RESOLUTION NO. 13 2015

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

Denying the Conditional Use application submitted by Mr. Jairo Cuesta, 3442 Stoner Ave., Reading, PA 19606 (applicant), for the addition of a third residential rental unit to the existing two residential unit dwelling at 1537 Perkiomen Avenue and ordering the de-conversion of the additional dwelling located on the first floor rear of the property within six months.

Adopted by Council Jan 06, 2015

Francis G. Acosta
President of Council

Attest:

Linda A. Kelleher CMC
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 26 day of Jan A. D. 20 15. Witness my hand and seal of the said City this 27 day of Jan A. D. 20 15.

CITY CLERK

(Council Staff)

IN RE: APPLICATION OF	: BEFORE THE CITY COUNCIL
JAIRO CUESTA,	:
FOR A CONDITIONAL USE	: OF THE CITY OF READING,
PERMIT TO ADD ONE	:
ADDITIONAL DWELLING	: PENNSYLVANIA
UNIT TO THE TWO UNIT	:
RENTAL PROPERTY	:
AT 1537 PERKIOMEN AVE.,	:
READING, BERKS COUNTY, PA	:

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

AND NOW, this 26th day of January, 2015, after a hearing held on January 5, 2015, upon the application of Jairo Cuesta, 3442 Stoner Ave., Reading, PA 19606, 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 amended, 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 Jairo Cuesta, 3442 Stoner Ave., Reading, PA 19606 (hereinafter Applicant).
2. Applicant is the owner of the fee simple property at 1537 Perkiomen Avenue (hereinafter Subject Property), at the time of application and at the time of the hearing.
3. The Subject Property is located in the R3 zoning district as that term and district is defined by the City of Reading Zoning Ordinance, as amended, (hereinafter referred to as "Zoning Ordinance").
4. Applicant is seeking a Conditional Use permit to add an additional rental unit to the Subject Property which is currently zoned to allow two residential rental dwellings, as per Zoning Ordinance sections 600-804(B)(3), 600-1203 (D), 600-1204(D), 600-1602 (D), 600-1603 (A) (31) (a) and 600-2202.
5. The Applicant testified at the hearing with the assistance of an interpreter.
6. The Applicant stated that the property was purchased five years ago as a three unit property. The Applicant purchased the property through a private sale. One unpermitted unit on the first

floor rear was identified during a property maintenance inspection in 2014.

7. The Applicant did not provide any testimony on the off street parking spaces required by the zoning ordinance and he did testify that there are utility meters for each unit and a separate meter for the common areas.
8. The zoning administrator provided a case report, in summary:
    - The property is located in the R-3 Residential Zone;
    - The applicant purchased the property on February 23, 2006. Property Maintenance inspected the building in July of 2014, as a three dwelling unit rental property. Prior inspection was performed in October 1998, as a two dwelling unit rental property. A zoning permit was issued in September of 1969 for two dwelling units. Housing payments were last paid in 2009. Prior to 2009 housing payments were paid for two units.
    - The Zoning Administrator reviewed and approved zoning for two dwelling units on June 20, 2014. The third rental unit was denied. The applicant was informed that they could voluntarily de-convert the subject property back to a two unit dwelling or seek conditional use approval from City Council. The applicant met with the Zoning Administrator on November 4, 2014, and submitted a conditional use application for the third unit.
    - The third unit is located on the first floor rear of the building. It consists of a living room, bedroom, kitchen and bath for a total of 360 square feet; the habitable space is 208 square feet. This space is below the minimum size requirements of the zoning ordinance.
    - There are two unimproved parking spaces located at the rear of the property and only accessible via 1537 Perkiomen Ave Rear, which is not owned by the applicant. 1.5 off-street parking spaces are required for each dwelling unit for a conversion, or the applicant shall provide two off-street parking spaces. The other two units are deemed to be legally non-conforming, and therefore would not require off-street parking; however, this provision may be exercised when increasing the non-conformity. If off-street parking cannot be provided, and the conditional use application is approved, then the applicant will need additional zoning relief.
9. The zoning administrator and the Planning Commission recommend denying the permit.

DISCUSSION

The Applicant is seeking a Conditional Use Permit to add one additional residential dwelling unit to the first floor rear of the Subject Property which is currently zoned for two residential rental units.

FINDINGS OF FACT AND CONCLUSIONS OF LAW

1. The Subject Property at 1537 Perkiomen Avenue is located in the R3 Zoning District.
2. Hearing was held on January 5, 2015.

3. Applicant requests a Conditional Use permit to add one additional rental dwelling units to the first floor rear of the Subject Property which is currently zoned for two residential rental units.
4. The burden of proof for an application for a Conditional Use is upon the Applicant.
5. City of Reading City Council is permitted to grant Conditional Uses, with conditions 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 Applicant did not present testimony on the parking requirements required by the zoning ordinance.
7. Applicant did not file an application for other relief from the City of Reading Zoning Hearing Board.
8. The zoning administrator and Planning Commission recommended denying the application for the addition of the new residential rental unit, as the unit requested does not meet the minimum square footage requirements listed in the zoning ordinance.

DECISION

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

1. The application of Jairo Cuesta, 3442 Stoner Ave., Reading, PA 19606, to add one residential dwelling unit to this property is hereby denied with the following orders:
    a. The property shall be de-converted to two residential rental units no later than July 26, 2015 as permitted in 1969, as the additional unit within the Subject Property does not meet the minimum square footage requirements required by the zoning ordinance.
    b. An inspection to ascertain that the de-conversion occurred will be scheduled by the property owner, property manager or the City on or before July 26, 2015.
    c. If the de-conversion does not occur by July 26, 2015 or if the Applicant or his representative fails to allow the inspection of the property at the request of City officials, the City shall immediately exercise its right to revoke the Business Privilege License of the Applicant as per City Code §339-209 and immediately shut down all rental and business properties owned by the Applicant within the City of Reading.
    d. The property shall meet all applicable Building, Trades and Fire Code requirements required by the City's Building and Trades Division and the Fire Department.

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