

Board of Zoning Adjustment

Staff Report

March 1, 2021



Case No:	20-APPEAL-0009
Project Name:	West Chestnut Street Appeal
Location:	2601 West Chestnut Street
Appellant:	Katheryn Higgins
Representative:	Thomas Hurst
Jurisdiction:	Louisville Metro
Council District:	5 – Donna Purvis
Case Manager:	Jon E. Crumbie, Planning & Design Coordinator

This case was continued from the February 15, 2021 Board of Zoning Adjustment public hearing.

REQUEST(S)

- Appeal of an administrative decision regarding nonconforming rights

CASE SUMMARY/BACKGROUND

The owner submitted a nonconforming rights determination request on July 20, 2020 for the entire property, which consists of three attached buildings that are currently under common ownership. Only the rear building is subject to this report and appeal. Staff conducted a review of the applicant's information and determined that there was sufficient documentation to acknowledge nonconforming use rights for six residential units in the rear building. A letter providing this decision was sent to the property owner on November 18, 2020.

The front and middle buildings, which share an interior connection, were reviewed independently from the rear building. The property owner appealed the decision related to front and middle buildings, which was reviewed and upheld by the BOZA on December 21, 2020 (20-APPEAL-0008). As this decision was separately appealed and has already been reviewed and acted upon by the BOZA, it is not subject to this report and should not be further deliberated in this appeal hearing.

The Appellant filed an appeal of the administrative decision on December 18, 2020, which was hand delivered and within the 30-day appeal period. Planning Resource staff did not process the application until December 21, 2020. The Appellant submitted information with the appeal application to support their basis of appeal concluding that six residential units do not exist in the rear portion of the building. 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>). It should be noted that the Appellant is a third party and is not the property owner and does not represent the property owner.

STAFF ANALYSIS/FINDINGS

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

Section 1.2.2 Definitions

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.

According to Jefferson County PVA records, the property type is listed as apartments-multi residential. The PVA lists the structure as built in 1890.

The Appellant, who is not the property owner and does not represent the property owner provided a document related to the use of the rear portion of the building as residential units. The property is in the original city and must be dated back to 1971. The Polk Directories show the property as being used for a residential multi-family and a variety of uses.

Directories

540-548 S 26th St:

1971:

540, 540 ½, 542 ½, 548- 1 listing each

542- vacant

544 shoe repair

546 Beauty Salon and Mrs. Emma Jones

1972:

540, 540 ½, 542 ½, 548- 1 listing each

542- vacant

544 shoe repair

546 Beauty Salon and Mrs. Emma Jones

1977:

540, 540 ½, 542 ½, 548- 1 listing each

542- vacant,

544- Wirth shoe repair

546- t& L Door Closers repair service

1983:

540, 542, 542 ½, 544, 546,- each listed as vacant

540 ½, 548- 1 listing each

1988:

540- vacant

1994:

540-546 vacant

1999:

No listings for 3 blocks (W Madison, W Chestnut, and Portland Ave intersects)

2009:

No listings for 2 blocks (W Madison, W Chestnut intersects)

2014:

Not shown (Addresses end at 538 S 26th)

Staff Conclusions

The residential multi-family uses have been in effect since 1971 and staff has inspected the building for a prior case and observed residential units. The Appellant has not submitted additional information to change staff's previous conclusion. Therefore, staff believes that the original decision was correct.

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 a residential multi-family use with six residential units exist in the rear building in 1971?
2. If yes to question 1, did this use of the property continue to the present day?

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

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

RELATED CASES

20-NONCOMFORM-0031 – The administrative decision in this case is the subject of the appeal.

19-CUP-0139 – An application for a Conditional Use Permit for Transitional Housing. The Board of Zoning Adjustment denied this request on October 7, 2019.

Russell Neighborhood Plan – Zoning of property changed from M-1 to R-6 sometime after 1984.

INTERESTED PARTY COMMENTS

Staff has not received any interested party comments.

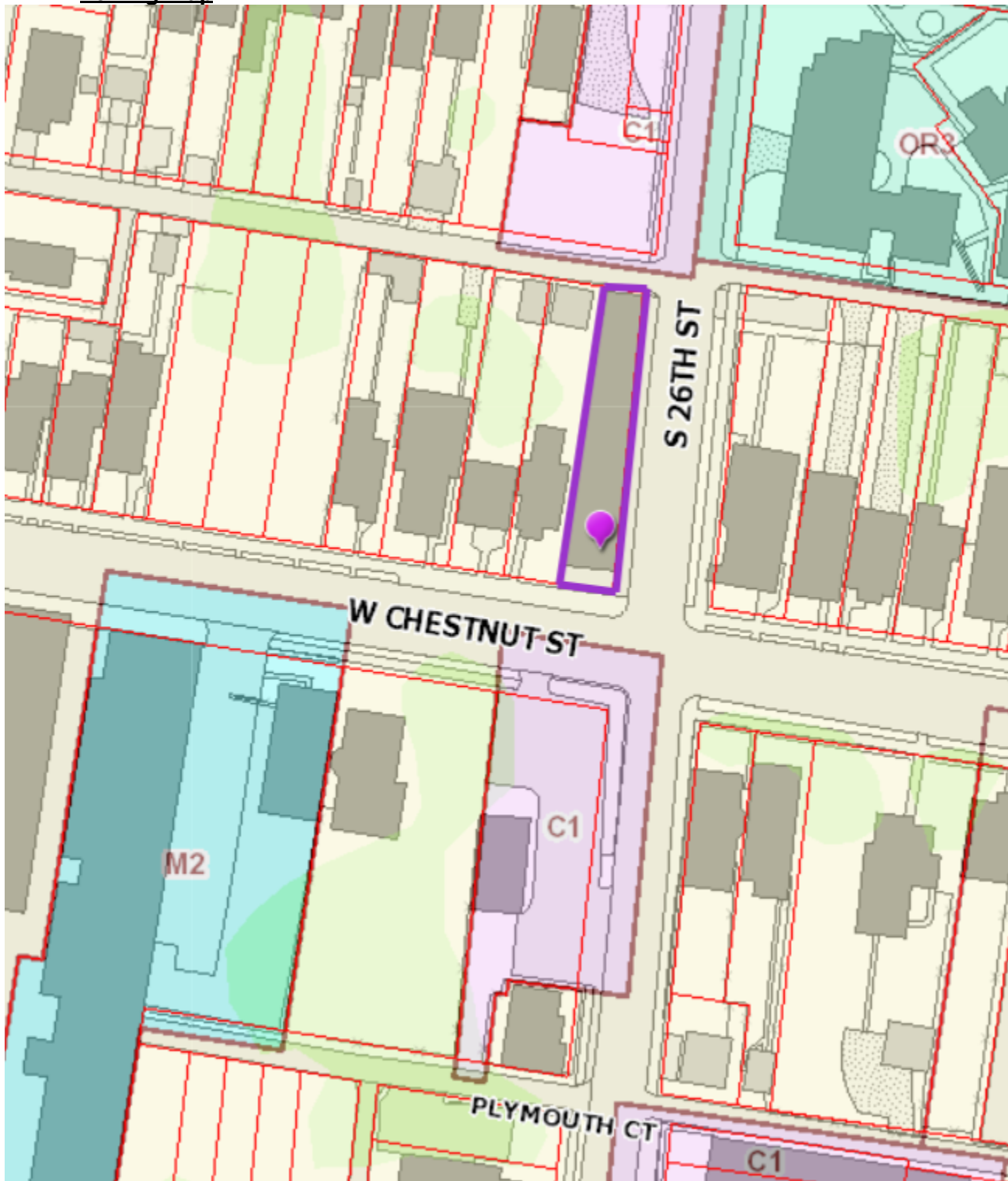
NOTIFICATION

Date	Purpose of Notice	Recipients
1/28/2021	Notification of appeal of an administrative decision	Adjoining property owners, Appellant, and PDS staff GovDelivery District
1/29/2021	Legal ad for notification of appeal of an administrative decision	Courier Journal - published in paper by Appellant or Representative

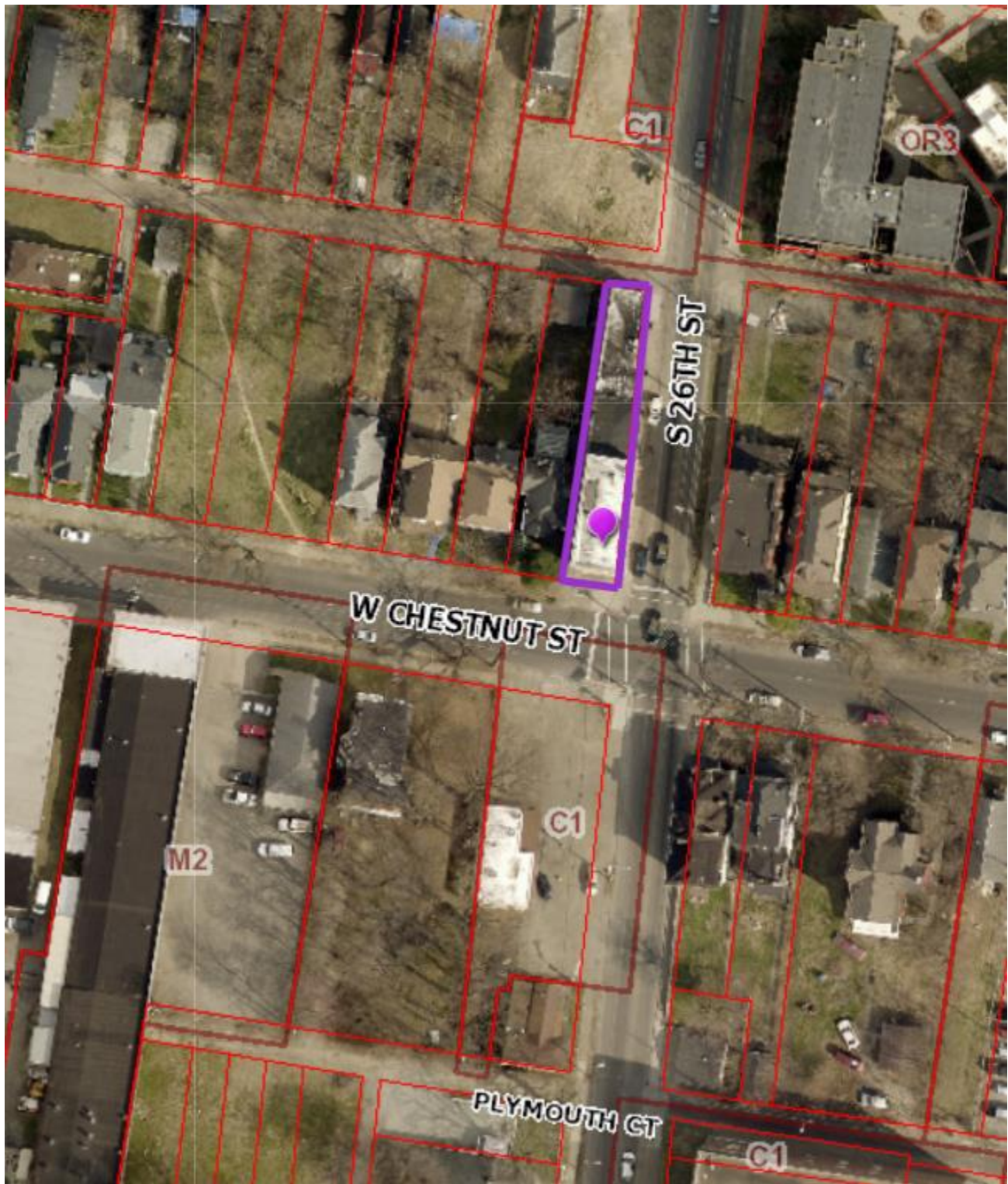
ATTACHMENTS

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

1. Zoning Map



2. Aerial Photograph



3. Site Photos

