# 19NONCONFORM1018
# Change in Nonconformance for 3906 S. 3rd Street

Board of Zoning Adjustment Public Hearing

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July 08, 2019

# Request

Change in Nonconformance from automobile sales and repair to a contractor's shop in which all the operations are confined within the building.

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# Case Summary/Background

- The property was granted nonconforming rights for automobile sales and repair on this property from Planning and Design Services on November 13, 2017.
- The property located within the R6 zoning district and the Traditional Neighborhood form district.
- The Applicant requests a change in nonconformance from automobile sales and repair to a contractor's shop in which all the operations are confined within the building. Both of these uses are listed in the C2 zoning district.

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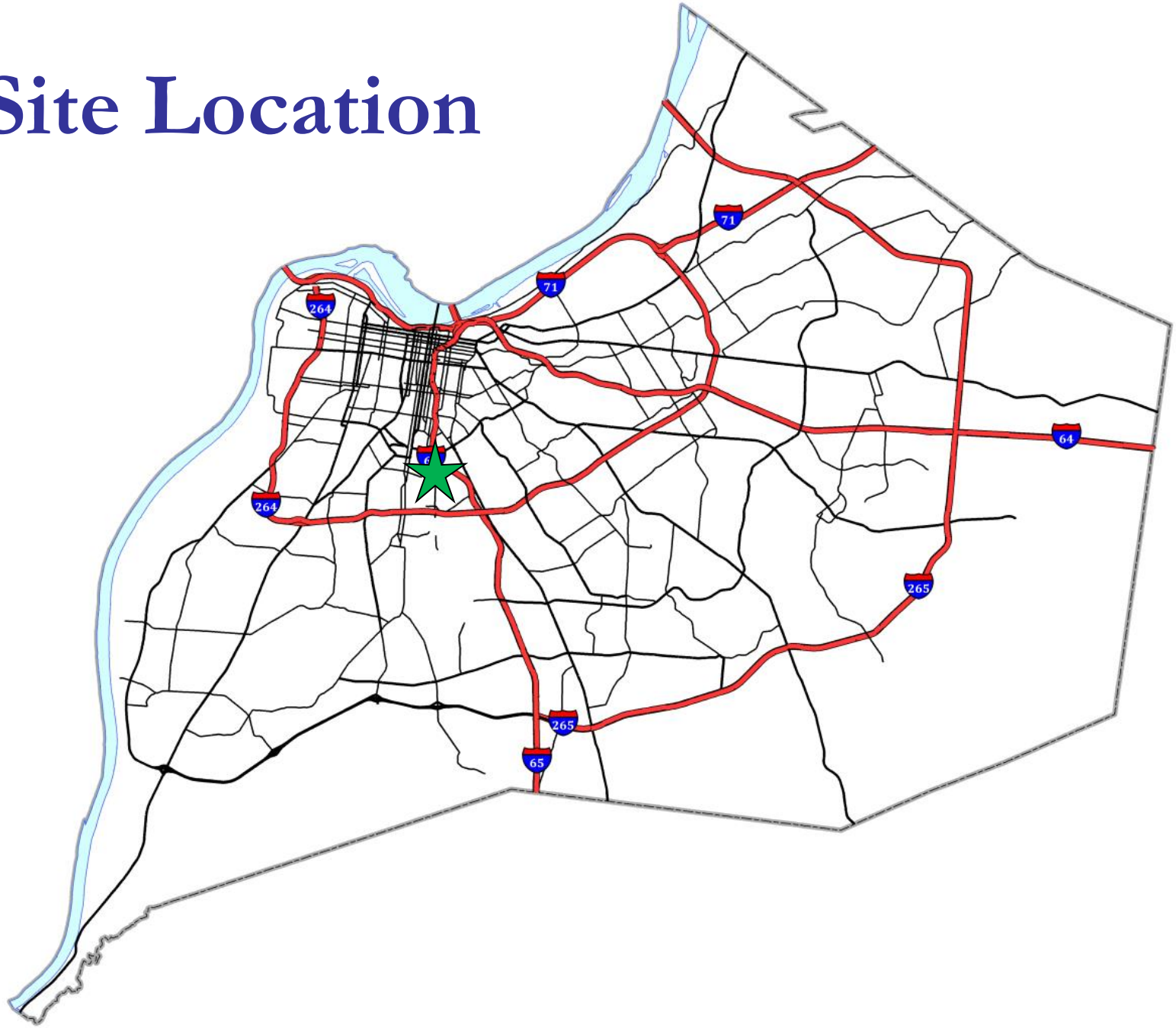
# Site Location



# Zoning/Form Districts

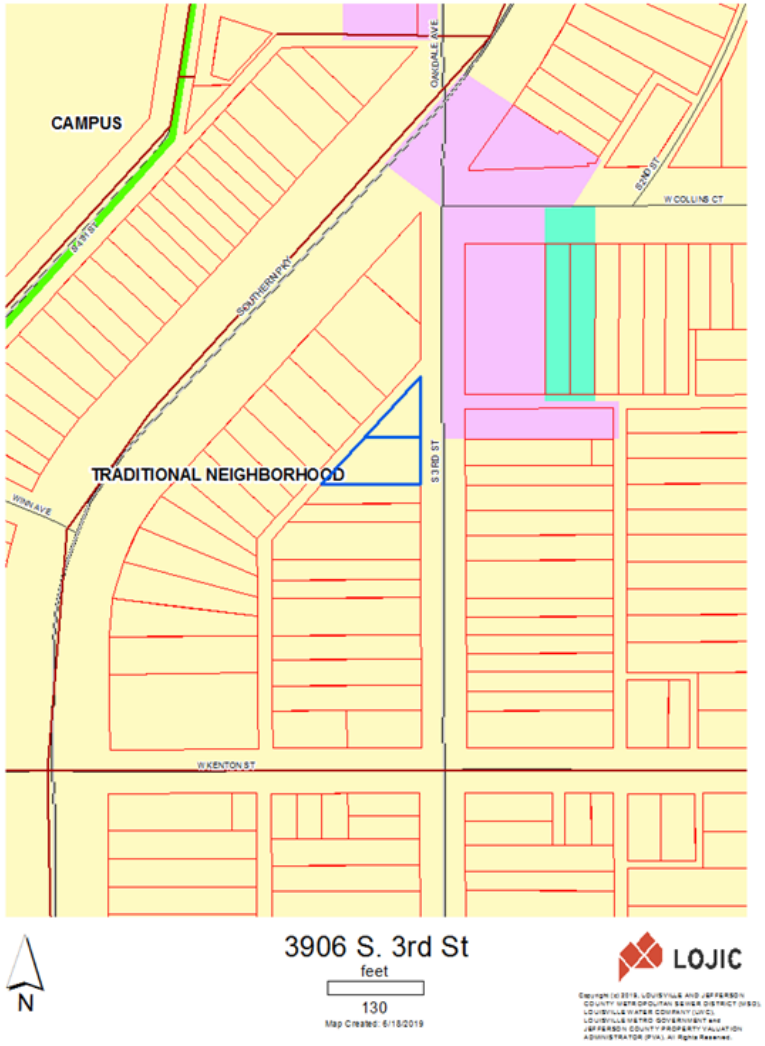
**Subject Property: R-6/TN**

North: R-6 and C-1/TN

South: R-6/TN

East: R-6 and C-1/TN

West: R-5/TN

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# Aerial Photo

**Subject Property: Commercial**

North: Commercial

South: Single-Family Residential

East: Commercial, Multi and Single-Family

West: Single-Family

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LEFT LANE
MUST
TURN LEFT
PUBLIC HEARING
BOARD OF ZONING
ADJUSTMENT
574-6230
06/21/2019 10:20

Auto
Sales Inc.
502.641.3538
06/21/2019 10:20

06/21/2019 10:18

06/21/2019 10:21

06/21/2019 10:18

# 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.

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# 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 a contractor's shop in which all operations are confined within the building.

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# 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.**

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