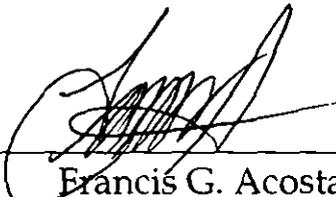


RESOLUTION NO. 14 2015

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

Denying the Conditional Use application submitted by Mr. Francisco Diaz, 922 A Franklin St., Reading, PA 19602 (applicant), Reading 19602 for the conversion of 922 A Franklin Street from one residential unit dwelling and one commercial unit to a three residential unit dwelling and one commercial unit and ordering the de-conversion of the additional two dwelling units within six months.

Adopted by Council Jan 24, 2015

  
Francis G. Acosta  
President of Council

Attest:

  
Linda A. Kelleher CMC  
City Clerk

(Council Staff)

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. 2015. Witness my hand and seal of the said City this 27 day of Jan A. D. 2015.  
  
CITY CLERK

IN RE: APPLICATION OF : BEFORE THE CITY COUNCIL  
FRANCISCO DIAZ :  
FOR A CONDITIONAL USE : OF THE CITY OF READING,  
PERMIT TO ADD TWO :  
ADDITIONAL DWELLING : PENNSYLVANIA  
UNITS TO THE RENTAL PROPERTY :  
AT 922 A FRANKLIN ST., :  
READING, BERKS COUNTY, PA :

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

AND NOW, this 26<sup>th</sup> day of January, 2015, after a hearing held on January 5, 2015, upon the application of Francisco Diaz , 922 A Franklin Street, Reading, PA 19602, 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 Francisco Diaz, of 922 A Franklin Street, Reading, PA 19602 (hereinafter Applicant).
2. Applicant is the owner of the fee simple property at 922 A Franklin Street (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 convert the Subject Property into one commercial unit and three residential dwelling units, as per Zoning Ordinance sections 600-804(2)(c) 600-1203 (D), 600-1204(D), 600-1602 (D), 600-1603 (A) (3) and 600-2202. The new units are a one bedroom unit (second floor front) and a third dwelling unit, a one bedroom unit (second floor rear).
5. The Applicant's brother represented the applicant and testified at the hearing.
6. The Applicant's representative stated that the property was purchased in 2010 and two unpermitted units were identified during a property maintenance inspection in 2012. He stated that

his brother submitted a zoning application to add two additional dwelling units.

7. The Applicant's representative did not provide any testimony on the off street parking spaces required by the zoning ordinance and he expressed the belief that the property is well maintained.
8. The zoning administrator provided a case report, in summary:
  - The property deed is recorded as 922 A Franklin Street, however, it is commonly referred to by the mailing address of 924 Franklin Street. According to the deed description, the building was used as a storeroom and warehouse. The commercial space was formerly occupied as Scholl & Son Pet Store. Since 1994, the commercial space has been utilized as a neighborhood grocery store. There are no prior permits for a residential rental use at the property. There are no housing permits prior to the Applicant's ownership.
  - The applicant purchased the subject parcel and 108 Orange Street in October 2010.
  - On December 22, 2010, the applicant submitted a City of Reading Housing Packet requesting three dwelling units and one commercial store and was placed on the Multi Family review list. The applicant has voluntarily applied for a Conditional Use Hearing.
  - The second floor of the subject property is used as two 1 bedroom units. The front unit is a total of 381 square feet; the rear unit is a total of 291 square feet. The minimum square footage for a one bedroom unit is 550 square feet; both units are below the requirement.
  - The third floor of the structure is designated as a one 2 bedroom unit with 501 square feet. The minimum square footage for a two bedroom unit is a minimum of 700 square feet. Again, the third floor dwelling unit is under the minimum square footage allowed for conversions.
  - For each dwelling unit, there shall be a minimum 1.5 off-street parking spaces per unit for a total of five parking spaces. To accommodate the required residential parking, the applicant is willing to construct a parking lot on parcel 108 Orange Street.
  - Prior to the applicant's ownership, there are no previous Property Maintenance Inspections, no housing permits, and no building or trades permits issued for the three residential units.
9. The zoning administrator and the Planning Commission recommend denying the permit.

## DISCUSSION

The Applicant is seeking a Conditional Use Permit to add two (2) residential dwelling units to a property currently permitted for one commercial use and one residential rental use.

## FINDINGS OF FACT AND CONCLUSIONS OF LAW

1. The Subject Property at 922 A Franklin Street is located in the R3 Zoning District.
2. Hearing was held on January 5, 2015.
3. Applicant requests a Conditional Use permit to add two (2) additional rental dwelling units to the Subject Property which is currently zoned for one (1) first floor commercial use and one (1) residential rental use on the upper floors.
4. The new units are a second dwelling unit, a one (1) bedroom unit (second floor front) and a third dwelling unit, a one (1) bedroom unit (second floor rear), both are sized below the minimum requirements of the zoning ordinance.
5. The burden of proof for an application for a Conditional Use is upon the Applicant.
6. The 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.
7. The Applicant did not present testimony on the parking requirements for the additional residential units and information about the property's compliance with building or trades permits for the conversion.
7. The 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 conversion as the conversion of the Subject Property would create units that do not meet the 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 Francisco Diaz, of 922 A Franklin Street, Reading, PA 19601, to add two (2) residential dwelling units to this commercial and one (1) unit residential dwelling unit multiuse property is hereby denied with the following orders:
  - a. The property shall be de-converted to one (1) dwelling unit with one first floor commercial unit no later than July 26, 2015 as permitted in 1994, as the additional units within the Subject

Property do not meet the minimum square footage requirements in 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 5 to 0.

Council President Acosta and Councilor Reed abstained.