

**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
2612 PACIFIC AVENUE, BLOCK 35, LOT 17, IN THE CITY OF
ATLANTIC CITY UNDER APPLICATION #2024-11-3737**

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, Musa Real Estate Traders (the “Applicant”), seeks a Certificate of Non-conformity pursuant to N.J.S.A. 40:55D-68 for the subject property located at 2612 Pacific Avenue, Block 35, Lot 17 on the Tax Map of Atlantic City, located in the Resort Commercial (RC) Zoning District; and

WHEREAS, on January 16, 2025, the Authority’s Land Use Regulation and Enforcement Division convened a public hearing on Application 2024-11-3737 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 22, 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 22, 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 2024-11-3737 is hereby approved in accordance with the Hearing Officer’s Report and Recommendation dated January 22, 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 25-16 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: Certificate of Nonconformity Request
Review Application and Support Documents
Application #2024-11-3737
Applicant: Musa Real Estate Traders LLC
2612 Pacific Avenue
Block 35, Lot 17
Atlantic City, NJ

DATE: January 22, 2025

On January 16, 2025, the Casino Reinvestment Development Authority (the "Authority") heard testimony and public comment on the above-subject application. The applicant, Musa Real Estate Traders, LLC (the "Applicant"), seeks a Certificate of Non-Conformity pursuant to the Municipal Land Use Law for an existing structure comprised of a residential unit over commercial at 2612 Pacific Avenue, Lot 17 in Block 35, located in the RC District. The Applicant seeks a Certificate of Non-Conformity residential use where such residential use is no longer permitted in the zoning district. 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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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:
2612 Pacific Avenue
Block 35, Lot 17

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 35, Lot 17 in the City of Atlantic City. The property is improved with an existing structure comprised of a residential unit over commercial 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 January 06, 2025.

FINDINGS OF FACT

The Applicant seeks a Certificate of Non-Conformity pursuant to the Municipal Land Use Law for the property located at Block 35, Lot 17 in the City of Atlantic City. The property is improved with an existing structure comprised of a residential unit over commercial 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 11-05-2024;
- A H Mueller Map Atlas, Plate 6, dated 1908;
- Sanborn Map Company Atlas, Plate 7, dated 1921, updated 1926;

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- 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 04-16-1961 to 1982;
- 1961 Polk Directory;
- 1965 Polk Directory;
- Property Record Cards, dated 12-22-1981
- Ord. # 23 of 1977 - Interim Development Ordinance.
- Ord. # 27 of 1979 – Land Use Ordinance
- Sanborn Map Company Atlas, Plate 7, dated 1997;

Robert L. Reid, AICP, PP was sworn and provided testimony on behalf of the Authority. Mr. Reid referenced her review memo dated January 06, 2025 and indicated that there is adequate evidence within the application materials and public record to establish that the residential use above commercial use lawfully existed since 1961, 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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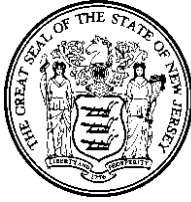
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v. Zoning Bd. of Adj., 277 N.J. Super. 130, 135 (App. Div. 1994); Poulathas v. Atlantic City Zoning Bd. of Adj., 282 N.J. Super. 310, 313 (App. Div. 1995); Camara v. Bd. of Adj. of Tp. of Belleville, 239 N.J. Super. 51, 57 (App. Div. 1990); Borough 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 residential use above a commercial 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

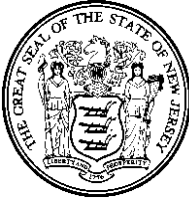
COPY: Applicant, Scott Collins, Esq., File

SUBJECT: Certificate of Nonconformity Request
Review Application and Support Documents
Application #2024-11-3737
Applicant: Musa Real Estate Traders LLC
2612 Pacific Avenue
Block 35, Lot 17
Atlantic City, NJ

DATE: January 6, 2025 – Scheduled for 01/16/25 hearing

The applicant, Musa Real Estate Traders 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 2612 Pacific Avenue, Lot 17 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 11-05-2024;
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 04-16-1961 to 1982;
1961 Polk Directory;
1965 Polk Directory;
Property Record Cards, dated 12-22-1981
Ord. # 23 of 1977 - Interim Development Ordinance.
Ord. # 27 of 1979 – Land Use Ordinance
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 two-story brick building as a dwelling.

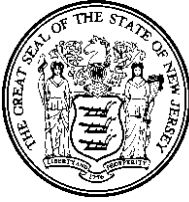
Property Record card (Building Record card reverse) dated 04-16-1961 through 1982 indicates a store on the first floor and an apartment on the second floor.

1961 Polk Directory referencing Pacific Tailors and a residence.

1965 Polk Directory referencing resident.

Property Record card (Building Record card reverse) dated 12-22-1981 indicates first floor retail converted to residential 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 two-story brick building as a dwelling.

It should be acknowledged that the map atlases indicating dwelling and/or 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. This is necessary for the Hearing Officer to recommend that the application be approved by the Authority.

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 with a store in 1921 through 1926 before the first Building Zone Ordinance was adopted in 1929. The two-story brick building was labeled as a dwelling before 1964. The said building existed before the 1977 parking requirements were adopted.

The applicant asserts that the property lawfully existed as commercial use on the first floor with one residential unit above for a least 59 years and desires to maintain the one residential unit above commercial.

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 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.



DATE: FEBRUARY 18, 2025

2612 PACIFIC - MUSA REAL ESTATE TRADERS, LLC – 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 2612 PACIFIC AVENUE, BLOCK 35, LOT 17, IN THE CITY OF ATLANTIC CITY UNDER APPLICATION #2024-11-3737

Motion: RT

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>