

STEPHEN L. DUNNE, ESQ
CA BAR #111086
226 S E ST.
LOMPOC. CA 93436
cccdunne2@gmail.com
805-430-8589
805-315-8678c
July 12, 2024

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City of Lompoc - City Clerk's Office

**re: Approved tentative
map (LOM475)
1301 East Hickory Ave.
(APN085-260-047)
Hearing date: July 16, 2024
6:30 P. M.
Council Chambers
100 Civic Center,
Lompoc, CA. 93436**

Dear City Clerk,

I am an attorney representing:

1. Carole and Daryl Burgess,
1317 E. Hickory, Lompoc
2. Susan and Paul (Mack) Insch
1320 E. Hickory, Lompoc
3. Antonette and Antoun (Tony) Nameh
1325 E. Hickory, Lompoc
4. Brenda and Todd Hauenstein
1300 E. Hickory, Lompoc
5. Joan Johnson
1313 E. Hickory, Lompoc

in the above referenced case. My clients ask the council to set aside the decision of the planning commission (PC) entered June 12, 2024. The record of that decision has not yet been published; but my clients have told me that the basis the PC used to abrogate an existing 2250 sq. ft. size restrictive covenant on the above referenced property was that the lot owner could not afford to build a house of that size. She asked for and received from the PC a dramatic change from 2,250 sq. ft. to 1,000 sq. ft.

My clients ask the council to set that decision aside for the following reasons:

1. In making this decision for the reason it did the PC failed to consider the impact this variance will have on future city development. Granting a variance for lack of funds is both

purely subjective and non-compelling (see reason 3 infra). Almost everyone wants something they can not afford.

If the city allows the PC's decision to stand, the city will receive multiple variance requests citing this case and lack of funds as a reason. The PC's decision, if allowed to stand, will also attract opportunistic speculators looking to build cheap houses in expensive neighborhoods flipping them for a quick profit. None of this is desirable;

2. The PC failed to consider the impact its decision will have on city staff.

In my experience city staff takes the law very seriously whenever a construction project is presented to them. If they know that all of their hard work can be swept aside for the arbitrary and subjective reason that the property owner cannot afford to comply with the law, they will become disheartened and, worse, cynical. It's important that city staff be assured that only objective, compelling reasons be the basis for a variance from the law;

3. The PC's decision deprives the homeowners in the neighborhood of their property rights under the due process clause of the 14th Amendment to the U. S. Constitution.

The due process clause of the 14th Amendment is more than procedural. It applies to government action that is a "taking" and more. The U. S. Supreme Court has recognized that the due process clause creates substantive rights that cannot be abrogated by government without a compelling reason.

If the PC's decision is allowed to stand and a 1,000 square foot house is built, it will negatively impact the value of the existing homes in the neighborhood.

The differences between the existing property values and the reduced property values equals the deprivation of property protected in the due process clause. No one can seriously argue that lack of funds in this context is a compelling reason within the meaning of the clause.

The city will be responsible to the existing home owners for their losses. Please set aside the PC's decision.

Yours sincerely,

Steve Dunne