

**BOARD OF ZONING ADJUSTMENT
STAFF REPORT****Date: September 10, 2018**

<u>CASE NUMBER</u>	6203/ 2152
<u>APPLICANT NAME</u>	Noell Broughton
<u>LOCATION</u>	205 Congress (South side of Congress Street, 100' ± West of North Conception Street).
<u>VARIANCE REQUEST</u>	USE: Variance to allow a bar/ café with an occupancy load over 100 people in a T-4 Sub-District of the Downtown Development District.
<u>ZONING ORDINANCE REQUIREMENT</u>	USE: the Zoning Ordinance does not allow bars/ cafes in a T-4 Sub-District of the Downtown Development District.
<u>ZONING</u>	T-4 Mixed Use- Low Density
<u>AREA OF PROPERTY</u>	None given.
<u>ENGINEERING COMMENTS</u>	No comment.
<u>TRAFFIC ENGINEERING COMMENTS</u>	No comment.
<u>CITY COUNCIL DISTRICT</u>	District 2

ANALYSIS The applicant is requesting a Use Variance to allow a bar/ café with an occupancy load over 100 people in a T-4 Sub-District of the Downtown Development District, the Zoning Ordinance does not allow bars/ cafes in a T-4 Sub-District of the Downtown Development District.

The applicant proposes to utilize an existing 1,925± square foot building that was previously utilized as an attorney's office, to operate as a café/ bar. The applicant plans to utilize the 1,859 square feet for seating, the bar area, restrooms, office space, and the kitchen. The applicant is planning to renovate the existing building and add a small addition to the rear southeast corner of the structure to allow for a kitchen. An outside deck is also proposed, thus the total proposed occupant load will be 150 people: 85 people in the structure and 65 on the deck.

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(s) give the following reasons to explain the request for the use variance:

*“9. Detailed description, use and character of improvements existing and proposed....
time schedule for development?”*

205 Congress is a historic home in Detonti Square District which was previously renovated for use as an attorney's office.

It has low brick walls at the side property lines, a high brick wall at the rear property line, gravel parking in front and a concrete sidewalk along Congress St.

The site has low landscaping along Congress St and appears to have two heritage trees total on the site which will be protected and possibly trimmed for the new use. The new use will be a cafe and interior bar.

There is a wooden deck contemplated on the west side of the structure to be built slightly lower than the interior floor line and behind the low brick wall along the west property line. This deck will be disabled accessible.

The interior of the cafe/bar will be disabled accessible as well.

Front facade will not be changed. Any structural impairment will be repaired. Railings for contemplated west side wooden deck will be in keeping with existing metal railing along west property line. West facade will be altered only to revise one window into a door. There will be added enclosure of the rear southwest open porch.

A small addition is contemplated at rear southeast corner of the structure to allow for a kitchen. Proper can wash, dumpsters, etc. will be provided.

Front parking will remain same with an added solid surfaced disabled parking spot. Contemplated development schedule will be last half of 2018 possibly into first quarter 2019.

10. Detailed description of the proposed use, including activity (identify operations which

involve use of equipment or machinery which will generate excessive noise, odors, or air pollution, as well excessive traffic)

Cafe and interior bar activity will comply with City noise ordinance, stock and supply deliveries will be to west side and handcarried or handtrucked. No large and/or motorized forklifts, etc. will be onsite.

Include statements explaining why the property cannot be used in compliance with the Zoning Ordinance, how this situation occurred, how this property is different from neighboring properties and how you propose to eliminate any negative impacts on surrounding properties.

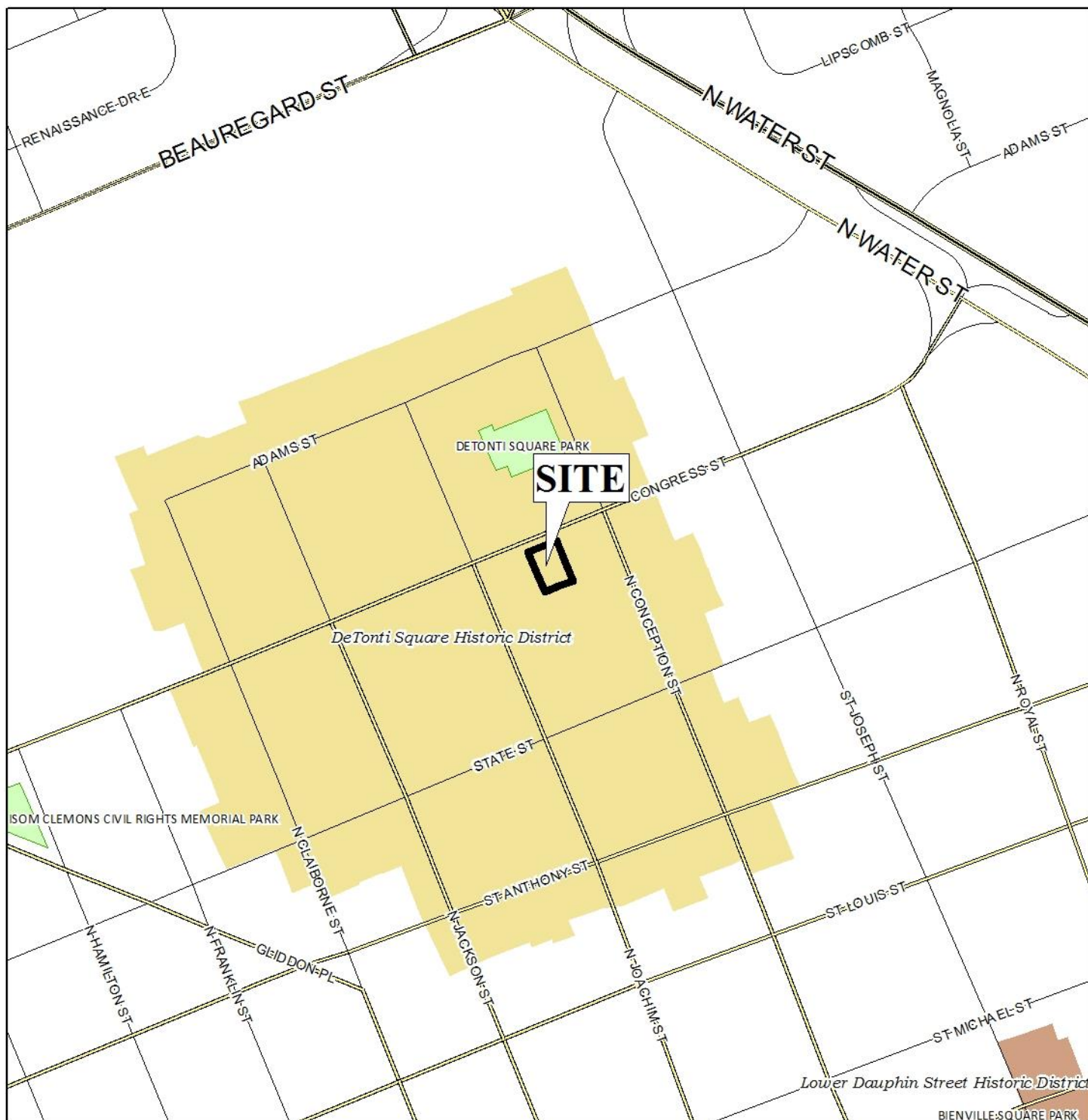
The former attorney office was a business operating in Detonti Square District, there are other cafe/bars of similar size and low neighborhood impact already located, and in use, nearby. The owner of 205 Congress has met more than once with the Detonti Square property owners' association and has received no negative feedback."

It should be pointed out that the design professional submitted a revised plan via email on August 31st. The occupancy load has been reduced from 150 people to 75 people, primarily through the reduction in size of the large outdoor deck. However, as the legal ad for the variance requests was greater than 100 occupancy load, staff cannot address the revised plans.

It should be noted that based on to the chart of permitted uses, a café is allowed by right in a T-4 District, while a restaurant, bar, catering, entertainment, theater or brewpub with an occupancy load over 100 persons is not allowed. The definition of café reads as follows: "*Cafe: A restaurant, bar, theater, or entertainment venue with less than one hundred-person occupancy load.*". Therefore based on the chart of permitted uses and the definition listed for a café, it would appear that the use is allowed in by right, with the decrease in the occupancy load to 75. However, due to concerns by surrounding neighbors, the Board should consider all of the information presented to make a determination.

RECOMMENDATION: It is recommended that the Board consider all relevant facts and review the request based upon its own merits, as well as any information presented at the meeting.

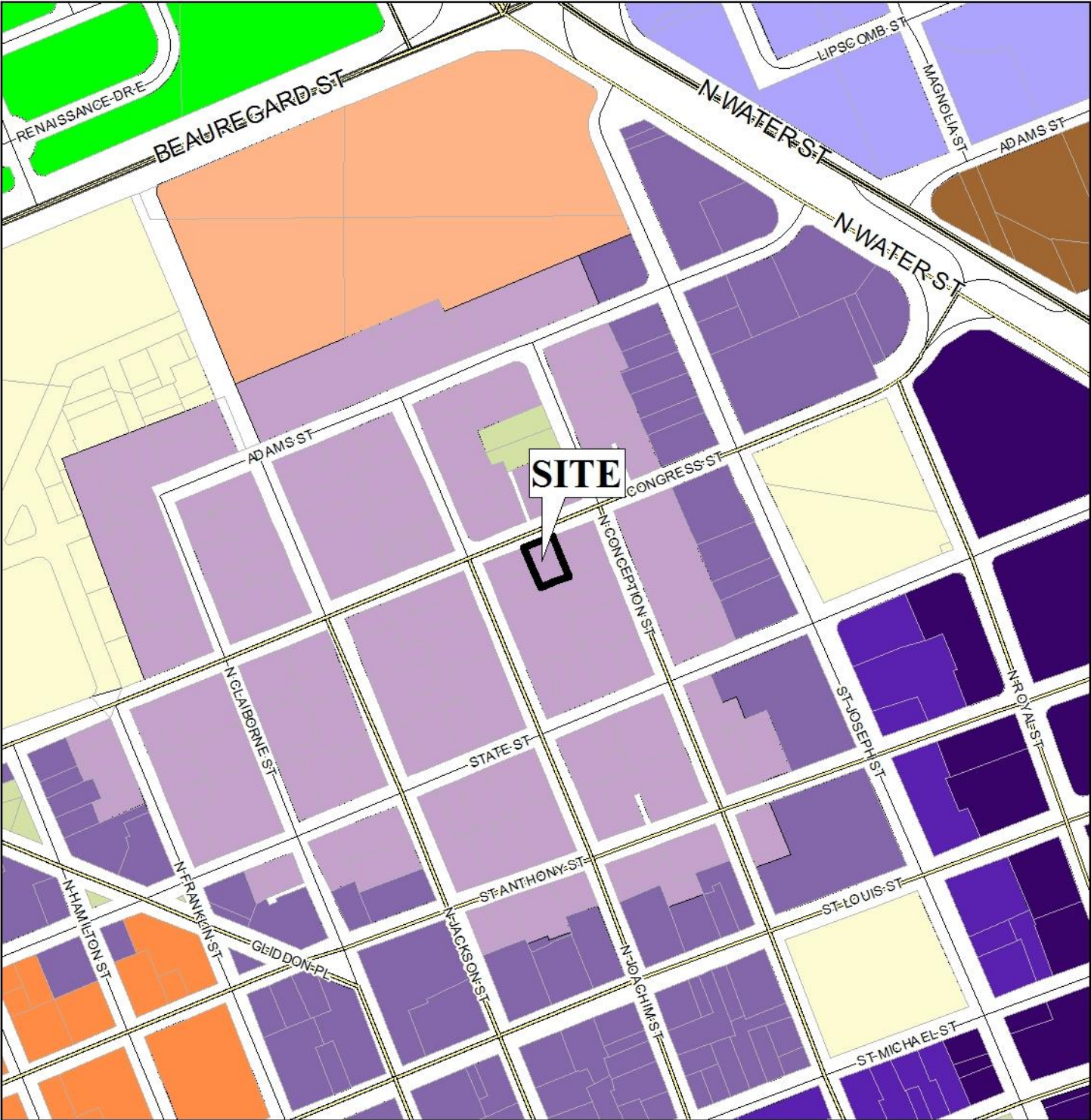
LOCATOR MAP



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LOCATOR ZONING MAP



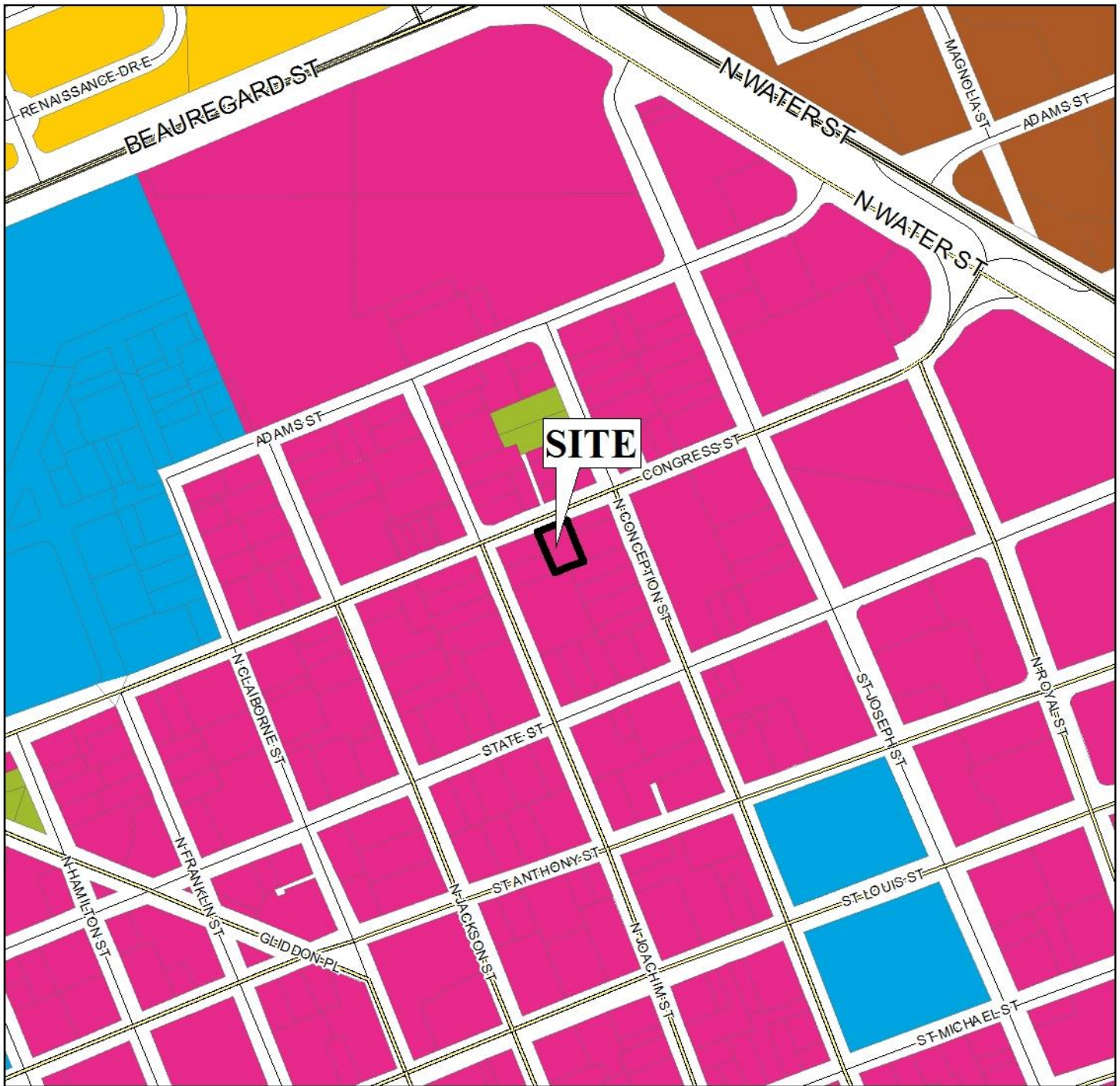
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FLUM LOCATOR MAP



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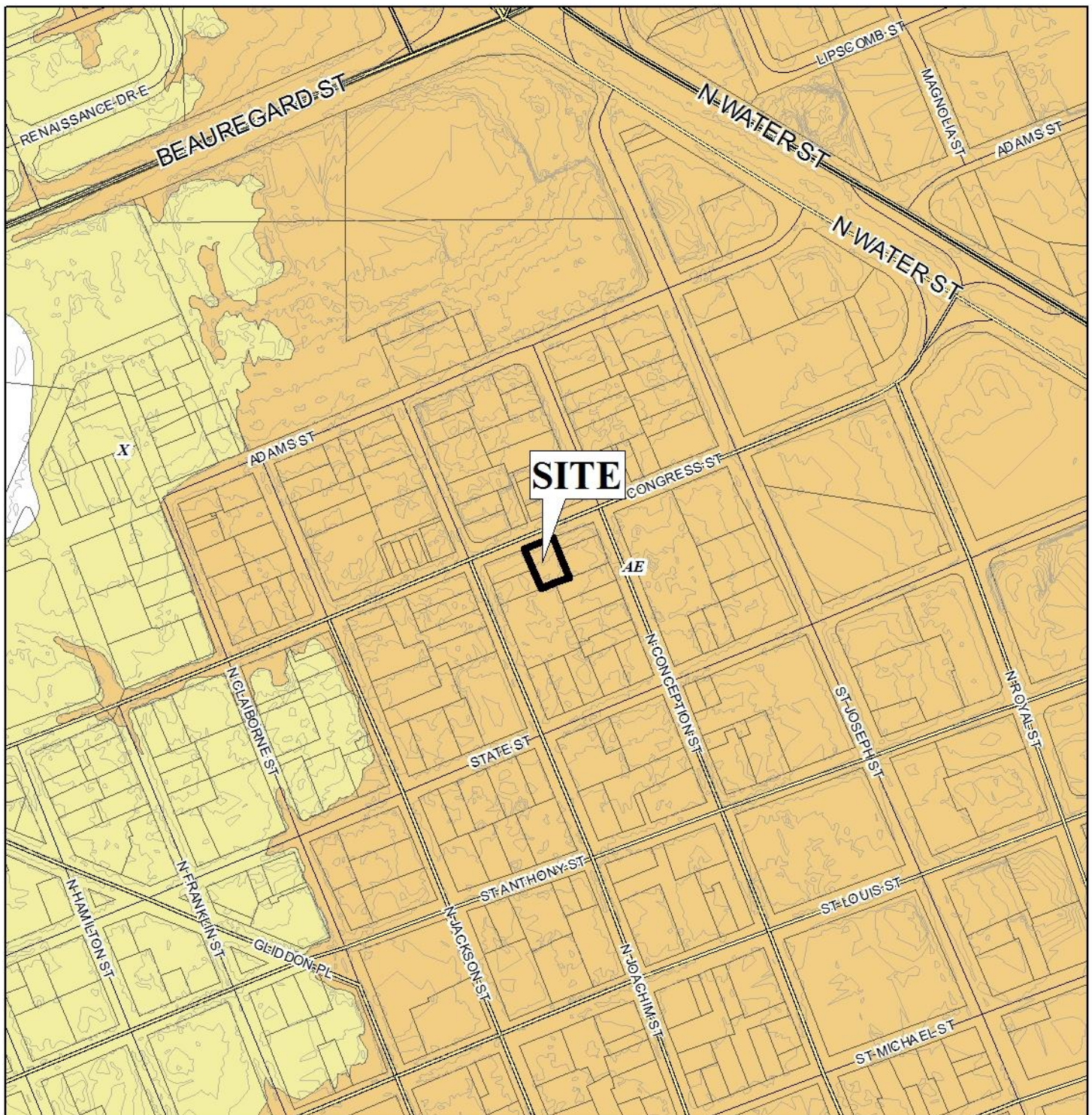
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REQUEST Use Variance

Low Density Residential	Neighborhood Center - Traditional	Downtown Waterfront	Parks & Open Space
Mixed Density Residential	Neighborhood Center - Suburban	Light Industry	Water Dependent
Downtown	Traditional Corridor	Heavy Industry	
District Center	Mixed Commercial Corridor	Institutional	



ENVIRONMENTAL LOCATOR MAP



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BOARD OF ADJUSTMENT VICINITY MAP - EXISTING ZONING



The site is surrounded by miscellaneous units.

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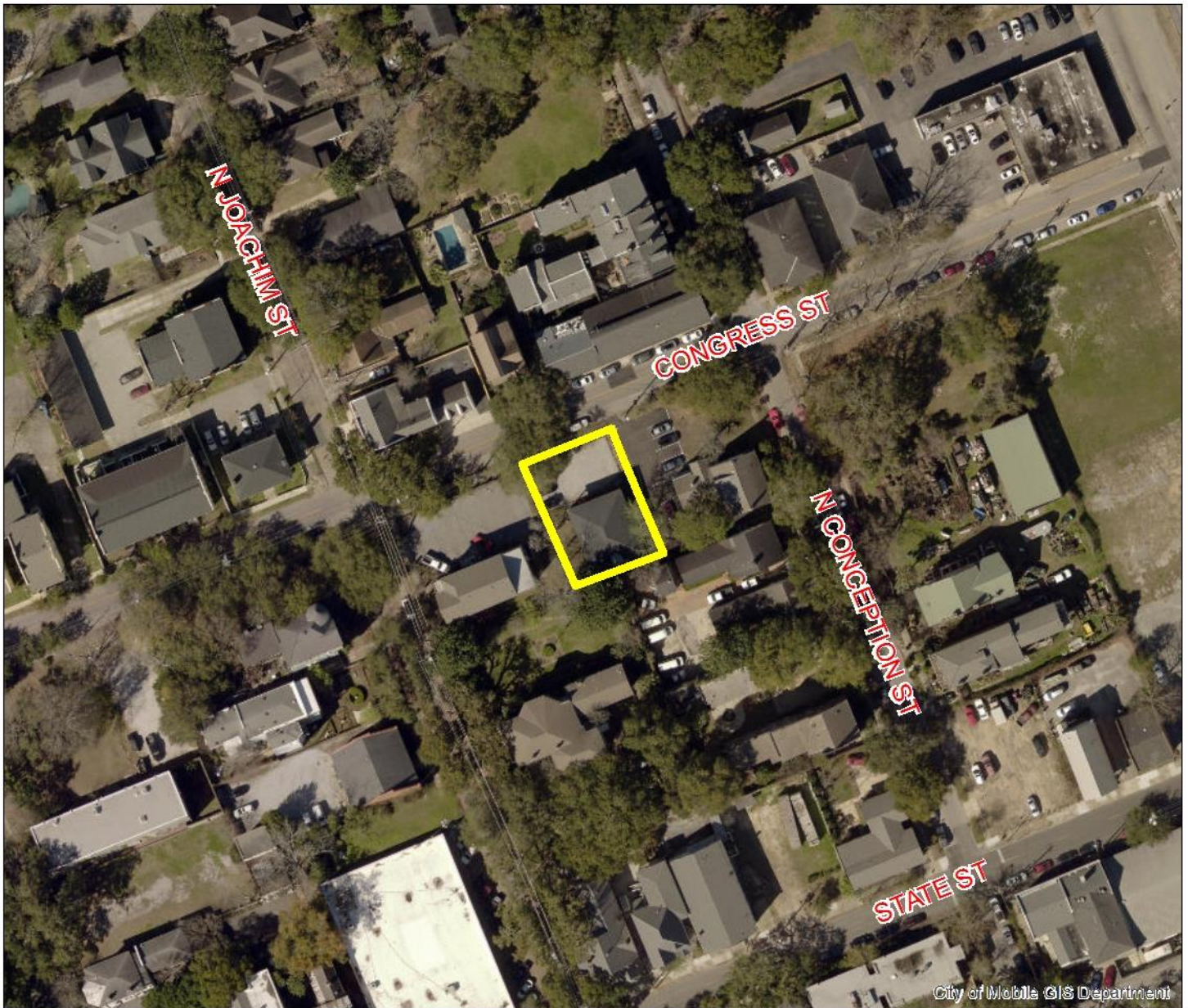
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R-A	R-3	T-B	B-2	B-5	MUN	SD-WH	T5.1
R-1	R-B	B-1	B-3	I-1	OPEN	T3	T5.2
R-2	H-B	LB-2	B-4	I-2	SD	T4	T6



BOARD OF ADJUSTMENT VICINITY MAP - EXISTING AERIAL

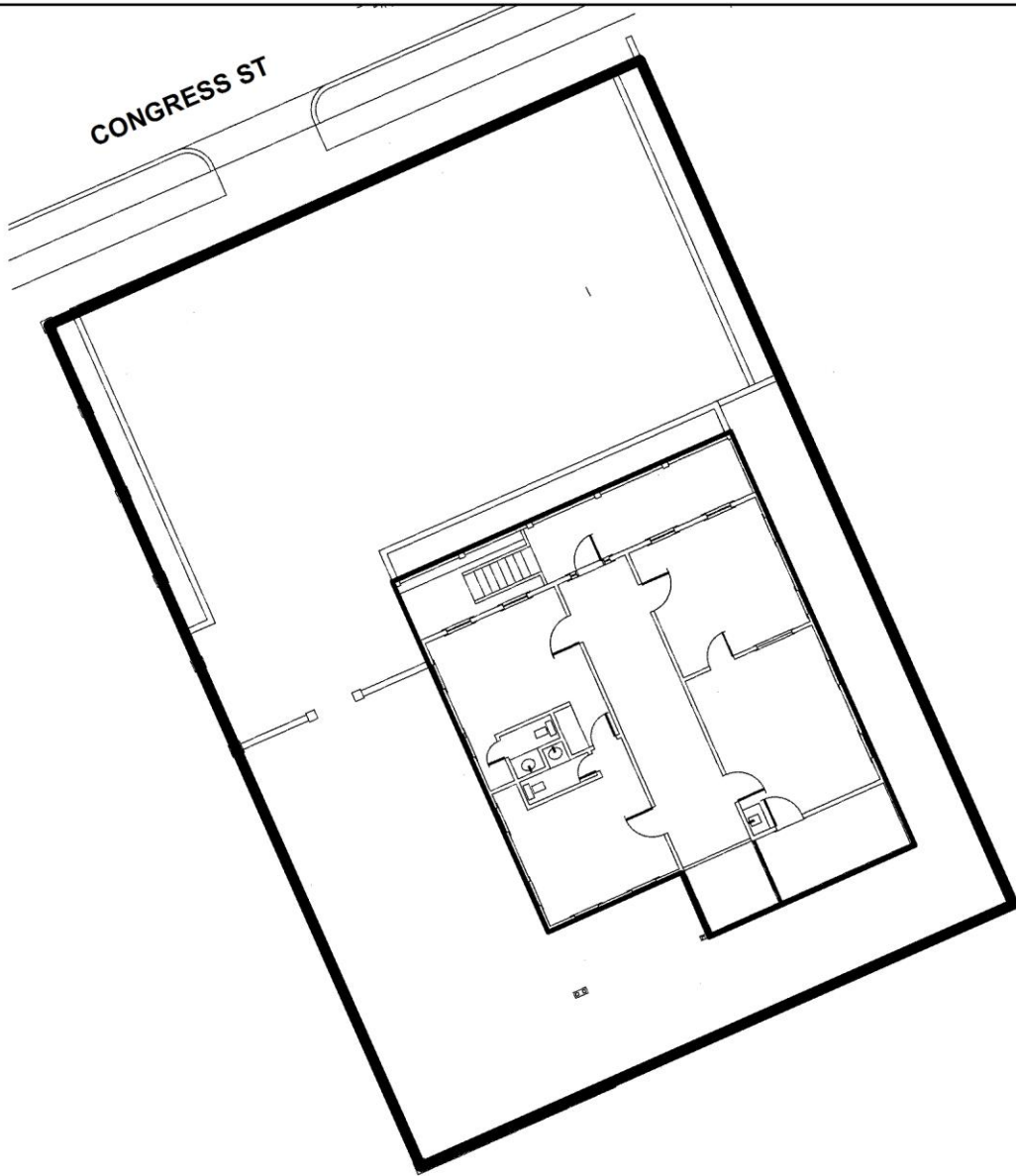


The site is surrounded by miscellaneous units.

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EXISTING SITE PLAN



The site plan illustrates the existing building and existing building layout.

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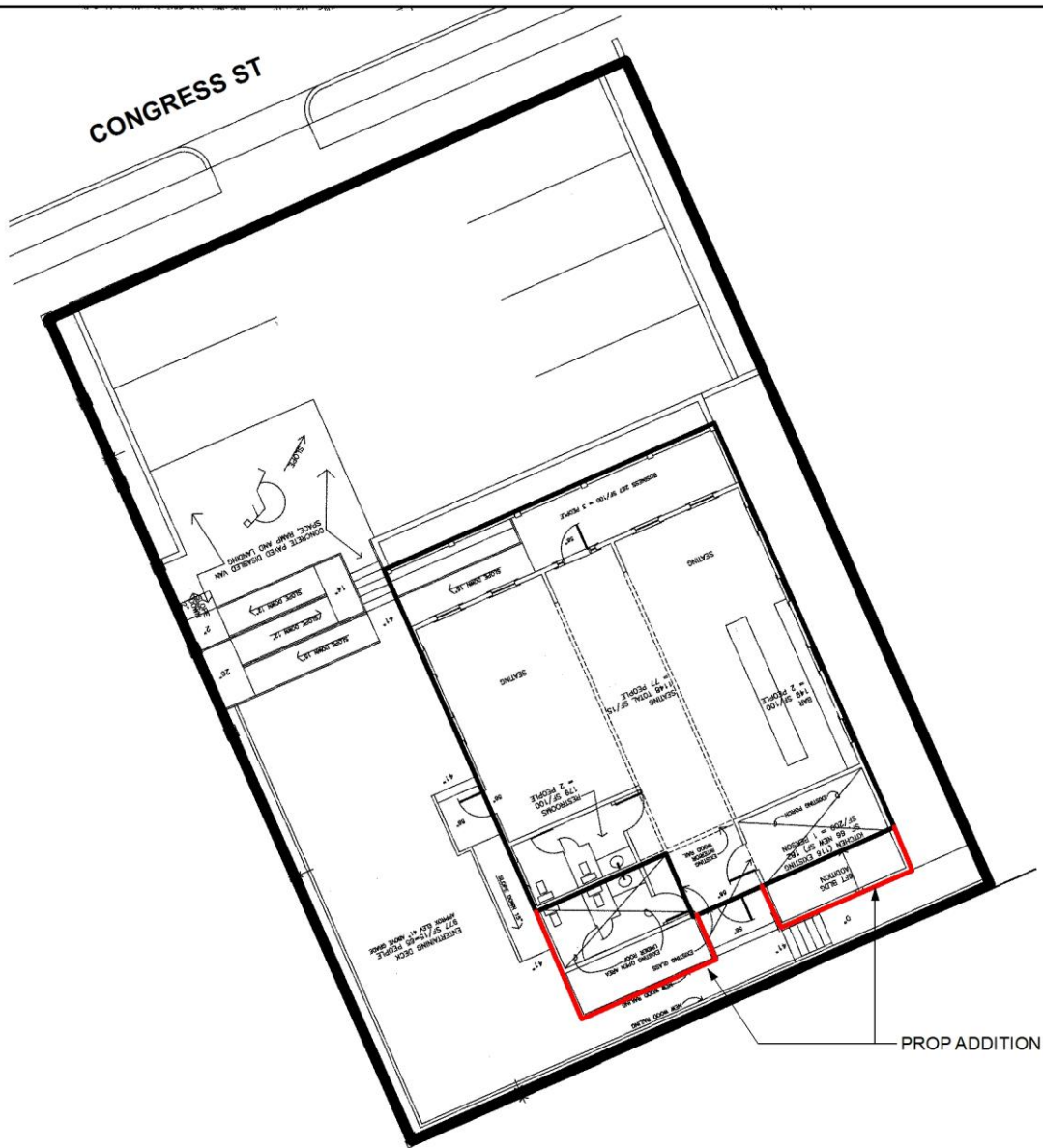
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PROPOSED SITE PLAN

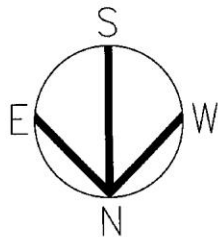
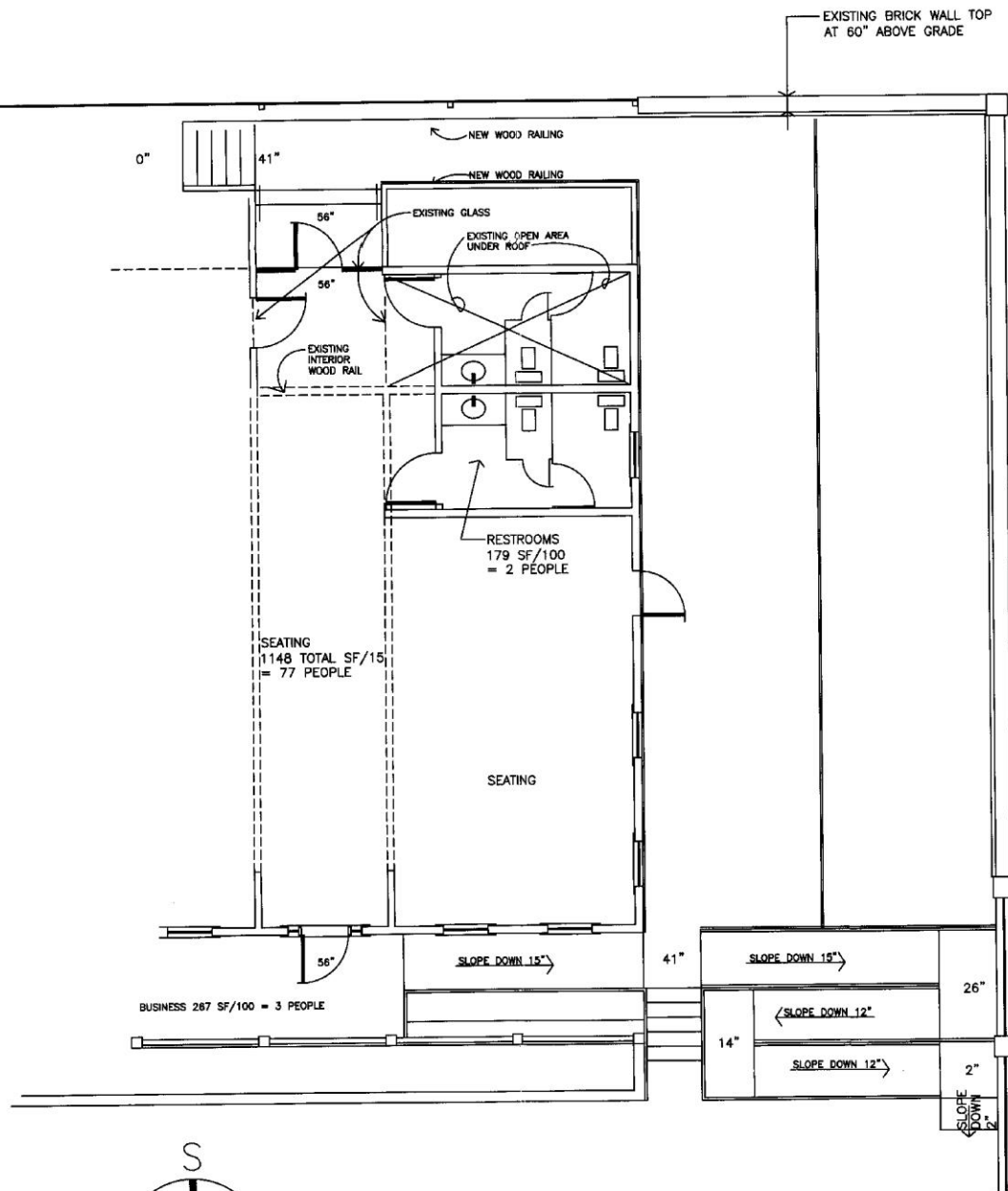


The site plan illustrates the existing building and proposed additions.

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DETAIL SITE PLAN



WOOD DECK AND RAMP FRAMING PLAN

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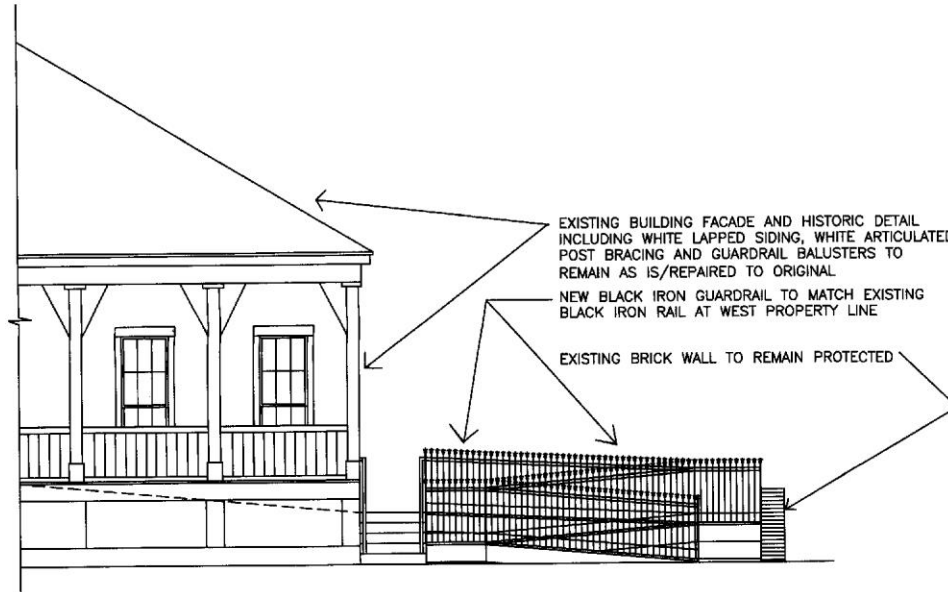
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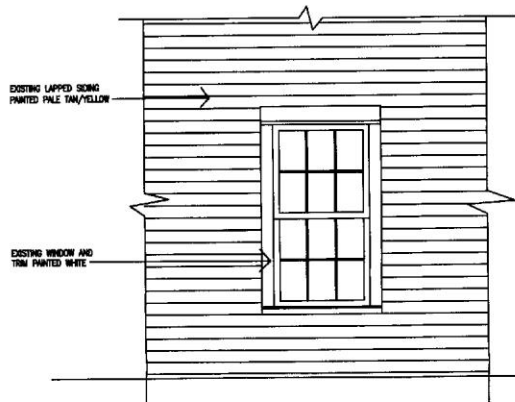
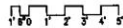


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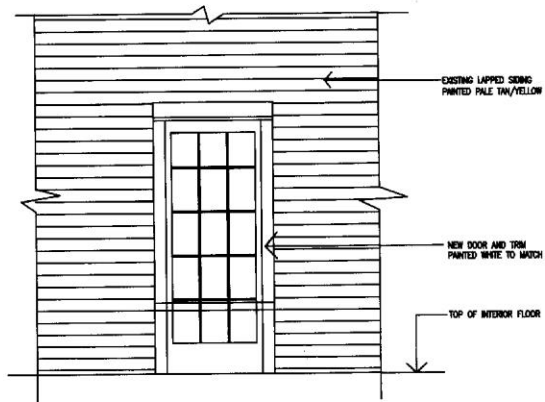
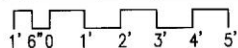
DETAIL SITE PLAN



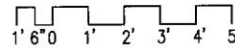
PARTIAL FRONT ELEVATION 205 CONGRESS ST.



EXISTING WINDOW WEST SIDE



NEW DOOR WEST SIDE



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