

**BOARD OF ZONING ADJUSTMENT
STAFF REPORT**

Date: September 14, 2020

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| <u>CASE NUMBER</u> | 6345/6093 |
| <u>APPLICANT NAME</u> | Temple Lodge LLC (Casey Pipes, Agent) |
| <u>LOCATION</u> | 55 North Warren Street (Northwest corner of St. Francis Street and North Warren Street, extending to the Southwest corner of St. Michael Street and North Warren Street). |
| <u>VARIANCE REQUEST</u> | TRANSPARENCY: To allow reduced transparency in a T5.1, Mixed Use of Medium Intensity Sub-District of the Downtown Development District. |
| <u>ZONING ORDINANCE REQUIREMENT</u> | TRANSPARENCY: The Zoning Ordinance requires a minimum of 15% transparency for each floor of a building’s façade in a T5.1, Mixed Use of Medium Intensity Sub-District of the Downtown Development District. |
| <u>ZONING</u> | T5.1, Mixed Use of Medium Intensity Sub-District of the Downtown Development District. |
| <u>AREA OF PROPERTY</u> | 9,200± square feet/ 0.2± Acre |
| <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 (State Act 2015-116 and City Code Chapters 57 and 64). |

**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.

ANALYSIS

The applicant is requesting a Transparency Variance to allow reduced transparency in a T5.1, Mixed Use of Medium Intensity Sub-District of the Downtown Development District; the Zoning Ordinance requires a minimum of 15% transparency for each floor of a building's façade in a T5.1, Mixed Use of Medium Intensity Sub-District of the Downtown Development District.

The Zoning Ordinance states no variance shall be granted 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; and, no variance shall be granted where economics are the basis for the application. 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 has been given a Downtown (DT) land use designation per the Future Land Use Plan and Map, adopted by the Planning Commission at its May 18, 2017 meeting. 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. This designation acknowledges existing commercial development that is spread along Mobile's transportation corridors in a conventional strip pattern or concentrated into shorter segments of a corridor.

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 applicant states:

Site Variance Justification: There is a zoning requirement for 20% transparency on all floors of buildings along street frontages. The CRC has the discretion to approve buildings with as little as 15% transparency per floor. The variance request is to approve the as-built structure notwithstanding any deficiency in the transparency percentage on a floor or street elevation.

The present building has the following transparency along the Warren Street frontage:

| North Warren Street Building Facade | | | | |
|--|----------|----------------|----------------|-------------------------|
| | Total SF | Transparent SF | Non-Transp. SF | Transparency Percentage |
| 3 rd Floor | 998 | 121 | 877 | 12.1% |
| 2 nd Floor | 1,050 | 183.5 | 866.5 | 17.5% |
| Ground Floor | 1,705.9 | 458.3 | 1,247.6 | 26.9% |
| Total | 3,753.9 | 762.8 | 2,991.1 | 20.3% |

The windows on the Second Floor were originally designed to go all the way down to near the floor level, but it became apparent that with the building sitting immediately adjacent to the sidewalk, floor length windows would present a major privacy issue in the main living area. Consequently, they were brought up to regular window height. While this decreased the transparent area and increased the nontransparent area, this really did not change much from the outside perspective. This area at the bottom of the Second Floor windows was always going to be obscured and blocked by the floor and railing of the balcony that is outside of these windows. From the outside, one really sees the balcony and railing, with windows behind them. Even if the windows went lower to the floor level, that area would be all but invisible to the outside world. In the end, the move to raise the windows up makes the units more energy efficient, more private, and does little to take

away from the appearance of transparency from the ground. Below are two pictures showing the as-built structure in this regard:



The Third Floor is the top floor of these structures. There is an open stairwell that goes from the Ground Floor, straight through the Second Floor, up to the Third Floor along the North wall of these townhomes. Hot air will flow directly from the Ground Floor and Second Floor up to the Third Floor through these stairwells. Awnings are not allowed over the windows, and even if they were allowed they would be very difficult to clean and maintain, so there is nothing to shade these windows from the direct, unshaded Eastern exposure to the Sun. Installing any more windows than the ones installed on the Third Floor would lead to an almost unlivable situation in the warmer months due to heat gain. Also, the transparency percentage is much more important on the ground floor than it is on the top floor of a structure. The unique features of this property that make it incapable of compliance with the transparency percentage requirement on the third floor is the absence of any tall structures or mature street trees to the East of the property, the orientation of this frontage aiming to the East, the location of the site to the West of a road, the lack of width of the lot (approximately 55') which prevented more of an overhanging roof design, the prohibition on awnings and the difficulty of maintaining them even if allowed, and the open stair well design, which complies with the building and fire code, but which allows heat to flow upwards.

Overall, the transparency percentage of the Warren Street frontage is over 20% and the bulk of that is on the Ground Floor where it is most important. The minor deviations on the transparency minimum percentages on the Second and Third floors should be allowed since the spirit of the ordinance is being served and there is a substantial justification for the deviation.

During construction, it was determined that the building was not constructed as approved by the Consolidated Review Committee (CRC), specifically as it relates to the amount of transparency required on street-facing facades.

The Downtown Development District (DDD) regulates facade transparency as follows:

- 64-3.I.14.(h)(2) All building facades along public frontages shall have a minimum of twenty (20) percent transparency measured on each floor. Higher percentages are required for some frontage types as stipulated in section 64-3.I.15.

The DDD gives the Consolidated Review Committee the following power regarding transparency requirements:

- 64-3.I.4(a)(1)I.iv. Transparency requirements for windows may be reduced up to five (5) percent of the minimum percentage required.

Therefore, the minimum transparency requirement per floor that can be administratively approved, is 15%.

The proposed development was most recently presented to the Consolidated Review Committee (CRC) at its July 17, 2020 meeting, where the applicant was advised that a variance application to the Board of Zoning Adjustment would be needed to address the transparency percentage deficiency of the street-facing facades; hence the application at hand.

The applicant has demonstrated that a hardship may be imposed by a strict enforcement of the DDD transparency requirements with respect to the need for privacy in living areas and the need to reduce heat gain; therefore, it may be appropriate to grant the subject request. It should be noted that similar requests have been granted by the Board in the vicinity.

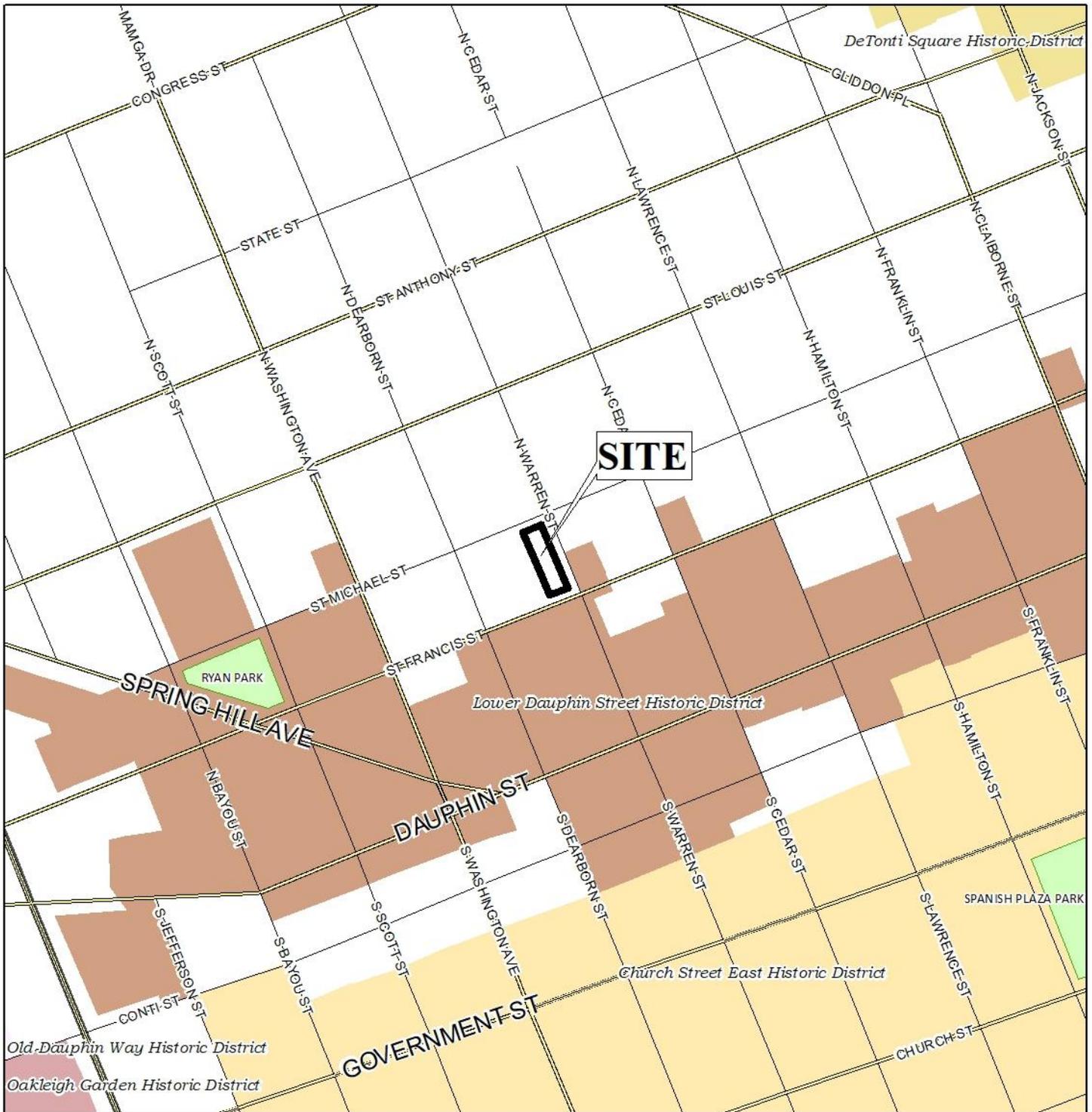
RECOMMENDATION: Staff recommends to the Board the following findings of facts for Approval of the requests:

- 1) Approving the variance will not be contrary to the public interest in that similar Transparency Variance requests in the vicinity have previously been approved by the Board;
- 2) Special conditions were illustrated such that the literal enforcement of the provisions of the chapter will result in an unnecessary hardship, as privacy would be reduced and increased heat gain would occur; and
- 3) The spirit of the chapter shall be observed and substantial justice shall be done to the surrounding neighborhood by granting the variance because the integrity of the proposed structure will be preserved.

The approval is subject to the following conditions:

- 1) Full compliance with all other municipal codes and ordinances.

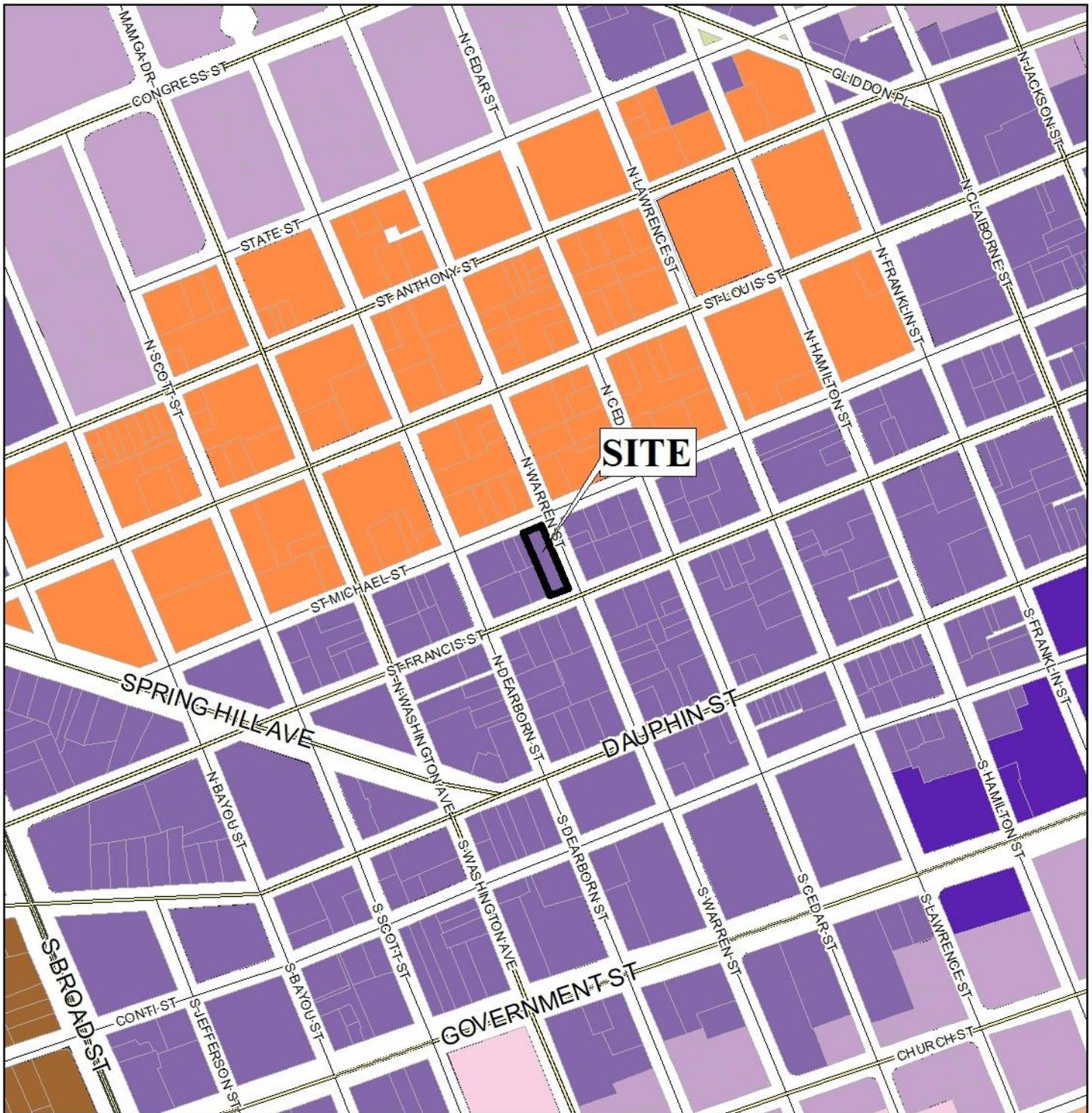
LOCATOR MAP



APPLICATION NUMBER 6345 DATE September 14, 2020
APPLICANT Temple Lodge LLC (Casey Pipes, Agent)
REQUEST Transparency Variance



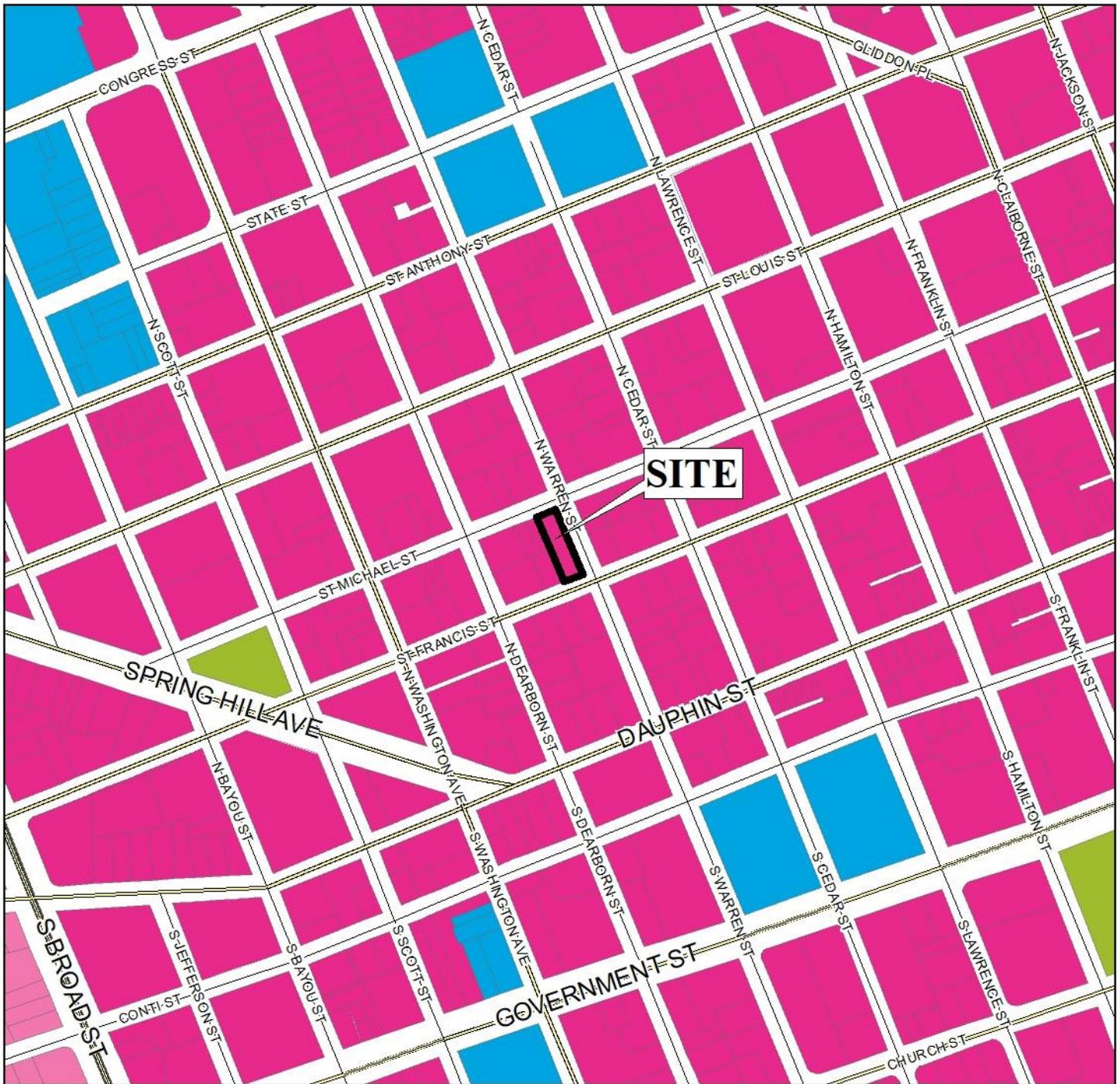
LOCATOR ZONING MAP



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FLUM LOCATOR MAP



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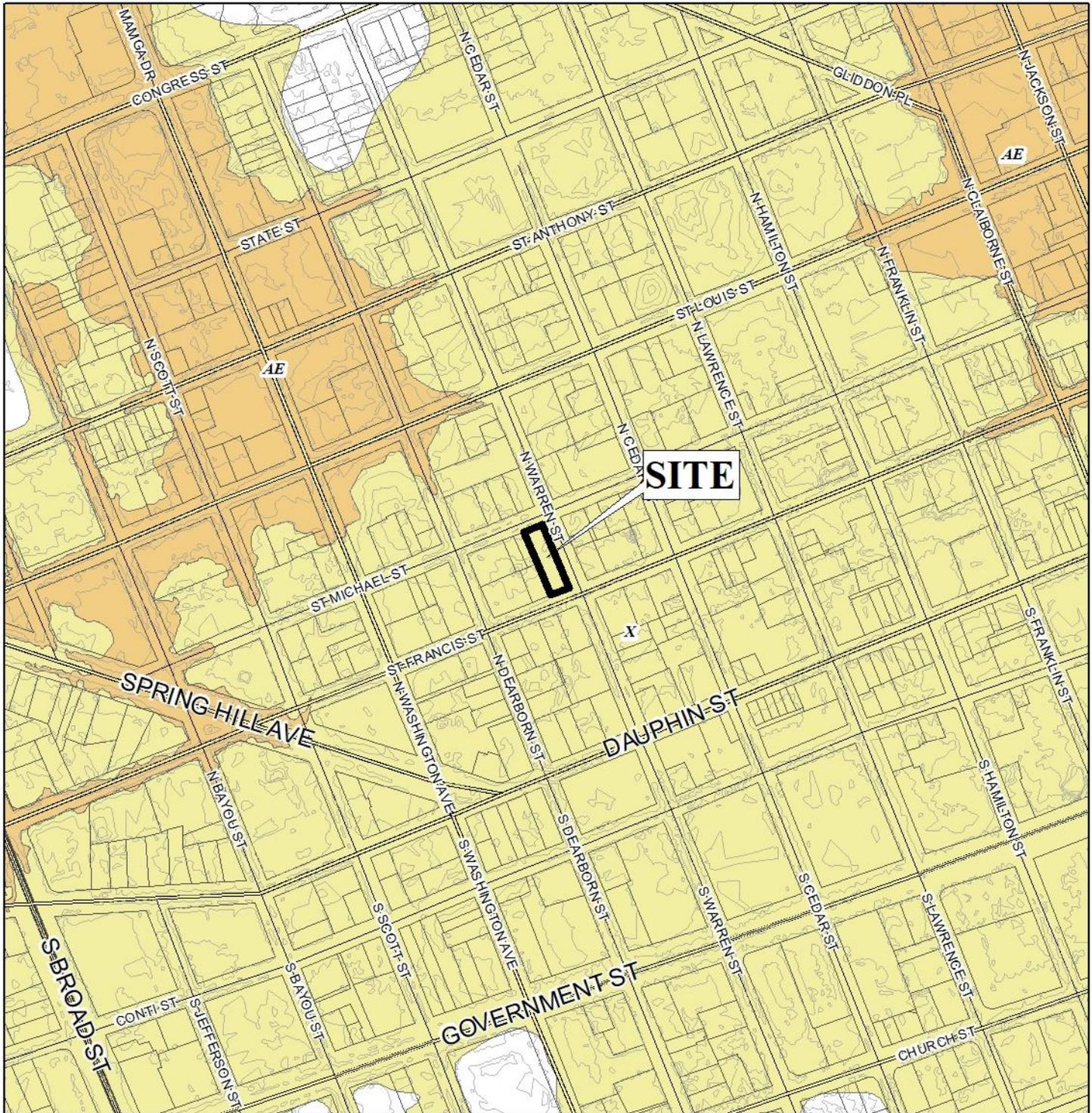
APPLICANT Temple Lodge LLC (Casey Pipes, Agent)

REQUEST Transparency 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 vacant lands, office, residential and retail use, and a fraternity.

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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 vacant lands, office, residential and retail use, and a fraternity.

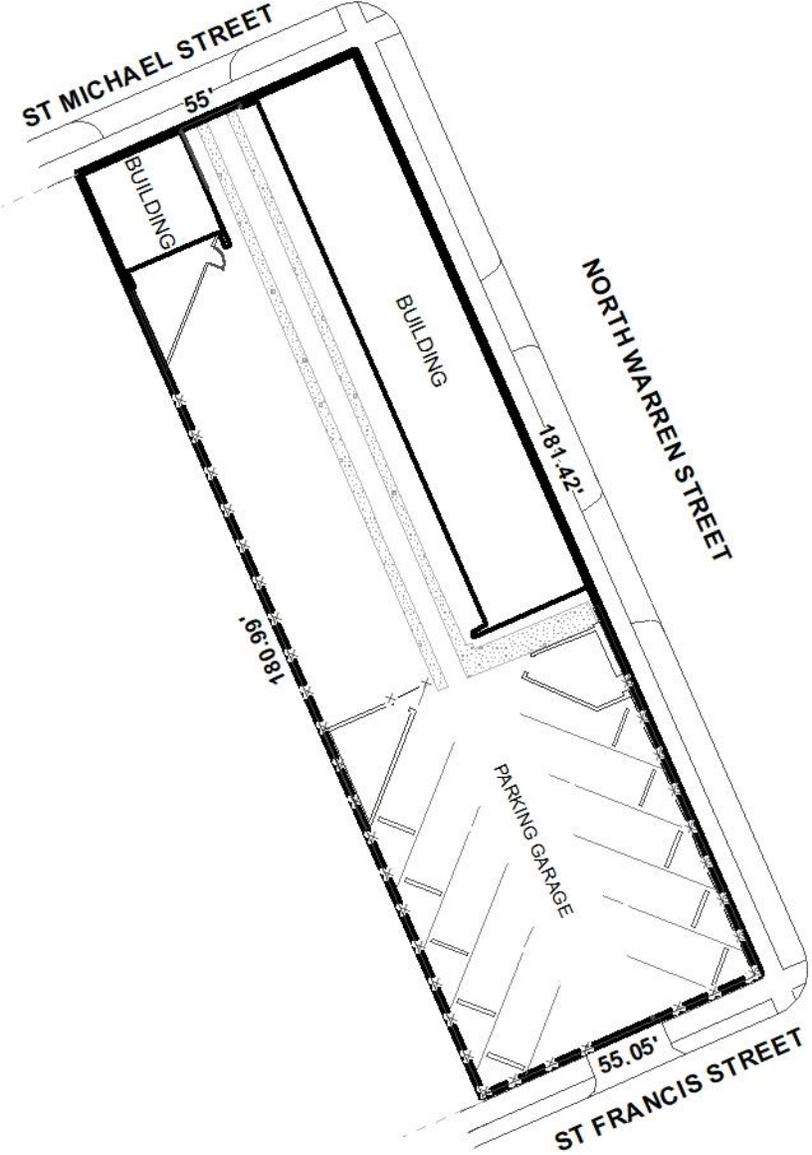
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SITE PLAN

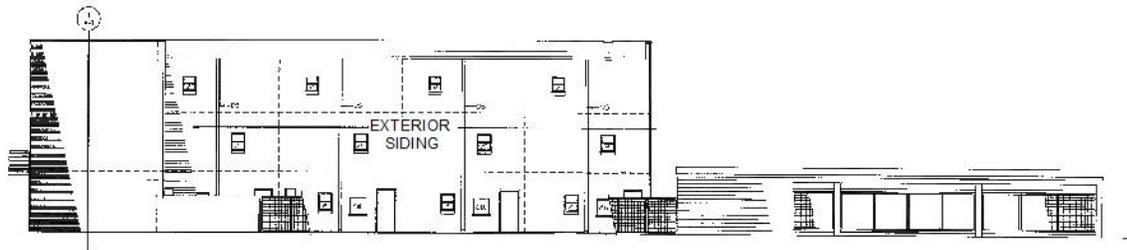


The site plan illustrates existing buildings, parking garage and fencing.

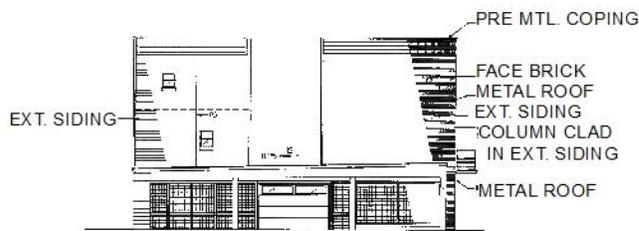
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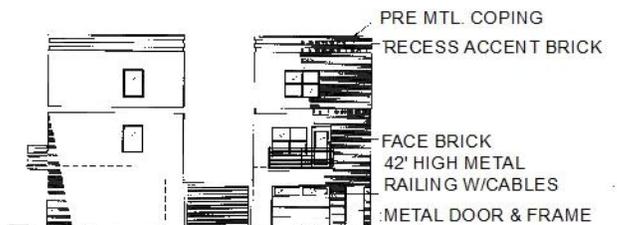
DETAIL SITE PLAN



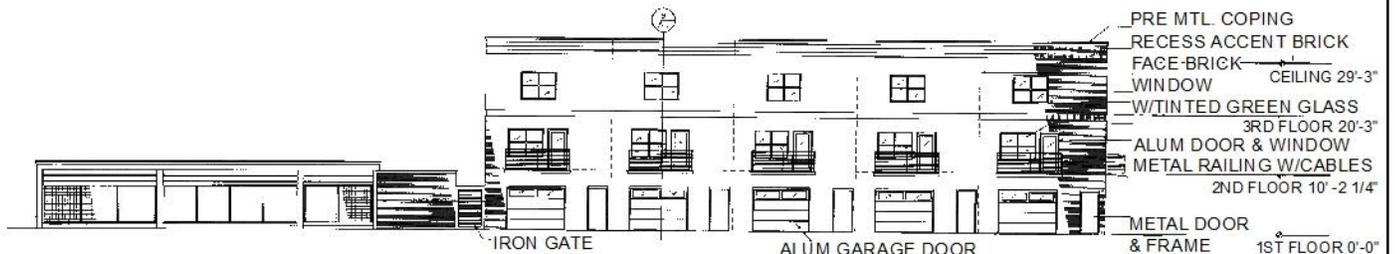
WEST ELEVATION



ST. FRANCIS STREET
ELEVATION



ST. MICHAEL STREET
ELEVATION



NORTH WARREN STREET
ELEVATION

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