



# Agenda Item # 1

## BOA-002889-2024

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

[Applicant Materials for Consideration](#)

### DETAILS

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**Location:**

263 and 267 Dauphin Street

**Applicant / Agent (as applicable):**

Box Owt LLC

**Property Owner:**

Box Owt LLC

**Current Zoning:**

T-5.2

**Future Land Use:**

Downtown

**Case Number:**

6594/6510

**Unified Development Code Requirement:**

- The Unified Development Code (UDC) does not allow metal siding as an exterior finish, requires a Shop Front frontage type at this location, requires a minimum glazed display window area of 50% of the ground floor shop front area (transparency), does not allow security gates to be visible from the street, and does not allow fences in the Shop Front frontage type in a T-5.2 sub-district of the Downtown Development District.

**Board Consideration:**

- Bulk/Site Variance to allow metal siding as an exterior finish, a non-compliant frontage type with reduced transparency, and security gates in a T-5.2 sub-district of the Downtown Development District.


**Report Contents:**

	<b>Page</b>
Context Map .....	2
Site History .....	3
Staff Comments .....	3
Variance Considerations .....	5
Exhibits .....	6

# BOARD OF ADJUSTMENT VICINITY MAP - EXISTING AERIAL



The site is surrounded by commercial units.

APPLICATION NUMBER <u>        6594        </u> DATE <u>        July 8, 2024        </u>	 NTS
APPLICANT <u>                                Box Owt, LLC                                </u>	
REQUEST <u>                                Bulk/Site Variance                                </u>	

## SITE HISTORY

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The site has previously received approvals from both the Planning Commission and the Board of Adjustment.

At its September 2, 2021 meeting, the Planning Commission approved a request for Planning Approval to allow a food service establishment with a maximum occupant load of 546 people for 263, 265 and 267 Dauphin Street.

At its April 3, 2023 meeting, the Board of Adjustment approved variances for 1) security bars/fence/gate and 2) pedestrian forecourt frontage type, and gave the applicant one (1) year to complete all phases and bring all other items into compliance.

The approvals granted by the Board at its April 3, 2023 meeting have expired due to the remainder of the project not being completed within the one-year period, hence the application at hand.

## STAFF COMMENTS

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### **Engineering Comments:**

No comments.

### **Traffic Engineering Comments:**

No traffic impacts anticipated by this variance request.

### **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 non-sprinklered commercial buildings and within 300' of all sprinklered commercial buildings. Fire water supply for all commercial buildings will be required to meet the guidance of Appendices B and C of the 2021 International Fire Code. The minimum requirement for fire hydrants is to be within 400' of non-sprinkled commercial buildings, within 600' of sprinkled commercial buildings, and within 100' of fire department connections (FDC) for both standpipes and sprinkler systems.

### **Planning Comments:**

The applicant is requesting a Bulk/Site Variance to allow metal siding as an exterior finish, a non-compliant frontage type with reduced transparency, and security gates in a T-5.2 sub-district of the Downtown Development District.

All documentation submitted for this application is available via the hyperlink, on page 1.

As stated previously, the Board previously approved variances for 1) security bars/fence/gate and 2) pedestrian forecourt at its April 3, 2023 meeting, and gave the applicant one (1) year to complete all phases and bring all other items into compliance. The approval, valid for one (1) year, was subject to the following conditions:

- 1) Prior to any request for a Temporary Certificate of Occupancy, submittal of architectural drawings to Permitting which reflect the rendering submitted to the Board of Adjustment, as well as the approval granted by the Consolidated Review Committee [which includes screening of mechanical equipment on each pod, stucco over the metal siding for the pods and facade, glazing in the 'shipping container doors' and the provision of a window in the pod on the right side facing Dauphin Street, as shown in the rendering];
- 2) If fencing or gates are proposed as part of the final product façade, accurate depiction on the architectural drawings submitting to Permitting; and
- 3) Clear delineation of phasing on architectural drawings, indicating what will be completed for an initial Temporary Certificate of Occupancy versus the Final Certificate of Occupancy, with all work to be completed within 12 months of the date of the Board's approval.

The applicant has been made aware that an additional application to the Consolidated Review Committee (CRC) is required to address signage, but has submitted an incomplete application. Staff is waiting for additional information, including information about signage.

As the site is located in the Lower Dauphin Street Historic District, the site is required to obtain approvals from the Architectural Review Board (ARB) for any visible exterior construction or improvements. The applicant has not submitted a new ARB application at the time of this report writing.

Regarding the specific issues:

Request for metal siding.

- Section 10.B.3(b) Requirement: (b) Exterior finish in all sub-districts shall be wood or cementitious clapboard, shingles, board and batten, stucco, brick or stone.

Request for security gate.

- Section 10.B.7(c) Requirement: (c) Security bars on windows or doors shall not be visible from the street.
- Section 10.B.6(a) Requirement: (a) Fences and walls shall only be permitted in frontages where explicitly allowed in the frontage standards. [Shopfront frontages make no provisions for fences or walls in Section 10.C.4(h)]

Request for non-compliant frontage.

- Section 10.C.1(e) Requirement: (e) A shop front frontage is required for all ground floor commercial uses fronting the A-Street portions of Dauphin, Conti and St. Joseph Streets shown on the Zoning Map.

Request for reduced or no transparency.

- Section 10.C.4(h)(4)a. Requirement: a. Shopfronts shall provide ground floor glazing (display windows) for visibility into interior spaces for no less than fifty (50) percent of the shopfront area, calculated separately for each frontage. The shopfront area width is defined by the width of the frontage and height is defined by the area between the sidewalk grade and the bottom of the second floor or roof structure.

The applicant submitted site plans showing two (2) development phases. The site is currently developed with the first phase, but the application/drawings do not specify how much time is needed to complete the second phase.



## VARIANCE CONSIDERATIONS

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### 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:

The applicant has requested the following variances:

- a) Variance from Appendix A, Section 10.B.3(b), to allow metal siding.
- b) Variance from Appendix A, Section 10.B.7(c) and Section 10.B.6(a), to allow a security gate at the entrance.
- c) Variance from Appendix A, Section 10.C.1(e), to allow a non-compliant frontage.
- d) Variance from Appendix A, Section 10.C.4(h)(4)a., to allow reduced or no transparency.

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

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







# BOARD OF ADJUSTMENT VICINITY MAP - EXISTING ZONING

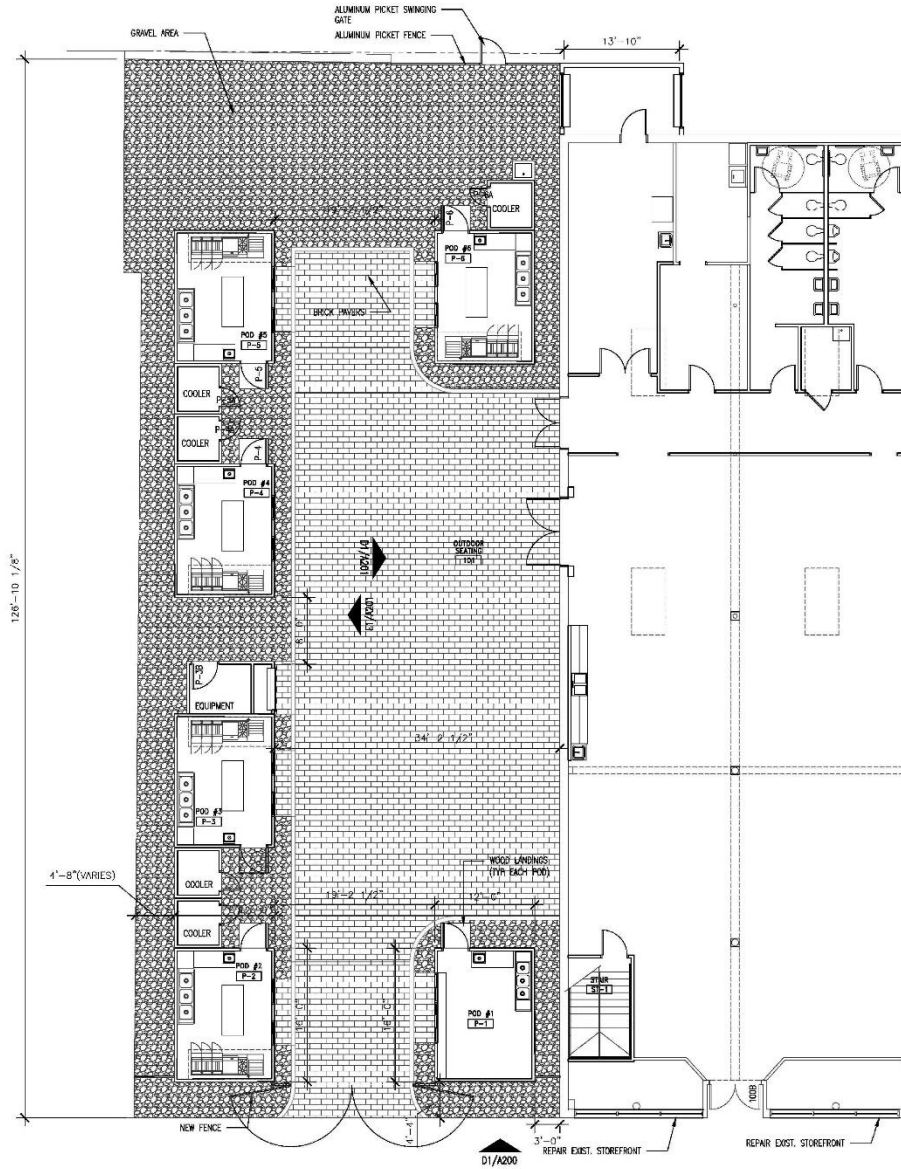


The site is surrounded by commercial units.

APPLICATION NUMBER	6594	DATE	July 8, 2024	 N NTS
APPLICANT	Box Owt, LLC			
REQUEST	Bulk/Site Variance			
R-A   R-3   B-1   B-2   B-5   ML   I-2   OPEN   T-3 R-1   R-B   T-B   B-3   CW   MH   PD   SD   T-4 R-2   H-B   LB-2   B-4   MM   I-1   MUN   SD-WH   T-5.1				



# SITE PLAN

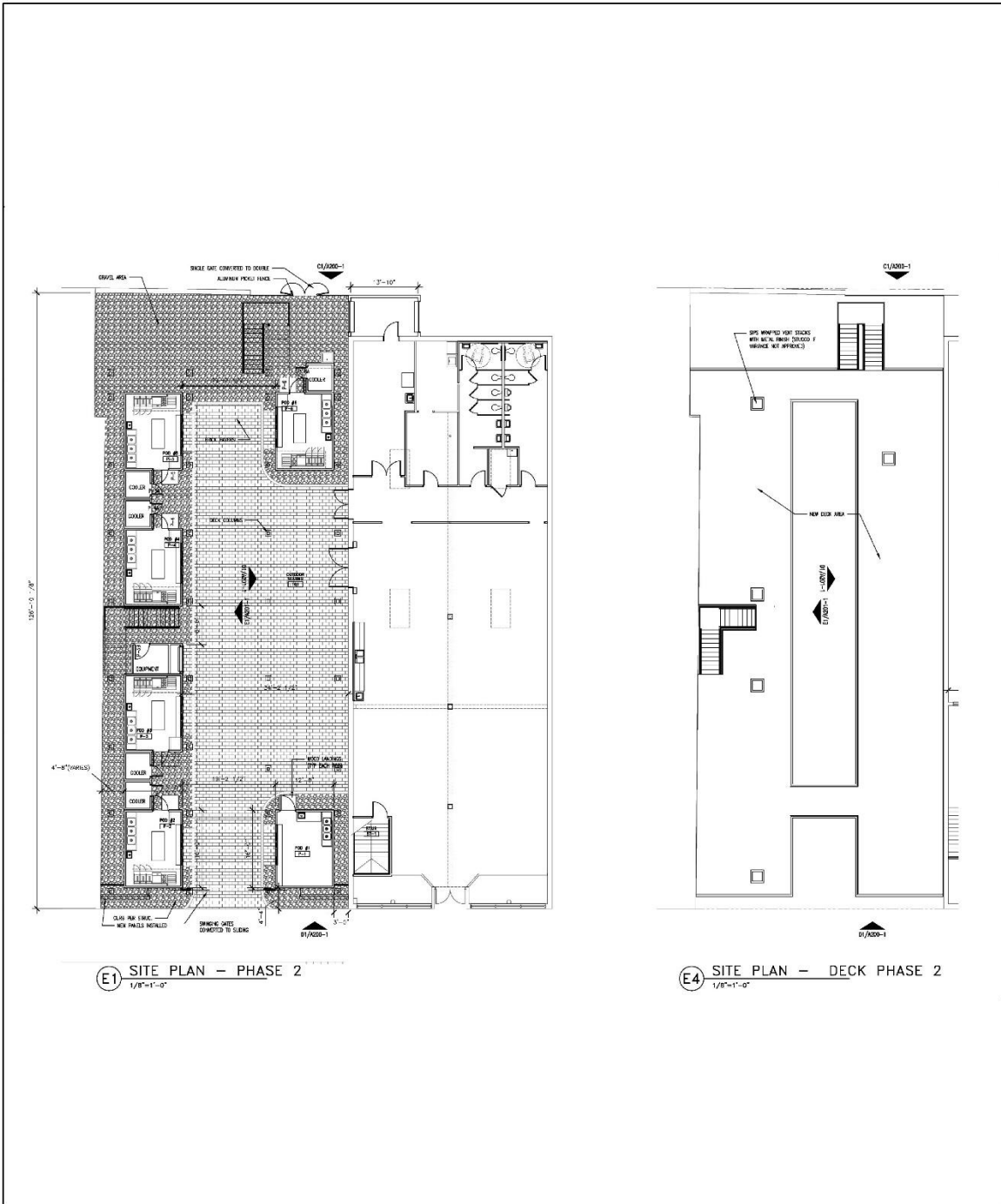


**E1** SITE PLAN – PHASE 1  
1/8"=1'-0"


The site plan illustrates the existing storefront, new fence, and pods.

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APPLICANT	Box Owt, LLC			
REQUEST	Bulk/Site Variance			

# SITE PLAN

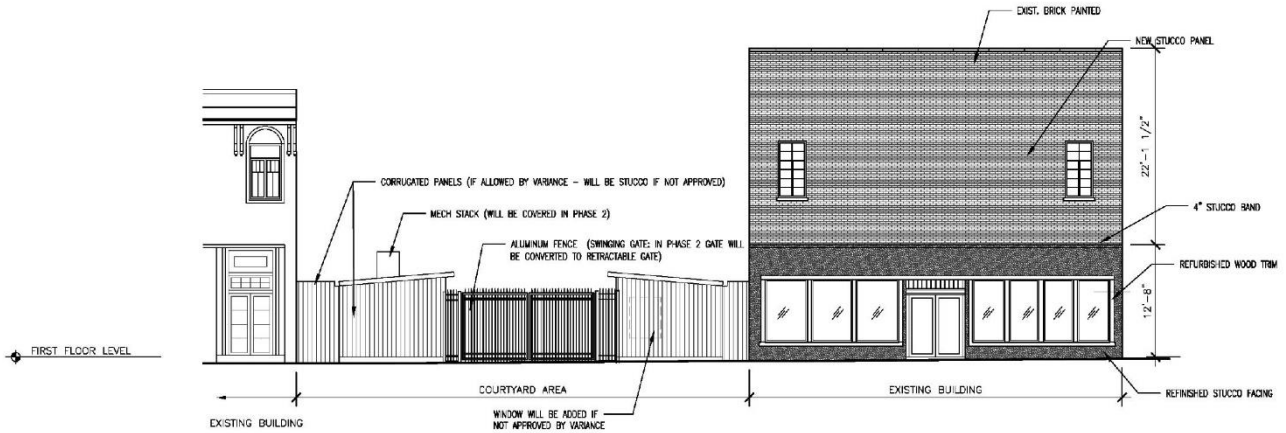


The site plan illustrates the existing storefront, pods, gate, and neck deck.

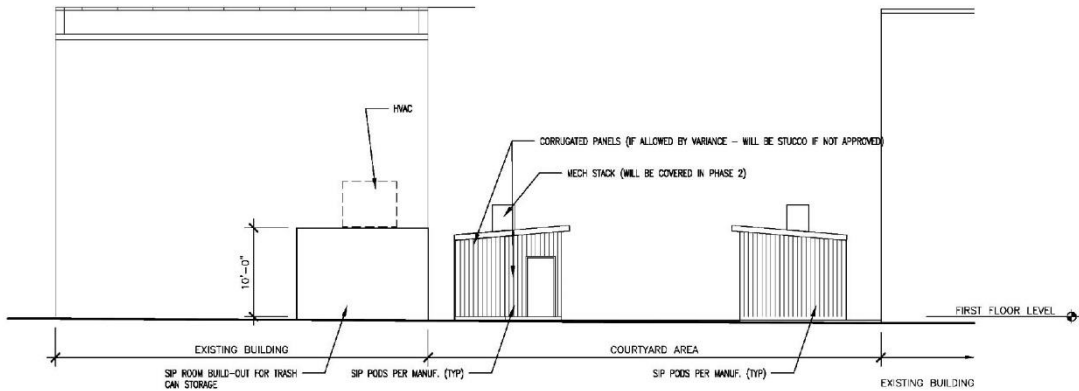
APPLICATION NUMBER	6594	DATE	July 8, 2024	
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REQUEST	Bulk/Site Variance			

# DETAIL SITE PLAN

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



**D1** NORTH ELEVATION - PHASE 1  
1/8"=1'-0"



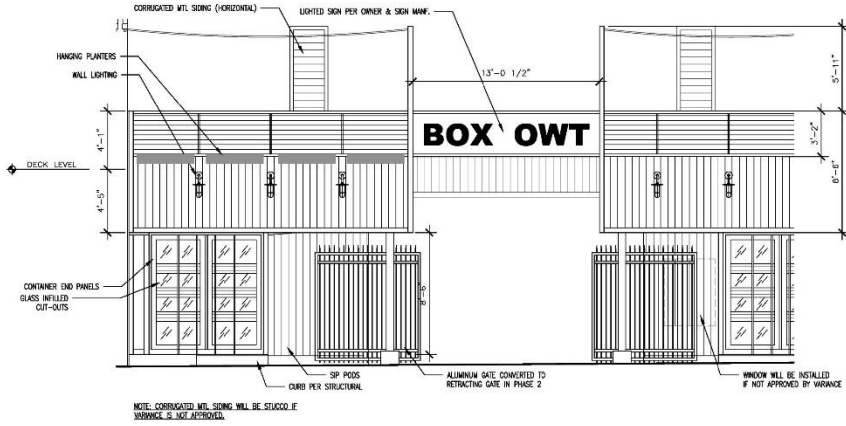
**E1** SOUTH ELEVATION - PHASE 1  
1/8"=1'-0"

APPLICATION NUMBER 6594 DATE July 8, 2024  
 APPLICANT Box Owt, LLC  
 REQUEST Bulk/Site Variance

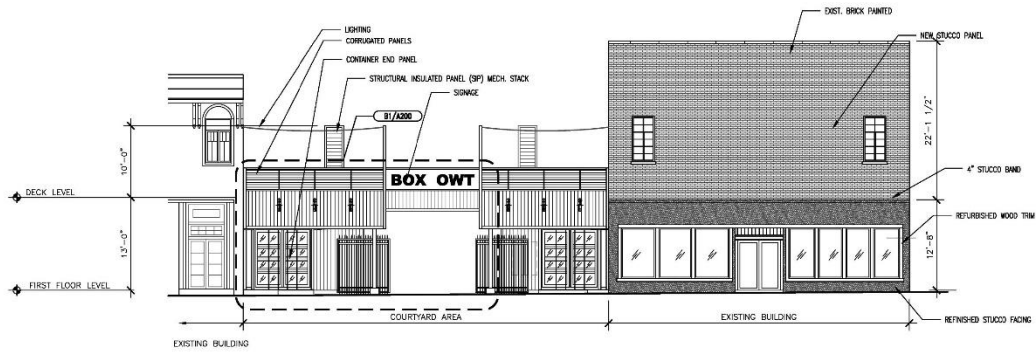




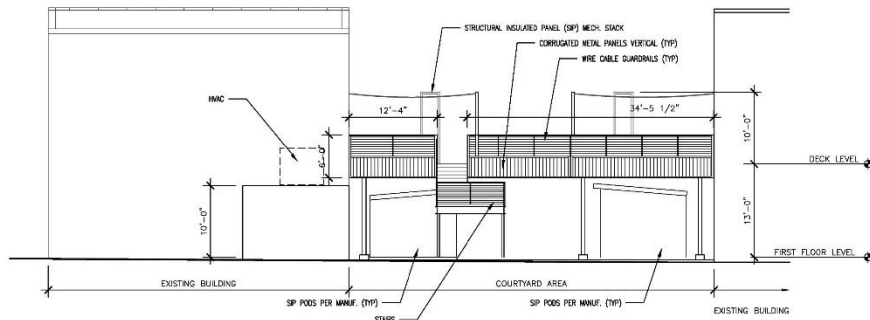
# DETAIL SITE PLAN



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



**D1** NORTH ELEVATION  
1/8"=1'-0"

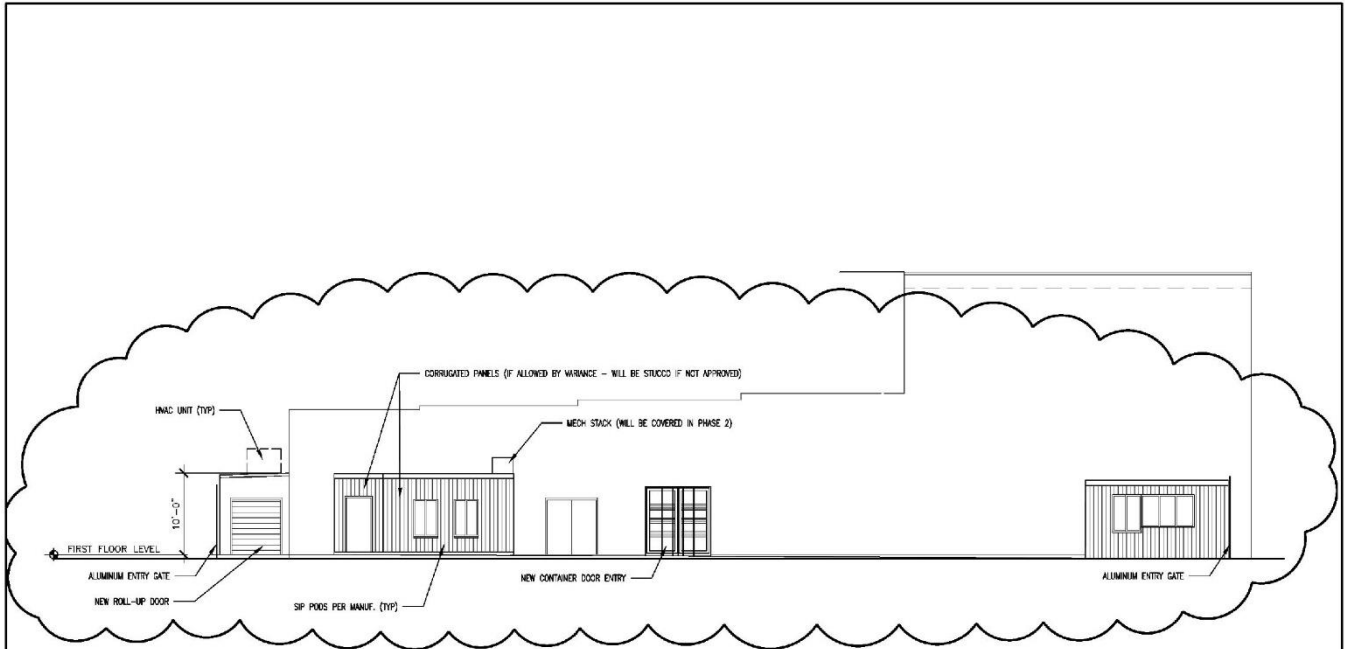


**E1** SOUTH ELEVATION  
1/8"=1'-0"

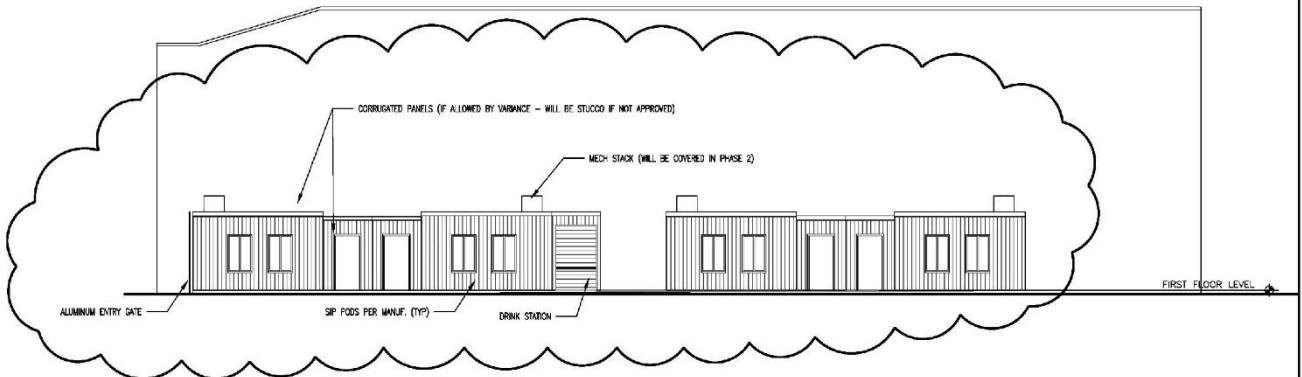
APPLICATION NUMBER	6594	DATE	July 8, 2024
APPLICANT	Box Owt, LLC		
REQUEST	Bulk/Site Variance		



# DETAIL SITE PLAN



**D1 EAST ELEVATION**  
1/8"=1'-0"

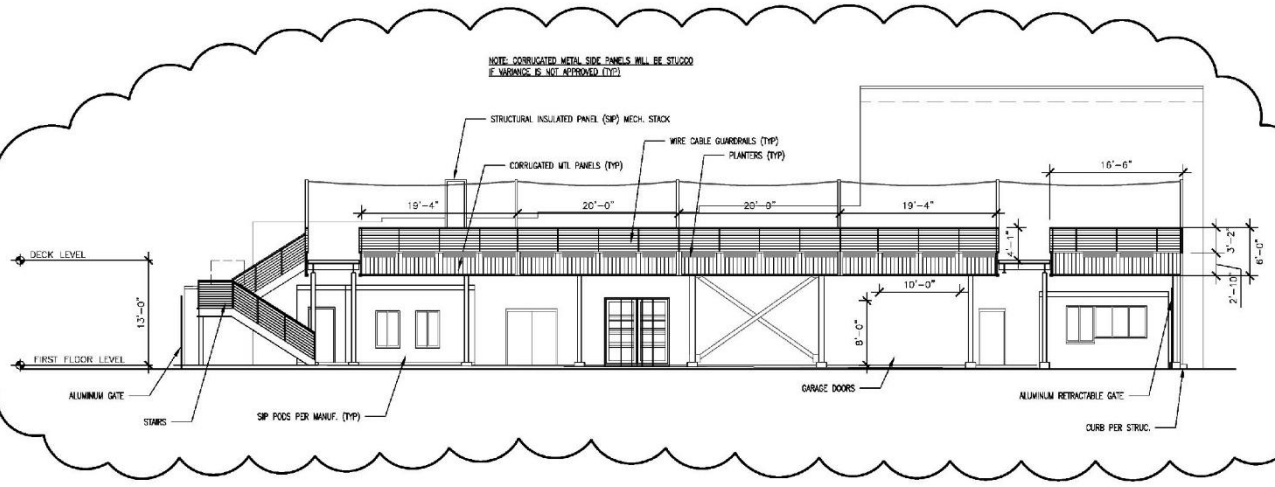


**E1 WEST ELEVATION**  
1/8"=1'-0"

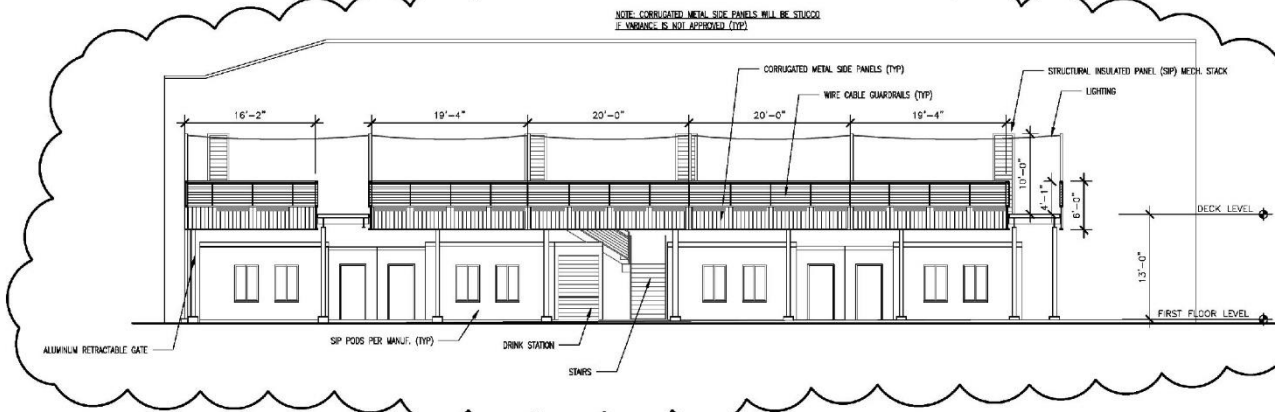
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REQUEST	Bulk/Site Variance		



# DETAIL SITE PLAN



**D1 EAST ELEVATION**  
1/8"=1'-0"



**E1 WEST ELEVATION**  
1/8"=1'-0"

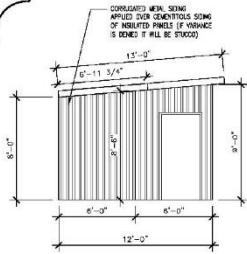
APPLICATION NUMBER	6594	DATE	July 8, 2024
APPLICANT	Box Owt, LLC		
REQUEST	Bulk/Site Variance		

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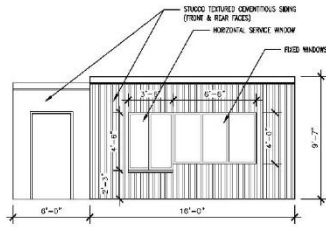
NTS



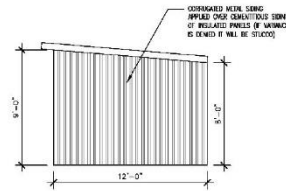
# DETAIL SITE PLAN



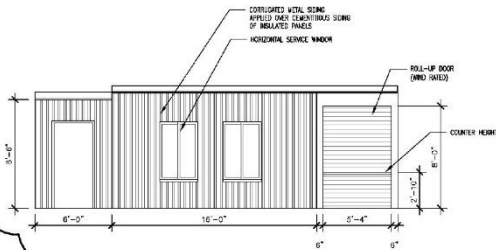
**B1** SIDE ELEVATION (TYP)  
1/4"=1'-0"



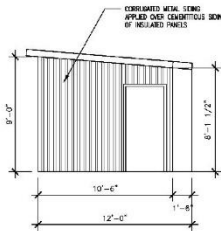
**B2** FRONT ELEVATION (TYP)  
1/4"=1'-0"



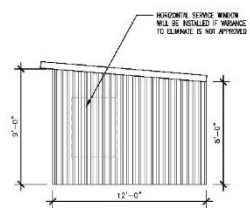
**B3** SIDE ELEVATION (TYP)  
1/4"=1'-0"



**D1** FRONT ELEV. POD W/ DRINK AREA  
1/4"=1'-0"



**D2** SIDE ELEV. POD W/ DRINK AREA  
1/4"=1'-0"



**D5** SIDE ELEV. BEVERAGE POD  
1/4"=1'-0"

APPLICATION NUMBER 6594 DATE July 8, 2024

APPLICANT Box Owt, LLC

REQUEST Bulk/Site Variance



ZONING DISTRICT CORRESPONDENCE MATRIX		LOW DENSITY RESIDENTIAL (LDR)	MIXED DENSITY RESIDENTIAL (MXDR)	DOWNTOWN (DT)	DISTRICT CENTER (DC)	NEIGHBORHOOD CENTER - TRADITIONAL (NC-T)	NEIGHBORHOOD CENTER - SUBURBAN (NC-S)	TRADITIONAL CORRIDOR (TC)	MIXED COMMERCIAL CORRIDOR (MCC)	LIGHT INDUSTRIAL (LI)	HEAVY INDUSTRY (HI)	INSTITUTIONAL LAND USE (INS)	PARKS & OPEN SPACE (POS)	DOWNTOWN WATERFRONT (DW)	WATER DEPENDENT USES (WDWRU)
RESIDENTIAL - AG	R-A														
ONE-FAMILY RESIDENCE	R-1	■				■		■					□		
TWO-FAMILY RESIDENCE	R-2	■				■		■					□	○	
MULTIPLE-FAMILY	R-3	○	■			■	■						□	○	
RESIDENTIAL-BUSINESS	R-B		○			■		■					□	○	
TRANSITIONAL-BUSINESS	T-B		○		■	■	■	■					□		
HISTORIC BUSINESS	H-B			■		■		■					□		
VILLAGE CENTER	TCD					■	■						□		
NEIGH. CENTER	TCD					■	■						□		
NEIGH. GENERAL	TCD					■							□		
DOWNTOWN DEV. DDD	T-6			■									□		
DOWNTOWN DEV. DDD	T-5.1			■		■		□					□		
DOWNTOWN DEV. DDD	T-5.2			■		■							□		
DOWNTOWN DEV. DDD	T-4			■		■		□					□		
DOWNTOWN DEV. DDD	T-3			■		■							□		
DOWNTOWN DEV. DDD	SD-WH									○	○		□		
DOWNTOWN DEV. DD	SD	○	○	○	○	○	○	○		○	○		□		
BUFFER BUSINESS	B-1		□			□	■	■	■				□	○	
NEIGH. BUSINESS	B-2		○			□	■	■	■				□	○	
LIMITED BUSINESS	LB-2		○			□	■	■	■				□	○	
COMMUNITY BUSINESS	B-3				■				■			○	□	○	
GEN. BUSINESS	B-4			■					■			○	□	○	
OFFICE-DISTRIBUTION	B-5								■	■			□	□	
LIGHT INDUSTRY	I-1									■			□	□	□
HEAVY INDUSTRY	I-2										■		□		□

**Zoning District Correspondence Matrix**

- Directly Related
- Elements of the zoning category are related to the future LU category, but with qualifications (such as a development plan with conditions)
- Land use category is appropriate, but the district does not directly implement the category (e.g., open space in an industrial district)



## **DOWNTOWN (DT)**

Downtown is called out as a separate land use designation due to its distinct role, layout and fabric.

As a land use district, Downtown 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 du/ac); 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.