



Department Source: Community Development - Planning

To: City Council

From: City Manager & Staff

Council Meeting Date: July 19, 2021

Re: *Fyfer's* Subdivision Plat No. 3 - Replat (Case #188-2021)

Executive Summary

Approval of this request will result in the combination of parts of two parcels containing a total of 0.52 acres into a single legal lot to be known as *Fyfer's Subdivision Plat No. 3*. The subject property was part of a previous platting action, containing 1.04 acres, that was denied by City Council at its May 17, 2021 meeting (B137-21).

Discussion

Crockett Engineering (agent), on behalf of Mark Stephenson (owner), is seeking approval of a replat to be known as "*Fyfer's Subdivision Plat No. 3*." The replat would combine parts of two R-MF (Multiple-Family Dwelling) zoned lots, totaling 0.52 acres, into a single parcel in advance of redevelopment. The parcel is currently addressed as 1611 University Avenue and located on the north side of the street just west of the High Street intersection. A concurrent request (Case #187-2021) seeks final plat approval on the adjacent parcel to the west addressed as 1615 and 1617 University Avenue. The combined requests constitute the entire previously considered parcel (Case # 65-2021) that sought approval to create one 1.04-acre lot for redevelopment purposes that was denied by Council at its May 17, 2021 meeting (B137-21).

Background

The subject parcel was included in a comprehensive annexation of land in 1906 and was originally platted in 1907 as a portion of Block 5 of *Fyfer's Subdivision of Fyfer's Addition*. Upon annexation the subject parcels were designated for single-family use; however, in 1957 the parcels were rezoned to R-3, now R-MF, the city's multi-family zoning designation. The original Block 5 of *Fyfer's Addition* created 70-foot wide lots in this location; however, the current lot configuration is the result of several area transfers that have occurred since 1907 to accommodate dwelling construction. There is no formal record of platting actions associated with the current lot configuration, only references to deed transfers.

Specifically, the proposed replat includes the eastern 40 feet of Lot 15 of Block 5 of *Fyfer's Addition* and the western 60 feet of Lot 16 of Block 5 of *Fyfer's Addition*. Based upon aerial photography, it appears that the existing home on the parcel used the entirety of the 100-foot wide lot. Furthermore, based upon deed transaction data it would appear that the Boone County Assessor's Office revised the legal description for both Lots 15 and 16; however, staff has been unable to ascertain when the original deeds describing the current lot configurations were recorded.



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The small area transfer that created the currently described parcel for 1611 University was a common practice between neighboring property owners at the time; however, is now considered an illegal land transfer and is not recognized by the City when determining the legal lot status of the property. As such, approval of a final plat is required prior to issuance of a building permit for any redevelopment on the property. A previous attempt by the applicant to combine the subject property and the property to the east (1615 and 1617; part of Lots 16, 17 & 18) into a single, 200 foot wide lot was denied by City Council in May.

Regulatory Considerations

Per Section 29-5.2(d)(4) approval of a replat is subject to Council finding that:

- (1) The replat does not remove any conditions of the existing plat that have been relied upon by the City and neighboring property owners.
- (2) The replat is served by adequate infrastructure to meet the increased demand generated by the resubdivision.
- (3) The replat is not detrimental to other properties in the neighborhood or if alleged to be detrimental the public benefit outweighs the alleged detriment to the property in the neighborhood.

The proposed replat has been reviewed for compliance with the requirements of the UDC. As a part of this review, staff has found no restrictions exist on the approved plat that must be carried forward or were to be relied upon as guidance in future redevelopment of the site. Staff has further determined that all utilities are in place and located within adequately sized utility easements, the standard 10-foot utility easements are being provided along all public right-of-way frontages (University Avenue and platted/unopened alley), and sidewalks are in place. Additionally, the plat proposes dedication of an additional 2.5 feet of right-of-way for the unopened alley to meet the minimum alley width standards of the UDC.

Formal development plans have not been submitted. The applicant has submitted rough sketch plans (attached) to show potential construction on the proposed 100-foot lot and possible 60+ foot wide lots should the current request not be favorably considered. It should be noted that staff has not formally reviewed the plans for regulatory compliance; however, any proposed development on the site will be required to meet all UDC standards including bulk, density, setbacks, parking, screening and buffering, neighborhood protections, architectural design, and East Campus Urban Conservation Overlay (UC-O) standards.

With respect to the applicable UDC standards, the site's redevelopment will be subject to the neighborhood protection standards of Section 29-4.7. These standards require the stepping down of any building greater than 30-feet in height to a maximum of 24-feet when located within 25 feet of a side or rear lot line, or the increasing of the side yard setbacks an additional 10 feet to reduce perceived building height. Additionally, the standards will require enhanced screening and buffering along the eastern boundary of the redeveloped site given the neighboring R-2 zoning designation. The remaining boundaries of the site will be exempt from additional screening and buffering given they abut R-MF properties. Finally, Section 29-4.7 includes standards that will restrict "pole" style lighting height to diminish light



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pollution on neighboring properties, and requires all buildings have an operational entrance oriented toward the street.

The East Campus UC-O attempts to address issues that arise from the conversion, development, and redevelopment of property from either a single-family use or a vacant parcel to multi-family use through the implementation of the additional standards and criteria found within Section 29-2.3(3)(ii)(D) of the UDC. The UC-O will impact the proposed redevelopment of the property by requiring new construction to have pitched roofs and concealed solid waste collection to the rear of the property. Given that the proposed replat will create a new consolidated parcel, the permissible density and other development requirements (i.e parking) applicable to the site must conform to the current standards of the UDC for multi-family development.

Another standard provision of the UDC that will affect the proposed redevelopment of the subject lot is found within Section 29-4.1(b)(1). This section states that when development takes place on an intervening lot between two developed residential lots, the minimum front yard setback on the redevelopment lot must be established by the median setback of the adjacent developed lots. The purpose of this provision is to assist in protection of the neighborhood visual character as well as the continuity of the streetscape corridor. On the subject parcel, the median setback is estimated to be 55 feet. The standard front yard setback in the R-MF district is 25 feet; therefore, the development envelope of the subject parcel is somewhat diminished. This provision of the code is enforced as part of the construction plan review process and does not impact the platting action – setback lines are not shown on recorded plats.

Public comments offered to staff and presented during the May 2021 Council meeting on the combined 200-foot frontage parcel expressed concerns relating to the permissible density of development allowed by the current R-MF zoning. While understandable, the action before the Council is to consider the approval of a plat not the underlying zoning. As noted, the subject site is not capable of redevelopment without approval of a platting action given it currently cannot be classified as a “legal lot”. Any version of a platting action approved by Council will not change the allowed density on the property without the consent of the property owner.

For purposes of clarity, the R-MF district requires a minimum of 2,500 square feet of lot area per dwelling unit. Given this standard, a **maximum** of nine dwelling units is permitted on the 0.52-acre (22,650 sq ft) site, subject to meeting other applicable UDC requirements such as parking, neighborhood protections, etc. Maximum occupancy of any dwelling unit is a total of four un-related individuals. It should be noted, in regards to regulations, that formal stormwater management plans are not required for redevelopment of properties under an acre in size.

Following denial of the original platting request, the applicant consulted with staff regarding potential alternative platting arrangements and their implications within the built environment. Discussion of pursuing two 100-foot wide lots or possibly three 60+ foot wide



lots were discussed. Ultimately, the applicant chose to pursue the current request for approval of a replat of two 100-foot wide lots versus the single 200-foot wide lot. In recognition of the concerns expressed regarding development density, the applicant has added a note to the plat that limits the number of dwelling units on the acreage to a maximum of seven dwelling units (3,230 square feet per unit).

Alternative Considerations

The previous proposal sought to combine the properties at 1611, 1615, and 1617 University into one 1.04-acre legal lot. The applicant is currently seeking to create 1611 University as a 0.52-acre lot and a second 0.52-acre lot to be known as "Fyfer's Subdivision Plat No. 2" comprised of the property addressed as 1615 and 1617 University. Should Council find the proposed lot(s) to still be a detriment to the neighborhood per the approval criteria set forth in Section 29-5.2(d)(4) of the UDC, alternatives would remain for facilitation of redevelopment on the subject parcel. However, due to the numerous deed transfers on the parcels approval of platting actions will still be required prior to the issuance of building permits.

The alternative lot arrangement finally accepted by Council will dictate many design considerations impacting the future redevelopment of the property. One such arrangement alternative would be to reduce the lot width to the UDC minimum of 60 feet. The complete parcel has a total street frontage of roughly 200-feet. This dimension would permit up to three UDC-compliant lots. The applicant has indicated that the narrow, deep dimensions of the resultant lots would require additional building height from what was originally conceived. Construction on the property will likely employ the maximum height of 35 feet where permitted, pursuant to the provisions of the neighborhood protection standards (i.e. stepping down of buildings over 30 feet in height within 25' of a residential property). Parking, in this alternative would have to be placed within garages, due to constraints of the buildable area.

Recreation of the original 70-foot lots depicted on the 1907 plat would only create two 70-foot lots and non-compliant remnant parcels at the east and west ends. It is estimated that the eastern 35 feet of Lot 15 would be rendered undevelopable and noncompliant, as well as the western 25 feet of Lot 18. This arrangement would leave existing Lots 16 & 17 as the only viable redevelopment lots; however, existing R-MF zoning would still permit up to 12 units on the property.

The staff report for the initial one-lot request indicated that the 200-foot lot width was out of character with the average lot size in the vicinity, but that it was not unique. With each additional lot created on the parcel the density, site layout, and building masses will be compressed. Staff believes there is a point of diminishing returns, however. The existing R-MF zoning permits, in essence, a minimum development potential on the property. Smaller lot sizes will not limit the number of units directly; therefore, resultant construction will become more vertical in nature. Public comments generated from the original platting action clearly indicated a desire to avoid this type of final product.



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A finding of compliance with approval criteria #3, as stated above, is within the sole discretion of the Council. Staff believes that the provisions of the UDC would mitigate any potential negative impacts that approval of the currently proposed 100-foot wide replat and the site's redevelopment may create upon neighboring properties. The subject parcels are located within an area of the city containing a mixture of housing types at varying intensity levels and have sufficient existing public infrastructure capacity to support the anticipated redevelopment.

Staff believes that when considering the alternative platting actions that may be available to effectuate the redevelopment of the property, the current proposal is superior. It would permit development to remain at a scale (vertically) that is in keeping with adjoining development, affords lot area to locate parking to the rear of future development, and makes full usage of the property currently controlled by the applicant in a more efficient manner. The other platting alternatives, while viable, are not considered as consistent with the current neighborhood characteristics and may produce more inconsistent patterns given the limitations that they would impose on the created parcels.

Staff finds that the replat meets all applicable technical standards of the UDC regulations and recommends its approval.

Locator maps, final plat, and sketch plans for a 100-foot and a 60-foot lot are attached for review.

Fiscal Impact

Short-Term Impact: None anticipated within the next two years. Public infrastructure extension/expansion would be at the cost of the developer.

Long-Term Impact: Possible impacts could be public infrastructure maintenance such as roads, sewers, and water, as well as public safety and solid waste service provision. Future impacts may or may not be offset by increased user fees and/or property tax collections.



Strategic & Comprehensive Plan Impact

Strategic Plan Impacts:

Primary Impact: Infrastructure, Secondary Impact: Not Applicable, Tertiary Impact: Not Applicable

Comprehensive Plan Impacts:

Primary Impact: Land Use & Growth Management, Secondary Impact: Not applicable, Tertiary Impact: Not Applicable

Legislative History

Date	Action
5/17/2021	Defeated: Bill No. B 137-21 – “Fyfer’s Subdivision Plat No. 2, dated 3/19/2021”

Suggested Council Action

Approve the submitted “*Fyfer’s Subdivision Plat No. 3*” and accept the applicant-imposed restriction on development density.