

Board of Zoning Adjustment

Staff Report

January 11th, 2021



Case No:	20-NONCONFORM-0027
Project Name:	Change in Nonconforming Use
Location:	947 E Madison St.
Owner(s):	Madison Street Properties LLC
Applicant:	Scott Herrmann
Jurisdiction:	Louisville Metro
Council District:	4 – Barbara Sexton Smith
Case Manager:	Rachel Mandell, Planner I

REQUEST(S)

- 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 from Planning and Design Services on October 26th, 2020.

The property owner has submitted this request to change the use from a Restaurant to a Drug Store. The proposed drug store will provide products that focus on health and wellness, particularly CBD. The store will also sell convenience items, higher-end art and collectibles.

STAFF FINDING

The proposed change in nonconforming use meets the standard of review.

TECHNICAL REVIEW

No technical review required.

INTERESTED PARTY COMMENTS

No comments received.

STANDARD OF REVIEW AND STAFF ANALYSIS FOR CONDITIONAL USE PERMIT

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.

1. Is the new nonconforming use in the same or more restrictive classification of the first nonconforming use?

Staff Finding: The proposed nonconforming use of a drug store is in the same classification as the original nonconforming use of a restaurant. The original nonconforming use of a restaurant was restricted to a restaurant in the C-1 district, which does not permit dancing, entertainment activities, and only allows indoor alcohol sales and consumption. A drug store is also a permitted use in the C-1 district.

1. Is the new nonconforming use no more odious or offensive to surrounding properties than the first nonconforming use?

Staff Finding: The proposed use is not more odious or offensive to the surrounding properties than the first nonconforming use. A drug store potentially produces less noise than a restaurant due to no outdoor dining or large party reservations. Additionally, the demand for parking will likely be reduced due to a drug store requiring less time spent in the establishment than a restaurant. Customers will come and go more quickly as opposed to the previous nonconforming use.

REQUIRED ACTIONS:

- **APPROVE** or **DENY** the **Change in nonconforming use**

Based upon the information in the staff report, the testimony and evidence provided at the public hearing, the Board of Zoning Adjustments must determine if the proposal is in conformance with the Land Development Code Section 1.3.1 paragraph D.

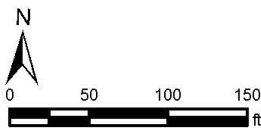
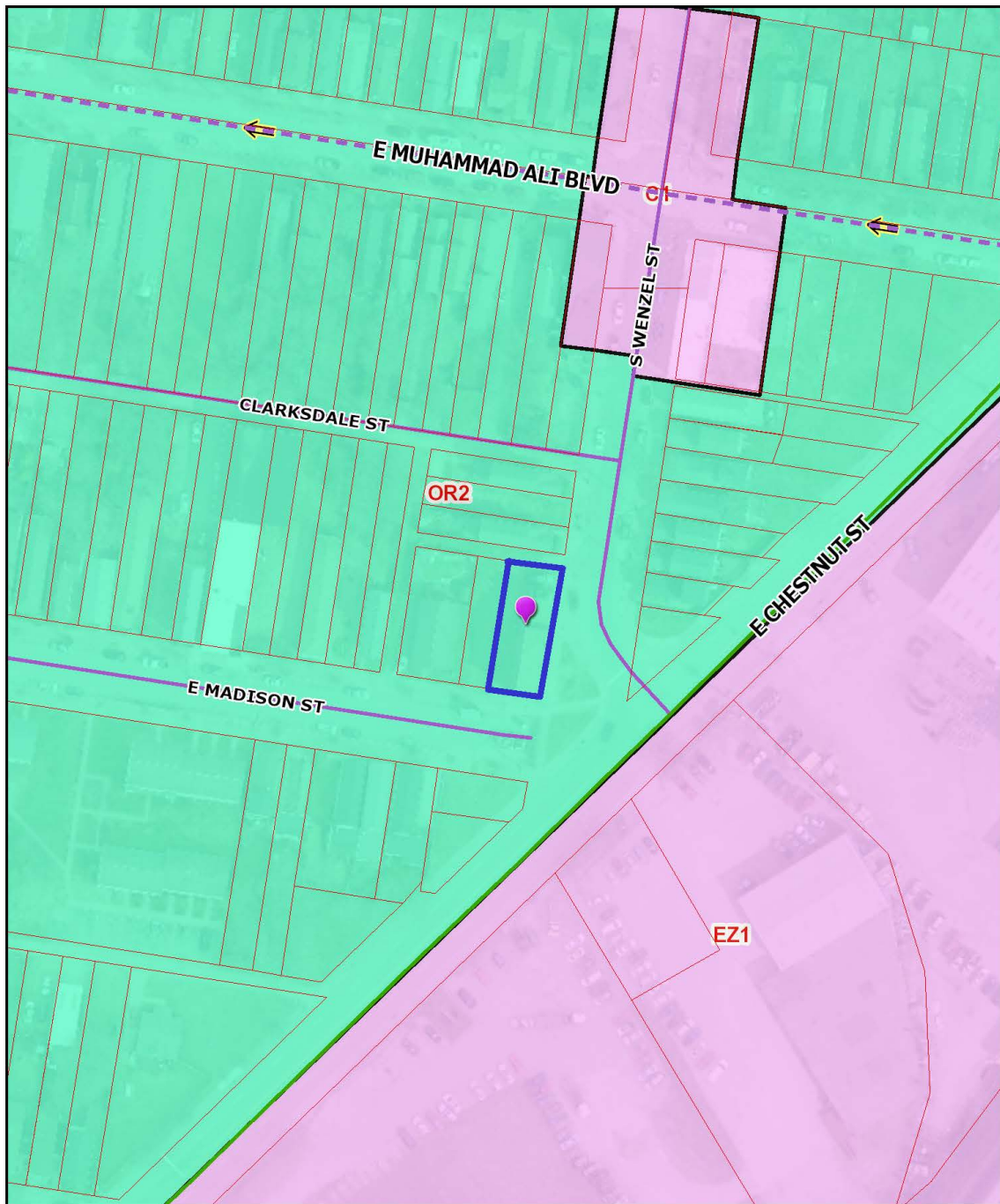
NOTIFICATION

Date	Purpose of Notice	Recipients
12/21/2020	Hearing before Board of Zoning Adjustment	1 st and 2 nd tier adjoining property owners
12/23/2020	Hearing before Board of Zoning Adjustment	Registered Neighborhood Groups in Council District Sign Posting

ATTACHMENTS

1. Zoning Map
2. Aerial Photograph

1. Zoning Map



947 E. Madison St.

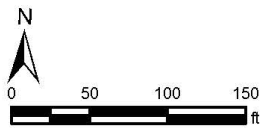
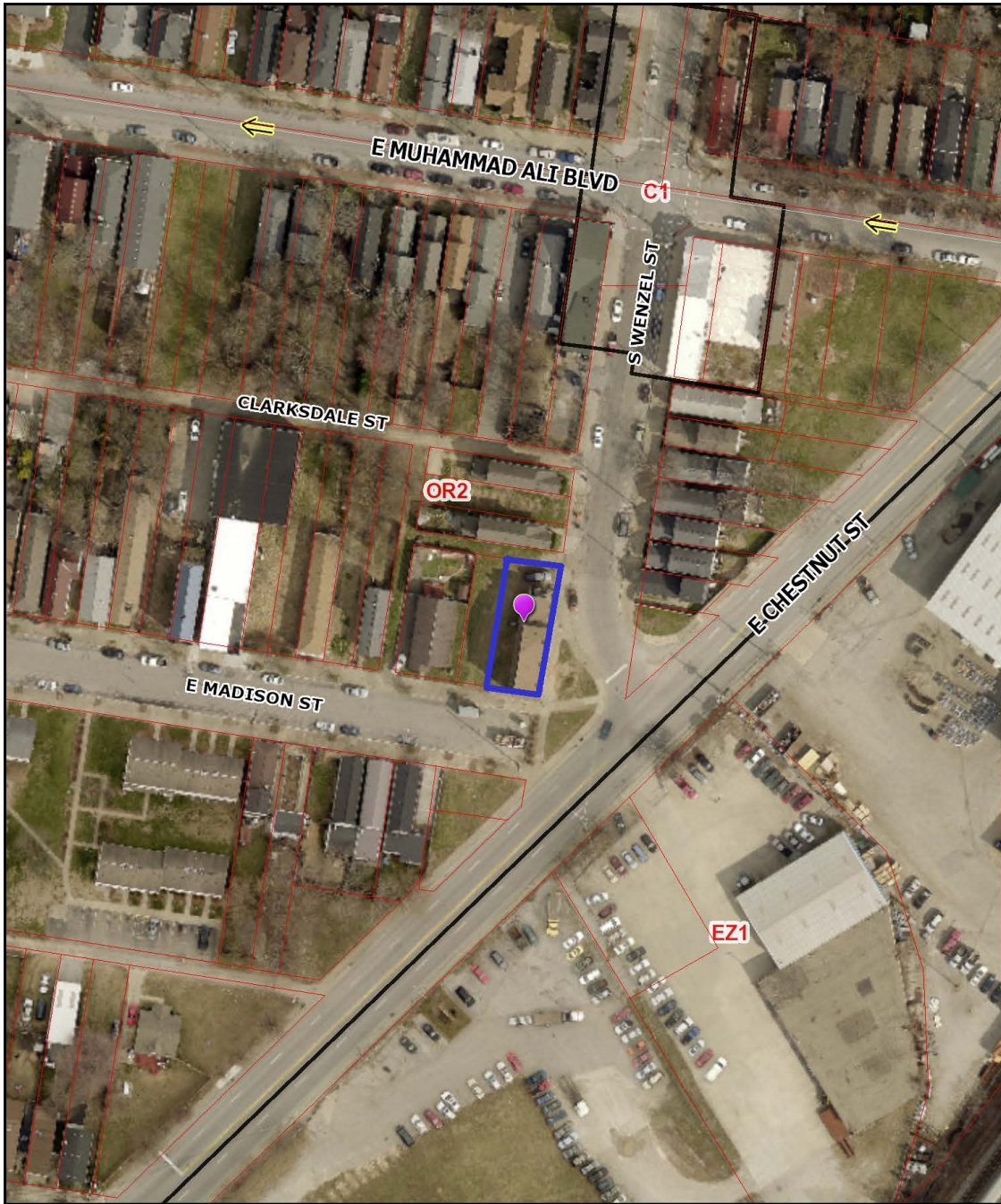
Saturday, November 28, 2020 | 11:59:47 AM



LOJIC © 2020

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

2. Aerial Photograph



947 E. Madison St.

Saturday, November 28, 2020 | 12:03:42 PM



LOJIC © 2020

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