

20-NONCONFORM-0027

947 E. Madison St.



**Louisville Metro Board of Zoning Adjustment
Public Hearing**

**Rachel Mandell
January 11th, 2021**

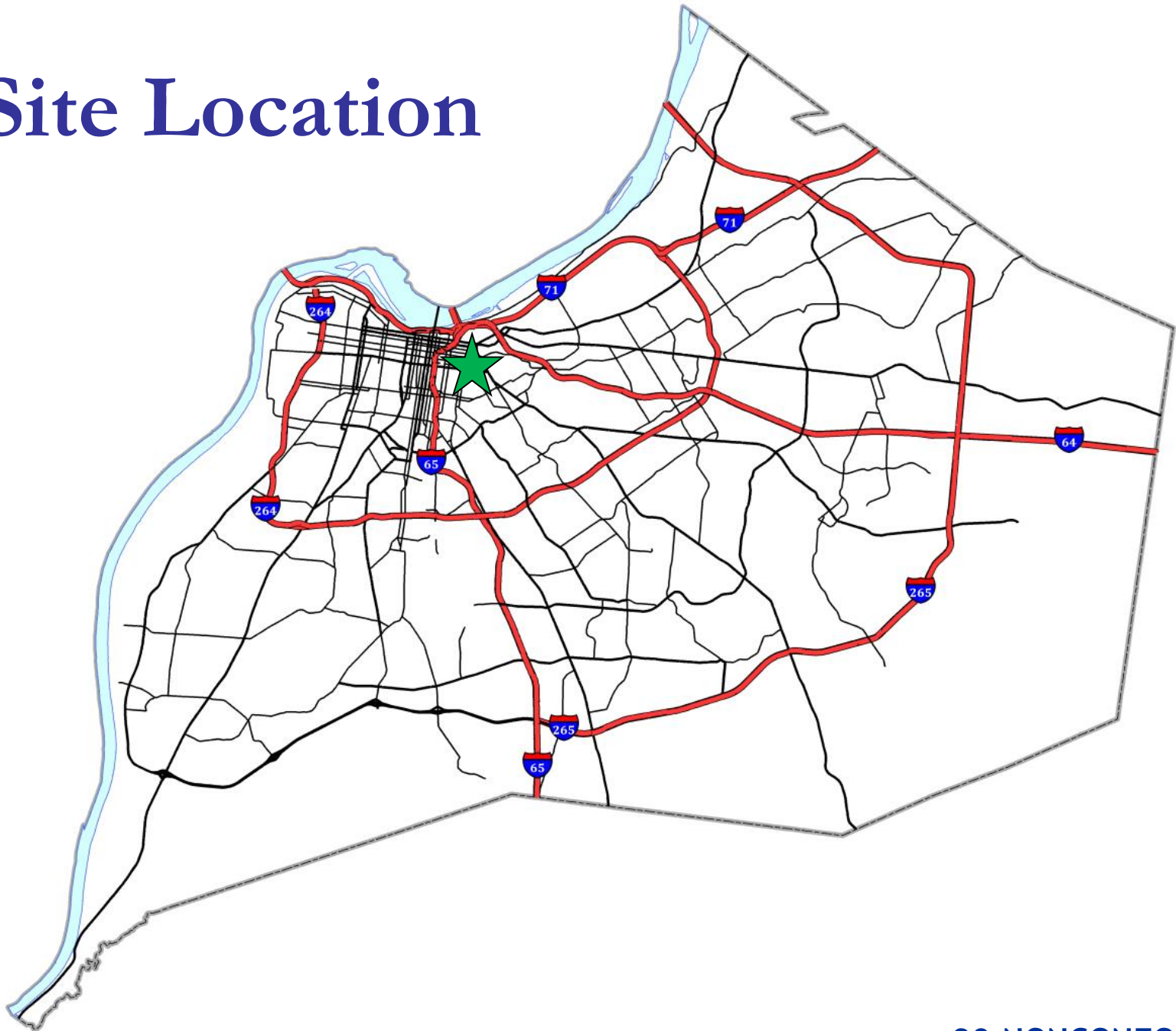
Request

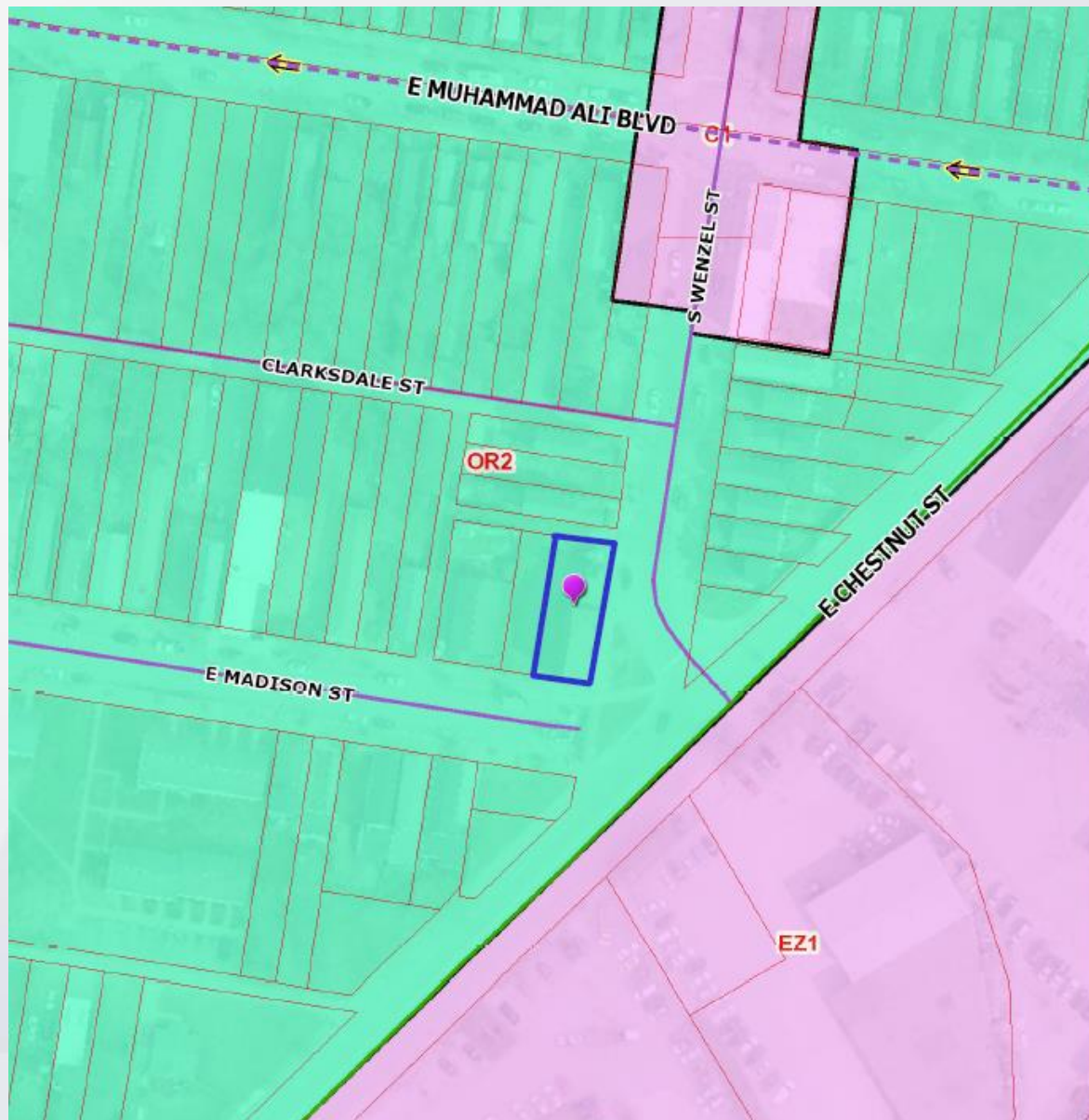
- Change in Nonconformance: Change in nonconforming use from a Restaurant to a Drug Store.

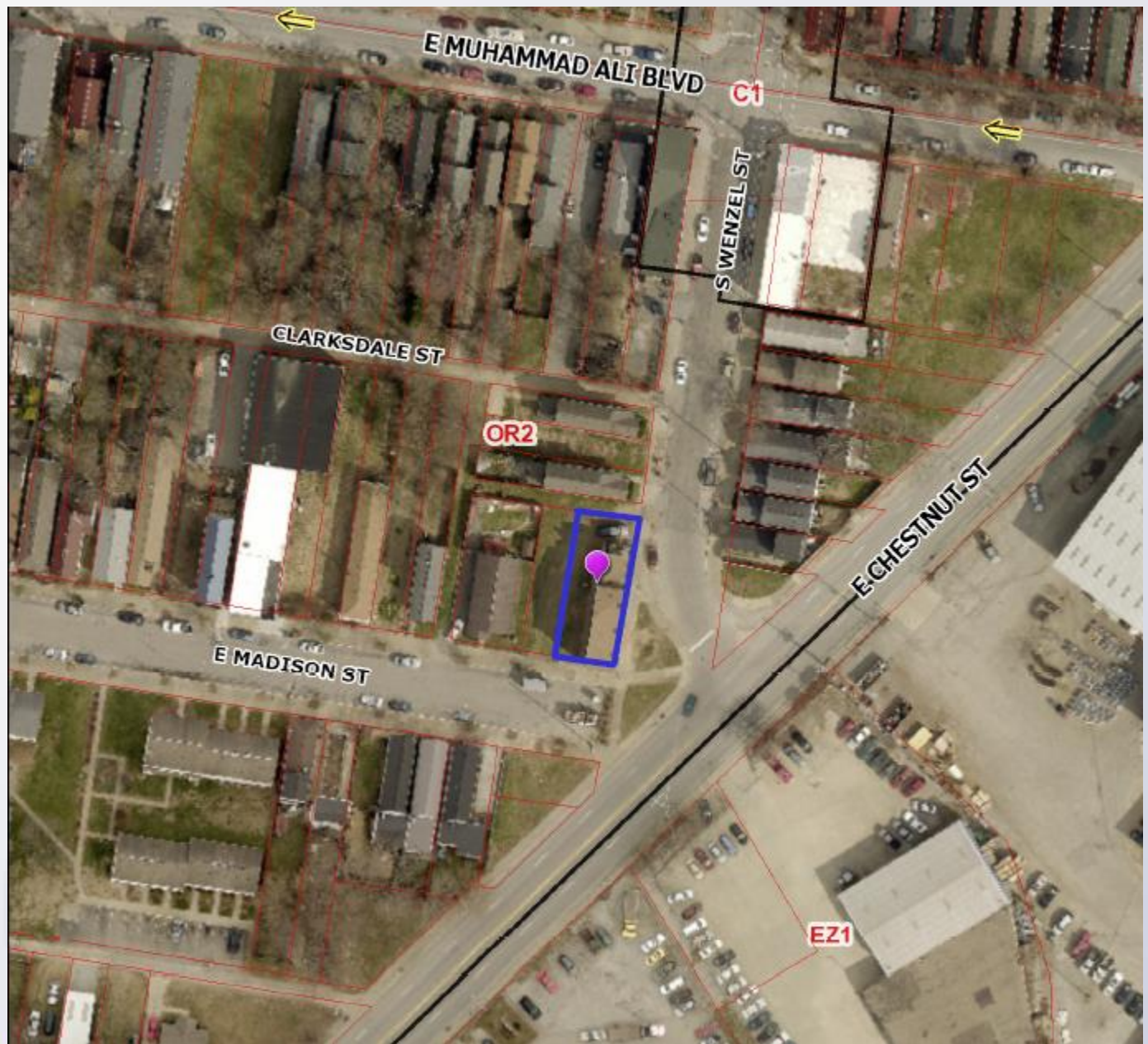
Case Summary / Background

- The subject property is located within the OR-2 zoning district and the Traditional Neighborhood form district.
- The property owner received a nonconforming rights determination for a Restaurant on this property from Planning & Design on October 26th, 2020.
- The property owner has submitted this request to change the use to a Drug Store.

Site Location







Site Photos



Site Photos



Site Photos



Site Photos



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.

Conclusion

- The proposed nonconforming use, a Drug Store, is in the same classification as the original nonconforming use; both are permitted in the C-1 zoning district.
- The new nonconforming use is no more odious or offensive than the original nonconforming use that was granted in October. There are several commercial uses in the general vicinity.

Required Action

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.