

Casino Reinvestment Development Authority
Land Use Regulation and Enforcement
Division

Review Memorandum

TO: Lance Landgraf, AICP, PP, Land Use Hearing Officer

FROM: Robert L. Reid, AICP, PP, Land Use Regulation Officer

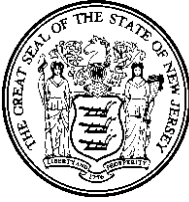
COPY: Applicant, Scott Collins, Esq., File

SUBJECT: Certificate of Nonconformity Request
Review Application and Support Documents
Application #2024-04-3632
Applicant: Slamn Sammy's LLC
2616 Pacific Avenue
Block 35, Lot 15
Atlantic City, NJ

DATE: July 22, 2024

The applicant, Slamn Sammy's LLC has submitted an application to the Casino Reinvestment Development Authority "Authority" requesting a Certificate of Non-Conformity for a residential unit over commercial at 2616 Pacific Avenue, Lot 15 in Block 35, located in the RC District. The Applicant seeks a Certificate of Non-Conformity pursuant to the Municipal Land Use Law (N.J.S.A. 40:55D-68) for the proposed one residential unit over commercial.

The Municipal Land Use Law provides in part that any nonconforming use or structure existing at the time of the passage of an ordinance may be continued upon the lot or in the structure so occupied. (NJSA 40:55D-68) The owner can submit an application to the city for a Certificate of Land Use Compliance. A nonconforming use is one which that lawfully existed on the property prior to the adoption of a zoning ordinance but which the ordinance does not now permit in the particular zone. (NJSA 40:55D-5)



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Evidence List / Documents submitted and/or researched to support the request for Certificate of Non-Conformity:

Application Form for Certificate of Non-Conformity, dated 05-01-2024;
A H Mueller Map Atlas, Plate 6, dated 1908;
Sanborn Map Company Atlas, Plate 7, dated 1921, updated 1926;
Ord. # 34 of 1929 - Building Zone Ordinance (First development ordinance for Atlantic City)
Building Zone Map, dated 01-01-1950, supplement to Building Zone Ordinance (Ord #34 of 1929);
Sanborn Map Company Atlas, Plate 7, dated 1952, updated 1964;
Property Record Cards, dated 05-23-1961 to 1982;
Property Record Cards, dated 12-22-1981
Ord. # 23 of 1977 - Interim Development Ordinance.
Ord. # 27 of 1979 – Land Use Ordinance
CLUC # 03174 dated 06-13-2003
CLUC # 07084 dated 09-14-2007
Occupancy Permit # 486-8R dated 02-2008
Occupancy Permit # 778-13R dated 04-15-2013
Sanborn Map Company Atlas, Plate 7, dated 1997;

The documents listed above have been reviewed and the following is offered:

Plate 6 in A.H. Mueller Atlas depicts a vacant lot in 1908.

Plate 7 in Atlas of Atlantic City prepared by the Sanborn Map Company, dated 1921, updated 1926, depicts a store in a two-story brick building. No mention of use for the second floor.

This was before the Building Zone Ordinance was adopted in 1929. According to the Building Zone Map, dated 01-01-1950, the subject property was located in Business No. 2 zone.

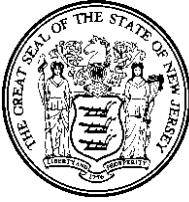
Ord. # 34 of 1929 permitted commercial and residential uses in Business No. 2 zone. This included single family, two family, multifamily residential and commercial uses. The ordinance was silent on parking requirements.

Plate 7 in Atlas of Atlantic City prepared by the Sanborn Map Company, dated 1952, updated 1964, depicts a store in a two-story brick building. No mention of use for the second floor.

Property Record card (Building Record card reverse) dated 05-23-1961 through 1982 indicates a bakery on the first floor and an apartment on the second floor.

Property Record card (Building Record card reverse) dated 12-22-1981 indicates a Pita Palace lunch shop on the first floor and an apartment on the second floor.

Ord. # 23 of 1977 - Interim Development Ordinance is the first ordinance to require parking for each dwelling unit.



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Ord. # 27 of 1979 – Land Use Ordinance is second ordinance to require parking for each dwelling unit.

Plate 7 in Atlas of Atlantic City prepared by the Sanborn Map Company, dated 1997, depicts a store in a two-story brick building. No mention of use for the second floor.

It should be acknowledged that the map atlases indicating store on were based on exterior inspection only, and not an interior inventory of units as the common practice with tax assessment inspections.

The Applicant must meet the burden of proof for the relief requested. The Applicant has the obligation to present evidence to explain the history of the use. Specifically, the Applicant must provide evidence that the non-conforming use lawfully existed prior to the adoption of Ordinance and/or State Regulation which rendered the use nonconforming. Applicant must also provide evidence that such use has been continuous, unchanged and was not abandoned.

The Applicant must meet the burden of proof for the relief requested under the Municipal Land Use Law in order for the Hearing Officer to recommend that the application be approved by the Authority.

The applicant asserts that the property lawfully existed as commercial use on the first floor with one residential unit above from 1961 and desires to maintain the one residential unit above commercial.

The documentary evidence provided by the Applicant appears to be sufficient to consider the granting of the requested relief for the one residential unit over commercial.

The Applicant's evidence and research of the public record documents, demonstrate that the property was a brick two-story building in 1921 through 1926 before the first Building Zone Ordinance was adopted in 1929. The two-story brick building with a store and one unit above was built before 1952. The said building existed before the 1977 parking requirements were adopted.

It appears that one unit above commercial existed before 1977 and before N.J.A.C. 19:66 was in effect on 01-02-2018, which rendered such use nonconforming.

For all of the foregoing reasons, the Land Use Regulation Enforcement Officer recommends the request for a Non-Conformity Use Certification for the one-unit residential over commercial be considered. Should the Authority grant approval of this Application, it should be expressly conditioned upon all applicable requirements of the city of Atlantic City Code, NJAC 19:66 Land Use Regulations, and the requirements of any City agency, board or authority. Any approval granted in accordance herewith shall be further expressly conditioned upon the Applicant obtaining all other necessary governmental approvals, and compliance with all Federal, State and local laws. This includes providing architectural plans prepared by a licensed architect for the two-unit building and the requirement to secure a Certificate of Land Use Compliance.