



## Board of Aldermen Request for Action

**MEETING DATE:** 12/20/2022

**DEPARTMENT:** Development

**AGENDA ITEM:** Bill No. 2971-22, Rezoning NE corner of Second Creek and Lowman Road - 1<sup>st</sup> Reading

---

### **REQUESTED BOARD ACTION:**

A motion to approve Bill No. 2971-22 for First Reading by Title Only to rezone the NE corner of Second Creek and Lowman Road from A-1 to R-1B and R-3.

### **SUMMARY:**

The ordinance would change the zoning from agricultural to both single family and multifamily to accommodate a 53-lot single family and 17 lot two-family townhomes (87 dwellings) on 32.04 acres.

### **BACKGROUND:**

The property is currently zoned A-1 and was in the Lowman family for many years. The property was sold last year to a developer. Due to financial complications, that developer contracted with another developer to buy the land. The new developer is purchasing the land contingent upon the rezoning and approval of a new subdivision. Due to how busy engineers are at this time, the actual plat approval was postponed until January to allow traffic studies to be reviewed. The zoning is required prior to any plat approval is authorized on this land, so that delay doesn't impact any rezoning issue. The proposed Preliminary Plat would create 53 single family and 17 multifamily lots (for two family townhomes) and the description of the rezoning is the entire parcel would be R-1B, except the proposed lots 101-117, which would be R-3. The public hearing on the rezoning was conducted by the Planning Commission on December 13, 2022. There were several participants, both for and against the development. The primary concerns were potential road improvements and the smell of the sanitary sewer plant just downstream from the property. The support was focused on how this plan is precisely what the new Comprehensive plan calls for and the growing need for housing that is attainable by work force participants like police and teachers. Following the hearing, the Commission discussed various aspects of the proposal, and then went through the potential findings of fact one by one to elicit comments or changes from the Commissioners. After no changes were recommended, the commission voted to approve the Findings of Fact and recommend approval of the rezoning.

### **PREVIOUS ACTION:**

The A-1 zoning was in place since the property was annexed into the city.

### **POLICY ISSUE:**

Complies with the Comprehensive Plan uses for the area.

**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: Findings of Fact and Planning and Zoning meeting is available for viewing online |                                   |

## **FINDING OF FACTS AND CONCLUSIONS OF LAW**

Applicant: LMW, Inc.

Land Use Proposed: R-1b and R-3

Zoning: A-1

Property Location: NE corner of Second Creek and Lowman Roads

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 December 13, 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 mix of a few single-family houses on agriculturally zoned land, R-3 land to the west across Lowman Road and farmland in unincorporated Clay County to the south. Significantly larger residential subdivisions lie just west of the parcel, and the proposed Downtown overlay district is to the east.
2. *Consistency with the City's Comprehensive Plan and ordinances.*  
A. The existing Comprehensive Plan was approved on November 10, 2020 and calls for an overlay district for expanding downtown to just east of the boundary with Second Creek itself. The proposed density in the proposed subdivision is less than most other new subdivisions proposed in the recent past and completes infill development between the expanded downtown and the dense subdivisions to the west.
3. *Adequacy of public utilities and other needed public services.*  
The application is to rezone to allow a 53 single-family and 17 multifamily lot subdivision to be constructed. All utilities and services are available currently but must be extended through this facility at the applicant's sole cost and expense.
4. *Suitability of the uses to which the property has been restricted under its existing zoning.*  
The current use is farm/pasture, but the subject portion of the land is undeveloped.

5. *Length of time the property has remained vacant as zoned.*  
The property was zoned to the existing district classification when annexed into the city. With the recent completion of gravity sewers along the property near the river, the land has become more developable.
6. *Compatibility of the proposed district classification with nearby properties.*  
The adjacent land (other than 3 houses on lots larger than 3 acres) is undeveloped farm or pastureland. Nearby is commercial land on the east, R-3 multifamily across Lowman Road with two larger subdivisions to the west of that land. The city's sewer treatment plant is just north of the subject parcel as well.
7. *The extent to which the zoning amendment may detrimentally affect nearby property.*  
No detriment is anticipated to the adjacent housing or vacant lands.
8. *Whether the proposed amendment provides a disproportionately great loss to the individual landowners nearby relative to the public gain.*  
No loss to landowners is expected.
9. That in rendering this Finding of Fact, testimony at the public hearing on December 13, 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 R-1B and R-3 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 does recommend approval of rezoning the property to R-1b and R-3 as shown on the proposed preliminary plat.

**BILL NO. 2971-22**

**ORDINANCE NO. \_\_\_\_\_**

**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 a portion of the property at the northeast corner of Second Creek and Lowman Roads on October 14, 2022; and

**WHEREAS**, the public was notified by publishing in the CT paper on November 24, 2022 and notices were mailed to adjoining property owners more than 15 days prior to the December 13 hearing.

**WHEREAS**, a Public Hearing was conducted before the Planning Commission on December 13, 2022; and

**WHEREAS**, the rezoning is to create a residential subdivision with both R-1b single family and R-3 lots for a total of 87 dwellings on 32.04 acres; and

**WHEREAS**, the Planning Commission presented its' 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:

Beginning at the Center of Section 22, Township 53 North, Range 33 West, Smithville, Clay County, Missouri: thence along the West line of the Northeast Quarter South 00 degrees 14 minutes 39 seconds West, 891.19 feet to the Point of Beginning; thence departing from said line North 86 degrees 33 minutes 30 seconds East, 158.95 feet; thence North 71 degrees 05 minutes 54 seconds East, 32.66 feet; thence North 60 degrees 12 minutes 57 seconds East, 32.75 feet; thence North 46 degrees 27 minutes 34 seconds East, 32.75 feet; thence North 26 degrees 21 minutes 27 seconds East, 34.42 feet; thence North 02 degrees 30 minutes 52 seconds West, 81.85 feet; thence North 42 degrees 49 minutes 26 seconds East, 107.94 feet; thence North 15 degrees 12 minutes 59 seconds East, 33.30 feet; thence North 10 degrees 37 minutes 40 seconds West, 80.63 feet;

thence North 35 degrees 27 minutes 45 seconds West, 21.62 feet; thence North 59 degrees 42 minutes 09 seconds West, 76.49 feet; thence North 02 degrees 32 minutes 45 seconds West, 178.55 feet; thence South 88 degrees 26 minutes 47 seconds East, 141.04 feet; thence North 77 degrees 48 minutes 48 seconds East, 79.58 feet; thence North 54 degrees 21 minutes 27 seconds East, 148.47 feet; thence North 72 degrees 21 minutes 17 seconds East, 54.97 feet; thence North 81 degrees 50 minutes 29 seconds East, 104.14 feet; thence South 84 degrees 13 minutes 11 seconds East, 45.70 feet; thence South 16 degrees 43 minutes 53 seconds West, 42.65 feet; thence South 69 degrees 55 minutes 24 seconds East, 294.94 feet; thence North 84 degrees 13 minutes 27 seconds East, 380.00 feet; thence South 35 degrees 57 minutes 59 seconds East, 181.79 feet; thence South 58 degrees 23 minutes 08 seconds East, 195.06 feet; thence South 72 degrees 51 minutes 44 seconds East, 218.40 feet; thence South 36 degrees 05 minutes 11 seconds West, 223.71 feet; thence South 44 degrees 41 minutes 46 seconds West, 76.13 feet; thence South 56 degrees 48 minutes 44 seconds West, 50.08 feet; thence South 42 degrees 13 minutes 07 seconds West, 204.68 feet; thence South 11 degrees 53 minutes 00 seconds East, 114.56 feet; thence North 88 degrees 46 minutes 08 seconds West, 301.07 feet; thence South 05 degrees 07 minutes 36 seconds West, 223.86 feet; thence North 89 degrees 59 minutes 07 seconds West, 269.20 feet; thence North 00 degrees 28 minutes 10 seconds West, 330.01 feet; thence North 89 degrees 59 minutes 13 seconds West, 330.22 feet; thence South 00 degrees 30 minutes 25 seconds East, 330.00 feet; thence North 89 degrees 59 minutes 07 seconds West, 639.40 feet to the West Quarter Corner of the Southeast Quarter; thence along said West line of the Northwest Quarter of the Southeast Quarter North 00 degrees 14 minutes 39 seconds East, 436.76 feet to the Point of Beginning.

is hereby changed from A-1 to R-1B and R-3 in accordance with the attached proposed plat.

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 \_\_\_\_\_ DAY OF \_\_\_\_\_, 20\_\_\_\_

---

Damien Boley, Mayor

ATTEST:

---

Linda Drummond, City Clerk

First Reading: 12/20/2022

Second Reading 01/17/2023



STAFF REPORT  
December 9, 2022  
Rezoning of Parcel Id # 05-504-00-01-010.01

Application for a Zoning District Classification Amendment

Code Sections:

400.560.C Zoning District Classification Amendments

Property Information:

Address: Second Creek and Lowman Rd.  
Owner: LMW Investments  
Current Zoning: A-1  
Proposed Zoning: R-1B and R-3

Public Notice Dates:

1<sup>st</sup> Publication in Newspaper: November 24, 2022  
Letters to Property Owners w/in 185': November 28, 2022

GENERAL DESCRIPTION:

The applicant seeks to rezone approximately 32.04 acres +/- from A-1 to R-1B and R-3. The rezoning would accommodate 53 single family lots on the high ground mainly on the west of the parcel and 17 multifamily lots to accommodate up to 34 dwelling units in two family townhomes in the area immediately adjacent to the floodplain and floodway of Smith's Fork of the Little Platte River.

EXISTING ZONING:

The existing zoning predates the annexation into the city limits.

CHARACTER OF THE NEIGHBORHOOD *400.560.C.1*

The surrounding area is generally large parcel agricultural land with a total of 3 houses adjacent to the overall parcel. In addition, the zoning map shows



unincorporated county land to the south, commercial to the east, and R-3 multifamily to the west, across Lowman Road. The existing houses are all located on lots larger than 3 acres.

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

The existing Comprehensive Plan was approved on November 10, 2020 and adopted as the Board policy on November 17, 2020. This parcel adjoins what is identified as the Downtown District Overlay with intended increased density and uses. This parcel would meet the infill recommendations of vacant land between existing developments by approaching the Stone Creek Villas and Cedar Lakes Estates developments to the west. It would also improve connectivity between the areas.

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

##### Streets and Sidewalks:

An development would be required to improve the adjacent streets, and depending upon the timing of any construction, would also be responsible to install some of the proposed 8' multiuse trail/sidewalk along Second Creek in the City's near future plans.

##### Water, Sewer and Storm water

The city recently completed the South Sewer Interceptor project through a portion of this parcel, so the land is ideally located for sewers. Water is located on both street sides of the lot, and any upgrades needed will be the developer's responsibility. The property includes both floodplain and floodway areas, so all stormwater will flow directly into the floodplain and not impact adjacent properties. Any such impacts will be handled in the normal subdivision platting process, but the existing systems are more than adequate.

##### All other utilities

Future Development will be conditioned upon installation of all other needed utilities at the cost of the development.

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

The current use is A-1, agricultural that was recently sold and divided off of the original owner's house. The property's location is ideal for residential

development with the new sewer interceptor, with new users assisting in paying for those improvements.

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

The property was zoned to its' existing district classification when annexed. Only a couple of houses, on septic systems, were constructed. The property is also just south of the city's sewer treatment plant, so the land has only been used as farm ground.

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

The proposed districts would, at full build out, have a density of 2.7 units per acre, which is less dense than most of the new developments over the last several years. This density (which includes the 17 multifamily lots) has not shown to be incompatible with larger lot housing anywhere in the city and when viewed on a larger scale, is very compatible with the entire area.

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

No detrimental effects are known.

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

With no detrimental effects known, no great loss is expected.

STAFF RECOMMENDATION:

Staff recommends APPROVAL of the proposed district based upon compliance with the Comprehensive Plan recommendations.

Respectfully Submitted,

---

Zoning Administrator



For Reference Only

PRELIMINARY PLAT  
FOR  
SECOND CREEK MEADOWS  
SE 1/4, SECTION 22, T-53N, R-33W  
SMITHVILLE, CLAY COUNTY, MISSOURI

PROPERTY DESCRIPTION:

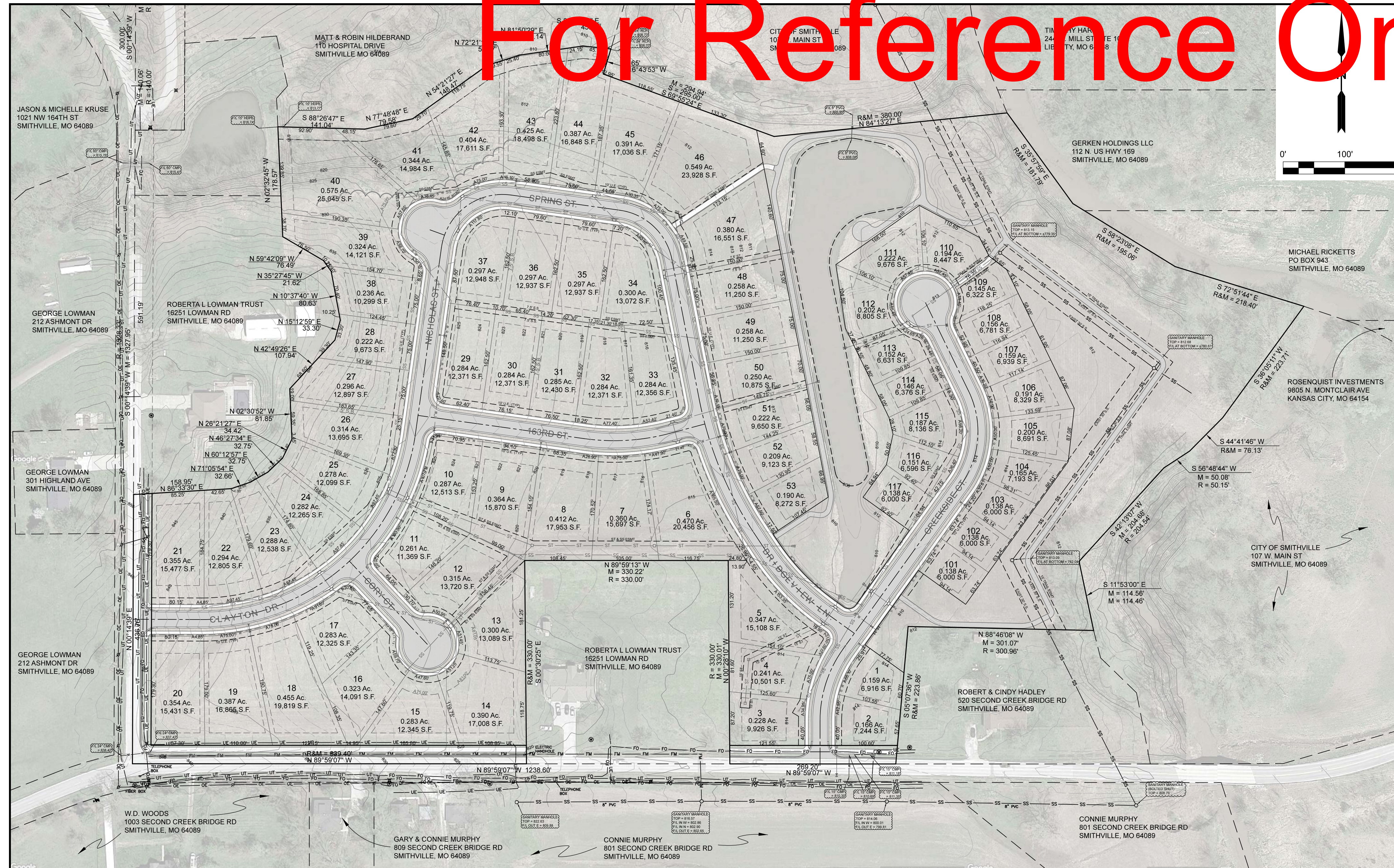
Beginning at the Center of Section 22, Township 53 North, Range 33 West, Smithville, Clay County, Missouri: thence along the West line of the Northeast Quarter South 00 degrees 14 minutes 39 seconds West, 891.19 feet to the Point of Beginning; thence departing from said line North 86 degrees 33 minutes 30 seconds East, 158.95 feet; thence North 71 degrees 05 minutes 54 seconds East, 32.66 feet; thence North 60 degrees 12 minutes 57 seconds East, 32.75 feet; thence North 46 degrees 27 minutes 34 seconds East, 32.75 feet; thence North 26 degrees 21 minutes 27 seconds East, 34.42 feet; thence North 02 degrees 30 minutes 52 seconds West, 81.85 feet; thence North 42 degrees 49 minutes 26 seconds East, 107.94 feet; thence North 15 degrees 12 minutes 59 seconds East, 33.30 feet; thence North 10 degrees 37 minutes 40 seconds West, 80.63 feet; thence North 35 degrees 27 minutes 45 seconds West, 21.62 feet; thence North 59 degrees 42 minutes 09 seconds West, 76.49 feet; thence North 02 degrees 32 minutes 45 seconds West, 178.55 feet; thence South 88 degrees 26 minutes 47 seconds East, 141.04 feet; thence North 77 degrees 48 minutes 48 seconds East, 79.58 feet; thence North 54 degrees 21 minutes 27 seconds East, 148.47 feet; thence North 72 degrees 21 minutes 17 seconds East, 54.97 feet; thence North 81 degrees 50 minutes 29 seconds East, 104.14 feet; thence South 84 degrees 13 minutes 11 seconds East, 45.70 feet; thence South 16 degrees 43 minutes 53 seconds West, 42.65 feet; thence South 69 degrees 55 minutes 24 seconds East, 294.94 feet; thence North 84 degrees 13 minutes 27 seconds East, 380.00 feet; thence South 35 degrees 57 minutes 59 seconds East, 181.79 feet; thence South 58 degrees 23 minutes 08 seconds East, 195.06 feet; thence South 72 degrees 51 minutes 44 seconds East, 218.40 feet; thence South 36 degrees 05 minutes 11 seconds West, 223.71 feet; thence South 44 degrees 41 minutes 46 seconds West, 76.13 feet; thence South 56 degrees 48 minutes 44 seconds West. 50.08 feet; thence South 42 degrees 13 minutes 07 seconds West, 204.68 feet; thence South 11 degrees 53 minutes 00 seconds East, 114.56 feet; thence North 88 degrees 46 minutes 08 seconds West, 301.07 feet; thence South 05 degrees 07 minutes 36 seconds West, 223.86 feet; thence North 89 degrees 59 minutes 07 seconds West, 269.20 feet; thence North 00 degrees 28 minutes 10 seconds West, 330.01 feet; thence North 89 degrees 59 minutes 13 seconds West, 330.22 feet; thence South 00 degrees 30 minutes 25 seconds East, 330.00 feet; thence North 89 degrees 59 minutes 07 seconds West, 639.40 feet to the West Quarter Corner of the Southeast Quarter North 00 degrees 14 minutes 39 seconds East, 436.76 feet to the Point of Beginning

The above-described tract of land contains 32.04 acres, more or less, and is subject to all recorded and unrecorded easements, restrictions, and right-of-ways.

PROPERTY OWNER:  
LMW INVESTMENTS, LLC  
CLAYTON COX  
215 DOUBLE TREE LANE  
SMITHVILLE, MO 64089  
816-352-2961

DEVELOPER:  
KANSAS CITY PROPERTIES  
& INVESTMENTS LLC  
SHANE CREES  
P.O. BOX 475  
SMITHVILLE, MO 64089  
(816) 719-9327

ENGINEER:  
SCHULTE ENGINEERING  
DOUG SCHULTE, P.E.  
21 GATYES DR.  
PLATTE CITY, MO 64079  
816-260-3328

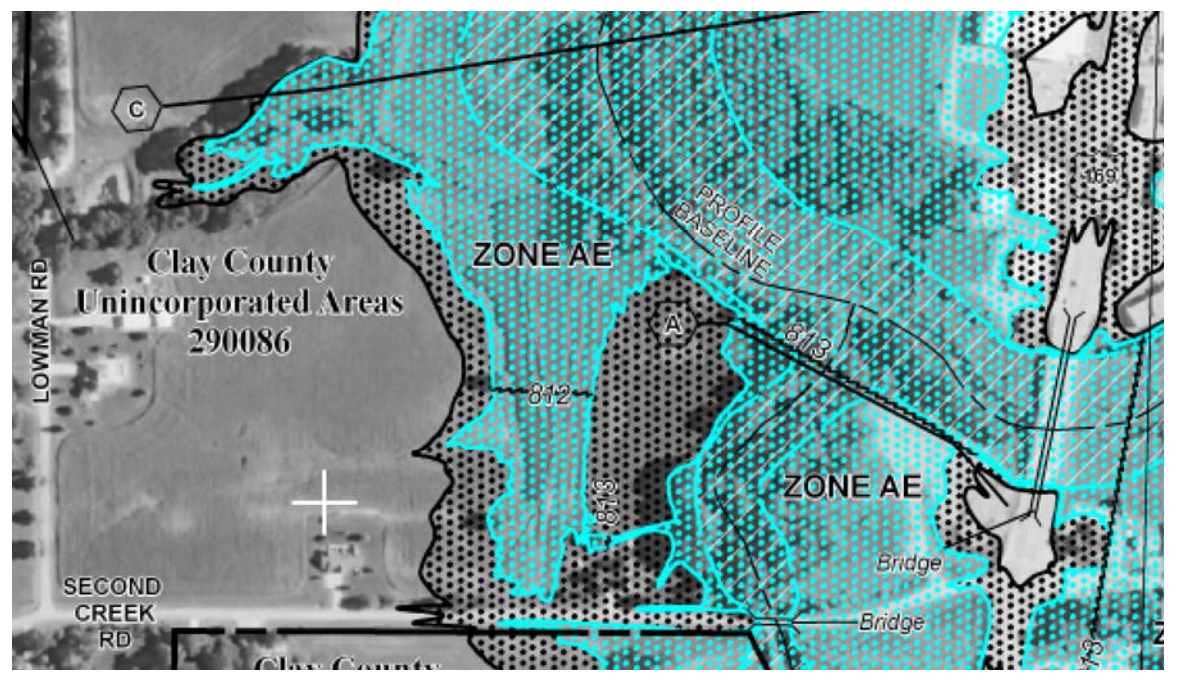
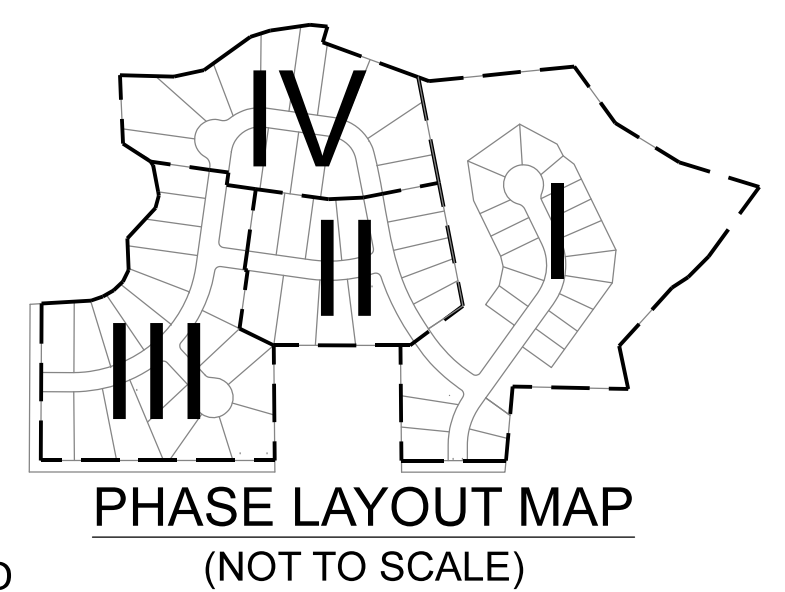


- NOTES FOR SINGLE FAMILY LOTS 1 THRU 53:
- 1) PROPOSED ZONING IS "R-1B" SINGLE FAMILY DWELLING DISTRICT.
  - 2) MINIMUM LOT AREA IS 7,500 SF.
  - 3) MINIMUM LOT WIDTH IS 75 FT.
  - 4) MAXIMUM LOT COVERAGE IS 30% OF TOTAL LOT AREA.
  - 5) SETBACK LIMITS FOR R-1B ZONING ARE:  
FRONT - 55.0'  
SIDE - 7.5'  
REAR - 20.0'

- NOTES FOR MULTIPLE FAMILY LOTS 101 THRU 118:
- 1) PROPOSED ZONING IS "R-3" MULTIPLE FAMILY DWELLING DISTRICT.
  - 2) MINIMUM LOT AREA IS 5,000 SF.
  - 3) MINIMUM LOT WIDTH IS 50 FT.
  - 4) MAXIMUM LOT COVERAGE IS 30% OF TOTAL LOT AREA.
  - 5) SETBACK LIMITS FOR R-1B ZONING ARE:  
FRONT - 55.0'  
SIDE - 7.5'  
REAR - 20.0'

OPEN SPACE DEDICATION REQUIREMENTS (PER SECTION 425.210):  
TOTAL DWELLING UNITS: 87 UNITS  
CITY OF SMITHVILLE CENSUS DENSITY: 2.85 PERSON/UNIT  
REQUIRED RECREATION AREA: .02 AC/PERSON  
DEDICATION REQUIREMENT: 87x2.85x.02 = 4.96 AC  
TOTAL AREA OF COMMON GROUND: 7.20 AC

- NOTES FOR DEVELOPMENT:
- 1) DEVELOPMENT WILL BE PHASED AS INDICATED IN THE PHASE LAYOUT MAP.
  - 2) FULL SITE GRADING WILL BE COMPLETED DURING PH I CONSTRUCTION.
  - 3) UTILITIES SUCH AS WATER, SEWER, AND STORM WILL BE STUBBED FOR FUTURE PHASES AND INSTALLED AS THOSE PHASES DEVELOP.
  - 4) THE COMMON GROUND CONSISTING OF THE LAKE, TRAILS, AND ADJACENT OPEN AREAS SURROUNDING THE MULTI-FAMILY WILL BE DEDICATED FOR OPEN SPACE REQUIREMENT PER CHAPTER 425, SECTION 425.210.
  - 5) TRAIL IN COMMON GROUND WILL BE INSTALLED DURING PHASE II CONSTRUCTION.
  - 6) TRAIL IN DEDICATED EASEMENT WILL BE CONSTRUCTED IN PHASE III.
  - 7) CONNECTING TRAILS LOCATED BETWEEN LOTS SHALL BE CONCRETE. CONNECTING TRAILS LOCATED IN FUTURE PHASES SHALL BE CONSTRUCTED WITH THAT PHASE.
  - 8) ALL TRAILS ARE GRAVEL UNLESS NOTED OTHERWISE.
  - 9) THE EAST PORTION OF THE PROPERTY IS LOCATED WITHIN THE FLOOD PLAIN ACCORDING TO FEMA FLOOD MAP 29047C0014E WITH EFFECTIVE DATE OF 8/3/2015.
  - 10) BASE FLOOD ELEVATION (BFE) IS 812. THE SITE GRADING WILL PROVIDE A MINIMUM FINISHED FLOOR ELEVATION OF 814.
  - 11) WHERE BASEMENTS ARE CONSTRUCTED, BASEMENT FLOOR MUST BE ABOVE ELEVATION 814.



- FEMA FLOOD MAP  
(NOT TO SCALE)
- [Pattern] = GRAVEL
  - [Pattern] = ASPHALT
  - [Pattern] = CONCRETE



VICINITY MAP  
(NOT TO SCALE)

CLIENT: LMW INVESTMENTS, LLC SMITHVILLE, MO	ROAD NAME REVISIONS		REVISED PER CITY REVIEW COMMENTS		SUBMITTED TO CITY FOR P&Z REVIEW	
		DJS		DJS		DJS
	3	11-08-2022	2	11-26-2022	1	10-14-2022
		REV.		DATE		BY
PROJECT: SECOND CREEK MEADOWS SECOND CREEK BRIDGE ROAD SMITHVILLE, MO	SHEET DESCRIPTION		SCALE		SHT. 1 OF 1	
	PRELIMINARY PLAT		NONE		2021/29	
	DRAWN BY: DJS		DATE: 10-14-2022		PROJECT NUMBER:	