

**19NONCONFORM1012**  
**Change in Nonconformance for**  
**2014 Bonnycastle Avenue**



**Board of Zoning Adjustment Public Hearing**

**Chris French, AICP, Planning & Design Supervisor**

**May 20, 2019**

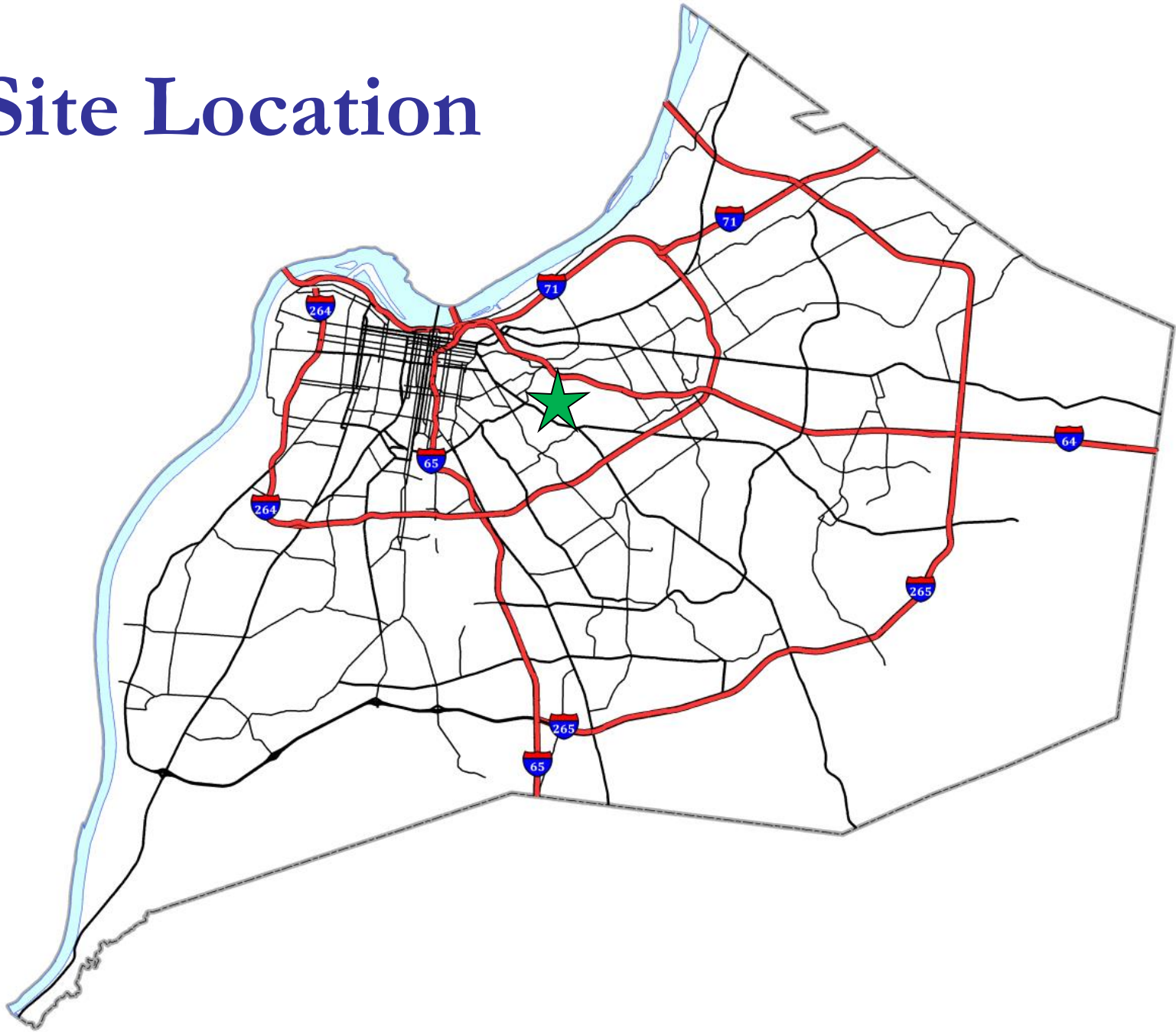
# Request

Change in Nonconformance from three units in one structure to two units in principal structure and one unit within an accessory structure.

# Case Summary/Background

- The property was granted nonconforming rights for three units on December 12, 2017.
- The property is located within the R-5A Zone and the Traditional Neighborhood Form District.
- The Applicant requests a change in nonconformance from three units in the principal structure to two units within the principal structure and one unit within an accessory structure.

# Site Location



# Zoning/Form Districts

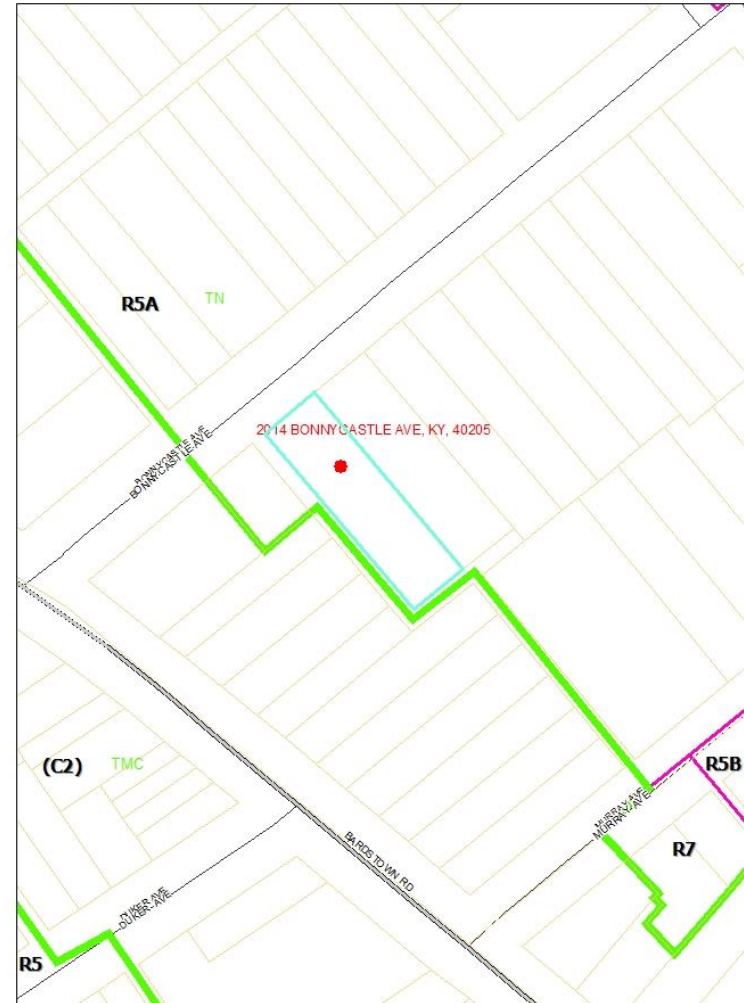
Subject Property: R-5A/TN

North: R-5A/TN

South: C-2/TN

East: R-5A/TN

West: R-5A and C-2/TN




N  
1 inch = 85 feet

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N  
 1 inch = 85 feet

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05/02/2019 09:08



05/02/2019 09:11





05/02/2019 09:09



05/02/2019 09:08



2015

05/02/2019 09:10

# 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

- Staff agrees with the applicant's assertion that the proposed change in nonconformance is in the same classification as the current use. In addition, the change in nonconformance, is no more odious or offensive than the current use. Therefore, staff recommends that the Board approve the change in nonconforming to allow two units in the principal structure and one unit within the proposed accessory structure.

# 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 ?