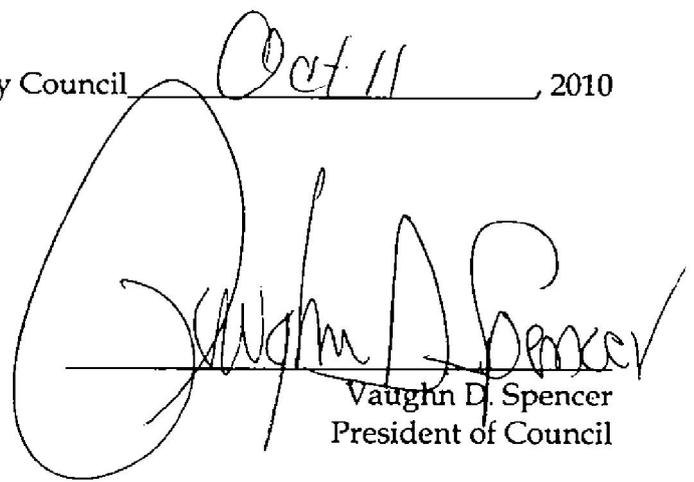


RESOLUTION NO. 99-2010

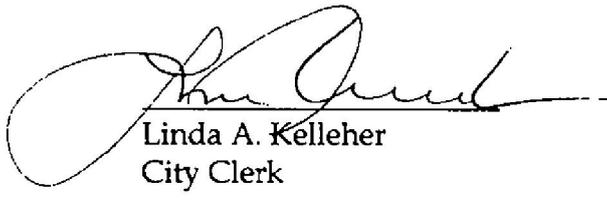
THE COUNCIL OF THE CITY OF READING HEREBY RESOLVES AS FOLLOWS:

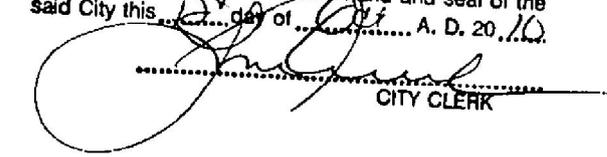
Approving the Conditional Use application submitted by William Nunez, as amended, for three (3) rental units at 117 South 3<sup>rd</sup> Street, with conditions as expressed in the attached decision

Adopted by Council Oct 11, 2010

  
Vaughn D. Spencer  
President of Council

Attest:

  
Linda A. Kelleher  
City Clerk

I, LINDA A. KELLEHER, City Clerk of the City of Reading, Pa., do hereby certify, that the foregoing is a true and correct copy of the original Resolution passed by the Council of the City of Reading, on the 11 day of Oct A. D. 20 10. Witness my hand and seal of the said City this 11 day of Oct A. D. 20 10.  
  
CITY CLERK

IN RE: APPLICATION OF : BEFORE THE CITY COUNCIL  
WILLIAM NUNEZ : OF THE CITY OF READING,  
FOR A CONDITIONAL USE PERMIT : PENNSYLVANIA  
FOR THE PROPERTY :  
LOCATED AT 117 SOUTH 3rd :  
STREET, READING, BERKS COUNTY :  
PENNSYLVANIA : CONDITIONAL USE  
: CONVERSION TO  
: A THREE UNIT RENTAL  
:

**DECISION OF THE CITY OF READING  
CITY COUNCIL ON A CONDITIONAL USE APPLICATION**

**AND NOW**, this 11<sup>th</sup> day of October, 2010, hearing have been held on September 22, 2010, upon the application for a Conditional Use for a three (3) unit property in the R-3 Zoning District, notice of such hearing having been first sent, posted and advertised in accordance with the provisions of the Pennsylvania Municipalities Planning Code and the City of Reading Zoning Ordinance, as adopted on July 26, 2010, the City of Reading City Council (hereinafter "Council") renders the following decision:

**FINDINGS OF FACT**

City Council finds the following facts:

1. The Applicant is William Nunez, "Applicant" with a registered address of 107 – 35 124<sup>th</sup> Street, South Richmond, NY 11419.
2. Applicant is the fee simple owner of the property of 117 South 3<sup>rd</sup> Street at the time of application and at the time of the hearing.
3. The Subject Property is located in the R-3 Zoning District as that term and district is defined by the City of Reading Zoning Ordinance, as adopted July 26, 2010, (hereinafter referred to as "Zoning Ordinance").
4. Applicant originally applied for a Conditional Use for a four (4) unit property as per City of Reading Zoning Ordinance per §27-1203.D.

However, he withdrew the original plan and submitted a new plan requesting a three (3) unit property at the hearing.

5. The Applicant and his Architect William Vitale, of Design Works, testified at the hearing that the subject property was already converted into a five unit rental property when the applicant became the owner of the subject property in March 2010. They stated that the owner and realtor informed the Applicant that the property was a legally registered rental property.

6. Mr. Vitale stated that the originally submitted parking lease agreement was replaced with a new lease agreement for parking spaces at 121 South 4<sup>th</sup> Street.

7. The Applicant stated that as a part of the lease agreement tenants will be required to park only in the parking lot at 121 South 4<sup>th</sup> Street and that he will monitor the tenants use of the lot by obtaining registration of tenants vehicles and performing spot checks. He stated that failure to use the lot would be grounds for terminating the lease with the tenant.

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

9. Mr. Vitale testified that the building was vacant when purchased and was used by the owner of Foster's Plumbing Supply for storage purposes, when he became tired of dealing with tenant issues. He stated that the building was divided into approximately five (5) units and that Mr. Nunez retained him to design a four (4) unit rental property; a one bedroom apartment on the 1<sup>st</sup> floor, two studio apartments on the 2<sup>nd</sup> floor and a one bedroom apartment on the 3<sup>rd</sup> floor. Mr. Vitale stated that all units comply with the square footage required by the City's zoning ordinance but the 3<sup>rd</sup> floor unit, which is short by 10 square feet.

10. 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 in the R-3 Zoning District.

11. Mr. Vitale, after conferring with his client, withdrew the original plan for a four unit rental and presented an alternative, showing the property as a three (3) unit building with two (2) one bedroom units on the 1<sup>st</sup> and 3<sup>rd</sup> floors and a two bedroom unit with 852 square feet on the 2<sup>nd</sup> floor. He added that

there is also a general maintenance area on the 1st floor. The 3<sup>rd</sup> Floor unit, however, continued to meet the minimum square footage by 10 feet.

12. Applicant stated that the 100 block of South 3<sup>rd</sup> 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 Codes and Trades employees have already inspected the building. He stated his intent to improve the neighborhood and provide quality rental housing.

13. Applicant testified that the basement will not be used for residential purposes but will be used only for mechanical access. 14. Applicant agreed to condition of compliance with all applicable Building, Trades and Fire Codes, security lighting and cameras, adding a parking requirement to the lease agreements with tenants, and other conditions.

15. The City of Reading Planning Commission recommended approval of the Conditional Use application with conditions as the project will cure the building's blighted condition.

16. The City of Reading Zoning Administrator recommended denying the application as the use is too intense for the existing neighborhood. However, she asked that conditions be applied if the conversion is approved.

## DISCUSSION

The Applicant is seeking a Conditional Use Permit to convert 117 South 3<sup>rd</sup> Street to a three (3) unit rental. His original application for a four (4) unit rental was withdrawn. The building is located in a R3 zoning district. The City of Reading Zoning Ordinance §27-1203.D Conversions provides that the following standards are met:

1. A site plan, drawn to the scale, showing the location and dimensions of all off-street parking, private entrances, walkways and landscaping, shall be submitted, as well as, architectural plans showing the dimensions and square footage of all rooms and storage spaces and indicating the intended use of all rooms.
2. The conversion shall have the minimum floor area as designated by the following schedule:

### **Apartment Square Feet**

Efficiency or Studio Not Allowed

One Bedroom 550

Two Bedroom 700

Three or More Bedroom 850

3. For each dwelling unit, there shall be a minimum 1.5 off-street parking spaces per unit.
4. Documents indicating to the City Codes Staff's satisfaction that all plumbing, heating and electrical equipment and facilities are adequate and appropriate for the proposed use. The entire building shall also be made available for a code inspection.

### CONCLUSIONS OF LAW

1. The Subject Property is located in the R-3 Zoning District.
  2. Hearing was held on September 22, 2010.
  3. Applicant withdrew his original application for a four (4) unit rental and replaced it with a request for a Conditional Use permit for a three (3) unit rental property at 117 South 3<sup>rd</sup> Street.
  4. The burden of proof in an application for a Conditional Use is upon the Applicant.
  5. City of Reading City Council is permitted to grant Conditional Uses and other relief as set forth in the Zoning Ordinance of the City of Reading and Pennsylvania Municipalities Planning Code upon compliance with the requirements therefore set forth in the Zoning Ordinance.
  6. The requirements for a conversion as a Conditional Use in an R-3 Zoning District are set forth in §27-1203.D of the City of Reading Zoning Ordinance, adopted July 26, 2010.
  7. In order to grant the relief, Applicant must show that it has satisfied the provisions as stated in §27-1203.6 of the City of Reading Zoning Ordinance and met the conditions applied by City Council.
  8. Applicant did not file an application for other relief from the Zoning Hearing Board for the City of Reading.
  9. Applicant did provide sufficient proof that the building was converted to a pre-existing multi-unit property and that the building conforms to the general character of other properties in the neighborhood and will not adversely affect the safety of the affected property owners. Applicant also provides off-street parking in accordance with the Zoning Ordinance requirements for occupants residing at 117 South 3<sup>rd</sup> Street.
-

10. The proposed design of the 3<sup>rd</sup> Floor Unit of the property fails to meet the minimum square footage for a conversion under the City of Reading Zoning Ordinance by a de-minimus 10 feet.

11. Applicant agreed to comply with the City Building, Trades and Fire Codes and comply with the conditions applied by City Council including providing of an update parking lease upon expiration thereof and to utilize all best efforts to reduce or eliminate the failure to meet by 10 feet the square footage for a unit on the 3<sup>rd</sup> Floor

### DECISION

After reviewing the Applicant's request in detail and hearing testimony, City Council enters the following decision:

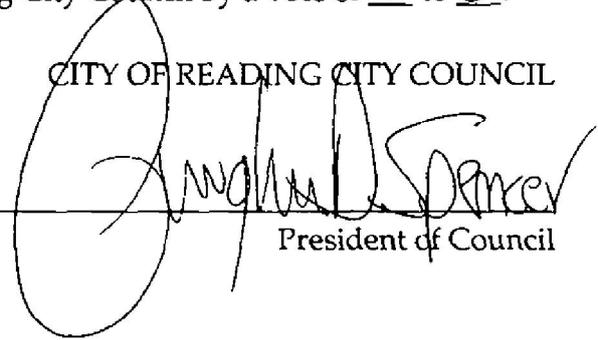
The application for a conditional use permit at 117 South 3<sup>rd</sup> Street is hereby approved for William Nunez with the following conditions:

1. On or before the expiration of the parking lease for off street, , the Applicant and/or Owner of the property will provide the City of Reading Zoning Office with a copy of the off-street parking lease agreement and a copy of the lease agreement containing the requirement for the tenant to park in the leased off-street parking spaces.
2. Applicant will at all times comply with the City Building, Trades, Fire and Property Maintenance Codes.
3. Applicant will open the subject property for a full inspection by the City Building and Trades Division and Fire Department, will make all the required corrections and repairs mandated by the inspections, and will open the subject property for regular inspections as deemed necessary by the City of Reading.
4. Applicant will attempt through the assistance of his Design Professional to comply with the minimum square footage requirements for all units including but not limited to the 3<sup>rd</sup> Floor unit which is presently 10 feet short.
5. Applicant will install security lighting and cameras to the exterior of the property and to the interior common spaces.
6. Applicant will inform his tenants about the City's Disruptive Conduct Ordinance. If at any time during the year, two (2) Disruptive Conduct Reports are issued the zoning permit for the three (3) unit property shall be revoked.

The City of Reading City Council orders that if the Applicant fails to meet the requirements listed herein, the zoning permit shall be immediately revoked.

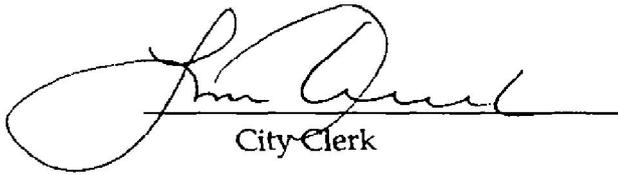
This is the decision of the City of Reading City Council by a vote of 7 to 0.

CITY OF READING CITY COUNCIL



President of Council

Attest:



City Clerk