

CITY OF FLORENCE BOARD OF ZONING APPEALS
CITY CENTER – COUNCIL CHAMBERS
324 WEST EVANS STREET, FLORENCE, SC
THURSDAY, MARCH 28, 2024 – 6:00 P.M.
MEETING AGENDA

I. Call to Order

II. Approval of Minutes Regular meeting held on February 22, 2024

III. Public Hearing and Matter in Position for Action

BZA-2024-03 Appeal from the ruling of the zoning official regarding the property at 1931 Second Loop Road in the AC zoning district; identified as Tax Map Number 90029-01-022.

IV. Matter of Discussion HBS Motorsports Freestanding Sign

V. Adjournment

The next meeting is scheduled for April 25, 2024.

**MINUTES OF THE REGULAR MEETING OF THE
CITY OF FLORENCE BOARD OF ZONING APPEALS
FEBRUARY 22, 2024**

MEMBERS PRESENT: Larry Chewning, Miriam James-Singley, Deborah Moses, and Nathaniel Poston

MEMBER ABSENT: Charlie Ipock, Jermaine Nowline, and Michael Valrie

STAFF PRESENT: Derek Johnston and Alane Zlotnicki

CALL TO ORDER: Chairman Larry Chewning called the meeting to order at 6:00 p.m.

APPROVAL OF MINUTES: Chairman Chewning introduced the January 25, 2024 minutes and asked if there were any changes that needed to be made. There being none, he called for a motion. Ms. James-Singley moved that the minutes be approved as submitted; voting to approve the minutes was unanimous (4-0).

PUBLIC HEARING AND MATTER IN POSITION FOR ACTION:

BZA-2024-02 Request for a variance from the size requirements for an accessory structure to be located at 200 South Franklin Drive in the NC-6.1 zoning district; identified as Tax Map Number 90062-09-008.

Chairman Chewning introduced the request and asked staff for their report. Mrs. Zlotnicki gave the staff report as submitted to the Board of Zoning Appeals. She emphasized that the single 1200 square foot building being proposed was only slightly larger than the combined 1108 square feet of the four smaller structures currently on the lot. The only variance needed is for the maximum size because the building meets the setbacks as well as the compatibility requirements of the Ordinance.

Mr. Poston asked if she'd received any phone calls; Mrs. Zlotnicki said that a few neighbors called in with questions about what the variance was for, and when they were told the details, they didn't have any issues with the request. The maximum area for a detached accessory structure allowed would be 600 square feet based on the size of the house, and then a detached garage would also be permitted, with a typical area of 780 square feet, for a total of around 1380 square feet, which is less than what the applicant is requesting.

There being no other questions for staff, Chairman Chewning opened the public hearing. There being no one to speak either for or against the request, he closed the public hearing and swore in Brian Emmen, the applicant. Mrs. Moses asked if the structure could be seen from the front of the house. Mr. Emmen explained that it is behind the house from Gregg Avenue, but to the side of the house from Franklin Avenue, which is why they are making it match the house. He explained that they wanted to remove the four buildings currently on the lot and replace them with this one larger structure. He said the address was changed from Gregg Avenue to Franklin Drive because of the way the school district lines were drawn.

Mrs. Zlotnicki said that for zoning purposes, the house is considered to be facing Gregg Avenue, making the accessory structure located in the back yard.

Mr. Poston asked Mr. Emmen how long he'd lived there; he said since 2007. He said the neighbors were fine with what he was doing.

There being no further questions from the Board and no one else to speak for or against the request, Chairman Chewing closed the public hearing and asked for a motion.

Mr. Poston moved that the variance be granted, subject to the following findings of fact and conclusions:

1. That a variance from the terms of the *Unified Development Ordinance* will not be contrary to the public interest where, owing to special conditions, a literal enforcement of the provisions will in an individual case, result in an unnecessary hardship.

Adherence to the terms of the Ordinance would not prevent the owner from constructing an accessory structure, but it cannot be as large as he has requested. The four units to be removed will be replaced by this one building.

2. That the spirit of the *Unified Development Ordinance* will be observed, public safety and welfare secured, and substantial justice done.

The intent of the Ordinance is to control the size and number of accessory buildings in order to minimize the impact on neighboring parcels. The one structure proposed will replace four smaller structures.

3. That there are extraordinary and exceptional conditions pertaining to the particular piece of property.

The parcel is on the corner of the block and has no vegetative buffer or fencing. The lot is similar in size and shape to other corner lots within the area.

4. That these conditions do not generally apply to other property in the vicinity.

Most lots are similar with numerous detached structures.

5. That because of these conditions, the application of the *Unified Development Ordinance* to this particular property would effectively prohibit or unreasonably restrict the utilization of the property as follows.

Adherence to the terms of the Ordinance would result in the inability of the owner to construct the accessory structure he is proposing which is intended to replace four structures.

6. That 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.

The proposed structure is intended to replace four smaller structures and will match the house in colors and materials.

Ms. James-Singley seconded the motion, and voting to approve the variance was unanimous (4-0).

ADJOURNMENT: As there was no further business, Ms. James-Singley moved to adjourn the meeting and the motion passed unanimously (4-0). The Board adjourned at 6:17 p.m. The next regular meeting is scheduled for March 28, 2024.

Respectfully submitted,
Alane Zlotnicki, AICP
Senior Planner

**DEPARTMENT OF PLANNING, RESEARCH & DEVELOPMENT
STAFF REPORT TO THE
CITY OF FLORENCE BOARD OF ZONING APPEALS**

MEETING DATE: March 28, 2024
APPEAL NUMBER: BZA-2024-03
NATURE OF APPEAL: Appeal of the City’s decision to deny hookah smoking
LOCATION: 1931 Second Loop Road
TAX MAP NUMBER: 90029-01-022
OWNER OF RECORD: Shakman Holdings, LLC
APPLICANT: Terrence Trower
ZONING DISTRICT: Activity Center (AC)

Background Information

On March 30, 2023, a zoning permit was issued for the Absolem Lounge to operate a restaurant. On the permit it was specified that a hookah lounge was not permitted at this location per section 1-2.8.4 of the *Unified Development Ordinance* regarding specialty uses (Attachment E).

On February 23, 2024, the business owner, Terrance Trower, applied to the Board of Zoning Appeals to appeal the City’s decision to deny the use of hookah in his restaurant.

Grounds for Appeal

The following information was submitted by the applicant:

- 1. Applicant hereby appeals to the Board of Zoning Appeals from the action of the Zoning Official affecting the property at 1931 Second Loop Road on the grounds that: denial of the ability to smoke hookah inside was erroneous and contrary to provisions of the *Unified Development Ordinance* in Section 1-2.8.4. *It is a bar and grill but I want to be able to serve and rent narghile and hookah inside. We can use tobacco, non-tobacco, or vape liquid. We operate as a members only restaurant. We have a membership system requirement at the door and reserve the right to revoke membership. Part of our membership is an agreement waiver to be around smoke (tobacco). We are also willing to go exclusively non-tobacco.***
- 2. Applicant is aggrieved by the action or decision in that: *We believe we meet the requirements to be defined as a specialty use building in order to allow hookah to be served inside the restaurant as opposed to outside only. This ruling affects our ability to retake our former niche as a bar and grill that offers hookah.***

3. **Applicant contends that the correct interpretation of the *Unified Development Ordinance* as applied to the property is:** *The property is defined on tax records as a retail lot and it shares a parking lot with three other non-specialty businesses. Thus it can be defined as a retail shopping center allowing specialty use in this building.*
4. **Applicant requests the following relief:** *Hookah inherently poses no threat to the public good and this has been discussed at great length with surrounding businesses.* ” *Suggested conditions include* *continue membership protocol with specific verbiage in agreement section about tobacco smoke.*

Issues to be Considered

Staff’s denial of the ability to operate a hookah lounge at this location is based on the following information from the *Unified Development Ordinance*:

Division 7-25.2 Definitions:

Private Club means organizations or associations of persons for some common purpose, such as a fraternal, social, educational or recreational purpose, but not including clubs organized primarily for-profit or to render a service which is customarily carried on as a business. Examples of private clubs include (but are not limited to) 4-H Clubs, veterans organizations, Boy Scout and Girl Scout facilities, Elks Lodges, YMCA, YWCA, private community clubhouses, golf clubhouses, and fraternities and sororities that do not include residential facilities. **The phrase "private club" does not include organizations with a principal purpose of serving alcoholic beverages to its members or others.**

Specialty Use means a commercial use that tends to be an indicator of urban blight, particularly when located in close proximity to established residential areas. **This phrase includes**, but is not limited to:

- A. Tattoo parlors;
- B. Shops where smoking tobacco and other products is permitted, such as a cigar shop or **hookah bar**;
- C. Shops that principally sell paraphernalia associated with the use of illicit drugs, such as water pipes, roach clips, glass pipes, pipe screens, vaporizers, rolling papers, rolling machines, scales or balances, blacklight- responsive posters, incense, cigarette lighters, whipped-cream chargers and taps, and products claimed to give false negative results for drugs on urinalysis tests;
- D. Consignment stores;
- E. Thrift stores;
- F. Retail stores that stock some sexually related goods but not at the volume where they are classified as a sexually oriented business;
- G. Movie rental stores and theaters that offer some sexually explicit movies but not at the volume where they are classified as sexually oriented businesses;
- H. Pawn shops;
- I. Bail bonds;

- J. Payday loans and check cashing stores; and
- K. Title loans.

Table 1-2.7.3 lists Private Clubs as a Conditional Use in the AC zoning district. Those Conditions are listed in Section 1-2.8.3 Institutional, Recreation, and Amusement Use Standards:

G. Private Clubs are permitted if it is demonstrated that:

1. The use will be operated in accordance with all applicable laws and, if a state permit is required, such permit shall be obtained prior to beginning operation;
2. The use will be operated in accordance with all other applicable provisions of the City's Code of Ordinances; and
3. Primary access to the site is from a collector or arterial street

Table 1-2.7.4 lists Specialty Use as a Conditional Use in the AC zoning district. Those Conditions are listed in Section 1-2.8.4 Commercial Use Standards:

R. Specialty Uses are permitted if it is demonstrated that:

1. In the CBD district:
 - a. The use is located within a building that contains spaces devoted to at least two businesses other than the specialty use;
 - b. There is no more than one specialty use located within a radius of 300 feet;
 - c. Security measures associated with the use do not include metal bars or roll-down shutters over doors and windows.
2. In the CG, (Commercial General), AC (Activity Center), and DS (Destination / Select Use) districts:
 - a. There is no more than one specialty use located within a radius of 750 feet; and
 - b. The use is located within a retail center that contains spaces devoted to at least two businesses other than the specialty use; and
 - c. Security measures associated with the use do not include metal bars or roll-down shutters over doors and windows.

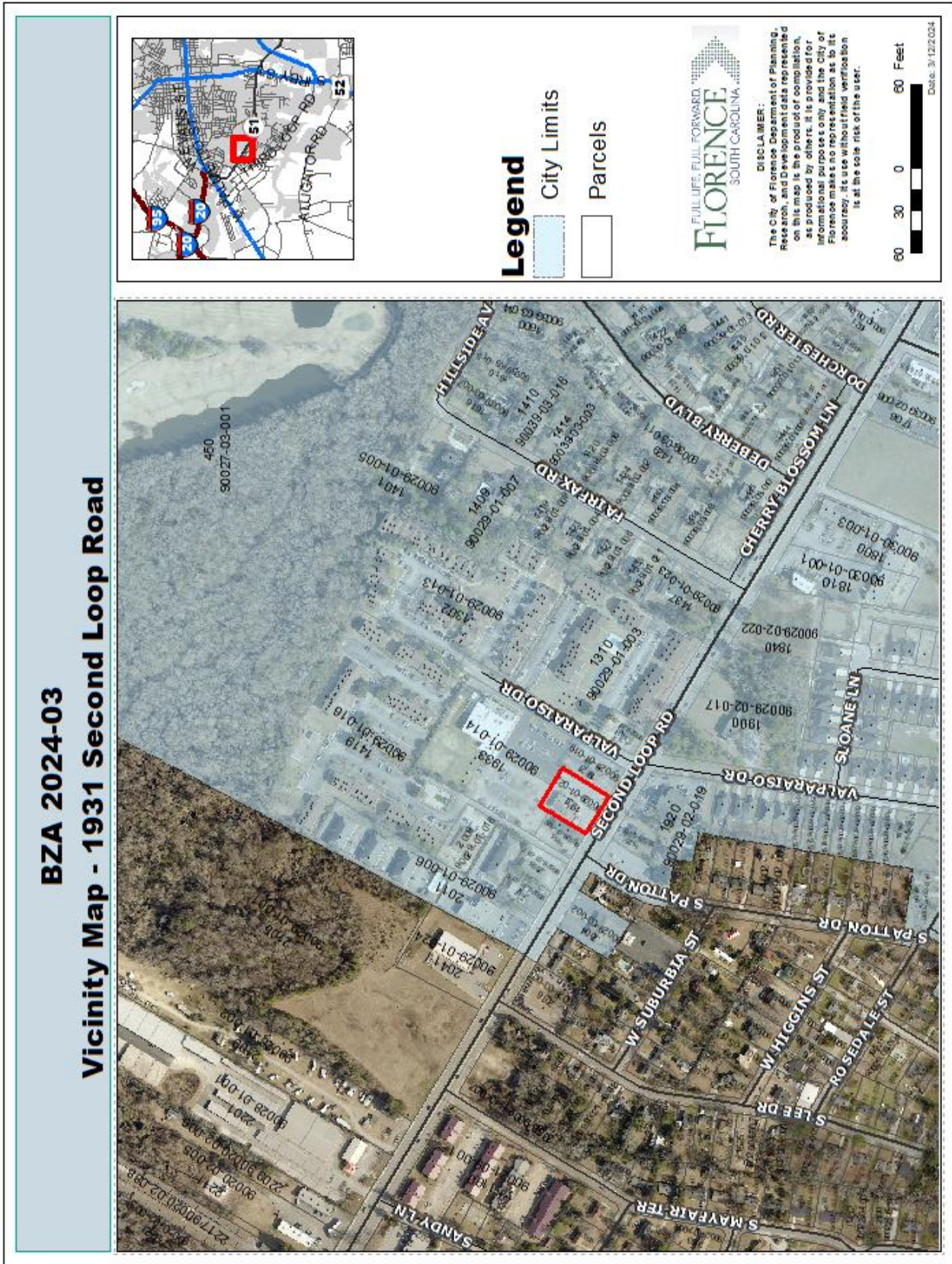
“Retail Center” is not defined in the UDO. According to “Planners Dictionary”, a “Shopping Center” is defined as a group of commercial establishments planned, constructed, and managed as a total entity with customer and employee parking provided on site.

Staff contends that this business is a stand-alone structure on a distinct lot of record, and therefore does not meet the requirement of being located within a retail center.

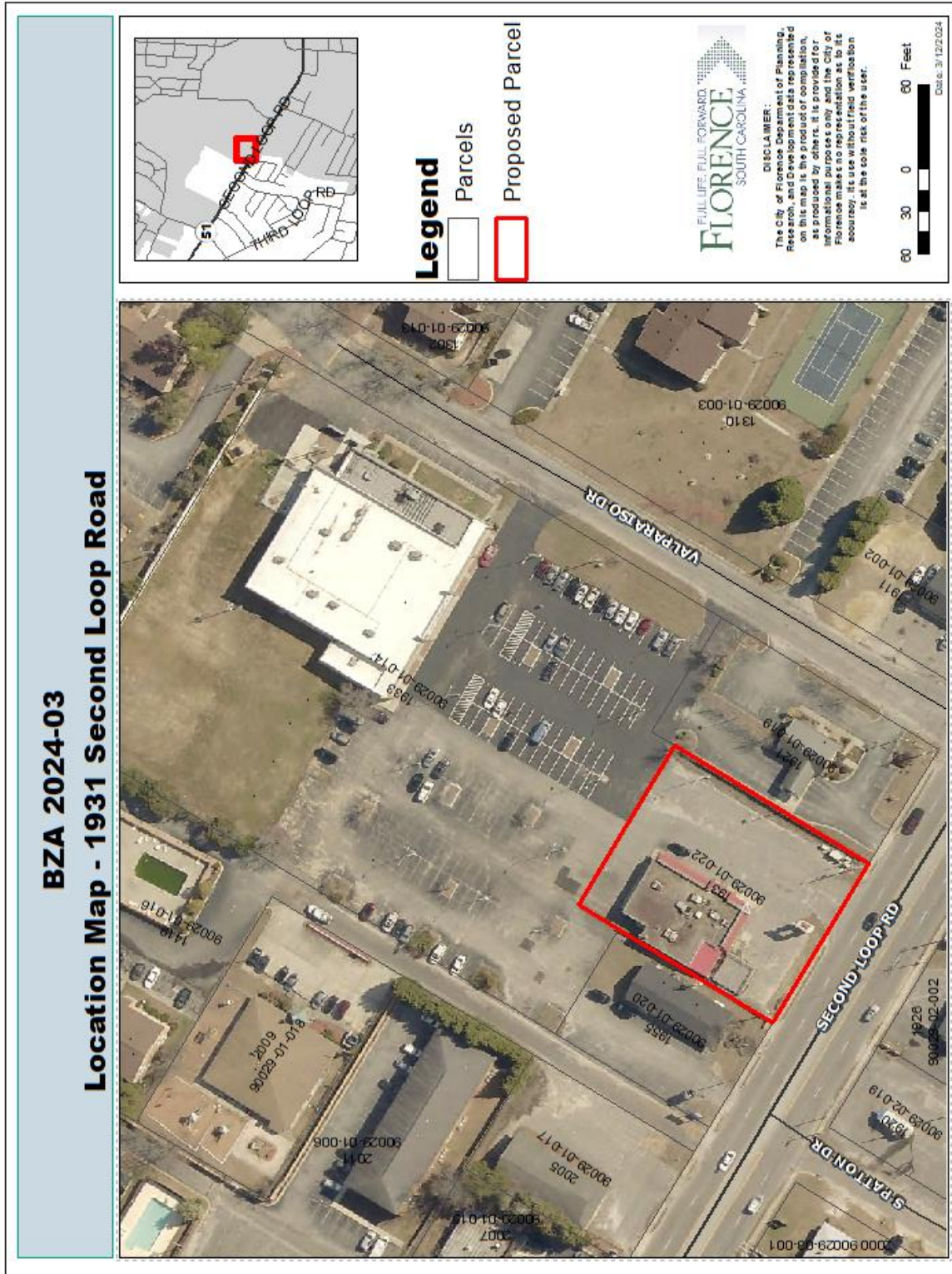
Attachments

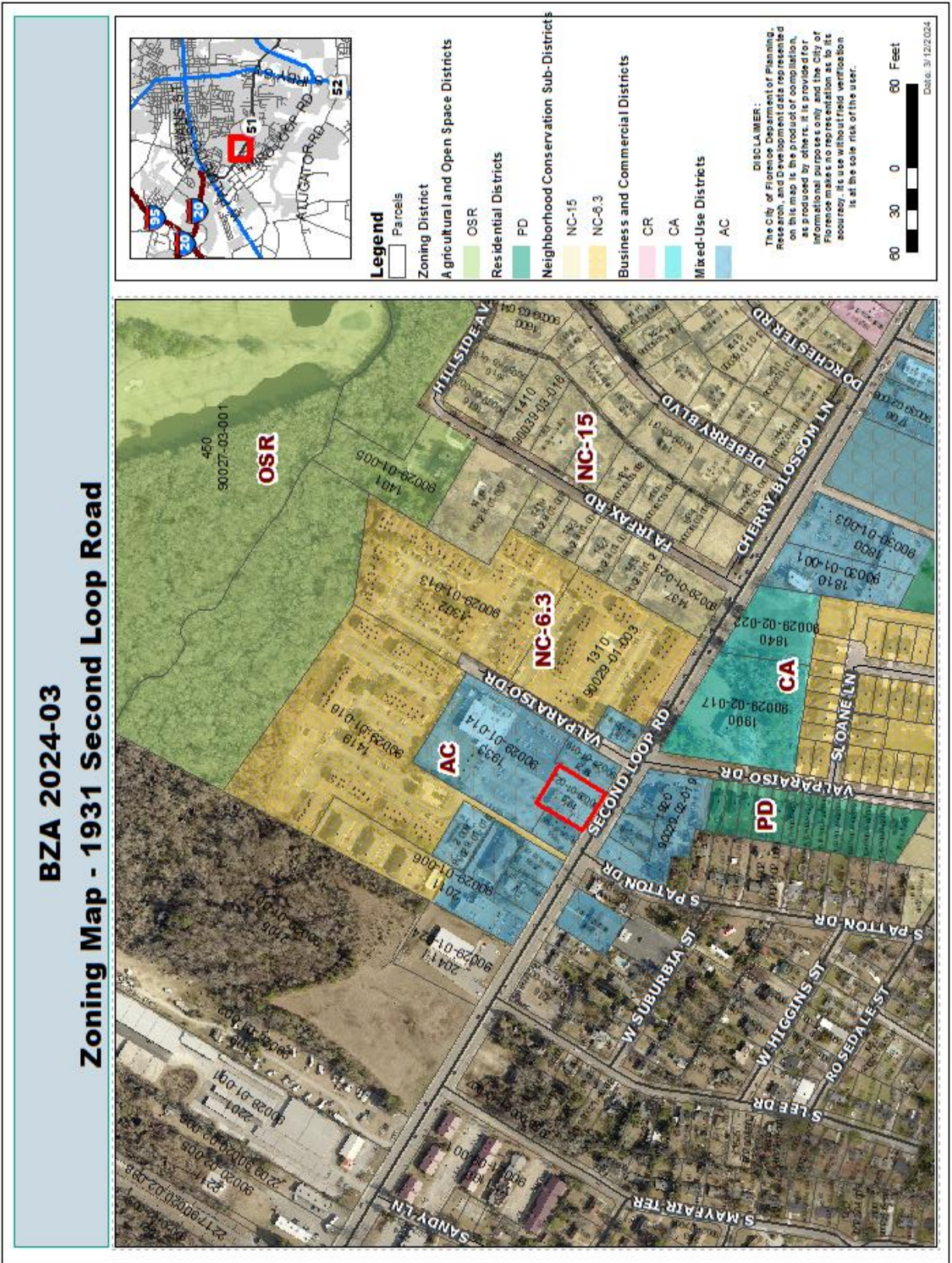
- A. Vicinity Map
- B. Location Map
- C. Zoning Map
- D. Future Land Use Map
- E. Zoning Permit
- F. Zoning Use Application
- G. Site Photos

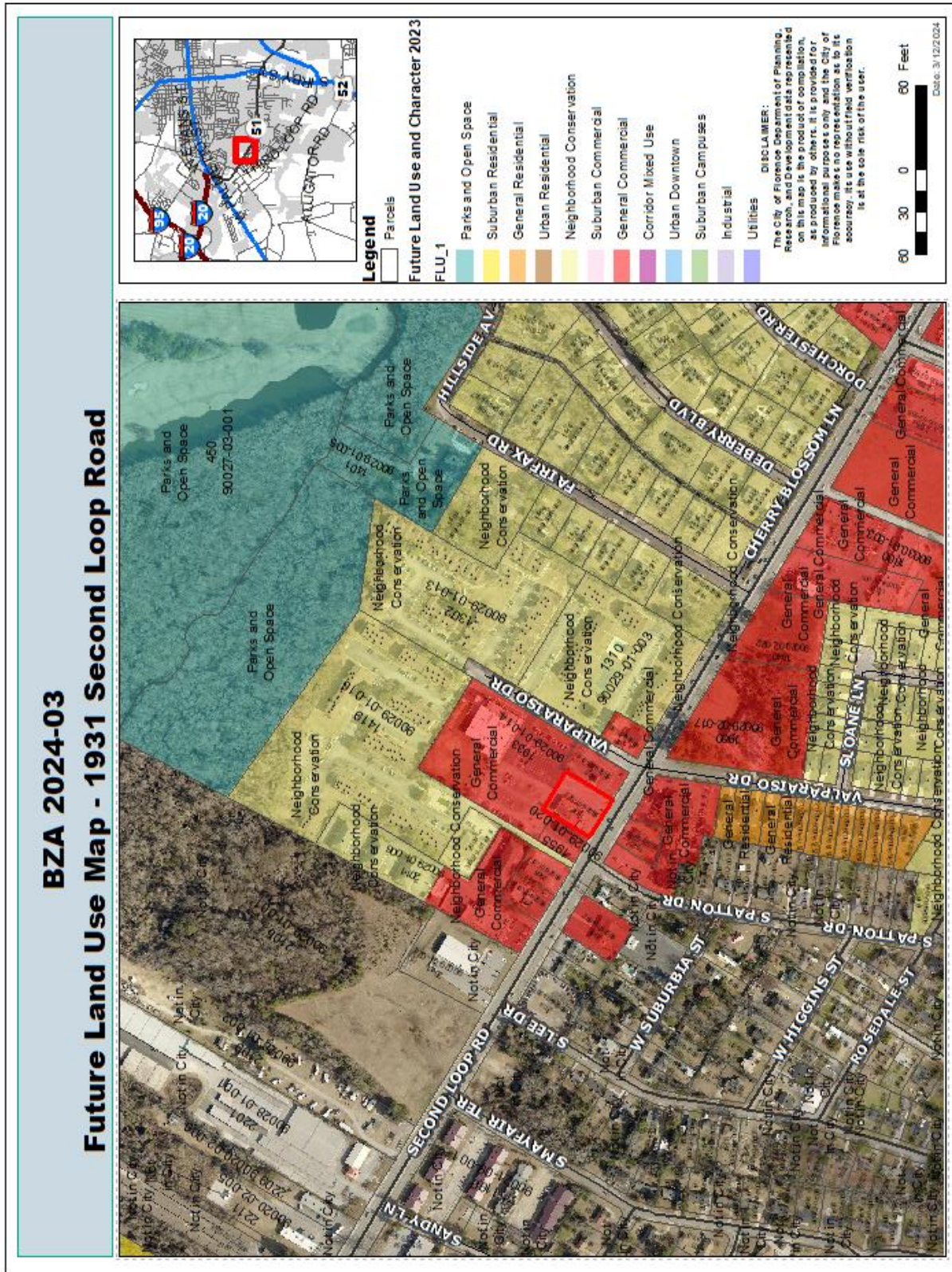
Attachment A: Vicinity Map



Attachment B: Location Map









City of Florence, SC

324 West Evans St.
 Florence, SC 29501
 Ph: (843) 665-2047

Case Reference

19642

Issue Date: 03/30/2023

Expiration Date: 03/29/2024

USE

Property Number	Street Address	Jurisdiction
90029-01-022	1931 SECOND LOOP RD	FLORENCE

Owner Information	Applicant Information
Owner: SHAKMAN HOLDINGS LLC Owner Address: 2537 14TH ST ASTORIA, NY 11102 Phone:	Applicant: TERENCE TROWER Applicant Address: 2734 WEST RIDGECREST CIRCLE FLORENCE, SC 29501 Phone: 803-315-7507

Use Requested	Zone Code
ZONING PERMIT FOR NEW RESTAURANT.	AC

Lot Acreage	Flood Zone	Overlay District
.597	N	

Remarks:

ABSOLEM LOUNGE
 BAR & GRILL RESTAURANT

MUST MEET THE REQUIREMENT OF A RESTAURANT TO HAVE A MINIMUM OF 50% OF SALES FROM FOOD. A HOOKAH BAR IS NOT PERMITTED AT THIS LOCATION PER SEC. 1-2.8.4 OF THE CITY OF FLORENCE UNIFIED DEVELOPMENT ORDINANCE.

Issued By: *A3*

Date: 3/30/23

Please be aware that private covenants and restrictions may apply to this property. Applicant must comply with all private covenants and restrictions for this property.

This Zoning Certificate is not a Building Permit or Business License.



City of Florence, South Carolina
 324 West Evans Street, Florence, SC 29501-3465
 Planning, Research, & Development Department
 Phone: (843) 665-2047

Zoning Compliance Permit Application for Land Use
 (Business License) \$25 Application Fee

Application Date: 3/30/23

Location Address: 1931 Second Loop Road

Property Owner Information:

Property Owner's Name: Shakman Holdings Address: Astoria, NY

Applicant Information:

Applicant's Name: Terrence Trower Address: 2734 w. Ridgecrest
 Telephone/E-mail: 803-315-7807 Circle Florence, SC 29501

Proposed Business Information:

Proposed Business Name: Absolom Lounge
 Business Type: Lounge Bar & Grill
 Previous Use: Bar

The information provided on this form and on any required site plan(s) is accurate and complete to the best of my knowledge. I understand that this Zoning Compliance Permit is specifically for the stated use(s) represented on the site plan and this document. I further understand that any proposed changes to the site which are not represented on the currently submitted site plan or Zoning Compliance Application will require a separate Zoning Compliance Permit from the City of Florence planning staff. I further understand that the information which I have provided is subject to on-site verification by Florence City building inspectors and Business License officers. I further understand that permit(s) are required for both temporary and permanent signs, including change-outs. Properties in overlay districts are subject to further review. The Zoning Compliance Permit will expire one year from issuance.

- Check here if Home-Based Occupation. Home occupations must comply with the standards of Section 1-2.10.1 of the Unified Development Ordinance.
- Check here if Mobile Food Vendor. Mobile vendors must comply with the conditions of Section 1-2.8.4 L of the Unified Development Ordinance.

Are there any **Covenants, Conditions, and Restrictions (CCRs)** that may restrict this use?

No: () please initial
 Yes: (), Provide a Copy

Signature: [Signature] Date: 3/30/23

Office Staff Use Only	
Assigned to: <u>OT</u>	Land Use: <u>Commercial</u>
TMP Number: <u>90029-01-022</u>	Building Type: <u>restaurant</u>
Application Number: <u>19642</u>	Zoning District: <u>AC</u> <u>0.597</u>

Attachment G: Site Photos



Board of Zoning Appeals Motion Worksheet

Case Number: BZA 2024-03 Nature of Request: Appeal of City's Denial of a Specialty Use

I move that we grant / deny the request for a variance based upon the following findings of fact:

1. That a variance from the terms of the *Unified Development Ordinance* will not / will be contrary to the public interest where, owing to special conditions, a literal enforcement of the provisions will, in this individual case, result in an unnecessary hardship, in that:

2. That the spirit of the *Unified Development Ordinance* will / will not be observed, public safety and welfare secured, and substantial justice done because:

3. That there are extraordinary and exceptional conditions pertaining to the particular piece of property, namely:

4. That these conditions do not generally apply to other property in the vicinity, in that:

5. That because of these conditions, the application of the *Unified Development Ordinance* to this particular property would effectively prohibit or unreasonably restrict the utilization of the property by:

6. That the authorization of a variance will not / will be of substantial detriment to adjacent property or to the public good, and the character of the district will not / will be harmed by the granting of the variance, because:

Guidelines applicable to the granting of a variance:

1. Profitability: the fact that a property may be used more profitably if the variance is granted may not be used as the basis for granting the variance.
2. Conditions: the BZA can put conditions on the granting of the variance.
3. Use Variance: the BZA cannot grant a variance that would allow a use not permitted in the zoning district.
4. Hardship: the hardship cannot be based on conditions created by the owner/applicant.

Notes: