

**BOARD OF ZONING ADJUSTMENT
STAFF REPORT**

Date: April 2, 2018

<u>CASE NUMBER</u>	6169
<u>APPLICANT NAME</u>	Shipshape Urban Farms, LLC
<u>LOCATION</u>	(Northeast corner of St. Michael Street and North Dearborn Street).
<u>VARIANCE REQUEST</u>	USE: Use Variance to allow the use of 9 total steel shipping containers for the manufacturing of produce and office space in a SD-WH District within the Downtown Development District.
<u>ZONING ORDINANCE REQUIREMENT</u>	USE: The Zoning Ordinance does not allow metal structures in a SD-WH District within the Downtown Development District.
<u>ZONING</u>	SD-WH Sub-District.
<u>AREA OF PROPERTY</u>	0.2± Acres
<u>TRAFFIC ENGINEERING COMMENTS</u>	No comments.
<u>CITY COUNCIL DISTRICT</u>	District 2

ANALYSIS The applicant is requesting a Use Variance to allow the use of 9 total steel shipping containers for the manufacturing of produce and office space in a SD-WH District within the Downtown Development District; the Zoning Ordinance does not allow metal structures in a SD-WH District within the Downtown Development District.

It should be noted that the “Use Variance” determination was an error by Planning Staff. The actual uses (office, produce growing) are allowed uses within the SD-WH district. Instead, the variance requests regard the building materials/site development requirements.

The site has been given a Downtown land use designation, per the recently adopted Future Land Use Plan and Map. 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.

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 Downtown 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 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 states:

“Property is currently a vacant lot with no improvements, with 3 trees over 24 inches on site. There are half a dozen other juvenile trees under 24 inches, many of which are unhealthy.

Development on site will consist of eight shipping containers in a row against the eastern back of the property, to be used for hydroponic vegetable production. Another shipping container will be placed at the front western boundary of the site and will be used for office space and restrooms. The street-facing sides of the containers will be painted with murals by local artists. All containers are 9'6" tall and 320 sq ft in area.

Also interior to the site will be a grassy lawn, benches (picnic and traditional), a traditional greenhouse, concrete walkways, seasonal planters, and a concrete area for loading or fur use in special events, such as LoDa Art Walk. These other improvements take up the majority of the area of the site. The greenhouse will be 12' tall and 120 sq ft. Pea gravel will be used wherever concrete is unnecessary.

The existing live oak trees over 24 inches on site will be maintained. The existing cedar tree over 24 inches will be removed. A 12+ inch sycamore tree is on the site growing three feet away from the live oak in the southwest corner of the lot; this sycamore will have to be removed for the longevity and health of the live oak. The shipping container gardens have been positioned on the site plan specifically to accommodate these heritage trees. 14 new trees will be planted on site.

The property will be surrounded by four foot fence and seasonal planters. The property will have two access points, a south facing logoed pedestrian gate and a west facing vehicular gate. Handicap ramps will be installed to insure easy access. Public right-of-way sidewalks will be installed and maintained on the periphery of the property. Shipshape is willing to plant and maintain the far side of the public right-of-way as well.

These improvements will be used for food production, demonstration and education, and events such as Art Walk. The space serves as a model site as well and will be kept beautified to exhibit to investors, clients and customers.

All improvements are considered necessary for the function of the site and construction will begin in late May and be completed approximately eight to ten weeks after ground is broken."

The applicant also states:

"Shipshape Urban Farms is a manufacturer of Container Gardens built using shipping containers. 610 Saint Michael Street will act as a demonstration site for perspective customer while supplying the Mobile and Baldwin County area with produce. The Container Gardens themselves will not be manufactured at the site only utilized in the production of agriculture.

The site will include eight of our Container Gardens (320 sq ft each, 2560 sq ft total), several seasonal planters, as shipping container office/restrooms (320 sq ft), greenhouse (120 sq ft). The site will not generate excessive noise, odors, or air

pollution. The increase in traffic to the area will be minimal because we deliver the majority of our produce to restaurant, markets, and farmers market.

We do expect local customers and interested citizens or tourists in the downtown area, this projected to be less the 40 individuals per day. The site will be open from 9am to 6pm Monday thru Saturday with minor shifts in the schedule for events such as LoDa Art Walk. There will normally be 3 to 5 employees on the site during operating hours and in general at least one member of the administrative team.

The shipping containers are necessary features of this business. Besides being practical for insulation, controlled lighting, and other environmental aspects of hydroponic technology as well as cost, they are also necessary for selling for selling the Container Gardens as standardized units and shipping quickly and easily.

By locating our offices inside a shipping container, we are able to build on the theme of our brand and get further discounts in the total acquisition of equipment required for the operation. The shipping container is also local to Mobile. The standard intermodal shipping container was invented in Mobile by McClean industries in 1952, and is a part of our history and economy.

The current zoning ordinance does not specify any use of shipping containers, and by not having their use specified, they are not allowed. Further, shipping containers are made of steel, which is a prohibited building material under the Downtown Development District code (DDD) building material standards.

Shipping containers also do not meet the transparency requirements for street frontage nor any other frontage requirements, nor do they meet minimum height requirements for structures. Shipping containers do not have above ground foundation and are unable to meet foundation lining requirements.

The transparency requirements would compromise the Container Gardens as light levels and insulation would become prohibitively expensive, if not impossible to control as precisely as required.

The downtown central business district is currently the only part of the city zoning for agricultural production use, and the central location allows Shipshape better access to future employees and customers which reduces the overall cost of the vegetables. Further, the current employees of the company desire to remain in Mobile and to not have to leave the area.

For these reasons and the high number of variances Shipshape Urban Farms require, Shipshape request a variance from the entire (64.3.1) Downtown Development District code.”

As stated, the applicant is seeking approval to place nine shipping containers for the manufacture of produce and an office in the Downtown Development District.

Because the subject site is located within the Downtown Development District, Consolidated Review Committee (CRC) approval will be required. CRC is of the following opinion (which was sent via email to the applicant after an initial review):

“As I believe we have mentioned before, the code does not specifically prohibit shipping containers – it does not address them one way or the other. The position is that by being silent on them, or any other type of movable structure, they are not allowed. In addition, the structure material does not comply with the Building Materials Standards, foundations are not illustrated and therefore cannot be commented upon, the shipping containers do not provide the required transparency along the street frontage, the proposal does not comply with any of the frontage types specified by the code, minimum height may be an issue.

Given the number and types of noncompliance with the DDD code, you would be best served by requesting a variance from the entire DDD Code (64.3.I Downtown Development District). If you disagree with our determinations and feel we are in error, you have the option of filing an Administrative Appeal to the Board of Zoning Adjustment. For the Variance you need to document hardships unique to the property that keep you from complying. For the Administrative Appeal, you have to show how we erred in our interpretations of the Code in making our determinations.”

The applicant has presented in the narrative, due to the numerous variances identified, a request for a variance from the Downtown Development Code in its entirety, i.e. all of Section 64-3.I. of the Zoning Ordinance. The applicant has not however, presented a hardship that will necessitate the approval of the request other than the fact that their business (model) is based upon the use of shipping containers for food production and that the central business district “is currently the only part of the city zoned for agricultural production use”.

It should be noted that the proposed use would also be allowed in R-A, Residential-Agricultural District. Nearly all of the 1,679± acres contained within the R-A district are located in the Theodore area of Mobile.

More specifically, the requests proposed will not comply with the following sections (or portions thereof):

- 64-3.I.8. Site Plan: Property Standards.
Table 1. Primary frontage maximum building setback of 10 feet
- 64-3.I.10. Site Plan: Building placement standards.
- 64-3.I.13. Building Specification: Building and parking deck height standards.
(d) Ground floor non-residential uses shall have a minimum story height of 14 feet
- 64-3.I.14 Building Specification: Building materials standards
(a) Mechanical equipment including, but not limited to, electric meters, gas meters, water meters, exhaust fans, HVAC equipment, and refuse storage shall not be located along frontages. Mechanical equipment must be masked if visible from the street or sidewalk.
(d) 2) Exterior finish in all sub-districts shall be wood or cementitious clapboard, shingles, board and batten, stucco, brick or stone

(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

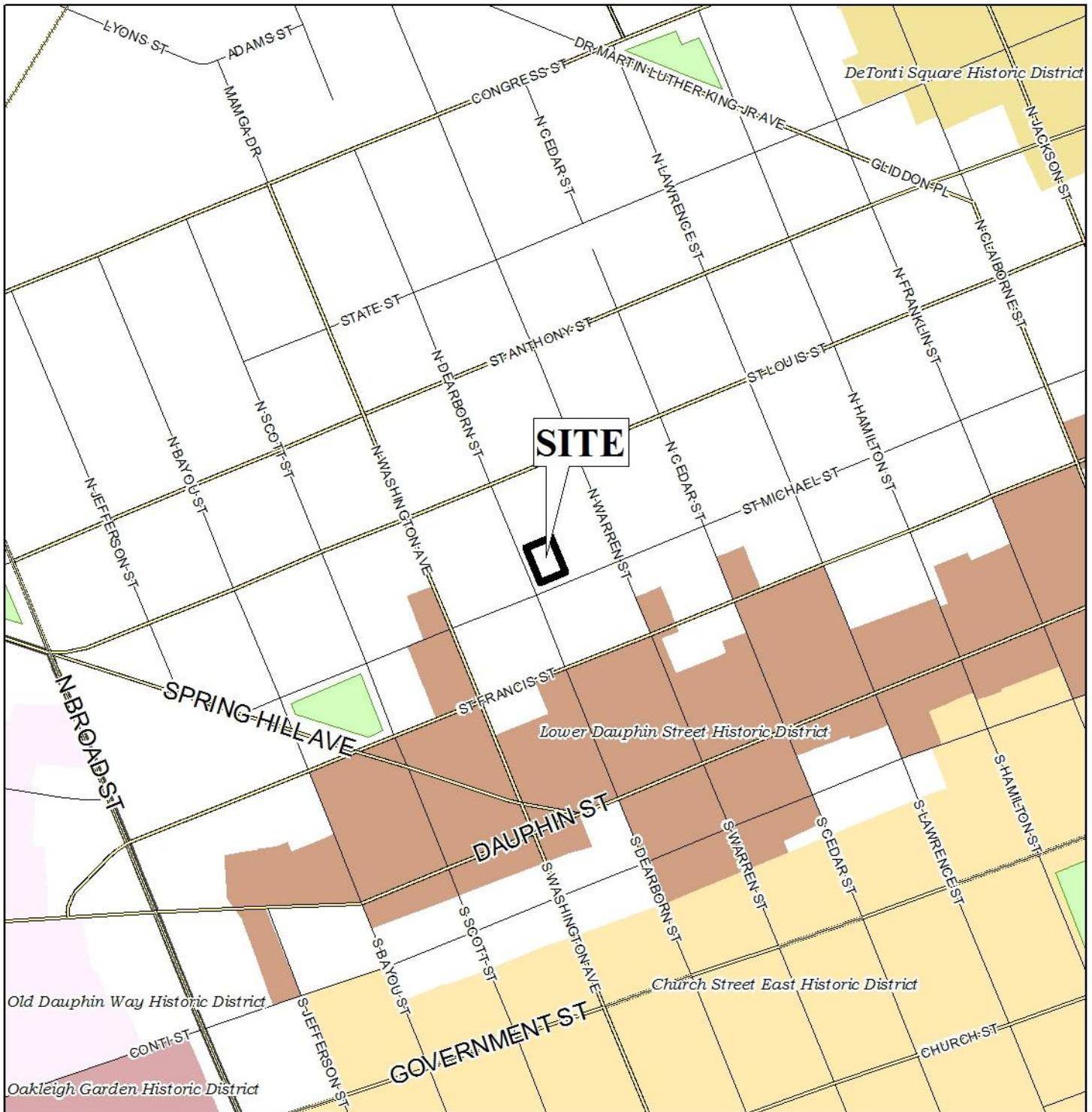
Signage and logos are mentioned, however there are no separate detailed illustrations provided. The site plan identifies at least two (2) painted murals and one (1) logo sign. It should be noted that any signage would require a separate sign permit application, and if the signage mentioned and depicted in the drawings is approved as part of the overall variance from the entirety of 64-3.I.

There are no conditions which exist at this site that would require the applicant to develop the site without complying with the requirements of the Downtown Development District. This application seems to be the merely the applicant's desire to create a demonstration site for shipping-container based food production business. There has not been any hardship presented associated with the property or its configuration that would necessitate the approval of this request.

RECOMMENDATION: Staff recommends to the Board the following findings of fact for Denial:

- 1) Approving the variance will be contrary to public interest in that the Zoning Ordinance was amended, after a lengthy public process, to establish specific site, building material and building design requirements for the Downtown Development District, in order to promote new construction that is compatible with the overall desired architectural fabric of downtown;
- 2) Special conditions do not exist and there are no hardships with the property which exist that make the development necessary as proposed;
- 3) The spirit of the chapter shall not be observed and substantial justice shall not be done to the surrounding neighborhood by granting the variance because the site can be developed in compliance the requirements of the ordinance.

LOCATOR MAP



APPLICATION NUMBER 6169 DATE April 2, 2018

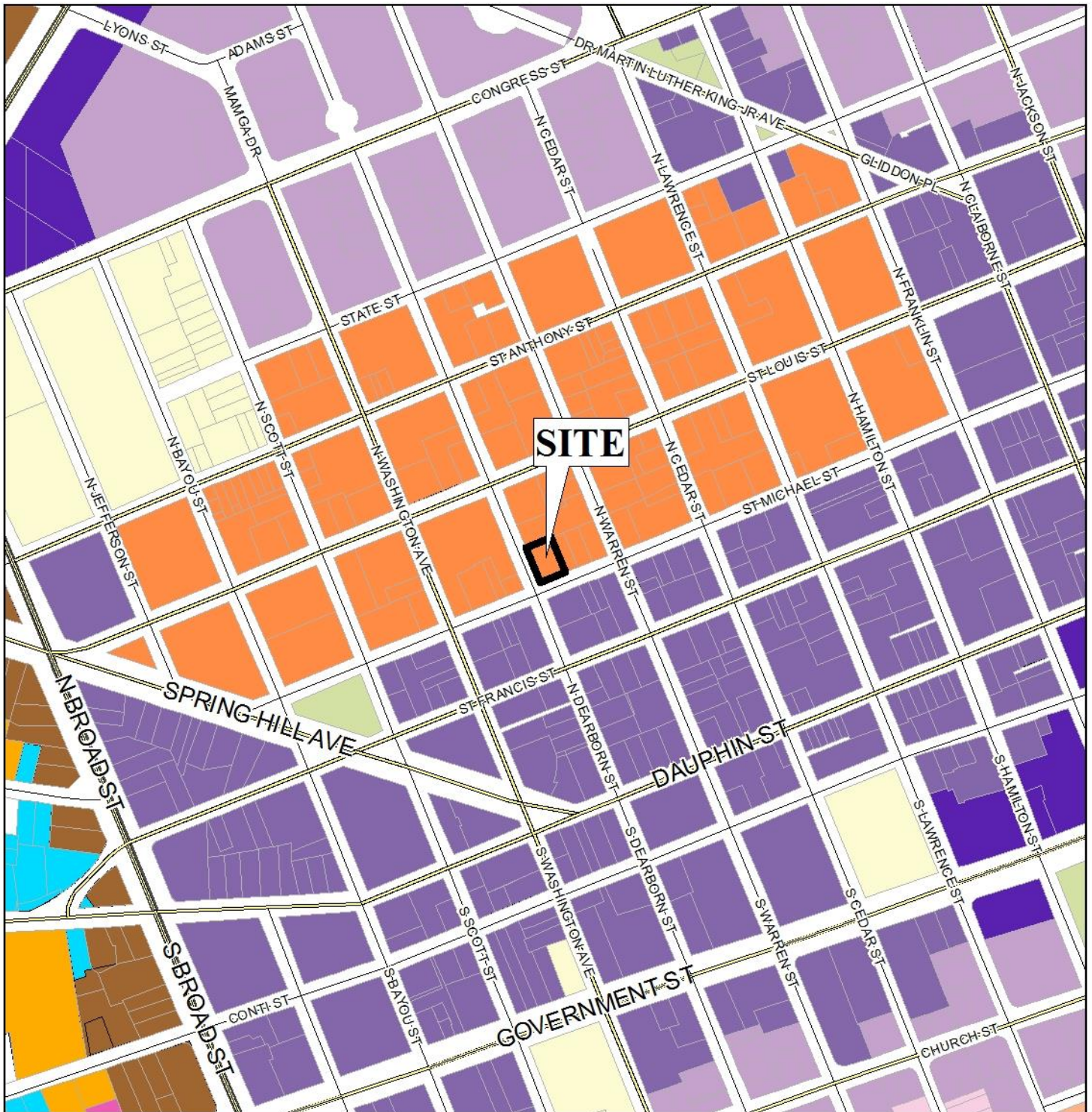
APPLICANT Shipshape Urban Farms, LLC

REQUEST Use Variance



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LOCATOR ZONING MAP



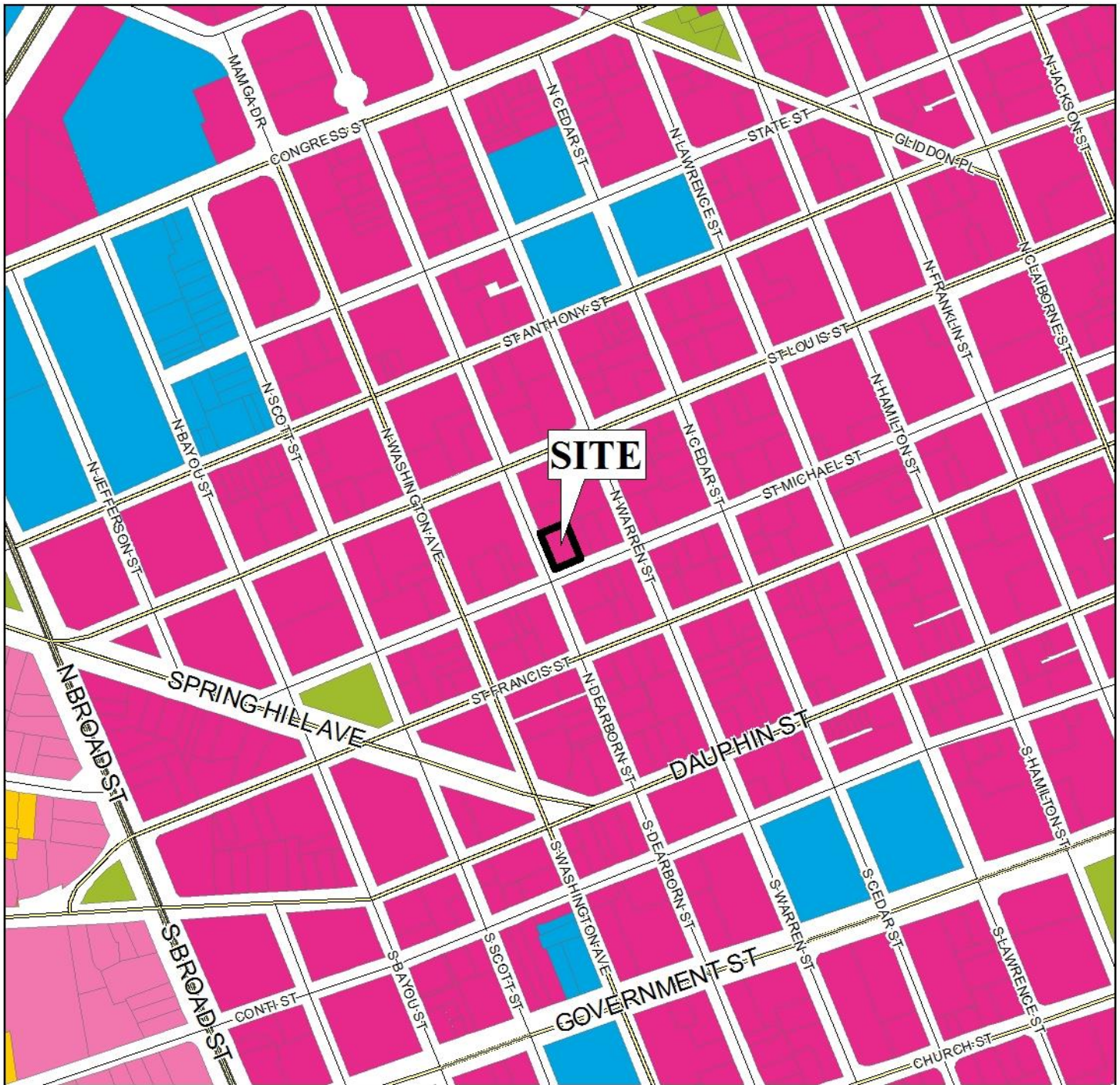
APPLICATION NUMBER 6169 DATE April 2, 2018

APPLICANT Shipshape Urban Farms, LLC

REQUEST Use Variance



FLUM LOCATOR MAP



APPLICATION NUMBER 6169 DATE April 2, 2018

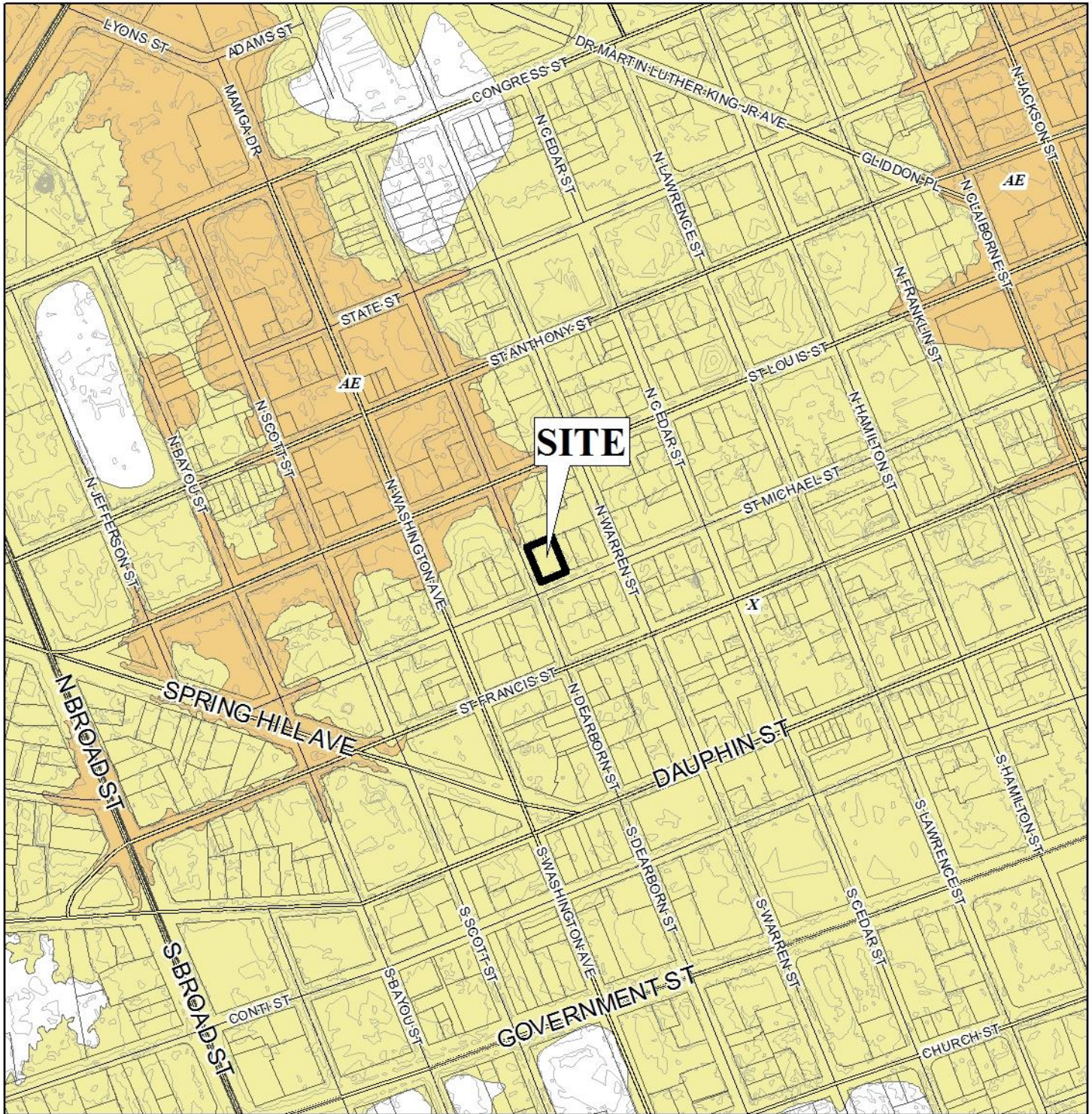
APPLICANT Shipsape Urban Farms, LLC

REQUEST Use Variance

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



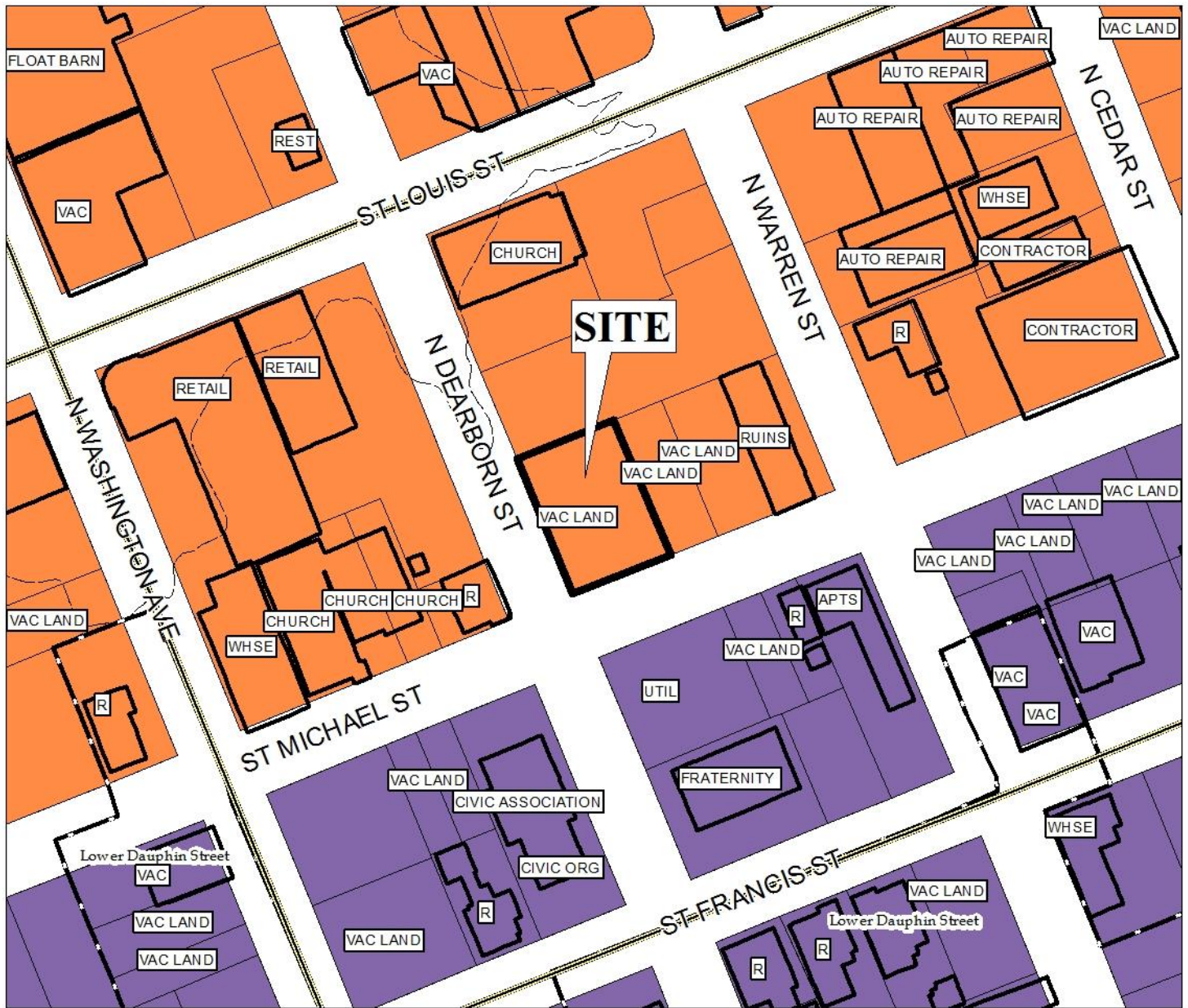
ENVIRONMENTAL LOCATOR MAP



APPLICATION NUMBER 6169 DATE April 2, 2018
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BOARD OF ADJUSTMENT VICINITY MAP - EXISTING ZONING



The site is surrounded by commercial units. Residential units are located to the south.

APPLICATION NUMBER 6169 DATE April 2, 2018

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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 commercial units. Residential units are located to the south.

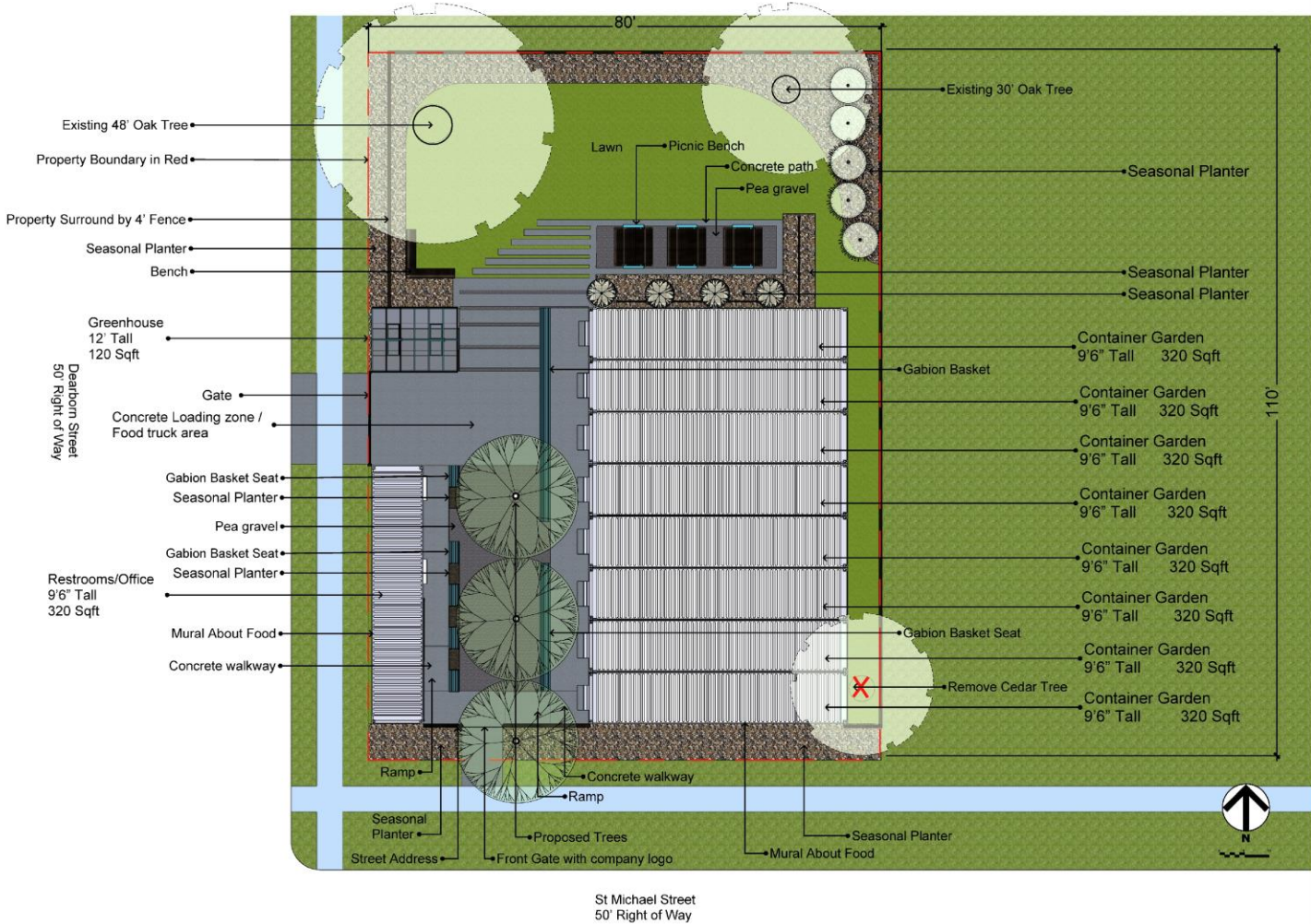
APPLICATION NUMBER 6169 DATE April 2, 2018

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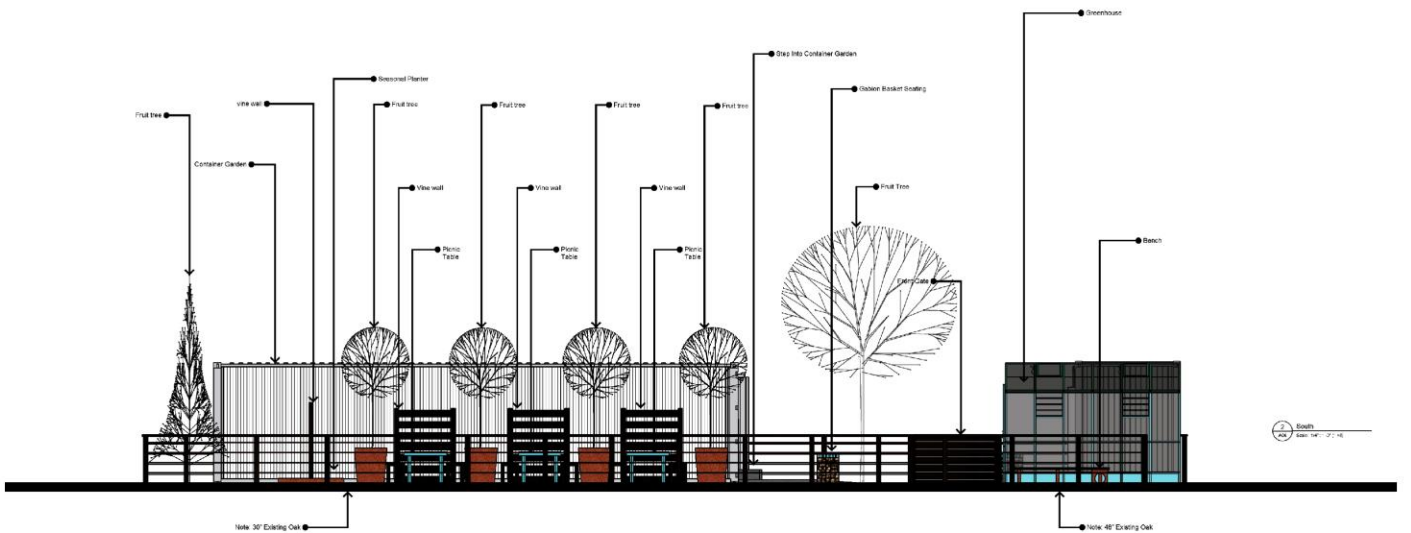
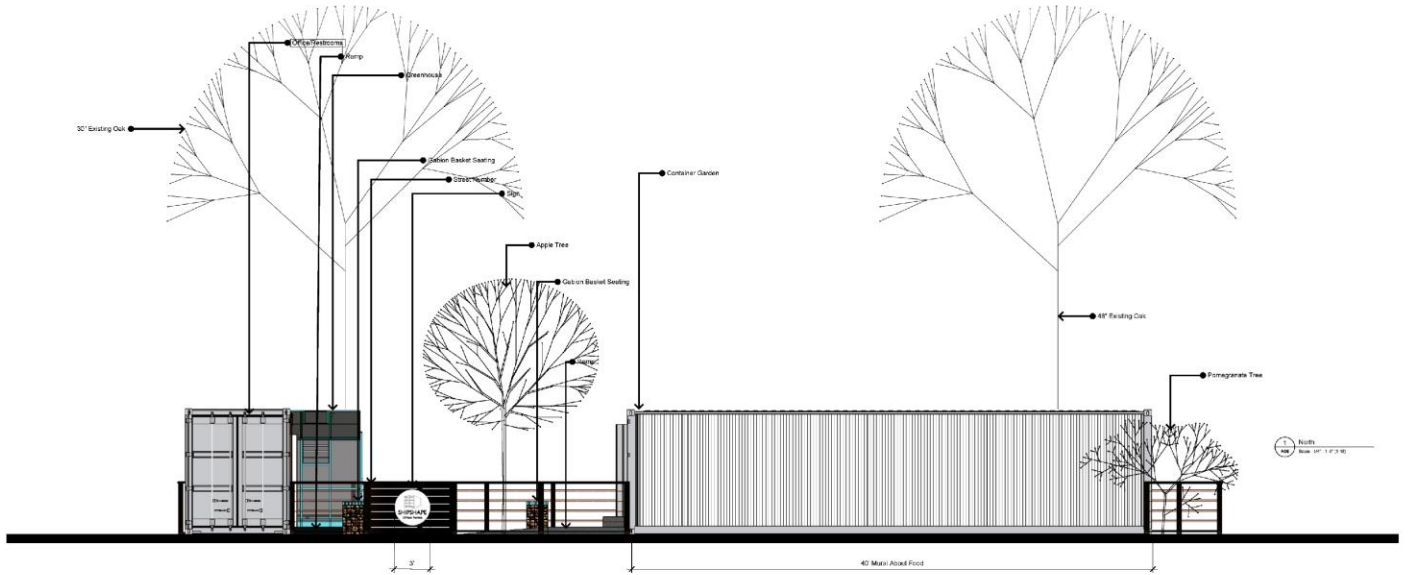
SITE PLAN



The site plan illustrates the proposed drive and proposed containers.

APPLICATION NUMBER <u>6169</u> DATE <u>April 2, 2018</u>	 NTS
APPLICANT <u>Shipshape Urban Farms, LLC</u>	
REQUEST <u>Use Variance</u>	

DETAIL SITE PLAN



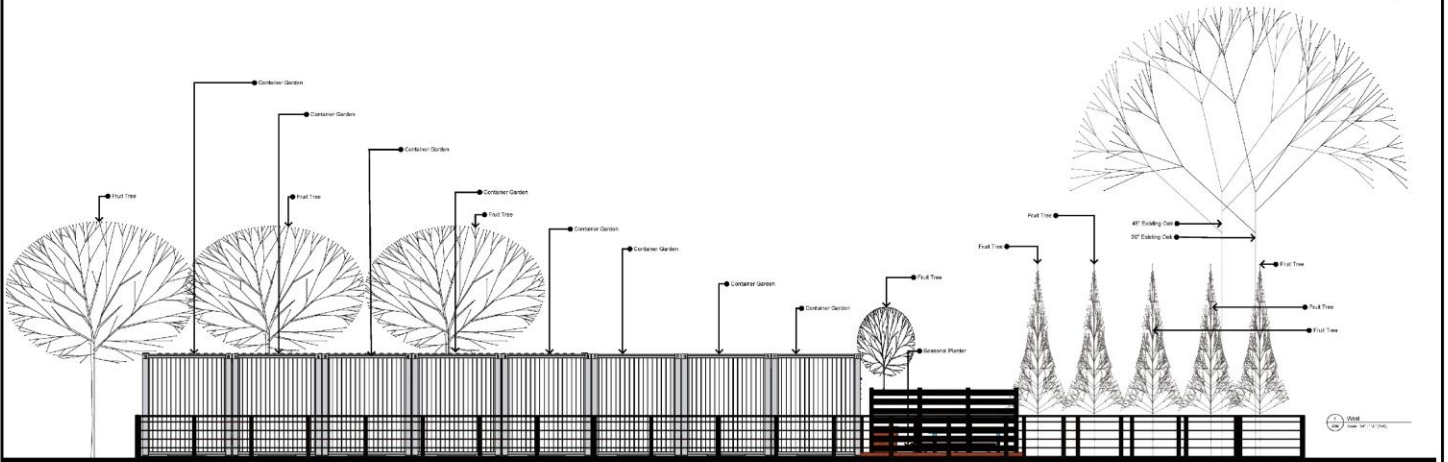
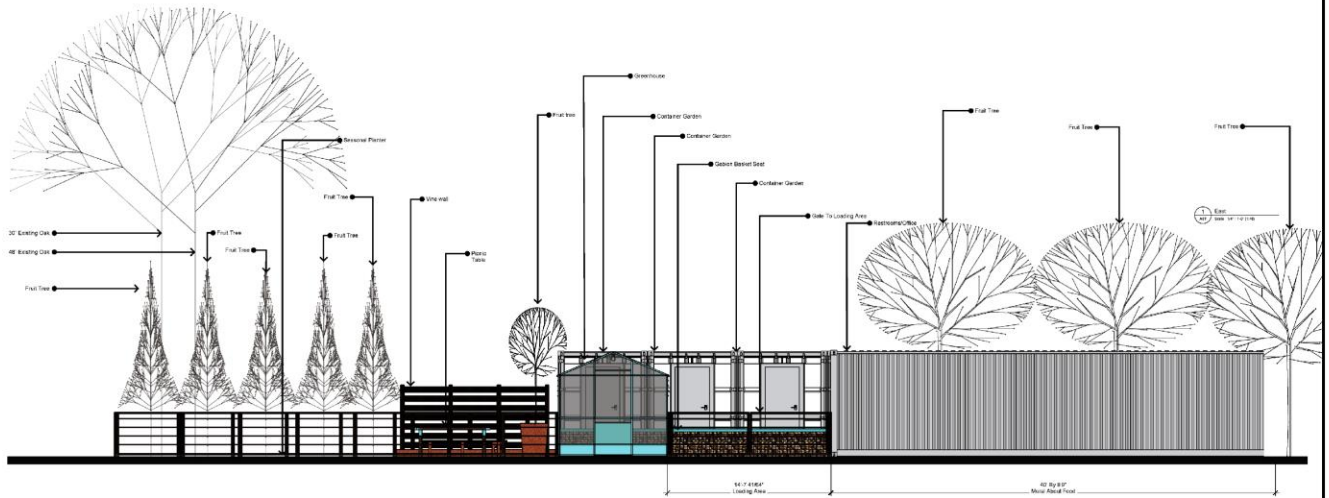
APPLICATION NUMBER 6169 DATE April 2, 2018

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DETAIL SITE PLAN



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