



ZBOA Agenda Item # 2 January 7, 2020

PELUC Request by Lawton White File #: APP-2019-09

Lawton W. White is requesting approval for a Previously Established Land Use Conformity (PELUC) certificate to re-establish a duplex in a Single-Family Residential (R-15) zoning district. The subject property consists of 1.50 acres and is located at 318 Eager Road, which is along the north side of the road about half way between Northfield Road and Jadan Place. The property contains a single-family residence (2,714-sf) and a rear yard accessory duplex residential building that measures 24'x60' (2,160-sf) (each dwelling being about 1,080-sf and consisting of 2 bedrooms). The existing duplex is a grandfathered-in nonconformity on this property that has become vacant for more than one year. The applicant is wanting to formally re-establish this duplex as rental dwelling units.

The subject property was part of the citywide "islands annexation" case that became effective in 2006. At the time of annexation, the property was zoned R-15 in Lowndes County and it already contained the single-family residence and occupied duplex dwellings.

R-15 zoning allows a single-family residences as a permitted use in both the City and County. However, duplexes and multifamily development (3 or more dwellings per parcel) are not permitted in R-15 zoning in either jurisdiction. Given the ownership history of the property and the age of the buildings, it is believed that the existing duplex dwelling was originally constructed at a time before the County adopted Zoning in 1972. It therefore became a grandfathered-in nonconforming use at that time. When the property was annexed in 2006, it was annexed "as is" and the grandfathered use carried over as a legal nonconformity now in the City. In the Spring of 2018, the property changed ownership and renovations were started on a now-vacant duplex. Because this particular use has been vacant for more than 12 months, the applicant cannot reactivate / reoccupy the duplex unless a PELUC is approved or the property is rezoned to R-M.

PELUC certificates offer an opportunity to reestablish a nonconforming use that was legally operating on January 1, 2009, when the LDR became effective. PELUCs can only authorize the last legally nonconforming use, "IF" it was legally operating at the time the LDR became effective. If the PELUC is granted, the property may not be utilized for another nonconforming use. Also, if the use for which a PELUC was granted, ceases for a period in excess of 12 months, it shall be deemed a voluntary abandonment of such certificate.

The applicant is proposing no changes to the site or structures other than interior renovations. The property is fairly large (with an average of 21,780-sf per dwelling unit...) and it is separated from the adjacent neighborhood by very substantial vegetative buffering along the rear and side property lines. The rear yard duplex has functioned for many years (decades) with little or no apparent impact on the neighboring properties. Under these conditions and with no expansions of the actual usage, staff cannot think of any valid reason why this use of the property should not be allowed to continue as-is, like it already has for so many years.

Staff Recommendation: Find consistent with the PELUC Review Criteria and **approve** the PELUC certificate for the existing rear yard accessory duplex dwelling, subject to the following conditions:

- (1) The duplex building may not be enlarged or expanded, and shall not be occupied by more than 2 residents each (4 residents total).
- (2) The existing vegetative buffer in the rear yard along the northern and eastern property lines shall remain undisturbed.