

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 Presentations:

- 1) Honoring Roderick Wood on the occasion of his retirement from employment with the City of Shelby: Resolution No. 42-2020 1
- 2) Honoring Mark Steven Swink on the occasion of his retirement from employment with the City of Shelby: Resolution No. 48-2020 4

C. Public Comment: 7

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.

D. Public Hearing:

- 1) Consideration of a resolution granting a Special Use Permit to Tube Enterprises at Railroad Avenue: Resolution No. 51-2020 8

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.

Shelby City Council Agenda
November 16, 2020
Page 2

1) Approval of the Minutes of the Regular Meeting of November 2, 2020	29
2) Adoption of Fiscal Year (FY) Budget Ordinance Amendment No. 4: Ordinance No. 33-2020	36
3) Adoption of Fiscal Year (FY) Budget Ordinance Amendment No. 5: Ordinance No. 34-2020	61
4) City of Shelby's Carolina Thread Trail Project – First Broad River Pedestrian Bridge and Trail Repairs:	64
a. Adoption of a budget ordinance amendment for the City of Shelby's Carolina Thread Trail Project: Ordinance No. 35-2020	71
b. Approval of a resolution approving the City of Shelby First Broad River Pedestrian Bridge and Trails Repairs Contract between the City of Shelby and Blue Ridge Trail Works Inc.: Resolution No. 52-2020	73
F. Unfinished Business: None	74
G. New Business: None	74
H. City Manager's Report	74
I. Council Announcements and Remarks	74
J. Adjournment:	
<i>To adjourn a meeting of City Council, a majority of the Council Members must vote for a motion to adjourn.</i>	
1) Motion to adjourn	74

City of Shelby
Agenda Item Summary
November 16, 2020
Don Gibson Theater

B. Special Presentation:

Agenda Item B-1:

- 1) Honoring Roderick Wood on the occasion of his retirement from employment with the City of Shelby: Resolution No. 42-2020

(Presenting, Mayor Stan Anthony)

Summary of Available Information:

- Memorandum dated September 25, 2020 from Sam Clark, Assistant Finance Director/Customer Services Manager to Rick Howell, City Manager
- Resolution No. 42-2020

City Manager's Recommendation / Comments

This time is scheduled on your agenda to recognize Roderick Wood on the occasion of his retirement from employment. In keeping with policy City Council previously adopted Resolution No. 42-2020 to recognize him for having served the City faithfully for the past 30.5 years with the Utilities, Customer Services and Finance Departments. He is to be congratulated! Rod is also a veteran of the US Navy.

Rod Wood is a dedicated employee who has provided veteran leadership over the past several years in the performance of his duties. He has been a vital part of the team at the Utilities, Customer Services and Finance Departments, especially in the Meter Services division. He will be missed both personally and professionally.

Rod is a veteran of the US Navy. He brought a strong work ethic and a can-do attitude to what can be a challenging job working out in the elements day in and day out. He'll also be missed for the variety of vegetables he provided to City Hall employees over the years from the huge garden he planted every year.

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

Please join me in wishing him a healthy and happy retirement.



September 25, 2020

Memorandum:

To: Rick Howell, City Manager
From: Sam Clark, Assistant Director of Finance/Customer Services Manager
Subject: City Council recognition of Roderick Wood on the occasion of his retirement from the City of Shelby.

Background

It is customary practice that longstanding city employees receive a resolution and official recognition by the Mayor and City Council on the occasion of their retirement from the City of Shelby.

Discussion

Roderick Wood announced his retirement from the Customer Services Department after thirty and a half years of dedicated service to the city and its residents having served from October 4, 1989 to May 28, 2020. Upon his conclusion of service with the city a recognition by the city council was delayed due to the council meetings being held remotely during the COVID-19 pandemic.

Action

With this memorandum, it is my recommendations that a resolution honoring Roderick for his longstanding service to the City of Shelby to be approved; and that an appropriate time be reserved on a City Council agenda to publicly recognize and thank him for his dedicated contributions to the City of Shelby.

Enclosures

cc: Bernadette Parduski

RESOLUTION NO. 42-2020

**A RESOLUTION HONORING RODERICK WOOD
ON THE OCCASION OF HIS RETIREMENT
FROM EMPLOYMENT WITH THE CITY OF SHELBY**

WHEREAS, on the occasion of his retirement from employment on May 28, 2020 it is fitting and proper for the City Council to express its sincere appreciation to Roderick Wood for his loyal, dedicated, and committed service to the City of Shelby from October 4, 1989 to May 28, 2020; and,

WHEREAS, Mr. Wood has been a steadfast team member in the continuing development of the City of Shelby's Utilities, Customer Services, and Finance Departments, especially for the assistance and continuity he has provided; and,

WHEREAS, during his tenure of service, Mr. Wood has been a faithful employee for the City of Shelby, beginning as a Meter Services Technician in 1988, and has been an outstanding example of the quality of employee necessary to the development of the good of the City; and,

WHEREAS, Mr. Wood's commitment, leadership, laudatory work effort, and devotion to duty has helped create a winning attitude within the Utilities, Customer Services, and Finance Departments of the City of Shelby; and,

WHEREAS, the City of Shelby is most grateful for the constant community and personal contributions Mr. Wood 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. Wood for 30.5 years of his dedicated and devoted duty in the Utilities, Customer Services, and Finance Departments to its citizens, noting that Mr. Wood 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 Roderick Wood for his performance of duty to the City of Shelby for 30.5 years and extend the very best wishes for a successful retirement.

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

IN WITNESS WHEREOF, I have hereunto set my hand and caused the Seal of the City of Shelby to be affixed this the 5th day of October 2020.

O. Stanhope Anthony III
Mayor

ATTEST:

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

City of Shelby
Agenda Item Summary
November 16, 2020
Don Gibson Theater

Agenda Item B-2:

- 2) Honoring Mark Steven Swink on the occasion of his retirement from employment with the City of Shelby: Resolution No. 48-2020

(Presenting, Mayor Stan Anthony)

Summary of Available Information:

- Memorandum dated October 27, 2020 from David Hux, Director of Water Resources to Rick Howell, City Manager
- Resolution No. 48-2020

City Manager's Recommendation / Comments

This time is scheduled on your agenda to recognize Mark Swink on the occasion of his retirement from employment. In keeping with policy City Council previously adopted Resolution No. 48-2020 to recognize him for having served the City faithfully for the past 28.5 years with the Water Resources Departments. He is to be congratulated!

Mark Swink is a dedicated employee who has provided veteran leadership over the past several years in the performance of his duties. He has been a vital part of the team at the Water Resources Department, especially in the Field Operations division. He will be missed both personally and professionally. Mark's knowledge of our water and sewer systems will be missed.

As is in keeping with current policy Mark will be presented with a key to the City. It is customary and appropriate to recognize Mark for his many years of service to the City.

Please join me in wishing him a healthy and happy retirement.



Memorandum

To: Rick Howell; City Manager

From: David Hux; Director of Water Resources *DHux*

Date: October 27, 2020

Re: Mark Swink Retirement Resolution

Please find a Resolution honoring Mark Swink for the occasion of his retirement from the City of Shelby. Mr. Swink retired as the Field Operations Superintendent on September 4, 2020. Mr. Swink served the City and its citizens proudly for the past 28 ½ years with all aspects of Water Resources and will be greatly missed. He fulfilled his daily obligations and was always willing to come in after hours and on weekends to assist with issues throughout Water Resources and any other City related issues. This type of dedication will be greatly missed! One of his greatest strengths was his problem-solving abilities and his calm demeanor during difficult/complex situations. It will be difficult to replace his vast knowledge in Water and Sewer. We wish him a happy, safe and healthy retirement.

In accordance with City policy and past practice, please include this resolution on the consent agenda for November 2, 2020 for adoption. Once adopted, I will coordinate a date with Mr. Swink for his presentation from the Mayor.

Please let me know if additional information is required.

RESOLUTION NO. 48-2020

**A RESOLUTION HONORING MARK STEVEN SWINK
ON THE OCCASION OF HIS RETIREMENT FROM EMPLOYMENT
WITH THE CITY OF SHELBY**

WHEREAS, on the occasion of his retirement from employment on September 4, 2020, it is fitting and proper for the City Council to express its sincere appreciation to Mark Steven Swink for his loyal, dedicated, and committed service to the City of Shelby from February 17, 1992 to September 4, 2020; and,

WHEREAS, Mr. Swink has been a loyal team member in the continuing development of the City of Shelby, serving in the Sewer Plant and Field Operations Divisions of the Water Resources Department and to the City of Shelby government as a whole and to all its citizens; and,

WHEREAS, during his tenure of service, Mr. Swink has been a loyal employee for the City of Shelby, beginning as Sewer Maintenance Mechanic in 1992, receiving a promotion to Treatment Plant Mechanic in July 1994, receiving a promotion to Water/Sewer Worker II in March 1998, receiving a promotion to Sewer Crew Supervisor in July 1999, receiving a reclassification to Collections Crew Supervisor in January 2001, receiving a promotion to Chief Treatment Plant Mechanic in January 2003, receiving a promotion to Plant Maintenance Supervisor in March 2003, receiving a promotion to Field Operations Superintendent in September 2010, and finishing his career as Field Operations Superintendent, and has been an outstanding example of the quality of employee necessary to the development of the good of the City; and,

WHEREAS, Mr. Swink holds a Grade 4 Water Pollution Control Collection System Operator certification and an A Distribution Water Distribution System Operator Certification. Mr. Swink's career involved all facets of the water and sewer system infrastructure; including water distribution system, sewer collections system and the water and sewer treatment plants. During his tenure Mr. Swink worked countless hours responding to call back and emergency operations demands involving the City's water and sewer infrastructure and was also willing and able to assist other departments with various projects/repairs; and,

WHEREAS, the City of Shelby is most grateful for the devoted, community, and personal contributions Mr. Swink 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. Swink for his 28.5 years of dedicated and devoted duty in service to its citizens, noting that Mr. Swink will be missed both professionally and as a fellow co-worker who was always on call and returned to care for Shelby nearly every time he was called upon over the course of his career.

NOW, THEREFORE, BE IT RESOLVED that the Mayor and City Council publicly express their sincere appreciation to Mark Steven Swink for his performance of duty to the City of Shelby during the past 28.5 years, and extend the very best wishes for a successful, long, safe, and happy 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 2nd day of November 2020.

O. Stanhope Anthony III
Mayor

ATTEST:

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

City of Shelby
Agenda Item Summary
November 16, 2020
Don Gibson Theater

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.

City of Shelby
Agenda Item Summary
November 16, 2020
Don Gibson Theater

D. Public Hearing:

Agenda Item D-1

- 1) Consideration of a resolution granting a Special Use Permit to Tube Enterprises at Railroad Avenue: Resolution No. 51-2020

Presenting: (Walter Scharer, Planning Director)

- Memorandum dated November 9, 2020 from Walter Scharer, Planning Director to Rick Howell, City Manager
- General Application
- Survey of property
- Staff Report
- City of Shelby Special Use Permit Approval Process
- Zoning Map and Location Map and Land Use Map
- Planning and Zoning Board Minutes
- Certified Recommendation
- Notice of Public Hearing
- Resolution No. 51-2020

City Manager's Recommendation / Comments

This hearing must be conducted in a quasi-judicial fashion by the Mayor and Council. By nature decisions conducted as such involve two key elements 1) there must be a written finding of facts regarding the specific proposal and 2) the exercise of judgment and discretion must apply existing policies to the situation.

As a reminder these hearings must be evidentiary in nature and the decision of Council must be based upon that evidence. The purpose of the hearing is to establish facts, not to gather opinions about the desirability or popularity of the proposed development. Any person offering testimony must do so under oath and cross examination must be allowed. The gathering of evidence outside the hearing by individual members is not permitted and as noted previously a written finding of facts is required.

Information provided by Mr. Scharer within the agenda packet is to be considered evidence to be factored in as part of your decision-making policy. It should be noted that your decision may only be appealed to NC Superior Court within the prescribed time frame in the statute.

After the conclusion of the public hearing City Council may act upon Resolution No. 51-2020.



Memorandum

To: Rick Howell - City Manager
From: Walter Scharer – Planning Director
Date: November 9, 2020
Subject: Requested Special Use Permit for Tube Enterprises on Railroad Drive

Executive Summary of Issue – Background

Tube Enterprises, LLC is proposing a Special Use Permit on this property in order to expand its operation and include improved parking facilities.

Review and Comments

The Comprehensive Land Use Plan for this area designates the site as Neighborhood Revitalization Area.

Recommendation

This proposed zoning map amendment is inconsistent with the Comprehensive Land Use Plan. The Planning and Zoning Board recommends this proposed conditional use zoning amendment and City Council subsequently approved the amendment at the September 21, 2020 meeting. The subject property in question is now zoned LI-CU and is eligible for the proposed Special Use Permit.

More information can be found in the Staff Report attached.

Also attached is a white paper describing the SUP approval process here in Shelby as amended in November 2015. This proposal does require a quasi-judicial public hearing because of the Special Use Permit. The rules of procedure for a quasi-judicial public hearing should be followed.

Please schedule a Quasi-Judicial hearing for this proposed Special Use Permit at the next City Council meeting on November 16, 2020.

Attachments: Application, Staff Report, SUP Approval Process, Notice of Public Hearing, Planning and Zoning Board August 20, 2020 minutes, Certified P&Z Recommendation, and Ordinance



City of Shelby
Planning and Development Services Department

General Application

Address of Subject Property:

1028 Railroad Ave Shelby NC 28152

Applicant(s) Name: Tube Enterprises Inc. (Alex Taylor)

Address: 1028 Railroad Ave
Shelby NC 28152

Email: alex.taylor@integritymedicalsolutions.com

Phone: 704-300-3938

Owner(s) Name: SAME

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
- 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: 20702, 20786, 20689, 20690

Proposed Zoning: Light Industrial

Proposed Land Use:

Approx. Building Sq. Ft.:

Approx. Project Acreage:

Business Name:

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

we would like to combine the four parcels and zone for light industrial to allow for business expansion.
20702 & 20786 are already LI, 20689 is partial LI, 20690 is RB

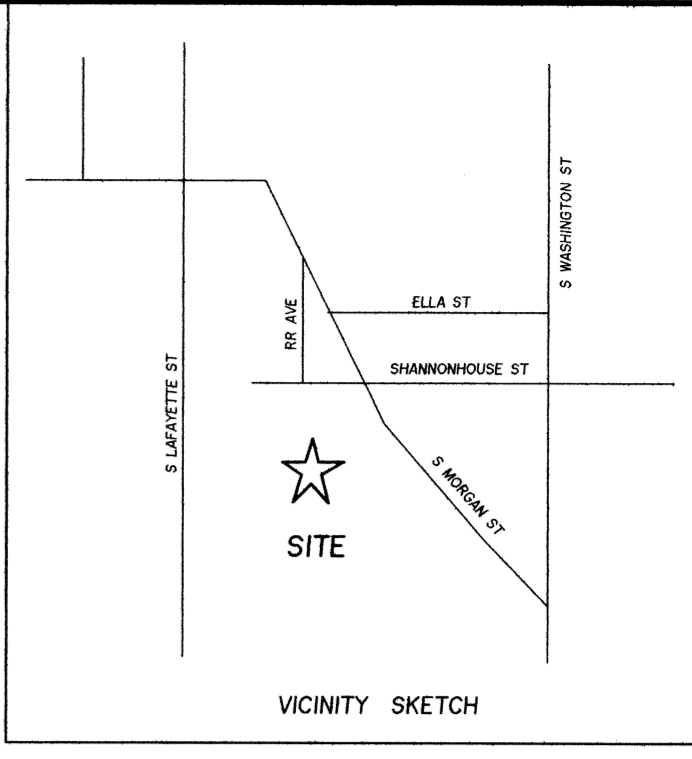
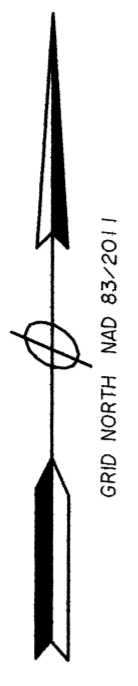
Oath: By signing, I hereby certify that all information that I have provided in this application is correct and complete to the best of my knowledge. I understand that providing false or incomplete information may be grounds for denial of my request or may result in future action by the City Council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

[Signature]
Signature of Applicant

10/9/19
Date

Received by:

Date



COURSE	BEARING	DISTANCE
L-1	N 17°50'32"E	12.23'
L-2	S 09°20'13"E	24.83'
L-3	S 89°34'21"E	7.54'
L-4	S 88°48'13"W	7.58'
L-5	N 88°48'11"E	7.58'
L-6	S 79°53'32"W	7.38'

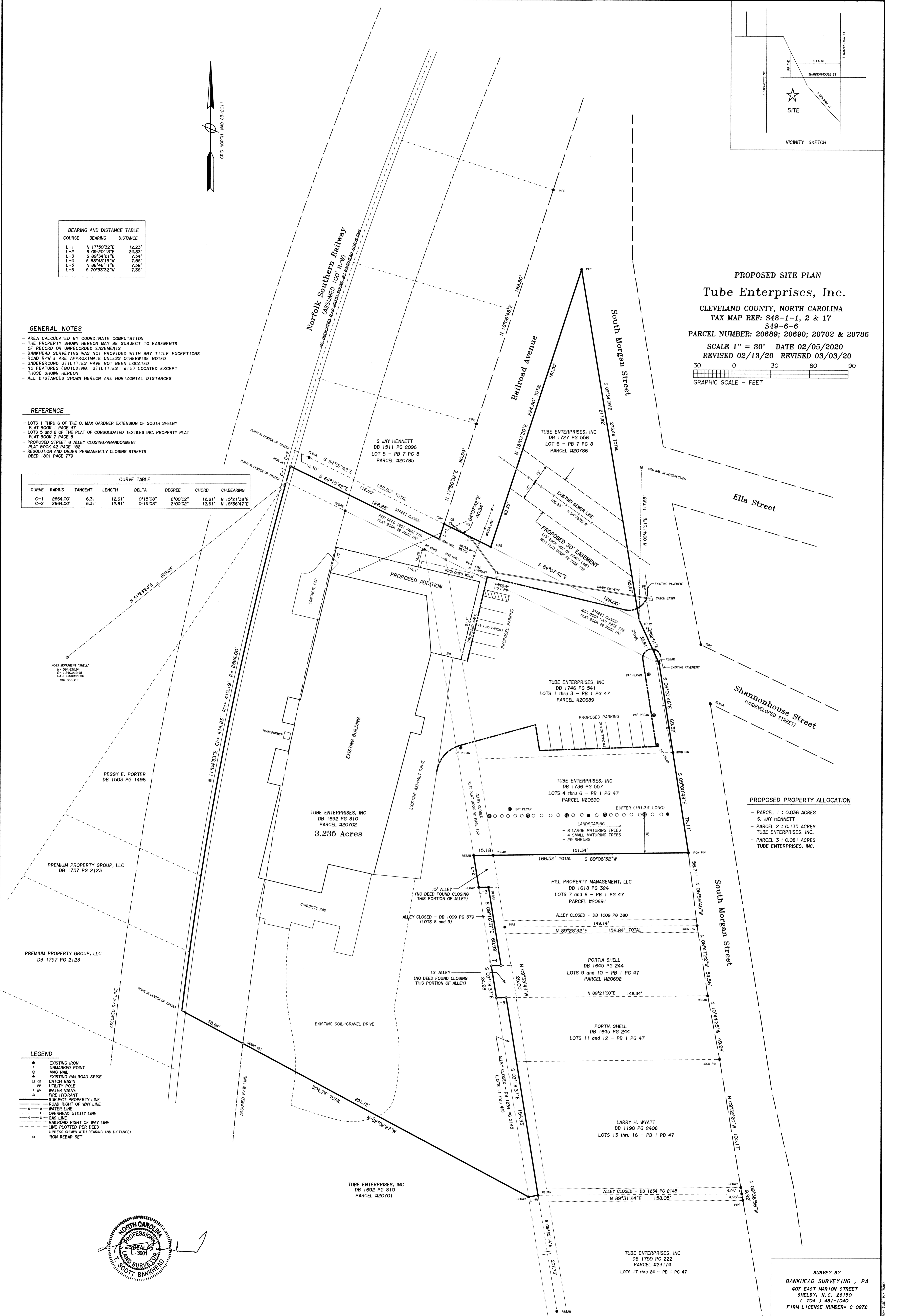
- GENERAL NOTES**
- AREA CALCULATED BY COORDINATE COMPUTATION
 - THE PROPERTY SHOWN HEREON MAY BE SUBJECT TO EASEMENTS OF RECORD OR UNRECORDED EASEMENTS
 - BANKHEAD SURVEYING WAS NOT PROVIDED WITH ANY TITLE EXCEPTIONS
 - ROAD R/W'S ARE APPROXIMATE UNLESS OTHERWISE NOTED
 - UNDERGROUND UTILITIES HAVE NOT BEEN LOCATED
 - NO FEATURES (BUILDING, UTILITIES, etc) LOCATED EXCEPT THOSE SHOWN HEREON
 - ALL DISTANCES SHOWN HEREON ARE HORIZONTAL DISTANCES

- REFERENCE**
- LOTS 1 THRU 6 OF THE O. MAX GARDNER EXTENSION OF SOUTH SHELBY PLAT BOOK 1 PAGE 47
 - LOTS 5 and 6 OF THE PLAT OF CONSOLIDATED TEXTILES INC. PROPERTY PLAT BOOK 7 PAGE 8
 - PROPOSED STREET & ALLEY CLOSING/ABANDONMENT PLAT BOOK 42 PAGE 152
 - RESOLUTION AND ORDER PERMANENTLY CLOSING STREETS DEED 1801 PAGE 779

CURVE	RADIUS	TANGENT	LENGTH	DELTA	DEGREE	CHORD	CHLBEARING
C-1	2864.00'	6.31'	12.61'	0°15'08"	2°00'02"	12.61'	N 15°21'38"E
C-2	2864.00'	6.31'	12.61'	0°15'08"	2°00'02"	12.61'	N 15°56'47"E

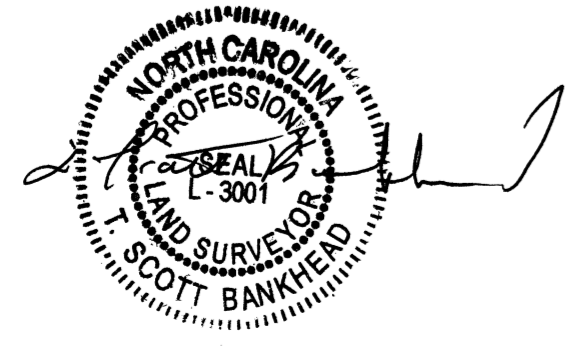
PROPOSED SITE PLAN
Tube Enterprises, Inc.
 CLEVELAND COUNTY, NORTH CAROLINA
 TAX MAP REF: S48-1-1, 2 & 17
 S49-6-6
 PARCEL NUMBER: 20689; 20690; 20702 & 20786
 SCALE 1" = 30' DATE 02/05/2020
 REVISED 02/13/20 REVISED 03/03/20

GRAPHIC SCALE - FEET



- PROPOSED PROPERTY ALLOCATION**
- PARCEL 1 : 0.036 ACRES S. JAY HENNETT
 - PARCEL 2 : 0.135 ACRES TUBE ENTERPRISES, INC.
 - PARCEL 3 : 0.081 ACRES TUBE ENTERPRISES, INC.

- LEGEND**
- EXISTING IRON UNMARKED POINT
 - ⊗ MAG NAIL
 - ▲ EXISTING RAILROAD SPIKE
 - CB CATCH BASIN
 - UTILITY FAULT
 - WV WATER VALVE
 - FH FIRE HYDRANT
 - SUBJECT PROPERTY LINE
 - ROAD RIGHT OF WAY LINE
 - WATER LINE
 - OVERHEAD UTILITY LINE
 - GAS LINE
 - RAILROAD RIGHT OF WAY LINE
 - LINE PLOTTED PER DEED (UNLESS SHOWN WITH BEARING AND DISTANCE)
 - IRON REBAR SET



SURVEY BY
BANKHEAD SURVEYING, PA
 407 EAST MARION STREET
 SHELBY, N. C. 28150
 (704) 481-1040
 FIRM LICENSE NUMBER - C-0972

Staff Report



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

Date: August 4, 2020
Meeting: August 20, 2020
File: #1114

OWNER: Tube Enterprises, LLC

APPLICANT: Tube Enterprises

LOCATION: Railroad Avenue

PARCEL ID #s: 20786, 20689, & 20690

PRESENT ZONING: R6 & R8 & LI

REQUESTED ZONING: LI-CU

SURROUNDING ZONING: **North:** R8 **South:** R6 **East:** R6 **West:** NB

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

ANALYSIS: This proposed Conditional Use Zoning Map Amendment is for approximately one acre. Tube Enterprises is planning to expand its current operation and add parking. Overall the project site is approximately 3 acres. Single family dwellings were previously on two of the lots. Land uses in the area include single-family dwellings and commercial uses. A large multi-family project is about to begin construction east of this site.

The R8 Residential District is primarily intended to accommodate moderate density single-family detached dwellings, modular homes, and two-family dwellings. Maximum densities within the R8 District include approximately 5 dwelling units per gross acre. Public water and sewer service are generally available in areas zoned as R8.

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 7 dwelling units per acre for single-family dwellings and 19 dwelling units per acre for multi-family dwellings. Public water and sewer service are generally available in areas zoned as R6.

The LI Light Industrial District is primarily intended to accommodate limited manufacturing, warehousing, wholesaling, and related commercial and service activities which have little or no adverse impact upon adjoining residential, business, and industrial properties. The preservation of land for light industrial use is a major objective of the LI District. The LI District is intended to provide appropriate locations for light industrial uses in areas that are not adversely impacted by general or heavy industrial uses. Other land uses allowed within the LI District should be limited to those uses that support light industrial uses. Generally, retail and heavy commercial uses should be avoided in the LI District.

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

The Conditional Use for this property will be for Medical, Dental, and Surgical Equipment production and accessory uses such as parking and is subject to the site plan submitted with the application.

STAFF COMMENTS: The Comprehensive Land Use Plan for this area designates this area as Neighborhood Revitalization. Neighborhood revitalization areas are older, declining neighborhoods that need stabilization and revitalization. Such areas have older housing stocks, which, in some areas need maintenance and in other areas require selective removal of dilapidated houses. These areas will predominately be residential with a mix of housing types and densities. This could include single-family residential, townhomes, and multi-story apartments.

This zoning map amendment is inconsistent with the Comprehensive Land Use Plan.

Tube Enterprises has been in this location since 2014.

The applicant proposes a sign on the lot with the proposed drive and parking area (Parcel 20689). Staff recommends only one freestanding sign, which may be illuminated, shall be permitted per street frontage. Said sign shall not exceed 48 square feet in area, shall be a maximum of 12 feet in height, and shall be located no closer than ten feet to the street right-of-way or 15 feet to the traveled portion of a street where the right-of-way does not exist or cannot be determined.

City of Shelby Special Use Permit Approval Process

A Special Use Permit application may be submitted to the City Council by filing a copy of the application with the Planning Department. Applications may be taken no later than 25 days prior to the City Council meeting at which the request will be reviewed. The review process for a Special Use Permit includes:

- Planning Department review and recommendation.
- Public hearing held by the City Council; and
- City Council review and action.

Recommendations on Special Use Permit Applications

- When presented to the City Council, the Special Use Permit application will be accompanied by a report setting forth the Planning & Development Department's proposed findings concerning the application's compliance to the City's UDO, as well as any staff recommendations for additional requirements to be imposed by the City Council.
- If the staff report proposes a finding or conclusion that the application fails to comply with any requirement of the Ordinance, the report will identify the requirement in question and specifically state supporting reasons for the proposed findings or conclusions.
- The City Council may, on a case-by-case basis, refer applications to the Planning and Zoning Board to obtain its recommendations.

Public Hearing Requirements and Procedures

- A public hearing is required in order for City Council to approve a Special Use Permit.
- The Planning Department will mail written notice of the public hearing to the owners of all properties involved in the permit request as well as the owners of all properties any portion of which is within 100 feet of the property involved in the permit request.
- The Planning Department will also post Zoning Hearing signs in the vicinity of the property involved in the permit request and take any other action deemed necessary to be useful or appropriate to give notice of the public hearing.
- At the conclusion of the public hearing, the City Council may proceed to vote on the permit request, refer it to a committee for further study, or take any other action consistent with its usual rules of procedure.
- City Council is not required to take final action on a permit request within any specific period of time, but it should proceed as expeditiously as practicable on permit requests since inordinate delays can result in the applicant incurring unnecessary costs.
- The City Council should approve the requested permit unless it concludes, based upon the information submitted at the hearing, that:
 - (1) The requested permit is not within its jurisdiction according to the Table of Permissible Uses; or
 - (2) The application is incomplete; or

- (3) If completed as proposed in the application, the development will not comply with one or more requirements of this Ordinance; or
- (4) Will not materially endanger the public health or safety; and
- (5) Will not substantially injure the value of adjoining or abutting property; and
- (6) Will be in harmony with the area in which it is to be located; and
- (7) Will be in general conformity with the Comprehensive Land Use Plan or other plans officially adopted by the City Council.

- The burden of persuasion on the issue of whether the development, if completed as proposed, will comply with the requirements seven standards listed above remains at all times on the applicant.
- Even if City Council finds that the application complies with all other provisions of this Ordinance, it may still deny the permit if it concludes, **based upon the information submitted at the hearing**, the development, more probably than not:
 - (1) Will materially endanger the public health or safety; or
 - (2) Will substantially injure the value of adjoining or abutting property; or
 - (3) Will not be in harmony with the area in which it is to be located; or
 - (4) Will not be in general conformity with the Comprehensive Land Use Plan or other plans officially adopted by the City Council.
- The burden of persuasion on the issue of whether the application should be turned down for any of the reasons above rests on the party or parties urging that the requested permit should be denied.

City Council Voting Procedure on Special Use Permits

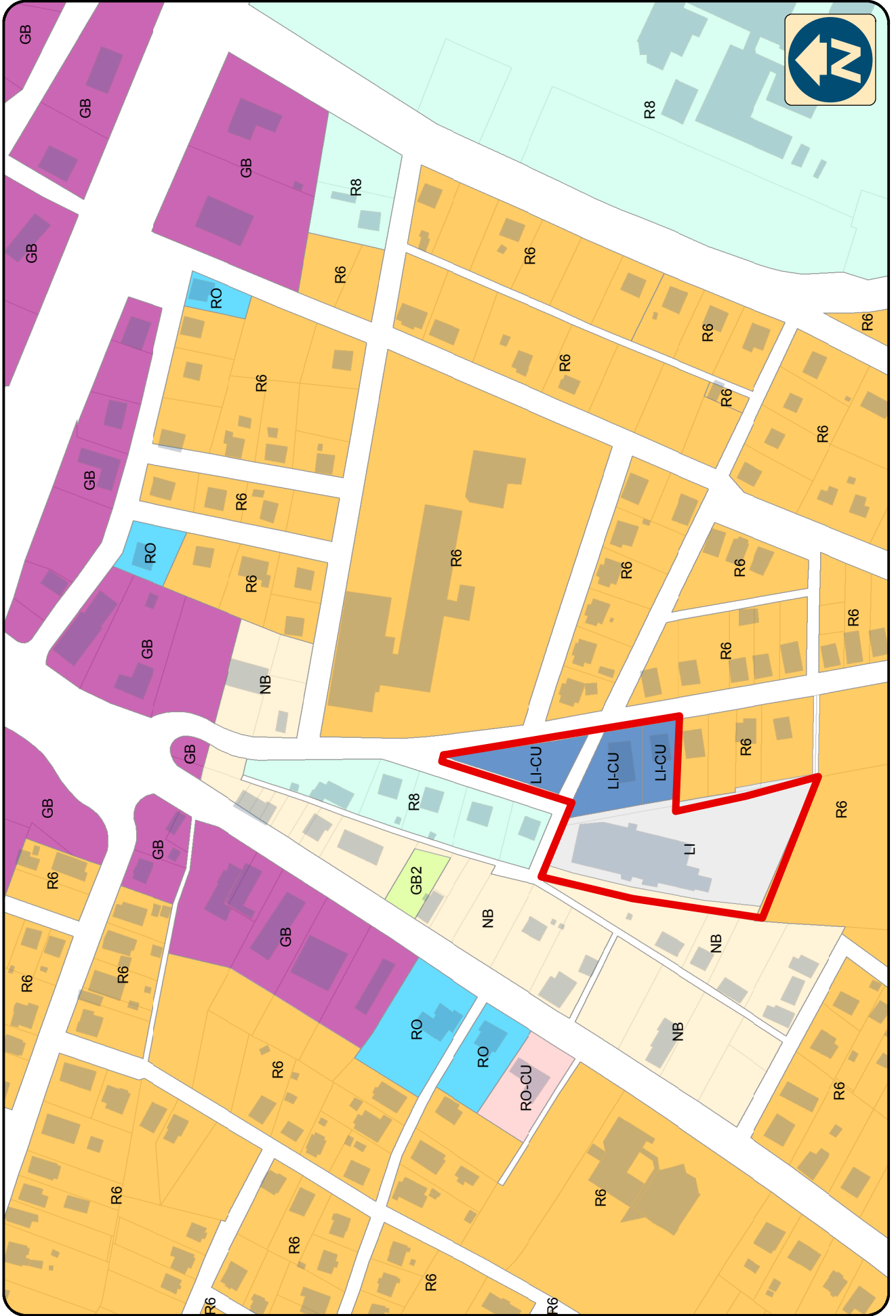
- Upon receipt of a recommendation from the Planning Department, City Council will review the Special Use Permit application and will hold a public hearing.
- Following the public hearing, the City Council may proceed to vote on the permit request, refer it to committee for further study.
- In considering whether to approve Special Use Permit application, City Council should proceed according to the following format:
 - (1) The City Council shall consider whether the application is complete. If no member moves that the application be found incomplete then this shall be taken as an affirmative finding by the City Council that the application is complete.
 - (2) The City Council shall consider whether the application complies with all of the applicable standards of the UDO. If a motion to approve fails or is not made then a motion should be made that the application be found not in compliance with one or more of the standards of the UDO. A motion to disapprove should specify the particular standard the application fails to meet. Separate votes may be taken with respect to each standard not met by the application.

- (3) If the City Council concludes that the application fails to comply with one or more standards of the UDO, the application shall be denied. If the City Council concludes that all such standards are met, it shall issue the permit unless it adopts a motion to deny the application. Such a motion shall propose specific findings, based upon the competent evidence submitted, justifying such a conclusion.



Zoning Map Tube Enterprises

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

0 125 250 500 Feet

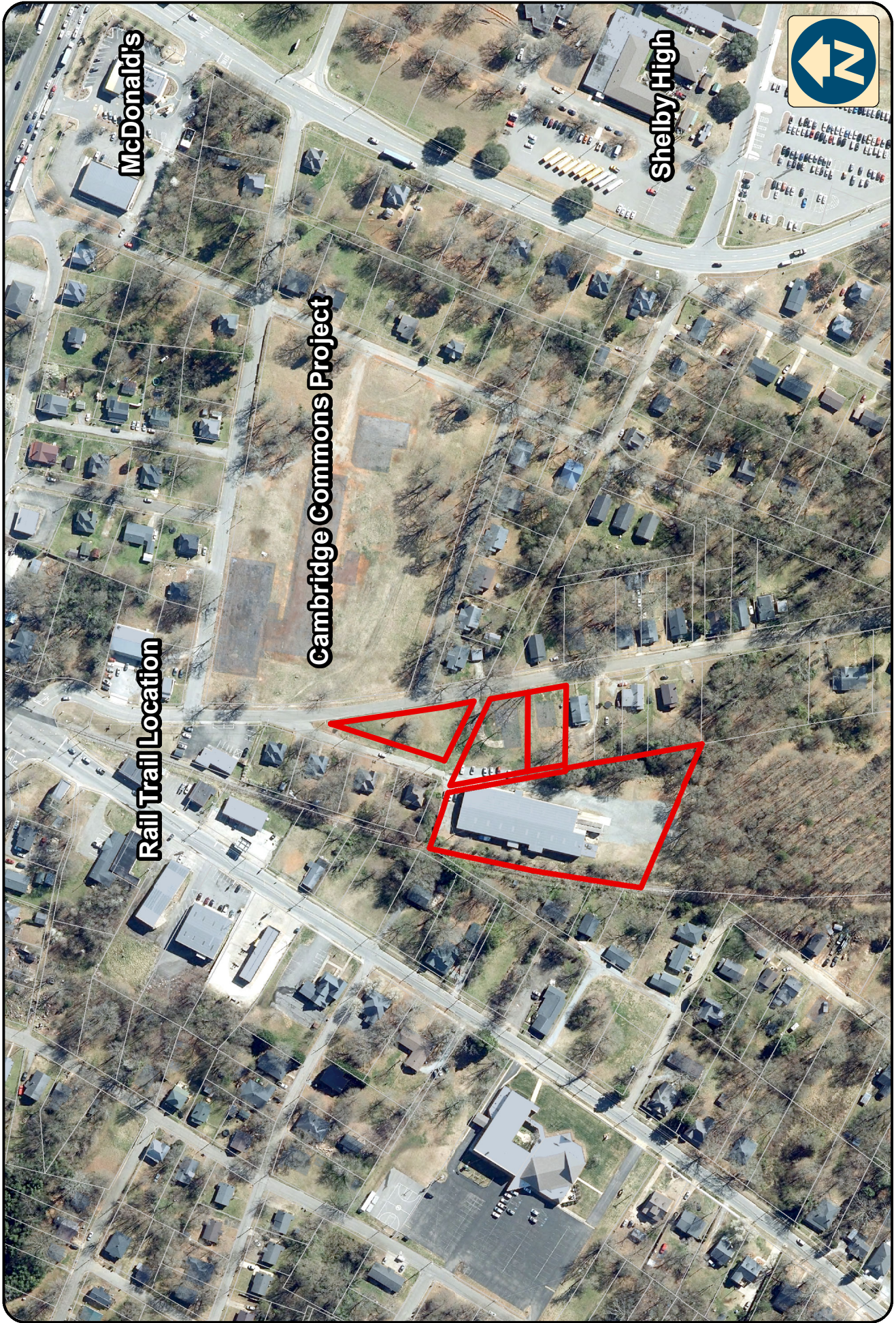
Date: 11/9/2020



Location Map

Tube Enterprises

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



McDonald's

Shelby High

Cambridge Commons Project

Rail Trail Location



500
Feet

0 125 250

Scale 1:3,000 1 inch = 250 feet

Date: 8/6/2020



Land Use Map Tube Enterprises

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

Land Use Designations

Future Land Use

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

Scale 1:6,000 1 inch = 500 feet



Date: 8/6/2020



CITY OF SHELBY PLANNING AND ZONING BOARD MINUTES

August 20, 2020

Zoom Virtual Meeting

Item 1. Call to Order/Roll Call

Vice-Chair Washburn called the meeting to order at 12:19PM and noted that a quorum was present.

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

Staff Present: Alan Toney (Planner) and Hatteras Stella (Planner)

Others Present: Alex Taylor (Tube Enterprises)

Item 2. Approval of the July 16, 2020 Minutes

Vice-Chair Washburn asked if there were any questions or comments about the July 16, 2020 minutes. The minutes were approved as submitted.

Item 3. Proposed Conditional Use Map Amendment – Tube Enterprises

Mr. Toney presented this proposed zoning map amendment. The properties are currently zoned R8, R6, and LI. Tube Enterprises is planning to expand its current operation and add parking. Overall the project site is approximately 3 acres. Single family dwellings were previously on two of the lots. Land uses in the area include single-family dwellings and commercial uses. A large multi-family project is about to begin construction east of this site.

The R8 Residential District is primarily intended to accommodate moderate density single-family detached dwellings, modular homes, and two-family dwellings. Maximum densities within the R8 District include approximately 5 dwelling units per gross acre. Public water and sewer service are generally available in areas zoned as R8.

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 7 dwelling units per acre for single-family dwellings and 19 dwelling units per acre for multi-family dwellings. Public water and sewer service are generally available in areas zoned as R6.

The LI Light Industrial District is primarily intended to accommodate limited manufacturing, warehousing, wholesaling, and related commercial and service activities which have little or no adverse impact upon adjoining residential, business, and industrial properties. The preservation of land for light industrial use is a major objective of the LI District. The LI District is intended to provide appropriate locations for light industrial uses in areas that are not adversely impacted by general or heavy industrial uses. Other land uses allowed within the LI District should be limited to those uses that support light industrial uses. Generally, retail and heavy commercial uses should be avoided in the LI District.

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

Motion: Mr. Royster made the motion to recommend approval of this proposed conditional use map amendment

Second: Mr. Hamrick

Action: This motion passed unanimously.

Item 4. **Proposed Zoning Map Amendment – Randolph Road**

Mr. Toney presented this proposed zoning map amendment. The subject property is currently zoned LI. The applicant is requesting the R20 zoning district in order to renovate the existing mill houses on the properties. Other land uses in the area include single family dwellings and industrial uses. The single-family dwellings on this property are currently non-conforming and cannot be redeveloped as currently zoned.

The LI Light Industrial District is primarily intended to accommodate limited manufacturing, warehousing, wholesaling, and related commercial and service activities which have little or no adverse impact upon adjoining residential, business, and industrial properties. The preservation of land for light industrial use is a major objective of the LI District. The LI District is intended to provide appropriate locations for light industrial uses in areas that are not adversely impacted by general or heavy industrial uses. Other land uses allowed within the LI District should be limited to those uses that support light industrial uses. Generally, retail and heavy commercial uses should be avoided in the LI District.

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.

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

Second: Mr. Taylor

Action: This motion passed unanimously.

Item 5. **Announcements**

Mr. Toney gave updates concerning the uptown streetscape project and various other projects within Shelby.

Item 6. **Motion to adjourn.**

Vice-Chair Washburn adjourned the meeting at 12:38 pm.



Certified Recommendation

City of Shelby Planning & Zoning Board

Case File: 1114

Amendment: A Zoning Map Amendment for property located on Railroad Avenue with PIN #'s: 20786, 20689, & 20690 from Residential 6 (R6) zoning district, Residential 8 (R8) zoning district, and Light Industrial (LI) zoning district to Light Industrial - Conditional Use (LI-CU) zoning district.

Recommendation: **The Planning and Zoning Board recommends approval of the proposed zoning map amendment for property located on Railroad Avenue with PIN #'s: 20786, 20689, & 20690 from Residential 6 (R6) zoning district, Residential 8 (R8) zoning district, and Light Industrial (LI) zoning district to Light Industrial - Conditional Use (LI-CU) zoning district.**

Findings &

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

Motion: Mr. Royster made the motion to recommend approval of this proposed zoning map amendment from Residential 6 (R6) zoning district, Residential 8 (R8) zoning district, and Light Industrial (LI) zoning district to Light Industrial - Conditional Use (LI-CU) zoning district.

Second: Mr. Hamrick

Action: This motion passed unanimously.

Signatures: Walter Scharer
Planning and Development Director

Marlene Peeler
Planning and Zoning Board Chair

Date: 8/20/2020

Date: 8/20/2020

**NOTICE OF PUBLIC HEARING
APPLICATION #: 1114-2020
ZONING MAP AMENDMENT**

The City Council of Shelby, North Carolina will conduct a quasi-judicial public hearing during its regular meeting at 6:00 p.m., Monday, November 16, 2020. City Council will consider a proposed Special Use Permit for property located on Railroad Avenue with the Cleveland County Parcel Numbers 20786, 20689, & 20690. The proposed use of Medical, Dental, and Surgical Equipment production.

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.

Persons interested in being heard on this matter are invited to give sworn testimony on the proposed Special Use Permit.

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

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

The Shelby Star:

Please publish this notice as a legal line ad on Wednesday, November 4, 2020 and again on Wednesday, November 11, 2020.

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

RESOLUTION NO. 51-2020

**A RESOLUTION GRANTING A SPECIAL USE PERMIT
TO TUBE ENTERPRISES
AT RAILROAD AVENUE**

WHEREAS, the City of Shelby has received an application requesting a Special Use Permit for property located within the City or its area of Extraterritorial Jurisdiction; and,

WHEREAS, the Staff has reviewed said application for a special use zoning permit and has made its findings and recommendations to City Council; and

WHEREAS, Section 4-7.2 of the City of Shelby Unified Development Ordinance authorizes the establishment of “special use permit” as a means by which special conditions can be imposed on the use of property to assure compliance with the Unified Development Ordinance, promote the welfare of adjacent property owners and the protection of the general public interest; and

WHEREAS, in accordance with GS 160A-364, the City Council has considered a special use permit request by Tube Enterprises in a public hearing on this date following quasi-judicial hearing procedures as outlined in Section 4-7.2 of the City of Shelby Unified Development Ordinance; and

WHEREAS, after hearing all who wished to present testimony on this special use permit request and consideration of the facts presented in this cause, the Council made the Findings of Fact and Conclusions of Law which are stated on Attachment “A” which is incorporated herein by this reference.

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

Section 1. In accordance with Chapter 160A, Article 19 of the North Carolina General Statutes, as amended, the City of Shelby may approve a Special Use Zoning Permit according to the requirements of the Unified Development Ordinance (Appendix A of the Shelby City Code) at Railroad Avenue. Lying within the City of Shelby in the Light Industrial Conditional Use District (LI-CU). Said area is more fully described as follows; PIN # 20689, 20786, & 20690.

Section 2. In accordance with Section 4-7.7 of the City of Shelby Unified Development Ordinance, a Special Use Zoning Permit is hereby granted to Tube Enterprises for Medical, Dental, and Surgical Equipment Production and accessory uses. The terms and conditions of such

permit are stated in Attachment, "A" which is attached hereto and incorporated herein by this reference.

Section 3. The City Clerk of the City of Shelby is hereby authorized and directed to cause resolution and recording of this Special Use Zoning Permit with the Cleveland County Register of Deeds.

Section 4. This Special Use Zoning Permit shall become effective upon its adoption and approval.

ADOPTED AND APPROVED this the 16th day of November 2020.

O. Stanhope Anthony III
Mayor

ATTEST:

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

APPROVED AS TO FORM:

Andrea Leslie-Fite
City Attorney

ATTACHMENT "A"

Prepared by and return to the City of Shelby, PO Box 207 Shelby, North Carolina 28151

NORTH CAROLINA

FILE #: 1114

CLEVELAND COUNTY

**THE CITY OF SHELBY, NORTH CAROLINA
SPECIAL USE ZONING PERMIT**

On the date(s) listed below, the City Council of the City of Shelby met and held a public hearing to consider the following application:

Record Owner(s): Tube Enterprises

Property Location: Railroad Avenue

Tax Map, Block, and Lot#: Map: S49, Block 6, Lot: 6

Tax Map, Block, and Lot#: Map: S48, Block 1, Lot: 1

Tax Map, Block, and Lot#: Map: S48, Block 1, Lot: 2

Deed Reference: BOOK 1727, PAGE 0556 **Acreage:** .32 acres

Deed Reference: BOOK 1746, PAGE 0541 **Acreage:** .38 acres

Deed Reference: BOOK 1736, PAGE 0557 **Acreage:** .25 acres

Type and Intensity of Use: Medical, Dental, and Surgical Equipment Production

Meeting Date(s): November 16, 2020

Approval Date: November 16, 2020

SECTION 1. FINDINGS: Having heard all of the evidence and arguments presented at the hearing, the City Council, at its regular meeting, finds and determines that the application is complete, and subject to the conditions imposed below, the following findings are made:

1. The applicant for the property submitted the required application and site plan for special use permit; and
2. According to Article 9-3-1, medical, dental, and surgical equipment production is permitted in the LI Zoning District; and
3. The subject parcels lay within the City of Shelby fronting at Railroad Avenue in the Light Industrial Conditional Use District (LI-CU); and

4. The petitioner has declared that the intended use of the property is for medical, dental, and surgical equipment production; and
5. Land Use in the surrounding area is residential; and
6. Other than what is shown on the site plan, no other changes to the site are planned; and
7. To the best of staff's knowledge, no non-conformities currently exist on the property and none will be created by the requested special use permit; and
8. The use will not materially endanger the public health or safety if located where proposed and developed according to the plan; and
9. The use will not substantially injure the value of adjoining or abutting property; and
10. The location and character of the use, if developed according to the plan as submitted and approved, will be in harmony with the area in which it is to be located and will be in general conformity with the Comprehensive Land Use Plan.

SECTION 2. CONDITIONS: Now, therefore, the application to make use of the above-described property for the purpose indicated is hereby approved and granted, subject to all applicable provisions of the Unified Development Ordinance, Sections 3 and 4 of this permit, and the following special condition(s), which the City Council finds to be in the public interest:

1. The development of the tract shall proceed in conformity to all plans and design features submitted as part of the special use permit application and kept on file by the City of Shelby Planning Services Department; and
2. One freestanding sign, which may be illuminated, shall be permitted per street frontage. Said sign shall not exceed 48 square feet in area, shall be a maximum of 12 feet in height, and shall be located no closer than ten feet to the street right-of-way or 15 feet to the traveled portion of a street where the right-of-way does not exist or cannot be determine.

SECTION 3. VESTED RIGHTS. Approval of this permit confers upon the property the right to develop with the type and intensity of use as herein described and as shown on the approved site plan in accordance with section 4-15 of the Unified Development Ordinance.

SECTION 4. SEVERABILITY AND RECORDATION. Invalidation of any one or more of the conditions set forth herein shall not adversely affect the balance of said conditions, which shall remain in full force and effect. This permit shall become null and void if not recorded in the office of the Register of Deeds, Cleveland County, North Carolina, on or before November 16, 2021.

O. Stanhope Anthony III
Mayor

ATTEST:

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

CERTIFICATE

I, Bernadette A. Parduski, the duly appointed, qualified, and City Clerk of the City of Shelby do hereby certify that the attached Extract from the Minutes of the Regular Meeting of the City Council of said City held on November 16, 2020 at 6:00 PM, is a true and correct copy of the original minutes of said meeting on file and of record in my office insofar as said original minutes relate to the matters in said attached extract. I further certify that the copy of the special use zoning permit appearing in said attached Extract is a true and correct copy of said permit adopted at said meeting and on file and of record in my office.

IN WITNESS THEREOF I have hereunto set my hand and official seal of the City of Shelby on this the 16th day of November 2020.

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

(City Seal)

_____, appointed agent of the subject property, do hereby acknowledge receipt of this special use zoning permit and agree to the conditions stated within. I further acknowledge that no work may be done pursuant to this permit except in accordance with all of its conditions and requirements and that this restriction shall be binding upon me and my successors in interest and shall run with the land in perpetuity.

ATTEST:

ALEX TAYLOR

City of Shelby
Agenda Item Summary
November 16, 2020
Don Gibson Theater

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, second, and vote.

Agenda Item: E-1

- 1) Approval of the Minutes of the Regular Meeting of November 2, 2020

Consent Agenda Item: (Bernadette Parduski, City Clerk)

Summary of Available Information:

Please read and offer changes as you deem necessary.

- Minutes of the Regular Meeting of November 2, 2020

City Manager's Recommendation / Comments

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

MINUTES

Regular Meeting
Don Gibson Theatre

November 2, 2020
Monday, 6:00 p.m.

Present: Mayor O. Stanhope Anthony III, presiding; Council Members David W. White, David Causby, Violet Arth Dukes, Charles Webber, and Andrew Hopper, Sr.; City Manager Rick Howell, MPA, ICMA-CM, Assistant City Manager Justin S. Merritt, MPA, City Attorney Andrea Leslie-Fite, City Clerk Bernadette A. Parduski, Public Information and Communications Officer Chip Nuhrah, Police Chief Jeffrey H. (Jeff) Ledford, Stan Lowery, Executive Director, Don Gibson Theatre; and Jennipher H. Harrill, Social Media Manager, Blue Eyes Social Media Connections

Absent: Council Member Eric B. Hendrick

Mayor Anthony called the meeting to order at 6:00 p.m. and certified a quorum was present. It was noted a location for public access to the meeting was established at the Don Gibson Theatre. A maximum of 25 persons would be allowed to attend, following the current Executive Orders of Governor Cooper and the North Carolina Department of Health and Human Services COVID-19 guidelines.

The Mayor delivered the invocation and Mr. White led the Pledge of Allegiance.

A. Approval of agenda:

- 1) Motion to adopt the proposed agenda

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

B. Consent Agenda:

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

- 1) Approval of the Minutes of the Regular Meeting of October 19, 2020
- 2) Approval of a resolution honoring Mark Steven Swink on the occasion of his retirement from employment with the City of Shelby: Resolution No. 48-2020
- 3) Approval of a resolution awarding the contract for the City of Shelby Stormwater Infrastructure Assistance Program project at 1025 East Dixon Boulevard in Shelby, North Carolina: Resolution No. 49-2020

C. Unfinished Business:

1) Consideration of Fiscal Year (FY) 2020-2021 Budget Ordinance Amendment No. 3: Ordinance No. 31-2020

Mr. Howell introduced Ordinance No. 31-2020 for Council's consideration. If approved, the ordinance recognizes \$50,000 in grant funding from the Cleveland County Economic Development Partnership (CCEDP), which was donated by Duke Energy. Previously, McGill Associates was chosen to undertake the Farmville Road Site Development Project via Resolution No. 46-2020.

Mr. Howell stated the budget ordinance amendment establishes a budget for McGill Associates to perform the professional civil engineering services specified in their proposal dated October 23, 2020 related to the preliminary site development of a 105-acre site at 1641 Farmville Road owned jointly by the City of Shelby and Cleveland County. He further stated the deliverables are expected to be complete within 90 days.

ACTION TAKEN: Upon a motion made by Mr. Hopper, City Council voted unanimously to approve and adopt Ordinance No. 31-2020 entitled, "FISCAL YEAR (FY) 2020-2021 BUDGET ORDINANCE AMENDMENT NO. 3".

D. New Business:

1) City of Shelby Water and Sewer System Financial Analysis and Capital Improvements Plans Update:

a. Consideration of Fiscal Year (FY) 2020-2021 Budget Ordinance Amendment No. 2: Ordinance No. 32-2020

Mr. Merritt introduced Ordinance No. 32-2020 for Council's consideration. If approved, the ordinance would appropriate \$16,500 from both the Water Fund and the Sewer Fund (fund balances) totaling \$33,000 for the purpose of conducting a Water and Sewer System Financial Analysis as well as an update to the Capital Improvements Plan. The City has not conducted a rate analysis in some time. The rates for a variety of rate classifications have not been adjusted in several years and it is important to ensure there is equity and fairness across all rate classes. Mr. Merritt stated the City has received a proposal from WithersRavenel to work with City staff to develop the plans. He concluded with the recommendation from staff to approve the budget amendment that will appropriate funding for the project.

ACTION TAKEN: Upon a motion made by Mrs. Arth Dukes, City Council voted unanimously to approve and adopt Ordinance No. 32-2020 entitled, “FISCAL YEAR (FY) 2020-2021 BUDGET ORDINANCE AMENDMENT NO. 2”.

- a. Consideration of a resolution approving the City of Shelby Water and Sewer System Financial Analysis and Capital Improvements Plan Update contract between the City of Shelby and WithersRavenel: Resolution No. 50-2020

Next, Mr. Merritt introduced Resolution No. 50-2020 for Council’s consideration. He stated the City of Shelby has invested heavily in its water and sewer system infrastructure over the past several years. Over this same period, the City has seen substantial growth in its industrial manufacturing base. Due to these significant changes in the water and sewer system operations and user base, staff feels that it is time to review the financial condition of these utilities, ensure the City has a fair and equitable rate structure, and develop a plan for capital improvements over the next 10 years. Staff believes that these steps will lead to continued financial stability in these funds and ensure the City is prepared to address future capital needs in a strategic manner.

Mr. Merritt discussed the general process to be utilized by the consultant, WithersRavenel, to aid the City of Shelby with updating the City’s Capital Improvement Plans, establishing a water and sewer system rate model, and preparing a Financial Analysis for its enterprise funds. He reiterated the primary objective of this undertaking is to help the City of Shelby project and prioritize its long-term enterprise funds’ capital needs and develop a plan for funding those needs while charging equitable rates.

Mr. Merritt concluded with the recommendation from staff to approve the resolution authorizing the City Manager, in consultation with the City Attorney, to negotiate and execute the contract with WithersRavenel.

ACTION TAKEN: Upon a motion made by Mrs. Arth Dukes, City Council voted unanimously to approve and adopt Resolution No. 50-2020 entitled, “A RESOLUTION APPROVING THE CITY OF SHELBY WATER AND SEWER SYSTEM FINANCIAL ANALYSIS AND CAPITAL IMPROVEMENTS PLAN UPDATE CONTRACT BETWEEN THE CITY OF SHELBY AND WITHERSRAVENEL”.

E. City Manager’s Report:

- 1) Mr. Howell expressed his appreciation to Mayor Anthony and Council members for their attendance at tonight’s ribbon cutting event to celebrate the completion of the City’s Uptown Shelby Streetscape Project. He also mentioned the Mayor’s positive remarks not only about the project

itself and what it represents to the City of Shelby but to all those associated with the project in various roles and functions, including the business owners and the community for their patience and support during all the phases of construction activities.

Mr. Howell also reminded Council the next ribbon cutting ceremony is scheduled for the Water Treatment Plant Upgrade Project on November 16, 2020 at 4:45 p.m., 801 West Grover Street.

- 2) Mr. Howell informed Council the City of Shelby will be requesting Statements of Qualification from qualified firms to provide professional civil engineering services to update its Transportation Asset Management Plan. He explained the purpose of this request for qualifications is to obtain expert professional, technical, and advisory civil engineering services to develop a report that re-evaluates the condition of the City's transportation assets along with funding necessary to make the needed improvements for the City of Shelby. This approach will produce an objective asset condition rating that will then be used to develop a set of capital project needs that can be planned for through the City's annual capital improvement planning process. During this process there should be a forecast of transportation related capital improvements and present alternatives for funding said projects. He stated the current plan is approximately seven years old and progress has been made during this time frame. However, it is time to update the document.

Following a recommendation by City staff, the final selection of a qualified engineering consultant will be made by City Council, which Mr. Howell expects to be completed by the end of 2020.

- 3) Mr. Howell provided several dates for scheduling purposes of the City Council retreat: January 9, January 23, or January 30, 2021. By consensus, Council scheduled January 9, 2021 for their annual retreat to be held at the Don Gibson Theatre. Further details about the retreat will be determined later.
- 4) Regarding the Transportation Alternatives Program (TAP) Grant from the North Carolina Department of Transportation (Rail Corridor Acquisition), Mr. Howell informed Council that he and staff continue to work with DOT staff to secure the \$4,160,000 locally administered federal grant awarded to the City of Shelby.
- 5) Mr. Howell announced the City of Shelby has been awarded Community Development Block Grant (CDBG) funds for the NC CDBG Coronavirus (CDBG-CV) Program in the amount of \$900,000. The Rural Economic Development Division (REDD) administers the CDBG Program and will assist the City in implementing the grant. The City plans to partner with

United Way of Cleveland County and Cleveland County Development Corporation to distribute the funds.

- 6) Mr. Howell mentioned the contractor for the Norfolk Southern continues to remove the railroad facilities including rails, ties, fixtures, equipment, and any material specific to railroad uses owned by Norfolk Southern from the rail corridor. The removal and clean-up work have been a long, slow process still the City will continue to work with the contractor, hopeful it will be left in good condition.
- 7) Regarding the West Marion Street Streetscaping Project, Mr. Howell reported the construction activities with the goal of improving accessibility in the area while also providing aesthetic enhancement are nearing completion.
- 8) Regarding the Brookwood Drive Water, Sewer, and Street Improvement Project, Mr. Howell reported the contractor returned to perform asphalt repair work. The work improved some of the asphalt patch work previously completed over the sewer line.
- 9) Mr. Howell stated the City previously submitted a proposal for the Grover Street Multi-Use Path to the Recreational Trails Grant Program in the amount of \$250,000. All applications are reviewed by the North Carolina Trails Committee and recommendations are made to the Secretary of the Department of Natural and Cultural Resources, who makes the final determination on grant awards. Staff anticipates notification by the end of November 2020.
- 10) Mr. Howell mentioned Shelby and the surrounding area was affected by rain, flash flooding, and high winds on Wednesday, October 28, 2020, and Thursday, October 29, 2020, as the remnants of Tropical Storm Zeta caused downed trees and power lines, and power outages. He commended several City departments, including Electric, Public Works, Fire and Rescue, and Police, for their outstanding responsiveness during these storm conditions.

F. Council Announcements and Remarks:

- 1) Mr. Hopper reminded the public about Election Day and encouraged citizens to vote.
- 2) Mr. Webber expressed his appreciation to all for all the great things happening in the City of Shelby.
- 3) Mrs. Arth Dukes expressed her appreciation to the City's Electric and Public Works crews for restoring her power so promptly and efficiently.

She also encouraged citizens to vote on Election Day.

G. Adjournment:

1) Motion to adjourn

ACTION TAKEN: Upon a motion made by Mrs. Arth Dukes, City Council voted unanimously to adjourn the meeting at 6:30 p.m.

Respectfully submitted,

Bernadette A. Parduski, NCCMC, MMC
City Clerk

O. Stanhope Anthony III
Mayor

Minutes of November 2, 2020

DRAFT

City of Shelby
Agenda Item Summary
November 16, 2020
Don Gibson Theater

Agenda Item: E-2

2) Adoption of Fiscal Year (FY) Budget Ordinance Amendment No. 4: Ordinance No. 33-2020

Consent Agenda Item: (Justin Merritt, Assistant City Manager)

- Memorandum dated November 4, 2020 from Justin Merritt, Assistant City Manager to Rick Howell, City Manager
- Copy of Resolution No. 62-2013
- Copy of Incentive Agreement and Letter from City Clerk to Greenheck and News Release
- Incentive Grant Payment Schedule with supporting documents
- Ordinance No. 33-2020

City Manager's Recommendation / Comments

This item is presented for City Council consideration at this time. If approved this amendment would formally appropriate the incentive grant for Tax Year 2020. Future payments will be made as the grant recipient requests payment after complying with the provisions of the adopted agreement. This is year **six of a seven year** agreement with Greenheck Fan Corporation at their location (2000 Partnership Drive) in the Foothills Commerce Center. The approved grant covers a seven-year period at 65% grant incentive payment back to the company.

As a reminder to Council you will recall that companies awarded incentive grants must pay in full all tax and other bills owed to the City prior to making a request. It is the responsibility of the company to certify to the City they have done so with written verification coming from the Cleveland County Tax Office. Council must then approve this budget amendment appropriating the amount due. Only then will City staff be authorized to pay the incentive grant.

It is my recommendation that Ordinance No. 33-2020 be adopted and approved by City Council via the Consent Agenda at this time.



To: Rick Howell, City Manager
From: Justin Merritt, Assistant City Manager
Date: November 4, 2020
Subject: Greenheck Fan Corporation Industrial Incentive Grant Distribution

Background:

As you are aware, the City of Shelby entered into an agreement with Greenheck Fan Corporation to provide Industrial Incentive Grants upon completion of certain grant requirements. The agreements are attached and detail the guidelines of the grant program.

Greenheck Fan Corporation has now met the requirements for year six of the grant payment and has asked for the distribution to be made.

Recommendation:

The recommendation from staff is to approve the attached budget amendment, which will allow for distribution of year six of the grant incentive.

RESOLUTION NO. 62-2013

A RESOLUTION CONFIRMING THE CITY OF SHELBY
INTENT TO OFFER AN ECONOMIC DEVELOPMENT INCENTIVE GRANT
AND RELATED INCENTIVES

WHEREAS, on the City of Shelby has established the practice of offering economic development incentives for the purpose of promoting the economic health and vitality of the community, and,

WHEREAS, the Cleveland County Economic Development Partnership has presented a qualifying economic development project named "Project Lakewood" (the "Project") with an total expected investment valued at \$26 Million of net new investment which shall be eligible for incentives through the policy and create 177 new full time jobs; and,

WHEREAS, the City Council believes that Project Lakewood will stimulate and provide stability for the local economy, will provide local economic benefits for the citizens of the City of Shelby through an increase in sales tax revenues, increased personal property tax revenues, increased purchases of local goods and services, increased revenues from having the project as a new customer of the City for water and sewer services and natural gas service, and will result in the creation of a substantial number of new full-time permanent jobs; and

WHEREAS, the City Manager and the Cleveland County Economic Development Partnership have determined that the Project meets the goals set forth by City Council including job creation and capital investment.

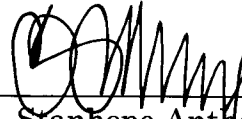
NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF SHELBY, NORTH CAROLINA:

Section 1. In accordance with the City's economic development incentive practices, the City Council extends to the Project by agreement the offer to provide annual grants with an amount equal to an estimated \$514,000 paid over a period of 7 years along with an upfront, one-time cash grant in the amount of \$150,000. Additionally, the City Council approves the City's extensions of the existing street system within the Foothills Commerce Center ("FCC"), the gifting of approximately 20 acres within the "FCC" as well as the option by the company to be gifted an additional 12 acres within the "FCC" under the terms of the agreement. The grant award is subject to execution of a legal agreement drafted in accordance with the provisions of North Carolina General Statute § 158-7.1, said agreement describing the Project and stating expected benchmarks and recourse for non-compliance. The City Manager and City Attorney were hereby authorized and directed to negotiate the language of said legal agreement for presentation to and final approval by the City Council, and to record the approved agreement in the Office of the Register of Deeds for Cleveland County.

Section 2. The Mayor and City Clerk of the City of Shelby are hereby authorized and directed to execute the agreement specified in Section 1 of this resolution on behalf of the City.

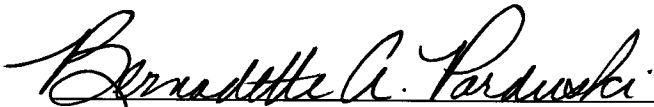
Section 3. This resolution shall become effective upon its adoption and approval.

Adopted and approved this the 7th day of October 2013.

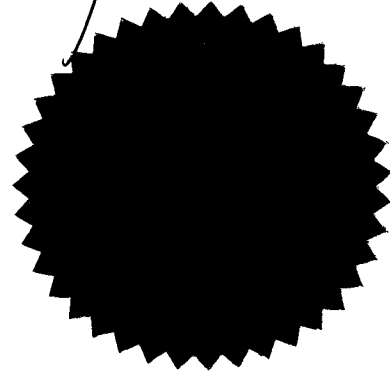


O. Stanhope Anthony III
Mayor

ATTEST:



Bernadette A. Parduski, NCCMC, MMC
City Clerk



INCENTIVE AGREEMENT

This **Incentive Agreement** (the "Agreement") is made and entered into as of the 7th day of October, 2013, by and between **CITY OF SHELBY, NORTH CAROLINA**, a municipal corporation of the State of North Carolina (the "City") and **GREENHECK FAN CORPORATION**, a business corporation of the State of Wisconsin (the "Company"). The City and the Company may from time to time hereinafter be referred to individually as a "Party" and collectively as the "Parties."

WITNESSETH:

WHEREAS, the Local Development Act of 1925, as amended, (Article 1 of Chapter 158 of the North Carolina General Statutes) grants cities the authority to make appropriations for the purposes of aiding and encouraging the location or expansion of certain business enterprises in the city or for other purposes which the city's governing body finds in its discretion, will increase the population, taxable property base and business prospects of the city; and,

WHEREAS, the City council of the City of Shelby (the "Council"), pursuant to North Carolina law, has adopted the City of Shelby Industrial Incentive Program (the "Program"), duly adopted and enforced at the time of this Agreement, in order to induce existing industry to expand in the City and target new industries to locate in the City, through the provision of various incentives including the payment of a stipulated incentive grant amount from the City's General Fund (the "General Fund"), as determined in accordance with the provisions of the Program; and,

WHEREAS, the Company contemplates the construction and equipping of an approximately 150,000 square foot building in Phase I of its Project, to be located in the Foothills Commerce Center Park located in the City of Shelby, North Carolina, (the "Project"); and,

WHEREAS, the Company intends to create approximately one hundred seventy seven (177) new, permanent full-time jobs during the first five (5) years of this Agreement at the Project; and,

WHEREAS, the entire Project will include buildings and the installation of machinery and equipment with a total initial investment of approximately Twenty Six Million Dollars (\$26,000,000.00) in the County; and,

WHEREAS, the Council has determined following a public hearing on October 7, 2013, that the Company meets the criteria for participation in the Program due to the planned construction and operation of the Project, which will increase the population, taxable property base and business prospects of the City, and that certain incentives for the Project (the "Incentives") will encourage the Company to expand its operations in the area, and that it is in the public interest to provide assistance as authorized by the North Carolina General Statutes § 158-7.1; and

WHEREAS, the Company acknowledges that the Incentives will serve as an inducement for the Company to construct and operate the Project in the City;

NOW, THEREFORE, in consideration of the reasons recited above, and the mutual covenants and agreements hereinafter set forth, and for other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the Parties hereto do each contract and agree as follows:

Incentive Number One

The City shall make a one-time Grant to the Company of One Hundred Fifty Thousand Dollars (\$150,000.00) to be used by the Company for site preparation at the Project. This Grant shall be made to the Company within fifteen (15) days of commencement of grading at the Project site. If the Company does not begin operation of the Project within twenty four (24) months of the date of this Agreement, then the Company shall repay the One Hundred Fifty Thousand Dollars (\$150,000.00) to the City within fifteen (15) days of the expiration of the twenty four (24) months.

Incentive Number Two

2.1 Incentive Grant Criteria

The Company shall comply with the following conditions (the “Grant Criteria”) in order to qualify for Incentive Grants pursuant to this Agreement.

- a. The Company shall begin construction of the Project within twelve (12) months of the execution of this Agreement.
- b. The Company shall maintain its investment in the City for the duration of the Grant Term (hereinafter defined).
- c. The Company shall operate the Project substantially in compliance with all laws, rules, regulations, ordinances, and orders of all governmental bodies, agencies, authorities, and courts having jurisdiction.
- d. The City shall not be responsible for any aspect of the design or equipping of the Project.
- e. The Company shall be current in the payment of all ad valorem taxes and fees imposed on the Company by the City of Shelby and Cleveland County.
- f. The Company shall conduct operations at the Project in such manner as to be in material compliance with applicable Federal, State and local environmental regulations.

2.2 Certification of Grant Criteria by the Company.

- a. In each year of the Grant Term, the Company shall request payment of an Incentive Grant from the City. This request for payment can be made at any time after the Company has paid all local ad valorem taxes for the current tax year. In connection with each request for payment of the Incentive Grant, the Company shall deliver to the City's Finance Director a performance letter certifying that in the prior year, (or the current year if the request is made between July 1 and December 31 of the tax year) the Company (i) satisfied all of the Grant Criteria, (ii) agreed to the Assessed Value (hereinafter defined) of the Project as determined by the Cleveland County Tax Assessor; and (iii) paid all applicable local taxes on the Assessed Value of the Project. If in any year of the Grant Term, the Company fails to request payment from the City of the Incentive Grant for that year, the Company forfeits absolutely its right to the Incentive Grant for that year.
- b. Upon receipt of such certification from the Company, the Cleveland County Tax Assessor shall determine, as of January 1st for each year of the Grant Term, the total new property invested in the Project that is subject to ad valorem property taxes in the City (the "Taxable Investment") and the assessed value of the Taxable Investment (the "Assessed Value").
- c. The Company agrees to cooperate with the Cleveland County Tax Assessor and the City by providing such information and access to the Company's records as may be necessary to verify and substantiate initial and ongoing compliance with the Grant Criteria. If the City is unable to independently verify compliance with the Grant Criteria upon exercise of reasonable effort, then the City shall provide thirty (30) days written notice to the Company of the additional information needed to ascertain compliance. If the Company does not provide such additional information, and such additional information is necessary to ascertain its compliance with this Agreement, to the City before the expiration of this thirty (30) day period, the City may immediately terminate this Agreement. To the full extent allowed by law, such information shall be kept confidential by the City and shall remain the property of the Company to be returned after the City's review.
- d. The Company acknowledges that it has been informed by the City that the City is required by law, upon request, to disclose "Public Records" as that term is defined by N. C. Gen. Stat. § 132.1. Notwithstanding the immediately preceding sentence, the City acknowledges that some or all of the information made available by the Company to the City pursuant to this Agreement may be exempt from disclosure as a "Public Record" pursuant to N. C. Gen. Stat. §§ 132-1.2, 132-6(d), and that all such information is proprietary. Some or all of the information made available to the City pursuant to this Agreement may be designated by the Company as confidential and as a trade secret at the time of disclosure to the City. The City, to the fullest extent allowed by state law, will hold such designated information as confidential. The City shall, if it receives

a request for disclosure of any such information, notify the Company of such request so that the Company may defend any claims or disputes arising from efforts of others to cause such trade secrets to be disclosed as a Public Record, and the City shall refrain from making any such disclosures unless or until it (i) receives the Company's written permission to do so; or (ii) is compelled to do so by the final order of a court of competent jurisdiction. The Company shall have the right to direct any litigation of such dispute and shall indemnify the City for any legal fees and expenses incurred by the City in opposing such request for disclosure. The Company acknowledges that the City has met the disclosure requirements set forth in N. C. Gen. Stat. § 132-1.11(b).

2.3 Grant Term and Payment of Incentive Grants.

- a. Grant Term. The Grant Term will begin upon the issuance of a certificate of occupancy for the Project and upon verification that the Company has (i) satisfied all Grant Criteria, (ii) agreed to the Assessed Value of the Project as determined by Cleveland County's Tax Assessor, and (iii) paid all applicable local ad valorem taxes and fees. The Grant Term will continue for seven (7) calendar years following initial verification as long as the Grant Criteria remain satisfied.
- b. Between January 1st and March 31st of each year of the Grant Term, the City shall make an Incentive Grant payment to the Company in an annual amount equal to sixty five per cent (65%) of the City ad valorem taxes (with the current rate being \$0.435 per \$100.00 valuation) on real and personal property paid on the Project by the Company to the City during the preceding calendar year, as long as the Company remains compliant with this Agreement.

- 2.4 Termination upon Failure to Pay Ad Valorem Taxes. If the Company at any time during the Grant Term fails to pay all applicable ad valorem taxes when due, then the City shall provide thirty (30) days written notice to the Company stating that the ad valorem taxes are delinquent. If the taxes have not been paid upon the expiration of such thirty (30) day period of the Company's receipt of notice, then the City may terminate this Agreement and have no further obligation to the Company for the payment of any Incentive Grant.

Incentive Number Three

- 3.1 Conveyance of Real Property. Within sixty (60) days of the execution of this Agreement by both parties, the City will convey to the Company by General Warranty Deed, and free of all encumbrances (with the exception of utility easements) an approximately twenty (20) acre tract of land located in the Foothills Commerce Center Park (the "Property"), said tract to be surveyed at the expense of the City.

The Company shall have no obligation to accept title to the Property unless and until (a) The Company is satisfied in all respects with its due diligence investigation of the

Property including, without limitation, all title, survey, geotechnical and environmental matters related thereto; (b) the City is not in default of the performance of any covenant or agreement to be performed as of the date of Closing by the city as set forth in this Agreement; and (c) the Company has confirmed that its use of the Property for the Project will not violate any private restrictions, zoning ordinances or governmental regulations then in effect on the date of Closing. Once the Company has determined that the conditions set forth in clauses (a), (b) and (c) preceding have been satisfied (or have been waived in whole or in part by the Company in its sole discretion), the Company shall give notice (the "Closing Notice") to the City that it is ready to close on the conveyance of the Property. The Company must give the Closing Notice within sixty (60) days of the execution of this Agreement by both parties. The City agrees to deliver the General Warranty Deed to the Property in the manner set forth in this Section 3.1 on a date that is no more than ten (10) business days following the date of the Closing Notice (the "Closing").

The City represents to the Company that the Property now is, and at Closing will be, in full compliance with all applicable zoning and land use laws and other local, state and federal laws and regulations and the City does not have knowledge of any proposed change in any such code, law or regulation which would interfere with the Company's proposed use of the Property for the Project.

The City represents to the Company that no person, firm or entity has any rights to acquire or to lease all or any portion of the Property or to otherwise obtain any interest therein and there are no outstanding options, rights of first refusal or negotiation, rights of reverter or rights of first offer relating to the Property or any interest therein.

Upon Closing and conveyance of the Property from the City to the Company, the City shall indemnify, defend and hold the Company harmless from any claim, liability or cause of action that relates to a period of time prior to the Closing and the Company shall indemnify, defend and hold the City harmless from any claim, liability or cause of action that relates to any period of time following the Closing.

All representations, warranties and indemnities made and given by the Parties in this Agreement shall survive the Closing.

- 3.2 Commencement and Completion of the Project. The Company agrees to commence construction of the Project within twelve (12) months of the execution of this Agreement by both parties, and to complete construction of the Project within twenty four (24) months of the execution of this Agreement by both parties. For the purposes of the foregoing (a) the term "commence construction" shall mean that applicable permits for the Project have been obtained and the Company's chosen contractor has begun grading the site of the Project and (b) the term "complete construction" means that the Project has been completed and the Company has received a certificate of occupancy.

3.3 Re-conveyance of Real Property. In the event the Company does not comply with the provisions of paragraph 2.2 above, the Company agrees to either (a) re-convey to the City by General Warranty Deed, and free of all contractual obligations, claims, liens proceeding and encumbrances (with the exception of utility easements and any matter consented to by the City), the Property conveyed by the City to the Company as described in paragraph 3.1 above; or (b) pay to the City an amount equal to the appraised value of the Property by the City (the "Agreed Price"). The option to select the remedy in clauses (a) or (b) preceding may be made by the Company in its sole and absolute discretion; provided, that the Company may not select option (b) if it has, in fact, on the date of non-compliance with the provisions of paragraph 3.2 above, abandoned the Property and notified the City that it will not use the Property for the Project.

3.4 Option to Obtain Additional Real Property. The City hereby grants to the Company an option for three (3) years from the date of this Agreement to obtain an additional approximately twelve (12) acre tract adjacent to the twenty (20) acres described in paragraph 3.1. The twelve (12) acre tract will be surveyed at the expense of the City at the same time the twenty (20) acres are surveyed.

If, within the three (3) year option period, the Company makes a capital investment of at least Eight Million Dollars (\$8,000,000.00) in the Project and starts construction of at least a one hundred thousand (100,000) square-foot building on said twelve (12) acres, the City will convey to the Company by General Warranty Deed, and free of all encumbrances (with the exception of utility easements), the said twelve (12) acre tract.

If the Company does not start construction on the twelve (12) acre tract within the three (3) year option period, then, and in that event, the City grants to the Company an additional three (3) year option to purchase the said twelve (12) acre tract for Eighteen Thousand Dollars (\$18,000.00) per acre.

Incentive Number Four.

Building permit and inspection fees will not be charged to the Company.

Incentive Number Five.

Water and Sewer tap and service fees will not be charged to the Company.

Incentive Number Six.

Partnership Way and Commerce Center Drive will be extended by the City, at its expense, to an agreed upon point at the Property.

7 Notice. Formal notices, demands, and communications between the City and the Company shall be sufficiently given if personally delivered or if dispatched by registered or certified mail, postage prepaid, return receipt requested, or by a

nationally recognized overnight courier to the principal offices of the City and the Company. Such written notices, demands and communications may be sent in the same manner to such other addresses as either Party may from time to time designate by formal notice hereunder.

If to City:

City of Shelby
Shelby City Hall
Attn: City Manager
300 South Washington Street
Shelby, NC 28150

With copy that shall not constitute notice to:

Robert W. Yelton
Yelton, Farfour & Fite, P.A.
P O Box 1329
Shelby, NC 28151-1329

If to the Company:

Greenheck Fan Corporation
Attn: Jeff Lamer
400 Ross Avenue
Schofield, WI 54476

- 8 Parties. This Agreement shall inure to the benefit of and be binding upon the Parties hereto, and their successors in interest.
- 9 Complete Agreement. This Agreement contains the entire agreement between the Parties and there are no other representations, inducements, or other provisions other than those expressed in this writing. If this Agreement or any provision hereof is determined to be invalid, unlawful or otherwise null and void by any court of competent jurisdiction, then the remainder of this Agreement will remain valid and enforceable.
- 10 Amendments to Agreement. This Agreement may only be modified, altered or amended by mutual written consent of the Parties.
- 11 Termination. Except as otherwise provided herein, this Agreement shall terminate on December 31st of the last year of the Grant Term.
- 12 Assignment. No Party shall assign, sublet or transfer any rights under or interest in this Agreement (including, but without limitation, monies that may become due or monies that are due) without the prior written consent of the other Party, which consent shall not be unreasonably withheld. Unless specifically stated to the contrary in any written consent to assignment, no assignment shall release or discharge the assignor from any duty or responsibility under this Agreement.
- 13 Event of Default. It shall be an Event of Default if any one or more of the following events shall occur for any reason whatsoever (and whether such occurrence shall be voluntary or involuntary or come about or be effected by operation of law or pursuant

to or in compliance with any judgment, decree or order of any court or any order, rule or regulation of any administrative or governmental body):

- a. If the Company shall fail to observe and perform any material provision of this Agreement and such failure shall continue for a period of thirty (30) or more days after the giving by the City of written notice of such failure to the Company; or
- b. If any material representation, warranty or other statement of fact contained in this Agreement or in any writing, certificate, report or statement furnished by the Company to the City in connection with the transaction described in this Agreement shall be false or misleading in any material respect when given; or
- c. If the Company shall be unable to pay its debts generally as they become due; files a petition in bankruptcy; makes an assignment for the benefit of creditors; commences a proceeding for the appointment of a receiver, trustee, liquidator or conservator of itself or of the whole or a substantial part of its property; files a petition or answer seeking reorganization or arrangement of similar relief under the federal bankruptcy laws; or
- d. If a court of competent jurisdiction shall enter an order, judgment, or decree appointing a custodian, receiver, trustee, liquidator, or conservator of the Company or of the whole or any substantial part of its properties, or approve a petition filed against the Company under the federal bankruptcy laws; or if, under the provisions of any other law for the relief or aid of debtors, a court of competent jurisdiction shall assume custody or control of the Company or of the whole or any substantial part of its properties.

- 14 Statutory Authority for Incentive Grant. Both the Company and the City acknowledge that any and all monies appropriated and expended by the City for local economic development incentives as provided in this Agreement are for a bona fide public purpose and are expended in good faith reliance on N. C. Gen. Stat. § 158-7.1. In the event a court of competent jurisdiction, after final appeal, rules in a lawsuit to which either the Company or the City is a party, that the monies expended by the City pursuant to this Agreement were not offered and accepted in good faith and pursuant to and in compliance with N. C. Gen. Stat. §158-7.1 and, further, that such monies must be repaid, the Company will make such repayment. Further, if any elected officials of the City are found by a court of competent jurisdiction, after final appeal, to be personally liable for any of the monies so expended, and such liability is not covered by the City's public officials' liability insurance, then the Company will indemnify such elected officials individually to the extent of the monies received by the Company pursuant to this Agreement, but exclusive of court costs and attorney fees. The City agrees to maintain adequate public official liability coverage, consistent with that maintained by other similarly situated cities in North Carolina. The City agrees to require that its insurer(s) providing such coverage waive any subrogation rights it or they may have against the Company in connection with such coverage, and the City waives (on behalf of itself and its insurer) any claim or

subrogation rights against the Company to the extent covered by such insurance coverage. In the event any lawsuit is brought against the City or any elected official of the City challenging the legality of this Agreement, then the City shall exercise its best efforts to defend against any such lawsuit, including appealing any adverse judgment to the appropriate court. The indemnification arising under this Article shall survive this Agreement's termination. The indemnification by the Company shall not apply if neither the Company nor any of its representatives participated in the improper acts of the City officials.

- 15 Governing Law. This Agreement shall be construed and enforced in accordance with the laws of the State of North Carolina. Exclusive venue for any disputes arising hereunder is conferred upon the General Courts of Justice of the State of North Carolina sitting in Cleveland County.
- 16 Captions, Heading, Titles. Any paragraph headings contained in this Agreement are for convenience only and in no way enlarge or limit the scope or meaning of the various and several paragraphs contained herein.

(The remainder of this page has been intentionally left blank.)

IN WITNESS WHEREOF, the parties hereto, acting under authority of their respective governing bodies, have caused this contract to be duly executed, this the day and year first above written.

Attest:

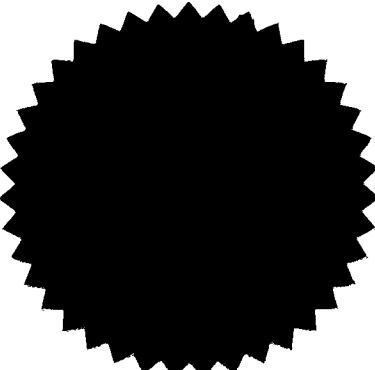
By: 

Bernadette A. Parduski, MMC,
City Clerk

CITY OF SHELBY, NORTH CAROLINA

By: 

O. Stanhope Anthony, III,
Mayor



[Remaining signature page to follow.]

ATTEST:

By: Jonine Kelen

GREENHECK FAN CORPORATION

By: Marc A. Espinoza

Name: MARCO A. ESPINOZA

Title: ASST. GENERAL COUNSEL

COPY

Shelby
NORTH CAROLINA



Post Office Box 207 • Shelby, NC 28151-0207

Office of the City Clerk

October 8, 2013

Mr. Jeff Lamer
Greenheck Fan Corporation
400 Ross Avenue
Schofield, WI 54476

Re: Incentive Agreement between the City of Shelby and Greenheck Fan Corporation

Dear Mr. Lamer:

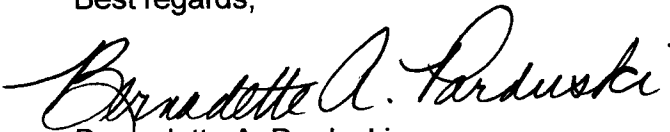
Welcome to Shelby and Cleveland County, North Carolina!

Shelby City Council officially approved the enclosed Incentive Agreement on October 7, 2013. Please fully execute all three original agreements on Page 11 and return two to me at your earliest convenience. Kindly retain one agreement, along with a copy of Resolution No. 62-2013, for your file. Upon receipt of the agreements, I will record one with the Cleveland County Register of Deeds Office.

If you need further assistance or information, please do not hesitate to contact me.

Thank you for your time and attention. We look forward to Greenheck Fan's expansion and progress in North Carolina.

Best regards,


Bernadette A. Parduski
City Clerk

Enclosures

News Release

FOR IMMEDIATE RELEASE: October 4, 2013



Fan Manufacturer Expansion Brings 184 Jobs to Cleveland County

SHELBY, NC – Gov. Pat McCrory and North Carolina Commerce Secretary Sharon Decker were in Cleveland County today to announce that Greenheck Fan Corporation, a leading manufacturer of air movement and control equipment, will expand its operations and locate a new facility in Cleveland County. The announcement was made possible in part by a \$300,000 grant from the One North Carolina Fund.

“Our first priority is creating jobs. North Carolina’s workforce continues to be a selling point for advanced manufacturers like Greenheck,” said Governor McCrory. “We must continue to support education and job training programs in order for North Carolina to compete in this global economy.”

Greenheck Fan Corporation is a broad spectrum manufacturer of commercial and industrial air movement and control equipment headquartered in Schofield, Wisconsin. Greenheck brand products including; fans and ventilators, centrifugal and vane axial fans, dampers, louvers, laboratory exhaust systems, energy recovery products, indoor air handling units and coils are shipped to customers around the globe.

“Cleveland County has a proud manufacturing heritage,” said Rep. Tim Moore. “Helping our region’s manufacturing industry grow is an important part of mine and Governor McCrory’s overall economic development strategy.”

The company plans to invest \$30 million and create 184 new jobs during the next five years in Shelby. Greenheck Fan Corporation will establish a new manufacturing facility on Artee Road in Shelby. While salaries will vary by job function, the average annual payroll is estimated to be more than \$5.7 million plus benefits. Greenheck currently employs more than 116 people in North Carolina at their current manufacturing facility in Kings Mountain.

“Companies like Greenheck Fan Corporation know Cleveland County’s skilled workforce gives them a competitive edge,” said Sen. Warren Daniel. “I’m confident the company has made a good choice, and the good folks of Shelby and the surrounding areas can provide a productive work force.”

Other partners who helped make this announcement possible include the N.C. Department of Commerce, N.C. Community Colleges, Cleveland County, City of Shelby, Cleveland County Economic Development Partnership and Gardner Webb University.

For more information about Greenheck Fan Corporation, including job opportunities, go to www.greenheck.com.

###

PROJECT LAKEWOOD (GREENHECK FAN CORPORATION)

Economic Development Announcement

Friday ~ October 4, 2013

Press Conference Begins: 1:00 pm (or upon Governor's arrival)

Location: Foothills Commerce Center, Shelby

Welcome & Opening Remarks.....Stan Anthony
Mayor, City of Shelby

Introduction of Governor Pat McCroy Eddie Holbrook
Cleveland County Board of Commissioners

Job Announcement & Gift Presentation Pat McCroy
Governor of North Carolina

Unrolling of Banner & Building Site Plans

Client Remarks.....Tim Kilgore
President, CVI Business Unit
Jon Krueger
Executive VP/HR

Introduction of State & Elected Officials.....Eddie Holbrook
County Commissioner

1. Senator Kay Hagan
 2. Senator Richard Burr
 3. US Representative Patrick McHenry
 4. Senator Phil Berger
 5. Speaker Thom Tillis
-
6. State Senator Warren Daniel
 7. State Rep Tim Moore
 8. State Rep Kelly Hastings

Please include the following:

- County Elected Officials
- Mayors and City Elected Officials
- Former State Rep., Jack Hunt
- NCDOC (Secretary Sharon Decker and Uconda Dunn)

Presentation of Gift From County.....Ronnie Hawkins
Chair, Cleveland County Board of Commissioners

Congratulatory Comments / Presentation of Gift from CityStan Anthony
Mayor, City of Shelby

Closing Remarks.....Eddie Holbrook
Cleveland County Board of Commissioners

**Champagne Toast followed by ceremony - Mayor Anthony will initiate toast

Greenheck Fan Corporation City Incentive Grant Payment Schedule

* Applicable agreement must be reviewed before annual remittance of grant incentive payment. Grant payments to be made after the taxpayer has paid in full all local property taxes. City has option to pay grant to taxpayer between January and March annually.

Column1 Tax Year (Fiscal Yr.)	Column2 2015-16	Column3 2016-17	Column4 2017-18	Column5 2018-19	Column6 2019-20	Column63 2020-2021	Column62 2021-22	Column7 Totals
% authorized	65%	65%	65%	65%	65%	65%	65%	N/A
Estimated net new investment	\$26,000,000	\$26,000,000	\$26,000,000	\$26,000,000	\$26,000,000	\$26,000,000	\$26,000,000	N/A
Current City Tax Rate per \$100	0.00435	0.00435	0.004972	0.004972	0.004972	0.004972	0.004972	N/A
Estimated City Tax Levy	\$113,100	\$113,100	\$129,272	\$129,272	\$129,272	\$129,272	\$129,272	\$872,560
Calculated Grant Incentive Payment	\$73,515	\$73,515	\$84,027	\$84,027	\$84,027	\$84,027	\$84,027	\$567,164
Actual net new investment#	\$19,518,567	\$18,704,500	\$19,417,721	\$22,097,819	\$21,775,233	\$20,074,548		N/A
Current City Tax Rate per \$100	0.00435	0.004972	0.004972	0.005225	0.005225	0.005225	0.005225	N/A
Actual City Tax Levy#	\$84,906	\$92,999	\$96,545	\$115,461	\$113,776	\$104,890	\$0	\$503,686
Actual Grant Incentive Payment	\$55,189	\$60,449	\$62,754	\$75,050	\$73,954	\$68,178	\$0	\$327,396
Difference	\$28,194	\$20,101	\$32,727	\$13,811	\$15,496	\$24,382	\$129,272	\$263,984

To be reported and confirmed by Cleveland County Tax Office annually to the City Manager and Finance Director.

Requirements for remittance: (This list is not exhaustive. Please refer to agreement.)

- 1 - Company must have paid all local property taxes in full.
- 2 - Company must be current on all utility accounts with the City.
- 3 - Company must be current on all fees and charges owed to the City.
- 4 - Company must request in writing during the fiscal year to be eligible to receive the City grant. Grants not requested are forfeited for that fiscal year.
- 5 - Company must meet the minimum stated net new investments.
- 6 - Company must be in compliance with all federal, state and local laws. (Including zoning, nuisance and other applicable ordinances)
- 7 - Grant to be paid between January 1 - March 31 of the fiscal year after all above conditions met.

The Greenheck Group

Greenheck • Airolite • Accurex • Unison • Innovent • Valent • Precision Coils

October 26, 2020

City of Shelby
Shelby City Hall
Attn: City Manager
300 South Washington Street
Shelby, NC 28150

RE: Project Lakewood City of Shelby Incentive Grant Program

Dear City Manager,

In accordance with the terms of the Incentive Agreement (“Agreement”) dated October 7, 2013 between the City of Shelby and our company we are providing the attached information supporting our request for payment under the agreement.

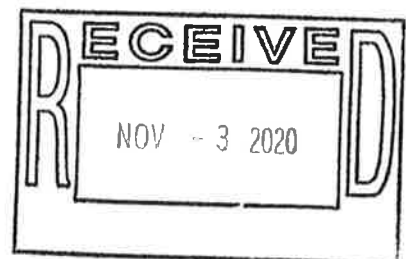
Attached you will find an exhibit that outlines the net taxable investment and our calculation of the amount of the grant reimbursement that our company has earned. All grant criteria have been met under the terms of the Agreement and we have remitted payment for all of the taxes due.

Thank you for your help and please do not hesitate to contact me with questions related to the above matter.

Regards,



Dan Strehlow, CPA
Corporate Tax Manager | The Greenheck Group
Office: 715.355.3156 | Fax: 715.355.6545
1100 Greenheck Drive, Schofield, WI 54476



City of Shelby Economic Development Incentive Grant
Greenheck Group Property Tax Rebate Request
Request #6
2020

Project Lakewood - Shelby, North Carolina		
	Bill #	City Assessed Value
Personal Property	4030607	12,513,084
Less: Supplies Cost Listed		-
Net Personal Property Value Assessed		12,513,084
Real Property	4028683	8,056,039
Less: Tax value of "Gifted" Land		(494,575)
		7,561,464
Total Taxable Investment		20,074,548
Tax Rate (City of Shelby)		0.5225%
Property Tax Due		104,890
Tax Abatement Percentage		65%
Property Tax Abatement Refund Requested		68,178

Merritt, Justin

From: Chris Green <Chris.Green@clevelandcountync.gov>
Sent: Tuesday, November 3, 2020 11:32 AM
To: Merritt, Justin
Subject: RE: Greenheck Tax Incentive

Follow Up Flag: Follow up
Flag Status: Flagged

Justin,

2020 bills 4030607 and 4028683 have been paid.

Chris Green

Tax Administrator
311 E. Marion Street, Shelby, NC 28150
(704) 484-4847
www.clevelandcounty.com



From: Merritt, Justin [mailto:Justin.Merritt@cityofshelby.com]
Sent: Tuesday, November 03, 2020 10:25 AM
To: Chris Green <Chris.Green@clevelandcountync.gov>
Subject: Greenheck Tax Incentive

Chris,

Can you verify these taxes have been paid.

Thanks,

Justin S. Merritt, MPA
Assistant City Manager
City of Shelby
P.O. Box 207
Shelby, NC 28151
Office-704-484-6834

From: chcopier@cityofshelby.com <chcopier@cityofshelby.com>
Sent: Tuesday, November 3, 2020 9:09 AM
To: Howell, Rick <Rick.Howell@cityofshelby.com>; Beam, Beth <Beth.Beam@cityofshelby.com>; Merritt, Justin <Justin.Merritt@cityofshelby.com>
Subject: Attached Image

ORDINANCE NO. 33-2020

CITY OF SHELBY
FISCAL YEAR (FY) 2020-2021 BUDGET ORDINANCE AMENDMENT

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 annual budget for FY 2020-2021; 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 same for implementation and compliance with the Fiscal Control Act;

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

Section 1. Ordinance No. 22-2020, the City's FY 2020-2021 Budget Ordinance, is hereby amended as follows to provide for Budget Amendment No. 4 for the year:

(A) The City of Shelby, via resolution 62-2013, approved incentive agreements and awarded Industrial Incentive Grants to Greenheck Fan Corporation. Greenheck Fan Corporation has now met the requirements for distribution of grant funds for the sixth year of their incentive. Accordingly, the following budget modifications are approved in accordance with the chart of accounts heretofore established for the City of Shelby.

(1) The following General Fund line items are amended:

(a) Increase 11001000-39900 Fund Balance Appropriated \$68,178

(b) Increase 110495-49230 Transferred to Economic Development Fund \$68,178

(2) The following Econ. Development Funds Line Items are amended:

(a) Increase 23009000-39000 Transferred from Other Funds \$68,178

(b) Increase 230590-42006 Economic Development \$68,178

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

	<u>Current Budget</u>	<u>Amendment No. 4</u>
General Fund	\$ 26,026,235	\$ 26,094,413
Emergency Telephone System Fund	107,000	107,000
Powell Bill Fund	645,000	645,000
Economic Dev. Fund	730,450	798,628
Housing Fund	1,771,040	1,771,040
Cemetery Fund	30,000	30,000
Utilities-Water Fund	6,066,638	6,066,638
Utilities-Sewer Fund	5,536,229	5,536,229
Utilities-Electric Fund	22,538,388	22,538,388
Utilities-Gas Fund	16,137,600	16,137,600
Utilities – Stormwater Fund	<u>868,220</u>	<u>868,220</u>
FY 2019-2020 Budget Total:	<u>\$ 80,456,800</u>	<u>\$ 80,593,156</u>

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 16th day of November 2020.

O. Stanhope Anthony III
 Mayor

ATTEST:

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

APPROVED AS TO FORM:

Andrea Leslie-Fite
 City Attorney

City of Shelby
Agenda Item Summary
November 16, 2020
Don Gibson Theater

Agenda Item: E-3

Consent Agenda Item: (Rick Howell, City Manager, and Justin Merritt, Assistant City Manager)

- Ordinance No. 34-2020

City Manager's Recommendation / Comments

Ordinance No. 34-2020 is presented for City Council consideration at this time. If approved this ordinance would appropriate \$176,000 from the Economic Development Fund balance for the purchase of property at 414 South Lafayette Street and 235 South Morgan Street adjacent to the rail corridor. Council has previously approved acquisition of this property last fall for economic development and public parking purposes.

It is my recommendation that Ordinance No. 34-2020 be adopted and approved by City Council via the Consent Agenda at this time.

ORDINANCE NO. 34-2020

CITY OF SHELBY
FISCAL YEAR (FY) 2020-2021 BUDGET ORDINANCE AMENDMENT

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 annual budget for FY 2020-2021; 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 same for implementation and compliance with the Fiscal Control Act;

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

Section 1. Ordinance No. 22-2020, the City’s FY 2020-2021 Budget Ordinance, is hereby amended as follows to provide for Budget Amendment No. 5 for the year:

(A) The City of Shelby has identified a need to purchase property identified as parcel # 17168 at 414 S. Lafayette Street, Shelby, NC and property identified as parcel # 17858 at 235 S. Morgan Street, Shelby, NC. Accordingly, the following budget modifications are approved in accordance with the chart of accounts heretofore established for the City of Shelby.

(2) The following Econ. Development Funds Line Items are amended:

- (a) Increase 23009000-39900 Fund Balance Appropriated \$176,000
- (b) Increase 230590-52000 Land \$176,000

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

	<u>Current Budget</u>	<u>Amendment No. 5</u>
General Fund	\$ 26,094,413	\$ 26,094,413
Emergency Telephone System Fund	107,000	107,000
Powell Bill Fund	645,000	645,000
Economic Dev. Fund	798,628	974,628
Housing Fund	1,771,040	1,771,040
Cemetery Fund	30,000	30,000
Utilities-Water Fund	6,066,638	6,066,638
Utilities-Sewer Fund	5,536,229	5,536,229
Utilities-Electric Fund	22,538,388	22,538,388
Utilities-Gas Fund	16,137,600	16,137,600
Utilities – Stormwater Fund	868,220	868,220
FY 2019-2020 Budget Total:	<u>\$ 80,593,156</u>	<u>\$ 80,769,156</u>

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

	<u>Current Budget</u>	<u>Amendment No. 5</u>
General Fund	\$ 26,026,235	\$ 26,094,413
Emergency Telephone System Fund	107,000	107,000
Powell Bill Fund	645,000	645,000
Economic Dev. Fund	730,450	798,628
Housing Fund	1,771,040	1,771,040
Cemetery Fund	30,000	30,000
Utilities-Water Fund	6,066,638	6,066,638
Utilities-Sewer Fund	5,536,229	5,536,229
Utilities-Electric Fund	22,538,388	22,538,388
Utilities-Gas Fund	16,137,600	16,137,600
Utilities – Stormwater Fund	868,220	868,220
FY 2019-2020 Budget Total:	<u>\$ 80,456,800</u>	<u>\$ 80,593,156</u>

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 16th day of November 2020.

O. Stanhope Anthony III
Mayor

ATTEST:

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

APPROVED AS TO FORM:

Andrea Leslie-Fite
City Attorney

City of Shelby
Agenda Item Summary
November 16, 2020
Don Gibson Theater

Agenda Item: E-4

- 1) City of Shelby's Carolina Thread Trail Project – First Broad River Pedestrian Bridge and Trail Repairs:
 - a. Adoption of a budget ordinance amendment for the City of Shelby's Carolina Thread Trail Project: Ordinance No. 35-2020
 - b. Approval of a resolution approving the City of Shelby First Broad River Pedestrian Bridge and Trails Repairs Contract between the City of Shelby and Blue Ridge Trail Works Inc.: Resolution No. 52-2020

Consent Agenda Item: (Rick Howell, City Manager and Walter Scharer, Planning Director)

- Memorandum dated November 9, 2020 from Walter Scharer, Planning Director to Justin Merritt, Assistant City Manager
- Letter dated November 5, 2020 from Carolina Thread Trail
- Blue Ridge Trail Works, Inc. quote
- Ordinance No. 35-2020
- Resolution No. 52-2020

City Manager's Recommendation / Comments

Ordinance No. 35-2020 and Resolution No. 52-2020 are presented for City Council consideration at this time via the Consent Agenda. If approved Ordinance No. 35-2020 would recognize \$75,000 in grant revenue from the Carolina Thread Trail and appropriate an additional \$155,000 from the General Fund balance for the purpose of reconstructing the First Broad River Trail suspension bridge and repair the trail from the storm and flooding damage that occurred on February 5, 2019. This work includes replacement of one of the foot bridges, repair of another and regrading of portions of the trail. All of the work is being done with the intent of limiting future flood damage. The suspension bridge is being elevated several feet with each end being moved outside the flood hazard area.

Resolution No. 52-2020 would award a contract to complete the proposed work to Blue Ridge Trail Works, Inc. City staff previously solicited proposals from qualified firms and was able to negotiate a beneficial agreement with Blue Ridge Trail Works, Inc.

It is my recommendation that Ordinance No. 35-2020 and Resolution No. 52-2020 be adopted and approved by City Council via the Consent Agenda at this time.



Memorandum

To: Justin Merritt – Assistant City Manager
From: Walter Scharer – Planning Director
Date: November 9, 2020
Subject: Suspension Bridge and Trail Reconstruction Budget Amendment

Executive Summary of Issue – Background

The flooding of the First Broad River in February of 2020 severely damaged the First Broad River Trail and completely collapsed the suspension bridge. Since that time staff has been exploring ways to reconstruct the trail and the bridge.

Review and Comments

The City of Shelby was awarded a \$75,000 grant from the Carolina Thread Trail to assist in the reconstruction of the suspension bridge. After conducting an RFQ process and receiving a construction proposal, reconstruction of the suspension bridge will be \$195,000. Therefore, the City of Shelby will have to budget \$120,000 to complete the bridge reconstruction. The new bridge will be designed to minimize future flood damage.

In addition, the City received a proposal to reconstruct the First Broad River Trail not to exceed \$35,000. Part of the trail was washed away during the flood, one of the small bridges was also washed away, and the largest of the small bridges was damaged.

Recommendation

Staff recommends a budget amendment to repair the suspension bridge and a budget amendment to repair the First Broad River Trail. If City Council passes this budget amendment, construction is expected to begin in December with a projected completion date in March of 2021.

Please place this item on the next City Council meeting on November 16, 2020 for a budget amendment.

Attachment: Carolina Thread Trail Grant Award Letter



November 5, 2020

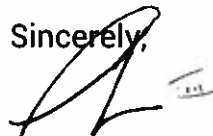
City of Shelby
Mayor Stan Anthony
300 South Washington Street
Shelby, NC 28150

Dear Mayor Anthony,

I am pleased to inform you that the Carolina Thread Trail Governing Board has approved a grant of \$75,000 to City of Shelby for construction of a suspension bridge to complete the First Broad River Trail. Congratulations to you and your community partners!

This grant is subject to certain terms and conditions which is described in a grant agreement to be signed by you and the Carolina Thread Trail Project Director. You will receive a grant agreement within two weeks. Should you need a copy of the press release announcing our 2020 Carolina Thread Trail Implementation Grant awards, please contact Jennifer Clark at 704.342.3330 ext. 220 for assistance with local announcements or press releases.

We greatly appreciate the enthusiasm the City of Shelby has demonstrated for the Carolina Thread Trail. With the energy and commitment of communities like yours, we have much to celebrate as the Thread Trail winds throughout our region.

Sincerely,


Lat Purser, Governing Board Chair
Carolina Thread Trail

Enclosure
cc: Bret Baronak

Governing Board

Alex Rankin, Chair
Shuford Abernethy
Bill Allen
Tim Belk
Blair Boggs
Delane Clark
John Collett
Jarred Cochran
Sally Daley
Jennifer DeWitt
Dr. Michael Goodman
Dehler Hart
Leslie Johnson
Kelly Katterhagen
Jim Lawton
Christine Li
Dana Maness
Jamie McLawhorn
Bailey Patrick
Lat Purser
Marshall Rogers
Keith A. Smith
H. Thomas Webb

Led by

Catawba Lands
Conservancy



Blue Ridge Trail Works, Inc

227 East Front st.
Statesville, NC 28677
brtwinc@gmail.com
www.blueridgetrailworks.com

North Carolina's Best Choice for Sustainably Built Natural Surface Trails

Client: City of Shelby, NC - Walt Scharer

Site: First Broad River Pedestrian Crossing; 940 Grover St.;
Shelby, NC 28150

Contact Info: 704-477-1242 & walt.scharer@cityofshelby.com

Work: Construction of a new Bridge crossing the Broad River

Blue Ridge Trail Works Inc. : Contact Information

BRTW Contact : Scott Brown: 704-929-0151 (wmscottb93@gmail.com)

BRTW Address : 227 East Front St., Statesville, NC 28677

Overview-

Quote is for a New - 4' wide x 160' long Suspension Bridge with 4 - 10' x 10' platforms, two on each side of the bridge. From there, entrance ramps will take users down to the trail.

Scope of Services

Construction of a Cable Suspension Bridge with Decked Entrance Ramps on each side -

A) Suspension Bridge Construction:

The construction of the new suspension bridge will begin with old - 3' x 120' Suspension Bridge being completely removed from the site and any usable material salvaged and the rest hauled off to a dump. The installation of the new Suspension Bridge will begin with 4, 30'+ tall upright poles. Each end of the main support cables will be anchored near the top of each support pole. The support to ground cables will be run from their connection near the top of each support pole & then run down to be connected to cable anchors driven into the ground. Two handrail cables and two foot cables will support approximately 4' wide x 160' long walking area. Either fiberglass grid decking or rough cut 2" x 8" pressure treated lumber decking, with either option supported by pressure treated 4" x 6" lumber 3' on center hung off the main support cable by cables every 3' on center. The cable to cable width of the bridge will be approximately 4' 7" wide with wood 2" x 4"s taking up 3 1/2" of width on each side of the 4' wide grid decking. A 2" square mesh barrier netting will rise 3.5' from the decking to the handrail on each side or a custom woven net can be installed as an alternative to the prebuilt netting. The Bridge is to be constructed at the site of the old suspension bridge site. The height of the bridge deck will be 8'+ above the top of the bank on both sides of the river. A custom quick release system will allow the suspension bridge deck to be pulled higher to get it above flood waters as needed. Two custom metal powder coated or galvanized gates will be installed at each end of the bridge between the main support poles. These will be lockable to allow the bridge to be closed down as needed.

B) Entrance Ramp Construction:

The construct of the two entrance ramps will begin with installation of all needed support poles buried into the ground a minimum of 4'. All deck boards will be 4' 6" wide & will be rough cut 2" x 8"s, which are actually 2" thick, which provide a more slip resistant

surface in wet weather than do standard thickness smooth milled boards. Four platforms that will be 10' x 10', one on each side of both of the entrance ramps where they meet the suspension bridge poles will be constructed. From there a 4' wide ramp with handrails will go down to the ground on each side.

The handrails will be constructed of 2" x 6"s & galvanized Hog Wire will be used between the handrail & the deck boards. The ramps will both end on the existing trail. The east side of the bridge will have an approximately 100' entrance ramp that will run east before it turns to the left or north, where it will connect to the existing sidewalk. On this longer ramp, another two platforms could be installed at the turn to allow users to pass each other. The entrance ramp to the west will run approximately 30' (= or -) & will connect back to the existing enhanced natural surface trail.

.All professional design, engineering, & construction services for the bridge and entrance ramps are included in this proposal. BRTW will give a preliminary copy of engineered drawings for review before work begins and a copy of an "as built" engineered drawing to the City of Shelby after the work is completed.

All lumber used will be either ground contact or below ground contact treated southern yellow pine. All hardware will be galvanized or coated commercial grade for exterior use.

Any permits needed are not included, but can be added at an additional charge.

QUOTATION :

ITEM	Measurements		AMOUNT
A) - Construction of a Suspension Bridge -	160' Long x 4' Wide		\$195,000.00
Bridge Comes with a 5 Year Warranty*	TOTAL COST		\$195,000.00

Terms - \$40,000 paid down as a material & mobilization fee , with biweekly billing as the build progresses with no more than \$180,000.00 billed until completion with the final payment of \$15,000 due upon completion.

Agreed to By: Blue Ridge Trail Works, Inc. & City of Shelby

Date _____

Name _____

Signature _____

BRTW, Inc will work with the City of Shelby to allow City Crews to help on the installation of the bridge with labor and/or materials. A discount on the total price will be given for said help and materials.

IMPORTANT INFORMATION

Warranty Term : 5 Years from Date of Completion – non prorated & good for the owner at time of completion for 5 years. If the bridge fails, B.R.T.W., Inc. will fix the bridge at no additional cost to the customer unless structural damage from neglect, abuse or an Act of God has occurred.

The Warranty will also include three Years (3 visits) of free Safety Inspection/Service Visits.

ORDINANCE NO. 35-2020

A BUDGET ORDINANCE AMENDMENT FOR THE CITY OF SHELBY'S
CAROLINA THREAD TRAIL 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 Carolina Thread Trail 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. 05-2012, the City's Carolina Thread Trail Project, is hereby amended as follows to provide for Budget Amendment No. 7 for said project:

Carolina Thread Trail Project

(1) Appropriating General Fund Balance:

Fund Balance Appropriated	11001000-39900	\$ 155,000
Transfer to General Cap. Projects	110495-49111	\$ 155,000

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

Transfer from General Fund	11108000-39110-THDTR	\$ 155,000
Trail Grant Revenue	11108000-34602-THDTR	\$ 75,000

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

Construction	111493-53000-THDTR	\$ 230,000
--------------	--------------------	------------

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

<u>Carolina Thread Trail Project</u>	<u>Current Budget</u>	<u>Amendment No. 7</u>
Revenues		
Trail Grant Revenue	\$ 258,200	\$ 333,200
Transferred from General Fund	\$ 157,250	\$ 312,250
Expenditures		
Land	\$ 75,000	\$ 75,000
Construction	\$ 340,450	\$ 570,450

Ordinance No. 35-2020
November 16, 2020
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 16th day of November 2020.

O. Stanhope Anthony III
Mayor

ATTEST:

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

APPROVED AS TO FORM:

Andrea Leslie-Fite
City Attorney

RESOLUTION NO. 52-2020

A RESOLUTION APPROVING THE CITY OF SHELBY FIRST BROAD RIVER
PEDESTRIAN BRIDGE AND TRAIL REPAIRS CONTRACT
BETWEEN THE CITY OF SHELBY AND BLUE RIDGE TRAIL WORKS INC.

WHEREAS, the City of Shelby has identified a need to make necessary repairs to the First Broad River Trail pedestrian bridge and trail surface; and

WHEREAS, the City of Shelby has received a proposal from Blue Ridge Trail Works Inc. to make the necessary repairs; and

WHEREAS, the staff of the City of Shelby have determined that Blue Ridge Trail Works Inc. is suitably qualified to complete the project based upon the proposal submitted.

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, in consultation with the City Attorney, to enter negotiations and a contract for construction and repairs with Blue Ridge Trail Works for the above referenced project.

Section 2. The City Manager of the City is hereby authorized and directed to execute the contract set forth in Section 1 of this resolution.

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

Adopted and approved this the 16th day of November 2020.

O. Stanhope Anthony III
Mayor

ATTEST:

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

City of Shelby
Agenda Item Summary
November 16, 2020
Don Gibson Theater

F. Unfinished Business

None

G. New Business

None

Agenda Item: H

City Manager's Report

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

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.

Motion to adjourn