AI3 > AGENDA ITEM #3
6/11/24

CITY OF PARKER

PETITION FOR VARRIANCE APPLICATION

Date of application: 5-21-24 Application No: _____

Petitioner's Name: Cynthia M. Rozzo
(Current owner of property must apply for the variance)

Address: _____

City, State, Zip: _____

Telephone Number: _____ Fax Number: _____

Email: _____

Parcel Identification Number(s). Obtained from Property Appraiser's Office: 26141-000-000

Legal Description: 3rd AMENDED PLAT PT DONALSON LOT 1 BLK 7 ORB 420 P147

Description of Proposed Variance: We are requesting a variance concerning the Land Development Regulations (LDR), Section 6-3.1 (6). Our aim is to secure permission for the continued non-conforming use of our property, a triplex, in the event of a transfer of ownership.

Location of Variance Property: 1440 Dover Road, Panama City, FL 32404

Surveyor's Name: MTS Surveying and Mapping

Address: 469 Ashland Way

City, State, Zip: Panama City, FL 32404

Telephone Number: 850 - 704 - 5775 Fax Number: _____

Email: mtsurveying.mapping@gmail.com

Agent's Name: _____

Address: _____

City, State, Zip: _____

Telephone Number: _____ Fax Number: _____

Email: _____

N/A

A.I.3

CITY OF PARKER

VARIANCE APPLICATION VARIANCE REQUEST QUESTIONAIRE

1- There is a specific hardship affecting the development of the property resulting from the strict application of the provisions of these Regulations. YES ✓ NO _____ Please explain below:

See Attached

2- The hardship is not a result of the actions of the owner and is not based solely on a desire to reduce development costs. YES ✓ NO _____ Please explain below:

See attached

3- The proposed variance is necessary to preserve a substantial property right where such property is generally available to other property owners of adjacent or nearby properties or other properties in the land use category. YES ✓ NO _____ Please explain below:

See attached

4- The proposed variance will not materially increase congestion on surrounding streets, increase the danger of fire or other hazards or otherwise be detrimental to the health, safety or general welfare of the public. YES ✓ NO _____ Please explain below:

See attached

5- The proposed variance will be compatible with adjacent and nearby development and will not alter the essential character of the land use district. YES ✓ NO _____ Please explain below:

See attached

6- The effect of the proposal variance is consistent with the purposes of the Regulations. YES ✓ NO _____ Please explain below:

See attached

7- The effect of the proposed variance is consistent with the Comprehensive Plan. YES ✓ NO _____ Please explain below:

See attached

AI3

ATTACHMENT C:
CITY OF PARKER
VARIANCE REQUEST QUESTIONNAIRE

FOR 1440 DOVER ROAD

SUBMITTED BY CYNTHIA ROZZO + GEORGE HARALABIDIS, OWNERS

1-

There is a specific hardship affecting the development of the property, resulting from the strict application of the provisions of these Regulations.

ANSWER: YES.

While we are not trying to develop our property, we are just trying to **sell** 1440 Dover Road, a triplex built in 1950. As part of the prospective buyer's due diligence, they were informed that our property is not an allowable use in a residential area (making our property, 1440 Dover Road, a non-conforming use) and that the **loss** of non-conforming use would occur when ownership is transferred.

This new regulation was the first we heard of! Since, in 2021, when we bought the property as a multi-family dwelling in a residential area, the Land Development Regulations November 2019 (Page 6-10 #6) stated:

"*Change of ownership. Change of ownership or other transfer of an interest in real property on which a non-conforming use is located shall not, in and of itself, terminate the non-conforming status unless the purchaser modifies or alters the use of the property.*"

We thought our property would be "grandfathered in" like so many other communities do.

So, our real estate agent had our title company, South Oak Title, call City Hall to confirm this assertion that the new land development regulations would not allow the new owner to use the property as a multi-family dwelling. After multiple phone calls, Jami Hinrichs, planning technician for the city, responded via email:

"A duplex or a triplex is not an allowable use in a residential area per the LDR page 4-2. The information regarding the loss of non-conforming use due to a transfer in ownership may be found on page 6-10 under change in ownership. A variance can be applied for and shall run with the land once established as per page 6-12."

So, based on that email, I looked up the current Land Development Regulations (LDR) document on the city website, 6-3.1 #6 and it states the following:

Change of ownership. Change of ownership or other transfer of an [sic] recorded interest in real property on which a non-conforming use is located shall terminate the nonconforming use status, regardless of whether the purchaser modifies or alters the use of the property.

Carrying out the strict letter of this Land Development Regulation (LDR) would require us and/or the new owners to discontinue the use of the home as a multi-family dwelling, which is extremely impractical and is causing us economic difficulty. The hardship is that we are trying to sell our property, which was built in 1950 as a triplex. Bay County Property Assessors identifies it as a "multi-family dwelling". The city's land development regulation (6-3.1 #6) is preventing us from selling our house as a multi-family property to an interested buyer.

We are requesting a variance to maintain 1440 Dover Road's status as a legal, non-conforming property within the residential zone of Donalson Point subdivision, as it has been since its construction in 1950. Without this variance, the new Land Development Regulations (LDRs) would compel the new owner to

ATTACHMENT C:
CITY OF PARKER
VARIANCE REQUEST QUESTIONNAIRE
FOR 1440 DOVER ROAD
SUBMITTED BY CYNTHIA ROZZO + GEORGE HARALABIDIS, OWNERS

1- (continued)
demolish a structurally sound building or spend additional funds to convert it to a single-family dwelling, forcing us to significantly lower our asking price.

If no variance is granted, it would cause a significant, unjustified expense to us and/or the prospective buyer by making us/or the buyer demo the house to comply with this LDR.

2-
The hardship is not a result of the actions of the owner and is not based solely on a desire to reduce development costs.
ANSWER: YES

The hardship is not a result of any actions we have taken as owners. In fact, it was the City of Parker that changed the allowed use of our property without our knowledge and did not provide us with the legally-required notification that the land development regulations that were ratified November 1, 2022 (Ordinance 2022-409) affected our property.

In Florida, local governments are required to notify property owners when there are changes to land development regulations that may affect their property. See Florida Statute "166.041 Procedures for adoption of ordinances and resolutions", specifically 166.041(c):

". . .Ordinances that change the actual list of permitted, conditional, or prohibited uses within a zoning category, or ordinances initiated by the municipality that change the actual zoning map designation of a parcel or parcels of land shall be enacted pursuant to the following procedure:

1. In cases in which the proposed ordinance changes the actual zoning map designation for a parcel or parcels of land involving less than 10 contiguous acres, the governing body shall direct the clerk of the governing body to notify by mail each real property owner whose land the municipality will redesignate by enactment of the ordinance and whose address is known by reference to the latest ad valorem tax records. The notice shall state the substance of the proposed ordinance as it affects that property owner and shall set a time and place for one or more public hearings on such ordinance. Such notice shall be given at least 30 days prior to the date set for the public hearing, and a copy of the notice shall be kept available for public inspection during the regular business hours of the office of the clerk of the governing body. The governing body shall hold a public hearing on the proposed ordinance and may, upon the conclusion of the hearing, immediately adopt the ordinance.

We were never properly notified (as per 166.041) of this proposed LDR change and, consequently, never able to determine how it would affect us/our property, or to allow us to object to this change before it was passed; or the opportunity to at least apply for a variance in advance of us selling the property. Now we are in a time crunch to get this issue resolved and at risk of losing prospective buyers.

3-
The proposed variance is necessary to preserve a substantial property right where such property is generally available to other property owners of adjacent or nearby properties or other properties in the land use category.
ANSWER: YES

The current LDR/ordinance of not allowing our multi-family home to continue to be used as what it was originally built for is causing an inordinate burden on us. The city's revision of the LDR that changed the allowable uses in a residential neighborhood by outlawing our property's use as a triplex "upon new ownership" especially now that we are trying to sell it—so we are unable to attain the reasonable, expectation of a return on our investment.

The proposed variance is necessary to preserve our vested rights by pushing back on the City for imposing this new regulation on an already-built structure like ours at 1440 Dover Road.

The proposed variance is necessary to not only restore our right to make money on investment property, but another substantial property right that was denied us when this LDR was implemented: procedural due process as protected by the 14th amendment. By not following the U.S. Constitution and Florida Statute 166.041, which required the City of Parker to notify us that our multi-family home was no longer an allowable use (after we sell it) the City of Parker deprived us the freedom to petition the city when this LDR was being reviewed and/or approved. Now we are asking for this variance in the middle of a sales process which is interfering with the closing of our property because prospective buyers do not want to deal with the uncertainty of the use of what they thought (and we thought, too) is a multi-family dwelling.

4-
The proposed variance will not materially increase congestion on surrounding streets, increase the danger of fire or other hazards or otherwise be detrimental to the health, safety, or general welfare of the public.
ANSWER: YES

Traffic and Congestion: Our triplex contains small apartments that house fewer residents which means a relatively small increase in the number of vehicles. This minimal increase is unlikely to significantly impact street congestion.

Fire Safety: Our triplex complies with fire safety codes (like smoke detectors) so the risk of fire will not increase.

Health, Safety and General Welfare: Keeping this property as a duplex does not inherently pose a threat to public health or safety. In fact, providing additional housing options, can be beneficial to the community by offering more affordable living spaces-- especially with Tyndall Air Force Base and the armed forces' unique living situations. Also, duplexes can foster a sense of community and social cohesion by housing a small number of people in close proximity, which can lead to stronger neighborhood ties and collective responsibility for the area's well-being.

AI3

5-
The proposed variance will be compatible with adjacent and nearby development and will not alter the essential character of the land use district.
ANSWER: YES

By approving the variance, the City would be allowing our multifamily residence to continue to be compatible with the essential character of this residential land use district in several ways:

1- The design of our triplex reflects the architectural style and scale of the existing homes in Donalson Point, ensuring visual harmony and preserving the neighborhood's aesthetic.

2- Our triplex provides more affordable housing options within a residential district, contributing to socioeconomic diversity without compromising the area's residential nature.

3- There are other multi-family dwellings throughout Donalson Point so our triplex is not the only multi-family home which makes our property "compatible with adjacent and nearby development" and, thus, "will not alter the essential character of the land use district."

4- In the Florida Building Codes, a duplex is classified under residential zoning. Specifically, the *Florida Building Code, Residential includes* single-family dwellings, duplexes, and townhouses not more than three stories in height with a separate means of egress, and their accessory structures as "residential" buildings. A triplex, which is a multi-unit dwelling with three separate living units, is also considered a **residential** building.

6-
The effect of the proposal variance is consistent with the purposes of the regulations.
ANSWER: YES

The current Land Development Regulations document (Section 1-4) states, "It is the intent of these Land Development Regulations that its adoption is necessary so that the City can preserve and enhance present advantages." For reasons cited above, I believe it would be advantageous for the City of Parker to **preserve** 1440 Dover Road as the multi-family residence it has been for decades.

It is also my understanding that the purpose of Parker's Land Development Regulations is to regulate future development. This variance is an opportunity for the City of Parker to take corrective action on a property that has been in the neighborhood as a multi-family dwelling since 1950.

This proposed variance would allow our multi-family property to continue as a legal, nonconforming use when new owners purchase the property.

A I 3

7-
The effect of the proposed variance is consistent with the comprehensive plan.
ANSWER: YES

> The proposed variance aligns with Parker's Comprehensive Plan, particularly fulfilling the objectives of the "Property Rights Element" incorporated into the city's comprehensive plan through the enactment of Ordinance 2022-397 on February 15, 2022. The Property Rights Element in the city's comprehensive plan is a component that ensures private property rights are considered in local government decision-making processes. By including The Property Rights Element in the city's comp plan, the city was guaranteeing residents the right to participate in the decisions that affect their lives and their property, and to ensure that those rights were considered in the City of Parker's decision-making. People that are affected by proposed land use and zoning decisions have the right to the proper notice of public hearing(s) and the right to present testimony and evidence at public hearing(s) involving land use and zoning decisions of the City.

By not properly notifying my husband and I that our property at 1440 Dover Road would no longer be allowed to be used as a multi-family dwelling upon the transfer of ownership (as per the new LDRs passed Nov. 22, 2022) we were denied these "property rights" guaranteed in the city's comprehensive plan. By granting us this variance, the City would be restoring our rights to keep 1440 Dover Road a multi-family dwelling and making up for the City of Parker disregarding its Comprehensive Plan's Property Rights Element.

>Our triplex is a compatible and beneficial housing option already available in Donalson Point, a residential land use district. By keeping 1440 Dover Road a legal, non-conforming use with the new owner, it remains a vital part of the mix of housing options that align with the goals of land development regulations and the city's Comprehensive Plan.

AF3

CITY OF PARKER

VARIANCE APPLICATION NOTIFICATION TO AFFECTED PROPERTY OWNERS

The applicant agrees that the City has the right to post a notification sign on the property, visible from the roadway, identifying the date, time, and location of the meeting of the City Council to consider the variance application. The applicant agrees to ensure that the sign is continually posted on the property until after a final decision of the City Council on the variance request or the application is withdrawn. After the meeting, the City shall have the right to remove the sign, restoring the surfaces of the property to its former natural state.

Cynthia Rozzo
Printed Name

5-21-24
Date

Cynthia M. Rozzo
Signature

5-21-24
Date

AI3

CITY OF PARKER VARIANCE APPLICATION

Representative authorization

I,_____, owner of the following property:

PROPERTY ADDRESS:_____

Hereby authorize the following named individual to appear on my behalf at the City Council Hearing to be held on_____.

AUTHORIZED REPRESENTATIVE:_____

BY:_____

PROPERTY OWNER

STATE OF:_____

COUNTY OF:_____

The foregoing instrument was acknowledged before me this_____day of _____20___ _, by who is personally known to me, or who has produced as identification and who did (did not) take an oath.

_____

NOTARY PUBLIC

_____

NAME:

_____

TITLE:

_____

COMMISSION NUMBER:

AI3

REQUIRED SIGNATURE

I have read and understand all information provided in this application, the requirements listed within the application and agree to provide the necessary information requested by the City of Parker. The information I have provided on this application is true and correct to the best of my knowledge.

I understand that this application will be heard in a public meeting by the City of Parker City Council, the Parker Land Development Code shall govern the procedure of the decision.

I understand the Parker City Council cannot issue variances for the requirements of the City of Parker Comprehensive Plan. Changes to the Comprehensive Plan require a submittal of a Comprehensive Plan amendment application. (Applications are available at the City of Parker.)

I understand the City Council shall not vary the requirements of any provision of Ordinance 90-177, Parker Comprehensive Planning and Land Development Regulation Code, unless it makes a positive finding, based on substantial competent evidence on each of the finds contained in he variance application.

FLORIDA STATUES 837.06-FALSE OFFICIAL STATEMENT

Whoever knowingly makes false statement in writing with the intent to mislead a public servant in the performance of his official duty shall be guilty of a misdemeanor of the second degree.

Petitioner's Signature	Printed Name	Date of Signature
	Cynthia M. Rozzo	5-22-24

STATE OF Georgia

COUNTY OF Fulton

BEFORE ME, the undersigned Notary Public in and for said County and State, appeared

Cynthia Rozzo, who is personally know to me or who has produced

Driver's License, identification and who executed the foregoing instrument.

Given under my hand and seal this 22nd day of May, 2024

{Seal}

ALEXANDRE GARCIA NOTARY EXPIRES GEORGIA JULY 8, 2025 PUBLIC FULTON COUNTY

Signed Name of Notary Public

Alexandre Garcia

Printed Name of the Notary of the Public

N/A

Commission Number: