

19-NONCONFORM-0030
Change in Nonconformance for
500 E. Breckinridge St.



Board of Zoning Adjustment Public Hearing

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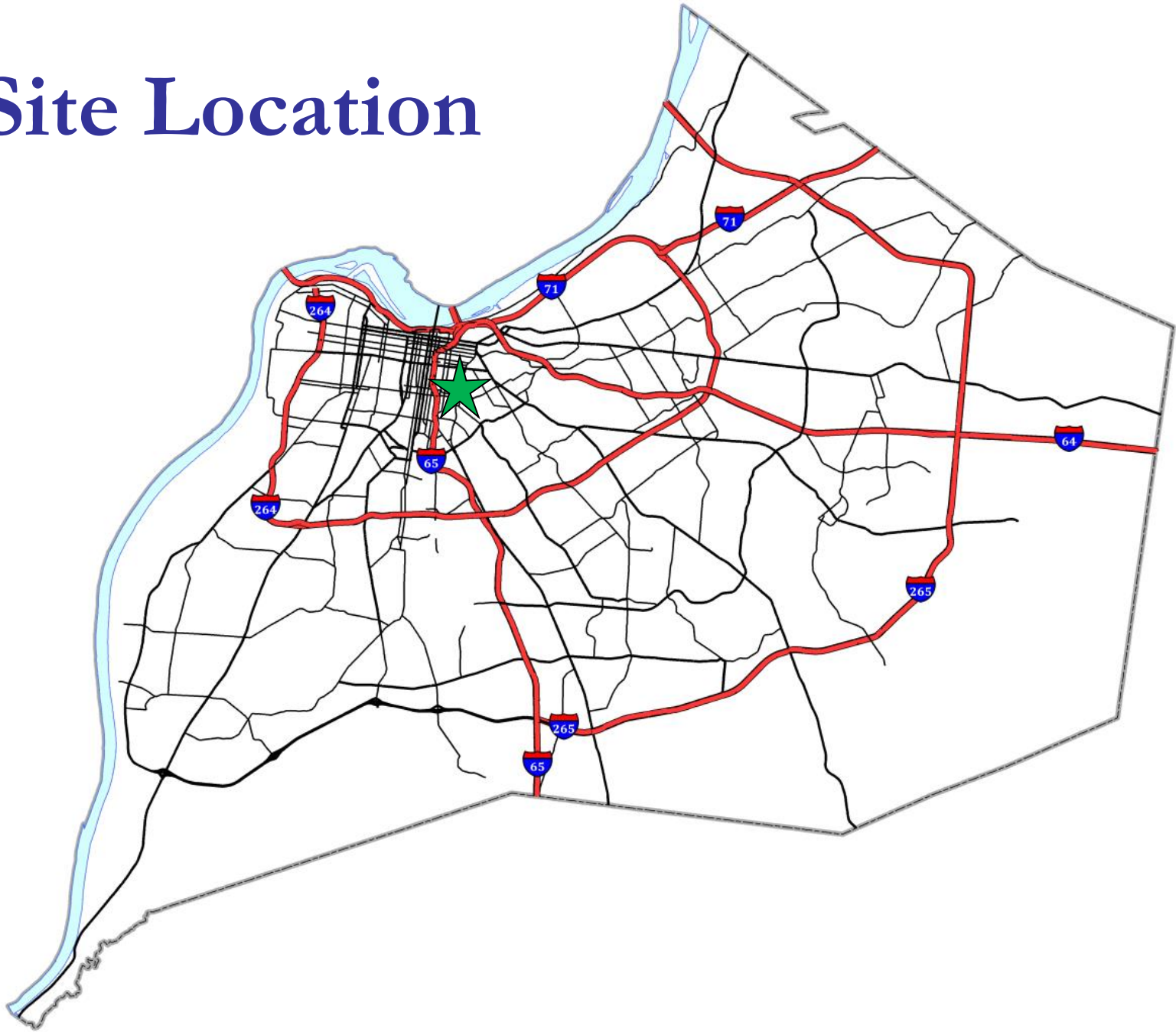
Request

Change in Nonconformance from Auto Repair Shop to a Contractor's Shop, provided all operations are confined within a building.

Case Summary/Background

- The property owner received a nonconforming rights determination for an Auto Repair Shop on this property from Planning and Design Services on October 10, 2019.
- The subject property is located within the UN zoning district and the Traditional Neighborhood form district.
- The applicant is requesting to change the use from an Auto Repair Shop to Contractor's Shop provided all operations are confined within a building.
- The Auto Repair Shop used the lot known as 500 E. Breckinridge St. to temporarily store inoperable vehicles. The current property owner plans to continue to use the second lot for accessory storage and off-street parking.

Site Location



Zoning/Form Districts

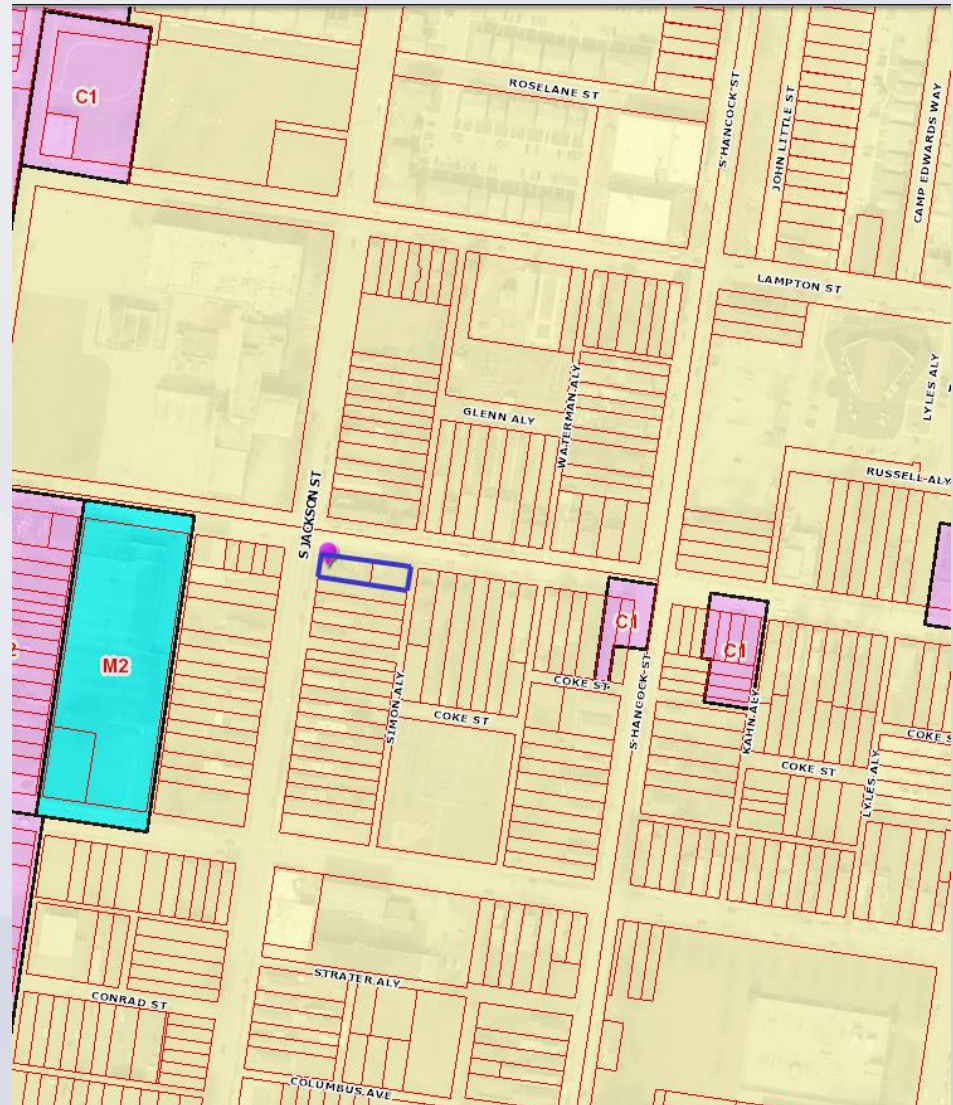
Subject Property: UN/TN

North: UN/TN

South: UN/TN

East: UN & M-2/TN

West: UN/TN



Aerial Photo

Subject Property: Commercial

North: Institutional

South: Single-Family

East: Institutional

West: Duplex Residential



Front



12/19/2019

Property from Jackson St



Property Across the Street



Property to the East



Off-Street Parking Lot



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 Contractor's Shop is in the same classification as the Auto Repair Shop. Both nonconforming uses are permitted in the C-2 zoning district.
- The proposed nonconforming use is no more offense or odious than an Auto Repair with accessory storage if it is well managed. Staff recommends a Condition of Approval to manage the impact of accessory equipment storage on 500 E. Breckinridge St. off-street parking lot.
- Proposed Condition of Approval: The 500 E. Breckinridge Street property has nonconforming rights for off-street parking. This lot is used for parking by the use located on 508 E. Breckenridge Street. The parking lot (500 E. Breckenridge Street) may be used for accessory equipment storage as long as the equipment storage occupies no more than 3 parking spaces.

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.