

**ORDINANCE NO. 53-2015**

**AN ORDINANCE AMENDING A SPECIAL USE PERMIT TO ALLOW  
THE CONDITIONAL USE OF AUTO REPAIR SERVICES  
AT 724 WEST MARION STREET**

**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 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 Scottie Brent Webber 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 Permit according to the requirements of the Unified Development Ordinance (Appendix A of the Shelby City Code) at 724 West Marion Street and lying within the City of Shelby in the General Business – Conditional Use (GB-CU) Zoning District. Said area of zoning is more fully described as the parcel listed by the Cleveland County Parcel Identification Number 19270.

**Section 2.** In accordance with Section 4-7.7 of the City of Shelby Unified Development Ordinance, a Special Use Permit is hereby granted to Scottie Brent Webber for the amendment of the conditional uses allowing auto repair services. The terms and conditions of such permit are stated in Attachment, "A" which is attached hereto and incorporated herein by this reference.

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

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

Adopted and approved this the 19<sup>th</sup> day of October, 2015.

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O. Stanhope Anthony III  
Mayor

ATTEST:

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

APPROVED AS TO FORM:

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Robert W. Yelton  
City Attorney

ATTACHMENT "A"

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

NORTH CAROLINA

FILE #: 1042

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):** Freida Webb

**Applicant/Developer:** Scottie Brent Webber

**Property Location:** 724 W. Marion St.

**Zoning District:** General Business – Conditional Use (GB-CU)

**Tax Map PIN #:** 19270

**Deed Reference:** **BOOK** 18G, **PAGE** 520 **Acreage:** 1.08 acres

**Type and Intensity of Use:** Automotive Repair Services

**Meeting Date(s):** October 19, 2015

**Approval Date:** October 19, 2015

**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 subject parcels lie within the City of Shelby Extraterritorial Jurisdiction at 724 West Marion Street in the General Business – Conditional Use (GB-CU) Zoning District; and
2. The application is complete; and
3. If completed as proposed in the application, the development will comply with the requirements of the Unified Development Ordinance; and

**SECTION 2. ADDITIONAL FINDINGS:**

1. The applicant, Scottie Brent Webber, submitted the required application for Special Use Permit; and

2. According to Article 9-3-1, Automotive repair services are permitted in the GB Zoning District with development standards; and
3. Land Uses in the surrounding area are primarily single family dwellings and multi-family dwellings; and
4. The Comprehensive Land Use Plan designates this area as a Medium Density Residential; and
5. The applicant has declared that the intended use of the property is for automotive repair services; and
6. 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.

**SECTION 3. 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 shall comply with the Landscaping Plan approved in 1997 and is on file in the Planning & Development Services Office; and
2. 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.

**SECTION 4. 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 5. 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 October 19, 2016.

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O. Stanhope Anthony III  
Mayor

ATTEST:

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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 copy of the Conditional Use Permit appearing in this Ordinance is a true and correct copy of said permit adopted at the regular meeting of the City Council of the City of Shelby held on October 19, 2015 at 6:00 pm and is on file and on record in my office.

**IN WITNESS THEREOF**, I have hereunto set my hand and official seal of the City of Shelby on this the 19<sup>th</sup> day of October, 2015.

(City Seal)

\_\_\_\_\_  
Bernadette A. Parduski, NCCMC, MMC  
City Clerk

\_\_\_\_\_, appointed agent of the subject property, do hereby acknowledge receipt of this special use 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:

\_\_\_\_\_  
AGENT

NORTH CAROLINA  
CLEVELAND COUNTY

I, \_\_\_\_\_, a Notary Public in and for said County and State, do hereby certify that owner personally came before me this date, with the foregoing instrument, and being duly sworn, by virtue of an ordinance of the City Council, and that said instrument is the act and deed of the City of Shelby.

**IN WITNESS THEREOF**, I here unto set my hand and notary seal this \_\_\_\_\_ day of \_\_\_\_\_, 2015.

\_\_\_\_\_  
Notary Public

My commission expires: \_\_\_\_\_