

**BOARD OF ZONING ADJUSTMENT  
STAFF REPORT**

**Date: April 3, 2023**

<b><u>CASE NUMBER</u></b>	6501/6214
<b><u>APPLICANT NAME</u></b>	Robert Maurin
<b><u>LOCATION</u></b>	221 Dauphin Street (South side of Dauphin Street, 60'± East of South Joachim Street)
<b><u>VARIANCE REQUEST</u></b>	<b>SITE:</b> Site Variance to allow gallery columns to not have bases or capitals as well as a 16" thick gallery deck on a proposed building renovation in a T-5.2 Sub-district within the Downtown Development District.
<b><u>ZONING ORDINANCE REQUIREMENT</u></b>	<b>SITE:</b> The Zoning Ordinance requires gallery columns to have bases and capitals and prohibits gallery decks thicker than 9" in a T-5.2 Sub-district within the Downtown Development District.
<b><u>ZONING</u></b>	T-5.2, Downtown Development Sub-District
<b><u>AREA OF PROPERTY</u></b>	0.08± Acres
<b><u>CITY COUNCIL DISTRICT</u></b>	District 2
<b><u>ENGINEERING COMMENTS</u></b>	No comments.
<b><u>TRAFFIC ENGINEERING COMMENTS</u></b>	No comments.
<b><u>URBAN FORESTRY COMMENTS</u></b>	Property to be developed in compliance with state and local laws that pertain to tree preservation and protection on both city and private properties [Act 929 of the 1961 Regular Session of the Alabama Legislature (Acts 1961, p. 1487), as amended, and City Code Chapters 57 and 65]. Private removal of trees in the right-of-way will require approval of the Mobile Tree Commission. Removal of heritage trees from undeveloped residential sites, developed residential sites in historic districts, and all commercial sites will require a tree removal permit.

**FIRE DEPARTMENT  
COMMENTS**

All projects within the City Limits of Mobile shall comply with the requirements of the City of Mobile Fire Code Ordinance (2021 International Fire Code). Fire apparatus access is required to be within 150' of all commercial and residential buildings. A fire hydrant is required to be within 400' of non-sprinkled commercial buildings and 600' of sprinkled commercial buildings.

**ANALYSIS**

The applicant is requesting a Site Variance to allow gallery columns to not have bases or capitals as well as a 16" thick gallery deck on a proposed building renovation in a T-5.2 Sub-district within the Downtown Development District; the Zoning Ordinance requires gallery columns to have bases and capitals and prohibits gallery decks thicker than 9" in a T-5.2 Sub-district within the Downtown Development District.

The site had the same variance request approved by the Board of Adjustment at its November 5, 2018 meeting, but no permits were obtained, and the variance was allowed to expire. The applicant is now ready to proceed with the construction of the proposed gallery, and is seeking to obtain the previously approved variances. The previous variance was approved subject to the following conditions:

- 1) submission of building permits; and
- 2) full compliance with all other municipal codes and ordinances.

The site has been given a Downtown (DT) land use designation, per the Future Land Use Plan and Map, adopted on May 18, 2017 by the Planning Commission. The Future Land Use Plan and Map complements and provides additional detail to the Development Framework Maps in the Map for Mobile, adopted by the Planning Commission at its November 5, 2015 meeting.

Downtown is called out as a separate land use designation due to its distinct role, layout and fabric.

As a land use district, Downtown (DT) is the ultimate mixed-use environment. Land development and redevelopment will emphasize variety, mixed uses, and unity of form within buildings or complexes.

As the city's and region's center for commercial and service employment, Downtown supports intense development and a dynamic combination of uses: specialty and regional retail shopping and offices; business support services; urban housing at higher densities (starting at 10 dwelling units per acre); civic, educational and cultural destinations; entertainment options; and other public amenities including active and passive park space. The successful integration of a mix of housing types and densities will be critical to achieve a vibrant, 24/7-active Downtown Mobile.

Development in the DT district will focus on new, redeveloped and adaptively reused buildings that frame attractive, human-scaled streetscapes, memorable public spaces, bicycle and pedestrian-friendly streets and convenient transit access to jobs, housing and entertainment. Accordingly, certain areas of Downtown will be more intensively developed to facilitate that pedestrian orientation.

The Zoning Ordinance states that no variance shall be granted where economics are the basis for the application; and, unless the Board is presented with sufficient evidence to find that the variance will not be contrary to the public interest, and that special conditions exist such that a literal enforcement of the Ordinance will result in an unnecessary hardship. The Ordinance also states that a variance should not be approved unless the spirit and intent of the Ordinance is observed and substantial justice done to the applicant and the surrounding neighborhood.

Variances are not intended to be granted frequently. The applicant must clearly show the Board that the request is due to very unusual characteristics of the property and that it satisfies the variance standards. What constitutes unnecessary hardship and substantial justice is a matter to be determined from the facts and circumstances of each application.

The applicant states the following reasons to explain the need for the variance:

*221 & 221A Dauphin Street are located mid-block, infill between two properties that have sidewalk coverage.*

*"Soul Kitchen" has a canopy*

*"Montego's" has a gallery*

*The proposed improvements will match the modern style of the existing building.*

*On the ground level, materials are to be replaced in kind, where needed.*

*On the second level, the proposed doors will provide access to a new modern balcony (gallery), styled to match that of the building.*

*Capitals and bases on the proposed gallery columns would not match the building type or the scheduled improvements. These improvements are anticipated to take (3) months to complete.*

*A new gallery is proposed to be installed on the front of an existing building located in the T5.2 District at 221 Dauphin Street. The Owner is requesting a variance to the following two Design Criteria requirements for Galleries:*

*Design Criteria of Gallery Columns*

*Section 64-3.1.15(d)(7).IV.iii of the Downtown Development District Zoning Ordinance requires that all columns supporting galleries "...shall have a base, shaft and capital."*

*The pipe columns as proposed, without articulated bases and capitals, are very much in keeping with the existing building's modern style.*

*Design Criteria of Depth of Gallery Deck*

*Section 64-3.1.15.(d)(7).V.i of the Zoning Ordinance requires that "Gallery decks shall be no more than nine (9) inches thick, including all structure and surface."*

*The proposed gallery depth is 16" necessary to support the deck. The maximum depth is of 9" per the code is impractical for the scale of the proposed gallery.*

As it relates to the subject site, the hardship presented does not appear to be based on an impediment of the site itself, but more so, one that the applicant wishes to have gallery columns that do not have bases or capitals as well as a 16" thick gallery deck for aesthetics and structural reasons.

There do not appear to be any conditions which exist at this site that would necessitate the need to have gallery columns that do not have bases or capitals, and no information was provided to support the structural need for a 16" thick gallery deck. However, it should be pointed out that there are some existing sites within the downtown area that do not comply with the DDD design requirements, therefore the request is not outside of the norm for the area.

Due to the subject site's current location within the Downtown Development District the approval of the Consolidated Review Committee (CRC) is required. The applicant has already appeared before the CRC and been advised that they need the requested variances before permits will be issued.

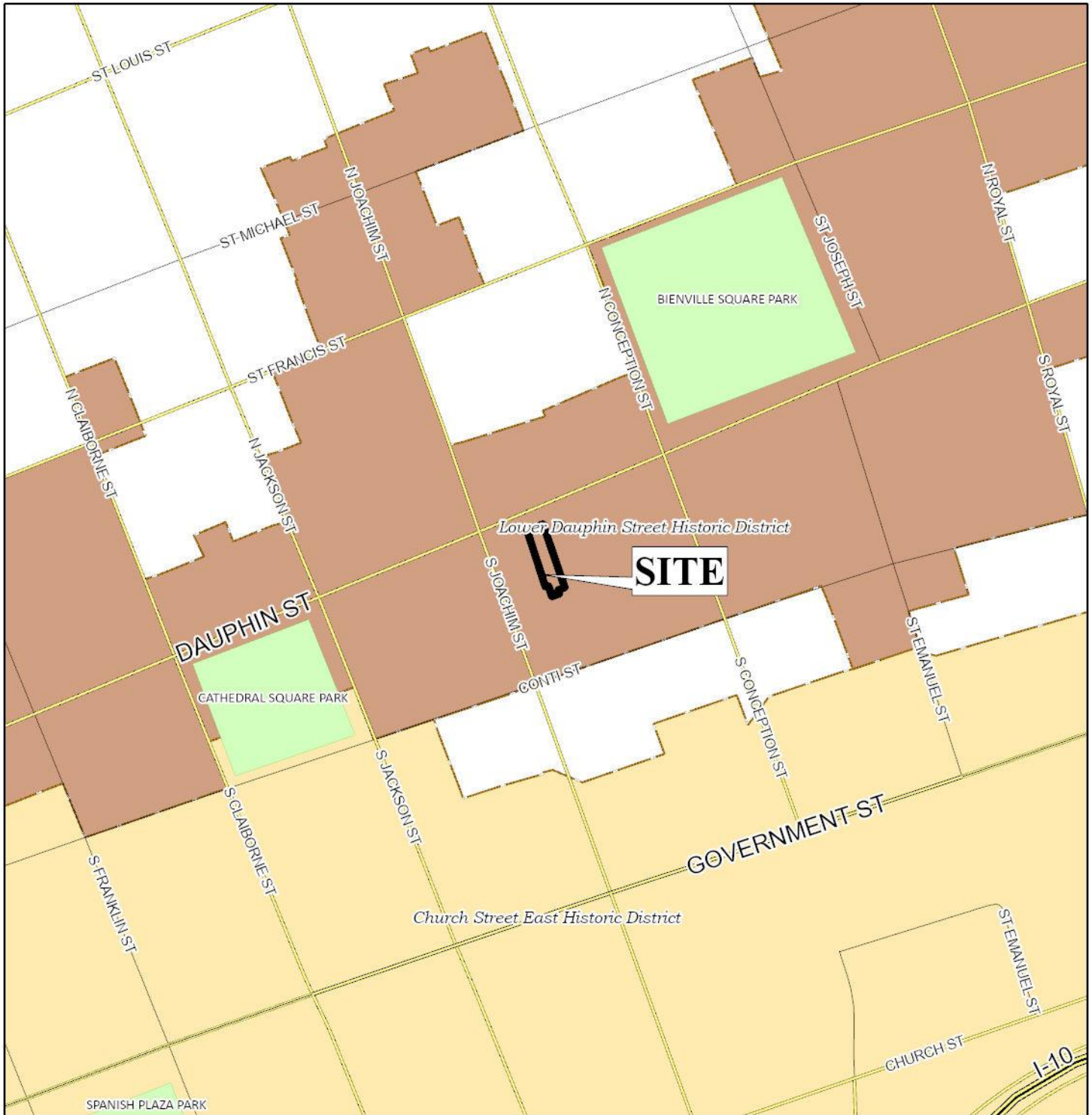
**RECOMMENDATION:** Staff recommends to the Board the following findings of fact for Approval:

- 1) approving the variances will not be contrary to the public interest in that the additional thickness in the gallery deck exceeds the width that is required; and the lack of a base or capital for the columns align more with the architectural aesthetics desired to complete the look for the overall building;
- 2) special conditions may exist, that a literal enforcement of the provisions of the chapter will result in an unnecessary hardship; and
- 3) the spirit of the chapter may be observed and substantial justice shall be done to the surrounding neighborhood by granting the variance because it will be in keeping with existing balconies within the surround area.

Therefore, this application is recommended for approval, subject to the following conditions:

- 1) submission of building permits; and
- 2) full compliance with all other municipal codes and ordinances.

# LOCATOR MAP



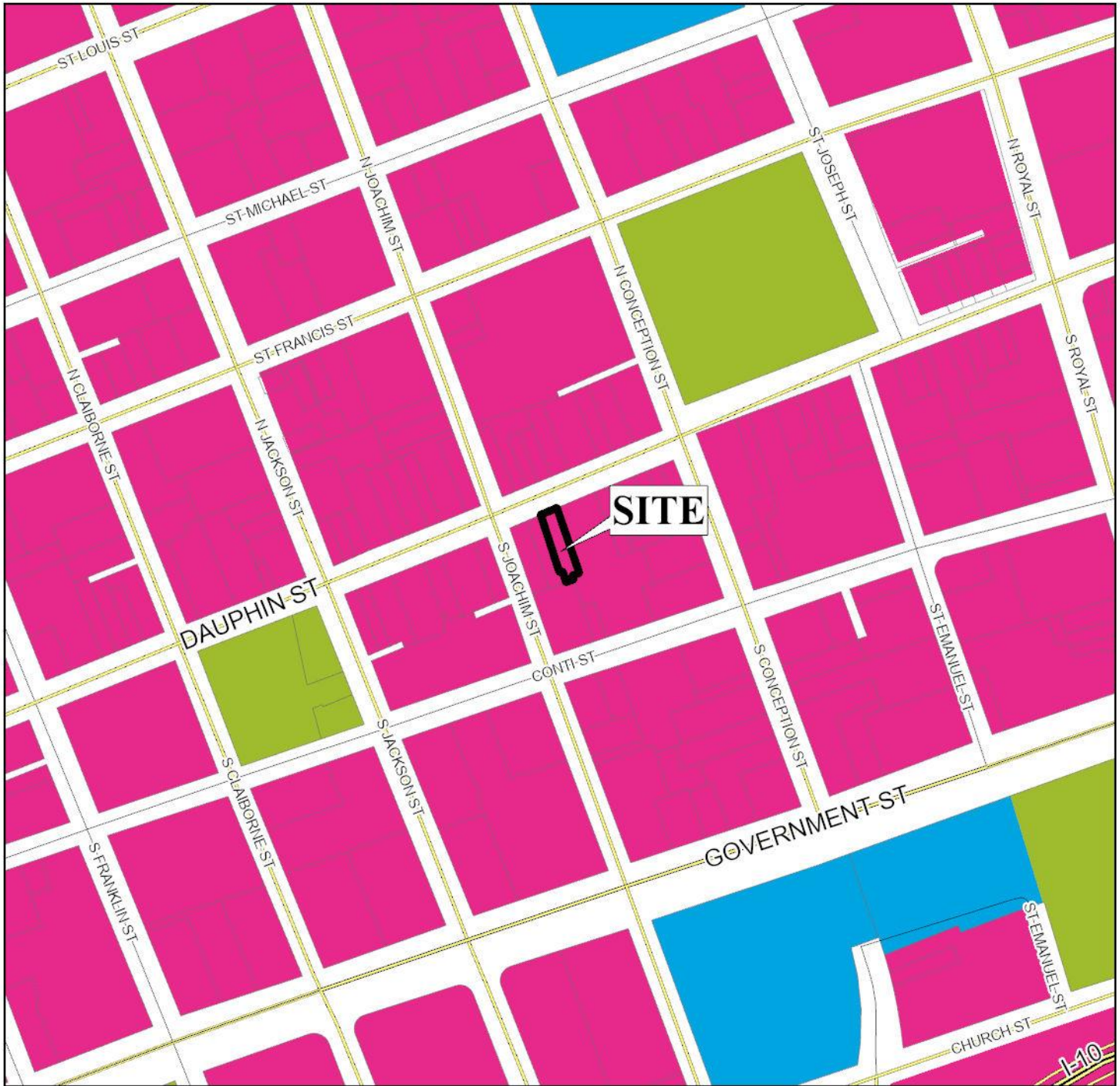
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APPLICANT Robert Maurin

REQUEST Site Variance



# FLUM LOCATOR MAP



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REQUEST Site Variance

**FLUM**

- Low Density Residential
- Mixed Density Residential

- Downtown
- District Center
- Neighborhood Center - Traditional
- Neighborhood Center - Suburban

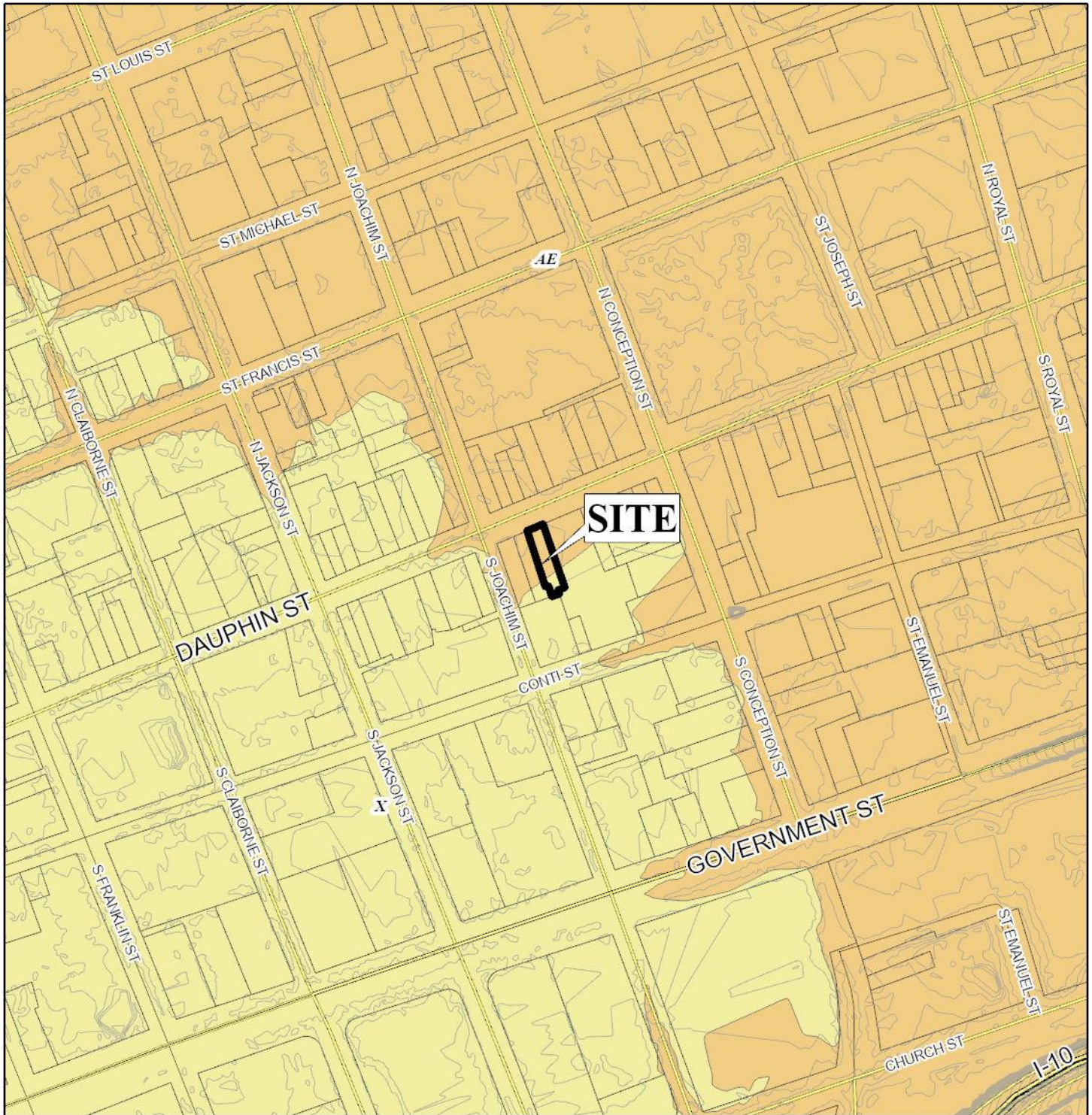
- Traditional Corridor
- Mixed Commercial Corridor
- Downtown Waterfront
- Light Industry

- Heavy Industry
- Institutional
- Parks & Open Space
- Water Dependent



NTS

# ENVIRONMENTAL LOCATOR MAP



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APPLICANT Robert Maurin

REQUEST Site Variance



NTS

# BOARD OF ADJUSTMENT VICINITY MAP - EXISTING AERIAL



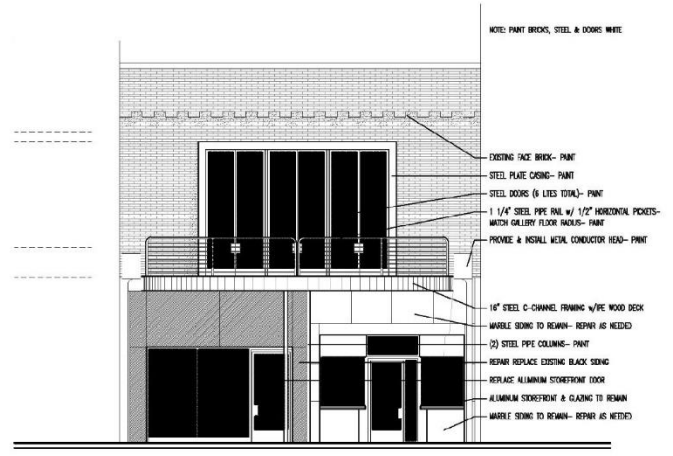
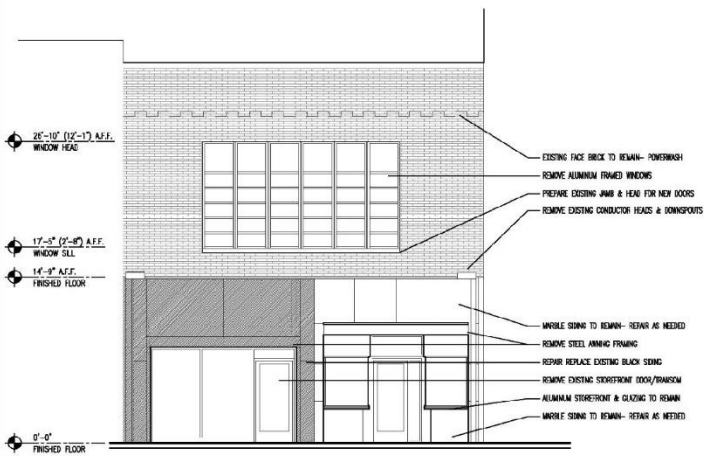
The site is surrounded by commercial units.

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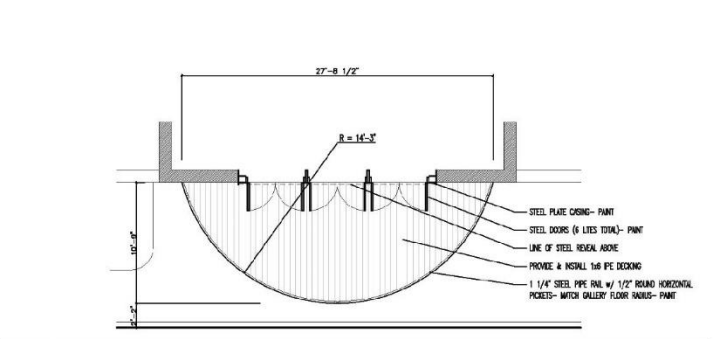
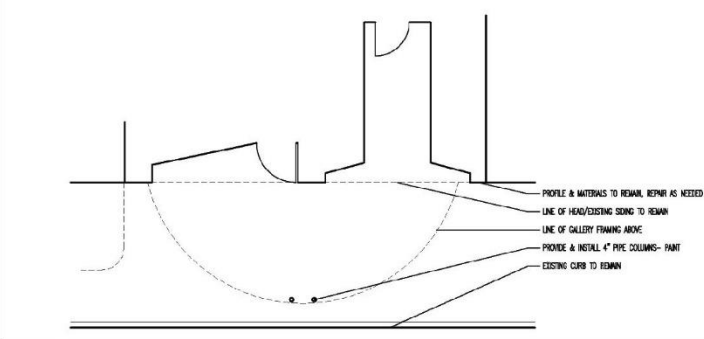


# DETAIL SITE PLAN



1 EXISTING BUILDING ELEVATION - NORTH

2 PROPOSED BUILDING ELEVATION - NORTH



3 PROPOSED FLOOR PLAN - FIRST FLOOR

4 PROPOSED FLOOR PLAN - SECOND FLOOR

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