

**21-NONCONFORM-0022**

**4000 Taylor Boulevard**



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

**Zach Schwager, Planner I  
July 26, 2021**

# Request

- Change in nonconforming use from a grocery store to a restaurant excluding drive-in facilities, and entertainment activity (Indoor alcohol sales and consumption only with proper ABC license).

# Case Summary / Background

- The subject property is located within the OR-1 Office/Residential zoning district and the Traditional Neighborhood form district.
- The site is approximately 0.4702 acres and is occupied by a two principal structures; one is used commercially and the other seems to be a single-family residence.

# Case Summary / Background

- There are also multiple accessory structures on the property.
- The applicant proposes to open a restaurant with alcohol sales in the commercial structure.

# Case Summary / Background

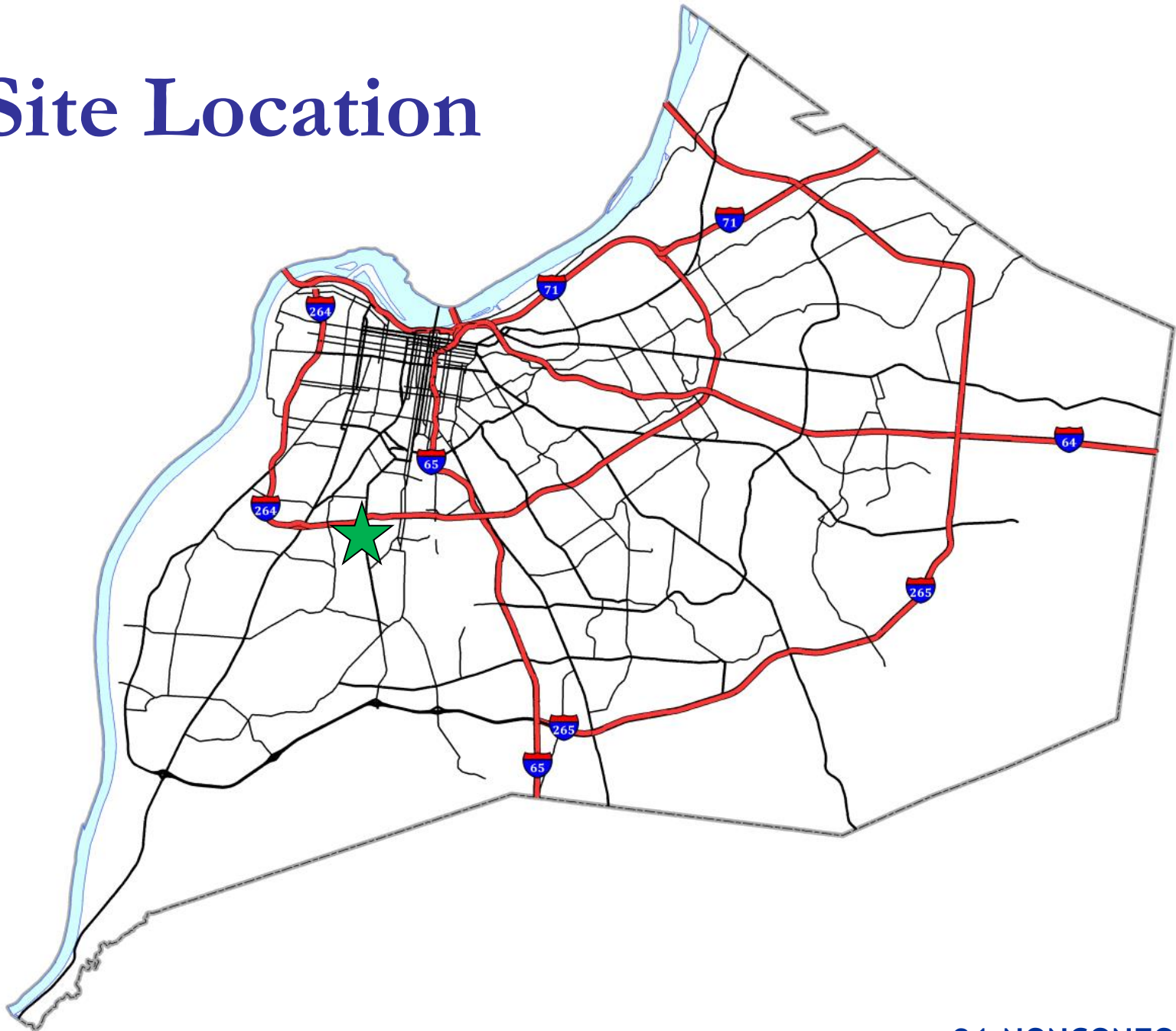
- The property owner applied to establish nonconforming rights for a grocery store on March 13, 2021.
- Based on the information provided in the application and staff research, it was discovered that the property had nonconforming rights for a grocery store as determined by the Board of Zoning Adjustment (BOZA) on June 6, 2011 under case B-15735-11 (attached to agenda item).

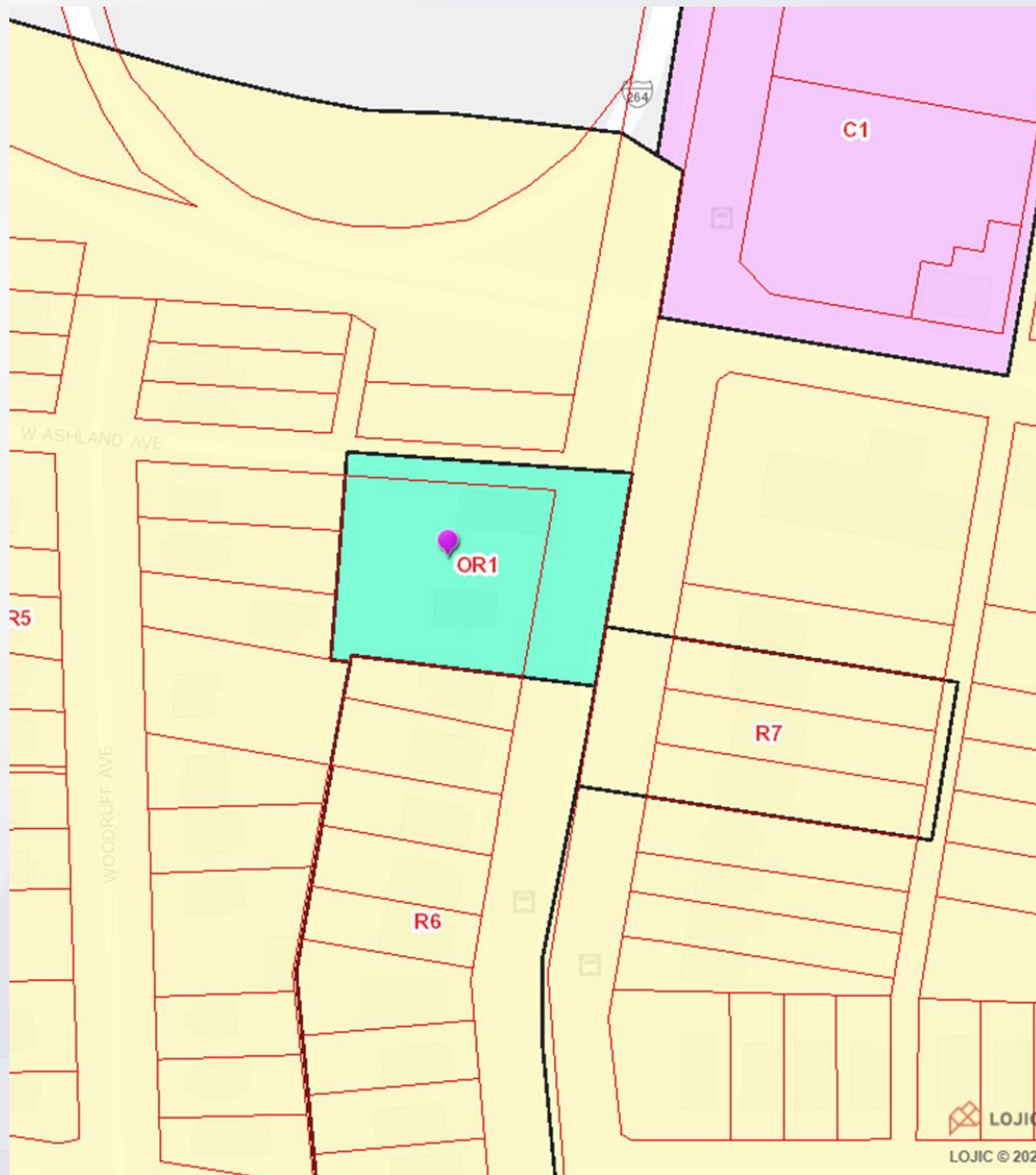
# Standards of Review (1.3.1 A-D)

- LDC Section 1.3.1.A-D states;
- A. 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.
- B. 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.
- C. 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.
- D. 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.



# Site Location









# Site Photos





# Site Photos





# Site Photos



# Site Photos





# Site Photos





# Site Photos



# Conclusion

- A change in nonconformance from a grocery store to a restaurant excluding drive-in facilities, and entertainment activity (Indoor alcohol sales and consumption only with proper ABC license) would be considered no more odious or offensive than the original nonconforming use. The grocery store use is allowed in the C-N Neighborhood Commercial zoning district and the restaurant excluding drive-in facilities, and entertainment activity (Indoor alcohol sales and consumption only with proper ABC license) is allowed in the same zoning district; therefore, a restaurant excluding drive-in facilities, and entertainment activity (Indoor alcohol sales and consumption only with proper ABC license) is no more odious or offensive than the original nonconforming use.

# Conclusion

- 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 restaurant excluding drive-in facilities, and entertainment activity (Indoor alcohol sales and consumption only with proper ABC license) is permitted in the same or more restrictive zoning classification than the existing nonconforming use.
  2. 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 surrounding properties than the first nonconforming use.

# Required Action

- 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.