



## **Planning and Zoning Commission Meeting**

**June 14, 2022**

**7:00 p.m. – City Hall Council Chambers and Via Videoconference**

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**Anyone who wishes to view the meeting in real time may do so as it will be streamed live on the city's YouTube page through YouTube Live or may use the Zoom link below to access the meeting.**

- 1. Call to Order**
- 2. Approve the May 12, 2022, Planning Commission Minutes**
- 3. Staff Report**
- 4. Public Hearing**
  - Rezoning Lots 1-6 and the north 100.93 feet of Lot 7, Wait Acres B-3 to R-1A
- 5. Rezoning Lots 1-6 and the north 100.93 feet of Lot 7, Wait Acres from B-3 to R-1A**
- 6. Public Hearing**
  - Rezoning 211 N. Bridge St. from R-3 to B-4
- 7. Rezoning 211 N. Bridge St. from R-3 to B-4**
- 8. Public Hearing**
  - Rezoning Lot 1, Ada's Estates from A-1 to A-R
- 9. Rezoning Lot 1, Ada's Estates from A-1 to A-R**
- 10. Public Hearing**
  - Single Phase Final Plat – Dibbens Estates (3) lots at Lot 1, Ada's Estates

11. **Single Phase Final Plat – Dibbens Estates (3) lots at Lot 1, Ada’s Estates**
12. **Public Hearing**
  - Conditional Use Permit – Telecommunications Tower at 904 NE 180<sup>th</sup> St.
13. **Conditional Use Permit – Telecommunications Tower at 904 NE 180<sup>th</sup> St.**
14. **Adjourn**

Join Zoom Meeting  
<https://us02web.zoom.us/j/85056678426>  
Meeting ID: 850 5667 8426  
Passcode: 834613



SMITHVILLE PLANNING COMMISSION

REGULAR SESSION

May 10, 2022

7:00 P.M.

City Hall Council Chambers and Via Videoconference

**1. CALL TO ORDER**

Chairman Melissa Wilson called the meeting to order at 7:00 p.m.

A quorum of the Commission was present: Melissa Wilson, Alderman John Chevalier, Mayor Damien Boley, Billy Muessig (arrived at 7:01 pm), Rob Scarborough and Deb Dotson. Dennis Kathcart was present via Zoom.

Staff present: Jack Hendrix and Brandi Schuerger.

**2. MINUTES**

The April 12, 2022, Regular Session Meeting Minutes were moved for approval by DOTSON, Seconded by SCARBOROUGH.

Ayes 6, Noes 0, MUESSIG was not present at the time of the vote. Motion carried.

**3. STAFF REPORT**

HENDRIX reported:

Informed that he was hopeful that the Fairview Crossing project that was brought to the commission last month would be back on tonight's agenda but that didn't happen. There are a lot of discussions going on that relates to the traffic impact for this project. At the earliest it may be on the agenda for the June P & Z meeting.

June's P & Z meeting will be busy. So far on the agenda there will be 2 rezoning requests. One item is for several lots in Waits Acres which is requesting rezoning from B-3 to R-1A. The other item is taking property with a single family home on it just north of the river and rezoning it to B-4 so

that they can potentially operate a business out of it. We also have our first telecommunications tower conditional use permit. There was one in process when he first started here 15 years ago. This one will be the first he has handled himself. He also anticipates a couple of small subdivisions on this agenda as well.

Eagle Ridge subdivision will be putting down their final layer of pavement this week depending on the weather.

Diamond Creek subdivision is redoing a couple of curbs and some pavement changes in their area. After the first rain it was noticed that their install was not perfect and there were puddles that were created and could not drain. The Board of Alderman approved their final plat at their last meeting on May 3, 2022. This subdivision will be opening up for lot sales and houses soon. They have completed 98% of the work and have some offsite improvements that the city is going to ask that they bond.

We have issued 48 residential building permits so far this year. That is almost the same as what we had by the end of the year last year.

On the south end of town at the Attic Storage site you will see some dirt work and equipment which has been going on for some time. They had to bore 200 some feet under the highway to put a bigger water line there for fire flow. This is now complete, and they have started the foundation for the climate controlled building.

WILSON asked Jack about the location where the new convenience store was built and the creek next to it. Is the city involved with any of the work they are doing to try and correct the issues?

HENDRIX stated yes the city is involved. A while back a concrete truck drove in an area near the wall where there was not enough stabilization on the top which caused that truck to fall into the creek and destroyed part of the wall. We have required them to get a separate engineer to come in and evaluate the wall after it collapsed. The engineer was required to give us stamped letter informing us if the wall was safe or not and give us a corrective action plan for a contractor to come in and rebuild it. It has been a slow process, but we are monitoring that. It has already been decided internally and with the Fire District that we are not going to issue a final certificate of occupancy until such time as the wall is rebuilt.

HENDRIX stated that Commissioner Dotson and himself attended an Affordable Housing seminar today that was put on by the Mid America Regional Council. He asked Dotson if she had any comments about the seminar that she would like to share.

DOTSON stated that she didn't feel like she came away with much information on how to solve the affordable housing issue. She did pick up some interesting information from commissioners in surrounding cities. The seminar was good in a lot of way and in others it was frustrating.

HENDRIX agreed with Dotson. It was frustrating because they didn't have answers to this issue. What they did was give us questions to start thinking and talking about.

SCARBOROUGH asked Hendrix if they city knows what the estimated sales price of a new home is at the time the building permit is pulled?

HENDRIX stated no. The only cost that we collect at the time of permitting is what the county assessor requires and that is the cost of the materials to build the home.

MUESSIG asked if there was anything that could be done to get the pricing under \$300,000 for a home?

HENDRIX stated that there really wasn't much that could be done. Currently it costs \$250 per square foot to build a new home. You could build a little 1000 square foot home and it's still going to cost you a quarter million.

MUESSIG asked what the average cost of a home in Smithville is?

HENDRIX stated that he doesn't maintain that data and that would be a question for a realtor. He would imagine that the average cost is somewhere around \$280,000 for new and old homes. For new homes he doesn't believe there are any that are under \$300,000.

#### **4. PUBLIC HEARING: SINGLE PHASE FINAL PLAT MCBEE'S COFFEE & CARWASH (2 LOTS)**

**Public Hearing opened**

HENDRIX informed that at our meeting in April we had the Conceptual Plan that was submitted. The purpose of the Conceptual Plan was primarily to adjust the lot sizes. We have a lot size requirement in the B-3 district of 3 acres unless you have a conceptual plan. You may recall in this conceptual plan process that there are 2 lots. The north lot will have McBee's on it. On the east side of this lot there will be a driveway coming in off of Richardson Street and you will see that it also has a shared access drive going all the way to lot 2. In the development agreement you will see a proposal for when lot 2 eventually develops and if they are able to get a separate shared access easement off of 169 Hwy from MODOT they will have to create a pathway of shared access so that both lots can get through. Staff recommends approval as it meets all of the standards.

**Ashley Smith---Applicant—Preconstruction Project Manager for McBee's Coffee & Carwash—** Stated that she would like to discuss the Development Agreement that was given to her last week. We agree to all of the items except for the traffic portion for the intersection. Since the beginning of this Mr. Hendrix has given us fore warning that we would be contributing to the traffic light. A rough estimate of \$10,000 to \$20,000 was given. We are not against contributing towards the traffic light nor are we against it going in, but the amount is a little bit of an issue. During the preapplication process we hired a traffic engineer to do an evaluation as far as our percentage of traffic for lot 1 & 2. There is a letter from this traffic engineer and on the last page it gets to the fact that if McBee's and Lot 2 (possibly a restaurant) were a high traffic area in the future for both lots we were looking at 8.3%. The traffic light portion is estimated to cost \$400,000 which Mr. Hendrix had been working with MODOT to get that estimate. With the traffic letter we understood that we were now looking at more like \$35,000 instead of \$10,000 to \$20,000 for that 8% of \$400,000. In the Development Agreement the City did ask for \$100,000 which is 25% of that \$400,000 cost. I am not sure of the city's budget. I know that the whole process had basically been that the city was asking for 25% from all 4 corners of this intersection and that traffic evaluations had been done for other parts of the intersection. I am not sure if numbers need to be reevaluated for other neighbors. Mr. Hendrix had mentioned there was possibly something in the works as far as negotiations with another neighbor. She is not sure how to resolve where the money needs to come from, but the McBee's are not super happy with the \$100,000 ask. They are willing to do 10% which would be \$40,000 or even 15% which would be \$60,000. She is happy to open this up for discussion and see what the commissions thoughts are and any comments they may have.

## **Public Hearing closed**

### **5. MCBEE'S COFFEE AND CARWASH FINAL PLAT (2 lots)**

MAYOR BOLEY motioned to approve the McBee's Coffee and Carwash Final Plat (2 lots). Seconded by MUESSIG.

#### **DISCUSSION:**

HENDRIX stated that Ms. Smith brought up some points that need to be discussed with the commission so you can see where we are at. The amounts that she had identified from early on came from GBA which is their traffic analysis firm. Since we just completed a full intersection analysis from the project across the street (Richardson Street Plaza) we asked them to take all of that data and throw their data into it so that we would have a better understanding of where things were. The development agreement for Richardson Street Plaza was \$100,000 so that is how this this number was reached. Richardson Street Plaza had about 7% of all the traffic in the intersection and McBee's Coffee and Carwash will have 8.3%. We did not evaluate it from a perspective of how much is going into the intersection primarily because the vast majority of the traffic drives by there every day. We have 18,000 cars a day going north and south on 169 Hwy. The bigger concern is the traffic going east and west into it because that is what will trigger the light. We have tried to work with MODOT on this and they have indicated that we get more input from the surrounding neighbors and are discussing themselves about putting some of their money into this as well. I don't know that the city really ever said that this would be a certain dollar amount because we really wanted to know what their traffic was going to be related to across the street and when we got that number late last week we sent them the development agreement. This development agreement is the same one we used with the Richardson Plaza folks other than adjusting locations and other language to focus it on this project. We have been in clear agreement with everything else. They are going to have to move a water line and extend sewers and they have no issues with this to make this work.

SCARBOROUGH asked if we could go to other businesses that will benefit from the traffic light and ask for money towards this? We can ask but there

is no reason for them to say "Here, take our money"? Is that a fair statement?

HENDRIX stated yes, and there is no method for us to do it. We have had conversations with the library district, and they are willing to contribute. It's another governmental entity so their budget is a same scenario where we are at as well. That negotiation is pending.

MAYOR BOLEY stated that when Cadence developed the Smithville Marketplace we didn't go to the hospital, the nursing home and Hildebrand Dental and ask. It is the development that is impacting the intersection that is responsible.

SCARBOROUGH asked where the rest of the money will come from?

HENDRIX stated that some of it will likely come from MODOT, and some will hopefully come from some Federal grant funding.

MUESSIG asked if the city has any money in the budget for this?

HENDRIX stated no. Now that we have the potential to have funding from both of these developments and know we will have this certain dollar amount. We will see where that goes.

WILSON asked Mr. Hendrix if he knew what percentage of money would come from MODOT or the grants?

HENDRIX stated we have no idea.

DOTSON asked what is staff's recommendation of this?

HENDRIX stated that the staff report recommends that these folks pay what the other folks are going to pay when they get done. We recommend that we be consistent. Especially since the traffic is the same.

DOTSON asked what will happen when the restaurant goes in on the lot to the south of McBee's? Will they be required to pay \$100,000 too?

HENDRIX stated no. This happens at the time of the subdivision. Let's say that the restaurant comes in 2 years. Their obligation would be to do their own full traffic study of what they are proposing and how that impacts the

entire intersection. McBee's just had to supplement the study that Richardson Street Plaza conducted. We will also require that the restaurant do a shared access so that people can come off of Richardson St and onto lot 2 and anyone on lot 2 can go out onto McBee's lot. For example, when they do their traffic study if MODOT requires a turn lane they would have to construct that on their own.

ALDERMAN CHEVALIER stated that Mr. Hendrix just mentioned that we gave McBee's a study and they just had to supplement that. If we didn't already have that would they have had to do a full blown traffic study on their own?

HENDRIX stated yes. It would have cost them a little more but not a massive amount.

ALDERMAN CHEVALIER stated that they were already getting some sort of assistance just from that right?

HENDRIX stated yes. This was just an evaluation letter. They didn't have to pull the data because it was already assembled and the evaluation for the intersection was already done. All their engineers had to do was throw in additional data. It didn't make any significant design changes.

MUESSIG asked what the cost of a traffic study would have been if they had to do this themselves?

HENDRIX stated somewhere between \$8000 to \$15,000 depending on what kind of data they can get without having to do their own traffic counts.

KATHCART stated that the brunt of the cost of this traffic light doesn't fall on existing residents or occupants or future ones, it's solely on this business and the other proposed business.

HENDRIX stated not the business. It's the lots in the subdivision. In this case the lots are for a business. The other proposal has a potential for 4 buildings on 3 lots and this one is 2 buildings on 2 lots.

KATHCART said that in the meantime we are going to be waiting until we collect enough money to put a light in.

HENDRIX stated no. MODOT's position was once the funds are available come back and we can start the conversation about when this can happen.

We don't have any funds from the other development because the final plat hasn't been recorded. That's when all of this occurs. For McBee's, once the waterline has been installed and sewer line is installed and has been inspected and approved they can record their final plat. Unless they want to bond all of that, but most people don't.

ALDERMAN CHEVALIER stated that from his perspective, if we already have someone across the street that is already paying this agreement I feel like we need to stay consistent as a city. If there are potentials for some reimbursements down the road maybe we can talk at that point. But from an agreement perspective I think that we need to be consistent.

KATHCART stated that he feels like they came back with a healthy counter offer instead of coming back and saying that the city said \$35,000 in the beginning and we are sticking with that. I think that is a consideration.

DOTSON stated that she liked what Alderman Chevalier had to say about keeping it consistent. But it does seem like there could be some wiggle room there. You have 4 buildings in one development paying \$100,000 and 2 buildings in another development also paying \$100,000.

HENDRIX stated that this was why we wanted the traffic study updated. To the extent that the percentages of traffic are nearly identical is how we got these figures. I think that if the percentage had been nearly half of the other development we probably would have been in a different scenario.

WILSON stated that she agrees with Alderman Chevalier. Staying consistent and move this on to the Board of Alderman. Ms. Smith can come and present this to them since they have the ultimate final say on this agreement.

ALDERMAN CHEVALIER stated that a resident also asked him if there will be any water recycling with this project?

MS. SMITH stated that they do recycle most of the water. She didn't know the exact amount but thinks it's about 70-80% that is recycled. We try to recycle as much as possible.

**THE VOTE:** MAYOR BOLEY-AYE, KATHCART-NO, DOTSON-AYE, SCARBOROUGH -AYE, MUESSIG -AYE, WILSON-AYE, ALDERMAN CHEVALIER-AYE.

**AYES-6, NOES-1. MOTION PASSED**

**6. ADJOURN**

MAYOR BOLEY made a motion to adjourn. SCARBOROUGH seconded the motion.

VOICE VOTE: UNANIMOUS

WILSON declared the session adjourned at 7:44 p.m.

NOT YET APPROVED



STAFF REPORT  
March 9, 2021

Rezoning of Parcel Id's# 05-303-00-01-001.09; 05-303-00-01-001.08; and,  
05-303-00-01-001.07  
Application for Rezoning District Classification Amendment

Code Sections:

400.560.C Zoning District Classification Amendments

Property Information:

Address: 18310, 18304 and 18222 N. Main St.  
Owners: Dennis Dow, Truman & Cheryl Hiatt and  
Dennis Brewer  
Current Zoning: B-3  
Proposed Zoning: R-1A

Public Notice Dates:

1<sup>st</sup> Publication in Newspaper: May 26, 2022  
Letters to Property Owners w/in 185': May 26, 2022

GENERAL DESCRIPTION



The applicants seek to rezone the subject properties from B-3 to R-1A. 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. After a recent query concerning the potential use of lots 5, 6 and the north ½ of Lot 7, it was determined that the land was still zoned commercial. The applicants, the owners of the land in the request, sought to rezone their land to the lowest residential use possible. In that case, given the lot frontages, the R-1A districts 100' minimum was the lowest zone allowed. The applicants simply request that their lots be zoned in accordance with their long-time use as single-family residential.

**EXISTING ZONING:**

The existing zoning is B-3.



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

The surrounding area is a predominantly agricultural/residential to the east and south, Single family 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 properties are developed with houses, except the portion of Lot 7 in the application as well as lots 5 and 6, which are yard area of the home on lot 4. Utilities to serve single family are in place.

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

The current use is an improper district for the current uses of single family residential, which are not allowed in B-3 districts. This change will correct an oversight from 1994.

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

The property was zoned to the existing district classification presumably when Smithville annexed this land, but no change was made when this was divided for single-family in 1994.

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

The property is developed in accordance with neighboring uses but zoned improperly for those uses.

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 R-1A be approved.

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

Applicants: Dennis Dow, Truman & Cheryl Hiatt and  
Dennis Brewer

Land Use Proposed: R-1A

Zoning: B-3

Property Location: 18310, 18304 and 18222 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 June 14, 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 predominantly large lot single family uses on Agriculturally zoned land and standard R-1B single family housing to the north. Vacant B-3 lies to the east 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 for the existing homes.
4. *Suitability of the uses to which the property has been restricted under its existing zoning.*  
The current use is single family residential, but is zoned B-3. The current uses are inappropriate for a B-3 district, and changing the zoning to the correct use is appropriate.
5. *Length of time the property has remained vacant as zoned.*  
The property was zoned to the existing district classification presumably when Smithville annexed into the city limits and was not changed when subdivided in 1994.

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 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 June 14, 2022, 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 B-3 to R-1A 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 R-1A.

**BILL NO. 2858-20**

**ORDINANCE NO. \_\_\_\_\_**

**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 Lots 1-6 and the north 100.93 feet of Lot 7, Wait Acres on April 19, 2022; and

**WHEREAS**, the public was notified by publishing in the CT paper on May 26<sup>th</sup>, June 2<sup>nd</sup> and 9, 2022 and notices were mailed to adjoining property owners on May 26, 2022.

**WHEREAS**, a Public Hearing was conducted before the Planning Commission on June 14, 2022; and

**WHEREAS**, the rezoning is to change the zoning from B-3 to R-1A; 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 1-6 and the north 100.93 feet of Lot 7 of Wait Acres, a subdivision in Smithville, Clay County, Missouri.

Changed from B-3 to R-1A

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 \_\_\_\_\_ DAY OF \_\_\_\_\_, 20\_\_\_\_\_

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Damien Boley, Mayor

ATTEST:

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Linda Drummond, City Clerk

First Reading:                 /         /

Second Reading               /         /



STAFF REPORT  
June 9, 2022

Rezoning of Parcel Id's# 05-617-00-01-006.00

Application for Rezoning District Classification Amendment

Code Sections:

400.560.C Zoning District Classification Amendments

Property Information:

Address: 211 N. Bridge St.  
Owner: John & Alyssa Sanders  
Current Zoning: R-3  
Proposed Zoning: B-4

Public Notice Dates:

1<sup>st</sup> Publication in Newspaper: May 26, 2022  
Letters to Property Owners: May 26, 2022

GENERAL DESCRIPTION

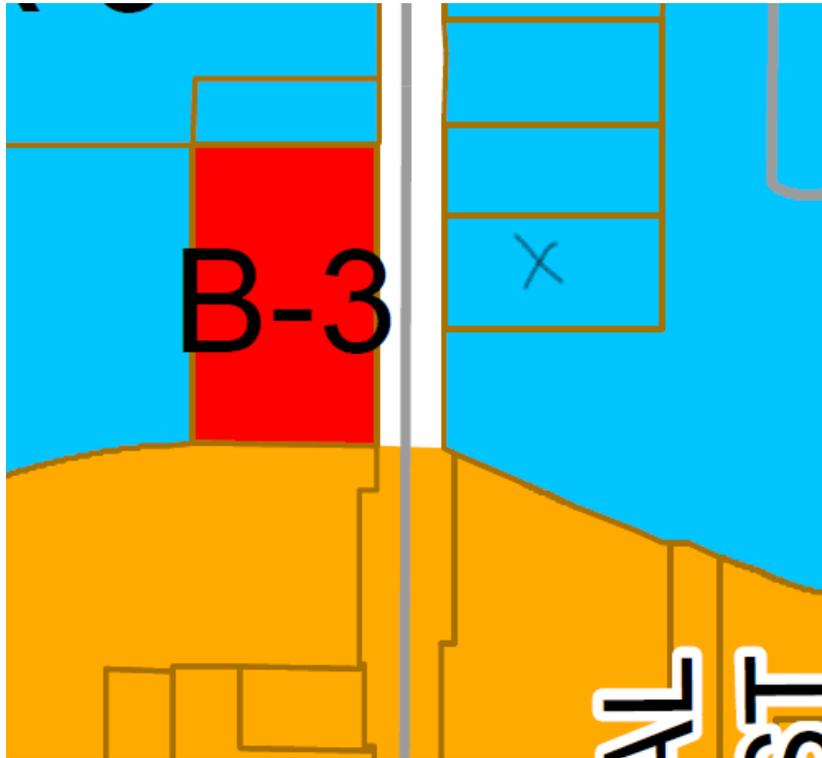


The applicant seeks to rezone the subject property to B-4 from R-3. The structure is a single family residence in multifamily zoning. The applicant seeks to change the zoning to B-4, which would allow the use of the property for a

home occupation that would include potential customers coming to the location. Home occupations in ALL residential districts are restricted from customers coming to the location. B-4 districts allow both residential and commercial uses.

**EXISTING ZONING:**

The existing zoning is R-3.



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

The surrounding area is a near the downtown business District (B-4) with a B-3 district at the Patterson House property across the street. All other adjacent property is zoned multifamily.

**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 calls for incentivizing mixed residential and commercial uses in the downtown area.

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

The property is currently developed and no additional impact on utilities is anticipated.

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

The current use is a single-family home adjacent to the currently revitalized downtown commercial area. With anticipated streetscape expansion into this block of N. Bridge St. (including bridge pedestrian improvements) coming next year, this general area will continue to become more active.

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

The property was zoned to the existing district classification presumably when Smithville implemented zoning in 1966. It has been a single family home since its' construction.

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

The property is adjacent to a dense-use residential area to the east (Housing Authority Apartments) and across the street from the Patterson House museum and Bed and Breakfast. With the current transition of downtown including significant investment and revitalization, this district is compatible with adjacent districts.

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 B-4 be approved.

Respectfully Submitted,

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Zoning Administrator

## FINDING OF FACTS AND CONCLUSIONS OF LAW

Applicant: John & Alyssa Sanders

Land Use Proposed: B-4

Zoning: R-3

Property Location: 211 N. Bridge 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 June 14, 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 mix of Multi-family districts to the east and north, with B-3 across the street and B-4 on the south side of the river.
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 incentivizing mixed residential and commercial uses in the downtown area.
3. *Adequacy of public utilities and other needed public services.*  
  
The property is currently developed and no additional impact on utilities is anticipated.
4. *Suitability of the uses to which the property has been restricted under its existing zoning.*  
The current use is a single-family home adjacent to the currently revitalized downtown commercial area. With anticipated streetscape expansion into this block of N. Bridge St. (including bridge pedestrian improvements) coming next year, this general area will continue to become more active
5. *Length of time the property has remained vacant as zoned.*

The property was zoned to the existing district classification presumably when Smithville implemented zoning in 1966. It has been a single-family home since its' construction.

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

The property is adjacent to a dense-use residential area to the east (Housing Authority Apartments) and across the street from the Patterson House museum and Bed and Breakfast. With the current transition of downtown including significant investment and revitalization, this district is compatible with adjacent districts.

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 June 14, 2022, 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-3 to B-4 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 B-4.

**BILL NO. 2858-20**

**ORDINANCE NO. \_\_\_\_\_**

**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 211 N. Bridge St. on April 26, 2022; and

**WHEREAS**, the public was notified by publishing in the CT paper on May 26<sup>th</sup>, June 2<sup>nd</sup> and 9, 2022 and notices were mailed to adjoining property owners on May 26, 2022.

**WHEREAS**, a Public Hearing was conducted before the Planning Commission on June 14, 2022; and

**WHEREAS**, the rezoning is to change the zoning from R-3 to B-4; 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:

A part of the North Half of the Southwest Quarter of Section 23, Township 53, Range 33, Smithville, Clay County, Missouri, described as follows: Commencing at a point on the centerline of Bridge Street in the City of Smithville, 289 feet South of the intersection of said centerline with the centerline of said Section 23; thence East 225 feet; thence South 105 feet; thence West to the centerline of Bridge Street; thence North along said centerline of Bridge Street to the point of beginning.

Is hereby changed from R-3 to B-4

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 \_\_\_\_\_ DAY OF \_\_\_\_\_, 20\_\_\_\_\_

\_\_\_\_\_  
Damien Boley, Mayor

ATTEST:

\_\_\_\_\_  
Linda Drummond, City Clerk

First Reading:                    /       /

Second Reading                /       /



STAFF REPORT  
June 14, 2022

Rezoning of Parcel I# 09-302-00-02-013.00

Application for Rezoning District Classification Amendment

Code Sections:

400.560.C Zoning District Classification Amendments

Property Information:

Address: 13916 N. Virginia Ave.  
Owner: Bradley & Marjorie Dibben  
Current Zoning: A-1  
Proposed Zoning: A-R

Public Notice Dates:

1<sup>st</sup> Publication in Newspaper: May 26, 2022  
Letters to Property Owners: May 26, 2022

GENERAL DESCRIPTION

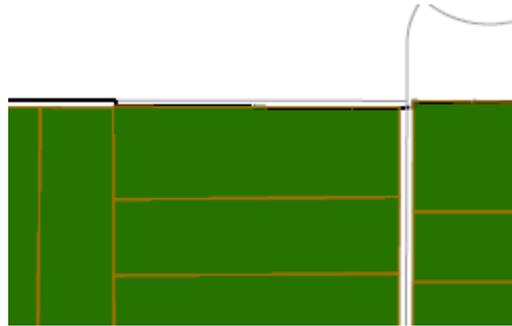


The applicant seeks to rezone the subject property from A-1 to A-R. The total acreage of the current parcel is 11.52 acres with the applicant's home

located on the east end of the lot. The applicant seeks to divide two additional lots of 3.81 acres each of the west side, with access onto Virginia.

#### EXISTING ZONING:

The existing zoning is A-1.



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

The surrounding area is a predominantly A-1 with large lot residences to the south and east, with County AG district to the direct north and County R-1 in the Sunrise East subdivision north and east as well.

#### 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 identifies the area along Virginia to be either low-density residential or agricultural. Low-density residential is described as "typically single-family houses on large lots over three acres".

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

The property is outside the current city service areas for both water and wastewater, but the current lot has all utilities. Any utility extensions would be the responsibility of the owners.

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

The current use is a large lot single-family home. The general area (within ½ mile) has been developed as 3-5 acres lots to the north and east in both unincorporated Clay County and City Limits.

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

The property was zoned to the existing district classification presumably when annexed into Smithville.

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

The property primarily lies on Amory Rd. and the A-R district is more restrictive in use than the current district, but it allows housing on lots larger than 3 acres, versus 10 acres in the A-1 district.

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, with any subdivision of land separately considered.

## FINDING OF FACTS AND CONCLUSIONS OF LAW

Applicant: Bradley & Marjorie Dibbens

Land Use Proposed: A-R

Zoning: A-1

Property Location: 13916 N. Virginia

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 June 14, 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-1 with large lot residences to the south and east, with County AG district to the direct north and County R-1 in the Sunrise East subdivision north and east as well.
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 identifies the area along Virginia to be either low-density residential or agricultural. Low-density residential is described as "typically single-family houses on large lots over three acres".
3. *Adequacy of public utilities and other needed public services.*  
The property is outside the current city service areas for both water and wastewater, but the current lot has all utilities. Any utility extensions would be the responsibility of the owners.
4. *Suitability of the uses to which the property has been restricted under its existing zoning.*  
The current use is a large lot single-family home. The general area (within ½ mile) has been developed as 3-5 acres lots to the north and east in both unincorporated Clay County and City Limits.
5. *Length of time the property has remained vacant as zoned.*

The property was zoned to the existing district classification presumably when Smithville annexed the land.

6. *Compatibility of the proposed district classification with nearby properties.*  
The property primarily lies on Amory Rd. and the A-R district is more restrictive in use than the current district, but it allows housing on lots larger than 3 acres, versus 10 acres in the A-1 district.
7. *The extent to which the zoning amendment may detrimentally affect nearby property.*  
No detrimental effects are anticipated to the adjacent property.
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 June 14, 2022, 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 A-1 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. 2858-20**

**ORDINANCE NO. \_\_\_\_\_**

**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 13916 N. Virginia on May 2, 2022; and

**WHEREAS**, the public was notified by publishing in the CT paper on May 26<sup>th</sup>, June 2<sup>nd</sup> and 9, 2022 and notices were mailed to adjoining property owners on May 26, 2022.

**WHEREAS**, a Public Hearing was conducted before the Planning Commission on June 14, 2022; and

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

Lot 1, Ada's Estates

Changed from A-1 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 \_\_\_\_\_ DAY OF \_\_\_\_\_, 20\_\_\_\_\_

---

Damien Boley, Mayor

ATTEST:

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Linda Drummond, City Clerk

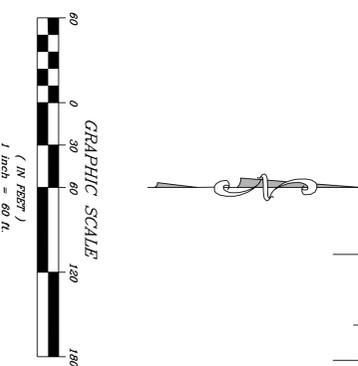
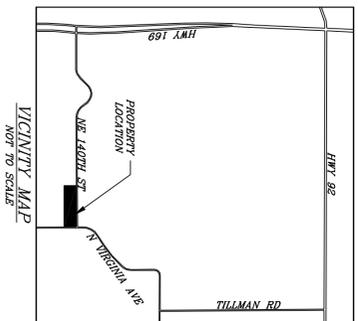
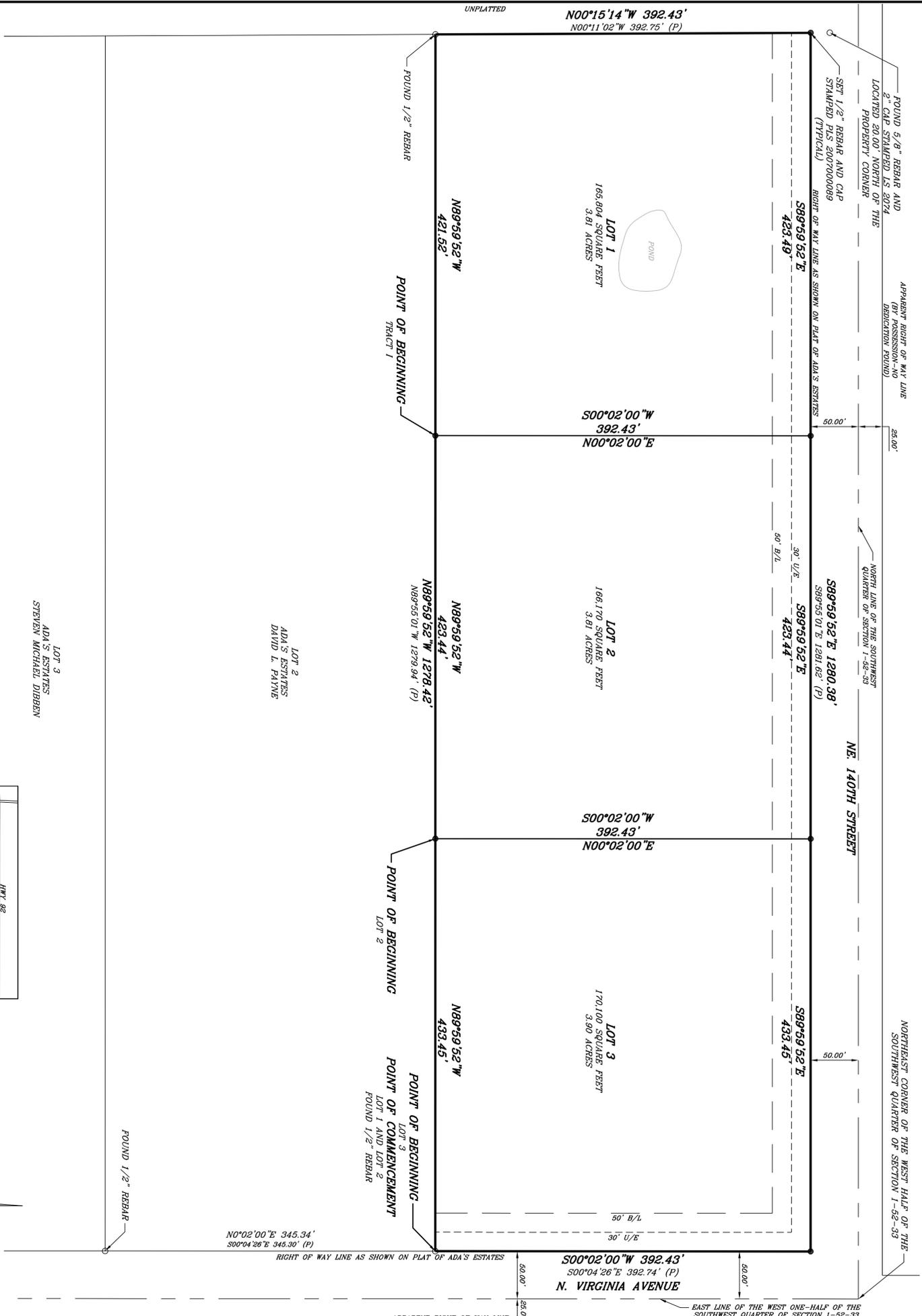
First Reading:                 /         /

Second Reading                /         /

# DIBBEN'S ESTATES

## A REPLAT OF LOT 1, ADA'S ESTATES

### A SUBDIVISION IN SECTION 1, TOWNSHIP 52 NORTH, RANGE 33 WEST SMITHVILLE, CLAY COUNTY, MISSOURI



**PROPERTY DESCRIPTIONS**  
 LOT 1, ADA'S ESTATES, A SUBDIVISION IN SECTION 1, TOWNSHIP 52 NORTH, RANGE 33 WEST, SMITHVILLE, CLAY COUNTY, MISSOURI

**LOT 1**  
 CONTAINING 166,804 SQUARE FEET OR 3.81 ACRES  
 ALL THAT PART OF LOT 1, ADA'S ESTATES, A SUBDIVISION IN SECTION 1, TOWNSHIP 52 NORTH, RANGE 33 WEST, SMITHVILLE, CLAY COUNTY, MISSOURI, BEING DESCRIBED AS FOLLOWS: COMMENCING AT THE SOUTHEAST CORNER OF SAID LOT 1; THENCE N89°59'52\"/>

**LOT 2**  
 CONTAINING 166,170 SQUARE FEET OR 3.81 ACRES  
 ALL THAT PART OF LOT 1, ADA'S ESTATES, A SUBDIVISION IN SECTION 1, TOWNSHIP 52 NORTH, RANGE 33 WEST, SMITHVILLE, CLAY COUNTY, MISSOURI, BEING DESCRIBED AS FOLLOWS: COMMENCING AT THE SOUTHEAST CORNER OF SAID LOT 1; THENCE N89°59'52\"/>

**LOT 3**  
 CONTAINING 170,100 SQUARE FEET OR 3.90 ACRES  
 ALL THAT PART OF LOT 1, ADA'S ESTATES, A SUBDIVISION IN SECTION 1, TOWNSHIP 52 NORTH, RANGE 33 WEST, SMITHVILLE, CLAY COUNTY, MISSOURI, BEING DESCRIBED AS FOLLOWS: COMMENCING AT THE SOUTHEAST CORNER OF SAID LOT 1; THENCE N89°59'52\"/>

**BOUNDARY SURVEY NOTES:**  
 1. THE DESCRIPTIONS USED FOR THIS SURVEY WERE DERIVED FROM THE PLAT OF ADA'S ESTATES.  
 2. THE BEARINGS SHOWN HEREON ARE BASED ON NAD 83(2011) EPOCH 2010.00 ADJUSTMENT UTILIZING THE MODOT RTN NETWORK.

3. THIS SURVEY IS BASED UPON RECORD DOCUMENTS, LEGAL DESCRIPTIONS AND OTHER INFORMATION FURNISHED BY THE CLIENT PLUS OTHER INFORMATION KNOWN TO THIS SURVEYOR. THIS SURVEYOR HAS NO KNOWLEDGE OF ANY OTHER RECORD DOCUMENTS WHICH AFFECT THE SUBJECT REAL ESTATE.  
 6. THIS SURVEY MEETS OR EXCEEDS THE ACCURACY STANDARDS OF AN URBAN PROPERTY SURVEY AS DEFINED BY THE "MISSOURI MINIMUM STANDARDS FOR PROPERTY BOUNDARY SURVEYS".

7. ACCORDING TO THE FLOOD INSURANCE RATE MAP OF THE FEDERAL EMERGENCY MANAGEMENT AGENCY PANEL NUMBER 106 OF 350, MAP NUMBER 59827100R, EFFECTIVE DATE, AUGUST 3, 2015, THE SUBJECT PROPERTY IS IN ZONE X AREAS DETERMINED TO BE OUTSIDE THE 0.2% ANNUAL CHANCE FLOOD.  
 8. THIS SURVEY MEETS OR EXCEEDS THE ACCURACY STANDARDS OF AN URBAN PROPERTY SURVEY AS DEFINED BY THE "MISSOURI MINIMUM STANDARDS FOR PROPERTY BOUNDARY SURVEYS".

**PLAT DEDICATION:**  
 THE UNDERSIGNED PROPRIETORS OF THE ABOVE DESCRIBED TRACT OF LAND HAS CAUSED THE SAME TO BE SUBDIVIDED IN THE MANNER SHOWN ON THE ACCOMPANYING PLAT, WHICH SUBDIVISION SHALL BE HEREAFTER KNOWN AS:

TUBBEN'S ESTATES, A REPLAT OF LOT 1, ADA'S ESTATES.  
 IN WITNESS WHEREOF,  
 OWNERS: BRADLEY W. AND MARJORIE K. DIBBEN HAS CAUSED THESE PRESENTS TO BE SIGNED THIS \_\_\_\_\_ DAY OF \_\_\_\_\_, 2022.

BRADLEY W. DIBBEN )  
 OWNER )  
 STATE OF MISSOURI )  
 COUNTY OF \_\_\_\_\_ )  
 \_\_\_\_\_ )  
 MARJORIE K. DIBBEN )  
 OWNER )

BE IT REMEMBERED THAT ON THIS \_\_\_\_\_ DAY OF \_\_\_\_\_, 2022, BEFORE ME, A NOTARY PUBLIC IN AND FOR SAID COUNTY AND STATE, CLARE BRADLEY W. AND MARJORIE K. DIBBEN, TO ME PERSONALLY KNOWN TO BE THE SIGNERS OF SAID INSTRUMENT, HAVE DECLARED TO ME THAT THEY KNOWLEDGED THE CONTENTS OF SAID INSTRUMENT AND THAT THEY HAVE HEREBY TO SET MY HAND AND AFFIXED MY NOTARIAL SEAL, THE DAY AND YEAR ABOVE WRITTEN.  
 IN TESTIMONY WHEREOF I HAVE HEREBY TO SET MY HAND AND AFFIXED MY OFFICIAL SEAL THIS \_\_\_\_\_ DAY OF \_\_\_\_\_, 2022.

MY COMMISSION EXPIRES: \_\_\_\_\_ NOTARY PUBLIC  
 \_\_\_\_\_

APPROVED BY THE CITY OF SMITHVILLE COMMUNITY DEVELOPMENT DIRECTOR  
 JACK HENDRIX )  
 DATE \_\_\_\_\_

**LEGEND**  
 (P) PLATTED VALUE  
 (M) MEASURED VALUE  
 S/E SEWER EASEMENT  
 U/E UTILITY EASEMENT  
 B/L BUILDING LINE

COPYRIGHT 2022 R.L. BUFORD & ASSOCIATES, LLC  
 E:\A-CLAY COUNTY\L-22014 CRAIG N VIRGINIA\DWG\L-22014.DWG 5/6/2022 7:59 AM

**R.L. Buford & Associates, LLC**  
 LAND SURVEYING - DEVELOPMENT CONSULTANTS  
 R.L. BUFORD & ASSOCIATES, LLC  
 MO CERT. OF AUTHORITY LICENSE NO. LS-2010031977  
 reb@rlbuford.com

FOR	SEC. - TWP. - RGE.	COUNTY	JOB NO.
E R DEVELOPMENT, LLC	1 - 52 - 33	CLAY	L-22014
	DATE	FIELD BOOK	
	4/22/2022		
		DRAWN BY	
		ABH	

BOUNDARY SURVEY/LOT SPLIT

**SURVEYOR'S CERTIFICATION**  
 I HEREBY CERTIFY THAT WE HAVE MADE A SURVEY OF THE PREMISES HEREIN DESCRIBED WHICH MEET OR EXCEED THE CURRENT "MISSOURI MINIMUM STANDARDS FOR PROPERTY BOUNDARY SURVEYS" AS JOINTLY ESTABLISHED BY THE MISSOURI DEPARTMENT OF NATURAL RESOURCES, DIVISION OF GEOLOGY AND LAND SURVEY AND THE MISSOURI BOARD FOR ARCHITECTS, PROFESSIONAL ENGINEERS, PROFESSIONAL LAND SURVEYORS AND LANDSCAPE ARCHITECTS, AND THAT THE RESULTS OF SAID SURVEY ARE REPRESENTED ON THIS DRAWING TO THE BEST OF MY PROFESSIONAL KNOWLEDGE AND BELIEF.

*Robert G. Young*  
 ROBERT G. YOUNG, PLS-2007000089 DATE 4/22/2022



June 14, 2022

Single Phase Final Plat for Clay County Parcel Id # 09-302-00-02-013.00

Application for a Plat Approval – Dibben’s Estates Final Plat– 3 lots

Code Sections:

425.285.A.4

Single Phase Final Plat Approval

Property Information:

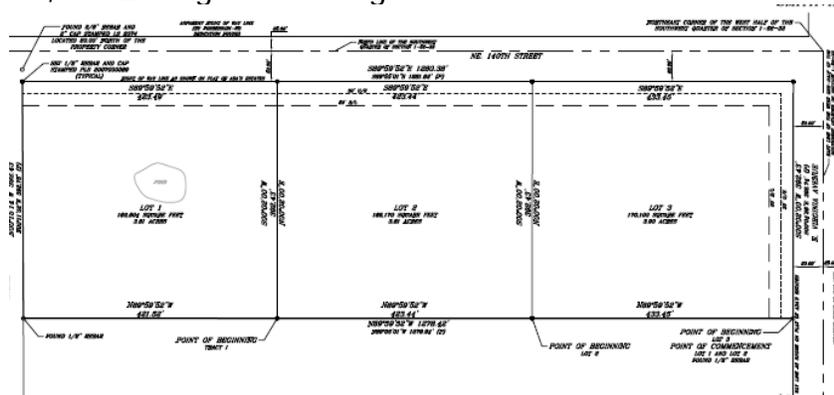
Address: 13916 N. Virginia Ave.  
 Owner: Bradley & Marjorie Dibben  
 Current Zoning: A-1 (simultaneous application for A-R)

Public Notice Dates:

1st Publication in Newspaper: May 26, 2022  
 Letters to Property Owners w/in 185': May 26, 2022

GENERAL DESCRIPTION:

The property is currently Lot 1, Ada’s Estates and contains a single-family home on 11.52 acres. This Final Plat would divide the existing lot into a total of 3 lots, each of which is approximately 3.81 acres. Approval of this plat is conditional to the zoning amendment request simultaneously submitted. To have a lot less than 10 acres, the zoning must change from A-1 to A-R.



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.***

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 and complies with the Comprehensive plan density for N. Virginia.***

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 naturally drains to the north and to the east, depending upon the exact location. The existing road ditches on both Virginia and Amory are sufficient to handle any additional runoff created by a new home.***

(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 a new home. Existing trees are generally in the drainage area that leads to Amory.***

(3) A good grade relationship with the abutting streets, preferably somewhat above the street. ***Each lot will have access to Amory, and the land slopes down to the streets.***

(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 needed. This plat will have a condition placed in its dedications that requires the lot owners to join and specifically not oppose the creation of a district to improve the roads in the future. Given the extremely limited impact upon the existing roads, Staff considers this dedication sufficient to protect the city in the event that major road upgrades are needed in the future.***

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 land is currently served by all utilities (septic systems) and any service line extension will be triggered with a building permit.***

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 Park fees are required as a condition of approval of any plat.***

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 needs no current additional improvements except the plat dedication language concerning improvement districts.**

#### STAFF RECOMMENDATION:

Staff recommends APPROVAL of the proposed Final Plat based upon adherence to the conditions contained in this report.

THIS DOCUMENT IS THE CREATION, DESIGN, PROPERTY AND COPYRIGHTED WORK OF ASSOCIATED ENGINEERING. ANY DUPLICATION OR USE WITHOUT EXPRESS WRITTEN CONSENT IS PROHIBITED.



**FA NUMBER: 12878700 / SITE ID: TI-OPP-19189-A**  
**SITE NAME: SMITHVILLE LAKE MO**  
**ADDRESS: 904 NE 180TH ST.**  
**SMITHVILLE, MO 64089**  
**CLAY COUNTY**

**PROJECT SUMMARY**

**SITE ADDRESS:** 904 NE 180TH ST.  
SMITHVILLE, MO 64089

**LATITUDE (NAD 83):** 39.422011' N (39° 25' 19.24" N)  
**LONGITUDE (NAD 83):** -094.567567' W (-94° 34' 03.24" W)

**GROUND ELEVATION:** 954.00' NAVD '88

**JURISDICTION:** CITY

**JURISDICTION CONTACT:** JIM WADDLE  
107 WEST MAIN ST  
SMITHVILLE, MO 64089  
(816) 532-3897

**ZONING:** A1

**PARCEL/TAX ID NUMBER:** 05303000100500  
**PARCEL OWNER:** GARY E. & MELODY L BEGGS  
904 NE 180TH ST.  
SMITHVILLE, MO 64089

**TOWER OWNER:** TILLMAN INFRASTRUCTURE

**STRUCTURE TYPE:** MONOPOLE

**STRUCTURE HEIGHT:** 150.0'-0" (AGL)

**PROJECT DIRECTORY**

**TOWER OWNER:** TILLMAN INFRASTRUCTURE  
1955 LAKEWAY DR. SUITE 265B  
LEWISVILLE, TX 75057  
CHARLIE BOOTHE  
CBOOTHE@TILLMANINFRASTRUCTURE.COM  
PHONE: (314) 513-0151

**APPLICANT:** SKYWARD LAND SERVICES  
7381 WEST 133RD ST., SUITE 403  
OVERLAND PARK, KS 66213  
PATRICK ERWIN  
PHONE: (913) 626-4440  
EMAIL: ERWIN@SKYWARDSITE.COM

**CONSTRUCTION:** TILLMAN INFRASTRUCTURE  
1955 LAKEWAY DR. SUITE 265B  
LEWISVILLE, TX 75057  
CHARLIE BOOTHE  
CBOOTHE@TILLMANINFRASTRUCTURE.COM  
PHONE: (314) 513-0151

**A+E FIRM** ASSOCIATED ENGINEERING, INC.  
2705 NORTH MAIN STREET  
ELKHORN, NE 68022  
TOM MEDHI  
PHONE: (402) 289-5040  
TMEDHI@AE-PC.COM



**811** Know what's below.  
Call before you dig.

TO OBTAIN LOCATION OF PARTICIPANTS' UNDERGROUND FACILITIES BEFORE YOU DIG IN MISSOURI MISSOURI STATE LAW REQUIRES MIN. 3 WORKING DAYS NOTICE BEFORE YOU EXCAVATE.

CALL 811 OR 1-800-344-7483  
www.missouri1call.com

**DIRECTIONS**

DIRECTIONS FROM KANSAS CITY INTERNATIONAL AIRPORT (1 INTERNATIONAL SQUARE, KANSAS CITY, MO 64153):

GET ON I-435 E IN MAY TOWNSHIP FROM NW 120TH ST AND NW MID CONTINENT TRAFFICWAY (2.1 MI), FOLLOW I-435 E AND US-169 N TO NE 180 ST/NE 180TH ST IN SMITHVILLE (12.4 MI), TURN RIGHT ONTO NE 180 ST/NE 180TH ST (0.9 MI), TURN LEFT ONTO BEGGS RD AND DRIVE ABOUT 0.2 MILES, THE DESTINATION WILL BE ON YOUR LEFT.

AT&T SIGNATURES

**INDEX OF DRAWINGS**

SHEET	DESCRIPTION
T-1	TITLE SHEET
SS-1	SURVEY
SS-2	SURVEY
SS-3	SURVEY
Z-1	OVERALL SITE PLAN
Z-2	OVERALL COMPOUND PLAN
Z-3	ENLARGED SITE PLAN
Z-4	PROPOSED TOWER ELEVATION

SERVICE NOTE

**RFDS GENERAL INFORMATION**

RFDS NAME: TBD  
 RFDS REVISION: TBD  
 RFDS DATE: TBD  
 RFDS ID: TBD  
 RF MANAGER: TBD  
 CARRIER: TBD

**DO NOT SCALE DRAWINGS**

THESE DOCUMENTS ARE DRAWN TO SCALE FOR 22X34 SIZE SHEET. DOCUMENTS PRINTED IN 11X17 SIZE SHEET ARE REDUCED TO HALF THE ORIGINAL SCALE. SUBCONTRACTOR SHALL VERIFY ALL PLANS & EXISTING DIMENSIONS & CONDITIONS ON THE JOB SITE & SHALL IMMEDIATELY NOTIFY THE ENGINEER IN WRITING OF ANY DISCREPANCIES BEFORE PROCEEDING WITH THE WORK OR BE RESPONSIBLE FOR SAME. THESE SITE PLANS SHALL ADHERE TO ALL OF THE REQUIREMENTS CALLED OUT IN THE JURISDICTION PLANNING AND ZONING. FOR ANTENNAS AND SUPPORT STRUCTURES. WHERE SITE IS LOCATED.

SITE OWNER	TILLMAN INFRASTRUCTURE																												
APPLICANT	AT&T mobility corp.																												
SITE ACQUISITION /ENGINEERING	SKYWARD LAND SERVICES, INC. ASSOCIATED Engineering & Surveying AE INC. Project #5958																												
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SHEET NUMBER	T-1																												

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LANDLORD: GARY E. & MELODY L BEGGS  
 ADDRESS: 904 NE 180TH STREET  
 SMITHVILLE, MO 64089  
 PARCEL NO: 05303000100500  
 CANDIDATE: A  
 LATITUDE (NAD 83): N 39.422011° (N 39° 25' 19.24")  
 LONGITUDE (NAD 83): W 94.567567° (W 94° 34' 03.24")  
 GROUND ELEVATION: 954.00' NAVD '88  
 TOWER HEIGHT: 150'-0" AGL  
 OVERALL TOWER HEIGHT: 156'-0" AGL  
 ZONING: A1

**PRE-CONSTRUCTION ONLY**  
 THIS DRAWING IS FOR INFORMATIONAL PURPOSES ONLY AND IS NOT INTENDED AS A CONSTRUCTION DOCUMENT.

NOTE:  
 SITE MAY NEED LEVELING & GRADING AFTER FINAL LOCATION.

- |     |   |        |                        |
|-----|---|--------|------------------------|
| (M) | MEASURED DISTANCE                           | ☆      | LIGHT POST             |
| (P) | PLATTED DISTANCE                            | ○      | HYDRANT                |
| (R) | RECORDED DISTANCE                           | Ⓜ      | WATER METER            |
| (D) | DEEDED DISTANCE                             | —○—○—○ | FENCE - CHAIN LINK     |
| ●   | FOUND CORNER                                | —x—x—x | FENCE - BARBED WIRE    |
| ○   | SET CORNER                                  | —FO—   | FIBER OPTIC LINE       |
| ⊕   | BENCH MARK                                  | —OHP—  | OVERHEAD POWER LINE    |
| ⊙   | SECTION CORNER                              | ---    | CENTER LINE            |
| Ⓜ   | FOUND ALUM. CAP WITH ROW SIGN (OR AS SHOWN) | —      | APPARENT PROPERTY LINE |
| ⊥   | POWER POLE                                  | ---    | ROW LINE               |
| ⊕   | ELECTRIC METER                              | ---    | LEASE LINE             |
| ⊕   | GAS METER                                   | ---    | EASEMENT LINE          |
| Ⓜ   | TELEPHONE BOX                               | ---    | SECTION LINE           |



SITE OWNER

APPLICANT

SITE ACQUISITION /ENGINEERING  
  
  
 AE INC. Project #5958

SITE INFORMATION  
 SMITHVILLE LAKE  
 TI-OPP-19189 A/FA# 12878700  
 PACE# TBD  
 PT# TBD  
 904 NE 180TH ST.  
 SMITHVILLE, MO 64089

DESIGN RECORD

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PROFESSIONAL STAMP

ENGINEER  
 Tom Medhi  
 Date: 03-29-2022  
 MY LICENSE RENEWAL DATE IS 12/31/2023  
 I HEREBY CERTIFY THAT THIS ENGINEERING DOCUMENT WAS PREPARED BY ME OR UNDER MY DIRECT PERSONAL SUPERVISION AND THAT I AM A DULY LICENSED PROFESSIONAL ENGINEER UNDER THE LAWS OF THE STATE OF MISSOURI

SHEET TITLE  
 OVERALL SITE PLAN

SHEET NUMBER  
 ZD-1

OVERALL SITE VIEW

SCALE: 1"=100'-0" (22x34)  
 (OR) 1/2"=100'-0" (11x17)

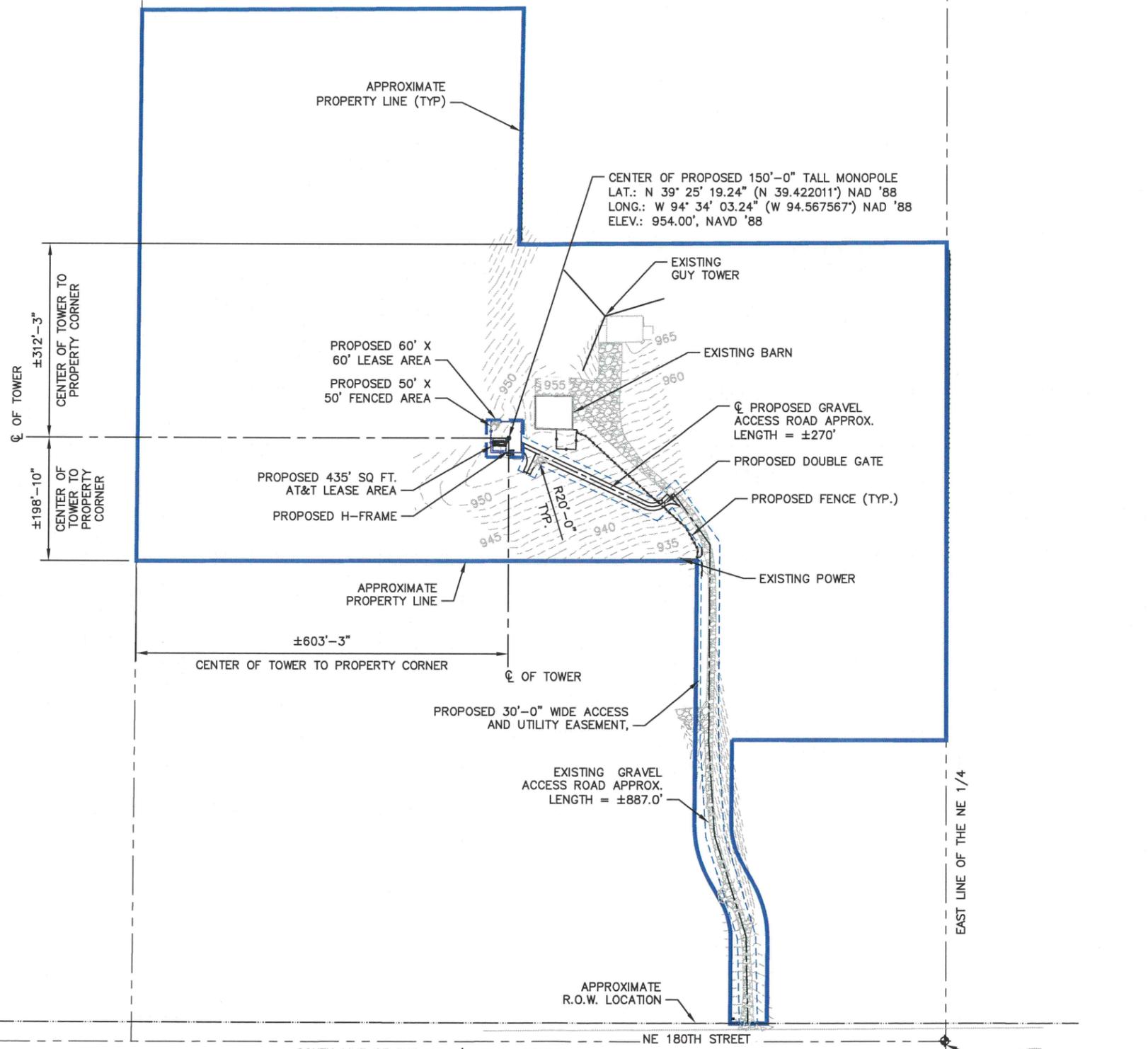
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**BOUNDARY NOTICE**

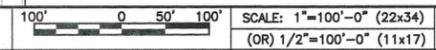
PARENT PARCEL(S) BOUNDARY LINES SHOWN ON THESE DRAWINGS ARE CALCULATED FROM RECORDED DOCUMENTS AND ARE NOT INTENDED TO BE USED FOR BOUNDARY LOCATIONS.

**UTILITY NOTICE**

THE UTILITIES AS SHOWN ON THIS DRAWING WERE DEVELOPED FROM THE INFORMATION AVAILABLE. THIS IS NOT IMPLIED NOR INTENDED TO BE THE COMPLETE INVENTORY OF UTILITIES IN THIS AREA. IT IS THE CLIENT'S / CONTRACTOR'S RESPONSIBILITY TO VERIFY THE LOCATION OF ALL UTILITIES (WHETHER SHOWN OR NOT) AND PROTECT SAID UTILITIES FROM ANY DAMAGE.



OVERALL SITE VIEW

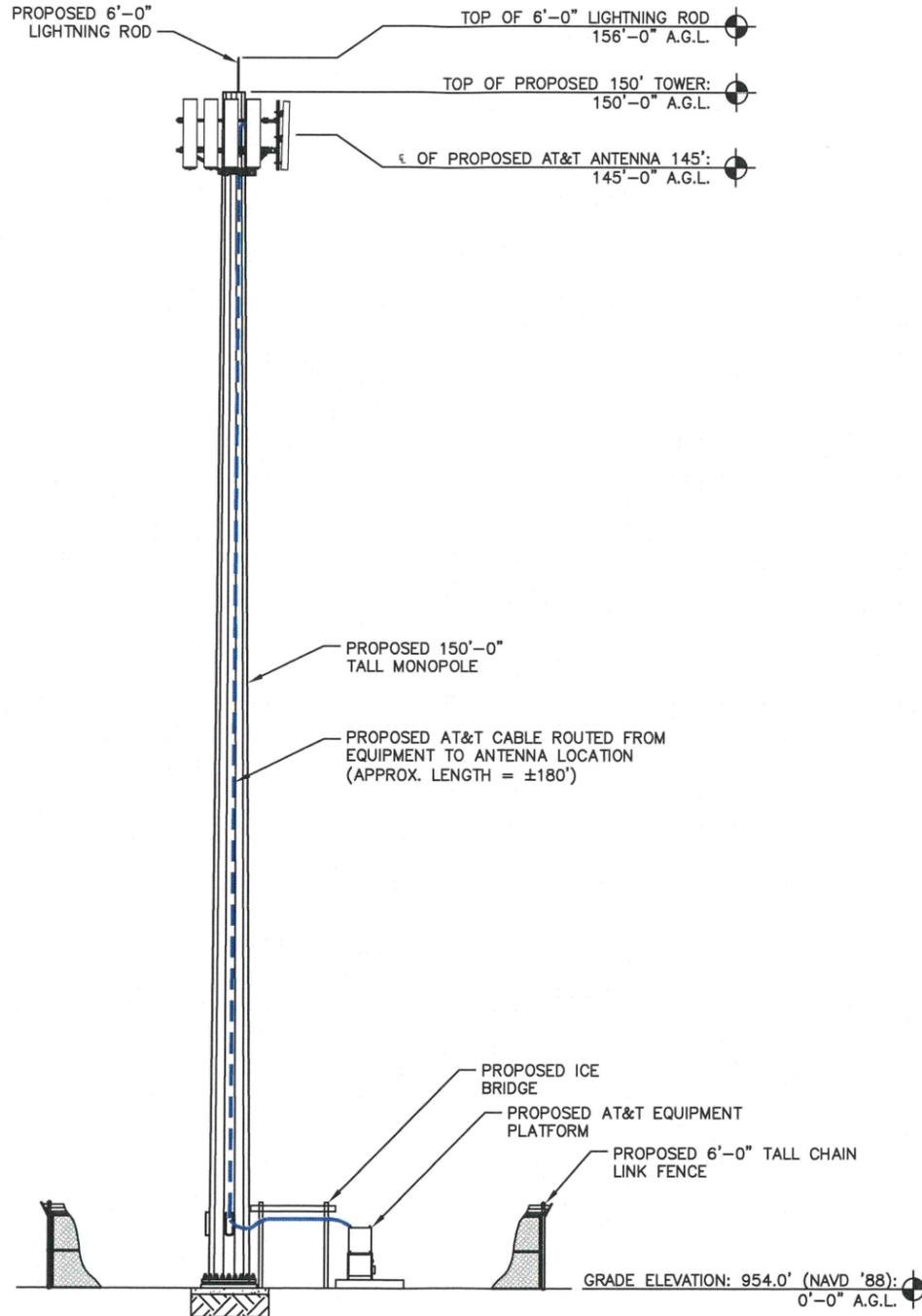


SITE OWNER	<b>TILLMAN INFRASTRUCTURE</b>																												
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SHEET TITLE	TOWER ELEVATION																												
SHEET NUMBER	ZD-4																												

June 13, 2022

Mr. Joe Pisano  
Tillman Infrastructure  
152 57<sup>th</sup> Street  
New York, NY 10019

RE: Proposed 150' Monopole for TI-OPP-19189, MO (Sabre Quote #22-5989-TJH-R1)

Dear Mr. Pisano,

Upon receipt of order, we propose to design and supply the above-referenced monopole for an Ultimate Wind Speed of 110 mph without ice and 40 mph with 1.5" ice, Structure Classification II, Exposure Category C, and Topographic Category 1, in accordance with the Telecommunications Industry Association Standard ANSI/TIA-222-H, "Structural Standard for Antenna-Supporting Structures and Antennas and Small Wind Turbine Support Structures". The monopole will be designed to support three (3) carriers.

When designed according to this standard, the wind pressures and steel strength capacities include several safety factors. Therefore, it is highly unlikely that the monopole will fail structurally in a wind event where the design wind speed is exceeded within the range of the built-in safety factors.

Should the wind speed increase beyond the capacity of the built-in safety factors, to the point of failure of one or more structural elements, the most likely location of the failure would be within the monopole shaft, above the base plate. Assuming that the wind pressure profile is similar to that used to design the monopole, the monopole will buckle at the location of the highest combined stress ratio within the monopole shaft. This is likely to result in the portion of the monopole above leaning over and remaining in a permanently deformed condition. *Please note that this letter only applies to the above-referenced monopole designed and manufactured by Sabre Industries.* This would effectively result in a fall radius less than or equal to 198'.

Sincerely,

Amy R. Herbst, P.E.  
Senior Design Engineer



6/13/22



## STAFF REPORT

July 6, 2017

Conditional Use Permit for Parcel Id # 05-904-00-02-011.00

---

### Application for a Conditional Use Permit

Code Sections:

400.570 Conditional Use Permits

Property Information:

Address: 904 NE 180<sup>th</sup> St.  
Owner: Tillman Infrastructure LLC (Agent)  
Current Zoning: A-1

Public Notice Dates:

1<sup>st</sup> Publication in Newspaper: May 26, 2022  
Letters to Property Owners w/in 200': May 26, 2022

### GENERAL DESCRIPTION:

The property owners (Gary & Melody Beggs) executed an agency agreement that allows Tillman Infrastructure to seek approval for this CUP. The proposal is to install a monopole (no guy wires needed) 150' telecommunications tower near the center of their 24.5 acre property. The parcel itself is zoned A-1, and all adjoining land is also A-1 except 5 residentially zoned lots that adjoin or partially adjoin the parcel.

**Minimum Requirements. A conditional use permit shall not be granted unless specific written findings of fact directly upon the particular evidence presented support the following conclusions:**

- 1. The proposed conditional use complies with all applicable provisions of these regulations, including intensity of use regulations, yard regulations and use limitations.** The use is specifically authorized upon approval of a Conditional Use Permit.
- 2. The proposed conditional use at the specified location will contribute to and promote the welfare or convenience of the public.** The tower's primary purpose is for operation of the FirstNet first responders system but will also improve

cellular service in the northeast portion of the city, as well as the Smithville Lake area itself.

**3. The proposed conditional use will not cause substantial injury to the value of other property in the neighborhood in which it is to be located.** The general location of the tower within the applicant's property is surrounded by older developments with a substantial number of mature trees for visual obstruction, as well as no risk of falling in a manner to leave the applicant's property so no injury to property values is expected.

**4. The location and size of the conditional use, the nature and intensity of the operation involved in or conducted in connection with it and the location of the site with respect to streets giving access to it are such that the conditional use will not dominate the immediate neighborhood so as to prevent development and use of neighboring property in accordance with the applicable zoning district regulations. In determining whether the conditional use will so dominate the immediate neighborhood, consideration shall be given to:**

**a. The location, nature and height of buildings, structures, walls and fences on the site; and** The location of the tower base is just west of an existing outbuilding that sits between the residentially zoned adjacent parcels and has a 6' tall sight obscuring fence around the perimeter.

**b. The nature and extent of landscaping and screening on the site.** The lay of the land is such that most of the area around the property has limited visibility of the tower base area, and numerous mature trees around the property substantially obscure its' visibility.

**5. Off-street parking and loading areas will be provided in accordance with the standards set forth in these regulations and such areas will be screened from adjoining residential uses and located so as to protect such residential uses from any injurious effect.** There will be one parking space inside the leased area for maintenance vehicles and limited use of that space is anticipated.

**6. Adequate utility, drainage and other such necessary facilities have been or will be provided.** No significant impermeable surfaces will be created so no drainage issues are anticipated, and the applicant will supply all other needed utilities (underground) for the tower.

**7. Adequate access roads or entrance and exit drives will be provided and shall be so designed to prevent traffic hazards and to minimize traffic congestion in public streets and alleys.** The use will not generate traffic, but the existing drives will accommodate maintenance vehicles.

#### **D.6 Additional Requirements for Telecommunications towers**

**(5) Height and Setback Limitations.**

- (a) **Towers permitted by conditional use permit shall not exceed a maximum height of one hundred (100) feet. Fifty (50) additional feet may be added, at the discretion of the Planning and Zoning Commission and Board of Aldermen, to accommodate co-location if the applicant submits information certifying the capacity of the tower for two (2) additional providers and a letter of intent from the applicant indicating their intent to share space. A lightning rod not to exceed ten (10) feet shall not be included within the height limitations.** The applicant seeks a 150' monopole tower and has submitted certifications of the capacity of the tower, as well as the intent to share additional space at reasonable rates.
- (b) **Setbacks shall be equal to one and one-half (1 1/2) the antenna height unless an engineer certifies the fall zone will be within the setback area proposed. Guy wires and other support devices shall be no closer than twenty (20) feet from any lot line.** An engineer has certified the fall zone is within the setback area proposed.
- (c) **Setbacks for towers on a roof/structure may be as high as the distance to edge of the roof/structure; or the height of an equivalent ground-mounted tower may be used for a roof/structure-mounted tower if the setbacks for a ground tower are satisfied.** N/A

STAFF RECOMMENDATION:

Staff recommends Approval CONTINGENT on the Commission specifically authorizing the additional 50' of tower height as called for in Section 400.570.D.6.e(5)(a) above.



BEFORE



AFTER

Smithville Lake  
TI-OPP-19189  
View from 180<sup>th</sup> St. looking North





BEFORE



AFTER

# Smithville Lake TI-OPP-19189

View from Marcus Rd. looking West



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

Applicant: Tillman Infrastructure, LLC

Land Use Proposed: Telecommunications Tower

Zoning: A-1

Property Location: 904 NE 180<sup>th</sup> St.

Pursuant to the provisions of Section 400.570 concerning the minimum requirements for the issuance of a special use permit and based on the testimony and evidence presented in a public hearing of the Planning and Zoning Commission held on June 14, 2022 the Planning Commission of the City of Smithville, Missouri hereby makes the following *Finding of Facts and Conclusions of Law*.

### Finding of Facts

1. The proposed special use complies with all applicable provisions of the zoning regulation including intensity of use regulations, yard regulations and use regulations.
2. It is found that the proposed special use at the specified location will contribute to and promote the welfare and convenience of the public in that it will be consistent with the nature of the neighborhood and will provide a service enhancement to spotty cellular service.
3. The proposed conditional use will not cause substantial injury to the value of other property in the neighborhood in which it is to be located. The monopole has limited visual impact to any adjacent property.
4. The location and size of the conditional use will not dominate the immediate neighborhood to prevent development. The existing mature trees surrounding the property, as well as the distance from any property boundary limit any impact on the adjacent property.
5. There is sufficient parking for the anticipated maintenance vehicles.
6. No utility, drainage or other such facilities are needed as a result of the application.

7. Adequate access roads and entrances are provided.
8. The applicant has certified the capacity of the tower to accommodate two additional providers and a letter of intent to lease space so an additional 50 feet in height (maximum 150') may be added to accommodate co-location.
9. That in rendering this Finding of Fact, testimony at the public hearing on June 14, 2022 has been taken into consideration.

#### Conclusions of Law

Based on the foregoing findings of fact, we conclude that:

- A. This application and the granting of a Conditional Use permit is governed by Section 400.570 of the zoning ordinance of Smithville, Missouri.
- B. The proposed use complies with minimum standards required for the issuance of a conditional use permit as set out in Section 400.570 of the zoning ordinance.
- C. A conditional use permit should be granted to allow the installation of a single 150' tall monopole telecommunications tower on the property at 904 NE 180<sup>th</sup> St.

Planning Commission

**BILL NO. XXXX-22**

**ORDINANCE NO. \_\_\_\_\_**

**AN ORDINANCE AMENDING THE ZONING ORDINANCE OF THE CITY OF SMITHVILLE, MISSOURI BY AND GRANTING A CONDITIONAL USE PERMIT TO TILLMAN INFRASTRUCTURE, LLC FOR A TELECOMMUNICATIONS TOWER AT 904 NE 180<sup>TH</sup> STREET.**

**WHEREAS**, On June 14, 2022, the Planning Commission of Smithville, Missouri held a public hearing relative to a request for a conditional use permit; and

**WHEREAS**, the Planning Commission forwarded consideration of said request to the Board of Aldermen with a recommendation of granting said request; and

**WHEREAS**, the Board of Aldermen, based on substantial evidence provided by the applicant, staff, and members of the public found that applicant's proposed telecommunications tower would not seriously injure the public or the appropriate use of neighboring property and that said use would conform to the general intent and purpose of the zoning ordinance; and

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

Section 1. Ordinance Number 711 and the Zoning Map which is made a part thereof, is amended by granting a Conditional use permit for the installation of an telecommunications tower at 90-4 NE 180<sup>th</sup> St. and more particularly described as follows:

Parcel 1:

A tract of land in the East One-Half (E 1/2) of the Northeast Quarter (NE 1/4) of Section Eleven (11), Township Fifty-three (53) North, Range Thirty-Three (33) West, Smithville, Clay County, Missouri, more particularly described as follows: Beginning at a Found D.N.R. Monument at the Southeast Corner of the Northeast Quarter of said Section Eleven (11); Thence N 0° 10' 02" E, 30.0 feet along the East line of said Northeast Quarter to the North Right of Way line of 180th Street and the TRUE POINT OF BEGINNING; Thence S 89° 54' 39" W, along the North Right of Way line of 180th Street, 697.76 feet to a point on the East line of a Tract as conveyed in Book 1112, Page 952, as Document No. C-78569; Thence N 0° 20' 19" E, along the East line of said tract, 453.11 feet; Thence N 89° 54' 39" E, 696.41 feet to a point on the East line of said Northeast Quarter; thence S 0° 10' 02" W, 453.10 feet to the TRUE POINT OF BEGINNING.

Parcel 2:

A Tract of Land in the East One-Half (E 1/2) of the Northeast Quarter (NE 1/4) of Section Eleven (11), Township Fifty-three (53) North, Range Thirty-three (33)

West, Smithville, Clay County, Missouri, more particularly described as follows: Beginning at a Found D.N.R. Monument at the Southeast Corner of the Northeast Quarter of said Section Eleven (11); Thence N 0° 10' 02" E, 483.10 feet, along the East Line of said Northeast Quarter to the TRUE POINT OF BEGINNING; Thence S 89° 54' 39" W, parallel to the South Line of said Northeast Quarter (NE 1/4), 696.41 feet to the East Line of a tract as conveyed in Book 1112, Page 952 as Document No. C-78569; Thence N 0° 20' 19" E, along the East Line of said tract, 289.38 feet; Thence S 89° 54' 39" W, along the North Line of said conveyed tract, 620.27 feet to the West Line of the East One-Half (E 1/2) of the said Northeast Quarter (NE 1/4); Thence N 0° 20' 19" E, along said West Line, 885.00 feet to the South Line of the North 30 acres of the East One-Half (E 1/2) of said Northeast Quarter; Thence N 89° 43' 19" E, along said South Line of the North 30 acres, 1313.19 feet to a point on the East Line of the said Northeast Quarter (NE 1/4); Thence S 0° 10' 02" W, along the East Line of said Northeast Quarter (NE 1/4), 1178.70 feet to the TRUE POINT OF BEGINNING.

LESS AND EXCEPT that portion of property conveyed to Raymond George Stubler and Betty May Stubler from Gary E. Beggs and Melody L. Beggs by Warranty Deed dated April 17, 1992 and recorded April 17, 1992 in Deed Book 2111, Page 601.

LESS AND EXCEPT that portion of property conveyed to Frank Martinez and Debra A. Martinez from Gary E. Beggs and Melody L. Beggs by Warranty Deed dated April 17, 1992 and recorded April 27, 1992 in Deed Book 2113, Page 890.

LESS AND EXCEPT that portion of property conveyed to Jack L. Pope and Gladys M. Pope from Gary E. Beggs and Melody L. Beggs by Warranty Deed dated December 4, 1992 and recorded December 8, 1992 in Deed Book 2182, Page 593.

LESS AND EXCEPT that portion of property conveyed to Raymond G. Stubler & Betty M. Stubler from Gary E. Beggs & Melody L. Beggs by Warranty Deed dated July 23, 1993 and recorded July 26, 1993 in Deed Book 2251, Page 581.

Section 2. This ordinance shall take effect and be in full force from and after its passage according to law.

PASSED THIS \_\_\_\_\_ DAY OF \_\_\_\_\_, 2009.

ATTEST: \_\_\_\_\_  
City Clerk

\_\_\_\_\_  
Mayor

1<sup>st</sup> Reading: \_\_\_\_/\_\_\_\_/\_\_\_\_

2<sup>nd</sup> Reading \_\_\_\_/\_\_\_\_/\_\_\_\_