



Board of Aldermen Request for Action

MEETING DATE: 11/21/2023

DEPARTMENT: Development

AGENDA ITEM: Bill No. 3017-23, Rezoning the northeast corner of Second Creek and Lowman Road - 1st and 2nd Reading – Emergency Ordinance Sponsored by Mayor Boley

REQUESTED BOARD ACTION:

A motion to approve Bill No. 3017-23 for first and second reading by title only to rezone the northeast corner of Second Creek and Lowman Road from R-1B and R-3 to R-1B. Emergency Ordinance Sponsored by Mayor Boley.

SUMMARY:

The ordinance would change the zoning of 17 multifamily lots within the Second Creek Meadows subdivision to single-family, without changing the lot sizes or shapes.

BACKGROUND:

The property is currently zoned R-1B and R-3 and identified as the Second Creek Meadows subdivision, created in March of 2023. Following that approval, legal actions were filed, and the project stopped. A new purchaser seeks to change the multi-family to single-family in an effort to settle the pending lawsuit. If this settles, the purchaser plans on beginning construction at the earliest opportunity following construction plan approval. The matter was presented to the Planning Commission following a public hearing. At the November 14, 2023 hearing, the Commission made its new Findings of Fact and recommended approval of the rezoning.

The proposed Preliminary Plat is attached to identify the zoning district locations that would change 17 multifamily lots (for two family townhomes) into single-family lots and the description of the rezoning is the entire parcel would be R-1B.

PREVIOUS ACTION:

The multi-use zoning was approved on March 7, 2023.

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 checked="" type="checkbox"/> Plans |
| <input checked="" type="checkbox"/> Staff Report | <input type="checkbox"/> Minutes |
| <input checked="" type="checkbox"/> Other: Findings of Facts | |

FINDING OF FACTS AND CONCLUSIONS OF LAW

Applicant: Jami D. Pryor Trust by Kevin Turley, agent

Land Use Proposed: R-1b

Zoning: R-3

Property Location: Lots 101-117 of Second Creek Meadows Preliminary Plat

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 November 14, 2023, 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, contiguous area is generally R-1B single family located in the area known as Second Creek Meadows preliminary plat, one large lot single family home on A-1 to the south, and B-3 to the east.

2. *Consistency with the City's Comprehensive Plan and ordinances.*

The existing Comprehensive Plan was approved on November 10, 2020 and adopted as the Board policy on November 17, 2020. That plan included specific implementation measures based upon the 5 Strategic Pillars of the City's Strategic Plan. This parcel adjoins what is identified as the Downtown District Overlay to the east, would include trail connections with developments to the west and downtown and bridges the gap between existing developments with downtown. The Comprehensive Plan identifies 5 different Planning Goals for the strategic pillar entitled "Diverse Housing and Neighborhood Options." Each of those Planning Goals include several prioritized action steps to meet those goals. The following are the steps that this rezoning would assist to meet the stated goals:

Housing 2.1 "Encourage infill residential development of underutilized sites prime for residential uses, particularly in and near Smithville's Downtown."

Housing 3.1 "Encourage additional residential units near existing residential uses to strengthen the neighborhoods of Smithville."

Housing 3.2 "Encourage clustered residential development patterns with connected active and passive open space and neighborhood and community amenities."

Housing 4.2 "Mandate pedestrian connections in new residential developments to adjacent existing or prospective neighborhoods to further strengthen Smithville's pedestrian network."

Housing 4.3 "Encourage new residential development in and near Smithville's Downtown to create a live, work, and play district."

3. *Adequacy of public utilities and other needed public services.*

The application is to rezone 17 multifamily lots to single-family within a new subdivision to be constructed. All utilities and services are available on site and 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 vacant, undeveloped land originally rezoned and platted for 17 multifamily lots. For various reasons, the applicant seeks to change the multifamily to single-family. The property's location is ideal for residential development with the new sewer interceptor, with new users assisting in paying for those improvements.

5. *Length of time the property has remained vacant as zoned.*

The property was zoned to the existing district classification in March of 20223, but legal action has delayed construction.

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

The proposed districts would, at full build out of the approved subdivision, would reduce the density of 2.7 units per acre to 2.32, which is less dense than nearly all of the new developments over the last several years. This density (which includes the 17 multifamily lots reduced to single family) 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.

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 November 14, 2023, as well as the documents provided were considered.

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 R-3 to R-1B 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.

BILL NO. 3017-23

ORDINANCE NO. 321X-23

AN ORDINANCE CHANGING THE ZONING CLASSIFICATIONS OR DISTRICTS OF CERTAIN LANDS LOCATED IN THE CITY OF SMITHVILLE, MISSOURI

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, within the approved preliminary plat of Second Creek Meadows on October 4, 2023; and

WHEREAS, the public was notified by publishing in the CT paper on October 26, 2023 and notices were mailed to adjoining property owners more than 15 days prior to the November 14 public hearing; and

WHEREAS, a Public Hearing was conducted before the Planning Commission on November 14, 2023; and

WHEREAS, a Public Hearing was conducted before the Planning Commission on November 14, 2023 concerning a rezoning that would change 17 lots of R-3 zoning to R-1B single-family; and

WHEREAS, the Planning Commission made and 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 R-1B and R-3, to all R-1B 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 21st DAY OF NOVEMBER, 2023.

Damien Boley, Mayor

ATTEST:

Linda Drummond, City Clerk

First Reading: 11/21/2023

Second Reading 11/21/2023

