

Conditional Use Public Hearing
Reconvened
Wednesday, March 31, 2010
Addition of 2 Rental Units to 226 West Oley Street
Council Chambers

Vaughn D. Spencer, President of Council, reconvened the hearing at approximately 6:15 p.m.

Purpose

Council President Spencer announced that the owner of 226 West Oley Street is applying to add two (2) additional rentals units to this single family property.

Attendance

Council President Spencer
Councilor Marmarou
Councilor Goodman-Hinnershitz
Councilor Acosta
Councilor Reed
Councilor Sterner
City Clerk Linda Kelleher
Legal Specialist Michelle Mayfield
Zoning Administrator Jen Oehler
City Planner Andrew Miller
Miguel Estrada, owner of 226 West Oley Street

Council President Spencer explained the format of the hearing and asked the Legal Specialist to conduct the hearing.

Legal Specialist Mayfield asked the stenographer to administer the oath to those planning to testify at the hearing. After the oath was administered, Legal Specialist Mayfield advised those planning to testify about the testimony procedure.

The Legal Specialist asked that the agenda with all attachments be entered into the record as Exhibit 1. She explained the agenda attachments. She entered the City's Zoning Ordinance as Exhibit 2. She announced that Mr. Estrada will be assisted by a court certified translator.

Testimony from Applicant

Mr. Estrada made all testimony through the translator. He stated that a three (3) car detached garage is included with this property. He stated that the property was already converted to a three (3) unit property when he purchased it. He stated that he resides in one of the units.

Legal Specialist Mayfield asked Mr. Estrada about the number of bedrooms in each unit. Mr. Estrada stated that the first and third floor units have one (1) bedroom each and the second unit has two (2) bedrooms. The square footage of each unit is included with the drawings submitted with the application.

Legal Specialist Mayfield inquired if the garage contains space to park three (3) cars. Mr. Estrada replied affirmatively. She inquired if any additional off street parking spaces are provided, as the zoning ordinance requires 1.5 off street parking spaces per unit. She stated that five (5) off street parking spaces are required for a three (3) unit rental. Mr. Estrada stated that he currently only has three (3) off street parking spaces.

Legal Specialist Mayfield asked Mr. Estrada if he has discussed the compliance of the property with Building, Trades or Fire offices. Mr. Estrada stated that so far he has only conversed with a Property Maintenance Inspector during an inspection. He stated that he made the changes to comply with the deficiencies identified by the inspection.

Mr. Estrada produced copies of the inspection report and the compliance letter. Legal Specialist Mayfield entered them into the Record as Exhibits 3 and 4, respectively.

Legal Specialist Mayfield inquired if Mr. Estrada purchased the property in February 2009. Mr. Estrada replied affirmatively. She then asked Mr. Estrada if he contacted the Zoning Office to inquire about the zoning of the building or the number of permitted units. Mr. Estrada stated that he did not inquire.

Legal Specialist Mayfield inquired if Mr. Estrada was aware that that the property is zoned for single family rental use. She inquired why he accepted zoning for single family use. Zoning Administrator Oehler explained that when Mr. Estrada applied for a three (3) unit zoning permit, he was issued a permit for single family use and told that he needed to apply for a Conditional Use hearing to obtain permits for two (2) additional rental units.

Legal Specialist Mayfield asked Zoning Administrator Oehler if this property is located within an R3 zoning district. Zoning Administrator Oehler replied affirmatively and

added that conditional use approval is required for the addition of rental units to a single family property. She clarified that in 2005 the former owner applied for a de-conversion permit to make the property a single family rental; however, the owner never went through with the de-conversion.

Legal Specialist Mayfield asked the Zoning Administrator if the addition of rental units was a more intense use. Zoning Administrator Oehler stated that the addition of rental units at this property would be a much more intense use. She expressed the belief that conversion to two (2) rental units would be preferable as the parking requirements are satisfied by the three (3) car garage.

Legal Specialist Mayfield asked Mr. Estrada if he would agree to a two (2) unit rental. Mr. Estrada stated that he would comply with the decision made by Council.

Legal Specialist Mayfield entered the Planning Commission Resolution into the record as Exhibit 5. She asked City Planner Miller to read the resolution aloud. She then invited Mr. Estrada to rebut. Mr. Estrada, in reference to the lack of required parking stated that as the property is located on the corner, there is additional curbside parking available.

Legal Specialist Mayfield explained to Mr. Estrada that the resolution is the recommendation of the Planning Commission, not the decision of Council.

Cross Examination

Council President Spencer inquired about the Planning Commission's assertion that the application is incomplete. City Planner Miller stated that the zoning ordinance requires a site plan drawn to scale that includes the off-street parking area. Mr. Estrada stated that he was told that the attached drawing was acceptable and that he did not need to retain professional assistance.

Councilor Acosta questioned how an application can be called incomplete when the applicant received faulty information.

Councilor Marmarou asked the Zoning Administrator if Mr. Estrada received instructions. The Zoning Administrator stated that Mr. Estrada came to the office to receive instruction with his English speaking son. She noted that written instructions also accompany the application.

Councilor Reed asked the Zoning Administrator if the application is available in Spanish. The Zoning Administrator stated that some applications are available in

Spanish; however, these applications are then completed in Spanish making them unusable. She stated that she plans to speak with the Hispanic Center to see if they can assist Latino clients with the application process.

Mr. Acosta asked the Zoning Administrator why she would forward an incomplete application to the Council Office. Councilor Goodman-Hinnershitz suggested creating a template that can be used to draw the scaled site plan.

Zoning Administrator Oehler stated that a two (2) bedroom unit must be 700 sq. ft. and the second floor unit is less than 700 sq. ft.

Public Comment

James Brunder, of Century 21 Call First, stated that he was the realtor working for Mr. Estrada. He expressed the belief that sufficient parking is available as the property is located at the end of row.

Legal Specialist Mayfield inquired if Mr. Brunder inquired about the zoning designation of the property prior to settlement. Mr. Brunder stated that he did inquire and learned that this three (3) unit property received a de-conversion permit; however, the de-conversion was never completed. He stated that he believed that the three (3) unit application could be considered as the units already exist. He also described his effort to educate the buyer.

Council President Spencer announced that two (2) written comments were received. He read both into the record as follows:

1. Michael Wood, of 210 West Oley Street, wrote that he was unwilling to attend the hearing but wanted to comment on the application. He expressed the belief that the expansion of this property to a three (3) unit rental is ridiculous due to the already severe parking conditions in this neighborhood.
2. Rev. Ernestine Boles, of 225 West Oley Street, stated that she was unable to attend the hearing and expressed the belief that there are too many rental properties in this neighborhood. The overuse of rentals has caused parking problems and congestion.

Council President Spencer closed testimony for this hearing and stated that Council will vote on a resolution to either approve or deny the application for additional rental units on either April 12th or April 24th. He adjourned the hearing.

Respectfully submitted by Linda A. Kelleher CMC, City Clerk