

**18NONCONFORM1028**  
**Change in Nonconforming Use for**  
**935 Franklin Street**



**Board of Zoning Adjustment Public Hearing**

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

**October 15, 2018**

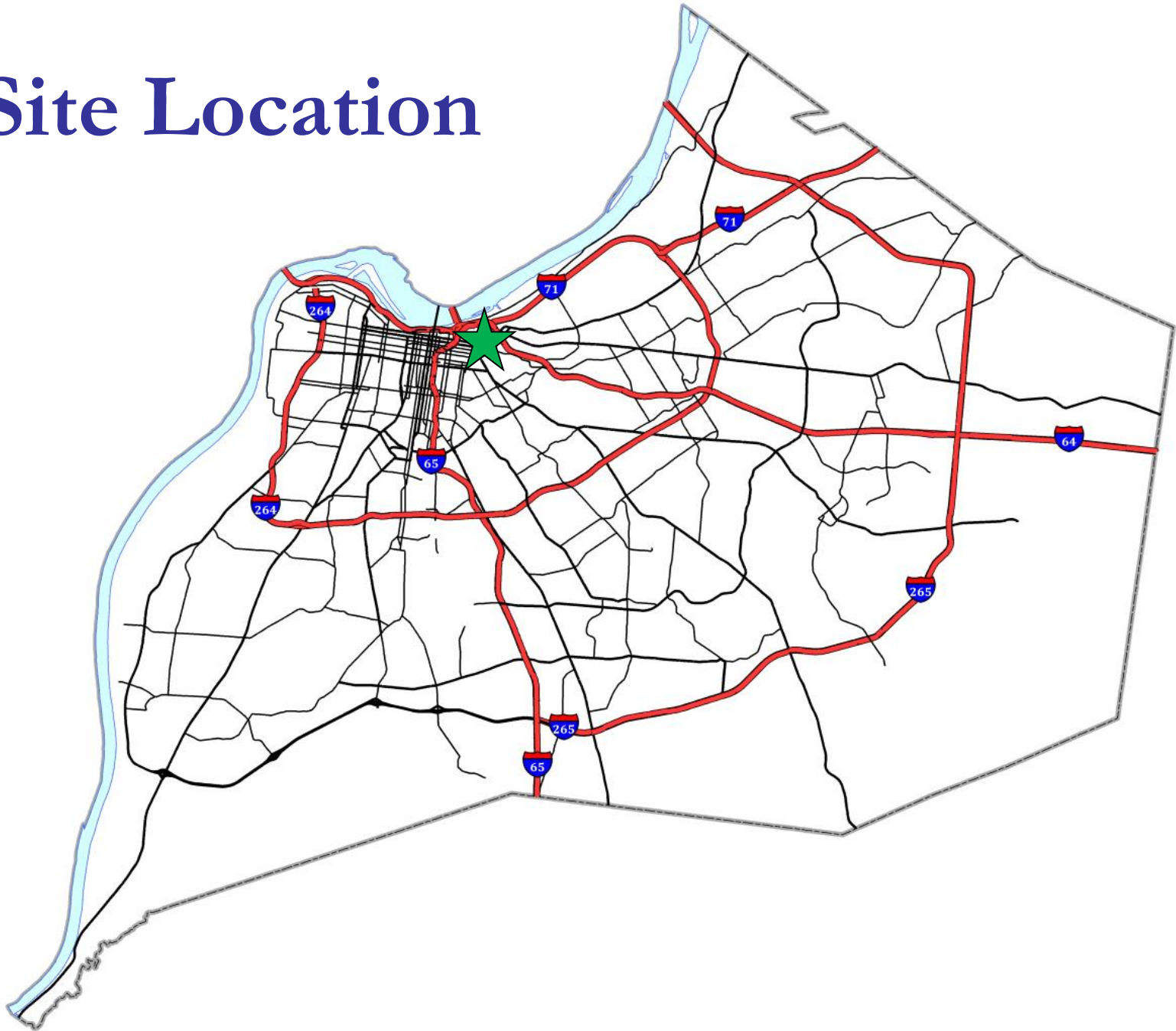
# Request

Change in Nonconforming Use from a Pool Supply Company to Eight Dwelling Units at 935 Franklin Street.

# Case Summary/Background

- The existing building contains approximately 18,041 square feet of gross floor area. The lot is .37890 acres or approximately 16,504 square feet.
- The property is located within the R-6 Multifamily Residential Zone and the Traditional Neighborhood Form District.
- Applicant requests a change in nonconforming use (pool supply company) to eight residential dwelling units. This area totals approximately 14,241 square feet.
- 3,800 square feet of space near the front of the structure is proposed to remain as part of the nonconforming pool supply use.
- With the retention of the 3,800 of nonresidential space in the building, the maximum number of residential units permitted by the underlying R-6 zoning is 4 units.

# Site Location



# Zoning/Form Districts

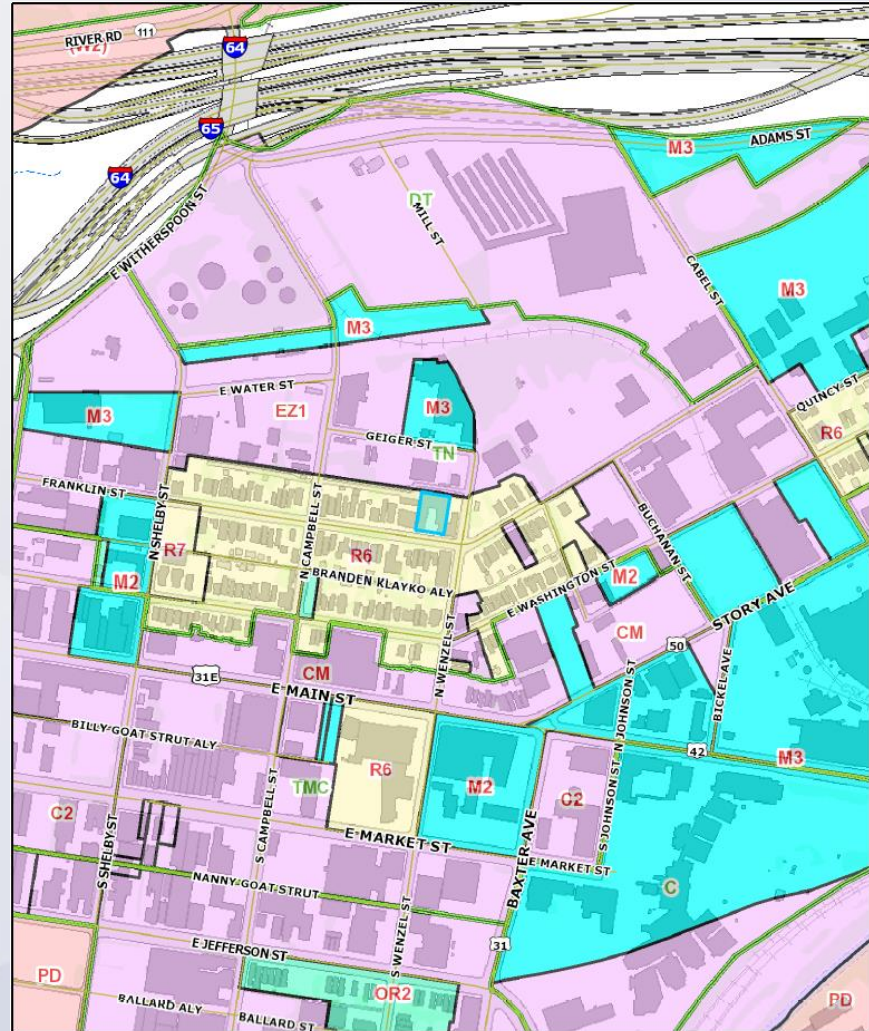
Subject Property: R-6/TN

North: EZ-1/TN

South: R-6/TN

East: R-6/TN

West: R-6/TN



18NONCONFORM1028

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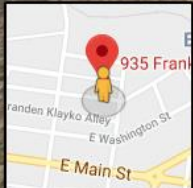
This map is not a legal document and should only be used for general reference and identification.

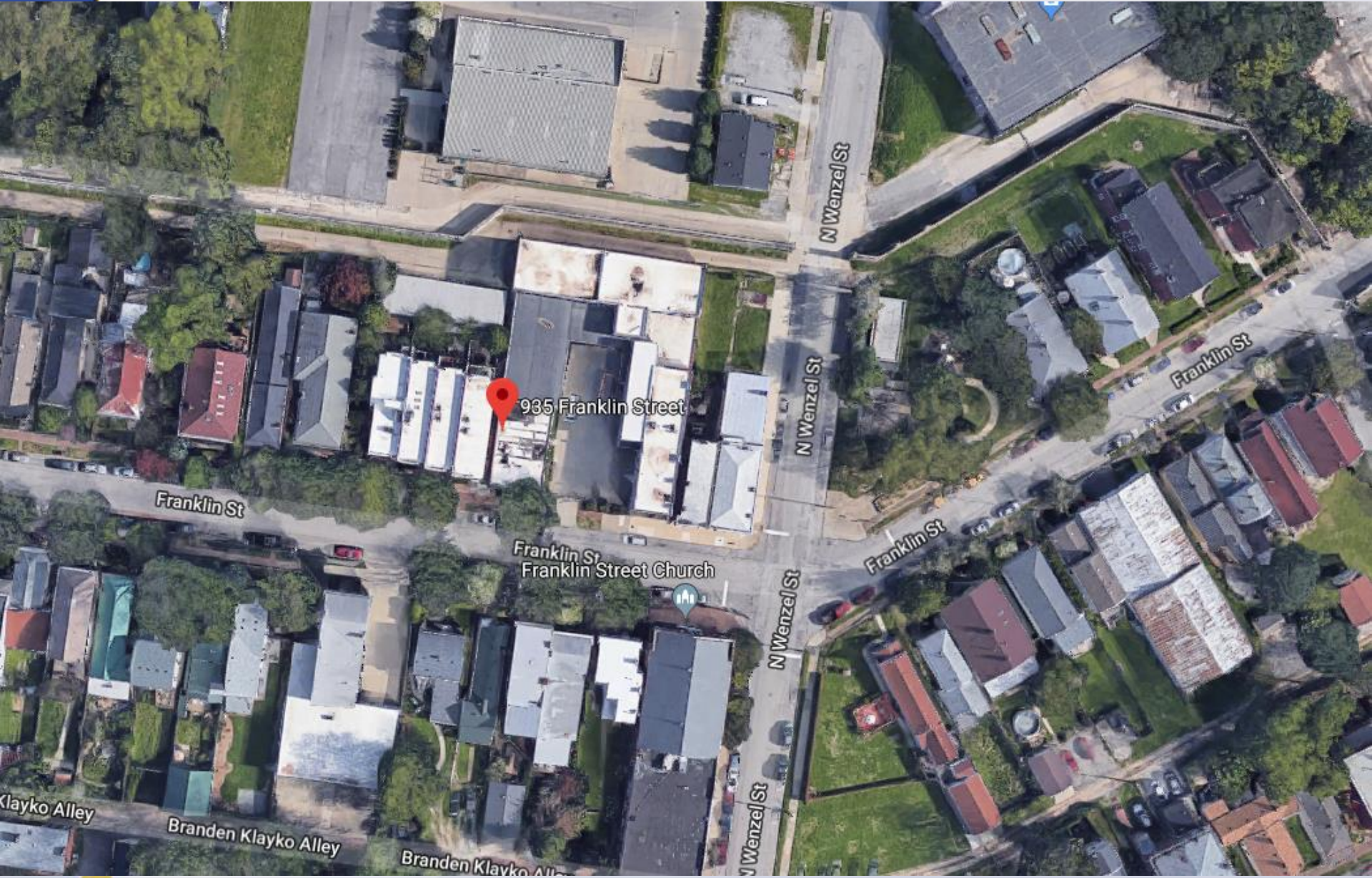


Front of Structure adjacent to Franklin Street

Google

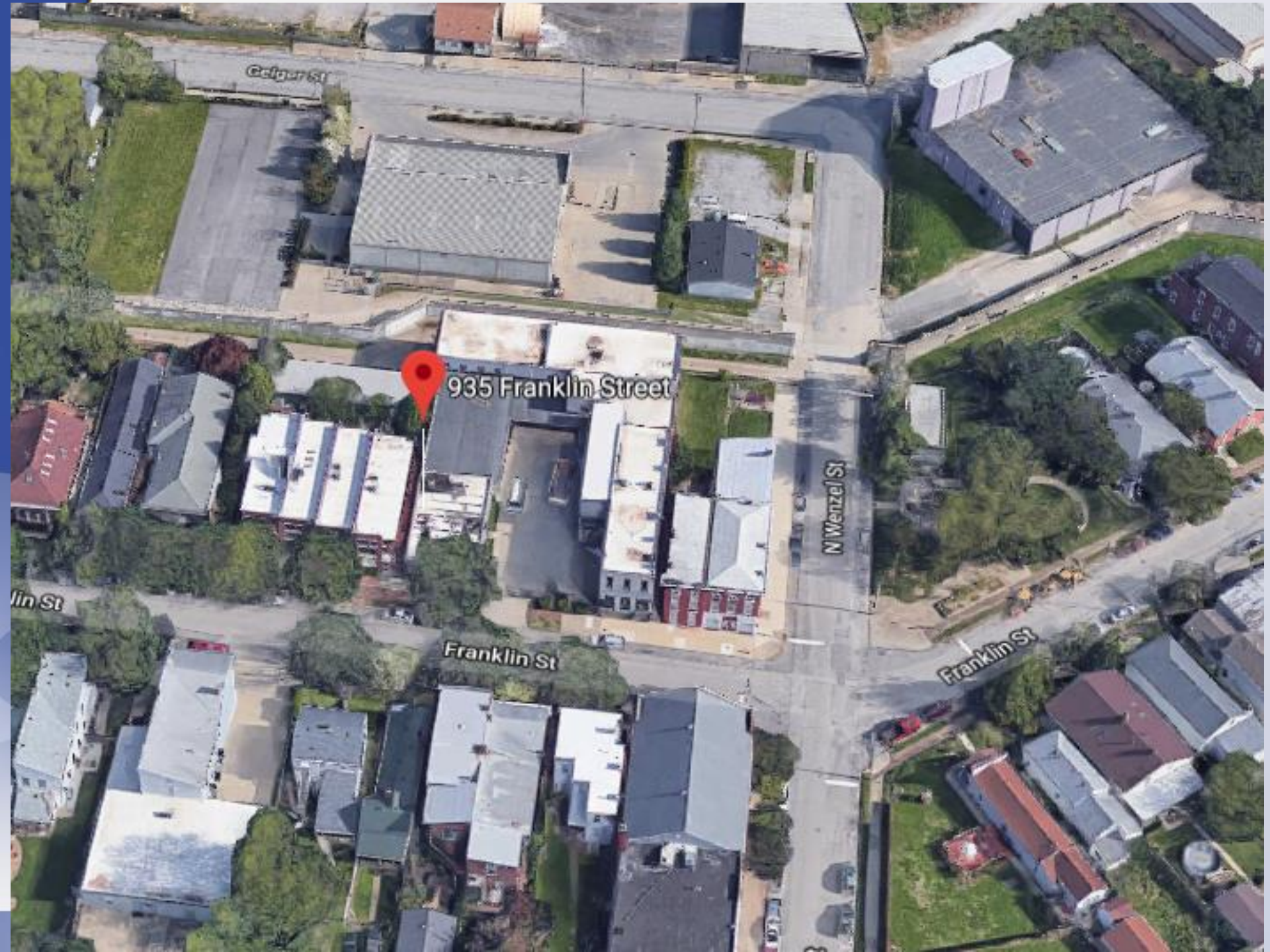
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# Standards of Review (1.3.1 A-D)

- 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 believes that the proposed 8 units would be more intense than the current nonconforming pool supply use. It should be noted that 3,800 square feet of the pool supply use at the front of the structure was excluded from the change in nonconforming use request.
- Staff cannot recommend that the Board approve this change in nonconforming use request.

# 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 new nonconforming use (eight residential dwelling units) is in the same or more restrictive classification than current nonconforming use (pool supply use)?
2. Will the new nonconforming use (eight residential dwelling units) be no more odious or offensive to surrounding properties than the current nonconforming use (pool supply use)?