



## Board of Aldermen Request for Action

**MEETING DATE:** 12/19/2023

**DEPARTMENT:** Development

**AGENDA ITEM:** 3023-24 - 18212 North Main Street Rezoning. 1st Reading

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**REQUESTED BOARD ACTION:**

A motion to approve Bill No. 3023-24, changing the zoning classifications or districts of certain lands located in the City of Smithville, Missouri located at 18212 North Main Street by Title only for First Reading.

**SUMMARY:**

Applicant seeks to change the zoning from R-1A to A-R on his 5.11 acre parcel.

**PREVIOUS ACTION:**

Property was rezoned from B-3 to R-1A in 2022 to correct an old error in zoning to match the actual uses.

**POLICY OBJECTIVE:**

Implement the Comprehensive Plan elements for north Smithville.

**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 |                                   |

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

Applicants: Zachary & Lindsay Nicholas  
Dennis Brewer

Land Use Proposed: A-R

Zoning: R-1A

Property Location: 18212 N. Main St.

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 12, 20232022, 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 predominantly large lot single family uses on Agriculturally zoned land to the east, and standard R-1 single family housing to the north. Vacant B-3 lies to the west and fronts upon 169 Hwy
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 calls for the north part of the city to remain single family residential for the most part.
3. *Adequacy of public utilities and other needed public services.*  
The property is served with all utilities.
4. *Suitability of the uses to which the property has been restricted under its existing zoning.*  
The current use is vacant single family residential, zoned R-1A. The change would allow an outbuilding/barn to be constructed as the primary/initial structure, which is not allowed in any R-1 designated district.
5. *Length of time the property has remained vacant as zoned.*  
The property was zoned to the existing district classification in 2022 from B-3

6. *Compatibility of the proposed district classification with nearby properties.*  
The properties all front on N. Main St. and the proposed district will match the existing uses and approximate lot sizes.
7. *The extent to which the zoning amendment may detrimentally affect nearby property.*  
No detrimental effects are anticipated to the adjacent property values.
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 December 12, 2023, 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 R-1A 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. 3023-24**

**ORDINANCE NO. 32XX-24**

**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 Lots 5, 6 and the north 100.93 feet of Lot 7, Wait Acres on October 11, 2023; and

**WHEREAS**, the public was notified by publishing in the CT paper on November 23<sup>rd</sup> and 30<sup>th</sup> and December 7, 2023 and notices were mailed to adjoining property owners on November 17, 2023.

**WHEREAS**, a Public Hearing was conducted before the Planning Commission on December 12, 2023; and

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

Lots 5, 6 and the north 100.93 feet of Lot 7 of Wait Acres, a subdivision in Smithville, Clay County, Missouri.

Changed from R-1A 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 16<sup>th</sup> DAY OF JANUARY, 2024

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Damien Boley, Mayor

ATTEST:

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Linda Drummond, City Clerk

First Reading: 12/19/2023

Second Reading 01/16/2024



STAFF REPORT  
December 7, 2023

Rezoning of Parcel Id's# 05-303-00-01-001.11  
Application for Rezoning District Classification Amendment

Code Sections:

400.560.C Zoning District Classification Amendments

Property Information:

Address: 18212 N. Main St.  
Owners: Zachary and Lindsay Nicholas  
Current Zoning: R-1A  
Proposed Zoning: A-R

Public Notice Dates:

1<sup>st</sup> Publication in Newspaper: November 23, 2023  
Letters to Property Owners w/in 185': November 17, 2023

GENERAL DESCRIPTION



The applicants seek to rezone the subject property from R-1A to A-R.  
These properties were zoned B-3 many years ago as a part of the Wait Storage

business off 169. In 1994, when this subdivision was created, it was still zoned B-3 and the subdivision was allowed to proceed without rezoning the land to a residential zone. In 2022, the lots were again rezoned to R-1A to better match the existing usage as single family housing. At the time, three different owners sought to rezone, two of which were on 185' wide lots, which were too narrow to allow A-R zoning. The third owner owned four lots with sufficient frontage to allow the A-R district zoning, but chose to simplify the hearing process by making all the zones the same. Subsequently, that owner sold his house and one lot to one purchaser, and then the remaining 3 lots to the applicant.

#### EXISTING ZONING:

The existing zoning is R-1A which was the lowest zoning classification available for lots that were less than 200'.

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

The surrounding area is a predominantly agricultural/residential to the east and south, Single family R-1A and R-1B on the north and vacant B-3 land to the west. Other than the vacant commercial to the west, large lot residential uses predominate the area.

#### 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 seeks to continue developing this north area as residential, so amending this zoning brings this land into the comprehensive plans desired use.

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

The property has existing utilities sufficient for housing and any other A-R use.

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

The current use restricts the ability to build a barn or outbuilding as the first/primary structure on the lot without including 1,100 square feet of it as a single family residence. The applicant seeks to be able to construct a barn first, then when he approaches retirement, he can then build the single family home and move to Smithville.

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

The property was zoned to the existing district classification in July of 2022.

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

The proposed district is compatible with the existing nearby land as all the uses are large lot residential.

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.