



Agenda Item # 7

BOA-002451-2023

View additional details on this proposal and all application materials using the following link:

[Applicant Materials for Consideration](#)

DETAILS

Location:

263 and 267 Dauphin Street
(South side of Dauphin Street, 43'± East of South Jackson Street)

Applicant / Agent (as applicable):

Box Owt LLC

Property Owner:

Box Owt LLC

Current Zoning:

T-5.2

Future Land Use:

Downtown

Case Number:

6510

Unified Development Code (UDC) / Downtown Development District (DDD) Requirements:

The following are the applicable code requirements:

- **Site:** The Downtown Development District requires compliant frontage type.
- **Building Design:** The Downtown Development District requires compliant transparency, prohibits security bars, and requires mechanical equipment screening.
- **Building Materials:** The Downtown Development District does not allow metal siding.

Board Consideration:

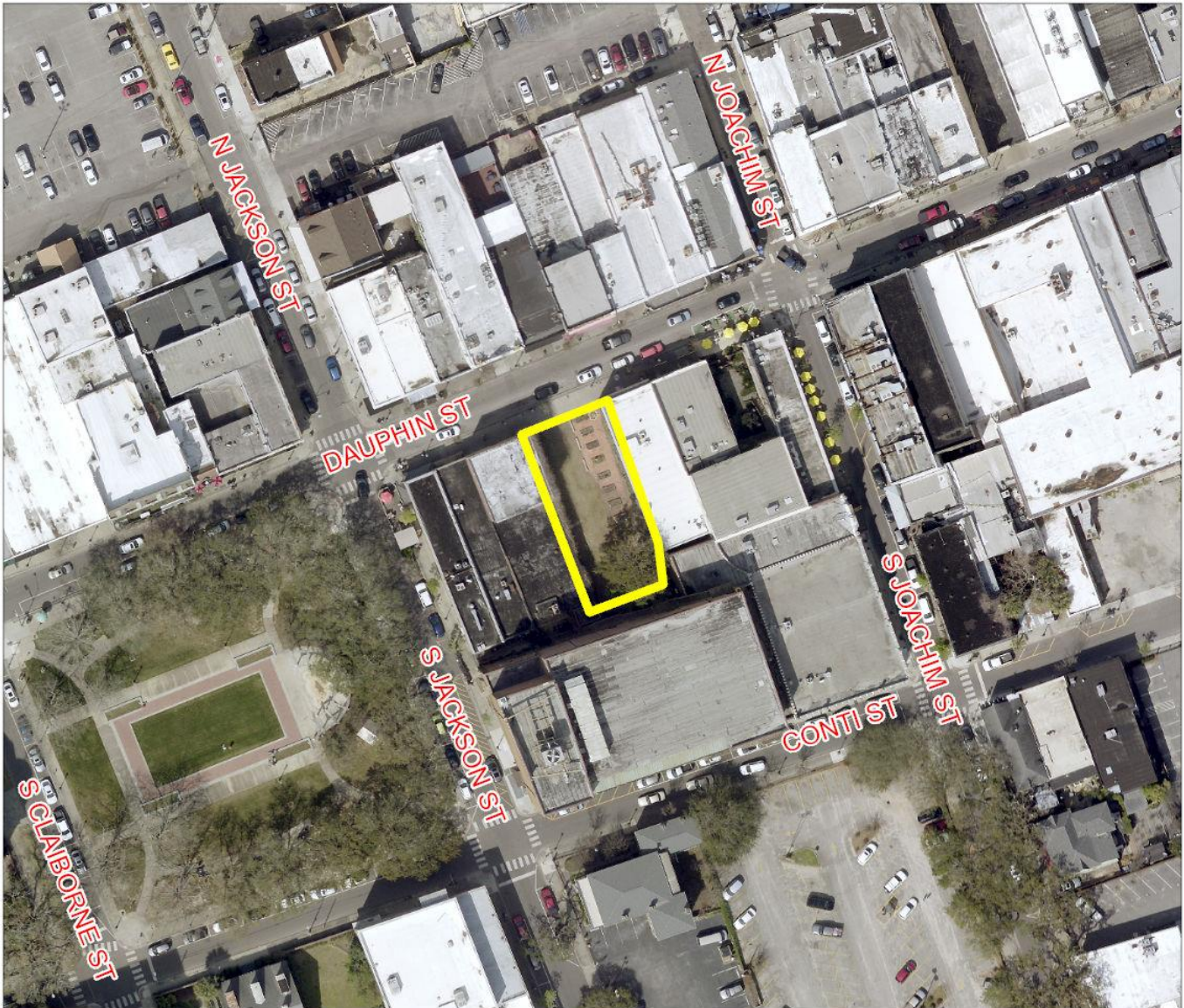
The following variance is requested:

- **Site:** Site Variances for a non-compliant frontage type.
- **Building Design:** Building Design Variances for reduced transparency and security bars, and no mechanical equipment screening.
- **Building Materials:** Building Material Variances for metal siding.

Report Contents:

	Page
Context Map	2
Site History	3
Staff Comments	5
Variance Considerations	7
Exhibits	8

BOARD OF ADJUSTMENT VICINITY MAP - EXISTING AERIAL



The site is surrounded by miscellaneous commercial and residential units.

APPLICATION NUMBER 6510 DATE April 3, 2023
 APPLICANT Box Owt LLC (Artious Walker, Agent)
 REQUEST Materials, Transparency, Mechanical Equipment Screening, and Frontage Type Variances



SITE HISTORY

Timeline of Reviews and Permits

November 2, 2020: **Predevelopment Meeting**. Proposed shipping container food park. The applicant's presentation indicates multiple phases of development:

- *Phase 1 – place up to 7 shipping containers, plus containers for restrooms and play area,*
- *Phase 1(A) - substituting food trucks for 3 of the shipping containers,*
- *Phase 2 - adding second floor catwalk with additional 8 shipping containers on upper level*
- *Phase 3 – acquiring and renovating the abutting Webers Building at 267 Dauphin Street.*

The applicant was informed of the following Planning & Zoning related issues:

- *Need CRC first, and then for each phase.*
- *Need MHDC approval.*
- *Need variances for street frontage type (shopfront frontage is required), and need variances for materials proposed (metal not allowed).*
- *May need sign variance.*
- *May need Planning Approval for occupancy load (employees and guests) over 100.*
- *Weber Building may need to be a separate Phase 3.*

January 8, 2021: **Property purchased**. Applicant purchases property per recorded Vendor's Lien Deed.

July 19, 2021: **Planning Commission**. Application submitted for Planning Approval for occupant load exceeding 100 people.

September 2, 2021: **Planning Commission**. Request for Planning Approval approved, with an occupant load for a food service establishment of 546 people total for 263, 265 and 267 Dauphin Street.

October 19, 2021: **Building Permits**. Applications submitted for building permit review.

November 2, 2021: **Consolidated Review Committee**. Initial application submitted for review. No writing information included with application to indicate phased implementation.

November 8, 2021: **Consolidated Review Committee**. The CRC requests additional information, as follows:

- *Is the site to be secured at night? If so, how?*
- *Revise all site plans to include the proposed planters.*
- *The proposed exterior pod material of corrugated metal is not allowed in the DDD. Either the material should be changed, or a variance will be required.*
- *The front façade appears to have 0% transparency. DDD regulations require a minimum of 20%. Please either revise the plans to provide increased transparency, or obtain a variance.*
- *Signage as proposed does not comply with DDD regulations. Either the signage should be revised, or a variance will be required.*

December 13, 2021: **Consolidated Review Committee**. Response from applicant regarding additional information:

Site Access Security

Box Owt will be secured with three access ways. These door locations are depicted on the next slide and are explained as follows:

- Door 1 is the main entry way to park. This will be a roll-up door that will not be visible during our projected 8am – 12am hours of operation. No signs of the roll-up door will be viewable when in its open position.
- Door 2 is the front entry way for the building. This door will remain as double, window storefront doors.
- Door 3 is a rear access way into the alley. This door will be a metal security door that will not be for public use.

Planters

There is a total of eight planters that will run the center length of the park. The first two upon entry will be similar to those in front of the Downtown Alliance building. The remaining six will be the same planters with additional bench seating along the sides. Our current rendering mistakenly depicts these as tables.

SIP Container / Exterior Materials

The containers will be made of structural insulated paneling (SIP) with MgO Hardee board serving as the exterior layer. Containers will then have corrugated stucco [emphasis added] siding, allowing them emulate actual Conex shipping containers. All colors for the container exterior colors will align with the historic pallet of Sherwin Williams.

Front Façade Transparency

The rendering depicted on the following slide exceeds the DDD requirement of 20%.

Signage Specifications

The "BOX OWT" sign over the park is depicted on the following slide and falls within the 40 sq. ft. allowed.

December 16, 2021: Architectural Review Board. – Application submitted for review.

December 17, 2021: Consolidated Review Committee. The CRC requests additional information, as follows:

1. Have the site plan amended to accurately depict planter locations. Provide material and height of the proposed planters.
2. Provide transparency calculations for the front façade, both with the entrance door closed and open.
3. Provide dimensions and materials of proposed signage.

December 21, 2021: Consolidated Review Committee. – Response from architect for the project:

Planters: See attached drawings showing planter locations and style. Planter is 60" L x 18" W x 36" H and is made of a fiber cement material. Color is a rust color as depicted in the attached file.

Transparency:

a. First level calculation door open is 496 s.f. / 204 s.f. = 61%

b. First Level calculation door closed is 496 s.f. / 124 s.f. = 25%

i. Note: they make translucent roll-up doors but the panels are translucent and not perfectly clear.

Signage: Signage is 3'-2" tall x 13'-0" wide (see drawings) which is 37 s.f. Sign will be made of metal with back-lit metal letters.

January 4, 2022: Consolidated Review Committee. – CRC issues final approval.

January 5, 2022: Architectural Review Board. – The ARB approved proposed food pods with metal siding and false façade composed of shipping container doors with glass inserts for transparency along Dauphin Street.

February 4, 2022: Building Permits. – Permits issued for construction.

It appears that no revised plans were submitted by the applicant or design professional reflecting any of the approvals of the Consolidated Review Committee or the Architectural Review Board. Thus the plans approved for construction do not reflect the CRC’s stucco exterior and transparency requirements, or the ARB’s requirement for glass inserts into the proposed shipping container doors.

March 2, 2023: Notice of Violation. issued by Planning & Zoning, requesting that the applicant apply for the CRC for a new review, and noting possible violations of the following:

- 64-3.1.14.(a) **Mechanical equipment** [UDC-Appendix A, Section 10.B.1.] – visible rooftop mechanical equipment.
- 64-3.1.14.(c)(2) **Exterior finish** [UDC-Appendix A, Section 10.B.3.(b)]– metal exterior finish.
- 64-3.1.14.(g)(3) **Transparency** [UDC-Appendix A, Section 10.B.7.(b) and Section 10.C.4.(h)(4)a.] – no transparency.
- 64-3.1.14.(g)(4) **Security bars** [UDC-Appendix A, Section 10.B.3.(c)]– security fence/gate present across entry.
- 64-3.1.15.(d)(5)III.ii.a. **Pedestrian Forecourt** [UDC-Appendix A, Section 10.C.4.(e)] – security fence/gate.

STAFF COMMENTS

Engineering Comments:

No comments.

Traffic Engineering Comments:

No comments.

Urban Forestry Comments:

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.

Planning Comments:

The applicant is requesting a non-complaint frontage type, reduced transparency and security bars, to provide no mechanical equipment screening and a non-compliant building material (metal siding). All documentation submitted for this application is available via the hyperlink, in the green text box on page 1.

The applicant was informed of the required CRC review, exterior building material and frontage requirements at the initial Predevelopment Meeting on November 2, 2020. The applicant applied for building permits in October 2021 prior to submitting an application for review to the CRC or the ARB.

After submittal to the CRC for review on November 2, 2021, with plans that did not reflect the exterior building material and frontage requirements of the DDD, as noted in the Predevelopment Meeting in November 2020, multiple revisions and submittals were made that eventually led to the CRC approving the project on January 4, 2022 – with stucco over metal exterior and a specific minimum amount of transparency.

Separately, the ARB review plans submitted on December 16, 2021, and after revisions plans were approved on January 6, 2022, allowing metal siding but requiring a minimum amount of transparency to be included in the exterior shipping container “doors.”

The drawings submitted for the BOA application depict two different facades. The architectural elevation depicts a façade composed of shipping container metal siding / doors with no transparency. The architectural rendering, however, depicts a different façade design which includes transparency. As such the Board has been provided conflicting information between the architectural plans and the rendering to determine what exactly will be built. Furthermore, the architectural elevation does not reflect any aspect of the approvals granted by the CRC and the ARB.

Regarding the specific issues:

- 64-3.1.14.(a) Mechanical equipment [UDC-Appendix A, Section 10.B.1.] – visible rooftop mechanical equipment.
 - *The applicant originally proposed to screen the rooftop equipment, and has stated verbally that they will do so prior to the use of the individual pods.*
- 64-3.1.14.(c)(2) Exterior finish [UDC-Appendix A, Section 10.B.3.(b)]– metal exterior finish.
 - *The applicant was informed as early as November 2, 2020, that metal exteriors are prohibited, and during the CRC review process stated that they would stucco the metal siding to provide a compliant exterior finish.*
- 64-3.1.14.(g)(3) Transparency [UDC-Appendix A, Section 10.B.7.(b) and Section 10.C.4.(h)(4)a.] – no transparency.
 - *The applicant made modifications to the façade during the CRC and ARB review processes that achieved potentially compliant levels of transparency.*
- 64-3.1.14.(g)(4) Security bars [UDC-Appendix A, Section 10.B.3.(c)]– security fence/gate present across entry.
 - *The DDD specifically prohibits visible security bars on windows and doors.*
- 64-3.1.15.(d)(5)III.ii.a. Pedestrian Forecourt [UDC-Appendix A, Section 10.C.4.(e)] – security fence/gate.
 - *The original proposal was to provide a secure entry setback from the street frontage, providing a “Pedestrian Forecourt” frontage. There are no provisions in the DDD regulations for fences or gates for this frontage type. It should also be noted that the DDD requires that*

this portion of Dauphin Street have a "Shopfront" frontage, which would require a building façade placed at the property line or setback no more than five (5) feet from the property line.

The application does not provide sufficient information to determine what will be built as a final product on the site and a holdover is in order so that accurate architectural plans can be prepared that reflect the intent of the applicant.

Once plans are prepared, they should be submitted to the Consolidated Review Committee for a review to determine compliance with the requirements of the Downtown Development District regulations, and to determine all variances that will be required for the proposed development. A resubmittal to the Architectural Review Board should also be required after the CRC has completed its review, prior to any reconsideration by the Board of Adjustment

VARIANCE CONSIDERATIONS

Standards of Review:

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.

Article 5 Section 10-E. 1. of the Unified Development Codes states that the Board of Adjustment may grant a variance if:

- The Applicant demonstrates that the variance shall not be contrary to the public interest,
- where, owing to special conditions a literal enforcement of the provision of this Chapter will result in unnecessary hardship and
- the spirit of this Chapter will be observed and substantial justice done.

Article 5 Section 10-E.2. states; No variance shall be granted:

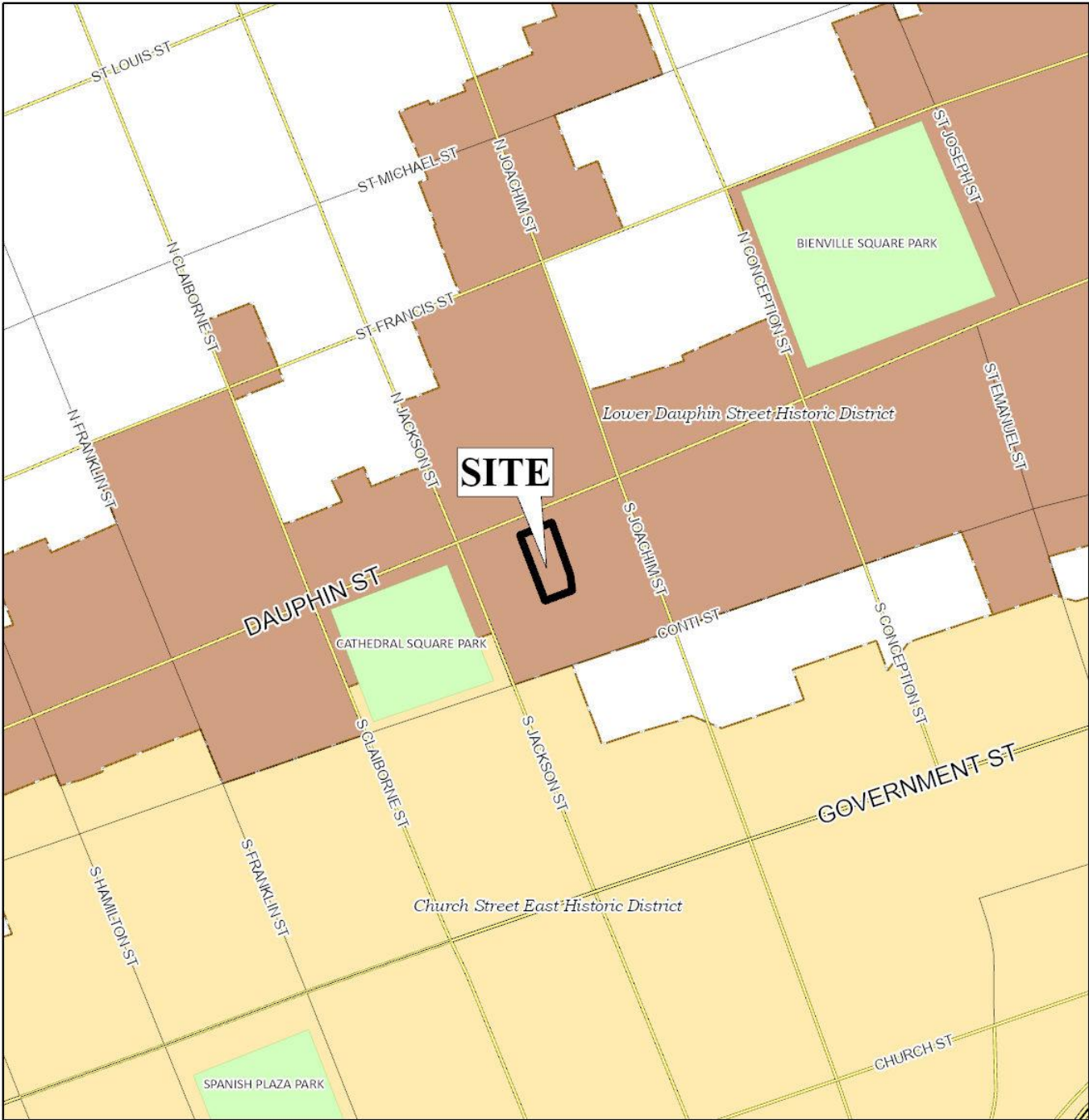
- (a) In order to relieve an owner of restrictive covenants that are recorded in Mobile County Probate Court and applicable to the property;
- (b) Where economic loss is the sole basis for the required variance; or
- (c) Where the variance is otherwise unlawful

Considerations:

Based on the requested Variance application, the Board should consider the following findings of fact for approval or denial of the request:

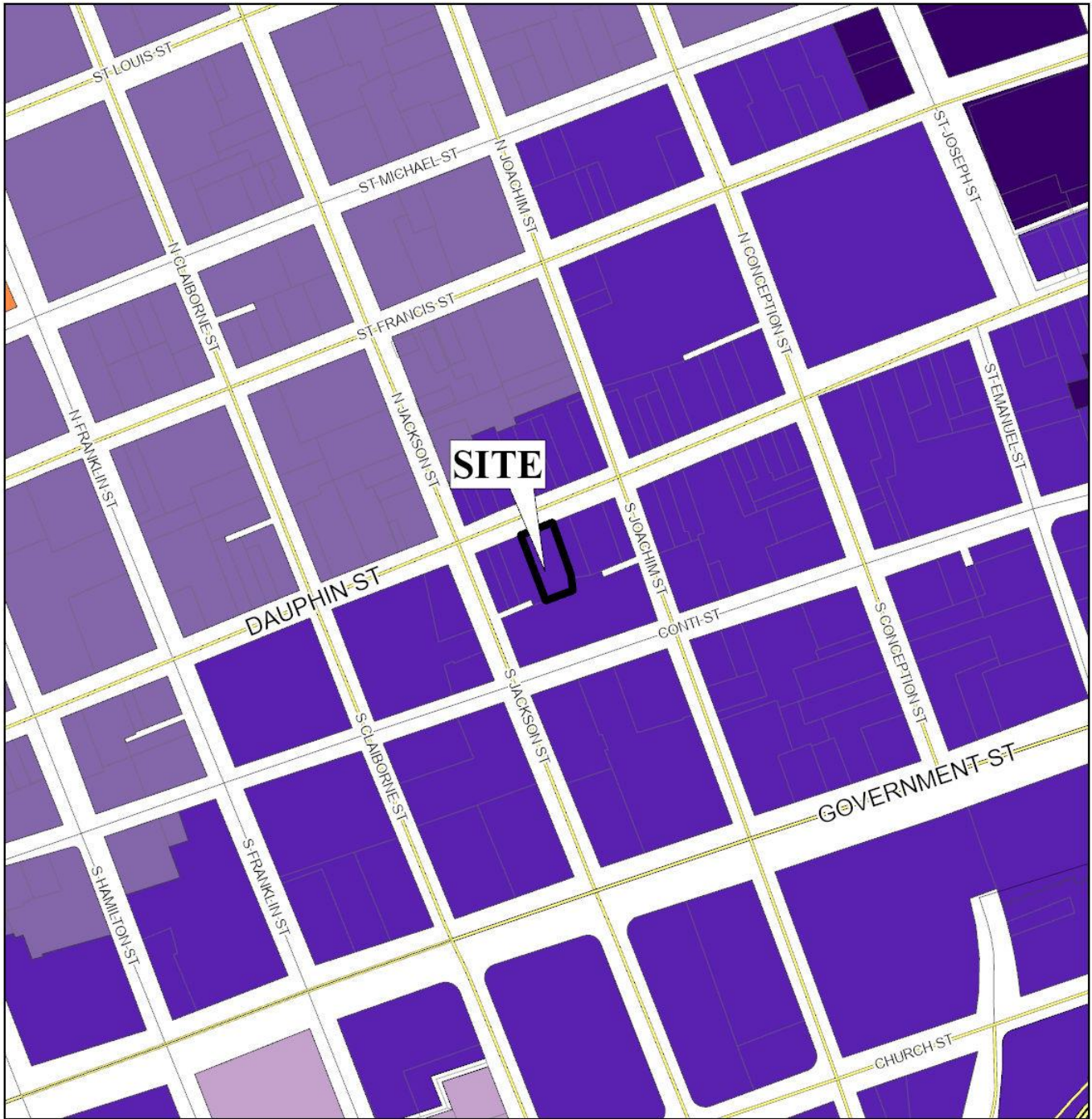
- 1) The variance **will / will not** be contrary to the public interest;
- 2) Special conditions **exist / do not exist** such that a literal enforcement of the provisions of the chapter **will / will not** result in unnecessary hardship; and
- 3) The spirit of the chapter **shall be / shall not be** observed and substantial justice **done / not done** to the applicant and the surrounding neighborhood by granting the variance.

LOCATOR MAP



APPLICATION NUMBER <u>6510</u> DATE <u>April 3, 2023</u>	
APPLICANT <u>Box Owt LLC (Artious Walker, Agent)</u>	
REQUEST <u>Materials, Transparency, Mechanical Equipment Screening, and Frontage Type Variances</u>	

LOCATOR ZONING MAP



APPLICATION NUMBER 6510 DATE April 3, 2023

APPLICANT Box Owt LLC (Artious Walker, Agent)

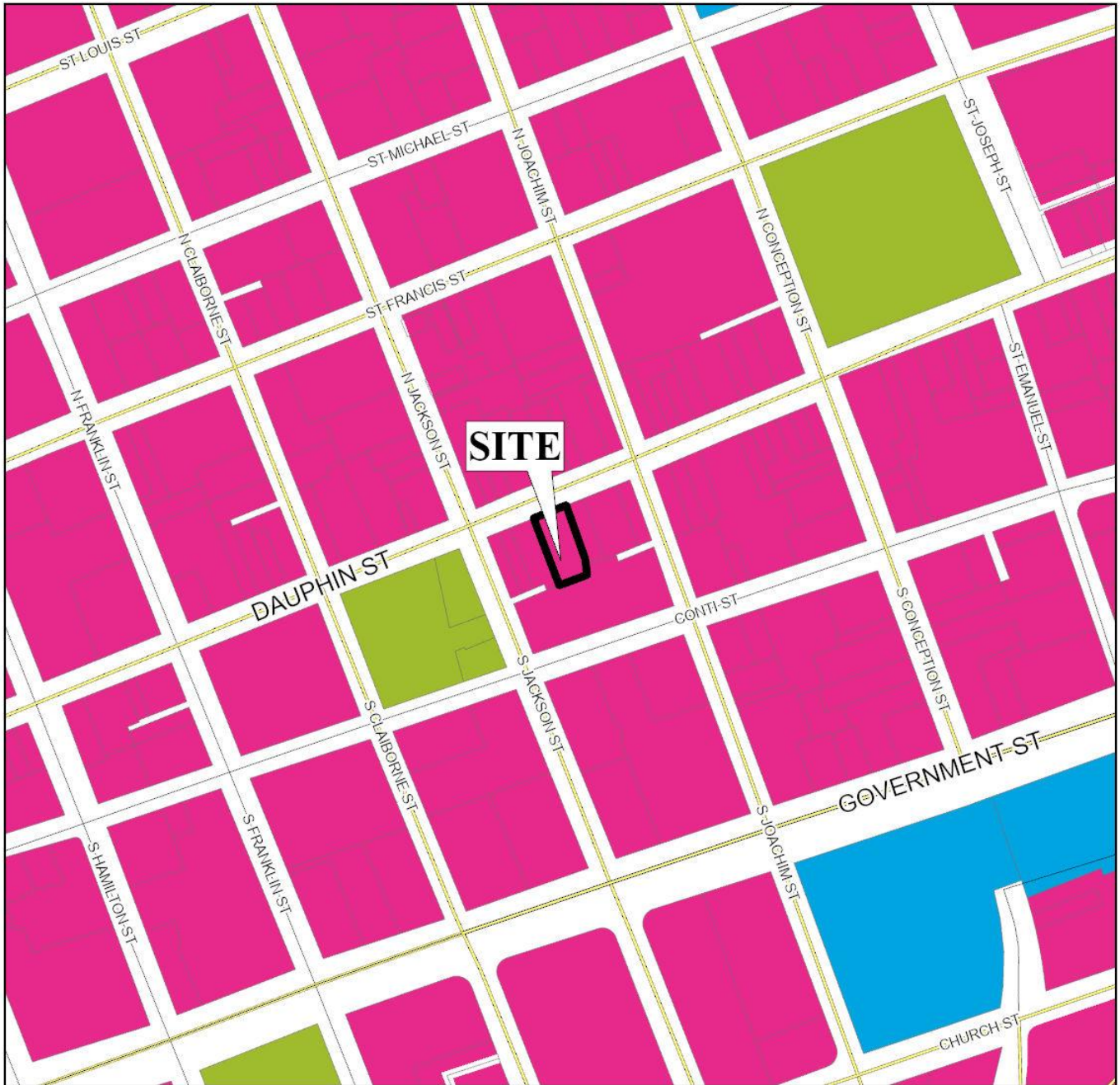
REQUEST Materials, Transparency, Mechanical Equipment Screening, and Frontage Type Variances

N



NTS

FLUM LOCATOR MAP



APPLICATION NUMBER 6510 DATE April 3, 2023

APPLICANT Box Owt LLC (Artious Walker, Agent)

REQUEST Materials, Transparency, Mechanical Equipment Screening, and Frontage Type Variances

FLUM

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



NTS

BOARD OF ADJUSTMENT VICINITY MAP - EXISTING ZONING



The site is surrounded by commercial units.

APPLICATION NUMBER 6510 DATE April 3, 2023

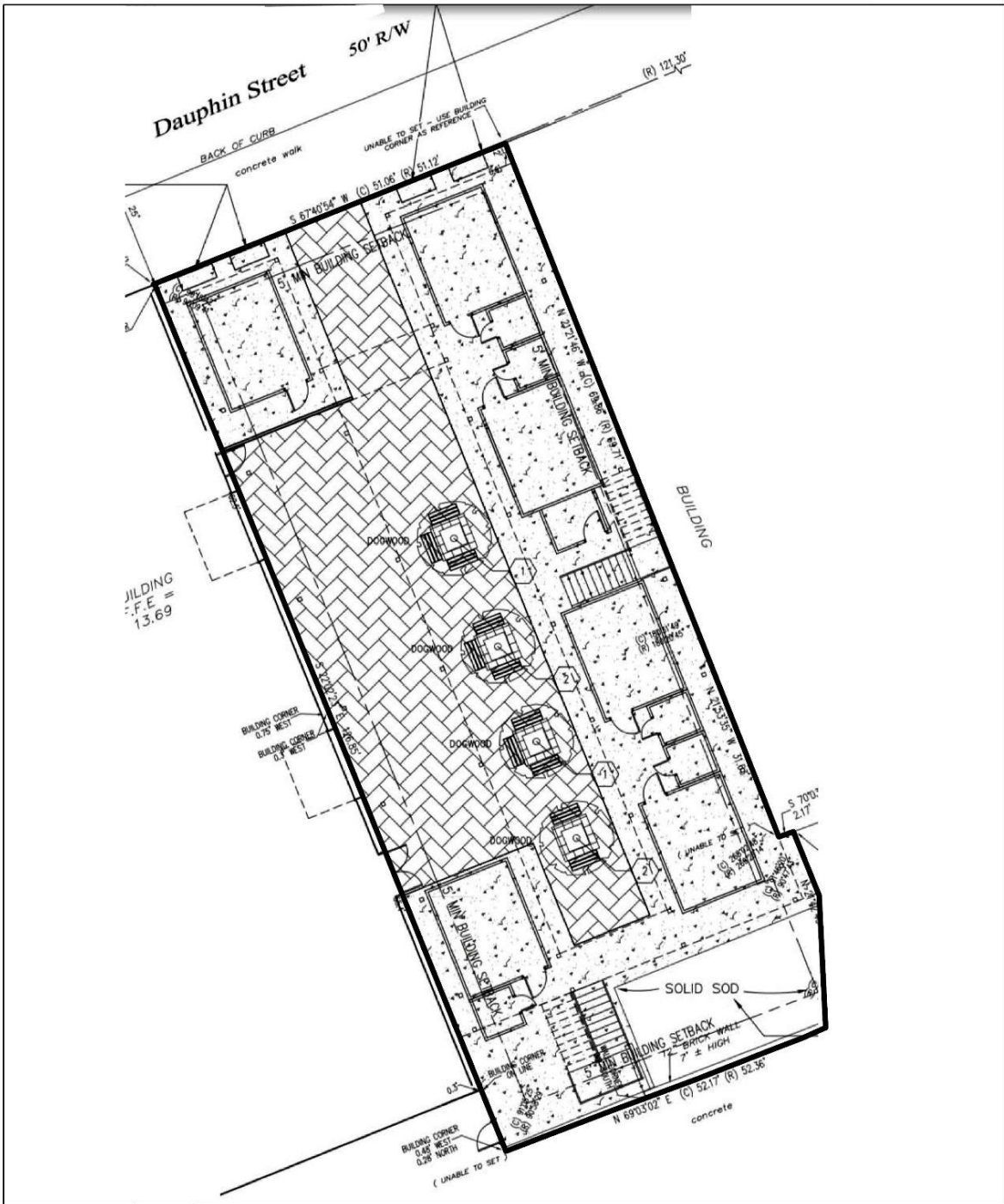
APPLICANT Box Owt LLC (Artious Walker, Agent)

REQUEST Materials, Transparency, Mechanical Equipment Screening, and Frontage Type Variances

 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



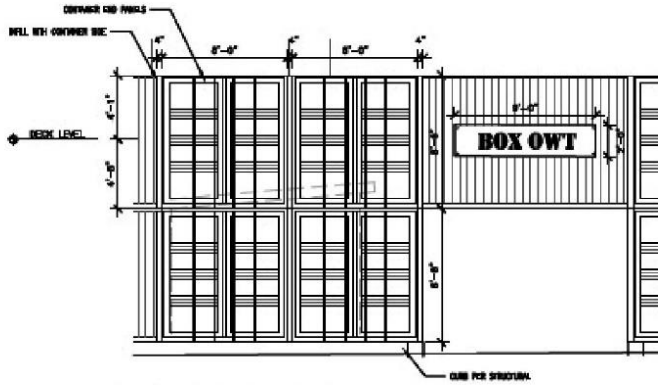
SITE PLAN



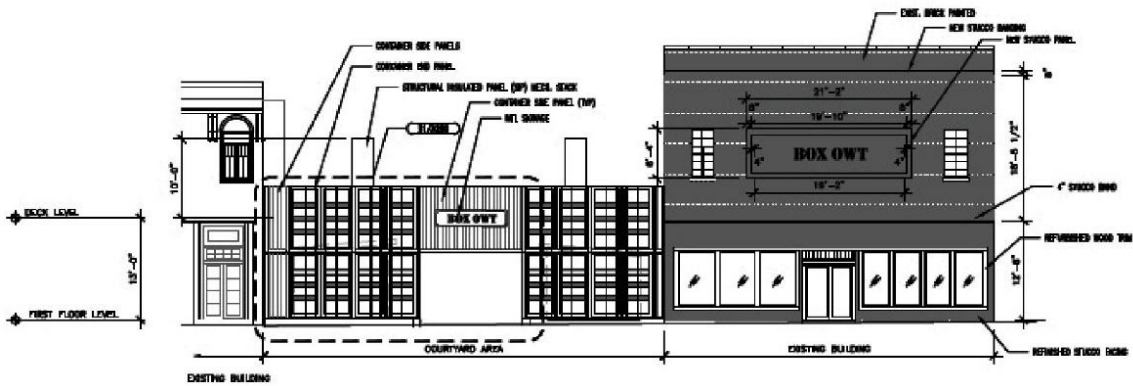
The site plan illustrates the setbacks and containers.

APPLICATION NUMBER <u> 6510 </u> DATE <u> April 3, 2023 </u>	 N NTS
APPLICANT <u> Box Owt LLC (Artious Walker, Agent) </u>	
REQUEST <u> Materials, Transparency, Mechanical Equipment Screening, and Frontage Type Variances </u>	

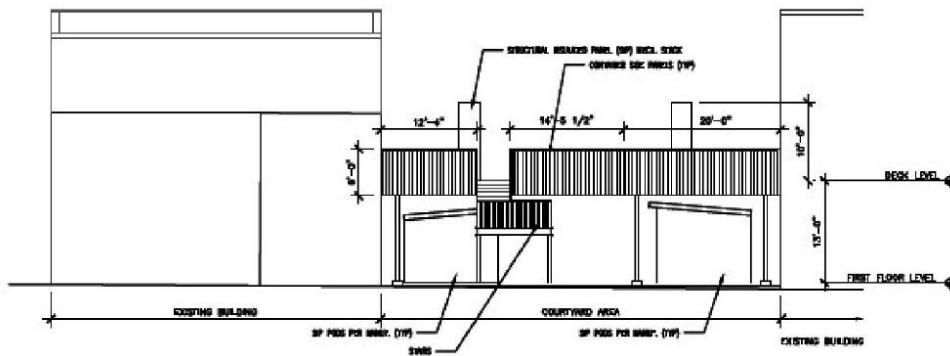
DETAIL SITE PLAN



(B1) ENLARGED END PANEL
1/4"=1'-0"



(D1) NORTH ELEVATION
1/8"=1'-0"



(E1) SOUTH ELEVATION
1/8"=1'-0"

APPLICATION NUMBER 6510 DATE April 3, 2023

APPLICANT Box Owt LLC (Artious Walker, Agent)

REQUEST Materials, Transparency, Mechanical Equipment Screening, and Frontage Type Variances



DETAIL SITE PLAN



APPLICATION NUMBER 6510 DATE April 3, 2023

APPLICANT Box Owt LLC (Artious Walker, Agent)

REQUEST Materials, Transparency, Mechanical Equipment

N



NTS

DETAIL SITE PLAN



APPLICATION NUMBER 6510 DATE April 3, 2023

APPLICANT Box Owt LLC (Artious Walker, Agent)

REQUEST Materials, Transparency, Mechanical Equipment



NTS

