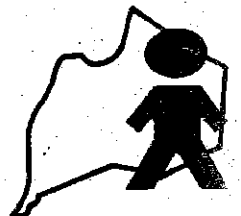


Comprehensive Plan Implementation

**26th. Street
Nonconforming Use Study**



26th STREET NONCONFORMING USE STUDY

Comprehensive Plan Implementation

prepared for the

Louisville Board of Aldermen

and the

Louisville Community Development Cabinet

by

Louisville and Jefferson County Planning Commission
900 Fiscal Court Building
Louisville, Kentucky

September, 1980

The preparation of this document was financed in part with federal Housing and Community Development funds through a contract with the Louisville Community Development Cabinet.

PREFACE

This is a pilot study addressing one of the most serious zoning and land use conflicts that hampers revitalization efforts in the City of Louisville: nonconforming land use.

A nonconforming use is a land use that is no longer permitted by zoning. All land is categorized (zoned) according to a specific range of allowable uses (called a zoning district). An existing land use that does not fall in the list of allowable uses of a zoning district fails to conform to the zoning district and is, therefore, said to be a nonconforming use.

Although normal property maintenance is permitted, a nonconforming use is not permitted to expand (except under unique circumstances) and receives no protection from possible nuisances created by permitted land uses. According to the theory of zoning, nonconforming uses are eventually to go out of existence. However, in reality nonconforming uses continue, and the structures that house them deteriorate because private individuals, financial institutions and government are reluctant to invest in something viewed as temporary in nature. Consequently, the deterioration of structures can blight the surrounding area and hamper reinvestment.

Louisville's nonconforming use problems and potential solutions may be categorized as follows:

- 1) For areas with structures in sound condition and one predominant land use (that happens to be nonconforming), the existing and future land use pattern is well-defined because the predominant land use can be expected to continue. Accordingly, rezoning the property to reflect the existing predominant land use is the best solution to resolving the nonconforming use problem.
- 2) For areas with a mixture of land uses (some being nonconforming) and where different land uses compete for the same space and structural conditions vary, the existing and future land use pattern is ill-defined. Because a balance between competing uses must be achieved, the necessary changes in zoning may be complex and require considerable study. The preparation of a neighborhood plan, that includes a future land use and transportation plan as well as a rezoning plan, may be the best course of action to resolve this complex nonconforming use problem. (Neighborhood plans are presently being prepared or are proposed for much of Louisville.)
- 3) For areas with structures in a deteriorated condition and many nonconforming uses, the existing and future land use pattern cannot be defined from existing information because such areas are no longer functional. Definition of a new land use pattern and redevelopment of the area may be in order. This involves the preparation of an urban renewal plan. (Station Industrial Park and portions of Phoenix Hill are present examples.)

These three types of nonconforming use problems exist throughout Louisville. However, the problems are significantly greater in west and southwest Louisville. In 1969, the Board of Aldermen rezoned large areas east and south of downtown reducing the nonconforming use problem from a high of 70 percent of the uses to a low of 10 percent of the uses.

The "26th Street Nonconforming Use Study" tackles the first category of problem described above. The 26th Street corridor is an area of sound structures and primarily residential use that happens to be zoned for light industry only.

It is hoped that this study will be a forerunner in tackling the nonconforming use problems that pose a barrier to the revitalization of Louisville.

EXECUTIVE SUMMARY

Since the Zoning District Regulations came into being in 1931, the 26th Street area has been zoned for light industry (M-1 Industrial zoning district). At that time, industrial zoning districts permitted all uses, that is, residential and commercial uses as well as industrial uses.

In 1963, a change in the Zoning District Regulations limited the industrial districts to only industrial uses and a few commercial uses. All existing residential uses and most existing commercial uses, previously permitted in the industrial zoning districts, thereby became nonconforming uses. (A nonconforming use is a land use that was once permitted but is no longer allowed. Such uses have the legal right to continue but are not allowed to expand. New uses which are not allowed, of course, are prohibited.) The 26th Street area was one such case.

Since the 26th Street area first developed in the early 1900's, it has been predominantly residential. However, the area has been zoned for industrial use since 1931. Such industrial zoning has created the fear that someday an industry would locate in the area destroying its residential character. Nonconforming residential uses have no protection against industries, permitted in the M-1 district, who can locate in the study area by merely applying for a building permit. This potential for industrial location can eventually lead to housing deterioration.

There are two options available to resolve the nonconforming use situation. Option 1 suggests the rezoning of existing nonconforming commercial uses to commercial and existing nonconforming residential uses and vacant lots to residential. New or expanded residential uses or commercial uses would then be possible by applying for a building permit with further review by the Planning Commission or Board of Aldermen being unnecessary. Option 2 suggests the rezoning of all uses in the study area to residential. In the latter case, nonconforming commercial uses would remain nonconforming and commercial property owners desiring to expand their business would have to apply to the Planning Commission for a zoning change. Residents and property owners would then have an opportunity to express their opinion at a legal public hearing as to which of the existing commercial uses should actually be zoned commercial by the Board of Aldermen.

Because Option 2 enables the residents, Planning Commission and Board of Aldermen to review any new or expanded commercial use for compatibility with the Comprehensive Plan (which guides growth and redevelopment), the proposed Russell Neighborhood Plan and surrounding land use, the Planning Commission feels that Option 2 (rezoning the entire area to residential) should be pursued. It should be noted that present zoning regulations do not require screening, buffering and other safeguards to prevent nuisances to residential uses unless a property is rezoned. Finally, the property owners and residents overwhelmingly favored Option 2 at the August 25th public meeting, which was the more heavily attended of the two public meetings.

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INTRODUCTION

The 26th Street Nonconforming Use Study is a part of the City's Community Development Program. Because nonconforming uses were felt to be a problem in revitalizing the City, the Planning Commission reviewed nonconforming use problem on a city-wide basis and selected the 26th Street area as a starting point with the concurrence of the Board of Aldermen and the City Community Development Cabinet. The boundaries of the study area extend roughly 120 feet to 180 feet east and west of 26th Street from Esquire Street (alley south of Elliott Avenue) to Jefferson Street (See Figure 1).

The study area is zoned for light industrial uses (M-1 Industrial zoning district) even though a single industrial use does not exist in the study area. (The Metropolitan Community Development Corporation may be using a vacant commercial structure on Madison Street for an industrial use.) The predominant use in the area is residential with some commercial and public and semi-public uses. Consequently, these uses do not conform to the land uses permitted in the industrial zone and are said to be nonconforming uses. In contrast, the land uses surrounding the study area generally conform to current zoning.

The study area is not considered to be prime industrial land. No lot is owned by an industrial establishment and it would be very difficult to assemble a piece of land large enough for most industries.

The Planning Commission staff reviewed conditions in the study area, assessed its industrial potential, described the problems resulting from nonconforming uses, and developed alternative solutions to the nonconforming use problem. This research was presented to residents of the area in public meetings held on the 11th and 25th of August, 1980, at the Metropolitan Community Development Corporation Citizen Center, 2516 West Madison Street.

This report explains the study area's conditions, the analysis of industrial potential, the nonconforming use problem and the possible solutions to the problem. Finally, it presents a recommended course of action based on the Comprehensive Plan, area conditions and the comments of property owners and residents.

I. AREA CONDITIONS

A. LAND USE AND ZONING

1. Land Use

Except for a few vacant lots, the study area is fully developed. Residential development which occurred early in this century, is the predominant land use. There are a few commercial and public and semi-public uses interspersed among the residential uses in the corridor. The following table describes the extent of these uses.

<u>Land Use</u>	<u>Acres</u>	<u>% of Total</u>
Residential	10.00	75.2
Commercial	1.4	10.5
Public Utility	.6	4.5
Semi-public facilities	.4	3.0
Vacant	.9	6.8
Total	<u>13.3</u>	<u>100.0</u>

In terms of the number of lots, the land use breakdown is as follows:

<u>Use</u>	<u>No. of lots</u>
Residential	102
Commercial	16
Public/Semi-Public	8
Mixed Use	4
Vacant	<u>23</u>
Total	<u>153</u>

Out of residential units on 102 lots, 85 are single family; 16 duplexes; and 1 multi-family.

The study area is surrounded by residential uses on all sides but the south where commercial uses exist along the north side of Broadway. The only industrial use close to the study area is located on the southeast corner of Chestnut and 27th Street. 2620 W. Chestnut is occupied by an auto repair shop and a paint company, and 2624, 2626 and 2628 W. Chestnut are occupied by a moving and storage company and an aluminum window assembly plant. Existing land uses are shown in Figure 2.

2. Zoning

In year 1931, the Zoning District Regulations were pyramidal in nature with residential at the top and industrial at the bottom. In residential zones, only residences could be built; in commercial zones, residential and commercial uses could be built; and in industrial zones, residential commercial and industrial uses could be built. Thus any residential or commercial uses that existed in industrial districts in 1931 were permitted uses --uses that were allowed or conformed to the zone.

In 1963 an exclusive zone was developed for industry that prohibited construction of residential uses and most commercial uses in the industrial district (docket No. 9-162-56). All existing residential and most existing commercial uses previously permitted in the industrial zoning districts thereby became nonconforming uses.

In 1969, an Inter-City Rezoning Plan was developed at the request of the Board of Aldermen to correct the 60-70% use nonconformance found in a 4 square mile area, ranging in location from the Central Business District east to Bardstown Road including the Phoenix Hill area and from the Ohio River south to Eastern Parkway including such areas as Old Louisville and Smoketown.

The areas west and southwest of the Central Business District were not addressed thus the issue of use nonconformity has not been adequately addressed west of the Central Business District. This situation all explains why all existing residential and most existing commercial uses previously permitted in the industrial zoning districts established under the 1931 zoning regulations have remained nonconforming since 1963.

The 26th Street corridor is one such example where industrial zoning was assigned in 1931 even though the uses were mostly residential and commercial. Present zoning is shown in Figure 3.

Except for north of the study area, most existing uses surrounding the corridor conform to current zoning. North of the corridor, the zoning is M-2 Industrial but the actual uses are a mixture of industrial and residential uses. To the east of the 26th Street corridor, the zoning is R-6, R-7 and R-8 (Apartment) Residential; to the west, the zoning is R-6 and R-8 Residential; and to the south the zoning is C-2 Commercial.

3. Rezoning Activity

In 1972, a request was made for a zoning change from M-1 Industrial to C-1 Commercial on two lots in the northeast corner of Muhammad Ali and 26th Street (Docket No. 9-92-72). This request was approved by the Planning Commission and the Board of Aldermen, and subsequently Acquarius Food Mart was located there. A year later, a request was made of the Board of Zoning Adjustment for a conditional use permit for parking on the lot adjacent to Acquarius Food Mart and fronting on Muhammad Ali (Docket No. B-94-73). This request was approved in October, 1973.

B. ENVIRONMENT

1. Flooding

No part of the study area lies within the 100-year flood plain. Nor are "wet soils" present in this area.

2. Air Quality

All of Jefferson County has been classified as a nonattainment area for five pollutants: ozone, carbon monoxide, sulfur dioxide, particulate matter and lead. In addition to the county-wide designation, the Air Pollution Control District has identified areas of special concern for carbon monoxide, particulate matter and sulfur dioxide. The entire 26th Street study area falls within the particulate matter and sulfur dioxide areas of special concern. Part of the study area is also within the carbon monoxide problem area.

This designation as an area of special concern for several pollutants will affect the suitability of the study area for future industrial development.

C. TRANSPORTATION

The study area is served by three minor arterial streets: 26th Street, Chestnut Street and Muhammad Ali Boulevard. In addition, 26th Street intersects Broadway, a major arterial, on the south side of the corridor. The study area is within 3/4 miles of Interstate 264 and within 1 1/2 miles of Interstate 64. No highway capital improvements are programmed in the Metropolitan Transportation Improvement Program for this general area in the near future. The K&I Terminal Railroad is located within 1/2 mile of the study area to the west.

This currently zoned industrial corridor has very poor surface transportation access due to the distance to the Interstates, narrow streets and abutting residential or commercial uses. Industrial property must have good access to conform to the community's Comprehensive Plan.

D. CONDITION OF STRUCTURES

Most of the structures in the 26th Street corridor study area are in sound condition. The Planning Commission staff conducted a structural condition survey of the study area in March 1980, using the following major categories: 1) "A" units - needing no repairs; (2) "B" units - needing light repairs; (3) "C" units -needing medium repairs; (4) "D" units - needing heavy repairs, deteriorating (These structures are questionable for rehabilitation purposes because of the cost factor.); and (5) "E" units - dilapidated (Beyond repair and unsuitable for rehabilitation. These units would need demolition.)

The majority of the structures in the study area (87 structures) were rated "A" or "B" with only 30 structures receiving a "C" rating, 12 receiving a "D" rating and only 1 receiving a "E" rating out of a total of 130 structures. Twenty three lots were vacant. The "C" and "D" rated structures are dispersed throughout

the study area. Thus, in general, the homes and businesses are well maintained and structurally sound. The existing condition of structures is shown in Figure 4.

It should be noted that the zoning district regulations do not allow expansion of nonconforming uses, but normal property maintenance is permitted. Nonconforming residential areas in industrial zones have no protection from expansion of existing industry, or the development of new industrial uses.

Although an area may be predominantly residential, no new residential construction can take place without first obtaining a zoning change. This prevents the development of vacant lots for residential purposes, defeating any policy of infill housing.

It is also difficult to obtain new mortgages or loans for purchase or improvement of residential or commercial properties in industrially zoned areas. This situation may lead to difficulty in maintaining the property in the future and eventual property deterioration.

E. UTILITIES

1. Sewer Service

The study area is presently served by the Metropolitan Sewer District and no major problems exist which might thwart future development.

2. Water Service

Public water supply is available to residents and businesses in the study area. Major water lines (16" to 24") run along 26th Street, Broadway, Jefferson Street and Market Street. There are no major problems known to exist at the present time.

F. INDUSTRIAL POTENTIAL

The study area is not considered prime industrial land. The area is not adjacent to a railroad line even though it is within 3/4 mile of Interstate 264. The area varies in width from 120 feet to 180 feet which is too narrow to accommodate most industrial uses. The right-of-way on 26th Street is only 50 feet and is not adequate to handle any heavy industrial traffic. There is not a single lot owned by industry. The Metropolitan Community Development Corporation may be using a vacant commercial structure on Madison Street in the study area for the packaging of auto parts - a possible industrial use. In addition, it would be very difficult to assemble the necessary lots for an acceptable industry. Because the land use in the corridor and the surrounding area is predominantly residential, it is highly unlikely that any major industry would desire to locate in this area.

II. ISSUES AND OPTIONS

A. ISSUES

The major issue that faces the property owners of 26th Street is nonconforming residential and commercial uses. These nonconforming residential and commercial uses have little protection against incompatible industrial uses that may locate near or within the study area.

The existing uses in industrial district became nonconforming in 1963 when an exclusive industrial district was created that excluded all residential and most commercial uses. The regulations allow nonconforming uses to be maintained but not to expand. Recent zoning amendments now allow existing residential uses in industrial zones to expand in accordance with the R-5 zoning district regulations (e.g., addition of a room or garage), but nonconforming commercial uses are still prohibited from expanding. Although new residential construction in this zone is not permissible, the existing nonconforming uses may be retained as a viable part of the housing stock in the study area.

This situation creates a number of problems for property owners:

1. Disincentive to revitalization

Existence of nonconforming uses is a disincentive to revitalization of the area. There is little incentive to tear down a dilapidated building because only an industrial use could be built in its place. Further, because the area is not considered a prime industrial location, there is no great economic interest from the private sector for developing industries. Thus, the abandoned and dilapidated buildings tend to remain, blighting the area and creating a fire hazard and other nuisances. When structures are torn down, the lots remain vacant because new residential uses are prohibited in the industrial zone. Such vacant lots can become eyesores causing housing deterioration, and a policy of infill housing is not possible with industrial zoning.

2. Disincentive to investment

A residential use in an industrial zone has no protection from future industrial use moving in next door. This is precisely why lending institutions are reluctant to loan money for home improvements or expansions. They feel their investment would not be protected against the potential decline of the neighborhood. Thus, there is a disincentive to buying and repairing of homes when the property is in an industrial zone.

3. Speculation

Some additional problems are created in neighborhoods with nonconforming uses because of speculators who buy land in the hope

of turning a large profit. When an owner is interested only in turning a large profit from its value as raw land, there will be little if any, effort made to maintain the structure and property while he is waiting to sell. Further, this same speculator who owns apartment or commercial property may depreciate the property as a tax write-off. Moreover, this speculator is not interested in making improvements because improvements are reflected in property tax increases and higher rents necessary to off-set the improvements may place the owner at a competitive disadvantage. In short the homes may be rented but not maintained. The structure will continue to decay until it is sold to someone who wants the property for another use or to someone who also wishes to speculate. If there are no industrial buyers, the property often exchanges ownership many times as each speculator depreciates the property, and the property continues to become a greater nuisance in its dilapidated, abandoned condition. The introduction of this trend in turn causes a greater blight on the entire neighborhood.

4. Difficulty in obtaining mortgage money

Savings and loan associations, the largest source of home loans, are extremely cautious in approving loans for purchase or improvement of nonconforming homes.

The Federal Housing Administration (FHA) policy is not to guarantee loans for nonconforming residential uses which are in neighborhoods of industrial and/or commercial uses. However, the FHA does guarantee loans for nonconforming homes if the neighborhood has remained totally residential. But again, the issue of risk is still permanent in the lenders mind. It is difficult to buy or sell homes in a neighborhood where mortgage money and loan guarantees are not available. This makes the neighborhood an even more risky investment and is a disincentive to home maintenance.

5. Problems of Commercial Uses

Although the 1979 amendment to the zoning regulations allowed expansion of nonconforming residential uses so long as they meet the R-5 zoning district requirements, no action was taken to allow expansion of nonconforming commercial uses. Businesses interested in improving profits, or sometimes even maintaining profits, often need to expand in size. Further, nonconforming commercial uses in mixed use areas are affected by the decay and deterioration of the neighborhood around them.

Due to their nonconforming status and inability to expand, these businesses can die on the vine. When they go, they take jobs and convenient services, and leave a vacant structure that often deteriorates due to the difficulty of finding a new renter.

B. ALTERNATIVES

There are basically two questions to be addressed with regard to land use and zoning in the 28th Street nonconforming use area. First, if no zoning changes are made, i.e., if no action is taken, would the potential of industrial development have adverse impact on existing uses. Second, if the zoning changes are made, would it be appropriate to rezone all the area to a residential category or only the existing residential uses and vacant lots.

Presently the area contains mostly residential structures and some structures are in commercial and public and semi-public use. Current zoning is M-1 Industrial. Industries permitted in this district have a "use by right" according to zoning regulations and would need only a building permit for development unless the proposed use (such as a junk yard) would require a conditional use permit from the Board of Zoning Adjustment. Although no major industries are expected to locate in this area, there is always a potential of a smaller industry locating there and its associated nuisances. Thus, due to present zoning, there is no protection available to residents and businesses against development of certain incompatible land uses which do not require prior review by the Board of Zoning Adjustment (which considers conditional use permits) or the Planning Commission and Board of Aldermen (who consider rezoning cases).

1. Rezoning Options

There are two major options for zoning change. These options (See Figures 5 and 6.), along with possible outcomes are listed in following table. Reference to Land Use map (Figure 2) should be made to define the precise areas considered in each option.

TABLE

OPTION	POSSIBLE OUTCOME
1. Rezone the existing non-conforming commercial uses to commercial and non-conforming residential uses and vacant lots to residential classification.	1. Protection to residents and businesses against future industrial intrusions; expansion of existing commercial and residential uses based on zoning classification; and possible encouragement of future residential development on currently vacant lots.

2. Rezone the total area to residential classification.

2. Protection to residents against future industrial intrusion or expansion of nuisance creating commercial uses; continued existence of commercial properties as nonconforming uses; allowing residents a say in case of expansion of existing commercial uses; and possible encouragement of future residential development on currently vacant lots.

The two options vary - one suggesting rezoning based on existing uses and the second suggesting a residential zone for the entire area irrespective of the existing use. The benefits of each option must be weighed against the possible negative impacts which may occur as a result of the decision.

2. Appropriate Zoning and the Comprehensive Plan

The two options listed above would provide various degree of protection to residential and commercial uses by eliminating any future industrial development.

The revised Comprehensive Plan contains two guidelines which, though general, do provide some direction in making zoning and land use decisions for the area. Because sound housing is viewed as a valuable resource and because residential areas are vulnerable to certain adverse impacts, the Plan recommends that residential neighborhoods be protected from adverse impacts of proposed development and land use changes. Similarly, to preserve and maintain the character of existing residential areas, the Plan suggests that industrial development be prohibited within residential areas unless it can be made compatible with surrounding development. The Plan suggests, that industries be located within industrial subdivisions or adjacent to existing industries to form clusters.

Given the fact that single and two family residential use in the area is the predominant use and the lots are generally narrow (less than 50 feet wide) and deep, a zoning classification permitting medium density residential uses may be more appropriate, high density residential uses would be inappropriate due to small lots, need for more parking spaces and the traffic congestion they may create. Besides, only 23 lots are vacant and most of them are too small and scattered throughout the area to accommodate high density residential development.

R-5, R-5A or R-6 residential zoning districts may be appropriate for the area. While minimum lot size requirements for all three districts are the same, R-5, R-5A and R-6 districts allow minimum area requirements of 6,000, 3,625 and 2,500 square feet per dwelling unit respectively. In other words, while R-5 district allows only single family units, duplexes could be allowed in R-6 district. Even though the existing lots in the area may probably meet the minimum area requirements of the suggested districts, they may still remain nonconforming in dimension unless a new zoning district is created.

3. Examination of Zoning Options

In the light of the above, present zoning and the two rezoning options can now be examined. Present M-1 Industrial zoning (which would allow light industrial uses to locate in the area by only applying for a building permit and without any prior review) is inappropriate given the sound residential character of the area. Retaining the present zoning would continue the threat that an industrial use might some day locate in the midst of the residential area. Option 1 (which would rezone from industrial to residential all existing residential uses and vacant lots and to commercial all existing commercial uses) would eliminate the danger of industrial uses from locating in the study area. But, this option would legitimize all existing commercial uses without looking into any nuisances associated with them, or the appropriateness or viability of any commercial use. Option 2 (which would rezone from industrial to residential all the study area, including existing commercial uses) will also, like option 1, eliminate the danger of industrial uses from locating in the study area. But, Option 2 gives the residents of the area an opportunity to have their say as to which of the existing commercial uses should actually be zoned commercial. This would occur when the owners of these commercial uses apply for a zoning change to expand their use and the Planning Commission arranges a public hearing. Until then, all the existing commercial uses will have a legal right to continue to operate as nonconforming uses, but would not be permitted to expand. Option 2 would also adhere to the guidelines of the Comprehensive Plan suggesting that residential neighborhoods be protected from adverse impacts and that industrial uses locate only in clusters. Option 2 would also ensure that any commercial use expansion is compatible with the Russell Neighborhood Plan which is presently being prepared to guide development and redevelopment. It should be noted that all commercial uses should be treated equally in any area-wide rezoning action from a legal prospective.

These two options were presented to the property owners and residents of the study area at public meetings held on August 11 and 25, 1980 respectively. Option 2 was overwhelming favored by

those in attendance at the second meeting that had the most attendance. Of course, the commercial property owners present preferred Option 1. (Documentation of the two public meetings may be found in the Appendix).


III. CONCLUSION

It is now clear that 1) the study area is predominantly sound residential in character; 2) there are no industries either within or around the study area (with the possible exception of the Metropolitan Community Development Corporation's auto parks packaging); 3) industry does not own any property or vacant lots in the study area; 4) the small lots are too narrow to accommodate industrial uses; 5) it will be very difficult to consolidate small lots to accommodate industry; 6) the current zoning is a disincentive to revitalization of the area; 7) the Comprehensive Plan recommends protection of sound residential neighborhoods; and 8) the property owners and residents overwhelmingly desire the whole area to be zoned residential. The staff therefore suggests that Option 2 be pursued. This option gives the residents, the property owners, Planning Commission and legislative body (Board of Aldermen) an opportunity to review the appropriateness of any new use or the expansion of an existing commercial use. If such a new or expanded use is appropriate, a rezoning may be granted. This provides the best safeguard for all concerned.




 Non-Conforming Uses



 26th St. Non-conforming Use Study
 louisville and jefferson county planning commission

Non-conforming Uses

0 200' 400' 600'

 Figure 1



- 1 - Single Family
- 2 - Two Family
- 3 - Other Residential
- 7 - Communication
- 9 - Retail
- 10 - General Commercial
- 11 - Professional Office
- 13 - Medical
- 14 - Educational
- 15 - Religious
- 17 - Semi-public
- V - Vacant
- p - Parking

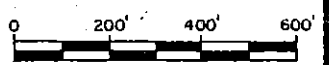



Figure 2


26th St. Non-conforming Use Study
 Louisville and Jefferson County Planning Commission






Land Use
 September, 1980



- R-6 Apartment District
- R-7 Apartment District
- R-8 Apartment District
- C-1 Commercial District
- C-2 Commercial District
- M-1 Industrial District
- M-2 Industrial District







-  Sound
-  Sound-Minor Repair
-  Sound-Major Repair
-  Deteriorated
-  Dilapidated





 Residential Zone
 Commercial Zone



26th St. Non-conforming
 Use Study
 louisville and jefferson county
 planning commission

Option 1

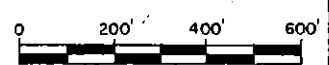





Figure 5

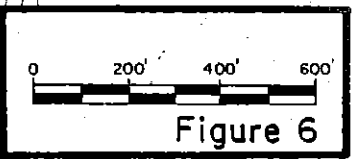


 Zone R-5
 Non-conforming




26th St. Non-conforming Use Study
 Louisville and Jefferson county planning commission

Option 2



APPENDIX

The following guidelines of the Comprehensive Plan are relevant to zoning and land use considerations in the 26th Street Nonconforming Use Area.

- R-1 Protect residential neighborhoods from adverse impacts of proposed development and land use changes.

- I-1 Locate, to the extent possible, industries in industrial subdivisions; otherwise locate industries adjacent to an existing industry to form industrial clusters. The following industries may locate away from industrial subdivisions and industrial areas, provided that they do not cause safety risks or nuisances to surrounding land uses:
 - a) extractive industries or
 - b) industries locating in areas of highly mixed land uses or
 - c) industries locating in existing structures and adapting them for productive re-use or
 - d) small-scale industries which are compatible with adjacent residential and other land uses or
 - e) very large industries that are comparable to industrial subdivisions.

- I-8 Prohibit industrial development within residential areas. Locate industries adjacent to residential areas or in mixed land use areas only if the industries can be made compatible with surrounding development. Expand existing industries which are adjacent to non-industrial development in a manner that meets the needs of the industry and protects surrounding development from nuisances.

MEMORANDUM

TO: Alderman Sharon Wilbert
FROM: Bob Bowman
DATE: February 21, 1980
RE: 26th Street Corridor Nonconforming Use Study

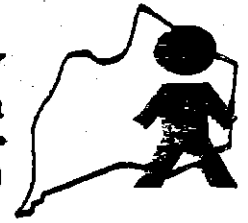
Enclosed is a map showing the boundary of the 26th Street Corridor Nonconforming Use Study in blue. We have also identified names and addresses of all property owners who may be affected.

As you know, most of the study area is zoned M-1 with the exception of one parcel which is zoned commercial; however, the land use in the study area is residential, with the exception of a couple of commercial uses. The portion of 26th Street north of Jefferson Street is included in the Market Street Corridor Nonconforming Use Study that is in a far earlier phase.

As discussed, we are desirous of public input into the non-conforming use study of 26th Street to assess property owner support to develop the specific downzoning proposal and to provide more detailed information for the proposal. We would appreciate any assistance you can lend in setting up a neighborhood meeting in the area.

RYB/tb

Louisville and Jefferson County Planning Commission



900 Fiscal Court Building, Louisville, Kentucky 40202 502-581-6230

26th Street Non-conforming Use Study

Background

The 26th Street Non-conforming Use Study is a part of the City's Community Development Program. Because non-conforming uses were felt to be a problem in revitalizing the City, the Planning Commission reviewed non-conforming use problem on a city-wide basis and selected the 26th Street area (see enclosed map) as a starting point with the concurrence of the Board of Aldermen and the City Community Development Cabinet.

History of Non-conforming Uses

In year 1931, the Zoning District Regulations were pyramidal in nature with residential at the top and industrial at the bottom. In residential zones, only residences could be built; in commercial zones, residential and commercial uses could be built; and in industrial zones, residential, commercial and industrial uses could be built. Thus any residential or commercial uses that existed in industrial districts in 1931 were permitted uses -- uses that were allowed or conformed to the zone.

However, in 1963 an exclusive zone was developed for industry that prohibited construction of residential uses and most commercial uses in industrial districts. This change in zoning regulations made all existing residential and most existing commercial uses in industrial zones in 1963, non-conforming uses.

Non-conforming Use Problem

Non-conforming uses are not allowed to expand although normal property maintenance is permitted. Non-conforming residential areas in industrial zones have no protection from expansion of existing or development of new industrial uses. Although an area may be predominantly residential, no new residential construction can take place without first obtaining a zoning change. Recent zoning amendments now allow existing residential uses in industrial zones to expand in accordance with the R-5 zoning district (e.g. addition of room or garage), but non-conforming commercial uses are still prohibited from expanding. It is also difficult to obtain new mortgages or loans for purchase or maintenance of residential properties in industrially zoned areas.

Characteristics of the 26th Street Area

Although the corridor is zoned M-1 industrial, there is not a single industrial use in the area. The area is predominantly used for residences (75.2%) with a scattering of commercial uses (10.5%). Vacant

land constitutes 6.7% of the total area while the balance of 7.5% is used for public and semi-public uses. The condition of residential structures is generally sound.

Conclusions

Since there is no industry either within or around the 26th Street area, there is no conflict between industrial expansion or residential development. None of the properties or vacant lots are presently owned by industry. Further, the small lots are too narrow to accommodate industrial uses, and the consolidation of small lots to accommodate industry would be very difficult. Moreover, the sound nature of the residential structures indicates that residential use will remain a viable use in the future.

Residential guideline R-1 of the recently adopted Comprehensive Plan recommends protection of residential neighborhoods from adverse impacts of proposed development and land use changes.

Undeniably, 26th Street area should remain residential.

Zoning Options

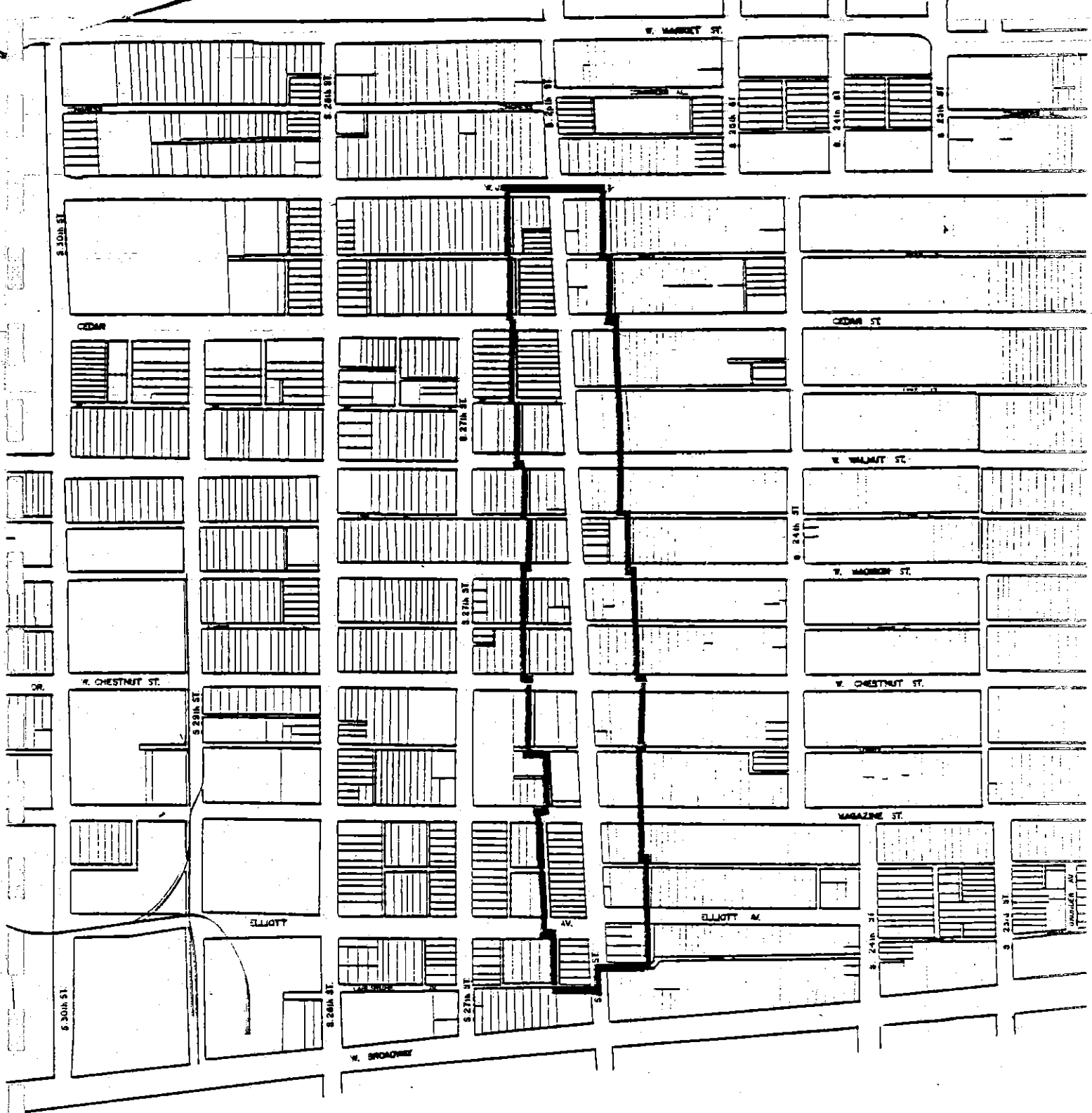
Basically there are two options for zoning change.

- 1) Downzone the total area as residential. In this case the existing non-conforming commercial uses will remain non-conforming uses and will not be permitted to expand without first obtaining a zoning change to commercial.
- 2) Rezoning the existing non-conforming commercial uses as commercial and non-conforming residential uses as residential. In this case all existing uses will be allowed to expand so long as they abide by the requirements of their respective zoning districts.

The purpose of this presentation is to acquaint you with the existing conditions and possible solutions and to obtain your opinion, comments/suggestions on downzoning. Your input will go a long way in helping the Planning Commission staff finalize their conclusions. You are, therefore, strongly encouraged to send your suggestions to the Planning Commission at the above address.

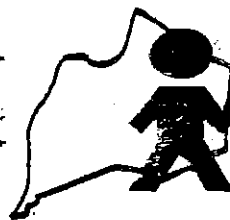
Based on your comments, the Planning Commission staff will finalize their recommendations for downzoning to the Board of Aldermen. The Board of Aldermen may request the Planning Commission to be the applicant for downzoning.

The staff will then prepare a formal application for rezoning of the 26th Street area to be submitted to the Planning Commission for public hearing. After the public hearing, the Planning Commission will submit its recommendations to the Board of Aldermen for final action on rezoning proposals.



26TH. STREET NON-CONFORMING USE AREA

**Louisville and Jefferson County
Planning Commission**



900 Fiscal Court Building, Louisville, Kentucky 40202 502-581-6230

PUBLIC MEETING

SUBJECT: 26th Street Rezoning Proposal
DATE: Monday, August 25, 1980
TIME: 4:00 P.M.
PLACE: Metropolitan Community Development Corporation
Citizen's Center
2516 West Chestnut

Dear Resident or Property Owner:

The Planning Commission is presently doing a land use study of the 26th Street area at the direction of the Board of Aldermen and Louisville Community Development Cabinet. The boundaries of the study area extend roughly 120 feet to 180 feet east and west of 26th Street from Esquire Street to Jefferson Street. (Map attached.)

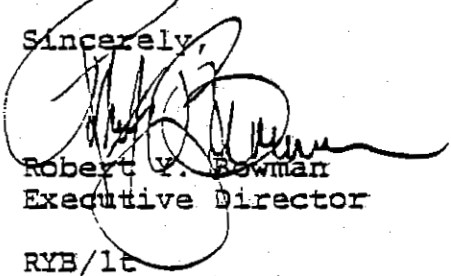
Zoning designates land uses that are appropriate in a given area. The study area is zoned for light industry (such as awning manufacture, cabinet making, electrical supplies, food processing, printing and other "M-1" zoning district uses). The primary uses in the area, however, are residential and commercial. Because these residential and commercial uses existed at the time the industrial zoning was established, they became "nonconforming" uses. The Zoning District Regulations do not permit expansion of nonconforming uses and they do not permit new construction for uses other than industrial in an industrial zone.

Because some property owners may want to expand their present uses, the Planning Commission staff is suggesting that the study area be rezoned to reflect existing uses. Commercial uses would be rezoned from industrial to commercial, and residential uses would be rezoned from industrial to residential. This rezoning may help property owners obtain mortgages and commercial or home improvement loans, as well as permit more flexibility in use.

We want your reaction to this suggestion. Based on your comments at the public meeting and letters, we will prepare a rezoning proposal. If the Board of Aldermen wishes to proceed with the rezoning, they may ask the Planning Commission to prepare a formal (legal) rezoning proposal (termed a "rezoning application"). A legal public hearing is then held on the rezoning application, and the Planning Commission recommends

action to the Board of Aldermen. The Board of Aldermen then take final action on the rezoning proposal to make it legal.

Sincerely,

A large, stylized handwritten signature in black ink, appearing to read 'Robert Y. Bowman', is written over the typed name and title.

Robert Y. Bowman
Executive Director

RYB/lt

TO: File 120
FROM: Dave Ripple
DATE: August 11, 1980
RE: 26th Street Nonconforming Use Study - Public Meeting

- next meeting - August 25th at 4:00 p.m. at MCDC Building 2516 W. Madison Street
- 1) concern about industrial use (Crocker)
- 2) concern about liquor store. wants to add laundromat (Rod Barbridge)
- 3) Rezone to prohibit industrial but not to run existing businesses (Dr. Howard).
- 4) Hansen Paints & Metals and Allied Aluminum along 27th between Magazine and Chestnut (nonconforming uses)
- 5) Larry Alexander wanted MCDC property rezoned R-9 for their elderly high rise. PC to provide data to Edwin Crocker on whats needed for rezoning.
- 6) Alice Smallwood - concerned about technical language and contact of property owners.
- 7) Ed Crocker suggested follow-up letter to residents.
- 8) Margrerite Harris wants copy of Foresight 3. She was in favor of the effort.
- 9) Ann Neal - confusing statements were made.
 - Concerned about including residents in surrounding area.
 - Wanted to delay until Russell Plan done. Bowman indicated what PC proposed wouldn't conflict with Russell Plan and that this effort started before the Russell Plan.
- 10) Lamar Gibson - wanted residents to have voice.
- 11) Rod Burbridge - wanted 2600 W. Chestnut liquor store rezoned to commercial.
- 12) Cheryl King - concerned about lack of citizen participation.
 - didn't want to reveal Russell Plan until approved by RNCRDC Board.

PLEASE SIGN IN

<u>Name</u>	<u>Address</u>	<u>Telephone #</u>
Dave Ripple	900 Fiscal Court Building	581-6230
Sushil Gupta	900 Fiscal Court Building	581-6230
Charlie Davis	900 Fiscal Court Building	581-6230
Cheryl King	Schimpeler-Corradino Assoc. 1429 S. 3rd Street	636-3555
Marguerite Harris	1901 W. Jefferson	587-7227
Alice Smallwood	538 So. 26th Street	772-1725
Elder Lamar Gibson	401 N. Western Parkway	778-5911
Ann Neal	2321 W. Chestnut	778-2129
Robert Y. Bowman	900 Fiscal Court Building	581-6230
Larry Alexander	2511 Hale	775-6651
Harold R. Howard	2619 W. Broadway	774-4534
Edwin Crocker	2516 W. Madison	
Rod Burbridge	2600 W. Chestnut 9908 Shelbyville Road	776-8385 245-2443

TO: 26th Street File
FROM: Sushil Gupta
DATE: August 26, 1980
RE: 26th Street Non-conforming Use Study -
Public Meeting (8-25-80)

- Twenty-three persons attended meeting including Rev. Hodge and Sharon Wilbert
- Rev. Hodge asked if another commercial use can locate in an abandoned building earlier used for commercial use. Also what was the rush.
- Gerald White clarified that 26th Street problem was not typical of Russell Area. It is typical of the City.
- Porter asked the relationship of this study with Russell Area Study.
- Resident of 405 South 26th Street complained about problems created by furniture store on 403 26th Street.
- 402 26th Street is vacant lot. Problem of trash and weeds.
- A resident asked what help was available to rehabilitate her residential structure.
- Another resident asked how the rezoning would affect adjacent properties not included in the 26th Street area boundaries.
- General consensus was to rezone all the 26th Street area as residential thus letting commercial uses to remain non-conforming.
- Seven persons voted yes to the above proposal by show of hands. None was against.

Name	Address	Telephone #
Dave Ripple	Planning Commission, 900 Fiscal Court Building	581-6230
Sushil Gupta	Planning Commission, 900 Fiscal Court Building	581-6230
Mark McKinley	329 South 10th	589-2334
Elizabeth Flynn	406 South 26th	778-3924
Clara Gibson	405 South 26th	776-5593
Roberta Rush	2627 Chestnut	772-3600
Louis Taylor	2617 Chestnut	778-4242
Lucile Germany	2604 Jefferson Street	774-2614
Judge Germany	2604 West Jefferson	776-9872
Mrs. Eddie Mae Woodson	2608 West Madison	778-2085
Mr. & Mrs. William Gordon for: Mrs. Lucy Blackwell	2604 W. Muhammad Ali Boulevard	778-0817
Eugene Turner	416 South 26th St.	776-9496
W.R. Porter, Jr.	1300 W. Chestnut	587-9678
E.S. Phelps, Jr.	2618 Magazine	778-0735
Marguerite Harris	2828 Muhammad Ali	776-4765
Ron Brid	P.O. Box 1768 RNCRDC	587-7227
Reese Seetri	P.O. Box 1768 RNCRDC	587-7227
R. Bowman	900 Fiscal Court	581-6230
Gerald White	Russell N.D.C.	587-7227

**Louisville and Jefferson County Planning Commission
and Board of Zoning Adjustment
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Arthur D. Kelly, Attorney
Elizabeth J. Tedesco,
Para-Legal

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Sushil K. Gupta
David M. Hulefeld
Michael E. Kain
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Anna Louise Samuels
Glen O. Skaggs, Jr.

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Biljon Slifer
Sharon D. Smith
Meg Stanfill
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Jean D. Taylor
LaVerne P. Thomas

ACKNOWLEDGEMENTS

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Mitch McConnell Judge/Executive, Jefferson County
R. Michael French Director
Department of Public Works, Louisville
James N. Birch Secretary
Public Works & Transportation, Jefferson County

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Sushil K. Gupta Author
Technical Services Division

Robert Y. Bowman Executive Director