



Board of Aldermen Request for Action

MEETING DATE: 3/7/2023

DEPARTMENT: Development

AGENDA ITEM: Resolution 1195, Second Creek Meadows Preliminary Plat

REQUESTED BOARD ACTION:

A motion to approve Resolution 1195, approving the Preliminary Plat for a new residential subdivision to be called Second Creek Meadows with 53 Single Family lots and 17 multifamily lots to include 87 dwelling units.

SUMMARY:

IF, and only if Bill No. 2978-22 rezoning the subject land is approved earlier on this agenda, an approval of this plat would authorize the developer to begin construction plans for the first phase of the subdivision to be presented to the Board of Aldermen for approval if it complies with this Preliminary Plat, and authorizes the Mayor to enter into a development agreement with the applicant.

BACKGROUND:

This matter was submitted to the Planning Commission for its' December meeting, but as a result of delays in the final review of a Traffic Impact Study (TIS), the Preliminary Plat was postponed to the January Planning Commission hearing. The rezoning request for this property was originally heard by the Planning Commission in December, and again on February 14, 2023. This particular plat approval is subject to the rezoning of the land, which is presented to the Board for second reading at this March 7, 2023, meeting as Bill No. 2978-22. If that bill passes second reading, then this preliminary plat may be approved. The plat itself would create 53 single family lots and 17 lots for two-family townhomes to total 87 new dwelling units. The TIS and a Stormwater Study were submitted and reviewed and approved by the City's engineers. Final design for construction documents of any traffic or stormwater related items would be handled at the Final Plat stage. The development also includes several trails and open spaces for the private use of the development, as well as development of the MetroGreen trail that will eventually connect Platte County to Smithville Lake. It also includes construction of, or financial assistance with construction of the new 8' trail along Second Creek Bridge Road that the City is building in 2026 with grant funding. All of the public and private improvements are scheduled and included in the attached Development Agreement. If approved the developer would be able to begin the design of the Construction plans for the first Final Plat. Each Final Plat to create sellable lots must also be approved by the Board of Aldermen after the construction plans are final.

PREVIOUS ACTION:

Bill No. 2978-22 was approved for First Reading in February to change the zoning on the property and is on tonight's agenda for second reading.

POLICY ISSUE:

Complies with the Comprehensive Plan as well as city ordinances.

FINANCIAL CONSIDERATIONS:

The project will assist in funding for a portion of the Second Creek Trail, fully construct some portions of the trail, both reduce the City's obligations on that project, as well as will provide Park funding with each Final Plat approval in accordance with the development agreement.

ATTACHMENTS:

- | | |
|---|--|
| <input type="checkbox"/> Ordinance | <input checked="" type="checkbox"/> Contract |
| <input checked="" type="checkbox"/> Resolution | <input checked="" type="checkbox"/> Plans |
| <input checked="" type="checkbox"/> Staff Report | <input type="checkbox"/> Minutes |
| <input checked="" type="checkbox"/> Other: <u>The Planning Commission meeting, the Second Creek Meadows Storm Water Study and the Second Creek Meadows Traffic Impact Study may be viewed online.</u> | |

RESOLUTION 1195

A RESOLUTION APPROVING A PRELIMINARY PLAT FOR A 70 LOT RESIDENTIAL SUBDIVISION TO BE CALLED SECOND CREEK MEADOWS

WHEREAS, the applicant submitted a request to rezone and to preliminarily plat a 32-acre tract lying north of Second Creek Bridge Road and east of Lowman Road; and

WHEREAS, the rezoning request was reviewed at the December Planning Commission and again at the February 14, Planning Commission, which recommended approval to the Board of Aldermen; and

WHEREAS, the Board of Alderman approved the zoning for first reading on February 21, and second reading at this March 7, 2023 meeting; and

WHEREAS, with zoning in place, the applicants request for Preliminary Plat approval would allow a new subdivision to be constructed in four phases. The applicant provided both a Traffic Impact Study, along with a Stormwater Study. The applicant and staff negotiated a Development Agreement that address all impacts from the TIS, Stormwater Study and the Parks Dedication requirements, including construction of or payment of funds for a portion of the new 8' trail along Second Creek Bridge Road. After public hearing, the Planning Commission recommended approval of the Preliminary Plat.

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

THAT THE PRELIMINARY PLAT OF SECOND CREEK MEADOWS SUBDIVISION IS HEREBY APPROVED, CONDITIONED UPON EXECUTION OF THE ATTACHED DEVELOPMENT AGREEMENT.

PASSED AND ADOPTED by the Board of Aldermen and **APPROVED** by the Mayor of the City of Smithville, Missouri, the 7th day of March, 2023.

Damien Boley, Mayor

ATTEST:

Linda Drummond, City Clerk



STAFF REPORT
January 5, 2023
Platting of Parcel Id # # 05-504-00-01-010.01

Application for a Plat Approval

Code Sections:

425.275.A.3 Multiphase Plat Approval

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: November 24, 2022
Letters to Property Owners w/in 185': November 28, 2022

GENERAL DESCRIPTION:

The applicant obtained initial zoning approval 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. The development area includes both areas of the future Metro Green Trail along the river, as well as the proposed multiuse trail along the north side of Second Creek Bridge Road. Staff and developer have reached a proposed development agreement to share costs for the new trail along Second Creek Bridge Road based upon the timing of the City's grant funding, as well as addresses the timing of improvements to the Metro Green trail area and the internal trail system proposed in the development.

GUIDELINES FOR REVIEW – PRELIMINARY PLATS *See 425.275.A.3*

Guidelines For Review. The Planning and Zoning Commission shall consider the following criteria in making a recommendation on the preliminary plat:

a. The plat conforms to these regulations and the applicable provisions of Chapter 400, Zoning Regulations, and other land use regulations.

The plat conforms to the subdivision zoning regulations of the City.

b. The plat represents an overall development pattern that is consistent with the goals and policies of the Comprehensive Plan.

The plat is consistent with the Comprehensive Plan's intended expansion of the downtown district with access to nearby residential areas.

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 subdivision is generally uphill from Smith's Fork of the Little Platte River, and its' drainage basin. The layout is such that drainage is maintained in its' existing patterns as much as possible through storm sewers that bypass adjacent properties.

(2) A minimum amount of grading on both cut or fill and preservation of good trees and other desirable natural growth.

The area is generally a farm field with limited trees or other natural growth. There will be limited grading other than adjusting grades out of the floodplain to allow a portion of the lots to be developed.

(3) A good grade relationship with the abutting streets, preferably somewhat above the street.

Yes, to the extent possible, lots are generally above the adjacent street which will be used for access. Existing streets that abut the new lots will not be accessible from the lots, only through new streets.

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

Yes, the lots widths meet the standards in the zoning code for the proposed districts, including all setbacks.

(5) Adequate lot depth for outdoor living space.

The lots meet the minimum sizes, and none exceed the 2.5 to 1 length to width limit.

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

To the extent practicable with curved streets and a cul de sac, the lots are generally regular. Lot 5 is the only lot with significant acute angles, but it was increased in size to accommodate development within the required setbacks.

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

The amount of grading is not excessive in any area so footings and foundation walls will be within the normal range.

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

The plat is laid out following standard design principles.

e. The location, spacing and design of proposed streets, curb cuts and intersections are consistent with good traffic engineering design principles.

The plat contains 87 potential dwelling units with two separate access roads and generally good spacing from existing intersections.

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 in the form of a development agreement.

The developer and city have proposed a development agreement for both adjacent existing street improvements and park dedication improvements as required by the code.

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 layout and detention areas will not increase the amount of off-site stormwater runoff and is in accordance with engineering standards. The final design of all stormwater systems will be subject to final plan review and approval in accordance with the Final Plat procedures.

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

Yes.

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.

The location is located such that it will actually reduce sprawl and limits any extensions and expansions of existing public facilities.

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.

n/a

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.

The development is bound by a development agreement that addresses all dedication requirements.

l. All applicable submission requirements have been satisfied in a timely manner.
m. The applicant agrees, in the form of a development agreement, 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.

Yes.

STAFF RECOMMENDATION:

Staff recommends APPROVAL of the proposed Preliminary Plat conditioned upon meeting the requirements of the City's Engineer letters dated January 3 and 4, 2023.

Respectfully Submitted,

/s/ Jack Hendrix /s/
Director of Development

DEVELOPMENT AGREEMENT

This Development Agreement ("Agreement") is entered into this 7th day of March, 2023, by and between **KANSAS CITY PROPERTIES & INVESTMENTS, LLC**, ("Developer") **AND/OR LMW INVESTMENTS, LLC** ("Owner") and **THE CITY OF SMITHVILLE, MISSOURI**, a Missouri Corporation ("City") as follows:

WHEREAS, Developer plans on developing its proposed subdivision known as Second Creek Meadows located generally north of Second Creek Bridge Road and east of Lowman Road and being proposed to contain 53 single-family zoned residential lots and 17 multi-family zoned lots containing 34 dwelling units for a total of 87 dwelling units; and

WHEREAS, the City will make certain requirements for off and on site improvements if said land is developed as a large residential subdivision; and

WHEREAS, it is in the best interest of both parties to enter into an agreement as to what improvements and obligations under the city's subdivision code 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 to be in a subdivision called Second Creek Meadows, the legal description of which is set forth on the Preliminary Plat thereof as Exhibit A attached hereto.

2. It is recognized that the development will require extension of waterlines from Second Creek Bridge Road and Lowman Road to create a loop that will improve fire flows and waterline pressures for the development and the surrounding properties' and, therefore the parties agree that the Developer will, at their sole cost and expense, construct all such waterlines required for the subdivision.

3. That the City and the Developer recognize the need for certain off-site improvements to the adjacent roads as required in the subdivision code and as a direct result of the subdivision of land into the proposed subdivision. The following road improvements shall be required of the Developer:

a. Currently, the City's Parks Master Plan and Comprehensive Plan include an 8' wide concrete trail along the existing street right of way of Second Creek Bridge Rd. The City has been awarded grant funds to design and construct an 8' trail along the north side of Second Creek Bridge Road from Wright Valley Road, east to 169 Hwy, which includes two portions of the subject property, but this work will not occur until 2026 or 2027 at the earliest. Ordinarily the subdivision code would require standard 6' sidewalks to be constructed on the north side of Second Creek Bridge Road, along with curb, gutter and stormwater improvements for the street. In order to avoid duplication or removal and upgrade of sidewalks when the City's trail is installed in 2027, the

developer shall install the 8' trail along Second Creek Bridge Rd. as and when the Phase I development occurs at the intersection of the new Creekside Ct. intersection. The trail crossing at Creekside Ct. shall include curbs and ADA compliant crossing, along with connections to future 5' wide sidewalks along both sides of Creekside Ct. Given the grade relation between Second Creek Bridge Road and the property north of said street, the required construction of curbs and gutters in the area adjacent to Phase I is not desirable. In fact, adding curbs in this area would necessarily require duplicated drainage systems of both above and below grade storm lines. Accordingly, the developer shall not be required to construct curb and gutter in the Phase I adjacent right of way.

b. The existing street right of way of both Lowman Road and Second Creek Bridge Road in the area(s) adjacent to Phase III as shown on the preliminary plat are also subject to curb, gutter and sidewalk improvements when developed. For the right of way of Lowman Road, the developer shall be required to install curb, gutter and storm infrastructure at the time of construction as required based upon the design as approved by the city with the final plat. The required 6' sidewalks along Lowman Road shall be the responsibility of the lot owners at the time of development of each lot. As for improvements along Second Creek Bridge Road adjacent to Phase III, the City and Developer anticipate that the construction of the 8' trail will be close to the development of Phase III. In order to avoid disruption and confusion over responsibility of construction, the parties agree that if developer will dedicate a pedestrian easement of not less than 10' in width immediately north of the existing

Second Creek Bridge Road right of way to lessen the need for stormwater infrastructure, and pay 50% of the total cost of construction of both any required right of way improvements and the 8' trail, the developer will have no further obligations to construct the required subdivision improvements along Second Creek Bridge Road that is adjacent to Phase III of the subdivision as shown on the preliminary plat. It is also agreed that this 10' easement area shall be included in the Parkland dedication calculation requirements. The parties agree that when the city lets the trail project for bid, the cost of the construction of this portion of the work, which is subject to prevailing wage, will be the basis of measurement of the Developer's 50% obligation. Once the developer's payment obligation amount has been identified, such payment will be required prior to recording the final plat for the Phase III or Phase IV. It is also further understood that this obligation is and shall be considered a covenant that runs with the land of the proposed development described in Paragraph 1 of this Agreement and shall be binding and inure to the benefit of the parties hereto and their successors and assigns and on any future and subsequent purchasers.

4. The parties agree that the development will be required to design and construct all necessary infrastructure required to meet the then existing city standards for stormwater control at its' own cost and expense. Such construction will be in accordance with an approved stormwater study.

5. The parties agree that the development will be required to design and construct all necessary infrastructure required to meet the then existing city standards

for gravity-flow sanitary sewers throughout the subdivision and drain into the existing interceptor line that runs through the property.

6. The parties agree that the Parkland dedication requirements of the city code shall be calculated as follows:

a. The development proposes 87 dwelling units which will result in 4.959 acres (216,014 ft²) of parkland in accordance with the subdivision formula. (87 d.u. x 2.85 census density x .02 acres per 100 = 4.959) and the development proposes 13,500ft² of fully creditable Comprehensive Plan trails along the east edge of the development, 6,394ft² of pedestrian easement along the north side of Second Creek Bridge Road adjacent to Phase III, 92,305.44ft² of private use amenities (calculated at 50% of proposed area per code) for a total credited amount of land dedication of 112,199.44ft². This dedication amount represents 52% of the required parkland dedications. The development is then obligated to provide payment in lieu of dedications in the amount of \$300.00 per dwelling unit. Such funds shall be payable prior to recording the final plat for each such phase of the development. *E.g. Phase I includes 39 dwelling units (17 x 2 + 5) so will required a park fee of \$11,700.00 prior to recording said plat.*

The parties further agree that the park amenities described in the preliminary plat are subject to Section 425.230.B. In accordance with that section, and Section 425.300 the trails shown on the preliminary plat shall be constructed prior to recording the final plat for the second phase of the development. Each trail section shall be constructed prior to the second phase of construction and may be installed as gravel in

all areas except the access trails between lots 109 and 110 as well as 46 and 47 shall be concrete. The access sidewalk between 46 and 47 may be constructed during Phase IV and not with the Phase II construction. However, the area of the trails located in the public trail easement shall be further improved to be not less than 10' wide with concrete with an adjacent 4' gravel/limestone path at the same grade. Such further improvement to the public trail area shall be constructed prior to the final plat for the Phase IV being recorded and shall use the original gravel trail as the base for such concrete construction.

7. The parties agree that except as specifically noted herein, 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.

8. 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 final construction plans have been approved by the city. The recording of any final plat shall only occur in accordance with city ordinances.

9. 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.

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

11. 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.

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

14. Developer agrees to record this Agreement with the Recorder of Deeds for Clay County, Missouri; to pay the cost for said recording; and provide a copy of the recorded Agreement to the City.

THE CITY OF SMITHVILLE, MISSOURI

By _____
Damien Boley, Mayor

KANSAS CITY PROPERTIES & INVESTMENTS, LLC

[illegible]

On the ____ day of _____, 2023, 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 _____, 2023, 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 Kansas City Properties & Investments, LLC, and said instrument was signed and sealed on behalf of said Kansas City Properties & Investments, LLC by authority of its Board and he/she acknowledges said instrument to be the free act and deed of said Kansas City Properties & Investments, LLC.

Kansas City Properties & Investments, LLC

Managing 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:
