



City of Marion
Board of Adjustment Meeting
City Hall Annex

194 North Main Street, Marion, NC 28752
Thursday June 12th, 2025, 6:00PM

AGENDA

- **Call Meeting to Order**
- **Agenda changes and approval**
- **Minutes**
 - a) January 9, 2025
- **Public Comment**
- **New Business**
 - a) Item One: Auto Repair – Daniel Wheeler
- **Staff Updates**
 - a) None
- **Adjourn Meeting**

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STATE OF NORTH CAROLINA
COUNTY OF McDOWELL
CITY OF MARION
January 9, 2025

The City of Marion Board of Adjustment held a regular meeting on January 9, 2025 at 6:00 PM at Marion City Hall Annex.

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

Members Absent: None.

Staff Present: Vance McNees, City Planner/Development Review Administrator; Nora Leahy, Permit Coordinator

Others Present: Abby Gillespie, Harry Mainey, Sarah Russell, Curtis Russell

Meeting Called to Order

Agenda/Minutes Changes and Approval

Chairperson Gary Walker asked if there were any proposed changes to the agenda. None were proposed. Before allowing a motion, Vance McNees wanted to make everyone aware that the agenda posted before January 9, 2025 was incorrect as it contained the April Board of Adjustment Meeting Minutes. The agenda had been corrected to the August Board of Adjustment Minutes before the evening meeting began. Kitty Wilson made a motion to approve the agenda. Marc Cook seconded that motion. Agenda was approved in a 5-0 vote.

Chairperson Gary Walker asked if there were any questions, corrections, or motions from the board regarding the previous minutes from August 2024. Walt Bagwell moved to amend the minutes from the last meeting to show that Marc Cook was absent and Walt Bagwell was present. Further amends were suggested throughout the minutes to remove Marc Cook's name and credit those actions to Walt Bagwell. Walt Bagwell made a motion to approve the minutes with those changes. Kitty Wilson seconded the motion. Minutes were approved 4-0, with Marc Cook abstaining saying he was not present for the August meeting so preferred not to vote.

Public Comment

No public comment was provided.

Public Hearing: SU 25-01

A request by Mavis Tires for Special Use approval to construct an automobile tire sales and services establishment located at 2448 Sugar Hill Road and having the McDowell County Tax Number 079012969328.

Chairperson Gary Walker called the meeting to order with an overview of the powers and responsibilities of the board and the rights of those in participation in the meeting. Mr. Walker then asked who would be expected to provide testimony before the board. With Vance McNees being the only one to speak up, Mr. Walker swore Mr. McNees in.

Chairperson Walker asked for the disclosure of any conflicts of interest from the board. There was silence from the board. Vance McNees then presented the request by Mavis Tires for special use approval for automobile tire sales and services establishment at 2448 Sugar Hill Road. He drew special attention to the parking spaces. Thirty-eight is required based on local code for this kind of building, but the applicant has requested for this number to be lowered to thirty-two. Mr. McNees said staff recommends approval.

Mr. McNees drew attention to the landscape plan that was provided to him by the applicant just that day, January 9, 2025, and thus was given to the Board in addition to their packets that evening. He noted the applicant went above and beyond the City's landscaping standards. Mr. McNees asked if there were questions about the landscaping and was met with silence.

Mr. McNees went on to provide an overview of the Staff Comments and Recommended Conditions of Approval section of the Special Use Staff Report Memorandum. Gary Walker asked Mr. McNees to repeat the Staff Comment regarding the 2448 Sugar Hill Road's subdivision. Walt Bagwell also asked for clarification. Mr. McNees explained that the staff recommends the Board to require the lot to be subdivided in order to obtain special use approval. Gary Walker asked for further clarification that their approval will just apply to the single parcel post-subdivision, and Mr. McNees confirmed. Gary Walker repeated this back for further clarification, and Mr. McNees confirmed again. Mr. McNees then finished his overview of the Staff Comments and Recommended Conditions of Approval section of the Special Use Staff Report Memorandum.

Kitty Wilson asked for clarification on recommendation #3 regarding vehicles on the lot asking if company delivery vehicles are excluded. Mr. McNees asked her to repeat. Ms. Wilson did so with additional clarification. Mr. McNees stated that these vehicles are not excluded, especially given the twenty foot buffer built in. Kitty Wilson noted that the drawing does not state that the grassy buffer is twenty feet, however affirmed her understanding. Marc Cook also affirmed his understanding of the point.

Chairperson Gary Walker asked if Mr. McNees is finished with his presentation. Mr. McNees said he is. Walt Bagwell asserted that the primary point of interest is the parking, seen in recommendation #6. Mr. McNees then directed the Board to look at the two contrasting site plans accounting for either a thirty-two or thirty-eight parking space scenario. Mr. McNees stated his opinion that thirty-two is plenty, and showed that thirty-eight parking spaces causes the site to lose out on more landscaping.

Chairperson Gary Walker asked if the Board has any additional questions. Hearing none, Mr. Walker concluded the presentation and commenced the Board's discussion. Marc Cook stated that everything about the application seems clear. Walt Bagwell made a motion to approve the application with all recommended conditions. Gary Walker asked Mr. Bagwell to clarify that he meant all conditions, and Mr. Bagwell responded affirmatively. Gary Walker asked for a second which Marc Cook provided. Approval was given with a vote of 5-0.

New Business

No new business was discussed.

Meeting Adjourned

The meeting adjourned at 6:18 pm.



MEMORANDUM

DATE: June 12, 2025
TO: Board of Adjustment
FROM: Vance McNees, City Planner
SUBJECT: Special Use Request Staff Report

A request by Daniel Wheeler for Special Use approval to operate an automobile repair and services establishment, pursuant to the City of Marion UDO 4-3.4 *Specific Requirements by Land Use*, to be located at 954 East Court Street, Marion NC 28752 and having the McDowell County Tax Parcel Number 1711.05-09-7842.

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

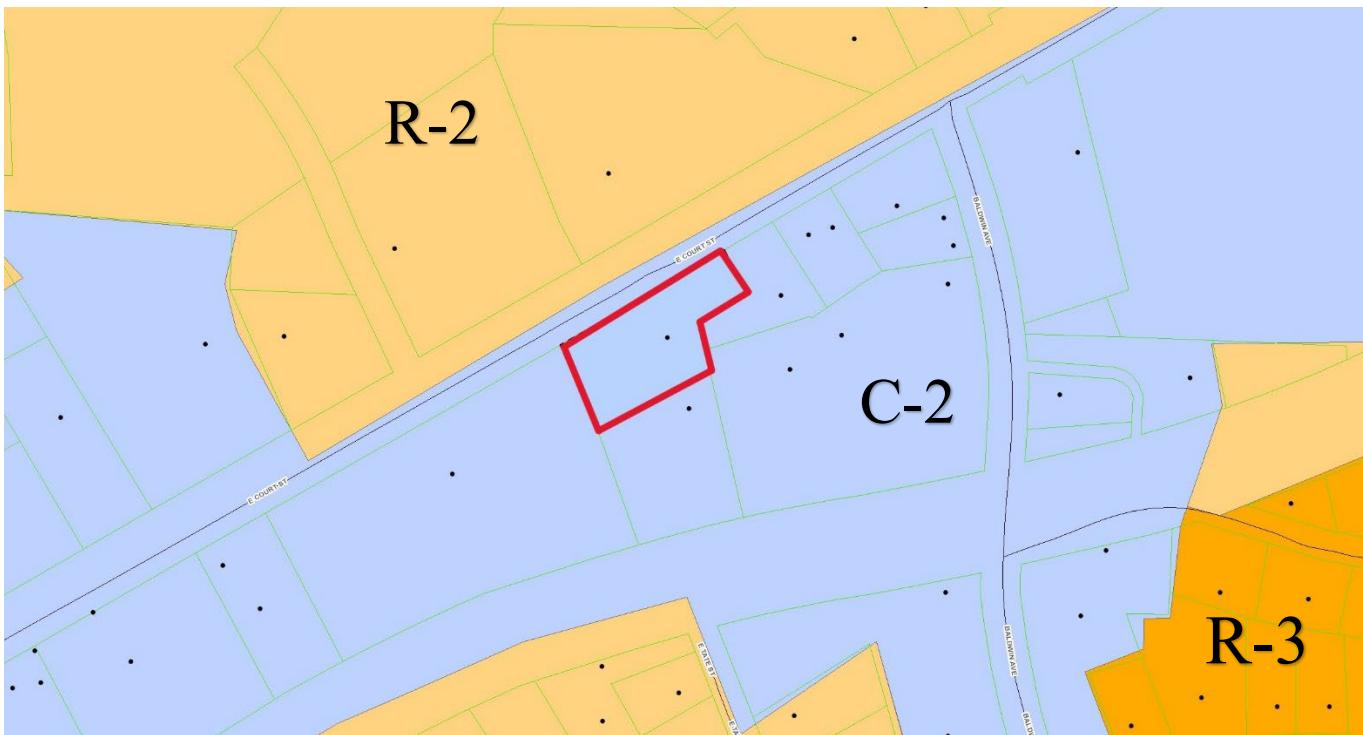
SPECIAL USE

Quasi-Judicial Hearing

CASE NUMBER:	SU 25-02
Date of Submission:	05/06/2025
A. PROPERTY INFORMATION	
Project Title:	Wheeler Auto Garage
PIN:	1711.05-09-7842
Address:	954 East Court Street
Owner:	Daniel Wheeler
Applicant:	Daniel Wheeler
Square Footage	1,700 (1,020 gross floor space of business)
Zoning District:	C-2 General Business
Current Land Use Activity	Vacant – Old Auto Repair Shop
Future Land Use Designation	Mixed Use Neighborhood

B. LOCATION MAP

Aerial Map



C. SPECIAL USE APPLICATION SUMMARY

The Applicant is requesting Special Use approval to operate an automobile related business (auto repair, services, etc.). The property is located at 954 East Court Street and is currently zoned C-2 General Business. The property has the current McDowell County Tax Parcel Identification Number (PIN) 1711.05-09-7842 as found on the McDowell County GIS Tax Map. The applicant has provided the a site plan that includes opaque fencing (approved screening) and parking spaces.

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. Open Storage of junked or inoperable motor vehicles, auto parts, or similar materials shall not be permitted. 2. Tires may be stored in the side or rear yard, but must be neatly stacked at all times using the lacing technique. Tires that are stored in the front yard shall be enclosed in approved screening. 3. 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. 4. Junked or inoperable motor vehicles shall not be stored in the customer or employee parking spaces required per the off-street parking requirements. 5. All service, sales, storage or similar activities shall be conducted entirely on the premises. 6. All major repair work, if any, shall be conducted within a building capable of being completely closed. 7. Auto-related 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. 8. Auto-related 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>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>
<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. <p>City of Marion UDO Sec. 6-3.3 "Specific Landscaping Requirements"</p> <ol style="list-style-type: none"> 1. A screening plan will need to be reviewed and approved by the Planning and Development Director (opaque fencing). 		

E. COMPREHENSIVE LAND USE PLAN STATEMENT

GENERAL CHARACTER	LAND USE CHARACTERISTICS	ANTICIPATED LEVEL OF CHANGE
<p>The mixed-use neighborhood is an area with an emerging variety of non-residential land uses on a neighborhood scale coupled with a variety of housing types and densities. These areas have the ability to provide residents with greater opportunity to live, shop, work, and play in their neighborhood.</p> <p>Mixed-Use Neighborhoods represent existing and emerging growth centers east and west of Historic Downtown in long established neighborhoods where the number of non-residential uses have slowly but steadily outpaced new residential. Some land use transition has occurred without issue while others have been in conflict with adjacent land uses, property owners, or development constraints.</p>	<p>Primary Land Uses: 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: Civic & institutional, high-density residential, parks, and trails.</p> <p>Existing Zoning District: C-2 General Business, Office Institutional, Industrial, and R-2 Neighborhood Residential</p> <p>Any Future Zoning Districts: U-8 Urban Residential, R-12 Neighborhood Mixed-Use, and B1 Neighborhood Business</p> <p>General Development Pattern: Medium-high density/Neighborhood supporting uses</p>	<p>Future development in these areas should focus on preferred uses, context sensitive design, scale of non-residential uses, and increase diversity in housing options. Reinvestment in these areas has been slow due to site limitations. Priority should be given to public projects that improve walkability, social activity, and safety within these areas. Neighborhood supporting businesses are encouraged in these areas.</p>

F. ADDITIONAL DOCUMENTATION SUBMITTED

- Special Use Permit Application
- Site Plan (includes screening and parking layout)
- Property Tax Card

G. SUMMARY OF STAFF COMMENTS AND RECOMMENDED CONDITIONS OF APPROVAL

Staff recommends approval of the proposal with the following conditions as required in the City's UDO:

1. Must provide the city with a detailed screening plan (layout has been submitted, but the type of opaque screening is TBD)
2. No junked motor vehicle(s) may be stored on the site.
3. All repair work shall be done within a building that is capable of being completely enclosed.
4. The minimum parking requirement is seven designated spots. There are eight shown on the site plan.
5. In order to maintain safety for pedestrian and vehicle traffic, vehicles associated with the automobile repair shop 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.
6. Shall have a general sales office located on the property in the existing building.

H. BOARD OPTIONS

- a) Approval as presented. Note: An approval decision must be substantiated in the Board's findings of fact.
- 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.
- c) Denial as presented. Note: A denial decision must be substantiated in the Board's findings of fact.
- 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.



CITY OF MARION
194 N. Main Street • P.O. Drawer 700 • Marion, NC 28752
Planning & Development Department

For Office Use Only

Fee Paid \$ _____

Cash _____ Check # _____

Application # _____

Date Received _____

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: Daniel Wheeler Phone Number: 828-803-3923

Property Owner's Mailing Address: 2323 Lachey Town Rd Old Fort, NC 28762

Applicant's Name (if different from above): _____

Applicant's Mailing Address: _____ Phone Number: _____

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: 954 East Court St Marion, NC 28752

Parcel ID Number (PIN) 171105097842 Zoning District: _____ Lot Size: .36

Existing Use: Former garage / empty Proposed Use: Auto garage

This is a special exception under Section 4-3.4 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; C2
 - 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:

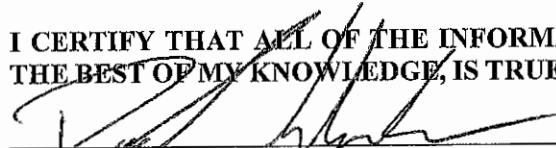
1. The special use request must be granted by the Board of Adjustment when all of the following findings have been made:
 - a. That the proposed use will not be detrimental to the health or safety of persons residing or working in the vicinity or injurious to property or improvements in the vicinity;
 - b. That the proposed use at the particular location provides a service or facility that will contribute to the general well-being of the neighborhood or the community; and
 - c. That the location and character of the proposed use will be in harmony with the area in which it is to be located and in general conformity with the Comprehensive Plan.
2. If the Board of Adjustment does not make these findings, then the special use request may not be granted.
3. Review Factors. The applicant must demonstrate that the review factors listed below have been adequately addressed. If an application is denied, the decision-making body must specify which of these review factors were not adequately addressed.
 - a. Circulation.
Number and location of access points to the property and the proposed structures and uses, are provided with particular reference to automotive, bicycle, and pedestrian safety and convenience, traffic flow and control, and access in case of fire or catastrophe.
 - b. Parking and Loading.
Location of off-street parking and loading areas are sufficiently provided.
 - c. Service Entrances and Areas.
Locations of refuse and service areas are provided with particular reference to ingress and egress of service vehicles.
 - d. Lighting.
Locations of exterior lighting are provided with reference to glare, traffic safety, economic effect and compatibility with other property in the area.
 - e. Signs.
Appropriateness of signs considering location, height, size, and design within the context of other property in the area.
 - f. Utilities.
Location and availability of utilities is provided.
 - g. Open Spaces.
Location of required yards and other open spaces and preservation of existing trees and other natural features is provided.
 - h. Environmental Protection.
Is in compliance with landscape, floodplain, watershed, wetlands, steep slopes, open space and other natural feature requirements.
 - i. Screening, Buffering and Landscaping.
Installation of screening, buffering, fencing and landscaping where necessary to protect adjacent property is provided.
 - j. Effect on Adjacent Property.
Effects of the proposed use on nearby property, including, but not limited to, the effects of noise and odor is mitigated.
 - k. Compatibility.
The level of general compatibility with nearby properties and the appropriateness of the use in relationship to other properties is provided.

THIS APPLICATION WILL NOT BE CONSIDERED COMPLETE UNTIL ALL PLANS HAVE BEEN SUBMITTED AND REVIEWED BY CITY STAFF. PLEASE BE AWARE THAT IF PLANS ARE INCOMPLETE, A HEARING WILL NOT BE SCHEDULED.

I UNDERSTAND THAT THE BURDEN IS UPON ME, THE APPLICANT, TO PRODUCE COMPETENT MATERIAL AND SUBSTANTIAL EVIDENCE TO ESTABLISH THE EXISTENCE OF FACTS, STANDARDS AND CONDITIONS WHICH THE ORDINANCE REQUIRES UNDER SECTION 3-7.1 SPECIAL USE OF THE

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

4-28-2025

DATE

**STATE OF NORTH CAROLINA
COUNTY OF McDOWELL**

I, _____ a Notary Public, certify that _____ 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 _____ day of _____, 20 _____.

SEAL:

Notary Public Signature

My Commission Expires _____



Fence by next friday

