

MEMORANDUM

TO: Pullman Board of Adjustment

FROM: Pete Dickinson, Planning Director

FOR: Meeting of January 30, 2006

SUBJECT: Appeal of Notice of Violation (A-05-4)
Taylor Street Excessive Dwelling Units

DATE: January 26, 2006

On December 19, 2005, the Board of Adjustment initiated a public hearing related to an appeal of a Notice of Violation issued by the Pullman planning department that claims that the number of dwelling units at 645 SE Taylor Street exceeds the maximum number allowable in the Pullman Zoning Code. The zoning code provisions for the applicable R2 Low Density Multi-Family Residential zoning district permit no more than two dwelling units on the property. Planning staff has determined that three dwelling units are established at this site. The subject property encompasses 6,500 square feet.

At the December 19 session of the hearing, planning staff offered comments in support of its actions and the appellants provided testimony claiming the triplex at the subject property was created many years ago. Also at that time, the following exhibits were placed in the record:

- Exhibit No. 1: Staff Report No. 05-31
- Exhibit No. 2: Letter from Guy and Dianne Palmer, dated 12/16/05
- Exhibit No. 3: City building permit, dated 5/27/57
- Exhibit No. 4: City building permit, dated 10/19/82
- Exhibit No. 5: City building permit, dated 5/5/93

At the end of the December 19 session, the Board asked for more information from staff regarding the history of zoning at the subject property and requested additional documentation from the appellants to help substantiate their claims.

Pullman's first zoning code was adopted in 1940. Major revisions to the zoning ordinance were approved in 1961 and 1987. The following information outlines the history of zoning regulations for the property at 645 SE Taylor Street:

- 1940: --R1 zoning district
 - R1 district allowed single family houses and duplexes
 - R1 district required a minimum lot area of 5,000 square feet and a minimum street frontage of 50 feet, but had no density requirement

- 1961: --R2 zoning district
 - R2 district allowed single family houses, duplexes, and multi-family dwellings
 - R2 district density: 3,000 square feet per dwelling unit

- 1987: --R2 zoning district
 - R2 district allowed single family houses, duplexes, manufactured homes, and multi-family dwellings
 - R2 district density: 3,000 square feet per dwelling unit

- current: --R2 zoning district
 - R2 district allows single family houses, duplexes, manufactured homes, and multi-family dwellings
 - R2 district density: 3,000 square feet per dwelling unit

The city building permits already entered into the record as exhibits show that the structure at 645 SE Taylor Street was registered as a single family house in 1957 and 1982. These permits also show that the city granted permission for an additional dwelling unit (presumably a second dwelling unit) in 1993. Thus far, the appellant has made claims that the subject structure has been a triplex since the 1950s, but has presented no evidence to verify this.

After the December 19 meeting, planning staff consulted with city attorney Laura McAloon regarding this matter. Ms. McAloon informed planning staff that the burden of proof in this case is on the appellant. In other words, the appellants' evidence must be significantly more compelling than conflicting information placed in the record to find in favor of the appellants. In this regard, the city attorney stated that notarized affidavits produced by the appellants should not be considered sufficient to override the building permit documents that have been submitted as exhibits during the hearing. If the evidence demonstrates that the subject structure was never legally established as a triplex, regardless of the length of time the structure has been utilized as a triplex, the Board is advised to deny the appeal.

ACTION REQUESTED

1. Continue the public hearing, including the acceptance of additional testimony and exhibits.
2. Decide, by resolution, to accept or deny the subject appeal. At the public hearing, staff will have available draft resolutions prepared for either acceptance or denial of the appeal.