

# Board of Zoning Adjustments

## Staff Report

December 3, 2018



<b>Case No:</b>	18NONCONFORM1032
<b>Project Name:</b>	Kentucky Street Nonconforming Use Change
<b>Location:</b>	701 E. Kentucky Street
<b>Owner/Applicant:</b>	Jonathan Wall
<b>Jurisdiction:</b>	Louisville Metro
<b>Council District:</b>	(4) Barbara Sexton Smith
<b>Case Manager:</b>	Chris French, AICP, Planning Supervisor

### REQUEST(S)

- Change in nonconforming use from a package liquor store to a convenience grocery store

### CASE SUMMARY/BACKGROUND

The applicant received a nonconforming rights determination for a liquor store for the first-floor portion of the building (Case 18NONCONFORM1025). According to PVA data, the parcel is .0589 acres in size and the two-story building is approximately 2,860 square feet, with approximately 1,430 square feet on the first floor. The subject property is zoned U-N Urban Neighborhood and is located within the Traditional Neighborhood Form District.

Land Development Code (LDC) section 1.3.1.D states:

D. 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.

The applicant requests to change the current nonconforming use (package liquor store) to another nonconforming use (convenience grocery). Package liquor stores are permitted within the C-1 Commercial Zoning District. Convenience grocery stores are also permitted within the C-1 Commercial Zoning District. Both uses meet the definition of a commercial use, which is defined within the LDC as, "A nonresidential use classification that permits the buying and selling of commodities and services.". Based on this information, staff believes that the request conforms to the provisions outlined in LDC section 1.3.1.D.

### STAFF FINDING / RECOMMENDATION

Staff finds that the proposed change in nonconforming use from a packaged liquor store to a convenience grocery store is in conformance with LDC section 1.3.1.D and recommends that the Board approve the request as submitted.

**TECHNICAL REVIEW**

None

**INTERESTED PARTY COMMENTS**

None received

**STANDARD OF REVIEW AND STAFF ANALYSIS FOR CHANGE IN NONCONFORMING USE**

- (a) The current nonconforming use lawfully existed at the time of the enactment of any zoning regulation which would not permit such activity; and

STAFF: Based on a determination by staff under case number 18NONCONFORM1025, the first floor of the structure has legal nonconforming rights for a liquor store.

- (b) The change in nonconforming use shall not increase in the floor area or the land are devoted to the 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; and

STAFF: The proposed change in nonconforming rights to a convenience grocery would not increase floor area dedicated to the nonconforming use.

- (c) The new nonconforming use is in the same or more restrictive classification and the new nonconforming use will be no more odious or offensive to surrounding properties than the first nonconforming use; and

STAFF: The new nonconforming use, convenience grocery is in the same restrictive classification as the first nonconforming use, package liquor store. The new nonconforming use (convenience grocery) will be no more odious or offensive to surrounding property than the first nonconforming use (package liquor store).

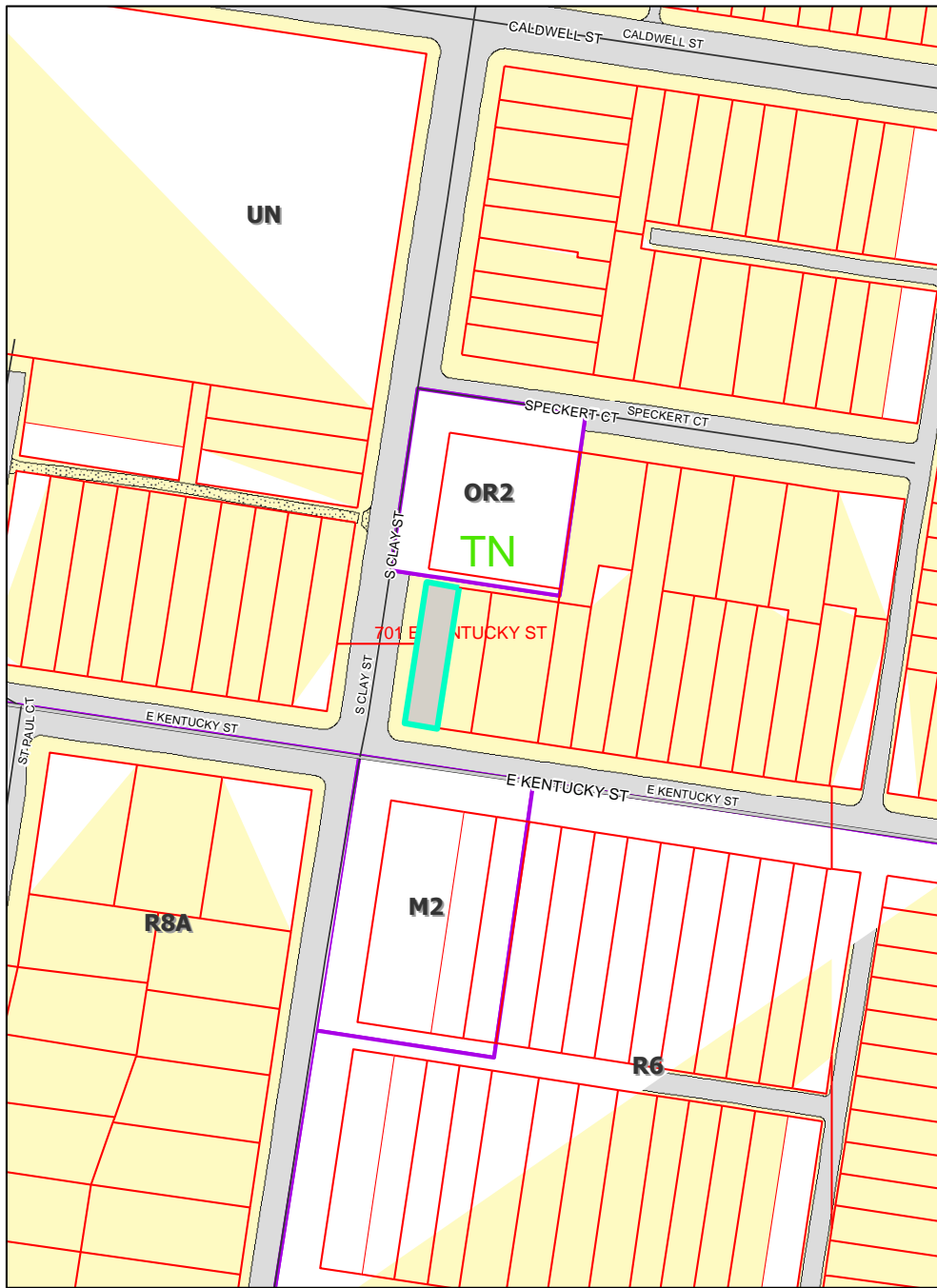
**NOTIFICATION**

Date	Purpose of Notice	Recipients
11/9/18	Hearing before Board of Zoning Adjustments	1 <sup>st</sup> and 2 <sup>nd</sup> tier adjoining property owners Speakers at Planning Commission public hearing Registered Neighborhood Groups in Council District __
11/16/18	Hearing before Board of Zoning Adjustments	Sign posting

**ATTACHMENTS**

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

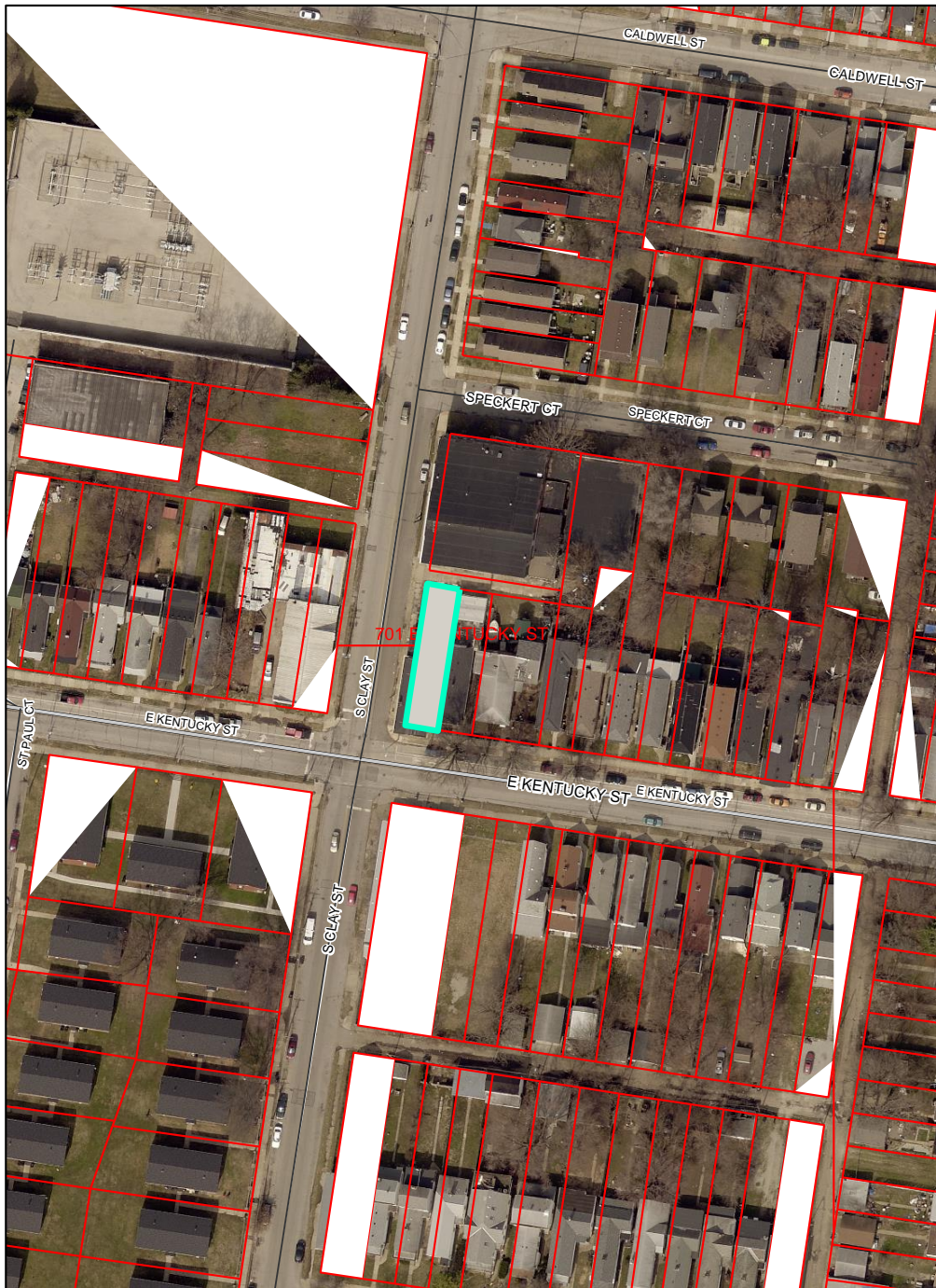
1. Zoning Map



701 E Kentucky St  
150  
Feet



2. Aerial Photograph



701 E Kentucky St  
150  
Feet



**3. Site Photos**



PVA Photo of the site – Photo not dated



Photo of the site showing adjacent residential property to the east



Rear of the subject property



Property across Clay St. from subject property



Property across Kentucky St. from subject property



Rear of subject property with adjacent property to the rear visible