



## Board of Alderman Request for Action

**MEETING DATE:** 7/19/2022

**DEPARTMENT:** Development

**AGENDA ITEM:** Bill No. 2949-22 Rezoning Dibbens Estates - Second Reading

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### **REQUESTED BOARD ACTION:**

A motion to approve Bill No. 2949-22 for Second Reading by Title Only to Rezone 13916 North Virginia from A-1 to A-R.

### **SUMMARY:**

Applicant seeks to rezone his 11 acre lot from A-1 to A-R to accommodate subdividing the land into three 3.8 acre lots.

### **BACKGROUND:**

The applicant seeks to subdivide his property into three lots and sell the two new lots. The current zoning of A-1 requires lots not less than 10 acres so down-zoning is required. The most similar district that would allow smaller lots is the A-R district, which requires lots not less than three acres if sewers are not available. The applicant seeks to rezone to the A-R district for the purpose of subdividing the land but maintain the general use limitations of agricultural districts.

### **PREVIOUS ACTION:**

The land was originally subdivided in 1984 while in unincorporated Clay County; was annexed in 1988 and the current zoning was established at that time.

### **POLICY ISSUE:**

2030 Comprehensive plan identifies the property area to be either agricultural or low-density residential, which is defined as not less than three acre lots.

### **FINANCIAL CONSIDERATIONS:**

None

### **ATTACHMENTS:**

- |  |                                   |
|--|-----------------------------------|
| <input checked="" type="checkbox"/> Ordinance  | <input type="checkbox"/> Contract |
| <input type="checkbox"/> Resolution  | <input type="checkbox"/> Plans    |
| <input checked="" type="checkbox"/> Staff Report   | <input type="checkbox"/> Minutes  |
| <input checked="" type="checkbox"/> Other: Planning and Zoning meeting is available to view online |                                   |

## FINDING OF FACTS AND CONCLUSIONS OF LAW

Applicant: Bradley & Marjorie Dibbens

Land Use Proposed: A-R

Zoning: A-1

Property Location: 13916 N. Virginia

Pursuant to the provisions of Section 400.560(C) of the Smithville Code, the Planning Commission does hereby make the following findings of fact based upon the testimony and evidence presented in a public hearing of the Planning and Zoning Commission of the City of Smithville, held on June 14, 2022, and presents these findings to the Board of Aldermen, with its' recommendations on the application.

### Finding of Facts

1. *Character of the neighborhood.*  
The surrounding area is A-1 with large lot residences to the south and east, with County AG district to the direct north and County R-1 in the Sunrise East subdivision north and east as well.
2. *Consistency with the City's Comprehensive Plan and ordinances.*  
The new Comprehensive Plan was approved on November 10th, 2020, and formally adopted as the policy of the City on November 17th, 2020. That plan identifies the area along Virginia to be either low-density residential or agricultural. Low-density residential is described as "typically single-family houses on large lots over three acres".
3. *Adequacy of public utilities and other needed public services.*  
The property is outside the current city service areas for both water and wastewater, but the current lot has all utilities. Any utility extensions would be the responsibility of the owners.
4. *Suitability of the uses to which the property has been restricted under its existing zoning.*  
The current use is a large lot single-family home. The general area (within ½ mile) has been developed as 3-5 acres lots to the north and east in both unincorporated Clay County and City Limits.
5. *Length of time the property has remained vacant as zoned.*

The property was zoned to the existing district classification presumably when Smithville annexed the land.

6. *Compatibility of the proposed district classification with nearby properties.*

The property primarily lies on Amory Rd. and the A-R district is more restrictive in use than the current district, but it allows housing on lots larger than 3 acres, versus 10 acres in the A-1 district.

7. *The extent to which the zoning amendment may detrimentally affect nearby property.*

No detrimental effects are anticipated to the adjacent property.

8. *Whether the proposed amendment provides a disproportionately great loss to the individual landowners nearby relative to the public gain.*

No detrimental effects are anticipated to adjacent properties.

9. That in rendering this Finding of Fact, testimony at the public hearing on June 14, 2022, has been taken into consideration as well as the documents provided.

Recommendation of the Planning Commission

Based on the foregoing findings of fact, we conclude that:

- A. This application and the Rezoning of this property from A-1 to A-R is governed by Section 400.620 of the zoning ordinance of Smithville, Missouri.
- B. The proposed zoning is compatible with the factors set out in Section 400.560(C) of the zoning ordinance.
- C. The Planning and Zoning Commission of the City of Smithville, Missouri recommends approval of rezoning the property to A-R.

**BILL NO. 2949-22**

**ORDINANCE NO. 31XX-22**

**AN ORDINANCE CHANGING THE ZONING CLASSIFICATIONS OR DISTRICTS OF CERTAIN LANDS LOCATED IN THE CITY OF SMITHVILLE, MISSOURI AND ENTERING INTO A DEVELOPMENT AGREEMENT.**

**WHEREAS**, the City of Smithville received an application for rezoning 13916 North Virginia on May 2, 2022; and

**WHEREAS**, the public was notified by publishing in the CT paper on May 26, June 2 and 9, 2022 and notices were mailed to adjoining property owners on May 26, 2022.

**WHEREAS**, a Public Hearing was conducted before the Planning Commission on June 14, 2022; and

**WHEREAS**, the rezoning is to change the zoning from A-1 to A-R; and

**WHEREAS**, the Planning Commission presented findings to the Board of Aldermen and recommended approval of the rezoning request; and,

**NOW THEREFORE BE IT ORDAINED BY THE BOARD OF ALDERMEN OF THE CITY OF SMITHVILLE, MISSOURI, THAT:**

Section 1. Having received a recommendation from the Planning Commission, and proper notice having been given and public hearing held as provided by law, and under the authority of and subject to the provisions of the zoning ordinances of the City of Smithville, Missouri, by a majority council vote, the zoning classification(s) or district(s) of the lands legally described hereby are changed as follows:

The property legally described as:

Lot 1, Ada's Estates

Changed from A-1 to A-R

Section 2. Upon the taking effect of this ordinance, the above zoning changes shall be entered and shown upon the "Official Zoning Map" previously adopted and said Official Zoning Map is hereby reincorporated as a part of the zoning ordinance as amended.

Section 3. This ordinance shall take effect and be in full force from and after the approval.

PASSED THIS 19<sup>th</sup> DAY OF JULY, 2022

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Damien Boley, Mayor

ATTEST:

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Linda Drummond, City Clerk

First Reading: 06/21/22

Second Reading 07/19/22



STAFF REPORT  
June 14, 2022

Rezoning of Parcel I# 09-302-00-02-013.00

Application for Rezoning District Classification Amendment

Code Sections:

400.560.C Zoning District Classification Amendments

Property Information:

Address: 13916 N. Virginia Ave.  
Owner: Bradley & Marjorie Dibben  
Current Zoning: A-1  
Proposed Zoning: A-R

Public Notice Dates:

1<sup>st</sup> Publication in Newspaper: May 26, 2022  
Letters to Property Owners: May 26, 2022

GENERAL DESCRIPTION

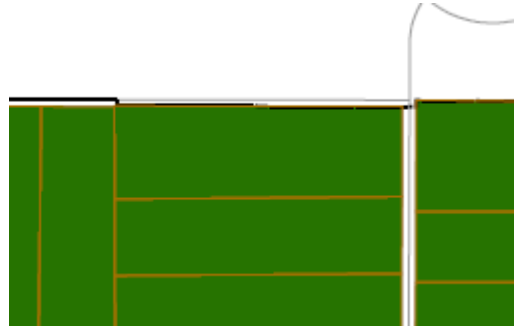


The applicant seeks to rezone the subject property from A-1 to A-R. The total acreage of the current parcel is 11.52 acres with the applicant's home

located on the east end of the lot. The applicant seeks to divide two additional lots of 3.81 acres each of the west side, with access onto Virginia.

#### EXISTING ZONING:

The existing zoning is A-1.



#### CHARACTER OF THE NEIGHBORHOOD *400.560.C.1*

The surrounding area is a predominantly A-1 with large lot residences to the south and east, with County AG district to the direct north and County R-1 in the Sunrise East subdivision north and east as well.

#### CONSISTENCY WITH COMPREHENSIVE PLAN AND ORDINANCES *400.560.C.2*

The new Comprehensive Plan was approved on November 10<sup>th</sup>, 2020, and formally adopted as the policy of the City on November 17<sup>th</sup>, 2020. That plan identifies the area along Virginia to be either low-density residential or agricultural. Low-density residential is described as “typically single-family houses on large lots over three acres”.

#### ADEQUACY OF PUBLIC UTILITIES OR OTHER PUBLIC SERVICES *400.560.C.3*

The property is outside the current city service areas for both water and wastewater, but the current lot has all utilities. Any utility extensions would be the responsibility of the owners.

#### SUITABILITY OF THE USES TO WHICH THE PROPERTY HAS BEEN RESTRICTED UNDER ITS EXISTING ZONING *400.560.C.4*

The current use is a large lot single-family home. The general area (within ½ mile) has been developed as 3-5 acres lots to the north and east in both unincorporated Clay County and City Limits.

#### TIME THE PROPERTY HAS REMAINED VACANT AS ZONED *400.560.C.5*

The property was zoned to the existing district classification presumably when annexed into Smithville.

COMPATIBILITY OF PROPOSED DISTRICT WITH NEARBY LAND *400.560.C.6*

The property primarily lies on Amory Rd. and the A-R district is more restrictive in use than the current district, but it allows housing on lots larger than 3 acres, versus 10 acres in the A-1 district.

EXTENT WHICH THE AMENDMENT MAY DETRIMENTALLY AFFECT NEARBY PROPERTY *400.560C.7*

No detrimental effects are anticipated to the adjacent property values.

WHETHER THE PROPOSAL HAS A DISPROPORTIONATE GREAT LOSS TO ADJOINING PROPERTY OWNERS' RELATIVE TO THE PUBLIC GAIN *400.560.C.8*

No detrimental effects are anticipated to adjacent properties.

STAFF RECOMMENDATION:

Staff recommends that the rezoning to A-R be approved, with any subdivision of land separately considered.