

**19-NONCONFORM-0023**  
**Change in Nonconformance for**  
**500 Beecher Street**



**Board of Zoning Adjustment Public Hearing**

**Chris French, Planning & Design Supervisor**

**December 16, 2019**

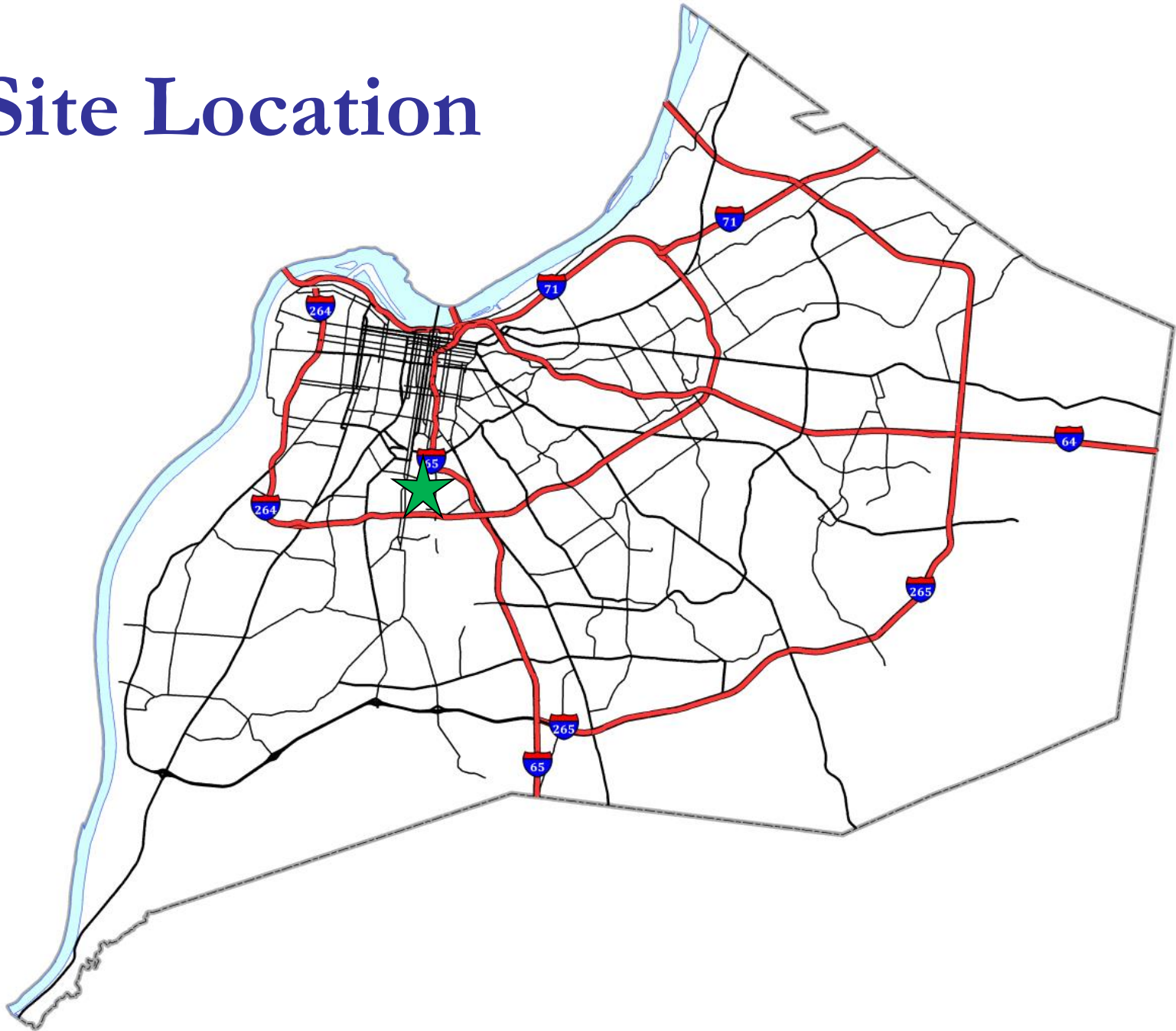
# Request

Change in nonconforming use from a Tavern/Bar/Saloon to a Convenience Store.

# Case Summary/Background

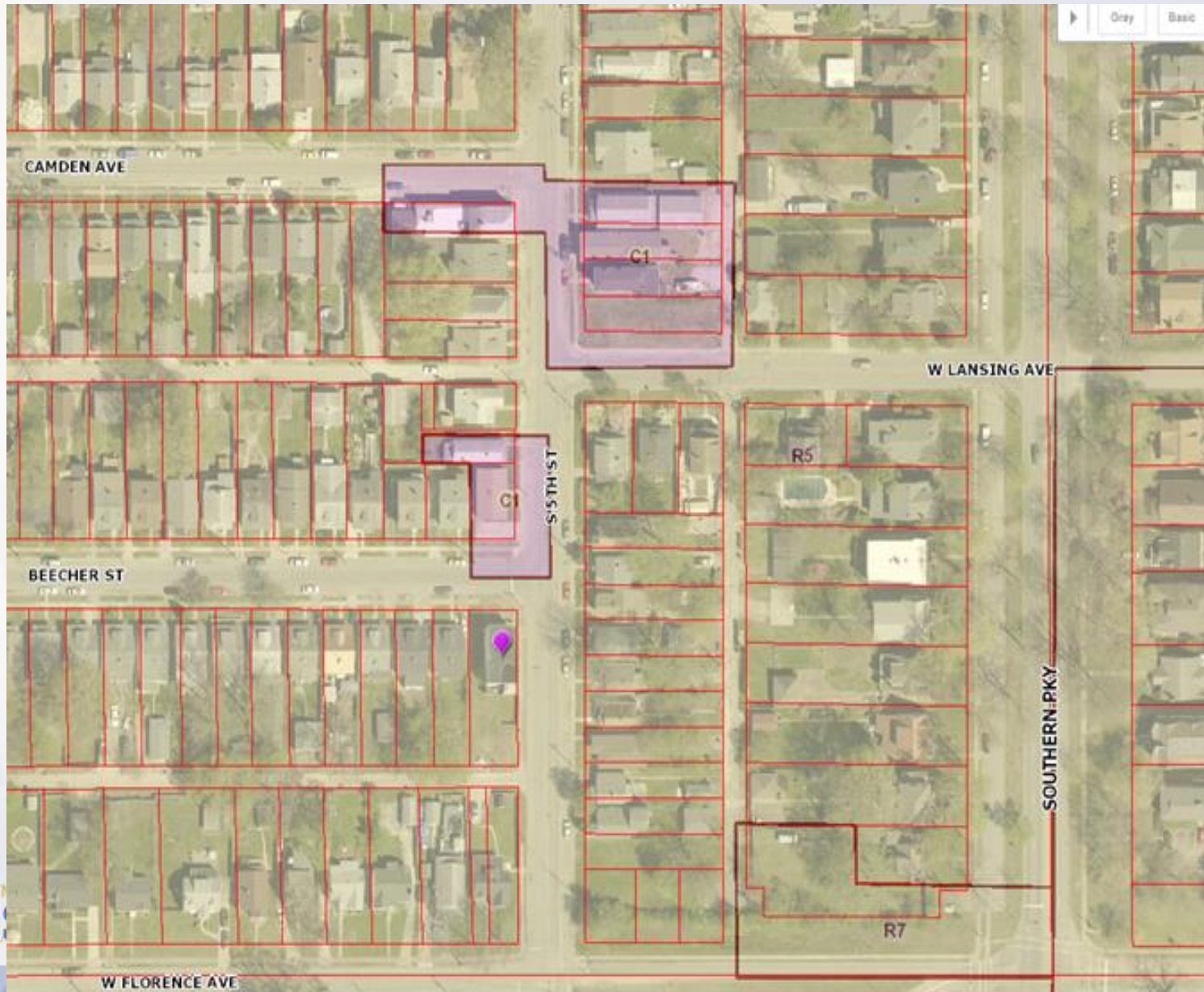
- The subject property is located within the R-5 zoning district and the Traditional Neighborhood form district.
- The property owner received a nonconforming rights determination for a Tavern/Bar/Saloon on the first floor of this property from Planning and Design Services on September 27, 2019.
- The 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.

# Site Location



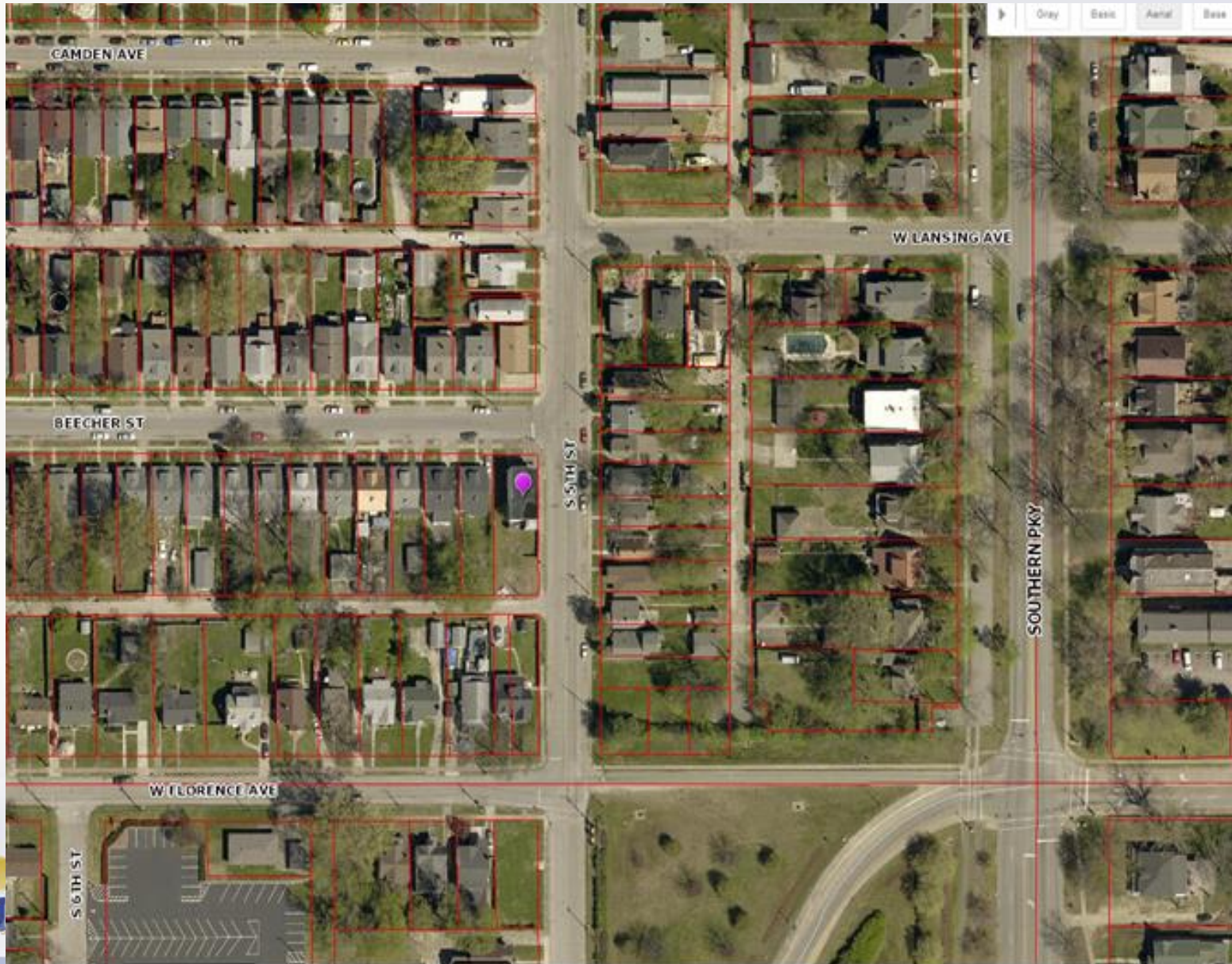


# Zoning/Form Districts

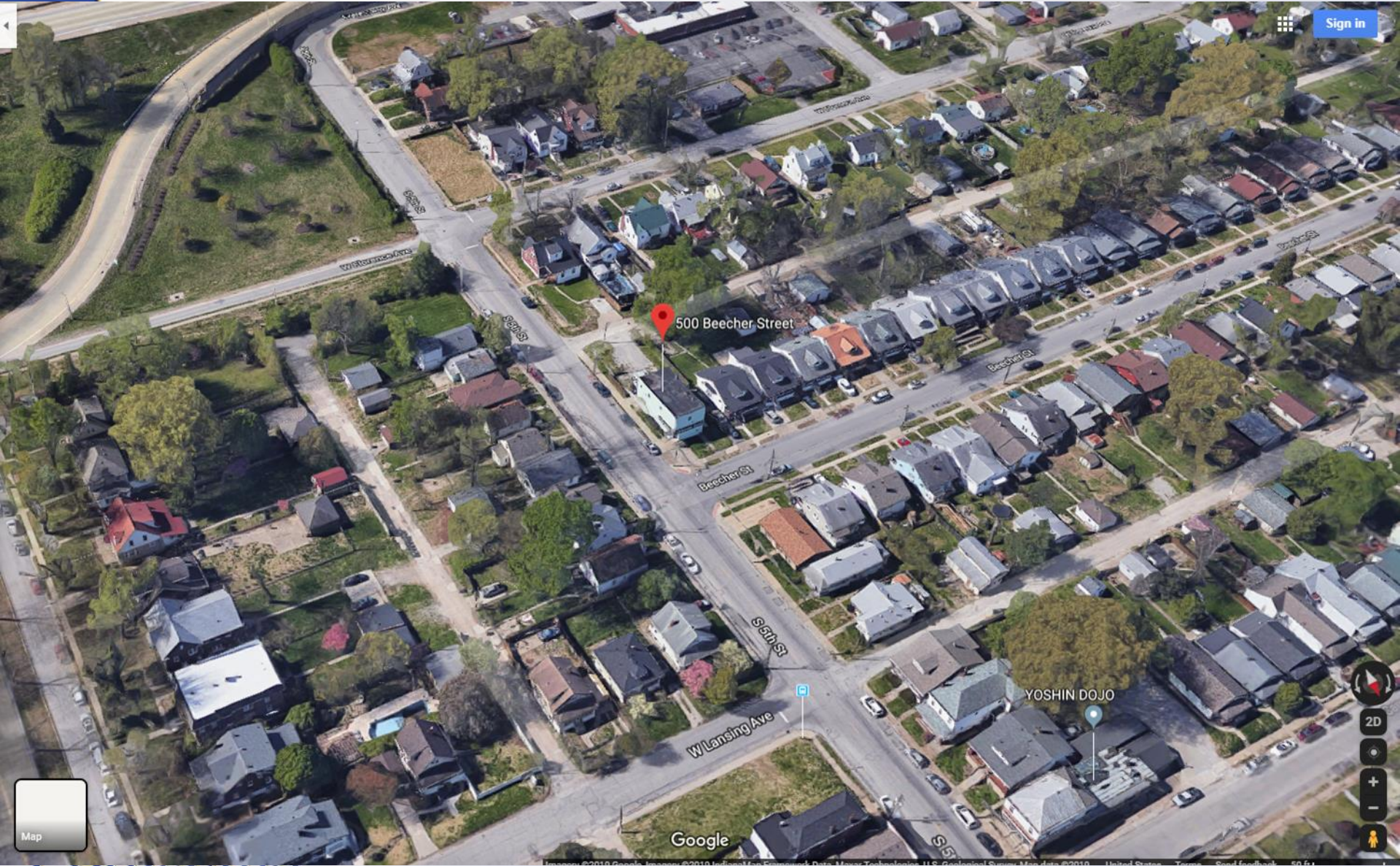




# Aerial Photo







Sign in

500 Beecher Street

YOSHIN DOJO

Google

Map

LOUISVILLE

Image ©2010 Google, Imagery ©2010 DigitalGlobe, Earth Data, Map Technology, U.S. Geological Survey, Map data ©2010 United States, Terms, Send feedback 50 ft



# Subject Property



Beecher St  
100

N&T  
SMOKER'S OUTLET

N&T  
SMOKER'S OUTLET

WOW!  
OPEN

10/23/2019 10:39

19-APPEAL-0002



# Subject Property



10/23/2019 10:38

19-APPEAL-0002

# Subject Property



10/23/2019 10:35

19-APPEAL-0002



# Subject Property

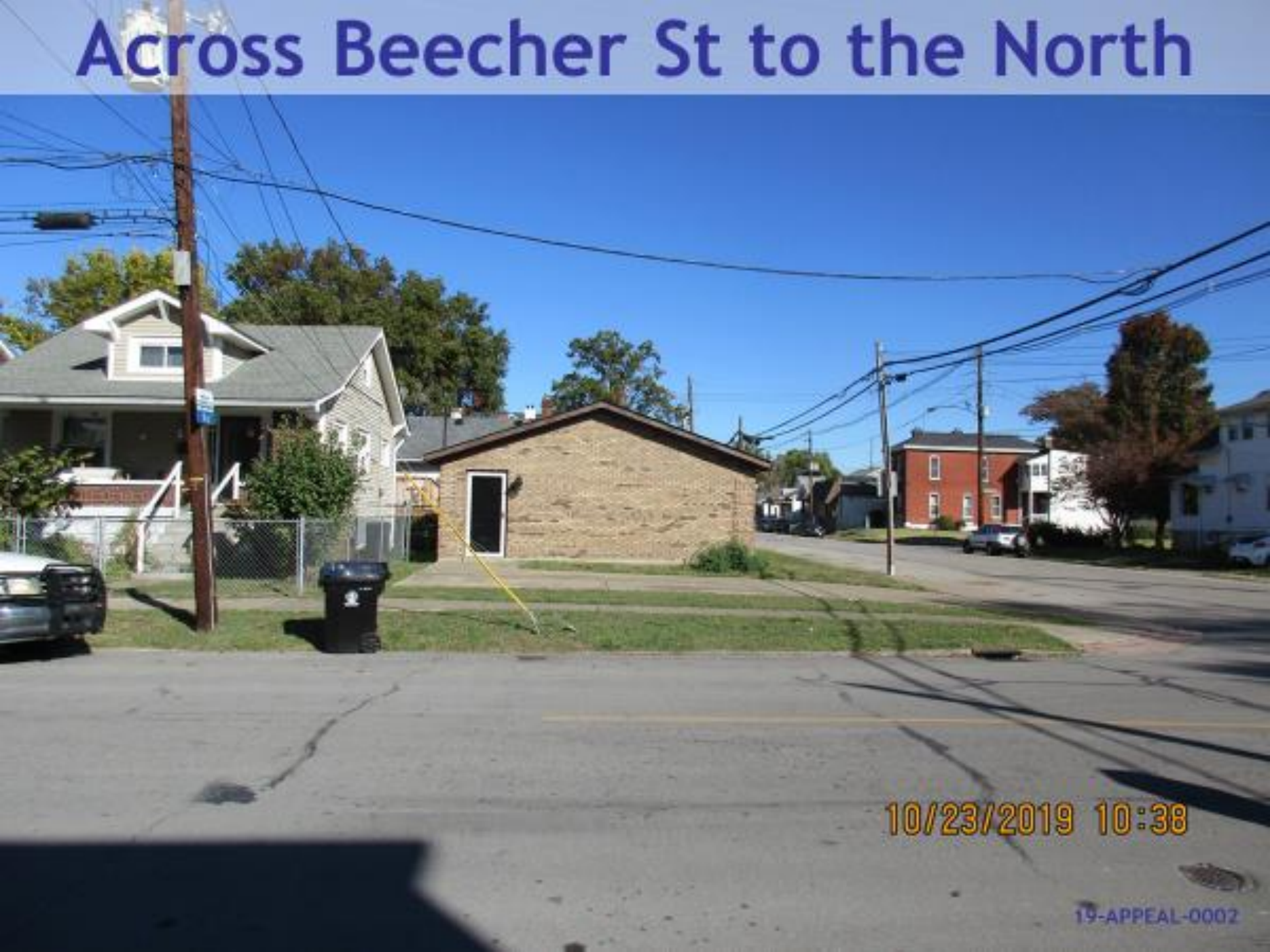


10/23/2019 10:36

19-APPEAL-0002



# Across Beecher St to the North



10/23/2019 10:38

19-APPEAL-0002



# Across S 5<sup>th</sup> St to the East

STOP

10/23/2019 10:38

19-APPEAL-0002



# Beecher St - Property to the West



10/23/2019 10:37

10/23/2019 10:37



# Alley to the South



10/23/2019 10:36

19-APPEAL-0002

# 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 change in nonconforming use meets the first standard of review, but it is unclear if it meets the second standard.
- 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
- 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 turner over for convenience stores and therefore more trips for that use.

# Conclusions

- 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

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.