

# Board of Zoning Adjustment Staff Report

November 18, 2019



<b>Case No:</b>	19-CUP-0187
<b>Project Name:</b>	Derry Accessory Apartment
<b>Location:</b>	602 Mount Holly Road
<b>Owner(s):</b>	Penny Derry
<b>Applicant:</b>	Adrian Derry
<b>Jurisdiction:</b>	Louisville Metro
<b>Council District:</b>	13 – Mark Fox
<b>Case Manager:</b>	Jon Crumbie, Planning & Design Coordinator

## **REQUEST(S)**

Conditional Use Permit to allow an accessory apartment in an R-4 zoning district.

## **CASE SUMMARY/BACKGROUND**

The applicant is proposing to add an accessory apartment onto an existing detached garage and add a second floor. The accessory apartment will be approximately 960 square feet.

## **STAFF FINDING / RECOMMENDATION**

There are four listed requirements and the applicant will be asking for relief of item B. and item C. Based upon the information in the staff report and the testimony and evidence provided at the public hearing, the Board of Zoning Adjustment must determine if the proposal meets the standards established in the LDC for a Conditional Use Permit.

## RELATED CASES

None

## TECHNICAL REVIEW

The lots are in the process of being consolidated.

## INTERESTED PARTY COMMENTS

A neighborhood meeting was held on July 14, 2019 and three people attended not including the applicant.

## STANDARD OF REVIEW AND STAFF ANALYSIS FOR CONDITIONAL USE PERMIT

1. Is the proposal consistent with applicable policies of the Comprehensive Plan?

STAFF: The proposal does not conflict with Comprehensive Plan policies.

2. Is the proposal compatible with surrounding land uses and the general character of the area including factors such as height, bulk, scale, intensity, traffic, noise, odor, drainage, dust, lighting and appearance?

STAFF: The proposal is compatible with surrounding development.

3. Are necessary on-site and off-site public facilities such as transportation, sanitation, water, sewer, drainage, emergency services, education and recreation adequate to serve the proposed use?

STAFF: The subject property is served by existing public utilities and facilities. The proposal will not create substantial additional requirements for the site.

4. Does the proposal comply with the following specific standards required to obtain the conditional use permit requested?

4.2.3 Accessory Apartments Accessory Apartments may be allowed in the R-R, R-E, R-1, R-2, R-3, R-4, R-5 and U-N districts upon the granting of a conditional use permit and compliance with the listed requirements.

A. The principal and accessory dwellings shall be owned by the same person(s). Occupancy of the accessory unit shall occur only while the property owner(s) resides in the principal dwelling on the premises. ***The property owner resides in the principal dwelling.***

B. The accessory apartment shall be no greater than 650 square feet or 30% of the floor area of the principal residence, whichever is greater. ***30% of the floor area of the principal residence is 345 square feet. The accessory apartment is approximately 960 square feet.***

C. If the accessory apartment is located in a freestanding structure, it shall not exceed the height of the principal residence. In the TNFD, permissible height shall be as allowed by the form district regulation, unless the Board approves a differing height. In all other form districts, if the freestanding structure is located within 25 feet of a property line, the height of the structure shall not exceed the average height of accessory structures on abutting parcels or 15 feet, whichever is greater, unless the Board finds that a different height limit is appropriate. ***The existing residence is approximately 16 feet tall and the accessory apartment is approximately 27 feet tall.***

D. Sites having accessory apartments shall provide off-street parking for the principal and accessory apartment as follows: 3. Other form districts - at least two off-street spaces provided on the lot; the Board may require additional parking spaces as appropriate. ***The plan shows at least five off-street parking spaces.***

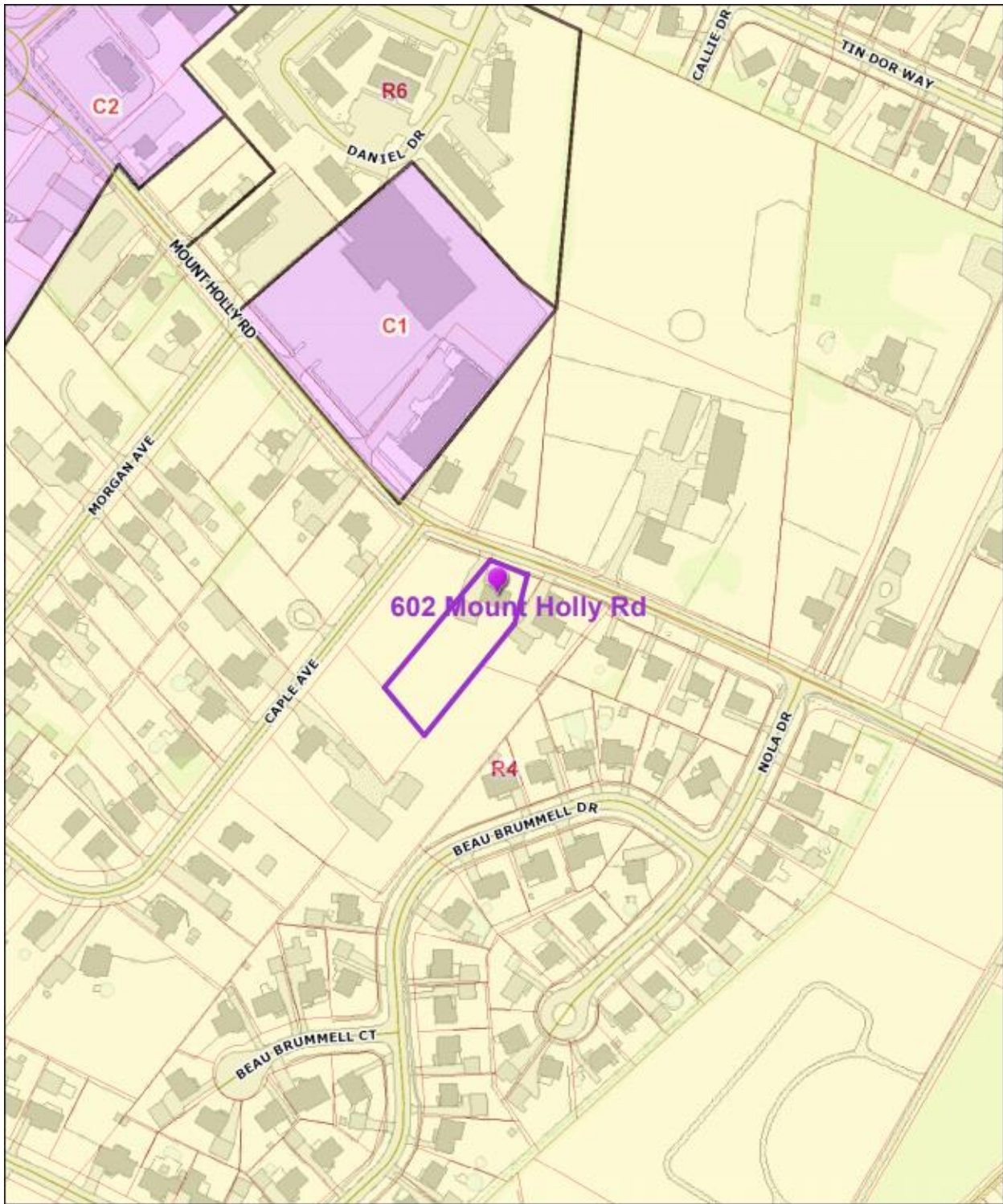
**NOTIFICATION**

Date	Purpose of Notice	Recipients
10/31/2019	Hearing before BOZA	1 <sup>st</sup> and 2 <sup>nd</sup> tier adjoining property owners Registered Neighborhood Groups in Council District 13
11/1/2019	Hearing before BOZA	Sign Posting

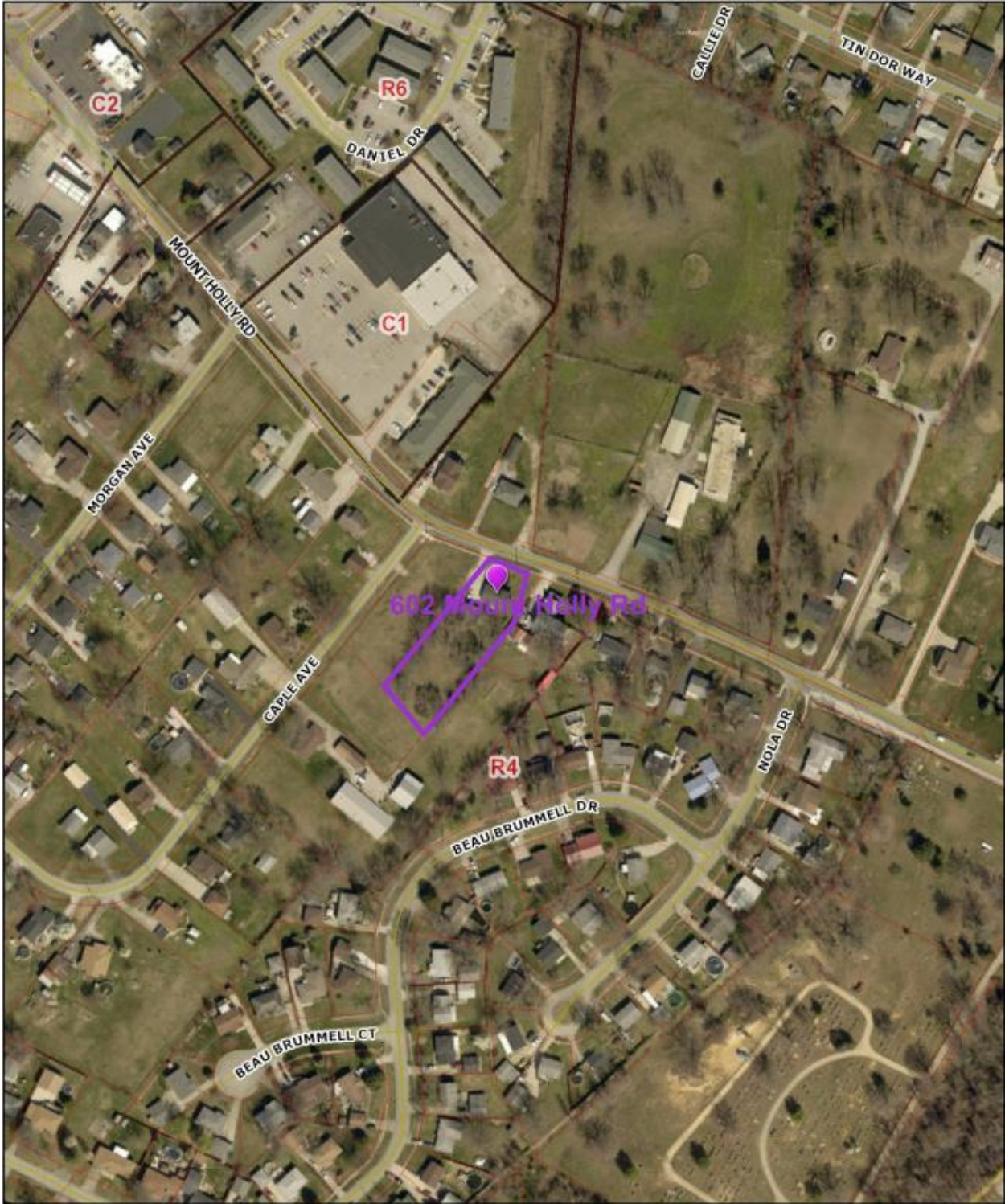
**ATTACHMENTS**

1. Zoning Map
2. Aerial Photograph
3. 2040 Checklist
4. Conditions of Approval

1. **Zoning Map**



2. Aerial Photograph



**3. 2040 Checklist**

Conditional Use Permit Checklist

+ Meet policy

- Does not meet policy

+/- Meets/Does not meet some portion of policy

NA – Not applicable

NIS – Information needed

Policy#	Plan Element or Portion of Plan Element	Staff Finding	Comments
Community Form – Goal 1			
4.	Ensure new development and redevelopment are compatible with the scale and site design of nearby existing development and with the desired pattern of development within the Form District. Quality design and building materials should be promoted to enhance compatibility of development and redevelopment projects.	+	The applicant is proposing to build a new 960 square foot accessory apartment onto the existing detached garage that will be compatible with the surrounding residential character.
11.	Ensure setbacks, lot dimensions and building heights are compatible with those of nearby developments that meet Form District guidelines.	+	The proposed drive-through will be approximately 13 feet from the front property line.

Policy#	Plan Element or Portion of Plan Element	Staff Finding	Comments
12.	Design parking, loading and delivery areas located adjacent to residential areas to minimize adverse impacts from noise, lights, and other potential impacts. Ensure that parking, loading and delivery is adequate and convenient for motorists and does not negatively impact nearby residents or pedestrians. Parking and circulation areas adjacent to the street shall be screened or buffered. Use landscaping, trees, walls, colonnades or other design features to fill gaps along the street and sidewalk created by surface parking lots. Encourage the placement of parking lots and garage doors behind or beside the building rather than facing the street. The use of alleys for access to parking lots is encouraged, especially in Downtown Louisville, Urban Center Neighborhoods, Traditional Neighborhoods and Traditional Marketplace Corridors. Encourage elimination or reduction of parking minimums in areas readily accessible to transit routes.	+	Transportation Planning has reviewed and approved the proposal.
17.	Mitigate adverse impacts of traffic from proposed development on nearby existing communities.	+	Transportation Planning has reviewed and approved the proposal.
18.	Mitigate adverse impacts of noise from proposed development on existing communities.	+	Accessory apartment will operate as a normal residence.
19.	Mitigate adverse impacts of lighting from proposed development on nearby properties, and on the night sky.	+	Lighting will be code compliant.
Goal 2 Community Facilities			
3.	Ensure that all development has adequate means of sewage treatment and disposal to protect public health and to protect water quality in lakes and streams as determined by the Metropolitan Sewer District (MSD).	+	MSD has reviewed and approved the proposal.

**4. Conditions of Approval**

1. The site shall be developed in strict compliance with the approved development plan (including all notes thereon). No further development shall occur on the site without prior review and approval by the Board.
2. The Conditional Use Permit shall be "exercised" as described in KRS 100.237 within two years of the Board's vote on this case. If the Conditional Use Permit is not so exercised, the site shall not be used for an accessory apartment without further review and approval by the Board.