



Nonconforming Rights Application

Louisville Metro Planning & Design Services

Case No.: _____ Intake Staff: _____

Date: _____ Fee: NO FEE

Site Information:

Property Address(es): 6603 River Road

Property Parcel ID(s): 000600670000

Existing Zoning District: R-4 Existing Form District: Village

Description of Nonconforming Use:

Please be as detailed as possible when describing the use and areas in which the use takes place

To establish historic non-conforming use of subject property as offices.

Please present evidence proving each of the following:

1. The use lawfully existed on the property prior to adoption, or amendment, of the zoning regulation that makes the use nonconforming:

The subject property is currently zoned R4. Since August 10, 1906, when the Board of Trustees of Harrods Creek Lodge, No. 456, Free and Accepted Masons acquired the property for use as a lodge and office, the use has been non-confirming. (See attached Property Transaction History dating back to 1906) Even prior to August 10, 1906, the property use was that of a school, part of the Jefferson County Board of Education, also a non-confirming use. This Non-Conforming Rights Application is for the purpose of establishing the non-confirming use of the property as offices, professional and business.

2. The use existed continuously on the property since the time it became nonconforming, without an interruption of more than twelve (12) consecutive months:

See attached Affidavit of Mr. Charles E. Smith who acquired this property on 8/1/2006 and remodeled it. Mr. Smith obtained a document from PVA, predating the remodeling, that indicates the use as "General Office". Mr. Smith took care not to abandon any non-confirming rights. He took out a building permit, followed it, did not change the size or location of the building, and did not change the use of the building.

3. The use has not been expanded, or relocated, on the property since the adoption of the zoning regulation that makes it nonconforming:

See attached Affidavits of Mr. Stephen W. Rauh, Jr. and Mr. Charles E. Smith indicating that the building has not been expanded or relocated.

Contact Information:

Owner: ☒ Check if primary contact

Applicant: ☐ Check if primary contact

Name: Mark A Mercurio

Name: Lora M Mercurio

Company: _____

Company: _____

Address: 1706 Perry Ct

Address: Same

City: Prospect State: KY Zip: 40059

City: _____ State: _____ Zip: _____

Primary Phone: 502-552-5580

Primary Phone: 502-216-1616

Alternate Phone: 502-410-3465

Alternate Phone: 502-552-5580

Email: Mark.wcii@icloud.com

Email: loraonboard@gmail.com

Owner Signature (required): _____

Attorney: ☐ Check if primary contact

Plan prepared by: ☐ Check if primary contact

Name: Robert P. Herre

Name: _____

Company: Attorney at Law

Company: _____

Address: P.O Box 384

Address: _____

City: Goshen State: KY Zip: 40026

City: _____ State: _____ Zip: _____

Primary Phone: 502-895-7898

Primary Phone: _____

Alternate Phone: 502-650-3289

Alternate Phone: _____

Email: rpherre@aol.com


Email: _____

Certification Statement: A certification statement **must be submitted** with any application in which the owner(s) of the subject property is (are) a limited liability company, corporation, partnership, association, trustee, etc., or if someone other than the owner(s) of record sign(s) the application.

I, Mark A Mercurio, in my capacity as owner, hereby
representative/authorized agent/other

certify that Mark and Lora Mercurio is (are) the owner(s) of the property which
name of LLC / corporation / partnership / association / etc.

is the subject of this application and that I am authorized to sign this application on behalf of the owner(s).

Signature:  Date: 5-5-2021

I understand that knowingly providing false information on this application may result in any action taken hereon being declared null and void. I further understand that pursuant to KRS 523.010, et seq. knowingly making a material false statement, or otherwise providing false information with the intent to mislead a public servant in the performance of his/her duty is punishable as a Class B misdemeanor.

Additional Information:

Nonconforming Use Policy

If the property has been cited by Zoning Enforcement for a violation related to the land use, this process shall not substitute for an appeal of the citation to the Code Enforcement Board and/or Board of Zoning Adjustment. This process is not intended to confer a legal right to a nonconforming use and decisions rendered under this process are subject to appeal to the Board of Zoning Adjustment pursuant to Kentucky Revised Statutes Section 100.257.

Required for Submittal: Mailing labels to notify Adjoining Property Owners (APOs)

- ☐ One set of mailing label sheets for: 1st tier APOs and Case Manager
- ☐ One copy of the APO mailing label sheets

To meet the listed requirements, the applicant must provide documentation to substantiate the claim of nonconforming rights. Documentation includes, but is not limited to:

- Zoning maps from the time of commencement of the use to the present;
- A copy of the zoning regulations in effect at the time the use began (selected regulations from 1931 onward are available at <https://louisvilleky.gov/government/planning-design/land-development-code>);
- A copy of official documents for each year of the use's operation including, but not limited to, the following:
 1. The Certificate of Compliance from the Revenue Commission for each year of the use's operation showing the business name, or otherwise demonstrating on its face the existence of the use-continuous ownership of the property is not sufficient to demonstrate the existence of nonconforming rights*
 2. Copies of utility bills showing billing information for the use
 3. Copies of tax bills showing billing information for the use
- Copies of directory listings for each year of the use's operation (including telephone directories, Caron's/Polk's Directories, business association directories, Criss-Cross Directories, etc.)**
- Property Valuation Administration (PVA) records
- Three notarized affidavits from individuals attesting to their personal knowledge of the continuous, uninterrupted use of the property for the particular use in question. Affidavits, by themselves, will not suffice as the only evidence of existence for a nonconforming use; in other words, the applicant should submit other evidence along with notarized affidavits. Affidavits must contain specific information as to the affiant's knowledge of the use, and the basis for that knowledge.
- Other documents that substantiate the existence of a specific use, or structure on the property, such as newspaper articles or photographs
- Documentation should be provided back to the following year:
 - 1971 for property located within the original boundaries of the City of Louisville prior to merger.
 - 1943 for the remainder of Jefferson County prior to merger.

Planning & Design Services shall determine one of the following three conclusions:

1. *The nonconforming use rights have been established for the property.* If this is the conclusion, the property owner, or prospective property owner, is advised that any changes made to the use, or structure, shall result in a loss of nonconforming status. Any interested party can appeal the Planning & Design Services' determination to the Board of Zoning Adjustment pursuant to Kentucky Revised Statutes, Section 100.257.
2. *The nonconforming use rights have not been established for the property.* If this is the conclusion, the property owner, or prospective property owner, can appeal to the Board of Zoning Adjustment pursuant to KRS 100.257.
3. *No conclusion has been reached because of insufficient, or conflicting, evidence.* If this is the conclusion, the property owner, or prospective property owner, can provide additional documentation, or appeal the determination to the Board of Zoning Adjustment pursuant to KRS100.257.

If staff concludes that nonconforming rights exist, the property owner, or prospective property owner, Planning & Design Services shall issue a statement outlining the nonconforming rights. This statement must be recorded in the chain of title in the Office of the Clerk of Jefferson County, Kentucky to put others on notice of the establishment of nonconforming use.

- * *In no case will official documents be accepted as proof where those documents do not specifically reference the use, either through the inclusion of a business name or type, or some other reference that identifies the actual use of the property. Continuous ownership of property does not imply continuous nonconforming use of the property.*
- ** *It is acknowledged that these directories are often compiled through voluntary participation, and that this often results in incomplete or incorrect information.*

Jefferson County PVA Property Valuation Administrator

6603 River Rd



Property Details

TYPE GENOFF : General Office

YEAR BUILT 1947

EXTERIOR WALL

ROOFING STRUCTURE 4

BASEMENT FOUNDATION

CONDITION above normal for age

BUILDING TYPE General Office:001

STORIES 2

FULL BATHROOMS

HALF BATHROOMS

MAILING ADDRESS Po Box 953
Prospect, K
0953OWNER SMITH CH,
RITA G

PARCEL ID 000600670

LAND VALUE \$163,350

IMPROVEMENTS VALUE \$129,170

ASSESSED VALUE \$292,520

APPROXIMATE ACREAGE 0.91

PROPERTY CLASS 445 Com C

DEED BOOK/PAGE 8884 0167

DISTRICT NUMBER 500012

OLD DISTRICT 21

FIRE DISTRICT Harrods Cr

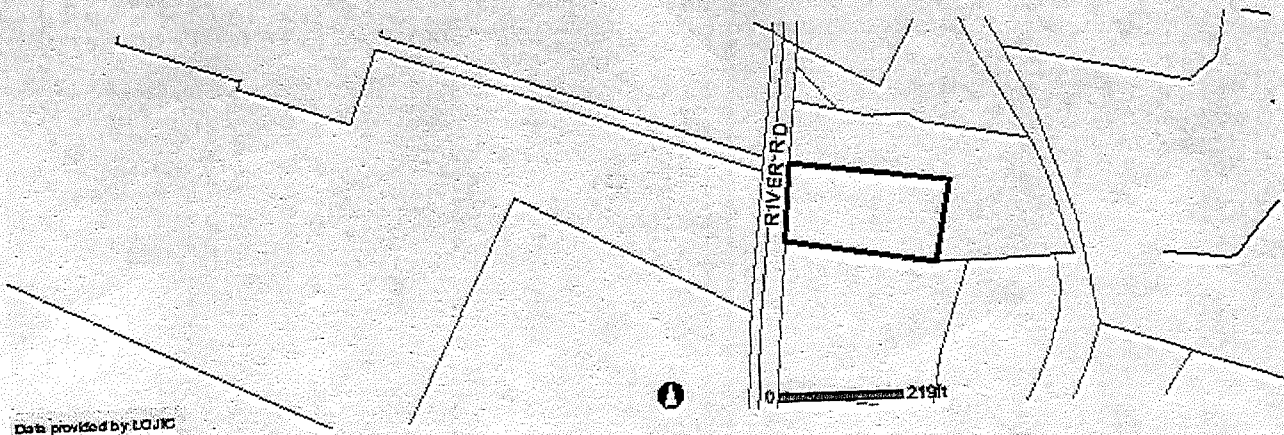
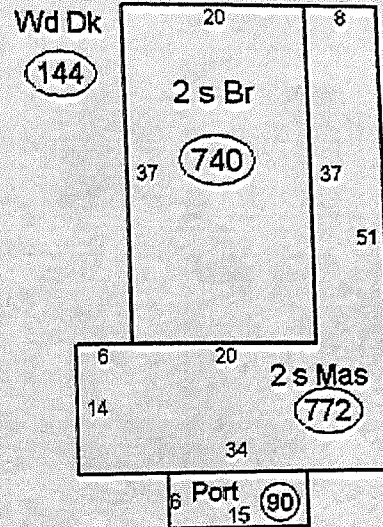
SCHOOL DISTRICT Jefferson C

NEIGHBORHOOD 90 / COMM

SATELLITE CITY JeffersonSHERIFF'S TAX INFO View Tax I

2/8/2011

"HARRODS CREEK LODGE"



Sales History

DEED BOOK/PAGE	SALE PRICE	SALE DATE	PREVIOUS OWNER
<u>8884 0167</u>	\$125,000	08/14/2006	CRESCENT HILL LODGE NO 820
<u>8755 0175</u>	\$50,200	12/14/2005	HARRODS CREEK LODGE C/O JOSEPH D
2070 0218 (N/A Online)	\$0	11/11/1911	OWNER UNKNOWN

Assessment History

2/8/2011

EXEMPTION	DATE	LAND	IMPROVEMENTS	TOTAL	REAS
none	07/02/2007	\$163,350	\$129,170	\$292,520	A - A
none	12/31/2006	\$163,350	\$82,770	\$246,120	P - P Cons
none	12/14/2005	\$163,350	\$58,380	\$221,730	R - Reas
none	01/01/2000	\$7,800	\$42,400	\$50,200	CR - Com Reas
none	01/01/1994	\$7,800	\$30,700	\$38,500	R - Reas

Improvement History

OCCUPANCY	SKETCHES	SQUARE FEET	STORIES	YEAR
General Office:001	View Sketch	3,024	2	1947

Legal Lines

LN	LEGAL DESCRIPTION
1	ADJ BELL .75 ACRE

Property is assessed per KRS 132.20 on January 1st of each year. The current year assessments are updated and posted on the website in mid April. Information deemed reliable but not guaranteed. Data last updated: 01/26/2011

AFFIDAVIT OF STEPHEN W. RAUH, JR.

OWNER OF 6615 RIVER ROAD

NEXT DOOR TO SUBJECT PROPERTY AT 6603 RIVER ROAD

COMES NOW Declarant, **Stephen W. Rauh, Jr.**, and states under oath as follows:

1) Declarant is over the age of 18 years, is of sound mind and has direct knowledge about the property at 6603 River Road, Louisville, Kentucky ("Subject Property").

2) Declarant states that he has resided next door to the Subject Property since 1967.

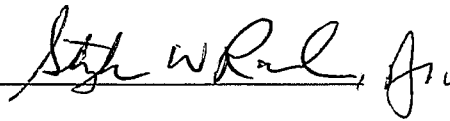
3) Declarant states, to the best of his recollection, that the Subject Property was operated as a Masonic Lodge, in a continuous manner, from the time that Declarant moved next door to the Subject Property until it was sold to Mr. Smith in 2006.

4) Declarant states, to the best of his recollection, that after Mr. Smith acquired the Subject Property in 2011, that it was operated, in a continuous manner, as an office building.

5) Declarant states that the building on the Subject Property is in the same location that it has always been, and, to the best judgment of the Declarant, it is the same size as it always was.

6) Delcarant states that he supports and endorses Mr. Mercurio's Non-Conforming Rights Application on the Subject Property and hopes that it is approved.

Further, the Affiant sayeth not.



Stephen W. Rauh, Jr.

COMMONWEALTH OF KENTUCKY)

) SS:

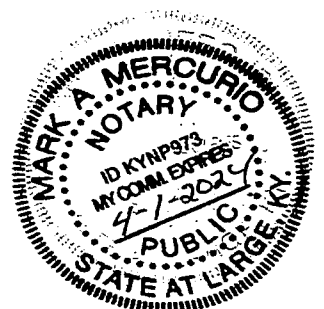
COUNTY OF JEFFERSON)

The foregoing instrument was subscribed, sworn to and acknowledged before me this 17 day of September, 2020, by **Stephen W. Rauh, Jr.** to be his free act and voluntary deed.

My commission expires: 4-1-2024

[AFFIX SEAL]


Notary Public, State at Large



AFFIDAVIT OF CHARLES E. SMITH

FORMER OWNER OF SUBJECT PROPERTY AT 6603 RIVER ROAD

COMES NOW Declarant, **Charles E. Smith**, and states under oath as follows:

1) Declarant is over the age of 18 years, is of sound mind and has direct knowledge about the property at 6603 River Road, Louisville, Kentucky ("Subject Property").

2) Declarant states that he and his wife Rita acquired the Subject Property from the Board of Trustees of Crescent Hill Lodge, No. 820, Free and Accepted Masons by deed dated August 1, 2006.

3) Declarant states that he obtained historic PVA records that indicate that the Masons had classified the building on the Subject Property as a "General Office".

4) Declarant states that he consulted with Louisville Planning and Zoning, prior to obtaining his Building Permit to remodel the building, and was cautioned to avoid increasing the floor area or the land area beyond the scope and area of operation as existed prior to order to preserve his nonconforming rights.

5) Declarant states that he had no intention of surrendering any property rights when he remodeled the building on the Subject Property, which is why he consulted with Louisville Planning and Zoning prior to embarking upon the remodeling project.

6) Declarant states that when he remodeled the building on the Subject Property, he did not change the location of the building nor did he change the size of the building.

7) Declarant states that he obtained an approved Building Permit from the Louisville Department of Codes and Regulation and he effected the remodeling of the building in accordance with that approved Building Permit.

8) Declarant states that Ms. Meme Runyon, Executive Director of River Fields, Inc., visited the site on a couple of occasions during the time that the remodeling was occurring; she made several suggestions regarding the exterior façade, and her ideas were incorporated into and became part of the remodeling project.

CS
3-15-21

