

**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  
31 N. FLORIDA AVENUE, BLOCK 279 LOT 74, IN THE CITY OF  
ATLANTIC CITY UNDER APPLICATION #2024-07-3666**

**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**, Ngoctuyen Nguyen (the “Applicant”), seeks a Certificate of Non-conformity pursuant to N.J.S.A. 40:55D-68 for the subject property located at 31 N. Florida Avenue, Block 279 Lot 74, on the Tax Map of Atlantic City, located in the Ducktown Arts (DA) Zoning District; and

**WHEREAS**, on November 7, 2024, the Authority’s Land Use Regulation and Enforcement Division convened a public hearing on Application 2024-07-3666 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 November 27, 2024, 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 November 27, 2024.

**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 2024-07-3666 is hereby approved in accordance with the Hearing Officer’s Report and Recommendation dated November 27, 2024.

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 24-155 of the Casino Reinvestment Development Authority.

*Michael Beson*  
MICHAEL BESON, SECRETARY

**MEETING OF DECEMBER 17, 2024**



## Casino Reinvestment Development Authority Land Use Regulation and Enforcement Division

### EXHIBIT "A" TO RESOLUTION 24- , ADOPTED 12/17/2024

**TO:** Members of the Authority

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

**COPY:** Eric Scheffler, Executive Director  
Maisha Moore, Deputy Executive Director

**SUBJECT:** **Hearing Officer's Report and Recommendation**  
**Application #2024-07-3666**  
**Applicant: Ngocuyen Nguyen**  
**31 N. Florida Avenue**  
**Block 279, Lot 74**  
**Atlantic City, NJ**  
**Ducktown Arts District (DA)**  
**Certificate of Nonconformity**

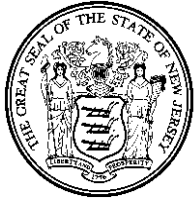
**DATE:** November 27, 2024

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On November 07, 2024, the Casino Reinvestment Development Authority (the "Authority") heard testimony and public comment on the above-subject application. The applicant, Ngocuyen Nguyen (the "Applicant"), seeks a Certificate of Non-Conformity pursuant to the Municipal Land Use Law for a residential unit over commercial at 31 N. Florida Avenue, Lot 74 in Block 279, located in the DA District.

The Certificate of Non-Conformity would certify that the residential use that existed lawfully prior to a zoning change that rendered the use non-conforming and permit it to continue on the subject property.

During the hearing, the Applicant presented evidence and testimony to explain the history of the use. Specifically, the Applicant provided evidence and testimony that the structure contains a single-family residential dwelling, lawfully existed prior to the adoption of the current zoning



## Casino Reinvestment Development Authority Land Use Regulation and Enforcement Division

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 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:  
31 N. Florida Avenue

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 279, Lot 74 in the City of Atlantic City. The property is improved with an existing single-family structure, 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 October 01, 2024.

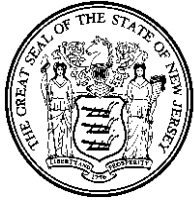
### **FINDINGS OF FACT**

The Applicant seeks a Certificate of Non-Conformity pursuant to the Municipal Land Use Law for the property located at Block 279, Lot 74 in the City of Atlantic City. The property is improved with an existing single-family dwelling, 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 09/28/2024;
- Deed dated 11/07/2013 (Recorded);
- Deed dated 02/25/2005 (Recorded);

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- 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 01/22/1961 to 1982;
- Polk Directory -1965;
- Property Record Card assessment records, dated 07/21/1981;
- Sanborn Map Company Atlas, Plate 28, dated 1997;
- Certificate of Land Use Compliance issued by AC Planning Office, dated 07/26/2001

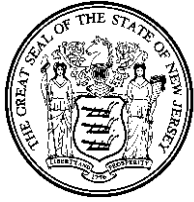
Robert L. Reid, AICP, PP was sworn and provided testimony on behalf of the Authority. Mr. Reid referenced his review memo dated October 01, 2024, and indicated that there is adequate evidence within the Applicant's evidence and research of the public record documents, demonstrate that the property was a single-family dwelling in 1921 through 1926 before the first Building Zone Ordinance was adopted in 1929. The dwelling was built in 1908 and is also shown on a 1952 Sanborn map. The said building existed before the 1977 parking requirements were adopted.

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

### **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



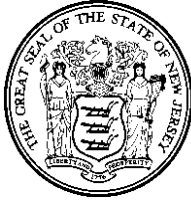
## Casino Reinvestment Development Authority Land Use Regulation and Enforcement Division

to have been continuous and not have been abandoned during the period in which it was made nonconforming. See Villari 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 one residential unit, lawfully existed until the amendment of the zoning district regulations in 1977, 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.



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### 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 #2024-07-3666**  
**Applicant: Ngocuyen Nguyen**  
31 N. Florida Avenue  
Block 279, Lot 74  
Atlantic City, NJ

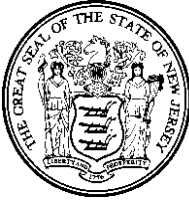
**DATE:** October 1, 2024

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The applicant, Ngocuyen Nguyen has submitted an application to the Casino Reinvestment Development Authority "Authority" requesting a Certificate of Non-Conformity detached single family dwelling at 31 N. Florida Avenue, Lot 74 in Block 279. 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)



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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 09/28/2024;  
Deed dated 11/07/2013 (Recorded);  
Deed dated 02/25/2005 (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 01/22/1961 to 1982;  
Polk Directory -1965;  
Property Record Card assessment records, dated 07/21/1981;  
Sanborn Map Company Atlas, Plate 28, dated 1997;  
Certificate of Land Use Compliance issued by AC Planning Office, dated 07/26/2001;

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 07/25/2023.

A.H. Mueller Map Atlas, Plate 6, dated 1908 depicts frame structure.

Sanborn Map Company Atlas, Plate 28, dated 1921, updated 1926 depicts a frame dwelling.

Sanborn Map Company Atlas, Plate 28, dated 1952, updated 1964 depicts a frame dwelling.

Property Record Card assessment records, dated 01/22/1961 to 1982 with notations for single family.

Property Record Card assessment records, dated 07/21/1981 with notion for one unit.

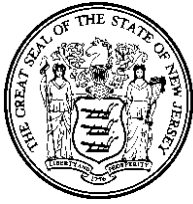
Sanborn Map Company Atlas, Plate 28, dated 1997 depicts a frame dwelling.

Certificate of Land Use Compliance issued by AC Planning Office, dated 07/26/2001 for single-family home use.

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 1921 to present and desires to continue to maintain the existing detached single-family dwelling.

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.



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The Applicant's evidence and research of the public record documents, demonstrate that the building was originally a frame dwelling 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 frame dwelling 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: DECEMBER 17, 2024**

**NGOCTUYEN T. NGUYEN - 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 31 N. FLORIDA AVENUE, BLOCK 279 LOT 74, IN THE CITY OF ATLANTIC CITY UNDER APPLICATION #2024-07-3666**

**Motion: MH**

**Second: JP**

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><b>Absent</b></u>
Michael Hanley	<u>Y</u>
Michael Laughlin	<u>Y</u>
Brett Matik	<u><b>Absent</b></u>
William Mullen	<u>Y</u>
Paulina O'Connor	<u>Y</u>
James Plousis	<u>Y</u>
Mayor Marty Small, Sr.	<u><b>Absent</b></u>
William Sproule	<u><b>Absent</b></u>
Ryan Feeney <i>for the State Treasurer</i>	<u>Y</u>
Joseph Tyrrell	<u>Y</u>
Chairman Mo Butler	<u><b>Absent</b></u>