

Board of Zoning Adjustment
Staff Report
December 2, 2019



Case No:	19-CUP-0213
Project Name:	Baker Accessory Apartment
Location:	5209 Mars Court
Owner(s):	Norma Baker
Applicant:	Tommy Nuckles
Jurisdiction:	Louisville Metro
Council District:	12 - Rick Blackwell
Case Manager:	Jon Crumbie, Planning & Design Coordinator

REQUEST(S)

Conditional Use Permit to allow an accessory apartment in an R-4 zoning district and Neighborhood Form District.

CASE SUMMARY/BACKGROUND

The applicant requests approval to use a proposed 1,200square foot attached structure as an accessory apartment. The apartment will be 2-stories and have three bedrooms, bathroom, kitchen, and laundry.

STAFF FINDING / RECOMMENDATION

There are four listed requirements. The applicant will be asking for relief on Item B. The proposed accessory apartment is proposed to be 1,200 square feet and the current home is 1,075 square feet. This size of a dwelling unit would create a duplex not a single family house with an accessory apartment; therefore, staff recommends that the CUP be denied. 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

There are no outstanding technical review items.

INTERESTED PARTY COMMENTS

A neighborhood was held on September 6, 2019 and at least eleven people attended not including the applicant. Due to a notice requirement not being met a second meeting was held on September 30, 2019 and at least eight people attended not including the applicant. Staff received several phone calls in opposition to the proposal.

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: There are no two-story additions of this type in the general vicinity around Mars Court, but the proposal does meet the height requirement in the Land Development Code.

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 specific standards required to obtain the requested conditional use permit?

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 up on the granting of a conditional use permit and compliance with the listed requirements. There are four listed requirements and item A. and C. will be met. The applicant will be asking for relief on Item B. and D.

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 sq ft or 30% of the floor area of the principal residence, whichever is greater. ***30% of the floor area of the principal residence is approximately 323 square feet. The accessory apartment is approximately 1,200 square feet.***

Staff believes an accessory apartment of this size would create a duplex and not a single-family house with an accessory apartment. Therefore, staff recommends that the Board deny the request for relief from item B., which would mean that the conditional use permit request would be denied for failing to meet all listed standards.

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.

D. Sites having accessory apartments shall provide off-street parking for the principal and accessory apartment as follows:

1. Neighborhood Form District - at least three off-street spaces provided on the lot, no more than two spaces outdoors; **The plan shows at least five off-street parking spaces.**

NOTIFICATION

Date	Purpose of Notice	Recipients
11/14/2019	Hearing before BOZA	1 st and 2 nd tier adjoining property owners Registered Neighborhood Groups in Council District 12
11/22/2019	Hearing before BOZA	Sign Posting

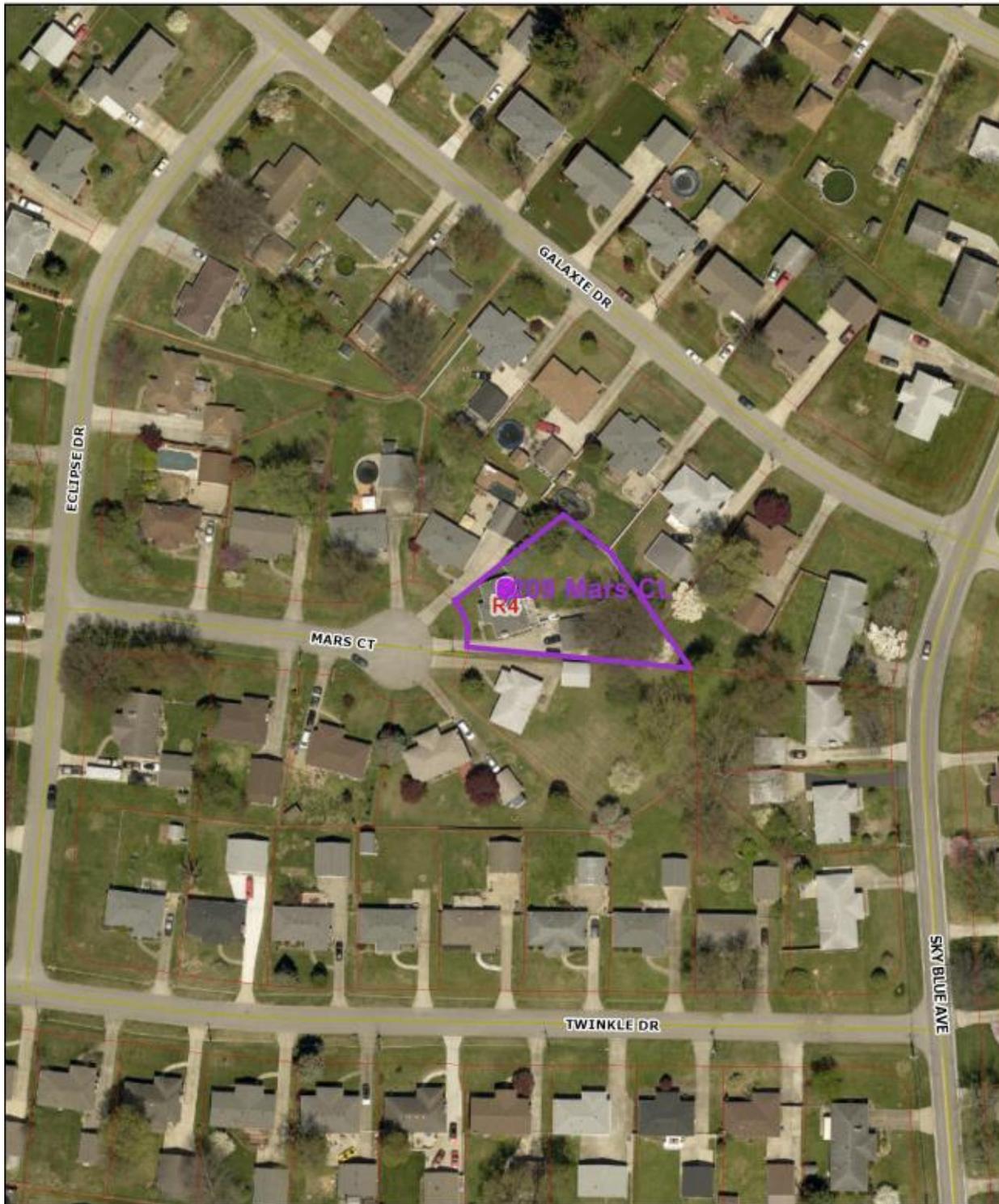
ATTACHMENTS

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

1. **Zoning Map**



2. Aerial Photograph



3. Plan 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 1,200 square foot accessory apartment onto the existing residence.
11.	Ensure setbacks, lot dimensions and building heights are compatible with those of nearby developments that meet Form District guidelines.	+	The setbacks will be maintained.

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.