

APPLICATION NUMBER

5451

A REQUEST FOR

**USE, ACCESS, PARKING RATIO, PARKING SURFACE, AND
FRONTAGE LANDSCAPING/TREE PLANTING VARIANCES TO
ALLOW A THREE-UNIT APARTMENT HOUSE WITH A
17'± WIDE DRIVE, FOUR PARKING SPACES, GRAVEL PARKING
SURFACE, AND NO FRONTAGE LANDSCAPING/TREES IN AN R-
1, SINGLE-FAMILY RESIDENTIAL DISTRICT; MULTI-FAMILY
RESIDENTIAL USE IS NOT ALLOWED IN AN R-1, SINGLE-
FAMILY RESIDENTIAL DISTRICT, A 24'-WIDE DRIVE, FIVE
PARKING SPACES, ASPHALT, CONCRETE, OR AN APPROVED
ALTERNATIVE PARKING SURFACE, FRONTAGE
LANDSCAPING AND FOUR FRONTAGE TREES ARE REQUIRED
FOR R-3 USE.**

LOCATED AT

115 NORTH ANN STREET

(West side of North Ann Street, 310'± North of Old Shell Road)

APPLICANT/OWNER

ROBIN W. TANKERSLEY

AGENT

ROBIN W. TANKERSLEY

BOARD OF ZONING ADJUSTMENT

DECEMBER 2007

The applicant is requesting Use, Access, Parking Ratio, Parking Surface, and Frontage Landscaping/Tree Planting Variances to allow a three-unit apartment house with a 17'± wide drive, four parking spaces, gravel parking surface, and no frontage landscaping/trees in an R-1, Single-Family Residential district; Multi-Family Residential use is not allowed in an R-1, Single-Family Residential district, a 24' wide drive, five parking spaces, asphalt, concrete, or an approved alternative parking surface, frontage landscaping and four frontage trees are required for R-3 use.

The applicant purchased the subject property in June 2007, and soon-after obtained a building permit for repairs in which the property was described as multi-family tri-plex apartments. The Planning Section review of the permit application was failed; however, the permit was issued by the Permitting and Development Section. A Zoning investigation was requested, and the applicant was issued a Notice of Violation requiring nonconforming use history to be submitted concerning past R-3 use history. No verifiable past use history has been submitted, hence this application.

The applicant states that the property had been continuously used in an R-3 manner since approximately 1990, and that previous owners had never made application for a zoning variance. The floor plan submitted with the application clearly indicates three separate kitchens in the house, thereby providing three individual dwelling units.

With regard to the Use Variance request, the property has always been indicated to be used as R-1, Single-Family Residential, on Planning land use map surveys, and is also indicated as such on the Mobile County Revenue Commission property tax assessment. And in research spanning the past twenty years in the R. L. Polk & Company City Directory, no indication of anything other than single-family residential use has been indicated, either by the number of occupants or any indication of multiple units. Additionally, the period of 1995 – 1998 indicated the property to be vacant, thereby nullifying any legal nonconforming R-3 use right, even if such had been substantiated prior to then. As far as the interior layout with three kitchens/dwelling units, if the house was converted from R-1 use to R-3 use around 1990, this would have been in violation of the Zoning Ordinance. Since the property has gone through seven ownership changes since 1990, identifying the exact time of interior conversion from R-1 to R-3 layout may be difficult.

With regard to the Access, Parking Ratio, Parking Surface, and Frontage Landscaping and Tree Planting Variance requests, in light of the fact that absolutely no verifiable evidence of past legal nonconforming R-3 use can be found, consideration for relief from site compliance to R-3 standards would be a mute point.

The Zoning Ordinance states that no variance shall be granted where economics are the basis for the application. Furthermore, the applicant must present 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 failed to illustrate that a literal enforcement of the Ordinance would result in an unnecessary hardship. It is simply the applicant's desire to use an R-1, Single-Family Residential property in an R-3, Multi-Family Residential manner, without any site compliance modifications for such.

RECOMMENDATION 5451

Date: December 3, 2007

Based on the preceding, this application is recommended for denial.

LOCATOR MAP



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APPLICANT Robin W. Tankersley

REQUEST Use, Access, Parking Ratio, Parking Surface, Frontage Landscaping/Tree Planting Variances



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BOARD OF ADJUSTMENT

VICINITY MAP - EXISTING ZONING



The site is surrounded by miscellaneous land use

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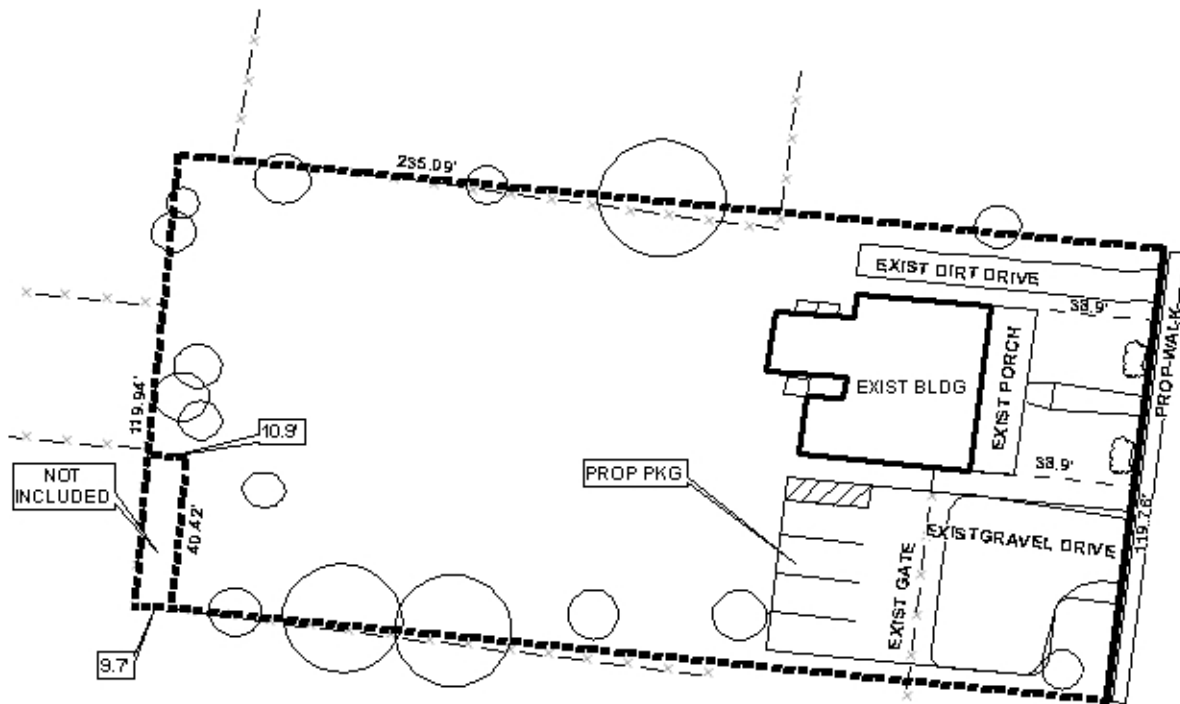
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LEGEND

															NTS
R-1	R-2	R-3	R-A	R-B	H-B	T-B	B-1	LB-2	B-2	B-3	B-4	B-5	I-1	I-2	

SITE PLAN



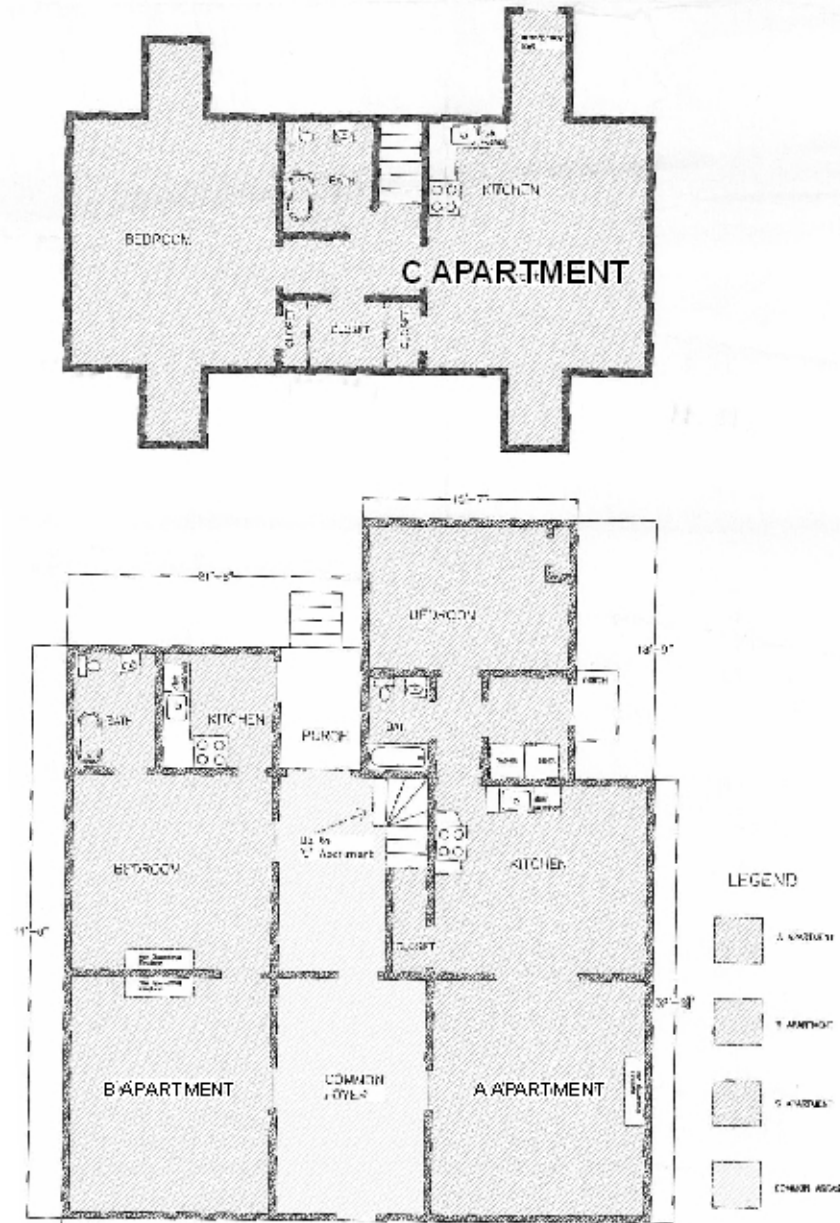
The site plan illustrates the existing building, drives, and proposed parking

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DETAIL SITE PLAN



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