



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 #2015-09-1665
G & M Arsenis, LLC, Applicant / Owner
2417 Pacific Avenue
Block 164, Lot 68
Atlantic City, NJ

DATE: September 21, 2015

The applicant, G & M Arsenis, LLC has submitted an application requesting a Certificate of Non-Conformity for an existing free standing parking lot at 2417 Pacific Avenue, Lot 68 in Block 164. The Applicant seeks a Certificate of Non-Conformity pursuant to the Municipal Land Use Law (N.J.S.A. 40:55D-68) for the existing free standing parking lot 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.

The existing use as a free standing parking lot does not comply with the permitted uses listed on Schedule III, 163 Attachment 8 of the Atlantic City Land Use Development Ordinance.

Schedule III, 163 Attachment 8 permits Multiple-family dwellings in the Resort Commercial District (RS-C). The purpose of the RS-C zoning is intended to apply to established resort areas in the City. Its purpose is to provide for the City's main industry, consisting predominantly of transient and tourist-oriented uses, at such intensity as is justified by the City's limited land resources, high land values and infrastructure capacity. Residential development is also encouraged for the purpose of preserving and enhancing the family-resort character of the City and integrating the specialized activities of the Resort Commercial District with the rest of the community. [163-58 A]



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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 existing free standing parking lot use was permitted up until March 31, 1979 when Ordinance 27 of 1979 was adopted. The owner at that time was to submit an application to the City for a Certificate of Land Use Compliance within one year of the adoption of the ordinance that rendered the use nonconforming in accordance with NJSA 40:55D-68. 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)

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

Application Form for Certificate of Non-Conformity, dated 9/1/15;

Certificate of Land Use Compliance for 31 free standing parking spaces dated 3/1/2000;

Construction Permit for parking lot attendant booth, dated 2/29/1996;

Property Record Card dated 1966 -1980; 1981

Plate 28 depicting parking lot fronting on Pacific Avenue from Sanborn Map Company, NY from 1952;

According to the Property Record Card Michael and George Arsenis purchased the property on 5/15/1979. The applicant asserts that the parking lot use has existed prior to 1952 and desires to continue the free standing parking lot use. The site was issued a Certificate of Land Use by Atlantic City Division of Planning for 31 parking spaces on 3/1/2000.

At the hearing, the Applicant has the obligation to present evidence and testimony to explain the history of the use. Specifically, the Applicant must provided evidence and testimony that the free standing parking lot lawfully existed prior to the adoption of the current zoning ordinance, and that such use has been continuous 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 documentary evidence provided by the Applicant appears to be sufficient (subject to testimony by the Applicant at the hearing) to grant the requested relief.