

May 9, 2005

**Honorable Chairman and Members of the
Hermosa Beach Planning Commission**

**Regular Meeting of
May 17, 2005**

SUBJECT: DETERMINATION OF THE LEGALITY OF A NONCONFORMING RESIDENTIAL BUILDING

LOCATION: 3212 HERMOSA AVENUE

APPLICANT: WILLIAM MAJEK
3212 HERMOSA AVENUE
HERMOSA BEACH, CA 90254

REQUESTS: DETERMINATION OF WHETHER A THIRD DWELLING UNIT ON THE PROPERTY, LOCATED ADJACENT TO THE GARAGE, IS A LEGAL NONCONFORMING DWELLING UNIT.

Recommendation

Determine that the property contains two legal dwelling units consistent with City records.

Background

LOT SIZE 2550 (30' x 85')

ZONING: R-3

GENERAL PLAN: High Density Residential

BUILDING AREA (3206 HERMOSA): Approx. 865 Square Feet

AREA OF "UNIT" IN QUESTION: Approx. 304 Square Feet

The subject property contains two detached two-story structures. The building fronting on Hermosa Avenue (3212 Hermosa) contains one dwelling unit of 1,250 square feet constructed in 1959 in accordance with permit No. 10572. The building at the rear of the lot, 3206 Hermosa (fronting Palm Drive) was built in 1947 in accordance with permit 4474, and contains an 865 square foot unit on the second story, a two-car garage and a small "laundry room and bathroom" of 304 square-feet on the first floor. This area also contains a kitchen, evidently installed using the gas and plumbing connections for the laundry, and is the area that the owner wishes to address via the Legal Determination process.

The 1957 Sanborn Map shows the building fronting on Palm Drive to be a two-story single dwelling unit. An affidavit, filed by a prior owner in October 1959, reads, "Only one unit permitted in existing dwelling at 3206 Hermosa Avenue. Bath and laundry not to be used separately."

The property is currently zoned R-3. Pursuant to current zoning requirements only one dwelling unit would be allowed due to the lot size. Therefore the current use (whether 2 units or 3 units) is nonconforming. The current minimum size for a dwelling unit is 600 square feet for a one-bedroom unit. In 1957 the zoning designation was R-3.

Staff inspected the property on November 18, 2004 and found the building and floor layout consistent with the submitted plans. The 304 square foot “unit” contains a small living/bedroom (10’-7” X 10’-3”) a small kitchen (7’ x 12’-7”) that contains a small countertop/cabinet unit with a sink and waste grinder, a full sized refrigerator/freezer, and a four-burner gas stove/oven. The bathroom, which is accessed through the kitchen, contains a small shower stall, a sink and a commode. The property has one two-car garage, making it non-conforming for the two units by current standards. If a three-unit project were built today, eight parking spaces would be required.

Analysis

Chapter 17.60 of the Zoning Ordinance gives a property owner the opportunity to request validation of current conditions which otherwise violate zoning or current building and safety requirements “when city records and actual property use conflict.” When it can be shown that the dwelling unit in question was constructed prior to January 1, 1959, in accordance with then applicable laws, and the use of the dwelling has been continuous, the unit *shall* be declared legally nonconforming. The Commission *may* also validate that conditions are legally nonconforming for a building constructed after January 1, 1959, based on the evidence presented.

The evidence available to staff included the records in the building permit file as noted above, the Sanborn Map which provides a legal record of the physical character of a property for insurance purposes, Hermosa Beach Fire Department records, Business License records, Parking Permit records and L.A. County tax records.

Based on the permit records, as noted, no evidence exists that building permits were applied for or obtained to allow a kitchen in the laundry room. In fact, the records show the 1959 affidavit that the laundry room would not become a dwelling unit. The Sanborn Map (dated 1957) shows the building as two stories and as a single-family dwelling.

The applicant purchased the property in 1977, as evidenced by his signature on a Residential Building Report stating the legal use was two units, and referencing the 1959 affidavit and the prohibition against using the laundry room as a unit. However, the applicant argues that the property had three legal units when it was purchased.

To support his argument that the property has been continuously used as three units he has submitted several documents, including; parking permits for three units, Business License #112-6485, showing three units, escrow papers from 1976 showing that the rear building had two stoves and two refrigerators, LA County property information showing three units, and rental documents.

Of the items above, staff has found the following:

Parking Permit records show that one guest-parking pass has been issued to this address each year since 2001. Business License records show three units licensed since 1998. County Tax Assessors list the property as three units. The escrow documents only indicate the existing condition of the property at the time of purchase, and inventory that two stoves and two refrigerators were in the rear building, and do not mention three units on the property. None of these records demonstrate that the property was used as three units any time prior to the applicant’s purchase of the property.

Another document in the record, a letter to then-owner Mr. Parker from June of 1976, requests an inspection of the property to determine if there is an illegal unit. The response from Mr. Parker is that he had sold the property. There is no documentation of a follow up to this exchange.

In summary, while there is inconsistency between the City's permit records, and the county tax records and other private records supplied by the applicant, these inconsistencies only exist after the current owner purchased the property in 1977. The evidence clearly shows that the current owner was aware of the affidavit that the laundry/bathroom was never to be another unit. This is clearly demonstrated by his signature on the Residential Building Report. The evidence the owner has provided does not demonstrate continuous use since 1959, or that there is any conflict with City records, but only confirms that the applicant has been using the property for three units for 28 years since he purchased the property despite his knowledge that it was not permitted.

Further, there is no record of a permit for installing a kitchen, or for plumbing for a sink. It is assumed that the sink, countertop, cabinets and water and gas connections for the laundry room are now being used as a kitchen and to support kitchen appliances.

The consequences of making this unit legal are that the City would be authorizing the continued use of a third unit on a property that cannot now be developed with three units due to inadequate lot size and lack of off-street parking. If not declared legal, the owner should be required to return it to its original approved use as a laundry room and, to prevent further illegal use of this area as a unit, the bathroom should also be removed.

CONCUR:

Ken Robertson
Senior Planner

Sol Blumenfeld
Community Development Director

Attachments

1. Building Permit Chronology
2. Current tax assessor's roll data
3. Photos
4. Sanborn Map
5. Residential Building Report 1977
6. Business License report
7. Parking Permit report
8. Applicant submittal including documentation and plans

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