

# Board of Zoning Adjustment

## Staff Report

November 2, 2020



<b>Case No:</b>	20-APPEAL-0007
<b>Project Name:</b>	Buena Vista Court Appeal
<b>Location:</b>	7614 Buena Vista Court
<b>Appellant:</b>	Robert Humpich and Ronda Durbin
<b>Representative:</b>	Robert Humpich and Ronda Durbin
<b>Jurisdiction:</b>	Louisville Metro
<b>Council District:</b>	24 – Madonna Flood
<b>Case Manager:</b>	Jon E. Crumbie, Planning & Design Coordinator

### **REQUEST(S)**

- Appeal of an administrative decision regarding nonconforming rights

### **CASE SUMMARY/BACKGROUND**

The Appellant submitted a nonconforming rights determination request on May 28, 2020. Staff conducted a review of the applicant's information and determined that there was not sufficient information that a nonconforming use (trucking company) has been established in the R-4 Single Family Zoning district. Therefore, staff concluded that the property does not have nonconforming rights for a trucking company and submitted a letter to the Appellant stating that decision on June 18, 2020.

The Appellant filed an appeal of the administrative decision on June 9, 2020, which is within the 30-day appeal period. The Appellant submitted information with the appeal application to support their basis of appeal concluding that there is a trucking company on the parcel. This documentation is part of the record and is available for the Board to review on the Louisville Metro Government Agenda & Meeting Portal (<http://louisville.legistar.com>).

### **STAFF ANALYSIS/FINDINGS**

The following sections of the LDC are applicable to this case:

Section 1.2.2 Definitions

Section 9.1.15 Parking in Residential Areas

Section 1.3.1 Use

As currently defined in LDC Sec. 1.2.2, the following definitions are relevant to the appeal:

*Nonconformity (or Nonconforming)* -An activity or a building, structure or a portion thereof which lawfully existed before the adoption or amendment of the zoning regulation, but which does not conform to all of the regulations contained in the zoning regulation which pertain to the zone in which it is located.

*Truck.* A motor vehicle which is designed primarily for the movement of property or special purpose equipment, or a motor vehicle that is designed to carry more than ten (10) persons. Truck includes vehicles commonly called trucks, pick-ups, delivery vans, buses, motor homes and other similar vehicles. Truck is intended to cover the vehicles

defined as trucks and buses by the National Highway Traffic Safety Administration.

Trucks are divided into three (3) categories as follows:

(a) Light Truck. Light trucks are trucks and similar vehicles with single rear axles and single rear wheels.

(b) Medium Truck. Medium trucks are trucks and similar vehicles, other than truck trailers, with single rear axles and dual rear wheels. Truck tractors are in the Heavy Truck category.

(c) Heavy Truck. Heavy trucks are trucks, including truck tractors, and similar vehicles with two or more rear axles.

#### 9.1.15, Parking in Residential areas:

1. The parking of medium trucks shall count against the maximum number of vehicles allowed in Table 9.1.2 and shall be permitted as follows:

**Staff observed four trucks that would be considered medium trucks**

No more than one medium truck per dwelling unit may be parked outdoors on a lot that is less than 20,000 square feet in size.

No more than two medium trucks per dwelling unit may be parked outdoor on a lot that is greater than or equal to 20,000 square feet in size.

2. The parking of heavy trucks and equipment is prohibited.

According to Jefferson County PVA records, the property type is listed as Residential 1 Family Dwelling. The PVA lists the structure as built in 1957.

The Appellant provided documentation related to their ownership and use of the property as a trucking company. The property is in the county and must be dated back to 1943. The Polk Directories show the property as single family from 1958 through 2009. The trucking company does not show up in the listings until 2001.

#### Directory Information

1958	Donald Stoll (Homeowner)
1969	Vaughan Thos (Homeowner)
1980	Robert Humpich (Homeowner)
1998	Robert Humpich (Homeowner)
2001	Robert Humpich (Homeowner) <u>Humpich Trucking Co.</u>
2010	Robert Humpich (Homeowner) <u>Humpich Trucking Co.</u>
2019	Robert Humpich (Homeowner) <u>Humpich Trucking Co.</u>

### **Staff Conclusions**

Staff did not have sufficient information in the review of the nonconforming rights case that a trucking company existed on the site continuously from 1943. The Appellant has not submitted additional information to change staff's previous conclusion. Therefore, staff believes that the original decision was correct, and the property does not have established nonconforming rights for a trucking company.

### **Standard of Review**

Pursuant to LDC 11.7.3 and KRS 100.257, the Board of Adjustment shall have the power to hear and decide cases where it is alleged by the applicant that there is error in any order, requirement, decision, grant, or refusal made by an administrative official in the enforcement of the zoning regulation.

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. Did the trucking company exist on the property in 1943?
2. If yes to question 1, did this use of the property continue to the present day?

If the Board answers yes to both questions, then the Board would concur with the applicant, and the approval of such motion would overturn staff's decision.

If the Board answers no to any of the two questions listed above, then an approval of such a motion would affirm staff's decision.

### **RELATED CASES**

**20-NONCONFORM-0009** – The administrative decision in this case is the subject of the appeal.

**19PM12952** – Notice of Violations were issued on April 21, 2020, and May 1, 2020. A Citation was issued for \$100.00 on August 18, 2020.

A Notice of Violation was issued on November 14, 2006. Staff could not find any related documents concerning the violation.

### **INTERESTED PARTY COMMENTS**

No comments submitted.

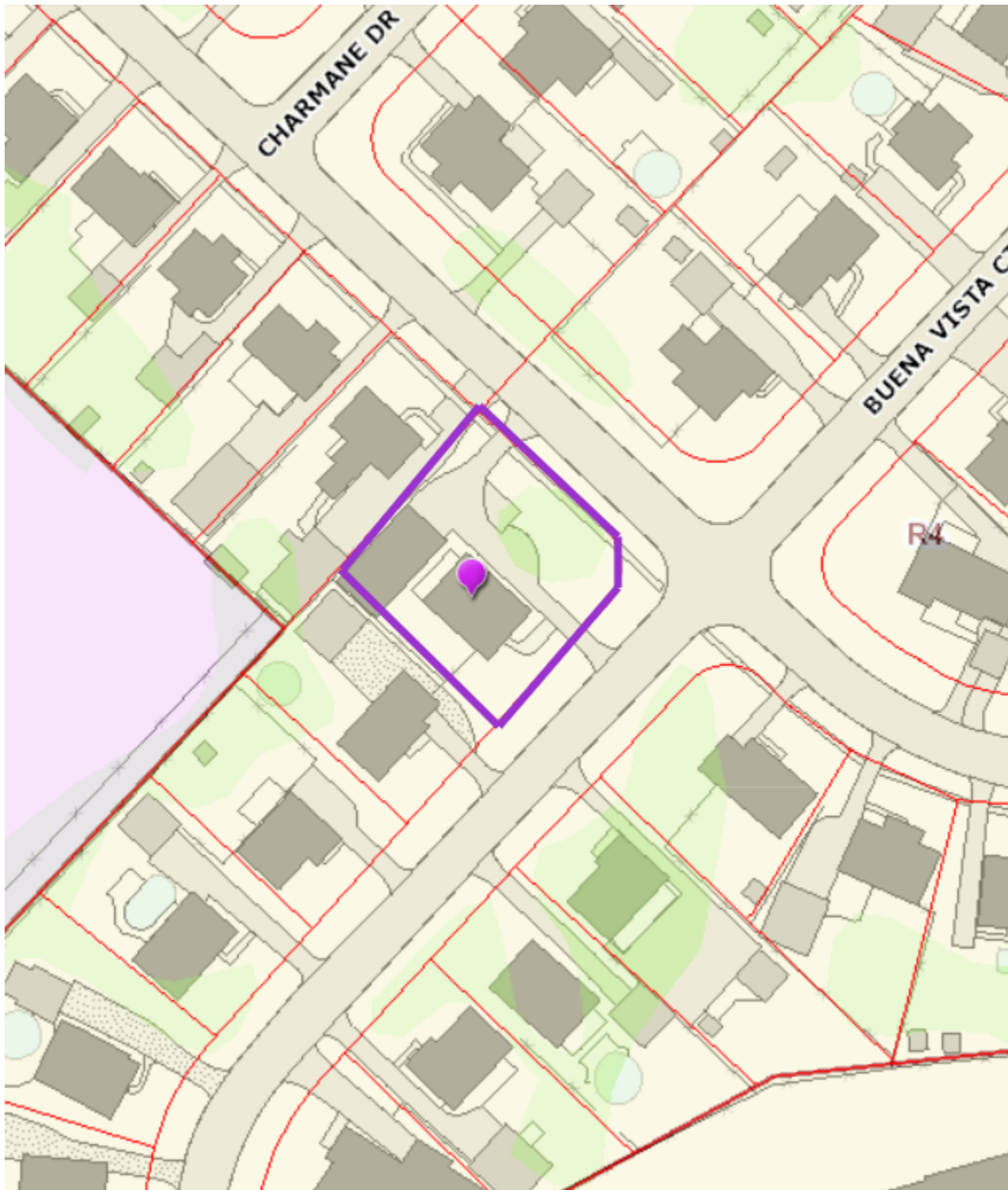
### **NOTIFICATION**

Date	Purpose of Notice	Recipients
10/14/2020	Notification of appeal of an administrative decision	Adjoining property owners, Appellant, and PDS staff GovDelivery District
	Legal ad for notification of appeal of an administrative decision	Courier Journal - published in paper by Appellant or Representative

## **ATTACHMENTS**

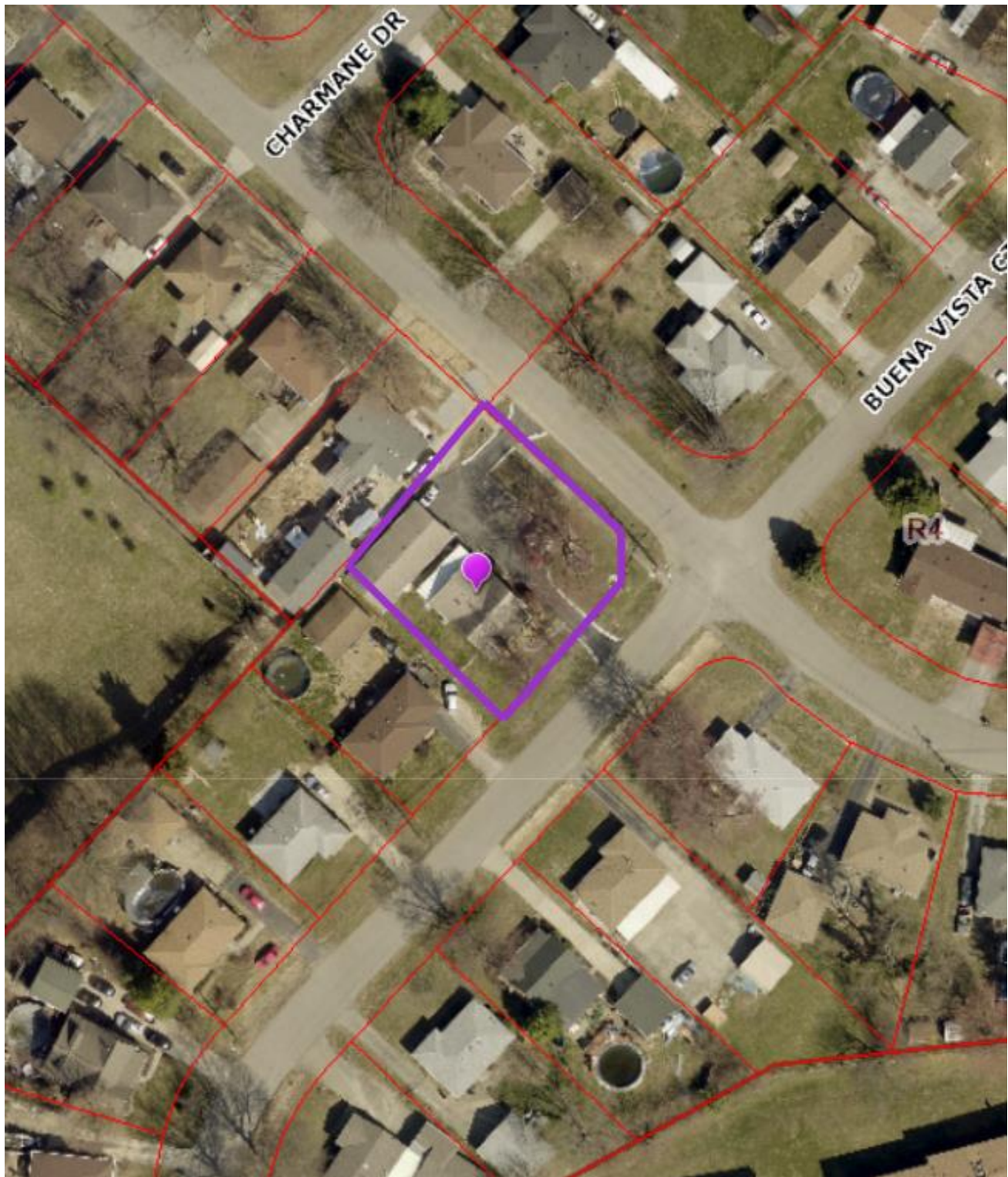
1. Zoning Map
2. Aerial Photograph
3. Site Photos

1. **Zoning Map**



2. Aerial Photograph





### 3. Site Photos







