

Board of Zoning Adjustment

Staff Report

July 26, 2021



Case No:	21-NONCONFORM-0022
Project Name:	Change in Nonconforming Use
Location:	4000 Taylor Boulevard
Owner(s):	Jose Tamayo
Applicant:	Daniel Tamayo Betancourt
Jurisdiction:	Louisville Metro
Council District:	15 – Kevin Triplett
Case Manager:	Zach Schwager, Planner I

REQUEST(S)

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

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).

STAFF FINDING/RECOMMENDATION

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.

TECHNICAL REVIEW

No technical review required.

INTERESTED PARTY COMMENTS

No comments received.

STANDARD OF REVIEW FOR CHANGE IN NONCONFORMING USE

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 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.

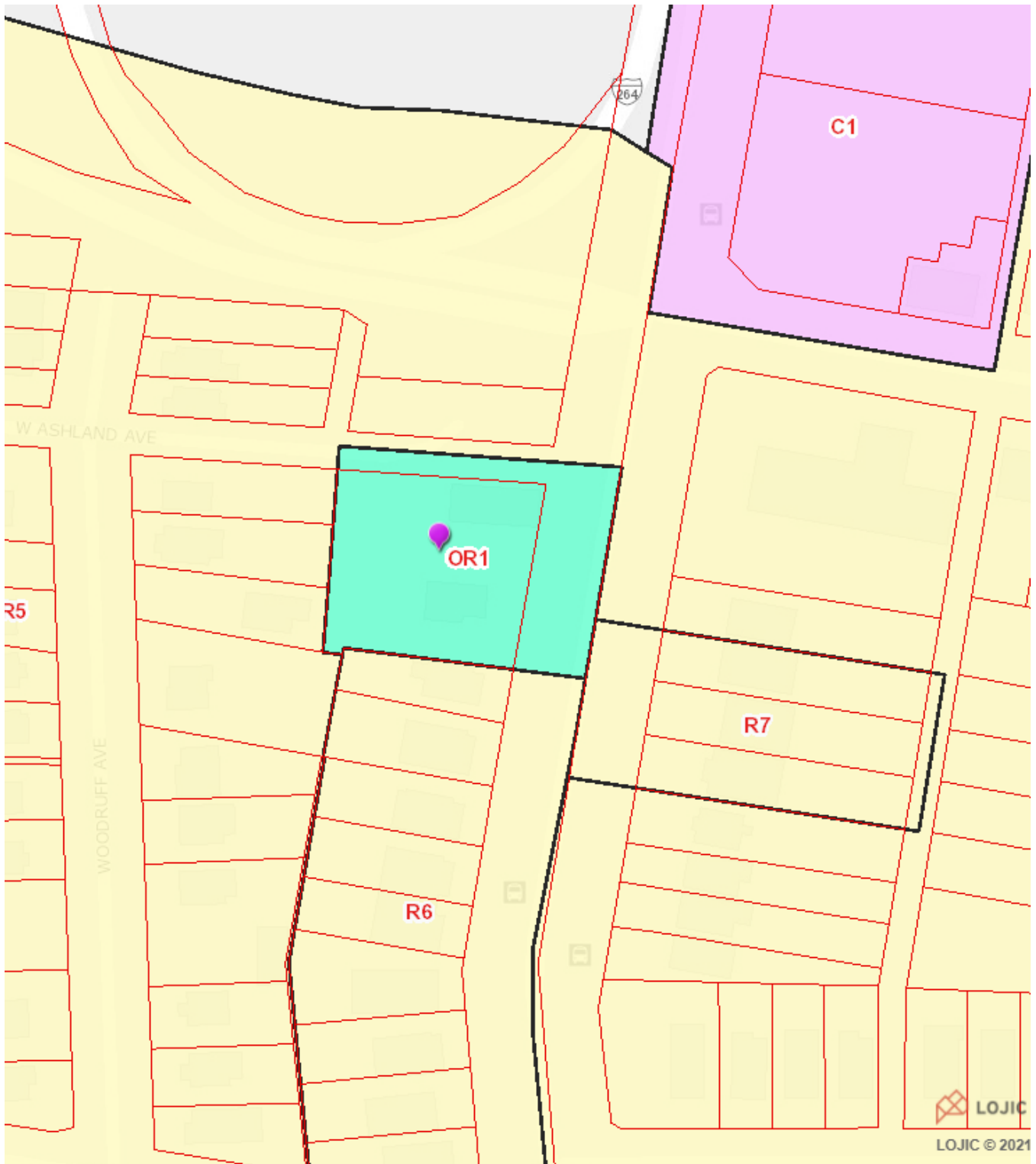
NOTIFICATION

Date	Purpose of Notice	Recipients
7/8/2021	Hearing before Board of Zoning Adjustment	1 st tier adjoining property owners and current residents Registered Neighborhood Groups in Council District 15
7/14/2021	Hearing before Board of Zoning Adjustment	Sign posting

ATTACHMENTS

1. Zoning Map
2. Aerial Photograph

1. Zoning Map



2. Aerial Photograph

