



## Board of Alderman Request for Action

**MEETING DATE:** 5/17/2022

**DEPARTMENT:** Development

**AGENDA ITEM:** Resolution 1063, Final Plat McBee's Corner Subdivision

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**RECOMMENDED ACTION:**

A motion to approve Resolution 1063 – Final Plat McBee's Corner Subdivision.

**SUMMARY:**

The final plat would create two lots at the southeast corner of Richardson Street and 169 Highway.

**BACKGROUND:**

This land was submitted for conceptual plan approval and a final plat at the April Planning and Zoning Commission meeting. The Conceptual plan was recommended for approval and sent to the Board on May 3, 2022. The Commission postponed the hearing on the Plat document until the May 10 Planning and Zoning Commission meeting. The Board approved first reading of the conceptual plan's ordinance at its May 3 meeting, and second reading approval on May 17 is a condition precedent to approval of the actual plat presented here.

Prior to the April Commission hearing, the applicant was provided the recently completed traffic impact study performed on the Richardson Street Plaza project in late 2021 and asked to update that study with its' own traffic impact data. The applicant timely submitted its report, which included the applicants' engineers recommendations as to his clients' contribution to a traffic light to be installed by others. The plat was postponed to allow further clarification on the traffic impacts caused by delays in the review of that impact. After a completed review, the City's engineers proposed certain comments that would change the traffic impact presented by the applicant. The applicant's traffic engineer then provided an updated recommended contribution which incorporated the City's comments, which slightly changed the total traffic this project would add to the intersection. That traffic amount was just over 8% of the total traffic. Since the Richardson Street Plaza project would have contributed just slightly less (7+%) traffic and its' contribution to the traffic light was 25% of MODOT's estimated cost, staff submitted the same requirement to the applicant in the form of a completed development agreement. The applicant submitted to the Planning Commission that their obligation to the traffic light should be an amount closer to its' engineers recommendation given its 8% of the total traffic in the intersection. The Commission voted 6-1 to approve the plat with the City's suggested amount in the Development agreement.

**PREVIOUS ACTION:**

The Conceptual Plan was First Read on May 3rd, and is on the agenda for Second reading on May 17th. That Conceptual Plan approval is required to be completed prior to Final Plat approval.

**POLICY ISSUE:**

The Comprehensive Plan calls for commercial development in this area.

**FINANCIAL CONSIDERATIONS:**

None

**ATTACHMENTS:**

- |  |   |
|--|---|
| <input type="checkbox"/> Ordinance               | <input type="checkbox"/> Contract         |
| <input checked="" type="checkbox"/> Resolution   | <input checked="" type="checkbox"/> Plans |
| <input checked="" type="checkbox"/> Staff Report | <input type="checkbox"/> Minutes          |

**RESOLUTION 1063**

**A RESOLUTION APPROVING A FINAL PLAT FOR  
MCBEE'S CORNER SUBDIVISION**

**WHEREAS**, the applicant submitted a conceptual plan and final plat for approval to be heard by the Planning Commission on April 12, 2022.

**WHEREAS**, the plan and plat were advertised in the Courier Tribune newspaper and notices were sent to adjoining landowners for that April 12, 2022 meeting, but the Final Plat approval was postponed to May 10, 2022; and;

**WHEREAS**, the City identified certain public improvements necessary for the plat and incorporated all of the improvements or contributions into a Development Agreement and:

**WHEREAS**, the Planning Commission recommended approval of the proposed Final Plat with the condition that the Development Agreement be executed and completed prior to releasing the plat for recording, and;

**WHEREAS**, the subject property on Tract A, Smithville Library Heights subdivision was given approval for a Conceptual Plan by a second reading of Bill No. 2939-22 by the Board of Aldermen on May 17, 2022, that was a condition precedent to this Final Plat Approval, and;

**NOW THEREFORE BE IT RESOLVED BY THE BOARD OF ALDERMEN OF  
THE CITY OF SMITHVILLE, MISSOURI, AS FOLLOWS:**

**THAT THE FINAL PLAT OF MCBEE'S CORNER SUBDIVISION IS HEREBY  
APPROVED WITH THE FOLLOWING CONDITIONS:**

**THE PLAT SHALL NOT BE RELEASED FOR RECORDING UNTIL ALL ITEMS  
CONTAINED IN THE DEVELOPMENT AGREEMENT WITH THE APPLICANT  
HAVE BEEN COMPLETED AND HAVE BEEN BONDED FOR PERFORMANCE  
OR MAINTENANCE BONDS IN ACCORDANCE WITH THE CODE.**

**PASSED AND ADOPTED** by the Board of Aldermen and **APPROVED** by the Mayor of the City of Smithville, Missouri, the 17<sup>th</sup> day of May, 2022.

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Damien Boley, Mayor

ATTEST:

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Linda Drummond, City Clerk



May 6, 2022

Single Phase Final Plat for Clay County Parcel Id # 05-909-00-03-011.00

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Application for a Plat Approval – McBee’s Corner Final Plat– 2 lots

Code Sections:

425.285.A.4

Single Phase Final Plat Approval

Property Information:

Address:

Richardson St. and 169 SE Corner

Owner:

Jolarub, LLC

Current Zoning:

B-3

Public Notice Dates:

1st Publication in Newspaper:

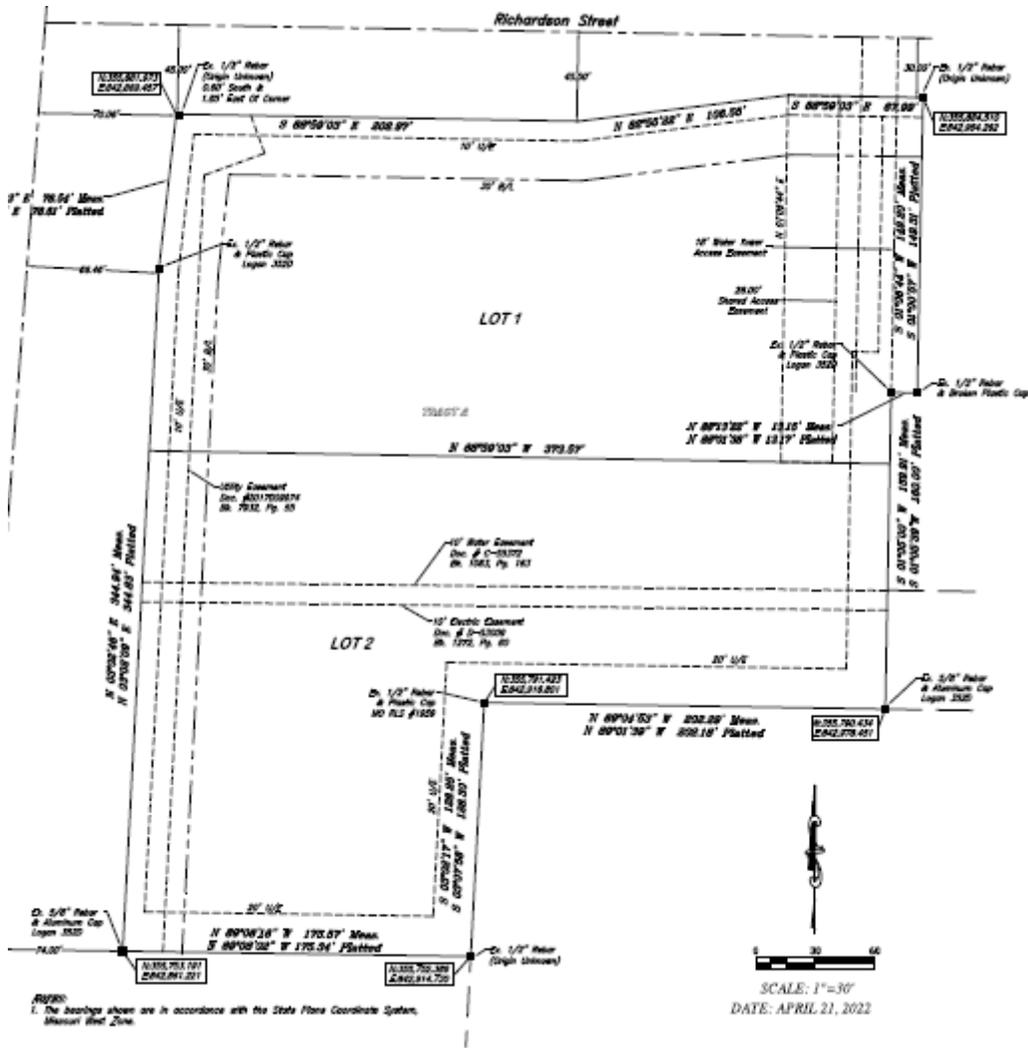
March 24, 2022

Letters to Property Owners w/in 185’:

March 28, 2022

GENERAL DESCRIPTION:

The property is currently Tract A, Smithville Library Heights subdivision. This Final Plat is the same as the Conceptual Plan document reviewed in the April Commission hearing. Approval of this plat is conditional to that plan approval due to the lot size and frontage variations, as well as certain sign size and location variants. This development was submitted with both stormwater and Traffic studies to address the impact of both upon the area.



**GUIDELINES FOR REVIEW – SINGLE PHASE SUBDIVISION FINAL PLATS See 425.285.A.4**

- The Planning Commission shall consider the following criteria in making a recommendation on the plat:
- a. The plat conforms to these regulations and the applicable provisions of the Zoning Ordinance and other land use regulations. *Yes, the layout complies with zoning and subdivision requirements when compared to the approved conceptual plan.*
  - b. The plat represents an overall development pattern that is consistent with the goals and policies of the Comprehensive Plan. *The Development pattern is similar to the existing zoning on the property.*
  - c. The development shall be laid out in such a way as to result in:
    - (1) Good natural surface drainage to a storm sewer or a natural watercourse. *The property is to be graded to provide two flat building pads, with limited retaining walls on the south side of the lots to*

*account for the slight grade to the south. Sufficient detention areas are provided per the submitted storm report, and the final construction plans must be approved prior to construction on any lot.*

(2) A minimum amount of grading on both cut or fill and preservation of good trees and other desirable natural growth. *Again, grading of the development is limited to level the areas in the lots to account for slight grade, and there are no trees or other desirable natural growth to preserve.*

(3) A good grade relationship with the abutting streets, preferably somewhat above the street. *Each lot will have access through the development in accordance with an approved Conceptual Plan using a private drive throughout. Initial development of a car wash site will have access from the east end of the lot from Richardson St. and includes a shared access drive with lot 2. A development agreement on this project requires that development of Lot 2 also include a shared access drive in the event a second access is granted onto 169 Highway.*

(4) Adequate lot width for the type or size of dwellings contemplated, including adequate side yards for light, air, access, and privacy. *Yes.*

(5) Adequate lot depth for outdoor living space. *N/A.*

(6) Generally regular lot shapes, avoiding acute angles. *Yes.*

(7) Adequate building lots that avoid excessive grading, footings, or foundation walls. *Yes.*

d. The plat contains lot and land subdivision layout that is consistent with good land planning and site engineering design principles. *Yes.*

e. The location, spacing and design of proposed streets, curb cuts and intersections are consistent with good traffic engineering design principles. *There are no new public roadways considered, but improvements to 169 and Richardson will be partially funded by this development in accordance with its' impact on the intersection. (The intersection already meets the MODOT warrants for a traffic light). This particular project used the traffic study for Richardson Street Plaza northeast of the 169 intersection as the basis for its additional data. Both developments have nearly the same amount of traffic into the Intersection of Richardson St. and 169 Highway. With this equal traffic impact, the city has placed equal obligations on assisting funding for a traffic light at the intersection.*

f. The plat is served or will be served at the time of development with all necessary public utilities and facilities, including, but not limited to, water, sewer, gas, electric and telephone service, schools, parks, recreation and open space and libraries. *Yes, the development will be extending a waterline from the north and connecting with an existing waterline that travels west across Lot 2, which will be abandoned, and the easement vacated when complete. The existing sewer line to the north will be extended*

*south through lot 1 and leave a connection point for Lot 2 as well. Sidewalks already exist on the west and north of the project area.*

g. The plat shall comply with the stormwater regulations of the City and all applicable storm drainage and floodplain regulations to ensure the public health and safety of future residents of the subdivision and upstream and downstream properties and residents. The Commission shall expressly find that the amount of off-site stormwater runoff after development will be no greater than the amount of off-site stormwater runoff before development. ***The proposed development meets this standard.***

h. Each lot in the plat of a residential development has adequate and safe access to/from a local street. ***N/A***

i. The plat is located in an area of the city that is appropriate for current development activity; it will not contribute to sprawl nor to the need for inefficient extensions and expansions of public facilities, utilities and services. ***Yes.***

j. If located in an area proposed for annexation to the City, the area has been annexed prior to, or will be annexed simultaneously with plat approval. ***Annexed.***

k. The applicant agrees to dedicate land, right-of-way, and easements, as may be determined to be needed, to effectuate the purposes of these regulations and the standards and requirements incorporated herein. ***Yes, the plat includes the required dedications, and a development agreement ensures traffic impact costs are provided.***

l. All applicable submission requirements have been satisfied in a timely manner. ***Yes.***

m. The applicant agrees to provide additional improvements, which may include any necessary upgrades to adjacent or nearby existing roads and other facilities to current standards and shall include dedication of adequate rights-of-way to meet the needs of the City's transportation plans. **The development will be responsible for a portion of the cost to install a traffic light at 169 Highway and Richardson St. that matches the contribution of Richardson Street Plaza's requirements.**

STAFF RECOMMENDATION:

Staff recommends APPROVAL of the proposed Final Plat based upon adherence to the conditions contained in this report, including executing the Development Agreement.

Respectfully Submitted,

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Director of Development

## **DEVELOPMENT AGREEMENT**

This Development Agreement ("Agreement") is entered into this \_\_\_\_ day of \_\_\_\_\_, 2022, by and between **MCBEE COMPANIES LLC AND/OR JOLARUB, LLC**, ("Developer") and **THE CITY OF SMITHVILLE, MISSOURI**, a Missouri Corporation ("City") as follows:

**WHEREAS**, Developer plans on developing its proposed subdivision known as McBee's Corner located generally east of US 169 and south of Richardson St. and being proposed to contain 2 commercial lots; and

**WHEREAS**, the Developer desires to create a Conceptual Plan for said commercial development; and

**WHEREAS**, the City will make certain requirements for off and on site improvements if said land is sought to be developed as a commercial subdivision; and

**WHEREAS**, it is in the best interest of both parties to enter into an agreement as to what improvements will be required of Developer; and

**WHEREAS**, this Agreement is necessary to provide for the safety, health and general welfare of the public and to provide for the orderly development of City.

**NOW, THEREFORE**, in consideration of the foregoing recitals and other valuable considerations, the receipt and sufficiency of which are hereby acknowledged, the parties hereto agree as follows:

1. The terms of this agreement apply to the following property and all portions thereof

now known as MCBEE'S CORNER, the legal description of which is Smithville Library Heights, Tract A.

2. It is recognized that the development will require extension of waterlines from Richardson St. to create a new connection to the existing line that exits the water tower area in order to abandon the existing waterline that bisects the proposed Lot 2 of the new subdivision. The developer agrees to install a new 12" waterline from the existing 12" waterline on Richardson St. to the existing supply line at the water tower and abandon the existing 8" supply line that leaves the water tower and travels west to a waterline on 169. All such construction will be after construction plans are approved and notice to proceed is issued by the City. Upon successful completion of the construction of the waterline, and abandonment of the existing line, the City hereby agrees to abandon the waterline easement on Lot 2 where the abandoned portion of the line is located.

3. That the City and the Developer recognize the need to construct a sewer extension from the north side of Richardson St., southerly to a point inside the boundaries of the proposed lot 2 of the subdivision. All such construction will be after construction plans are approved and notice to proceed is issued by the City.

4. That the City and the Developer recognize the need for certain off-site improvements to the adjacent roads as a direct result of the subdivision of land into the proposed subdivision. As a result of the Developer's traffic study, which added additional data to a traffic study completed in 2021 for the same intersection, it was shown that the Richardson St./169 intersection currently met some of MODOT's traffic

warrants for a new stop light to be installed and that the additional traffic from the proposed development would exacerbate the existing conditions and also meet additional traffic MODOT warrants. As a result of a discussion with MODOT by the parties in the adjacent development, a funding path forward was suggested to be the best option. The Developers traffic data and the other development's traffic data indicated an nearly equal amount of traffic into the intersection. As a result, the parties do hereby agree that the Developer will match the contribution of the adjacent development and contribute 25% of the currently projected construction costs of a stop light at the intersection. The current estimate is \$400,000.00 for total construction cost. The Developer shall pay to the City the sum of \$100,000.00 prior to recording the subdivision plat to be held in escrow by the city solely for improvements to the 169 & Richardson St. intersection. It is understood that the City will work with MODOT to provide funding to assist in the construction of the stop lights, including contributions this and additional development to the northwest and potentially from other governmental entities that impact the intersection. Upon payment of said funds, the Developer shall have no further obligation to contribute funds for said stop light construction.

5. The parties agree and understand that currently only Lot 1 is intended to immediately begin construction on Lot 1 and that the access to streets for Lot 1 is on Richardson St. The parties further agree and understand that there may be a future request for an addition access point onto 169 from Lot 2 and that if and when that request is made, there must be another traffic impact report by that owner/developer

to identify the need for turn lane from 169. It is also understood that any such access to said lot 2 will be limited to a right-in, right-out configuration and an additional shared access easement from this access that traverses Lot 2 and connects with the current shared access easement on Lot 1.

6. The parties agree that execution of this Agreement in no way constitutes a waiver of any requirements of applicable City Ordinances with which Developer must comply and does not in any way constitute prior approval of any future proposal for development.

7. All work agreed to be performed by Developer in this Agreement shall be done only after receiving written notice from City to proceed. The notice to proceed shall not be given by the City until a final plat of McBee's Corner subdivision has been approved by the City and final construction plans have been approved. The recording of said plat shall only occur in accordance with city ordinances and this agreement.

8. In the event of default in this Agreement by either party, it is agreed that either party shall be entitled to equitable relief to require performance by the other party as well as for any damages incurred by the breach, including reasonable attorney fees.

9. This Agreement shall constitute the complete agreement between the parties and any modification hereof shall be in writing subject to the approval of both parties.

10. Any provision of this Agreement which is not enforceable according to law will be severed and the remaining provisions shall be enforced to the fullest extent permitted by law.

11. The undersigned represent that they each have the authority and capacity from the respective parties to execute this agreement.

12. This agreement shall not be effective until: (1) approved by Resolution duly enacted by the Board of Aldermen of Smithville, Missouri.

**IN WITNESS WHEREOF**, the parties hereto have executed this agreement on the date first above written.

**THE CITY OF SMITHVILLE, MISSOURI**

**ATTEST:**

By \_\_\_\_\_  
**Mayor**

\_\_\_\_\_

**JOLARUB, LLC/MCBEE COMPANIES**

By \_\_\_\_\_  
**Managing Member**

STATE OF MISSOURI     )  
  ) ss.  
COUNTY OF CLAY        )

On the \_\_\_\_ day of \_\_\_\_\_, 2021, before me, the undersigned Notary Public, personally appeared Damien Boley, to me known, and who, being by me duly sworn, did say that he is the Mayor of Smithville, Missouri, and said instrument was signed and sealed on behalf of said City by authority of its Board of Aldermen and said Mayor acknowledges said instrument to be the free act and deed of said City.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my notarial seal at my office in Clay County, Missouri, on the day and year last written above.

\_\_\_\_\_  
Notary Public

My Commission Expires:

\_\_\_\_\_

STATE OF MISSOURI     )  
  ) ss.  
COUNTY OF CLAY        )

On this \_\_\_\_ day of \_\_\_\_\_, 2021, before me, the undersigned Notary Public, personally appeared \_\_\_\_\_, to me known, and who, being by me duly sworn, did say that he/she is the managing Member of Jolarub, LLC / McBee Companies, LLC, and said instrument was signed and sealed on behalf of said Jolarub, LLC / McBee Companies, LLC by authority of its Board and he/she acknowledges said instrument to be the free act and deed of said Jolarub, LLC / McBee Companies, LLC

Jolarub, LLC / McBee Companies, LLC  
\_\_\_\_\_  
Member

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my notarial seal at my office in Clay County, Missouri, on the day and year last written above.

\_\_\_\_\_  
Notary Public

My Commission Expires:

\_\_\_\_\_