

**Conditional Use Public Hearing**  
**Wednesday, March 31, 2010**  
**549-555 North 10<sup>th</sup> Street**  
**Expansion of Restaurant Seating and Addition of 4 Rental Units**  
**Council Chambers**

Vaughn D. Spencer, President of Council, called the hearing to order at approximately 5:05 p.m.

**Purpose**

Council President Spencer announced that the owner of 549-555 North 10<sup>th</sup> Street has applied to expand the existing restaurant and add four (4) rental units to the existing two (2) units.

**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

Louis Masciotti, representing the owner of 549-555 North 10<sup>th</sup> 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, the Legal Specialist 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.

Zoning Administrator Oehler stated that the property has a zoning permit for a

restaurant and two (2) rental units. City Clerk Kelleher stated that two (2) rental units were also identified in the Property Maintenance reports

### **Testimony from Applicant**

Mr. Masciotti stated that the existing building is 18,000 sq. ft.; 8,300 sq. ft. is dedicated to the restaurant, 7,780 sq. ft. to the rental units and 8,300 to the machine shop. He stated that 2,460 sq. ft. is currently vacant and unused. He stated that the additional units would occupy the existing space. The rear of the first floor would be converted to provide new off-street parking for the new rental units.

Legal Specialist Mayfield asked the Zoning Administrator if the property is located in the R3 zoning district. The Zoning Administrator replied affirmatively.

Legal Specialist Mayfield inquired if architectural plans have been provided. Mr. Masciotti stated that the site plans with the application are drawn to scale. Legal Specialist Mayfield inquired if the owner purchased the property in 2009. Mr. Masciotti replied affirmatively. He added that the property owner has obtained a solid waste removal contract with Waste Management.

Councilor Marmarou inquired if the restaurant would be expanded on the Greenwich Street side. Mr. Masciotti replied affirmatively. He stated that the expansion will allow 28 additional seats. Councilor Marmarou inquired if the parking at the rear would be used by the restaurant. Mr. Masciotti stated that the off-street parking is intended to serve the rental units only. He expressed the belief that the building improvements would make the building a focal point in the neighborhood.

Councilor Sterner expressed concern about the over density in this area already. He inquired about the impact four (4) additional units would create. Mr. Masciotti stated that the two (2) current units house the owner's sons, who run the business.

Legal Specialist Mayfield questioned the need for additional off-street parking spaces for the restaurant. Zoning Administrator Oehler explained that the restaurant is a non-conforming pre-existing use and parking is not required, unless the business is expanded beyond 10% as per the zoning ordinance. Mr. Masciotti stated that the current off-street loading area will be vacated and reused for the additional seating area.

Legal Specialist Mayfield inquired about the size of the rental units. Mr. Masciotti stated that the square footage of each unit is listed on the plans provided. There will be three (3) new one (1) bedroom units and one (1) new two (2) bedroom unit. He

stated that the square footage meets the requirements of the City's zoning ordinance. He noted that the two (2) current units are each three (3) bedroom units. If the additional units are approved the property will have a total of eleven (11) bedrooms in six (6) units. Mr. Masciotti stated that he has attended one One Stop Shop meeting and has followed the requirements as expressed by the Building, Trades and Fire offices. He expressed his belief in the project and in the investment the owner is making in the property. Ms. Oehler stated that the Fire Marshall would need to calculate the available seating capacity in the restaurant. Mr. Masciotti explained that currently the restaurant only has booth and counter seating. The new area would be used for dining tables.

Council President Spencer recalled that there is also an additional business located within this property facing North 10<sup>th</sup> Street. Mr. Masciotti stated that there is also a used furniture business located in the property. Zoning Administrator Oehler stated that this business has a zoning permit.

Zoning Administrator Oehler stated that she is pleased with the proposed investment in this property. However, she stated that the addition of four (4) rental units would make the building too intense for the area. She stated that she would prefer the addition of only two (2) units.

Legal Specialist Mayfield inquired if the furniture store would remain operational. Mr. Masciotti replied affirmatively.

Councilor Acosta expressed concern that the restaurant is not supported by off-street parking. However, he noted his appreciation for the proposed improvements to the building.

Zoning Administrator Oehler stated that the existing liquor license was purchased from the prior owner. Mr. Masciotti stated that the license was for beer carry-out and in-house drinks.

Legal Specialist Mayfield asked City Planner Miller to read the resolution from the Planning Commission. He stated that the Planning Commission's recommendation is based on the application submitted. He stated that the application was not clear on the number of rental units planned and the existing used furniture store. He expressed the belief that the restaurant expansion would require a variance.

Legal Specialist Mayfield entered the Planning Commission's recommendation resolution into the record as Exhibit 3. She asked City Planner Miller if he was aware that a liquor license accompanied the restaurant use. City Planner Miller stated that he

was not aware that a liquor license was in place. He stated that he may have misread the application.

Legal Specialist Mayfield recalled Mr. Masciotti to the podium. She inquired if Mr. Masciotti was aware of the liquor license when completing the application. Mr. Masciotti stated that he was aware of the liquor license. The business is licensed for carry-out beer and liquor in house.

Councilor Reed inquired about the type of dining experience the restaurant offers. Mr. Masciotti stated that the restaurant offers a casual dining experience, as it only has booths and counter seating.

Council President Spencer inquired about the operational hours for the restaurant. Mr. Masciotti stated that the restaurant is currently open Monday through Saturday 8 a.m. to 8 p.m. and on Sunday from 10 a.m. to 8 p.m. Council President Spencer inquired if the operational hours would remain the same. Mr. Masciotti stated that they would remain the same. City Clerk Kelleher noted that operational hours could be listed as a condition.

Councilor Reed inquired if the expansion area could be leased out for private parties. Mr. Masciotti stated that he is unsure.

Legal Specialist Mayfield asked the Zoning Administrator if the restaurant use is pre-existing non-conforming. The Zoning Administrator replied affirmatively. Legal Specialist Mayfield inquired if the expanded area is more or less than 10% of the existing restaurant space. Mr. Masciotti stated that the expansion is 20% of the existing space. Legal Specialist noted the need to obtain Zoning Hearing Board approval if the expansion is greater than 10% of the existing space.

Legal Specialist Mayfield inquired if the owner intends to offer live entertainment or amplified music in the restaurant. Mr. Masciotti stated that live entertainment and amplified music is not planned.

Zoning Administrator Oehler asked Mr. Masciotti how the restaurant would handle incoming deliveries without the loading docks. Mr. Masciotti stated that there are currently two (2) loading zones, one (1) on North 10<sup>th</sup> Street and one (1) on Greenwich Street that could handle incoming deliveries.

## **Public Comment**

Council President Spencer stated that one citizen sent written comment, which he read aloud for the record:

1. M. Maria Kost expressed the belief that this block is too overcrowded and suffers from parking congestion. She described the parking problems created by the Hugh Carcella apartments located in this block. She stated that the increase in rental properties has magnified congestion and parking problems. She also expressed the belief that the increase in rental units at this property would damage the beautiful configuration of the existing penthouse apartments.

Tom Purcell, of 547 North 10<sup>th</sup> Street, noted that it is nearly impossible for vehicles to navigate into the proposed parking area. He expressed the belief that the building has not been brought up to current Fire Code. He also described the PLCB regulations regarding having people younger than 21 years of age in an establishment where alcohol is sold. He expressed the belief that the proposed use is problematic for the neighborhood.

Mr. Masciotti stated that the restaurant will retain its current liquor practices. He stated that patrons use the counter seating to eat, rather than to sit and consume alcoholic beverages. He also stated that the engineering work at the rear of the property shows that vehicles will have access to the new parking area.

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

*Respectfully submitted by Linda A. Kelleher CMC, City Clerk*