

**PLANNING APPROVAL STAFF REPORT**

**Date: August 6, 2015**

**NAME**

Tom Townsend

**LOCATION**

401 Dauphin Street  
(Southwest corner of Dauphin Street and South Franklin Street)

**CITY COUNCIL DISTRICT**

District 2

**PRESENT ZONING**

T 5.1, Mixed Use - Medium Intensity

**AREA OF PROPERTY**

4,963 ± sf / 0.1 ± Acres

**CONTEMPLATED USE**

Planning Approval to allow increased occupancy load for a proposed entertainment venue in the Downtown Development District.

**TIME SCHEDULE FOR DEVELOPMENT**

Begin/Complete Design in September 2015  
Construction to begin October 2015  
Completion by April 2016

**ENGINEERING COMMENTS**

No comments.

**TRAFFIC ENGINEERING COMMENTS**

Additional detail of the proposed “temporary barricade” will be needed. The plan indicates that the barricade will only be 2” wide, however, that may only be the width at the height of the barricade. The clear path width will need to account for the width of the base of the barricade, and the base can not create a tripping hazard in the remaining clear space of the sidewalk. Also, according to the 2010 ADA Standards for Accessible Design, a 36” minimum clear width of walking surface is required. This should apply to both the sidewalk that will be open to the public, as well as the queue space for the venue.

**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 (State Act 61-929 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).

**REMARKS**

The applicant is requesting Planning Approval allow increased occupancy load for a proposed entertainment venue in the Downtown Development District. The Downtown Development District requires restaurants, bars, catering, entertainment, theater and similar uses with a proposed occupancy load over 100 people to obtain Planning Approval in T 5.1 districts.

The site was more recently before the Planning Commission at its November 6, 2014 meeting, where the request was denied for the following reasons:

- 1) There are multiple residential uses within 300 feet that, despite sound attenuation measures, may still be impacted by noise;
- 2) The exclusion of this site and the associated three blocks from the Entertainment District indicates an apparent intent by the Mobile City Council to restrict the types of activities within the excluded area;
- 3) The proposed occupancy load of 907 people far exceeds any of the other uses within the immediate vicinity, thus would be out of character for the area; and
- 4) There are other, more appropriate districts within the Downtown Development District for the proposed use and the proposed occupancy load.

The new request under consideration initially proposes an occupancy load of 850 people for Phase One, with 1000 people anticipated as a future occupancy request.

The review required for Planning Approval examines the applicant's location and site plan with regard to transportation, parking and access, public utilities and facilities, traffic congestion and hazard, and to determine if the proposal is in harmony with the orderly and appropriate development of the district.

It is very important to note that the Planning Approval review is site plan specific; therefore any future changes to the site plan or to the scope of operations, as approved, by current or future applicants must be submitted for Planning Approval.

The site is located in a T 5.1, Mixed Use - Medium Intensity district. It has frontage on Dauphin Street, an "A" class street, and South Franklin Street, also an "A" class street. The primary frontage of the building is on Dauphin Street.

The property is also located within the Lower Dauphin Street Historic District, thus any exterior improvements will additionally require review by the Mobile Historic Development Commission.

The property is located outside of the two Entertainment Districts in downtown, thus it cannot benefit from any of the allowances provided by the regulations associated with the districts.

The applicant provided the following narrative:

- a. *Contemplated Use; Assembly, Combination Entertainment Venue & Banquet Hall Use, 850 Phase I Occupancy, 1000 Future Occupancy, Complete Historic Restoration following National Park Service Certified Historic Preservation guidelines. We have*

*begun paperwork for the Tax Credit but cannot proceed until we are able to obtain Planning Commission Approval.*

*This is not a request for a zoning amendment, this is a request under the new Form Based Code requirements, for Planning Approval for all Entertainment/Banquet Hall Assembly occupancies greater than 100 persons. This is a new regulation that was not required until last year; we would have been able to proceed directly to Design then Plan Submission. This request is necessary because;*

- a. We want our building to become a source of pride to Mobile's Historic Downtown, since it is one of the few remaining Art Moderne architectural styles in the City.*
- b. As Developer, we have been given this single opportunity to partner with HUKA Entertainment as tenant, to create a world class concert and entertainment venue for a Southeast US target customer base. The venue will be solely operated by HUKA Entertainment, founded in 2004 in Mobile, and has become an industry leader in custom event planning and execution. HUKA has established itself as a national competitor in the live event space market by producing unique experiences of varying size, type and scale, including award-winning festivals. HUKA Entertainment furnishes turnkey event management that is unmatched by others in the industry. Because HUKA is buying over \$30,000,000 per year in talent, HUKA has access to Artists, Songwriters and bands that would normally not consider the Mobile market. With this immediate access to talent, through its buying power and with this world class facility, HUKA will bring top artists to Mobile in this first class setting. HUKA is also the exclusive promoter at the Saenger Theatre in Mobile and numerous other venues in North America.*
- c. 1000 Future Occupancy is also being requested at this time for a Phase II future construction that would include a rooftop terrace and bring the total available square footage in excess of 14,000 SF.*
- d. Architecturally, the Building cannot be broken apart into multiple businesses without altering the façade and losing the NPS tax credit.*
- e. Condo development is not viable because we cannot offer parking that the market requires for a \$250,000 condo. We also feel the market is not ready for additional condos.*

*The probable effects on the surrounding land uses and properties would be completely positive, based on the nature of the Entertainment District;*

- f. The mixed use nature of the Downtown Development District offers three distinct Use categories that all complement each other with regard to use and parking;*
  - 1. Commercial (8a-5p),*
  - 2. Entertainment (5p-1a),*
  - 3. Residential (5p-5a)*
- g. Nearby streets and parking used earlier in the day for Commercial during 8a-5p is empty and available for Entertainment Use after stores close.*
- h. Building is located on the primary corridor street of Mobile's Entertainment District, within the Downtown Development District. There are at least 3 other buildings within 5 blocks that have Assembly Use with similar occupancies, and all are far enough apart that they would not create congestion.*

- i. *HUKA has agreed to employ Off Duty Mobile Police Officers because of their familiarity with City Ordinances. Off Duty Police will keep the building Use and crowds in compliance with City Ordinances.*
  - j. *HUKA soundproofing experts will contribute to the design of sound control features, and will be tested for City Ordinance compliance. Also Off-Duty Police will enforce compliance, all combining to ensure no noise related issues.*
  - k. *Our venue will have a positive affect on the emotional well-being of Mobile's senior community. Cathedral Place Apartments' 200 senior residents will have immediate positive affects because of our written Agreement to provide them with a venue for monthly "Big Band Nights" that will be created and produced by their resident Social Committee. Our unique location is within walking distance from Cathedral Place, and will encourage the seniors' social interaction and fitness. Our Streamline Art Deco 1930s architecture was the prevalent architectural style for our seniors, creating a positive emotional attraction for our venue. We are confident that our downtown location, our close proximity to Cathedral Place, and our Streamline Art Deco architectural style will combine to create **the top** location for the city-wide senior events that Cathedral intends to produce at our venue. Therefore our venue will have positive emotional and physical affects initially on our Cathedral Place seniors and then will grow to include positive affects on our seniors City-wide.*
  - l. *Building development will not modify or create any changes to existing street and parking.*
  - m. *Traffic, crowd control, and city ordinance enforcement are explained further on the attached Site Plan.*
  - n. *HUKA's operational hours will only be open for "ticketed" events except when venue is provided for Banquet Hall use for Cathedral Place and Weddings and other events.*
  - o. *HUKA operations are expected to bring substantial lodging, restaurant and tourism business that will provide an economic benefit to downtown businesses.*
    - *The Bar has OUTDOOR CONCERTS and has residential & windows 45' away.*
    - *The Garage has OPEN DOOR CONCERTS and residential & windows 60' away.*
    - *Ezell House has OUTDOOR CONCERTS and residential 60' away.*
    - *The following venues have occupancies exceeding 900 people: Moes, The Temple, Saenger Theater, Soul Kitchen, and O'Daley's.*
1. *Follows Smart Growth principals to reduce sprawl and infill existing infrastructure.*
  2. *Refreshes Mobile's past decade of population losses.*
  3. *Retains Mobile's younger population.*
  4. *Provides a social experience for Mobile's Downtown senior population (a)!*
  5. *Increases Mobile's tax base to support our current City services and employees.*
  6. *Brings substantial Downtown restaurant and lodging business.*
  7. *Provides a Downtown large cap venue for wedding receptions and banquet halls!*
  8. *Supports the recent "Map for Mobile" community ideas and goals.*
  9. *Full compliance with City, State and Federal Historic Restoration Guidelines.*
    - (a) *Mobile's first multi-generational entertainment use development to be produced through our new Form Based Code!!!!*

After public notices were sent to all property owners within 300 feet, using a list provided by the applicant, staff was informed by one of the property owners within the notification area that their

contact information was not correct. Research by staff confirmed that the applicant's list utilized out of date ownership information, thus the Planning Approval request must be heldover to allow for proper notification using an up to date list of all property owners. As stated on the application for Planning Approval requests:

*Provide the names and complete addresses of owners of property lying within 300 feet of the property in this application, as shown by the latest assessment records of the Mobile County Revenue Commissioner's Office located in the plat and map room. ALL property ownership information provided for notification MUST be verified through Probate Court records.*

## **RECOMMENDATION**

**Planning Approval:** Based upon the preceding, this request is recommended Holdover until the September 3 meeting, with the following provided to the Planning Division by August 14<sup>th</sup>:

- 1) Provide the names and complete addresses of owners of property lying within 300 feet of the property in this application, as shown by the latest assessment records of the Mobile County Revenue Commissioner's Office located in the plat and map room. ALL property ownership information provided for notification MUST be verified through Probate Court records;
- 2) Provide the information requested in condition # 1 on mailing labels, along with a copy of the labels; and
- 3) Submit new postage and notification fees.

### ***Revised for the September 3<sup>rd</sup> meeting:***

*The application was heldover from the August 6<sup>th</sup> meeting to allow the applicant to resubmit labels and postage to allow proper notification of all property owners within 300 feet of the site.*

*Unlike the previous request which was denied by the Planning Commission, this request includes an identification of HUKA Entertainment as the tenant / facility manager. The applicant has additionally made a greater effort to reach out to adjacent property owners and concerned citizens to explain the proposal and answer questions and address concerns.*

*The facility will consist of two floors, with the second floor open to the ground floor stage area. The stage will be located along the South wall of the building, with the main entrance from Dauphin Street on the North wall of the building.*

*The building itself is approximately 70 feet from The Mattress Factory, primarily a residential building, and approximately 215 feet from Cathedral Place Apartments.*

*Regarding noise and crowd control, the applicant has provided the following:*

#### **Crowd Control (tenant lease requirement)**

1. Queue shall follow as shown on Plan.
2. In-house security in addition to the Mobile Police Officers.

3. Mobile Off Duty Officers hired for all large show nights; One per 301-600 people, two per 601-900 people.
4. Police shall have no other duties except code enforcement before, during, and after venue shows.
5. All shows over 450, Venue shall open minimum 90 minutes before showtime to facilitate entry.
6. Will Call and Door Sales Queues will separate people into manageable queues that produce a max. 100' length queue each, that allows a steady trickle.
7. All shows over 450, Venue will move people out within 30 minutes of show closing. Crowds will be moved out of the front and sides of Building.
8. All shows under 450 people may have people staying up to 2 hours after the show.
9. Off duty Police shall stay onsite until 30 minutes after the venue is closed to the public.
10. City Ordinances (no smoking, staying out of street, littering, noise will be enforced by OD Police).
11. All litter will be cleaned from in front of Venue before 6a after closing.
12. Crowd control will adjust based on OD Police recommendations.

#### Soundproofing (tenant lease requirement)

1. Soundproofing Consultant to design sound controls & site-verify construction.
2. Possible Hours of Sound Amplification: Monday-Thursday 7pm-1am, Friday-Saturday: 8pm-2am.
3. In-House curb-side sound testing to be documented by OD Police in compliance with Mobile Noise Ordinance.
4. Windows; STC 51 custom window treatment allowing historic windows to remain.
5. New Exterior Walls; STC 59 (sound clip/channels and 4 layers drywall).
6. Existing Brick Masonry Wall; crack repair, joists sealed at Wall,
7. Two residential locations;
  - a. "Cathedral Oaks Apartments": 238 ft distance from Amplification Source.
  - b. "Mattress Factory"; 156 ft distance from Amplification Source to bedroom window on East Wall.
8. The following City Noise Ordinance shall be complied with, and enforced by in-house noise meter:

39-96.1 Noise in residential districts.

(c) (1) Generally. It shall be unlawful for any person to use, operate, or permit to be used or operated, any device, radio, musical instrument, television, phonograph, drum, sound amplifying equipment or device which produces or reproduces sound, either stationary or mobile, in such a manner so as to create any continuous noise which exceeds 85 db(a) during the hours of 6:00 a.m. until 10:00 p.m. or which exceeds 50 db(a) from 10:00 p.m. until 6:00 a.m. at any property line within a residential district or upon any public street or right-of-way within, or bordering upon any residential district within the corporate limits of the city.

*The applicant's plan shows customer queuing as occurring along North Franklin Street and Dauphin Street. Door sales queuing will be along North Franklin Street, while "will call" queuing will be along Dauphin Street. The applicant envisions a double line of customers on North Franklin Street and a single line along Dauphin Street.*

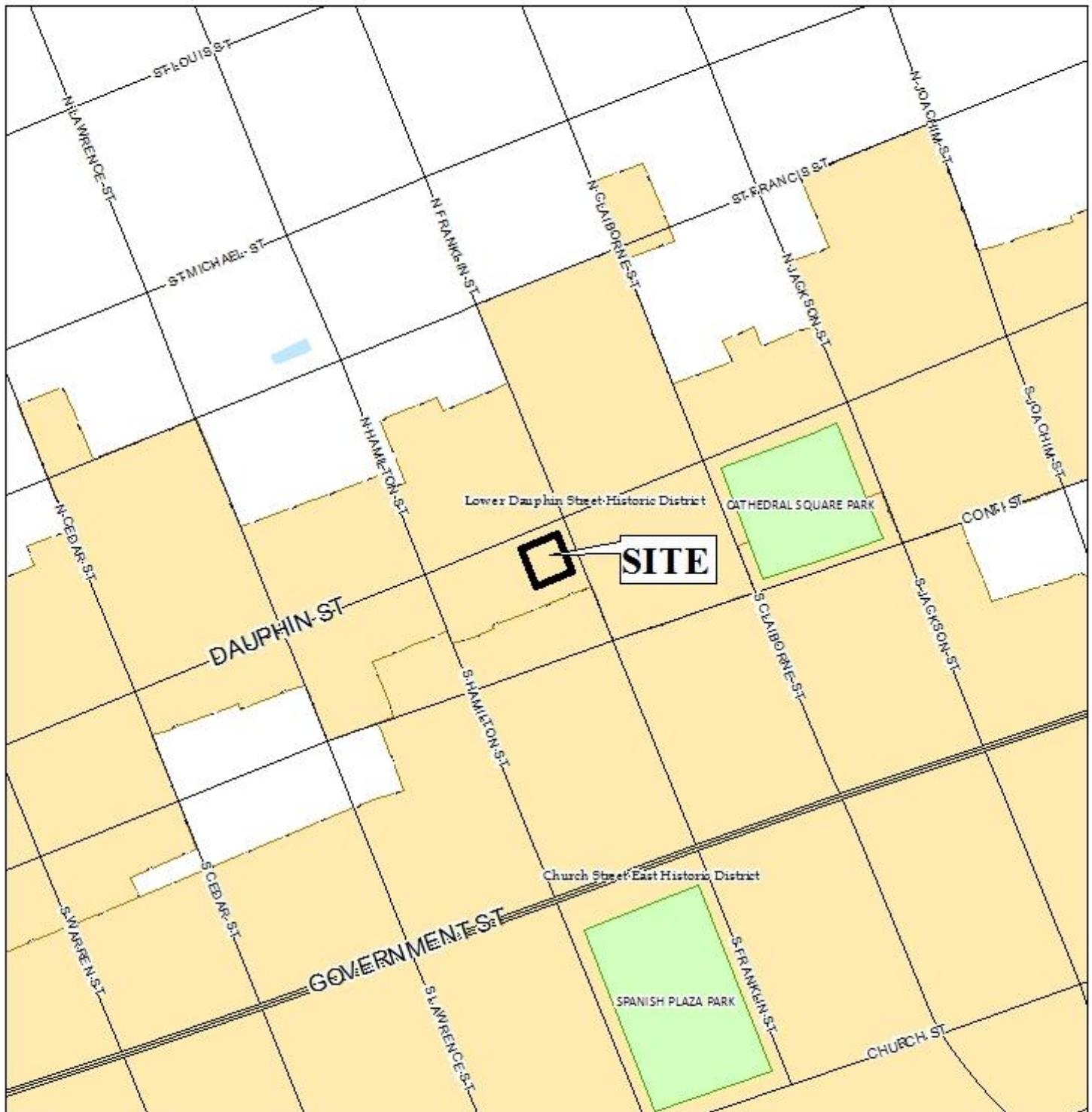
**Planning Approval examines (with analysis in italics):**

- a. the applicant's location and site plan with regard to transportation, parking and access: *there are numerous surface parking lots and on-street parking spaces available within 1000 feet of the facility and, due to the grid nature of the downtown streets, access should not be a problem except during events which result in street closures, such as ArtWalk, Mardi Gras and BayFest. Possible parking of performance act vehicles along North Franklin Street, will impede the use of these facilities.*
- b. public utilities and facilities: *the proposed use should not impact public utilities, and any impacts determined by the applicable utility will require mitigation prior to that utility allowing use of its infrastructure. Impact to public facilities, such as the sidewalk queuing and possible parking of performance act vehicles along North Franklin Street, will impede the use of these facilities.*
- c. traffic congestion and hazard: *traffic congestion can be a concern during special events within the downtown area, ArtWalk, Mardi Gras and BayFest. A large event within the proposed venue may individually create congestion within a one block radius due to passenger drop-offs and on-street customer parking.*
- d. to determine if the proposal is in harmony with the orderly and appropriate development of the district: *staff has received much input both in support and opposition to the proposed development. The proposed use will create pedestrian lines, possible traffic congestion and possible noise concerns in association with a building that had no such previous impacts. The same, however, can be said of other adaptive reuses of buildings in downtown Mobile that were previously retail stores (the conversion of the Woolworth's building to the Soul Kitchen, as an example). The proposed use at hand, however, is being considered under the new Downtown Development District regulations, hence the purpose is to provide the Planning Commission with the authority to exercise discretion regarding new large entertainment venues. The applicant has made valid points regarding the request and its place within the downtown Mobile entertainment landscape, however, the concerns that led to the previous denial by the Planning Commission still remain.*

**RECOMMENDATION**

**Planning Approval:** *Based upon the preceding, staff recommends that the Planning Commission consider all relevant aspects of the request, and determine if the proposed increased occupancy load associated with the proposed use merits approval, or as before, denial.*

# LOCATOR MAP



APPLICATION NUMBER 1 DATE September 3, 2015  
APPLICANT Thomas R Townsend Co-Owner Cabana Royale, LLC  
REQUEST Planning Approval



# PLANNING COMMISSION VICINITY MAP - EXISTING ZONING



The site is surrounded by commercial units. A church is located to the east of the site.

APPLICATION NUMBER 1 DATE September 3, 2015  
 APPLICANT Thomas R Townsend Co-Owner Cabana Royale, LLC  
 REQUEST Planning Approval

|     |     |      |     |     |      |       |      |
|-----|-----|------|-----|-----|------|-------|------|
| 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   |



NTS

**PLANNING COMMISSION  
VICINITY MAP - EXISTING ZONING**

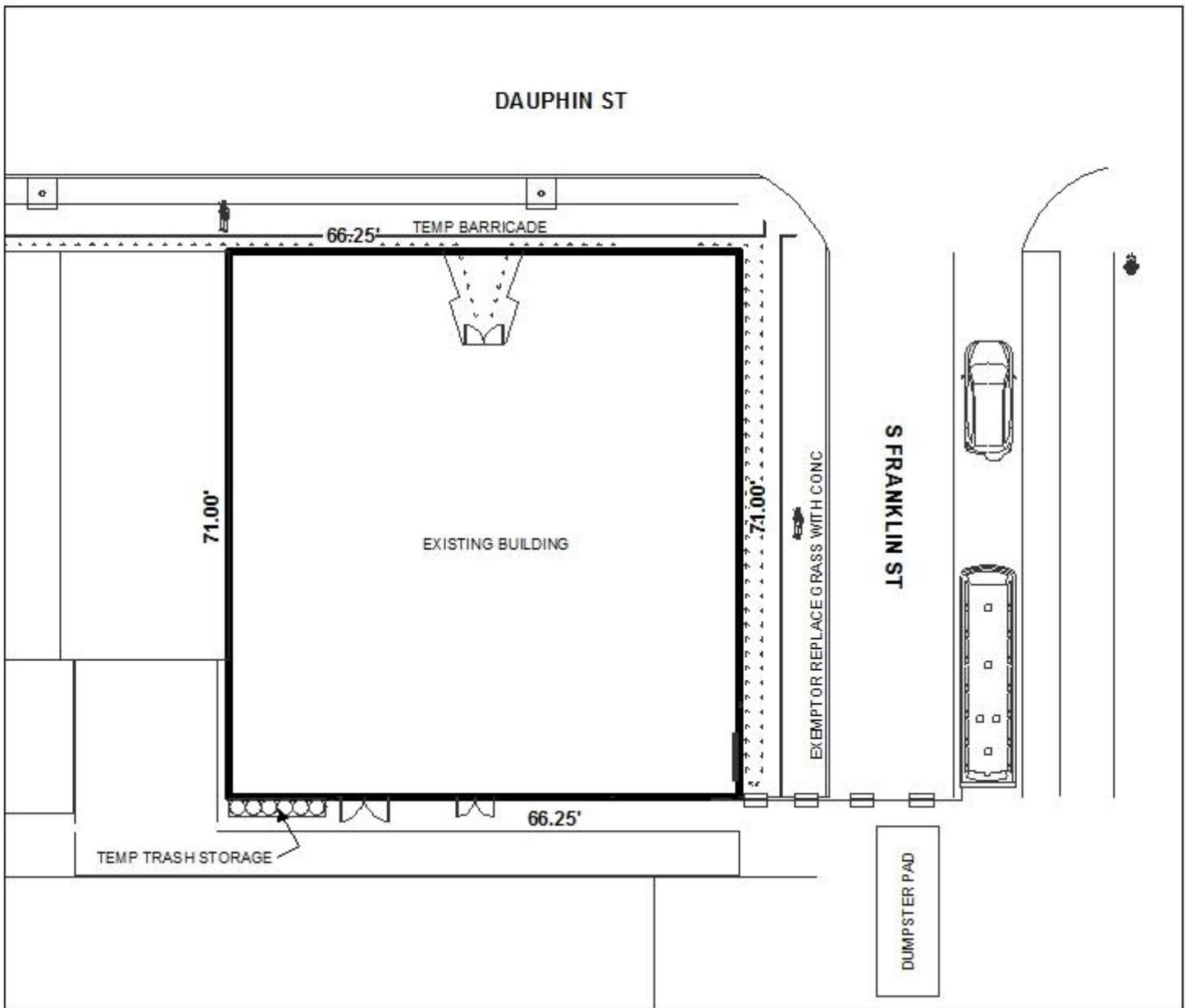


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# SITE PLAN



The site plan illustrates the existing building, temporary trash storage, and temporary barricade.

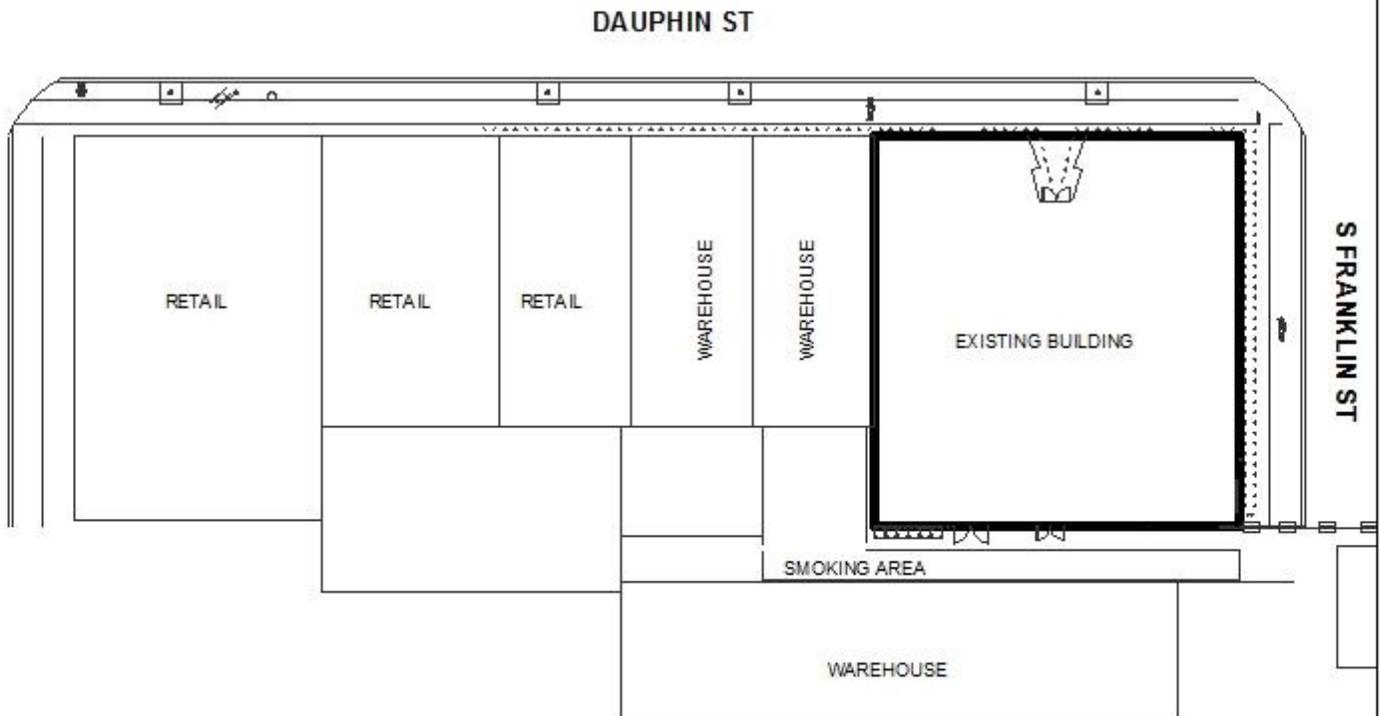
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# DETAIL SITE PLAN



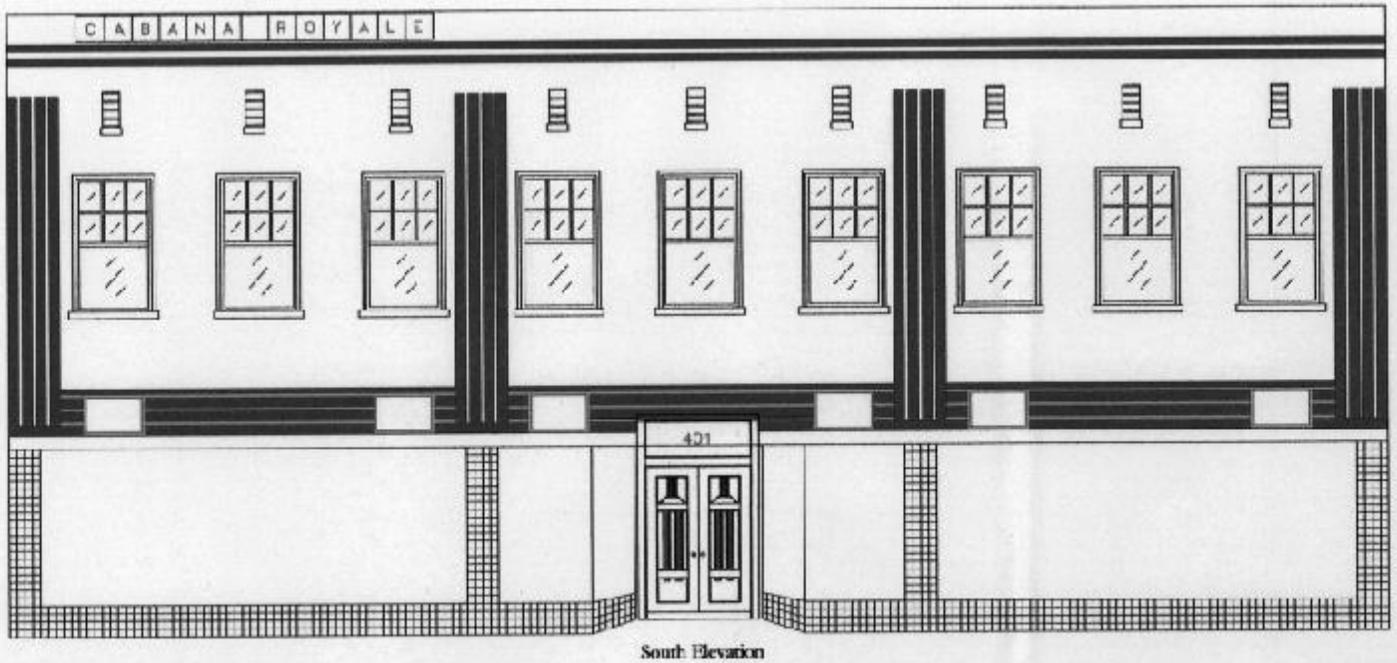
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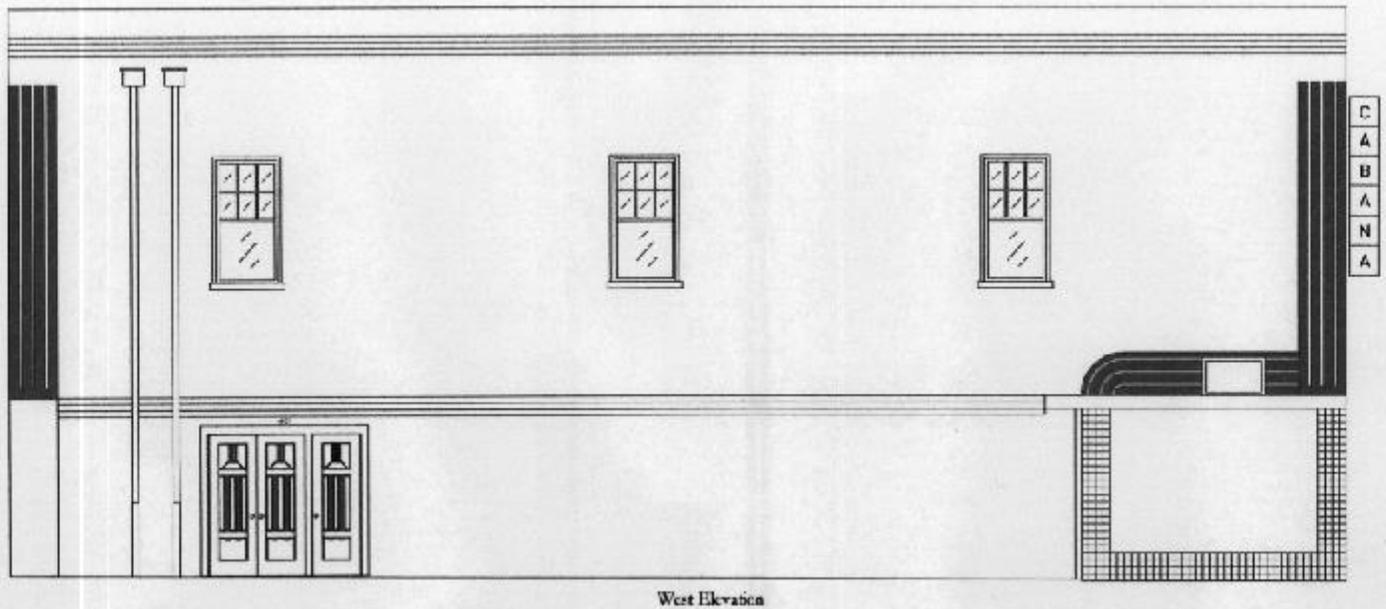
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APPLICATION NUMBER 1 DATE September 3, 2015  
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