

Conditional Use Public Hearing
Tuesday, September 22, 2010
Conversion of 117 South 3rd Street
Council Chambers

Vaughn D. Spencer, President of Council, called the hearing to order at approximately 5:40 p.m.

Purpose

Council President Spencer stated that the City uses the Conditional Use Public Hearing to evaluate whether a proposed use is appropriate for a particular property and neighborhood. This building is zoned for single family use and began registering for rental use in 2010. The property owner is seeking a permit to convert the property into a four (4) unit rental property.

Attendance

Council President Spencer
Councilor Goodman-Hinnershitz
Councilor Reed
Councilor Waltman
City Clerk Kelleher
Legal Specialist Mayfield
Zoning Administrator Oehler
City Planner Miller
William Nunez, owner of 117 South 3rd Street
William Vitale, Design Works Architects

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

Legal Specialist Mayfield asked the City Clerk 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 Exhibits as follows:

- Exhibit 1: Agenda
- Exhibit 2: Comment from the City Planning Commission

- Exhibit 3: Notification to property owner
- Exhibit 4: Advertisement Request
- Exhibit 5: Advertisement
- Exhibit 6: Posted Notice w/ photographic evidence
- Exhibit 7: Conditional Use application completed by property owner and submitted by Design Works

The Legal Specialist asked the City Clerk to confirm the dates the advertisement ran in the local newspaper. She inquired if the property owner objected to the admission of the exhibits. The property owner did not object.

Mr. Vitale stated that he is assisting the property owner and requested permission to enter additional exhibits as follows:

- Exhibit 8: Replacement of the parking lease agreement at 121 South 4th Street
- Exhibit 9: Simple sketch of the front façade of the building dated 9-21-2010
- Exhibit 10: 8x11 photographs of the building (interior and exterior)

Mr. Vitale stated that the original parking agreement was withdrawn and replaced with the agreement for five (5) spaces at 121 South 4th Street.

Mr. Vitale questioned the statement that the property is a one unit building, as the property owner registered for a five (5) unit with the Property Maintenance Division. The City Clerk replied that in Hansen the zoning for the property is for a one unit building.

Mr. Vitale explained that Mr. Nunez took ownership on March 5, 2010 under the assumption that the building was a legal rental unit. He stated that Mr. Nunez later learned that the building was not properly registered. The Legal Specialist inquired if the property was advertised as a rental. Mr. Nunez stated that the building was advertised as a rental unit.

Mr. Vitale explained that the building was vacant when purchased. He stated that the building was divided into approximately five (5) units. Mr. Nunez retained him to design a four (4) unit rental property; a one bedroom apartment on the 1st floor, two studio apartments on the 2nd floor and a one bedroom apartment on the 3rd floor. The Legal Specialist inquired if the units meet the space requirements included in the zoning ordinance. Mr. Vitale stated that all units comply but the 3rd floor unit.

The Legal Specialist advised Mr. Nunez and Mr. Vitale that the application was submitted after the new City zoning ordinance was approved by Council. She also

stated that the new ordinance prohibits studio apartments and the conversion of single family units into multi-family units.

Mr. Vitale inquired if the conversion could be considered as the property was already divided into multiple units. He noted that the previous owner stopped renting the property and used the building for storage to support the neighboring plumbing business.

The Legal Specialist read the definition of “conversion” from the zoning ordinance and advised Mr. Vitale that the proposed use does meet the definition of conversion. She inquired if a plan that does not include studio apartments has been prepared, as studio units are prohibited under the new zoning ordinance. Mr. Vitale requested a recess to have a discussion with his client.

The hearing reconvened and Mr. Vitale presented an alternative, showing the property as a three (3) unit building with two (2) one bedroom units on the 1st and 3rd floors and a two bedroom unit with 852 square feet on the 2nd floor. He added that there is also a general maintenance area on the 1st floor. He requested that the alternative plan be entered as Exhibit 11. He provides an 8 X 11 copy.

Mr. Nunez stated that the 100 block of South 3rd Street is predominately rental in nature. He distributed photographs of the neighborhood. He stated that there are only four (4) single family properties on the block. He stated that the neighborhood has 12 multi-unit properties and is across the street from the former Garden State Tannery. He stated that Codes and Trades employees have already inspected the building. He stated his intent to improve the neighborhood and provide quality rental housing.

Mr. Nunez stated that he owns other rental properties in the City and keeps them well maintained and pays his taxes and bills on time. He also described the security planned for the building and promised to follow the City’s regulations and Codes.

Mr. Vitale stated that Mr. Nunez also operates 10 Neversink Street and 1048 Culvert Street. He attested to the sincerity of the application and of Mr. Nunez. He asked Council not to consider this as a conversion but as the rehabilitation of a blighted property.

Council Questions

Councilor Waltman inquired if the additional units could be identified during a tour of the building. Mr. Nunez stated that the units were identified due to the existence of five (5) bathrooms.

Councilor Reed inquired if there is a first floor common entrance used for the units and if Mr. Nunez would consider restoring the front window on the first floor unit. Mr. Nunez stated that he intends to obtain a price for a new window. Councilor Reed noted that the building is located next to Fosters Plumbing Supply. Mr. Nunez stated that the property was owned by the owner of the Foster Plumbing business until he purchased it in March. He explained that the owner's son explained that his father grew tired of dealing with tenant issues and decided to use the building for storage only. The Legal Specialist noted that there is a storage zoning permit on file.

Councilor Goodman-Hinnershitz stated that she was inside the building when she was employed by Children Youth Services.

The Legal Specialist noted that the 3rd floor unit is 10 square feet below what is required by the zoning ordinance. She stated that a variance may be required.

Councilor Reed inquired if the parking area was assessable from the rear of the property and if there is a yard that could be used for off street parking. Mr. Vitale explained that there is no access to the rear yard. He stated that the lot is close and within walking distance. Mr. Nunez stated that tenants are required to park in the lot provided. He stated that he will monitor the tenants use of the lot by obtaining the make and model of their vehicles along with the license numbers. He stated that failure to use the lot would be grounds for terminating the lease with the tenant.

The City Zoning Administrator advised Mr. Nunez of the need to send updated parking agreements annually and that failure to do so could allow the revocation of a zoning permit.

Mr. Vitale stated that he would reevaluate the design of the building plans to see if they could add the additional 10 square feet to the third floor unit.

Staff Comments

The Zoning Administrator stated that she checked the City's Hansen database and agreed that the property did not have housing permits until 2010. She also stated that there are no zoning permits for rental use at this property. She noted her appreciation of Mr. Nunez's intent to improve the property and the neighborhood and follow the City's protocol. However, she expressed the belief that the conversion should not be approved as a multi-use apartment building is too intense for the neighborhood. She also voiced her opinion that the requirement for tenants to park in the parking lot is difficult to handle. She stated that a single family property would be more desirable

and appropriate.

The Zoning Administrator stated that if the conversion is approved annual parking agreements will be required.

The City Planner stated that the Planning Commission has not reviewed the new alternative for a three (3) unit building and that the Commission reviewed the plan using the old zoning code. However, some concerns still apply. He expressed concern with the practicality and longevity of the parking agreement. He suggested that Council consider a compromise as this building is in desperate need of rehabilitation.

The Legal Specialist entered the Planning Commissions written comments as Exhibit 12.

Rebuttal

Mr. Nunez stated that he is aware of the need to provide off-street parking for the tenants. He stated that as the lot is only one block away, it should not be difficult for tenants to use the lot. He also noted that not all tenants have vehicles. Mr. Vitale agreed that the parking lot will not present a problem. He expressed the belief that it is not viable to deconvert the property to a single unit.

Councilor Reed inquired about the use of the basement. Mr. Nunez and Mr. Vitale stated that the basement provides mechanical assess only. No living space will be dedicated to the basement level. They also stated that the washing machines and dryer units will be in the 1st floor maintenance room.

Council President Spencer asked Mr. Nunez how he will enforce tenant parking requirements. Mr. Nunez stated that he will require the tenants to register the vehicles and monitor the situation.

Public Comment

The Legal Specialist read the e mail message from William Evans, of 119 South 3rd Street, in to the record. Mr. Evans opposes the addition of a new multi unit property and noted the multitude of complaints at this address.

Rebuttal

Mr. Nunez stated that he does not reside in California, as stated by Mr. Evans, but does reside in New York. He expressed the belief that the use of security cameras should alleviate many of the complaints noted by Mr. Evans. He noted his overall goal to uphold the quality of life at his properties.

A copy of Mr. Evans message was entered into the record as Exhibit 13.

Mr. Nunez expressed the belief that his proposed project will uplift the neighborhood and eliminate past problems. He again stated that he will install security cameras to monitor the conditions at the building. He added that the film from the security cameras can be viewed on his home computer system. He expressed his belief that the security cameras will thwart crime.

The Legal Specialist inquired if a local property manager is in place. Mr. Nunez replied affirmatively.

The Zoning Administrator inquired if security lights will be installed. Mr. Nunez replied affirmatively.

The Legal Specialist inquired if Mr. Nunez agrees to comply with all City Trades and Codes regulations, will provide annual copies of current parking agreements, will provide security cameras and security lighting to the exterior of the property and the interior common areas, and will attempt to cure the 10 square foot shortage. Mr. Nunez replied affirmatively.

Council President Spencer announced that the decision would be made by resolution on either September 27th or October 11th.

The hearing adjourned.

Respectfully submitted by Linda A. Kelleher CMC, City Clerk