

Board of Zoning Adjustment

Staff Report

July 10th, 2023



Case No:	23-NONCONFORM-0013
Project Name:	436 Caldwell St Change in Nonconformance
Location:	436 E Caldwell St
Owner:	Kendra O'Bannon
Applicant:	Kendra O'Bannon
Jurisdiction:	Louisville Metro
Council District:	4- Jecorey Arthur
Case Manager:	Mark Pinto, Associate Planner

REQUEST(S)

- Change in nonconforming use from a tavern to an office space.

CASE SUMMARY/BACKGROUND

The subject property is zoned UN Urban Neighborhood in the Traditional Neighborhood form district on the corner of Caldwell St and Jackson St. The property is located within the Smoketown Neighborhood. According to PVA records, the structure was constructed in 1890.

The property received nonconforming rights for a tavern/saloon under case # 20-NONCONFORM-0005 on March 31st, 2020.

The property owner has applied for a change in nonconforming rights. The proposed change is for the front section of the first floor from a tavern/saloon to an office space. The rear portion of the structure will remain a tavern/saloon. The second floor will remain residential. More specifically, the applicant stated 620 sq. ft. is to remain a tavern/saloon and 880 sq. ft. is to be the proposed office space. PVA records indicate the building was constructed in 1890. Per the Land Development Code, if the structure is over 50 years old, there is no parking requirement for the building.

STAFF FINDING

The proposed change in nonconforming use meets the standard of review.

TECHNICAL REVIEW

There are no technical issues.

RELATED CASES

20-NONCONFORM-0005. Nonconforming rights for a tavern/bar were established.

20-NONCONFORM-0012: A nonconforming rights application for an expansion of the building. The case was withdrawn on July 31st, 2020.

21-VARIANCE-0131: An approved variance from Land Development Code Table 5.2.2 to allow a principal structure encroachment into the side yard setbacks.

INTERESTED PARTY COMMENTS

No comments received.

STANDARD OF REVIEW AND STAFF ANALYSIS FOR CHANGE IN NONCONFORMING USE

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 use, an office, is in a more restrictive classification than the non-conforming use of a tavern/saloon which was granted in 2020. Taverns/saloons are permitted in the C-2 zoning district. Offices are permitted in the OR zoning district, which is a more restrict classification than C-2 zoning.

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

Staff Finding: The new nonconforming use of converting the front portion of the first floor into an office space would be no more odious or offensive to surrounding properties than the tavern/bar on the first-floor usage on the site. The new proposed use would generate less traffic and noise than a tavern/saloon. In fact, the proposed usage is typically located in less intensive zoning classifications than a tavern/saloon.

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.

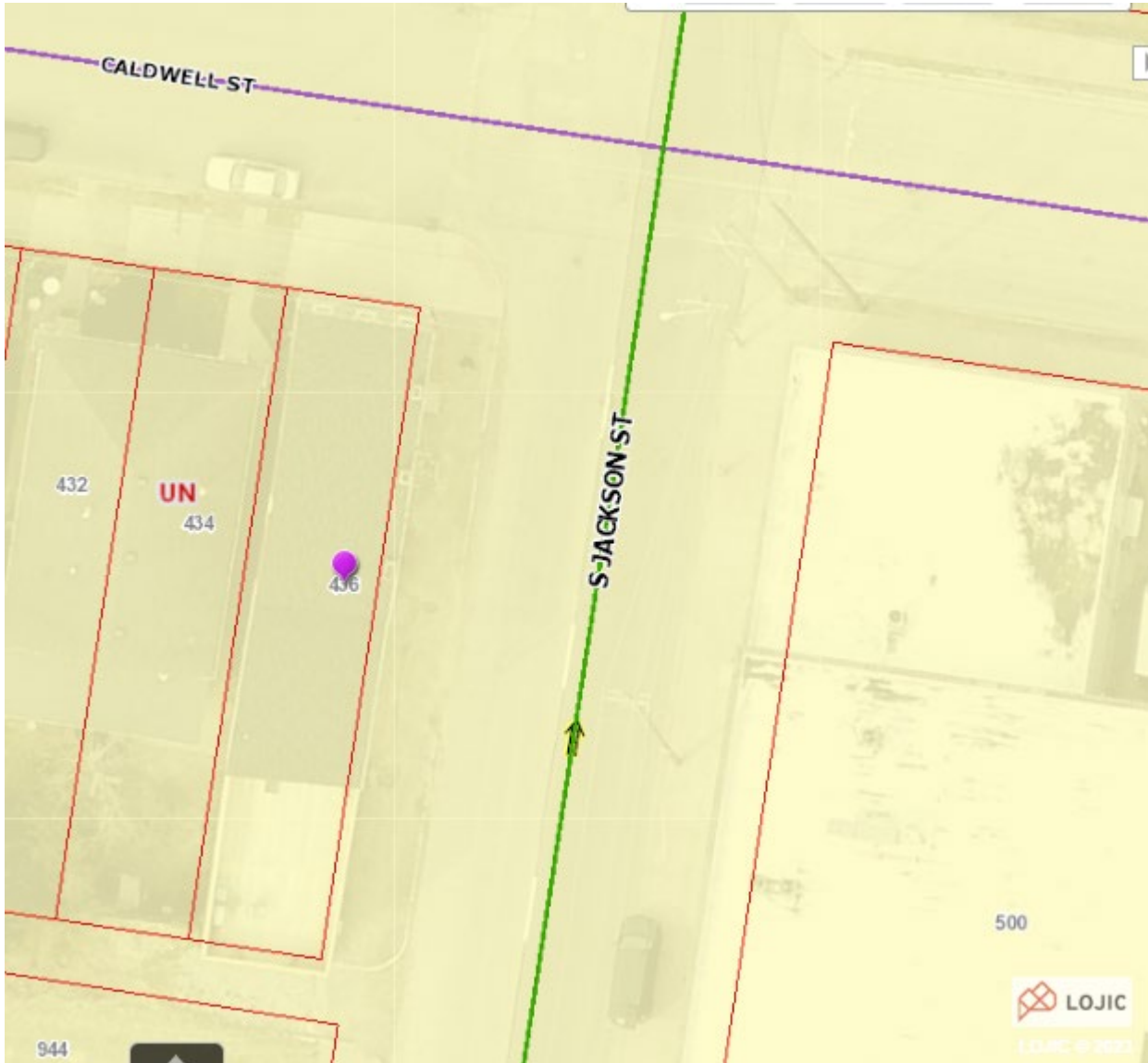
NOTIFICATION

Date	Purpose of Notice	Recipients
6/22/2023	Hearing before Board of Zoning Adjustment	1 st tier adjoining property owners
6/26/2023	Hearing before Board of Zoning Adjustment	GovDelivery for Council District 4
6/28/2023	Hearing before Board of Zoning Adjustment	Sign Posting

ATTACHMENTS

1. Zoning Map
2. Aerial Photograph
3. Site Photos

1. Zoning Map



2. Aerial Photograph



3. Site Photos



At the corner of S. Jackson St and E. Caldwell St.



Subject site; front façade, facing E. Caldwell St.



To the right of subject site.