

Board of Zoning Adjustment

Staff Report

October 07, 2019



Case No:	19-NONCONFORM-0012
Project Name:	S. 3 rd Street Change in Nonconformance
Location:	3911 S. 3 rd Street
Owner(s):	Tim DeGraaff
Applicant:	Tim DeGraaff
Jurisdiction:	Louisville Metro
Council District:	15 – Kevin Triplett
Case Manager:	Zach Schwager, Planner I

REQUEST(S)

- Change in nonconforming use

CASE SUMMARY/BACKGROUND

The subject property is located within the R6 zoning district and the Traditional Neighborhood form district.

The previous property owner received a nonconforming rights determination for dental office from the Department of Inspection, Permits, & Licenses on Planning on June 05, 2003.

The current property owners have submitted this request to change the use from a Dentist Office (Doctor's Office) to a Barbers/Cosmetologists/Hairdressers/Manicurists and tanning salon.

STAFF FINDING

The proposed change in nonconforming use does not meets the standard of review.

TECHNICAL REVIEW

No technical review required.

INTERESTED PARTY COMMENTS

No comments received.

STANDARD OF REVIEW AND STAFF ANALYSIS FOR CONDITIONAL USE PERMIT

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 uses (Barbers/Cosmetologists/Hairdressers/ Manicurists and tanning salon) are not in the same or more restrictive classification as the first nonconforming use (Doctor's Office). The lowest zoning classification for a Doctor's Office, the original nonconforming use, is permitted in the OR (Office Residential) zoning district. The applicant is requesting two uses which are permitted in more intense zoning classifications. The use of Barbers/Cosmetologists/Hairdressers/Manicurists is permitted in the OR-1 district as the lowest zoning classification. A tanning salon is permitted in the CN (Commercial-Neighborhood) or CR (Commercial-Residential) districts.

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

Staff Finding: The proposed nonconforming use is more odious and intensive than the first nonconforming use. A Doctor's or Dental Office will have set appointments and limited hours on the weekends. The proposed uses generate more traffic due to walk-in appointments and expanded weekend hours. The services offered at a Barbers/Cosmetologists/Hairdressers/ Manicurists vary and the time to complete these services can also vary. There can be a steady flow of customers due to the flexibility of appointment times and services offered by these types of establishments. Tanning Salons store dihydroxyacetone (DHA) spray containers and other large equipment used to apply sunless tans to their clients which elevate this use to a higher classification.

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.

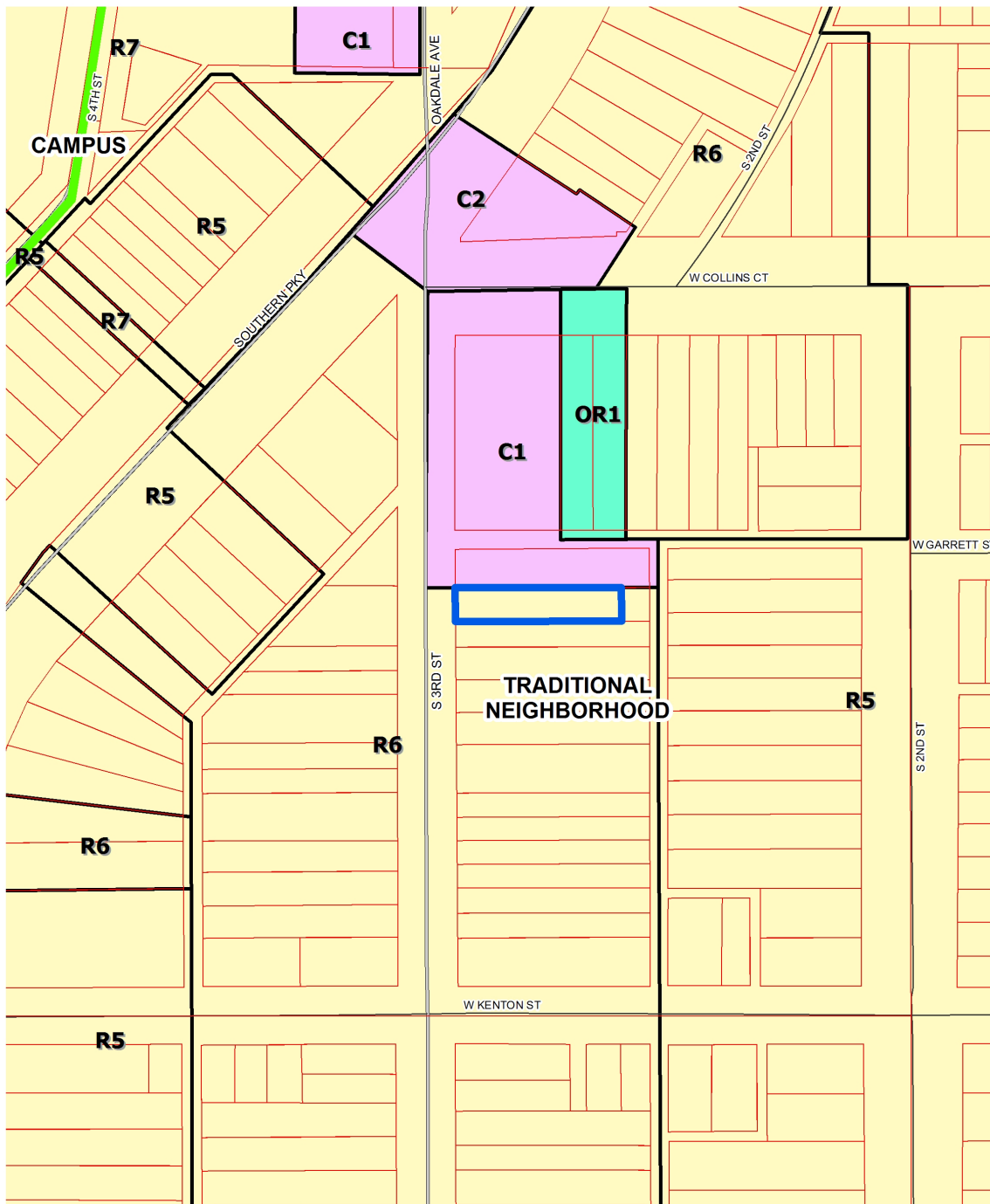
NOTIFICATION

Date	Purpose of Notice	Recipients
9/17/2019	Hearing before Board of Zoning Adjustment	1 st and 2 nd tier adjoining property owners
9/20/2019	Hearing before Board of Zoning Adjustment	Registered Neighborhood Groups in Council District Sign Posting

ATTACHMENTS

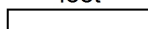
1. Zoning Map
2. Aerial Photograph

1. Zoning Map



3911 S. 3rd St.

feet



130

Map Created: 1/9/2019



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An aerial photograph of a residential neighborhood with property lines outlined in red. A specific property is highlighted with a blue rectangle. The property is located on the east side of S 3rd St, between W Kenton St and W Collins St. The surrounding area includes various residential lots, some with houses and others with parking lots or vacant land. Street names visible include S 4th St, S 2nd St, W Collins St, W Garret St, S 3rd St, W Kenton St, and Oakdale Ave.



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