

Excerpts of the Planning Commission Meeting Minutes – DRAFT

August 16, 2023

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- 6.2 Staff Report (For Possible Action): Case No. **LDC23-00065 (306 East Taylor Street Multi-Family)** - A request has been made for a variance to increase the allowable number of dwelling units from seven to eight units in an existing multi-family complex. The ±0.16 acre site is located on the southeast corner of the intersection of East Taylor Street and Wheeler Avenue. The site is zoned Multi-Family Residential – 30 units per acre/Wells Avenue Neighborhood Plan Overlay (MF-30/WANP) and has a Master Plan land use designation of Multi-Family Neighborhood/Wells Avenue Neighborhood Plan/Mixed-Residential - 30 (MF/WANP/MR-30). [**Ward 3**]

Batuhan Zadeh, applicant representative, gave an overview of the project.

Carter Williams, Assistant Planner, presented the staff analysis and recommendation for denial. Based on building permits, business licenses and tax assessment history this property has only received zoning approval for seven units.

Disclosures: familiar with the site, visited the site Public Comment:

None

Questions:

Commissioner Munoz asked if staff knows when the illegal renovations creating an eighth unit were made to this property.

Mr. Williams explained the City has no record of those changes.

Mr. Zadeh stated he believes the changes were made around 22 years ago by

the seller of the property. The seller was able to get a business license every year and part of that process requires a fire inspection and everything passed so he was confused when he tried to get a license and this issue came up.

Mr. Williams responded to questions from Commissioner Munoz regarding the business license process. He stated the Business License Department confirmed that the previous owner declared there were seven units every year since the establishment of their license. He explained that usually fire inspections are done when a license is initially issued and he is not aware that one was done after that. This is the first time the City was made aware of the eighth unit.

Commissioner Munoz asked for confirmation that we have no idea when the last fire inspection was done on this property.

Mr. Williams stated no, we wouldn't have a record of that.

Mr. Williams answered questions from Commissioner Becerra regarding the zoning history of the property.

Mr. Williams answered questions from Commissioner Villanueva and provided examples of hardships that would qualify for a variance. Previous non-conforming building improvements cannot be used to justify a variance.

Mr. Williams confirmed for Chair Drakulich that there was a recent inspection performed by the building official. The report that came back from the building official said that the eighth unit was clearly different from the other units but the applicant says it is exactly the same. Mr. Williams stated he does not know what was different from the building inspector's perspective but his report did note there were differences that made it look like it had been built at a different time.

Chair Drakulich stated that he did not see any clear signs of an addition based on the pictures shown in the presentation or when he visited the site. It looks like a building with eight units that are up to code.

Commissioner Villanueva asked staff if the commission has a requirement when making findings for this decision to take into consideration finances or whether or not a party did their due diligence.

Mr. Williams stated that generally his understanding is that financial implications related to the development of the property are not necessarily relevant in meeting the findings. In this case there was an improvement made without permits that is now causing a financial burden. We consider that self-imposed unfortunately. The finding can't be made by a self-imposed hardship.

Angela Fuss, Development Services Assistant Director, stated that in these older infill areas we see this a lot where an apartment project was converted. Unless we have documentation we don't know that it was ever legally converted. The challenge is do we just let anyone come in because they say they bought a property this way so it must be okay. Then everybody would do these things illegally and say they didn't know. There is a reason why these rules are in place. Because this property does not meet the density that is allowed in the zoning district, our hands are tied and staff can't recommend approval.

Commissioner Villanueva asked staff if we have approved any variances in this area for additional units.

Mr. Williams stated we have not approved any density increases through variances in the City of Reno.

Commissioner Villanueva asked the applicant if they have worked with the City to see what other solutions are available.

Mr. Zadeh stated they are trying every route.

Mr. Zadeh confirmed for Commissioner Munoz that the unit is currently occupied and was occupied when they bought the property.

Commissioner Munoz asked what the next step for the applicant would be if this is denied.

Mr. Williams explained that density increases are handled through zoning map amendments and in this case it would be a master plan amendment, but there are challenges with that in this area. Staff has not been able to identify a path forward with the tools they have.

Mr. Williams explained for Chair Drakulich that currently there is no enforcement action on the property. Once the current business license expires, compliance would initiate steps to have the property vacated and converted back.

Mr. Williams answered questions from Commissioner Becerra regarding timing and challenges with alternative process options. If we start looking at master plan and zoning map amendments, it would also allow for more intense commercial uses in the area. It is something that requires a broader look at the area and what we want to see for the area for density and variances should not be used for broader policy issues like that.

#### Discussion:

Commissioner Villanueva stated this is a hard one because we are a planning commission and our scope is limited. We don't have the purview to consider financial hardship and whether someone did their due diligence. This is a unique circumstance where it is just the addition of one unit and it would potentially be a benefit, but the concern is setting a precedent. She wants to see this move forward but does not think this is the right process.

Chair Drakulich agreed stating he would like to see it happen but it seems like an extremely complex process if the variance is not approved. We don't want to set a precedent but we do have this variance tool at our disposal.

Commissioner Villanuova agreed the variance is an available tool, she just wants to use that tool appropriately.

Commissioner Munoz agreed this is a tough one. This property has been operating as an eight unit property for over 20 years now and we do need more housing. If the variance is approved, there are still requirements that need to be met. He stated he is leaning toward the applicant because this is something that will help the city. If this is a tool we are legally allowed to use, I don't see a problem with approving the variance.

Commissioner Becerra expressed concern about setting precedent and asked how would we respond with potential future applicants in this situation. Would it be a case by case or would it open the floodgates.

Ms. Fuss stated that whatever recommendation you make, tie it to the findings and state why you can or cannot make each of the findings. He stated she would encourage the commissioners to be able to make all of the findings in order to approve the variance.

The commissioners and staff reviewed and discussed the findings.

Discussion on the motion:

Commissioner Becerra stated he thinks they all generally want to see this move forward but this may not be the body to do it. It might be prudent to get the perspective of City Council on this.

Ms. Fuss confirmed for Chair Drakulich that if the vote is two to two, it would be a technical denial.

Commissioner Munoz stated this is a very unique situation. This would be a good use of the variance. He does not believe it would set a precedent.

Chair Drakulich agreed with Commissioner Munoz and does not see the concern of setting a precedent.

Commissioner Villanueva asked for examples of why this situation is unique and why it deserves the variance if it were to be approved based on there being unique circumstances.

Chair Drakulich stated this is an existing structure that has been occupied for over 20 years and there won't be any negative impact to the community.

Ms. Fuss responded to questions from Commissioner Becerra regarding what would happen to the current tenants in the eighth unit. She explained it may be a situation where they have to move out on a temporary basis while it is going through the certificate of occupancy making sure it is approved and meets all the codes and then they could move back in. That would be something we would work with the applicant on.

Mr. Zadeh asked if the vote on the motion could be postponed to a future meeting when more commissioners can be present in order to avoid a two to two technical denial.

Michelle Fournier, Development Services Management Assistant, stated if there is a technical denial, the two options are to appeal to City Council or request a continuation to another Planning Commission meeting.

The motion vote was a tie making the variance request a technical denial. The appeal process was read into the record.

***It was moved by Silvia Villanueva, seconded by Manny Becerra, to deny the variance. Motion Fail.***

**RESULT:** Denied [2 TO 2]  
**MOVER:** Silvia Villanueva, Commissioner  
**SECONDER:** Manny Becerra, Commissioner  
**AYES:** Villanueva, Becerra  
**NAYS:** Arthur Munoz, J.D. Drakulich  
**ABSENT:** Alex Velto, Harris Armstrong, Kerry Rohrmeier  
**ABSTAIN:**  
**RECUSED:**