

**AGENDA**  
**FOUNTAIN INN BOARD OF APPEALS**  
**Municipal Court Council Chambers**  
**Monday, September 19, 2022**  
**6:00 PM @ 300 Wall Street**

Call to Order Jackie Johnson

**FI2021-030BZA Public Hearing**

**Request: Variance to Building Setback Requirement**  
*5:8.5. Dimensional Requirements.*  
*5:8.5-1. Front Setback.*  
**Tax Map: 0325000100702**  
**1301 N. Main Street**

Applicant: Octavius and Sarah Nelson, Bobby's BBQ

City Staff Report Greg Gordos, Zoning Administrator

Public Comment Period  
Adjourn Public Comment Period

Board Discussion

Board Decision

**FI2021-034BZA Public Hearing**

**Request: Variance to Building Setback Requirement**  
*5:6.2. Dimensional Requirements.*  
*5:6.2-1. Front Setback.*  
**Tax Map: ~~0350000100102~~, 0350000100103, ~~0350000100202~~, ~~0350000100109~~**  
**McCarter Road (SC-418) and S. Woods Drive**

Applicant: Pakt Divine LLC

City Staff Report Greg Gordos, Zoning Administrator

Public Comment Period  
Adjourn Public Comment Period

Board Discussion

Board Decision

Adjourn

**PLANNING & DEVELOPMENT STAFF REPORT**  
**TO THE FOUNTAIN INN BOARD OF ZONING APPEALS**

**September 19<sup>th</sup>, 2022**

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**DOCKET NUMBER:** FI-2022-030 BZA

**APPLICANT/OWNER:** Octavius and Sarah Nelson

**AGENT:** N/A

**PROPERTY LOCATION:** 1301 North Main Street

**TAX MAP NUMBER:** 0325000100702

**ACREAGE:** approximately 0.3 acres

**EXISTING ZONING:** I-1, Industrial

**REQUEST:** **VARIANCE FOR SETBACK**  
**reduce front setback to 0', from 40'**  
(setbacks previously reduced by BZA 10/24/2017, 6/8/2020)

**Existing Land Use:** Restaurant

**Adjacent Land Use:** North: Institutional  
East: Commercial  
South: Vacant (Public Institutional)  
West: Industrial

**Adjacent Zoning:** North: I-1, Industrial  
East: C-2, Commercial  
South: I-1, Industrial  
West: I-1, Industrial

**ANALYSIS**

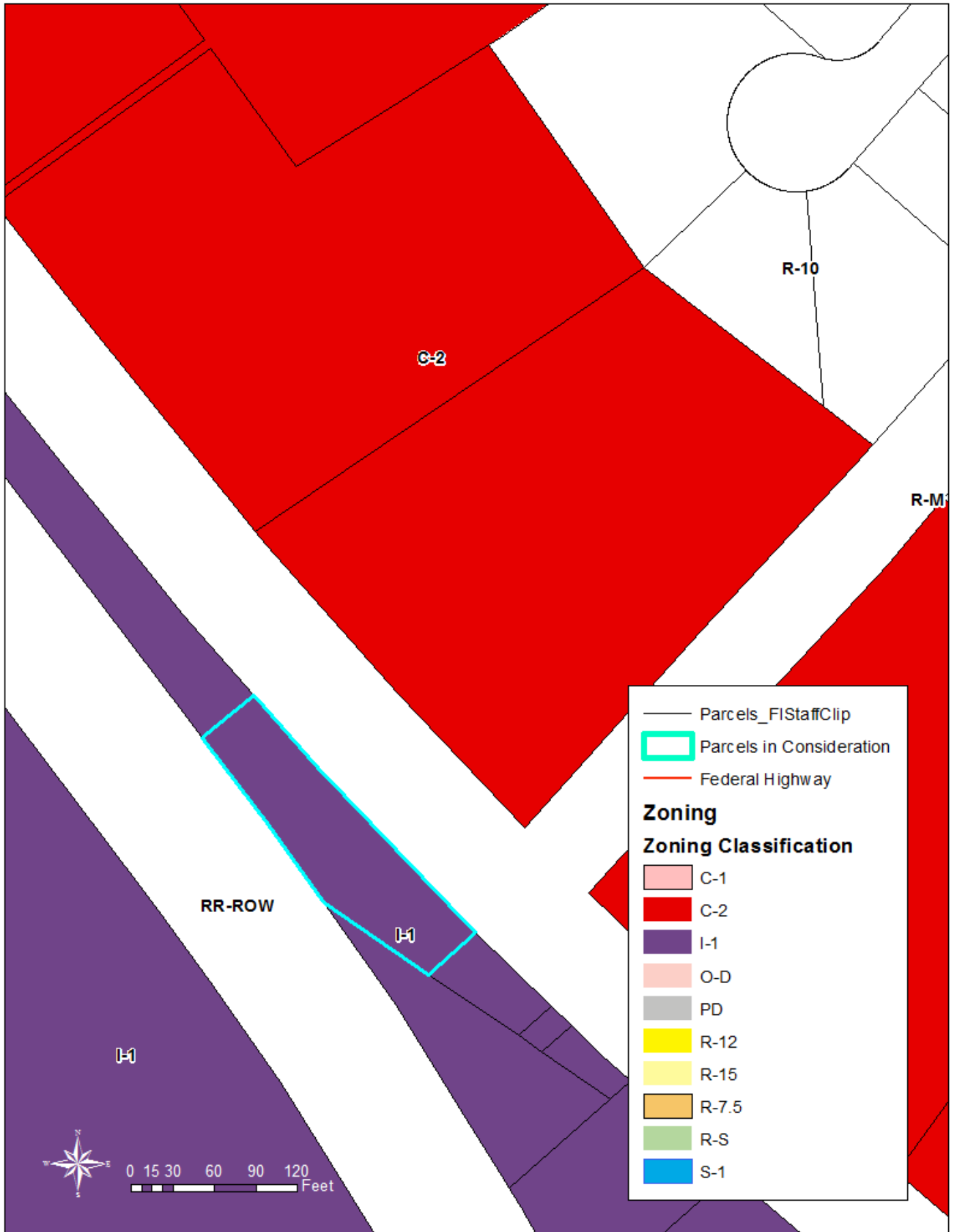
FI-2022-030 BZA is requesting a variance from Section 5:8.5. Dimensional Requirements of the Fountain Inn, South Carolina – Code of Ordinances: All buildings shall be set back from the street right-of-way line not less than 40 feet. Additionally, for commercial properties this is further defined as:  
All buildings and structures shall be set back from all street right-of-way lines not less than 35 feet.  
This applies to both the primary structure and any additional structures in the front yard.

A request for a variance was granted by this board in 2017 and 2020 for relief on the rear yard setback. Bobby's BBQ and Catering would not expand the main building in this request; however, a second patio structure would be added between the building and street. Please see attached exhibits for what is proposed by the applicants. The covered seating would be require a variance regardless of status as a attached or detached structure.

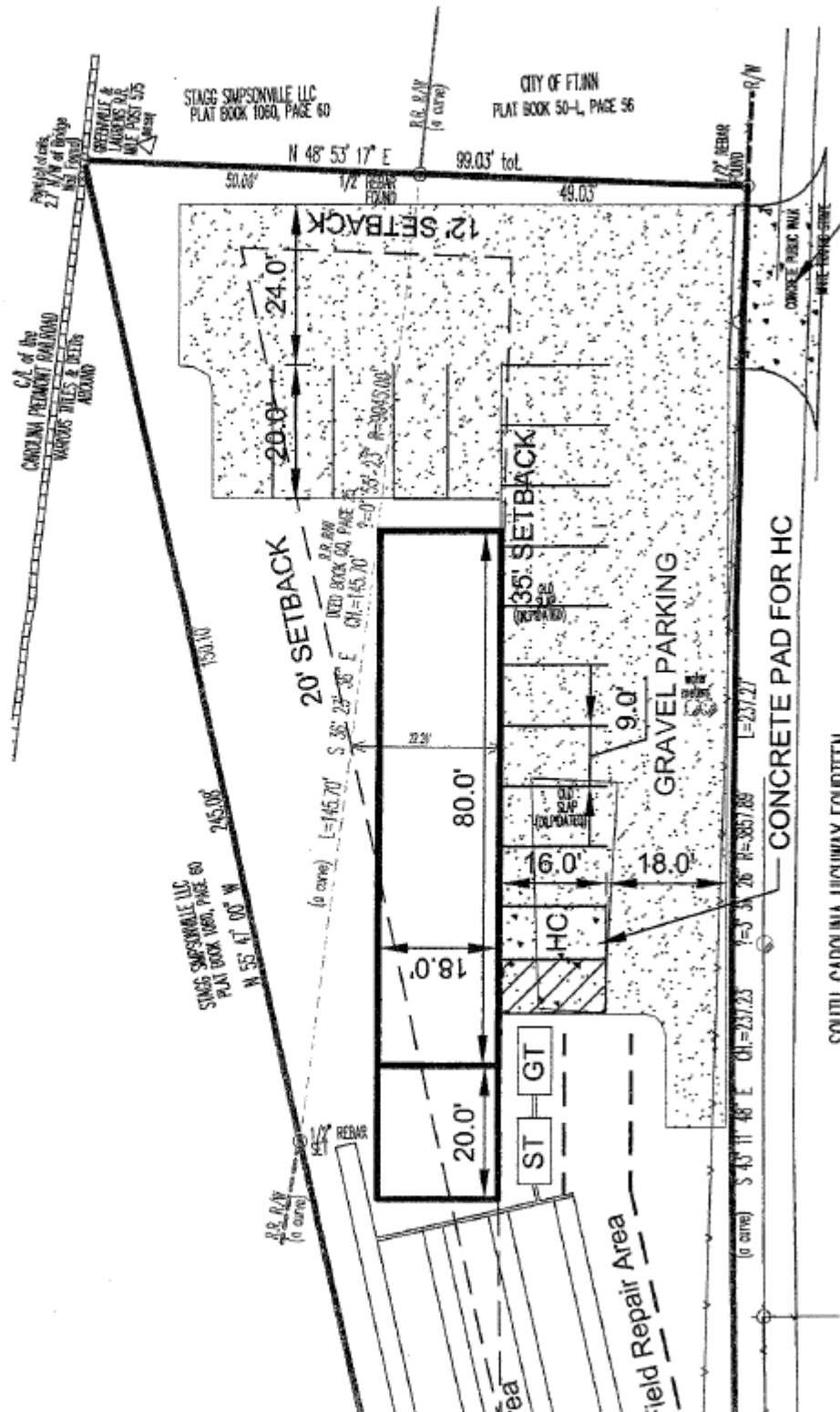
Site:



**Zoning:**

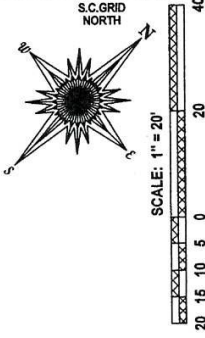
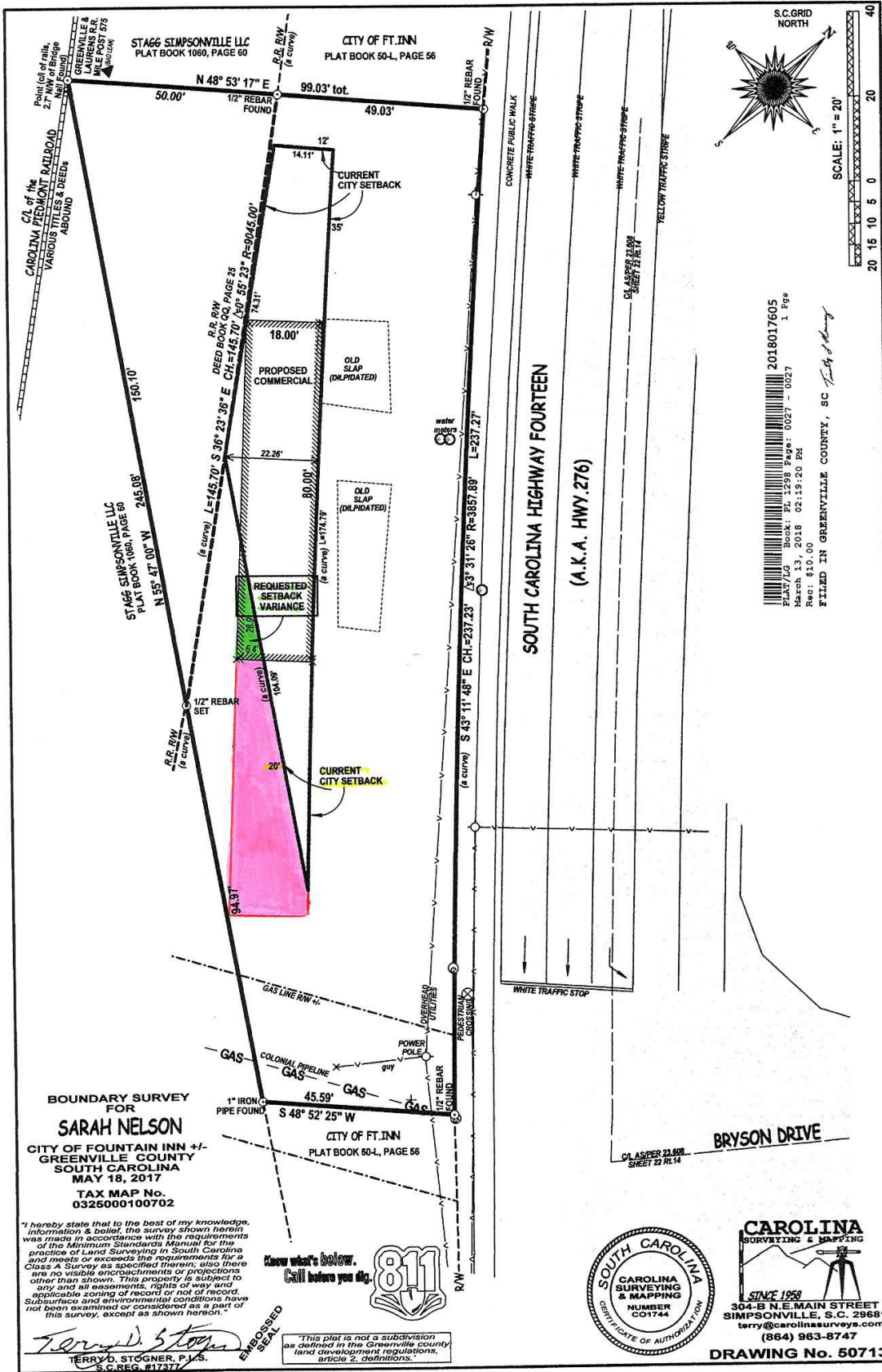


Site Plan (submitted 10/2017):



CONTO CADIMIA INIMAV FORTITU

Survey (2020 request in pink, 2017 request in green):



2018017605  
 PLAT/LOG Book: PL 1298 Page: 0027 - 0027  
 Sheet: 13 of 16  
 Date: 02/19/20 PM  
 FILED IN GREENVILLE COUNTY, SC

**BOUNDARY SURVEY FOR SARAH NELSON**  
 CITY OF FOUNTAIN INN +/-  
 GREENVILLE COUNTY  
 SOUTH CAROLINA  
 MAY 18, 2017  
 TAX MAP No. 0325000100702

*I hereby state that to the best of my knowledge, information & belief, the survey shown herein was made in accordance with the requirements of the Minimum Standards Manual for the practice of Land Surveying in South Carolina and meets or exceeds the requirements for a Class A Survey as specified therein; also there are no visible encroachments or projections any and all easements, rights of way and applicable zoning of record or not of record. Subsurface and environmental conditions have not been examined or considered as a part of this survey, except as shown herein.*

*Terry D. Stogner*  
 TERRY D. STOGNER, P.L.S.  
 S.C. REG. #17377

Know what's below.  
 Call before you dig.



*This plat is not a subdivision as defined in the Greenville county land development regulations, article 2, definitions.*



**CAROLINA SURVEYING & MAPPING**  
 SINCE 1958  
 304-B N.E. MAIN STREET  
 SIMPSONVILLE, S.C. 29681  
 terry@carolinasurvey.com  
 (864) 963-8747

**DRAWING No. 50713**

**Street View (2020):**



**View of outdoor seating area (front setback) between restaurant and Main Street:**



**Seating accessibility from the parking lot:**



**Proximity of enclosed area to the sidewalk, intersection**



Exhibit A, provided by applicants:



Front Setback Variance Request  
5:6.4-1

Renderings of an open-air pergola to provide rain & weather protection for our customers.



\*Please note: these renderings are for visual purposes only and will not be used as plans

We will call 811 before we dig & there will be minimum impact to the ground with posts and footers.  
The structure will be set back at least 10 feet from the property line/sidewalk.

## ANALYSIS

FI-2022-030 BZA is requesting a variance from dimensional requirements, specifically Section 5:8.5-3 of the Fountain Inn, South Carolina – Code of Ordinances: No building shall be located closer than 25 feet to a rear lot line. The applicant is proposing expanding the restaurant building and parking within their lot along the northern portion of N. Main Street. The narrow lot is adjacent to a railroad right-of-way and is located across from the Bryson Drive intersection.

### **District description:**

The Industrial District is established as a district for manufacturing plants, assembly plants, and warehouses. All of the uses permitted in this district shall be conducted in such a manner that no noxious odor, fumes, smoke, or dust will be emitted beyond the property line of the lot on which the use is located. While restaurants are not expressly stated in the permitted uses, the use would fall under the provision Other uses which are considered to be compatible with the aforementioned uses.

### **District Dimensional and Height Requirements:**

- Not taller than 90' (for comparison, not taller than 35' is permitted in residential districts)
- Front setback: 40' for buildings
- Side: 25 feet to a side lot line
- Rear Setback: 25 feet to a rear lot line

### **Site Specifics:**

The area is characterized by commercial uses on the northern Main Street corridor. Traffic entering Fountain Inn via the Harrison Bridge Road entrance would likely pass the property on the way to the downtown. A radio station, automobile service shop, South Carolina DMV facility and baseball/softball recreation facility are in close proximity. The closest commercial use is new automobile service station across the street.

The parcel is directly adjacent to an active railway; in fact, a sizable portion of the property is covered by a railroad right-of-way. A survey provided by the applicant shows a triangular shaped property with the building to be located in the center. However, the right-of-way extends through the rear portion of the property, effectively placing the proposed building directly on the edge of the railroad right-of-way (zero foot setback). The occupy-able property then more closely resembles the parcel shape as shown in the aerial, future land use, and zoning maps provided.

The four points below are explicitly listed reasons by South Carolina State law that the Board of Zoning Appeals can grant a variance under. Should the applicant meet one or more of these reasons then the BZA may have reason to grant the requested variance. Outdoor seating is not reflected on the boundary survey.

1. **Reason #1:** There are extraordinary and exceptional conditions pertaining to the particular piece of property;
2. **Reason #2:** These conditions do not generally apply to other property in the vicinity;
3. **Reason #3:** Because of these conditions, the application of the ordinance to the particular piece of property would effectively prohibit or unreasonably restrict the utilization of the property; and
4. **Reason #4:** The authorization of a variance will not be of substantial detriment to adjacent property or the public good, and the character of the district will not be harmed by the granting of the variance.

**GREENVILLE COUNTY PLANNING STAFF REPORT  
TO THE FOUNTAIN INN BOARD OF ZONING APPEALS**

**September 19<sup>th</sup>, 2022**

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**DOCKET NUMBER:** FI-2022-034 BZA

**APPLICANT:** Chad Carson, Pakt Divine LLC; Zundt Engineering  
**OWNER:** Pakt Divine LLC

**PROPERTY LOCATION:** South Woods Drive

**TAX MAP NUMBER:** 0350000100103

**ACREAGE:** 1.62 acres (as reflected on attached plat)

**EXISTING ZONING:** C-2, Commercial District

**VARIANCE REQUEST:** from Section 5:6.4. Dimension Requirements.  
*5:6.4-1. Front Setback. All buildings and structures shall be set back from all street right-of-way lines not less than 35 feet.  
“for 13’ setbacks to be allowed”*

**Existing Land Use:** Vacant

**Adjacent Land Use:** North: Vacant  
East: Vacant  
South: Interstate 385  
West: Commercial

**Adjacent Zoning:** North: C-2, Commercial District; I-1 Industrial District  
East: I-1, Industrial District  
South: unzoned (Greenville County)  
West: S-1, Services District

**Future Land Use:** This site was identified for Commercial in the City’s 2017 Master Plan.

**SUMMARY:**

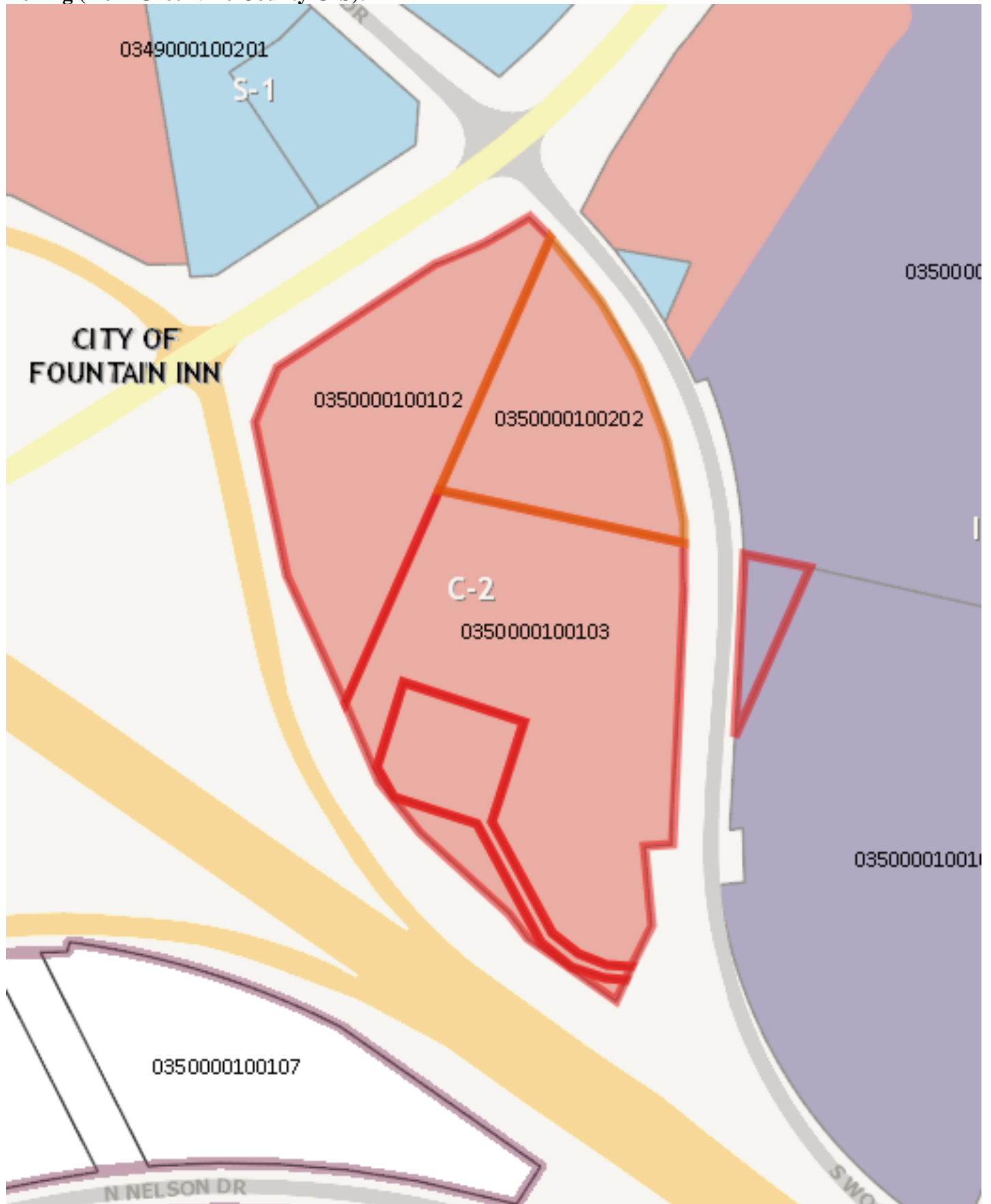
FI-2022-021BZA is requesting a variance from 5:6.4. *Dimension Requirement*, for the C-2 Commercial District as found in the Fountain Inn, South Carolina – Code of Ordinances.

The applicants are seeking to construct a single-family attached (read: townhome) development between South Woods Drive and I-385. Like many townhome requests before the Board, they are seeking a reduction from the thirty-five (35) foot requirement for commercial zones. Uniquely the applicants are requesting a reduction of twenty two feet to a thirteen (13) foot setback. The dimensions for a parking space in the City of Fountain Inn is 9’ by 20’, requiring a larger setback to accommodate off-street parking in the driveway.

**Aerial View (from Greenville County GIS):**



Zoning (from Greenville County GIS):



Site, from SC-418 looking south

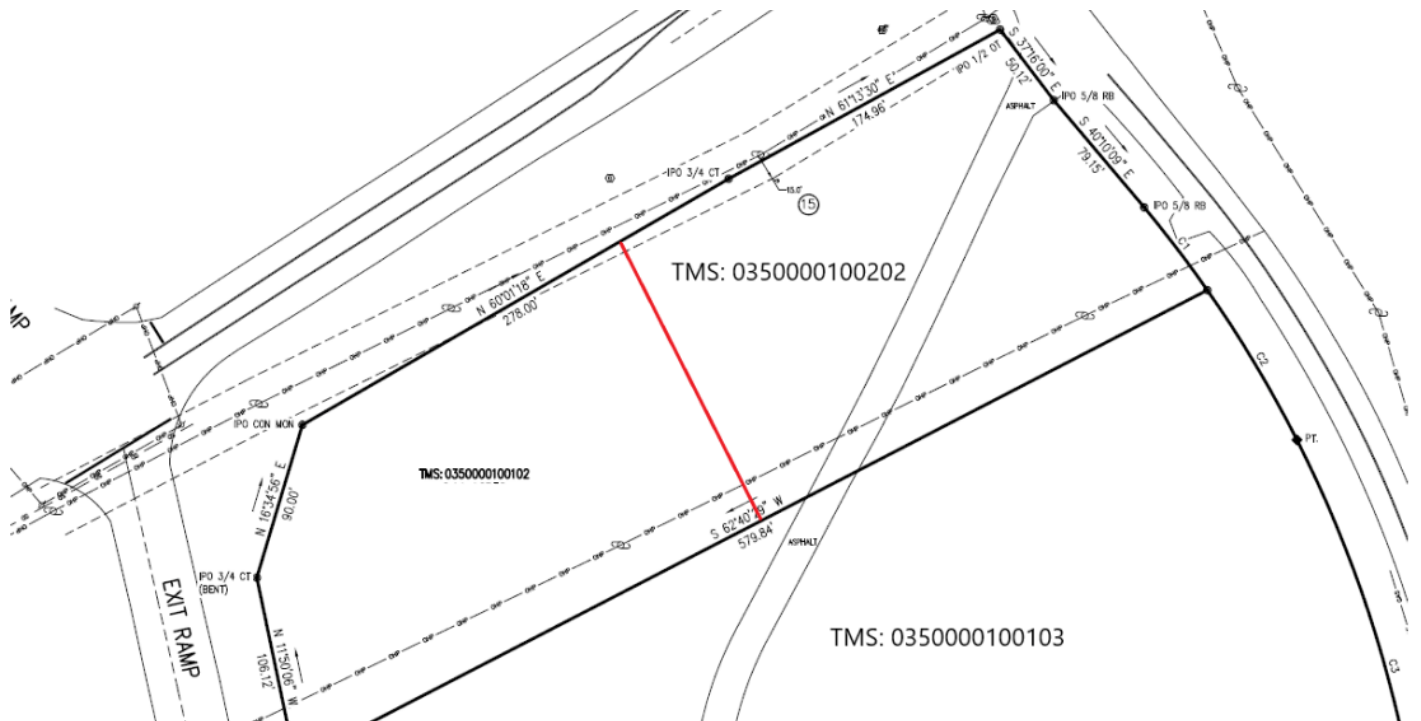


Frontage on SC-418 facing north





**Exhibit A: Parcels to be excluded from variance request (found within Gateway Commercial Overlay)**





## ANALYSIS

FI-2022-034BZA is requesting a variance building setbacks for a proposed subdivision known as Marie's Crossing. The property is zoned C-2 Commercial but also falls within the GCO zoning overlay district. This overlay applies to all properties between Interstate 385 and Walker Street (the municipal cemetery) regardless of zone. However, the request does not apply to the outparcels along SC-418 as shown in Exhibit B.

*5:12.1. Location and Applicability: The Gateway Corridor Overlay District is a special public interest district encompassing a particular geographic area that does not coincide with the boundaries of its underlying zoning districts and is identified on Fountain Inn's Official Zoning Map. It includes all properties contiguous to SC Highway 418 lying between the intersection of Interstate 385 and Highway 418 and continuing to Walker Street. The boundaries of the overlay district shall be measured from the edge of the right-of-way to a depth of three hundred (300) linear feet. Unless otherwise noted, the requirements of the Gateway Corridor Overlay District apply to all commercial, service, office, multi-family, and mixed-use development and are in addition to the requirements of the underlying zoning district. Where the requirements of the underlying zoning district and the overlay district are in conflict, the more restrictive requirements will apply.*

Access to the development would be provided by three private roads; previous submittals show the roads as public. Dimensions of the townhome units are also not visible on the preliminary plat. One hundred and sixteen (116) townhomes are proposed with two commercial outparcels (to be applied for in a separate request). Attached single family homes were permitted in the C-2 zone prior to Ord. No. TX 2021-3.

The submitted site plan(s) do not show required sidewalks; staff cannot determine if granting a 13' front setback would cause off-street vehicle parking to impede pedestrian flow through the site. Previously Board requests have varied from eighteen feet to twenty five feet.

### **District description:**

Section 5:6. - C-2, Commercial District.

This district is established to provide goods and services for the convenience of local residents.

*Section 5:12. - GCO, Gateway Corridor Overlay District.*

Purpose and intent: The Gateway Corridor Overlay District has been created to encourage well planned, attractive development along Fountain Inn's Highway 418 gateway corridor that promotes safety for all modes of transportation, enhances the historical nature of the community, strengthens and stabilizes property values, creates and upholds a distinctive gateway character, and accommodates future expected growth in a way that is consistent with the SC 418 Corridor Plan and the City's comprehensive plan.

### **District Dimensional and Height Requirements:**

*5:6.3. Height Limitation.* No structure shall exceed a height of 45 feet, except as provided in Article 7, Section 7.

*5:6.4. Dimension Requirements.*

*5:6.4-1. Front Setback.* All buildings and structures shall be set back from all street right-of-way lines not less than 35 feet.

5:6.4-2. *Side Setback.* None is required except on corner lots and lots adjacent to any residential district, in which case all commercial buildings and structures shall be set back not less than 15 feet from property lines. When a side yard is provided it shall be not less than five feet in width.

5:6.4-3. *Rear Setback.* No building shall be located closer than 20 feet to a rear lot line.

5:6.5. *Screening.* A wall, fence, or compact evergreen hedge or other type of evergreen foliage, or a combination of fence and shrubbery at least 6 feet in height, shall be provided along the side and rear lot lines where any commercial use is adjacent to a residential district.

5:6.6. *Off-Street Parking.* Off-street parking shall be provided in accordance with the provisions set forth in Article 7, Section 9.

**Determination:**

If the request is granted, the Board shall determine that:

- (a) there are extraordinary and exceptional conditions pertaining to the particular piece of property;
- (b) these conditions do not generally apply to other property in the vicinity;
- (c) because of these conditions, the application of the ordinance to the particular piece of property would effectively prohibit or unreasonably restrict the utilization of the property; and
- (d) the authorization of a variance will not be of substantial detriment to adjacent property or to the public good, and the character of the district will not be harmed by the granting of the variance.

If the Board denies the request, the reasons shall be entered in the minutes of the meeting at which the permit is denied.