff was asked to review and comment on this matter and found that the city is able to provide such services.

An ordinance extending the corporate limits for this parcel will be prepared and presented to City Council for consideration at your July 18 or August 1 regular meeting. Required land surveys have been delayed and are required for information to be included in the proposed ordinance.

If the council finds and determines that (i) the area described in the petition meets all of the standards set out in G.S. 160A-58.1(b), (ii) the petition bears the signatures of all of the owners of real property within the area proposed for annexation (except those not required to sign by G.S. 160A-58.1(a)), (iii) the petition is otherwise valid, and (iv) the public health, safety and welfare of the inhabitants of the city and of the area proposed for annexation will be best served by the annexation, the council may adopt an ordinance annexing the area described in the petition.



Memorandum

To: Rick Howell - City Manager
From: Walter Scharer – Planning Director
Date: June 10, 2022
Subject: Voluntary Annexation – Rainbow Drive

Executive Summary of issue – Background

Vernon Baumrind, owner of property at Rainbow Drive, has submitted an annexation petition. This site is contiguous to the existing City Limits near Charles Road.

Review and Comments

North Carolina General Statute 160A-58.2 states that upon receipt of a petition for annexation the City Council shall cause the city clerk to investigate the petition and certify the results of the investigation. If the clerk certifies that the petition appears to be valid, the council shall fix a date for a public hearing on the annexation.

Recommendation

The City Clerk has certified sufficiency of the voluntary annexation petition and staff recommends proceeding with the annexation of this property.

Please schedule a public hearing for this proposed annexation at the next City Council meeting on June 20, 2022. Please note, due to a variety of issues the necessary annexation survey has not been completed. The Annexation Ordinance will be forward to City Council when the survey is complete.

Attachments: Annexation Petition, Location Map, Notice of Public Hearing



City of Shelby
Planning and Development Services Department

General Application

Address of Subject Property:

1313 Rainbow Drive SHELBY NC

Applicant(s) Name:

CLEVELAND PARTNERS LLC (VERNON BAUMRIND)

Address:

8508 Park Rd #133

Charlotte NC 28210

Email:

VBAUMRIND@gmail.com

Phone:

704-643-6300

Owner(s) Name:

SAME AS ABOVE

Email:

Phone:

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: _____

Proposed Zoning: _____

Proposed Land Use: _____

Previous Use: _____

Approx. Building Sq. Ft.: _____

Approx. Project Acreage: _____

Business Name: _____

Construction Sq. Ft.: _____

Valuation: _____

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

SURVEY ATTACHED
CURRENT DEED ATTACHED

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.

Vernon Baumrind
Signature of Applicant

4/7/22
Date

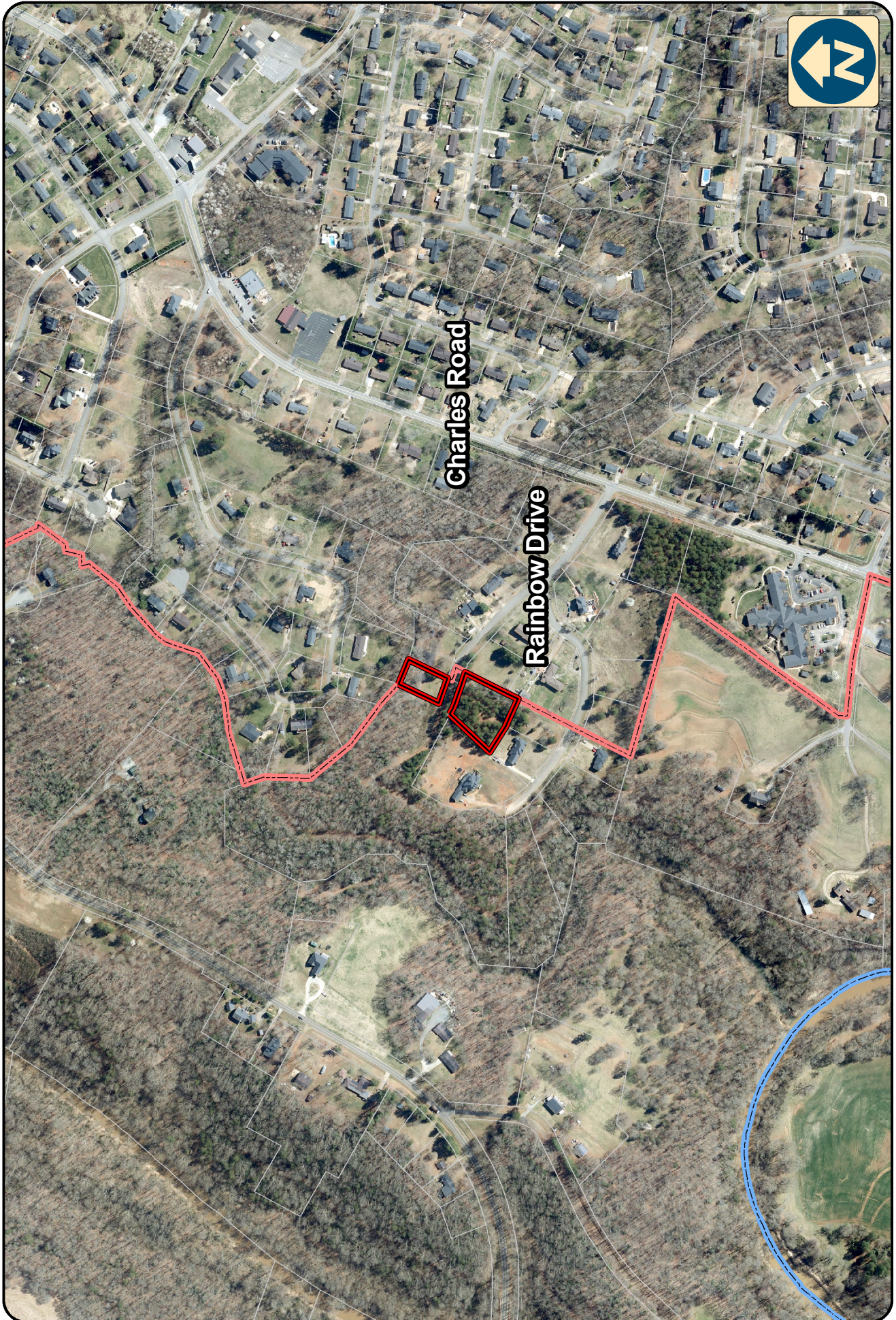
Received by: _____

Date _____



Annexation Rainbow Drive

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: 5/5/2022

**NOTICE OF PUBLIC HEARING TO ANNEX
1.2 Acres at Rainbow Drive**

The public will please take notice that a public hearing will be conducted on the question of a proposed annexation of property owned by BVJ, Partners LLC on June 20, 2022 at 6:00 p.m. at 300 South Washington Street in accordance with N.C.G.S. 160A-58.2. The area proposed for annexation is described as follows: Rainbow Drive with Cleveland County Tax Parcel Numbers 45655 & 53553.

A map of the property is on file and available for inspection at the City of Shelby Planning & Development Services office, 315 South Lafayette Street, Shelby, North Carolina.

Persons interested in being heard on this matter are invited to comment on the proposed ordinance amendment 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.

Carol Williams
City Clerk

The Shelby Star:

Please publish this notice as a legal line ad on, Thursday, June 9, 2022, and Thursday, June 16, 2022

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

City of Shelby
Agenda Item Summary
June 20, 2022
City Hall Council Chamber

Agenda Item: D-7

- 7) Public Hearing for the proposed extension of the corporate limits of the City of Shelby, North Carolina (Artee Rd.)

Presenting: (Walter Scharer, Planning Director)

Summary of Available Information:

- Memorandum dated June 10, 2022 from Walter Scharer, Planning Director to Rick Howell, City Manager
- Location Map
- Notice of Public Hearing

City Manager's Recommendation / Comments

This public hearing is being held in accordance with NCGS 160A-58.1 which states that a municipality may annex its own property provided those properties meet the statutory criteria. The City has been acquiring parcels in the Washburn Switch Corridor Area for over 10 years for economic development purposes. This annexation is in keeping with the past practice of the City to annex city owned parcels.

Resolution No. 42-2022 was approved by City Council at its regular meeting held May 16th. This resolution simply put Council on record stating the intent to annex city owned property that is not contiguous to the primary corporate limits and scheduled the required statutory public hearing for Monday, June 20, 2022. These particular parcels contain approximately 41 acres adjacent to the northwest boundary of the current city limits in the Washburn Switch Corridor Area.

An ordinance extending the corporate limits for this parcel will be prepared and presented to City Council for consideration at your July 18 or August 1 regular meeting. Required land surveys have been delayed and are required for information to be included in the proposed ordinance.



Memorandum

To: Rick Howell - City Manager

From: Walter Scharer – Planning Director

Date: June 10, 2022

Subject: City Property Annexation – Artee Road

Executive Summary of issue – Background

The City of Shelby owns property on Artee Road and wishes to annex this site for economic development purposes.

Review and Comments

This annexation site has an area of approximately 41 acres. This site is contiguous to the current corporate limits of the City of Shelby.

The City of Shelby City Council has initiated annexation of this property at its regular meeting on May 16, 2022. The public hearing was scheduled for June 20, 2022.

Recommendation

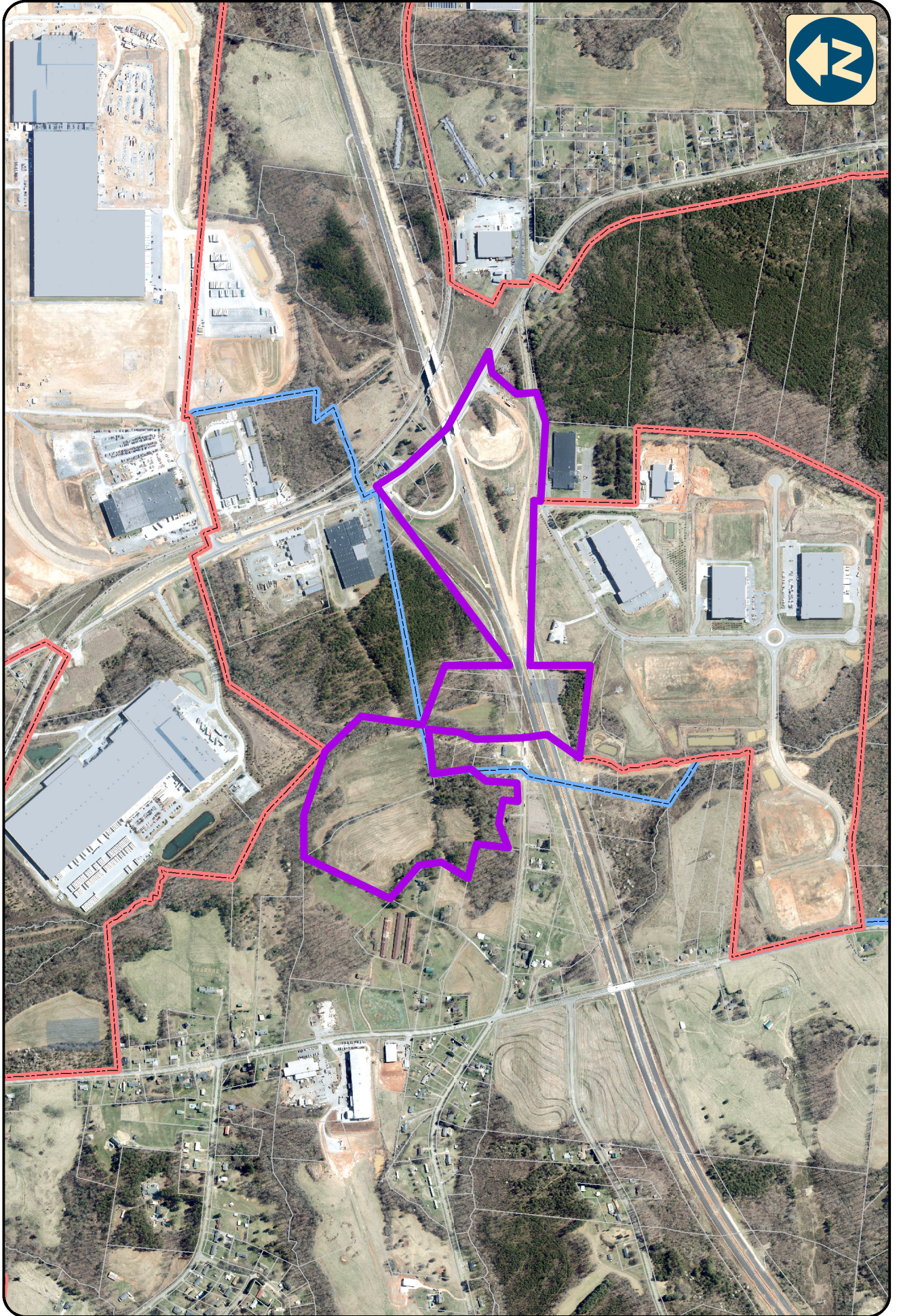
Please schedule a public hearing for this proposed annexation at the next City Council meeting on June 20, 2022. Please note, due to a variety of issues the necessary annexation survey has not been completed. The Annexation Ordinance will be forwarded to City Council for adoption when the survey is complete.

Attachments: Annexation Petition, Location Map, Notice of Public Hearing



Artee Road Annexation

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

0 500 1,000 2,000 Feet

Date: 5/10/2022

**NOTICE OF PUBLIC HEARING TO ANNEX
41 Acres at Artee Road**

The public will please take notice that a public hearing will be conducted on the question of a proposed annexation of City Owned Property and NCDOT Owned Property on June 20, 2022, at 6:00 p.m. at 300 South Washington Street in accordance with N.C.G.S. 160A-58.2.

A map of the property is on file and available for inspection at the City of Shelby Planning & Development Services office, 315 South Lafayette Street, Shelby, North Carolina.

Persons interested in being heard on this matter are invited to comment on the proposed ordinance amendment 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.

Carol Williams
City Clerk

The Shelby Star:

Please publish this notice as a legal line ad on, Thursday, June 9, 2022, and Thursday, June 16, 2022

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

City of Shelby
Agenda Item Summary
June 20, 2022
City Hall Council Chamber

E. Consent Agenda:

Agenda Item: E-1

- 1) Approval of the Minutes of the Regular Meeting of June 6, 2022

Consent Agenda Item: (Carol Williams, City Clerk)

Summary of Available Information:

Please read and offer changes as you deem necessary.

- Minutes of the Regular Meeting of June 6, 2022

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
City Hall Council Chamber

June 6, 2022
Monday, 6:00 p.m.

Present: Mayor O. Stanhope Anthony III, presiding; Council Members Andrew L. Hopper Sr., David White, David Causby, Charles Webber, Violet Arth and Emilie Bullock.; City Manager Rick Howell, MPA, ICMA-CM, Assistant City Manager of Utilities Benjamin (Ben) Yarboro, City Attorney Andrea Leslie-Fite, City Clerk Carol Williams, Public Information and Communications Officer, Chip Nuhrah, Director of Finance Elizabeth (Beth) B. Beam, Police Chief Jeffrey (Jeff) Ledford, Fire Chief William P. Hunt, MPA, EFO, Director of Planning and Development Services Walter (Walt) Scharer, AICP, Assistant Director of Public Works Scott Black, 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.

Mr. White 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 Hearing:

1) Proposed Fiscal Year (FY) 2022-2023 Annual Operating Budget for the City of Shelby

Mr. Howell presented Ordinance No. 34-2022 and Ordinance No. 35-2022 for Council's consideration. Mr. Howell listed a few points regarding the 2022-2023 budget:

- the tax rate is recommended to remain the same at 51.75 cents per \$100 valuation.
- the budget reflects an increase of almost 12.5% which takes into account an increase in personnel for the retention of existing personnel and the recruitment of additional personnel
- another significant factor for the budget increase is the increase in the price to purchase natural gas

- the budget shows an approximate 4% adjustment in the solid waste fee
- the budget shows a 3% decrease in the overall electric rate for City customers
- all City employees will receive a 5% increase in pay, with three groups of employees (sworn officers, water resources, and electric division) receiving an additional adjustment

Mayor Anthony opened the public hearing at 6:07 p.m. and invited comments from the public.

The public offered no comments.

Mayor Anthony closed the public hearing at 6:08 p.m.

- a. Consideration of Fiscal Year (FY) 2022-2023 Budget Ordinance: Ordinance No. 34-2022

ACTION TAKEN: Upon a motion made by Mr. Hopper, City Council voted unanimously to adopt Ordinance No. 34-2022 entitled, "FISCAL YEAR (FY) 2022-2023 BUDGET ORDINANCE."

- b. Consideration of Fiscal Year (FY) 2022-2023 Supplemental Budget Ordinance: Ordinance No. 35-2022

ACTION TAKEN: Upon a motion made by Mr. Hopper, City Council voted unanimously to adopt Ordinance No. 35-2022 entitled, "FISCAL YEAR (FY) 2022-2023 SUPPLEMENTAL BUDGET ORDINANCE."

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 May 16, 2022
- 2) Approval of the Minutes of the Special Meeting of May 10, 2022
- 3) Approval of the Minutes of the Special Meeting of May 11, 2022
- 4) Approval of the Minutes of the Special Meeting of May 23, 2022
- 5) Acceptance of the Certificate of Sufficiency regarding Petition of

Annexation of applicant, Cleveland Partners, LLC

- 6) Acceptance of the Certificate of Sufficiency regarding Petition of Annexation of applicant, Don Peeler Realty**
- 7) Approval of Special Event Application:**
 - a) 175th Anniversary celebration, First Baptist Church: request date June 25, 2022**
- 8) Approval of a resolution accepting American Rescue Plan funding: Resolution No. 43-2022**
- 9) Approval of a resolution providing for the sale and issuance of a \$6,000,000 City of Shelby, North Carolina General Obligation Street and Sidewalk Improvement Bond, series 2022: Resolution No. 44-2022**
- 10) Adoption of an ordinance establishing a capital project ordinance and budgets for the City of Shelby's TAMP Resurfacing Project: Ordinance No. 36-2022**
- 11) Adoption of an ordinance authorizing demolition of a dwelling (608 Suttle Street): Ordinance No. 37-2022**
- 12) Management Reports:**
 - a. Monthly Financial Summary – April 2022**
- 13) Notice of Cancellation in the Regular Meeting Schedule of Shelby City Council – July 4, 2022**

D. Unfinished Business:

None

E. New Business

- 1) Consideration of appointments to City advisory boards and commissions:**
 - a) Housing and Redevelopment Authority Commission**

Mrs. Williams reported the terms of three incumbents, Talmadge Strickland, Derrick Haynes, and Kevin Prime concluded March 2022. Mr. Strickland and Mr. Haynes wish to continue their service. Dr. Prime has indicated he wishes to end his service.

There is one application on file in the Clerk's Office:

- Matthew Albinger

Mr. White nominated Talmadge Strickland, Derrick Haynes for reappointment and Matthew Albinger for appointment.

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

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

b) Alcoholic Beverage Control Board

Mrs. Williams reported the terms of two incumbents, Phil Reid and Page Morgan, concluded in April 2022. Both incumbents wish to continue their service.

There are three applications on file in the Clerk's Office:

- Jeffrey Yates
- Kevin Karner
- Willie McIntosh

Mr. Causby nominated Phil Reid and Page Morgan for reappointment.

Mr. Hopper nominated Kevin Karner and Willie McIntosh for appointment.

ACTION TAKEN: Upon a motion made by Ms. Arth, City Council voted unanimously to close the nominations.

Council cast the following votes:

Page Morgan received 2 votes (Arth and Causby)

Phil Reid received 1 vote (Causby)

Kevin Karner received 5 votes (Bullock, Arth, White, Webber, Hopper)

Willie McIntosh received 4 votes (Bullock, White, Webber, Hopper)

Mayor Anthony declared the two nominees to the ABC Board as Kevin Karner and Willie McIntosh

ACTION TAKEN: Upon a motion made by Mr. White, City Council voted unanimously to appoint Kevin Karner and Willie McIntosh by acclamation.

E. City Manager's Report:

- **Regarding the Charles Hotel – the City has received notification from the Appalachian Regional Commission's Opportunity Appalachian program for a grant of \$75,000 to be used for due diligence work and market study to potentially open the Charles Hotel as a boutique hotel.**
- **North Carolina Association of Municipal Electric Systems (NCAMES) – Complimentary of former Director of Energy Services Julie McMurry and city staff on a great job with the conference last month**
- **Fly-In at the Shelby-Cleveland County Regional Airport is Saturday, June 11th from 10am – 2pm**
- **Badge Pinning ceremony for promotions in our Shelby Fire and Rescue Department is Wednesday, June 8th at 3:30p.m.**

F. Council Announcements and Remarks:

Mayor Anthony thanked staff for their hard work during the budget season.

Mayor Anthony stated Council enjoyed the State Dinner in Raleigh earlier this month and the late-night tour of the Capitol. Mayor Anthony thanked Speaker Moore for the educational tour.

Mayor Anthony mentioned Reverend DeVoe passed away a few weeks ago. Rev. DeVoe was a powerful leader in this community during the Civil Rights Movement and since that time. Mayor Anthony wondered if Council would consider a plaque or some sort of commemoration in Rev. DeVoe's honor. By consensus, Council was in favor of staff coming to Council with suggestions.

Ms. Arth stated that she was impressed with Mayor Neisler of Kings Mountain at the State Dinner at his first event as President of the NCLM.

Ms. Arth announced Art of Sound Music festival is scheduled for June 25th, and Flea Fest.

Mr. Webber stated he was in favor of obtaining guidance on the process of appointments to our Boards and Commissions and looks forward to staff bringing a policy to consider.

Mr. Hopper stated he enjoyed the State dinner in Raleigh as well. Mr. Hopper also appreciated Speaker Moore's tour of the old Capitol building and the current Capitol building. Speaker Moore and his staff were very gracious.

Mayor Anthony mentioned the RAISE grant application that the City has applied for and stated the City is asking for letters of support to help our efforts in obtaining this funding.

G. Closed Session:

- 1) To consult with an attorney employed or retained by the public body in order to preserve the attorney client privilege between the attorney and the public body, which privilege is hereby acknowledged, pursuant to N.C.G.S.143-318.11(3)

ACTION TAKEN: Mr. White made a motion to enter a closed session pursuant to the appropriate North Carolina General Statute as cited. Mayor Anthony consulted with Mrs. Fite who advised the topic met the statutory requirements for a closed session. The Mayor invited all Council members present along with Mr. Howell, Mrs. Fite, and Mrs. Williams to attend. Mrs. Fite also asked Mr. Scharer to attend. The motion passed unanimously, and Council moved into closed session at 6:29p.m.

Council returned to the regular session at 7:00p.m.

H. Adjournment:

- 1) Motion to adjourn

ACTION TAKEN: Upon a motion made by Ms. Arth, City Council voted unanimously to adjourn the meeting at 7:01 p.m.

Respectfully submitted,

Carol Williams
City Clerk

O. Stanhope Anthony III
Mayor

City of Shelby
Agenda Item Summary
June 20, 2022
City Hall Council Chamber

Agenda Item: E-2

- 2) Approval of a resolution honoring Steven Maurice Seate, Jr. on the occasion of his retirement from employment with the City of Shelby: Resolution No. 45-2022

Consent Agenda Item: (Jeff Ledford, Chief of Police)

Summary of Available Information:

- Memorandum dated June 1, 2022 from Jeffrey H. Ledford, Chief of Police to Rick Howell, City Manager
- Resolution No. 45-2022

City Manager's Recommendation / Comments

This time is scheduled on your agenda to consider a resolution recognizing Captain Steven M. Seate, Jr. on the occasion of his retirement from employment. In keeping with policy Resolution No. 45-2022 will recognize him for having served the City faithfully for the past 30 years as a Police Officer with the Shelby Police Department. He is to be congratulated! Capt. Seate is an experienced Police Officer and Captain and will be greatly missed both professionally and as a fellow co-worker.

As is in keeping with current policy Captain Seate will be presented with a framed resolution, a city lapel pin and a key to the City. It is customary and appropriate to recognize Steven Seate for his many years of service to the City.

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

It is recommended that Resolution No. 45-2022 be adopted and approved via the Consent Agenda.

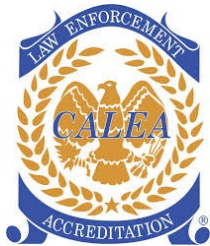
Retiring or Separating Employee Recognition - Employees leaving City employment in good standing will receive a plaque from the City Manager after they have attained at least their 20th anniversary of service with the City or have attained their 10th anniversary and are at least 60 years of age or over.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

Shelby Police Department



**SHELBY POLICE
DEPARTMENT**

JEFFREY H. LEDFORD
CHIEF OF POLICE



*CALEA Accredited
2001*



*CALEA Accredited
2014*



To: Rick Howell, City Manager
Carol Williams, City Clerk

From: Jeffrey H. Ledford, Chief of Police

Re: Captain Steven Maurice Seate, Jr.
Shelby City Council Resolution

Date: June 1, 2022

Captain Steven Maurice Seate, Jr. has served the City of Shelby, the citizens of Shelby and the Shelby Police Department for 30 years. He was hired as a Police Officer with the Shelby Police Department (SPD) January 2, 1997.

Seate was promoted to the rank of Sergeant with the Shelby Police Department November 22, 2004, to the rank of Lieutenant February 22, 2010, then to the rank of Captain March 4, 2016, of which he held until his retirement April 1, 2022. Seate worked in and led various divisions throughout his career here at the SPD (Vice/Narcotics Division Detective, Sergeant over Patrol Squads and Criminal Investigations Division, Watch Commander over Patrol Rotations, Tactical Command Leader over SPD's Special Response Team, Lieutenant over the Community Oriented Policing Unit, the Patrol Division, and the Criminal Investigations Division). In addition, he was an ASP Impact Weapon Instructor and an OC Aerosol Projector, Less Lethal Munitions Distraction Devices and Chemical Munitions Instructor.

Captain Seate is being honored for his leadership, his loyalty, his commitment to protect and serve, and his dedication to the civilian community, the law enforcement community, the City of Shelby, and the State of North Carolina, therefore his service has been submitted to the NC Governor's Office for the Order of the long Leaf Pine Award for these qualities.

Captain Seate is well-known, and very much respected by the community, and assisted them in any way possible. He has had a long, successful career with the Shelby Police Department and has demonstrated his dedication, his commitment to public service through his Law Enforcement career over the past 30 years, deserving to be honored with a Shelby City Council Resolution and the anticipated Governor's Order of the Long Leaf Pine Award.

Thank you.

RESOLUTION NO. 45-2022

**A RESOLUTION HONORING STEVEN MAURICE SEATE, JR.
ON THE OCCASION OF HIS RETIREMENT
FROM EMPLOYMENT WITH THE CITY OF SHELBY**

WHEREAS, on the occasion of his retirement from employment on April 1, 2022, it is fitting and proper for the City Council to express its sincere appreciation to Steven Maurice Seate, Jr. for his loyal, dedicated, and committed service to the City of Shelby from January 2, 1997 to April 1, 2022; and,

WHEREAS, Mr. Seate has been a loyal team member in the continuing development of the Shelby Police Department, especially for his strength, courage, and bravery exhibited in providing protection and service to the City of Shelby and to all its citizens; and,

WHEREAS, during his tenure of service, Mr. Seate has been a loyal employee for the City of Shelby, beginning as a Patrol Officer January 1997; receiving a promotion to Police Sergeant in November 2004, receiving a promotion to Police Lieutenant in February 2010, and receiving a promotion to Police Captain in March 2016; and finishing his career as the Operations Division Commander, and has been an outstanding example of the quality of employee necessary to the development of the good of the City; and Mr. Seate previously served as a Tactical Commander for Shelby Police Department's Special Response Team, a Patrol Watch Commander, a Community Oriented Policing Unit Commander, a Criminal Investigations Division Commander; and,

WHEREAS, Mr. Seate is a successful graduate of the North Carolina Justice Academy's Management Development Program November 2009, and completed over 2,000 hours of advanced law enforcement training, having received his Law Enforcement Advanced Certificate February 2004, which is the highest certification that a Law Enforcement Officer can receive from the State of North Carolina; and, received several Shelby Police Department Merit Awards for dedication to the Agency and the Citizens of Shelby by Exhibiting the Highest Standards of Professionalism and Customer Service; and, was the 2012 recipient of the Shelby Police Department Leadership Award; and, provided security for the 2012 Democratic National Convention for the 44th President of the United States Barak Hussein Obama, II, held in Charlotte, North Carolina and,

WHEREAS, Mr. Seate's commitment, leadership, laudatory work effort, and devotion to duty has helped create a winning attitude within the Shelby Police Department of the City of Shelby; and,

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

WHEREAS, the City Council of the City of Shelby wishes to acknowledge and express its appreciation to Mr. Seate for his dedicated and devoted duty to law enforcement service to its citizens, noting that Mr. Seate will be missed both professionally and as a fellow co-worker.

NOW, THEREFORE, BE IT RESOLVED that the Mayor and City Council publicly express their sincere appreciation to Steven Maurice Seate, Jr. for his performance of duty to the City of Shelby and extend the very best wishes for a successful retirement.

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

IN WITNESS WHEREOF, I have hereunto set my hand and caused the Seal of the City of Shelby to be affixed this the 1st day of April 2022.

O. Stanhope Anthony III
Mayor

ATTEST:

Carol Williams
City Clerk

City of Shelby
Agenda Item Summary
June 20, 2022
City Hall Council Chamber

Agenda Item: E-3

- 3) Approval of a resolution ratifying cancellation of a Deed of Trust recorded at Deed Book 934 at Pages 733-741: Resolution No. 46-2022

Consent Agenda Item: (Andrea Leslie-Fite, City Attorney)

Summary of Available Information:

- Memorandum dated June 14, 2022 from Andrea Leslie-Fite, City Attorney, to Rick Howell, City Manager
- Resolution No. 46-2022

City Manager's Recommendation / Comments

Resolution No. 46-2022 is presented for City Council consideration via the Consent Agenda. If approved this resolution would ratify the cancellation of a Deed of Trust previously recorded. This DOT secured debt owed by the property owner to the City for purposes that are not exactly clear in city records and dates back to July 24, 1984. As such this property is attempting to sell this property but cannot do so entirely with the Deed of Trust still technically in affect. The City Attorney has researched the matter and determined that the City, while holding the DOT, cannot statutorily collect the owed debt as the statute of limitations has expired.

It is therefore my recommendation that Resolution No. 46-2022 be adopted and approved by City Council via the Consent Agenda.



To: Rick Howell, City Manager

From: Andrea Leslie-Fite, City Attorney

Date: June 14, 2022

Subject: Ratification of Deed of Trust Cancellation

Background:

On or about July 24, 1984 Edwin R. Harrill Jr. and Pamela M. Harrill granted a Deed of Trust to the City of Shelby for future advances. The aforementioned Deed of Trust is recorded in the Cleveland County Registry of Deeds in Deed Book 934 at Pages 733-741 and secured a debt in the amount of Fourteen Thousand Nine Hundred Fifty Dollars. The Deed of Trust expired by virtue of N.C.G.S. 45-36.24(b)(1) on July 1, 2009. As such, the other owners requested cancellation Deed of Trust.

Recommendation

Following a review of the public record and law staff determined a cancellation of the Deed of Trust was appropriate and executed the same. It is recommended that City Council ratify the foregoing action.

RESOLUTION NO. 46-2022

**A RESOLUTION RATIFYING CANCELLATION OF A DEED OF TRUST
RECORDED AT DEED BOOK 934 AT PAGES 733-741**

WHEREAS, on or about July 24, 1984 Edwin R. Harrill Jr. and Pamela M. Harrill granted a Deed of Trust to the City of Shelby for future advances and,

WHEREAS, the aforementioned Deed of Trust was recorded in the Cleveland County Registry of Deeds in Deed Book 934 at Pages 733-741 and;

WHEREAS, the Deed of Trust secured a debt in the amount of Fourteen Thousand Nine Hundred Fifty Dollars and;

WHEREAS the Deed of Trust expired by virtue of N.C.G.S. 45-36.24(b)(1) on July 1, 2009; and

WHEREAS, the other owners requested cancellation Deed of Trust; and

WHEREAS, following a review of the public record and law staff determined a cancellation of the Deed of Trust was appropriate and executed the same; and

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

Section 1. The City of Shelby ratifies the cancellation of the Deed of Trust recorded in the Cleveland County Registry of Deeds in Deed Book 934 at Pages 733-741.

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

Adopted and approved this the 20th day of June, 2022.

O. Stanhope Anthony III
Mayor

ATTEST:

Carol Williams
City Clerk

City of Shelby
Agenda Item Summary
June 20, 2022
City Hall Council Chamber

Agenda Item: E-4

- 4) Approval of a resolution authorizing selection of TGS Engineers based on Qualifications for Professional Engineering Services for the County Home Road Reconstruction Project in Shelby, North Carolina: Resolution No. 47-2022

Consent Agenda Item: (Ben Yarboro, Assistant City Manager)

Summary of Available Information:

- Memorandum dated June 14, 2022 from Ben Yarboro, Assistant City Manager to Rick Howell, City Manager
- Memorandum dated June 14, 2022 from Justin Wright, Civil Engineer to Ben Yarboro, Assistant City Manager
- Request for Qualifications dated May 4, 2022
- Aerial view showing proposed Reconstruction Project
- Resolution No. 47-2022

City Manager's Recommendation / Comments

Resolution No. 47-2022 is presented for City Council consideration at this time. In North Carolina the procurement of professional services performed by architects, engineers, surveyors and construction managers at risk is governed by NCGS 143-64.31 sometimes called the mini Brooks Act. The City is required to follow a Request for Qualifications process in selecting the most qualified firm to perform the specified professional services.

Earlier this year I authorized the Engineering Services staff to begin the RFQ process for the selection of an engineering firm to design a connector road to replace the now closed section of County Home Road which previously connected the US Hwy 74 frontage road and Kings Road. The selection committee voted to recommend TGS Engineers as the most qualified firm to perform engineering design services for this project. As is our routine and in accordance with the NC General Statute 143-31 the City follows a "Request for Qualifications" process. Submitting firms are vetted by a staff committee using an established scoring system. The field is narrowed, and an interview process occurs. The staff committee then reviews their findings and recommendation with me. Please keep in mind that the statute requires us to select the most qualified firm and then and only then may we negotiate pricing. If we cannot agree to a price with the most qualified firm we can then negotiate with the next firm on the list. I do not anticipate this will be an issue.

It is my recommendation Resolution No. 47-2022 be adopted and approved by City Council at this time via the Consent Agenda

Memorandum

To: Rick Howell, City Manager

From: Ben Yarboro, Assistant City Manager

RE: Recommendation to select TGS Engineers for the Professional Engineering Services for the County Home Road Reconstruction Project in Shelby, North Carolina

Date: June 14, 2022

As noted in the attached memorandum from Justin Wright, Civil Engineer, the City of Shelby recently completed a Qualifications Based Selection process for the selection of an engineering firm to provide professional services related to the reconstruction of County Home Rd. between the US74-Bypass frontage road and Kings Rd. (between the Fairfield Inn & Suites and the State Employees Credit Union).

A petition to close this portion of roadway was approved by the City Council in September 2019 and the permanent closure occurred on December 31, 2019. The purpose of this closure was to allow for development on the adjoining properties and then provide an opportunity for the City to ultimately complete roadway improvements at this location that improve the safety of the public. The section of County Home Rd. that was previously closed had skewed intersections where it tied into both the East Dixon Blvd. frontage road and Kings Rd. and the proposed County Home Rd. reconstruction project will have perpendicular intersections which will lower the speeds of vehicles turning onto this street and improve the visibility for drivers turning onto either the frontage road or Kings Rd.

This proposed resolution would approve the recommendation of the selection committee of TGS Engineers to complete the professional services related to this roadway construction project. Following the design and bidding of this project, City staff will return to City Council to request approval for a project budget ordinance and approval of a contract award to the lowest responsible bidder.

It is anticipated that this project will be designed and advertised to allow for construction to begin in approximately March 2023. This construction timeframe

coincides with the anticipated demolition of the existing State Employee's Credit Union structure in early 2023.

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

Attachments:

- Memorandum from Justin Wright, Civil Engineer dated 6/14/2022

Memorandum

To: Ben Yarboro, Assistant City Manager

From: Justin Wright, Civil Engineer

RE: Recommendation to select TGS Engineers for the Professional Engineering Services for the County Home Road Reconstruction Project in Shelby, North Carolina

Date: June 14, 2022

Background

Following a public hearing at the City Council meeting on September 16, 2019, the City Council voted to close the section of County Home Road from the East Dixon Boulevard frontage road to Kings Road (between the Fairfield Inn & Suites and the State Employees Credit Union). City Council voted to close this section of roadway after the adjoining property owners submitted a petition for the closure due to plans for future development. Since these developments have now been permitted and are in the construction phase, the City of Shelby publicly advertised a Request for Qualifications for Professional Engineering Services to Reconstruct County Home Road. This project consists of approximately 300 linear feet of asphalt roadway with curb and gutter and related stormwater infrastructure. To complete this project, the City must obtain expert professional engineering services for the design and reconstruction.

The professional services related to this roadway project are as follows:

- 1) Prepare and submit design plans and proposed schedule to City of Shelby for review and comment.
- 2) Incorporate the City's comments and prepare construction/bidding documents for NCDOT review and approval.
- 3) Design of Roadway (minimum guidelines)
 - a. Shall meet NCDOT design and construction standards
 - b. 50' Right of Way
 - c. Approximately 300 LF of asphalt roadway
 - d. Stormwater infrastructure to provide adequate drainage
 - e. Curb and Gutter
- 4) Performing all project management and quality control/quality assurance duties for the survey, design, bidding, and construction administration as well as coordinating with jurisdictional agencies, utilities, and obtaining all necessary permits and approvals.

- 5) Prepare sealed engineering specifications and construction documents for the roadway that comply with all applicable codes, standards, and specifications.
- 6) Provide contract administration during the construction bidding process to include participation in the pre-bid conference, replying to Requests for Information, preparing a certified bid tabulation, and preparing a formal recommendation for award.
- 7) Ability to provide construction inspection if requested.
- 8) Preparing a detailed cost estimate to be reviewed by the City of Shelby.
- 9) Completion of bidding process and providing certified bid tabulation.
- 10) Prepare all necessary applications to secure required permits and approvals for construction of the roadway by NCDOT or any other necessary permitting agencies.

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

- 1) Technical Approach/Understanding of Project (25%)
- 2) Experience of Proposed Personnel (25%)
- 3) Availability of Staff and Resources (20%)
- 4) Relevant Design Experience (25%)
- 5) Location of the Firm Relative to the Project (5%)

Review

On May 4, 2022, the City of Shelby publicly advertised a Request for Qualifications Statement for Professional Engineering Services for the County Home Road Reconstruction Project in Shelby, North Carolina. The City received two (2) responses to this advertisement prior to the May 26, 2022, deadline. Responses were received from the following firms (listed in alphabetical order):

- CES Group – Charlotte, NC
- TGS Engineers – Shelby, NC

A review committee consisting of four (4) City staff members was established to complete independent reviews and scoring of the two (2) responses that were received. After scoring was completed, the review committee discussed the results and unanimously determined that TGS Engineers was the most qualified firm to perform the Professional Engineering Services for the County Home Road Reconstruction Project in Shelby, North Carolina.

Recommendation

City Staff recommends that the Shelby City Council approves the resolution selecting TGS Engineers as the firm to perform the Professional Engineering Services for the County Home Road Reconstruction Project in Shelby, North Carolina. This resolution will authorize the City Manager to negotiate and execute an agreement that establishes the scope of work and fees associated with the professional services that are to be completed.

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

Attachments:

- Request for Qualifications

www.cityofshelby.com

**REQUEST FOR QUALIFICATIONS STATEMENT FOR PROFESSIONAL
ENGINEERING SERVICES FOR THE COUNTY HOME ROAD
RECONSTRUCTION PROJECT IN SHELBY, NORTH CAROLINA**

Date: May 4, 2022

The City of Shelby is requesting Statements of Qualification from interested and qualified firms to provide engineering services for a roadway design project in Shelby, North Carolina. The proposed roadway is approximately 300 linear feet of asphalt roadway with curb and gutter and related stormwater infrastructure. The roadway project shall be coordinated with City of Shelby staff and North Carolina Department of Transportation Division 12. All work associated with this project shall meet NCDOT design and construction standards.

PURPOSE

The purpose of this Request for Qualifications is to obtain expert professional, technical, and advisory services for designing a roadway that meets NCDOT design and construction standards and coordination with North Carolina Department of Transportation and commercial developments.

SCOPE OF WORK

- 1) Prepare and submit design plans and proposed schedule to City of Shelby for review and comment.
- 2) Incorporate the City's comments and prepare construction/bidding documents.
- 3) Design of Roadway (minimum guidelines)
 - a. Shall meet NCDOT design and construction standards
 - b. 50' Right of Way
 - c. Approximately 300 LF of Roadway
 - d. Stormwater Infrastructure
 - e. Curb and Gutter
- 4) Performing all project management and quality control/quality assurance duties for the survey, design, bidding, and construction administration as well as coordinating with jurisdictional agencies, utilities, and obtaining all necessary permits and approvals.
- 5) Prepare sealed engineering specifications and construction documents for the roadway that comply with all applicable codes, standards, and specifications.
- 6) Provide contract administration during the construction bidding process to include participation in the pre-bid conference, replying to Requests for Information, preparing a certified bid tabulation, and preparing a formal recommendation for award.
- 7) Ability to provide construction inspection if requested.
- 8) Preparing a detailed cost estimate to be reviewed by the City of Shelby.

- 9) Completion of bidding process and providing certified bid tabulation.
- 10) Prepare all necessary applications to secure required permits and approvals for construction of the roadway by NCDOT or any other necessary permitting agencies.

REQUIREMENTS

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

PROPOSAL CONTENT AND EVALUATION

Five (5) copies of your proposal must be received no later than 2:00 PM, May 26, 2022. The proposals must be addressed to:

City of Shelby
Attn: Bryant Nodine, Business Manager
PO Box 207
Shelby, NC 28151-0207

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

- 1) Project Approach:
 - a. Describe your team's approach to successfully delivering the project. Provide details on how each task will be completed. Include any recommendations for maximizing effectiveness and efficiency.
- 2) Relevant Project Experience:
 - a. Provide a summary of your experience with similar projects, including location and client contact information. Specify the services provided, the office location from which the work was performed, and staff members' responsibilities.
- 3) Project Team:
 - a. Provide an organizational chart identifying all staff assigned to the project, including any sub-contractors, defining roles, responsibilities, and task assignments for the duration of the project.
- 4) Qualifications of Personnel:
 - a. Provide relevant experience and qualifications of all personnel assigned to the project.
- 5) Scope of Work:
 - a. Provide an outline for keeping the project on schedule and within budget. Include projected workloads and staff availability, as well as a projected schedule for completion of significant milestones and the draft and final plan.
- 6) Insurance Certification:
 - a. Submit current insurance certificates for professional liability insurance, which indicates limits of liability. If selected, the successful firm shall provide certificates of insurance that also name City of Shelby as additional insured.
- 7) References:
 - a. Provide contact information for at least three (3) references for clients familiar with similar work by your firm.

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

DO NOT INCLUDE A PRICED PROPOSAL

INQUIRIES

Questions that arise shall be submitted via email to Mr. Bryant Nodine at bryant.nodine@cityofshelby.com by 5:00 PM, May 19th, 2022. Questions and answers will be provided to others receiving this request.

INCURRING COSTS

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

RIGHT OF AWARD OR REJECT

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

SELECTION AND EVALUATION

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

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

STATEMENT OF INTEREST AND QUALIFICATIONS

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

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

EVALUATION CRITERIA

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

- 1) Technical Approach/Understanding of Project (25%)
- 2) Experience of Proposed Personnel (25%)
- 3) Availability of Staff and Resources (20%)
- 4) Relevant Design Experience (25%)
- 5) Location of the Firm Relative to the Project (5%)

SELECTION

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

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

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

CONTRACT REQUIREMENTS

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

NONDISCRIMINATION

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



**PROPOSED COUNTY HOME ROAD
RECONSTRUCTION PROJECT**

| REVISIONS | |
|-----------|-------------|
| DATE | DESCRIPTION |
| | |
| | |
| | |

RESOLUTION NO. 47-2022

**A RESOLUTION AUTHORIZING SELECTION OF TGS ENGINEERS
BASED ON QUALIFICATIONS FOR PROFESSIONAL ENGINEERING
SERVICES FOR THE COUNTY HOME ROAD RECONSTRUCTION
PROJECT IN SHELBY, NORTH CAROLINA**

WHEREAS, on September 16, 2019 the Shelby City Council approved a petition for the closure of a section of County Home Rd. from the East Dixon Boulevard frontage road to Kings Rd.; and,

WHEREAS, the proposed development projects on the adjoining properties have now been permitted and are in or entering the construction phase; and,

WHEREAS, the City of Shelby desires to design and reconstruct County Home Rd. with an improved alignment in an effort to increase public safety; and,

WHEREAS, this proposed project consists of approximately 300 linear feet of asphalt roadway with curb and gutter and related stormwater infrastructure located from the East Dixon Boulevard frontage road to Kings Road; and,

WHEREAS, the City of Shelby must contract with a licensed firm to provide the Professional Engineering services needed for the County Home Road Reconstruction; and,

WHEREAS, City staff issued a Request for Qualifications dated May 4, 2022, to engineering firms interested in providing Professional Engineering services related to this project; and,

WHEREAS, two (2) proposals were received from Professional Engineering firms interested in performing the work associated with this project; and,

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

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

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

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

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

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

Resolution No. 47-2022
June 20, 2022
Page 2

O. Stanhope Anthony, III
Mayor

ATTEST:

Carol Williams
City Clerk

City of Shelby
Agenda Item Summary
June 20, 2022
City Hall Council Chamber

Agenda Item: E-5

- 5) Approval of a resolution authorizing Destination By Design based on Qualifications for Professional Engineering Services for Shelby Depot Park Design, Bidding, And Construction Administration In Shelby, NC: Resolution No. 48-2022

Consent Agenda Item: (Ben Yarboro, Assistant City Manager)

Summary of Available Information:

- Memorandum dated June 14, 2022 from Todd Frashier, Purchasing Manager to Justin Merritt, Assistant City Manager
- Certificate of Sufficiency
- RFQ ranking of five firms that responded
- Resolution No. 48-2022

City Manager's Recommendation / Comments

Resolution No. 48-2022 is presented for City Council consideration at this time. In North Carolina the procurement of professional services performed by architects, engineers, surveyors and construction managers at risk is governed by NCGS 143-64.31 sometimes called the mini Brooks Act. The City is required to follow a Request for Qualifications process in selecting the most qualified firm to perform the specified professional services.

In February 2022 the City received notification from the NC Parks and Recreation Trust Fund that it had been a grant in the amount of \$420,000 for the purpose of constructing a park on property located near the old Norfolk Southern depot building and bounded on all sides by Market Street, S. Morgan Street, W. Graham Street and Gardner Street. This 4+/- acre parcel was proposed and approved as a site with the adoption of the 2020 City of Shelby Parks and Recreation Master Plan. Previous to this grant award the City also had received a private donation of \$1 million to be used toward this project. Since that time the City has also received additional funding from the State of NC for this purpose.

Earlier this year I authorized the staff to begin the RFQ process for the selection of an engineering firm to design the proposed "depot park". The selection committee voted to recommend Destination By Design (DBD) as the most qualified firm to perform engineering design services for this project. As is our routine and in accordance with the NC General Statute 143-31 the City follows a "Request for Qualifications" process. Submitting firms are vetted by a staff committee using an established scoring system. The field is narrowed, and an interview process occurs. The staff committee then reviews their findings and recommendation with me. Please keep in mind that the statute requires us to select the most qualified firm and then and only then may we negotiate pricing. If we cannot agree to a price with the most qualified firm, we can then negotiate with the next firm on the list. I do not anticipate this will be an issue.

It is my recommendation Resolution No. 48-2022 be adopted and approved by City Council at this time via the Consent Agenda

Memorandum

To: Justin Merritt, Assistant City Manager

From: Todd Frashier, Purchasing Manager

RE: Shelby Depot Project – Professional Engineering Services Selection

Date: June 14, 2022

Background

On October 7, 2019, the Shelby City Council approved Resolution 65-2019 to authorizing the selection of TGS Engineers to perform the professional services related to the City of Shelby portion of the Rail Trail. Following this approval by City Council, staff worked with TGS Engineers to develop a contract and phased plan that will allow sections of the Rail Trail be constructed. Below are the plans phases of the City's portion of the Shelby Rail Trail:

- Segment IA (Sunset Cemetery to Marion St.)
- Segment IB (Grover St. to Sunset Cemetery)
- Segment II (Marion St. to Dekalb St.)

In addition to these segments City staff decided to hold a separate Request for Qualification process and contract for the Shelby Depot Park due to North Carolina Parks & Recreation Trust Fund Project Requirements. In the Qualifications the City is looking to obtain expert professional, technical, and advisory services for the design, bidding, and construction administration of Shelby Depot Park in Shelby, North Carolina.

The Shelby Depot Park project is located on approximately four (4) acres of land between W. Graham Street, S. Morgan St., Gardner St. and S. Market St. (see enclosed vicinity map). These project limits fall within an old Norfolk Southern rail corridor that was recently purchased by the City and includes an old NS train depot building. This park will ultimately serve as a hub for trail users and catalyst for

further downtown revitalization. As outlined in the Request for Qualifications (Attached for Reference), the selection criteria were:

- Technical Approach/Understanding of Project
- Experience of Proposed Personnel
- Availability of Staff and Resources
- Familiarity with North Carolina Parks & Recreation Trust Fund Project Requirements
- Relevant Design and Project Management Experience
- Location of the Firm Relative to the Project (5%)

Review

On April 14, 2022, the City advertised a request for qualifications for professional engineering services for Shelby Depot Park Design, Bidding, and Construction Administration. The City receive five (5) responses to this advertisement prior to the May 12, 2022, deadline. Responses were received from the following firms (listed in alphabetical order.)

- Design Workshop
- Destination by Design
- Land Design
- Robinson & Sawyer, Inc.
- Summit Design and Engineering Services

A review committee consisting of four (4) City Staff members was established to complete independent reviews and scoring of the five responses that were received. After scoring was completed the review committee discussed the results and determined that Destination By Design was the selected as the most qualified firm to perform the work.

Recommendation

City Staff recommends that the Shelby City Council approve the resolution selecting Destination By Design as the firm to perform engineering services for Shelby Depot Park design, bidding, and construction administration. This Resolution will authorize the City Manager to negotiate and execute an agreement that establishes the scope of work and fees associated with the professional services that are to be completed.

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

Attachments:

- Request for Qualifications
- RFQ Scoring Sheet

RFQ for Professional Engineering Services for Shelby Depot Park Design, Bidding, and Construction Administration

| Firm | Technical Approach / Understanding of Project (25%) | | | | | | Relevant Experience of Proposed Personnel (25%) | | | | | | Availability of Staff and Resources (25%) | | | | | | Familiarity with North Carolina Parks & Recreation Trust Fund Project Requirements (25%) | | | | | | Relevant Design and Project Management Experience (25%) | | | | | | Location of the Firm Relative to the Project (25%) | | | | | | Total Points | | | | | | RFQ Ranking | | | Final Ranking |
|-----------------------|---|-----------|--------------|------------|---------|-----------|---|--------------|------------|---------|-----------|-----------|---|------------|---------|-----------|-----------|--------------|--|---------|-----------|-----------|--------------|------------|---|-----------|-----------|--------------|------------|---------|--|-----------|--------------|------------|---------|-----------|--------------|--------------|------------|---------|---|--|-------------|--|--|---------------|
| | J. Wright | B. Nodine | C. Holtzclaw | T. Frasher | Average | J. Wright | B. Nodine | C. Holtzclaw | T. Frasher | Average | J. Wright | B. Nodine | C. Holtzclaw | T. Frasher | Average | J. Wright | B. Nodine | C. Holtzclaw | T. Frasher | Average | J. Wright | B. Nodine | C. Holtzclaw | T. Frasher | Average | J. Wright | B. Nodine | C. Holtzclaw | T. Frasher | Average | J. Wright | B. Nodine | C. Holtzclaw | T. Frasher | Average | J. Wright | B. Nodine | C. Holtzclaw | T. Frasher | Average | | | | | | |
| Design Workshop | 22 | 22 | 15 | 16 | 18.75 | 13 | 11 | 10 | 12 | 11.5 | 14 | 14 | 5 | 13 | 11.5 | 12 | 12 | 10 | 0 | 12 | 8.5 | 23 | 19 | 10 | 20 | 18 | 3 | 2 | 1 | 2 | 2 | 87 | 78 | 41 | 75 | 3 | 5 | 5 | 5 | 4.5 | 5 | | | | | |
| Destination by Design | 24 | 25 | 20 | 22 | 22.75 | 13 | 13 | 13 | 14 | 13.25 | 13 | 12 | 12 | 14 | 12.75 | 12 | 14 | 15 | 11 | 13 | 24 | 24 | 23 | 15 | 22 | 21 | 5 | 3 | 4 | 4 | 91 | 90 | 79 | 87 | 1 | 1 | 2 | 1 | 1.25 | 1 | | | | | | |
| Land Design | 23 | 23 | 24 | 18 | 22 | 14 | 13 | 14 | 13 | 13.5 | 13 | 14 | 14 | 13 | 13.5 | 12 | 13 | 15 | 10 | 12.5 | 24 | 22 | 24 | 22 | 23 | 4 | 4 | 5 | 3 | 4 | 90 | 89 | 96 | 79 | 2 | 2 | 1 | 3 | 2 | 2 | | | | | | |
| Robinson & Sawyer | 23 | 22 | 15 | 20 | 20 | 13 | 13 | 8 | 12 | 11.5 | 13 | 13 | 8 | 12 | 11.5 | 10 | 12 | 0 | 10 | 8 | 21 | 21 | 10 | 21 | 18.25 | 5 | 4 | 4 | 4 | 4.25 | 85 | 85 | 45 | 79 | 5 | 4 | 4 | 4 | 4.25 | 4 | | | | | | |
| Summit Design | 23 | 23 | 15 | 21 | 20.5 | 12 | 12 | 10 | 12 | 11.5 | 15 | 14 | 10 | 13 | 13 | 10 | 13 | 10 | 10 | 10.75 | 21 | 21 | 15 | 21 | 19.5 | 4 | 3 | 4 | 4 | 3.75 | 85 | 86 | 64 | 81 | 4 | 3 | 3 | 2 | 3 | 3 | | | | | | |

Completed by: _____

Date: _____

RESOLUTION NO. 48-2022

**A RESOLUTION AUTHORIZING DESTINATION BY DESIGN BASED ON
QUALIFICATIONS FOR PROFESSIONAL ENGINEERING SERVICES FOR
SHELBY DEPOT PARK DESIGN, BIDDING, AND CONSTRUCTION
ADMINISTRATION IN SHELBY, NC**

WHEREAS, in Resolution No. 65-2019 the City authorized a contract with TGS Engineers to provide the Engineering Design Services needed for the design of the City of Shelby Rail Trail Portion of the Rail Trail; and

WHEREAS, the City of Shelby desires to construct a project entitled the City of Shelby Depot Park that will tie into the City of Shelby Rail Trail portion with the primary objectives being to complement ongoing and future community and economic development efforts in the City of Shelby; and,

WHEREAS, this project would consist of the construction of a park facility that would begin on Graham Street and follow the Norfolk Southern rail line to the intersection of the rail corridor with Gardner Street; and,

WHEREAS City staff issued a Request for Qualifications to professional engineering firms interested in providing design services, bidding, and construction administration related to this project; and,

WHEREAS, City staff has reviewed proposals and determined Destination By Design is the most qualified firm to perform professional engineering firms for Shelby Depot Park design services, bidding, and construction administration as outline in the Request for Qualifications

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

Section 1. The City Council of the City of Shelby hereby desires for the City Manager to enter into negotiations with Destination By Design. in accordance with North Carolina General Statute 143-64.31 to negotiate a contract for the above referenced project.

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

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

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

Adopted and approved this the 20th day of June 2022.

Resolution No. 48-2022
June 20, 2022
Page 2

O. Stanhope Anthony III
Mayor

ATTEST:

Carol Williams
City Clerk

City of Shelby
Agenda Item Summary
June 20, 2022
City Hall Council Chamber

Agenda Item: E-6

- 6) Approval of a resolution approving and Accepting the revised City Of Shelby Stormwater Quality Management Program: Resolution No. 49-2022

Consent Agenda Item: (Ben Yarboro, Assistant City Manager)

Summary of Available Information:

- Memorandum dated June 13, 2022 from Tyler Brooks, Stormwater/Engineering Coordinator to Justin Wright, Civil Engineer and Ben Yarboro, Assistant City Manager
- Resolution No. 49-2022
- The updated Stormwater Quality Management plan will be sent in a separate link to Council, the file was too large to send with the agenda

City Manager's Recommendation / Comments

Resolution No. 49-2022 is presented for City Council consideration at this time via the Consent Agenda. The adoption of this resolution would mean simply that City Council acknowledges, accepts and approves the document provided entitled Stormwater Quality Management Program as revised on June 20, 2022.

The adoption of this document supersedes the document previously adopted by City Council on February 18, 2019. Staff has reviewed the previous document and made necessary technical changes that are included in the updated version before you tonight.

It is my recommendation Resolution No. 49-2022 be adopted and approved by City Council at this time via the Consent Agenda

Memorandum

To: Justin Wright, Civil Engineer
Ben Yarboro, Assistant City Manager

From: Tyler Brooks, Stormwater/Engineering Coordinator

RE: Stormwater Quality Management Plan Update

Date: June 13, 2022

Background

In January 2010, the City of Shelby was designated as a Phase II Stormwater Community and required to have a National Pollutant Discharge Elimination System Stormwater Permit. The City's first NPDES Stormwater Permit NCS000560 was issued in December 2012 for a five-year term. The City's current permit was issued February 1, 2018, with an expiration date of January 31, 2023. The current stormwater permit states the City must keep its Stormwater Quality Management Plan up to date.

Review

City staff has reviewed and updated the proposed Stormwater Quality Management Plan. This document details how the City's Stormwater Program will comply with the requirements of its NPDES stormwater permit. The update includes the addition of several Standard Operating Procedures (SOPs) aimed at reducing stormwater pollution targeted at municipal operations.

New SOPs are related to the following topics:

- Operation and Maintenance of Municipal Vehicles and Equipment
- Spill Response
- Municipal Facility Inspections
- Solid Waste and Yard Waste Collection
- Illicit Discharge Detection and Elimination.

Additionally, there were minor administrative changes to the SWQMP due to job titles and staff changes that have occurred during the 5-year permit period.

Recommendation

City Staff recommends that the Shelby City Council approve the resolution accepting the revised Stormwater Quality Management Plan.

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

Attachments:

City of Shelby Stormwater Quality Management Program – DRAFT June 20, 2022

RESOLUTION NO. 49-2022

**A RESOLUTION APPROVING AND ACCEPTING THE REVISED CITY OF SHELBY
STORMWATER QUALITY MANAGEMENT PROGRAM**

WHEREAS, City Staff developed a Stormwater Quality Management Program dated June 6, 2011 to meet the requirements of the City of Shelby’s Stormwater NPDES Permit No. NCS000560; and,

WHEREAS, the City of Shelby’s Stormwater NPDES Permit requires the City to maintain an updated Stormwater Quality Management Program; and,

WHEREAS, the Stormwater Quality Management Program was previously revised and adopted by City Council on February 18, 2019; and,

WHEREAS, City staff has revised the Stormwater Quality Management Program dated June 20, 2022 to meet the requirements of the current NPDES Stormwater Permit and promote water quality.

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

Section 1. The City Council of the City of Shelby acknowledges, accepts, and approves the document entitled Stormwater Quality Management Program, revised June 20, 2022.

Section 2. The appropriate City staff are hereby authorized and directed to continue implementation of the City of Shelby Phase II Stormwater Program consistent with the actions outlined in the City of Shelby Phase II Stormwater Quality Management Program.

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

Adopted and approved this the 20th day of June 2022.

O. Stanhope Anthony, III
Mayor

ATTEST:

Carol Williams
City Clerk

City of Shelby
Agenda Item Summary
June 20, 2022
City Hall Council Chamber

Agenda Item: E-7

- 7) Approval of a resolution authorizing disbursement of Travel and Tourism funding for Fiscal Year 2022-2023: Resolution No. 51-2022

Consent Agenda Item: (Rick Howell, City Manager)

Summary of Available Information:

- Resolution No. 51-2022

City Manager's Recommendation / Comments

I have reviewed the applications submitted by the eligible organizations for travel and tourism grant funding. Each year past grant recipients and other organizations that have expressed an interest are eligible to submit grant applications for these funds generated through the 3% room occupancy tax levied by City Council. Each is reviewed to determine if the purpose for use of funds is eligible under the statutes and city policy, the economic impact of the event(s), past use of funds, success of past events, financial participation by the entity, as well as other relevant criteria. Resolution No. 50-2022 is presented for consideration at this time.

As you all know these funds are limited and the competition is significant. I have tried to balance requests for funding within the provisions of adopted City policy to ensure the greatest benefit is realized as set forth within the applicable NC General Statute. Receipts for fiscal year 2022-2023 were approximately \$200,000.

RESOLUTION NO. 51-2022

A RESOLUTION AUTHORIZING DISBURSEMENT OF
TRAVEL AND TOURISM FUNDING FOR FISCAL YEAR 2022-2023

WHEREAS, the City of Shelby through the adoption of the 2005 Strategic Growth Plan recognizes the need to promote economic development efforts throughout the City; and

WHEREAS, City of Shelby currently levies a 3% occupancy tax in accordance with Resolution 69-97 and NC Session Law 1997-361 for the purpose of generating revenue for the promotion of travel and tourism within the City; and

WHEREAS, said occupancy tax proceeds are restricted for use by the noted resolution and session law for travel and tourism promotion and tourism related expenditures; and

WHEREAS, the City Manager has determined that sufficient funding has been appropriated by Council for the fiscal year beginning July 1, 2022; and

WHEREAS, the following organizations have submitted applications and requests to the City Manager and it is his determination that each is eligible under the city policy and the applicable general statute and therefore recommends that the following amounts be awarded:

- | | |
|--|------------|
| 1. Earl Scruggs Center Marketing and Exhibit / Event Support | \$35,000. |
| 2. Don Gibson Theatre Marketing and Concert Sponsorship | \$35,000. |
| 3. Cleveland County Travel and Tourism Visitor Marketing / Livermush Festival Marketing | \$20,000. |
| 4. Sharks Aquatics Club Swim Meet Event Equipment / Facility Rental | \$ 7,500. |
| 5. Uptown Shelby Association Travel/Tourism Promotion/Printed Marketing | \$ 25,000. |

6. Foothills Farmers Market \$ 9,000
Marketing

NOW, THEREFORE, BE IT RESOLVED THAT THE CITY COUNCIL OF THE CITY OF SHELBY, NORTH CAROLINA as follows:

- 1) City Council authorizes disbursement of local occupancy tax funds for the preceding organizations at the discretion of the Finance Director in consultation with the City Manager..
- 2) Authorizes the City Manager to obtain activity reports from each funded organization detailing the use of said funds. The same shall be reported to City Council following the close of the fiscal year ending June 30, 2023.

This Resolution shall become effective upon its adoption and approval.

Adopted and approved this the 20th day of June, 2022.

O. Stanhope Anthony, III
Mayor

ATTEST:

Carol Williams
City Clerk

City of Shelby
Agenda Item Summary
June 20, 2022
City Hall Council Chamber

F. Unfinished Business

Agenda Item: F-1

- 1) Shelby Rail Trail Phase IA Project:
 - a. Adoption of a Budget Ordinance Amendment For The City Of Shelby's Rail Trail Corridor Project. Ordinance No. 42-2022
 - b. Approval of a resolution awarding the construction contract: Resolution No. 50-2022

Consent Agenda Item: (Rick Howell, City Manager and Ben Yarboro, Assistant City Manager)

Summary of Available Information:

- Memorandum dated June 15, 2022 from Justin Wright, Civil Engineer to Ben Yarboro, Assistant City Manager
- Letter dated June 14, 2022 from TGS Engineers to Ben Yarboro
- Bid documents
- Memorandums dated June 14, 2022 from Ben Yarboro, Assistant City Manager to Rick Howell, City Manager
- Ordinance No. 42-2022
- Resolution No. 50-2022

City Manager's Recommendation / Comments

Ordinance No. 42-2022 is presented for City Council consideration at this time. If approved this ordinance would amend project budget Ordinance No. 34-2017 by appropriating an additional funding in the amount of \$2,795,850 from the proceeds of the sale of assets held in the General Fund reserve account and a NC State SCIF grant for use in constructing a section of the Shelby Rail Trail (Carolina Harmony Trail) from Sunset Cemetery to West Marion Street.

Resolution No. 50-2022 is also presented for City Council consideration at this time. If approved this resolution would authorize the award of a contract to construct the aforementioned section of the Shelby Rail Trail to Piedmont Utility Group in the amount of \$2,735,939.12. The City advertised this project and opened bids on April 28, 2022 receiving only one bid. The City was unable to open this bid as three bids are required for formal contract under state law and City policy. The project was readvertised as required and bids were received on May 6, 2022. Bid readvertisements on formal bid projects require receipt of only one bid. The bid was received from Piedmont Utility Group in the amount of \$3,262,140.20. City staff negotiated with Piedmont and were able to get that amount down to the recommended contract price of \$2,735,939.12.

It is my recommendation that Ordinance No. 42-2022 and Resolution No. 50-2022 be adopted and approved by City Council at this time.



Memorandum

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

From: Ben Yarboro, Assistant City Manager

RE: Shelby Rail Trail Phase 1A
Project Budget Ordinance

Date: June 14, 2022

Background

The City of Shelby contracted with TGS Engineers to complete the design and bidding of the Shelby Rail Trail Phase 1A project (from Sunset Cemetery near W. Grover St. to W. Marion St.). The construction contract recommendation amount is \$2,735,939.12. Along with the construction contract, there are other additional expenses associated with the design, construction administration and inspection, and city provided materials that are required to complete this project. The additional tasks or contracts required are listed in the table below:

| Work Item/ Description | Amount |
|---|-----------------------|
| Construction Contract – Piedmont Utility Group, Inc. | \$2,735,939.12 |
| Construction Engineering and Inspection – TGS Engineers | \$160,000.00 |
| Fencing along Rail Trail – Contractor to be determined | \$50,000.00 |
| Additional Design Services – TGS Engineers/DbD | \$80,075.00 |
| Materials to be provided by City (see attached summary) | \$470,016.00 |
| Project Subtotal | \$3,496,030.12 |
| Contingency (5%) | \$174,801.51 |
| Total Project Cost | \$3,670,831.63 |
| Funding appropriated in FY 2022-2023 Budget | |
| Stormwater | \$485,000.00 |
| Electric | \$390,000.00 |
| Additional Funding Required for Project | \$2,795,831.63 |

The following documentation is included for your reference:

- Letter of Recommendation for Construction Contract from TGS
- Construction Engineering and Inspection proposal from TGS
- Memorandum from Justin Wright, Civil Engineer regarding the additional design services required for Phase 1A for TGS Engineers and DbD
- Summary of materials that are to be provided by City

Recommendation

City Staff recommends the establishment of a project budget ordinance in the amount of \$2,795,831.63 for the Shelby Rail Trail Phase 1A construction project.

Please let me know if more information is required.

Memorandum

To: Rick Howell, City Manager

From: Ben Yarboro, Assistant City Manager

RE: Recommendation to award the construction contract for the Shelby Rail Trail Phase IA Project

Date: June 14, 2022

Background

On October 7, 2019, the Shelby City Council approved Resolution 65-2019 to authorizing the selection of TGS Engineers to perform the professional services related to the City of Shelby portion of the Rail Trail. Following this approval by City Council, staff worked with TGS Engineers to develop a phased plan that will allow sections of the Rail Trail be constructed. Below are the plans phases of the City's portion of the Shelby Rail Trail:

- Phase IA (Sunset Cemetery to Marion St.)
- Phase IB (Grover to Sunset Cemetery)
- Phase II (Marion St. to Dekalb St.)

City staff worked with TGS Engineers to prepare completed construction documents for the City of Shelby Rail Trail Phase IA, which included the following:

- Branding
- Kiosk
- 13' Asphalt and Concrete Multi-use path
- Pavers
- Retaining Wall
- Perforated Metal Panels
- Gateway
- Bike Racks
- Benches
- Landscaping

Review

TGS Engineers and City Staff publicly advertised the Shelby Rail Trail IA project and bid packages were provided to nine perspective bidders on March 25, 2022. At the bid opening on April 28, 2022, one bid package was submitted, so with this being a formal bid opening there were not the three required bids to conduct the opening. Staff re-advertised a second bid opening on May 6, 2022, and one completed bid was received at this public bid opening. This bid was opened and read aloud. The bid tabulation for this bid is attached to this memorandum and depicts the lump sum bid and the unit prices that were received. The lowest responsive bidder was Piedmont Utility Group, Inc. from Mooresboro, NC.

| Company Name | Submitted Bid |
|-----------------------------|----------------|
| Piedmont Utility Group Inc. | \$3,262,140.20 |

As a reference, the Engineer’s cost estimate for this project was \$2,613,377.55. With the extremely volatile construction market and recent inflation of many materials, it was anticipated that the low bid would likely exceed the Engineer’s estimate. In an effort to reduce the overall project cost, the low bid that was received was reviewed to determine where cost savings could be realized. After thorough review and multiple discussions, several tasks were either modified or removed from the contract that allow the City to still construct the trail that meets the primary goals of the project. A breakdown of the items that were either adjusted or removed from the contract are included in the Contract Award Recommendation from TGS Engineers dated June 14, 2022. With these modifications to the contract, the total recommended award to Piedmont Utility Group, Inc. is **\$2,735,939.12**.

Recommendation

City Staff recommends that the Shelby City Council approve the resolution awarding the bid for the City of Shelby Rail Trail Phase IA Project to the lowest responsive bidder, Piedmont Utility Group Inc., for a contract amount of \$2,735,939.12.

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

Attachments:

- Bid Tabulation
- TGS Letter of Recommendation
- Shelby Rail Trail Plan Set



201 West Marion Street
 Suite 200
 Shelby, North Carolina 28150
 (704) 476-0003 Phone
 (704) 476-0024 Fax
 www.tgsengineers.com

June 14, 2022

Mr. Ben Yarboro
 City of Shelby
 824 W Grover St
 George W. Clay, Jr. Utility Operations Center
 Shelby, North Carolina 28150

Reference: SRT-0001A
 Shelby Rail Trail Phase 1A

Dear Mr. Yarboro:

As you are aware, bids were opened in your office for the construction of the referenced project on May 6, 2022 at 10:00 a.m. One (1) bid was received on the project and opened since this was the second advertisement. The apparent low bidder for the project was Piedmont Utility Group, Inc.

Listed below is a summary of the bid(s) submitted for the project sorted from low bid to high bid. The Engineer's Estimate for the construction of the project was \$2,613,377.55.

| <u>Bidder</u> | <u>Bid Results</u> | <u>% Difference</u> |
|------------------------------|--------------------|---------------------|
| Piedmont Utility Group, Inc. | \$ 3,262,140.20 | +24.82% |

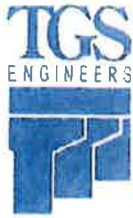
We have reviewed the bid package and found it to be in order and found that the bid was responsive under the terms of the contract. However, several items have been negotiated out of the contract as shown in the attachment that reduced the contract amount to \$2,735,939.12. Therefore, with no other issues, we recommend that the City of Shelby award the contract for construction of the project to the low bidder, Piedmont Utility Group, Inc. at the contract amount of \$2,735,939.12.

Best regards,

Jimmy Terry, PE
 TGS Engineers

Enclosures

cc: Clint Pruett, PE
 File



March 14, 2022

Mr. Rick Howell
City of Shelby
824 West Grover St
Shelby, NC 28150

**Re: Shelby Rail Trail – Phase I – Grover St to Marion St.
Addendum to add Contract Administration and Construction Inspection**

Dear Mr. Howell,

As requested, we propose the addition of contract administration and construction engineering and inspection services to our Contract for Professional Services previously signed by the City on May 27, 2021.

A. Scope of Services

• **Contract Administration**

- Attend Pre-Bid Meeting, Bid Opening
- Perform Bid Review
- Attend Pre-Construction Meetings, Progress Meetings, or other miscellaneous meetings as necessary
- Review application for payments, change orders, RFI's, etc.
- Coordinate with City and Contractor
- Contract compliance assurance
- Project Close-out

• **Construction Engineering and Inspection**

- Full-time field inspection of work
- Daily inspection reports
- Soil and Concrete Testing (if needed)
- Materials received verification and documentation
- Pay records
- Shop Drawing review
- Final Inspection
- Lab testing, if necessary (subcontracted)

B. Compensation for Services – Hourly and Reimbursable Expense Allowance with Total Maximum Fee

Compensation for the above scope of services will be on an hourly basis for actual work performed. Hourly rates are as follows:

| | |
|----------------------------------|---------------|
| Principal: | \$180.00/hour |
| Construction Engineer: | \$150.00/hour |
| Assistant Construction Engineer: | \$105.00/hour |
| Field Technician: | \$90.00/hour |

TGS Engineers
201 W. Marion St.
SUITE 200
Shelby, NC 28150
PHONE (704) 476-0003 FAX (704) 476-0024

Vehicular transportation will be necessary to perform the above scope of work. Rates for reimbursement are the following:

| | |
|---------------|----------------|
| Truck Rental: | \$871.00/month |
| Mileage: | \$0.19/mile |

Laboratory testing or on-site testing that is required to be performed by a Subconsultant, if necessary, will be reimbursable at the actual cost billed to TGS.

The total maximum fee, including all reimbursable expenses, shall not exceed **\$160,000.00**.

C. Time of Beginning and Completion

Contract administration and construction engineering and inspection services shall begin upon the Pre-Bid Meeting for the project, and shall end either: (a) two hundred forty (240) days; (b) upon reaching the \$160,000.00 not-to-exceed cost; (c) completion of the project; or (d) December 31, 2022, whichever comes first.

D. Supplemental Services

If, during the course of the work, unanticipated work beyond the original scope or beyond the original timeframe of two hundred (240) days or December 31, 2022 should be required, a supplemental agreement will be developed between the City and the Engineer. No supplemental services are to be performed by the Engineer without express written authorization of the City.

If you have any questions or need further information, please contact me at (704) 476-0003 or by email at bfletcher@tgsengineers.com.

Sincerely,



Brian P. Fletcher, PE
Vice President/Project Manager
TGS Engineers

Acceptance

This represents the agreement between the Parties with respect to the subject matter hereof. This Agreement may be amended or modified only by a written instrument signed by a duly authorized representative of each Party.

IN WITNESS WHEREOF, the Parties have caused this Agreement to be executed by their duly authorized representatives as of the date set forth above.

Consultant: TGS Engineers

Accepted by:

Brian P. Fletcher, PE

Name: _____
(Please Print Full Name)

Signature:

Title: _____

Date: March 14, 2022

Signature: _____

Date: _____

Memorandum

To: Ben Yarboro, Assistant City Manager

From: Justin Wright, Civil Engineer

RE: Recommended Change Order for TGS Engineers /
Destination by Design for Design of Shelby Rail Trail
Phase 1A

Date: June 15, 2022

Background

On October 7, 2019, the Shelby City Council approved Resolution 65-2019 authorizing the selection of TGS Engineers to perform the professional services related to the City of Shelby portion of the Rail Trail following a qualifications based selection process. Following this approval by City Council, staff worked with TGS Engineers to develop a phased plan that will allow sections of the Rail Trail be constructed. Below are the plans phases of the City's portion of the Shelby Rail Trail:

- Segment IA (Sunset Cemetery to Marion St.)
- Segment IB (Grover to Sunset Cemetery)
- Segment II (Marion St. to Dekalb St.)

Review

City staff worked with TGS Engineers to prepare completed construction documents for City of Shelby Rail Trail Phase IA. During this process multiple different obstacles were overcome, along with additions or changes to the scope of work. Please see below for a breakdown of the requested change order from TGS and DbD:

TGS Engineers has requested the following:

- Resurvey of Phase I due to changes from NS removal of tie/tracks. - \$8,000
- Raising the grade to minimize wall heights and prevent cutting of tree canopy. (Revised trail design and drainage) - \$17,000
- Ford Street Parking Lot Addition - \$10,000
- Retaining Wall Envelope - \$5,000

Destination by Design has requested the following:

- Gateway - \$18,000 for structure engineering and lighting

- Design Northern Terminus – \$6,000
- Ford Street Parking Lot Addition – \$8,000
- Conceptual S. Dekalb Trail Head Design - \$7,275
- Branding color modification - \$800

Recommendation

City staff has reviewed each requested change order item and has found a change order needs to take place to accommodate the for the work outside of the original scope that has been provided. Please see City staffs justifications below:

- The Trail had to be resurveyed due to changes and removal rail tracks and ties and has affected the initial survey the design contractors completed prior to removal of tracks and ties. The current grade of the rail trail was also adjusted to help cost engineer the project without the grade change a more costly retaining wall would be implemented. To reduce construction costs on the project the design team also re-evaluated the retaining wall have to alter original design. Ford St. parking lot was added into the plans to allow for connection to the rail, this was added when the rail trail was going to be implemented in segments.
- Prior of full construction drawings of Phase IA Destination by Design performed conceptual of a possible trailhead at S. Dekalb St. With this work the city request a conceptual design for a trail to be located on S. Dekalb St. that was not in the original contract.
- Destination by Design provided the City with branding aspects as defined in their scope of work. After an initial approval, the city requested to the red color of the cardinal to stand out more which required more time and material research.
- A gateway was proposed for this section of the Rail Trail; however, this was not in the original contract and had to have structural engineering and additional lighting involved.
- With the City electing to have the rail trail split into phases and from coordination efforts with CSX Railroad, there was the need for another connection and a better place for trail users to turn around as they approach the active CSX Railroad. This led to the design of the Ford St. Parking lot addition and an additional northern terminus.

City Staff recommends the approval of this change order. These change order amounts have been negotiated and are fair and reasonable.

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

Shelby Rail Trail Phase 1A

| City Provided Materials | |
|--------------------------------|--|
| | Items |
| \$ 254,016.00 | Trail Lighting (42 Lights) |
| \$ 3,000.00 | Owner-Provided Trash Can (1) (Northern Terminus) |
| \$ 3,000.00 | Owner-Provided Trash Can (1) (Ford St.) |
| \$ 3,500.00 | Owner-Provided Bench (1) (Ford St.) |
| \$ 85,000.00 | Decorative Metal Panels (Sumter Bridge) |
| \$ 15,000.00 | Kiosk (Marion St.) |
| \$ 85,000.00 | Gateway Sculpture (Marion St.) |
| \$ 7,000.00 | (2) Owner-Provided Trash Cans (Marion St.) |
| \$ 10,500.00 | (3) Owner-Provided Benches (Marion St.) |
| \$ 4,000.00 | (8) Bike Rakes (Marion St.) |
| \$ 470,016.00 | Total City Provided Items |

ORDINANCE NO. 42-2022
 BUDGET ORDINANCE AMENDMENT FOR THE CITY OF SHELBY'S RAIL TRAIL
 CORRIDOR PROJECT

WHEREAS, in accordance with applicable provisions of the North Carolina Budget and Fiscal Control Act, the City of Shelby finds it advisable and necessary to revise and amend its capital project ordinance and budgets for the City of Shelby's Rail Trail Corridor Project; and

WHEREAS, the City Manager (Budget Officer) has recommended certain amendments to the budget which the governing body finds acceptable; and,

WHEREAS, City Council now desires to act on the recommended budget amendments and approve the same for implementation and compliance with the North Carolina Local Government Budget and Fiscal Control Act;

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

Section 1. Ordinance No. 34-2017, the City's Rail Trail Corridor Project, is hereby amended as follows to provide for Budget Amendment No. 4 for said project:

Rail Trail Corridor Project

(1) Appropriating Revenues and Fund Balance:

| | | |
|---------------------------------|----------------|------------|
| Proceeds-Sale of Assets | 11001000-36301 | \$ 795,850 |
| Transfer to ED Capital Projects | 110495-49231 | \$ 795,850 |

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

| | | |
|----------------------------|----------------------|-------------|
| Transfer from General Fund | 23109000-39110-RLTRL | \$ 795,850 |
| NC State SCIF Grants | 23109000-34507-RLTRL | \$2,000,000 |

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

| | | |
|--------------|--------------------|-------------|
| Construction | 231590-53000-RLTRL | \$2,795,850 |
|--------------|--------------------|-------------|

Section 2. That the revenues, expenditures and amendments set forth in Section 1 of this ordinance are hereby summarized as follows:

Rail Trail Corridor Project

| | <u>Current Budget</u> | <u>Amendment No. 4</u> |
|----------------------------|-----------------------|------------------------|
| Revenues | | |
| Cleveland County Grant | \$ 15,000 | \$ 15,000 |
| Trail Grant Revenue | \$ 113,000 | \$ 113,000 |
| Transfer from General Fund | \$ 362,000 | \$ 1,157,850 |
| Transfer from EDF | \$ 222,000 | \$ 222,000 |
| State NCDOT Grant | \$ 4,160,000 | \$ 4,160,000 |
| NC State SCIF Grant | \$ -0- | \$ 2,000,000 |
| Proceeds from Financing | \$ 1,340,000 | \$ 1,340,000 |
| Expenditures | | |
| Professional Services | \$ 712,000 | \$ 712,000 |
| Land | \$ 5,500,000 | \$ 5,500,000 |
| Construction | \$ -0- | \$ 2,795,850 |

Ordinance No. 42-2022
June 20, 2022
Page 2

Section 3. Copies of this Budget Ordinance Amendment shall be furnished to the City Manager as Budget Officer and to the Finance Director to be kept on file by them for their direction in the collection and disbursement of funds. Said officials are hereby authorized to receive and expend funds as herein set forth in accordance with the Shelby City Code, the General Statutes of North Carolina, and the provisions of the original budget ordinance; inclusive of GS 159-28 governing budgetary accounting of appropriations.

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

Adopted and Approved this the 20th day of June, 2022.

O. Stanhope Anthony, III
Mayor

ATTEST:

Carol Williams
City Clerk

APPROVED AS TO FORM:

Andrea Leslie-Fite
City Attorney

RESOLUTION NO. 50-2022

**A RESOLUTION AWARDING THE CONSTRUCTION CONTRACT FOR THE
SHELBY RAIL TRAIL PHASE IA PROJECT**

WHEREAS, the City of Shelby designed a project entitled the City of Shelby Rail Trail Phase IA with the primary objectives being to complement ongoing and future community and economic development efforts in the City of Shelby while promoting health and providing transportation opportunities; and,

WHEREAS, this project consists of the construction of multi-use path and associated amenities that would begin behind the Sunset Cemetery near Grover Street and follow the former Norfolk Southern rail line to the intersection of the rail corridor with West Marion Street and North Morgan Street; and,

WHEREAS, in Resolution No. 65-2019 the City authorized a contract with TGS Engineers to provide the Professional Engineering Services necessary for the design of the City of Shelby Rail Trail Portion of the Rail Trail; and,

WHEREAS, the City of Shelby and TGS Engineers have prepared completed construction bid documents, and held a public bid opening in accordance with NCGS 143-129 to accept bids from qualified contractors to perform the construction related to this project; and,

WHEREAS, the City of Shelby in accordance with applicable provisions of NCGS 143-129, as amended, held a second public bid opening on May 6th, 2022 for its City of Shelby Rail Trail Phase IA Project; and,

WHEREAS, one (1) responsive, responsible bid was received for this project and the apparent low bidder was Piedmont Utility Group, Inc., in the amount of \$3,262,140.20; and,

WHEREAS, City staff and TGS Engineers have reviewed the bid and modified the scope of work in an effort to reduce the construction cost; and,

WHEREAS, City staff and TGS Engineers recommend to City Council that the contract with the modified scope of work be awarded to the lowest responsive, responsible bidder, Piedmont Utility Group, Inc., in the amount of \$2,735,939.12.

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

Section 1. The City Council of the City of Shelby hereby awards the contract for the City of Shelby's Rail Trail Phase IA Project, as outlined in the bid specifications for this offering, to Piedmont Utility Group, Inc. for a bid price of \$2,735,939.12.

Section 2. The City Manager and City Clerk are hereby authorized and directed to execute the applicable contracts associated with this project.

Resolution No. 50-2022
June 20, 2022
Page 2

Section 3. The City Manager or his designees are hereby authorized to execute amendments and change orders to the applicable documents associated with this project.

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

Adopted and approved this the 20th day of June 2022.

O. Stanhope Anthony III
Mayor

ATTEST:

Carol Williams
City Clerk

City of Shelby
Agenda Item Summary
June 20, 2022
City Hall Council Chamber

G. New Business

Agenda Item G-1

- 1) A Resolution Authorizing Disbursement of Travel And Tourism Funding to the Cleveland County Arts Council for Fiscal Year 2022-2023: Resolution No. 52-2022

New Business Item: (Rick Howell, City Manager)

- Resolution No. 52-2022

City Manager's Recommendation / Comments

Upon the advice of the City Attorney and in consultation with the School of Government Resolution No. 51-2022 is presented for City Council consideration at this time. It is presented separately from Resolution No. 50-2022 to remove any perception or real conflict of interest. As you all know Councilmember Violet Arth is an employee of the Cleveland County Arts Council and as such it could be perceived that she has a conflict of interest when voting on this matter given it awards her employer a grant. This could be considered or perceived by some that Councilmember Arth is receiving a prohibited "direct benefit" from the City if she were to vote. As such it is up to a member of Council to request recusal and for Council to grant that recusal.

I have reviewed the applications submitted by the eligible organizations for travel and tourism grant funding. Each year past grant recipients and other organizations that have expressed an interest are eligible to submit grant applications for these funds generated through the 3% room occupancy tax levied by City Council. Each is reviewed to determine if the purpose for use of funds is eligible under the statutes and city policy, the economic impact of the event(s), past use of funds, success of past events, financial participation by the entity, as well as other relevant criteria. Resolution No. 52-2022 is presented for consideration at this time.

It is my recommendation Resolution No. 52-2022 be adopted and approved by City Council at this time

RESOLUTION NO. 52-2022

A RESOLUTION AUTHORIZING DISBURSEMENT OF
TRAVEL AND TOURISM FUNDING TO THE CLEVELAND COUNTY ARTS COUNCIL
FOR FISCAL YEAR 2022-2023

WHEREAS, the City of Shelby through the adoption of the 2005 Strategic Growth Plan recognizes the need to promote economic development efforts throughout the City; and

WHEREAS, City of Shelby currently levies a 3% occupancy tax in accordance with Resolution 69-97 and NC Session Law 1997-361 for the purpose of generating revenue for the promotion of travel and tourism within the City; and

WHEREAS, said occupancy tax proceeds are restricted for use by the noted resolution and session law for travel and tourism promotion and tourism related expenditures; and

WHEREAS, the City Manager has determined that sufficient funding has been appropriated by Council for the fiscal year beginning July 1, 2022; and

WHEREAS, the following organizations have submitted applications and requests to the City Manager and it is his determination that each is eligible under the city policy and the applicable general statute and therefore recommends that the following amounts be awarded:

1. Cleveland County Arts Council – Art of Sound Festival \$20,000.
Marketing and Event Support

NOW, THEREFORE, BE IT RESOLVED THAT THE CITY COUNCIL OF THE CITY OF SHELBY, NORTH CAROLINA as follows:

- 1) City Council authorizes disbursement of local occupancy tax funds for the preceding organization in the designated amount at the discretion of the Finance Director in consultation with the City Manager.

- 2) Authorizes the City Manager to obtain activity reports from each funded organization detailing the use of said funds. The same shall be reported to City Council following the close of the fiscal year ending June 30, 2023.

This Resolution shall become effective upon its adoption and approval.

Adopted and approved this the 20th day of June, 2022.

O. Stanhope Anthony, III
Mayor

ATTEST:

Carol Williams
City Clerk

City of Shelby
Agenda Item Summary
June 20, 2022
City Hall Council Chamber

Agenda Item G-2

- 2) A Resolution Authorizing Disbursement of Travel And Tourism Funding to the American Legion World Series for Fiscal Year 2022-2023: Resolution No. 53-2022

New Business Item: (Rick Howell, City Manager)

- Resolution No. 53-2022

City Manager's Recommendation / Comments

Upon the advice of the City Attorney and in consultation with the School of Government Resolution No. 53-2022 is presented for City Council consideration at this time. It is presented separately from Resolution No. 50-2022 to remove any perception or real conflict of interest. As you all know Councilmember Andrew Hopper is on the Board of the American Legion World Series and as such it could be perceived that he has a conflict of interest when voting on this matter. This could be considered or perceived by some that Councilmember Hopper is receiving a prohibited "direct benefit" from the City if he were to vote. As such it is up to a member of Council to request recusal and for Council to grant that recusal.

I have reviewed the applications submitted by the eligible organizations for travel and tourism grant funding. Each year past grant recipients and other organizations that have expressed an interest are eligible to submit grant applications for these funds generated through the 3% room occupancy tax levied by City Council. Each is reviewed to determine if the purpose for use of funds is eligible under the statutes and city policy, the economic impact of the event(s), past use of funds, success of past events, financial participation by the entity, as well as other relevant criteria. Resolution No. 53-2022 is presented for consideration at this time.

It is my recommendation Resolution No. 53-2022 be adopted and approved by City Council at this time

RESOLUTION NO. 53-2022

A RESOLUTION AUTHORIZING DISBURSEMENT OF
TRAVEL AND TOURISM FUNDING TO THE AMERICAN LEGION WORLD SERIES
FOR FISCAL YEAR 2022-2023

WHEREAS, the City of Shelby through the adoption of the 2005 Strategic Growth Plan recognizes the need to promote economic development efforts throughout the City; and

WHEREAS, City of Shelby currently levies a 3% occupancy tax in accordance with Resolution 69-97 and NC Session Law 1997-361 for the purpose of generating revenue for the promotion of travel and tourism within the City; and

WHEREAS, said occupancy tax proceeds are restricted for use by the noted resolution and session law for travel and tourism promotion and tourism related expenditures; and

WHEREAS, the City Manager has determined that sufficient funding has been appropriated by Council for the fiscal year beginning July 1, 2022; and

WHEREAS, the following organizations have submitted applications and requests to the City Manager and it is his determination that each is eligible under the city policy and the applicable general statute and therefore recommends that the following amounts be awarded:

- | | |
|---------------------------------|-----------|
| 1. AMERICAN LEGION WORLD SERIES | \$50,000. |
| Marketing and Event Support | |

NOW, THEREFORE, BE IT RESOLVED THAT THE CITY COUNCIL OF THE CITY OF SHELBY, NORTH CAROLINA as follows:

- 1) City Council authorizes disbursement of local occupancy tax funds for the preceding organization in the designated amount at the discretion of the Finance Director in consultation with the City Manager.

- 2) Authorizes the City Manager to obtain activity reports from each funded organization detailing the use of said funds. The same shall be reported to City Council following the close of the fiscal year ending June 30, 2023.

This Resolution shall become effective upon its adoption and approval.

Adopted and approved this the 20th day of June, 2022.

O. Stanhope Anthony, III
Mayor

ATTEST:

Carol Williams
City Clerk

City of Shelby
Agenda Item Summary
June 20, 2022
City Hall Council Chamber

Agenda Item: H

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: I

Council Announcements and Remarks

J. 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