

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  
Commercial on Ground floor with Apartments above  
Review Application and Support Documents  
**Application #2024-08-3700**  
**Applicant: First Investment Holdings LLC**  
321 Atlantic Avenue  
Block 124, Lot 58  
Atlantic City, NJ

**DATE:** September 11, 2024

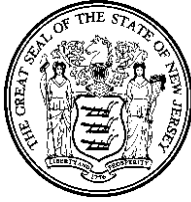
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The applicant, First Investment Holdings LLC has submitted an application to the Casino Reinvestment Development Authority "Authority" requesting a Certificate of Non-Conformity for two residential apartments over first floor commercial use at 321 Atlantic Avenue, Lot 58 in Block 124, 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 two residential apartments over first floor commercial use.

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)

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

Application Form for Certificate of Non-Conformity, dated 08-29-2024;  
Deed dated (11/16/2023 Recorded)  
A H Mueller Map Atlas, Plate 1, dated 1908;  
Sanborn Map Company Atlas, Plate 38, 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 38, dated 1952, updated 1964;



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Property Record Card assessment records, dated 06-07-1961 to 1982;  
Ord. # 23 of 1977 - Interim Development Ordinance.  
Ord. # 27 of 1979 – Land Use Ordinance  
Certificate of Development Plan Conformance from AC Housing Authority, dated 05/15/1991;  
Sanborn Map Company Atlas, Plate 38, dated 1997;  
Land Title Survey dated 03/03/2024.

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

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

Plate 38 in Atlas of Atlantic City prepared by the Sanborn Map Company, dated 1921, updated 1926, depicts 3 Story brick dwelling.

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 38 in Atlas of Atlantic City prepared by the Sanborn Map Company, dated 1952, updated 1964, depicts 3 story brick building labeled "store".

Property Record card (Building Record card reverse) dated 06-07-1961 through 1982 has two apartments with store use box checked off. Plumbing box checked with 2 bathrooms and 2 kitchens.

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

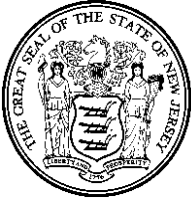
Ord. # 27 of 1979 – Land Use Ordinance is second ordinance to require parking for each dwelling unit.

Certificate of Development Plan Conformance from AC Housing Authority, dated 05/15/1991 is an inventory of uses in the building which includes 1<sup>st</sup> floor commercial and residential on 2<sup>nd</sup> and 3<sup>rd</sup> Floors.

Plate 38 in Atlas of Atlantic City prepared by the Sanborn Map Company, dated 1997, depicts 3 story brick building labeled "store".

It should be acknowledged that the map atlases indicating store 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.



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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 two apartments on the 2<sup>nd</sup> and 3<sup>rd</sup> floors from 1961 and desires to maintain the commercial unit on the first floor the two apartments on the 2<sup>nd</sup> and 3<sup>rd</sup> floors.

The documentary evidence provided by the Applicant appears to be sufficient to consider the granting the requested relief for the two apartments over commercial.

The Applicant's evidence and research of the public record documents, demonstrate that the property building was originally a three-story brick single family dwelling. According to public records reviewed (from before 1952 to present) the building included a commercial unit on the first floor and residential use above.

The building was a three-story brick structure at the time the first land development ordinance (Building Zone Ordinance) was adopted in 1929. The three-story brick structure included two apartments since 1961 before parking requirements went in effect in 1977. It appears that the three-story brick structure including the two apartments 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 two apartments over a commercial use 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 providing architectural plans prepared by a licensed architect for the structure as part of the requirement to secure a Certificate of Land Use Compliance.