

Board of Zoning Adjustment

Staff Report

December 16, 2019



Case No:	19-NONCONFORM-0023
Project Name:	Beecher Change in Nonconformance
Location:	500 Beecher Street
Owner/Applicant:	Derrick Tiller
Jurisdiction:	Louisville Metro
Council District:	15 – Kevin Triplett
Case Manager:	Chris French, Planning & Design Supervisor

REQUEST(S)

- Change in nonconforming use from a tavern/bar/saloon to a convenience store

CASE SUMMARY/BACKGROUND

The subject property is located within the R-5 zoning district and the Traditional Neighborhood form district.

The property owner received a nonconforming rights determination for a Tavern/Bar/Saloon on the first floor of this property from Planning and Design Services on September 27, 2019.

The current property owner has submitted this request to change the use to a convenience store, which is the closest use to a tobacco and vape shop in the Land Development Code (LDC). The second floor is to remain an apartment.

STAFF FINDING

The proposed change in nonconforming use meets the first standard of review, but it is unclear if it meets the second standard.

TECHNICAL REVIEW

No technical review required.

RELATED CASES

There is an open zoning enforcement case under case #ENF-ZON-19-000413 on this property and a pending case filed with the Circuit Court of Appeals related to 19-APPEAL-0002.

INTERESTED PARTY COMMENTS

No comments received.

STANDARD OF REVIEW AND STAFF ANALYSIS FOR CHANGE IN NONCONFORMING USE

Subject to the limitations and restrictions imposed by items A through C of Chapter 1 Part 3, the Board of Zoning Adjustment may permit a change in the nonconforming use to another nonconforming use only if the new nonconforming use is in the same or more restrictive classification and upon finding that the new nonconforming use will be no more odious or offensive to surrounding properties than the first nonconforming use. When the Board of Zoning Adjustment permits a change from one nonconforming use to another nonconforming use pursuant to this paragraph, it may impose such conditions upon such new nonconforming use as it finds are necessary to preserve the character of the neighborhood, to minimize nuisances to surrounding properties, and to protect the value of surrounding properties.

1. Is the new nonconforming use in the same or more restrictive classification of the first nonconforming use?

Staff Finding: The proposed nonconforming use, a convenience store, is in a more restrictive classification than the original nonconforming use. A Tavern/Bar/Saloon, the original nonconforming use, is permitted in the C-2 zoning. A convenience store is permitted in the C-1 zoning district.

2. Is the new nonconforming use no more odious or offensive to surrounding properties than the first nonconforming use?

Staff Finding: The original nonconforming use, a Tavern/Bar/Saloon, has fewer trips with longer stays. This could mean vehicles will be parked on the streets for longer periods of time. The proposed use will produce more trips; however, there is greater customer turnover for convenience stores and therefore more trips for that use. Bars often have an entertainment component which can cause loud noise. The customers of the bar can also cause disturbances which generate noise issues. This element of a bar can be a nuisance to the surrounding community; this is less of a problem with a convenience store. There is also a significant difference in the peak hours between the proposed and original uses. This fact is demonstrated in the Institute of Transportation Engineers Trip Generation Manual. The peak hours for a bar are evening hours and weekends – usually late afternoon until late into the night/early morning. The convenience store peak hours are around lunch time and between 7-10pm.

REQUIRED ACTIONS:

- **APPROVE** or **DENY** the **Change in nonconforming use**

Based upon the information in the staff report, the testimony and evidence provided at the public hearing, the Board of Zoning Adjustments must determine if the proposal is in conformance with the Land Development Code Section 1.3.1 paragraph D.

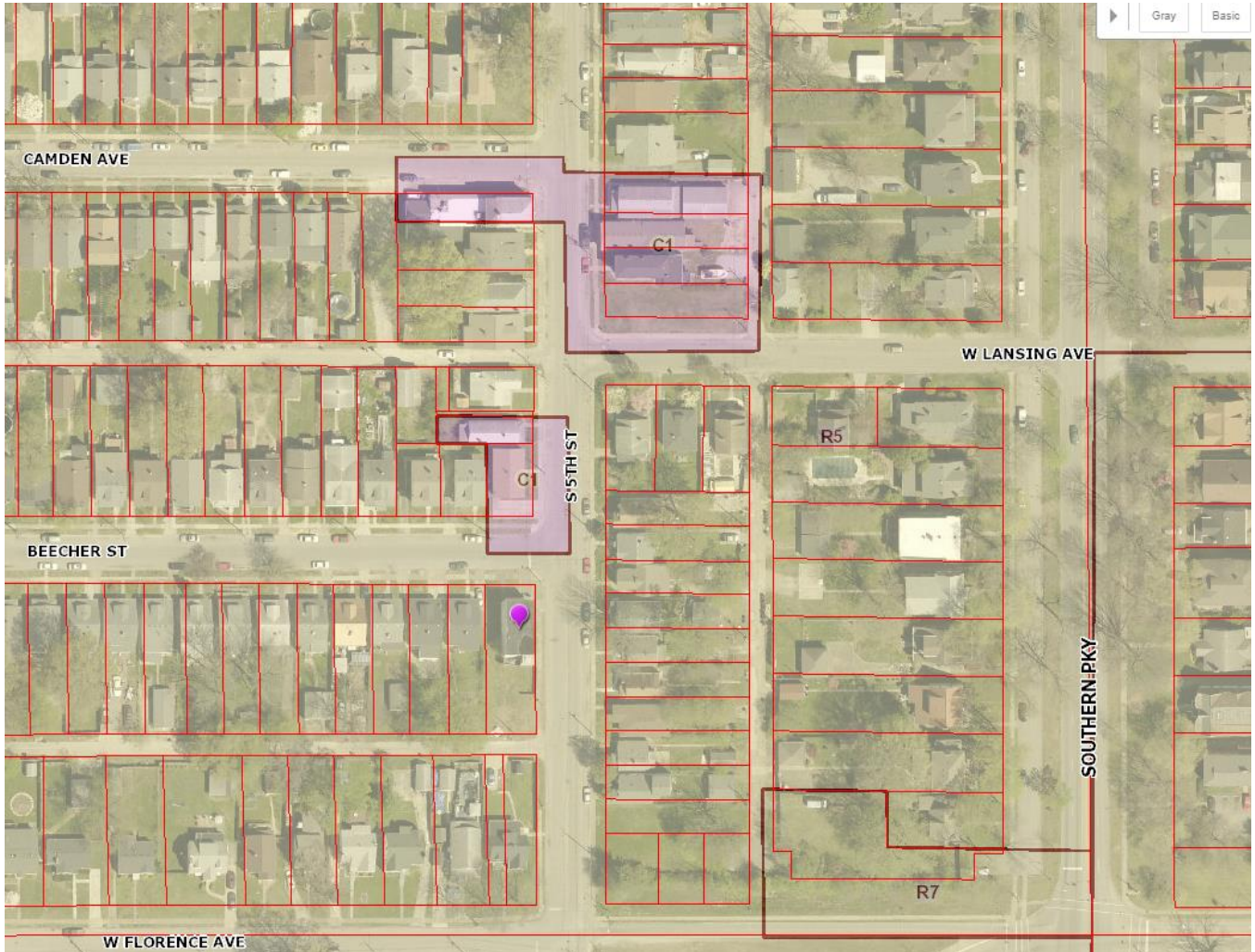
NOTIFICATION

Date	Purpose of Notice	Recipients
11/25/2019	Hearing before Board of Zoning Adjustment	1 st tier adjoining property owners Registered Neighborhood Groups in Council District
11/22/2019	Hearing before Board of Zoning Adjustment	

ATTACHMENTS

1. Zoning Map
2. Aerial Photograph

1. Zoning Map



2. Aerial Photograph

