



Department Source: Community Development - Planning

To: City Council

From: City Manager & Staff

Council Meeting Date: September 3, 2024

Re: 119 Fyfer Place – Rezoning (Case # 197-2024)

## Executive Summary

Approval of this request would result in the rezoning of a 0.52-acre property located at 119 Fyfer Place from R-1 (One-family Dwelling) to R-2 (Two-family Dwelling). The purpose of the request is to allow the existing 4-bedroom dwelling unit to be allowed to seek a rental certificate accommodate a total of 4 unrelated individuals versus the 3 presently permitted. As currently zoning and in accordance with the UDC definition of "family," the existing dwelling can only be used by a maximum of 3 unrelated individuals.

## Discussion

Patricia and James Fox (owners), are seeking approval to rezone their 0.52-acre property located at 119 Fyfer Place from R-1 (One-family Dwelling) to R-2 (Two-Family Dwelling). The subject site has been zoned for single-family detached dwelling use since 1935 and was recoded to the R-1 district in 1957.

119 Fyfer Place was acquired by the applicants in 2018 as a means to provide housing for a family member that was attending the University of Missouri. Prior to the applicant's acquisition of the property, the home had been previously licensed for use as a "long-term" rental with a maximum occupancy of 3 unrelated individuals. In 2019, following acquisition of the property, the applicants obtained their first "long-term" rental certificate which also included an acknowledgement that dwelling was permitted to be used by a maximum of 3 unrelated individuals. This occupancy limitation is imposed by the United Development Code definition of "family" (for zoning purposes - see below) and the property's R-1 zoning designation.

### *Family.*

- (1) An individual, married couple, or registered domestic partnership and the children thereof, including foster children placed in the household by a public agency, and no more than two (2) other persons related directly to the individual, married couple or registered domestic partnership by blood or marriage, occupying a single housekeeping unit on a nonprofit basis. A family may include not more than one additional person, not related to the family by blood or marriage; or
- (2) a. In zoning districts R-1 and PD (when the PD development density is five (5) or less dwelling units per acre), a group of not more than three (3) persons not related by blood, marriage, or registered domestic partnership, living together by joint agreement and occupying a single housekeeping unit on a nonprofit cost-sharing basis; or the use of a dwelling unit by four (4) persons not related by blood, marriage, or registered domestic partnership, living together by joint agreement and occupying a single housekeeping unit on a nonprofit



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cost-sharing basis, prior to February 4, 1991, shall be allowed to continue in districts R-1 and R-1 PUD as a lawful nonconforming use.

- b. In all other applicable zoning districts, a group of not more than four (4) persons not related by blood, marriage, or registered domestic partnership, living together by joint agreement and occupying a single housekeeping unit on a nonprofit cost-sharing basis.

At this time the applicants desire to better utilize the existing dwelling's four bedrooms and seek to rezone the property. In support of their request, the applicants provided an analysis of how their lot and dwelling compares with the surrounding development and how their lot can accommodate potential parking demand increases. The analysis illustrates that the subject lot is much larger than neighboring R-1 lots as well as is larger than most R-2 lots to the east along Sunrise Drive. With respect to the amount of gross floor area within each of the adjacent homes, the analysis showed the subject dwelling is comparable in size to existing R-2 structures, but larger than most homes within the R-1 zoning. During the public hearing, the applicant noted they have no intention of redeveloping the property; rather, they desire the zoning change to maximize the existing use of current dwelling's four bedrooms.

The subject lot contains two vehicle parking areas. A paved driveway is located in front of the home and additional parking is available near the northeast corner of the property within a vacated segment of Rockhill Road (previously an extension of Moss Avenue) which was vacated by Ordinance No. 015429 in 1997. The former right of way for the roadway was transferred to the adjacent property owners following its vacation and is presently shown as part of the property addressed as 119 Fyfer Place. Given these site features, a total of four spaces are available on the property which exceeds that required for a single-family dwelling. Approval of the rezoning does not change the classification of dwelling presently on the property - it remains a single-family home with a parking requirement of two spaces. The zoning change would only impact the number of unrelated individuals allowed to occupy the dwelling.

The proposed rezoning is found to be consistent with goals and objectives of the comprehensive plan. Rezoning would optimize use of the existing structure without significant impacts to the neighborhood which is mixture of all forms of residential typologies (i.e. single-, two-, and multi-family uses) that are primarily registered as "long-term" rentals. The requested rezoning does not include any proposed redevelopment and, if approved, is not foreseen as resulting in a noticeable change to the existing land use context.

At its July 18, 2024 meeting, the Planning & Zoning Commission held a public hearing on this matter. Staff presented its report and the applicant gave an overview of the request explaining their analysis and reasoning for why they believed the request was appropriate. Four members of the public spoke in opposition to the request. Three cited concerns about the increase in the number of occupants and concerns relating to potential redevelopment of the site. Additionally, concerns were expressed that rezoning may encourage "zoning-creep" westward along Fyfer Place and that the request was premature given the anticipated recommendation of the ongoing "Central City" project were not complete and



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that rezoning the subject lot may be inconsistent with its recommendations. Furthermore, comments were made suggesting that the applicant's request should be authorized via an application for a "conditional use" to allow an ADU or granted by the Board of Adjustment via a "variance". The fourth public speaker raised questions regarding the use of vacated Moss Street as a pedestrian pathway to Cliff Drive to the north of the subject property.

The Commission asked question of each member of the public and sought to understand why they were opposed to the request. In doing so, the Commission often referenced that the applicants appeared to only be seeking to restore an allowed occupancy level that was permitted within the dwelling prior to their acquisition of it. Additionally, the Commission sought staff clarification on the legality of the suggested alternatives to the requested rezoning.

Staff stated a conditional use permit for an ADU was not appropriate given that the existing dwelling contained only a single kitchen - not a complete secondary dwelling unit. With respect to pursuing a "variance", it was noted such action was not within the Boards purview given it would involve a modification of an existing definition, not a dimensional standard.

Following staff's response and closure of the public hearing, one member of the public who offer comments earlier desired to provide additional testimony relating to comments made by several Commissioner's with respect to the belief that the applicants request was based on a desire to re-establish rental rights that existed prior to their acquisition of the property. Given the hearing was closed, the Chairman indicated that additional public comment was not possible. Following additional limited Commissioner comments, a motion was made to approve the request which was passed unanimously (7-0).

Given the public hearing was closed without acceptance of additional public comment, the individual seeking to provide such comments submitted correspondence to staff. The correspondence is attached and states that the subject site has never previously been permitted to have more than three unrelated individuals given its zoning history and that the Commissioners belief that approval of the request would "re-establish" former occupancy rights was not factual. Staff concurs that the subject site has never been permitted to be occupied by more than three unrelated individuals.

A copy of the Planning and Zoning Commission staff report, locator maps, zoning exhibit, application letter, applicant's zoning and lot size analysis, subdivision plat, public correspondence, and meeting minute excerpts are attached.



## Fiscal Impact

Short-Term Impact: Limited. No expansion of public infrastructure is proposed or necessary to support the additional occupant within the 4-bedroom dwelling. Any modifications public infrastructure serving the property would be at the expense of the applicant.

Long-Term Impact: Limited. The provision of public services necessary to support an additional tenant within the existing dwelling would have negligible impact upon the public infrastructure. If a redevelopment of the property were to be pursued, possible impacts could include increases in public infrastructure maintenance (i.e. water, sewer, and roads) and public safety as well as solid waste collection expenditure. Such increases in expenditures may or may not be off-set by increased user-fees and property tax collections.

## Strategic & Comprehensive Plan Impact

### [Strategic Plan Impacts:](#)

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

### [Comprehensive Plan Impacts:](#)

Primary Impact: Land Use & Growth Management, Secondary Impact: Livable & Sustainable Communities, Tertiary Impact: Not Applicable

## Legislative History

Date	Action
06/10/2002	Approved: Vacation of segment of Rockhill Road (Moss Avenue) on east side of subject property. (Ord. No. 015429)

## Suggested Council Action

Approve the request to rezone 0.52 acres from R-1 to R-2 as recommended by the Planning and Zoning Commission.