



City of Marion
Board of Adjustment Meeting
City Hall Annex
194 North Main Street, Marion, NC 28752
Thursday, Jan 9th 2025, 6:00PM
AGENDA

- **Call Meeting to Order**
- **Agenda changes and approval**
- **Minutes**
 - a) August 8, 2024
- **Public Comment**
- **New Business**
 - a) Item One: Mavis Tires – Tony Suggs
- **Staff Updates**
 - a) None
- **Adjourn Meeting**

Any individual with a disability who needs an interpreter or other auxiliary aids, please contact City Hall at (828) 652-3551. To request services needed, please make the request 3-5 days prior to the meeting. For additional information or assistance, please contact Nora Leahy, Permit Coordinator at (828) 652-3551 ext. 321. Servicios de intérpretes están disponibles sin costo de acuerdo a la ley del Título VI.

STATE OF NORTH CAROLINA
COUNTY OF MCDOWELL
CITY OF MARION
August 8, 2024

The City of Marion Board of Adjustment held a regular meeting on August 8, 2024 at 6:00 PM at Marion City Hall Annex.

Members Present: Gary Walker, Kitty Wilson, Paula Swepson-Avery, and Marc Cook.

Members Absent: Walt Bagwell

Staff Present: Heather Cotton (Planning and Development Director), Jennifer Jackson (City Attorney), Vance McNees (City Planner/Development Review Administrator), Brian Bartlett (Code Enforcement Officer/Building Inspector), Spencer Elliott (Chief Building Official), and Abby Gillespie (Lead NC fellow)

Others Present: George Long, Krin Evans, Wayne Clontz, Diane Slater

Meeting Called to Order

Agenda/Minutes Changes and Approval.

No changes were proposed to the agenda. Board member Kitty Wilson made a motion to approve the agenda as written. Board member Marc Cook seconded the motion. No changes were proposed to the May 9, 2024 minutes. Kitty Wilson made a motion to approve the minutes as written. Board member Marc Cook seconded the motion.

Public Comment

No public comment was provided.

Public Hearing:

An appeal to Administrative Hearing Order issued to George F Long for a dilapidated structure located at 891 East Court Street and having the McDowell County Tax PIN 1711.05-09-4803.

Chairperson Walker called the hearing to order and swore in the following people to have the ability to speak: Spencer Elliot, Heather Cotton, Brian Bartlett, George Long (represented by Krin Evans and Wayne Clontz), and Diane Slater.

Heather Cotton presented the Board with the case that is being appealed and provided all details that have been submitted. Ms. Cotton went on to say that, the City of Marion has been working with Mr. Long throughout this process and that the deadline to bring the dilapidated structure in to compliance was Wednesday, August 7, 2024. The City of Marion sent a Notice of Violation to 891 East Court Street as well as a Notice of Administrative Hearing to hear issues surrounding the unsafe structure at 891 East Court Street. Ms. Cotton entered into evidence the Administrative Hearing minutes that occurred on June 13, 2024 at 2:00PM at 194 N Main Street.

Ms. Cotton stated that Mr. Long came to the City of Marion to request assistance in cleaning up this unsafe structure and that she explained the removal and abatement process to him. This included the Administrative Hearing and the process that would follow. Mr. Long agreed to this process and was willing to move forward. Ms. Cotton entered the affidavit of delivery for the Notice of Administrative Hearing to evidence for the Board to consider.

Ms. Cotton referenced the McDowell County Property Record Card that was entered into evidence. She went on to express that it is stated on the property record card that the building value is \$28,370. This property record card was printed on June 13, 2024. The City of Marion also received a quote from WRH Craft General Contractors that was provided by George Long on March 18, 2024. This quote showed an exterior improvement cost of \$205,000 and a total repair of interior and exterior improvements of \$400,000 to make the structure habitable.

The City of Marion received a Notice of Appeal from Attorney Krin Evans and a request for extension of time from Attorney Wayne Clontz on June 14, 2024. The City responded with a letter confirming that the Notice of Appeal and Extension of Time request had been received. Ms. Cotton stated that Mr. Clontz sent another Request for Extension letter on July 16, 2024. Mr. Clontz requested an extension of time be provided until October 29, 2024 to bring the structure into complete compliance.

Heather Cotton and City of Marion staff are recommending that the order of the Chief Building Official from the Administrative Hearing on June 13, 2024 be upheld. That being said, the City of Marion staff are also willing to give an extension of ninety days. This would give Mr. Long until November 5, 2024 to take action and abate the unsafe structure.

Lastly, Ms. Cotton provided the advertisements for this meeting, as required by the State of North Carolina, to evidence.

Wayne Clontz requested to briefly respond and provide the Board with information that Mr. Long has told him that there is an outstanding deed of trust on the property, 891 East Court Street. Mr. Clontz went on to say that, this abatement of a nuisance/unsafe structure via demolishing would be an additional lien on the property. Wayne Clontz claimed to not be notified of the June 13, 2024 Administrative Hearing. Jennifer Jackson responded to this by stating that on May 9, 2024 Mr. Clontz was notified via hand delivery of the meeting date and time. Mr. Clontz acknowledged this.

Kitty Wilson asked, "What is to keep this from happening again?" Krin Evans explained that Mr. Long was given specific requirements to show that efficient progress be properly made. Krin Evans went on to say that, he has been very pleased with Mr. Long's behavior regarding his compliance with making progress via cleaning up violations in the past. Mr. Evans stated that this is a positive reflection on Mr. Long's ability and willingness to comply with State and City of Marion codes.

Paula Swepson-Avery stated that, if the property were sold, the new owner of the property would take on this violation and order of abatement and removal. Chairperson Walker noted that this is a necessary disclosure.

Brian Bartlett presented and provided additional information regarding his investigative report on the structure as the City of Marion Code Enforcement Officer. Mr. Bartlett reviewed all of the photographs in his investigative report and described these conditions as uninhabitable. Mr. Bartlett pointed out that there is no active water service being supplied to the structure and that Duke Energy confirmed with him via email that there is active power being provided to the property.

Spencer Elliott spoke to his official administrative order regarding the unsafe structure that took place on June 13, 2024. Mr. Elliott went on to describe why the building is considered an unsafe structure and that the State of North Carolina considers this building uninhabitable.

Chairperson Walker asked if Mr. Long would like to speak on his behalf regarding this appeal. Mr. Long stated that someone is coming to inspect the foundation of the house on Tuesday August 13, 2024. Mr. Long went on to say that, it is his desire to sell the home once he is able. Mr. Long stated that, if he were granted this ninety-day extension, he would like to get all of his belongings out of the house and sell it within that timeframe. Krin Evans expressed that Mr. Long has had potential buyers for this house and that everything surrounding the administrative hearing has been and will be disclosed.

Mr. Long stated that he would be willing to make improvements to keep people off the porch of the structure, so that there are no potential injuries. In addition, Mr. Long provided the City of Marion with a quote to make improvements to the porch of the structure that provided a cost of \$15,000.

Heather Cotton clarified that the quote provided by George Long is only for the porch and not for the structural integrity of the unsafe structure. Ms. Cotton added that the state of North Carolina identifies and defines certain dwellings or objects as unsafe. The City of Marion is required to follow these guidelines pursuant to North Carolina State Statutes. Ms. Cotton addressed the quote provided by Mr. Long and stated that \$15,000 exceeds 50% of the total building value that was given earlier (\$28,370). Lastly, Ms. Cotton wanted to express the fact that this structure is an unsafe structure and that the public safety hazard is addressed and abated.

Jennifer Jackson confirmed that City of Marion staff does not oppose the ninety-day extension. The City of Marion supports what the representatives of George Long are asking for. Spencer Elliott added that the quote provided by Mr. Long for the front porch does not address some of the main issues with the unsafe structure. Mr. Elliott went on to state that a structure needs a bathroom, a sanitary station/facility, and overall heating of the structure for a structure to be habitable. Jennifer Jackson clarified that the porch can be repaired, but that does not necessarily fix all of the problems.

Chairperson Walker asked the Board if anyone had any questions or comments. Board member Kitty Wilson stated that if the Board were to grant this extension, she would like to see a

physical plan that shows what will be done during the ninety-day extension. Chairperson Walker asked Heather Cotton what would happen at the end of this extension as proposed. Ms. Cotton stated that this order and extension would give Mr. Long ninety-days to complete the abatement of the property. Once we reach the deadline, the City of Marion has the authority to move forward with abatement of the property without further notice. Jennifer Jackson confirmed this information and agreed with Ms. Cotton. Krin Evans reiterated that this is a necessary disclosure to make to any potential buyers.

Jennifer Jackson addressed Board member Wilson's request for a plan of work to be done during this ninety-day extension. Ms. Jackson claimed that it is not necessary for Mr. Long to provide the City of Marion with a plan at this point. Ms. Jackson went on to state that once the ninety-day deadline is reached, the city will have a plan to move forward with the abatement of the structure on the property.

Board member Kitty Wilson made a motion to approve the order and to grant Mr. Long with a ninety-day extension to bring the structure and property into full compliance. Board member Paula Swepson-Avery seconded the motion. Chairperson Walker called for a vote. All were in favor in a 4-0 vote.

Chairperson Walker made a motion to enter a brief recess. Board member Wilson seconded the motion. The Board of Adjustment meeting entered a recess at 7:11pm.

Chairperson Walker brought the Board of Adjustment meeting to order at 7:17pm.

The City of Marion provided the official order to George Long, his attorneys, and to the Board of Adjustment. Both Krin Evans and Wayne Clontz reviewed the official order and the extension of time. Mr. Evans and Mr. Clontz accepted the order an extension as written.

Chairperson Gary Walker asked if anyone had any further discussion of this order and extension. Board member Kitty Wilson made a motion to approve the document submitted. Board member Marc Cook seconded the motion. Chairperson Walker called for a vote. All were in favor in a 4-0 vote.

New Business

No new business was discussed.

Meeting Adjourned

The meeting adjourned at 7:21pm.



MEMORANDUM

DATE: January 9, 2025
TO: Board of Adjustment
FROM: Vance McNees, City Planner
SUBJECT: Special Use Request Staff Report

A request by Tony Suggs with Mavis Tires for Special Use approval to operate an automobile tire sales and services establishment, pursuant to the City of Marion UDO 4-3.4 *Specific Requirements by Land Use*, to be located at 2431 Sugar Hill Rd, Marion NC 28752 and having the McDowell County Tax Parcel Number 0790.12-96-9328.

City of Marion Planning and Development staff have reviewed the application and supplemental materials. Upon completing the review, there are certain conditions, standards, and recommendations for approval. Please see Section G of the staff report *Summary of Staff Comments and Recommended Conditions of Approval* for the list of conditions and recommendations.



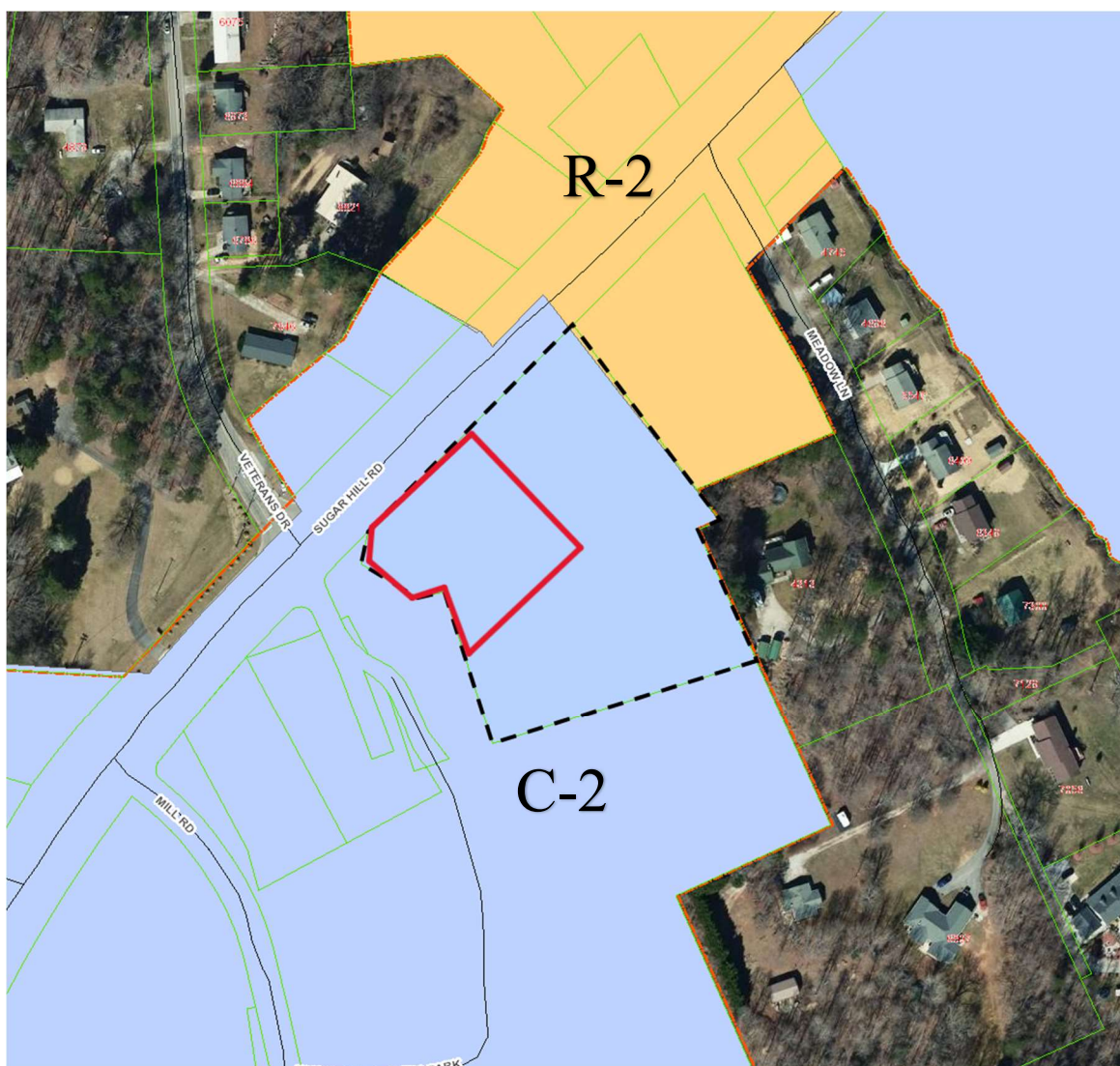
CITY OF MARION
PLANNING AND DEVELOPMENT

**STAFF ANALYSIS
SPECIAL USE**
Quasi-Judicial Hearing

CASE NUMBER:	SU 25-01
Date of Submission:	11/18/2024
A. PROPERTY INFORMATION	
Project Title:	Mavis Tires
PIN:	Portion of 0790.12-96-9328
Address:	Portion of 2431 Sugar Hill Rd
Owner:	Mattz LLC
Applicant:	Tony Suggs dba Mavis Tires
Square Footage	6,925
Zoning District:	C-2 General Business
Current Land Use Activity	Vacant
Future Land Use Designation	Regional Commercial

B. LOCATION MAP

Aerial Map



C. SPECIAL USE APPLICATION SUMMARY

The Applicant is requesting Special Use approval to operate an automobile related business (tire sales, services, etc.). The property is located at 2431 Sugar Hill Rd and is currently zoned C-2 General Business. The property has the current McDowell County Tax Parcel Identification Number (PIN) 0790.12-96-9328 as found on the McDowell County GIS Tax Map. The applicant will be subdividing and only use a portion of the current parcel.

D. APPLICABLE ORDINANCE SECTIONS & REVIEW

DEVELOPMENT REQUIREMENTS	APPLICANT NARRATIVE	STAFF REVIEW
<p>City of Marion UDO Sec. 4-3.4 "Specific Requirements by Land Use"</p> <ol style="list-style-type: none">1. Auto parts or similar materials may be stored within an enclosed structure, which visually conceals such objects or stored on a site that is the subject of an approved screening plan, as defined herein and approved by the planning and development director.2. In order to maintain safety for pedestrian and vehicle traffic, vehicles associated with automobile repair shops, automobile sales, tire sales and services, towing and wrecking service businesses may not be parked, displayed, stored or repaired within twenty (20) feet of the curb or the edge of the road if no curb exists.3. Junked or inoperable motor vehicles shall not be stored in the customer or employee parking spaces required per the off-street parking requirements set out in division (2).4. All service, sales, storage or similar activities shall be conducted entirely on the premises.5. All major repair work, if any, shall be conducted within a building capable of being completely closed.6. Tire sales and services businesses that do not meet the definitions in Section 10-1.1 of the UDO may be deemed gasoline service or filling stations and, therefore, subject to the regulations governing gasoline service or filling stations.7. Tire sales and services businesses that do not meet the definitions in section 10-1.1 of the UDO may be deemed junk yards and, therefore, subject to the regulations governing junk yards. <p>City of Marion UDO Sec 6-1.2 "Schedule of Required Parking Spaces"</p> <ol style="list-style-type: none">1. One (1) space for each two hundred (200) square feet of gross floor area, plus one (1) space for each employee or sales person, plus one (1) space for each vehicle stored on site. <p>City of Marion UDO Sec. 6-3.3 "Specific Landscaping Requirements"</p> <ol style="list-style-type: none">1. Please see Table 6-3.3(A) and 6-3.3(B) for the street buffer yard requirement and the required plant materials. <p>City of Marion UDO Sec. 5-1.4 "Lots"</p> <ol style="list-style-type: none">1. Sidewalks shall be constructed with all new non-residential development on such streets the city council considers sidewalks to be necessary. Sidewalks, if constructed, shall be within the street right-of-way and installed in accordance with city specifications and standards.	<p>Application has been submitted for this Special Use Permit to operate an Automobile Related Business. Upon approval, the applicant will subdivide the property and provide proper landscaping or screening plans, and any other plans or designs that will require review/approval. The applicant has submitted two site plans. The first site plan meets the parking requirements set forth in the City of Marion UDO. The second site plan has less parking than the requirement, but the applicant states that the amount provided will be adequate for the proposed use. The applicant is proposing 32 parking spaces instead of the required 35 (+ one spot for each employee on site)</p>	<p>All required materials have been submitted with the Special Use Permit Application. In the City of Marion Comprehensive Land Use Plan, the proposed location is designated as "Regional Commercial (RC)." A primary land use that is identified in RC is "goods and services related to motorists." The City of Marion Planning and Development staff have reviewed the Unified Development Ordinance and are recommending this project for approval as long as the conditions that have been identified are adequately met. In addition, staff recommends that we lessen the required number of parking spaces to thirty-two (32) due to this being adequate for the proposed use.</p>

E. COMPREHENSIVE LAND USE PLAN STATEMENT		
GENERAL CHARACTER	LAND USE CHARACTERISTICS	ANTICIPATED LEVEL OF CHANGE
<p>Regional Commercial areas are locations where land uses accommodate not only local residents but also a much larger regional population. Criteria for siting a location are largely dependent on adequate public water and sewer service and roadways that can accommodate large volumes of traffic. They typically locate near major transportation corridors (e.g. highways or railways) and many include manufacturing and industrial centers, corporate and institutional campuses, and office parks. Clusters of uses that support or serve one another, and/or require similar infrastructure needs should be encouraged to locate in close proximity.</p> <p>Regional Commercial is generally categorized by the type of uses and magnitude of development. Types of land uses include large-scale shopping centers, auto-oriented businesses, business and office campuses, and large educational institutions.</p>	<p>Primary Land Uses:</p> <p>Professional office, corporate and institutional campuses, universities and colleges, research & development, industrial and manufacturing, regional shopping centers and superstores, goods and services oriented to motorists.</p> <p>Secondary Land Uses:</p> <p>Civic & institutional, high-density residential, parks, and trails.</p> <p>Existing Zoning District:</p> <p>C-2 General Business, Office Institutional, Industrial, and R-2 Neighborhood Residential</p> <p>Any Future Zoning District Designation:</p> <p>C-3 Regional Business, OI Office and Institutional, I1 & I2 Industrial</p> <p>General Development Pattern:</p> <p>Mixed-Use</p>	<p>Regional Commercial will continue to grow around major thoroughfares. New development will largely be market driven, and based largely on residential population growth and skilled workforce. In addition to population growth, a focus on public infrastructure, maintaining good roadway capacity, and accessibility will help attract new business and development activity in these areas.</p>

F. ADDITIONAL DOCUMENTATION SUBMITTED
<ul style="list-style-type: none"> • Special Use Permit Application • Site Plan 1 • Site Plan 2

G. SUMMARY OF STAFF COMMENTS AND RECOMMENDED CONDITIONS OF APPROVAL
<p>Staff recommends approval of the proposal with the following conditions as required in the City's UDO:</p> <ol style="list-style-type: none"> 1. Must provide the city with a landscaping plan to be approved by the Zoning Administrator. 2. Must provide the city with a screening plan for the storage of any tires or other automobile related materials. 3. Any vehicles associated with Mavis Tires and/or any towing or wrecking service shall not be stored, displayed, parked, or repaired within twenty (20) feet of the curb or edge of roadway. 4. No junked motor vehicle(s) may be stored on the site. 5. All repair work, if any, shall be done within a building that is capable of being completely enclosed. 6. The minimum parking requirement shall be lessened from 38 to 32 spaces with Board of Adjustment approval. 7. Must obtain proper subdivision approval. 8. The applicant shall either construct a sidewalk that meets the City of Marion's standards and specifications or provide payment for the fee in lieu of sidewalk installation.

H. BOARD OPTIONS
<p>a) Approval as presented. Note: An approval decision must be substantiated in the Board's findings of fact.</p> <p>b) Approval with conditions. Note: Conditions of approval must directly relate to the impacts of the project as substantiated in the findings of fact. The Applicant must indicate in writing, their acceptance of these conditions. Should the Applicant indicate an unwillingness to accept certain conditions, then the BOA must (a) deny the application, or (b) approve it without the disputed condition.</p> <p>c) Denial as presented. Note: A denial decision must be substantiated in the Board's findings of fact.</p> <p>d) Continuance to a date certain. Note: A continuance should serve a specific purpose, such as to provide a party of standing (the Applicant, the City, an adjacent property owner, etc.) sufficient time to gather and provide additional documentation or information.</p>

**For Office Use Only**

Fee Paid \$ _____

Cash _____ Check # _____

Application # _____

Date Received _____

CITY OF MARION

194 N. Main Street • P.O. Drawer 700 • Marion, NC 28752

Planning & Development Department**SPECIAL USE APPLICATION**

(PLEASE TYPE OR PRINT IN INK)

All applications must be deemed complete prior to the item being scheduled.Property Owner's Name: MATTZ LLC Phone Number: _____Property Owner's Mailing Address: 2024 Nix Creek Rd, STE A, Marion, NC 28752Applicant's Name (if different from above): Tony SuggsApplicant's Mailing Address: 100 Hillside Ave, White Plains, NY Phone Number: 914-215-6772**Note: Applicant must submit a notarized letter authorizing them to act on the property owner's behalf and stating the Applicant's name, address and phone number.**Physical Address of Property: 2431 Sugar Hill Rd, Marion NC 28752Parcel ID Number (PIN) 0790-96-9328 Zoning District: _____ Lot Size: _____Existing Use: Vacant Proposed Use: Commercial-tire sales

This is a special exception under Section _____ of the Marion City Code.

COMPLETENESS OF APPLICATION

The following items shall be submitted with or on the Site Plan and included as an attachment to this application:

- ☐ Site Plan, indicating:
 - ☐ Location of proposed and existing structures;
 - ☐ Setbacks from current (or proposed) right-of-way and property lines, structures and traveled ways;
 - ☐ Plan drawn to scale (indicating scale);
 - ☐ Current and proposed right-of-ways, easements, streets, walkways, parking lots, spaces, and loading zone, (Insure adequate ingress and egress in reference to automotive as well pedestrian safety.);
 - ☐ Proposed and existing landscape, screening or buffering;
 - ☐ Location of refuse and service areas (dumpsters, loading zones, etc.);
 - ☐ Identify adjacent zoning districts to the property;
 - ☐ Location and specifications for signs and lighting; and
 - ☐ Location of public utilities.
- ☐ Property Assessor Card of the subject property. (Information can be obtained from the McDowell County Property Assessor's Office 10 East Court Street, Marion NC 28752, (828) 652-7121.

Pursuant to Section 3-7.1 Special Use of the City of Marion Unified Development Ordinance, a special use may be granted by the Board of Adjustment only after it makes the required written findings:

CITY OF MARION UNIFIED DEVELOPMENT ORDINANCE.

I CERTIFY THAT ALL OF THE INFORMATION PRESENTED IN AND WITH THIS APPLICATION IS TO THE BEST OF MY KNOWLEDGE, IS TRUE, COMPLETE AND ACCURATE.

SIGNATURE OF APPLICANT

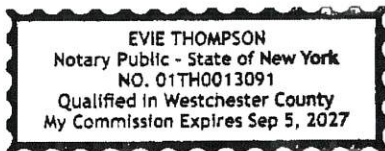
DATE


11/18/2024

**STATE OF NORTH CAROLINA
COUNTY OF McDOWELL**

I, Evie Thompson a Notary Public, certify that Anthony Suggs personally came before me this day and acknowledged the due execution of the foregoing instrument. IN WITNESS WHEREOF, I have hereunto set my hand and notarial seal, this the 18 day of November, 20 24.

SEAL:




Notary Public Signature

My Commission Expires

9/5/2027



**City of Marion
Authorized Agent Form**

I, Mavis Southeast, LLC c/o Anthony Suggs, do hereby appoint
Bohler Engineering, NC PLLC c/o Tyler Hoorn as my duly authorized agent to act and
speak for me before the City of Marion on the following matters:

Project Title: Mavis Tire - Marion

Physical Address: Mavis Tire - Marion

Anthony Suggs, Chief Development Officer

Print Name

Signature

Subscribed and sworn before me this 21 day of November, 2024.

Evie Thompson
Notary Public Evie Thompson

EVIE THOMPSON
Notary Public - State of New York
NO. 01TH0013091
Qualified in Westchester County
My Commission Expires Sep 5, 2027

My commission expires: 9/5/2027

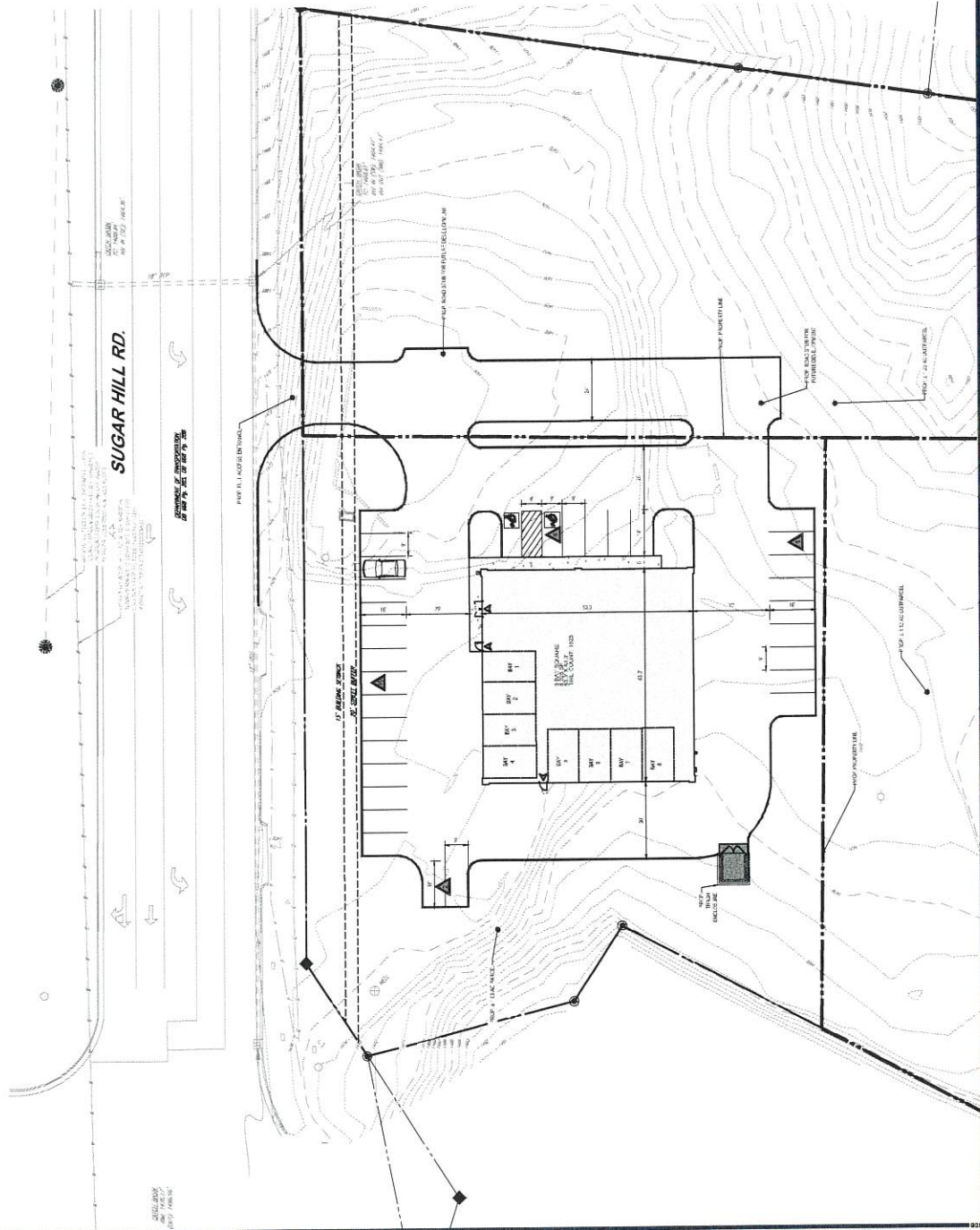


Figure 1: Schematic diagram of the experimental setup. A vertical column is shown with a central tube. The column is labeled 'COLUMN' and '1' at the top. The central tube is labeled '2' and '3' at the bottom. The column is filled with a liquid, and the central tube is connected to a reservoir labeled '4'.

C-302

ORG. DATE - 12/04/2024

200 PARKLAKE AVENUE, SUITE 200
RALEIGH, NC 27612

PROPOSED
DEVELOPMENT

2431 SUGAR HILL ROAD
MARTIN, NC 28752
MC DOWELL COUNTY

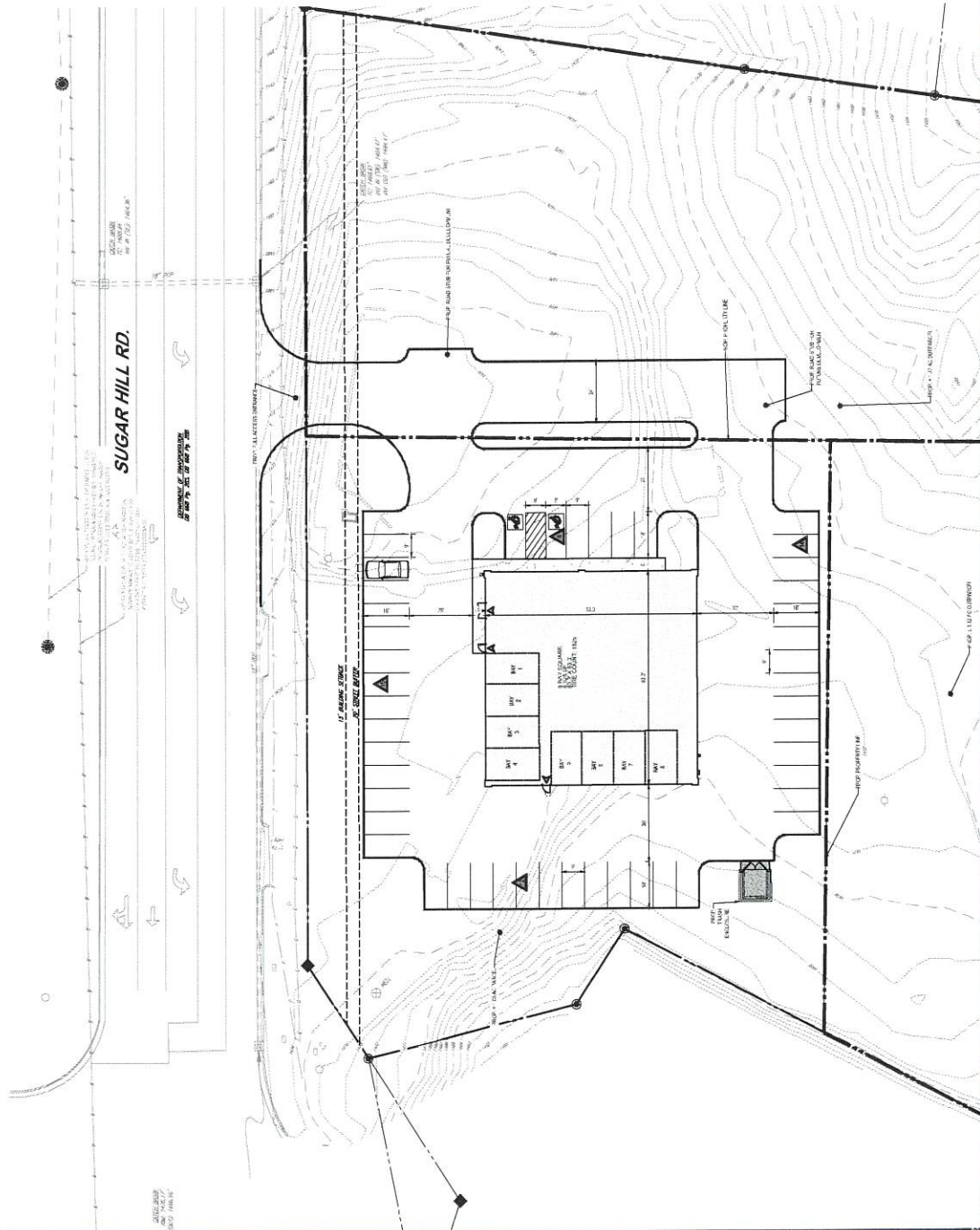
**PROP.
SITE PLAN
DOCUMENTS**

FOR CONCEPT
PURPOSES ONLY

811
Know what's below.
Call before you dig.
ALWAYS CALL 811
It's fast, it's free, it's the law.

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PROGRAM MANAGEMENT
LANDSCAPE ARCHITECTURE
SUSTAINABLE DESIGN
PERMITTING SERVICES
TRANSPORTATION SERVICES



CONCLUSIONS

NC@GohlerEng.com

BOHLER
BOHLER ENGINEERING INC. PLLC
NORWELL, MA 02061



PROPOSED
DEVELOPMENT

2431 SUGAR HILL ROAD
MARION, NC 28752
MCDOWELL COUNTY

**PROP.
SITE PLAN
DOCUMENTS**

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PURPOSES ONLY

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