

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 #2024-03-3616
Applicant: Micheal Michaelidis
509 Atlantic Avenue
Block 306, Lot 23
Atlantic City, NJ

DATE: April 5, 2024

The applicant, Micheal Michaelidis has submitted an application to the Casino Reinvestment Development Authority "Authority" requesting a Certificate of Non-Conformity for a residential apartment over first floor commercial use at 509 Atlantic Avenue, Lot 23 in Block 306, located in the LH-1 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 two-unit residential dwelling.

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 03-21-2024;
A H Mueller Map Atlas, Plate 8, dated 1908;
Sanborn Map Company Atlas, Plate 37, 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 37, dated 1952, updated 1964;
Property Record Card assessment records, dated 1961 to 1982;
Ord. # 23 of 1977 - Interim Development Ordinance.
Ord. # 27 of 1979 – Land Use Ordinance
Certificate of Land Use Compliance # 9365 dated 03-06-1995;
Sanborn Map Company Atlas, Plate 37, dated 1997;
Certificate of Land Use Compliance # 12043 dated 12-03-1999;
Certificate of Land Use Compliance # 12426 dated 12-07-2000;
Certificate of Land Use Compliance # 13166 dated 07-15-2002.

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

Plate 8 in A.H. Mueller Atlas depicts a frame structure not identified in 1908.

Plate 37 in Atlas of Atlantic City prepared by the Sanborn Map Company, dated 1921, updated 1926, depicts a two-story brick store.

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 apartments among other types of residential uses in Business No. 2 zone. The ordinance was silent on parking requirements.

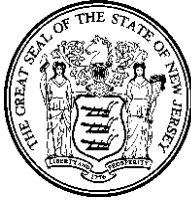
Plate 37 in Atlas of Atlantic City prepared by the Sanborn Map Company, dated 1952, updated 1964, depicts two-story brick store.

Property Record card (Building Record card reverse) dated 1961 through 1982 has one apartment with store use box checked off. Plumbing box checked with bathroom and kitchen. Room inventory was left blank.

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

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

Certificate of Land Use Compliance # 9365 dated 03-06-1995 references first floor commercial with a second floor apartment as an existing use and a proposed use.



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Plate 27 in Atlas of Atlantic City prepared by the Sanborn Map Company, dated 1997, depicts two-story brick store.

Certificate of Land Use Compliance # 12043 dated 12-03-1999 references vacant restaurant on the first floor and second floor apartment as an existing use.

Certificate of Land Use Compliance # 12426 dated 12-07-2000 references vacant restaurant on the first floor and second floor apartment as an existing use.

Certificate of Land Use Compliance # 13166 dated 07-15-2002 references vacant restaurant on the first floor and second floor apartment as an existing use.

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

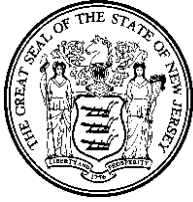
The Applicant must meet the burden of proof for the relief requested. The Applicant has the obligation to present evidence to explain the history of the use. Specifically, the Applicant must provide evidence that the non-conforming use lawfully existed prior to the adoption of Ordinance and/or State 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 a commercial use on the first floor and an apartment on the second floor from 1961 and desires to maintain the two-unit dwelling.

The documentary evidence provided by the Applicant appears to be sufficient to consider the granting the requested relief for two units, not three units.

The Applicant's evidence and research of the public record documents, demonstrate that the property building was originally a two-story brick building from before 1921 to 1997 (over 76 years) according to the map atlases. The two-story brick building included an apartment on the second since 1961 according to the Property Record Card assessment records.



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The building was a two-story brick structure at the time the first land development ordinance (Building Zone Ordinance) was adopted in 1929. The two-story brick structure included an apartment since 1961 before parking requirements went in effect in 1977. It appears that the two-story brick structure including an apartment existed before 1977 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 an apartment over a commercial use 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 structure as part of the requirement to secure a Certificate of Land Use Compliance.