



## **AGENDA**

### **Board of Appeals**

**300 Wall Street, Fountain Inn, SC 29644**

**Thursday, May 1, 2025 - 6:00 PM**

1. Call to Order
2. Adoption of 2025 Rules of Procedure
  - a. 2025 Rules of Procedure
3. Election of Officers
4. Adoption of the 2025 Meeting Calendar
  - a. 2025 Meeting Calendar
5. Approval of Minutes
  - a. Board of Zoning Appeals Minutes from October 21, 2025.
6. Public Hearing(s)
  - a. VAR-2025-01  
REQUEST: Variance  
TAX MAP #: 0350000100408  
LOCATION: 303 McCarter Road
7. Adjourn

*BZA may enter executive session to discuss any item on the agenda as permitted by S.C. Code Ann. § 30-4-70.*

**FOIA Compliance** – Public notification of this meeting has been published, posted, and distributed in compliance with the Freedom of Information Act and the City of Fountain Inn's requirements.

# Board of Zoning Appeals Rules of Procedure – 2025

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## 1.1 Purpose & Authority

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The City of Fountain Inn Board of Zoning Appeals has set forth rules of procedure to ensure consistent and fair treatment of applicants and interested persons, orderly and efficient public proceedings, and compliance with state and federal law. These rules shall also ensure that no member of the Board will gain a personal or financial advantage from his or her work for the Board, so that public trust in the municipal government will be preserved. These rules of procedure are adopted pursuant to S.C. Code § 6-29-790 for the City of Fountain Inn Board of Zoning Appeals.

This policy setting forth rules and procedures for the City of Fountain Inn Board of Zoning Appeals shall apply to all regular, special, and emergency meetings.

## 1.2 Definitions

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“Chair” means the member of the Board who is elected by the Board to serve as the Chair of the Board.

“Board” means the City of Fountain Inn Board of Zoning Appeals.

“Council” means the Fountain Inn City Council.

“Ex parte communication” means any oral or written communication not on public record between a member of the Board and the applicant, a member of the public, or another member of the Board in regards to any matter scheduled to come before the Board that may have the effect of influencing the decision of that member of the Board.

“Majority vote” means the consenting vote of the majority of the Board members participating in the vote. Members of the Board who abstain, are absent from, or are recused from voting shall not be counted towards the majority or the minority.

“Planning Director” means the officer or other designated authority, or their duly authorized representative, charged with the administration and enforcement of the City of Fountain Inn’s land development and zoning regulations.

“Quorum” means that at least four (4) of the seven (7) members of the Board are present to participate in the business of the Board. Once established, a quorum is not broken due to the recusal or abstention of a member of the Board.

## 1.3 Membership

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The Board shall consist of seven regular members, unless the Fountain Inn City Council provides otherwise. Should any vacancy occur by reason of resignation, disability, or otherwise, the Planning Director shall notify the City Clerk so that the vacancy may be advertised and the Council notified. Resignation by a member of the Board shall be tendered to the Planning Director in writing.

## 1.4 Officers

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The Board shall elect from among its members a Chair, a Vice-Chair, and any other officers deemed necessary at the first meeting of the Board in each calendar year. However, mid-year vacancies in office shall be elected at the earliest opportunity.

The process by which officers shall be elected is as follows:

1. The floor will be opened for nominations by members of the Board. Each name nominated must also receive a second in order for it to be a candidate for election.
2. After there are no more nominations, the floor shall be closed to nominations and the election for that officer shall follow.
3. Nominated candidates may be permitted to provide a brief statement prior to the election if they so choose.
4. Votes shall be cast by each member of the Board in attendance, including nominated candidates. In the case of a single nomination, voting may take place by a show of hands. In the case of multiple nominations, voting may be cast by ballot.

The candidate receiving the most votes shall be declared as elected. In the event of a tied vote, votes shall be re-cast until the tie is broken. The process shall be repeated for each office up for election. The term of each officer shall run until the subsequent election.

#### **1.4.1 Chair**

The Chair shall preside over the meetings of the Board and may exercise all powers usually incident to the office. The Chair also retains his or her status as a voting member of the Board and may participate in deliberations and the decision-making on all matters before the Board. Other duties of the Chair shall include:

1. Administer oaths and affirmations;
2. Decide all points of order or procedure;
3. Act as spokesperson for the Board;
4. Sign documents for the Board; and
5. Perform other duties approved by the Board.

The Chair has broad authority over all matters regarding the conduct of meetings. He or she shall exercise this authority to promote the fullest possible presentation of information and discussion of matters before the Board while facilitating the orderly and timely completion of the agenda.

#### **1.4.2 Vice-Chair**

The Vice-Chair shall exercise the duties of the Chair in the absence, disability, or disqualification of the Chair. In the absence of the Chair and Vice-Chair, an acting Chair shall be elected by the members of the Board present.

#### **1.4.3 Planning Director**

The City of Fountain Inn Planning Director shall perform administrative duties for the Board. These duties shall include:

1. Provide notice of meetings;
2. Prepare the agenda;
3. Keep minutes of meetings and hearings;
4. Maintain Board records as public records;
5. Attend to Board correspondence; and
6. Perform other administrative duties as necessary.

In addition, the Planning Director shall prepare well-written staff reports and provide accompanying documents on all agenda items. The Planning Director shall be available for questions from the Board prior to and during meetings and shall be expected to attend all Board meetings. The Planning Director may participate in discussions and questioning in the same manner as members of the Board.

#### **1.5 Meetings**

All meetings shall be open to the public. Members of the public who attend a public hearing shall be afforded an opportunity to comment on each agenda item. However, no person shall speak at a Board meeting until recognized by the Chair.

##### **1.5.1 Schedule**

As necessary to discuss new or old business, the Board shall meet on the third Monday of each month at 6:00 pm in the Council Chambers. The Planning Director shall provide notice of such meetings.

When a regular meeting falls on a legal holiday, the Board will meet on the Thursday that immediately follows, unless otherwise scheduled by the Board. If the Chair declares that weather or other conditions make it hazardous for members and the public to attend a meeting, the meeting shall likewise be rescheduled to the Thursday that immediately follows, unless otherwise scheduled by the Chair.

Special meetings may be called by the Chair or the Planning Director when deemed necessary, provided at least 24-hour notice is given to each member of the Board and the time and place of each special meeting is publicly announced at least 24 hours before the meeting.

Any member of the Board who cannot attend a scheduled meeting shall notify the Planning Director at the earliest possible opportunity and no later than 4 pm on the date of the meeting. The Planning Director shall notify the Chair in the event that the projected absences may threaten the ability to produce a quorum at the meeting.

**1.5.2 Agenda**

A written agenda shall be furnished by the Planning Director to each member of the Board and shall be posted on the City of Fountain Inn’s website typically one week in advance of each meeting, except for special and emergency meetings, for which the agenda shall be furnished at least 24 hours prior to the meeting. Written agendas furnished to the Board shall also be accompanied with staff reports and associated documents for each agenda item.

The Board shall generally not entertain comments or discussions on items not listed on the agenda. However, when circumstances dictate it to be in the public’s best interest, agenda items may be added at the meeting with the approval of at least four (4) members of the Board, subject to any applicable public notice requirements.

Meetings shall typically proceed according to the following general flow:

1. Call to order by the Chair.
2. Roll call and the determination of a quorum by the Planning Director.
3. Pledge of Allegiance.
4. Opening remarks and an overview of the agenda by the Chair.
5. New business/action items.
6. Old business/discussion items.
7. Adjournment.

The Chair may amend the order of the agenda where such courtesy is warranted. Considerations for amending the order of the agenda may include:

1. To move forward items that involve the greatest gathering of interested parties;
2. To move forward items that are anticipated to be relatively brief; or
3. To move back items where the applicant or his/her representative(s) have not yet arrived.

**1.5.3 Call to Order and Roll Call**

The Chair, or in the Chair’s absence, the Vice-Chair, shall call the meeting of the Board to order at the appointed hour. In the absence of the Chair and Vice-Chair, the Planning Director will call the meeting to order and a temporary Chair will be elected from amongst the members of the Board that are present. Upon the arrival of the Chair, the Vice-Chair or the acting Chair shall immediately relinquish the Chair at the conclusion of the current business at hand.

At the beginning of each meeting, the Chair shall invite each person in attendance, including members of the Board, to deactivate or silence any personal electronic devices such as cell phones for the duration of the meeting.

The Planning Director shall conduct a roll call in order to determine if a quorum is present. A quorum shall be established before any business is conducted other than rescheduling the meeting. A majority of the members of the Board shall constitute a quorum. If during the course of the meeting, a member of the Board abstains from or must be recused from the discussion or decision on an agenda item, the quorum shall not be considered broken.

#### 1.5.4 Public Hearings

The Planning Director shall give the notice required by statute or ordinance for all public hearings conducted by the Board.

Excluding appeals of an administrative decision, The procedure for each separate hearing item shall be:

1. **Overview of the Process.** The Chair shall provide an overview of the public hearing process and open the public hearing.
2. **Introduction of the Application.** The Planning Director will present a description of the application to help the public understand the nature of the item.
3. **Request for Disclosure.** The Chair shall request members of the Board to disclose any conflicts of interest or ex parte communication.
4. **Opening Statement.** The applicant or applicant's representative shall provide an opening statement (where applicable).
5. **Additional Materials.** The Chair shall accept any additional materials or information provided by the applicant (where applicable).
6. **Open the Floor for Public Testimony.** The Chair shall declare the public testimony portion of the hearing to be open and shall invite the public to testify. Members of the Board may only ask questions to obtain clarification of material or testimony presented. The questions shall not be argumentative, nor may they have the purpose or effect of unreasonably extending the time limit of the public speaker. Members of the Board shall be recognized by the Chair prior to speaking.
7. **Close the Floor to Public Testimony.** Following the comments of all those who wish to participate in the public testimony portion of the meeting, the Chair shall declare the public testimony portion of the hearing to be closed. Once the public testimony portion of the meeting has been closed, it shall not be reopened except by majority vote of the Board.
8. **Closing Statement.** The applicant or applicant's representative shall be afforded the opportunity to respond to questions and comments raised during the public testimony portion of the hearing and shall provide a closing statement (if applicable).
9. **Board Questions.** Members of the Board shall have the opportunity to direct questions to the applicant or applicant's representative. Members of the Board shall be recognized by the Chair prior to speaking. The Chair may invite the applicant or applicant's representative to respond to the questions raised by members of the Board.
10. **Staff Recommendation.** The Planning Director shall present the recommendation of staff.
11. **Motion by Board.** Motion by a member of the Board. Second by another member of the Board. The motion shall include a statement of findings, or those facts that are the basis of the conclusions and decision of the member of the Board.
12. **Discussion of Motion.** The Board may discuss and deliberate the motion on the floor. Members of the Board shall be recognized by the Chair prior to speaking.
13. **Call for the Vote.** After sufficient discussion by the Board, the Chair shall call for a vote.

Members of the public may direct comments or questions to the Board or staff. However, staff and the members of the Board are encouraged to withhold their response to these comments or questions until after the public testimony portion of the hearing has been closed. This practice avoids argumentative dialogue during the public testimony portion of the hearing.

In order to maintain a professional appearance, the Chair is encouraged to recognize all speakers and members of the Board by surname.

Appeals of an administrative decision will follow Article III: Appeals Procedure and Article IV: Hearing Procedure of the current Comprehensive Planning Guide for Local Governments provided by the Municipal Association of South Carolina (MASC).

**1.5.5 Rules for Public Testimony**

General public interested in making comments shall indicate their name and address prior to their remarks. Public comments shall normally be limited to three (3) minutes in length. Speakers should be given a 30-second warning before their time is set to expire. Speakers shall not be permitted to concede any part of their allotted time to another speaker. However, the Chair shall have the discretion to shorten or lengthen the time limit for each speaker depending on the number of persons that wish to participate and the overall length of the agenda. If a previous speaker has already expressed a shared view, the speaker will be asked to state that he/she agrees with the previous comments instead of reiterating a point already made. The Chair may request larger groups or associations to select an individual to speak for the group for the purpose of avoiding repetition of testimony. No member of the public shall be permitted to speak more than once during a public hearing unless otherwise invited by the Chair.

Applicants and citizens shall be permitted to submit written presentations, exhibits, and information. In order to be eligible for copying, such materials shall be submitted to the Planning Director at least one (1) business day prior to the meeting and shall not comprise more than 10 pages. For materials that comprise more than 10 pages or are printed on paper larger than 8 ½ inches by 11 inches, eight (8) copies shall be provided to the Planning Director.

Written testimony, with the exception of e-mail transmissions, must be signed and show the author's printed name. E-mail transmissions must show the author's name and address.

The Chair shall rule non-germane, derogatory, disruptive, or excessively repetitive comments out of order. The Chair shall have wide discretion in conducting the hearings and shall have the power to interrupt arguments at any time in the interest of expediting the orderly disposition of the business at hand. The Chair shall be obligated to prevent any party from unduly consuming the Board's time. The Chair may clear the room of disruptive individuals or recess the hearing in the event of general disruption.

**1.5.6 Decisions**

Decisions by the Board must be introduced as motions which have been seconded and passed by majority vote of the Board. Motions shall be made in the affirmative. Affirmative motions typically convey greater clarity to the action being recommended.

The Chair shall restate the motion on the floor before deliberation occurs. The Chair shall also identify by name the member of the Board who made the motion as well as the member of the Board who seconded the motion. The Board should attempt to build consensus on an item through deliberation and discussion; but when this is not possible, the majority vote shall prevail and the majority shall show respect for the opinion of the minority and vice versa.

The Chair has the same voting rights and ability to deliberate as all members and can make motions, although other members of the Board are encouraged to make motions so that the Chair avoids the perception of dominating the meeting of the Board. Furthermore, the Chair is encouraged to hold his or her comments until the end of the Board discussion in order to effectively facilitate the discussion as it occurs.

All members present are expected to vote unless they have recused themselves. Except where a conflict of interest exists, abstentions are strongly discouraged and shall not count towards either the majority or minority. For a motion to pass, it must receive the concurrence of a majority vote of the members of the Board participating in the vote. Votes from members of the Board not present at the meeting shall not be counted.

The vote on a motion shall be taken either by show of hands, roll call vote, or electronic voting device (if available) and entered in full upon the record. Each member of the Board qualified to vote on a motion shall cast either an "aye" or "no" vote. A roll call vote may be requested by the Planning Director or any member of the Board. The Chair shall place the last vote in any roll call vote. The Chair shall announce the results of the vote. A motion that results in a tie vote shall not carry. In the event of tie, the floor shall be opened for a new motion.

### 1.5.7 *Situational Motions*

The following motions are acceptable under appropriate circumstances:

- Motion to Call for the Question. This motion has the effect of closing the debate on the motion on the floor and to demand the immediate vote on the pending motion. Such a motion requires a second and is neither debatable nor amendable. This motion is typically warranted when a debate is needlessly being dragged out. This motion must be passed by majority vote.
- Motion to Continue. This motion has the effect of continuing the current discussion to another time. Such a motion requires a second and may be debated or amended. This motion must be passed by majority vote.
- Motion to Substitute. This motion has the effect of substituting the current motion on the floor with another motion. The substitute motion must be germane to the subject. Such a motion requires a second and may be debated or amended. If passed by majority vote, this motion will, by its own action, eliminate the necessity to vote on the previous motion being substituted. If the substitute motion fails to pass by majority vote, debate may resume on the previous motion on the floor.
- Motion to Withdraw. This motion has the effect of withdrawing a motion on the floor. The motion to withdraw must be made by the member of the Board who made the original motion on the floor and must have the consent of the member of the Board who seconded the original motion.
- Motion to Amend. This motion has the effect of amending a motion on the floor. The motion to amend must be made by the member of the Board who made the original motion on the floor and must have the consent of the member of the Board who seconded the original motion.
- Point of Order. This motion is appropriate when there is an apparent infraction of the rules or improper decorum in speaking. This motion may interrupt a speaker during deliberation. Such a motion does not require a second and is not subject to majority vote. The Chair shall be called upon to make a ruling on this motion. If the Chair accepts the point of order, it is said to be sustained. If not, it is said to be overruled.
- Motion to Adjourn. This motion has the effect of ending the meeting. Such a motion requires a second and must be passed by majority vote.

## 1.6 Conduct

### 1.6.1 General Conduct

It is critical for members of the Board to project a positive image of the City when dealing with applicants, members of the public, or other agencies. Therefore, members of the Board shall be expected to conduct themselves in the following manner. Staff, applicants, and members of the public shall observe the same rules and decorum as applies to the Board.

Members of the Board shall...

- Treat everyone, including each other, with courtesy and shall listen attentively to persons speaking.
- Gain the attention, priority, and recognition of the Chair prior to speaking during a meeting.
- Refrain from inappropriate behavior and derogatory comments.
- Refrain from criticizing staff or any member of the public and shall not enter into heated arguments.
- Show tolerance and respect for other's opinions and issues during discussions and debates, even if it requires them to agree to disagree.
- Refrain from delaying or interrupting the proceedings or the peace of the meeting. They shall not disturb any individual while speaking, nor digress from the item under consideration, nor disobey the orders of the Board or the Chair.
- Refrain from giving direction to staff on behalf of the Board without having received the express authority of the Board to do so.
- Refrain from making promises or comments to the public on behalf of the Board without having received the express authority of the Board to do so.

A member of the Board, once recognized by the Chair, shall not be interrupted when speaking unless it is to call the person to order. If a member of the Board, while speaking, is called to order, that member shall cease speaking until the question of order is determined, and, if in order, shall be permitted to proceed. There is no limit to the number of times that a member of the Board may speak. However, members of the Board shall refrain from excessively repetitive comments.

After recognition by the Chair, members of the public shall speak only from the podium. Stamping of feet, whistling, yelling or shouting, and/or similar demonstrations are unacceptable public behavior and will be prohibited by the Chair.

### 1.6.2 Site Visits

Members of the Board are encouraged to visit the sites of applications on the agenda on their own time and by their own means. On occasion where a site visit is conducted by more than one member of the Board at the same time, such visits shall be open to the public and shall be publicly noticed in the same manner as a special meeting of the Board.

### 1.6.3 Ex Parte Communication

To preserve public confidence in the fairness of the Board deliberations and decisions, the Board should ensure that the public and interested persons have the opportunity to know, and to respond to, all information that the Board considers in making its decisions. The Board should also ensure that all members of the Board have the same opportunity to know and consider any relevant evidence provided to any other member of the Board.

Therefore, ex parte communication is discouraged. Any member of the Board who inadvertently conducts ex parte communication shall disclose such communication at the associated hearing, before the floor is opened for public testimony. Members of the Board who have received written ex parte communication shall place in the record copies of all written communications received as well as all written responses to those communications. Members of the Board shall prepare a memorandum stating the substance of all oral communications received, all responses made and the identity of each person making the ex parte communication, which shall become a part of the record of the proceedings.

#### **1.6.4 Conflict of Interest**

The conflict of interest policy governing the members of the City of Fountain Inn Board of Zoning Appeals is set forth in South Carolina Code of Laws § 8-13-700(B), as it may be amended from time to time. This code section specifies the following:

“No [member of the Board] may make, participate in making, or in any way attempt to use his [membership] to influence a governmental decision in which he, a member of his immediate family, an individual with whom he is associated, or a business with which he is associated has an economic interest. A [member of the Board] who, in the discharge of his official responsibilities, is required to take an action or make a decision which affects an economic interest of himself, a member of his immediate family, an individual with whom he is associated, or a business with which he is associated shall:

1. Prepare a written statement describing the matter requiring action or decisions and the nature of his potential conflict of interest with respect to the action or decision; and
2. Furnish a copy of the statement to the [Chair of the Board], who shall cause the statement to be printed in the minutes and require that the member be excused from any votes, deliberations, and other actions on the matter on which the potential conflict of interest exists and shall cause the disqualification and the reasons for it to be noted in the minutes.”

Any member of the Board declaring a conflict of interest or other cause for recusal shall do so at the introduction of the item. Once a member of the Board has been recused, that member shall be asked to vacate their seat among the Board for the duration of the hearing and deliberation of that particular agenda item.

The Board also adopts the following procedures with regard to potential conflicts of interest. If a member of the Board is not certain whether a particular relationship is a potential conflict of interest, or if any member of the Board believes another member may have a potential conflict of interest that such member has not declared as provided above, such member may request the Chair to submit the issue to the Board for a vote as to whether it believes a potential conflict of interest exists. If the Board agrees that a potential conflict of interest does in fact exist, the Chair of the Board shall inform the Board member in question that the Board is in the opinion that the above provisions should be applicable. If such member does not agree that he or she has a potential conflict of interest and elects not to follow the statutory procedures, the Chair of the Board shall, upon approval by the Board, appeal the matter to the South Carolina Ethics Commission.

#### **1.6.5 Appearance of Partiality**

Any member of the Board who feels that he or she may not be able to appear as fair and impartial on a matter that comes before the Board may voluntarily excuse himself or herself. In such instances, this member of the Board shall refrain from deliberating and voting on this matter as a member of the Board.

**1.7 Removal**

By majority vote, the Board may request that the Fountain Inn City Council remove a member of the Board for cause from the Board. Members of the Board may be removed at any time by majority vote of the Fountain Inn City Council for the following reasons:

- A member who commits a felony, a crime of moral turpitude, or any other crime which, in the opinion of Council, justifies removal from office;
- A member who participates in any business before the Board where the member has a conflict of interest and does not recuse himself;
- A member who violates the Ethics, Government Accountability, and Campaign Reform Act of 1991, as amended, or any regulations applicable thereto;
- A member who is absent more than three (3) meetings during any calendar year;
- A member who indulges in personalities, uses offensive language, impugns the motives, character, or integrity of any individual, engages in deliberate misrepresentation, or uses language tending to hold the City, a member of Council, the Board, or city staff in contempt;
- A member who behaves in any manner, whether by act or omission, which adversely affects the public interest or orderly, efficient operation of the Board;
- A member who represents himself to the public or to any governmental agency as having authority to speak on behalf of the City with regard to any matter outside the context of a public meeting of the Board;
- A member who engages in conduct that evidences a personal bias toward or prejudice against any applicant, project, or member of the public that is before the Board; or
- Any member who engages in other conduct as the Council may deem appropriate justification for removal of a member.

**1.8 Records**

The Planning Director shall create an audio recording of all meetings and hearings of the Board, which shall be preserved until final action is taken on all matters presented. The Planning Director, or designee, shall prepare written minutes of each meeting which shall show the vote of each member upon every question as well as a record of examinations, findings, determinations, and any other official action taken. Written minutes shall be maintained as public records.

The Planning Director shall assist in the preparation and forwarding of all reports and findings of the Board in the appropriate form. Copies of all notices, correspondence, reports and forms shall be maintained as public records.

Clerical errors that do not affect the substance of a public record of the Board may be corrected by the Planning Director upon the discovery of the error. Examples include errors in numbering, spelling, or grammar.

**1.9 Adoption and Amendment**

These rules may be amended at any regular meeting of the Board by the affirmative vote of at least four members of the Board. Any rule may be temporarily suspended by the affirmative vote of at least four members of the Board.

These rules were adopted by majority of the members of the Board at a regular public meeting on \_\_\_\_\_.

Attest: \_\_\_\_\_  
Planning Director

\_\_\_\_\_  
Chairman

## **PLANNING COMMISSION MEETING CALENDAR 2025**

- March 20<sup>th</sup>
- April 17<sup>th</sup>
- May 15<sup>th</sup>
- June 18<sup>th</sup>
- July 17<sup>th</sup>
- August 21<sup>st</sup>
- September 18<sup>th</sup>
- October 16<sup>th</sup>
- November 20<sup>th</sup>
- December 18<sup>th</sup>

## MINUTES

300 Wall Street Fountain Inn, SC 29644

Board of Zoning Appeals

Monday, October 21, 2024 – 6:00 PM

### 1. Call to Order

Chairperson AJ Dearybury calls the meeting to order at 6:00PM. Board Member Kelley, Board Member Eberhart, Board Member Morgan, Board Member Henderson, and Chairperson Dearybury were all in attendance.

Pledge of Allegiance was recited.

### 2. Hearing Procedures and Regulations

### 3. Approval of Minutes

Board Member Eberhart made a motion to approve the minutes for July 15, 2024, meeting. Board Member Kelley seconded the motion. The motion carried 5-0.

### 4. Public Hearing

#### a. SE-2024-01

REQUEST – Use by Special Exception  
TAX MAP NUMBER - 0352000100100  
LOCATION – 413 Quillen Avenue

Staff presented the case. Holly Bridges expressed her desire to run her business from home.

No public comments. Floor closed.

Staff and Board Member Eberhart discussed potential actions for addressing future issues and inquired about the applicants' relationships with their neighbors.

Staff recommended approval.

Board Member Henderson made a motion to approve SE-2024-01 with the condition that the outside activity associated with this use does not create any type of nuisance or disturbance to the neighborhood. Board Member Eberhart seconded the motion. The motion carried 5-0.

b. VAR-2024-03

REQUEST: Variances

TAX MAP NUMBER: 035000010111 & 0350000100110

LOCATION: HWY 418 & South Woods Dr.

Staff presented the case. Mike White, Engineer of G. Robert George & Associates, Inc., elaborated further on their request.

No public comment. Floor closed.

Board Member Eberhart went through variances with applicant for further clarification.

Staff explained that public safety is a key focus when reviewing plans. Discussion took place on SCDOT requirements and the installation of traffic lights where a stop sign currently exists on 385 (work is in progress). Chairperson Dearbury also asked about the status of the lights at 418.

Staff recommended approval.

Board Member Eberhart verified staff's recommendation. There was additional conversation regarding SCDOT roads and analysis.

Board Member Eberhart made a motion to approve all 4 variances in subject PAR-2024-03. Board Member Henderson seconded the motion. The motion carried 5-0.

5. Adjourn

Board Member Morgan made a motion to adjourn at 6:13PM. Board Member Henderson seconded. The motion carried unanimously.

# AGENDA ITEM

**May 01, 2025**

To: Board of Zoning Appeals  
 From: Jason Knudsen, Planning & Development Director  
 Subject: VAR-2025-01, 303 McCarter Rd.  
**Meeting Date: October 21, 2024**  
 Type of Agenda Item: Variance Request  
 Attachments: Zoning Map  
 Aerial Map  
 Applicant Materials  
 Finding of Fact

<b>OWNER:</b>	Red Hill Properties, LLC
<b>APPLICANT:</b>	Signs by Design
<b>REPRESENTATIVE:</b>	Debbie Lott
<b>LOCATION:</b>	303 McCarter Rd. (TAX# 0350000100408)
<b>CURRENT ZONING:</b>	C-2 Commercial District, Gateway Corridor Overlay District
<b>SIZE OF PROPERTY:</b>	Approximately 1.62 acres

## ***REQUEST***

The City of Fountain Inn received variance requests for 303 McCarter Rd. (Tax Map # 0350000100408). The applicant is seeking a variance from sign regulations in the Gateway Corridor Overlay District. The overlay district limits a business to two signs. The applicant is seeking approval of greater dimensions for the freestanding monument sign and two additional wall signs.

## ***LOCATION & SITE DESCRIPTION***

The property is located near the corner of McCarter Road and Nash Street. It is currently under development to be a Wendy's.

## ***BACKGROUND/DISCUSSION***

The property is located within the Gateway Corridor Overlay District. The Gateway Corridor Overlay District was created to encourage well planned, attractive development along Fountain Inn's Highway 418 gateway corridor that promotes safety for all modes of transportation, enhance the historical nature of the community, strengthen and stabilize property values, create and uphold a distinctive gateway character, and accommodate future expected growth.

Section 5:12.10, Signage, states, "To create a cohesive, aesthetically pleasing façade, permitted signage will be restricted to two signs per business: one wall sign or canopy sign, and one freestanding sign or decorative post sign. The use of these signage forms will help promote an inviting, pedestrian-friendly environment, while still allowing businesses to express individuality and creativity with their designs."

This section defines one of the permissible signs to be either a wall sign, not exceeding 20 percent of usable wall space with a maximum of 100 square feet or a canopy sign, not exceeding 20 percent of canopy face area with a maximum of 12 square feet. The other sign can be either a freestanding sign, not to exceed 6 feet in height as measured above grade and maximum sign face of 24 square feet in area or a Decorative Post sign, not to exceed 6 feet in height (12 feet for multiple users) as measured above grade and maximum sign face of 24 square feet in area (10 square feet per tenant for multiple users).

The proposed monument sign would be 14.5' tall with a sign area of approximately 75.56 square feet of sign face area. The attached applicant materials explain the history of past variances and the reasoning for the current request.

### ***VARIANCE REVIEW CRITERIA***

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In deciding any variance or approval or denial of the action of the Zoning Administrator, the Board may consider the following factors:

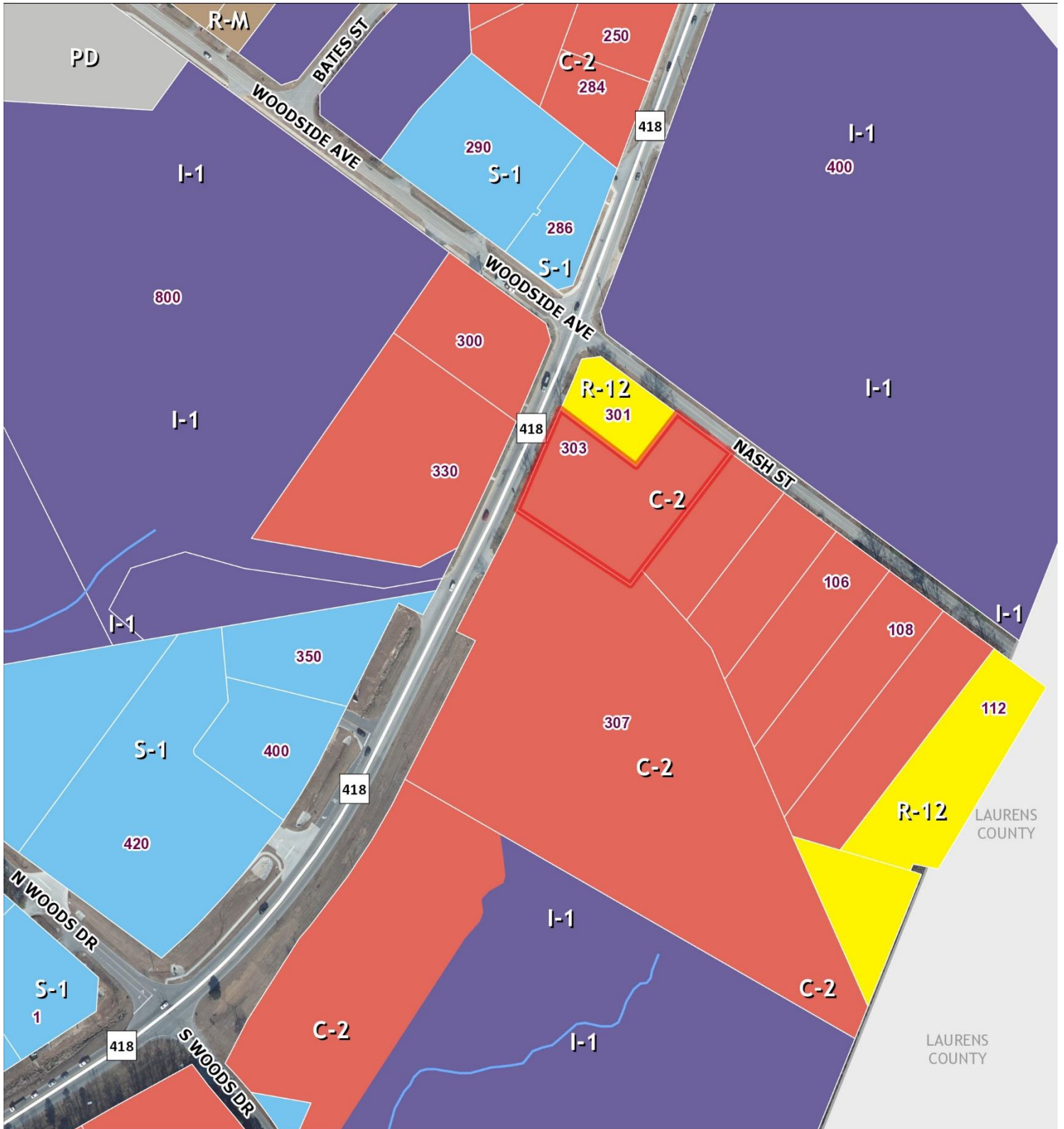
- a. that there are special conditions and circumstances which are peculiar to the land, structure or building involved which are not applicable to other lands structures or buildings in the same district;
- b. a literal interpretation of the provisions of the Ordinances for the City of Fountain Inn would deprive the applicant of rights commonly enjoyed by other properties in the same district or area under the terms of the zoning Ordinance of the City of Fountain Inn;
- c. that special conditions and circumstances do not result from the actions of the applicant.;
- d. granting any variance requested will not confer on the applicant any special privilege that is denied by this Ordinance to other lands, structures or buildings in the same area or district;
- e. the variance requested will be in harmony with the general purpose and intent of the Ordinances of the City of Fountain Inn and will not be injurious to the neighborhood or otherwise detrimental to public welfare; and
- f. the variance requested is a minimum variance that will make possible the legal use of the land, buildings or structures.

### **STAFF COMMENTS**

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Staff is aware of numerous variances granted within the Gateway Overlay District regarding signage. It's staff's opinion that not granting a variance in this case would put the business at a disadvantage with like businesses in the overlay.

# Zoning Map



# Aerial Map



**PROPERTY INFORMATION**

Tax map number	Address(es)	Property owner
0350000100408	303 McCarter Rd	Red Hill Properties II LLC

**APPLICANT INFORMATION**

Primary Applicant Name: Debbie Lott

Mailing Address: 6 E. Lee Rd, Taylors, SC 29687

Phone: 864-322-7073 Email: info4sign@gmail.com

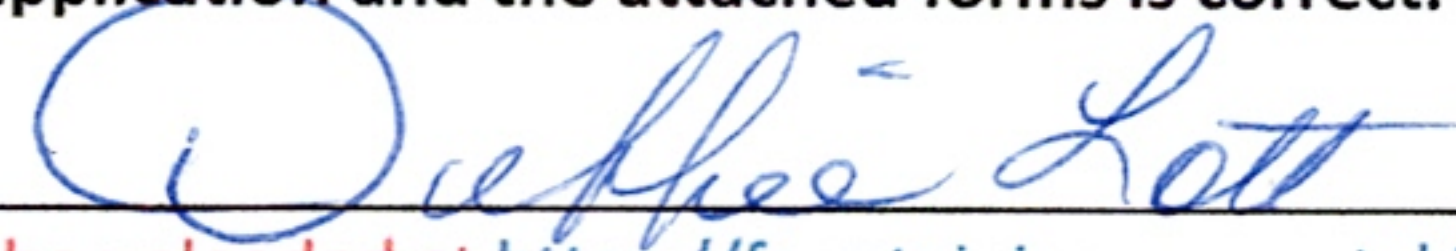
Do any recorded deed restrictions or restrictive covenants apply to this property that would prohibit, conflict with, or be contrary to the activity you are requesting? For example, does your homeowners association or property owners association prohibit the activity or need to approve it first? Yes  No

- If yes, please describe the requirements: \_\_\_\_\_

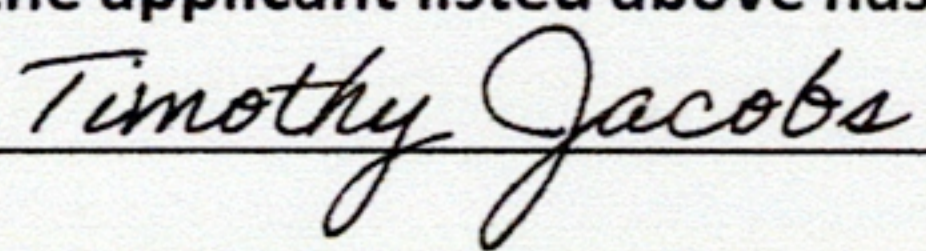
Are you the owner of the subject property? Yes  No

- If no, what is your relationship the property (e.g., have it under contract to purchase, tenant, contractor, real estate agent)? Signs by Design - sign company for Wendys
- If you are not the owner of the subject property, the property owner must complete the gray box below.

**I certify that I have completely read this application and instructions, that I understand all it includes, and that the information in the application and the attached forms is correct.**

Applicant signature:  Date: 03-06-2025

This application must be uploaded at [https://fountaininn\\_pz.portal.iworq.net/portalhome/fountaininn\\_pz](https://fountaininn_pz.portal.iworq.net/portalhome/fountaininn_pz) by clicking on the "Variance" icon.

PROPERTY OWNER	
Property owner name (authorized representative if corporation):	<u>Tim Jacobs</u>
Mailing Address:	<u>11012 Anderson Rd., Piedmont, SC 29673</u>
Phone:	<u>864 654-0004</u>
Email:	<u>timj@fsmc256.com</u>
<b>I certify that the applicant listed above has my permission to represent this property in this application.</b>	
Signature:	<u></u>
Date:	<u>03-06-2025</u>

## INFORMATION ABOUT REQUEST

### Description of your request (be specific):

Due to extraordinary and exceptional conditions that pertain to Wendys, located at 303 McCarter Rd. Wendys is requesting to be allowed to raise their sign to start above the fenceline that will be blocking the view of their monument sign. This will put Wendys' sign starting approximately 7' high from the ground, which will cause the sign to be higher than the City of Fountain Inn's sign ordinance, making the top of the sign to reach 13'.

Also, due to the building having to be moved back further on the property, Wendys is requesting 2 additional logo signs to be installed on the building, one on each side. There will be a total of 4 signs on the property. The square footage of the building signs will still remain under the 100 square feet allowed by the City of Fountain Inn.

**Findings of fact:** Under state law, the Board of Zoning Appeals must find that your request satisfies **all four** of the following statements. Please explain why you believe your request satisfies each of the statements.

1. The land has extraordinary and exceptional conditions that pertain to it.

Please see Variance Attachment A

2. A literal interpretation of the provisions of the Ordinances for the City of Fountain Inn would deprive the applicant of rights commonly enjoyed by other properties in the same district or area under the terms of the zoning Ordinance of the City of Fountain Inn.

Please see Variance Attachment B

3. The special conditions and circumstances do not result from the actions of the applicant.

These special conditions and circumstances do not result from the actions of the applicant. Wendys is complying with the guidelines from SCDOT and the requirements from the City of Fountain Inn.

4. Granting any variance requested will not confer on the applicant any special privilege that is denied by this Ordinance to other lands, structures or buildings in the same area or district.

Wendys is requesting to have the same visibility granted to the other food establishments located on McCarter Rd., as stated in question 2(See Variance Attachment B).

The city of Fountain Inn made the sign ordinance with the requirement of the building to be within 15' to 20' from the road, which would allow the front building sign to be close to the road. Because the building had to be moved back 112' on the property due to SCDOT guidelines, Wendys is no longer located within the 15' to 20' the City of Fountain Inn requires.

The City of Fountain Inn requires Wendys to have an opaque fence built between the resident and Wendys. This causes the monument to be blocked on 1 side of the road. This has caused disparity for Wendys.

5. The variance requested will be in harmony with the general purpose and intent of the Ordinances of the City of Fountain Inn and will not be injurious to the neighborhood or otherwise detrimental to public welfare.

Additional signage is necessary due to the disadvantage of the building having to be moved back and the fence erected. The signage requested in this variance will be compliant with the City of Fountain Inn and it will promote an inviting, pedestrian-friendly environment with the general purpose and intent of the Ordinances of the City of Fountain Inn. The additional logos will not affect the neighbor. It will be similar to existing signage and will not be injurious to the neighborhood or otherwise detrimental to public welfare.

6. The variance requested is a minimum variance that will make possible the legal use of the land, buildings, or structures.

Because of the building being moved back on the property, trees in the way of viewing the property along with a 6' fence being erected, Wendys is requesting an additional logo be allowed on each side of the building. Adding these logos will still keep the wall signage under 100 square feet which is required by the City of Fountain Inn. Wendys is also requesting the monument be heightened to be visible above the fence.

**List any exhibits that you have provided to help explain your request to the Board. Site plans and photographs are usually very helpful.**

Wendys303McCarterRdSitePlan  
Wendys303McCarterRdSignAllowanceWithVariance  
Wendys303McCarterRdSignAllowancePerSignOrdinance  
Wendys303McCarterRdProposedVarianceMonumentSign  
Wendys303McCarterRdProposedVarianceRighBuildingtSideLogo  
Wendys303McCarterRdProosedVarianceLeftSideElevationLogo  
WendysFountainInnSignPermitBuildingFrontElevation  
Wendys303McCarterRdLocationOnMcCarterRd  
Wendys303McCarterRdFoodEstablishmentsAndSignageOnMcCarterRd  
Wendys303McCarterRdVariance Application  
VarianceAttachmentB  
VarianceAttachmentA

WendysFountainInnSignPermitApplication

## VARIANCE ATTACHMENT A

### Question 1: The land has extraordinary and exceptional conditions that pertain to it.

Wendys' property is an "L" shaped property that has access to 2 roads. Wendys has an entrance/exit lane to their property from Nash Rd on the left backside of the property, and an entrance/exit lane from McCarter Rd on the left front side of the property. Wendys' property is a corner lot, yet there is a residence on the property that is located in the front corner section between Wendys and Nash road. This property contains a house and a shed.

There is also a 6' privacy fence that will be erected between this neighbor's property and Wendys' property. The fence is a requirement of the City of Fountain Inn due to residential property being located next to a commercial property. The visibility that companies usually receive from a corner lot is not prevalent for Wendys. Wendys is the only food establishment property on McCarter road to have a resident next door to them, and the only food establishment property to have an opaque fence next to their property blocking visibility of their business.

SCDOT only allows 1 entrance/exit on McCarter Rd. Also, SCDOT guidelines require the driveway on Wendys to align with the driveway for McDonalds(which is located across the street). With allowing only 1 lane for the entrance/exit on McCarter Rd., and requiring this entrance/exit to be on the same side as the drive thru lane exit, Wendys could not provide the drive thru traffic and the passing lane traffic to fit within the setback requirements for the City of Fountain Inn.

When the property was purchased, Wendys' property had to have an interparcel easement for the neighbor's property located to the right side of Wendys' property. The detention pond was going to be placed in the back of the property, but due to the slope of the property, the detention pond had to be placed on the right side of the property next to the interparcel easement. Due to the detention pond being on the side of the property, the building couldn't be moved to the right to remedy the traffic congestion that would occur with the drive thru, passing lane and the front entrance/exit. Because of this, the only way to meet SCDOT requirements was to apply for a Variance in 2023 to be able to move the building back on the property 112'. This Variance was approved, and the building will now begin 112' from the curb.

Having a 6' fence erected by the property due to City of Fountain Inn regulations and having to move the building back 112' from the curb due to SCDOT guidelines, there are exceptional and extraordinary conditions that pertain to this property.

## VARIANCE ATTACHMENT B

Question 2. A literal interpretation of the provisions of the Ordinances for the City of Fountain Inn would deprive the applicant of rights commonly enjoyed by other properties in the same district or area under the terms of the zoning Ordinance of the City of Fountain Inn.

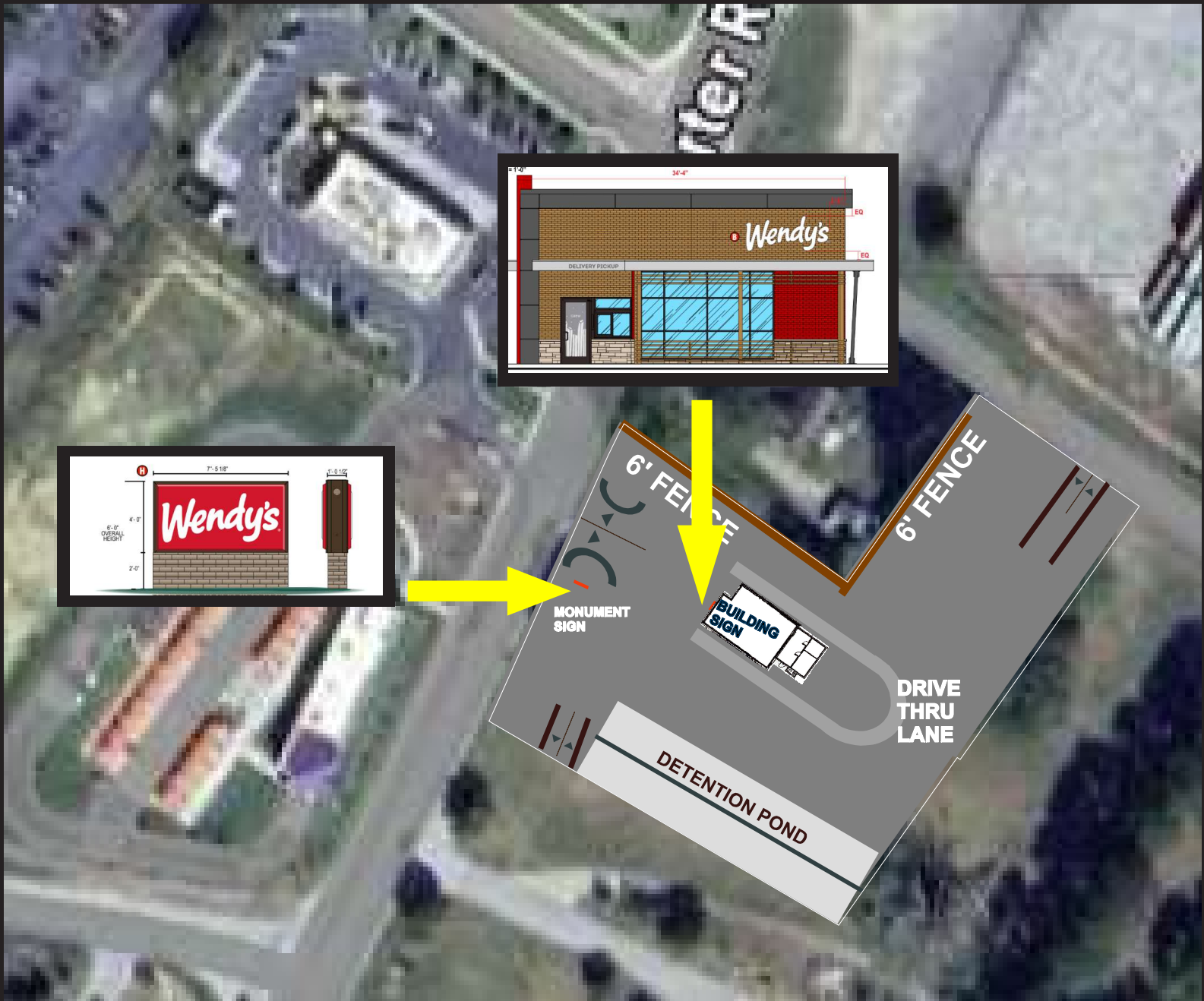
The City of Fountain Inn only allows for one building sign and one 6' tall monument sign. This ordinance was passed several years ago. In reviewing all the food establishments on McCarter Rd, all but one food establishment has signage on the front and side(s) of their building, and all the food establishments except one have their monument sign higher than 6'. The food industry is very competitive, and signage is what draws the patron's attention to their food establishment.

Because the opaque privacy fence is being erected between the residence and Wendys, the Ordinances for the City of Fountain Inn would hinder Wendys use of their monument, which deprives Wendys the rights commonly enjoyed by other properties.

The City's intent when writing the sign ordinance was to have the building within 15' – 20' of the road. Because the building had to be moved back on the property, the sign on the front of the building does not comply with the ordinance's intent. It is not located close to the road.

If Wendys' signage remains as one 6' monument and one sign on the front of the building, Wendys will not be conforming with the intent of the Ordinances for the City of Fountain Inn, and Wendys' will be at a severe disadvantage. But, if they are allowed to raise the height of the monument to be visible over the fence, keep their sign on the front of the building and put their logo on the 2 sides of the building, they will not be deprived the rights commonly enjoyed by the other properties in this same district.

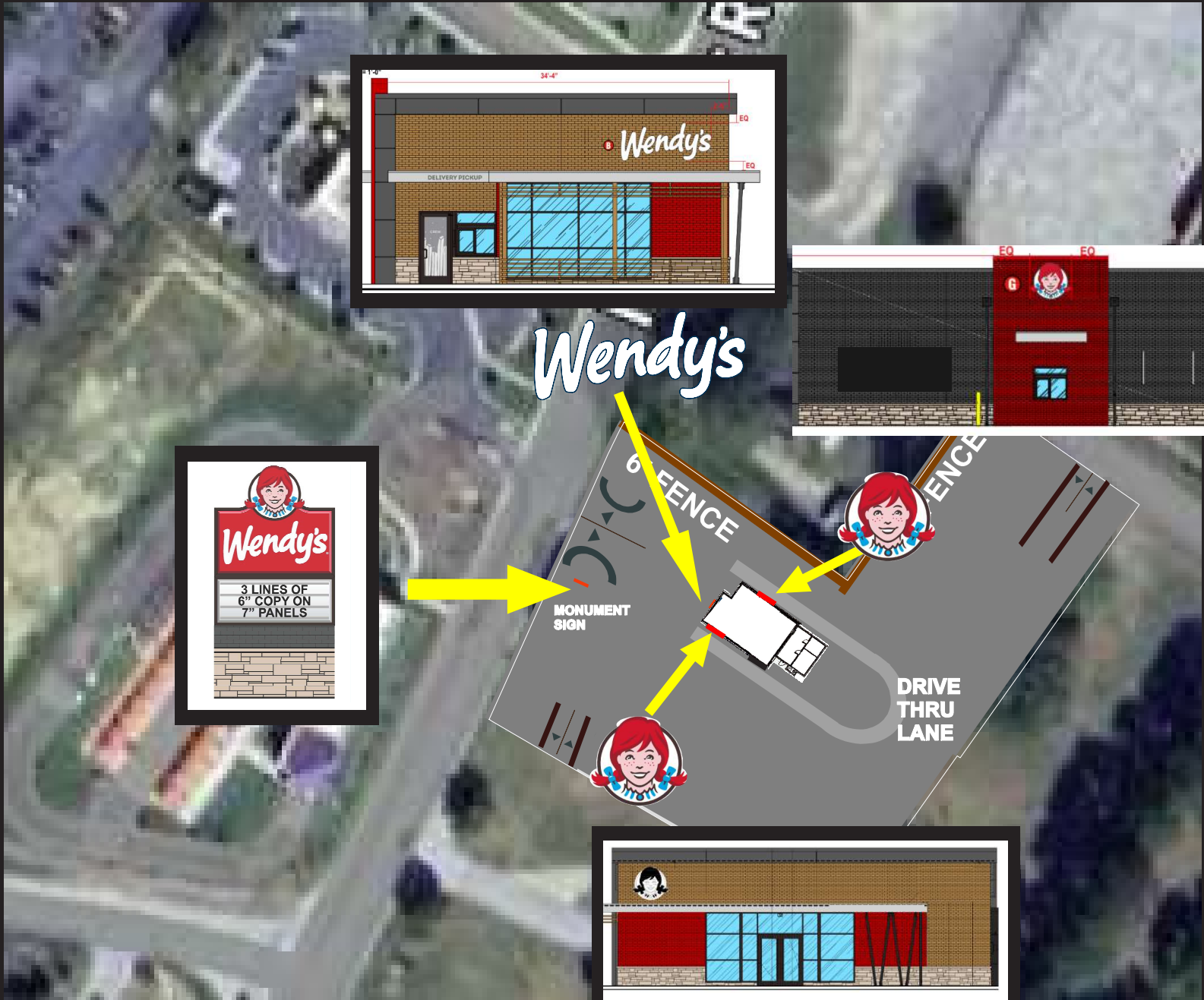
# WENDY'S' SIGN ALLOWANCE PER SIGN ORDINANCE GATEWAY CORRIDOR OVERLAY



# WENDY'S LOCATION ON MCCARTER RD. GATEWAY CORRIDOR OVERLAY



# WENDY'S' SIGN ALLOWANCE WITH VARIANCE GATEWAY CORRIDOR OVERLAY



# FOOD ESTABLISHMENTS ON MCCARTER RD GATEWAY CORRIDOR OVERLAY

**QT**  
1 Monument over 6'  
2 Signs on Canopy  
3 Signs on Building

**Zaxby's**  
1 Monument over 6'  
1 Sign on Building

**McDonald's**  
1 Monument over 6'  
4 Signs on Building

**Starbucks**  
1 Monument  
3 Signs on Building

**Bojangles**  
1 Monument over 6'  
2 Signs on Building

**Dunkin'**  
1 Monument  
3 Signs on Building

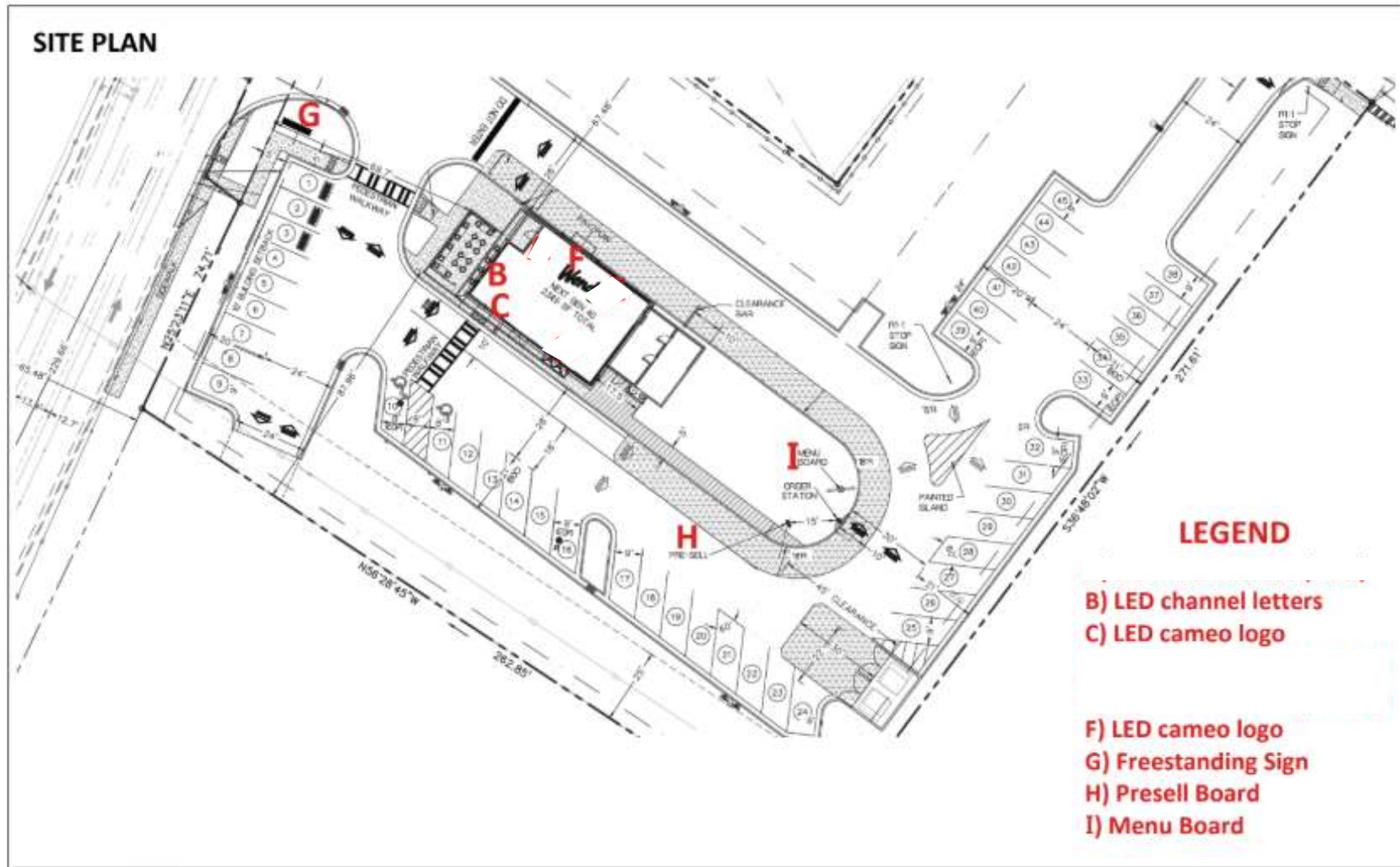
**Wendy's**

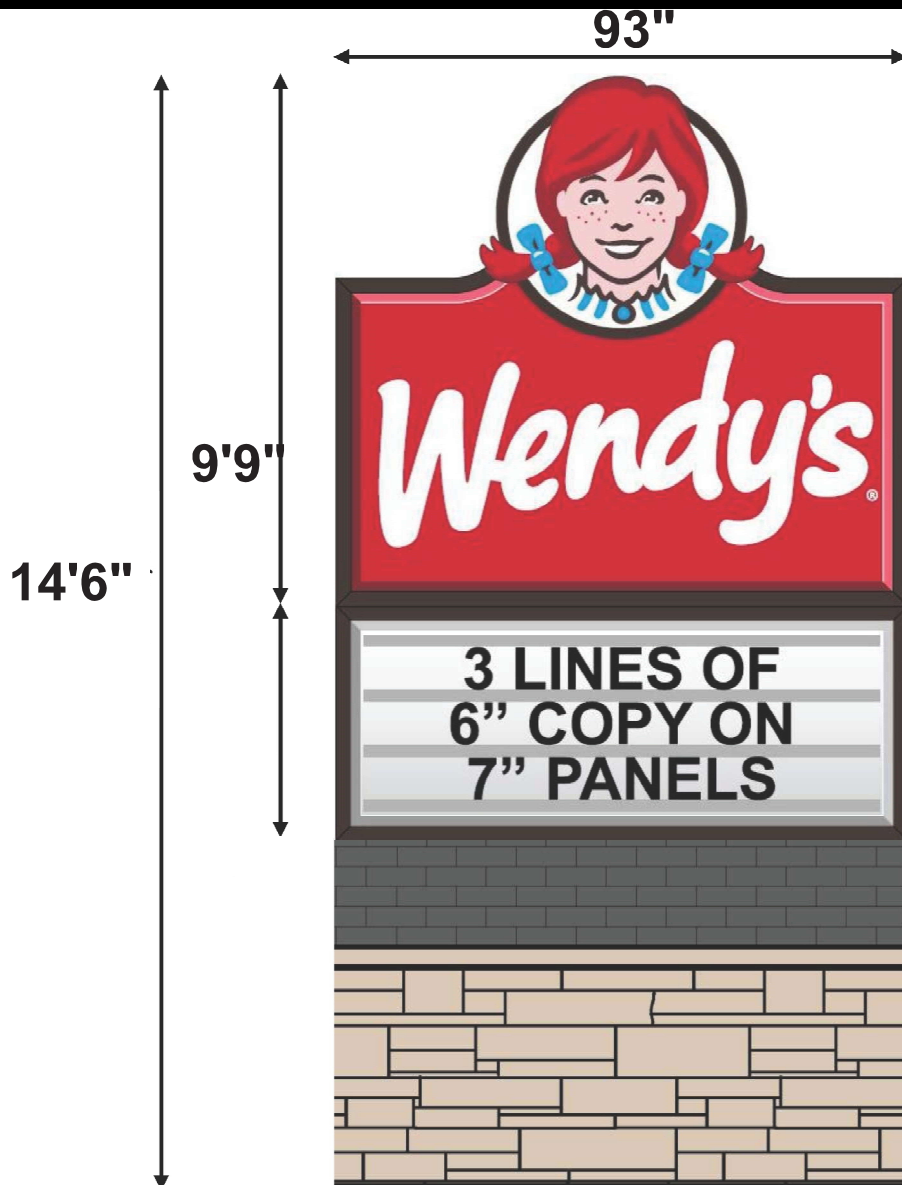
Woodside Ave  
McCarter Rd  
Dunkin' Drive Thru Lane  
8' FENCE  
6' FENCE

# WENDYS' VARIANCE SITE PLAN

## 303 MCCARTER RD

### GATEWAY CORRIDOR OVERLAY



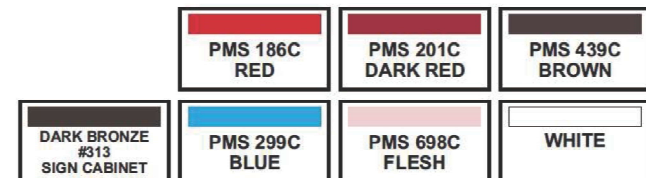


### WENDY'S DOUBLE FACE CABINET

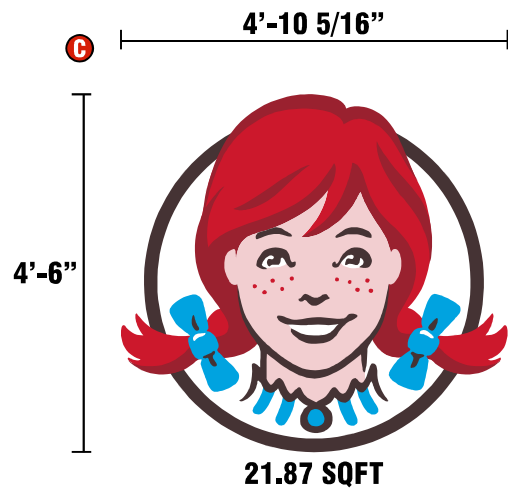
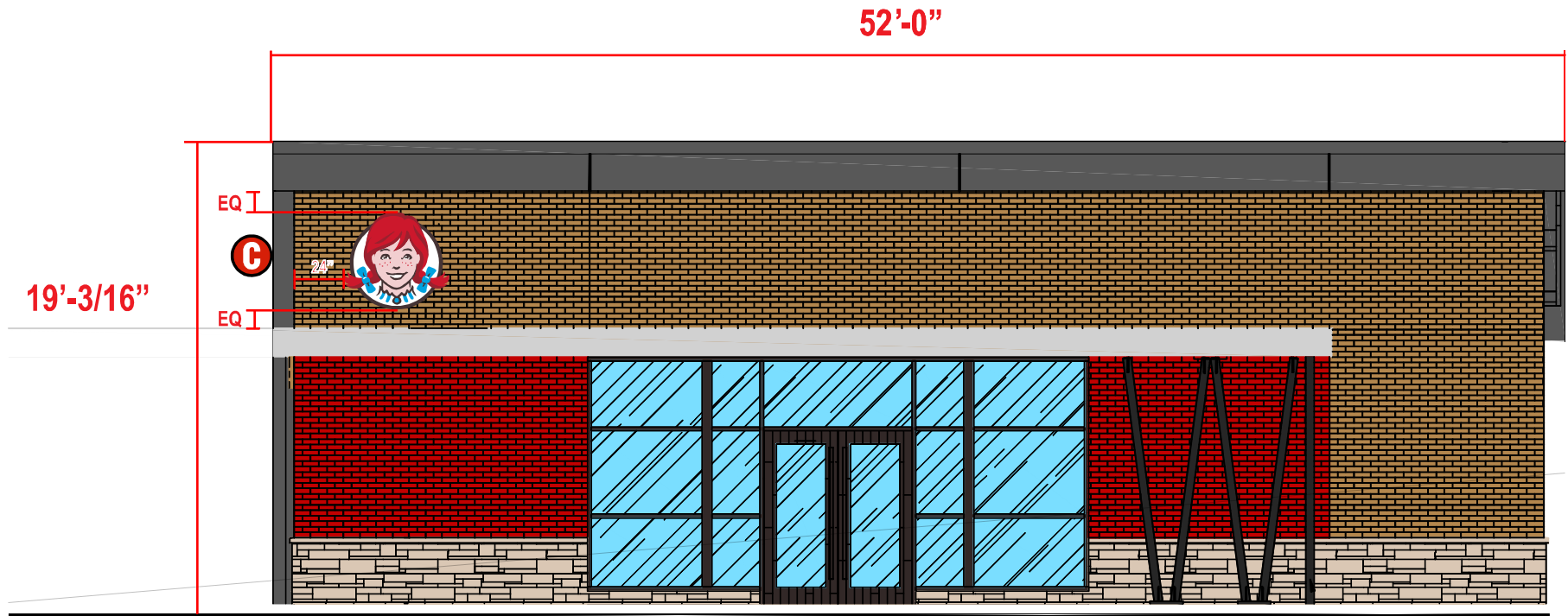
- 2" Retainers
- Aluminum Cabinet Construction
- Illuminated with Fluorescent H.O. Lamps or White LEDs
- Cameos Are Illuminated with White LEDs
- Clear Polycarbonate Panned & Embossed Faces
- Vinyl Graphics Second Surface
- Thermo-Formed ABS Plastic Pole Cover

### READER BOARD CABINET

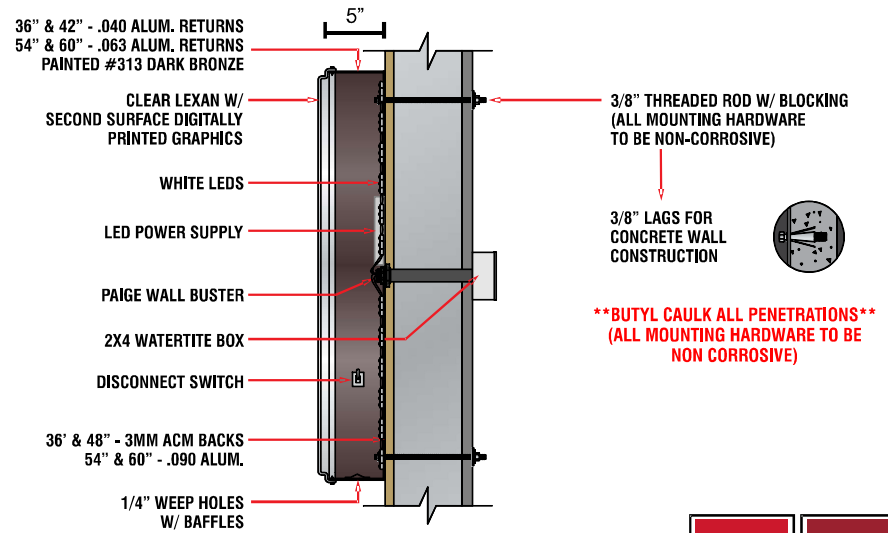
- 2" Retainers
- Aluminum Cabinet Construction
- Illuminated with Fluorescent H.O. Lamps or White LEDs
- Clear Polycarbonate Panned Faces
- 3 Lines of 6" Copy on 7" Panels



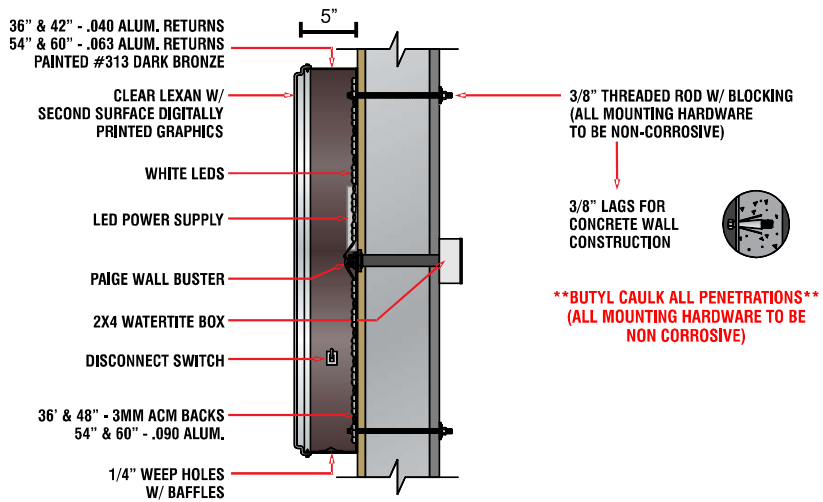
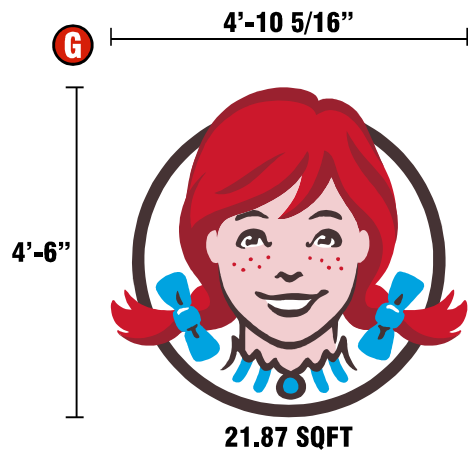
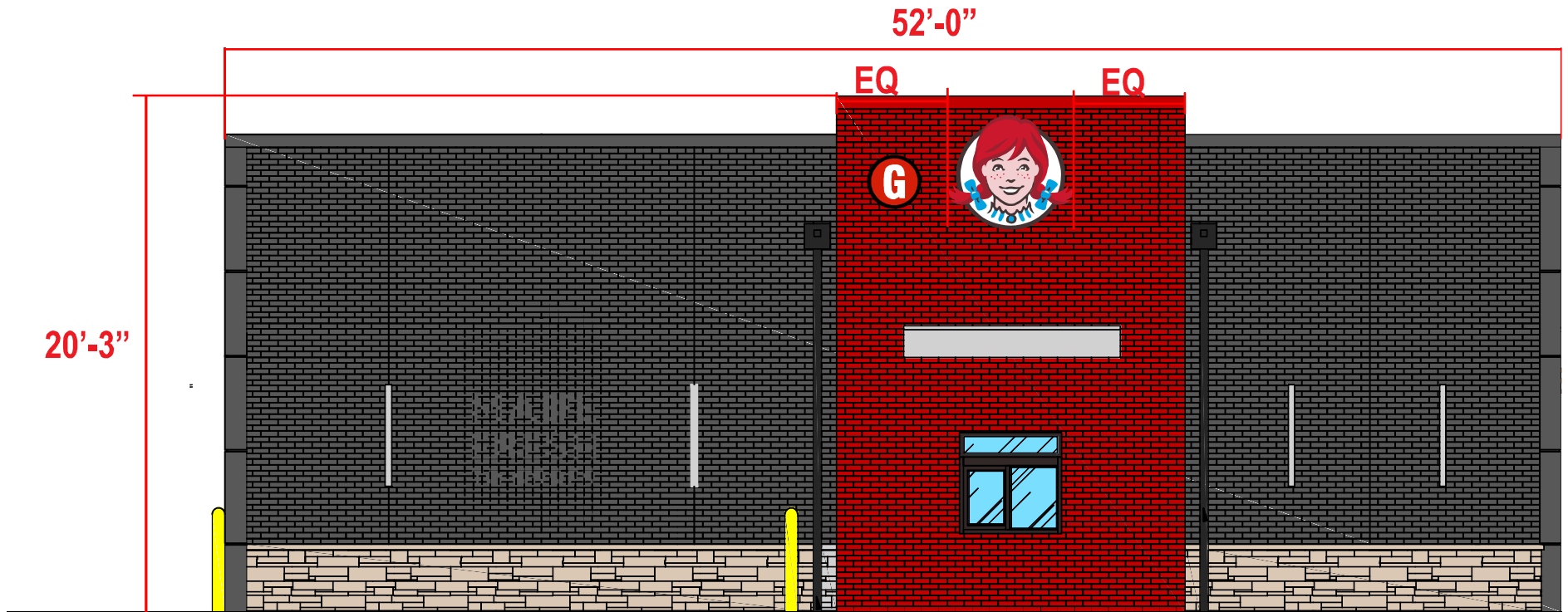
**C** 54" WENDY'S CAMEO



**RIGHT SIDE ELEVATION**



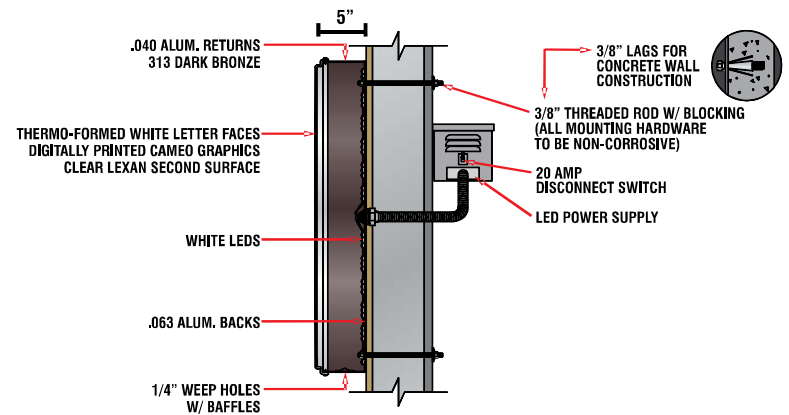
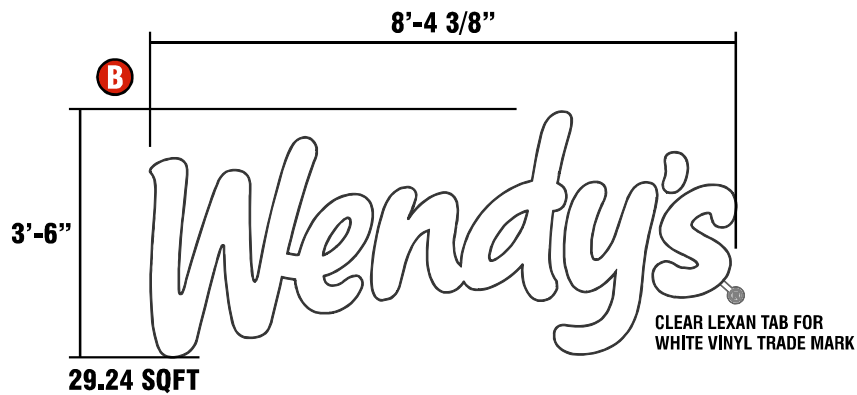

**G** 54" WENDY'S CAMEO



DARK BRONZE #313 SIGN CABINET	PMS 186C RED	PMS 201C DARK RED	PMS 439C BROWN
	PMS 299C BLUE	PMS 698C FLESH	WHITE

**LEFT SIDE ELEVATION**

**B** 42" WENDY'S CHANNEL LETTERS



**FRONT ELEVATION**

	PMS 196C RED	PMS 201C DARK RED	PMS 439C BROWN
DARK BRONZE #313 SKN CABINET	PMS 299C BLUE	PMS 698C FLESH	WHITE