

**Board of Zoning Adjustment
Staff Report
October 6, 2023**



Case No:	23-NONCONFORM-0024
Project Name:	Nonconforming Rights
Location:	1910 Lower Hunters Trace
Owner(s):	Kelty Property Management LLC
Applicant:	Chris Kelty
Jurisdiction:	Louisville Metro
Council District:	12 – Rick Blackwell
Case Manager:	Joel P. Dock, AICP, Planning Supervisor

REQUEST(S)

- **Nonconforming Rights**

CASE SUMMARY

The applicant has requested nonconforming rights for a landscaping contractor’s shop. The property is zoned R-4 Single-Family Residential and located at the intersection of Distler Ln and Lower Hunters Trace near Dixie Highway. The subject property is located outside the original boundaries of the City of Louisville and urban service district; therefore, evidence that substantiates the existence of the nonconforming use must be provided back to 1943. 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, see technical review for more details. Evidence to establish nonconforming rights was not sufficient. Pursuant to the Board’s Bylaws and Policies, the request for nonconforming rights has been brought before the Board to make a final determination.

STAFF FINDING

Staff finds there is inconclusive evidence to determine that the property has nonconforming rights for a landscaping contractor’s shop. Because staff determined that evidence was inconclusive, the burden shall be on the applicant to provide documentation supporting the establishment of the nonconforming use and its continuous existence.

TECHNICAL REVIEW

Nonconformity/Nonconforming Defined. An activity or a building, structure, or 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.

Board Policy (5.18.02). For a nonconforming rights application where the Planning Director and/or designee determines there is insufficient evidence to recognize a lawful nonconforming use, the staff of the Office of Planning and Design Services shall docket the case to the next available Board of Zoning Adjustment public hearing. The Board must review the application pursuant to KRS 100 and LDC section 1.3.1 to determine whether the property has nonconforming rights. The burden shall be on the

applicant to provide documentation supporting the establishment of the nonconforming use and its continuous existence.

STAFF ANALYSIS

The applicant submitted a signed letter stating in 1973, Lester Fields bought the property located at 1910 Lower Hunters Trace and started an auto shop which operated until the current owner purchased the property in 1988. The applicant also submitted a “notice of judgement lien and real estate” against “Lester Fields; Fields Body Shop & Garage” dated June 1989. An additional signed statement was submitted by Jo Ann Collins stating her aunt and uncle, Charles and Bertha Junot subleased the rear of the property to a farmer who grew vegetables, loaded his trucks, and delivered them to customers. The statement also states Bertha Junot had a dog breeding business and raised and sold animals. An additional signed statement by a neighbor states they recall the property’s continuous use as a landscaping business for 26 years. Another statement from a neighbor dates the use back 34 years, commencing in 1984. The applicant also submitted documentation from the Secretary of State website regarding their landscaping LLC. These documents which were part of the application have been attached as an agenda item.

Staff researched historic zoning maps and found the site has consistently been zoned for single-family residential use. The property was zoned “A” One Family in the 1940s and 50s, and has been zoned R-4 since the 1960s. Staff also researched historic aerials dating back to 1946. The subject property was located on the 1946 aerial which appears to depict out buildings in the rear of the property. These buildings could have been where a nonconforming use began. However, aerials overtime shows an expansion in structures and floor area of the nonconforming use. Zoning maps and historic aerials have been attached as an agenda item.

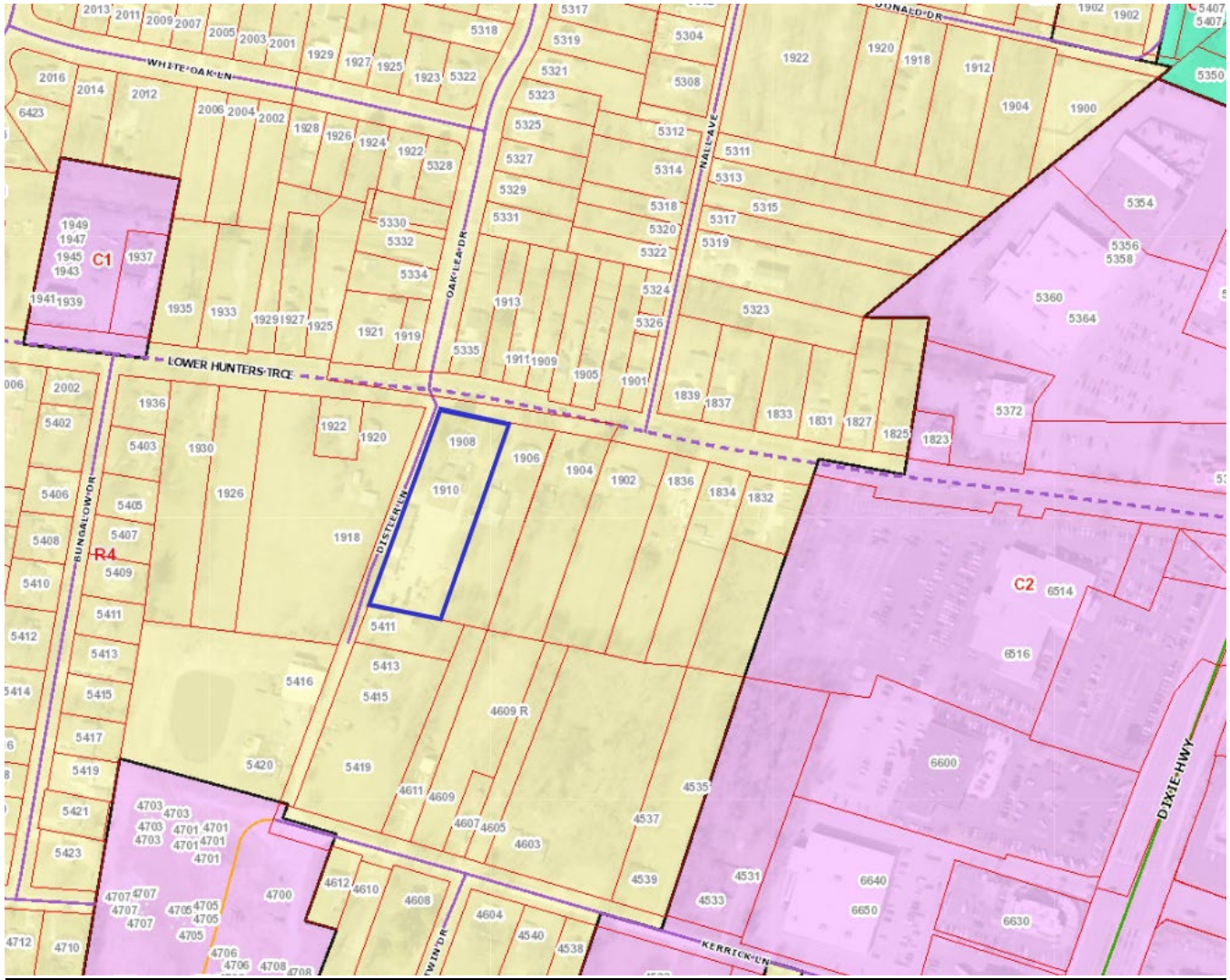
NOTIFICATION

Date	Purpose of Notice	Recipients
9/28/2023	Hearing before BOZA	1 st and 2 nd tier adjoining property owners and residents
10/2/2023	Hearing before BOZA	GovDelivery for Council District 5
10/2/2023	Sign Posting	Sign Posting

ATTACHMENTS

- 1. Zoning Map
- 2. Aerial Map

1. Zoning Map



2. Aerial Map

