

**RESOLUTION OF THE CASINO REINVESTMENT DEVELOPMENT
AUTHORITY APPROVING A CERTIFICATE OF NON-CONFORMITY
PURSUANT TO N.J.S.A. 40:55D-68 FOR THE PROPERTY LOCATED AT
36 N. MISSISSIPPI AVENUE, BLOCK 280, LOT 19, IN THE CITY OF
ATLANTIC CITY UNDER APPLICATION #2024-08-3695**

WHEREAS, pursuant to P.L. 2011, c. 18, as amended (the “Act”), the Casino Reinvestment Development Authority (the “Authority”): (i) designated the Atlantic City Tourism District by Resolution 11-25, adopted April 19, 2011; (ii) established the Land Use Regulation and Enforcement Division to, among other matters, hear applications for development in the Tourism District by Resolution 11-33, adopted April 19, 2011; and (iii) adopted the master plan, zoning and land use ordinances and regulations, and zoning maps approved by the City by Resolution 11-34, adopted April 19, 2011; and

WHEREAS, pursuant to Resolution 12-14, adopted February 1, 2012, the Authority adopted the “New Jersey CRDA Atlantic City Tourism District Master Plan” prepared by Jones Lang LaSalle, LLC and dated February 1, 2012 (the “Master Plan”) (as affirmed and readopted pursuant to Resolution 12-23, adopted February 21, 2012), subject to further comment and revision, which master plan shall become effective upon the adoption of design, development and land use regulations on January 2, 2018; and

WHEREAS, Naldy Josephine Solano (the “Applicant”), seeks a Certificate of Non-conformity pursuant to N.J.S.A. 40:55D-68 for the subject property located at 36 N. Mississippi Avenue, Block 280, Lot 19 on the Tax Map of Atlantic City, located in the Ducktown Arts (DA) Zoning District; and

WHEREAS, on September 19, 2024, the Authority’s Land Use Regulation and Enforcement Division convened a public hearing on Application 2024-08-3695 in accordance with the requirements of the Open Public Meetings Act, the Municipal Land Use Law and the Act, and subsequently prepared and delivered a Hearing Officer’s Report and Recommendation dated January 13, 2025, incorporated herein by this reference and appended hereto as Exhibit “A”; and

WHEREAS, the Authority intends to adopt the findings, conclusions, and recommendations of the Hearing Officer, as detailed in the Report dated January 13, 2025.

NOW THEREFORE, BE IT RESOLVED by the Casino Reinvestment Development Authority that:

1. The above recitals are incorporated herein, as if set forth in full.
2. Based on the record in this matter, a Certificate of Non-conformity pursuant to N.J.S.A. 40:55D-68 under Application 2024-08-3695 is hereby approved in accordance with the Hearing Officer’s Report and Recommendation dated January 13, 2025.

3. A copy of this Resolution shall be immediately transmitted to the Governor. This Resolution shall take effect immediately, but no action authorized herein shall have force and effect until the earlier of the passage of ten (10) days, Saturdays, Sundays, and public holidays excepted, after the delivery of the copy to the Governor, or the Governor's approval.

I hereby certify that this document is a true and correct copy of Resolution 25-20 of the Casino Reinvestment Development Authority.

Michael Beson
MICHAEL BESON, SECRETARY

MEETING OF FEBRUARY 18, 2025



Casino Reinvestment Development Authority Land Use Regulation and Enforcement Division

EXHIBIT "A" TO RESOLUTION 24- , ADOPTED 02/18/2025

TO: Members of the Authority

FROM: Lance B. Landgraf, Jr., Land Use Hearing Officer

COPY: Eric Scheffler, Executive Director

SUBJECT: Hearing Officer's Report and Recommendation
Application #2024-08-3695
Applicant: Naldy Josephine Solano
36 N. Mississippi Avenue
Block 280, Lot 19
Atlantic City, NJ
Certificate of Nonconformity

DATE: January 13, 2025

On September 19, 2024, the Casino Reinvestment Development Authority (the "Authority") heard testimony and public comment on the above-subject application. The applicant, Naldy Josephine Solano has submitted an application to the Casino Reinvestment Development Authority "Authority" requesting a Certificate of Non-Conformity detached single family dwelling at 36 N. Mississippi Avenue, Lot 19 in Block 280. 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 residential dwelling on the property where such use is no longer permitted. The Certificate of Non-Conformity would certify that the residential use existed lawfully prior to a zoning change that rendered the use non-conforming and permit it to continue on the property.

During the hearing and in the application documents, the Applicant presented evidence and testimony to explain the history of the use. Specifically, the Applicant provided evidence and testimony that the structure with a residential use lawfully existed prior to the adoption of the current zoning ordinance, and that such use has been continuous and was not abandoned. Therefore, as more fully outlined below, the Applicant has met its burden for

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Casino Reinvestment Development Authority Land Use Regulation and Enforcement Division

the relief requested under the Municipal Land Use Law and the Hearing Officer recommends that the application be approved by the Authority.

INTRODUCTION

Application Information:
36 N. Mississippi Ave
Block 280, Lot 19

A hearing on the Application was conducted in accordance with the requirements of the Open Public Meetings Act, the Municipal Land Use Law and P.L. 2011, c. 18.

The Applicant seeks a Certificate of Non-Conformity pursuant to the Municipal Land Use Law for the property located at Block 280, Lot 46 in the City of Atlantic City. The property is improved with an existing structure comprised of a single family dwelling residential use where such residential use is no longer permitted in the zoning district.

Relief Requested

Certificate of Nonconformity pursuant to N.J.S.A. 40:55D-68.

Exhibits

A-1 Application materials

B-1 Review memo from Robert L. Reid, AICP, P.P., dated September 11, 2024.

FINDINGS OF FACT

The Applicant seeks a Certificate of Non-Conformity pursuant to the Municipal Land Use Law for the property located at Block 280, Lot 19 in the City of Atlantic City. The property is improved with an existing structure comprised of a single family dwelling residential use where such residential use is no longer permitted in the zoning district.

The Applicant asserted the following based on the documents submitted in connection with the application:

- Application Form for Certificate of Non-Conformity, dated 08/21/2024;
- Deed dated 07/12/2022 (Recorded);
- A.H. Mueller Map Atlas, Plate 6, dated 1908;

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- Sanborn Map Company Atlas, Plate 28, dated 1921, updated 1926;
- Sanborn Map Company Atlas, Plate 28, dated 1952, updated 1964;
- Property Record Card assessment records, dated 1961 to 1982;
- Property Record Card assessment records, dated 07/20/1981 to 10/29/2004;
- Sanborn Map Company Atlas, Plate 28, dated 1997;
- Certificate of Land Use Compliance issued by AC Planning Office, dated 08/14/2000;
- Property Survey, dated 09/28/2023;
- Property Record Card assessment records, dated 08/15/2024.

Robert L. Reid, AICP, PP was sworn and provided testimony on behalf of the Authority. Mr. Reid referenced her review memo dated September 11, 2024 and indicated that there is adequate evidence within the application materials and public record to establish that the single-family use lawfully existed since 1952, significantly before to the amendment of the zoning ordinance in 1979.

CONCLUSIONS OF LAW

The Applicant seek a Certificate of Nonconformity pursuant to the Municipal Land Use Law. A nonconforming use is one which existed on the property prior to the adoption of a zoning ordinance, but which the ordinance does not now permit in the particular zone. N.J.S.A. 40:55D-5. 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. N.J.S.A. 40:55D-68.

The burden of proving the existence of a nonconforming use is always on the applicant asserting such use. Ferraro v. Zoning Bd. of Keansburg, 321 N.J. Super. 288, 291 (App. Div. 1999); Weber v. Pieretti, 72 N.J. Super. 184, 195 (Ch. Div. 1962), aff'd 77 N.J. Super. 423 (App. Div. 1962), certif. den. 39 N.J. 236 (1963); Grundlehner v. Dangler, 51 N.J. Super. 53 (App. Div. 1958), aff'd 29 N.J. 256 (1959). The Applicant must show through testimony and documentary evidence what the use, including its character, extent, intensity, and incidents, on the property was at the time of the adoption of the zoning ordinance which rendered it prohibited. After the Applicant has established that the use was lawful at the time of the adoption of zoning, such use must be shown to have been continuous and not have been abandoned during the period in which it was made nonconforming. See Villari



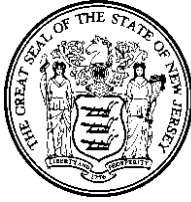
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v. Zoning Bd. of Adj., 277 N.J. Super. 130, 135 (App. Div. 1994); Poulathas v. Atlantic City Zoning Bd. of Adj., 282 N.J. Super. 310, 313 (App. Div. 1995); Camara v. Bd. of Adj. of Tp. of Belleville, 239 N.J. Super. 51, 57 (App. Div. 1990); Borough of Saddle River v. Bobinski, 108 N.J. Super. 6, 13 (Ch. Div. 1969); Cox, Zoning and Land Use Administration, §11-3, 302 (2014).

The Hearing Officer concludes that the Applicant's evidence and testimony demonstrate that the use of the subject property as a structure comprised of a single-family dwelling use lawfully existed until the amendment of the zoning district regulations in 1979, which rendered the residential use nonconforming. The evidence and testimony further demonstrate the continuation of such use from such time to present, and that such use was not abandoned. Accordingly, the Applicant has satisfied the legal requirements for the grant of the requested relief.

RECOMMENDATION

For all of the foregoing reasons, the Hearing Officer recommends that the application for a Certificate of Nonconformity be approved. The grant of approval of this Application shall be expressly conditioned upon the Applicant satisfying all representations made by the Applicant or by others on its behalf during the course of the hearing on this matter before the Hearing Officer, all applicable requirements of the city of Atlantic City Land Use Ordinances, or other City Ordinances, 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.



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

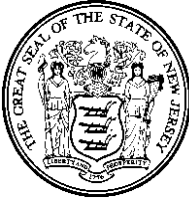
SUBJECT: Certificate of Nonconformity Request for
Single Family Detached Dwelling
Review Application and Support Documents
Application #2024-08-3695
Applicant: Naldy Josephine Solano
36 N. Mississippi Avenue
Block 280, Lot 19
Atlantic City, NJ

DATE: September 11, 2024 rev

The applicant, Naldy Josephine Solano has submitted an application to the Casino Reinvestment Development Authority "Authority" requesting a Certificate of Non-Conformity detached single family dwelling at 36 N. Mississippi Avenue, Lot 19 in Block 280. 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 residential dwelling on the property where such use is no longer permitted. The Certificate of Non-Conformity would certify that the use existed lawfully prior to a zoning change that rendered the use non-conforming and permit it to continue on the property.

According with the CRDA Land Use Regulations, adopted 2017, effective on 01/02/2018 the subject property is located in the Ducktown Arts (DA) District. NJAC 19:66-5.11, 1., i, does not permit detached single-family dwellings in the DA District.

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 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)



Casino Reinvestment Development Authority Land Use Regulation and Enforcement Division

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

Application Form for Certificate of Non-Conformity, dated 08/21/2024;
Deed dated 07/12/2022 (Recorded);
A.H. Mueller Map Atlas, Plate 6, dated 1908;
Sanborn Map Company Atlas, Plate 28, dated 1921, updated 1926;
Sanborn Map Company Atlas, Plate 28, dated 1952, updated 1964;
Property Record Card assessment records, dated 1961 to 1982;
Property Record Card assessment records, dated 07/20/1981 to 10/29/2004;
Sanborn Map Company Atlas, Plate 28, dated 1997;
Certificate of Land Use Compliance issued by AC Planning Office, dated 08/14/2000;
Property Survey, dated 09/28/2023;
Property Record Card assessment records, dated 08/15/2024.

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

The Deed provided by the Applicant indicates that the current owner purchased the property on 06/28/2022.

A.H. Mueller Map Atlas, Plate 6, dated 1908 depicts a vacant lot;

Sanborn Map Company Atlas, Plate 28, dated 1921, updated 1926 depicts cinder block building labeled "AUTO";

Sanborn Map Company Atlas, Plate 28, dated 1952, updated 1964 depicts cinder block building.

Property Record Card assessment records, dated 1961 to 1982 with notations for two family with two kitchens.

Property Record Card assessment records, dated 07/20/1981 to 10/29/2004 with notion for one unit.

Sanborn Map Company Atlas, Plate 28, dated 1997 depicts a cinder block building.

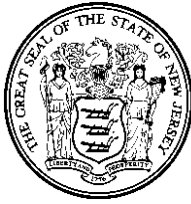
Certificate of Land Use Compliance issued by AC Planning Office, dated 08/14/2000 notes a single-family home use.

Property Survey, dated 09/28/2023 indicates a two story stucco building;

Property Record Card assessment records, dated 08/15/2024 notes a "One Family".

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 and testimony that the single-family detached residential dwelling lawfully existed prior to the adoption of the current zoning regulations. 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 a detached single-family dwelling from 1981 to present and desires to continue to maintain the existing detached single-family dwelling.



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The documentary evidence provided by the Applicant appears to be sufficient (subject to testimony by the Applicant at the hearing) to consider the granting the requested relief.

The Applicant's evidence and research of the public record documents, demonstrate that the building was originally a cinder block building for automobile storage before 1921.

The Applicant's evidence and research of the public record documents, demonstrate that the building was a single-family detached residence in a two-story cinder block building before and at the time 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 a detached single-family residential dwelling be considered. Should the Authority grant of 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 the requirement to secure Certificate of Land Use Compliance.



DATE: FEBRUARY 18, 2025

NALDY JOSEPHINE SOLANO – RESOLUTION OF THE CASINO REINVESTMENT DEVELOPMENT AUTHORITY APPROVING A CERTIFICATE OF NON-CONFORMITY PURSUANT TO N.J.S.A. 40:55D-68 FOR THE PROPERTY LOCATED AT 36 N. MISSISSIPPI AVENUE, BLOCK 280, LOT 19, IN THE CITY OF ATLANTIC CITY UNDER APPLICATION #2024-08-3695

Motion: WS

Second: MB

Michael Beson	<u>Y</u>
Chris Brown <i>for the DCA Commissioner</i>	<u>Y</u>
Daniel Cosner	<u>Y</u>
Christopher Glaum <i>for the State Attorney General</i>	<u>Y</u>
Michael Hanley	<u>Y</u>
Michael Laughlin	<u>Y</u>
Brett Matik	<u>Y</u>
William Mullen	<u>Absent</u>
Paulina O'Connor	<u>Absent</u>
James Plousis	<u>Y</u>
Mayor Marty Small, Sr.	<u>Absent</u>
William Sproule	<u>Y</u>
Robert Tighue <i>for the State Treasurer</i>	<u>Y</u>
Joseph Tyrrell	<u>Absent</u>
Chairman Mo Butler	<u>Y</u>