

STAFF REPORT

Date: October 11, 2023

To: Mayor and City Council

Thru: Doug Thornley, City Manager

Subject: Staff Report (For Possible Action): Case No. LDC23-00065 (306 East Taylor Street Multi-Family) Appeal of the Planning Commission's decision to deny a request 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). An appeal was filed by Batuhan Zadeh on behalf of High Rock Properties, LLC. City Council may affirm, reverse, or reverse with conditions the decision of the Planning Commission.

From: Carter Williams, Assistant Planner

Department: Development Services - Planning

Summary:

This is a public hearing to consider an appeal of the Planning Commission's denial of a variance to allow for the increase in the number of allowed units in an existing apartment complex from seven to eight. The decision of the Planning Commission resulted in a technical denial, which occurs when a motion fails by way of a tie vote.

The property is zoned Multi-Family Residential – 30 units per acre (MF-30) which allows for up to seven units with the maximum density bonus allowed for smaller unit sizes. At some point in time, the laundry room and manager's office were converted into an illegal eighth unit without permits or zoning approval. A variance appears to allow for an increase in density for a particular project, but variance findings require an extraordinary and exceptional hardship unique to the property to approve such a request. No hardship has been identified and no unique condition exists outside of illegal improvements constructed on the property. Staff contends that if there is any hardship in this case, it would have been self-imposed, or otherwise is an inherited issue from the previous property owner.

An appeal of the Planning Commission's decision has been filed (**Exhibit A**), and is described below:

- Batuhan Zadeh appealed on behalf of High Rock Properties, LLC (the applicant) stating that the denial of the application harms their financial standing for the building and results in the eviction of existing tenants occupying the illegal unit.

Council may approve the appeal and approve the project, approve the appeal and apply conditions of approval, or deny the appeal and affirm the Planning Commission's decision to deny the variance application.

Alignment with Strategic Plan:

Economic and Community Development

Previous Council Action:

There is no recent Council action relevant to this item.

Discussion:

A detailed project analysis is provided in the attached Planning Commission staff report (**Exhibit B**). The Planning Commission discussion is summarized in the following points:

- Commissioners noted that the proposed increase in density supported Master Plan policies related to urban neighborhoods.
- Certain commissioners felt the variance as a tool was appropriate for property specific increases in density.
- Commissioners had challenges showing this project meets findings requiring the identification of a hardship and a unique condition that results in the hardship with the strict application of code.
- Certain commissioners raised concerns about the precedent an affirmative action sets and noted that it was unclear how the body might differentiate this application from a more significant increase in density.

Minutes from the August 16, 2023 Planning Commission public hearing are attached (**Exhibit C**). No concerns from the public specific to the project were received at the Planning Commission hearing. Support for the request was received at the August 1, 2023 Ward 3 Neighborhood Advisory Board (NAB) meeting.

Planning Commission Vote:

Motion for Denial: two in favor; two opposed resulting in a technical denial.

Financial Implications:

None at this time.

Legal Implications:

Legal review completed for compliance with City procedures and Nevada law.

Recommendation:

Staff recommends Council review the letter of appeal and Planning Commission action and affirm the Planning Commission's decision.

Proposed Motion:

Below are proposed motions with the findings for affirmation and reversal of the Planning Commission decision.

Motion to Affirm Planning Commission Decision

(Deny the appeal and deny the variance)

Regarding the appeal of LDC23-00065 (306 East Taylor Street Multi-Family), based on Council's review of the staff report, the record on appeal, and information presented at the public hearing for this appeal, and based on my inability to make all of the findings, I move to AFFIRM the denial of the variance by the Planning Commission and DENY the appeals. The City Clerk is instructed to prepare and file an order.

Motion to Reverse Planning Commission Decision

(Affirm the appeal, reverse the Planning Commission's decision, and approve the variance)

In regards to the appeals of LDC23-00065 (306 East Taylor Street Multi-Family), based on this Council's review of the staff report, the record on appeal, and information presented at the public hearing, I move to AFFIRM the appeal, REVERSE the denial of the variance by the Planning Commission, and directly approve the variance, based on the ability to make all the applicable findings. The City Clerk is instructed to prepare and file an order.

Findings:

General Review Criteria and Considerations: The decision-making body shall review all development applications for compliance with the applicable general review criteria stated below.

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- (1) Consistency with the Reno Master Plan: The proposed development shall be consistent with the Reno Master Plan. The decision-making authority:
 - a. Shall weigh competing plan goals, policies, and strategies; and
 - b. May approve an application that provides a public benefit even if the development is contrary to some of the goals, policies, or strategies in the Reno Master Plan.
- (2) Compliance with Title 18: The proposed development shall comply with all applicable standards in this Title, unless the standard is lawfully modified or varied. Compliance with these standards is applied at the level of detail required for the subject submittal.
- (3) Mitigates Traffic Impacts: The project mitigates traffic impacts based on applicable standards of the City of Reno and the Regional Transportation Commission.
- (4) Provides Safe Environment: The project provides a safe environment for pedestrians and people on bicycles.
- (5) Rational Phasing Plan. If the application involves phases, each phase of the proposed development contains all of the required streets, utilities, landscaping, open space, and other improvements that are required to serve or otherwise accompany the completed phases of the project, and shall not depend on subsequent phases for those improvements.

Variance: In addition to meeting the approval criteria in Section 18.08.304(e), Approval Criteria Applicable to all Applications, the following findings shall be made prior to granting a variance:

- (1) The property is characterized by an extraordinary or exceptional situation or condition, such as exceptional narrowness, shallowness, or shape, or it has exceptional topographic conditions at the time of enactment of the regulations;
- (2) The strict application of the regulation would result in peculiar and exceptional practical difficulties to, or exceptional and undue hardships upon, the owner of the property;
- (3) Granting of the variance will not be materially detrimental to the public health, safety, or welfare, or injurious to property or improvements in the vicinity; and
- (4) The proposed variance is consistent with the intent and purpose of this Title per Chapter 18.01 Article 2, Purpose.

Attachments:

Exhibit A – Appeal

Exhibit B – Planning Commission Staff Report

Exhibit C – Planning Commission Minutes
Legal Noticing