



Board of Aldermen Request for Action

MEETING DATE: 2/21/2023

DEPARTMENT: Development

AGENDA ITEM: Bill No. 2978-23, Rezoning the northeast corner of Second Creek and Lowman Road - 1st Reading

REQUESTED BOARD ACTION:

A motion to approve Bill No. 2971-22 for First Reading by Title Only to rezone the northeast 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. This rezoning came to the Planning Commission in December of 2022 and was recommended for approval. Prior to the Board of Aldermen voting on the ordinance to rezone, it was discovered that an error related to the zoning of a property adjacent to the subject property was used in the Findings of Fact made by the Commission. As a result, the matter was brought back to the Planning Commission to reconsider their findings based upon the change of one adjacent property from R-3 Multifamily to B-3 General Business. At the February 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 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.

PREVIOUS ACTION:

The A-1 zoning was in place since the property was annexed into the city. The matter was previously at the Planning Commission but returned due to a zoning designation error in the Findings of Fact.

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 Fact; 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, B-3 land to the west across Lowman Road and farmland in unincorporated Clay County to the south. To the north is a new 10+ acre parcel that was originally part of this land but subdivided in 2022 that remains zoned A-1. 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.*

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 to allow a 53 single-family and 17 multifamily lot 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 A-1, agricultural that was recently sold and divided off 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.
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 in what is proposed to be the west end of the Downtown Overlay district, B-3 Commercial across Lowman Road with two larger subdivisions further 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 February 14, 2023, 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.

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 public hearing; and

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

WHEREAS, following the December public hearing it was discovered that part of the findings of fact were based upon an erroneous zoning designation on adjoining property that could impact one of those findings; and

WHEREAS, the city re-advertised for a new public hearing on January 26, 2023 and sent notices to adjoining property owners more than 15 days prior to a new public hearing on February 14, 2023; and,

WHEREAS, a Public Hearing was conducted before the Planning Commission on February 14, 2023 concerning a rezoning that would authorize creation of 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 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 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 7th DAY OF MARCH, 2023.

Damien Boley, Mayor

ATTEST:

Linda Drummond, City Clerk

First Reading: 02/21/2023

Second Reading 03/07/2023



STAFF REPORT
January 18, 2023
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:

1st Publication in Newspaper: January 26, 2023
Letters to Property Owners w/in 185': January 26, 2023

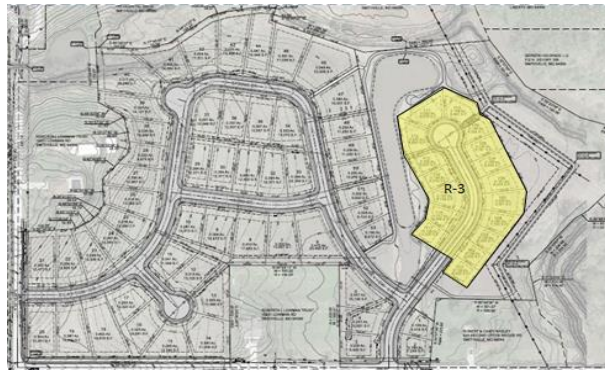
GENERAL DESCRIPTION:

This matter returns to the Planning Commission following its' prior approval of this rezoning. As a result of a discrepancy between the identified zoning of an adjacent property to the west and the actual zoning of that parcel, the Commission was given some incorrect information. Specifically, staff identified that the property to the west of the subject property was zoned R-3 (in accordance with a print version of the Clay County GIS map) that in fact, was actually zoned B-3.

After some investigation, it was determined that at some point prior to September 5, 2019, the Clay County GIS system inadvertently changed the zoning designation of the George Lowman property from B-3 to R-3 on its display. This change occurred at the GIS office level and was not as a result of any city process. In the last year, staff identified similar changes to several other properties at the County GIS level that were not changed through city processes. Those changes were also erroneous, and staff directed the GIS system correct those errors. That request is also pending for this newly

discovered error. In order to rectify this error, the matter comes back to the Planning Commission to consider the rezoning using the B-3 designation on the property to the west instead of the less impactful R-3 designation. Changes in the staff report are identified with an *.

The applicant seeks to rezone approximately 32.04 acres +/- from A-1 to R-1B and a small section as R-3 as shown below. 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 an area on the east of the parcel.



EXISTING ZONING:

The existing A-1 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 contiguous to the overall parcel. In addition, the zoning map shows unincorporated county land to the south, B-3 commercial on the east side of the parcel in what it is proposed to be the Downtown overlay district and also **B-3 on the west side, across Lowman road**. To the north is a new 10+ acre parcel zoned A-1. The existing contiguous 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. 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:

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

Streets and Sidewalks:

Any 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 stormwaters 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. *The placement of both R-1 and R-3 districts between *existing B-3 districts on the east and west sides* is compatible with those uses as well.*

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

