

19-NONCONFORM-0028
Change in Nonconformance for
211 W. Woodlawn Ave.



Board of Zoning Adjustment Public Hearing

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January 06, 2020

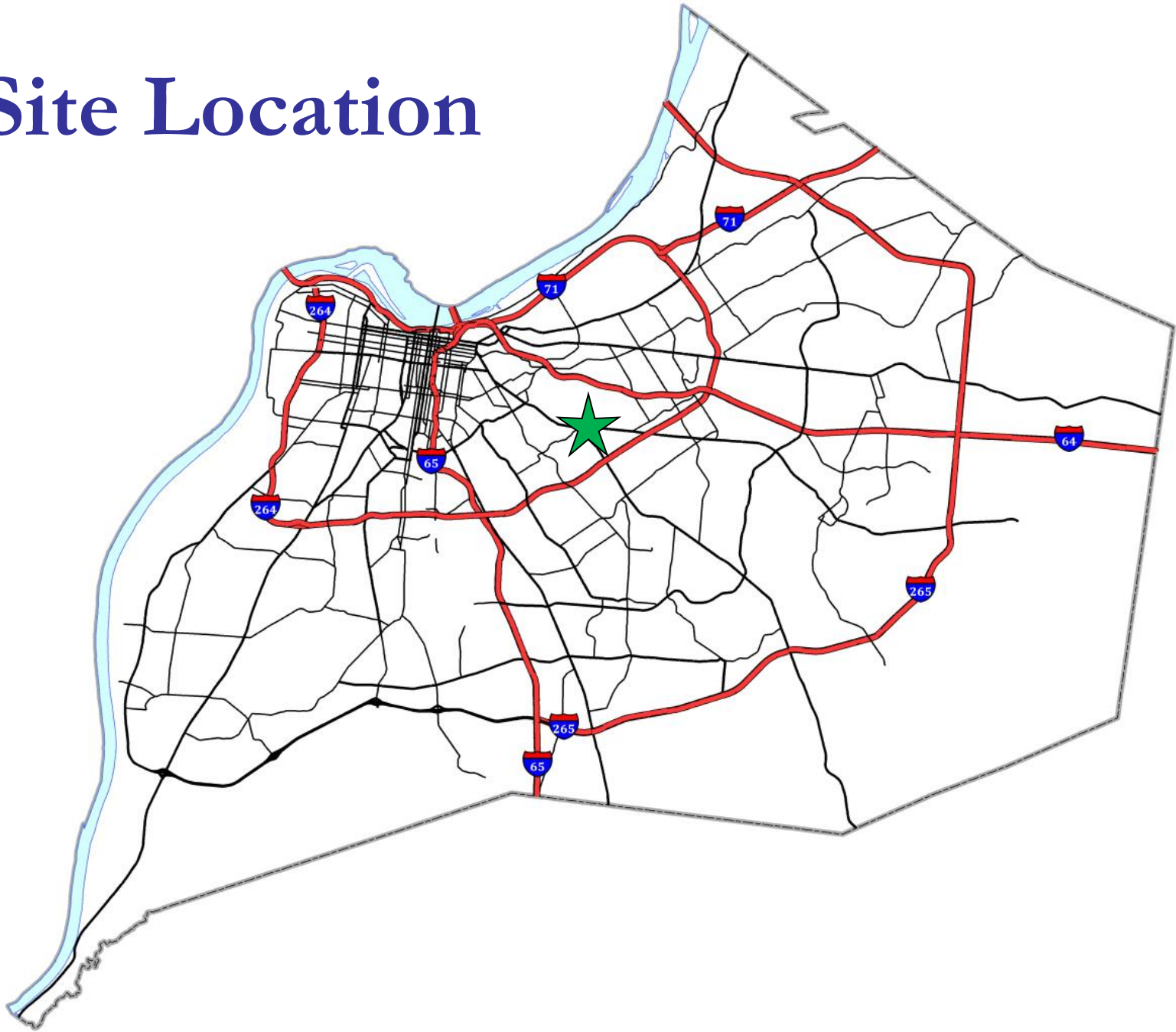
Request

Change in Nonconformance from Contractor's Shop, provided all operations are confined within a building to a Catering Kitchen/Bakery preparing foods and meals for sale or consumption elsewhere.

Case Summary/Background

- The property owner received a nonconforming rights determination for a Contractor's Shop, provided all operations are confined within a building, on this property from Planning and Design Services on October 7, 2019.
- The subject property is located within the R5 zoning district and the Traditional Neighborhood form district.
- The applicant is requesting to change the use from a Contractor's Shop to Catering Kitchen/Bakery preparing foods and meals for sale or consumption elsewhere.

Site Location



Zoning/Form Districts

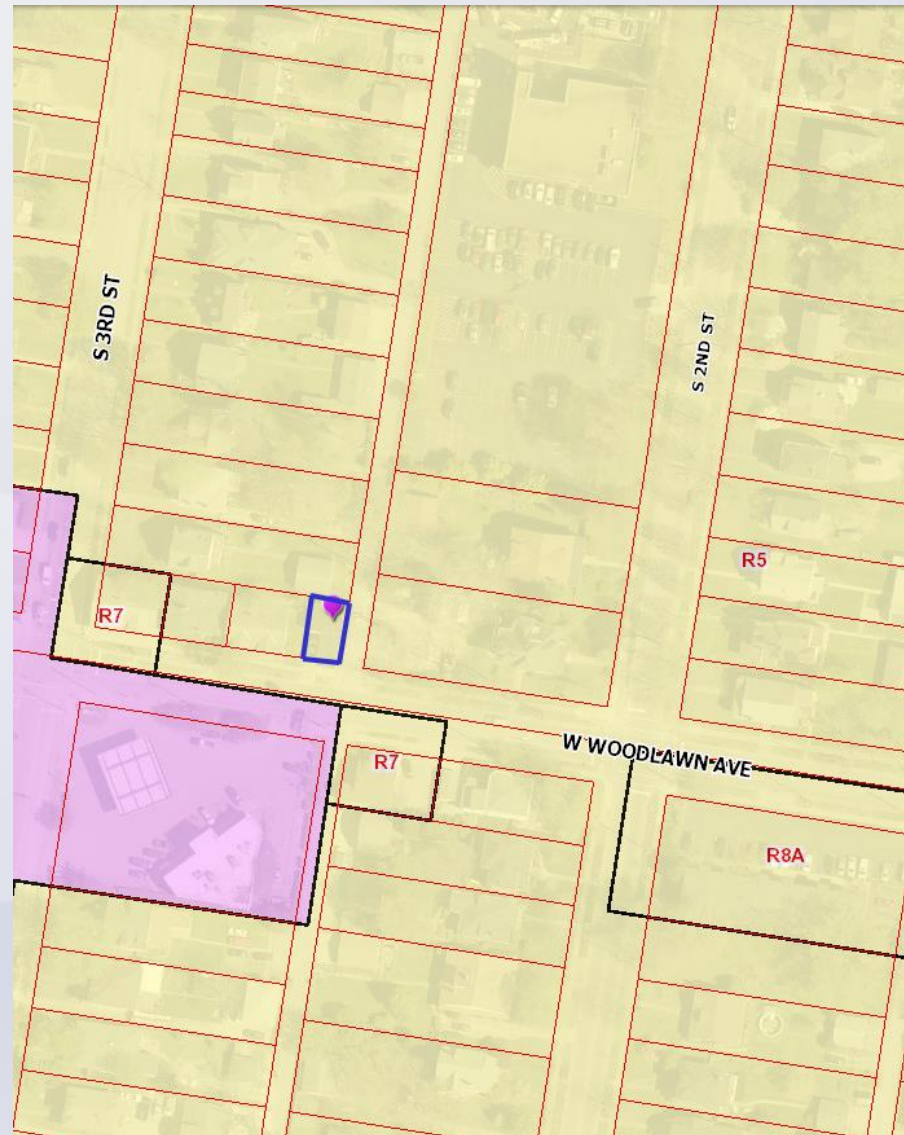
Subject Property: R-5/TN

North: R-5/TN

South: C-1/TN

East: R-5 & R-7/TN

West: R-5/TN



Aerial Photo

Subject Property: Commercial

North: Single-Family
Residential

South: Commercial

East: Single-Family/ Duplex

West: Multiple-Family



Front of Property



Front of Property



12/19/2019 13:04

East Side of Property



Rear of Property



12/19/2019 13:00

Property Across the Street



Standards of Review (1.3.1 A-D)

- A nonconforming use is an established activity which lawfully existed at the time of the enactment of any zoning regulation which would not permit such activity.
- A nonconforming use may be continued until it is abandoned notwithstanding the sale of the land parcel on which the nonconforming use exists; but a nonconforming use shall not be enlarged, expanded or changed except as expressly permitted by KRS 100.253 and by Chapter 1 Part 3.
- There shall be no increase in the floor area or the land area devoted to a nonconforming use or other enlargement or extension of a nonconforming use beyond the scope and area of its operation at the time the regulation that made the use nonconforming was adopted.
- 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.

Conclusions

- The proposed nonconforming use, a Catering Kitchen/Bakery preparing foods and meals for sale or consumption elsewhere (permitted in C-1), is in a more restrictive classification than the original nonconforming use (permitted in C-2).
- The new nonconforming use is no more odious or offensive than a Contractor's Shop. A Catering Kitchen could potentially have less traffic than a Contractor's Shop.

Required Actions

Based upon the file of this case, this staff report, and the evidence and testimony submitted at the public hearing, the Board must determine:

1. Is the change in nonconformance in the same or more restrictive classification than the current nonconforming use ?
2. Will the change in nonconformance be no more odious or offensive to surrounding properties than the current nonconforming use ?

If the answer is yes to both of these questions, the Board may approve the change in nonconforming use.