

**BOARD OF ZONING ADJUSTMENT
STAFF REPORT****Date: August 1, 2022**

<u>CASE NUMBER</u>	6462/5738
<u>APPLICANT NAME</u>	Kendall Dumas
<u>LOCATION</u>	354 St. Francis Street (North side of St. Francis Street, 53'± West of North Claiborne Street).
<u>VARIANCE REQUEST</u>	USE: To allow operation of a freestanding parking lot in a T-5.1 Sub-District of the Downtown Development District.
<u>ZONING ORDINANCE REQUIREMENT</u>	USE: The Zoning Ordinance does not allow freestanding parking lots in a T-5.1 Sub-District of the Downtown Development District.
<u>ZONING</u>	T-5.1 Sub-District
<u>AREA OF PROPERTY</u>	5,376± square feet
<u>CITY COUNCIL DISTRICT</u>	District 2
<u>ENGINEERING COMMENTS</u>	No comments
<u>TRAFFIC ENGINEERING COMMENTS</u>	No comments
<u>URBAN FORESTRY COMMENTS</u>	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 (2012 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 buildings and 600' of sprinkled buildings.

ANALYSIS

The applicant is requesting a Use Variance to allow operation of a freestanding parking lot in a T-5.1 Sub-District of the Downtown Development District; the Zoning Ordinance does not allow freestanding parking lots in a T-5.1 Sub-District of the Downtown Development District.

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.

It should be noted that the Future Land Use Plan and Map components of the Map for Mobile Plan are meant to serve as a general guide, not a detailed lot and district plan. In many cases the designation on the new Future Land Use Map may match the existing use of land, but in others the designated land use may differ from what is on the ground today. As such, the Future Land Use Plan and Map allows the Planning Commission and City Council to consider individual cases based on additional information such as the classification request, the surrounding development, the timing of the request, and the appropriateness and compatibility of the proposed use and, where applicable, the zoning classification.

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 site was previously developed with a structure, which was demolished in 2009. In 2012, prior to the adoption of the Downtown Development District (DDD) in 2014, the site received Surfacing, Maneuvering, Tree Planting, and Landscape Area Variances to allow a commercial parking lot partially surfaced with gravel with a sub-standard accessway and no tree plantings or landscaping area in a B-4, General Business District. The variances sought were granted, but the approval was limited to one year, and expired on April 2, 2013. After the variances expired, a metal fence was installed along the front property line in order to prevent the property from being used as a parking lot. Recently, it was brought to staff's attention that the fence along the front property line was removed, and that the site is being utilized for parking, without required approvals, hence the current application.

The applicant states:

The properties located at #354 and #356 St. Francis Street were purchased in 2008 with the hopes of renovating the structure that was on #356. The goal was to restore and convert the former office building into a possible retail space with condos or apartments. Our architect and contractor met but could not make the existing space functional for what we had imagined so we had the structure removed. Not long after, the economy took a downward turn causing a delay in moving forward.

The fencing around the properties began to fall over the last few years from vehicles bumping into it in addition to some very active hurricane seasons. Material expense and finding someone to repair or replace the fencing has been difficult but we were able to have most of the damaged portion to be taken down.

Premium Parking has approached me to lease the lots for three years for use as additional paid parking for the area. I am requesting a variant for the portion of the property not currently zoned for parking. It would offer additional parking options in the area that will be monitored. Thank you for your consideration in granting the variant for the lot.

A site plan was submitted showing 17 parking spaces, with one-way circulation, leading onto an adjacent property, also owned by the applicant, which has been utilized as a parking lot prior to the adoption of the DDD regulations. The site plan is similar to that approved in 2012, with the primary differences being reduced shared access between the lots and an increase from 12 to 17 parking spaces being provided. It should be noted that if the current request is approved, compliant parking screening should be provided, with all permits required.

Section 64-3.I.9.(b). of the DDD (Zoning Ordinance) states that “Parking, except structures parking, is subordinate to uses permitted under this ordinance and shall not be used as a primary use on a property.” This was included to discourage the creation of new freestanding parking lots. The applicant has not provided any justification or reasons as to why the property cannot be used in a compliant manner, and it appears it is simply the applicant’s wish to operate a parking lot at the site, regardless of the Zoning Ordinance requirements.

RECOMMENDATION: Based upon the preceding, staff recommends to the Board the following findings of facts for Denial:

- 1) approving the variance request will be contrary to the public interest in that the site can be developed without the need for the requested variances;
- 2) special conditions with the site or unusual site constraints do not exist that a literal enforcement of the provisions of the chapter will result in an unnecessary hardship as the site can be used in a compliant manner; and
- 3) the spirit of the chapter shall not be observed and substantial justice shall not be done to the surrounding neighborhood by granting the variances because no similar variances have been granted in the area.

Revised for the August 1, 2022 meeting:

The application was heldover from the July 11, 2022 meeting at the applicant’s request. No additional information has been submitted, therefore the recommendation remains the same.

RECOMMENDATION: Based upon the preceding, staff recommends to the Board the following findings of facts for Denial:

- 1) *approving the variance request will be contrary to the public interest in that the site can be developed without the need for the requested variances;*
- 2) *special conditions with the site or unusual site constraints do not exist that a literal enforcement of the provisions of the chapter will result in an unnecessary hardship as the site can be used in a compliant manner; and*
- 3) *the spirit of the chapter shall not be observed and substantial justice shall not be done to the surrounding neighborhood by granting the variances because no similar variances have been granted in the area.*

The map shows the Lower Dauphin Street Historic District in brown. A black rectangle labeled "SITE" is located on N. Claiborne St, between N. Franklin St and N. Jackson St. The map includes the following streets: N. Armstrong St, N. Tunstall St, N. Lawrence St, N. Congress St, N. Cedar St, N. Dearborn St, N. Washington Ave, N. Scott St, N. Bayou St, N. Hamilton St, N. Franklin St, N. Claiborne St, N. Jackson St, N. Joachim St, N. St. Joseph St, N. St. Anthony St, N. St. Louis St, N. St. Michael St, N. St. Francis St, N. St. Emmanuel St, N. Royce St, N. Government St, N. Church St, N. St. Conception St, N. St. Emanuel St, N. Monroe St, N. Civic Center Dr, N. Malaga Square Park, N. Spanish Plaza Park, N. Church Street East Historic District, N. Cathedral Square Park, N. Bienville Square Park, N. DeTonti Square Historic District, N. Lower Dauphin Street Historic District, N. Dauphin St, N. Conti St, N. Dearborn St, N. Warren St, N. Cedar St, N. Lawrence St, N. Hamilton St, N. Franklin St, N. Jackson St, N. Joachim St, N. St. Joseph St, N. St. Anthony St, N. St. Louis St, N. St. Michael St, N. St. Francis St, N. St. Emmanuel St, N. Royce St, N. Government St, N. Church St, N. St. Conception St, N. St. Emanuel St, N. Monroe St, N. Civic Center Dr, N. Malaga Square Park, N. Spanish Plaza Park, N. Church Street East Historic District, N. Cathedral Square Park, N. Bienville Square Park, N. DeTonti Square Historic District, N. Lower Dauphin Street Historic District, N. Dauphin St, N. Conti St.

REQUEST_____Use Variance



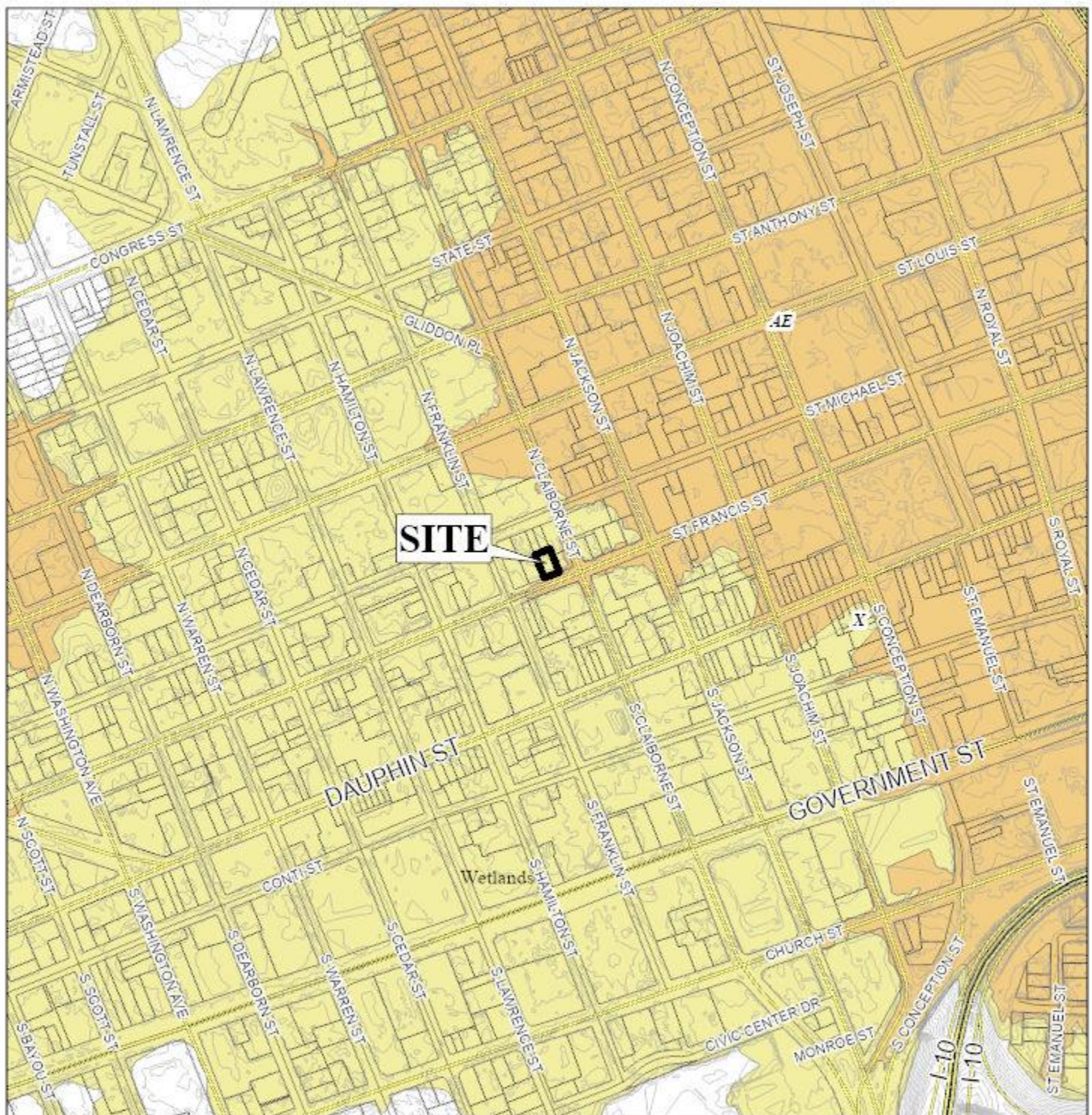
REQUEST_____Use Variance



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ENVIRONMENTAL LOCATOR MAP



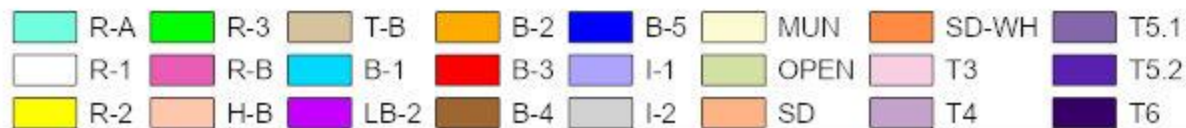
APPLICATION NUMBER 6462 DATE August 1, 2022

APPLICANT _____ Kendall Dumas

REQUEST_____Use Variance



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 APPLICANT Kendall Dumas
 REQUEST Use Variance



BOARD OF ADJUSTMENT VICINITY MAP - EXISTING AERIAL



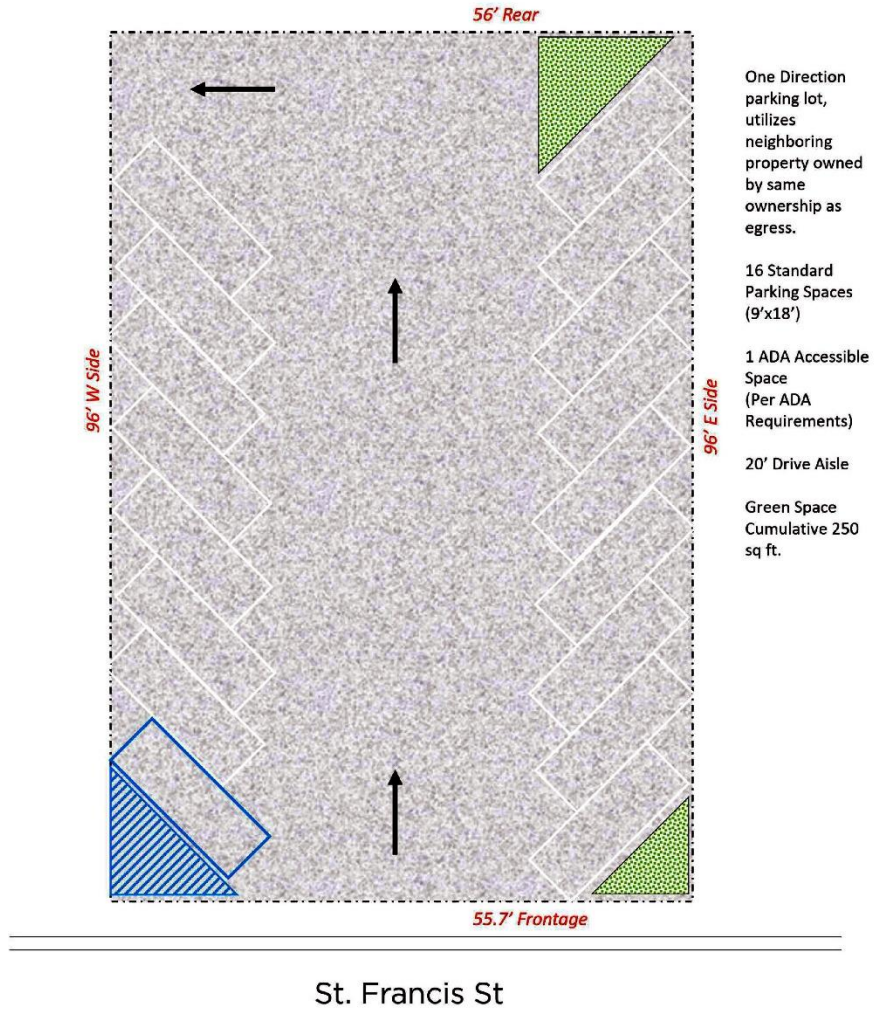
This site is surrounded by mixed-use of medium intensity.

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SITE PLAN

354 St. Francis St - Site Plan



This site illustrates the property's parking lot.

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